LAWS
of
UTAH 2024

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*House Speaker Brad Wilson resigned November 15, 2023 and was replaced the same day by Mike Schultz. Wilson's House seat was replaced by Ariel Defay on November 15, 2023.

*Quinn Kotter resigned September 9, 2023 and was replaced by Matt MacPherson on October 10, 2023.

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LAWS

of the

STATE OF UTAH, 2024

Passed at the
GENERAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 16, 2024
and Adjourned Sine Die on
March 1, 2024

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2024 General Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2024 General Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 16th of January 2024 and adjourned sine die on the 1st of March 2024.

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

this November 26, 2024

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
S. B. 89
Passed January 19, 2024
Approved January 19, 2024
Effective January 19, 2024

SOCIAL MEDIA MODIFICATIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill changes when the provisions of the Utah Social Media Regulation Act become effective.

Highlighted Provisions:

This bill:

- delays the effective date for provisions of the Utah Social Media Regulation Act applicable to social media companies from March 1, 2024, to October 1, 2024.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-63-102, as enacted by Laws of Utah 2023, Chapter 498
13-63-103, as enacted by Laws of Utah 2023, Chapter 498
13-63-104, as enacted by Laws of Utah 2023, Chapter 498
13-63-105, as enacted by Laws of Utah 2023, Chapter 498
13-63-301, as enacted by Laws of Utah 2023, Chapter 498
13-63-401, as enacted by Laws of Utah 2023, Chapter 477
13-63-501, as enacted by Laws of Utah 2023, Chapter 477

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

Section 1. Section 13-63-102 is amended to read:

13-63-102. Age requirements for use of social media platform -- Parental consent -- Rulemaking authority of division.

(1) Beginning [~~March 1, 2024~~]October 1, 2024, a social media company may not permit a Utah resident who is a minor to be an account holder on the social media company's social media platform unless the Utah resident has the express consent of a parent or guardian.

(2) Notwithstanding any provision of this chapter, a social media company may not permit a Utah resident who is a minor to hold or open an account on a social media platform if the minor is ineligible to hold or open an account under any other provision of state or federal law.

(3)(a) Beginning [~~March~~]October 1, 2024, a social media company shall verify the age of an existing or new Utah account holder and, if the existing or new account holder is a minor, confirm that a minor has consent as required under Subsection (1):

(i) for a new account, at the time the Utah resident opens the account; or

(ii) for a Utah account holder who has not provided age verification as required under this section, within 14 calendar days of the Utah account holder's attempt to access the account.

(b) If a Utah account holder fails to meet the verification requirements of this section within the required time period, the social media company shall deny access to the account:

(i) upon the expiration of the time period; and

(ii) until all verification requirements are met.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, with consideration of stakeholder input, shall make rules to:

(a) establish processes or means by which a social media company may meet the age verification requirements of this chapter;

(b) establish acceptable forms or methods of identification, which may not be limited to a valid identification card issued by a government entity;

(c) establish requirements for providing confirmation of the receipt of any information provided by a person seeking to verify age under this chapter;

(d) establish processes or means to confirm that a parent or guardian has provided consent for the minor to open or use an account as required under this section;

(e) establish requirements for retaining, protecting, and securely disposing of any information obtained by a social media company or its agent as a result of compliance with the requirements of this chapter;

(f) require that information obtained by a social media company or its agent in order to comply with the requirements of this chapter are only retained for the purpose of compliance and may not be used for any other purpose;

(g) if the division permits an agent to process verification requirements required by this section, require that the agent have its principal place of business in the United States of America;

(h) require other applicable state agencies to comply with any rules promulgated under the authority of this section; and

(i) ensure that the rules are consistent with state and federal law, including Title 13, Chapter 61, Utah Consumer Privacy Act.

Section 2. Section 13-63-103 is amended to read:

13-63-103. Prohibition on data collection for certain accounts -- Prohibition on advertising -- Use of information -- Search results -- Directed content.

Beginning [~~March~~]October 1, 2024, a social media company, for a social media platform account held by a Utah minor account holder:

(1) shall prohibit direct messaging between the account and any other user that is not linked to the account through friending;

(2) may not show the account in search results for any user that is not linked to the account through friending;

(3) shall prohibit the display of any advertising in the account;

(4) shall not collect or use any personal information from the posts, content, messages, text, or usage activities of the account other than information that is necessary to comply with, and to verify compliance with, state or federal law, which information includes a parent or guardian's name, a birth date, and any other information required to be submitted under this section; and

(5) shall prohibit the use of targeted or suggested groups, services, products, posts, accounts, or users in the account.

Section 3. Section 13-63-104 is amended to read:

13-63-104. Parental access to social media account.

Beginning [~~March~~]October 1, 2024, a social media company shall provide a parent or guardian who has given parental consent for a Utah minor account holder under Section 13-63-102 with a password or other means for the parent or guardian to access the account, which shall allow the parent or guardian to view:

(1) all posts the Utah minor account holder makes under the social media platform account; and

(2) all responses and messages sent to or by the Utah minor account holder in the social media platform account.

Section 4. Section 13-63-105 is amended to read:

13-63-105. Limited hours of access for minors -- Parental access and options.

(1) Beginning [~~March~~]October 1, 2024, a social media company shall prohibit a Utah minor account holder from having access to the Utah minor account holder's account during the hours of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another requirement of this section.

(2) Time of day under this section shall be calculated based on the Internet protocol address being used by the Utah minor account holder at the time of attempting access.

(3) A social media company shall provide options for a parent or guardian with access to an account under Section 13-63-104 to:

(a) change or eliminate the time-of-day restriction described in Subsection (1); and

(b) set a limit on the number of hours per day that a Utah minor account holder may use the account.

(4) A social media company shall not permit a Utah minor account holder to change or bypass restrictions on access as required by this section.

(5) Notwithstanding any provision of this section, a social media company shall permit a parent or guardian with access to an account under Section 13-63-104 to access the account without time restrictions.

Section 5. Section 13-63-301 is amended to read:

13-63-301. Private right of action.

(1) Beginning [~~March~~]October 1, 2024, a person may bring an action against a person that does not comply with a requirement of Part 1, General Requirements.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which a person bringing the action resides.

(3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of violation; or

(ii) actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

Section 6. Section 13-63-401 is amended to read:

13-63-401. Social media platform design regulations -- Enforcement and auditing authority -- Penalties.

(1) Beginning [~~March~~]October 1, 2024:

(a) the division shall administer and enforce the provisions of this section; and

(b) the division may audit the records of a social media company in order to determine compliance with the requirements of this section or to investigate a complaint, including a random sample of a social media company's records and other audit methods.

(2) Beginning [~~March~~]October 1, 2024, a social media company shall not use a practice, design, or feature on the company's social media platform that the social media company knows, or which by the exercise of reasonable care should know, causes a Utah minor account holder to have an addiction to the social media platform.

(3) Beginning [~~March~~]October 1, 2024:

(a) Subject to Subsection (3)(b), a social media company is subject to:

(i) a civil penalty of $250,000 for each practice, design, or feature shown to have caused addiction; and

(ii) a civil penalty of up to $2,500 for each Utah minor account holder who is shown to have been exposed to the practice, design, or feature found to have caused addiction under Subsection (3)(a)(i).

(b) A social media company shall not be subject to a civil penalty for violating this section if the social media company, as an affirmative defense, demonstrates that the social media company:

(i) instituted and maintained a program of at least quarterly audits of the social media company's practices, designs, and features to detect practices, designs, or features that have the potential to cause or contribute to the addiction of a minor user; and

(ii) corrected, within 30 days of the completion of an audit described in Subsection (3)(b)(i), any practice, design, or feature discovered by the audit to present more than a de minimus risk of violating this section.

(c) In a court action by the division to enforce this section, the court may, in addition to a civil penalty:

(i) declare that the act or practice violates a provision of this section;

(ii) issue an injunction for a violation of this section;

(iii) award actual damages to an injured purchaser or consumer; and

(iv) award any other relief that the court deems reasonable and necessary.

(4) Nothing in this section may be construed to impose liability for a social media company for any of the following:

(a) content that is generated by an account holder, or uploaded to or shared on the platform by an account holder, that may be encountered by another account holder;

(b) passively displaying content that is created entirely by a third party;

(c) information or content for which the social media company was not, in whole or in part, responsible for creating or developing; or

(d) any conduct by a social media company involving a Utah minor account holder who would otherwise be protected by federal or Utah law.

(5) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) Nothing in this section may be construed to negate or limit a cause of action that may have existed or exists against a social media company under the law as it existed before the effective date of this section.

(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section 7. Section 13-63-501 is amended to read:

13-63-501. Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

(1) Beginning [~~March~~]October 1, 2024, a person may bring an action under this section against a social media company to recover damages incurred after [~~March~~]October 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.

(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of harm; or

(ii) actual damages for addiction, financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

(4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was a caused as a consequence of using or having an account on the social media company's social media platform.

Section 8. Effective date.

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

CHAPTER 2
H. B. 257
Passed January 26, 2024
Approved January 30, 2024
Effective January 30, 2024

SEX-BASED DESIGNATIONS FOR PRIVACY, ANTI-BULLYING, AND WOMEN'S OPPORTUNITIES

Chief Sponsor: Kera Birkeland
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill establishes a standard regarding distinctions on the basis of sex and applies the standard in certain facilities and opportunities where designations on the basis of sex address individual privacy, bullying, and women's opportunities.

Highlighted Provisions:

This bill:

- defines terms;
- defines certain terms for the entire Utah Code;
- establishes a legal standard for distinctions on the basis of sex in certain publicly owned or controlled circumstances;
- establishes acceptable and prohibited distinctions on the basis of sex;
- enacts provisions regarding sex-designated restroom, shower, or locker room facilities that students use within the public education system;
- requires local education agencies to establish a privacy plan with parents and students in certain cases to address gender identity and fear of bullying;
- enacts provisions regarding sex-designated shower or locker room facilities where the general public has an expectation of privacy;
- establishes components of the crimes of voyeurism and criminal trespass for certain actions within a covered sex-designated shower or locker room;
- requires government entities to:
  - report allegations of certain criminal offenses to law enforcement;
  - adopt a privacy compliance plan;
  - provide a single-occupant facility in new construction; and
  - consider the feasibility of certain retrofit or remodel projects;
- provides indemnification for government entities for certain claims;
- requires the state auditor to investigate government entity compliance with certain requirements;
- requires the attorney general to impose fines on political subdivisions that fail to cure noncompliance that the state auditor identifies;
- amends certain crimes to establish a reasonable expectation of privacy in public restrooms, including enhanced penalties for:
  - committing multiple offenses concurrently within a public restroom, shower, or locker room; and
  - committing certain offenses within a public restroom, shower, or locker room that is designated for the opposite sex;
- enacts a criminal offense for loitering in a restroom, shower, or locker room where the general public has an expectation of privacy;
- establishes elements of the crime of emergency reporting abuse for making repeated false reports alleging a violation of a sex-designation in a publicly owned or controlled shower or locker room facility where the general public has an expectation of privacy; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-6-1101, as enacted by Laws of Utah 2022, Chapter 398
53G-8-211, as last amended by Laws of Utah 2023, Chapter 161
67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480
67-5-1, as last amended by Laws of Utah 2023, Chapter 330
68-3-12.5, as last amended by Laws of Utah 2021, Chapter 93
76-6-206, as last amended by Laws of Utah 2023, Chapter 111
76-9-202, as last amended by Laws of Utah 2022, Chapter 161
76-9-702, as last amended by Laws of Utah 2023, Chapter 123
76-9-702.5, as last amended by Laws of Utah 2022, Chapter 185
76-9-702.7, as last amended by Laws of Utah 2023, Chapter 411

ENACTS:

63G-31-101, Utah Code Annotated 1953
63G-31-102, Utah Code Annotated 1953
63G-31-201, Utah Code Annotated 1953
63G-31-202, Utah Code Annotated 1953
63G-31-203, Utah Code Annotated 1953
63G-31-204, Utah Code Annotated 1953
63G-31-301, Utah Code Annotated 1953
63G-31-302, Utah Code Annotated 1953
63G-31-303, Utah Code Annotated 1953
63G-31-304, Utah Code Annotated 1953
63G-31-401, Utah Code Annotated 1953
63G-31-402, Utah Code Annotated 1953
76-9-702.8, Utah Code Annotated 1953

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

Section 1. Section 53G-6-1101 is amended to read:

53G-6-1101. Report -- Action plan.

(1) As used in this section:

(a) "Gender-designated interscholastic sport" means a sport that is specifically designated for female or male students.

(b) "Interscholastic sport" means an activity in which a student represents the student's school in the sport in competition against another school.

(c) "School" means a public school that sponsors or offers an interscholastic sport in which students enrolled at the school may participate.

(d) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) Before the beginning of each academic year, the athletic director or another administrator of each school shall report to the school's local governing board regarding:

(a) the number and type of interscholastic sports available at the school, categorized by gender designation;

(b) the number of students competing in a gender-designated interscholastic sport at the school, categorized by gender;

(c) the amount of spending that the school devotes to each gender-designated sport, reported in total amount and on a per-student basis;

(d) a comparison and evaluation of designated practice and game locations in gender-designated interscholastic sports;

(e) any information regarding the school's efforts in compliance with Title 63G, Chapter 31, Part 2, Distinctions on the Basis of Sex, and Title IX [~~compliance~~]; and

(f) if there is a discrepancy between male-designated and female-designated sports of 10% or greater, an action plan that the school develops to address the discrepancy.

(3) An LEA governing board that receives the report described in Subsection (2) shall review the report in a public board meeting.

Section 2. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii)(A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l)(i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(a) when school is in session; or

(b) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; or

(vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (5), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed the same offense on school property on two previous occasions; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for both of the two previous offenses.

(5) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

(6) Notwithstanding Subsection (4), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(7)(a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (7)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is a status offense or infraction.

(e) If a minor is referred to a court under Subsection (4), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

(8) If a minor is alleged to have committed an offense on school property that is a class

B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the

minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

(9) A school administrator, a school administrator's designee, and a school resource officer retain the discretion described under this section in relation to Title 63G, Chapter 31, Distinctions on the Basis of Sex.

Section 3. Section 63G-31-101 is enacted to read:

63G-31-101. Definitions.

CHAPTER 31. DISTINCTIONS ON THE BASIS OF SEX

Part 1. General Provisions

As used in this chapter:

(1)(a) "Changing room" means a space designated for multiple individuals to dress or undress within the same space.

(b) "Changing room" includes:

(i) a dressing room, fitting room, locker room, or shower room; and

(ii) a restroom when a changing room contains or is attached to the restroom.

(2)(a) "Facility" means a publicly owned or controlled building, structure, or other improvement.

(b) "Facility" includes a subset of a publicly owned or controlled building, structure, or other improvement, including a restroom or locker room.

(3) "Government entity" means:

(a) the state; or

(b) any county, municipality, special district, special service district, or other political subdivision or administrative unit of the state, including:

(i) a state institution of higher education as defined in Section 53B-2-101; or

(ii) a local education agency as defined in Section 53G-7-401.

(4) "Intersex individual" means the same as that term is defined in Section 26B-8-101.

(5) "Men's restroom" means a restroom that is designated for the exclusive use of males and not females.

(6)(a) "Open to the general public" means that a privacy space is:

(i) freely accessible to a member of the general public;

(ii) accessible to an individual who has purchased a ticket, paid an entry fee, paid a membership fee, or otherwise paid to access the facility containing the relevant privacy space; or

(iii) accessible to a student of an institution of higher education described in Section 52B-2-101, either freely or as described in Subsection (6)(a)(ii).

(b) "Open to the general public" does not include a privacy space that is:

(i) only accessible to employees of a government entity; or

(ii) any area that is not normally accessible to the public.

(7) "Privacy space" means a restroom or changing room within a publicly owned or controlled facility, where an individual has a reasonable expectation of privacy.

(8) "Publicly owned or controlled" means that a government entity has at least a partial ownership interest in or has control of a facility, program, or event.

(9)(a) "Restroom" means any space that includes a toilet.

(b) "Restroom" includes:

(i) sex-designated men's restrooms;

(ii) sex-designated women's restrooms;

(iii) unisex restrooms; and

(iv) single-occupant restrooms.

(10) "Sex-designated" means that a facility, program, or event is designated specifically for males or females and not the opposite sex.

(11) "Single-occupant" means, in relation to a single-occupant facility or privacy space, that the facility or privacy space:

(a) has floor-to-ceiling walls;

(b) has an entirely encased and locking door; and

(c) is designated for single occupancy.

(12) "Unisex" means, in relation to a unisex facility or privacy space, that the facility or privacy space:

(a) is designated for the use of both sexes; or

(b) is not sex-designated.

(13) "Women's restroom" means a restroom that is designated for the exclusive use of females and not males.

Section 4. Section 63G-31-102 is enacted to read:

63G-31-102. Severability.

(1) If any provision of this chapter or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalidated provision or application.

(2) The provisions of this chapter are severable.

Section 5. Section 63G-31-201 is enacted to read:

63G-31-201. Distinctions on the basis of sex.

Part 2. Distinctions on the Basis of Sex

(1) A government entity may not, on the basis of sex, exclude an individual from participation in, deny an individual from the benefits of, or subject an individual to a sex-based distinction in or under any government or otherwise publicly owned or controlled facility, program, or event, unless the distinction is substantially related to an important government objective.

(2) Each government entity shall ensure the preservation of distinctions on the basis of sex that protect individual privacy and competitive opportunity, as described in this chapter.

(3)(a) As used in this Subsection (3), "athletic facility" does not include a privacy space.

(b) To preserve the individual privacy and competitive opportunity of females, an individual is not entitled to and may not access, use, or benefit from a government entity's athletic facility, program, or event if:

(i) the facility, program, or event is designated for females; and

(ii) the individual is not female.

(c) To preserve the individual privacy and competitive opportunity of males, an individual is not entitled to and may not access, use, or benefit from a government entity's athletic facility, program, or event if:

(i) the facility, program, or event is designated for males; and

(ii) the individual is not male.

Section 6. Section 63G-31-202 is enacted to read:

63G-31-202. Sex-based distinctions to protect individual privacy.

A distinction on the basis of sex that provides separate accommodations for the sexes is substantially related to the important government objective of protecting individual privacy, including in the following contexts:

(1) a privacy space; and

(2) a correctional facility as defined in Section 77-16b-102.

Section 7. Section 63G-31-203 is enacted to read:

63G-31-203. Sex-based distinctions to protect athletic health and competitive opportunity.

A distinction on the basis of sex to provide separate accommodations for the sexes is substantially related to the important government objective of protecting health and competitive opportunity in the availability or quality of an athletic venue, event, or program within the public education system.

Section 8. Section 63G-31-204 is enacted to read:

63G-31-204. Prohibited sex-based distinctions.

The following actions within the public education system constitute a violation of Section 63G-31-201:

(1) providing a sex-designated facility, program, or event of a higher quality to one sex and of a lesser quality to the opposite sex rather than ensuring equivalent quality or rotational sharing, including the use of athletic facilities or venues;

(2) providing males or females preferred or more advantageous scheduling of facilities, programs, or events in comparison to the opposite sex rather than ensuring equivalent scheduling practices or rotational sharing, including the scheduling of athletic events or practices;

(3) providing males or females with more sex-designated opportunities than the opposite sex in excess of a 10% disparity;

(4) requiring males or females to participate or compete against the opposite sex in any sex-designated facility, program, or event; or

(5) requiring, giving official authorization for, or knowingly allowing males or females to use a sex-designated facility in the presence of the opposite sex.

Section 9. Section 63G-31-301 is enacted to read:

63G-31-301. Sex-designated privacy spaces in public schools.

Part 3. Sex-based Distinctions in Privacy Spaces

(1) To preserve the individual privacy of male and female students in the public education system, a student may only access an operational sex-designated privacy space within a public school that is designated for student use if the student's sex corresponds with the sex designation of the privacy space.

(2) For a student who makes a request to use a privacy space other than the sex-designated privacy space that corresponds with the student's sex because of the student's gender identity, as defined in Section 34A-5-102, or reasonable fear of bullying, the local education agency, as defined in Section 53E-1-102, shall coordinate with the student's parent or legal guardian to develop a privacy plan that provides the student with:

(a)(i) reasonable access to a unisex or single-occupant facility; or

(ii) reasonable access to a faculty or staff restroom; or

(b) if the access described in Subsection (2)(a) is unavailable, reasonable access to private use of an otherwise sex-designated privacy space through staggered scheduling or another policy provision that provides for temporary private access.

(3) An LEA satisfies the LEA's duties regarding student use of a privacy space under this chapter if the LEA:

(a) gives notice to students of the provisions of this section;

(b) takes administrative action to address violations of and promote compliance with this section; and

(c) develops a privacy plan in accordance with Subsection (2).

(4) An individual may use the following evidence as a defense to an allegation that the student is not eligible to access and use a sex-designated privacy space under Subsection (1):

(a) the student's unamended birth certificate that corresponds with the sex designation of privacy space, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

(b) documentation of a medical treatment or procedure that is consistent only with the sex designation of the privacy space.

(5) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility; or

(b) an intersex individual.

Section 10. Section 63G-31-302 is enacted to read:

63G-31-302. Sex-designated changing rooms in publicly owned facilities open to the general public.

(1)(a) Except as provided in Subsection (1)(b), to preserve the individual privacy of males and females, an individual may only access an operational sex-designated changing room in a government entity's facility that is open to the general public if:

(i) the individual's sex corresponds with the sex designation of the changing room; or

(ii) the individual has:

(A) legally amended the individual's birth certificate to correspond with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(B) undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102 to correspond with the sex designation of the changing room.

(b) Subsection (1)(a) does not apply to:

(i) a minor child who requires assistance to access or use the changing room that corresponds with the sex of the minor's parent, guardian, or relative;

(ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined in Section 76-5-111 who requires assistance to access or use the changing room that corresponds with the sex of a caretaker;

(iii) an individual providing public safety services, including law enforcement, emergency medical services as defined in Section 26B-4-101, and fire protection;

(iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide health care services to a patient of the health care facility; or

(v) an individual whose employment duties include the maintenance or cleaning of the changing room.

(2) An individual in a changing room has a reasonable expectation of privacy, satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.

(3) An individual who knowingly enters a changing room in violation of Subsection (1) commits the offense of criminal trespass under Section 76-6-206 if the individual enters or remains in the changing room under circumstances which a reasonable person would expect to likely cause affront or alarm to, on, or in the presence of another individual.

(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual from the offense of lewdness related to genitalia under Subsection 76-9-202(3) or 76-9-202.5(4).

(5) An individual may use the following evidence as a defense against an allegation that the individual is not eligible to access and use a sex-designated changing room under Subsection (1):

(a) for an individual whose birth sex corresponds with the sex designation of the changing room:

(i) an individual's unamended birth certificate that corresponds with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

(ii) documentation of a medical treatment or procedure that is consistent only with the sex designation of the changing room; or

(b) for an individual whose birth sex does not correspond with the sex designation of the changing room:

(i) the individual's amended birth certificate, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(ii) documentation that demonstrates that the individual has undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102.

(6) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility;

(b) a changing room that is not open to the general public; or

(c) an intersex individual.

Section 11. Section 63G-31-303 is enacted to read:

63G-31-303. Unisex or single-occupant facilities.

The availability of a unisex facility or single-occupant facility satisfies a government entity's obligations regarding an individual who, because of the individual's gender identity, as defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using:

(1) for a student, a privacy space in accordance with Section 63G-31-301; or

(2) a changing room in accordance with Section 63G-31-302.

Section 12. Section 63G-31-304 is enacted to read:

63G-31-304. Government entity facility compliance.

(1) Except as provided under Section 53G-8-211, a government entity shall contact law enforcement if the entity receives a complaint or allegation regarding the following within a privacy space in a facility that is open to the general public:

(a) an offense of lewdness under Section 76-9-702;

(b) an offense of lewdness involving a child under Section 76-9-702.5;

(c) voyeurism under Section 76-9-702.7;

(d) loitering in a privacy space under Section 76-9-702.8; or

(e) for a changing room described in Section 63G-31-302, an offense of criminal trespass under Subsection 63G-31-302(2).

(2) To preserve the individual privacy of males and females in privacy spaces:

(a) a government entity shall adopt a privacy compliance plan to address compliance with the government entity's duties under this chapter;

(b) for construction of a new facility, a government entity shall ensure that the new construction includes a single-occupant facility; and

(c) for existing privacy spaces, a government entity:

(i) shall consider the feasibility of retrofitting or remodeling to include:

(A) floor-to-ceiling walls and doors or similar privacy protections;

(B) curtains; or

(C) other methods of improving individual privacy within the facility that are comparable to the methods described in Subsections (2)(a)(i) and (ii); and

(ii) may reduce the number of fixtures that state law requires by up to 20% to provide adequate space for the retrofitting or remodeling described in Subsection (2)(a).

(3) A government entity shall ensure sufficient sex-designated privacy spaces through compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

Section 13. Section 63G-31-401 is enacted to read:

63G-31-401. Government entity noncompliance.

Part 4. Enforcement and Indemnification

(1) The state auditor shall:

(a) establish a process to receive and investigate alleged violations of this chapter by a government entity;

(b) provide notice to the relevant government entity of:

(i) each alleged violation of this chapter by the government entity;

(ii) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days; and

(c) if a government entity fails to cure a violation in accordance with Subsection (1)(b)(ii), report the government entity's failure to:

(i) for a political subdivision as defined in Section 63G-7-102, the attorney general for enforcement under Subsection (2); and

(ii) for a state entity as defined in Section 67-4-2, the Legislative Management Committee.

(2)(a) The attorney general shall:

(i) enforce this chapter against a political subdivision upon referral by the state auditor under Subsection (1)(c) by imposing a fine of up to $10,000 per violation per day; and

(ii) deposit fines under Subsection (2)(a) into the General Fund.

(b) A political subdivision may seek judicial review of a fine that the attorney general imposes under this section to determine whether the fine is clearly erroneous.

(3) A local education agency is not in violation of this chapter for a lawful application of Section 53G-8-211.

Section 14. Section 63G-31-402 is enacted to read:

63G-31-402. Indemnification.

The attorney general shall defend, indemnify, and hold harmless a government entity acting under color of state law to enforce this chapter for any claims or damages, including court costs and attorney fees that:

(1) arise as a result of this chapter; and

(2) are not covered by the government entity's insurance policies or any coverage agreement that the State Risk Management Fund issues.

Section 15. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1)(a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3)(a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c)(i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have

failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67- 1a- 15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67- 1a- 15, or a state or local taxing or fee- assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee- assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee- assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67- 4- 1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14)(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11- 41- 104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11- 41- 103.

(15)(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v)(A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17)(a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative

Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall:

(a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(b) report to the Legislative Management Committee, upon request, regarding the state auditor's actions under this Subsection (24).

Section 16. Section 67-5-1 is amended to read:

67-5-1. General duties.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to

the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t)(i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u)(i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature;[~~and~~]

(z)(i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the

Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i)[.]; and

(aa)(i) enforce compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in accordance with Section 63G-31-401; and

(ii) report to the Legislative Management Committee, upon request, regarding the attorney general's enforcement under this Subsection (1)(aa).

(2)(a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

Section 17. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

(6) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.

(7) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204.

(8) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204.

(9) "Depose" means to make a written statement made under oath or affirmation.

(10)(a) "Equal" means, with respect to biological sex, of the same value.

(b) "Equal" does not mean, with respect to biological sex:

(i) a characteristic of being the same or identical; or

(ii) a requirement that biological sexes be ignored or co-mingled in every circumstance.

[~~(10)~~](11) "Executor" includes "administrator" when the subject matter justifies the use.

(12) "Father" means a parent who is of the male sex.

(13) "Female" means the characteristic of an individual whose biological reproductive system is of the general type that functions in a way that could produce ova.

[~~(11)~~](14) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

[~~(12)~~](15) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

[~~(13)~~](16) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

[~~(14)~~](17) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

[~~(15)~~](18) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

(19) "Male" means the characteristic of an individual whose biological reproductive system is of the general type that functions to fertilize the ova of a female.

(20) "Man" means an adult human male.

[~~(16)~~](21) "Month" means a calendar month, unless otherwise expressed.

(22) "Mother" means a parent who is of the female sex.

[~~(17)~~](23) "Oath" includes "affirmation."

[~~(18)~~](24) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

[~~(19)~~](25) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections [~~(19)(a)~~](25)(a) through (f).

[~~(20)~~](26) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections [~~(20)(a)~~](26)(a) through (d) under the law governing the person's status.

[~~(21)~~](27) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[~~(22)~~](28) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

[~~(23)~~](29) "Process" means a writ or summons issued in the course of a judicial proceeding.

[~~(24)~~](30) "Property" includes both real and personal property.

[~~(25)~~](31) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

[~~(26)~~](32) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[~~(27)~~](33) "Road" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

(34) "Sex" means, in relation to an individual, the individual's biological sex, either male or female, at birth, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

[~~(28)~~](35) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

[~~(29)~~](36) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

[~~(30)~~](37) "Swear" includes "affirm."

[~~(31)~~](38) "Testify" means to make an oral statement under oath or affirmation.

[~~(32)~~](39) "Town" includes, depending on population, a metro township as defined in Section 10- 3c- 102.

[~~(33)~~](40) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the commissioned corps of the United States Public Health Service.

[~~(34)~~](41) "United States" includes each state, district, and territory of the United States of America.

[~~(35)~~](42) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b)(i) after the day described in Subsection [~~(35)(a)~~](42)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

[~~(36)~~](43) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

[~~(37)~~](44)(a) "Veteran" means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

[~~(38)~~](45) "Will" includes a codicil.

(46) "Woman" means an adult human female.

[~~(39)~~](47) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

[~~(40)~~](48) "Writing" includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 18. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

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

(i) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(ii) "Graffiti" means the same as that term is defined in Section 76-6-101.

(iii) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

(A) the private property or any portion of the private property is not open to the public; and

(B) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the actor enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the actor's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the actor's or unmanned aircraft's entry or presence is unlawful, the actor enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders;[~~or~~]

(c) the actor enters a condominium unit in violation of [~~Subsection~~]Section 57-8-7(8)[~~.~~]; or

(d) the actor enters a sex-designated changing room in violation of Subsection 63G-31-302(3).

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) [~~or~~], (b), or (d) is a class B misdemeanor.

(b) [~~If~~]The following is a class A misdemeanor:

(i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling[~~, the violation is a class A misdemeanor.~~];

(ii) if a violation of Subsection (2)(d) is committed while also committing the offense of:

(A) lewdness under Section 76-9-702;

(B) lewdness involving a child under Section 76-9-702.5;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(c) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the defendant complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, an actor who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 19. Section 76-9-202 is amended to read:

76-9-202. Emergency reporting -- Interference -- False report.

(1) As used in this section:

(a) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

(b) "Party line" means a subscriber's line or telephone circuit:

(i) that consists of two or more connected main telephone stations; and

(ii) where each telephone station has a distinctive ring or telephone number.

(2) An actor is guilty of emergency reporting abuse if the actor:

(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;

(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists;

(c) reports an emergency or causes an emergency to be reported to any public, private, or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when the actor knows the reported emergency does not exist;[~~or~~]

(d) makes a false report, or intentionally aids, abets, or causes a third party to make a false report, to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, if the false report claims that:

(i) an ongoing emergency exists;

(ii) the emergency described in Subsection (2)(d)(i) currently involves, or involves an imminent threat of, serious bodily injury, serious physical injury, or death; and

(iii) the emergency described in Subsection (2)(d)(i) is occurring at a specified location[~~.~~]; or

(e) makes a false report after having previously made a false report, or intentionally aides, abets, or causes a third party to make a false report, to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, alleging a violation of Section 63G-31-302 regarding a sex-designated changing room.

(3)(a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.

(b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided under Subsection (3)(c).

(c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding a weapon of mass destruction, as defined in Section 76-10-401.

(d) A violation of Subsection (2)(d):

(i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or

(ii) is a second degree felony if:

(A) while acting in response to the report, the emergency responder causes physical injury to an individual at the location described in Subsection (2)(d)(iii); or

(B) the actor makes the false report or aids, abets, or causes a third party to make the false report with intent to ambush, attack, or otherwise harm a responding law enforcement officer or emergency responder.

(e) A violation of Subsection (2)(e) is a class B misdemeanor.

(4)(a) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse:

(i) any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation; and

(ii) an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the physical injury and any psychological injury caused by the offense.

(b) The court may order that the defendant pay less than the full amount of the costs described in Subsection (4)(a) only if the court states on the record the reasons why the reimbursement would be inappropriate.

Section 20. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under

circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years old or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2)(a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1);[~~or~~]

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5[~~.~~];

(iv) the person commits the offense of lewdness while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness involving a child under Section 76-9-702.5;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(v) the person commits the offense of lewdness in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(c)(i) For purposes of this Subsection (2) and Subsection 77-41-102(18), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3)(a) As used in this Subsection (3):

(i) "Common area of a privacy space" means any area of a privacy space other than:

(A) a toilet stall with a closed door;

(B) immediately in front of a urinal during use; or

(C) a shower stall with a closed door or other closed covering.

(ii) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

(b) The common area of a privacy space constitutes a public place or circumstance described in Subsection (1) where an act or an attempted act described in Subsection (1) constitutes lewdness.

(c) Within the common area of a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness.

[~~(3)~~](4) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 21. Section 76-9-702.5 is amended to read:

76-9-702.5. Lewdness involving a child.

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

(a) "[~~in~~]In the presence of" includes within visual contact through an electronic device.

(b) "Common area of a privacy space" means the same as that term is defined in Section 76-9-702.

(c) "Privacy space" means the same as that term is defined in Section 76-9-702.8.

(2) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly:

(a) does any of the following in the presence of a child who is under 14 years of age:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:

(A) in a public place; or

(B) in a private place under circumstances the person should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;

(iii) masturbates; or

(iv) performs any other act of lewdness; or

(b) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child.

(3)(a) Lewdness involving a child is a class A misdemeanor, except under Subsection (3)(b).

(b) Lewdness involving a child is a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;[~~or~~]

(ii) the person has previously been convicted of a violation of this section[~~.~~];

(iii) the person commits the offense of lewdness involving a child while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iv) the person commits the offense of lewdness involving a child in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(4)(a) The common area of a privacy space constitutes a public place or circumstance described in Subsection (1) where an act or an attempted act described in Subsection (1) constitutes lewdness involving a child.

(b) Within the common area of a government entity's dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space, exposing, displaying, or otherwise uncovering genitalia that does not correspond with the sex designation of the changing room constitutes an act or an attempted act described in Subsection (1) that constitutes lewdness involving a child.

Section 22. Section 76-9-702.7 is amended to read:

76-9-702.7. Voyeurism offenses -- Penalties.

(1) A person is guilty of voyeurism who intentionally uses any type of technology to secretly or surreptitiously record, by video, photograph, or other means, an individual:

(a) for the purpose of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(2)(a) [~~A~~]Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class A misdemeanor [~~, except that~~].

(b) The following is a third degree felony:

(i) a violation of Subsection (1) committed against a child under 14 years of age[~~, is a third degree felony.~~];

(ii) a violation of Subsection (1) committed while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) lewdness involving a child under Section 76-9-702.5; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(3) Distribution or sale of any images, including in print, electronic, magnetic, or digital format, obtained under Subsection (1) by transmission, display, or dissemination is a third degree felony, except that if the violation of this Subsection (3) includes images of a child under 14 years of age, the violation is a second degree felony.

(4) A person is guilty of voyeurism who, under circumstances not amounting to a violation of Subsection (1), views or attempts to view an individual, with or without the use of any instrumentality:

(a) with the intent of viewing any portion of the individual's body regarding which the individual has a reasonable expectation of privacy, whether or not that portion of the body is covered with clothing;

(b) without the knowledge or consent of the individual; and

(c) under circumstances in which the individual has a reasonable expectation of privacy.

(5)(a) [~~A~~]Except as provided in Subsection (5)(b), a violation of Subsection (4) is a class B misdemeanor [~~, except that~~].

(b) The following is a class A misdemeanor:

(i) a violation of Subsection (4) committed against a child under 14 years of age is a class A misdemeanor[~~.~~];

(ii) a violation of Subsection (4) committed while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) lewdness involving a child under Section 76-9-702.5; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.

(6) For purposes of this section, an individual has a reasonable expectation of privacy within a public restroom.

Section 23. Section 76-9-702.8 is enacted to read:

76-9-702.8. Loitering in a privacy space.

(1) As used in this section:

(a) "Privacy space" means the following in which an individual has a reasonable expectation of privacy:

(i) a restroom or any other space that includes a toilet;

(ii) a dressing room, fitting room, locker room, changing facility, or any other space designated for multiple individuals to dress or undress within the same space; or

(iii) any room or space that includes a shower.

(b) "Sex-designated" means that a facility, program, or event is designated specifically for males or females and not the opposite sex.

(2) An actor commits the offense of unlawfully loitering in a privacy space if the actor intentionally or knowingly remains unlawfully in a privacy space.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (4) is a class A misdemeanor if the actor commits the offense:

(i) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) lewdness involving a child under Section 76-9-702.5; or

(D) voyeurism under Section 76-9-702.7; or

(ii) in a sex-designated privacy space that is not designated for individuals of the actor's sex.

Section 24. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The actions affecting the following sections take effect on May 1, 2024:

(a) Section 63G-31-401;

(b) Section 67-3-1; and

(c) Section 67-5-1.

CHAPTER 3
H. B. 261
Passed January 26, 2024
Approved January 30, 2024
Effective July 1, 2024

EQUAL OPPORTUNITY INITIATIVES

Chief Sponsor: Katy Hall
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill prohibits an institution of higher education, the public education system, and a governmental employer from taking certain actions and engaging in discriminatory practices.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits an institution of higher education, the public education system, and a governmental employer from:
  - requiring an individual, before, during, or after admission or employment, to provide certain submissions or attend certain training that promotes differential treatment;
  - using an individual's certain characteristics in decisions regarding aspects of employment or education; and
  - engaging in certain practices;
- requires the Utah Board of Higher Education (board), the State Board of Education (state board), the state auditor, and executive agency directors to review and report compliance with certain requirements;
- prohibits an institution of higher education, the state board, and a governmental employer from establishing or maintaining an office that engages in certain practices;
- requires an institution of higher education to:
  - contract with a third party to conduct campus climate surveys;
  - provide certain training; and
  - collect and send the surveys to the Office of Legislative Research and General Counsel (OLRGC);
- requires OLRGC to provide campus climate survey summaries to the Education Interim Committee at certain times;
- provides for certain measures of legislative oversight;
- appropriates funding for a certain institution of higher education program;
- provides that an individual may submit a complaint for noncompliance to:
  - for an institution, the board; or
  - for public education, the state board;
- provides limited exceptions to the prohibitions in this bill; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2023, Chapter 374
53E-1-201, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380
67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

ENACTS:

53B-1-116, Utah Code Annotated 1953
53B-1-117, Utah Code Annotated 1953
53B-1-118, Utah Code Annotated 1953
53E-3-1101, Utah Code Annotated 1953
53G-2-103, Utah Code Annotated 1953
53G-2-104, Utah Code Annotated 1953
53G-2-105, Utah Code Annotated 1953
67-27-105, Utah Code Annotated 1953
67-27-106, Utah Code Annotated 1953
67-27-107, Utah Code Annotated 1953

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

Section 1. Section 53B-1-116 is enacted to read:

53B-1-116. Prohibition on the use of certain submissions in higher education -- Exceptions.

(1) As used in this section, "prohibited submission" means the same as that term is defined in Section 67-27-105.

(2) Except as provided in Subsections (4) and (6), an institution may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

(b) admission to, advancement in, or graduation from an institution or an academic program;

(c) participation in an institution-sponsored program; or

(d) qualification for or receipt of state financial aid or other state financial assistance.

(3) An institution may not grant any form of preferential consideration to an individual who, with or without solicitation from the institution, provides a prohibited submission for consideration for any action described in Subsection (2).

(4) If federal law requires an institution to accept or require a prohibited submission, the institution:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) For a required prohibited submission under Subsection (4), an institution shall:

(a) prepare a report to the institution's governing board detailing the circumstances under which a prohibited submission is required; and

(b) publish the report described in Subsection (5)(a) on the institution's governing board website in a conspicuous location.

(6) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require an applicant for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(7)(a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(8) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (7)(b).

(9) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (7)(b).

(10) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 2. Section 53B-1-117 is enacted to read:

53B-1-117. Prohibition on the use of certain training in higher education -- Exceptions.

(1) As used in this section:

(a) "Prohibited training" means a mandatory instructional program and related materials that an institution requires the institution's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section 53B-1-118.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) An institution may not require prohibited training.

(3) An institution shall annually train the institution's faculty and staff on academic freedom and freedom of speech in accordance with state or federal law.

(4) Nothing in this section limits or prohibits an institution's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(5)(a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(6) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (5)(b).

(7) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (5)(b).

(8) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 3. Section 53B-1-118 is enacted to read:

53B-1-118. Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

(a) "Important government interest" means a governmental purpose relating to athletic competition or athletic safety in public education or privacy.

(b) "Personal identity characteristics" means an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

(c)(i) "Prohibited discriminatory practice" means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that, based on an individual's personal identity characteristics:

(A) promotes the differential treatment of an individual without an important government interest;

(B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal identity characteristics and in accordance with federal law;

(C) influences an individual's admission to, advancement in, or graduation from an institution, the public education system, or an academic program; or

(D) influences an individual's participation in an institution-sponsored or public education system-sponsored program.

(ii) "Prohibited discriminatory practice" also means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that:

(A) asserts that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

(B) asserts that an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;

(C) asserts that an individual should be discriminated against in violation of Title VI, Title VII, and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;

(D) asserts that an individual's moral character is determined by the individual's personal identity characteristics;

(E) asserts that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(F) asserts that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(G) asserts that meritocracy is inherently racist or sexist;

(H) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or

(L) is referred to or named diversity, equity, and inclusion.

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.

(d) "Student success and support" means an office, division, employment position, or other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

(e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.

(f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.

(g) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) An institution may not:

(a) engage in prohibited discriminatory practices;

(b) take, express, or assert a position or opinion on subjects described in Subsection 67-27-105(1)(b)(ii);

(c) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(d) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An institution shall:

(a) ensure that all students have access to programs providing student success and support;

(b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;

(c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;

(d) develop strategies, including inviting speakers, to promote viewpoint diversity; and

(e) establish policies and procedures to include opportunities for education and research on free speech and civic education.

(4) Beginning on or before July 1, 2025, the board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.

(5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.

(6)(a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:

(i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

(ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.

(b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.

(7)(a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:

(i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

(ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

(iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

(b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.

(8) Nothing in this section requires an individual to respond to a campus expression climate survey.

(9) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or

(f) private scholarships administered by an institution.

(11) Notwithstanding any other provision of this part, the University of Utah may take any action required for the University of Utah to comply with

the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

(12)(a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(13) On or before November 1 of each year, the board shall prepare and submit a report to the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (12)(b).

(14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

(a) report the findings under Subsections (4) and (13) to the Legislature; and

(b) make appropriation recommendations about an institution's compliance with this section.

(15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (12)(b).

(16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 4. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

(b) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

[~~(b)~~](c) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

[~~(c)~~](d) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

[~~(d)~~](e) the reports described in Section 53B-7-705 by the board on performance;

[~~(e)~~](f) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

[~~(f)~~](g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

[~~(g)~~](h) the report described in Section 53B-13a-103 by the board on the Utah Promise Program;

[~~(h)~~](i) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

[~~(i)~~](j) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals;

[~~(j)~~](k) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council; and

[~~(k)~~](l) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals; and

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) an appropriation recommendation described in Section 53B-1-118 regarding compliance with Subsections 53B-1-118(5) and (14);

(b) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

[~~(b)~~](c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

[~~(c)~~](d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 5. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and

(t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) in 2027, 2030, 2033, and 2035, the reports described in Sections 53B-1-116, 53B-1-117, and 53B-1-118;

[~~(b)~~](c) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

[~~(c)~~](d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(d)~~](e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(e)~~](f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;

[~~(f)~~](g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(g)~~](h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(h)~~](i) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(i)~~](j) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(j)~~](k) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(k)~~](l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(l)~~](m) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Service regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 6. Section 53E-3-1101 is enacted to read:

53E-3-1101. Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.

(2) The state board may not:

(a) establish or maintain an office, division, or employment position established to implement, develop, plan, or promote policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(b) employ or assign an employee or a third-party whose duties for the state board include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) Nothing in this section limits or prohibits the state board's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(4) The state board shall provide an update to the Education Interim Committee and Public Education Appropriations Subcommittee on the state board's compliance with this section at or before:

(a) the Education Interim Committee's November interim committee meeting; and

(b) the Public Education Appropriations Subcommittee December interim subcommittee meeting.

Section 7. Section 53G-2-103 is enacted to read:

53G-2-103. Prohibition on the use of certain submissions in public education -- Exceptions.

(1) As used in this section, "prohibited submission" means the same as that term is defined in Section 67-27-105.

(2) Except as provided in Subsections (4) and (6), an LEA may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment;

(b) enrollment or graduation from the LEA;

(c) participation in LEA-sponsored programs; or

(d) qualification for or receipt of state financial aid or other state financial assistance.

(3) An LEA may not grant any form of preferential consideration to an individual who, with or without solicitation from the LEA, provides a prohibited submission for consideration for any action described in Subsection (2).

(4) If federal law requires an LEA to accept or require a prohibited submission, the LEA:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) For a required prohibited submission under Subsection (4), an LEA shall notify the state board detailing the circumstances under which a prohibited submission under Subsection (4) is required.

(6) Nothing in this section limits or prohibits an LEA's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or

(b) require an applicant for employment, tenure, continuing status, or promotion to disclose or discuss the applicant's:

(i) teaching record;

(ii) artistic creations; or

(iii) pedagogical approaches or experiences with students of all learning abilities.

(7) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(8) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 8. Section 53G-2-104 is enacted to read:

53G-2-104. Prohibition on the use of certain training in public education -- Exceptions.

(1) As used in this section:

(a) "Prohibited training" means a mandatory instructional program and related materials that an LEA requires the LEA's employees, prospective employees, students, or prospective students, to attend that promote prohibited discriminatory practices as that term is defined in Section 53B-1-118.

(b) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) An LEA may not require prohibited training.

(3) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(4) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(5) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 9. Section 53G-2-105 is enacted to read:

53G-2-105. Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section, "prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.

(2) An LEA may not:

(a) engage in prohibited discriminatory practices;

(b) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(c) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An LEA shall ensure that all students have access to programs providing student success and support, as that term is defined in Section 53B-1-118.

(4) Nothing in this section limits or prohibits an LEA's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

(5) If the state board identifies a reported violation of this section, the state board shall provide an update to the Education Interim Committee and the Public Education Appropriations Subcommittee on an LEA's compliance with this section at or before the Education Interim Committee's November interim committee meeting.

(6) An individual may bring a violation of this section to the state board in accordance with the process described in Section 53E-3-401.

Section 10. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1)(a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3)(a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law

requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c)(i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost- efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee- assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee- assessing

unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14)(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15)(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v)(A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17)(a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied

upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

(24) The state auditor shall report compliance with Sections 67-27-105, 67-27-106, and 67-27-107 by:

(a) establishing a process to receive and audit each alleged violation; and

(b) reporting to the Legislative Management Committee, upon request, regarding the state auditor's findings and recommendations under this Subsection (24).

Section 11. Section 67-27-105 is enacted to read:

67-27-105. Prohibition on the use of certain submissions by governmental employers -- Exceptions.

(1) As used in this section:

(a)(i) "Governmental employer" means any department, division, agency, commission, board, council, committee, authority, municipality, county, political subdivision, or any other institution of the state.

(ii) "Governmental employer" does not mean a local education agency or institution of higher education.

(b)(i) "Prohibited submission" means a submission, statement, or document that requires an individual to articulate the individual's position, view, contribution, effort, or experience regarding a policy, program, or initiative that promotes differential treatment based on an individual's personal identity characteristics, as that term is defined in Section 53B-1-118.

(ii) "Prohibited submission" includes a submission, statement, or document that relates to a policy, program, or initiative regarding:

(A) anti-racism;

(B) bias;

(C) critical race theory;

(D) implicit bias;

(E) intersectionality;

(F) prohibited discriminatory practice, as that term is defined in Section 53B-1-118; or

(G) racial privilege.

(iii) "Prohibited submission" does not include a submission, statement, or document for an employment position if the submission, statement, or document relates to a bona fide occupational qualification for the position.

(2) Except as provided in Subsection (4), a governmental employer may not require, request, solicit, or compel a prohibited submission as a certification or condition before taking action with respect to:

(a) employment, including decisions regarding:

(i) hiring;

(ii) terms of employment;

(iii) benefits;

(iv) compensation;

(v) seniority status;

(vi) tenure or continuing status;

(vii) promotion;

(viii) performance reviews;

(ix) transfer;

(x) termination; or

(xi) appointment; or

(b) admissions and aid, including:

(i) admission to any state program or course;

(ii) financial or other forms of state-administered aid or assistance; or

(iii) other benefits from the governmental employer for which an individual is eligible.

(3) A governmental employer may not grant any form of preferential consideration to an individual who, with or without solicitation from the governmental employer, provides a prohibited submission for any action described in Subsection (2).

(4) If federal law requires a governmental employer to accept or require a prohibited submission, the governmental employer:

(a) may accept the prohibited submission only to the extent required under federal law; and

(b) shall limit consideration of the information contained in the prohibited submission to the extent necessary to satisfy the requirement under federal law.

(5) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 12. Section 67-27-106 is enacted to read:

67-27-106. Prohibition on the use of certain training by governmental employers -- Exceptions.

(1) As used in this section:

(a) "Governmental employer" means the same as that term is defined in Section 67-27-105.

(b)(i) "Prohibited training" means a mandatory instructional program and related materials that a governmental employer requires the governmental employer's current or prospective employees to attend that promote prohibited discriminatory practices as that term is defined in Section 53B-1-118.

(ii) "Prohibited training" includes an in-person or online seminar, discussion group, workshop, other program, or related materials.

(2) A governmental employer may not require prohibited training.

(3) Nothing in this section limits or prohibits a governmental employer's authority to establish policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment.

Section 13. Section 67-27-107 is enacted to read:

67-27-107. Prohibited discriminatory practices -- Restrictions -- Reporting.

(1) As used in this section:

(a) "Executive agency director" means the executive agency director of an executive department agency who, at the direction of the governor, carries out state business.

(b) "Governmental employer" means the same as that term is defined in Section 67-27-105.

(c) "Personal identity characteristics" means the same as that term is defined in Section 53B-1-118.

(d) "Prohibited discriminatory practice" means the same as that term is defined in Section 53B-1-118.

(2)(a) This section does not apply to a federal grant or program that would otherwise require a governmental employer to engage in a prohibited discriminatory practice if the grant or program has been reviewed and approved by the governmental employer's executive director, legislative body, or governing body, as that term is defined in Section 10-1-104.

(b) A governmental employer's executive director, legislative body, or governing body shall report the reviewed and approved federal grant or program under Subsection (2)(a) to the Executive Appropriations Committee.

(3) A governmental employer may not engage in prohibited discriminatory practices.

(4) Nothing in this section limits or prohibits a governmental employer from:

(a) as required or permitted by state law:

(i) establishing or maintaining an office, division, or employment position to implement, develop, plan, or promote practices relating to personal identity characteristics if the office, division, or employment position is not engaging in prohibited discriminatory practices; or

(ii) employing or assigning an employee or a third-party whose duties for governmental employer include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to personal identity characteristics if the employee or the third-party is not engaging in prohibited discriminatory practices;

(b) establishing policies that are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment; or

(c) establishing policies that are necessary to comply with state law enacted on or before July 1, 2024.

(5)(a) Beginning on July 1, 2024, each executive agency director shall conduct a thorough review of existing agency programs and offices to determine if the program or office is in compliance with Subsection (3).

(b) On or before August 1, 2025, each executive agency director shall report on the compliance of agency programs and offices under Subsection (5)(a) to the governor.

(c) The governor shall provide the reports under Subsection (5)(b) to:

(i) the Government Operations Interim Committee at or before the November 2025, interim committee meeting; and

(ii) the Legislative Management Committee upon request.

Section 14. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 4
S. B. 1
Passed January 26, 2023
Approved February 2, 2023
Effective May 3, 2023

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Keith Grover
Senate Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education agencies and institutions;
- provides appropriations for other purposes as described.
- provides an estimate of the total budgets for higher education institutions; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $7,272,900 in operating and capital budgets for fiscal year 2024, including:

- $603,200 from the General Fund; and
- $6,669,700 from various sources as detailed in this bill.

This bill appropriates ($6,324,000) in restricted fund and account transfers for fiscal year 2024.

This bill appropriates $2,826,739,900 in operating and capital budgets for fiscal year 2024, including:

- $765,551,100 from the General Fund;
- $889,825,600 from the Income Tax Fund; and
- $1,171,363,200 from various sources as detailed in this bill.

This bill appropriates $52,345,900 in restricted fund and account transfers for fiscal year 2025, including:

- $58,669,900 from the Income Tax Fund; and
- ($6,324,000) from various sources as detailed in this bill.

This bill reflects $10,614,543,200 in higher education budget reporting for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

UNIVERSITY OF UTAH

Item 1
To University of Utah - Education and General
From General Fund, One-time 306,300
From Beginning Nonlapsing Balances 10,771,800
From Closing Nonlapsing Balances . (10,771,800)
Schedule of Programs:
Public Service 306,300

Item 2
To University of Utah - School of Medicine
From Beginning Nonlapsing Balances (11,782,900)
From Closing Nonlapsing Balances . . . 11,782,900

Item 3
To University of Utah - Cancer Research and Treatment
From Beginning Nonlapsing Balances (1,013,000)
From Closing Nonlapsing Balances 1,013,000

Item 4
To University of Utah - University Hospital
From Dedicated Credits Revenue,
One-time . . . . . (455,800)
From Beginning Nonlapsing Balances . (664,500)
From Closing Nonlapsing Balances 664,500
Schedule of Programs:
Miners' Hospital . . . . . (455,800)

Notwithstanding the intent language in New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session) Item 110, the Legislature intends that up to $25,000,000 each from Federal Funds - American Rescue Plan - Capital Projects Fund shall be used for San Juan County Hospital in Monticello and University of Utah Hospital clinic on Redwood Road. Should the United States Treasury Department approve both projects, the $25,000,000 shall be split evenly between the two. If only one project is approved, the full amount shall go to the approved project. If neither project is approved, the Legislature intends that these funds may be used for broadband infrastructure.

Item 5
To University of Utah - School of Dentistry
From Beginning Nonlapsing Balances . (110,800)
From Closing Nonlapsing Balances 110,800

Item 6
To University of Utah - Public Service
From Beginning Nonlapsing Balances . (521,300)
From Closing Nonlapsing Balances 521,300

Item 7
To University of Utah - Statewide TV Administration
From Beginning Nonlapsing Balances . . (81,200)

From Closing Nonlapsing Balances 81,200

Item 8
To University of Utah - Poison Control Center
From Beginning Nonlapsing Balances . (794,100)
From Closing Nonlapsing Balances 794,100

Item 9
To University of Utah - Center on Aging
From Beginning Nonlapsing Balances ..... (100)
From Closing Nonlapsing Balances 100

Item 10
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Beginning Nonlapsing Balances ... (2,400)
From Closing Nonlapsing Balances 2,400

UTAH STATE UNIVERSITY

Item 11
To Utah State University - Education and General
From General Fund, One-time 133,500
From Beginning Nonlapsing Balances (6,551,600)
From Closing Nonlapsing Balances 6,551,600
Schedule of Programs:
Institutional Support 133,500

Item 12
To Utah State University - USU - Eastern Education and General
From Beginning Nonlapsing Balances . (756,800)
From Closing Nonlapsing Balances 756,800

Item 13
To Utah State University - USU - Eastern Career and Technical Education
From Beginning Nonlapsing Balances . (600,400)
From Closing Nonlapsing Balances 600,400

Item 14
To Utah State University - Regional Campuses
From Beginning Nonlapsing Balances (5,700,200)
From Closing Nonlapsing Balances 5,700,200

Item 15
To Utah State University - Water Research Laboratory
From Beginning Nonlapsing Balances . (744,500)
From Closing Nonlapsing Balances 744,500

Item 16
To Utah State University - Agriculture Experiment Station
From Beginning Nonlapsing Balances (4,718,700)
From Closing Nonlapsing Balances 4,718,700

Item 17
To Utah State University - Cooperative Extension
From Beginning Nonlapsing Balances (7,728,200)
From Closing Nonlapsing Balances 7,728,200

Item 18
To Utah State University - Prehistoric Museum
From Beginning Nonlapsing Balances .. (51,400)
From Closing Nonlapsing Balances 51,400

Item 19
To Utah State University - Blanding Campus
From Beginning Nonlapsing Balances . (405,600)
From Closing Nonlapsing Balances 405,600

Item 20
To Utah State University - USU - Custom Fit
From Beginning Nonlapsing Balances .. (61,000)
From Closing Nonlapsing Balances 61,000

Item 21
To Utah State University - Special Projects
From General Fund, One-time 26,900
Schedule of Programs:
Prehistoric Museum 26,900

WEBER STATE UNIVERSITY

Item 22
To Weber State University - Education and General
From General Fund, One-time 15,000
From Beginning Nonlapsing Balances . 3,671,300
From Closing Nonlapsing Balances 969,400
Schedule of Programs:
Education and General 4,640,700
Public Service 15,000

Item 23
To Weber State University - Special Projects
From Closing Nonlapsing Balances ..... (50,000)
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health ..... (50,000)

SOUTHERN UTAH UNIVERSITY

Item 24
To Southern Utah University - Education and General
From General Fund, One-time 44,000
From Beginning Nonlapsing Balances . 1,288,900
From Closing Nonlapsing Balances 1,388,800
Schedule of Programs:
Education and General 2,666,600
Educationally Disadvantaged 11,100
Public Service 44,000

Item 25
To Southern Utah University - Rural Health
From Beginning Nonlapsing Balances . (142,500)
From Closing Nonlapsing Balances 142,500

UTAH VALLEY UNIVERSITY

Item 26
To Utah Valley University - Education and General
From General Fund, One-time 58,000
From Beginning Nonlapsing Balances ... 965,800
From Closing Nonlapsing Balances .... (965,800)
Schedule of Programs:
Public Service 58,000

Item 27
To Utah Valley University - Special Projects
From Beginning Nonlapsing Balances .. (60,900)
From Closing Nonlapsing Balances 60,900

SNOW COLLEGE

Item 28
To Snow College - Education and General
From General Fund, One-time 2,000
From Beginning Nonlapsing Balances (2,784,700)
From Closing Nonlapsing Balances 2,482,500
Schedule of Programs:
Education and General ..... (302,200)
Public Service 2,000

Item 29
To Snow College - Career and Technical Education
From Beginning Nonlapsing Balances . . . 476,200
From Closing Nonlapsing Balances . . . . (174,000)
Schedule of Programs:
Career and Technical Education 302,200

Item 30
To Snow College - Snow College - Custom Fit
From Beginning Nonlapsing Balances 4,900
From Closing Nonlapsing Balances . . . . . (4,900)

UTAH TECH UNIVERSITY

Item 31
To Utah Tech University - Education and General
From General Fund, One-time 17,500
From Beginning Nonlapsing Balances . 3,138,500
From Closing Nonlapsing Balances . . . (3,138,500)
Schedule of Programs:
Public Service 17,500

Item 32
To Utah Tech University - Special Projects
From Beginning Nonlapsing Balances 43,800
From Closing Nonlapsing Balances . . . . . (43,800)

SALT LAKE COMMUNITY COLLEGE

Item 33
To Salt Lake Community College - Education and General
From Beginning Nonlapsing Balances (3,226,000)
From Closing Nonlapsing Balances 3,226,000

Item 34
To Salt Lake Community College - Career and Technical Education
From Beginning Nonlapsing Balances . . . 485,500
From Closing Nonlapsing Balances . . . . (485,500)

Item 35
To Salt Lake Community College - SLCC - Custom Fit
From Beginning Nonlapsing Balances 4,100
From Closing Nonlapsing Balances . . . . . (4,100)

UTAH BOARD OF HIGHER EDUCATION

Item 36
To Utah Board of Higher Education - Administration
From Beginning Nonlapsing Balances (2,174,300)
From Closing Nonlapsing Balances 2,174,300

Item 37
To Utah Board of Higher Education - Student Assistance
From Beginning Nonlapsing Balances . 3,958,600
From Closing Nonlapsing Balances . . . (3,958,600)

Item 38
To Utah Board of Higher Education - Student Support
From Beginning Nonlapsing Balances . (239,500)
From Closing Nonlapsing Balances 239,500

Item 39
To Utah Board of Higher Education - Talent Ready Utah
From Beginning Nonlapsing Balances . 9,900,200
From Closing Nonlapsing Balances . . . (9,900,200)

BRIDGERLAND TECHNICAL COLLEGE

Item 40
To Bridgerland Technical College - Education and General
From Beginning Nonlapsing Balances . . . 412,400
From Closing Nonlapsing Balances . . . . (412,400)

DAVIS TECHNICAL COLLEGE

Item 41
To Davis Technical College - Education and General
From Beginning Nonlapsing Balances . (305,900)
From Closing Nonlapsing Balances 315,000
Schedule of Programs:
Davis Technical College 9,100

DIXIE TECHNICAL COLLEGE

Item 42
To Dixie Technical College - Education and General
From Beginning Nonlapsing Balances . . . 550,700
From Closing Nonlapsing Balances . . . . (553,700)
Schedule of Programs:
Dixie Technical College . . . . . (3,000)

Item 43
To Dixie Technical College - USTC Dixie - Custom Fit
From Beginning Nonlapsing Balances . . . . . (900)
From Closing Nonlapsing Balances 1,000
Schedule of Programs:
USTC Dixie - Custom Fit 100

MOUNTAINLAND TECHNICAL COLLEGE

Item 44
To Mountainland Technical College - Education and General
From Beginning Nonlapsing Balances . . . 601,500
From Closing Nonlapsing Balances . . . (1,048,500)
Schedule of Programs:
Mountainland Technical College . . . . (447,000)

OGDEN-WEBER TECHNICAL COLLEGE

Item 45
To Ogden-Weber Technical College - Education and General
From Beginning Nonlapsing Balances . (647,900)
From Closing Nonlapsing Balances 647,900

SOUTHWEST TECHNICAL COLLEGE

Item 46
To Southwest Technical College - Education and General
From Beginning Nonlapsing Balances . . . 163,800
From Closing Nonlapsing Balances 14,500
Schedule of Programs:
Southwest Tech Equipment 2,400
Southwest Technical College 175,900

Item 47
To Southwest Technical College - USTC Southwest - Custom Fit
From Beginning Nonlapsing Balances 11,800
From Closing Nonlapsing Balances 107,800
Schedule of Programs:
USTC Southwest - Custom Fit 119,600

UINTAH BASIN TECHNICAL COLLEGE

Item 48
To Uintah Basin Technical College - Education and General

From Beginning Nonlapsing Balances 4,500
From Closing Nonlapsing Balances ..... (4,500)

Item 49
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Beginning Nonlapsing Balances ..... (300)
From Closing Nonlapsing Balances 300

Subsection 1(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 50
To Performance Funding Restricted Account
From Beginning Fund Balance 6,324,000
From Closing Fund Balance ..... (12,648,000)
Schedule of Programs:
Performance Funding Restricted Account ..... (6,324,000)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 51
To University of Utah - Education and General
From General Fund 313,363,900
From Income Tax Fund 81,898,800
From Dedicated Credits Revenue ... 333,249,100
From Dedicated Credits - State Land Grants 443,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 4,522,900
From Revenue Transfers 34,500
From Beginning Nonlapsing Balances 26,496,700
From Closing Nonlapsing Balances ... (4,301,900)
Schedule of Programs:
Operations and Maintenance 98,089,900
Instruction 380,725,300
Research 66,457,700
Public Service 20,530,300
Academic Support 49,121,000
Student Services 38,055,300
Institutional Support 102,728,300

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 For FY 2025, the University of Utah shall report on the following performance measures: 1. Access: percent of Utah high school graduates enrolled (Target = 0.16%); 2. High-yield awards: percent of high-yield awards granted (Target = 0.0%); 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 3.0%); 4. Percentage of students with disabilities registered and receiving services (Target: 2-5%); and 5. Student accessibility to alternative format services (Target: Provided in a timely manner); 6. Percentage of interpreting staff certified (Target: 100%).

Item 52
To University of Utah - Cancer Research and Treatment
From Income Tax Fund 8,002,100
From General Fund Restricted - Cigarette Tax Restricted Account 2,000,000
Schedule of Programs:
Cancer Research and Treatment ... 10,002,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report the final status of performance measures established in FY 2024 appropriations bills for the Cancer Research and Treatment line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the University of Utah shall report on the following performance measures: 1. Increase outreach and research support of rural, frontier, and underserved populations. (Increase); 2. Cancer Training Programs (Target = Support development); and 3. Extramural cancer research funding help by HCI investigators (Target = 5%).

Item 53
To University of Utah - University Hospital
From Income Tax Fund 6,298,600
From Dedicated Credits - State Land Grants 455,800
From Revenue Transfers 18,915,900
Schedule of Programs:
Instruction 23,493,400
Public Service 2,176,900

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report the final status of performance measures established in FY 2024 appropriations bills for the University Hospital line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the University of Utah shall report on the following performance measures: 1. Number of annual residents in training (Target = 578); 2. Percentage of total resident training costs appropriated by the legislature (Target =

20.7%); and 3. Number of annual resident training hours (Target = 2,080,800).

Item 54

To University of Utah - Schools of Medicine and Dentistry
From Income Tax Fund 49,561,500
From Dedicated Credits Revenue 37,609,000
From General Fund Restricted - Cigarette Tax Restricted Account 2,800,000
From Beginning Nonlapsing Balances . 1,821,700
Schedule of Programs:
Instruction 49,118,100
Research 1,918,400
Public Service 752,700
Academic Support 33,256,200
Institutional Support 3,019,900
Operations and Maintenance 3,671,800
Scholarships and Fellowships 55,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report the final status of performance measures established in FY 2024 appropriations bills for the Schools of Medicine and Dentistry Line Item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the University of Utah shall report on the following performance measures: 1. Number of medical school applicants to matriculates (Target = Maintain Healthy Ratio); 2. Number of student enrolled in medical school (Target = Maintain full cohort based on enrollment levels); 3. Number of medical school applications (Target = Exceed number of applications as an average of the prior three years); 4. Number of miners enrolled (Target = Maintain or exceed historical number enrolled); 5. Number of dental school applicants; and 6. Number of dental students accepted.

Item 55

To University of Utah - Special Projects
From Income Tax Fund 19,206,800
From Qualified Patient Enterprise Fund . 650,000
From General Fund Restricted - Workplace Safety Account 174,000
Schedule of Programs:
Natural History Museum of Utah ... 1,493,300
Seismograph Stations 876,300
Red Butte Garden 150,500
SafeUT 4,102,100
Statewide TV Administration 3,105,100
Rocky Mountain Center for Occupational & Environmental Health 1,508,200
Center on Aging 133,800
Center for Medical Cannabis Research . 650,000
Poison Control Center 3,333,200
Student Success 4,678,300

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report the final status of performance measures established in FY 2024 appropriations bills for the Special Projects Line Item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the University of Utah shall report on the following performance measures: 1. Publications and presentations related to earthquakes. (Target = Each year UUSS researchers will publish at least five papers in peer-reviewed journals, make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders); 2. External funds raised to support the UUSS mission (Target = Each year UUSS will generate external funds that equal or exceed the amount provided by the State of Utah); 3. Timeliness of response to earthquakes in the Utah region. (Target = For 100% of earthquakes with magnitude 3.5 or greater that occur in the Utah region UUSS will transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes); 4. Percent increase in memberships to the Red Butte Garden (Target: 3%); 5. Percent increase in admissions to the Red Butte Garden (Target: 3%); 6. Number of school children participating in on-site field classes at Red Butte Garden (Target: Maintain current levels); 7. Number of visitors who receive food assistance at Red Butte Garden (Target: Track admissions); 8. Number of adult programs offered at Red Butte Garden (Target: Maintain current levels); 9. Number of schools and children reached through the Garden on the Grow, Botany Bin, Botany Box, and Virtual Garden Program (Target: Maintain current levels); 10. Total onsite attendance at the Natural History Museum of Utah (Target: 282,000); 11. Total offsite attendance at the Natural History Museum of Utah (Target: 200,000); 12 Number of school interaction at the Natural History Museum of Utah (Target: 1,250); 13. Utah Poison Control Center Utilization (Target: Above national utilization); 14; Healthcare costs averted per dollar invested in the Utah Poison Control Center (Target: $10 savings per $1 invested); Percentage of calls answered within 20 seconds (Target: 85%); 15. Number of students, interns, residents, and fellows who receive training from the Poison Control Center compared to the number of learners needed to fulfill faculty and program requirements for training learners (Target: 18); 16. Percentage increase of stakeholders engaged through the Center on Agings efforts (Target: 25%); 17. Number of students in degree programs related to the Rocky Mountain Center (Target: 45); 18. Number of Students trained by the Rocky Mountain Center (Target: 600); 19. Number of businesses represented in continuing education courses from the Rocky Mountain Center (Target: 1,000); 20. Percentage of long chats at SafeUT evaluated for support/satisfaction (Target: 10%); 21. Percentage of users rating their experience with SafeUT as satisfied (Target: 75%); 22.

Percentage of actionable mental health care recommendations for long-text chats acted upon (Target: 75%); 23. Number of households that tune into KUED television (Target: Greater than prior three years); 24. Number of visitors to KUED's informational and video pages (Target: Greater than prior three years); 25. Number of people participating in KUED outreach events (Target: Greater than prior three years); and 26. Gross Impressions of KUED (Target: 1.9 million).

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

UTAH STATE UNIVERSITY

Item 56

To Utah State University - Education and General
From General Fund 138,193,100
From Income Tax Fund 106,434,500
From Dedicated Credits Revenue ... 174,846,300
From General Fund Restricted - Infrastructure and Economic Diversification Investment Account 400,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 3,175,300
From Revenue Transfers 324,200
From Beginning Nonlapsing Balances 14,452,700
Schedule of Programs:
Operations and Maintenance 51,861,700
Instruction 238,985,300
Research 6,378,300
Academic Support 44,383,800
Student Services 30,411,200
Institutional Support 63,034,600
Scholarships and Fellowships 2,771,200

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah State University shall report on the following performance measures: 1. Access: percent of Utah high school graduates enrolled (Target = 0.73%); 2. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 4%); 3. High-yield awards: percent of high-yield awards granted (Target = 3%); 4. Number of degrees and certificates awarded at USU - Eastern (Target: 365); 5. FTE student enrollment at USU - Eastern (Target: 950); 6. Integrated Postsecondary Education Data System (IPEDS) overall graduation rate at USU - Eastern (Target: 49%); 7. Number of educationally disadvantaged students served (Target: 20); 8. Average aid per educationally disadvantaged student (Target: $4,000); 9. Transfer and retention rate of educationally disadvantaged students (Target: 80%); 10. Educationally disadvantaged students served at USU - Eastern (Target: 275); 11. Average aid per educationally disadvantaged students at USU - Eastern (Target: $500); 12. Transfer and retention rate of educationally disadvantaged students at USU - Eastern (Target: 50%); 13. Degrees and certificates awarded at regional campuses (Target: 850); FTE student enrollment at regional campuses (Target: 650 for Brigham City, 1,200 for Tooele, 375 for Uintah Basin); 14. IPEDS overall graduation rate at regional campuses (Target: 49%); Degrees and certificates awarded at the Blanding Campus (Target: 365); 15. FTE student enrollment at the Blanding Campus (Target: 375); and 16. IPEDS overall graduation rate at the Blanding Campus (Target: 49%).

Item 57

To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 7,388,000
From Dedicated Credits Revenue 182,000
From Beginning Nonlapsing Balances ... 991,200
Schedule of Programs:
Instruction 2,128,700
Public Service 126,300
Academic Support 5,894,400
Custom Fit 411,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report the final status of performance measures established in FY 2024 appropriations bills for the Career and Technical Education line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah State University shall report on the following performance measures: 1. CTE Completions (Target = 50); 2. CTE Graduate placements (Target = 45); and 3. CTE licenses and certifications (Target = 100).

Item 58

To Utah State University - Veterinary Medicine
From Income Tax Fund 21,913,100
From Dedicated Credits Revenue 2,156,000
From Beginning Nonlapsing Balances . 1,123,100
Schedule of Programs:
Instruction 5,421,400
Research 10,100
Public Service 2,500
Academic Support 19,715,400
Student Services 2,500
Operations and Maintenance 40,300

Item 59

To Utah State University - Special Projects
From General Fund 80,900
From Income Tax Fund 43,269,600
From Federal Funds 3,902,300

From Dedicated Credits Revenue 250,000
From General Fund Restricted - Mineral Lease 1,745,800
From Gen. Fund Rest. - Land Exchange Distribution Account 66,400
From Revenue Transfers 69,600
From Beginning Nonlapsing Balances . 4,048,600
Schedule of Programs:
Agriculture Experiment Station 18,232,400
Cooperative Extension 26,057,500
Prehistoric Museum 553,800
Water Research Laboratory 6,537,700
Student Success 2,051,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report the final status of performance measures established in FY 2024 appropriations bills for the Special Projects line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah State University shall report on the following performance measures: 1. Number of direct contacts at the Cooperative Extension (Target: 722,000); 2. Faculty-delivered activities and events at the Cooperative Extension (Target 2,000); 3. Faculty publications at the Cooperative Extension (Target: 300); 4. Number of students mentored at the Agricultural Experiment Station (Target: 300); 5. Number of journal articles published at the Agricultural Experiment Station (Target: 300); 6. Number of lab accessions at the Agricultural Experiment Station (Target: 100,000); 7. Number of admissions to the Prehistoric Museum (Target: 18,000); 8. Number of offsite outreach contacts at the Prehistoric Museum (Target: 1,000); 9. Number of scientific specimens added to the Prehistoric Museum (Target: 800); 10. Number of peer-reviewed journal articles published at the Water Research Laboratory (Target: 10); 11. Number of students supported at the Water Research Laboratory (Target: 150); and 12. Number of research projects and training activities at the Water Research Laboratory (Target: 200).

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

WEBER STATE UNIVERSITY

Item 60
To Weber State University - Education and General
From General Fund 100,000,000
From Income Tax Fund 27,187,500
From Dedicated Credits Revenue 87,983,600
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,688,700
From Beginning Nonlapsing Balances ... 743,800
Schedule of Programs:
Operations and Maintenance 18,503,400
Instruction 97,137,600
Research 217,900
Public Service 588,500
Academic Support 22,971,400
Student Services 18,795,100
Institutional Support 57,319,300
Scholarships and Fellowships 2,070,400

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Weber State University shall report on the following performance measures: 1. Access: percent of Utah high school graduates enrolled (Target = 0.42%); 2. High-yield awards: percent of high-yield awards granted (Target = 3%); 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 3%); 4. Percent of all degrees and certificates awarded to underrepresented students (Target = 15%); 5. Percentage of underrepresented students completing bachelors degrees within 6 years (Target: 25%); and 6. Percentage of first-year underrepresented students that re-enroll for a second year (Target: 55%).

Item 61
To Weber State University - Special Projects
From Income Tax Fund 1,928,800
From Beginning Nonlapsing Balances 50,000
From Closing Nonlapsing Balances ..... (50,000)
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 1,588,300
Student Success 340,500

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report the final status of performance measures established in FY 2024 appropriations bills for the Special Projects line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Weber State University shall report on the following performance measures: 1. Number of students in degree programs (Target: 15); 2. Number of students trained (Target: 600); and 3. Number of businesses represented in continuing education courses (Target: 1,000).

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual

orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

SOUTHERN UTAH UNIVERSITY

Item 62

To Southern Utah University - Education and General
From Income Tax Fund 71,709,900
From Dedicated Credits Revenue 54,623,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 798,600
From Beginning Nonlapsing Balances . 8,672,200
Schedule of Programs:
Operations and Maintenance 12,369,700
Instruction 52,840,400
Public Service 517,200
Academic Support 16,275,300
Student Services 17,794,300
Institutional Support 27,719,700
Scholarships and Fellowships 8,287,200

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Southern Utah University shall report on the following performance measures: 1. High-yield awards: percent of high-yield awards granted (Target = 3%); 2. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target = 3%); 3. Access: percent of Utah high school graduates enrolled (Target = 0.34%); 4. Number of educationally disadvantaged students served (Target 100); 5. Average aid per educationally disadvantaged student (Target: $500); and 6. Percentage of scholarships offered to minority students (Target: 33%).

Item 63

To Southern Utah University - Special Projects
From Income Tax Fund 829,300
From Beginning Nonlapsing Balances 1,300
Schedule of Programs:
Shakespeare Festival 371,600
Rural Health 136,700
Utah Summer Games 45,000
Student Success 277,300

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report the final status of performance measures established in FY 2024 appropriations bills for the Special Projects line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Southern Utah University shall report on the following performance measures: 1. Percent increase in professional outreach program in the school's instructional hours for the Utah Shakespeare Festival (Target: 5%); 2. Percent increase of education seminars & orientation attendees for the Utah Shakespeare Festival (Target: 5%); 3. Percent increase in annual fundraising for the Utah Shakespeare Festival (Target: 2%); 4. Graduate rural clinical rotations (Target: 230); 5. Number of rural healthcare programs developed (Target: 47); and 6. Rural healthcare scholar participation (Target: 1,000).

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

UTAH VALLEY UNIVERSITY

Item 64

To Utah Valley University - Education and General
From General Fund 111,703,500
From Income Tax Fund 66,000,100
From Dedicated Credits Revenue ... 155,673,600
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 2,038,300
From Revenue Transfers 135,000
From Beginning Nonlapsing Balances 26,257,800
Schedule of Programs:
Operations and Maintenance 38,397,800
Instruction 159,930,200
Public Service 978,100
Academic Support 44,193,800
Student Services 33,217,500
Institutional Support 82,482,700
Scholarships and Fellowships 2,608,200

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah Valley University shall report on the following performance measures: 1. High-yield awards: percent of high-yield awards granted (Target: 3%); 2. Access: percent of Utah high school graduates enrolled (Target: 1.01%); 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target: 3%); 4. Portion of undergraduate students receiving needs-based financial aid (Target: 45%); 5. Number of students served in mental health counseling (Target: 4,000); and 6. Number of tutoring hours (Target: 22,000).

Item 65
To Utah Valley University - Special Projects
From Income Tax Fund 5,472,000
From Beginning Nonlapsing Balances ... 338,600
Schedule of Programs:
Fire and Rescue Training 5,375,700
Student Success 434,900

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

SNOW COLLEGE

Item 66
To Snow College - Education and General
From Income Tax Fund 39,523,700
From Dedicated Credits Revenue 13,602,400
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 405,800
From Revenue Transfers 753,400
From Beginning Nonlapsing Balances . 6,005,200
From Closing Nonlapsing Balances ... (1,601,900)
Schedule of Programs:
Operations and Maintenance 10,403,000
Instruction 23,438,000
Public Service 488,700
Academic Support 5,286,900
Student Services 6,514,100
Institutional Support 12,475,400
Scholarships and Fellowships 82,500

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Snow College shall report on the following performance measures: 1. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target: 4%); 2. Access: percent of Utah high school graduates enrolled (Target: 0.33%); 3. High-yield awards: percent of high-yield awards granted (Target: 7%); 3. Completion rate of educationally disadvantaged targeted students (Target: 35%); 4. Remedial math student success (Target: 35%); Remedial English student success (Target: 65%).

Item 67
To Snow College - Career and Technical Education
From Income Tax Fund 5,086,300
From Beginning Nonlapsing Balances ... 346,700
Schedule of Programs:
Instruction 2,678,000
Academic Support 246,600
Student Services 496,200
Institutional Support 1,396,500
Custom Fit 615,700

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report the final status of performance measures established in FY 2024 appropriations bills for the Career and Technical Education line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Snow College shall report on the following performance measures: 1. Percentage of students who successfully pass their respective State of Utah licensing exam (programs include Automotive, Cosmetology, and Nursing) by October 1, 2023 (Target = 80%); 2. Percent increase in headcount (Target: 2%); and 3. Number of CTE degrees and certificates awarded (Target = 200).

Item 68
To Snow College - Special Projects
From Income Tax Fund 185,800
Schedule of Programs:
Student Success 185,800

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

UTAH TECH UNIVERSITY

Item 69
To Utah Tech University - Education and General
From Income Tax Fund 64,078,900
From Dedicated Credits Revenue 37,902,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 499,600
From Revenue Transfers 705,000
From Beginning Nonlapsing Balances . 9,587,500
Schedule of Programs:
Instruction 41,954,800
Public Service 1,857,600
Academic Support 13,127,900
Student Services 12,846,900
Institutional Support 32,100,500
Operations and Maintenance 10,828,600
Scholarships and Fellowships 56,700

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah Tech University shall report on the following performance measures: 1. Access: percent of Utah high school graduates enrolled (Target: 0.4%); 2. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard

completion time or sooner (Target: 3%); 3. High-yield awards: percent of high-yield awards granted (Target: 6%); 4. Number of educationally disadvantaged students served (Target: 20); 5. Number of minority students served (Target: 15); and 6. Expenditures per educationally disadvantaged student (Target: $1,000).

Item 70

To Utah Tech University - Special Projects
From Income Tax Fund 559,200
From Dedicated Credits Revenue 36,700
From Beginning Nonlapsing Balances 91,000
Schedule of Programs:
Zion Park Amphitheater 190,700
Student Success 496,200

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report the final status of performance measures established in FY 2024 appropriations bills for the Special Projects line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Utah Tech University shall report on the following performance measures: 1. Number of performances; 2. Ticket sales revenue (Target: $35,000); and 3. Performances featuring Utah artists.

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

SALT LAKE COMMUNITY COLLEGE

Item 71

To Salt Lake Community College - Education and General
From General Fund 100,000,000
From Income Tax Fund 26,172,400
From Dedicated Credits Revenue 64,632,900
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,720,800
From Revenue Transfers 3,688,300
From Beginning Nonlapsing Balances 12,665,600
Schedule of Programs:
Operations and Maintenance 26,127,800
Instruction 90,857,500
Public Service 189,600
Academic Support 14,286,000
Student Services 21,286,600
Institutional Support 54,678,600
Scholarships and Fellowships 1,453,900

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report the final status of performance measures established in FY 2024 appropriations bills for the Education and General line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Salt Lake Community College shall report on the following performance measures: 1. Access: percent of Utah high school graduates enrolled (Target: 0.94%); 2. High-yield awards: percent of high-yield awards granted (Target: 1%); 3. Timely completion: percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner (Target: 3%); 4. Number of needs-based scholarships awarded (Target: 200); 5. Percentage of needs-based scholarship recipients returning (Target: 50%); and 6. Graduation rate of needs-based scholarship recipients (Target: 50%).

Item 72

To Salt Lake Community College - Career and Technical Education
From Income Tax Fund 12,496,800
From Dedicated Credits Revenue 1,028,600
From Beginning Nonlapsing Balances . 1,226,000
From Closing Nonlapsing Balances .... (177,900)
Schedule of Programs:
Instruction 8,890,800
Academic Support 717,100
Student Services 1,688,400
Institutional Support 1,387,300
Operations and Maintenance 1,043,300
Scholarships and Fellowships 89,800
Custom Fit 756,800

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report the final status of performance measures established in FY 2024 appropriations bills for the Career and Technical Education line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, Salt Lake Community College shall report on the following performance measures: 1. Membership hours (Target = 350,000); 2. Certificates awarded (Target = 200); and 3. Pass rate for certificate or licensure exams (Target = 85%).

Item 73

To Salt Lake Community College - Special Projects
From Income Tax Fund 1,828,100
Schedule of Programs:
Student Success 1,828,100

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

UTAH BOARD OF HIGHER EDUCATION

Item 74
To Utah Board of Higher Education - Administration
From General Fund 2,209,700
From Income Tax Fund 24,206,300
From Federal Funds 6,700
From Revenue Transfers 443,400
From Beginning Nonlapsing Balances . 5,295,900
From Closing Nonlapsing Balances ... (3,585,600)
Schedule of Programs:
Administration 26,943,200
Utah Data Research Center 1,633,200

Item 75
To Utah Board of Higher Education - Student Assistance
From Income Tax Fund 34,796,100
From Beginning Nonlapsing Balances 22,819,300
From Closing Nonlapsing Balances ... (1,899,800)
Schedule of Programs:
Opportunity Scholarship 31,676,100
Student Financial Aid 3,252,800
Utah Promise Program 12,060,100
Western Interstate Commission for Higher Education 1,063,000
T.H. Bell Education Scholarship Program 2,199,700
Veterans Tuition Gap Program 424,300
Public Safety Officer Career Advancement Grant 207,600
Student Prosperity Savings Program ... 50,000
Talent Development Grant Program . 1,721,500
Career and Technical Education Scholarships 1,100,000
Adult Learner Grant 1,000,000
First Responder Mental Health 450,000
Prime Pilot Program Amendments 510,500

Item 76
To Utah Board of Higher Education - Student Support
From Income Tax Fund 10,106,800
From Beginning Nonlapsing Balances ... 525,500
Schedule of Programs:
Services for Hearing Impaired Students 796,300
Higher Education Technology Initiative 4,502,700
Utah Academic Library Consortium . 3,410,000
Math Competency Initiative 1,923,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Board of Higher Education report the final status of performance measures established in FY 2024 appropriations bills for the Student Support line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Board of Higher Education shall report on the following performance measures: 1. Five year average of deaf individuals served (Target: 300); 2. Percent increase in engineering initiative degrees (Target: 6%); 3. Savings from Higher Education Technology Initiative group purchases (Target: $3.4 million); 4. Utah Academic Library Council (UALC) impact on collections budgets (Target: As reported to IPEDS); 5. Resource downloads from UALC purchased databases (Target: 3.7 million); and 6. Percent increase in number of students taking math credit through concurrent enrollment (Target: 5%).

Item 77
To Utah Board of Higher Education - Education Excellence

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Board of Higher Education report the final status of performance measures established in FY 2024 appropriations bills for the Education Excellence line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Board of Higher Education shall report on the following performance measures: 1. Percentage increase college participation rates with Utah College Advising Corp (Target: 5%).

Item 78
To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 7,476,700
From Dedicated Credits Revenue 52,400
From Beginning Nonlapsing Balances . 9,900,200
Schedule of Programs:
Talent Ready Utah 12,327,700
Emerging Tech Talent Initiative 5,101,600

BRIDGERLAND TECHNICAL COLLEGE

Item 79
To Bridgerland Technical College - Education and General
From Income Tax Fund 22,652,600
From Dedicated Credits Revenue 1,452,400
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 291,100
From Beginning Nonlapsing Balances ... 695,900
From Closing Nonlapsing Balances .... (249,400)
Schedule of Programs:
Instruction 14,302,000
Public Service 70,000
Academic Support 582,200
Student Services 1,240,200
Institutional Support 4,575,700
Operations and Maintenance 3,372,500
Custom Fit 700,000

Item 80
To Bridgerland Technical College - Special Projects
From Income Tax Fund 16,000
Schedule of Programs:
Student Success 16,000

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

DAVIS TECHNICAL COLLEGE

Item 81
To Davis Technical College - Education and General
From Income Tax Fund 26,714,400
From Dedicated Credits Revenue 2,007,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 385,300
From Beginning Nonlapsing Balances ... 761,700
Schedule of Programs:
Instruction 11,306,000
Academic Support 8,130,400
Student Services 2,990,200
Institutional Support 3,905,900
Operations and Maintenance 2,711,200
Scholarships and Fellowships 134,400
Custom Fit 690,400

Item 82
To Davis Technical College - Special Projects
From Income Tax Fund 36,300
Schedule of Programs:
Student Success 36,300

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

DIXIE TECHNICAL COLLEGE

Item 83
To Dixie Technical College - Education and General
From Income Tax Fund 12,896,200
From Dedicated Credits Revenue 737,700
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 124,400
From Beginning Nonlapsing Balances ... 553,700
Schedule of Programs:
Instruction 6,906,800
Public Service 37,700
Academic Support 424,600
Student Services 1,131,900
Institutional Support 3,198,400
Operations and Maintenance 2,074,100
Scholarships and Fellowships 181,600
Custom Fit 356,900

Item 84
To Dixie Technical College - Special Projects
From Income Tax Fund 12,000
Schedule of Programs:
Student Success 12,000

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

MOUNTAINLAND TECHNICAL COLLEGE

Item 85
To Mountainland Technical College - Education and General
From Income Tax Fund 28,804,800
From Dedicated Credits Revenue 1,426,300
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 235,000
From Beginning Nonlapsing Balances . 1,283,000
Schedule of Programs:
Instruction 14,375,700
Academic Support 3,207,400
Student Services 2,098,200
Institutional Support 6,747,500
Operations and Maintenance 4,177,900
Custom Fit 1,142,400

Item 86
To Mountainland Technical College - Special Projects
From Income Tax Fund 203,300
Schedule of Programs:
Student Success 203,300

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

OGDEN-WEBER TECHNICAL COLLEGE

Item 87
To Ogden-Weber Technical College - Education and General
From Income Tax Fund 23,803,200
From Dedicated Credits Revenue 1,697,400
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 268,600
From Beginning Nonlapsing Balances 60,800
Schedule of Programs:
Instruction 12,667,100
Academic Support 1,445,300
Student Services 3,617,500
Institutional Support 5,233,700
Operations and Maintenance 2,181,800
Custom Fit 684,600

Item 88
To Ogden-Weber Technical College - Special Projects
From Income Tax Fund 77,700
Schedule of Programs:
Student Success 77,700

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations

Subcommittee on the status and allocation of these funds before July 1, 2025.

SOUTHWEST TECHNICAL COLLEGE

Item 89
To Southwest Technical College - Education and General
From Income Tax Fund 8,805,800
From Dedicated Credits Revenue 336,700
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 134,300
From Beginning Nonlapsing Balances ... 112,800
From Closing Nonlapsing Balances ..... (66,300)
Schedule of Programs:
Instruction 3,845,700
Academic Support 764,700
Student Services 657,100
Institutional Support 2,380,500
Operations and Maintenance 1,259,200
Scholarships and Fellowships 10,800
Custom Fit 405,300

Item 90
To Southwest Technical College - Special Projects
From Income Tax Fund 88,600
Schedule of Programs:
Student Success 88,600

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

TOOELE TECHNICAL COLLEGE

Item 91
To Tooele Technical College - Education and General
From Income Tax Fund 8,873,000
From Dedicated Credits Revenue 248,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 90,400
Schedule of Programs:
Instruction 4,276,900
Student Services 1,637,700
Institutional Support 2,116,800
Operations and Maintenance 790,600
Custom Fit 390,200

Item 92
To Tooele Technical College - Special Projects
From Income Tax Fund 1,700
Schedule of Programs:
Student Success 1,700

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

UINTAH BASIN TECHNICAL COLLEGE

Item 93
To Uintah Basin Technical College - Education and General
From Income Tax Fund 13,163,900
From Dedicated Credits Revenue 410,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 120,900
From Beginning Nonlapsing Balances 9,300
Schedule of Programs:
Instruction 7,112,800
Student Services 688,300
Institutional Support 3,489,300
Operations and Maintenance 1,913,700
Custom Fit 500,000

Item 94
To Uintah Basin Technical College - Special Projects
From Income Tax Fund 58,400
Schedule of Programs:
Student Success 58,400

The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025.

Subsection 2(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 95
To Performance Funding Restricted Account
From Income Tax Fund 58,669,900
From Beginning Fund Balance 12,648,000
From Closing Fund Balance ..... (18,972,000)
Schedule of Programs:
Performance Funding Restricted Account 52,345,900

Subsection 2(c). Higher Education Budget Reporting. The Legislature has reviewed proposed revenues and expenditures for the following institutions of higher education. These figures are for reporting purposes only and include appropriations made to the operating and capital budgets of these institutions.

UNIVERSITY OF UTAH

Item 96
To University of Utah - Education and General
From State Appropriations 399,785,600
From Tuition and Fees 333,249,100
From Grants and Contracts 657,378,400
From Independent Operations 234,618,000

From Gifts and Contributions 168,692,900
From Other Sources 206,120,200
From Sales and Services: Auxiliary Enterprises 1,504,245,600
From Investment Income 108,307,500
From Capital Appropriations, Gifts, and Contracts 111,258,600
From Additions to Permanent Endowments 42,351,800
Schedule of Programs:
Instruction 861,927,200
Research 439,351,700
Public Service 741,159,300
Academic Support 196,575,300
Student Services 89,251,600
Institutional Support 233,419,300
Operations and Maintenance 189,187,000
Scholarships and Fellowships 11,828,700
Other Expenses and Deductions ... 154,378,500
Independent Operations 622,972,600
Depreciation 225,956,500

Item 97
To University of Utah - University Hospital
From State Appropriations 6,298,600
From Sales and Services: Hospitals 2,431,912,700
Schedule of Programs:
Instruction 5,764,500
Public Service 534,100
Hospital Services 2,431,912,700

Item 98
To University of Utah - Cancer Research and Treatment
From State Appropriations 10,002,100
From Grants and Contracts 8,881,500
From Sales and Services: Hospitals .. 947,621,300
Schedule of Programs:
Research 18,883,600
Hospital Services 947,621,300

Item 99
To University of Utah - Schools of Medicine and Dentistry
From State Appropriations 52,361,500
From Tuition and Fees 37,609,000
From Grants and Contracts 80,082,500
From Gifts and Contributions 20,276,400
Schedule of Programs:
Instruction 72,540,700
Research 20,406,500
Public Service 36,385,300
Academic Support 39,952,500
Institutional Support 9,573,600
Operations and Maintenance 8,245,500
Scholarships and Fellowships 636,100
Student Services 2,589,200

Item 100
To University of Utah - Special Projects
From State Appropriations 20,030,800
Schedule of Programs:
Natural History Museum of Utah ... 1,493,300
Seismograph Stations 876,300
Red Butte Garden 150,500
SafeUT 4,102,100
Statewide TV Administration 3,105,100
Rocky Mountain Center for Occupational & Environmental Health 1,508,200
Center on Aging 133,800
Center for Medical Cannabis Research . 650,000
Poison Control Center 3,333,200
Student Success 4,678,300

UTAH STATE UNIVERSITY

Item 101
To Utah State University - Education and General
From State Appropriations 247,802,900
From Tuition and Fees 174,846,300
From Grants and Contracts 378,224,900
From Gifts and Contributions 32,089,400
From Other Sources 96,926,900
From Sales and Services: Auxiliary Enterprises 77,084,300
From Sales and Services: Educational Activities 26,888,100
From Investment Income 41,275,600
From Capital Appropriations, Gifts, and Contracts 59,313,400
From Additions to Permanent Endowments 9,699,200
Schedule of Programs:
Instruction 412,197,400
Research 176,072,000
Academic Support 81,741,400
Student Services 54,976,700
Institutional Support 124,712,600
Scholarships and Fellowships 38,534,300
Operations and Maintenance 96,176,200
Public Service 68,109,700
Depreciation 47,186,100
Auxiliary Enterprises 44,444,600

Item 102
To Utah State University - Veterinary Medicine
From State Appropriations 21,913,100
From Tuition and Fees 2,156,000
From Grants and Contracts 21,666,400
From Gifts and Contributions 1,803,100
Schedule of Programs:
Instruction 12,349,700
Research 6,722,000
Public Service 2,694,300
Academic Support 20,373,700
Student Services 1,016,300
Operations and Maintenance 1,859,700
Institutional Support 2,522,900

Item 103
To Utah State University - Special Projects
From State Appropriations 43,416,900
From Tuition and Fees 250,000
From Grants and Contracts 5,714,500
Schedule of Programs:
Agriculture Experiment Station 18,232,400
Cooperative Extension 23,956,100
Prehistoric Museum 543,300
Water Research Laboratory 4,597,800
Student Success 2,051,800

Item 104
To Utah State University - Career and Technical Education
From State Appropriations 7,388,000
From Tuition and Fees 182,000
From Grants and Contracts 7,371,500
From Sales and Services: Auxiliary Enterprises 1,420,900

Schedule of Programs:
Instruction 4,200,900
Public Service 249,300
Academic Support 11,632,500
Custom Fit 279,700

WEBER STATE UNIVERSITY

Item 105
To Weber State University - Education and General
From State Appropriations 128,876,200
From Tuition and Fees 87,983,600
From Grants and Contracts 71,825,600
From Gifts and Contributions 13,395,900
From Other Sources 7,812,300
From Sales and Services: Auxiliary Enterprises 22,943,600
From Sales and Services: Educational Activities 4,100,100
From Investment Income 14,266,100
From Capital Appropriations, Gifts, and Contracts 27,336,800
From Additions to Permanent Endowments 4,787,100
Schedule of Programs:
Instruction 155,286,200
Research 799,900
Public Service 2,267,700
Academic Support 39,389,900
Student Services 32,979,500
Institutional Support 75,468,300
Scholarships and Fellowships 14,664,900
Operations and Maintenance 34,371,200
Depreciation 11,636,100
Auxiliary Enterprises 16,463,600

Item 106
To Weber State University - Special Projects
From State Appropriations 1,928,800
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 1,588,300
Student Success 340,500

SOUTHERN UTAH UNIVERSITY

Item 107
To Southern Utah University - Education and General
From State Appropriations 72,508,500
From Tuition and Fees 54,623,100
From Grants and Contracts 52,464,900
From Gifts and Contributions 8,233,500
From Other Sources 54,200
From Sales and Services: Auxiliary Enterprises 7,773,600
From Sales and Services: Educational Activities 25,626,100
From Investment Income 3,405,400
From Capital Appropriations, Gifts, and Contracts 12,717,700
From Additions to Permanent Endowments 1,468,700
Schedule of Programs:
Instruction 88,494,000
Public Service 13,245,400
Academic Support 24,557,600
Student Services 30,375,900
Institutional Support 38,446,200
Scholarships and Fellowships 16,206,900
Operations and Maintenance 17,939,700
Research 67,000
Other Expenses and Deductions 435,700
Depreciation 5,252,000
Auxiliary Enterprises 3,855,300

Item 108
To Southern Utah University - Special Projects
From State Appropriations 829,300
Schedule of Programs:
Shakespeare Festival 371,600
Rural Health 135,400
Utah Summer Games 45,000
Student Success 277,300

UTAH VALLEY UNIVERSITY

Item 109
To Utah Valley University - Education and General
From State Appropriations 179,741,900
From Tuition and Fees 155,673,600
From Grants and Contracts 130,298,000
From Gifts and Contributions 10,130,500
From Other Sources 8,993,300
From Sales and Services: Auxiliary Enterprises 19,172,500
From Sales and Services: Educational Activities 5,839,200
From Investment Income 4,929,300
From Capital Appropriations, Gifts, and Contracts 30,224,100
From Additions to Permanent Endowments 1,032,200
Schedule of Programs:
Instruction 222,226,300
Public Service 1,454,400
Academic Support 61,614,500
Student Services 49,721,300
Institutional Support 108,129,100
Scholarships and Fellowships 26,281,200
Operations and Maintenance 51,249,200
Research 252,800
Depreciation 10,762,700
Auxiliary Enterprises 14,343,100

Item 110
To Utah Valley University - Special Projects
From State Appropriations 5,472,000
Schedule of Programs:
Fire and Rescue Training 5,037,100
Student Success 434,900

SNOW COLLEGE

Item 111
To Snow College - Education and General
From State Appropriations 39,929,500
From Tuition and Fees 13,602,400
From Grants and Contracts 15,793,300
From Gifts and Contributions 2,109,000
From Other Sources 3,776,900
From Sales and Services: Auxiliary Enterprises 4,690,800
From Sales and Services: Educational Activities 243,800
From Investment Income 848,900
From Capital Appropriations, Gifts, and Contracts 7,427,400

From Additions to Permanent Endowments 1,546,700
Schedule of Programs:
Instruction 33,103,600
Public Service 1,090,800
Academic Support 7,075,600
Student Services 10,722,200
Institutional Support 16,345,300
Scholarships and Fellowships 3,930,100
Operations and Maintenance 14,130,300
Research 21,900
Depreciation 2,954,900
Auxiliary Enterprises 594,000

Item 112
To Snow College - Career and Technical Education
From State Appropriations 5,086,300
From Grants and Contracts 1,457,700
From Sales and Services: Auxiliary Enterprises 433,000
From Sales and Services: Educational Activities 22,500
Schedule of Programs:
Instruction 3,644,800
Academic Support 335,700
Student Services 675,300
Institutional Support 1,900,700
Custom Fit 443,000

Item 113
To Snow College - Special Projects
From State Appropriations 185,800
Schedule of Programs:
Student Success 185,800

UTAH TECH UNIVERSITY

Item 114
To Utah Tech University - Education and General
From State Appropriations 64,578,500
From Tuition and Fees 37,902,000
From Grants and Contracts 35,377,600
From Gifts and Contributions 3,585,800
From Other Sources 2,566,000
From Sales and Services: Auxiliary Enterprises 15,074,200
From Sales and Services: Educational Activities 13,600
From Investment Income 2,383,800
From Capital Appropriations, Gifts, and Contracts 17,496,500
From Additions to Permanent Endowments 823,500
Schedule of Programs:
Instruction 56,993,600
Public Service 5,639,900
Academic Support 19,427,400
Student Services 21,670,700
Institutional Support 39,784,400
Operations and Maintenance 15,403,900
Scholarships and Fellowships 11,611,000
Research 54,200
Depreciation 4,801,400
Auxiliary Enterprises 4,415,000

Item 115
To Utah Tech University - Special Projects
From State Appropriations 559,200
From Tuition and Fees 36,700
Schedule of Programs:
Zion Park Amphitheater 99,700
Student Success 496,200

SALT LAKE COMMUNITY COLLEGE

Item 116
To Salt Lake Community College - Education and General
From State Appropriations 127,893,200
From Tuition and Fees 64,632,900
From Grants and Contracts 56,416,100
From Gifts and Contributions 2,379,200
From Other Sources 8,669,000
From Sales and Services: Auxiliary Enterprises 7,827,800
From Sales and Services: Educational Activities 473,400
From Investment Income 2,608,600
From Capital Appropriations, Gifts, and Contracts 8,071,100
Schedule of Programs:
Instruction 116,352,000
Public Service 702,100
Academic Support 17,974,800
Student Services 29,546,300
Institutional Support 65,951,800
Scholarships and Fellowships 8,922,400
Operations and Maintenance 31,249,100
Depreciation 5,134,800
Auxiliary Enterprises 3,138,000

Item 117
To Salt Lake Community College - Career and Technical Education
From State Appropriations 12,496,800
From Tuition and Fees 1,028,600
From Grants and Contracts 3,902,600
From Sales and Services: Auxiliary Enterprises 541,500
From Sales and Services: Educational Activities 32,800
Schedule of Programs:
Instruction 11,097,400
Academic Support 895,000
Student Services 2,107,400
Institutional Support 1,731,500
Operations and Maintenance 1,302,100
Scholarships and Fellowships 112,100
Custom Fit 756,800

Item 118
To Salt Lake Community College - Special Projects
From State Appropriations 1,828,100
Schedule of Programs:
Student Success 1,828,100

BRIDGERLAND TECHNICAL COLLEGE

Item 119
To Bridgerland Technical College - Education and General
From State Appropriations 22,943,700
From Tuition and Fees 1,452,400
From Grants and Contracts 4,568,400
From Gifts and Contributions 390,800
From Other Sources 37,300
From Sales and Services: Auxiliary Enterprises 585,100
From Sales and Services: Educational Activities 1,306,900

From Investment Income 173,700
From Capital Appropriations, Gifts, and Contracts 1,203,500
Schedule of Programs:
Instruction 18,159,800
Public Service 68,700
Academic Support 1,600,000
Student Services 916,600
Institutional Support 5,703,700
Operations and Maintenance 4,160,700
Custom Fit 700,000
Scholarships and Fellowships 419,900
Other Expenses and Deductions 171,200
Depreciation 593,500
Auxiliary Enterprises 167,700

Item 120
To Bridgerland Technical College - Special Projects
From State Appropriations 16,000
Schedule of Programs:
Student Success 16,000

DAVIS TECHNICAL COLLEGE

Item 121
To Davis Technical College - Education and General
From State Appropriations 27,099,700
From Tuition and Fees 2,007,100
From Grants and Contracts 7,914,700
From Independent Operations 1,156,600
From Gifts and Contributions 1,051,800
From Other Sources 1,137,500
From Sales and Services: Auxiliary Enterprises 2,847,200
From Sales and Services: Educational Activities 10,200
From Investment Income 180,400
From Capital Appropriations, Gifts, and Contracts 2,403,900
Schedule of Programs:
Instruction 16,324,100
Academic Support 11,599,500
Student Services 4,314,500
Institutional Support 5,671,500
Operations and Maintenance 3,786,200
Custom Fit 690,400
Independent Operations 1,004,400
Depreciation 1,347,900
Auxiliary Enterprises 1,070,600

Item 122
To Davis Technical College - Special Projects
From State Appropriations 36,300
Schedule of Programs:
Student Success 36,300

DIXIE TECHNICAL COLLEGE

Item 123
To Dixie Technical College - Education and General
From State Appropriations 13,020,600
From Tuition and Fees 737,700
From Grants and Contracts 3,741,200
From Gifts and Contributions 294,500
From Other Sources 197,100
From Sales and Services: Auxiliary Enterprises 383,700
From Investment Income 49,000
From Capital Appropriations, Gifts, and Contracts 1,255,600
Schedule of Programs:
Instruction 9,194,200
Public Service 206,200
Academic Support 512,600
Student Services 1,485,700
Institutional Support 3,878,600
Operations and Maintenance 2,726,100
Scholarships and Fellowships 398,300
Custom Fit 356,900
Depreciation 756,700
Auxiliary Enterprises 164,100

Item 124
To Dixie Technical College - Special Projects
From State Appropriations 12,000
Schedule of Programs:
Student Success 12,000

MOUNTAINLAND TECHNICAL COLLEGE

Item 125
To Mountainland Technical College - Education and General
From State Appropriations 29,039,800
From Tuition and Fees 1,426,300
From Grants and Contracts 8,948,100
From Gifts and Contributions 11,100
From Sales and Services: Auxiliary Enterprises 1,793,200
From Sales and Services: Educational Activities 655,000
From Investment Income 176,900
From Capital Appropriations, Gifts, and Contracts 1,337,500
Schedule of Programs:
Instruction 18,428,900
Academic Support 4,074,000
Student Services 2,771,300
Institutional Support 8,776,800
Operations and Maintenance 6,328,500
Custom Fit 1,142,400
Scholarships and Fellowships 400,600
Depreciation 793,400
Auxiliary Enterprises 672,000

Item 126
To Mountainland Technical College - Special Projects
From State Appropriations 203,300
Schedule of Programs:
Student Success 203,300

OGDEN-WEBER TECHNICAL COLLEGE

Item 127
To Ogden-Weber Technical College - Education and General
From State Appropriations 24,071,800
From Tuition and Fees 1,697,400
From Grants and Contracts 5,201,000
From Gifts and Contributions 488,500
From Other Sources 665,700
From Sales and Services: Auxiliary Enterprises 964,300
From Sales and Services: Educational Activities 1,125,300
From Investment Income 119,500
From Capital Appropriations, Gifts, and Contracts 1,805,900

Schedule of Programs:
Instruction 16,316,900
Academic Support 2,443,500
Student Services 4,690,400
Institutional Support 5,913,800
Operations and Maintenance 3,123,300
Custom Fit 684,600
Scholarships and Fellowships 323,500
Other Expenses and Deductions 1,151,100
Depreciation 840,000
Auxiliary Enterprises 652,300

Item 128
To Ogden-Weber Technical College - Special Projects
From State Appropriations 77,700
Schedule of Programs:
Student Success 77,700

SOUTHWEST TECHNICAL COLLEGE

Item 129
To Southwest Technical College - Education and General
From State Appropriations 8,940,100
From Tuition and Fees 336,700
From Grants and Contracts 2,549,900
From Gifts and Contributions 377,200
From Other Sources 400,200
From Sales and Services: Auxiliary Enterprises 252,000
From Investment Income 91,200
From Capital Appropriations, Gifts, and Contracts 515,800
Schedule of Programs:
Instruction 5,237,400
Academic Support 1,006,700
Student Services 938,000
Institutional Support 3,066,500
Operations and Maintenance 1,643,500
Scholarships and Fellowships 237,200
Custom Fit 358,800
Public Service 196,400
Other Expenses and Deductions 127,700
Depreciation 578,500
Auxiliary Enterprises 72,400

Item 130
To Southwest Technical College - Special Projects
From State Appropriations 88,600
Schedule of Programs:
Student Success 88,600

TOOELE TECHNICAL COLLEGE

Item 131
To Tooele Technical College - Education and General
From State Appropriations 8,963,400
From Tuition and Fees 248,800
From Grants and Contracts 2,562,700
From Independent Operations 126,000
From Gifts and Contributions 91,900
From Other Sources 288,700
From Sales and Services: Auxiliary Enterprises 291,700
From Sales and Services: Educational Activities 93,800
From Investment Income 51,000
From Capital Appropriations, Gifts, and Contracts 473,200
Schedule of Programs:
Instruction 5,694,100
Student Services 2,212,800
Institutional Support 3,102,400
Custom Fit 1,411,400
Scholarships and Fellowships 277,800
Other Expenses and Deductions 62,400
Depreciation 287,700
Auxiliary Enterprises 99,500
Academic Support 43,100

Item 132
To Tooele Technical College - Special Projects
From State Appropriations 1,700
Schedule of Programs:
Student Success 1,700

UINTAH BASIN TECHNICAL COLLEGE

Item 133
To Uintah Basin Technical College - Education and General
From State Appropriations 13,284,800
From Tuition and Fees 410,000
From Grants and Contracts 1,628,100
From Gifts and Contributions 1,266,400
From Other Sources 685,300
From Sales and Services: Auxiliary Enterprises 409,000
From Sales and Services: Educational Activities 5,600
From Investment Income 112,900
From Capital Appropriations, Gifts, and Contracts 576,900
Schedule of Programs:
Instruction 9,323,000
Student Services 892,300
Institutional Support 4,524,000
Operations and Maintenance 2,351,800
Custom Fit 500,000
Scholarships and Fellowships 133,500
Depreciation 546,300
Auxiliary Enterprises 108,100

Item 134
To Uintah Basin Technical College - Special Projects
From State Appropriations 58,400
Schedule of Programs:
Student Success 58,400

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2024.

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 1
To University of Utah - Education and General
From General Fund, One- time 306,300
From Beginning Nonlapsing Balances 10,771,800
From Closing Nonlapsing Balances . (10,771,800)
Schedule of Programs:
Public Service 306,300

Item 2
To University of Utah - School of Medicine
From Beginning Nonlapsing Balances ..... (11,782,900)
From Closing Nonlapsing Balances ... 11,782,900

Item 3
To University of Utah - Cancer Research and Treatment
From Beginning Nonlapsing Balances ..... (1,013,000)
From Closing Nonlapsing Balances 1,013,000

Item 4
To University of Utah - University Hospital
From Dedicated Credits Revenue, One- time ..... (455,800)
From Beginning Nonlapsing Balances ..... (664,500)
From Closing Nonlapsing Balances 664,500
Schedule of Programs:
Miners' Hospital ..... (455,800)

Notwithstanding the intent language in New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session) Item 110, the Legislature that up to $25,000,000 each from Federal Funds - American Rescue Plan - Capitol Projects Fund shall e used for San Juan County Hospital in Monticello and University of Utah Hospital clinic on Redwood Road. Should the United States Treasury Department approve both projects, the $25,000,000 shall be split evenly between the two. If only one project is approved, the full amount shall go to the approved project. If neither project is approved, the Legislature intends that these funds may be use for broadband infrastructure.

Item 5
To University of Utah - School of Dentistry
From Beginning Nonlapsing Balances ..... (110,800)
From Closing Nonlapsing Balances 110,800

Item 6
To University of Utah - Public Service
From Beginning Nonlapsing Balances ..... (521,300)
From Closing Nonlapsing Balances 521,300

Item 7
To University of Utah - Statewide TV Administration
From Beginning Nonlapsing Balances 81,200
From Closing Nonlapsing Balances ..... (81,200)

Item 8
To University of Utah - Poison Control Center
From Beginning Nonlapsing Balances ..... (794,100)
From Closing Nonlapsing Balances 794,100

Item 9
To University of Utah - Center on Aging
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances ..... (100)

Item 10
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Beginning Nonlapsing Balances ... (2,400)
From Closing Nonlapsing Balances 2,400

UTAH STATE UNIVERSITY

Item 11
To Utah State University - Education and General
From General Fund, One- time 133,500
From Beginning Nonlapsing Balances ..... (6,551,600)
From Closing Nonlapsing Balances 6,551,600
Schedule of Programs:
Institutional Support ..... (133,500)

Item 12
To Utah State University - USU - Eastern Education and General
From Beginning Nonlapsing Balances ..... (756,800)
From Closing Nonlapsing Balances 756,800

Item 13
To Utah State University - USU Eastern Career and Technical Education
From Beginning Nonlapsing Balances . (600,400)
From Closing Nonlapsing Balances 600,400

Item 14
To Utah State University - USU - Regional Campuses
From Beginning Nonlapsing Balances (5,700,200)
From Closing Nonlapsing Balances 5,700,200

Item 15
To Utah State University - USU - Water Research Laboratory
From Beginning Nonlapsing Balances ..... (744,500)
From Closing Nonlapsing Balances 744,500

Item 16
To Utah State University - Agriculture Experiment Station
From Beginning Nonlapsing Balances 4,718,700
From Closing Nonlapsing Balances ... (4,718,700)

Item 17
To Utah State University - Cooperative Extension
From Beginning Nonlapsing Balances ..... (7,728,200)
From Closing Nonlapsing Balances 7.728,200

Item 18
To Utah State University - Prehistoric Museum

From Beginning Nonlapsing Balances ..... (51,400)
From Closing Nonlapsing Balances 51,400

Item 19
To Utah State University - Blanding Campus
From Beginning Nonlapsing Balances . (405,600)
From Closing Nonlapsing Balances .... (405,600)

Item 20
To Utah State University - USU - Custom Fit
From Beginning Nonlapsing Balances .. (61,000)
From Closing Nonlapsing Balances 61,000

Item 21
To Utah State University - Special Projects
From General Fund, One-time 26,900
Schedule of Programs:
Prehistoric Museum 26,900

WEBER STATE UNIVERSITY

Item 22
To Weber State University - Education and General
From General Fund, One-time 15,000
From Beginning Nonlapsing Balances 3,671,300
From Closing Nonlapsing Balances 969,400
Schedule of Programs:
Education and General 4,640,700
Public Service 15,000

Item 23
To Weber State University - Special Projects
From Closing Nonlapsing Balances ..... (50,000)
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health ..... (50,000)

SOUTHERN UTAH UNIVERSITY

Item 24
To Southern Utah University - Education and General
From General Fund, One-time 44,000
From Beginning Nonlapsing Balances 1,288,900
From Closing Nonlapsing Balances 1,388,800
Schedule of Programs:
Education and General 2,666,600
Educationally Disadvantaged 11,100
Public Service 44,000

Item 25
To Southern Utah University - Rural Health
From Beginning Nonlapsing Balances ..... (142,500)
From Closing Nonlapsing Balances 142,500

UTAH VALLEY UNIVERSITY

Item 26
To Utah Valley University - Education and General
From General Fund, One-time 2,000
From Beginning Nonlapsing Balances ..... (2,784,700)
From Closing Nonlapsing Balances 2,482,500
Schedule of Programs:
Public Service 58,000

Item 27
To Utah Valley University - Special Projects
From Beginning Nonlapsing Balances .. (60,900)
From Closing Nonlapsing Balances 60,900

SNOW COLLEGE

Item 28
To Snow College - Education and General
From General Fund, One-time 2,000
From Beginning Nonlapsing Balances ..... (2,784,700)
From Closing Nonlapsing Balances 2,482,500
Schedule of Programs:
Education and General ..... (302,200)
Public Service 2,000

Item 29
To Snow College - Career and Technical Education
From Beginning Nonlapsing Balances ... 476,200
From Closing Nonlapsing Balances .... (174,000)
Schedule of Programs:
Career and Technical Education 302,200

Item 30
To Snow College - Snow College - Custom Fit
From Beginning Nonlapsing Balances 4,900
From Closing Nonlapsing Balances ..... (4,900)

UTAH TECH UNIVERSITY

Item 31
To Utah Tech University - Education and General
From General Fund, One-time 17,500
From Beginning Nonlapsing Balances 3,138,500
From Closing Nonlapsing Balances ..... (3,138,500)

Item 32
To Utah Tech University - Special Projects
From Beginning Nonlapsing Balances 43,800
From Closing Nonlapsing Balances ..... (43,800)

SALT LAKE COMMUNITY COLLEGE

Item 33
To Salt Lake Community College - Education and General
From Beginning Nonlapsing Balances ..... (3,226,000)
From Closing Nonlapsing Balances 3,226,000

Item 34
To Salt Lake Community College - Career and Technical Education
From Beginning Nonlapsing Balances ... 485,500
From Closing Nonlapsing Balances .... (485,500)

Item 35
To Salt Lake Community College - SLCC - Custom Fit
From Beginning Nonlapsing Balances 4,100
From Closing Nonlapsing Balances ..... (4,100)

UTAH BOARD OF HIGHER EDUCATION

Item 36
To Utah Board of Higher Education - Administration

From Beginning Nonlapsing Balances ..... (2,174,300)
From Closing Nonlapsing Balances 2,174,300

Item 37
To Utah Board of Higher Education - Student Assistance
From Beginning Nonlapsing Balances 3,958,600
From Closing Nonlapsing Balances ... (3,958,600)

Item 38
To Utah Board of Higher Education - Student Support
From Income Tax Fund, One-Time ... (5,050,000)
Schedule of Programs:
Medical Residency Grant Program ..... (4,500,000)
Forensic Psychiatry Grant Program ..... (550,000)

BRIDGERLAND TECHNICAL COLLEGE

Item 43
To Bridgerland Technical College
From Beginning Nonlapsing Balances ..... (50,900)
From Closing Nonlapsing Balances 50,900

DAVIS TECHNICAL COLLEGE

Item 44
To Davis Technical College
From Income Tax Fund, One-Time 140,000
From Beginning Nonlapsing Balances ..... (246,300)
From Closing Nonlapsing Balances 246,300
Schedule of Programs:
Davis Technical College 140,000

DIXIE TECHNICAL COLLEGE

Item 45
To Dixie Technical College
From Beginning Nonlapsing Balances ..... (74,900)
From Closing Nonlapsing Balances 74,900

Item 46
To Dixie Technical College - USTC Dixie - Custom Fit
From Beginning Nonlapsing Balances 1,000
From Closing Nonlapsing Balances ..... (1,000)

MOUNTAINLAND TECHNICAL COLLEGE

Item 47
To Mountainland Technical College
From Beginning Nonlapsing Balances ..... (413,300)
From Closing Nonlapsing Balances 381,100
Schedule of Programs:
Mountainland Technical College ..... (32,200)

OGDEN-WEBER TECHNICAL COLLEGE

Item 48
To Ogden-Weber Technical College
From Beginning Nonlapsing Balances ..... (2,076,600)
From Closing Nonlapsing Balances 2,076,600

SOUTHWEST TECHNICAL COLLEGE

Item 49
To Southwest Technical College
From Beginning Nonlapsing Balances 40,600
From Closing Nonlapsing Balances ..... (40,600)

Item 50
To Southwest Technical College - USTC Southwest - Custom Fit
From Beginning Nonlapsing Balances ... 194,500
From Closing Nonlapsing Balances .... (194,500)

TOOELE TECHNICAL COLLEGE

Item 51
To Tooele Technical College
From Beginning Nonlapsing Balances ..... (92,900)
From Closing Nonlapsing Balances 92,900

UINTAH BASIN TECHNICAL COLLEGE

Item 52
To Uintah Basin Technical College
From Beginning Nonlapsing Balances ..... (194,700)
From Closing Nonlapsing Balances 183,500
Schedule of Programs:
Uintah Basin Technical College ..... (11,200)

Item 53
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Beginning Nonlapsing Balances 300
From Closing Nonlapsing Balances ..... (300)

Section 2. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 54
To University of Utah - Education and General
From General Fund 220,410,600
From Income Tax Fund 122,717,200
From Dedicated Credits Revenue ... 319,871,200
From Dedicated Credits - State Land Grants 443,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 4,522,900
From Revenue Transfers 34,500
From Beginning Nonlapsing Balances 15,724,900
From Closing Nonlapsing Balances ..... (15,724,900)
Schedule of Programs:
Education and General 592,984,600
Operations and Maintenance 74,235,300
Educationally Disadvantaged 780,300

In accordance with UCA 63J-1-903, the Legislature intends that the University of

Utah report performance measures for the University of Utah Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.16%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - maintain the percent of high-yield awards granted.

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students with disabilities registered and receiving services (target: 2%-5% of total university enrollment); 2) provision of alternative format services, including Braille and video captioning (target: provide accessible materials in a timely manner prior to materials being needed/utilized in coursework); and 3) provide interpreting services for deaf and hard of hearing students (target: maintain a highly qualified and 100% certified interpreting staff and achieve 100% delivery of properly requested interpreting needs).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 55

To University of Utah - School of Medicine
From Income Tax Fund 41,178,600
From Dedicated Credits Revenue 31,865,100
From General Fund Restricted - Cigarette Tax Restricted Account 2,800,000
From Beginning Nonlapsing Balances 13,604,600
From Closing Nonlapsing Balances ..... (13,604,600)
Schedule of Programs:
School of Medicine 75,843,700

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - School of Medicine line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of medical school applications (target: exceed the number of applications as an average of the prior three years); 2) the number of student enrolled in medical school (target: maintain a full cohort based on enrollment levels); 3) the number of applicants to matriculates (target: maintain a healthy ratio to insure a class of strong academic quality); 4) the number of miners served (target: maintain or exceed historical numbers served); and 5) the number of miners enrolled (target: maintain or exceed historical numbers enrolled).

Item 56

To University of Utah - Cancer Research and Treatment
From Income Tax Fund 8,002,100
From General Fund Restricted - Cigarette Tax Restricted Account 2,000,000
From Beginning Nonlapsing Balances 1,013,000
From Closing Nonlapsing Balances ... (1,013,000)
Schedule of Programs:
Cancer Research and Treatment ... 10,002,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Cancer Research and Treatment line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) extramural cancer research funding help by Huntsman Cancer Institute (HCI) investigators (target: increase funding by 5%); 2) support development of cancer training programs through promotion of student professional development and experiential learning opportunities designed for cancer research trainees and securing extramural funding for cancer training at HCI; and 3) increase outreach and research support of rural, frontier, and underserved populations.

Item 57

To University of Utah - University Hospital
From Income Tax Fund 5,784,100
From Dedicated Credits Revenue 455,800
From Revenue Transfers 18,915,900
From Beginning Nonlapsing Balances ... 664,500
From Closing Nonlapsing Balances .... (664,500)
Schedule of Programs:
University Hospital 24,524,300
Miners' Hospital 631,500

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - University Hospital line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of annual residents in training (target: 578); 2) the number of annual resident training hours (target: 2,080,800); and 3) the percent of total resident training costs appropriated by the Legislature (target: 20.7%).

Item 58

To University of Utah - School of Dentistry
From Income Tax Fund 3,359,100
From Dedicated Credits Revenue 4,307,900
From Beginning Nonlapsing Balances ... 110,800
From Closing Nonlapsing Balances .... (110,800)
Schedule of Programs:
School of Dentistry 7,667,000

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah School of Dentistry line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of applications to the School of Dentistry; and 2) the number of students accepted.

UTAH STATE UNIVERSITY

Item 59

To Utah State University - Education and General
From General Fund 124,819,600
From Income Tax Fund 87,118,500
From Dedicated Credits Revenue ... 143,117,900
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 3,175,300
From Beginning Nonlapsing
Balances 17,345,400
From Closing Nonlapsing
Balances ..... (17,345,400)
Schedule of Programs:
Education and General 296,711,200
USU - School of Veterinary
Medicine 23,600,700
Operations and Maintenance 37,821,600
Educationally Disadvantaged 97,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) Access: percent of Utah high school graduates enrolled (target: increase by 0.73 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 20); 2) average aid per student (target: $4,000); and 3) transfer and retention rate (target: 80%).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 60

To Utah State University - USU -
Eastern Education and General
From Income Tax Fund 10,031,700
From Dedicated Credits Revenue 3,237,200
From Beginning Nonlapsing Balances ... 858,900
From Closing Nonlapsing Balances .... (858,900)
Schedule of Programs:
USU - Eastern Education and
General 13,163,400
Educationally Disadvantaged 105,500

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) degrees and certificates awarded (target: 365); 2) FTE student enrollment (fall day-15 budget-related) (target: 950); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (target: 49% with a 0.5% increase per annum).

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 275); 2) average aid per student (target: $500); and 3) transfer and retention rate (target: 50%).

Item 61

To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 6,417,000
From Dedicated Credits Revenue 182,000
From Beginning Nonlapsing Balances 1,459,500
From Closing Nonlapsing Balances ... (1,459,500)
Schedule of Programs:
USU - Eastern Career and Technical Education 6,599,000

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Eastern Career and Technical Education line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) career and technical education (CTE) licenses and certifications (target: 100); 2) CTE graduate placements (target: 45); and 3) CTE completions (target: 50).

Item 62

To Utah State University - Regional Campuses
From Income Tax Fund 15,366,000
From Dedicated Credits Revenue 22,435,300
From General Fund Restricted - Infrastructure and Economic Diversification Investment Account 250,000
From Revenue Transfers 324,200
From Beginning Nonlapsing Balances 10,230,200
From Closing Nonlapsing Balances ..... (10,230,200)
Schedule of Programs:
Administration 6,322,400
Uintah Basin Regional Campus 11,299,900
Brigham City Regional Campus 8,672,100
Tooele Regional Campus 12,081,100

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Regional Campuses line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) degrees and certificates awarded (targets for all campuses: 850); 2) FTE student enrollment (fall day-15 budget-related) (targets for each campus: Brigham City - 650, Tooele - 1,200, and Uintah Basin - 375); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (targets for campuses: 49% with a 0.5% increase per annum).

Item 63

To Utah State University - Cooperative Extension
From General Fund 75,000
From Income Tax Fund 19,919,600
From Federal Funds 2,088,500
From Dedicated Credits Revenue 250,000
From Revenue Transfers 69,600
From Beginning Nonlapsing Balances 9,760,000
From Closing Nonlapsing Balances ... (9,760,000)
Schedule of Programs:
Cooperative Extension 22,402,700

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Cooperative Extension line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) direct contacts (target: 722,000 on a three-year rolling average); 2) faculty-delivered activities and events (target: 2,000 on a three-year rolling average); and 3) faculty publications (target: 300 on a three-year rolling average).

Item 64

To Utah State University - Blanding Campus
From Income Tax Fund 2,806,700
From Dedicated Credits Revenue 1,921,800
From Beginning Nonlapsing Balances ... 555,500
From Closing Nonlapsing Balances .... (555,500)
Schedule of Programs:
Blanding Campus 4,728,500

Item 65

To Utah State University - USU - Custom Fit
From Income Tax Fund 275,800
From Beginning Nonlapsing Balances ... 193,100
From Closing Nonlapsing Balances .... (193,100)
Schedule of Programs:
USU - Custom Fit 275,800

WEBER STATE UNIVERSITY

Item 66
To Weber State University - Education and General
From Income Tax Fund 114,299,900
From Dedicated Credits Revenue 84,552,200
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,688,700
From Beginning Nonlapsing Balances 1,713,200
From Closing Nonlapsing Balances ... (1,713,200)
Schedule of Programs:
Education and General 181,994,900
Operations and Maintenance 18,113,800
Educationally Disadvantaged 432,100

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report performance measures for Weber State University - Education and General Laboratory line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.42%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

Item 67
To Weber State University - Rocky Mountain Center for Occupational & Environmental Health
From Income Tax Fund 802,000
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 802,000

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report performance measures for Weber State University - Rocky Mountain Center for Occupational and Environmental Health line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of students in the degree programs (target: greater than or equal to 45); 2) The number of students trained (target: greater than or equal to 600); and 3) The number of businesses represented in continuing education courses (target: greater than or equal to 1,000).

SOUTHERN UTAH UNIVERSITY

Item 68
To Southern Utah University - Education and General
From Income Tax Fund 63,409,700
From Dedicated Credits Revenue 52,473,700
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 798,600
From Beginning Nonlapsing Balances 10,061,000
From Closing Nonlapsing Balances ..... (10,061,000)
Schedule of Programs:
Education and General 106,306,000
Operations and Maintenance 10,273,500
Educationally Disadvantaged 102,500

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.34%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) students served (target: 100); 2) average aid per student (target: $500); and 3) educationally disadvantage scholarships offered to minority students (target: 33% or more).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

UTAH VALLEY UNIVERSITY

Item 69
To Utah Valley University - Education and General
From General Fund 100,005,700
From Income Tax Fund 56,297,000
From Dedicated Credits Revenue ... 150,208,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 2,038,300

From Other Financing Sources 135,000
From Beginning Nonlapsing Balances 25,292,000
From Closing Nonlapsing Balances ..... (25,292,000)
Schedule of Programs:
Education and General 284,089,300
Operations and Maintenance 24,393,200
Educationally Disadvantaged 201,600

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report performance measures for Utah Valley University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 1.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report performance measures for Utah Valley University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) portion of degree-seeking undergraduate students receiving need-based financial aid (target: 45%); 2) the number of students served in mental health counseling (target: 4,000); and 3) the number of tutoring hours provided to students (target: 22,000).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 70
To Utah Valley University - Fire and Rescue Training
From Income Tax Fund 4,750,100
From Beginning Nonlapsing Balances ... 399,500
From Closing Nonlapsing Balances .... (399,500)
Schedule of Programs:
Fire and Rescue Training 4,750,100

SNOW COLLEGE

Item 71
To Snow College - Education and General
From Income Tax Fund 36,517,800
From Dedicated Credits Revenue 12,745,500
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 405,800
From Revenue Transfers 753,400
From Beginning Nonlapsing Balances 8,487,700
From Closing Nonlapsing Balances ... (8,487,700)
Schedule of Programs:
Education and General 44,442,500
Operations and Maintenance 5,948,000
Educationally Disadvantaged 32,000

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.33%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 12.77%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) aggregate completion rate of first generation, non-tradition (aged 25 or older), minority (not including non-resident, alien/international students), and Pell awarded students (target: 35%); 2) percent of remedial math students who successfully complete Math 1030, Math 1040, or Math 1050 (college-level math) within five semesters of first-time enrollment (target: 35%); and 3) percent of remedial English students who successfully complete English 1010 or higher (college level English) within three semesters of first-time enrollment (target: 65%).

Item 72
To Snow College - Career and Technical Education
From Income Tax Fund 3,601,300
Schedule of Programs:
Career and Technical Education 3,601,300

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report performance measures for Snow College - Career and Technical Education line item.

The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) percent of students per program capacity with the goal of a 2% increase in respective program capacity each year (target: 60%); 2) the number of career and technical education (CTE) degrees and certificates awarded (target: 200); and 3) percent of students who successfully pass their respective Utah licensing exams (programs include Automotive, Cosmetology, and Nursing) (target: 80% pass rate).

Item 73
To Snow College - Snow College - Custom Fit
From Income Tax Fund 425,400
From Beginning Nonlapsing Balances ... 167,800
From Closing Nonlapsing Balances .... (167,800)
Schedule of Programs:
Snow College - Custom Fit 425,400

UTAH TECH UNIVERSITY

Item 74
To Utah Tech University - Education and General
From Income Tax Fund 57,616,700
From Dedicated Credits Revenue 36,204,800
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 499,600
From Revenue Transfers 705,000
From Beginning Nonlapsing
Balances 6,449,000
From Closing Nonlapsing Balances ... (6,449,000)
Schedule of Programs:
Education and General 85,152,800
Operations and Maintenance 9,847,800
Educationally Disadvantaged 25,500

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.40%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of students served (target: 20); 2) the number of minority students served (target: 15); and 3) expenditures per student (target: $1,000).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

SALT LAKE COMMUNITY COLLEGE

Item 75
To Salt Lake Community College - Education and General
From Income Tax Fund 117,018,100
From Dedicated Credits Revenue 61,556,200
From Income Tax Fund Restricted -
Performance Funding Rest. Acct. 1,720,800
From Revenue Transfers 3,688,300
From Beginning Nonlapsing
Balances 8,168,700
From Closing Nonlapsing Balances ... (8,168,700)
Schedule of Programs:
Education and General 159,922,400
Operations and Maintenance 23,882,600
Educationally Disadvantaged 178,400

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - Education and General line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.94%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 1%.

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - Educationally Disadvantaged line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of

needs-based scholarships awarded (target: 200); 2) percent of needs- based recipients returning (target: 50%); and 3) graduation rate of needs based scholarship recipients (target: 50%).

The Legislature intends that the Division of Finance transfer the FY 2023 closing nonlapsing balance from the Educationally Disadvantaged line item to the beginning nonlapsing balance in the Education and General line item in the FY 2024 base budget.

Item 76

To Salt Lake Community College - School of Applied Technology
From Income Tax Fund 9,409,300
From Dedicated Credits Revenue 1,028,600
From Beginning Nonlapsing Balances ... 736,400
From Closing Nonlapsing Balances .... (736,400)
Schedule of Programs:
School of Applied Technology 10,437,900

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report performance measures for Salt Lake Community College - School of Applied Technology line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) membership hours (target: 350,000); 2) certificates awarded (target: 200); and 3) pass rate for certificate or licensure exams (target: 85%).

Item 77

To Salt Lake Community College - SLCC - Custom Fit
From Income Tax Fund 618,500
Schedule of Programs:
SLCC - Custom Fit 618,500

UTAH BOARD OF HIGHER EDUCATION

Item 78

To Utah Board of Higher Education - Administration
From General Fund 1,041,900
From Income Tax Fund 21,457,700
From Federal Funds 6,700
From Revenue Transfers 443,400
From Beginning Nonlapsing Balances 7,470,200
From Closing Nonlapsing Balances ... (7,470,200)
Schedule of Programs:
Administration 21,457,700
Utah Data Research Center 1,492,000

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) access - increase the percent of Utah high school graduates enrolled in the system by 3%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) The number of collaborative meetings held (target: 5 per month).

The Legislature intends that the Utah Board of Higher Education define "Educationally Disadvantaged" for purposes of determining amounts institutions budget to assist Educationally Disadvantaged students and to adjust FY 2025 budget requests to include these amounts in the Educationally Disadvantaged programs.

Item 79

To Utah Board of Higher Education - Student Assistance
From Income Tax Fund 38,937,200
From Beginning Nonlapsing Balances 18,860,700
From Closing Nonlapsing Balances ..... (18,860,700)
Schedule of Programs:
Opportunity Scholarship 18,092,700
Student Financial Aid 8,354,400
New Century Scholarships 1,983,900
Utah Promise Program 1,391,200
Western Interstate Commission for Higher Education 840,200
T.H. Bell Teaching Incentive Loans Program 2,031,800
Veterans Tuition Gap Program 125,000
Public Safety Officer Career Advancement Reimbursement 146,000
Student Prosperity Savings Program ... 50,000
Talent Development Grant Program 1,547,400
Access Utah Promise Scholarship Program 2,274,600
Career and Technical Education Scholarships 1,100,000
Adult Learner Grant 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Student Assistance line item. The department shall

report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measure: 1) for Regents, New Century, and Western Interstate Commission for Higher Education scholarships allocate all appropriations less overhead to qualified students.

Item 80
To Utah Board of Higher Education - Student Support
From Income Tax Fund 10,106,800
From Beginning Nonlapsing Balances ... 765,000
From Closing Nonlapsing Balances .... (765,000)
Schedule of Programs:
Services for Hearing Impaired Students 796,300
Higher Education Technology Initiative 4,498,800
Utah Academic Library Consortium 3,410,000
Math Competency Initiative 1,401,700

In accordance with UCA 63J-1-903, the Legislature intends the Board of Higher Education report performance measures for the Board of Higher Education - Student Support line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) hearing impaired (target: allocate all appropriations to institutions); 2) engineering initiative degrees (target: 6% annual increase); 3) HETI group purchases (target: $3.4 million savings); 4) Utah Academic Library Council (UALC) additive impact on institutional library collections budgets as reported to IPEDS; 5) resource downloads from UALC purchased databases. (target: three-year rolling average of 3,724,474). 6) the number of students taking math credit through concurrent enrollment (target: increase by 5%).

Item 81
To Utah Board of Higher Education - Education Excellence

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report performance measures for the Board of Higher Education - Education Excellence line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) increase college participation rates with Utah College Advising Corp (target: 5% increase); 2) completions (target: increase five-year rolling average by 1%); and 3) 150% graduation rate (target: increase five-year rolling average by 1%).

Item 82
To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 2,198,400
From Dedicated Credits Revenue 52,400
Schedule of Programs:
Talent Ready Utah 2,250,800

BRIDGERLAND TECHNICAL COLLEGE

Item 83
To Bridgerland Technical College
From Income Tax Fund 19,408,300
From Dedicated Credits Revenue 1,452,400
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 291,100
From Beginning Nonlapsing Balances ... 283,500
From Closing Nonlapsing Balances .... (283,500)
Schedule of Programs:
Bridgerland Tech Equipment 1,022,200
Bridgerland Technical College 20,129,600

In accordance with UCA 63J-1-903, the Legislature intends that Bridgerland Technical College report performance measures for the Bridgerland Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 84
To Bridgerland Technical College - USTC Bridgerland - Custom Fit
From Income Tax Fund 600,000
Schedule of Programs:
USTC Bridgerland - Custom Fit 600,000

DAVIS TECHNICAL COLLEGE

Item 85
To Davis Technical College
From Income Tax Fund 22,985,900
From Dedicated Credits Revenue 2,007,100
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 385,300
From Beginning Nonlapsing Balances 1,076,700
From Closing Nonlapsing Balances ... (1,076,700)
Schedule of Programs:
Davis Tech Equipment 1,112,100
Davis Technical College 24,266,200

In accordance with UCA 63J-1-903, the Legislature intends that Davis Technical College report performance measures for the Davis Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.09%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 8%.

Item 86
To Davis Technical College - USTC Davis - Custom Fit
From Income Tax Fund 686,900
Schedule of Programs:
USTC Davis - Custom Fit 686,900

DIXIE TECHNICAL COLLEGE

Item 87
To Dixie Technical College
From Income Tax Fund 10,695,200
From Dedicated Credits Revenue 737,700
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 124,400
Schedule of Programs:
Dixie Tech Equipment 544,900
Dixie Technical College 11,012,400

In accordance with UCA 63J-1-903, the Legislature intends that Dixie Technical College report performance measures for the Dixie Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.03%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 88
To Dixie Technical College - USTC Dixie - Custom Fit
From Income Tax Fund 345,000
From Beginning Nonlapsing Balances 1,000
From Closing Nonlapsing Balances ..... (1,000)
Schedule of Programs:
USTC Dixie - Custom Fit 345,000

MOUNTAINLAND TECHNICAL COLLEGE

Item 89
To Mountainland Technical College
From Income Tax Fund 22,337,400
From Dedicated Credits Revenue 1,426,300
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 235,000
From Beginning Nonlapsing Balances ... 234,500
From Closing Nonlapsing Balances .... (234,500)
Schedule of Programs:
Mountainland Tech Equipment 982,800
Mountainland Technical College ... 23,015,900

In accordance with UCA 63J-1-903, the Legislature intends that Mountainland Technical College report performance measures for the Mountainland Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.11%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 8%.

Item 90
To Mountainland Technical College - USTC Mountainland - Custom Fit
From Income Tax Fund 816,300
Schedule of Programs:
USTC Mountainland - Custom Fit 816,300

OGDEN-WEBER TECHNICAL COLLEGE

Item 91
To Ogden-Weber Technical College
From Income Tax Fund 20,619,500
From Dedicated Credits Revenue 1,697,400
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 268,600
From Beginning Nonlapsing Balances ... 708,700
From Closing Nonlapsing Balances .... (708,700)
Schedule of Programs:
Ogden-Weber Tech Equipment 1,070,100
Ogden-Weber Technical College 21,515,400

In accordance with UCA 63J-1-903, the Legislature intends that Ogden-Weber Technical College report performance measures for the Ogden-Weber Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.07%; 2) timely completion - increase the percent of a cohort

enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 92
To Ogden-Weber Technical College - USTC Ogden-Weber - Custom Fit
From Income Tax Fund 684,600
Schedule of Programs:
USTC Ogden-Weber - Custom Fit 684,600

SOUTHWEST TECHNICAL COLLEGE

Item 93
To Southwest Technical College
From Income Tax Fund 7,613,300
From Dedicated Credits Revenue 336,700
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 134,300
From Beginning Nonlapsing Balances 40,600
From Closing Nonlapsing Balances ..... (40,600)
Schedule of Programs:
Southwest Tech Equipment 508,000
Southwest Technical College 7,576,300

In accordance with UCA 63J-1-903, the Legislature intends that Southwest Technical College report performance measures for the Southwest Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

Item 94
To Southwest Technical College - USTC Southwest - Custom Fit
From Income Tax Fund 345,000
From Beginning Nonlapsing Balances ... 194,500
From Closing Nonlapsing Balances .... (194,500)
Schedule of Programs:
USTC Southwest - Custom Fit 345,000

TOOELE TECHNICAL COLLEGE

Item 95
To Tooele Technical College
From Income Tax Fund 7,069,700
From Dedicated Credits Revenue 248,800
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 90,400
Schedule of Programs:
Tooele Tech Equipment 384,300
Tooele Technical College 7,024,600

In accordance with UCA 63J-1-903, the Legislature intends that Tooele Applied Technical College report performance measures for the Tooele Applied Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

Item 96
To Tooele Technical College - USTC Tooele - Custom Fit
From Income Tax Fund 325,000
Schedule of Programs:
USTC Tooele - Custom Fit 325,000

UINTAH BASIN TECHNICAL COLLEGE

Item 97
To Uintah Basin Technical College
From Income Tax Fund 11,326,600
From Dedicated Credits Revenue 410,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 120,900
From Beginning Nonlapsing Balances 4,800
From Closing Nonlapsing Balances ..... (4,800)
Schedule of Programs:
Uintah Basin Tech Equipment 673,200
Uintah Basin Technical College 11,184,300

In accordance with UCA 63J-1-903, the Legislature intends that Uintah Basin Technical College report performance measures for the Uintah Basin Technical College line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

Item 98
To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit
From Income Tax Fund 450,000
From Beginning Nonlapsing Balances 300
From Closing Nonlapsing Balances ..... (300)
Schedule of Programs:
USTC Uintah Basin - Custom Fit 450,000

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

authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 99
To Performance Funding Restricted Account
From Income Tax Fund 22,824,000
Schedule of Programs:
Performance Funding Restricted Account 22,824,000

Section 3. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 100
To University of Utah - Public Service
From Income Tax Fund 2,375,900
From Beginning Nonlapsing Balances ... 521,300
From Closing Nonlapsing Balances .... (521,300)
Schedule of Programs:
Seismograph Stations 818,000
Natural History Museum of Utah ... 1,419,400
State Arboretum 138,500

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - Seismograph Stations line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) timeliness of responses to earthquakes in the Utah region (target: transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes for every earthquake of magnitude 3.5 or greater that occur in the Utah region); 2) publications and presentations related to earthquakes (target: publish at least five papers in peer-reviewed journals, make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders); and 3) raise external funds to support Seismograph Stations mission (target: generate external funds that equal or exceed the amount provided by the State of Utah).

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - State Arboretum line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of memberships (target: increase 3% annually); 2) The number of admissions (target: increase 3% annually); 3) The number of school children participating in on-site field classes (target: maintain the present level of participation until the Education Center is build that will permit expansion beyond what current facilities permit); 4) The number of visitors who receive food assistance (target: track admissions through this new program); 5) The number of adult programs offered (target: maintain the present level of participation until the Education Center is built that will permit expansion beyond what current facilities permit); and 6) The number of schools and number of school children reached through the Arboretums Grow Lab, Botany Bin, Botany Box, and Virtual Garden program (target: maintain the present level of participation until additional staffing can be added that will permit expansion beyond current staffing allows).

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Public Service - Natural History Museum of Utah line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Total on-site attendance (target: meet or exceed 282,000); 2) Total off-site attendance (target: meet or exceed 200,000); and 3) The number of school interactions (target: meet or exceed 1,250).

Item 101
To University of Utah - Statewide TV Administration
From Income Tax Fund 2,890,100
From Beginning Nonlapsing Balances 81,200
From Closing Nonlapsing Balances ..... (81,200)
Schedule of Programs:
Public Broadcasting 2,890,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Statewide TV

Administration line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of households that tune in to KUED television (target: greater than or equal to the number in each of the prior three years); 2) The number of visitors to KUEDs informational page and KUEDs video page (target: greater than or equal to the number in each of the prior three years); 3) The number of people participating in KUED community outreach events (target: greater than or equal to the number in each of the prior three years); and 4) "Gross impressions" or the number of exposures to programming as measured in households which includes duplicate viewing and gives a sense of the frequency with which households are tuning in (target: 1.9 million).

Item 102
To University of Utah - Poison Control Center
From Income Tax Fund 3,104,400
From Beginning Nonlapsing Balances ... 794,100
From Closing Nonlapsing Balances .... (794,100)
Schedule of Programs:
Poison Control Center 3,104,400

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Poison Control Center line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) poison control center utilization (target: exceed nationwide average); 2) healthcare costs averted per dollar invested (target: $10 savings for every dollar invested in the center); 3) service level speed to answer (target: answer 85% of cases within 20 seconds); and 4) The number of students, interns, residents and fellows who receive training from the center compared to the number of learners needed to fulfill faculty and program requirements for training learners (target: greater than or equal to 18).

Item 103
To University of Utah - Center on Aging
From Income Tax Fund 123,500
From Beginning Nonlapsing Balances 100
From Closing Nonlapsing Balances ..... (100)
Schedule of Programs:
Center on Aging 123,500

Item 104
To University of Utah - Rocky Mountain Center for Occupational and Environmental Health
From Income Tax Fund 1,215,100
From General Fund Restricted - Workplace Safety Account 174,000
From Beginning Nonlapsing Balances 2,400
From Closing Nonlapsing Balances ..... (2,400)
Schedule of Programs:
Center for Occupational and Environmental Health 1,389,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - Rocky Mountain Center for Occupational and Environmental Health line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of students in the degree programs (target: greater than or equal to 45 students); 2) the number of students trained (target: greater than or equal to 600); and 3) the number of businesses represented in continuing education courses (target: greater than or equal to 1,000).

Item 105
To University of Utah - SafeUT Crisis Text and Tip
From Income Tax Fund 4,102,100
Schedule of Programs:
SafeUT Operations 4,102,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report performance measures for the University of Utah - SafeUT Crisis Text and Tip line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Evaluating long-text chats (>10 threads) for satisfaction (target: 10% of long text chats will be evaluated for support/satisfaction); 2) Satisfaction with the service provided (target: 75% rated as satisfied); and 3) Actionable mental health care recommendations for long-text chats (>10 threads) (target: 75% acted upon).

UTAH STATE UNIVERSITY

Item 106
To Utah State University - Water Research Laboratory
From Income Tax Fund 2,450,800
From General Fund Restricted - Mineral Lease 1,745,800
From Gen. Fund Rest. - Land Exchange Distribution Account 66,400
From Beginning Nonlapsing Balances 2,750,800
From Closing Nonlapsing Balances ... (2,750,800)
Schedule of Programs:

Water Research Laboratory 4,263,000

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Water Research Laboratory line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of peer-reviewed journal articles published (target: 10); 2) The number of students supported (target: 150); and 3) Research projects and training activities (target: 200).

Item 107

To Utah State University - Agriculture Experiment Station
From Income Tax Fund 15,329,600
From Federal Funds 1,813,800
From Beginning Nonlapsing Balances 4,718,700
From Closing Nonlapsing Balances ... (4,718,700)
Schedule of Programs:
Agriculture Experiment Station 17,143,400

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Agriculture Experiment Station line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of students mentored (target: 300); 2) The number of journal articles published (target: 300); 3) Lab accessions (target: 100,000).

Item 108

To Utah State University - Prehistoric Museum
From Income Tax Fund 508,800
From Beginning Nonlapsing Balances 61,900
From Closing Nonlapsing Balances ..... (61,900)
Schedule of Programs:
Prehistoric Museum 508,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report performance measures for Utah State University - Prehistoric Museum line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) Museum admissions (target: 18,000); 2) The number of offsite outreach contacts (target: 1,000); and 3) The number of scientific specimens added (target: 800).

SOUTHERN UTAH UNIVERSITY

Item 109

To Southern Utah University - Shakespeare Festival
From Income Tax Fund 21,600
Schedule of Programs:
Shakespeare Festival 21,600

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Shakespeare Festival line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following five-year performance measures: 1) professional outreach program in the schools instructional hours (target: 5% increase in five years); 2) education seminars and orientation attendees (target: 5% increase in five years); and 3) Shakespeare Festival annual fundraising (target: 2% increase in five years).

Item 110

To Southern Utah University - Rural Health
From Income Tax Fund 124,800
From Beginning Nonlapsing Balances ... 143,800
From Closing Nonlapsing Balances .... (143,800)
Schedule of Programs:
Rural Health 124,800

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report performance measures for Southern Utah University - Rural Health line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) the number of rural healthcare programs developed (target: 47); 2) rural healthcare scholar participation (target: 1,000); and 3) graduate rural clinical rotations (target: 230).

UTAH TECH UNIVERSITY

Item 111

To Utah Tech University - Zion Park Amphitheater
From Income Tax Fund 60,400
From Dedicated Credits Revenue 35,700
From Beginning Nonlapsing Balances 47,200
From Closing Nonlapsing Balances ..... (47,200)
Schedule of Programs:
Zion Park Amphitheater 96,100

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report performance measures for Utah Tech University - Zion Park

Amphitheater line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2023 the final status of performance measures established in FY 2023 appropriations bills. For FY 2024, the department shall report the following performance measures: 1) The number of performances (target: varied across years); 2) Ticket sales revenue (target: $35,000); and 3) Performances featuring Utah artists (target: varied across years).

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2023.

CHAPTER 5
S. B. 4
Passed January 25, 2024
Approved January 30, 2024
Effective July 1, 2024

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Michael K. McKell
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $21,320,500 in operating and capital budgets for fiscal year 2024, including:

- ($22,592,400) from the General Fund; and
- $43,912,900 from various sources as detailed in this bill.

This bill appropriates $737,600 in expendable funds and accounts for fiscal year 2024.

This bill appropriates ($64,973,600) in business-like activities for fiscal year 2024.

This bill appropriates $4,710,900 in fiduciary funds for fiscal year 2024.

This bill appropriates $494,277,200 in operating and capital budgets for fiscal year 2025, including:

- $129,332,900 from the General Fund;
- $51,558,400 from the Income Tax Fund; and
- $313,385,900 from various sources as detailed in this bill.

This bill appropriates $32,959,800 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $100,756,400 in business-like activities for fiscal year 2025, including:

- $2,250,000 from the General Fund; and
- $98,506,400 from various sources as detailed in this bill.

This bill appropriates $53,240,200 in restricted fund and account transfers for fiscal year 2025, including:

- $33,250,200 from the General Fund; and
- $19,990,000 from various sources as detailed in this bill.

This bill appropriates $5,651,100 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL:

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 1
To Department of Alcoholic Beverage Services - DABS Operations
From Beginning Nonlapsing Balances 3,989,400
Schedule of Programs:
Executive Director 1,173,900
Operations 1,849,100
Warehouse and Distribution 966,400

Item 2
To Department of Alcoholic Beverage Services - Parents Empowered
From Liquor Control Fund, One-time ..... (635,800)
From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account, One-time 635,800
From Beginning Nonlapsing Balances 98,200
Schedule of Programs:
Parents Empowered 98,200

DEPARTMENT OF COMMERCE

Item 3
To Department of Commerce - Building Inspector Training
From Beginning Nonlapsing Balances 2,543,100
From Closing Nonlapsing Balances ..... (425,000)
Schedule of Programs:
Building Inspector Training 2,118,100

Item 4
To Department of Commerce - Commerce General Regulation
From OWHTF-Low Income Housing, One-time ..... (5,500)
From Beginning Nonlapsing Balances 1,818,700
From Closing Nonlapsing

Balances ..... (200,000)
Schedule of Programs:
Administration 384,500
Consumer Protection ..... (5,500)
Occupational and Professional Licensing 330,300
Office of Consumer Services 450,900
Public Utilities 453,000

Item 5
To Department of Commerce - Office of Consumer Services Professional and Technical Services
From Beginning Nonlapsing
Balances ..... (1,956,200)
Schedule of Programs:
Professional and Technical Services (1,956,200)

Item 6
To Department of Commerce - Public Utilities Professional and Technical Services
From Beginning Nonlapsing
Balances 786,900
From Closing Nonlapsing
Balances 500
Schedule of Programs:
Professional and Technical Services ... 787,400

Item 7
To Department of Commerce - Utility Bill Assistance Program
From Beginning Nonlapsing
Balances 6,989,300
From Closing Nonlapsing
Balances ..... (989,300)
Schedule of Programs:
Utility Bill Assistance Program 6,000,000

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 8
To Governor's Office of Economic Opportunity - Administration
From General Fund, One-time 30
Schedule of Programs:
Administration 30

Item 9
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund, One-time (30)
From Dedicated Credits Revenue,
One-time ..... (199,200)
From General Fund Restricted - Industrial Assistance Account,
One-time ..... (20,700)
From Rural Opportunity Fund,
One-time ..... (32,700)
From Beginning Nonlapsing
Balances 26,868,800
From Closing Nonlapsing
Balances ..... (14,248,900)
Schedule of Programs:
Business Services 1,870,500
Incentives and Grants ..... (7,210,700)
Strategic Initiatives 19,516,800
Systems and Control ..... (1,809,330)

Item 10
To Governor's Office of Economic Opportunity - Office of Tourism
From Dedicated Credits Revenue,
One-time ..... (79,100)
From Beginning Nonlapsing
Balances 3,061,900
From Closing Nonlapsing
Balances ..... (456,500)
Schedule of Programs:
Film Commission 299,000
Marketing and Advertising 1,359,400
Tourism 867,900

Item 11
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund,
One-time ..... (21,989,200)
From Dedicated Credits Revenue,
One-time ..... (246,600)
From Beginning Nonlapsing
Balances 9,382,600
Schedule of Programs:
Pass-Through ..... (13,761,400)
Economic Assistance Grants 908,200

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 12
To Department of Cultural and Community Engagement - Administration
From Beginning Nonlapsing
Balances 854,800
From Closing Nonlapsing
Balances ..... (733,500)
From Lapsing Balance 7,500
Schedule of Programs:
Administrative Services 93,100
Information Technology ..... (86,700)
Utah Multicultural Affairs Office 122,400

Item 13
To Department of Cultural and Community Engagement - Division of Arts and Museums
From Beginning Nonlapsing
Balances 412,400
From Closing Nonlapsing
Balances ..... (486,400)
Schedule of Programs:
Administration 42,200
Community Arts Outreach ..... (192,000)
Grants to Non-profits 43,900
Museum Services 31,900

Item 14
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From Beginning Nonlapsing
Balances 121,600
Schedule of Programs:
Commission on Service and Volunteerism 121,600

Item 15
To Department of Cultural and Community Engagement - Historical Society
From Dedicated Credits Revenue,
One-time ..... (125,100)

From Beginning Nonlapsing
Balances ..... (93,300)
From Closing Nonlapsing
Balances 93,300
Schedule of Programs:
State Historical Society ..... (125,100)

Item 16
To Department of Cultural and Community Engagement - Indian Affairs
From Beginning Nonlapsing
Balances 102,800
From Closing Nonlapsing
Balances ..... (157,300)
From Lapsing Balance 41,200
Schedule of Programs:
Indian Affairs ..... (13,300)

Item 17
To Department of Cultural and Community Engagement - Pass-Through
From Beginning Nonlapsing
Balances 1,781,900
Schedule of Programs:
Pass-Through 1,781,900

Item 18
To Department of Cultural and Community Engagement - Historical Society
From Beginning Nonlapsing
Balances 146,800
From Closing Nonlapsing
Balances 52,300
Schedule of Programs:
Administration 109,700
Library and Collections ..... (41,000)
Public History, Communication and Information 130,400

Item 19
To Department of Cultural and Community Engagement - State Library
From Other Financing Sources,
One-time ..... (2,200)
From Beginning Nonlapsing
Balances 272,300
From Closing Nonlapsing
Balances 273,700
Schedule of Programs:
Administration 280,000
Blind and Disabled 222,700
Bookmobile ..... (18,600)
Library Development 59,700

Item 20
To Department of Cultural and Community Engagement - Stem Action Center
From Beginning Nonlapsing
Balances 1,036,500
Schedule of Programs:
STEM Action Center 26,900
STEM Action Center - Grades 6-8 .. 1,009,600

Item 21
To Department of Cultural and Community Engagement - One Percent for Arts
From Beginning Nonlapsing
Balances 952,100
From Closing Nonlapsing
Balances ..... (1,009,300)
Schedule of Programs:
One Percent for Arts ..... (57,200)

Item 22
To Department of Cultural and Community Engagement - State of Utah Museum
From Closing Nonlapsing
Balances ..... (1,163,200)
Schedule of Programs:
State of Utah Museum Administration ..... (1,163,200)

Item 23
To Department of Cultural and Community Engagement - Arts & Museums Grants
From General Fund,
One-time ..... (603,200)
From Beginning Nonlapsing
Balances 43,600
Schedule of Programs:
Competitive Grants ..... (559,600)

Item 24
To Department of Cultural and Community Engagement - Capital Facilities Grants
From Beginning Nonlapsing
Balances 5,509,900
From Closing Nonlapsing
Balances ..... (3,000,000)
Schedule of Programs:
Pass Through Grants 1,190,200
Competitive Grants 1,319,700

Item 25
To Department of Cultural and Community Engagement - Heritage & Events Grants
From Beginning Nonlapsing
Balances 284,900
From Closing Nonlapsing
Balances ..... (1,200,000)
Schedule of Programs:
Pass Through Grants ..... (956,400)
Competitive Grants 41,300

Item 26
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From Beginning Nonlapsing
Balances 142,400
From Closing Nonlapsing
Balances ..... (71,200)
Schedule of Programs:
Pete Suazo Athletics Commission 71,200

Item 27
To Department of Cultural and Community Engagement - State Historic Preservation Office
From Beginning Nonlapsing
Balances ..... (344,000)
From Closing Nonlapsing
Balances 549,900
Schedule of Programs:
Administration 155,900
Main Street Program 50,000

INSURANCE DEPARTMENT

Item 28
To Insurance Department - Health Insurance Actuary
From Beginning Nonlapsing
Balances 42,700

From Closing Nonlapsing
Balances ..... (281,000)
Schedule of Programs:
Health Insurance Actuary ..... (238,300)

Item 29
To Insurance Department - Insurance Department Administration
From Beginning Nonlapsing
Balances 314,800
From Closing Nonlapsing
Balances ..... (708,500)
Schedule of Programs:
Administration ..... (476,300)
Insurance Fraud Program 82,600

Item 30
To Insurance Department - Title Insurance Program
From Beginning Nonlapsing
Balances ..... (6,400)
From Closing Nonlapsing
Balances ..... (104,600)
Schedule of Programs:
Title Insurance Program ..... (111,000)

Item 31
To Insurance Department - Coverage for Autism Spectrum Disorder
From Closing Nonlapsing
Balances ..... (3,916,200)
Schedule of Programs:
Coverage for Autism Spectrum Disorder ..... (3,916,200)

PUBLIC SERVICE COMMISSION

Item 32
To Public Service Commission
From Beginning Nonlapsing
Balances ..... (523,400)
From Closing Nonlapsing
Balances 546,400
Schedule of Programs:
Administration 23,000

UTAH STATE TAX COMMISSION

Item 33
To Utah State Tax Commission - License Plates Production
From Beginning Nonlapsing
Balances ..... (750,500)
From Closing Nonlapsing
Balances 825,500
Schedule of Programs:
License Plates Production 75,000

Item 34
To Utah State Tax Commission - Tax Administration
From Beginning Nonlapsing
Balances 8,000,000
From Closing Nonlapsing
Balances ..... (500,000)
Schedule of Programs:
Property Tax Deferral 8,000,000
Operations ..... (255,300)
Tax and Revenue ..... (247,000)
Customer Service ..... (145,300)
Property and Miscellaneous Taxes .. (108,200)
Enforcement 255,800

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 35
To Department of Commerce - Architecture Education and Enforcement Fund
From Licenses/Fees,
One-time 14,800
From Beginning
Fund Balance 12,400
From Closing
Fund Balance ..... (24,400)
Schedule of Programs:
Architecture Education and Enforcement Fund 2,800

Item 36
To Department of Commerce - Consumer Protection Education and Training Fund
From Beginning Fund
Balance 1,320,000
From Closing Fund
Balance ..... (500,000)
Schedule of Programs:
Consumer Protection Education and Training Fund 820,000

Item 37
To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees,
One-time 33,000
From Interest Income,
One-time 100
From Beginning Fund
Balance 55,500
From Closing Fund
Balance ..... (83,700)
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 4,900

Item 38
To Department of Commerce - Land Surveyor/Engineer Education and Enforcement Fund
From Licenses/Fees,
One-time 89,200
From Beginning Fund
Balance 46,000
From Closing Fund
Balance ..... (70,000)
Schedule of Programs:
Land Surveyor/Engineer Education and Enforcement Fund 65,200

Item 39
To Department of Commerce - Landscapes Architects Education and Enforcement Fund
From Licenses/Fees,
One-time ..... (4,100)
From Beginning Fund
Balance ..... (2,900)
From Closing Fund Balance . 5,500
Schedule of Programs:
Landscapes Architects Education and Enforcement Fund ..... (1,500)

Item 40
To Department of Commerce - Physicians Education Fund
From Licenses/Fees, One-time 2,000
From Beginning Fund Balance 4,300
From Closing Fund
Balance ..... (6,300)

Item 41
To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue,
One-time 115,200
From Beginning Fund
Balance 54,900
From Closing Fund
Balance ..... (131,600)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 38,500

Item 42
To Department of Commerce - Residence Lien Recovery Fund
From Licenses/Fees,
One-time 44,600
From Beginning Fund
Balance 457,900
From Closing Fund
Balance ..... (915,800)
Schedule of Programs:
Residence Lien Recovery Fund ..... (413,300)

Item 43
To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees,
One-time 98,900
From Beginning Fund
Balance 180,800
From Closing Fund
Balance ..... (237,500)
Schedule of Programs:
RMLERR Fund 42,200

Item 44
To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees,
One-time 58,300
From Beginning Fund
Balance 135,100
From Closing Fund
Balance ..... (155,900)
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund . 37,500

Item 45
To Department of Commerce - Electrician Education Fund
From Licenses/Fees,
One-time ..... (20,200)
From Beginning Fund
Balance 37,400
From Closing Fund
Balance ..... (37,400)
Schedule of Programs:
Electrician Education Fund ..... (20,200)

Item 46
To Department of Commerce - Plumber Education Fund
From Licenses/Fees,
One-time 11,100
From Beginning Fund
Balance 18,000
From Closing Fund
Balance ..... (36,000)
Schedule of Programs:
Plumber Education Fund ..... (6,900)

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 47
To Department of Cultural and Community Engagement - History Donation Fund
From Dedicated Credits Revenue,
One-time 997,400
From Interest Income,
One-time 8,700
From Beginning Fund
Balance 321,900
From Closing Fund
Balance ..... (644,900)
Schedule of Programs:
History Donation Fund 683,100

Item 48
To Department of Cultural and Community Engagement - State Arts Endowment Fund
From Beginning Fund Balance 6,900
From Closing Fund
Balance ..... (13,800)
Schedule of Programs:
State Arts Endowment Fund ..... (6,900)

Item 49
To Department of Cultural and Community Engagement - State Library Donation Fund
From Beginning Fund
Balance ..... (6,900)
From Closing Fund
Balance ..... (21,000)
Schedule of Programs:
State Library Donation Fund ..... (27,900)

Item 50
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Beginning Fund
Balance 3,102,600
From Closing Fund
Balance ..... (3,407,500)
Schedule of Programs:
Heritage and Arts Foundation Fund ..... (304,900)

INSURANCE DEPARTMENT

Item 51
To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees,
One-time ..... (100,000)
From Beginning Fund
Balance ..... (36,100)
From Closing Fund
Balance ..... (38,900)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund ..... (175,000)

Item 52
To Insurance Department - Title Insurance Recovery Education and Research Fund
From Beginning Fund
Balance 123,400
From Closing Fund
Balance ..... (123,400)

PUBLIC SERVICE COMMISSION

Item 53
To Public Service Commission - Universal Public Telecom Service
From Beginning Fund
Balance 2,679,300
From Closing Fund
Balance ..... (2,679,300)

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

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 54
To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund
From Closing Fund
Balance ..... (65,000,000)
Schedule of Programs:
State Store Land Acquisition Fund ..... (65,000,000)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 55
To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund
From Interest Income,
One-time 26,400
From Beginning Fund
Balance 34,500
From Closing Fund
Balance ..... (34,500)
Schedule of Programs:
State Small Business Credit Initiative Program Fund 26,400

LABOR COMMISSION

Item 56
To Labor Commission - Employers Reinsurance Fund
From Beginning Fund
Balance 2,830,900
From Closing Fund
Balance ..... (2,830,900)

Item 57
To Labor Commission - Uninsured Employers Fund
From Beginning Fund
Balance 9,775,300
From Closing Fund
Balance ..... (9,775,300)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 58
To General Fund Restricted - Industrial Assistance Account
From Beginning Fund
Balance 23,799,500
From Closing Fund
Balance ..... (23,799,500)

Item 59
To General Fund Restricted - Native American Repatriation Restricted Account
From Beginning Fund
Balance 10,000
From Closing Fund
Balance ..... (10,000)

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 60
To Governor's Office of Economic Opportunity - Transient Room Tax Fund
From Revenue Transfers,
One-time 4,710,900
Schedule of Programs:
Transient Room Tax Fund 4,710,900

LABOR COMMISSION

Item 61
To Labor Commission - Wage Claim Agency Fund
From Beginning Fund
Balance ..... (247,300)
From Closing Fund
Balance 247,300

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for

the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF COMMERCE

Item 62
To Department of Commerce - Building Inspector Training
From Dedicated Credits
Revenue 839,600
From Beginning Nonlapsing
Balances 839,900
From Closing Nonlapsing
Balances ..... (403,000)
Schedule of Programs:
Building Inspector Training 1,276,500

Item 63
To Department of Commerce - Commerce General Regulation
From Federal Funds 486,100
From Dedicated Credits
Revenue 1,671,300
From General Fund Restricted - Commerce Electronic Payment Fee Restricted
Account 800,000
From General Fund Restricted - Commerce Service Account 35,435,300
From General Fund Restricted - Factory Built Housing Fees 117,000
From Gen. Fund Rest. - Geologist Education and Enforcement 22,600
From Gen. Fund Rest. - Latino Community Support Rest. Acct 12,700
From Gen. Fund Rest. - Nurse Education & Enforcement Acct. 56,000
From General Fund Restricted - Pawnbroker Operations 158,500
From General Fund Restricted - Public Utility Restricted Acct. 6,926,400
From Revenue Transfers 1,087,800
From General Fund Restricted - Utah Housing Opportunity Restricted 50,000
From Pass-through 150,700
From Beginning Nonlapsing
Balances 600,000
From Closing Nonlapsing
Balances ..... (400,000)
Schedule of Programs:
Administration 9,097,100
Building Operations and Maintenance . 374,700
Consumer Protection 3,549,000
Corporations and Commercial Code .. 4,729,800
Occupational and Professional Licensing 15,022,500
Office of Consumer Services 1,556,400
Public Utilities 5,684,300
Real Estate 2,975,400
Securities 4,185,200

Item 64
To Department of Commerce - Office of Consumer Services Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. 504,100
From Beginning Nonlapsing
Balances 504,100
From Closing Nonlapsing
Balances 2,202,300
Schedule of Programs:
Professional and Technical Services . 3,210,500

Item 65
To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct. 151,400
From Beginning Nonlapsing
Balances 149,500
From Closing Nonlapsing
Balances ..... (149,500)
Schedule of Programs:
Professional and Technical Services ... 151,400

Item 66
To Department of Commerce - Utility Bill Assistance Program
From Beginning Nonlapsing
Balances 989,300
From Closing Nonlapsing
Balances ..... (989,300)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 67
To Governor's Office of Economic Opportunity - Administration
From General Fund 2,615,500
From Beginning Nonlapsing
Balances 500,000
From Closing Nonlapsing
Balances ..... (188,400)
Schedule of Programs:
Administration 2,927,100

Item 68
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 17,545,900
From Income Tax Fund 24,234,100
From Federal Funds 714,400
From Dedicated Credits
Revenue 813,800
From Rural Opportunity
Fund 2,250,000
From Beginning Nonlapsing
Balances 14,248,900
From Closing Nonlapsing
Balances ..... (5,466,600)
Schedule of Programs:
Business Services 3,330,200
Incentives and Grants 18,638,200
Strategic Initiatives 28,127,600
Systems and Control 4,244,500

Item 69
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 5,004,800
From Transportation

Fund 118,000
From Dedicated Credits
Revenue 250,000
From General Fund Rest. - Motion Picture Incentive Acct. 1,479,100
From General Fund Restricted - Tourism Marketing Performance ... 20,540,500
From Beginning Nonlapsing
Balances 3,456,500
From Closing Nonlapsing
Balances ..... (3,156,100)
Schedule of Programs:
Film Commission 2,650,000
Marketing and Advertising 20,540,500
Tourism 4,502,300

Item 70
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund 11,385,900
Schedule of Programs:
Pass-Through 6,885,900
Economic Assistance Grants 4,500,000

The Legislature intends that the Governor's Office of Economic Opportunity use ongoing appropriations provided by this item to grant: Northern Economic Alliance $300,000, Pete Suazo Center for Business Development and Entrepreneurship $67,500, Utah Industry Resource Alliance $2,800,000, Utah Small Business Development Center $798,200.

Item 71
To Governor's Office of Economic Opportunity - Inland Port Authority
From General Fund 3,183,200
Schedule of Programs:
Inland Port Authority 3,183,200

Item 72
To Governor's Office of Economic Opportunity - Point of the Mountain Authority
From General Fund 1,750,300
Schedule of Programs:
Point of the Mountain Authority 1,750,300

Item 73
To Governor's Office of Economic Opportunity - World Trade Center Utah
From General Fund 1,162,500
Schedule of Programs:
World Trade Center Utah 1,162,500

Item 74
To Governor's Office of Economic Opportunity - Utah Sports Commission
From General Fund 5,255,000
From General Fund Restricted - Tourism Marketing Performance ... 2,282,300
Schedule of Programs:
Utah Sports Commission 7,537,300

FINANCIAL INSTITUTIONS

Item 75
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 9,749,400
Schedule of Programs:
Administration 9,429,400
Building Operations and Maintenance . 320,000

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 76
To Department of Cultural and Community Engagement - Administration
From General Fund 4,708,100
From Federal Funds 100
From Dedicated Credits
Revenue 199,000
From General Fund Restricted - Martin Luther King Jr Civil Rights Support Restricted Account 7,500
From Beginning Nonlapsing
Balances 1,289,500
From Closing Nonlapsing
Balances ..... (717,900)
Schedule of Programs:
Administrative Services 2,589,100
Executive Director's Office 644,900
Information Technology 1,309,700
Utah Multicultural Affairs Office 942,600

Item 77
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 3,936,600
From Federal Funds 929,500
From Dedicated Credits
Revenue 134,600
From Beginning Nonlapsing
Balances 575,200
From Closing Nonlapsing
Balances ..... (460,000)
Schedule of Programs:
Administration 823,400
Community Arts Outreach 2,572,800
Grants to Non-profits 1,396,600
Museum Services 323,100

Item 78
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 457,100
From Federal Funds 5,023,000
From Dedicated Credits
Revenue 38,900
Schedule of Programs:
Commission on Service and Volunteerism 5,519,000

Item 79
To Department of Cultural and Community Engagement - Indian Affairs
From General Fund 562,200
From Dedicated Credits
Revenue 61,800
From General Fund Restricted - Native American Repatriation 61,200
From Beginning Nonlapsing
Balances 352,400
From Closing Nonlapsing
Balances ..... (151,900)
Schedule of Programs:
Indian Affairs 885,700

Item 80
To Department of Cultural and Community Engagement - Pass-Through
From Gen. Fund Rest. - Humanitarian Service Rest. Acct 6,000
From General Fund Restricted - National Professional Men's Soccer Team Support of Building Communities 100,000
Schedule of Programs:
Pass-Through 106,000

Item 81
To Department of Cultural and Community Engagement - Historical Society
From General Fund 2,394,900
From Federal Funds 68,700
From Dedicated Credits Revenue 83,900
From Beginning Nonlapsing Balances 330,000
From Closing Nonlapsing Balances ..... (75,000)
Schedule of Programs:
Administration 684,500
Historic Preservation and Antiquities .. 163,400
History Projects and Grants 143,000
Library and Collections 808,300
Public History, Communication and Information 999,000
Main Street Program 4,300

Item 82
To Department of Cultural and Community Engagement - State Library
From General Fund 4,095,000
From Federal Funds 1,939,200
From Dedicated Credits Revenue 2,051,200
From Revenue Transfers 153,800
Schedule of Programs:
Administration 943,300
Blind and Disabled 2,027,400
Bookmobile 1,090,400
Library Development 2,076,700
Library Resources 2,101,400

Item 83
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund 10,737,300
From Federal Funds 293,000
From Dedicated Credits Revenue 263,100
Schedule of Programs:
STEM Action Center 2,216,200
STEM Action Center - Grades 6-8 .. 9,077,200

Item 84
To Department of Cultural and Community Engagement - One Percent for Arts
From Revenue Transfers 1,100,000
From Pass-through 500,000
From Beginning Nonlapsing Balances 2,900,000
From Closing Nonlapsing Balances ..... (2,500,000)
Schedule of Programs:
One Percent for Arts 2,000,000

Item 85
To Department of Cultural and Community Engagement - State of Utah Museum
From General Fund 5,613,200
From Beginning Nonlapsing Balances 1,163,200
From Closing Nonlapsing Balances ..... (1,163,200)
Schedule of Programs:
State of Utah Museum Administration 5,613,200

Item 86
To Department of Cultural and Community Engagement - Arts & Museums Grants
From General Fund 4,422,500
Schedule of Programs:
Pass Through Grants 422,500
Competitive Grants 4,000,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations provided by this item to grant: Utah Humanities Council $170,000.

Item 87
To Department of Cultural and Community Engagement - Capital Facilities Grants
From Beginning Nonlapsing Balances 3,000,000
Schedule of Programs:
Pass Through Grants 3,000,000

Item 88
To Department of Cultural and Community Engagement - Heritage & Events Grants
From General Fund 500,000
From Beginning Nonlapsing Balances 1,200,000
From Closing Nonlapsing Balances ..... (600,000)
Schedule of Programs:
Pass Through Grants 1,100,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations provided by this item to grant: Warriors Over the Wasatch/Hill AFB Show $200,000, America's Freedom Festival $100,000, and Days of 47 Rodeo $200,000.

Item 89
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund 194,300
From Dedicated Credits Revenue 76,900
From Beginning Nonlapsing Balances 71,200
Schedule of Programs:
Pete Suazo Athletics Commission 342,400

Item 90
To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund 1,565,000
From Federal Funds 1,294,000
From Dedicated Credits Revenue 580,700
From Beginning Nonlapsing

Balances 24,300
Schedule of Programs:
Administration 2,617,100
Public Archaeology 467,300
Main Street Program 379,600

LABOR COMMISSION

Item 91
To Labor Commission
From General Fund 7,861,200
From Federal Funds 3,420,200
From Dedicated Credits
Revenue 125,900
From Employers' Reinsurance
Fund 91,900
From General Fund Restricted - Industrial Accident Account 3,926,200
From Trust and Agency Funds 2,800
From General Fund Restricted - Workplace Safety Account 1,726,000
Schedule of Programs:
Adjudication 1,661,100
Administration 2,594,800
Antidiscrimination and Labor 2,619,500
Boiler, Elevator and Coal Mine Safety Division 1,996,900
Building Operations and Maintenance . 216,700
Industrial Accidents 2,358,400
Utah Occupational Safety and Health 4,475,500
Workplace Safety 1,231,300

UTAH STATE TAX COMMISSION

Item 92
To Utah State Tax Commission - License Plates Production
From General Fund Restricted - License Plate Restricted Account 4,880,900
Schedule of Programs:
License Plates Production 4,880,900

Item 93
To Utah State Tax Commission - Liquor Profit Distribution
From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account 7,327,800
Schedule of Programs:
Liquor Profit Distribution 7,327,800

Item 94
To Utah State Tax Commission - Rural Health Care Facilities Distribution
From General Fund Restricted - Rural Healthcare Facilities Acct 218,900
Schedule of Programs:
Rural Health Care Facilities Distribution 218,900

Item 95
To Utah State Tax Commission - Tax Administration
From General Fund 34,382,400
From Income Tax Fund 27,324,300
From Transportation Fund 5,857,400
From Federal Funds 717,700
From Dedicated Credits Revenue 9,489,700
From General Fund Restricted - License Plate Restricted Account 526,600
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 89,700
From General Fund Restricted - Electronic Payment Fee Rest. Acct ... 9,909,700
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 5,101,000
From General Fund Rest. - Sales and Use Tax Admin Fees 14,025,300
From General Fund Restricted - Tobacco Settlement Account 18,500
From Revenue Transfers 201,300
From Uninsured Motorist Identification Restricted Account 164,500
From Beginning Nonlapsing Balances 1,500,000
From Closing Nonlapsing Balances ..... (1,500,000)
Schedule of Programs:
Operations 26,312,000
Tax and Revenue 22,131,900
Customer Service 41,223,700
Property and Miscellaneous Taxes ... 9,325,300
Enforcement 8,815,200

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 96
To Department of Commerce - Architecture Education and Enforcement Fund
From Licenses/Fees 3,200
From Beginning Fund Balance 100,000
From Closing Fund Balance ..... (88,000)
Schedule of Programs:
Architecture Education and Enforcement Fund 15,200

Item 97
To Department of Commerce - Consumer Protection Education and Training Fund
From Licenses/Fees 287,100
From Beginning Fund Balance 1,000,000
From Closing Fund Balance ..... (1,000,000)
Schedule of Programs:
Consumer Protection Education and Training Fund 287,100

Item 98
To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund

From Licenses/Fees 68,900
From Interest Income 1,100
From Beginning Fund
Balance 87,800
From Closing Fund
Balance ..... (55,600)
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 102,200

Item 99
To Department of Commerce - Land Surveyor/Engineer Education and Enforcement Fund
From Licenses/Fees 9,000
From Beginning Fund
Balance 100,000
From Closing Fund
Balance ..... (77,600)
Schedule of Programs:
Land Surveyor/Engineer Education and Enforcement Fund 31,400

Item 100
To Department of Commerce - Landscapes Architects Education and Enforcement Fund
From Licenses/Fees 4,100
From Beginning Fund
Balance 15,400
From Closing Fund
Balance ..... (14,500)
Schedule of Programs:
Landscapes Architects Education and Enforcement Fund 5,000

Item 101
To Department of Commerce - Physicians Education Fund
From Dedicated Credits
Revenue 1,200
From Licenses/Fees 22,000
From Beginning Fund
Balance 100,000
From Closing Fund
Balance ..... (98,200)
Schedule of Programs:
Physicians Education Fund 25,000

Item 102
To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Dedicated Credits
Revenue 181,100
From Beginning Fund
Balance 267,300
From Closing Fund
Balance 53,000
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 501,400

Item 103
To Department of Commerce - Residence Lien Recovery Fund
From Dedicated Credits
Revenue 20,000
From Licenses/Fees 30,000
From Beginning Fund
Balance 958,400
From Closing Fund
Balance ..... (508,400)
Schedule of Programs:
Residence Lien Recovery Fund 500,000

Item 104
To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 167,600
From Interest Income 11,300
From Beginning Fund
Balance 936,600
From Closing Fund
Balance ..... (718,000)
Schedule of Programs:
RMLERR Fund 397,500

Item 105
To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 219,400
From Beginning Fund
Balance 388,300
From Closing Fund
Balance ..... (310,500)
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund 297,200

Item 106
To Department of Commerce - Electrician Education Fund
From Licenses/Fees 28,800
From Beginning Fund
Balance 100,000
From Closing Fund
Balance ..... (100,000)
Schedule of Programs:
Electrician Education Fund 28,800

Item 107
To Department of Commerce - Plumber Education Fund
From Licenses/Fees 11,500
From Beginning Fund
Balance 60,300
From Closing Fund
Balance ..... (60,300)
Schedule of Programs:
Plumber Education Fund 11,500

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 108
To Department of Cultural and Community Engagement - History Donation Fund
From Dedicated Credits Revenue 500
From Dedicated Credits Revenue, One-time 750,000
From Interest Income 10,200
From Beginning Fund
Balance 919,500
From Closing Fund
Balance ..... (930,200)
Schedule of Programs:
History Donation Fund 750,000

Item 109
To Department of Cultural and Community Engagement - State Arts Endowment Fund

From Dedicated Credits
Revenue 3,100
From Interest Income 15,800
From Beginning Fund
Balance 442,800
From Closing Fund
Balance ..... (458,700)
Schedule of Programs:
State Arts Endowment Fund 3,000

Item 110
To Department of Cultural and Community Engagement - State Library Donation Fund
From Interest Income 32,100
From Beginning Fund
Balance 1,248,800
From Closing Fund
Balance ..... (1,280,900)

Item 111
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Dedicated Credits
Revenue 3,500,000
From Revenue Transfers 500,000
From Beginning Fund
Balance 3,407,500
From Closing Fund
Balance ..... (4,712,400)
Schedule of Programs:
Heritage and Arts Foundation Fund . 2,695,100

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 112
To Governor's Office of Economic Opportunity - Rural Opportunity Fund
From General Fund 2,250,000
Schedule of Programs:
Rural Opportunity Fund 2,250,000

Item 113
To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund
From Interest Income 150,000
From Beginning Fund
Balance 4,380,100
From Closing Fund
Balance ..... (4,380,100)
Schedule of Programs:
State Small Business Credit Initiative Program Fund 150,000

LABOR COMMISSION

Item 114
To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits
Revenue 17,300,000
From Interest Income 3,000,000
From Trust and Agency
Funds 1,466,000
From Beginning Fund
Balance 2,830,900
From Closing Fund
Balance ..... (2,830,900)
Schedule of Programs:
Employers Reinsurance Fund 21,766,000

Item 115
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits
Revenue 5,102,800
From Interest Income 103,700
From Premium Tax
Collections 1,366,300
From Trust and Agency
Funds 17,600
From Beginning Fund
Balance 18,208,700
From Closing Fund
Balance ..... (18,208,700)
Schedule of Programs:
Uninsured Employers Fund 6,590,400

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 116
To General Fund Restricted - Industrial Assistance Account
From Beginning Fund
Balance 23,799,500
From Closing Fund
Balance ..... (3,799,500)
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 20,000,000

Item 117
To General Fund Restricted - Motion Picture Incentive Fund
From General Fund 1,420,500
Schedule of Programs:
General Fund Restricted - Motion Picture Incentive Fund 1,420,500

Item 118
To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund 22,822,800
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance 22,822,800

Item 119
To General Fund Restricted - Native American Repatriation Restricted Account
From General Fund 10,000
From Beginning Fund Balance 100,000
From Closing Fund Balance ..... (110,000)

Item 120
To General Fund Restricted - Rural Health Care Facilities Fund
From General Fund 218,900
Schedule of Programs:
General Fund Restricted - Rural Health Care Facilities Fund 218,900

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

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 121
To Governor's Office of Economic Opportunity - Transient Room Tax Fund
From Revenue Transfers 4,710,900
Schedule of Programs:
Transient Room Tax Fund 4,710,900

LABOR COMMISSION

Item 122
To Labor Commission - Wage Claim Agency Fund
From Trust and Agency Funds 1,600,000
From Beginning Fund Balance 22,766,000
From Closing Fund Balance ..... (23,425,800)
Schedule of Programs:
Wage Claim Agency Fund 940,200

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 123
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund 92,667,500
Schedule of Programs:
Administration 1,215,500
Executive Director 5,600,900
Operations 6,073,000
Stores and Agencies 71,767,600
Warehouse and Distribution 8,010,500

Item 124
To Department of Alcoholic Beverage Services - Parents Empowered
From General Fund Restricted - Underage Drinking Prevention Media and Education Campaign Restricted Account 3,344,800
Schedule of Programs:
Parents Empowered 3,344,800

INSURANCE DEPARTMENT

Item 125
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review 447,700
From Beginning Nonlapsing Balances 513,100
From Closing Nonlapsing Balances ..... (447,200)
Schedule of Programs:
Health Insurance Actuary 513,600

Item 126
To Insurance Department - Insurance Department Administration
From Federal Funds 5,200
From Dedicated Credits Revenue 9,900
From General Fund Restricted - Bail Bond Surety Administration 44,200
From General Fund Restricted - Captive Insurance 1,733,200
From General Fund Restricted - Criminal Background Check 165,000
From General Fund Restricted - Guaranteed Asset Protection Waiver 129,100
From General Fund Restricted - Insurance Department Acct. 10,559,300
From General Fund Rest. - Insurance Fraud Investigation Acct. 2,765,600
From General Fund Restricted - Relative Value Study Account 119,000
From General Fund Restricted - Technology Development 653,100
From Beginning Nonlapsing Balances 2,402,100
From Closing Nonlapsing Balances ..... (1,478,400)
Schedule of Programs:
Administration 10,613,900
Captive Insurers 1,779,400
Criminal Background Checks 175,000
Electronic Commerce Fee 982,400
GAP Waiver Program 129,100
Insurance Fraud Program 3,264,300
Relative Value Study 119,000
Bail Bond Program 44,200

Item 127
To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. 293,100
From Beginning Nonlapsing

Balances 182,600
From Closing Nonlapsing
Balances ..... (159,000)
Schedule of Programs:
Title Insurance Program 316,700

Item 128
To Insurance Department - Coverage for Autism Spectrum Disorder
From General Fund Restricted - State Mandated Insurer Payments
Restricted 8,778,000
From Beginning Nonlapsing
Balances 3,916,200
From Closing Nonlapsing
Balances ..... (3,916,200)
Schedule of Programs:
Coverage for Autism Spectrum Disorder 8,778,000

PUBLIC SERVICE COMMISSION

Item 129
To Public Service Commission
From Dedicated Credits Revenue 600
From General Fund Restricted - Public Utility Restricted Acct. 2,877,600
From Revenue Transfers 12,100
From Beginning Nonlapsing
Balances 346,400
From Closing Nonlapsing
Balances ..... (9,200)
Schedule of Programs:
Administration 3,188,600
Building Operations and Maintenance .. 38,900

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INSURANCE DEPARTMENT

Item 130
To Insurance Department - Insurance Fraud Victim Restitution Fund
From Licenses/Fees 250,000
From Beginning Fund
Balance 38,900
From Closing Fund
Balance 61,100
Schedule of Programs:
Insurance Fraud Victim Restitution Fund 350,000

Item 131
To Insurance Department - Title Insurance Recovery Education and Research Fund
From Dedicated Credits
Revenue 35,000
From Beginning Fund
Balance 683,700
From Closing Fund
Balance ..... (622,900)
Schedule of Programs:
Title Insurance Recovery Education and Research Fund 95,800

PUBLIC SERVICE COMMISSION

Item 132
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits
Revenue 16,515,100
From Beginning Fund
Balance 1,830,300
From Closing Fund
Balance 8,518,200
Schedule of Programs:
Universal Public Telecommunications Service Support 26,863,600

Subsection 3(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 133
To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund
From Beginning Fund
Balance 70,000,000
Schedule of Programs:
State Store Land Acquisition Fund . 70,000,000

Subsection 3(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 134
To State Mandated Insurer Payments Restricted
From General Fund 8,778,000
Schedule of Programs:
State Mandated Insurer Payments Restricted 8,778,000

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 6
S. B. 6
Passed January 25, 2024
Approved January 30, 2024
Effective July 1, 2024

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Chris H. Wilson
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($837,683,400) in operating and capital budgets for fiscal year 2024, including:

- ($2,927,500) from the General Fund;
- ($775,000,000) from the Income Tax Fund; and
- ($59,755,900) from various sources as detailed in this bill.

This bill appropriates $42,821,100 in expendable funds and accounts for fiscal year 2024, including:

- $40,000,000 from the General Fund; and
- $2,821,100 from various sources as detailed in this bill.

This bill appropriates $71,671,700 in business- like activities for fiscal year 2024, including:

- $5,000,000 from the General Fund; and
- $66,671,700 from various sources as detailed in this bill.

This bill appropriates $21,989,200 in restricted fund and account transfers for fiscal year 2024, all of which is from the General Fund.

This bill appropriates $121,640,900 in transfers to unrestricted funds for fiscal year 2024, all of which is from the Income Tax Fund.

This bill appropriates ($833,463,500) in capital project funds for fiscal year 2024, including:

- ($125,000,000) from the Income Tax Fund; and
- ($708,463,500) from various sources as detailed in this bill.

This bill appropriates $3,654,335,700 in operating and capital budgets for fiscal year 2025, including:

- $216,335,600 from the General Fund;
- $178,691,400 from the Income Tax Fund; and
- $3,259,308,700 from various sources as detailed in this bill.

This bill appropriates $54,469,200 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $420,279,800 in business- like activities for fiscal year 2025, including:

- $600 from the General Fund; and
- $420,279,200 from various sources as detailed in this bill.

This bill appropriates $48,843,700 in restricted fund and account transfers for fiscal year 2025, including:

- $3,660,000 from the General Fund; and
- $45,183,700 from various sources as detailed in this bill.

This bill appropriates $3,505,472,700 in capital project funds for fiscal year 2025, including:

- $1,112,077,400 from the General Fund;
- $120,000,000 from the Income Tax Fund; and
- $2,273,395,300 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 1

To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Beginning Nonlapsing Balances 29,800
From Closing Nonlapsing Balances ..... (37,200)
Schedule of Programs:
Digital Teaching and Learning Program ..... (7,400)

Item 2

To Utah Education and Telehealth Network
From Beginning Nonlapsing Balances 14,133,200
From Closing Nonlapsing Balances ..... (1,031,800)
Schedule of Programs:
Administration ..... (34,200)
Course Management Systems ..... (736,500)

Instructional Support ..... (1,306,300)
KUEN Broadcast ..... (57,500)
Technical Services 15,059,700
Utah Telehealth Network 176,200

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 3
To Department of Government Operations - Administrative Rules
From General Fund,
One-time 72,500
From Beginning Nonlapsing
Balances 218,400
From Closing Nonlapsing
Balances ..... (43,200)
Schedule of Programs:
DAR Administration 247,700

Item 4
To Department of Government Operations - DFCM Administration
From Beginning Nonlapsing
Balances 639,000
From Closing Nonlapsing
Balances ..... (1,807,500)
Schedule of Programs:
DFCM Administration ..... (1,083,400)
Energy Program ..... (85,100)

Item 5
To Department of Government Operations - DGO Administration
From Beginning Nonlapsing
Balances 271,300
From Closing Nonlapsing
Balances ..... (1,273,100)
Schedule of Programs:
Executive Director's Office ..... (1,001,800)

Item 6
To Department of Government Operations - Finance - Mandated
From General Fund,
One-time ..... (2,250,000)
From Beginning Nonlapsing
Balances 103,100
Schedule of Programs:
State Employee Benefits ..... (2,146,900)
Public Lands Litigation Program 5,000,000
Emergency Response ..... (5,000,000)

Item 7
To Department of Government Operations - Finance - Mandated - Ethics Commissions
From Beginning Nonlapsing
Balances ..... (3,400)
From Closing Nonlapsing
Balances 7,300
Schedule of Programs:
Executive Branch Ethics Commission 400
Political Subdivisions Ethics Commission 3,500

Item 8
To Department of Government Operations - Division of Finance
From Beginning Nonlapsing
Balances 585,100
From Closing Nonlapsing
Balances ..... (3,453,800)
Schedule of Programs:
Finance Director's Office 654,600
Financial Information Systems ..... (4,132,300)
Financial Reporting 739,400
Payables/Disbursing 32,200
Payroll ..... (155,200)
Technical Services ..... (7,400)

Item 9
To Department of Government Operations - Inspector General of Medicaid Services
From Beginning Nonlapsing
Balances 675,100
From Closing Nonlapsing
Balances ..... (675,100)

Item 10
To Department of Government Operations - Judicial Conduct Commission
From Beginning Nonlapsing
Balances ..... (14,600)
From Closing Nonlapsing
Balances ..... (91,000)
Schedule of Programs:
Judicial Conduct Commission ..... (105,600)

Item 11
To Department of Government Operations - State Archives
From Beginning Nonlapsing
Balances 6,200
From Closing Nonlapsing
Balances ..... (129,500)
Schedule of Programs:
Archives Administration ..... (66,400)
Patron Services ..... (27,000)
Preservation Services 11,500
Records Analysis ..... (41,400)

Item 12
To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts
From Beginning Nonlapsing
Balances 35,422,500
From Closing Nonlapsing
Balances ..... (35,422,500)

Item 13
To Department of Government Operations - Chief Information Officer
From Beginning Nonlapsing
Balances 3,790,000
From Closing Nonlapsing
Balances ..... (12,133,800)
Schedule of Programs:
Administration ..... (8,343,800)

Item 14
To Department of Government Operations - Integrated Technology
From Beginning Nonlapsing
Balances 559,900
From Closing Nonlapsing
Balances ..... (600,000)
Schedule of Programs:
Utah Geospatial Resource Center .... (40,100)

Item 15
To Department of Government Operations - Finance Mandated - Paid Postpartum Recovery and Parental Leave Program
From General Fund,
One-time ..... (1,750,000)
Schedule of Programs:
Paid Postpartum Recovery and Parental Leave Program ..... (1,750,000)

Item 16
To Department of Government Operations - Human Resource Management
From Beginning Nonlapsing Balances ..... (26,300)
From Closing Nonlapsing Balances ..... (138,100)
Schedule of Programs:
Statewide Management Liability Training ..... (4,400)
Pay for Performance ..... (160,000)

CAPITAL BUDGET

Item 17
To Capital Budget - Capital Development - Higher Education
From Beginning Nonlapsing Balances 17,414,100
From Closing Nonlapsing Balances ..... (15,714,100)
Schedule of Programs:
Capital Dev - Higher Ed 1,700,000

Item 18
To Capital Budget - Capital Development - Other State Government
From Beginning Nonlapsing Balances 135,399,500
From Closing Nonlapsing Balances ..... (135,399,500)

Item 19
To Capital Budget - Capital Development - Public Education
From Beginning Nonlapsing Balances 29,875,500
From Closing Nonlapsing Balances ..... (29,875,500)

Item 20
To Capital Budget - Capital Improvements
From Beginning Nonlapsing Balances 115,239,200
From Closing Nonlapsing Balances ..... (115,239,200)

Item 21
To Capital Budget - Pass-Through
From General Fund,
One-time ..... (40,000,000)
From Federal Funds - American Rescue Plan - Capital Projects Fund,
One-time 25,000,000
From Beginning Nonlapsing Balances 247,300
From Closing Nonlapsing Balances ..... (247,300)
Schedule of Programs:
DFCM Pass Through ..... (15,000,000)

Notwithstanding the intent language in New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session) Item 110, the Legislature intends that up to $25,000,000 each from Federal Funds - American Rescue Plan - Capital Projects Fund shall be used for San Juan County Hospital in Monticello and University of Utah Hospital clinic on Redwood Road. Should the United States Treasury Department approve both projects, the $25,000,000 shall be split evenly between the two. If only one project is approved, the full amount shall go to the approved project. If neither project is approved, the Legislature intends that these funds may be used for broadband infrastructure.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 22
To State Board of Bonding Commissioners - Debt Service - Debt Service
From Income Tax Fund,
One-time ..... (775,000,000)
Schedule of Programs:
G.O. Bonds - Higher Ed ..... (775,000,000)

TRANSPORTATION

Item 23
To Transportation - Aeronautics
From Beginning Nonlapsing Balances 7,854,800
From Closing Nonlapsing Balances ..... (7,854,800)

Item 24
To Transportation - Highway System Construction
From General Fund,
One-time 41,000,000
Schedule of Programs:
State Construction 41,000,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $40,000,000 of appropriations provided for Highway System Construction related to a federal rail grant not lapse at the close of fiscal year 2024.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $1,000,000 of appropriations provided for Highway System Construction related to wildlife highway accident prevention not lapse at the close of fiscal year 2024.

Item 25
To Transportation - Engineering Services
From Beginning Nonlapsing Balances 2,994,600
From Closing Nonlapsing Balances ..... (2,994,600)

Item 26
To Transportation - Operations/Maintenance Management
From Beginning Nonlapsing Balances 20,337,000

From Closing Nonlapsing
Balances ..... (20,337,000)

Item 27
To Transportation - Region Management
From Beginning Nonlapsing
Balances 800,000
From Closing Nonlapsing
Balances ..... (800,000)

Item 28
To Transportation - Safe Sidewalk Construction
From Beginning Nonlapsing
Balances 1,160,500
From Closing Nonlapsing
Balances ..... (1,160,500)

Item 29
To Transportation - Support Services
From Beginning Nonlapsing
Balances 949,300
From Closing Nonlapsing
Balances ..... (949,300)

Item 30
To Transportation - Transportation Investment Fund Capacity Program
From Beginning Nonlapsing
Balances ..... (164,587,500)
Schedule of Programs:
Transportation Investment Fund Capacity Program ..... (164,587,500)

Item 31
To Transportation - Amusement Ride Safety
From Beginning Nonlapsing
Balances 87,100
From Closing Nonlapsing
Balances ..... (87,100)

Item 32
To Transportation - Transit Transportation Investment
From Beginning Nonlapsing
Balances 78,771,600
Schedule of Programs:
Transit Transportation Investment . 78,771,600

Item 33
To Transportation - Pass-Through
From Beginning Nonlapsing
Balances 12,000
From Closing Nonlapsing
Balances ..... (12,000)

Item 34
To Transportation - Railroad Crossing Safety
From Beginning Nonlapsing
Balances ..... (200,000)
Schedule of Programs:
Railroad Crossing Safety Grants .... (200,000)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 35
To Department of Government Operations - State Archives Fund
From Beginning Fund
Balance ..... (2,600)
From Closing Fund Balance . 2,600

Item 36
To Department of Government Operations - State Debt Collection Fund
From Other Financing Sources,
One-time ..... (200)
From Beginning Fund
Balance 739,000
From Closing Fund
Balance ..... (706,900)
Schedule of Programs:
State Debt Collection Fund 31,900

Item 37
To Department of Government Operations - Wire Estate Memorial Fund
From Beginning Fund
Balance 6,000
From Closing Fund
Balance ..... (6,000)

CAPITAL BUDGET

Item 38
To Capital Budget - Olympic and Paralympic Venues Grant Fund
From General Fund,
One-time 40,000,000
Schedule of Programs:
Olympic and Paralympic Venues Grant Fund 40,000,000

TRANSPORTATION

Item 39
To Transportation - County of the First Class Highway Projects Fund
From Beginning Fund
Balance 2,789,200
Schedule of Programs:
County of the First Class Highway Projects Fund 2,789,200

The Legislature intends that $1,050,000 provided by this item and Item 115, Laws of Utah Chapter 5 (House Bill 6), 2023 General Session, be transferred to South Jordan City to support construction of a new TRAX station in Daybreak near Mountain View Corridor.

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes

the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 40
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Beginning Fund
Balance ..... (5,342,600)
From Closing Fund
Balance 3,476,300
Schedule of Programs:
ISF - Facilities Management ..... (1,866,300)
Budgeted FTE 31.0
Authorized Capital Outlay ..... (437,600)

Item 41
To Department of Government Operations - Division of Finance
From Beginning Fund
Balance ..... (27,700)
From Closing Fund
Balance 187,800
Schedule of Programs:
ISF - Purchasing Card 160,100
Budgeted FTE 4.0

Item 42
To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue,
One-time ..... (7,200)
From Beginning Fund
Balance 53,339,200
From Closing Fund
Balance ..... (52,656,400)
Schedule of Programs:
ISF - Fuel Network ..... (2,462,300)
ISF - Motor Pool 3,145,100
Transactions Group ..... (7,200)

Item 43
To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits Revenue,
One-time 27,600
From Other Financing Sources,
One-time ..... (27,600)
From Beginning Fund
Balance ..... (1,745,300)
From Closing Fund
Balance 1,959,200
Schedule of Programs:
ISF - Cooperative Contracting 758,000
ISF - Print Services ..... (543,500)
ISF - State Surplus Property ..... (600)
Authorized Capital Outlay ..... (530,000)

Item 44
To Department of Government Operations - Risk Management
From General Fund,
One-time 5,000,000
From Beginning Fund
Balance ..... (21,694,100)
From Closing Fund
Balance 24,540,500
Schedule of Programs:
Risk Management - Auto ..... (41,500)
Risk Management - Liability 1,613,900
Risk Management - Property 6,274,000

Item 45
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue,
One-time ..... (7,200)
From Beginning Fund
Balance 2,099,400
From Closing Fund
Balance 607,900
Schedule of Programs:
ISF - Agency Services Division ..... (7,200)
ISF - Enterprise Technology Division 2,707,300

Item 46
To Department of Government Operations - Utah Inland Port Authority Fund
From Beginning Fund
Balance 8,652,400
From Closing Fund
Balance ..... (8,652,400)

Item 47
To Department of Government Operations - Human Resources Internal Service Fund
From Beginning Fund
Balance ..... (277,600)
From Closing Fund
Balance 277,600
Schedule of Programs:
ISF - Field Services ..... (14,000)
ISF - Payroll Field Services 14,000

Item 48
To Department of Government Operations - Point of the Mountain Infrastructure Fund
From Beginning Fund
Balance 58,183,000
From Closing Fund
Balance ..... (58,183,000)

TRANSPORTATION

Item 49
To Transportation - State Infrastructure Bank Fund
From Beginning Fund
Balance 1,001,500
From Closing Fund
Balance 60,940,400
Schedule of Programs:
State Infrastructure Bank Fund 61,941,900

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 50
To General Fund Non-budgetary Accrual Account
From Beginning Fund
Balance 12,030,800

From Closing Fund
Balance ..... (12,030,800)

Item 51
To Long- term Capital Projects Fund
From General Fund,
One- time 21,989,200
From Beginning Fund
Balance 100,000,000
From Closing Fund
Balance ..... (100,000,000)
Schedule of Programs:
Long- term Capital Projects Fund .. 21,989,200

Item 52
To Rail Transportation Restricted Account
From Beginning Fund
Balance 183,700
From Closing Fund
Balance ..... (183,700)

Item 53
To Active Transportation Investment Fund
From Transportation Investment Fund of 2005,
One- time ..... (45,000,000)
From Designated Sales Tax,
One- time 45,000,000

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

Item 54
To Uniform School Fund
From Income Tax Fund,
One- time 121,640,900
Schedule of Programs:
Uniform School Fund, One- time .. 121,640,900

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 55
To Capital Budget - DFCM Capital Projects Fund
From Beginning Fund
Balance 954,718,000
From Closing Fund
Balance ..... (954,718,000)

Item 56
To Capital Budget - DFCM Prison Project Fund
From Beginning Fund
Balance 48,278,400
From Closing Fund
Balance ..... (48,278,400)

Item 57
To Capital Budget - SBOA Capital Projects Fund
From Beginning Fund
Balance ..... (40,839,300)
From Closing Fund
Balance 3,276,400
Schedule of Programs:
SBOA Capital Projects Fund ..... (37,562,900)

Item 58
To Capital Budget - Higher Education Capital Projects Fund
From Beginning Fund
Balance 120,600
From Closing Fund
Balance ..... (120,600)

Item 59
To Capital Budget - State Agency Capital Development Fund
From Income Tax Fund,
One- time ..... (125,000,000)
Schedule of Programs:
State Agency Capital Development Fund ..... (125,000,000)

TRANSPORTATION

Item 60
To Transportation - Transportation Investment Fund of 2005
From Beginning Fund
Balance 1,165,796,700
From Closing Fund
Balance ..... (1,969,800,400)
Schedule of Programs:
Transportation Investment Fund ..... (804,003,700)

Item 61
To Transportation - Transit Transportation Investment Fund
From Beginning Fund
Balance 440,400,400
From Closing Fund
Balance ..... (307,297,300)
Schedule of Programs:
Transit Transportation Investment Fund 133,103,100

Item 62
To Transportation - Cottonwood Canyon Transportation Investment Fund
From Beginning Fund
Balance 39,540,900
From Closing Fund
Balance ..... (39,540,900)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 63
To Career Service Review Office
From General Fund 319,300

From Beginning Nonlapsing
Balances 30,000
From Closing Nonlapsing
Balances ..... (30,000)
Schedule of Programs:
Career Service Review Office 319,300

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 64
To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Income Tax Fund 187,600
From Federal Funds 5,300
From Beginning Nonlapsing
Balances 188,500
From Closing Nonlapsing
Balances ..... (115,700)
Schedule of Programs:
Digital Teaching and Learning Program 265,700

Item 65
To Utah Education and Telehealth Network
From General Fund 881,100
From Income Tax Fund 34,258,100
From Federal Funds 4,688,900
From Dedicated Credits
Revenue 15,457,300
From Beginning Nonlapsing
Balances 13,483,800
From Closing Nonlapsing
Balances ..... (14,288,800)
Schedule of Programs:
Administration 3,191,000
Course Management Systems 2,071,500
Instructional Support 5,377,300
KUEN Broadcast 606,400
Operations and Maintenance 451,900
Public Information 359,700
Technical Services 38,461,800
Utah Telehealth Network 3,960,800

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 66
To Department of Government Operations - DFCM Administration
From General Fund 676,300
From Income Tax Fund 739,500
From Dedicated Credits
Revenue 1,308,800
From Capital Projects
Fund 4,134,700
From Beginning Nonlapsing
Balances 199,400
From Closing Nonlapsing
Balances ..... (39,000)
Schedule of Programs:
Capital Improvement 3,238,900
Development 3,220,000
Real Estate 560,800

Item 67
To Department of Government Operations - Chief Information Officer
From General Fund 5,204,300
From Beginning Nonlapsing
Balances 22,404,900
Schedule of Programs:
Innovation Projects 27,459,200
IT Projects 150,000

Item 68
To Department of Government Operations - Integrated Technology
From General Fund 7,800
From Federal Funds 1,100
From Dedicated Credits
Revenue 690,900
From Gen. Fund Rest. - Statewide Unified E- 911 Emerg. Acct. 1,800
Schedule of Programs:
GPS Network 701,600

CAPITAL BUDGET

Item 69
To Capital Budget - Capital Development - Higher Education
From Beginning Nonlapsing
Balances 15,714,100
From Closing Nonlapsing
Balances ..... (15,714,100)

Item 70
To Capital Budget - Capital Development - Other State Government
From Capital Projects
Fund 2,077,400
From Beginning Nonlapsing
Balances 135,399,500
From Closing Nonlapsing
Balances ..... (135,399,500)
Schedule of Programs:
Offender Housing 2,077,400

Item 71
To Capital Budget - Capital Development - Public Education
From Beginning Nonlapsing
Balances 29,875,500
From Closing Nonlapsing
Balances ..... (29,875,500)

Item 72
To Capital Budget - Capital Improvements
From General Fund 109,374,800
From Income Tax Fund 142,815,900
From Beginning Nonlapsing
Balances 115,239,200
From Closing Nonlapsing
Balances ..... (115,239,200)
Schedule of Programs:
Capital Improvements 252,190,700

Item 73
To Capital Budget - Pass- Through
From General Fund 3,000,000
From Beginning Nonlapsing
Balances 247,300
From Closing Nonlapsing
Balances ..... (247,300)
Schedule of Programs:
Olympic Park Improvement 3,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 74
To State Board of Bonding Commissioners - Debt Service - Debt Service
From General Fund 31,875,400
From Transportation Investment Fund of 2005 356,279,800
From Federal Funds 1,358,400
From Dedicated Credits Revenue 29,423,600
From County of First Class Highway Projects Fund 7,779,400
From Beginning Nonlapsing Balances 23,545,800
From Closing Nonlapsing Balances ..... (24,451,100)
Schedule of Programs:
G.O. Bonds - State Govt 31,875,400
G.O. Bonds - Transportation 364,059,200
Revenue Bonds Debt Service 29,876,700

TRANSPORTATION

Item 75
To Transportation - Aeronautics
From General Fund 650,000
From Federal Funds 1,184,900
From Dedicated Credits Revenue 472,700
From Aeronautics Restricted Account 7,065,100
From Beginning Nonlapsing Balances 7,854,800
Schedule of Programs:
Administration 1,262,700
Aid to Local Airports 2,240,000
Airplane Operations 8,284,000
Airport Construction 5,360,800
Civil Air Patrol 80,000

Item 76
To Transportation - B and C Roads
From Transportation Fund 174,386,400
Schedule of Programs:
B and C Roads 174,386,400

Item 77
To Transportation - Highway System Construction
From Transportation Fund 242,611,000
From Federal Funds 526,252,900
From Expendable Receipts 1,565,600
Schedule of Programs:
Federal Construction 356,828,700
Rehabilitation/Preservation 409,924,100
State Construction 3,676,700

Item 78
To Transportation - Cooperative Agreements
From Federal Funds 65,323,800
From Expendable Receipts 49,897,100
Schedule of Programs:
Cooperative Agreements 115,220,900

Item 79
To Transportation - Engineering Services
From Transportation Fund .. 38,586,800
From Federal Funds 44,237,900
From Dedicated Credits Revenue . 2,359,700
From Active Transportation Investment Fund 900,000
From Marda Dillree Corridor Preservation Fund 120,200
From Transit Transportation Investment Fund 3,000,000
From Beginning Nonlapsing Balances 2,994,600
Schedule of Programs:
Civil Rights 510,200
Construction Management 2,701,400
Engineer Development Pool 2,040,900
Engineering Services 7,390,000
Environmental 2,982,600
Highway Project Management Team . 1,279,800
Planning and Investment 609,200
Materials Lab 6,351,900
Preconstruction Admin 3,611,100
Program Development 47,179,700
Research 9,299,500
Right-of-Way 3,562,700
Structures 4,680,200

Item 80
To Transportation - Operations/Maintenance Management
From Transportation Fund 207,866,300
From Transportation Investment Fund of 2005 .. 8,271,400
From Federal Funds 10,059,600
From Dedicated Credits Revenue . 12,113,700
From Beginning Nonlapsing Balances 20,337,000
Schedule of Programs:
Equipment Purchases 16,376,600
Field Crews 17,816,600
Lands and Buildings 8,700,000
Maintenance Administration 44,429,400
Maintenance Planning 3,519,100
Region 1 26,918,000
Region 2 35,235,900
Region 3 24,147,900
Region 4 50,643,300
Seasonal Pools 1,494,300
Shops 2,440,400
Traffic Operations Center 22,682,900
Traffic Safety/Tramway 4,243,600

Item 81
To Transportation - Region Management
From Transportation Fund .. 36,633,000
From Federal Funds 3,593,300
From Dedicated Credits Revenue 3,062,600
From Beginning Nonlapsing Balances 800,000
Schedule of Programs:
Region 1 7,980,600
Region 2 19,226,900
Region 3 6,757,700
Region 4 10,123,700

Item 82
To Transportation - Safe Sidewalk Construction
From Transportation Fund .. 500,000
From Beginning Nonlapsing Balances 1,160,500
Schedule of Programs:

Sidewalk Construction 1,660,500

Item 83
To Transportation - Share the Road
From General Fund Restricted - Share the Road Bicycle Support 32,000
Schedule of Programs:
Share the Road 32,000

Item 84
To Transportation - Support Services
From Transportation Fund 46,809,600
From Federal Funds 7,219,800
From Beginning Nonlapsing Balances 949,300
Schedule of Programs:
Administrative Services 6,326,200
Building and Grounds 967,700
Community Relations 1,660,100
Comptroller 4,009,100
Data Processing 15,378,800
Human Resources Management 3,704,500
Internal Auditor 1,308,900
Ports of Entry 14,930,300
Procurement 1,400,100
Risk Management 5,293,000

Item 85
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Fund 1,813,400
From Transportation Investment Fund of 2005 1,170,003,200
From Beginning Nonlapsing Balances 704,324,000
From Closing Nonlapsing Balances ..... (667,510,600)
Schedule of Programs:
Transportation Investment Fund Capacity Program 1,208,630,000

Item 86
To Transportation - Amusement Ride Safety
From General Fund 210,800
From General Fund Restricted - Amusement Ride Safety Restricted Account 366,100
From Beginning Nonlapsing Balances 87,100
Schedule of Programs:
Amusement Ride Safety 664,000

Item 87
To Transportation - Transit Transportation Investment
From Transit Transportation Investment Fund 23,449,700
From Beginning Nonlapsing Balances 200,000,000
From Closing Nonlapsing Balances ..... (200,000,000)
Schedule of Programs:
Transit Transportation Investment 23,449,700

Item 88
To Transportation - Transportation Safety Program
From Transportation Safety Program Restricted Account 15,000
Schedule of Programs:
Transportation Safety Program 15,000

Item 89
To Transportation - Pass-Through
From General Fund 2,876,700
From Beginning Nonlapsing Balances 12,000
Schedule of Programs:
Pass-Through 2,888,700

Item 90
To Transportation - Railroad Crossing Safety
From Rail Transportation Restricted Account 366,000
Schedule of Programs:
Railroad Crossing Safety Grants 366,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

TRANSPORTATION

Item 91
To Transportation - County of the First Class Highway Projects Fund
From Licenses/Fees 2,020,500
From Interest Income 200,000
From Revenue Transfers 40,523,500
From Beginning Fund Balance 45,564,500
From Closing Fund Balance ..... (45,564,500)
Schedule of Programs:
County of the First Class Highway Projects Fund 42,744,000

Item 92
To Transportation - Rural Transportation Infrastructure Fund
From Transportation Fund 7,500,000
Schedule of Programs:
Rural Transportation Infrastructure Fund 7,500,000

Item 93
To Transportation - Office of Rail Safety Account
From Dedicated Credits Revenue 259,000
Schedule of Programs:
Office of Rail Safety Account 259,000

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees,

and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 94
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue 41,434,200
From Beginning Fund Balance 2,678,800
From Closing Fund Balance ..... (2,914,900)
Schedule of Programs:
ISF - Facilities Management 41,198,100
Budgeted FTE 199.0
Authorized Capital Outlay 25,000

Item 95
To Department of Government Operations - Division of Finance
From Dedicated Credits Revenue 1,462,300
From Beginning Fund Balance 705,500
From Closing Fund Balance ..... (754,800)
Schedule of Programs:
ISF - Purchasing Card 1,413,000
Budgeted FTE 2.5

Item 96
To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue 87,326,100
From Beginning Fund Balance 60,020,800
From Closing Fund Balance ..... (61,729,900)
Schedule of Programs:
ISF - Fuel Network 60,376,500
ISF - Motor Pool 24,649,100
ISF - Travel Office 110,300
Transactions Group 481,100
Budgeted FTE 41.0
Authorized Capital Outlay 25,000,000

Item 97
To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits Revenue 20,543,800
From Beginning Fund Balance 12,276,900
From Closing Fund Balance ..... (12,276,900)
Schedule of Programs:
ISF - Central Mailing 12,807,000
ISF - Cooperative Contracting 5,006,800
ISF - Federal Surplus Property 65,000
ISF - Print Services 2,005,000
ISF - State Surplus Property 660,000
Budgeted FTE 91.0
Authorized Capital Outlay 1,150,000

Item 98
To Department of Government Operations - Risk Management
From Premiums 85,970,600
From Interest Income 952,200
From Beginning Fund Balance 4,536,500
From Closing Fund Balance ..... (4,953,500)
Schedule of Programs:
ISF - Risk Management Administration 3,054,200
ISF - Workers' Compensation 5,914,400
Risk Management - Auto 3,816,000
Risk Management - Liability 33,993,000
Risk Management - Property 39,728,200
Budgeted FTE 38.0
Authorized Capital Outlay 300,000

Item 99
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue 159,711,400
From Beginning Fund Balance 25,216,500
From Closing Fund Balance ..... (17,224,800)
Schedule of Programs:
ISF - Enterprise Technology Division 167,703,100
Budgeted FTE 784.1
Authorized Capital Outlay 10,000,000

Item 100
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund 600
From Dedicated Credits Revenue 15,877,500
From Beginning Fund Balance 2,603,600
From Closing Fund Balance ..... (3,184,200)
Schedule of Programs:
Administration 1,637,100
Information Technology 800,900
ISF - Core HR Services 246,900
ISF - Field Services 9,586,500
ISF - Payroll Field Services 981,500
Policy 2,044,600
Budgeted FTE 135.0
Authorized Capital Outlay 1,000,000

Item 101
To Department of Government Operations - Point of the Mountain Infrastructure Fund
From Beginning Fund Balance 58,183,000
From Closing Fund Balance ..... (58,183,000)

TRANSPORTATION

Item 102
To Transportation - State Infrastructure Bank Fund
From Interest Income 1,500,000
From Beginning Fund

Balance 3,721,000
From Closing Fund
Balance ..... (3,219,500)
Schedule of Programs:
State Infrastructure Bank Fund 2,001,500

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 103
To General Fund Non-budgetary Accrual Account
From Beginning Fund
Balance 12,030,800
From Closing Fund
Balance ..... (12,030,800)

Item 104
To Long-term Capital Projects Fund
From Beginning Fund
Balance 100,000,000
From Closing Fund
Balance ..... (100,000,000)

Item 105
To Rail Transportation Restricted Account
From General Fund 3,660,000
From Beginning Fund
Balance 10,065,700
From Closing Fund
Balance ..... (9,882,000)
Schedule of Programs:
Rail Transportation Restricted Account 3,843,700

Item 106
To Active Transportation Investment Fund
From Designated Sales Tax . 45,000,000
Schedule of Programs:
Active Transportation Investment Fund 45,000,000

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

CAPITAL BUDGET

Item 107
To Capital Budget - Capital Development Fund
From General Fund 2,077,400
Schedule of Programs:
Capital Development Fund 2,077,400

Item 108
To Capital Budget - DFCM Capital Projects Fund
From Beginning Fund
Balance 954,718,000
From Closing Fund
Balance ..... (954,718,000)

Item 109
To Capital Budget - DFCM Prison Project Fund
From Beginning Fund
Balance 48,278,400
Schedule of Programs:
DFCM Prison Project Fund 48,278,400

Item 110
To Capital Budget - SBOA Capital Projects Fund
From Dedicated Credits Revenue 450,000
From Other Financing Sources 10,200,000
From Beginning Fund
Balance 1,988,900
From Closing Fund
Balance ..... (1,988,900)
Schedule of Programs:
SBOA Capital Projects Fund 10,650,000

Item 111
To Capital Budget - Higher Education Capital Projects Fund
From Income Tax Fund 100,689,700
From Beginning Fund
Balance 120,600
From Closing Fund
Balance ..... (120,600)
Schedule of Programs:
Higher Education Capital Projects Fund 100,689,700

Item 112
To Capital Budget - Technical Colleges Capital Projects Fund
From Income Tax Fund 19,310,300
Schedule of Programs:
Technical Colleges Capital Projects Fund 19,310,300

TRANSPORTATION

Item 113
To Transportation - Transportation Investment Fund of 2005
From General Fund 335,000,000
From General Fund, One-time 775,000,000
From Transportation Fund 43,172,500
From Licenses/Fees 95,759,100
From Interest Income 11,114,900
From County of First Class Highway Projects Fund 2,666,500
From Designated Sales Tax 688,503,800
From Beginning Fund
Balance 2,273,856,900
From Closing Fund
Balance ..... (1,042,405,200)
Schedule of Programs:
Transportation Investment Fund 3,182,668,500

Item 114
To Transportation - Transit Transportation Investment Fund
From Designated Sales Tax 32,935,800
From Beginning Fund
Balance 346,911,100
From Closing Fund
Balance ..... (268,048,500)

Schedule of Programs:
Transit Transportation Investment Fund 111,798,400

Item 115
To Transportation - Cottonwood Canyon Transportation Investment Fund
From Beginning Fund Balance 39,540,900
From Closing Fund Balance ..... (9,540,900)
Schedule of Programs:
Cottonwood Canyon Transportation Investment Fund 30,000,000

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 116
To Department of Government Operations - Administrative Rules
From General Fund 893,900
From Beginning Nonlapsing Balances 202,400
From Closing Nonlapsing Balances ..... (137,500)
Schedule of Programs:
DAR Administration 958,800

Item 117
To Department of Government Operations - DFCM Administration
From General Fund 3,281,400
From Income Tax Fund 47,000
From Dedicated Credits Revenue 882,100
From Beginning Nonlapsing Balances 2,500,600
From Closing Nonlapsing Balances ..... (463,700)
Schedule of Programs:
DFCM Administration 5,574,100
Energy Program 446,200
Governor's Residence 227,100

Item 118
To Department of Government Operations - Finance - Elected Official Post- Retirement Benefits Contribution
From General Fund 1,248,800
Schedule of Programs:
Elected Official Post- Retirement Trust Fund 1,248,800

Item 119
To Department of Government Operations - DGO Administration
From General Fund 2,517,400
From Dedicated Credits Revenue 768,700
From Beginning Nonlapsing Balances 1,500,000
From Closing Nonlapsing Balances ..... (697,000)
Schedule of Programs:
Executive Director's Office 2,658,800
Finance Office 371,900
Office of Internal Audit 730,000
Office of Resource Stewardship 157,500
Privacy and Security Office 170,900

Item 120
To Department of Government Operations - Finance - Mandated
From General Fund 32,525,800
From Income Tax Fund 643,300
From Transportation Fund .. 991,600
From Federal Funds 2,306,400
From Dedicated Credits Revenue 696,200
From General Fund Restricted - Economic Incentive Restricted Account 3,255,000
From Gen. Fund Rest. - Land Exchange Distribution Account 308,200
Schedule of Programs:
Development Zone Partial Rebates .. 3,255,000
Internal Service Fund Rate Impacts . 5,850,400
Land Exchange Distribution 308,200
State Employee Benefits 31,312,900

Item 121
To Department of Government Operations - Finance - Mandated - Ethics Commissions
From General Fund 17,600
From Beginning Nonlapsing Balances 100,400
From Closing Nonlapsing Balances ..... (97,900)
Schedule of Programs:
Executive Branch Ethics Commission 9,900
Political Subdivisions Ethics Commission 10,200

Item 122
To Department of Government Operations - Division of Finance
From General Fund 10,708,300
From Transportation Fund 451,100
From Dedicated Credits Revenue 2,022,700
From Gen. Fund Rest. - Internal Service Fund Overhead 1,413,600
From Qualified Patient Enterprise Fund 2,500
From Beginning Nonlapsing Balances 4,000,000
From Closing Nonlapsing Balances ..... (34,100)
Schedule of Programs:
Finance Director's Office 1,214,900
Financial Information Systems 10,567,100
Financial Reporting 2,069,400

Payables/Disbursing 2,317,300
Payroll 2,191,400
Technical Services 204,000

Item 123
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 1,562,200
From Federal Funds 43,200
From Expendable Receipts .. 1,400
From Medicaid Expansion Fund 38,800
From Revenue Transfers 2,650,700
From Beginning Nonlapsing Balances 675,100
From Closing Nonlapsing Balances ..... (675,100)
Schedule of Programs:
Inspector General of Medicaid Services 4,296,300

Item 124
To Department of Government Operations - Judicial Conduct Commission
From General Fund 380,800
From Beginning Nonlapsing Balances 100,000
From Closing Nonlapsing Balances .. (84,100)
Schedule of Programs:
Judicial Conduct Commission 396,700

Item 125
To Department of Government Operations - Post Conviction Indigent Defense
From General Fund 33,900
From Beginning Nonlapsing Balances 200,000
From Closing Nonlapsing Balances ..... (200,000)
Schedule of Programs:
Post Conviction Indigent Defense Fund 33,900

Item 126
To Department of Government Operations - Purchasing
From General Fund 1,039,600
Schedule of Programs:
Purchasing and General Services 1,039,600

Item 127
To Department of Government Operations - State Archives
From General Fund 3,677,400
From Federal Funds 49,600
From Dedicated Credits Revenue 74,400
From Beginning Nonlapsing Balances 150,000
From Closing Nonlapsing Balances ..... (33,400)
Schedule of Programs:
Archives Administration 1,974,300
Patron Services 890,600
Preservation Services 327,100
Records Analysis 726,000

Item 128
To Department of Government Operations - Finance Mandated - Mineral Lease Special Service Districts
From General Fund Restricted - Mineral Lease 27,797,500
From Beginning Nonlapsing Balances 35,422,500
From Closing Nonlapsing Balances ..... (35,422,500)
Schedule of Programs:
Mineral Lease Payments 24,162,700
Mineral Lease Payments in Lieu 3,634,800

Item 129
To Department of Government Operations - Chief Information Officer
From General Fund 898,500
From Beginning Nonlapsing Balances 1,445,100
Schedule of Programs:
Administration 2,343,600

Item 130
To Department of Government Operations - Integrated Technology
From General Fund 1,718,400
From Federal Funds 105,400
From Dedicated Credits Revenue 601,800
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 354,300
From Beginning Nonlapsing Balances 600,000
Schedule of Programs:
Utah Geospatial Resource Center 3,379,900

Item 131
To Department of Government Operations - Finance Mandated - Paid Postpartum Recovery and Parental Leave Program
From General Fund 2,200
Schedule of Programs:
Paid Postpartum Recovery and Parental Leave Program 2,200

Item 132
To Department of Government Operations - Human Resource Management
From General Fund 752,900
From Beginning Nonlapsing Balances 160,000
Schedule of Programs:
ALJ Compliance 20,000
Statewide Management Liability Training 22,400
Pay for Performance 870,500

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further

legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 133
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits
Revenue 3,886,100
From Beginning Fund
Balance 1,306,100
From Closing Fund
Balance ..... (1,226,000)
Schedule of Programs:
State Debt Collection Fund 3,966,200

Item 134
To Department of Government Operations - Wire Estate Memorial Fund
From Beginning Fund
Balance 178,400
From Closing Fund
Balance ..... (178,400)

Subsection 3(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 135
To Department of Government Operations - Utah Inland Port Authority Fund
From Beginning Fund
Balance 10,477,900
From Closing Fund
Balance ..... (10,477,900)

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 7
S. B. 7
Passed January 25, 2024
Approved January 30, 2024
Effective July 1, 2024

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET

Chief Sponsor: Jerry W Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($1,502,600) in operating and capital budgets for fiscal year 2024.

This bill appropriates $136,908,700 in operating and capital budgets for fiscal year 2025, including:

- $68,501,300 from the General Fund;
- $1,850,000 from the Income Tax Fund; and
- $66,557,400 from various sources as detailed in this bill.

This bill appropriates $47,580,400 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $12,000,000 in restricted fund and account transfers for fiscal year 2025, including:

- $12,009,500 from the General Fund; and
- ($9,500) from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

CAPITOL PRESERVATION BOARD

Item 1
To Capitol Preservation Board
From Beginning Nonlapsing
Balances 504,700
From Closing Nonlapsing
Balances ..... (637,400)
Schedule of Programs:
Capitol Preservation Board ..... (132,700)

LEGISLATURE

Item 2
To Legislature - Senate
From Beginning Nonlapsing
Balances 584,000
From Closing Nonlapsing
Balances ..... (584,000)

Item 3
To Legislature - House of Representatives
From Beginning Nonlapsing
Balances 956,400
From Closing Nonlapsing
Balances ..... (956,400)

Item 4
To Legislature - Office of Legislative Research and General Counsel
From General Fund,
One-time ..... (288,700)
From Beginning Nonlapsing
Balances ..... (273,900)
From Closing Nonlapsing
Balances 273,900
Schedule of Programs:
Administration ..... (288,700)

Item 5
To Legislature - Office of the Legislative Fiscal Analyst
From Beginning Nonlapsing
Balances 326,500
From Closing Nonlapsing
Balances ..... (375,400)
Schedule of Programs:
Administration and Research ..... (48,900)

Item 6
To Legislature - Office of the Legislative Auditor General
From Beginning Nonlapsing
Balances 109,000
From Closing Nonlapsing
Balances ..... (109,000)

Item 7
To Legislature - Legislative Services
From General Fund,
One-time 288,700
From Dedicated Credits Revenue,
One-time ..... (188,300)
From Beginning Nonlapsing
Balances 73,500
From Closing Nonlapsing
Balances ..... (73,500)

Schedule of Programs:
Administration ..... (188,300)
Legislative Interns 288,700

Item 8
To Legislature - Legislative Services Digital Wellness Commission
From Beginning Nonlapsing
Balances 994,200
From Closing Nonlapsing
Balances ..... (994,200)

UTAH NATIONAL GUARD

Item 9
To Utah National Guard
From Beginning Nonlapsing
Balances 757,800
From Closing Nonlapsing
Balances ..... (3,228,600)
Schedule of Programs:
Operations and Maintenance ..... (2,470,800)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 10
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From Beginning Nonlapsing
Balances 1,338,100
Schedule of Programs:
Administration 97,500
Cemetery 727,400
Outreach Services 513,200

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 23, Chapter 6, Laws of Utah 2023 and Item 196, Chapter 485, Laws of Utah 2023 not lapse at the close of fiscal year 2024. Use of any nonlapsing funds is limited to one-time operations or one-time cemetery acquistion costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

UTAH NATIONAL GUARD

Item 11
To Utah National Guard - National Guard MWR Fund
From Beginning Fund
Balance ..... (250,300)
From Closing Fund
Balance 250,300

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 12
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Beginning Fund
Balance 427,000
From Closing Fund
Balance ..... (427,000)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 13
To Capitol Preservation Board
From General Fund 5,774,400
From Dedicated Credits
Revenue 320,500
From Expendable
Receipts 10,000
From Beginning Nonlapsing
Balances 1,792,200
From Closing Nonlapsing
Balances ..... (1,438,200)
Schedule of Programs:
Capitol Preservation Board 6,458,900

LEGISLATURE

Item 14
To Legislature - Senate
From General Fund 4,721,500
From Beginning Nonlapsing
Balances 2,362,000
From Closing Nonlapsing
Balances ..... (2,362,000)
Schedule of Programs:
Administration 4,721,500

Item 15
To Legislature - House of Representatives
From General Fund 7,447,400
From Beginning Nonlapsing
Balances 4,460,100
From Closing Nonlapsing
Balances ..... (4,460,100)
Schedule of Programs:
Administration 7,447,400

Item 16
To Legislature - Office of Legislative Research and General Counsel
From General Fund 14,514,200
From Beginning Nonlapsing
Balances 6,814,800
From Closing Nonlapsing
Balances ..... (6,814,800)
Schedule of Programs:
Administration 14,514,200

The Legislature intends that the Office of Legislative Research and General Counsel (LRGC) report the final status of performance measures established in FY 2024 appropriations bills to the Subcommittee on Oversight before October 31, 2024. For FY 2025, LRGC shall report on the following performance measures: 1) During the annual general session, bills numbered within two business days after receiving approval from the sponsor (Target = 95%); 2) Bills numbered before the annual general session convenes (Target = 250 bills); 3) Live priority bills completed or abandoned by the 5th Friday of the annual general session (Target = 80%); 4) Timely distribution of "Interim Highlights" to the Legislature (Target = Four business days after interim); 5) Review bills that have passed a chamber within 24 hours of the bill's passage to ensure the proper version is sent to the opposite chamber (Target = 98%); 6) Comply with court-established deadlines when representing the Legislature, a legislator, or a legislative employee in litigation (Target = 100%); 7) Comply with time limits for submission of ballot titles and impartial analyses (Target = 100%); and 8) Comply with Open and Public Meeting notice requirements for legislative committees (Target = 100%).

Item 17

To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 5,220,700
From Beginning Nonlapsing Balances 1,756,700
From Closing Nonlapsing Balances ..... (1,756,700)
Schedule of Programs:
Administration and Research 5,220,700

The Legislature intends that the Office of the Legislative Fiscal Analyst (LFA) report the final status of performance measures established in FY 2024 appropriations bills to the Subcommittee on Oversight before October 31, 2024. For FY 2025, LFA shall report on the following performance measures: 1) On-target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); 2) Correct appropriations bills (Target = 99%); 3) Unrevised fiscal notes (Target = 99.5%); and 4) Timely fiscal notes (Target = 95%).

Item 18

To Legislature - Office of the Legislative Auditor General
From General Fund 7,676,400
From Beginning Nonlapsing Balances 1,790,000
From Closing Nonlapsing Balances ..... (1,790,000)
Schedule of Programs:
Administration 7,676,400

The Legislature intends that the Office of the Legislative Auditor General (LAG) report the final status of performance measures established in FY 2024 appropriations bills to the Subcommittee on Oversight before October 31, 2024. For FY 2025, LAG shall report on the following performance measures: 1) Total audits completed each year (Target = 20); 2) Number of agency recommendations and implementation status (implemented, in process, partial implementation, or not implemented); and 3) Number of legislative recommendations and implementation status (implemented, in process, partial implementation, or not implemented).

Item 19

To Legislature - Legislative Services
From General Fund 8,420,200
From Dedicated Credits Revenue 40,000
From Beginning Nonlapsing Balances 4,278,800
From Closing Nonlapsing Balances ..... (4,278,800)
Schedule of Programs:
Administration 1,621,900
Pass Through 825,200
Legislative Interns 420,900
Information Technology 5,592,200

The Legislature intends that the Office of Legislative Services (LS) report the final status of performance measures established in FY 2024 appropriations bills to the Subcommittee on Oversight before October 31, 2024. For FY 2025, LS shall report on the following performance measures: 1) File server up-time (Target = 95%); 2) Microsoft Secure score (Target = 85%); 3) Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%); 4) Employee onboarding completed within three business days (Target = 100% and provide actual numbers).

Item 20

To Legislature - Legislative Services Digital Wellness Commission
From General Fund 300,000
From Beginning Nonlapsing Balances 994,200
From Closing Nonlapsing Balances ..... (994,200)
Schedule of Programs:
Digital Wellness Commission 300,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 21

To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 3,298,500
From Federal Funds 737,500
From Dedicated Credits Revenue 358,900
Schedule of Programs:

Administration 749,200
Cemetery 919,100
State Approving Agency 277,500
Outreach Services 2,290,900
Military Affairs 158,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report the final status of performance measures established in FY 2024 appropriations bills for the DVMA line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, DVMA shall report on the following performance measures: 1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans Administration (Target = 5% annual growth); 2) Veterans benefits received (Target = $600 million); 3) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans unemployment rate no greater than the statewide unemployment rate); 4) Increase the number of current conflict veterans who are connected to appropriate services (Target = 10% annual increase); and 5) Veterans cemetery customer satisfaction (Target = 4.75 out of 5).

Item 22
To Department of Veterans and Military Affairs - DVMA Pass Through
From General Fund 2,247,500
From Income Tax Fund 200,000
Schedule of Programs:
DVMA Pass Through 2,447,500

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 23
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 44,540,300
From Dedicated Credits Revenue 232,800
From Beginning Fund Balance 15,981,400
From Closing Fund Balance ..... (15,981,400)
Schedule of Programs:
Veterans Nursing Home Fund 44,773,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report the final status of performance measures established in FY 2024 appropriations bills for the Veterans Nursing Home Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, DVMA shall report on the following performance measures: 1) Occupancy rate (Target = 95% average); 2) Number of homes in top 30% of all veterans homes nationally (Target = 3); 3) Performance ratings (Target = 4.75 [out of 5]); and 4) Customer satisfaction (Target = 4.5 [out of 5]).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 24
To Firefighters Retirement Trust & Agency Fund
From General Fund 12,000,000
Schedule of Programs:
Firefighters Retirement Trust & Agency Fund 12,000,000

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UTAH NATIONAL GUARD

Item 25
To Utah National Guard
From General Fund 8,880,500
From Income Tax Fund 1,650,000
From Federal Funds 60,941,600
From Dedicated Credits Revenue 47,700
From Beginning Nonlapsing Balances 4,010,600
From Closing Nonlapsing Balances ..... (263,400)
Schedule of Programs:
Administration 1,736,500
Operations and Maintenance 68,463,800
Tuition Assistance 2,850,000
West Traverse Sentinel Landscape .. 2,216,700

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

In accordance with UCA 63J-1-903, the Legislature intends that the Utah National Guard (UNG) report the final status of

performance measures established in FY 2024 appropriations bills for the Utah National Guard item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, UNG shall report on the following performance measures: 1) Personnel readiness (Target = 100% assigned strength); 2) Individual training completion (Target = 90% completion of qualifications); 3) National Guard Mission Fulfillment (Target = 100% fulfillment of every mission assigned by the Commander in Chief; 4) Installation readiness (Target = Installation Status Report of category 2 or better for each facility); 5) Facility project federal share (Target = 75%); 6) Facility maintenance cost per square foot (Target = $3.00); 7) Utility cost per square foot (Target = $2.00); 8) Tuition assistance applications fulfilled (Target = 700); 9) Percentage of tuition assistance applications fulfilled (Target = 75%); 9) Number of acres preserved under the West Traverse Sentinel Landscape Program; and 10) Number of acres under agreement for preservation under the West Traverse Sentinel Landscape Program.

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

UTAH NATIONAL GUARD

Item 26

To Utah National Guard - National Guard MWR Fund
From Dedicated Credits
Revenue 2,807,300
From Beginning Fund
Balance 16,100
From Closing Fund
Balance ..... (16,100)
Schedule of Programs:
National Guard MWR Fund 2,807,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah National Guard (UNG) report the final status of performance measures established in FY 2024 appropriations bills for the Morale, Welfare, and Recreation Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, UNG shall report on the following performance measures: 1) Financial sustainability (Target = Ratio of income to expenses at least 100%); and 2) Enhanced morale (Target = Average score of 70% or higher positive customer feedback).

Subsection 3(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 27

To General Fund Restricted - National Guard Death Benefits Account
From General Fund 9,500
From Beginning Fund
Balance 376,000
From Closing Fund
Balance ..... (385,500)

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 8
H. B. 5
Passed January 25, 2024
Approved January 31, 2024
Effective July 1, 2024

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($247,492,800) in operating and capital budgets for fiscal year 2024, including:

- $50,035,000 from the General Fund; and
- ($297,527,800) from various sources as detailed in this bill.

This bill appropriates ($44,075,000) in expendable funds and accounts for fiscal year 2024.

This bill appropriates ($48,650,100) in business- like activities for fiscal year 2024, including:

- ($50,000,000) from the General Fund; and
- $1,349,900 from various sources as detailed in this bill.

This bill appropriates ($77,957,200) in restricted fund and account transfers for fiscal year 2024.

This bill appropriates $880,787,900 in operating and capital budgets for fiscal year 2025, including:

- $122,827,400 from the General Fund;
- $514,800 from the Income Tax Fund; and
- $757,445,700 from various sources as detailed in this bill.

This bill appropriates $96,138,000 in expendable funds and accounts for fiscal year 2025, including:

- $10,000,400 from the General Fund; and
- $86,137,600 from various sources as detailed in this bill.

This bill appropriates $124,380,800 in business- like activities for fiscal year 2025.

This bill appropriates $12,570,900 in restricted fund and account transfers for fiscal year 2025, including:

- $11,528,500 from the General Fund; and
- $1,042,400 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 1

To Department of Agriculture and Food - Administration
From Beginning Nonlapsing Balances ..... (297,000)
From Closing Nonlapsing Balances ..... (340,600)
Schedule of Programs:
Commissioner's Office ..... (109,900)
Administrative Services ..... (527,700)

Under the terms of 63J- 1- 603 of the Utah Code, the Legislature intends that up to $340,600 of the appropriations provided for the Administration line item in Item 103, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures from the General Fund are limited to: Employee Training/Incentives $40,600; Equipment and Supplies $100,000; and Special Projects/Grants/Sponsorships $200,000.

Item 2

To Department of Agriculture and Food - Animal Industry
From Beginning Nonlapsing Balances ..... (195,600)
From Closing Nonlapsing Balances 360,600
Schedule of Programs:
Animal Health 261,400
Brand Inspection ..... (52,300)
Meat Inspection ..... (44,100)

Under the terms of 63J- 1- 603 of the Utah Code, the Legislature intends that up to $1,299,600 of the appropriations provided for the Animal Industry line item in Item 104, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to IT Upgrades $300,000,

Equipment/Supplies: $514,000 Employee Training/Incentives $200,000; and Special Projects/Studies $285,600.

Item 3
To Department of Agriculture and Food - Invasive Species Mitigation
From Beginning Nonlapsing
Balances ..... (316,200)
Schedule of Programs:
Invasive Species Mitigation ..... (316,200)

Item 4
To Department of Agriculture and Food - Marketing and Development
From Beginning Nonlapsing
Balances ..... (8,100)
From Closing Nonlapsing
Balances ..... (84,900)
Schedule of Programs:
Marketing and Development ..... (93,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $85,000 of the appropriations provided for the Marketing and Economic Development line item in Item 107, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures from the General Fund are limited to: Employee Training/Incentives $10,000; and Special Projects/Sponsorships $75,000.

Item 5
To Department of Agriculture and Food - Plant Industry
From Beginning Nonlapsing
Balances ..... (59,800)
From Closing Nonlapsing
Balances ..... (725,000)
Schedule of Programs:
Plant Industry Administration ..... (561,700)
Insect, Phyto, and Nursery ..... (207,500)
Feed, Fertilizer, and Seed ..... (15,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $725,000 of the appropriations provided for the Plant Industry line item in Item 108, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of Dedicated Credits are limited to: $125,000 for vehicle purchases; and $600,000 to continue developing a department-wide computer system to manage regulatory programs, including DTS staffing.

Item 6
To Department of Agriculture and Food - Predatory Animal Control
From Closing Nonlapsing
Balances ..... (77,700)
Schedule of Programs:
Predatory Animal Control ..... (77,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $77,700 of the appropriations provided for the Predator Control line item in Item 109, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to equipment and supplies.

Item 7
To Department of Agriculture and Food - Rangeland Improvement
From Closing Nonlapsing
Balances ..... (2,582,600)
Schedule of Programs:
Rangeland Improvement Projects .. (2,049,200)
Grazing Improvement Program Administration ..... (533,400)

Item 8
To Department of Agriculture and Food - Regulatory Services
From Beginning Nonlapsing
Balances ..... (413,700)
From Closing Nonlapsing
Balances ..... (600,000)
Schedule of Programs:
Regulatory Services Administration . (301,200)
Bedding & Upholstered ..... (213,100)
Weights & Measures ..... (29,500)
Food Inspection ..... (428,500)
Dairy Inspection ..... (41,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $600,000 of the appropriations provided for the Regulatory Services line item in Item 111, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures are limited to: $300,000 General Fund and $300,000 Dedicated Credits for development of a department-wide computer system to manage regulatory programs, including DTS staffing.

Item 9
To Department of Agriculture and Food - Resource Conservation
From Beginning Nonlapsing
Balances 1,856,300
From Closing Nonlapsing
Balances ..... (126,548,100)
Schedule of Programs:
Conservation Administration 796,500
Conservation Districts 288,400
Water Quantity ..... (123,365,300)
Water Quality ..... (620,600)
Soil Health ..... (181,800)
Salinity ..... (300)
Easements and Loan Projects ..... (1,608,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $128,400,000 of the appropriations provided for Resource Conservation in Item 112, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures are limited to: AgVIP projects $2,400,000; Soil Health On-Farm projects $425,000; Pollinator Program $352,000; Water Optimization Project funding from the Agriculture Water Optimization Account $125,000,000; Soil Health Equipment Grants $200,000; and Equipment, Supplies, Training, or Incentives $23,000.

Item 10
To Department of Agriculture and Food - Industrial Hemp
From Beginning Nonlapsing Balances 284,600
From Closing Nonlapsing Balances 106,500
Schedule of Programs:
Industrial Hemp 391,100

The Legislature intends that the Industrial Hemp program maintain a fleet of one vehicle for every inspector in the program.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the appropriations provided for the Industrial Hemp line item in Item 114, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of Dedicated Credits are limited to: vehicle purchases, $100,000; development of a department-wide computer system to manage regulatory programs, including DTS staffing $100,000; equipment or supplies $50,000; and employee training and incentives $50,000.

Item 11
To Department of Agriculture and Food - Analytical Laboratory
From Beginning Nonlapsing Balances ..... (5,300)
From Closing Nonlapsing Balances ..... (23,300)
From Lapsing Balance 28,800
Schedule of Programs:
Analytical Laboratory 200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $23,300 of the appropriations provided for the Analytical Laboratory line item in Item 115, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures from the General Fund are limited to: Employee Training/Incentives $8,300; and Equipment and Supplies $15,000.

Item 12
To Department of Agriculture and Food - Veterinarian Education Loan Repayment Program
From Closing Nonlapsing Balances ..... (2,500,000)
Schedule of Programs:
Veterinarian Education Loan Repayment Program ..... (2,500,000)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 13
To Department of Environmental Quality - Drinking Water
From Closing Nonlapsing Balances ..... (200,000)
Schedule of Programs:
Drinking Water Administration ..... (203,500)
Safe Drinking Water Act 368,300
System Assistance ..... (495,600)
State Revolving Fund 130,800

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of the appropriations provided for Drinking Water in Item 55, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY2024. Expenditures of these funds are limited to DW Source Water Sizing Requirements.

Item 14
To Department of Environmental Quality - Environmental Response and Remediation
From Closing Nonlapsing Balances ..... (1,560,000)
Schedule of Programs:
Environmental Response and Remediation 1,221,800
Voluntary Cleanup 16,000
CERCLA ..... (1,465,000)
Petroleum Storage Tank Cleanup ... (940,500)
Petroleum Storage Tank Compliance (392,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $1,560,000 of the appropriations provided for the Division of Environmental Response and Remediation in Item 56, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: $500,000 to update the CERCLA Database to be accumulated over 5 years; $1,000,000 to update the Petroleum Storage Tanks Database to be accumulated over 3 years; $30,000 for the Operator Certification Program; $30,000 for Data processing hardware.

Item 15
To Department of Environmental Quality - Executive Director's Office
From Beginning Nonlapsing Balances ..... (35,600)
From Closing Nonlapsing Balances ..... (1,300,000)
Schedule of Programs:
Executive Director Office Administration ..... (1,335,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $1,300,000 of the appropriations provided for the Executive Director's Office in Item 57, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to high level nuclear waste opposition $10,000; capital improvements/maintenance, DP Software, document management database, equipment $1,140,000; and administrative law judge $150,000.

Item 16
To Department of Environmental Quality - Waste Management and Radiation Control
From Closing Nonlapsing Balances ..... (650,000)
Schedule of Programs:
Hazardous Waste ..... (304,700)
Solid Waste ..... (69,000)
Radiation ..... (90,800)

Low Level Radioactive Waste ..... (134,000)
Used Oil ..... (51,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $650,000 of the appropriations provided for Waste Management and Radiation Control in Item 58, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to Development to replace Obsolete and Outdated Programming and Databases $500,000; DP Software and Equipment $125,000; and Community Outreach and Public Education $25,000.

Item 17
To Department of Environmental Quality - Water Quality
From General Fund,
One-time 35,000
From Other Financing Sources,
One-time ..... (6,100)
From Closing Nonlapsing
Balances ..... (1,017,100)
Schedule of Programs:
Water Quality Support ..... (836,100)
Water Quality Protection ..... (187,100)
Water Quality Permits 35,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $1,017,100 of the appropriations provided for the Division of Water Quality in Item 59, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: data processing software and consultant services $80,000; improved WQ Compliance Database $750,000; independent scientific review activities as outlined in R317-1-10 $107,100; Utah Inland Port monitoring activities $30,000; and environmental monitoring equipment $50,000.

Item 18
To Department of Environmental Quality - Trip Reduction Program
From Beginning Nonlapsing
Balances ..... (106,800)
From Closing Nonlapsing
Balances ..... (30,000)
Schedule of Programs:
Trip Reduction Program ..... (136,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $30,000 of the appropriations provided for the Trip Reduction Program in Item 60, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to free fare days under the UTA Trip Reduction Program.

Item 19
To Department of Environmental Quality - Air Quality
From Beginning Nonlapsing
Balances ..... (3,799,100)
From Closing Nonlapsing
Balances ..... (7,520,000)
Schedule of Programs:
Air Quality Administration 675,100
Planning ..... (11,478,300)
Compliance 189,900
Permitting ..... (705,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $7,520,000 of the appropriations provided for the Division of Air Quality in Item 61, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Research projects $450,000; Air Monitoring equipment $550,000; Operating Permit Fees $100,000; NSR Permit Annual fees $130,000; Lawn Equipment Exchange $472,000; Wood Stove Replacements $1,845,700; Monitoring Network Expansion in Summit & Wasatch Counties $196,400;Ozone Monitoring Infrastructure for Wasatch Front $1,485,600; Ozone and PM2.5 Study using Fees $130,000; Electric Vehicle Charging Equipment $2,101,800; and S.B.136 Study $58,500.

Item 20
To Department of Environmental Quality - Laboratory Services
From Beginning Nonlapsing
Balances ..... (51,400)
From Closing Nonlapsing
Balances ..... (250,000)
Schedule of Programs:
Laboratory Services ..... (301,400)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $250,000 of the appropriations provided for the Laboratory Services in Item 62, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to laboratory services.

DEPARTMENT OF NATURAL RESOURCES

Item 21
To Department of Natural Resources - Administration
From Closing Nonlapsing
Balances ..... (375,000)
Schedule of Programs:
Administrative Services ..... (736,100)
Executive Director 296,800
Lake Commissions ..... (6,700)
Law Enforcement 20,800
Public Information Office 50,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $375,000 appropriations provided for DNR Administration line item in Item 63, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Computer Equipment/Software $75,000; Equipment/Supplies $25,000; Current Expense $125,000; and Utah Water Infrastructure Study $150,000.

Item 22
To Department of Natural Resources - DNR Pass Through

From Beginning Nonlapsing
Balances ..... (2,796,300)
From Closing Nonlapsing
Balances ..... (7,880,700)
Schedule of Programs:
DNR Pass Through ..... (10,677,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $7,880,700 appropriations provided for the Department of Natural Resources in Item 67, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to projects that have been appropriated but unexpended at the end of fiscal year 2024: Utah Lake Funding $7,775,700; Utah County Fire Rehabilitation $105,000.

Item 23
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund Restricted - Sovereign Lands Management, One-time ... (12,500)
From Beginning Nonlapsing
Balances ..... (39,506,600)
From Closing Nonlapsing
Balances ..... (29,512,100)
Schedule of Programs:
Division Administration ..... (42,100)
Fire Suppression Emergencies 924,800
Forest Management ..... (3,009,800)
Lands Management ..... (7,186,200)
Lone Peak Center 959,800
Program Delivery 241,000
Project Management ..... (60,918,700)

Under the terms of 631-1-603 of the Utah Code, the Legislature intends that up to $29,512,100 appropriations provided for the Division of Forestry, Fire, and State Lands in Item 68, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Sovereign Lands Related Projects/Catfire Projects $20,544,900; Little Willow Water Line $17,800; Shared Stewardship $5,458,100; Aspen Regeneration $238,300; Strategic and Targeted Fire Mitigation $1,369,100; and Richfield Fire Cache, $1,883,900.

Item 24
To Department of Natural Resources - Oil, Gas, and Mining
From Beginning Nonlapsing
Balances 412,500
From Closing Nonlapsing
Balances ..... (4,012,500)
Schedule of Programs:
Coal Program ..... (431,700)
OGM Misc. Nonlapsing ..... (3,168,300)

Under the terms of 63J-1-603 of the Utah Code, the legislature intends that up to $400,000 of the appropriations provided for the Division of Oil, Gas and Mining in Item 69, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Mining Special Projects/Studies $250,000; Computer Equipment/Software $50,000; Employee Training/Incentives $50,000; and Equipment/Supplies $50,000.

Item 25
To Department of Natural Resources - Species Protection
From Beginning Nonlapsing
Balances ..... (739,000)
From Closing Nonlapsing
Balances ..... (400,000)
Schedule of Programs:
Species Protection ..... (1,139,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of the appropriations provided for the Species Protection program in Item 70, Chapter 8, Laws of Utah 2023, shall not lapse at the close of Fiscal Year 2024. Expenditures are limited to implementation of Species Protection Program projects.

Item 26
To Department of Natural Resources - Utah Geological Survey
From Closing Nonlapsing
Balances ..... (1,513,200)
Schedule of Programs:
Administration ..... (1,306,800)
Board ..... (500)
Energy and Minerals ..... (144,900)
Geologic Hazards 411,800
Geologic Information and Outreach 111,200
Geologic Mapping 63,700
Groundwater ..... (350,700)
Technical Services ..... (297,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,513,200 of the appropriations provided for the Utah Geological Survey line item in item 71, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Employee Training/Incentives $50,000; Current Expense $50,000; Equipment/Supplies $100,000; Computer Equipment/Supplies $100,000; Grant Projects Match $513,200; Bonneville Salt Flats Restoration $350,000; and Great Salt Lake Groundwater Studies $350,000.

Item 27
To Department of Natural Resources - Water Resources
From General Fund,
One-time 50,000,000
From Beginning Nonlapsing
Balances ..... (1,827,100)
From Closing Nonlapsing
Balances ..... (88,120,000)
Schedule of Programs:
Administration ..... (300,000)
Cloud Seeding ..... (10,911,200)
Construction ..... (13,438,000)
Planning ..... (14,980,400)
Funding Projects and Research ..... (317,500)

The Legislature intends that the $50,000,000 one-time General Fund

provided by this item be used for Wasatch Front Aqueduct Resilience.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $88,120,000 of the appropriations provided for the Division of Water Resources in Item 72, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Operating Budget Items $300,000; Water Conservation Funding $300,000; Agricultural Water Optimization $150,000; Transparent Water Billing $700,000; Secondary Water Metering $5,000,000; Integrating Water Planning and Land Use Planning $50,000; Great Salt Lake Amendments $3,900,000; Water as Part of a General Plan $220,000; Cloud Seeding $13,000,000; Turf Replacement Rebates $8,000,000; Aqueduct Resilience $50,000,000; Utah Water Ways $1,500,000; and Hyrum Dam $5,000,000.

Item 28

To Department of Natural Resources - Water Rights
From Beginning Nonlapsing Balances 2,506,700
From Closing Nonlapsing Balances ..... (5,200,000)
Schedule of Programs:
Adjudication 1,806,300
Applications and Records 108,900
Field Services ..... (8,500)
Technical Services ..... (4,600,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $5,200,000 of the appropriations provided for the Division of Water Rights in Item 73, Chapter 8, Laws of Utah 2023, shall not lapse at the close of Fiscal Year 2024. Expenditures are limited to: Computer Equipment Software/Development $400,000; Professional Services $50,000; Equipment/Supplies $10,000; Employee Training/Incentives $5,000; Travel $7,500; Postage $12,500; Advertising $15,000; Telemetry Equipment $100,000; and Water Rights Measurements/Data Enhancement $4,600,000.

Item 29

To Department of Natural Resources - Watershed Restoration
From Beginning Nonlapsing Balances ..... (370,500)
From Closing Nonlapsing Balances ..... (5,000,000)
Schedule of Programs:
Watershed Restoration ..... (5,370,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $5,000,000 of the appropriations provided for the Watershed Restoration line item in Item 74, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to projects obligated by contract in FY 2024.

Item 30

To Department of Natural Resources - Wildlife Resources
From General Fund Restricted - Aquatic Invasive Species Interdiction Account, One-time ..... (1,596,400)
From General Fund Restricted - Support for State-owned Shooting Ranges Restricted Account, One-time ..... (27,900)
From Beginning Nonlapsing Balances ..... (2,287,300)
From Closing Nonlapsing Balances ..... (1,500,000)
Schedule of Programs:
Aquatic Section ..... (1,596,400)
Conservation Outreach ..... (27,900)
Habitat Section 550,000
Law Enforcement ..... (2,108,600)
Wildlife Section ..... (2,228,700)

Notwithstanding the legislative intent in S.B. 3, Item 439 (2023 General Session), the Legislature intends that the Division of Wildlife Resources maintain its efforts to prevent aquatic invasive species spread into Bear Lake in FY 2024, with up to $200,000 to be spent on check stations for boats entering Bear Lake Valley, boat decontamination, public education, and related activities.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of the appropriations provided for the Wildlife Resources line item in Item 75, Chapter 8, Laws of Utah 2023, not lapse at the close of FY 2024. Expenditure of these funds are limited to: $600,000 for the Great Salt Lake/Utah Lake Waterbird expenses; $200,000 for the Predator Control Program Plan; and $700,000 for big game depredation expenses. The Legislature further intends that the big game depredation expenses be split evenly between the Wildlife Resources Restricted Account and the General Fund.

Item 31

To Department of Natural Resources - Wildlife Resources Capital Budget
From Beginning Nonlapsing Balances ..... (599,400)
From Closing Nonlapsing Balances ..... (599,400)
Schedule of Programs:
Fisheries ..... (1,198,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $599,400 of the appropriations provided for the Wildlife Resources Capital line item in Item 75, Chapter 8, Laws of Utah 2023, shall not lapse at the close of Fiscal Year 2024. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems.

Item 32

To Department of Natural Resources - Public Lands Policy Coordinating Office
From Beginning Nonlapsing Balances ..... (2,167,000)
From Closing Nonlapsing Balances ..... (6,135,500)

Schedule of Programs:
Public Lands Policy Coordinating Office ..... (8,302,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $6,135,500 of the General Fund appropriations provided for the Public Lands Policy Coordinating Office, in Item 77, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditure of these funds are limited to: activities and opportunities related to our Shared Stewardship Agreement with the Forest Service $480,000; Wild Horse and Burro Management $230,000; to offset future volatility of the Constitutional Defense Restricted Account $300,000; RS2477 and other litigation $320,000; Monroe Mountain Data Gathering $128,400; Resource Management Plan Updates $351,800; Protection of Utah Natural Resources and Public Lands $3,600,300; Grand Staircase Rangeland Study $500,000; Provo Canyon Management Plan $225,000.

Item 33
To Department of Natural Resources - Division of State Parks
From Other Financing Sources, One-time ..... (100)
From Beginning Nonlapsing Balances 295,700
From Closing Nonlapsing Balances ..... (375,000)
Schedule of Programs:
Executive Management 568,200
State Park Operation Management .. (232,100)
Planning and Design ..... (723,400)
Support Services 303,600
Heritage Services 4,300

Item 34
To Department of Natural Resources - Division of Parks - Capital
From Beginning Nonlapsing Balances 163,629,600
From Closing Nonlapsing Balances ..... (112,619,700)
Schedule of Programs:
Donated Capital Projects 386,200
Major Renovation 10,000,000
Region Renovation 533,700
Renovation and Development 40,040,000
Land Acquisition 50,000

Item 35
To Department of Natural Resources - Division of Outdoor Recreation
From Beginning Nonlapsing Balances 349,500
From Closing Nonlapsing Balances ..... (350,000)
Schedule of Programs:
Administration ..... (500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $350,000 of the appropriations provided for the Division of Outdoor Recreation in Item 80, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to Bear Lake improvements.

Item 36
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From Beginning Nonlapsing Balances 16,201,300
From Closing Nonlapsing Balances ..... (10,672,700)
Schedule of Programs:
Recreation Capital 18,200
Off-highway Vehicle Grants 5,000,000
Trails Program 510,400

Item 37
To Department of Natural Resources - Office of Energy Development
From Beginning Nonlapsing Balances 2,000,000
From Closing Nonlapsing Balances ..... (9,310,000)
Schedule of Programs:
Office of Energy Development ..... (7,310,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,915,000 of the appropriations provided for the Office of Energy Development in Item 82, Chapter 8, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: EV Charging Infrastructure in rural Utah $3,000,000; OED administration special projects $165,000; Isotopes Research Center $250,000; and San Rafael Energy Research Center $500,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $4,395,000 provided for the Office of Energy Development in Chapter 468, Item 128 and in Chapter 485, Item 186, Laws of Utah 2023, not lapse at the close of FY 2024. Expenditures of these funds are limited to the IIJA Grid Resilience Formula Grant Match.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $1,000,000 provided for the Office of Energy Development in Chapter 486, Item 449, Laws of Utah 2023, not lapse at the close of FY 2024. Expenditures of these funds are limited to future operations and funding of the San Rafael Energy Research Center.

Item 38
To Department of Natural Resources - Office of the Great Salt Lake Commissioner
From Closing Nonlapsing Balances ..... (750,000)
Schedule of Programs:
GSL Commissioner Administration .. (750,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $750,000 of the appropriations provided for the Office of the Great Salt Lake Commissioner in Item 2, Chapter 205, Laws of Utah 2023, shall not lapse at the close of FY

2024. Expenditure of these funds is limited to the creation and implementation of the Great Salt Lake Strategic Plan.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 39
To School and Institutional Trust Lands Administration
From Beginning Nonlapsing Balances 2,000,000
Schedule of Programs:
Accounting ..... (11,300)
Administration 9,500
Auditing 15,000
Development - Operating ..... (32,000)
Director 798,700
External Relations 63,300
Grazing and Forestry 28,000
Information Technology Group 1,065,800
Surface 59,000
Archaeology ..... (20,000)
Energy and Minerals 24,000

Under the terms of 63J-1-603, the Legislature intends that up to $2,500,000 provided for the School and Institutional Trust Lands Administration in Item 129, Chapter 468, and in Item 187, Chapter 485, Laws of Utah 2023, not lapse at the close of FY2024. Expenditures are limited to Federal Land Exchanges.

Under the terms of 63J-1-603, the Legislature intends that up to $3,500,000 of the appropriations provided for the School and Institutional Trust Lands Administration in Item 83, Chapter 8, Laws of Utah 2023, not lapse at the close of FY2024. Expenditures are limited to the Land Management Business System re-write and upgrade.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 40
To Department of Agriculture and Food - Salinity Offset Fund
From Beginning Fund Balance 26,100
From Closing Fund Balance 156,300
Schedule of Programs:
Salinity Offset Fund 182,400

Item 41
To Department of Agriculture and Food - Dept. Agriculture and Food Laboratory Equip. Fund
From Beginning Fund Balance 10,000
From Closing Fund Balance ..... (10,000)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 42
To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From Beginning Fund Balance 181,600
From Closing Fund Balance ..... (181,600)

Item 43
To Department of Environmental Quality - Waste Tire Recycling Fund
From Beginning Fund Balance 107,400
From Closing Fund Balance ..... (107,400)

Item 44
To Department of Environmental Quality - Conversion to Alternative Fuel Grant Program Fund
From Beginning Fund Balance 19,200
From Closing Fund Balance ..... (19,200)

DEPARTMENT OF NATURAL RESOURCES

Item 45
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Interest Income, One-time 246,500
From Other Financing Sources, One-time ..... (246,500)
From Beginning Fund Balance 4,053,200
From Closing Fund Balance ..... (4,011,000)
Schedule of Programs:
Outdoor Recreation Infrastructure Account 42,200

Item 46
To Department of Natural Resources - UGS Sample Library Fund
From Dedicated Credits Revenue, One-time 3,000
From Beginning Fund Balance 2,700
From Closing Fund Balance ..... (5,700)

Item 47
To Department of Natural Resources - Wildland Fire Suppression Fund
From Beginning Fund Balance 25,539,000
From Closing Fund Balance ..... (69,892,000)

Schedule of Programs:
Wildland Fire Suppression Fund . (44,353,000)

Item 48
To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
From Beginning Fund Balance 175,700
From Closing Fund Balance ..... (122,300)
Schedule of Programs:
Wildland Fire Preparedness Grants Fund 53,400

Item 49
To Department of Natural Resources - Wild Game Meat Donation Fund
From Dedicated Credits Revenue, One-time ..... (50,000)
From Expendable Receipts, One-time 50,000

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 50
To Department of Agriculture and Food - Agriculture Loan Programs
From Utah Rural Rehabilitation Loan State Fund, One-time ..... (66,200)
From Lapsing Balance 131,800
Schedule of Programs:
Agriculture Loan Program 65,600

Item 51
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Beginning Fund Balance 670,900
From Closing Fund Balance 613,400
Schedule of Programs:
Qualified Production Enterprise Fund 1,284,300

The Legislature intends that the department of Agriculture and Food's Hemp and Medical Cannabis Division remit all vehicles in active already replaced status to the Division of Fleet Operations. Further, the Legislature intends that the Medical Cannabis program maintain a fleet of no more than 1 vehicle for every 6 licensed establishments requiring an inspection, plus one additional vehicle for office staff.

DEPARTMENT OF NATURAL RESOURCES

Item 52
To Department of Natural Resources - Water Resources Conservation & Development Fund
From General Fund, One-time ..... (50,000,000)
Schedule of Programs:
Water Resources Conservation & Development Fund ..... (50,000,000)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 53
To General Fund Restricted - Agricultural Water Optimization Account
From Beginning Fund Balance 42,800
From Closing Fund Balance ..... (78,000,000)
Schedule of Programs:
Agricultural Water Optimization Account ..... (77,957,200)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 54
To Department of Agriculture and Food - Administration
From General Fund 3,386,200
From Federal Funds 463,900
From Dedicated Credits Revenue 364,900
From Revenue Transfers 84,300
From Beginning Nonlapsing Balances 340,600
From Closing Nonlapsing Balances ..... (162,600)
Schedule of Programs:
Commissioner's Office 2,064,600
Administrative Services 2,412,700

Item 55
To Department of Agriculture and Food - Animal Industry
From General Fund 4,332,300
From Income Tax Fund 255,800
From Federal Funds 2,282,600
From Dedicated Credits Revenue 183,000
From General Fund Restricted

- Horse Racing 86,700
From General Fund Restricted
- Livestock Brand 1,603,600
From Revenue Transfers 3,900
From Beginning Nonlapsing
Balances 1,299,600
From Closing Nonlapsing
Balances ..... (2,433,300)
Schedule of Programs:
Animal Health 2,278,200
Auction Market Veterinarians 72,700
Brand Inspection 2,189,000
Meat Inspection 2,819,800
Horse Racing Commission 254,500

Item 56
To Department of Agriculture and Food - Building Operations
From General Fund 446,300
Schedule of Programs:
Building Operations 446,300

Item 57
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds 200,000
From General Fund Restricted - Invasive Species Mitigation Account 2,044,900
Schedule of Programs:
Invasive Species Mitigation 2,244,900

Item 58
To Department of Agriculture and Food - Marketing and Development
From General Fund 812,000
From Federal Funds 333,100
From Dedicated Credits
Revenue 23,300
From Beginning Nonlapsing
Balances 84,900
Schedule of Programs:
Marketing and Development 1,253,300

Item 59
To Department of Agriculture and Food - Plant Industry
From General Fund 231,000
From Federal Funds 1,660,500
From Dedicated Credits
Revenue 4,106,500
From Revenue Transfers 18,800
From Beginning Nonlapsing
Balances 725,000
From Closing Nonlapsing
Balances ..... (867,800)
Schedule of Programs:
Plant Industry Administration 783,500
Grain Lab 318,300
Insect, Phyto, and Nursery 1,238,700
Pesticide 1,597,300
Feed, Fertilizer, and Seed 1,066,400
Organics 869,800

Item 60
To Department of Agriculture and Food - Predatory Animal Control
From General Fund 1,476,000
From Revenue Transfers 778,500
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 667,500
From Beginning Nonlapsing
Balances 77,700
From Closing Nonlapsing
Balances ..... (42,900)
Schedule of Programs:
Predatory Animal Control 2,956,800

Item 61
To Department of Agriculture and Food - Rangeland Improvement
From General Fund 1,376,200
From Gen. Fund Rest. - Rangeland Improvement Account 5,055,500
From Revenue Transfers 392,200
From Beginning Nonlapsing
Balances 2,582,600
From Closing Nonlapsing
Balances ..... (1,638,300)
Schedule of Programs:
Rangeland Improvement Projects ... 6,524,200
Grazing Improvement Program Administration 1,244,000

Item 62
To Department of Agriculture and Food - Regulatory Services
From General Fund 1,019,600
From Federal Funds 1,564,700
From Dedicated Credits
Revenue 4,421,100
From Revenue Transfers 1,300
From Pass-through 900
From Beginning Nonlapsing
Balances 600,000
From Closing Nonlapsing
Balances ..... (1,162,500)
Schedule of Programs:
Regulatory Services Administration ... 574,000
Bedding & Upholstered 859,900
Weights & Measures 1,802,200
Food Inspection 2,755,000
Dairy Inspection 454,000

Item 63
To Department of Agriculture and Food - Resource Conservation
From General Fund 2,685,600
From Federal Funds 1,027,900
From Dedicated Credits
Revenue 12,500
From Revenue Transfers 437,400
From Beginning Nonlapsing
Balances 128,400,000
From Closing Nonlapsing
Balances ..... (117,142,000)
Schedule of Programs:
Conservation Administration 1,507,400
Conservation Districts 790,800
Water Quantity 10,520,700
Water Quality 1,719,500
Soil Health 618,500
Salinity 112,700
Easements and Loan Projects 151,800

Item 64
To Department of Agriculture and Food - State Fair Park Authority
From General Fund 325,000
From Dedicated Credits
Revenue 6,138,400

Schedule of Programs:
State Fair Park Authority 6,463,400

Item 65
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 1,375,400
From Beginning Nonlapsing Balances 293,500
Schedule of Programs:
Industrial Hemp 1,668,900

Item 66
To Department of Agriculture and Food - Analytical Laboratory
From General Fund 1,082,700
From Federal Funds 52,000
From Dedicated Credits Revenue 394,000
From Beginning Nonlapsing Balances 23,300
From Closing Nonlapsing Balances ..... (33,000)
Schedule of Programs:
Analytical Laboratory 1,519,000

Item 67
To Department of Agriculture and Food - Veterinarian Education Loan Repayment Program
From Beginning Nonlapsing Balances 2,500,000
From Closing Nonlapsing Balances ..... (2,500,000)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 68
To Department of Environmental Quality - Drinking Water
From General Fund 2,631,400
From Federal Funds 4,750,100
From Dedicated Credits Revenue 508,900
From Revenue Transfers .... (491,600)
From Water Dev. Security Fund - Drinking Water Loan Prog. 1,276,800
From Water Dev. Security Fund - Drinking Water Orig. Fee 286,900
From Beginning Nonlapsing Balances 200,000
Schedule of Programs:
Drinking Water Administration 1,098,400
Safe Drinking Water Act 2,735,200
System Assistance 3,792,600
State Revolving Fund 1,536,300

Item 69
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund 2,156,900
From Federal Funds 5,355,800
From Dedicated Credits Revenue 1,276,100
From General Fund Restricted - Petroleum Storage Tank 63,000
From Petroleum Storage Tank Cleanup Fund 496,100
From Petroleum Storage Tank Trust Fund 2,279,200
From Revenue Transfers .... (581,900)
From General Fund Restricted - Voluntary Cleanup 815,700
From Beginning Nonlapsing Balances 1,560,000
Schedule of Programs:
Environmental Response and Remediation 1,213,300
Voluntary Cleanup 771,600
CERCLA 5,262,000
Tank Public Assistance 63,000
Petroleum Storage Tank Cleanup ... 3,447,200
Petroleum Storage Tank Compliance 2,663,800

Item 70
To Department of Environmental Quality - Executive Director's Office
From General Fund 3,236,400
From Federal Funds 353,300
From Dedicated Credits Revenue 1,000
From General Fund Restricted - Environmental Quality 654,600
From Revenue Transfers 2,934,400
From Beginning Nonlapsing Balances 1,300,000
Schedule of Programs:
Executive Director Office Administration 7,147,700
Local Health Departments 1,118,400
Radon 213,600

Item 71
To Department of Environmental Quality - Waste Management and Radiation Control
From Federal Funds 1,490,500
From Dedicated Credits Revenue 2,852,300
From Expendable Receipts 190,000
From General Fund Restricted - Environmental Quality 8,936,500
From Revenue Transfers .... (210,900)
From Gen. Fund Rest. - Used Oil Collection Administration 959,600
From Waste Tire Recycling Fund 182,000
From Beginning Nonlapsing Balances 650,000
Schedule of Programs:
Hazardous Waste 6,365,900
Solid Waste 1,679,800
Radiation 2,067,200
Low Level Radioactive Waste 2,891,900
WIPP 175,300
Used Oil 1,065,300
Waste Tire 182,200
X-Ray 622,400

Item 72
To Department of Environmental Quality - Water Quality
From General Fund 5,025,200
From Federal Funds 3,944,200
From Dedicated Credits Revenue 2,963,600
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and

Mining 113,800
From Revenue Transfers .... (295,500)
From Gen. Fund Rest. - Underground Wastewater System 90,800
From Water Dev. Security Fund - Utah Wastewater Loan Prog. 1,915,100
From Water Dev. Security Fund - Water Quality Orig. Fee 124,700
From Beginning Nonlapsing Balances 1,017,100
Schedule of Programs:
Water Quality Support 4,051,300
Water Quality Protection 6,358,500
Water Quality Permits 4,397,300
Onsite Wastewater 91,900

Item 73
To Department of Environmental Quality - Trip Reduction Program
From Beginning Nonlapsing Balances 30,000
Schedule of Programs:
Trip Reduction Program 30,000

Item 74
To Department of Environmental Quality - Air Quality
From General Fund 8,973,500
From Federal Funds 7,475,100
From Dedicated Credits Revenue 7,358,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining 800,400
From Clean Fuel Conversion Fund 260,800
From General Fund Restricted - Environmental Quality 35,900
From Revenue Transfers .... (1,097,100)
From Beginning Nonlapsing Balances 7,520,000
Schedule of Programs:
Air Quality Administration 2,203,900
Planning 19,586,200
Compliance 5,757,200
Permitting 3,779,300

Item 75
To Department of Environmental Quality - Laboratory Services
From General Fund 900,000
From Beginning Nonlapsing Balances 250,000
Schedule of Programs:
Laboratory Services 1,150,000

DEPARTMENT OF NATURAL RESOURCES

Item 76
To Department of Natural Resources - Administration
From General Fund 7,206,600
From General Fund Restricted - Sovereign Lands Management 56,800
From Beginning Nonlapsing Balances 375,000
Schedule of Programs:
Administrative Services 1,676,500
Executive Director 5,256,600
Lake Commissions 101,800
Law Enforcement 292,300
Public Information Office 311,200

Item 77
To Department of Natural Resources - Building Operations
From General Fund 1,420,900
Schedule of Programs:
Building Operations 1,420,900

Item 78
To Department of Natural Resources - Cooperative Agreements
From Federal Funds 20,710,900
From Expendable Receipts 8,214,200
From Revenue Transfers 5,802,900
Schedule of Programs:
Federal Agreements 20,710,900
State Agreements 5,802,900
Other Agreements 8,214,200

Item 79
To Department of Natural Resources - DNR Pass Through
From General Fund 1,008,400
From Beginning Nonlapsing Balances 7,880,700
Schedule of Programs:
DNR Pass Through 8,889,100

Item 80
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund 12,180,200
From Federal Funds 8,633,800
From Dedicated Credits Revenue 12,473,100
From General Fund Restricted - Sovereign Lands Management 5,108,000
From Revenue Transfers 25,034,100
From Beginning Nonlapsing Balances 29,512,100
Schedule of Programs:
Division Administration 2,052,100
Fire Management 3,815,400
Fire Suppression Emergencies 29,047,800
Forest Management 4,288,300
Lands Management 1,554,900
Lone Peak Center 6,185,000
Program Delivery 11,091,100
Project Management 34,906,700

Item 81
To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds 14,291,400
From Dedicated Credits Revenue 289,400
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 3,158,800
From Gen. Fund Rest. - Oil & Gas Conservation Account 4,945,700
From Beginning Nonlapsing Balances 4,012,500
Schedule of Programs:
Abandoned Mine 11,449,400
Administration 2,794,900
Board 200,400

Coal Program 3,138,400
Minerals Reclamation 1,275,800
OGM Misc. Nonlapsing 3,255,300
Oil and Gas Program 4,583,600

Item 82
To Department of Natural Resources - Species Protection
From Designated Sales Tax . 2,450,000
From General Fund Restricted - Species Protection 968,800
From Beginning Nonlapsing Balances 400,000
Schedule of Programs:
Species Protection 3,818,800

Item 83
To Department of Natural Resources - Utah Geological Survey
From General Fund 5,551,000
From Federal Funds 1,603,400
From Dedicated Credits Revenue 574,000
From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account 718,200
From General Fund Restricted - Mineral Lease 2,280,400
From Gen. Fund Rest. - Land Exchange Distribution Account 26,600
From Revenue Transfers 1,456,500
From Beginning Nonlapsing Balances 1,513,200
Schedule of Programs:
Administration 1,977,900
Board 3,500
Energy and Minerals 2,668,600
Geologic Hazards 1,683,600
Geologic Information and Outreach .. 2,780,100
Geologic Mapping 2,046,400
Groundwater 2,213,200
Technical Services 350,000

Item 84
To Department of Natural Resources - Water Resources
From General Fund 16,030,000
From Federal Funds 1,081,200
From Dedicated Credits Revenue 5,200
From Designated Sales Tax . 150,000
From Water Resources Conservation and Development Fund 4,436,100
From Beginning Nonlapsing Balances 88,120,000
Schedule of Programs:
Administration 1,339,100
Board 36,000
Cloud Seeding 18,350,000
Construction 65,895,100
Interstate Streams 800,100
Planning 23,247,200
West Desert Operations 5,000
Funding Projects and Research 150,000

Item 85
To Department of Natural Resources - Watershed Restoration
From General Fund 5,624,400
From Dedicated Credits Revenue 50,000
From Designated Sales Tax . 500,000
From Beginning Nonlapsing Balances 5,000,000
Schedule of Programs:
Watershed Restoration 11,174,400

Item 86
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund 3,296,900
From General Fund Restricted - Constitutional Defense 1,397,700
From Beginning Nonlapsing Balances 6,135,500
Schedule of Programs:
Public Lands Policy Coordinating Office 10,830,100

Item 87
To Department of Natural Resources - Division of State Parks
From General Fund 4,683,400
From Federal Funds 157,000
From Dedicated Credits Revenue 1,185,200
From Expendable Receipts 131,000
From General Fund Restricted - State Park Fees 34,033,600
From Revenue Transfers 142,600
From Beginning Nonlapsing Balances 375,000
Schedule of Programs:
Executive Management 933,000
Park Management Contracts 1,046,000
State Park Operation Management . 36,611,500
Support Services 1,835,400
Heritage Services 281,900

Item 88
To Department of Natural Resources - Division of Parks - Capital
From Federal Funds 4,244,500
From Expendable Receipts 177,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 5,000,000
From General Fund Restricted - State Park Fees 1,027,600
From Beginning Nonlapsing Balances 112,619,700
Schedule of Programs:
Donated Capital Projects 177,000
Major Renovation 62,011,500
Region Renovation 100,000
Renovation and Development 59,586,600
Land Acquisition 1,193,700

Item 89
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund 501,800

From Federal Funds 2,077,600
From Dedicated Credits Revenue 50,000
From Expendable Receipts 200,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 940,000
From General Fund Restricted - Boating 5,149,500
From General Fund Restricted - Off-highway Vehicle 7,150,800
From General Fund Restricted - Zion National Park Support Programs ... 4,000
From Beginning Nonlapsing Balances 350,000
Schedule of Programs:
Management 1,093,700
Agreements 4,000
Oversight 9,195,800
Construction 213,000
Recreation Services 964,600
Administration 4,952,600

Item 90
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From Federal Funds 6,907,200
From Dedicated Credits Revenue 50,000
From Expendable Receipts 200,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 27,000,000
From General Fund Restricted - Utah Boating Grant Account 1,974,400
From General Fund Restricted - Boating 575,000
From General Fund Restricted - Off-highway Vehicle 3,903,400
From Beginning Nonlapsing Balances 10,672,700
Schedule of Programs:
Boat Access Grants 3,307,000
Land and Water Conservation 2,947,600
Recreation Capital 31,870,000
Off-highway Vehicle Grants 8,794,900
Trails Program 4,363,200

Item 91
To Department of Natural Resources - Utah Energy Research Grant Program
From General Fund 1,000,000
Schedule of Programs:
Utah Energy Research Grant Program 1,000,000

Item 92
To Department of Natural Resources - Office of the Great Salt Lake Commissioner
From General Fund Restricted - Great Salt Lake Account 1,500,000
From Beginning Nonlapsing Balances 750,000
Schedule of Programs:
GSL Commissioner Administration .. 2,250,000

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 93
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 13,947,900
Schedule of Programs:
Accounting 664,200
Administration 1,131,400
Auditing 488,100
Board 102,500
Development - Operating 1,517,100
Director 998,800
External Relations 390,800
Grazing and Forestry 811,400
Information Technology Group 1,718,400
Legal/Contracts 1,410,900
Surface 2,187,300
Archaeology 521,400
Energy and Minerals 2,005,600

Item 94
To School and Institutional Trust Lands Administration - Land Stewardship and Restoration
From Land Grant Management Fund 852,400
Schedule of Programs:
Land Stewardship and Restoration 852,400

Item 95
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital
From Land Grant Management Fund 5,000,000
Schedule of Programs:
Capital 5,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 96
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers 8,300
From Beginning Fund Balance 801,300
From Closing Fund Balance ..... (524,100)
Schedule of Programs:
Salinity Offset Fund 285,500

Item 97
To Department of Agriculture and Food - Dept. Agriculture and Food Laboratory Equip. Fund
From Dedicated Credits Revenue 118,200

From Beginning Fund
Balance 10,000
From Closing Fund
Balance ..... (10,000)
Schedule of Programs:
Dept. Agriculture and Food Laboratory Equip. Fund 118,200

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 98
To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From General Fund 400
From Dedicated Credits
Revenue 6,000
From Interest Income 139,800
From General Fund Restricted - Environmental Quality 1,200
From Revenue Transfers .... (4,600)
From Beginning Fund
Balance 5,149,500
From Closing Fund
Balance ..... (4,979,800)
Schedule of Programs:
Hazardous Substance Mitigation Fund . 312,500

Item 99
To Department of Environmental Quality - Waste Tire Recycling Fund
From Dedicated Credits
Revenue 3,589,700
From Beginning Fund
Balance 2,968,300
From Closing Fund
Balance ..... (2,744,500)
Schedule of Programs:
Waste Tire Recycling Fund 3,813,500

Item 100
To Department of Environmental Quality - Conversion to Alternative Fuel Grant Program Fund
From Interest Income 800
From Beginning Fund
Balance 47,500
From Closing Fund
Balance ..... (25,800)
Schedule of Programs:
Conversion to Alternative Fuel Grant Program Fund 22,500

DEPARTMENT OF NATURAL RESOURCES

Item 101
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Interest Income 326,500
From Designated Sales
Tax 7,764,500
From Beginning Fund
Balance 17,298,700
From Closing Fund
Balance ..... (15,236,700)
Schedule of Programs:
Outdoor Recreation Infrastructure Account 10,153,000

Item 102
To Department of Natural Resources - UGS Sample Library Fund
From Dedicated Credits
Revenue 3,800
From Beginning Fund
Balance 87,600
From Closing Fund
Balance ..... (91,400)

Item 103
To Department of Natural Resources - Wildland Fire Suppression Fund
From General Fund 10,000,000
From Interest Income 50,000
From General Fund Restricted
- Mineral Bonus 1,069,300
From Beginning Fund
Balance 69,892,000
Schedule of Programs:
Wildland Fire Suppression Fund ... 81,011,300

Item 104
To Department of Natural Resources - Wildland Fire Preparedness Grants Fund
From Wildland Fire Suppression Fund 99,300
From Beginning Fund
Balance 272,200
Schedule of Programs:
Wildland Fire Preparedness Grants Fund 371,500

Item 105
To Department of Natural Resources - Wild Game Meat Donation Fund
From Expendable
Receipts 50,000
Schedule of Programs:
Wild Game Meat Donation Fund 50,000

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 106
To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund 311,100
From Utah Rural Rehabilitation Loan State Fund 102,700
Schedule of Programs:
Agriculture Loan Program 413,800

Item 107
To Department of Agriculture and Food - Qualified Production Enterprise Fund

From Dedicated Credits
Revenue 3,250,100
From Beginning Fund
Balance 2,427,300
From Closing Fund
Balance ..... (2,000,700)
Schedule of Programs:
Qualified Production Enterprise
Fund 3,676,700

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 108
To Department of Environmental Quality - Water Development Security Fund - Drinking Water
From Federal Funds 9,000,000
From Dedicated Credits
Revenue 2,455,700
From Interest Income 745,000
From Designated Sales
Tax 3,587,500
From Revenue Transfers 2,221,400
From Repayments 10,508,200
Schedule of Programs:
Drinking Water 28,517,800

Item 109
To Department of Environmental Quality - Water Development Security Fund - Water Quality
From Federal Funds 8,500,000
From Dedicated Credits
Revenue 3,878,800
From Interest Income 3,958,200
From Designated Sales
Tax 3,587,500
From Revenue Transfers 1,700,000
From Repayments 16,348,000
Schedule of Programs:
Water Quality 37,972,500

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 110
To General Fund Restricted - Agricultural Water Optimization Account
From Beginning Fund
Balance 78,000,000
From Closing Fund
Balance ..... (78,000,000)

Item 111
To General Fund Restricted - Agriculture and Wildlife Damage Prevention Account
From General Fund 458,000
Schedule of Programs:
General Fund Restricted - Agriculture and Wildlife Damage Prevention Account 458,000

Item 112
To General Fund Restricted - Invasive Species Mitigation Account
From General Fund 2,000,000
Schedule of Programs:
General Fund Restricted - Invasive Species Mitigation Account 2,000,000

Item 113
To General Fund Restricted - Rangeland Improvement Account
From General Fund 4,846,300
Schedule of Programs:
General Fund Restricted - Rangeland Improvement Account 4,846,300

Item 114
To General Fund Restricted - Environmental Quality
From General Fund 1,724,200
Schedule of Programs:
GFR - Environmental Quality 1,724,200

Item 115
To General Fund Restricted - Constitutional Defense Restricted Account
From Gen. Fund Rest. - Land Exchange Distribution Account 1,042,400
Schedule of Programs:
General Fund Restricted - Constitutional Defense Restricted Account 1,042,400

Item 116
To General Fund Restricted - Great Salt Lake Account
From General Fund 2,500,000
Schedule of Programs:
General Fund Restricted - Great Salt Lake Account 2,500,000

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF NATURAL RESOURCES

Item 117
To Department of Natural Resources - Contributed Research
From Expendable
Receipts 2,218,900
Schedule of Programs:
Contributed Research 2,218,900

Item 118
To Department of Natural Resources - Water Rights
From General Fund 11,132,000
From Federal Funds 145,500
From Dedicated Credits
Revenue 1,167,200
From General Fund Restricted - Water Rights Restricted Account 6,171,300
From Designated Sales

Tax . 175,000
From Beginning Nonlapsing
Balances 5,200,000
Schedule of Programs:
Adjudication 5,558,700
Administration 1,442,200
Applications and Records 5,906,300
Dam Safety 1,306,500
Field Services 2,217,100
Technical Services 7,560,200

Item 119
To Department of Natural Resources - Wildlife Resources
From General Fund 9,328,600
From Federal Funds 31,331,400
From Expendable
Receipts 224,400
From General Fund Restricted - Aquatic Invasive Species Interdiction
Account 1,400,000
From General Fund Restricted - Predator Control Account 873,800
From Revenue Transfers 122,300
From General Fund Restricted - Wildlife Conservation Easement
Account 15,600
From General Fund Restricted
- Wildlife Habitat 3,406,800
From General Fund Restricted - Wildlife
Resources 46,293,100
From Beginning Nonlapsing
Balances 1,500,000
Schedule of Programs:
Administrative Services 14,200,700
Aquatic Section 22,634,100
Conservation Outreach 6,445,600
Director's Office 2,945,300
Habitat Council 3,406,800
Habitat Section 10,457,000
Law Enforcement 12,242,500
Wildlife Section 22,164,000

Item 120
To Department of Natural Resources - Wildlife Resources Capital Budget
From General Fund 599,400
From Federal Funds 2,500,000
From General Fund Restricted - State Fish Hatchery Maintenance 2,410,000
From Beginning Nonlapsing
Balances 599,400
Schedule of Programs:
Fisheries 6,108,800

Item 121
To Department of Natural Resources - Office of Energy Development
From General Fund 2,167,500
From Income Tax Fund 259,000
From Federal Funds 6,760,400
From Dedicated Credits
Revenue 108,300
From Expendable
Receipts 242,700
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 235,900
From Beginning Nonlapsing
Balances 9,310,000
Schedule of Programs:
Office of Energy Development 19,083,800

Item 122
To Department of Natural Resources - Wildlife Land and Water Acquisition
From General Fund 1,000,000
Schedule of Programs:
Wildlife Land and Water Acquisition 1,000,000

Subsection 3(b). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF NATURAL RESOURCES

Item 123
To Department of Natural Resources - Water Resources Construction Fund
From Water Resources Conservation and Development Fund 3,800,000
Schedule of Programs:
Construction Fund 3,800,000

Item 124
To Department of Natural Resources - Water Resources Conservation & Development Fund
From General Fund Restricted - Water Infrastructure Restricted
Account 50,000,000
Schedule of Programs:
Water Resources Conservation & Development Fund 50,000,000

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 9
H. B. 6
Passed January 25, 2024
Approved January 31, 2024
Effective July 1, 2024

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $10,594,600 in operating and capital budgets for fiscal year 2024, including:

- ($72,500) from the General Fund; and
- $10,667,100 from various sources as detailed in this bill.

This bill appropriates $3,994,300 in expendable funds and accounts for fiscal year 2024.

This bill appropriates ($8,484,100) in business- like activities for fiscal year 2024.

This bill appropriates $1,318,800 in restricted fund and account transfers for fiscal year 2024, including:

- ($4,600) from the General Fund; and
- $1,323,400 from various sources as detailed in this bill.

This bill appropriates $1,650,000 in fiduciary funds for fiscal year 2024.

This bill appropriates $1,424,076,100 in operating and capital budgets for fiscal year 2025, including:

- $1,003,045,000 from the General Fund;
- $267,200 from the Income Tax Fund; and $420,763,900 from various sources as detailed in this bill.

This bill appropriates $24,864,400 in expendable funds and accounts for fiscal year 2025, including:

- $4,353,400 from the General Fund; and
- $20,511,000 from various sources as detailed in this bill.

This bill appropriates $87,888,300 in business- like activities for fiscal year 2025.

This bill appropriates $25,316,600 in restricted fund and account transfers for fiscal year 2025, including:

- $26,816,600 from the General Fund; and
- ($1,500,000) from various sources as detailed in this bill.

This bill appropriates $5,516,800 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

ATTORNEY GENERAL

Item 1
To Attorney General
From Beginning Nonlapsing Balances 1,293,300
From Closing Nonlapsing Balances ..... (1,500,000)
Schedule of Programs:
Administration 446,700
Civil ..... (161,700)
Criminal Prosecution ..... (491,700)

Item 2
To Attorney General - Children's Justice Centers
From Beginning Nonlapsing Balances 354,800
From Closing Nonlapsing Balances ..... (6,133,400)
Schedule of Programs:
Children's Justice Centers ..... (5,778,600)

Item 3
To Attorney General - Contract Attorneys
From Beginning Nonlapsing Balances 5,742,200
From Closing Nonlapsing Balances ..... (5,742,200)

Under Section 63J- 1- 603 of the Utah Code, the Legislature intends that up to $6,000,000 in appropriations to the Attorney General - Contract Attorneys, Item 3 of Chapter 468, Laws of Utah 2023, not to lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to payment of costs associated with the Commerce Clause litigation, the Utah Monuments litigation, and other civil litigation.

Item 4
To Attorney General - Prosecution Council

From Beginning Nonlapsing
Balances 134,300
Schedule of Programs:
Prosecution Council 134,300

Item 5
To Attorney General - State Settlement Agreements
From Beginning Nonlapsing
Balances 32,300
Schedule of Programs:
State Settlement Agreements 32,300

BOARD OF PARDONS AND PAROLE

Item 6
To Board of Pardons and Parole
From Beginning Nonlapsing
Balances 1,446,400
From Closing Nonlapsing
Balances ..... (900,000)
Schedule of Programs:
Board of Pardons and Parole 546,400

UTAH DEPARTMENT OF CORRECTIONS

Item 7
To Utah Department of Corrections - Programs and Operations
From Beginning Nonlapsing
Balances 1,828,900
From Closing Nonlapsing
Balances ..... (2,000,000)
Schedule of Programs:
Adult Probation and Parole Administration ..... (98,700)
Adult Probation and Parole Programs ..... (1,139,200)
Department Administrative Services ..... (526,800)
Department Executive Director 2,282,300
Department Training 155,400
Prison Operations Administration ... 7,127,400
Prison Operations Central Utah/Gunnison ..... (3,650,200)
Prison Operations Inmate Placement ..... (17,600)
Re-entry and Rehabilitation Administration ..... (86,000)
Re-entry and Rehabilitation Post Secondary Education 10,100
Re-entry and Rehabilitation Re-Entry ..... (6,100)
Re-entry and Rehabilitation Treatment 686,500
Prison Operations Utah State Correctional Facility ..... (4,908,200)

Item 8
To Utah Department of Corrections - Department Medical Services
From Beginning Nonlapsing
Balances 479,300
Schedule of Programs:
Medical Services 479,300

Item 9
To Utah Department of Corrections - Jail Contracting
From Federal Funds,
One-time ..... (50,000)
From Beginning Nonlapsing
Balances 499,400
From Closing Nonlapsing
Balances ..... (500,000)
Schedule of Programs:
Jail Contracting ..... (50,600)

Item 10
To Utah Department of Corrections - County Correctional Facility Contracting Reserve
From Closing Nonlapsing
Balances ..... (2,000,000)
Schedule of Programs:
County Correctional Facility Contracting Reserve ..... (2,000,000)

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 11
To Judicial Council/State Court Administrator - Administration
From General Fund Restricted - DNA Specimen Account, One-time ..... (175,800)
From Beginning Nonlapsing
Balances 3,559,100
Schedule of Programs:
Administrative Office 3,225,000
Juvenile Courts 97,400
Law Library 60,900

Item 12
To Judicial Council/State Court Administrator - Contracts and Leases
From Beginning Nonlapsing
Balances 500,000
Schedule of Programs:
Contracts and Leases 500,000

Item 13
To Judicial Council/State Court Administrator - Guardian ad Litem
From Beginning Nonlapsing
Balances 465,400
Schedule of Programs:
Guardian ad Litem 465,400

Item 14
To Judicial Council/State Court Administrator - Jury and Witness Fees
From Beginning Nonlapsing
Balances 653,700
Schedule of Programs:
Jury, Witness, and Interpreter 653,700

GOVERNOR'S OFFICE

Item 15
To Governor's Office - CCJJ - Factual Innocence Payments
From Beginning Nonlapsing
Balances 900
From Closing Nonlapsing
Balances ..... (259,500)
Schedule of Programs:
Factual Innocence Payments ..... (258,600)

Item 16
To Governor's Office - CCJJ - Jail Reimbursement
From Beginning Nonlapsing
Balances 790,100
Schedule of Programs:

Jail Reimbursement 790,100

Item 17
To Governor's Office - Commission on Criminal and Juvenile Justice
From Beginning Nonlapsing Balances 4,287,000
Schedule of Programs:
CCJJ Commission 1,183,600
Extraditions 80,400
Judicial Performance Evaluation Commission 291,100
Law Enforcement Services Grants 12,400
Sentencing Commission 52,200
State Asset Forfeiture Grant Program 2,071,200
State Task Force Grants 347,000
Substance Use and Mental Health Advisory Council 10,000
Utah Office for Victims of Crime 239,100

Item 18
To Governor's Office
From Beginning Nonlapsing Balances 1,049,100
From Closing Nonlapsing Balances ..... (700,000)
Schedule of Programs:
Administration ..... (57,900)
Lt. Governor's Office 407,000

Item 19
To Governor's Office - Governors Office of Planning and Budget
From General Fund, One-time ..... (72,500)
From Beginning Nonlapsing Balances 810,600
From Closing Nonlapsing Balances ..... (500,000)
Schedule of Programs:
Administration 310,600
Budget, Policy, and Economic Analysis (72,500)

Item 20
To Governor's Office - Indigent Defense Commission
From Beginning Nonlapsing Balances 1,801,100
From Closing Nonlapsing Balances 121,400
Schedule of Programs:
Office of Indigent Defense Services .. 1,494,300
Indigent Appellate Defense Division ... 377,500
Child Welfare Parental Defense Program 50,700

Item 21
To Governor's Office - Colorado River Authority of Utah
From Beginning Nonlapsing Balances 6,596,400
From Closing Nonlapsing Balances ..... (8,147,800)
Schedule of Programs:
Colorado River Authority of Utah .. (1,551,400)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 22
To Department of Health and Human Services - Juvenile Justice & Youth Services
From Federal Funds, One-time ..... (1,005,200)
From Expendable Receipts, One-time ..... (22,800)
From Revenue Transfers, One-time 72,100
From Beginning Nonlapsing Balances 1,790,300
Schedule of Programs:
Juvenile Justice & Youth Services ... 1,539,900
Secure Care 303,100
Youth Services 38,100
Community Programs ..... (1,046,700)

OFFICE OF THE STATE AUDITOR

Item 23
To Office of the State Auditor - State Auditor
From Beginning Nonlapsing Balances 622,400
From Closing Nonlapsing Balances ..... (122,000)
Schedule of Programs:
State Auditor 326,900
State Privacy Officer 173,500

DEPARTMENT OF PUBLIC SAFETY

Item 24
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From Beginning Nonlapsing Balances 7,301,700
From Closing Nonlapsing Balances ..... (7,301,700)

Item 25
To Department of Public Safety - Driver License
From Beginning Nonlapsing Balances 1,235,800
From Closing Nonlapsing Balances ..... (1,139,700)
Schedule of Programs:
Driver Records ..... (1,080,600)
Driver Services 1,140,000
Motorcycle Safety 36,700

Item 26
To Department of Public Safety - Emergency Management
From General Fund Restricted - Response, Recovery, and Post-disaster Mitigation Restricted Account, One-time ..... (300,000)
From Beginning Nonlapsing Balances 10,065,700
From Closing Nonlapsing Balances ..... (5,065,700)
From Lapsing Balance 300,000
Schedule of Programs:
Emergency Management 5,000,000

Item 27
To Department of Public Safety - Highway Safety

From Other Financing Sources,
One-time ..... (8,400)
From Beginning Nonlapsing
Balances 935,900
From Closing Nonlapsing
Balances ..... (635,900)
Schedule of Programs:
Highway Safety 291,600

Item 28
To Department of Public Safety - Peace Officers' Standards and Training
From Beginning Nonlapsing
Balances 582,000
From Closing Nonlapsing
Balances ..... (341,400)
Schedule of Programs:
Basic Training 40,600
POST Administration 200,000

Item 29
To Department of Public Safety - Programs & Operations
From Federal Funds,
One-time ..... (1,345,500)
From Dedicated Credits Revenue,
One-time ..... (100,000)
From Expendable Receipts,
One-time ..... (1,000)
From General Fund Restricted - DNA Specimen Account, One-time ..... (1,000,000)
From Other Financing Sources,
One-time ..... (3,500)
From Beginning Nonlapsing
Balances 6,250,800
From Closing Nonlapsing
Balances ..... (5,235,800)
From Lapsing Balance 1,100,000
Schedule of Programs:
CITS Communications 200,000
CITS State Crime Labs ..... (1,242,300)
Department Commissioner's Office . (1,000,000)
Department Grants ..... (3,500)
Fire Marshal - Fire Operations 1,425,100
Highway Patrol - Federal/State Projects 386,700
Highway Patrol - Field Operations .... (1,000)
Information Management - Operations ..... (100,000)

Item 30
To Department of Public Safety - Bureau of Criminal Identification
From Other Financing Sources,
One-time ..... (6,500)
From Closing Nonlapsing
Balances 8,500
Schedule of Programs:
Non-Government/Other Services 2,000

STATE TREASURER

Item 31
To State Treasurer
From Beginning Nonlapsing
Balances 200,000
Schedule of Programs:
Treasury and Investment 50,000
Unclaimed Property 150,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 32
To Attorney General - Crime and Violence Prevention Fund
From Beginning Fund
Balance 423,900
From Closing Fund
Balance ..... (558,800)
Schedule of Programs:
Crime and Violence Prevention Fund ..... (134,900)

Item 33
To Attorney General - Litigation Fund
From Beginning Fund
Balance 969,600
From Closing Fund
Balance ..... (2,371,000)
Schedule of Programs:
Litigation Fund ..... (1,401,400)

GOVERNOR'S OFFICE

Item 34
To Governor's Office - Crime Victim Reparations Fund
From Beginning Fund
Balance 9,767,400
From Closing Fund
Balance ..... (9,767,400)

Item 35
To Governor's Office - Justice Assistance Grant Fund
From Beginning Fund
Balance 478,600
From Closing Fund
Balance ..... (478,600)

Item 36
To Governor's Office - State Elections Grant Fund
From Beginning Fund
Balance 851,900
From Closing Fund
Balance 100,000
Schedule of Programs:
State Elections Grant Fund 951,900

Item 37
To Governor's Office - IDC - Child Welfare Parental Defense Fund
From Beginning Fund
Balance 32,400
From Closing Fund
Balance ..... (32,400)

Item 38
To Governor's Office - Pretrial Release Programs Special Revenue Fund
From Beginning Fund

Balance 538,300
From Closing Fund
Balance 40,400
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 578,700

DEPARTMENT OF PUBLIC SAFETY

Item 39
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue, One-time 2,514,400
From Beginning Fund
Balance 4,278,300
From Closing Fund
Balance ..... (2,792,700)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 4,000,000

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

ATTORNEY GENERAL

Item 40
To Attorney General - ISF - Attorney General
From Beginning Fund
Balance 3,507,800
From Closing Fund
Balance ..... (4,143,600)
Schedule of Programs:
Civil Division ..... (615,300)
Child Protection Division 592,800
Criminal Division ..... (613,300)

UTAH DEPARTMENT OF CORRECTIONS

Item 41
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue, One-time ..... (8,452,800)
From Beginning Fund
Balance ..... (1,376,600)
From Closing Fund
Balance 1,981,100
Schedule of Programs:
Utah Correctional Industries ..... (7,848,300)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 42
To Employment Incentive Restricted Account
From Beginning Fund
Balance 1,500,000
From Closing Fund
Balance ..... (3,000,000)
Schedule of Programs:
Employment Incentive Restricted Account ..... (1,500,000)

Item 43
To Correctional Institution Clinical Services Transition Account
From General Fund, One-time ..... (4,600)
From Beginning Fund
Balance 2,823,400
Schedule of Programs:
Correctional Institution Clinical Services Transition Account 2,818,800

Item 44
To Emergency Medical Services System Account
From Beginning Fund
Balance 16,700
From Closing Fund
Balance ..... (16,700)

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

ATTORNEY GENERAL

Item 45
To Attorney General - Financial Crimes Trust Fund
From Beginning Fund
Balance 138,200
From Closing Fund
Balance ..... (138,200)

GOVERNOR'S OFFICE

Item 46
To Governor's Office - Indigent Inmate Trust Fund
From Beginning Fund
Balance 103,700
From Closing Fund
Balance ..... (103,700)

STATE TREASURER

Item 47
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds, One-time ..... (2,300)
From Beginning Fund
Balance 2,309,600
From Closing Fund
Balance ..... (657,300)
Schedule of Programs:
Utah Navajo Trust Fund 1,650,000

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of

Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 48
To Attorney General
From General Fund 31,643,400
From Income Tax Fund 148,500
From Federal Funds 4,439,000
From Dedicated Credits Revenue 1,024,900
From General Fund Restricted - Consumer Privacy Account 178,300
From General Fund Restricted - Tobacco Settlement Account 221,400
From Revenue Transfers 1,111,500
From Beginning Nonlapsing Balances 1,500,000
From Closing Nonlapsing Balances ..... (650,000)
Schedule of Programs:
Administration 8,640,500
Civil 10,059,600
Criminal Prosecution 20,916,900

Item 49
To Attorney General - Children's Justice Centers
From General Fund 4,724,900
From Federal Funds 461,000
From Dedicated Credits Revenue 110,400
From Expendable Receipts 194,600
From General Fund Restricted - Victim Services Restricted Account 3,200,000
From Revenue Transfers 218,000
From Beginning Nonlapsing Balances 6,133,400
From Closing Nonlapsing Balances ..... (4,066,700)
Schedule of Programs:
Children's Justice Centers 10,975,600

Item 50
To Attorney General - Contract Attorneys
From Revenue Transfers 1,500,000
From Beginning Nonlapsing Balances 5,742,200
From Closing Nonlapsing Balances ..... (5,742,200)
Schedule of Programs:
Contract Attorneys 1,500,000

Item 51
To Attorney General - Prosecution Council
From General Fund 969,700
From Federal Funds 38,700
From Dedicated Credits Revenue 82,200
From Revenue Transfers 1,040,400
Schedule of Programs:
Prosecution Council 2,131,000

BOARD OF PARDONS AND PAROLE

Item 52
To Board of Pardons and Parole
From General Fund 7,651,000
From Dedicated Credits Revenue 2,300
From Beginning Nonlapsing Balances 900,000
From Closing Nonlapsing Balances ..... (500,000)
Schedule of Programs:
Board of Pardons and Parole 8,053,300

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 53
To Judicial Council/State Court Administrator - Administration
From General Fund 147,222,100
From Federal Funds 740,900
From Dedicated Credits Revenue 3,848,000
From General Fund Restricted - Children's Legal Defense 482,200
From General Fund Restricted - Court Security Account 11,189,400
From General Fund Restricted - Court Trust Interest 265,000
From General Fund Restricted - Dispute Resolution Account 565,100
From General Fund Restricted - DNA Specimen Account 93,800
From General Fund Rest. - Justice Court Tech., Security & Training 1,687,100
From General Fund Restricted - Nonjudicial Adjustment Account 1,056,100
From General Fund Restricted - Online Court Assistance Account 237,300
From General Fund Restricted - State Court Complex Account 322,000
From General Fund Restricted - Tobacco Settlement Account 193,700
From Revenue Transfers 1,095,500
Schedule of Programs:
Administrative Office 6,689,900
Court of Appeals 5,303,600
Courts Security 11,189,400
Data Processing 10,417,100
District Courts 73,084,600
Grants Program 1,994,400
Judicial Education 882,700
Justice Courts 1,454,600
Juvenile Courts 52,452,300
Law Library 1,501,700
Supreme Court 4,027,900

Item 54
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund 17,118,500
From Dedicated Credits Revenue 262,000
From General Fund Restricted - State Court Complex Account 4,490,800
Schedule of Programs:
Contracts and Leases 21,871,300

Item 55
To Judicial Council/State Court Administrator - Grand Jury
From General Fund 800
Schedule of Programs:
Grand Jury 800

Item 56
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 9,548,300
From Dedicated Credits Revenue 69,900
From General Fund Restricted - Victim Services Restricted Account 214,000
From General Fund Restricted - Children's Legal Defense 516,600
From General Fund Restricted - Guardian Ad Litem Services 110,500
From Revenue Transfers 10,000
Schedule of Programs:
Guardian ad Litem 10,469,300

Item 57
To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund 2,604,900
From Dedicated Credits Revenue 10,000
Schedule of Programs:
Jury, Witness, and Interpreter 2,614,900

GOVERNOR'S OFFICE

Item 58
To Governor's Office - CCJJ - Factual Innocence Payments
From Beginning Nonlapsing Balances 259,600
Schedule of Programs:
Factual Innocence Payments 259,600

Item 59
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 11,561,800
From Federal Funds 27,397,900
From Dedicated Credits Revenue 110,500
From General Fund Restricted - Victim Services Restricted Account 5,200,000
From Crime Victim Reparations Fund 921,700
From General Fund Restricted - Criminal Forfeiture Restricted Account 1,358,600
Schedule of Programs:
CCJJ Commission 11,927,800
Extraditions 428,500
Judicial Performance Evaluation Commission 633,500
Sentencing Commission 175,900
State Asset Forfeiture Grant Program 1,358,600
State Task Force Grants 1,360,200
Substance Use and Mental Health Advisory Council 237,900
Utah Office for Victims of Crime ... 29,878,100
Utah Victim Services Commission 550,000

Item 60
To Governor's Office - Emergency Fund
From General Fund Restricted - State Disaster Recovery Restr Acct 500,000
Schedule of Programs:
Governor's Emergency Fund 500,000

Item 61
To Governor's Office
From General Fund 9,563,100
From Dedicated Credits Revenue 2,027,900
From Expendable Receipts 15,200
From Beginning Nonlapsing Balances 700,000
Schedule of Programs:
Administration 5,630,800
Governor's Residence 523,500
Lt. Governor's Office 5,828,300
Washington Funding 323,600

Item 62
To Governor's Office - Governors Office of Planning and Budget
From General Fund 9,170,400
From Dedicated Credits Revenue 26,500
From Beginning Nonlapsing Balances 1,000,000
Schedule of Programs:
Administration 2,311,200
Management and Special Projects ... 1,300,400
Budget, Policy, and Economic Analysis 2,318,100
Planning Coordination 4,267,200

Item 63
To Governor's Office - Indigent Defense Commission
From General Fund 424,200
From Expendable Receipts 306,100
From General Fund Restricted - Indigent Defense Resources 9,662,100
From Revenue Transfers 336,600
Schedule of Programs:
Office of Indigent Defense Services .. 8,528,000
Indigent Appellate Defense Division . 1,926,800
Child Welfare Parental Defense Program 274,200

Item 64
To Governor's Office - Suicide Prevention
From General Fund 100,000
Schedule of Programs:
Suicide Prevention 100,000

Item 65
To Governor's Office - Colorado River Authority of Utah
From Expendable Receipts 156,300
From General Fund Restricted - Colorado River Authority of Utah Restricted Account 1,605,000
From Beginning Nonlapsing Balances 16,533,600
From Closing Nonlapsing Balances ..... (10,837,100)

Schedule of Programs:
Colorado River Authority of Utah ... 7,457,800

OFFICE OF THE STATE AUDITOR

Item 66
To Office of the State Auditor - State Auditor
From General Fund 4,564,000
From Dedicated Credits
Revenue 3,909,700
From Beginning Nonlapsing
Balances 122,000
From Closing Nonlapsing
Balances ..... (93,000)
Schedule of Programs:
State Auditor 8,118,800
State Privacy Officer 383,900

DEPARTMENT OF PUBLIC SAFETY

Item 67
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management
From Expendable
Receipts 10,000,000
From Beginning Nonlapsing
Balances 14,419,200
From Closing Nonlapsing
Balances ..... (14,419,200)
Schedule of Programs:
Emergency and Disaster
Management 10,000,000

Item 68
To Department of Public Safety - Driver License
From Federal Funds 204,600
From Dedicated Credits
Revenue 28,900
From Department of Public Safety Restricted Account 36,437,300
From Public Safety Motorcycle Education Fund . 512,400
From Uninsured Motorist Identification Restricted Account 2,500,000
From Pass-through 64,900
From Beginning Nonlapsing
Balances 8,186,200
From Closing Nonlapsing
Balances ..... (5,431,100)
Schedule of Programs:
DL Federal Grants 204,600
Driver License Administration 3,133,600
Driver Records 11,766,000
Driver Services 24,212,000
Motorcycle Safety 514,300
Uninsured Motorist 2,672,700

Item 69
To Department of Public Safety - Emergency Management
From General Fund 2,628,400
From Federal Funds 137,892,200
From Dedicated Credits
Revenue 749,700
From Expendable
Receipts 75,000
From General Fund Restricted - State Disaster Recovery Restr Acct 750,000
From Beginning Nonlapsing
Balances 6,290,000
From Closing Nonlapsing
Balances ..... (2,290,000)
Schedule of Programs:
Emergency Management 146,095,300

Item 70
To Department of Public Safety - Emergency Management - National Guard Response
From Beginning Nonlapsing
Balances 150,000
From Closing Nonlapsing
Balances ..... (150,000)

Item 71
To Department of Public Safety - Highway Safety
From Federal Funds 7,741,800
From Dedicated Credits
Revenue 42,300
From Department of Public Safety Restricted Account 1,324,400
From Public Safety Motorcycle Education Fund . 59,800
From Revenue Transfers 808,700
From Beginning Nonlapsing
Balances 635,900
Schedule of Programs:
Highway Safety 10,612,900

Item 72
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 4,172,100
From Dedicated Credits
Revenue 67,300
From Uninsured Motorist Identification Restricted Account 1,500,000
From Beginning Nonlapsing
Balances 341,400
Schedule of Programs:
Basic Training 2,704,300
POST Administration 2,279,100
Regional/Inservice Training 1,097,400

Item 73
To Department of Public Safety - Programs & Operations
From General Fund 146,385,800
From Income Tax Fund 46,000
From Transportation
Fund 5,495,500
From Federal Funds 3,872,100
From Dedicated Credits
Revenue 14,653,000
From Expendable
Receipts 303,400
From General Fund Restricted - Victim Services Restricted Account 186,000
From Department of Public Safety Restricted Account 4,429,700
From General Fund Restricted - DNA Specimen Account 533,200
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 1,180,000
From General Fund Restricted - Emergency Medical Services System
Account 2,042,500
From General Fund Restricted - Fire Academy Support 3,814,200

From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 3,004,500
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 84,600
From Revenue Transfers 2,080,200
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 232,500
From Pass-through 15,100
From Beginning Nonlapsing Balances 9,222,900
From Closing Nonlapsing Balances ..... (1,404,800)
Schedule of Programs:
Aero Bureau 2,334,600
CITS Administration 634,700
CITS Communications 17,313,600
CITS State Bureau of Investigation . 12,313,000
CITS State Crime Labs 11,454,000
Department Commissioner's Office . 12,611,100
Department Fleet Management 525,500
Department Grants 5,911,900
Department Intelligence Center 3,553,000
Fire Marshal - Fire Fighter Training .. 566,000
Fire Marshal - Fire Operations 3,934,700
Highway Patrol - Administration ... 1,567,500
Highway Patrol - Commercial Vehicle 5,313,000
Highway Patrol - Federal/State Projects 4,233,900
Highway Patrol - Field Operations . 79,166,800
Highway Patrol - Protective Services 9,747,400
Highway Patrol - Safety Inspections . 1,190,800
Highway Patrol - Special Enforcement 4,022,600
Highway Patrol - Special Services ... 8,431,400
Highway Patrol - Technology Services 1,855,200
Information Management - Operations 887,700
Emergency Medical Services 8,608,000

Item 74
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 4,026,900
From Income Tax Fund 23,700
From Dedicated Credits Revenue 6,570,600
From General Fund Restricted - Concealed Weapons Account 4,626,200
From Revenue Transfers 700,000
From Beginning Nonlapsing Balances 4,000,000
From Closing Nonlapsing Balances ..... (4,000,000)
Schedule of Programs:
Law Enforcement/Criminal Justice Services 3,770,400
Non-Government/Other Services ... 12,177,000

STATE TREASURER

Item 75
To State Treasurer
From General Fund 1,274,900
From Dedicated Credits Revenue 1,425,500
From Land Trusts Protection and Advocacy Account 540,800
From Unclaimed Property Trust 2,281,300
Schedule of Programs:
Advocacy Office 540,800
Money Management Council 127,600
Treasury and Investment 2,580,400
Unclaimed Property 2,273,700

UTAH COMMUNICATIONS AUTHORITY

Item 76
To Utah Communications Authority - Administrative Services Division
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 10,000,000
From General Fund Restricted - Utah Statewide Radio System Acct. 22,000,000
Schedule of Programs:
911 Division 10,000,000
Administrative Services Division ... 22,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 77
To Attorney General - Crime and Violence Prevention Fund
From Dedicated Credits Revenue 250,000
From Beginning Fund Balance 661,200
From Closing Fund Balance ..... (796,100)
Schedule of Programs:
Crime and Violence Prevention Fund 115,100

Item 78
To Attorney General - Litigation Fund
From Dedicated Credits Revenue 2,016,100
From Beginning Fund Balance 3,221,000
From Closing Fund Balance ..... (3,707,100)
Schedule of Programs:
Litigation Fund 1,530,000

GOVERNOR'S OFFICE

Item 79
To Governor's Office - Crime Victim Reparations Fund
From General Fund 3,769,400
From Federal Funds 2,500,000
From Dedicated Credits Revenue 2,731,900
From Interest Income 82,000
From Crime Victim Reparations Fund 50,000
From Beginning Fund Balance 9,767,400

From Closing Fund
Balance ..... (8,695,800)
Schedule of Programs:
Crime Victim Reparations Fund 10,204,900

Item 80
To Governor's Office - Justice Assistance Grant Fund
From Beginning Fund
Balance 9,854,800
From Closing Fund
Balance ..... (9,854,800)

Item 81
To Governor's Office - State Elections Grant Fund
From General Fund 500,000
From Federal Funds 4,818,400
From Interest Income 5,500
From Beginning Fund
Balance 500,000
From Closing Fund
Balance ..... (500,000)
Schedule of Programs:
State Elections Grant Fund 5,323,900

Item 82
To Governor's Office - Municipal Incorporation Expendable Special Revenue Fund
From Dedicated Credits
Revenue 18,000
From Beginning Fund
Balance 35,900
From Closing Fund
Balance ..... (35,900)
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 18,000

Item 83
To Governor's Office - IDC - Child Welfare Parental Defense Fund
From General Fund 6,500
From Interest Income 1,000
From Beginning Fund
Balance 47,900
From Closing Fund
Balance ..... (47,900)
Schedule of Programs:
Child Welfare Parental Defense Fund 7,500

Item 84
To Governor's Office - Pretrial Release Programs Special Revenue Fund
From Dedicated Credits
Revenue 301,400
From Beginning Fund
Balance 198,400
From Closing Fund
Balance ..... (198,400)
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 301,400

DEPARTMENT OF PUBLIC SAFETY

Item 85
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From General Fund 77,500
From Dedicated Credits
Revenue 6,400,000
From Beginning Fund
Balance 6,339,900
From Closing Fund
Balance ..... (5,453,800)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 7,363,600

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ATTORNEY GENERAL

Item 86
To Attorney General - ISF - Attorney General
From Dedicated Credits
Revenue 67,655,900
From Beginning Fund
Balance 9,232,400
From Closing Fund
Balance ..... (9,091,200)
Schedule of Programs:
Civil Division 41,729,600
Child Protection Division 13,481,300
Criminal Division 12,586,200
Budgeted FTE 323.0

DEPARTMENT OF PUBLIC SAFETY

Item 87
To Department of Public Safety - Local Government Emergency Response Loan Fund
From Beginning Fund
Balance 7,127,900
From Closing Fund
Balance ..... (7,127,900)

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 88
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 9,538,000
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 9,538,000

Item 89
To Colorado River Authority of Utah Restricted Account
From General Fund 1,562,600
Schedule of Programs:
Colorado River Authority Restricted

Account 1,562,600

Item 90
To Victim Services Restricted Account
From General Fund 12,000,000
Schedule of Programs:
Victim Services Restricted Account . 12,000,000

Item 91
To General Fund Restricted - DNA Specimen Account
From General Fund 216,000
Schedule of Programs:
General Fund Restricted - DNA Specimen Account 216,000

Item 92
To Emergency Medical Services System Account
From General Fund 2,000,000
From Beginning Fund Balance 16,700
From Closing Fund Balance ..... (16,700)
Schedule of Programs:
Emergency Medical Services System Account 2,000,000

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

ATTORNEY GENERAL

Item 93
To Attorney General - Financial Crimes Trust Fund
From Trust and Agency Funds 1,225,000
From Beginning Fund Balance 139,200
From Closing Fund Balance ..... (139,200)
Schedule of Programs:
Financial Crimes Trust Fund 1,225,000

GOVERNOR'S OFFICE

Item 94
To Governor's Office - Indigent Inmate Trust Fund
From Dedicated Credits Revenue 25,300
From Beginning Fund Balance 594,800
From Closing Fund Balance ..... (532,100)
Schedule of Programs:
Indigent Inmate Trust Fund 88,000

STATE TREASURER

Item 95
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds 4,796,400
From Beginning Fund Balance 88,640,300
From Closing Fund Balance ..... (89,232,900)
Schedule of Programs:
Utah Navajo Trust Fund 4,203,800

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UTAH DEPARTMENT OF CORRECTIONS

Item 96
To Utah Department of Corrections - Programs and Operations
From General Fund 373,748,500
From Income Tax Fund 49,000
From Dedicated Credits Revenue 3,747,800
From G.F.R. - Interstate Compact for Adult Offender Supervision 29,600
From General Fund Restricted - Prison Telephone Surcharge Account 1,800,000
From Revenue Transfers 7,500
From Beginning Nonlapsing Balances 2,000,000
From Closing Nonlapsing Balances ..... (2,000,000)
Schedule of Programs:
Adult Probation and Parole Administration 4,690,400
Adult Probation and Parole Programs 106,278,000
Department Administrative Services 16,879,400
Department Executive Director 11,486,100
Department Training 4,336,200
Prison Operations Administration .. 20,078,000
Prison Operations Central Utah/Gunnison 59,313,000
Prison Operations Inmate Placement 4,411,900
Re-entry and Rehabilitation Administration 1,247,000
Re-entry and Rehabilitation Post Secondary Education 2,201,700
Re-entry and Rehabilitation Re-Entry 15,248,200
Re-entry and Rehabilitation Treatment 14,906,900
Prison Operations Utah State Correctional Facility 118,305,600

Item 97
To Utah Department of Corrections - Department Medical Services
From General Fund 50,398,700
Schedule of Programs:
Medical Services 50,398,700

Item 98
To Utah Department of Corrections - Jail Contracting

From General Fund 49,263,800
From Beginning Nonlapsing
Balances 500,000
From Closing Nonlapsing
Balances ..... (500,000)
Schedule of Programs:
Jail Contracting 49,263,800

Item 99
To Utah Department of Corrections - County Correctional Facility Contracting Reserve
From Beginning Nonlapsing
Balances 2,000,000
From Closing Nonlapsing
Balances ..... (2,000,000)

GOVERNOR'S OFFICE

Item 100
To Governor's Office - CCJJ - Jail Reimbursement
From General Fund 11,779,100
Schedule of Programs:
Jail Reimbursement 11,779,100

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 101
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund 102,499,700
From Federal Funds 1,947,300
From Dedicated Credits
Revenue 563,100
From Expendable
Receipts 9,700
From General Fund Restricted - Juvenile Justice Reinvestment Account 1,322,500
From Revenue Transfers .... (862,800)
Schedule of Programs:
Juvenile Justice & Youth Services .. 17,553,700
Secure Care 23,771,000
Youth Services 40,818,000
Community Programs 23,336,800

Subsection 3(b). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

UTAH DEPARTMENT OF CORRECTIONS

Item 102
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits
Revenue 20,000,000
From Beginning Fund
Balance 5,981,600
From Closing Fund
Balance ..... (5,890,400)
Schedule of Programs:
Utah Correctional Industries 20,091,200

Subsection 3(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 103
To Employment Incentive Restricted Account
From General Fund 1,500,000
From Beginning Fund
Balance 3,000,000
From Closing Fund
Balance ..... (4,500,000)

Section 4. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 10
H. B. 7
Passed January 25, 2024
Approved January 31, 2024
Effective July 1, 2024

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($135,801,700) in operating and capital budgets for fiscal year 2024, including:

- ($95,092,300) from the General Fund; and
- ($40,709,400) from various sources as detailed in this bill.

This bill appropriates ($1,156,400) in expendable funds and accounts for fiscal year 2024.

This bill appropriates $7,424,500 in business-like activities for fiscal year 2024.

This bill appropriates $26,565,400 in restricted fund and account transfers for fiscal year 2024, including:

- ($59,434,400) from the General Fund; and
- $85,999,800 from various sources as detailed in this bill.

This bill appropriates ($2,040,500) in fiduciary funds for fiscal year 2024.

This bill appropriates $9,252,147,700 in operating and capital budgets for fiscal year 2025, including:

- $1,445,715,800 from the General Fund;
- $7,174,100 from the Income Tax Fund; and
- $7,799,257,800 from various sources as detailed in this bill.

This bill appropriates $36,948,600 in expendable funds and accounts for fiscal year 2025, including:

- $10,292,900 from the General Fund; and
- $26,655,700 from various sources as detailed in this bill.

This bill appropriates $258,008,400 in business-like activities for fiscal year 2025.

This bill appropriates $298,867,400 in restricted fund and account transfers for fiscal year 2025, including:

- $40,570,500 from the General Fund;
- $870,800 from the Income Tax Fund; and
- $257,426,100 from various sources as detailed in this bill.

This bill appropriates $221,493,900 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

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

DEPARTMENT OF WORKFORCE SERVICES

Item 1

To Department of Workforce Services - Housing and Community Development
From Federal Funds - American Rescue Plan, One-time 2,000,000
Schedule of Programs:
Community Services 2,000,000

The Legislature intends that $2,000,000 one-time from Federal Funds American Rescue Plan Act provided by this item be used for Washington County Food Bank. The Legislature further intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 2

To Department of Workforce Services - State Office of Rehabilitation
From Beginning Nonlapsing Balances ..... (927,400)
From Closing Nonlapsing Balances 500,000
Schedule of Programs:
Executive Director ..... (427,400)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 3

To Department of Health and Human Services - Operations
From Federal Funds,
One-time ..... (4,112,700)
From Dedicated Credits Revenue,
One-time ..... (26,500)
From Revenue Transfers,
One-time ..... (3,842,700)
From Beginning Nonlapsing Balances ..... (405,600)
From Closing Nonlapsing Balances ..... (8,361,200)
Schedule of Programs:
Executive Director Office ..... (6,362,700)
Ancillary Services 650,400
Finance & Administration ..... (1,619,800)
Data, Systems, & Evaluations ..... (6,663,700)
Public Affairs, Education & Outreach (424,500)
American Indian / Alaska Native .... (138,300)
Continuous Quality Improvement .. (2,103,800)
Customer Experience ..... (86,300)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Operations line item, whose mission is "ensure all Utahns have fair and equitable opportunities to live safe and healthy lives." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Number of DHHS audit recommendations unresolved after one year (Target = 5), 2) Percent of strategic objectives that are due and completed per fiscal year (Target = 80%), and 3) Percent of key data systems that are modernized, optimized, and integrated by 2026 (American Rescue Plan Act project tracking) (Target = % of checklist items completed).

Item 4

To Department of Health and Human Services - Clinical Services
From Federal Funds,
One-time ..... (17,477,100)
From Dedicated Credits Revenue,
One-time ..... (3,169,100)
From Expendable Receipts,
One-time ..... (62,500)
From Revenue Transfers,
One-time ..... (200,000)
From Beginning Nonlapsing Balances 9,519,400
From Closing Nonlapsing Balances ..... (1,447,200)
Schedule of Programs:
Medical Examiner 700,000
State Laboratory ..... (18,883,600)
Primary Care and Rural Health 1,000,000
Health Clinics of Utah ..... (1,212,600)
Medical Education Council 509,700
Medical Residency Grant Program ... 4,500,000
Forensic Psychiatry Grant Program ... 550,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Clinical Services line item, whose mission is to "improve access to physical, mental, and oral healthcare services for underserved populations; work to overcome critical healthcare provider shortages; provide safe and timely access to medical cannabis; and reduce health disparities and advance health equity in Utah". The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024. For FY 2025, the department shall report the following performance measures: 1) Percent of operational units or offices that increase their activity score after participating in the Building Organizational Capacity (BOCA) project (Target = 100%), 2) Percentage of turnaround times standards met (Target = 90%), and 3) Percentage of autopsy reports completed within 60 days (Target = At least 90%).

Item 5

To Department of Health and Human Services - Department Oversight
From Federal Funds,
One-time ..... (170,300)
From Dedicated Credits Revenue,
One-time ..... (235,600)
From Revenue Transfers,
One-time ..... (33,900)
From Beginning Nonlapsing Balances 400,400
From Closing Nonlapsing Balances ..... (727,600)
Schedule of Programs:
Licensing & Background Checks .... (602,800)
Internal Audit ..... (14,500)
Admin Hearings ..... (82,500)
Utah Developmental Disabilities Council ..... (67,200)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Department Oversight line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024,

the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Rate of provider compliance with licensing rules (Target = Improve by 5% from baseline with baseline being developed) and 2) Number of days between criminal record released and staff determination (Target = Within 5 working days of the release of a criminal record).

Item 6

To Department of Health and Human Services - Health Care Administration
From Federal Funds,
One-time ..... (53,781,500)
From Ambulance Service Provider Assess Exp Rev Fund, One-time ..... (600)
From Revenue Transfers,
One-time ..... (2,198,300)
From Beginning Nonlapsing Balances 12,182,300
From Closing Nonlapsing Balances ..... (600,000)
Schedule of Programs:
Integrated Health Care Administration ..... (54,071,900)
Long-Term Services and Supports Administration 212,500
Provider Reimbursement Information System for Medicaid 9,461,300

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by June 1, 2024 on options to implement a quality-based auto-assignment of Medicaid managed care clients who do not select a health plan.

The Legislature intends that the Office of Inspector General report by June 1, 2024 to the Social Services Appropriations Subcommittee on results of its analysis of provider preventable conditions reports.

The Legislature intends that the Departments of Workforce Services and Health and Human Services report on recommendations as well as potential costs and benefits of expanding automation of Medicaid eligibility reviews by June 1, 2024 to the Social Services Appropriations Subcommittee. The report shall include lessons learned from the automation efforts for ex-parte renewals.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by June 1, 2024 on the feasibility of primary care health homes focusing on Advancing Care for Exceptional (ACE) kids in Medicaid.

Item 7

To Department of Health and Human Services - Integrated Health Care Services
From General Fund,
One-time ..... (94,092,300)
From Federal Funds,
One-time ..... (83,870,000)
From Federal Funds - Enhanced FMAP, One-time 21,000,000
From Federal Funds - American Rescue Plan, One-time 665,000
From Expendable Receipts,
One-time 163,300
From General Fund Restricted - Medicaid Restricted Account,
One-time 77,500,000
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account,
One-time 2,800,000
From Beginning Nonlapsing Balances 50,892,200
Schedule of Programs:
Children's Health Insurance Program Services ..... (25,247,300)
Medicaid Accountable Care Organizations ..... (43,339,500)
Medicaid Behavioral Health Services .. 163,300
Medicaid Other Services 49,941,200
Non-Medicaid Behavioral Health Treatment and Crisis Response ..... (9,246,200)
State Hospital 2,786,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Integrated Health Care Services line item, whose mission is "provide access to quality, cost-effective health care for eligible Utahns." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024. For FY 2025, the department shall report the following performance measures: 1) Percent of Medicaid adults and adolescents with major depressive episodes who receive treatment (Target = Improve from baseline with the baseline being developed), 2) Annual State General Funds Saved Through Preferred Drug List (Target => $20 million), 3) Percent of Medicaid members who promptly receive outpatient treatment after visiting a hospital for mental health issues (Target = National average [for 2020 this was 59%]), 4) Rates of Utahns dying of drug-related causes (Target = Decrease rates of Utah drug deaths by 1 per 100,000 in each year from 2022 through 2027), 5) Percentage of youth clients with improved symptoms, or recovered, as measured by the Youth Outcome questionnaires (Target = 50%), 6) Percentage of adult clients with improved symptoms, or recovered, as measured by the Adult Mental Health Outcome (45% of adults), 7) Utah State Hospital (USH) patients have successful clinical outcomes and are discharged to lower levels of service when appropriate (Target = Delayed Adult Civil bed days will be reduced by 5 percent), 8) Percentage of Individuals Who Transitioned

from intermediate care facilities to community-based services (Target = No less than 10% of individuals residing in intermediate care facilities will transition to home and community based services on an annual basis), 9) Percent of Medicaid adult members that receive services from an integrated health plan or other integrated model (Target = 40%), and 10) Percent of clean claims adjudicated by Provider Reimbursement Information System for Medicaid within 30 days of submission (Target = 90%).

The Legislature intends that $665,000 one-time from the American Rescue Plan Act provided by this item be used for Cherish the Families Support Services in Hildale. The Legislature further intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Department of Health and Human Services may use up to a combined maximum of $77,500,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Integrated Health Care Services only in the case that non-federal fund appropriations provided for FY 2024 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2024 when combined with federal matching funds.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $15,600,000 General Fund Restricted - Medicaid Restricted Account provided in this line item for the Department of Health and Human Services Integrated Health Care Services line item shall not lapse at the close of FY 2024. The use of any nonlapsing funding is limited to ultra-high cost drugs carved out of Medicaid managed care that cost more than $1.0 million each annually.

Item 8

To Department of Health and Human Services - Long-Term Services & Support
From Federal Funds,
One-time ..... (2,823,300)
From Dedicated Credits Revenue,
One-time ..... (527,200)
From Expendable Receipts,
One-time ..... (100)
From Beginning Nonlapsing
Balances 15,172,800
Schedule of Programs:
Aging & Adult Services ..... (325,500)
Adult Protective Services 270,200
Office of Public Guardian 30,900
Services for People with
Disabilities ..... (19,558,600)
Community Supports Waiver
Services 26,844,400
Utah State Developmental Center ... 4,560,800

Item 9

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From Beginning Nonlapsing
Balances 1,251,200
Schedule of Programs:
Communicable Disease 234,000
Health Promotion and Prevention 630,300
Emergency Medical Services and
Preparedness ..... (509,100)
Local Health Departments 25,000
Population Health 871,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Public Health, Prevention, and Epidemiology line item, whose mission is "prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024. For FY 2025, the department shall report the following performance measures: 1) Decreasing the number and percentage of Utahns who experience a preventable illness or injury of public health concern (Target = Improve from baseline with the baseline being developed), 2) Decrease the percent of Utah Adults who report fair or poor general health in very high Health Improvement Index areas (Target = Decrease by 1% annually), 3) Proportion of state, federal, and private funding allocated to essential public health services (Target = Increase in state investment into essential public health services), and 4) Percentage of rules, disease plans, and response plans that are current (Target = 95%).

Item 10

To Department of Health and Human Services - Children, Youth, & Families
From General Fund,
One-time ..... (1,000,000)
From Federal Funds,
One-time ..... (32,846,400)
From Dedicated Credits Revenue,
One-time ..... (1,961,900)
From Expendable Receipts,
One-time ..... (278,400)
From Expendable Receipts - Rebates,
One-time ..... (885,800)
From Revenue Transfers,
One-time ..... (7,120,000)

From Beginning Nonlapsing Balances 1,595,300
From Closing Nonlapsing Balances ..... (3,714,500)
Schedule of Programs:
Child & Family Services ..... (1,384,200)
Domestic Violence 1,000,000
Out- of- Home Services ..... (8,218,800)
Adoption Assistance ..... (51,700)
Child Abuse Prevention and Facility Services ..... (1,176,600)
Children with Special Healthcare Needs ..... (28,054,200)
Maternal & Child Health ..... (24,681,700)
Family Health ..... (8,571,700)
Office of Coordinated Care and Regional Supports 1,753,300
DCFS Selected Programs ..... (122,100)
Office of Early Childhood 23,296,000

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Health and Human Services report performance measures for the Child, Youth, & Families line item, whose mission is "to keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percent of children who demonstrated improvement in social- emotional skills, including social relationships. (Target = At least 56%); 2) Percent of children confirmed as victims of abuse or neglect who experienced repeat maltreatment within 12 months (Target = 9.7% or less); 3) Number and percent of reunification (Reunification is the process of returning children in temporary out- of- home care to their families of origin) (Target = 2% increase over the FY21 rate); 4) Case worker turnover rate (Target = 22.4% reduction in turnover); 5) Average number of case workers per case (may include more than 1 child) (Target = 5% decrease over the FY22 rate); and 6) Average number of placements (including foster families) per child (Target = 4.48 moves per 1,000 days).

Item 11
To Department of Health and Human Services - Office of Recovery Services
From Federal Funds, One- time ..... (121,000)
From Dedicated Credits Revenue, One- time ..... (1,282,400)
From Expendable Receipts, One- time ..... (2,880,400)
From Revenue Transfers, One- time ..... (260,100)
Schedule of Programs:
Recovery Services 3,305,800
Child Support Services ..... (5,976,900)
Children in Care Collections ..... (1,065,100)
Attorney General Contract ..... (688,100)
Medical Collections ..... (119,600)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 12
To Department of Workforce Services - Intermountain Weatherization Training Fund
From Dedicated Credits Revenue, One- time ..... (69,800)
From Lapsing Balance 69,800

Item 13
To Department of Workforce Services - Utah Community Center for the Deaf Fund

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Workforce Services report performance measures for the Utah Community Center for the Deaf Fund, whose mission is to "provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Increase the number of individuals accessing interpreter certification exams in Southern Utah (Target=25).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 14
To Department of Health and Human Services - Allyson Gamble Organ Donation Contribution Fund
From Beginning Fund Balance 284,300
From Closing Fund Balance ..... (426,700)
Schedule of Programs:
Allyson Gamble Organ Donation Contribution Fund ..... (142,400)

Item 15
To Department of Health and Human Services - Neuro- Rehabilitation Fund

From Beginning Fund
Balance 384,200
From Closing Fund
Balance ..... (1,170,500)
Schedule of Programs:
Neuro- Rehabilitation Fund ..... (786,300)

Item 16
To Department of Health and Human Services - Brain Injury Fund
From Beginning Fund
Balance ..... (93,200)
From Closing Fund
Balance ..... (134,500)
Schedule of Programs:
Brain Injury Fund ..... (227,700)

Item 17
To Department of Health and Human Services - Maurice N. Warshaw Trust Fund
From Beginning Fund
Balance 5,200
From Closing Fund
Balance ..... (5,200)

Item 18
To Department of Health and Human Services - Out and About Homebound Transportation Assistance Fund
From Beginning Fund
Balance 66,400
From Closing Fund
Balance ..... (66,400)

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Health and Human Services report performance measures for the Out and About Homebound Transportation Assistance Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 19
To Department of Health and Human Services - Utah State Developmental Center Long- Term Sustainability Fund
From Beginning Fund
Balance 1,963,600
From Closing Fund
Balance ..... (1,963,600)

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Health and Human Services report performance measures for the Utah State Developmental Center Long- Term Sustainability Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 20
To Department of Health and Human Services - Utah State Developmental Center Miscellaneous Donation Fund
From Beginning Fund
Balance ..... (573,300)
From Closing Fund
Balance 573,300

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Health and Human Services report performance measures for the Utah State Developmental Center Miscellaneous Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 21
To Department of Health and Human Services - Utah State Developmental Center Workshop Fund
From Beginning Fund
Balance ..... (16,200)
From Closing Fund
Balance 16,200

Item 22
To Department of Health and Human Services - Utah State Hospital Unit Fund
From Beginning Fund
Balance ..... (245,200)
From Closing Fund
Balance 245,200

Item 23
To Department of Health and Human Services - Mental Health Services Donation Fund
From Beginning Fund
Balance 109,800
From Closing Fund
Balance ..... (109,800)

In accordance with UCA 63J- 1- 903, the Legislature intends that the Department of Health and Human Services report performance measures for the Mental Health Services Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance

with statute, federal regulations, and other requirements (Target = 1).

Item 24
To Department of Health and Human Services - Suicide Prevention and Education Fund
From Beginning Fund
Balance 212,600
From Closing Fund
Balance ..... (212,600)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Suicide Prevention and Education Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 25
To Department of Health and Human Services - Pediatric Neuro-Rehabilitation Fund
From Beginning Fund
Balance 39,900
From Closing Fund
Balance ..... (39,900)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Pediatric Neuro-Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Percentage of children that had an increase in functional activity (Target = 70%).

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 26
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue,
One-time 2,305,400
From Revenue Transfers,
One-time 1,422,600
From Beginning Fund
Balance 5,838,900
From Closing Fund
Balance ..... (2,142,400)
Schedule of Programs:
Qualified Patient Enterprise Fund .. 7,424,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Center for Medical Cannabis, whose mission is to "provide safe and timely access to medical cannabis." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) Audit compliance rate of recommending medical providers, medical cannabis cardholders, and pharmacy medical providers (Target = 95%).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 27
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue,
One-time ..... (1,898,900)
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund ..... (1,898,900)

Item 28
To Hospital Provider Assessment Fund
From Dedicated Credits Revenue,
One-time 57,211,300
Schedule of Programs:
Hospital Provider Assessment Expendable Special Revenue Fund 57,211,300

Item 29
To Medicaid Expansion Fund
From General Fund,
One-time ..... (59,434,400)
From Expendable Receipts,
One-time ..... (61,900)
From Revenue Transfers,

One-time 3,074,300
From Beginning Fund
Balance 23,489,700
From Closing Fund
Balance 7,512,100
Schedule of Programs:
Medicaid Expansion Fund ..... (25,420,200)

Item 30
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue,
One-time ..... (3,968,600)
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund ..... (3,968,600)

Item 31
To General Fund Restricted - Medicaid Restricted Account
From Beginning Fund
Balance 59,661,400
From Closing Fund
Balance ..... (59,661,400)

Item 32
To Adult Autism Treatment Account
From Beginning Fund
Balance 641,800
Schedule of Programs:
Adult Autism Treatment Account 641,800

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 33
To Department of Health and Human Services - Human Services Client Trust Fund
From Beginning Fund
Balance ..... (136,700)
From Closing Fund
Balance ..... (1,903,800)
Schedule of Programs:
Human Services Client Trust Fund ..... (2,040,500)

Item 34
To Department of Health and Human Services - Human Services ORS Support Collections
From Beginning Fund
Balance 2,203,700
From Closing Fund
Balance ..... (2,203,700)

Item 35
To Department of Health and Human Services - Utah State Developmental Center Patient Account
From Beginning Fund
Balance ..... (112,100)
From Closing Fund
Balance 112,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report the final status of performance measures established in FY 2024 appropriations bills for the Utah State Developmental Center Patient Account line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Health and Human Services shall report on the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 36
To Department of Health and Human Services - Utah State Hospital Patient Trust Fund
From Beginning Fund
Balance 193,100
From Closing Fund
Balance ..... (193,100)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF WORKFORCE SERVICES

Item 37
To Department of Workforce Services - Administration
From General Fund 4,848,900
From Federal Funds 10,712,900
From Dedicated Credits Revenue 123,600
From Expendable Receipts 121,800
From Education Savings Incentive Restricted Account 870,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 23,000
From Housing Opportunities for Low Income Households 5,100
From Medicaid Expansion Fund 1,200
From Navajo Revitalization Fund 11,700
From Olene Walker Housing Loan Fund 25,500
From OWHT-Fed Home 5,100
From OWHTF-Low Income Housing 21,600
From Permanent Community Impact Loan Fund 96,100
From Permanent Community Impact Bonus Fund 68,400
From Qualified Emergency Food Agencies Fund 4,200

From General Fund Restricted - School Readiness Account 18,300
From Revenue Transfers 3,965,700
From Uintah Basin Revitalization Fund 3,700
Schedule of Programs:
Administrative Support 13,686,100
Communications 1,565,100
Executive Director's Office 1,573,500
Human Resources 2,130,100
Internal Audit 1,972,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Administration line item, whose mission is to "be the best-managed State Agency in Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) provide accurate and timely department-wide fiscal administration as measured by audit findings or responses (Target: zero audit findings); 2) percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (Target: 100%); and 3) percent of DWS facilities for which an annual facilities risk assessment is completed using the Division of Risk Management guidelines and checklist (Target: 98%).

Item 38
To Department of Workforce Services - Community Development Capital Budget
From Permanent Community Impact Loan Fund 93,060,000
Schedule of Programs:
Community Impact Board 93,060,000

Item 39
To Department of Workforce Services - General Assistance
From General Fund 4,341,000
From Revenue Transfers 255,800
Schedule of Programs:
General Assistance 4,596,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) positive closure rate (SSI achievement or closed with earnings) (Target = 65%), 2) General Assistance average monthly customers served (Target = 730), and 3) internal review compliance accuracy (Target = 95%).

Item 40
To Department of Workforce Services - Housing and Community Development
From General Fund 1,638,900
From Federal Funds 49,189,600
From Dedicated Credits Revenue 902,600
From Expendable Receipts 1,292,400
From Housing Opportunities for Low Income Households 555,300
From Navajo Revitalization Fund 63,300
From Olene Walker Housing Loan Fund 643,000
From OWHT-Fed Home 555,300
From OWHTF-Low Income Housing 552,700
From Permanent Community Impact Loan Fund 771,800
From Permanent Community Impact Bonus Fund 588,000
From Qualified Emergency Food Agencies Fund 37,900
From Revenue Transfers 614,700
From Uintah Basin Revitalization Fund 44,900
Schedule of Programs:
Community Development 8,124,300
Community Development Administration 1,490,700
Community Services 4,622,300
HEAT 25,010,900
Housing Development 6,849,800
Weatherization Assistance 11,352,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Housing and Community Development line item, whose mission is to "actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) utilities assistance for low-income households - unique number of eligible households assisted with home energy costs (Target = 26,000 households), 2) Weatherization Assistance unique number of low-income households assisted by installing permanent energy conservation measures in their homes (Target = 347 homes), and 3) Affordable housing units funded from Olene

Walker and Private Activity Bonds (Target = 2,200).

Item 41

To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds 512,755,100
Schedule of Programs:
Nutrition Assistance - SNAP 512,755,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Nutrition Assistance - SNAP line item, whose mission is to "provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) SNAP accuracy of paid benefits (Target= 97%), 2) SNAP Certification Timeliness - percentage of cases where a decision of eligibility was made within 30 calendar days (Target = 95%), and 3) SNAP Calendar Days to Decision from Application Submission to Eligibility Decision (Target = 12 days).

Item 42

To Department of Workforce Services - Special Service Districts
From General Fund Restricted - Mineral Lease 3,015,800
Schedule of Programs:
Special Service Districts 3,015,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Special Service Districts line item, whose mission is to "align with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) the total pass through of funds to qualifying special service districts in counties of the 5th, 6th, and 7th class (completed quarterly).

Item 43

To Department of Workforce Services - State Office of Rehabilitation
From General Fund 24,175,100
From Federal Funds 53,514,600
From Dedicated Credits Revenue 576,000
From Expendable Receipts 581,400
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 500
From Housing Opportunities for Low Income Households 1,000
From Medicaid Expansion Fund 200
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund 1,000
From OWHT-Fed Home 1,000
From OWHTF-Low Income Housing 1,000
From Permanent Community Impact Loan Fund 1,300
From Permanent Community Impact Bonus Fund 1,000
From Qualified Emergency Food Agencies Fund . 500
From General Fund Restricted - School Readiness Account 400
From Revenue Transfers 64,000
From Uintah Basin Revitalization Fund 500
From Beginning Nonlapsing Balances 7,500,000
From Closing Nonlapsing Balances ..... (7,500,000)
Schedule of Programs:
Blind and Visually Impaired 4,169,800
Deaf and Hard of Hearing 3,459,600
Disability Determination 16,914,900
Executive Director 1,089,400
Rehabilitation Services 53,286,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the State Office of Rehabilitation line item, whose mission is to "empower clients and provide high quality services that promote independence and self-fulfillment through its programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Vocational Rehabilitation - Percentage of all VR clients receiving services who are eligible or potentially eligible youth (ages 14-24) (Target >=41%), 2) Vocational Rehabilitation - maintain or increase a successful rehabilitation closure rate (Target = 55%), and 3) Deaf and Hard of Hearing Total number of individuals served with DSDHH programs (Target = 8,000).

Item 44

To Department of Workforce Services - Unemployment Insurance
From General Fund 1,135,500
From Federal Funds 29,798,300
From Dedicated Credits Revenue 763,600

From Expendable Receipts .. 35,800
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 1,000
From Housing Opportunities for Low Income Households 1,000
From Medicaid Expansion Fund 100
From Navajo Revitalization Fund 500
From Olene Walker Housing Loan Fund 1,500
From OWHT- Fed Home 1,000
From OWHTF- Low Income Housing 1,500
From Permanent Community Impact Loan Fund 4,500
From Permanent Community Impact Bonus Fund 3,300
From Qualified Emergency Food Agencies Fund 500
From General Fund Restricted - School Readiness Account 1,200
From Revenue Transfers 136,900
From Uintah Basin Revitalization Fund 500
Schedule of Programs:
Adjudication 5,833,400
Unemployment Insurance Administration 26,053,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Insurance line item, whose mission is to "accurately assess eligibility for unemployment benefits and liability for employers in a timely manner." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percentage of employers registered with the department within 90 days of employers first reporting employee wages (Target => 98.5%), 2) Percentage of unemployment insurance separation determinations that meet quality standards as outlined and defined by the USDOL (Target => 95%), and 3) percentage of Unemployment Insurance benefits payments made within 14 calendar days (Target => 95%).

Item 45

To Department of Workforce Services - Office of Homeless Services
From General Fund 19,288,500
From Federal Funds 5,131,300
From Dedicated Credits Revenue 19,700
From Gen. Fund Rest. - Pamela Atkinson Homeless Account 2,518,000
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 12,904,700
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 11,072,300
From Revenue Transfers 25,100
Schedule of Programs:
Homeless Services 50,959,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Office of Homeless Services line item, whose mission is to "make homelessness rare, brief, and nonrecurring." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) HUD Performance Measure: Length of time persons remain homeless (Target = Reduce by 10%), 2) HUD Performance Measure: The extent to which persons who exit homelessness to permanent housing destinations return to homelessness (Target = Reduce by 10% from the previous year's achievement), 3) HUD Performance Measure: Number of homeless persons (Target = Reduce by 8% from the previous year's achievement), 4) HUD Performance Measure: Jobs and income growth for homeless persons in CoC Program-funded projects (Increase by 10% from previous years achievement), 5) HUD Performance Measure: Number of persons who become homeless for the first time (Target = Reduce by 6% from previous years achievement), and 6) HUD Performance Measure: successful housing placement - Successful exits or retention of housing from Permanent Housing (PH) (Target = 93% or above).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 46

To Department of Health and Human Services - Operations
From General Fund 21,031,300
From Income Tax Fund 557,100
From Federal Funds 6,313,700
From Dedicated Credits Revenue 3,221,000
From Revenue Transfers 1,324,500
From Beginning Nonlapsing Balances 8,361,200
From Closing Nonlapsing Balances ..... (4,642,000)
Schedule of Programs:
Executive Director Office 4,191,100
Ancillary Services 3,584,200
Finance & Administration 9,675,500
Data, Systems, & Evaluations 10,265,000
Public Affairs, Education & Outreach 1,663,900
American Indian / Alaska Native 476,400
Continuous Quality Improvement ... 4,326,400
Customer Experience 1,984,300

Item 47

To Department of Health and Human Services - Clinical Services
From General Fund 17,119,500
From Income Tax Fund 3,306,100
From Federal Funds 19,888,800

From Federal Funds, One-time ..... (17,276,300)
From Dedicated Credits Revenue 11,564,500
From Dedicated Credits Revenue, One-time ..... (2,334,100)
From Expendable Receipts 365,900
From Expendable Receipts, One-time ..... (62,100)
From Department of Public Safety Restricted Account 451,800
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account 1,300,000
From Gen. Fund Rest. - State Lab Drug Testing Account 779,300
From Revenue Transfers 324,900
From Beginning Nonlapsing Balances 1,447,200
Schedule of Programs:
Medical Examiner 10,533,800
State Laboratory 13,558,900
Primary Care and Rural Health 8,328,800
Health Equity 741,400
Medical Education Council 1,662,600
Medical Residency Grant Program ... 1,500,000
Forensic Psychiatry Grant Program ... 550,000

Item 48
To Department of Health and Human Services - Department Oversight
From General Fund 9,231,700
From Federal Funds 6,935,900
From Dedicated Credits Revenue 1,871,300
From Revenue Transfers 3,768,300
From Beginning Nonlapsing Balances 4,223,500
From Closing Nonlapsing Balances ..... (4,212,000)
Schedule of Programs:
Licensing & Background Checks ... 17,923,200
Internal Audit 2,080,100
Admin Hearings 1,192,200
Utah Developmental Disabilities Council 623,200

Item 49
To Department of Health and Human Services - Health Care Administration
From Federal Funds 21,800
Schedule of Programs:
Utah Developmental Disabilities Council 21,800

Item 50
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 819,603,200
From General Fund, One-time ..... (9,100,000)
From Federal Funds 4,265,614,700
From Federal Funds, One-time 3,033,400
From Dedicated Credits Revenue 11,487,700
From Expendable Receipts 256,568,600
From Expendable Receipts - Rebates 373,289,600
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account 16,930,600
From Ambulance Service Provider Assess Exp Rev Fund 5,071,700
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 262,600
From Hospital Provider Assessment Fund 113,045,500
From Medicaid Expansion Fund 127,715,000
From Nursing Care Facilities Provider Assessment Fund 39,851,000
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account 4,384,300
From General Fund Restricted - Tobacco Settlement Account 12,148,600
From Revenue Transfers 303,282,100
From Pass-through 1,813,000
Schedule of Programs:
Children's Health Insurance Program Services 154,258,700
Medicaid Accountable Care Organizations 1,759,315,600
Medicaid Behavioral Health Services 282,826,800
Medicaid Home and Community Based Services 626,326,200
Medicaid Hospital Services 318,263,900
Medicaid Pharmacy Services 357,968,200
Medicaid Long Term Care Services 471,204,400
Medicare Buy-In and Clawback Payments 118,547,900
Medicaid Other Services 636,669,400
Offsets to Medicaid Expenditures . (41,566,500)
Expansion Accountable Care Organizations 592,371,500
Expansion Behavioral Health Services 79,469,900
Expansion Hospital Services 295,502,600
Expansion Other Services 291,029,400
Expansion Pharmacy Services 126,549,800
Non-Medicaid Behavioral Health Treatment and Crisis Response 179,410,000
State Hospital 96,853,800

Item 51
To Department of Health and Human Services - Long-Term Services & Support
From General Fund 223,021,700
From Income Tax Fund 193,900
From Federal Funds 843,100
From Dedicated Credits Revenue 1,566,000
From Expendable Receipts 1,320,000
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account 3,904,800
From Revenue Transfers 409,716,600
Schedule of Programs:
Services for People with Disabilities 11,884,600
Community Supports Waiver Services 533,982,600

Disabilities - Non Waiver Services .. 2,765,500
Disabilities - Other Waiver Services 37,063,300
Utah State Developmental Center .. 54,870,100

Item 52
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund 13,236,700
From Federal Funds 249,688,600
From Dedicated Credits Revenue 242,400
From Expendable Receipts 1,991,600
From Expendable Receipts - Rebates 6,645,300
From General Fund Restricted - Cancer Research Account 20,000
From General Fund Restricted - Cigarette Tax Restricted Account 3,150,000
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 9,288,400
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account 443,400
From General Fund Restricted - Tobacco Settlement Account 3,403,500
From Revenue Transfers 7,617,000
Schedule of Programs:
Communicable Disease 233,555,400
Health Promotion and Prevention .. 44,798,500
Emergency Medical Services and Preparedness 10,162,000
Local Health Departments 6,137,500
Population Health 1,073,500

Item 53
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 192,716,400
From Federal Funds 131,792,100
From Dedicated Credits Revenue 1,600,800
From Expendable Receipts 643,300
From Expendable Receipts - Rebates 7,985,300
From General Fund Restricted - Adult Autism Treatment Account 1,526,700
From General Fund Restricted - Victim Services Restricted Account 3,200,000
From General Fund Restricted - Children's Account 340,000
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 109,400
From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues 101,600
From Revenue Transfers .... (5,472,600)
From Beginning Nonlapsing Balances 4,140,800
From Closing Nonlapsing Balances ..... (2,074,100)
Schedule of Programs:
Child & Family Services 122,953,000
Domestic Violence 19,172,000
In-Home Services 2,196,100
Out-of-Home Services 36,935,400
Adoption Assistance 21,291,800
Child Abuse Prevention and Facility Services 5,813,000
Children with Special Healthcare Needs 11,060,700
Maternal & Child Health 64,048,300
Family Health 782,500
Office of Coordinated Care and Regional Supports 2,462,800
DCFS Selected Programs 31,336,300
Office of Early Childhood 18,557,800

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 54
To Department of Workforce Services - Individuals with Visual Impairment Fund
From Dedicated Credits Revenue 45,700
From Interest Income 18,500
From Beginning Fund Balance 1,361,400
From Closing Fund Balance ..... (1,380,600)
Schedule of Programs:
Individuals with Visual Impairment Fund 45,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Fund, whose mission is to "assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Grantees will maintain or increase the number of individuals served (Target >=165), 2) Grantees will maintain or increase the number of services provided (Target>=906), and 3) Number of individuals provided low-vision services (Target = 2,400).

Item 55
To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund
From Trust and Agency

Funds 163,900
From Beginning Fund
Balance 200,300
From Closing Fund
Balance ..... (200,200)
Schedule of Programs:
Individuals with Visual Disabilities
Vendor Fund 164,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to "assist Blind and Visually Impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Number of business locations receiving upgraded equipment purchased by fund will meet or exceed previous year's total (Target = 12), 2) Number of business locations receiving equipment repairs and/or maintenance will meet or exceed previous year's total (Target = 32), and 3) Business Enterprise Program will establish new business locations in government and/or private businesses to provide additional employment opportunities (Target = 4).

Item 56
To Department of Workforce Services - Intermountain Weatherization Training Fund
From Beginning Fund Balance 3,500
From Closing Fund
Balance ..... (3,500)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Intermountain Weatherization Training Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Excluding contractors, the total number of weatherization assistance program individuals trained (Target=400), and 2) number of individuals trained each year (Target => 3).

Item 57
To Department of Workforce Services - Navajo Revitalization Fund
From Dedicated Credits
Revenue 115,800
From Interest Income 150,000
From Other Financing
Sources 1,000,000
From Beginning Fund
Balance 9,263,300
From Closing Fund
Balance ..... (9,448,100)
Schedule of Programs:
Navajo Revitalization Fund 1,081,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Navajo Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: 1) provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year).

Item 58
To Department of Workforce Services - Permanent Community Impact Bonus Fund
From Interest Income 8,802,100
From Gen. Fund Rest. - Land Exchange Distribution Account 100
From General Fund Restricted
- Mineral Bonus 8,342,200
From Beginning Fund
Balance 462,268,200
From Closing Fund
Balance ..... (479,072,600)
Schedule of Programs:
Permanent Community Impact
Bonus Fund 340,000

Item 59
To Department of Workforce Services - Permanent Community Impact Fund
From Dedicated Credits
Revenue 1,200,000
From Interest Income 4,275,000
From General Fund Restricted
- Mineral Lease 25,467,900
From Gen. Fund Rest. - Land Exchange Distribution Account 11,500

From Beginning Fund
Balance 281,568,900
From Closing Fund
Balance ..... (292,483,300)
Schedule of Programs:
Permanent Community
Impact Fund 20,040,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Permanent Community Impact Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) new receipts invested in communities annually (Target = 100%), 2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and 3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants).

Item 60
To Department of Workforce Services - Qualified Emergency Food Agencies Fund
From Designated
Sales Tax 540,000
From Revenue Transfers 375,000
From Beginning Fund
Balance 139,700
From Closing Fund
Balance ..... (139,700)
Schedule of Programs:
Emergency Food Agencies Fund 915,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Qualified Emergency Food Agencies Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) The number of households served by QEFAF agencies (Target: 11,000) and 2) Percent of QEFAF program funds obligated to QEFAF agencies (Target: 100% of funds obligated).

Item 61
To Department of Workforce Services - Uintah Basin Revitalization Fund
From Dedicated Credits
Revenue 220,000
From Interest Income 200,000
From Other Financing
Sources 7,000,000
From Beginning Fund
Balance 25,430,600
From Closing Fund
Balance ..... (28,599,300)
Schedule of Programs:
Uintah Basin Revitalization Fund ... 4,251,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Uintah Basin Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) provide Revitalization Board with support, resources and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year).

Item 62
To Department of Workforce Services - Utah Community Center for the Deaf Fund
From Dedicated Credits Revenue 5,000
From Interest Income 2,000
From Beginning Fund
Balance 14,300
From Closing Fund
Balance ..... (17,300)
Schedule of Programs:
Utah Community Center for the
Deaf Fund 4,000

Item 63
To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund 5,492,900
From Federal Funds 6,950,000
From Dedicated Credits
Revenue 20,000

From Interest Income 3,080,000
From Revenue Transfers .... (800,000)
From Beginning Fund
Balance 215,086,000
From Closing Fund
Balance ..... (225,489,200)
Schedule of Programs:
Olene Walker Low Income Housing .. 4,339,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Olene Walker Housing Loan Fund, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) housing units preserved or created (Target = 175), 2) rural housing units created (Target = 15), and 3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 64
To Department of Health and Human Services - Allyson Gamble Organ Donation Contribution Fund
From Dedicated Credits
Revenue 224,600
From Interest Income 13,000
From Beginning Fund
Balance 610,200
From Closing Fund
Balance ..... (610,200)
Schedule of Programs:
Allyson Gamble Organ Donation Contribution Fund 237,600

Item 65
To Department of Health and Human Services - Neuro-Rehabilitation Fund
From Dedicated Credits
Revenue 450,000
From Beginning Fund
Balance 1,170,500
From Closing Fund
Balance ..... (1,170,500)
Schedule of Programs:
Neuro-Rehabilitation Fund 450,000

Item 66
To Department of Health and Human Services - Brain Injury Fund
From General Fund 200,000
From Beginning Fund
Balance 134,500
From Closing Fund
Balance ..... (134,500)
Schedule of Programs:
Brain Injury Fund 200,000

Item 67
To Department of Health and Human Services - Maurice N. Warshaw Trust Fund
From Interest Income 1,000
From Beginning Fund
Balance 166,300
From Closing Fund
Balance ..... (167,300)

Item 68
To Department of Health and Human Services - Out and About Homebound Transportation Assistance Fund
From Dedicated Credits
Revenue 75,600
From Interest Income 3,000
From Beginning Fund
Balance 305,800
From Closing Fund
Balance ..... (305,800)
Schedule of Programs:
Out and About Homebound Transportation Assistance Fund 78,600

Item 69
To Department of Health and Human Services - Utah State Developmental Center Long-Term Sustainability Fund
From Dedicated Credits
Revenue 12,100
From Interest Income 14,500
From Revenue Transfers 38,700
From Beginning Fund
Balance 29,762,600
From Closing Fund
Balance ..... (29,827,900)

Item 70
To Department of Health and Human Services - Utah State Developmental Center Miscellaneous Donation Fund
From Dedicated Credits
Revenue 6,000
From Interest Income 6,000
From Beginning Fund
Balance 602,100
From Closing Fund
Balance ..... (602,100)
Schedule of Programs:
Utah State Developmental Center Miscellaneous Donation Fund 12,000

Item 71
To Department of Health and Human Services - Utah State Developmental Center Workshop Fund
From Dedicated Credits
Revenue 140,000
From Beginning Fund
Balance 17,000
From Closing Fund
Balance ..... (17,000)
Schedule of Programs:
Utah State Developmental Center Workshop Fund 140,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report the final status of performance measures established in FY 2024 appropriations bills for the Utah State Developmental Center Workshop Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Health and Human Services shall report on the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 72
To Department of Health and Human Services - Utah State Hospital Unit Fund
From Dedicated Credits Revenue 42,400
From Interest Income 8,000
From Beginning Fund Balance 240,600
From Closing Fund Balance ..... (240,600)
Schedule of Programs:
Utah State Hospital Unit Fund 50,400

Item 73
To Department of Health and Human Services - Mental Health Services Donation Fund
From General Fund 100,000
From Beginning Fund Balance 310,600
From Closing Fund Balance ..... (310,600)
Schedule of Programs:
Mental Health Services Donation Fund 100,000

Item 74
To Department of Health and Human Services - Suicide Prevention and Education Fund
From Beginning Fund Balance 1,430,300
From Closing Fund Balance ..... (1,430,300)

Item 75
To Department of Health and Human Services - Pediatric Neuro-Rehabilitation Fund
From Beginning Fund Balance 39,900
From Closing Fund Balance ..... (39,900)

Item 76
To Department of Health and Human Services - Alternative Eligibility Expendable Revenue Fund
From General Fund 4,500,000
Schedule of Programs:
Alternative Eligibility Expendable Revenue Fund 4,500,000

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF WORKFORCE SERVICES

Item 77
To Department of Workforce Services - Economic Revitalization and Investment Fund
From Interest Income 100,000
From Beginning Fund Balance 2,174,200
From Closing Fund Balance ..... (2,273,700)
Schedule of Programs:
Economic Revitalization and Investment Fund 500

Item 78
To Department of Workforce Services - Unemployment Compensation Fund
From Federal Funds 1,850,000
From Dedicated Credits Revenue 18,557,800
From Trust and Agency Funds 205,579,400
From Beginning Fund Balance 1,188,824,600
From Closing Fund Balance ..... (1,160,743,100)
Schedule of Programs:
Unemployment Compensation Fund 254,068,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Compensation Fund, whose mission is to "monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code, 2) Maintain the average high cost multiple, a nationally recognized solvency measure, greater than 1 for the Unemployment Insurance Trust Fund balance (Target =>1), and 3) Contributory employers unemployment insurance contributions due paid timely, (paid by the employer before the

last day of the month that follows each calendar quarter end) (Target>=95%).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 79
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 5,366,300
From Beginning Fund Balance 5,691,800
From Closing Fund Balance ..... (7,118,900)
Schedule of Programs:
Qualified Patient Enterprise Fund .. 3,939,200

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 80
To General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account
From General Fund 5,000,000
Schedule of Programs:
General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 5,000,000

Item 81
To General Fund Restricted - Homeless Account
From General Fund 1,817,400
Schedule of Programs:
General Fund Restricted - Pamela Atkinson Homeless Account 1,817,400

Item 82
To General Fund Restricted - Homeless to Housing Reform Account
From General Fund 12,850,000
Schedule of Programs:
General Fund Restricted - Homeless to Housing Reform Restricted Account 12,850,000

Item 83
To General Fund Restricted - School Readiness Account
From General Fund 3,000,000
From Beginning Fund Balance 1,464,400
From Closing Fund Balance ..... (147,300)
Schedule of Programs:
General Fund Restricted - School Readiness Account 4,317,100

Item 84
To Education Savings Incentive Restricted Account
From Income Tax Fund 870,800
Schedule of Programs:
Education Savings Incentive Restricted Account 870,800

Item 85
To Statewide Behavioral Health Crisis Response Account
From General Fund 16,903,100
Schedule of Programs:
Statewide Behavioral Health Crisis Response Account 16,903,100

Item 86
To Ambulance Service Provider Assessment Expendable Revenue Fund
From Dedicated Credits Revenue 5,092,300
Schedule of Programs:
Ambulance Service Provider Assessment Expendable Revenue Fund 5,092,300

Item 87
To Hospital Provider Assessment Fund
From Dedicated Credits Revenue 113,256,800
Schedule of Programs:
Hospital Provider Assessment Expendable Special Revenue Fund 113,256,800

Item 88
To Medicaid Expansion Fund
From General Fund 59,861,100
From General Fund, One-time ..... (59,861,100)
From Dedicated Credits Revenue 150,100,000
From Expendable Receipts 355,900
From Revenue Transfers 3,524,800
From Beginning Fund Balance 360,647,800
From Closing Fund Balance ..... (417,928,400)
Schedule of Programs:
Medicaid Expansion Fund 96,700,100

Item 89
To Nursing Care Facilities Provider Assessment Fund
From Dedicated Credits Revenue 41,059,800
Schedule of Programs:
Nursing Care Facilities Provider Assessment Fund 41,059,800

Item 90
To General Fund Restricted - Medicaid Restricted Account From Beginning Fund Balance 101,119,800
From Closing Fund Balance ..... (101,119,800)

Item 91
To Adult Autism Treatment Account
From General Fund 1,000,000
Schedule of Programs:
Adult Autism Treatment Account ... 1,000,000

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances,

and changes in fund balances for the following fiduciary funds.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 92
To Department of Health and Human Services - Human Services Client Trust Fund
From Interest Income 9,100
From Trust and Agency Funds 4,907,600
From Beginning Fund Balance 1,903,800
From Closing Fund Balance ..... (1,903,800)
Schedule of Programs:
Human Services Client Trust Fund .. 4,916,700

Item 93
To Department of Health and Human Services - Human Services ORS Support Collections
From Trust and Agency Funds 212,842,300
From Beginning Fund Balance 2,203,700
From Closing Fund Balance ..... (2,203,700)
Schedule of Programs:
Human Services ORS Support Collections 212,842,300

Item 94
To Department of Health and Human Services - Utah State Developmental Center Patient Account
From Interest Income 1,000
From Trust and Agency Funds 2,002,900
From Beginning Fund Balance 624,600
From Closing Fund Balance ..... (624,600)
Schedule of Programs:
Utah State Developmental Center Patient Account 2,003,900

Item 95
To Department of Health and Human Services - Utah State Hospital Patient Trust Fund
From Trust and Agency Funds 1,731,000
From Beginning Fund Balance 559,400
From Closing Fund Balance ..... (559,400)
Schedule of Programs:
Utah State Hospital Patient Trust Fund 1,731,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report the final status of performance measures established in FY 2024 appropriations bills for the Utah State Hospital Patient Trust Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Health and Human Services shall report on the following performance measure: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Section 3. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF WORKFORCE SERVICES

Item 96
To Department of Workforce Services - Operations and Policy
From General Fund 54,632,400
From Income Tax Fund 3,117,000
From Federal Funds 300,477,900
From Dedicated Credits Revenue 496,000
From Expendable Receipts 2,138,400
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 41,100
From Housing Opportunities for Low Income Households 2,000
From Medicaid Expansion Fund 3,637,700
From Navajo Revitalization Fund 7,600
From Olene Walker Housing Loan Fund 47,300
From OWHT-Fed Home 2,000
From OWHTF-Low Income Housing 36,300
From Permanent Community Impact Loan Fund 155,600
From Permanent Community Impact Bonus Fund 114,100
From Qualified Emergency Food Agencies Fund 4,500
From General Fund Restricted - School Readiness Account 9,514,800
From Revenue Transfers 56,164,900
From Uintah Basin Revitalization Fund 2,800
Schedule of Programs:
Child Care Assistance 90,419,100
Eligibility Services 86,138,700
Facilities and Pass-Through 8,180,800
Information Technology 46,373,000
Nutrition Assistance 96,500
Other Assistance 294,800
Refugee Assistance 7,475,600

Temporary Assistance for Needy Families 70,740,200
Trade Adjustment Act Assistance ... 1,515,300
Workforce Development 111,653,900
Workforce Investment Act Assistance 4,576,300
Workforce Research and Analysis ... 3,128,200

The Legislature intends that the Departments of Workforce Service and Health and Human Services report on recommendations as well as potential costs and benefits of expanding automation of Medicaid eligibility reviews by June 1, 2024 to the Social Services Appropriations Subcommittee. The report shall include lessons learned from the automation efforts for ex-parte renewals.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Operations and Policy line item, whose mission is to "meet the needs of our customers with responsive, respectful and accurate service." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) labor exchange - total job placements (Target = 30,000 placements per calendar quarter), 2) TANF recipients - positive closure rate (Target = 78% per calendar month), 3) Eligibility Services - internal review compliance accuracy (Target = 95%), 4) Eligibility Average Call Wait Time (Target = 18 Minutes), 5) WIOA Adult Entered Employment Rate (Target = 62%), 6) WIOA Dislocated Workers Entered Employment Rate (Target = 83%), 7) Refugee Services Office Refugee Job Placements (Target = 230), 8) Child Care Cases Eligibility Determined Within 30 Days (Target = 95%), 9) Internal Review Medical Compliance Accuracy (Target = 95%), and 10) Eligibility Days to Decision (Target = 15 Days).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 97

To Department of Health and Human Services - Health Care Administration
From General Fund 14,779,600
From Federal Funds 88,109,900
From Dedicated Credits Revenue 17,900
From Expendable Receipts 19,283,800
From Ambulance Service Provider Assess Exp Rev Fund 20,000
From Hospital Provider Assessment Fund 211,300
From Medicaid Expansion Fund 3,443,500
From Nursing Care Facilities Provider Assessment Fund 1,208,800
From Suicide Prevention Fund 12,500
From Revenue Transfers 42,785,700
From Beginning Nonlapsing Balances 600,000
Schedule of Programs:
Integrated Health Care Administration 55,978,700
Long-Term Services and Supports Administration 7,996,200
Provider Reimbursement Information System for Medicaid 21,873,500
Seeded Services 84,624,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Health Care Administration line item, whose mission is "provide access to quality, cost-effective health care for eligible Utahans." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024. For FY 2025, the department shall report the following performance measures: 1) Percent of Medicaid members/patients/clients that report adequate access to DHHS program services (Target = Improve from baseline with the baseline being developed), 2) Average decision time of Medicaid medical prior authorizations (Target = 7 days), and 3) Health Program Representative Customer Service Line average call wait time (Target = under 2 minutes).

Item 98

To Department of Health and Human Services - Long-Term Services & Support
From General Fund 18,140,500
From Federal Funds 16,019,300
From Expendable Receipts 301,200
From Revenue Transfers .... (1,014,600)
Schedule of Programs:
Aging & Adult Services 23,961,300
Adult Protective Services 6,276,000
Office of Public Guardian 1,311,600
Aging Waiver Services 1,897,500

The Legislature intends that the Department of Health and Human Services shall report by October 1, 2024 on a proposed method of measuring outcomes of funds distributed to and expended by the Area Agencies on Aging (AAAs). These proposed methods shall include: 1) How do AAAs measure the outcomes of the funds they expend on services for their clients? 2) Can AAAs recommend a methodology for determining the return on investment for the funds that they expend? 3) How do AAAs capture client satisfaction and customer service and how can those results (if any) be communicated to policymakers.

The Department of Health and Human Services shall report to the Social Services Appropriations Subcommittee by October 1, 2024 on the following related to rates administered by the Division of Aging and Adult Services: (1) Historical values for each rate going back 5 years and the last date each rate was reviewed/changed; (2) The source of the rate value; (3) How much was paid out by the Area Agencies on Aging for each rate and a breakdown of state/federal funding; (4) An analysis of each rate compared to the market; (5) Projected appropriations needed to meet market amount for each rate; and (6) the number of providers licensed and contracted for these services in 2018 and how many are licensed and contracted to perform these services in 2023.

The Department of Health and Human Services shall report to the Social Services Appropriations Subcommittee by October 1, 2024, on the efforts and outcomes of the Division of Aging and Adult Services to adjust caseload and assignment of responsibilities to staff of Adult Protective Services and the Office of the Public Guardian. The Department shall also report on the impact and expenditure of additional legislative funding appropriated for personnel expenses during the 2023 General Session to Adult Protective Services and the Office of the Public Guardian.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Long-Term Services and Supports line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percent of individuals who do not currently have a paid job in the community, but would like a job in the community (NCI) (Target = 44%), 2) Percent of Adults who Report that Services and Supports Help Them Live a Good Life (Target = 92%), 3) People Receiving Supports in their home or a Family Member's Home Rather Than a Residential Setting (Target = 57%), 4) Percent of Office of the Public Guardian (OPG) referrals where an alternative to guardianship with OPG is made (Target = 60%), and 5) The percentage of APS clients who accept referrals to community services (Target = 60%).

Item 99

To Department of Health and Human Services - Office of Recovery Services
From General Fund 15,874,900
From Federal Funds 26,605,400
From Dedicated Credits Revenue 3,482,300
From Expendable Receipts 2,038,000
From Medicaid Expansion Fund 55,600
From Revenue Transfers 3,220,600
Schedule of Programs:
Recovery Services 18,035,400
Child Support Services 22,894,900
Children in Care Collections 697,500
Attorney General Contract 6,080,300
Medical Collections 3,568,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Recovery Services line item, whose mission is "to serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Medical Coverage for children (Target = Improve from baseline with the baseline being developed), 2) Cost Effectiveness (ORS overall) (Target = $5.50), and 3) Current Support Collection Rates (Target = 65%).

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 11
S. B. 57
Passed January 30, 2024
Approved January 31, 2024
Effective January 31, 2024

UTAH CONSTITUTIONAL SOVEREIGNTY ACT

Chief Sponsor: Scott D. Sandall
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill enacts the Utah Constitutional Sovereignty Act.

Highlighted Provisions:

This bill:

- defines terms;
- establishes a framework for the Legislature, by concurrent resolution, to prohibit the enforcement of a federal directive within the state by government officers if the Legislature determines the federal directive violates the principles of state sovereignty;
- describes the ways in which a federal directive violates the principles of state sovereignty;
- limits the authority for requesting a concurrent resolution under the bill;
- requires the Legislature to consult with the attorney general regarding the potential impact of a concurrent resolution on litigation and to provide notice to representatives of tribal governments;
- specifies the required contents of a concurrent resolution;
- clarifies the effects of a concurrent resolution upon adoption;
- establishes requirements for the termination of a concurrent resolution; and
- clarifies the effects of legislative inaction on a federal directive.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
63G-16-201, Utah Code Annotated 1953
63G-16-202, Utah Code Annotated 1953

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

Section 1. Section 63G-16-201 is enacted to read:

63G-16-201. Definitions.

Part 2. Utah Constitutional Sovereignty Act

As used in this part:

(1) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(2) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.

(3)(a) "Federal directive" means:

(i) a statute passed by the United States Congress;

(ii) an executive order by the president of the United States;

(iii) a rule or regulation adopted by a federal agency; or

(iv) an order or action by:

(A) a federal agency; or

(B) an employee or official appointed by the president of the United States.

(b) "Federal directive" does not include any order by the federal government calling the Utah National Guard into the service of the United States.

(4)(a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (4)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not include a member or employee of the legislative branch of state government.

(5) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

Section 2. Section 63G-16-202 is enacted to read:

63G-16-202. Resolution of the Legislature invoking state sovereignty -- Requirements -- Effect upon adoption -- Termination -- Relation to other law.

(1) The Legislature may, by concurrent resolution, prohibit a government officer from enforcing or assisting in the enforcement of a federal directive within the state if the Legislature determines the federal directive violates the principles of state sovereignty in accordance with Subsection (2).

(2) A federal directive violates the principles of state sovereignty if the federal directive restricts or infringes upon:

(a) a power or a right reserved to the state by the Tenth Amendment to the United States Constitution; or

(b) the state's rights or interests to provide for the health, safety, and welfare and promote the prosperity of the state's inhabitants.

(3) A request for a concurrent resolution under Subsection (1) may not be filed unless:

(a) the request is approved by the speaker of the House of Representatives and the president of the Senate; or

(b) while the Legislature is convened and conducting business on the floor, identical motions to approve the request are made in each chamber of the Legislature and both motions are approved by a two-thirds majority of the members present in each chamber.

(4) The Legislature shall consult with and consider any recommendations provided by the attorney general concerning the potential impact that a concurrent resolution may have on current or anticipated litigation.

(5) Upon the filing of a request for a concurrent resolution under Subsection (1), the Legislature shall provide notice of the concurrent resolution, including the short title and proposed objectives, to the representatives of tribal governments listed in Subsection 9-9-104.5(2)(b).

(6) A concurrent resolution under Subsection (1) shall:

(a) identify the federal directive the Legislature has determined violates the principles of state sovereignty under Subsection (2);

(b) include the information or findings upon which the Legislature has made the determination in Subsection (5)(a);

(c) specify the government officers to which the concurrent resolution applies;

(d) explain the effect that the concurrent resolution will have on the applicability of the federal directive within the state, including a description of any activities or forms of assistance that a government officer specified in Subsection (5)(c) is prohibited from conducting in connection with the enforcement of the federal directive; and

(e) describe any other requirements for a government officer specified in Subsection (5)(c) to comply with the concurrent resolution.

(7) A concurrent resolution under Subsection (1):

(a) takes effect upon adoption and has the force of law; and

(b) after taking effect, may only be terminated by concurrent resolution.

(8) The requirements for filing a request for a concurrent resolution in Subsection (3) apply to a concurrent resolution described in Subsection (6)(b).

(9) The inaction of the Legislature in determining that a federal directive violates the principles of state sovereignty by concurrent resolution under this section:

(a) does not imply or create a presumption that the federal directive is lawful under the United States Constitution; and

(b) has no effect on the attorney general's authority to pursue any appropriate legal action to challenge the federal directive on the basis of state sovereignty.

(10) This section supersedes any conflicting provisions of Utah law.

Section 3. Effective date.

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

CHAPTER 12
S. B. 99
Passed January 31, 2024
Approved February 8, 2024
Effective February 28, 2024

PUBLIC SERVICE COMMISSION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies provisions relating to the appointment of members to a commission.

Highlighted Provisions:

This bill:

- clarifies that a vacancy in the Public Service Commission shall be filled by appointment by the governor with the advice and consent of the Senate;
- makes changes to the process for the governor to appoint a commissioner pro tempore to the Public Service Commission;
- makes changes to the application period for an open appointed position; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

54-1-1.5, as last amended by Laws of Utah 2020, Chapters 352, 373
54-1-1.6, as last amended by Laws of Utah 2011, Chapter 366
63G-24-201, as enacted by Laws of Utah 2020, Chapter 373
63G-24-202, as enacted by Laws of Utah 2020, Chapter 373

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

Section 1. Section 54-1-1.5 is amended to read:

54-1-1.5. Appointment of members -- Terms -- Qualifications -- Chairman -- Quorum -- Removal -- Vacancies -- Compensation.

(1) The commission shall be composed of three members appointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) The terms of the members shall be staggered so that one commissioner is appointed for a term of six years on March 1 of each odd-numbered year.

(3) Not more than two members of the commission shall belong to the same political party.

(4) One member of the commission shall be designated by the governor as chairman of the commission.

(5) Any two commissioners constitute a quorum.

(6) Any member of the commission may be removed for cause by the governor.

(7) Vacancies in the commission shall be filled for unexpired terms by appointment of the governor with the advice and consent of the Senate.

(8) Commissioners shall receive compensation as established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, and all actual and necessary expenses incurred in attending to official business.

(9) Each commissioner at the time of appointment and qualification shall be a resident citizen of the United States and of the state of Utah and shall be not less than 30 years of age.

(10) Except as provided by law, no commissioner may hold any other office either under the government of the United States or of this state or of any municipal corporation within this state.

(11) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 54-1-1.6 is amended to read:

54-1-1.6. Pro tempore commissioner -- Appointment -- Qualifications.

(1) If a commissioner has a temporary disability or is disqualified as a result of a conflict of interest from sitting as a commissioner, the governor may appoint a commissioner pro tempore [~~according to the procedures and requirements of Section 67-1-1.5.~~]for a period not to exceed 60 days.

(2) Any person appointed as a commissioner pro tempore shall possess the qualifications required for public service commissioners in Section 54-1-1.5 and have previous utility regulatory experience or other comparable professional experience.

(3) The governor may appoint a retired or resigned public service commissioner as a commissioner pro tempore in order to render findings, orders, or decisions on matters which the retired or resigned commissioner had fully heard before the commissioner's retirement or resignation.

Section 3. Section 63G-24-201 is amended to read:

63G-24-201. Notice.

(1) A rulemaking board shall give public notice regarding a vacancy or expiring term on the rulemaking board on or before:

(a) [~~90~~]30 days before the day on which a departing appointed board member's or a continuing board member's term expires; or

(b) 10 days after the day on which the rulemaking board chair or vice chair receives written notice of a current appointed board member's intent to leave the board.

(2)(a) The governor's office shall post the notice described in Subsection (1) on the governor's website described in Subsection 67-1-2.5(4).

(b) A rulemaking board may post the notice described in Subsection (1) on the rulemaking board's website.

Section 4. Section 63G-24-202 is amended to read:

63G-24-202. Application.

(1) The application period for an appointed board member [~~position shall last no fewer than 60 days.~~]shall last for a period of at least:

(a) 30 days for an open position due to an expiring term; or

(b) 14 days for an open position due to a vacancy occurring for a reason other than the expiration of a term.

(2) An applicant shall use the application feature on the governor's website described in Subsection 67-1-2.5(4) to apply for a vacant appointed board member position unless the notice described in Section 63G-24-201 specifies a different application process.

(3) The application feature described in Subsection (2) shall require the applicant to provide information including:

(a) the applicant's name;

(b) the applicant's current employment; and

(c) the applicant's affiliation with public and private entities, including employment, in the five years on or before the day on which the applicant submits the application.

Section 5. Effective date.

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

Section 6. Retrospective operation.

This bill provides retrospective operation to December 1, 2023.

CHAPTER 13
S. B. 39
Passed February 7, 2024
Approved February 13, 2024
Effective February 13, 2024

WATER SHAREHOLDER AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses change applications by a shareholder in a water company.

Highlighted Provisions:

This bill:

- addresses the timing of a water company's response to a shareholder's proposed change application; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

73-3-3.5, as last amended by Laws of Utah 2023, Chapter 238

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

Section 1. Section 73-3-3.5 is amended to read:

73-3-3.5. Application for a change of point of diversion, place of use, or purpose of use of water in a water company made by a shareholder.

(1) As used in this section:

(a) "Shareholder" means the owner of a share of stock, or other evidence of stock ownership, that entitles the person to a proportionate share of water in a water company.

(b) "Water company" means, except as described in Subsection (1)(c), any company, operating for profit or not for profit, where a shareholder has the right to receive a proportionate share, based on that shareholder's ownership interest, of water delivered by the company.

(c) "Water company" does not include a public water supplier, as defined in Section 73-1-4.

(2)(a) A shareholder who seeks to file a change application under Section 73-3-3 to make a change to some or all of the water rights represented by the shareholder's shares in a water company shall:

(i) prepare a proposed change application on forms furnished by the state engineer; and

(ii) provide the proposed change application to the water company by personal delivery with a signed receipt, certified mail, or electronic mail with confirmation of receipt.

(b) The water company and the shareholder shall cooperate in supplying information relevant to preparation or correction of the shareholder's change application.

(c) In addition to the information required under Section 73-3-3, the proposed change application shall include:

(i) the certificate number of the stock affected by the change;

(ii) a description of the land proposed to be retired from irrigation in accordance with Section 73-3-3, if the proposed change in place or nature of use of the water involves a situation where the water was previously used for irrigation;

(iii) an agreement by the shareholder to continue to pay all applicable corporate assessments on the share affected by the change; and

(iv) any other information that the water company may reasonably need to evaluate the proposed change application.

(3)(a) The water company shall respond to the proposed change application described in Subsection (2) within[~~:~~]

[~~(i) for a permanent change application,~~] 120 days after the day on which the water company receives the proposed change application[~~; or~~].

[~~(ii) for a temporary change application, 60 days after the day on which the water company receives the proposed change application.~~]

(b) The water company's response to the proposed change application shall be in writing and shall:

(i) consent to the proposed change;

(ii) consent to the proposed change, subject to certain conditions described by the water company; or

(iii) decline to consent to the proposed change, describing the reasons for declining to consent.

(c) If the water company fails to timely respond, as described in Subsection (3)(a), the failure to respond shall be considered the water company's consent to the proposed change application and the shareholder may file the change application with the state engineer.

(4)(a) In reviewing a shareholder's proposed change application, a water company may consider:

(i) whether an increased cost to the water company or [~~its~~]the water company's shareholders results from the proposed change;

(ii) whether the proposed change will interfere with the water company's ability to manage and distribute water for the benefit of all shareholders;

(iii) whether the proposed change represents more water than the shareholder's proportionate share of the water company's right;

(iv) whether the proposed change would create preferential access to use of particular company water rights to the detriment of other shareholders;

(v) whether the proposed change will impair the quantity or quality of water delivered to other shareholders under the existing water rights of the water company, including rights to carrier water;

(vi) whether the proposed change violates a statute, ordinance, regulation, or order of a court or government agency;

(vii) if applicable, whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the water company's service area under the proposed change; and

(viii) the cumulative effects that the approval of the change application may have on other shareholders or water company operations.

(b) The water company may not withhold consent if any potential damage, liability, or impairment to the water company, or [~~its~~]the water company's shareholders, can be reasonably mitigated without cost to the water company.

(c) The water company may require the shareholder to pay all reasonable and necessary costs associated with the change application, but may not impose unreasonable exactions.

(5)(a) If the water company declines to consent to the proposed change application, stating its reasons, the shareholder may file an action in district court, seeking court review of the reasonableness of the conditions imposed for giving consent or the reasons stated for declining consent and a final order allowing the shareholder to file the proposed change application with the state engineer.

(b) If the water company consents to the proposed change application subject to conditions to which the shareholder does not agree, the shareholder may file the change application with the state engineer as provided in Subsection (6), without waiving the shareholder's right to contest conditions set by the water company under Subsection (3)(b)(ii).

(c) During or after the completion of the proceeding before the state engineer commenced under Subsection (6), the shareholder may file an action in district court seeking court review of the reasonableness of the conditions imposed by the water company for giving consent.

(d) In an action brought under Subsection (5)(a), (b), or (c), the court:

(i) shall refer the parties to mediation under Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, unless one or both parties decline mediation; and

(ii) may award costs and reasonable attorney fees to the prevailing party if mediation does not occur because the other party declined to participate in mediation.

(6) If the water company consents to the proposed change, the water company fails to respond as required by Subsection (3)(a), the court has entered an order described in Subsection (5)(a), or the water company consents to the proposed change subject to conditions to which the shareholder does not agree, as described in Subsection (5)(b), the shareholder may commence an administrative proceeding by filing the change application with the state engineer in accordance with Section 73-3-3 and this section.

(7) The shareholder shall include as part of the change application filed with the state engineer under Subsection (5)(b) or (6):

(a) the water company's response to the shareholder's proposed change application;

(b) if applicable, an affidavit signed by the shareholder documenting the water company's failure to respond in the time period described in Subsection (3)(a); or

(c) if applicable, the court order described in Subsection (5)(a).

(8)(a) The state engineer shall evaluate a shareholder's change application in the same manner used to evaluate a change application submitted under Section 73-3-3, using the criteria described in Section 73-3-8.

(b) Nothing in this section limits the authority of the state engineer in evaluating and processing a change application, including the authority to require or allow a shareholder or water company to submit additional relevant information, if the state engineer finds an absence of prejudice and allows adequate time and opportunity for the other party to respond.

(9) If the state engineer approves a shareholder's change application, the state engineer may, for shares included in the approval, require that the shareholder requesting the change be current on all water company assessments and continue to pay all reasonably applicable future assessments, with credit given to the shareholder for any cost savings to the company resulting from the change.

(10) By mutual agreement only, and when the shares will rely upon a different diversion and delivery system, the water company and the shareholder may negotiate a buyout from the water company that may include a pro rate share of the water company's existing indebtedness assignable to the shares.

(11) After an application has been approved by the state engineer, the shareholder may file requests for extensions of time to submit proof of beneficial use under the change application without further involvement of the water company.

(12) If, after a proposed change has been approved and gone into effect, a shareholder fails to substantially comply with a condition described in Subsection (9), or any condition reasonably imposed by the water company and agreed to by the shareholder, and neglects to remedy the failure after written notice from the water company that allows the shareholder a reasonable opportunity to remedy the failure, no less than 90 days after the

day on which the water company gives notice, the water company may petition the state engineer to order a reversal of the change application approval.

(13)(a) The shareholder requesting the change shall have a cause of action, including an award of actual damages incurred, against the water company if the water company:

(i) unreasonably withholds approval of a requested change;

(ii) imposes unreasonable conditions in [~~its~~]the water company's approval; or

(iii) withdraws approval of a change application in a manner other than as provided in Subsection (12).

(b) The court may award costs and reasonable attorney fees:

(i) to the shareholder if the court finds that the water company acted in bad faith when [~~it~~]the water company declined to consent to the proposed change or conditioned [~~its~~]the water company's consent on excessive exactions or unreasonable conditions; or

(ii) to the water company if [~~it~~]the court finds that the shareholder acted in bad faith in refusing to accept conditions reasonably necessary to protect other shareholders if the shareholder's change application is approved.

Section 2. Effective date.

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

Section 3. Retrospective operation.

The amendments in this bill to Section 73-3-3.5 (Effective 03/01/24) have retrospective operation to March 1, 2024.

CHAPTER 14
H. B. 33
Passed February 5, 2024
Approved February 16, 2024
Effective February 16, 2024

CIGARETTE AND TOBACCO AMENDMENTS

Chief Sponsor: Joseph Elison
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions addressing cigarettes, tobacco, and electronic cigarettes.

Highlighted Provisions:

This bill:

- requires a person that has to file a report with the State Tax Commission in accordance with the federal Prevent All Cigarette Trafficking Act regarding cigarettes, tobacco, and electronic cigarettes transferred into the state to file the report electronically; and
- modifies the definition of "units sold," for purposes of the tobacco Master Settlement Agreement, to include products sold by a distributor, retailer, or intermediary and to give the State Tax Commission rulemaking authority to determine the number of units sold in the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-22-202, as last amended by Laws of Utah 2016, Chapter 348

ENACTS:

59-14-105, Utah Code Annotated 1953

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

Section 1. Section 59-14-105 is enacted to read:

59-14-105. Electronic reporting of report on product transferred into the state.

A person that is required to file a report with the commission in accordance with 15 U.S.C. Sec. 376 shall file the report electronically in a format approved by the commission.

Section 2. Section 59-22-202 is amended to read:

59-22-202. Definitions.

As used in this part:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10% or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement.

(4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco that, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

(5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by the State and leading United States tobacco product manufacturers.

(6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with Subsection 59-22-203(2).

(7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement.

(8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement.

(9)(a) "Tobacco product manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate):

(i) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of Subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in Subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(ii) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(iii) becomes a successor of an entity described in Subsection (9)(a)(i) or (ii).

(b) "Tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any Subsection (9)(a)(i) through (iii).

(10)(a) "Units sold" means the number of individual cigarettes sold in the [~~State~~]state by [~~the~~]an applicable tobacco product manufacturer [~~(whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs (or "roll-your-own" tobacco containers)~~]during the year in question for which the state is not prohibited from taxing under federal law.

(b) "Units sold" includes a cigarette or "roll your own" tobacco product sold by a tobacco product manufacturer through a distributor, a retailer, or a similar intermediary.

(c) The State Tax Commission [~~shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year~~]may make rules establishing how to determine the number of units sold in the state.

Section 3. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The actions affecting Section 59-14-105 take effect on July 1, 2024.

Section 4. Retrospective operation.

Section 59-22-202, Effective upon governor's approval, provides retrospective operation to January 1, 2024.

CHAPTER 15
H. B. 64
Passed February 9, 2024
Approved February 16, 2024
Effective February 16, 2024

STATE CONSTRUCTION AND FIRE CODES AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the State Construction Code and the State Fire Code.

Highlighted Provisions:

This bill:

- amends the statewide amendments to the International Building Code;
- amends the statewide amendments to the International Residential Code;
- amends the statewide amendments to the International Mechanical Code;
- amends the statewide amendments to the National Electrical Code;
- amends the statewide amendments to the International Existing Building Code;
- adopts the 2024 edition of the Liquefied Petroleum Gas Code; and
- amends statewide amendments to the International Fire Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-3-102, as last amended by Laws of Utah 2023, Chapters 209, 327
15A-3-113, as last amended by Laws of Utah 2021, Chapter 199
15A-3-202, as last amended by Laws of Utah 2023, Chapter 209
15A-3-203, as last amended by Laws of Utah 2023, Chapter 209
15A-3-204, as last amended by Laws of Utah 2023, Chapter 209
15A-3-205, as last amended by Laws of Utah 2023, Chapter 209
15A-3-206, as last amended by Laws of Utah 2023, Chapter 209
15A-3-402, as last amended by Laws of Utah 2023, Chapter 209
15A-3-601, as last amended by Laws of Utah 2023, Chapter 209
15A-3-801, as last amended by Laws of Utah 2023, Chapter 209
15A-5-103, as last amended by Laws of Utah 2023, Chapter 95
15A-5-202, as last amended by Laws of Utah 2023, Chapters 95, 327
15A-5-203, as last amended by Laws of Utah 2023, Chapters 95, 327
63I-2-215, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section 15A-3-102 is amended to read:

15A-3-102. Amendments to Chapters 1 through 3 of IBC.

(1) IBC, Section 106, is deleted.

(2) In IBC, Section 110, a new section is added as follows: "110.3.13, Weather-resistant exterior wall envelope. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section 1404.2, and flashing as required by Section 1404.4 to prevent water from entering the weather-resistive barrier."

(3) IBC, Section 115.1, is deleted and replaced with the following: "115.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or other pertinent laws or ordinances or is dangerous or unsafe, the building official is authorized to stop work."

(4) In IBC, Section 202, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code R432-13."

(5) In IBC, Section 202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

(6) In IBC, Section 202, the definition for "Approved Agency" is modified by deleting the words "where such agency has been approved by the building official."

(7) In IBC, Section 202, the definition for "Approved Fabricator" is modified by adding the words "or approved by the state of Utah or a licensed engineer" after the word "code."

(8) In IBC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer" after the word "official."

(9) In IBC, Section 202, the following definition is added for Assisted Living Facility, Residential Treatment and Support: "ASSISTED LIVING FACILITY, RESIDENTIAL TREATMENT AND SUPPORT. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

ASSISTED LIVING FACILITY, TYPE I. A residential facility licensed by the Department of

Health and Human Services that provides a protected living arrangement, assistance with activities of daily living, and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person.

ASSISTED LIVING FACILITY, TYPE II. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:(i) Physically disabled but able to direct his or her own care; or(ii) Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.

ASSISTED LIVING FACILITY, LIMITED CAPACITY. A Type I or Type II assisted living facility having two to five residents.

ASSISTED LIVING FACILITY, SMALL. A Type I or Type II assisted living facility having six to sixteen residents.

ASSISTED LIVING FACILITY, LARGE. A Type I or Type II assisted living facility having more than sixteen residents."

(10) In IBC, Section 202, the following definition is added for Child Care Facility: "CHILD CARE FACILITY. A facility where care and supervision is provided for four or more children for less than 24 hours a day and for direct or indirect compensation in place of care ordinarily provided in their home."

(11) In IBC, Section 202, the definition for " [A] Record Drawings" is modified by deleting the words "a fire alarm system" and replacing them with "any fire protection system."

(12) In IBC, Section 304.1, the words "and technical colleges who also educate high school students as part of their student body" are added after the words "Educational occupancies for students above the 12th grade including higher education laboratories."

[~~(12)~~](13) In IBC, Section 305, Sections 305.2 through 305.2.3 are deleted and replaced with the following:

"305.2 Group E, child care facilities. This group includes buildings and structures or portions thereof occupied by four or more children 2 years of age or older who receive educational, supervision, child care services or personal care services for fewer than 24 hours per day. See Section 429 Day Care, for special requirements for day care.

305.2.1 Within places of religious worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

305.2.2 Four or fewer children. A facility having four or fewer children receiving such day care shall be classified as part of the primary occupancy.

305.2.3 Four or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having four or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

305.2.4 Child day care - - residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Sections 310.3 and 310.4 or shall comply with the International Residential Code in accordance with Section R101.2.

305.2.5 Child care centers. Each of the following areas may be classified as accessory occupancies, if the area complies with Section 508.2:

1. Hourly child care center, as described in Utah Administrative Code, R381-60 Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers;

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs; and

4. Commercial preschools, as described in Utah Administrative Code, R381-40, Commercial Preschool Programs."

[~~(13)~~](14) In IBC, Table 307.1(1), footnote "d" is added to the row for Explosives, Division 1.4G in the column titled STORAGE - Solid Pounds (cubic feet).

[~~(14)~~](15) In IBC, Section 308.2, in the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see Section 308.2.5" are added after "Assisted living facilities."

[~~(15)~~](16) In IBC, Section 308.2.4, all of the words after the first International Residential Code are deleted.

[~~(16)~~](17) A new IBC, Section 308.2.5, is added as follows:

"308.2.5 Assisted living facilities. A Type I, Large assisted living facility is classified as occupancy Group I-1, Condition 1. A Type II, Small assisted living facility is classified as occupancy Group I-1, Condition 2. See Section 202 for definitions."

[~~(17)~~](18) IBC, Section 308.3, is deleted and replaced with the following:

"308.3 Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than four persons who are incapable of self-preservation. This group shall include, but not be limited to the following:

Assisted living facilities, Type-II Large, see Section 308.3.3

Child care facilities

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes (both intermediate care facilities and skilled nursing facilities)

Psychiatric hospitals"

[~~(18)~~](19) In IBC, Section 308.3.2, the number "five" is deleted and replaced with the number "four" in each location.

[~~(19)~~](20) A new IBC, Section 308.3.3, is added as follows:

"308.3.3 Assisted living facilities. A Type-II, Large assisted living facility is classified as occupancy Group I-2, Condition 1. See Section 202 for definitions."

[~~(20)~~](21) In IBC, Section 308.5, the words "more than five" are deleted and replaced with the words "five or more in each location."

[~~(21)~~](22) IBC, Section 308.5.1, is deleted and replaced with the following:

"308.5.1 Classification as Group E. A child day care facility that provides care for five or more but not more than 100 children under two years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as a Group E. See Section 429 for special requirements for Day Care."

[~~(22)~~](23) In IBC, Sections 308.5.3 and 308.5.4, the words "five or fewer" are deleted and replaced with the words "four or fewer" in each location and the following sentence is added at the end: "See Section 429 for special requirements for Day Care."

[~~(23)~~](24) IBC, Section 310.4, is deleted and replaced with the following:

"310.4 Residential Group R-3. Residential Group R-3 occupancies and single family dwellings complying with the International Residential Code where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Assisted Living Facilities, Type-I, limited capacity, see Section 310.5.3

Buildings that do not contain more than two dwellings

Care facilities, other than child care, that provide accommodations for five or fewer persons receiving care

Congregate living facilities (nontransient) with 16 or fewer occupants

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Congregate living facilities (transient) with 10 or fewer occupants

Boarding houses (transient)

Lodging houses (transient) with five or fewer guest rooms and 10 or fewer occupants"

[~~(24)~~](25) IBC, Section 310.4.1, is deleted and replaced with the following:

"310.4.1 Care facilities within a dwelling. Care facilities, other than child care, for five or fewer persons receiving care that are within a single family dwelling are permitted to comply with the International Residential Code. See Section 429 for special requirements for Child Day Care."

[~~(25)~~](26) A new IBC Section 310.4.3 is added as follows: " 310.4.3 Child Care. Areas used for child care purposes may be located in a residential dwelling unit under all of the following conditions and Section 429:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board.

2. Use is approved by the Department of Health and Human Services, as enacted under the authority of the Utah Code, Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

a. Utah Administrative Code, R430-50, Residential Certificate Child Care.

b. Utah Administrative Code, R430-90, Licensed Family Child Care.

3. Compliance with all zoning regulations of the local regulator."

[~~(26)~~](27) A new IBC, Section 310.4.4, is added as follows: "310.4.4 Assisted living facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

[~~(27)~~](28) In IBC, Section 310.5, the words "Type II Limited Capacity and Type I Small, see Section 310.5.3" are added after the words "assisted living facilities."

[~~(28)~~](29) A new IBC, Section 310.5.3, is added as follows: "310.5.3 Group R-4 Assisted living facility occupancy groups. The following occupancy groups shall apply to Assisted Living Facilities: Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy. Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 2. Section 15A-3-113 is amended to read:

15A-3-113. Amendments to Chapters 32 through 35 of IBC.

[~~(1) In IBC, Chapter 35, the referenced standard for NFPA 70-17 is deleted and replaced with NFPA 70-20.~~]

[~~(2)~~](1) In IBC, Chapter 35, the referenced standard "ICC A117.1-17: Accessible and Usable Buildings and Facilities" is deleted and replaced with "ICC A117.1-09: Accessible and Usable Buildings and Facilities."

(2) In IBC, Chapter 35, the referenced standard ICCA117.1-09, Section 606.2, Exception 1, is modified to include the following sentence at the end of the exception:

"The minimum clear floor space shall be centered on the sink assembly."

Section 3. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R101.2, Exception, the words "where provided with an automatic sprinkler system complying with Section P2904" are deleted.

(2) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(3) In IRC, Section R105.2, number 10, is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762 mm) above grade at any point and not requiring guardrails, that do not serve the exit door required by Section R311.4."

(4) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

[~~(5) IRC, Section 109.1.5, is deleted and replaced with the following: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.4 to prevent water from entering the weather-resistive barrier."~~]

[~~(6)~~](5) IRC, Section 109.1.5, is deleted and replaced with the following:

"R109.1.5 Other inspections. In addition to the inspections listed in R109.1.1 through R109.1.4, the building official shall have the authority to inspect the proper installation of insulation.

R109.1.5.1 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.4 to prevent water from entering the weather-resistive barrier.

R109.1.5.2 Fire-resistance-rated construction inspection. Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after lathing or gypsum board or gypsum panel products are in place, but before any plaster is applied, or before board or panel joints and fasteners are taped and finished."

(6) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

(7) In IRC, Section R202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

(8) In IRC, Section R202, the definition for "Approved Agency" is modified by replacing the word "and" with "or."

(9) In IRC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer or architect" after the word "official."

(10) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

(11) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

(12) In IRC, Section 202, the following definition is added: "DUAL SOURCE CONNECTION. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, but not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

(13) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

(14) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non- flammable; non- combustible; without objectionable odors; non- highly pigmented; and will not interfere with the operation of the sewer treatment facility."

(15) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

(16) IRC, Figure R301.2 (3), is deleted and replaced with R301.2 (3) as follows:

"TABLE NO. R301.2{(5)} (3)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values."

(17) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

(18) In IRC, Section R302.2, the following sentence is added at the end of the paragraph: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

(19) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2- inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

(20) In IRC, Section R302.5.1, the last sentence is deleted.

(21) IRC, Section R302.13, is deleted.

(22) In IRC, Section R303.4, the following exception is added: "Exception: Dwelling units tested in accordance with Section N1102.4.1.2 (R402.4.1.2) which has an air tightness of 3.0 ACH (50) or greater do not require mechanical ventilation."

(23) In IRC, Section R310.7, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(24) IRC, Sections R311.7.45 through R311.7.5.3, are deleted and replaced with the following: "R311.7.45.1 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12- inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Nosing. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4- inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

(25) IRC, Section R312.2, is deleted.

(26) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two- family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

(27) In IRC, Section R314.2.2, the words "[~~or~~] accessory dwelling units," are added after the words [~~"sleeping rooms".~~] "Where alterations, repairs."

(28) In IRC, Section R315.2.2, the words "[~~or~~] accessory dwelling units," are added after the words [~~"sleeping rooms".~~] "Where alterations, repairs."

(29) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

(30) A new IRC, Section R328.12, is added as follows:

"R328.12 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

(31) In IRC, Section 403.1.3.5.3, an exception is added as follows: "Exception: Vertical steel in footings shall be permitted to be located while concrete is still plastic and before it has set. Where vertical steel resists placement or the consolidation of concrete around steel is impeded, the concrete shall be vibrated to ensure full contact between the vertical steel and concrete."

(32) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm)

from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

(33) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

(34) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

(35) In IRC, Section R405.1, a second exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geotechnical report shall make a recommendation regarding a drainage system."

(36) In IRC, Section R506.2.3, the words "10-mil (0.010 inch; 0.25 mm)" are deleted and replaced with "6-mil (0.006 inch; 0.152 mm)" and the words "conforming to ASTM E1745 Class A requirements" are deleted.

Section 4. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) IRC, Section 609.4.1, is deleted.

(2) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required to be submitted in order to issue a building permit."

(3) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

(4) In IRC, Section N1101.13 (R401.2), [~~add~~] Exception 2 is added as follows:

"2. Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";

(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and

(c) after January 1, 2021, "5 percent better than code.""

(5) In IRC, Table [~~N1102.2~~] N1102.1.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote "j" is added as follows:

"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

(6) In IRC, Table N1102.1.3 (R402.1.3), in the column title WOOD FRAME WALL R-VALUE, a new footnote "j" is added as follows: "j. In climate zone 3 and 5, an R-15, and in climate zone 6, an R-20 shall be acceptable where air-impermeable insulation is installed in the cavity space."

[~~(6)~~](7) In IRC, Sections N1102.2.1 (R402.2.1), a new Section N1102.2.1.1 is added as follows:

"N1102.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, R806.5.

2. The house shall attain a blower door test result 2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope."

[~~(7)~~](8) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

[~~(8)~~](9) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

[~~(9)~~](10) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the first sentence:

(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";

(ii) after January 1, 2019, replace the word "five" with "3.5"; and

(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.

(b) The following sentence is inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."

(c) In the third sentence, the word "third" is deleted.

(d) The following sentence is inserted after the third sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

[~~(10)~~](11) In IRC, Section N1103.3.3 (R403.3.3), the exception for duct air leakage testing is deleted and replaced with the following:

(a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";

(b) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and

(c) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope."

[~~(11)~~](12) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the second exception: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training."

[~~(12)~~](13) In IRC, Section N1103.3.4 (R403.3.4):

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

[~~(13)~~](14) In IRC, Section N1103.3.5 (R403.3.5), the words "or plenums" are deleted.

[~~(14)~~](15) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

[~~(15)~~](16) IRC, Section N1103.6.1 (R403.6.1), is deleted and replaced with the following: "N1103.6.1 (R403.6.1) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.1 (R403.6.1).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

[~~(16)~~](17) In IRC, Section N1103.6.1 (R403.6.1), the table is deleted and replaced with the following:

"TABLE N1103.6.1 (R403.6.1)

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range Hoods	Any	2.8 cfm/watt	Any
In- line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any"

[~~(17)~~] (18) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:

"TABLE N1106.4 (R406.4)

MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68"

[~~(18)~~](19) In IRC, Section N1103.7, the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with N1103.7.1[~~".~~]."

[~~(19)~~](20) A new IRC, Section N1103.7.1 is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(20)~~](21) In IRC, Section M1307.2, the words "In Seismic Design Categories D0, D1, and D2, and in townhouses in Seismic Design Category C", are deleted, and in Subparagraph 1, the last sentence is deleted.

[~~(21)~~](22) In IRC, Section M1401.3, the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

[~~(22)~~](23) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(23)~~](24) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335- 2- 40."

[~~(24)~~](25) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

[~~(25)~~](26) IRC, Section M1411.9, is deleted.

[~~(26)~~](27) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

[~~(27)~~](28) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 5. Section 15A- 3- 204 is amended to read:

15A- 3- 204. Amendments to Chapters 16 through 25 of IRC.

(1) In IRC, Section M1602.2, a new exception is added at the end of Item [8]7 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an

accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

(3) IRC, Section P2503.2, is deleted and replaced with the following: "P2503.2 Testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protections, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross-Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064."

(4) In IRC, Section P2503.8, the word "devices" is deleted and replaced with the word "assemblies."

Section 6. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

(1) IRC, Section P2602.1, is deleted and replaced with the following: "P2602.1 General. The water-distribution system of any building or premises where plumbing fixtures are installed shall be connected to a public water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code Section 10-8-38, or an approved private sewage disposal system in accordance with Utah Administrative Code, Rule R317-4, as administered by the Department of Environmental Quality, Division of Water Quality.

Exception: Sanitary drainage piping and systems that convey only the discharge from bathtubs, showers, lavatories, clothes washers, and laundry trays shall not be required to connect to a public sewer or to a private sewage disposal system provided that the piping or systems are connected to a system in accordance with Sections P2910 or P2911."

(2) A new IRC, Section P2602.3, is added as follows: "P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction."

(3) A new IRC, Section P2602.4, is added as follows: "P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality."

(4) In IRC, Section P2705, Item 5, the words "lavatory" and "lavatories" are deleted.

(5) In IRC, Section P2705, a new Item 9 is added as follows: "9. Lavatories. A lavatory shall not be set closer than 12 inches from its center to any side wall or partition. A lavatory shall be provided with a clearance of 24 inches in width and 21 inches in depth in front of the lavatory to any side wall, partition, or obstruction." Remaining item numbers are renumbered accordingly.

(6) In IRC, Section P2801.6.2, the following is added at the end of the section: "When permitted by the code official, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044, a barrier type floor drain trap seal protection device meeting ASSE 1072, or a deep seal p-trap."

(7) A new IRC, Section P2801.6.3, is added as follows: "P2801.6.3 Pan designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devises, or equipment."

(8) IRC, Section P2801.8, is deleted and replaced with the following: "P2801.8 Water heater seismic bracing. As a minimum requirement, water heaters shall be anchored or strapped to resist horizontal displacement caused by earthquake motion. Strapping shall be at points within the upper one-third and lower one-third of the appliance's vertical dimensions.

(9) In IRC, Section P2804.6.1, a new number 15 is added as follows: "15. Be installed in accordance with the manufacturer's installation instructions, not to exceed 180 degrees in directional changes."

(10) A new IRC, Section P2902.1.1, is added as follows: "P2902.1.1 Backflow assembly testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross-Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064.

(11) In IRC, Section P2902.1, the following subsections are added as follows:

"P2902.1.2 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

[~~P2902.1.2~~] P2902.1.3 Specific Installation Criteria.

[~~P2902.1.2~~] P2902.1.3.1 Reduced Pressure Principle Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly may not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.

c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4 of the International Plumbing Code as amended in Utah Code, Subsection 15A-3-303(1).

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

[~~P2902.1.2.2~~] P2902.1.3.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

[~~P2902.1.2.3~~] P2902.1.3.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.

e. The assembly shall be installed in a vertical position."

(12) In IRC, Table 2903.2, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory faucet" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

(13) In IRC, Section P2903.3, the words "public water main or an" are deleted and the following sentence is added at the end: "A water pressure booster pump may not be connected to a public water main unless allowed by Utah Administrative Code, Rule R309-540."

(14) In IRC, Section 2903.5, at the beginning of the second sentence, insert "If installed,".

(15) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: "Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers."

(16) IRC, Section P2910.5, is deleted and replaced with the following:

"P2910.5 Potable water connections.

A system that utilizes nonpotable water (i.e., pressurized irrigation) and installs a connection to the potable water system for backup must install a Reduced Pressure Principle Assembly (RP) directly downstream of the potable water connection (Stop and Waste) and install a "dual source connection" directly downstream from the (RP) installed so that either the potable water system or the nonpotable water is connected at any time to prevent a direct Cross Connection and to protect the potable water from any potential hazard from the nonpotable water system. See Utah Code Section 19-4-112. Note: RP must be tested within 10 days of installation and annually whether the drinking water is used or not."

(17) IRC, Section P2910.9.5, is deleted and replaced with the following:

"P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902."

(18) In IRC, Section P2911.12.4, the following words are deleted: "and backwater valves."

(19) In IRC, Section P2912.15.6, the following words are deleted: "and backwater valves."

(20) In IRC, Section P3007.3.3.1, the words "stainless steel, cast iron, galvanized steel, brass" are added after the word "PE."

(21) IRC, Section P3009, is deleted and replaced with the following:

"P3009 Graywater soil absorption systems: Graywater recycling systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of Utah Administrative Code, R317-401, Graywater Systems. Graywater recycling systems utilized for subsurface irrigation for other occupancies shall comply with Utah Administrative Code, R317-3, Design Requirements for Wastewater Collection, Treatment, and Disposal Systems, and Utah Administrative Code, R317-4, Onsite Wastewater Systems."

(22) In IRC, Section P3101.4, the following sentence is added at the end of the paragraph: "Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward."

(23) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: "Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent."

Section 7. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36, 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

(2) IRC, Section E3606.5, is deleted.

(3) IRC, Section E3601.7 is deleted and replaced with the following: "3601.7 Maximum number of disconnects. The service disconnecting means shall consist of not more than six switches or six sets of circuit breakers mounted in a single enclosure or in a group of separate enclosures."

[~~(3)~~](4) IRC, Section E3901.4.2, is deleted and replaced with the following:

"E3901.4.2 Island and Peninsular Countertops and Work Spaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with E3901.4.3. If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

[~~(4)~~](5) IRC, Section E3901.4.3, is deleted and replaced with the following:

"E3901.4.3 Receptacle Outlet Location. Receptacle outlets shall be located in one or more of the following:

1. On or above, but not more than 20 inches (508 mm) above a countertop or work surface.

2. In a countertop using receptacle outlet assemblies listed for use in countertops.

3. In a work surface using receptacle outlet assemblies listed for use in work surface or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to Section E3901.4.1 or appliances occupying assigned spaces shall not be considered as these required outlets.

4. Under the countertop not more than 14 inches from the bottom leading edge of the countertop."

[~~(5)~~](6) In IRC, Section 3902.1, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(6)~~](7) In IRC, Section 3902.2, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(7)~~](8) In IRC, Section 3902.3, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(8)~~](9) In IRC, Section 3902.4, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(9)~~](10) In IRC, Section 3902.5, after the word "125-volt" add the words "single phase 15 and 20 ampere in unfinished portions of the basement shall have ground-fault circuit-interrupter protection for personnel" and delete the rest of the section.

[~~(10)~~](11) In IRC, Section 3902.6, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(11)~~](12) In IRC, Section 3902.7, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(12)~~](13) In IRC, Section 3902.8, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(13)~~](14) In IRC, Section 3902.9, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(14)~~](15) IRC, Section 3902.10, is deleted.

[~~(15)~~](16) In IRC, Section 3902.12, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

[~~(16)~~](17) In IRC, Section 3902.13, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(18) IRC, Section 3902.15, Crawl space lighting outlets, is deleted.

[~~(17)~~](19) IRC, Section [~~E3902.16~~] 3902.16, Equipment requiring servicing, is deleted.

[~~(18)~~](20) IRC Section [~~E3902.17~~] 3902.17, Outdoor outlets, is deleted.

[~~(19) IRC, Section E3902.18 is deleted.~~]

(21) IRC, Section 3902.19, Location of arc-fault circuit interrupters, is deleted.

(22) IRC, Section E3902.20, Arc-fault circuit interrupter protection, is deleted.

(23) IRC, Section E3902.21, Arc-fault circuit interrupter protection for branch circuit extensions or modification, is deleted.

[~~(20)~~](24) IRC, Chapter 44, is amended by deleting the standard for "ANCE."

[~~(21)~~](25) In IRC, Chapter 44, the standard for ASHRAE is amended by changing "34-2013" to "34-2019."

[~~(22)~~](26) In IRC, Chapter 44, the standard for CSA, is amended by changing the:

(a) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(b) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(23)~~](27) In IRC, Chapter 44, the standard for UL, is amended by changing the:

(a) standard reference number "1995-2011" to "1995-2015";

(b) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(c) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(24)~~] (28) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3"

[~~(25)~~](29) [~~In~~] IRC, Chapter 44, is amended by adding the following reference standard: "UL 9540-20: Energy Storage Systems and Equipment; R328.1, R328.2, and R328.6."

[~~(26)~~](30)(a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(22)(a)~~](26)(a) is not required.

Section 8. Section 15A-3-402 is amended to read:

15A-3-402. Amendments to Chapters 1 through 5 of IMC.

(1) In IMC, Table 403.3.1.1, note "h" is deleted and replaced with the following:

"h. 1. A nail salon shall provide each manicure station where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with:

a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and an activated carbon filter that is capable of filtering and recirculating air to inside space at a rate not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station.

c. A nail salon that complies with Note h. la or h. lb is not required to comply with the labeling, listing, or testing requirements described in International Mechanical Code sections 301.7 or 301.8.

2. For a source capture system described in paragraph 1, the source capture system inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

3. Where one or more exhausting source capture systems described in paragraph 1 operate continuously during occupancy, the source capture system exhaust rate shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

4. The requirements of this note apply to:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(2) [~~In~~] IMC, Section 502.20 is deleted and rewritten as follows:

"502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide each manicure station with a source capture system in accordance with Table 403.3.1.1, note h. For a manicure table that does not have factory-installed source capture system inlets for recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and vertically from the point of any acrylic chemical application.

Exception: Section 502.20 applies to a manicure station in:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(3) In IMC, Section 908.1, the following words are added at the end of the last sentence: "or UL/CSA 60335-2-40."

(4) In IMC, Section 918.1, the following words are added after "1995": "or UL/CSA 60335-2-40."

(5) In IMC, Section 918.2, the following words are added at the end of the sentence: "or UL/CSA 60335-2-40."

[~~(6) In IMC, Section 1101.2, the words "471 or 1995" are deleted and replaced with "471, 1995, or UL/CSA 60335-2-40."~~]

[~~(7)~~](6) In IMC, Section 1101.6, the following sentence is added at the end of the paragraph: "High probability systems utilizing A2L refrigerants shall comply with ASHRAE 15."

[~~(8)~~](7) [~~In~~] IMC, Chapter 15 is amended by adding the following referenced standard to CSA:

"Standard reference number	Title	Referenced in code section number
CSA: CSA C22.2 60335-2-40-2019	Standard for Household and Similar Electrical Appliances, Part 2-40: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	Table M1403.1, M1412.1 M1413.1"

[~~(9)~~](8) [~~In~~] IMC, Chapter 15 is amended by adding the following referenced standard to UL:

"Standard reference number	Title	Referenced in code section number
UL: 60335-2-40-2019	Standard for Household and Similar Electrical Appliances, Part 2-40: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	Table M1403.1, M1412.1 M1413.1"

Section 9. Section 15A-3-601 is amended to read:

15A-3-601. General provisions.

The following are adopted as amendments to the NEC to be applicable statewide:

(1) The IRC provisions are adopted as the residential electrical standards applicable to residential installations under the IRC. All other installations shall comply with the adopted NEC.

(2) In NEC, Section 210.8(A), the words "through 250-volt" are deleted.

(3) In NEC, Section 210.8(A)(5), the word "Basements" is deleted and replaced with "Unfinished portions or areas of the basement not intended as habitable rooms."

(4) [~~In~~] NEC, Section 210.8(F), is deleted.

(5) NEC, Sections 210.52(C)(2) and (3) are deleted and replaced with the following:

"210.52(C)(2) Island and peninsular countertops and Work Surfaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with

210.52(C)(3). If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

210.2(C)(3) Receptacle outlet location. Receptacle outlets shall be located in one or more of the following:

[~~(1)~~](a) On or above, but not more than 500 mm (20 inches) above a countertop or work surface.

[~~(2)~~](b) In a countertop using receptacle assemblies listed for use in countertops.

[~~(3)~~](c) In a work surface using receptacle outlet assemblies listed for use in work surfaces or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to 210.52(C)(1), occupying assigned spaces shall not be considered as these required outlets.

Exception: In dwelling units designed to be accessible to persons with disabilities, receptacles shall be permitted to be installed not more than 300 mm (12 inches) below the countertop or work surface. Receptacles installed below a countertop or work surface shall not be located where the countertop or work surface extends more than 150 mm (6 inches) beyond its support or base."

(6) NEC, Section 210.12, is deleted.

(7) NEC, Section 210.65, is deleted.

(8) [~~In~~] NEC, Section 230.67, is deleted.

(9) NEC, Section 230.71, is deleted and replaced with the following: "230.71 Maximum Number of Disconnects.

(A) General. The service disconnecting means for each service permitted by 230.2, or for each set of service-entrance conductors permitted by 230.40, Exception No. 1, 3, 4, or 5 shall consist of not more than six switches or sets of circuit breakers, or a combination of not more than six switches and sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard or in switchgear. There shall be not more than six sets of disconnects per service grouped in any one location. For the purpose of this section, disconnecting means installed as part of listed equipment and used solely for the following shall not be considered a service disconnecting means:

(1) Power monitoring equipment;

(2) Surge-protective device(s);

(3) Control circuit of the ground-fault protection system; or

(4) Power-operable service disconnecting.

(B) Single-Pole Units. Two or three single-pole switches or breakers, capable of individual operation, shall be permitted on multiwire circuits, one pole for each ungrounded conductor, as one multipole disconnect, provided they are equipped with identified handle ties or a master handle to disconnect all conductors of the service with no more than six operations of the hand.

(C) Beginning on July 1, 2027, Section 230.71(B) is no longer in effect.

[~~(9)~~](10) [~~In~~] NEC, Section 314.27(C), is deleted and replaced with the following: "314.27(C) Boxes at Ceiling-Suspended (Paddle) Fan Outlets. Outlet boxes or outlet box systems used as the sole support of a ceiling-suspended (paddle) fan shall be listed, shall be marked by their manufacturer as suitable for this purpose, and shall not support ceiling-suspended (paddle) fans that weigh more than 32 kg (70 lb). For outlet boxes or outlet box systems designed to support ceiling-suspended (paddle) fans that weigh more than 16 kg (35 lb), the required marking shall include the maximum weight to be supported."

[~~(10)~~](11) [~~In~~] NEC, Section 406.9(C), is deleted and replaced with the following: "406.9(C) Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathtub or shower stall."

Section 10. Section 15A-3-801 is amended to read:

15A-3-801. General provisions.

The following are adopted as amendments to the IEBC and are applicable statewide:

(1) In Section 202, the following definition is added: "BUILDING OFFICIAL. See Code [~~Official~~]official."

(2) In Section 202, the definition for "[~~code~~]Code official" is deleted and replaced with the following:

"CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code."

(3) In Section 202, the definition for [~~existing~~]"Existing buildings" is deleted and replaced with the following:

"EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official."

(4) In Section 301.3, the exception is deleted.

[~~(5) In Section 305.4.2, number 7 is added after number 6 as follows: "7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type-B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type-A dwelling units."~~]

[~~(6)~~](5) Section 503.6 is deleted and replaced with the following:

"503.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. Reduced seismic forces are permitted for design purposes."

[~~(7) In Section 705.1, Exception number 3, the following is added at the end of the exception:~~

~~"This exception does not apply if the existing facility is undergoing a change of occupancy classification."~~]

[~~(8)~~](6) Section 706.3.1 is deleted and replaced with the following:

"706.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section 303 of this code unless an evaluation demonstrates compliance of such items."

[~~(9)~~](7) Section 906.6 is deleted and replaced with the following:

"906.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance with such items. Reduced seismic forces are permitted for design purposes."

[~~(10)~~](8)(a) Section 1006.3 is deleted and replaced with the following:

"1006.3 Seismic [~~Loads~~]loads. Where a change of occupancy results in a building being assigned to a higher risk category, or when a change of occupancy results in a design occupant load increase of 100% or more, the building shall satisfy the requirements of Section 1613 of the International Building Code using full seismic forces."

(b) In Section 1006.3, exceptions 1 through [3]4 remain unchanged.

(c) In Section 1006.3, add a new exception 5 as follows:

[~~"~~] "5. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change."

[~~(11)~~](9) In Section [~~1012.7.3~~]1011.7.3, exception 2 is deleted.

Section 11. Section 15A-5-103 is amended to read:

15A-5-103. Nationally recognized codes incorporated by reference.

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2021 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing, Processing, and Extraction Facilities, 2018 edition;

(3) National Fire Protection Association, NFPA 54, National Fuel Gas Code, 2021 edition; and

(4) National Fire Protection Association, NFPA 58, Liquefied Petroleum Gas Code, [~~2023~~]2024 edition.

Section 12. Section 15A-5-202 is amended to read:

15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not [~~supercede~~]supersede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code

official on an emergency basis if:(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section 106.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout. Fire alarm system layout shall be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

(d) IFC, Chapter 1, Section 105.5.18, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

(e) In IFC, Chapter 1, Section 102.5, a new subsection 3. is added as follows:

"3. For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

(f) In IFC, Chapter 1, Section 111, a new Section 111.5, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

(2) For IFC, Chapter 2, Definitions:

(a) In IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health and Human Services where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) In IFC, Chapter 2, Section 202, General Definitions, APPROVED is modified by adding the words "or independent third-party licensed engineer or licensed architect and submitted to the fire code official" after the word "official."

[~~(b)~~](c) In IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility, Residential Treatment and Support[~~.~~]: "ASSISTED LIVING FACILITY, RESIDENTIAL TREATMENT AND SUPPORT[~~:~~]. A residential facility that provides a group living environment for four or more residents licensed by the Department of Health and Human Services and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.

ASSISTED LIVING FACILITY, TYPE I. A residential facility licensed by the Department of Health and Human Services that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person.

ASSISTED LIVING FACILITY, TYPE II. A residential facility licensed by the Department of Health and Human Services that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person.

Subcategories are:

ASSISTED LIVING FACILITY, LIMITED CAPACITY: A Type I or Type II assisted living facility having two to five residents.

ASSISTED LIVING FACILITY, SMALL: A Type I or Type II assisted living facility having six to sixteen residents.

ASSISTED LIVING FACILITY, LARGE: A Type I or Type II assisted living facility having more than sixteen residents."

[~~(c)~~](d) In IFC, Chapter 2, Section 202, General Definitions, the definition for Child Care Facility is

added as follows: "CHILD CARE FACILITY: A facility where care and supervision is provided for four or more children for less than 24 hours a day and for direct or indirect compensation in place of care ordinarily provided in their home."

(e) In IFC, Chapter 2, Section 202, General Definitions, the definition for Independent Third-Party is added as follows: "INDEPENDENT THIRD-PARTY. An engineer or architect licensed in the State of Utah, who is not affiliated with the jurisdiction or the project owner, developer, architect, or engineer, and is agreeable to all parties. The independent third-party will provide unbiased assessments, opinions, or services based on their expertise and professional standards in their respective fields."

[~~(d)~~](f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is deleted and replaced with the following:

"Group E, Child Care Facilities. This group includes buildings and structures or portions thereof occupied by four or more children 2 years of age or older who receive educational, supervision, child care services or personal care services for fewer than 24 hours per day. See Section 429, Day Care, for special requirements for day care.

Within Places of Religious Worship. Rooms and spaces within places of religious worship providing such day care during religious functions shall be classified as part of the primary occupancy.

Four or Fewer Children. A facility having four or fewer children receiving such day care shall be classified as part of the primary occupancy.

Four or Fewer Children in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

Child Day Care - Residential Child Care Certificate or a License. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in the International Building Code, Sections 310.3 and 310.4, or shall comply with the International Residential Code, Section R101.2.

Child Care Centers. Each of the following areas may be classified as accessory occupancies, if the area complies with the International Building Code, Section 508.2:

1. Hourly child care center, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers;

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs; and

4. Commercial preschools, as described in Utah Administrative Code, R381-40, Commercial Preschool Programs."

[~~(e)~~](g) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: In the list of items under "This group shall include," the words "Type-I Large and Type-II Small, see the International Building Code, Section 308.2.5" are added after "Assisted living facilities."

[~~(f)~~](h) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

[~~(g)~~](i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is deleted and replaced with the following:

"Institutional Group I-2. Institutional Group I-2 occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than four persons who are incapable of self-preservation. This group shall include, but not be limited to the following:

Assisted living facilities, Type-II Large, see Section 308.3.3

Child care facilities

Foster care facilities

Detoxification facilities

Hospitals

Nursing homes (both intermediate care facilities and skilled nursing facilities)

Psychiatric hospitals."

[~~(h)~~](j) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, a new section is added as follows:

"Assisted Living Facilities. A Type I, Large assisted living facility is classified as occupancy Group I-1, Condition 1. A Type II, Small assisted living facility is classified as occupancy Group I-1, Condition 2. See Section 202 for definitions."

[~~(i)~~](k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, Five or fewer persons receiving care, and Five or fewer occupants receiving care in a dwelling unit are deleted and replaced with the following:

"Classification as Group E. A child day care facility that provides care for five or more but not

more than 100 children under two years of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as a Group E. See the International Building Code, Section 429 for special requirements for Day Care.

Four or Fewer Persons Receiving Care. A facility having four or fewer persons receiving custodial care shall be classified as part of the primary occupancy. See the International Building Code, Section 429, for special requirements for Day Care.

Four or Fewer Persons Receiving Care in a Dwelling Unit. A facility such as the above within a dwelling unit and having four or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Day Care."

[~~(j)~~](l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, is deleted and replaced with the following:

"Residential Group R-3. Residential Group R-3 occupancies and single family dwellings complying with the International Residential Code where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I occupancies, including:

Assisted Living Facilities, Type-I, limited capacity, see Section 310.5.3

Buildings that do not contain more than two dwellings

Care facilities, other than child care, that provide accommodations for five or fewer persons receiving care

Congregate living facilities (nontransient) with 16 or fewer occupants

Boarding houses (nontransient)

Convents

Dormitories

Fraternities and sororities

Monasteries

Congregate living facilities (transient) with 10 or fewer occupants

Boarding houses (transient)

Lodging houses (transient) with five or fewer guest rooms and 10 or fewer occupants"

[~~(k)~~](m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is deleted and replaced with the following: "Care Facilities within a Dwelling. Care facilities, other than child care, for five or fewer persons receiving care that are within a single family dwelling are permitted to comply with the International Residential Code. See the International Building Code, Section 429, for special requirements for Child Day Care."

[~~(l)~~](n) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health and Human Services under the authority of Utah Code, Title 26B, Chapter 2, Part 4, Child Care Licensing, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator."

[~~(m)~~](o) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows:

"Assisted Living Facilities. Type I assisted living facilities with two to five residents are Limited Capacity facilities classified as a Residential Group R-3 occupancy or are permitted to comply with the International Residential Code. See Section 202 for definitions."

[~~(n)~~](p) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, the words "Type II Limited Capacity and Type I Small, see R-4 Assisted Living Facility Occupancy Groups" are added after the words "Assisted Living Facilities."

[~~(o)~~](q) In IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-4, a new section is added as follows: "Group R-4 - Assisted Living Facility Occupancy Groups. The following occupancy groups shall apply to Assisted Living Facilities:

Type II Assisted Living Facilities with two to five residents are Limited Capacity Facilities classified as a Residential Group R-4, Condition 2 occupancy.

Type I assisted living facilities with six to sixteen residents are Small Facilities classified as Residential Group R-4, Condition 1 occupancies. See Section 202 for definitions."

Section 13. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An

authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

(f) IFC, Chapter 5, Section 510.1, Emergency responder communication coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) IFC, Chapter 6, Section 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) IFC, Chapter 6, Section 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26B-7-401, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) [~~For~~] IFC, Chapter 7, Fire and Smoke Protection Features, [~~IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."~~] Section 705.2, is deleted.

Section 14. Section 63I-2-215 is amended to read:

63I-2-215. Repeal dates: Title 15A.

Subsection 15A-3-206(3), related to maximum number of disconnects, is repealed on July 1, 2027.

Section 15. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution,

Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 16
S. B. 109
Passed February 14, 2024
Approved February 16, 2024
Effective February 16, 2024

CORRECTIONS MODIFICATIONS

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill amends provisions related to the Department of Corrections.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the roles of county sheriffs and the Department of Corrections regarding the detention of probationers and parolees who have allegedly violated a condition of probation or parole;
- prohibits a county jail from releasing an individual booked on an allegation of violating probation or parole if the Department of Corrections has placed a hold on that individual under certain circumstances;
- clarifies that the Department of Health and Human Services shall provide comprehensive health care to inmates at each health care facility owned or operated by the Department of Corrections;
- directs the Department of Corrections to create a reentry division that focuses on the successful reentry of inmates into the community;
- allows the Department of Corrections to use an inmate supervision model other than a direct supervision model in certain circumstances;
- clarifies the role of the Department of Corrections in probation supervision;
- provides that the executive director of the Department of Corrections may authorize the personal off-duty use of state vehicles;
- removes an internal Department of Corrections audit requirement of certain programs;
- prohibits the disclosure of information and records related to an execution; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2022, Chapter 115
26B-4-325, as enacted by Laws of Utah 2023, Chapter 322
64-13-6, as last amended by Laws of Utah 2023, Chapter 177
64-13-14, as last amended by Laws of Utah 2021, Chapter 246
64-13-21, as last amended by Laws of Utah 2022, Chapter 187
64-13-25, as last amended by Laws of Utah 2023, Chapter 155
64-13-27, as last amended by Laws of Utah 1998, Chapter 263
64-13-29, as last amended by Laws of Utah 2022, Chapter 115
64-13-43, as enacted by Laws of Utah 2008, Chapter 368
77-20-203, as last amended by Laws of Utah 2023, Chapter 408
77-20-204, as last amended by Laws of Utah 2023, Chapters 34, 408
77-27-11, as last amended by Laws of Utah 2022, Chapter 115

ENACTS:

17-22-5.6, Utah Code Annotated 1953

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

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

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

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

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

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

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

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

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

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

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

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

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

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

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

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

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

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

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

[~~(6)(a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to 24 hours from booking if:~~]

[~~(i) the individual is on supervised probation or parole and that information is reasonably available; and~~]

[~~(ii) the individual was arrested for:~~]

[~~(A) a violent felony as defined in Section 76-3-203.5; or~~]

[~~(B) a qualifying domestic violence offense as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.~~]

[~~(b) The jail facility shall notify the entity supervising the individual's probation or parole that the individual is being detained.~~]

[~~(c)(i) The jail facility shall release the individual:~~]

[~~(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or~~]

[~~(B) if a court or magistrate orders release.~~]

[~~(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.~~]

Section 2. Section 17-22-5.6 is enacted to read:

17-22-5.6. Probation supervision -- Violation of probation -- Detention -- Hearing.

(1) As used in this section:

(a) "Probationer" means an individual on probation under the supervision of the county sheriff.

(b)(i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(c) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) A county sheriff shall ensure that the court is notified of violations of the terms and conditions of a probationer's probation when the county sheriff determines that:

(a) incarceration is recommended as a sanction;

(b) a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation; or

(c) there is probable cause that the conduct that led to a violation of probation is:

(i) a violent felony; or

(ii) a qualifying domestic violence offense.

(3) A county sheriff may take custody of, and detain, a probationer for a maximum of 72 hours, excluding weekends and holidays, if there is probable cause to believe that the probationer has committed a violation of probation.

(4) A county sheriff may not detain a probationer or parolee for longer than 72 hours without obtaining a warrant issued by the court.

(5) If the county sheriff detains a probationer under Subsection (3), the county sheriff shall ensure the proper court is notified.

(6) A written order from the county sheriff is sufficient authorization for a peace officer to incarcerate a probationer if the county sheriff has determined that there is probable cause to believe that the probationer has violated the conditions of probation.

(7) If a probationer commits a violation outside of the jurisdiction of the county sheriff supervising the probationer, the arresting law enforcement agency is not required to hold or transport the probationer to the county sheriff.

(8) This section does not require the county sheriff to release a probationer who is being held for something other than a probation violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

Section 3. Section 26B-4-325 is amended to read:

26B-4-325. Medical care for inmates.

As used in this section:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(3) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.

(5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.

(6) The department shall:

(a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39; and

[~~(b) create policies and procedures for providing services to inmates; and~~]

[~~(c)~~](b) in coordination with the Department of Corrections[~~,~~], and as the Department of Correction's agent:

(i) create policies and procedures for providing comprehensive health care to inmates;

(ii) provide inmates with comprehensive health care; and

(iii) develop standard population indicators and performance measures relating to the health of inmates.

(7) In providing the comprehensive health care described in Subsection (6)(b)(ii), the department may not, without entering into an agreement with the Department of Corrections, provide, operate, or manage any treatment plans for inmates that are:

(a) required to be provided, operated, or managed by the Department of Corrections in accordance with Section 64-13-6; and

(b) not related to the comprehensive health care provided by the department.

[~~(7)~~](8) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

(a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:

(i) the types of medical monitoring technology that will be used during the pilot program; and

(ii) eligibility for participation in the pilot program; and

(b) make the indicators and performance measures described in Subsection [~~(6)(c)~~](6)(b)(iii) available to the public through the Department of Corrections and the department websites.

[~~(8)~~](9) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

[~~(9)~~](10) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:

(a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;

(b) a report that summarizes the indicators and performance measures described in Subsection [~~(6)(c)~~](6)(b)(iii) on or before October 1, 2024; and

(c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection [~~(9)(b)~~](10)(b).

(11) An inmate receiving comprehensive health care from the department remains in the custody of the Department of Corrections.

Section 4. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection [~~(2)~~](3), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i)(A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;[~~ and~~]

(o) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102; and

(p) create a reentry division that focuses on the successful reentry of inmates into the community.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3)(a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5)(a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

(6)(a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs,

interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c)(i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 5. Section 64-13-14 is amended to read:

64-13-14. Secure correctional facilities.

(1) The department shall maintain and operate secure correctional facilities for the incarceration of offenders.

(2) For each compound of secure correctional facilities, as established by the executive director, wardens shall be appointed as the chief administrative officers by the executive director.

(3) The department may transfer offenders from one correctional facility to another and may, with the consent of the sheriff, transfer any offender to a county jail.

(4) Where new or modified facilities are designed appropriately, the department shall implement an evidence-based direct supervision system in accordance with Subsections (5) and (6).

(5) A direct supervision system shall be designed to meet the goals of:

(a) reducing offender violence;

(b) enhancing offenders' participation in treatment, program, and work opportunities;

(c) managing and reducing offender risk;

(d) promoting pro-social offender behaviors;

(e) providing a tiered-housing structure that:

(i) rewards an offender's pro-social behaviors and progress toward the completion requirements of the offender's individual case action plan with less restrictive housing and increased privileges; and

(ii) houses similarly behaving offenders together; and

(f) reducing departmental costs.

(6) A direct supervision system shall include the following elements:

(a) department staff will interact continuously with offenders to actively manage offenders' behavior and to identify problems at early stages;

(b) department staff will use management techniques designed to prevent and discourage negative offender behavior and encourage positive offender behavior;

(c) department staff will establish and maintain a professional supervisory relationship with offenders; and

(d) barriers separating department staff and offenders shall be removed.

(7)(a) Notwithstanding Subsection (4), the department may implement a supervision model other than the direct supervision model described in Subsection (4) if the executive director:

(i) determines that the direct supervision model endangers:

(A) the health and safety of the inmates or correctional facility staff; or

(B) the security of the correctional facility; and

(ii) creates a policy detailing what the supervision model will be and why that model will increase the health and safety of the inmates or correctional facility staff or the security of the correctional facility over a direct supervision model.

(b) The department shall post on the department's website:

(i) the executive director's determinations regarding the dangers of using a direct supervision model as described in Subsection (7)(a)(i); and

(ii) the policy detailing the supervision model to be used as described in Subsection (7)(a)(ii).

[~~(7)~~](8) [~~Beginning in the 2022 interim, the~~]The department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding[-]:

(a) the status of the implementation of direct supervision; and

(b) if applicable, the implementation of a supervision model other than the direct supervision model as described in Subsection (7).

Section 6. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community - -

Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1)(a) The department, except as otherwise provided by law, shall supervise a sentenced [~~offenders~~]offender placed in the community if the offender:

(i)(A) is placed on probation by [~~the courts,~~]a court;

(B) is released on parole by the Board of Pardons and Parole[~~,~~]; or

(C) [~~upon acceptance~~]is accepted for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers[~~,~~]; and

(ii) has been convicted of:

(A) a felony;

(B) a class A misdemeanor when an element of the offense is the use or attempted use of physical force against an individual or property; or

(C) notwithstanding Subsection (1)(a)(ii)(B), a class A misdemeanor if the department is ordered by a court to supervise the offender under Section 77-18-105.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8(2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of [~~five~~] six days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4)(a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6)(a)(i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7)(a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the

offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 7. Section 64-13-25 is amended to read:

64-13-25. Standards for programs -- Audits.

(1)(a) To promote accountability and to ensure safe and professional operation of correctional programs, the department shall establish minimum standards for the organization and operation of the department's programs, including collaborating with the Department of Health and Human Services to establish minimum standards for programs providing assistance for individuals involved in the criminal justice system.

(b)(i) The department shall promulgate the standards according to state rulemaking provisions.

(ii) Those standards that apply to offenders are exempt from the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) Offenders are not a class of persons under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The standards shall provide for inquiring into and processing offender complaints.

(d)(i) The department shall establish minimum standards and qualifications for treatment programs provided in county jails to which persons committed to the state prison are placed by jail contract under Section 64-13e-103.

(ii) In establishing the standards and qualifications for the treatment programs, the department shall:

(A) consult and collaborate with the county sheriffs and the Office of Substance Use and Mental Health; and

(B) include programs demonstrated by recognized scientific research to reduce recidivism by addressing an offender's criminal risk factors as determined by a risk and needs assessment.

(iii) All jails contracting to house offenders committed to the state prison shall meet the minimum standards for treatment programs as established under this Subsection (1)(d).

(e)(i) The department shall establish minimum standards for sex offense treatment, which shall include the requirements under Subsection 64-13-7.5(3) regarding licensure and competency.

(ii) The standards shall require the use of evidence-based practices to address criminal risk factors as determined by validated assessments.

(iii) The department shall collaborate with the Office of Substance Use and Mental Health to develop and effectively distribute the standards to jails and to mental health professionals who desire to provide mental health treatment for sex offenders.

(iv) The department shall establish the standards by administrative rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)(a) The department shall establish a certification process for public and private providers of treatment for sex offenders on probation or parole that requires the providers' sex offense treatment practices meet the standards and practices established under Subsection (1)(e)(i) with the goal of reducing sex offender recidivism.

(b) The department shall collaborate with the Office of Substance Use and Mental Health to develop, coordinate, and implement the certification process.

(c) The department shall base the certification process on the standards under Subsection (1)(e)(i) and require renewal of certification every two years.

(d) All public and private providers of sex offense treatment, including those providing treatment to

offenders housed in county jails by contract under Section 64-13e-103, shall comply with the standards in order to begin receiving or continue receiving payment from the department to provide sex offense treatment.

(e) The department shall establish the certification program by administrative rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)(a) The department shall establish an audit process to ensure compliance with sex offense and substance use treatment standards established under this section in accordance with the department's policies and procedures.~~]

[~~(b) At least every three years, the department shall internally audit sex offense and substance use treatment programs for compliance with standards established under this section.~~]

[~~(c) The individuals undertaking the audit shall provide a written report to the managers of the programs audited and to the executive director of the department.~~]

[~~(d) The department's internal audit reports shall:~~]

[~~(i) be classified as confidential internal working papers; and~~]

[~~(ii) be accessible at the discretion of the executive director or the governor, or upon court order.~~]

[~~(4)~~](3) The department:

(a) shall establish performance goals and outcome measurements for all programs that are subject to the minimum standards established under this section and collect data to analyze and evaluate whether the goals and measurements are attained;

(b) shall collaborate with the Office of Substance Use and Mental Health to develop and coordinate the performance goals and outcome measurements, including recidivism rates and treatment success and failure rates;

(c) may use the data collected under Subsection [~~(4)(b)~~](3)(b) to make decisions on the use of funds to provide treatment for which standards are established under this section;

(d) shall collaborate with the Office of Substance Use and Mental Health to track a subgroup of participants to determine if there is a net positive result from the use of treatment as an alternative to incarceration;

(e) shall collaborate with the Office of Substance Use and Mental Health to evaluate the costs, including any additional costs, and the resources needed to attain the performance goals established for the use of treatment as an alternative to incarceration; and

(f) shall annually provide data collected under this Subsection [~~(4)~~](3) to the State Commission on Criminal and Juvenile Justice on or before August 31.

[~~(5)~~](4) The State Commission on Criminal and Juvenile Justice shall compile a written report of the findings based on the data collected under Subsection [~~(4)~~](3) and provide the report to the legislative Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

Section 8. Section 64-13-27 is amended to read:

64-13-27. Records -- Access.

(1)(a) The Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103, county attorneys' offices, and state and local law enforcement agencies shall furnish to the department upon request a copy of records of any person arrested in this state.

(b) The department shall maintain centralized files on all offenders under the jurisdiction of the department and make the files available for review by other criminal justice agencies upon request in cases where offenders are the subject of active investigations.

(2) All records maintained by programs under contract to the department providing services to public offenders are the property of the department.

(3) The following information is not a record under Title 63A, Chapter 12, Part 1, Division of Archives and Records Service and Management of Government Records, or Title 63G, Chapter 2, Government Records Access and Management Act, and may not be disclosed by the department:

(a) identifying information of a person who participates in or administers the execution of a death sentence, including the on-site medical administrator, correctional facility staff, contractors, consultants, executioners, or other staff or volunteers; or

(b) identifying information of a person that manufactures, supplies, compounds, or prescribes drugs, medical supplies, medical equipment, or any other equipment used in the execution of a death sentence.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, or any other provision of the Utah Code governing the release of information, the identifying information described in Subsection (3):

(a) is not subject to release through discovery or other judicial processes or orders; and

(b) may not be introduced as evidence in a civil proceeding, a criminal proceeding, an agency proceeding, or any other administrative or judicial proceeding.

(5) Within 90 days after the day on which an execution of a death sentence is performed, the department shall:

(a) create a copy of the department's records related to an execution of a death sentence that

redacts the personal identifying information listed in Subsection (3); and

(b) destroy the original records containing the personal identifying information.

(6) A copy of a record created in Subsection (5)(a) shall be classified as protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(7) A violation of this section may be punished in accordance with Section 63G-2-801.

(8)(a) If any provision of this section or the application of any provision to any person or circumstance is held invalid by a final decision of a court, the remainder of this section shall be given effect without the invalid provision or application.

(b) The provisions of this section are severable.

Section 9. Section 64-13-29 is amended to read:

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) As used in this section:

(a) "72-hour hold" means a directive from the department:

(i) prohibiting the release of a parolee or probationer from correctional custody who has entered correctional custody due to a violation of a condition of parole or probation; and

(ii) lasting for a maximum of 72 hours, excluding weekends or holidays, from the time the parolee or probationer entered correctional custody.

(b) "Correctional custody" means when a parolee or probationer is physically detained in a county jail or a correctional facility operated by the department.

(c) "Parolee" means an individual on parole under the supervision of the department.

(d) "Probationer" means an individual on probation under the supervision of the department.

(e)(i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

(f) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

[~~(a)~~](2) The department [~~or local law enforcement agency~~]shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the supervision of the department[~~, the local law enforcement agency,~~] or the Board of Pardons and Parole in the case of parolees under the department's supervision when:

[~~(i)~~](a) [~~a sanction of~~]incarceration is recommended as a sanction;

[~~(ii)~~](b) the department [~~or local law enforcement agency~~]determines that a graduated and evidence-based response is not an appropriate response to the [~~offender's~~]violation and recommends revocation of probation or parole; or

[~~(iii)~~](c) there is probable cause that the conduct that led to a violation of parole or probation is:

[~~(A)~~](i) a violent felony[~~ as defined in Section 76-3-203.5~~]; or

[~~(B)~~](ii) a qualifying domestic violence offense.[~~ as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.~~]

[~~(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.~~]

[~~(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.~~]

[~~(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.~~]

[~~(3)(a) Pending any proceeding under this section for a violation of probation or parole, the department:~~]

[~~(i) except as provided in Subsection (3)(b), may take custody of and detain the parolee or probationer who committed the violation for a period not to exceed 72 hours excluding weekends and holidays; and~~]

[~~(ii) if the department or the department's agent has probable cause that the conduct that led to the violation is an offense described in Subsection (1)(a)(iii), shall take custody of and detain the parolee or probationer who committed the violation for a period not to exceed 72 hours excluding weekends and holidays.~~]

[~~(b) The 72-hour period described in this Subsection (3) is reduced by the amount of time a probationer or parolee is detained under Subsection 17-22-5.5(6).~~]

[~~(4) In cases where probationers are supervised by a local law enforcement agency, the agency may take custody of and detain the probationer involved for a period not to exceed 72 hours excluding weekends and holidays if:~~]

[~~(a) the probationer commits a major violation or repeated violations of probation;~~]

[~~(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the offender has violated the conditions of probation; and~~]

[~~(c) the law enforcement agency conducts an administrative hearing within a reasonable time to determine if there is probable cause to believe the offender has violated the conditions of probation, unless the hearing is waived by the probationer.~~]

[~~(5) If the requirements for Subsection (4) are met, the local law enforcement agency shall ensure the proper court is notified.~~]

[~~(6) If the hearing officer determines that there is probable cause to believe that the offender has violated the conditions of the offender's parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender. A written order of the department is sufficient authorization for any peace officer to incarcerate the offender. The department may promulgate rules for the implementation of this section.~~]

[~~(7) A written order from the local law enforcement agency is sufficient authorization for any peace officer to incarcerate the offender if:~~]

[~~(a) the probationers are supervised by a local law enforcement agency; and~~]

[~~(b) the appropriate officer or officers determine that there is probable cause to believe that the offender has violated the conditions of probation.~~]

[~~(8) If a probationer supervised by a local law enforcement agency commits a violation outside of the jurisdiction of the supervising agency, the arresting agency is not required to hold or transport the probationer for the supervising agency.~~]

(3) The department:

(a) may place a 72-hour hold on a parolee or probationer if there is probable cause to believe that the parolee or probationer has committed a violation other than a violent felony or qualifying domestic violence offense; and

(b) shall place a 72-hour hold on a parolee or probationer if there is probable cause to believe that the parolee or probationer has committed a violent felony or qualifying domestic violence offense.

(4)(a) The department may not detain, or have a county jail detain, a probationer or parolee for longer than 72 hours without a warrant or order issued by the court or Board of Pardons and Parole.

(b) To obtain a warrant or order to detain a probationer or parolee for longer than 72 hours, the department shall seek the warrant or order from the court for a probationer or the Board of Pardons and Parole for a parolee.

(c) The department may decline to seek a warrant or order under Subsection (4)(b) for a probationer or parolee subject to a 72-hour hold and remove the 72-hour hold.

(5) This section does not require the department to release a probationer or parolee who is being held for something other than a probation or parole violation, including a warrant issued for new criminal conduct or a new conviction where the individual is sentenced to incarceration.

(6) The department may make rules as necessary to implement this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 10. Section 64-13-43 is amended to read:

64-13-43. Use of state vehicles by department personnel.

The [~~department~~]executive director may authorize the use of a state vehicle for[~~:~~]:

(1) official and commute purposes for a department employee who:

[~~(1)~~](a) supervises probationers or parolees; or

[~~(2)~~](b) investigates the criminal activity of inmates, probationers, or parolees[~~.~~]; and

(2) off-duty personal use.

Section 11. Section 77-20-203 is amended to read:

77-20-203. County sheriff authority to release an individual from jail on own recognizance.

(1) As used in this section:

(a)(i) "Qualifying domestic violence offense" means the same as that term is defined in Subsection 77-36-1.1(4).

(ii) "Qualifying domestic violence offense" does not include criminal mischief as described in Section 76-6-106.

[~~(a)~~](b) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

[~~(b)~~](c) "Violent felony" means the same as that term is defined in [~~Subsection 76-3-203.5(1)(c)(i)~~] Section 76-3-203.5.

(2) [~~A~~]Except as provided in Subsection (3), a county jail official may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection [~~(3)~~](4) for the county.

(3) A county jail official may not release an individual from a jail facility if the individual is subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

[~~(3)~~](4)(a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(5)(a) Except as provided in Subsection (5)(b)(ii), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony; or

(B) a qualifying domestic violence offense.

(b) The jail facility shall:

(i) notify the entity supervising the individual's probation or parole that the individual is being detained; and

(ii) release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(c) This Subsection (5) does not prohibit a jail facility from holding the individual in accordance with this chapter for a new criminal offense.

[~~(4)~~](6) [~~Nothing in this section prohibits~~]This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 12. Section 77-20-204 is amended to read:

77-20-204. County jail authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23A-4-501 or 23A-4-502;

(b) Section 23A-5-311;

(c) Section 23A-5-313;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a county jail official may fix a financial condition for an individual if:

(a)(i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b)(i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A county jail official may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the county jail official fixes a financial condition for release:

(a) the county jail official shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a county jail official in accordance with this section.

(6) If a county jail official fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the county jail official fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a county jail official may not fix or modify a financial condition for an individual; and

(b) if a county jail official fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) A jail facility may not release an individual subject to a 72-hour hold placed on the individual by the Department of Corrections as described in Section 64-13-29.

[~~(8)~~](9) [~~Nothing in this section prohibits~~]This section does not prohibit a court and a county from entering into an agreement regarding release.

Section 13. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2)(a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:

(i) shall immediately report the alleged violation to the board, by means of an incident report; and

(ii) make any recommendation regarding the incident.

(b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(c) The board shall expeditiously consider warrant requests from the department under Section 64-13-29.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and

(b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or the board's appointed examiner.

(5)(a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c)(i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

(d)(i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6)(a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board may impose a period of incarceration:

(i) consistent with the guidelines under Subsection 63M-7-404(5); or

(ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 14. Effective date.

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

CHAPTER 17
S. B. 107
Passed February 22, 2024
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ELECTION PROCESS AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to petitions.

Highlighted Provisions:

This bill:

- repeals the in- state residency requirement for individuals who collect petition signatures;
- repeals provisions related to the in- state residency requirement described above;
- establishes the deadline by which a candidate for public office who is not affiliated with a political party must submit signatures to the county clerk for verification;
- establishes a deadline for the county clerk to count and certify the number of registered voters who signed a signature packet;
- expands the time period within which a candidate described above may file the certificate of nomination with a filing officer; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A- 7- 105, as enacted by Laws of Utah 2023, Chapter 116
20A- 7- 203, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 213, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 303, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 312, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 503, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 512, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 603, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 612, as last amended by Laws of Utah 2023, Chapter 107
20A- 9- 502, as last amended by Laws of Utah 2023, Chapter 116
20A- 9- 503, as last amended by Laws of Utah 2023, Chapter 15
20A- 9- 504, as last amended by Laws of Utah 2019, Chapter 255
20A- 21- 201, as last amended by Laws of Utah 2023, Chapter 116

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

Section 1. Section 20A- 7- 105 is amended to read:

20A- 7- 105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3)(a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4)(a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old [~~and meets the residency requirements of Section 20A- 2- 105~~];

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5)(a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 40 days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the last initiative packet to the county clerk, the sponsors shall submit to the county clerk:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-105(5)(c).

_____

(Name) (Residence Address) (Date)".

(e) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c) or (d).

(6)(a) Within 21 days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8)(a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the application is filed; or

(iv)(A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A statement described in this Subsection (8) shall comply with the requirements described in Subsection 20A-1-1003(2).

(f) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

(g) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9)(a) If the county clerk timely receives a statement requesting signature removal under Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 2. Section 20A-7-203 is amended to read:

20A-7-203. Manual initiative process -- Form of initiative petition and signature sheets.

(1) This section applies only to the manual initiative process.

(2)(a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____(month\day\year);

Each signer says:

I have personally signed this initiative petition;

The date next to my signature correctly reflects the date that I actually signed the initiative petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this initiative were held at: (list dates and locations of public hearings.)".

(b) If the initiative proposes a tax increase, the following statement shall appear, in at least 14- point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8- 1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three- fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14- point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10- point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10- point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10- point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10- point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10- point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10- point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10- point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following statement, "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal Impact of" followed by the title of the initiative, in at least 12- point, bold type;

(ii) except as provided in Subsection (5), the initial fiscal impact statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A- 7- 202.5(2)(a), including any

update in accordance with Subsection 20A-7-204.1(5), in not less than 12-point type;

(iii) if the initiative proposes a tax increase, the following statement in 12-point, bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am [~~a resident of Utah and am~~] at least 18 years old;

All the names that appear in this initiative packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah.

Each individual who signed the initiative packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this initiative packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)

(5) If the initial fiscal impact statement described in Subsection (3)(f)(ii), as updated in accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on an initiative signature sheet, that does not exceed 200 words.

(6) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(7) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.~~]

Section 3. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign any name other than the individual's own to an initiative petition or a statement described in Subsection 20A-7-105(8) or 20A-7-216(4);

(b) knowingly sign the individual's name more than once for the same initiative at one election;

(c) knowingly indicate that an individual who signed an initiative petition signed the initiative petition on a date other than the date that the individual signed the initiative petition;

(d) sign an initiative petition knowing the individual is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection [~~20A-21-201(9)~~]20A-21-201(10), knowing that:

[~~(a) the individual does not meet the residency requirements of Section 20A-2-105;~~]

[~~(b)~~](a) the signature date associated with the individual's signature for the initiative petition is not the date that the individual signed the initiative petition;

[~~(c)~~](b) the individual has not witnessed the signatures of those individuals whose signatures the individual collects or submits; or

[~~(d)~~](c) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign an initiative petition;

(b) pay an individual to remove the individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the individual's name removed from an initiative petition.

(4) A violation of this section is a class A misdemeanor.

Section 4. Section 20A-7-303 is amended to read:

20A-7-303. Manual referendum process -- Form of referendum petition and signature sheets.

(1) This section applies only to the manual referendum process.

(2)(a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this referendum petition;

The date next to my signature correctly reflects the date that I actually signed the referendum petition;

I have personally reviewed the entire statement included with this referendum packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this referendum petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the

individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I [~~am a Utah resident and~~] am at least 18 years old;

All the names that appear in this referendum packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah.

Each individual who signed the referendum packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date).

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.~~]

Section 5. Section 20A-7-312 is amended to read:

20A-7-312. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to a referendum petition;

(b) knowingly sign the person's name more than once for the same referendum petition at one election;

(c) knowingly indicate that a person who signed a referendum petition signed the referendum petition on a date other than the date that the person signed the petition;

(d) sign a referendum petition knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection [~~20A-21-201(9)~~]20A-21-201(10) knowing that:

[~~(a) the person does not meet the residency requirements of Section 20A-2-105;~~]

[~~(b)~~](a) the signature date associated with the person's signature for the referendum petition is not the date that the person signed the referendum petition;

[~~(c)~~](b) the person has not witnessed the signatures of those persons whose signatures the person collects or submits; or

[~~(d)~~](c) one or more individuals who sign the referendum petition are not registered to vote in Utah.

(3) It is unlawful for any person to:

(a) pay a person to sign a referendum petition;

(b) pay a person to remove the person's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the person's name removed from a referendum petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 6. Section 20A-7-503 is amended to read:

20A-7-503. Manual initiative process -- Form of initiative petition and signature sheet.

(1) This section applies only to the manual initiative process.

(2)(a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the

legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this initiative petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) If the initiative proposes a tax increase, the following statement shall appear, in at least 14- point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8- 1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three- fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14- point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10- point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10- point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10- point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10- point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10- point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10- point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10- point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal and legal impact of" followed by the title of the initiative, in at least 12- point, bold type;

(ii) the summary statement in the initial fiscal impact and legal statement issued by the budget officer in accordance with Subsection 20A- 7- 502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A- 7- 502.5(3), in not less than 12- point, bold type;

(iii) if the initiative proposes a tax increase, the following statement in 12- point, bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n)

(insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12- point, bold type, followed by the following statement in not less than eight- point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I [~~am a resident of Utah and~~] am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A- 2- 105.~~]

Section 7. Section 20A- 7- 512 is amended to read:

20A- 7- 512. Misconduct of electors and officers - - Penalty.

(1) It is unlawful for any individual to:

(a) sign any name other than the individual's own name to an initiative petition or a statement described in Subsection 20A- 7- 505(4) or 20A- 7- 515(4);

(b) knowingly sign the individual's name more than once for the same initiative at one election;

(c) knowingly indicate that an individual who signed an initiative petition signed the initiative petition on a date other than the date that the individual signed the initiative petition;

(d) sign an initiative petition knowing the individual is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection [~~20A- 21- 201(9)~~] 20A- 21- 201(10), knowing that:

[~~(a) the individual does not meet the residency requirements of Section 20A- 2- 105;~~]

[~~(b)~~](a) the signature date associated with the individual's signature for the initiative petition is not the date that the individual signed the initiative petition;

[~~(c)~~](b) the individual has not witnessed the signatures of the individuals whose signatures the individual collects or submits; or

[~~(d)~~](c) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign an initiative petition;

(b) pay an individual to remove the individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the individual's name removed from an initiative petition.

(4) A violation of this section is a class A misdemeanor.

Section 8. Section 20A- 7- 603 is amended to read:

20A- 7- 603. Manual referendum process - - Form of referendum petition and signature sheet.

(1) This section applies only to the manual referendum process.

(2)(a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year);

Each signer says:

I have personally signed this referendum petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8- 1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three- fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14- point type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10- point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10- point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10- point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10- point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10- point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10- point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10- point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words, "By signing this referendum petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet or the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12- point, bold type, followed by the following statement in not less than eight- point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I [~~am a resident of Utah and~~] am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.~~]

Section 9. Section 20A-7-612 is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign a name other than the individual's own name to any referendum petition;

(b) knowingly sign the individual's name more than once for the same referendum at one election;

(c) knowingly indicate that an individual who signed a referendum petition signed the referendum petition on a date other than the date that the individual signed the referendum petition;

(d) sign a referendum petition knowing that the individual is not a legal voter;

(e) in connection with circulating a referendum petition, represent that a document is an official government document if the individual knows or has reason to know that the document is not an official government document; or

(f) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection [~~20A-21-201(9)~~] 20A-21-201(10), knowing that:

[~~(a) the individual does not meet the residency requirements of Section 20A-2-105;~~]

[~~(b)~~](a) the signature date associated with the individual's signature for the referendum petition is not the date that the individual signed the referendum petition;

[~~(c)~~](b) the individual has not witnessed the signatures the individual collects or submits; or

[~~(d)~~](c) one or more individuals whose signatures appear in the referendum packet is not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign a referendum petition;

(b) pay an individual to remove the individual's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the individual's name removed from a referendum petition.

(4) A violation of this section is a class A misdemeanor.

(5) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 10. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty -- Removal of petition signature.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of _____

I, _____, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of ____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at ____ Street, in the city of ____, county of ____, state of _____, zip code ____, phone ____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that

failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

_____

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

_____

Notary Public (or other officer qualified to administer oaths)";

(b) [~~bind signature sheets to the certificate that:~~]for each signature packet, bind signature sheets to a copy of the certificate of nomination and the circulator verification, that:

(i) are printed on sheets of paper 8- 1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight- point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with "For Office Use Only," and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2- 1/2 inches wide, headed "Registered Voter's Printed Name (must be legible to be counted)";

(C) the next column shall be 2- 1/2 inches wide, headed "Holographic Signature of Registered Voter";

(D) the next column shall be one inch wide, headed "Birth Date or Age (Optional)";

(E) the final column shall be 4- 3/8 inches wide, headed "Street Address, City, Zip Code"; and

(F) at the bottom of the sheet, contain the following statement: "Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records."; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

"Verification

State of Utah, County of _____

I, _____, of ____, hereby state that:

I [~~am a Utah resident and~~] am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

_____

(Signature) (Residence Address) (Date)".

(2) An agent designated to file a certificate of nomination under Subsection 20A- 9- 503(2)(b) or (4)(b) may not sign the form described in Subsection (1)(a).

(3)(a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old; and

[~~(ii) except as provided by Subsection (3)(b), meets the residency requirements of Section 20A- 2- 105; and~~]

[~~(iii)~~](ii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

[~~(b) A person who is not a resident may sign the verification on a petition for an unaffiliated~~

~~candidate for the office of president of the United States.~~]

[~~(c)~~](b) A person may not sign the circulator verification if the person signed a signature sheet bound to the verification.

(4)(a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person's own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

[~~(A) except as provided by Subsection (3)(b), does not meet the residency requirements of Section 20A-2-105;~~]

[~~(B)~~](A) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

[~~(C)~~](B) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5)(a) [~~The candidate shall submit the petition and signature sheets to the county clerk for certification when the petition has been completed by:~~]To qualify for placement on the general election ballot, the candidate shall, no earlier than the start of the declaration of candidacy period described in Section 20A-9-201.5 and no later than 5 p.m. on June 15 of the year in which the election will be held:

(i) comply with Subsection 20A-9-503(1); and

(ii) submit each signature packet to the county clerk where the majority of the signatures in the packet were collected, with signatures totaling:

[~~(i)~~](A) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

[~~(ii)~~](B) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) A candidate has not complied with Subsection (5)(a)(ii), unless the county clerks verify that each required signature is a valid signature of a registered voter who is eligible to sign the signature packet and has not signed a signature packet to nominate another candidate for the same office.

[~~(b)~~](c) In reviewing the [~~petition~~]signature packets, the county clerk shall count and certify only those persons who signed [~~the petition~~] with a holographic signature, who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(d) The county clerk shall count and certify the number of registered voters who validly signed a signature packet, no later than 30 days after the day on which the candidate submits the signature packet.

[~~(c)~~](e) The candidate may supplement the signatures or amend the certificate of nomination or declaration of candidacy at any time on or before [~~the filing deadline~~]5 p.m. on June 15 of the year in which the election will be held.

[~~(d)~~](f) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter who is qualified to sign the [~~petition~~]signature packet.

(6)(a) A voter who signs a [~~nomination petition~~]signature packet under this section may have the voter's signature removed from the [~~petition~~]signature packet by, no later than three business days after the day on which the candidate submits the [~~petition~~]signature packet to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (6)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a [~~petition~~]signature packet after receiving a timely, valid statement requesting removal of the signature.

Section 11. Section 20A-9-503 is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) [~~Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:~~]A candidate shall, in accordance with the deadline described in Subsection 20A-9-502(5)(a):

(a) file the certificate of nomination and the applicable declaration of candidacy, in person unless otherwise provided in statute, with the filing officer; and

(b) pay the filing fee.

[~~(a)(i) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office, or the county clerk, if the office the candidate seeks is a county office, during the declaration of candidacy~~

~~filing period described in Section 20A-9-201.5; and~~]

[~~(ii) pay the filing fee; or~~]

[~~(b) not later than the close of normal office hours on June 15 of any odd-numbered year:~~]

[~~(i) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, or the special district clerk, if the candidate seeks an office in a special district; and~~]

[~~(ii) pay the filing fee.~~]

(2)(a) The provisions of this Subsection (2) do not apply to an individual who files a [~~declaration of candidacy~~]certificate of nomination and declaration of candidacy for president of the United States.

(b) Subject to Subsections [~~(4)(c)~~](5) and 20A-9-502(2), an individual may designate an agent to file a [~~declaration of candidacy~~]certificate of nomination or declaration of candidacy with the appropriate filing officer if:

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

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

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(3)(a) At the time of filing, and before accepting the [~~petition~~]certificate of nomination and declaration of candidacy, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that the candidate does not meet the requirements, the filing officer may not accept the [~~petition~~]certificate of nomination and declaration of candidacy.

(4) An individual filing a certificate of nomination for president of the United States under this section:

(a) shall pay a filing fee of $500; and

(b) may use a designated agent to file the nomination petition.

(5) An agent designated to file a certificate of nomination under Subsection (2)(b) or (4)(b) may not sign the certificate of nomination form.

[~~(4)(a) An individual filing a certificate of nomination for president or vice president of the United States under this section shall pay a filing fee of $500.~~]

[~~(b) Notwithstanding Subsection (1), an individual filing a certificate of nomination for president or vice president of the United States:~~]

[~~(i) may file the certificate of nomination during the declaration of candidacy filing period described in Section 20A-9-201.5; and~~]

[~~(ii) may use a designated agent to file the certificate of nomination.~~]

[~~(c) An agent designated under Subsection (2) or described in Subsection (4)(b)(ii) may not sign the certificate of nomination form.~~]

Section 12. Section 20A-9-504 is amended to read:

20A-9-504. Unaffiliated candidates -- Governor and president of the United States.

(1)(a) Each unaffiliated candidate for governor shall, before 5 p.m. no later than [~~July 1~~] June 15 of the regular general election year, select a running mate to file as an unaffiliated candidate for the office of lieutenant governor.

(b) The unaffiliated lieutenant governor candidate shall, before 5 p.m. no later than [~~July 1~~] June 15 of the regular general election year, file as an unaffiliated candidate by following the procedures and requirements of this part.

(2)(a) Each unaffiliated candidate for president of the United States shall, before 5 p.m. no later than August 15 of a regular general election year, select a running mate to file as an unaffiliated candidate for the office of vice president of the United States.

(b) Before 5 p.m. no later than August 15 of a regular general election year, the unaffiliated candidate for vice president of the United States described in Subsection (2)(a) shall comply with the requirements of Subsection 20A-9-202(7).

Section 13. Section 20A-21-201 is amended to read:

20A-21-201. Electronic signature gathering for an initiative, a referendum, or candidate qualification.

(1)(a) After filing a petition for a statewide initiative or a statewide referendum, and before gathering signatures, the sponsors shall, after consulting with the Office of the Lieutenant Governor, sign a form provided by the Office of the Lieutenant Governor indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures electronically:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and

Sections 20A-7-313, 20A-7-314, and 20A-7-315; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304.

(c) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures manually:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-204; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-304; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315.

(2)(a) After filing a petition for a local initiative or a local referendum, and before gathering signatures, the sponsors shall, after consulting with the local clerk's office, sign a form provided by the local clerk's office indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures electronically:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604.

(c) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures manually:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-504; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-105 and 20A-7-604; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616.

(3)(a) After a candidate files a notice of intent to gather signatures to qualify for a ballot, and before gathering signatures, the candidate shall, after consulting with the election officer, sign a form provided by the election officer indicating whether the candidate will gather signatures manually or electronically.

(b) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures electronically, signatures for the candidate:

(i) may only be gathered and submitted using the electronic candidate qualification process; and

(ii) may not be gathered or submitted using the manual candidate qualification process.

(c) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures manually, signatures for the candidate:

(i) may only be gathered and submitted using the manual candidate qualification process; and

(ii) may not be gathered or submitted using the electronic candidate qualification process.

(4) To gather a signature electronically, a signature-gatherer shall:

(a) use a device provided by the signature-gatherer or a sponsor of the petition that:

(i) is approved by the lieutenant governor;

(ii) except as provided in Subsection (4)(a)(iii), does not store a signature or any other information relating to an individual signing the petition in any location other than the location used by the website to store the information;

(iii) does not, on the device, store a signature or any other information relating to an individual signing the petition except for the minimum time necessary to upload information to the website;

(iv) does not contain any applications, software, or data other than those approved by the lieutenant governor; and

(v) complies with cyber-security and other security protocols required by the lieutenant governor;

(b) use the approved device to securely access a website designated by the lieutenant governor, directly, or via an application designated by the lieutenant governor; and

(c) while connected to the website, present the approved device to an individual considering signing the petition and, while the signature-gatherer is in the physical presence of the individual:

(i) wait for the individual to reach each screen presented to the individual on the approved device; and

(ii) wait for the individual to advance to each subsequent screen by clicking on the acknowledgement at the bottom of the screen.

(5) Each screen shown on an approved device as part of the signature-gathering process shall appear as a continuous electronic document that, if the entire document does not appear on the screen at once, requires the individual viewing the screen to, before advancing to the next screen, scroll through the document until the individual reaches the end of the document.

(6) After advancing through each screen required for the petition, the signature process shall proceed as follows:

(a) except as provided in Subsection (6)(b):

(i) the individual desiring to sign the petition shall present the individual's driver license or state identification card to the signature-gatherer;

(ii) the signature-gatherer shall verify that the individual pictured on the driver license or state identification card is the individual signing the petition;

(iii) the signature-gatherer shall scan or enter the driver license number or state identification card number through the approved device; and

(iv) immediately after the signature-gatherer complies with Subsection (6)(a)(iii), the website shall determine whether the individual desiring to sign the petition is eligible to sign the petition;

(b) if the individual desiring to sign the petition is unable to provide a driver license or state identification card to the signature gatherer:

(i) the individual may present other valid voter identification;

(ii) if the valid voter identification contains a picture of the individual, the signature-gatherer shall verify that the individual pictured is the individual signing the petition;

(iii) if the valid voter identification does not contain a picture of the individual, the signature-gatherer shall, to the extent reasonably practicable, use the individual's address or other available means to determine whether the identification relates to the individual presenting the identification;

(iv) the signature-gatherer shall scan an image of the valid voter identification and immediately upload the image to the website; and

(v) the individual:

(A) shall enter the individual's address; and

(B) may, at the discretion of the individual, enter the individual's date of birth or age after the individual clicks on the screen acknowledging that they have read and understand the following statement, "Birth date or age information is not required, but may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before your signature is verified or if the information you provide does not match your voter registration records."; and

(c) after completing the process described in Subsection (6)(a) or (b), the screen shall:

(i) except for a petition to qualify a candidate for the ballot, give the individual signing the petition the opportunity to enter the individual's email address after the individual reads the following statement, "If you provide your email address, you may receive an email with additional information relating to the petition you are signing."; and

(ii)(A) if the website determines, under Subsection (6)(a)(iv), that the individual is eligible to sign the petition, permit the individual to enter the individual's name as the individual's electronic signature and, immediately after the signature-gather timely complies with Subsection (10), certify the signature; or

(B) if the individual provides valid voter identification under Subsection (6)(b), permit the individual to enter the individual's name as the individual's electronic signature.

(7) If an individual provides valid voter identification under Subsection (6)(b), the county clerk shall, within seven days after the day on which the individual submits the valid voter identification, certify the signature if:

(a) the individual is eligible to sign the petition;

(b) the identification provided matches the information on file; and

(c) the signature-gatherer timely complies with Subsection (10).

(8) For each signature submitted under this section, the website shall record:

(a) the information identifying the individual who signs;

(b) the date the signature was collected; and

(c) the name of the signature-gatherer.

(9) An individual who is a signature-gatherer may not sign a petition unless another individual

acts as the signature-gatherer when the individual signs the petition.

(10) Except for a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the website:

"VERIFICATION OF SIGNATURE GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state, under penalty of perjury, that:

I [~~am a resident of Utah and~~] am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I did not knowingly make a misrepresentation of fact concerning the law or proposed law to which the petition relates;

I believe that each individual has signed the individual's name and written the individual's residence correctly, that each signer has read and understands the law to which the petition relates, and that each signer is registered to vote in Utah;

Each signature correctly reflects the date on which the individual signed the petition; and

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it."

(11) Except for a petition for a candidate to seek the nomination of a registered political party:

(a) the county clerk may not certify a signature that is not timely verified in accordance with Subsection (10); and

(b) if a signature certified by a county clerk under Subsection (6)(c)(ii)(A) is not timely verified in accordance with Subsection (10), the county clerk shall:

(i) revoke the certification;

(ii) remove the signature from the posting described in Subsection 20A-7-217(4), 20A-7-315(3), 20A-7-516(4), or 20A-7-616(3); and

(iii) update the totals described in Subsections 20A-7-217(5)(a)(ii), 20A-7-315(5)(a)(ii), 20A-7-516(5)(a)(ii), and 20A-7-616(5)(a)(ii).

(12) For a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the lieutenant governor in the manner specified by the lieutenant governor:

"VERIFICATION OF SIGNATURE GATHERER

State of Utah, County of ____

I, _____, of _____, hereby state that:

I [~~am a resident of Utah and~~] am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I believe that each individual has signed the individual's name and written the individual's residence correctly and that each signer is registered to vote in Utah; and

Each signature correctly reflects the date on which the individual signed the petition."

(13) For a petition for a candidate to seek the nomination of a registered political party, the election officer may not certify a signature that is not timely verified in accordance with Subsection (12).

Section 14. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of the veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect May 1, 2024.

CHAPTER 18
S. B. 240
Passed February 27, 2024
Approved February 28, 2024
Effective May 1, 2024

GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

- modifies the definition of "record";
- modifies a provision relating to records that may be classified as protected;
- authorizes a court to award an attorney fee and costs against a person, other than a governmental entity or political subdivision, that [~~actively advocates~~]is a party to an action for judicial review in opposition to disclosure of a record, if the requester substantially prevails; and
- modifies a provision limiting an award of an attorney fee and costs to those incurred after a specified period.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516
63G-2-107, as last amended by Laws of Utah 2023, Chapter 173
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
63G-2-802, as last amended by Laws of Utah 2022, Chapter 388

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

Section 1. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4)(a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5)(a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office,

or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11)(a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14)(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar;

(x) [~~or other personal~~] a note prepared by the originator for the originator's [~~personal~~] own use or for the [~~personal~~] sole use of an individual for whom the originator is working;

[~~(x)~~](xi) a computer program that is developed or purchased by or for any governmental entity for its own use;

[~~(xi)~~](xii) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

[~~(xii)~~](xiii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

[~~(xiii)~~](xiv) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

[~~(xiv)~~](xv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

[~~(xv)~~](xvi) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

[~~(xvi)~~](xvii) child sexual abuse material, as defined by Section 76-5b-103;

[~~(xvii)~~](xviii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

[~~(xviii)~~](xix) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 2. Section 63G-2-107 is amended to read:

63G-2-107. Disclosure of records subject to federal law or other provisions of state law.

(1)(a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) Except as provided in [~~Subsection (2)~~]Subsections (2) and (3), this chapter applies to records described in Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or regulation.

(2) Except as provided in Subsection [~~(3)~~](4), this chapter does not apply to a record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is:

(a) controlled or maintained by a governmental entity; and

(b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.

[~~(c)~~](3) The disclosure of an education record, as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity [~~shall be~~] is governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

[~~(3)~~](4) This section does not exempt any record or record series from the provisions of Subsection 63G-2-601(1).

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) [~~research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst~~]a research request from a legislator to a legislative staff member and research findings prepared in response to [~~these requests~~] the request;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor

has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 4. Section 63G-2-802 is amended to read:

63G-2-802. Injunction -- Attorney fees and costs.

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

(a) a governmental entity or political subdivision:

(i) whose access denial is the subject of a petition for judicial review under Section 63G-2-404; and

(ii) that defends the access denial in an action for judicial review under Section 63G-2-404; or

(b) a person, other than the governmental entity or political subdivision described in Subsection (1)(a), that is party to the action for judicial review in opposition to disclosure of the record that is the subject of judicial review.

(2) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.

[~~(2)~~](3)(a) A district court may assess against [~~any governmental entity or political subdivision~~]a defending party reasonable attorney fees and costs reasonably incurred in connection with a judicial appeal to determine whether a requester is entitled to access to records under a records request, if the requester substantially prevails.

(b) In determining whether to award attorney fees or costs under this section, the court shall consider:

(i) the public benefit derived from the case;

(ii) the nature of the requester's interest in the records; and

(iii) whether the [~~governmental entity's or political subdivision's~~]defending party's actions had a reasonable basis.

(c) Attorney fees and costs shall not ordinarily be awarded if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.

[~~(3)~~](4) Neither attorney fees nor costs may be awarded for fees or costs incurred during administrative proceedings.

[~~(4)~~](5) Notwithstanding Subsection [~~(2)~~](3), a court may [~~only~~] award attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G-2-404(2) only if the attorney fees and costs were incurred 20 or more days after the requester provided [~~to the governmental entity or political subdivision a statement of position that adequately explains the basis for the requester's position~~]:

(a) an adequate explanation in writing of the basis for the requester's position, regardless of whether the explanation is a part of or outside an administrative or court proceeding; and

(b) to the governmental entity, political subdivision, or other person against which the requester seeks an award of attorney fees and costs.

[~~(5)~~](6) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs as provided in this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

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

CHAPTER 19
H. B. 11
Passed February 21, 2024
Approved March 12, 2024
Effective May 1, 2024

WATER EFFICIENT LANDSCAPING REQUIREMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses use of overhead spray irrigation.

Highlighted Provisions:

This bill:

- defines terms;
- restricts the use of overhead spray irrigation by certain governmental entities; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-39-108, Utah Code Annotated 1953
53G-7-224, Utah Code Annotated 1953
72-7-111, Utah Code Annotated 1953

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

Section 1. Section 11-39-108 is enacted to read:

11-39-108. Use of overhead spray irrigation.

(1) As used in this section:

(a) "Active recreation area" means an area of local entity property that is:

(i) dedicated to active use; and

(ii) installed or maintained on an area with a slope of not more than 25%.

(b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor activities, such as:

(i) a sports field;

(ii) a social gathering area;

(iii) an amphitheater;

(iv) a park;

(v) the playing area, including roughs, driving ranges, and chipping and putting greens, of a golf course; or

(vi) a cemetery.

(c) "Great Salt Lake basin" means the area within:

(i) the surveyed meander line of the Great Salt Lake;

(ii) the drainage areas of the Bear River or the Bear River's tributaries;

(iii) the drainage areas of Bear Lake or Bear Lake's tributaries;

(iv) the drainage areas of the Weber River or the Weber River's tributaries;

(v) the drainage areas of the Jordan River or the Jordan River's tributaries;

(vi) the drainage areas of Utah Lake or Utah Lake's tributaries;

(vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii) through (vi); and

(viii) the drainage area of Tooele Valley.

(d) "Landscaped area" means those portions of local entity property that are not, or will not be, occupied by:

(i) a permanent structure; or

(ii) an impervious surface associated with vehicular or pedestrian access or use, such as a driveway, sidewalk, or parking lot.

(e) "Local entity property" means real property owned by a local entity.

(f) "New construction" means a project for the construction of a public facility on local entity property that includes a new or modified landscaped area of more than 7,500 square feet.

(g) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(h) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

(i) "Public facility" means a building, structure, infrastructure, improvement, park, playground, or other facility of a local entity.

(j) "Reconstruction" means a project for renovation, alteration, improvement, or repair of a public facility on local entity property that affects more than 25% of the landscaped area existing before the reconstruction.

(2)(a) A local entity with local entity property within the Great Salt Lake basin that undertakes new construction or reconstruction on the local entity property on or after May 1, 2024, may not install, maintain, or use overhead spray irrigation in a landscaped area of the local entity property unless the landscaped area is an active recreation area.

(b) A local entity may not install, maintain, or use overhead spray irrigation to irrigate the following within an active recreation area described in Subsection (2)(a):

(i) a park strip;

(ii) an area with a width of less than eight feet; or

(iii) in an area that is a planting bed.

(c) A local entity may not treat local entity property as an active recreation area if the area is sized larger than reasonably required for the anticipated use the area is intended to accommodate.

Section 2. Section 53G-7-224 is enacted to read:

53G-7-224. Use of overhead spray irrigation.

(1) As used in this section:

(a) "Active recreation area" means an area of school property that is:

(i) dedicated to active use; and

(ii) installed or maintained on an area with a slope of not more than 25%.

(b) "Active use" means regular use for playing, exercise, recreation, or regular outdoor activities, such as:

(i) a sports field;

(ii) a social gathering area; or

(iii) an amphitheater.

(c) "Great Salt Lake basin" means the area within:

(i) the surveyed meander line of the Great Salt Lake;

(ii) the drainage areas of the Bear River or the Bear River's tributaries;

(iii) the drainage areas of Bear Lake or Bear Lake's tributaries;

(iv) the drainage areas of the Weber River or the Weber River's tributaries;

(v) the drainage areas of the Jordan River or the Jordan River's tributaries;

(vi) the drainage areas of Utah Lake or Utah Lake's tributaries;

(vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii) through (vi); and

(viii) the drainage area of Tooele Valley.

(d) "Landscaped area" means those portions of school property that are not, or will not be, occupied by:

(i) a permanent structure; or

(ii) an impervious surface associated with vehicular or pedestrian access or use, such as a driveway, sidewalk, or parking lot.

(e) "LEA" means:

(i) a school district;

(ii) a charter school, other than an online-only charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) "New construction" means a project for the construction of a public facility on school property that includes a new or modified landscaped area of more than 7,500 square feet.

(g) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(h) "Parkstrip" means the area between the back of a curb or, if there is no curb, the edge of pavement and the sidewalk.

(i) "Public facility" means a building, structure, infrastructure, improvement, sports field, playground, or other facility of an LEA.

(j) "Reconstruction" means a project for the renovation, alteration, improvement, or repair of a public facility on school property that affects more than 25% of the landscaped area existing before the reconstruction.

(k) "School property" means real property owned by an LEA.

(2)(a) An LEA with school property within the Great Salt Lake basin that undertakes new construction or reconstruction on the school property on or after May 1, 2024, may not install, maintain, or use overhead spray irrigation in a landscaped area of the school property unless the landscaped area is an active recreation area.

(b) An LEA may not install, maintain, or use overhead spray irrigation to irrigate the following within an active recreation area described in Subsection (2)(a):

(i) a park strip;

(ii) an area with a width of less than eight feet; or

(iii) in an area that is a planting bed.

(c) An LEA may not treat school property as an active recreation area if the area is sized larger than reasonably required for the anticipated use the area is intended to accommodate.

(3) Nothing in this section:

(a) requires an LEA to submit a land use application to a municipality or county to landscape school property; or

(b) authorizes a municipality or county to:

(i) impose landscaping requirements on school property; or

(ii) require an LEA to obtain approval for landscaping on school property.

Section 3. Section 72-7-111 is enacted to read:

72-7-111. Use of overhead spray irrigation.

(1) As used in this section:

(a) "Great Salt Lake basin" means the area within:

(i) the surveyed meander line of the Great Salt Lake;

(ii) the drainage areas of the Bear River or the Bear River's tributaries;

(iii) the drainage areas of Bear Lake or Bear Lake's tributaries;

(iv) the drainage areas of the Weber River or the Weber River's tributaries;

(v) the drainage areas of the Jordan River or the Jordan River's tributaries;

(vi) the drainage areas of Utah Lake or Utah Lake's tributaries;

(vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(a)(ii) through (vi); and

(viii) the drainage area of Tooele Valley.

(b) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(2) Except as provided in Subsection (3), on land within the Great Salt Lake basin a highway authority may not install, maintain, or allow for the installation or maintenance by others of landscaping in a highway construction project commenced on or after May 1, 2024, that uses overhead spray irrigation within the portion of the highway:

(a) located between the back of the curb on either side of the highway, including in a median or roundabout; or

(b) if there is no curb, between the shoulders contiguous to the traveled way, including in a median or roundabout.

(3) Subsection (2) does not prohibit the temporary use of overhead spray irrigation for the period of time reasonably required to allow drought tolerant perennial plants to establish a healthy root system.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 20
H. B. 82
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

PUBLIC EDUCATION PROGRAM MODIFICATIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends and makes technical and conforming changes to certain provisions of the Utah Code regarding public education.

Highlighted Provisions:

This bill:

- amends certain provisions of the education code, including:
  - defining terms;
  - amending certain reporting requirements;
  - amending certain school fee requirements;
  - consolidating student data advisory groups;
  - providing for parent seminars to be held on Saturday and virtually;
  - providing rulemaking authority for educator licensing complaints; and
  - clarifying existing code;
- requires a local education agency to provide the State Board of Education (state board) with school employee work email addresses to be used for certain communication and under certain conditions;
- provides that the state board may provide employee work email addresses only upon request to specific members of the Legislature for certain communication and under certain conditions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53D-2-203, as enacted by Laws of Utah 2018, Chapter 448
53E-1-203, as last amended by Laws of Utah 2022, Chapters 36, 218
53E-3-503, as last amended by Laws of Utah 2023, Chapter 328
53E-3-516, as last amended by Laws of Utah 2023, Chapters 115, 161
53E-4-204.1, as enacted by Laws of Utah 2022, Chapter 472
53E-4-314, as last amended by Laws of Utah 2022, Chapter 316
53E-6-102, as last amended by Laws of Utah 2019, Chapter 186
53E-6-506, as last amended by Laws of Utah 2022, Chapter 250
53E-6-604, as last amended by Laws of Utah 2020, Chapter 327
53E-9-302, as last amended by Laws of Utah 2023, Chapter 381
53F-2-208, as last amended by Laws of Utah 2023, Chapters 129, 161 and 356
53F-4-304, as last amended by Laws of Utah 2020, Chapter 408
53G-6-210, as renumbered and amended by Laws of Utah 2021, Chapter 261
53G-6-802, as last amended by Laws of Utah 2019, Chapter 293
53G-7-501, as last amended by Laws of Utah 2020, Chapter 51
53G-7-602, as last amended by Laws of Utah 2020, Chapter 138
53G-7-1206, as last amended by Laws of Utah 2021, Chapter 144
53G-8-405, as last amended by Laws of Utah 2021, Chapter 262
53G-9-703, as last amended by Laws of Utah 2019, Chapters 293, 324 and 446
53G-10-402, as last amended by Laws of Utah 2020, Chapters 354, 408
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
80-6-104, as enacted by Laws of Utah 2023, Chapter 161

ENACTS:

53G-7-224, Utah Code Annotated 1953

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

Section 1. Section 53D-2-203 is amended to read:

53D-2-203. Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1)(a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

(i) business;

(ii) finance;

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2)(a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection (5)(a);

(c) actively seek necessary and accurate information;

(d) review and, if necessary, recommend the state auditor audit, activities involved in:

(i) generating trust revenue;

(ii) protecting trust assets; or

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

(h) regarding the trust's compliance with law, and among the School and Institutional Trust Lands System as a whole, report annually to:

(i) the advocacy committee;

(ii) the state treasurer;

(iii) the State Board of Education; and

(iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

(i) Utah State University, on behalf of the agricultural college trust;

(ii) the University of Utah;

(iii) the Utah State Hospital, on behalf of the mental hospital trust;

(iv) the Utah Schools for the Deaf and the Blind, on behalf of the [~~institution~~]schools for the deaf and blind [~~trust and the deaf and dumb asylum trust~~]trusts;

(v) the youth in [~~custody~~]care program at the State Board of Education, on behalf of the reform school trust;

(vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;

(vii) the College of Mines and Earth Sciences created in Section 53B-17-401;

(viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;

(ix) the Miners' Hospital described in Section 53B-17-201; and

(x) the State Capitol Preservation Board, created in Section 63C-9-201, on behalf of the public buildings trust;

(j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;

(k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;

(l) in accordance with state and federal law, speak on behalf of trust beneficiaries:

(i) at School and Institutional Trust Lands Administration meetings;

(ii) at School and Institutional Trust Fund Office meetings; and

(iii) with the media;

(m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and

(n) educate the public regarding the School and Institutional Trust Lands System.

(6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for a review.

Section 2. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee,

and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information for each school district and charter school regarding:

(A) student attendance by grade level;

(B) the percentage of students chronically absent;

(C) the percentage of student excused absences; and

(D) the percentage of student unexcused absences;

[~~(vi)~~](vii) statistical information regarding incidents of delinquent activity in the schools[~~, or~~], at school-related activities, on school buses, and at school bus stops; and

[~~(vii)~~](viii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2)(a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4)(a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) [~~beginning on July 1, 2023,~~]the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Interventions Grant Program;

(viii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and

(ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7)(a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 3. Section 53E-3-503 is amended to read:

53E-3-503. Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.

(1)(a) The state board is directly responsible for the education of all individuals who are:

(i)(A) younger than 21 years old; or

(B) eligible for special education services as described in Chapter 7, Part 2, Special Education Program; and

(ii)(A) receiving services from the Department of Health and Human Services;

(B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent resides within the state; or

(C) being held in a juvenile detention facility.

(b) The state board shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (1)(a); and

(ii) expend funds appropriated for the education of youth in [~~custody~~]care in the following order of priority:

(A) for students in a facility described in Subsection (1)(a)(ii) who are not included in an LEA's average daily membership; and

(B) for students in a facility described in Subsection (1)(a)(ii) who are included in an LEA's average daily membership and who may benefit from additional educational support services.

(c) Subject to future budget constraints, the amount appropriated for the education of youth in [~~custody~~]care under this section shall increase annually based on the following:

(i) the percentage of enrollment growth of students in kindergarten through grade 12; and

(ii) changes to the value of the weighted pupil unit as defined in Section 53F-4-301.

(2) Subsection (1)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in [~~custody~~]care.

(3) The state board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the state board shall retain responsibility for the programs.

(4) The Legislature shall establish and maintain separate education budget categories for youth in [~~custody~~]care or who are under the jurisdiction of the following state agencies:

(a) detention centers and the Divisions of Juvenile Justice and Youth Services and Child and Family Services;

(b) the Office of Substance Use and Mental Health; and

(c) the Division of Services for People with Disabilities.

(5)(a) The Department of Health and Human Services and the state board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice and Youth Services and the Division of Child and Family Services.

(b) The Department of Health and Human Services and the state board may appoint similar councils for those in the custody of the Office of Substance Use and Mental Health or the Division of Services for People with Disabilities.

(6) A school district contracting to provide services under Subsection (3) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

Section 4. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means the same as that term is defined in Section 53G-8-510.

(b) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(d) "Minor" means the same as that term is defined in Section 80-1-102.

(e) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by an SRO;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(g)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(h) "School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) [~~Beginning on July 1, 2023, the~~]The state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities;

(c) disciplinary actions; and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; [~~and~~]

(ii) the type of disciplinary action;

(iii) the number of suspensions imposed;

(iv) the average length of suspensions;

(v) the number of days of instruction lost due to suspensions; and

(vi) the number of expulsions;

(d) the number of SROs employed;

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and

(f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; [~~and~~]

(e) disability status[~~.~~]; and

(f) youth in care designation.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8)(a) The state board shall provide the report described in Subsection (2):

[~~(a)~~](i) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and

[~~(b)~~](ii) to the State Commission on Criminal and Juvenile Justice before [~~July 1~~]January 15 of each year for incidents that occurred during the previous school year.

(b) After submitting the report in accordance with this section, the state board shall supplement the report to the State Commission on Criminal and Juvenile Justice with updated data and information within 30 days after the day on which the state board receives the updated data and information.

Section 5. Section 53E-4-204.1 is amended to read:

53E-4-204.1. Ethnic studies core standards and curriculum requirements.

(1) As used in this section:

(a) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.

(b) "Ethnic studies" means the interdisciplinary social and historical study of how different populations have experienced and participated in building the United States of America, including the study of the culture, history, and contributions of Utahns of diverse ethnicities.

(c) "Ethnic Studies Commission" means the Ethnic Studies Commission created in Section 63C-28-201.

(d) "Utahns of diverse ethnicities" means individuals who are residents of Utah and:

(i) Native American;

(ii) Alaska Native;

(iii) Native Hawaiian;

(iv) Pacific Islander;

(v) Hispanic or Latino;

(vi) Black or African American;

(vii) Asian or Asian American; or

(viii) from diverse backgrounds and experiences.

(2)(a) The state board shall incorporate ethnic studies into the core standards for Utah public schools.

(b) Before the state board takes formal action to incorporate ethnic studies into the core standards, the state board shall:

(i) consult with the Ethnic Studies Commission; and

(ii) submit the proposed core standards incorporating ethnic studies to the Ethnic Studies Commission for review and recommendations.

(3) In incorporating ethnic studies into the core standards, the state board shall consider, at a minimum:

(a) existing core standards that increase cultural awareness of, and focus on the character traits described in Section 53G-10-204 for, all Utah communities;

(b) opportunities to recognize and incorporate into the ethnic studies core standards the histories, contributions, and perspectives of Utahns of diverse ethnicities; and

(c) recommendations of the Ethnic Studies Commission.

(4) Subject to legislative appropriations, the state board shall provide funding for professional learning in ethnic studies for teachers.

(5)(a) By [~~August 1, 2024~~]December 31, 2025, an LEA shall select curriculum and instructional materials for teaching ethnic studies to students in kindergarten through grade 12 that:

(i) align with the core standards incorporating ethnic studies described in this section; and

(ii) are integrated with regular school work.

(b) An LEA shall implement an ethnic studies curriculum that, at a minimum:

(i) focuses on shared identity and honoring unique cultural differences, including:

(A) that each individual student has unique characteristics;

(B) the common elements that unite Utahns; and

(C) respect for distinct socio-cultural identities; and

(ii) includes themes including cultural histories within the context of United States history and global history.

(c) An LEA shall:

(i) modify or revise as needed the ethnic studies instructional materials and curriculum the LEA selects as described in Subsection (5)(a), to ensure alignment with core standards incorporating ethnic studies; and

(ii) submit a report to the state board that provides evidence that the LEA is complying with the requirements of Subsections (5)(a) and (b).

(d) In fulfilling the requirements of this section, an LEA may offer a course on ethnic studies.

(6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) to develop guidelines and methods for LEAs to more fully incorporate ethnic studies into other core standards for Utah public schools courses; and

(b) for the report described in Subsection (5)(c).

(7) The guidelines and methods described in Subsection (6)(a) may not change:

(a) the number of instructional hours required for elementary and secondary students; or

(b) the number of instructional hours dedicated to the existing curriculum.

Section 6. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.

(2) The state board shall develop or select a school readiness assessment [~~that aligns with the kindergarten entry and exit assessment described in Section 53G-7-203~~].

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section 35A-15-201.

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and

(b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.

(5)(a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A-15-201:

(i) a private child care provider; or

(ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A-15-301.

(b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A-15-303(5).

Section 7. Section 53E-6-102 is amended to read:

53E-6-102. Definitions.

As used in this chapter:

(1) "Certificate" means a license issued by a governmental jurisdiction outside the state.

(2) "Educator" means:

(a) a person who holds a license;

(b) a teacher, counselor, administrator, librarian, or other person required, under rules of the state board, to hold a license; or

(c) a person who is the subject of an allegation which has been received by an LEA, the state board,

or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.

(3) "License" means an authorization issued by the state board that permits the holder to serve in a professional capacity in the public schools.

(4) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.

(5) "School" means a public or private entity that provides educational services to a minor child.

(6) "UPPAC" means the Utah Professional Practices Advisory Commission.

Section 8. Section 53E-6-506 is amended to read:

53E-6-506. UPPAC duties and procedures.

(1) The state board may direct UPPAC to review a complaint about an educator and recommend that the state board:

(a) dismiss the complaint; or

(b) investigate the complaint in accordance with this section.

(2)(a) The state board may direct UPPAC to:

(i) in accordance with this section, investigate a complaint's allegation or decision; or

(ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

(i) provide findings to the state board; and

(ii) make a recommendation for state board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3)(a) The state board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section 53E-6-606 administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the state board under Section 77-40a-403.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the state board initiate a background check on an educator as described in Section 53G-11-403.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The state board may direct UPPAC to:

(a) recommend to the state board procedures for:

(i) receiving and processing complaints;

(ii) investigating a complaint's allegation or decision;

(iii) conducting hearings; or

(iv) reporting findings and making recommendations to the state board for state board action;

(b) recommend to the state board or a professional organization of educators:

(i) standards of professional performance, competence, and ethical conduct for educators; or

(ii) suggestions for improvement of the education profession; or

(c) fulfill other duties the state board finds appropriate.

(5) UPPAC may not participate as a party in a dispute relating to negotiations between:

(a) a school district and the school district's educators; or

(b) a charter school and the charter school's educators.

(6) The state board shall make rules[~~establishing~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish UPPAC duties and procedures.

Section 9. Section 53E-6-604 is amended to read:

53E-6-604. State board disciplinary action against an educator.

(1)(a) The state board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:

(i) is immoral, unprofessional, or incompetent; or

(ii) violates standards of ethical conduct, performance, or professional competence.

(b) If the state board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the state

board may dismiss the allegation or decision without an investigation or hearing.

(2) The state board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the state board receives an allegation that the educator:

(a) was charged with a felony of a sexual nature;

(b) was convicted of a felony of a sexual nature;

(c) pled guilty to a felony of a sexual nature;

(d) entered a plea of no contest to a felony of a sexual nature;

(e) entered a plea in abeyance to a felony of a sexual nature;

(f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or

(h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:

(i) is not enrolled in an adult education program in an LEA;

(ii) is not a minor; and

(iii)(A) is enrolled in an LEA where the educator is employed; or

(B) is a participant in an extracurricular program in which the educator is involved.

(3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board shall direct UPPAC to:

(a) investigate the alleged violation; and

(b) hold a hearing to allow the educator to respond to the allegation.

(4) Upon completion of an investigation or hearing described in this section, UPPAC shall:

(a) provide findings to the state board; and

(b) make a recommendation for state board action.

(5)(a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the state board may:

(i) revoke the educator's license;

(ii) suspend the educator's license;

(iii) restrict or prohibit the educator from renewing the educator's license;

(iv) warn or reprimand the educator;

(v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;

(vi) direct UPPAC to further investigate or gather information; or

(vii) take other action the state board finds to be appropriate for and consistent with the educator's behavior.

(b) Upon review of UPPAC's findings and recommendation, the state board shall revoke the license of an educator who:

(i) was convicted of a felony of a sexual nature;

(ii) pled guilty to a felony of a sexual nature;

(iii) entered a plea of no contest to a felony of a sexual nature;

(iv) entered a plea in abeyance to a felony of a sexual nature;

(v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;

(vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;

(vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who:

(A) is not enrolled in an adult education program in an LEA;

(B) is not a minor; and

(C) is enrolled in an LEA where the educator is employed or is a participant in an extracurricular program in which the educator is involved; or

(viii) admits to the state board or UPPAC that the applicant committed conduct that amounts to:

(A) a felony of a sexual nature; or

(B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).

(c) The state board may not reinstate a revoked license.

(d) Before the state board takes adverse action against an educator under this section, the state board shall ensure that the educator had an opportunity for a UPPAC hearing.

(6) Notwithstanding any other provision in this section, the state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require an LEA to notify the state board, UPPAC, and the educator of a complaint from a parent against an educator alleging a violation of educator licensing standards.

Section 10. Section 53E-9-302 is amended to read:

53E-9-302. State student data protection governance.

(1)(a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to administer this part, including

student data protection standards for public education employees, student aides, and volunteers.

(2) The state board shall oversee the preparation and maintenance of:

(a) a statewide data governance plan; and

(b) a state-level metadata dictionary.

(3)(a) [~~As described in this Subsection (3), the state~~]The state board shall establish [~~advisory groups~~]a student data protection advisory group to oversee student data protection in the state[~~and make recommendations to the state board regarding student data protection including:~~].

[~~(a) a student data policy advisory group:~~]

[~~(i) that is composed of members from:~~]

[~~(A) the Legislature;~~]

[~~(B) the state board and state board employees; and~~]

[~~(C) one or more LEAs;~~]

[~~(ii) to discuss and make recommendations to the state board regarding:~~]

[~~(A) enacted or proposed legislation; and~~]

[~~(B) state and local student data protection policies across the state;~~]

[~~(iii) that reviews and monitors the state student data governance plan; and~~]

[~~(iv) that performs other tasks related to student data protection as designated by the state board.~~]

[~~(b) a student data governance advisory group:~~]

[~~(i) that is composed of the state student data officer and other state board employees; and~~]

[~~(ii) that performs duties related to state and local student data protection, including:~~]

[~~(A) overseeing data collection and usage by state board program offices; and~~]

[~~(B) preparing and maintaining the state board's student data governance plan under the direction of the student data policy advisory group.~~]

[~~(c) a student data users advisory group:~~]

[~~(i) that is composed of members who use student data at the local level; and~~]

[~~(ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.~~]

(b) The student data protection advisory group shall be composed of:

(i) members from the Legislature;

(ii) members from the state board;

(iii) the state student data officer;

(iv) one or more LEAs;

(v) state board employees; and

(vi) others who use student data at the local level.

(c) The student data protection advisory group shall:

(i) make recommendations to the state board regarding:

(A) enacted or proposed legislation; and

(B) state and local student data protection policies across the state;

(ii) review and monitor the state student data governance plan; and

(iii) perform other tasks related to student data protection as directed by the state board.

(4)(a) The state board shall designate a state student data officer.

(b) The state student data officer shall:

(i) act as the primary point of contact for state student data protection administration in assisting the state board to administer this part;

(ii) ensure compliance with student privacy laws throughout the public education system, including:

(A) providing training and support to applicable state board and LEA employees; and

(B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;

(iii) investigate complaints of alleged violations of this part;

(iv) report violations of this part to:

(A) the state board;

(B) an applicable education entity; and

(C) the student data [~~policy~~]protection advisory group; and

(v) act as a state level student data manager.

(5) The state board shall designate:

(a) at least one support manager to assist the state student data officer; and

(b) a student data protection auditor to assist the state student data officer.

(6) The state board shall establish a research review process for a request for data for the purpose of research or evaluation.

Section 11. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year,

ongoing state tax fund appropriations to the following programs:

(i) education for youth in [~~custody~~]care, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

(iii) the Basic Program, described in Part 3, Basic Program (Weighted Pupil Units);

(iv) the Adult Education Program, described in Section 53F-2-401;

(v) state support of pupil transportation, described in Section 53F-2-402;

(vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vii) the Concurrent Enrollment Program, described in Section 53F-2-409;

(viii) the juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; and

(ix) dual language immersion, described in Section 53F-2-502; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2)(a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

(3) If the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

Section 12. Section 53F-4-304 is amended to read:

53F-4-304. Scholarship payments.

(1)(a) The state board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the state board from the General Fund to make scholarship payments.

(c) The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e)(i) If money is not available to pay for all scholarships requested, the state board shall allocate scholarships on a random basis except that the state board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, the state board may not award new scholarships during that school year and the state board shall prorate money available for scholarships among the eligible students who received scholarships in the previous year.

(2) Except as provided in Subsection (4), the state board shall award full-year scholarships in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a

private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the state board in accordance with the procedures described in rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account to be available to support the costs of another scholarship.

(6)(a) The state board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the state board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The state board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

(7)(a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b)(i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

(8)(a) Except as provided in Subsection (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the state board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(9) A parent of a scholarship student shall notify the state board if the student does not have continuing enrollment and attendance at an eligible private school.

(10) Before scholarship payments are made, the state board shall cross-check enrollment lists of scholarship students, LEAs, and youth in [~~custody~~]care to ensure that scholarship payments are not erroneously made.

Section 13. Section 53G-6-210 is amended to read:

53G-6-210. Educational neglect of a minor -- Procedures -- Defenses.

(1) With regard to a minor who is the subject of a petition under Section 80-3-201 based on educational neglect:

(a) if allegations include failure of a minor to make adequate educational progress, the juvenile court shall permit demonstration of the minor's educational skills and abilities based upon any of the criteria used in granting school credit, in accordance with Section 53G-6-702;

(b) parental refusal to comply with actions taken by school authorities in violation of Section 53G-10-202, 53G-10-205, 53G-10-403, or 53G-10-203, does not constitute educational neglect;

(c) parental refusal to support efforts by a school to encourage a minor to act in accordance with any educational objective that focuses on the adoption or expression of a personal philosophy, attitude, or belief that is not reasonably necessary to maintain order and discipline in the school, prevent unreasonable endangerment of persons or property, or to maintain concepts of civility and propriety appropriate to a school setting, does not constitute educational neglect; and

(d) an allegation of educational neglect may not be sustained, based solely on a minor's absence from

school, unless the minor has been absent from school or from any given class, without good cause, for more than 10 consecutive school days or more than 1/[~~16~~]10 of the applicable school term.

(2) A minor may not be considered to be educationally neglected, for purposes of this chapter:

(a) unless there is clear and convincing evidence that:

(i) the minor has failed to make adequate educational progress, and school officials have complied with the requirements of Section 53G-6-206;[~~and~~]or

(ii) the minor is two or more years behind the local public school's age group expectations in one or more basic skills, and is not receiving special educational services or systematic remediation efforts designed to correct the problem;

(b) if the minor's parent or guardian establishes by a preponderance of the evidence that:

(i) school authorities have failed to comply with the requirements of this title;

(ii) the minor is being instructed at home in compliance with Section 53G-6-204;

(iii) there is documentation that the minor has demonstrated educational progress at a level commensurate with the minor's ability;

(iv) the parent, guardian, or other person in control of the minor has made a good faith effort to secure the minor's regular attendance in school;

(v) good cause or a valid excuse exists for the minor's absence from school;

(vi) the minor is not required to attend school under court order or is exempt under other applicable state or federal law;

(vii) the minor has performed above the twenty-fifth percentile of the local public school's age group expectations in all basic skills, as measured by a standardized academic achievement test administered by the school district where the minor resides; or

(viii) the parent or guardian presented a reasonable alternative curriculum to required school curriculum, in accordance with Section 53G-10-205 or 53G-10-403, and the alternative curriculum was rejected by the school district, but the parents have implemented the alternative curriculum; or

(c) if the minor is attending school on a regular basis.

Section 14. Section 53G-6-802 is amended to read:

53G-6-802. Annual notice of parental rights.

(1) An LEA shall annually notify a parent of a student enrolled in the LEA of:

(a) the parent's rights as specified in this part[~~.~~]; and

(b) the constitutional protections as described in Section 53G-10-205.

(2) An LEA satisfies the notification requirement described in Subsection (1) by posting the information on the LEA's website or through other means of electronic communication.

Section 15. Section 53G-7-224 is enacted to read:

53G-7-224. Local education agency communication requirements -- Protection.

(1) As used in this section, "school employee" means the same as that term is defined in Section 53G-8-510.

(2) On or before October 1 of each year, an LEA shall provide the state board with the work email address of each school employee.

(3) The state board may email school employees for official communication:

(a) if the state board provides 48 hours notice to the local superintendent; and

(b) no more than three times per calendar year.

(4) The state board:

(a) may use an employee's email address provided under Subsection (2) for official communication between the state board and the school employee; and

(b) may not disclose an email address provided under Subsection (2) to a third party.

(5)(a) Upon request, the state board shall provide the email addresses in Subsection (2) to the president of the Senate and the speaker of the House of Representatives.

(b) The president of the Senate and the speaker of the House of Representatives, by mutual agreement, may jointly email school employees for official communication on behalf of the Legislature relating to the teaching profession or education policy in the state:

(i) if the president of the Senate and the speaker of the House of Representatives provide 48 hours notice to the local superintendent; and

(ii) no more than three times per calendar year.

(c) The president of the Senate and the speaker of the House of Representatives may not:

(i) use or allow another individual to use a school employee's email address for political activity or for any purpose other than as described in Subsection (5)(b); and

(ii) disclose and email address provided under Subsection (2) to another legislator or a third party.

Section 16. Section 53G-7-501 is amended to read:

53G-7-501. Definitions.

As used in this part:

(1) "Co-curricular activity" means an activity, a course, or a program that:

(a) is an extension of a curricular activity;

(b) is included in an instructional plan and supervised or conducted by a teacher or education professional;

(c) is conducted outside of regular school hours;

(d) is provided, sponsored, or supported by an LEA; and

(e) includes a required regular school day activity, course, or program.

(2) "Curricular activity" means an activity, a course, or a program that is:

(a) intended to deliver instruction;

(b) provided, sponsored, or supported by an LEA; and

(c) conducted only during school hours.

(3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.

(4)(a) "Elementary school student" means a student enrolled in an elementary school.

(b) "Elementary school student" does not include a secondary school student.

(5)(a) "Extracurricular activity" means an activity, a course, or a program that is:

(i) not directly related to delivering instruction;

(ii) not a curricular activity or co-curricular activity; and

(iii) provided, sponsored, or supported by an LEA.

(b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.

(6)(a) "Fee" means a charge, expense, deposit, rental, or payment:

(i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.

(b) "Fee" includes:

[~~(i) money or something of monetary value raised by a student or the student's family through fundraising;~~]

[~~(ii)~~](i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

[~~(iii)~~](ii) payments made to a third party that provides a part of a school activity, class, or program;

[~~(iv) charges or expenditures for classroom:~~]

[~~(A) textbooks;~~]

[~~(B) supplies; or~~]

[~~(C) materials;~~]

(iii) charges or expenditures for classroom instructional equipment or supplies;

[~~(v)~~](iv) charges or expenditures for school activity clothing; and

[~~(vi)~~](v) a fine other than a fine described in Subsection (6)(c)(i).

(c) "Fee" does not include:

(i) a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or

(C) improper use of school property, including a parking violation;

(ii) a payment for school breakfast or lunch;

(iii) a deposit that is:

(A) a pledge securing the return of school property; and

(B) refunded upon the return of the school property; [~~or~~]

(iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program[~~.~~]; or

(v) money or another item of monetary value raised by a student or the student's family through fundraising.

(7)(a) "Fundraising" means an activity or event provided, sponsored, or supported by an LEA that uses students to generate funds or raise money to:

(i) provide financial support to a school or a school's class, group, team, or program; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraising" does not include an alternative method of raising revenue without students.

(8)(a) "Instructional equipment or supplies" means an activity-, course-, or program-related supply or tool that:

(i) a student is required to use as part of an activity, course, or program in a secondary school;

(ii) becomes the property of the student upon exiting the activity, course, or program; and

(iii) is subject to a fee waiver.

(b) "Instructional equipment or supplies" does not include school equipment.

[~~(8)~~](9)(a) "School activity clothing" means special shoes or items of clothing:

(i)(A) that meet specific requirements, including requesting a specific brand, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that [~~is~~]are required to be worn by a student for [~~a co-curricular or extracurricular~~] an activity-, course-, or a program-related activity.

(b) "School activity clothing" does not include:

(i) a school uniform; or

(ii) clothing that is commonly found in students' homes.

(10) "School equipment" means a machine, equipment, facility, or tool that:

(a) is durable;

(b) is reusable;

(c) is consumable;

(d) is owned by a secondary school; and

(e) a student uses as part of an activity, course, or program in a secondary school.

[~~(9)~~](11)(a) "School uniform" means special shoes or an item of clothing:

(i)(A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a curricular activity.

(b) "School uniform" does not include school activity clothing.

[~~(10)~~](12) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

[~~(11)~~](13) "Secondary school student":

(a) means a student enrolled in a secondary school; and

(b) includes a student in grade 6 if the student attends a secondary school.

[~~(12)~~](14)(a) "Textbook" means [~~the same as that term is defined in Section 53G-7-601.~~]instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

(b) "Textbook" includes:

(i) a hardcopy book or printed pages of instructional material, including a consumable workbook; or

(ii) computer hardware, software, or digital content.

(c) "Textbook" does not include instructional equipment or supplies.

[~~(13)~~](15) "Waiver" means a full [~~or partial~~]release from a requirement to pay a fee and from any provision in lieu of fee payment.

Section 17. Section 53G-7-602 is amended to read:

53G-7-602. State policy on providing free textbooks.

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3)(a) Beginning with the [~~2022-23~~]2024-2025 school year, an LEA[~~:~~]

[~~(i) except as provided in Subsection (3)(a)(ii), may not sell textbooks or otherwise charge a fee for textbooks or the maintenance costs of school equipment; and (ii)~~] may only charge a fee for a textbook required for an Advanced Placement, International Baccalaureate, or, as described in Section 53E-10-302, a concurrent enrollment course.

(b) The LEA shall waive a fee described in Subsection [~~(3)(a)(ii)~~](3)(a) in full or in part if a student qualifies for a waiver in accordance with Section 53G-7-504.

Section 18. Section 53G-7-1206 is amended to read:

53G-7-1206. School LAND Trust Program.

(1) As used in this section:

[~~(a) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.~~]

[~~(b)~~](a) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

[~~(c)~~](b) "Council" means a school community council or a charter trust land council.

[~~(d)~~](c) "LAND trust plan" means a school's plan to use School LAND Trust Program money to implement a component of the school's success plan.

[~~(e)~~](d) "School community council" means a council established at a district school in accordance with Section 53G-7-1202.

[~~(f)~~](e) "Teacher and student success plan" or "success plan" means the same as that term is defined in Section 53G-7-1301.

(2) [~~There is established~~]This section creates the School LAND (Learning And Nurturing Development) Trust Program under the state board to:

(a) provide financial resources to public schools to enhance or improve student academic achievement and implement a component of a district school or charter school's teacher and student success plan; and

(b) involve parents of a school's students in decision making regarding the expenditure of

School LAND Trust Program money allocated to the school.

(3) To receive an allocation under Section 53F-2-404:

(a) a district school shall have established a school community council in accordance with Section 53G-7-1202;

(b) a charter school shall have established a charter trust land council in accordance with Section 53G-7-1205; and

(c) the school's principal shall provide a signed, written assurance that the school is in compliance with Subsection (3)(a) or (b).

(4)(a) A council shall create a program to use the school's allocation distributed under Section 53F-2-404 to implement a component of the school's success plan, including:

(i) the school's identified most critical academic needs;

(ii) a recommended course of action to meet the identified academic needs;

(iii) a specific listing of any programs, practices, materials, or equipment that the school will need to implement a component of the school's success plan to have a direct impact on the instruction of students and result in measurable increased student performance; and

(iv) how the school intends to spend the school's allocation of funds under this section to enhance or improve academic excellence at the school.

(b)(i) A council shall create and vote to adopt a LAND trust plan in a meeting of the council at which a quorum is present.

(ii) If a majority of the quorum votes to adopt a LAND trust plan, the LAND trust plan is adopted.

(c) A council shall:

(i) post a LAND trust plan that is adopted in accordance with Subsection (4)(b) on the School LAND Trust Program website; and

(ii) include with the LAND trust plan a report noting the number of council members who voted for or against the approval of the LAND trust plan and the number of council members who were absent for the vote.

(d)(i) The local school board of a district school shall approve or disapprove a LAND trust plan.

(ii) If a local school board disapproves a LAND trust plan:

(A) the local school board shall provide a written explanation of why the LAND trust plan was disapproved and request the school community council who submitted the LAND trust plan to revise the LAND trust plan; and

(B) the school community council shall submit a revised LAND trust plan in response to a local school board's request under Subsection (4)(d)(ii)(A).

(iii) Once a LAND trust plan has been approved by a local school board, a school community council may amend the LAND trust plan, subject to a majority vote of the school community council and local school board approval.

(e) A charter trust land council's LAND trust plan is subject to approval by the:

(i) charter school governing board; and

(ii) [~~charter school's charter school authorizer~~] budget officer whom the charter school governing board appoints.

(5)(a) A district school or charter school shall:

(i) implement the program as approved;

(ii) provide ongoing support for the council's program; and

(iii) meet state board reporting requirements regarding financial and performance accountability of the program.

(b)(i) A district school or charter school shall prepare and post an annual report of the program on the School LAND Trust Program website before the council submits a plan for the following year.

(ii) The report shall detail the use of program funds received by the school under this section and an assessment of the results obtained from the use of the funds.

(iii) A summary of the report shall be provided to parents of students [~~attending~~] who attend the school.

(6) An LEA shall record the LEA's expenditures of School LAND Trust Program funds through a financial reporting system that the board identifies to assist schools in developing the annual report described in Subsection (5)(b).

(7) The president or chair of a local school board or charter school governing board shall ensure that the members of the local school board or charter school governing board are provided with annual training on the requirements of this section.

(8)(a) The state board shall provide training to the entities described in Subsection (8)(b) on:

(i) the School LAND Trust Program; and

(ii)(A) a school community council; or

(B) a charter trust land council.

(b) The state board shall provide the training to:

(i) a local school board or a charter school governing board;

(ii) a school district or a charter school; and

(iii) a school community council.

(9) The state board shall annually review each school's compliance with applicable law, including rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by:

(a) reading each LAND trust plan submitted; and

(b) reviewing expenditures made from School LAND Trust Program money.

(10) The state board shall designate a staff member who administers the School LAND Trust Program:

(a) to serve as a member of the Land Trusts Protection and Advocacy Committee created under Section 53D-2-202; and

(b) who may coordinate with the Land Trusts Protection and Advocacy Office director, appointed under Section 53D-2-203, to attend meetings or events within the School and Institutional Trust System, as defined in Section 53D-2-102, that relate to the School LAND Trust Program.

Section 19. Section 53G-8-405 is amended to read:

53G-8-405. Liability for release of information.

(1) The district superintendent, district superintendent's designee, principal, and any staff member notified by the principal may not be held liable for information which may become public knowledge unless it can be shown by clear and convincing evidence that the information became public knowledge through an intentional act of the superintendent, superintendent's designee, principal, or a staff member.

(2) A person receiving information under Section 53G-8-403 or 80-6-103 is immune from any liability, civil or criminal, for acting or failing to act in response to the information unless the person acts or fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

Section 20. Section 53G-9-703 is amended to read:

53G-9-703. Parent education -- Mental health -- Bullying -- Safety.

(1)(a) Except as provided in Subsection (3), a school district shall offer a seminar for parents of students who attend school in the school district that:

(i) is offered at no cost to parents;

(ii)(A) begins at or after 6 p.m.; or

(B) takes place on a Saturday;

(iii)(A) is held in at least one school located in the school district;[~~and~~]or

(B) is provided through a virtual platform; and

(iv) covers the topics described in Subsection (2).

(b)(i) A school district shall annually offer one parent seminar for each 11,000 students enrolled in the school district.

(ii) Notwithstanding Subsection (1)(b)(i), a school district may not be required to offer more than three seminars.

(c) A school district may:

(i) develop [~~its~~]the district school's own curriculum for the seminar described in Subsection (1)(a); or

(ii) use the curriculum developed by the state board under Subsection (2).

(d) A school district shall notify each charter school located in the attendance boundaries of the school district of the date and time of a parent seminar, so the charter school may inform parents of the seminar.

(2) The state board shall:

(a) develop a curriculum for the parent seminar described in Subsection (1) that includes information on:

(i) substance abuse, including illegal drugs and prescription drugs and prevention;

(ii) bullying;

(iii) mental health, depression, suicide awareness, and suicide prevention, including education on limiting access to fatal means;

(iv) Internet safety, including pornography addiction; and

(v) the SafeUT [~~and~~] Crisis Line established in Section 53B-17-1202; and

(b) provide the curriculum, including resources and training, to school districts upon request.

(3)(a) A school district is not required to offer the parent seminar if the local school board determines that the topics described in Subsection (2) are not of significant interest or value to families in the school district.

(b) If a local school board chooses not to offer the parent seminar, the local school board shall notify the state board and provide the reasons why the local school board chose not to offer the parent seminar.

Section 21. Section 53G-10-402 is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Political and religious doctrine prohibited -- Conduct and speech of school employees and volunteers.

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or

activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2)(a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; and

(vi) the harmful effects of pornography.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e)(i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; [~~and~~]

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students [~~attending~~]who attend the respective schools; and

(iv) give parents an opportunity [~~for parents~~] to express [~~their~~]the parents' views and opinions on the materials at the meeting described in Subsection (2)(h)(iii).

(3)(a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health shall cooperate with the state board in developing programs to provide instruction in those areas.

(4)(a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5)(a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to [~~their~~] students, school employees or volunteers acting in [~~their~~]an official [~~capacities~~]capacity may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection

(5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official [~~capacities~~]capacity if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that [~~supports~~]support or [~~encourages~~]encourage criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding [~~educators', employees', or volunteers'~~]an educator's, employee's, or volunteer's qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7)(a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable [~~them~~]the teachers, counselors, and school administrators to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and [~~parents of students~~]students' parents.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 22. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in [~~custody~~]care, are repealed July 1, 2027.

(13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(17) Section 53F-5-213 is repealed July 1, 2023.~~]

[~~(18)~~](17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(19)~~](18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(20)~~](19) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(21)~~](20) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(22)~~](21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(23)~~](22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~](23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 23. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in [~~custody~~]care, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18) Section 53F-5-213 is repealed July 1, 2023.~~]

[~~(19)~~](18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(23)~~](22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 24. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in [~~custody~~]care, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18) Section 53F-5-213 is repealed July 1, 2023.~~]

[~~(19)~~](18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](21)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(24)~~](23) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 25. Section 80-6-104 is amended to read:

80-6-104. Data collection on offenses committed by minors -- Reporting requirement.

(1) As used in this section:

(a) "Firearm" means the same as that term is defined in Section 76-10-501.

(b) "Firearm-related offense" means a criminal offense involving a firearm.

(c) "School is in session" means the same as that term is defined in Section 53E-3-516.

(d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:

(a) the number of referrals to the juvenile court;

(b) the number of minors diverted to a nonjudicial adjustment;

(c) the number of minors that satisfy the conditions of a nonjudicial adjustment;

(d) the number of minors for whom a petition for an offense is filed in the juvenile court;

(e) the number of minors for whom an information is filed in the juvenile court;

(f) the number of minors bound over to the district court by the juvenile court;

(g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;

(h) the number of adjudications in the juvenile court for offenses committed by minors;

(i) the number of guilty pleas entered into by minors in the juvenile court;

(j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and

(k) for each minor charged in the juvenile court with a firearm-related offense:

(i) the minor's age at the time the offense was committed or allegedly committed;

(ii) the minor's zip code at the time that the offense was referred to the juvenile court;

(iii) whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(iii);

(iv) the type of offense for which the minor is charged;

(v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and

(vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.

(3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.

(4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:

(a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;

(b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;

(c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and

(d) dosages of programming.

(5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:

(a) data collected by the State Commission on Criminal and Juvenile Justice under this section;

(b) data collected by the State Board of Education under Section 53E-3-516; and

(c) recommendations for legislative action with respect to the data described in this Subsection (5).

(6) After submitting the written report described in Subsection (5), the State Commission on Criminal and Juvenile Justice may supplement the report at a later time with updated data and information the State Board of Education collects under Section 53E-3-516.

[~~(6)~~](7) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 26. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) The actions affecting Section 63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25) take effect on July 1, 2024.

(b) The actions affecting Section 63I-1-253 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

CHAPTER 21
H. B. 84
Passed February 28, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL SAFETY AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson
Cosponsor:
Tyler Clancy
A. Cory Maloy
Cheryl K. Acton
Matthew H. Gwynn
Jefferson Moss
Melissa G. Ballard
Dan N. Johnson
Jefferson S. Burton
Trevor Lee

LONG TITLE

General Description:

This bill establishes a system for school safety incidents.

Highlighted Provisions:

This bill:

- amends the International Fire Code;
- requires certain state buildings and schools to have emergency communication systems;
- requires school resource officer training to be developed by the state security chief;
- establishes duties of the state security chief and a county security chief in relation to school safety initiatives;
- establishes a school guardian program;
- requires threat reporting by state employees and others if they become aware of threats to schools;
- establishes some reporting from the SafeUT Crisis Line to the state's intelligence databases;
- requires certain school safety data to be included in the annual school disciplinary report;
- expands requirements for school resource officer contracts and policies;
- requires a local education agency (LEA) to ensure that each school within the LEA conduct a school safety needs assessment;
- requires designation of certain school safety personnel;
- clarifies that a school may share certain information regarding an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation with a parent upon request;
- requires a school to provide regular communication updates to a parent regarding the implementation of an action plan to address an incident of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;
- requires an LEA to update the LEA's bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy related to certain social media use of a student;
- requires an LEA to designate an individual for bullying incident response and outlines the individual's duties;
- requires panic alert devices and video camera access for schools and classrooms;
- requires coordination of emergency call information with the state's intelligence system;
- amends processes for secure firearm storage under certain circumstances to include school guardians; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - Contracted Initiatives and Grants - School Safety and Support Grant Program as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $100,000,000
- to State Board of Education - Contracted Initiatives and Grants - Early Warning Program as an ongoing appropriation:
  - from the Income Tax Fund, $2,100,000
- to State Board of Education - Utah Schools for the Deaf and the Blind - Administration as an ongoing appropriation:
  - from the Income Tax Fund, $45,700
- to Department of Public Safety - Programs & Operations - Department Commissioner's Office as an ongoing appropriation:
  - from the General Fund, $2,118,100
- to Legislature - House of Representatives - Administration as a one-time appropriation:
  - from the General Fund, One-time, $11,200
- to Legislature - Senate - Administration as a one-time appropriation:
  - from the General Fund, One-time, $11,200
- to Legislature - Office of Legislative Research and General Counsel - Administration as a one-time appropriation:
  - from the General Fund, One-time, $19,900

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-5-203, as last amended by Laws of Utah 2023, Chapters 95, 327
15A-5-205.5, as last amended by Laws of Utah 2023, Chapter 95
17-22-2, as last amended by Laws of Utah 2023, Chapter 15
53-1-108, as last amended by Laws of Utah 2016, Chapter 302
53-10-302, as last amended by Laws of Utah 2016, Chapter 302
53-22-101, as enacted by Laws of Utah 2023, Chapter 383
53-22-102, as enacted by Laws of Utah 2023, Chapter 383
53-22-103, as enacted by Laws of Utah 2023, Chapter 383
53B-17-1201, as renumbered and amended by Laws of Utah 2019, Chapter 446
53B-17-1202, as renumbered and amended by Laws of Utah 2019, Chapter 446
53B-17-1203, as last amended by Laws of Utah 2023, Chapter 328
53B-17-1204, as last amended by Laws of Utah 2020, Chapter 365

53E-3-516, as last amended by Laws of Utah 2023, Chapters 115, 161
53E-3-518, as last amended by Laws of Utah 2023, Chapter 70
53E-3-702, as last amended by Laws of Utah 2019, Chapter 186
53E-3-706, as last amended by Laws of Utah 2022, Chapter 421
53F-4-207, as last amended by Laws of Utah 2022, Chapter 208
53F-5-220, as enacted by Laws of Utah 2023, Chapter 383
53G-6-806, as enacted by Laws of Utah 2023, Chapter 70
53G-8-213, as enacted by Laws of Utah 2023, Chapter 161
53G-8-701, as last amended by Laws of Utah 2023, Chapter 383
53G-8-702, as last amended by Laws of Utah 2023, Chapter 383
53G-8-703, as last amended by Laws of Utah 2023, Chapter 383
53G-8-801, as enacted by Laws of Utah 2019, Chapter 441
53G-8-802, as last amended by Laws of Utah 2023, Chapters 328, 383
53G-8-803, as enacted by Laws of Utah 2023, Chapter 390
53G-9-601, as last amended by Laws of Utah 2023, Chapter 423
53G-9-602, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-603, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-604, as last amended by Laws of Utah 2023, Chapter 423
53G-9-605, as last amended by Laws of Utah 2019, Chapter 293
53G-9-606, as last amended by Laws of Utah 2022, Chapter 399
53G-9-607, as last amended by Laws of Utah 2020, Chapter 408
63H-7a-103, as last amended by Laws of Utah 2020, Chapter 368
63H-7a-208, as last amended by Laws of Utah 2020, Chapter 368
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467
76-10-505.5, as last amended by Laws of Utah 2021, Chapter 141

ENACTS:
53-10-117, Utah Code Annotated 1953
53-22-104.1, Utah Code Annotated 1953
53-22-104.2, Utah Code Annotated 1953
53-22-105, Utah Code Annotated 1953
53-22-106, Utah Code Annotated 1953
53G-8-701.6, Utah Code Annotated 1953
53G-8-701.8, Utah Code Annotated 1953
53G-8-704, Utah Code Annotated 1953
53G-8-805, Utah Code Annotated 1953
53G-9-605.5, Utah Code Annotated 1953

REPEALS AND REENACTS:
53G-8-701.5, as enacted by Laws of Utah 2023, Chapter 383

REPEALS:
53G-8-703.2, as enacted by Laws of Utah 2023, Chapter 383

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

Section 1. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

(f) IFC, Chapter 5, Section 510.1, Emergency responder communication coverage in new buildings, is amended by adding: "When required by the fire code official, unless the new building is a public school as that term is defined in Section 53G-9-205.1 or a private school, then the fire code official shall require," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) IFC, Chapter 6, Section 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) IFC, Chapter 6, Section 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26B-7-401, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

Section 2. Section 15A-5-205.5 is amended to read:

15A-5-205.5. Amendments to Chapters 11 and 12 of IFC.

(1) For IFC, Chapter 11, Construction Requirements for Existing Buildings:

(a) IFC, Chapter 11, Section 1103.2, Emergency Responder Communication Coverage in Existing Buildings, is amended as follows: On line two after the title, the following is added: "When required by the fire code official, unless the existing building is a public school as that term is defined in Section 53G-9-205.1 or a private school, then the fire code official shall require,".

(b) IFC, Chapter 11, Section 1103.5.1, Group A-2, is deleted and replaced with the following:

"1103.5.1 Group A-2. An automatic fire sprinkler system shall be provided throughout existing Group A-2 occupancies where indoor pyrotechnics are used."

(c) IFC, Chapter 11, Section 1103.6, Standpipes, is deleted.

(d) IFC, Chapter 11, 1103.7, Fire Alarm Systems, is deleted and rewritten as follows: "1103.7, Fire Alarm Systems. The following shall have an approved fire alarm system installed in accordance with Utah Administrative Code, R710-4, Buildings Under the Jurisdiction of the Utah Fire Prevention Board:

1. a building with an occupant load of 300 or more persons that is owned or operated by the state;

2. a building with an occupant load of 300 or more persons that is owned or operated by an institution of higher education; and

3. a building with an occupant load of 50 or more persons that is owned or operated by a school district, private school, or charter school.

Exception: the requirements of this section do not apply to a building designated as an Institutional Group I (as defined in IFC 202) occupancy."

(e) IFC, Chapter 11, 1103.7.1 Group E, 1103.7.2 Group I-1, 1103.7.3 Group I-2, 1103.7.4 Group I-3, 1103.7.5 Group R-1, 1103.7.5.1 Group R-1 hotel and motel manual fire alarm system, 1103.7.5.1.1 Group R-1 hotel and motel automatic smoke detection system, 1103.7.5.2 Group R-1 boarding and rooming houses manual fire alarm system,

1103.7.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system, 1103.7.6 Group R-2 are deleted.

(f) IFC, Chapter 11, Section 1103.5.4, High-rise buildings, is amended as follows: On line two, delete "not been adopted" and replace with "been adopted."

(g) IFC, Chapter 11, Section 1103.9, Carbon monoxide alarms, is deleted and rewritten as follows:

"1103.9 Carbon Monoxide Detection.

Existing Groups E, I-1, I-2, I-4, and R occupancies shall be equipped with carbon monoxide detection in accordance with Section 915."

(2) For IFC, Chapter 12, Energy Systems:

(a) Delete the section title "1205.2.1 Solar photovoltaic systems for Group R-3 buildings" and replace with the section title "1205.2.1 Solar photovoltaic systems for Group R-3 and buildings constructed in accordance with IRC."

(b) Section 1205.2.1, Solar photovoltaic systems for Group R-3 buildings, Exception 1 is deleted, Exception 2 is renumbered to 1 and a second exception is added as follows: "2. Reduction in pathways and clear access width are permitted where a rational approach has been used and the reduction is warranted and approved by the Fire Code Official."

(c) Section 1205.3.1 Perimeter pathways, and 1205.3.2 Interior pathways, are deleted and rewritten as follows: "1204.3.1 Perimeter pathways. There shall be a minimum three foot wide (914 mm) clear perimeter around the edges of the roof. The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting the live load of fire fighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting the live load of fire fighters accessing the roof.

3. Smoke and heat vents required by Section 910.2.1 or 910.2.2 shall be provided with a clear pathway width of not less than three feet (914 mm) to the vents.

4. Access to roof area required by Section 504.3 or 1011.12 shall be provided with a clear pathway width of not less than three feet (914 mm) around access opening and at least three feet (914 mm) clear pathway to parapet or roof edge."

(d) Section 1205.3.3, Smoke ventilation, is deleted and rewritten as follows: "1205.3.2, Smoke ventilation. The solar installation shall be designed to meet the following requirements:

1. Arrays shall be no greater than 150 feet (45720 mm) by 150 feet (45720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1 A pathway six feet (1829 mm) or greater in width.

2.2 A pathway three feet (914 mm) or greater in width and bordering roof skylights or smoke and heat vents when required by Section 910.2.1 or Section 910.2.2.

2.3 Smoke and heat vents designed for remote operation using devices that can be connected to the vent by mechanical, electrical, or any other suitable means, protected as necessary to remain operable for the design period. Controls for remote operation shall be located in a control panel, clearly identified and located in an approved location.

3. Where gravity-operated dropout smoke and heat vents occur, a pathway three feet (914 mm) or greater in width on not fewer than one side."

Section 3. Section 17-22-2 is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of [~~his~~]the sheriff's county as [~~he~~]the sheriff considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to [~~his~~]the sheriff's custody, file and preserve the commitments of those persons in custody, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment [~~he~~]the sheriff receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if [~~he~~]the sheriff makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if [~~he~~]the sheriff fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage and direct search and rescue services in his county, including emergency medical responders and other related incident response activities;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section 80-1-102;

(t) appoint a county security chief in accordance with Section 53-22-103 and ensure the county security chief fulfills the county security chief's duties; and

[~~(t)~~](u) perform any other duties that are required by law.

(2)(a) Violation of Subsection (1)(j) is a class C misdemeanor.

(b) Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3)(a) As used in this Subsection (3):

(i) "Police interlocal entity" [~~has the same meaning as defined in~~]means the same as that term is defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police special district" means the same as that term is defined in Section 17-30-3.

(b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police special district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police special district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police special district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police special district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police special district or police interlocal entity, respectively, and the sheriff.

(c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police special district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 4. Section 53-1-108 is amended to read:

53-1-108. Commissioner's powers and duties.

(1) In addition to the responsibilities contained in this title, the commissioner shall:

(a) administer and enforce this title and Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(b) appoint deputies, inspectors, examiners, clerical workers, and other employees as required to properly discharge the duties of the department;

(c) make rules:

(i) governing emergency use of signal lights on private vehicles; and

(ii) allowing privately owned vehicles to be designated for part-time emergency use, as provided in Section 41-6a-310;

(d) set standards for safety belt systems, as required by Section 41-6a-1803;

(e) serve as the cochair of the Emergency Management Administration Council, as required by Section 53-2a-105;

(f) designate vehicles as "authorized emergency vehicles," as required by Section 41-6a-102; and

(g) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely

motivated by considerations of race, color, ethnicity, age, or gender.

(2) The commissioner may:

(a) subject to the approval of the governor, establish division headquarters at various places in the state;

(b) issue to a special agent a certificate of authority to act as a peace officer and revoke that authority for cause, as authorized in Section 56-1-21.5;

(c) create specialized units within the commissioner's office for conducting internal affairs and aircraft operations as necessary to protect the public safety;

(d) cooperate with any recognized agency in the education of the public in safety and crime prevention and participate in public or private partnerships, subject to Subsection (3);

(e) cooperate in applying for and distributing highway safety program funds;

(f) receive and distribute federal funding to further the objectives of highway safety in compliance with Title 63J, Chapter 5, Federal Funds Procedures Act; [~~and~~]

(g) authorize off-duty personal use of Department of Public Safety emergency vehicles [~~.~~]; and

(h) deny or revoke a public or private school's occupancy permit based on the recommendations of the state security chief as described in Section 53-22-102.

(3)(a) Money may not be expended under Subsection (2)(d) for public safety education unless it is specifically appropriated by the Legislature for that purpose.

(b) Any recognized agency receiving state money for public safety shall file with the auditor of the state an itemized statement of all its receipts and expenditures.

Section 5. Section 53-10-117 is enacted to read:

53-10-117. Law enforcement agency with school resource officer unit -- Policy.

(1) A law enforcement agency with a school resource officer unit shall develop a school resource officer policy.

(2) The law enforcement agency shall ensure the policy described in Subsection (1) includes:

(a) the process for assignment and selection of a school resource officer;

(b) required training of a school resource officer;

(c) internal reporting requirements;

(d) arrest and use of force protocols;

(e) general oversight and accountability; and

(f) other duties required of a school resource officer.

(3) The state security chief described in Section 53-22-102 shall create a model policy consistent with this section.

(4) A law enforcement agency may adopt the model policy described in Subsection (3).

Section 6. Section 53-10-302 is amended to read:

53-10-302. Bureau duties.

The bureau shall:

(1) provide assistance and investigative resources to divisions within the Department of Public Safety;

(2) upon request, provide assistance and specialized law enforcement services to local law enforcement agencies;

(3) conduct financial investigations regarding suspicious cash transactions, fraud, and money laundering;

(4) investigate criminal activity of organized crime networks, gangs, extremist groups, and others promoting violence;

(5) investigate criminal activity of terrorist groups;

(6) enforce the Utah Criminal Code;

(7) cooperate and exchange information with other state agencies and with other law enforcement agencies of government, both within and outside of this state, through a statewide information and intelligence center to obtain information that may achieve more effective results in the prevention, detection, and control of crime and apprehension of criminals, including systems described in Sections 53E-3-518, 53B-17-1202, and 63H-7a-103(14);

(8) create and maintain a statewide criminal intelligence system;

(9) provide specialized case support and investigate illegal drug production, cultivation, and sales;

(10) investigate, follow-up, and assist in highway drug interdiction cases;

(11) make rules to implement this chapter;

(12) perform the functions specified in Part 2, Bureau of Criminal Identification;

(13) provide a state cybercrime unit to investigate computer and network intrusion matters involving state-owned computer equipment and computer networks as reported under Section 76-6-705;

(14) investigate violations of Section 76-6-703 and other computer related crimes, including:

(a) computer network intrusions;

(b) denial of services attacks;

(c) computer related theft or fraud;

(d) intellectual property violations; and

(e) electronic threats; [~~and~~]

(15) upon request, investigate the following offenses when alleged to have been committed by an individual who is currently or has been previously elected, appointed, or employed by a governmental entity:

(a) criminal offenses; and

(b) matters of public corruption[~~.~~]; and

(16)(a) [~~The bureau is~~]not be prohibited from investigating crimes not specifically referred to in this section; and

(b) other agencies are not prohibited from investigating crimes referred to in this section.

Section 7. Section 53-22-101 is amended to read:

53-22-101. School Security Act -- Definitions.

As used in this chapter:

(1) "Advisory board" means the Education Advisory Board created in Section 53-22-104.2.

(2) "County security chief" means the individual whom a county sheriff appoints in accordance with Section 53-22-103 to oversee school safety.

(3) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(4) "Public school" means the same as that term is defined in Section 53G-9-205.1.

(5) "School" means an elementary school or a secondary school that:

(a) is a public school; and

(b) provides instruction for one or more of the grades of kindergarten through grade 12.

(6) "School is in session" means the same as the term is defined in Section 53E-3-516.

[~~(2)~~](7) "School resource officer"[~~ or "SRO"~~] means [~~a law enforcement officer hired by a public school in accordance with Section 53G-8-703~~]the same as that term is defined in Section 53G-8-701.

[~~(3)~~](8) "State security chief" means an individual appointed by the commissioner under Section 53-22-102.

(9) "Task force" means the School Security Task Force created in Section 53-22-104.1.

Section 8. Section 53-22-102 is amended to read:

53-22-102. State security chief -- Creation -- Appointment.

(1) There is created within the department a state security chief.

(2) The state security chief:

(a) is appointed by the commissioner with the approval of the governor;

(b) is subject to the supervision and control of the commissioner;

(c) may be removed at the will of the commissioner;

(d) shall be qualified by experience and education to:

(i) enforce the laws of this state relating to school safety;

(ii) perform duties prescribed by the commissioner; and

(iii) enforce rules made under this chapter.

[~~(3) The duties and responsibilities of the state security chief shall be determined by the Commissioner of Public Safety in conjunction with the School Security Task Force created in Section 53-22-104.~~]

(3) The state security chief shall:

(a) establish building and safety standards for all public and private schools, including:

(i) coordinating with the State Board of Education to establish the required minimum safety and security standards for all public and private school facilities, including:

(A) limited entry points, including, if applicable, secured entry points for specific student grades or groups;

(B) video surveillance of entrances when school is in session;

(C) ground level windows protected by security film or ballistic windows;

(D) internal classroom door locks;

(E) bleed kits and first aid kits;

(F) exterior cameras on entrances, parking areas, and campus grounds; and

(G) fencing around playgrounds;

(ii) establishing a schedule or timeline for existing buildings to come into compliance with this section;

(iii) creating a process to examine plans and specifications for construction or remodeling of a school building, in accordance with Section 53E-3-706;

(iv) recommending to the commissioner the denial or revocation a public or private school's occupancy permit for a building if:

(A) the building does not meet the standards established in this section; and

(B) after consultation with the local governing board, the building remains non-compliant with the standards established in this section;

(v) creating minimum standards for radio communication equipment in every school; and

(vi) establishing a process to approve the safety and security criteria the state superintendent of public instruction establishes for building inspectors described in Section 53E-3-706;

(b) oversee the implementation of the school safety personnel requirements described in Section 53G-8-701.5, including:

(i) in consultation with a county security chief, overseeing the school guardian program described in Section 53-22-105, including approving and coordinating the relevant training programs;

(ii) establishing an application process for approved alternatives to the school safety personnel requirements described in Section 53G-8-701.5;

(iii) selecting training requirements for school safety and security specialists in consultation with the State Board of Education as described in Section 53G-8-701.6;

(iv) as required by Section 53G-8-701.8, tracking each school safety and security director for a local education agency and ensuring that the contact information for the school safety and security directors is readily available to the local law enforcement agency of relevant jurisdiction; and

(v) reviewing and approving the State Board of Education's school resource officer training program as described in Section 53G-8-702;

(c) oversee the creation of school safety trainings, protocols, and incident responses, including:

(i) in consultation with the State Board of Education, defining what constitutes an "active threat" and "developmentally appropriate" for purposes of the emergency response training described in Section 53G-8-803;

(ii) in consultation with the Office of Substance Abuse and Mental Health, establishing or selecting an adolescent mental health and de-escalation training for school safety personnel;

(iii) consulting with the School Safety Center to develop the model critical incident response that all schools and law enforcement will use during a threat, including:

(A) standardized response protocol terminology for use throughout the state, including what constitutes a threat;

(B) protocols for planning and safety drills, including drills required in a school before the school year begins;

(C) integration and appropriate use of a panic alert device described in Subsection 53G-8-805;

(D) the establishment of incident command for a threat or safety incident, including which entity and individual runs the incident command;

(E) the required components for a communication plan to be followed during an incident or threat;

(F) reunification plan protocols, including the appropriate design and use of an incident command by others responding to or involved in an incident; and

(G) recommendations for safety equipment for schools, including amounts and types of first aid supplies;

(iv) reviewing and suggesting any changes to the response plans and training under Section 53G-8-803;

(v) creating the official standard response protocol described in Section 53G-8-803 for use by schools and law enforcement for school safety incidents; and

(vi) establishing a manner for any security personnel described in Section 53G-8-701.5 to be quickly identified by law enforcement during an incident;

(d) in consultation with the School Safety Center established in Section 53G-8-802:

(i) create a process to receive and analyze the school safety needs assessments described in Section 53G-8-701.5; and

(ii) establish a required data reporting system for public schools to report serious and non-serious threats and other data related to threat assessment that the state security chief determines to be necessary; and

(e) fulfill any other duties and responsibilities determined by the commissioner.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department, in consultation with the state security chief, shall make rules to fulfill the duties described in this section.

(5) The state security chief may delegate duties under this section to a sworn department member with the approval of the commissioner.

Section 9. Section 53-22-103 is amended to read:

53-22-103. County sheriff responsibilities -- Coordination.

(1) Each county sheriff shall identify an individual as a county security chief within the sheriff's office to coordinate security responsibilities, protocols, and required trainings between the state security chief, the county sheriff's office, and the corresponding police chiefs whose jurisdiction includes a public school within the county.

(2) The county security chief shall:

(a) in collaboration with the school safety and security specialist described in Section 53G-8-701.6:

(i) conduct, or coordinate with a designee from the local law enforcement agency of relevant jurisdiction to conduct the school safety needs assessment described in Section 53G-8-701.5; and

(ii) conduct a building safety evaluation at least annually using the results of the school safety needs assessment to recommend and implement improvements to school facilities, policies, procedures, protocols, rules, and regulations relating to school safety and security;

(b) collaborate and maintain effective communications regarding school safety with each:

(i) school safety and security specialist in the county security chief's county, as described in Section 53G-8-701.6;

(ii) school safety and security director in the county security chief's county, as described in Section 53G-8-701.8; and

(iii) local law enforcement agency within the county;

(c) administer with the corresponding police chiefs whose jurisdiction includes a public school, the trainings described in Sections 53-22-105 and 53G-8-704, including:

(i) assessing if an individual is capable of the duties and responsibilities that the trainings cover; and

(ii) denying an individual the ability to be a school safety personnel described in Section 53G-8-701.5 if the county security chief finds the individual is not capable of the duties and responsibilities that the trainings cover; and

(d) in conjunction with the state security chief, administer the school guardian program established in Section 53-22-105 at any school participating in the program in the county security chief's county.

Section 10. Section 53-22-104.1 is enacted to read:

53-22-104.1. School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration.

(1) There is created a School Security Task Force composed of the following members:

(a) the House chair and vice chair of the House Law Enforcement and Criminal Justice Standing Committee during the 2024 General Session, with the House chair serving as the co-chair of the task force;

(b) two members from the Senate, whom the president of the Senate selects and one of whom the president of the Senate appoints as co-chair of the task force;

(c) the state security chief;

(d) one member of the State Board of Education, whom the chair of State Board of Education selects;

(e) a member of the School Safety Center, whom the state security chief selects;

(f) the director of the Utah Division of Juvenile Justice Youth Services or the director's designee;

(g) a member of the Utah School Superintendents Association, whom the chairs select;

(h) one member of the Chiefs of Police Association from a county of the first or second class;

(i) one member of the Sheriff's Association from a county of the third, fourth, fifth, or sixth class, whom the president of the association selects;

(j) one county security chief, whom the state security chief selects;

(k) a school safety and security director, whom the chairs select;

(l) a school resource officer, whom the state security chief selects; and

(m) a member of the SafeUT and School Safety Commission, whom the chairs select.

(2) The task force shall:

(a) review school safety updates;

(b) consult with the Education Advisory Board created in Section 53-22-104.2; and

(c) develop legislation recommendations as necessary.

(3)(a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(4) The Office of Legislative Research and General Counsel shall provide staff for the task force.

(5)(a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 11. Section 53-22-104.2 is enacted to read:

53-22-104.2. The School Security Task Force -- Education Advisory Board.

(1) There is created an advisory board to the task force called the Education Advisory Board.

(2) The advisory board shall consist of the following members:

(a) the state security chief, who acts as chair of the advisory board;

(b) the construction and facility specialist at the State Board of Education;

(c) a superintendent from a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(d) a superintendent from a county of the first, second, or third class, whom the state security chief selects;

(e) a charter school director from a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(f) a charter school director from a county of the first, second, or third class, whom the state security chief selects;

(g) the president of the Utah School Boards Association or the president's designee;

(h) a parent representative from a school community council or parent teacher organization, whom the state security chief selects;

(i) a facilities manager from an LEA in a county of the fourth, fifth, or sixth class, whom the state security chief selects;

(j) a facilities manager from an LEA in county of the first, second, or third class, whom the state security chief selects;

(k) a representative of private schools, whom the state security chief selects; and

(l) a member of the Office of Substance Abuse and Mental Health, whom the state security chief selects.

(3) The advisory board's purpose is to:

(a) review and provide input on official business of the task force;

(b) provide recommendations and suggestions for the task force's consideration; and

(c) study and evaluate the policies, procedures, and programs implemented for school safety and provide proactive information regarding the implementation.

(4)(a) A majority of the members of the advisory board constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(5)(a) The advisory board shall select two members to serve as co-chairs.

(b) The co-chairs are responsible for the call and conduct of meetings.

(6) The staff of the state security chief shall provide staff for the advisory board.

(7) A member of the advisory board who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 12. Section 53-22-105 is enacted to read:

53-22-105. School guardian program.

(1) As used in this section:

(a) "Annual training" means an annual four-hour training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs;

(iv) allows an individual to practice and demonstrate firearms proficiency at a firearms range using the firearm the individual carries for self defense and defense of others;

(v) includes the following components:

(A) firearm safety, including safe storage of a firearm;

(B) de-escalation tactics;

(C) the role of mental health in incidents; and

(D) disability awareness and interactions; and

(vi) contains other training needs as determined by the state security chief.

(b) "Biannual training" means a twice-yearly training that:

(i) is at least four hours, unless otherwise approved by the state security chief;

(ii) a county security chief or a designee administers;

(iii) the state security chief approves;

(iv) can be tailored to local needs; and

(v) through which a school guardian at a school or simulated school environment:

(A) receives training on the specifics of the building or buildings of the school, including the location of emergency supplies and security infrastructure; and

(B) participates in a live-action practice plan with school administrators in responding to active threats at the school; and

(vi) shall be taken with at least three months in between the two trainings.

(c) "Firearm" means the same as that term is defined in Section 76-10-501.

(d) "Initial training" means an in-person training that:

(i) a county security chief or a designee administers;

(ii) the state security chief approves;

(iii) can be tailored to local needs; and

(iv) provides:

(A) training on general familiarity with the types of firearms that can be concealed for self-defense and defense of others;

(B) training on the safe loading, unloading, storage, and carrying of firearms in a school setting;

(C) training at a firearms range with instruction regarding firearms fundamentals, marksmanship, the demonstration and explanation of the difference between sight picture, sight alignment, and trigger control, and a recognized pistol course;

(D) current laws dealing with the lawful use of a firearm by a private citizen, including laws on self-defense, defense of others, transportation of firearms, and concealment of firearms;

(E) coordination with law enforcement officers in the event of an active threat;

(F) basic trauma first aid;

(G) the appropriate use of force, emphasizing the de-escalation of force and alternatives to using force;

(H) situational response evaluations, including:

(I) protecting and securing a crime or accident scene;

(II) notifying law enforcement;

(III) controlling information; and

(IV) other training that the county sheriff, designee, or department deems appropriate.

(e) "Program" means the school guardian program created in this section.

(f)(i) "School employee" means an employee of a school whose duties and responsibilities require the employee to be physically present at a school's campus while school is in session.

(ii) "School employee" does not include a principal, teacher, or individual whose primary responsibilities require the employee to be primarily present in a classroom to teach, care for, or interact with students, unless:

(A) the principal, teacher, or individual is employed at a school with 100 or fewer students;

(B) the principal, teacher, or individual is employed at a school with adjacent campuses as determined by the state security chief; or

(C) as provided in Subsection 53G-8-701.5(3).

(g) "School guardian" means a school employee who meets the requirements of Subsection (3).

(2)(a)(i) There is created within the department the school guardian program;

(ii) the state security chief shall oversee the school guardian program;

(iii) the applicable county security chief shall administer the school guardian program in each county.

(b) The state security chief shall ensure that the school guardian program includes:

(i) initial training;

(ii) biannual training; and

(iii) annual training.

(c) A county sheriff may partner or contract with:

(i) another county sheriff to support the respective county security chiefs in jointly administering the school guardian program in the relevant counties; and

(ii) a local law enforcement agency of relevant jurisdiction to provide the:

(A) initial training;

(B) biannual training; and

(C) annual training.

(3)(a) A school employee that volunteers to participate is eligible to join the program as a school guardian if:

(i) the school administrator approves the volunteer school employee to be designated as a school guardian;

(ii) the school employee satisfactorily completes initial training within six months before the day on which the school employee joins the program;

(iii) the school employee holds a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(iv) the school employee certifies to the sheriff of the county where the school is located that the school employee has undergone the training in accordance with Subsection (3)(a)(ii) and intends to serve as a school guardian; and

(v) the school employee successfully completes a mental health screening selected by the state security chief in collaboration with the Office of Substance Abuse and Mental Health established in Section 26B-5-102.

(b) After joining the program a school guardian shall complete annual training and biannual training to retain the designation of a school guardian in the program.

(4) The state security chief shall:

(a) for each school that participates in the program, track each school guardian at the school by collecting the photograph and the name and contact information for each guardian;

(b) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state categorized by school; and

(c) provide each school guardian with a one-time stipend of $500.

(5) A school guardian:

(a) may store the school guardian's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the school guardian's office; and

(iii) the school guardian is physically present on the grounds of the school while the firearm is stored in the safe;

(b) shall carry the school guardian's firearm in a concealed manner; and

(c) may not, unless during an active threat, display or open carry a firearm while on school grounds.

(6) Except as provided in Subsection (5)(c), this section does not prohibit an individual who has a valid concealed carry permit but is not participating in the program from carrying a firearm on the grounds of a public school or charter school under Subsection 76-10-505.5(4).

(7) A school guardian:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the school where the school guardian is employed:

(i) take actions necessary to prevent or abate an active threat; and

(ii) temporarily detain an individual when the school guardian has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402.

(8) A school may designate a single volunteer or multiple volunteers to participate in the school guardian program to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(9) The department may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section.

(10) A school guardian who has active status in the guardian program is not liable for any civil damages or penalties if the school guardian:

(a) when carrying or storing a firearm:

(i) is acting in good faith; and

(ii) is not grossly negligent; or

(b) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(11) A school guardian shall file a report described in Subsection (12) if, during the performance of the school guardian's duties, the school guardian points a firearm at an individual.

(12)(a) A report described in Subsection (11) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) A school guardian shall submit a report required under Subsection (11) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (12)(b).

(13) The requirements of Subsections (11) and (12) do not apply to a training exercise.

(14) A school guardian may have the designation of school guardian revoked at any time by the school principal, county sheriff, or state security chief.

(15)(a) Any information or record created detailing a school guardian's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) administrators at the school guardian's school;

(C) if applicable, other school safety personnel described in Section 53G-8-701.5;

(D) a local law enforcement agency that would respond to the school in case of an emergency; and

(E) the individual designated by the county sheriff in accordance with Section 53-22-103 of the county of the school where the school guardian in the program is located.

(b) The information or record described in Subsection (15)(a) includes information related to the school guardian's identity and activity within the program as described in this section and any personal identifying information of a school guardian participating in the program collected or obtained during initial training, annual training, and biannual training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (15)(a) to an individual or entity not listed in Subsection (15)(a)(ii) is guilty of a class B misdemeanor.

Section 13. Section 53-22-106 is enacted to read:

53-22-106. Substantial threats against a school reporting requirements -- Exceptions.

(1) As used in this section, "substantial threat" means a threat made with serious intent to cause harm.

(2) Except as provided in Subsection (3), if a state employee or person in a position of special trust as defined in Section 76-5-404.1, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah

Medical Practice Act, has reason to believe a substantial threat against a school, school employee, or student attending a school or is aware of circumstances that would reasonably result in a substantial threat against a school, school employee, or student attending a school, the state employee or person in a position of special trust shall immediately report the suspected substantial threat to:

(a) the state security chief;

(b) the local education agency that the substantial threat would impact; or

(c) to the nearest peace officer or law enforcement agency.

(3)(a)(i) If the state security chief, a peace officer, or law enforcement agency receives a report under Subsection (2), the state security chief, peace officer, or law enforcement agency shall immediately notify the local education agency that the substantial threat would impact.

(ii) If the local education agency that the substantial threat would impact receives a report under Subsection (2), the local education agency that the substantial threat would impact shall immediately notify the appropriate local law enforcement agency and the state security chief.

(b)(i) A local education agency that the substantial threat would impact shall coordinate with the law enforcement agency on the law enforcement agency's investigation of the report described in Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a report under Subsection (2), the law enforcement agency shall provide a final investigatory report to the local education agency that the substantial threat would impact upon request.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (2) does not apply to:

(a) a member of the clergy with regard to any confession an individual makes to the member of the clergy while functioning in the ministerial capacity of the member of the clergy if:

(i) the individual made the confession directly to the member of the clergy;

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of the confession; and

(iii) the member of the clergy does not have the consent of the individual making the confession to disclose the content of the confession; or

(b) an attorney, or an individual whom the attorney employs, if:

(i) the knowledge or belief of the substantial threat arises from the representation of a client; and

(ii) if disclosure of the substantial threat would not reveal the substantial threat to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5)(a) When a member of the clergy receives information about the substantial threat from any source other than a confession, the member of the clergy shall report the information even if the member of the clergy also received information about the substantial threat from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other actions required by law to prevent further substantial threats or actual harm related to the substantial threat.

(6) The physician- patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence in a judicial or administrative proceeding resulting from a report under this section.

Section 14. Section 53B-17-1201 is amended to read:

53B-17-1201. Definitions.

As used in this part:

(1) "Commission" means the SafeUT and School Safety Commission established in Section 53B-17-1203.

(2) ["~~University Neuropsychiatric~~]"Huntsman Mental Health Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

Section 15. Section 53B-17-1202 is amended to read:

53B-17-1202. SafeUT Crisis Line established.

The [~~University Neuropsychiatric~~]Huntsman Mental Health Institute shall:

(1) establish a SafeUT Crisis Line to provide:

(a) a means for an individual to anonymously report:

(i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;

(ii) incidents of bullying, cyber-bullying, harassment, or hazing; and

(iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and

(b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;

(2) provide the services described in Subsection (1) 24 hours a day, seven days a week; [~~and~~]

(3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:

(a) school officials; and

(b) law enforcement officials[.];

(4) in accordance with Subsection (5), report the uses of the SafeUT Crisis Line described in Subsection (1) to the State Bureau of Investigation's systems described in Subsections 53-10-302(7) and (8);

(5) coordinate with the state security chief to determine the appropriate circumstances necessitating a report described in Subsection (4); and

(6) subject to legislative appropriations and in consultation with the School Security Task Force described in Section 53-22-104.1, state security chief described in Section 53-22-102, and School Safety Center described in Section 53G-8-802, develop and deploy additional supports and enhancements for school safety efforts.

Section 16. Section 53B-17-1203 is amended to read:

53B-17-1203. SafeUT and School Safety Commission established -- Members.

(1) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, appointed by the attorney general;

(b) one member who represents the Utah public education system, appointed by the State Board of Education;

(c) one member who represents the Utah system of higher education, appointed by the board;

(d) one member who represents the Department of Health and Human Services, appointed by the executive director of the Department of Health and Human Services;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate;

(g) one member who represents the [~~University Neuropsychiatric~~]Huntsman Mental Health Institute, appointed by the chair of the commission;

(h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;

(i) one member who represents the Department of Health and Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Health and Human Services; and

(j) two members of the public, appointed by the chair of the commission.

(2)(a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3)(a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6)(a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

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

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 17. Section 53B-17-1204 is amended to read:

53B-17-1204. SafeUT and School Safety Commission duties -- LEA governing board duties -- Fees.

(1) As used in this section:

(a) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the State Board of Education.

(b) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(2) The commission shall coordinate:

(a) statewide efforts related to the SafeUT Crisis Line; [~~and~~]

(b) with the State Board of Education and the board to promote awareness of the services available through the SafeUT Crisis Line[.]; and

(c) with the state security chief appointed under Section 53-22-102 to ensure appropriate reporting described in Subsections 53B-17-1202(4) and (5).

(3) An LEA governing board shall inform students, parents, and school personnel about the SafeUT Crisis Line.

(4)(a) Except as provided in Subsection (4)(b), the [~~University Neuropsychiatric~~]Huntsman Mental Health Institute may charge a fee to an institution of higher education or other entity for the use of the SafeUT Crisis Line in accordance with the method described in Subsection (4)(c).

(b) The [~~University Neuropsychiatric~~]Huntsman Mental Health Institute may not charge a fee to the State Board of Education or a local education agency for the use of the SafeUT Crisis Line.

(c) The commission shall establish a standard method for charging a fee described in Subsection (4)(a).

Section 18. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means the same as that term is defined in Section 53G-8-510.

(b) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(d) "Minor" means the same as that term is defined in Section 80-1-102.

(e) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by [~~an SRO~~]a school resource officer;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(g)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(h) "School resource officer" [~~or "SRO"~~] means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities;

(c) disciplinary actions; and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action;

(d) the number of [~~SROs~~]school resource officers employed;

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and

(f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 19. Section 53E-3-518 is amended to read:

53E-3-518. Utah school information management system -- Local education agency requirements.

(1) As used in this section:

(a) "LEA data system" or "LEA's data system" means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.

(c) "Parent" means the same as that term is defined in Section 53G-6-201.

(d) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.

(e) "User" means an individual who has authorized access to the information management system.

(2) On or before July 1, 2024, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with:

(i) an LEA's data systems that meet the requirements described in Subsection (6);

(ii) where appropriate, the systems described in Subsections 53-10-302(7) and (8);

(iii) the public safety portal described in Section 63A-16-2002; and

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with Title 53E, Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user's role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) The state board shall establish the restrictions on user access described in Subsection (3)(f).

(5)(a) The state board shall make rules that establish the required capabilities for an LEA financial information system.

(b) In establishing the required capabilities for an LEA financial information system, the state board shall consider metrics and capabilities requested by the state treasurer or state auditor.

(6)(a) On or before July 1, 2024, an LEA shall ensure that:

(i) all of the LEA's data systems:

(A) meet the data standards established by the state board in accordance with Section 53E-3-501;

(B) are fully compatible with the state board's information management system; and

(C) meet specification standards determined by the state board; and

(ii) the LEA's financial information system meets the requirements described in Subsection (5).

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

(7)(a) Subject to appropriations and Subsection (7)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection (5) by:

(i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:

(A) awarding a grant to the LEA; or

(B) providing a reimbursement to the LEA; or

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules describing:

(i) how an LEA may apply to the state board for the assistance described in Subsection (7)(a); and

(ii) criteria for the state board to provide the assistance to an LEA.

(8)(a) Beginning July 1, 2024, the state board may take action against an LEA that is out of compliance with a requirement described in Subsection (6) until the LEA complies with the requirement.

(b) An action described in Subsection (8)(a) may include the state board withholding funds from the LEA.

(9)(a) For purposes of this Subsection (9), "education record" means the same as that term is defined in 20 U.S.C. Sec. 1232g.

(b) The state board shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a procedure under which:

(i) a parent may submit information as part of the education records for the parent's student;

(ii) the information submitted by the parent is maintained as part of the education records for the parent's student;

(iii) information submitted by the parent and maintained as part of the education records for the parent's student may be removed at the request of the parent; and

(iv) a parent has access only to the education records of the parent's student in accordance with Subsection (9)(d).

(c) The rules made under this Subsection (9) shall allow a parent to submit or remove information submitted by the parent under this Subsection (9) at least annually, including at the time of:

(i) registering a student in a school; or

(ii) changing the school in which a student attends.

(d) Subject to the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations, the state board shall provide a parent access to an education record concerning the parent's student.

(e) The state board shall create in the information management system a record tracking interoperability of education records described in this Subsection (9) when a student is transitioning between schools or between LEAs.

Section 20. Section 53E-3-702 is amended to read:

53E-3-702. State board to adopt public school construction guidelines.

(1) As used in this section, "public school construction" means construction work on a new public school.

(2)(a) The state board shall:

(i) adopt guidelines for public school construction; and

(ii) consult with the Division of Facilities Construction and Management Administration and the state security chief appointed under Section 53-22-102 on proposed guidelines before adoption.

(b) The state board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's safety and a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.

(3) Before a school district or charter school may begin public school construction, the school district or charter school shall:

(a) review the guidelines adopted by the state board under this section; and

(b) take into consideration the guidelines when planning the public school construction.

(4) In adopting the guidelines for public school construction, the state board shall consider the following and adopt alternative guidelines as needed:

(a) location factors, including whether the school is in a rural or urban setting, and climate factors;

(b) variations in guidelines for significant or minimal projected student population growth;

(c) guidelines specific to schools that serve various populations and grades, including high schools,

junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and

(d) year-round use.

(5) The guidelines shall address the following:

(a) square footage per student;

(b) minimum and maximum required real property for a public school;

(c) athletic facilities and fields, playgrounds, and hard surface play areas;

(d) necessary specifications to meet the safety standards created by the state security chief in Section 53E-3-706;

[~~(d)~~](e) cost per square foot;

[~~(e)~~](f) minimum and maximum qualities and costs for building materials;

[~~(f)~~](g) design efficiency;

[~~(g)~~](h) parking;

[~~(h)~~](i) furnishing;

[~~(i)~~](j) proof of compliance with applicable building codes; and

[~~(j)~~](k) safety.

Section 21. Section 53E-3-706 is amended to read:

53E-3-706. Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) [~~The~~] Notwithstanding Subsections (4), (5), and (6), the state superintendent shall enforce this part.

(2) The state superintendent may employ architects or other qualified personnel, or contract with the Division of Facilities Construction and Management, the state fire marshal, the state security chief appointed under Section 53-22-102, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this part;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this part.

(3)(a)[~~(i)~~] If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the state board, advising those entities that the school district has complied with the inspection provisions of this part.

[~~(ii)~~](b) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the state board a certificate of inspection verification.

[~~(iii)~~](c) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the state board a certificate of inspection verification.

[~~(iv)~~](d)[~~(A)~~](i) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the state board a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

[~~(B)~~](ii) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection [~~(3)(a)(iv)(A),~~](3)(d)(i), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

[~~(C)~~](iii) Within 30 days after the local school board or charter school files a request under Subsection [~~(3)(a)(iv)(A)~~](3)(d)(i) for a certificate authorizing permanent occupancy of the school building, the state superintendent shall:

[~~(I)~~](A)[~~(Aa)~~] issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

[~~(Bb)~~]

(B) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this part; and

[~~(II)~~](C) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

[~~(D)~~](iv) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection [~~(3)(a)(iv)(C)(I)(Bb)~~](3)(d)(iii)(B) and notifying the state superintendent that the deficiencies have been remedied, the state superintendent shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

[~~(E)~~](v)[~~(I)~~](A) The state superintendent may charge the school district or charter school a fee for

an inspection that the state superintendent considers necessary to enable the state superintendent to issue a certificate authorizing permanent occupancy of the school building.

[~~(II)~~](B) A fee under Subsection [~~(3)(a)(iv)(E)(I)~~] (3)(d)(v)(A) may not exceed the actual cost of performing the inspection.

[~~(b)~~](e) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

(4) The state security chief appointed under Section 53-22-102 shall establish:

(a) minimum safety and security standards for school construction and design projects, including buildings for private schools;

(b) a timeline for an LEA or private school to comply with the safety and security standards for school construction and design project requirements of this Subsection (4); and

(c) a process for an LEA or private school to seek alternative safety and security standards established under this Subsection (4).

(5) The county security chief appointed under Section 53-22-103 shall ensure a private school, local school district, or charter school shall adhere to all safety and security standards for a school construction or design project the state security chief creates.

(6) A building inspector described in this part shall coordinate with the relevant county security chief to ensure compliance described in Subsection (5) before issuing a certificate authorizing permanent occupancy for a school.

Section 22. Section 53F-4-207 is amended to read:

53F-4-207. Student intervention early warning program.

(1) As used in this section:

(a) "Digital program" means a program that provides information for student early intervention as described in this section.

(b) "Online data reporting tool" means a system described in Section 53E-4-311.

[~~(c) "Participating LEA" means an LEA that receives access to a digital program under Subsection (5).~~]

(2)(a) The state board shall, subject to legislative appropriations:

(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide additional formative actionable data on student outcomes; and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(c) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection (3)(e)(ii).

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality as defined by state board rule;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the state board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline, including school safety violations;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board;

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b);

(c) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(d) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents;

(e) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(f) automatically flag a student profile when early warning thresholds, that the state board defines, are met so that a teacher can easily identify a student who may be in need of intervention;

(g) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(h) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(i) have the ability to generate parent communication to alert the parent of [~~academic~~] plans or interventions; and

(j) configure alerts based upon student academic results, including a student's performance on the previous year's standards assessment described in Section 53E-4-303 or results to appropriate behavior interventions.

(5)(a) [~~The state board shall, subject to legislative appropriations, select an LEA to receive~~]The state board shall ensure that each LEA receives access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA [~~that receives access to a digital program~~] shall:

(i) pay for 50% of the cost of providing access to the digital program to the LEA; and

(ii) no later than one school year after accessing a digital program, report to the state board in a format required by the state board on:

(A) the effectiveness of the digital program;

(B) positive and negative attributes of the digital program;

(C) recommendations for improving the online data reporting tool; and

(D) any other information regarding a digital program requested by the state board.

(c) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(6) [~~Information~~]A person shall provide or use information described in this section [~~shall be used~~] in accordance with [~~and provided subject to~~]:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection;

(b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(c) the parental consent requirements in Section 53E-9-203.

(7)(a) A parent or guardian may opt the parent's or guardian's student out of participating in a survey prepared by [~~a participating~~]an LEA's online data reporting tool described in this section.

(b) An LEA shall provide notice to a parent of:

(i) the administration of a survey described in Subsection (7)(a);

(ii) if applicable, that the survey may request information from students that is non- academic in nature;

(iii) where the parent may access the survey described in Subsection (7)(a) to be administered; and

(iv) the opportunity to opt a student out of participating in a survey as described in Subsection (7)(a).

(c) [~~A participating~~]An LEA shall annually provide notice to parents and guardians on how the[~~participating~~] LEA uses student data through the online data reporting tool to provide instruction and intervention to students.

(8) An LEA may use a different platform from the platform described in Subsection (2)(a)(ii) if the different platform accomplishes the requirements of this section.

Section 23. Section 53F-5-220 is amended to read:

53F-5-220. School Safety and Support Grant Program -- Rulemaking.

(1) [~~The~~]In accordance with the results of the school safety needs assessment described in Section 53G-8-701.5 and based on recommendations from the School Security Task Force grant subcommittee described in Subsection (6), the state board may award a grant to an LEA in response to an LEA request for proposal to provide a school with:

(a) school resource officer services;

(b) school safety specialists and school safety specialist training;

(c) safety and security training by law enforcement agencies for school employees;

(d) interoperable communication hardware, software, equipment maintenance, and training for first responder communication systems;

(e) enhanced physical security at a school upon completion of the school's [~~threat~~]safety needs assessment;

(f) secured storage for firearms;

[~~(f)~~](g) first-aid kits for classrooms; or

[~~(g)~~](h) bleeding control kits.

(2) An LEA may not apply for a grant under this section to fund services already in place, but an LEA may submit a request for proposal to fund an expansion of or enhancement to existing services.

(3) The state board shall prioritize grant funding for LEAs [~~with low student counts that have designated a school safety specialist in each school~~]based on greatest need as determined by the results of the school safety needs assessment.

(4) The state board may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this section.

(5) The state board shall ensure information from the results of a school's school safety needs assessment is kept confidential in accordance with Section 53G-8-701.5.

(6)(a) There is created a grant subcommittee comprised of members of the School Security Task Force described in Section 53-22-104.1.

(b) The co-chairs of the task force shall appoint no more than half of the task force to the grant subcommittee.

(c) The grant subcommittee shall review LEA applications and provide recommendations for awards to the state board based on the criteria described in this section.

(d) The school safety center described in Section 53G-8-802 shall staff the grant subcommittee.

Section 24. Section 53G-6-806 is amended to read:

53G-6-806. Parent portal.

(1) As used in this section:

(a) "Parent portal" means the posting the state board is required to provide under this section.

(b) "School" means a public elementary or secondary school, including a charter school.

(2)(a) The state board shall post information that allows a parent of a student enrolled in a school to:

(i) access an LEA's policies required by Sections 53G-9-203 and 53G-9-605;

(ii) be informed of resources and steps to follow when a student has been the subject, perpetrator, or bystander of bullying, cyber-bullying, hazing, retaliation, or abusive conduct such as:

(A) resources for the student, including short-term mental health services;

(B) options for the student to make changes to the student's educational environment;

(C) options for alternative school enrollment;

(D) options for differentiated start or stop times;

(E) options for differentiated exit and entrance locations; and

(F) the designated employee for an LEA who addresses incidents of bullying, cyber-bullying, hazing, retaliation, and abusive conduct;

(iii) be informed of the steps and resources for filing a grievance with a school or LEA regarding bullying, cyber-bullying, hazing, or retaliation;

(iv) be informed of the steps and resources for seeking accommodations under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq;

(v) be informed of the steps and resources for seeking accommodations under state or federal law regarding religious accommodations;

(vi) be informed of the steps and resources for filing a grievance for an alleged violation of state or federal law, including:

(A) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d-2000d-4;

(B) Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681-1688;

(C) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 794; and

(D) Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12131-12165;

(vii) receive information about constitutional rights and freedoms afforded to families in public education;

(viii) be informed of how to access an internal audit hotline if established by the state board; and

(ix) be informed of services for military families.

(b) In addition to the information required under Subsection (2)(a), the state board:

(i) shall include in the parent portal:

(A) the comparison tool created under Section 53G-6-805; [~~and~~]

(B) school level safety data, including data points described in Section 53E-3-516; and

(C) a link to the public safety portal described in Section 63A-16-1002; and

(ii) may include in the parent portal other information that the state board determines is helpful to parents.

(3)(a) The state board shall post the parent portal at a location that is easily located by a parent.

(b) The state board shall update the parent portal at least annually.

(c) In accordance with state and federal law, the state board may collaborate with a third-party to provide safety data visualization in comparison to other states' data.

(4) An LEA shall annually notify each of the following of how to access the parent portal:

(a) a parent of a student; and

(b) a teacher, principal, or other professional staff within the LEA.

Section 25. Section 53G-8-213 is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section:

(a) "Multidisciplinary team" means:

(i) the local education agency[~~,~~];

(ii) the juvenile court[~~,~~];

(iii) the Division of Juvenile Justice Services [~~,~~];

(iv) a school safety and security specialist designated under Section 53G-8-701.6;

(v) school safety and security director designated under Section 53G-8-701.8;

(vi) a school resource officer if applicable[~~,~~]; and

(vii) any other relevant party that should be involved in a reintegration plan.

(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

Section 26. Section 53G-8-701 is amended to read:

53G-8-701. Definitions.

Part 7. School Safety Personnel

As used in this part:

(1) "Armed school security guard" means the same as that term is defined in Section 53G-8-804.

(2) "County security chief" means the same as that term is defined in Section 53-22-101.

[~~(1)~~](3) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

[~~(2)~~](4) "Public school" means the same as that term is defined in Section 53G-9-205.1.

(5) "School guardian" means the same as that term is defined in Section 53-22-106.

(6) "School is in session" means the same as that term is defined in Section 53E-3-516.

[~~(3)~~](7) "School resource officer"[~~ or "SRO"~~] means a law enforcement officer, as defined in Section 53-13-103, who contracts with or whose law enforcement agency contracts with an LEA to provide law enforcement services for the LEA.

(8) "School safety and security director" means an individual whom an LEA designates in accordance with Section 53G-8-701.8.

[~~(4)~~](9) "School safety and security specialist" means a school employee designated under Section 53G-8-701.6 who is responsible for supporting school safety initiatives [~~, including the threat assessment described in Subsection 53G-8-802(2)(g)(i)~~].

(10) "School safety center" means the same as that term is defined in Section 53G-8-801.

(11) "State security chief" means the same as that term is defined in Section 53-22-101.

Section 27. Section 53G-8-701.5 is repealed and re-enacted to read:

53G-8-701.5. School safety needs assessment -- School safety personnel -- Alternative requirements.

(1)(a) No later than December 31, 2024, an LEA shall:

(i) ensure a school safety needs assessment is conducted in accordance with Subsection (1)(b) for each school within the LEA to determine the needs and deficiencies regarding:

(A) appropriate school safety personnel, including necessary supports, training, and policy creation for the personnel;

(B) physical building security and safety, including required upgrades to facilities and safety technology; and

(C) a school's current threat and emergency response protocols, including any emergency

response agreements with local law enforcement; and

(ii) report the results of the school safety needs assessment for each school within the LEA to the state security chief and the School Safety Center.

(b) The school safety specialist described in Section 53G-8-701.6 in collaboration with the county security chief or designee described in Section 53-22-103 shall conduct the school safety needs assessment for each school.

(c) In collaboration with the School Safety Center described in Section 53G-8-802, the state security chief described in Section 53-22-102 shall create a school safety needs assessment that an LEA shall use to ensure compliance with this Subsection (1).

(d) The state board shall use the results of the school safety needs assessment for each school within an LEA to award a grant to an LEA in accordance with Section 53F-5-220.

(e) Any information or record detailing a school's needs assessment results is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) the School Safety Center;

(C) members of an LEA governing board;

(D) administrators of the LEA and school the needs assessment concerns;

(E) only to the extent necessary to award a grant under Section 53F-5-220, the state board;

(F) the applicable school safety personnel described in Subsection (2);

(G) a local law enforcement agency that would respond to the school in case of an emergency; and

(H) the county security chief.

(f) An individual who intentionally or knowingly provides the information described in Subsection (1)(e) to an individual or entity not listed in Subsection (1)(e)(ii) is guilty of a class B misdemeanor.

(2)(a) An LEA shall ensure each school within the LEA has the following school safety personnel:

(i) a school safety and security specialist described in Section 53G-8-701.6; and

(ii) based on the results of the needs assessment described in Subsection (1), at least one of the following:

(A) a school resource officer;

(B) a school guardian; or

(C) an armed school security guard.

(b) In addition to the school safety personnel described in Subsection (2)(a), an LEA shall designate a school safety and security director described in Section 53G-8-701.8.

(c) If a school has more than 350 students enrolled at the school, the same individual may not serve in more than one of the roles listed in Subsections (2)(a) and (b).

(d) An LEA may implement the requirements of Subsection (2)(a)(ii) before the LEA has completed the school safety needs assessment described in Subsection (1).

(e) The state security chief in consultation with the School Safety Center shall establish a timeline for an LEA to comply with the school safety personnel requirements of this Subsection (2).

(3)(a) An LEA, school administrator, or private school may apply to the state security chief for an approved alternative to the requirements described in:

(i) Section 53-22-105;

(ii) this section;

(iii) Section 53G-8-701.6;

(iv) Section 53G-8-701.8; and

(v) Section 53G-8-704.

(b) In approving or denying an application described in Subsection (3)(a), the state security chief may consider factors that impact a school or LEA's ability to adhere to the requirements of this section, including the school or LEA's:

(i) population size;

(ii) staffing needs or capacity;

(iii) geographic location;

(iv) available funding; or

(v) general demonstration of need for an alternative to the requirements of this section.

(4) A private school shall identify an individual at the private school to serve as the safety liaison with the local law enforcement of relevant jurisdiction and the state security chief.

Section 28. Section 53G-8-701.6 is enacted to read:

53G-8-701.6. School safety and security specialist.

(1) As used in this section, "principal" means the chief administrator at a public school, including:

(a) a school principal;

(b) a charter school director; or

(c) the superintendent of the Utah Schools for the Deaf and the Blind.

(2)(a) Subject to Subsection (2)(b) and except as provided in Subsection 53G-8-701.5(3), every campus within an LEA shall designate a school safety and security specialist from the employees of the relevant campus.

(b) The school safety and security specialist:

(i) may not be a principal; and

(ii) may be the school safety and security director at one campus within the LEA.

(3) The school safety and security specialist shall:

(a) report directly to the principal;

(b) oversee school safety and security practices to ensure a safe and secure school environment for students and staff;

(c) ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security through collaborating and maintaining effective communications with the following as applicable:

(i) the principal;

(ii) school staff;

(iii) the school resource officer;

(iv) the armed school security guard;

(v) the school guardian;

(vi) local law enforcement;

(vii) the county security chief;

(viii) the school safety and security director;

(ix) the LEA; and

(x) school-based behavioral and mental health professionals;

(d) in collaboration with the county security chief or designee described in Section 53-22-103:

(i) conduct the school safety needs assessment described in Section 53G-8-701.5; and

(ii) conduct a building safety evaluation at least annually using the results of the school safety needs assessment to recommend and implement improvements to school facilities, policies, procedures, protocols, rules, and regulations relating to school safety and security;

(e) if the specialist is also an employee of an LEA, participate on the multidisciplinary team that the LEA establishes;

(f) conduct a behavioral threat assessment when the school safety and security specialist deems necessary using an evidence-based tool the state security chief recommends in consultation with the school safety center and the Office of Substance Abuse and Mental Health;

(g) regularly monitor and report to the principal, local law enforcement, and, if applicable, the LEA superintendent or designee, security risks for the school resulting from:

(i) issues with school facilities; or

(ii) the implementation of practices, policies, procedures, and protocols relating to school safety and security;

(h) coordinate with local first responder agencies to implement and monitor safety and security drills in accordance with policy and applicable procedures and protocols;

(i) ensure that school staff, and, when appropriate, students, receive training on and remain current on the school's safety and security procedures and protocols;

(j) following an event where security of the school has been significantly compromised, organize a debriefing with the individuals listed in Subsection (3)(c) regarding strengthening school safety and security practices, policies, procedures, and protocols;

(k) abide by any LEA, school, or law enforcement agency policy outlining the chain of command;

(l) during an emergency, coordinate with the following individuals as applicable, the:

(i) school resource officer;

(ii) school guardians;

(iii) armed school security guards;

(iv) school administrators; and

(v) responding law enforcement officers;

(m) follow any LEA, school, or law enforcement agency student privacy policies, including state and federal privacy laws;

(n) participate in an annual training the state security chief selects in consultation with the School Safety Center; and

(o) remain current on:

(i) a comprehensive school guideline the state security chief selects;

(ii) the duties of a school safety and security specialist described in this Subsection (3); and

(iii) the school's emergency response plan.

(4) During an active emergency at the school, the school safety and security specialist is subordinate to any responding law enforcement officers.

Section 29. Section 53G-8-701.8 is enacted to read:

53G-8-701.8. School safety and security director.

(1) Except as provided in Subsection 53G-8-701.5(3), an LEA shall designate a school safety and security director as the LEA point of contact for the county security chief, local law enforcement, and the state security chief.

(2) A school safety and security director shall:

(a) participate in and satisfy the training requirements, including the annual and biannual requirements, described in:

(i) Section 53-22-105 for school guardians;

(ii) Section 53G-8-702 for school resource officers; and

(iii) Section 53G-8-704 for armed school security guards;

(b) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act;

(c) if the designee is an employee of an LEA, participate on the multidisciplinary team the LEA establishes;

(d) coordinate security responses among, if applicable, the following individuals in the LEA that employs the school safety and security director:

(i) school safety and security specialists;

(ii) school resource officers;

(iii) armed school security guards; and

(iv) school guardians; and

(e) collaborate and maintain effective communications with local law enforcement, a county security chief, the LEA, and school-based behavioral and mental health professionals to ensure adherence with all policies, procedures, protocols, rules, and regulations relating to school safety and security.

(3) A school safety and security director:

(a) does not have authority to act in a law enforcement capacity; and

(b) may, at the LEA that employs the director:

(i) take actions necessary to prevent or abate an active threat;

(ii) temporarily detain an individual when the school safety and security director has reasonable cause to believe the individual has committed or is about to commit a forcible felony, as that term is defined in Section 76-2-402;

(4) Notwithstanding Subsection 76-10-505.5(4), if a school safety and security director is carrying a firearm, the school safety and security director shall carry the school safety and security director's firearm in a concealed manner and may not, unless during an active threat, display or open carry a firearm while on school grounds.

(5) A school may use the services of the school safety and security director on a temporary basis to satisfy the school safety personnel requirement of Subsection 53G-8-701.5(2).

(6) The state security chief shall:

(a) for each school safety and security director, track each school safety and security director by collecting the photograph and the name and contact information for each school safety and security director; and

(b) make the information described in Subsection (6)(a) readily available to each law enforcement agency in the state categorized by LEA.

Section 30. Section 53G-8-702 is amended to read:

53G-8-702. School administrator and school resource officer training -- Curriculum.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~the state board~~]the state security chief appointed under Section 53-22-102 in consultation with the state board, shall make rules that prepare and make available [~~a training~~]an annual program for school principals, school personnel, school safety personnel described in Section 53G-8-701.5, and school resource officers to attend.

(2) To create the curriculum and materials for the training program described in Subsection (1), the [~~state board~~]state security chief, in consultation with the School Safety Center, shall:

(a) work in conjunction with the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201;

(b) solicit input from local school boards, charter school governing boards, and the Utah Schools for the Deaf and the Blind;

(c) consult with a nationally recognized organization that provides resources and training for school resource officers;

(d) solicit input from local law enforcement and other interested community stakeholders; and

(e) consider the current United States Department of Education recommendations on school discipline and the role of a school resource officer.

(3) The training program described in Subsection (1) shall be for a minimum time established by the state security chief in accordance with Subsection (1) and may include training on the following:

(a) childhood and adolescent development;

(b) responding age-appropriately to students;

(c) working with disabled students;

(d) techniques to de-escalate and resolve conflict;

(e) cultural awareness;

(f) restorative justice practices;

(g) identifying a student exposed to violence or trauma and referring the student to appropriate resources;

(h) student privacy rights;

(i) negative consequences associated with youth involvement in the juvenile and criminal justice systems;

(j) strategies to reduce juvenile justice involvement;

(k) roles of and distinctions between a school resource officer and other school staff who help keep a school secure;

(l) the standard response protocol and drills described in Section 53G-8-803;

(m) an overview of the agreement described in Section 53G-8-703;

[~~(l)~~](n) developing and supporting successful relationships with students; and

[~~(m)~~](o) legal parameters of searching and questioning students on school property.

(4) The [~~state board~~]School Safety Center shall work together with the Department of Public Safety, the State Commission on Criminal and Juvenile Justice, and state and local law enforcement to establish policies, procedures, and training requirements for school resource officers.

Section 31. Section 53G-8-703 is amended to read:

53G-8-703. Contracts between an LEA and law enforcement for school resource officer services -- Requirements -- LEA establishment of a school resource officer policy -- Public comment.

(1)(a) An LEA may use a school resource officer to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(b) An LEA [~~may~~]that uses a school resource officer under Subsection (1)(a) shall contract with a local law enforcement agency to provide school resource officer services [~~at the LEA~~].

(2) An LEA contract with a law enforcement agency to provide [~~SRO~~]school resource officer services at the LEA shall require in the contract:

(a) an acknowledgment by the law enforcement agency that [~~an SRO~~]a school resource officer hired under the contract shall:

(i) provide for and maintain a safe, healthy, and productive learning environment in a school;

(ii) act as a positive role model to students;

(iii) work to create a cooperative, proactive, and problem-solving partnership between law enforcement and the LEA;

(iv) emphasize the use of restorative approaches to address negative behavior; and

(v) at the request of the LEA, teach a vocational law enforcement class;

(b) a description of the shared understanding of the LEA and the law enforcement agency regarding the roles and responsibilities of law enforcement and the LEA to:

(i) maintain safe schools;

(ii) improve school climate; and

(iii) support educational opportunities for students;

(c) a designation of student offenses that, in accordance with Section 53G-8-211, the [~~SRO~~] school resource officer:

(i) may refer to the juvenile court;

(ii) shall confer with the LEA to resolve; and

(iii) shall refer to a school administrator for resolution as an administrative issue with the understanding that the [~~SRO~~]school resource officer will be informed of the outcome of the administrative issue;

(d) a detailed description of the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning;

(iii) arrests; and

(iv) information privacy;

(e) a detailed description of:

(i) job assignment and duties, including:

(A) the school to which the [~~SRO~~]school resource officer will be assigned;

(B) the hours the [~~SRO~~]school resource officer is expected to be present at the school;

(C) the point of contact at the school;

(D) specific responsibilities for providing and receiving information; and

(E) types of records to be kept, and by whom;

(ii) training requirements; and

(iii) other expectations of the [~~SRO~~]school resource officer and school administration in relation to law enforcement at the LEA;

(f) that [~~an SRO~~]a school resource officer who is hired under the contract and the principal at the school where [~~an SRO~~] a school resource officer will be working, or the principal's designee, will jointly complete the [~~SRO~~]school resource officer training described in Section 53G-8-702;

(g) that both parties agree to jointly discuss [~~SRO~~] school resource officer applicants; [~~and~~]

(h) that the law enforcement agency will, at least annually, seek out and accept feedback from an LEA about [~~an SRO's~~]a school resource officer's performance[~~.~~]; and

(i) a designation of the school resource officer or the law enforcement agency's designee as "school officials" for purposes of the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) An LEA may not require or prohibit mandatory rotations of school resource officers as part of the contract described in Subsection (2).

(4) An LEA that uses a school resource officer under Subsection (1)(a) shall establish a school resource officer policy.

(5) The school resource officer policy described in Subsection (4) shall include:

(a) the contract described in Subsection (2); and

(b) all other procedures and requirements governing the relationship between the LEA and a school resource officer.

(6) Before implementing the school resource officer policy described in Subsection (4), the LEA

shall present the school resource officer policy at a public meeting and receive public comment on the school resource officer policy.

Section 32. Section 53G-8-704 is enacted to read:

53G-8-704. Contracts between an LEA and a contract security company for armed school security guards.

(1) As used in this section:

(a) "Armed private security officer" means the same as that term is defined in Section 58-63-102.

(b) "Armed school security guard" means an armed private security officer who is:

(i) licensed as an armed private security officer under Title 58, Chapter 63, Security Personnel Licensing Act; and

(ii) has met the requirements described in Subsection (4)(a).

(c) "Contract security company" means the same as that term is defined in Section 58-63-102.

(d) "State security chief" means the same as that term is defined in Section 53-22-102.

(2)(a) An LEA may use an armed school security guard to satisfy the school safety personnel requirements of Section 53G-8-701.5.

(b) An LEA that uses an armed school security guard under Subsection (2)(a) shall contract with a contract security company to provide armed school security guards at each school within the LEA.

(3) The contract described in Subsection (2)(b) shall include a detailed description of:

(a) the rights of a student under state and federal law with regard to:

(i) searches;

(ii) questioning;

(iii) arrests; and

(iv) information privacy;

(b) job assignment and duties of an armed school security guard, including:

(i) the school to which an armed school security guard will be assigned;

(ii) the hours an armed school security guard is present at the school;

(iii) the point of contact at the school that an armed school security guard will contact in case of an emergency;

(iv) specific responsibilities for providing and receiving information;

(v) types of records to be kept, and by whom;

(vi) training requirements; and

(c) other expectations of the contract security company in relation to school security at the LEA.

(4)(a) In addition to the requirements for licensure under Title 58, Chapter 63, Security Personnel Licensing Act, an armed private security officer may only serve as an armed school security guard under a contract described in Subsection (2)(b) if the armed private security officer:

(i) has a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act; and

(ii) has undergone training from a county security chief regarding:

(A) the safe loading, unloading, storage, and carrying of firearms in a school setting;

(B) the role of armed security guards in a school setting; and

(C) coordination with law enforcement and school officials during an active threat.

(b) An armed school security guard that meets the requirements of Subsection (4)(a) shall, in order to remain eligible to be assigned as an armed school security guard at any school under a contract described in Subsection (2)(b), participate in and satisfy the training requirements of the initial, annual, and biannual trainings as defined in Section 53-22-105.

(5) An armed school security guard may conceal or openly carry a firearm at the school at which the armed school security guard is employed under the contract described in Subsection (2)(b).

(6) An LEA that enters a contract under this section shall inform the state security chief and the relevant county security chief of the contract and provide the contact information of the contract security company employing the armed security guard for use during an emergency.

(7) The state security chief shall:

(a) for each LEA that contracts with a contract security company under this section, track each contract security company providing armed school security guards by name and the contact information for use in case of an emergency; and

(b) make the information described in Subsection (7)(a) readily available to each law enforcement agency in the state by school.

(8) An armed school security guard shall file a report described in Subsection (9) if, during the performance of the armed school security guard's duties, the armed school security guard:

(a) points a firearm at an individual; or

(b) aims a conductive energy device at an individual and displays the electrical current.

(9)(a) A report described in Subsection (8) shall include:

(i) a description of the incident;

(ii) the identification of the individuals involved in the incident; and

(iii) any other information required by the state security chief.

(b) An armed school security guard shall submit a report required under Subsection (8) to the school administrator, school safety and security director, and the state security chief within 48 hours after the incident.

(c) The school administrator, school safety and security director, and the state security chief shall consult and review the report submitted under Subsection (9)(b).

Section 33. Section 53G-8-801 is amended to read:

53G-8-801. Definitions.

As used in this section:

(1) "Bullying" means the same as that term is defined in Section 53G-9-601.

(2) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(3) "School Safety Center" means the entity established in Section 53G-8-802.

[~~(3) "Program" means the State Safety and Support Program established in Section 53G-8-802.~~]

(4) "State security chief" means the same as that term is defined in Section 53-22-101.

Section 34. Section 53G-8-802 is amended to read:

53G-8-802. School Safety Center -- LEA duties.

(1) There is created the [~~State Safety and Support Program~~]School Safety Center.

(2) The [~~state board~~]School Safety Center shall:

(a) develop in conjunction with the Office of Substance Use and Mental Health and the state security chief model student safety and support policies for an LEA, including:

(i) requiring an evidence-based [~~procedures for the~~]behavior threat assessment [~~of and intervention~~]that includes:

(A) recommended interventions with an individual whose behavior poses a threat to school safety; and

(B) establishes defined roles for a multidisciplinary team and school safety personnel described in Title 53G, Chapter 8, Part 7, School Safety Personnel, including:

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training in consultation with the state security chief:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the [~~Department of Public Safety, develop and~~]state security chief, make available to an LEA [~~a~~]the model critical incident response training program [~~that includes:~~]a school and law enforcement agency shall use during a threat;

[~~(i) protocols for conducting a threat assessment, and ensuring building security during an incident, as required in Section 53G-8-701.5;~~]

[~~(ii) standardized response protocol terminology for use throughout the state;~~]

[~~(iii) protocols for planning and safety drills; and~~]

[~~(iv) recommendations for safety equipment for schools including amounts and types of first aid supplies;~~]

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 26B-5-211;

(i) collaborate with the state security chief to determine appropriate application of school safety requirements in Utah Code to an online school;

[~~(i)~~](j) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

[~~(j)~~](k) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

(4) The state board shall require an LEA to:

(a)(i) review data from the state board-facilitated surveys containing school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board:

(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and

(ii) after August 1, 2023, annually on the LEA's implementation of the plan and progress.

Section 35. Section 53G-8-803 is amended to read:

53G-8-803. Standard response protocol to active threats in schools.

[~~The state board~~]The state security chief described in Section 53-22-102, in consultation with the School Safety Center, shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) in accordance with the standard response protocol established by the state security chief, require an LEA or school to develop emergency preparedness plans and emergency response plans for use during an emergency that include developmentally appropriate training for students and adults regarding:

(a) active threats;

(b) emergency preparedness;

(c) drills as required under Subsection 15A-5-202.5 and by the state security chief; and

(d) standard response protocols coordinated with community stakeholders; and

(2) identify the necessary components of emergency preparedness and response plans, including underlying standard response protocols and emerging best practices for an emergency[~~; and~~].

[~~(3) define what constitutes an "active threat" and "developmentally appropriate" for purposes of the emergency response training described in this section.~~]

Section 36. Section 53G-8-805 is enacted to read:

53G-8-805. Panic alert device -- Security cameras.

(1) In accordance with the results of the school safety needs assessment described in Section 53G-8-701.5, an LEA shall provide a staff person in each classroom with a wearable panic alert device that allows for immediate contact with emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments.

(2) An LEA shall ensure, before the school year begins, all school building personnel receive training on the protocol and appropriate use of the panic alert device described in Subsection (1).

(3) An LEA shall:

(a) ensure all security cameras within a school building are accessible by a local law enforcement agency; and

(b) coordinate with a local law enforcement agency to establish appropriate access protocols.

(4) This section is not subject to the restrictions in Section 41-6a-2003.

Section 37. Section 53G-9-601 is amended to read:

53G-9-601. Definitions.

As used in this part:

(1)(a) "Abusive conduct" means verbal, nonverbal, or physical conduct of a parent or student directed toward a school employee that, based on its severity, nature, and frequency of occurrence, a reasonable person would determine is intended to cause intimidation, humiliation, or unwarranted distress.

(b) A single act does not constitute abusive conduct.

(2) "Action plan" means a process to address an incident as described in Section 53G-9-605.5.

[~~(2)~~](3) "Bullying" means a school employee or student intentionally committing a written, verbal, or physical act against a school employee or student that a reasonable person under the circumstances should know or reasonably foresee will have the effect of:

(a) causing physical or emotional harm to the school employee or student;

(b) causing damage to the school employee's or student's property;

(c) placing the school employee or student in reasonable fear of:

(i) harm to the school employee's or student's physical or emotional well-being; or

(ii) damage to the school employee's or student's property;

(d) creating a hostile, threatening, humiliating, or abusive educational environment due to:

(i) the pervasiveness, persistence, or severity of the actions; or

(ii) a power differential between the bully and the target; or

(e) substantially interfering with a student having a safe school environment that is necessary to facilitate educational performance, opportunities, or benefits.

[~~(3)~~](4) "Communication" means the conveyance of a message, whether verbal, written, or electronic.

[~~(4)~~](5) "Cyber-bullying" means using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication.

[~~(5)~~](6)(a) "Hazing" means a school employee or student intentionally, knowingly, or recklessly committing an act or causing another individual to commit an act toward a school employee or student that:

(i)(A) endangers the mental or physical health or safety of a school employee or student;

(B) involves any brutality of a physical nature, including whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(C) involves consumption of any food, alcoholic product, drug, or other substance or other physical activity that endangers the mental or physical health and safety of a school employee or student; or

(D) involves any activity that would subject a school employee or student to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects a school employee or student to extreme embarrassment, shame, or humiliation; and

(ii)(A) is committed for the purpose of initiation into, admission into, affiliation with, holding office in, or as a condition for membership in a school or school sponsored team, organization, program, club, or event; or

(B) is directed toward a school employee or student whom the individual who commits the act knows, at the time the act is committed, is a member of, or candidate for membership in, a school or school sponsored team, organization, program, club, or event in which the individual who commits the act also participates.

(b) The conduct described in Subsection [~~(5)(a)~~](6)(a) constitutes hazing, regardless of whether the school employee or student against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

[~~(6)~~](7) "Incident" means an incident of bullying, cyber-bullying, hazing, or retaliation that is prohibited under this part.

(8) "LEA governing board" means a local school board or charter school governing board.

[~~(7)~~](9) "Policy" means an LEA governing board policy described in Section 53G-9-605.

[~~(8)~~](10) "Public education suicide prevention coordinator" means the public education suicide prevention coordinator described in Section 53G-9-702.

[~~(9)~~](11) "Retaliate" means an act or communication intended:

(a) as retribution against a person for reporting bullying or hazing; or

(b) to improperly influence the investigation of, or the response to, a report of bullying or hazing.

[~~(10)~~](12) "School" means a public elementary or secondary school, including a charter school.

[~~(11)~~](13) "School employee" means an individual working in the individual's official capacity as:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) an individual:

(i) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(ii) who works on a school campus.

[~~(12)~~](14) "State suicide prevention coordinator" means the state suicide prevention coordinator described in Section 26B-5-611.

[~~(13)~~](15) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 38. Section 53G-9-602 is amended to read:

53G-9-602. Bullying, hazing, and cyber-bullying prohibited.

(1) A school employee or student may not engage in bullying a school employee or student:

(a) on school property;

(b) at a school related or sponsored event;

(c) on a school bus;

(d) at a school bus stop; or

(e) while the school employee or student is traveling to or from a location or event described in Subsections (1)(a) through (d).

(2) A school employee or student may not engage in [~~hazing or cyber-bullying~~]cyber-bullying or hazing a school employee or student at any time or in any location.

Section 39. Section 53G-9-603 is amended to read:

53G-9-603. Retaliation and making a false allegation prohibited.

(1) A school employee or student may not engage in retaliation against:

(a) a school employee;

(b) a student; or

(c) an investigator for, or a witness of, an alleged incident of bullying, cyber-bullying, hazing, or retaliation.

(2) A school employee or student may not make a false allegation of bullying, cyber-bullying, hazing, abusive conduct, or retaliation against a school employee or student.

Section 40. Section 53G-9-604 is amended to read:

53G-9-604. Parental notification of certain incidents and threats required.

(1) A school shall:

(a) notify a parent if the parent's student threatens suicide; or

(b) notify the parents of each student involved in an incident [~~of bullying, cyber-bullying, hazing, abusive conduct, or retaliation of the incident involving each parent's student~~]and the action plan to address the incident.

(2)(a) [~~If a school notifies a parent of an incident or threat required to be reported under Subsection (1), the school shall~~]When a student threatens suicide or is involved in an incident, the school shall produce and maintain a record that:

(i) [~~produce and maintain a record that verifies that the parent was notified of the incident or threat~~]verifies that the school notified each parent in accordance with Subsection (1);

(ii) tracks implementation of the action plan addressing the incident, if applicable;

[~~(ii)~~](iii) [~~maintain~~]maintains a record described in Subsection [~~(2)(a)(i)~~](2)(a) in accordance with the requirements of:

(A) Title 53E, Chapter 9, Part 2, Student Privacy;

(B) Title 53E, Chapter 9, Part 3, Student Data Protection;

(C) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(D) 34 C.F.R. Part 99; and

[~~(iii)~~](iv) provide the parent with:

(A) suicide prevention materials and information; and

(B) information on ways to limit the student's access to fatal means, including a firearm or medication.

(b) The state superintendent shall select the materials and information described in Subsection [~~(2)(a)(iii)~~](2)(a)(iv) in collaboration with the state suicide prevention coordinator and public education suicide prevention coordinator.

[~~(3) A local school board or charter school governing board shall adopt a policy regarding the process for:~~]

[~~(a) notifying a parent as required in Subsection (1); and~~]

[~~(b) producing and retaining a record that verifies that a parent was notified of an incident or threat as required in Subsection (2).~~]

[~~(4)~~](3) At the request of a parent, a school may provide information and make recommendations related to an incident or threat described in Subsection (1).

[~~(5)~~](4) A school shall:

(a) provide a student a copy of a record maintained in accordance with this section that relates to the student if the student requests a copy of the record; and

(b) expunge a record maintained in accordance with this section that relates to a student if the student:

(i) has graduated from high school; and

(ii) requests the record be expunged.

Section 41. Section 53G-9-605 is amended to read:

53G-9-605. Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(1) [~~On or before September 1, 2018, an LEA governing board shall update the LEA governing board's bullying, cyber-bullying, hazing, and retaliation policy to include abusive conduct~~]An LEA governing board shall adopt a bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy.

(2) [~~A policy~~]The LEA governing board shall:

(a) [~~be developed only~~]develop the policy with input from:

(i) students;

(ii) parents;

(iii) teachers;

(iv) school administrators;

(v) school staff; or

(vi) local law enforcement agencies; and

(b) provide protection to a student, regardless of the student's legal status.

(3) [~~A policy shall include the following components~~]The LEA governing board shall include the following components in the policy:

(a) definitions of bullying, cyber-bullying, hazing, [~~and~~] abusive conduct, and retaliation that are consistent with this part;

(b) language prohibiting bullying, cyber-bullying, hazing, and abusive conduct;

(c) language prohibiting retaliation [~~against an individual who reports conduct that is prohibited under this part~~]as described in Section 53G-9-603;

(d) language prohibiting making a false report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation;

(e) language outlining appropriate punishments for a student who shares a recording of an act of bullying, cyber-bullying, hazing, abusive conduct, and retaliation in order to impact or encourage future incidents;

[~~(e)~~](f) as required in Section 53G-9-604, a process for parental notification of:

(i) a student's threat [~~to commit~~]of suicide; [~~and~~]

(ii) an incident [~~of bullying, cyber-bullying, hazing, abusive conduct, or retaliation,~~] involving the parent's student; and

(iii) implementation of the school's action plan to address the incident;

[~~(f)~~](g) a grievance process for a school employee who has experienced abusive conduct;

[~~(g)~~](h) [~~an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation~~]a requirement that the school or LEA create and implement an action plan for each incident in accordance with Section 53G-9-605.5;[~~and~~]

(i) a communication process requiring the school or LEA regularly updates each parent of a student involved in an incident regarding implementation of an action plan, including:

(i) the outcome of the school's or LEA's investigation;

(ii) a discussion of safety considerations for the student who is the subject of the incident; and

(iii) an explanation of the school's or LEA's process for addressing the incident; and

[~~(h)~~](j) a requirement for a signed statement annually, indicating that the individual signing the statement has received the LEA governing board's policy, from each:

(i) school employee;

(ii) student who is at least eight years old; and

(iii) parent of a student enrolled in the [~~charter school or school district~~]LEA.

(4) [~~A copy of a~~]An LEA shall, in relation to the policy [~~shall be~~]described in this section:

(a) [~~included~~]include a copy in student conduct handbooks;

(b) [~~included~~]include a copy in employee handbooks; and

(c) [~~provided~~]provide a copy to a parent of a student enrolled in the charter school or school district.

(5) A policy may not permit formal disciplinary action that is based solely on an anonymous report of bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

(6) Nothing in this part is intended to infringe upon the right of a school employee, parent, or student to exercise the right of free speech.

Section 42. Section 53G-9-605.5 is enacted to read:

53G-9-605.5. Bullying incident action plan.

(1) A school or LEA shall create an action plan for an incident.

(2) In an action plan, the school or LEA shall include:

(a) a communication plan designed to keep each parent updated on the implementation of the action plan;

(b) with respect to the student to whom the incident was directed and in direct coordination with the student's parent:

(i) a tailored response to the incident that addresses the student's needs;

(ii) a mechanism to consider consequences or accommodations the student may need regarding decreased exposure or interactions with the student who caused the incident;

(iii) notification of the consequences and plan to address the behavior of the student who caused the incident;

(iv) supportive measures designed to preserve the student's access to educational services and opportunities; and

(v) to the extent available, access to other resources the parent requests for the student; and

(c) with respect to the student who caused the incident and in direct coordination with the student's parent:

(i) a range of tailored and appropriate consequences, making reasonable effort to preserve the student's access to educational services and activities;

(ii) a process to determine and provide any needed resources related to the underlying cause of the incident;

(iii) supportive measures designed to preserve the student's access to educational services and opportunities while protecting the safety and well-being of other students; and

(iv) a process to remove the student from school in an emergency situation, including a description of what constitutes an emergency.

(3) A school or LEA may not include in an action plan a requirement that the student to whom the incident was directed change the student's:

(a) educational schedule or placement; or

(b) participation in a school sponsored sport, club, or activity.

(4) A school or LEA shall establish an appeals process for a student who causes an incident or the student's parent to appeal one or more of the consequences included in an action plan.

(5) If, after a school or LEA attempts to involve a parent in the development and implementation of an action plan, the parent chooses not to participate in the process, the school or LEA may develop and implement an action plan without the parent's involvement.

Section 43. Section 53G-9-606 is amended to read:

53G-9-606. Model policy and state board duties.

(1) [~~On or before September 1, 2018, the~~]The state board shall:

(a) [~~update the state board's~~]create a model policy on bullying, cyber-bullying, hazing, abusive conduct, and retaliation [~~to include abusive conduct~~]; and

(b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require an LEA governing board to report annually to the state board on:

(a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);

(b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607;

(c) the demographics of an individual who is subject to bullying, hazing, cyber-bullying, or retaliation subject to:

(i) Title 53E, Chapter 9, Part 2, Student Privacy;

(ii) Title 53E, Chapter 9, Part 3, Student Data Protection;

(iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(iv) 34 C.F.R. Part 99; and

(d) other information related to this part, as determined by the state board.

Section 44. Section 53G-9-607 is amended to read:

53G-9-607. Training, education, and prevention -- Standards.

(1) An LEA shall designate at least one individual at the LEA level who:

(a) provides training to an individual described in Subsection (2);

(b) oversees the implementation of an action plan;

(c) for each incident, monitors implementation of the LEA's policy regarding a communication process with a parent described in Section 53G-9-605;

(d) acts as the LEA liaison to the state board regarding bullying, cyber-bullying, hazing, abusive conduct, and retaliation; and

(e) assists a school with case-specific needs when the school is addressing an incident.

[~~(1)~~](2)(a) An LEA governing board shall include in the training of a school employee training regarding :

(i) bullying, cyber-bullying, hazing, abusive conduct, and retaliation ; and

(ii) applicable civil rights laws.

(b) [~~that~~]An LEA governing board shall ensure the training described in Subsection (2)(a) meets the standards described in Subsection [~~(4)~~](5).

[~~(b)~~](c) An LEA governing board may offer voluntary training to parents and students regarding [~~abusive conduct~~]bullying, cyber-bullying, hazing, abusive conduct, or retaliation.

[~~(2)~~](3) To the extent that state or federal funding is available for this purpose, LEA governing boards are encouraged to implement programs or initiatives, in addition to the training described in Subsection [~~(1)~~](2), to provide for training and education regarding, and the prevention of, bullying, cyber-bullying, hazing, abusive conduct, and retaliation.

[~~(3)~~](4) The programs or initiatives described in Subsection [~~(2)~~](3) may involve:

(a) the establishment of a bullying task force; or

(b) the involvement of school employees, students, or law enforcement.

[~~(4)~~](5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for high quality training related to :

(a) bullying, cyber-bullying, hazing, abusive conduct, and retaliation[.]; and

(b) applicable civil rights laws.

Section 45. Section 63H-7a-103 is amended to read:

63H-7a-103. Definitions.

As used in this chapter:

(1) "911 account" means the Unified Statewide 911 Emergency Service Account, created in Subsection 63H-7a-304(1).

(2) "911 call transfer" means the redirection of a 911 call from the person who initially receives the call to another person within the state.

(3) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(4) "Authority" means the Utah Communications Authority created in Section 63H-7a-201.

(5) "Backhaul network" means the portion of a public safety communications network that consists primarily of microwave paths, fiber lines, or ethernet circuits.

(6) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

(7) "CAD" means a computer-based system that aids PSAP dispatchers by automating selected dispatching and record-keeping activities.

(8) "CAD-to-CAD" means standardized connectivity between PSAPs or between a PSAP and a dispatch center for the transmission of data between CADs.

(9) "Dispatch center" means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.

(10) "FirstNet" means the federal First Responder Network Authority established in 47 U.S.C. Sec. 1424.

(11) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

(12) "Public agency" means any political subdivision of the state dispatched by a public safety answering point.

(13) "Public safety agency" means the same as that term defined in Section 69-2-102.

(14) "Public safety answering point" or "PSAP" means an entity in this state that:

(a) receives, as a first point of contact, direct 911 emergency communications from the 911 emergency service network requesting a public safety service;

(b) has a facility with the equipment and staff necessary to receive the communication;

(c) assesses, classifies, and prioritizes the communication; [~~and~~]

(d) dispatches the communication to the proper responding agency[.]; and

(e) submits information as described in Section 63H-7a-208.

(15) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, connectivity, and 911 call processing equipment.

Section 46. Section 63H-7a-208 is amended to read:

63H-7a-208. PSAP advisory committee.

(1) There is established a PSAP advisory committee composed of nine members appointed by the board as follows:

(a) one representative from a PSAP managed by a city;

(b) one representative from a PSAP managed by a county;

(c) one representative from a PSAP managed by a special service district;

(d) one representative from a PSAP managed by the Department of Public Safety;

(e) one representative from a PSAP from a county of the first class;

(f) one representative from a PSAP from a county of the second class;

(g) one representative from a PSAP from a county of the third or fourth class;

(h) one representative from a PSAP from a county of the fifth or sixth class; and

(i) one member from the telecommunications industry.

(2)(a) Except as provided in Subsection (2)(b), each member shall be appointed to a four-year term beginning July 1, 2019.

(b) Notwithstanding Subsection (2)(a), the board shall:

(i) at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that the terms of approximately half of the committee end every two years; and

(ii) not reappoint a member for more than two consecutive terms.

(3) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the board for the unexpired term.

(4)(a) Each January, the committee shall organize and select one of its members as chair and one member as vice chair.

(b) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(5)(a) The chair shall convene a minimum of four meetings per year.

(b) The chair may call special meetings.

(c) The chair shall call a meeting upon request of five or more members of the committee.

(6) Five members of the committee constitute a quorum for the transaction of business, and the action of a majority of the members present is the action of the committee.

(7) A member may not receive compensation or benefits for the member's service.

(8) The PSAP advisory committee shall, on behalf of stakeholders, make recommendations to the director and the board regarding:

(a) the authority operations and policies;

(b) the 911 division and interoperability division strategic plans;

(c) the operation, maintenance, and capital development of the public safety communications network;

(d) the authority's administrative rules relative to the 911 division and the interoperability division; and

(e) the development of minimum standards and best practices as described in Subsection 63H-7a-302(1)(a).

(9) No later than September 30, 2020, the PSAP advisory committee shall propose to the board a statewide CAD-to-CAD call handling and 911 call transfer protocol.

(10) The chair of the PSAP advisory committee is a nonvoting member of the board.

(11)(a) The committee is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(b) The committee shall:

(i) at least 24 hours before a committee meeting, post a notice of the meeting, with a meeting agenda, on the authority's website;

(ii) within 10 days after a committee meeting, post to the authority's website the audio and draft minutes of the meeting; and

(iii) within three days after the committee approves minutes of a committee meeting, post the approved minutes to the authority's website.

(c) The committee's vice chair is responsible for preparing minutes of committee meetings.

(12) On or before December 31, 2024, the PSAP advisory committee shall coordinate with the State Bureau of Investigation to use the intelligence system described in Subsections 53-10-302(7) and (8) to:

(a) establish the information a PSAP is required to submit to the intelligence system; and

(b) create a format for submitting information.

Section 47. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(6) Section 53-22-104.2, School Security Task Force Education Advisory Board, is repealed December 31, 2025.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](14) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](16) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](17) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(23)~~](25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](26) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](27) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 48. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(6) Section 53-22-104.2, School Security Task Force Education Advisory Board, is repealed December 31, 2025.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](14) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](16) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](17) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(24)~~](26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](27) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](28) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 49. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(6) Section 53-22-104.2, School Security Task Force Education Advisory Board, is repealed December 31, 2025.

[~~(5)~~](7) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(7)~~](9) Section 53B-8-114 is repealed July 1, 2024.

[~~(8)~~](10) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(9)~~](11) Section 53B-10-101 is repealed on July 1, 2027.

[~~(10)~~](12) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(11)~~](13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(12)~~](14) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~](15) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(14)~~](16) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(15)~~](17) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(16)~~](18) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](19) Section 53F-9-403 is repealed on July 1, 2024.

[~~(18)~~](20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 50. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

(9) Section 53-22-104.2, School Security Task Force Education Advisory Board, is repealed December 31, 2025.

[~~(8)~~](10) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](11) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](12) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](13) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](14) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](15) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](16) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](17) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](18) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](19) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](21) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](22) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](23) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 51. Section 76-10-505.5 is amended to read:

76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.

(1) As used in this section, "on or about school premises" means:

(a)(i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b)(i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; [~~and~~]or

[~~(iii)~~]

[~~(A)~~](c)(i) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

[~~(B)~~](ii) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) A person may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the person knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3)(a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the person is authorized to possess a firearm as [~~provided under~~]described in Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the person is authorized to possess a firearm as [~~provided under~~]described in Section 53-5-704.5,

unless the person is in a location where the person is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use;

(e) the actor is an armed school security guard as described in Section 53G-8-704; or

[~~(e)~~](f) the possession is:

(i) at the person's place of residence or on the person's property; or

(ii) in any vehicle lawfully under the person's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not:

(a) prohibit prosecution of a more serious weapons offense that may occur on or about school premises; or

(b) prevent an actor from securely storing a firearm on the grounds of a school if the actor:

(i) participates in the school guardian program created in Section 53-22-105; and

(ii) complies with the requirements for securely storing the firearm.

Section 52. Repealer.

This bill repeals:

Section 53G-8-703.2, LEA establishment of SRO policy -- Public comment.

Section 53. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 53(a) Operating and Capital Budgets

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

ITEM 1

To Department of Public Safety - Programs & Operations

From General Fund $2,118,100

Schedule of Programs:

Department Commissioner's Office $2,118,100

The Legislature intends that:

(1) $2,003,600 be used for personnel connected to the state security chief described in Section 53-22-102;

(2) $60,000 be used for systems integration costs, vehicles, and equipment for the personnel of the state security chief; and

(3) $54,500 be used for ongoing stipends for school guardian volunteers described in Section 53-22-105

ITEM 2

To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund $2,100,000

From Public Education Economic Stabilization Restricted Account, One-time $100,000,000

Schedule of Programs:

Early Warning Program $2,100,000
School Safety and Support Grant Program $100,000,000

The Legislature intends that:

(1) in accordance with Section 53F-4-207, the State Board of Education use $2,100,000 to select a third-party provider for a statewide contract to provide student intervention early warning software to local education agencies for an online data reporting tool, digital platform, or enhancement to existing tools;

(2) $98,700,000 of the $100,000,000 for the School Safety and Support Grant Program in this item be used as follows:

(a) $50,000,000 is used for:

(i) supporting general grants to local education agencies priotized by need as the School Security Task Force described in Section 53-22-104.1 determines in coordination with the state security chief and the School Safety Center; and

(ii) research expenses supporting the work of the School Security Task Force as the co-chairs of the School Security Task Force authorizes; and

(b) $48,700,000 for targeted grants to local education agencies under the school safety needs assessment described in 53G-8-701.5;(3) $1,300,000 of the $100,000,000 for the School Safety and Support Grant Program in this item be used to coordinate the payment of one-time costs for the Department of Public Safety for costs related to expenses for duties described in Section 53-22-102, including vehicles and equipment for personnel of the state security chief, systems integration costs, guardian stipends, and financial services overtime costs;

(4) in accordance with 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2025 and the use of any nonlapsing funds is limited to the purposes described in the grant program found in Section 53F-5-220.

ITEM 3

To State Board of Education - Utah Schools for the Deaf and the Blind

From Income Tax Fund $45,700

Schedule of Programs:

Administration $45,700

The Legislature intends that the State Board of Education use the $45,700 to provide the Utah Schools for the Deaf and the Blind with school security personnel, firearms training, and panic alert system equipment required in this bill.

ITEM 4

To Legislature - Senate

From General Fund, One-time $11,200

Schedule of Programs:

Administration $11,200

ITEM 5

To Legislature - House of Representatives

From General Fund, One-time $11,200

Schedule of Programs:

Administration $11,200

ITEM 6

To Legislature - Office of Legislative Research and General Counsel

From General Fund, One-time $19,900

Schedule of Programs:

Administration $19,900

Section 54. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 1, 2024.

(2) The actions affecting Sections 63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25) and 63I-2-253 (Effective 07/01/24) take effect July 1, 2024.

(3) The actions affecting Section 63I-1-253 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

CHAPTER 22
H. B. 121
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

EDUCATOR BACKGROUND CHECK AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill prohibits a Local Education Agency from collecting background check fees from licensed employees and non-licensed substitute teachers.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a local education agency (LEA) from collecting background check fees from volunteers and licensed, non-licensed, and contract employees;
- allows entities to clone background information between LEAs or qualifying private schools; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-702, as last amended by Laws of Utah 2023, Chapter 387
53E-6-901, as renumbered and amended by Laws of Utah 2018, Chapter 1
53G-5-408, as last amended by Laws of Utah 2019, Chapter 293
53G-11-401, as last amended by Laws of Utah 2019, Chapter 293
53G-11-402, as last amended by Laws of Utah 2023, Chapter 527
53G-11-403, as last amended by Laws of Utah 2019, Chapter 293

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

Section 1. Section 53-5-702 is amended to read:

53-5-702. Definitions.

In addition to the definitions in Section 76-10-501, as used in this part:

(1) "Active duty service member" means a person on active military duty with the United States military and includes full time military active duty, military reserve active duty, and national guard military active duty service members stationed in Utah.

(2) "Active duty service member spouse" means a person recognized by the military as the spouse of an active duty service member and who resides with the active duty service member in Utah.

(3) "Board" means the Concealed Firearm Review Board created in Section 53-5-703.

(4) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(5) "Commissioner" means the commissioner of the Department of Public Safety.

(6) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:

(a) a finding of guilt based on evidence presented to a judge or jury;

(b) a guilty plea;

(c) a plea of nolo contendere;

(d) a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation;

(e) a pending diversion agreement; or

(f) a conviction which has been reduced [~~pursuant to~~]in accordance with Section 76-3-402.

(7)(a) "School employee" means an employee of a public school district, charter school, or private school whose duties, responsibilities, or assignments require the employee to be physically present on a school's campus at least half of the days on which school is held during a school year.

(b) "School employee" also means a substitute teacher, as defined in Section 53E-6-901.

(8) "School year" means the period of time designated by a local school board, charter school governing board, or private school as the school year for high school, middle school, or elementary school students.

Section 2. Section 53E-6-901 is amended to read:

53E-6-901. Substitute teachers.

(1) As used in this section, "substitute teacher" means a licensed or non-licensed individual who is employed by a school district to fill in for a regular classroom teacher during the teacher's temporary absence from the classroom.

(2) [~~A substitute teacher need not hold a license to teach, but~~]When hiring substitute teachers, school districts [~~are encouraged to hire~~]shall prioritize licensed [~~personnel~~]educators as substitutes when available.

[~~(2)~~](3) [~~A person must~~]An individual shall submit to a background check [~~under~~]in accordance with Section 53G-11-402 prior to employment as a substitute teacher.

[~~(3)~~](4) A teacher's position in the classroom may not be filled by [~~an unlicensed~~]a non-licensed substitute teacher for more than a total of 20 days during any school year unless a licensed [~~personnel are~~] educator is not available.

[~~(4)~~](5) [~~A person~~]An individual who is ineligible to hold a license [~~for any reason other than professional preparation~~]for reasons described in

Title 53E, Chapter 6, Part 6, License Denial and Discipline, may not serve as a substitute teacher.

Section 3. Section 53G-5-408 is amended to read:

53G-5-408. Criminal background checks on school personnel.

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in [~~Section~~]Sections 53G-11-402 and 53G-11-403:

(1) an employee of a charter school who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;

(2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment;

(3) a contract employee, as defined in Section 53G-11-401, who works at a charter school; and

(4) a charter school governing board member.

Section 4. Section 53G-11-401 is amended to read:

53G-11-401. Definitions.

As used in this part:

(1) "Authorized entity" means an LEA, qualifying private school, or the state board that is authorized to request a background check and ongoing monitoring under this part.

(2) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety created in Section 53-10-201.

(3) "Contract employee" means an employee of a staffing service or other entity who works at a public or private school under a contract.

(4) "FBI" means the Federal Bureau of Investigation.

(5)(a) "License applicant" means an applicant for a license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.

(b) "License applicant" includes an applicant for reinstatement of an expired, lapsed, suspended, or revoked license.

(6) "Non-licensed employee" means an employee of an LEA or qualifying private school that does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.

(7) "Personal identifying information" means:

(a) current name, former names, nicknames, and aliases;

(b) date of birth;

(c) address;

(d) telephone number;

(e) driver license number or other government-issued identification number;

(f) social security number; and

(g) fingerprints.

(8) "Substitute teacher" means the same as that term is defined in Section 53E-6-901.

(9) "Qualifying private school" means a private school that:

(a) enrolls students under Title 53F, Chapter 4, Part 3, Carson Smith Scholarship Program; and

(b) is authorized to conduct fingerprint-based background checks of national crime information databases under the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248.

[~~(9)~~](10) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

[~~(10)~~](11) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

Section 5. Section 53G-11-402 is amended to read:

53G-11-402. Background checks for non-licensed employees, contract employees, volunteers, and charter school governing board members.

(1) An LEA or qualifying private school shall:

(a) require the following individuals who are 18 years old or older to submit to a nationwide criminal background check and ongoing monitoring as a condition of employment or appointment:

(i) a non-licensed employee;

(ii) a contract employee;

(iii) except for an officer or employee of a cooperating employer under an internship safety agreement under Section 53G-7-904, a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment; and

(iv) a charter school governing board member;

(b) collect the following from an individual required to submit to a background check under Subsection (1)(a):

(i) personal identifying information;

(ii) subject to Subsection (2), a fee described in Subsection 53-10-108(15); and

(iii) consent, on a form specified by the LEA or qualifying private school, for:

(A) an initial fingerprint-based background check by the FBI and the bureau upon submission of the application; and

(B) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404;

(c) submit the individual's personal identifying information to the bureau for:

(i) an initial fingerprint-based background check by the FBI and the bureau; and

(ii) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the LEA or qualifying private school in accordance with Section 53G-11-405; and

(d) identify the appropriate privacy risk mitigation strategy to be used to ensure the LEA or qualifying private school only receives notifications for individuals with whom the LEA or qualifying private school maintains an authorizing relationship.

(2)(a) An LEA or qualifying private school may not require an individual to pay the fee described in Subsection (1)(b)(ii) unless the individual:

[~~(a)~~](i) has passed an initial review; and

[~~(b)~~](ii) is one of a pool of no more than five candidates for the position.

(b) An LEA may not require a non-licensed employee, contract employee, or volunteer to pay the fee described in Subsection (1)(b)(ii).

(3) An LEA or qualifying private school that receives criminal history information about a licensed educator under Subsection 53G-11-403(5) shall assess the employment status of the licensed educator as provided in Section 53G-11-405.

(4) An LEA or qualifying private school may establish a policy to exempt an individual described in Subsections (1)(a)(i) through (iv) from ongoing monitoring under Subsection (1) if the individual is being temporarily employed or appointed.

(5) An LEA or qualifying private school shall provide another LEA or qualifying private school that requires a national background check, as described in Subsection 53G-11-402(1)(a), an opportunity to clone the subscription or data from the FBI Rap Back System, as those terms are defined in Section 53-10-108, for employees or volunteers who are relocating, providing temporary volunteer services, or under contract, and in accordance with Section 53-10-108.

Section 6. Section 53G-11-403 is amended to read:

53G-11-403. Background checks for licensed educators.

The state board shall:

(1) require a license applicant to submit to a nationwide criminal background check and ongoing monitoring as a condition for licensing;

(2) collect the following from an applicant:

(a) personal identifying information; and

[~~(b) a fee described in Subsection 53-10-108(15); and~~]

[~~(c)~~](b) consent, on a form specified by the state board, for:

(i) an initial fingerprint-based background check by the FBI and bureau upon submission of the application;

(ii) retention of personal identifying information for ongoing monitoring through registration with the systems described in Section 53G-11-404; and

(iii) disclosure of any criminal history information to the individual's employing LEA or qualifying private school;

(3) submit an applicant's personal identifying information to the bureau for:

(a) an initial fingerprint-based background check by the FBI and bureau; and

(b) ongoing monitoring through registration with the systems described in Section 53G-11-404 if the results of the initial background check do not contain disqualifying criminal history information as determined by the state board in accordance with Section 53G-11-405;

(4) identify the appropriate privacy risk mitigation strategy that will be used to ensure that the state board only receives notifications for individuals with whom the state board maintains an authorizing relationship;

(5) notify the employing LEA or qualifying private school upon receipt of any criminal history information reported on a licensed educator employed by the LEA or qualifying private school; and

(6)(a) collect the information described in Subsection (2) from individuals who were licensed prior to July 1, 2015, by the individual's next license renewal date; and

(b) submit the information to the bureau for ongoing monitoring through registration with the systems described in Section 53G-11-404.

(7) An LEA or qualifying private school shall provide another LEA or qualifying private school that requires the same or less than a national background check, as described in Subsection 53G-11-402(1)(a), an opportunity to clone the subscription or data from the FBI Rap Back System, as those terms are defined in Section 53-10-108, for employees or volunteers who are relocating, providing temporary volunteer services, or under contract, and in accordance with Section 53-10-108.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 23
H. B. 182
Passed February 16, 2024
Approved March 12, 2024
Effective July 1, 2024

STUDENT SURVEY AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Keith Grover
Cosponsor:
Katy Hall
Matt MacPherson
Brady Brammer
Tim Jimenez
Jordan D. Teuscher
Walt Brooks
Jason B. Kyle
R. Neil Walter
Joseph Elison
Trevor Lee

LONG TITLE

General Description:

This bill amends student survey requirements.

Highlighted Provisions:

This bill:

- removes references to the Utah Student Health and Risk Prevention Statewide Survey;
- requires an LEA to:
  - update policies to require parental consent for certain surveys given to a student;
  - obtain the certain parental consent annually in writing;
  - obtain new parental consent from parents of a transferring student; and
  - provide a parent a list of recipients of any data collected;
- prohibits an LEA from offering a reward or consequence to a student related to survey participation;
- allows an LEA to opt into administering the model school climate survey created by the State Board of Education; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26A-1-129, as enacted by Laws of Utah 2020, Chapter 347
53E-9-203, as last amended by Laws of Utah 2022, Chapter 335
53F-4-207, as last amended by Laws of Utah 2022, Chapter 208
53G-8-802, as last amended by Laws of Utah 2023, Chapters 328, 383

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

Section 1. Section 26A-1-129 is amended to read:

26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.

(1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.

(2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.

(3)(a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:

(i) a coalition of community organizations that is focused on substance abuse prevention;

(ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or

(iii) a local education agency as defined in Section 53E-1-102.

(b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

(i) by addressing one or more risk or protective factors [~~ identified in the Utah Student Health and Risk Prevention Statewide Survey~~]; and

(ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:

(A) providing information;

(B) enhancing individual skills;

(C) providing support to activities that reduce risk or enhance protections;

(D) enhancing access or reducing barriers systems, processes, or programs;

(E) changing consequences by addressing incentives or disincentives;

(F) changing the physical design or structure of an environment to reduce risk or enhance protections; or

(G) supporting modifications or changing policies.

(c) The grant program shall provide funding for a program or purpose that is:

(i) evidence-based; or

(ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.

(4)(a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.

(b) The application described in Subsection (4)(a) shall:

(i) provide a summary of how the applicant intends to expend grant funds; and

(ii) describe how the applicant will meet the requirements described in Subsection (3).

(c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.

(5)(a) A local health department shall:

(i) on or before June 30 of each year:

(A) review each grant application the local health department receives for the grant program; and

(B) select recipients for a grant under the grant program; and

(ii) before July 15 of each year, disperse grant funds to each selected recipient.

(b) A local health department may not award a single grant under this section in an amount that exceeds $100,000.

(6)(a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:

(i) provides an accounting for the expenditure of grant funds;

(ii) describes measurable outcomes as a result of the expenditures;

(iii) describes the impact and effectiveness of programs and activities funded through the grant; and

(iv) indicates the amount of grant funds remaining on the date that the report is submitted.

(b)(i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.

(ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).

(7)(a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.

(b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the grant program;

(ii) the impact and effectiveness of programs and activities that the grant program funds during the previous fiscal year; and

(iii) any recommendations for legislation.

Section 2. Section 53E-9-203 is amended to read:

53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1)(a) Except as provided in Subsection [~~(7)~~](8), Section 53G-9-604, and Section 53G-9-702, an LEA shall include in policies [~~adopted by a school district or charter school~~]the LEA adopts under Section 53E-9-202 [~~shall include prohibitions on the administration~~]a requirement for obtaining prior written consent from the student's parent when administering to a student[~~of~~]:

(i) any psychological or psychiatric examination, test, or treatment[~~, or~~]; and

(ii) any survey, analysis, or evaluation [~~without the prior written consent of the student's parent,~~] in which the purpose or [~~evident intended effect~~]effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

[~~(a)~~](A) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;

[~~(b)~~](B) mental or psychological problems;

[~~(c)~~](C) sexual behavior, orientation, gender identity, or attitudes;

[~~(d)~~](D) illegal, anti-social, self-incriminating, or demeaning behavior;

[~~(e)~~](E) critical appraisals of individuals with whom the student or family member has close family relationships;

[~~(f)~~](F) religious affiliations or beliefs;

[~~(g)~~](G) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

[~~(h)~~](H) income, except as required by law.

(b) An LEA shall annually obtain prior written consent for the following at the time a student registers with the LEA:

(i) surveys related to an early warning system described in Section 53F-4-207;

(ii) surveys that include social emotional learning questions; and

(iii) the school climate survey described in Section 53G-8-802.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection [~~(7)~~](8), Section 53G-9-604, and Section 53G-9-702, the

[~~prohibitions~~]requirements under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.

(4) An LEA may not:

(a) use the prior written consent described in Subsection (1) that a different LEA obtained for a student who transfers to the LEA after the beginning of the school year; or

(b) provide:

(i) a reward to a student for a student's participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation; or

(ii) a consequence to a student for a student's lack of participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation.

[~~(4)~~](5)(a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

(i) records or information, including information about relationships, that may be examined or requested;

(ii) the means by which the records or information shall be examined or reviewed;

(iii) the means by which the information is to be obtained;

(iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), the LEA shall ensure that the written notice described in Subsection [~~(4)(a) shall include an Internet address where a parent can view the exact survey to be administered to the parent's student.~~](5)(a) includes:

(i) the survey the LEA will administer to the parent's student;

(ii) the intended purposes and uses of the data collected;

(iii) the types of persons or governmental entities that:

(A) share the collected data, including a list of recipients who will receive the student-level data; or

(B) receive the data collected from a governmental entity on a regular or contractual basis; and

(iv) the record series as defined in Section 63G-2-103 in which the data is or will be included, if applicable.

[~~(5)~~](6)(a) Except in response to a situation which a school employee reasonably believes to be an emergency,[~~—or~~] as authorized under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports,[~~or~~] by order of a court, or as described in Subsection (1)(b), disclosure to a parent must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

[~~(6)~~](7)(a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b)(i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection [~~(6)(b)(ii)~~](7)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.

[~~(7)~~](8)(a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent.

(b) [~~On or before September 1, 2014, a school district or charter school~~]An LEA shall develop and adopt a policy regarding intervention measures consistent with Subsection [~~(7)(a)~~](8)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

[~~(8)~~](9) [~~Local school boards and charter school governing boards~~]An LEA governing board shall provide inservice for teachers and administrators on the implementation of this section.

[~~(9)~~](10) The state board shall provide procedures for disciplinary action for violations of this section.

[~~(10)~~](11) Data collected from a survey described in Subsection (1):

(a) is a private record as provided in Section 63G-2-302;

(b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(c) may only be used by an individual, organization, or governmental entity, including the state board, for the purposes identified in the notice described in Subsection (5); and

[~~(c)~~](d) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

Section 3. Section 53F-4-207 is amended to read:

53F-4-207. Student intervention early warning program.

(1) As used in this section:

(a) "Digital program" means a program that provides information for student early intervention as described in this section.

(b) "Online data reporting tool" means a system described in Section 53E-4-311.

(c) "Participating LEA" means an LEA that receives access to a digital program under Subsection (5).

(2)(a) The state board shall, subject to legislative appropriations:

(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide additional formative actionable data on student outcomes; and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

(b) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

(c) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection (3)(e)(ii).

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality as defined by state board rule;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the state board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board;

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b);

(c) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(d) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents;

(e) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(f) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;

(g) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(h) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(i) have the ability to generate parent communication to alert the parent of academic plans or interventions; and

(j) configure alerts based upon student academic results, including a student's performance on the previous year's standards assessment described in Section 53E-4-303.

(5)(a) The state board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall:

(i) pay for 50% of the cost of providing access to the digital program to the LEA; and

(ii) no later than one school year after accessing a digital program, report to the state board in a format required by the state board on:

(A) the effectiveness of the digital program;

(B) positive and negative attributes of the digital program;

(C) recommendations for improving the online data reporting tool; and

(D) any other information regarding a digital program requested by the state board.

(c) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(6) Information described in this section shall be used in accordance with and provided subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection;

(b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(c) the parental consent requirements in Section 53E-9-203.

(7)(a) A parent or guardian may opt the parent's or guardian's student [~~out of~~]into participating in a survey prepared by a participating LEA's online data reporting tool described in this section.

(b) An LEA shall provide notice to a parent of:

(i) the administration of a survey described in Subsection (7)(a);

(ii) if applicable, that the survey may request information from students that is non- academic in nature;

(iii) where the parent may access the survey described in Subsection (7)(a) to be administered; and

(iv) the opportunity to opt a student out of participating in a survey as described in Subsection (7)(a).

(c) A participating LEA shall annually provide notice to parents and guardians on how the participating LEA uses student data through the online data reporting tool to provide instruction and intervention to students.

Section 4. Section 53G-8-802 is amended to read:

53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Office of Substance Use and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes:

(i) protocols for conducting a threat assessment, and ensuring building security during an incident, as required in Section 53G-8-701.5;

(ii) standardized response protocol terminology for use throughout the state;

(iii) protocols for planning and safety drills; and

(iv) recommendations for safety equipment for schools including amounts and types of first aid supplies;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 26B-5-211;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment [~~and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:~~]

[~~(i) requiring an LEA to:~~]

[~~(A) create or adopt and disseminate a school climate survey; and~~]

[~~(B) disseminate the school climate survey;~~]

[~~(ii) recommending the distribution method, survey frequency, and sample size of the survey; and~~

~~(iii) specifying the areas of content for the school climate survey~~]; and

(j) collect aggregate data and school climate survey results from [~~each~~]an LEA that administers the model school climate survey described in Subsection (2)(i).

(3) Nothing in this section [~~requires~~]requires:

(a) an individual to respond to a school climate survey[~~.~~]; or

(b) an LEA to use the model school climate survey or any specified questions in the model school climate survey described in Subsection (2)(i).

(4) The state board shall require an LEA to:

(a)(i) if an LEA administers a school climate survey, review [~~data from the state board-facilitated surveys containing~~] school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board[~~:~~]

[~~(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and~~

~~(ii) after August 1, 2023,~~] annually on the LEA's implementation of the plan under Subsection (4)(a)(ii)(B) and progress.

Section 5. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 24
H. B. 247
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

STATEWIDE ONLINE EDUCATION PROGRAM AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends the Statewide Online Education Program (the program).

Highlighted Provisions:

This bill:

- requires the Utah State Board of Education to:
  - update operating systems to allow for transfer of student information with the program;
  - dedicate staff to offer technical support for the program;
  - create a model cooperative agreement between a primary local education agency and an authorized online provider;
  - provide certain itemized reports to a primary LEA;
  - create a mandatory training for certain LEA staff about the program;
  - create a communication dashboard; and
  - collaborate with the Utah System of Higher Education to offer online concurrent enrollment options including within the program;
- allows the State Board of Education to contract with a private entity to administer the portion of the program designated for home and private school students and amends provisions to accommodate the potential administration by a private entity;
- requires a primary LEA to coordinate accommodations of a student's individualized education plan or Section 504 accommodation plan;
- establishes a deadline to acknowledge a course enrollment;
- requires certain coordination between a primary LEA and an authorized online course provider; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-518, as last amended by Laws of Utah 2023, Chapter 70
53F-4-501, as last amended by Laws of Utah 2023, Chapters 226, 368
53F-4-502, as last amended by Laws of Utah 2023, Chapter 368
53F-4-503, as last amended by Laws of Utah 2023, Chapters 226, 368
53F-4-504, as last amended by Laws of Utah 2023, Chapter 368
53F-4-505, as last amended by Laws of Utah 2023, Chapter 368
53F-4-506, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-507, as last amended by Laws of Utah 2023, Chapter 368
53F-4-508, as last amended by Laws of Utah 2019, Chapter 186
53F-4-509, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-510, as last amended by Laws of Utah 2019, Chapter 186
53F-4-511, as last amended by Laws of Utah 2019, Chapter 186
53F-4-512, as last amended by Laws of Utah 2019, Chapter 186
53F-4-513, as last amended by Laws of Utah 2021, Chapter 362
53F-4-514, as last amended by Laws of Utah 2023, Chapter 368
53F-4-516, as last amended by Laws of Utah 2019, Chapter 186
53F-4-517, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-4-518, as last amended by Laws of Utah 2023, Chapter 368

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

Section 1. Section 53E-3-518 is amended to read:

53E-3-518. Utah school information management system -- Local education agency requirements.

(1) As used in this section:

(a) "LEA data system" or "LEA's data system" means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.

(c) "Parent" means the same as that term is defined in Section 53G-6-201.

(d) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.

(e) "User" means an individual who has authorized access to the information management system.

(2) On or before July 1, 2024, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with an LEA's data systems that meet the requirements described in Subsection [~~(6);~~](7);

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with [~~Title 53E, Chapter 9, Student Privacy and Data Protection~~]Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user's role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) On or before January 31, 2026, the state board shall:

(a) ensure the information management system described in this section allows for the transfer of a student's transcript, current IEP, or Section 504 accommodation plan, including the tracking of necessary accommodations and services between:

(i) different LEA student information systems; and

(ii) an authorized online course provider and a primary LEA; and

(b) ensure the transfer capability described in Subsection (4)(a) is available for the same use within the operating system the state board uses for the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

[~~(4)~~](5) The state board shall establish the restrictions on user access described in Subsection (3)(f).

[~~(5)~~](6)(a) The state board shall make rules that establish the required capabilities for an LEA financial information system.

(b) In establishing the required capabilities for an LEA financial information system, the state board shall consider metrics and capabilities requested by the state treasurer or state auditor.

[~~(6)~~](7)(a) On or before July 1, 2024, an LEA shall ensure that:

(i) all of the LEA's data systems:

(A) meet the data standards established by the state board in accordance with Section 53E-3-501;

(B) are fully compatible with the state board's information management system; and

(C) meet specification standards determined by the state board; and

(ii) the LEA's financial information system meets the requirements described in Subsection [~~(5).~~](6).

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

[~~(7)~~](8)(a) Subject to appropriations and Subsection [~~(7)(b)~~](8)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection [~~(5)~~](6) by:

(i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:

(A) awarding a grant to the LEA; or

(B) providing a reimbursement to the LEA; or

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules describing:

(i) how an LEA may apply to the state board for the assistance described in Subsection [~~(7)(a)~~](8)(a); and

(ii) criteria for the state board to provide the assistance to an LEA.

[~~(8)~~](9)(a) Beginning July 1, 2024, the state board may take action against an LEA that is out of

compliance with a requirement described in Subsection [~~(6)~~](7) until the LEA complies with the requirement.

(b) An action described in Subsection [~~(8)(a)~~](9)(a) may include the state board withholding funds from the LEA.

[~~(9)~~](10)(a) For purposes of this Subsection [~~(9)~~](10), "education record" means the same as that term is defined in 20 U.S.C. Sec. 1232g.

(b) The state board shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a procedure under which:

(i) a parent may submit information as part of the education records for the parent's student;

(ii) the information submitted by the parent is maintained as part of the education records for the parent's student;

(iii) information submitted by the parent and maintained as part of the education records for the parent's student may be removed at the request of the parent; and

(iv) a parent has access only to the education records of the parent's student in accordance with Subsection [~~(9)(d).~~](10)(d).

(c) The rules made under this Subsection [~~(9)~~](10) shall allow a parent to submit or remove information submitted by the parent under this Subsection [~~(9)~~](10) at least annually, including at the time of:

(i) registering a student in a school; or

(ii) changing the school in which a student attends.

(d) Subject to the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations, the state board shall provide a parent access to an education record concerning the parent's student.

(e) The state board shall create in the information management system a record tracking interoperability of education records described in this Subsection [~~(9)~~](10) when a student is transitioning between schools or between LEAs.

Section 2. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

(2)(a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4) "Eligible student" means a student:

(a) who intends to take a course for middle school or high school credit; and

(b)(i) who is enrolled in an LEA in Utah; or

(ii)(A) who attends a private school or home school; and

(B) whose custodial parent is a resident of Utah.

(5) "High school" means grade 9, 10, 11, or 12.

(6) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

(7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at school, at another location, or any combination of these.

(8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(9) "Primary LEA of enrollment" or "primary LEA" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

(11) "State board's contractor" means the private entity described in Section 53F-4-503 with which the state board contracts to administer the portion of the Statewide Online Education Program designated for a student who attends private school or home school.

Section 3. Section 53F-4-502 is amended to read:

53F-4-502. Statewide Online Education Program created -- Designated as program of the public education system -- Purposes.

(1) The Statewide Online Education Program is created to enable an eligible student to, through the completion of publicly funded online courses:

(a) earn college credit by July 1, 2025;

[~~(a)~~](b) earn high school graduation credit; or

[~~(b)~~](c) earn middle school credit.

(2) Pursuant to Utah Constitution, Article X, Section 2, the Statewide Online Education Program is designated as a program of the public education system.

(3) The purposes of the Statewide Online Education Program are to:

(a) provide a student with access to online learning options regardless of where the student attends school, whether a public, private, or home school;

(b) provide digital learning options for a student regardless of language, residence, family income, or special needs;

(c) provide online learning options to allow a student to acquire the knowledge and technology skills necessary in a digital world;

(d) utilize the power and scalability of technology to customize education so that a student may learn in the student's own style preference and at the student's own pace;

(e) utilize technology to remove the constraints of traditional classroom learning, allowing a student to access learning virtually at any time and in any place and giving the student the flexibility to take advantage of the student's peak learning time;

(f) provide personalized learning, where a student can spend as little or as much time as the student needs to master the material;

(g) provide greater access to self-paced programs enabling a high achieving student to accelerate academically, while a struggling student may have additional time and help to gain competency;

(h) allow a student to customize the student's schedule to better meet the student's academic goals;

(i) provide quality learning options to better prepare a student for post-secondary education [~~and~~], vocational training, or career opportunities; and

(j) allow a student to have an individualized educational experience.

(4) The program name, "Statewide Online Education Program," shall be used in the dissemination of information on the program.

Section 4. Section 53F-4-503 is amended to read:

53F-4-503. Option to enroll in online courses offered through the Statewide Online Education Program.

(1) Subject to Subsections [~~(2) and (8),~~] (2), (9), and (12) and, for a public education student, with the advice of a school counselor at a student's primary LEA, an eligible student may enroll in an online course offered through the Statewide Online Education Program if:

(a) the student meets the course prerequisites;

(b) the course is open for enrollment; and

(c) the online course is aligned with the student's plan for college and career readiness[~~;~~].

[~~(d) the online course is consistent with the student's IEP, if the student has an IEP; and~~]

[~~(e) the online course is consistent with the student's international baccalaureate program, if the student is participating in an international baccalaureate program.~~]

(2) An eligible student may enroll in online courses [~~for no more than~~]totaling up to six credits per school year.

(3) Notwithstanding Subsection (2):

(a) a student's primary LEA of enrollment may allow an eligible student to enroll in online courses for more than the number of credits specified in Subsection (2); or

(b) upon the request of an eligible student, the state board or, in relation to a student who attends a private school or home school, the state board's contractor, may allow the student to enroll in online courses for more than the number of credits specified in Subsection (2), if the online courses better meet the academic goals of the student.

(4) An eligible student's primary LEA of enrollment:

(a) in conjunction with the student and the student's parent, is responsible for preparing and implementing a plan for college and career readiness for the eligible student, as provided in Section 53E-2-304; and

(b) shall assist an eligible student in scheduling courses in accordance with the student's plan for college and career readiness, graduation requirements, and the student's post-secondary plans.

(5) An eligible student's primary LEA of enrollment may not:

(a) impose restrictions on a student's selection of an online course that fulfills graduation requirements and is consistent with the student's plan for college and career readiness or post-secondary plans; or

(b) give preference to an online course or authorized online course provider.

(6) The state board, or, in relation to a student who attends a private school or home school, the state board's contractor, including an employee of the state board or the state board's contractor, may not give preference to an online course or authorized online course provider.

(7)(a) Except as provided in Subsection (7)(b), a person may not provide an inducement or incentive to a public school student to participate in the Statewide Online Education Program.

(b) For purposes of Subsection (7)(a):

(i) "Inducement or incentive" does not mean:

(A) instructional materials or software necessary to take an online course; or

(B) access to a computer or digital learning device for the purpose of taking an online course.

(ii) "Person" does not include a relative of the public school student.

(8) The state board shall coordinate with the Utah System of Higher Education to study funding structures and access barriers related to concurrent enrollment for the Statewide Online Education Program and provide recommendations to the Education Interim Committee no later than the November 2024 meeting.

(9) Subject to legislative appropriations and for an eligible student who is enrolled at a public school, the state board shall provide Statewide Online Education Program academic counseling that:

(a) may advise an eligible student or an eligible student's parent regarding an online course enrollment including how an online course relates to graduation requirements described in Section 53E-4-204 and administrative rule;

(b) provides the training described in Section 53F-4-514;

(c) provides technical support to an LEA, school-based counselor, eligible student, or eligible student's parent;

(d) assists in gathering information, reports, and data an LEA requests; and

(e) directs an eligible student or an eligible student's parent to a school-specific counselor for advice regarding an online course enrollment in relation to an LEA, or school-specific graduation requirement and all other counseling services.

(10) If an eligible student has an IEP or Section 504 accommodation plan:

(a) the eligible student's primary LEA:

(i) shall:

(A) forward a copy of the relevant portions of the eligible student's existing IEP or Section 504 accommodation plan to the authorized online course provider in accordance with federal law and guidelines; and

(B) ensure the authorized online course provider is provided an eligible student's updated IEP when revisions are made;

(ii) may:

(A) ensure the eligible student's IEP team and the authorized online course provider review a course enrollment for compliance with requirements described in Subsection (1); and

(B) as needed, coordinate additional IEP team reviews with the authorized online course provider to ensure appropriate services, supports, and accommodations are in place for the eligible student; and

(b) the authorized online course provider:

(i) shall implement an eligible student's IEP or Section 504 accommodation plan; and

(ii) may seek assistance from the primary LEA to implement an eligible student's IEP or Section 504 accommodation plan.

(11) The state board shall create a model cooperative agreement between a primary LEA and an authorized online course provider for use when the primary LEA determines that an authorized online course provider would best provide IEP services, including a requirement that the eligible student's primary LEA provide funding for the IEP services.

(12) If the program lacks sufficient legislative appropriations to fund the enrollment in online courses for all eligible students who do not have a primary LEA of enrollment, the state board or, in relation to a student who attends a private school or home school, the state board's contractor, shall prioritize funding the enrollment of an eligible student who intends to graduate from high school during the school year in which the student enrolls in an online course.

(13) No later than April 1, 2025, and in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall use funds the state board expends to administer to the Statewide Online Education Program for students who attend private school or home school to alternatively contract with a private entity:

(a) that has demonstrated an expertise or ability to administer a statewide program to deliver education services to students who attend private school or home school; and

(b) to administer the portion of the Statewide Online Education Program that is designated for students who attend private school or home school, including providing an enrollment platform or tool separate from the enrollment tool or platform the state board provides for the program.

(14) The state board's contractor described in Subsection (13) may use a percentage of the appropriation for home school and private school students that is equal to the proportion of the state board's administrative cost in relation to the appropriation for students enrolled in an LEA.

Section 5. Section 53F-4-504 is amended to read:

53F-4-504. Authorized online course providers -- Certified online course providers.

(1) The following entities are known as an authorized online course provider and may offer online courses to eligible students through the Statewide Online Education Program:

(a) [~~a charter school or district school~~]a school within an LEA created exclusively for the purpose of serving students online;

(b) an LEA program, approved by the LEA governing board, that is created exclusively for the purpose of serving students online;

(c) a program of an institution of higher education listed in Section 53B-2-101 that:

(i) offers secondary school level courses; and

(ii) is created exclusively for the purpose of serving students online; and

(d) a certified online course provider.

(2) The state board shall approve an online course provider as a certified online course provider if the online course provider:

(a) complies with the application procedures described in Section 53F-4-514;

(b) meets the standards described in Section 53F-4-514; and

(c) has prior experience offering online courses to secondary students.

(3) The state board may revoke the approval described in Subsection (2) if the state board:

(a) finds that a certified online course provider is not complying with the requirements described in Section 53F-4-514;

(b) provides written notice describing the findings of non-compliance to the certified online course provider;

(c) provides the certified online course provider with at least 60 days to remedy the findings of non-compliance;

(d) reevaluates the findings of non-compliance at least 60 days after the certified online course provider's remedy period described in Subsection (3)(c); and

(e) finds after reevaluation that the certified online course provider has failed to satisfactorily remedy the findings of non-compliance.

Section 6. Section 53F-4-505 is amended to read:

53F-4-505. Payment for an online course.

(1) For the 2012-13 school year, the fee for a .5 credit online course or .5 credit of a 1 credit online course is:

(a) $200 for the following courses, except a concurrent enrollment course:

(i) financial literacy;

(ii) health;

(iii) fitness for life; and

(iv) computer literacy;

(b) $200 for driver education;

(c) $250 for a course that meets core standards for Utah public schools in fine arts or career and technical education, except a concurrent enrollment course;

(d) $300 for the following courses:

(i) a course that meets core standards for Utah public schools requirements in social studies, except a concurrent enrollment course; and

(ii) a world language course, except a concurrent enrollment course;

(e) $350 for the following courses:

(i) a course that meets core standards for Utah public schools requirements for language arts, mathematics, or science; and

(ii) a concurrent enrollment course; and

(f) $250 for a course not described in Subsections (1)(a) through (e).

(2) If a course meets the requirements of more than one course fee category described in Subsection (1), the course fee shall be the lowest of the applicable course fee categories.

(3) The online course fees described in Subsection (1) shall be adjusted each school year in accordance with the percentage change in value of the weighted pupil unit from the previous school year.

(4) An authorized online course provider shall receive payment for an online course as follows:

(a) for a .5 credit online course, 50% of the online course fee after the withdrawal period described in Section 53F-4-506;

(b) for a 1 credit online course, 25% of the online course fee after the withdrawal period described in Section 53F-4-506 and 25% of the online course fee upon the beginning of the second .5 credit of the online course; and

(c) if a student completes a 1 credit online course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, 50% of the online course fee.

(5)(a) If a student fails to complete a 1 credit course within 12 months or a .5 credit course within nine weeks following the end of a traditional semester, the student may continue to be enrolled in the course until the student graduates from high school.

(b) To encourage an authorized online course provider to provide remediation to a student who remains enrolled in an online course pursuant to Subsection (5)(a) and avoid the need for credit recovery, an authorized online course provider shall receive a payment equal to 30% of the online course fee if the student completes the online course:

(i) for a high school online course, before the student graduates from high school; or

(ii) for a middle school online course, before the student completes middle school.

(6) Notwithstanding the online course fees prescribed in Subsections (1) through (3), a school district or charter school may:

(a) negotiate a fee with an authorized online course provider for an amount up to the amount prescribed in Subsections (1) through (3); and

(b) pay the negotiated fee instead of the fee prescribed in Subsections (1) through (3).

(7) An authorized online course provider who contracts with a vendor for the acquisition of online

course content or online course instruction may negotiate the payment for the vendor's service independent of the fees specified in Subsections (1) through (3).

(8) The state board or, in relation to a student who attends a private school or home school, the state board's contractor, may not remove a student from an online course if the student is eligible for continued enrollment in the online course under Subsection (5).

(9) Upon request by a primary LEA, the state board shall provide an itemized report to the primary LEA showing the deduction described in Subsection 53F-4-508(2) by student and course enrolled.

Section 7. Section 53F-4-506 is amended to read:

53F-4-506. Withdrawal from an online course.

(1) An authorized online course provider shall establish a start date for an online course, including a start date for the second .5 credit of a 1 credit online course.

(2) Except as provided in Subsection (3), a student may withdraw from an online course:

(a) within 20 school calendar days of the start date, if the student enrolls in an online course on or before the start date established pursuant to Subsection (1); or

(b) within 20 school calendar days of enrolling in the online course, if the student enrolls in an online course after the start date established pursuant to Subsection (1).

(3)(a) A student may withdraw from a 1 credit online course within 20 school calendar days of the start date of the second .5 credit of the online course.

(b) An authorized online course provider shall refund a payment received for the second .5 credit of an online course if a student withdraws from the online course pursuant to Subsection (3)(a).

(c) If a student withdraws from a 1 credit online course as provided in Subsection (3)(a), the authorized online course provider shall receive payment for the student's completion of .5 credit of the 1 credit course in the same manner as an authorized online course provider receives payment for a student's completion of a .5 credit online course as described in Subsection 53F-4-505(4).

Section 8. Section 53F-4-507 is amended to read:

53F-4-507. Direction to deduct funds and make payments -- Plan for the payment of online courses taken by private and home school students.

(1)(a) Subject to future budget constraints, the Legislature shall adjust the appropriation for the Statewide Online Education Program based on:

[~~(a)~~](i) the anticipated increase of eligible home school and private school students enrolled in the Statewide Online Education Program; and

[~~(b)~~](ii) the value of the weighted pupil unit.

(b) The state board shall, if the state board contracts with a private entity under Subsection 53F-4-503(9), delegate to the state board's contractor the management of the funds appropriated for the Statewide Online Education Program for students who attend private school or home school.

(2) Notwithstanding Subsection (1) and subject to future budget constraints, the Legislature shall:

(a) consider enrollment projections provided by the authorized online course providers to account for enrollment growth during the appropriations process;

(b) provide a supplemental appropriation to adequately fund the Statewide Online Education Program when the enrollment amount exceeds the projected enrollment amounts provided by the authorized online course providers; and

(c) in the fiscal year beginning July 1, 2025, keep all other appropriations for the Statewide Online Education Program separate from the appropriations described in Section 53F-4-518.

(3)(a) The state board shall deduct money from funds allocated to the student's primary LEA of enrollment under Chapter 2, State Funding -- Minimum School Program, to pay for online course fees.

(b) Money shall be deducted under Subsection (3)(a) in the amount and at the time an authorized online course provider qualifies to receive payment for an online course provided to a public education student, not to exceed 90 days after qualification, as provided in Subsection 53F-4-505(4).

(c) [~~Beginning July 1, 2023, the~~]The state board or, in relation to a student who attends a private school or home school, the state board's contractor, shall deduct money from funds allocated for course fees for a private school or home school student in the amount and at the time an authorized online course provider qualifies to receive payment for an online course, not to exceed 90 days after qualification.

(4) From money deducted under Subsection (3), the state board or, in relation to a student who attends a private school or home school, the state board's contractor, shall make payments to the student's authorized online course provider as provided in Section 53F-4-505.

[~~(5) The Legislature shall establish a plan for the payment of online courses taken by a private school or home school student.~~]

Section 9. Section 53F-4-508 is amended to read:

53F-4-508. Course credit acknowledgment.

(1) A student's primary LEA of enrollment and the student's authorized online course provider shall:

(a) enter into a course credit acknowledgment in which the primary LEA of enrollment and the authorized online course provider acknowledge that the authorized online course provider is responsible for the instruction of the student in a specified online course[.]; and

(b) agree upon a process to provide the primary LEA with the ability to ensure consistency of a course request with a student's:

(i) IEP or Section 504 accommodation plan;

(ii) graduation requirements; and

(iii) schedule, if applicable.

(2) The terms of the course credit acknowledgment shall provide that:

(a) the authorized online course provider shall receive a payment in the amount provided under Section 53F-4-505; and

(b) the student's primary LEA of enrollment acknowledges that the state board will deduct funds allocated to the LEA under Chapter 2, State Funding -- Minimum School Program, in the amount and at the time the authorized online course provider qualifies to receive payment for the online course as provided in Subsection 53F-4-505(4).

(3)(a) A course credit acknowledgment may originate with either an authorized online course provider or primary LEA of enrollment.

(b) The originating entity shall submit the course credit acknowledgment to the state board who shall forward it to the primary LEA of enrollment for course selection verification or the authorized online course provider for acceptance.

(c)(i) A primary LEA of enrollment may only reject a course credit acknowledgment if:

(A) the online course is not aligned with the student's plan for college and career readiness; or

[~~(B) the online course is not consistent with the student's IEP, if the student has an IEP;~~]

[~~(C) the online course is not consistent with the student's international baccalaureate program, if the student participates in an international baccalaureate program; or~~]

[~~(D)~~](B) the number of online course credits exceeds the maximum allowed for the year as provided in Section 53F-4-503.

(ii) Verification of alignment of an online course with a student's plan for college and career readiness does not require a meeting with the student.

(d) An authorized online course provider may only reject a course credit acknowledgment if:

(i) the student does not meet course prerequisites; or

(ii) the course is not open for enrollment.

(e) [~~A~~]Except as provided in Subsection (5), a primary LEA of enrollment or authorized online course provider shall submit an acceptance or rejection of a course credit acknowledgment to the state board within [~~72~~]24 business hours of the receipt of a course credit acknowledgment from the state board pursuant to Subsection (3)(b).

(f) If an authorized online course provider accepts a course credit acknowledgment, the authorized online course provider shall forward to the primary LEA of enrollment the online course start date as established under Section 53F-4-506.

(g) If an authorized online course provider rejects a course credit acknowledgment, the authorized online course provider shall include an explanation which the state board shall forward to the primary LEA of enrollment for the purpose of assisting a student with future online course selection.

(h) [~~If~~]Except as provided in Subsection (5), if a primary LEA of enrollment does not submit an acceptance or rejection of a course credit acknowledgment to the state board within [~~72~~]24 business hours of the receipt of a course credit acknowledgment from the state board pursuant to Subsection (3)(b), the state board shall consider the course credit acknowledgment accepted.

(i)(i) Upon acceptance of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the acceptance and the start date for the online course as established under Section 53F-4-506.

(ii) Upon rejection of a course credit acknowledgment, the primary LEA of enrollment shall notify the student of the rejection and provide an explanation of the rejection.

[~~(j) If the online course student has an individual education plan (IEP) or 504 accommodations, the primary LEA of enrollment shall forward the IEP or description of 504 accommodations to the online course provider within 72 business hours after the primary LEA of enrollment receives notice that the online course provider accepted the course credit acknowledgment.~~]

(4)(a) A primary LEA of enrollment may not reject a course credit acknowledgment, because the LEA is negotiating, or intends to negotiate, an online course fee with the authorized online course provider pursuant to Subsection 53F-4-505(6).

(b) If a primary LEA of enrollment negotiates an online course fee with an authorized online course provider before the start date of an online course, a course credit acknowledgment may be amended to reflect the negotiated online course fee.

(5) A primary LEA of enrollment may intervene and reject a course credit acknowledgment up to 72 business hours after the actual or constructive acceptance of a course credit acknowledgment under Subsection (4), if the primary LEA of enrollment determines the online course enrollment meets the criteria of Subsection (3)(c).

Section 10. Section 53F-4-509 is amended to read:

53F-4-509. Online course credit hours included in daily membership -- Limitation.

(1) Subject to Subsection (2), a student's primary LEA of enrollment shall include online course credit hours in calculating daily membership.

(2) A student may not count as more than one FTE, unless the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's plan for college and career readiness.

(3) A student who enrolls in an online course may not be counted in membership for a released-time class, if counting the student in membership for a released-time class would result in the student being counted as more than one FTE.

(4) Except as provided in Subsection (5), a student enrolled in an online course may not earn[~~no~~] more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment.

(5) A student enrolled in an online course may earn more credits in a year than the number of credits a student may earn in a year by taking a full course load during the regular school day in the student's primary LEA of enrollment:

(a) if the student intends to complete high school graduation requirements, and exit high school, early, in accordance with the student's plan for college and career readiness; or

(b) if allowed under [~~local school board or charter school governing board~~]an LEA governing board policy.

Section 11. Section 53F-4-510 is amended to read:

53F-4-510. Administration of statewide assessments to students enrolled in online courses.

(1) A student enrolled in an online course that is a course for which a statewide assessment is administered under Title 53E, Chapter 4, Part 3, Assessments, shall take the statewide assessment.

(2)(a) The state board shall make rules providing for the administration of a statewide assessment to a student enrolled in an online course.

(b) Rules made under Subsection (2)(a) shall:

(i) provide for the administration of a statewide assessment upon a student completing an online course; and

(ii) require an authorized online course provider to proctor the statewide assessment.

Section 12. Section 53F-4-511 is amended to read:

53F-4-511. Report on performance of authorized online course providers.

(1) The state board, in collaboration with authorized online course providers and, if applicable, the state board's contractor, shall develop a report on the performance of authorized online course providers, which may be used to evaluate the Statewide Online Education Program and assess the quality of an authorized online course provider.

(2) A report on the performance of an authorized online course provider shall include:

(a) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(b) the percentage of the authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(c) the percentage of the authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(d) the pupil-teacher ratio for the combined online courses of the authorized online course provider.

(3) The state board shall post a report on the performance of an authorized online course provider on the Statewide Online Education Program's website described in Section 53F-4-512.

Section 13. Section 53F-4-512 is amended to read:

53F-4-512. Dissemination of information on the Statewide Online Education Program.

(1) The state board shall develop a website for the Statewide Online Education Program which shall include:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) notwithstanding Subsection (2), information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a directory of authorized online course providers;

(d) a link to a course catalog for each authorized online course provider; and

(e) a report on the performance of authorized online course providers as required by Section 53F-4-511.

(2) An authorized online course provider shall provide the following information on the authorized online course provider's website:

(a) a description of the Statewide Online Education Program, including its purposes;

(b) information on who is eligible to enroll, and how an eligible student may enroll, in an online course;

(c) a course catalog;

(d) scores aggregated by test on statewide assessments administered under Title 53E, Chapter 4, Part 3, Assessments, taken by students at the end of an online course offered through the Statewide Online Education Program;

(e) the percentage of an authorized online course provider's students who complete online courses within the applicable time period specified in Subsection 53F-4-505(4)(c);

(f) the percentage of an authorized online course provider's students who complete online courses after the applicable time period specified in Subsection 53F-4-505(4)(c) and before the student graduates from high school; and

(g) the authorized online [~~learning~~]course provider's pupil-teacher ratio for the online courses combined.

(3) The state board's contractor shall provide on the contractor's website information regarding enrollment and participation by a private school or home school student through the contractor.

Section 14. Section 53F-4-513 is amended to read:

53F-4-513. Time period to enroll in an online course.

(1) To provide an LEA and an authorized online course [~~providers~~]provider with estimates of online course enrollment, a student should enroll in an online course, or declare an intention to enroll in an online course:

(a) for a high school online course, during the time period the LEA designates for high school course registration; or

(b) for a middle school online course, during the time period the LEA designates for middle school course registration.

(2) Notwithstanding Subsection (1) and except as provided in Subsection (3), a student may enroll in an online course at any time during a calendar year.

(3)(a) A student may alter a course schedule by dropping a traditional classroom course and adding an online course consistent with course schedule alteration procedures adopted by the student's primary LEA of enrollment.

(b) [~~A school district's or high school's~~]An LEA or school's deadline for dropping a traditional classroom course and adding an online course shall be the same deadline for dropping and adding a traditional classroom course.

Section 15. Section 53F-4-514 is amended to read:

53F-4-514. State board -- Rulemaking -- Fees.

(1) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall provide a delayed effective date that is after the school year has ended for a change to an administrative rule related to the Statewide Online Education Program if the change would require an authorized online course provider to make program changes during the school year.

(2) The state board shall make rules in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(a) a course credit acknowledgement form and procedures for completing and submitting to the state board or, in relation to a student who attends a private school or home school, the state board's contractor, a course credit acknowledgement;

(b) procedures for the administration of a statewide assessment to a student enrolled in an online course; and

(c) protocols for an online course provider to obtain approval to become a certified online course provider, including:

(i) the application procedure for an online course provider to obtain approval to become a certified online course provider; and

(ii) the standards that a certified online course provider and any online course the certified online course provider offers shall meet;

(d) in accordance with Title 53E, Chapter 4, Academic Standards, Assessments, and Materials, criteria for an authorized online course provider to submit for approval an online course that does not have an existing state board course code;

(e) no later than July 1, 2024, a process within existing systems at the state board or, in relation to a student who attends a private school or home school, the state board's contractor, to allow a certified online course provider access to an educator's licensing, endorsement, certification, and assignment information if the educator is teaching an online course for the certified online course provider;

(f) in consultation with the authorized online course providers, the parameters for conducting a site visit including:

(i) a definition for the term site visit;

(ii) the minimum amount of time required for:

(A) notice to an authorized online course provider of a site visit; and

(B) an authorized online course provider to prepare for a site visit;

(iii) the documents, data, and artifacts subject to inspection during a site visit; and

(iv) a process to ensure a site visit allows for observation of instruction without interfering with the instruction[~~.~~];

(g) annual mandatory training for relevant staff at a primary LEA that includes:

(i) program requirements for a primary LEA including reporting requirements and methods;

(ii) uses of resources and tools to ensure adequate monitoring of an eligible student's progress;

(iii) federal and state requirements for accommodating enrollments that involve special education;

(iv) appropriate circumstances and methodologies for reducing an eligible student's schedule; and

(v) other components the state board determines are necessary; and

(3)(a) When establishing the standards described in Subsection (2)(c)(ii) the state board shall:

(i) establish rules and minimum standards regarding accreditation;

(ii) require an online course to be aligned with the core standards described in Section 53E-4-202;

(iii) require proof that a national organization responsible for college athletics endorses:

(A) the certified online course provider; or

(B) the online course that a certified online course provider offers;

(iv) permit an open-entry, open-exit method of instructional delivery that allows a student the flexibility to:

(A) schedule in response to individual needs or requirements;

(B) demonstrate competency when the student has mastered knowledge and skills;

(C) begin or end study at any time; and

(D) progress through course material at the student's own pace; and

(v) except as provided in Subsection [~~(4)~~](5), require an individual who teaches a course for a certified online course provider to hold a teaching license issued by the state board.

(b) When establishing the standards described in Subsection (2)(c)(ii), the state board may not:

(i) specify a minimum duration for an online course;

(ii) specify a minimum amount of time that a student must spend in an online course; or

(iii) limit the class size of an online course.

(4) No later than January 31, 2026, the state board shall create a communication dashboard for the program and only related to eligible students enrolled in a public school that may include:

(a) a counselor contact list for an eligible student that is accessible to an authorized online course provider; and

(b) progress monitoring fields that are accessible to the primary LEA, the eligible student's counselor, and the eligible student's parent containing:

(i) grade progress reporting of an eligible student by an authorized online course provider;

(ii) an ability to flag a student that is at-risk of failing an online course; and

(iii) other relevant capabilities the state board determines to be necessary in consultation with LEA users of the dashboard.

[~~(4)~~](5) If an individual possesses a provider-specific license described in Section 53E-6-201, the state board may not prohibit the individual from teaching an online course for an authorized online course provider while the individual is in the process of obtaining an endorsement or additional license issued by the state board.

[~~(5)~~](6) The state board may establish a fee, in accordance with Section 63J-1-504, in an amount to pay the costs to the state board of the application approval process and the monitoring of a certified online course provider's compliance with the standards described in Subsection (2)(c)(ii).

[~~(6)~~](7)(a) Fee revenue collected in accordance with Subsection [~~(5)~~](6) shall be:

(i) deposited into the Uniform School Fund as a dedicated credit; and

(ii) used to pay the costs to the state board of reviewing certified online course providers' applications and compliance with the standards described in Subsection (2)(c)(ii).

Section 16. Section 53F-4-516 is amended to read:

53F-4-516. Report of noncompliance -- Action to ensure compliance.

(1) The state superintendent shall report to the state board any report of noncompliance of this part made to a staff member of[~~the staff of~~] the state board or, in relation to a student who attends a private school or home school, the state board's contractor.

(2) The state board and, if applicable, the state board's contractor, shall take appropriate action to ensure compliance with this part.

Section 17. Section 53F-4-517 is amended to read:

53F-4-517. Agreements for online instruction.

(1) In addition to offering online courses to students through the [~~Statewide Online Education Program~~]program, a school district or charter school may enter into an agreement with another school district or charter school or a consortium of school districts or charter schools to provide online instruction to the school district's or charter school's students.

(2) Online instruction offered pursuant to Subsection (1) is not subject to the requirements of this part.

Section 18. Section 53F-4-518 is amended to read:

53F-4-518. Small school student access to college and career readiness courses.

Subject to legislative appropriations and Subsection 53F-4-514(2), and notwithstanding Subsections 53F-4-509(2) and (3), the state board shall:

(1) use funds from an appropriation for the Statewide Online Education Program to pay for an online course fee described in Section 53F-4-505 for a student who is enrolled in a public high school that enrolls fewer than 1,000 students; and

(2) after the funds described in Subsection (1) have been expended, make a deduction as described in Subsection 53F-4-507(3).

Section 19. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 25
H. B. 453
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

GREAT SALT LAKE REVISIONS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

Cosponsor:
Steve Eliason
A. Cory Maloy
Nelson T. Abbott
Joseph Elison
Michael J. Petersen
Cheryl K. Acton
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Paul A. Cutler
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Ryan D. Wilcox
Ariel Defay
Steven J. Lund
James A. Dunnigan
Matt MacPherson

LONG TITLE

General Description:

This bill addresses actions affecting the Great Salt Lake.

Highlighted Provisions:

This bill:

- modifies provisions related to severance taxes including:
  - distribution of severance taxes; and
  - disclosure of certain severance tax information;
- exempts challenges to a distribution management plan from the Administrative Procedures Act;
- addresses mineral lease and royalty agreement provisions, including:
  - providing for the loss of certain rights for failure to use;
  - providing for royalty discounts under certain circumstances; and
  - providing for small projects;
- enacts the Great Salt Lake Preservation Act, including:
  - defining terms;
  - addressing management responsibilities;
  - requiring certain provisions within royalty agreements;
  - providing for acquisition of property interests or mineral estates, including through eminent domain;
  - requiring payment of royalties;
  - addressing the Great Salt Lake as a multiple mineral development area;
  - addressing concurrent operations on the Great Salt Lake; and
  - clarifying what constitutes waste;
- enacts the Great Salt Lake Distribution Management chapter, including:
  - defining terms;
  - directing the state engineer to develop a Great Salt Lake distribution management plan related to water rights;
  - allowing for voluntary agreements;
  - providing for challenges to a distribution management plan;
  - addressing the measurement of the volume and quality of water; and
  - addressing the scope of the chapter;
- amends provisions regarding approval of a water right related application related to the extraction of minerals or elements;
- addresses rulemaking;
- addresses eminent domain; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Natural Resources - Forestry, Fire, and State Lands - Project Management as a one-time appropriation:
  - from the General Fund Restricted - Sovereign Lands Management, One-time, $500,000
- to Department of Natural Resources - Water Rights - Field Services as a one-time appropriation:
  - from the General Fund Restricted - Sovereign Lands Management, One-time, $300,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

51-9-306, as last amended by Laws of Utah 2023, Chapter 526

51-9-307, as last amended by Laws of Utah 2023,

Chapter 537
59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
59-5-202, as last amended by Laws of Utah 2023, Chapter 208
59-5-203, as last amended by Laws of Utah 2019, Chapter 466
59-5-207, as last amended by Laws of Utah 1995, Chapter 228
59-5-215, as last amended by Laws of Utah 2021, Chapter 401
63G-4-102, as last amended by Laws of Utah 2023, Chapter 329
65A-5-1, as last amended by Laws of Utah 2023, Chapters 205, 208 and 358
65A-6-4, as last amended by Laws of Utah 2023, Chapter 208
73-3-8, as last amended by Laws of Utah 2023, Chapter 253
73-32-204, as enacted by Laws of Utah 2023, Chapter 205
73-32-303, as last amended by Laws of Utah 2023, Chapter 208 and renumbered and amended by Laws of Utah 2023, Chapter 205
78B-6-501, as last amended by Laws of Utah 2023, Chapter 34
78B-6-502, as renumbered and amended by Laws of Utah 2008, Chapter 3

ENACTS:
65A-17-101, Utah Code Annotated 1953
65A-17-103, Utah Code Annotated 1953
65A-17-301, Utah Code Annotated 1953
65A-17-302, Utah Code Annotated 1953
65A-17-303, Utah Code Annotated 1953
65A-17-304, Utah Code Annotated 1953
65A-17-305, Utah Code Annotated 1953
65A-17-306, Utah Code Annotated 1953
73-33-101, Utah Code Annotated 1953
73-33-102, Utah Code Annotated 1953
73-33-201, Utah Code Annotated 1953
73-33-202, Utah Code Annotated 1953
73-33-203, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
65A-10-202, (Renumbered from 65A-10-202, as enacted by Laws of Utah 2023, Chapter 208)
65A-10-203, (Renumbered from 65A-10-203, as last amended by Laws of Utah 2023, Chapter 205 and renumbered and amended by Laws of Utah 2023, Chapter 208)
65A-10-204, (Renumbered from 65A-10-204, as enacted by Laws of Utah 2023, Chapter 208)
65A-10-205, (Renumbered from 65A-10-205, as enacted by Laws of Utah 2023, Chapter 208)

REPEALS:
65A-10-201, as enacted by Laws of Utah 2023, Chapter 208

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

Section 1. Section 51-9-306 is amended to read:

51-9-306. Deposit of certain severance tax revenue for specified state agencies.

(1) As used in this section:

(a) "Aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c).

(b) "Aggregate annual mining revenue" means the aggregate annual revenue collected in a fiscal year from taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax, after subtracting the amounts required to be distributed under Section 51-9-305 and under Subsection 59-5-202(5)(c).

(c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(d) "Average aggregate annual revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119 and under Subsection 59-5-202(5)(c); and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(e) "Average aggregate annual mining revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax:

(i) after subtracting the amounts required to be distributed under Section 51-9-305 and under Subsection 59-5-202(5)(c); and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(f) "Average aggregate annual oil and gas revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(2) After making the deposits of oil and gas severance tax revenue as required under Sections 59-5-116 and 59-5-119 and making the credits under Section 51-9-305, for a fiscal year beginning on or after July 1, 2021, the State Tax Commission shall annually make the following deposits:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following average aggregate annual revenue:

(i) 2.75% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following average aggregate annual revenue:

(i) .4% of the first $50,000,000 of the average aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .08% of the average aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i)(A) 11.5% of the first $50,000,000 of the average aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual mining revenue; and

(C) 1% of the average aggregate annual mining revenue that exceeds $100,000,000; and

(ii)(A) 18% of the first $50,000,000 of the average aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual oil and gas revenue; and

(C) 1% of the average aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following average aggregate annual revenue:

(i) 2.5% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000.

(3) If the money collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits required by Subsection (2), the State Tax Commission shall deposit money collected in the fiscal year as follows:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following revenue:

(i) 2.75% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following revenue:

(i) .4% of the first $50,000,000 of the aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .08% of the aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i)(A) 11.5% of the first $50,000,000 of the aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the aggregate annual mining revenue; and

(C) 1% of the aggregate annual mining revenue that exceeds $100,000,000; and

(ii)(A) 18% of the first $50,000,000 of the aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the aggregate annual oil and gas revenue; and

(C) 1% of the aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey Oil, Gas, and Mining Restricted Account, created in Section 79-3-403, the following revenue:

(i) 2.5% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000.

(4) The severance tax revenues deposited under this section into restricted accounts for the state agencies specified in Subsection (2) and appropriated from the restricted accounts offset and supplant General Fund appropriations used to pay the costs of programs or projects administered by the state agencies that are primarily related to oil, gas, and mining.

Section 2. Section 51-9-307 is amended to read:

51-9-307. New Severance Tax Revenue Special Revenue Fund.

(1) As used in this section:

(a) "Fund" means the New Severance Tax Revenue Special Revenue Fund created in this section.

(b) "New revenue" means revenue collected above $100,000,000 from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, 59-5-119, and 59-5-121 and under Subsection 59-5-202(5)(c).

(2) There is created a special revenue fund known as the "New Severance Tax Revenue Special Revenue Fund" that consists of:

(a) money deposited by the State Tax Commission in accordance with this section; and

(b) interest earned on the money in the fund.

(3) Beginning July 1, 2021, the State Tax Commission shall deposit into the fund 100% of new revenue until the new revenue equals or exceeds $200,000,000 in a fiscal year.

Section 3. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share

information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the

commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(cc) Notwithstanding Subsection (2), the commission shall provide the total amount of revenues collected by the commission under Subsection 59-5-202(5):

(i) at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, to the committee or office for the time period specified by the committee or office; and

(ii) to the Division of Finance for purposes of the Division of Finance administering Subsection 59-5-202(5).

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 4. Section 59-5-202 is amended to read:

59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.

(1) A person engaged in the business of mining or extracting metalliferous minerals in this state shall pay to the state a severance tax equal to 2.6% of the taxable value of all metals or metalliferous minerals sold or otherwise disposed of.

(2) If the metals or metalliferous minerals are shipped outside the state, this constitutes a sale, and the finished metals or the recoverable units of finished metals from the metalliferous minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals. The owner of the metals or metalliferous minerals that are stockpiled shall report to the commission annually, in a form acceptable to the commission, the amount of metalliferous minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two years, however, are subject to the severance tax.

(3) An annual exemption from the payment of the tax imposed by this chapter upon the first $50,000 in gross value of the metalliferous mineral is allowed to each mine.

(4) These taxes are in addition to all other taxes provided by law and are delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous mineral is produced and sold or delivered.

(5)(a) As used in this Subsection (5):

(i) "Great Salt Lake element or mineral" means a metalliferous mineral, metal, ore, chloride compound, potash, or salt mined or extracted from the brines of the Great Salt Lake.

(ii) "Great Salt Lake elevation" means the same as that term is defined in Section 65A-17-101.

[~~(i)~~](iii) "Great Salt Lake extraction operator" means a person who [~~:~~]

[~~(A)~~] is engaged in the business of mining or extracting Great Salt Lake elements or minerals or metalliferous [~~minerals~~]compounds from the brine of the Great Salt Lake [~~; and~~].

[~~(B) enters into a mineral lease with the Division of Forestry, Fire, and State Lands on or after May 3, 2023, or as of July 1, 2020, had a mineral lease with the Division of Forestry, Fire, and State Lands, but not a royalty agreement for a metalliferous mineral, chloride compound, or salt.~~]

(iv) For purposes of each tax imposed under Subsection (5)(b), "incremental revenue" means the difference between the sum of the revenue collected for the fiscal year from each of the tax rates imposed under Subsection (5)(b) and the revenue collected for the fiscal year from the tax rate imposed under Subsection (1).

[~~(ii)~~](v) "Metalliferous compound" means a metalliferous mineral or a chloride compound or salt containing a metalliferous mineral.

(b) Notwithstanding the exclusion for chloride compounds or salts from the definition of metalliferous minerals under Section 59-5-201[~~,~~] and in lieu of the severance tax imposed under Subsection (1), beginning with calendar year [~~2024~~] 2025, a Great Salt Lake extraction operator shall pay to the state a severance tax in accordance with [~~this part for the mining of a metalliferous compound.~~]the following:

(i) for a Great Salt Lake extraction operator that is not a party or a third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30, a severance tax equal to 7.8% of the taxable value of Great Salt Lake elements or minerals or metalliferous compounds sold or otherwise disposed of;

(ii) for a Great Salt Lake extraction operator that is not a party or a third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30, but does not use evaporative concentrations of Great Salt Lake brines in any stage of the extractive process, a severance tax equal to 2.6% of the taxable value of Great Salt Lake elements or minerals or metalliferous compounds sold or otherwise disposed of; or

(iii) for a Great Salt Lake extraction operator that is a party or a third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30:

(A) a severance tax equal to 2.6% of the taxable value of Great Salt Lake elements or minerals sold or otherwise disposed of, if the Great Salt Lake elements or minerals are extracted during a calendar year when the Great Salt Lake elevation recorded pursuant to Section 65A-17-306 was at or above 4,198 feet in the prior calendar year; or

(B) a severance tax does not apply to the taxable value of Great Salt Lake elements or minerals sold

or otherwise disposed of, if those Great Salt Lake elements or minerals are sold or otherwise disposed of in a calendar year when the Great Salt Lake elevation recorded pursuant to Section 65A-17-306 was below 4,198 feet in the prior calendar year; and

(iv) notwithstanding Subsection (5)(b)(iii), for a Great Salt Lake extraction operator that is a party or third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30, a severance tax equal to 2.6% of the taxable value of a metalliferous compound sold or otherwise disposed of under a royalty agreement issued under Subsection 65A-6-4(2)(d), entered into on or after May 1, 2024.

(c)(i) Subject to Subsection (5)(c)(ii), the Division of Finance shall deposit the incremental revenue in accordance with Section 51-9-305.

(ii) The Division of Finance shall consider the incremental revenue required to be deposited under Subsection (5)(c)(i) to be the first revenue collected under this chapter for the fiscal year.

(iii) The Division of Finance shall deposit the incremental revenue that remains after making the deposit required by Subsection (5)(c)(i) into the Sovereign Lands Management Account created in Section 65A-5-1.

[~~(c)~~](d) This Subsection (5) may not be interpreted to:

(i) excuse a person from paying a severance tax in accordance with the other provisions of this part; or

(ii) void a mineral lease or royalty agreement.

[~~(d)~~](e) A person extracting metalliferous minerals, including a metalliferous compound, from the brine of the Great Salt Lake is subject to the payment of a royalty agreement under Section 65A-6-4 and the payment of a severance tax under this part.

Section 5. Section 59-5-203 is amended to read:

59-5-203. Determining taxable value.

(1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals [~~or~~], metalliferous minerals, or metalliferous compounds, as defined in Subsection 59-5-202(5), sold or otherwise disposed of, in the order of priority, is as follows:

(a) If the metals [~~or~~], metalliferous mineral products, or metalliferous compounds are actually sold, the value of those metals [~~or~~], metalliferous mineral products, or metalliferous compounds shall be the gross amount the producer receives from that sale, provided that the metals [~~or~~], metalliferous mineral products, or metalliferous compounds are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b)(i) For purposes of a Great Salt Lake extraction operator, as defined in Section 59-5-202, if metals, metalliferous minerals, or metalliferous compounds are not sold, but are otherwise disposed of, the gross proceeds shall be the multiple of the recoverable units of finished or unfinished metals, or of the finished or unfinished metals contained in the metalliferous minerals or metalliferous compounds shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due.

(ii) The established authority or authorities under this Subsection (1)(b) shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(b)~~](c)(i) If the metals [~~or~~], metalliferous mineral products, or metalliferous compounds are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals or metalliferous compounds shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due.

(ii) The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(c)~~](d) In the case of metals [~~or~~], metalliferous minerals, or metalliferous compounds not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals [~~or~~], metalliferous minerals, or metalliferous compounds sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal or metalliferous mineral.

[~~(d)~~](e) In the event of a sale of metals [~~or~~], metalliferous minerals, or metalliferous compounds between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals [~~or~~], metalliferous minerals, metalliferous compounds or in the event that Subsection [~~(1)(a), (b), or (c)~~](1)(a), (b), (c), or (d) are not applicable, the commission shall determine the value of such metals [~~or~~], metalliferous minerals, or metalliferous compounds in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold or otherwise disposed of by the producer of the metal.

(3) Notwithstanding Subsection (1) or (4), the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

(4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Section 6. Section 59-5-207 is amended to read:

59-5-207. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

(1) The tax imposed by this chapter is due and payable on or before June 1 of the year next succeeding the calendar year when the mineral is produced and sold or delivered.

(2) The commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months. If an extension is granted, interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the deferred payment of the tax.

(3) Every taxpayer subject to this chapter whose total tax obligation for the preceding calendar year was $3,000 or more shall pay the taxes assessed under this chapter in quarterly installments. Each installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) The quarterly installments are due as follows:

(a) for January 1 through March 31, on or before June 1;

(b) for April 1 through June 30, on or before September 1;

(c) for July 1 through September 30, on or before December 1; and

(d) for October 1 through December 31, on or before March 1 of the next year.

(5)(a) If the taxpayer fails to report and pay any tax when due, the taxpayer is subject to the penalties provided under Section 59-1-401, unless otherwise provided in Subsection (6).

(b) An underpayment exists if less than 80% of the tax due for a quarter is paid.

(6) The penalty for failure to pay the tax due or underpayment of tax may not be assessed if the taxpayer's quarterly tax installment payment equals 25% of the tax reported and paid by the taxpayer for the preceding taxable year.

(7) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this section.

(9) For purposes of a Great Salt Lake extraction operator under Subsection 59-5-202(5), the Division of Forestry, Fire, and State Lands shall provide the commission by January 15 of each year the information required by Section 65A-17-306, that the commission shall use to determine the amount due and payable on June 1 of the year next succeeding the calendar year.

Section 7. Section 59-5-215 is amended to read:

59-5-215. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 51-9-306, or 51-9-307, or Subsection 59-5-202(5), a tax imposed and collected under Section 59-5-202 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Section 8. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State

Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t)(i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3); [~~or~~]

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104[~~.~~]; or

(z) a challenge to an aspect of a distribution management plan under Section 73-33-202.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5)(a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7)(a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 9. Section 65A-5-1 is amended to read:

65A-5-1. Sovereign Lands Management Account.

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

(2) The Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 73-32-304;

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

(c) revenues derived from the Great Salt Lake Preservation support special group license plate described in Sections 41-1a-418 and 41-1a-422;

(d) fees deposited by the division; [~~and~~]

(e) amounts deposited into the account in accordance with Section 59-23-4[~~.~~]; and

(f) amounts deposited into the account in accordance with Section 59-5-202.

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

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

(4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section [~~65A-10-203~~]65A-17-201 as directed by the Great Salt Lake Advisory Council created in Section 73-32-302.

Section 10. Section 65A-6-4 is amended to read:

65A-6-4. Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms -- Great Salt Lake.

(1) As used in this section:

(a) "Great Salt Lake element or mineral" means:

(i) a rare earth element;

(ii) a trace element or mineral; or

(iii) a chemical compound that includes a rare earth element or trace element or mineral.

(b) "Operator" means, for purposes of provisions applicable to the extraction of a Great Salt Lake element or mineral, a person qualified to do business in the state who is pursuing the extraction of a Great Salt Lake element or mineral.

[~~(b)~~](c) "Rare earth element" is one of the following ores, minerals, or elements located in the brines or the sovereign lands of the Great Salt Lake:

(i) lanthanum;

(ii) cerium;

(iii) praseodymium;

(iv) neodymium;

(v) samarium;

(vi) europium;

(vii) gadolinium;

(viii) terbium;

(ix) dysprosium;

(x) holmium;

(xi) erbium;

(xii) thulium;

(xiii) ytterbium;

(xiv) lutetium; and

(xv) yttrium.

[~~(c)~~](d) "Trace element or mineral" means an element or mineral that is located in the brines or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020, and for which the state has not received a royalty payment by July 1, 2020.

(2)(a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.

(b)(i) Leases may be issued for different types of minerals on the same land.

(ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations, except that for leases related to the Great Salt Lake the leases shall include stipulations for simultaneous operations that will not interfere with, impede, limit, or require changes to pre-existing rights.

(c) No more than one lease may be issued for the same resource on the same land.

(d) The division shall require a separate royalty agreement for extraction of Great Salt Lake elements or minerals from brines of the Great Salt Lake when:

(i) a mineral lease, a royalty agreement, or both that are in effect before the operator seeks to extract a particular [~~mineral or mineral compound~~]Great Salt Lake element or mineral do not expressly include the right to extract the particular [~~mineral or mineral compound~~]Great Salt Lake element or mineral; or

(ii) the proposed operation will use brines from the Great Salt Lake, but will not occupy sovereign lands for the direct production of [~~minerals~~]Great Salt Lake elements or minerals other than for incidental structures such as pumps and intake and outflow pipelines.

(3)(a) Each mineral lease issued by the division shall provide for an annual rental of not less than $1 per acre per year, except that a mineral lease issued by the division involving the extraction of [~~mineral~~]a Great Salt Lake element or mineral from brines in the Great Salt Lake shall provide for an annual rental of not less than $100 per acre per year.

(b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.

(4) The primary term of a mineral lease may not exceed:

(a) 20 years for oil shale and tar sands; and

(b) 10 years for oil and gas and any other mineral.

(5)(a) [~~Subject~~]In addition to the requirements of Chapter 17, Part 3, Mineral or Element Extraction, and subject to the other provisions of this Subsection (5), for a mineral lease or royalty agreement involving the extraction of [~~minerals~~]Great Salt Lake elements and minerals from brines in the Great Salt Lake, the division shall ensure that the following terms, as applicable, are included:

(i) an extraction operation or extraction method shall adhere to commercially viable technologies that minimize water depletion;

[~~(ii) an extraction operation or extraction method shall mitigate for the total amount of water depleted by providing water back into the Great Salt Lake that approximates the total volume of water depleted;~~]

[~~(iii)~~](ii) a provision authorizing the division to curtail or limit Great Salt Lake element or mineral production at any time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section [~~65A-10-201~~]65A-17-101;

[~~(iv)~~](iii) a provision authorizing the division to withdraw lands, operations, extraction methods, or technologies from Great Salt Lake element or mineral production or Great Salt Lake element or mineral operations; [~~and~~]

[~~(v)~~](iv) a provision allowing the division to require an existing operator to use commercially viable, innovative technologies to minimize water depletions caused by the planned mineral extraction as a condition of continued operations[~~.~~]if the technology:

(A) has been successfully implemented on a commercial scale in similar circumstances;

(B) has been shown to be economically viable; and

(C) is reasonably compatible with the operator's overall extraction process; and

(v) a provision that provides for the reductions of the following after the primary term of a mineral lease or royalty agreement:

(A) the acreage subject to the mineral lease by the acreage the operator does not use to extract a Great Salt Lake element or mineral during the primary term of the mineral lease under conditions that do not constitute waste, as defined in Section 65A-17-101; and

(B) the volume of water that the operator may divert from the Great Salt Lake, by the volume of water that the operator does not use during the longer of the primary term of the mineral lease or seven years if the operator fails to use the volume of water for a beneficial use, except if the failure to use the volume of water is as a result of a reduction of water usage under Section 73-33-201 or is excused under Section 73-1-4.

[~~(b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii) only to the extent that the extraction operation or extraction method increases total depletions as compared to an estimated 10-year average of depletions as estimated by the Division of Water Resources' water budget model beginning on January 1, 2013, and ending on December 31, 2022.~~]

[~~(c)~~](b) If under Subsection [~~(5)(a)(v)~~](5)(a)(iv) the division requires an existing operator to use a commercially viable, innovative technology, the division may not require use of a technology not yet proven to be commercially viable on the Great Salt Lake and may not require implementation of the technology to begin until after a reasonable period determined by the division [~~not to exceed five years~~]that is at least five years but does not exceed seven years.

(c)(i) If the volume of water that the operator may divert from the Great Salt Lake is reduced under Subsection (5)(a)(v), the division shall pursue a judicial action to declare all or a portion of the water right forfeited under Subsection 73-1-4(2).

(ii) If the division secures the reduction under this Subsection (5)(c), the division shall petition the state engineer to order a reversal of the application approval in accordance with the terms of the reduction or forfeiture of the water right.

(iii) Nothing in this Subsection (5) modifies or otherwise affects Section 73-1-4 or 73-3-30.

(6)(a) Before issuing a royalty agreement under Subsection (2)(d), the division may require an operator to engage in a feasibility assessment and may issue a royalty agreement without compliance of Subsection (5)(a) if the agreement:

(i) has a term of 12 months or less; and

(ii) limits use of brines from the Great Salt Lake to a maximum of five acre-feet during the term of the agreement.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for implementing this Subsection (6).

[~~(6)~~](7)(a) Upon nomination from a prospective operator, the division shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a royalty rate and calculation methodology for a Great Salt Lake element or mineral that:

(i) provides for a full and fair return to the state from the production of the Great Salt Lake element or mineral;

(ii) is consistent with market royalty rates applicable to the production of the Great Salt Lake element or mineral or of the production of oil and gas;

(iii) provides a base royalty rate;

(iv) provides a reduced royalty rate from the royalty rate under Subsection [~~(6)~~](7)(a)(iii) if the royalty agreement:

(A) relates to a non-evaporative method of producing the Great Salt Lake element or mineral; or

(B) provides an incentive to use commercially viable, innovative technology to minimize water depletion and evaporation as determined by the division; [~~and~~]

(v) provides a reduced royalty rate from the royalty rate under Subsection (7)(a)(iii) if the prospective operator for the extraction of lithium demonstrates to the satisfaction of the division that the prospective operator has an agreement with a person who will process or manufacture a product in this state, exclusive of any primary or secondary lithium processing or manufacturing, using the lithium extracted by the prospective operator; and

[~~(v)~~](vi) subject to Subsection (7)(e), provides for a royalty rate that is based on the highest market value prevailing at the time of the sale or disposal of the following:

(A) the Great Salt Lake element or mineral; or

(B) a product the lessee produces from the Great Salt Lake element or mineral.

(b) Before entering into a royalty agreement permitting the extraction of Great Salt Lake elements or minerals, the operator shall:

(i) demonstrate the proposed operation's commercial viability;

(ii) certify before operation begins that the operator is not negatively impacting the biota or chemistry of the Great Salt Lake; and

(iii) obtain the approval of the division and the Department of Environmental Quality that the certification supports a finding that the operation

will not negatively impact the biota or chemistry of the Great Salt Lake.

(c) A new mineral lease for a Great Salt Lake element or mineral in production in the Great Salt Lake as of May 3, 2023, is subject to new royalty rates due to emergent technologies.

(d) An operator who as of July 1, 2020, had a mineral lease with the division but not a royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay a royalty under this section in addition to the severance tax.

(e) The royalty rate described in Subsection (7)(a)(vi) may not be reassessed during the primary term of an initial royalty agreement issued under this section, but may be reassessed upon the conclusion of the primary term.

[~~(7)~~](8)(a) [~~An~~]Except as provided in Subsection (8)(b), an operator who extracts a Great Salt Lake element or mineral from tailings from the production of Great Salt Lake elements or minerals from brines in the Great Salt Lake is subject to this section to the same extent as an operator producing a Great Salt Lake element or mineral from brines in the Great Salt Lake.

(b) An operator that, as of May 3, 2023, has an agreement to recover a Great Salt Lake element or mineral from existing tailings, discarded material, end-use products, or waste products produced from the evaporation and processing of Great Salt Lake brines is not subject to this section, except as to the payment of royalties set by the division under Subsection (7)(a). The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the issuance and termination of a royalty agreement for mineral extraction from tailings, discarded material, end-use products, or waste products produced from the evaporation and processing of Great Salt Lake brines.

(c) An operator that, as of May 3, 2023, has an underlying agreement to recover a Great Salt Lake element or mineral shall obtain an additional agreement for any additional Great Salt Lake element or mineral produced from the tailings, discarded material, end-use products, or waste products newly produced under the underlying agreement. The additional agreement is subject to this section.

[~~(8)~~](9) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding the amount of money collected under this section from royalties provided for in Subsection [~~(6)~~](7).

[~~(9)~~](10)(a) In the issuance of royalty agreements for the extraction of lithium from the Great Salt Lake, the division shall prioritize applicants that[~~:~~]

[~~(a)~~] do not use evaporative concentration of Great Salt Lake brines in any stage of the extractive process[~~; and~~]

[~~(b) use commercially viable extractive processes~~].

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, creating a process for implementing this Subsection (10).

[~~(10)~~](11) Except in relationship to mineral leases related to the Great Salt Lake, the division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:

(a) the mineral covered by the lease is being produced in paying quantities from:

(i) the leased premises;

(ii) lands pooled, communitized, or unitized with the leased premises; or

(iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or

(b)(i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:

(A) the leased premises;

(B) lands pooled, communitized, or unitized with the leased premises; or

(C) lands constituting an approved mining or drilling unit with respect to the leased premises; and

(ii) the lessee pays a minimum royalty.

[~~(11)~~](12) For the purposes of Subsection [~~(10)~~](11), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.

[~~(12)~~](13)(a) The division shall study and analyze each mineral lease and mineral royalty agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases and royalty agreements are representative of current market conditions. As part of this study, the division shall:

(i) make the following determinations for mineral leases:

(A) whether the entire surface area described within the mineral lease is being used; and

(B) whether the annual lease payments are representative of current market conditions; and

(ii) for royalty agreements, perform studies and comparative analyses to determine whether the state is receiving royalty rates consistent with current market conditions.

(b) By no later than the 2023 November interim meeting, the division shall report the division's findings of the study required by this Subsection [~~(12)~~](13) to the Natural Resources, Agriculture, and Environment Interim Committee.

(14) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for implementing this section.

(15) The provisions in this section related to extraction of a Great Salt Lake element or mineral under a mineral lease or royalty agreement apply to a mineral lease or royalty agreement in effect on May 1, 2024, and any mineral lease or royalty agreement entered into after May 1, 2024.

Section 11. Section 65A-17-101 is enacted to read:

65A-17-101. Definitions.

CHAPTER 17. GREAT SALT LAKE PRESERVATION ACT

Part 1. General Provisions

As used in this chapter:

(1) "Adaptive management berm" means a berm installed in the UP causeway breach to manage salinity to protect the ecosystem of Gilbert Bay.

(2) "Commercially viable technology" means a technology that:

(a) has been successfully implemented on a commercial scale in similar conditions;

(b) is shown to be economically viable; and

(c) is reasonably compatible with the operator's overall extraction process.

(3) "Common source of supply" means the mineral or element estate contained within the Great Salt Lake meander line.

(4) "Correlative right" means the opportunity of each operator to extract a portion of a common source of supply, subject to the state's sovereign lands management responsibilities, without the occurrence of waste.

(5) "Emergency trigger" means the salinity levels of the Gilbert Bay of the Great Salt Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.

(6) "Great Salt Lake elevation" means the elevation of the Great Salt Lake as measured by the United States Geological Survey gauging station 10010000 located at Saltair Boat Harbor, Utah.

(7) "Great Salt Lake meander line" means the official meander line, completed in 1966, of the Great Salt Lake unless otherwise established by court order or negotiated boundary settlement.

(8) "Great Salt Lake salinity" means the salinity of the Great Salt Lake as measured by the United States Geological Survey in Gilbert Bay.

(9) "Healthy physical and ecological condition" means that Gilbert Bay of the Great Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.

(10) "Mineral or element" means:

(a) a rare earth element;

(b) a trace element or mineral;

(c) a chemical compound that includes a rare earth element or trace element or mineral; or

(d) a mineral or element that is attached, embedded to, or is a by-product of another mineral or element.

(11) "Mitigation plan" means an agreement entered into on or after May 1, 2024, among the operators and the division for resolving issues arising from concurrent operations.

(12) "Multiple mineral development area" means an area involving the management of various surface and sub-surface resources so that they are used in the combination that will best meet present and future needs.

(13) "Natural resources of the Great Salt Lake" means the biota, water resources, water quality, the fishery and recreational resources, the wetlands and wildlife resources, and any other naturally occurring resource on the Great Salt Lake.

(14) "Operator" means a person qualified to do business in the state pursuing the extraction of minerals or elements from the Great Salt Lake.

(15) "Paying quantities" means the revenue generated from the sale of the mineral or element being produced exceeds the costs associated with obtaining the mineral or element, including any royalty obligation.

(16) "Public trust assets" means the same as that term is defined in Section 65A-1-1.

(17) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and Gilbert Bay.

(18)(a) Except as provided in Subsection (18)(b) and subject to Section 65A-17-305, "waste" means:

(i) the failure of an operation to provide the state with a full and fair return on each separately identified mineral or element;

(ii) an unnecessary depletion, diminishment, or reduction of the quantity or quality of a mineral or element; or

(iii) imprudent and uneconomical operations.

(b) "Waste" does not include extraction or removal of a mineral or element that cannot be extracted in paying quantities through commercially viable technology and:

(i) that has not been nominated under Subsection 65A-6-4(7)(a); or

(ii) for which the division has not established a royalty rate in rule.

Section 12. Section 65A-17-102, which is renumbered from Section 65A-10-202 is renumbered and amended to read:

~~65A-10-202~~. 65A-17-102. Legislative findings.

The Legislature finds that:

(1) under Section 65A-10-1 the division, as the manager of sovereign lands, has a duty to serve the public interest in managing the Great Salt Lake;

(2) the Great Salt Lake is a critical resource owned and managed by the state;

(3) the lake levels of the Great Salt Lake have reached historic lows, requiring action by the state to address significant risks and minimize dangers to protect the ecological integrity of the Great Salt Lake, the state's environment in general, and the welfare of the state's citizens; and

(4) the management of the Great Salt Lake under this [~~part~~]chapter, especially if the emergency trigger is reached, is reasonable and necessary to serve important public purposes and no reasonable alternative meets the interests described in Subsection (3).

Section 13. Section 65A-17-103 is enacted to read:

65A-17-103. Application of chapter.

This chapter applies to a mineral lease or royalty agreement in effect on May 1, 2024, or the mineral or element extraction process engaged in on May 1, 2024, and any mineral lease or royalty agreement entered into after May 1, 2024, or mineral or element extraction process engaged in after May 1, 2024.

Section 14. Section 65A-17-201, which is renumbered from Section 65A-10-203 is renumbered and amended to read:

~~65A-10-203~~. 65A-17-201. Great Salt Lake -- Management responsibilities of the division.

Part 2. Management

The division has the following powers and duties:

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize the division's duty to manage public trust assets and balance the following [~~public trust values and~~] public interest benefits and policies:

(a) strategies to effectively and efficiently manage the Great Salt Lake based on the Great Salt Lake's fluctuating lake levels;

(b) development of the Great Salt Lake that balances, in a manner that promotes a healthy physical and ecological condition:

(i) migratory and shorebirds habitats;

(ii) wetlands;

(iii) brines, minerals or elements, chemicals, and petro-chemicals;

(iv) brine shrimp;

(v) the protection of wildlife and wildlife habitat;

(vi) the protection of recreational access and facilities; and

(vii) search and rescue efforts;

(c) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;

(d) public access to the Great Salt Lake for recreation, hunting, and fishing;

(e) temperature moderation, a stable role in the water cycle, and dust mitigation;

(f) maintain the Great Salt Lake's flood plain as a hazard zone;

(g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl, and other waterbird flyway system;

(h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and

(i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges.

(2)(a) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that is consistent with:

(i) the [~~public trust values~~]management duty and public interest benefits described in Subsection (1)[~~and~~];

(ii) policies established by rule made under Subsection (1)[~~,~~]; and

(iii) the Great Salt Lake strategic plan adopted under Section 73-32-204.

(b) The comprehensive management plan described in this section shall integrate the land within the Great Salt Lake meander line regardless of whether the land has been excluded from water within the Great Salt Lake because of a berm or other infrastructure on sovereign land associated with the Great Salt Lake.

(c) The division shall prepare the comprehensive management plan in consultation with the Great Salt Lake commissioner.

(3) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter and Chapter 10, Management of Sovereign Lands.

(4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.

(5) The division may publish scientific and technical information concerning the Great Salt Lake.

(6) The division shall define the Great Salt Lake's flood plain.

(7) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter and Chapter 10, Management of Sovereign Lands.

(8) The division shall determine the need for public works and utilities for the lake area.

(9) The division may implement the comprehensive plan described in Subsection (2) through state and local entities or agencies.

(10) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.

(11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

(13) The division shall administer Section [~~65A-10-204~~]65A-17-202 when the Great Salt Lake emergency trigger is reached.

(14)(a) The division shall manage the adaptive management berm in the UP causeway breach to [~~manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions in Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep the UP causeway breach open so as to allow the exchange of water between Gilbert and Gunnison Bays.~~]keep salinity of Gilbert Bay within target ranges, raising and lowering the adaptive management berm as needed to achieve that goal.

(b) In pursuing the goal described in Subsection (14)(a), the division shall:

(i) consider the other management objectives enumerated in this section, including the preservation of Gunnison Bay;

(ii) raise the adaptive management berm if the Great Salt Lake elevation is 4,190 feet or lower; and

(iii) comply with a plan and schedule required by Subsection (14)(c).

(c) Before raising the adaptive management berm, the division shall have a plan and schedule to lower the adaptive management berm by no later than nine months after raising the adaptive management berm, with an objective of equalizing the elevations of Gilbert Bay and Gunnison Bay to be within two feet of each other.

(d) The division will consult with the Great Salt Lake commissioner:

(i) before modifying the adaptive management berm; and

(ii) concerning the adoption of the plan and schedule described in Subsection (14)(c).

(15) Notwithstanding a statute to the contrary and except for activities that interfere with the authority granted the state engineer under Title 73, Water and Irrigation, the division may construct, operate, modify, or maintain infrastructure related to protecting the Great Salt Lake and adjacent wetlands and may engage in planning and provide staff to manage the infrastructure.

[~~(15)~~](16) The division may perform acts other than those described in Subsections (1) through [~~(14)~~](15) that are reasonably necessary to carry out this chapter and Chapter 10, Management of Sovereign Lands.

(17) The division shall complete an analysis to determine the infrastructure and engineering needs related to salinity management within the Great Salt Lake meander line.

(18) The division shall consult with the Division of Wildlife Resources to identify projects on sovereign lands that benefit wildlife habitat through the improved flow of water and management of both native and invasive plant species.

[~~(16)~~](19) This [~~part~~]chapter may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Section 15. Section 65A-17-202, which is renumbered from Section 65A-10-204 is renumbered and amended to read:

~~65A-10-204~~. 65A-17-202. Emergency management responsibilities of the division.

(1) When the Great Salt Lake reaches the emergency trigger, the division:

(a) may construct, operate, modify, and maintain the adaptive management berm;

(b) may construct, operate, modify, and maintain one or more additional berms, dikes, structures, or management systems consistent with the authority granted in this title;

(c) may enter into agreements as necessary to provide for all or a portion of a berm, dike, system, or structure;

(d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to manage the Great Salt Lake under this section;

(e) is not liable for a third-party claim resulting from the division's actions to manage the Great Salt Lake under this section;

(f) may decline to issue a new permit, authorization, or agreement and may curtail mineral or element production for leases that contain provisions contemplating curtailment or similar contractual remedies;

(g) may implement mineral lease withdrawal over one or more of the following:

(i) portions of the Great Salt Lake;

(ii) specific methods of extraction; or

(iii) specific Great Salt Lake elements or minerals as defined in Section 65A-6-4; and

(h) may require the implementation of one or more of the following:

(i) extraction methods that are non-depletive in nature;

(ii) mitigation to offset depletion; or

(iii) innovative extraction technologies.

(2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the procedures the

division shall follow in taking an action described in Subsection (1).

Section 16. Section 65A-17-203, which is renumbered from Section 65A-10-205 is renumbered and amended to read:

~~65A-10-205.~~ **65A-17-203. Force majeure.**

(1) For purposes of managing the Great Salt Lake, the division may treat the fact that the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of invoking a force majeure provision in a contract, mineral lease, or royalty agreement.

(2) In addition to the standard mechanisms whereby performance is excused by invocation of a force majeure provision, the division shall include language in a contract, mineral lease, or royalty agreement whereby the division may curtail or prohibit mineral or element production that results in a net depletion of water.

(3) The division shall allow an operator to continue processing brines that have already been extracted from the Great Salt Lake that are residing in the operator's process, and selling products derived from brines that have already been extracted at the time the force majeure is invoked.

(4) The division shall include standard mechanisms to promptly waive force majeure once salinity conditions improve by declining below the emergency trigger threshold.

(5) If the division invokes a force majeure provision in a contract, mineral lease, or royalty agreement, the effected operator is relieved from performance of any contractual provision requiring production to hold the contract, mineral lease, or royalty agreement for a maximum of two years. If the conditions creating the emergency trigger persist beyond a two-year period, the division shall terminate the contract, mineral lease, or royalty agreement and require the operator to engage in new contractual agreements whereby the operator represents and warrants that future operations will not amount to a net depletion of water.

Section 17. Section 65A-17-301 is enacted to read:

65A-17-301. General royalty agreement provisions -- State action regarding evaporation ponds and leaseholds.

Part 3. Mineral or Element Extraction

(1) In addition to the requirements of Section 65A-6-4, the division shall ensure that a royalty agreement:

(a) obligates the lessee to extract minerals or elements in a manner that prevents waste to the common source of supply;

(b) obligates the lessee to extract minerals or elements in a manner that avoids negative impacts to any natural resources of the Great Salt Lake;

(c) contains terms and conditions wherein the lessee agrees to extract minerals or elements in a manner that preserves and conserves ecological integrity and healthy salinity levels; and

(d) contains terms and conditions wherein the lessee represents and warrants full compliance, at the lessee's sole expense, with the management decisions and instructions of the division and director for preservation of minerals or elements and natural resources of the Great Salt Lake.

(2)(a) The division may acquire the property interest in land or a mineral estate for a solar evaporation pond on sovereign lands and an improvement, property, easement, or right-of-way appurtenant to the solar evaporation pond by any lawful means, including eminent domain, as described in Sections 78B-6-501 and 78B-6-502.

(b) The division may not implement this Subsection (2) to acquire a property interest in land or a mineral estate that is not in or on sovereign land.

(c) The division may not implement this Subsection (2) on property interests in land or mineral estates held by an operator who, in an agreement with the division, has relinquished property interests in land or mineral estates.

(d) Only the division may implement this Subsection (2).

Section 18. Section 65A-17-302 is enacted to read:

65A-17-302. Minerals or elements extracted from the Great Salt Lake subject to royalty rate.

(1) An operator who removes or extracts a mineral or element from the Great Salt Lake and does not return the mineral or element to the Great Salt Lake shall compensate the division for the value of the mineral or element at the royalty rate established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if a royalty rate has been established, except that this Subsection (1) only applies to the extent that the mineral or element:

(a) has been nominated under Subsection 65A-6-4(7)(a) or for which the division has established a royalty rate in rule; and

(b) can be extracted in paying quantities through a commercially viable technology after a reasonable period determined by the division, that is at least five years but does not exceed seven years, from the day on which the division determines that the technology is a commercially viable technology.

(2)(a) The division shall require an operator that removes or extracts a mineral or element from the Great Salt Lake to annually certify to the division by no later than May 1 whether the operator is in compliance with Subsection (1). The certification by the operator shall:

(i) state the operator's name;

(ii) list the amount of each mineral or element that the operator has removed or extracted from the Great Salt Lake in the previous calendar year; and

(iii) include other information as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The operator shall submit the certificate on a form provided by the division.

(3)(a) If the division finds that an operator has violated Subsection (1), the division shall issue the operator an order that:

(i) finds that the operator is in violation of Subsection (1);

(ii) states the mineral or element for which the operator has failed to pay the royalty rate;

(iii) states the amount of the mineral or element that was removed or extracted but for which the operator failed to pay the royalty rate; and

(iv) orders the payment of the applicable royalty.

(b) The operator may seek review of an order issued under this Subsection (3) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) The division may take an enforcement action against an operator in violation of this section.

Section 19. Section 65A-17-303 is enacted to read:

65A-17-303. Multiple mineral development area -- Cooperative agreements -- Correlative right protection -- Withdrawn from or incapable of mineral development.

(1)(a) The division shall manage the Great Salt Lake below the Great Salt Lake meander line as a multiple mineral development area to:

(i) prevent waste;

(ii) ensure the greatest ultimate recovery of minerals or elements;

(iii) protect correlative rights of owners having rights to a common source of supply and the division's duty to manage public trust assets; and

(iv) encourage new and emergent technologies to protect the Great Salt Lake's overall ecological integrity while ensuring the greatest possible recovery for operators and the state.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, to implement Subsection (1)(a) and any related defined terms in Section 65A-17-101.

(c) An operator shall conduct operations to comply with the rules made under Subsection (1)(b) and other rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) governing individual operations; and

(ii) made for the multiple mineral development area.

(2)(a) As a condition of the division issuing a lease or royalty agreement on or after May 1, 2024, and of continued operations, the division shall require an operator to enter into and maintain a cooperative agreement with the persons with correlative rights in a common source of supply for a mineral or element in the Great Salt Lake.

(b) After submitting an application with the division to obtain a lease or royalty agreement, a person shall:

(i) obtain a list from the division of all operators existing at the time of application; and

(ii) notify each operator on the list of the person's intention to enter into a cooperative agreement.

(c) A cooperative agreement shall meet the requirements of Subsection 65A-17-304(1), shall provide that the rights and obligations contained in the cooperative agreement are subject to the division's duty to manage public trust assets, and shall address:

(i) how the operators may conduct concurrent or simultaneous operations without unreasonably interfering with existing and separate operations while also preventing undue waste;

(ii) recognition of other operator's vested mineral or element interests so that operations may be conducted in a manner that will result in the maximum recovery of minerals or elements with the minimum adverse effect on the ultimate maximum recovery of other minerals or elements;

(iii) terms and conditions for establishing a mitigation plan for when one operator, either intentionally or unintentionally, interferes with or damages the mineral or element rights or mineral or element interests of another operator;

(iv) terms and conditions for establishing a mitigation plan with the division that would limit unreasonable mineral estate interference, waste, or negative impacts to natural resources of the Great Salt Lake;

(v) the protection of natural resources of the Great Salt Lake without unnecessary cost to the operations of another operator, unless there is compensation for increased operational costs;

(vi) the coordination and locations of access to operations;

(vii) any assessment of costs resulting from concurrent operations within the Great Salt Lake;

(viii) the mitigation of surface impacts, including:

(A) the location of a mineral or element extraction intake or discharge facility;

(B) phased or coordinated surface occupancy to each operator to access and develop the operator's respective mineral or element estate or mineral or element interest with the least disruption of operations and damage to Great Salt Lake elements or minerals, as defined in Section 65A-6-4, or

natural resources directly, indirectly, or through waste; and

(C) limitations of mineral or element operations in areas where impacts to correlative rights or to natural resources of the Great Salt Lake are significant or most acute, as determined by the operators or the division;

(ix) the scope and extent of how geological, engineering, product, and water use data is disclosed or exchanged;

(x) how any joint reclamation obligation or plan is to be achieved or coordinated;

(xi) how bonding will be obtained and coordinated on any lands impacted, disturbed, or developed in relation to mineral or element extraction and processing activities;

(xii) terms and conditions indemnifying the state, the division, and any of the state's or division's directors, officers, agents, or employees from any and all damage or liability of any kind resulting from any stage or mineral or element extraction operations or any stage of mineral or element processing;

(xiii) terms and conditions for the full compliance with a royalty rate reduction to which an operator is entitled;

(xiv) a schedule of how the operators plan to collectively curtail production if the emergency trigger is reached and a curtailment of production is required; and

(xv) any other term or condition outlining cooperative efforts consistent with the multiple mineral development area and plans or rules of the division, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) The parties to a cooperative agreement described in Subsection (2)(a) shall present the cooperative agreement to the division and the director may approve the agreement if the cooperative agreement:

(i) is in the public interest;

(ii) prevents waste of minerals or elements;

(iii) protects the correlative rights of each owner; and

(iv) meets the requirements of Subsection 65A-17-304(1).

(e) On the director's approval of the cooperative agreement, the division becomes a signator to the cooperative agreement.

(f) A cooperative agreement described in this Subsection (2) may not be held or construed to violate a statute relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the director.

(g) The failure to submit an agreement to the division for approval may not for that reason imply or constitute evidence that the agreement or operations conducted pursuant to the agreement are in violation of laws relating to trusts, monopolies, or restraint of trade.

(h)(i) An operator may not unreasonably delay, condition, or decline to enter into a cooperative agreement.

(ii) A negotiation period of 60 days from the date notice is given under Subsection (2)(b)(ii) is presumed to be reasonable.

(i) A mitigation plan with the division shall be implemented in conjunction with the Division of Water Rights.

(3) The division may at any time determine that certain areas within the multiple mineral development area are withdrawn from mineral development or incapable of mineral development.

Section 20. Section 65A-17-304 is enacted to read:

65A-17-304. Concurrent operations -- Breach, disagreement, or conflict -- Disputes.

(1) Two or more operators may conduct concurrent operations on the Great Salt Lake under a cooperative agreement upon stipulation and agreement that the operations can be:

(a) conducted simultaneously without unreasonably interfering with the value of the resources being produced;

(b) conducted simultaneously without unreasonably interfering with natural resources of the Great Salt Lake; and

(c) conducted without unreasonably interfering with, or unnecessarily raising the cost of operations of another operator, unless the other affected operator is compensated for increased costs or diminished returns.

(2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the procedures the division and operators shall follow to:

(a) enable the division to enforce applicable statutes and rules on operators, including the issuance of notices of violation or cessation orders;

(b) assist in the timely resolution of disputes that may arise during the formation of a cooperative agreement;

(c) cure a breach of a mitigation plan; or

(d) resolve a continued disagreement or conflict regarding continued negative impacts to biota or chemistry due to continuing concurrent operations.

(3) If any dispute between operators under Subsection (2) has not been resolved through an informal administrative dispute resolution process created by the division, the division shall resolve the dispute by a final record of decision to be issued no more than 30 days after notice to the division by an aggrieved operator that informal dispute resolution has been unsuccessful.

Section 21. Section 65A-17-305 is enacted to read:

65A-17-305. Waste.

An operator is considered to not waste a mineral or element if the operator implements a commercially viable technology to extract the mineral or element after a reasonable period determined by the division, that is at least five years but does not exceed seven years, from the day on which the division determines that the technology is a commercially viable technology.

Section 22. Section 65A-17-306 is enacted to read:

65A-17-306. Certification of eligibility for tax rates.

(1) As used in this section:

(a) "Great Salt Lake element or mineral" means the same as that term is defined in Subsection 59-5-202(5).

(b) "Great Salt Lake extraction operator" means the same as that term is defined in Subsection 59-5-202(5).

(2)(a) A Great Salt Lake extraction operator shall by no later than December 31 of each year certify to the division for purposes of determining a severance tax imposed under Subsection 59-5-202(5) during the next succeeding calendar year, the information listed in Subsection (2)(b).

(b) The Great Salt Lake extraction operator shall certify the following for the calendar year ending on the date the Great Salt Lake extraction operator submits the certification for purposes of determining a severance tax imposed during the next succeeding calendar year:

(i) the Great Salt Lake extraction operator's name;

(ii) the Great Salt Lake extraction operator's tax identification number;

(iii) whether at the time a Great Salt Lake element or mineral is extracted, the Great Salt Lake extraction operator is a party or a third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30;

(iv) if the Great Salt Lake extraction operator is not a party or third-party beneficiary to a voluntary agreement for water rights with an approved beneficial use by a division as defined in Section 73-3-30, whether the Great Salt Lake extraction operator uses evaporative concentrations of Great Salt Lake brines in any stage of the Great Salt Lake extraction operator's extractive process;

(v) whether the Great Salt Lake extraction operator extracted a Great Salt Lake element or mineral when the Great Salt Lake elevation recorded under Subsection (3) is at or above 4,198 feet, and what the Great Salt Lake element or mineral extracted was; and

(vi) other information as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A Great Salt Lake extraction operator shall submit the certification on a form provided by the division and approved by the State Tax Commission.

(3) The division shall record the Great Salt Lake elevation for purposes of this section and Subsection 59-5-202(5) as of June 15 to be applied during the next succeeding calendar year.

(4) The division shall forward to the State Tax Commission by no later than January 15 of the year for which the severance tax shall be determined:

(a) the Great Salt Lake elevation level recorded under Subsection (3);

(b) a list of the Great Salt Lake extraction operators who are subject to a severance tax under Subsection 59-5-202(5);

(c) the Great Salt Lake extraction operator's tax identification number for each Great Salt Lake extraction operator listed in Subsection (4)(b); and

(d) for each Great Salt Lake extraction operator subject to a severance tax under Subsection 59-5-202(5):

(i) each Great Salt Lake element or mineral or metalliferous compound extracted by the Great Salt Lake extraction operator that is subject to the severance tax; and

(ii) the rate of severance tax that is to be imposed under Subsection 59-5-202(5).

(5) The division may audit a certification submitted under this section for completeness and accuracy.

(6) The division may take an enforcement action against a Great Salt Lake extraction operator who violates this section.

Section 23. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals -- Request for agency action.

(1)(a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2)(a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3)(a) Before the approval of any application [~~for the appropriation of~~]to divert water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals or elements, as defined in Section 65A-17-101, therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of:

(i) a contract for the payment of royalties to the state[~~.~~]; and

(ii) any mineral lease.

(b) The approval of an application shall be [~~revoked~~]reversed if the applicant fails to comply with terms of the royalty contract or mineral lease.

(4)(a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(5)(a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6)(a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c)(i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

Section 24. Section 73-32-204 is amended to read:

73-32-204. Strategic plan.

(1)(a) In accordance with this section, the commissioner shall prepare a strategic plan and obtain the approval of the governor of that strategic plan.

(b) A strategic plan prepared by the commissioner may not be implemented until the governor approves the strategic plan, except as provided in Subsection (5).

(2) The commissioner shall base the strategic plan on a holistic approach that balances the diverse interests related to the health of the Great Salt Lake, and includes provisions concerning:

(a) coordination of efforts related to the Great Salt Lake;

(b) a sustainable water supply for the Great Salt Lake, while balancing competing needs;

(c) human health and quality of life;

(d) a healthy ecosystem;

(e) economic development;

(f) water conservation, including municipal and industrial uses and agricultural uses;

(g) water and land use planning;

(h) regional water sharing; and

(i) other provisions that the commissioner determines would be for the benefit of the Great Salt Lake.

(3)(a) The commissioner shall obtain the approval of the governor of an initial strategic plan by no later than December 31, 2023.

(b) On or before November 30, 2023, the commissioner shall submit an initial strategic plan to the governor, speaker of the House of Representatives, and the president of the Senate.

(c) The governor shall approve the strategic plan by no later than December 31, 2023, if the governor determines that the initial strategic plan satisfies this chapter.

(d) By no later than January 15, 2024, the commissioner shall provide the following a copy of the initial strategic plan approved by the governor under Subsection (3)(c):

(i) the Natural Resources, Agriculture, and Environment Interim Committee;

(ii) the department;

(iii) the Department of Environmental Quality; and

(iv) the Department of Agriculture and Food.

(4) The governor may approve a strategic plan only after consulting with the speaker of the House of Representatives and the president of the Senate.

(5) Once a strategic plan is approved by the governor, the commissioner may make substantive changes to the strategic plan without the approval of the governor, except that the commissioner shall:

(a) inform the governor, the speaker of the House of Representatives, and the president of the Senate of a substantive change to the strategic plan; and

(b) submit the strategic plan every five years for the approval of the governor in a process that is consistent with Subsection (3).

(6) The commissioner may work with the Division of Forestry, Fire, and State Lands in coordinating the comprehensive management plan created under Section [~~65A-10-203~~]65A-17-201 with the strategic plan.

Section 25. Section 73-32-303 is amended to read:

73-32-303. Duties of the council.

(1)(a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

(i) sustainable use;

(ii) environmental health; and

(iii) reasonable access for existing and future development.

(b) The council shall advise, as provided in Subsection (1)(a):

(i) the governor;

(ii) the Department of Natural Resources;

(iii) the Department of Environmental Quality; and

(iv) the commissioner.

(2) The council shall assist the Division of Forestry, Fire, and State Lands in the Division of Forestry, Fire, and State Land's responsibilities for the Great Salt Lake described in Sections [~~65A-10-203 and 65A-10-204~~]65A-17-201 and 65A-17-202.

(3) The council:

(a) may recommend appointments to the Great Salt Lake technical team created by the Division of Forestry, Fire, and State Lands; and

(b) shall receive and use technical support from the Great Salt Lake technical team.

(4) The council shall assist the department, the Department of Environmental Quality, and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

(5) The council shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the council's activities.

Section 26. Section 73-33-101 is enacted to read:

73-33-101. Definitions.

CHAPTER 33. GREAT SALT LAKE DISTRIBUTION MANAGEMENT

Part 1. General Provisions

As used in this chapter:

(1) "Distribution management plan" means a plan adopted by the state engineer in accordance with Section 73-33-201.

(2) "Great Salt Lake Comprehensive Management Plan" means the plan adopted by a record of decision by the Division of Forestry, Fire, and State Lands for the management of the Great Salt Lake.

(3) "Great Salt Lake meander line" means the same as that term is defined in Section 65A-17-101.

(4) "Great Salt Lake water right" means a water right that allows for the diversion of surface water or groundwater from a point below the Great Salt Lake meander line and that contemplates the recovery of salts or another mineral or element, as defined in Section 65A-17-101, from the water resource by precipitation or otherwise.

(5) "Great Salt Lake watershed" means the drainage area for the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

Section 27. Section 73-33-102 is enacted to read:

73-33-102. Scope of chapter.

(1) A person may not interpret this chapter as requiring the development, implementation, or consideration of a distribution management plan as a prerequisite or condition to the exercise of the state engineer's enforcement powers under other law, including powers granted under Section 73-2-25.

(2) This chapter applies to Great Salt Lake water rights that were approved or perfected on or before May 1, 2024, and Great Salt Lake water rights approved or perfected after May 1, 2024, including use under a Great Salt Lake water right of water for the mineral or element extraction process.

Section 28. Section 73-33-201 is enacted to read:

73-33-201. Great Salt Lake distribution management plan.

Part 2. Distribution Management Plan

(1) The state engineer shall regulate the measurement, appropriation, apportionment, and distribution of water within the Great Salt Lake meander line by adopting a distribution management plan by no later than October 1, 2025, that establishes:

(a) consistent with Section 73-33-203, requirements for the measurement, quantification,

and reporting of diversions, depletions, and return flows associated with Great Salt Lake water rights; and

(b) procedures for the apportionment and distribution of Great Salt Lake water rights.

(2)(a) In developing a distribution management plan under this section, the state engineer may consider:

(i) the hydrology of the Great Salt Lake watershed as it affects Great Salt Lake water rights;

(ii) the physical characteristics of the Great Salt Lake;

(iii) the Great Salt Lake elevation;

(iv) the Great Salt Lake salinity;

(v) the strategic plan prepared by the Great Salt Lake commissioner and approved by the governor under Section 73-32-204;

(vi) the measurement, appropriation, apportionment, and distribution of Great Salt Lake water rights;

(vii) the quantity of water approved for beneficial use within the Great Salt Lake meander line by a division as defined in Section 73-3-30;

(viii) the quantity of water within the Great Salt Lake;

(ix) the Great Salt Lake Comprehensive Management Plan;

(x) the different types of beneficial uses of Great Salt Lake water rights; and

(xi) other relevant factors such as the economic viability impacts.

(b) The state engineer shall base the distribution management plan on the principles of prior appropriation and multiple use sustained yield, with multiple use defined in Section 65A-1-1, as the principles relate to the reasonable preservation or enhancement of the Great Salt Lake's natural aquatic environment.

(c) The state engineer shall use the best available information to administer Great Salt Lake water rights to achieve the objectives of the distribution management plan.

(d) As hydrologic conditions change or additional information becomes available, the state engineer may revise the distribution management plan by following the procedures of Subsection (3).

(3)(a) To adopt or amend a distribution management plan for the Great Salt Lake, the state engineer shall:

(i) give notice pursuant to Subsection (3)(b) at least 30 days before the first public meeting held in accordance with Subsection (3)(a)(ii):

(A) that the state engineer proposes to adopt or amend a distribution management plan; and

(B) stating the location, date, and time of each public meeting to be held in accordance with Subsection (3)(a)(ii);

(ii) hold one or more public meetings to:

(A) present data, studies, or reports that the state engineer intends to consider in preparing the distribution management plan;

(B) address items that may be included in the distribution management plan; and

(C) receive public comments and other information presented at the public meeting;

(iii) receive and consider written comments concerning the proposed distribution management plan from any person for a period determined by the state engineer of not less than 60 days after the day on which the notice required by Subsection (3)(a)(i) is given;

(iv) at least 60 days before final adoption of the distribution management plan, publish notice:

(A) that a draft of the distribution management plan has been proposed; and

(B) specifying where a copy of the draft distribution management plan may be reviewed;

(v) promptly provide a copy of the draft distribution management plan in printed or electronic form to each person listed in Subsection (3)(b)(iii) that requests a copy in writing; and

(vi) provide notice of the adoption of the distribution management plan.

(b) The state engineer shall ensure that a notice required by this section:

(i) is published:

(A) once a week for two consecutive weeks in a newspaper of general circulation in each county that includes any land below the Great Salt Lake meander line; and

(B) for two weeks in accordance with Section 45-1-101;

(ii) is published conspicuously on the state engineer's website; and

(iii) is mailed to water right owners of record in the state engineer's office of Great Salt Lake water rights.

(c) A notice required by this section is effective upon substantial compliance with Subsection (3)(b).

(d) A distribution management plan takes effect on the date notice of adoption is completed under Subsection (3)(b) or on a later date when specified in the distribution management plan.

(4)(a) In accordance with the distribution management plan, the state engineer shall establish a priority schedule that apportions Great Salt Lake water rights based on relative priority among Great Salt Lake water rights and:

(i) develop an apportionment schedule and distribution accounting tool that accounts for:

(A) Great Salt Lake elevations;

(B) Great Salt Lake salinity;

(C) Great Salt Lake water rights;

(D) the quantity of water in the Great Salt Lake; and

(E) the quantity of water delivered to or in the Great Salt Lake under water rights approved for beneficial use by a division as defined in Section 73-3-30;

(ii) prohibit Great Salt Lake water rights from diverting the quantity of water accounted for under Subsection (4)(a)(i)(E); and

(iii) require physical measurement and annual reporting of diversion, depletion, and return flow quantities of Great Salt Lake water rights.

(b) Under a distribution management plan the state engineer may reduce the quantity of water that an owner of a Great Salt Lake water right may divert from the Great Salt Lake in accordance with the principles of prior appropriation.

(5)(a) When adopting a distribution management plan, the state engineer may allow water users to participate in a voluntary arrangement that compensates or otherwise mitigates for the use of Great Salt Lake water rights.

(b) The participants in a voluntary arrangement under this Subsection (5) shall implement the voluntary arrangement consistent with other law.

(c) The adoption of a voluntary arrangement under this Subsection (5) by less than all of the owners of Great Salt Lake water rights does not affect the rights of those owners of Great Salt Lake water rights who do not agree to the voluntary arrangement.

(6) The existence of a distribution management plan does not preclude an otherwise eligible person from filing an application or challenging a decision made by the state engineer within the Great Salt Lake meander line, except that a person may challenge the components of a distribution management plan only in a manner provided in Section 73-33-202.

(7) A distribution management plan adopted or amended in accordance with this section is exempt from Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 29. Section 73-33-202 is enacted to read:

73-33-202. Challenges to a distribution management plan.

(1) A person aggrieved by a distribution management plan may challenge any aspect of the distribution management plan by filing a complaint within 60 days after the distribution management plan takes effect in a court with jurisdiction:

(a) under Title 78A, Judiciary and Judicial Administration; and

(b) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, over a geographic area bordering the Great Salt Lake.

(2) In an action filed under this section, a court shall review de novo the distribution management plan.

(3) A person challenging a distribution management plan under this section shall join the state engineer as a defendant in that action.

(4)(a) No later than 30 days after the day on which a person files an action challenging any aspect of a distribution management plan, the person filing the action shall publish notice of the action:

(i) once a week for two consecutive weeks in a newspaper of general circulation in the county in which the court is located; and

(ii) for two weeks in accordance with Section 45-1-101.

(b) The notice required by Subsection (4)(a) shall:

(i) identify the distribution management plan that the person is challenging;

(ii) identify the case number assigned by the court;

(iii) state that a person affected by the distribution management plan may petition the court to intervene in the action challenging the distribution management plan; and

(iv) list the address of the clerk of the court in which the action is filed.

(c) A person affected by a distribution management plan that is being challenged under this section may petition to intervene in the action in accordance with Utah Rules of Civil Procedure, Rule 24.

Section 30. Section 73-33-203 is enacted to read:

73-33-203. Measuring volume and quality of water.

(1)(a) A person diverting water under a Great Salt Lake water right shall:

(i) measure through the use of a physical measurement and not estimate or calculate the water or brine diverted from the Great Salt Lake as part of the mineral or element extraction process;

(ii) keep a record of the measurements described in Subsection (1)(a)(i); and

(iii) report the measurements described in Subsection (1)(a)(i) to the Division of Water Rights in accordance with rules made by the Division of Water Rights under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A duty described in Subsection (1)(a) does not replace or modify any other duty to measure water under this title or rules made under this title.

(2) A person diverting water under a Great Salt Lake water right shall:

(a) measure the salinity of any discharge of water or brine from the person's operations into the Great

Salt Lake in accordance with rules made by the Division of Forestry, Fire, and State Lands in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) keep a record of the measurements described in Subsection (2)(a); and

(c) report the measurements described in Subsection (2)(a) to the Division of Forestry, Fire, and State Lands in accordance with rules made by the Division of Forestry, Fire, and State Lands under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3)(a) On or before June 1, 2025, the Division of Water Quality, in consultation with the Division of Forestry, Fire, and State Lands, and in cooperation with the Great Salt Lake commissioner pursuant to Section 73-32-203, shall make a rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, setting a limit for the salinity of water or brine that a person may discharge into the Great Salt Lake as part of the mineral or element extraction process.

(b) If a person discharges water or brine that exceeds the limit imposed under Subsection (3)(a), the Division of Water Quality may modify, revoke and reissue, or terminate any permit issued by the Division of Water Quality related to the discharge.

(4) A person shall keep a record required under this section for a period of at least five years from the day on which the record is made.

Section 31. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

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

(a) [~~"century farm"~~]"Century farm" means real property that is:

[~~(a)~~](i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

[~~(b)~~](ii) owned or held by the same family for a continuous period of 100 years or more.

(b) "Mineral or element" means the same as that term is defined in Section 65A-17-101.

(2) Except as provided in Subsections (3) and (4) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(a) all public uses authorized by the federal government;

(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(c)(i) public buildings and grounds for the use of any county, city, town, or board of education;

(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals or elements in solution;

(f)(i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals or elements in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals or elements in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) subject to Subsection (5), solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants,

or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b)(i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4)(a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

(5)(a) For the purpose of solar evaporation ponds and other facilities for the recovery of minerals in solution on or from the Great Salt Lake, a public use includes removal or extinguishment, by a state entity, in whole or in part, on Great Salt Lake sovereign lands of:

(i) a solar evaporation pond;

(ii) improvements, property, easements, or rights-of-way appurtenant to a solar evaporation pond, including a lease hold; or

(iii) other facilities for the recovery of minerals or elements in solution.

(b) The public use under this Subsection (5) is in the furtherance of the benefits to public trust assets attributable to the Great Salt Lake under Section 65A-1-1.

Section 32. Section 78B-6-502 is amended to read:

78B-6-502. Estates and rights that may be taken.

The following estates and rights in lands are subject to being taken for public use:

(1) a fee simple, when taken for:

(a) public buildings or grounds;

(b) permanent buildings;

(c) reservoirs and dams, and permanent flooding occasioned by them;

(d) any permanent flood control structure affixed to the land;

(e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill, smelter, or other place for the reduction of ores; and

(f) subject to Subsection 78B-6-501(5),solar evaporation ponds and other facilities for the recovery of minerals in solution, except when the surface ground is underlaid with minerals, coal, or other deposits sufficiently valuable to justify extraction, only a perpetual easement may be taken over the surface ground over the deposits;

(2) an easement, when taken for any other use; and

(3) the right of entry upon and occupation of lands, with the right to take from those lands earth, gravel, stones, trees, and timber as necessary for a public use.

Section 33. Repealer.

This bill repeals:

Section 65A-10-201, Definitions.

Section 34. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 34(a) Operating and Capital Budgets

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

ITEM 1

To Department of Natural Resources - Forestry, Fire, and State Lands

From General Fund Restricted - Sovereign Lands Management, One-time $500,000

Schedule of Programs:

Project Management $500,000

The Legislature intends that the money appropriated under this item be used to fund the analysis required by Subsection 65A-17-201(17), renumbered and amended by this bill. The Legislature intends that the appropriation be nonlapsing.

ITEM 2

To Department of Natural Resources - Water Rights

From General Fund Restricted - Sovereign Lands Management, One-time $300,000

Schedule of Programs:

Field Services $300,000

The Legislature intends that the money appropriated under this item be used to fund costs associated with developing a distribution management plan. The Legislature intends that the appropriation be nonlapsing.

Section 35. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on January 1, 2025:

(a) Section 51-9-306;

(b) Section 51-9-307;

(c) Section 59-1-403;

(d) Section 59-5-202;

(e) Section 59-5-203;

(f) Section 59-5-207; and

(g) Section 59-5-215.

CHAPTER 26
H. B. 529
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

UTAH FITS ALL SCHOLARSHIP PROGRAM AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions regarding the Utah Fits All Scholarship Program.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies that a student may not receive education services funded through the Utah Fits All Scholarship Program and the Statewide Online Education Program;
- provides for the inclusion of children of military service members;
- allows a foster parent who has initiated a process to adopt the foster child to apply for a scholarship account;
- clarifies the use of scholarship funds to pay expenses to a qualifying provider instead of an individual, including that parents are not eligible service providers;
- allows the State Tax Commission to provide certain income information to the program manager in certain circumstances;
- amends a provision regarding an appeal process, shifting the requirement from the State Board of Education to the program manager with the involvement of parents;
- amends provisions regarding local education agency participation by removing dual enrollment proration and establishing local education agency eligibility to serve home- based scholarship students;
- moves a requirement to analyze cost effectiveness from the State Board of Education to the state auditor; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2023, Chapters 226, 368
53F-6-401, as enacted by Laws of Utah 2023, Chapter 1
53F-6-402, as enacted by Laws of Utah 2023, Chapter 1
53F-6-404, as enacted by Laws of Utah 2023, Chapter 1
53F-6-405, as enacted by Laws of Utah 2023, Chapter 1
53F-6-408, as enacted by Laws of Utah 2023, Chapter 1
53F-6-409, as enacted by Laws of Utah 2023, Chapter 1
53F-6-412, as enacted by Laws of Utah 2023, Chapter 1
59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

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

Section 1. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

(2)(a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4)(a) "Eligible student" means a student:

[~~(a)~~](i) who intends to take a course for middle school or high school credit; and

[~~(b)~~](ii)[~~(i)~~](A) who is enrolled in an LEA in Utah; or

[~~(ii)~~](B)[~~(A)~~] who attends a private school or home school[~~;~~] and

[~~(B)~~] whose custodial parent is a resident of Utah.

(b) "Eligible student" does not include a scholarship student as defined in Section 53F-6-401.

(5) "High school" means grade 9, 10, 11, or 12.

(6) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

(7) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of

whether the student participates in the course at home, at school, at another location, or any combination of these.

(8) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(9) "Primary LEA of enrollment" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

(10) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

Section 2. Section 53F-6-401 is amended to read:

53F-6-401. Definitions.

As used in this part:

(1) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a resident of the state, including a child of a military service member, as that term is defined in Section 53B-8-102;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) [~~except for a student who is enrolled part-time in accordance with Section 53G-6-702,~~]is not enrolled in[~~an LEA~~], upon receiving the scholarship[~~;~~]:

(A) an LEA; or

(B) the Statewide Online Education Program to participate in a course with funding provided under Title 53F, Chapter 4, Part 5, Statewide Online Education Program, which does not include participation in a course by an entity as described in Subsection 53F-6-409(7);

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

(2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(3)(a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.

(4) "Parent" means:

(a) the same as that term is defined in Section 53E-1-102; and

(b) a foster parent who has initiated a process to adopt the foster child.

(5) "Program manager" means an organization that:

(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) is not affiliated with any international organization;

(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the Special Needs Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

[~~(5)~~](6)(a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

[~~(6)~~](7) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

[~~(7)~~](8)(a) "Qualifying provider" means one of the following entities[~~ that is not a public school and is autonomous and not an agent of the state, in accordance with Section 53F-6-406~~]:

[~~(a)~~](i) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

[~~(b)~~](ii) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(b) "Qualifying provider" does not include:

(i) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(ii) any other individual that does not meet the requirements described in Subsection (8)(a).

[~~(8)~~](9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[~~(9)~~](10) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

[~~(10)~~](11) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

(a) tuition and fees of a qualifying provider;

(b) fees and instructional materials at a technical college;

(c) tutoring services;

(d) fees for after-school or summer education programs;

(e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

(f) educational software and applications;

(g) supplies or other equipment related to a scholarship student's educational needs;

(h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;

(i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

(i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(ii) a state-recognized industry certification examination; and

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) any other expense for a good or service that:

(i) a parent or scholarship student incurs in the education of the scholarship student; and

(ii) the program manager approves, in accordance with Subsection (4)(d).

[~~(11)~~](12) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

[~~(12)~~](13)(a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.

[~~(13)~~](14) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 3. Section 53F-6-402 is amended to read:

53F-6-402. Utah Fits All Scholarship Program -- Scholarship account application -- Scholarship expenses -- Program information.

(1) There is established the Utah Fits All Scholarship Program under which, beginning March 1, 2024, a parent may apply to a program manager on behalf of the parent's student to establish and maintain a scholarship account to cover the cost of a scholarship expense.

(2)(a) The program manager shall establish and maintain, in accordance with this part, scholarship accounts for eligible students.

(b) The program manager shall:

(i) determine that a student meets the requirements to be an eligible student; and

(ii) subject to Subsection (2)(c), each year the student is an eligible student, maintain a

scholarship account for the scholarship student to pay for the cost of one or more scholarship expenses that the student or student's parent incurs in the student's education.

(c) [~~Except as provided in Subsection (2)(d), each~~]Each year, subject to this part and legislative appropriations, a scholarship student is eligible for no more than:

(i) for the 2024- 2025 school year, $8,000; and

(ii) for each school year following the 2024- 2025 school year, the maximum allowed amount under this Subsection (2)(c) in the previous year plus a percentage increase that is equal to the five- year rolling average inflationary factor described in Section 53F- 2- 405.

[~~(d) If a scholarship student enrolls in an LEA part- time in accordance with Section 53G- 6- 702, the program manager shall prorate the amount of the award described in Subsection (2)(c) in proportion to the extent of the scholarship student's partial enrollment in the LEA.~~]

(3)(a) A program manager shall establish a scholarship account on behalf of an eligible student who submits a timely application, unless the number of applications exceeds available scholarship funds for the school year.

(b) If the number of applications exceeds the available scholarship funds for a school year, the program manager shall select students on a random basis, except as provided in Subsection (6).

(c) An eligible student or a public education student shall submit an application for an initial scholarship or renewal for each school year that the student intends to receive scholarship funds.

(d)(i) To maintain eligibility, a scholarship student or the scholarship student's parent shall annually complete and deliver to the program manager a portfolio describing the scholarship student's educational opportunities and achievements under the program for the given year.

(ii) The program manager may not disclose the content of a given scholarship student's portfolio except to the scholarship student's parent.

(4)(a) An application for a scholarship account shall contain an acknowledgment by the student's parent that the qualifying provider selected by the parent for the student's enrollment or engagement is capable of providing education services for the student.

(b) A scholarship account application form shall contain the following statement:

"I acknowledge that:

[~~(1)~~] 1: A qualifying provider may not provide the same level of disability services that are provided in a public school;

[~~(2)~~] 2: I will assume full financial responsibility for the education of my scholarship recipient if I agree to this scholarship account;

[~~(3)~~] 3: Agreeing to establish this scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

[~~(4)~~] 4: My child may return to a public school at any time.".

(c) Upon agreeing to establish a scholarship account, the parent assumes full financial responsibility for the education of the scholarship student, including the balance of any expense incurred at a qualifying provider or for goods that are not paid for by the scholarship student's scholarship account.

(d) Agreeing to establish a scholarship account has the same effect as a parental refusal to consent to services as described in 34 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or establishment of a scholarship account on behalf of a student does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(5) A program manager may not charge a scholarship account application fee.

(6)(a) A program manager shall give an enrollment preference based on the following order of preference:

[~~(a)~~](i) to an eligible student who used a scholarship account in the previous school year;

[~~(b)~~](ii) to an eligible student:

[~~(i)~~](A) who did not use a scholarship account in the previous school year; and

[~~(ii)~~](B) with a family income at or below 200% of the federal poverty level;

[~~(c)~~](iii) to an eligible student who is a sibling of an eligible student who:

[~~(i)~~](A) uses a scholarship account at the time the sibling applies for a scholarship account; or

[~~(ii)~~](B) used a scholarship account in the school year immediately preceding the school year for which the sibling is applying for a scholarship account; and

[~~(d)~~](iv) to an eligible student:

[~~(i)~~](A) who did not use a scholarship account in the previous school year; and

[~~(ii)~~](B) with a family income between 200% and 555% of the federal poverty level.

(b) The State Tax Commission may, upon request, provide state individual income tax information to the program manager for income verification purposes regarding a given individual if:

(i) the individual voluntarily provides the individual's social security number to the program manager; and

(ii) consents in writing to the sharing of state individual income tax information solely for income verification purposes.

(c) In addition to the tax information described in Subsection (6)(b), the program manager shall accept the following for income verification:

(i) a federal form W-2;

(ii) a wage statement from an employer; and

(iii) other methods or documents that the program manager identifies.

(7)(a) Subject to Subsections (7)(b) through (e), a parent may use a scholarship account to pay for a scholarship expense from a qualifying provider that a parent or scholarship student incurs in the education of the scholarship student.

(b) A scholarship student or the scholarship student's parent may not use a scholarship account for an expense that the student or parent does not incur in the education of the scholarship student, including:

(i) a rehabilitation program that is not primarily designed for an educational purpose; or

(ii) a travel expense other than a transportation expense described in Section 53F-6-401.

(c) The program manager may not:

(i) approve a scholarship expense for a service that a qualifying provider provides unless the program manager determines that the scholarship student or the scholarship student's parent incurred the expense in the education of the scholarship student; or

(ii) reimburse [~~a scholarship~~]an expense for a service or good that a provider that is not a qualifying provider provides unless:

(A) the parent or scholarship student submits a receipt that shows the cost and type of service or good and the name of provider; [~~and~~]

(B) the expense would have qualified as a scholarship expense if a qualifying provider provided the good or service;

(C) the provider of the good or service is not the parent of the student who is a home-based scholarship student solely in relation to the parent's child; and

[~~(B)~~](D) the program manager determines that the parent or scholarship student incurred the expense in the education of the scholarship student.

(d) The parent of a scholarship student may not receive scholarship funds as payment for the parent's time spent educating the parent's child.

(e) Except for cases in which a scholarship student or the scholarship student's parent is convicted of fraud in relation to scholarship funds, if a qualifying provider, scholarship student, or scholarship student's parent repays an expenditure from a scholarship account for an expense that is not approved under this Subsection (7), the program manager shall credit the repaid amount back to the scholarship account balance within 30 days after the day on which the program manager receives the repayment.

(8) Notwithstanding any other provision of law, funds that the program manager disburses under this part to a scholarship account on behalf of a scholarship student do not constitute state taxable income to the parent of the scholarship student.

(9) The program manager shall prepare and disseminate information on the program to a parent applying for a scholarship account on behalf of a student, including the information that the program manager provides in accordance with Section 53F-6-405.

(10) On or before September 1, 2023, and as frequently as necessary to maintain the information, the state board shall provide information on the state board's website, including:

(a) scholarship account information;

(b) information on the program manager, including the program manager's contact information; and

(c) an overview of the program.

Section 4. Section 53F-6-404 is amended to read:

53F-6-404. State board procurement and review of program manager -- Failure to comply.

(1)(a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals, on or before June 15, 2023, and enter an agreement with no more than one organization that qualifies as tax exempt under Section 501(c)(3), Internal Revenue Code, for the state board to recognize as the program manager, on or before September 1, 2023.

(b) An organization that responds to a request for proposals described in Subsection (1)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify a student's eligibility under this part;

(iv) a description of the organization's proposed scholarship account application process; and

(v) an affidavit or other evidence that the organization:

(A) is not affiliated with any international organization;

(B) does not harvest data for the purpose of reproducing or distributing the data to another entity; and

(C) has no involvement in guiding or directing any curriculum standards.

(c) The state board shall ensure that the agreement described in Subsection (1)(a):

(i) ensures the efficiency and success of the program; and

(ii) does not impose any requirements on the program manager that:

(A) are not essential to the basic administration of the program; or

(B) create restrictions, directions, or mandates regarding instructional content or curriculum.

(2) The state board may regulate and take enforcement action as necessary against a program manager in accordance with the provisions of the state board's agreement with the program manager.

(3)(a) If the state board determines that a program manager has violated a provision of this part or a provision of the state board's agreement with the program manager, the state board shall send written notice to the program manager explaining the violation and the remedial action required to correct the violation.

(b) A program manager that receives a notice described in Subsection (3)(a) shall, no later than 60 days after the day on which the program manager receives the notice, correct the violation and report the correction to the state board.

(c)(i) If a program manager that receives a notice described in Subsection (3)(a) fails to correct a violation in the time period described in Subsection (3)(b), the state board may bar the program manager from further participation in the program.

(ii) A program manager may appeal a decision of the state board under Subsection (3)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A program manager may not accept state funds while the program manager:

(i) is barred from participating in the program under Subsection (3)(c)(i); or

(ii) has an appeal pending under Subsection (3)(c)(ii).

(e) A program manager that has an appeal pending under Subsection (3)(c)(ii) may continue to administer scholarship accounts during the pending appeal.

(4) The state board shall establish a process for a program manager to report the information the program manager is required to report to the state board under Section 53F-6-405.

(5) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and include provisions in the state board's agreement with the scholarship organization for:

(a) subject to Subsection (6), the administration of scholarship accounts and disbursement of scholarship funds if a program manager is barred from participating in the program under Subsection (3)(c)(i); and

(b) audit and report requirements as described in Section 53F-6-405.

(6)(a) The state board shall include in the rules and provisions described in Subsection (5)(a) measures to ensure that the establishment and maintenance of scholarship accounts and enrollment in the program are not disrupted if the program manager is barred from participating in the program.

(b) The state board may, if the program manager is barred from participating in the program, issue a new request for proposals and enter into a new agreement with an alternative program manager in accordance with this section.

(7)(a) On or before January 1, 2024, the [~~state board~~]program manager shall:

(i) [~~make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to~~]establish a process for a scholarship student or a scholarship student's parent to appeal any administrative decision of the program manager[~~for state board resolution within 30 days after the day of the appeal~~], including[~~:~~]

[~~(A)~~] scholarship expense denials[~~; and (B)~~] and determinations regarding enrollment eligibility or suspension or disqualification under Section 53F-6-405; [~~and~~]

(ii) ensure that the body that determines the outcome of internal appeals:

(A) includes parents of scholarship students; and

(B) makes a determination within 30 days after the day of the appeal;

[~~(ii)~~](iii) make information available regarding the internal appeals process on the [~~state board's~~]program manager's website and on the scholarship application.

(b) If the [~~state board~~]program manager stays or reverses an administrative decision of the program manager on internal appeal, the program manager may not withhold scholarship funds or application approval for the scholarship student on account of the appealed administrative decision unless as the [~~state board~~]resolution of the internal appeal expressly allows.

(8) The state board may not include a provision in any rule that creates or implies a restriction, direction, or mandate regarding instructional content or curriculum.

(9) No later than 10 business days after July 1 of each year, the state board shall disperse to the program manager an amount equal to the funds appropriated for the Utah Fits All Scholarship Program for the given fiscal year.

Section 5. Section 53F-6-405 is amended to read:

53F-6-405. Program manager duties -- Audit -- Prohibitions.

(1) The program manager shall administer the program, including:

(a) maintaining an application website that includes information on enrollment, relevant application dates, and dates for notification of acceptance;

(b) reviewing applications from and determining if a person is:

(i) an eligible school under Section 53F-6-408; or

(ii) an eligible service provider under Section 53F-6-409;

(c) establishing an application process, including application dates opening before March 1, 2024, in accordance with Section 53F-6-402;

(d) reviewing and granting or denying applications for a scholarship account;

(e) providing an online portal for the parent of a scholarship student to access the scholarship student's account to facilitate payments to a qualifying provider from the online portal;

(f) ensuring that scholarship funds in a scholarship account are readily available to a scholarship student;

(g) requiring a parent to notify the program manager if the parent's scholarship student is no longer enrolled in or engaging a service:

(i) for which the scholarship student receives scholarship funds; and

(ii) that is provided to the scholarship student for an entire school year;

(h) obtaining reimbursement of scholarship funds from a qualifying provider that provides the services in which a scholarship student is no longer enrolled or with which the scholarship student is no longer engaged;

(i) expending all revenue from interest on scholarship funds or investments on scholarship expenses;

(j) each time the program manager makes an administrative decision that is adverse to a scholarship student or the scholarship student's parent, informing the scholarship student and the scholarship student's parent of the opportunity and process to appeal an administrative decision of the program manager[~~ to the state board~~] in accordance with the process described in Section 53F-6-404;

(k) maintaining a protected internal waitlist of all eligible students who have applied to the program and are not yet scholarship students, including any student who removed the student's application from the waitlist; and

(l) providing aggregate data regarding the number of scholarship students and the number of eligible students on the waitlist described in Subsection (1)(k).

(2) The program manager shall:

(a) contract with one or more private entities to develop and implement a commercially viable, cost-effective, and parent-friendly system to:

(i) establish scholarship accounts;

(ii) maximize payment flexibility by allowing:

(A) for payment of services to qualifying providers using scholarship funds by electronic or online funds transfer from the online portal; and

(B) pre-approval of a reimbursement to a parent for a good that is a scholarship expense; and

(iii) allow scholarship students and scholarship student's parents to publicly rate, review, and share information about qualifying providers; [~~and~~]

(b) except for a reimbursement authorized under this part, ensuring the use of scholarship funds from the online portal directly to a qualifying provider to pay for scholarship expenses without the availability of withdrawal or other direct access to scholarship funds by an individual; and

[~~(b)~~](c) ensure that the system complies with industry standards for data privacy and cybersecurity, including ensuring compliance with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

(3) In advance of the program manager accepting applications in accordance with Section 53F-6-402 and as regularly as information develops, the program manager shall provide information regarding the program by publishing a program handbook online for scholarship applicants, scholarship students, parents, service providers seeking to become qualifying providers, and qualifying providers, that includes information regarding:

(a) the policies and processes of the program;

(b) approved scholarship expenses and qualifying providers;

(c) the responsibilities of parents regarding the program and scholarship funds;

(d) the duties of the program manager;

(e) the opportunity and process to appeal an administrative decision of the program manager[~~ to the state board~~] in accordance with the process described in Section 53F-6-404; and

(f) the role of any private financial management firms or other private organizations with which the program manager may contract to administer any aspect of the program.

(4) To ensure the fiscal security and compliance of the program, the program manager shall:

(a) prohibit a program manager employee or program manager officer from handling, managing, or processing scholarship funds, if, based on a criminal background check that the state board conducts in accordance with Section 53F-6-407, the state board identifies the program manager employee or program manager officer as posing a risk to the appropriate use of scholarship funds;

(b) establish procedures to ensure a fair process to:

(i) suspend scholarship student's eligibility for the program in the event of the scholarship student's or scholarship student's parent's:

(A) intentional or substantial misuse of scholarship funds; or

(B) violation of this part or the terms of the program; and

(ii) if the program manager obtains evidence of fraudulent use of scholarship funds, refer the case to the attorney general for collection or criminal investigation;

(iii) ensure that a scholarship student whose eligibility is suspended or disqualified under this Subsection (4)(b) or Subsection (4)(c) based on the actions of the student's parent regains eligibility if the student is placed with a different parent or otherwise no longer resides with the parent related to the suspension or disqualification;

(c) notify the state board, scholarship student, and scholarship student's parent in writing:

(i) of the suspension described in Subsection (4)(b)(i);

(ii) that no further transactions, disbursements, or reimbursements are allowed;

(iii) that the scholarship student or scholarship student's parent may take corrective action within 10 business days of the day on which the program manager provides the notification; and

(iv) that without taking the corrective action within the time period described in Subsection (4)(c)(iii), the program manager may disqualify the student's eligibility.

(5)(a) A program manager may not:

(i) disburse scholarship funds to a qualifying provider or allow a qualifying provider to use scholarship funds if:

(A) the program manager determines that the qualifying provider intentionally or substantially misrepresented information on overpayment;

(B) the qualifying provider fails to refund an overpayment in a timely manner; or

(C) the qualifying provider routinely fails to provide scholarship students with promised educational services; or

(ii) reimburse with scholarship funds an individual for the purchase of a good or service if the program manager determines that:

(A) the scholarship student or the scholarship student's parent requesting reimbursement intentionally or substantially misrepresented the cost or educational purpose of the good or service; or

(B) the relevant scholarship student was not the exclusive user of the good or service.

(b) A program manager shall notify a scholarship student if the program manager:

(i) stops disbursement of the scholarship student's scholarship funds to a qualifying provider under Subsection (5)(a)(i); or

(ii) refuses reimbursement under Subsection (5)(a)(ii).

(6)(a) At any time, a scholarship student may change the qualifying provider to which the scholarship student's scholarship account makes distributions.

(b) If, during the school year, a scholarship student changes the student's enrollment in or engagement with a qualifying provider to another qualifying provider, the program manager may prorate scholarship funds between the qualifying providers based on the time the scholarship student received the goods or services or was enrolled.

(7) A program manager may not subvert the enrollment preferences required under Section 53F-6-402 or other provisions of this part to establish a scholarship account on behalf of a relative of a program manager officer.

(8) The program manager shall:

(a) contract for annual and random audits on scholarship accounts conducted:

(i) by a certified public accountant who is independent from:

(A) the program manager;

(B) the state board; and

(C) the program manager's accounts and records pertaining to scholarship funds; and

(ii) in accordance with generally accepted auditing standards;

(b) demonstrate the program manager's financial accountability by annually submitting to the state board the following:

(i) a financial information report that a certified public accountant prepares and that includes the total number and total dollar amount of scholarship funds disbursed during the previous calendar year; and

(ii) no later than 180 days after the last day of the program manager's fiscal year, the results of the audits described in Subsection (8)(a), including the program manager's financial statements in a format that meets generally accepted accounting principles.

(9)(a) The state board:

(i) shall review a report described in this section; and

(ii) may request that the program manager revise or supplement the report if the report does not fully comply with this section.

(b) The program manager shall provide to the state board a revised report or a supplement to the report no later than 45 days after the day on which

the state board makes a request described in Subsection (9)(a).

Section 6. Section 53F-6-408 is amended to read:

53F-6-408. Eligible schools.

(1) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with 150 or more enrolled students shall:

(a)(i) contract with an independent licensed certified public accountant to conduct an agreed upon procedures engagement as the state board adopts, or obtain an audit and report that:

(A) a licensed independent certified public accountant conducts in accordance with generally accepted auditing standards;

(B) presents the financial statements in accordance with generally accepted accounting principles; and

(C) audits financial statements from within the 12 months immediately preceding the audit; and

(ii) submit the audit report or report of the agreed upon procedure to the program manager when the private school applies to receive scholarship funds;

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d;

(c) provide a written disclosure to the parent of each prospective scholarship student, before the student is enrolled, of:

(i) the education services that the school will provide to the scholarship student, including the cost of the provided services;

(ii) tuition costs;

(iii) additional fees the school will require a parent to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective scholarship student will participate; and

(d) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold:

(A) a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure; or

(B) if the private school is not physically located in Utah, a current educator license in the state where the private school is physically located; and

(ii) a contract employee.

(2) A private school described in Subsection (1) is not eligible to receive scholarship funds if:

(a) the private school requires a scholarship student to sign a contract waiving the scholarship student's right to transfer to another qualifying provider during the school year;

(b) the audit report described in Subsection (1)(a) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures described in Subsection (1)(a) shows that the private school does not have adequate working capital to maintain operations for the first full year.

(3) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, a private school with fewer than 150 enrolled students shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer a scholarship student; and

(iv) any other information as required by the program manager; and

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d.

(4) A private school described in Subsection (3) is not eligible to receive scholarship funds if the private school requires a scholarship student to sign a contract waiving the student's rights to transfer to another qualifying provider during the school year.

(5) To be eligible to receive scholarship funds on behalf of a scholarship student as an eligible school, an LEA shall:

(a) provide to the program manager:

(i) a federal employer identification number;

(ii) the LEA's address and contact information; and

(iii) the amount to be charged under the program for, in correlation with the LEA's course and activity fee schedules, and a description of [~~each~~]a class, program, or service the LEA [~~proposes to offer to scholarship students; and~~]provides to a home-based scholarship student;

[~~(iv) any other information as required by the program manager;~~]

(b) comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) [~~enter into an agreement with the program manager regarding~~]ensure the provision of services to a scholarship student through which:

(i) the scholarship student does not enroll in the LEA; and

(ii) in accordance with Subsection 53F-2-302(2), the LEA does not receive WPU funding related to the student's participation with the LEA[~~; and~~].

[~~(iii) the LEA and program manager ensure that a scholarship student does not participate in a course or program at the LEA except in accordance with the agreement described in this Subsection (5)(c) under the program.~~]

(6) An LEA described in Subsection (5) is not eligible to receive scholarship funds if:

(a) the LEA requires a public education system scholarship student to sign a contract waiving the student's rights to [~~transfer to~~]engage with another qualifying provider for a scholarship expense during the school year; or

(b) the LEA refuses to offer services that do not require LEA enrollment to scholarship students under the program.

(7) Residential treatment facilities licensed by the state are not eligible to receive scholarship funds.

(8) A private school or LEA intending to receive scholarship funds shall:

(a)(i) for a private school, submit an application to the program manager; [~~and~~]or

(ii) for an LEA, submit a notice to the program manager containing the information described in Subsection (5)(a); and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship student's parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(9) The program manager shall:

(a) if the private school or LEA meets the eligibility requirements of this section, recognize the private school or LEA as an eligible school and, for a private school, approve the application; and

(b) make available to the public a list of eligible schools approved under this section.

(10) A private school approved under this section that changes ownership shall:

(a) cease operation as an eligible school until:

(i) the school submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Section 7. Section 53F-6-409 is amended to read:

53F-6-409. Eligible service providers.

(1) To be an eligible service provider, a private program or service:

(a) shall provide to the program manager:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and

(iv) subject to Subsection (2), any other information as required by the program manager;

(b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.

(2) The program manager shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.

(3) A private program or service intending to receive scholarship funds shall:

(a) submit an application to the program manager; and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(4) The program manager shall:

(a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and

(b) make available to the public a list of eligible service providers approved under this section.

(5) A private program or service approved under this section that changes ownership shall:

(a) cease operation as an eligible service provider until:

(i) the program or service submits a new application to the program manager; and

(ii) the program manager approves the new application; and

(b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.

(6) The following are not eligible service providers:

(a) a parent of a home-based scholarship student or a home school student solely in relation to the parent's child; or

(b) any other individual that does not meet the requirements described in this section.

(7) Nothing prohibits an entity that provides education services under the Statewide Online Education Program described in Title 53F, Chapter 4, Part 5, Statewide Online Education Program, from operating as an eligible service provider under this part to provide education services to scholarship students.

Section 8. Section 53F-6-412 is amended to read:

53F-6-412. Reports.

Beginning in 2025 and in accordance with Section 68-3-14 and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g[~~:~~]

[~~(1)~~] , the program manager shall submit a report on the program to the Education Interim Committee no later than September 1 of each year that includes:

[~~(a)~~](1) the total amount of tuition and fees qualifying providers charged for the current year and previous two years;

[~~(b)~~](2) the total amount of goods paid for with scholarship funds in the previous year and a general characterization of the types of goods;

[~~(c)~~](3) administrative costs of the program;

[~~(d)~~](4) the number of scholarship students from each county and the aggregate number of eligible students on the waitlist described in Section 53F-6-405;

[~~(e)~~](5) the percentage of first-time scholarship students who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

[~~(f)~~](6) the program manager's strategy and outreach efforts to reach eligible students whose family income is at or below 200% of the federal poverty level and related obstacles to enrollments;

[~~(g)~~](7) in the report that the program manager submits in 2025, information on steps the program manager has taken and processes the program manager has adopted to implement the program; and

[~~(h)~~](8) any other information regarding the program and the program's implementation that the committee requests[~~; and~~].

[~~(2) the state board shall submit a report on the cost-effectiveness of the program to the Education Interim Committee no later than September 1 of each year.~~]

Section 9. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(cc) Notwithstanding Subsection (2), the commission may, upon request, disclose a taxpayer's state individual income tax information to a program manager of the Utah Fits All Scholarship Program under Section 53F-6-402 if:

(i) the taxpayer consents in writing to the disclosure;

(ii) the taxpayer's written consent includes the taxpayer's name, social security number, and any other information the commission requests that is necessary to verify the identity of the taxpayer; and

(iii) the program manager provides the taxpayer's written consent to the commission.

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 10. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1)(a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3)(a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c)(i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee- assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee- assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee- assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee- assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee- assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee- assessing unit access to an account.

(e) If the local taxing or fee- assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non- registration, as that term is defined in Section 67- 1a- 15.

(b) If the state auditor receives a notice of non- registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67- 1a- 15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67- 1a- 15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67- 1a- 15, or a state or local taxing or fee- assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee- assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee- assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67- 4- 1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14)(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to

determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15)(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v)(A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17)(a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state

auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402, including an analysis of the cost effectiveness of the program, taking into consideration the amount of the scholarship and the amount of state and local funds dedicated on a per-student basis within the traditional public education system.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 27
H. B. 14
Passed February 27, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL THREAT PENALTY AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses threatening or falsely reporting an emergency at a school.

Highlighted Provisions:

This bill:

- requires a student to be suspended or expelled from a public school if the student makes a false emergency report targeted at a school;
- enhances the penalties for making a threat against a school;
- makes it a second degree felony for an actor to make a false emergency report in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-205, as last amended by Laws of Utah 2019, Chapter 293
76-5-107.1, as last amended by Laws of Utah 2022, Chapter 181
76-9-202, as last amended by Laws of Utah 2022, Chapter 161

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

Section 1. Section 53G-8-205 is amended to read:

53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for [~~any of~~]the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2)(a) A student shall be suspended or expelled from a public school for [~~any of~~]the following reasons:

(i) [~~any~~]a serious violation affecting another student or a staff member, or [~~any~~]a serious violation occurring in a school building, in or on school property, or in conjunction with [~~any~~]a school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

(C) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3;[~~ or~~]

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor; or

(iii) making a false report of an emergency at a school under Subsection 76-9-202(2)(d).

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's local school board superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the school district or charter school, and the student, to modify the expulsion term to less than a year, conditioned on approval by the local school board or charter school governing board and giving highest

priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

(5) Each local school board and charter school governing board shall prepare an annual report for the state board on:

(a) each violation committed under this section; and

(b) each action taken by the school district against a student who committed the violation.

Section 2. Section 76-5-107.1 is amended to read:

76-5-107.1. Threats against schools.

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

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76-10-401.

(ii) "School" means a preschool or a public or private elementary or secondary school.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor is guilty of making a threat against a school if the actor threatens[~~in person or via electronic means, either~~], with real intent or as an intentional hoax, to commit [~~any~~]an offense involving bodily injury, death, or substantial property damage and the actor:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction;

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3)(a)(i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a [~~class A misdemeanor~~]third degree felony.

(ii) A violation of Subsection (2)(b)(ii) is a class [~~B~~]A misdemeanor.

(iii) A violation of Subsection (2)(c) is a class [~~C~~]B misdemeanor.

(b)(i) In addition to [~~any other~~]another penalty authorized by law, a court shall order an actor convicted [~~of a violation of~~]under this section to pay restitution to [~~any~~]a federal, state, or local unit of government, or [~~any~~]a private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(ii) Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80-6-710.

(4) It is not a defense to this section that the actor did not attempt to carry out the threat or was incapable of carrying out the threat.

(5)[~~(a)~~] A violation of this section shall be reported to the local law enforcement agency.

[~~(b) If the actor alleged to have violated this section is a minor, the minor may be referred to the juvenile court.~~]

(6) Counseling for [~~the~~]a minor alleged to have violated this section and the minor's family may be made available through state and local health department programs.

Section 3. Section 76-9-202 is amended to read:

76-9-202. Emergency reporting -- Interference -- False report.

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

[~~(a)~~](i) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

[~~(b)~~](ii) "Party line" means a subscriber's line or telephone circuit:

[~~(i)~~](A) that consists of two or more connected main telephone stations; and

[~~(ii)~~](B) where each telephone station has a distinctive ring or telephone number.

(b) Terms defined in Sections 76-1-101.5 apply to this section.

(2) An actor is guilty of emergency reporting abuse if the actor:

(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another individual upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;

(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists;

(c) except as provided in Subsection (2)(d), reports an emergency or causes an emergency to be reported, through any means, to [~~any~~]a public, private, or volunteer entity whose purpose is to

respond to fire, police, or medical emergencies, when the actor knows the reported emergency does not exist; or

(d) makes a false report, or intentionally aids, abets, or causes [~~a third party~~]another person to make a false report, through any means to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, if the false report claims that:

(i) an [~~ongoing~~]emergency exists or will exist;

(ii) the emergency described in Subsection (2)(d)(i) [~~currently involves, or~~]involves an imminent or future threat of[~~,~~] serious bodily injury, serious physical injury, or death; and

(iii) the emergency described in Subsection (2)(d)(i) is occurring or will occur at a specified location.

(3)(a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.

(b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided under Subsection (3)(c).

(c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding a weapon of mass destruction, as defined in Section 76- 10- 401.

(d) A violation of Subsection (2)(d)[~~:~~]

[~~(i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or (ii)~~] is a second degree felony [~~if:~~].

[~~(A) while acting in response to the report, the emergency responder causes physical injury to an individual at the location described in Subsection (2)(d)(iii); or~~]

[~~(B) the actor makes the false report or aids, abets, or causes a third party to make the false report with intent to ambush, attack, or otherwise harm a responding law enforcement officer or emergency responder.~~]

(4)(a) In addition to [~~any other~~]another penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse[~~:~~]

[~~(i) any~~]a federal, state, or local unit of government, or [~~any~~]a private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation[~~; and~~].

[~~(ii) an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the physical injury and any psychological injury caused by the offense.~~]

(b) The court may order that the defendant pay less than the full amount of the costs described in Subsection (4)(a) only if the court states on the record the reasons why the reimbursement would be inappropriate.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 28
H. B. 19
Passed February 1, 2024
Approved March 12, 2024
Effective May 1, 2024

HIGHER EDUCATION FINANCIAL AID AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends the definition of "fees" to include additional expenses.

Highlighted Provisions:

This bill:

- amends the definition of "fees" to include additional expenses; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

39A-3-201, as renumbered and amended by Laws of Utah 2022, Chapter 373

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

Section 1. Section 39A-3-201 is amended to read:

39A-3-201. Tuition and fees assistance for Utah National Guard members -- Use and allocation -- Appropriation.

(1)(a) As used in this section, "fees" means general course fees, in addition to tuition, that are:

(i) imposed by an institution of higher education; and

(ii) required to be paid by a student to engage in a course of study at the institution of higher education.

(b) "Fees" [~~does not include~~] includes:

(i) a special course fee[~~.~~]; and

(ii) expenses for required:

(A) text books; and

(B) course related materials.

(2) The Utah National Guard may provide tuition and fees assistance to a member of the Utah National Guard for study at an institution of higher education, subject to the following requirements:

(a) the individual shall be, at the time the individual receives the assistance, an active member of the Utah National Guard; and

(b) the assistance is for tuition and fees only and may not be more than the resident tuition and fees for the actual course of postsecondary study engaged in by the individual.

(3)(a) Tuition and fees assistance shall be awarded as the adjutant general considers necessary.

(b) An individual may apply to the adjutant general of the state for assistance for each year during which the individual is an active member of the Utah National Guard.

(c) The adjutant general may recoup funds if a recipient fails to meet the requirements of the program.

(4) The adjutant general of the state shall pay tuition and fees assistance directly to the institution of higher education from the funds appropriated.

(5) The adjutant general of the state shall establish regulations, procedures, forms, and reports necessary to administer the allocation of assistance and payment of funds under this section.

(6) The adjutant general may use no more than 10% of the funds for administration of the program as the adjutant general considers necessary.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 29
H. B. 22
Passed February 1, 2024
Approved March 12, 2024
Effective May 1, 2024

CONCURRENT ENROLLMENT REVISIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill expands the eligibility of a PRIME program certificate.

Highlighted Provisions:

This bill:

- expands the eligibility options to earn a TRANSFORM certificate;
- requires the Utah Board of Higher Education to determine scholarship amounts; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-309, as last amended by Laws of Utah 2023, Chapter 167

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

Section 1. Section 53E-10-309 is amended to read:

53E-10-309. Utah PRIME Program -- LAUNCH certificate -- TRANSFORM certificate.

(1) As used in this section:

(a) "Eligible institution" means:

(i) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in [~~Section~~]Subsection 53B-2-101(1); or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Industry certification" means a career and technical education certification awarded through validation of skills in cooperation with a business, trade association, or other industry group, in accordance with rules adopted by the state board under Section 53F-2-311.

(c) "Institutional certificate" means a career and technical education program completion certificate awarded by the state board, an institution of higher education, or a technical college.

(d) "LAUNCH certificate" means a certificate of completion awarded by the state board to an eligible student who meets the criteria described in this section.

(e) "Participating LEA" means an LEA that participates in the program.

(f) "Program" means the Utah PRIME program described in Subsection [~~(5)~~](6).

(g) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

(h) "Qualifying student" means an eligible student who meets the criteria for a LAUNCH certificate or a TRANSFORM certificate as described in this section.

(i) "Technical college" means the same as that term is defined in Section 53B-1-101.5.

(j) "TRANSFORM certificate" means a certificate of completion established by the Utah Board of Higher Education in accordance with Section 53B-16-105.

(2) The state board shall award a LAUNCH certificate to an eligible student who:

(a) completes six concurrent enrollment credits;

(b) is awarded an industry certification or institutional certificate; and

(c) has on file a plan for college and career readiness.

(3) The state board shall award a TRANSFORM certificate to an eligible student who completes:

(a) [~~completes~~]both:

(i) the requirements established by the Utah Board of Higher Education in accordance with Section 53B-16-105 and in coordination with the state board; and

(ii) completes five general education courses, each from a different general education category, as designated for concurrent enrollment by the Utah Board of Higher Education; [~~or~~]

(b) [~~completes~~] a career and technical education program that is at least 300 hours or 6 courses[~~.~~]; or

(c) a youth apprenticeship as described in Sections 35A-6-102 and 35A-6-104.5.

[~~(c)~~](4)[~~(i)~~](a) Subject to appropriations by the Legislature, the Utah Board of Higher Education shall award to each student who earns a TRANSFORM certificate a [~~$500~~]PRIME scholarship to be used at an eligible institution.

(b) The Utah Board of Higher Education shall annually determine the PRIME scholarship amount based on:

(i) the number of eligible students; and

(ii) appropriations made by the Legislature.

[~~(ii)~~](c) A student may earn the scholarship described in Subsection [~~(3)(c)(i) regardless of whether the student receives~~](4)(a) and an Opportunity Scholarship award described in Section 53B-8-201.

[~~(4)~~](5) The Utah Board of Higher Education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that credits described in Subsections (2) and (3) earned by a qualifying student are transferable to institutions of higher education.

[~~(5)~~](6) In accordance with this section, and subject to appropriations by the Legislature for this purpose, the state board shall:

(a) administer the Utah PRIME program to expand access to concurrent enrollment courses and career and technical education certificates by expanding digital delivery models for distance learning programs or funding enrollment in participating LEAs; and

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish eligibility requirements for a participating LEA;

(ii) create an application process for LEAs to apply for the program; and

(iii) create a funding formula for participating LEAs.

(c) A participating LEA shall offer concurrent enrollment courses, including career and technical education courses, that meet the requirements for the LAUNCH certificate and TRANSFORM certificate.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 30
H. B. 31
Passed February 26, 2024
Approved March 12, 2024
Effective May 1, 2024

AGRITOURISM AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses agritourism activities.

Highlighted Provisions:

This bill:

- defines terms;
- expands agricultural nuisance liability protections in relation to an agritourism activity;
- provides that an agricultural protection area may include an agritourism activity;
- requires the Department of Agriculture and Food to maintain an agritourism registry and describes requirements relating to the registry;
- includes additional risks inherent to participating in an agritourism activity;
- requires an agritourism operator to post signage regarding the inherent risks of participating in an agritourism activity;
- expands civil liability protections for an operator of an agritourism activity; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-44-102, as enacted by Laws of Utah 2019, Chapter 81
17-41-301, as last amended by Laws of Utah 2019, Chapter 227
26B-7-401, as renumbered and amended by Laws of Utah 2023, Chapter 308
78B-4-512, as last amended by Laws of Utah 2015, Chapter 63

ENACTS:

4-2-1001, Utah Code Annotated 1953
4-2-1002, Utah Code Annotated 1953

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

Section 1. Section 4-2-1001 is enacted to read:

4-2-1001. Definitions.

Part 10. Agritourism Registry

As used in this part:

(1) "Agricultural enterprise" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism activity" means the same as that term is defined in Section 78B-4-512.

(3) "Registry" means the voluntary agritourism registry described in Section 4-2-1002.

Section 2. Section 4-2-1002 is enacted to read:

4-2-1002. Agritourism registry.

(1) The department shall maintain a voluntary agritourism registry.

(2) The purpose of the registry is to provide public notice of locations where individuals may participate in an agritourism activity.

(3) The owner of an agricultural enterprise that provides an agritourism activity in Utah may voluntarily place the agritourism activity on the registry by providing the following information to the department:

(a) the name and location of the agricultural enterprise;

(b) a description of the agritourism activity; and

(c) details relating to participation in the agritourism activity, including cost, hours of operation, and other relevant information.

(4) The owner of an agricultural enterprise with an agritourism activity on the registry shall notify the department of any changes to the information described in Subsection (3).

(5) The department:

(a) shall post the information on the registry to the department's website in a location where the public may conveniently access the information;

(b) may publicize the availability of the registry to the public; and

(c) may not charge a fee to be listed on, or to use, the registry.

(6) A registration under this section is in effect for five years, unless the owner requests removal at an earlier time.

Section 3. Section 4-44-102 is amended to read:

4-44-102. Definitions.

As used in this chapter:

(1)(a) "Agricultural operation" means [~~an activity engaged in the production for commercial purposes~~]the commercial production of crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products[~~ and the facilities, equipment, and property used to facilitate the activity~~].

(b) "Agricultural operation" includes[-]:

(i) the real property where the commercial production described in Subsection (1)(a) occurs;

(ii) a facility, a property, or equipment used to facilitate the commercial production described in Subsection (1)(a);

(iii) an agritourism activity, as defined in Section 78B-4-512; or

(iv) an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

(2) "Fundamental change to the operation" does not include:

(a) a change in ownership or size;

(b) an interruption of farming for a period of no more than three years;

(c) participation in a government-sponsored agricultural program;

(d) employment of new technology; or

(e) a change in the type of agricultural product produced.

(3) "Nuisance" means anything that is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

Section 4. Section 17-41-301 is amended to read:

17-41-301. Proposal for creation of a protection area.

(1)(a) A proposal to create an agriculture protection area, an industrial protection area, or critical infrastructure materials protection area may be filed with:

(i) the legislative body of the county in which the area is located, if the area is within the unincorporated part of a county; or

(ii) the legislative body of the city or town in which the area is located, if the area is within a city or town.

(b) A proposal to create a critical infrastructure protection area can only be initiated by the legislative body of the municipality or county. Creation of a critical infrastructure materials protection area is a legislative act.

(c)(i) To be accepted for processing by the applicable legislative body, a proposal under Subsection (1)(a) shall be signed by a majority in number of all owners of real property and the owners of a majority of the land area in agricultural production, industrial use, or critical infrastructure materials operations within the proposed relevant protection area.

(ii) For purposes of Subsection (1)(c)(i), the owners of real property shall be determined by the records of the county recorder.

(2) The proposal shall identify:

(a) the boundaries of the land proposed to become part of the relevant protection area;

(b) any limits on the types of agriculture production, industrial use, or critical infrastructure materials operations to be allowed within the relevant protection area; and

(c) for each parcel of land:

(i) the names of the owners of record of the land proposed to be included within the relevant protection area;

(ii) the tax parcel number or account number identifying each parcel; and

(iii) the number of acres of each parcel.

(3) An agriculture protection area, industrial protection area, or critical infrastructure materials protection area may include within its boundaries land used for a roadway, dwelling site, park, or other nonagricultural use, in the case of an industrial protection area, nonindustrial use, or in the case of a critical infrastructure materials protection area, use unrelated to critical infrastructure materials operations, if that land constitutes a minority of the total acreage within the[~~the~~] relevant protection area.

(4) An agricultural protection area may include within the boundaries of the agricultural protection area an agritourism activity, as defined in Section 78B-4-512.

[~~(4)~~](5) A county or municipal legislative body may establish:

(a) the manner and form for submission of proposals; and

(b) reasonable fees for accepting and processing the proposal.

[~~(5)~~](6) A county and municipal legislative body shall establish the minimum number of continuous acres that shall be included in an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

Section 5. Section 26B-7-401 is amended to read:

26B-7-401. Definitions.

As used in this part:

[~~(1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.~~]

[~~(2)~~](1) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism activity" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an [~~agricultural tourism~~]agritourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.

(5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:

(a) provides food services; and

(b) meets department recognized federal or state food service safety regulations for food handlers.

(6) "Certified food safety manager" means a manager of a food service establishment who:

(a) passes successfully a department-approved examination;

(b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and

(c) submits to the appropriate local health department the documentation required by Section 26B-7-412.

(7) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

(8) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

(9) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

(10)(a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

(11) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(12) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(13) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Section 6. Section 78B-4-512 is amended to read:

78B-4-512. Definitions -- Participation in an agritourism activity -- Limitations on civil liability -- Signage requirement.

(1) As used in this section:

[~~(a) "Agricultural tourism activity" means an educational or recreational activity that:~~]

[~~(i) takes place on a farm or ranch or other commercial agricultural, aquacultural, horticultural, or forestry operation; and~~]

[~~(ii) allows an individual to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural operations.~~]

[~~(b) "Agritourism" means the travel or visit by the general public to a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation for the enjoyment of, education about, or participation in the activities of the farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.~~]

(a) "Agricultural enterprise" means a farm, ranch, or other agricultural, aquacultural, horticultural, or forestry operation.

(b) "Agritourism" means the combination of agricultural production with tourism to attract participants from the general public to an agricultural enterprise for the entertainment, recreation, or education of the participants.

(c) "Agritourism activity" means an activity at an agricultural enterprise that a participant engages in or observes for recreation, education, or entertainment.

[~~(c)~~](d) "Inherent risk of an agritourism activity" means a danger, hazard, or condition [~~which is an integral~~]that is part of an [~~agricultural tourism~~]agritourism activity[~~ and that cannot be eliminated by the exercise of reasonable care~~], including:

(i) [~~natural~~] surface and subsurface conditions of land, vegetation, [~~and~~]or water on the property;

(ii) unpredictable behavior of domesticated or farm animals on the property; [~~or~~]

(iii) reasonable dangers of structures or equipment ordinarily used where agricultural or horticultural crops are grown or farm animals or farmed fish are raised[~~.~~];

(iv) behavior of insects or wildlife not owned or kept by the operator of the property;

(v) exposure to pathogens from animals, animal feed, animal waste, or other sources; or

(vi) negligent behavior by an individual other than the operator.

[~~(d)~~](e) "Operator" means:

(i) a person who [~~operates, provides, or demonstrates an agricultural tourism activity; or~~]owns or manages an agricultural enterprise where a participant engages in or observes an agritourism activity;

(ii) a person who provides an agritourism activity at an agricultural enterprise; or

[~~(ii)~~](iii) an employee of a person described in Subsection [~~(1)(d)(i)~~](1)(e)(i) or (ii).

[~~(e)~~](f)(i) "Participant" means an individual, other than [~~a provider or operator, who observes or participates in an agricultural tourism~~]an operator, who engages in or observes an agritourism activity, regardless of whether the individual [~~paid to observe or participate in an agricultural tourism~~]pays to engage in or observe the agritourism activity.

(ii) "Participant" does not mean an individual who is paid to participate in an [~~agricultural tourism~~]agritourism activity.

[~~(f)~~](g) "Property" means the real property where an [~~agricultural tourism~~]agritourism activity takes place[~~ and the buildings, structures, and improvements on that real property~~].

[~~(2) A participant in an agricultural tourism activity may not make any claim against, or recover damages from, any operator for injury primarily resulting from:~~]

[~~(a) an inherent risk of agritourism; or~~]

[~~(b) the participant's failure to:~~]

[~~(i) follow instructions given by the operator; or~~]

[~~(ii) exercise reasonable caution while engaged in an agricultural tourism activity.~~]

(2)(a) Except as provided in Subsection (3), an operator may not be liable for an injury, illness, death, or damage to personal property of a participant that results from an inherent risk of an agritourism activity if the operator posts the signage described in Subsection (5).

(b) An operator is not required to eliminate an inherent risk of an agritourism activity at the operator's agritourism activity.

(3) Nothing in Subsection (2):

(a) limits the liability of an operator if the operator:

(i) acts or omits an act in gross negligence or willful or wanton disregard for the safety of a participant that proximately causes injury, illness, death, or damage to personal property of a participant;

(ii) has actual knowledge or reasonably should have known of a dangerous condition on the land, facilities, or equipment used in the agritourism activity that proximately causes injury, illness, death, or damage to personal property of a participant;

(iii) has actual knowledge or reasonably should have known of the dangerous propensity of an animal used in an agritourism activity and does not make the danger known to the participant, and the danger proximately causes injury, illness, death, or damage to personal property of a participant; or

(iv) intentionally injures the participant;

(b) prevents or limits the liability of an operator under a product liability law; or

(c) negates assumption of risk as an affirmative defense.

(4) A limitation on legal liability afforded to an operator under Subsection (2) is in addition to any limitation of legal liability otherwise provided by law.

[~~(3)~~](5) An operator shall post and maintain, in a clearly visible location at each entrance to the property where an [~~agricultural tourism~~]agritourism activity takes place or at the location of each [~~agricultural tourism~~]agritourism activity, a sign [~~describing~~]that:

[~~(a) the inherent risks of the activity; and~~]

[~~(b) the limitations on liability of the operators.~~]

(a) is printed in black letters, that are a minimum of one inch in height, on a white background; and

(b) states, "WARNING: Under Utah law, an operator of an agritourism activity or the property where the activity takes place is not liable for the injury, illness, death, or damage to personal property of a participant that primarily results from the inherent risks of the activity or a participant's failure to follow instructions or exercise reasonable caution. You are assuming the risk of participating in or observing an agritourism activity."

[~~(4) In any action for damages for personal injury, death, or property damage in which an owner or operator of an agritourism activity is named as a defendant, the court shall undergo a comparative negligence analysis and consider whether:~~]

[~~(a) the injured person deliberately disregarded conspicuously posted signs, verbal instructions, or other warnings regarding safety measures during the activity; or~~]

[~~(b) any equipment, animals, or appliance used by the injured person during the activity were used in a manner or for a purpose other than that for which a reasonable person should have known they were intended.~~]

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 31
H. B. 42
Passed February 1, 2024
Approved March 12, 2024
Effective May 1, 2024

WATER RIGHTS PUBLICATION AMENDMENTS

Chief Sponsor: Joel K. Briscoe
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses publication of notices by the state engineer.

Highlighted Provisions:

This bill:

- permits the state engineer to confirm publication of a notice of application through electronic means; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-6, as last amended by Laws of Utah 2015, Chapter 285

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

Section 1. Section 73-3-6 is amended to read:

73-3-6. Publication of notice of application -- Corrections or amendments of applications -- Confirmation -- Withdrawal of application.

(1)(a) When an application is filed in compliance with this title, the state engineer shall publish a notice of the application:

(i) once a week for a period of two successive weeks in a newspaper of general circulation in the county in which the source of supply is located, and where the water is to be used; and

(ii) in accordance within Section 45-1-101 for two weeks.

(b) The notice shall:

(i) state that an application has been made; and

(ii) specify where the interested party may obtain additional information relating to the application.

(c) Clerical errors, ambiguities, and mistakes that do not prejudice the rights of others may be corrected by order of the state engineer either before or after the publication of notice.

(d) The state engineer may confirm publication of a notice of application under this Subsection (1) through electronic means.

(2) After publication of notice to water users, the state engineer may authorize amendments or corrections that involve a change of point of diversion, place, or purpose of use of water, only after republication of notice to water users.

(3)(a) An applicant or an applicant's successor in interest may withdraw an unperfected application by notifying, in writing, the state engineer of the withdrawal.

(b) Upon receipt of the notice described in Subsection (3)(a), the state engineer shall promptly update state engineer records to reflect that the application has been withdrawn and is of no further force or effect.

(c) An individual who withdraws an unperfected application under Subsection (3)(a) is not entitled to a refund of fees.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 32
H. B. 45
Passed February 28, 2024
Approved March 12, 2024
Effective July 1, 2024

SAFEUT AND SCHOOL SAFETY COMMISSION AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill extends the repeal date for the SafeUT and School Safety Commission.

Highlighted Provisions:

This bill:

- extends the repeal date for the SafeUT and School Safety Commission.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, [~~2025~~]2030.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(17) Section 53F-5-213 is repealed July 1, 2023.

(18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, [~~2025~~]2030.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(23) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, [~~2025~~]2030.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

(23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(26) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) The actions affecting Section 63I-1-253 (Effective 07/01/24) (Contingently Superseded 01/01/25), take effect on July 1, 2024.

(b) The actions affecting Section 63I-1-253 (Contingently Effective 01/01/25) take effect on January 1, 2025.

CHAPTER 33
H. B. 48
Passed February 27, 2024
Approved March 12, 2024
Effective May 1, 2024

UTAH ENERGY ACT AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies the Utah Energy Act.

Highlighted Provisions:

This bill:

- modifies reporting requirements for the Office of Energy Development;
- modifies the purposes of the Office of Energy Development to include:
  - developing strategies to advocate for state interests on federal energy and environmental programs;
  - overseeing legal strategy on federal overreach and permitting delays; and
  - engaging in federal rulemaking and advocacy for regulatory reform;
- directs the Office of Energy Development to adopt a master plan with data-driven modeling at a statewide level;
- requires adoption of best practices in development of state energy plans; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-203, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-401, as last amended by Laws of Utah 2023, Chapter 196

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

Section 1. Section 79-6-203 is amended to read:

79-6-203. Reports.

(1) The energy advisor shall report annually to:

(a) the appointing authority; and

(b) the [~~Natural Resources, Agriculture, and Environment Interim Committee~~]Public Utilities, Energy, and Technology Interim Committee.

(2) The report required in Subsection (1) shall:

(a) summarize the status and development of the state's energy resources;

(b) summarize the activities and accomplishments of the [~~Office of Energy Development~~]office;

(c) address the energy advisor's activities under this part; [~~and~~]

(d) recommend any energy-related executive or legislative action the energy advisor or office considers beneficial to the state, including updates to the state energy policy under Section 79-6-301[~~.~~]; and

(e) address long-term energy planning required under Subsection 79-6-401(10).

Section 2. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development in the Department of Natural Resources.

(2)(a) The energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.

(b) The director:

(i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; [~~and~~]

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development[~~.~~];

(f) in coordination with the Department of Environmental Quality and other relevant state agencies:

(i) develop effective policy strategies to advocate for and protect the state's interests relating to federal energy and environmental entities, programs, and regulations;

(ii) participate in the federal environmental rulemaking process by:

(A) advocating for positive reform of federal energy and environmental regulations and permitting;

(B) coordinating with other states to develop joint advocacy strategies; and

(C) conducting other government relations efforts; and

(iii) direct the funding of legal efforts to combat federal overreach and unreasonable delays regarding energy and environmental permitting; and

(g) fund the development of detailed and accurate forecasts of the state's long-term energy supply and demand, including a baseline projection of expected supply and demand and analysis of potential alternative scenarios.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, 63C-26-202, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6)(a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8)(a) An employee of the office is an at-will employee.

(b) For an employee of the office on July 1, 2021, the employee shall have the same salary and benefit options the employee had when the office was part of the office of the governor.

(9)(a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient [~~utilization~~]use and development of:

(A) [~~nonrenewable~~] energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall[-]:

(i) consult with stakeholders, including representatives from:

[~~(i)~~](A) energy companies in the state;

[~~(ii)~~](B) private and public institutions of higher education within the state conducting energy-related research; and

[~~(iii)~~](C) other state agencies[.];

(ii) use modeling and industry standard data to:

(A) define the energy services required by a growing economy;

(B) calculate energy needs;

(C) develop state strategy for energy transportation, including transmission lines, pipelines, and other infrastructure needs;

(D) optimize investments to meet energy needs at the least cost and least risk while meeting the policy outlined in this section;

(E) address state needs and investments through a prospective 30-year period, divided into five-year working plans; and

(F) update the plan at least every two years.

(c) On or before the October 2023 interim meeting, the office shall report to the Public Utilities, Energy, and Technology Interim Committee and the Executive Appropriations Interim Committee describing:

(i) progress towards creation of the strategic energy plan; and

(ii) a proposed budget for the office to continue development of the strategic energy plan.

(10) The office shall include best practices in developing actionable goals and recommendations as part of preparing and updating every two years the strategic energy plan required under Subsection (9).

(11) The office shall maintain and regularly update a public website that provides an accessible dashboard of relevant metrics and reports and makes available the data used to create the strategic energy plan.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 34
H. B. 54
Passed February 1, 2024
Approved March 12, 2024
Effective May 1, 2024

COAL MINER CERTIFICATION PANEL AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill extends the sunset date for the Coal Miner Certification Panel.

Highlighted Provisions:

This bill:

- extends the sunset date for the Coal Miner Certification Panel.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-234, as last amended by Laws of Utah 2020, Chapters 154, 332

63I-1-240, as enacted by Laws of Utah 2020, Chapter 154

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

Section 1. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection 34A-1-202(2)(c)(i), related to the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection 34A-1-202(2)(c)(iii), related to the Coal Miner Certification Panel, is repealed July 1, [~~2024~~]2034.

(3) Section 34A-2-107, which creates the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(4) Section 34A-2-202.5 is repealed December 31, 2030.

Section 2. Section 63I-1-240 is amended to read:

63I-1-240. Repeal dates: Title 40.

Section 40-2-204, which creates the Coal Miner Certification Panel, is repealed July 1, [~~2024~~]2034.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 35
H. B. 52
Passed February 28, 2024
Approved March 12, 2024
Effective January 1, 2025

INDUSTRIAL HEMP AMENDMENTS

Chief Sponsor: Jennifer Dailey- Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies and enacts provisions related to industrial hemp.

Highlighted Provisions:

This bill:

- defines terms;
- modifies serving size requirements;
- modifies provisions to allow the transportation of transportable industrial hemp concentrate under certain circumstances;
- repeals provisions related to the industrial hemp laboratory permit;
- repeals provisions related to the registration fee of a cannabinoid product;
- allows a local health department to notify the Department of Agriculture and Food regarding violations related to cannabinoid products;
- exempts a sale of a cannabinoid product from sales and use tax;
- enacts the Cannabinoid Product Licensing and Tax Act;
- authorizes the State Tax Commission to disclose to the Department of Agriculture information related to retailers that are licensed to sell and collect tax on a sale of a cannabinoid product;
- creates a grant program to encourage the production of industrial hemp products;
- requires law enforcement to conduct underage buying investigations regarding the sale of cannabinoid products that contain THC or a THC analog; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4- 41- 102, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 103.1, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 103.4, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 104, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 105, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 106, as last amended by Laws of Utah 2023, Chapter 146
4- 41- 403, as last amended by Laws of Utah 2023, Chapter 146
26A- 1- 114, as last amended by Laws of Utah 2023, Chapters 90, 327
58- 37- 2, as last amended by Laws of Utah 2022, Chapters 165, 415
58- 37- 3.6, as last amended by Laws of Utah 2023, Chapter 329
59- 1- 306, as last amended by Laws of Utah 2020, Chapter 294
59- 1- 403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
59- 12- 104, as last amended by Laws of Utah 2023, Chapters 213, 518
77- 39- 101, as last amended by Laws of Utah 2021, Chapter 291

ENACTS:

59- 31- 101, Utah Code Annotated 1953
59- 31- 201, Utah Code Annotated 1953
59- 31- 202, Utah Code Annotated 1953
59- 31- 203, Utah Code Annotated 1953
59- 31- 301, Utah Code Annotated 1953
59- 31- 302, Utah Code Annotated 1953
59- 31- 401, Utah Code Annotated 1953
59- 31- 402, Utah Code Annotated 1953
63N- 3- 1301, Utah Code Annotated 1953
63N- 3- 1302, Utah Code Annotated 1953

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

Section 1. Section 4- 41- 102 is amended to read:

4- 41- 102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to human health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoids;

(f) toxins; or

(g) foreign matter.

(2)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substances derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) cannabinoids that are produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(3) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956- 29- 1.

(4) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS# 1244-58-2.

(5) "Cannabinoid processor license" means a license that the department issues to a person for the purpose of processing a cannabinoid product.

(6) "Cannabinoid product" means a product that:

(a) contains or is represented to contain one or more naturally occurring cannabinoids;

(b) contains less than the cannabinoid product THC level, by dry weight;

(c) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content; [~~and~~]

(d) does not exceed a total of THC and any THC analog that is greater than:

(i) 5 milligrams per serving; and

(ii) 150 milligrams per package[~~.~~]; and

(e) unless the product is in an oil based suspension, has a serving size that:

(i) is an integer; and

(ii) is a discrete unit of the cannabinoid product.

(7) "Cannabinoid product class" means a group of cannabinoid products that:

(a) have all ingredients in common; and

(b) are produced by or for the same company.

(8) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(9) "Cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(9)~~](10) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

[~~(10)~~](11) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

[~~(11) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp.~~]

(12) "Industrial hemp producer registration" means a registration that the department issues to a person for the purpose of processing industrial hemp or an industrial hemp product.

(13) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any viable industrial hemp seed or cannabinoid product.

(14)(a) "Industrial hemp product" means a product made by processing industrial hemp plants or industrial hemp parts.

(b) "Industrial hemp product" does not include cannabinoid material.

(15) "Key participant" means any of the following:

(a) a licensee;

(b) an operation manager;

(c) a site manager; or

(d) an employee who has access to any industrial hemp material with a THC concentration above 0.3%.

[~~(16) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.~~]

[~~(17)~~](16) "Licensee" means a person possessing a cannabinoid processor license that the department issues under this chapter.

[~~(18)~~](17) "Non-compliant material" means:

(a) a hemp plant that does not comply with this chapter, including a cannabis plant with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

[~~(19)~~](18) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(20)~~](19) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(21)~~](20) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(22)~~](21) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS# 1972-08-3.

[~~(23)~~](22)(a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

[~~(24)~~](23) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

[~~(25)~~](24) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tertrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

(25) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

(a) is the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;

(b) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis;

(c) has a THC and THC analog concentration total that is less than 20% when concentrated from the cannabis plant to the purified state; and

(d) is intended to be processed into a cannabinoid product.

Section 2. Section 4-41-103.1 is amended to read:

4-41-103.1. Authority to regulate production, sale, and testing of cannabinoid products and industrial hemp -- Information sharing with the State Tax Commission.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish requirements for a cannabinoid processor license to process cannabinoid products;

(b) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products;

(c) establish the standards, methods, practices, and procedures a laboratory must use [~~to qualify for a permit to test~~]when:

(i) testing industrial hemp, transportable industrial hemp concentrate, and cannabinoid products; and [~~to dispose~~]

(ii) disposing of non-compliant material; [~~and~~]

(d) establish requirements for registration of processors of non-cannabinoid industrial hemp products[~~.~~]; and

(e) establish standards for transporting transportable industrial hemp concentrate into and out of the state.

(2) The department shall maintain a list of each licensee and permittee.

(3) Beginning January 1, 2025, the department shall provide to the State Tax Commission:

(a) a regularly updated list of every retailer permittee that sells a cannabinoid product;

(b) any information obtained by the department regarding a person who is not a retailer permittee and is selling a cannabinoid product; and

(c) the tax identification number:

(i) for a retailer permittee described in Subsection (3)(a); and

(ii) a person described in Subsection (3)(b).

Section 3. Section 4-41-103.4 is amended to read:

4-41-103.4. Industrial hemp laboratory testing.

(1) The department or a laboratory [~~permittee of~~]contracted with the department may test industrial hemp and cannabinoid products.

(2) The department or a laboratory [~~permittee of~~]contracted with the department may dispose of non-compliant material.

[~~(3) A laboratory seeking an industrial hemp laboratory permit shall:~~]

[~~(a) demonstrate to the department that:~~]

[~~(i) the laboratory and laboratory staff possess the professional certifications required by department rule;~~]

[~~(ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;~~]

[~~(iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting concentration levels of THC and any cannabinoid known to be present; and~~]

[~~(iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and~~]

[~~(b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:~~]

[~~(i) conducting a physical inspection; or~~]

[~~(ii) ensuring compliance with the requirements of this chapter.~~]

[~~(4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.~~]

[~~(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.~~]

Section 4. Section 4-41-104 is amended to read:

4-41-104. Product registration required for distribution -- Application -- Fees -- Renewal.

(1) A cannabinoid product class or cannabinoid product that is not registered with the department may not be distributed in this state.

(2) A person seeking registration for a cannabinoid product class or cannabinoid product shall[~~:~~]

[~~(a)~~] apply to the department on forms provided by the department[~~; and~~]for a registration for each cannabinoid product class or cannabinoid product the person intends to distribute in the state.

[~~(b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each cannabinoid product class or cannabinoid product the person intends to distribute in this state.~~]

(3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about a cannabinoid product class or cannabinoid product is accurate.

(4) Upon receipt by the department of a proper application [~~and payment of the appropriate fee~~], as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered cannabinoid product class or cannabinoid product in the state for one year from the date [~~of the payment of the fee~~]on which the application is approved, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Section 5. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2)(a) It is unlawful for any person to:

[~~(a)~~](i) distribute, sell, or market a cannabinoid product that is:

[~~(i)~~](A) not registered with the department under Section 4-41-104; or

[~~(ii)~~](B) noncompliant material;

[~~(b)~~](ii) except as provided in Subsection (2)(b), transport into or out of the state extracted material or final product that contains 0.3% or more of total THC and any THC analog;

[~~(c)~~](iii) sell or use a cannabinoid product that is:

[~~(i)~~](A) added to a conventional food or beverage, as the department further defines in rules described in Section 4-41-403;

[~~(ii)~~](B) marketed or manufactured to be enticing to children, as further defined in rules described in Section 4-41-403; or

[~~(iii)~~](C) smokable flower; or

[~~(d)~~](iv) knowingly or intentionally sell or give a cannabinoid product that contains THC or a THC analog in the course of business to an individual who is not at least 21 years old.

(b) A person may transport transportable industrial hemp concentrate if the person:

(i) complies with rules created by the department under Section 4-41-103.1 related to transportable industrial hemp concentrate; and

(ii)(A) has an industrial hemp producer registration; or

(B) the equivalent to an industrial hemp producer registration from another state.

(3) The department may seize and destroy non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 6. Section 4-41-106 is amended to read:

4-41-106. Enforcement -- Fine -- Citation.

(1) If a person violates this part, the department may:

(a) revoke the person's license or permit;

(b) decline to renew the person's license or permit; or

(c) assess the person a civil penalty that the department establishes in accordance with Section 4-2-304.

(2) Except for a fine that the department assesses for an unlicensed processor, an unregistered product, or the sale of a cannabinoid product to an individual younger than 21 years old, the department shall deposit a penalty imposed under this section into the General Fund.

(3) The department may take an action described in Subsection (4) if the department concludes, upon investigation, that a person has violated this

chapter, a rule made under this chapter, or an order issued under this chapter.

(4) If the department makes the conclusion described in Subsection (3), the department shall:

(a) issue the person a written administrative citation;

(b) attempt to negotiate a stipulated settlement;

(c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

(d) order the person to cease the violation; and

(e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department may, for a person, other than an individual, that is subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department may not revoke a cannabinoid processor license[~~,~~]or an industrial hemp retailer's permit[~~, or an industrial hemp laboratory permit~~] without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(7) If, within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(8) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's processor license[~~,~~]or retailer permit[~~, or laboratory permit~~]; or

(b) suspend, revoke, or place on probation the person's processor license[~~,~~]or retailer permit[~~, or laboratory permit~~].

Section 7. Section 4-41-403 is amended to read:

4-41-403. Standards for registration.

(1)(a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) to determine standards for a registered cannabinoid product, including standards for:

(A) testing to ensure the product is safe for human consumption; and

(B) accurate labeling;

(ii) governing an entity that manufactures cannabinoid products, including standards for health and safety;

(iii) to determine when and how a cannabinoid processor's cannabinoid must be tested by the department at the expense of the cannabinoid processor;

(iv) regarding what constitutes:

(A) a conventional food or beverage; and

(B) a product that is marketed or manufactured to be enticing to children; [~~and~~]

(v) regarding any other issue the department considers necessary for the safe production and sale of cannabinoid products[~~.~~]; and

(vi) for a cannabinoid product that is not in an oil based suspension, prohibiting a serving size that is less than the full portion of a discrete unit of the cannabinoid product.

(b) Notwithstanding Subsection (1)(a), the department may not prohibit a sugar coating on a cannabinoid product to mask the product's taste, subject to the limitations described in Subsection (1)(a)(iv) or (v).

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to immediately ban or limit the presence of any substance in a cannabinoid product after receiving a recommendation to do so from a public health authority as defined in Section 26B-1-102.

[~~(3) The department shall set a fee for a registered cannabinoid product, in accordance with Section 4-2-103.~~]

[~~(4)(a) A producer, manufacturer, or distributor of a cannabinoid product may pay the fee described in Subsection (3).~~]

[~~(b) A cannabinoid product may not be registered with the department until the fee described in Subsection (3) is paid.~~]

[~~(5)~~](3) The department shall set [~~an administrative fine, larger than the fee described in Subsection (3),~~]a fine of not more than $5,000 for a person who sells a cannabinoid product that is not registered by the department.

Section 8. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation

and Food Safety , in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; [~~and~~]

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities[~~.~~]; and

(q) when conducting routine inspections of businesses regulated by the local health department, notify the Department of Agriculture and Food of a potential violation of Title 4, Chapter 41, Hemp and Cannabinoid Act.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c)(i) make regular inspections of the health- related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health- related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7)(a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c)(i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d)(i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8)(a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b)(i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d)(i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9)(a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b)(i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c)(i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10)(a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the

capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 9. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f)(i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g)(i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h)(i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Professional Licensing created in Section 58- 1- 103.

(r)(i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self- control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa)(i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:

(A) seeds;

(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin;

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active; and

(E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

(E) the sterilized seed of the plant which is incapable of germination; [~~or~~]

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in

Section 58-37-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513[.]; or

(G) transportable industrial hemp concentrate as that term is defined in Section 4-41-102.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 10. Section 58-37-3.6 is amended to read:

58-37-3.6. Exemption for possession or distribution of a cannabinoid product, expanded cannabinoid product, or transportable industrial hemp concentrate.

(1) As used in this section:

(a) "Cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains at least 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(b) "Cannabis" means any part of the plant cannabis sativa, whether growing or not.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Expanded cannabinoid product" means a product intended for human ingestion that:

(i) contains an extract or concentrate that is obtained from cannabis;

(ii) is prepared in a medicinal dosage form; and

(iii) contains less than 10 units of cannabidiol for every one unit of tetrahydrocannabinol.

(e) "Hemp cannabinoid product" means a product that:

(i) contains or is represented to contain one or more naturally occurring cannabinoids;

(ii) contains less than the cannabinoid product THC level, by dry weight;

(iii) contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content;

(iv) does not exceed a total of THC and any THC analog that is greater than five milligrams per serving and 150 milligrams per package; and

(v) unless the product is in an oil based suspension, has a serving size that is an integer.

(f) "Transportable industrial hemp concentrate" means any amount of a natural cannabinoid in a purified state that:

(i) is the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass;

(ii) is derived from a cannabis plant that, based on sampling that was collected no more than 30 days before the day on which the cannabis plant was harvested, contains a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis; and

(iii) has a THC and THC analog concentration total less than 20% when concentrated from the cannabis plant to the purified state.

[~~(e)~~](g) "Medicinal dosage form" means:

(i) a tablet;

(ii) a capsule;

(iii) a concentrated oil;

(iv) a liquid suspension;

(v) a transdermal preparation; or

(vi) a sublingual preparation.

[~~(f)~~](h) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of this chapter an individual who possesses or distributes a cannabinoid product or an expanded cannabinoid product is not subject to the penalties described in this title for the possession or distribution of marijuana or tetrahydrocannabinol to the extent that the individual's possession or distribution of the cannabinoid product or expanded cannabinoid product complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(3) Notwithstanding any other provision of this chapter, a person who possesses and distributes transportable industrial hemp concentrate is not subject to the penalties described in this chapter for the possession or distribution of transportable industrial hemp concentrate if the transportable industrial hemp concentrate is handled in accordance with the rules established under Subsection 4-41-103.1(1)(e) or is destroyed.

Section 11. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenue into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

(a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(c) Section 19-6-714;

(d) Section 19-6-805;

(e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;

(f) Section 59-27-105;

(g) Chapter 31, Cannabinoid Licensing and Tax Act;

[~~(g)~~](h) Section 63H-1-205; or

[~~(h)~~](i) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges.

(2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."

(3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.

(4) For purposes of this section, the administrative charge is a percentage of [~~revenues~~]revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:

(a) 1.5%; or

(b) an equal percentage of [~~revenues~~]revenue the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.

(5) The commission shall deposit an administrative charge into the restricted account.

(6) Interest earned on the restricted account shall be deposited into the General Fund.

(7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section 12. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances

protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a

distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(cc) Notwithstanding Subsection (2), the commission may provide the Department of Agriculture and Food with information from a return filed in accordance with Chapter 31, Cannabinoid Licensing and Tax Act.

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 13. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4)(a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c)(i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10)(a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii)(A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b)(i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12)(a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13)(a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission

may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15)(a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17)(a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18)(a)(i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i)(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii)(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24)(a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59- 12- 103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b)(i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34)(a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41)(a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43)(a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in

accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51)(a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b)(i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54)(a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of

interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57)(a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58)(a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61)(a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62)(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63)(a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41- 1a- 202 or 73- 18- 9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase

has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70)(a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76)(a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or

replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah; [~~and~~]

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing[.]; and

(96) amounts paid or charged for sales of a cannabinoid product as that term is defined in Section 4-41-102.

Section 14. Section 59-31-101 is enacted to read:

59-31-101. Definitions.

CHAPTER 31. CANNABINOID LICENSING AND TAX ACT

Part 1. General Provisions.

As used in this chapter:

(1) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(2) "Licensee" means a retailer that holds a valid license under Part 2, Licensing, to sell a cannabinoid product.

(3) "Retail price" means the amount charged by a retailer for a cannabinoid product.

(4) "Retailer" means a person that sells a cannabionoid product to a consumer for personal use.

Section 15. Section 59-31-201 is enacted to read:

59-31-201. Prohibition on the sale of a cannabinoid product without license.

Part 2. Licensing.

(1) A person may not sell, offer to sell, or distribute a cannabinoid product in this state without first:

(a) obtaining a license from the commission under Section 59-31-202; and

(b) complying with the bonding requirement described in Section 59-31-202.

(2) It is a class B misdemeanor for a person to violate Subsection (1).

Section 16. Section 59-31-202 is enacted to read:

59-31-202. Issuance of license.

(1) The commission shall issue a license to sell a cannabinoid product to a retailer that submits an application, on a form created by the commission, that includes:

(a) the retailer's name;

(b) the address of the location permitted under Section 4-41-103.3 where the retailer sells the cannabinoid product; and

(c) any other information the commission requires to implement this chapter.

(2) A license is:

(a) valid at only one fixed business address;

(b) valid for three years;

(c) valid only for a physical location; and

(d) renewable if a licensee meets the criteria for licensing described in Subsection (1).

(3)(a) The commission shall require a retailer that is responsible under this part for the collection of tax on a cannabinoid product to post a bond.

(b) Subject to Subsection (3)(c), the commission shall determine the form and amount of the bond.

(c) The minimum amount of the bond shall be $500.

(4) In accordance with Title 63G, Chapter 3, Utah Rulemaking Authority, the commission may make rules to establish the additional information described in Subsection (1)(c) that a retailer shall provide in the application described in Subsection (1).

(5) The commission may not charge a fee for a license under this section.

(6) The license under this section is in addition to a license required under Section 4-41-103.3.

(7)(a) The commission shall maintain a public list that includes the identity of each person licensed under this section.

(b) The list shall:

(i) include the type of license possessed; and

(ii) be updated by the commission at least once per quarter.

Section 17. Section 59-31-203 is enacted to read:

59-31-203. License revocation and reinstatement.

(1) The commission shall, on a reasonable notice and after a hearing, revoke the license of any licensee violating any provisions of this chapter.

(2) A license may not be reissued to a licensee described in Subsection (1) until the licensee has complied with the requirements of this chapter, including paying any:

(a) tax due under Part 3, Tax;

(b) penalty as provided in Section 59-1-401; and

(c) interest as provided in Section 59-1-402.

Section 18. Section 59-31-301 is enacted to read:

59-31-301. Taxation of cannabinoid product.

Part 3. Tax

(1) A tax is imposed on a cannabinoid product at a rate of .10 multiplied by the retail price.

(2)(a) A licensee shall collect the tax imposed under Subsection (1) from a purchaser at the time the cannabinoid product is sold.

(b) A consumer that purchases or receives an untaxed cannabinoid product shall pay the tax at

the time the cannabinoid product is first received in this state.

Section 19. Section 59-31-302 is enacted to read:

59-31-302. Remittance of tax.

(1)(a) The licensee that collects the tax imposed on a cannabinoid product shall remit to the commission, in an electronic format approved by the commission:

(i) the tax due in the previous quarter; and

(ii) the tax return.

(b) The tax collected and the return are due on or before the last day of April, July, October, and January.

(2) A licensee that sells a cannabinoid product to a purchaser shall maintain records to determine the amount of tax due under this part for a period of three years.

(3)(a) A consumer that receives or purchases an untaxed cannabinoid product for use or other consumption shall:

(i) file with the commission, on a form provided by the commission, a statement showing the quantity and description of the cannabinoid product subject to tax under this part; and

(ii) pay the tax imposed by this part on the cannabinoid product.

(b) The consumer shall file the statement described in Subsection (3)(a) and pay the tax due on or before the last day of the month immediately following the month during which the consumer purchased an untaxed cannabinoid product.

(c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years after the day on which the consumer filed the statement required by this section.

(4) A tourist who imports an untaxed cannabinoid product into the state does not need to file the statement described in Subsection (3) or pay the tax if the cannabinoid product is for the tourist's own use or consumption while in this state.

(5) In addition to the tax required by this part, a person shall pay a penalty as provided in Section 59-1-401, plus interest at the rate and in the manner provide in Section 59-1-402, if a person subject to this section fails to:

(a) pay the tax imposed by this part;

(b) pay the tax on time; or

(c) file a return or statement required by this part.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner provided in Section 59-1-402.

(7)(a) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue generated by the tax under this part.

(b) The commission shall deposit 47% of the revenue generated by the tax imposed by this part into the General Fund and the remaining revenue into the Cannabinoid Proceeds Restricted Account created in Section 59-31-401.

Section 20. Section 59-31-401 is enacted to read:

59-31-401. Cannabinoid Proceeds Restricted Account.

Part 4. Miscellaneous Provisions.

(1) There is created within the General Fund a restricted account known as the "Cannabinoid Proceeds Restricted Account."

(2) The Cannabinoid Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-31-301; and

(b) amounts appropriated by the Legislature.

(3) Subject to appropriation, money in the account may be used for the following:

(a) enforcement of Title 4, Chapter 41, Hemp and Cannabinoid Act by the Department of Agriculture and Food;

(b) investigations described in Section 77-39-101, regarding cannabinoid products;

(c) the Industrial Hemp Grant Program created in Section 63N-3-1302; and

(d) provided to counties, cities, and towns in proportion to the county's, city's, or town's distribution under Section 59-12-205 for the preceding fiscal year.

Section 21. Section 59-31-402 is enacted to read:

59-31-402. Report to Department of Agriculture and Food of illegal cannabinoid product.

If the commission suspects that a cannabinoid product is being sold in the state in violation of a law other than a law described in this chapter, the commission shall report the name and tax identification number of the seller and the cannabinoid product:

(1) to the Department of Agriculture and Food; and

(2) within 30 days after the day on which the commission becomes aware of the sale.

Section 22. Section 63N-3-1301 is enacted to read:

63N-3-1301. Definitions.

Part 13. Industrial Hemp Grant Program

As used in this part:

(1) "Cannabinoid processor license" means the same as that term is defined in Section 4-41-102.

(2) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(3) "Industrial hemp" means the same as that term is defined in Section 4-41-102.

(4) "Industrial hemp producer registration" means the same as that term is defined in Section 4-41-102.

Section 23. Section 63N-3-1302 is enacted to read:

63N-3-1302. Industrial Hemp Grant Program.

(1)(a) There is created the Industrial Hemp Grant Program to be administered by the office.

(b) The purpose of the program is to award grants to existing Utah businesses that have a cannabinoid processor license or an industrial hemp producer registration to develop industrial hemp products.

(2)(a) An entity that submits a proposal for a grant to the office shall include details in the proposal regarding:

(i) how the entity plans to use the grant to fulfill the purpose described in Subsection (1)(b);

(ii) any plan to use funding sources in addition to a grant for the proposal; and

(iii) any existing or planned partnerships between the entity and another individual or entity to implement the proposal.

(b) In evaluating a proposal for a grant, the office shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (1)(b);

(ii) the extent to which any additional funding sources or existing or planned partnerships will benefit the proposal; and

(iii) the viability and sustainability of the proposal.

(c) In determining a grant award, the office:

(i) shall consult with the Department of Agriculture and Food; and

(ii) may prioritize a business that is committed to switching from producing cannabinoid products to industrial hemp products.

(3) Before receiving the grant, a grant recipient shall enter into a written agreement with the office that specifies:

(a) the grant amount;

(b) the time period and structure for distribution of the grant, including any terms and conditions the recipient is required to meet to receive a distribution; and

(c) the expenses for which the recipient may use the grant.

(4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) the form and process for submitting a proposal to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining a grant amount; and

(d) the reporting requirements for a grant recipient.

Section 24. Section 77-39-101 is amended to read:

77-39-101. Investigation of sales of alcohol, tobacco products, electronic cigarette products, nicotine products, and cannabinoid products to underage individuals.

(1) As used in this section:

(a) "Cannabinoid product" means the same as that term is defined in Section 4-41-102.

(b) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

[~~(b)~~](c) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(c)~~](d) "Peace officer" means the same as the term is described in Section 53-13-109.

[~~(d)~~](e) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(2)(a) A peace officer may investigate the possible violation of:

(i) Section 32B-4-403 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of alcohol from a retail establishment; [~~or~~]

(ii) Section 76-10-114 by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase from a retail establishment of:

(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product[~~.~~]; or

(iii) Subsection 4-41-105(2)(d) by requesting an individual under 21 years old to enter into and attempt to purchase or make a purchase of a cannabinoid product that contains THC or a THC analog from a retail establishment.

(b) A peace officer who is present at the site of a proposed purchase shall direct, supervise, and monitor the individual requested to make the purchase.

(c) Immediately following a purchase or attempted purchase or as soon as practical the supervising peace officer shall inform the cashier and the proprietor or manager of the retail establishment that the attempted purchaser was under the legal age to purchase:

(i) alcohol; [~~or~~]

(ii)(A) a tobacco product;

(B) an electronic cigarette product; or

(C) a nicotine product[~~.~~]; or

(iii) a cannabinoid product that contains THC or a THC analog.

(d) If a citation or information is issued, the citation or information shall be issued within seven days after the day on which the purchase occurs.

(3)(a) If an individual under 18 years old is requested to attempt a purchase, a written consent of that individual's parent or guardian shall be obtained before the individual participates in any attempted purchase.

(b) An individual requested by the peace officer to attempt a purchase may:

(i) be a trained volunteer; or

(ii) receive payment, but may not be paid based on the number of successful purchases of alcohol, tobacco products, electronic cigarette products, [~~or~~] nicotine products, or cannabinoid products that contain THC or a THC analog.

(4) The individual requested by the peace officer to attempt a purchase and anyone accompanying the individual attempting a purchase may use false identification in attempting the purchase if:

(a) the Department of Public Safety created in Section 53-1-103 provides the false identification;

(b) the false identification:

(i) accurately represents the individual's age; and

(ii) displays a current photo of the individual; and

(c) the peace officer maintains possession of the false identification at all times outside the attempt to purchase.

(5) An individual requested to attempt to purchase or make a purchase pursuant to this section is immune from prosecution, suit, or civil liability for the purchase of, attempted purchase of, or possession of alcohol, a tobacco product, an electronic cigarette product, [~~or~~] a nicotine product, or a cannabinoid product that contains THC or a THC analog if a peace officer directs, supervises, and monitors the individual.

(6)(a) Except as provided in Subsection (6)(b), a purchase attempted under this section shall be conducted within a 12-month period:

(i) on a random basis at any one retail establishment location, not more often than four times for the attempted purchase of alcohol; [~~and~~]

(ii) a minimum of two times at a retail establishment that sells tobacco products, electronic cigarette products, or nicotine products for the attempted purchase of a tobacco product, an electronic cigarette product, or a nicotine product[~~.~~]; and

(iii) a minimum of one time at a retail establishment that sells a cannabinoid product that contains THC or a THC analog.

(b) This section does not prohibit an investigation or an attempt to purchase alcohol, a tobacco product, an electronic cigarette product, or a nicotine product under this section if:

(i) there is reasonable suspicion to believe the retail establishment has sold alcohol, a tobacco product, an electronic cigarette product, [~~or~~] a nicotine product, or a cannabinoid product that contains THC or a THC analog to an individual under the age established by Section 32B-4-403, [~~or~~]Section 76-10-114, or Subsection 4-41-105(2)(d); and

(ii) the supervising peace officer makes a written record of the grounds for the reasonable suspicion.

(7)(a) The peace officer exercising direction, supervision, and monitoring of the attempted purchase shall make a report of the attempted purchase, whether or not a purchase was made.

(b) The report required by this Subsection (7) shall include:

(i) the name of the supervising peace officer;

(ii) the name of the individual attempting the purchase;

(iii) a photograph of the individual attempting the purchase showing how that individual appeared at the time of the attempted purchase;

(iv) the name and description of the cashier or proprietor from whom the individual attempted the purchase;

(v) the name and address of the retail establishment; and

(vi) the date and time of the attempted purchase.

Section 25. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

(2) If approved by two-thirds of all the members elected to each house, the actions affecting the following sections take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override:

(a) Section 4-41-102;

(b) Section 4-41-103.1;

(c) Section 4-41-103.4;

(d) Section 4-41-105;

(e) Section 4-41-106;

(f) Section 26A-1-114;

(g) Section 58-37-2; and

(h) Section 58-37-3.6.

CHAPTER 36
H. B. 57
Passed February 2, 2024
Approved March 12, 2024
Effective May 1, 2024

SNAKE VALLEY AQUIFER ADVISORY COUNCIL AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill removes provisions related to the Snake Valley Aquifer.

Highlighted Provisions:

This bill:

- repeals the Snake Valley Aquifer Council chapter;
- removes language citing provisions of that chapter, including:
  - a sunset provision; and
  - a provision related to the duties of the Public Lands Policy Coordinating Office; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63L-11-202, as last amended by Laws of Utah 2023, Chapter 160

REPEALS:

63C-12-101, as enacted by Laws of Utah 2009, Chapter 262
63C-12-102, as enacted by Laws of Utah 2009, Chapter 262
63C-12-103, as enacted by Laws of Utah 2009, Chapter 262
63C-12-104, as enacted by Laws of Utah 2009, Chapter 262
63C-12-105, as repealed and reenacted by Laws of Utah 2010, Chapter 286
63C-12-106, as enacted by Laws of Utah 2009, Chapter 262
63C-12-107, as enacted by Laws of Utah 2009, Chapter 262
63C-12-108, as enacted by Laws of Utah 2009, Chapter 262

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.~~]

[~~(7)~~](6) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

[~~(8)~~](7) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(9)~~](8) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(10)~~](9) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11)~~](10) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12)~~](11) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~](12) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](17) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](18) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](19) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](22) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](29) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Section 63L-11-202 is amended to read:

63L-11-202. Powers and duties of the office and executive director.

(1) The office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c)(i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy; and

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in Title 9, Chapter 8a, Part 3, Antiquities, and Title 9, Chapter 8a, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

[~~(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;~~]

[~~(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107;~~]

[~~(m)~~](k) conduct the public lands transfer study and economic analysis required by Section 63L-11-304; and

[~~(n)~~](l) fulfill the duties described in Section 63L-10-103.

(2) The executive director shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) in submitting the comment.

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

(g) elected officials.

Section 3. Repealer.

This bill repeals:

Section 63C-12-101, Title.

Section 63C-12-102, Definitions.

Section 63C-12-103, Council creation -- Members -- Terms.

Section 63C-12-104, Advisory council duties -- Meetings.

Section 63C-12-105, Compensation of members -- Expenses.

Section 63C-12-106, Staff.

Section 63C-12-107, Research team.

Section 63C-12-108, Research team duties.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 37
H. B. 61
Passed February 7, 2024
Approved March 12, 2024
Effective May 1, 2024

WATER MEASURING AND ACCOUNTING AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses water measurement and accounting.

Highlighted Provisions:

This bill:

- modifies the state water policy to address telemetry;
- grants rulemaking authority regarding measurement and accounting; and
- makes technical changes, including repealing outdated language.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-21, as last amended by Laws of Utah 2022, Chapter 27
73-2-1, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section 73-1-21 is amended to read:

73-1-21. State water policy.

(1) It is the policy of the state that:

(a) Utah shall pursue adequate, reliable, affordable, sustainable, and clean water resources, recognizing that Utah is one of the most arid states in the nation and as such, there is, and will continue to be, a need to ensure Utah's finite water resources are used beneficially;

(b) Utah will promote:

(i) water conservation, efficiency, and the optimal use of water resources, while identifying intended and unintended consequences to ensure appropriate choice and implementation of particular strategies;

(ii) water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development;

(iii) compliance with state statutes regarding Lake Powell pipeline development and Bear River development;

(iv) the timely replacement of aging or inefficient water resource, drinking water, wastewater, and storm water infrastructure;

(v) the optimal use of agricultural water to sustain and improve food production and the productive capacity of agricultural lands;

(vi) water quality in rivers and lakes that:

(A) complies with state clean water and safe drinking water statutes; and

(B) protects public health;

(vii) water pricing and funding mechanisms that:

(A) provide revenue stability while encouraging conservation, efficiency, and optimization efforts;

(B) adequately cover infrastructure needs; and

(C) balance social, economic, public interest, and environmental values;

(viii) respect for water rights;

(ix) standards for accurate water use measurement, telemetry, tracking, enforcement, and reporting;

(x) efforts to educate and engage the public in:

(A) individual actions that protect water quality, including preventing and mitigating water pollution; and

(B) conservation practices and the efficient and optimal use of water resources;

(xi) the implementation of cyber security and physical security measures for water infrastructure;

(xii) the study and consideration of mechanisms for increased flexibility in water use such as water banking and split season uses;

(xiii) continued improvements in the management of water resources through protection, restoration, and science-based evaluation of Utah watersheds, increased reservoir capacity, and aquifer recharge or aquifer storage and recovery;

(xiv) the development and beneficial use of Utah's allocated share of interstate rivers, including Utah's allocations under the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact;

(xv) the study and development of strategies and practices necessary to address declining water levels and protect the water quality and quantity of the Great Salt Lake, Utah Lake, and Bear Lake, taking into consideration natural climate change, natural weather systems and patterns, and normal cyclic water level change over time, while balancing economic, social, and environmental needs;

(xvi) regulations and practices, including voluntary practices, that maintain sufficient stream flows and lake levels to provide reasonable access to recreational activities and protect and restore water quality, quantity, and healthy ecosystems, including protecting groundwater and surface water sources from pollution;

(xvii) equitable access to safe, affordable, and reliable drinking water to protect public health;

(xviii) regulations and practices that encourage effective treatment of wastewater to maximize its availability for beneficial use and minimize depletion and the further degradation of other waters;

(xix) the control of invasive species that threaten or degrade waters of the state;

(xx) coordination among the state, water providers, water users, local governments, government agencies, and researchers in the study of ways weather and climate will impact future water supplies, demand, and quality;

(xxi) water laws, rules, and enforcement that are consistent with this Subsection (1) and encourage transparency, order, and certainty in the use of public water;

(xxii) the support and funding of research, science, and technology necessary to achieve the provisions of this Subsection (1); and

(xxiii) the collaboration, cooperation, and engagement of stakeholders in the identification and advancement of actions that support the provisions of this Subsection (1); and

(c) Utah supports the timely and appropriate negotiated settlement of federally reserved water right claims for both Native American trust lands and other existing federal reservations, and opposes any future designation of public lands that does not quantify any associated federally reserved water rights.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1) and implement policies established by the Legislature that promote the near- and long-term stewardship of water quality and water resources.

(3) This section does not create a cause of action against the state's or a state agency's action that is inconsistent with Subsection (1) and does not waive governmental immunity under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(4) The Natural Resources, Agriculture, and Environment Interim Committee shall review the state water policy annually and recommend priority balancing and any other changes to the Legislature.

Section 2. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3)(a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement, telemetry, and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights;

[~~(h) preferences of water rights under Section 73-3-21.5; or~~]

[~~(i)~~](h) the form and content of applications and related documents, maps, and reports[.]; or

(i) water distribution accounting.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40- acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8)(a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 38
H. B. 62
Passed February 28, 2024
Approved March 12, 2024
Effective May 1, 2024

UTAH WATER WAYS AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the partnership of Utah Water Ways.

Highlighted Provisions:

This bill:

- outlines coordination related to water and the public education system; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-2-408, as enacted by Laws of Utah 2023, Chapter 163

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

Section 1. Section 79-2-408 is amended to read:

79-2-408. Utah Water Ways.

(1) As used in this section:

(a) "Partnership" means the nonprofit, statewide partnership described in Subsections (2) and (3).

(b) "Water supply entity" means an entity supplying either culinary or irrigation water to a water user.

(2) The department shall oversee:

(a) the creation of a nonprofit, statewide partnership in accordance with this section; and

(b) the state's participation in the partnership.

(3) The partnership shall:

(a) be known as "Utah Water Ways";

(b) have as core purposes to:

(i) facilitate coordination of efforts to optimize the use of water by:

(A) sponsoring policy discussions about the state's water supply;

(B) engaging the private sector to help support efforts to optimize the use of water and related activities;

(C) coordinating with the Department of Agriculture and Food and the Department of Environmental Quality on water related issues;

(D) maintaining communication among partners in the partnership;

(E) providing a line of communication from partners to state leaders; and

(F) promoting coordination of grants, rebate programs, or sponsorships that support the optimal use of water; and

(ii) encourage residents of the state to make changes to optimize the use of water and care for the state's water supply by:

(A) providing public education and public awareness campaigns and helping consolidate campaigns about the state's water supply, water quality, and water use; and

(B) providing residents of the state with tools to understand what can be done to optimize the use of water; [~~and~~]

(c) consistent with Subsection (3)(b)(ii)(A) and subject to Subsection (8), coordinate with the State Board of Education to create standards-aligned resources and professional development opportunities to be used in select grades in kindergarten through grade 12 of the public education system, including:

(i) an overview of the water cycle;

(ii) an overview of Utah's water systems, including reference to watersheds, watershed health, groundwater, river systems, and major water infrastructure;

(iii) an overview on how water is used in Utah, such as in the residential, agricultural, and industrial sectors, including information regarding:

(A) the pass-through of water used in households to terminal lakes like the Great Salt Lake;

(B) the pass-through of water used in many industries to terminal lakes like the Great Salt Lake;

(C) the jobs and products created by industrial sections that use water;

(D) the importance of agriculture in providing food; and

(E) water recycling in areas that do not have terminal lakes like the Great Salt Lake;

(iv) information on the geological and climate changes for the last 30,000 years that created and changed the Great Salt Lake;

(v) strategies for individuals to protect water quality;

(vi) strategies for individuals to optimize the use of water, and the reasons optimization is needed; and

(vii) hands-on methods to help students learn the information described in this Subsection (3)(c); and

[~~(e)~~](d) seek grants, gifts, donations, devises, and bequests.

(4) The board of directors for the partnership shall:

(a) consist of 13 individuals as follows:

(i) the executive director of the department, or the executive director's designee;

(ii) the director of the Division of Water Resources, or the director's designee;

(iii) the executive director of the Department of Environmental Quality, or the executive director's designee;

(iv) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;

(v) a representative of rural Utah selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;

(vi) the general managers for four water conservancy districts selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate; and

(vii) four members of the business community selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;

(b) hire an executive director by August 1, 2023, who shall serve for an initial term of four years; and

(c) adopt policies concerning the board of directors' internal organization and procedures.

(5) The partnership may, consistent with this section, receive a grant, gift, donation, devise, or bequest.

(6) The partnership shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee.

(7) Notwithstanding the creation of the partnership, a water supply entity may maintain an important role with water supply users to encourage the optimized use of water such as through localized messaging, rebate programs, or other activities.

(8) The standards-aligned resources created under Subsection (3)(c) may not include information on human-caused climate change.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 39
H. B. 67
Passed February 9, 2024
Approved March 12, 2024
Effective May 1, 2024

FIRST RESPONDER MENTAL HEALTH SERVICES GRANT PROGRAM AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends the First Responder Mental Health Services Grant Program (program).

Highlighted Provisions:

This bill:

- defines terms;
- amends eligibility for the program;
- expands institutions at which a recipient may use a grant under the program;
- amends the computation of the grant amount;
- modifies the Utah Board of Higher Education's responsibilities related to accepting applications for the programs; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-117, as enacted by Laws of Utah 2023, Chapter 74

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

Section 1. Section 53B-8-117 is amended to read:

53B-8-117. First Responder Mental Health Services Grant Program.

(1) As used in this section:

(a) "First responder" means an individual who works in Utah as:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) an emergency medical technician, as defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as defined in Section 53-2e-101;

(iv) a paramedic, as defined in Section 53-2e-101;

(v) a firefighter, as defined in Section 34A-3-113;

(vi) a dispatcher, as defined in Section 53-6-102;

(vii) a correctional officer, as defined in Section 53-13-104;

(viii) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(ix) a search and rescue worker under the supervision of a local sheriff;

(x) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

(xi) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(xii) a crime scene investigator technician;

(xiii) a wildland firefighter;

(xiv) an investigator or prosecutor of cases involving sexual crimes against children; or

(xv) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

(b) "First responder agency" means the same as that term is defined in Section 53-21-101.

(c) "First responder volunteer" means:

(i) an individual who donates services as a first responder to a first responder agency located in Utah without pay or other compensation except:

(A) expenses that the individual actually and reasonably incurs as the supervising first responder agency approves; and

(B) health insurance that a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 26-8a-603 receives; or

(ii) a volunteer firefighter who is not regularly employed as a firefighter service employee, but who:

(A) has received training in firefighter techniques and skills;

(B) continues to receive regular firefighter training; and

(C) is on the rolls of a legally organized volunteer fire department that provides ongoing training and serves a political subdivision of the state.

(d) "Retiree" means the same as that term is defined in Section 49-11-102.

(2) This section creates the First Responder Mental Health Services Grant Program.

[~~(2)~~](3) Subject to legislative appropriations and Subsection [~~(6)~~](8), the board shall award a grant to an applicant who:

(a) is a [~~full-time employee or a retiree, as that term is defined in Section 49-11-102, who is an active member of or has qualified for an allowance under the requirements of:~~]

[~~(i) Title 49, Chapter 14, Public Safety Contributory Retirement Act;~~]

[~~(ii) Title 49, Chapter 15, Public Safety Noncontributory Retirement Act;~~]

[~~(iii) Title 49, Chapter 16, Firefighters' Retirement Act; or (iv) Title 49, Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act;~~]first responder, a first responder volunteer, or a retiree who worked as a first responder in the state; and

(b) is seeking a post-secondary degree or certification to become a mental health therapist, as that term is defined in Section 58-60-102, from:

(i) an institution of higher education within the state system of higher education, described in Section 53B-1-102; or

(ii) a private, nonprofit institution of higher education in the state that is accredited by the Northwest Commission on Colleges and Universities.

[~~(3)~~](4)(a) Subject to Subsection [~~(3)(b)~~](4)(b), the board may award a qualified applicant [~~up to the cost of tuition and fees.~~]a grant in an amount that is equal to the difference between:

(i) the total cost of tuition and fees for the program in which the recipient is enrolled; and

(ii) the total value of all other grants, tuition waivers, fee waivers, and scholarships that the recipient receives to attend the institution.

(b) A grant award under Subsection [~~(3)(a)~~](4)(a) is limited to:

(i) a maximum of $6,000 each academic year; and

(ii) a maximum of four academic years.

[~~(4)~~](5) The board shall design the program to ensure that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(6) The board shall:

(a) select two periods during each calendar year to accept applications for the program; and

(b) accept applications for no fewer than 30 days during each period described in Subsection (6)(a).

[~~(5)~~](7)(a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for the First Responder Mental Health Services Grant Program.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded grants may be subject to funding or be reduced, in accordance with Subsection [~~(6)~~](8).

[~~(6)~~](8)(a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Income Tax Fund to the board for the costs associated with the First Responder Mental Health Services Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the First Responder Mental Health Services Grant Program, the board may:

(i) reduce the amount of a grant; or

(ii) distribute grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 40
H. B. 76
Passed February 2, 2024
Approved March 12, 2024
Effective May 1, 2024

STATE RESOURCE MANAGEMENT PLAN AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill updates the statewide resource management plan.

Highlighted Provisions:

This bill:

- adopts a state resource management plan to replace a previously adopted plan; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-10-103, as last amended by Laws of Utah 2023, Chapter 108

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

Section 1. Section 63L-10-103 is amended to read:

63L-10-103. Statewide resource management plan adopted.

(1)(a) The statewide resource management plan, dated [~~January 9, 2023~~]January 8, 2024, and on file with the office, is adopted.

(b) The plan [~~referred to in~~]described in Subsection (1)(a) replaces and supersedes the plan dated [~~November 10, 2021~~]January 9, 2023.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3)(a) If the office finds the need to modify the plan, the office shall notify the commission of the modification and the office's reasoning for the modification.

(b) The office shall coordinate with the commission to discuss policy direction and to draft any modifications to the plan.

(4)(a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing any modifications the office recommends for the plan and deliver the report to the commission before August 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission before August 31.

(6)(a) If the commission makes a recommendation that the Legislature approve a modification to the plan, the commission shall prepare a bill in anticipation of the annual general session of the Legislature for approval of the modification.

(b) A modification to the plan does not take effect until approved by the Legislature.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 41
H. B. 90
Passed February 20, 2024
Approved March 12, 2024
Effective May 1, 2024

OUTDOOR RECREATION INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill makes changes related to outdoor recreation infrastructure.

Highlighted Provisions:

This bill:

- clarifies the definition for outdoor recreation infrastructure;
- includes additional authorized uses for funds in the Outdoor Adventure Infrastructure Restricted Account;
- allows the division to reimburse itself for costs from the Outdoor Adventure Infrastructure Restricted Account; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-9-901, as enacted by Laws of Utah 2022, Chapter 77
51-9-902, as last amended by Laws of Utah 2023, Chapters 183, 471
79-7-501, as enacted by Laws of Utah 2023, Chapter 145
79-7-503, as enacted by Laws of Utah 2023, Chapter 145

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

Section 1. Section 51-9-901 is amended to read:

51-9-901. Definitions.

As used in this part:

(1) "Account" means the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902.

(2) "Facility" means a site, location, building, structure, or other improvement to property.

(3)(a) "Outdoor recreation infrastructure" means a public facility or public land used by the public to access outdoor recreational opportunities.

(b) "Outdoor recreation infrastructure" includes:

(i) a facility used for water sports, snow sports, backpacking, canoeing, canyoning, caving, camping, climbing, hiking, hill walking, hunting, kayaking, rafting, biking, operating a snowmobile or all-terrain vehicle, or any similar motorized or nonmotorized activity; [~~and~~]

(ii) a state park, golf course, sports field, playground, toboggan run, sledding hill, trail, paved pedestrian or paved nonmotorized transportation facility, park, pool, waterway, road, bridge, or similar facility[~~.~~];

(iii) an unpaved trail, trail head infrastructure, signage, or crossing infrastructure for recreation, regardless of whether the recreation is motorized or nonmotorized recreation;

(iv) a campground or day-use recreation site;

(v) water recreation infrastructure, including a pier, dock, or boat ramp; and

(vi) outdoor recreation facilities that are accessible to visitors with disabilities.

Section 2. Section 51-9-902 is amended to read:

51-9-902. Outdoor Adventure Infrastructure Restricted Account.

[~~(1) As used in this section, "outdoor recreation infrastructure" means:~~]

[~~(a) an unpaved trail, trail head infrastructure, signage, or crossing infrastructure for recreation, regardless of whether the recreation is motorized or nonmotorized recreation;~~]

[~~(b) a campground or day-use recreation site;~~]

[~~(c) water recreation infrastructure, including a pier, dock, or boat ramp; or~~]

[~~(d) outdoor recreation facilities that are accessible to visitors with disabilities.~~]

[~~(2)~~](1) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

[~~(3)~~](2) The account shall consist of:

(a) money deposited into the account under Subsection 59-12-103(15); and

(b) interest and earnings on money in the account.

[~~(4)~~](3) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure; [~~or~~]

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure[~~.~~];

(f) the costs associated with bringing new construction or upgrades of outdoor recreation infrastructure into environmental compliance;

(g) strategic planning related to the development of outdoor recreation infrastructure; or

(h) facilitating avalanche safety forecasting to protect the public in relation to outdoor recreation infrastructure.

[~~(5)~~](4) For each fiscal year, beginning with fiscal year 2023-2024, the Division of Finance shall, subject to appropriation by the Legislature, distribute money from the Outdoor Adventure Infrastructure Restricted Account as follows:

(a) at least 15% to the Department of Natural Resources - Division of State Parks - Capital, to be expended using the department's existing prioritization process for capital projects in state parks described in Subsection [~~(4)~~](3);

(b) at least 22% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for competitive Recreation Restoration Infrastructure grants or Outdoor Recreational Infrastructure grants for outdoor recreation capital projects and related maintenance expenses, where maintenance expenses do not exceed 15% of the appropriation; and

(c) at least 53% to the Department of Natural Resources - Division of Outdoor Recreation - Capital, to be expended for larger outdoor recreation infrastructure projects described in Subsection (3) as recommended to the Legislature by the Outdoor Adventure Commission [~~described in Subsection (4)~~].

[~~(6)~~](5) If the Legislature appropriates money to the Department of Transportation from the account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 3. Section 79-7-501 is amended to read:

79-7-501. Definitions.

As used in this part:

(1) "Initiative" means the Recreation Coordinated Investment Initiative created in [~~this part~~]Section 79-7-502.

(2) "Outdoor recreation infrastructure" [~~includes:~~]means the same as that term is defined in 51-9-901.

[~~(a) a trail, trail head infrastructure, signage, and crossing infrastructure for both nonmotorized and motorized recreation;~~]

[~~(b) a campground or day-use recreation site;~~]

[~~(c) water recreation infrastructure, including a pier, dock, or boat ramp; and~~]

[~~(d) outdoor recreation facilities that are accessible to visitors with disabilities.~~]

(3) "Public lands" includes local, state, and federal lands.

Section 4. Section 79-7-503 is amended to read:

79-7-503. Funding of initiative.

(1) The initiative is funded from the following sources:

[~~(1)~~](a) appropriations made to the initiative by the Legislature, including any appropriation from the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902; and

[~~(2)~~](b) contributions, including in-kind assistance, from public and private sources, including a federal agency, state agency, local government, or private entity.

(2) The division may reimburse itself with initiative funds for costs related to administering the initiative.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 42
H. B. 116
Passed February 2, 2024
Approved March 12, 2024
Effective May 1, 2024

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY ACT AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions of the Commercial Property Assessed Clean Energy Act.

Highlighted Provisions:

This bill:

- modifies the definition of "renewable energy system," for purposes of the Commercial Property Assessed Clean Energy Act, to include a system that provides energy outside the energy assessment area if the system is a biofuel system; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-42a-102, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2)(a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6)(a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) "C-PACE" means commercial property assessed clean energy.

(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or,

if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(12) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Energy system" means a product, system, device, or interacting group of devices that:

(a) produces or stores energy; and

(b) is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as defined in Section 54-2-1.

[~~(17)~~](18) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

[~~(18)~~](19) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

[~~(19)~~](20) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

[~~(20)~~](21) "Installment payment date" means the date on which an installment payment of an assessment is payable.

[~~(21)~~](22) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(22)~~](23)(a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(23)~~](24) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(24)~~](25) "OED" means the Office of Energy Development created in Section 79-6-401.

[~~(25)~~](26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(26)~~](27) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(27)~~](28) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(28)~~](29) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(29)~~](30) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(30)~~](31) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(31)~~](32) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(32)~~](33) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(33)~~](34) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (33)(c).

[~~(34)~~](35) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[~~(35)~~](36) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(36)~~](37) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[~~(37)~~](38)(a) "Renewable energy system" means [~~a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and~~]an energy system that:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves; or

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves[~~; or~~].

[~~(iii)~~](b) [~~any~~]"Renewable energy system" includes an improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection [~~(37)(a)(i) or (ii)~~](38)(a)(i) or (ii).

[~~(b)~~](c) "Renewable energy system" does not include a system described in Subsection [~~(37)(a)(i)~~](38)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i)(A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; [~~or~~]

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter[~~.~~]; or

(iii) is a biofuel system.

[~~(38)~~](39) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

[~~(39)~~](40) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(40)~~](41) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

[~~(41)~~](42) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 43
H. B. 117
Passed February 21, 2024
Approved March 12, 2024
Effective May 1, 2024

WIND ENERGY FACILITY SITING MODIFICATIONS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill enacts a provision related to wind energy facilities.

Highlighted Provisions:

This bill:

- requires the owner of a wind energy facility to:
  - undergo the Military Aviation and Installation Assurance Siting Clearinghouse (clearinghouse) process before commencement of construction on a wind turbine or a wind energy facility; and
  - file documentation with the Department of Veterans and Military Affairs (department) and the Department of Natural Resources that the clearinghouse and the department have determined that the proposed construction does not encroach upon or otherwise have an adverse impact on the military; and
- provides for penalties if an owner of a wind turbine or a wind energy facility fails to comply with the document submission requirements.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

71A-1-203, Utah Code Annotated 1953

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

Section 1. Section 71A-1-203 is enacted to read:

71A-1-203. Wind turbine and wind energy facility siting -- Military Aviation and Installation Assurance Siting Clearinghouse.

(1) As used in this section:

(a) "Clearinghouse" means the Military Aviation and Installation Assurance Siting Clearinghouse established by the United States Secretary of Defense under 10 U.S.C. Sec. 183(a).

(b)(i) "Commencement of construction" means beginning excavation of wind turbine foundations or other actions relating to the actual erection and installation of commercial wind energy equipment.

(ii) "Commencement of construction" does not include activities related to:

(A) the erection of meteorological towers;

(B) environmental assessments;

(C) surveys;

(D) preliminary engineering; or

(E) assessments of the development of the wind resources on a given parcel of property.

(c) "Determination of no hazard" means the formal response issued by the FAA upon completion of an aeronautical study regarding a facility structure's impact to air navigation affirming that:

(i) the facility structure does not exceed obstruction standards; and

(ii) modifications to the facility structure are not required.

(d) "FAA" means the United States Federal Aviation Administration.

(e) "Facility structure" means a wind turbine or other structure located on a wind energy facility, the construction or modification of which would require the completion of Form 7460-1.

(f) "Form 7460-1" means:

(i) FAA Form 7460-1, Notice of Proposed Construction or Alteration, which the FAA uses to conduct aeronautical studies to promote air safety and the efficient use of navigable airspace, as required under 14 C.F.R. Part 77; or

(ii) a form designated by the FAA to conduct aeronautical studies to promote air safety and the efficient use of navigable airspace.

(g) "Mission compatibility certification letter" means the formal response the clearinghouse issues through the clearinghouse's review of proposed projects and facility structures through the clearinghouse's evaluation process.

(h) "Owner" means a person having a majority equity interest in a commercial wind energy facility.

(i)(i) "Wind energy facility" means an electrical generation consisting of one or more wind turbines under common ownership or operating control.

(ii) "Wind energy facility" includes the infrastructure necessary to support the generation of electricity by one or more wind turbines, including:

(A) substations;

(B) meteorological data towers;

(C) above ground and underground electrical transmission lines;

(D) transformers;

(E) control systems; and

(F) other structures used to support the operation of the facility with the primary purpose of supplying electricity to an off-site customer.

(j)(i) "Wind turbine" means a wind energy conversion system that converts wind energy into

electricity through the use of a wind turbine generator.

(ii) "Wind turbine" includes the turbine, blade, tower, base, and pad transformer.

(2) Construction or modification of a facility structure may not encroach upon or otherwise have an adverse impact on the mission, training, or operations of any military installation or branch of the military as determined by the clearinghouse and the FAA.

(3) An adverse impact to a military installation or branch of the military in Subsection (2) includes an adverse impact to:

(a) a military training route;

(b) a drop zone;

(c) an approach to a runway;

(d) a test or training range;

(e) a military installation or facility;

(f) United States Department of Defense special use air space; and

(g) United States Department of Defense spectral requirements.

(4)(a) A facility structure may not be constructed or expanded unless:

(i) there is an active determination of no hazard; or

(ii) any adverse impacts to the United States Department of Defense, determined in accordance with 32 C.F.R. Sec. 211.6, or the National Defense Authorization Act have been resolved as evidenced by documentation from the clearinghouse for the facility structure and the department.

(b) For purposes of Subsection (4)(a)(ii), a mission compatibility certification letter may serve as evidence that the wind facility has resolved adverse impacts with the United States Department of Defense or successor agency.

(5)(a) Before expanding or constructing a facility structure, and within 30 days of submitting an application to the FAA, an owner shall file a copy of the FAA application with the department.

(b) Within 15 days of receiving a copy of the FAA application to construct a wind energy site, the department will provide a copy of the application to the Department of Natural Resources and the affected military entities.

(c) The department may serve in a coordination role with the owner, the Department of Natural Resources, and the affected military entity.

(6) Within 30 days of receiving final notification from the FAA or a Notice of Presumed Risk from the Department of Defense the owner shall provide the department a copy of the documentation as well as:

(a) any determination of no hazard the owner receives related to the facility structure;

(b) any documentation the owner receives from the clearinghouse referring to any resolution of adverse impacts created by the facility structure; and

(c) any documentation the owner receives from the department demonstrating a determination of no impact or no hazard.

(7) The requirements under this section may not prohibit the construction of a facility structure if the facility structure has received a determination of no hazard or mitigation plan before May 1, 2024.

(8)(a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this section.

(b) The documentation an owner submits in accordance with Subsections (5) and (6):

(i) shall only be used and disclosed by the department in accordance with this section;

(ii) is confidential, not public, and not open to public inspection; and

(iii) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(9) If an owner fails to submit the documentation described in Subsections (5) and (6) for an individual facility structure:

(a) the department may charge the owner an administrative penalty not to exceed $1,500 per day, per violation; and

(b) a stakeholder, including the department, may bring an action in court to:

(i) enjoin any action on a facility structure in violation of this section; and

(ii) enforce the requirements of this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 44
H. B. 124
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

ENERGY INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to energy infrastructure.

Highlighted Provisions:

This bill:

- modifies definitions and qualifications applicable to the high cost infrastructure development tax credit (tax credit);
- provides for the issuance of a tax credit for certain emissions reduction projects, mineral processing projects, water purification projects, and water resource forecasting projects;
- modifies the membership of the Utah Energy Infrastructure Board; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

79-6-602, as last amended by Laws of Utah 2023, Chapter 473
79-6-603, as last amended by Laws of Utah 2023, Chapter 473
79-6-902, as renumbered and amended by Laws of Utah 2022, Chapter 44

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

Section 1. Section 79-6-602 is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2)(a) "Energy delivery project" means a project that is designed to:

[~~(a)~~](i) increase the capacity for the delivery of energy to a user of energy inside or outside the state; [~~or~~]

[~~(b)~~](ii) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state[~~.~~]; or

(iii) increase the production and delivery of geothermal energy through horizontal drilling to create injection and production wells.

(b) "Energy delivery project" includes:

(i) a hydroelectric energy storage system;

(ii) a utility-scale battery storage system; or

(iii) a nuclear power generation system.

(3) "Emissions reduction project" means a project that is designed to reduce the emissions of an existing electrical generation facility, refinery, smelter, kiln, mineral processing facility, manufacturing facility, oil or gas production facility, or other industrial facility, by utilizing selective catalytic reduction technology, carbon capture utilization and sequestration technology, or any other emissions reduction technology or equipment.

[~~(3)~~](4) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

[~~(4)~~](5) "High cost infrastructure project" means:

(a) [~~a project, including~~]for an energy delivery project[~~ or a~~], fuel standard compliance project, mineral processing project, or underground mine infrastructure project, a project:

[~~(a)~~](i)[~~(i)~~](A) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

[~~(ii)~~](B) that involves new investment of at least $50,000,000 [~~in~~]made by an existing industrial, mining, manufacturing, or agriculture entity[~~, by the entity; or~~] located within a county of the first or second class;

(C) that involves new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; or

[~~(iii)~~](D) for the construction of a plant or other facility for the storage or production of fuel used for transportation, electricity generation, or industrial use;

[~~(b)~~](ii) that requires or is directly facilitated by infrastructure construction; and

[~~(c)~~](iii) for which the cost of infrastructure construction to the entity creating the project is greater than:

[~~(i)~~](A) 10% of the total cost of the project; or

[~~(ii)~~](B) $10,000,000[~~.~~]; and

(b) for an emissions reduction project, water purification project, or water resource forecasting project, a project:

(i) that involves:

(A) new investment of at least $50,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the first or second class; or

(B) new investment of at least $25,000,000 made by an existing industrial, mining, manufacturing, or agriculture entity located within a county of the third, fourth, fifth, or sixth class, or a municipality with a population of 10,000 or less located within a county of the second class; and

(ii) that requires or is directly facilitated by infrastructure construction.

[~~(5)~~](6) "Infrastructure" means:

(a) an energy delivery project;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern;

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state; [~~or~~]

(i) an underground mine infrastructure project[~~.~~];

(j) an emissions reduction project;

(k) a mineral processing project;

(l) a water purification project; or

(m) a water resource forecasting project.

[~~(6)~~](7)(a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection [~~(6)(a)~~](7)(a).

[~~(7)~~](8) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

(b) Title 59, Chapter 5, Part 2, Mining Severance Tax;

(c) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(d) Title 59, Chapter 10, Individual Income Tax Act; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

(9) "Mineral processing project" means a project that is designed to:

(a) process, smelt, refine, convert, separate, or otherwise beneficiate metalliferous minerals as defined in Section 59-5-201 or a metalliferous compound as defined in Section 59-5-202;

(b) calcine limestone or manufacture cement;

(c) process, refine, or otherwise beneficiate chloride compounds, salts, potash, gypsum, sulfur or sulfuric acid, ammonium nitrate, phosphate, or uintaite; or

(d) convert or gasify coal to recover chemical compounds, gases, or minerals.

[~~(8)~~](10) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(9)~~](11) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

[~~(10)~~](12) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

[~~(11)~~](13)(a) "Underground mine infrastructure project" means a project that:

(i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and

(ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

(i) an underground access or a haulage road, entry, ramp, or decline;

(ii) a vertical or incline mine shaft;

(iii) a ventilation shaft or an air course; or

(iv) a conveyor or a truck haulageway.

(14) "Water purification project" means a project that, in order to meet applicable quality standards established under Title 19, Chapter 5, Water Quality Act, is designed to reduce the existing total dissolved solids or other naturally existing impurities contained in water sources:

(a) located at a distance of not less than 2,000 feet below the surface;

(b) associated with existing mineral operations; or

(c) associated with deep water mining operations designed primarily for the revitalization of the Great Salt Lake.

(15) "Water resource forecasting project" means a project that includes a network of permanent physical data collection systems designed to improve forecasting for the availability of seasonal water flows within the state, including flash flooding and other event-driven water flows resulting from localized severe weather events.

Section 2. Section 79-6-603 is amended to read:

79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1)(a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure Board created in Section 79-6-902, and other state agencies as necessary, shall, in accordance with the procedures described in Section 79-6-604, certify:

(i) that the project meets the definition of a high cost infrastructure project under this part;

(ii) that the high cost infrastructure project will generate infrastructure-related revenue;

(iii) the economic life of the high cost infrastructure project; and

(iv) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(b) For purposes of determining whether a project meets the definition of a high cost infrastructure project, the office shall consider a project to be a new project if the project began no earlier than the taxable year before the year in which the applicant [~~applies~~]submits an application or a preliminary application for a tax credit.

(2)(a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure Board shall evaluate the project's net benefit to the state, including:

(i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;

(iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;

(v) whether the project would have a positive environmental impact on the state;

(vi) whether the project promotes responsible energy development;

(vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability;

(viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part; and

(ix) other relevant factors that the board specifies in the board's evaluation.

(b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:

(i) is strategically situated to maximize connections to an energy source project located in the state that is:

(A) existing;

(B) under construction;

(C) planned; or

(D) foreseeable;

(ii) is supported by a project plan related to:

(A) engineering;

(B) environmental issues;

(C) energy production;

(D) load or other capacity; and

(E) any other issue related to the building and operation of energy delivery infrastructure; and

(iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:

(A) the Federal Energy Regulatory Commission;

(B) the North American Electric Reliability Council; and

(C) the Public Service Commission of Utah.

(c) The Utah Energy Infrastructure Board may recommend that the office deny an applicant a tax credit if, as determined by the Utah Energy Infrastructure Board:

(i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a); or

(ii) for an energy delivery project, the project does not satisfy the conditions described in Subsection (2)(b).

(3) Subject to the procedures described in Section 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure Board under Subsection (2), the office shall enter into an agreement with the

applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project;

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 3. Section 79-6-902 is amended to read:

79-6-902. Utah Energy Infrastructure Board.

(1) There is created within the office the Utah Energy Infrastructure Board that consists of nine members as follows:

(a) subject to Subsection (2), members appointed by the governor:

(i) the energy advisor or the director of the Office of Energy Development, who shall serve as chair of the board;

(ii) one member from the Governor's Office of Economic Opportunity;

(iii) one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state;

(iv) one member who resides within a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501, with relevant experience in an energy or extraction industry;

[~~(iv) two members representing the economic development interests of rural communities as follows:~~]

[~~(A)~~](v) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501; and

[~~(B) one member of a rural community with work experience in the energy industry~~];

[~~(v)~~](vi) two members of the general public with relevant industry[~~ or community~~] experience; [~~and~~]

[~~(vi) one member of the general public who has experience with public finance and bonding; and~~]

(b) one member appointed jointly by the Utah Farm Bureau Federation, the Utah Manufacturer's Association, the Utah Mining Association, and the Utah Petroleum Association; and

[~~(b)~~](c) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(2) The governor shall consult with the president of the Senate and the speaker of the House of Representatives in appointing the members described in Subsections (1)(a)(iii) through (vi).

[~~(2)~~](3)(a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection [~~(2)(a)~~](3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

[~~(3)~~](4)(a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

[~~(4)~~](5) The board shall meet as needed to review an application.

[~~(5)~~](6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

Section 5. Retrospective operation.

(1) The following sections have retrospective operation for a taxable year beginning on or after January 1, 2024:

(a) Section 79-6-602; and

(b) Section 79-6-603.

CHAPTER 45
H. B. 167
Passed February 9, 2024
Approved March 12, 2024
Effective May 1, 2024

EDUCATION INNOVATION PROGRAM AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends certain provisions of the Education Innovation Program and requires the director of ULEAD to market the program to educators.

Highlighted Provisions:

This bill:

- amends certain teacher application requirements for the Education Innovation Program (program), including:
  - the number of signatures from parents of prospective students; and
  - the time for submission of the application;
- amends the time for a local education agency governing board to approve or deny a program application;
- converts the grant program into a permanent program;
- requires the director of ULEAD to market the program to educators; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-10-703, as last amended by Laws of Utah 2022, Chapters 236, 401
53G-10-602, as enacted by Laws of Utah 2022, Chapter 236
53G-10-608, as enacted by Laws of Utah 2022, Chapter 236
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494

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

Section 1. Section 53E-10-703 is amended to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a)(i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b)(i) be a full-time employee;

(ii) report to the state superintendent; and

(iii) provide a report to the selection committee, at least twice per year, on the status of the ULEAD program.

(2) The state superintendent shall:

(a) evaluate the director's performance annually;

(b) report on the director's performance to the selection committee; and

(c) provide space for the director and the director's staff.

(3) The director may:

(a) hire staff, using only money specifically appropriated to ULEAD; and

(b) with approval from the superintendent, utilize state board staff.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices in Utah shown to improve student learning;

(ii) identifying experts in Utah in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside of the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning, especially for students performing below proficiency;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e)(i) disseminate each innovative practice report to the state board for dissemination to LEAs and school leaders; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7)(a) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(b) The director shall:

(i) review the performance of an innovation program, as defined in Section 53G-10-601, to determine the extent to which the learning and performance of students in an opportunity class, as defined in Section 53G-10-601, met the criteria established in the innovation program; [~~and~~]

(ii) report on the director's findings under Subsection (7)(b)(i):

(A) to the LEA governing board that approved the innovation program; and

(B) within 120 days after the completion of the school year during which the opportunity class was functioning[~~.~~]; and

(iii) market the innovation program, as described in Title 53G, Chapter 10, Part 6, Education Innovation Program, to Utah educators.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the state board, revisions to state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or policy.

(10)(a) The director shall:

(i) report on the activities of ULEAD annually to the state board; and

(ii) provide reports or other information to the state board upon state board request.

(b) The report described in Subsection (10)(a)(i) shall include:

(i) examples identified for innovative practice reports; and

(ii) the current status of ULEAD's relationship with participating institutions.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) submit the report in accordance with Sections 53E-1-201 and 53E-1-202;

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to the state board for dissemination to LEAs and school leaders through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices in Utah, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 2. Section 53G-10-602 is amended to read:

53G-10-602. Establishment of innovation program -- LEA governing board approval -- Parental consent required -- Renewal of program.

(1) An innovation program may be established for a K-12 class as provided in this part if the innovation program is approved by the LEA governing board for the LEA in which the proposed innovation program is to be implemented.

(2) A public school teacher may submit an innovation program application to the LEA

governing board for the LEA of the class or school in which the teacher proposes to implement an innovation program.

(3) Before submitting an innovation program application, the public school teacher intending to submit the innovation program application shall obtain the written consent described in Section 53G-10-603[~~ signed by parents of at least 20 prospective participating students~~].

(4) An innovation program application shall be submitted no less than [~~90~~]60 days before the beginning of student registration for the school year for which the innovation program is proposed.

(5)(a) An LEA governing board shall approve or deny an innovation program application within [~~60~~]45 days after the day on which the application is submitted.

(b) An LEA governing board may approve an innovation program application subject to modifications or additional terms that the LEA governing board determines appropriate.

(6) An innovation program may be renewed for another school year if:

(a) the teacher in the opportunity class requests renewal;

(b) the teacher submits with the renewal request the written consent described in Section 53G-10-603 [~~signed by parents of at least 20 prospective participating students~~]; and

(c) the LEA governing board approves the renewal.

Section 3. Section 53G-10-608 is amended to read:

53G-10-608. Innovation grants.

(1) An LEA governing board may approve a grant of up to $5,000 per opportunity class for the school year if:

(a) a request for an innovation grant is included in the innovation application; and

(b) the LEA governing board determines that the grant is needed to:

(i) cover innovation program costs; and

(ii) help fulfill the goals and purposes of the opportunity class.

(2) If an LEA governing board approves a request for an innovation grant, the LEA governing board shall send the state board written notice of the approval and the name of the teacher who submitted the request for the innovation grant.

(3)(a)(i) Upon receipt of the written notice and authorization under Subsection (2), the state board shall, subject to Subsection (3)(b), disburse the amount of the approved innovation grant to the LEA governing board.

(ii) The LEA governing board shall distribute the money to the teacher of the opportunity class to cover innovation program costs.

(b)(i) Except as provided in Subsection (3)(b)(iii), the maximum amount of money that the state board may distribute for approved innovation grants is $500,000 per school year.

(ii) If the state board receives a written notice and authorization under Subsection (2) after already distributing $500,000 for the school year, the state board shall notify the LEA governing board that the grant money has been expended for the school year and that the state board cannot distribute money for the approved innovation grant.

(iii) If the state board distributes less than $500,000 for approved innovation grants for a school year, the difference between $500,000 and the amount distributed shall be rolled over and included in the money available for distribution for approved innovation grants for the following school year.

(4) The state board shall keep and account for all money appropriated for innovation grants separate from other state board funds.

(5) A teacher receiving an innovation grant under this section may not use the money from the grant for any purpose other than for innovation program costs.

[~~(6) Any innovation grant money appropriated to the state board by the Legislature that the state board has not distributed as provided in this section by June 30, 2027 shall lapse to the Education Fund.~~]

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(17) Section 53F-5-213 is repealed July 1, 2023.

(18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.~~]

Section 5. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(23) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.~~]

Section 6. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

(23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.~~]

Section 7. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) Section 63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25) takes effect on July 1, 2024.

(b) Section 63I-1-253 (Contingently Effective 01/01/25) contingently takes effect on January 1, 2025.

CHAPTER 46
H. B. 172
Passed February 21, 2024
Approved March 12, 2024
Effective March 12, 2024

STUDENT ATHLETE PARTICIPATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to student athletes within the public education system.

Highlighted Provisions:

This bill:

- amends indemnification provisions to clarify the intent of state indemnification in public education athletics;
- provides that an athletic association may collect documentation for a student that is homeless or not a United States citizen that confirms the student's date of birth and sex; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53G-6-904, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1
53G-6-1007, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1
53G-7-1102, as last amended by Laws of Utah 2023, Chapter 340 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 493

Sections affected by Coordination Clause:

63G-31-201, Utah Code Annotated 19535
63G-31-402, Utah Code Annotated 19535

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

Section 1. Section 53G-6-904 is amended to read:

53G-6-904. Indemnification -- Enforcement.

(1) The [~~state shall defend, indemnify,~~]attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) [~~are brought or incurred~~]arise as a result of this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 2. Section 53G-6-1007 is amended to read:

53G-6-1007. Indemnification -- Enforcement.

(1)(a) The [~~state shall defend, indemnify,~~]attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

[~~(a) are brought or incurred~~]

(i) arise as a result of this part; and

[~~(b)~~](ii) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 3. Section 53G-7-1102 is amended to read:

53G-7-1102. Public schools prohibited from membership.

(1) A public school may not be a member of or pay dues to an association that:

(a) is not in compliance with:

(i) this part;

(ii) Title 52, Chapter 4, Open and Public Meetings Act;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(b) does not collect each student's birth certificate[~~ and birth certificate amendment history~~], as that term is defined in Section 53G-6-1001, or subject to Subsection (3), equivalent documentation, as described in Subsection (2)(a), to determine eligibility as a condition of the association's registration process for an athletic team, event, or category; or

(c) does not require a student to provide the [~~athlete's~~]student's date of birth and sex as a condition of the registration process for an athletic team, event, or category.

(2)(a) [~~Except as provided in Subsection (3), for~~]For a student who is [~~homeless or~~]not a United States citizen and who is unable to provide a birth certificate[~~ and birth certificate amendment history~~], as that term is defined in Section 53G-6-1001, the association may collect the student's:

[~~(a)~~](i) state-issued identification document, including a driver's license or passport; or

[~~(b)~~](ii) federally recognized identification document, including a document that the Department of Homeland Security issues.

(b) If a student who is not a United States citizen is unable to provide a document under Subsection (2)(a), the association may collect other reliable proof of a student's date of birth and sex, including:

(i) an affidavit from the student's parent or legal guardian attesting:

(A) to the student's date of birth and sex; and

(B) that the parent or legal guardian is unable to obtain a document described in Subsection (2)(a); and

(ii) one of the following:

(A) a religious, hospital, or physician certificate;

(B) verified school records;

(C) verified immunization records; or

(D) documentation from a social service provider.

(3)(a) Subsection (1)(b) [~~or (2) do~~]does not apply to an association for a student who is a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11431 et seq.

(b) For a student who is a homeless child or youth, including an unaccompanied homeless child or youth, an association may collect:

(i) an affidavit from the student's parent or guardian, or the student if the student is an unaccompanied homeless child or youth, indicating that the student does not meet the necessary requirements to obtain a document described in Subsection (2)(a); and

(ii) a document described in Subsection (2)(b)(ii).

(4) Nothing in this section limits or impairs an LEA's requirement to verify a student's initial review of eligibility to participate in an athletic team, event, or category under applicable state or federal law or state board rule, including the student's:

(a) residency status;

(b) age;

(c) sex, verified by the student's birth certificate [~~and birth certificate amendment history~~], as that term is defined in Section 53G-6-1001;

(d) academic requirements; or

(e) school enrollment capacity.

(5) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

Section 4. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect May 1, 2024.

Section 5. Coordinating H.B. 172 with H.B. 257.

If H.B. 172, Student Athlete Participation Amendments, and H.B. 257, Sex-Based Designations for Privacy, Anti-bullying, and Women's Opportunities, both pass and become law, the Legislature intends that, on the effective date of H.B. 172:

(1) the following language be inserted as new Subsection (4) in Section 63G-31-201, enacted in H.B. 257:

"(4) Notwithstanding Subsections (1) through (3), this chapter does not apply to:

(a) the School Activity Eligibility Commission created in Section 53G-6-1003; or

(b) in the context of a student who has obtained the eligibility approval of the commission under Subsection 53G-6-1004(2) to participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate, as those terms are defined in Section 53G-6-1001."; and

(2) the following language replace the language enacted as Section 63G-31-402 in H.B. 257:

"The attorney general shall defend and the state shall indemnify and hold harmless a government entity acting under color of state law to enforce this chapter for any claims or damages, including court costs and attorney fees that:

(1) arise as a result of this chapter; and

(2) are not covered by the government entity's insurance policies or any coverage agreement that the State Risk Management Fund issues.".

CHAPTER 47
H. B. 191
Passed February 16, 2024
Approved March 12, 2024
Effective May 1, 2024

ELECTRICAL ENERGY AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- defines term;
- requires the Public Service Commission (commission) to act in accordance with the state energy policy;
- requires the commission to make certain determinations before authorizing the early retirement of an electrical generation facility; and
- requires the commission to submit an annual report related to requests to retire electric generating units.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-303, as enacted by Laws of Utah 2023, Chapter 195

ENACTS:

54-1-2.1, Utah Code Annotated 1953

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

Section 1. Section 54-1-2.1 is enacted to read:

54-1-2.1. Alignment with state energy policy.

When exercising the powers granted in this title, the commission shall act in accordance with the state energy policy provided in Title 79, Chapter 6, Part 3, State Energy Policy, unless the state energy policy is inconsistent with specific provisions of this title.

Section 2. Section 79-6-303 is amended to read:

79-6-303. Legislative findings -- Forced retirement of electrical generation facilities.

(1) As used in this section:

(a) "Commission" means the Public Service Commission established in Section 54-1-1.

(b) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

(c) "Early retirement" means the closure of an electrical generation facility before reaching the end of a normal operational lifespan when significant upgrades and renovations to prolong the electrical generation facility's service are still financially reasonable investments.

[~~(b)~~](d) "Electrical generation facility" means a facility that generates electricity for provision to customers.

[~~(c)~~](e) "Forced retirement" means the closure of an electrical generation facility as a result of a federal regulation that either directly mandates the closure of an electrical generation facility or where the costs of compliance are so high as to effectively force the closure of an electrical generation facility.

(f) "Nameplate capacity" means the sum of the maximum rated outputs of all electrical generating equipment within a facility under specific conditions designated by the manufacturer, as indicated on individual nameplates physically attached to the equipment.

(g) "Plant factor" means the ratio of the actual annual electrical energy output of an electrical generation facility compared to the potential annual electrical energy output if the electrical generation facility operated at full capacity continuously for the entire year.

[~~(d)~~](h) "Qualified utility" means the same as that term is defined in Section 54-17-801.

[~~(e)~~](i) "Reliable" means supporting a system generally able to provide a continuous supply of electricity at the proper voltage and frequency and the resiliency to withstand sudden or unexpected disturbances.

(j) "Replacement plan" means a plan by a qualified utility to replace the energy supply of an existing electrical generation facility.

[~~(f)~~](k) "Secure" means protected against disruption, tampering, and external interference.

(2) The Legislature finds that:

(a) affordable, reliable, dispatchable, and secure energy resources are important to the health, safety, and welfare of the state's citizens;

(b) the state has invested substantial resources in the development of affordable, reliable, dispatchable, and secure energy resources within the state;

(c) the early retirement of an electrical generation facility that provides affordable, reliable, dispatchable, and secure energy is a threat to the health, safety, and welfare of the state's citizens;

(d) the state's police powers, reserved to the state by the United States Constitution, provide the state with sovereign authority to make and enforce laws for the protection of the health, safety, and welfare of the state's citizens;

(e) the state has a duty to defend the production and supply of affordable, reliable, dispatchable, and secure energy from external regulatory interference; and

(f) the state's sovereign authority with respect to the retirement of an electrical generation facility for the protection of the health, safety, and welfare of the state's citizens is primary and takes precedence over any attempt from an external regulatory body to mandate, restrict, or influence the early retirement of an electrical generation facility in the state.

(3) A qualified utility that receives notice of any federal regulation that may result in the forced retirement of the qualified utility's electrical generation facility shall inform the Office of the Attorney General of the regulation within 30 days after the receipt of notice.

(4) After being informed as described in Subsection (3), the Office of the Attorney General may take any action necessary to defend the interest of the state with respect to electricity generation by the qualified utility, including filing an action in court or participating in administrative proceedings.

(5) Before authorizing or approving a rate case, integrated resource plan, or other submission that proposes the early retirement of an electrical generation facility, the commission shall:

(a) consider the Legislature's findings in Subsection (2);

(b) determine, based on clear and convincing evidence, that the early retirement of an electrical generation facility will not:

(i) create a material adverse effect on the provision of affordable, reliable, dispatchable, and secure electricity to customers in the state;

(ii) create or exacerbate an existing shortage of available electricity to customers in the state;

(iii) harm the qualified utility's ratepayers by causing the qualified utility to incur any net incremental costs to be recovered from ratepayers that could be avoided by continuing to operate the electric generating unit proposed for retirement in compliance with applicable law; and

(iv) be undertaken as a result of any financial incentives or benefits for closure related costs offered by any federal agency;

(c) determine whether the utility has proven a commitment and capability to have a replacement plan operational before retiring the existing facility; and

(d) in making the determination under Subsection (b), consider the following characteristics:

(i) plant factor;

(ii) nameplate capacity;

(iii) reliability;

(iv) dispatchability;

(v) affordability; and

(vi) the minimum reserve capacity requirement established by the utility's reliability coordinator.

(6) The commission shall prepare and submit an annual report to the Public Utilities, Energy, and Technology Interim Committee before November 30 of each year detailing:

(a) the number of received requests to retire electric generating units in the state, including:

(i) the nameplate capacity of each of those units; and

(ii) whether the request was approved or denied by the commission;

(b) the impact of any commission- approved retirement of an electric generating unit on the:

(i) state's generation fuel mix;

(ii) required capacity reserve margins for the qualified utility;

(iii) need for capacity additions or expansions at new or existing facilities as a result of the retirement; and

(iv) need for additional purchase power or capacity reserve arrangements; and

(c) whether a retirement resulted in stranded costs for the ratepayer that will be recovered by the utility through a surcharge or some other separate charge on the customer bill.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 48
H. B. 192
Passed February 29, 2024
Approved March 12, 2024
Effective July 1, 2024

LOCAL EDUCATION AGENCY EMPLOYEE PAID LEAVE

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Ann Millner
Cosponsor:
Jennifer Dailey- Provost
Matt MacPherson
Nelson T. Abbott
Ariel Defay
Ashlee Matthews
Cheryl K. Acton
Joseph Elison
Carol S. Moss
Stewart E. Barlow
Katy Hall
Val L. Peterson
Gay Lynn Bennion
Dan N. Johnson
Candice B. Pierucci
Kera Birkeland
Marsha Judkins
Judy Weeks Rohner
Walt Brooks
Jason B. Kyle
Angela Romero
Jefferson S. Burton
Trevor Lee
Keven J. Stratton
Tyler Clancy
Rosemary T. Lesser
Raymond P. Ward
James Cobb
Anthony E. Loubet
Christine F. Watkins
Paul A. Cutler
Steven J. Lund
Douglas R. Welton

LONG TITLE

General Description:

This bill requires a local education agency (LEA) to develop certain paid leave policies.

Highlighted Provisions:

This bill:

- defines relevant terms; and
- outlines the criteria of a required parental and postpartum recovery leave policy.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53G- 11- 208, Utah Code Annotated 1953

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

Section 1. Section 53G- 11- 208 is enacted to read:

53G- 11- 208. Paid leave -- Parental leave -- Postpartum recovery leave -- Leave sharing -- Rulemaking.

(1) As used in this section:

(a) "Parental leave" means leave hours an LEA provides to a parental leave eligible employee.

(b) "Parental leave eligible employee" means an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies, and is:

(i) a birth parent as defined in Section 78B- 6- 103;

(ii) legally adopting a minor child, unless the individual is the spouse of the pre- existing parent;

(iii) the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or

(iv) appointed the legal guardian of a minor child or incapacitated adult.

(c) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.

(d) "Postpartum recovery leave eligible employee" means an employee:

(i) who accrues paid leave benefits in accordance with the LEA's leave policies; and

(ii) who gives birth to a child.

(e) "Qualified employee" means:

(i) a parental leave eligible employee; or

(ii) a postpartum recovery leave eligible employee.

(f) "Retaliatory action" means to do any of the following regarding an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount to which the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(f)(i) through (iv).

(2) Beginning July 1, 2025, an LEA:

(a) shall develop leave policies that provide for the use and administration of parental leave and postpartum recovery leave by a qualified employee under this section in a manner that is not more restrictive than the parental and postpartum recovery leave available to state employees under Section 63A- 17- 511; and

(b) may develop leave policies that provide a mechanism for leave sharing between employees of

the same LEA or school for all types of leave, including sick leave, annual leave, parental leave, and postpartum recovery leave; and

(c) shall provide each employee written information regarding:

(i) a qualified employee's right to use parental leave or postpartum recovery leave under this section; and

(ii) the availability of and process for using or contributing to the leave sharing mechanism described in Subsection (2)(b).

(3) An LEA may not take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.

(4) An LEA or school may use leave bank sharing and other efforts to mitigate incurred costs of compliance with this section, including coordinating with other LEAs or schools to share approaches or policies designed to fulfill the requirements of this section in a cost effective manner.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 49
H. B. 202
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

STUDENT ATHLETE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill enacts provisions relating to the use of the name, image, or likeness of a student athlete who participates in an institution's intercollegiate athletic program.

Highlighted Provisions:

This bill:

- defines terms;
- provides for certain allowed and prohibited uses of a student athlete's name, image, or likeness;
- provides that a student athlete agreement is not subject to Title 63G, Chapter 2, Government Records and Management Act; and
- prohibits an Institution of Higher Education from using appropriated funds for purposes related to a student athlete agreement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53B-16-601, Utah Code Annotated 1953
53B-16-602, Utah Code Annotated 1953

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

Section 1. Section 53B-16-601 is enacted to read:

53B-16-601. Definitions.

Part 6. Use of Student Athlete's Name, Image, and Likeness in Collegiate Athletics

As used in this part:

(1) "Institution" means:

(a) an institution of higher education described in Section 53B-1-102; or

(b) a private, nonprofit institution of higher education.

(2) "Intercollegiate athletics program" means an institution-sponsored athletic program or sporting activity in which a student athlete represents the student athlete's institution in competition against another institution.

(3) "Prohibited endorsement provision" means a provision that requires or permits the use of a student athlete's name, image, or likeness to promote:

(a) a tobacco product or e-cigarettes, as those terms are defined in Section 76-10-101, including vaping;

(b) an alcoholic product, as that term is defined in Section 32B-1-102;

(c) a seller or dispenser of a controlled substance, including steroids, antibiotics, and marijuana;

(d) gambling or betting;

(e) a sexually oriented business, as that term is defined in Section 17-50-331; or

(f) a firearm that the student athlete cannot legally purchase.

(4)(a) "Student athlete" means an individual who:

(i) is enrolled in an institution; and

(ii) participates as an athlete for the institution in an intercollegiate athletics program.

(b) "Student athlete" includes an agent or other representative of a student athlete.

(5) "Student athlete agreement" means a proposed or executed contract:

(a) between a student athlete and a third party that is not an institution; and

(b) in which the student athlete and third party agree that the student athlete's name, image, or likeness may be used to promote a business, product, service, or individual in exchange for the student athlete receiving financial compensation or other benefits.

Section 2. Section 53B-16-602 is enacted to read:

53B-16-602. Use of a student athlete's name, image, or likeness in intercollegiate athletics programs -- Contracts -- Exceptions -- Prohibitions.

(1) A student athlete may not enter into a student athlete agreement that contains a prohibited endorsement provision.

(2) Before a student athlete or prospective student athlete enters into a student athlete agreement that exceeds $600 in value, the student athlete or proposed student athlete shall provide the student athlete agreement to the student athlete's or proposed student athlete's institution.

(3) An institution that receives a student athlete agreement under Subsection (2) shall provide the student athlete or prospective student athlete with a written acknowledgment regarding whether the student athlete agreement conflicts with the institution's policies or the provisions in this part.

(4) A student athlete agreement or any communication, or other material related to a student athlete agreement, including those created before May 1, 2024, is not subject to Title 63G, Chapter 2, Government Records Access Management Act.

(5) An institution may not use funds appropriated by the Legislature for any purpose related to a

student athlete's or prospective student athlete's student athlete agreement that the student athlete or prospective student athlete submits to the institution.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 50
H. B. 206
Passed February 16, 2024
Approved March 12, 2024
Effective May 1, 2024

COLUMBIA INTERSTATE COMPACT AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill repeals the state's ratification of the Columbia Interstate Compact.

Highlighted Provisions:

This bill:

- removes Utah's ratification of the Columbia Interstate Compact.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS:

73-19-6, as enacted by Laws of Utah 1963, Chapter 177
73-19-7, as enacted by Laws of Utah 1963, Chapter 177
73-19-8, as last amended by Laws of Utah 1984, Chapter 67
73-19-9, as last amended by Laws of Utah 2023, Chapter 140
73-19-10, as enacted by Laws of Utah 1963, Chapter 177

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

Section 1. Repealer.

This bill repeals:

Section 73-19-6, Ratification.

Section 73-19-7, Text of compact.

Section 73-19-8, Original compact -- Act as ratifying.

Section 73-19-9, Utah representative on Columbia Compact Commission.

Section 73-19-10, Errors in copying not to invalidate ratification.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 51
H. B. 208
Passed February 28, 2024
Approved March 12, 2024
Effective May 1, 2024

TEACHER LICENSURE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses changes in teacher licensure requirements.

Highlighted Provisions:

This bill:

- amends legislative findings on teacher competency;
- directs the State Board of Education (state board) and the Utah Board of Higher Education to develop a strategy for modifying traditional and alternative programs for training and licensing teachers;
- prohibits the state board from requiring a pedagogical performance assessment to obtain licensure;
- amends rulemaking authority for the state board;
- limits the delegation of authority regarding preparation programs;
- clarifies roles for local education agencies; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-6-103, as last amended by Laws of Utah 2019, Chapter 186
53E-6-201, as last amended by Laws of Utah 2023, Chapter 368
53E-6-301, as last amended by Laws of Utah 2022, Chapter 285
53E-6-302, as last amended by Laws of Utah 2022, Chapter 285
53E-6-902, as last amended by Laws of Utah 2020, Chapter 408
53G-11-509, as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53E-6-206, Utah Code Annotated 1953

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

Section 1. Section 53E-6-103 is amended to read:

53E-6-103. Legislative findings on teacher quality -- Declaration of education as a profession.

(1)(a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.

(b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.

(2)(a) The Legislature finds that:

(i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;

(ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and

(iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.

(b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

(i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs [~~before assuming their responsibilities in the schools~~]designed to provide opportunities to demonstrate competency in a school classroom setting;

(ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;

(iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and

(iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Section 2. Section 53E-6-201 is amended to read:

53E-6-201. State board licensure.

(1) The state board shall [~~establish in rule made~~]make rules in accordance with Title 63G,

Chapter 3, Utah Administrative Rulemaking Act, to establish a system for educator licensing that includes:

(a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;

(b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in state board rule;

(c) an LEA-specific educator license issued by the state board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools; [~~and~~]

(d) beginning in the 2023-2024 school year, a provider-specific license issued by the state board at the request of an authorized online course provider described in Subsection 53F-4-504 that:

(i) is valid for an individual to provide educational services to a student enrolled in an online course described in 53F-4-503; and

(ii) contains eligibility criteria that is no more stringent than the requirements for a license described in Subsection (1)(c)[~~.~~]; and

(e) beginning in the 2029-2030 school year, the creation or modification of licenses if any are created or modified under Section 53G-6-206.

(2) An individual employed in a position that requires licensure by the state board shall hold the license that is appropriate to the position.

(3)(a)(i) [~~The~~]Except as provided in Subsection (3)(a)(ii), the state board may [~~by rule made~~]make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~-~~]rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.

(ii) The state board may not make licensure contingent upon passage of a pedagogical performance assessment.

(b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the state board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the Utah Board of Higher Education, if:

(i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and

(ii) enrollments are determined by each institution under rules and guidelines established by the Utah Board of Higher Education in accordance with findings of fact that space is available for the educator's enrollment.

Section 3. Section 53E-6-206 is enacted to read:

53E-6-206. Expansion of traditional and alternative programs for teacher training.

(1)(a) By July 1, 2028, the state board and the Utah Board of Higher Education, in consultation with administrators and staff directly responsible for hiring licensed educators at an LEA or regional education service agency as defined in Section 53G-4-410, shall develop a strategy for modifying traditional and alternative programs for training teachers.

(b) The strategy described in Subsection (1)(a) shall include consideration of:

(i) competency-based approaches;

(ii) experiential learning, including apprenticeships; and

(iii) degree-agnostic qualifications.

(2)(a) Subject to having an agreement between at least one institution of higher education and the state board, the state board shall modify requirements for traditional and alternative training program licenses to accommodate the strategy described in Subsection (1).

(b) The changes described in Subsection (2)(a) may include the modification of requirements necessary for:

(i) a license based on an associates degree;

(ii) competency-based training programs;

(iii) accommodations for non-traditional students;

(iv) credit for competency obtained through prior learning or experience; or

(v) other options that would accommodate the strategy described in Subsection (1).

Section 4. Section 53E-6-301 is amended to read:

53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.

(1) As used in this section:

(a) "Literacy preparation assessment" means an examination that evaluates an individual's knowledge of the science of reading, related to literacy instruction for an individual who teaches preschool, elementary school, or special education.

(b) "Required literacy preparation assessment" means a literacy preparation assessment that the state board uses to determine the qualifications of license applicants.

(2) The state board shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the scholarship, competencies, training, and experience required of license applicants.

(3)(a) The state board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(4)(a) [~~The~~]Except as provided in Subsection (4)(b), the state board may determine by examination or otherwise the qualifications of license applicants.

(b) The state board may not make licensure contingent upon passage of a pedagogical performance assessment.

(5) If the state board uses a required literacy preparation assessment under Subsection (4):

(a)(i) the state board shall make rules to allow an LEA to hire a license applicant who does not successfully pass the required literacy preparation assessment for a limited duration pending successful passage; and

(ii) the license applicant is not eligible for a professional educator license described in Section 53E-6-201 until the license applicant successfully passes the required literacy preparation assessment; and

(b) the state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish exemptions for the required literacy preparation assessment; and

(ii) develop a pathway to demonstrate early literacy competency as an exception to the requirement to pass the required literacy preparation assessment.

Section 5. Section 53E-6-302 is amended to read:

53E-6-302. Educator preparation programs.

(1) As used in this section:

(a) "Educator preparation program" means:

(i) a university teacher education program; or

(ii) a program that prepares individuals using an alternative pathway to licensure, as the state board provides, that does not include content or time requirements that conflict with the content or time requirements described in rule made by the state board in accordance with Subsection (2).

(b) "Required literacy preparation assessment" means the same as that term is defined in Section 53E-6-301.

(c) "University teacher preparation program" means a program that an institution of higher education offers to prepare educators for licensure.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for approval of an educator preparation program.

(3) The state board shall ensure that standards adopted under Subsection (2):

(a) meet or exceed generally recognized national standards for preparation of educators; and

(b) include requirements for educator preparation programs to:

(i) provide instruction in the science of reading; and

(ii) prepare license applicants to pass the required literacy preparation assessment at no cost to the applicants for the preparation, including providing ongoing preparation for up to three total attempts of the required literacy preparation assessment.

(4) The state board shall designate an employee of the state board's staff to:

(a) work with education deans of state institutions of higher education to coordinate university teacher preparation programs that may include:

(i) monitoring courses for university teacher preparation programs; and

(ii) working with course instructors for university teacher preparation programs;

(b) act as a liaison between:

(i) the state board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of university teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the state board; and

(ii) education deans of state institutions of higher education.

(5) The state board shall:

(a) in good faith, consider the findings and recommendations described in Subsection (4)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the state board determines is necessary, to implement recommendations described in Subsection (4)(c).

(6) Subject to legislative appropriations, the Utah Board of Higher Education shall:

(a) provide matching funds to each of the state's institutions of higher education with a university teacher preparation program:

(i) to hire an additional faculty member who has training in the science of reading and the science of reading instruction; and

(ii) in an amount equal to 75% of the cost of making the hire described in Subsection (6)(a) if the institution provides 25% of the cost; and

(b) consult the state superintendent regarding:

(i) criteria for the hire described in Subsection (6)(a) that would qualify for a distribution of funding; and

(ii) an individual institution's fulfillment of the criteria described in Subsection (6)(b)(i) before distributing funding.

(7) An institution that hires an additional faculty member shall coordinate with the science of reading panel described in Section 53E-3-1003 to include two members of the panel in the institution's hiring process.

(8) The state board shall:

(a) monitor accreditation of university programs regarding the science of reading preparation described in Subsection (3)(b) at the institutions described in Subsection (6)(a); and

(b)(i) develop strategies to provide support for preparation programs with low rates of passage on the required literacy preparation assessment; and

(ii) provide increasing levels of support to a preparation program with low rates of passage on the required literacy preparation assessment for two consecutive years.

Section 6. Section 53E-6-902 is amended to read:

53E-6-902. Teacher leaders.

(1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.

(2) There is created the role of a teacher leader to:

(a) work with a student teacher and a teacher who supervises a student teacher;

(b) assist with the training of a recently hired teacher; [~~and~~]

(c) support school-based professional learning[~~.~~]; and

(d) provide feedback on the demonstration of competencies for an applicant seeking licensure through a preparation program.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) define the role of a teacher leader, including the functions described in Subsection (2); and

(b) establish the minimum criteria for a teacher to qualify as a teacher leader.

(4) The state board shall solicit recommendations from school districts and educators regarding:

(a) appropriate resources to provide a teacher leader; and

(b) appropriate ways to compensate a teacher leader.

Section 7. Section 53G-11-509 is amended to read:

53G-11-509. Mentor for provisional educator.

(1) In accordance with [~~Subsections~~]Section 53E-6-902, Subsection 53E-2-302(7), and Subsections 53E-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign a person who has received training or will receive training in mentoring educators as a mentor to the provisional educator.

(2) Where possible, the mentor shall be a career educator who performs substantially the same duties as the provisional educator and has at least three years of educational experience.

(3) The mentor shall assist the provisional educator to become effective and competent in the teaching profession and school system, but may not serve as an evaluator of the provisional educator.

(4) An educator who is assigned as a mentor may receive compensation for those services in addition to the educator's regular salary.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 52
H. B. 222
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

WILDLIFE HUNTING AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to big game.

Highlighted Provisions:

This bill:

- moves definitions to the provision applicable to a chapter;
- addresses what is sufficient wearing of hunter orange while hunting big game, with exceptions;
- grants the director of the Division of Wildlife Resources authority related to the wearing of hunter orange by non-hunters;
- addresses the commercial use of big game byproducts, including the payment of fees; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-3-201, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-11-101, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-11-205, as renumbered and amended by Laws of Utah 2023, Chapter 103

ENACTS:

23A-11-501, Utah Code Annotated 1953
23A-11-502, Utah Code Annotated 1953
23A-11-503, Utah Code Annotated 1953
23A-11-504, Utah Code Annotated 1953

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

Section 1. Section 23A-3-201 is amended to read:

23A-3-201. Wildlife Resources Account -- Unexpected fund balances converted to General Fund account.

(1) There is created a restricted account within the General Fund known as the "Wildlife Resources Account."

(2) The following money shall be deposited into the Wildlife Resources Account:

(a) revenue from the sale of licenses, permits, tags, and certificates of registration issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise provided by this title;

(b) revenue from the sale, lease, rental, or other granting of rights of real or personal property acquired with revenue specified in Subsection (2)(a);

(c) revenue from fines and forfeitures for violations of this title or a rule, proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule adopted by the Judicial Council;

(d) revenue deposited into the fund under Chapter 11, Part 5, Big Game Byproduct;

[~~(d)~~](e) money appropriated from the General Fund by the Legislature pursuant to Section 23A-4-306;

[~~(e)~~](f) other money received by the division under this title, except as otherwise provided by this title; and

[~~(f)~~](g) interest, dividends, or other income earned on account money.

(3) Money in the Wildlife Resources Account shall be used for the administration of this title.

(4) The state auditor and director of the Division of Finance shall, at the close of the fiscal year, convert into the Wildlife Resources Account the unexpended balances of the Wildlife Resources Account not legally obligated by contract or appropriated by the Wildlife Board for capital outlay projects or other programs that may extend beyond the close of the fiscal year.

Section 2. Section 23A-11-101 is amended to read:

23A-11-101. Definitions.

As used in this chapter:

(1) "Big game" includes deer, elk, big horn sheep, moose, mountain goats, pronghorn[~~, and bison.~~].

(2)(a) "Big game byproduct" means those parts of the carcass of a lawfully taken big game animal that are listed in Subsections (2)(a)(i) through (ix):

(i) bones with less than 1/2 inch of attached muscle tissue;

(ii) fat, tendons, ligaments, cartilage, and silverskin with less than 1/2 inch attached muscle tissue;

(iii) muscle tissue damaged by wound channels and within one inch of damaged tissue;

(iv) head;

(v) rib and neck meat on deer, pronghorn, mountain goat, and bighorn sheep;

(vi) antlers and horns;

(vii) legs below the knee and hock;

(viii) internal organs; and

(ix) hide.

(b) Notwithstanding Subsection (2)(a), "big game byproduct" does not include:

(i) brain or brain tissue;

(ii) spine or any part of the spinal column;

(iii) any portion of the carcass of an animal testing positive for chronic wasting disease;

(iv) any carcass or portion of a carcass that otherwise fails to meet local, state, or federal regulations governing processing, sale, or distribution of wild game; and

(v) spoiled product.

(3)(a) "Centerfire rifle hunt" means a hunt for which a hunter may use a centerfire rifle, except as provided in Subsection (3)(b).

(b) "Centerfire rifle hunt" does not include:

(i) a bighorn sheep hunt;

(ii) a mountain goat hunt;

(iii) a bison hunt;

(iv) a moose hunt;

(v) a hunt requiring the hunter to possess a statewide conservation permit; or

(vi) a hunt requiring the hunter to possess a statewide sportsman permit.

[~~(2)~~](4) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

(5) "Financial advantage" means an act through which a person in lawful possession of a protected wildlife carcass uses or disposes of that carcass or carcass parts in a transaction for which the person receives consideration or expects to recover associated costs.

[~~(3)~~](6) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

[~~(4)~~](7) "Predator" means a cougar, bear, or coyote.

(8) "Spoiled product" means any portion of a protected wildlife carcass that is not fit for human or animal consumption due to the presence of parasites, pathogens, or rot.

(9) "Statewide conservation permit" means a permit:

(a) issued by the division;

(b) distributed through a nonprofit organization founded for the purpose of promoting wildlife conservation; and

(c) valid:

(i) on open hunting units statewide; and

(ii) for the species of big game and time period designated by the Wildlife Board.

(10) "Statewide sportsman permit" means a permit:

(a) issued by the division through a public draw; and

(b) valid:

(i) on open hunting units statewide; and

(ii) for the species of big game and time period designated by the Wildlife Board.

Section 3. Section 23A-11-205 is amended to read:

23A-11-205. Requirement to wear hunter orange -- Exceptions -- Nonhunters.

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

[~~(a)(i) "Centerfire rifle hunt" means a hunt for which a hunter may use a centerfire rifle, except as provided in Subsection (1)(a)(ii).~~]

[~~(ii) "Centerfire rifle hunt" does not include:~~]

[~~(A) a bighorn sheep hunt;~~]

[~~(B) a mountain goat hunt;~~]

[~~(C) a bison hunt;~~]

[~~(D) a moose hunt;~~]

[~~(E) a hunt requiring the hunter to possess a statewide conservation permit; or~~]

[~~(F) a hunt requiring the hunter to possess a statewide sportsman permit.~~]

[~~(b) "Statewide conservation permit" means a permit:~~]

[~~(i) issued by the division;~~]

[~~(ii) distributed through a nonprofit organization founded for the purpose of promoting wildlife conservation; and~~]

[~~(iii) valid:~~]

[~~(A) on open hunting units statewide; and~~]

[~~(B) for the species of big game and time period designated by the Wildlife Board.~~]

[~~(c) "Statewide sportsman permit" means a permit:~~]

[~~(i) issued by the division through a public draw; and~~]

[~~(ii) valid:~~]

[~~(A) on open hunting units statewide; and~~]

[~~(B) for the species of big game and time period designated by the Wildlife Board.~~]

[~~(2)(a) A person~~]

(1) An individual while hunting a species of big game shall wear[~~ a minimum of 400 square inches of hunter orange material while hunting a species of big game~~], on the exterior so the item can be seen, one or more of the following items that are primarily hunter orange material, except as provided in Subsection [~~(3).~~](2):

(a) a hat;

(b) a shirt;

(c) a jacket;

(d) a coat;

(e) a vest; or

(f) a sweater.

[~~(b) A person shall wear hunter orange material on the head, chest, and back.~~]

[~~(3) A person~~]

(2) An individual is not required to wear [~~the~~]a hunter orange [~~material~~]item described in Subsection [~~(2)~~](1):

(a) during the following types of hunts, unless a centerfire rifle hunt is in progress in the same area:

(i) archery;

(ii) muzzle- loader;

(iii) mountain goat;

(iv) bighorn sheep;

(v) bison; or

(vi) moose; or

(b) as provided by a rule of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3)(a) The director may regulate the wearing of hunter orange by an individual who is:

(i) not hunting, such as a hiker, camper, or other recreational user; and

(ii) accessing a wildlife management area while a centerfire rifle hunt for big game is in progress on the wildlife management area.

(b) Notwithstanding Subsection (3)(a), the director may not regulate the wearing of hunter orange under this Subsection (3) by a landowner owning land inside a wildlife management area or by the landowner's immediate family members.

(4) An individual engaged in agriculture activities is not subject to the requirements to wear hunter orange under this section.

Section 4. Section 23A- 11- 501 is enacted to read:

23A- 11- 501. Definitions.

Part 5. Big Game Byproduct

As used in this part, "fee year" means a one- year period beginning on April 1 and ending on March 31 of the following year.

Section 5. Section 23A- 11- 502 is enacted to read:

23A- 11- 502. Big game byproduct - - Certificate of registration.

(1)(a) Except as provided in Subsection (1)(f), a person shall obtain a certificate of registration from the division to purchase, acquire, sell, barter, exchange, or trade big game byproduct for financial advantage.

(b) To obtain a certificate of registration authorizing the purchase, sale, barter, or trade of big game byproduct for financial advantage, the applicant shall:

(i) operate a licensed meat processing business in compliance with state and local government wild game processing laws; and

(ii)(A) provide proof of engagement in the sale of big game byproduct before July 1, 2023, and have processed 500 big game animals in three out of the five consecutive calendar years preceding application; or

(B) have processed 800 big game animals in three out of the five consecutive calendar years preceding application.

(c) A person receiving a certificate of registration under this section shall:

(i) post signage in a conspicuous location of the person's business indicating the person's involvement in the program regulated by this section;

(ii) test incoming deer, elk, and moose carcasses from the following areas for chronic wasting disease:

(A) a state or province, other than Utah, where chronic wasting disease has been detected in big game; or

(B) a management unit within the state that the division has designated as endemic for chronic wasting disease;

(iii) subject to Subsection (1)(d), receive a negative test result for chronic wasting disease before selling, bartering, exchanging, or trading big game byproduct from tested carcasses to another person;

(iv) be subject to reasonable inspections of facilities that process or sell, barter, exchange, or trade big game byproduct and relevant records;

(v) record and upon request of the division, provide the following for a big game animal received:

(A) permit holder's name;

(B) permit holder's phone number;

(C) state or province for which the permit was issued;

(D) permit number;

(E) date animal was received by the processing facility;

(F) species associated with the permit;

(G) total weight of carcass, in pounds, upon arrival at the processing facility;

(H) weight of product, in pounds, returned to the hunter; and

(I) the date the certificate of registration holder submits a deer, elk, or moose carcass for testing for chronic wasting disease;

(vi) retain records detailed in Subsection (1)(c)(v) for two years;

(vii) report to the division the total number of pounds of big game byproduct sold, bartered, exchanged, or traded each fee year on or before the April 15 immediately following the last day of that fee year; and

(viii) at the time the certificate of registration holder submits the report under Subsection (1)(c)(vii), pay a big game byproduct fee in accordance with Section 23A-11-503.

(d) Notwithstanding Subsection (1)(c)(iii), a certificate of registration holder may sell, barter, exchange, or trade big game byproducts if the big game byproduct is:

(i) not required to be tested under this section; or

(ii) required to be tested under this section but a lab result is not provided to the certificate of registration holder within six months from the date the test sample was submitted.

(e)(i) The certificate of registration holder is responsible for the costs associated with laboratory testing for chronic wasting disease of deer, elk, and moose carcasses from out-of-state hunters, except that the certificate of registration holder may pass the cost of testing to the out-of-state hunter that provides the big game byproduct.

(ii) The division is responsible for the costs associated with laboratory testing for chronic wasting disease for deer, elk, and moose carcasses from hunters within the state, with the costs being paid from the big game byproduct fee collected under this part.

(f) A person may purchase, acquire, sell, barter, exchange, or trade big game byproduct for financial advantage without a certificate of registration, provided the big game byproduct is:

(i) processed and individually packaged for the big game byproduct's intended end use when purchased, acquired, sold, bartered, exchanged, or traded; or

(ii) otherwise authorized for purchase, sale, offer or possessed for sale, barter, exchange, or trade by statute or administrative rule.

(2) Except as otherwise authorized in this title, rule, or proclamation, a person may not in violation of Section 23A-5-304, purchase, sell, barter, exchange, or trade any other species of lawfully taken protected wildlife or wildlife parts for financial advantage.

(3) A certificate of registration holder agrees to abide by applicable state and federal laws.

(4) For a carcass testing positive for chronic wasting disease under Subsection (1)(c) and that is surrendered to the division by the hunter, the person named on the certificate of registration under this section may donate unclaimed processed wildlife to the client that is reasonably equivalent in value to the product surrendered to the division.

Section 6. Section 23A-11-503 is enacted to read:

23A-11-503. Big game byproduct fee rate -- Deposit of revenue -- Penalty for failure to pay.

(1) A person shall pay for each fee year, a big game byproduct fee of six cents multiplied by the total number of pounds of big game byproduct sold, bartered, exchanged, or traded under authority of a certificate of registration issued by the division under Section 23A-11-502.

(2) A big game byproduct fee payment is due on the April 15 immediately following the last day of a fee year.

(3) The division shall deposit revenue generated by the big game byproduct fee into the Wildlife Resources Account created in Section 23A-3-201.

(4)(a) Subject to Subsection (4)(b), the division may suspend a person's certificate of registration if the person fails to pay a big game byproduct fee under this part.

(b) Upon notification of non-payment by the division, the certificate of registration holder has 10 business days to pay the past due big game byproduct fee before the division may suspend the certificate of registration.

Section 7. Section 23A-11-504 is enacted to read:

23A-11-504. Rulemaking.

The Wildlife Board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to enforce and administer this part.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 53
H. B. 241
Passed February 20, 2024
Approved March 12, 2024
Effective May 1, 2024

CLEAN ENERGY AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions relating to clean energy.

Highlighted Provisions:

This bill:

- changes the term renewable to clean where appropriate in statute.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2023, Chapter 88
10-19-102, as last amended by Laws of Utah 2010, Chapters 119, 125 and 268
10-19-201, as enacted by Laws of Utah 2008, Chapter 374
10-19-202, as enacted by Laws of Utah 2008, Chapter 374
10-19-301, as enacted by Laws of Utah 2008, Chapter 374
11-13-218, as last amended by Laws of Utah 2016, Chapter 371
11-17-2, as last amended by Laws of Utah 2020, Chapter 354
11-42a-102, as last amended by Laws of Utah 2023, Chapter 16
11-42a-103, as enacted by Laws of Utah 2017, Chapter 470
11-58-102, as last amended by Laws of Utah 2023, Chapters 16, 259
11-58-203, as last amended by Laws of Utah 2022, Chapter 82
11-59-102, as last amended by Laws of Utah 2023, Chapters 16, 263
11-59-202, as last amended by Laws of Utah 2023, Chapter 139
11-65-101, as last amended by Laws of Utah 2023, Chapter 16
11-65-203, as enacted by Laws of Utah 2022, Chapter 59
11-68-201, as renumbered and amended by Laws of Utah 2023, Chapter 502
17-27a-401, as last amended by Laws of Utah 2023, Chapters 34, 88
17-50-335, as last amended by Laws of Utah 2020, Chapter 354
17B-1-202, as last amended by Laws of Utah 2023, Chapter 15
17D-1-201, as last amended by Laws of Utah 2021, Chapter 339
54-17-502, as enacted by Laws of Utah 2008, Chapter 374
54-17-601, as last amended by Laws of Utah 2010, Chapters 119, 125 and 268
54-17-602, as enacted by Laws of Utah 2008, Chapter 374
54-17-604, as enacted by Laws of Utah 2008, Chapter 374
54-17-605, as enacted by Laws of Utah 2008, Chapter 374
54-17-801, as last amended by Laws of Utah 2017, Chapter 409
54-17-802, as enacted by Laws of Utah 2012, Chapter 182
54-17-803, as enacted by Laws of Utah 2012, Chapter 182
54-17-804, as enacted by Laws of Utah 2012, Chapter 182
54-17-805, as enacted by Laws of Utah 2012, Chapter 182
54-17-806, as last amended by Laws of Utah 2020, Chapter 126
54-17-807, as last amended by Laws of Utah 2019, Chapter 136
54-17-901, as enacted by Laws of Utah 2019, Chapter 471
54-17-902, as enacted by Laws of Utah 2019, Chapter 471
54-17-903, as enacted by Laws of Utah 2019, Chapter 471
54-17-904, as enacted by Laws of Utah 2019, Chapter 471
54-17-905, as enacted by Laws of Utah 2019, Chapter 471
54-17-906, as enacted by Laws of Utah 2019, Chapter 471
54-17-908, as enacted by Laws of Utah 2019, Chapter 471
59-2-102, as last amended by Laws of Utah 2023, Chapter 16
59-7-614, as last amended by Laws of Utah 2023, Chapter 482
59-10-1014, as last amended by Laws of Utah 2021, Chapter 280
59-10-1106, as last amended by Laws of Utah 2023, Chapter 482
63A-5b-702, as last amended by Laws of Utah 2021, Chapter 382
63H-1-201, as last amended by Laws of Utah 2022, Chapter 274
63L-11-304, as renumbered and amended by Laws of Utah 2021, Chapter 382
79-3-202, as last amended by Laws of Utah 2022, Chapter 216

Sections affected by Coordination Clause:

11-42a-102, as last amended by Laws of Utah 2023, Chapter 1649

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

Section 1. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) To accomplish the purposes of this chapter, a municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and [~~renewable~~]clean energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(j) an official map.

(3)(a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

(b)(i) This Subsection (3)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (3)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality as defined in Section 10-9a-408, the municipality shall amend the municipality's general plan to comply with Subsection (3)(a) on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

(5) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section 10-9a-403 shall amend the municipality's general plan to comply with Section 10-9a-403.

Section 2. Section 10-19-102 is amended to read:

10-19-102. Definitions.

As used in this chapter:

(1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of a municipal electric utility to customers in this state in a calendar year, reduced by:

(a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;

(b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a [~~renewable~~]clean energy source or that otherwise has not been used to satisfy Subsection 10-19-201(1):

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy;

(vi) hydro-electric energy; or

(vii) waste gas and waste heat capture or recovery; and

(c) the number of kilowatt-hours attributable to reductions in retail sales in that calendar year from activities or programs promoting electric energy efficiency or conservation or more efficient management of electric energy load.

(2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by

a facility during the calendar year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.

(3) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:

(a) not used in a calendar year to comply with this part or with a renewable energy program in another state; and

(b) carried forward into a subsequent year.

(4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:

(a) by a municipal electric utility by a trade, purchase, or other transfer of electricity that includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

(b) by a municipal electric utility by generating the electricity for which the renewable energy certificate is issued.

(5) "Clean energy source" means:

(a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995, that derives energy from one or more of the following:

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery, including methane gas from:

(A) an abandoned coal mine; or

(B) a coal degassing operation associated with a state-approved mine permit;

(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;

(viii) a compressed air energy storage process, if:

(A) the process used to compress the air is a renewable energy source and the associated renewable energy certificates are retired for the purpose of the compressed air energy storage process; or

(B) equivalent renewable energy certificates are obtained and retired for the purpose of the compressed air energy storage process;

(ix) municipal solid waste;

(x) nuclear fuel; or

(xi) carbon capture utilization and sequestration;

(b) any of the following:

(i) up to 50 average megawatts of electricity per year per municipal electric utility from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;

(ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; and

(iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;

(c) hydrogen gas derived from any source of energy described in Subsection (5)(a) or (b);

(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (5)(a) through (c); and

(e) any of the following located in the state and owned by a user of energy:

(i) a demand side management measure, as defined by Subsection 54-7-12.8(1) with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;

(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;

(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;

(iv) a hydroelectric or geothermal facility, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;

(v) a waste gas or waste heat capture or recovery system other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and

(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.

[~~(5)~~](6) "Commission" means the Public Service Commission.

[~~(6)~~](7) "Municipal electric utility" means any municipality that owns, operates, controls, or manages a facility that provides electric power for a retail customer, whether domestic, commercial, industrial, or otherwise.

[~~(7)~~](8) "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:

(a) becomes operational or is retrofitted on or after January 1, 2008; and

(b) reduces carbon dioxide emissions into the atmosphere through permanent geological sequestration or through other verifiably permanent reductions in carbon dioxide emissions through the use of technology.

[~~(8)~~](9) "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:

(a)(i) the [~~renewable~~]clean energy source is located within the geographic boundary of the Western Electricity Coordinating Council; or

(ii) the qualifying electricity is delivered to the transmission system of a municipal electric utility or a delivery point designated by the municipal electric utility for the purpose of subsequent delivery to the municipal electric utility; and

(b) the [~~renewable~~]clean energy attributes of the electricity are not traded, sold, transferred, or otherwise used to satisfy another state's renewable energy program.

[~~(9)~~](10) "Qualifying zero carbon emissions generation":

(a) means a generation facility located within the geographic boundary of the Western Electricity Coordinating Council that:

(i) becomes operational on or after January 1, 2008; and

(ii) does not produce carbon as a byproduct of the generation process;

(b) includes generation powered by nuclear fuel; and

(c) does not include [~~renewable~~]clean energy sources used to satisfy a target established under Section 10-19-201.

[~~(10)~~](11) "Renewable energy certificate" means a certificate issued in accordance with the requirements of Sections 10-19-202 and 54-17-603.

[~~(11) "Renewable energy source" means:~~]

[~~(a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995 that derives its energy from one or more of the following:~~]

[~~(i) wind energy;~~]

[~~(ii) solar photovoltaic and solar thermal energy;~~]

[~~(iii) wave, tidal, and ocean thermal energy;~~]

[~~(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:~~]

[~~(A) organic waste;~~]

[~~(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;~~]

[~~(C) agricultural residues;~~]

[~~(D) dedicated energy crops; and~~]

[~~(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;~~]

[~~(v) geothermal energy located outside the state;~~]

[~~(vi) waste gas and waste heat capture or recovery whether or not it is renewable, including methane gas from:~~]

[~~(A) an abandoned coal mine; or~~]

[~~(B) a coal degassing operation associated with a state-approved mine permit;~~]

[~~(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;~~]

[~~(viii) a compressed air energy storage process, if:~~]

[~~(A) the process used to compress the air is a renewable energy source and the associated renewable energy certificates are retired for the purpose of the compressed air energy storage process; or~~]

[~~(B) equivalent renewable energy certificates are obtained and retired for the purpose of the compressed air energy storage process; or~~]

[~~(ix) municipal solid waste;~~]

[~~(b) any of the following:~~]

[~~(i) up to 50 average megawatts of electricity per year per municipal electric utility from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;~~]

[~~(ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; and~~]

[~~(iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;~~]

[~~(c) hydrogen gas derived from any source of energy described in Subsection (11)(a) or (b);~~]

[~~(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (11)(a) through (c); and~~]

[~~(e) any of the following located in the state and owned by a user of energy:~~]

[~~(i) a demand side management measure, as defined by Subsection 54-7-12.8(1) with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;~~]

[~~(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(iv) a hydroelectric or geothermal facility, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(v) a waste gas or waste heat capture or recovery system other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and~~]

[~~(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.~~]

(12) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:

(a) qualifying electricity that is acquired by a municipal electric utility or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or

(b) activities listed in Subsection [~~(11)(e)~~](5)(e).

Section 3. Section 10-19-201 is amended to read:

10-19-201. Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness.

(1)(a) To the extent that it is cost-effective to do so, beginning in 2025 the annual retail electric sales in this state of each municipal electric utility shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.

(b) The amount under Subsection (1)(a) is computed based upon adjusted retail sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.

(c) Notwithstanding Subsections (1)(a) and (b) an increase in the annual target from one year to the next is limited to the greater of:

(i) 17,500 megawatt-hours; or

(ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

(2) Cost-effectiveness under Subsection (1) is determined using any criteria applicable to the municipal electric utility's acquisition of a significant energy resource established by the municipality's legislative body.

(3) This section does not require a municipal electric utility to:

(a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;

(b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the municipal electric utility; or

(c) acquire qualifying electricity in excess of its adjusted retail electric sales.

(4) A municipal electrical corporation may combine the following to meet Subsection (1):

(a) qualifying electricity from a [~~renewable~~]clean energy source owned by the municipal electric utility;

(b) qualifying electricity acquired by the municipal electric utility through trade, power purchase, or other transfer; and

(c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.

(5) To meet Subsection (1), a municipal electric utility may also count:

(a) qualifying electricity generated or acquired or renewable energy certificates acquired for a program permitting the municipal electric utility's customers to voluntarily contribute to a renewable energy source; and

(b) electricity allocated to this state that is produced by a hydroelectric facility becoming operational after December 31, 2007, if the hydroelectric facility is located in any state in which the municipal electric utility, or the interlocal entity with which the municipal electric utility has a contract, provides electric service.

Section 4. Section 10-19-202 is amended to read:

10-19-202. Renewable energy certificate -- Use to satisfy other requirements.

(1) A municipal electric utility may buy, sell, trade, or otherwise transfer a renewable energy certificate issued or recognized under Section 54-17-603.

(2) For the purpose of satisfying Subsection 10-19-201(1) and the issuance of a renewable energy certificate under Section 54-17-603:

(a) a [~~renewable~~]clean energy source located in this state that derives its energy from solar photovoltaic and solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated; and

(b) if two or more municipal electric utilities jointly own a renewable energy resource, each municipal electric utility shall be credited with 1.0 kilowatt-hour of qualifying electricity for 1.0 kilowatt-hour of the renewable energy resource allocated to the municipal electric utility by contract, unless the contract otherwise provides.

(3) A renewable energy certificate:

(a) may be used only once to satisfy Subsection 10-19-201(1);

(b) may be used to satisfy Subsection 10-19-201(1) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and

(c) may not be used if it has been used to satisfy any other state's renewable energy requirement.

Section 5. Section 10-19-301 is amended to read:

10-19-301. Plans and reports.

(1) A municipal electric utility shall develop and maintain a plan for implementing Subsection 10-19-201(1).

(2) A progress report concerning a plan under Subsection (1) shall be filed with the municipality's legislative body by January 1 of each of the years 2010, 2015, 2020, and 2024.

(3) The progress report under Subsection (2) shall contain:

(a) the actual and projected amount of qualifying electricity through 2025;

(b) the source of qualifying electricity;

(c) an estimate of the cost of achieving the target;

(d) a discussion of conditions impacting the [~~renewable~~]clean energy source and qualifying electricity markets; and

(e) any recommendation for a suggested legislative or program change.

(4) The plan and progress report required by Subsections (1) and (2) may include procedures that will be used by the municipal electric utility to identify and select any cost-effective [~~renewable~~]clean energy resource and qualifying electricity.

(5) By July 1, 2026, the municipal electric utility shall file a final progress report demonstrating:

(a) how Subsection 10-19-201(1) is satisfied for the year 2025; or

(b) the reason why Subsection 10-19-201(1) is not satisfied for the year 2025, if it is not satisfied.

(6) The plan and any progress report filed under this section shall be publicly available at the municipal legislative body's office.

Section 6. Section 11-13-218 is amended to read:

11-13-218. Authority of public agencies or interlocal entities to issue bonds -- Applicable provisions.

(1) A public agency may, in the same manner as it may issue bonds for its individual acquisition of a facility or improvement or for constructing, improving, or extending a facility or improvement, issue bonds to:

(a) acquire an interest in a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement; or

(b) pay all or part of the cost of constructing, improving, or extending a jointly owned facility or improvement, a combination of a jointly owned facility or improvement, or any other facility or improvement.

(2)(a) An interlocal entity may issue bonds or notes under a resolution, trust indenture, or other security instrument for the purpose of:

(i) financing its facilities or improvements; or

(ii) providing for or financing an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure in

accordance with Title 11, Chapter 42, Assessment Area Act.

(b) The bonds or notes may be sold at public or private sale, mature at such times and bear interest at such rates, and have such other terms and security as the entity determines.

(c) The bonds or notes described in this Subsection (2) are not a debt of any public agency that is a party to the agreement.

(3) The governing board may, by resolution, delegate to one or more officers of the interlocal entity or to a committee of designated members of the governing board the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate, price, principal amount, maturity, redemption features, or other terms of a bond or note; and

(b) approve and execute all documents relating to the issuance of the bond or note.

(4) Bonds and notes issued under this chapter are declared to be negotiable instruments and their form and substance need not comply with the Uniform Commercial Code.

(5)(a) An interlocal entity shall issue bonds in accordance with, as applicable:

(i) Chapter 14, Local Government Bonding Act;

(ii) Chapter 27, Utah Refunding Bond Act;

(iii) this chapter; or

(iv) any other provision of state law that authorizes issuance of bonds by a public body.

(b) An interlocal entity is a public body as defined in Section 11-30-2.

Section 7. Section 11-17-2 is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Clean energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from clean resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system;

(f) nuclear fuel;

(g) carbon capture utilization and sequestration; or

(h) another clean energy system approved by the governing body.

[~~(2)~~](3) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

[~~(3)~~](4) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt

obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

[~~(4)~~](5) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection [~~(4)(d)~~](5)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

[~~(5)~~](6)(a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

[~~(6)~~](7) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

[~~(7)~~](8) "Mortgage" means a mortgage, trust deed, or other security device.

[~~(8)~~](9) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

[~~(9)~~](10) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

[~~(10)~~](11)(a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a [~~renewable~~]clean energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

[~~(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:~~]

[~~(a) a photovoltaic system;~~]

[~~(b) a solar thermal system;~~]

[~~(c) a wind system;~~]

[~~(d) a geothermal system, including:~~]

[~~(i) a direct-use system; or~~]

[~~(ii) a ground source heat pump system;~~]

[~~(e) a micro-hydro system; or~~]

[~~(f) another renewable energy system approved by the governing body.~~]

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 8. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2)(a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a [~~renewable~~]clean energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6)(a) "Clean energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from clean resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a micro-hydro system;

(F) a biofuel system;

(G) energy derived from nuclear fuel; or

(H) any other clean source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (6)(a)(i) or (ii).

(b) "Clean energy system" does not include a system described in Subsection (6)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i)(A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

[~~(6)~~](7)(a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

[~~(7)~~](8) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as

determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

[~~(8)~~](9) "C-PACE" means commercial property assessed clean energy.

[~~(9)~~](10) "C-PACE district" means the statewide authority established in Section 11-42a-106 to implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

[~~(10)~~](11) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

[~~(11)~~](12) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

[~~(12)~~](13) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

[~~(13)~~](14) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

[~~(14)~~](15) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[~~(15)~~](16) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

[~~(16)~~](17) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections [~~(16)(b)(i)~~](17)(b)(i) through (xv).

[~~(17)~~](18) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

[~~(18)~~](19) "Improvement" means a publicly or privately owned energy efficiency upgrade, [~~renewable~~]clean energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

[~~(19)~~](20) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

[~~(20)~~](21) "Installment payment date" means the date on which an installment payment of an assessment is payable.

[~~(21)~~](22) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

[~~(22)~~](23)(a) "Local entity" means:

(i) a county, city, town, or metro township;

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

[~~(23)~~](24) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

[~~(24)~~](25) "OED" means the Office of Energy Development created in Section 79-6-401.

[~~(25)~~](26) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

[~~(26)~~](27) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

[~~(27)~~](28) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

[~~(28)~~](29) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

[~~(29)~~](30) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

[~~(30)~~](31) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

[~~(31)~~](32) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

[~~(32)~~](33) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

[~~(33)~~](34) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection [~~(33)(c)~~](34)(c).

[~~(34)~~](35) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

[~~(35)~~](36) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

[~~(36)~~](37) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

[~~(37)(a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:~~]

[~~(i) produces energy from renewable resources, including:~~]

[~~(A) a photovoltaic system;~~]

[~~(B) a solar thermal system;~~]

[~~(C) a wind system;~~]

[~~(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;~~]

[~~(E) a microhydro system;~~]

[~~(F) a biofuel system; or~~]

[~~(G) any other renewable source system that the governing body of the local entity approves;~~]

[~~(ii) stores energy, including:~~]

[~~(A) a battery storage system; or~~]

[~~(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or~~]

[~~(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (37)(a)(i) or (ii).~~]

[~~(b) "Renewable energy system" does not include a system described in Subsection (37)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:~~]

[~~(i)(A) existed before the creation of the energy assessment area; and~~]

[~~(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or~~]

[~~(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.~~]

(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, towns, or metro townships that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 9. Section 11-42a-103 is amended to read:

11-42a-103. No limitation on other local entity powers -- Conflict with other statutory provisions.

(1) This chapter does not limit a power that a local entity has under other applicable law to:

(a) make an improvement or provide a service;

(b) create a district;

(c) levy an assessment or tax; or

(d) issue a bond or a refunding bond.

(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

(3) After January 1, 2017, a local entity or the C-PACE district may create an energy assessment area within the certificated service territory of a public electrical utility for the installation of a [~~renewable~~]clean energy system with a nameplate rating of:

(a) no more than 2.0 megawatts; or

(b) more than 2.0 megawatts to serve load that the public electrical utility does not already serve.

Section 10. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a)(i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

(7) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (7)(a).

(8) "Development project" means a project for the development of land within a project area.

(9) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(10) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

(11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

(13) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(14) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

(15) "Project area" means:

(a) the authority jurisdictional land, subject to Section 11-58-605; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(16) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(17) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(18) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(19) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(20) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(21)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i)(A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii)(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~]clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that are developed as part of a remediation project.

(22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

(23) "Remediation differential" means property tax differential generated from a remediation project area.

(24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a) obtained ownership of the land.

(25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

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

(27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 11. Section 11-58-203 is amended to read:

11-58-203. Policies and objectives of the authority -- Additional duties of the authority.

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment;

(p) encourage all class 5 though 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later;

(q) encourage the development and use of cost-efficient [~~renewable~~]clean energy in project areas;

(r) aggressively pursue world-class businesses that employ cutting-edge technologies to locate within a project area; and

(s) pursue land remediation and development opportunities for publicly owned land to add value to a project area.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land;

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of development.

(3) The board may consider the emissions profile of road, yard, or rail vehicles:

(a) in determining access by those vehicles to facilities that the authority owns or finances; or

(b) in setting fees applicable to those vehicles for the use of facilities that the authority owns or finances.

Section 12. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(6) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~]clean energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 13. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

(1) The authority may:

(a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(c) sue and be sued;

(d) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

(e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board

considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(g) enter into a lease agreement on real or personal property, either as lessee or lessor;

(h) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(p) provide for or finance an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

(s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;

(t) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

(u) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 14. Section 11-65-101 is amended to read:

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for

the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, [~~renewable~~]clean energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 15. Section 11-65-203 is amended to read:

11-65-203. Policies and objectives of the lake authority -- Additional duties of the lake authority.

(1) The policies and objectives of the lake authority are to:

(a) protect and improve:

(i) the quality of Utah Lake's water, consistent with the Clean Water Act, 33 U.S.C. Sec. 1251 et seq., and Title 19, Chapter 5, Water Quality Act;

(ii) the beneficial and public trust uses of Utah Lake;

(iii) Utah Lake's environmental quality; and

(iv) the quality of Utah Lake's lakebed and sediments;

(b) enhance the recreational opportunities afforded by Utah Lake;

(c) enhance long-term economic benefits to the area, the region, and the state;

(d) respect and maintain sensitivity to the unique natural environment of areas in and around the lake authority boundary;

(e) improve air quality and minimize resource use;

(f) comply with existing land use and other agreements and arrangements between property owners and applicable governmental authorities;

(g) promote and encourage management and uses that are compatible with or complement the public trust and uses in areas in proximity to Utah Lake;

(h) take advantage of Utah Lake's strategic location and other features that make Utah Lake attractive:

(i) to residents for recreational purposes;

(ii) for tourism and leisure; and

(iii) for business opportunities;

(i) encourage the development and use of cost-efficient [~~renewable~~]clean energy in project areas;

(j) as consistent with applicable public trust, support and promote land uses on land within the lake authority boundary and land in adjacent political subdivisions that generate economic development, including rural economic development;

(k) respect and not interfere with water rights or the operation of water facilities or water projects associated with Utah Lake;

(l) respect and maintain sensitivity to the unique Native American history, historical sites, and artifacts within and around the lake authority boundary; and

(m) protect the ability of the Provo airport to operate and grow, consistent with applicable environmental regulations, recognizing the significant state investment in the airport and the benefits that a thriving airport provides to the quality of life and the economy.

(2) In fulfilling the lake authority's duties and responsibilities relating to the management of Utah Lake and to achieve and implement the management policies and objectives under Subsection (1), the lake authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around Utah Lake;

(b) review and identify land use and zoning policies and practices to recommend to land use policymakers and administrators of adjoining municipalities that are consistent with and will help to achieve the policies and objectives stated in Subsection (1);

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of Utah Lake to attract, retain, and service users who will help enhance the long- term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of management.

(3) The lake authority shall respect:

(a) a permit issued by a governmental entity applicable to Utah Lake;

(b) a governmental entity's easement or other interest affecting Utah Lake;

(c) an agreement between governmental entities, including between a state agency and the federal government, relating to Utah Lake; and

(d) the public trust doctrine as applicable to land within the lake authority boundary.

(4)(a) The lake authority may use lake authority money to encourage, incentivize, fund, or require development that:

(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(ii) includes building or project designs that minimize negative impacts to the June Sucker, avian species, and other wildlife;

(iii) mitigates traffic congestion; or

(iv) uses high efficiency building construction and operation.

(b) In consultation with the municipality in which management is expected to occur and applicable state agencies, the lake authority shall establish minimum mitigation and environmental standards for management occurring on land within the lake authority boundary.

Section 16. Section 11-68-201 is amended to read:

11-68-201. State Fair Park Authority -- Legal status -- Powers.

(1) There is created the State Fair Park Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3)(a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.

(b) The authority:

(i) replaces and is the successor to the fair corporation;

(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and

(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.

(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.

(4) The authority shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events held at the state fair park:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the authority's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities on fair park land;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote expositions and the use of fair park land;

(g) develop and maintain a marketing program to promote expositions and the use of fair park land;

(h) in accordance with provisions of this chapter, operate and maintain state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of those buildings and facilities;

(i) prepare an economic development plan for the fair park land;

(j) hold an annual exhibition on fair park land that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state.

(6) The authority may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b)(i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the authority's property and other assets;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the authority, subject to the conditions, if any, upon which the aid and contributions are made;

(e) enter into management agreements with any person or entity for the performance of the authority's functions or powers;

(f) establish accounts and procedures that are necessary to budget, receive, disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the state-owned buildings or facilities located on fair park land;

(h) sponsor events as approved by the board;

(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter;

(j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and

(k) enter into one or more agreements to develop the fair park land.

(7) The authority shall comply with:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) the provisions of Section 67-3-12;

(f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(i) entertainment provided at the state fair park;

(ii) judges for competitive exhibits; or

(iii) sponsorship of an event on fair park land; and

(g) the legislative approval requirements for capital development projects established in Section 63A-5b-404.

(8)(a) Before the authority executes a lease described in Subsection (6)(g) with a term of 10 or more years, the authority shall:

(i) submit the proposed lease to the division for the division's approval or rejection; and

(ii) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the authority that the authority:

(i) execute the proposed lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or

(ii) reject the proposed lease.

(9)(a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.

(11)(a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).

(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.

(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:

(i) provide for:

(A) the payment of impact fees to the municipality for development activity on the new land; and

(B) the authority's sharing with the municipality tax revenue generated from the new land; and

(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Section 17. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b)(i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and [~~renewable~~]clean energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3)(a)(i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii)(A) This Subsection (3)(a)(ii) applies to a county that does not qualify as a specified county as of January 1, 2023.

(B) As of January 1, if a county described in Subsection (3)(a)(ii)(A) changes from one class to another or grows in population to qualify as a specified county as defined in Section 17-27a-408, the county shall amend the county's general plan to comply with Subsection (3)(a)(i) on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(iii) A county described in Subsection (3)(a)(ii)(B) shall send a copy of the county's amended general plan to the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the county is a member.

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4)(a)(i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(A) the information identified in Section 19-3-305;

(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 18. Section 17-50-335 is amended to read:

17-50-335. Energy efficiency upgrade, clean energy system, or electric vehicle charging infrastructure.

A county may provide or finance an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in a designated voluntary assessment area in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

Section 19. Section 17B-1-202 is amended to read:

17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

(1)(a) A special district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; or

(xviii) an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii)(A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.

(v) A special district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) As used in this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3)(a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.

(4)(a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5)(a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a special district need not be contiguous.

(6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved special district; and

(b) is located in substantially the same area as the dissolved special district.

Section 20. Section 17D-1-201 is amended to read:

17D-1-201. Services that a special service district may be created to provide.

As provided in this part, a county or municipality may create a special service district to provide any combination of the following services:

(1) water;

(2) sewerage;

(3) drainage;

(4) flood control;

(5) garbage collection and disposal;

(6) health care;

(7) transportation, including the receipt of federal secure rural school funds under Section 51-9-603 for the purposes of constructing, improving, repairing, or maintaining public roads;

(8) recreation;

(9) fire protection, including:

(a) emergency medical services, ambulance services, and search and rescue services, if fire protection service is also provided;

(b) Firewise Communities programs and the development of community wildfire protection plans; and

(c) the receipt of federal secure rural school funds as provided under Section 51-9-603 for the purposes of carrying out Firewise Communities programs, developing community wildfire protection plans, and performing emergency services, including firefighting on federal land and other services authorized under this Subsection (9);

(10) providing, operating, and maintaining correctional and rehabilitative facilities and programs for municipal, state, and other detainees and prisoners;

(11) street lighting;

(12) consolidated 911 and emergency dispatch;

(13) animal shelter and control;

(14) receiving federal mineral lease funds under Title 59, Chapter 21, Mineral Lease Funds, and expending those funds to be used in accordance with state and federal law;

(15) in a county of the first class, extended police protection;

(16) control or abatement of earth movement or a landslide;

(17) an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or

(18) cemetery.

Section 21. Section 54-17-502 is amended to read:

54-17-502. Clean energy source -- Solicitation -- Consultant.

(1) Sections 54-17-102 through 54-17-404 do not apply to a significant energy resource that is a [~~renewable~~]clean energy source as defined in Section 54-17-601 if the nameplate capacity of the [~~renewable~~]clean energy source does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity from a [~~renewable~~]clean energy source does not exceed 300 megawatts.

(2)(a)(i) An affected electrical utility shall issue a public solicitation of bids for a [~~renewable~~]clean energy source up to 300 megawatts in size by January 31 of each year in which it reasonably anticipates that it will need to acquire or commence construction of a [~~renewable~~]clean energy resource.

(ii) A solicitation for a [~~renewable~~]clean energy source issued by January 31, 2008 for up to 99 megawatts satisfies the requirement of this Subsection (2) for the year 2008 if:

(A) not later than 30 days after the day on which this section takes effect, the affected electrical utility amends the solicitation or initiates a new solicitation to seek bids for [~~renewable~~]clean energy source projects up to 300 megawatts in size; and

(B) within 60 days after the day on which this section takes effect and as soon as practicable, the commission retains a consultant in accordance with Subsection (3).

(b) A consultant hired under Subsection (2)(a)(ii)(B) shall perform the consultant's duties under Subsection (3) in relation to the status of the solicitation process at the time the consultant is retained and may not unreasonably delay the solicitation process.

(c) For a solicitation issued after January 31, 2008:

(i) the affected electrical utility shall develop a reasonable process for pre-approval of bidders; and

(ii) in addition to publicly issuing the solicitation in Subsection (2)(a)(i), the affected electrical utility shall send copies of the solicitation to each potential bidder who is pre-approved.

(d) The affected electrical utility shall evaluate in good faith each bid that is received and negotiate in good faith with each bidder whose bid appears to be cost effective, as defined in Section 54-17-602.

(e) Beginning on August 1, 2008, and on each August 1 thereafter, the affected electrical utility shall file a notice with the commission indicating whether it reasonably anticipates that it will need to acquire or commence construction of a [~~renewable~~]clean energy resource during the following year.

(3)(a) If the commission receives a notice under Subsection (2)(e) that the affected electrical utility reasonably anticipates that it will need to acquire or commence construction of a [~~renewable~~]clean energy source during the following year, the commission shall promptly retain a consultant to:

(i) validate that the affected electrical utility is following the bidder pre-approval process developed pursuant to Subsection (2)(c) and make recommendations for changes to the pre-approval process for future solicitations;

(ii) monitor and document all material aspects of the bids, bid evaluations, and bid negotiations between the affected electrical utility and any bidders in the solicitation process;

(iii) maintain adequate documentation of each bid, including the solicitation, evaluation, and negotiation processes and the reason for the conclusion of negotiations, which documentation shall be transmitted to the commission at the conclusion of all negotiations in the solicitation; and

(iv) be available to testify under oath before the commission in any relevant proceeding concerning all aspects of the public solicitation process.

(b) The commission and the consultant shall use all reasonable efforts to not delay the solicitation process.

(4) Documentation provided to the commission by the consultant shall be available to the affected

electrical utility, any bidder, or other interested person under terms and conditions and at times determined appropriate by the commission.

(5)(a) The commission and the consultant shall execute a contract approved by the commission with terms and conditions approved by the commission.

(b) Unless otherwise provided by contract, an invoice for the consultant's services shall be sent to the Division of Public Utilities for review and approval.

(c) After approval under Subsection (5)(b), the invoice shall be forwarded to the affected electrical utility for payment to the consultant.

(d) The affected electrical utility may, in a general rate case or other appropriate commission proceeding, include, and the commission shall allow, recovery by the affected electrical utility of any amount paid by the affected electrical utility for the consultant.

(6)(a) Nothing in this section precludes an affected electrical utility from constructing or acquiring any [~~renewable~~]clean energy source project outside the solicitation process provided for in this section, including purchasing electricity from any [~~renewable~~]clean energy source project that chooses to self-certify as a qualifying facility under the federal Public Utility Regulatory Policies Act of 1978.

(b) An affected electrical utility that constructs a [~~renewable~~]clean energy source outside the solicitation process of this section or Section 54-17-201 shall file a notice with the commission at least 60 days before the date of commencement of construction, indicating the size and location of the [~~renewable~~]clean energy source.

(c) The date of commencement of construction under Subsection (6)(b) is the date of any directive from an affected electrical utility to the person responsible for the construction of the [~~renewable~~]clean energy source authorizing or directing the person to proceed with construction.

(d) For an affected electrical utility whose rates are regulated by the commission, the utility has the burden of proving in a rate case or other appropriate commission proceeding the prudence, reasonableness, and cost-effectiveness of construction under this Subsection (6), including the method used to evaluate the risks and value of any bid submitted in the solicitation under this section.

(7) Nothing in this section requires an affected electrical utility to enter into any transaction that it reasonably believes is not cost effective or otherwise is not in the public interest.

Section 22. Section 54-17-601 is amended to read:

54-17-601. Definitions.

As used in this part:

(1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of an electrical corporation to customers in this state in a calendar year, reduced by:

(a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;

(b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a [~~renewable~~]clean energy source or that otherwise has not been used to satisfy Subsection 54-17-602(1):

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy;

(vi) hydroelectric energy; or

(vii) waste gas and waste heat capture or recovery; and

(c) the number of kilowatt-hours attributable to reductions in retail sales in that calendar year from demand side management as defined in Section 54-7-12.8, with the kilowatt-hours for an electrical corporation whose rates are regulated by the commission and adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate is issued under Subsection 54-17-603(4)(b).

(2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by a facility during the calendar year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility

and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.

(3) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:

(a) not used in a calendar year to comply with this part or with a renewable energy program in another state; and

(b) carried forward into a subsequent year.

(4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:

(a) by an electrical corporation by a trade, purchase, or other transfer of electricity that includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

(b) by an electrical corporation by generating the electricity for which the renewable energy certificate is issued.

(5) "Clean energy source" means:

(a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995, that derives its energy from one or more of the following:

(i) wind energy;

(ii) solar photovoltaic and solar thermal energy;

(iii) wave, tidal, and ocean thermal energy;

(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:

(A) organic waste;

(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

(C) agricultural residues;

(D) dedicated energy crops; and

(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

(v) geothermal energy located outside the state;

(vi) waste gas and waste heat capture or recovery, including methane gas from:

(A) an abandoned coal mine; or

(B) a coal degassing operation associated with a state-approved mine permit;

(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;

(viii) compressed air, if:

(A) the compressed air is taken from compressed air energy storage; and

(B) the energy used to compress the air is a clean energy source;

(ix) municipal solid waste; or

(x) energy derived from nuclear fuel;

(b) any of the following:

(i) up to 50 average megawatts of electricity per year per electrical corporation from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;

(ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; or

(iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;

(c) hydrogen gas derived from any source of energy described in Subsection (5)(a) or (b);

(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (5)(a) through (c); and

(e) any of the following located in the state and owned by a user of energy:

(i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;

(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;

(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;

(iv) a hydroelectric or geothermal facility with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;

(v) a waste gas or waste heat capture or recovery system, other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy

certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and

(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.

[~~(5)~~](6) "Electrical corporation":

(a) is as defined in Section 54-2-1; and

(b) does not include a person generating electricity that is not for sale to the public.

[~~(6)~~](7) "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:

(a) becomes operational or is retrofitted on or after January 1, 2008; and

(b) reduces carbon dioxide emissions into the atmosphere through permanent geological sequestration or through another verifiably permanent reduction in carbon dioxide emissions through the use of technology.

[~~(7)~~](8) "Qualifying electricity" means electricity generated on or after January 1, 1995, from a [~~renewable~~]clean energy source if:

(a)(i) the renewable energy source is located within the geographic boundary of the Western Electricity Coordinating Council; or

(ii) the qualifying electricity is delivered to the transmission system of an electrical corporation or a delivery point designated by the electrical corporation for the purpose of subsequent delivery to the electrical corporation; and

(b) the renewable energy attributes of the electricity are not traded, sold, transferred, or otherwise used to satisfy another state's renewable energy program.

[~~(8)~~](9) "Qualifying zero carbon emissions generation":

(a) means a generation facility located within the geographic boundary of the Western Electricity Coordinating Council that:

(i) becomes operational on or after January 1, 2008; and

(ii) does not produce carbon as a byproduct of the generation process;

(b) includes generation powered by nuclear fuel; and

(c) does not include renewable energy sources used to satisfy the requirement established under Subsection 54-17-602(1).

[~~(9)~~](10) "Renewable energy certificate" means a certificate issued under Section 54-17-603.

[~~(10) "Renewable energy source" means:~~]

[~~(a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995 that derives its energy from one or more of the following:~~]

[~~(i) wind energy;~~]

[~~(ii) solar photovoltaic and solar thermal energy;~~]

[~~(iii) wave, tidal, and ocean thermal energy;~~]

[~~(iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:~~]

[~~(A) organic waste;~~]

[~~(B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;~~]

[~~(C) agricultural residues;~~]

[~~(D) dedicated energy crops; and~~]

[~~(E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;~~]

[~~(v) geothermal energy located outside the state;~~]

[~~(vi) waste gas and waste heat capture or recovery whether or not it is renewable, including methane gas from:~~]

[~~(A) an abandoned coal mine; or~~]

[~~(B) a coal degassing operation associated with a state-approved mine permit;~~]

[~~(vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;~~]

[~~(viii) compressed air, if:~~]

[~~(A) the compressed air is taken from compressed air energy storage; and~~]

[~~(B) the energy used to compress the air is a renewable energy source; or~~]

[~~(ix) municipal solid waste;~~]

[~~(b) any of the following:~~]

[~~(i) up to 50 average megawatts of electricity per year per electrical corporation from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;~~]

[~~(ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; or~~]

[~~(iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;~~]

[~~(c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or (b);~~]

[~~(d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (10)(a) through (c); and~~]

[~~(e) any of the following located in the state and owned by a user of energy:~~]

[~~(i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;~~]

[~~(ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(iv) a hydroelectric or geothermal facility with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;~~]

[~~(v) a waste gas or waste heat capture or recovery system, other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and~~]

[~~(vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.~~]

(11) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:

(a) qualifying electricity that is acquired by an electrical corporation or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or

(b) activities listed in Subsection [~~(10)(e)~~](5)(e).

Section 23. Section 54-17-602 is amended to read:

54-17-602. Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness -- Cooperatives.

(1)(a) To the extent that it is cost effective to do so, beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.

(b) The amount under Subsection (1)(a) is computed based upon adjusted retail electric sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.

(c) Notwithstanding Subsections (1)(a) and (b), an increase in the annual target from one year to the next may not exceed the greater of:

(i) 17,500 megawatt-hours; or

(ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

(2)(a) Cost-effectiveness under Subsection (1) for other than a cooperative association is determined in comparison to other viable resource options using the criteria provided by Subsection 54-17-201(2)(c)(ii).

(b) For an electrical corporation that is a cooperative association, cost-effectiveness is determined using criteria applicable to the cooperative association's acquisition of a significant energy resource established by the cooperative association's board of directors.

(3) This section does not require an electrical corporation to:

(a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;

(b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the electrical corporation; or

(c) acquire qualifying electricity in excess of its adjusted retail electric sales.

(4) For the purpose of Subsection (1), an electrical corporation may combine the following:

(a) qualifying electricity from a renewable energy source owned by the electrical corporation;

(b) qualifying electricity acquired by the electrical corporation through trade, power purchase, or other transfer; and

(c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.

(5) For an electrical corporation whose rates the commission regulates, the following rules concerning renewable energy certificates apply:

(a) a banked renewable energy certificate with an older issuance date shall be used before any other banked renewable energy certificate issued at a later date is used; and

(b) the total of all unbundled renewable energy certificates, including unbundled banked renewable energy certificates, may not exceed 20%

of the amount of the annual target provided for in Subsection (1).

(6) An electrical corporation that is a cooperative association may count towards Subsection (1) any of the following:

(a) electric production allocated to this state from hydroelectric facilities becoming operational after December 31, 2007, if the facilities are located in any state in which the cooperative association, or a generation and transmission cooperative with which the cooperative association has a contract, provides electric service;

(b) qualifying electricity generated or acquired or renewable energy certificates acquired for a program that permits a retail customer to voluntarily contribute to a [~~renewable~~]clean energy source; and

(c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy certificate purchased from a renewable energy source located outside the geographic boundary of the Western Electricity Coordinating Council if the electricity on which the unbundled renewable energy certificate is based would be considered qualifying electricity if the renewable energy source was located within the geographic boundary of the Western Electricity Coordinating Council.

(7) The use of the renewable attributes associated with qualifying electricity to satisfy any federal renewable energy requirement does not preclude the electricity from being qualifying electricity for the purpose of this chapter.

Section 24. Section 54-17-604 is amended to read:

54-17-604. Plans and reports.

(1) An electrical corporation shall develop and maintain a plan for implementing Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).

(2)(a) A progress report concerning a plan under Subsection (1) for other than a cooperative association shall be filed with the commission by January 1 of each of the years 2010, 2015, 2020, and 2024.

(b) For an electrical corporation that is a cooperative association, a progress report shall be filed with the cooperative association's board of directors by January 1 of each of the years 2010, 2015, 2020, and 2024.

(3) The progress report under Subsection (2) shall contain:

(a) the actual and projected amount of qualifying electricity through 2025;

(b) the source of qualifying electricity;

(c)(i) an analysis of the cost-effectiveness of [~~renewable~~]clean energy sources for other than a cooperative association; or

(ii) an estimate of the cost of achieving the target for an electrical corporation that is a cooperative association;

(d) a discussion of conditions impacting the [~~renewable~~]clean energy source and qualifying electricity markets;

(e) any recommendation for a suggested legislative or program change; and

(f) for other than a cooperative association, any other information requested by the commission or considered relevant by the electrical corporation.

(4) The plan and progress report required by Subsections (1) and (2) may include procedures that will be used by the electrical corporation to identify and select any [~~renewable~~]clean energy resource and qualifying electricity that satisfy the criteria of Subsection 54-17-201(2)(c)(ii).

(5) By July 1, 2026, each electrical corporation shall file a final progress report demonstrating:

(a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

(b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is not satisfied.

(6) By January 1 of each of the years 2011, 2016, 2021, and 2025, the Division of Public Utilities shall submit to the Legislature a report containing a summary of any progress report filed under Subsections (2) through (5).

(7) The summary required by Subsection (6) shall include any recommendation for legislative changes.

(8)(a) By July 1, 2027, the commission shall submit to the Legislature a report summarizing the final progress reports and recommending any legislative changes.

(b) The 2027 summary may contain a recommendation to the Legislature concerning any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.

(c) The commission shall provide an opportunity for public comment and take evidence before recommending any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.

(9) If a recommendation containing a penalty for failure to satisfy Subsection 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by an electrical corporation as a penalty be utilized to fund demand-side management for the retail customers of the electrical corporation paying the penalty.

(10) A penalty may not be proposed under this section if an electrical corporation's failure to satisfy Subsection 54-17-602(1) is due to:

(a) a lack of cost-effective means to satisfy the requirement; or

(b) force majeure.

(11) By July 1, 2026, an electrical corporation that is a cooperative association shall file a final progress report demonstrating:

(a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

(b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not satisfied.

(12) The plan and any progress report file under this section by an electrical corporation that is cooperative association shall be publicly available at the cooperative association's office or posted on the cooperative association's website.

Section 25. Section 54-17-605 is amended to read:

54-17-605. Recovery of costs for clean energy activities.

(1) In accordance with other law, the commission shall include in the retail electric rates of an electrical corporation whose rates the commission regulates the state's share of any of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission is considering the electrical corporation's rates:

(a) if the costs are prudently incurred by the electrical corporation in connection with:

(i) the acquisition of a renewable energy certificate;

(ii) the acquisition of qualifying electricity for which a renewable energy certificate will be issued after the acquisition; and

(iii) the acquisition, construction, and use of a [~~renewable~~]clean energy source; and

(b) to the extent any qualifying electricity or [~~renewable~~]clean energy source under Subsection (1)(a) satisfies the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).

(2) The following are costs that may be recoverable under Subsection (1):

(a) a cost of siting, acquisition of property rights, equipment, design, licensing, permitting, construction, owning, operating, or otherwise acquiring a [~~renewable~~]clean energy source and any associated asset, including transmission;

(b) a cost to acquire qualifying electricity through trade, power purchase, or other transfer;

(c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net revenue from the sale of a renewable energy certificate allocable to this state is also included in rates;

(d) a cost to interconnect a [~~renewable~~]clean energy source to the electrical corporation's transmission and distribution system;

(e) a cost associated with using a physical or financial asset to integrate, firm, or shape a [~~renewable~~]clean energy source on a firm annual basis to meet a retail electricity need; and

(f) any cost associated with transmission and delivery of qualifying electricity to a retail electricity consumer.

(3)(a) The commission may allow an electrical corporation to use an adjustment mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to allow recovery of costs identified in Subsection (2).

(b) If the commission allows the use of an adjustment mechanism, both the costs and any associated benefit shall be reflected in the mechanism, to the extent practicable.

(c) This Subsection (3) creates no presumption for or against the use of an adjustment mechanism.

(4)(a) The commission may permit an electrical corporation to include in its retail electric rates the state's share of costs prudently incurred by the electrical corporation in connection with a [~~renewable~~]clean energy source, whether or not the [~~renewable~~]clean energy source ultimately becomes operational, including costs of:

(i) siting;

(ii) property acquisition;

(iii) equipment;

(iv) design;

(v) licensing;

(vi) permitting; and

(vii) other reasonable items related to the [~~renewable~~]clean energy source.

(b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability of the costs identified.

(c) To the extent deferral is consistent with other applicable law, the commission may allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the recovery of the deferred costs can be considered in a rate proceeding or an adjustment mechanism created under Subsection (3).

(d) An application to defer costs shall be filed within 60 days after the day on which the electrical corporation determines that the [~~renewable~~]clean energy source project is impaired under generally accepted accounting principles and will not become operational.

(e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost incurred by an electrical corporation for siting, property acquisition, equipment, design, licensing, and permitting of a [~~renewable~~]clean energy source that the electrical corporation proposes to construct shall be included in the electrical corporation's project costs for the purpose of evaluating the project's cost-effectiveness.

(f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise considered in the evaluation of, the cost of a project proposed by any person other than the electrical corporation for the purpose of evaluating that person's proposal.

Section 26. Section 54-17-801 is amended to read:

54-17-801. Definitions.

As used in this part:

(1) "Clean energy contract" means a contract under this part for the delivery of electricity from one or more clean energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a clean energy facility to the contract customer.

(2)(a) "Clean energy facility" means a clean energy source as defined in Section 54-17-601 that:

(i) is located in the state; or

(ii)(A) is located outside the state; and

(B) provides energy from baseload clean resources.

(b) "Clean energy facility" does not include an electric generating facility for which the electric generating facility's costs are included in a qualified utility's rates as a facility that provides electric service to the qualified utility's system.

(3) "Clean energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure clean generation on behalf of and to serve its customers.

(4) "Contract customer" means a person who executes or will execute a [~~renewable~~]clean energy contract with a qualified utility.

[~~(2)~~](5) "Qualified utility" means an electric corporation that serves more than 200,000 retail customers in the state.

[~~(3) "Renewable energy contract" means a contract under this part for the delivery of electricity from one or more renewable energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a renewable energy facility to the contract customer.~~]

[~~(4)(a) "Renewable energy facility" means a renewable energy source as defined in Section 54-17-601 that:~~]

[~~(i) is located in the state; or~~]

[~~(ii)(A) is located outside the state; and~~]

[~~(B) provides energy from baseload renewable resources.~~]

[~~(b) "Renewable energy facility" does not include an electric generating facility for which the electric generating facility's costs are included in a qualified utility's rates as a facility that provides electric service to the qualified utility's system.~~]

[~~(5) "Renewable energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure renewable generation on behalf of and to serve its customers.~~]

Section 27. Section 54-17-802 is amended to read:

54-17-802. Contracts for the purchase of electricity from a clean energy facility.

(1) Within a reasonable time after receiving a request from a contract customer and subject to reasonable credit requirements, a qualified utility shall enter into a [~~renewable~~]clean energy contract with the requesting contract customer to supply some or all of the contract customer's electric service from one or more [~~renewable~~]clean energy facilities selected by the contract customer.

(2) Subject to a contract customer agreeing to pay the qualified utility for all incremental costs associated with metering facilities, communication facilities, and administration, a [~~renewable~~]clean energy contract may provide for electricity to be delivered to a contract customer:

(a) from one [~~renewable~~]clean energy facility to a contract customer's single metered delivery location;

(b) from multiple [~~renewable~~]clean energy facilities to a contract customer's single metered delivery location; or

(c) from one or more [~~renewable~~]clean energy facilities to a single contract customer's multiple metered delivery locations.

(3)(a) A single contract customer may aggregate multiple metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).

(b) Multiple contract customers may not aggregate their separate metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).

(4) The amount of electricity provided to a contract customer under a [~~renewable~~]clean energy contract may not be less than 2.0 megawatts.

(5) The amount of electricity provided in any hour to a contract customer under a [~~renewable~~]clean energy contract may not exceed the contract customer's metered kilowatt-hour load in that hour at the metered delivery locations under the contract.

(6) A [~~renewable~~]clean energy contract that meets the requirements of Subsection (4) may provide for one or more increases in the amount of electricity to be provided under the contract even though the amount of electricity to be provided by the increase is less than the minimum amount required under Subsection (4).

(7) The total amount of electricity to be generated by [~~renewable~~]clean energy facilities and delivered to contract customers at any one time under all [~~renewable~~]clean energy contracts may not exceed 300 megawatts, unless the commission approves in advance a higher amount.

(8) Electricity generated by a [~~renewable~~]clean energy facility and delivered to a contract customer under a [~~renewable~~]clean energy contract may not be included in a net metering program under Chapter 15, Net Metering of Electricity.

Section 28. Section 54-17-803 is amended to read:

54-17-803. Ownership of a clean energy facility -- Joint ownership -- Ownership of environmental attributes.

(1) A [~~renewable~~]clean energy facility may be owned:

(a) by a person who will be a contract customer receiving electricity from the [~~renewable~~]clean energy facility;

(b) by a qualified utility;

(c) by a person other than a contract customer or qualified utility; or

(d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal shares or otherwise.

(2) A qualified utility may be a joint owner of a [~~renewable~~]clean energy facility only if:

(a) the qualified utility consents to being a joint owner; and

(b) the joint ownership agreement requires the qualified utility to recover from contract customers receiving electricity from the [~~renewable~~]clean energy facility all of the qualified utility's costs associated with its ownership of the [~~renewable~~]clean energy facility, including administrative, acquisition, operation, and maintenance costs, unless the commission, in an order issued in a separate regulatory proceeding:

(i) authorizes the qualified utility to recover some of those costs from customers other than contract customers;

(ii) determines that the rate to be paid for electricity from the [~~renewable~~]clean energy facility by customers other than contract customers is cost effective; and

(iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general rates or through a commission approved cost recovery mechanism.

(3) To the extent that any electricity from a [~~renewable~~]clean energy facility to be delivered to a contract customer is owned by a person other than the contract customer:

(a) the qualified utility shall, by contract with the owner of the electricity to be sold from the [~~renewable~~]clean energy facility, purchase electricity for resale to one or more contract customers;

(b) the qualified utility shall sell that electricity to the contract customer or customers under [~~renewable~~]clean energy contracts with the same duration and pricing as the contract between the qualified utility and the owner of the electricity to be sold from the [~~renewable~~]clean energy facility; and

(c) the qualified utility's contract with the owner of the electricity to be sold from the [~~renewable~~]clean energy facility shall provide that the qualified utility's obligation to purchase electricity under that contract ceases if the contract customer defaults in its obligation to purchase and pay for the electricity under the contract with the qualified utility.

(4) The right to any environmental attribute associated with a [~~renewable~~]clean energy facility shall remain the property of the [~~renewable~~]clean energy facility's owner, except to the extent that a contract to which the owner is a party provides otherwise.

Section 29. Section 54-17-804 is amended to read:

54-17-804. Exemption from certificate of convenience and necessity requirements.

(1) A qualified utility is not required to comply with Section 54-4-25 with respect to a [~~renewable~~]clean energy facility that is the subject of a [~~renewable~~]clean energy contract if:

(a) each contract necessary for the commission to determine compliance with this part is filed with the commission; and

(b) the commission determines that each contract relating to the [~~renewable~~]clean energy facility complies with this part.

(2) In making its determination under Subsection (1)(b), the commission may process and consider together multiple [~~renewable~~]clean energy contracts between the same contract customer and the qualified utility providing for the delivery of electricity from a [~~renewable~~]clean energy facility to the contract customer's multiple metered delivery locations.

Section 30. Section 54-17-805 is amended to read:

54-17-805. Costs associated with delivering electricity from a clean energy facility to a contract customer.

(1) To the extent that a [~~renewable~~]clean energy contract provides for the delivery of electricity from a [~~renewable~~]clean energy facility owned by the contract customer, the [~~renewable~~]clean energy contract shall require the contract customer to pay for the use of the qualified utility's transmission or distribution facilities at the qualified utility's applicable rates, which may include transmission costs at the qualified utility's applicable rate approved by the Federal Energy Regulatory Commission.

(2) To the extent that a [~~renewable~~]clean energy contract provides for the delivery of electricity from a [~~renewable~~]clean energy facility owned by a person other than the qualified utility or the contract customer, the [~~renewable~~]clean energy contract shall require the contract customer to bear all reasonably identifiable costs that the qualified utility incurs in delivering the electricity from the [~~renewable~~]clean energy facility to the contract customer, including all costs to procure and deliver electricity and for billing, administrative, and related activities, as determined by the commission.

(3) A qualified utility that enters a [~~renewable~~]clean energy contract shall charge a contract customer for all metered electric service delivered to the contract customer, including generation, transmission, and distribution service, at the qualified utility's applicable tariff rates, excluding:

(a) any kilowatt hours of electricity delivered from the [~~renewable~~]clean energy facility, based on the time of delivery, adjusted for transmission losses;

(b) any kilowatts of electricity delivered from the [~~renewable~~]clean energy facility that coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted for transmission losses;

(c) any transmission and distribution service that the contract customer pays for under Subsection (1) or (2); and

(d) any transmission service that the contract customer provides under Subsection (2) to deliver generation from the [~~renewable~~]clean energy facility.

Section 31. Section 54-17-806 is amended to read:

54-17-806. Qualified utility clean energy tariff.

(1) The commission may authorize a qualified utility to implement a [~~renewable~~]clean energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.

(2) The commission may authorize a tariff under Subsection (1) to apply to:

(a) a qualified utility customer with an aggregated electrical load of at least five megawatts; or

(b) a combination of qualified utility customers who are separately metered if:

(i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and

(ii) each of the qualified utility customers is located within a project area, as defined in Section 11-58-102.

(3) A customer who agrees to take service that is subject to the [~~renewable~~]clean energy tariff under this section shall pay:

(a) the customer's normal tariff rate;

(b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply [~~renewable~~]clean generation to the [~~renewable~~]clean energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and

(c) an administrative fee in an amount approved by the commission.

(4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of [~~renewable~~]clean generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the [~~renewable~~]clean energy tariff.

Section 32. Section 54-17-807 is amended to read:

54-17-807. Solar photovoltaic or thermal solar energy facilities.

(1) As used in this section, "acquire" means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource.

(2)(a) In accordance with this section, a qualified utility may file an application with the commission for approval to acquire a photovoltaic or thermal solar energy resource using rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

(b) A qualified utility may not, under this section, acquire a photovoltaic or thermal solar energy resource with a generating capacity that is two megawatts or less per meter if that resource is located on the customer's side of the meter.

(3) The energy resource acquired pursuant to this section may be owned solely or jointly by a qualified utility or another entity:

(a) to provide [~~renewable~~]clean energy to a contract customer as provided in Section 54-17-803;

(b) to serve energy to a qualified utility customer as provided in Section 54-17-806;

(c) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity does not exceed 300 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary Request for Resource Decision Review; or

(d) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long as the qualified utility complies with this chapter.

(4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an application submitted under Subsection (2):

(a) Part 1, General Provisions;

(b) Part 2, Solicitation Process;

(c) Part 3, Resource Plans and Significant Energy Resource Approval;

(d) Part 4, Voluntary Request for Resource Decision Review; and

(e) Section 54-17-502.

(5) The application described in Subsection (2) shall include:

(a) a proposed solicitation process for the energy resource;

(b) the criteria proposed to be used to evaluate the responses to the solicitation:

(i) as determined by the customer, if the energy resource is sought to serve a customer pursuant to Subsection (3)(a) or (b); or

(ii) as proposed by the qualified utility, if the energy resource is sought to serve the customers of the qualified utility pursuant to Subsection (3)(c) or (d); and

(c) any other information the commission may require.

(6)(a) Before approving a solicitation process under this section for an energy resource to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission shall:

(i) hold a public hearing; and

(ii) provide an opportunity for public comment.

(b) The commission may approve a solicitation process under this section only if the commission determines that the solicitation and evaluation processes to be used will create a level playing field in which the qualified utility and other bidders can compete fairly, including with respect to interconnection and transmission requirements imposed on bidders by the solicitation within the control of the commission and the qualified utility, excluding its federally regulated transmission function, and will otherwise serve the public interest.

(7)(a) Upon completion of the solicitation process approved under Subsection (6), the qualified utility may seek approval from the commission to acquire the energy resource identified through the solicitation process as the winning bid.

(b) Before approving acquisition of an energy resource acquired pursuant to this section, the commission shall:

(i) hold a public hearing;

(ii) provide an opportunity for public comment;

(iii) determine whether the solicitation and evaluation processes complied with this section, commission rules, and the commission's order approving the solicitation process; and

(iv) determine whether the acquisition of the energy resource is just and reasonable, and in the public interest.

(c) The commission may approve a qualified utility's ownership of an energy resource or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d) with rate recovery based on a competitive market price only if the commission determines that the qualified utility's bid is the lowest cost ownership option for the qualified utility.

(d) If the commission approves a qualified utility's acquisition of an energy resource under Subsection (3), including entering into a power purchase agreement containing a purchase option, using rate recovery based on a competitive market price:

(i) the prices approved by the commission shall constitute competitive market prices for purposes of this section; and

(ii) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.

(8) If upon completion of a solicitation process approved under Subsection (6) the qualified utility proposes not to acquire an energy resource, the qualified utility shall file with the commission a report explaining its reasons for not acquiring the lowest cost resource bid into the solicitation, along with any other information the commission requires.

(9) Within six months after a competitive market price for a solar energy resource acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such longer period as the commission may determine to be in the public interest, a qualified utility may file an application with the commission seeking approval to acquire another energy resource similar to the energy resource for which a competitive market price was established without going through a new solicitation process. The commission may approve the application if the qualified utility demonstrates a need to acquire the energy resource, that the competitive market price remains reasonable, and that the acquisition is in the public interest.

(10) No later than 180 days before the end of the term approved by the commission for an energy resource acquired under this section and owned by the qualified utility, the qualified utility shall file with the commission a request for determination of an appropriate disposition of the energy resource asset, except that the qualified utility is permitted to retain the benefits or proceeds and shall be required to assume the costs and risks of ownership of the energy resource.

(11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) addressing the content and filing of an application under this section;

(b) to establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and

(c) addressing other factors determined by the commission to be relevant to protect the public interest and to implement this section.

Section 33. Section 54-17-901 is amended to read:

54-17-901. Community Clean Energy Act.

This part is known as the "Community [~~Renewable~~]Clean Energy Act."

Section 34. Section 54-17-902 is amended to read:

54-17-902. Definitions.

As used in this part:

(1)(a) "Auxiliary services" means those services necessary to safely and reliably:

(i) interconnect and transmit electric power from any [~~renewable~~]clean energy resource constructed or acquired for a community [~~renewable~~]clean energy program; and

(ii) integrate and supplement electric power from any [~~renewable~~]clean energy resource.

(b) "Auxiliary services" shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.

(2) "Clean electric energy supply" means incremental clean energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.

(3) "Clean energy resource" means:

(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:

(i) wind;

(ii) solar photovoltaic or thermal solar technology;

(iii) a geothermal resource; or

(iv) a hydroelectric plant including a pumped storage hydropower facility;

(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:

(i) increases efficient energy usage;

(ii) is capable of being used for demand response;

(iii) facilitates the use and development of clean generation resources through electrical grid management or energy storage; or

(iv) uses carbon capture utilization and sequestration; or

(c) energy derived from nuclear fuel.

[~~(2)~~](4) "Commission" means the Public Service Commission created in Section 54-1-1.

[~~(3)~~](5) "Community [~~renewable~~]clean energy program" means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more [~~renewable~~]clean energy resources to a participating customer within a participating community.

[~~(4)~~](6) "County" means the unincorporated area of a county.

[~~(5)~~](7) "Division" means the Division of Public Utilities created in Section 54-4a-1.

[~~(6)~~](8)(a) "Initial opt-out period" means the period of time immediately after the community [~~renewable~~]clean energy program's commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.

(b) "Initial opt-out period" may not be shorter than three typical billing cycles of the qualified utility.

[~~(7)~~](9) "Municipality" means a city or a town as defined in Section 10-1-104.

[~~(8)~~](10) "Office" means the Office of Consumer Services created in Section 54-10a-101.

[~~(9)~~](11) "Ongoing costs" means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.

[~~(10)~~](12) "Participating community" means a municipality or a county:

(a) whose residents are served by a qualified utility; and

(b) the municipality or county meets the requirements in Section 54-17-903.

[~~(11)~~](13) "Participating customer" means:

(a) a customer of a qualified utility located within the boundary of a municipality or county where a community [~~renewable~~]clean energy program has been approved by the commission; and

(b) the customer has not exercised the right to not participate in the community [~~renewable~~]clean energy program as provided in Section 54-17-905.

[~~(12)~~](14) "Qualified utility" means the same as that term is defined in Section 54-17-801.

[~~(13) "Renewable electric energy supply" means incremental renewable energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.~~]

[~~(14) "Renewable energy resource" means:~~]

[~~(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:~~]

[~~(i) wind;~~]

[~~(ii) solar photovoltaic or thermal solar technology;~~]

[~~(iii) a geothermal resource; or~~]

[~~(iv) a hydroelectric plant; or~~]

[~~(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:~~]

[~~(i) increases efficient energy usage;~~]

[~~(ii) is capable of being used for demand response; or~~]

[~~(iii) facilitates the use and development of renewable generation resources through electrical grid management or energy storage.~~]

(15) "Replaced asset" means an existing thermal energy resource:

(a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's customers, including customers within a participating community;

(b) that was built or acquired prior to commission approval and the effective date of the community [~~renewable~~]clean energy program; and

(c) to the extent the asset is no longer used to serve participating customers.

Section 35. Section 54-17-903 is amended to read:

54-17-903. Program requirement for a municipality or county.

(1)(a) As used in this section, "renewable energy resource" means the same as the term "clean energy resource" is defined in Section 54-17-902.

(b) Customers of a qualified utility may be served by the community [~~renewable~~]clean energy program described in this part if the municipality or county satisfies the requirements of Subsection (2).

(2) The municipality or county in which the customer resides shall:

(a) adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030;

(b) enter into an agreement with a qualified utility:

(i) with the stipulation of payment by the municipality or county to the qualified utility for the costs of:

(A) third-party expertise contracted for by the division and the office, for assistance with activities associated with initial approval of the community [~~renewable~~]clean energy program; and

(B) providing notice to the municipality's or county's customers as provided in Section 54-17-905;

(ii) determining the obligation for the payment of any termination charges under Subsection 54-17-905(3) that are not paid by a participating customer and not included in participating customer rates under Subsections 54-17-904(2) and (4); and

(iii) identifying any initially proposed replaced asset;

(c) adopt a local ordinance that:

(i) establishes participation in the [~~renewable~~]clean energy program; and

(ii) is consistent with the terms of the agreement entered into with the qualified utility under Subsection (2)(b); and

(d) comply with any other terms or conditions required by the commission.

(3) The local ordinance required in Subsection (2)(c) shall be adopted by the municipality or county within 90 days after the date of the commission order approving the community [~~renewable~~]clean energy program.

Section 36. Section 54-17-904 is amended to read:

54-17-904. Authority of commission to approve a community clean energy program.

(1) After the commission has adopted administrative rules as required under Section 54-17-909, a qualified utility may file an application with the commission for approval of a community [~~renewable~~]clean energy program.

(2) The application shall include:

(a) the names of each municipality and county to be served by the community [~~renewable~~]clean energy program;

(b) a map of the geographic boundaries of each municipality and county;

(c) the number of customers served by the qualified utility within those boundaries;

(d) projected rates for participating customers that take into account:

(i) the estimated number of customers expected to participate in the program;

(ii) the quantifiable costs and benefits to the qualified utility and all of the qualified utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility, including as applicable:

(A) replaced assets;

(B) auxiliary services; and

(C) new [~~renewable~~]clean energy resources used to serve the community [~~renewable~~]clean energy program; and

(iii) the ongoing costs at the time of the application;

(e) the agreement entered into with the qualified utility under Section 54-17-903;

(f) a proposed plan established by the participating community addressing low-income programs and assistance;

(g) a proposed solicitation process for the acquisition of [~~renewable~~]clean energy resources as provided in Section 54-17-908; and

(h) any other information the commission may require by rule.

(3) The commission may approve an application for a community [~~renewable~~]clean energy program if the commission finds:

(a) the application meets all of the requirements in this section and administrative rules adopted by the commission in accordance with Sections

54-17-908 and 54-17-909 to implement this part; and

(b) the community [~~renewable~~]clean energy program is in the public interest.

(4) The rates approved by the commission for participating customers:

(a) shall be based on the factors included in Subsection (2)(d) and any other factor determined by the commission to be in the public interest;

(b) may not result in any shift of costs or benefits to any nonparticipating customer, or any other customer of the qualified utility beyond the participating community boundaries; and

(c) shall take into account any quantifiable benefits to the qualified utility, and the qualified utility's customers, including participating customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's costs of service.

(5)(a) Each municipality or county included in the application shall be a party to the regulatory proceeding.

(b) A municipality or county identified in the application shall provide information to all relevant parties in accordance with the commission's rules for discovery, notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act.

(6) The community [~~renewable~~]clean energy program may not be implemented until after the municipality or county adopts the ordinance required in Section 54-17-903.

Section 37. Section 54-17-905 is amended to read:

54-17-905. Customer participation -- Election not to participate.

(1)(a) After commission approval of a community [~~renewable~~]clean energy program and adoption of the ordinance by the participating community as required in Section 54-17-903, a qualified utility shall provide notice to each of its customers within the participating community that includes:

(i) the projected rates and terms of participation in the community [~~renewable~~]clean energy program approved by the commission;

(ii) an estimated comparison to otherwise applicable existing rates;

(iii) an explanation that the customer may elect to not participate in the community [~~renewable~~]clean energy program by notifying the qualified utility; and

(iv) any other information required by the commission.

(b) The qualified utility shall provide the notice required under Subsection (1)(a) to each customer:

(i) no less than twice within the period of 60 days immediately preceding the date required to opt out of the community [~~renewable~~]clean energy program; and

(ii) separately from the customer's monthly billing.

(c) The qualified utility shall provide the information required under Subsection (1)(a) in person to each customer with an electric load of one megawatt or greater measured at a single meter.

(2)(a) An existing customer of the qualified utility may elect to not participate in the community [~~renewable~~]clean energy program and continue to pay applicable existing rates by giving notice to the qualified utility in the manner and within the time period determined by the commission.

(b) After implementation of the community [~~renewable~~]clean energy program:

(i) a customer that previously elected not to participate in the program may become a participating customer as allowed by commission rules and by giving notice to the qualified utility in the manner required by the commission; and

(ii) a customer of the qualified utility that begins taking electric service within a participating community after the date of implementation of the community [~~renewable~~]clean energy program shall:

(A) be given notice as determined by the commission; and

(B) shall become a participating customer unless the person elects not to participate by giving notice to the qualified utility in the manner and within the time period determined by the commission.

(3)(a) A customer that does not opt out of the community [~~renewable~~]clean energy program under Subsection (2) may later discontinue participation in the community [~~renewable~~]clean energy program as allowed by the commission as described in Subsection (3)(b) or (c).

(b)(i) During the initial opt-out period, a participating customer may elect to leave the program by giving notice to the qualified utility in the manner determined by the commission.

(ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not subject to a termination charge.

(c) After the community [~~renewable~~]clean energy program's initial opt-out period, a participating customer may elect to leave the program by:

(i) giving notice to the qualified utility in the manner determined by the commission; and

(ii) paying a termination charge as determined by the commission that may include the cost of [~~renewable~~]clean energy resources acquired or constructed for the community [~~renewable~~]clean energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.

(4)(a) A customer of a qualified utility that is annexed into the boundaries of a participating community after the effective date of the community [~~renewable~~]clean energy program shall be given notice as provided in Subsection (1) advising the customer of the option to opt out of the program.

(b) A participating customer located in a portion of a county that is annexed into a municipality that is not a participating community shall continue to be included in the [~~renewable~~]clean energy program if the customer remains a customer of the qualified utility.

(c) If a participating customer is annexed into a municipality that provides electric service to the municipality's residents:

(i) the customer may continue to be served by the qualified utility under the community [~~renewable~~]clean energy program if the qualified utility enters into an agreement with the municipality under Section 54-3-30; or

(ii) the municipality shall pay the termination charge for each participating customer that is no longer served by the qualified utility.

(5) A residential customer that is participating in the net metering program under Title 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this part.

(6)(a) The cost of providing notice under Subsection (1) shall be paid by the participating communities.

(b) All other notices required under this section shall be paid for as program costs and recovered through participating customers' rates.

Section 38. Section 54-17-906 is amended to read:

54-17-906. Customer billing.

The qualified utility shall:

(1) include information on its monthly bills to participating customers identifying the community [~~renewable~~]clean energy program cost; and

(2) provide notice to participating customers of any change in rate for participation in the community [~~renewable~~]clean energy program.

Section 39. Section 54-17-908 is amended to read:

54-17-908. Acquisition of clean energy resources.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules outlining a competitive solicitation process for the acquisition of [~~renewable~~]clean assets acquired by the qualified utility for purposes of this act.

(2) The solicitation rules shall include the following provisions:

(a) solar photovoltaic or thermal solar energy facilities may be acquired under the provisions of Section 54-17-807;

(b) [~~renewable~~]clean energy resources developed under this part shall be constructed or acquired subject to an option by the qualified utility to own the [~~renewable~~]clean energy resource so long as including the option in a solicitation is in the interest of participating customers and other customers of the qualified utility; and

(c) any other requirement determined by the commission to be in the public interest.

(3) Upon completion of a solicitation under this section and the rules adopted by the commission to implement this section, the commission may approve cost recovery for a [~~renewable~~]clean energy resource for the community [~~renewable~~]clean energy program if approval of the [~~renewable~~]clean energy resource:

(a) complies with the provisions of this part;

(b) does not result in shifting of costs or benefits to other customers of the qualified utility; and

(c) is in the public interest.

Section 40. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1)(a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6)(a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b)(i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9)(a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12)(a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13)(a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16)(a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, the special district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18)(a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i)(A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a); and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii)(A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a clean or renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25)(a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b)(i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29)(a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30)(a) "Public utility" means:

(i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

(ii) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

(31)(a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33)(a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34)(a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36)(a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport

passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41)(a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

(42) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 41. Section 59-7-614 is amended to read:

59-7-614. Clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a)(i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Clean energy source" means the same as that term is defined in Section 54-17-601.

[~~(c)~~](d) "Commercial energy system" means a system that is:

(i)(A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

[~~(d)~~](e) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

[~~(e)~~](f)(i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection [~~(1)(e)(i)~~](1)(f)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

[~~(f)~~](g) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

[~~(g)~~](h) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

[~~(h)~~](i) "Geothermal energy" means energy generated by heat that is contained in the earth.

[~~(i)~~](j) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

[~~(j)~~](k) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

[~~(k)~~](l) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a [~~renewable~~]clean energy source to create hydrogen gas from water, regardless of whether the [~~renewable~~]clean energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

[~~(l)~~](m) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(m)~~](n)(i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

[~~(n)~~](o) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

[~~(o)~~](p)(i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

[~~(p) "Renewable energy source" means the same as that term is defined in Section 54-17-601.~~]

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r)(i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3)(a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)(i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential

energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii)(A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4)(a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)(i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c)(i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5)(a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)(i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may

claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6)(a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)(i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7)(a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59- 7- 626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b)(i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8)(a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~]clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's [~~renewable~~]clean and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3) or (4), establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59- 1- 1406.

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

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the [~~renewable~~]clean energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(11) A taxpayer may not claim or carry forward a tax credit described in this section in a taxable year during which the taxpayer claims or carries forward a tax credit under Section 59-7-614.7.

Section 42. Section 59-10-1014 is amended to read:

59-10-1014. Nonrefundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a)(i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(d) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(e) "Geothermal energy" means energy generated by heat that is contained in the earth.

(f) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(g) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Office" means the Office of Energy Development created in Section 79-6-401.

(i)(i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(j) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(k)(i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a residential energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(l) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(m)(i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(n) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) For a taxable year beginning on or after January 1, 2007, a claimant, estate, or trust may claim a nonrefundable tax credit under this section with respect to a residential unit the claimant, estate, or trust owns or uses if:

(a) the claimant, estate, or trust:

(i) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(ii) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit;

(b) the residential energy system is installed on or after January 1, 2007; and

(c) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (5).

(4)(a) For a residential energy system, other than a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each residential energy system installed with respect to each residential unit the claimant, estate, or trust owns or uses; and

(ii) $2,000.

(b) Subject to Subsection (5)(d), for a residential energy system that is a photovoltaic system, the tax credit described in this section is equal to the lesser of:

(i) 25% of the reasonable costs, including installation costs, of each system installed with respect to each residential unit the claimant, estate, or trust owns or uses; or

(ii)(A) for a system installed on or after January 1, 2007, but on or before December 31, 2017, $2,000;

(B) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(C) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(D) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(E) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(F) for a system installed on or after January 1, 2024, $0.

(c)(i) The office shall determine the amount of the tax credit that a claimant, estate, or trust may claim and list that amount on the written certification that the office issues under Subsection (5).

(ii) The claimant, estate, or trust may claim the tax credit in the amount listed on the written certification that the office issues under Subsection (5).

(d) A claimant, estate, or trust may claim a tax credit under Subsection (3) for the taxable year in which the residential energy system is installed.

(e) If the amount of a tax credit listed on the written certification exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(f) A claimant, estate, or trust may claim a tax credit with respect to additional residential energy systems or parts of residential energy systems for a subsequent taxable year if the total amount of tax credit the claimant, estate, or trust claims does not exceed $2,000 per residential unit.

(g)(i) Subject to Subsections (4)(g)(ii) and (iii), a claimant, estate, or trust that leases a residential energy system installed on a residential unit may claim a tax credit under Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim as a tax credit under Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (4)(g)(i) that leases a residential energy system may claim a tax credit under Subsection (3) for a period that does not exceed seven taxable years after the date the lease begins, as stated in the lease agreement.

(h) If a claimant, estate, or trust sells a residential unit to another person before the claimant, estate, or trust claims the tax credit under Subsection (3):

(i) the claimant, estate, or trust may assign the tax credit to the other person; and

(ii)(A) if the other person files a return under Chapter 7, Corporate Franchise and Income Taxes, the other person may claim the tax credit as if the other person had met the requirements of Section 59- 7- 614 to claim the tax credit; or

(B) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit.

(5)(a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the office determines that the residential energy system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~]clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system meets the requirements of Subsection (5)(b)(ii); and

(ii) for purposes of determining the amount of a tax credit that a claimant, estate, or trust may receive under Subsection (4), establishing the reasonable costs of a residential energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

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

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the [~~renewable~~]clean energy system was installed.

(6) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(7) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

Section 43. Section 59-10-1106 is amended to read:

59-10-1106. Refundable clean energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) "Active solar system" means the same as that term is defined in Section 59-10-1014.

(b) "Biomass system" means the same as that term is defined in Section 59-10-1014.

(c) "Commercial energy system" means the same as that term is defined in Section 59-7-614.

(d) "Commercial enterprise" means the same as that term is defined in Section 59-7-614.

(e) "Commercial unit" means the same as that term is defined in Section 59-7-614.

(f) "Direct use geothermal system" means the same as that term is defined in Section 59-10-1014.

(g) "Geothermal electricity" means the same as that term is defined in Section 59-10-1014.

(h) "Geothermal energy" means the same as that term is defined in Section 59-10-1014.

(i) "Geothermal heat pump system" means the same as that term is defined in Section 59-10-1014.

(j) "Hydroenergy system" means the same as that term is defined in Section 59-10-1014.

(k) "Hydrogen production system" means the same as that term is defined in Section 59-7-614.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) "Passive solar system" means the same as that term is defined in Section 59-10-1014.

(n) "Principal recovery portion" means the same as that term is defined in Section 59-10-1014.

(o) "Wind system" means the same as that term is defined in Section 59-10-1014.

(2) A claimant, estate, or trust may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3)(a) Subject to the other provisions of this Subsection (3), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (3) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the claimant, estate, or trust purchases or participates in the financing of the commercial energy system;

(iii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (3); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b)(i) Subject to Subsections (3)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (3) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a claimant, estate, or trust may claim under this Subsection (3) may not exceed $50,000 per commercial unit.

(c)(i) Subject to Subsections (3)(c)(ii) and (iii), a claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (3) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim as a tax credit under this Subsection (3) only the principal recovery portion of the lease payments.

(iii) A claimant, estate, or trust described in Subsection (3)(c)(i) may claim a tax credit under this Subsection (3) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(4)(a) Subject to the other provisions of this Subsection (4), a claimant, estate, or trust may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which the claimant, estate, or trust claims a tax credit under this Subsection (4); and

(iv) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b)(i) Subject to Subsection (4)(b)(ii), a tax credit under this Subsection (4) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (4) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(5)(a) Subject to the other provisions of this Subsection (5), a claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (5) if:

(i) the claimant, estate, or trust owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii)(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the claimant, estate, or trust; or

(B) the claimant, estate, or trust sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the claimant, estate, or trust does not claim a tax credit under Subsection (3);

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (6) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (5); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b)(i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A claimant, estate, or trust that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the claimant, estate, or trust confirms that the lessor irrevocably elects not to claim the tax credit.

(6)(a) A claimant, estate, or trust may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in

commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Subsection (3), (4), or (5) for electricity used to meet the requirements of this Subsection (6); and

(v) the claimant, estate, or trust obtains a written certification from the office in accordance with Subsection (7).

(b)(i) Subject to Subsections (6)(b)(ii) and (iii), a tax credit under this Subsection (6) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this Subsection (6) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(7)(a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the commercial energy system or the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from [~~renewable~~]clean resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the commercial energy system or the hydrogen production system uses the state's [~~renewable~~]clean and nonrenewable resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a commercial energy system or a hydrogen production system meets the requirements of Subsection (7)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3), establishing the reasonable costs of a commercial energy system, as an amount per unit of energy production.

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

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

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the commercial energy system or the hydrogen production system was installed.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(9) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

(10) A purchaser of one or more solar units that claims a tax credit under Section 59-10-1024 for the purchase of the one or more solar units may not claim a tax credit under this section for that purchase.

(11) A claimant, estate, or trust may not claim or carry forward a tax credit described in this section in a taxable year during which the claimant, estate, or trust claims or carries forward a tax credit under Section 59-10-1029.

Section 44. Section 63A-5b-702 is amended to read:

63A-5b-702. Standards and requirements for state facilities -- Life-cycle cost effectiveness.

(1) As used in this section:

(a) "Clean energy system" means a system designed to use solar, wind, geothermal power, wood, hydropower, nuclear, or other clean energy source to heat, cool, or provide electricity to a building.

(b) "Life cycle cost-effective" means the most prudent cost of owning, operating, and maintaining a facility, including the initial cost, energy costs, operation and maintenance costs, repair costs, and the costs of energy conservation and [~~renewable~~]clean energy systems.

[~~(b) "Renewable energy system" means a system designed to use solar, wind, geothermal power, wood, or other replenishable energy source to heat, cool, or provide electricity to a building.~~]

(2) The director shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) that establish standards and requirements for determining whether a state facility project is life cycle cost-effective;

(b) for the monitoring of an agency's operation and maintenance expenditures for a state-owned facility;

(c) to establish standards and requirements for utility metering;

(d) that create an operation and maintenance program for an agency's facilities;

(e) that establish a methodology for determining reasonably anticipated inflationary costs for each operation and maintenance program described in Subsection (2)(d);

(f) that require an agency to report the amount the agency receives and expends on operation and maintenance; and

(g) that provide for determining the actual cost for operation and maintenance requests for a new facility.

(3) The director shall:

(a) ensure that state-owned facilities, except for facilities under the control of the State Capitol Preservation Board, are life cycle cost-effective;

(b) conduct ongoing facilities audits of state-owned facilities; and

(c) monitor an agency's operation and maintenance expenditures for state-owned facilities as provided in rules made under Subsection (2)(b).

(4)(a) An agency shall comply with the rules made under Subsection (2) for new facility requests submitted to the Legislature for a session of the Legislature after the 2017 General Session.

(b) The Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget shall, for each agency with operation and maintenance expenses, ensure that each required budget for the agency is adjusted in accordance with the rules described in Subsection (2)(e).

Section 45. Section 63H-1-201 is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political

subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a [~~renewable~~]clean energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;

(v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;

(w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;

(x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

(y) develop public infrastructure and improvements.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.

(6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

(7) A public infrastructure district created by the authority under Title 17D, Chapter 4, Public Infrastructure District Act, is a subsidiary of the authority.

Section 46. Section 63L-11-304 is amended to read:

63L-11-304. Public lands transfer study and economic analysis -- Report.

(1) As used in this section:

(a) "Public lands" means the same as that term is defined in Section 63L-6-102.

(b) "Transfer of public lands" means the transfer of public lands from federal ownership to state ownership.

(2) The office shall, on an ongoing basis, report to the Federalism Commission regarding the ramifications and economic impacts of the transfer of public lands.

(3) The office shall:

(a) on an ongoing basis, discuss issues related to the transfer of public lands with:

(i) the School and Institutional Trust Lands Administration;

(ii) local governments;

(iii) water managers;

(iv) environmental advocates;

(v) outdoor recreation advocates;

(vi) nonconventional [~~and~~], renewable, and clean energy producers;

(vii) tourism representatives;

(viii) wilderness advocates;

(ix) ranchers and agriculture advocates;

(x) oil, gas, and mining producers;

(xi) fishing, hunting, and other wildlife interests;

(xii) timber producers;

(xiii) other interested parties; and

(xiv) the Federalism Commission; and

(b) develop ways to obtain input from citizens of the state regarding the transfer of public lands and the future care and use of public lands.

Section 47. Section 79-3-202 is amended to read:

79-3-202. Powers and duties of survey.

(1) The survey shall:

(a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;

(b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;

(c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;

(d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;

(e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports;

(q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:

(i) renewable energy;

(ii) energy efficiency; [~~and~~]

(iii) energy conservation; and

(iv) clean energy; and

(r) collect the land use permits described in Sections 10-9a-521 and 17-27a-520.

(2)(a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4)(a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

Section 48. Effective date.

This bill takes effect on May 1, 2024.

Section 49. Coordinating H.B. 241 with H.B. 116.

If H.B. 241, Clean Energy Amendments, and H.B. 116, Commercial Property Assessed Clean Energy Act Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 11-42a-102(6) in H.B. 241 be amended to read:

"(6)(a) "Clean energy system" means an energy system that:

(i) produces energy from clean resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a micro-hydro system;

(F) a biofuel system;

(G) energy derived from nuclear fuel; or

(H) any other clean source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves.

(b) "Clean energy system" includes any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (6)(a)(i) or (ii).

(c) "Clean energy system" does not include a system described in Subsection (6)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i)(A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area;

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter; or

(iii) is a biofuel system.".

CHAPTER 54
H. B. 262
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL AND INSTITUTIONAL TRUST LANDS AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes changes relating to the School and Institutional Trust Lands Management Act.

Highlighted Provisions:

This bill:

- exempts the sale or lease of certain large aggregations of trust lands from advertising requirements;
- excludes certain lands from sale or lease under the large aggregation exemption;
- requires rulemaking for determining the fair market value of trust lands; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-1-102, as repealed and reenacted by Laws of Utah 1994, Chapter 294

ENACTS:

53C-4-104, Utah Code Annotated 1953

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

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

53C-1-102. Purpose.

(1)(a) The purpose of this title is to establish an administration and board to manage lands that Congress granted to the state for the support of common schools and other beneficiary institutions, under the Utah Enabling Act.

(b) This grant was expressly accepted in the Utah Constitution, thereby creating a compact between the federal and state governments which imposes upon the state a perpetual trust obligation to which standard trust principles are applied.

(c) Title to these trust lands is vested in the state as trustee to be administered for the financial support of the trust beneficiaries.

(2)(a) The trust principles referred to in Subsection (1) impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries.

(b) As trustee, the state [~~must~~]shall manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries.

(c) The trustee [~~must~~]shall be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.

(d) The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state.

(3) This title shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries.

Section 2. Section 53C-4-104 is enacted to read:

53C-4-104. Sale or lease of trust lands to state entities -- Requirements -- Excluded lands -- Fair market value.

(1)(a) The director may sell or lease to the Utah Department of Natural Resources an aggregation of more than 5,000 acres of trust lands, if the Utah Department of Natural Resources pays at least fair market value for the sale or lease.

(b) The director may make an aggregation of more than 5,000 acres of trust lands described in this section by selecting a single, contiguous parcel or combining multiple parcels, with individual parcels no farther apart than two miles.

(c) The director may complete a sale or lease described in this section without complying with the advertising requirements described in Subsection 53C-4-102(3), if the director and the board of trustees:

(i) provide written notice of a proposed sale or lease under this section to an affected beneficiary; and

(ii) present at an open meeting of the board of trustees and take public comment on:

(A) the terms of a proposed sale or lease; and

(B) the director's findings that waiving the advertising provision is in the best interest of the beneficiaries.

(2) The director may not include the following lands in a sale or lease described in this section:

(a) Township 1 South, Range 8 West, USM;

(b) Township 1 South, Range 9 West, USM; or

(c) Township 1 South, Range 10 West, USM.

(3)(a) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for determining the fair market value of trust lands for a sale or lease described in this section.

(b) The rules adopted by the director:

(i) shall establish the procedure for determining the fair market value of the trust lands;

(ii) may provide that an appraisal, as that term is defined in Section 61-2g-102, demonstrates the fair market value of the trust lands;

(iii) shall require the director to obtain at least one third-party appraisal in the procedure established in this Subsection (3); and

(iv) may require that additional appraisals be completed by a state-certified general appraiser, as that term is defined in Section 61-2g-102.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 55
H. B. 250
Passed February 29, 2024
Approved March 12, 2024
Effective July 1, 2024

DRIVER EDUCATION MODIFICATIONS

Chief Sponsor: Ariel Defay
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill makes changes to the way a local education agency may fund driver education classes.

Highlighted Provisions:

This bill:

- allows for additional funding to be used by a local education agency to fund driver education classes; and
- increases driver education student reimbursement amounts.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-10-503, as last amended by Laws of Utah 2021, Chapter 247

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

Section 1. Section 53G-10-503 is amended to read:

53G-10-503. Driver education funding -- Reimbursement of a local education agency for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1)(a) Except as provided in Subsection (1)(b), a local education agency that provides driver education shall fund the program[~~solely~~] through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a local education agency may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A local education agency may[~~not~~] use[~~any~~] additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2)(a) The state superintendent shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each local education agency that applied for reimbursement in accordance with this section.

(b) A local education agency that maintains driver education classes that conform to this part and the rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a local education agency may:

(a) employ personnel who are not licensed by the state board under Section 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) [~~$100~~]$150 per student who has completed driver education during the school year;

(b) [~~$30~~]$45 per student who has only completed the classroom portion in the school during the school year; or

(c) [~~$70~~]$105 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent shall allocate the money to each local education agency in the same proportion that the local education agency's reimbursable costs bear to the total reimbursable costs of all local education agencies.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to local education agencies:

(a) to reimburse each local education agency that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7) A local school board shall establish the student fee for driver education for the local education agency. Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 56
H. B. 275
Passed February 20, 2024
Approved March 12, 2024
Effective May 1, 2024

WATER AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to water.

Highlighted Provisions:

This bill:

- addresses home owners associations and water wise landscaping;
- permits the state engineer to require data be submitted in a particular format under certain circumstances;
- clarifies who is eligible for grant money for water conservation efforts other than secondary water metering; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8a-231, as last amended by Laws of Utah 2023, Chapters 139, 199
73-5-8, as last amended by Laws of Utah 2016, Chapter 58
73-10-34.5, as last amended by Laws of Utah 2023, Chapter 260

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

Section 1. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d)(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation;

(B) reduce the landscape area dedicated to lawn or turf; or

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the property owner's property.

(3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

(B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

(b) An association may not require a property owner to[~~:~~]

[~~(i)~~] install or keep in place lawn or turf in an area[~~with a width less than eight feet; or (ii) have more than 50% vegetative coverage, that is not water wise landscaping, on the property owner's property~~].

Section 2. Section 73-5-8 is amended to read:

73-5-8. Audits -- Reports by users to engineer.

(1) The Division of Water Rights shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules specifying:

(a) what water use data a person shall report, pursuant to this section; and

(b) how the Division of Water Rights shall validate the data described in Subsection (1)(a).

(2) The Division of Water Rights may:

(a) collect and validate water use data[.]; and

(b) require data be submitted electronically in a particular format by a city of the first class or a water conservancy district that provides service in whole or in part within a county of the first or second class, if the city or water conservancy district is located within:

(i) the surveyed meander line of the Great Salt Lake;

(ii) the drainage areas of the Bear River or the Bear River's tributaries;

(iii) the drainage areas of Bear Lake or Bear Lake's tributaries;

(iv) the drainage areas of the Weber River or the Weber River's tributaries;

(v) the drainage areas of the Jordan River or the Jordan River's tributaries;

(vi) the drainage areas of Utah Lake or Utah Lake's tributaries;

(vii) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (2)(b)(ii) through (vi); or

(viii) the drainage area of Tooele Valley.

(3) Every person using water from any river system or water source, when requested by the state engineer, shall within 30 days after such request report to the state engineer in writing:

(a) the nature of the use of any such water;

(b) the area on which used;

(c) the kind of crops to be grown;

(d) water elevations on wells or tunnels; and

(e) quantity of water used.

Section 3. Section 73-10-34.5 is amended to read:

73-10-34.5. Grant money for existing secondary water metering to facilitate full metering -- Other grants.

(1) As used in this section:

(a) "Applicant" means a secondary water supplier or group of secondary water suppliers that applies for a grant under this section.

(b) "Board" means the Board of Water Resources.

(c) "Division" means the Division of Water Resources.

(d) "Project" means the purchase or installation of a meter for a secondary water system that as of May 4, 2022, provides secondary water service that is not metered.

(e) "Secondary water" means the same as that term is defined in Section 73-10-34.

(f) "Secondary water connection" means the same as that term is defined in Section 73-10-34.

(g) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(2)(a) The board may issue grants in an amount appropriated by the Legislature in accordance with this section to an applicant to fund projects for meters on secondary water systems that before May 4, 2022, provide secondary water service that is not metered.

(b) The board may not issue a grant under this section to fund:

(i) metering of secondary water for service that begins on or after May 4, 2022; or

(ii) the replacement or repair of an existing secondary water meter.

(c) Notwithstanding the other provisions of this section, the board may issue a grant under this section to a secondary water supplier to reimburse the secondary water supplier for the costs incurred by the secondary water supplier that are associated with installing meters on a secondary water system on or after March 3, 2021, but before May 4, 2022, except that the grant issued under this Subsection (2)(c):

(i) shall be included in calculating the total grant amount under Subsections (3)(a) through (c);

(ii) may not exceed 70% of the costs associated with a project described in this Subsection (2)(c), including installation and purchase of meters; and

(iii) shall comply with Subsection (6).

(3)(a) A secondary water supplier with 7,000 secondary water connections or less is eligible for a total grant amount under this section of up to $5,000,000.

(b) A secondary water supplier with more than 7,000 secondary water connections is eligible for a total grant amount under this section of up to $10,000,000.

(c) If a secondary water supplier applies for a grant as part of a group of secondary water suppliers, the total grant amount described in Subsection (3)(a) or (b) applies to each member of the group and is not based on the number of secondary water connections of the entire group.

(d)(i) Subject to the other provisions of this section, a grant may not exceed the following amounts for the costs associated with a project, including installation and purchase of meters:

(A) for calendar year 2022, 70% of the costs of a project;

(B) for calendar year 2023, 70% of the costs of a project;

(C) for calendar year 2024, 65% of the costs of a project;

(D) for calendar year 2025, 60% of the costs of a project; and

(E) for calendar year 2026, 50% of the costs of a project.

(ii) Beginning with calendar year 2027, a grant under this section shall consist of providing a meter or funding to obtain a meter, which may not exceed the following for costs associated with the project:

(A) for calendar year 2027, 40% of the costs of a project;

(B) for calendar year 2028, 30% of the costs of a project;

(C) for calendar year 2029, 20% of the costs of a project; and

(D) for calendar year 2030, 10% of the costs of a project.

(e) A secondary water supplier may pay the secondary water supplier's portion of the costs of a project through a loan from the board under Section 73-10-34 by filing a separate application with the board.

(f) A meter purchased with grant money received under this section shall allow for data communication between the meter and other devices designed to manage use of secondary water that is:

(i) open and available to an end user; and

(ii) open so that it can integrate with third-party providers.

(4)(a)(i) To obtain a grant under this section, an applicant shall submit an application with the division during a period of time designated by the board.

(ii) If there remains money described in Subsection (2) after the grants for applications submitted during the time period described in Subsection (4)(a) are awarded, the board may designate one or more additional time periods so that the entire amount described in Subsection (2) is awarded by December 31, 2024.

(b) An application submitted to the division shall include:

(i) a detailed project cost estimate including meter costs and installation costs;

(ii) a total number of pressurized secondary water connections in the applicable secondary water supplier's system;

(iii) the number of meters to be installed under the grant;

(iv) a detailed estimated secondary water use reduction including:

(A) average lot size calculations;

(B) average irrigated acreage; and

(C) estimated water applied before the project versus after completion of the project;

(v) the timeline for purchase and installation of meters under the project;

(vi) an agreement to:

(A) provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by a customer specific Internet portal that provides information on the customer's usage more frequently than monthly; or

(B) bill according to usage using a tiered conservation rate and provide an educational component described in Subsection (4)(b)(vi)(A); and

(vii) additional information the board considers helpful.

(5)(a) The division shall:

(i) review and prioritize an application submitted under Subsection (4); and

(ii) recommend to the board which applicants should be awarded a grant under this section.

(b) In prioritizing applications under this Subsection (5), the division shall rank the applicants on the basis of the following weighted factors:

(i) 60% weight based on the ratio of estimated water use reduction divided by total state investment;

(ii) 20% weight based on an applicant facing current or potential water shortages when installation of meters and subsequent water use reductions will result in delaying or eliminating the need for new water development; and

(iii) 20% weight based on a project's accelerated construction schedule, prompt start, and prompt finish.

(6) As a condition of receiving a grant under this section, the recipient shall enter into an agreement with the board to use the grant money. The agreement shall:

(a) be executed by no later than December 31, 2024; and

(b) require that the grant money be spent by December 31, 2026, and the project completed under the terms of the grant.

(7) Notwithstanding the other provisions of this section, the board may issue a grant to a secondary water supplier:

(a) that installed meters on secondary water connections before May 4, 2022;

(b) that has not otherwise received a grant under this section;

(c) for the purpose of water conservation; and

(d) in an amount not to exceed $2,000,000.

(8) Notwithstanding the other provisions of this section, the board may issue a grant to or convert a grant previously issued to a secondary water supplier described in Subsection [~~73-10-34(13)(a)(iii)~~]73-10-34(13)(a) who seeks to meter at strategic points under Subsection

73-10-34(13), from money appropriated under this section to fund a project that is an alternative to metering, such as lining ditches or improving head gates, if the secondary water supplier establishes to the satisfaction of the board that the alternative project will conserve more water than is expected to be conserved through metering.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the board may make rules establishing the procedure for applying for a grant under this section.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 57
H. B. 286
Passed February 16, 2024
Approved March 12, 2024
Effective May 1, 2024

STATE AID FOR SCHOLARSHIPS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill limits the issuance of certain tuition waivers.

Highlighted Provisions:

This bill:

- limits the issuances of certain tuition waivers; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-103.5, as last amended by Laws of Utah 2018, Chapter 141

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

Section 1. Section 53B-8-103.5 is amended to read:

53B-8-103.5. Alumni legacy nonresident scholarships.

(1)(a) In addition to other nonresident tuition scholarships, the president of an institution may waive an amount up to [~~the full~~]one academic school year's equivalent of the nonresident portion of tuition for alumni legacy nonresident scholarships.

(b) The tuition waiver described in Subsection (1)(a) may only be given once and applied to a student's:

(i) first full school year of non-residency status;

(ii) first two semesters of non-residency status; or

(iii) first four quarters of non-residency status.

(2) The purposes of alumni legacy nonresident scholarships are to:

(a) assist in maintaining an adequate level of service and related cost-effectiveness of auxiliary operations in institutions of higher education;

(b) promote enrollment of nonresident students with high academic aptitudes; and

(c) recognize the legacy of past graduates and promote a continued connection to their alma mater.

(3) To qualify for an alumni legacy scholarship, a student shall:

(a) enroll at an institution within the state system of higher education for the first time; and

(b) have at least one parent[~~ or grandparent~~] who graduated with an associate's degree or higher from the same institution in which the student is enrolling.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 58
H. B. 295
Passed February 16, 2024
Approved March 12, 2024
Effective May 1, 2024

PRODUCED WATER AMENDMENTS

Chief Sponsor: Steven J. Lund
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses issues related to produced water.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the scope of the Produced Water Act;
- addresses the Board of Oil, Gas, and Mining's regulation of produced water;
- addresses water right issues;
- enacts provisions related to possessory interests and control; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-5, as last amended by Laws of Utah 2022, Chapter 62

ENACTS:

40-12-101, Utah Code Annotated 1953
40-12-102, Utah Code Annotated 1953
40-12-201, Utah Code Annotated 1953
40-12-202, Utah Code Annotated 1953

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

Section 1. Section 40-6-5 is amended to read:

40-6-5. Jurisdiction of board -- Rules.

(1) The board has jurisdiction over all persons and property necessary to enforce this chapter. The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The board shall make rules and orders as necessary to administer the following provisions:

(a) Ownership of all facilities for the production, storage, treatment, transportation, refining, or processing of oil and gas shall be identified.

(b) Well logs, directional surveys, and reports on well location, drilling, and production shall be made and filed with the division. Logs of wells marked "confidential" shall be kept confidential for one year after the date on which the log is required to be filed, unless the operator gives written permission to release the log at an earlier date. Production reports shall be:

(i) filed monthly;

(ii) accurate; and

(iii) in a form that reasonably serves the needs of state agencies and private fee owners.

(c) Monthly reports from gas processing plants shall be filed with the division.

(d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to prevent:

(i) the escape of oil, gas, or water out of the reservoir in which they are found into another formation;

(ii) the detrimental intrusion of water into an oil or gas reservoir;

(iii) the pollution of fresh water supplies by oil, gas, or salt water;

(iv) blowouts;

(v) cavings;

(vi) seepages;

(vii) fires; and

(viii) unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(e) The drilling of wells may not commence without an adequate and approved supply of water as required by Title 73, Chapter 3, Appropriation. This Subsection (2)(e) is not intended to impose additional legal requirements, but to assure that existing legal requirements concerning the use of water have been met before the commencement of drilling.

(f) Subject to Subsection (9), an operator shall furnish a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to:

(i) plug each dry or abandoned well;

(ii) repair each well causing waste or pollution;

(iii) maintain and restore the well site; and

(iv) except as provided in Subsection (8), protect a surface land owner against unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(g) Production from wells shall be separated into oil and gas and measured by means and upon standards that are prescribed by the board and reflect current industry standards.

(h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and any

accumulation of nonmerchantable waste crude oil shall be treated and processed, as prescribed by the board.

(i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or salt water disposal in this state shall maintain complete and accurate records of the quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or injected for a period of at least six years. The records shall be available for examination by the board or the board's agents at any reasonable time. Rules enacted to administer this Subsection (2)(i) shall be consistent with applicable federal requirements.

(j) Any person with an interest in a lease shall be notified when all or part of that interest in the lease is sold or transferred.

(k) The assessment and collection of administrative penalties is consistent with Section 40-6-11.

(l) The board shall regulate the disposition, transfer, use, transport, recycling, treatment, and disposal by injection of produced water, as defined in Section 40-12-101, during, or for reuse in an oil and gas activity, as defined in Section 40-6-2.5, including disposal by injection pursuant to authority delegated to the board by the United States Environmental Protection Agency to be done in a manner that protects surface water and fresh water resources.

(3) The board has the authority to regulate:

(a) all operations for and related to the production of oil or gas including:

(i) drilling, testing, equipping, completing, operating, producing, and plugging of wells; and

(ii) reclamation of sites;

(b) the spacing and location of wells;

(c) operations to increase ultimate recovery, such as:

(i) cycling of gas;

(ii) the maintenance of pressure; and

(iii) the introduction of gas, water, or other substances into a reservoir;

(d) the disposal of salt water and oil-field wastes;

(e) the underground and surface storage of oil, gas, or products; and

(f) the flaring of gas from an oil well.

(4) For the purposes of administering this chapter, the board may designate:

(a) wells as:

(i) oil wells; or

(ii) gas wells; and

(b) pools as:

(i) oil pools; or

(ii) gas pools.

(5) The board has exclusive jurisdiction over:

(a) class II injection wells, as defined by the federal Environmental Protection Agency or a successor agency;

(b) pits and ponds in relation to these injection wells;

(c) when granted primacy by the Environmental Protection Agency, class VI injection wells, as defined by the Environmental Protection Agency or a successor agency; and

(d) storage facilities, as that term is defined in Section 40-11-1.

(6) The board has jurisdiction:

(a) to hear questions regarding multiple mineral development conflicts with oil and gas operations if there:

(i) is potential injury to other mineral deposits on the same lands; or

(ii) are simultaneous or concurrent operations conducted by other mineral owners or lessees affecting the same lands; and

(b) to enter the board's order or rule with respect to those questions.

(7) The board has enforcement powers with respect to operators of minerals other than oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple mineral development issues.

(8) Subsection (2)(f)(iv) does not apply if the surface land owner is a party to, or a successor of a party to:

(a) a lease of the underlying privately owned oil and gas;

(b) a surface use agreement applicable to the surface land owner's surface land; or

(c) a contract, waiver, or release addressing an owner's or operator's use of the surface land owner's surface land.

(9)(a) The board shall review rules made under Subsection (2)(f) to determine whether the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas operations.

(b) During the board's review under this Subsection (9), the board may consider the bonding schemes of other states.

Section 2. Section 40-12-101 is enacted to read:

40-12-101. Definitions.

CHAPTER 12. PRODUCED WATER ACT

Part 1. General Provisions

As used in this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2) "Division" means the Division of Oil, Gas, and Mining.

(3) "Nonconsumptive use of produced water in an oil and gas activity" means the transfer, use, temporary storage before disposal, transport, recycling, treatment, or other disposal of produced water in an oil and gas activity that does not reduce the volume of produced water.

(4) "Oil and gas activity" means the same as that term is defined in Section 40-6-2.5.

(5) "Oil or gas producing well" means a well that, at the time produced water is brought to the surface, is a drillhole boring in earth that is intended to bring and does bring hydrocarbons and associated fluids to the surface.

(6) "Operator" means a person authorized by the division to operate a unit for an oil or gas producing well.

(7) "Produced water" means water that is:

(a)(i) extracted below the earth's surface by means of an oil or gas producing well; or

(ii) separated from hydrocarbons after extraction; and

(b) required to be disposed of pursuant to board rules for waste management and disposal made pursuant to Subsection 40-6-5(3) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Transfer" means to sell or otherwise convey.

(9) "Transferee" means one of the following who receives a possessory interest in produced water:

(a) an operator;

(b) a person who provides recycling or treatment services for produced water; or

(c) a person who provides disposal services for produced water.

Section 3. Section 40-12-102 is enacted to read:

40-12-102. Scope of chapter.

(1) This chapter does not authorize the use of produced water as part of a consumptive beneficial use without a water right.

(2) A person may engage in the nonconsumptive use of produced water in an oil and gas activity only in a manner consistent with this chapter.

(3) Nothing in this chapter modifies the statutory enforcement and other duties of the state engineer under Title 73, Water and Irrigation, except as provided in Subsection 40-12-201(2).

Section 4. Section 40-12-201 is enacted to read:

40-12-201. Regulation by board - Water rights.

Part 2. Produced Water in General

(1) The board shall regulate produced water used in an oil and gas activity as provided in this title.

(2)(a) The nonconsumptive use of produced water in an oil and gas activity is not:

(i) an appropriation of water for beneficial use under Title 73, Water and Irrigation; or

(ii) a waste of water.

(b) A water right is not established by the nonconsumptive use of produced water in an oil and gas activity.

(c) Notwithstanding Title 73, Water and Irrigation, the state engineer may not require an operator or transferee to obtain a water right for the nonconsumptive use of produced water in an oil and gas activity.

Section 5. Section 40-12-202 is enacted to read:

40-12-202. Responsibility and control of produced water.

(1) Unless otherwise provided by statute or a legally binding agreement, this section applies.

(2)(a) Produced water from an oil or gas producing well is the responsibility of the operator of the oil or gas producing well.

(b) The operator has a possessory interest in produced water from a oil and gas activity, including the right to:

(i) take possession of the produced water;

(ii) engage in the nonconsumptive use of produced water in an oil and gas activity; and

(iii) obtain proceeds from an action described in this Subsection (2)(b).

(3) When a person with a possessory interest in produced water under Subsection (2) transfers the produced water to a transferee, upon transfer, the transferee has a possessory interest in the produced water and is liable for the disposal of the produced water.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 59
H. B. 291
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions relating to the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- modifies definitions;
- clarifies appointment provisions and reporting requirements for the Local Food Advisory Council;
- repeals certain requirements relating to the registration of weights and measures in commerce or trade;
- expands definitions in the Utah Nursery Act;
- changes the reporting date for the Utah Soil Health Program;
- modifies the composition of the Agricultural and Wildlife Damage Prevention Board;
- modifies provisions relating to animal branding;
- changes how the department makes value determinations in relation to the destruction of infected livestock;
- clarifies a reporting requirement for a veterinarian who diagnoses a case of vesicular disease;
- removes a restriction for funds under the LeRay McAllister Working Farm and Ranch Fund;
- repeals a requirement for the department to provide education on horse tripping to horse event venues;
- repeals a provision relating to infected dairy animals; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-602, as last amended by Laws of Utah 2022, Chapter 67
4-2-604, as enacted by Laws of Utah 2018, Chapter 51
4-9-118, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-15-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-18-308, as enacted by Laws of Utah 2021, Chapter 178
4-23-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-102, as last amended by Laws of Utah 2021, Chapter 295
4-24-201, as last amended by Laws of Utah 2021, Chapter 295
4-24-306, as last amended by Laws of Utah 2022, Chapter 79
4-31-102, as last amended by Laws of Utah 2016, Chapter 30
4-31-106, as last amended by Laws of Utah 2017, Chapter 345
4-31-107, as last amended by Laws of Utah 2017, Chapter 345
4-31-114, as last amended by Laws of Utah 2017, Chapter 345
4-31-115, as last amended by Laws of Utah 2021, Chapter 295
4-39-503, as enacted by Laws of Utah 2023, Chapter 110
4-46-301, as last amended by Laws of Utah 2023, Chapter 180
4-46-302, as last amended by Laws of Utah 2023, Chapter 180

REPEALS:

4-2-504, as last amended by Laws of Utah 2021, Chapter 126
4-31-110, as renumbered and amended by Laws of Utah 2012, Chapter 331

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

Section 1. Section 4-2-602 is amended to read:

4-2-602. Local Food Advisory Council created.

(1) There is created the Local Food Advisory Council consisting of up to the following 15 members appointed to four-year terms of office as follows:

(a) one member of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives, each from a different political party;

(c) the commissioner, or the commissioner's designee;

(d) the executive director of the Department of Health, or the executive director's designee;

(e) two crop direct-to-consumer food producers, appointed by the governor;

(f) two animal direct-to-consumer food producers, appointed by the governor; and

(g) the following potential members, appointed by the governor as needed:

(i) a direct-to-consumer food producer;

(ii) a member of a local agriculture organization;

(iii) a food retailer;

(iv) a licensed dietician;

(v) a county health department representative;

(vi) an urban farming representative;

(vii) a representative of a business engaged in the processing, packaging, or distribution of food;

(viii) an anti-hunger advocate;

(ix) an academic with expertise in agriculture; and

(x) a food distributor.

(2)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the council.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the council.

(c) The cochairs may, with the consent of a majority of the council, appoint additional nonvoting members to the council who shall serve in a voluntary capacity.

(3) In appointing members to the council under Subsections (1)(e) through (g), the governor shall strive to take into account the geographical makeup of the council.

(4) A vacancy on the council shall be filled in the same manner in which the original appointment is made.

(5)(a) Except as required under Subsection (5)(b), as terms of current board members expire, the appointing entity shall appoint each new member or reappointed member to a four-year term.

(b) The appointing entity shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

[~~(5)~~](6) Compensation for a member of the council who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

[~~(6)~~](7) Council members who are employees of the state shall receive no additional compensation.

[~~(7)~~](8) The department shall provide staff support for the council.

Section 2. Section 4-2-604 is amended to read:

4-2-604. Duties -- Interim report.

(1) The council shall:

(a) convene at least four times each year; and

(b) review and make recommendations regarding the policy issues listed in Section 4-2-603.

(2) The council shall prepare an annual report and present the report each year before November 30[~~, 2017, and every November thereafter~~] to:

(a) the Natural Resources, Agriculture, and Environment Interim Committee; and

(b) the Department of Agriculture and Food[~~; and~~].

[~~(c) the Food Advisory Board.~~]

Section 3. Section 4-9-118 is amended to read:

4-9-118. Registration of commercial establishments using weights and measures.

[~~(1)(a) Pursuant to~~]Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall [~~establish~~]make rules providing for the registration of weights and measures users and issuance of certification of weights and measures devices to ensure the use of correct weights and measures in commerce or trade. The department may:

[~~(b) The division may:~~]

[~~(i)~~](1) determine whether weights and measures are correct through:

[~~(A)~~](a) inspection and testing by a department employee; or

[~~(B)~~](b) acceptance of an inspection and testing report prepared by a registered weights and measures service person;

[~~(ii)~~](2) establish standards and qualifications for a registered weights and measures service person; and

[~~(iii)~~](3) determine the form and content of an inspection and testing report.

[~~(c) A weights and measures user shall register with the department.~~]

[~~(d) Before granting a registration to a weights and measures user, the department shall determine whether the weights and measures user complies with the rules established under Subsection (1)(a).~~]

[~~(e) An applicant shall register with the department in writing, using forms required by the department.~~]

[~~(f) The department shall issue a registration to an applicant if the department determines that the applicant meets the qualifications of registration established under Subsection (1)(a).~~]

[~~(g) If the applicant does not meet the qualifications of registration, the department shall notify the applicant, in writing, that the applicant's registration is denied.~~]

[~~(h)(i) If an applicant submits an incomplete application, a written notice of conditional denial of registration shall be provided to the applicant.~~]

[~~(ii) The applicant shall correct the deficiencies within the time period specified in the notice to receive a registration.~~]

[~~(i)(i) The department may, as provided under Subsection 4-2-103(2), charge the weights and measures user a registration fee.~~]

[~~(ii) The department shall retain the fees as dedicated credits and shall use the fees to administer the registration of weights and measures users.~~]

[~~(2)(a) A registration issued under this section shall be valid from the date the department issues~~

~~the registration to December 31 of the year the registration is issued.~~]

[~~(b) A registration may be renewed for the following year by applying for renewal by December 31 of the year the registration expires.~~]

[~~(3) A registration issued under this section shall specify:~~]

[~~(a) the name and address of the weights and measures user;~~]

[~~(b) the registration issuance and expiration date; and~~]

[~~(c) the number and type of weights and measures devices to be certified.~~]

[~~(4)(a) The department may immediately suspend a registration issued under this section if any of the requirements of Section 4-9-116 are violated.~~]

[~~(b)(i) The holder of a registration suspended under Subsection (4)(a) may apply for the reinstatement of a registration.~~]

[~~(ii) If the department determines that all requirements under Section 4-9-116 are being met, the department shall reinstate the registration.~~]

[~~(5)(a) A weights and measures user registered under this section shall allow the department access to the weights and measures user's place of business to determine if the weights and measures user is complying with the registration requirements.~~]

[~~(b) If a weights and measures user denies access for an inspection required under Subsection (5)(a), the department may suspend the weights and measures user's registration until the department is allowed access to the weights and measures user's place of business.~~]

Section 4. Section 4-15-103 is amended to read:

4-15-103. Definitions.

As used in this part:

(1) "Balled and burlapped stock" means nursery stock that is removed from the growing site with a ball of soil containing its root system intact and encased in burlap or other material to hold the soil in place.

(2) "Bare-root stock" means nursery stock that is removed from the growing site with the root system free of soil.

(3) "Compliance agreement" means any written agreement between a person and a regulatory agency to achieve compliance with any set of requirements being enforced by the department.

(4) "Container stock" means nursery stock that is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period sufficient to allow newly developed fibrous roots to form, so that if the plant is removed from the container the plant's root-media ball will remain intact.

(5) "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight.

(6) "Minimum indices of vitality" mean standards adopted by the department to determine the health and vigor of nursery stock offered for sale in this state.

(7) "National nursery stock cleanliness standards" means nursery stock that:

(a) is free from quarantine pests and pests of concern;

(b) has all nonquarantine plant pests under effective control;

(c) meets the national nursery stock cleanliness standards; and

(d) is eligible for nursery stock certification and shipping permits.

(8) "Nonestablished container stock" means deciduous nursery stock that is transplanted in soil or in a potting mixture contained within a metal, clay, plastic, or other rigid container for a period insufficient to allow the formation of fibrous roots sufficient to form a root-media ball.

(9) "Nursery" means any place where nursery stock is propagated and grown for sale or distribution.

(10)(a) "Nursery agent" means a person who solicits or takes an order for the sale of nursery stock, other than on the premises of a nursery or nursery outlet.

(b) "Nursery agent" includes a nursery landscaper.

(11) "Nursery outlet" means any place or location where nursery stock is offered for wholesale or retail sale.

(12)(a) "Nursery stock" means:

(i) all plants, whether field grown, container grown, or collected native plants;

(ii) trees, shrubs, vines, grass sod;

(iii) seedlings, perennials, biennials, annuals; and

(iv) buds, cuttings, grafts, or scions grown or collected or kept for propagation, sale, or distribution.

(b) "Nursery stock" does not [~~mean~~]include:

(i) dormant bulbs, tubers, roots, corms, rhizomes, or pips;

(ii) field, vegetable, or flower seeds; or

(iii) [~~bedding plants, annual plants, florists' greenhouse or field-grown plants, or flowers or cuttings.~~]cut flowers, unless stems or other portions of the cut flowers are intended for propagation.

(13) "Packaged stock" means bare-root stock that is packed either in bundles or in single plants with the roots in some type of moisture-retaining material designed to retard evaporation and hold the moisture-retaining material in place.

(14) "Pests of concern" means a nonquarantine pest that:

(a) is not known to occur in the state, or that has a limited distribution within the state; and

(b) has the potential to negatively impact nursery stock health or pose an unacceptable economic or environmental risk.

(15) "Place of business" means each separate nursery, or nursery outlet, where nursery stock is offered for sale, sold, or distributed.

(16) "Plant pests" means:

(a) the egg, pupal, and larval stage, as well as any other living stage of any insect, mite, nematode, slug, snail, protozoa, or other invertebrate animal;

(b) bacteria;

(c) fungi;

(d) parasitic plant or a reproductive part of a parasitic plant;

(e) virus or viroid;

(f) phytoplasma; or

(g) any infectious substance that can injure or cause disease or damage in any plant.

(17) "Quarantine pest" means a pest that poses potential negative economic or environmental impact to an area in which the pest currently:

(a) does not exist; or

(b) exists, but its presence is not widely distributed or is being officially controlled.

(18) "Shipping permit or certificate of inspection" means a sticker, stamp, imprint, or other document that accompanies nursery stock shipped intrastate and documents that the originating nursery:

(a) is licensed; and

(b)(i) has stock that has passed annual inspection; or

(ii) produces stock that meets the National Nursery Stock Compliance Standard.

Section 5. Section 4-18-308 is amended to read:

4-18-308. Reporting requirement.

(1) Each year, [~~by no later than June 30~~]before November 1, the department shall prepare and make available to the public a report on the department's official website that contains the following information:

(a) an accounting of money received and spent for the program;

(b) a description of activities undertaken, including the number and type of grant-funded projects and the educational and stakeholder engagement activities; and

(c) a summary of the activities and recommendations of the Soil Health Advisory Committee.

(2) The commissioner shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November interim meeting of that committee. The report shall include the information described in Subsection (1).

Section 6. Section 4-23-104 is amended to read:

4-23-104. Agricultural and Wildlife Damage Prevention Board created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation.

(1) There is created an Agricultural and Wildlife Damage Prevention Board composed of the commissioner and the director of the Division of Wildlife Resources who shall serve, respectively, as the board's chair and vice chair together with seven other members appointed by the governor to four-year terms of office as follows:

(a) one sheep producer representing wool growers of the state;

(b) one cattle producer representing range cattle producers of the state;

(c) [~~one person from the United States Department of Agriculture~~]one person from an organization representing the agricultural interests of the state;

(d) one agricultural landowner representing agricultural landowners of the state;

(e) one person representing the wildlife interests [~~in~~]of the state;

(f) one person from the United States Forest Service; and

(g) one person from the United States Bureau of Land Management.

(2) Appointees' term of office shall commence June 1.

(3)(a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

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

(5)(a) Attendance of five members at a duly called meeting shall constitute a quorum for the transaction of official business.

(b) The board shall convene at the times and places prescribed by the chair or vice chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 4-24-102 is amended to read:

4-24-102. Definitions.

As used in this chapter:

(1) "Brand" means an identifiable mark, including a tattoo or cutting and shaping of the ears or brisket area, applied to livestock that is intended to show ownership and the mark's location.

(2) "Carcass" means any part of the body of an animal, including entrails and edible meats.

(3) "Domesticated elk" means the same as that term is defined in Section 4-39-102.

(4) "Hide" means any skins or wool removed from livestock.

(5) "Livestock" means cattle, calves, horses, mules, or sheep[~~, goats, or hogs.~~].

(6)(a) "Livestock market" means a public market place consisting of pens or other enclosures where cattle, calves, horses, or mules are received on consignment and kept for subsequent sale, either through public auction or private sale.

(b) "Livestock market" does not mean:

(i) a place used solely for liquidation of livestock by a farmer, dairyman, livestock breeder, or feeder who is going out of business; or

(ii) a place where an association of livestock breeders under the association's own management:

(A) offers registered livestock or breeding sires for sale;

(B) assumes the responsibility for the sale;

(C) guarantees title to the livestock or sires sold; and

(D) arranges with the department for brand inspection of the animals sold.

(7) "Open range" means land upon which cattle, sheep, or other domestic animals are grazed or permitted to roam by custom, license, lease, or permit.

(8) "Slaughterhouse" means a building, plant, or establishment where animals are harvested, dressed, or processed and the animals' meat or meat products produced for human consumption.

Section 8. Section 4-24-201 is amended to read:

4-24-201. Central Brand Registry -- Division of state into brand districts -- Identical or confusingly similar brands -- Publication of registered brands.

(1) The department shall maintain a central Brand Registry that lists each brand recorded in this state. For each brand registered the list shall specify:

(a) the name and address of the registrant;

(b) a facsimile or diagram of the brand recorded;

(c) the location of the brand upon the animal; and

(d) the date the brand is filed in the central Brand Registry.

(2) The commissioner may divide the state into districts for the purpose of recording brands, but a brand that is identical or confusingly similar to a brand previously recorded in a district may not be recorded.

(3)(a) A brand that is identical or confusingly similar to a brand previously filed in the central Brand Registry may not be recorded.

(b) If two or more brands appear identical or confusingly similar:

(i) the brand first recorded shall prevail over a later conflicting brand; and

(ii) the later brand shall be cancelled and the recording fees refunded to the owner.

(4)(a) The commissioner shall publish from time to time a list of all brands recorded in the central Brand Registry and may issue supplements to that publication containing additional brands or changes in ownership of brands recorded after the last publication.

(b) The commissioner may publish the publication described in Subsection (4)(a) in hard copy or electronic copy.

[~~(b)~~](c) The publication published under Subsection (4)(a) shall contain a facsimile or diagram of all brands recorded together with the owner's name and address.

[~~(c)~~](d) The commissioner shall, upon request, send one electronic copy of the publication published under Subsection (4)(a) and each supplement to each brand inspector, county clerk, county sheriff, livestock organization, or any other person considered appropriate.

[~~(d)~~](e) The department shall make [~~publications under this~~]the publication described in Subsection (4)(a) available to the public[-].

(f) The department shall, upon request, make a hard copy of the publication described in Subsection (4)(a) available at the cost of printing and distribution per publication.

Section 9. Section 4-24-306 is amended to read:

4-24-306. Movement across state line -- Brand inspection required -- Exception -- Request for brand inspection -- Time and place of inspection.

(1) Except as provided in Subsection (2), a person may not drive or transport any cattle, calves, horses, domesticated elk, or mules from any place within this state to a place outside this state until the animal has been brand inspected.

(2) Subsection (1) does not apply:

(a) if the animals [~~specified~~]described in Subsection (1) customarily forage on an open range [~~which~~]that transgresses the Utah state line and that of an adjoining state; [~~or~~]

(b) to rodeo stock that have received a current yearly brand inspection[~~.~~]; or

(c) to non-resident equine traveling to Utah for 30 or fewer days.

(3) The owner or person responsible for driving or transporting the animals shall request the department to inspect the brands of the animals to be moved.

(4) The department shall conduct the inspection at the time and place determined by the department.

Section 10. Section 4-31-102 is amended to read:

4-31-102. Dead domestic animals -- Duty of owner to bury or otherwise dispose-- Liability for costs.

(1) An owner or other person responsible for a domestic animal that dies shall bury or dispose of the animal within a reasonable period of time after the owner or other person responsible for the animal becomes aware that the animal is dead.

(2) The owner of a dead bovine, horse, mule, goat, sheep, bird, or swine may bury the dead animal on the owner's property.

(3) If the owner or other person responsible for the dead animal cannot be found, the county, city, or town within which the dead animal is found, shall, at the political subdivision's expense, bury the dead animal.

(4) A county, city, or town that incurs expense under this section is entitled to reimbursement from the owner of the dead animal.

Section 11. Section 4-31-106 is amended to read:

4-31-106. Epidemic of contagious or infectious disease -- Condemnation or destruction of infected or exposed livestock -- Destruction of other property.

(1) If there is an outbreak of contagious or infectious [~~foreign animal~~] disease of epidemic proportion among domestic animals in this state that imperils livestock, the commissioner, with approval of the governor, may condemn, destroy, or dispose of any infected livestock or any livestock exposed to the disease or considered by the commissioner capable of [~~communicating~~] transmitting the disease to other domestic animals.

(2) The commissioner may, with gubernatorial approval, condemn and destroy any barns, sheds, corrals, pens, or other property necessary to prevent the spread of contagion or infection.

Section 12. Section 4-31-107 is amended to read:

4-31-107. Value determination before destruction.

(1) Before any livestock or property that is not otherwise indemnified is destroyed under Section 4-31-106, [~~an appraisal of the fair market value of the livestock or other property shall be forwarded to the commissioner by a panel of three qualified appraisers appointed as follows:~~]the commissioner shall determine the value of the livestock or other property in consultation with the state veterinarian.

[~~(a) one by the commissioner;~~]

[~~(b) one by the owner of the livestock or other property subject to condemnation; and~~]

[~~(c) one by the appraisers specified in Subsections (1)(a) and (b).~~]

(2) The commissioner shall make the value determination described in Subsection (1) based on available data from the United States Department of Agriculture or other reliable government sources.

[~~(2)~~](3) After review, the commissioner shall forward the [~~appraisal~~]determined value and an appraisal described in Subsection (4), if any, to the board of examiners described in Subsection 63G-9-201(2) together with the commissioner's recommendation concerning the amount, if any, that should be [~~allowed~~]reimbursed.

[~~(3) Any costs incurred in the appraisal shall be paid by the state.~~]

(4) An owner of livestock or other property subject to destruction may pay for an independent appraisal of the value of the livestock or other property, which appraisal the board of examiners shall consider in the board of examiners' recommendation described in Subsection (3).

Section 13. Section 4-31-114 is amended to read:

4-31-114. Report of vesicular disease.

(1) A person who identifies symptoms of vesicular disease in livestock shall immediately report it to the department.

(2) [~~Failure of a~~]The department may report a veterinarian licensed in this state [~~to report to the department~~]to the veterinarian's licensing authority for the veterinarian's failure to report a diagnosed case of vesicular disease [~~constitutes ground for the revocation of such veterinarian's license~~]to the department.

(3) Failure by an owner of livestock to report symptoms of vesicular disease among the owner's livestock constitutes forfeiture of the right to claim an indemnity for an animal euthanized on account of the disease.

Section 14. Section 4-31-115 is amended to read:

4-31-115. Contagious or infectious disease, or any epidemic or poisoning -- Duties of department.

(1)(a) The department shall investigate and may quarantine a reported case of contagious or infectious disease, or any epidemic or poisoning, affecting a domestic animal or an animal that the department believes may jeopardize the health of animals within the state.

(b) The department shall make a prompt and thorough examination of the circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care, or any necessary remedies.

(c) The department may also order immunization or testing and sanitary measures to prevent the spread of disease.

(d) An investigation involving fish or wildlife shall be conducted under a cooperative agreement with the Division of Wildlife Resources.

(2)(a) If the owner or person in possession of an animal with a contagious or infectious disease, epidemic, or poisoning, after written notice from the department, fails to take the action ordered, the commissioner may seize and hold the animal and take action necessary to prevent the spread of disease, including immunization, testing, [~~dipping, or spraying~~]or treatment.

(b) An animal seized for testing or treatment under this section may be sold by the commissioner at public sale to reimburse the department for the costs incurred in the seizure, testing, treatment, maintenance, and sale of the animal unless the owner, before the sale, tenders payment for the costs incurred by the department.

(c)(i) The commissioner may not sell a seized animal until the owner or person in possession of the animal is served with a notice specifying the itemized costs incurred by the department, the time, place, and purpose of sale, and the number of animals to be sold.

(ii) The notice shall be served at least three days in advance of sale in the manner:

(A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

(B) if the owner cannot be found after due diligence, prescribed for service by publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

(3)(a) Any amount realized from the sale of the animal over the total charges shall be paid to the owner of the animal if the owner is known or can by reasonable diligence be found.

(b) If the owner is unknown and cannot be found by reasonable diligence, as described in Subsection (3)(a), the excess shall remain in the General Fund.

(c) If the total cost incurred is greater than the amount realized, the owner shall pay the difference.

Section 15. Section 4-39-503 is amended to read:

4-39-503. Grounds for denial, suspension, or revocation of licenses for domestic elk facilities.

(1) The department shall deny, suspend, or revoke a license to operate a domestic elk facility if the licensee or applicant:

(a) fails, for two consecutive years, to:

(i) meet inventory requirements as required by the department;

(ii) submit chronic wasting disease test samples for at least 90% of mortalities over 12 months old; or

(iii) notify the department that there are wild cervids inside a domestic elk farm or elk ranch;

(b) fails to present animals for identification at the request of the department or allow the department to have access to facility records; or

(c) violates the import requirements [~~of~~]described in Section 4-39-303.

(2) The department may deny, revoke, or suspend a license to operate a domestic elk facility if, after delivery of notice and an opportunity to correct, the licensee or applicant:

(a) provides:

(i) an unfinished application or incorrect application information; or

(ii) incorrect records or fails to maintain required records;

(b) fails to:

(i) notify the department of movement of elk onto or off of the facility;

(ii) identify elk as required;

(iii) notify the department concerning an escape of an animal from a domestic elk facility;

(iv) maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;

(v) participate with the department in a cooperative wild cervid removal program;

(vi) submit chronic wasting disease test samples for at least 90% of mortalities over 12 months old; or

(vii) have the minimum proper equipment necessary to safely and humanely handle animals in the facility;

(c) moves imported elk onto a facility without getting a Certificate of Veterinary Inspection that has an import permit number from the department;

(d) imports animals that are prohibited or controlled by the division; or

(e) handles animals in a manner that violates acceptable animal husbandry practices.

Section 16. Section 4-46-301 is amended to read:

4-46-301. LeRay McAllister Working Farm and Ranch Fund.

(1) There is created a restricted account within the General Fund entitled the "LeRay McAllister Working Farm and Ranch Fund."

(2) The [~~restricted account~~]LeRay McAllister Working Farm and Ranch Fund shall consist of:

(a) appropriations by the Legislature;

(b) grants from federal or private sources; and

(c) interest and earnings from the account.

(3) The Land Conservation Board created in Section 4-46-201 may use appropriations from the fund in accordance with Section 4-46-302.

Section 17. Section 4-46-302 is amended to read:

4-46-302. Use of money in fund -- Criteria -- Administration.

(1) Subject to Subsection (2), the board may authorize the use of money in the fund, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) an entity within the department; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2)(a) The money in the fund shall be used for preserving or restoring open land and agricultural land.

(b) Except as provided in Subsection (2)(c), money from the fund:

(i) may be used to:

(A) establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act; or

(B) fund similar methods to preserve open land or agricultural land; and

(ii) may not be used to[~~:~~]

[~~(A)~~] purchase a fee interest in real property to preserve open land or agricultural land[~~; or~~].

[~~(B) purchase additional property for the purpose of tax deferral.~~]

(c) Money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(i) the property to be purchased is no more than 20 acres in size; and

(ii) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(d) Eminent domain may not be used or threatened in connection with any purchase using money from the fund.

(e) A parcel of land larger than 20 acres in size may not be divided to create one or more parcels that are smaller than 20 acres in order to comply with Subsection (2)(c)(i).

(f) A local entity, department, or organization under Subsection (1) may not receive money from the fund unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the fund.

(g) In granting money from the fund, the board may impose conditions on the recipient as to how the money is to be spent.

(h) The board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(h)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the fund if the money is used for the protection of wildlife or watershed.

(i)(i) The board may not make a grant from the fund that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the board concerning the intended grant, but the recommendation is not binding on the board.

(3) In determining the amount and type of financial assistance to provide a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(i), the board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the fund for

a project whose purpose is to protect critical watershed, the board shall require that the needs and quality of that project be verified by the state engineer.

(5) An interest in real property purchased with money from the fund shall be held and administered by the state or a local entity.

(6)(a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.

(b) To obtain consent to a project, the person who is seeking money from the fund shall submit a request for consent to a project with the applicable land use authority. The land use authority may grant or deny consent. If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 18. Repealer.

This bill repeals:

Section 4-2-504, Horse tripping education -- Reporting requirements.

Section 4-31-110, Dairy cattle subject to inspection for disease.

Section 19. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 60
H. B. 296
Passed February 21, 2024
Approved March 12, 2024
Effective May 1, 2024

READING DISABILITY AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions for benchmark assessments in reading.

Highlighted Provisions:

This bill:

- defines terms; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-4-307, as last amended by Laws of Utah 2023, Chapter 20

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

Section 1. Section 53E-4-307 is amended to read:

53E-4-307. Benchmark assessments in reading -- Report to parent.

(1) As used in this section:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Diagnostic assessment" means an assessment that measures key literacy skills, including phonemic awareness, sound-symbol recognition, alphabet knowledge, decoding and encoding skills, and comprehension, to determine a student's specific strengths and weaknesses in a skill area.

(c) "Dyslexia" means a learning disorder that:

(i) is neurological in origin and is characterized by difficulties with:

(A) accurate or fluent word recognition; and

(B) poor spelling and decoding abilities; and

(ii) typically results from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction.

[~~(c)~~](d) "Evidence-based" means the same as that term is defined in Section 53G-11-303.

[~~(d)~~](e) "Evidence-informed" means the same as that term is defined in Section 53G-11-303.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1 through 6 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student's parent.

(4)(a) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, is demonstrating characteristics of dyslexia, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

(i) administer diagnostic assessments to the student;

(ii) using data from the diagnostic assessment, provide specific, focused, and individualized intervention or tutoring to develop the reading skill;

(iii) administer formative assessments and progress monitoring at recommended levels for the benchmark assessment to measure the success of the focused intervention;

(iv) inform the student's parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency;

(v) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school; and

(vi) provide instructional materials that are evidence-informed for core instruction and evidence-based for intervention and supplemental instruction.

(b) Nothing in this section or in Section 53F-4-203 or 53G-11-303 requires a reading software product to demonstrate the statistically significant effect size described in Subsection 53G-11-303(1)(a) in order to be used as an instructional material described in Subsection (4)(a)(vi).

(5)(a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b), the state board shall contract with one or more educational technology providers for a benchmark assessment system for reading for students in kindergarten through grade 6.

(b) If revenue is insufficient for the benchmark assessment system for the grades described in Subsection (5)(a), the state board shall first

prioritize funding a benchmark assessment for students in kindergarten through grade 3.

(6) A student with dyslexia is only eligible for special education services if the student meets federal eligibility criteria.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 61
H. B. 297
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

UTAH BEE INSPECTION ACT AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies the Utah Bee Inspection Act.

Highlighted Provisions:

This bill:

- defines terms;
- restricts the ability of a governmental entity to regulate beekeeping on private property;
- provides exceptions for governmental entities to restrict beekeeping in a governmental entity's jurisdiction;
- requires the Department of Agriculture and Food to convene a working group to develop recommendations for standards that governmental entities must follow when restricting beekeeping;
- authorizes the Department of Agriculture and Food to adopt rules based on the working group's recommendations; and
- provides an automatic repeal date for the working group once the Department of Agriculture and Food has implemented the working group's recommendations into rule.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-204, as last amended by Laws of Utah 2023, Chapters 33, 273

ENACTS:

4-11-116, Utah Code Annotated 1953
4-11-117, Utah Code Annotated 1953

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

Section 1. Section 4-11-116 is enacted to read:

4-11-116. Regulation of beekeeping reserved to state -- Exceptions -- Rulemaking authorized.

(1) As used in this section, "governmental entity" means the same as that term is defined in Section 11-13a-102.

(2) Except as authorized by Subsection (3), a governmental entity may not adopt or enforce any restriction related to the raising of bees on private property that is more restrictive than the restrictions in this chapter.

(3) A governmental entity may adopt and enforce a restriction related to the number and location of hives on property within the governmental entity's jurisdiction if the restriction complies with the department's rules described in Subsection (4).

(4) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for governmental entities to follow when adopting beekeeping restrictions in the governmental entity's jurisdiction related to:

(a) the number of hives permitted on a property;

(b) the location of hives on a property; and

(c) any locations unsuitable for beekeeping.

(5) This section does not restrict or expand private property rights.

Section 2. Section 4-11-117 is enacted to read:

4-11-117. Beekeeping working group -- Development of standards.

(1) As used in this section:

(a) "Municipality" means the same as that term is defined in Section 10-1-104.

(b) "Urban county" means a county of the first or second class.

(c) "Urban municipality" means a municipality located within the boundaries of:

(i) an urban county; or

(ii) a county of the third class, if the municipality has a population of 10,000 or more.

(2) On or before November 30, 2024, the department shall convene a working group to develop recommendations for standards related to:

(a) the number and characteristics of hives appropriate for properties in urban and nonurban counties or municipalities, considering lot size and neighborhood population density;

(b) the location and barrier guidance for hives appropriate for properties in urban and nonurban counties or municipalities, to minimize the impact on a neighboring property;

(c) any locations in urban and nonurban counties or municipalities unsuitable for beekeeping;

(d) swarm prevention;

(e) water sources related to beekeeping; and

(f) open feeding related to beekeeping.

(3)(a) The working group described in Subsection (2) shall include:

(i) department staff as determined by the commissioner;

(ii) a majority of the county bee inspectors, as described in Section 4-11-105, in the state;

(iii) one member representing county government, as determined by the commissioner; and

(iv) one member representing municipal government, as determined by the commissioner.

(b) A member of the working group may not receive compensation for membership on or participation in the working group.

(4) On or before December 31, 2024, the working group described in Subsection (2) shall report the working group's recommendations to the commissioner.

(5) On or before April 30, 2025, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the recommendations from the working group's report described in Subsection (4).

Section 3. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.

(2) Section 4-11-117 is repealed May 1, 2025.

[~~(2)~~](3) Section 4-41a-102.1 is repealed January 1, 2024.

[~~(3)~~](4) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership, is repealed on July 1, 2024.

[~~(4)~~](5) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 62
H. B. 317
Passed February 16, 2024
Approved March 12, 2024
Effective May 1, 2024

ENERGY STORAGE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill requires the Office of Energy Development to conduct a study analyzing Utah's energy fuels infrastructure and supply chain.

Highlighted Provisions:

This bill:

- defines terms;
- directs the Office of Energy Development to study the feasibility and benefits of establishing a transportation, heating, and electricity-generating fuel storage reserve in the state;
- specifies study requirements and considerations;
- allows the Office of Energy Development to contract with consultants for the study; and
- requires a status update on the progress toward the study results and recommendations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-6-404, Utah Code Annotated 1953

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

Section 1. Section 79-6-404 is enacted to read:

79-6-404. Authority to study transportation, heating, and electricity-generating fuel storage reserve.

(1) As used in this section, "energy fuel" means transportation, heating, and electricity-generating fuels used in the state.

(2) The office shall conduct a study analyzing the potential benefits, risks, feasibility, and requirements of establishing a Utah transportation, heating, and electricity-generating fuel storage reserve.

(3) A study conducted under this section shall evaluate:

(a) current and predicted energy fuel consumption patterns and needs for the state;

(b) existing energy fuel infrastructure in the state, including refineries, powerplants, pipelines, railroads, transmission lines, and storage facilities;

(c) strengths and vulnerabilities in the state's regional and national energy fuel supply chains;

(d) impacts on energy fuel availability from natural disasters, accidents, or other causes;

(e) feasibility of storage options to mitigate supply risks, including:

(i) optimal locations, including salt caverns located in the state;

(ii) ownership structures;

(iii) inventory management;

(iv) strategies for prioritizing fuel supplies in emergency situations;

(v) accessibility protocols; and

(vi) funding mechanisms;

(f) opportunities to work with industry to serve strategic initiatives and critical needs; and

(g) economic modeling to analyze required state energy fuel reserve sizes and costs.

(4) In conducting a study under this section, the office may:

(a) contract with independent experts and consultants; and

(b) coordinate with private industry and others with relevant expertise.

(5) The office shall present a status update on the study in a report to the Public Utilities, Energy, and Technology Interim Committee by November 30, 2024.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 63
H. B. 301
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

CHARTER SCHOOL ACCOUNTABILITY AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions of the charter school code.

Highlighted Provisions:

This bill:

- defines terms;
- amends the State Charter School Board compilation;
- amends certain charter school performance measures;
- requires the State Charter School Board to create bylaws;
- amends certain charter school accountability measures;
- replaces the State Charter School Board duties regarding certain application requests with charter school authorizers;
- allows charter schools found in noncompliance of certain requirements opportunity for a review of evidence of noncompliance before the charter school authorizer;
- amends provisions regarding transfer of operations from a terminated charter school to certain other entities; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-5-102, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53G-5-104, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-5-201, as last amended by Laws of Utah 2020, Chapter 352
53G-5-202, as last amended by Laws of Utah 2021, Chapter 439
53G-5-203, as last amended by Laws of Utah 2021, Chapter 345
53G-5-204, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-5-205, as last amended by Laws of Utah 2023, Chapter 235
53G-5-301, as last amended by Laws of Utah 2019, Chapter 293
53G-5-302, as last amended by Laws of Utah 2019, Chapter 293
53G-5-303, as last amended by Laws of Utah 2022, Chapters 291, 352
53G-5-304, as last amended by Laws of Utah 2020, Chapter 408
53G-5-305, as last amended by Laws of Utah 2019, Chapter 293
53G-5-306, as last amended by Laws of Utah 2021, Chapter 324
53G-5-307, as enacted by Laws of Utah 2020, Chapter 192
53G-5-401, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-5-404, as last amended by Laws of Utah 2023, Chapter 352
53G-5-406, as last amended by Laws of Utah 2020, Chapter 408
53G-5-413, as last amended by Laws of Utah 2019, Chapter 136
53G-5-501, as last amended by Laws of Utah 2023, Chapter 54
53G-5-502, as last amended by Laws of Utah 2020, Chapter 192
53G-5-503, as last amended by Laws of Utah 2023, Chapter 164
53G-5-504, as last amended by Laws of Utah 2023, Chapters 54, 435

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

Section 1. Section 53G-5-102 is amended to read:

53G-5-102. Definitions.

As used in this chapter:

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

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

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

[~~(2) "Board of trustees of a~~]

(3) "Institution of higher education [~~institution~~]board of trustees" or "board of trustees" means:

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) Utah Tech University;

(vii) Utah Valley University; or

(viii) Salt Lake Community College;[~~or~~]

(b) a technical college board of trustees described in Section 53B- 2a- 108[~~,~~]; or

(c) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

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

Section 2. Section 53G- 5- 104 is amended to read:

53G- 5- 104. Purpose of charter schools.

The purposes of the state's charter schools [~~as a whole~~]are to enhance school choice, meet the unique needs of Utah families, and encourage innovation within the public education system by:

(1) [~~continue~~]continuing to improve student learning;

(2) [~~encourage~~]encouraging the use of different and innovative teaching methods;

(3) [~~create~~]creating new professional opportunities for educators that [~~will~~]allow [~~them~~]educators to actively participate in designing and implementing [~~the~~]learning [~~program~~] programs at the school;

(4) [~~increase~~]increasing choice of learning opportunities for students;

(5) [~~establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools~~]establishing new educational models and new forms of accountability that emphasize unique performance measures and innovative measurement tools to measure education outcomes;

(6) [~~provide~~]providing opportunities for greater parental involvement in [~~management~~]governance decisions at the school level;[~~and~~]

(7) [~~expand~~]expanding public school choice in areas where there is a lack of school choice or where schools have been identified for school improvement, corrective action, or restructuring [~~under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.~~]; and

(8) collaborating within the public education system.

Section 3. Section 53G- 5- 201 is amended to read:

53G- 5- 201. State Charter School Board created.

(1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.

(2)(a) [~~The~~]This section creates the State Charter School Board.

(b) [~~is created consisting of the following members appointed by the governor with~~]With the advice and consent of the Senate, the governor shall appoint seven individuals to serve on the State Charter School Board to consist of:

(i) one member who has expertise in finance[~~or~~], small business management, law, or public policy;

(ii) three members who:

(A) are nominated by an organization that represents Utah's charter schools; and

(B) have expertise or experience in developing or administering a charter school;

(iii) [~~two members~~]one member who [~~are~~]is nominated[~~,~~] by the state board; and

(iv) [~~one member~~]two members who[~~:~~]

[~~(A) has~~]have expertise in [~~personalized learning, including digital teaching and learning or deliberate practice; and (B) supports~~]innovation in education.

[~~(b)~~](c) Each appointee shall [~~have demonstrated~~]demonstrate support and dedication to the purposes of charter schools as [~~outlined~~]described in Section 53G- 5- 104.

[~~(c)~~](d) At least two candidates shall be nominated for each appointment made under Subsection [~~(2)(a)(ii) or (iii)~~](2)(b)(ii).

[~~(d)~~](e) The governor may seek nominations for a prospective appointment under Subsection [~~(2)(a)(ii)~~](2)(b)(ii) from one or more organizations that represent Utah's charter schools.

(3)(a) State Charter School Board members shall serve four- year terms.

(b) If a vacancy occurs, the governor shall, [~~-~~]with the advice and consent of the Senate, [~~-~~]appoint a replacement for the unexpired term, in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.

(5)(a) The State Charter School Board shall [~~annually elect a chair from its membership~~]create bylaws to govern the State Charter School Board operations.

(b) Four members of the State Charter School Board shall constitute a quorum.

(c) Meetings may be called by the chair or upon request of three members of the State Charter School Board.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A- 3- 106[~~,~~]

[~~(i)~~] and Section 63A- 3- 107; and

[~~(1)~~](b) rules [~~made by~~]that the Division of Finance [~~pursuant to~~]makes in accordance with Sections 63A-3-106 and 63A-3-107.

Section 4. Section 53G-5-202 is amended to read:

53G-5-202. Status and powers of State Charter School Board.

(1) The State Charter School Board may:

(a) enter into contracts;

(b) sue and be sued; and

(c)(i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and

(ii) charge fees for the provision of services or functions.

(2) The state board shall:

(a) approve [~~the annual budget and expenditures of~~]the State Charter School [~~Board~~]Board's annual budget; and

(b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

Section 5. Section 53G-5-203 is amended to read:

53G-5-203. State Charter School Board -- Staff director -- Facilities.

(1)(a) The State Charter School Board[~~, with the consent of the state superintendent,~~] shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director[~~, with the consent of the state superintendent~~].

(c) The position of staff director is exempt from the career service provisions of Title 63A, Chapter 17, Utah State Personnel Management Act.

(2) The state superintendent shall provide space for [~~staff of the~~]State Charter School Board staff in facilities occupied by the state board or the state board's employees, with costs charged for the facilities equal to those charged to other sections and divisions under the state board.

(3) Notwithstanding Subsection (2), the State Charter School Board may use facilities for State Charter School Board operations other than facilities that the state board or the state board's employees occupy.

Section 6. Section 53G-5-204 is amended to read:

53G-5-204. Charter school innovative practices -- Report to State Charter School Board.

[~~Prior to~~]

(1) On or before July 31 of each year, a charter school may identify and report to the State Charter School Board [~~its~~]the charter school's innovative practices which fulfill the purposes of charter schools as [~~outlined~~]described in Section 53G-5-104, including:

[~~(1)~~](a) unique learning opportunities providing increased choice in education;

[~~(2)~~](b) new public school models;

[~~(3)~~](c) innovative teaching practices;

[~~(4)~~](d) opportunities for educators to actively participate in the design and implementation of the learning program;

[~~(5)~~](e) new forms of accountability emphasizing [~~the measurement of learning outcomes and the creation of new~~]measurement tools in measuring education outcomes;

[~~(6)~~](f) opportunities for greater parental involvement, including involvement in [~~management~~]governance decisions; and

[~~(7)~~](g) the impact of the innovative practices on student achievement.

(2) The State Charter School Board may forward the report received under Subsection (1) to the state board.

Section 7. Section 53G-5-205 is amended to read:

53G-5-205. Charter school authorizers -- Power and duties -- Charter application minimum standard.

(1) The following entities are eligible to authorize charter schools:

(a) the State Charter School Board;

(b) a local school board; or

(c) [~~a board of trustees of an institution in the state system of higher education as described~~]an institution of higher education board of trustees, as that term is defined in Section [~~53B-1-102; or~~]53G-5-102.

[~~(d) a board of trustees of a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.~~]

(2) A charter school authorizer shall:

(a) authorize and promote the establishment of charter schools;

(b) before an application for charter school authorization is submitted to a charter school authorizer, review and evaluate the proposal to support and strengthen the charter school authorization proposal;

(c) [~~annually~~]review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the [~~school's~~]performance measures established in the charter school's charter agreement;[~~ and~~]

[~~(b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.~~]

(d) assist charter schools in understanding and carrying out the charter school's charter obligations; and

(e) provide technical support to charter schools and persons seeking to establish charter schools by:

(i) identifying and promoting successful charter school models;

(ii) facilitating the application and approval process for charter school authorization; or

(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support.

(3) A charter school authorizer may:

[~~(a) authorize and promote the establishment of charter schools, subject to the provisions in this part;~~]

[~~(b)~~](a) make recommendations to the Legislature on legislation [~~and rules~~]pertaining to charter schools[~~ to the Legislature and state board, respectively~~];

[~~(c)~~](b) make recommendations to the state board on [~~the~~]charter school rules and charter school funding[~~ of charter schools~~];or

[~~(d) provide technical support to charter schools and persons seeking to establish charter schools by:~~]

[~~(i) identifying and promoting successful charter school models;~~]

[~~(ii) facilitating the application and approval process for charter school authorization;~~]

[~~(iii) directing charter schools and persons seeking to establish charter schools to sources of funding and support;~~]

[~~(iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; or~~]

[~~(v) assisting charter schools to understand and carry out their charter obligations; or~~]

[~~(e)~~](c) provide technical support, as requested, to another charter school authorizer relating to charter schools.

(4) Within 60 days after [~~an authorizer's approval of~~]the day on which an authorizer approves an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) reconsider the authorizer's approval of an application for a new charter school; and

(b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.

(5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when[~~:~~]

[~~(a)~~] evaluating a charter school application[~~; or~~].

[~~(b) monitoring charter school compliance.~~]

(6) The minimum standards described in Subsection (5) shall include:

(a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;

(b) a process for an authorizer to review:

(i) the skill and expertise of a proposed charter school's governing board; and

(ii) the functioning operation of the charter school governing board of an authorized charter school;

(c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;

(d) a process to evaluate:

(i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;

(ii) whether an authorizer's authorized charter school maintains reasonable academic and education standards; and

(iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee[~~, monitor,~~] and evaluate the charter schools the authorizer authorizes.

Section 8. Section 53G-5-301 is amended to read:

53G-5-301. Charter school authorizer to request applications for certain types of charter schools.

(1) To meet the unique learning styles and needs of students, [~~the State Charter School Board~~]a charter school authorizer shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.

(2)(a) [~~The State Charter School Board~~]A charter school authorizer shall request individuals, groups of individuals, or [~~not-for-profit~~]nonprofit legal entities to submit an application to [~~the State Charter School Board~~]a charter school authorizer to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:

(i) a military charter school;

(ii) a charter school [~~whose mission is to enhance~~]that focuses on learning opportunities for students at risk of academic failure;

(iii) a charter school [~~whose focus is~~]that focuses on career and technical education;

(iv) a single gender charter school;[~~ or~~]

(v) a charter school with an international focus that provides opportunities for the exchange of students or teachers[~~.~~];

(vi) a charter school that focuses on serving underserved students; or

(vii) an alternative charter school offering programs for nontraditional students.

(b) In addition to a charter school identified in Subsection (2)(a), [~~the State Charter School Board~~]a charter school authorizer shall request applications for other types of charter schools that meet the unique learning styles and needs of students.

(3) [~~The State Charter School Board~~]A charter school authorizer shall publicize a request for applications to establish a charter school specified in Subsection (2).

(4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures [~~specified in~~]in accordance with Section 53G-5-304.

(5) [~~The State Charter School Board~~]A charter school authorizer and the state board may approve one or more applications for each charter school [~~specified~~]described in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as [~~provided~~]described in Section 53G-6-504.

(6) The state board shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Section 9. Section 53G-5-302 is amended to read:

53G-5-302. Charter school application -- Applicants -- Contents.

(1)(a) An application to establish a charter school may be submitted by:

(i) an individual;

(ii) a group of individuals; or

(iii) a nonprofit legal entity organized under Utah law.

(b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.

(2) A charter school application shall include:

(a) the purpose and mission of the school;

(b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed [~~under~~]in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

(c) a description of the governance structure of the school, including:

(i) a list of the charter school governing board members that describes the qualifications of each member; and

(ii) an assurance that the applicant shall, within 30 days of the date of authorization, complete a background check for each member [~~consistent with~~]in accordance with Section 53G-5-408;

(d) a description of the target population of the school that includes:

(i) the projected maximum number of students the school proposes to enroll;

(ii) the projected school enrollment for each of the first three years of school operation; and

(iii) the ages or grade levels the school proposes to serve;

(e) [~~academic goals~~]the school's unique performance measures, including academic goals;

(f) qualifications and policies for school employees, including policies that:

(i) comply with the criminal background check requirements [~~described in~~]in accordance with Section 53G-5-408;

(ii) require employee evaluations;

(iii) address employment of relatives within the charter school; and

(iv) address human resource management and ensure that:

(A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;

(g) a description of how the charter school will provide, as required by state and federal law, special education and related services;

(h) for a [~~public~~]school district converting to charter status, arrangements for:

(i) students who choose not to continue attending the charter school; and

(ii) teachers who choose not to continue teaching at the charter school;

(i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:

(i) whether the charter school intends to lease or purchase the charter school's facilities; and

(ii) anticipated financing arrangements;

(j) a market analysis of the community the school plans to serve;

(k) a business plan;

(l) other major issues involving the establishment and operation of the charter school; and

(m) the signatures of the charter school governing board members.

(3) A charter school authorizer may require a charter school application to include:

(a) the charter school's proposed:

(i) curriculum;

(ii) instructional program; or

(iii) delivery methods;

(b) a method for assessing whether students are reaching [~~academic goals, including, at a minimum,~~]the school's performance measures and academic goals, including administering the statewide assessments [~~described~~]as defined in Section 53E-4-301;

(c) a proposed calendar;

(d) sample policies;

(e) a description of opportunities for parental involvement;

(f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or

(g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Section 10. Section 53G-5-303 is amended to read:

53G-5-303. Charter agreement -- Content -- Modification.

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

[~~(2)~~](1)(a) "Innovation plan" means the same as that term is defined in Section 53G-7-221.

(b) "Satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

[~~(3)~~](2) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

[~~(4)~~](3) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) [~~the charter school applicant~~]the entity with whom the charter school authorizer contracts;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels the charter school will serve;

(e)(i) subject to Section 53G-6-504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

(f) a description of the structure of the charter school governing board, including:

(i) the number of charter school governing board members;

(ii) how members of the charter school governing board are appointed; and

(iii) charter school governing board members' terms of office;

(g) assurances that:

(i) the charter school governing board will comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and state board rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(h) which administrative rules the state board will waive for the charter school;

(i) minimum financial standards for operating the charter school;

(j) minimum performance standards[~~for student achievement~~]; and

(k) signatures of the charter school authorizer and the charter school governing board members.

[~~(5)~~](4)(a) Except as provided in Subsection [~~(5)(b)~~](4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection [~~(5)(a)~~](4)(a) to:

(i) include an enrollment preference as described in Subsection 53G-6-502(4)(h); or

(ii) only as described in Subsection 53G-7-221(5), include or remove an innovation plan.

Section 11. Section 53G-5-304 is amended to read:

53G-5-304. Charter schools authorized by the State Charter School Board --

Application process -- Prohibited basis of application denial.

(1)(a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school [~~shall~~]will be located either before or at the same time [~~it~~]as the applicant files [~~its~~]the charter school application with the State Charter School Board.

(b) The local school board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board [~~prior to its acting~~]before taking action on the application.

(c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).

(d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(2) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.

(3) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(4) The State Charter School Board shall, in accordance with state board rules, establish and make public the State Charter School Board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, governance, operational, and financial[~~, and enrollment~~] standards.

Section 12. Section 53G-5-305 is amended to read:

53G-5-305. Charters authorized by local school boards -- Application process -- Local school board responsibilities.

(1)(a) An applicant identified in Section 53G-5-302 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.

(b)(i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.

(A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents of students enrolled at the school [~~must have signed~~]shall sign a petition approving the application [~~prior to its~~]before submission to the charter school authorizer.

(B) If only a portion of the school is applying for charter status, [~~the percentage is reduced to~~]a simple majority of the licensed educators employed at the school and a simple majority of the parents of students enrolled at the school shall sign a petition approving the application before submission to the charter school authorizer.

(ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:

(A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and

(B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of [~~its~~]conversion would receive a first preference for transfer to open teaching positions for which [~~they~~]the teachers qualify within the school district, and, if no positions are open, contract provisions or local school board policy regarding reduction in staff would apply.

(2)(a) An existing public school that converts to charter status under a charter granted by a local school board may:

(i) continue to receive the same services from the school district that [~~it~~]the school received [~~prior to its~~]before the charter school's conversion; or

(ii) contract out for some or all of [~~those~~]the services with other public or private providers.

(b) Any other charter school authorized by a local school board may contract with the local school board to receive some or all of the services referred to in Subsection (2)(a).

(c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.

(3)(a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

(b) If the local school board rejects the application, [~~it~~]the local school board shall notify the applicant in writing of the reason for the rejection.

(c) The applicant may submit a revised application for reconsideration by the local school board.

(d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from another authorizer.

(4) The state board shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.

(5) After approval of a charter school application and in accordance with Section 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(6) A local school board may terminate a charter school [~~it~~]the local school board authorizes [~~as provided in~~]in accordance with Sections 53G-5-501 and 53G-5-503.

(7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202, and 53G-5-407, a charter school authorized by a local school board is:

(a) not required to separately submit a report or information required under this public education code to the state board if the information is included in a report or information that is submitted by the local school board or school district; and

(b) exempt from the requirement under Section 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) Before a local school board accepts a charter school application, the local school board shall, in accordance with state board rules, establish and make public the local school board's:

(a) application requirements, in accordance with Section 53G-5-302;

(b) application process, including timelines, in accordance with this section; and

(c) minimum academic, governance, operational, and financial[~~, and enrollment~~] standards.

Section 13. Section 53G-5-306 is amended to read:

53G-5-306. Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.

(1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 may enter into an agreement with [~~a board of trustees of a higher education institution~~]an institution of higher education board of trustees authorizing the applicant to establish and operate a charter school.

(2)(a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.

(b) The local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.

(c) The board of trustees shall give due consideration to suggestions or recommendations made by the local school board under Subsection (2)(b).

(3) The state board shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

(4) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

(5)(a) The school's charter agreement may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Section 53G-5-205.

(b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.

(c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.

(d) An annual fee described in Subsection (5)(a) shall be:

(i) paid to the [~~board of trustees' higher education institution~~]board of trustees; and

(ii) expended as directed by the board of trustees.

(6)(a) In addition to complying with the requirements of this section, a technical college board of trustees[~~described~~], as defined in Section 53B-2a-108, shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.

(b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.

(c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.

(d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.

(e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:

(i) an enrollment decline;

(ii) a decrease in funding; or

(iii) a modification of programs or services.

(7)(a) Subject to the requirements of this chapter and other related provisions, a technical college board of trustees may establish:

(i) procedures for submitting applications to establish and operate a charter school; or

(ii) criteria for approval of an application to establish and operate a charter school.

(b) The Utah Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).

(8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:

(a) application requirements, in accordance with Section 53G-5-302;

(b) the application process, including timelines, in accordance with this section; and

(c) minimum academic, governance, operational, and financial[~~, and enrollment~~] standards.

Section 14. Section 53G-5-307 is amended to read:

53G-5-307. Charter school authorization -- Initial review period.

(1) An authorizer shall grant a charter school approved under this title initial approval for a three-year review period, beginning with the first year of the charter school's operation.

(2) Beginning in the first year of the initial review period, the authorizer shall comply with the accountability and review procedures [~~described~~]in accordance with Section 53G-5-406.

(3) The authorizer may extend the initial review period for one year, up to two times during the initial review period.

(4) At the end of the initial review period, the authorizer shall:

(a) grant the charter school ongoing approval; or

(b) terminate the charter agreement, subject to the requirements of Section 53G-5-503.

(5) The authorizer shall, under the minimum standards described in Section 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:

(a) the charter school's compliance with the terms of the charter agreement;

(b) whether the charter school is meeting [~~academic standards~~]the performance measures in the charter school's charter agreement and minimum academic standards;

(c) the charter school's financial viability; and

(d) the charter school's capacity to meet governance standards.

(6) A charter school that is granted initial approval under this section may not participate in the Charter School Credit Enhancement Program until the authorizer grants ongoing approval of the charter school's charter.

Section 15. Section 53G-5-401 is amended to read:

53G-5-401. Status of charter schools.

(1) Charter schools are:

(a) considered to be public schools within the state's public education system;

(b) subject to Subsection 53E-3-401(8); and

(c) governed by independent boards and held accountable to a legally binding written contractual agreement.

(2) A charter school may be established by:

(a) creating a new school; or

(b) converting an existing [~~public~~]district school to charter status.

(3) A parochial school or home school is not eligible for charter school status.

Section 16. Section 53G-5-404 is amended to read:

53G-5-404. Requirements for charter schools.

(1) A charter school shall be nonsectarian in [~~its~~]the charter school's programs, admission policies, employment practices, and operations.

(2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.

(3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.

(4)(a) A charter school shall:

(i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;

(ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and

(iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:

(A) generally accepted accounting principles;

(B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and

(C) accounting report standards established by the state auditor as described in Section 51-2a-301.

(b) Before, and as a condition for opening a charter school:

(i) a charter school shall:

(A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or

(B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and

(ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).

(c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

(d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.

(5)(a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the charter school's charter agreement.

(b) To measure the performance of a charter school, an authorizer may use data contained in:

(i) the charter school's annual financial audit report;

(ii) a report submitted by the charter school as required by statute; or

(iii) a report submitted by the charter school as required by [~~its~~]the charter school's charter agreement.

(c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53G-5-104 or as otherwise provided in law.

(6) A charter school may not advocate unlawful behavior.

(7) Except as provided in Section 53G-5-305, a charter school shall be organized and managed [~~under~~]in accordance with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, [~~after its~~]upon the charter school's authorization.

(8) A charter school shall provide adequate liability and other appropriate insurance, including:

(a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school [~~under~~]in accordance with Section 53G-5-504; and

(b) tail coverage or closeout insurance covering at least one year after closure of the charter school.

[~~(9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice before the charter school enters the lease, agreement, or contract.~~]

[~~(10)~~](9) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.

[~~(11)~~](10)(a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A charter school that fails to comply with Subsection [~~(11)(a)~~](10)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:

(i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;

(ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and

(iii) the operating charter school shall:

(A) register on behalf of each affiliated satellite charter school; and

(B) when submitting entity registry information [~~under~~]in accordance with Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

[~~(12)~~](11)(a) As used in this Subsection [~~(12)~~](11), "contracting entity" means a person with which a charter school contracts.

(b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:

(i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or

(ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.

(c) A charter school shall comply with a request described in Subsection [~~(12)(b)~~](11)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.

(d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.

(e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.

[~~(13)~~](12) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:

(a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(b) in accordance with the charter school's adopted grading or performance standards and criteria.

[~~(14)~~](13)(a) As used in this Subsection [~~(14)~~](13):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii)(A) "Instructional material" means learning material that a charter school governing board adopts and approves for use within the charter school.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class, or another class with required instructional material that is not subject to selection by the charter school governing board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a charter school governing board has not considered and adopted, approved, or prohibited for classroom use within the charter school.

(b) A charter school shall:

(i) make instructional material that the charter school uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection [~~(14)(b)(i)~~](13)(b)(i); and

(iii) include on the charter school's website information about how to access the information described in Subsection [~~(14)(b)(i)~~](13)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a charter school governing board shall:

(i) establish an open process, involving educators and parents of students enrolled in the charter school, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection [~~(14)(c)(i)~~](13)(c)(i), the charter school governing board:

(A) before the public meetings described in Subsection [~~(14)(c)(ii)(B)~~](13)(c)(ii)(B), posts the recommended learning materials online to allow for public review or, for copyrighted material, makes the recommended learning material available at the charter school for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provide an opportunity for educators whom the charter school employs and parents of students enrolled in the charter school to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A charter school governing board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If a charter school contracts with another party to provide online or digital materials, the charter school shall include in the contract a requirement that the provider give notice to the charter school any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection [~~(14)~~](13) requires a charter school governing board to review all learning materials used within the charter school.

Section 17. Section 53G-5-406 is amended to read:

53G-5-406. Accountability -- Rules.

The state board shall, after consultation with chartering entities, make rules in accordance with

Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(1) require a charter school to develop an accountability plan, approved by [~~its~~]the charter school's charter school authorizer, during [~~its~~]the charter school's first year of operation;

(2) require an authorizer to:

(a) visit a charter school at least once during:

(i) [~~its~~]the charter school's first year of operation; and

(ii) the review period described under Subsection (3); and

(b) provide written reports to [~~its~~]the authorizer's charter schools after the required visits; and

(3) establish a [~~review~~]process that [~~is required of a~~]requires an authorizer to review the authorizer's charter school once every five years[~~ by its authorizer~~].

Section 18. Section 53G-5-413 is amended to read:

53G-5-413. Charter school governing board meetings -- Rules of order and procedure.

(1) As used in this section, "rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(2) A charter school governing board shall:

(a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;

(b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and

(c) make the rules of order and procedure described in Subsection (2)(a) available to the public[~~:~~].

[~~(i) at each public meeting of the charter school governing board; and~~]

[~~(ii) on the charter school governing board's public website, if available.~~]

(3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 19. Section 53G-5-501 is amended to read:

53G-5-501. Noncompliance -- Rulemaking.

(1)(a) If a charter school is found to be materially out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall [~~notify the following in writing that the charter school has a~~]provide written notice of the reason for the charter school's noncompliance and a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4)[~~:~~], to:

[~~(a)~~](i) the charter school governing board; and

[~~(b)~~](ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) The notice described in Subsection (1)(a) shall state that the charter school governing board may request an informal review before the charter school's authorizer to present evidence related to the deficiency.

(c) The charter school authorizer shall:

(i) review the evidence within a reasonable time to determine if the charter school has remedied the noncompliance or if the circumstances necessitate additional time for the charter school to remedy the deficiency; and

(ii) if the charter school authorizer determines that circumstances necessitate additional time to remedy the noncompliance, establish a deadline to remedy the noncompliance.

(2)(a) If the charter school does not remedy the material deficiency within the established timeline, the authorizer may:

(i) subject to the requirements of Subsection (4), take one or more of the following actions:

(A) remove a charter school director or finance officer;

(B) remove a charter school governing board member;

(C) appoint an interim director, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

(ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in [~~Subsection 53G-5-502(1)~~]Section 53G-5-502, including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

(3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working, unless the authorizer chooses to pay all or some of the costs.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if

the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring [~~the~~]compliance [~~of a charter school~~]with [~~its~~]the charter school's approved charter agreement.

(6)(a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:

(i) is subject to closure under Section 53G-5-503; and

(ii)(A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of [~~Subsection 53G-5-403(4)~~]Section 53G-5-403; or

(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.

(b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

(c) Among other duties ordered by the court, the receiver shall:

(i) ensure the protection of the charter school's assets;

(ii) preserve money owed to creditors; and

(iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.

(d) If the authorizer does not request, or the court does not appoint, a receiver:

(i) the authorizer may reconstitute the governing board of a charter school; or

(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of liabilities and obligations in accordance with [~~Subsection 53G-5-504(7)~~] Section 53G-5-504 and state board rule.

(e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:

(i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);

(ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or

(iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

Section 20. Section 53G-5-502 is amended to read:

53G-5-502. Voluntary school improvement and transfer processes.

(1) As used in this section:

(a) "High performing charter school" means a charter school that:

(i) satisfies all requirements of state law and state board rules;

(ii) has operated for at least three years meeting the terms of the school's charter agreement; and

(iii) is in good standing with the charter school's authorizer.

(b) "Low performing charter school" means a charter school that is designated a low performing school, as that term is defined in Section 53E-5-301.

(c) "School turnaround plan" means the same as that term is defined in Section 53E-5-301.

(2)(a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school's authorizer to place the charter school, including a low performing charter school that has a school turnaround plan, in a school improvement process.

(b) A charter school governing board shall provide notice and a hearing on the charter school governing board's intent to make a request under Subsection (2)(a) to parents of students enrolled in the charter school.

(3) An authorizer may grant a charter school governing board's request to be placed in a school improvement process if the charter school governing board has provided notice and a hearing under Subsection (2)(b).

(4) An authorizer that has entered into a school improvement process with a charter school governing board shall:

(a) enter into a contract with the charter school governing board on the terms of the school improvement process;

(b) notify the state board that the authorizer has entered into a school improvement process with the charter school governing board;

(c) make a report to a committee of the state board regarding the school improvement process; and

(d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the charter school governing board if the charter school is a qualifying charter school with outstanding bonds issued in

accordance with Part 6, Charter School Credit Enhancement Program.

(5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the state board shall notify charter schools and the school district in which the charter school is located that the charter school governing board has entered into a school improvement process with the charter school's authorizer.

(6) A high performing charter school or the school district in which the charter school is located may apply to the charter school governing board to assume operation and control of the charter school that has been placed in a school improvement process.

(7) A charter school governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:

(a) terminate the school's charter, notwithstanding the requirements of Section 53G-5-503; and

(b) transfer operation and control of the charter school to:

(i) the school district in which the charter school is located;[~~or~~]

(ii) [~~a high performing charter school.~~]the governing board of another charter school;

(iii) a private management company; or

(iv) the governing board of a nonprofit corporation.

(8) A charter school governing board that has not entered into a school improvement process may voluntarily provide a proposal to the authorizer for consideration of transferring operation and control of the charter school to:

(a) the school district in which the charter school is located;

(b) the governing board of another charter school;

(c) a private management company; or

(d) the governing board of a nonprofit corporation.

[~~(8)~~](9) Except as provided in Subsection [~~(9)~~](10) and subject to Subsection [~~(10),~~](11), an authorizer may:

(a) approve a charter school governing board's proposal under Subsection (7); or

(b)(i) deny a charter school governing board's proposal under Subsection (7); and

(ii)(A) terminate the school's charter agreement in accordance with Section 53G-5-503;

(B) allow the charter school governing board to submit a revised proposal; or

(C) take no action.

[~~(9)~~](10) An authorizer may not take an action under Subsection [~~(8)~~](9) for a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

[~~(10)~~](11)(a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the state board.

(b)(i) The state board shall consider an authorizer's request under Subsection [~~(10)(a)~~](11)(a) within 30 days of receiving the request.

(ii) If the state board denies an authorizer's request under Subsection [~~(10)(a)~~](11)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).

(iii) If the state board does not take action on an authorizer's request under Subsection [~~(10)(a)~~](11)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

[~~(11)~~](12) If operation and control of a low performing charter school that has a school turnaround plan is transferred to a high performing charter school as described in Subsection (7)(b), the low performing charter school shall complete the requirements of the school turnaround plan and any other requirements imposed by the authorizer for school improvement.

Section 21. Section 53G-5-503 is amended to read:

53G-5-503. Termination of a charter agreement.

(1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:

(a) failure of the charter school to meet the requirements stated in the charter agreement;

(b) failure to meet generally accepted standards of fiscal management;

(c)(i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Improvement and Leadership Development; and

(ii) failure to improve the school's performance under the conditions described in Title 53E, Chapter 5, Part 3, School Improvement and Leadership Development;

(d) violation of requirements under this chapter or another law; or

(e) other good cause shown.

(2)(a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the

charter school governing board may request an informal hearing before the authorizer:

(i) the charter school governing board; and

(ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after [~~receiving~~]the day a written request under Subsection (2)(a) is received.

(c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the charter school governing board may appeal the decision to the state board.

(d)(i) The state board shall hear an appeal of a termination made [~~pursuant to~~]in accordance with Subsection (2)(c).

(ii) The state board's action is final action subject to judicial review.

(e)(i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:

(A) the charter school governing board of the qualifying charter school; and

(B) the Utah Charter School Finance Authority.

(ii) [~~Prior to~~]Before the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter agreement.

(3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.

(4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that require a charter school to report any threats to the health, safety, or welfare of [~~its~~]the charter school's students to the State Charter School Board in a timely manner.

(b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.

(5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter agreement immediately if good cause has been shown or if the health, safety, or welfare of the students at the charter school is threatened.

(6) If a charter agreement is terminated, the following entities may apply to the charter school's authorizer to assume operation of the school:

(a) the school district where the charter school is located;

(b) the charter school governing board of another charter school;

(c) a private management company; or

(d) the governing board of a nonprofit corporation.

(7)(a) If a charter agreement is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions [~~of~~]in accordance with Chapter 6, Part 3, School District Residency, subject to space availability.

(b) Normal application deadlines shall be disregarded under Subsection (7)(a).

Section 22. Section 53G-5-504 is amended to read:

53G-5-504. Charter school closure.

(1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (12)(a), to accept enrollment applications from students of a closing charter school.

(2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.

(3) A decision to close a charter school is made:

(a) when a charter school authorizer approves a motion to terminate described in [~~Subsection 53G-5-503(2)(e)~~]Section 53G-5-503;

(b) when the state board takes final action described in [~~Subsection 53G-5-503(2)(d)(ii)~~] Section 53G-5-503; or

(c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.

(4)(a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:

(i) provide notice to the following, in writing, of the decision:

(A) if the charter school made the decision to close, the charter school's authorizer;

[~~(B) the State Charter School Board;~~]

[~~(C)~~](B) if the state board did not make the decision to close, the state board;

[~~(D)~~](C) parents of students enrolled at the charter school;

[~~(E)~~](D) the charter school's creditors;

[~~(F)~~](E) the charter school's lease holders;

[~~(G)~~](F) the charter school's bond issuers;

[~~(H)~~](G) other entities that may have a claim to the charter school's assets;

[~~(I)~~](H) the school district in which the charter school is located and other charter schools located in that school district; and

[~~(J)~~](I) any other person that the charter school determines to be appropriate; and

(ii) publish notice of the decision for the school district in which the charter school is located, as a class A notice under Section 63G-30-102, for at least 30 days.

(b) The notice described in Subsection (4)(a) shall include:

(i) the proposed date of the charter school closure;

(ii) the charter school's plans to help students identify and transition into a new school; and

(iii) contact information for the charter school during the transition.

(5) No later than 10 days after the day on which a decision to close a charter school is made, the closing charter school shall:

(a) designate a custodian for the protection of student files and school business records;

(b) designate a base of operation that will be maintained throughout the charter school closing, including:

(i) an office;

(ii) hours of operation;

(iii) operational telephone service with voice messaging stating the hours of operation; and

(iv) a designated individual to respond to questions or requests during the hours of operation;

(c) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;

(d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;

(e) inventory all assets of the charter school; and

(f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

(6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).

(7)(a) Unless a different order is determined by a bankruptcy court under 11 U.S.C. Sec. 1001 et seq., a closing charter school shall distribute the assets of the closing charter school in the following order:

(i) return assets donated by a private donor to the private donor if:

(A) the assets were donated for a specific purpose;

(B) the private donor restricted use of the assets to only that specific purpose; and

(C) the closing charter school has assets that have not been used for the specific purpose;

(ii) distribute assets to satisfy outstanding payroll obligations for employees of the closing charter school;

(iii) distribute assets to creditors of the closing charter school; and

(iv) distribute assets to satisfy any outstanding liability or obligation to the state board, state, or federal government.

(b) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged consistent with Subsection (7)(a), to the closing charter school's authorizer.

(c) Upon receipt of the assets under Subsection (7)(b), the closing charter school's authorizer shall:

(i) liquidate assets at fair market value; or

(ii) assign the assets to another public school.

(d) The closing charter school's authorizer shall oversee liquidation of assets and payment of liabilities and obligations in accordance with this section, Sections 53F-9-307 and 53G-5-501, and state board rule.

(8) The closing charter school shall:

(a) comply with all state and federal reporting requirements; and

(b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the state board, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.

(9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.

(10) [~~On or before January 1, 2017, the~~]The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after considering suggestions from charter school authorizers, make rules that:

(a) provide additional closure procedures for charter schools; and

(b) establish a charter school closure process.

(11)(a) Upon termination of the charter school's charter agreement:

(i) notwithstanding provisions [~~to the contrary in~~]of Title 16, Chapter 6a, Part 14, Dissolution, the

nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and

(ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).

(b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (11)(a).

(c) The effective date and time of dissolution described in Subsection (11)(b) may not exceed five years after the date of the termination of the charter agreement.

(12) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:

(a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:

(i)(A) is authorized by the same authorizer as the closing charter school; or

(B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and

(ii) agrees to accept enrollment applications from students of the closing charter school;

(b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and

(c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (12).

(13) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse [~~himself or herself~~]oneself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (12).

Section 23. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 64
H. B. 331
Passed February 21, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL AND CLASSROOM AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses school enrollment through kindergarten enrollment requirements and certain notices to a school regarding students taken into custody.

Highlighted Provisions:

This bill:

- requires the State Board of Education to create rules regarding toilet training as a condition for kindergarten enrollment;
- amends a provision regarding notices from a peace or probation officer regarding a student taken into custody to include a superintendent's designee; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-7-203, as last amended by Laws of Utah 2023, Chapters 347, 467
53G-8-403, as last amended by Laws of Utah 2023, Chapter 161
80-6-103, as last amended by Laws of Utah 2023, Chapter 161

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

Section 1. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2)(a) Each LEA governing board shall provide kindergarten classes free of charge for kindergarten children residing within the district or attending the charter school.

(b) Each LEA governing board shall provide a half-day kindergarten option for a student if the student's parent requests a half-day option.

(c) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4)(a) The state board shall:

(i) develop and collect data from a kindergarten assessment that the board selects by rule; and

(ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the administration of and reporting regarding the assessment described in Subsection (4)(a)(i).

(b) An LEA shall:

(i) administer the assessment described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the assessment described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) [~~Beginning with the 2022-2023 school year, the~~]The state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to:

(a) beginning with the 2024-2025 school year, require a student to be toilet trained before being enrolled in kindergarten;

(b) establish requirements for an LEA's kindergarten enrollment process to include assurances from a parent that the parent's student is toilet trained;

(c) create a process for an LEA to follow when an enrolled student in kindergarten is found to not be toilet trained, including:

(i) referring the student and the student's parent to a school social worker or counselor for additional family supports and resources;

(ii) allowing a parent or the parent's adult designee to aid in toilet training as needed; and

(iii) when needed, reintegration of a student once the student has become toilet trained; and

(d) create exemptions from the requirement in Subsection (6)(a) for a student who is not able to be toilet trained before kindergarten because of a condition described in an IEP or Section 504 accommodation plan.

Section 2. Section 53G-8-403 is amended to read:

53G-8-403. Superintendent required to notify school.

(1) Within three days of receiving a notification from the juvenile court or a law enforcement agency under Section 80-6-103, the district superintendent or the superintendent's designee shall notify the principal of the school the juvenile attends or last attended.

(2) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

(3) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

(4) Access to secure files shall be limited to persons authorized to receive information under this part.

Section 3. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

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

(c) "School official" means:

(i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school; or

(ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends.

(d) "Transferee school official" means:

(i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school if the minor is admitted to home detention; or

(ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6)(a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for probation.

(8)(a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9)(a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 65
H. B. 332
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

CAMPUS SAFETY AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill removes language that exists in federal law.

Highlighted Provisions:

This bill:

- removes language that exists in federal law; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-28-401, as last amended by Laws of Utah 2021, Chapter 332

REPEALS:

53B-28-402, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section 53B-28-401 is amended to read:

53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii)(A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

[~~(6) The board shall:~~]

[~~(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);~~]

[~~(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and~~]

[~~(c) report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on:~~]

[~~(i) the implementation of the requirements described in this section; and~~]

[~~(ii) crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2).~~]

(6) An institution shall report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings, on crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2).

Section 2. Repealer.

This bill repeals:

Section 53B-28-402, Campus safety study -- Report to Legislature.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 66
H. B. 339
Passed February 23, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL COMMUNITY COUNCIL AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill grants the State Board of Education certain rulemaking authority regarding school community councils for which there are insufficient members to fill certain positions.

Highlighted Provisions:

This bill:

- grants the State Board of Education certain rulemaking authority regarding school community councils for which there are insufficient members to fill certain positions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-7-1202, as last amended by Laws of Utah 2020, Chapter 161

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

Section 1. Section 53G-7-1202 is amended to read:

53G-7-1202. School community councils -- Duties -- Composition -- Election procedures and selection of members.

(1) As used in this section:

(a) "Digital citizenship" means the norms of appropriate, responsible, and healthy behavior related to technology use, including digital literacy, ethics, etiquette, and security.

(b) "Educator" means the same as that term is defined in Section 53E-6-102.

(c)(i) "Parent member" means a member of a school community council who is a parent of a student who:

(A) is attending the school; or

(B) will be enrolled at the school during the parent's term of office.

(ii) "Parent member" may not include an educator who is employed at the school.

(d) "Safety principles" means safety principles that, when incorporated into programs and resources, impact academic achievement by strengthening a safe and wholesome learning environment, including continual efforts for safe technology utilization and digital citizenship.

(e) "School community council" means a council established at a district school in accordance with this section.

(f) "School employee member" means a member of a school community council who is a person employed at the school by the school or school district, including the principal.

(g) "School LAND Trust Program money" means money allocated to a school pursuant to Section 53F-2-404.

(2) A district school, in consultation with the district school's local school board, shall establish a school community council at the school building level for the purpose of:

(a) involving parents of students in decision making at the school level;

(b) improving the education of students;

(c) prudently expending School LAND Trust Program money for the improvement of students' education through collaboration among parents, school employees, and the local school board; and

(d) increasing public awareness of:

(i) school trust lands and related land policies;

(ii) management of the State School Fund established in Utah Constitution Article X, Section V; and

(iii) educational excellence.

(3)(a) Except as provided in Subsection (3)(b), a school community council shall:

(i) create the School LAND Trust Program and LAND Trust plan in accordance with Section 53G-7-1206;

(ii) advise and make recommendations to school and school district administrators and the local school board regarding:

(A) the school and its programs;

(B) school district programs;

(C) a child access routing plan in accordance with Section 53G-4-402;

(D) safe technology utilization and digital citizenship; and

(E) other issues relating to the community environment for students;

(iii) provide for education and awareness on safe technology utilization and digital citizenship that empowers:

(A) a student to make smart media and online choices; and

(B) a parent to know how to discuss safe technology use with the parent's child;

(iv) partner with the school's principal and other administrators to ensure that adequate on and off

campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with local school board policy and Subsection 53G-7-216(3);

(v) in accordance with state board rule regarding school community council expenditures and funding limits:

(A) work with students, families, and educators to develop and incorporate safety principles at the school; and

(B) hold at least an annual discussion with the school's principal and district administrators regarding safety principles at the school and district level in order to coordinate the school community council's effort to develop and incorporate safety principles at the school; and

(vi) provide input to the school's principal on a positive behaviors plan in accordance with Section 53G-10-407.

(b) To fulfill the school community council's duties described in Subsections (3)(a)(iii) and (iv), a school community council may:

(i) partner with one or more non-profit organizations; or

(ii) create a subcommittee.

(c) A school or school district administrator may not prohibit or discourage a school community council from discussing issues, or offering advice or recommendations, regarding the school and its programs, school district programs, the curriculum, or the community environment for students.

(4)(a) [~~Each~~]Except as provided in Subsection (4)(e), each school community council shall consist of school employee members and parent members in accordance with this section.

(b) Except as provided in Subsection (4)(c) or (d):

(i) each school community council for a high school shall have six parent members and four school employee members, including the principal; and

(ii) each school community council for a school other than a high school shall have four parent members and two school employee members, including the principal.

(c) A school community council may determine the size of the school community council by a majority vote of a quorum of the school community council provided that:

(i) the membership includes two or more parent members than the number of school employee members; and

(ii) there are at least two school employee members on the school community council.

(d)(i) The number of parent members of a school community council who are not educators employed by the school district shall exceed the number of parent members who are educators employed by the school district.

(ii) If, after an election, the number of parent members who are not educators employed by the school district does not exceed the number of parent members who are educators employed by the school district, the parent members of the school community council shall appoint one or more parent members to the school community council so that the number of parent members who are not educators employed by the school district exceeds the number of parent members who are educators employed by the school district.

(e) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing a school community council when, under unique circumstances that the state board identifies, there are insufficient members to fill the positions described in this Subsection (4).

(5)(a) Except as provided in Subsection (5)(f), a school employee member, other than the principal, shall be elected by secret ballot by a majority vote of the school employees and serve a two-year term. The principal shall serve as an ex officio member with full voting privileges.

(b)(i) Except as provided in Subsection (5)(f), a parent member shall be elected by secret ballot at an election held at the school by a majority vote of those voting at the election and serve a two-year term.

(ii)(A) Except as provided in Subsection (5)(b)(ii)(B), only a parent of a student attending the school may vote in, or run as a candidate in, the election under Subsection (5)(b)(i).

(B) If an election is held in the spring, a parent of a student who will be attending the school the following school year may vote in, and run as a candidate in, the election under Subsection (5)(b)(i).

(iii) Any parent of a student who meets the qualifications of this section may file or declare the parent's candidacy for election to a school community council.

(iv)(A) Subject to Subsections (5)(b)(iv)(B) and (5)(b)(iv)(C), a timeline for the election of parent members of a school community council shall be established by a local school board for the schools within the school district.

(B) An election for the parent members of a school community council shall be held near the beginning of the school year or held in the spring and completed before the last week of school.

(C) Each school shall establish a time period for the election of parent members of a school community council under Subsection (5)(b)(iv)(B) that is consistent for at least a four-year period.

(c)(i) At least 10 days before the date that voting commences for the elections held under Subsections (5)(a) and (5)(b), the principal of the school, or the principal's designee, shall provide notice to each school employee or parent of the opportunity to vote in, and run as a candidate in, an election under this Subsection (5).

(ii) The notice shall include:

(A) the dates and times of the elections;

(B) a list of council positions that are up for election; and

(C) instructions for becoming a candidate for a community council position.

(iii) The principal of the school, or the principal's designee, shall oversee the elections held under Subsections (5)(a) and (5)(b).

(iv) Ballots cast in an election held under Subsection (5)(b) shall be deposited in a secure ballot box.

(d) Results of the elections held under Subsections (5)(a) and (5)(b) shall be made available to the public upon request.

(e)(i) If a parent position on a school community council remains unfilled after an election is held, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.

(ii) If a school employee position on a school community council remains unfilled after an election is held, the other school employee members of the council shall appoint a school employee to fill the position.

(iii) A member appointed to a school community council under Subsection (5)(e)(i) or (ii) shall serve a two- year term.

(f)(i) If the number of candidates who file for a parent position or school employee position on a school community council is less than or equal to the number of open positions, an election is not required.

(ii) If an election is not held pursuant to Subsection (5)(f)(i) and a parent position remains unfilled, the other parent members of the council shall appoint a parent who meets the qualifications of this section to fill the position.

(iii) If an election is not held pursuant to Subsection (5)(f)(i) and a school employee position remains unfilled, the other school employee members of the council shall appoint a school employee who meets the qualifications of this section to fill the position.

(g) The principal shall enter the names of the council members on the School LAND Trust website on or before October 20 of each year, pursuant to Section 53G- 7- 1203.

(h) Terms shall be staggered so that approximately half of the council members stand for election each year.

(i) A school community council member may serve successive terms provided the member continues to meet the definition of a parent member or school employee member as specified in Subsection (1).

(j) Each school community council shall elect:

(i) a chair from its parent members; and

(ii) a vice chair from either its parent members or school employee members, excluding the principal.

(6)(a) A school community council may create subcommittees or task forces to:

(i) advise or make recommendations to the council; or

(ii) develop all or part of a plan listed in Subsection (3).

(b) Any plan or part of a plan developed by a subcommittee or task force shall be subject to the approval of the school community council.

(c) A school community council may appoint individuals who are not council members to serve on a subcommittee or task force, including parents, school employees, or other community members.

(7)(a) A majority of the members of a school community council is a quorum for the transaction of business.

(b) The action of a majority of the members of a quorum is the action of the school community council.

(8) A local school board shall provide training for a school community council each year, including training:

(a) for the chair and vice chair about their responsibilities;

(b) on resources available on the School LAND Trust website; and

(c) on this part.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 67
H. B. 341
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL CLOSURE AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends processes for school closures or school boundary changes.

Highlighted Provisions:

This bill:

- defines a term;
- requires a local school board, before closing a school or changing the boundaries of a school, to make a motion to notify the affected students' parents of a school closure or boundary change;
- allows the local school board, after a public hearing, to vote on the school closure or school boundary change;
- requires the local school board to complete the school closure or school boundary change or process on or before a certain date;
- allows parents of students affected by boundary changes to request enrollment within a certain time after the boundary change takes effect; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2023, Chapters 16, 252, 343, 352, and 435
53G-6-402, as last amended by Laws of Utah 2023, Chapter 44

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

Section 1. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every [~~child~~]student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3)(a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4)(a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) [~~An~~]A local school board shall ensure that an agreement under Subsection (6)[~~shall~~]:

(a) [~~be~~]is signed by the president of the local school board of each participating district;

(b) [~~specify~~]specifies the resource being shared;

(c) [~~include~~]includes a mutually agreed upon pro rata cost;

(d) [~~include~~]includes the duration of the agreement; and

(e) [~~be~~]is filed with the state board.

(8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii)(A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12)(a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13)(a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14)(a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15)(a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17)(a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19)(a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) [~~consult~~]in consultation with the Utah Safety Council and the Division of Family Health Services[~~and~~], provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20)(a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local school board's public schools, on school grounds, on [~~its~~] school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan[~~, shall~~]:

(i) [~~include~~]includes prevention, intervention, and response components;

(ii) [~~be~~]is consistent with the [~~student conduct and discipline~~]school discipline and conduct policies required for school districts under [~~Chapter 11, Part 2, Miscellaneous Requirements~~]Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) [~~require~~]requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) [~~provide~~]provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) [~~include~~]includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21)(a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

(23)(a) As used in this subsection, "special enrollment program" means a full-day academic program in which a parent opts to enroll the parent's student and that is offered at a specifically designated school within an LEA, including:

(i) gifted or advanced learning programs; or

(ii) dual language immersion programs.

(b) Before closing a school[~~, or~~], changing the boundaries of a school, or changing or closing the location of a special enrollment program, a local school board shall:

(i) at a local school board meeting, make and approve a motion to initiate the notification required under Subsections (23)(b)(ii) through (iv);

[~~(i)~~](ii) at least 90 days before [~~approving~~]the day on which the local school board approves the school closure or at least 30 days before the day on which the local school board approves a school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents and also by mail, using the United States Postal Service, to the parents at each known address; and

(C) the governing council and the mayor of the municipality in which the school is located;

[~~(ii)~~](iii) provide an opportunity for public comment on the proposed school closure [~~or school~~

~~boundary change~~]during at least two public local school board meetings; [~~and~~]

[~~(iii)~~](iv) provide an opportunity for public comment on the proposed school boundary change during one public local school board meeting; and

(v) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing as described in Subsection [~~(23)(b)~~](23)(c).

[~~(b)~~](c) A local school board shall:

(i) [~~The~~]ensure that the notice of a public hearing required under Subsection [~~(23)(a)(iii) shall:~~]

[~~(i) indicate~~](23)(b)(v) indicates the:

(A) name of the school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) if feasible, hold the public hearing at the location of the school that is under consideration for closure;

[~~(ii)~~](iii) for at least 10 days before the day [~~of~~]on which the public hearing[~~, be published~~] occurs, publish the notice of the public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

[~~(iii)~~](iv) at least 30 days before the day on which the public hearing [~~described in Subsection (23)(a)(iii), be provided as described in Subsections (23)(a)(i).~~]occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (23)(b)(ii).

(d) A motion made under Subsection (23)(b) shall name each school under consideration for closure in a separate motion.

(e) For a school closure, a local school board shall complete the process described in this Subsection (23) on or before December 31 of the calendar year preceding the beginning of the school year in which a school closure takes effect.

(f)(i) For a school boundary change, a local school board shall complete the process described in this Subsection (23) no more than 60 days after the day on which the local school board votes to approve a school closure.

(ii) Parents of students enrolled in a school affected by a boundary change shall have at least 30 days after the day on which the local school board votes to approve a school boundary change to request an out of area enrollment request in accordance with Chapter 6, Part 4, School District Enrollment.

(24) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

(25) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

(26)(a) As used in this Subsection (26):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii)(A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection (26)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection (26)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection (26)(c)(i), the board:

(A) before the meetings described in Subsection (26)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection (26) requires a local school board to review all learning materials used within the LEA.

Section 2. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district, giving priority to a child of a military service member, as that term is defined in 53B-8-102.

(2)(a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4)(a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii)(A) submission of applications from November 15 through the first Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) notwithstanding any other provision of this part or Part 3, School District Residency, submission of applications for at least 30 days after the day on which a school boundary change takes effect for those affected by the school boundary change;

[~~(v)~~](vi) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; [~~and~~]

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year; and

(D) within two weeks after receipt of the application by the district, for applications submitted by students affected by a school district boundary change;

[~~(vi)~~](vii) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

[~~(vii)~~](viii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection [~~(4)(b)(vii)(A)~~](4)(b)(viii)(A) will be implemented in the next school year.

(c)(i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time $5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; [~~or~~]

(d) except for a student described in Subsection (6)(e), the district determines that enrollment within the school will exceed the school's open enrollment threshold; or

(e) for a child of a military service member, as that term is defined in Section 53B-8-102, who moves from temporary to permanent housing outside of the relevant school district boundaries following a permanent change of station:

(i) in kindergarten through grade 10, the student completes the current school year; or

(ii) in grades 11 and 12, the student graduates.

(7)(a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10)(a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 68
H. B. 346
Passed February 23, 2024
Approved March 12, 2024
Effective May 1, 2024

TALENT READY UTAH PROGRAM AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions of the Talent Ready Utah Program.

Highlighted Provisions:

This bill:

- defines terms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-16-401, as last amended by Laws of Utah 2023, Chapter 350

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

Section 1. Section 53B-16-401 is amended to read:

53B-16-401. Definitions.

As used in this part:

(1)(a) "Cooperating employer" means a public or private entity which, as part of a work experience and career exploration program offered through an institution of higher education, provides interns with training and work experience in activities related to the entity's ongoing business activities.

(b) "Cooperating employer" also means an institution of higher education that provides the work experience segment of an intern's work experience and career exploration program.

(2) "Institution of higher education" means any:

(a) component of the state system of higher education, as defined under Section 53B-1-102, that is authorized by the board to offer internship programs[~~,~~]; and

(b) [~~any~~]private institution of higher education which offers internship programs under this part.

(3) "Intern" means a student enrolled in a work experience and career exploration program under Section 53B-16-402:

(a) [~~that is sponsored by~~]that an institution of higher education[~~,~~] sponsors;

(b) [~~involving~~]involves both classroom instruction and work experience with a cooperating employer[~~,~~]; and

(c) [~~regardless of whether the student receives compensation~~]for which the student receives no compensation.

(4) "Internship" means the work experience segment of an intern's work experience and career exploration program that:

(a) [~~sponsored by~~]an institution of higher education[~~,~~] sponsors under a written agreement with a cooperating employer; and

(b) [~~performed~~]an intern performs under the direct supervision of a cooperating employer.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 69
H. B. 347
Passed February 29, 2024
Approved March 12, 2024
Effective July 1, 2024

EDUCATIONAL RIGHTS AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill requires an LEA to provide a safe and minimally disrupted educational environment.

Highlighted Provisions:

This bill:

- requires an LEA to provide an educational environment that is safe for all students and staff;
- requires an LEA to ensure an educational environment has minimal disruptions;
- forecloses certain private rights of action and waivers of governmental immunity; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-2-304, as last amended by Laws of Utah 2019, Chapter 186
53E-7-207, as last amended by Laws of Utah 2022, Chapter 431
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494

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

Section 1. Section 53E-2-304 is amended to read:

53E-2-304. School district and individual school powers -- Plan for college and career readiness definition.

(1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.

(2)(a) Each school district and public school shall:

(i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;

(ii) in accordance with Subsection (5) and beginning July 1, 2025:

(A) provide an environment to all educators, school staff, and students that does not pose a predictable threat of serious bodily injury to the educators, school staff, or students;

(B) provide an education to all students in which the students' classroom is not disrupted by a pattern of behavior that interferes substantially and materially with classroom instruction;

(C) provide an environment to all educators, school staff, and students that is free from repeated verbal or physical sexual harassment or sexual assault;

[~~(ii)~~](iii) provide for teacher and parent involvement in policy making at the school site;

[~~(iii)~~](iv) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;

[~~(iv)~~](v) establish strategic planning at both the district and school level and site-based decision making programs at the school level;

[~~(v)~~](vi) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;

[~~(vi)~~](vii) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and

[~~(vii)~~](viii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.

(b)(i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent, in consultation with school counselors, teachers, and administrators that:

(A) is initiated at the beginning of grade 7;

(B) identifies a student's skills and objectives;

(C) maps out a strategy to guide a student's course selection; and

(D) links a student to post-secondary options, including higher education and careers.

(ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.

(iii) The policies shall include guidelines and expectations for:

(A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;

(B) planning, monitoring, and managing education and career development; and

(C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.

(iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.

(v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102.

(3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.

(4)(a) Each school district and public school shall make an annual report to its patrons on its activities under this section.

(b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure implementation of the requirements described in Subsection (2)(a)(ii).

(6) Nothing in this section creates a private right of action or constitutes a waiver of immunity under Section 63G-7-301.

Section 2. Section 53E-7-207 is amended to read:

53E-7-207. Local education agency special education duty and authority.

(1) An LEA shall, at no cost to the eligible student, provide a full continuum of special education services and placements to an eligible student enrolled at the LEA.

(2) As determined by an eligible student's IEP team, an LEA may provide special education to an eligible student in the least restrictive environment as determined by the eligible student's IEP team, regardless of whether the other students in the class or setting are eligible students.

(3)(a) Upon request of the Division of Child and Family Services and if the LEA obtains appropriate consent for the evaluation, an LEA shall provide an initial special education evaluation to an individual who enters the custody of the Division of Child and Family Services, if the Division of Child and Family Services suspects the individual may be an eligible student.

(b)(i) Except as provided in Subsection (3)(b)(ii), the LEA shall conduct an evaluation described in Subsection (3)(a) within 30 days after the day on which the Division of Child and Family Services makes the request.

(ii) An LEA may refuse to conduct an evaluation described in Subsection (3)(a) if the LEA reviews the relevant data regarding the individual and, within 10 days after the day on which the LEA received the request described in Subsection (3)(a), gives the Division of Child and Family Services written prior notice of refusal to evaluate.

(4)(a) In accordance with Subsection (4)(b), an LEA may provide education or training for an individual with a disability who is:

(i) younger than 3 years old; or

(ii) at least 22 years old and not an eligible student.

(b)(i) Except as provided in Subsection (4)(b)(ii), an LEA may not use funding described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to pay for the cost of education or training described in Subsection (4)(a).

(ii) An LEA may use adult education program funding described in Section 53F-2-401, in accordance with the requirements described in Section 53F-2-401, to pay for the cost of the education or training described in Subsection (4)(a).

(c) To pay for the cost of education or training described in Subsection (4)(a), an LEA may use fees, contributions, or other funds received by the LEA if the purpose of the fees, contributions, or other funds is to provide the education or training.

(5) In accordance with Subsection (6) and beginning July 1, 2025:

(a) An LEA shall provide education to all students within the LEA in the least restrictive environment possible that does not predictably threaten serious bodily injury to educators, school staff, or other students.

(b) An LEA shall provide education to all students within the LEA in the least restrictive environment possible that does not result in a pattern of behavior that interferes substantially and materially with the instruction of the other students in the classroom.

(c) An LEA shall provide an environment to all educators, school staff, and students in the least restrictive environment possible that does not allow for repeated:

(i) verbal or physical sexual harassment; or

(ii) sexual assault.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure implementation of the requirements described in Subsection (5).

(7) Nothing in this section creates a private right of action or constitutes a waiver of immunity under Section 63G-7-301.

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsection 53E-2-304(6), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(12)~~](13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(13)~~](14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14)~~](15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(15)~~](16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(16)~~](17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Subsection 53E-7-207(7), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(17)~~](19) Section 53F-5-213 is repealed July 1, 2023.

[~~(18)~~](20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(19)~~](21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(21)~~](23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(22)~~](24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(23)~~](25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~](26) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsection 53E-2-304(6), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(13)~~](14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](15) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(18) Subsection 53E-7-207(7), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(23)~~](25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](26) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](27) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 5. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsection 53E-2-304(6), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(13)~~](14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](15) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the

recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(18) Subsection 53E-7-207(7), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(24)~~](26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](27) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](28) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 6. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2024.

(2) The actions affecting Section 63I-1-253 (Effective 07/01/2024) (Contingently Superseded 01/01/25), take effect on July 1, 2024; and

(3) The actions affecting Section 63I-1-253 (Contingently Effective 1/1/2025), take effect on January 1, 2025.

CHAPTER 70
H. B. 353
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

MINING OPERATIONS AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses regulation of mining operations.

Highlighted Provisions:

This bill:

- modifies definition provisions;
- addresses judicial review;
- amends the process for approval of notice of intentions for large mining operations;
- addresses conversion between small and large mining operations;
- provides procedures for review of permit orders;
- clarifies the process of amending or revising a notice of intention; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-41-101, as last amended by Laws of Utah 2023, Chapter 15
40-8-4, as last amended by Laws of Utah 2022, Chapter 72
40-8-9, as last amended by Laws of Utah 2007, Chapter 322
40-8-13, as last amended by Laws of Utah 2013, Chapter 243
40-8-14, as last amended by Laws of Utah 2011, Chapter 125
40-8-18, as last amended by Laws of Utah 2003, Chapter 35

ENACTS:

40-8-13.1, Utah Code Annotated 1953

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

Section 1. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2)(a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019,

that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

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

(12) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

(15) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(16) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) an activity described in Subsection ~~[40-8-4(17)(a).]~~40-8-4(19)(a).

(17)(a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(18) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

(19) "Off-site" means the same as that term is defined in Section 40-8-4.

(20) "On-site" means the same as that term is defined in Section 40-8-4.

(21) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture

protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

(22) "Political subdivision" means a county, city, town, school district, special district, or special service district.

(23) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(25) "Unincorporated" means not within a city or town.

(26) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 2. Section 40-8-4 is amended to read:

40-8-4. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) "Amendment" means a request for an insignificant change to a notice of intention, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2)~~](3) "Applicant" means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

[~~(3)~~](4)(a) "Approved notice of intention" means a formally filed notice of intention to commence mining operations, including revisions or amendments to the notice of intention that is approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

[~~(4)~~](5)(a) "Basalt" means fine-grained mafic igneous rock formed in the tertiary or quaternary periods.

(b) A Utah Geological Survey published map or a United States Geological Survey published map that classifies material as "basalt" is prima facie evidence that the material meets the requirements of Subsection [~~(4)(a)~~](5)(a). An unmapped area may be classified by a Utah Geological Survey geologist or a professional geologist licensed in the state.

[~~(5)~~](6) "Board" means the Board of Oil, Gas, and Mining.

[~~(6)~~](7) "Boulder" means a naturally occurring consolidated rock fragment greater than 75 millimeters in size that is associated with unconsolidated material and detached from bedrock.

[~~(7)~~](8) "Conference" means an informal adjudicative proceeding conducted by the division[~~ or board~~].

[~~(8)~~](9)(a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

(b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt, boulders, water, geothermal steam, and oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

[~~(9)~~](10) "Development" means the work performed in relation to a deposit following the deposit's discovery but before and in contemplation of production mining operations, aimed at preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

[~~(10)~~](11) "Division" means the Division of Oil, Gas, and Mining.

[~~(11)~~](12) "Emergency order" means an order issued by the board in accordance with [~~Title 63G, Chapter 4, Administrative Procedures Act~~]Section 63G-4-502.

[~~(12)~~](13)(a) "Exploration" means surface-disturbing activities conducted for the purpose of:

(i) discovering a deposit or mineral deposit;

(ii) delineating the boundaries of a deposit or mineral deposit; and

(iii) identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) "Exploration" includes:

(i) sinking shafts;

(ii) tunneling;

(iii) drilling holes and digging pits or cuts;

(iv) building of roads, and other access ways; and

(v) constructing and operating other facilities related to the activities described in this Subsection [~~(12)(b)~~](13)(b).

[~~(13)~~](14) "Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 4 millimeters and 75 millimeters, that has been deposited by sedimentary processes.

[~~(14)~~](15) "Hearing" means a formal adjudicative proceeding conducted by the board under the board's procedural rules.

[~~(15)~~](16)(a) "Imminent danger to the health and safety of the public" means the existence of a condition or practice, or a violation of a permit requirement or other requirement of this chapter in a mining operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated.

(b) A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the rational person to the danger during the time necessary for abatement.

[~~(16)~~](17)(a) "Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including:

(i) on-site private ways, roads, and railroads;

(ii) land excavations;

(iii) exploration sites;

(iv) drill sites or workings;

(v) refuse banks or spoil piles;

(vi) evaporation or settling ponds;

(vii) stockpiles;

(viii) leaching dumps;

(ix) placer areas;

(x) tailings ponds or dumps; and

(xi) work, parking, storage, or waste discharge areas, structures, and facilities.

(b) Lands are excluded from Subsection [~~(16)(a)~~](17)(a) that would:

(i) be includable as land affected, but which have been reclaimed in accordance with an approved plan, as may be approved by the board; and

(ii) include lands in which mining operations have ceased before July 1, 1977.

(18) "Large mining operation" means a mining operation that is not a small mining operation and, for purposes of filing a notice of intention, does not include an exploration mining operation.

[~~(17)~~](19)(a) "Mining operation" means activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

(b) "Mining operation" does not include:

(i) the extraction of sand, gravel, rock aggregate, and boulders;

(ii) the extraction of basalt for an area not to exceed 50 acres under active surface mining;

(iii) the extraction of oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining;

(iv) the extraction of geothermal steam;

(v) smelting or refining operations;

(vi) off-site operations and transportation;

(vii) reconnaissance activities; or

(viii) activities that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

[~~(18)~~](20) "Notice" means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

[~~(19)~~](21) "Notice of intention" means a notice to commence mining operations, including revisions to the notice.

[~~(20)~~](22) "Off-site" means the land areas that are outside of or beyond the on-site land.

[~~(21)~~](23)(a) "On-site" means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, are considered to be a single site unless an exception is made by the division.

[~~(22)~~](24) "Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

[~~(23)~~](25) "Order" means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

[~~(24)~~](26) "Owner" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or

representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

(27) "Permit" means a permit order.

[~~(25)~~](28) "Permit area" means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

(29) "Permit order" means an action by the division that:

(a)(i) approves a notice of intention to commence a large mining operation or revise or amend a large mining operation; or

(ii) declares a notice of intention for a large mining operation deficient;

(b)(i) accepts as complete a notice of intention to commence a small mining operation or revise or amend a small mining operation; and

(ii) approves the amount and form of surety for a notice of intention; or

(c) approves a notice of intention to conduct an exploration operation or revise or amend an exploration operation.

[~~(26) "Permit" means a permit or notice to conduct mining operations issued by the division.~~]

[~~(27)~~](30) "Permittee" means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

[~~(28)~~](31) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

[~~(29)~~](32) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable ecological condition and use that is consistent with local environmental conditions.

(33) "Review proceeding" means a proceeding under this chapter to address a challenge to a permit order.

(34) "Revision" means a request for a change to a notice of intention that is not an amendment to a notice of intention.

[~~(30)~~](35)(a) "Rock aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by alluvial sedimentary processes.

(b) "Rock aggregate" excludes any solid rock in the form of bedrock, other than basalt, that is exposed at the surface of the earth or overlain by unconsolidated material.

[~~(31)~~](36) "Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between .004 millimeters to 4 millimeters, that has been deposited by sedimentary processes.

[~~(32)~~](37) "Small mining operations" means mining operations that disturb or will disturb 20 or less surface acres at any given time in an unincorporated area of a county or 10 or less surface acres at any given time in an incorporated area of a county.

(38) "Substantive public comment" means a public comment that:

(a) is specific to a proposed action;

(b) has a direct relationship to the proposed action;

(c) includes supporting reasons for the division to consider; and

(d) addresses issues that are within the scope of the division's jurisdiction.

[~~(33)~~](39) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

Section 3. Section 40-8-9 is amended to read:

40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions -- Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement notice, or show cause order -- Suspension or revocation of permit -- Review -- Division enforcement authority -- Appeal provisions.

(1)(a) A person, owner, or operator who willfully or knowingly evades this chapter, or who for the purpose of evading this chapter or any order issued under this chapter, willfully or knowingly makes or causes to be made any false entry in any report, record, account, or memorandum required by this chapter, or by the order, or who willfully or knowingly omits or causes to be omitted from a report, record, account, or memorandum, full, true, and correct entries as required by this chapter, or by the order, or who willfully or knowingly removes from this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than $10,000 for each violation.

(b) Each day of willful failure to comply with an emergency order is a separate violation.

(2) No suit, action, or other proceeding based upon a violation of this chapter, or any rule or order issued under this chapter, may be commenced or maintained unless the suit, action, or proceeding is commenced within five years from the date of the alleged violation.

(3)(a) If, on the basis of information available, the division has reason to believe that a person is in violation of a requirement of this chapter or a permit condition required by this chapter, the

division shall immediately order inspection of the mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a previous inspection of the mining operation.

(b)(i) If, on the basis of an inspection, the division determines that a condition or practice exists, or that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, and the condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall immediately order a cessation of mining and operations or the portion relevant to the condition, practice, or violation.

(ii) The cessation order shall remain in effect until the division determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the division.

(iii) If the division finds that the ordered cessation of mining operations, or a portion of the operation, will not completely abate the imminent danger to the health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring [~~him~~]the operator to take whatever steps the division considers necessary to abate the imminent danger or the significant environmental harm.

(c)(i) If, on the basis of an inspection, the division determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall issue a notice to the permittee or [~~his~~]the permittee's agent specifying a reasonable time, but not more than 90 days, for the abatement of the violation and providing an opportunity for a conference with the division.

(ii) If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown, and upon the written finding of the division, the division finds that the violation has not been abated, it shall immediately order a cessation of mining operations or the portion of the mining operation relevant to the violation.

(iii) The cessation order shall remain in effect until the division determines that the violation has been abated or until modified, vacated, or terminated by the division pursuant to this Subsection (3).

(iv) In the order of cessation issued by the division under this Subsection (3), the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d)(i) Notices and orders issued under this section shall set forth with reasonable specificity:

(A) the nature of the violation and the remedial action required;

(B) the period of time established for abatement; and

(C) a reasonable description of the portion of the mining and reclamation operation to which the notice or order applies.

(ii) Each notice or order issued under this section shall be given promptly to the permittee or [~~his~~]the permittee's agent by the division, and the notices and orders shall be in writing and shall be signed by the director, or [~~his~~]the director's authorized representative who issues notices or orders.

(iii) A notice or order issued under this section may be modified, vacated, or terminated by the division, but any notice or order issued under this section which requires cessation of mining by the operator shall expire within 30 days of the actual notice to the operator, unless a conference is held with the division.

(4)(a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court for the district in which the mining and reclamation operation is located, or in which the permittee of the operation has [~~his~~]the permittee's principal office, if the permittee or [~~his~~]the permittee's agent:

(i) violates or fails or refuses to comply with an order or decision issued by the division under this chapter;

(ii) interferes with, hinders, or delays the division, or its authorized representatives, in carrying out the provisions of this chapter;

(iii) refuses to admit the authorized representatives to the mine;

(iv) refuses to permit inspection of the mine by the authorized representative; or

(v) refuses to furnish any information or report requested by the division in furtherance of the provisions of this chapter.

(b)(i) The court shall have jurisdiction to provide the appropriate relief.

(ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, prior to this completion or termination, the district court granting the relief sets it aside or modifies the order.

(5)(a)(i) A permittee issued a notice or order by the division, pursuant to the provisions of Subsections (3)(b) and (3)(c), or a person having an interest [~~which~~]that may be adversely affected by the notice or order, may apply to the board for review of the notice or order within 30 days of receipt of the notice

or order, or within 30 days of a modification, vacation, or termination of the notice or order.

(ii) Upon receipt of this application, the board shall pursue an investigation as it considers appropriate.

(iii) The investigation shall provide an opportunity for a public hearing at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or that person to present information relating to the issuance and continuance of the notice or order of the modification, vacation, or termination of the notice or order.

(iv) The filing of an application for review under this Subsection (5)(a) shall not operate as a stay of an order or notice.

(b)(i) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior to the hearing.

(ii) This hearing shall be of record and shall be subject to judicial review.

(c)(i) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, with a detailed statement giving the reasons for granting this relief.

(ii) The board shall issue an order or decision granting or denying this relief expeditiously.

(d)(i) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to this section, the board shall hold a public hearing, after giving written notice of the time, place, and date of the hearing.

(ii) The hearing shall be of record and shall be subject to judicial review.

(iii) Within 60 days following the public hearing, the board shall issue and furnish to the permittee and all other parties to the hearing, a written decision, and the reasons for the decision, regarding suspension or revocation of the permit.

(iv) If the board revokes the permit, the permittee shall immediately cease mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare the performance bonds forfeited for the operation.

(e) Action by the board taken under this section or any other provision of the state program shall be subject to judicial review[~~ by the appropriate district court within the state~~].

(6) A criminal proceeding for a violation of this chapter, or a regulation or order issued under this chapter, shall be commenced within five years from the date of the alleged violation.

Section 4. Section 40-8-13 is amended to read:

40-8-13. Notice of intention required before mining operations -- Assurance of reclamation required in notice of intention -- When contents confidential -- Approval of notice of intention not required for small mining operations -- Procedure for reviewing notice of intention.

(1)(a) Before any operator begins mining operations, or continues mining operations pursuant to Section 40-8-23, the operator shall file a notice of intention for each individual mining operation with the division.

(b) The notice of intention referred to in Subsection (1)(a) shall include:

(i) identification of [~~all~~]the owners of any interest in a mineral deposit, including any ownership interest in surface land affected by the notice;

(ii) copies of underground and surface mine maps;

(iii) locations of drill holes;

(iv) accurate area maps of existing and proposed operations; and

(v) information regarding the amount of material extracted, moved, or proposed to be moved, relating to the mining operation.

(c) The notice of intention for small mining operations shall include a statement that the operator shall conduct reclamation as required by rules promulgated by the board.

(d) The notice of intention for large mining operations[~~, other than small mining operations,~~] shall include a plan for reclamation of the lands affected as required by rules promulgated by the board.

(2) The division may require that the operator rehabilitate, close, or mitigate the impacts of each drill hole, shaft, or tunnel when no longer needed as part of the mining operation.

(3) Information provided in the notice of intention, and its attachments relating to the location, size, or nature of the deposit that is marked confidential by the operator shall be protected as confidential information by the board and the division and is not a matter of public record unless the board or division obtains a written release from the operator, or until the mining operation has been terminated as provided in Subsection 40-8-21(2).

(4)(a) [~~Within~~]Subject to Subsection (6) for large mining operations, within 30 days from the receipt of a notice of intention, the division shall complete its review of the notice of intention and shall make further inquiries, inspections, or examinations that are necessary to properly evaluate the notice of intention.

(b) The division shall notify the operator of any objections to the notice of intention and shall grant the operator a reasonable opportunity to take

action that may be required to remove the objections or obtain a ruling relative to the objections from the board.

(5) Except for the form and amount of surety, an approval of a notice of intention for small mining operations is not required.

(6)(a) The notice of intention for large mining operations [~~other than small mining operations,~~]shall be reviewed as provided in this Subsection (6).

[~~(a) Within 30 days after receipt of a notice of intention or within 30 days following the last action of the operator or the division on the notice of intention, the division shall make a tentative decision to approve or disapprove the notice of intention.~~]

[~~(b) The division shall:~~]

[~~(i) mail the information relating to the land affected and the tentative decision to the operator; and~~]

[~~(ii) publish the information and the decision, in abbreviated form:~~]

[~~(A) one time only, in all newspapers of general circulation published in the county where the land affected is situated;~~]

[~~(B) in a daily newspaper of general circulation in Salt Lake City, Utah; and~~]

[~~(C) as required in Section 45-1-101.~~]

[~~(c) The division shall also mail a copy of the abbreviated information and tentative decision to the zoning authority of the county in which the land affected is situated and to the owner of record of the land affected.~~]

[~~(d)(i) Any person or agency aggrieved by the tentative decision may file a request for agency action with the division.~~]

[~~(ii) If no requests for agency action are received by the division within 30 days after the last date of publication, the tentative decision on the notice of intention is final and the division shall notify the operator.~~]

[~~(iii) If written objections of substance are received, the division shall hold an informal adjudicative proceeding.~~]

[~~(e) This Subsection (6) does not apply to exploration.~~]

(b)(i) Within 30 days after receipt of a notice of intention for a large mining operation, the division shall complete the division's review of the notice of intention for completeness and notify the operator in writing that the notice of intention:

(A) is complete because the notice of intention is in a form approved by the division on which the operator provides a substantive response to each applicable request for information; or

(B) is incomplete.

(ii) If the notice of intention is incomplete, the division shall give the operator a reasonable opportunity to take action required to complete the notice of intention.

(c) Within five business days of the day on which the division notifies the operator under Subsection (6)(b) that a notice of intention is complete, the division shall:

(i) submit for publication notice of the notice of intention and an opportunity for public comment:

(A) one time in the newspapers of general circulation published in the county where the land affected is situated; and

(B) one time in a newspaper of general circulation in Salt Lake City, Utah;

(ii) publish notice of the notice of intention and an opportunity for public comment:

(A) on a public legal notice website as required in Section 45-1-101; and

(B) on the division's public website; and

(iii) mail notice of the notice of intention to:

(A) the zoning authority of the county or municipality where the land affected is situated; and

(B) the owner of record of the land affected.

(d)(i) The division shall accept public comment on a complete notice of intention for 30 days from the day on which notice is posted on the public legal notice website described in Subsection (6)(c)(ii)(A).

(ii) The division shall include with a notice published under Subsection (6)(c)(ii), an electronic link by which a person may electronically submit public comment in the form and manner required by rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iii) If a person wants to submit public comment through the mail, the person shall submit the public comment in writing in the form and manner required by rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(iv) Only a person, municipality, or county who submits a timely, substantive public comment during the public comment period is eligible to seek intervention in a review proceeding for the division's final permit order on the notice of intention for a large mining operation.

(e)(i) Within 15 days after the close of public comment under Subsection (6)(d), the division shall review the public comments received and identify all substantive public comments.

(ii) The division shall transmit a copy of the substantive public comments received to the operator and shall file a copy for public inspection at the division.

(iii) The division may hold a public meeting to discuss issues raised by public comment.

(iv) If the division determines that a public meeting is necessary, the division shall hold the public meeting within 45 days after the end of the period to review public comments under Subsection (6)(d).

(f)(i) By no later than 30 days of the later of the following, the division shall take an action described in Subsection (6)(f)(ii):

(A) the day on which time period under Subsection (6)(d) for accepting public comment ends; or

(B) the day on which the division holds a public hearing under Subsection (6)(e).

(ii) By no later than the day described in Subsection (6)(f)(i), the division shall:

(A) approve the notice of intention; or

(B) provide the operator written notice of any deficiency and grant the operator a reasonable opportunity to take an action that is required to remove the deficiency.

(g) Upon approving a notice of intention, the division shall provide the operator notice of the approval and post a permit order approving the notice of intention on the division's public website.

(7) An operator may convert a small mining operation to a large mining operation or may convert a large mining operation to a small mining operation by filing a notice of intention with the division requesting the conversion. The division shall review the notice of intention according to the procedures provided in this section for the resulting mining operation.

[~~(7)~~](8) Within 30 days after receipt of a notice of intention concerning exploration operations[~~other than small mining operations~~], the division will review the notice of intention and approve or disapprove [~~it~~]the notice of intention.

Section 5. Section 40-8-13.1 is enacted to read:

40-8-13.1. Procedures for review of permit orders.

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

(a) the division;

(b) the operator whose proposed mining operation is at issue in the permit order; or

(c) if granted intervention by the board:

(i) the municipality or county in which the proposed mining operation at issue in the permit order is located; or

(ii) a person.

(2)(a) A party may obtain the review of a permit order by filing a petition for review before the board within 30 days after the date on which a permit order is issued.

(b) Only a party may file a petition for review of a permit order.

(3)(a) A petition for review shall:

(i) be filed and served in accordance with the board rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) include the party's name, address, and telephone number;

(iii) describe the nature and extent of the party's property, financial, or other interest in the review proceeding;

(iv) include a statement of the party's contentions, including, as applicable:

(A) the legal authority under which the petition for review is requested;

(B) the legal authority under which the board has jurisdiction to review the petition for review;

(C) a statement setting forth the specific contentions that the party seeks to have litigated in the review proceeding;

(D) each of the party's arguments in support of the party's requested relief;

(E) a detailed description of any permit condition to which the party is objecting;

(F) any modification or addition to a permit order that the party is requesting; and

(G) a claim for relief; and

(v) for a large mining operation permit order, if the party is not the division or the operator, include a statement and supporting documentation demonstrating that the party timely provided a substantive public comment that is compliant with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as required by Subsection 40-8-13(6)(d)(iv).

(b) A party who files a petition for review may only raise a contention in the party's petition for review or during the review proceeding that:

(i) is within the board's jurisdiction;

(ii) is supported with information or documentation that:

(A) is cited with reasonable specificity; and

(B) sufficiently enables the board to fully consider the substance and significance of the issue; and

(iii) for a party other than the division or operator and with regard to a large mining operation permit order, the party raised as a substantive public comment.

(4)(a) A municipality, county, or other person who is not a party may not participate in a review proceeding under this section unless granted the right to intervene by the board.

(b) A municipality, county, or person seeking to intervene in a review proceeding shall file a petition with the board by no later than the sooner of:

(i) 15 days of the day on which a petition for review is filed under Subsection (2); or

(ii) 30 days after the date on which the permit order is issued if the person submits the petition to intervene under Subsection (4)(c).

(c) A person wanting to initiate a review of a permit order who has not been granted intervention by the board shall file a petition to intervene at the same time that the person files a petition for review under Subsections (2) and (3).

(d) A petition to intervene shall include:

(i) the petitioner's name, address, and telephone number;

(ii) the nature and extent of the petitioner's property, financial, or other interest in the review proceeding;

(iii) the possible effect of a decision or order that may be entered in the review proceeding on the petitioner's interest described in Subsection (4)(d)(ii);

(iv) a statement setting forth the specific contentions that the petitioner seeks to have litigated in the review proceeding;

(v) a brief explanation of the basis for the contention and a concise statement of the alleged facts or evidence the petitioner intends to rely on in proving the contention at the hearing; and

(vi) a statement of the relief that the petitioner seeks from the board.

(e)(i) A petitioner may only raise a contention under Subsection (4)(d) on a matter within the scope of the board's jurisdiction.

(ii) A petitioner may only raise a contention under Subsection (4)(d) related to a large mining operation permit order on a matter for which the person raised a substantive public comment.

(f) The board shall grant a petition for intervention if the board determines that:

(i) the petitioner's legal interests may be substantially affected by the review proceeding; and

(ii) the interests of justice and the orderly and prompt conduct of the review proceedings will not be materially impaired by allowing the intervention.

(g)(i) The board may delegate the determination of the right to intervene to a hearing examiner in accordance with rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A party aggrieved by a hearing examiner determination on a petition for intervention may appeal that determination to the board. The board shall make a determination on the appeal of the petition for intervention before hearing the merits of the case.

(5) In a review proceeding, the operator and the division are parties to the review proceeding regardless of who files the petition for review and the operator and division do not need to file a separate petition to intervene.

(6)(a) If a petition for review of a permit order is filed under this section, the board shall:

(i) within 30 days from the day on which the petition for review is filed schedule:

(A) an intervention hearing pursuant to Subsection (4); or

(B) an administrative hearing before the board at the next regularly scheduled board public meeting; and

(ii) issue the decision of the board by no later than 30 days from the day on which the administrative hearing described in Subsection (6)(a)(i)(B) is held.

(b) The board may consolidate two or more petitions for review of a permit order if the board finds that consolidation will aid the just, speedy, and economical determination of the issues presented before the board.

(c) The board shall conduct a de novo review of a permit order for which a petition for review has been filed under this section.

(7) Review of a permit order is subject to Title 63G, Chapter 4, Administrative Procedures Act, to the extent that the chapter does not conflict with this section.

(8) A person shall exhaust administrative remedies under this section before the person may seek judicial review of a permit order.

Section 6. Section 40-8-14 is amended to read:

40-8-14. Surety requirement -- Liability of small mining operations for failure to reclaim -- Forfeiture of surety.

(1)(a) After receiving notification that a notice of intention for mining operations has been approved, but prior to commencement of those operations, the operator shall provide surety to the division, in a form and amount determined by the division or board as provided in this section.

(b) In determining the amount of surety under this section, the division may use the average cost of reclamation per acre.

(c) The board shall annually establish a figure representing the average cost of reclamation per acre after receiving a presentation from the division concerning the average cost of reclamation per acre and providing opportunity for public comment.

(2)(a) Except as provided in Subsection (3), the division shall approve the amount and form of surety.

(b) In determining the amount of surety to be provided, the division shall consider:

(i) the magnitude, type, and costs of approved reclamation activities planned for the land affected; and

(ii) the nature, extent, and duration of operations under the approved notice.

(c) The division shall approve a fixed amount estimated to be required to complete reclamation at any point in time covered by the notice of intent.

(d)(i) The division shall determine the amount of surety required for notices of intention, by using cost data from current large mining sureties.

(ii) The costs shall be adjusted to reflect the nature and scope of activities in the affirmative statement filed under [~~Subsection 40-8-18(4)~~] Section 40-8-18.

(e)(i) In determining the form of surety to be provided by the operator, the division shall approve a method acceptable to the operator consistent with the requirements of this chapter.

(ii) The form of surety that the operator may provide includes, but is not limited to, the following:

(A) collateral;

(B) a bond or other form of insured guarantee;

(C) deposited securities; or

(D) cash.

(3)(a) If the operator proposes reclamation surety in the form of a written contractual agreement, the board shall approve the form of surety.

(b) In making this decision, the board shall consider:

(i) the operator's:

(A) financial status;

(B) assets within the state;

(C) past performance in complying with contractual agreements; and

(D) facilities available to carry out the planned work;

(ii) the magnitude, type, and costs of approved reclamation activities planned for the land affected; and

(iii) the nature, extent, and duration of operations under the approved notice.

(4) In determining the amount and form of surety to be provided under this section, consideration shall be given to similar requirements made on the operator by landowners, governmental agencies, or others, with the intent that surety requirements shall be coordinated and not duplicated.

(5) The liability under surety provisions shall continue until liability, in part, or in its entirety, is released by the division.

(6)(a) If the operator of a mining operation, including a small mining operation, fails or refuses to carry out the necessary land reclamation as outlined in the approved notice of intention, the board may, after notice and hearing, declare any surety filed for this purpose forfeited.

(b) With respect to the surety filed with the division, the board shall request the attorney general to take the necessary legal action to enforce and collect the amount of liability.

(c) If surety or a bond has been filed with the Division of Forestry, Fire, and State Lands, the School and Institutional Trust Lands Administration, or any agency of the federal government, the board shall certify a copy of the transcript of the hearing and transmit it to the agency together with a request that the necessary forfeiture action be taken.

(d) The forfeited surety shall be used only for the reclamation of the land to which it relates, and any residual amount returned to the rightful claimant.

Section 7. Section 40-8-18 is amended to read:

40-8-18. Notice of intention to amend or revise operations -- Procedure.

(1)(a) [~~Since mining operations and related reclamation plans may need to be revised to accommodate changing conditions or new technology, an~~]An operator conducting mining operations under an approved notice of intention for a large mining operation or a complete notice of intention for a small mining operation shall submit to the division [~~a~~]an amended or revised notice of intention when [~~revising~~]a change in mining operations will occur.

(b) The operator shall submit a notice of intention to amend or revise mining operations [~~shall be submitted~~]in the form required by the rules [~~promulgated~~]made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2)(a) The notice of intention to revise mining operations will be designated as an amendment to the existing notice of intention by the division, based on rules promulgated by the board.~~]

[~~(b) An~~]

(2)(a) The division shall review and approve or disapprove an amendment of a notice of intention [~~will be reviewed and considered for approval or disapproval by the division~~]for a large mining operation within 30 days of receipt of a notice of intention to [~~revise~~]amend mining operations.

(b) The division shall review and determine that an amendment of a notice of intention for a small mining operation is complete within 30 days of receipt of the notice of intention to amend mining operations.

(c) The division is not required to provide for public comment for an amendment of a notice of intention.

(3)[~~(a) A~~]The division shall process and consider a notice of intention to revise mining operations[~~, if not designated as an amendment of a notice of intention as set forth in Subsection (2), shall be processed and considered for approval by the division~~] in the same manner and within the same time period as an original notice of intention.

[~~(b)~~](4) The operator [~~shall be~~]is authorized and bound by the requirements of the existing notice of intention until the division acts on the amendment or revision[~~ is acted upon~~] and any revised surety requirements are established and satisfied.

[~~(4)(a) If a change in the operation occurs, a mining operation representative shall submit an amendment to the notice of intention.~~]

[~~(b)~~](5) Although approval of an amendment to the notice of intention by small mining operations is not required, the small mining operator shall file a revised surety [~~shall be filed by the permittee prior to~~]before implementing the amended notice of intention.

(6) An operator may not use this section to convert a small mining operation to a large mining operation.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 71
H. B. 375
Passed March 1, 2024
Approved March 12, 2024
Effective March 12, 2024

DOMESTICATED ELK AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Domesticated Elk Act.

Highlighted Provisions:

This bill:

- repeals an expired requirement to study the importation of domesticated elk;
- establishes requirements for the importation of domesticated elk from east of the 100 degree meridian;
- authorizes the Department of Agriculture and Food to stop importation of an elk or quarantine an elk in which the department identifies the spread of meningeal worm; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-39-303, as last amended by Laws of Utah 2023, Chapter 110

REPEALS:

4-39-308, as enacted by Laws of Utah 2023, Chapter 110

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

Section 1. Section 4-39-303 is amended to read:

4-39-303. Importation of domesticated elk -- Enforcement.

(1) A person may not import domesticated elk into the state for use in domesticated elk facilities without first obtaining:

(a) an entry permit from the state veterinarian's office; and

(b) a domesticated elk facility license from the department.

(2) The entry permit shall include the following information and certificates:

(a) a health certificate with an indication of the current health status;

(b) proof of genetic purity as required in Section 4-39-301;

(c) the name and address of the consignor and consignee;

(d) proof that the elk are:

(i) tuberculosis free; or

(ii) enrolled in a tuberculosis herd monitoring accreditation program administered by the United State Department of Agriculture or the Canadian Food Inspection Agency;

(e) the origin of shipment;

(f) the final destination;

(g) the total number of animals in the shipment; [~~and~~]

(h) for an elk imported from east of the 100 degree meridian, proof that the elk has been dewormed in accordance with Subsection (3)(a); and

[~~(h)~~](i) any other information required by the state veterinarian's office or the department.

(3) [~~No domesticated elk will be allowed into the state that originates east of the 100 degree meridian, to prevent introduction of the meningeal worm.~~]In addition to the requirements described in Subsections (1) and (2), a person importing a domesticated elk from east of the 100 degree meridian shall:

(a) deworm the elk within 60 days before arrival in the state;

(b) deworm or harvest the elk no later than 150 days after arrival in the state;

(c) for a bull sent to an elk ranch:

(i) hold the bull for harvest until the bull has completed a slaughter withdrawal period; or

(ii) be able to demonstrate that the elk is free from dewormer residue; and

(d) make the elk available to the department for monitoring and inspection upon request by the department.

(4) The department may stop the importation of a domesticated elk or quarantine a domesticated elk if the department identifies the spread of meningeal worm in the elk or the elk's domesticated herd.

[~~(4)~~](5) A person who imports domesticated elk into the state from an international herd:

(a) may only import domesticated elk:

(i) that are male; and

(ii) to an elk ranch for use in the elk ranch; and

(b) shall ensure that the domesticated elk are harvested in the same season in which the domesticated elk enter the state.

[~~(5)~~](6) For the purpose of enforcing Subsection [~~(4)~~](5), the department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the use of radio frequency identification tags to track male elk imported into the state from an international herd.

Section 2. Repealer.

This bill repeals:

Section 4-39-308, Study of importation of domesticated elk.

Section 3. Effective date.

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

CHAPTER 72
H. B. 384
Passed February 15, 2024
Approved March 12, 2024
Effective May 1, 2024

UTAH GEOLOGICAL SURVEY DATA SUBMISSION AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses submission of information to the Utah Geological Survey.

Highlighted Provisions:

This bill:

- requires a compliance agency to submit certain reports received by the compliance agency to the Utah Geological Survey; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-1-209, as last amended by Laws of Utah 2018, Chapter 215

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

Section 1. Section 15A-1-209 is amended to read:

15A-1-209. Building permit requirements -- Geologic, fault hazard, or geotechnical report.

(1) As used in this section, "project" means a "construction project" as defined in Section 38-1a-102.

(2)(a) The division shall develop a standardized building permit numbering system for use by any compliance agency in the state that issues a permit for construction.

(b) The standardized building permit numbering system described under Subsection (2)(a) shall include a combination of alpha or numeric characters arranged in a format acceptable to the compliance agency.

(c) A compliance agency issuing a permit for construction shall use the standardized building permit numbering system described under Subsection (2)(a).

(d) A compliance agency may not use a numbering system other than the system described under Subsection (2)(a) to define a building permit number.

(3)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt a standardized building permit form by rule.

(b) The standardized building permit form created under this Subsection (3) shall include fields for indicating the following information:

(i) the name and address of the owner of each parcel of property on which the project will occur;

(ii) the name and address of the contractor for the project;

(iii)(A) the address of the project; or

(B) a general description of the project;

(iv) the county in which the property on which the project will occur is located;

(v) the tax parcel identification number of each parcel of the property; and

(vi) whether the permit applicant is an original contractor or owner-builder.

(c) The standardized building permit form created under this Subsection (3) may include any other information the division considers useful.

(d) A compliance agency shall issue a permit for construction only on a standardized building permit form approved by the division.

(e) A permit for construction issued by a compliance agency under Subsection (3)(d) shall print the standardized building permit number assigned under Subsection (2) in the upper right-hand corner of the building permit form in at least 12-point font.

(f)(i) Except as provided in Subsection (3)(f)(ii), a compliance agency may not issue a permit for construction if the information required by Subsection (3)(b) is not completed on the building permit form.

(ii) If a compliance agency does not issue a separate permit for different aspects of the same project, the compliance agency may issue a permit for construction without the information required by Subsection (3)(b)(vi).

(g) A compliance agency may require additional information for the issuance of a permit for construction.

(4) A local regulator issuing a single-family residential building permit application shall include in the application or attach to the building permit the following notice prominently placed in at least 14-point font: "Decisions relative to this application are subject to review by the chief executive officer of the municipal or county entity issuing the single-family residential building permit and appeal under the International Residential Code as adopted by the Legislature."

(5)(a) A compliance agency shall:

(i) charge a 1% surcharge on a building permit the compliance agency issues; and

(ii) transmit 85% of the amount collected to the division to be used by the division in accordance with Subsection (5)(c).

(b) The portion of the surcharge transmitted to the division shall be deposited as a dedicated credit.

(c)(i) The division shall use 30% of the money received under Subsection (5)(a)(ii) to provide education to building inspectors regarding the codes and code amendments under Section 15A-1-204 that are adopted, approved, or being considered for adoption or approval.

(ii) The division shall use 10% of the money received under Subsection (5)(a)(ii) to provide education to individuals licensed in construction trades or related professions through a construction trade association or a related professional association.

(iii) The division shall transmit 60% of the money received under Subsection (5)(a)(ii) to the Office of the Property Rights Ombudsman created in Title 13, Chapter 43, Property Rights Ombudsman Act, to provide education and training regarding:

(A) the drafting and application of land use laws and regulations; and

(B) land use dispute resolution.

(6)(a)(i) A compliance agency that receives a geologic report, fault hazard report, or geotechnical report as part of a building permitting process or another infrastructure permitting process shall submit the final report to the Utah Geological Survey within 90 days after the day the compliance agency receives the report.

(ii) When submitting a report, the compliance agency shall indicate what portion of the report is confidential. The Utah Geological Survey shall keep confidential those portions of the report that the compliance agency indicates are confidential in accordance with Subsection 79-3-202(2).

(b)(i) If submitting a physical copy of a report, a compliance agency shall mail or deliver the physical copy of the report to the address shown on the Utah Geological Survey website.

(ii) The Utah Geological Survey shall return the physical copy of a report to the compliance agency submitting the report after the Utah Geological Survey completes digital scanning of the report.

(c) If submitting a digital copy of a report, a compliance agency shall:

(i) submit the digital copy in a form approved by the Utah Geological Survey; and

(ii)(A) submit the digital copy through an online process approved by the Utah Geological Survey;

(B) email the digital copy to an email address provided on the Utah Geological Survey's public website; or

(C) mail or deliver the digital copy to the address described in Subsection (6)(b).

(d) A compliance agency may include in a contract related to a geologic report, fault hazard report, or geotechnical report, a statement that:

(i) the compliance agency shall share a copy of the report with the Utah Geological Survey in accordance with this Subsection (6); and

(ii) the Utah Geological Survey may use information in the report as provided in Section 79-3-202 subject to keeping portions of the report confidential as provided in Subsection (6)(a)(ii).

(e) A compliance agency may not be held liable for the use or reliance on a geologic report, fault hazard report, or geotechnical report shared with the Utah Geological Survey by:

(i) the Utah Geological Survey; or

(ii) a person who obtains information from the Utah Geological Survey that is based on the geologic report, fault hazard report, or geotechnical report.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 73
H. B. 413
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

STUDENT MENTAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Ann Millner
Cosponsor:
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to the student mental health screening program.

Highlighted Provisions:

This bill:

- amends the student mental health screening program to extend the deadline to allow a local education agency (LEA) to determine whether to be a participating or non-participating LEA;
- requires reporting from the State Board of Education regarding the mental health screening program;
- provides instructions to the State Board of Education on how to distribute funds to participating LEAs; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-415, as last amended by Laws of Utah 2023, Chapters 98, 328 and 342
53F-2-522, as last amended by Laws of Utah 2023, Chapters 193, 328

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

Section 1. Section 53F-2-415 is amended to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Behavioral health support personnel" means an individual who:

(i) works under the direct supervision of qualifying personnel to:

(A) support and track a student's progress and access to and completion of school curriculum; and

(B) support students by prompting, redirecting, encouraging, and reinforcing positive behaviors;

(ii) is not certified or licensed in mental health; and

(iii) meets the professional qualifications as defined by state board rule;

(b) "Qualifying personnel" means a school counselor or other counselor, a school psychologist or other psychologist, a school social worker or other social worker, or a school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(c) "Telehealth services" means the same as that term is defined in Section 26B-4-704.

(2)(a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel;

(ii) employing behavioral health support personnel; or

(iii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b)(i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(iii) The state board shall provide guidance for LEAs regarding the training, qualifications, roles, and scopes of practice for qualifying personnel and behavioral health support personnel that incorporates parent consent and partnership as key components in addressing the mental health and behavioral health needs of students.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school climate, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in

collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3), based on the formula described in Subsection (2)(b).

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel;

(b) employ behavioral health support personnel; or

(c) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position or a behavioral health support personnel position, the LEA's reason for discontinuing the positions; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; [~~or~~]

(b)(i) youth suicide prevention programs described in Section 53G-9-702 ; or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525[~~.~~]; or

(c) providing grants to LEAs as provided in Subsection 53F-2-522(5).

Section 2. Section 53F-2-522 is amended to read:

53F-2-522. Public education mental health screening.

(1) As used in this section:

(a) "Division" means the Division of Integrated Healthcare within the Department of Health and Human Services.

(b) "Non-participating LEA" means an LEA that does not administer an approved mental health screening program described in this section.

(c) "Participating LEA" means an LEA that has an approved screening program described in this section.

(d) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(e) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

(f) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2)(a) On or before July 1, 2023, an LEA governing board shall determine whether the LEA will be a participating LEA or a non-participating LEA for the 2023-24 school year.

(b)(i) During the 2023-24 school year, and each year after, a participating LEA may change the LEA's participation status and become a non-participating LEA for the next school year by reporting the status change to the state board [~~by the end of the current school year~~]on or before August 1, 2024.

(ii) An LEA that changed the LEA's status from participating to non-participating in Subsection (2)(b)(i) is subject to the requirements of a non-participating LEA described in Subsection (2)(c).

(c)(i) During the 2023-24 school year, and each year after, a non-participating LEA's governing board shall submit a record of determination to the state board [~~by the end of the school year~~]on or before August 1 of each year, which record shall state whether the non-participating LEA will:

(A) maintain the LEA's non-participating status; or

(B) change the LEA's status to be a participating LEA.

(ii) If the non-participating LEA determines the LEA will change participation status and become a participating LEA, the LEA's status of participation will change at the end of the current school year.

(d) If an LEA governing board failed to make the determination required in Subsection (2)(a) on or before July 1, 2023, the LEA governing board shall determine whether the LEA will be a participating LEA for the 2024-25 school year and notify the state board of the determination on or before August 1, 2024.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, establish who may access and use a participating student's screening data;

(iii) establish a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

(iv) determine whether a parent is eligible to receive the financial support described in Subsection (5)(a) as a qualifying parent; and

(v) apply for and distribute the financial support described in Subsection (5)(a);

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division; and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before [~~November 30~~]August 30 of each year, submit a report on the screening programs to

the State Suicide Prevention Coalition created under Subsection 26B-5-611(2) and

the Education Interim Committee in accordance with Section 53E-1-201 that contains the following:

(i) the approximate number of participating students that were screened in each participating LEA the previous school year;

(ii) the approximate number of participating students referred to additional services or for whom intervention was required;

[~~(ii)~~](iii) the names and number of:

(A) participating LEAs; [~~and~~]

(B) non-participating LEAs; and

(C) LEAs that failed to make and report to the state board the determination to be participating or non-participating LEAs;

(iv) information regarding:

(A) reasons why an LEA failed to make a determination to be a participating or non-participating LEA; and

(B) any LEA that determined to be a participating LEA but failed to implement a mental health screening program;

[~~(iii)~~](v) an overview of how participating LEAs utilized distributed funds; and

[~~(iv)~~](vi) whether the amount of distributed funds to each participating LEA was sufficient for the participating LEA's needs.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected evidence-based screening program to the state board for approval;

(b) implement and administer a state board-approved mental health screening program to participating students in the participating LEA by:

(i) annually notifying each parent with a student in the participating LEA that the parent may have the student screened for mental health conditions;

(ii) obtaining prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA screens a participating student;

(iii) screening the student for mental health conditions; and

(iv) if results of a participating student's screening indicate a potential mental health condition, notifying the parent of the participating student of:

(A) the participating student's results; and

(B) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity;

(c) use state board-distributed funds for the purposes described in Subsection (5)(a); and

(d) provide the state board with necessary information and data for the state board to complete the report described in Subsection (3)(c).

(5)(a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to:

(i) implement and administer a mental health screening for participating students as described in Subsection (4)(b); and

(ii) assist a qualifying parent to pay for resources described in Subsection (4)(b)(iv)(B) that cannot be provided by a school mental health professional in the school setting.

(b) To distribute funds as described in Subsection (5)(a), the state board shall:

(i) distribute 90% of the available funds to participating LEAs based on the previous year's average daily membership count; and

(ii) distribute the remaining 10% of the available funds on an as-needed basis to participating LEAs if the LEA has exhausted the funds distributed under Subsection (5)(b)(i) and has additional need.

[~~(b)~~](c) The state board may not distribute funds described in Subsection (5)(a) to a non-participating LEA.

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 74
H. B. 414
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

DUE PROCESS AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses due process in disciplinary proceedings in an institution of higher education.

Highlighted Provisions:

This bill:

- defines terms;
- enacts provisions related to disciplinary proceedings in institutions of higher education, including:
  - requiring an institution of higher education to allow certain parties to have legal representation at a disciplinary proceeding;
  - governing the exchange of evidence at a disciplinary proceeding;
  - prohibiting certain conflicts of interest in a disciplinary proceeding; and
  - authorizing a cause of action;
- requires an institution to adopt policies and procedures consistent with the provisions of this bill; and
- amends applicable governmental immunity provisions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-7-301, as last amended by Laws of Utah 2023, Chapter 516
67-5-1, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

53B-27-601, Utah Code Annotated 1953
53B-27-602, Utah Code Annotated 1953
53B-27-603, Utah Code Annotated 1953
53B-27-604, Utah Code Annotated 1953
53B-27-605, Utah Code Annotated 1953
53B-27-606, Utah Code Annotated 1953
53B-27-607, Utah Code Annotated 1953
53B-27-608, Utah Code Annotated 1953
53B-27-609, Utah Code Annotated 1953

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

Section 1. Section 53B-27-601 is enacted to read:

53B-27-601. Application.

Part 6. Student Legal Representation

The provisions of this part do not:

(1) govern campus law enforcement departments or law enforcement personnel; or

(2) otherwise replace or amend criminal procedures that govern law enforcement activities.

Section 2. Section 53B-27-602 is enacted to read:

53B-27-602. Definitions.

As used in this part:

(1) "Academic dishonesty" means an act of dishonesty relating to a student's academic work or performance.

(2) "Accused student" means an individual enrolled in an institution who has allegedly violated a policy or rule.

(3) "Accused student organization" means a student organization, recognized by an institution, that has allegedly violated a policy or rule.

(4) "Alleged victim" means an individual whose rights are allegedly infringed or who is otherwise allegedly harmed by an accused student's or a student organization's violation of a policy or rule.

(5) "Evidence" means information that is inculpatory or exculpatory as the information relates to an accusation against an accused student or accused student organization, including:

(a) a complainant statement;

(b) a third-party witness statement;

(c) electronically stored information;

(d) a written communication;

(e) a post to social media; or

(f) demonstrative evidence.

(6) "Full participation" means the opportunity in a student or student organization disciplinary proceeding to:

(a) make opening and closing statements;

(b) examine and cross-examine a witness;

(c) introduce relevant evidence; and

(d) provide support, guidance, or advice to an accused student, accused student organization, or alleged victim.

(7) "Legal representation" means an attorney, who is licensed to practice law in this state and whom:

(a) an accused student selects to assist the student in the student's disciplinary proceeding;

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(8) "Nonattorney advocate" means an individual, who is not licensed to practice law and whom:

(a) an accused student selects to assist the student in the student's disciplinary proceeding;

(b) an alleged victim selects to assist the alleged victim at a proceeding that pertains to the alleged victim; or

(c) an accused student organization selects to assist the student organization at a student organization disciplinary proceeding.

(9) "Policy or rule" means a policy or rule, or a relevant section of a policy or rule, of an institution that, if violated, may result in:

(a) for a student, a suspension of 10 calendar days or more or expulsion from the institution; or

(b) for a student organization, the suspension or the removal of institutional recognition of the student organization.

(10) "Proceeding" means an adjudicatory hearing, including an appeal, in which evidence is presented to a hearing officer or a hearing panel, and that is:

(a) required by a policy or rule; or

(b) held to determine whether a policy or rule has been violated.

(11)(a) "Student disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student has violated a policy or rule.

(b) "Student disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

(12) "Student organization" means a club or other organization:

(a) that meets during noninstructional time;

(b) that is recognized by the institution at which the organization meets; and

(c) with a majority of members who are current students at the institution.

(13)(a) "Student organization disciplinary proceeding" means a proceeding initiated by an institution to determine whether an accused student organization has violated a rule or policy.

(b) "Student organization disciplinary proceeding" does not include a proceeding that solely involves a student's academic dishonesty.

Section 3. Section 53B-27-603 is enacted to read:

53B-27-603. Student disciplinary proceedings -- Legal representation.

(1) An institution may not prohibit:

(a) an accused student from being represented, at the accused student's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the accused student; or

(b) an accused student's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the accused student.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student disciplinary proceeding that pertains to the alleged victim.

(3)(a) An institution shall provide an accused student described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student under Subsection (3)(a) notifies the accused student that:

(i) the accused student is entitled to a student disciplinary proceeding to contest the charges against the accused student;

(ii) the accused student is entitled to a presumption of innocence; and

(iii) the presumption of innocence remains until:

(A) the accused student acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student's or alleged victim's rights as soon as practicable but no later than seven days before a student disciplinary proceeding that pertains to the accused student or alleged victim.

Section 4. Section 53B-27-604 is enacted to read:

53B-27-604. Student organization disciplinary proceedings -- Legal representation.

(1) An institution may not prohibit:

(a) an accused student organization from being represented, at the accused student organization's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the accused student organization; or

(b) an accused student organization's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the accused student organization.

(2) An institution may not prohibit:

(a) an alleged victim from being represented, at the alleged victim's expense, by legal representation or a nonattorney advocate at a student organization disciplinary proceeding that pertains to the alleged victim; or

(b) the alleged victim's legal representation or nonattorney advocate from full participation in a student organization disciplinary proceeding that pertains to the alleged victim.

(3)(a) An institution shall provide an accused student organization described in Subsection (1) or an alleged victim described in Subsection (2) written notice of the accused student organization's or alleged victim's rights under this section.

(b) The institution shall ensure that the notice provided to an accused student organization under Subsection (3)(a) notifies the accused student organization that:

(i) the accused student organization is entitled to a student organization disciplinary proceeding to contest the charges against the accused student organization;

(ii) the accused student organization is entitled to a presumption of innocence; and

(iii) the presumption of innocence remains until:

(A) the accused student organization acknowledges responsibility for the alleged violation; or

(B) the institution has established every element of the alleged violation at a student organization disciplinary proceeding.

(c) Unless exigent circumstances reasonably justify proceeding without providing notice under Subsection (3)(a), an institution shall establish policies and procedures to ensure that the institution provides written notice of the accused student organization's or alleged victim's rights as soon as practicable but no later than seven days before a student organization disciplinary proceeding that pertains to the accused student organization or alleged victim.

Section 5. Section 53B-27-605 is enacted to read:

53B-27-605. Exchange of evidence.

(1)(a) An institution shall ensure that an accused student, an alleged victim, or an accused student organization has access to all material evidence that is in the institution's possession, including both inculpatory and exculpatory evidence, unless the material is subject to a legal privilege, no later than one week before the day on which a proceeding begins.

(b) Evidence that is an accused student's or an alleged victim's personal medical record, mental health record, therapy note, or journal may not be used as evidence in a proceeding unless the accused student or alleged victim consents to the use of the evidence in the proceeding.

(c) Any evidence presented in a proceeding under this part is confidential and may not be:

(i) used as evidence in a subsequent proceeding; or

(ii) used or disclosed to a third- party for any other purpose other than for the proceeding.

(2) Nothing in this part:

(a) provides for formal or informal discovery beyond the exchange of evidence described in Subsection (1); or

(b) incorporates or binds an institution to:

(i) the Utah Rules of Civil Procedure or the Utah Rules of Evidence; or

(ii) the Federal Rules of Civil Procedure or the Federal Rules of Evidence.

Section 6. Section 53B-27-606 is enacted to read:

53B-27-606. Conflict of interest.

(1) An institution shall conduct a student disciplinary proceeding or student organization disciplinary proceeding in an impartial manner free from conflicts of interests.

(2) Except as provided in Subsection (3), in order to avoid conflicts of interest created by a comingling of roles, an institution shall prohibit an individual employed by or otherwise representing an institution from acting as an adjudicator, hearing officer, or appellate hearing officer in a student disciplinary proceeding or student organization disciplinary proceeding if the individual has also served in one of the following roles in the same matter:

(a) an advocate or counselor for an alleged victim, accused student, or accused student organization;

(b) an investigator;

(c) an institutional prosecutor; or

(d) an advisor to a person described in Subsection (2)(a), (b), or (c).

(3) If an individual employed by the institution or otherwise representing the institution serves as an investigator and an institutional prosecutor for the alleged violation of a policy or rule, the institution shall advise an accused student, accused student organization, or alleged victim before the investigation proceeding.

(4) An individual may not serve as an investigator or institutional prosecutor and an advocate for an accused student, accused student organization, or alleged victim in the same matter.

(5) In a proceeding conducted under this part, an institution shall allow an accused student, accused student organization, or an alleged victim to raise objections to issues that could potentially compromise the impartiality of the proceedings, including any potential conflicts of interest in violation of this section.

Section 7. Section 53B-27-607 is enacted to read:

53B-27-607. Application -- Institution policies.

(1) This part does not prohibit an institution from temporarily suspending an accused student or accused student organization pending the completion of a student or student organization disciplinary proceeding.

(2) An institution shall:

(a) enact policies to govern proceedings in which a student has a right to an active legal representation or a nonattorney advocate in accordance with this part;

(b) train adjudicators, hearing officers, and appellate hearing officers on relevant evidence and nonrelevant, nonprobative evidence; and

(c) enact policies and procedures to notify a student of the student's right to bring a cause of action in violation of this part to the attorney general's office.

(3) An institution may adopt a policy requiring a legal representation or nonattorney advocate of an accused student, alleged victim, or accused student organization to submit questions for an opposing party to the hearing officer.

Section 8. Section 53B-27-608 is enacted to read:

53B-27-608. Cause of action.

The attorney general may bring an action to enjoin a violation of this part, in a state court of competent jurisdiction, against an institution or an institution's agent acting in the agent's official capacity.

Section 9. Section 53B-27-609 is enacted to read:

53B-27-609. Statute of limitations.

(1) The attorney general may not bring an action under this part later than one year after the day on which the cause of action accrues.

(2) The cause of action accrues on the day on which the student or student organization receives final notice, from the institution, of sanction or discipline that violates an institution's rule or policy.

Section 10. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1)(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402; [~~and~~]

(k) as to any action brought under Section 78B-6-2303[~~.~~]; and

(l) as to any action brought to obtain relief under Title 53B, Chapter 27, Part 6, Student Legal Representation.

(3)(a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4)(a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii)(A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 11. Section 67-5-1 is amended to read:

67-5-1. General duties.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t)(i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u)(i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature; and

(z)(i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i)[.]; and

(aa) ensure compliance with Title 53B, Chapter 27, Part 6, Student Legal Representation, by:

(i) establishing a process to track the number of complaints submitted by students;

(ii) pursuing civil action to enforce statutory protections; and

(iii) no later than November 1 each year, reporting to the Judiciary Interim Committee regarding the attorney general's enforcement under this Subsection (1)(aa).

(2)(a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or

district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 75
H. B. 418
Passed February 29, 2024
Approved March 12, 2024
Effective July 1, 2024

STUDENT OFFENDER REINTEGRATION AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill enacts provisions related to a student who has committed a violent or sexual crime.

Highlighted Provisions:

This bill:

- requires an LEA to adopt a policy regarding a student who commits a violent or sexual crime;
- prohibits a student who has committed a violent or sexual crime from attending school in certain circumstances;
- creates civil liability for a parent of a student under certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-8-201, as enacted by Laws of Utah 2018, Chapter 3
53G-8-203, as last amended by Laws of Utah 2020, Chapter 161
53G-8-204, as last amended by Laws of Utah 2019, Chapter 293
53G-8-205, as last amended by Laws of Utah 2019, Chapter 293
53G-8-213, as enacted by Laws of Utah 2023, Chapter 161

ENACTS:

78B-3-1003, Utah Code Annotated 1953

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

Section 1. Section 53G-8-201 is amended to read:

53G-8-201. Definitions.

[~~Reserved~~]

(1) "Sexual crime" or "sexual misconduct" means any conduct described in:

(a) Title 76, Chapter 5, Part 4, Sexual Offenses;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Section 76-7-102, incest;

(d) Section 76-9-702, lewdness; and

(e) Section 76-9-702.1, sexual battery.

(2) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 2. Section 53G-8-203 is amended to read:

53G-8-203. Conduct and discipline policies and procedures.

(1) The conduct and discipline policies required under Section 53G-8-202 shall include:

(a) provisions governing student conduct, safety, and welfare;

(b) standards and procedures for dealing with students who cause disruption in the classroom, on school grounds, on school vehicles, or in connection with school-related activities or events;

(c) procedures for the development of remedial discipline plans for students who cause a disruption at any of the places referred to in Subsection (1)(b);

(d) procedures for the use of reasonable and necessary physical restraint in dealing with students posing a danger to themselves or others, consistent with Section 53G-8-302;

(e) standards and procedures for dealing with student conduct in locations other than those referred to in Subsection (1)(b), if the conduct threatens harm or does harm to:

(i) the school;

(ii) school property;

(iii) a person associated with the school; or

(iv) property associated with a person described in Subsection (1)(e)(iii);

(f) procedures for the imposition of disciplinary sanctions, including suspension and expulsion;

(g) specific provisions, consistent with Section 53E-3-509, for preventing and responding to gang-related activities in the school, on school grounds, on school vehicles, or in connection with school-related activities or events;

(h) standards and procedures for dealing with habitual disruptive or unsafe student behavior in accordance with the provisions of this part; and

(i) procedures for responding to reports received through the SafeUT Crisis Line under Subsection 53B-17-1202(3).

(2)(a) Each local school board shall establish a policy on detaining students after regular school hours as a part of the district-wide discipline plan required under Section 53G-8-202.

(b)(i) The policy described in Subsection (2)(a) shall apply to elementary school students, grades kindergarten through 6.

(ii) The local school board shall receive input from teachers, school administrators, and parents of the affected students before adopting the policy.

(c) The policy described in Subsection (2)(a) shall provide for:

(i) notice to the parent of a student prior to holding the student after school on a particular day; and

(ii) exceptions to the notice provision if detention is necessary for the student's health or safety.

(3)(a) Each LEA shall adopt a policy for responding to possession or use of electronic cigarette products by a student on school property.

(b) The policy described in Subsection (3)(a) shall:

(i) prohibit students from possessing or using electronic cigarette products on school property;

(ii) include policies or procedures for the confiscation or surrender of electronic cigarette products; and

(iii) require a school administrator or school administrator's designee to dispose of or destroy a confiscated electronic cigarette product.

(c) Notwithstanding Subsection (3)(b)(iii), an LEA may release a confiscated electronic cigarette product to local law enforcement if:

(i) a school official has a reasonable suspicion that a confiscated electronic cigarette product contains an illegal substance; and

(ii) local law enforcement requests that the LEA release the confiscated electronic cigarette product to local law enforcement as part of an investigation or action.

(4)(a) Each LEA shall adopt a policy for responding to when a student has committed a violent felony or sexual crime.

(b) The policy described in Subsection (4)(a) shall:

(i) address a violent felony or sexual misconduct related to hazing;

(ii) distinguish procedures for when the crime occurs on school property and off of school property;

(iii) if a student has committed a violent felony or sexual crime, provide a process for a school resource officer to provide input for the LEA to consider regarding the safety risks a student may pose upon reintegration;

(iv) establish a process to inform a school resource officer of any student who is on probation;

(v) create procedures for determining an alternative placement for a student if the student attends the same school as:

(A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law.

Section 3. Section 53G-8-204 is amended to read:

53G-8-204. Suspension and expulsion procedures -- Notice to parents -- Distribution of policies.

(1)(a) Policies required under this part shall include written procedures for the suspension and expulsion of, or denial of admission to, a student, consistent with due process and other provisions of law.

(b)(i) The policies required in Subsection (1)(a) shall include a procedure directing public schools to notify the custodial parent and, if requested in writing by a noncustodial parent, the noncustodial parent of the suspension and expulsion of, or denial of admission to, a student.

(ii) Subsection (1)(b)(i) does not apply to that portion of school records which would disclose any information protected under a court order.

(iii) The custodial parent is responsible for providing to the school a certified copy of the court order under Subsection (1)(b)(ii) through a procedure adopted by the [~~local school board or the charter school~~]local governing board.

(2)(a) Each [~~local school board or charter school~~]local governing board shall provide for the distribution of a copy of a school's discipline and conduct policy to each student upon enrollment in the school.

(b) A copy of the policy shall be posted in a prominent location in each school.

(c) Any significant change in a school's conduct and discipline policy shall be distributed to students in the school and posted in the school in a prominent location.

Section 4. Section 53G-8-205 is amended to read:

53G-8-205. Grounds for suspension or expulsion from a public school.

(1) A student may be suspended or expelled from a public school for any of the following reasons:

(a) frequent or flagrant willful disobedience, defiance of proper authority, or disruptive behavior, including the use of foul, profane, vulgar, or abusive language;

(b) willful destruction or defacing of school property;

(c) behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

(d) possession, control, or use of an alcoholic beverage as defined in Section 32B-1-102;

(e) behavior proscribed under Subsection (2) which threatens harm or does harm to the school or school property, to a person associated with the school, or property associated with that person, regardless of where it occurs; or

(f) possession or use of pornographic material on school property.

(2)(a) A student shall be suspended or expelled from a public school for any of the following reasons:

(i) any serious violation affecting another student or a staff member, or any serious violation occurring

in a school building, in or on school property, or in conjunction with any school activity, including:

(A) the possession, control, or actual or threatened use of a real weapon, explosive, or noxious or flammable material;

(B) the actual use of violence or sexual misconduct;

[~~(B)~~](C) the actual or threatened use of a look alike weapon with intent to intimidate another person or to disrupt normal school activities; or

[~~(C)~~](D) the sale, control, or distribution of a drug or controlled substance as defined in Section 58-37-2, an imitation controlled substance defined in Section 58-37b-2, or drug paraphernalia as defined in Section 58-37a-3; or

(ii) the commission of an act involving the use of force or the threatened use of force which if committed by an adult would be a felony or class A misdemeanor.

(b) A student who commits a violation of Subsection (2)(a) involving a real or look alike weapon, explosive, or flammable material shall be expelled from school for a period of not less than one year subject to the following:

(i) within 45 days after the expulsion the student shall appear before the student's[~~local school board~~] superintendent, the superintendent's designee, chief administrative officer of a charter school, or the chief administrative officer's designee, accompanied by a parent; and

(ii) the superintendent, chief administrator, or designee shall determine:

(A) what conditions must be met by the student and the student's parent for the student to return to school, including any provided for in the policies described in Section 53G-8-203;

(B) if the student should be placed on probation in a regular or alternative school setting consistent with Section 53G-8-208, and what conditions must be met by the student in order to ensure the safety of students and faculty at the school the student is placed in; and

(C) if it would be in the best interest of both the [~~school district or charter school~~]LEA, and the student, to modify the expulsion term to less than a year, conditioned on approval by [~~the local school board or charter school~~]the local governing board and giving highest priority to providing a safe school environment for all students.

(3) A student may be denied admission to a public school on the basis of having been expelled from that or any other school during the preceding 12 months.

(4) A suspension or expulsion under this section is not subject to the age limitations under Subsection 53G-6-204(1).

(5) [~~Each local school board and charter school~~]A local governing board shall prepare an annual report for the state board on:

(a) each violation committed under this section; and

(b) each action taken by the [~~school district~~]LEA against a student who committed the violation.

Section 5. Section 53G-8-213 is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

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

[~~(a) "Multidisciplinary~~]"multidisciplinary team" means the local education agency, the juvenile court, the Division of Juvenile Justice Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

[~~(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~]

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student;[~~and~~]

(c) an academic intervention for the student[~~.~~]; and

(d) if the violent felony was directed at a school employee or another student within the school, notification of the reintegration plan to that school employee or student and the student's parent.

(5) A school district may not reintegrate a student into a school where:

(a) a student or staff member has a protective order against the student being reintegrated; or

(b) a student or staff member is the victim of a sexual crime committed by the student being reintegrated unless the victim consents.

Section 6. Section 78B-3-1003 is enacted to read:

78B-3-1003. Liability of a parent or guardian for repeated offenses by a minor on school grounds.

(1) Except as provided in Subsection (6), if a person suffers damages from a minor committing the same offense repeatedly on school grounds for

an offense in Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, the person may bring a cause of action against a parent or guardian with legal custody of the minor to recover costs and damages caused by the repeated offense.

(2) The parent or guardian is not liable for costs or damages under Subsection (1) if the parent or guardian made a reasonable effort to supervise and direct the minor.

(3) If a parent or guardian is found liable under this section, the court may waive part or all of the parent's or guardian's liability for costs or damages if the court finds:

(a) good cause; or

(b) that the parent or guardian reported the minor's wrongful conduct to law enforcement after the parent or guardian knew of the minor's wrongful conduct.

(4) A report is not required under Subsection (3)(b)(ii) from a parent or guardian if the minor was arrested or apprehended by law enforcement.

(5) An adjudication or a conviction of a minor for a repeated offense under Title 76, Utah Criminal Code, or Title 80, Utah Juvenile Code, is not required for a civil action to be brought under this section.

(6) A person may not bring a cause of action against the state, an agency of the state, or a contracted provider of an agency of the state, under this section.

Section 7. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 76
H. B. 433
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

BRINE AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the mining of brine.

Highlighted Provisions:

This bill:

- defines terms;
- grants rulemaking authority;
- provides for the designation of multiple mineral development areas;
- addresses the powers of the Board of Oil, Gas, and Mining;
- requires a study related to brine mining operations and a report of the study; and
- permits the selection of a consultant.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
40- 8- 24, Utah Code Annotated 1953

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

Section 1. Section 40-8-24 is enacted to read:

40-8-24. Brine mining.

(1) As used in this section:

(a) "Brine" means subterranean saltwater and all of the saltwater's constituent parts and dissolved minerals contained in the saltwater, including:

(i) bromine;

(ii) magnesium;

(iii) potassium;

(iv) lithium;

(v) boron;

(vi) chlorine;

(vii) iodine;

(viii) calcium;

(ix) strontium;

(x) sodium;

(xi) sulfur;

(xii) barium; or

(xiii) another chemical substance produced with or separated from the saltwater.

(b)(i) "Brine mining operation" means, through the use of a production well not involving operations on the Great Salt Lake, the exploration for, development of, or production of brine.

(ii) "Brine mining operation" does not include the solution mining of salt for the primary purpose of creating subterranean cavern space for the storage of liquids or gases.

(c) "Multiple mineral development area" means an area designated by the board involving the management and development of various concurrent surface and sub- surface resource extraction operations, including exploratory activities, for the purpose of efficient and effective development of resources in the area without unreasonable interference.

(2) The board, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may designate an area within the state as a multiple mineral development area for purposes of brine mining operations.

(3) The board may:

(a) adjudicate and determine multiple mineral development conflicts among brine mining operations if there:

(i) is potential injury to other mineral deposits on the land effected; or

(ii) are simultaneous or concurrent operations conducted by other mineral owners or lessees affecting the lands effected; and

(b) enter an order with respect to a conflict described in Subsection (3)(a).

(4)(a) The division shall study brine mining operations within the state to evaluate current and potential regulation of brine mining operations, including:

(i) determining which state agencies have jurisdiction over some or all of the activities related to brine mining operations;

(ii) identifying necessary safety measures;

(iii) addressing spacing of brine mining wells;

(iv) addressing multiple mineral development; and

(v) any other issue the division considers relevant to the regulation of brine mining operations.

(b) In conducting the study required by this Subsection (4), the division:

(i) shall seek input from other state agencies, including:

(A) the Division of Forestry, Fire, and State Lands;

(B) the Division of Water Rights;

(C) the Department of Environmental Quality; and

(D) the School and Institutional Trust Lands Administration; and

(ii) may select a consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist in the evaluation of current and potential regulation of brine mining operations.

(c) The division shall report the results of the study, including any recommendations for legislation, to the Natural Resources, Agriculture, and Environment Interim Committee on or before the committee's 2024 October interim committee meeting.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 77
H. B. 437
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

FIRE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions concerning control and funding related to fire.

Highlighted Provisions:

This bill:

- modifies provisions related to calculating amounts to be transferred to a Medicaid fund and the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund;
- modifies definitions related to the State Appropriations and Tax Limitation Act and the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund;
- addresses timing of transfers related to the Industrial Assistance Account and the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund;
- modifies provisions related to cooperative fire protection agreements;
- requires the Division of Forestry, Fire, and State Lands to analyze certain issues related to the wildfire risk assessment mapping tool;
- permits adjustments to participation commitments based on the wildfire risk assessment mapping tool;
- adjusts the calculation for billing a county or municipality without a cooperative agreement;
- modifies money to be deposited into the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Natural Resources - Wildland Fire Suppression Fund as a one-time appropriation:
  - from the General Fund, One-time, ($4,000,000)
- to Department of Natural Resources - Wildland-urban Interface Prevention, Preparedness and Mitigation Fund as a one-time appropriation:
  - from the General Fund, One-time, $4,000,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-315, as last amended by Laws of Utah 2023, Chapter 329
63J-3-103, as last amended by Laws of Utah 2022, Chapter 456
63N-3-106, as last amended by Laws of Utah 2023, Chapter 499
65A-8-203, as last amended by Laws of Utah 2023, Chapter 16
65A-8-203.2, as enacted by Laws of Utah 2016, Chapter 174
65A-8-215, as enacted by Laws of Utah 2023, Chapter 153

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

Section 1. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-3-102.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26B-3-101.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3)(a)(i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26B-3-202 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii)(A) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; [~~and~~]or

(B) the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund under Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5)(a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection (5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 2. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1)(a) "Appropriations" means actual unrestricted capital and operating appropriations

from unrestricted General Fund and Income Tax Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and Income Tax Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the Income Tax Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the Income Tax Fund Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 [~~or~~], the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in Section 65A-8-215, or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital development projects as defined in Section 63A-5b-401;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8)(a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the

bond, note, warrant, or other evidence of indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 3. Section 63N-3-106 is amended to read:

63N-3-106. Structure of loans, grants, and assistance -- Repayment -- Earned credits.

(1)(a) Subject to Subsection (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under this part shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(2)(a) The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(b) The value of the credits described in Subsection (2)(a) shall be based on factors determined by the administrator, including:

(i) the number of Utah jobs created;

(ii) the increased economic activity in Utah; or

(iii) other events and activities that occur as a result of the restricted account assistance.

(3)(a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (2).

(4)(a)(i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) The set aside under Subsection (4)(a)(i) shall be capped at $50,000,000, at which time no subsequent contributions may be made and any interest accrued above the $50,000,000 cap shall be deposited into the General Fund.

(b) The set aside required by Subsection (4)(a) shall be made after the transfer of surplus General Fund revenue surplus is made to:

(i) [~~to~~] the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) [~~to~~] the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) as provided in Section 63J-1-314:

(A) the Wildland Fire Suppression Fund or the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund; and

(B) the State Disaster Recovery Restricted Account.

[~~(iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.~~]

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 4. Section 65A-8-203 is amended to read:

65A-8-203. Cooperative fire protection agreements with counties, cities, towns, or special service districts.

(1) As used in this section:

(a) "Eligible entity" means:

(i) a county, a municipality, or a special service district, special district, or service area with:

(A) wildland fire suppression responsibility as described in Section 11-7-1; and

(B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or

(ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, special district, or service area that is responsible for:

(A) providing wildland fire suppression services; and

(B) paying for the cost of wildland fire suppression services.

(b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).

(2)(a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.

(b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.

[~~(3)(a) An eligible entity may not receive financial cooperation or financial assistance under~~

~~Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.~~]

[~~(b)~~](3)(a) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.

[~~(c)~~](b) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.

(4) [~~In order to~~]To enter into a cooperative agreement with the division, the eligible entity shall:

(a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;

(b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;

(c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;

(d)(i) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;

(ii) meet the eligibility entity's participation commitment by making direct payments to the division; or

(iii) do a combination of Subsections (4)(d)(i) and (ii);

(e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and

(f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.

(5)(a) The state forester may execute a cooperative agreement with the eligible entity.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:

(i) cooperative agreements described in this section;

(ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);

(iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

(iv) accounting system for determining suppression costs;

(v) manner in which the division shall determine the eligible entity's participation commitment; and

(vi) manner in which an eligible entity may appeal a division determination.

(6)(a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).

(b) Each eligible entity participating in a cooperative agreement shall:

(i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and

(ii) return the financial statement to the division, on or before a date set by the division.

(c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).

(7)(a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:

(i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or

(ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.

(b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).

(8)(a) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.

(b)(i) The division shall analyze adding an additional high-risk category within the wildfire risk assessment mapping tool described in Subsection (8)(a):

(A) using a scientific assessment; and

(B) that is focused on the risk to dwellings within the wildland-urban interface area.

(ii) The division shall report the results of the division's analysis under this Subsection (8)(b) to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2024 November interim meeting of that committee.

(c) With regard to the categories used within the wildfire risk assessment mapping tool described in Subsection (8)(a), the division may adjust the assessment for participation commitments if the adjustment is based on the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor, in accordance with a formula established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(9) By no later than the 2021 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee, the division shall report on the eligible entities' adherence to and implementation of their participation commitment under this chapter.~~]

Section 5. Section 65A-8-203.2 is amended to read:

65A-8-203.2. Billing a county or municipality not covered by a cooperative agreement -- Calculating cost of wildfire suppression.

(1) The division shall bill a county that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that county accrued by the state.

(2) The division shall bill a municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that municipality accrued by the state.

(3) The cost of wildfire suppression to a county or municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, shall be calculated by determining the number of acres burned within the borders of a county or municipality, dividing that number by the total number of nonfederal acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.

(4) A county or municipality that receives a bill from the division, pursuant to this section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the county or municipality's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

Section 6. Section 65A-8-215 is amended to read:

65A-8-215. Wildland-urban interface fire prevention, preparedness, and mitigation.

(1) As used in this section:

(a) "Prevention, preparedness, and mitigation fund" means the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in this section.

(b) "Suppression fund" means the Wildland Fire Suppression Fund created in Section 65A-8-204.

(c) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

(2)(a) There is created an expendable special revenue fund known as the "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund."

(b) The prevention, preparedness, and mitigation fund shall consist of:

(i) interest and earnings from the investment of money from the prevention, preparedness, and mitigation fund;

(ii) money received as direct payment from cooperative wildfire system participation commitments;

[~~(ii)~~](iii) money appropriated by the Legislature; and

[~~(iii)~~](iv) money transferred to the prevention, preparedness, and mitigation fund under Section 63J-1-314.

(c) The division shall administer the prevention, preparedness, and mitigation fund to:

(i) pay costs of prevention and preparedness efforts on wildland-urban interface within the state, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203;

(ii) issue fire department assistance grants, which in the aggregate may not exceed 10% of the money in the prevention, preparedness, and mitigation fund each fiscal year; and

(iii) in cases of catastrophic need as determined by the state forester, pay costs that could be paid from the suppression fund under Section 65A-8-204.

(d) Disbursements from the prevention, preparedness, and mitigation fund may only be made upon written order of the state forester or the state forester's authorized representative.

(3)(a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans addressing wildland-urban interface. The criteria shall require action that is:

(i) qualitative and quantitative; and

(ii) leads to reduced wildfire risk.

(b) An eligible entity, as defined in Section 65A-8-203, shall agree to implement prevention, preparedness, and mitigation actions identified in a community wildfire preparedness plan addressing wildland-urban interface that is approved by the division.

Section 7. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 7(a) Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Natural Resources - Wildland Fire Suppression Fund

From General Fund, One-time ($4,000,000)

Schedule of Programs:

Wildland Fire Suppression Fund ($4,000,000)

ITEM 2

To Department of Natural Resources - Wildland-urban Interface Prevention, Preparedness and Mitigation Fund

From General Fund, One-time $4,000,000

Schedule of Programs:

Wildland-urban Interface Prevention, Preparedness and Mitigation Fund $4,000,000

The Legislature intends that the Division of Forestry, Fire, and State Lands expends money appropriated by this Item 2 to pay for the costs of pre-suppression mitigation and education and post fire restoration at the discretion of the Division of Forestry, Fire, and State Lands.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 78
H. B. 438
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

HIGHER EDUCATION REVISIONS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Evan J. Vickers

Cosponsor:
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Ariel Defay
Karianne Lisonbee
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James A. Dunnigan
Anthony E. Loubet
Raymond P. Ward
Joseph Elison
Matt MacPherson
Douglas R. Welton

LONG TITLE

General Description:

This bill modifies the responsibilities of a president of a degree-granting institution.

Highlighted Provisions:

This bill:

- requires a president of a degree-granting institution to make policies regarding tenure and post-tenure review;
- describes certain minimum requirements for tenure and post-tenure review; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
53B-2-106, as last amended by Laws of Utah 2021, Chapter 187

ENACTS:
53B-2-106.1, Utah Code Annotated 1953

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

Section 1. Section 53B-2-106 is amended to read:

53B-2-106. Duties and responsibilities of the president of a degree-granting institution of higher education -- Approval by board of trustees.

(1) As used in this section, "president" means the president of a degree-granting institution.

(2)(a) The president of each degree-granting institution may exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the degree-granting institution or the degree-granting institution's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the degree-granting institution consistent with the statewide strategic plan for higher education.

(b) A president may, after consultation with the degree-granting institution's board of trustees, exercise powers relating to the degree-granting institution's employees, including faculty and persons under contract with the degree-granting institution, by implementing:

(i) furloughs;

(ii) reductions in force;

(iii) benefit adjustments;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the degree-granting institution; or

(vi) other measures that provide cost savings to the degree-granting institution.

(3) A president may:

(a)(i) appoint a secretary, a treasurer, administrative officers, deans, faculty members, and other professional personnel;

(ii) prescribe duties for a position described in Subsection (3)(a)(i);

(iii) appoint support personnel;

(iv) prescribe duties for support personnel;

(v) determine salaries for support personnel from the degree-granting institution's position classification plan, which may:

(A) be based upon similarity of duties and responsibilities within the institution of higher education; and

(B) as funds permit, provide salary and benefits comparable with private enterprise;

(vi) adopt policies for:

(A) employee sick leave use and accrual; and

(B) service recognition for employees with more than 15 years of employment with the degree- granting institution; and

(vii) subject to the authority of, the policy established by, and the approval of the board, and recognizing the status of the institutions within the Utah system of higher education as bodies politic and corporate, appoint attorneys to:

(A) provide legal advice to the degree- granting institution's administration; and

(B) coordinate legal affairs within the degree- granting institution;

(b) subject to Section 53B- 2- 106.1 and the approval of the degree- granting institution's board of trustees, provide for the constitution, government, and organization of the faculty and administration, and enact implementing rules, including the establishment of a prescribed system of tenure;

(c) subject to the approval of the degree- granting institution's board of trustees, authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students; and

(d) enact rules for administration and operation of the degree- granting institution that:

(i) are consistent with the degree- granting institution's role established by the board, rules enacted by the board, or the laws of the state; and

(ii) may provide for:

(A) administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters;

(B) student government and student affairs organization;

(C) the establishment of institutional standards in furtherance of the ideals of higher education fostered and subscribed to by the degree- granting institution and the degree- granting institution's administration, faculty, and students; and

(D) the holding of classes on legal holidays, other than Sunday.

(4) A president shall manage the president's degree- granting institution as a part of the Utah system of higher education.

(5)(a) Compensation costs and related office expenses for an attorney described in Subsection (3)(a)(vii) shall be funded within existing budgets.

(b) The board shall coordinate the activities of attorneys described in Subsection (3)(a)(vii).

(c) An attorney described in Subsection (3)(a)(vii):

(i) may not:

(A) conduct litigation;

(B) settle a claim covered by the State Risk Management Fund; or

(C) issue a formal legal opinion; and

(ii) shall cooperate with the Office of the Attorney General in providing legal representation to a degree- granting institution.

(d) A degree- granting institution shall submit an annual report to the board on the activities of appointed attorneys.

(6) The board shall establish guidelines relating to the roles and relationships between presidents and boards of trustees, including those matters which must be approved by a board of trustees before implementation by the president.

(7) A president is subject to regular review and evaluation administered by the board, in consultation with the degree- granting institution's board of trustees, through a process approved by the board.

Section 2. Section 53B- 2- 106.1 is enacted to read:

53B- 2- 106.1. Tenure -- Reporting.

(1) A president of a degree- granting institution, in consultation with the degree- granting institution's board of trustees, shall make policies:

(a) related to tenure and post- tenure review; and

(b) ensuring that the terms and conditions of tenured employment are stated in writing and provided to a faculty member.

(2) Tenure and post- tenure policies shall:

(a) protect academic freedom in teaching, research, and in an individual's personal life;

(b) require that a final award of tenure be approved by the president of the degree- granting institution offering the award of tenure, in consultation with the board of trustees of the degree- granting institution; and

(c) comply with this section.

(3) Beginning July 1, 2024, a tenured faculty member may be dismissed from employment at a degree- granting institution:

(a) for cause, including:

(i) professional incompetence;

(ii) serious misconduct or unethical behavior;

(iii) legal misconduct substantially related to the performance of duties;

(iv) serious violations of board or institution rules;

(v) the conviction of a crime affecting the fitness of the tenured faculty member to engage in teaching, research, service, outreach, administration, or other assigned duties;

(vi) falsified credentials or plagiarism; or

(vii) inability or unwillingness to meet institutional expectations, including failure to address deficiencies outlined in a remediation plan following post- tenure review;

(b) if the program in which the tenured faculty member works is discontinued by the degree-granting institution or modified to such a degree that the tenured faculty member's position is no longer needed; and

(c) in the event of financial exigency of the degree-granting institution.

(4) Policies governing dismissal of a tenured faculty member for cause shall include, at a minimum:

(a) notice to the tenured faculty member of the alleged cause, including any evidence supporting the allegation;

(b) providing reasonable time and opportunity for the tenured faculty member to respond;

(c) a hearing before an independent board of tenured faculty peers;

(d) a written determination on the issue, including a determination of termination or continued employment; and

(e) an appeals process ending with the final decision of the president of the degree-granting institution in consultation with the board of trustees of the degree-granting institution.

(5) A tenured faculty member who is being dismissed because the program in which the tenured faculty member works is discontinued or modified, as described in Subsection (3)(b), or in the event of financial exigency of the degree-granting institution, as described in Subsection (3)(c), shall receive severance in accordance with the terms of the tenured faculty member's employment contract.

(6) Nothing in this section prohibits a president of a degree-granting institution from creating additional policies and processes regarding discipline of a tenured faculty member.

(7) Beginning July 1, 2024, a degree-granting institution shall conduct, and a tenured faculty member shall receive:

(a) an annual performance review of the tenured faculty member's performance; and

(b) a post-tenure review, as described in Subsection (9).

(8) A president of a degree-granting institution shall ensure that each program or department at the degree-granting institution has policies describing the minimum performance of a tenured faculty member for use in a post-tenure review.

(9) A post-tenure review shall:

(a) be conducted by a committee of:

(i) tenured faculty member peers, appointed by the appropriate vice president at the degree-granting institution in consultation with the faculty member's department chair, including at least two individuals appointed from either a different department than the tenured faculty member going through post-tenure review, a different degree-granting institution than the tenured faculty member going through post-tenure review, or both; and

(ii) the provost or the provost's designee; and

(b) consist of a comprehensive review of the tenured faculty member's performance over the previous five years, including:

(i) teaching assessment, including student evaluations, for all courses taught;

(ii) the quality of the tenured faculty member's scholarly research;

(iii) service to the profession, school, or community;

(iv) annual performance reviews;

(v) intellectual property owned wholly or partly by, or commercialization efforts attributed to, the tenured faculty member;

(vi) the tenured faculty member's compliance with the degree-granting institution's policies regarding the responsibilities and ethical obligations of faculty members; and

(vii) any improvement plans for underperformance.

(10)(a) If, following a post-tenure review, a tenured faculty member is found to not meet the standards established by the degree-granting institution, the degree-granting institution shall create a remediation plan to address deficiencies and a timeline by which the tenured faculty member is expected to address the deficiencies.

(b) A tenured faculty member who fails to address deficiencies as described in Subsection (10)(a) may be subject to disciplinary action from the degree-granting institution, including dismissal for cause, subject to the appeals process described in Subsection (4)(e).

(c) In consultation with the board of trustees, a president of a degree-granting institution who does not dismiss a tenured faculty member who fails to address deficiencies as described in Subsection (10)(a) shall justify in writing to the board why the tenured faculty member is not being dismissed.

(11) A president of a degree-granting institution shall provide an annual report to the board, no later than October 1 of each year, with the following information:

(a) the number of post-tenure reviews that took place at the degree-granting institution in the previous year;

(b) an analysis of scores from post-tenure reviews that took place in the previous year with personal information redacted;

(c) the number of post-tenure reviews from the previous year that resulted in a remediation plan;

(d) a qualitative summary of the types of remediation plans created in the previous year, including an average timeline by which tenured faculty members are expected to address deficiencies; and

(e) a summary of written justifications described in Subsection (10)(c), if any, with personal information redacted.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 79
H. B. 452
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

CARBON CAPTURE AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill address regulation of carbon capture.

Highlighted Provisions:

This bill:

- modifies definitions;
- repeals two existing funds and replaces the repealed funds with the Carbon Dioxide Storage Fund (fund);
- addresses the Board of Oil, Gas, and Mining's (board) authority to impose fees and deposit money into the fund;
- addresses the holding of title by the state of storage facilities including oversight of facilities used to store carbon dioxide after the board issues a certificate of project completion;
- clarifies fee provisions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-11-1, as enacted by Laws of Utah 2022, Chapter 62
40-11-3, as enacted by Laws of Utah 2022, Chapter 62
40-11-4, as enacted by Laws of Utah 2022, Chapter 62
40-11-6, as enacted by Laws of Utah 2022, Chapter 62
40-11-15, as enacted by Laws of Utah 2022, Chapter 62
40-11-16, as enacted by Laws of Utah 2022, Chapter 62
40-11-20, as enacted by Laws of Utah 2022, Chapter 62
40-11-21, as enacted by Laws of Utah 2022, Chapter 62

ENACTS:

40-11-23, Utah Code Annotated 1953

REPEALS:

40-11-22, as enacted by Laws of Utah 2022, Chapter 62

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

Section 1. Section 40-11-1 is amended to read:

40-11-1. Definitions.

As used in this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2)(a) "Carbon dioxide" means carbon dioxide (CO2) that has been captured from an emission source or direct air capture, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the carbon dioxide to enable or improve the injection process.

(b) "Carbon dioxide" does not include hazardous waste as that term is defined in Section 19-6-102.

(3) "Class VI injection well" means the same as that term is defined in 40 C.F.R. 146.5(f).

(4) "Division" means the Division of Oil, Gas, and Mining.

(5) "Fund" means the Carbon Dioxide Storage Fund created under Section 40-11-23.

[~~(5)~~](6) "Geologic carbon storage" means the permanent or short-term underground storage of carbon dioxide in a storage reservoir.

[~~(6)~~](7) "Geologic carbon storage activity" means activity associated with the development, production, processing, and storage of carbon dioxide as set forth in Title 40, Chapter 11, Geologic Carbon Storage, and includes:

(a) drilling;

(b) development of storage facilities;

(c) completion, maintenance, reworking, recompletion, disposal, plugging, and abandonment of storage facilities;

(d) construction activities;

(e) recovery techniques;

(f) remediation activities; and

(g) any other activity related to geologic carbon storage that the board identifies.

[~~(7)~~](8) "Permit" means a permit issued by the division and approved by the board allowing a person to operate a storage facility.

[~~(8)~~](9) "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including oil and gas reservoirs, saline formations, and coal seams suitable for or capable of being made suitable for geologic carbon storage.

[~~(9)~~](10)(a) "Storage facility" means the reservoir, underground equipment, and surface facilities and equipment used or proposed to be used in a geologic carbon storage operation.

(b) "Storage facility" does not include pipelines used to transport carbon dioxide to a storage facility.

[~~(10)~~](11) "Storage operator" means a person holding or applying for a permit.

Section 2. Section 40-11-3 is amended to read:

40-11-3. Board authority -- Rulemaking authority.

(1) The board and the division have jurisdiction over all persons and property necessary to enforce this chapter.

(2) To enforce this chapter, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including rules establishing penalties for a violation of this chapter.

(3) Subject to the granting of primacy by the Environmental Protection Agency under the process required in 40 C.F.R. Section 145 and successful application for primacy approval under Section 1425 of the Safe Drinking Water Act, the board and the division have:

(a) exclusive jurisdiction in the state over Class VI injection wells located in the state on nonfederal lands; and

(b) cooperative jurisdiction in the state over Class VI injection wells located in the state on federal lands.

(4) The board shall establish fees in accordance with Section 63J-1-504, in an amount to pay the costs to the board and division of:

(a) the permitting process;

(b) the regulation of the construction, operation, and pre-closure activities of the storage facility; [~~and~~]

(c) the monitoring and management of closed storage facilities[~~.~~]; and

(d) administering the fund.

(5) In addition to a fee imposed under Subsection (4), the board, in accordance with Section 63J-1-504:

(a) may impose fees under Section 40-11-20; and

(b) shall impose a fee under Section 40-11-21.

Section 3. Section 40-11-4 is amended to read:

40-11-4. Board and division permit authority.

To the extent required to authorize and issue permits and to regulate geologic carbon sequestration, the board and the division shall have authority:

(1) over all persons and property necessary to administer and enforce this chapter and this chapter's objectives;

(2) to regulate activities relating to a storage facility, including construction, operation, and closure;

(3) to enter, at a reasonable time and manner, a storage facility to:

(a) inspect equipment and surface storage facilities;

(b) observe, monitor, and investigate operations; or

(c) inspect records the board requires the operators maintain at the storage facility;

(4) to require that storage operators provide assurance, including bonds, that money is available to fulfill the storage operator's duties;

(5) to exercise continuing jurisdiction over storage operators and storage facilities, including the authority, after notice and hearing, to amend provisions in a permit and to revoke a permit; [~~and~~]

(6) to dissolve or change the boundaries of any unit that is within or near a storage reservoir's boundaries[~~.~~]; and

(7) to oversee the expenditure of money from the fund to accomplish the purposes of this chapter.

Section 4. Section 40-11-6 is amended to read:

40-11-6. Permit application requirements.

(1) A person applying for a permit shall:

(2)(a) comply with:

(i) the application requirements the board establishes through rule; and

(ii) the application requirements described in this section; and

(b) pay a fee, as established by the board in accordance with Subsections 40-11-3(4) and (5), to cover the administrative costs of considering an application for a permit and to pay the expenditures of money from the fund to accomplish the purposes of this chapter.

[~~(2)~~](3) The board shall give priority to storage operators who apply for a permit to store carbon dioxide produced in Utah.

[~~(3)~~](4) A permit application shall demonstrate:

(a) that the storage operator has complied with all requirements established by the board in rule and in this chapter;

(b) that the storage facility is suitable for carbon dioxide injection and storage;

(c) that the carbon dioxide the storage operator will store is of a quality that allows the carbon dioxide to be safely and efficiently stored in the reservoir;

(d) that the storage operator has made a good-faith effort to get the consent of all persons who own the storage reservoir's pore space;

(e) that owners who own no less than 70% of the reservoir's pore space have provided written consent to the use of the owners' pore space for a storage facility;

(f) whether the storage facility contains commercially valuable minerals;

(g) if the storage facility contains commercially valuable minerals:

(i) a plan for addressing the ownership interests of the mineral owners or mineral lessees; and

(ii) a demonstration that the storage facility will not negatively impact the commercially valuable minerals;

(h) that the storage reservoir meets the integrity requirements described in Section 40-11-13;

(i) that the operator has taken reasonable steps to ensure that:

(i) the storage facility will not endanger human health;

(ii) the storage facility will not endanger the environment;

(iii) the storage facility is in the public interest;

(iv) the storage facility will not adversely affect surface water or formation containing fresh water;

(v) carbon dioxide will not escape from the storage reservoir at a rate exceeding the lower of 1% or the standard recommended by the Environmental Protection Agency; and

(vi) that substances that compromise the objectives of this chapter or the integrity of a reservoir will not enter the reservoir;

(j) that the storage reservoir has defined horizontal and vertical boundaries;

(k) that the boundaries of the storage reservoir include buffer areas to ensure the safe operation of the storage facility;

(l) plans for monitoring the storage facility and procedures to assess the location and migration of carbon dioxide injected for storage;

(m) plans to ensure compliance with geologic carbon storage statutes and rules; and

(n) assurance that all nonconsenting pore space owners are or will be equitably compensated for the use of the pore space of the nonconsenting pore space owners in the storage facility.

Section 5. Section 40-11-15 is amended to read:

40-11-15. Title to injected carbon dioxide.

(1) The storage operator has title to the carbon dioxide injected into and stored in a storage reservoir and holds title until the board issues a certificate of project completion.

(2) The storage operator is liable for any damage the stored carbon dioxide may cause, including damage caused by escaping stored carbon dioxide until the board issues a certificate of project completion.

(3) An owner of pore space does not incur liability for geologic carbon storage activity by virtue of ownership of or of leasing out the pore space.

Section 6. Section 40-11-16 is amended to read:

40-11-16. Certificate of project completion.

(1) To request a certificate of project completion, a storage operator shall submit:

(a) a demonstration that the last carbon dioxide injection was no fewer than 10 years preceding the filing;

(b) a statement of compliance with all statutes and rules regulating the storage facility;

(c) a demonstration of the resolution of all pending claims regarding the storage facility;

(d) a demonstration of the present and future physical integrity of the storage reservoir;

(e) a demonstration that any carbon dioxide in the storage reservoir:

(i) is essentially stationary; or

(ii) if the carbon dioxide migrates or will migrate, is highly unlikely to cross the storage reservoir boundary;

(f) a demonstration that all wells, equipment, and facilities necessary for maintaining the continued integrity of the storage reservoir are currently in good condition and will maintain that good condition;

(g) a demonstration that the operator has:

(i) plugged wells;

(ii) removed equipment and facilities not necessary to maintaining the integrity of the reservoir; and

(iii) completed any other reclamation work the board requires.

(2) Immediately after the board issues a certificate of project completion:

(a) title to the storage facility and the stored carbon dioxide, including oversight of a facility used to store the stored carbon dioxide, transfers to the state;

(b) liability with respect to the storage facility and the stored carbon dioxide transfers to the state;

(c) the storage operator and any person who is not the state who has property rights in the storage facility is released from any obligation to comply with regulatory requirements associated with the storage facility;

(d) the board shall release any bonds the storage operator has posted; and

(e) the division shall oversee the monitoring and managing of the storage facility.

Section 7. Section 40-11-20 is amended to read:

40-11-20. Adoption of procedure.

(1) The board may adopt procedures and criteria to determine the amount of injected carbon dioxide:

(a) stored in a reservoir that has been or is being used for an enhanced oil or gas recovery project; or

(b) stored in a reservoir that is a part of a storage facility.

(2) The board may charge a fee to cover the costs of making a determination described in Subsection (1).

(3) The division shall deposit a fee collected in accordance with Subsection (2) into the [~~Geologic Carbon Storage Facility Administrative Fund created in Section 40-11-21~~]fund.

Section 8. Section 40-11-21 is amended to read:

40-11-21. Fees related to reservoir or storage facility.

(1) There is levied a fee per ton of carbon dioxide injected into a reservoir or storage facility.

(2) The board shall establish the fee described in Subsection (1) in accordance with Section 63J-1-504[~~, in~~]to equal the sum of:

(a) an amount to pay the anticipated costs to the division of the regulation of storage facility:

[~~(a)~~](i) construction;

[~~(b)~~](ii) operation; and

[~~(c)~~](iii) pre-closure activities[~~.~~]; and

(b) an amount to pay the anticipated costs to the division of the long-term monitoring and management of a closed storage facility.

[~~(3) Money the board collects in accordance with this section shall be deposited into the Geologic Carbon Storage Facility Administrative Fund created in Subsection (4).~~]

[~~(4) There is created an expendable special revenue fund known as the "Geologic Carbon Storage Facility Administrative Fund."~~]

[~~(5) The fund shall consist of the money specified in Subsections (1) through (3), Section 40-11-20, and interest earned on the fund.~~]

[~~(6) The division shall only use the money deposited into the Geologic Carbon Storage Facility Administrative Fund to:~~]

[~~(a) defray the division's regulatory expenses incurred during the regulation of storage facility:~~]

[~~(i) construction;~~]

[~~(ii) operation; and~~]

[~~(iii) pre-closure activities;~~]

[~~(b) make determinations in accordance with Section 40-11-20; and~~]

[~~(c) reimburse a regulatory agency with whom the board has entered into a cooperative agreement described in Section 40-11-18 for expenses the cooperating agency incurs in conducting the activities described in Subsections (6)(a) and (b).~~]

(3) The division shall deposit money collected under this section into the fund.

Section 9. Section 40-11-23 is enacted to read:

40-11-23. Carbon Dioxide Storage Fund.

(1) There is created an expendable special revenue fund known as the "Carbon Dioxide Storage Fund."

(2) The fund shall consist of:

(a) money from fees collected under Subsection 40-11-3(4) and Sections 40-11-20 and 40-11-21;

(b) penalties imposed for violations of this chapter; and

(c) interest or other earnings for the fund.

(3) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(4) The division shall only use the money in the fund to:

(a) defray the division's regulatory expenses incurred during the regulation of a storage facility:

(i) construction;

(ii) operation; and

(iii) pre-closure activities;

(b) make determinations in accordance with Section 40-11-20;

(c) reimburse a regulatory agency with whom the board has entered into a cooperative agreement described in Section 40-11-18 for expenses the cooperating agency incurs in conducting the activities described in Subsections (4)(a) and (b);

(d) permit, inspect, monitor, investigate, record, and report on geologic storage facilities and associated carbon dioxide injection wells;

(e) perform long-term monitoring of geologic storage facilities and associated carbon dioxide injection wells;

(f) remediate mechanical problems associated with geologic storage facilities and associated carbon dioxide injection wells;

(g) repair mechanical leaks at geologic storage facilities;

(h) plug abandoned carbon dioxide injection wells used for geologic storage;

(i) training and technology transfer related to carbon dioxide injection and geologic storage;

(j) perform compliance and enforcement activities related to geologic storage and associated man-made carbon dioxide injection wells; and

(k) oversee the management of the geologic storage facilities and associated carbon dioxide injection wells after site closure.

Section 10. Repealer.

This bill repeals:

Section 40-11-22, Fees -- Geologic Carbon Storage Facility Trust Fund.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 80
H. B. 469
Passed February 29, 2024
Approved March 12, 2024
Effective January 1, 2025

DEPARTMENT OF NATURAL RESOURCES LAW ENFORCEMENT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill creates a law enforcement division managed by the Department of Natural Resources.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Division of Law Enforcement (the division) within the Department of Natural Resources (the department);
- establishes the role and qualifications of the division director;
- outlines the division's enforcement authority, including the division's ability to initiate civil proceedings;
- authorizes the division to enter into contracts and agreements;
- moves management of the Aquatic Invasive Species Interdiction Account from the Division of Wildlife to the division; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

23A-1-101, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-201, as last amended by Laws of Utah 2023, Chapter 448 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-206, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-207, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-317, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-10-302, as renumbered and amended by Laws of Utah 2023, Chapter 103
53-13-103, as last amended by Laws of Utah 2023, Chapter 34
63A-17-512, as last amended by Laws of Utah 2023, Chapter 34
63L-8-304, as last amended by Laws of Utah 2023, Chapter 34
65A-1-1, as last amended by Laws of Utah 2016, Chapter 174
65A-3-3, as last amended by Laws of Utah 2016, Chapter 174
65A-8-308, as renumbered and amended by Laws of Utah 2007, Chapter 136
77-11a-101, as last amended by Laws of Utah 2023, Chapters 111, 231 and renumbered and amended by Laws of Utah 2023, Chapter 448
77-11a-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
79-2-102, as last amended by Laws of Utah 2023, Chapter 34
79-2-204, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

79-2-701, Utah Code Annotated 1953
79-2-702, Utah Code Annotated 1953
79-2-703, Utah Code Annotated 1953
79-2-704, Utah Code Annotated 1953
79-2-705, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

23A-3-211, (Renumbered from 23A-3-211, as last amended by Laws of Utah 2023, Chapter 244 and renumbered and amended by Laws of Utah 2023, Chapter 103)

REPEALS:

23A-5-202, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-203, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-319, as renumbered and amended by Laws of Utah 2023, Chapter 103
79-4-501, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-7-401, as enacted by Laws of Utah 2021, Chapter 280

Sections affected by Coordination Clause:

23A-5-201, as last amended by Laws of Utah 2023, Chapter 448 and renumbered and amended by Laws of Utah 2023, Chapter 10329

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

Section 1. Section 23A-1-101 is amended to read:

23A-1-101. Definitions.

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity prohibited or regulated under this title or the rules and proclamations promulgated under this title pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting a dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) using as a commercial venture; and

(o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

[~~(10) "Conservation officer" means a full-time, permanent employee of the division who is POST certified as a peace or a special function officer.~~]

[~~(11)~~](10) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

[~~(12)~~](11) "Department" means the Department of Natural Resources.

[~~(13)~~](12) "Director" means the director of the division appointed under Section 23A-2-202.

[~~(14)~~](13) "Division" means the Division of Wildlife Resources.

(14) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

(15) Subject to Section 23A-1-103, "domicile" means the place:

(a) where an individual has a fixed permanent home and principal establishment;

(b) to which the individual if absent, intends to return; and

(c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

(18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

(19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(20) "Fishing" means to take fish or crayfish by any means.

(21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.

(25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(26)(a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

(27)(a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

(28) "Natural resources officer" means the same as that term is defined in Section 79-2-701.

[~~(28)~~](29) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

[~~(29)~~](30) "Nonresident" means a person who does not qualify as a resident.

[~~(30)~~](31) "Open season" means the period of time during which protected wildlife may be legally taken.

[~~(31)~~](32) "Outfitter" means the same as that term is defined in Section 58-79-102.

[~~(32)~~](33) "Pecuniary gain" means the acquisition of money or something of monetary value.

[~~(33)~~](34) "Permit" means a paper-based or electronic document that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

[~~(34)~~](35) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the individual, association, partnership, government agency, or corporation.

[~~(35)~~](36) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

(a) exceeds state water quality standards; or

(b) could harm protected wildlife.

[~~(36)~~](37) "Possession" means actual or constructive possession.

[~~(37)~~](38) "Possession limit" means the number of bag limits one individual may legally possess.

[~~(38)~~](39)(a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

(i) an aquaculture facility;

(ii) a fee fishing facility;

(iii) a short-term fishing event; or

(iv) private stocking.

[~~(39)~~](40) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

(a) a private fish pond under Section 23A-9-203; or

(b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

[~~(40)~~](41) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

(a) commingling with wild birds or furbearers; and

(b) escaping into the wild.

[~~(41)~~](42) "Proclamation" means the publication that is:

(a) used to convey a statute, rule, policy, or pertinent information related to wildlife; and

(b) issued in accordance with a rule made by the Wildlife Board under this title.

[~~(42)~~](43)(a) "Protected aquatic wildlife" means aquatic wildlife except as provided in Subsection [~~(42)(b)~~](43)(b).

(b) "Protected aquatic wildlife" does not include aquatic insects.

[~~(43)~~](44)(a) "Protected wildlife" means wildlife, except as provided in Subsection [~~(43)(b)~~](44)(b).

(b) "Protected wildlife" does not include:

(i) coyote;

(ii) field mouse;

(iii) gopher;

(iv) ground squirrel;

(v) jack rabbit;

(vi) muskrat; or

(vii) raccoon.

[~~(44)~~](45) "Regional advisory council" means a council created under Section 23A-2-303.

[~~(45)~~](46) "Released to the wild" means to be turned loose from confinement.

[~~(46)~~](47)(a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

[~~(47)~~](48) Subject to Section 23A-1-103, "resident" means a person who:

(a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(b) does not claim residency for hunting, fishing, or trapping in another state or country.

[~~(48)~~](49) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

[~~(49)~~](50) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and

(b) no fee is charged as a requirement to fish.

[~~(50)~~](51) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes;

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

[~~(51)~~](52) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

[~~(52)~~](53) "Spotlighting" means throwing or casting the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

[~~(53)~~](54) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

[~~(54)~~](55) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill protected wildlife; or

(b) attempt an action referred to in Subsection [~~(54)(a)~~](55)(a).

[~~(55)~~](56) "Threatened" means wildlife designated as threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

[~~(56)~~](57) "Trapping" means taking protected wildlife with a trapping device.

[~~(57)~~](58) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

[~~(58)~~](59) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

[~~(59)~~](60) "Waste" means to:

(a) abandon protected wildlife; or

(b) allow protected wildlife to spoil or to be used in a manner not normally associated with the protected wildlife's beneficial use.

[~~(60)~~](61) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

[~~(61)~~](62) "Wildlife Board" means the board created in Section 23A-2-301.

Section 2. Section 23A-5-201 is amended to read:

23A-5-201. Enforcement authority of natural resources officers -- Seizure and disposition of property.

(1) A [~~conservation~~]natural resources officer shall enforce the provisions of this title in accordance with the same procedures and requirements for a law enforcement officer of this state.

(2)(a) Except as provided in Subsection (2)(b), a [~~conservation~~]natural resources officer may seize property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

(b) A [~~conservation~~]natural resources officer shall seize protected wildlife illegally taken or held.

(3)(a) If a [~~conservation~~]natural resources officer seizes wildlife as part of an investigation or prosecution of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for the offense, the [~~division~~]Division of Law Enforcement is not required to retain the wildlife under Title 77, Chapter 11c, Retention of Evidence.

(b) If the [~~division~~]Division of Law Enforcement does not retain wildlife under Subsection (3)(a), the [~~division~~]Division of Law Enforcement is required to preserve sufficient evidence from the wildlife for use as evidence in the prosecution of a person for the offense.

(4)(a) If a [~~conservation~~]natural resources officer seizes wildlife and the wildlife or parts of the wildlife are perishable, the [~~division~~]Division of Law Enforcement may donate the wildlife or parts of the wildlife to be used for charitable purposes.

(b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for charitable purposes under Subsection (4)(a), the [~~division~~]Division of Law Enforcement may dispose of the wildlife or parts of the wildlife in a reasonable manner.

(5)(a) The court may order the [~~division~~]Division of Law Enforcement to sell or dispose of protected wildlife that is seized by a [~~conservation~~]natural resources officer if the [~~division~~]Division of Law Enforcement is permitted by law to sell or dispose of the wildlife.

(b) The [~~division~~]Division of Law Enforcement may not sell migratory wildfowl but the [~~division~~]Division of Law Enforcement shall donate the migratory wildfowl to be used for charitable purposes.

(c) The [~~division~~]Division of Law Enforcement shall deposit the proceeds from the sale of protected wildlife into the Wildlife Resources Account.

(6) If the [~~division~~]Division of Law Enforcement disposes of wildlife, the court may order the [~~division~~]Division of Law Enforcement to:

(a) provide the owner of the disposed wildlife with wildlife that is reasonably equivalent in value to the disposed wildlife within 180 days after the day on which the court enters the order; or

(b) if the [~~division~~]Division of Law Enforcement is unable to obtain wildlife that is reasonably equivalent in value to the disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of the disposed wildlife in accordance with Subsection 23A-5-312(2) within 180 days after the day on which the court enters the order.

(7)(a) If a [~~conservation~~]natural resources officer seizes a vehicle under Section 77-11a-201, the [~~division~~]Division of Law Enforcement shall store the seized vehicle in a public or private garage, state impound lot, or any other secured storage facility.

(b) The [~~division~~]Division of Law Enforcement shall release a seized vehicle to the owner no later than 30 days after the day on which the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person charged with a felony under this title.

(c) The owner of a seized vehicle is liable for the payment of any impound fee if:

(i) the owner used the vehicle for the unlawful taking or possessing of wildlife; and

(ii) the owner is convicted of an offense under this title.

(d) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped that involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle that violates this chapter.

Section 3. Section 23A-5-206 is amended to read:

23A-5-206. Search warrants.

(1) A search warrant may be issued by a magistrate to search for property that may constitute evidence of a violation of this title, rules, or proclamations of the Wildlife Board upon an affidavit of a person.

(2) The search warrant shall be directed to a [~~conservation~~]natural resources officer or a peace officer, directing the officer to search for evidence and to bring the evidence before the magistrate.

(3) A search warrant may not be issued except upon probable cause supported by oath or affirmation, particularly describing the place, person, or thing to be searched for and the person or thing to be seized.

(4) The warrant shall be served in the daytime, unless there is reason to believe that the service of the search warrant is required immediately because a person may:

(a) flee the jurisdiction to avoid prosecution or discovery of a violation noted above;

(b) destroy or conceal evidence of the commission of a violation; or

(c) injure another person or damage property.

(5) Notwithstanding Subsection (4), a search warrant may be served at night if:

(a) there is reason to believe that a violation may occur at night; or

(b) the evidence of the violation may not be available to the officers serving the warrant during the day.

Section 4. Section 23A-5-207 is amended to read:

23A-5-207. Exhibition of license, permit, tag, or device required -- Criminal penalty.

(1) A person while engaged in an activity regulated under this title, shall exhibit the following at the request of [~~conservation~~]a natural resources officer or other peace officer:

(a) the required license, permit, or tag;

(b) a device or apparatus in that person's possession used for an activity regulated under this title; or

(c) wildlife in that person's possession.

(2) A [~~conservation~~]natural resources officer who has a reasonable belief that a person is engaged in an activity regulated under this title may stop and temporarily detain that person to demand and inspect:

(a) the required license, permit, or tag;

(b) a device or apparatus in that person's possession used for an activity regulated under this title; or

(c) wildlife in that person's possession.

(3) A person is subject to the penalties of Section 23A-5-301 if the person fails to produce for examination to a [~~correction~~]natural resources officer or other peace officer any of the required licenses, permits, tags, devices or apparatuses used for an activity regulated under this title or wildlife in that person's possession.

Section 5. Section 23A-5-317 is amended to read:

23A-5-317. Posted property -- Hunting by permission -- Entry on private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable to officers.

(1) As used in this section:

(a) "Cultivated land" means land that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage which is artificially irrigated.

(b) "Permission" means written authorization from the owner or person in charge to enter upon private land that is either cultivated or properly posted, and shall include:

(i) the signature of the owner or person in charge;

(ii) the name of the person being given permission;

(iii) the appropriate dates; and

(iv) a general description of the property.

(c) "Properly posted" means that signs prohibiting trespass or bright yellow, bright orange, or fluorescent paint are clearly displayed:

(i) at the corners, fishing streams crossing property lines, roads, gates, and rights-of-way entering the land; or

(ii) in a manner that would reasonably be expected to be seen by a person in the area.

(2)(a) While taking wildlife or engaging in wildlife related activities, a person may not:

(i) without permission, enter upon privately owned land that is cultivated or properly posted;

(ii) enter or remain on privately owned land if the person has notice to not enter or remain on the privately owned land; or

(iii) obstruct an entrance or exit to private property.

(b) A person has notice to not enter or remain on privately owned land if:

(i) the person is directed to not enter or remain on the land by:

(A) the owner of the land;

(B) the owner's employee; or

(C) a person with apparent authority to act for the owner; or

(ii) the land is fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders.

(c) The division shall provide "hunting by permission cards" to a landowner upon the landowner's request.

(d) A person may not post:

(i) private property the person does not own or legally control; or

(ii) land that is open to the public as provided by Section 23A-6-402.

(3) A person who violates Subsection (2)(a) or (d) is subject to the penalty provided in Section 23A-5-301 and liable for the civil damages described in Subsection (7).

(4)(a) A person convicted of violating Subsection (2)(a) may have the person's license, tag, certificate of registration, or permit, relating to the activity engaged in at the time of the violation, revoked by a hearing officer.

(b) A hearing officer may construe a subsequent conviction that occurs within a five-year period as a flagrant violation and may prohibit the person from obtaining a new license, tag, certificate of registration, or permit for a period of up to five years.

(5) Subsection (2)(a) does not apply to peace or [~~conservation~~]natural resources officers in the performance of their duties.

(6)(a) The division shall provide information regarding owners' rights and duties:

(i) to anyone holding a license, certificate of registration, tag, or permit to take wildlife; and

(ii) by using the public media and other sources.

(b) The Wildlife Board shall state restrictions in this section relating to trespassing in the hunting and fishing proclamations issued by the Wildlife Board.

(7) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2)(a) or (d) may also be liable for:

(a) the greater of:

(i) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2)(a) or (d); or

(ii) $500; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(8) Civil damages under Subsection (7) may be collected in a separate action by the property owner or the property owner's assignee.

Section 6. Section 23A-10-302 is amended to read:

23A-10-302. Conveyance or equipment detainment or quarantine.

(1) The division, a port-of-entry agent, a natural resources officer, or a peace officer may detain or quarantine a conveyance or equipment if:

(a) the division, agent, natural resources officer, or peace officer:

(i) finds the conveyance or equipment contains a Dreissena mussel; or

(ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23A-10-201; or

(b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section 23A-10-301.

(2) The detainment or quarantine authorized by Subsection (1) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

Section 7. Section 53-13-103 is amended to read:

53-13-103. Law enforcement officer.

(1)(a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all [~~persons~~]individuals specified in [~~Sections 23A-5-202 and 79-4-501~~]Section 79-2-704;

(iv) a police officer employed by a state institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university if the agency is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency;

(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3)(a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b)(i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a)(i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 8. Section 63A-17-512 is amended to read:

63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b)(i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

[~~(B) all persons specified in Sections 23A-5-202 and 79-4-501;~~]

[~~(C)~~](B) investigators for the Motor Vehicle Enforcement Division;

[~~(D)~~](C) special agents or investigators employed by the attorney general;

[~~(E)~~](D) employees of the Department of Natural Resources designated as peace officers by law;

[~~(F)~~](E) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

[~~(G)~~](F) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2)(a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3)(a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4)(a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 9. Section 63L-8-304 is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may institute a civil action in a district court for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4)(a) The locally elected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) [~~Conservation officers employed by the Division of Wildlife Resources have~~]A natural resources officer employed under Title 79, Chapter 2, Part 7, Division of Law Enforcement, has authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

(d) [~~A conservation officer~~]A natural resources officer employed under Title 79, Chapter 2, Part 7, Division of Law Enforcement, shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section 10. Section 65A-1-1 is amended to read:

65A-1-1. Definitions.

As used in this title:

(1) "Division" means the Division of Forestry, Fire, and State Lands.

(2) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

[~~(2)~~](3) "Initial attack" means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.

[~~(3)~~](4) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

[~~(4)~~](5) "Municipality" means a city, town, or metro township.

[~~(5)~~](6) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

[~~(6)~~](7) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

[~~(7)~~](8) "State lands" means all lands administered by the division.

[~~(8)~~](9) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

[~~(9)~~](10) "Wildland" means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

(b) structures, if any, are widely scattered.

[~~(10)~~](11) "Wildland fire" means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface, as defined in Section 65A-8a-102.

Section 11. Section 65A-3-3 is amended to read:

65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.

(1) It is the duty of the [~~division~~]Division of Law Enforcement, county sheriffs, [~~their~~]county sheriff deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2)(a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, 17-18a-202, and 17-18a-203, shall prosecute any criminal violations of this chapter.

(b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Section 12. Section 65A-8-308 is amended to read:

65A-8-308. Enforcement -- Prosecution of violations.

(1) [~~County~~]The Division of Law Enforcement, county sheriffs, police, and other law enforcement officers within their respective jurisdictions are responsible for the enforcement of this part.

(2) The county attorney or district attorney shall prosecute any violation of this part.

Section 13. Section 77-11a-101 is amended to read:

77-11a-101. Definitions.

As used in this chapter:

(1)(a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(2) "Claimant" means:

(a) an owner of property;

(b) an interest holder; or

(c) an individual or entity who asserts a claim to any property for which an agency seeks to forfeit.

(3)(a) "Computer" means, except as provided in Subsection (3)(c), an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

(4)(a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child sexual abuse material, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child sexual abuse material; or

(B) contains the personal identifying information of another individual, as defined in Section 76-6-1101, whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(6) "Court" means a municipal, county, or state court.

(7) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

[~~(7)~~](8) "Evidence" means the same as that term is defined in Section 77-11c-101.

[~~(8)~~](9) "Forfeit" means to divest a claimant of an ownership interest in property seized by a peace officer or agency.

[~~(9)~~](10) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense subjecting the property to seizure, and:

(i) did not have actual knowledge of the offense subjecting the property to seizure; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to seizure had occurred or that the property had been seized, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

[~~(10)~~](11)(a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

[~~(11)~~](12) "Law enforcement agency" means:

(a) a municipal, county, state institution of higher education, or state police force or department;

(b) a sheriff's office; or

(c) a municipal, county, or state prosecuting authority.

[~~(12)~~](13) "Legislative body" means:

(a)(i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

[~~(13)~~](14) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

[~~(14)~~](15) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in property.

[~~(15)~~](16) "Pawn or secondhand business" means the same as that term is defined in Section 13-32a-102.

[~~(16)~~](17) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property.

[~~(17)~~](18)(a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection [~~(17)(a)(i)~~](18)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the

acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection [~~(17)(a)(i)~~](18)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to seizure.

[~~(18)~~](19)(a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

[~~(19)~~](20) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state.

[~~(20)~~](21) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

[~~(21)~~](22) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

[~~(22)~~](23)(a) "Seized property" means property seized by a peace officer or agency in accordance with Section 77-11a-201.

(b) "Seized property" includes property that the agency seeks to forfeit under Chapter 11b, Forfeiture of Seized Property.

Section 14. Section 77-11a-301 is amended to read:

77-11a-301. Release of seized property to claimant -- Generally.

(1)(a) An agency with custody of seized property, or the prosecuting attorney, may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that the agency does not need to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.

(b) An agency with custody of seized property, or the prosecuting attorney, may not release property under this Subsection (1) if the property is subject to retention or preservation under Chapter 11c, Retention of Evidence.

(2) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

(a) the claimant posts a surety bond or cash with the court in accordance with Section 77-11a-302;

(b) the court orders the release of property to the claimant for hardship purposes under Section 77-11a-303;

(c) a claimant establishes that the claimant is an innocent owner or an interest holder under Section 77-11a-304; or

(d) the court orders property retained as evidence to be released to the claimant under Section 77-11a-305.

(3)(a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the owner of the computer.

(b) The agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) If a [~~peace~~]natural resources officer for the Division [~~of Wildlife Resources~~]of Law Enforcement seizes a vehicle, the Division of [~~Wildlife Resources~~]Law Enforcement shall release the vehicle to a claimant in accordance with Section 23A-5-201.

(5) If an agency is not required, or is no longer required, to retain or preserve property as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to release or dispose of the property, the agency shall exercise due diligence in attempting to notify the claimant of the property to advise the claimant that the property is to be returned.

(6)(a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish that the person:

(i) is the owner of the property; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (6)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

(c) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

(d) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

Section 15. Section 79-2-102 is amended to read:

79-2-102. Definitions.

As used in this chapter:

[~~(1) "Conservation officer" is as defined in Section 23A-1-101.~~]

(1) "Natural resources officer" means the same as that term is defined in Section 79-2-701.

(2) "Species protection" means an action to protect a plant or animal species identified as:

(a) sensitive by the state; or

(b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section 16. Section 79-2-204 is amended to read:

79-2-204. Division directors -- Appointment -- Removal -- Jurisdiction of executive director.

(1)(a) The chief administrative officer of a division within the department is a director appointed by the executive director with the concurrence of the board having policy authority for the division.

(b) The director of a division may be removed from office by the executive director.

(c) The appointment and term of office of the state engineer, notwithstanding anything to the contrary contained in this section, shall be in accordance with Section 73-2-1.

(2)(a) The executive director has administrative jurisdiction over a division director for the purpose of implementing department policy as established by the division's board.

(b) The executive director may:

(i) consolidate personnel and service functions in the divisions to effectuate efficiency and economy in the operations of the department;

(ii) establish a departmental services division to perform service functions; and

(iii) employ law enforcement officers [~~and special function officers~~] within the department that have all of the powers of a [~~conservation~~]natural resources officer and law enforcement officer, with the exception of the power to serve civil process.

Section 17. Section 79-2-701 is enacted to read:

79-2-701. Definitions.

Part 7. Division of Law Enforcement

As used in this part:

(1) "Division" means the Division of Law Enforcement.

(2) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(3)(a) "Natural resources officer" means a full-time, permanent employee of the division who is POST certified as a peace officer.

(b) "Natural resources officer" includes a wildlife officer, as that term is defined in Section 23A-2-502.

(4) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

Section 18. Section 79-2-702 is enacted to read:

79-2-702. Division creation -- Purpose.

(1) There is created within the department a Division of Law Enforcement.

(2) Subject to the priorities defined by the director, the primary function of the division is to enforce:

(a) Title 23A, Wildlife Resources Act;

(b) Title 41, Chapter 22, Off-highway Vehicles;

(c) Title 65A, Forestry, Fire, and State Lands;

(d) Title 73, Chapter 18, State Boating Act;

(e) this title; and

(f) an administrative rule enacted by an advisory board within any of the department's divisions.

(3) The division shall coordinate with county sheriffs, police, and other law enforcement officers within a law enforcement jurisdiction the division operates to enforce this part.

(4) This part does not limit or modify the powers and duties of other law enforcement officers in the state.

Section 19. Section 79-2-703 is enacted to read:

79-2-703. Division director -- Qualifications -- Duties -- Special deputies.

(1) The director is the executive and administrative head of the division, appointed in accordance with Section 79-2-204.

(2) The director shall demonstrate:

(a) experience as a sworn law enforcement officer; and

(b) law enforcement leadership ability.

(3) The director shall:

(a) enforce the policies and rules of the department's divisions; and

(b) perform the duties necessary to:

(i) coordinate, prioritize, and direct the law enforcement needs of the divisions within the department;

(ii) properly care for and maintain any property under the jurisdiction of the division; and

(iii) carry out the purposes of this part.

(4)(a) The director may appoint an individual, on a temporary basis, as a special deputy.

(b) A special deputy may enforce this part and rules made under this part.

(5) The director may deputize an individual who is a peace officer to assist the division on a seasonal or temporary basis.

Section 20. Section 79-2-704 is enacted to read:

79-2-704. Powers and duties of division -- Enforcement authority -- Ability to initiate civil proceedings.

(1) An employee of the division who is a POST certified law enforcement officer:

(a) has all the powers of a law enforcement officer and natural resources officer in the state;

(b) may arrest and prosecute violators of any law of this state;

(c) has the same right as other peace officers to require aid in executing the peace officer's duties;

(d) may take wildlife in performance of official duties, in accordance with Section 23A-2-207;

(e) may protect property under the jurisdiction of the department or the department's divisions from misuse or damage;

(f) may preserve the peace on property under the jurisdiction of the department or the department's divisions;

(g) may serve criminal process; and

(h) may not serve civil process.

(2) The powers and duties conferred upon the director and members of the division are supplementary to and not a limitation on the powers and duties of other peace officers in the state.

(3) The division shall have the authority to initiate civil proceedings, in addition to criminal proceedings provided for in this part, to:

(a) recover damages;

(b) compel performance;

(c) compel substitution;

(d) restrain or enjoin;

(e) initiate any other appropriate action; and

(f) seek appropriate remedies in the division's capacity as the primary law enforcement authority for the department.

Section 21. Section 79-2-705 is enacted to read:

79-2-705. Division authorized to enter into contracts and agreements.

(1) The division, with the approval of the executive director, may enter into contracts and agreements as needed to:

(a) support law enforcement operations for the department;

(b) improve and maintain the property under the jurisdiction of the division; and

(c) secure labor, quarters, materials, services, or facilities for the division according to procedures established by the Division of Finance.

(2) All departments, agencies, officers, and employees of the state shall give to the division the consultation and assistance that the division may reasonably request.

Section 22. Section 79-2-706, which is renumbered from Section 23A-3-211 is renumbered and amended to read:

~~23A-3-211.~~ 79-2-706. Aquatic Invasive Species Interdiction Account.

(1) There is created within the General Fund a restricted account known as the "Aquatic Invasive Species Interdiction Account."

(2) The Aquatic Invasive Species Interdiction Account shall consist of:

(a) nonresident aquatic invasive species fees collected under Subsection 23A-10-304(2);

(b) resident aquatic invasive species fees collected under Subsection 23A-10-304(1); and

(c) other amounts deposited in the Aquatic Invasive Species Interdiction Account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the aquatic invasive species fees collected under Subsections 23A-10-304(1) and (2) and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

Section 23. Repealer.

This bill repeals:

Section 23A-5-202, Powers of law enforcement section.

Section 23A-5-203, Special deputies -- Appointment -- Duties.

Section 23A-5-319, Interference with, intimidation, or harassment of officer unlawful.

Section 79-4-501, Peace officer authority of park rangers.

Section 79-7-401, Enforcement in general.

Section 24. Effective date.

This bill takes effect on January 1, 2025.

Section 25. Coordinating H.B. 469 with S.B. 76.

If H.B. 469, Department of Natural Resources Law Enforcement Amendments, and S.B. 76, Evidence Retention Amendments, both pass and become law, the Legislature intends that on January 1, 2025, Subsection 23A-5-201(5)(a) enacted in S.B. 76 be amended to read:

"(5)(a) If a defendant is convicted of the offense for which protected wildlife is seized and the Division of Law Enforcement is permitted by law to sell or dispose of the protected wildlife, the Division of Law

Enforcement may sell or dispose of the protected wildlife or part of the wildlife.".

CHAPTER 81
H. B. 471
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

PUBLIC LANDS POSSESSION AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Curtis S. Bramble

Cosponsor:
Jason B. Kyle
Rex P. Shipp
Carl R. Albrecht
Trevor Lee
Keven J. Stratton
Walt Brooks
Steven J. Lund
Christine F. Watkins
Tim Jimenez
A. Cory Maloy
Michael L. Kohler
Thomas W. Peterson

LONG TITLE

General Description:

This bill asserts ownership and exclusive jurisdiction of roads included on a county travel plan and requires due process before the federal government may close a road.

Highlighted Provisions:

This bill:

- asserts ownership and jurisdiction over roads included on a county's class B and class D road map or a county travel plan unless the road has been closed through proper adjudicative proceedings;
- allows the state or a county to disregard any attempted closure of a road without due process;
- asserts that the burden of proof to show the need to close a road or to claim ownership falls on the federal government; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-403, as renumbered and amended by Laws of Utah 2013, Chapter 101

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

Section 1. Section 63C-4a-403 is amended to read:

63C-4a-403. Due process and adjudication for closure of a road -- Plans for R.S. 2477 rights and constitutional defense -- Contents.

(1)(a) Any road on or across federally managed property and that is found on a county's class B and class D road map or a county travel plan is presumed to be a public road open for public use unless the road has been closed through an appropriate action of the state or federal government properly adjudicated and with due process.

(b) If the federal government attempts to close a road on a county's class B and class D road map or county travel plan without proper adjudication and due process:

(i) the closure is invalid and has no effect; and

(ii) the state and county may disregard the alleged closure.

(c) In an adjudication to determine ownership of a disputed road that is included in a county travel plan, including an R.S. 2477 claim, the federal government has the burden of proof to show that the disputed road is not a public road and warrants closure.

[~~(1)~~](2) The council may approve an R.S. 2477 plan if the R.S. 2477 plan:

(a) provides for a good faith, cooperative effort between the state and each participating county;

(b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a resolution;

(c) provides that the state and a participating county are equal partners in determining litigation strategy and the expenditure of resources with respect to that county's rights under R.S. 2477; and

(d) provides a process for resolving any disagreement between the state and a participating county about litigation strategy or resource expenditure that includes the following requirements:

(i) the governor or the governor's designee and a representative of the Utah Association of Counties shall first attempt to resolve the disagreement;

(ii) if the county and the state continue to disagree, the county, the governor, and the Utah Association of Counties shall present their recommendations to the council for a final decision about the strategy or expenditure in question; and

(iii) the county may pursue a strategy or make an expenditure contrary to the final decision of the council only if the county does not claim resources provided to fund the R.S. 2477 plan.

[~~(2)~~](3) The council shall ensure that the R.S. 2477 plan contains:

(a) provisions identifying which expenditure types require approval of the R.S. 2477 plan committee and which expenditure types may be made without the R.S. 2477 plan committee approval;

(b) provisions requiring that financial statements be provided to members of the R.S. 2477 plan committee and members of the council, and the frequency with which those financial statements must be provided; [~~and~~]

(c) provisions identifying those decisions or types of decisions that may be made by the R.S. 2477 plan

committee and those decisions or types of decisions that must be referred to the council for decision[.]; and

(d) procedures to assert claims and respond to attempted closures as described in Subsection (1).

[(3)](4)(a) The Public Lands Policy Coordinating Office, in consultation with the committee, the Office of the Attorney General and the School and Institutional Trust Lands, shall prepare and submit a constitutional defense plan to the council for the council's approval.

(b) The constitutional defense plan shall contain proposed action and expenditure for:

(i) the council's or the commission's duties; or

(ii) an action filed in accordance with Section 67-5-29.

[(4)](5) The council shall:

(a) review expenditures, at least quarterly, made to further a plan approved under this section;

(b) approve an update to a plan under this section at least annually, or more often, if necessary; and

(c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan approved under this section, with any updates, to:

(i) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to the committee at least seven days before the presentation;

(ii) the commission, which may be by mail; and

(iii) the president of the Senate and the speaker of the House of Representatives, which may be by mail.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 82
H. B. 478
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

ANIMAL CARE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill addresses the care of animals.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the Department of Agriculture and Food to impose civil penalties for certain violations;
- establishes requirements for animal care by an animal care facility;
- criminalizes a violation of the animal care requirements as an infraction; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

4-2-903, Utah Code Annotated 1953
76-9-301.9, Utah Code Annotated 1953

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

Section 1. Section 4-2-903 is enacted to read:

4-2-903. Animal care violations.

(1) "Animal care facility" means the same as that term is defined in Section 76-9-301.9.

(2) The department may, in accordance with this section and as resources allow, respond to a complaint that an animal care facility has violated Subsection 76-9-301(2)(a) or Section 76-9-301.9.

(3) If the department determines that a person has violated Subsection 76-9-301(2)(a) or Section 76-9-301.9, the department may:

(a) impose a civil fine of up to $500 per violation;

(b) seek a temporary restraining order;

(c) seek an injunction;

(d) seek an order of seizure or condemnation for an animal that is the subject of the violation, if the department has identified a suitable animal care facility that accepts custody of the animal; or

(e) report the circumstances to law enforcement or a prosecutor.

(4) An action by the department under Subsection (3) may precede and does not preclude a criminal penalty or criminal prosecution under Section 76-9-301 or 76-9-301.9.

(5) The department shall deposit a fine imposed under Subsection (3) into the General Fund as a dedicated credit to be used by the department for enforcement of this section.

Section 2. Section 76-9-301.9 is enacted to read:

76-9-301.9. Animal care facilities -- Definitions -- Penalty.

(1) As used in this section:

(a) "Animal care facility" means an animal rescue, animal sanctuary, or animal shelter.

(b) "Animal rescue" means a person that:

(i) accepts companion animals for the purpose of finding a permanent home for each companion animal;

(ii) does not maintain a central facility for keeping companion animals; and

(iii) uses a system of temporarily fostering the companion animals in a private residence or boarding facility.

(c) "Animal sanctuary" means a nonprofit entity, other than a government entity, that:

(i) harbors companion animals; and

(ii) is used exclusively for the purpose of indefinitely caring for, rehabilitating, or housing companion animals.

(d)(i) "Animal shelter" means the same as that term is defined in Section 11-46-102.

(ii) "Animal shelter" does not include an animal rescue.

(e) "Boarding facility" means a facility where a companion animal is kept for the purpose of caring for the companion animal.

(f) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(g) "Facility" means a location other than a private residence.

(2) For a dog in an animal care facility's possession, the animal care facility shall ensure that:

(a) a female dog does not produce more than one litter in any twelve-month period, unless a licensed veterinarian has examined the female dog and has determined that it is safe for the dog to produce more than one litter in a twelve-month period; and

(b) a dog under eight weeks of age or a dog not properly weaned is not sold.

(3) An animal care facility shall keep records:

(a) identifying, to the best of the animal care facility's knowledge, an animal's owner at the time the animal care facility acquires the animal; and

(b) documenting dangerous behaviors, if any, heath conditions, and medical care for an animal in the animal care facility's possession.

(4)(a) An animal care facility's violation of a requirement described in this section is an infraction subject to a fine of $750.

(b) A prosecution under this section does not preclude a prosecution for any other criminal offense.

(5) It is a defense to the penalty imposed under this section that the conduct of the actor toward the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(6) This section does not prohibit the use of animals in lawful training.

(7) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement or the Department of Agriculture and Food in accordance with Section 4-2-903 may not be held civilly liable for making the report.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 83
H. B. 493
Passed February 28, 2024
Approved March 12, 2024
Effective May 1, 2024

CONCURRENT ENROLLMENT PARTICIPATION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions of the concurrent enrollment program.

Highlighted Provisions:

This bill:

- defines terms;
- requires a local education agency to, under certain circumstances, contract with an eligible institution that offers an online concurrent enrollment course;
- provides additional reporting requirements related to the right of first refusal; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-301, as last amended by Laws of Utah 2021, Chapter 379
53E-10-302, as last amended by Laws of Utah 2023, Chapter 172
53E-10-303, as last amended by Laws of Utah 2023, Chapter 172
53E-10-305, as last amended by Laws of Utah 2020, Chapters 220, 365
53E-10-308, as last amended by Laws of Utah 2020, Chapter 365

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

Section 1. Section 53E-10-301 is amended to read:

53E-10-301. Definitions.

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible institution" means:

(a) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Section 53B-1-102; or

(b) a degree-granting institution of higher education or a technical college within the state system of higher education, as identified in Section 53B-1-102, that offers an online concurrent enrollment course.

[~~(4)~~](5) "Eligible instructor" means an instructor who meets the requirements described in [~~Subsection 53E-10-302(6)~~]Section 53E-10-302.

[~~(5)~~](6) "Eligible student" means a student who:

(a)(i) is enrolled in, and counted in average daily membership in, a public school within the state; or

(ii) is in the custody of the Division of Juvenile Justice Services and subject to the jurisdiction of the Youth Parole Authority;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

[~~(6) "Institution of higher education" means an institution described in Subsection 53B-1-102(1)(a).~~]

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-10-302 is amended to read:

53E-10-302. Concurrent enrollment program.

(1) The state board and the Utah Board of Higher Education shall establish and maintain a concurrent enrollment program that:

(a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:

(i) toward high school graduation; and

(ii) at an eligible institution [~~of higher education~~];

(b) includes only a course that:

(i) leads to a degree or certificate offered by an eligible institution [~~of higher education~~]; and

(ii) is one of the following:

(A) a general education course;

(B) a career and technical education course;

(C) a pre-major college level course;

(D) a foreign language concurrent enrollment course described in Section 53E-10-307; or

(E) an upper divisions course that the Utah Board of Higher Education approves under Subsection (3);

(c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and

(d) is designed and implemented to take full advantage of the most current available education technology.

(2) The state board and the Utah Board of Higher Education shall coordinate to:

(a) establish a concurrent enrollment course approval process that ensures:

(i) credit awarded for concurrent enrollment is consistent and transferable to all eligible institutions [~~of higher education~~]; and

(ii) learning outcomes for a concurrent enrollment course align with:

(A) core standards for Utah public schools adopted by the state board; and

(B) except for a foreign language concurrent enrollment course described in Section 53E-10-307 or an upper division course that the Utah Board of Higher Education approves under Subsection (3), an eligible institution [~~of higher education~~]lower division course numbered at or above the 1000 level; and

(b) provide advising to an eligible student, including information on:

(i) general education requirements at eligible institutions [~~of higher education~~]; and

(ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.

(3) The Utah Board of Higher Education, after consulting with the state board, shall annually approve a prioritized list of upper division courses for which an eligible institution [~~of higher education~~]may use concurrent enrollment money.

(4) After consultation with eligible institution [~~of higher education~~]concurrent enrollment directors, the Utah Board of Higher Education shall:

(a) provide guidelines to an eligible institution [~~of higher education~~]for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and

(b) establish a policy that:

(i) determines which concurrent enrollment courses are career and technical education courses; and

(ii) creates a process for:

(A) an LEA to appeal an [~~institution of higher education's~~]eligible institution's decision under Subsection (7) if the eligible institution [~~of higher education~~]does not approve an LEA employee as an eligible instructor; and

(B) an LEA or eligible institution [~~of higher education~~]to determine whether an eligible instructor who previously taught a concurrent enrollment course is no longer qualified to teach the concurrent enrollment course.

(5) To qualify for funds under Section 53F-2-409, an LEA and an eligible institution [~~of higher education~~]shall:

(a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);

(b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;

(c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (4)(a);

(d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and

(e) coordinate advising to eligible students.

(6)(a) An eligible institution [~~of higher education~~] faculty member is an eligible instructor.

(b) An LEA employee is an eligible instructor if the LEA employee:

(i) is licensed under Chapter 6, Education Professional Licensure;

(ii) is supervised by an eligible institution [~~of higher education~~]; and

(iii)(A) as described in Subsection (7), is approved as an eligible instructor by the eligible institution [~~of higher education~~]that provides the concurrent enrollment course taught by the LEA employee;

(B) has an upper level mathematics credential issued by the state board;

(C) is approved as adjunct faculty by the eligible institution [~~of higher education~~]that provides the

concurrent enrollment course taught by the LEA employee; or

(D) teaches a concurrent enrollment course that the LEA employee taught during the 2018 - 2019 or 2019 - 2020 school year.

(7) An eligible institution [~~of higher education~~] shall approve an LEA employee as an eligible instructor:

(a) for a career and technical education concurrent enrollment course, if the LEA employee has:

(i) a degree, certificate, or industry certification in the concurrent enrollment course's academic field; or

(ii) qualifying experience, as determined by the eligible institution [~~of higher education~~]; or

(b) for a concurrent enrollment course other than a career and technical education course, if the LEA employee has:

(i) a master's degree or higher in the concurrent enrollment course's academic field;

(ii)(A) a master's degree or higher in any academic field; and

(B) at least 18 completed credit hours of graduate course work in an academic field that is relevant to the concurrent enrollment course; or

(iii) qualifying experience as defined in Section 53E-10-301, including:

(A) the number of years of teaching experience;

(B) student performance on qualifying test scores or AP exams on courses that the LEA employee teaches;

(C) continuing education in a master's degree or higher in any academic field; or

(D) other criteria established by the eligible institution [~~of higher education~~].

(8) An eligible institution [~~of higher education~~]shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the eligible institution [~~of higher education~~].

Section 3. Section 53E-10-303 is amended to read:

53E-10-303. Designated institution of higher education -- Concurrent enrollment course right of first refusal.

(1) As used in this section, "designated institution of higher education" means an eligible institution [~~of higher education~~], as that term is defined in Section 53E-10-301, that is designated by the Utah Board of Higher Education to provide a course or program of study within a specific geographic region.

(2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.

(3) Except as provided in Subsection (4) or (5), if the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.

(4) An LEA [~~may~~]shall contract with an eligible institution [~~of higher education~~]that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:

(a) chooses not to offer the concurrent enrollment course proposed by the LEA;

(b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education;

(c) uses instructional materials in a course that are sensitive materials, as defined in Section 53G-10-103, or that are materials otherwise prohibited by state law or state board rule for use in kindergarten through grade 12; or

(d)(i) reaches the [~~institution of higher education's~~]eligible institution's enrolled student capacity for the concurrent enrollment course; and

(ii) prohibits an LEA with an eligible instructor, as described in Section 53E-10-302, from expanding the concurrent enrollment course to eligible students.

(5) For a student who wants to enroll in an existing concurrent enrollment course that is not offered online by an LEA's designated institution of higher education, the LEA shall contract with any eligible institution that offers the online concurrent enrollment course.

Section 4. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2)(a) The Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3)(a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application

fee requirement for a full-time or part-time student at an institution of higher education.

(4)(a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than $30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) $5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) $10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in [~~Subsection 53E-10-302(6)(b)~~]Section 53E-10-302; or

(iii) $15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.

Section 5. Section 53E-10-308 is amended to read:

53E-10-308. Reporting.

The state board and the Utah Board of Higher Education shall submit an annual written report to the Higher Education Appropriations Subcommittee and in accordance with Section 53E-1-203 on student participation in the concurrent enrollment program, including:

(1) data on the [~~higher~~]education tuition not charged due to the hours of [~~higher~~]education credit granted through concurrent enrollment;

(2) tuition or fees charged under Section 53E-10-305;

(3) an accounting of the money appropriated for concurrent enrollment; and

(4) a justification of the distribution method described in [~~Subsections 53F-2-409(3)(d) and (e)~~]Section 53F-2-409.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 84
H. B. 496
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

PUBLIC LAND USE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill changes provisions relating to public land use in the state.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Public Lands Policy Coordinating Office to recognize and promote principles of multiple use and sustained yield on federal public lands within the state; and
- prohibits natural asset companies from purchasing or leasing state public lands.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-11-302, as enacted by Laws of Utah 2021, Chapter 382
63L-13-101, as enacted by Laws of Utah 2023, Chapter 61

ENACTS:

63L-13-203, Utah Code Annotated 1953

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

Section 1. Section 63L-11-302 is amended to read:

63L-11-302. Principles to be recognized and promoted.

The office shall recognize and promote the following principles when preparing any policies, plans, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands under Section 63L-11-301:

(1)(a) the citizens of the state are best served by applying multiple-use and sustained-yield principles in public land use planning and management; and

(b) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions that:

(i) achieve and maintain in perpetuity a high-level annual or regular periodic output of mineral and various renewable resources from public lands;

(ii) support valid existing transportation, mineral, and grazing privileges at the highest reasonably sustainable levels;

(iii) support the specific plans, programs, processes, and policies of state agencies and local governments;

(iv) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion without permanent impairment of the productivity of the land;

(v) meet the recreational needs and the personal and business-related transportation needs of the citizens of the state by providing access throughout the state;

(vi) meet the recreational needs of the citizens of the state;

(vii) meet the needs of wildlife;

(viii) provide for the preservation of cultural resources, both historical and archaeological;

(ix) meet the needs of economic development;

(x) meet the needs of community development; and

(xi) provide for the protection of water rights;

(2) managing public lands for wilderness characteristics circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management standard that applies to all Bureau of Land Management and United States. Forest Service lands that are not wilderness areas or wilderness study areas;

(3) all waters of the state are:

(a) owned exclusively by the state in trust for the state's citizens;

(b) are subject to appropriation for beneficial use; and

(c) are essential to the future prosperity of the state and the quality of life within the state;

(4) the state has the right to develop and use the state's entitlement to interstate rivers;

(5) all water rights desired by the federal government must be obtained through the state water appropriation system;

(6) land management and resource-use decisions which affect federal lands should give priority to and support the purposes of the compact between the state and the United States related to school and institutional trust lands;

(7) development of the solid, fluid, and gaseous mineral resources of the state is an important part of the economy of the state, and of local regions within the state;

(8) the state should foster and support industries that take advantage of the state's outstanding opportunities for outdoor recreation;

(9) wildlife constitutes an important resource and provides recreational and economic opportunities for the state's citizens;

(10) proper stewardship of the land and natural resources is necessary to ensure the health of the watersheds, timber, forage, and wildlife resources to provide for a continuous supply of resources for the people of the state and the people of the local communities who depend on these resources for a sustainable economy;

(11) forests, rangelands, timber, and other vegetative resources:

(a) provide forage for livestock;

(b) provide forage and habitat for wildlife;

(c) provide resources for the state's timber and logging industries;

(d) contribute to the state's economic stability and growth; and

(e) are important for a wide variety of recreational pursuits;

(12) management programs and initiatives that improve watersheds and forests and increase forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural industries by utilizing proven techniques and tools are vital to the state's economy and the quality of life in the state; and

(13)(a) land management plans, programs, and initiatives should provide that the amount of domestic livestock forage, expressed in animal unit months, for permitted, active use as well as the wildlife forage included in that amount, be no less than the maximum number of animal unit months sustainable by range conditions in grazing allotments and districts, based on an on-the-ground and scientific analysis;

(b) the state opposes the relinquishment or retirement of grazing animal unit months in favor of conservation, wildlife, and other uses;

(c) the state supports the multiple-use, sustained-yield framework required by federal law for management of public lands and opposes federal prioritization of conservation as a use equal to other productive uses of public lands;

[~~(c)~~](d)(i) the state favors the best management practices that are jointly sponsored by cattlemen, sportsmen, and wildlife management groups such as chaining, logging, seeding, burning, and other direct soil and vegetation prescriptions that are demonstrated to restore forest and rangeland health, increase forage, and improve watersheds in grazing districts and allotments for the benefit of domestic livestock and wildlife;

(ii) when practices described in Subsection [~~(13)(c)(i)~~](13)(d)(i) increase a grazing allotment's forage beyond the total permitted forage use that was allocated to that allotment in the last federal land use plan or allotment management plan still in existence as of January 1, 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced committee of livestock and wildlife representatives that is appointed and constituted by the governor for that purpose; and

(iii) the state favors quickly and effectively adjusting wildlife population goals and population census numbers in response to variations in the amount of available forage caused by drought or other climatic adjustments, and state agencies responsible for managing wildlife population goals and population census numbers will, when making those adjustments, give due regard to both the needs of the livestock industry and the need to prevent the decline of species to a point of listing under the terms of the Endangered Species Act;

[~~(d)~~](e) the state opposes the transfer of grazing animal unit months to wildlife for supposed reasons of rangeland health;

[~~(e)~~](f) reductions in domestic livestock animal unit months must be temporary and scientifically based upon rangeland conditions;

[~~(f)~~](g) policies, plans, programs, initiatives, resource management plans, and forest plans may not allow the placement of grazing animal unit months in a suspended use category unless there is a rational and scientific determination that the condition of the rangeland allotment or district in question will not sustain the animal unit months sought to be placed in suspended use;

[~~(g)~~](h) any grazing animal unit months that are placed in a suspended use category should be returned to active use when range conditions improve;

[~~(h)~~](i) policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses; and

[~~(i)~~](j) in established grazing districts, animal unit months that have been reduced due to rangeland health concerns should be restored to livestock when rangeland conditions improve, and should not be converted to wildlife use.

Section 2. Section 63L-13-101 is amended to read:

63L-13-101. Definitions.

As used in this chapter:

(1)(a) "Conservation lease" means a lease on a parcel of public land that:

(i) restricts the use of the parcel for the sole or primary purpose of preserving or protecting the land or the land's natural resources;

(ii) prohibits the extraction of the land's natural resources; or

(iii) is managed according to an agreement that contradicts the principles of multiple use and sustained yield, including the multiple-use, sustained-yield principles in the Federal Land Policy and Management Act, 43 U.S.C. Sec. 1732, and the National Forest Management Act, 16 U.S.C. Sec. 1604.

(b) "Conservation lease" includes a lease that is wholly or partially similar to a lease described in Subsection (1)(a).

(c) "Conservation lease" does not include a conservation easement, as that term is defined in Section 57-18-2.

(2)(a) "Ecosystem services" mean the natural and biological processes on a parcel of land that benefit human well-being and quality of life.

(b) "Ecosystem services" include the:

(i) conversion of carbon dioxide to oxygen in plants through photosynthesis;

(ii) purification of in-stream surface water or groundwater by naturally-occurring microorganisms, soil or bedrock percolation, or chemical detoxification; and

(iii) noncommercial recreational benefit of natural lands.

[~~(1)~~](3) "Interest in land" means any right, title, lien, claim, interest, or estate with respect to land.

[~~(2)~~](4)(a) "Land" means all real property within the state.

(b) "Land" includes:

(i) agricultural land, as defined in Section 4-46-102;

(ii) land owned or controlled by a political subdivision;

(iii) land owned or controlled by a school district;

(iv) non-federal land, as defined in Section 9-9-402;

(v) private land;

(vi) public land;

(vii) state land, as defined in Subsection 9-9-402(14)(a);

(viii) waters of the state, as defined in Subsection 19-5-102(23)(a); and

(ix) subsurface land.

(c) "Land" does not include real property that is owned, controlled, or held in trust by the federal government.

(5)(a) "Natural asset company" means a company that has the meaning given under the notice of the Securities and Exchange Commission titled Notice of Filing of Proposed Rule Change To Amend the NYSE Listed Company Manual To Adopt Listing Standards for Natural Asset Companies, 88 Fed. Reg. 68811, published October 4, 2023.

(b) "Natural asset company" includes a company that is substantially similar to a company described in Subsection (5)(a).

[~~(3)~~](6) "Restricted foreign entity" means:

(a) a company that the United States Secretary of Defense is required to identify and report as a military company under Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283;

(b) an affiliate, subsidiary, or holding company of a company described in Subsection [~~(3)(a)~~](6)(a);

(c) a country with a commercial or defense industrial base of which a company described in Subsection [~~(3)(a)~~](6)(a) or (b) is a part;

(d) a state, province, region, prefecture, subdivision, or municipality of a country described in Subsection [~~(3)(c)~~](6)(c); and

(e) an agency, bureau, committee, or department of a country described in Subsection [~~(3)(c)~~](6)(c).

Section 3. Section 63L-13-203 is enacted to read:

63L-13-203. Natural asset companies prohibited.

(1) A natural asset company may not purchase or lease state public lands.

(2) On public lands within the state, a natural asset company may not:

(a) own or manage a conservation lease; or

(b) purchase or lease ecosystem services.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 85
H. B. 497
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

SCHOOL CONSTRUCTION AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions on the school plant capital outlay report.

Highlighted Provisions:

This bill:

- removes a school district or charter school annual school plant capital outlay reporting requirement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-705, as last amended by Laws of Utah 2021, Chapter 84

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

Section 1. Section 53E-3-705 is amended to read:

53E-3-705. School plant capital outlay report.

[~~(1)~~] The state board shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.

[~~(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report to the state auditor on or before a date designated by the state auditor.~~]

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 86
H. B. 499
Passed February 29, 2024
Approved March 12, 2024
Effective May 1, 2024

EDUCATION REPORTING AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill makes changes regarding training and reporting requirements for LEAs.

Highlighted Provisions:

This bill:

- modifies the required frequency of certain trainings; and
- extends certain due dates for required reporting.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-2-202, as repealed and reenacted by Laws of Utah 2019, Chapter 324
53F-7-203, as last amended by Laws of Utah 2023, Chapter 348
53G-9-207, as last amended by Laws of Utah 2022, Chapter 335
53G-9-213, as enacted by Laws of Utah 2022, Chapter 227
53G-9-505, as last amended by Laws of Utah 2019, Chapters 293, 349
53G-9-704, as last amended by Laws of Utah 2020, Chapter 408
63J-1-602, as last amended by Laws of Utah 2023, Chapter 409
63J-1-903, as last amended by Laws of Utah 2023, Chapters 24, 409

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

Section 1. Section 53E-2-202 is amended to read:

53E-2-202. Planning for Utah's public education system.

The state board shall:

(1) create, maintain, and review on a regular basis a statewide, comprehensive multi-year strategic plan that includes long-term goals for improved student outcomes; and

(2) report annually to the Education Interim Committee on or before [~~the committee's November meeting~~]December 15 on the strategic plan described in Subsection (1), including progress toward achieving long-term goals.

Section 2. Section 53F-7-203 is amended to read:

53F-7-203. Paid professional hours for educators.

(1) Subject to legislative appropriations, the state board shall provide funding to each LEA to provide additional paid professional hours to the following educators in accordance with this section:

(a) general education and special education teachers;

(b) counselors;

(c) school administration;

(d) school specialists;

(e) student support;

(f) school psychologists;

(g) speech language pathologists; and

(h) audiologists.

(2) The state board shall distribute funds appropriated to the state board under Subsection 53F-9-204(6) to each LEA in proportion to the number of educators described in Subsection (1) within the LEA.

(3) An LEA shall use funding under this section to provide paid professional hours that:

(a) provide educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and

(b) may include activities that:

(i) improve and increase an educator's:

(A) knowledge of the academic subjects the educator teaches;

(B) time to plan and prepare daily lessons based on student needs;

(C) understanding of how students learn; and

(D) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on the analysis;

(ii) are an integral part of broad school-wide and LEA-wide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) advance educator understanding of:

(A) effective and evidence-based instructional strategies; and

(B) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of educators;

(v) are aligned with, and directly related to, academic goals of the school or LEA; and

(vi) include instruction in the use of data and assessments to inform and instruct classroom practice.

(4)(a) An educator shall:

(i) on or before [~~the fifth day of instruction in a given school year~~]September 30, create a plan, in consultation with the educator's principal, on how the educator plans to use paid professional hours provided under this section during the school year; and

(ii) before the end of a given school year, provide a written statement to the educator's principal of how the educator used paid professional hours provided under this section during the school year.

(b)(i) Subsection (4)(a)(i) does not limit an educator who begins employment after [~~the fifth day of instruction in a given year~~]September 30 from receiving paid professional hours under this section.

(ii) An LEA may prorate the paid professional hours of an educator who begins employment after [~~the fifth day of instruction in a given year~~]September 30 according to the portion of the school year for which the LEA employs the educator.

Section 3. Section 53G-9-207 is amended to read:

53G-9-207. Child sexual abuse prevention.

(1) As used in this section, "school personnel" means the same as that term is defined in Section 53G-9-203.

(2) The state board shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3)(a) A school district or charter school shall provide, [~~every other year~~]once every three years, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;

(B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and

(C) the mandatory reporting requirements described in Sections 53E-6-701 and 80-2-602; and

(ii) parents of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction to school personnel and parents under Subsection (3)(a).

(4)(a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.

(b) A school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5)(a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the state board, a school district or charter school shall provide evidence of compliance with this section.

Section 4. Section 53G-9-213 is amended to read:

53G-9-213. Seizure awareness.

(1)(a) Beginning with the 2022-23 school year, an LEA shall provide, as described in Subsection (1)(b) and subject to Subsection (3), training to:

(i) a teacher who teaches a student who has informed the student's school or teacher that the student has epilepsy or a similar seizure disorder; and

(ii) an administrator at the school where the student described in Subsection (1)(a)(i) attends.

(b) The training shall:

(i) be offered [~~every two~~]once every three years; and

(ii) include:

(A) recognizing signs and symptoms of seizures; and

(B) appropriate steps for seizure first aid.

(2) Beginning with the 2023-24 school year, an LEA shall provide, as described in Subsection (1)(b) and subject to Subsection (3), training to administrators, teachers, classroom aides, and other individuals who interact with or supervise students.

(3)(a) The state board shall adopt guidelines for the training described in Subsections (1)(a) and (2).

(b) The guidelines shall be consistent with programs and guidelines developed by the Epilepsy Foundation of America or another national nonprofit organization that supports individuals with epilepsy and seizure disorders.

(4) A training offered under this section may not require a person to provide first aid to a student experiencing or showing symptoms of a seizure.

Section 5. Section 53G-9-505 is amended to read:

53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) "Seizure rescue authorization" means a student's Section 504 accommodation plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(c)(i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(d) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2)(a) The Department of Health and Human Services shall, with input from the state board and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student's parent;

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed heath care professional.

(3)(a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10)(a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 6. Section 53G-9-704 is amended to read:

53G-9-704. Youth suicide prevention training for employees.

(1) A school district or charter school shall require a licensed employee to complete [~~a minimum of two hours of~~] professional development training on youth suicide prevention every three years.

(2) The state board shall:

(a) develop or adopt sample materials to be used by a school district or charter school for professional development training on youth suicide prevention; and

(b) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, incorporate the training described in Subsection (1) into professional development training described in Section 53E-6-201.

Section 7. Section 63J-1-602 is amended to read:

63J-1-602. Nonlapsing appropriations.

(1) The appropriations from a fund or account and appropriations to a program that are listed in Section 63J-1-602.1 or 63J-1-602.2 are nonlapsing.

(2) No appropriation from a fund or account or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Section 63J-1-602.1 or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.

(3) Each legislative appropriations subcommittee shall review the accounts and funds that have been granted nonlapsing authority under the provisions of this section or Section 63J-1-603.

(4) [~~On~~]Except as provided in Subsection (5), on or before October 1 of each calendar year, an agency shall submit to the legislative appropriations subcommittee with jurisdiction over the agency's budget a report that describes the agency's plan to expend any nonlapsing appropriations, including:

(a) if applicable, the results of the prior year's planned use of the agency's nonlapsing appropriations; and

(b) if the agency plans to save all or a portion of the agency's nonlapsing appropriations over multiple years to pay for an anticipated expense:

(i) the estimated cost of the expense; and

(ii) the number of years until the agency will accumulate the amount required to pay for the expense.

(5) The State Board of Education shall submit the report described in Subsections (4)(a) and (b) on or before October 10 of each calendar year.

Section 8. Section 63J-1-903 is amended to read:

63J-1-903. Performance measure and funding item reporting.

(1) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may develop an information system to collect, track, and publish agency performance measures.

(2) [~~Each~~]Except as provided in Subsection (3), each executive department agency shall:

(a) in consultation with the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, develop performance measures to include in an appropriations act for each fiscal year; and

(b) on or before August 15 of each calendar year, provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures or targets; and

(ii) a report of the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(3) The State Board of Education and the Utah Board of Higher Education shall comply with the requirements in Subsections (2)(a) and (b) on or before November 1 of each calendar year.

[~~(3)~~](4) Each judicial department agency shall:

(a) develop performance measures to include in an appropriations act for each fiscal year; and

(b) annually submit to the Office of the Legislative Fiscal Analyst a report that contains:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

[~~(4)~~](5) Within 21 days after the day on which the Legislature adjourns a legislative session sine die, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall:

(a) create a list of funding items passed during the legislative session;

(b) from the list described in Subsection [~~(4)(a)~~](5)(a), identify in a sublist each funding item that increases state funding by $500,000 or more from state funds; and

(c) provide the lists described in this subsection to each executive department agency.

[~~(5)~~](6) [~~Each~~]Except as provided in Subsection (6), each executive department agency shall provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(a) for each funding item on the list described in Subsection [~~(4)(b)~~](5)(b), within 60 days after the day on which the Legislature adjourns a legislative session sine die:

(i) one or more proposed performance measures; and

(ii) a target for each performance measure described in Subsection [~~(5)(a)(i)~~](6)(a)(i); and

(b) for each funding item on the list described in Subsection [~~(4)(a)~~](5)(a), on or before August 15 of each year after the close of the fiscal year in which the funding item was first funded, a report that includes:

(i) the status of each performance measure relative to the measure's target as described in Subsection [~~(5)(a)~~](6)(a), if applicable;

(ii) the actual amount the agency spent, if any, on the funding item; and

(iii)(A) the month and year in which the agency implemented the program or project associated with the funding item; or

(B) if the program or project associated with the funding item is not fully implemented, the month and year in which the agency anticipates fully implementing the program or project associated with the funding item.

(7) The State Board of Education and the Utah Board of Higher Education shall comply with Subsection (5)(b) on or before November 1 of each calendar year.

[~~(6)~~](8)(a) After an executive department agency provides proposed performance measures in accordance with Subsection [~~(5)(a)~~](6)(a), the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall review the proposed performance measures and, if necessary, coordinate with the executive department agency to modify and finalize the performance measures.

(b) The Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the executive department agency shall finalize each proposed performance measure before July 1.

[~~(7)~~](9) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may jointly request that an executive department agency provide the report required under Subsection [~~(5)(b)~~](6)(b) in a different fiscal year than the fiscal year in which the funding item was first funded or in multiple fiscal years.

[~~(8)~~](10) The Governor's Office of Planning and Budget shall:

(a) review at least 20% of the performance measures described in Subsection (2) annually; and

(b) ensure that the Governor's Office of Planning and Budget reviews each performance measure described in Subsection (2) at least once every five years.

[~~(9)~~](11) The Office of the Legislative Fiscal Analyst shall review the performance measures described in Subsection (2) on a schedule that aligns with the appropriations subcommittee's applicable accountable budget process described in legislative rule.

[~~(10)~~](12)(a) The Office of the Legislative Fiscal Analyst shall report the relevant performance measure information described in this section to the Executive Appropriations Committee and the appropriations subcommittees, as appropriate.

(b) The Governor's Office of Planning and Budget shall report the relevant performance measure information described in this section to the governor.

[~~(11)~~](13) Each executive department agency, when the agency's budget is subject to a legislative appropriations subcommittee's accountable budget process, shall:

(a) conduct a thorough evaluation of the agency's performance measures, internal budget process, and budget controls; and

(b) submit the results of the evaluation to the legislative appropriations subcommittee.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 87
H. B. 502
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

CRITICAL INFRASTRUCTURE AND MINING

Chief Sponsor: Casey Snider
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses issues related to critical infrastructure materials and mining.

Highlighted Provisions:

This bill:

- defines terms;
- requires a study by the Division of Oil, Gas, and Mining (division) of critical infrastructure materials operations and related mining;
- outlines who the division shall cooperate with in conducting the study;
- requires reporting;
- provides a sunset date; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Natural Resources - Oil, Gas, and Mining - Minerals Reclamation as a one-time appropriation:
  - from the General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-time, $500,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-217, as last amended by Laws of Utah 2023, Chapter 96

ENACTS:

17-41-102, Utah Code Annotated 1953

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

Section 1. Section 17-41-102 is enacted to read:

17-41-102. Study of critical infrastructure materials operations and related mining.

(1) As used in this section:

(a) "Association of governments" means an association of political subdivisions established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.

(c) "Related mining" means a mining use related to the critical infrastructure materials operations industry.

(d) "Relevant area" means the area included within the boundaries of:

(i) a county of the first, second, or third class;

(ii) a metropolitan planning organization; or

(iii) an association of governments that has as a member a county of the first, second, or third class.

(2) The division shall conduct a study of critical infrastructure materials operations and related mining that includes:

(a) an inventory of critical infrastructure materials operations and related mining within the relevant area as of the effective date of this bill, to include:

(i) both the number and location of critical infrastructure materials operations;

(ii) levels of production; and

(iii) the extent to which the critical infrastructure materials meet standards used by the Department of Transportation;

(b) an inventory of new critical infrastructure materials operations and related mining that may be created by either the establishment of critical infrastructure materials operations or related mining on or after the effective date of this bill, or the expansion of existing critical infrastructure materials operations or related mining on or after the effective date of this bill taking into consideration:

(i) zoning; and

(ii) supply in the market;

(c) an assessment of projected future demand for critical infrastructure materials within the relevant area, including:

(i) the effects of residential and commercial development; and

(ii) known planned projects, such as transportation projects;

(d) an analysis of the financial costs related to transporting and distributing critical infrastructure materials to and from the relevant area;

(e) an analysis of the impacts of critical infrastructure materials operations and related mining on local infrastructure within the relevant area and possible mitigation of those impacts;

(f) an analysis of the regulatory requirements faced by critical infrastructure materials operations;

(g) the study of whether critical infrastructure materials operations should be licensed, permitted, or otherwise authorized or regulated by the division, another state agency, or local government; and

(h) any other issue the division finds relevant to the study of critical infrastructure materials operations and related mining.

(3) In conducting the study, the division shall work cooperatively with:

(a) the Utah League of Cities and Towns;

(b) the Utah Association of Counties;

(c) the Department of Transportation;

(d) the critical infrastructure materials industry;

(e) the related mining industry;

(f) the real estate development industry;

(g) the home builders industry;

(h) a local metropolitan planning organization;

(i) at least two representatives from counties of the first, second, or third class; and

(j) at least two representatives from municipalities located within a county of the first, second, or third class.

(4) The division shall complete the initial findings of the study required by this section by no later than November 1, 2024, and report the division's initial findings to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2024 interim meeting of that committee.

(5) The division shall complete the study required by this section and report the division's findings to the Legislature by no later than the first day of the 2025 legislative annual general session.

(6) Notwithstanding other provisions of this section, the division may not include in the division's study any critical infrastructure materials resources within the relevant area if those critical infrastructure materials resources are only extracted for use within an existing mining operation and not offered for sale to the public.

Section 2. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Title 17.

(1) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

(2) In relation to Section 17-31-2, on July 1, 2023:

(a) Subsection 17-31-2(1)(g), which defines "economic diversification activity," is repealed;

(b) Subsection 17-31-2(2)(a)(iii), relating to establishing and promoting an economic diversification activity, is repealed;

(c) Subsection 17-31-2(7)(b)(i) is amended to read:

"(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:"; and

(d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue for an economic diversification activity, is repealed.

(3) Subsection 17-31-5.5(2)(a)(i)(E), relating to economic diversification activity, is repealed July 1, 2023.

(4) Section 17-41-102, requiring a study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.

Section 3. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 3(a) Operating and Capital Budgets

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

ITEM 1

To Department of Natural Resources - Oil, Gas, and Mining

From General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-time $500,000

Schedule of Programs:

Minerals Reclamation $500,000

Under the terms of Section 63J-1-603, the Legislature intends that the $500,000 one-time General Fund appropriation provided by this item for the study of critical infrastructure materials does not lapse at the close of FY 2024.

Section 4. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2024.

CHAPTER 88
H. B. 519
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

DEPARTMENT OF NATURAL RESOURCES MODIFICATIONS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Natural Resources.

Highlighted Provisions:

This bill:

- clarifies that the Species Protection Account is administered by the Division of Wildlife Resources;
- modifies requirements related to the off-highway vehicle safety education and training program;
- changes how the off-highway vehicle safety user fee is set and allows the Division of Outdoor Recreation to collect an electronic payment fee;
- repeals a provision related to actions brought to a district court challenging a groundwater management plan;
- repeals a requirement that the Board of Water Resources establish a benefit to cost ratio for certain water projects;
- repeals the definition of "species protection";
- repeals a provision requiring the Utah Geological Survey to seek federal funds and administer federally funded state programs related to energy;
- modifies provisions related to mineral lease money being deposited into a restricted account used by the Utah Geological Survey;
- modifies provisions related to the director of the Office of Energy Development and removes references to energy advisor;
- clarifies the status of an employee of the Office of Energy Development;
- repeals a requirement that 10% of certain expenditures by the Board of Water Resources be allocated for credit enhancement and interest buy-down agreements;
- clarifies that the Division of Outdoor Recreation has duties related to a contingency plan for federal property during a fiscal emergency;
- repeals outdated language, including appropriation language; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

41-22-31, as repealed and reenacted by Laws of Utah 2023, Chapter 11
41-22-35, as last amended by Laws of Utah 2022, Chapters 68, 143
51-9-306, as last amended by Laws of Utah 2023, Chapter 526
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471
59-21-2, as last amended by Laws of Utah 2023, Chapter 217
59-23-4, as last amended by Laws of Utah 2018, Chapter 413
63J-1-602.1, as last amended by Laws of Utah 2023, Chapters 26, 33, 34, 194, 212, 330, 419, 434, 448, and 534
73-5-15, as last amended by Laws of Utah 2023, Chapters 16, 230
73-10-27, as last amended by Laws of Utah 2012, Chapter 347
79-2-102, as last amended by Laws of Utah 2023, Chapter 34
79-2-406, as enacted by Laws of Utah 2022, Chapter 216
79-3-202, as last amended by Laws of Utah 2022, Chapter 216
79-3-403, as enacted by Laws of Utah 2021, Chapter 401
79-6-102, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-106, as enacted by Laws of Utah 2023, Chapter 233
79-6-401, as last amended by Laws of Utah 2023, Chapter 196
79-6-901, as renumbered and amended by Laws of Utah 2022, Chapter 44
79-6-902, as renumbered and amended by Laws of Utah 2022, Chapter 44

ENACTS:

41-22-35.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

79-2-303, (Renumbered from 79-2-303, as renumbered and amended by Laws of Utah 2009, Chapter 344)
79-6-202, (Renumbered from 79-6-202, as renumbered and amended by Laws of Utah 2021, Chapter 280)
79-6-203, (Renumbered from 79-6-203, as renumbered and amended by Laws of Utah 2021, Chapter 280)
79-4-1102, (Renumbered from 79-4-1102, as enacted by Laws of Utah 2014, Chapter 313)
79-4-1103, (Renumbered from 79-4-1103, as last amended by Laws of Utah 2022, Chapter 68)

REPEALS:

40-6-22, as last amended by Laws of Utah 2022, Chapter 443
73-10-12, Utah Code Annotated 1953
73-10-13, as enacted by Laws of Utah 1963, Chapter 199
73-10-31, as enacted by Laws of Utah 1996, Chapter 199
79-4-1101, as enacted by Laws of Utah 2014, Chapter 313
79-6-201, as renumbered and amended by Laws of

Utah 2021, Chapter 280

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

Section 1. Section 23A-3-214, which is renumbered from Section 79-2-303 is renumbered and amended to read:

~~79-2-303~~. 23A-3-214. Species Protection Account.

(1) There is created within the General Fund a restricted account known as the Species Protection Account.

(2) The account shall consist of:

(a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23, Brine Shrimp Royalty Act; and

(b) interest earned on money in the account.

(3) Money in the account may be appropriated by the Legislature to:

(a) develop and implement species status assessments and species protection measures;

(b) obtain biological opinions of proposed species protection measures;

(c) conduct studies, investigations, and research into the effects of proposed species protection measures;

(d) verify species protection proposals that are not based on valid biological data;

(e) implement Great Salt Lake wetlands mitigation projects in connection with the western transportation corridor;

(f) pay for the state's voluntary contributions to the Utah Reclamation Mitigation and Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575, Titles II-VI, 106 Stat. 4605-4655; and

(g) pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine Shrimp Royalty Act.

(4) The purposes specified in Subsections (3)(a) through (3)(d) may be accomplished by the state or, in an appropriation act, the Legislature may authorize the department to award grants to political subdivisions of the state to accomplish those purposes.

(5) Money in the account may not be used to develop or implement a habitat conservation plan required under federal law unless the federal government pays for at least 1/3 of the habitat conservation plan costs.

Section 2. Section 41-22-31 is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.

(1)(a) The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, after notifying the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program as described in this section; and

(ii) implement the program.

(b)(i) The division shall design the program to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe and ethical operation of an off-highway vehicle.

(ii) Components of the program shall include:

(A) the preparation and dissemination of off-highway vehicle information and safety advice to the public;

(B) the training of off-highway vehicle operators;

(C) education concerning the importance of gates and fences used in agriculture and how to properly close a gate; and

(D) education concerning respectful, sustainable, and on-trail off-highway vehicle operation, and respect for communities affected by off-highway vehicle operation.

(iii) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program and described in Subsections (2) and (3).

(iv) The division shall ensure that an individual has the option to complete the program online.

(2) Except as provided in Subsection (4)(b), an individual under 18 years old may not operate an off-highway vehicle on public lands in this state unless the individual has completed the requirements of the program established in accordance with this section and rules made in accordance with Subsection (1) by completing:

(a) an in-person safety and skills course offered by the division; or

(b) a safety and skills course approved by the division that is offered online.

(3) Except as provided in Subsection [~~(4)~~](4)(a), an individual [~~that~~]who is 18 years old or older may not operate an off-highway vehicle on public lands in this state unless the individual has completed the requirements of the program established in accordance with this section and rules made in accordance with Subsection (1) by completing:

(a) a course described in Subsection (2); or

(b) a one-time course offered or approved by the division.

(4) The requirements described in this section do not apply to:

(a) an individual who is 18 years old or older operating:

(i) a snowmobile[~~ or~~];

(ii) an off-highway implement of husbandry; or

[~~(b)~~](iii) [~~an individual operating~~]an off-highway vehicle as part of a guided tour or a sanctioned off-highway vehicle event[~~.~~]; or

(b) an individual under 18 years old operating an off-highway implement of husbandry.

(5) A person may not rent an off-highway vehicle to an individual until the individual who will operate the off-highway vehicle presents a certificate of completion of the off-highway vehicle safety education and training program established in accordance with this section and rules made under Subsection (1).

(6) The division may cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(7) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

(8) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $150 per offense.

Section 3. Section 41-22-35 is amended to read:

41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.

(1)(a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee;

(iii) provide evidence that the owner is a nonresident; and

(iv) provide evidence of completion of the safety course and program described in Section [~~41-22-35~~]41-22-31.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the division, after notifying the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency;

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the division; or

(v) operated as part of a sanctioned off-highway vehicle event or part of an official tour by a person licensed as a off-highway vehicle tour guide in this state.

(2) [~~The off-highway vehicle user fee is $30.~~]The division may:

(a) after notifying the commission, set a resident and nonresident off-highway vehicle user fee in accordance with Section 63J-1-504; and

(b) collect an electronic payment fee in accordance with Section 41-22-35.5.

(3) Upon compliance with[~~the provisions of~~] Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the division.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules establishing:

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

(c) eligibility for scheduled competitive events or other events under Subsection (1)(b)(ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)(iv).

(5)(a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e)(i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited into the Off-highway Vehicle Account created in Section 41-22-19.

Section 4. Section 41-22-35.5 is enacted to read:

41-22-35.5. Electronic payment fee.

(1) As used in this section:

(a) "Electronic payment" means use of a form of payment processed through electronic means, including use of a credit card, debit card, or automatic clearinghouse transaction.

(b) "Electronic payment fee" means the fee assessed to defray:

(i) a charge, discount fee, or process fee charged by a processing agent to process an electronic payment, including a credit card company; or

(ii) costs associated with the purchase of equipment necessary for processing an electronic payment.

(2)(a) The division may impose and collect an electronic payment fee on an electronic payment related to an off-highway vehicle user fee.

(b) The division may charge an electronic payment fee under this section in an amount not to exceed 3% of the electronic payment.

(c) With regard to the electronic payment fee, the division is not required to separately identify the electronic payment fee from a fee imposed for an off-highway vehicle user fee.

(3) The division shall deposit the electronic payment fee into the Off-highway Vehicle Account described in Section 41-22-19.

Section 5. Section 51-9-306 is amended to read:

51-9-306. Deposit of certain severance tax revenue for specified state agencies.

(1) As used in this section:

(a) "Aggregate annual revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(b) "Aggregate annual mining revenue" means the aggregate annual revenue collected in a fiscal year from taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax, after subtracting the amounts required to be distributed under Section 51-9-305.

(c) "Aggregate annual oil and gas revenue" means the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax, after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119.

(d) "Average aggregate annual revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(e) "Average aggregate annual mining revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 2, Mining Severance Tax:

(i) after subtracting the amounts required to be distributed under Section 51-9-305; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(f) "Average aggregate annual oil and gas revenue" means the three-year rolling average of the aggregate annual revenue collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax:

(i) after subtracting the amounts required to be distributed under Sections 51-9-305, 59-5-116, and 59-5-119; and

(ii) ending in the fiscal year immediately preceding the fiscal year of a deposit required by this section.

(2) After making the deposits of oil and gas severance tax revenue as required under Sections 59-5-116 and 59-5-119 and making the credits under Section 51-9-305, for a fiscal year beginning on or after July 1, 2021, the State Tax Commission shall annually make the following deposits:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section

19-2a-106, the following average aggregate annual revenue:

(i) 2.75% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following average aggregate annual revenue:

(i) .4% of the first $50,000,000 of the average aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .08% of the average aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i)(A) 11.5% of the first $50,000,000 of the average aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual mining revenue; and

(C) 1% of the average aggregate annual mining revenue that exceeds $100,000,000; and

(ii)(A) 18% of the first $50,000,000 of the average aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the average aggregate annual oil and gas revenue; and

(C) 1% of the average aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey[~~, Oil, Gas, and Mining~~] Restricted Account, created in Section 79-3-403, the following average aggregate annual revenue:

(i) 2.5% of the first $50,000,000 of the average aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the average aggregate annual revenue; and

(iii) .5% of the average aggregate annual revenue that exceeds $100,000,000.

(3) If the money collected in a fiscal year from the taxes imposed under Title 59, Chapter 5, Severance Tax on Oil, Gas, and Mining, is insufficient to make the deposits required by Subsection (2), the State Tax Commission shall deposit money collected in the fiscal year as follows:

(a) to the Division of Air Quality Oil, Gas, and Mining Restricted Account, created in Section 19-2a-106, the following revenue:

(i) 2.75% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000;

(b) to the Division of Water Quality Oil, Gas, and Mining Restricted Account, created in Section 19-5-126, the following revenue:

(i) .4% of the first $50,000,000 of the aggregate annual revenue;

(ii) .15% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .08% of the aggregate annual revenue that exceeds $100,000,000;

(c) to the Division of Oil, Gas, and Mining Restricted Account, created in Section 40-6-23, the following:

(i)(A) 11.5% of the first $50,000,000 of the aggregate annual mining revenue;

(B) 3% of the next $50,000,000 of the aggregate annual mining revenue; and

(C) 1% of the aggregate annual mining revenue that exceeds $100,000,000; and

(ii)(A) 18% of the first $50,000,000 of the aggregate annual oil and gas revenue;

(B) 3% of the next $50,000,000 of the aggregate annual oil and gas revenue; and

(C) 1% of the aggregate annual oil and gas revenue that exceeds $100,000,000; and

(d) to the Utah Geological Survey[~~, Oil, Gas, and Mining~~] Restricted Account, created in Section 79-3-403, the following revenue:

(i) 2.5% of the first $50,000,000 of the aggregate annual revenue;

(ii) 1% of the next $50,000,000 of the aggregate annual revenue; and

(iii) .5% of the aggregate annual revenue that exceeds $100,000,000.

(4) The severance tax revenues deposited under this section into restricted accounts for the state agencies specified in Subsection (2) and appropriated from the restricted accounts offset and supplant General Fund appropriations used to pay the costs of programs or projects administered by the state agencies that are primarily related to oil, gas, and mining.

Section 6. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59- 12- 104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59- 12- 104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59- 12- 104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined

under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)(A) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not

separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the [~~Department of Natural Resources~~]Division of Wildlife Resources to:

(A) implement the measures described in [~~Subsections 79-2-303(3)(a)~~]Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in [~~Subsections 79-2-303(3)(a)~~] Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the [~~Department of Natural Resources~~]Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water

Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized

by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 7. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59- 12- 104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59- 12- 104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59- 12- 104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined

under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)(A) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer

software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the

effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the [~~Department of Natural Resources~~]Division of Wildlife Resources to:

(A) implement the measures described in [~~Subsections 79-2-303(3)(a)~~]Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in [~~Subsections 79-2-303(3)(a)~~] Subsections 23A-3-214(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the [~~Department of Natural Resources~~]Division of Wildlife Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources

Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining

difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the

Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 8. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1)(a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2)(a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey Restricted Account, created in Section 79-3-403, to be used by the Utah Geological Survey for activities carried on by the [~~survey~~]Utah Geological Survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h)(i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i)(i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A)(I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j)(i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks or the Division of Outdoor Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) $1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii)(A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks;

(II) the Division of Outdoor Recreation; or

(III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3)(a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section 9. Section 59-23-4 is amended to read:

59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing statement -- Deposit of revenue.

(1) A person shall pay for each tax year a brine shrimp royalty of 3.25 cents multiplied by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within the state during the tax year.

(2)(a) A person that harvests unprocessed brine shrimp eggs shall report to the [~~Department of Natural Resources~~]Division of Wildlife Resources the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year on or before the February 15 immediately following the last day of that tax year.

(b) The [~~Department of Natural Resources~~] Division of Wildlife Resources shall provide the following information to the commission on or before the March 1 immediately following the last day of a tax year:

(i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax year; and

(ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year; and

(B) a current billing address for that person; and

(iii) any additional information required by the commission.

(c)(i) The commission shall prepare and mail a billing statement to each person that harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following the last day of a tax year.

(ii) The billing statement under Subsection (2)(c)(i) shall specify:

(A) the total number of pounds of unprocessed brine shrimp eggs harvested by that person for that tax year;

(B) the brine shrimp royalty that the person owes; and

(C) the date that the brine shrimp royalty payment is due as provided in Section 59-23-5.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the information required under Subsection (2)(b)(iii).

(3) Revenue generated by the brine shrimp royalty shall be deposited as follows:

(a) $125,000 of the revenue generated by the brine shrimp royalty shall be deposited in the Sovereign Lands Management Account created in Section 65A-5-1; and

(b) the remainder of the revenue generated by the brine shrimp royalty shall be deposited in the Species Protection Account created in [~~Section 79-2-303~~]Section 23A-3-214.

Section 10. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(22) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(23) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(25) The License Plate Restricted Account created by Section 41-1a-122.

(26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

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

(28) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

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

(30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(31) The DNA Specimen Restricted Account created in Section 53-10-407.

(32) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(33) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

(38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

(42) The Relative Value Study Restricted Account created in Section 59-9-105.

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

(44) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(45) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(46) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(47) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(48) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(49) The Immigration Act Restricted Account created in Section 63G-12-103.

(50) Money received by the military installation development authority, as provided in Section 63H-1-504.

(51) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(52) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(53) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(54) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(55) The Motion Picture Incentive Account created in Section 63N-8-103.

(56) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(57) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(58) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(59) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(60) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(61) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

(62) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(63) Fees for certificate of admission created under Section 78A-9-102.

(64) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(65) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(66) The Utah Geological Survey[~~, Oil, Gas, and Mining~~] Restricted Account created in Section 79-3-403.

(67) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(68) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 11. Section 73-5-15 is amended to read:

73-5-15. Groundwater management plan.

(1) As used in this section:

(a) "Critical management area" means a groundwater basin in which the groundwater withdrawals consistently exceed the safe yield.

(b) "Safe yield" means the amount of groundwater that can be withdrawn from a groundwater basin over a period of time without exceeding the long-term recharge of the basin or unreasonably affecting the basin's physical and chemical integrity.

(2)(a) The state engineer may regulate groundwater withdrawals within a specific groundwater basin by adopting a groundwater management plan in accordance with this section for any groundwater basin or aquifer or combination of hydrologically connected groundwater basins or aquifers.

(b) The objectives of a groundwater management plan are to:

(i) limit groundwater withdrawals to safe yield;

(ii) protect the physical integrity of the aquifer; and

(iii) protect water quality.

(c) The state engineer shall adopt a groundwater management plan for a groundwater basin if more than one-third of the water right owners in the groundwater basin request that the state engineer adopt a groundwater management plan.

(3)(a) In developing a groundwater management plan, the state engineer may consider:

(i) the hydrology of the groundwater basin;

(ii) the physical characteristics of the groundwater basin;

(iii) the relationship between surface water and groundwater, including whether the groundwater should be managed in conjunction with hydrologically connected surface waters;

(iv) the conjunctive management of water rights to facilitate and coordinate the lease, purchase, or voluntary use of water rights subject to the groundwater management plan;

(v) the geographic spacing and location of groundwater withdrawals;

(vi) water quality;

(vii) local well interference; and

(viii) other relevant factors.

(b) The state engineer shall base the provisions of a groundwater management plan on the principles of prior appropriation.

(c)(i) The state engineer shall use the best available scientific method to determine safe yield.

(ii) As hydrologic conditions change or additional information becomes available, safe yield determinations made by the state engineer may be revised by following the procedures listed in Subsection (5).

(4)(a)(i) Except as provided in Subsection (4)(b), the withdrawal of water from a groundwater basin shall be limited to the basin's safe yield.

(ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer shall:

(A) determine the groundwater basin's safe yield; and

(B) adopt a groundwater management plan for the groundwater basin.

(iii) If the state engineer determines that groundwater withdrawals in a groundwater basin exceed the safe yield, the state engineer shall regulate groundwater rights in that groundwater basin based on the priority date of the water rights under the groundwater management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a different distribution.

(iv) A groundwater management plan shall include a list of each groundwater right in the proposed groundwater management area known to the state engineer identifying the water right holder, the land to which the groundwater right is appurtenant, and any identification number the state engineer uses in the administration of water rights.

(b) When adopting a groundwater management plan for a critical management area, the state engineer shall, based on economic and other impacts to an individual water user or a local community caused by the implementation of safe yield limits on withdrawals, allow gradual implementation of the groundwater management plan.

(c)(i) In consultation with the state engineer, water users in a groundwater basin may agree to participate in a voluntary arrangement for managing withdrawals at any time, either before or after a determination that groundwater withdrawals exceed the groundwater basin's safe yield.

(ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other law.

(iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than all of the water users in a groundwater basin does not affect the rights of water users who do not agree to the voluntary arrangement.

(5) To adopt a groundwater management plan, the state engineer shall:

(a) give notice as specified in Subsection (7) at least 30 days before the first public meeting held in accordance with Subsection (5)(b):

(i) that the state engineer proposes to adopt a groundwater management plan;

(ii) describing generally the land area proposed to be included in the groundwater management plan; and

(iii) stating the location, date, and time of each public meeting to be held in accordance with Subsection (5)(b);

(b) hold one or more public meetings in the geographic area proposed to be included within the groundwater management plan to:

(i) address the need for a groundwater management plan;

(ii) present any data, studies, or reports that the state engineer intends to consider in preparing the groundwater management plan;

(iii) address safe yield and any other subject that may be included in the groundwater management plan;

(iv) outline the estimated administrative costs, if any, that groundwater users are likely to incur if the plan is adopted; and

(v) receive any public comments and other information presented at the public meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

(c) receive and consider written comments concerning the proposed groundwater management plan from any person for a period determined by the state engineer of not less than 60 days after the day on which the notice required by Subsection (5)(a) is given;

(d)(i) at least 60 days prior to final adoption of the groundwater management plan, publish notice:

(A) that a draft of the groundwater management plan has been proposed; and

(B) specifying where a copy of the draft plan may be reviewed; and

(ii) promptly provide a copy of the draft plan in printed or electronic form to each of the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and

(e) provide notice of the adoption of the groundwater management plan.

(6) A groundwater management plan shall become effective on the date notice of adoption is completed under Subsection (7), or on a later date if specified in the plan.

(7)(a) A notice required by this section shall be:

(i) published:

(A) once a week for two successive weeks in a newspaper of general circulation in each county that encompasses a portion of the land area proposed to be included within the groundwater management plan; and

(B) in accordance with Section 45- 1- 101 for two weeks;

(ii) published conspicuously on the state engineer's website; and

(iii) mailed to each of the following that has within its boundaries a portion of the land area to be included within the proposed groundwater management plan:

(A) county;

(B) incorporated city or town;

(C) a special district created to acquire or assess a groundwater right under Title 17B, Chapter 1, Provisions Applicable to All Special Districts;

(D) improvement district under Title 17B, Chapter 2a, Part 4, Improvement District Act;

(E) service area, under Title 17B, Chapter 2a, Part 9, Service Area Act;

(F) drainage district, under Title 17B, Chapter 2a, Part 2, Drainage District Act;

(G) irrigation district, under Title 17B, Chapter 2a, Part 5, Irrigation District Act;

(H) metropolitan water district, under Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(I) special service district providing water, sewer, drainage, or flood control services, under Title 17D, Chapter 1, Special Service District Act;

(J) water conservancy district, under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

(K) conservation district, under Title 17D, Chapter 3, Conservation District Act.

(b) A notice required by this section is effective upon substantial compliance with Subsections (7)(a)(i) through (iii).

(8) A groundwater management plan may be amended in the same manner as a groundwater management plan may be adopted under this section.

(9) The existence of a groundwater management plan does not preclude any otherwise eligible person from filing any application or challenging any decision made by the state engineer within the affected groundwater basin.

(10)(a) A person aggrieved by a groundwater management plan may challenge any aspect of the groundwater management plan by filing a complaint within 60 days after the adoption of the groundwater management plan in the district court for any county in which the groundwater basin is found.

(b) Notwithstanding Subsection (9), a person may challenge the components of a groundwater management plan only in the manner provided by Subsection (10)(a).

(c) An action brought under this Subsection (10) is reviewed de novo by the district court.

(d) A person challenging a groundwater management plan under this Subsection (10) shall join the state engineer as a defendant in the action challenging the groundwater management plan.

(e)(i) Within 30 days after the day on which a person files an action challenging any aspect of a groundwater management plan under Subsection (10)(a), the person filing the action shall publish notice of the action:

(A) in a newspaper of general circulation in the county in which the district court is located; and

(B) in accordance with Section 45-1-101 for two weeks.

(ii) The notice required by Subsection (10)(e)(i)(A) shall be published once a week for two consecutive weeks.

(iii) The notice required by Subsection (10)(e)(i) shall:

(A) identify the groundwater management plan the person is challenging;

(B) identify the case number assigned by the district court;

(C) state that a person affected by the groundwater management plan may petition the district court to intervene in the action challenging the groundwater management plan; and

(D) list the address for the clerk of the district court in which the action is filed.

(iv)(A) Any person affected by the groundwater management plan may petition to intervene in the action within 60 days after the day on which notice is last published under Subsections (10)(e)(i) and (ii).

(B) The district court's treatment of a petition to intervene under this Subsection (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

[~~(v) A district court in which an action is brought under Subsection (10)(a) shall consolidate all actions brought under that subsection and include in the consolidated action any person whose petition to intervene is granted.~~]

(11) A groundwater management plan adopted or amended in accordance with this section is exempt from the requirements in Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12)(a) Except as provided in Subsection (12)(b), recharge and recovery projects permitted under Chapter 3b, Groundwater Recharge and Recovery Act, are exempted from this section.

(b) In a critical management area, the artificial recharge of a groundwater basin that uses surface water naturally tributary to the groundwater basin, in accordance with Chapter 3b, Groundwater Recharge and Recovery Act, constitutes a beneficial use of the water under Section 73-1-3 if:

(i) the recharge is done during the time the area is designated as a critical management area;

(ii) the recharge is done with a valid recharge permit;

(iii) the water placed in the aquifer is not recovered under a recovery permit; and

(iv) the water placed in the aquifer is used to replenish the groundwater basin.

(13) Nothing in this section may be interpreted to require the development, implementation, or consideration of a groundwater management plan as a prerequisite or condition to the exercise of the state engineer's enforcement powers under other law, including powers granted under Section 73-2-25.

(14) A groundwater management plan adopted in accordance with this section may not apply to the dewatering of a mine.

(15)(a) A groundwater management plan adopted by the state engineer before May 1, 2006, remains in force and has the same legal effect as it had on the day on which it was adopted by the state engineer.

(b) If a groundwater management plan that existed before May 1, 2006, is amended on or after May 1, 2006, the amendment is subject to this section's provisions.

Section 12. Section 73-10-27 is amended to read:

73-10-27. Definitions -- Project priorities -- Considerations -- Bids and contracts -- Definitions -- Retainage.

(1) As used in this section:

(a) "Board" means the Board of Water Resources created in Section 73-10-1.5.

(b) "Estimated cost" means the cost of the labor, material, and equipment necessary for construction of the contemplated project.

(c) "Lowest responsible bidder" means a licensed contractor:

(i) who:

(A) submits the lowest bid; and

(B) furnishes a payment bond and a performance bond under Sections 14-1-18 and 63G-6a-1103; and

(ii) whose bid:

(A) is in compliance with the invitation for a bid; and

(B) meets the plans and specifications.

(2) In considering the priority for a project to be built or financed with funds made available under Section 73-10-24, the board shall give preference to a project that:

(a) is sponsored by, or for the benefit of, the state or a political subdivision of the state;

(b) meets a critical local need;

(c) has greater economic feasibility;

(d) will yield revenue to the state within a reasonable time or will return a reasonable rate of interest, based on financial feasibility; and

(e) meets other considerations deemed necessary by the board, including wildlife management and recreational needs.

[~~(3)(a) In determining the economic feasibility, the board shall establish a benefit-to-cost ratio for each project, using a uniform standard of procedure for all projects.~~]

[~~(b) In considering whether a project should be built, the benefit-to-cost ratio for each project shall be weighted based on the relative cost of the project.~~]

[~~(c) A project, when considered in total with all other projects constructed under this chapter and still the subject of a repayment contract, may not cause the accumulative benefit-to-cost ratio of the projects to be less than one to one.~~]

[~~(4)~~](3) A project may not be built if the project is not:

(a) in the public interest, as determined by the board; or

(b) adequately designed based on sound engineering and geologic considerations.

[~~(5)~~](4) In preparing a project constructed by the board, the board shall:

(a) based on a competitive bid, award a contract for:

(i) a flood control project:

(A) involving a city or county; and

(B) costing in excess of $35,000;

(ii) the construction of a storage reservoir in excess of 100 acre-feet; or

(iii) the construction of a hydroelectric generating facility;

(b) publish an advertisement for a competitive bid:

(i) at least once a week for three consecutive weeks in a newspaper with general circulation in the state, with the last date of publication appearing at least five days before the schedule bid opening; and

(ii) indicating that the board:

(A) will award the contract to the lowest responsible bidder; and

(B) reserves the right to reject any and all bids;

(c) readvertise the project in the manner specified in Subsection [~~(5)(b)~~](4)(b) if the board rejects all of the initial bids on the project; and

(d) keep an accurate record of all facts and representations relied upon in preparing the board's estimated cost for a project that is subject to the competitive bidding requirements of this section.

[~~(6)~~](5) If no satisfactory bid is received by the board upon the readvertisement of the project in accordance with Subsection [~~(5)~~](4), the board may proceed to construct the project in accordance with the plan and specifications used to calculate the estimated cost of the project.

[~~(7)~~](6) If a payment on a contract with a private contractor for construction of a project under this section is retained or withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

Section 13. Section 79-2-102 is amended to read:

79-2-102. Definitions.

As used in this chapter:

(1) "Conservation officer" is as defined in Section 23A-1-101.

[~~(2) "Species protection" means an action to protect a plant or animal species identified as:~~]

[~~(a) sensitive by the state; or~~]

[~~(b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.~~]

[~~(3)~~](2) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section 14. Section 79-2-406 is amended to read:

79-2-406. Wetlands -- In-lieu fee program study.

(1) As used in this section, "committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(2) The department shall publish, on the department's website, the land use permits collected by the Utah Geological Survey pursuant to Subsection [~~79-3-202(1)(r)~~]79-3-202(1)(q).

(3)(a) The department shall study and make recommendations to the committee on the viability of an in-lieu fee program for wetland mitigation, including:

(i) the viability of the state establishing and administering an in-lieu fee program; and

(ii) the viability of the state partnering with a private organization to establish and administer an in-lieu fee program.

(b) As part of the study described in Subsection (3)(a), the department shall consult with public and private individuals and entities that may be necessary or helpful to the establishment or administration of an in-lieu fee program for wetland mitigation, which may include:

(i) the Utah Department of Environmental Quality;

(ii) the United States Army Corps of Engineers;

(iii) the United States Fish and Wildlife Service;

(iv) the United States Environmental Protection Agency; or

(v) a non-profit entity that has experience with the establishment and administration of in-lieu fee programs.

(c) The department shall provide a report on the status of the department's study during or before the committee's November interim meeting in 2022.

(d) The department shall provide a final report of the department's study and recommendations, including any recommended legislation, during or before the committee's first interim meeting in 2023.

Section 15. Section 79-3-202 is amended to read:

79-3-202. Powers and duties of survey.

(1) The survey shall:

(a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;

(b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;

(c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;

(d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;

(e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports; and

[~~(q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:~~]

[~~(i) renewable energy;~~]

[~~(ii) energy efficiency; and~~]

[~~(iii) energy conservation; and~~]

[~~(r)~~](q) collect the land use permits described in Sections 10-9a-521 and 17-27a-520.

(2)(a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4)(a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

Section 16. Section 79-3-403 is amended to read:

79-3-403. Utah Geological Survey Restricted Account.

(1) As used in this section:

(a) "Account" means the Utah Geological Survey [~~Oil, Gas, and Mining~~] Restricted Account created by this section.

(b) "Survey" means the Utah Geological Survey.

(2)(a) There is created a restricted account within the General Fund known as the "Utah Geological Survey[~~ Oil, Gas, and Mining~~] Restricted Account."

(b) The account consists of:

(i) deposits to the account made under Section 51-9-306;

(ii) deposits to the account made under Section 59-21-2;

[~~(ii)~~](iii) appropriations of the Legislature; and

[~~(iii)~~](iv) interest and other earnings described in Subsection (2)(c).

(c) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3)(a) Upon appropriation by the Legislature, the survey shall use money from the account to pay costs of:

(i) programs or projects administered by the survey that are primarily related to oil, gas, and mining[~~,~~]; and

(ii) activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(b) An appropriation provided for under this section is not intended to replace the following that is otherwise allocated for the programs or projects described in Subsection (3)(a)(i):

(i) federal money; or

(ii) a dedicated credit.

(4) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 17. Section 79-6-102 is amended to read:

79-6-102. Definitions.

As used in this chapter:

[~~(1) "Appointing authority" means:~~]

[~~(a) on and before June 30, 2029, the governor; and~~]

[~~(b) on and after July 1, 2029, the executive director.~~]

[~~(2)(a) On and before June 30, 2029, "energy advisor" means the governor's energy advisor appointed under Section 79-6-401.~~]

[~~(b) On and after July 1, 2029, "energy advisor" means the energy advisor appointed by the executive director under Section 79-6-401.~~]

[~~(3)~~](1) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(4)~~](2) "State agency" means an executive branch:

(a) department;

(b) agency;

(c) board;

(d) commission;

(e) division; or

(f) state educational institution.

Section 18. Section 79-6-106 is amended to read:

79-6-106. Hydrogen advisory council.

(1) The department shall create a hydrogen advisory council within the office that consists of seven to nine members appointed by the executive director, in consultation with the [~~energy advisor~~]director. The executive director shall appoint members with expertise in:

(a) hydrogen energy in general;

(b) hydrogen project facilities;

(c) technology suppliers;

(d) hydrogen producers or processors;

(e) renewable and fossil based power generation industries; and

(f) fossil fuel based hydrogen feedstock providers.

(2)(a) Except as required by Subsection (2)(b), a member shall serve a four-year term.

(b) The executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the hydrogen advisory council is appointed every two years.

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

(3)(a) A majority of the members appointed under this section constitutes a quorum of the hydrogen advisory council.

(b) The hydrogen advisory council shall determine:

(i) the time and place of meetings; and

(ii) any other procedural matter not specified in this section.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The office shall staff the hydrogen advisory council.

(6) The hydrogen advisory council may:

(a) develop hydrogen facts and figures that facilitate use of hydrogen fuel within the state;

(b) encourage cross-state cooperation with states that have hydrogen programs;

(c) work with state agencies, the private sector, and other stakeholders, such as environmental groups, to:

(i) recommend realistic goals for hydrogen development that can be executed within realistic time frames; and

(ii) educate, discuss, consult, and make recommendations in hydrogen related matters that benefit the state;

(d) promote hydrogen research at state institutions of higher education, as defined in Section 53B-3-102;

(e) make recommendations regarding how to qualify for federal funding of hydrogen projects, including hydrogen related projects for:

(i) the state;

(ii) a local government;

(iii) a privately commissioned project;

(iv) an educational project;

(v) scientific development; and

(vi) engineering and novel technologies;

(f) make recommendations related to the development of multiple feedstock or energy resources in the state such as wind, solar, hydroelectric, geothermal, coal, natural gas, oil, water, electrolysis, coal gasification, liquefaction, hydrogen storage, safety handling, compression, and transportation;

(g) make recommendations to establish statewide safety protocols for production, transportation, and handling of hydrogen for both residential and commercial applications;

(h) facilitate public events to raise the awareness of hydrogen and hydrogen related fuels within the state and how hydrogen can be advantageous to all forms of transportation, heat, and power generation;

(i) review and make recommendations regarding legislation; and

(j) make other recommendations to the [~~energy advisor~~]director related to hydrogen development in the state.

Section 19. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Duties and powers.

(1) There is created an Office of Energy Development [~~in~~]within the Department of Natural Resources to be administered by a director.

(2)(a) The executive director shall appoint the director and the director shall serve at the pleasure of the executive director.

(b) The director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

[~~(2)(a) The energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.~~]

[~~(b) The director:~~]

[~~(i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the energy advisor; and~~]

[~~(ii) may appoint staff as funding within existing budgets allows.~~]

[~~(c) The office may consolidate energy staff and functions existing in the state energy program.~~]

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, 63C-26-202, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6)(a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8)(a) An employee of the office on April 30, 2024, is an at-will employee.

(b) For an employee [~~of the~~]described in Subsection (8)(a) who was employed by the office on [~~July 1, 2021~~]April 30, 2024, the employee shall have the same salary and benefit options [~~the~~]an employee had when the office was part of the office of the governor.

(c) An employee of the office hired on or after May 1, 2024, shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.

(9)(a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient utilization and development of:

(A) nonrenewable energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall consult with stakeholders, including representatives from:

(i) energy companies in the state;

(ii) private and public institutions of higher education within the state conducting energy-related research; and

(iii) other state agencies.

(c) On or before the October 2023 interim meeting, the office shall report to the Public Utilities, Energy, and Technology Interim Committee and the Executive Appropriations[~~Interim~~] Committee describing:

(i) progress towards creation of the strategic energy plan; and

(ii) a proposed budget for the office to continue development of the strategic energy plan.

(10) The director shall:

(a) annually review and propose updates to the state's energy policy, as contained in Section 79-6-301;

(b) promote as the governor considers necessary:

(i) the development of cost-effective energy resources both renewable and nonrenewable; and

(ii) educational programs, including programs supporting conservation and energy efficiency measures;

(c) coordinate across state agencies to assure consistency with state energy policy, including:

(i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

(ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;

(iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and

(iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;

(d) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;

(e) coordinate with requisite state agencies to study:

(i) the creation of a centralized state repository for energy-related information;

(ii) methods for streamlining state review and approval processes for energy-related projects; and

(iii) the development of multistate energy transmission and transportation infrastructure;

(f) coordinate energy-related regulatory processes within the state;

(g) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;

(h) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and

(i) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.

(11) The director has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

Section 20. Section 79-6-404, which is renumbered from Section 79-6-202 is renumbered and amended to read:

~~79-6-202.~~ 79-6-404. Agency cooperation.

A state agency shall provide the [~~energy advisor~~]office with any energy-related information requested by the [~~energy advisor if the energy advisor's~~]office if the office's request is consistent with other law.

Section 21. Section 79-6-405, which is renumbered from Section 79-6-203 is renumbered and amended to read:

~~79-6-203.~~ 79-6-405. Reports.

(1) The [~~energy advisor~~]director shall report annually to[~~:~~]

[~~(a) the appointing authority; and~~]

[~~(b)~~] the Natural Resources, Agriculture, and Environment Interim Committee.

(2) The report required in Subsection (1) shall:

(a) summarize the status and development of the state's energy resources;

(b) summarize the activities and accomplishments of the Office of Energy Development;

(c) address the [~~energy advisor's~~]director's activities under this part; and

(d) recommend any energy-related executive or legislative action the [~~energy advisor~~]director considers beneficial to the state, including updates to the state energy policy under Section 79-6-301.

Section 22. Section 79-6-901 is amended to read:

79-6-901. Definitions.

As used in this part:

(1) "Application" means an application for a tax credit under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act.

(2) "Board" means the Utah Energy Infrastructure Board created in Section 79-6-902.

(3) "Electric interlocal entity" means the same as that term is defined in Section 11-13-103.

[~~(4) "Energy advisor" means the energy advisor appointed under Section 79-6-201.~~]

[~~(5)~~](4) "Fuel standard compliance project" means the same as that term is defined in Section 79-6-602.

[~~(6)~~](5) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(7)~~](6) "Tax credit" means the same as that term is defined in Section 79-6-602.

Section 23. Section 79-6-902 is amended to read:

79-6-902. Utah Energy Infrastructure Board.

(1) There is created within the office the Utah Energy Infrastructure Board that consists of nine members as follows:

(a) members appointed by the governor:

(i) [~~the energy advisor or~~]the director of the Office of Energy Development, who shall serve as chair of the board;

(ii) one member from the Governor's Office of Economic Opportunity;

(iii) one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state;

(iv) two members representing the economic development interests of rural communities as follows:

(A) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501; and

(B) one member of a rural community with work experience in the energy industry;

(v) two members of the general public with relevant industry or community experience; and

(vi) one member of the general public who has experience with public finance and bonding; and

(b) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(2)(a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

(3)(a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(4) The board shall meet as needed to review an application.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 24. Section 79-7-601, which is renumbered from Section 79-4-1102 is renumbered and amended to read:

~~79-4-1102~~. 79-7-601. Contingency plan for federal property.

Part 6. Contingency Planning for Management of Federal Land

(1) As used in this part, "fiscal emergency" means a major disruption in the operation of one or more national parks, national monuments, national forests, or national recreation areas in the state caused by the unforseen or sudden significant decrease or elimination of funding from the federal government.

(2) During a fiscal emergency, and subject to congressional approval, the governor's agreement with the United States Department of the Interior, or a presidential executive order, the governor [~~is authorized to~~]may enter into an agreement with the federal government to ensure that one or more national parks, national monuments, national forests, or national recreation areas in the state, according to the priority set under [~~Section 79-4-1103~~]Section 79-7-602, remain open to the public.

Section 25. Section 79-7-602, which is renumbered from Section 79-4-1103 is renumbered and amended to read:

~~79-4-1103~~. 79-7-602. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the Division of Outdoor Recreation, in consultation with the executive director of the [~~Governor's Office of Economic Opportunity~~]Department of Natural Resources, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the Division of Outdoor Recreation shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the Division of Outdoor Recreation shall annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section 26. Repealer.

This bill repeals:

Section 40-6-22, Regulatory certainty to support economic recovery.

Section 73-10-12, Appropriations.

Section 73-10-13, Appropriation for loan fund.

Section 73-10-31, Allocation of funds for credit enhancement and interest buy-down agreements.

Section 79-4-1101, Title.

Section 79-6-201, Advisor -- Duties.

Section 27. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) The actions affecting the following sections take effect on July 1, 2024:

(i) Section 23A-3-214;

(ii) Section 51-9-306;

(iii) Section 59-12-103 (Contingently Superseded 01/01/25);

(iv) Section 59-21-2;

(v) Section 59-23-4;

(vi) Section 63J-1-602.1; and

(vii) Section 79-3-403.

(b) The actions affecting Section 59-12-103 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

Section 28. Coordinating H.B. 519 with other 2024 General Session legislation.

The Legislature intends that, on May 1, 2024, in legislation that passes in the 2024 General Session and becomes law any reference to energy advisor be changed to the director of the Office of Energy Development in any new language added to the Utah Code.

CHAPTER 89
H. B. 520
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

FALLOW LAND AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the applicability of fallow land to agricultural and urban farming property tax assessment.

Highlighted Provisions:

This bill:

- defines terms;
- allows for fallow land to qualify for agricultural and urban farming assessment;
- allows landowners to provide written notice to the county assessor in each year that land is fallowed;
- allows a county assessor to require landowners to submit a land management plan if a landowner intends to fallow land for more than one year; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-503, as last amended by Laws of Utah 2023, Chapter 72
59-2-1703, as last amended by Laws of Utah 2023, Chapter 189

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

Section 1. Section 59-2-503 is amended to read:

59-2-503. Qualifications for agricultural use assessment.

(1) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(a) is not less than five contiguous acres in area, except that land may be assessed on the basis of the value that the land has for agricultural use:

(i) if:

(A) the land is devoted to agricultural use in conjunction with other eligible acreage; and

(B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have identical legal ownership; or

(ii) as provided under Subsections (4) and (5); and

(b) except as provided in Subsection (6) or (7):

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question.

(5) Notwithstanding Subsection (1)(a), the commission or a county board of equalization shall grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a public utility or a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding; and

(ii) the land is actively devoted to agricultural use.

(6)(a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (6)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(7) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(8) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

(9)(a) Notwithstanding Subsection (1) and except as provided in Subsection (9)(d), land in agricultural use that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the land qualifies under Subsection (9)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c)(i) If the written notice under Subsection (9)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the fallowing period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to agricultural use upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection (9)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection (9)(a);

(ii) the owner fails to return the fallowed land to active agricultural use upon the expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection (9)(c), if a land management plan is required.

Section 2. Section 59-2-1703 is amended to read:

59-2-1703. Qualifications for urban farming assessment.

(1)(a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least one contiguous acre, but less than five acres, in size; and

(iii)(A) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part; or

(B) was assessed under Part 5, Farmland Assessment Act, for the preceding tax year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to urban farming.

(2)(a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(i) production levels reported in the current publication of Utah Agricultural Statistics;

(ii) current crop budgets developed and published by Utah State University; or

(iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

(i) on a form provided by the county assessor;

(ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and

(iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

(a) on appeal by an owner; and

(b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:

(i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding;

(ii) the land is actively devoted to urban farming; and

(iii) no change occurs in the ownership of the land.

(4)(a) Notwithstanding Subsection (1) and except as provided in Subsection (4)(d), land for urban farming that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner may, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the calendar year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the fallowed land qualifies under Subsection (4)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c)(i) If a written notice under Subsection (4)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may, within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the fallowing period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to urban farming upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection (4)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection (4)(a);

(ii) the owner fails to return the fallowed land to active urban farming upon the expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection (4)(c), if a land management plan is required.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 90
H. B. 526
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

SHELL EGG PRODUCERS AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions relating to the sale of eggs by small producers.

Highlighted Provisions:

This bill:

- defines the term "wholesale";
- removes a requirement that small producers only sell to an end consumer;
- authorizes rulemaking for the Department of Agriculture and Food relating to small producers that sell eggs wholesale, including rulemaking to:
  - collect information on small producers that sell eggs wholesale; and
  - conduct an inspection of small producers at the small producer's request;
- establishes requirements for labeling and display of eggs from small producers at a grocery store; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-4-103, as last amended by Laws of Utah 2023, Chapter 528
4-4-104, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-4-107, as last amended by Laws of Utah 2023, Chapter 481
4-4-108, as enacted by Laws of Utah 2019, Chapter 138

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

Section 1. Section 4-4-103 is amended to read:

4-4-103. Definitions.

As used in this chapter:

(1) "Addled" or "white rot" means putrid or rotten.

(2) "Adherent yolk" means the yolk has settled to one side and become fastened to the shell.

(3) "Albumen" means the white of an egg.

(4) "Black rot" means the egg has deteriorated to such an extent that the whole interior presents a blackened appearance.

(5) "Black spot" means mold or bacteria have developed in isolated areas inside the shell.

(6) "Blood ring" means bacteria have developed to such an extent that blood is formed.

(7) "Candling" means the act of determining the condition of an egg by holding it before a strong light in such a way that the light shines through the egg and reveals the egg's contents.

(8) "End consumer" means a household consumer, restaurant, institution, or any other person who has purchased or received shell eggs for consumption.

(9) "Moldy" means mold spores have formed within the shell.

(10) "Shell egg" means an egg in the shell as distinguished from a dried or powdered egg.

(11) "Small producer" means a producer of shell eggs:

(a) having less than 3,000 layers; and

[~~(b) selling only to an end consumer; and~~]

[~~(c)~~](b) who is exempt from 21 C.F.R. Chapter 1, Part 118, Production, Storage, and Transportation of Shell Eggs.

(12) "Wholesale" means, with respect to the sale of an egg by an egg producer, the transfer for sale or sale of an egg to a person other than the end consumer, including a retailer or an industrial or business purchaser.

Section 2. Section 4-4-104 is amended to read:

4-4-104. Unlawful acts specified.

(1) It is unlawful for any person to sell, offer, or expose for sale for human consumption any egg:

(a) that is addled or moldy or that contains black spot, black rot, white rot, blood ring, adherent yolk, or a bloody or green albumen; or

(b) without a sign or label that conforms to the standards for display and grade adopted by the department.

(2) For the purpose of bulk wholesale, it is unlawful for a small producer to commingle or combine eggs from a source other than the small producer's operation.

[~~(2)~~](3) Nothing in this section prohibits the sale of a denatured egg.

Section 3. Section 4-4-107 is amended to read:

4-4-107. Exemptions from regulation.

(1) Except as provided in this section, a small producer and the shell eggs produced by a small producer are exempt from regulation by the department.

(2) The Department of Health and Human Services has the authority to investigate foodborne illness.

(3) The department may assist, consult, or inspect shell eggs and a small producer's operation when requested by a small producer.

(4) Nothing in this section affects the authority of the Department of Health and Human Services or the department to certify, license, regulate, or inspect food or food products that are not exempt from certification, licensing regulation, or inspection under this section.

(5) The Department of Health and Human Services, or a local health department, may not prevent the sale of shell eggs from a small producer to an end consumer unless the Department of Health and Human Services, or the county health department, establishes that the shell eggs:

(a) are addled or moldy; or

(b) contain:

(i) black spot;

(ii) black rot;

(iii) white rot;

(iv) blood ring;

(v) adherent yolk; or

(vi) a bloody or green albumen.

(6) A small producer that sells eggs wholesale shall notify the department about the small egg producer's operation, including:

(a) the operator's name;

(b) the operator's contact information;

(c) the species of egg products offered for sale; and

(d) other information required by department rule regarding notification.

[~~(6)~~](7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to[~~,~~]:

(a) govern the temperature, cleaning, and sanitization of shell eggs under this chapter that are sold by a small producer to a restaurant or wholesale[~~,~~];

(b) establish notification requirements in accordance with Subsection (6); and

(c) establish inspection requirements for small producers that request an inspection under Subsection (3).

[~~(7)~~](8) Eggs sold by a small producer [~~pursuant to~~]in accordance with this chapter are exempt from the restricted egg tolerances for United States Consumer Grade B as specified in the United States Standards, Grades, and Weight Classes for Shell Eggs, AMS 56.200 et seq., administered by the Agricultural Marketing Service of United States Agriculture Department.

Section 4. Section 4-4-108 is amended to read:

4-4-108. Packaging for small producer -- Display in grocery store.

(1) A small producer shall package the small producer's eggs in clean packaging that bears a label with the following information:

(a) the common name of the food, "eggs";

(b) the quantity or number of eggs;

(c) the name and address of the small producer;

(d) the statement "Keep Refrigerated"; and

(e) the statement "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly."

(2)(a) A small producer shall label the small producer's eggs that are sold in a grocery store with a statement that the eggs:

(i) are exempt from 21 C.F.R. Chapter 1, Part 118, Production, Storage, and Transportation of Shell Eggs; and

(ii) are not from an inspected source.

(b) The requirements described in Subsection (2)(a) are in addition to the labeling requirements described in Subsection (1).

[~~(2)~~](3)(a) A small producer may state a "pull date" or "best by" date.

(b) The "pull date" or "best by" date may be hand written on the end of the packaging or in a conspicuous location that is clearly discernible.

(c) A "pull date" or "best by" date shall first show the month then the day of the month.

(d) A recommended "pull date" or "best by" date is 30 days after production, but the date may not exceed 45 days after production.

[~~(3)~~](4) If the eggs of a small producer are ungraded and not weighed, the packaging for the eggs may not be labeled with a grade or size.

(5) Any egg produced by a small egg producer and sold in a grocery store shall be displayed separately in the grocery store from eggs not from a small producer.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 91
H. B. 522
Passed March 1, 2024
Approved March 12, 2024
Effective May 1, 2024

VETERINARIAN EDUCATION LOAN REPAYMENT PROGRAM AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill makes changes to the Veterinarian Education Loan Repayment Program.

Highlighted Provisions:

This bill:

- modifies the Veterinarian Education Loan Repayment Program (program) to make annual loan balance payments; and
- expands the program to a veterinarian whose practice includes at least 30% livestock medicine.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-901, as enacted by Laws of Utah 2023, Chapter 134
4-2-902, as enacted by Laws of Utah 2023, Chapter 134

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

Section 1. Section 4-2-901 is amended to read:

4-2-901. Definitions.

As used in this part:

(1) "Animal shelter" means the same as that term is defined in Section 11-46-102.

(2) "Education loan" means a loan received for education at a domestic or foreign institution of higher education, including a school or college of veterinary medicine.

(3) "Education loan balance" includes charges for paying off the balance of the loan.

(4) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(5) "Livestock" means the same as that term is defined in Section 4-1-109.

[~~(5)~~](6) "Loan" means a loan that is made directly by, insured by, or guaranteed under a government program of:

(a) a state;

(b) the United States; or

(c) a foreign government.

[~~(6)~~](7) "Maximum payment value" means the lesser of:

(a) the sum of a qualified veterinarian's education loan balances; or

(b) [~~$100,000~~]$20,000.

[~~(7)~~](8) "Program" means the Veterinarian Education Loan Repayment Program created in Section 4-2-902.

[~~(8)~~](9) "Qualified veterinarian" means a veterinarian who has practiced as a veterinarian[~~for five or more consecutive years beginning on or after May 3, 2023~~]:

(a) in an area of the state[~~:~~] that is Indian country;

[~~(i) designated by the United States Department of Agriculture as a veterinary shortage situation during at least one of the five years; or~~]

[~~(ii) that is Indian country;~~]

(b) in an animal shelter within the state operated by:

(i) a county;

(ii) a municipality; or

(iii) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) in any area of the state as an employee of the department; [~~or~~]

(d) in any combination of the places described in Subsections [~~(8)(a)~~](9)(a) through (c)[~~.~~]; or

(e) with a practice that includes at least 30% livestock medicine.

[~~(9)~~](10) "Veterinarian" means an individual licensed under Title 58, Chapter 28, Veterinary Practice Act.

Section 2. Section 4-2-902 is amended to read:

4-2-902. Veterinarian Education Loan Repayment Program.

(1) There is created within the department the Veterinarian Education Loan Repayment Program.

(2)(a) Beginning July 1, [~~2028~~]2024, the program shall on a first-come, first-served basis make payments toward a qualified veterinarian's education loan balances.

(b) A veterinarian is eligible for payments under Subsection (2)(a) if the veterinarian:

(i) applies as a qualified veterinarian for payment from the program; and

(ii) registers with the program at least [~~five years~~]one year before the day the veterinarian applies under Subsection (2)(b)(i) for payment.

(c) Payments made under Subsection (2)(a) shall:

(i) be made directly to one or more of the qualified veterinarian's lenders; [~~and~~]

(ii) as funding for the program permits, [~~in total~~]each year equal the maximum payment value[~~.~~]; and

(iii) extend for a period no longer than five years for the qualified veterinarian.

(3) The department may use 2% or less of the amount appropriated for the program to pay for actual costs of administering the program.

(4) On or before October 1 each year, the department shall submit a report of the program's revenues, expenditures, and outcomes to the Natural Resources, Agriculture, and Environment Interim Committee and the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

(5) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules specifying how a veterinarian may register intent to apply for payment from the program.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 92
H. B. 567
Passed February 28, 2024
Approved March 12, 2024
Effective May 1, 2024

FIRE REGULATION AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses government authority over fire.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits under certain circumstances the Air Quality Board or Division of Air Quality from prohibiting burns;
- addresses rulemaking authority; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-2-114, as last amended by Laws of Utah 2015, Chapter 154

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

Section 1. Section 19-2-114 is amended to read:

19-2-114. Activities not in violation of chapter or rules.

(1) As used in this section, "attainment area" means an area that meets the national primary and secondary ambient air quality standard for pollution.

(2) The following are not a violation of this chapter or of a rule made under [~~it~~]this chapter:

[~~(1)~~](a) burning incident to horticultural or agricultural operations of:

[~~(a)~~](i) prunings from trees, bushes, and plants; or

[~~(b)~~](ii) dead or diseased trees, bushes, and plants, including stubble;

[~~(2)~~](b) burning of weed growth along ditch banks incident to clearing these ditches for irrigation purposes;

[~~(3)~~](c) controlled heating of orchards or other crops to lessen the chances of their being frozen so long as the emissions from this heating do not violate minimum standards set by the board; and

[~~(4)~~](d) the controlled burning of not more than two structures per year by an organized and operating fire department for the purpose of training fire service personnel when the United States Weather Service clearing index for the area where the burn is to occur is above 500.

(3)(a) The board or division may not prohibit a burn during the time period beginning November 1 and ending March 31 if the burn:

(i) occurs in an attainment area;

(ii) occurs on private property within an incorporated portion of a county;

(iii) occurs when the United States Weather Service clearing index for the area in which the burn is to occur is above 250;

(iv) is the open burning of clippings, bushes, plants, prunings from trees, or dead or diseased trees, bushes, and plants, that are:

(A) incident to property and residential clean-up activities; and

(B) thoroughly dry;

(v) does not include trash, rubbish, tires, or oil in the material to be burned, used to start the burn, or used to keep a fire burning; and

(vi) does not create a nuisance as defined in Section 76-10-803.

(b) Notwithstanding Subsection (3)(a), the board by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may establish the process for issuing a burn permit under this chapter.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 93
H. B. 459
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

BLENDED PLEA AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies procedures relating to certain convictions of a minor that involve both juvenile dispositions and adult criminal sentences.

Highlighted Provisions:

This bill:

- defines terms;
- modifies part headings;
- prohibits a court from accepting a plea that is blended between a juvenile adjudication and disposition and an adult criminal conviction and sentence; and
- voids any conviction or sentence that is entered as a prohibited blended plea.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

80-6-508, Utah Code Annotated 1953

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

Section 1. Section 80-6-508 is enacted to read:

80-6-508. Blended plea -- Not permitted.

Part 5. Minor Tried as an Adult

(1) As used in this section:

(a) "Blended plea" means a plea bargain entered into by a minor that results in a combination of a juvenile adjudication and disposition and a criminal conviction and sentence for a criminal offense that arises from a single criminal episode.

(b) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(2)(a) Beginning May 1, 2024, a district court, juvenile court, or a justice court may not accept a plea bargain that is a blended plea.

(b) Any criminal conviction or sentence resulting from a blended plea that is entered into on or after May 1, 2024, is void.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 94
H. B. 548
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

ALCOHOL AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to alcohol.

Highlighted Provisions:

This bill:

- creates an exception to the proximity requirements for an outlet or restaurant located within a specified area;
- requires the director of the Department of Alcoholic Beverage Services to form a workgroup to make recommendations related to:
  - alcohol training and education for licensees; and
  - recordkeeping for certain cash transactions involving the sale of an alcoholic beverage;
- authorizes the department to establish a round up program, under which a state store customer could elect to round up the customer's purchase to the nearest dollar for deposit into the Pamela Atkinson Homeless Account;
- increases the state markup on spirituous liquor, wine, and flavored malt beverages;
- clarifies the markup on spirituous liquor, wine, heavy beer, and flavored malt beverages sold by a package agency located at a manufacturing facility;
- increases the tax on beer and uses the additional revenue to fund three new alcohol-related law enforcement officers who are dedicated to compliance;
- prohibits a state store or off-premise beer retailer from selling liquor or beer that is intended to be frozen and consumed in a manner other than as a beverage;
- prohibits a state store or package agency from selling liquor that contains more than 80% alcohol by volume;
- requires the department to initiate disciplinary proceedings under certain circumstances;
- prohibits a person from selling in the state vaporized alcohol;
- prohibits the commission from denying any available retail license, including through a conditional retail license, if an applicant satisfies the requirements for the retail license;
- allows a retail licensee to sell, offer for sale, or furnish spirituous liquor in a pre-mixed beverage, if the beverage is in the original, sealed container and satisfies other requirements, including requirements related to volume, alcohol content, and labeling;
- increases the number of full-service restaurant and bar establishment licenses the commission is authorized to issue;
- requires the department to prorate the initial licensing fee for retail licenses;
- decreases the required capacity of a sports facility or concert venue to qualify as a recreational amenity for purposes of an on-premise beer retailer license;
- provides that a patron in a hotel with a hotel license or resort license may carry an alcoholic beverage between specified locations within the hotel, provided the patron travels within a designated conveyance area and the alcoholic beverage is in an approved container;
- allows an entity that is not an airline to obtain a public service permit for the purpose of operating a hospitality room at an international airport;
- modifies the required showing for prima facie evidence of dram shop liability;
- allows an individual to obtain a DUI investigative report if the individual suffered loss or injury as a result of the defendant's actions;
- establishes a place of last drink program, operated by the Department of Public Safety;
- clarifies that the beer tax applies to beer and heavy beer;
- repeals the Alcoholic Beverage Services Advisory Board; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

32B-1-202, as last amended by Laws of Utah 2023, Chapter 371
32B-1-304, as last amended by Laws of Utah 2023, Chapter 371
32B-2-205, as last amended by Laws of Utah 2022, Chapter 447
32B-2-304, as last amended by Laws of Utah 2022, Chapter 447
32B-2-305, as last amended by Laws of Utah 2023, Chapter 396
32B-2-503, as last amended by Laws of Utah 2011, Chapters 307, 334
32B-2-605, as last amended by Laws of Utah 2022, Chapter 447
32B-3-203, as last amended by Laws of Utah 2012, Chapter 369
32B-4-422, as last amended by Laws of Utah 2020, Chapter 219
32B-4-424, as enacted by Laws of Utah 2015, Chapter 54
32B-4-501, as last amended by Laws of Utah 2017, Chapter 455
32B-5-201, as last amended by Laws of Utah 2022, Chapter 447
32B-5-304, as last amended by Laws of Utah 2023, Chapter 371
32B-6-203, as last amended by Laws of Utah 2023, Chapter 371
32B-6-204, as last amended by Laws of Utah 2017,

Chapter 455
32B-6-206, as last amended by Laws of Utah 2023, Chapter 371
32B-6-302, as last amended by Laws of Utah 2018, Chapters 249, 313
32B-6-304, as last amended by Laws of Utah 2016, Chapter 82
32B-6-306, as enacted by Laws of Utah 2013, Chapter 349
32B-6-403, as last amended by Laws of Utah 2023, Chapter 371
32B-6-405, as last amended by Laws of Utah 2017, Chapter 455
32B-6-504, as last amended by Laws of Utah 2011, Chapter 334
32B-6-604, as last amended by Laws of Utah 2011, Chapter 334
32B-6-605, as last amended by Laws of Utah 2023, Chapters 371, 400
32B-6-702, as last amended by Laws of Utah 2021, Chapter 280
32B-6-705, as last amended by Laws of Utah 2011, Second Special Session, Chapter 2
32B-6-804, as enacted by Laws of Utah 2011, Chapter 334
32B-6-902, as last amended by Laws of Utah 2019, Chapter 403
32B-6-904, as last amended by Laws of Utah 2012, Fourth Special Session, Chapter 1
32B-6-1004, as last amended by Laws of Utah 2021, Chapter 291
32B-7-202, as last amended by Laws of Utah 2022, Chapter 447
32B-8-102, as last amended by Laws of Utah 2020, Chapter 219
32B-8-201, as last amended by Laws of Utah 2022, Chapter 447
32B-8-202, as last amended by Laws of Utah 2020, Chapter 219
32B-8-401, as last amended by Laws of Utah 2023, Chapter 371
32B-8b-102, as last amended by Laws of Utah 2023, Chapter 371
32B-8b-201, as last amended by Laws of Utah 2020, Chapter 219
32B-8b-202, as last amended by Laws of Utah 2020, Chapter 219
32B-8b-301, as last amended by Laws of Utah 2023, Chapter 371
32B-8d-104, as last amended by Laws of Utah 2022, Chapter 447
32B-10-202, as enacted by Laws of Utah 2010, Chapter 276
32B-10-303, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
32B-10-304, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
32B-15-201, as last amended by Laws of Utah 2023, Chapter 400
59-15-101, as last amended by Laws of Utah 2019, Chapter 336
59-15-109, as last amended by Laws of Utah 2023, Chapter 396
63I-2-232, as last amended by Laws of Utah 2023, Chapter 371

ENACTS:
32B-2-213, Utah Code Annotated 1953
41-6a-531, Utah Code Annotated 1953
53-28-101, Utah Code Annotated 1953
53-28-102, Utah Code Annotated 1953

REPEALS:
32B-2-210, as last amended by Laws of Utah 2022, Chapter 447

Sections affected by Coordination Clause:
32B-1-202, as last amended by Laws of Utah 2023, Chapter 3711

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

Section 1. Section 32B-1-202 is amended to read:

32B-1-202. Proximity to community location.

(1) As used in this section:

(a) "Designated project area zone" means the area that is:

(i) bounded by:

(A) South Temple Street;

(B) 100 South Street;

(C) West Temple Street; and

(D) 400 West Street; and

(ii) within a project area as defined in Section 63N-3-1301.

[~~(a)~~](b)(i) "Outlet" means:

(A) a state store;

(B) a package agency; or

(C) a retail licensee.

(ii) "Outlet" does not include:

(A) an airport lounge licensee; or

(B) a restaurant.

[~~(b)~~](c) "Restaurant" means:

(i) a full-service restaurant licensee;

(ii) a limited-service restaurant licensee;

(iii) a beer-only restaurant licensee; or

(iv) a restaurant venue on-premise banquet licensee.

(2)(a) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for an outlet if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 600 feet of the proposed outlet, as measured from the nearest patron entrance of the proposed outlet by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed outlet, measured in a straight line from the nearest patron entrance of the proposed outlet to the nearest property boundary of the community location.

(b) Except as otherwise provided in this section or Section 32B-1-202.1, the commission may not issue a license for a restaurant if, on the date the commission takes final action to approve or deny the application, there is a community location:

(i) within 300 feet of the proposed restaurant, as measured from the nearest patron entrance of the proposed restaurant by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; or

(ii) within 200 feet of the proposed restaurant, measured in a straight line from the nearest patron entrance of the proposed restaurant to the nearest property boundary of the community location.

(3)(a) For an outlet or a restaurant that holds a license on May 9, 2017, and operates under a previously approved variance to one or more proximity requirements in effect before May 9, 2017, subject to the other provisions of this title, that outlet or restaurant, or another outlet or restaurant with the same type of license as that outlet or restaurant, may operate under the previously approved variance regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse, the property is used for a different purpose.

(b) An outlet or a restaurant that has continuously operated at a location since before January 1, 2007, is considered to have a previously approved variance.

(4) An outlet or restaurant that holds a license on May 12, 2020, and operates in accordance with the proximity requirements in effect at the time the commission issued the license or operates under a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant or an outlet or a restaurant with the same type of license as that outlet or restaurant may operate at the premises regardless of whether:

(a) the outlet or restaurant changes ownership;

(b) the property on which the outlet or restaurant is located changes ownership; or

(c) there is a lapse of one year or less in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(5)(a) If, after an outlet or a restaurant obtains a license under this title, a person establishes a community location on a property that puts the outlet or restaurant in violation of the proximity requirements in effect at the time the license is issued or a previously approved variance described in Subsection (3), subject to the other provisions of this title, that outlet or restaurant, or an outlet or a restaurant with the same type of license as that outlet or restaurant, may operate at the premises regardless of whether:

(i) the outlet or restaurant changes ownership;

(ii) the property on which the outlet or restaurant is located changes ownership; or

(iii) there is a lapse in the use of the property as an outlet or a restaurant with the same type of license, unless during the lapse the property is used for a different purpose.

(b) The provisions of this Subsection (5) apply regardless of when the outlet's or restaurant's license is issued.

(6) The proximity requirements described in Subsection (2) do not apply if the proposed outlet or proposed restaurant and the community location are located within the boundaries of a designated project area zone.

[~~(6)~~](7) Nothing in this section prevents the commission from considering the proximity of an educational, religious, and recreational facility, or any other relevant factor in reaching a decision on a proposed location of an outlet.

Section 2. Section 32B-1-304 is amended to read:

32B-1-304. Qualifications for a package agency, license, or permit -- Minors.

(1)(a) Except as provided in Subsection (7), the commission may not issue a package agency, license, or permit to a person who has been convicted of:

(i) within seven years before the day on which the commission issues the package agency, license, or permit, a felony under a federal law or state law;

(ii) within four years before the day on which the commission issues the package agency, license, or permit:

(A) a violation of a federal law, state law, or local ordinance concerning the sale, offer for sale, warehousing, manufacture, distribution, transportation, or adulteration of an alcoholic product; or

(B) a crime involving moral turpitude; or

(iii) on two or more occasions within the five years before the day on which the package agency, license, or permit is issued, driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs.

(b) If the person is a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(vii) a member who owns at least 20% of the limited liability company.

(c) Except as provided in Subsection (7), the proscription under Subsection (1)(a) applies if a person who is employed to act in a supervisory or managerial capacity for a package agency, licensee, or permittee has been convicted of an offense described in Subsection (1)(a).

(2) Except as described in Section 32B-8-501, the commission may immediately suspend or revoke a package agency, license, or permit, and terminate a package agency agreement, if a person described in Subsection (1):

(a) after the day on which the package agency, license, or permit is issued, is found to have been convicted of an offense described in Subsection (1)(a) before the package agency, license, or permit is issued; or

(b) on or after the day on which the package agency, license, or permit is issued:

(i) is convicted of an offense described in Subsection (1)(a)(i) or (ii); or

(ii)(A) is convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(B) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is convicted of the offense described in Subsection (2)(b)(ii)(A).

(3) Except as described in Section 32B-8-501, the director may take emergency action by immediately suspending the operation of the package agency, licensee, or permittee for the period during which a criminal matter is being adjudicated if a person described in Subsection (1):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i) or (ii); or

(b)(i) is arrested on a charge for the offense of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs; and

(ii) was convicted of driving under the influence of alcohol, drugs, or the combined influence of alcohol and drugs within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4)(a)(i) The commission may not issue a package agency, license, or permit to a person who has had any type of agency, license, or permit issued under this title revoked within the last three years.

(ii) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if a partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of the corporation, or member who owns at least 20% of the limited liability company is or was:

(A) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of a limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following had any type of agency, license, or permit issued under this title revoked while acting in that person's individual capacity within the last three years:

(i) a partner or managing agent of a partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of a corporation; or

(iii) a manager or member who owns at least 20% of a limited liability company.

(c) The commission may not issue a package agency, license, or permit to a person acting in an individual capacity if that person was:

(i) a partner or managing agent of a partnership that had any type of agency, license, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of agency, license, or permit issued under this title revoked within the last three years; or

(iii) a manager or member who owned at least 20% of the limited liability company that had any type of agency, license, or permit issued under this title revoked within the last three years.

(5)(a) The commission may not issue a package agency, license, or permit to a minor.

(b) The commission may not issue a package agency, license, or permit to a partnership, corporation, or limited liability company if any of the following is a minor:

(i) a partner or managing agent of the partnership;

(ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the corporation; or

(iii) a manager or member who owns at least 20% of the limited liability company.

(c) For purposes of Subsection (5)(b), the commission may not consider a minor's position with or ownership interest in an entity that has an ownership interest in the entity that is applying for the package agency, license, or permit unless the minor would exercise direct decision-making control over the package agency, license, or permit.

(6) Except as described in Section 32B-8-501, if a package agent, licensee, or permittee no longer possesses the qualifications required by this title for obtaining a package agency, license, or permit, the commission may terminate the package agency agreement, or revoke the license or permit.

(7)(a) If the licensee is a resort licensee:

(i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the resort, as the commission defines in rule; and

(ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the resort licensee or in relation to a sublicense of the resort license.

(b) If the permittee is a public service permittee under Chapter 10, Special Use Permit Act:

(i) Subsection (1)(a) only applies if an individual listed in Subsection (1)(b) engages in the management of the [~~airline, railroad, or other public conveyance~~]public service permittee, as the commission defines in rule; and

(ii) Subsection (1)(c) only applies to an individual employed to act in a supervisory or managerial capacity for the public service permittee.

Section 3. Section 32B-2-205 is amended to read:

32B-2-205. Director of alcoholic beverage services.

(1)(a) In accordance with Subsection (1)(b), the governor, with the advice and consent of the Senate, shall appoint a director of alcoholic beverage services to a four-year term. The director may be appointed to more than one four-year term. The director is the administrative head of the department.

(b)(i) The governor shall appoint the director from nominations made by the commission.

(ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.

(iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:

(A) appoint the director; or

(B) reject the three nominations.

(iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint the director or reject the nominations until such time as the governor appoints the director.

(v) The governor may reappoint the director without seeking nominations from the commission. Reappointment of a director is subject to the advice and consent of the Senate.

(c)(i) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may appoint an interim director for a period of up to 30 calendar days.

(ii) If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period subject to the advice and consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor.

(iii) Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.

(d) The director may be terminated by:

(i) the commission by a vote of four commissioners; or

(ii) the governor after consultation with the commission.

(e) The director may not be a commissioner.

(f) The director shall:

(i) be qualified in administration;

(ii) be knowledgeable by experience and training in the field of business management; and

(iii) possess any other qualification prescribed by the commission.

(2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) The director shall:

(a) carry out the policies of the commission;

(b) carry out the policies of the department;

(c) fully inform the commission of the operations and administrative activities of the department; and

(d) assist the commission in the proper discharge of the commission's duties.

(4)(a) The director shall form a workgoup that includes representatives from the following:

(i) the department;

(ii) the Division of Integrated Healthcare created in Section 26B-1-202;

(iii) the Department of Public Safety created in Section 53-10-103;

(iv) the retail alcohol industry;

(v) the bar or restaurant industry;

(vi) organizations related to alcohol and drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education; and

(vii) any other organization or industry the director determines beneficial.

(b)(i) The workgroup shall study and make recommendations to:

(A) improve the efficacy of the alcohol training and education described in Section 26B-5-205, including recommendations related to the curriculum, development, provider, and delivery; and

(B) maintain appropriate records of cash sale transactions in bar establishments.

(ii) The workgoup shall ensure that the workgroup's recommendations under Subsection (4)(b)(i)(A) include a focus on improving training with respect to laws governing the responsible sale and service of alcohol.

(c) No later than September 1, 2024, the workgroup shall provide written recommendations as provided in this Subsection (4) to the Business and Labor Interim Committee.

Section 4. Section 32B-2-213 is enacted to read:

32B-2-213. Round up program.

(1) The department may establish a round up program under which an individual who makes a purchase at a state store may elect to round the purchase price up to the nearest dollar.

(2) The department shall deposit money the department collects under Subsection (1) into the Pamela Atkinson Homeless Account created in Section 35A-16-301.

Section 5. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- Remittance of markup -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a)(i) "Landed case cost" means the sum of:

(A) the cost of the product; [~~and~~]

(B) inbound shipping costs [~~incurred by the department.~~]the department incurs; and

(C) case handling costs the department incurs.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(2) Except as provided in Subsections (3) and (4):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than [~~88%~~]88.5% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than [~~88%~~]88.5% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than [~~88%~~]88.5% above the landed case cost to the department.

(3)(a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i)(A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall:

(i) for purposes of Subsections (3)(b) and (c), calculate the production amount of a manufacturer:

(A) by, if the manufacturer is part of a controlled group of manufacturers, including the combined

volume totals of spirituous liquor, wine, or cider, as applicable, for all manufacturers that constitute the controlled group of manufacturers; and

(B) without considering the manufacturer's production of any other type of alcoholic product; and

(ii) verify that a manufacturer meets a production amount described in Subsection (3)(b) or (c) and the production amount of a small brewer [~~pursuant to~~]under a federal or other verifiable production report.

(f) A manufacturer seeking to obtain a reduced markup under Subsection (3)(b), (c), or (d), shall provide to the department any documentation or information the department determines necessary to determine if the manufacturer is part of a controlled group of manufacturers.

(g) The department may, at any time, revoke a reduced markup granted to a manufacturer under Subsection (3)(b), (c), or (d), if the department determines the manufacturer no longer qualifies for the reduced markup.

(4) Wine the department purchases on behalf of a subscriber through the wine subscription program established in Section 32B-2-702 shall be marked up not less than [~~88%~~]88.5% above the cost of the subscription for the interval in which the wine is purchased.

(5) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school meals program administered by the State Board of Education under Section 53E-3-510.

(6)(a) Each month, the department shall collect from each package agency located at a manufacturing facility owned or operated by a person licensed under Chapter 11, Manufacturing and Related Licenses Act, 12.295% of the package agency's reported monthly revenue and deposit the money as follows:

(i) 1.695% of the reported monthly revenue into the Alcoholic Beverage Control Act Enforcement Fund;

(ii) 10% of the reported monthly revenue into the Uniform School Fund and used to support the school meals program administered by the State Board of Education under Section 53E-3-510; and

(iii) 0.60% of the reported monthly revenue into the Underage Drinking Prevention Media and Education Campaign Restricted Account.

(b) The department may collect a fee established in accordance with Section 63J-1-504 from a package agency described in this subsection to cover the costs of regulation.

[~~(6)~~](7) This section does not prohibit the department from selling discontinued items at a discount.

(8) The Legislature shall annually appropriate to support substance use disorder treatment services, an amount equal to the revenue generated from a 0.5% markup above the landed case cost to the department on spirituous liquor.

Section 6. Section 32B-2-305 is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" means the same as that term is defined in Section 32B-1-201.

(b) "Drug-related law enforcement officer" means a law enforcement officer employed by the Department of Public Safety who has enforcement of drug-related offenses as a primary responsibility.

(c) "Enforcement ratio" means the same as that term is defined in Section 32B-1-201.

(d) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(e) "SBI drug-related law enforcement officer" means a law enforcement officer employed by the State Bureau of Investigation within the Department of Public Safety who has investigation of drug-related offenses as a primary responsibility.

(f) "Social worker" means an individual licensed under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, and employed by the Department of Public Safety who has provision of caseworker services to individuals under 21 years old as a primary responsibility.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3)(a) The fund consists of:

(i) deposits made under Subsection (4); [~~and~~]

(ii) deposits made under Section 59-15-109; and

[~~(ii)~~](iii) interest earned on the fund.

(b)(i) The fund shall earn interest.

(ii) Interest on the fund shall be deposited into the fund.

(4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit 1.695% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund[~~ to be:~~].

(5) The deposits made under Subsection (4) and Section 59-15-109 shall be:

(a) used by the Department of Public Safety as provided in Subsection [~~(5)~~](6); and

(b) reallocated to the General Fund as described in Subsection [~~(6)~~](7).

[~~(5)~~](6)(a) The Department of Public Safety shall expend money from the fund to:

(i) supplement appropriations by the Legislature so that the Department of Public Safety maintains a

sufficient number of alcohol-related law enforcement officers such that each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201; and

(ii) maintain at least:

(A) 10 drug-related law enforcement officers;

(B) eight SBI drug-related law enforcement officers; [~~and~~]

(C) two social workers[~~.~~]; and

(D) three additional alcohol-related law enforcement officers who are dedicated to compliance or enforcement of this title.

(b) Four of the alcohol-related law enforcement officers described in Subsection [~~(5)(a)(i)~~](6)(a)(i) shall have as a primary focus the enforcement of this title in relationship to restaurants.

[~~(6)~~](7) For fiscal year 2023, the Division of Finance shall deposit into the General Fund $3 million of unspent money in the fund.

Section 7. Section 32B-2-503 is amended to read:

32B-2-503. Operational requirements for a state store.

(1)(a) A state store shall display in a prominent place in the store a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(b)(i) The text described in Subsections (1)(a)(i) through (iii) shall be in a different font style than the text described in Subsections (1)(a)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (1)(a) shall be in the same font size.

(c) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(2) A state store may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(3) A state store may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(4)(a) A state store employee may not:

(i) consume an alcoholic product on the premises of a state store; or

(ii) allow any person to consume an alcoholic product on the premises of a state store.

(b) A violation of this Subsection (4) is a class B misdemeanor.

(5)(a) Sale or delivery of liquor may not be made on or from the premises of a state store, and a state store may not be kept open for the sale of liquor:

(i) on Sunday; or

(ii) on a state or federal legal holiday.

(b) Sale or delivery of liquor may be made on or from the premises of a state store, and a state store may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(6)(a) A minor may not be admitted into, or be on the premises of, a state store unless accompanied by a person who is:

(i) 21 years of age or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A state store employee that has reason to believe that a person who is on the premises of a state store is under the age of 21 and is not accompanied by a person described in Subsection (6)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A state store employee shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the state store if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(d) A state store employee shall require a suspected minor and the person who accompanies the suspected minor into the state store to immediately leave the premises of the state store if the suspected minor or person fails to provide information specified in Subsection (6)(b).

(7)(a) A state store may not sell, offer for sale, or furnish liquor except in a sealed container.

(b) A person may not open a sealed container on the premises of a state store.

(8) On or after October 1, 2011, a state store may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(9) A state store may not sell, offer for sale, or furnish:

(a) liquor that is intended to be frozen and consumed in a manner other than as a beverage, including liquor in the form of a freeze pop, popsicle, ice cream, or sorbet; or

(b) liquor that contains more than 80% alcohol by volume.

Section 8. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1)(a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c)(i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2)(a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3)(a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c)(i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health and Human Services shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5)(a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, the department may provide liquor to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7)(a) Except as provided in Subsection (7)(b), a package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(b) A package agency may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if:

(i) the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

(ii) staff of the package agency provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product:

(A) is not a spirituous liquor; and

(B) is in an unopened container not to exceed 750 milliliters.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9)(a) A package agency may not employ a minor to handle liquor.

(b)(i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10)(a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the day on which the package agency closes or ceases operation; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c)(i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period described in Subsection (10)(c)(i) an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer the package agency's operations from one location to another location without prior written approval of the commission.

(12)(a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13)(a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday; and

(ii) sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act; and

(ii) the package agency only sells an alcoholic product produced at the manufacturing facility.

(c)(i) Subsection (13)(a) does not apply to a package agency held by the following if the package

agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14)(a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years old or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under 21 years old and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15)(a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room or privately owned dwelling unit;

(B) staff of the package agency not leaving the liquor outside a guest room or privately owned dwelling unit for retrieval by a guest or resident; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) A package agency may not sell, offer for sale, or furnish[~~.~~]:

(a) heavy beer in a sealed container that exceeds two liters[~~.~~]; or

(b) liquor that contains more than 80% alcohol by volume.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

(d) inventory levels;

(e) payment schedules;

(f) methods of payment;

(g) premises security; and

(h) any other matter considered appropriate by the commission.

(19) A package agency may not maintain a minibar.

Section 9. Section 32B-3-203 is amended to read:

32B-3-203. Initiating a disciplinary proceeding.

Subject to Section 32B-3-202:

(1) [~~The department may~~]Subject to Subsection (3), the department shall initiate a disciplinary proceeding described in Subsection (2) if the department[~~receives~~]:

(a) receives a report from an investigator alleging that a person subject to administrative action violated this title or the rules of the commission;

(b) [~~a final adjudication of criminal liability~~] receives notice of criminal proceedings against a person subject to administrative action on the basis of an alleged violation of this title; [~~or~~]

(c) [~~a final adjudication of civil liability in accordance with~~]receives notice of civil proceedings in accordance with Chapter 15, Alcoholic Product Liability Act, against a person subject to administrative action on the basis of an alleged violation of this title[~~.~~]; or

(d) otherwise becomes aware that a person subject to administrative action on the basis of an

alleged violation of this title may have violated this title or commission rule.

(2) [~~If the condition of Subsection (1) is met,~~]Subject to Subsection (3), if a condition in Subsection (1) is met, the department shall:

(a) [~~the department may~~]initiate a disciplinary proceeding to determine:

[~~(a)~~](i) whether a person subject to administrative action violated this title or rules of the commission; and

[~~(b)~~](ii) if a violation is found, the appropriate sanction to be imposed[~~.~~]; and

(b) refer the matter to the State Bureau of Investigation, created in Section 53-10-301.

(3) The department is not required to initiate a disciplinary proceeding described in Subsection (2) if after reviewing the information described in Subsection (1), the department determines:

(a) that there is no basis for initiating a disciplinary proceeding; or

(b) in consultation with the prosecutor or plaintiff's counsel, as applicable, that initiating a disciplinary proceeding would pose a significant risk of interfering with a criminal or civil proceeding.

[~~(3)~~](4)(a) Unless waived by the respondent, a disciplinary proceeding shall be held:

(i) if required by law;

(ii) before revoking or suspending a license, permit, or certificate of approval issued under this title; or

(iii) before imposing a fine against a person subject to administrative action.

(b) Inexcusable failure of a respondent to appear at a scheduled disciplinary proceeding hearing after receiving proper notice is an admission of the charged violation.

(c) The validity of a disciplinary proceeding is not affected by the failure of a person to attend or remain in attendance.

Section 10. Section 32B-4-422 is amended to read:

32B-4-422. Unlawful dispensing.

(1) A retail licensee licensed under this title to sell, offer for sale, or furnish spirituous liquor for consumption on the licensed premises, or staff of the retail licensee may not:

(a) sell, offer for sale, or furnish a primary spirituous liquor to a person on the licensed premises except in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department;

(b) sell, offer for sale, or furnish more than a total of 2.5 ounces of spirituous liquor per beverage;

(c) allow a person on the licensed premises to have more than a total of 2.5 ounces of spirituous liquor at a time; or

(d)(i) except as provided in Subsection (1)(d)(ii), allow a person to have more than two spirituous liquor beverages at a time; or

(ii) allow a person on the premises of the following to have more than one spirituous liquor beverage at a time:

(A) a full-service restaurant licensee;

(B) a person operating under a full-service restaurant sublicense;

(C) an on-premise banquet licensee;

(D) a person operating under an on-premise banquet sublicense; [~~or~~]

(E) a single event permittee[~~.~~]; or

(F) a hospitality amenity licensee.

(2) A violation of this section is a class C misdemeanor.

Section 11. Section 32B-4-424 is amended to read:

32B-4-424. Powdered or vaporized alcohol.

(1) As used in this section[~~, "powdered alcohol"~~]:

(a) "Powdered alcohol" means a product that is in a powdered or crystalline form and contains any amount of alcohol.

(b) "Vaporized alcohol" means a product created by mixing alcohol with pure oxygen or another gas to produce a vaporized product for the purpose of consumption through inhalation.

(2) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, furnish, or possess[~~ powdered alcohol~~] for human consumption powdered alcohol or vaporized alcohol.

(3) It is unlawful for a holder of a retail license to use powdered alcohol or vaporized alcohol as an alcoholic product.

(4) This section does not apply to the use of powdered alcohol or vaporized alcohol for a commercial use specifically approved by state law or bona fide research purposes by a:

(a) health care practitioner that operates primarily for the purpose of conducting scientific research;

(b) department, commission, board, council, agency, institution, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including a state institution of higher education listed in Section 53B-2-101;

(c) private college or university research facility; or

(d) pharmaceutical or biotechnology company.

Section 12. Section 32B-4-501 is amended to read:

32B-4-501. Operating without a license or permit.

(1) A person may not operate the following businesses without first obtaining a license under this title if the business allows a person to purchase or consume an alcoholic product on the premises of the business:

(a) a restaurant;

(b) an airport lounge;

(c) a business operated in the same manner as a bar establishment licensee;

(d) a resort;

(e) a business operated to sell, offer for sale, or furnish beer for on-premise consumption;

(f) a business operated as an on-premise banquet licensee;

(g) a hotel; [~~or~~]

(h) an arena; or

[~~(h)~~](i) a business similar to one listed in Subsections (1)(a) through [~~(g)~~](h).

(2) A person conducting an event that is open to the general public may not directly or indirectly sell, offer for sale, or furnish an alcoholic product to a person attending the event without first obtaining an event permit under this title.

(3) A person conducting a private event may not directly or indirectly sell or offer for sale an alcoholic product to a person attending the private event without first obtaining an event permit under this title.

(4) A person may not operate the following businesses in this state without first obtaining a license under this title:

(a) a winery manufacturer;

(b) a distillery manufacturer;

(c) a brewery manufacturer;

(d) a local industry representative of:

(i) a manufacturer of an alcoholic product;

(ii) a supplier of an alcoholic product; or

(iii) an importer of an alcoholic product;

(e) a liquor warehouser; or

(f) a beer wholesaler.

(5) A person may not operate a public conveyance in this state without first obtaining a public service permit under this title if that public conveyance allows a person to purchase or consume an alcoholic product:

(a) on the public conveyance; or

(b) on the premises of a hospitality room located within a depot, terminal, or similar facility at which a service is provided to a patron of the public conveyance.

Section 13. Section 32B-5-201 is amended to read:

32B-5-201. Application requirements for retail license.

(1)(a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) every license the local authority requires, including the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the local authority determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license and each, if any, accompanying sublicense, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee carries dramshop insurance coverage of at least:

(i) $1,000,000 per occurrence and $2,000,000 in the aggregate;

(ii) if the retail licensee is a hotel licensee or a resort licensee, $1,000,000 per occurrence and $2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, $10,000,000 per occurrence and $20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses[~~.~~];

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter:

(i) the premises of the retail licensee; and

(ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity;

(m) a responsible alcohol service plan;

(n) evidence that each individual the person has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

(o) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant chapter or part for the type of retail license for which the person is applying, the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

(5) The commission may not deny an application for a retail license, an application for a conditional retail license under Section 32B-5-205, or an application for a sublicense under Chapter 8d, Sublicense Act, if:

(a) the applicant satisfies the requirements of this chapter; and

(b) for a retail license or a conditional retail license, granting the retail license or the conditional retail license would not cause the commission to exceed the maximum number of licenses of that retail license type that the commission is authorized to issue under this chapter.

Section 14. Section 32B-5-304 is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1)(a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title.

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

(i) a secondary flavoring ingredient;

(ii) used as a flavoring on a dessert; [~~or~~]

(iii) used to set aflame a food dish, drink, or dessert[~~.~~]; or

(iv) in a beverage that:

(A) is served to a patron in the original, sealed container;

(B) is not more than 12 ounces;

(C) contains no more than 10% alcohol by volume or 8% by weight; and

(D) is in a container that has the alcohol by volume percentage on the front label and in a font that measures at least three millimeters high.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:

(i) designate a location where the retail licensee stores secondary flavoring ingredients on the floor plan the retail licensee submits to the department; and

(ii) clearly and conspicuously label each secondary flavoring ingredient's container "flavorings".

(d)(i) A patron may have no more than 2.5 ounces of spirituous liquor at a time.

(ii) Subsection (1)(d)(i) does not apply to a beverage described in Subsection (1)(b)(iv).

(2)(a)(i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

(b)(i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

(c) Notwithstanding Subsections (2)(a) and (b), a retail licensee may sell, offer for sale, or furnish hard cider that contains no more than 5% of alcohol by volume in a sealed container not to exceed 16 ounces.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5)(a)(i) Subject to Subsection (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

(A) in an open original container; and

(B) in a container on draft.

(ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

(A) in a size of container that exceeds two liters; or

(B) to an individual patron in a size of container that exceeds one liter.

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

(ii) in a size of container that does not exceed two liters.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 15. Section 32B-6-203 is amended to read:

32B-6-203. Commission's power to issue full-service restaurant license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its premises as a full-service restaurant, the person shall first obtain a full-service restaurant license from the commission in accordance with this part.

(2) The commission may issue a full-service restaurant license to establish full-service restaurant licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated as a full-service restaurant.

(3) Subject to Section 32B-1-201:

(a) the commission may not issue a total number of full-service restaurant licenses that at any time exceeds the sum of:

(i) 30; and

(ii) the number determined by dividing the population of the state by[~~4,467;~~]:

(A) before July 1, 2024, 4,467;

(B) in fiscal year 2025, 4,281;

(C) in fiscal year 2026, 4,095;

(D) in fiscal year 2027, 3,909;

(E) in fiscal year 2028, 3,723;

(F) in fiscal year 2029, 3,537;

(G) in fiscal year 2030, 3,351; and

(H) in fiscal year 2031, and in each fiscal year thereafter, 3,167;

(b) the commission may issue a seasonal full-service restaurant license in accordance with Section 32B-5-206; and

(c)(i) if the location, design, and construction of a hotel may require more than one full-service restaurant sales location within the hotel to serve the public convenience, the commission may authorize the sale, offer for sale, or furnishing of an alcoholic product at as many as three full-service restaurant locations within the hotel under one full-service restaurant license if:

(A) the hotel has a minimum of 150 guest rooms; and

(B) the locations under the full-service restaurant license are:

(I) within the same hotel; and

(II) on premises that are managed or operated, and owned or leased, by the full-service restaurant licensee; and

(ii) except for a hotel, a facility shall have a separate full-service restaurant license for each full-service restaurant where an alcoholic product is sold, offered for sale, or furnished.

(4) Except as otherwise provided in Section 32B-1-202, the commission may not issue a full-service restaurant license for premises that do not meet the proximity requirements of Subsection 32B-1-202(2).

(5) To be licensed as a full-service restaurant, a person shall maintain at least 70% of the restaurant's gross revenues from the sale of food, which does not include:

(a) mix for an alcoholic product; or

(b) a service charge.

Section 16. Section 32B-6-204 is amended to read:

32B-6-204. Specific licensing requirements for full-service restaurant license.

(1) To obtain a full-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) A full-service restaurant license expires on October 31 of each year.

(b) To renew a person's full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a full-service restaurant license is $330.

(b)(i) The initial license fee for a full-service restaurant license is $2,200.

(ii) The department shall prorate the $2,200 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the full-service restaurant license expires.

(c) The renewal fee for a full-service restaurant license is $1,650.

(4) The bond amount required for a full-service restaurant license is the penal sum of $10,000.

Section 17. Section 32B-6-206 is amended to read:

32B-6-206. Master full-service restaurant license.

(1)(a) The commission may issue a master full-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as full-service restaurants if the person applying for the master full-service restaurant license:

(i) owns each of the full-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a full-service restaurant under the master full-service restaurant license separately meets the requirements of this part; and

(iii) the master full-service restaurant license includes at least five full-service restaurant locations.

(b) The person seeking a master full-service restaurant license shall designate which full-service restaurant locations the person seeks to have under the master full-service restaurant license.

(c) A full-service restaurant location under a master full-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master full-service restaurant license and each location designated under Subsection (1) are considered a single full-service restaurant license for purposes of Subsection 32B-6-203(3)(a).

(3)(a) A master full-service restaurant license expires on October 31 of each year.

(b) To renew a person's master full-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4)(a) The nonrefundable application fee for a master full-service restaurant license is $330.

(b)(i) The initial license fee for a master full-service restaurant license is $5,000 plus a separate initial license fee for each newly licensed full-service restaurant [~~license~~]location under the master full-service restaurant license determined in accordance with Subsection 32B-6-204(3)(b).

(ii) The department [~~may~~]shall prorate the $5,000 initial license fee [~~based on the number of months out of a year the master full-service restaurant licensee is licensed before~~]for the period that begins the day on which the initial license fee is paid and ends the day on which the master full-service restaurant license expires.

(c) To renew a master full-service restaurant license the master full-service restaurant licensee shall pay a separate renewal fee for each full-service [~~license~~]restaurant location under the master full-service restaurant license[~~determined~~] in accordance with Subsection 32B-6-204(3)(c).

(5) A new location may be added to a master full-service restaurant license after the master full-service restaurant license is issued if:

(a) the master full-service restaurant licensee pays a nonrefundable application fee of $330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6)(a) A master full-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master full-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master full-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master full-service restaurant licensee is transferring management personnel from one location to another location covered by the master full-service restaurant licensee.

(b) A location covered by a master full-service restaurant license shall keep the location's own records on the location's premises so that the department may audit the records.

(c) A master full-service restaurant licensee may not transfer alcoholic products between different locations covered by the master full-service restaurant license.

(7) If there is a violation of this title at a location covered by a master full-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(a) the single location under a master full-service restaurant license;

(b) individual staff of the location under the master full-service restaurant license; or

(c) a combination of persons or locations described in Subsections (7)(a) and (b).

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master full-service restaurant license under this section.

Section 18. Section 32B-6-302 is amended to read:

32B-6-302. Definitions.

As used in this part:

(1)(a) "Dining area" means an area in the licensed premises of a limited-service restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(b) "Dining area" does not include a dispensing area.

(2)(a) "Dispensing area" means an area in the licensed premises of a limited-service restaurant licensee where a dispensing structure is located and that:

(i) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of alcoholic product;

(ii) except as provided in Subsection (2)(b), measures at least 10 feet from the dining area and any waiting area to the nearest edge of the dispensing structure; or

(iii) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures:

(A) at least 42 inches high; and

(B) at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(b) "Dispensing area" does not include any area described in Subsection (2)(a)(ii) that is less than 10 feet from an area where alcoholic product is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of alcoholic product.

(3) "Small limited-service restaurant licensee" means a limited-service restaurant licensee[~~ that has a grandfathered bar structure~~] whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(a) when measured in accordance with Subsection (2)(a)(ii); and

(b) based on the licensee's floor plan on file with the department on July 1, 2017.

(4) "Waiting area" includes a lobby.

Section 19. Section 32B-6-304 is amended to read:

32B-6-304. Specific licensing requirements for limited-service restaurant license.

(1) To obtain a limited-service restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) A limited-service restaurant license expires on October 31 of each year.

(b) To renew a person's limited-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a limited-service restaurant license is $330.

(b)(i) The initial license fee for a limited-service restaurant license is $1,275.

(ii) The department shall prorate the $1,275 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the limited-service restaurant license expires.

(c) The renewal fee for a limited-service restaurant license is $750.

(4) The bond amount required for a limited-service restaurant license is the penal sum of $5,000.

Section 20. Section 32B-6-306 is amended to read:

32B-6-306. Master limited-service restaurant license.

(1)(a) The commission may issue a master limited-service restaurant license that authorizes a person to store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on premises at multiple locations as limited-service restaurants if the person applying for the master limited-service restaurant license:

(i) owns each of the limited-service restaurants;

(ii) except for the fee requirements, establishes to the satisfaction of the commission that each location of a limited-service restaurant under the master limited-service restaurant license separately meets the requirements of this part; and

(iii) the master limited-service restaurant includes at least five limited-service restaurant locations.

(b) The person seeking a master limited-service restaurant license shall designate which limited-service restaurant locations the person seeks to have under the master limited-service restaurant license.

(c) A limited-service restaurant location under a master limited-service restaurant license is considered separately licensed for purposes of this title, except as provided in this section.

(2) A master limited-service restaurant license and each location under Subsection (1) are considered a single limited-service restaurant license for purposes of Subsection 32B-6-303(3)(a).

(3)(a) A master limited-service restaurant license expires on October 31 of each year.

(b) To renew a person's master limited-service restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(4)(a) The nonrefundable application fee for a master limited-service restaurant license is $330.

(b)(i) The initial license fee for a master limited-service restaurant license is $5,000 plus a separate initial license fee for each newly licensed limited-service restaurant license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(b).

(ii) The department shall prorate the $5,000 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the master limited-service restaurant license expires.

(c) The renewal fee for a master limited-service restaurant license is $500 plus a separate renewal fee for each limited-service license under the master limited-service restaurant license determined in accordance with Subsection 32B-6-304(3)(c).

(5) A new location may be added to a master limited-service restaurant license after the master limited-service restaurant license is issued if:

(a) the master limited-service restaurant licensee pays a nonrefundable application fee of $330; and

(b) including payment of the initial license fee, the location separately meets the requirements of this part.

(6)(a) A master limited-service restaurant licensee shall notify the department of a change in the persons managing a location covered by a master limited-service restaurant license:

(i) immediately, if the management personnel is not management personnel at a location covered by the master limited-service restaurant licensee at the time of the change; or

(ii) within 30 days of the change, if the master limited-service restaurant licensee is transferring management personnel from one location to another location covered by the master limited-service restaurant licensee.

(b) A location covered by a master limited-service restaurant license shall keep its own records on its premises so that the department may audit the records.

(c) A master limited-service restaurant licensee may not transfer alcoholic products between different locations covered by the master limited-service restaurant license.

(7)(a) If there is a violation of this title at a location covered by a master limited-service restaurant license, the violation may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the single location under a master limited-service restaurant license;

(ii) individual staff of the location under the master limited-service restaurant license; or

(iii) a combination of persons or locations described in Subsections (7)(a)(i) and (ii).

(b) In addition to disciplinary action under Subsection (7)(a), disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, may be taken against a master limited-service restaurant licensee or individual staff of the master limited-service restaurant licensee if during a period beginning on November 1 and ending October 31:

(i) at least 25% of the locations covered by the master limited-service restaurant license have been found by the commission to have committed a serious or grave violation of this title, as defined by rule made by the commission; or

(ii) at least 50% of the locations covered by the master limited-service restaurant license have been found by the commission to have violated this title.

(8) The commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish how a person may apply for a master limited-service restaurant license under this section.

Section 21. Section 32B-6-403 is amended to read:

32B-6-403. Commission's power to issue bar establishment license.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a bar establishment licensee, the person shall first obtain a bar establishment license from the commission in accordance with this part.

(2) The commission may issue a bar establishment license to establish bar establishment licensed premises at places and in numbers the commission considers proper for the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product on premises operated by a bar establishment licensee.

(3) Subject to Section 32B-1-201:

(a) the commission may not issue a total number of bar establishment licenses that at any time exceeds the sum of:

(i) 15; and

(ii) the number determined by dividing the population of the state by[~~10,200;~~]:

(A) before fiscal July 1, 2024, 10,200;

(B) in fiscal year 2025, 9,778;

(C) in fiscal year 2026, 9,356;

(D) in fiscal year 2027, 8,934;

(E) in fiscal year 2028, 8,512;

(F) in fiscal year 2029, 8,090;

(G) in fiscal year 2030, 7,668; and

(H) in fiscal year 2031, and in each fiscal year thereafter, 7,246;

(b) the commission may issue a seasonal bar establishment license in accordance with Section 32B-5-206 to a bar licensee;

(c) the commission may authorize as many as three bar establishment license locations within a hotel under one bar establishment license if:

(i) the location, design, and construction of the hotel requires more than one bar license location within the hotel to serve the public convenience;

(ii) the hotel has a minimum of 150 guest rooms;

(iii) all locations under the bar establishment license are:

(A) within the same hotel; and

(B) on premises that are managed or operated, and owned or leased, by the bar establishment licensee;

(d) the commission may authorize up to five dispensing [~~structures~~]locations under one equity license if the locations under the equity license:

(i) are connected by a private roadway to which the equity licensee, each member of the equity licensee, and each guest has a legal right of access; and

(ii) are located on premises managed or operated, and owned or leased, by the equity licensee;

(e) except for a facility operating in accordance with Subsection (3)(d) or a hotel, a facility shall have a separate bar establishment license for each bar establishment license location where an alcoholic product is sold, offered for sale, or furnished;

(f) when a business establishment undergoes a change of ownership, the commission may issue a bar establishment license to the new owner of the business establishment notwithstanding that there is no bar establishment license available under Subsection (3)(a) if:

(i) the primary business activity at the business establishment before and after the change of ownership is not the sale, offer for sale, or furnishing of an alcoholic product;

(ii) before the change of ownership there are two or more licensed premises on the business establishment that operate under a retail license, with at least one of the retail licenses being a bar establishment license;

(iii) subject to Subsection (3)(g) the licensed premises of the bar establishment license issued under this Subsection (3)(f) is at the same location where the bar establishment license licensed premises was located before the change of ownership; and

(iv) the person who is the new owner of the business establishment qualifies for the bar establishment license, except for there being no bar establishment license available under Subsection (3)(a); and

(g) if a bar establishment licensee of a bar establishment license issued under Subsection (3)(f) requests a change of location, the bar establishment licensee may retain the bar establishment license after the change of location only if on the day on which the bar establishment licensee seeks a change of location a bar establishment license is available under Subsection (3)(a).

Section 22. Section 32B-6-405 is amended to read:

32B-6-405. Specific licensing requirements for bar establishment license.

(1) To obtain a bar establishment license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

(a)(i) a statement as to whether the person is seeking to qualify as:

(A) an equity licensee;

(B) a fraternal licensee;

(C) a dining club licensee; or

(D) a bar licensee; and

(ii) evidence that the person meets the requirements for the type of bar establishment license for which the person is applying;

(b) evidence that the person operates a premises where a variety of food is prepared and served in connection with dining accommodations; and

(c) if the person is applying for an equity license or fraternal license, a copy of the entity's bylaws or house rules, and an amendment to those records.

(2) The commission may refuse to issue a bar establishment license to a person for an equity license or fraternal license if the commission determines that a provision of the person's bylaws or house rules, or amendments to those records is not:

(a) reasonable; and

(b) consistent with:

(i) the declared nature and purpose of the bar establishment licensee; and

(ii) the purposes of this part.

(3)(a) A bar establishment license expires on June 30 of each year.

(b) To renew a bar establishment license, a person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than May 31.

(4)(a) The nonrefundable application fee for a bar establishment license is $300.

(b)(i) The initial license fee for a bar establishment license is $2,750.

(ii) The department shall prorate the $2,750 initial license fee based on the number of months out of a year the bar establishment licensee is

licensed before the day on which the bar establishment license expires.

(c) The renewal fee for a bar establishment license is $2,000.

(5) The bond amount required for a bar establishment license is the penal sum of $10,000.

Section 23. Section 32B-6-504 is amended to read:

32B-6-504. Specific licensing requirements for airport lounge license.

(1) To obtain an airport lounge license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the written application:

(a) both the written consent of the local authority and the written consent of the airport authority; and

(b) a copy of the sign proposed to be used by the airport lounge licensee on its licensed premises to inform the public that alcoholic products are sold and consumed on the licensed premises.

(2)(a) An airport lounge license expires on October 31 of each year.

(b) To renew a person's airport lounge license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for an airport lounge license is $300.

(b)(i) The initial license fee for an airport lounge license is $8,000.

(ii) The department shall prorate the $8,000 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the airport lounge license expires.

(c) The renewal fee for an airport lounge license is $6,000.

(4) The bond amount required for an airport lounge license is the penal sum of $10,000.

(5) An airport lounge license is not subject to the proximity requirements of Section 32B-1-202.

Section 24. Section 32B-6-604 is amended to read:

32B-6-604. Specific licensing requirements for an on-premise banquet license.

(1) To obtain an on-premise banquet license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) An on-premise banquet license expires on October 31 of each year.

(b) To renew a person's on-premise banquet license, a person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for an on-premise banquet license is $300.

(b)(i) The initial license fee for an on-premise banquet license is $750.

(ii) The department shall prorate the $750 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the on-premise banquet license expires.

(c) The renewal fee for an on-premise banquet license is $750.

(4) The bond amount required for an on-premise banquet license is the penal sum of $10,000.

(5) Notwithstanding the other provisions of this part, if an applicant is a state agency or political subdivision of the state it is not required to:

(a) pay an application fee, initial license fee, or renewal fee;

(b) obtain the written consent of the local authority;

(c) submit a copy of the applicant's current business license; or

(d) post a bond as specified by Section 32B-5-204.

(6) Notwithstanding Subsection 32B-5-303(3), the department may approve an additional location in or on the licensed premises of an on-premise banquet licensee from which the on-premise banquet licensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product that is not included in its original application only:

(a) upon proper application by an on-premise banquet licensee; and

(b) in accordance with guidelines approved by the commission.

Section 25. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1)(a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports

center, convention center, performing arts facility, arena, or restaurant venue that is the basis for the on-premise banquet license.

(3)(a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4)(a) An on-premise banquet licensee is not subject to Subsection 32B-5-302(1), but shall make and maintain the records described in Subsection 32B-5-302(2) and the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5)(a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) [~~Except as provided in Subsection 32B-5-307(4), ~~]Notwithstanding Section 32B-5-307 and except as otherwise provided in this title:

(i) [~~a host of a banquet, a patron, or~~]a person at a banquet other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet[~~.~~]; and

(ii) a patron at a banquet may not bring an alcoholic product into or onto[~~, or remove an alcoholic product from,~~] the premises of [~~a~~]the banquet.

[~~(c) Notwithstanding Subsections 32B-5-307(3) and (5) and except as provided in Subsection 32B-5-307(4),~~]

(6)(a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9)(a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10)(a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12)(a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 26. Section 32B-6-702 is amended to read:

32B-6-702. Definitions.

As used in this part:

(1) "Commission-approved activity" means a leisure activity that:

(a) the commission approves by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) does not involve the use of a dangerous weapon.

(2)(a) "Recreational amenity" means:

(i) a billiard parlor;

(ii) a pool parlor;

(iii) a bowling facility;

(iv) a golf course;

(v) miniature golf;

(vi) a golf driving range;

(vii) a tennis club;

(viii) a sports facility that hosts professional sporting events and has a seating capacity equal to or greater than [~~6,500~~]5,000;

(ix) a concert venue that has a seating capacity equal to or greater than [~~6,500~~]5,000;

(x) one of the following if owned by a government agency:

(A) a convention center;

(B) a fair facility;

(C) an equestrian park;

(D) a theater; or

(E) a concert venue;

(xi) an amusement park:

(A) with one or more permanent amusement rides; and

(B) located on at least 50 acres;

(xii) a ski resort;

(xiii) a venue for live entertainment if the venue:

(A) is not regularly open for more than five hours on any day;

(B) is operated so that food is available whenever beer is sold, offered for sale, or furnished at the venue; and

(C) is operated so that no more than 15% of its total annual receipts are from the sale of beer;

(xiv) concessions operated within the boundary of a park administered by the:

(A) Division of State Parks; or

(B) National Parks Service;

(xv) a facility or venue that is a recreational amenity for a person licensed under this part before May 12, 2020;

(xvi) a venue for karaoke; or

(xvii) an enterprise developed around a commission-approved activity.

(b) "Recreational amenity" does not include an item described in Subsection (2)(a), if the item is tangential to an enterprise or activity that is not included in Subsection (2)(a).

Section 27. Section 32B-6-705 is amended to read:

32B-6-705. Specific licensing requirements for on-premise beer retailer license.

(1) To obtain an on-premise beer retailer license a person shall comply with Chapter 5, Part 2, Retail Licensing Process, except that an on-premise beer retailer is required to carry dramshop insurance coverage in accordance with Section 32B-5-201 only if the on-premise beer retailer sells more than $5,000 of beer annually.

(2)(a) An on-premise beer retailer license expires on the last day of February each year.

(b) To renew a person's on-premise beer retailer license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January 31.

(3)(a) The nonrefundable application fee for an on-premise beer retailer license is $300.

(b)(i)(A) The initial license fee for an on-premise beer retailer license that is not a tavern is $300.

(B) The department shall prorate the $300 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the on-premise beer retailer license expires.

(ii)(A) The initial license fee for an on-premise beer retailer license that is a tavern is $1,500.

(B) The department shall prorate the $1,500 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the on-premise beer retailer license expires.

(c)(i) The renewal fee for an on-premise beer retailer license that is not a tavern is $350.

(ii) The renewal fee for an on-premise beer retailer license that is a tavern is $1,250.

(4) The bond amount required for an on-premise beer retailer license is the penal sum of $5,000.

(5) Notwithstanding the other provisions of this part, if an applicant is a state agency or political subdivision of the state it is not required to:

(a) pay an application fee, initial license fee, or renewal fee;

(b) obtain the written consent of the local authority;

(c) submit a copy of the applicant's current business license; or

(d) post a bond as specified by Section 32B-5-204.

Section 28. Section 32B-6-804 is amended to read:

32B-6-804. Specific licensing requirements for reception center license.

(1) To obtain a reception center license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) A reception center license expires on October 31 of each year.

(b) To renew a person's reception center license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a reception center license is $300.

(b)(i) The initial license fee for a reception center license is $750.

(ii) The department shall prorate the $750 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the reception center license expires.

(c) The renewal fee for a reception center license is $750.

(4) The bond amount required for a reception center license is the penal sum of $10,000.

Section 29. Section 32B-6-902 is amended to read:

32B-6-902. Definitions.

(1) As used in this part:

(a)(i) "Dining area" means an area in the licensed premises of a beer-only restaurant licensee that is primarily used for the service and consumption of food by one or more patrons.

(ii) "Dining area" does not include a dispensing area.

(b)(i) "Dispensing area" means an area in the licensed premises of a beer-only restaurant licensee where a dispensing structure is located and that:

(A) is physically separated from the dining area and any waiting area by a structure or other barrier that prevents a patron seated in the dining area or a waiting area from viewing the dispensing of beer;

(B) except as provided in Subsection (1)(b)(ii), measures at least 10 feet from the dining area and any waiting area to the nearest edge of the dispensing structure; or

(C) is physically separated from the dining area and any waiting area by a permanent physical structure that complies with the provisions of Title 15A, State Construction and Fire Codes Act, and, to the extent allowed under Title 15A, State Construction and Fire Codes Act, measures at least 42 inches high, and at least 60 inches from the inside edge of the barrier to the nearest edge of the dispensing structure.

(ii) "Dispensing area" does not include any area described in Subsection (1)(b)(i)(B) that is less than 10 feet from an area where beer is dispensed, but from which a patron seated at a table or counter cannot view the dispensing of beer.

(c) "Small beer-only restaurant licensee" means a beer-only restaurant licensee[~~ that has a grandfathered bar structure~~] whose dispensing area includes more than 45% of the available seating for patrons on the licensed premises, excluding outdoor seating:

(i) when measured in accordance with Subsection (1)(b)(i)(B); and

(ii) based on the licensee's floor plan on file with the department on July 1, 2017.

(d) "Waiting area" includes a lobby.

Section 30. Section 32B-6-904 is amended to read:

32B-6-904. Specific licensing requirements for beer-only restaurant license.

(1) To obtain a beer-only restaurant license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) A beer-only restaurant license expires the last day of February of each year.

(b) To renew a person's beer-only restaurant license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than January 31.

(3)(a) The nonrefundable application fee for a beer-only restaurant license is $330.

(b)(i) The initial license fee for a beer-only restaurant license is $825.

(ii) The department shall prorate the $825 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the beer-only restaurant license expires.

(c) The renewal fee for a beer-only restaurant license is $605.

(4) The bond amount required for a beer-only restaurant license is the penal sum of $5,000.

Section 31. Section 32B-6-1004 is amended to read:

32B-6-1004. Specific licensing requirements for a hospitality amenity license.

(1) To obtain a hospitality amenity license a person shall comply with Chapter 5, Part 2, Retail Licensing Process.

(2)(a) A hospitality amenity license expires on October 31 of each year.

(b) To renew a person's hospitality amenity license, a person shall comply with the renewal requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a hospitality amenity license is $330.

(b)(i) The initial license fee for a hospitality amenity license is $2,000.

(ii) The department shall prorate the $2,000 initial license fee for the period that begins the day on which the initial license fee is paid and ends the day on which the hospitality amenity license expires.

(c) The renewal fee for a hospitality amenity license is $1,000.

(4) The bond amount required for a hospitality amenity license is the penal sum of $10,000.

(5) Notwithstanding Subsection 32B-5-303(3), the commission may approve an additional location in or on the licensed premises of a hospitality amenity licensee from which the hospitality amenity licensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product that is not included in the person's original application only:

(a) upon proper application by a hospitality amenity licensee; and

(b) in accordance with guidelines the commission approves.

Section 32. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1)(a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2)(a)(i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b)(i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4)(a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years old or older who is on the licensed premises; and

(ii) the minor is at least 16 years old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6)(a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e)(i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7)(a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii)(A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to $250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

(8)(a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section 76-10-1101; or

(ii) fringe gambling, as defined in Section 76-10-1101;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

(11) An off-premise beer retailer may not sell, offer for sale, or furnish a beer that is intended to be frozen and consumed in a manner other than as a beverage, including beer in the form of a freeze pop, popsicle, ice cream, or sorbet.

Section 33. Section 32B-8-102 is amended to read:

32B-8-102. Definitions.

As used in this chapter:

(1) "Boundary of a resort building" means the physical boundary of the real property reasonably related to a resort building and any structure or improvement to that land as determined by the commission.

(2) "Designated conveyance area" means a route within a hotel or resort:

(a) that connects one or more of the following:

(i) the premises of a bar establishment sublicensee;

(ii) the premises of a hospitality amenity sublicensee;

(iii) the premises of an on-premise banquet sublicensee; or

(iv) a guest's room; and

(b) that does not begin, end, or pass through a pool area or other recreation area, a designated business center, or a sublicensed premises not described in Subsection (2)(a).

[~~(2)~~](3) "Dwelling" means a portion of a resort building:

(a) owned by one or more individuals;

(b) that is used or designated for use as a residence by one or more persons; and

(c) that may be rented, loaned, leased, or hired out for a period of no longer than 30 consecutive days by a person who uses it for a residence.

[~~(3)~~](4) "Engaged in the management of the resort" may be defined by the commission by rule.

[~~(4)~~](5) "Resident" means an individual who:

(a) owns a dwelling located within a resort building; or

(b) rents lodging accommodations for 30 consecutive days or less from:

(i) an owner of a dwelling described in Subsection [~~(4)(a)~~](5)(a); or

(ii) the resort licensee.

[~~(5)~~](6) "Resort" means a location:

(a) on which is located one resort building; and

(b) that is affiliated with a ski area that physically touches the boundary of the resort building.

[~~(6)~~](7) "Resort building" means a building:

(a) that is primarily operated to provide dwellings or lodging accommodations;

(b) that has at least 150 units that consist of a dwelling or lodging accommodations;

(c) that consists of at least 400,000 square feet:

(i) including only the building itself; and

(ii) not including areas such as above ground surface parking; and

(d) of which at least 50% of the units described in Subsection [~~(6)(b)~~](7)(b) consist of dwellings owned by a person other than the resort licensee.

Section 34. Section 32B-8-201 is amended to read:

32B-8-201. Commission's power to issue a resort license.

(1) Before a person as a resort under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a resort license from the commission in accordance with this part.

(2)(a) The commission may issue to a person a resort license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a resort designated in the resort license if the person operates at least four sublicenses under the resort license.

(b) A resort license shall:

(i) consist of:

(A) a general resort license; and

(B) four or more sublicenses; and

(ii) designate the boundary of the resort building, each sublicense, and each designated conveyance area.

(c) This chapter does not prohibit an alcoholic product in or on the boundary of the resort building to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of resort licenses that at any time totals more than eight.

Section 35. Section 32B-8-202 is amended to read:

32B-8-202. Specific licensing requirements for resort license.

(1) To obtain a resort license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of the resort building to any community location;

(ii) that each proposed sublicensed premises is entirely within the boundaries of the resort building; and

(iii) that the building designated in the application as the resort building qualifies as a resort building; [~~and~~]

(b) a description and boundary map of the resort building[~~.~~];

(c) a description, floor plan, and boundary map of each proposed designated conveyance area; and

(d) a signed consent form stating that the resort licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter any proposed designated conveyance area.

(2)(a) A resort license expires on October 31 of each year.

(b) To renew a person's resort license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a resort license is $300.

(b) The initial license fee for a resort license is calculated as follows:

(i) if four sublicenses are being applied for under the resort license, $10,000; or

(ii) if more than four sublicenses are being applied for under the resort license, the sum of:

(A) $10,000; and

(B) $2,000 for each sublicense in excess of four sublicenses for which the person is applying.

(c) The renewal fee for a resort license is $1,000 for each sublicense under the resort license.

(4)(a) The bond amount required for a resort license is the penal sum of $25,000[~~.~~], covering each

sublicense and each designated conveyance area under the resort license.

(b) A resort licensee is not required to have a separate bond for each sublicense[~~, except that the aggregate of the bonds posted by the resort licensee shall cover each sublicense under the resort license~~]or each designated conveyance area.

(5) The commission may not issue a resort license for a resort building that does not meet the proximity requirements of Section 32B-1-202.

(6) In accordance with Subsection 32B-8d-103(4), a resort licensee may request to add a sublicense after the commission issues the resort licensee's resort license.

(7)(a) A resort licensee may request to add a designated conveyance area after the commission issues the resort licensee's resort license.

(b) If a resort licensee seeks to add a designated conveyance area under Subsection (7)(a), the resort licensee shall submit to the department:

(i) the information and evidence described in Subsections (1)(a)(iii), (1)(c), and (1)(d); and

(ii) if the resort licensee is an entity, proper verification evidencing that the person who signs the submission is authorized to sign on behalf of the entity.

Section 36. Section 32B-8-401 is amended to read:

32B-8-401. Specific operational requirements for resort license.

(1)(a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee, staff of the resort licensee, and a sublicensee or a person otherwise operating under a sublicense shall comply with this section.

(b) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the resort licensee;

(ii) individual staff of the resort licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the resort licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the resort licensee; or

(v) any combination of the persons listed in Subsections (1)(b)(i) through (iv).

(2)(a) A resort licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title;

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency; or

(iv) through room service.

(b) A resort licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a), shall sell, offer for sale, or furnish the alcoholic product:

(i) if on a sublicense premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit;

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency; and

(iv) if through room service, in accordance with Subsection [~~(5)~~](6).

(3) A resort licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the resort license and each of the resort licensee's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

(4)(a) A resort licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product under a resort license shall complete the alcohol training and education seminar.

(5) A resort licensee shall:

(a) in accordance with commission rule, establish and maintain signage that clearly identifies each designated conveyance area and conspicuously states that a patron may not take an alcoholic beverage beyond the designated conveyance area except as otherwise provided in this chapter;

(b) ensure that an alcoholic beverage is not left unattended in a designated conveyance area; and

(c) ensure that each patron complies with the requirements of Subsection 32B-8d-104(5)(b)(ii).

[~~(5)~~](6)(a) [~~Room~~]Staff of the resort licensee shall provide room service of an alcoholic product to a lodging accommodation of a resort licensee[~~ shall be provided~~] in person[~~ by staff of the resort licensee~~] only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

Section 37. Section 32B-8b-102 is amended to read:

32B-8b-102. Definitions.

As used in this chapter:

(1) "Boundary of a hotel" means the physical boundary of one or more contiguous parcels of real property owned or managed by the same person and on which a hotel is located.

(2) "Designated conveyance area" means a route within a hotel or resort:

(a) that connects one or more of the following:

(i) the premises of a bar establishment sublicensee;

(ii) the premises of a hospitality amenity sublicensee;

(iii) the premises of an on-premise banquet sublicensee; or

(iv) a guest's room; and

(b) does not begin, end, or pass through a pool area or other recreation area, a designated business center, or a sublicensed premises not described in Subsection (2)(a).

[~~(2)~~](3) "Hotel" means one or more buildings that:

(a) comprise a hotel, as defined by the commission;

(b) are owned or managed by the same person or by a person who has a majority interest in or can direct or exercise control over the management or policy of the person who owns or manages any other building under the hotel license within the boundary of the hotel;

(c) primarily operate to provide lodging accommodations;

(d) have on-premise banquet space and provide on-premise banquet service within the boundary of the hotel meeting the requirements of this title;

(e) have a restaurant or bar establishment within the boundary of the hotel meeting the requirements of this title; and

(f) have at least 40 rooms as temporary sleeping accommodations for compensation.

Section 38. Section 32B-8b-201 is amended to read:

32B-8b-201. Commission's power to issue a hotel license.

(1) Before a person as a hotel under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a hotel license from the commission in accordance with this part.

(2)(a) The commission may issue to a person a hotel license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a hotel designated in the hotel license if the person operates at least three sublicenses under the hotel license:

(i) one of which is an on-premise banquet license; and

(ii) one of which is:

(A) a full-service restaurant sublicense;

(B) a limited-service restaurant sublicense;

(C) a beer-only restaurant sublicense; or

(D) a bar establishment sublicense.

(b) A hotel license shall:

(i) consist of:

(A) a general hotel license; and

(B) three or more sublicenses meeting the requirements of Subsection (2)(a); and

(ii) designate the boundary of the hotel[~~, and~~], sublicenses[~~,~~], and each designated conveyance area.

(c) This chapter does not prohibit an alcoholic product on the boundary of the hotel to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of hotel licenses that at any time totals more than 80.

Section 39. Section 32B-8b-202 is amended to read:

32B-8b-202. Specific licensing requirements for hotel license.

(1) To obtain a hotel license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of each building under the hotel license to any community location;

(ii) that each proposed sublicensed premises is entirely within the boundary of the hotel; and

(iii) that each building designated in the application as a building under the hotel license qualifies to be under the hotel license; [~~and~~]

(b) a description and boundary map of the hotel[~~,~~];

(c) a description, floor plan, and boundary map of each proposed designated conveyance area; and

(d) a signed consent form stating that the hotel licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter any proposed designated conveyance area.

(2)(a) A hotel license expires on October 31 of each year.

(b) To renew a person's hotel license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3)(a) The nonrefundable application fee for a hotel license is $500.

(b) The initial license fee for a hotel license is calculated as follows:

(i) if three sublicenses are being applied for under the hotel license, $5,000; or

(ii) if more than three sublicenses are being applied for under the hotel license, the sum of:

(A) $5,000; and

(B) $2,000 for each sublicense in excess of three sublicenses for which the person is applying.

(c) The renewal fee for a hotel license is $1,000 for each sublicense under the hotel license.

(4)(a) The bond amount required for a hotel license is the penal sum of $10,000, covering each sublicense and each designated conveyance area under the hotel license.

(b) A hotel licensee is not required to have a separate bond for each sublicense[~~, except that the aggregate of the bonds posted by the hotel licensee shall cover each sublicense under the hotel license~~] or each designated conveyance area.

(5) The commission may not issue a hotel license that includes a building under the hotel license that does not meet the proximity requirements of Section 32B-1-202.

(6) In accordance with Subsection 32B-8d-103(4), a hotel licensee may request to add a sublicense after the commission issues the hotel licensee's hotel license.

(7)(a) A hotel licensee may request to add a designated conveyance area after the commission issues the hotel licensee's hotel license.

(b) If a hotel licensee seeks to add a designated conveyance area under Subsection (7)(a), the hotel licensee shall submit to the department:

(i) the information and evidence described in Subsections (1)(a)(iii), (1)(c), and (1)(d); and

(ii) if the hotel licensee is an entity, proper verification evidencing that the person who signs the submission is authorized to sign on behalf of the entity.

Section 40. Section 32B-8b-301 is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1)(a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hotel licensee;

(ii) individual staff of the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2)(a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title;

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency; or

(iv) through room service.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit;

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency; and

(iv) if through room service, in accordance with Subsection [~~(4)~~](5).

(c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 [~~or~~], off an area designated under a permit, or off a designated conveyance area.

(3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(4)(a) A hotel licensee shall:

(i) in accordance with commission rule, establish and maintain signage that clearly identifies each designated conveyance area and conspicuously states that a patron may not take an alcoholic beverage beyond the designated conveyance area except as otherwise provided in this chapter;

(ii) ensure that an alcoholic beverage is not left unattended in a designated conveyance area; and

(iii) ensure that each patron complies with the requirements of Subsection 32B-8d-104(5)(b)(ii).

(b) In accordance with Subsection (2), a hotel licensee may not sell, offer for sale, or furnish an alcoholic product in a designated conveyance area.

[~~(4)~~](5)(a) [~~Room~~]Staff of the hotel licensee shall provide room service of an alcoholic product to a lodging accommodation of a hotel licensee[~~ shall be provided~~] in person[~~ by staff of the hotel licensee~~] only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

[~~(5)~~](6) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

Section 41. Section 32B-8d-104 is amended to read:

32B-8d-104. General operational requirements for a sublicense.

(1) Except as provided in Subsections (2) through [~~(3)~~](5), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), [~~32B-8b-301(5)~~]32B-8b-301(6), and 32B-8c-301(3).

(3) Notwithstanding [~~Section 32B-5-307:~~] Section 32B-5-307,

[~~(a)~~] a patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:

[~~(i)~~](a) that is adjacent to the other; and

[~~(ii)~~](b) where the consumption of beer is permitted[~~; and~~].

[~~(b)~~](4) Notwithstanding Section 32B-5-307, staff of a sublicensee or person otherwise operating under a sublicense of a hotel licensee or a resort licensee may transport an alcoholic beverage from and to sublicensed premises of the hotel license or resort license, if:

[~~(i)~~](a) the sublicensee is:

[~~(A)~~](i) a full-service restaurant sublicensee;

[~~(B)~~](ii) a limited-service restaurant sublicensee;

[~~(C)~~](iii) a bar establishment sublicensee;

[~~(D)~~](iv) a beer-only restaurant sublicensee; or

[~~(E)~~](v) an on-premise beer retailer sublicensee;

[~~(ii)~~](b) the individual staff carries the alcoholic beverage:

[~~(A)~~](i) from the sublicensed premises of a sublicensee described in Subsection [~~(3)(b)(i)~~](4)(a);

[~~(B)~~](ii) briefly through an unlicensed area or briefly through sublicensed premises on which the type of alcoholic beverage that the individual staff carries is permitted; and

[~~(C)~~](iii) to the sublicensed premises of a sublicensee described in Subsection [~~(3)(b)(i)~~](4)(a); and

[~~(iii)~~](c) the individual staff at all times stays within:

[~~(A)~~](i) the boundary of the hotel; or

[~~(B)~~](ii) the boundary of the resort building.

[~~(4)~~](5)(a) Notwithstanding Section 32B-5-307, 32B-6-605, or 32B-6-1005, a patron may transport an alcoholic beverage between any of the following locations, if the patron lawfully obtained the alcoholic beverage on the premises of a sublicensee described in Subsections (5)(a)(i) through (iv) and complies with Subsection (5)(b):

(i) a bar establishment sublicensee's sublicensed premises;

(ii) a hospitality amenity sublicensee's sublicensed premises;

(iii) an on-premise banquet sublicensee's sublicensed premises; and

(iv) a guest room.

(b) A patron may transport an alcoholic beverage in accordance with Subsection (5)(a) only if:

(i) the patron travels exclusively within a designated conveyance area as defined in Section 32B-8-102 or 32B-8b-102; and

(ii) the alcoholic beverage:

(A) is not in the alcoholic beverage's original container; and

(B) is in an opaque or solid color container that is readily identifiable as intended for use in a designated conveyance area.

(6) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and

(b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

Section 42. Section 32B-10-202 is amended to read:

32B-10-202. Application for special use permit -- Qualifications.

(1) To obtain a special use permit, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee, if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;

(c) an initial permit fee:

(i) if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies; and

(ii) that is refundable if a special use permit is not issued;

(d) a one-time special use permit fee if required by a section of this chapter:

(i) applicable to the type of special use permit for which the person applies; and

(ii) that is refundable if a special use permit is not issued;

(e) a statement of the purpose for which the person applies for the special use permit;

(f) a description of the types of alcoholic product the person intends to use under authority of the special use permit;

(g) written consent of the local authority;

(h) if required, a bond as provided in Section 32B-10-205;

(i) a floor plan of the immediate area within the premises in which the person proposes that an alcoholic product will be used, mixed, stored, sold, or consumed if required by the relevant part of this chapter applicable to the type of special use permit for which the person applies;

(j) a signed consent form stating that the special use permittee will permit any authorized representative of the commission, department, or any other law enforcement officer to have unrestricted right to enter the special use permittee's premises;

(k) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(l) any other information the commission or department may require.

(2)(a) The commission may issue a special use permit only to a person who qualifies as follows:

(i) the commission may issue a religious wine use permit to a religious organization;

(ii) the commission may issue an industrial or manufacturing use permit to a person engaged in an industrial or manufacturing pursuit;

(iii) the commission may issue a scientific or educational use permit to a person engaged in a scientific or educational pursuit; and

(iv) the commission may issue a public service permit to[~~.~~]:

(A) an operator of an airline, railroad, or other public conveyance[~~.~~]; or

(B) an entity with authorization from an international airport to establish and operate a hospitality room at the international airport.

(b) The commission may not issue a special use permit to a person who is disqualified under Section 32B-1-304.

(c) If a person to whom a special use permit is issued no longer possesses the qualifications required by this title for obtaining that special use permit, the commission may suspend or revoke that special use permit.

Section 43. Section 32B-10-303 is amended to read:

32B-10-303. Specific application and renewal requirements for public service permit.

(1) To obtain a public service permit, in addition to complying with Section 32B-10-202, a person shall submit to the department:

(a) a statement of the total of regularly numbered flights, trains, buses, boats, or other types of public conveyance for which the person plans to use the special use permit;

(b) a floor plan of any room or facility in which the person plans to establish a hospitality room; and

(c) evidence of proximity of a proposed hospitality room to[~~.~~]:

(i) the arrival and departure area used by a person traveling on the person's airline, railroad, bus, boat, or other public conveyance[~~.~~]; or

(ii) if the applicant is a person described in Subsection 32B-10-202(2)(a)(iv)(B), the arrival and departure area of another person's airline.

(2)(a) The nonrefundable application fee for a public service permit is $75.

(b) The initial permit fee for a public service permit is $250.

(c) The bond amount required for a public service permittee is the penal sum of $1,000.

(3)(a) To renew a public service permit, a person shall comply with Section 32B-10-203.

(b)(i) [~~The~~]Except as provided in Subsection (3)(b)(ii), the renewal fee for a public service permit is $30 for each regularly numbered passenger airplane flight, passenger train, bus, boat, or any other regularly scheduled public conveyance upon which an alcoholic product is sold, offered for sale, or furnished.

(ii) For an applicant described in Subsection 32B-10-202(2)(a)(iv)(B), the renewal fee for a public service permit is $5,000.

Section 44. Section 32B-10-304 is amended to read:

32B-10-304. Specific operational requirements for a public service permit.

(1)(a) In addition to complying with Section 32B-10-206, a public service permittee and staff of the public service permittee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in

accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a public service permittee;

(ii) individual staff of a public service permittee; or

(iii) both a public service permittee and staff of the public service permittee.

(2)(a) A public service permittee described in Subsection 32B-10-202(2)(a)(iv)(A) whose public conveyances operate on an interstate basis may do the following:

(i) purchase an alcoholic product outside of the state;

(ii) bring an alcoholic product purchased outside of the state into the state; and

(iii) sell, offer for sale, and furnish an alcoholic product purchased outside of the state to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance.

(b) A public service permittee described in Subsection 32B-10-202(2)(a)(iv)(A) whose public conveyance operates solely within the state[~~, to~~]:

(i) may sell, offer for sale, or furnish an alcoholic product to a passenger traveling on the public service permittee's public conveyance for consumption while en route on the public conveyance[~~, shall purchase:~~]; and

(ii) shall purchase:

[~~(i)~~](A) liquor from a state store or package agency; and

[~~(ii)~~](B) beer from a beer wholesaler licensee.

(c) A public service permittee described in Subsection 32B-10-202(2)(a)(iv)(B):

(i) may sell, offer for sale, or furnish an alcoholic product to a patron at the public service permittee's hospitality room; and

(ii) shall purchase:

(A) liquor from a state store or package agency; and

(B) beer from a beer wholesaler licensee.

(3)(a) A public service permittee may establish a hospitality room, if:

(i)(A) the room is located within a depot, terminal, or similar facility adjacent to and servicing the public service permittee's airline, railroad, bus, boat, or other public conveyance; or

(B) the room is located within a terminal at an international airport and servicing another public service permittee's airline;

(ii) the room is completely enclosed and the interior is not visible to the public;

(iii) the sale, offer for sale, or furnishing of an alcoholic product is made only to a person:

(A) then in transit using the public service permittee's airline, railroad, bus line, or other public conveyance or, for a public service permittee described in Subsection (2), another public service permittee's airline; and

(B) holding a valid boarding pass or similar travel document issued by [~~the~~]a public service permittee; and

(iv)(A) liquor is purchased from:

(I) a state store; or

(II) a package agency; and

(B) beer is purchased from a beer wholesaler licensee.

(b)(i) A public service permittee operating a hospitality room shall display in a prominent place in the hospitality room, a sign in large letters that consists of text in the following order:

(A) a header that reads: "WARNING";

(B) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(C) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(D) a header that reads: "WARNING"; and

(E) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(ii)(A) The text described in Subsections (3)(b)(i)(A) through (C) shall be in a different font style than the text described in Subsections (3)(b)(i)(D) and (E).

(B) The warning statements in the sign described in Subsection (3)(b)(i) shall be in the same font size.

(iii) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(c) A hospitality room shall be operated in accordance with this chapter and rules adopted by the commission.

Section 45. Section 32B-15-201 is amended to read:

32B-15-201. Liability for injuries and damage resulting from distribution of alcoholic products -- Prima facie evidence.

(1)(a) Except as provided in Subsections 32B-15-202(2) and (3), a person described in Subsection (1)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) a third person; or

(B) the heir, as defined in Section 78B-3-105, of the third person; or

(ii) the death of a third person.

(b) A person is liable under Subsection (1)(a) if:

(i) the person directly gives, sells, or otherwise provides an alcoholic product:

(A) to a person described in Subsection (1)(b)(ii); and

(B) as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product;

(ii) those actions cause the intoxication of:

(A) an individual under 21 years old;

(B) an individual who is apparently under the influence of an alcoholic product or drug;

(C) an individual whom the person furnishing the alcoholic product knew or should have known from the circumstances was under the influence of an alcoholic product or drug; or

(D) an individual who is a known interdicted person; and

(iii) the injury or death described in Subsection (1)(a) results from the intoxication of the individual who is provided the alcoholic product.

(c) It is prima facie evidence that a person is liable under Subsection (1)(a) for an injury or death that results from the intoxication of an individual described in Subsection (1)(b)(ii)(B) or (C) if:

(i) the person directly gives, sells, or otherwise provides the individual the last alcoholic product the individual consumes before the injury or death described in Subsection (1)(b)(iii);

(ii) the individual consumes the alcoholic product at the location where the person directly gives, sells, or otherwise provides the individual the alcoholic product;

(iii) the injury or death occurs within 30 minutes after the time at which the individual leaves, and within a 10 mile radius of, the location where the person gives, sells, or otherwise provides the individual the alcoholic product; and

(iv)(A) the individual is charged with [~~a criminal violation of Section 41-6a-502 for driving under the influence of an alcoholic product in relation to the injury or death.~~]an offense described in Subsection 41-6a-501(2)(a); or

(B) if the individual dies as a result of the event that caused the injury or death, a subsequent chemical test shows that the individual had a blood alcohol concentration of .05 grams or greater at the time of the test.

(2)(a) A person 21 years old or older who is described in Subsection (2)(b) is liable for:

(i) any and all injury and damage, except punitive damages to:

(A) a third person; or

(B) the heir, as defined in Section 78B-3-105, of the third person; or

(ii) the death of the third person.

(b) A person is liable under Subsection (2)(a) if:

(i) the person directly gives or otherwise provides an alcoholic product to an individual who the person knows or should have known is under 21 years old;

(ii) those actions caused the intoxication of the individual provided the alcoholic product;

(iii) the injury or death described in Subsection (2)(a) results from the intoxication of the individual who is provided the alcoholic product; and

(iv) the person is not liable under Subsection (1), because the person did not directly give or provide the alcoholic product as part of the commercial sale, storage, service, manufacture, distribution, or consumption of an alcoholic product.

(3) This section does not apply to a business licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act, to sell beer at retail only for off-premise consumption.

Section 46. Section 41-6a-531 is enacted to read:

41-6a-531. Access to DUI investigative reports.

(1) As used in this section:

(a) "Agent" means a person's attorney that has been formally engaged.

(b) "DUI investigative report" means all materials that a peace officer gathers as part of investigating an offense described in Subsection 41-6a-501 including:

(i) the identity of witnesses and, if known, contact information;

(ii) witness statements;

(iii) photographs and videotapes;

(iv) diagrams;

(v) field notes;

(vi) test results; and

(vii) any Targeted Responsibility for Alcohol Connected Emergencies investigation report.

(2)(a) Upon request, a law enforcement agency shall disclose an unredacted DUI investigative report to:

(i) a person who suffers loss or injury related to the person's actions that gave rise to the investigation; or

(ii) an agent, parent, or legal guardian of the person described in Subsection (2)(a)(i).

(b) A law enforcement agency responding to a request under Subsection (2)(a) may:

(i) withhold a portion of the DUI investigative report if disclosure would materially prejudice an ongoing criminal investigation or criminal prosecution;

(ii) redact or withhold any privileged information;

(iii) redact an individual's phone number or address, if disclosure of the individual's phone number or address may endanger an individual's physical safety; or

(iv) provide the DUI investigative report subject to an agreement that limits the recipient's use of the DUI investigative report to use solely for the purpose of pursuing a civil claim related to the incident.

(3) A law enforcement agency may charge a reasonable fee to cover the cost incurred by disclosing a DUI investigative report in accordance with this section.

Section 47. Section 53-28-101 is enacted to read:

53-28-101. Definitions.

CHAPTER 28. PLACE OF LAST DRINK PROGRAM

(1) "Alcohol-related law enforcement officer" means the same as that term is defined in Section 32B-1-201.

(2) "Alcohol-related traffic stop" means a traffic stop that results in an individual being arrested for an offense described in Subsection 41-6a-501(2)(a) related to alcohol.

(3) "Alcoholic beverage" means the same as that term is defined in Section 32B-1-102.

(4) "Place of last drink" means the location where an individual obtains and consumes the last alcoholic beverage before the individual is the subject of an alcohol-related traffic stop.

(5) "Retail licensee" means the same as that term is defined in Section 32B-1-102.

Section 48. Section 53-28-102 is enacted to read:

53-28-102. Place of last drink reporting requirements.

(1) The department shall establish a program in accordance with this chapter to:

(a) identify when an individual's place of last drink is a retail licensee; and

(b) efficiently share information with alcohol-related law enforcement officers about each retail licensee that is an individual's place of last drink for the purpose of allowing the alcohol-related law enforcement officers to investigate a possible violation of Section 32B-5-306.

(2) In developing the program described in this section, the department shall coordinate with and take input from the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(3) Before November 1, 2025, the department shall provide a written report to the Criminal Justice and Law Enforcement Interim Committee that describes how the department implemented the program, the extent to which the program accomplishes the objectives described in Subsection (1), and any planned or recommended changes.

Section 49. Section 59-15-101 is amended to read:

59-15-101. Tax basis -- Rate.

(1) As used in this chapter, "beer" means:

(a) beer as defined in Section 32B-1-102; or

(b) heavy beer as defined in Section 32B-1-102.

(2)(a) A tax is imposed at the rate specified in [~~Subsection (1)(b) on all beer, as defined in Section 32B-1-102,~~]Subsection (2)(b) on beer that is imported or manufactured for sale, use, or distribution in this state.

[~~(b) The tax described in Subsection (1)(a) shall be imposed at a rate of:~~]

[~~(i) $11 per 31-gallon barrel for beer imported or manufactured:~~]

[~~(A) before July 1, 2003; and~~]

[~~(B) for sale, use, or distribution in this state; and~~]

[~~(ii) $13.10 per 31-gallon barrel for beer imported or manufactured:~~]

[~~(A) on or after July 1, 2003; and~~]

[~~(B) for sale, use, or distribution in this state.~~]

(b) The rate of the tax imposed under this Subsection (2) is:

(i) $13.10 per 31-gallon barrel for beer imported or manufactured before July 1, 2024;

(ii) $13.35 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2024, and before July 1, 2025;

(iii) $13.60 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2025, and before July 1, 2026;

(iv) $13.85 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2026, and before July 1, 2027; and

(v) $14.10 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2027.

(c) The tax imposed under this Subsection [~~(1)~~](2):

(i) shall be imposed at a proportionate rate for:

(A) any quantity of beer other than a 31-gallon barrel; or

(B) the fractional parts of a 31-gallon barrel; and

(ii) may not be imposed more than once on the same beer.

[~~(2)~~](3) A tax may not be imposed on beer:

(a) sold to the United States and its agencies; or

(b)(i) manufactured or imported for sale, use, or distribution outside the state; and

(ii) exported from the state.

Section 50. Section 59-15-109 is amended to read:

59-15-109. Commission to deposit beer tax revenue.

(1) [~~Except as provided in Subsection (2), taxes collected under this chapter shall be paid by the commission to the state treasurer daily for deposit~~]Except as provided in Subsections (2) and (3), the commission shall deposit revenue collected under this chapter as follows:

(a) the greater of the following shall be deposited into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403:

(i) an amount calculated by:

(A) determining an amount equal to 50% of the revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made; and

(B) subtracting $30,000 from the amount determined under Subsection (1)(a)(i)(A); or

(ii) $4,350,000; and

(b) the revenue collected in excess of the amount deposited in accordance with Subsection (1)(a) shall be deposited into the General Fund.

(2) The [~~state treasurer~~]commission shall annually deposit into the Alcoholic Beverage Enforcement and Treatment Restricted Account created in Section 32B-2-403 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that [~~exceeds~~]is equal to:

[~~(a) $12.80 per 31-gallon barrel for beer imported or manufactured:~~]

[~~(i) on or after July 1, 2003; and~~]

[~~(ii) for sale, use, or distribution in this state; and~~]

(a) $0.30 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2003; and

(b) a proportionate rate to the rate described in Subsection (2)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

(3) Beginning fiscal year 2024-25, the commission shall annually deposit into the Alcoholic Beverage Control Act Enforcement Fund created in Section 32B-2-305 an amount equal to the amount of revenue generated in the current fiscal year by the portion of the tax imposed under Section 59-15-101 that exceeds:

(a) $13.10 per 31-gallon barrel for beer imported or manufactured on or after July 1, 2024; and

(b) a proportionate rate to the rate described in Subsection (3)(a) for:

(i) any quantity of beer other than a 31-gallon barrel; or

(ii) the fractional parts of a 31-gallon barrel.

[~~(3)~~](4)(a) The commission shall notify the entities described in Subsection [~~(3)(b)~~](4)(b) not later than the September 1 preceding the fiscal year of the deposit of:

(i) the amount of the proceeds of the beer excise tax collected in accordance with this section for the fiscal year two years preceding the fiscal year of deposit; and

(ii) an amount equal to 50% of the amount listed in Subsection [~~(3)(a)(i)~~](4)(a)(i).

(b) The notification required by Subsection [~~(3)(a)~~](4)(a) shall be sent to:

(i) the Governor's Office of Planning and Budget; and

(ii) the Legislative Fiscal Analyst.

Section 51. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates: Title 32B.

(1) Subsection 32B-1-603.5(7), regarding the Department of Alcoholic Beverage Services' review of beer that is sold or distributed in the state, is repealed December 31, 2024.

(2) Subsection 32B-2-205(4), which creates a workgroup to make recommendations regarding training and recordkeeping for certain cash transactions, is repealed January 1, 2025.

Section 52. Repealer.

This bill repeals:

Section 32B-2-210, Alcoholic Beverage Services Advisory Board.

Section 53. Effective date.

This bill takes effect on May 1, 2024.

Section 54. Coordinating H.B. 548 with S.B. 272.

If S.B. 272, Capital City Reinvestment Zone Amendments, does not pass and become law, the Legislature intends that, on May 1, 2024, the changes to Section 32B-1-202 in H.B. 548, Alcohol Amendments, not be made.

CHAPTER 95
H. B. 55
Passed February 16, 2024
Approved March 13, 2024
Effective March 13, 2024

EMPLOYMENT CONFIDENTIALITY AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill enacts provisions related to sexual assault and sexual harassment in the workplace.

Highlighted Provisions:

This bill:

- defines terms;
- makes nondisclosure and non-disparagement clauses (confidentiality clauses), related to sexual assault and sexual harassment, as a condition of employment, unenforceable; and
- provides that a person who attempts to enforce a confidentiality clause described in the preceding paragraph may be liable for costs and attorney fees under certain conditions.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

ENACTS:

34A-5-114, Utah Code Annotated 1953

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

Section 1. Section 34A-5-114 is enacted to read:

34A-5-114. Limitations on enforceability of nondisclosure and non-disparagement clauses -- Retaliation prohibited.

(1) As used in this section:

(a) "Confidentiality clause" means a nondisclosure clause or a non-disparagement clause.

(b) "Employee" means a current or a former employee.

(c) "Nondisclosure clause" means an agreement between an employee and employer that:

(i) prevents, or has the effect of preventing, an employee from disclosing or discussing:

(A) sexual assault;

(B) allegations of sexual assault;

(C) sexual harassment; or

(D) allegations of sexual harassment.

(d) "Non-disparagement clause" means an agreement between an employee and employer that prohibits, or has the effect of prohibiting, an employee from making a negative statement that is:

(i) about the employer; and

(ii) related to:

(A) a claim of sexual assault or sexual harassment;

(B) a sexual assault dispute; or

(C) a sexual harassment dispute.

(e) "Post-employment restrictive covenant" means the same as that term is defined in Section 34-51-102.

(f) "Proprietary information" means an employer's business plan or customer information.

(g) "Retaliate" means taking an adverse action against an employee because the employee made an allegation of sexual harassment or assault, including:

(i) discharge;

(ii) suspension;

(iii) demotion; or

(iv) discrimination in the terms, conditions, or privileges of employment.

(h) "Sexual assault" means:

(i) conduct that would constitute a violation of 18 U.S.C. Secs. 2241 through 2244; or

(ii) criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(i) "Sexual assault dispute" means a dispute between an employer and the employer's employee relating to alleged sexual assault.

(j) "Sexual harassment" means conduct that is a violation of:

(i) Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.; or

(ii) Subsection 34A-5-106(1)(a)(i) prohibiting harassment on the basis of sex, sexual orientation, or gender.

(k) "Sexual harassment dispute" means a dispute between an employer and the employer's employee relating to alleged sexual harassment.

(2)(a) A confidentiality clause regarding sexual misconduct, as a condition of employment, is against public policy and is void and unenforceable.

(b) After an employee makes an allegation of sexual harassment or sexual assault, an employer of any sized business, regardless of Subsection 34-5-102(1)(i)(D):

(i) may not retaliate against the employee because the employee made an allegation of sexual harassment or assault; or

(ii) may not retaliate based on an employee's refusal to enter into a confidentiality clause or an

employment contract that, as a condition of employment, contains a confidentiality clause.

(c) An employee may, within three business days after the day on which the employee agrees to a settlement agreement that includes a confidentiality clause regarding sexual misconduct, withdraw from the settlement agreement.

(3) An employer who attempts to enforce a confidentiality clause in violation of this section:

(a) is liable for all costs, including reasonable attorney fees, resulting from legal action to enforce the confidentiality clause; and

(b) is not entitled to monetary damages resulting from a breach of a confidentiality clause.

(4) This section does not:

(a) prohibit an agreement between an employee who alleges sexual assault or sexual harassment and an employer from containing a nondisclosure clause, a non-disparagement clause, or any other clause prohibiting disclosure of:

(i) the amount of a monetary settlement; or

(ii) at the request of the employee, facts that could reasonably lead to the identification of the employee;

(b) prohibit an employer from requiring an employee to:

(i) sign a post-employment restrictive covenant; or

(ii) agree not to disclose an employer's non-public trade secrets, proprietary information, or confidential information that does not involve illegal acts;

(c) authorize an employee to:

(i) disclose data otherwise protected by law or legal privilege; or

(ii) knowingly make statements or disclosures that are false or made with reckless disregard of the truth;

(d) prohibit an employee from discussing sexual misconduct or allegations of sexual misconduct in a civil or criminal case when subpoenaed if the sexual misconduct or allegations of sexual misconduct are against the individual whom the employee alleged engaged in sexual misconduct;

(e) permit a disclosure that would violate state or federal law; or

(f) limit other grounds that may exist at law or in equity for the unenforceability of a confidentiality clause.

Section 2. Effective date.

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

Section 3. Retrospective operation.

This bill provides retrospective operation to January 1, 2023.

CHAPTER 96
H. B. 15
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIMINAL CODE RECODIFICATION AND CROSS REFERENCES

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies criminal provisions in Title 76, Utah Criminal Code, by redrafting offense statutes into a new structure and clarifying existing law.

Highlighted Provisions:

This bill:

- reorders language into a standardized format and clarifies existing law, including the offenses in Title 76, Chapter 8, Offenses Against the Administration of Government;
- for clarity, makes technical corrections to certain statutes resulting from the 2022 criminal code recodification:
  - in Title 76, Chapter 1, General Provisions, to reflect separation of aggravated human trafficking and aggravated human smuggling into separate statutes; and
  - in Section 76-5-404.1 to remove a conflicting provision that mandatory imprisonment was required for sexual abuse of a child;
- makes technical corrections to certain statutes resulting from the 2023 criminal code recodification:
  - in Title 76, Chapter 6, Offenses Against Property, regarding erroneous inclusion of penalty provision in offense concerning unlawful dealing of property by a fiduciary; and
  - in Title 77, Chapter 36, Cohabitant Abuse Procedures Act, to reflect separation of criminal mischief statute into two separate offenses;
- reorganizes the following offenses to enact an embedded offense as a stand-alone statute:
  - offense concerning receiving bribe or bribery for endorsement of person as public servant;
  - offense of interference with public servant; and
  - offense concerning obstruction of justice in a criminal investigation or proceeding;
- reorganizes and clarifies existing language in offense of escape and enacts embedded offense of aggravated escape as stand-alone statute;
- reorganizes existing statutes concerning secure areas, including enacting a number of statutes to reflect separate stand-alone offenses;
- reorganizes the offense of threatening an elected official;
- reorganizes offenses concerning influencing, impeding, or retaliating against a judge or a member of the Board of Pardons and Parole or a family member and enacts several stand-alone statutes to reflect separate embedded offenses;
- for clarity, revises offense concerning refusal to comply with an order to evacuate or another order issued in a local or state emergency;
- for clarity, reorganizes and revises offenses concerning aiding or concealing an adjudicated minor and trespass of a secure care facility;
- for clarity, revises statutes concerning misusing public money or public property;
- reorganizes offenses concerning refusing to give tax assessor or tax or license collector a list of, or denying access to, employees to enact embedded offense as a stand-alone statute;
- for clarity, revises language in offense concerning stealing, destroying, or mutilating public records by a custodian;
- reorganizes offenses concerning taking a toll or maintaining road, bridge, or ferry without authority to enact an embedded offense as a stand-alone statute;
- for clarity, revises statutes concerning false or inconsistent statements;
- reorganizes offenses concerning tampering with a witness and receiving or soliciting a bribe to enact embedded offense as a stand-alone statute;
- reorganizes offenses concerning a wrongful attachment by a justice court to enact embedded offense as a stand-alone statute;
- for clarity, removes provisions from Title 76, Chapter 8, Part 7, Colleges and Universities, and places them in Title 53B, State System of Higher Education;
- for clarity, revises and reorganizes offenses:
  - concerning criminal trespass upon an institution of higher education and willful interference with lawful activities of students or faculty; and
  - contained in Title 76, Chapter 8, Part 8, Sabotage Prevention;
- for clarity, repeals duplicative language concerning criminal offenses and penalties relating to revenue and taxation;
- for clarity, revises and reorganizes offenses in:
  - Title 76, Chapter 8, Part 12, Public Assistance Fraud; and
  - Title 76, Chapter 8, Part 13, Unemployment Insurance Fraud; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-5, as last amended by Laws of Utah 2004, Chapter 301
26B-6-205, as renumbered and amended by Laws of Utah 2023, Chapter 308
35A-3-603, as last amended by Laws of Utah 2023, Chapter 328
35A-3-604, as last amended by Laws of Utah 2015, Chapter 221
35A-4-304, as last amended by Laws of Utah 2012, Chapter 15
35A-4-305, as last amended by Laws of Utah 2012, Chapter 15
35A-4-312, as last amended by Laws of Utah 2016, Chapter 296

53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457
53B-3-103, as last amended by Laws of Utah 2021, First Special Session, Chapter 7
59-1-401, as last amended by Laws of Utah 2023, Chapter 471
63G-12-402, as last amended by Laws of Utah 2022, Chapters 328, 370
64-13-14.5, as last amended by Laws of Utah 2015, Chapter 412
76-1-301, as last amended by Laws of Utah 2022, Chapter 181
76-3-203.1, as last amended by Laws of Utah 2023, Chapter 111
76-3-203.3, as last amended by Laws of Utah 2023, Chapter 111
76-3-203.5, as last amended by Laws of Utah 2023, Chapter 111
76-3-406, as last amended by Laws of Utah 2023, Chapter 184
76-5-203, as last amended by Laws of Utah 2022, Chapter 181
76-5-404.1, as last amended by Laws of Utah 2022, Chapter 181
76-6-513, as last amended by Laws of Utah 2023, Chapter 111
76-8-101, as last amended by Laws of Utah 2019, Chapter 211
76-8-102, as enacted by Laws of Utah 1973, Chapter 196
76-8-103, as last amended by Laws of Utah 1998, Chapter 92
76-8-104, as last amended by Laws of Utah 1991, Chapter 215
76-8-105, as repealed and reenacted by Laws of Utah 1998, Chapter 92
76-8-106, as enacted by Laws of Utah 1973, Chapter 196
76-8-107, as last amended by Laws of Utah 1974, Chapter 32
76-8-108, as last amended by Laws of Utah 1985, Chapter 21
76-8-110, as last amended by Laws of Utah 1992, Chapter 128
76-8-201, as enacted by Laws of Utah 1973, Chapter 196
76-8-202, as last amended by Laws of Utah 1991, Chapter 241
76-8-203, as last amended by Laws of Utah 2011, Chapter 336
76-8-301, as last amended by Laws of Utah 2020, Chapter 165
76-8-301.5, as last amended by Laws of Utah 2019, Chapter 411
76-8-302, as enacted by Laws of Utah 1973, Chapter 196
76-8-303, as enacted by Laws of Utah 1973, Chapter 196
76-8-305, as last amended by Laws of Utah 2017, Chapter 312
76-8-305.5, as last amended by Laws of Utah 2018, Chapter 133
76-8-306, as last amended by Laws of Utah 2021, Chapter 262
76-8-306.5, as enacted by Laws of Utah 2007, Chapter 155
76-8-307, as enacted by Laws of Utah 1973, Chapter 196
76-8-308, as last amended by Laws of Utah 1991, Chapter 241
76-8-309, as last amended by Laws of Utah 2022, Chapter 181
76-8-311.1, as last amended by Laws of Utah 2023, Chapter 330
76-8-311.3, as last amended by Laws of Utah 2023, Chapter 330
76-8-312, as last amended by Laws of Utah 1974, Chapter 32
76-8-313, as last amended by Laws of Utah 1996, Chapter 45
76-8-316, as last amended by Laws of Utah 2022, Chapter 181
76-8-317, as last amended by Laws of Utah 2013, Chapter 295
76-8-318, as last amended by Laws of Utah 2022, Chapters 181, 335
76-8-402, as last amended by Laws of Utah 2020, Chapter 61
76-8-403, as last amended by Laws of Utah 2020, Chapter 61
76-8-405, as enacted by Laws of Utah 1973, Chapter 196
76-8-406, as enacted by Laws of Utah 1973, Chapter 196
76-8-407, as enacted by Laws of Utah 1973, Chapter 196
76-8-408, as enacted by Laws of Utah 1973, Chapter 196
76-8-409, as last amended by Laws of Utah 1991, Chapter 5
76-8-410, as enacted by Laws of Utah 1973, Chapter 196
76-8-411, as enacted by Laws of Utah 1973, Chapter 196
76-8-412, as enacted by Laws of Utah 1973, Chapter 196
76-8-413, as enacted by Laws of Utah 1973, Chapter 196
76-8-414, as enacted by Laws of Utah 1973, Chapter 196
76-8-415, as enacted by Laws of Utah 1973, Chapter 196
76-8-416, as enacted by Laws of Utah 1973, Chapter 196
76-8-417, as enacted by Laws of Utah 1973, Chapter 196
76-8-418, as last amended by Laws of Utah 2022, Chapter 335
76-8-419, as last amended by Laws of Utah 2002, Chapter 166
76-8-420, as last amended by Laws of Utah 2007, Chapter 229
76-8-501, as last amended by Laws of Utah 2018, Chapter 298
76-8-502, as last amended by Laws of Utah 1997, Chapter 324
76-8-503, as last amended by Laws of Utah 2014, Chapter 167
76-8-504, as last amended by Laws of Utah 2022, Chapter 328
76-8-504.5, as enacted by Laws of Utah 1999, Chapter 215
76-8-504.6, as last amended by Laws of Utah 2015, Chapter 131

76-8-506, as last amended by Laws of Utah 2005, Chapter 92
76-8-507, as last amended by Laws of Utah 2002, Chapter 42
76-8-508, as last amended by Laws of Utah 2004, Chapter 140
76-8-508.3, as enacted by Laws of Utah 2004, Chapter 140
76-8-508.5, as last amended by Laws of Utah 1992, Chapter 219
76-8-509, as enacted by Laws of Utah 1973, Chapter 196
76-8-510.5, as last amended by Laws of Utah 2014, Chapter 167
76-8-511, as last amended by Laws of Utah 2003, Chapter 238
76-8-512, as last amended by Laws of Utah 2013, First Special Session, Chapter 4
76-8-513, as enacted by Laws of Utah 1973, Chapter 196
76-8-515, as enacted by Laws of Utah 2023, Chapter 179
76-8-601, as last amended by Laws of Utah 2008, Chapter 3
76-8-602, as last amended by Laws of Utah 1990, Chapter 59
76-8-603, as last amended by Laws of Utah 1990, Chapter 59
76-8-703, as repealed and reenacted by Laws of Utah 2013, Chapter 257
76-8-705, as last amended by Laws of Utah 2013, Chapter 257
76-8-802, as enacted by Laws of Utah 1973, Chapter 196
76-8-803, as enacted by Laws of Utah 1973, Chapter 196
76-8-804, as enacted by Laws of Utah 1973, Chapter 196
76-8-805, as enacted by Laws of Utah 1973, Chapter 196
76-8-807, as enacted by Laws of Utah 1973, Chapter 196
76-8-809, as last amended by Laws of Utah 2023, Chapter 435
76-8-810, as enacted by Laws of Utah 1973, Chapter 196
76-8-811, as last amended by Laws of Utah 1995, Chapter 20
76-8-901, as enacted by Laws of Utah 1973, Chapter 196
76-8-902, as enacted by Laws of Utah 1973, Chapter 196
76-8-903, as enacted by Laws of Utah 1973, Chapter 196
76-8-904, as enacted by Laws of Utah 1973, Chapter 196
76-8-1201, as last amended by Laws of Utah 2015, Chapter 221
76-8-1203, as last amended by Laws of Utah 2010, Chapter 94
76-8-1207, as last amended by Laws of Utah 2000, Chapter 48
76-8-1301, as last amended by Laws of Utah 2010, Chapter 193
76-8-1402, as enacted by Laws of Utah 2004, Chapter 107
76-8-1403, as last amended by Laws of Utah 2018, Chapter 133
76-9-802, as last amended by Laws of Utah 2021, Chapter 64
76-9-902, as last amended by Laws of Utah 2020, Chapter 394
76-9-1008, as last amended by Laws of Utah 2013, Chapter 278
76-10-1602, as last amended by Laws of Utah 2023, Chapters 34, 111, 139, and 330
77-23a-8, as last amended by Laws of Utah 2023, Chapter 111
77-36-1, as last amended by Laws of Utah 2022, Chapters 185, 430
77-36-1.1, as last amended by Laws of Utah 2023, Chapters 111, 184
77-37-3, as last amended by Laws of Utah 2023, Chapter 448

ENACTS:
53B-20-107, Utah Code Annotated 1953
76-8-106.1, Utah Code Annotated 1953
76-8-301.2, Utah Code Annotated 1953
76-8-309.1, Utah Code Annotated 1953
76-8-309.2, Utah Code Annotated 1953
76-8-311.2, Utah Code Annotated 1953
76-8-311.4, Utah Code Annotated 1953
76-8-311.6, Utah Code Annotated 1953
76-8-311.7, Utah Code Annotated 1953
76-8-311.8, Utah Code Annotated 1953
76-8-311.9, Utah Code Annotated 1953
76-8-311.10, Utah Code Annotated 1953
76-8-316.2, Utah Code Annotated 1953
76-8-316.4, Utah Code Annotated 1953
76-8-316.6, Utah Code Annotated 1953
76-8-320, Utah Code Annotated 1953
76-8-409.2, Utah Code Annotated 1953
76-8-416.2, Utah Code Annotated 1953
76-8-508.7, Utah Code Annotated 1953
76-8-604, Utah Code Annotated 1953
76-8-1203.1, Utah Code Annotated 1953
76-8-1203.3, Utah Code Annotated 1953
76-8-1203.5, Utah Code Annotated 1953
76-8-1203.7, Utah Code Annotated 1953
76-8-1302, Utah Code Annotated 1953
76-8-1303, Utah Code Annotated 1953
76-8-1304, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
76-8-311.5, (Renumbered from 76-8-311.5, as renumbered and amended by Laws of Utah 2021, Chapter 261)

REPEALS:
76-8-314, as last amended by Laws of Utah 1996, Chapter 45
76-8-315, as enacted by Laws of Utah 1983, Chapter 330
76-8-404, as last amended by Laws of Utah 2020, Chapter 61
76-8-505, as last amended by Laws of Utah 1997, Chapter 324
76-8-701, as last amended by Laws of Utah 2013, Chapters 10, 257
76-8-702, as last amended by Laws of Utah 2013, Chapter 257
76-8-707, as last amended by Laws of Utah 1993, Chapter 234
76-8-709, as last amended by Laws of Utah 2013, Chapter 257

76-8-716, as enacted by Laws of Utah 1973, Chapter 196
76-8-717, as last amended by Laws of Utah 2013, Chapter 257
76-8-801, as enacted by Laws of Utah 1973, Chapter 196
76-8-806, as last amended by Laws of Utah 1997, Chapter 296
76-8-808, as enacted by Laws of Utah 1973, Chapter 196
76-8-1101, as last amended by Laws of Utah 2014, Chapter 52
76-8-1202, as last amended by Laws of Utah 2023, Chapter 330
76-8-1204, as last amended by Laws of Utah 2000, Chapter 48
76-8-1205, as last amended by Laws of Utah 2015, Chapter 221
76-8-1206, as last amended by Laws of Utah 2012, Chapter 41
76-8-1401, as enacted by Laws of Utah 2004, Chapter 107

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

Section 1. Section 17-22-5 is amended to read:

17-22-5. Sheriff's classification of jail inmates -- Classification criteria -- Alternative incarceration programs -- Limitation.

(1) Except as provided in Subsection (4), the sheriff shall adopt and implement written policies for admission of prisoners to the county jail and the classification of persons incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community. To the extent authorized by law, any written admission policies shall be applied equally to all entities using the county correctional facilities.

(2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

(3)(a) Except as provided in Subsection (4), a county sheriff may develop and implement alternative incarceration programs that may or may not involve housing a prisoner in a jail facility.

(b) A prisoner housed under an alternative incarceration program under Subsection (3)(a) shall be considered to be in the full custody and control of the sheriff for purposes of [~~Section~~]Sections 76-8-309 and 76-8-309.1.

(c) A prisoner may not be placed in an alternative incarceration program under Subsection (3)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under Subsection 17-22-5.5(2); or

(ii) ordered by the court.

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

Section 2. Section 26B-6-205 is amended to read:

26B-6-205. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2)(a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5)(a) When a member of the clergy receives information about abuse, neglect, or exploitation of

a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse, neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6)(a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7)(a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26B-2-238, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Professional Licensing if the individual is a health care provider, as defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9)(a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508 or 76-8-508.7, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 3. Section 35A-3-603 is amended to read:

35A-3-603. Civil liability for overpayment.

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2)(a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining an overpayment is jointly and severally liable for the overpayment.

(4)(a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections [~~76-8-1203, 76-8-1204, or 76-8-1205~~]76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services;

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

(iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); and

(iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsections (4)(b)(iii) and (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5)(a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered appropriate as punitive damages up to the amount of repayment being sought.

(7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8, Part 12, Public Assistance Fraud.

(8) Jurisdiction over benefits is continuous.

(9) This chapter does not preclude the Department of Health and Human Services from carrying out its responsibilities under Title 26B, Chapter 3, Part 10, Medical Benefits Recovery, and Title 26B, Chapter 3, Part 11, Utah False Claims Act.

Section 4. Section 35A-3-604 is amended to read:

35A-3-604. Obligor presumed to have notice of department's rights -- Authority to administer oaths, issue subpoenas, and compel witnesses and production of documents -- Recovery of attorney fees, costs, and interest -- Rulemaking authority -- Administrative procedures.

(1) An obligor is presumed to have received notice of the rights of the department under this part upon engaging in this state in any of the acts described in Subsections 35A-3-603(3) and (4) or Section [~~76-8-1203, 76-8-1204, or 76-8-1205~~] 76-8-1203.1, 76-8-1203.3, 76-8-1203.5, or 76-8-1203.7.

(2) For the purposes of this part, the department may administer oaths and certify official acts, issue subpoenas, and compel witnesses and the production of business records, documents, and evidence.

(3)(a) Except when an overpayment results from administrative error, the department may recover from the obligor:

(i) reasonable [~~attorneys'~~]attorney fees;

(ii) costs incurred in pursuing administrative remedies under this part; and

(iii) interest at the rate of 1% a month accruing from the date an administrative or judicial order is issued determining the amount due under this part.

(b) The department may recover interest, attorney fees, and costs, if notice of the assessment has been included in a notice of agency action issued in compliance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make, amend, and enforce rules to carry out the provisions of this part.

(5) Service of all notices and orders under this part shall comply with:

(a) Title 63G, Chapter 4, Administrative Procedures Act;

(b) Utah Rules of Civil Procedure; or

(c) rules made by the department under this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that meet standards required by due process.

Section 5. Section 35A-4-304 is amended to read:

35A-4-304. Special provisions regarding transfers of unemployment experience and assignment rates.

(1) As used in this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved.

(b) "Person" has the meaning given that term by Section 7701(a)(1) of the Internal Revenue Code of 1986.

(c) "Trade or business" includes the employer's workforce.

(d) "Violate or attempt to violate" includes intent to evade, misrepresentation, or willful nondisclosure.

(2) Notwithstanding any other provision of this chapter, Subsections (3) and (4) shall apply regarding assignment of rates and transfers of unemployment experience.

(3)(a) If an employer transfers its trade or business, or a portion of its trade or business, to another employer and, at the time of the transfer, there is common ownership, management, or control of the employers, then the unemployment experience attributable to each employer shall be combined into a common experience rate calculation.

(b) The contribution rates of the employers shall be recalculated and made effective upon the date of the transfer of trade or business as determined by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c)(i) If one or more of the employers is a qualified employer at the time of the transfer, then all employing units that are party to a transfer described in Subsection (3)(a) of this section shall be assigned an overall contribution rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors, for the rate year during which the transfer occurred and for the subsequent three rate years.

(ii) If none of the employing units is a qualified employer at the time of the transfer, then all employing units that are party to the transfer described in Subsection (3)(a) shall be assigned the highest overall contribution rate applicable at the time of the transfer to any employer who is party to the acquisition for the rate year during which the transfer occurred and for subsequent rate years until the time when one or more of the employing units is a qualified employer.

(iii) Once one or more employing units described in Subsection (3)(c)(ii) is a qualified employer, all the employing units shall be assigned an overall rate under Subsection 35A-4-303(4), using combined unemployment experience rating factors for subsequent rate years, not to exceed three years following the year of the transfer.

(d) The transfer of some or all of an employer's workforce to another employer shall be considered a transfer of its trade or business when, as the result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred workforce, and the trade or business is now performed by the employer to whom the workforce is transferred.

(4)(a) Whenever a person is not an employer under this chapter at the time it acquires the trade or business of an employer, the unemployment experience of the acquired business may not be transferred to that person if the division finds that the person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions.

(b) The person shall be assigned the applicable new employer rate under Subsection 35A-4-303(5).

(c) In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contributions, the division shall use objective factors which may include:

(i) the cost of acquiring the business;

(ii) whether the person continued the business enterprise of the acquired business;

(iii) how long the business enterprise was continued; or

(iv) whether a substantial number of new employees were hired for performance of duties unrelated to the business activity conducted prior to acquisition.

(5)(a) If a person knowingly violates or attempts to violate Subsection (3) or (4) or any other provision of this chapter related to determining the assignment of a contribution rate, or if a person knowingly advises another person in a way that results in a violation of any of those subsections or provisions, the person is subject to the following penalties:

(i)(A) If the person is an employer, then the employer shall be assigned an overall contribution rate of 5.4% for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(B) If the person's business is already at 5.4% for any year, or if the amount of increase in the person's rate would be less than 2% for that year, then a penalty surcharge of contributions of 2% of taxable wages shall be imposed for the rate year during which the violation or attempted violation occurred and for the subsequent rate year.

(ii)(A) If the person is not an employer, the person shall be subject to a civil penalty of not more than $5,000.

(B) The fine shall be deposited in the penalty and interest account established under Section 35A-4-506.

(b)(i) In addition to the penalty imposed by Subsection (5)(a), a violation of this section may be prosecuted as unemployment insurance fraud.

(ii) The determination of the degree of an offense shall be measured by the total value of all contributions avoided or reduced or contributions sought to be avoided or reduced by the unlawful conduct as applied to the degrees listed under [~~Subsection 76-8-1301(2)(a)~~]Section 76-8-1302 or 76-8-1303.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to identify the transfer or acquisition of a business for purposes of this section.

(7) This section shall be interpreted and applied in a manner that meets the minimum requirements contained in any guidance or regulations issued by the United States Department of Labor.

Section 6. Section 35A-4-305 is amended to read:

35A-4-305. Collection of contributions -- Unpaid contributions to bear interest -- Offer to compromise.

(1)(a) Contributions unpaid on the date on which they are due and payable, as prescribed by the division, shall bear interest at the rate of 1% per month from and after that date until payment plus accrued interest is received by the division.

(b)(i) Contribution reports not made and filed by the date on which they are due as prescribed by the division are subject to a penalty to be assessed and collected in the same manner as contributions due under this section equal to 5% of the contribution due if the failure to file on time was not more than 15 days, with an additional 5% for each additional 15 days or fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and not less than $25 with respect to each reporting period.

(ii) If a report is filed after the required time and it is shown to the satisfaction of the division or its authorized representative that the failure to file was due to a reasonable cause and not to willful neglect, no addition shall be made to the contribution.

(c)(i) If contributions are unpaid after 10 days from the date of the mailing or personal delivery by the division or its authorized representative, of a written demand for payment, there shall attach to the contribution, to be assessed and collected in the same manner as contributions due under this section, a penalty equal to 5% of the contribution due.

(ii) A penalty may not attach if within 10 days after the mailing or personal delivery, arrangements for payment have been made with the division, or its authorized representative, and payment is made in accordance with those arrangements.

(d) The division shall assess as a penalty a service charge, in addition to any other penalties that may apply, in an amount not to exceed the service charge imposed by Section 7-15-1 for dishonored instruments if:

(i) any amount due the division for contributions, interest, other penalties or benefit overpayments is paid by check, draft, order, or other instrument; and

(ii) the instrument is dishonored or not paid by the institution against which it is drawn.

(e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit overpayments, contributions, interest, penalties, and assessed costs, uncollected three years after they become due, may be charged as uncollectible and removed from the records of the division if:

(i) no assets belonging to the liable person and subject to attachment can be found; and

(ii) in the opinion of the division there is no likelihood of collection at a future date.

(f) Interest and penalties collected in accordance with this section shall be paid into the Special Administrative Expense Account created by Section 35A-4-506.

(g) Action required for the collection of sums due under this chapter is subject to the applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

(2)(a) If an employer fails to file a report when prescribed by the division for the purpose of determining the amount of the employer's contribution due under this chapter, or if the report when filed is incorrect or insufficient or is not satisfactory to the division, the division may determine the amount of wages paid for employment during the period or periods with respect to which the reports were or should have been made and the amount of contribution due from the employer on the basis of any information it may be able to obtain.

(b) The division shall give written notice of the determination to the employer.

(c) The determination is considered correct unless:

(i) the employer, within 10 days after mailing or personal delivery of notice of the determination, applies to the division for a review of the determination as provided in Section 35A-4-508; or

(ii) unless the division or its authorized representative of its own motion reviews the determination.

(d) The amount of contribution determined under Subsection (2)(a) is subject to penalties and interest as provided in Subsection (1).

(3)(a) If, after due notice, an employer defaults in the payment of contributions, interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit overpayments and penalties on the overpayments, the amount due shall be collectible by civil action in the name of the division, and the employer adjudged in default shall pay the costs of the action.

(b) Civil actions brought under this section to collect contributions, interest, or penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

(i) heard by the court at the earliest possible date; and

(ii) entitled to preference upon the calendar of the court over all other civil actions except:

(A) petitions for judicial review under this chapter; and

(B) cases arising under the workers' compensation law of this state.

(c)(i)(A) To collect contributions, interest, or penalties, or benefit overpayments and penalties due from employers or claimants located outside Utah, the division may employ private collectors providing debt collection services outside Utah.

(B) Accounts may be placed with private collectors only after the employer or claimant has been given a final notice that the division intends to place the account with a private collector for further collection action.

(C) The notice shall advise the employer or claimant of the employer's or claimant's rights under this chapter and the applicable rules of the department.

(ii)(A) A private collector may receive as compensation up to 25% of the lesser of the amount collected or the amount due, plus the costs and fees of any civil action or postjudgment remedy instituted by the private collector with the approval of the division.

(B) The employer or claimant shall be liable to pay the compensation of the collector, costs, and fees in addition to the original amount due.

(iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692 et seq.

(iv)(A) A civil action may not be maintained by a private collector without specific prior written approval of the division.

(B) When division approval is given for civil action against an employer or claimant, the division may cooperate with the private collector to the extent necessary to effect the civil action.

(d)(i) Notwithstanding Section 35A-4-312, the division may disclose the contribution, interest, penalties or benefit overpayments and penalties, costs due, the name of the employer or claimant, and the employer's or claimant's address and telephone number when any collection matter is referred to a private collector under Subsection (3)(c).

(ii) A private collector is subject to the confidentiality requirements and penalty provisions provided in [~~Section~~]Sections 35A-4-312 and [~~Subsection 76-8-1301(4)~~] 76-8-1304, except to the extent disclosure is necessary in a civil action to enforce collection of the amounts due.

(e) An action taken by the division under this section may not be construed to be an election to forego other collection procedures by the division.

(4)(a) In the event of a distribution of an employer's assets under an order of a court under the laws of Utah, including a receivership, assignment for benefits of creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than $400 to each claimant, earned within five months of the commencement of the proceeding.

(b) If an employer commences a proceeding in the Federal Bankruptcy Court under a chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

(5)(a) In addition and as an alternative to any other remedy provided by this chapter and provided that no appeal or other proceeding for review provided by this chapter is then pending and the time for taking it has expired, the division may issue a warrant in duplicate, under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of a delinquent employer or claimant found within the sheriff's county for the payment of the contributions due, with the added penalties, interest, or benefit overpayment and penalties, and costs, and to return the warrant to the division and pay into the fund the money collected by virtue of the warrant by a time to be specified in the warrant, not more than 60 days from the date of the warrant.

(b)(i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the duplicate with the clerk of the district court in the sheriff's county.

(ii) The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate columns the amount of the contribution, penalties, interest, or benefit overpayment and penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

(c) The amount of the docketed warrant shall:

(i) have the force and effect of an execution against all personal property of the delinquent employer; and

(ii) become a lien upon the real property of the delinquent employer or claimant in the same manner and to the same extent as a judgment duly rendered by a district court and docketed in the office of the clerk.

(d) After docketing, the sheriff shall:

(i) proceed in the same manner as is prescribed by law with respect to execution issued against property upon judgments of a court of record; and

(ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be collected in the same manner.

(6)(a) Contributions imposed by this chapter are a lien upon the property of an employer liable for the contribution required to be collected under this section who shall sell out the employer's business or stock of goods or shall quit business, if the employer fails to make a final report and payment on the date subsequent to the date of selling or quitting business on which they are due and payable as prescribed by rule.

(b)(i) An employer's successor, successors, or assigns, if any, are required to withhold sufficient of the purchase money to cover the amount of the contributions and interest or penalties due and payable until the former owner produces a receipt from the division showing that they have been paid or a certificate stating that no amount is due.

(ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser is personally liable for the payment of the amount of the contributions required to be paid by the former owner, interest and penalties accrued and unpaid by the former owner, owners, or assignors.

(7)(a) If an employer is delinquent in the payment of a contribution, the division may give notice of the amount of the delinquency by registered mail to all persons having in their possession or under their control, any credits or other personal property belonging to the employer, or owing any debts to the employer at the time of the receipt by them of the notice.

(b) A person notified under Subsection (7)(a) shall neither transfer nor make any other disposition of the credits, other personal property, or debts until:

(i) the division has consented to a transfer or disposition; or

(ii) 20 days after the receipt of the notice.

(c) All persons notified under Subsection (7)(a) shall, within five days after receipt of the notice, advise the division of credits, other personal property, or other debts in their possession, under their control or owing by them, as the case may be.

(8)(a)(i) Each employer shall furnish the division necessary information for the proper administration of this chapter and shall include wage information for each employee, for each calendar quarter.

(ii) The information shall be furnished at a time, in the form, and to those individuals as the department may by rule require.

(b)(i) Each employer shall furnish each individual worker who is separated that information as the department may by rule require, and shall furnish within 48 hours of the receipt of a request from the division a report of the earnings of any individual during the individual's base-period.

(ii) The report shall be on a form prescribed by the division and contain all information prescribed by the division.

(c)(i) For each failure by an employer to conform to this Subsection (8) the division shall, unless good cause is shown, assess a $50 penalty if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The penalty is to be collected in the same manner as contributions due under this chapter.

(d)(i) The division shall prescribe rules providing standards for determining which contribution reports shall be filed on magnetic or electronic media or in other machine-readable form.

(ii) In prescribing these rules, the division:

(A) may not require an employer to file contribution reports on magnetic or electronic media unless the employer is required to file wage data on at least 250 employees during any calendar quarter or is an authorized employer representative who files quarterly tax reports on behalf of 100 or more employers during any calendar quarter;

(B) shall take into account, among other relevant factors, the ability of the employer to comply at reasonable cost with the requirements of the rules; and

(C) may require an employer to post a bond for failure to comply with the rules required by this Subsection (8)(d).

(9)(a)(i) An employer liable for payments in lieu of contributions shall file Reimbursable Employment and Wage Reports.

(ii) The reports are due on the last day of the month that follows the end of each calendar quarter unless the division, after giving notice, changes the due date.

(iii) A report postmarked on or before the due date is considered timely.

(b)(i) Unless the employer can show good cause, the division shall assess a $50 penalty against an employer who does not file Reimbursable Employment and Wage Reports within the time

limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The division shall assess and collect the penalties referred to in this Subsection (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.

(10) If a person liable to pay a contribution or benefit overpayment imposed by this chapter neglects or refuses to pay it after demand, the amount, including any interest, additional amount, addition to contributions, or assessable penalty, together with any additional accruable costs, shall be a lien in favor of the division upon all property and rights to property, whether real or personal belonging to the person.

(11)(a) The lien imposed by Subsection (10) arises at the time the assessment, as defined in the department rules, is made and continues until the liability for the amount assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

(b)(i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a warrant with the clerk of the district court.

(ii) For the purposes of this Subsection (11)(b):

(A) "Judgment lien creditor" means a person who obtains a valid judgment of a court of record for recovery of specific property or a sum certain of money, and who in the case of a recovery of money, has a perfected lien under the judgment on the property involved. A judgment lien does not include inchoate liens such as attachment or garnishment liens until they ripen into a judgment. A judgment lien does not include the determination or assessment of a quasi-judicial authority, such as a state or federal taxing authority.

(B) "Mechanics' lien holder" means any person who has a lien on real property, or on the proceeds of a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property. A person has a lien on the earliest date the lien becomes valid against subsequent purchasers without actual notice, but not before the person begins to furnish the services, labor, or materials.

(C) "Person" means:

(I) an individual;

(II) a trust;

(III) an estate;

(IV) a partnership;

(V) an association;

(VI) a company;

(VII) a limited liability company;

(VIII) a limited liability partnership; or

(IX) a corporation.

(D) "Purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest, other than a lien or security interest, in property which is valid under state law against subsequent purchasers without actual notice.

(E) "Security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time:

(I) the property is in existence and the interest has become protected under the law against a subsequent judgment lien arising out of an unsecured obligation; and

(II) to the extent that, at that time, the holder has parted with money or money's worth.

(12)(a) Except in cases involving a violation of unemployment compensation provisions under Section 76-8-1301, 76-8-1302, 76-8-1303, 76-8-1304, Subsection 35A-4-304(5), or Subsection 35A-4-405(5), and at the discretion of the division, the division may accept an offer in compromise from an employer or claimant to reduce past due debt arising from contributions or benefit overpayments imposed under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules for allowing an offer in compromise provided under Subsection (12)(a).

Section 7. Section 35A-4-312 is amended to read:

35A-4-312. Records.

(1)(a) An employing unit shall keep true and accurate work records containing information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in a manner revealing the employing unit's or individual's identity.

(4)(a) The information obtained by the division under this section may not be used in court or

admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

(A) Title 34, Chapter 23, Employment of Minors;

(B) Title 34, Chapter 28, Payment of Wages;

(C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code;

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207; or

(iv) under the terms of a written agreement between the Office of State Debt Collection and the division as provided in Subsection (5).

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

(A) a workers' compensation program; or

(B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

(i) audit verification or simplification;

(ii) state or federal tax compliance;

(iii) verification of a code or classification of the:

(A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) statistics;

(i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Innovation and Opportunity Act, 29 U.S.C. Sec. 3101 et seq., for the purpose of:

(i) coordinating services with the department;

(ii) evaluating the effectiveness of those activities; and

(iii) measuring performance;

(j) an employee of the Governor's Office of Economic Opportunity, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;

(k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure;

(l) an individual whose wage data is submitted to the department by an employer, if no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual;

(m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act;

(n) an employee of the Office of State Debt Collection for the purpose of collecting state accounts receivable as provided in Section 63A-3-502; or

(o) a creditor, under a court order, to collect on a judgment as provided in Section 35A-4-314.

(6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a), (g), and (o), may be made if:

(a) the division determines that the disclosure will not have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits; and

(b) the agency enters into a written agreement with the division in accordance with rules made by the department.

(7)(a) The employees of a division of the department other than the Workforce Research and Analysis Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.

(b) Use of private information obtained from the department by a person or for a purpose other than one authorized in Subsection (4) or (5) violates [~~Subsection 76-8-1301(4)~~]Section 76-8-1304.

Section 8. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, [~~Subsection 76-8-309(2)~~]Section 76-8-309.1;

(xv) a felony violation of [~~assault on an elected official~~]threatened or attempted assault on an elected official, Section [~~76-8-315~~]76-8-313;

(xvi) [~~influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole~~]threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.2;

(xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or

acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.4;

(xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole, Section 76-8-316.6;

[~~(xvii)~~](xx) advocating criminal syndicalism or sabotage, Section 76-8-902;

[~~(xviii)~~](xxi) [~~assembly~~]assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;

[~~(xix)~~](xxii) a felony violation of sexual battery, Section 76-9-702.1;

[~~(xx)~~](xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;

[~~(xxi)~~](xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

[~~(xxii)~~](xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

[~~(xxiii)~~](xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

[~~(xxiv)~~](xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

[~~(xxv)~~](xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

[~~(xxvi)~~](xxix) commercial obstruction, Subsection 76-10-2402(2);

[~~(xxvii)~~](xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

[~~(xxviii)~~](xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

[~~(xxix)~~](xxxii) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Section 9. Section 53B-3-103 is amended to read:

53B-3-103. Power of board to adopt rules and enact regulations.

(1) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(2)(a) The board may:

(i) enact and authorize higher education institutions to enact traffic, parking, and related regulations governing all individuals on campuses and other facilities owned or controlled by the institutions or the board; and

(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:

(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(b) In addition to the requirements and penalty prescribed in [~~Subsections 76-8-311.1(3), (4), (5), and (6)~~]Sections 76-8-311.1 and 76-8-311.2, the board shall make rules to ensure that:

(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;

(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and

(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.

(c)(i) The board may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (2)(c)(i) to participate in

an in-person learning option based upon the student's vaccination status.

(iii) Subsections (2)(c)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

(d)(i) For purposes of this Subsection (2)(d), "face covering" means the same as that term is defined in Section 53G-9-210.

(ii) The board may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(iii) Subsection (2)(d)(ii) does not apply to an individual in a medical setting at an institution of higher education.

(3) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(4) The board and institutions may enforce these rules and regulations in any reasonable manner, including the assessment of fees, fines, and forfeitures, the collection of which may be by withholding from money owed the violator, the imposition of probation, suspension, or expulsion from the institution, the revocation of privileges, the refusal to issue certificates, degrees, and diplomas, through judicial process or any reasonable combination of these alternatives.

Section 10. Section 53B-20-107 is enacted to read:

53B-20-107. Powers of chief administrative officer to order individuals off an institution of higher education's property.

(1) As used in this section:

(a) "Chief administrative officer" means the president of an institution or an individual designated by the president.

(b) "Institution of higher education" means:

(i) a state institution of higher education as defined in Section 53B-3-102; or

(ii) a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) It is the purpose of this section to:

(a) supplement and clarify the power vested in the governing board of each institution of higher education; and

(b) regulate, conduct, and enforce law and order on property owned, operated, or controlled by each institution of higher education.

(3) A chief administrative officer may order an individual to leave property that is owned, operated, or controlled by an institution of higher education if:

(a) the individual acts, or if the chief administrative officer has reasonable cause to believe that the individual intends to act, to:

(i) cause injury to an individual;

(ii) cause damage to property;

(iii) commit a crime;

(iv) interfere with the peaceful conduct of the activities of the institution of higher education;

(v) violate a rule or regulation of the institution of higher education if that rule or regulation is not in conflict with state law; or

(vi) disrupt the institution of higher education, the institution's pupils, or the institution of higher education's activities; or

(b) the individual is reckless as to whether the individual's actions will cause fear for the safety of another individual.

(4)(a) If a law enforcement agency or security department of an institution of higher education lacks sufficient manpower to deal effectively with a condition of unrest existing or developing on a campus or related facility of the institution of higher education in the judgment of the chief administrative officer, the chief administrative officer may call for assistance from the county sheriff of the county, a city law enforcement agency, or the Department of Public Safety.

(b) Upon receipt of the request under Subsection (4)(a), the county sheriff, a city law enforcement agency, or the Department of Public Safety must render all necessary assistance without expense to the institution of higher education.

(c) All personnel while rendering assistance to the institution of higher education shall serve under the general direction of the chief administrative officer.

(5) Nothing in this section shall limit:

(a) the right or duty of a local law enforcement agency to enforce the law which the local law enforcement agency had prior to this enactment; or

(b) the right of a state or local law enforcement agency to enforce the laws of this state.

Section 11. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority --

Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Tax, fee, or charge" means:

(i) a tax, fee, or charge the commission administers under:

(A) this title;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-410.5;

(E) Section 19-6-714;

(F) Section 19-6-805;

(G) Section 34A-2-202;

(H) Section 40-6-14; or

(I) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(ii) another amount that by statute is subject to a penalty imposed under this section.

(b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(i) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(ii) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(iv) Chapter 3, Tax Equivalent Property Act; or

(v) Chapter 4, Privilege Tax.

(2)(a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) $20; or

(ii)(A) 2% of the unpaid tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(C) 10% of the unpaid tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3)(a) Except as provided in Subsection (15), a person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii)(A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v)(A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) $20; or

(ii)(A) 2% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(B) 5% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(C) 10% of the unpaid tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4)(a) In the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b)(i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5)(a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7)(a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection (7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv)(A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i)(A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8)(a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10)(a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11)(a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12)(a) [~~As provided in Section 76-8-1101, criminal~~]Criminal offenses and penalties are [~~as~~]provided in Subsections (12)(b) through (e).

(b)(i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c)(i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d)(i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e)(i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13)(a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8) or (9);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8) or (9);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date provided in Subsection 59-10-406(8) or (9);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

(B) fails to file the form.

(14) Upon making a record of the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 12. Section 63G-12-402 is amended to read:

63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1)(a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years old who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii)(A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents' Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105;

(iii) a promise grant described in Section 53B-13a-104; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4)(a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6)(a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Section 76-8-504; and

(ii) fraudulently obtaining:

(A) public assistance program benefits under [~~Sections 76-8-1205 and 76-8-1206~~]Section 76-8-1203.1; or

(B) unemployment compensation under Section 76-8-1301, 76-8-1302, 76-8-1303, or 76-8-1304.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b)(i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 13. Section 64-13-14.5 is amended to read:

64-13-14.5. Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 or 76-8-309.1 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 14. Section 76-1-301 is amended to read:

76-1-301. Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202(2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) an offense classified as a capital felony under Section 76-3-103;

(b) aggravated murder under Section 76-5-202;

(c) murder under Section 76-5-203;

(d) manslaughter under Section 76-5-205;

(e) child abuse homicide under Section 76-5-208;

(f) aggravated kidnapping under Section 76-5-302;

(g) child kidnapping under Section 76-5-301.1;

(h) rape under Section 76-5-402;

(i) rape of a child under Section 76-5-402.1;

(j) object rape under Section 76-5-402.2;

(k) object rape of a child under Section 76-5-402.3;

(l) forcible sodomy under Section 76-5-403;

(m) sodomy on a child under Section 76-5-403.1;

(n) sexual abuse of a child under Section 76-5-404.1;

(o) aggravated sexual abuse of a child under Section 76-5-404.3;

(p) aggravated sexual assault under Section 76-5-405;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking [~~or aggravated human smuggling in violation of~~]under Section 76-5-310;

(s) aggravated human smuggling under Section 76-5-310.1;

[~~(s)~~](t) aggravated exploitation of prostitution involving a child[~~,~~] under Section 76-10-1306; or

[~~(t)~~](u) human trafficking of a child[~~,~~] under Section 76-5-308.5.

Section 15. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4)(a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as described in Section 76-6-106;

(ii) property damage or destruction as described in Section 76-6-106.1; and

(iii) defacement by graffiti as described in Section 76-6-107.

(5)(a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(3)(b);

(ii) any offense of obstructing government operations under Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness [~~or other violation of~~]under Section 76-8-508;

(iv) retaliation against a witness, victim, or informant, or other violation of Section 76-8-508.3;

(v) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(v)~~](vi) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

[~~(vi)~~](vii) any weapons offense under Chapter 10, Part 5, Weapons; and

[~~(vii)~~](viii) any violation of Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6)(a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

(vii) robbery and aggravated robbery under Chapter 6, Part 3, Robbery; and

(viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 16. Section 76-3-203.3 is amended to read:

76-3-203.3. Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2)(a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under Section 76-6-412;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-301.2, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, 76-8-309.2, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities

under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301;

(j) any weapons offense under Section 76-10-506; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 17. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) [~~aggravated arson, arson, ~~]arson as described in Section 76-6-102;

(B) [~~knowingly causing a catastrophe, ~~]causing a catastrophe as described in Subsection 76-6-105(3)(a) or (3)(b);

(C) [~~and criminal mischief, Chapter 6, Part 1, Property Destruction~~]criminal mischief as described in Section 76-6-106;

(D) aggravated arson as described in Section 76-6-103;

[~~(B)~~](E) assault by prisoner[~~,~~] as described in Section 76-5-102.5;

[~~(C)~~](F) disarming a police officer[~~,~~] as described in Section 76-5-102.8;

[~~(D)~~](G) aggravated assault[~~,~~] as described in Section 76-5-103;

[~~(E)~~](H) aggravated assault by prisoner[~~,~~] as described in Section 76-5-103.5;

[~~(F)~~](I) mayhem[~~,~~] as described in Section 76-5-105;

[~~(G)~~](J) stalking[~~,~~] as described in Subsection 76-5-106.5(2);

[~~(H)~~](K) threat of terrorism[~~,~~] as described in Section 76-5-107.3;

[~~(I)~~](L) aggravated child abuse[~~,~~] as described in Subsection 76-5-109.2(3)(a) or (b);

[~~(J)~~](M) commission of domestic violence in the presence of a child[~~,~~] as described in Section 76-5-114;

[~~(K)~~](N) abuse or neglect of a child with a disability[~~,~~] as described in Section 76-5-110;

[~~(L)~~](O) abuse or exploitation of a vulnerable adult[~~,~~] as described in Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

[~~(M)~~](P) endangerment of a child or vulnerable adult[~~,~~] as described in Section 76-5-112.5;

[~~(N)~~](Q) [~~criminal homicide offenses under~~]an offense described in Chapter 5, Part 2, Criminal Homicide;

[~~(O)~~](R) [~~kidnapping, ~~]kidnapping as described in Section 76-5-301;

(S) [~~child kidnapping, and ~~]child kidnapping as described in Section 76-5-301.1;

(T) [~~aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling~~] aggravated kidnapping as described in Section 76-5-302;

[~~(P)~~](U) rape[~~,~~] as described in Section 76-5-402;

[~~(Q)~~](V) rape of a child[~~,~~] as described in Section 76-5-402.1;

[~~(R)~~](W) object rape[~~,~~] as described in Section 76-5-402.2;

[~~(S)~~](X) object rape of a child[~~,~~] as described in Section 76-5-402.3;

[~~(T)~~](Y) forcible sodomy[~~,~~] as described in Section 76-5-403;

[~~(U)~~](Z) sodomy on a child[~~,~~] as described in Section 76-5-403.1;

[~~(V)~~](AA) forcible sexual abuse[~~,~~] as described in Section 76-5-404;

[~~(W)~~](BB) sexual abuse of a child[~~,~~] as described in Section 76-5-404.1[~~, or ~~];

(CC) aggravated sexual abuse of a child[~~,~~] as described in Section 76-5-404.3;

[~~(X)~~](DD) aggravated sexual assault[~~,~~] as described in Section 76-5-405;

[~~(Y)~~](EE) sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201;

[~~(Z)~~](FF) aggravated sexual exploitation of a minor[~~,~~] as described in Section 76-5b-201.1;

[~~(AA)~~](GG) sexual exploitation of a vulnerable adult[~~,~~] as described in Section 76-5b-202;

[~~(BB)~~](HH) [~~aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass~~]burglary as described in Subsection 76-6-202(3)(b);

(II) aggravated burglary as described in Section 76-6-203;

[~~(CC)~~](JJ) [~~aggravated robbery and robbery under Chapter 6, Part 3, Robbery~~]robbery as described in Section 76-6-301;

(KK) aggravated robbery as described in Section 76-6-302;

[~~(DD)~~](LL) theft by extortion [~~under Section 76-6-406 under the circumstances described in~~]as described in Subsection 76-6-406(1)(a)(i) or [~~(ii)~~](1)(a)(ii);

[~~(EE)~~](MM) tampering with a witness [~~under Subsection 76-8-508(1)~~]as described in Section 76-8-508;

[~~(FF)~~](NN) retaliation against a witness, victim, or informant [~~under~~]as described in Section 76-8-508.3;

[~~(GG)~~](OO) tampering [~~with~~]or retaliating against a juror [~~under~~]as described in Subsection [~~76-8-508.5(2)(c)~~]76-8-508.5(2)(a)(iii);

[~~(HH)~~](PP) extortion to dismiss a criminal proceeding [~~under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed under Section 76-6-406 under the circumstances~~]as described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

[~~(II)~~](QQ) possession, use, or removal of explosive, chemical, or incendiary devices [~~under~~]as described in Subsections 76-10-306(3) through (6);

[~~(JJ)~~](RR) unlawful delivery of explosive, chemical, or incendiary devices [~~under~~]as described in Section 76-10-307;

[~~(KK)~~](SS) purchase or possession of a dangerous weapon or handgun by a restricted person [~~under~~]as described in Section 76-10-503;

[~~(LL) unlawful discharge of a firearm under Section 76-10-508;~~]

[~~(MM)~~](TT) aggravated exploitation of prostitution [~~under~~]as described in Subsection 76-10-1306(1)(a);

[~~(NN)~~](UU) bus hijacking [~~under~~]as described in Section 76-10-1504; and

[~~(OO)~~](VV) discharging firearms and hurling missiles [~~under~~]as described in Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b)(i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c)(i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 18. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Individuals with a Mental Condition, except as provided in Section 76-5-406.5 or Subsection 77-16a-103(6) or (7), probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) [~~Section 76-5-202, ~~]aggravated murder as described in Section 76-5-202;

(b) [~~Section 76-5-203, ~~]murder as described in Section 76-5-203;

(c) [~~Section 76-5-301.1, child kidnaping~~]child kidnapping as described in Section 76-5-301.1;

(d) [~~Section 76-5-302, aggravated kidnaping~~] aggravated kidnapping as described in Subsection 76-5-302(3)(b);

(e) [~~Section 76-5-402, rape, if the individual is sentenced under~~]rape as described in Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) [~~Section 76-5-402.1, ~~]rape of a child as described in Section 76-5-402.1;

(g) [~~Section 76-5-402.2, object rape, if the individual is sentenced under~~]object rape as described in Subsection 76-5-402.2(3)(b), (3)(c), or (4);

(h) [~~Section 76-5-402.3, ~~]object rape of a child as described in Section 76-5-402.3;

(i) [~~Section 76-5-403, forcible sodomy, if the individual is sentenced under~~]forcible sodomy as described in Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) [~~Section 76-5-403.1, ~~]sodomy on a child as described in Section 76-5-403.1;

(k) [~~Section 76-5-404, forcible sexual abuse, if the individual is sentenced under~~]forcible sexual abuse as described in Subsection 76-5-404(3)(b)(i) or (ii);

(l) [~~Section 76-5-404.3, ~~]aggravated sexual abuse of a child as described in Section 76-5-404.3;

(m) [~~Section 76-5-405, ~~]aggravated sexual assault[~~; or~~] as described in Section 76-5-405; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504, the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 19. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1)(a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape [~~or aggravated escape~~]under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.1; or

[~~(xxiii)~~](xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d)(i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3)(a)(i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4)(a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5)(a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 20. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

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

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual younger than 14 years old.

(iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iv) "Position of special trust" means:

(A) an adoptive parent;

(B) an athletic manager who is an adult;

(C) an aunt;

(D) a babysitter;

(E) a coach;

(F) a cohabitant of a parent if the cohabitant is an adult;

(G) a counselor;

(H) a doctor or physician;

(I) an employer;

(J) a foster parent;

(K) a grandparent;

(L) a legal guardian;

(M) a natural parent;

(N) a recreational leader who is an adult;

(O) a religious leader;

(P) a sibling or a stepsibling who is an adult;

(Q) a scout leader who is an adult;

(R) a stepparent;

(S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;

(T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

(U) an uncle;

(V) a youth leader who is an adult; or

(W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:

(i)(A) touches the anus, buttocks, pubic area, or genitalia of any child;

(B) touches the breast of a female child; or

(C) otherwise takes indecent liberties with a child; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) to arouse or gratify the sexual desire of any individual.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

[~~(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.~~]

Section 21. Section 76-6-513 is amended to read:

76-6-513. Unlawful dealing of property by a fiduciary.

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

(i) "Fiduciary" means the same as that term is defined in Section 22-1-1.

(ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(iii) "Governmental entity" is as defined in Section 63G-7-102.

(iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(v) "Property" means the same as that term is defined in Section 76-6-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

(a) deals with property:

(i) that has been entrusted to the actor as a fiduciary, or property of a governmental entity, public money, or of a financial institution; and

(ii) in a manner which:

(A) the actor knows is a violation of the actor's duty; and

(B) involves substantial risk of loss or detriment to the property owner or to a person for whose benefit the property was entrusted; or

(b) acting as a fiduciary pledges:

(i) as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary; and

(ii) without permission of the owner of the property or some other authorized person.

(3)(a) A violation of Subsection (2)(a) is:

(i) a second degree felony if the:

(A) value of the property is or exceeds $5,000; or

(B) property is stolen from the person of another;

(ii) a third degree felony if:

(A) the value of the property is or exceeds $1,500 but is less than $5,000;

(B) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; or

(III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II); or

[~~(C) the value of property is or exceeds $500 but is less than $1,500; or~~]

[~~(D)~~](C) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(a)(iii)(B).

(b) A violation of Subsection (2)(b) is:

(i) a second degree felony if the value of the property wrongfully pledged is or exceeds $5,000;

(ii) a third degree felony if the value of the property wrongfully pledged is or exceeds $1,500 but is less than $5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds $500, but is less than $1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than $500.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Section 22. Section 76-8-101 is amended to read:

76-8-101. Definitions.

As used in this chapter:

[~~(1) "Candidate for electoral office" means a person who files as a candidate for office under the laws of the state.~~]

[~~(2)~~](1) "Party official" means [~~a person~~]an individual holding any post in a political party whether by election, appointment, or otherwise.

[~~(3)~~](2) "Peace officer" means an employee of a police or law enforcement agency that is part of or administered by the state or [~~any of its political subdivisions~~]a political subdivision of the state, and whose duties consist primarily of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or [~~any of its political subdivisions~~]a political subdivision of the state.

[~~(4)~~](3)(a) "Pecuniary benefit" means [~~any~~]an advantage in the form of money, property, commercial interest, or anything else, the primary significance of which is economic gain.

(b) "Pecuniary benefit" does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally.

[~~(5)~~](4)(a) "Public property" means real or personal property that is owned, held, or managed by a public entity.

(b) "Public property" includes real or personal property that is owned, held, or managed by a public entity after the real or personal property is transferred by the public entity to an independent contractor of the public entity.

(c) "Public property" remains public property while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

Section 23. Section 76-8-102 is amended to read:

76-8-102. Campaign contributions not prohibited.

(1) Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign.

(2) [-]No person shall be convicted of an offense solely on the evidence that a campaign contribution was made and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made.

Section 24. Section 76-8-103 is amended to read:

76-8-103. Bribery or offering a bribe.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~]An actor commits bribery or offering a bribe if [~~that person~~]the actor promises, offers, or agrees to give or gives, directly or indirectly, any benefit to another with the purpose or intent to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion of a public servant, party official, or voter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the benefit is $1,000 or more; or

(b) a third degree felony if the value of the benefit is less than $1,000.

[~~(2)~~](4) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

(ii) the public servant ceases to be a public servant.

[~~(3) Bribery or offering a bribe is:~~]

[~~(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is less than $1,000; and~~]

[~~(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or more.~~]

Section 25. Section 76-8-104 is amended to read:

76-8-104. Threat to influence official or political action.

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

(i) "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.

(ii) "Public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if he threatens any harm to a public servant, party official, or voter~~]An actor commits threat to influence official or political action if the actor, with a purpose of influencing [~~his~~]an action, decision, opinion, recommendation, nomination, vote, or other exercise of discretion of a public servant, party official, or voter, threatens harm to:

(a) the public servant, party official, or voter; or

(b) a person or entity in whose welfare the public servant, party official, or voter is interested.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(2) As used in this section:~~]

[~~(a) "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official, or voter is interested.~~]

[~~(b) "Public servant" does not include jurors.~~]

Section 26. Section 76-8-105 is amended to read:

76-8-105. Receiving or soliciting bribe or bribery by public servant.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~]An actor commits receiving or soliciting a bribe if [~~that person~~]the actor asks for, solicits, accepts, or receives, directly or indirectly, any benefit with the understanding or agreement that the purpose or intent is to influence an action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, of a public servant, party official, or voter.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the value of the benefit asked for, solicited, accepted, or conferred is more than $1,000; or

(b) a third degree felony if the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or less.

[~~(2)~~](4) It is not a defense to a prosecution under this statute that:

(a) the person sought to be influenced was not qualified to act in the desired way, whether because the person had not assumed office, lacked jurisdiction, or for any other reason;

(b) the person sought to be influenced did not act in the desired way; or

(c) the benefit is not asked for, conferred, solicited, or accepted until after:

(i) the action, decision, opinion, recommendation, judgment, vote, nomination, or exercise of discretion, has occurred; or

(ii) the public servant ceases to be a public servant.

[~~(3) Receiving or soliciting a bribe is:~~]

[~~(a) a third degree felony when the value of the benefit asked for, solicited, accepted, or conferred is $1,000 or less; and~~]

[~~(b) a second degree felony when the value of the benefit asked for, solicited, accepted, or conferred exceeds $1,000.~~]

Section 27. Section 76-8-106 is amended to read:

76-8-106. Receiving bribe for endorsement of person as a public servant.

[~~A person is guilty of a class B misdemeanor if:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~He~~]An actor commits receiving a bribe for endorsement of a person as a public servant if the actor solicits, accepts, agrees to accept for [~~himself~~]the actor's self, another person, or a political party, money or any other pecuniary benefit as compensation for [~~his~~]the actor's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant[~~; or~~].

[~~(2)~~](3) [~~He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph (1).~~]A violation of Subsection (2) is a class B misdemeanor.

Section 28. Section 76-8-106.1 is enacted to read:

76-8-106.1. Bribery for endorsement of person as public servant.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits bribery for endorsement of a person as a public servant if the actor knowingly gives, offers, or promises money or any other pecuniary benefit to a person or a political party as compensation for the person's or political party's endorsement, nomination, appointment, approval, or disapproval of any person for a position as a public servant or for the advancement of any public servant.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 29. Section 76-8-107 is amended to read:

76-8-107. Alteration of proposed legislative bill or resolution.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of proposed legislative bill or resolution if the actor fraudulently alters the draft of [~~any~~]a bill or resolution [~~which~~]that has been presented to either of the houses composing the Legislature to be passed or adopted, with intent to procure [~~its~~]the proposed legislative bill or resolution being passed or adopted by either house, or certified by the presiding officer of either house in language different from that

intended by [~~such~~]either house[~~, is guilty of a felony of the third degree~~].

Section 30. Section 76-8-108 is amended to read:

76-8-108. Alteration of enrolled legislative bill or resolution.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits alteration of enrolled legislative bill or resolution if the actor fraudulently alters the enrolled copy of [~~any~~]a bill or resolution [~~which~~]that has been passed or adopted by the Legislature with intent to procure [~~it~~]the enrolled bill or resolution to be approved by the governor or certified by the Division of Archives, or printed or published by the printer of statutes, in language different from that in which [~~it~~]the enrolled bill or resolution was passed or adopted by the Legislature[~~, is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

Section 31. Section 76-8-110 is amended to read:

76-8-110. Prohibited action by peace officer for collection agency or creditor.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A peace officer may not have any~~]An actor commits prohibited action by peace officer for collection agency or creditor if the actor:

(a) is a peace officer; and

(b)(i) has an interest in [~~any~~]a collection agency; or[~~ act~~]

(ii) acts as a compensated collection agent for [~~any~~]a creditor or collection agency.

[~~(2)~~](3) [~~A person that violates this section is guilty of~~]A violation of Subsection (2) is a class C misdemeanor.

Section 32. Section 76-8-201 is amended to read:

76-8-201. Official misconduct -- Unauthorized acts or failure of duty.

[~~A public servant is guilty of a class B misdemeanor if, ~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits official misconduct based on an unauthorized act or failure of duty if the actor:

(a) is a public servant; and

(b) with an intent to benefit [~~himself~~]the actor or another or to harm another, [~~he~~]the actor knowingly[~~-~~]:

(i) commits an unauthorized act [~~which~~]that purports to be an act of [~~his~~]the actor's office[~~,~~]; or

(ii) [~~-~~]knowingly refrains from performing a duty imposed on [~~him~~]the actor by law or clearly inherent in the nature of [~~his~~]the actor's office.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 33. Section 76-8-202 is amended to read:

76-8-202. Official misconduct concerning inside information.

[~~A public servant is guilty of a class A misdemeanor if, knowing that official action is contemplated or in reliance on information which he has acquired by virtue of his office or from another public servant, which information has not been made public, he:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits official misconduct concerning inside information if:

(a) the actor is a public servant; and

(b) knowing that official action is contemplated, or in reliance on information that the actor has acquired by virtue of the actor's office or from another public servant, which information has not been made public, the actor:

(i) acquires or divests [~~himself~~]the actor's self of a pecuniary interest in any property, transaction, or enterprise [~~which~~]that may be affected by such action or information;

[~~(2)~~](ii) speculates or wagers on the basis of such action or information; or

[~~(3)~~](iii) knowingly aids another person to do [~~any of the foregoing~~]an action described in Subsection (2)(b)(i) or (2)(b)(ii).

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 34. Section 76-8-203 is amended to read:

76-8-203. Unofficial misconduct.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~]An actor commits unofficial misconduct if the [~~person~~]actor exercises or attempts to exercise any of the functions of a public office when the [~~person~~]actor:

(a) has not taken and filed the required oath of office;

(b) has failed to execute and file a required bond;

(c) has not been elected or appointed to office;

(d) exercises any of the functions of [~~his~~]the actor's office after [~~his~~]the actor's term has expired and the successor has been elected or appointed and has qualified, or after [~~his~~]the actor's office has been legally removed; or

(e) knowingly[~~,~~]:

(i) withholds or retains from [~~his~~]the actor's successor in office, or other person entitled to possession, the official seal or [~~any records, papers, documents, or other writings~~]a record, paper, document, or other writing appertaining or belonging to [~~his~~]the actor's office[~~ or mutilates or destroys or takes away the same.~~]; or

(ii) mutilates, destroys, or takes away the official seal or a record, paper, document, or other writing appertaining or belonging to the actor's office.

[~~(2)~~](3) [~~Unofficial misconduct~~]A violation of Subsection (2) is a class B misdemeanor.

Section 35. Section 76-8-301 is amended to read:

76-8-301. Interference with public servant.

(1)(a) [~~An individual is guilty of~~]As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits interference with a public servant if the [~~individual~~]actor:

(a) uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with a public servant performing or purporting to perform an official function; or

(b) obstructs, hinders, conceals, or prevents the lawful service of any civil or criminal legal process[~~, civil or criminal, by any~~] by a sheriff, constable, deputy sheriff, deputy constable, peace officer, private investigator, or any other person authorized to serve legal process[~~; or~~].

[~~(c) on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:~~]

[~~(i) freedom of movement;~~]

[~~(ii) use of the property or facilities; or~~]

[~~(iii) entry into or exit from the facilities.~~]

[~~(2) Interference with a public servant:~~]

[~~(a) under Subsection (1)(a) or (b) is a class B misdemeanor; and~~]

[~~(b) under Subsection (1)(c) is a class C misdemeanor.~~]

[~~(3) For purposes of this section, "public servant" does not include jurors.~~]

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 36. Section 76-8-301.2 is enacted to read:

76-8-301.2. Denial of public servant's use of public property.

(1)(a) As used in this section, "public servant" does not include a juror.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denial of public servant's use of public property if the actor, on property that is owned, operated, or controlled by the state or a political subdivision of the state, willfully denies to a public servant lawful:

(a) freedom of movement;

(b) use of the property or facility; or

(c) entry into or exit from the facility.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 37. Section 76-8-301.5 is amended to read:

76-8-301.5. Failure to disclose identity.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of~~]An actor commits failure to disclose identity if, during the period of time that the [~~person~~]actor is lawfully subjected to a stop as described in Section 77-7-15:

(a) a peace officer demands that the [~~person~~]actor disclose the [~~person's~~]actor's name or date of birth;

(b) the demand described in Subsection [~~(1)(a)~~](2)(a) is reasonably related to the circumstances justifying the stop;

(c) the disclosure of the [~~person's~~]actor's name or date of birth by the [~~person~~]actor does not present a reasonable danger of self-incrimination in the commission of a crime; and

(d) the [~~person~~]actor fails to disclose the [~~person's~~]actor's name or date of birth.

[~~(2)~~](3) [~~Failure to disclose identity~~]A violation of Subsection (2) is a class B misdemeanor.

Section 38. Section 76-8-302 is amended to read:

76-8-302. Picketing or parading in or near court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if he~~]An actor commits picketing or parading in or near a court if the actor pickets or parades in or near a building [~~which~~]that houses a court of this state with intent to[~~:~~]

(a) obstruct access to that court; or[~~ to~~]

(b) affect the outcome of a case pending before that court.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 39. Section 76-8-303 is amended to read:

76-8-303. Prevention of Legislature or public servant from meeting or organizing.

[~~A person is guilty of a felony of the third degree if he intentionally and by force or fraud:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prevention of Legislature or public servant from meeting or organizing if the actor intentionally and by force or fraud:

(a) [~~Prevents~~]prevents the Legislature, [~~or~~]either of the houses composing [~~it~~]the Legislature, or any of the members [~~thereof~~]of the Legislature, from meeting or organizing; or

[~~(2)~~](b) [~~Prevents~~]prevents any other public servant from meeting or organizing to perform a lawful governmental function.

(3) A violation of Subsection (2) is a third degree felony.

Section 40. Section 76-8-305 is amended to read:

76-8-305. Interference with a peace officer.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person~~]An actor commits interference with a peace officer if the actor:

(a) knows, or by the exercise of reasonable care should have known, that a peace officer is seeking to effect a lawful arrest or detention of [~~that person~~]the actor or another [~~person~~]individual; and

(b) [~~-~~]interferes with the arrest or detention by:

[~~(a)~~](i) use of force or [~~any~~]a weapon;

[~~(b)~~](ii) refusing to perform [~~any~~]an act required by lawful order:

[~~(i)~~](A) necessary to effect the arrest or detention; and

[~~(ii)~~](B) made by a peace officer involved in the arrest or detention; or

[~~(c)~~](iii) refusing to refrain from performing [~~any~~]an act that would impede the arrest or detention.

[~~(2)~~](3) A violation of Subsection (2) is a class B misdemeanor.

(4) Recording the actions of a [~~law enforcement~~]peace officer with a camera, mobile phone, or other photographic device, while the peace officer is performing official duties in plain view, does not by itself constitute:

(a) interference with the peace officer;

(b) willful resistance;

(c) disorderly conduct; or

(d) obstruction of justice.

Section 41. Section 76-8-305.5 is amended to read:

76-8-305.5. Failure to stop at the command of a peace officer.

[~~A person is guilty of a class A misdemeanor who flees from or otherwise attempts to elude a peace officer:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to stop at the command of a peace officer if, after the peace officer has issued a verbal or visual command to stop[~~;~~], the actor flees from or otherwise attempts to elude a peace officer:

[~~(2)~~](a) for the purpose of avoiding arrest; and

[~~(3)~~](b) by any means other than a violation of Section 41-6a-210 regarding failure to stop a vehicle at the command of a law enforcement officer.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 42. Section 76-8-306 is amended to read:

76-8-306. Obstruction of justice in a criminal investigation or proceeding.

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

(i)(A) "Conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section.

(B) "Conduct that constitutes a criminal offense" includes:

(I) any violation of a criminal statute or ordinance of this state or a political subdivision of this state, any other state, or any district, possession, or territory of the United States; and

(II) conduct committed by a juvenile that would be a crime if committed by an adult.

(ii) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

(iii) "Official custody" means the same as that term is defined in Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~An~~]Except as provided in Subsection (5), an actor commits obstruction of justice in a criminal investigation or proceeding if the actor, with intent to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes a criminal offense:

(a) provides any person with a weapon;

(b) prevents by force, intimidation, or deception, [~~any~~]a person from performing [~~any~~]an act that might aid in the discovery, apprehension, prosecution, conviction, or punishment of any person;

(c) alters, destroys, conceals, or removes [~~any~~]an item or other thing;

(d) makes, presents, or uses [~~any~~]an item or thing known by the actor to be false;

(e) harbors or conceals a person;

(f) provides a person with transportation, disguise, or other means of avoiding discovery or apprehension;

(g) warns [~~any~~]a person of impending discovery or apprehension;

(h) warns [~~any~~]a person of an order authorizing the interception of wire communications or of a pending application for an order authorizing the interception of wire communications;

(i) conceals information that is not privileged and that concerns the offense, after a judge or magistrate has ordered the actor to provide the information; or

(j) provides false information regarding a suspect, a witness, the conduct constituting an offense, or any other material aspect of the investigation.

[~~(2)(a) As used in this section, "conduct that constitutes a criminal offense" means conduct that would be punishable as a crime and is separate from a violation of this section, and includes:~~]

[~~(i) any violation of a criminal statute or ordinance of this state, its political subdivisions, any other state, or any district, possession, or territory of the United States; and~~]

[~~(ii) conduct committed by a juvenile which would be a crime if committed by an adult.~~]

[~~(b) A violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is a:~~]

[~~(i) capital felony if the penalty provided includes death or life imprisonment without parole;~~]

[~~(ii) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;~~]

[~~(iii) a second degree felony if the penalty provided exceeds five years;~~]

[~~(iv) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; and~~]

[~~(v) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.~~]

(3) [~~Obstruction of justice~~]A violation of Subsection (2) is:

(a) a second degree felony if the conduct [~~which~~]that constitutes an offense would be a capital felony or first degree felony;

(b) a third degree felony if:

(i) the conduct that constitutes an offense would be a second or third degree felony and the actor violates Subsection [~~(1)(b)~~](2)(b), (c), (d), (e), or (f);

(ii) the conduct that constitutes an offense would be any offense other than a capital or first degree felony and the actor violates Subsection [~~(1)(a)~~](2)(a);

(iii) the obstruction of justice is presented or committed before a court of law; or

(iv) a violation of Subsection [~~(1)(h)~~](2)(h); or

(c) a class A misdemeanor for any violation of this section that is not enumerated under Subsection (3)(a) or (b).

(4) It is not a defense that the actor was unaware of the level of penalty for the conduct constituting an offense.

[~~(5) Subsection (1)(e) does not apply to harboring a juvenile offender, as defined in Section 80-1-102, which is governed by Section 76-8-311.5.~~]

[~~(6)~~](5)(a) Subsection (2) does not apply to harboring or concealing an offender who has escaped from official custody, which is governed by Section 76-8-309.2.

(b) Subsection [~~(1)(b)~~](2)(b) does not apply to:

[~~(a) tampering with a juror, which is governed by Section 76-8-508.5;~~]

[~~(b)~~](i) [~~influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, which is governed by~~]threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316;

(ii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.2;

(iii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.4;

(iv) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole under Section 76-8-316.6;

[~~(c)~~](v) tampering with a witness [~~or soliciting or receiving a bribe, which is governed by~~]under Section 76-8-508;

[~~(d)~~](vi) retaliation against a witness, victim, or informant[~~, which is governed by~~] under Section 76-8-508.3; [~~or~~]

(vii) tampering or retaliating against a juror under Section 76-8-508.5;

(viii) receiving or soliciting a bribe as a witness under Section 76-8-508.7; or

[~~(e)~~](ix) extortion or bribery to dismiss a criminal proceeding[~~, which is governed by~~] under Section 76-8-509.

(c) Subsection (2)(e) does not apply to harboring a juvenile offender, which is governed by Section 76-8-319.

[~~(7) Notwithstanding Subsection (1), (2), or (3), an actor commits a third degree felony if the actor harbors or conceals an offender who has escaped from official custody as defined in Section 76-8-309.~~]

(6) For purposes of Subsection (3), a violation of a criminal statute that is committed in another state, or any district, possession, or territory of the United States, is:

(a) a capital felony if the penalty provided includes death or life imprisonment without parole;

(b) a first degree felony if the penalty provided includes life imprisonment with parole or a maximum term of imprisonment exceeding 15 years;

(c) a second degree felony if the penalty provided exceeds five years;

(d) a third degree felony if the penalty provided includes imprisonment for any period exceeding one year; or

(e) a misdemeanor if the penalty provided includes imprisonment for any period of one year or less.

Section 43. Section 76-8-306.5 is amended to read:

76-8-306.5. Obstructing service of a Board of Pardons and Parole warrant or a probationer order to show cause.

[~~A person is guilty of a third degree felony who:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits obstructing service of a Board of Pardons and Parole warrant or a probationer order to show cause if the actor:

(a) knows that[~~-~~]:

(i) the Board of Pardons and Parole has issued a warrant for a parolee; or[~~ that -~~]

(ii) a court has issued an order to show cause regarding a defendant's violation of the terms of probation; and

[~~(2)~~](b)[~~(a)~~](i) harbors or conceals the parolee or probationer;

[~~(b)~~](ii) provides the parolee or probationer with transportation, disguise, or other means or assistance to avoid discovery; or

[~~(c)~~](iii) warns the parolee or probationer of [~~his~~]the parolee's or probationer's impending discovery.

(3) A violation of Subsection (2) is a third degree felony.

Section 44. Section 76-8-307 is amended to read:

76-8-307. Failure to aid a peace officer.

[~~A person is guilty of a class B misdemeanor~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to aid a peace officer if, upon command by a peace officer identifiable or identified by [~~him~~]the peace officer as such, [~~he~~]the actor unreasonably fails or refuses to aid the peace officer in effecting an arrest or in preventing the commission of any offense by another person.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 45. Section 76-8-308 is amended to read:

76-8-308. Acceptance of bribe or bribery to prevent criminal prosecution.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if he~~]An actor commits acceptance of bribe or bribery to prevent criminal prosecution if the actor:

(a) solicits, accepts, or agrees to accept any benefit as consideration for [~~his~~]the actor's refraining from initiating or aiding in a criminal prosecution; or

(b) confers, offers, or agrees to confer any benefit upon [~~another~~]a person as consideration for the person refraining from initiating or aiding in a criminal prosecution.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(2)~~](4) It is an affirmative defense that the value of the benefit did not exceed an amount [~~which~~]that the actor believed to be due as restitution or indemnification for the loss caused or to be caused by the offense.

Section 46. Section 76-8-309 is amended to read:

76-8-309. Escape.

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

(i) "Confinement" means a prisoner is:

(A) housed in a state prison or another facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;

(B) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or

(C) lawfully detained following arrest.

(ii) "Confinement in a state prison" means that an individual:

(A) is in prehearing custody after arrest for parole violation;

(B) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or

(C) is being transported as a prisoner in the state prison by a correctional officer.

(iii) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or abandoned.

(iv) "Lawful authorization" does not include authorization to leave official custody that is obtained by a prisoner by means of deceit, fraud, or other artifice.

(v) "Official custody" means:

(A) arrest, whether with or without a warrant;

(B) confinement in a state prison, jail, or institution for secure confinement of juvenile offenders;

(C) released from a prison or jail for work release or home visit subject to a designated time for return; or

(D) any confinement pursuant to an order of a court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole.

(vi) "Prisoner" means any person who is in official custody and includes persons under trusty status.

(vii) "Volunteer" means a person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(a)~~](2)[~~(i) A prisoner is guilty of escape if the prisoner~~]An actor commits escape if the actor:

(a)(i) is a prisoner; and

(ii) leaves official custody without lawful authorization[~~.~~]; or

(b)(i) is convicted as a party to an offense under this section, as defined in Section 76-2-202; and

(ii) is an employee at or a volunteer of:

(A) a law enforcement agency, the Department of Corrections, a county or district attorney's office, the Office of the Attorney General, the Board of Pardons and Parole; or

(B) a court, the Judicial Council, the Administrative Office of the Courts, or a similar administrative unit in the judicial branch of government.

[~~(ii) If a prisoner obtains authorization to leave official custody by means of deceit, fraud, or other artifice, the prisoner has not received lawful authorization.~~]

[~~(b)~~](3)(a) [~~Escape under this Subsection (1) is a~~]Except as provided by Subsection (3)(b) or Section 76-8-309.1, a violation of Subsection (2) is a third degree felony[~~ except as provided under Subsection (1)(c)~~].

[~~(c)~~](b) [~~Escape under this Subsection (1)~~]Except as provided by Section 76-8-309.1, a violation of Subsection (2) is a second degree felony if:

(i) the actor escapes [~~from~~]confinement in a state prison;[~~ or~~]

(ii) the actor violates Subsection (2)(b); or

(iii) the prisoner left official custody by failing to return from work release or home visit by the time designated for return.

[~~(ii)(A) the actor is convicted as a party to the offense, as defined in Section 76-2-202; and~~]

[~~(B) the actor is an employee at or a volunteer of a law enforcement agency, the Department of Corrections, a county or district attorney's office, the office of the state attorney general, the Board of Pardons and Parole, or the courts, the Judicial Council, the Administrative Office of the Courts, or similar administrative units in the judicial branch of government.~~]

[~~(2)(a) A prisoner is guilty of aggravated escape if in the commission of an escape the prisoner uses a dangerous weapon, as defined in Section 76-1-101.5, or causes serious bodily injury to another.~~]

[~~(b) Aggravated escape is a first degree felony.~~]

[~~(3)~~](4) [~~Any prison term imposed upon a prisoner for escape under this section shall run consecutively with~~]A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

[~~(4) For the purposes of this section:~~]

[~~(a) "Confinement" means the prisoner is:~~]

[~~(i) housed in a state prison or any other facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;~~]

[~~(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or~~]

[~~(iii) lawfully detained following arrest.~~]

[~~(b) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or abandoned.~~]

[~~(c) "Official custody" means arrest, whether with or without warrant, or confinement in a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole. A person is considered confined in the state prison if the person:~~]

[~~(i) without authority fails to return to the person's place of confinement from work release or home visit by the time designated for return;~~]

[~~(ii) is in prehearing custody after arrest for parole violation;~~]

[~~(iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or~~]

[~~(iv) is being transported as a prisoner in the state prison by correctional officers.~~]

[~~(d) "Prisoner" means any person who is in official custody and includes persons under trusty status.~~]

[~~(e) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.~~]

Section 47. Section 76-8-309.1 is enacted to read:

76-8-309.1. Aggravated escape.

(1)(a) As used in this section, "escape" means an offense under Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated escape if, during the course of the commission of an escape, the actor:

(a) uses a dangerous weapon; or

(b) causes serious bodily injury to another.

(3) A violation of Subsection (2) is a first degree felony.

(4) A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

Section 48. Section 76-8-309.2 is enacted to read:

76-8-309.2. Harboring or concealing an offender who has escaped from official custody.

(1)(a) As used in this section, "official custody" means the same as that term is defined in Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits harboring or concealing an offender who has escaped from official custody if the actor harbors or conceals an offender who has escaped from official custody.

(3) A violation of Subsection (2) is a third degree felony.

Section 49. Section 76-8-311.1 is amended to read:

76-8-311.1. Establishment of secure areas -- Items prohibited -- References to penalty provisions.

(1) [~~In addition to the definitions in Section 76-10-501, as~~] As used in this section:

[~~(a)~~](i) "Correctional facility" [~~has the same meaning as~~]means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

[~~(b)~~](iii) "Explosive" [~~has the same meaning as defined for~~]means the same as the term "explosive, chemical, or incendiary device" defined in Section 76-10-306.

(iv) "Firearm" means the same as that term is defined in Section 76-10-501.

[~~(c)~~](v) "Law enforcement facility" means a facility [~~which~~]that is owned, leased, or operated by a law enforcement agency.

[~~(d)~~](vi) "Mental health facility" [~~has the same meaning as~~]means the same as that term is defined in Section 26B-5-301.

[~~(e)~~](vii)[~~(i)~~](A) "Secure area" means [~~any~~]an area created under this section into which certain persons are restricted from transporting [~~any~~]a firearm or other dangerous weapon, ammunition,[~~dangerous weapon,~~] or explosive.

[~~(ii)~~](B) A "secure area" may not include any area normally accessible to the public.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2)(a) [~~A person in charge of the~~]The State Tax Commission or a correctional, law enforcement, or mental health facility may establish secure areas within the facility and may prohibit or control by rule any firearm or other dangerous weapon, ammunition, [~~dangerous weapon,~~]or explosive.

(b) Subsections (2)(a), (3), (4), [~~(5), and (6)~~]and (5) apply to a higher education secure area hearing [~~rooms~~]room referred to in Subsections 53B-3-103(2)(a)(ii) and (b).

(3) [~~At~~]An entity that creates a secure area under this section shall ensure that at least one notice [~~shall be~~]is prominently displayed at each entrance to [~~an~~]the secure area in which a firearm, ammunition, dangerous weapon, or explosive is restricted.

(4)(a) [~~Provisions shall be made to~~]An entity that creates a secure area under this section shall provide a secure weapons storage area so that

[~~persons~~]an individual entering the secure area may store [~~their weapons prior to~~]the individual's weapon before entering the secure area.

(b) The entity operating the facility shall be responsible for [~~weapons~~]a weapon while [~~they are~~]the weapon is stored in the storage area described in Subsection (4)(a).

[~~(5) It is a defense to any prosecution under this section that the accused, in committing the act made criminal by this section, acted in conformity with the facility's rule or policy established pursuant to this section.~~]

[~~(6)~~](5)(a) [~~Any person who knowingly or intentionally transports into a secure area of a facility any firearm, ammunition, or dangerous weapon is guilty of a third degree felony~~]An actor who transports a firearm or other dangerous weapon or ammunition into a secure area created under this section or a higher education secure area hearing room created under this section may be punished under Section 76-8-311.2.

(b) [~~Any person violates Section 76-10-306~~]An actor who knowingly or intentionally transports, possesses, distributes, or sells [~~any~~]an explosive in a secure area [~~of a facility~~]or a higher education secure area hearing room created under this section may be punished under Section 76-10-306.

(c) It is a defense to a prosecution related to this section that the actor acted in conformity with the facility's rule or policy established pursuant to this section.

Section 50. Section 76-8-311.2 is enacted to read:

76-8-311.2. Prohibited dangerous weapon or ammunition in a secure area.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Firearm" means the same as that term is defined in Section 76-10-501.

(iv) "Higher education secure area" means a higher education secure area hearing room created under Section 76-8-311.1.

(v) "Law enforcement facility" means the same as that term is defined in Section 76-8-311.1.

(vi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited dangerous weapon or ammunition in a secure area if the actor knowingly or intentionally transports a firearm or other dangerous weapon or ammunition into:

(a) a correctional facility;

(b) a secure area created by the State Tax Commission;

(c) a secure area in a law enforcement facility or a mental health facility; or

(d) a higher education secure area.

(3) Except as provided in Section 76-8-311.4, 76-8-311.6, or 76-8-311.7, a violation of Subsection (2) is a third degree felony.

(4) It is a defense to a prosecution under this section that the actor acted in conformity with the facility's rule or policy established under Section 76-8-311.1.

Section 51. Section 76-8-311.3 is amended to read:

76-8-311.3. Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

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

[~~(a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.~~]

[~~(b)~~](i) "Controlled substance" means [~~any~~]a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(c)~~](ii) "Correctional facility" means:

[~~(i)~~](A) [~~any~~]a facility operated by or contracting with the Department of Corrections to house [~~offenders~~]an offender in either a secure or nonsecure setting;

[~~(ii)~~](B) [~~any~~]a facility operated by a municipality or a county to house or detain [~~criminal offenders~~]a criminal offender;

[~~(iii)~~](C) [~~any~~]a juvenile detention facility; [~~and~~]or

[~~(iv)~~](D) [~~any~~]a building or grounds appurtenant to [~~the~~]a facility or [~~lands~~]land granted to the state, municipality, or county for use as a correctional facility.

[~~(d)~~](iii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iv) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(v) "Firearm" means the same as that term is defined in Section 76-10-501.

[~~(e)~~](vi) "Medicine" means [~~any~~]a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include [~~any~~]a controlled [~~substances~~]substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(f)~~](vii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

[~~(g)~~](viii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~](ix) "Offender" means [~~a person~~]an individual in custody at a correctional facility.

[~~(i)~~](x) "Secure area" means the same as that term is defined in Section 76-8-311.1.

[~~(j)~~](xi) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) Notwithstanding Section 76-10-500, a correctional facility or a mental health facility may provide by rule that no firearm, ammunition, dangerous weapon, implement of escape, explosive, controlled substance, spirituous or fermented liquor, medicine, or poison in any quantity may be:

(a) transported to or [~~upon~~]within a correctional facility or a mental health facility;

(b) sold or given away at [~~any~~]a correctional facility or a mental health facility;

(c) given to or used by [~~any~~]an offender at a correctional facility or a mental health facility; or

(d) knowingly or intentionally possessed at a correctional facility or a mental health facility.

(3) It is a defense to [~~any~~]a prosecution [~~under~~]related to this section [~~if the accused in~~]that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

[~~(4)(a) An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.~~]

[~~(b) An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~]

[~~(c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~]

[~~(d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.~~]

[~~(e) An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.~~]

[~~(5)(a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~]

[~~(iii) poison in any quantity.~~]

[~~(b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~]

[~~(iii) poison in any quantity.~~]

[~~(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or~~]

[~~(iii) poison in any quantity.~~]

[~~(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:~~]

[~~(i) transports, delivers, or distributes any tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;~~]

[~~(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product, electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or~~]

[~~(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.~~]

[~~(e) An individual is guilty of a class A misdemeanor who, without the permission of the~~

~~authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:~~]

[~~(i) spirituous or fermented liquor;~~]

[~~(ii) medicine; or~~]

[~~(iii) poison in any quantity.~~]

[~~(f)(i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.~~]

[~~(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).~~]

[~~(g)~~](4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, or 76-8-311.10 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.~~]

(5) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

[~~(7)~~](6) The [~~department~~]Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

Section 52. Section 76-8-311.4 is enacted to read:

76-8-311.4. Prohibited item in correctional or mental health facility for use by offender or detainee.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited item in correctional or mental health facility for use by offender or detainee if the actor:

(a) transports a dangerous weapon, ammunition, or implement of escape to or within a correctional facility, or into a secure area of a mental health facility, with the intent to provide or sell to an offender or detainee the dangerous weapon, ammunition, or implement of escape; or

(b) provides or sells a dangerous weapon, ammunition, or implement of escape to:

(i) an offender at a correctional facility; or

(ii) a detainee at a secure area of a mental health facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 53. Section 76-8-311.6 is enacted to read:

76-8-311.6. Possession of prohibited item by offender or detainee in correctional or mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item by offender or detainee in correctional or mental health facility if the actor:

(a)(i) is an offender at a correctional facility; or

(ii) is a detainee at a mental health facility; and

(b) possesses a dangerous weapon, ammunition, or an implement of escape.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a second degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 54. Section 76-8-311.7 is enacted to read:

76-8-311.7. Possession of prohibited item in correctional facility or secure area of mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Secure area" means the same as that term is defined in Section 76-8-311.1.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of prohibited item in correctional facility or secure area of mental health facility if the actor, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses a dangerous weapon, ammunition, or implement of escape at a correctional facility or in a secure area of a mental health facility.

(3) Except as provided in Section 76-8-311.6 or Subsection (4), a violation of Subsection (2) is a third degree felony.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 55. Section 76-8-311.8 is enacted to read:

76-8-311.8. Prohibited substance in correctional or mental health facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Medicine" means the same as that term is defined in Section 76-8-311.3.

(iii) "Mental health facility" means the same as that term is defined in Section 76-8-311.3.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Prohibited substance" means:

(A) spirituous or fermented liquor;

(B) medicine, whether or not lawfully prescribed for an offender or a detainee; or

(C) poison in any quantity.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited substance in a correctional or mental health facility if the actor:

(a) without the permission of the authority operating the correctional facility or secure area of a mental health facility:

(i) knowingly transports a prohibited substance to or within a correctional facility or into a secure area of a mental health facility; or

(ii) fails to declare or knowingly possesses a prohibited substance at a correctional facility or in a secure area of a mental health facility;

(b) knowingly violates correctional or mental health facility policy or rule by providing or selling a prohibited substance to an offender at a correctional facility or a detainee within a secure area of a mental health facility; or

(c)(i) is a detainee in a mental health facility or an offender; and

(ii) in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility a prohibited substance other than medicine provided by the facility's health care providers in compliance with facility policy.

(3)(a) Except as provided in Subsection (4), a violation of Subsection (2)(a)(i), (2)(b), or (2)(c) is a third degree felony.

(b) Except as provided in Subsection (4), a violation of Subsection (2)(a)(ii) is a class A misdemeanor.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

Section 56. Section 76-8-311.9 is enacted to read:

76-8-311.9. Prohibited tobacco, electronic cigarette, or nicotine product in a correctional facility.

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

(i) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(ii) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(iii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(iv) "Offender" means the same as that term is defined in Section 76-8-311.3.

(v) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited tobacco, electronic cigarette, or nicotine product in a correctional facility if the actor, with the intent to directly or indirectly provide or sell a tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(a) transports, delivers, or distributes a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility;

(b) solicits, requests, commands, coerces, encourages, or intentionally aids another individual to transport a tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of a correctional facility, if the other individual is acting with the mental state required for the commission of an offense; or

(c) facilitates, arranges, or causes the transport of a tobacco product, electronic cigarette product, or nicotine product in violation of this section or Section 76-8-311.3 to an offender or on the grounds of a correctional facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class A misdemeanor.

(4) The defenses provided in Section 76-8-311.3 apply to this section.

(5) In accordance with Section 76-10-311.3, the Department of Corrections shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing a tobacco product, electronic cigarette product, or nicotine product to an offender is a class A misdemeanor.

Section 57. Section 76-8-311.10 is enacted to read:

76-8-311.10. Possession of contraband in a correctional facility.

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

(i) "Contraband" means an item not specifically prohibited for possession by an offender under this section or Section 76-8-311.3, 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, or 76-8-311.9.

(ii) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits possession of contraband in a correctional facility if the actor, without the permission of the authority operating a correctional facility, knowingly engages in an activity that would facilitate the possession of contraband by an offender in the correctional facility.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

(4)(a) The possession, distribution, or use of a controlled substance at a correctional facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(b) The provisions of Section 76-8-311.9 take precedence over this section.

(c) The defenses provided in Section 76-8-311.3 apply to this section.

Section 58. Section 76-8-312 is amended to read:

76-8-312. Unlawful absence after pretrial release.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of an offense when having~~]An actor commits unlawful absence after pretrial release if the actor:

(a) has been [~~released on bail or on his own recognizance~~]granted pretrial release by court order or by other lawful authority upon condition that [~~he~~]the actor subsequently appear personally upon a charge of an offense[~~, he~~]; and

(b) fails without just cause to appear at the time and place [~~which~~]that have been lawfully designated for [~~his~~]the actor's appearance.

[~~(2) An offense under this section is a felony of the third degree when the offense charged is a felony, a class B misdemeanor when the offense charged is a misdemeanor, and an infraction when the offense charged is an infraction.~~]

(3) A violation of Subsection (2) is:

(a) a third degree felony if the offense for which the actor failed to appear is a felony;

(b) a class B misdemeanor if the offense for which the actor failed to appear is a misdemeanor; or

(c) an infraction if the offense for which the actor failed to appear is an infraction.

Section 59. Section 76-8-313 is amended to read:

76-8-313. Threatened or attempted assault on an elected official.

(1)(a) As used in this section, "elected official" means:

(i) an elected official of the state, county, or city;

(ii) an immediate family member of an individual described in Subsection (1)(a)(i);

(iii) a temporary judge appointed to fill a vacant judicial position;

(iv) a judge not yet retained by a retention election;

(v) a member of a school board; or

(vi) an individual appointed to fill a vacant position of an individual described in Subsection (1)(a)(i).

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person~~]An actor commits threatened or attempted assault on an elected official [~~when he~~]if the actor attempts or threatens, irrespective of a showing of immediate force or violence, to inflict bodily injury [~~to the~~]on an elected official with the intent to impede, intimidate, or interfere with the elected official in the performance of [~~his~~]the elected official's official duties or with the intent to

retaliate against the elected official because of the performance of [~~his~~]the elected official's official duties.

(3)(a) Except as provided by Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if:

(i) the actor attempts to inflict bodily injury; or

(ii) the elected official receives bodily injury.

Section 60. Section 76-8-316 is amended to read:

76-8-316. Threat with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

[~~(a)~~](i) "Board member" means an appointed member of the Board of Pardons and Parole.

[~~(b)~~](ii) "Family member" means [~~parents,~~]a parent, spouse, surviving spouse, [~~children, and siblings~~]child, or sibling of a judge or board member.

[~~(c)~~](iii) "Judge" means[~~ judges of all courts of record and courts not of record and court commissioners.~~]:

(A) a judge of a court of record;

(B) a judge of a court not of record; or

(C) a court commissioner.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a third degree felony if the person~~]An actor commits threat with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor threatens to assault, kidnap, or murder a judge, [~~a family member of a judge,~~]a board member, or a family member[~~ of a board member~~] with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a third degree felony.

[~~(3) A person is guilty of a second degree felony if the person commits an assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(4) A person is guilty of a first degree felony if the person commits aggravated assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(5) A person is guilty of a first degree felony if the person commits attempted murder on a family member of a judge or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.~~]

[~~(6) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).~~]

Section 61. Section 76-8-316.2 is enacted to read:

76-8-316.2. Assault with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits an assault on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a second degree felony.

Section 62. Section 76-8-316.4 is enacted to read:

76-8-316.4. Aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits aggravated assault on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a first degree felony.

Section 63. Section 76-8-316.6 is enacted to read:

76-8-316.6. Attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

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

(i) "Board member" means the same as that term is defined in Section 76-8-316.

(ii) "Family member" means the same as that term is defined in Section 76-8-316.

(iii) "Judge" means the same as that term is defined in Section 76-8-316.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge, board member, or family member if the actor commits attempted murder on a judge, a board member, or a family member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A violation of Subsection (2) is a first degree felony.

(4) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202(2)(a)(xiii).

Section 64. Section 76-8-317 is amended to read:

76-8-317. Refusal to comply with an order to evacuate or order issued in a local or state emergency.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person may not refuse to~~]An actor commits refusal to comply with an order to evacuate or order issued in a local or state emergency if the actor:

(a) receives notice of:

(i) an order to evacuate issued under [~~this chapter or refuse to comply with any other~~]Title 53, Chapter 2a, Emergency Management Act; or

(ii) an order issued[~~-~~]:

(A) by the governor in a state of an emergency under Section 53-2a-204; or

(B) [~~–~~]by a chief executive officer in a local emergency under Section 53-2a-205[~~, if notice of the order has been given to that person.~~]; and

(b) refuses to comply with the order described in Subsection (2)(a).

[~~(2)~~](3) [~~A person who violates this section is guilty of~~]A violation of Subsection (2) is a class B misdemeanor.

Section 65. Section 76-8-318 is amended to read:

76-8-318. Assault or threat of violence against child welfare worker.

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

[~~(a)~~](i) "Assault" means [~~the same as that term is defined in~~]an offense under Section 76-5-102.

[~~(b)~~](ii) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 80-2-201.

[~~(c)~~](iii) "Threat of violence" means [~~the same as that term is defined in~~]an offense under Section 76-5-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor~~]An actor commits assault or threat of violence against child welfare worker if:

(a) the [~~individual~~]actor is not:

(i) a prisoner or an individual detained under Section 77-7-15; or

(ii) a minor in the custody of or receiving services from a division within the Department of Health and Human Services;

(b) the [~~individual~~]actor knew that the victim was a child welfare worker; and

(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~An individual who violates this section is guilty of~~]A violation of Subsection (2) is a third degree felony if the [~~individual~~]actor:

[~~(a)~~](i) causes substantial bodily injury[~~, as defined in Section 76-1-101.5~~]; and

[~~(b)~~](ii) acts intentionally or knowingly.

Section 66. Section 76-8-319, which is renumbered from Section 76-8-311.5 is renumbered and amended to read:

~~76-8-311.5.~~ 76-8-319. Aiding or concealing an adjudicated minor -- Trespass of a secure care facility -- Criminal penalties.

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

[~~(a)~~](i) "Abscond from a facility" means an adjudicated minor:

(A) leaves a facility without permission; or

(B) fails to return at a prescribed time.

(ii) "Abscond from supervision" means an adjudicated minor:

(A) changes the adjudicated minor's residence from the residence that the adjudicated minor reported to the division as the adjudicated minor's correct address to another residence, without notifying the division or obtaining permission; or

(B) for the purpose of avoiding supervision:

(I) hides at a different location from the adjudicated minor's reported residence; or

(II) leaves the adjudicated minor's reported residence.

(iii) "Adjudicated minor" means the same as the term "minor" is defined in Section 80-6-501.

(iv) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(v) "Facility" means the same as the term "detention facility" is defined in Section 80-1-102.

[~~(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.~~]

[~~(c)~~](vi) "Secure care" means the same as that term is defined in Section 80-1-102.

[~~(d)~~](vii) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(2) An individual who commits any of the following offenses is guilty of a class A misdemeanor:~~]

[~~(a) entering, or attempting to enter, a building or enclosure appropriated to the use of juvenile offenders, without permission;~~]

[~~(b) entering any premises belonging to a secure care facility and committing or attempting to commit a trespass or damage on the premises of a secure care facility; or~~]

[~~(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a juvenile offender in a secure care facility.~~]

[~~(3)~~](2) An [~~individual is guilty of a third degree felony who~~]actor commits aiding or concealing an adjudicated minor if the actor:

(a) knowingly harbors or conceals [~~a juvenile offender~~]an adjudicated minor who has:

(i) escaped from secure care; or

(ii) [~~as described in Subsection (4),~~]absconded from:

(A) a facility or supervision; or

(B) supervision of the division; or

(b) willfully aided or assisted [~~a juvenile offender~~]an adjudicated minor who has been lawfully committed to a secure care facility in escaping or attempting to escape from the secure care facility.

[~~(4) As used in this section:~~]

[~~(a) a juvenile offender absconds from a facility under this section when the juvenile offender:~~]

[~~(i) leaves the facility without permission; or~~]

[~~(ii) fails to return at a prescribed time.~~]

[~~(b) A juvenile offender absconds from supervision when the juvenile offender:~~]

[~~(i) changes the juvenile offender's residence from the residence that the juvenile offender reported to the division as the juvenile offender's correct address to another residence, without notifying the division or obtaining permission; or~~]

[~~(ii) for the purpose of avoiding supervision:~~]

[~~(A) hides at a different location from the juvenile offender's reported residence; or~~]

[~~(B) leaves the juvenile offender's reported residence.~~]

(3) A violation of Subsection (2) is a third degree felony.

Section 67. Section 76-8-320 is enacted to read:

76-8-320. Trespass of a secure care facility.

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

(i) "Juvenile offender" means the same as that term is defined in Section 76-8-311.5.

(ii) "Secure care facility" means the same as that term is defined in Section 76-8-311.5.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trespass of a secure care facility if the actor:

(a) without permission, enters or attempts to enter a building or enclosure appropriated to the use of juvenile offenders;

(b)(i) enters any premises belonging to a secure care facility; and

(ii) commits or attempts to commit a trespass or damage on the premises of the secure care facility; or

(c) willfully annoys or disturbs the peace and quiet of:

(i) a secure care facility; or

(ii) a juvenile offender in a secure care facility.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 68. Section 76-8-402 is amended to read:

76-8-402. Misusing public money or public property -- Disqualification from office.

(1)(a) As used in this section, "authorized personal use" means:

[~~(a)~~](i) the use of public property, for a personal matter, by [~~a~~]an actor who is a public servant if:

[~~(i)~~](A) the [~~public servant~~]actor is authorized to use or possess the public property to fulfill the [~~public servant's~~]actor's duties as a public servant;

[~~(ii)~~](B) the primary purpose of the [~~public servant~~]actor using or possessing the public property is to fulfill the [~~public servant's~~]actor's duties as a public servant;

[~~(iii)~~](C) at the time the [~~public servant~~]actor uses the public property for a personal matter, a written policy of the [~~public servant's~~]actor's public entity is in effect that authorizes the [~~public servant~~]actor to use or possess the public property for personal use in addition to the primary purpose of fulfilling the [~~public servant's~~]actor's duties as a public servant; and

[~~(iv)~~](D) the [~~public servant~~]actor uses and possesses the public property in a lawful manner and in accordance with the policy described in Subsection [~~(1)(a)(iii);~~](1)(a)(i)(C); or

[~~(b)~~](ii) incidental or de minimus use of public property for a personal matter by [~~a public servant,~~]an actor who is a public servant if:

[~~(i)~~](A) the value provided to the [~~public servant's~~]actor's public entity by the [~~public servant's~~]actor's use or possession of the public property for a public purpose substantially outweighs the personal benefit received by the [~~employee~~]actor from the incidental use of the public property for a personal matter; and

[~~(ii)~~](B) the incidental or de minimus use of the public property for a personal matter is not prohibited by law or by the [~~public servant's~~]actor's public entity.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~It is unlawful for a public servant to~~]An actor commits misusing public money or public property if the actor is a public servant and knowingly:

(a) [~~appropriate~~]appropriates public money to the [~~public servant's~~]actor's own use or benefit or to the use or benefit of another person without authority of law;

(b) [~~loan or transfer~~]loans or transfers public money without authority of law;

(c) [~~fail~~]fails to keep public money in the [~~public servant's~~]actor's possession until disbursed by authority of law;

(d) [~~deposit~~]deposits public money in a bank or with another person in violation of the written policy of the [~~public servant's~~]actor's public entity or the requirements of law;

(e) [~~keep~~]keeps a false account or [~~make~~]makes a false entry or erasure in an account of, or relating to, public money;

(f) fraudulently [~~alter, falsify, conceal, or destroy~~] alters, falsifies, conceals, or destroys an account described in Subsection (2)(e);

(g) [~~refuse or omit~~]refuses or omits to pay over, on demand, any public money in the [~~public servant's~~]actor's custody or control, upon the presentation of a draft, order, or warrant drawn upon the public money by competent authority;

(h) [~~omit~~]omits to transfer public money when the transfer is required by law;

(i) [~~omit or refuse~~]omits or refuses to pay over, to [~~any~~]an officer or person authorized by law to receive public money, public money received by the [~~public servant~~]actor under any duty imposed on the [~~public servant~~]actor by law;

(j) [~~damage or dispose~~]damages or disposes of public property in violation of the written policy of the [~~public servant's~~]actor's public entity or the requirements of law;

(k) [~~obtain or exercise~~]obtains or exercises unauthorized control of public property with the intent to deprive the owner of possession of the public property;

(l) [~~obtain or exercise~~]obtains or exercises unauthorized control of public property with the intent to temporarily appropriate, possess, use, or deprive the owner of possession of the public property;

(m) [~~appropriate~~]appropriates public property to the [~~public servant's~~]actor's own use or benefit or to the use or benefit of another person without authority of law;

(n) [~~loan or transfer~~]loans or transfers public property without authority of law; or

(o) [~~fail~~]fails to keep public property in the [~~public servant's~~]actor's possession until returned to the property owner[~~,~~] or disposed of or relinquished[~~,~~] in

accordance with the written policy of the [~~public servant's~~]actor's public entity and the requirements of law.

(3)(a) Except as provided [~~in Subsection (4)~~]by Subsection (3)(b), a violation of Subsections (2)(a) through (i) is a third degree felony[~~ of the third degree~~].

[~~(4)~~](b) A violation of Subsections (2)(a) through (i) is a second degree felony[~~ of the second degree~~] if:

[~~(a)~~](i) the value of the public money exceeds $5,000;

[~~(b)~~](ii) the amount of the false account exceeds $5,000;

[~~(c)~~](iii) the amount falsely entered exceeds $5,000;

[~~(d)~~](iv) the amount that is the difference between the original amount and the fraudulently altered amount exceeds $5,000; or

[~~(e)~~](v) the amount falsely erased, fraudulently concealed, destroyed, or falsified in the account exceeds $5,000.

[~~(5)~~](c) A violation of Subsection (2)(j) is:

[~~(a)~~](i) a class B misdemeanor[~~,~~] if the cost to repair or replace the public property is less than $500;

[~~(b)~~](ii) a class A misdemeanor[~~,~~] if the cost to repair or replace the public property is $500 or more, but less than $1,500;

[~~(c)~~](iii) a third degree felony [~~of the third degree,~~]if the cost to repair or replace the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~](iv) a second degree felony [~~of the second degree,~~]if the cost to repair or replace the public property is $5,000 or more.

[~~(6)~~](d) A violation of Subsection (2)(k), (m), (n), or (o) is:

[~~(a)~~](i) a class B misdemeanor[~~,~~] if the value of the public property is less than $500;

[~~(b)~~](ii) a class A misdemeanor[~~,~~] if the value of the public property is $500 or more, but less than $1,500;

[~~(c)~~](iii) a third degree felony [~~of the third degree,~~]if the value of the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~](iv) a second degree felony [~~of the second degree,~~]if the value of the public property is $5,000 or more.

[~~(7)~~](e) A violation of Subsection (2)(l) is:

[~~(a)~~](i) a class C misdemeanor[~~,~~] if the value of the public property is less than $500;

[~~(b)~~](ii) a class B misdemeanor[~~,~~] if the value of the public property is $500 or more, but less than $1,500;

[~~(c)~~](iii) a class A misdemeanor[~~,~~] if the value of the public property is $1,500 or more, but less than $5,000; or

[~~(d)~~](iv) a third degree felony [~~of the third degree,~~]if the value of the public property is $5,000 or more.

[~~(8) In addition to the penalty described in Subsections (3) through (7), a public officer who is convicted of a felony violation of Subsection (2):~~]

[~~(a) is subject to the penalties described in Section 76-8-404; and~~]

[~~(b) may not disburse public funds or access public accounts.~~]

[~~(9)(a) A public servant is not guilty of a violation of Subsections (2)(j) through (o)~~] [~~for authorized personal use of public property~~].

[~~(10)~~](4) It is not a defense to a violation of Subsection (2) that:

(a) subsequent to the violation, a public entity modifies or adopts a policy or law, or takes other action, to retroactively authorize, approve, or ratify the conduct that constitutes a violation; or

(b) a written policy of the [~~public servant's~~]actor's public entity permits private use of the public property if it is proven, beyond a reasonable doubt, that the [~~public servant~~]actor did not comply with the written policy.

(5) Subsections (2)(j) through (2)(o) do not apply to the authorized personal use of public property.

(6) In addition to the punishment described in Subsection (3), an actor who:

(a) is convicted of a felony offense under this section may not disburse public funds or access public accounts; or

(b) is a public officer and is convicted of a felony offense under this section is disqualified from holding public office if:

(i) regardless of whether the public officer receives, safekeeps, transfers, disburses, or has a fiduciary relationship with public money, the public officer makes a profit from or out of public money or public property; or

(ii) the public officer uses public money or public property in a manner or for a purpose not authorized by law.

Section 69. Section 76-8-403 is amended to read:

76-8-403. Failure to keep and pay over public money.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) Except as otherwise provided in Subsection [~~76-8-402(4), a person who~~]76-8-402(3)(b), an actor commits failure to keep and pay over public money if the actor:

(a) receives, safekeeps, transfers, or disburses public money[~~ who~~]; and

(b) neglects or fails to keep and pay over the public money in the manner prescribed by law[~~is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

Section 70. Section 76-8-405 is amended to read:

76-8-405. Failure to pay over a fine, forfeiture, or fee.

[~~Every public officer who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits failure to pay over a fine, forfeiture, or fee if the actor:

(a) is a public officer;

(b) receives any fine, forfeiture, or fee; and

(c) [~~,~~]refuses or neglects to pay [~~it~~]over the fine, forfeiture, or fee within the time prescribed by law[~~is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 71. Section 76-8-406 is amended to read:

76-8-406. Obstructing the collection of revenue.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits obstructing the collection of revenue if the actor willfully obstructs or hinders [~~any~~]a public officer who is empowered by law to collect revenue, taxes, or other sums of money from collecting [~~any~~] revenue, taxes, or other sums of money in which [~~the people of this state are interested, and which such officer is by law empowered to collect, is guilty of a class B misdemeanor~~]this state is interested.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 72. Section 76-8-407 is amended to read:

76-8-407. Refusing to give accurate tax assessment information.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusing to give accurate tax assessment information if the actor:

(a) unlawfully refuses, upon demand, to give to [~~any~~]a county assessor or deputy county assessor a list of [~~his~~]the actor's property subject to taxation, or to swear to such list[~~,~~]; or[~~ who~~]

(b) gives a false name, or fraudulently refuses to give [~~his~~]the actor's true name when demanded by the county assessor or deputy county assessor in the discharge of [~~his~~]the assessor's official duties[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 73. Section 76-8-408 is amended to read:

76-8-408. Giving a false tax receipt or failing to give a receipt.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits giving a false tax receipt or failing to give a receipt if the actor:

(a) uses or gives [~~any~~]a receipt, except that prescribed by law, as evidence of the payment for [~~any~~]a tax or license of any kind[~~,~~]; or[~~ who~~]

(b) receives payment for the tax or license without delivering the receipt prescribed by law[~~, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 74. Section 76-8-409 is amended to read:

76-8-409. Refusing to give a tax assessor or tax or license fee collector a list of employees.

[~~Every person who, when requested by the assessor or collector of taxes or license fees,~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusing to give a tax assessor or tax or license fee collector a list of employees if the actor refuses to give[~~ to~~] the assessor or collector the name and residence of each [~~person in his employ, or to give the assessor or collector access to the building or place of employment, is guilty of a class B misdemeanor.~~] individual in the actor's employ when requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 75. Section 76-8-409.2 is enacted to read:

76-8-409.2. Denying a tax assessor or tax or license fee collector access to a building or place of employment.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits denying a tax assessor or tax or license fee collector access to a building or place of employment if the actor refuses to give the assessor or collector access to the building or place of employment when access is requested by the assessor or collector.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 76. Section 76-8-410 is amended to read:

76-8-410. Doing business without a license.

[~~Every person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits doing business without a license if the actor commences or carries on [~~any~~]a business, trade, profession, or calling, for [~~the transaction or carrying on of~~]which a license is required by [~~any~~]law, or by [~~any~~]county, city, or town ordinance, without [~~taking out the~~]obtaining the required license[~~required by law or ordinance is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 77. Section 76-8-411 is amended to read:

76-8-411. Trafficking in warrants.

[~~No state,~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trafficking in warrants if the actor:

(a) is a state, county, city, town, or district officer[ ]; and

(b) [~~shall, either directly or indirectly, contract for or purchase any~~]directly or indirectly contracts for or purchases a warrant or order issued by the state, county, city, town, or district of which [~~he~~]the actor is an officer, at any discount whatever upon the sum due on the warrant or order[~~, and, if any state, county, city, town, or district officer shall so contract for or purchase any such order or warrant on a discount, he is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 78. Section 76-8-412 is amended to read:

76-8-412. Stealing, destroying or mutilating public records by custodian.

[~~Every officer having the custody of any record, map, or book, or of any paper or proceedings of any court, filed or deposited in any public office, or placed in his hands for any purpose, who is guilty of stealing, willfully destroying, mutilating, defacing, altering, falsifying, removing, or secreting the whole or any part thereof, or who permits any other person so to do, is guilty of a felony of the third degree.~~]

(1)(a) As used in this section, "public record" means the following records filed or deposited in a public office:

(i) a record;

(ii) a map;

(iii) a book; or

(iv) a paper or proceeding of a court.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits stealing, destroying, or mutilating a public record by a custodian if the actor:

(a) is a government officer who has custody of a public record; and

(b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record or permits another individual to do so.

(3) A violation of Subsection (2) is a third degree felony.

Section 79. Section 76-8-413 is amended to read:

76-8-413. Stealing, destroying or mutilating public records by one not custodian.

[~~Every person, not an officer such as is referred to in the preceding section, who is guilty of any of the acts specified in that section is guilty of a class A misdemeanor.~~]

(1)(a) As used in this section, "public record" means the same as that term is defined in Section 76-8-412.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits stealing, destroying, or mutilating a public record by a noncustodian if the actor:

(a) does not have lawful custody of a public record; and

(b) steals, willfully destroys, mutilates, defaces, alters, falsifies, removes, or secrets the whole or a part of the public record or permits another individual to do so.

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 80. Section 76-8-414 is amended to read:

76-8-414. Recording a false or forged instrument.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~]An actor commits recording a false or forged instrument if the actor knowingly procures or offers [~~any~~]a false or forged instrument to be filed, registered, or recorded in [~~any~~]a public office, which instrument, if genuine, might be filed or registered or recorded under [~~any~~]a law of this state or of the United States[~~, is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

Section 81. Section 76-8-415 is amended to read:

76-8-415. Damaging or removing a monument of an official survey.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~]An actor commits damaging or removing a monument of an official survey if the actor willfully injures, defaces, or removes [~~any~~]a signal, monument, building, or appurtenance thereto, placed, erected, or used by persons engaged in the United States or state survey[~~ is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 82. Section 76-8-416 is amended to read:

76-8-416. Taking a toll or maintaining a road, bridge, or ferry without authority.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Any person who~~]An actor commits taking a toll or maintaining a road, bridge, or ferry without authority if the actor, without authority:

(a) demands or receives compensation for the use of [~~any~~]a bridge or ferry[~~,~~]; or[~~ who~~]

(b) sets up or keeps [~~any~~]a road, bridge, [~~or~~]ferry, or constructed ford, for the purpose of receiving remuneration for [~~its~~]the road's, bridge's, ferry's, or constructed ford's use[~~ without authority of law; and any person who refuses to pay on demand the compensation or fee authorized to be collected for use of a licensed toll road, bridge, ferry, or constructed ford after having used it is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 83. Section 76-8-416.2 is enacted to read:

76-8-416.2. Refusal to pay a lawful toll.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits refusal to pay a lawful toll if the actor, after having used a licensed toll road, bridge, ferry, or constructed ford, refuses to pay on demand the compensation or fee authorized to be collected for use of the licensed toll road, bridge, ferry, or constructed ford.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 84. Section 76-8-417 is amended to read:

76-8-417. Tampering with an official notice or proclamation.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~]An actor commits tampering with an official notice or proclamation if the actor intentionally defaces, obliterates, tears down, or destroys[~~,~~]:

(a) [~~any~~]a copy[~~ or~~], transcript, or extract from or of [~~any~~]a law of the United States or of this state[~~,~~]; or

(b) [~~ any ~~]a proclamation, advertisement, or notice, set up [~~at any place ~~]in this state by authority of [~~any ~~]a law of the United States or of this state, or by order of [~~any ~~]a court or of [~~any ~~]a public officer, before the expiration of the time for which the [~~same ~~]proclamation, advertisement, or notice was to remain set up[~~, is guilty of an infraction~~].

(3) A violation of Subsection (2) is an infraction.

Section 85. Section 76-8-418 is amended to read:

76-8-418. Damaging a jail or other place of confinement.

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

[~~(a)~~](i) "Child" means the same as that term is defined in Section 80-1-102.

[~~(b)~~](ii) "Detention facility" means the same as that term is defined in Section 80-1-102.

[~~(c)~~](iii) "Secure care facility" means the same as that term is defined in Section 80-1-102.

[~~(d)~~](iv) "Shelter facility" means the same as that term is defined in Section 80-1-102.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person who~~]An actor commits damaging a jail or other place of confinement if the actor willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise damages [~~any~~]a public jail or other place of confinement, including a detention facility, a shelter facility, or a secure care facility[~~, is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

[~~(3)~~](4) This section is applicable to a child who willfully and intentionally commits an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

Section 86. Section 76-8-419 is amended to read:

76-8-419. Damaging a highway or bridge.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Every person who~~]An actor commits damaging a highway or bridge if the actor intentionally, knowingly, or recklessly digs up, removes, displaces, breaks, or otherwise damages or destroys [~~any public highway, or any~~]a public highway or private way laid out by authority of law, or [~~any~~]a bridge upon the highway or private way[~~ is guilty of a class A misdemeanor~~].

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a third degree felony.

[~~(2)~~](4) If the violation of this section constitutes an offense subject to a greater penalty under another provision of Title 76, Utah Criminal Code, than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 87. Section 76-8-420 is amended to read:

76-8-420. Removing or damaging a road sign.

[~~Every person who intentionally or knowingly removes or injures any milepost or milestone or guidepost or any inscription on them, erected upon any highway, is guilty of a class B misdemeanor.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits removing or damaging a road sign if the actor intentionally or knowingly removes or damages:

(a) a milepost, milestone, or guidepost erected on a highway; or

(b) an inscription on a milepost, milestone, or guidepost.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 88. Section 76-8-501 is amended to read:

76-8-501. Definitions.

As used in this part:

(1) "False statement" includes a false unsworn declaration[~~, with "unsworn declaration" being defined in Section 78B-18a-102~~].

(2) "Material" means capable of affecting the course or outcome of an official proceeding, unless the [~~person~~]individual who made the statement or provided the information retracts the statement or information before the earlier of:

(a) the end of the official proceeding in which the statement was made or the information was provided;

(b) when it becomes manifest that the false or misleading nature of the statement or information has been or will be exposed; or

(c) when the statement or information substantially affects the proceeding.

(3) "Official proceeding" means:

(a) [~~any~~]a proceeding before:

(i) a legislative, judicial, administrative, or other governmental body or official authorized by law to take evidence under oath or affirmation;

(ii) a notary; or

(iii) [~~a person that~~]an individual who takes evidence in connection with a proceeding described in Subsection (3)(a)(i);

(b) [~~any~~]a civil or administrative action, trial, examination under oath, administrative proceeding, or other civil or administrative adjudicative process; or

(c) an investigation or audit conducted by:

(i) the Legislature, or a house, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (3)(c)(i), at or under the direction of an entity described in Subsection (3)(c)(i).

(4) "Unsworn declaration" means the same as that term is defined in Section 78B-18a-102.

Section 89. Section 76-8-502 is amended to read:

76-8-502. Making a false or inconsistent material statement.

[~~A person is guilty of a felony of the second degree if in any official proceeding:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~He~~]An actor commits making a false or inconsistent material statement if the actor:

(a) makes a false material statement under oath or affirmation or swears or affirms the truth of a material statement previously made and [~~he~~]the actor does not believe the statement to be true; or

[~~(2)~~](b) [~~He~~]makes inconsistent material statements under oath or affirmation, both within the period of limitations, one of which is false and [~~not believed by him~~]the actor does not believe to be true.

(3) A violation of Subsection (2) is a second degree felony.

(4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner.

(5)(a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's statement may not be established solely through contradiction by the testimony of a single witness.

(b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or proved which of the statements are false but only that one or the other statement is false and not believed by the actor to be true.

Section 90. Section 76-8-503 is amended to read:

76-8-503. Making a false or inconsistent statement.

(1) [~~Except as provided in Subsection (2), a person is guilty of a class B misdemeanor if:~~]Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(a)~~](2) [~~the person~~]Except as provided in Subsection (6), an actor commits making a false or inconsistent statement if the actor:

(a) makes a false statement under oath or affirmation or swears or affirms the truth of the statement previously made and the [~~person~~]actor does not believe the statement to be true if:

(i) the falsification occurs in an official proceeding, or is made with a purpose to mislead a public servant in performing the public servant's official functions; or

(ii) the statement is one that is authorized by law to be sworn or affirmed before a notary or other [~~person~~]individual authorized to administer oaths; or

(b) [~~the person~~]makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by the [~~person~~]actor to be true.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4)(a) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner.

(b) It is a defense to prosecution under this section that the actor retracted the false statement before it became manifest that the falsity of the statement had been or would be exposed.

(5)(a) In a prosecution for a violation of Subsection (2)(a), the falsity of an actor's statement may not be established solely through contradiction by the testimony of a single witness.

(b) In a prosecution for a violation of Subsection (2)(b), it need not be alleged or proved which of the statements are false but only that one or the other statement is false and not believed by the actor to be true.

[~~(2)~~](6) Subsection [~~(1)~~](2) does not include obstructing a legislative proceeding, as described in Section 36-12-9.5.

[~~(3) A person is not guilty under this section if the person retracts the falsification before it becomes manifest that the falsification has been or will be exposed.~~]

Section 91. Section 76-8-504 is amended to read:

76-8-504. Making a written false statement.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits [~~the offense of~~]making a written false statement if:

(a) the actor makes a statement that the actor does not believe to be true on or under a form bearing a notification authorized by law to the effect that [~~false statements made therein are punishable~~]a false statement made therein is punishable; or

(b) with intent to deceive a public servant in the performance of the public servant's official function, the actor:

(i) makes a written false statement that the actor does not believe to be true;

(ii) knowingly creates a false impression in a written application for a pecuniary or other benefit by omitting information necessary to prevent a statement in the application from being misleading;

(iii) submits or invites reliance on a writing that the actor knows to be lacking in authenticity; or

(iv) submits or invites reliance on a sample, specimen, map, boundary mark, or other object that the actor knows to be false.

[~~(2)~~](3)(a) Except as provided in Subsection [~~(2)(b),~~](3)(b), a violation of Subsection [~~(1)~~](2) is a class B misdemeanor.

(b) A violation of Subsection [~~(1)~~](2) is a third degree felony if the false statement is on a financial declaration described in Section 77-38b-204.

[~~(3) It is not an offense under this section if the actor retracts the falsification before it becomes manifest that the falsification was or would be exposed.~~]

(4)(a) An actor does not violate this section if the actor retracted the false statement before it became manifest that the falsity of the statement had been or would be exposed.

(b) It is not a defense to prosecution under this section that, if applicable, an oath or affirmation was administered or taken in an irregular manner.

Section 92. Section 76-8-504.5 is amended to read:

76-8-504.5. Making a false statement to be used in a preliminary hearing.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a class A misdemeanor if the person~~]An actor commits making a false statement to be used in a preliminary hearing if the actor makes a false statement that:

(a) [~~which the person~~]the actor does not believe to be true;

(b) [~~that the person~~]the actor has reason to believe will be used in a preliminary hearing; and

(c) the actor made after having been notified either verbally or in writing that:

(i) the statement may be used in a preliminary hearing before a magistrate or a judge; and

(ii) if the [~~person~~]actor makes a false statement after having received this notification, [~~he~~]the actor is subject to a criminal penalty.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense to prosecution under this section that, if applicable, an oath or affirmation was administered or taken in an irregular manner.

[~~(2)~~](5) [~~Notification~~]A notification under Subsection [~~(1)~~](2)(c) is sufficient if [~~it~~]the notification is verbal or written and is in substantially the following form: "You are notified that statements you are about to make may be presented to a magistrate or a judge in lieu of your sworn testimony at a preliminary examination. Any false statement you make and that you do not believe to be true may subject you to criminal punishment as a class A misdemeanor."

Section 93. Section 76-8-504.6 is amended to read:

76-8-504.6. Providing false or misleading information.

(1)(a) As used in this section, "officer of the court" means:

(i) a prosecutor;

(ii) a judge;

(iii) a court clerk;

(iv) an interpreter;

(v) a presentence investigator;

(vi) a probation officer;

(vii) a parole officer; or

(viii) an individual reasonably believed to be gathering information for a criminal proceeding.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a class B misdemeanor if the person,~~]An actor commits providing false or misleading information if the actor, not under oath or affirmation, intentionally or knowingly provides false or misleading material information to:

(a) an officer of the court for the purpose of influencing a criminal proceeding; or

(b) the Bureau of Criminal Identification for the purpose of obtaining a certificate of eligibility for:

(i) expungement; or

(ii) removal of the person's name from the White Collar Crime Registry created in Title 77, Chapter 42, Utah White Collar Crime Offender Registry.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is a class B misdemeanor.

[~~(2) For the purposes of this section "officer of the court" means:~~]

[~~(a) prosecutor;~~]

[~~(b) judge;~~]

[~~(c) court clerk;~~]

[~~(d) interpreter;~~]

[~~(e) presentence investigator;~~]

[~~(f) probation officer;~~]

[~~(g) parole officer; and~~]

[~~(h) any other person reasonably believed to be gathering information for a criminal proceeding.~~]

[~~(3)~~](4) This section does not apply under circumstances amounting to Section 76-8-306 or any other provision of this code carrying a greater penalty.

Section 94. Section 76-8-506 is amended to read:

76-8-506. Providing false information to a law enforcement officer, government agency, or specified professional.

[~~A person is guilty of a class B misdemeanor if he:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits providing false information to a law enforcement officer, government agency, or specified professional if the actor knowingly gives or causes to be given[~~.~~]:

(a) false information to [~~any~~]a peace officer or [~~any~~]state or local government agency or personnel with a purpose of inducing the recipient of the information to believe that another person has committed an offense;

[~~(2)~~](b) [~~knowingly gives or causes to be given to any~~]information concerning the commission of an offense to a peace officer, [~~any~~]a state or local government agency or personnel, or to [~~any person~~]an individual licensed in this state to practice social work, psychology, or marriage and family therapy, [~~information concerning the commission of an offense,~~]knowing that the offense did not occur or knowing that [~~he~~]the actor has no information relating to the offense or danger; or

[~~(3)~~](c) [~~knowingly gives or causes to be given~~]false information to [~~any~~]a state or local government agency or personnel with a purpose of inducing a change in the [~~person's~~]actor's licensing or certification status or the licensing or certification status of another person.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 95. Section 76-8-507 is amended to read:

76-8-507. Providing false personal information to a peace officer.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person commits a class C misdemeanor if,~~]An actor commits providing false personal information to a peace officer if the actor knowingly:

(a) with intent of misleading a peace officer as to the [~~person's~~]actor's identity, birth date, or place of residence, [~~the person knowingly~~]gives a false name, birth date, or address to [~~a~~]the peace officer in the lawful discharge of the peace officer's official duties[~~.~~]; or

[~~(2)~~](b) [~~A person commits a class A misdemeanor if,~~]with the intent of leading a peace officer to believe that the [~~person~~]actor is another actual

[~~person, he~~]individual, gives the name, birth date, or address of another [~~person to a~~]individual to the peace officer acting in the lawful discharge of the peace officer's official duties.

(3)(a) A violation of Subsection (2)(a) is a class C misdemeanor.

(b) A violation of Subsection (2)(b) is a class A misdemeanor.

Section 96. Section 76-8-508 is amended to read:

76-8-508. Tampering with a witness.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of the third degree felony of~~]An actor commits tampering with a witness if[~~,~~] the actor:

(a)(i) [~~believing~~]believes that an official proceeding or investigation is pending or about to be instituted[~~,~~]; or

(ii) [~~with the intent~~]intends to prevent an official proceeding or investigation[~~,~~]; and

(b) [~~he~~] attempts to induce or otherwise cause another [~~person~~]individual to:

[~~(a)~~](i) testify or inform falsely;

[~~(b)~~](ii) withhold [~~any~~]testimony, information, a document, or an item;

[~~(c)~~](iii) elude legal process summoning [~~him~~]the individual to provide evidence; or

[~~(d)~~](iv) absent [~~himself~~]the individual from [~~any~~]a proceeding or investigation to which [~~he~~]the individual has been summoned.

[~~(2) A person is guilty of the third degree felony of soliciting or receiving a bribe as a witness if he solicits, accepts, or agrees to accept any benefit in consideration of his doing any of the acts specified under Subsection (1).~~]

(3) A violation of Subsection (2) is a third degree felony.

[~~(3)~~](4) [~~The offense of tampering with a witness or soliciting or receiving a bribe~~]A violation under this section does not merge with [~~any other~~]another substantive offense committed in the course of [~~committing any offense under~~]violating this section.

Section 97. Section 76-8-508.3 is amended to read:

76-8-508.3. Retaliation against a witness, victim, or informant.

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

[~~(a)~~](1)(a) [~~A person is "closely associated"~~]As used in this section:

(i) "An individual closely associated with a witness, victim, or informant[~~ if the person~~]" means an individual who is a member of the [~~witness'~~]witness's, victim's, or informant's family, has a close personal or business relationship with the witness or victim, or resides in the same household with the witness, victim, or informant.

[~~(b)~~](ii) "Harm" means physical, emotional, or economic injury or damage to a person or to his property, reputation, or business interests.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(2) A person is guilty of the third degree felony of retaliation against a witness, victim, or informant if, believing that an official proceeding or investigation is pending, is about to be instituted, or has been concluded, he:~~]

[~~(a)(i) makes a threat of harm; or~~]

[~~(ii) causes harm; and~~]

[~~(b) directs the threat or action:~~]

[~~(i) against a witness or an informant regarding any official proceeding, a victim of any crime, or any person closely associated with a witness, victim, or informant; and~~]

[~~(ii) as retaliation or retribution against the witness, victim, or informant.~~]

[~~(3)~~](2) An actor commits retaliation against a witness, victim, or informant if the actor:

(a) believes that an official proceeding or investigation is pending, is about to be brought, or has been concluded;

(b) makes a threat of harm or causes harm; and

(c) directs the threat or action causing harm as retaliation or retribution against a witness or an informant involved in an official proceeding, a victim of a crime, or an individual closely associated with a witness, victim, or informant.

(3) [~~This section does not prohibit any person from seeking any legal redress to which the person is otherwise entitled.~~]A violation of Subsection (2) is a third degree felony.

(4) [~~The offense of retaliation against a witness, victim, or informant~~]A violation under this section does not merge with [~~any other~~]another substantive offense committed in the course of [~~committing any offense under~~]violating this section.

(5) This section does not prohibit an individual from seeking other legal redress to which the individual is otherwise entitled.

Section 98. Section 76-8-508.5 is amended to read:

76-8-508.5. Tampering or retaliating against a juror.

(1)(a) As used in this section, "juror" means [~~a person~~]an individual:

[~~(a)~~](i) summoned for jury duty; or

[~~(b)~~](ii) serving as or having served as a juror or alternate juror in any court or as a juror on any grand jury of the state.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of tampering with a juror if he~~]An actor commits tampering or retaliating against a juror if the actor:

(a) attempts to or actually influences a juror in the discharge of the juror's service by:

[~~(a)~~](i) communicating with the juror by any means, directly or indirectly, except for [~~attorneys~~]an attorney in the lawful discharge of [~~their~~]the attorney's duties in open court;

[~~(b)~~](ii) offering, conferring, or agreeing to confer any benefit upon the juror; or

[~~(c)~~](iii) communicating to the juror a threat that a reasonable person would believe to be a threat to injure:

[~~(i)~~](A) the juror's person or property; or

[~~(ii)~~](B) the person or property of [~~any other person~~]another individual in whose welfare the juror is interested[~~.~~]; or

[~~(3)~~](b) [~~A person is guilty of tampering with a juror if he commits any~~]commits an unlawful act in retaliation for [~~anything done~~]an action taken by the juror in the discharge of the juror's service:

[~~(a)~~](i) to the juror's person or property; or

[~~(b)~~](ii) to the person or property of [~~any other person~~]another individual in whose welfare the juror is interested.

[~~(4)~~](3) [~~Tampering with a juror~~]A violation of Subsection (2) is a third degree felony.

Section 99. Section 76-8-508.7 is enacted to read:

76-8-508.7. Receiving or soliciting a bribe as a witness.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits receiving or soliciting a bribe as a witness if the actor:

(a) believes that an official proceeding or investigation is pending or about to be instituted; and

(b) solicits, accepts, or agrees to accept a benefit in consideration of the actor:

(i) testifying or informing falsely;

(ii) withholding testimony, information, a document, or an item;

(iii) eluding legal process summoning the actor to provide evidence; or

(iv) absenting the actor from a proceeding or investigation to which the actor has been summoned.

(3) A violation of Subsection (2) is a third degree felony.

(4) A violation under this section does not merge with another substantive offense committed in the course of violating this section.

Section 100. Section 76-8-509 is amended to read:

76-8-509. Extortion or bribery to dismiss a criminal proceeding.

(1)(a) As used in this section, "victim" includes a child or other individual under the care or custody of a parent or guardian.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of a felony of the second degree if by~~]An actor commits extortion or bribery to dismiss a criminal proceeding if the actor attempts to induce an alleged victim of a crime to take an action to secure the dismissal or to prevent the filing of a criminal complaint, indictment, or information by:

(a) the use of force; or

(b) [~~by any threat which would constitute a means of committing the crime of theft by extortion under this code, if the threat were employed to obtain property, or by promise of any reward or pecuniary benefits, he attempts to induce an alleged victim of a crime to secure the dismissal of or to prevent the filing of a criminal complaint, indictment, or information.~~]a threat that would constitute a means of committing the offense of theft by extortion under Section 76-6-406 if the threat were employed to obtain property or by promise of a reward or pecuniary benefit.

(3) A violation of Subsection (2) is a second degree felony.

[~~(2) "Victim," as used in this section, includes a child or other person under the care or custody of a parent or guardian.~~]

Section 101. Section 76-8-510.5 is amended to read:

76-8-510.5. Tampering with evidence.

(1)(a) As used in this section, "thing or item" includes any document, record book, paper, file, electronic compilation, or other evidence.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of~~]An actor commits tampering with evidence if[~~, believing~~] the actor:

(a)(i) believes that an official proceeding or investigation is pending or about to be instituted[~~,~~]; or[~~ with the intent~~]

(ii) intends to prevent an official proceeding or investigation or to prevent the production of [~~any~~]a thing or item which reasonably would be anticipated to be evidence in the official proceeding or investigation[~~, the person~~]; and

(b) knowingly or intentionally:

[~~(a)~~](i) alters, destroys, conceals, or removes [~~any~~]a thing or item with the purpose of impairing

the veracity or availability of the thing or item in the proceeding or investigation; or

[~~(b)~~](ii) makes, presents, or uses [~~any~~]a thing or item which the [~~person~~]actor knows to be false with the purpose of deceiving a public servant or [~~any~~]other party who is or may be engaged in the proceeding or investigation.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a third degree felony if the offense is committed in conjunction with an official proceeding.

[~~(3)~~](4) Subsection (2) does not apply to any offense that amounts to a violation of Section 76-8-306.

[~~(4)(a) Tampering with evidence is a third degree felony if the offense is committed in conjunction with an official proceeding.~~]

[~~(b) Any violation of this section except under Subsection (4)(a) is a class A misdemeanor.~~]

Section 102. Section 76-8-511 is amended to read:

76-8-511. Falsification or alteration of a government record.

[~~A person is guilty of a class B misdemeanor~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits falsification or alteration of a government record if, under circumstances not amounting to an offense subject to a greater penalty under Title 76, Chapter 6, Part 5, Fraud, [~~the person~~]the actor:

[~~(1)~~](a) knowingly makes a false entry in or false alteration of anything belonging to, received, or kept by the government for information or record, or required by law to be kept for information of the government;

[~~(2)~~](b) presents or uses anything knowing it to be false and with a purpose that it be taken as a genuine part of information or [~~records~~]record referred to in Subsection [~~(1)~~](2)(a); or

[~~(3)~~](c) intentionally destroys, conceals, or otherwise impairs the verity or availability of the information or [~~records~~]record, knowing that the destruction, concealment, or impairment is unlawful.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 103. Section 76-8-512 is amended to read:

76-8-512. Impersonation of officer.

[~~A person is guilty of a class B misdemeanor who:~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

[~~(1)~~](2) An actor commits impersonation of an officer if the actor:

(a) impersonates a public servant or a peace officer with intent to deceive another individual or with intent to induce another individual to submit to [~~his~~]the actor's pretended official authority or to rely upon [~~his~~]the actor's pretended official act;

[~~(2)~~](b) falsely states [~~he~~]that the actor is a public servant or a peace officer with intent to deceive another individual or to induce another individual to submit to [~~his~~]the actor's pretended official authority or to rely upon [~~his~~]the actor's pretended official act; or

[~~(3)~~](c) displays or possesses without authority [~~any~~]a badge, identification card, other form of identification, [~~any~~]a restraint device, [~~or~~]the uniform of [~~any~~]a state or local governmental entity, or a reasonable facsimile of any of these items, with the intent to deceive another individual or with the intent to induce another individual to submit to [~~his~~]the actor's pretended official authority or to rely upon [~~his~~]the actor's pretended official act.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 104. Section 76-8-513 is amended to read:

76-8-513. Sending a false judicial or official notice.

[~~A person is guilty of a class B misdemeanor who, with a purpose to procure the compliance of another with a request made by the person, knowingly sends, mails, or delivers to the person a notice or other writing which has no judicial or other sanction but which in its format or appearance simulates a summons, complaint, court order, or process, or an insignia, seal, or printed form of a federal, state, or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that it does have a judicial or other official sanction.~~]

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

(i) "Official document" means:

(A) a summons, complaint, court order, or process; or

(B) an insignia, seal, or printed form of a federal, state, or local governmental entity or an instrumentality of a federal, state, or local governmental entity.

(ii)(A) "False official document" means a document that has the appearance or format of an official document but that has not been sanctioned by the relevant governmental entity.

(B) "False official document" includes a document calculated to induce an individual to believe that the document is an official document of the relevant governmental entity.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits sending a false judicial or official notice if the actor knowingly sends, mails, or delivers to an individual a false official document with the purpose to procure the compliance of the individual.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 105. Section 76-8-515 is amended to read:

76-8-515. Impersonation of a utility officer or employee.

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

(i) "Critical infrastructure facility" means the same as that term is defined in Section 76-6-106.3.

(ii) "Sabotage" means the same as that term is defined in Section 76-8-901.

(iii) "Terrorism" means the same as that term is defined in Section 53-2a-102.

(iv) "Utility" means a private or governmental entity operating a critical infrastructure facility.

(b) Terms defined [~~in Section 76-1-101.5 apply to this section~~]in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits impersonation of a utility officer or employee if the actor, without authority from a utility:

(a) intends to lead an individual to believe that the actor is acting on behalf of the utility in an official capacity; and

(b) attempts to act on behalf of the utility.

(3)(a) [~~A~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~Notwithstanding Subsection (3)(a), a~~]A violation of Subsection (2) is a third degree felony if the actor, while taking the action described in Subsection (2), intends to commit an act of terrorism or sabotage.

Section 106. Section 76-8-601 is amended to read:

76-8-601. Wrongful commencement of an action in justice court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits wrongful commencement of an action in justice court if the actor:

(a) is:

(i) a party to a suit or a proceeding; or

(ii) an agent or attorney for a party to a suit or proceeding; and

(b) [~~Any party to any suit or proceeding, and any attorney or agent for the party, who knowingly commences, prosecutes, or maintains any action, suit, or proceeding in any justice court other than as provided in Sections 78A-7-105 and 78A-7-106, is guilty of a class B misdemeanor.~~]except as provided in Section 78A-7-105 or 78A-7-106, knowingly commences, prosecutes, or maintains an action, suit, or proceeding in a justice court.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 107. Section 76-8-602 is amended to read:

76-8-602. Wrongfully conferring jurisdiction upon a justice court.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Any person who binds himself, or~~]An actor commits wrongfully conferring jurisdiction upon a justice court if the actor, for the purpose of conferring jurisdiction of a cause upon a justice court in a precinct or city that would be without jurisdiction except for the liability of the joint obligor, binds the actor's self, voluntarily becomes liable jointly or jointly and severally with [~~any other person, for the purpose of conferring jurisdiction of any cause upon any justice court judge in any precinct or city that would be without jurisdiction except for the liability of the joint obligor, and any person who induces a person to assume the liability for the purpose of conferring jurisdiction upon the justice court judge, is guilty of~~]another person, or induces a person to assume a liability.

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 108. Section 76-8-603 is amended to read:

76-8-603. Wrongfully issued writ of attachment by a justice court judge.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~It is unlawful for any~~]An actor commits wrongfully issued writ of attachment by a justice court judge if the actor:

(a) is a justice court judge[~~ to issue any~~]; and

(b) issues a writ of attachment[~~, and for any party, agent, or attorney of the party, to advise, induce, or procure the issuance thereof, in any~~] in an action, suit, or proceeding[~~,~~]:

(i) before the affidavit[~~,~~] is filed[~~,~~]; or

(ii) [~~ where~~]in which the affidavit filed does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure.

(3) [~~Any person violating any of the provisions of this section is guilty of~~]A violation of Subsection (2) is a class B misdemeanor[~~ and shall be~~].

(4) In addition to the penalty under Subsection (3), an actor is liable to the person whose property, credits, money, or earnings are attached for:

(a) double the value of the attached property[~~, together with~~];

(b) all costs paid by [~~him,~~]the person; and

(c) all damages incurred in the attachment proceedings.

Section 109. Section 76-8-604 is enacted to read:

76-8-604. Wrongful inducement to receive writ of attachment.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits wrongful inducement to receive writ of attachment if the actor:

(a) is:

(i) a party to an action, suit, or proceeding;

(ii) an agent of a party to an action, suit, or proceeding; or

(iii) an attorney of a party to an action, suit, or proceeding; and

(b) advises, induces, or procures the issuance of a writ of attachment in the action, suit or proceeding:

(i) before the affidavit is filed; or

(ii) in which the affidavit filed does not conform substantially with the requirements of Rule 64C of the Utah Rules of Civil Procedure.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) In addition to the penalty under Subsection (3), an actor is liable to the person whose property, credits, money, or earnings are attached for:

(a) double the value of the attached property;

(b) all costs paid by the person; and

(c) all damages incurred in the attachment proceedings.

Section 110. Section 76-8-703 is amended to read:

76-8-703. Criminal trespass upon an institution of higher education.

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

(i) "Chief administrative officer" means the same as that term is defined in Section 53B-20-107.

(ii) "Enters" means intrusion of the entire body.

(iii) "Institution of higher education" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits criminal trespass upon an institution of higher education if the actor enters or remains on property that is owned, operated, or controlled by an institution of higher education:

(a) after being ordered to leave by the chief administrative officer; or

(b) without authorization if notice against entry or remaining has been given by:

(i) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution of higher education;

(ii) the posting of signs reasonably likely to come to the attention of a trespasser;

(iii) fencing or other enclosure obviously designed to exclude a trespasser; or

(iv) a current order of suspension or expulsion.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class B misdemeanor.

(b) A violation of Subsection (2) is a class A misdemeanor if the actor has previously been convicted two or more times of a violation of Subsection (2).

[~~(a) A chief administrative officer may order a person to leave property that is owned, operated, or controlled by an institution of higher education if the person:~~]

[~~(i) acts or if the chief administrative officer has reasonable cause to believe that the person intends to act to:~~]

[~~(A) cause injury to a person;~~]

[~~(B) cause damage to property;~~]

[~~(C) commit a crime;~~]

[~~(D) interfere with the peaceful conduct of the activities of the institution;~~]

[~~(E) violate any rule or regulation of the institution if that rule or regulation is not in conflict with state law; or~~]

[~~(F) disrupt the institution, its pupils, or the institution's activities; or~~]

[~~(ii) is reckless as to whether the person's actions will cause fear for the safety of another.~~]

[~~(b) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains on property that is owned, operated, or controlled by an institution of higher education after being ordered to leave under Subsection (1)(a).~~]

[~~(c)~~](4) The mere carrying or possession of a firearm on the campus of a state institution of higher education, as defined in Section 53B-3-102, does not warrant an order to leave under Subsection [~~(1)(a) if the person~~](2)(a) if the individual carrying or possessing the firearm is otherwise complying with all state laws regulating the possession and use of a firearm.

[~~(2) A person is guilty of criminal trespass upon an institution of higher education if the person enters or remains without authorization upon property that is owned, operated, or controlled by an institution of higher education if notice against entry or remaining has been given by:~~]

[~~(a) personal communication to the person by the chief administrative officer or a person with apparent authority to act for the institution;~~]

[~~(b) the posting of signs reasonably likely to come to the attention of trespassers;~~]

[~~(c) fencing or other enclosure obviously designed to exclude trespassers; or~~]

[~~(d) a current order of suspension or expulsion.~~]

[~~(3)~~](5) If an employee or student of an institution of higher education is ordered to leave under

Subsection [~~(1)~~](2)(a) or receives a notice against entry or remaining under Subsection [~~(2)~~](2)(b), the institution of higher education shall afford the employee or student the process required by the institution of higher education's rules and regulations.

[~~(4) A person who violates this section shall be punished as provided in Section 76-8-717.~~]

Section 111. Section 76-8-705 is amended to read:

76-8-705. Willful interference with lawful activities of students or faculty.

(1)(a) As used in this section, "institution" means the same as that term is defined in Section 53B-20-107.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of a class C misdemeanor if,~~]An actor commits willful interference with lawful activities of students or faculty if the actor, while on property that is owned, operated, or controlled by an institution[~~ of higher education, the person~~], willfully:

[~~(1)~~](a) denies to a student, school official, employee, or invitee lawful:

[~~(a)~~](i) freedom of movement;

[~~(b)~~](ii) use of the property or facilities; or

[~~(c)~~](iii) ingress or egress to the institution's physical facilities;

[~~(2)~~](b) impedes a faculty or staff member of the institution in the lawful performance of the member's duties; or

[~~(3)~~](c) impedes a student of the institution in the lawful pursuit of the student's educational activities.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 112. Section 76-8-802 is amended to read:

76-8-802. Destruction of property to interfere with preparations for defense or war.

[~~Whoever~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits destruction of property to interfere with preparations for defense or war if the actor:

(a) intentionally destroys, impairs, injures, interferes, or tampers with real or personal property[-]; and

(b) [~~with~~]has reasonable grounds to believe that the [~~act~~]actor's conduct under Subsection (2)(a) will hinder, delay, or interfere with the preparation of the United States [~~or of any of the states~~]government or of a state government for defense or for war, or with the prosecution of war by the United States[~~, shall be guilty of a felony of the second degree~~] government.

(3) A violation of Subsection (2) is a second degree felony.

(4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under Subsection (2) or the name of the actor may not be made public.

Section 113. Section 76-8-803 is amended to read:

76-8-803. Causing or omitting to note defects in articles used in preparation for defense or war.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~Whoever~~]An actor commits causing or omitting to note defects in articles used in preparation for defense or war if the actor:

(a) intentionally makes or causes to be made or omits to note on inspection [~~any~~]a defect in [~~any~~]an article or thing[-]; and

(b) [~~with~~]has reasonable grounds to believe that the article or thing is intended to be used in connection with the preparation of the United States [~~or any of the states~~]government or of a state government for defense or for war, or for the prosecution of war by the United States[~~, or that the article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall be guilty of a felony of the third degree.~~] government.

(3) A violation of Subsection (2) is a third degree felony.

(4) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under Subsection (2) or the name of the actor may not be made public.

Section 114. Section 76-8-804 is amended to read:

76-8-804. Attempts to commit crimes of sabotage.

[~~Whoever attempts to commit any of the crimes defined by this part shall be punishable for the attempt as prescribed in Section 76-4-102. In addition to the acts which constitute an attempt to commit crime under the law of this state, the solicitation or incitement of another to commit any of the crimes defined by this part not allowed by the commission of the crime, the collection or assemblage of any materials with the intent that they are to be used then or at a later time in the commission of the crime, or the entry, with or without permission, of a building, enclosure or other premises of another with the intent to commit any such crime therein or thereon shall constitute an attempt to commit the crime.~~]

(1)(a) An actor that attempts to commit a crime under this part is punishable for the attempt as prescribed in Section 76-4-102.

(b) In addition to the acts that constitute an attempt to commit a crime under the law of this state, an actor's conduct constitutes an attempt to commit a crime under this part if the actor:

(i) solicits or incites another individual to commit a crime under this part;

(ii) collects or assembles materials with the intent to use the materials to commit a crime under this part; or

(iii) enters, with or without permission, a building, enclosure, or other premises intending to commit a crime under this part.

(2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under this section or the name of the actor may not be made public.

Section 115. Section 76-8-805 is amended to read:

76-8-805. Conspiracy to commit crimes of sabotage.

(1)(a) If two or more [~~persons~~]actors conspire to commit [~~any crime defined by~~]a crime under this part and regardless of whether an additional act is done in furtherance of the conspiracy, each [~~of the persons~~]actor:

(i) is guilty of conspiracy in accordance with Section 76-4-201; and

(ii) notwithstanding Section 76-4-202, is subject to the same punishment as if [~~he~~]the actor had committed the crime [~~which he~~]that the actor conspired to commit[~~, whether or not any act be done in furtherance of the conspiracy. It shall not constitute any~~].

(b) It is not a defense or ground of suspension of judgment, sentence, or punishment [~~on behalf of any person prosecuted~~]under this section that [~~any of his~~]an actor's fellow conspirators [~~has~~]have been acquitted, [~~has~~]have not been arrested or convicted, or [~~is~~]are amenable to justice or [~~has~~]have been pardoned or otherwise discharged before or after a conviction.

(2) Prior to the filing of a formal criminal complaint, evidence of an alleged actor's conduct under Subsection (1)(a) or the name of the actor may not be made public.

Section 116. Section 76-8-807 is amended to read:

76-8-807. Trespassing at a war or defense facility.

[~~(1) Any individual, partnership, association, corporation, municipal corporation, or state or any political subdivision thereof engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons, or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock, or railway entrance and every one hundred feet of water front a sign reading "No Entry Without Permission." The sign shall also designate a point of entrance or place where application may be made for permission to enter, and permission shall not be denied to any loyal citizen who has a valid right to enter.~~]

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits trespassing at a war or defense facility if:

(a) the actor intentionally enters a facility engaged in, or preparing to engage in, the manufacture, transportation, or storage of a product to be used in the preparation of the United States government or of a state government for defense or for war or in the prosecution of war by the United States government;

(b) the actor does not have permission from the owner of the facility to enter; and

(c) the facility has posted signs reading "No Entry Without Permission."

[~~(2)~~](3) [~~Any person willfully entering property enumerated in Subsection (1), without permission of the owner, shall be guilty of~~]A violation of Subsection (2) is a class C misdemeanor.

(4)(a) A peace officer or individual employed as a watchman, a guard, or in a supervisory capacity on the premises of a facility under this section may stop an individual found on the premises and detain the individual for the purpose of demanding the individual's name, address, and reason for being on the premises.

(b) If the peace officer or individual employed as a watchman, a guard, or in a supervisory capacity on the premises of a facility under this section has reason to believe that an individual stopped on the facility's premises has no right to be there, the peace officer or employee may:

(i) release the individual; or

(ii) arrest the individual without a warrant on the charge of violating this section.

Section 117. Section 76-8-809 is amended to read:

76-8-809. Closing or restricting use of highways abutting defense or war facilities -- Posting of notices.

[~~Any individual, partnership, association, corporation, municipal corporation or state or any political subdivision thereof engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the preparation of the United States or any of the states for defense or for war or in the prosecution of war by the United States, or in the manufacture,~~

~~transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which the property abuts, may petition the highway commissioners of any city, town, or county to close one or more of the highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of the highways or parts thereof.~~

~~Upon receipt of the petition, the highway commissioners shall set a day for hearing and give notice of the hearing, as a class A notice under Section 63G-30-102, for the city, town, or county, for at least seven days before the day of the hearing. If, after hearing, the highway commissioners determine that the public safety and the safety of the property of the petitioner so require, they shall by suitable order close to public use and travel or reasonably restrict the use of and travel upon one or more of the highways or parts thereof; provided the highway commissioners may issue written permits to travel over the highway so closed or restricted to responsible and reputable persons for a term, under conditions and in a form as the commissioners may prescribe. Appropriate notices in letters at least three inches high shall be posted conspicuously at each end of any highway so closed or restricted by an order. The highway commissioners may at any time revoke or modify any order so made~~].

(1) As used in this section:

(a) "Highway" means a place used for travel to or from property, including a private or public street or way.

(b) "Highway commissioner" means an individual, a board, or other body having authority to restrict or close the highway to public use and travel.

(c) "Public utility" means a system owned or operated for public use, including:

(i) a pipeline system;

(ii) a system for gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, railway, or transportation communication;

(iii) a railroad; or

(iv) an airplane.

(2) An individual, a partnership, an association, a corporation, a municipal corporation, the state, or a political subdivision of the state, may petition the highway commissioner of a city, town, or county to close or restrict travel upon a highway if the individual, partnership, association, corporation, municipal corporation, state, or political subdivision is:

(a) engaged in or preparing to engage in the manufacture, transportation, or storage of a product to be used in the preparation of the United States government or a state government for defense, for war, or in the prosecution of war by the United States government; or

(b)(i)(A) manufacturing, transporting, distributing, or storing gas, oil, coal, electricity, or water; or

(B) operating a public utility; and

(ii) believes the gas, oil, electricity, water, or public utility will be endangered if public use and travel is not restricted or prohibited on a highway abutting the property involved in operating the public utility or manufacturing, transporting, distributing, or storing the gas, oil, coal, electricity, or water.

(3) Upon receiving a petition described in Subsection (2), the highway commissioner shall set a day for a public hearing and give notice of the hearing at least seven days before the day on which the hearing will be held, as a class A notice under Section 63G-30-102, for the city, town, or county.

(4)(a) Subject to Subsection (5), after holding the hearing described in Subsection (3), the highway commissioner may, after determining that public safety and the safety of the property of the petitioner require the closure or restricted use of the highway, issue an order to:

(i) close the highway to all public use and travel; or

(ii) reasonably restrict travel on the highway for the safety of the petitioner's property.

(b) Visible notices at least three inches tall detailing the closure or restriction shall be posted at each end of a highway closed or restricted under this Subsection (4).

(5) A highway commissioner issuing an order under Subsection (4) may issue a permit to a responsible and reputable individual to travel on a closed or restricted highway under conditions set by the highway commissioner.

Section 118. Section 76-8-810 is amended to read:

76-8-810. Violation of an order closing or restricting a highway.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-809 apply to this section.

(2) An actor commits violation of an order closing or restricting a highway if the actor violates an order issued by a highway commissioner closing or restricting a highway under Section 76-8-809.

(3) [~~Whoever violates any order made under the immediate preceding section shall be guilty of~~]A violation of Subsection (2) is a class C misdemeanor.

Section 119. Section 76-8-811 is amended to read:

76-8-811. Bargaining rights of employees not impaired by sabotage prevention laws.

Nothing in this part shall be construed to impair, curtail, or destroy the rights of employees and [~~their~~]the employees' representatives to self organize, to form, join, or assist labor organizations, to bargain collectively through representatives of

[~~their~~]the employees' own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection as provided by state or federal laws.

Section 120. Section 76-8-901 is amended to read:

76-8-901. Definitions.

[~~For the purpose of~~]As used in this part:

(1) "Criminal syndicalism" [~~is~~]means the doctrine [~~which~~]that advocates crime, violence, force, arson, destruction of property, sabotage, or other unlawful acts or methods, as a means of accomplishing or effecting industrial or political ends, or as a means of effecting industrial or political revolution.

(2) "Sabotage" means the unlawful and intentional damage or injury to, or destruction of, real or personal property, [~~in any form whatsoever, of any~~]of an employer or owner by [~~his employees, or by any employer, or by any person at the instance of any employer, or at the instance, request, or instigation of employees, or any other person~~]an individual.

Section 121. Section 76-8-902 is amended to read:

76-8-902. Advocating criminal syndicalism or sabotage.

[~~Any person who by word of mouth or writing advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism or sabotage, or who advocates, suggests or teaches the duty, necessity, propriety, or expediency or doing any act of violence, the destruction of or damage to any property, the bodily injury to any person, or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, or who prints, publishes, edits, or issues, or knowingly circulates, sells, or distributes, or publicly displays, any books, pamphlets, paper, handbill, poster, document, or written or printed matter in any form whatsoever, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, the doing of any act of violence, the destruction of or damage to any property, the injury to any person, or the commission of any crime or unlawful act, as a means of accomplishing, effecting, or bringing about any industrial or political ends or change, or as a means of accomplishing, effecting, or bringing about any industrial or political revolution, or who openly or at all attempts to justify by word of mouth or writing the commission or the attempt to commit sabotage, any act of violence, the destruction of or damage to any property, the injury of any person, or the commission of any crime or unlawful act, with the intent to exemplify, spread, or teach or suggest criminal syndicalism, or organizes, or helps to organize, or becomes a member of, or voluntarily assembles with, any society or assemblage of persons formed to teach or advocate, or which teaches, advocates, or suggests the doctrine of criminal syndicalism or sabotage, or the necessity, propriety, or expediency of doing any act of violence or the commission of any crime or unlawful act as a means of accomplishing or effecting any industrial or political ends, change or revolution, is guilty of a felony of the third degree~~].

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits advocating criminal syndicalism or sabotage if the actor:

(a) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of crime, criminal syndicalism, or sabotage;

(b) as a means of accomplishing or effecting industrial or political ends, change, or revolution:

(i) advocates, suggests, or teaches the duty, necessity, propriety, or expediency of performing an act of violence, destroying or damaging property, causing bodily injury to an individual, or committing a crime or unlawful act;

(ii) prints, publishes, edits, or issues, or knowingly circulates, sells, distributes, or publicly displays a book, pamphlet, paper, handbill, poster, document, or written or printed matter in any form, containing, advocating, advising, suggesting, or teaching crime, criminal syndicalism, sabotage, performing an act of violence, the destruction of or damage to property, the injury to an individual, or the commission of a crime or unlawful act; or

(iii) organizes or becomes a member of, or voluntarily assembles with, a society or assemblage of individuals formed to teach or advocate the doctrine of criminal syndicalism or sabotage, or the necessity, propriety, or expediency of doing an act of violence or the commission of a crime or unlawful act; or

(c) with the intent to exemplify, spread, or teach or suggest criminal syndicalism, attempts to justify sabotage, an act of violence, the destruction of or damage to property, the injury of an individual, or the commission of a crime or unlawful act.

(3) A violation of Subsection (2) is a third degree felony.

Section 122. Section 76-8-903 is amended to read:

76-8-903. Assembling for advocating criminal syndicalism or sabotage.

[~~The assembly or consorting of two or more persons~~]

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits assembling for advocating criminal syndicalism or sabotage if the actor, as a means of accomplishing or effecting industrial or political ends, change, or revolution:

(a) assembles with two or more individuals; and

(b) assembles for the purpose of advocating, teaching, or suggesting[~~.~~]:

(i) the doctrine of criminal syndicalism[~~, or to advocate, teach, suggest or encourage sabotage, or~~]; or

(ii) the duty, necessity, propriety, or expediency of [~~doing any~~]performing an act of violence, [~~the destruction of or damage to any~~]destroying or damaging property, [~~the~~]causing bodily injury to [~~any person, or the commission of any~~]an individual, or committing a crime or unlawful act [~~as a means of accomplishing or effecting any industrial or political ends, change or revolution, is hereby declared unlawful, and every person voluntarily participating therein, or by his presence aiding and instigating the same is guilty of a felony of the third degree~~].

(3) A violation of Subsection (2) is a third degree felony.

Section 123. Section 76-8-904 is amended to read:

76-8-904. Permitting the use of property for assembly advocating criminal syndicalism or sabotage.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-901 apply to this section.

(2) An actor commits permitting the use of property for assembly advocating criminal syndicalism or sabotage if the actor:

(a) [~~The~~]is an owner, lessee, agent, superintendent, or [~~person~~]individual in charge or occupation of [~~any~~]a place, building, room, or structure[~~, who~~]; and

(b) knowingly permits [~~therein any~~]assembly or consorting of [~~persons~~]individuals prohibited [~~by the provisions of~~]under Section 76-8-903[~~, or who after notification that the place or premises, or any part thereof, is so used, permits such use to be continued, is guilty of a class B misdemeanor~~].

(3) A violation of Subsection (2) is a class B misdemeanor.

Section 124. Section 76-8-1201 is amended to read:

76-8-1201. Definitions.

As used in this part:

(1) "Client" means a person who receives or has received public assistance.

(2) "Overpayment" [~~has the same meaning as~~]means the same as that term is defined in Section 35A-3-102.

(3) "Provider" [~~has the same meaning as defined in Section 26B-9-101~~]means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(4) "Public assistance" [~~has the same meaning as~~]means the same as that term is defined in Section 35A-1-102.

Section 125. Section 76-8-1203 is amended to read:

76-8-1203. Required disclosures by an applicant, a recipient, or a provider of public assistance.

(1) [~~Each person~~]An individual who is 18 years old or older and applies for public assistance, or who is 18 years old or older and currently receives public assistance, shall disclose to the state agency administering the public assistance each fact that may materially affect the [~~determination of the person's~~]individual's eligibility to receive or continue to receive public assistance, including the [~~person's~~]individual's current:

(a) marital status;

(b) household composition;

(c) employment;

(d) earned and unearned income, as defined by rule;

(e) receipt of monetary and in-kind gifts that may affect the [~~person's~~]individual's eligibility;

(f) assets that may affect the [~~person's~~]individual's eligibility; and

(g) any other material fact or change in circumstance that may affect the determination of [~~that person's~~]the individual's eligibility to receive public assistance benefits, or may affect the amount of benefits for which the [~~person~~]individual is eligible.

[~~(2) A person applying for public assistance who intentionally, knowingly, or recklessly fails to disclose a material fact required to be disclosed under Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

[~~(3) With the exception of a client receiving public assistance from the Department of Workforce Services or the Department of Health, a client who intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance a change in a material fact required to be disclosed under Subsection (1), within 10 days after the date of the change, is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

[~~(4) A client who intentionally, knowingly, or recklessly fails to disclose to the Department of Workforce Services or the Department of Health at the time of a review or recertification, whichever comes first, a change in a material fact required to be disclosed under Subsection (1) is guilty of public assistance fraud as provided in Section 76-8-1206.~~]

(2)(a) Subject to Subsection (2)(b), a provider that solicits, requests, or receives, actually or constructively, a payment or contribution in the form of an assessment, a payment, a gift, a devise, a bequest, or other means, directly or indirectly, from a client or client's family shall:

(i) notify the state agency administering the public assistance to the client of the amount of the payment or contribution the provider received from the client or the client's family; and

(ii) provide the notification to the state agency in writing within 10 days after the day on which the payment or contribution was received.

(b) If the payment or contribution described in Subsection (2)(a) is made under an agreement,

written or oral, the provider shall notify the state agency administering the public assistance to the client of the payment or contribution within 10 days after the day on which the provider entered into the agreement.

(3) An actor may be charged under Section 76-8-1203.1, 76-8-1203.3, or 76-8-1203.5 for failing to provide information required under this section.

Section 126. Section 76-8-1203.1 is enacted to read:

76-8-1203.1. Public assistance fraud by an applicant for public assistance.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by an applicant for public assistance if the actor intentionally, knowingly, or recklessly:

(a) applies for public assistance; and

(b) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1).

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5)(a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 127. Section 76-8-1203.3 is enacted to read:

76-8-1203.3. Public assistance fraud by a recipient of public assistance.

(1)(a) As used in this section, "SNAP benefit" means the same as that term is defined in Section 35A-1-102.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by a recipient of public assistance if the actor:

(a)(i) except as provided in Subsection (2)(b), is receiving public assistance administered by a state agency; and

(ii) intentionally, knowingly, or recklessly fails to disclose to the state agency administering the public assistance to the actor of a change of a material fact required to be disclosed under Subsection 76-8-1203(1) within 10 days after the day on which the change occurred;

(b)(i) is receiving public assistance from the Department of Workforce Services or the Department of Health and Human Services; and

(ii) at the time of a review or recertification, whichever comes first, intentionally, knowingly, or recklessly fails to disclose a change of a material fact required to be disclosed under Subsection 76-8-1203(1);

(c) in a manner not allowed by law, intentionally, knowingly, or recklessly uses, transfers, acquires, traffics in, falsifies, or possesses:

(i) SNAP benefits;

(ii) a SNAP benefit identification card;

(iii) a certificate of eligibility for medical services;

(iv) a Medicaid identification card;

(v) a fund transfer instrument;

(vi) a payment instrument; or

(vii) a public assistance warrant;

(d)(i) is receiving public assistance;

(ii) acquires income or resources in excess of the amount the actor previously reported to the state agency administering the public assistance to the actor; and

(iii) fails to notify the state agency to which the actor previously reported within 10 days after the day on which the actor acquired the excess income or resources;

(e)(i) fails to disclose a material fact required to be disclosed under Subsection 76-8-1203(1) or notify a state agency under Subsection 76-8-1203(2); and

(ii)(A) intends to obtain or help another individual obtain an overpayment; or

(B) obtains an overpayment, unauthorized payment, or benefit; or

(f) receives an unauthorized payment or benefit as a result of unlawful acts described in this section, Section 76-8-1203.3, Section 76-8-1203.5, or Section 76-8-1203.7.

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5)(a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

(7) Incidents of trafficking in SNAP benefits that occur within a six-month period, committed by an individual or coconspirators, are deemed to be a related series of facts and circumstances regardless of whether the transactions are conducted with a variety of unrelated parties.

Section 128. Section 76-8-1203.5 is enacted to read:

76-8-1203.5. Public assistance fraud by a provider.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits public assistance fraud by a provider if the actor:

(a) is a provider; and

(b) intentionally, knowingly, or recklessly:

(i) receives a payment after failing to comply with the requirements in Subsection 76-8-1203(1) or 76-8-1203(2);

(ii) files a claim for payment under a state or federally funded public assistance program for goods or services not provided to or for a client under that program;

(iii) files or falsifies a claim, report, or document required by a state or federal law, a rule, or a provider agreement for goods or services not authorized under the state or federally funded public assistance program for which the goods or services were provided;

(iv) fails to credit the state for payments received from other sources;

(v) bills a client, or the client's family, for:

(A) goods or services not provided; or

(B) an amount greater than that allowed by law or rule; or

(vi) fails to comply with the notification requirements under Subsection 76-8-1203(2).

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5)(a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) This section does not apply to offenses by providers under the state's Medicaid program that are actionable under Title 26B, Chapter 3, Part 11, Utah False Claims Act.

(7) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 129. Section 76-8-1203.7 is enacted to read:

76-8-1203.7. Fraudulently misappropriating public assistance funds.

(1) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-1201 apply to this section.

(2) An actor commits fraudulently misappropriating public assistance funds if the actor:

(a)(i) is an administrator of a state or federally funded public assistance program; and

(ii) while performing the actor's duties as an administrator, intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for:

(A) SNAP benefits;

(B) an identification card;

(C) a certificate of eligibility for medical services;

(D) a Medicaid identification card; or

(E) other public assistance the actor has been entrusted with or that has come into the actor's possession as a result of the actor's duties; or

(b)(i) is an individual entrusted with:

(A) SNAP benefits;

(B) an identification card;

(C) a certificate of eligibility for medical services;

(D) a Medicaid identification card; or

(E) other public assistance with which the individual has been entrusted; and

(ii) intentionally, knowingly, or recklessly fraudulently misappropriates funds exchanged for a benefit described in Subsection (2)(b)(i) with which the individual has been entrusted.

(3) Subject to Subsection (5), a violation of Subsection (2) is, based on the value of payments, assistance, or other benefits received, misappropriated, claimed, or applied:

(a) a second degree felony if the value is or exceeds $5,000;

(b) a third degree felony if the value is or exceeds $1,500 but is less than $5,000;

(c) a class A misdemeanor if the value is or exceeds $500 but is less than $1,500; or

(d) a class B misdemeanor if the value is less than $500.

(4) It is not a defense to prosecution under this section that the actor repaid the funds or benefits obtained in violation of this section.

(5)(a) In determining the value of payments, assistance, or other benefits received to determine the penalty level of an actor's conduct under Subsection (3), the value is calculated by aggregating the values of each instance of public assistance fraud committed by the actor as part of the same facts and circumstances or a related series of facts and circumstances.

(b) The value of a benefit received by an individual is the ordinary or usual charge for similar benefits in the private sector.

(6) The provisions of Section 35A-1-503 apply to a prosecution brought under this section.

Section 130. Section 76-8-1207 is amended to read:

76-8-1207. Evidence in criminal actions for public assistance fraud.

In [~~any~~]a criminal action [~~pursuant to~~]under this part:

(1) a paid state warrant made to the order of [~~a party~~]an individual or a payment made through an electronic benefit card issued to [~~a party~~]an individual constitutes prima facie evidence that the [~~party~~]individual received financial assistance from the state; and

(2) all of the records in the custody of the [~~department~~]state agency administering public assistance relating to the application for, verification of, issuance of, receipt of, and use of public assistance constitute records of regularly conducted activity within the meaning of the exceptions to the hearsay rule of evidence[~~;~~].

[~~(3) the value of the benefits received shall be based on the ordinary or usual charge for similar benefits in the private sector; and~~]

[~~(4) the repayment of funds or other benefits obtained in violation of the provisions of this part constitutes no defense to, or ground for dismissal of, that action.~~]

Section 131. Section 76-8-1301 is amended to read:

76-8-1301. False statement to obtain or increase unemployment compensation.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

[~~(a) A person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact,~~]

(2) An actor commits false statement to obtain or increase unemployment compensation if the actor, to obtain or increase a benefit or other payment under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government[~~for any person is guilty of unemployment insurance fraud.~~]:

(a) makes a false statement or representation, knowing the representation is false; or

(b) knowingly fails to disclose a material fact.

[~~(2)(a) An officer or agent of an employing unit as defined in Section 35A-4-202 or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of any state or of the federal government, or who willfully fails or refuses to make a contribution or other payment or to furnish any report required in Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or copying of records as required under that chapter is guilty of unemployment insurance fraud.~~]

[~~(b) A violation of Subsection (2)(a) is:~~]

[~~(i) a class B misdemeanor when the value of the money obtained or sought to be obtained is less than $500;~~]

[~~(ii) a class A misdemeanor when the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;~~]

[~~(iii) a third degree felony when the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or~~]

[~~(iv) a second degree felony when the value of the money obtained or sought to be obtained is or exceeds $5,000.~~]

[~~(3)(a) A person who willfully violates any provision of Title 35A, Chapter 4, Employment Security Act, or any order made under that chapter, the violation of which is made unlawful or the observance of which is required under the terms of that chapter, and for which a penalty is neither prescribed in that chapter nor provided by any other applicable statute is guilty of a class A misdemeanor.~~]

[~~(b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.~~]

[~~(4) A person is guilty of a class C misdemeanor if:~~]

[~~(a) as an employee of the Department of Workforce Services, in willful violation of Section 35A-4-312, the employee makes a disclosure of information obtained from an employing unit or individual in the administration of Title 35A, Chapter 4, Employment Security Act; or~~]

[~~(b) the person has obtained a list of applicants for work or of claimants or recipients of benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of the list for any political purpose.~~]

[~~(b)~~](3)(a) A violation of Subsection [~~(1)(a)~~](2) is:

(i) a class B misdemeanor [~~when~~]if the value of the money obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor [~~when~~]if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony [~~when~~]if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony [~~when~~]if the value of the money obtained or sought to be obtained is or exceeds $5,000.

[~~(c)~~](b) The determination of the degree of an offense under Subsection [~~(1)(b) shall be~~](3)(a) is measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

Section 132. Section 76-8-1302 is enacted to read:

76-8-1302. False statement to prevent or reduce unemployment compensation or liability.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits false statement to prevent or reduce unemployment compensation or liability if the actor, to prevent or reduce the payment of unemployment compensation benefits to an individual entitled to those benefits, or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment Compensation Law of a state or of the federal government:

(a) makes a false statement or representation, knowing the representation is false; or

(b) knowingly fails to disclose a material fact.

(3) A violation of Subsection (2) is:

(a) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than $500;

(b) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(c) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(d) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds $5,000.

(4) An actor under this section may include an officer or agent of an employing unit as defined under Section 35A-4-202.

Section 133. Section 76-8-1303 is enacted to read:

76-8-1303. Unlawful failure to comply with Employment Security Act requirement.

(1) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits unlawful failure to comply with Employment Security Act requirements if the actor willfully:

(a) fails or refuses:

(i) to make a contribution or other payment required under Title 35A, Chapter 4, Employment Security Act;

(ii) to furnish a report required under Title 35A, Chapter 4, Employment Security Act; or

(iii) to produce or permit the inspection or copying of records required under Title 35A, Chapter 4, Employment Security Act; or

(b) violates a provision of Title 35A, Chapter 4, Employment Security Act, or an order made under that chapter, for which the violation:

(i) is made unlawful or the observance of which is required under the terms of Title 35A, Chapter 4, Employment Security Act;

(ii) does not have a prescribed penalty in Title 35A, Chapter 4, Employment Security Act, or another applicable statute; and

(iii) is for conduct not described in Subsection (2)(a).

(3)(a) A violation of Subsection (2)(a) is:

(i) a class B misdemeanor if the value of the money obtained or sought to be obtained is less than $500;

(ii) a class A misdemeanor if the value of the money obtained or sought to be obtained is or exceeds $500 but is less than $1,500;

(iii) a third degree felony if the value of the money obtained or sought to be obtained is or exceeds $1,500 but is less than $5,000; or

(iv) a second degree felony if the value of the money obtained or sought to be obtained is or exceeds $5,000.

(b) A violation of Subsection (2)(b) is a class A misdemeanor.

(4) An actor under this section may include an officer or agent of an employing unit as defined under Section 35A-4-202.

Section 134. Section 76-8-1304 is enacted to read:

76-8-1304. Unlawful use or disclosure of employment information.

(1)(a) As used in this section, "employing unit" means the same as that term is defined in Section 35A-4-202.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits unlawful use or disclosure of employment information if the actor:

(a)(i) is an employee of the Department of Workforce Services; and

(ii) willfully violates Section 35A-4-312 by making a disclosure of information obtained from an employing unit or individual in the administration of Title 35A, Chapter 4, Employment Security Act; or

(b)(i) obtains a list of applicants for work or of claimants or recipients of benefits under Title 35A, Chapter 4, Employment Security Act; and

(ii) uses or permits the use of the list described in Subsection (2)(b)(i) for a political purpose.

(3) A violation of Subsection (2) is a class C misdemeanor.

Section 135. Section 76-8-1402 is amended to read:

76-8-1402. Disruption of activity in or near school building.

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

(i)(A) "Chief administrator" means the principal of a school or the chief administrator of a school that does not have a principal.

(B) "Chief administrator" includes the chief administrator's designee or representative.

(ii) "School" means a public or private kindergarten, elementary, or secondary school through grade 12.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) In the absence of a local ordinance or other controlling law governing the conduct described in this Subsection [~~(1), a person is guilty of an offense under Subsection (2) who,~~](2), an actor commits disruption of activity in or near school building if the actor, while on a street, sidewalk, or public way adjacent to [~~any~~]a school building or ground:

(a) [~~by his or her presence or acts, ~~]materially disrupts the peaceful conduct of school activities by the actor's presence or act; and

(b) remains upon the place under Subsection [~~(1)(a)~~](2)(a) after being asked to leave by the chief administrator of that school.

[~~(2)(a) A violation of Subsection (1) is subject to the penalties under Subsection (2)(b) unless the violation constitutes another offense subject to a greater penalty.~~]

[~~(b)(i) The~~]

(3)(a) Except as provided under Subsection (4), a first [~~and~~]or second violation of Subsection [~~(1) are~~](2) is a class B [~~misdemeanors~~]misdemeanor.

(b) Except as provided under Subsection (4), a third or subsequent violation of Subsection (2) is a class A misdemeanor.

[~~(ii) A third and any subsequent violations of Subsection (1) are class A misdemeanors~~]

(4) If an actor's conduct violates Subsection (2) and the actor's conduct also amounts to a violation of another offense with a greater penalty, the offense with the greater penalty applies.

Section 136. Section 76-8-1403 is amended to read:

76-8-1403. Unlawful evasion of law enforcement by entering school property--Restitution.

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

[~~(a)~~](i) "School" means [~~any~~]a public or private kindergarten, elementary, or secondary school through grade 12, including all buildings and property of the school.

[~~(b)~~](ii) "School property" means real property:

[~~(i)~~](A) that is owned or occupied by a public or private school; or

[~~(ii)~~](B)[~~(A)~~](I) that is temporarily occupied by students for a school-related activity or program; and

[~~(B)~~](II) regarding which, during the time the activity or program is being conducted, the main use of the real property is allocated to participants in the activity or program.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) [~~A person is guilty of the class A misdemeanor of evading~~]An actor commits unlawful evasion of law enforcement [~~while on~~]by entering school property[~~, if the person~~] if the actor enters onto school property when:

(a) students are attending the school or students are participating in any school-related activity or program on school property; and

(b) the [~~person~~]actor is in the act of fleeing or evading, or attempting to flee or evade, pursuit or apprehension by [~~any~~]a peace officer.

(3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~](4) It is not a defense to a violation of this section that the [~~person~~]actor did not know that the [~~person~~]actor had entered onto school property.

[~~(4)~~](5) As a part of the sentence for violation of this section, the court shall order the [~~defendant~~]actor to reimburse the school for costs incurred by the school in responding to the [~~defendant's~~]actor's presence on the school property.

[~~(5)~~](6) The offense under this section[~~ of evading law enforcement while on school property~~] is a separate offense from a violation of:

(a) [~~Section 41-6a-210, regarding~~]failure to respond to [~~an~~]officer's signal to stop under Section 41-6a-210; or

(b) [~~Section 76-8-305.5, regarding~~]failure to stop at the command of a peace officer under Section 76-8-305.5.

Section 137. Section 76-9-802 is amended to read:

76-9-802. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its primary activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Intimidate" means the use of force, duress, violence, coercion, menace, or threat of harm for the purpose of causing an individual to act or refrain from acting.

(3) "Minor" means a person younger than 18 years old.

(4) "Pattern of criminal gang activity" means:

(a) committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years;

(b) the predicate gang crimes are:

(i) committed by two or more persons; or

(ii) committed by an individual at the direction of, or in association with a criminal street gang; and

(c) the criminal activity was committed with the specific intent to promote, further, or assist in any criminal conduct by members of the criminal street gang.

(5)(a) "Predicate gang crime" means any of the following offenses:

(i) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a motor vehicle without an identification number; or

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number;

(ii) any criminal violation of the following provisions:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(iii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iv) Title 76, Chapter 5, Part 2, Criminal Homicide;

(v) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(vi) [~~any~~]a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vii) Title 76, Chapter 6, Part 1, Property Destruction;

(viii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(ix) Title 76, Chapter 6, Part 3, Robbery;

(x) [~~any~~]a felony offense under Title 76, Chapter 6, Part 4, Theft, or under Title 76, Chapter 6, Part 6, Retail Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409, 76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(xi) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xii) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xiii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiv) [~~Section 76-8-508, which includes~~] tampering with a witness under Section 76-8-508;

(xv) [~~Section 76-8-508.3, which includes~~] retaliation against a witness[~~, or~~], victim, or informant under Section 76-8-509.3;

(xvi) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(xvi)~~](xvii) [~~Section 76-8-509, which includes~~] extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(xvii)~~](xviii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

[~~(xviii)~~](xix) Title 76, Chapter 10, Part 3, Explosives;

[~~(xix)~~](xx) Title 76, Chapter 10, Part 5, Weapons;

[~~(xx)~~](xxi) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xxi)~~](xxii) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxii)~~](xxiii) [~~Section 76-10-1801, which addresses~~]communications fraud under Section 76-10-1801;

[~~(xxiii)~~](xxiv) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act; or

[~~(xxiv)~~](xxv) [~~Section 76-10-2002, which addresses~~]burglary of a research facility under Section 76-10-2002.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of any offense in Subsection (4)(a) if committed in this state.

Section 138. Section 76-9-902 is amended to read:

76-9-902. Definitions.

As used in this part:

(1) "Criminal street gang" means an organization, association in fact, or group of three or more persons, whether operated formally or informally:

(a) that is currently in operation;

(b) that has as one of its substantial activities the commission of one or more predicate gang crimes;

(c) that has, as a group, an identifying name or an identifying sign or symbol, or both; and

(d) whose members, acting individually or in concert with other members, engage in or have engaged in a pattern of criminal gang activity.

(2) "Gang loitering" means a person remains in one place under circumstances that would cause a reasonable person to believe that the purpose or effect of that behavior is to enable or facilitate a criminal street gang to:

(a) establish control over one or more identifiable areas;

(b) intimidate others from entering those areas; or

(c) conceal illegal activities.

(3) "Pattern of criminal gang activity" means committing, attempting to commit, conspiring to commit, or soliciting the commission of two or more predicate gang crimes within five years, if the predicate gang crimes are committed:

(a)(i) by two or more persons; or

(ii) by an individual at the direction of or in association with a criminal street gang; and

(b) with the specific intent to promote, further, or assist in any criminal conduct by members of a criminal street gang.

(4)(a) "Predicate gang crime" means any of the following offenses:

(i) [~~any~~]a criminal violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(ii) Sections 76-5-102 through 76-5-103.5, which address assault offenses;

(iii) Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) Sections 76-5-301 through 76-5-304, which address kidnapping and related offenses;

(v) [~~any~~]a felony offense under Title 76, Chapter 5, Part 4, Sexual Offenses;

(vi) Title 76, Chapter 6, Part 1, Property Destruction;

(vii) Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(viii) Title 76, Chapter 6, Part 3, Robbery;

(ix) [~~any~~]a felony offense under Title 76, Chapter 6, Part 4, Theft, except Sections 76-6-404.5, 76-6-405, 76-6-407, 76-6-408, 76-6-409,

76-6-409.1, 76-6-409.3, 76-6-409.6, 76-6-409.7, 76-6-409.8, 76-6-409.9, 76-6-410, and 76-6-410.5;

(x) Title 76, Chapter 6, Part 5, Fraud, except Sections 76-6-504, 76-6-505, 76-6-507, 76-6-508, 76-6-509, 76-6-510, 76-6-511, 76-6-512, 76-6-513, 76-6-514, 76-6-516, 76-6-517, 76-6-518, and 76-6-520;

(xi) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(xii) Title 76, Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(xiii) [~~Section 76-8-508, which includes~~]tampering with a witness under Section 76-8-508;

(xiv) [~~Section 76-8-508.3, which includes~~]retaliation against a witness[~~, or~~], victim, or informant under Section 76-8-508.3;

(xv) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(xv)~~](xvi) [~~Section 76-8-509, which includes~~] extortion or bribery to dismiss a criminal proceeding under Section 76-8-509;

[~~(xvi)~~](xvii) a misdemeanor violation of disorderly conduct under Section 76-9-102, if the violation occurs at an official meeting;

[~~(xvii)~~](xviii) Title 76, Chapter 10, Part 3, Explosives;

[~~(xviii)~~](xix) Title 76, Chapter 10, Part 5, Weapons;

[~~(xix)~~](xx) Title 76, Chapter 10, Part 15, Bus Passenger Safety Act;

[~~(xx)~~](xxi) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

[~~(xxi)~~](xxii) [~~Section 76-10-1801, which addresses~~]communications fraud under Section 76-10-1801;

[~~(xxii)~~](xxiii) Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(xxiii)~~](xxiv) [~~Section 76-10-2002, which addresses~~]burglary of a research facility[~~; and~~] under Section 76-10-2002; or

[~~(xxiv)~~](xxv) Title 41, Chapter 1a, Motor Vehicle Act:

(A) Section 41-1a-1313, regarding possession of a motor vehicle without an identification number;

(B) Section 41-1a-1315, regarding false evidence of title and registration;

(C) Section 41-1a-1316, regarding receiving or transferring stolen vehicles;

(D) Section 41-1a-1317, regarding selling or buying a vehicle without an identification number; and

(E) Section 41-1a-1318, regarding the fraudulent alteration of an identification number.

(b) "Predicate gang crime" also includes:

(i) any state or federal criminal offense that by its nature involves a substantial risk that physical force may be used against another in the course of committing the offense; and

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute any offense in Subsection (4)(a) if committed in this state.

(5)(a) "Public place" means any location or structure to which the public or a substantial group of the public has access, and includes:

(i) a sidewalk, street, or highway;

(ii) a public park, public recreation facility, or any other area open to the public;

(iii) a shopping mall, sports facility, stadium, arena, theater, movie house, or playhouse, or the parking lot or structure adjacent to any of these; and

(iv) the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and businesses.

(b) "Public place" includes the lobbies, hallways, elevators, restaurants and other dining areas, and restrooms of any of the locations or structures under Subsection (5)(a).

Section 139. Section 76-9-1008 is amended to read:

76-9-1008. Proof of immigration status required to receive public benefits.

(1)(a) An agency that provides state or local public benefits as defined in 8 U.S.C. Sec. 1621 shall comply with Section 63G-12-402 and shall also comply with this section, except:

(i) as provided in Subsection 63G-12-402(3)(g) or (k); or

(ii) when compliance is exempted by federal law or when compliance could reasonably be expected to be grounds for the federal government to withhold federal Medicaid funding.

(b) The agency shall verify a person's lawful presence in the United States by requiring that the applicant under this section sign a certificate under penalty of perjury, stating that the applicant:

(i) is a United States citizen; or

(ii) is a qualified alien as defined by 8 U.S.C. Sec. 1641.

(c) The certificate under Subsection (1)(b) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(d) The signature under this Subsection (1) may be executed in person or electronically.

(e) When an applicant who is a qualified alien has executed the certificate under this section, the

applicant's eligibility for benefits shall be verified by the agency through the federal SAVE program or an equivalent program designated by the United States Department of Homeland Security.

(2) Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement of representation in a certificate executed under this section is guilty of public assistance fraud by an applicant for public assistance under Section [~~76-8-1205~~]76-8-1203.1.

(3) If the certificate constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency requiring the certificate shall file a complaint with the United States Attorney for the applicable federal judicial district based upon the venue in which the certificate was executed.

(4) Agencies may, with the concurrence of the Utah Attorney General, adopt variations to the requirements of the provisions of this section that provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of this state.

(5) If an agency under Subsection (1) receives verification that a person making an application for any benefit, service, or license is not a qualified alien, the agency shall provide the information to the local law enforcement agency for enforcement of [~~Section 76-8-1205~~]public assistance fraud by an applicant for public assistance under Section 76-8-1203.1 unless prohibited by federal mandate.

Section 140. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain[~~, in violation of~~] under Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, [~~and any~~]or other [~~act~~]acts prohibited [~~by~~]under Title 26B, Chapter 3, Part 11, Utah False Claims Act, Sections 26B-3-1101 through 26B-3-1112;

(e) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 61, Chapter 1, Utah Uniform Securities Act;

(i) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault [~~or aggravated assault, Sections~~]under Section 76-5-102[~~and~~];

(k) aggravated assault under Section 76-5-103;

[~~(k)~~](l) a threat of terrorism[,] under Section 76-5-107.3;

[~~(l)~~](m) a criminal homicide offense[~~, as described in~~] under Section 76-5-201;

[~~(m)~~](n) kidnapping [~~or aggravated kidnapping, Sections~~]under Section 76-5-301[~~and~~];

(o) aggravated kidnapping under Section 76-5-302;

[~~(n)~~](p) human trafficking[,] for labor under Section 76-5-308;

(q) human trafficking for sexual exploitation under Section 76-5-308.1;

(r) human smuggling under Section 76-5-308.3;

(s) human trafficking of a child[~~, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3,~~] under Section 76-5-308.5[~~,~~];

(t) benefiting from trafficking and human smuggling under Section 76-5-309[~~, and~~];

(u) aggravated human trafficking under Section 76-5-310;

[~~(o)~~](v) sexual exploitation of a minor [~~or~~]under Section 76-5b-201;

(w) aggravated sexual exploitation of a minor[~~, Sections 76-5b-201 and~~] under Section 76-5b-201.1;

[~~(p)~~](x) arson under Section 76-6-102;

(y) [~~or~~]aggravated arson[~~, Sections 76-6-102 and~~] under Section 76-6-103;

[~~(q)~~](z) causing a catastrophe[~~,~~] under Section 76-6-105;

[~~(r)~~](aa) burglary under Section 76-6-202;

(bb) [~~or~~]aggravated burglary[~~, Sections 76-6-202 and~~] under Section 76-6-203;

[~~(s)~~](cc) burglary of a vehicle[~~,~~] under Section 76-6-204;

[~~(t)~~](dd) manufacture or possession of an instrument for burglary or theft[~~,~~] under Section 76-6-205;

[~~(u)~~](ee) robbery under Section 76-6-301;

(ff) [~~or~~]aggravated robbery[~~, Sections 76-6-301 and~~] under Section 76-6-302;

[~~(v)~~](gg) theft[~~,~~] under Section 76-6-404;

[~~(w)~~](hh) theft by deception[~~,~~] under Section 76-6-405;

[~~(x)~~](ii) theft by extortion[~~,~~] under Section 76-6-406;

[~~(y)~~](jj) receiving stolen property[~~,~~] under Section 76-6-408;

[~~(z)~~](kk) theft of services[~~,~~] under Section 76-6-409;

[~~(aa)~~](ll) forgery[~~,~~] under Section 76-6-501;

[~~(bb)~~](mm) [~~fraudulent use of a credit card, Sections~~]unlawful use of financial transaction card under Section 76-6-506.2[~~,~~];

(nn) unlawful acquisition, possession, or transfer of financial transaction card under Section 76-6-506.3[~~,, and~~];

(oo) financial transaction card offenses under Section 76-6-506.6;

[~~(cc)~~](pp) deceptive business practices[~~,~~] under Section 76-6-507;

[~~(dd)~~](qq) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods[~~,~~] under Section 76-6-508;

[~~(ee)~~](rr) bribery of a labor official[~~,~~] under Section 76-6-509;

[~~(ff)~~](ss) defrauding creditors[~~,~~] under Section 76-6-511;

[~~(gg)~~](tt) acceptance of deposit by insolvent financial institution[~~,~~] under Section 76-6-512;

[~~(hh)~~](uu) unlawful dealing with property by fiduciary[~~,~~] under Section 76-6-513;

[~~(ii)~~](vv) bribery or threat to influence contest[~~,~~] under Section 76-6-514;

[~~(jj)~~](ww) making a false credit report[~~,~~] under Section 76-6-517;

[~~(kk)~~](xx) criminal simulation[~~,~~] under Section 76-6-518;

[~~(ll)~~](yy) criminal usury[~~,~~] under Section 76-6-520;

[~~(mm)~~](zz) insurance fraud[~~,~~] under Section 76-6-521;

[~~(nn)~~](aaa) retail theft[~~,~~] under Section 76-6-602;

[~~(oo)~~](bbb) computer crimes[~~,~~] under Section 76-6-703;

[~~(pp)~~](ccc) identity fraud[~~,~~] under Section 76-6-1102;

[~~(qq)~~](ddd) mortgage fraud[~~,~~] under Section 76-6-1203;

[~~(rr)~~](eee) sale of a child[~~,~~] under Section 76-7-203;

[~~(ss)~~](fff) bribery to influence official or political actions[~~,~~] under Section 76-8-103;

[~~(tt)~~](ggg) [~~threats~~]threat to influence official or political action[~~,~~] under Section 76-8-104;

[~~(uu)~~](hhh) receiving bribe or bribery by public servant[~~,~~] under Section 76-8-105;

[~~(vv)~~](iii) receiving bribe [~~or bribery~~]for endorsement of person as a public servant[~~,~~] under Section 76-8-106;

[~~(ww) official misconduct, Sections~~]

(jjj) bribery for endorsement of person as public servant under Section 76-8-106.1;

(kkk) official misconduct based on unauthorized act or failure of duty under Section 76-8-201[~~, and~~];

(lll) official misconduct concerning inside information under Section 76-8-202;

[~~(xx)~~](mmm) obstruction of justice[~~,~~] in a criminal investigation or proceeding under Section 76-8-306;

[~~(yy)~~](nnn) acceptance of bribe or bribery to prevent criminal prosecution[~~,~~] under Section 76-8-308;

(ooo) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(zz)~~](ppp) making a false or inconsistent material [~~statements,~~]statement under Section 76-8-502;

[~~(aaa)~~](qqq) making a false or inconsistent [~~statements,~~]statement under Section 76-8-503;

[~~(bbb)~~](rrr) making a written false [~~statements,~~]statement under Section 76-8-504;

[~~(ccc)~~](sss) tampering with a witness [~~or soliciting or receiving a bribe,~~]under Section 76-8-508;

[~~(ddd)~~](ttt) retaliation against a witness, victim, or informant[~~,~~] under Section 76-8-508.3;

(uuu) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(eee)~~](vvv) extortion or bribery to dismiss a criminal proceeding[~~,~~] under Section 76-8-509;

[~~(fff)~~](www) tampering with evidence[~~,~~] under Section 76-8-510.5;

[~~(ggg)~~](xxx) falsification or alteration of a government record[~~,~~] under Section 76-8-511, if the record is a record described in Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act;

[~~(hhh)~~](yyy) public assistance fraud [~~in violation of~~]by an applicant for public assistance under Section [~~76-8-1203, 76-8-1204, or 76-8-1205~~] 76-8-1203.1;

(zzz) public assistance fraud by a recipient of public assistance under Section 76-8-1203.3;

(aaaa) public assistance fraud by a provider under Section 76-8-1203.5;

(bbbb) fraudulently misappropriating public assistance funds under Section 76-8-1203.7;

[~~(iii)~~](cccc) [~~unemployment insurance fraud,~~]false statement to obtain or increase unemployment compensation under Section 76-8-1301;

(dddd) false statement to prevent or reduce unemployment compensation or liability under Section 76-8-1302;

(eeee) unlawful failure to comply with Employment Security Act requirements under Section 76-8-1303;

(ffff) unlawful use or disclosure of employment information under Section 76-8-1304;

[~~(jjj)~~](gggg) intentionally or knowingly causing one animal to fight with another[~~,~~] under Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

[~~(kkk)~~](hhhh) possession, use, or removal of explosives, chemical, or incendiary devices or parts[~~,~~] under Section 76-10-306;

[~~(lll)~~](iiii) delivery to common carrier, mailing, or placement on premises of an incendiary device[~~,~~] under Section 76-10-307;

[~~(mmm)~~](jjjj) possession of a deadly weapon with intent to assault[~~,~~] under Section 76-10-507;

[~~(nnn)~~](kkkk) unlawful marking of pistol or revolver[~~,~~] under Section 76-10-521;

[~~(ooo)~~](llll) alteration of number or mark on pistol or revolver[~~,~~] under Section 76-10-522;

[~~(ppp)~~](mmmm) forging or counterfeiting trademarks, trade name, or trade device[~~,~~] under Section 76-10-1002;

[~~(qqq)~~](nnnn) selling goods under counterfeited trademark, trade name, or trade devices[~~,~~] under Section 76-10-1003;

[~~(rrr)~~](oooo) sales in containers bearing registered trademark of substituted articles[~~,~~] under Section 76-10-1004;

[~~(sss)~~](pppp) selling or dealing with article bearing registered trademark or service mark with intent to defraud[~~,~~] under Section 76-10-1006;

[~~(ttt)~~](qqqq) gambling[~~,~~] under Section 76-10-1102;

[~~(uuu)~~](rrrr) gambling fraud[~~,~~] under Section 76-10-1103;

[~~(vvv)~~](ssss) gambling promotion[~~,~~] under Section 76-10-1104;

[~~(www)~~](tttt) possessing a gambling device or record[~~,~~] under Section 76-10-1105;

[~~(xxx)~~](uuuu) confidence game[~~,~~] under Section 76-10-1109;

[~~(yyy)~~](vvvv) distributing pornographic material[~~,~~] under Section 76-10-1204;

[~~(zzz)~~](wwww) inducing acceptance of pornographic material[~~,~~] under Section 76-10-1205;

[~~(aaaa)~~](xxxx) dealing in harmful material to a minor[~~,~~] under Section 76-10-1206;

[~~(bbbb)~~](yyyy) distribution of pornographic films[~~,~~] under Section 76-10-1222;

[~~(cccc)~~](zzzz) indecent public displays[~~,~~] under Section 76-10-1228;

[~~(dddd)~~](aaaaa) prostitution[~~,~~] under Section 76-10-1302;

[~~(eeee)~~](bbbbb) aiding prostitution[~~,~~] under Section 76-10-1304;

[~~(ffff)~~](ccccc) exploiting prostitution[~~,~~] under Section 76-10-1305;

[~~(gggg)~~](ddddd) aggravated exploitation of prostitution[~~,~~] under Section 76-10-1306;

[~~(hhhh)~~](eeeee) communications fraud[~~,~~] under Section 76-10-1801;

[~~(iiii)~~](fffff) [~~any~~]an act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

[~~(jjjj)~~](ggggg) vehicle compartment for contraband[~~,~~] under Section 76-10-2801;

[~~(kkkk)~~](hhhhh) [~~any~~]an act prohibited by the criminal provisions of the laws governing taxation in this state; [~~and~~]or

[~~(llll)~~](iiiii) [~~any~~]an act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 141. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) [~~any~~]an act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) [~~any~~]an act prohibited by the criminal provisions [~~of~~]under Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt[~~,~~] under Section 76-4-101;

(B) conspiracy[~~,~~] under Section 76-4-201;

(C) solicitation[~~,~~] under Section 76-4-203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-5-107.3;

(e)(i) aggravated murder[~~,~~] under Section 76-5-202;

(ii) murder[~~,~~] under Section 76-5-203; or

(iii) manslaughter[~~,~~] under Section 76-5-205;

(f)(i) kidnapping[~~,~~] under Section 76-5-301;

(ii) child kidnapping[~~,~~] under Section 76-5-301.1;

(iii) aggravated kidnapping[~~,~~] under Section 76-5-302;

(iv) human trafficking[~~,~~] for labor under Section 76-5-308[~~,~~];

(v) human trafficking for sexual exploitation under Section 76-5-308.1[~~,~~];

(vi) [~~or~~]human trafficking of a child under Section 76-5-308.5[~~, or~~];

(vii) human smuggling[~~,~~] under Section 76-5-308.3;[~~ or~~]

[~~(v)~~](viii) aggravated human trafficking[~~,~~] under Section 76-5-310[~~,~~]; or

(ix) aggravated human smuggling[~~,~~] under Section 76-5-310.1;

(g)(i) arson[~~,~~] under Section 76-6-102; or

(ii) aggravated arson[~~,~~] under Section 76-6-103;

(h)(i) burglary[~~,~~] under Section 76-6-202; or

(ii) aggravated burglary[~~,~~] under Section 76-6-203;

(i)(i) robbery[~~,~~] under Section 76-6-301; or

(ii) aggravated robbery[~~,~~] under Section 76-6-302;

(j) an offense:

(i) of:

(A) theft[~~,~~] under Section 76-6-404;

(B) theft by deception[~~,~~] under Section 76-6-405; or

(C) theft by extortion[~~,~~] under Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official[~~,~~] under Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest[~~,~~] under Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-518;

(p) criminal usury[~~,~~] under Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-521;

(r) a violation [~~of~~] under Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-6-703;

(s) bribery to influence official or political actions[~~,~~] under Section 76-8-103;

(t) misusing public money or public property[~~,~~] under Section 76-8-402;

(u) tampering with a witness [~~or soliciting or receiving a bribe,~~]under Section 76-8-508;

(v) retaliation against a witness, victim, or informant[~~,~~] under Section 76-8-508.3;

(w) tampering [~~with a juror, retaliation~~]or retaliating against a juror[~~,~~] under Section 76-8-508.5;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(x)~~](y) extortion or bribery to dismiss a criminal proceeding[~~,~~] under Section 76-8-509;

[~~(y)~~](z) obstruction of justice[~~,~~] in a criminal investigation or proceeding under Section 76-8-306;

(aa) harboring or concealing offender who has escaped from official custody under Section 76-8-309.2;

[~~(z)~~](bb) destruction of property to interfere with [~~preparation~~]preparations for defense or war[~~,~~] under Section 76-8-802;

[~~(aa)~~](cc) an attempt to commit crimes of sabotage[~~,~~] under Section 76-8-804;

[~~(bb)~~](dd) conspiracy to commit crimes of sabotage[~~,~~] under Section 76-8-805;

[~~(cc)~~](ee) advocating criminal syndicalism or sabotage[~~,~~] under Section 76-8-902;

[~~(dd)~~](ff) [~~assembly~~]assembling for advocating criminal syndicalism or sabotage[~~,~~] under Section 76-8-903;

[~~(ee)~~](gg) riot punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-9-101;

[~~(ff)~~](hh) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-9-301.1;

[~~(gg)~~](ii) possession, use, or removal of an explosive, chemical, or incendiary device and parts[~~,~~] under Section 76-10-306;

[~~(hh)~~](jj) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device[~~,~~] under Section 76-10-307;

[~~(ii)~~](kk) exploiting prostitution[~~,~~] under Section 76-10-1305;

[~~(jj)~~](ll) aggravated exploitation of prostitution[~~,~~] under Section 76-10-1306;

[~~(kk)~~](mm) bus hijacking or assault with intent to commit hijacking[~~,~~] under Section 76-10-1504;

[~~(ll)~~](nn) discharging firearms and hurling missiles[~~,~~] under Section 76-10-1505;

[~~(mm)~~](oo) violations [~~of~~]under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act[~~,~~] under Section 76-10-1602;

[~~(nn)~~](pp) communications fraud[~~,~~] under Section 76-10-1801;

[~~(oo)~~](qq) money laundering[~~,~~] under Sections 76-10-1903 and 76-10-1904; or

[~~(pp)~~](rr) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year[~~,~~] under Section 76-10-1906.

Section 142. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault[~~, as described in~~] under Section 76-5-103;

(b) aggravated cruelty to an animal[~~, as described in~~] under Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault[~~, as described in~~] under Section 76-5-102;

(d) criminal homicide[~~, as described in~~] under Section 76-5-201;

(e) harassment[~~, as described in~~] under Section 76-5-106;

(f) electronic communication harassment[~~, as described in~~] under Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping[~~, as described in~~] under Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem[~~, as described in~~] under Section 76-5-105;

(i) sexual offenses[~~, as described in~~] under Title 76, Chapter 5, Part 4, Sexual Offenses[~~, and~~];

(j) sexual exploitation of a minor [~~and aggravated sexual exploitation of a minor, as described in Sections~~]under Section 76-5b-201[~~ and~~];

(k) aggravated sexual exploitation of a minor under Section 76-5b-201.1;

[~~(j)~~](l) stalking[~~, as described in~~] under Section 76-5-106.5;

[~~(k)~~](m) unlawful detention [~~or~~]and unlawful detention of a minor[~~, as described in~~] under Section 76-5-304;

[~~(l)~~](n) violation of a protective order or ex parte protective order[~~, as described in~~] under Section 76-5-108;

[~~(m)~~](o) [~~any~~]an offense against property [~~described in~~]under Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

[~~(n)~~](p) possession of a deadly weapon with criminal intent[~~, as described in~~] under Section 76-10-507;

[~~(o)~~](q) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle[~~, as described in~~] under Section 76-10-508;

[~~(p)~~](r) disorderly conduct[~~, as defined in~~] under Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

[~~(q)~~](s) child abuse[~~, as described in~~] under Section 76-5-114;

[~~(r)~~](t) threatening use of a dangerous weapon[~~, as described in~~] under Section 76-10-506;

[~~(s)~~](u) threatening violence[~~, as described in~~] under Section 76-5-107;

[~~(t)~~](v) tampering with a witness[~~, as described in~~] under Section 76-8-508;

[~~(u)~~](w) retaliation against a witness[~~ or~~], victim, [~~as described in~~]or informant under Section 76-8-508.3;

(x) receiving or soliciting a bribe as a witness under Section 76-8-508.7;

[~~(v)~~](y) unlawful distribution of an intimate image[~~, as described in~~] under Section 76-5b-203[~~, or~~];

(z) unlawful distribution of a counterfeit intimate image[~~, as described in~~] under Section 76-5b-205;

[~~(w)~~](aa) sexual battery[~~, as described in~~] under Section 76-9-702.1;

[~~(x)~~](bb) voyeurism[~~, as described in~~] under Section 76-9-702.7;

[~~(y)~~](cc) damage to or interruption of a communication device[~~, as described in~~] under Section 76-6-108; or

[~~(z)~~](dd) an offense [~~described in~~]under Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 143. Section 77-36-1.1 is amended to read:

77-36-1.1. Enhancement of offense and penalty for subsequent domestic violence offenses.

(1) As used in this section:

(a)(i) "Convicted" means a conviction by plea or verdict of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty with a mental condition;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(iii) "Convicted" does not include an adjudication in juvenile court.

(b) "Offense against the person" means commission or attempt to commit an offense under Title 76, Chapter 5, Part 1, Assault and Related Offenses, Part 2, Criminal Homicide, Part 3, Kidnapping, Trafficking, and Smuggling, Part 4, Sexual Offenses, or Part 7, Genital Mutilation, by one cohabitant against another.

(c) "Property damage offense" means the commission or attempt to commit an offense under Section 76-6-106 or 76-6-106.1 by one cohabitant against another.

(d) "Qualifying domestic violence offense" means:

(i) a domestic violence offense in Utah; or

(ii) an offense in any other state, or in any district, possession, or territory of the United States, that would be a domestic violence offense under Utah law.

(2) An individual who is convicted of a domestic violence offense is guilty of a class B misdemeanor if:

(a) the domestic violence offense described in this Subsection (2) is designated by law as a class C misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (2):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense; or

(ii) within five years after the day on which the individual is convicted of a [~~criminal mischief~~]property damage offense.

(3) An individual who is convicted of a domestic violence offense is guilty of a class A misdemeanor if:

(a) the domestic violence offense described in this Subsection (3) is designated by law as a class B misdemeanor; and

(b) the individual commits or is convicted of the domestic violence offense described in this Subsection (3):

(i) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense; or

(ii) within five years after the day on which the individual is convicted of a [~~criminal mischief~~]property damage offense.

(4) An individual who is convicted of a domestic violence offense is guilty of a third degree felony if:

(a) the domestic violence offense described in this Subsection (4) is designated by law as a class B misdemeanor offense against the person and the individual:

(i)(A) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense; and

(B) is convicted of another qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense after the day on which the individual is convicted of the qualifying domestic violence offense described in Subsection (4)(a)(i)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4);

(ii)(A) commits or is convicted of the domestic violence offense described in this Subsection (4) within five years after the day on which the individual is convicted of a [~~criminal mischief~~]property damage offense; and

(B) is convicted of another [~~criminal mischief~~]property damage offense after the day on which the individual is convicted of the [~~criminal mischief~~]property damage offense described in Subsection (4)(a)(ii)(A) and before the day on which the individual is convicted of the domestic violence offense described in this Subsection (4); or

(iii) commits or is convicted of the domestic violence offense described in this Subsection (4) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense and within five years after the day on which the individual is convicted of a [~~criminal mischief~~]property damage offense; and

(b)(i) the domestic violence offense described in this Subsection (4) is designated by law as a class A misdemeanor; and

(ii) the individual commits or is convicted of the domestic violence offense described in this Subsection (4):

(A) within 10 years after the day on which the individual is convicted of a qualifying domestic violence offense that is not a [~~criminal mischief~~]property damage offense; or

(B) within five years after the day on which the individual is convicted of a [~~criminal mischief~~]property damage offense.

Section 144. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from

intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding [~~witness tampering~~]tampering with a witness, and Section 76-8-509, regarding [~~threats against a victim~~]extortion or bribery to dismiss a criminal proceeding. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b)(i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall

provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 145. Repealer.

This bill repeals:

Section 76-8-314, Threatening elected officials -- "Elected official" defined.

Section 76-8-315, Threatening elected officials -- Penalties for assault.

Section 76-8-404, Making profit from or misusing public money or public property -- Disqualification from office -- Criminal penalty.

Section 76-8-505, False or inconsistent statements -- Proof of falsity of statements -- Irregularities no defense.

Section 76-8-701, Definitions.

Section 76-8-702, Purpose.

Section 76-8-707, Assistance by local authorities.

Section 76-8-709, Enforcement of laws by local agencies not limited.

Section 76-8-716, Request for assistance from state and local law enforcement authorities.

Section 76-8-717, Violations -- Classifications of offenses.

Section 76-8-801, Definitions.

Section 76-8-806, Facts kept secret until complaint filed.

Section 76-8-808, Detention and arrest without warrant of unauthorized persons on posted premises.

Section 76-8-1101, Criminal offenses and penalties relating to revenue and taxation -- Rulemaking authority -- Statute of limitations.

Section 76-8-1202, Application of part.

Section 76-8-1204, Disclosure by provider required -- Penalty.

Section 76-8-1205, Public assistance fraud defined.

Section 76-8-1206, Penalties for public assistance fraud.

Section 76-8-1401, Definitions.

Section 146. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 97
H. B. 16
Passed February 12, 2024
Approved March 13, 2024
Effective May 1, 2024

SEXUAL OFFENSES AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses certain sexual crimes committed against children.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the conduct required for an actor to be guilty of:
  - unlawful adolescent sexual activity;
  - rape of a child;
  - object rape of a child;
  - sexual abuse of a child; and
  - aggravated sexual abuse of a child; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-401.3, as last amended by Laws of Utah 2023, Chapters 123, 161
76-5-402.1, as last amended by Laws of Utah 2022, Chapter 181
76-5-402.3, as last amended by Laws of Utah 2022, Chapter 181
76-5-404.1, as last amended by Laws of Utah 2022, Chapter 181
76-5-404.3, as enacted by Laws of Utah 2022, Chapter 181

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

Section 1. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1)(a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection [~~(4)~~](5), an actor commits unlawful sexual activity if[~~the actor~~]:

(a) the actor is an adolescent;[~~and~~]

(b) [~~has~~]the actor engages in sexual activity with another adolescent;

(c) the actor is not a biological sibling of the other adolescent; and

(d) both the actor and the other adolescent mutually agree to the sexual activity.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is [~~12 or~~]13 years old;

(b) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The actor and the other adolescent do not mutually agree to the sexual activity under Subsection (2) if:

(a) the other adolescent expresses lack of agreement to the sexual activity through words or conduct;

(b) the actor overcomes the other adolescent's will through:

(i) threats to the other adolescent or any other individual;

(ii) force;

(iii) coercion; or

(iv) enticement;

(c) the actor is able to overcome the other adolescent through concealment or by the element of surprise;

(d) the actor knows, or reasonably should know, that the other adolescent has a mental disease or defect, which renders the other adolescent unable to:

(i) appraise the nature of the act;

(ii) resist the act;

(iii) understand the possible consequences to the adolescent's health or safety; or

(iv) appraise the nature of the relationship between the actor and the adolescent;

(e) the actor knows that the other adolescent participates in the sexual activity because the other adolescent erroneously believes that the actor is someone else; or

(f) the actor intentionally impaired the power of the other adolescent to appraise or control the other adolescent's conduct by administering any substance without the victim's knowledge.

[~~(4)~~](5) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

[~~(b) rape of a child, in violation of Section 76-5-402.1;~~]

[~~(c)~~](b) object rape, in violation of Section 76-5-402.2;

[~~(d) object rape of a child, in violation of Section 76-5-402.3;~~]

[~~(e)~~](c) forcible sodomy, in violation of Section 76-5-403;

[~~(f) sodomy on a child, in violation of Section 76-5-403.1;~~]

[~~(g) sexual abuse of a child, in violation of Section 76-5-404;~~]

[~~(h)~~](d) aggravated sexual assault, in violation of Section 76-5-405;

[~~(i)~~](e) incest, in violation of Section 76-7-102; or

[~~(j)~~](f) an attempt to commit any offense listed in Subsections [~~(4)(a)~~](5)(a) through [~~(4)(i)~~](5)(e).

[~~(5)~~](6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

[~~(6)~~](7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

[~~(7)~~](8) An offense under this section is not subject to registration under Subsection 77-41-102(18).

Section 2. Section 76-5-402.1 is amended to read:

76-5-402.1. Rape of a child -- Penalties.

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

(i) "Child" means an individual who is younger than 14 years old.

(ii) "Sexual intercourse" means:

(A) any touching skin-to-skin, however slight, of an individual's genitals to another individual's genitals; or

(B) any penetration, however slight, of an individual's genitals by another individual's genitals, whether over or under the clothing.

(iii) "Simulated intercourse" means rubbing or otherwise stimulating or attempting to stimulate an individual's genitals or pubic area by another individual's genitals or pubic area whether over or under the clothing.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)[~~(a)~~] An actor commits rape of a child if the actor[~~.~~]:

(a) has sexual intercourse with [~~an individual who is younger than 14 years old~~]a child; or

(b) intentionally engages in simulated intercourse with a child.

[~~(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).~~]

(3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsections (3)(b) and (5), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the rape of a child, the defendant caused serious bodily injury to the victim; or

(ii) at the time of the commission of the rape of a child the defendant was previously convicted of a grievous sexual offense.

(4) Subsection (3)(b) does not apply if the defendant was younger than 18 years old at the time of the offense.

(5)(a) When imposing a sentence under Subsections (3)(a) and (5)(b), a court may impose a term of imprisonment under Subsection (5)(b) if:

(i) it is a first time offense for the defendant under this section;

(ii) the defendant was younger than 21 years old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (5)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

(6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 3. Section 76-5-402.3 is amended to read:

76-5-402.3. Object rape of a child -- Penalty.

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

(i) "Child" means an individual who is younger than 14 years old.

(ii) "Masturbatory contact" means the stimulation or attempted stimulation of an individual's genitals or pubic area by another individual.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)[~~(a)~~] An actor commits object rape of a child if:

[~~(i)~~](a)(i) the actor causes the penetration [~~or touching~~], however slight, whether over or under the clothing, of the [~~genital or anal opening of the individual by, except as provided in Subsection (2)(b)~~]genitals or anus of a child by:

(A) a foreign object;

(B) a substance;

(C) an instrument;[~~ or~~]

(D) a device; or

(E) a part of the human body other than the mouth or genitals;

(ii) the actor causes the touching, however slight, of the skin of the genitals or anus of a child by:

(A) a foreign object;

(B) a substance;

(C) an instrument;

(D) a device; or

(E) a part of the human body other than the mouth or genitals; or

(iii) the actor causes the masturbatory contact over or under the clothing of the genitals or anus of a child by:

(A) a foreign object;

(B) a substance;

(C) an instrument;

(D) a device; or

(E) a part of the human body other than the mouth or genitals; and

[~~(ii)~~](b) the actor:

[~~(A)~~](i) intends to cause substantial emotional or bodily pain to the [~~individual~~]child; or

[~~(B)~~](ii) intends to arouse or gratify the sexual desire of any individual[~~; and~~].

[~~(iii) the individual described in Subsection (2)(a)(i) is younger than 14 years old.~~]

[~~(b) Subsection (2)(a) does not include penetration or touching by a part of the human body.~~]

(3)(a) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(i) except as provided in Subsections (3)(a)(ii) and (4), not less than 25 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that:

(A) during the course of the commission of the object rape of a child the defendant caused serious bodily injury to the victim; or

(B) at the time of the commission of the object rape of a child the defendant was previously convicted of a grievous sexual offense.

(b) Subsection (3)(a)(ii) does not apply if the defendant was younger than 18 years old at the time of the offense.

(4)(a) When imposing a sentence under Subsections (3)(a)(i) and (4)(b), a court may impose a term of imprisonment under Subsection (4)(b) if:

(i) it is a first time offense for the defendant under this section;

(ii) the defendant was younger than 21 years old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection (3)(a)(i) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (4)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 4. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

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

(i) "Adult" means an individual 18 years old or older.

(ii) "Child" means an individual younger than 14 years old.

(iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iv) "Position of special trust" means:

(A) an adoptive parent;

(B) an athletic manager who is an adult;

(C) an aunt;

(D) a babysitter;

(E) a coach;

(F) a cohabitant of a parent if the cohabitant is an adult;

(G) a counselor;

(H) a doctor or physician;

(I) an employer;

(J) a foster parent;

(K) a grandparent;

(L) a legal guardian;

(M) a natural parent;

(N) a recreational leader who is an adult;

(O) a religious leader;

(P) a sibling or a stepsibling who is an adult;

(Q) a scout leader who is an adult;

(R) a stepparent;

(S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years old or older;

(T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

(U) an uncle;

(V) a youth leader who is an adult; or

(W) any individual in a position of authority, other than those individuals listed in Subsections (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if the actor:

(i)(A) touches[~~the anus~~], whether over or under the clothing, the buttocks[~~,~~] or pubic area[~~, or genitalia~~] of [~~any~~]a child;

(B) touches, whether over or under the clothing, the breast of a female child;[~~or~~]

[~~(C) otherwise takes indecent liberties with a child; ~~]

(C) touches the anus or genitals of a child over the clothing; or

(D) otherwise takes indecent liberties with a child whether over or under the clothing; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or

(B) [~~to~~]arouse or gratify the sexual desire of any individual.

(b) Any touching, [~~even if accomplished through clothing~~]however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 5. Section 76-5-404.3 is amended to read:

76-5-404.3. Aggravated sexual abuse of a child -- Penalties.

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

(i) "Adult" means the same as that term is defined in Section 76-5-404.1.

(ii) "Child" means the same as that term is defined in Section 76-5-404.1.

(iii) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)[~~(a)~~] An actor commits aggravated sexual abuse of a child if, in conjunction with the offense described in Subsection 76-5-404.1(2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

[~~(i)~~](a) the actor committed the offense:

[~~(A)~~](i) by the use of a dangerous weapon;

[~~(B)~~](ii) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or

[~~(C)~~](iii) during the course of a [~~kidnaping~~]kidnapping;

[~~(ii)~~](b) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;

[~~(iii)~~](c) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;

[~~(iv)~~](d) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;

[~~(v)~~](e) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;

[~~(vi)~~](f) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;

[~~(vii)~~](g) the actor committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

[~~(viii)~~](h) the actor occupied a position of special trust in relation to the child; or

[~~(ix)~~](i) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling[~~; or~~].

[~~(x) the actor caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.~~]

[~~(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).~~]

(3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(c).

(6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years old at the time of the offense.

(7) Imprisonment under this section is mandatory in accordance with Section 76- 3- 406.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 98
H. B. 20
Passed February 9, 2024
Approved March 13, 2024
Effective May 1, 2024

PARENTAL RIGHTS AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses the voluntary relinquishment of parental rights.

Highlighted Provisions:

This bill:

- clarifies the requirements and procedure for an individual to consent to the termination of parental rights or voluntarily relinquish parental rights.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-4-307, as last amended by Laws of Utah 2022, Chapter 274

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

Section 1. Section 80-4-307 is amended to read:

80-4-307. Voluntary relinquishment -- Irrevocable.

(1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign [~~or confirm~~]the consent or relinquishment, or confirm a consent or relinquishment previously signed by the individual, under oath before:

(a) a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or

(b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections 78B-6-124(1) and (2).

(2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.

(3)(a) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment, or confirming a consent or relinquishment previously signed by the individual, has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.

(b) A consent or relinquishment is not effective until the consent or relinquishment is certified pursuant to Subsection (3)(a).

(4) [~~A voluntary relinquishment or consent for termination of parental rights is effective when the voluntary relinquishment or consent is signed and may not be revoked.~~]A consent or relinquishment that has been certified pursuant to Subsection (3)(a) is effective against the consenting or relinquishing individual and may not be revoked.

(5)(a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.

(b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.

(6)(a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.

(b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.

(7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 99
H. B. 26
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CORRECTIONAL FACILITY AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill enacts provisions related to communication devices in correctional facilities.

Highlighted Provisions:

This bill:

- defines terms;
- makes it a crime to transport, provide, sell, or possess a communication device at a correctional facility in violation of facility policy; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-8-311.3, as last amended by Laws of Utah 2023, Chapter 330

Sections affected by Coordination Clause:

76-8-311.3, as last amended by Laws of Utah 2023, Chapter 3303

76-8-311.11, Utah Code Annotated 19533

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

Section 1. Section 76-8-311.3 is amended to read:

76-8-311.3. Items prohibited in correctional and mental health facilities -- Penalties.

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

[~~(a)~~] "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication or another device that can be used to communicate electronically.

(i) "Contraband" means [~~any~~]an item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(b)~~](ii) "Controlled substance" means any substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(c)~~](iii) "Correctional facility" means:

[~~(i)~~](A) [~~any~~]a facility operated by or contracting with the Department of Corrections to house [~~offenders~~]an offender in either a secure or nonsecure setting;

[~~(ii)~~](B) [~~any~~]a facility operated by a municipality or a county to house or detain [~~criminal offenders~~]an offender;

[~~(iii)~~](C) [~~any~~]a juvenile detention facility; [~~and~~]or

[~~(iv)~~](D) [~~any~~]a building or grounds appurtenant to [~~the~~]a facility or [~~lands~~]land granted to the state, municipality, or county for use as a correctional facility.

[~~(d)~~](iv) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

[~~(e)~~](v) "Medicine" means [~~any~~]a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include [~~any~~]a controlled [~~substances~~]substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(f)~~](vi) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

[~~(g)~~](vii) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~](viii) "Offender" means [~~a person~~]an individual in custody at a correctional facility.

[~~(i)~~](ix) "Secure area" means the same as that term is defined in Section 76-8-311.1.

[~~(j)~~](x) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(2)(a) Notwithstanding Section 76-10-500, a correctional facility or mental health facility may [~~provide by rule that no~~]prohibit a firearm, ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison [~~in any quantity may be~~]from being:

[~~(a)~~](i) transported to or [~~upon~~]within a correctional facility or mental health facility;

[~~(b)~~](ii) sold or [~~given away at any~~]provided to an offender at a correctional facility or mental health facility; or

[~~(c)~~](iii) [~~given to or used by any offender~~] possessed by an offender or another individual at a correctional facility or mental health facility[~~; or~~].

[~~(d) knowingly or intentionally possessed at a correctional or mental health facility.~~]

(b) A correctional facility may prohibit a communication device from being:

(i) transported to or within the correctional facility for the purpose of being sold or provided to an offender in the correctional facility;

(ii) sold or provided to an offender in the correctional facility; or

(iii) possessed by an offender or another individual at the correctional facility.

(3) It is a defense to [~~any~~]a prosecution under this section if the accused in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

(4)(a) An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, [~~any~~]a firearm, ammunition, a dangerous weapon, or an implement of escape with intent to provide or sell it to [~~any~~]an offender, is guilty of a second degree felony.

(b) An individual who provides or sells to [~~any~~]an offender at a correctional facility, or [~~any~~]a detainee at a secure area of a mental health facility, [~~any~~]a firearm, ammunition, a dangerous weapon, or an implement of escape is guilty of a second degree felony.

(c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, [~~any~~]a firearm, ammunition, a dangerous weapon, or an implement of escape is guilty of a second degree felony.

(d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility [~~any~~]a firearm, ammunition, a dangerous weapon, or an implement of escape is guilty of a third degree felony.

(e) An individual violates Section 76- 10- 306 who knowingly or intentionally transports, possesses, distributes, or sells [~~any~~]an explosive in a correctional facility or mental health facility.

(5)(a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports[~~ to or upon a correctional facility or into a secure area of a mental health facility any~~]:

(i) a communication device to or within a correctional facility with the intent to provide or sell the communication device to an offender in the correctional facility;

(ii) spirituous or fermented liquor to or within a correctional facility or a secure area of a mental health facility;

[~~(ii)~~](iii) medicine to or within a correctional facility or a secure area of a mental health facility[~~,~~] whether or not lawfully prescribed for [~~the~~]an offender or detainee; or

[~~(iii)~~](iv) poison [~~in any quantity~~]to or within a correctional facility or a secure area of a mental health facility.

(b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling[~~ to any offender at a correctional facility or detainee within a secure area of a mental health facility any~~]:

(i) a communication device to an offender at a correctional facility;

(ii) spirituous or fermented liquor to an offender at a correctional facility or a detainee within a secure area of a mental health facility;

[~~(ii)~~](iii) medicine[~~,~~] to an offender at a correctional facility or detainee within a secure area of a mental facility whether or not the medicine is lawfully prescribed for the offender; or

[~~(iii)~~](iv) poison [~~in any quantity~~]to an offender at a correctional facility or a detainee within a secure area of a mental health facility.

(c) An [~~inmate~~]offender is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses[~~ at a correctional facility or in a secure area of a mental health facility any~~]:

(i) a communication device at a correctional facility;

(ii) spirituous or fermented liquor at a correctional facility or in a secure area of a mental health facility;

[~~(ii)~~](iii) medicine at a correctional facility or in a secure area of a mental health facility[~~,~~] other than medicine provided by the facility's health care providers in compliance with facility policy; or

[~~(iii)~~](iv) poison [~~in any quantity~~]at a correctional facility or in a secure area of a mental health facility.

(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell [~~any~~]a tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:

(i) transports, delivers, or distributes any tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;

(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product, electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or

(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.

(e) An individual, other than an offender, is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, [~~fails to declare or~~]knowingly possesses [~~at a correctional facility or in a secure area of a mental health facility any~~]:

(i) subject to Subsection (7), a communication device at a correctional facility;

(ii) spirituous or fermented liquor at a correctional facility or in a secure area of a mental health facility;

[~~(ii)~~](iii) medicine at a correctional facility or in a secure area of a mental health facility; or

[~~(iii)~~](iv) poison [~~in any quantity~~]at a correctional facility or in a secure area of a mental health facility.

(f)(i) Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.

(ii) The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).

(g) Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.

(6) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.

(7)(a) A correctional facility that prohibits an individual other than an offender from possessing a communication device in the correctional facility under Subsection (5)(e)(i) shall post a sign visible to an individual entering the correctional facility that provides the individual with notice that possessing a communication device in the correctional facility is prohibited and the individual may be prosecuted for possessing a communication device.

(b) A prosecuting attorney may not prosecute an individual under Subsection (5)(e)(i) if the correctional facility fails to comply with Subsection (7)(a).

[~~(7)~~](8) The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Coordinating H.B. 26 with H.B. 15

If this H.B. 26, Correctional Facility Amendments, and H.B. 15, Criminal Code Recodification and Cross References, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by making the following changes:

(1) amending Section 76-8-311.3 to read:

"76-8-311.3 Establishment of prohibited item policy in a correctional or mental health facility -- Reference to penalty provisions -- Exceptions -- Rulemaking.

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

[~~(a) "Contraband" means any item not specifically prohibited for possession by offenders under this section or Title 58, Chapter 37, Utah Controlled Substances Act.~~

~~(b)~~] (i) "Communication device" means a device designed to receive or transmit an image, text message, email, video, location information, or voice communication, or another device that can be used to communicate electronically.

(ii) "Controlled substance" means [~~any~~]a substance defined as a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(c)~~] (iii) "Correctional facility" means:

[~~(i)~~] (A) [~~any~~]a facility operated by or contracting with the Department of Corrections to house [~~offenders~~]an offender in either a secure or nonsecure setting;

[~~(ii)~~] (B) [~~any~~]a facility operated by a municipality or a county to house or detain [~~criminal offenders~~]an offender;

[~~(iii)~~] (C) [~~any~~]a juvenile detention facility; [~~and~~]or

[~~(iv)~~] (D) [~~any~~]a building or grounds appurtenant to [~~the~~]a facility or [~~lands~~]land granted to the state, municipality, or county for use as a correctional facility.

(iv) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

[~~(d)~~] (v) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(vi) "Firearm" means the same as that term is defined in Section 76-10-501.

[~~(e)~~] (vii) "Medicine" means [~~any~~]a prescription drug as defined in Title 58, Chapter 17b, Pharmacy Practice Act, but does not include [~~any~~]a controlled [~~substances~~]substance as defined in Title 58, Chapter 37, Utah Controlled Substances Act.

[~~(f)~~] (viii) "Mental health facility" means the same as that term is defined in Section 26B-5-301.

[~~(g)~~] (ix) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~] (x) "Offender" means [~~a person~~]an individual in custody at a correctional facility.

[~~(i)~~] (xi) "Secure area" means the same as that term is defined in Section 76-8-311.1.

[~~(j)~~] (xii) "Tobacco product" means the same as that term is defined in Section 76-10-101.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2)(a) Notwithstanding Section 76-10-500, a correctional facility or mental health facility may[~~provide by rule that no~~] prohibit a firearm,

ammunition, a dangerous weapon, an implement of escape, an explosive, a controlled substance, spirituous or fermented liquor, medicine, or poison [~~in any quantity may be~~]from being:

[~~(a)~~] (i) transported to or [~~upon~~]within a correctional facility or mental health facility;

[~~(b)~~] (ii) sold or given away [~~at any~~]to an offender at a correctional facility or mental health facility; or

[~~(c)~~] (iii) [~~given to or used by any offender~~]possessed by an offender or another individual at a correctional facility or mental health facility[~~; or~~].

[~~(d) knowingly or intentionally possessed at a correctional or mental health facility.~~]

(b) A correctional facility may prohibit a communication device from being:

(i) transported within the correctional facility for the purpose of being sold to an offender in the correctional facility;

(ii) sold or given away to an offender in the correctional facility; or

(iii) possessed by an offender or another individual at the correctional facility.

(3) It is a defense to [~~any~~]a prosecution [~~under~~]related to this section[~~ if the accused in~~] that the actor, in committing the act made criminal by this section with respect to:

(a) a correctional facility operated by the Department of Corrections, acted in conformity with departmental rule or policy;

(b) a correctional facility operated by a municipality, acted in conformity with the policy of the municipality;

(c) a correctional facility operated by a county, acted in conformity with the policy of the county; or

(d) a mental health facility, acted in conformity with the policy of the mental health facility.

[~~(4)(a) An individual who transports to or upon a correctional facility, or into a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape with intent to provide or sell it to any offender, is guilty of a second degree felony.~~

~~(b) An individual who provides or sells to any offender at a correctional facility, or any detainee at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~

~~(c) An offender who possesses at a correctional facility, or a detainee who possesses at a secure area of a mental health facility, any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a second degree felony.~~

~~(d) An individual who, without the permission of the authority operating the correctional facility or the secure area of a mental health facility, knowingly possesses at a correctional facility or a secure area of a mental health facility any firearm, ammunition, dangerous weapon, or implement of escape is guilty of a third degree felony.~~

~~(e) An individual violates Section 76-10-306 who knowingly or intentionally transports, possesses, distributes, or sells any explosive in a correctional facility or mental health facility.~~

~~(5)(a) An individual is guilty of a third degree felony who, without the permission of the authority operating the correctional facility or secure area of a mental health facility, knowingly transports to or upon a correctional facility or into a secure area of a mental health facility any:~~

~~(i) spirituous or fermented liquor;~~

~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~

~~(iii) poison in any quantity.~~

~~(b) An individual is guilty of a third degree felony who knowingly violates correctional or mental health facility policy or rule by providing or selling to any offender at a correctional facility or detainee within a secure area of a mental health facility any:~~

~~(i) spirituous or fermented liquor;~~

~~(ii) medicine, whether or not lawfully prescribed for the offender; or~~

~~(iii) poison in any quantity.~~

~~(c) An inmate is guilty of a third degree felony who, in violation of correctional or mental health facility policy or rule, possesses at a correctional facility or in a secure area of a mental health facility any:~~

~~(i) spirituous or fermented liquor;~~

~~(ii) medicine, other than medicine provided by the facility's health care providers in compliance with facility policy; or~~

~~(iii) poison in any quantity.~~

~~(d) An individual is guilty of a class A misdemeanor who, with the intent to directly or indirectly provide or sell any tobacco product, electronic cigarette product, or nicotine product to an offender, directly or indirectly:~~

~~(i) transports, delivers, or distributes any tobacco product, electronic cigarette product, or nicotine product to an offender or on the grounds of any correctional facility;~~

~~(ii) solicits, requests, commands, coerces, encourages, or intentionally aids another person to transport any tobacco product, electronic cigarette product, or nicotine product to an offender or on any correctional facility, if the person is acting with the mental state required for the commission of an offense; or~~

~~(iii) facilitates, arranges, or causes the transport of any tobacco product, electronic cigarette product, or nicotine product in violation of this section to an offender or on the grounds of any correctional facility.~~

~~(e) An individual is guilty of a class A misdemeanor who, without the permission of the authority operating the correctional or mental health facility, fails to declare or knowingly possesses at a correctional facility or in a secure area of a mental health facility any:~~

~~(i) spirituous or fermented liquor;~~

~~(ii) medicine; or~~

~~(iii) poison in any quantity.~~

~~(f)(i)Except as provided in Subsection (5)(f)(ii), an individual is guilty of a class B misdemeanor who, without the permission of the authority operating the correctional facility, knowingly engages in any activity that would facilitate the possession of any contraband by an offender in a correctional facility.~~

~~(ii)The provisions of Subsection (5)(d) regarding any tobacco product, electronic cigarette product, or nicotine product take precedence over this Subsection (5)(f).(g)Exemptions may be granted for worship for Native American inmates pursuant to Section 64-13-40.~~

~~(6)The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be prosecuted in accordance with Title 58, Chapter 37, Utah Controlled Substances Act.~~

~~(7)The department shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines for providing written notice to visitors that providing any tobacco product, electronic cigarette product, or nicotine product to offenders is a class A misdemeanor.~~]

(4)(a) Except as provided by Subsection (4)(b) or (4)(c), an actor may be charged under Section 76-8-311.4, 76-8-311.6, 76-8-311.7, 76-8-311.8, 76-8-311.9, 76-8-311.10, or 76-8-311.11 for a violation of a policy or rule created under this section.

(b) An actor who knowingly or intentionally transports, possesses, distributes, or sells an explosive in a correctional facility or a mental health facility may be punished under Section 76-10-306.

(c) The possession, distribution, or use of a controlled substance at a correctional facility or in a secure area of a mental health facility shall be charged under Title 58, Chapter 37, Utah Controlled Substances Act."; and

(2) Section 76-8-311.11 be enacted to read:

"76-8-311.11. Prohibited communication device in a correctional facility.

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

(i) "Communication device" means the same as that term is defined in Section 76-8-311.3.

(ii) "Correctional facility" means the same as that term is defined in Section 76-8-311.3.

(iii) "Offender" means the same as that term is defined in Section 76-8-311.3.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits prohibited communication device in a correctional facility if the actor, without the permission of the correctional facility:

(a) knowingly transports a communication device into the correctional facility with the intent to provide or sell the communication device to an offender in the correctional facility;

(b) provides or sells a communication device to an offender in the correctional facility;

(c)(i) is an offender; and

(ii) possesses a communication device in the correctional facility; or

(d)(i) subject to Subsection (4), is an individual other than an offender; and

(ii) knowingly possesses a communication device in the correctional facility.

(3)(a) A violation of Subsection (2)(a), (b), or (c) is a third degree felony.

(b) A violation of Subsection (2)(d) is a class A misdemeanor.

(4)(a) A correctional facility that prohibits an individual other than an offender from possessing a communication device in the correctional facility under Subsection (2)(d) shall post a sign visible to an individual entering the correctional facility that provides the individual with notice that possessing a communication device in the correctional facility is prohibited and the individual may be prosecuted for possessing a communication device.

(b) A prosecuting attorney may not prosecute an individual under Subsection (2)(d) if the correctional facility fails to comply with Subsection (4)(a).".

CHAPTER 100
H. B. 37
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

JOINT TENANCY PRESUMPTION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends the presumption of joint tenancy for certain grants of ownership interest in real estate.

Highlighted Provisions:

This bill:

- provides that an ownership interest in real estate granted to two or more persons is presumed to be a joint tenancy with rights of survivorship.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-5, as last amended by Laws of Utah 2022, Chapter 344

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

Section 1. Section 57-1-5 is amended to read:

57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.

(1)(a)(i)(A) Beginning on May 5, 1997, and ending on May 3, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(B) Beginning on May 4, 2022, and ending on April 30, 2024, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(C) An ownership interest granted on or after May 1, 2024, to two or more persons in their own right is presumed to be a joint tenancy with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(ii) Except as provided in Subsection (1)(a)(iii), joint tenancy may be established between two or more people.

(iii) Joint tenancy may not be established between a person and an entity or organization, including:

(A) a corporation;

(B) a trustee of a trust; or

(C) a partnership.

(iv) Joint tenancy may not be established between an entity or organization and another entity or organization.

(b) An ownership interest in real estate that does not qualify for the joint tenancy presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest unless expressly declared in the grant to be otherwise.

(2)(a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import means a joint tenancy.

(b)(i) Use of words "tenancy in common" or "with no rights of survivorship" or "undivided interest" or words of similar import declare a tenancy in common.

(ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in common unless accompanied by joint tenancy language described in Subsection (2)(a), which creates a joint tenancy.

(3) A person who owns real property creates a joint tenancy in himself or herself and another or others:

(a) by making a transfer to himself or herself and another or others as joint tenants by use of the words as provided in Subsection (2)(a); or

(b) by conveying to another person or persons an interest in land in which an interest is retained by the grantor and by declaring the creation of a joint tenancy by use of the words as provided in Subsection (2)(a).

(4) In all cases, the interest of joint tenants shall be equal and undivided.

(5)(a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or another, the joint tenancy is severed and converted into a tenancy in common.

(b) If there is more than one joint tenant remaining after a joint tenant severs a joint tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in joint tenancy.

(6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no retrospective operation and shall govern instruments executed and recorded on or after May 5, 1997.

(7) Tenants by the entirety are considered to be joint tenants.

(8) Tenants holding title as community property are considered to be joint tenants.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 101
H. B. 40
Passed February 23, 2024
Approved March 13, 2024
Effective May 1, 2024

DIVISION OF CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts and repeals provisions related to consumer complaints to the Division of Consumer Protection (division).

Highlighted Provisions:

This bill:

- provides that consumer complaints are protected records under the Government Records Access and Management Act (GRAMA);
- requires the division to reclassify consumer complaints as public under GRAMA under certain circumstances;
- grants the division rulemaking authority;
- repeals provisions related to consumer complaints;
- defines terms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, and 509
13-2-1, as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, 509, and 536
13-11-7, as last amended by Laws of Utah 1987, Chapter 92
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329

ENACTS:

13-2-11, Utah Code Annotated 1953

REPEALS:

13-15-401, as enacted by Laws of Utah 2022, Chapter 243
13-26-12, as last amended by Laws of Utah 2022, Chapter 324

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act; and

(z) Chapter 67, Online Dating Safety Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 2. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act;

(z) Chapter 67, Online Dating Safety Act; and

(aa) Chapter 68, Lawyer Referral Consultants Registration Act.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:

(a) a public list that identifies a person who:

(i) violates a chapter described in Subsection (2);

(ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:

(A) the division; or

(B) a court of competent jurisdiction; or

(iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

(b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

Section 3. Section 13-2-11 is enacted to read:

13-2-11. Publication of consumer complaints.

(1) As used in this section:

(a) "Consumer complaint" means a complaint that:

(i) is provided to the division;

(ii) alleges facts relating to conduct that the division regulates under Section 13-2-1; and

(iii) may contain:

(A) information that identifies a respondent; and

(B) a narrative description of and information relevant to the conduct described in Subsection (1)(a)(ii).

(b) "Consumer narrative" means the narrative description contained in a consumer complaint as described in Subsection (1)(a)(iii)(B).

(c) "Filer" means a person who files a consumer complaint.

(d) "Respondent" means a person against whom a filer files a consumer complaint.

(2)(a) A consumer complaint is a protected record as provided in Subsection 63G-2-305(88).

(b) In carrying out the division's duties, the division may not publicly disclose the identity of a person the division investigates unless:

(i) the person's identity becomes a matter of public record in an enforcement proceeding; or

(ii) the person consents to public disclosure.

(3) Notwithstanding Subsection (2):

(a) the division may reclassify a consumer complaint as public if:

(i)(A) the consumer complaint is one of at least 10 consumer complaints filed with the division against the same person, alleging the same or similar conduct, and during the 12-month period immediately preceding the day on which the filer files the consumer complaint;

(B) the consumer complaint does not contain information that an agreement with another state or federal agency or a condition of participation in an investigation or litigation requires the division keep confidential;

(C) the consumer complaint is not classified as controlled, private, or protected as described in Sections 63G-2-302 through 63G-2-305, for a reason other than that identified by Subsection 63G-2-305(88); and

(D) access to the record is not restricted as described by Subsection 63G-2-201(3)(b); or

(ii) the division takes public enforcement action against a respondent as a result of the consumer complaint; and

(b) the division may disclose a consumer complaint to the respondent.

(4) In determining the number of complaints against the same person in accordance with Subsection (3)(a)(i)(A), the division may consider consumer complaints that are filed against multiple entities under common ownership as consumer complaints against the same person.

(5) A respondent's initial, written response to a consumer complaint that is public under Subsection (3) is a public record.

(6) Before making a consumer complaint that is reclassified as public under Subsection (3), or a response described in Subsection (5), available to the public, the division:

(a) shall redact from the consumer complaint or the response any information that would disclose:

(i) the filer's:

(A) address;

(B) social security number;

(C) bank account information;

(D) email address; or

(E) telephone number; or

(ii) information similar in nature to the information described in Subsection (6)(a)(i); and

(b) may redact the filer's name and any other information that could, in the division's judgment, disclose the filer's identity.

(7) If the division discloses the consumer complaint to the respondent as described in Subsection (3)(b), the division may redact the filer's:

(a) bank account information;

(b) social security number;

(c) name and any other information that could, in the division's judgment, disclose the filer's identity, if the filer requests anonymity; and

(d) other information the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.

(8) Nothing in this section precludes the division from disclosing a consumer complaint in accordance with Section 63G-2-201.

Section 4. Section 13-11-7 is amended to read:

13-11-7. Duties of enforcing authority -- Confidentiality of identity of persons investigated -- Civil penalty for violation of restraining or injunctive orders.

(1) The enforcing authority shall:

(a) enforce this chapter throughout the state;

(b) cooperate with state and local officials, officials of other states, and officials of the federal government in the administration of comparable statutes;

(c) inform consumers and suppliers on a continuing basis of the provisions of this chapter and of acts or practices that violate this chapter [~~including mailing information concerning final judgments to persons who request it, for which he may charge a reasonable fee to cover the expense~~];

(d) receive and act on complaints; and

(e) maintain a public file of final judgments rendered under this chapter that have been either reported officially or made available for public dissemination under Subsection (1)(c), final consent judgments, and to the extent the enforcing authority considers appropriate, assurances of voluntary compliance.

[~~(2) In carrying out his duties, the enforcing authority may not publicly disclose the identity of a person investigated unless his identity has become a matter of public record in an enforcement proceeding or he has consented to public disclosure.~~]

[~~(3)~~](2) On motion of the enforcing authority, or on its own motion, the court may impose a civil penalty of not more than $5,000 for each day a temporary restraining order, preliminary injunction, or permanent injunction issued under this chapter is violated, if the supplier received notice of the restraining or injunctive order. Civil penalties imposed under this section shall be paid to the General Fund.

Section 5. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a

particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; [~~and~~]

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake[~~.~~]; and

(88) a consumer complaint described in Section 13-2-11, unless the consumer complaint is reclassified as public as described in Subsection 13-2-11(4).

Section 6. Repealer.

This bill repeals:

Section 13-15-401, Consumer complaints.

Section 13-26-12, Consumer complaints are public.

Section 7. Effective date.

This bill takes effect on May 1, 2024, with the exception of Section 13-2-1 (Effective 05/02/2024) which takes effect on May 2, 2024.

CHAPTER 102
H. B. 43
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

CHARITABLE SOLICITATIONS ACT AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to charitable solicitations.

Highlighted Provisions:

This bill:

- defines terms;
- removes a requirement that charitable organizations register with the Division of Consumer Protection;
- requires a charitable organization to provide certain tax documents in a manner described by the Division of Consumer Protection;
- prohibits deceptive acts related to charitable solicitations;
- adds regulations and filing requirements for professional fund raisers and professional fund raising campaigns;
- grants rulemaking authority; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-6, as last amended by Laws of Utah 2021, Chapter 226
13-11-4, as last amended by Laws of Utah 2021, Chapters 138, 154
13-22-2, as last amended by Laws of Utah 2023, Chapter 17
13-22-3, as last amended by Laws of Utah 2008, Chapter 382
13-22-4, as last amended by Laws of Utah 1994, Chapter 185
13-22-5, as last amended by Laws of Utah 2018, Chapter 267
13-22-9, as last amended by Laws of Utah 2018, Chapter 267
13-22-11, as last amended by Laws of Utah 2016, Chapter 377
13-22-12, as last amended by Laws of Utah 2008, Chapter 382
13-22-13, as last amended by Laws of Utah 1994, Chapter 185
13-22-14, as last amended by Laws of Utah 2001, Chapter 210
13-22-16, as last amended by Laws of Utah 2015, Chapter 120
13-22-17, as last amended by Laws of Utah 1996, Chapter 187
13-22-22, as enacted by Laws of Utah 2001, Chapter 210
13-25a-102, as last amended by Laws of Utah 2022, Chapter 324
13-25a-111, as last amended by Laws of Utah 2010, Chapter 379
16-6a-102, as last amended by Laws of Utah 2023, Chapter 503
16-6a-203, as last amended by Laws of Utah 2015, Chapter 240
16-6a-1503, as last amended by Laws of Utah 2008, Chapters 249, 364
42-2-6.6, as last amended by Laws of Utah 2023, Chapter 458

ENACTS:

13-22-24, Utah Code Annotated 1953

REPEALS AND REENACTS:

13-22-15, as last amended by Laws of Utah 2015, Chapter 120

REPEALS:

13-22-6, as last amended by Laws of Utah 2020, Chapter 419
13-22-8, as last amended by Laws of Utah 2023, Chapter 17
13-22-21, as last amended by Laws of Utah 2018, Chapter 267

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

Section 1. Section 13-2-6 is amended to read:

13-2-6. Enforcement powers.

(1) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division shall have authority to convene administrative hearings, issue cease and desist orders, and impose fines under all the chapters identified in Section 13-2-1.

(2) [~~Any~~]A person who intentionally violates a final cease and desist order entered by the division of which the person has notice is guilty of a third degree felony.

(3) If the division has reasonable cause to believe that [~~any~~]a person has violated or is violating any chapter listed in Section 13-2-1, the division may promptly issue the alleged violator a citation signed by the division's director or the director's designee.

(a) Each citation shall be in writing and shall:

(i) set forth with particularity the nature of the violation, including a reference to the statutory or administrative rule provision violated;

(ii) state that [~~any~~]a request for review of the citation shall be made in writing and be received by the division no more than 20 calendar days after the day on which the division issues the citation;

(iii) state the consequences of failing to make a timely request for review; and

(iv) state all other information required by Subsection 63G-4-201(2).

(b) In computing [~~any~~]a time period [~~prescribed by~~]under this section, the following days may not be included:

(i) the day on which the division issues a citation; and

(ii) the day on which the division receives a request for review of a citation.

(c)(i) Except as provided in Subsection (3)(c)(iii), if the presiding officer finds that there is not substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

(A) the citation may not become final; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(ii) Except as provided in Subsection (3)(c)(iv), if the presiding officer finds that there is substantial evidence that the recipient violated a chapter listed in Section 13-2-1:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(iii) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is not clear and convincing evidence that the recipient violated the chapter:

(A) the citation may not become final; and

(B) the division shall immediately vacate the citation and promptly notify the recipient in writing.

(iv) For a citation issued for a violation of Chapter 41, Price Controls During Emergencies Act, if the presiding officer finds that there is clear and convincing evidence that the recipient violated the chapter:

(A) the citation shall become final; and

(B) the division may enter a cease and desist order against the recipient.

(d)(i) A citation issued under this chapter may be personally served upon [~~any~~]a person upon whom a summons may be served in accordance with the Utah Rules of Civil Procedure.

(ii) A citation also may be served by first-class mail, postage prepaid.

(e)(i) If the recipient fails to make a request for review within 20 calendar days after the day on which the division issues the citation, the citation shall become the final order of the division.

(ii) The period to contest the citation may be extended by the director for good cause shown.

(f) If the chapter violated allows for an administrative fine, after a citation becomes final, the director may impose the administrative fine.

(4)(a) A person who has violated, is violating, or has attempted to violate a chapter identified in Section 13-2-1 is subject to the division's jurisdiction if:

(i) the violation or attempted violation is committed wholly or partly within the state;

(ii) conduct committed outside the state constitutes an attempt to commit a violation within the state; or

(iii) transactional resources located within the state are used by the offender to directly or indirectly facilitate a violation or attempted violation.

(b) As used in this section, "transactional resources" means:

(i) [~~any~~]a mail drop or mail box, regardless of whether the mail drop or mail box is located on the premises of a United States Post Office;

(ii) [~~any~~]a telephone or facsimile transmission device;

(iii) [~~any~~]an Internet connection by a resident or inhabitant of this state with a resident- or nonresident-maintained Internet site;

(iv) [~~any~~]a business office or private residence used for a business-related purpose;

(v) [~~any~~]an account with or services of a financial institution;

(vi) the services of a common or private carrier; or

(vii) the use of [~~any~~]a city, county, or state asset or facility, including [~~any~~]a road or highway.

(5) The director or the director's designee, for the purposes outlined in [~~any~~]a chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, conduct audits, compel sworn responses to written questions, or compel the production of papers, books, accounts, documents, or evidence.

(6)(a) An administrative action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than 10 years after the day on which the alleged violation occurs.

(b) A civil action filed under this chapter or a chapter listed in Section 13-2-1 shall be commenced no later than five years after the day on which the alleged violation occurs.

(c) The provisions of this Subsection (6) control over the provisions of Title 78B, Chapter 2, Statutes of Limitations.

Section 2. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier does not have;

(j)(i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

[~~(o) represents that the funds or property conveyed in response to a charitable solicitation will be donated or used for a particular purpose or will be donated to or used by a particular organization, if the representation is false;~~]

(o) in connection with a charitable solicitation:

(i) falsely indicates that:

(A) the supplier is affiliated with a charitable organization;

(B) the supplier is an employee, officer, or representative of a public safety agency;

(C) the supplier has sponsorship or approval of a given charitable organization;

(D) a charitable contribution will be provided to a given charitable organization;

(E) providing a charitable contribution has an additional benefit, including a tax benefit; or

(F) the recipient of the solicitation has previously contributed to a given charitable organization;

(ii) uses a fictitious name or a name the supplier is not authorized to use; or

(iii) with intent to deceive:

(A) uses a name that is substantially similar to that of another charitable organization; or

(B) falsely indicates that a charitable contribution will be used for a particular purpose;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with a person who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the person's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business;

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions;

(y) violates Section 13-59-201; [~~or~~]

(z) fails to comply with the restrictions of Subsection 13-54-202(2)[~~.~~]; or

(aa) states or implies that a registration or application administered or enforced by the division is an endorsement, sanction, or approval by the division or a governmental agency or office.

(3)(a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4)(a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 3. Section 13-22-2 is amended to read:

13-22-2. Definitions.

As used in this chapter:

(1) "Chapter" means a chapter, branch, area, office, or similar affiliate of a charitable organization.

(2)(a) "Charitable organization" or "organization" means any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

(i) who is or holds itself out to be:

(A) a benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

(B) for the benefit of a public safety, law enforcement, or firefighter fraternal association; or

(C) established for any charitable purpose;

(ii) who solicits or obtains contributions solicited from the public for a charitable purpose; or

(iii) in any manner employs a charitable appeal as the basis of any solicitation or employs an appeal that reasonably suggests or implies that there is a charitable purpose to any solicitation.

(b) "Charitable organization" includes a chapter or a person who solicits contributions within the state for a charitable organization.

(c) "Charitable organization" does not include a political organization.

(3) "Charitable purpose" means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association.

(4) "Charitable sales promotion" means an advertising or sales campaign, conducted by a commercial co- venturer, which represents that the purchase or use of goods or services offered by the commercial co- venturer will benefit, in whole or in part, a charitable organization or purpose.

(5)(a) "Charitable solicitation" or "solicitation" means any request, directly or indirectly, for money, credit, property, financial assistance, or any other thing of value on the plea or representation that it will be used for a charitable purpose.

(b) "Charitable solicitation" or "solicitation" includes:

(i) any of the following done, or purporting to be done, for a charitable purpose:

(A) any oral or written request, including any request by telephone, radio, television, or other advertising or communications media;

(B) the distribution, circulation, or posting of any handbill, written advertisement, or publication; or

(C) an application or other request for a a private grant or, if made by an individual, a public grant; or

(ii) the sale of, offer or attempt to sell, or request of donations in exchange for any advertisement, membership, subscription, or other article in connection with which any appeal is made for any charitable purpose, or the use of the name of any charitable organization or movement as an inducement or reason for making any purchase donation, or, in connection with any sale or donation, stating or implying that the whole or any part of the proceeds of any sale or donation will go to or be donated to any charitable purpose.

(c) "Charitable solicitation" or "solicitation" does not include an entity's application or other request for a public grant.

(6) "Commercial co- venturer" means a person who for profit is regularly and primarily engaged in trade or commerce other than in connection with soliciting for a charitable organization or purpose.

(7)(a) "Contribution" means the pledge or grant for a charitable purpose of any money or property of any kind, including any of the following:

(i) a gift, subscription, loan, advance, or deposit of money or anything of value;

(ii) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for charitable purposes; or

(iii) fees, dues, or assessments paid by members, when membership is conferred solely as consideration for making a contribution.

(b) "Contribution" does not include:

(i) money loaned to a charitable organization by a financial institution in the ordinary course of business; or

(ii) fees, dues, or assessments paid by members when membership is not conferred solely as consideration for making a contribution.

(8) "Contributor" means a donor, pledgor, purchaser, or other person who makes a contribution.

(9) "Director" means the director of the Division of Consumer Protection.

(10) "Division" means the Division of Consumer Protection of the Department of Commerce.

(11)(a) "Exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of an individual to a federal, state, or local public office or an office in a political organization, or the election of presidential or vice- presidential electors, regardless of whether the individual or the electors are selected, nominated, elected, or appointed.

(b) "Exempt function" includes making an expenditure relating to an office described in Subsection (11)(a) which, if incurred by the individual, would be allowable as a deduction under section 162(a) of 26 I.R.C. Sec. 1.162- 20.

(12) "Foreign nonprofit corporation" means the same as that term is defined in Section 16- 6a- 102.

[~~(11)~~](13) "Material fact" means information that a person of ordinary intelligence and prudence

would consider relevant in deciding whether or not to make a contribution in response to a charitable solicitation.

(14) "Nonprofit corporation" means the same as that term is defined in Section 16-6a-102.

(15) "Political organization" means an incorporated or unincorporated party, committee, association, fund, or other organization organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures for an exempt function.

[~~(12)~~](16)(a) "Professional fund raiser" means a person who:

(i) for compensation or any other consideration, for or on behalf of a charitable organization that is a nonprofit corporation, or any other person that is not a political organization:

(A) solicits contributions; or

(B) promotes or sponsors the solicitation of contributions;

(ii)(A) for compensation or any other consideration, plans, manages,[~~ counsels,~~] consults, or prepares material for, or with respect to, the solicitation of contributions for a charitable organization that is a nonprofit corporation, or any other person that is not a political organization; and

(B) at any time has custody of a contribution for the charitable organization;

(iii) engages in, or represents being independently engaged in, the business of soliciting contributions for a charitable organization that is a nonprofit corporation;

(iv) manages, supervises, or trains any solicitor whether as an employee or otherwise; or

(v) uses a vending device or vending device decal for financial or other consideration that implies a solicitation of contributions or donations for any charitable organization or charitable purposes.

(b) "Professional fund raiser" does not include:

(i) an individual acting in the individual's capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization;

(ii) an attorney, investment counselor, or banker who, in the conduct of that person's profession, advises a client regarding legal, investment, or financial advice; [~~or~~]

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input[~~.~~]; or

(iv) a political organization.

[~~(13)~~](17)(a) "Professional fund raising [~~counsel or~~]consultant" means a person who:

(i) for compensation or any other consideration, plans, manages, [~~counsels,~~]consults, or prepares material for, or with respect to, the solicitation of contributions for a charitable organization that is a nonprofit corporation or any other person that is not a political organization;

(ii) does not solicit contributions;

(iii) does not at any time have custody of a contribution from solicitation; and

(iv) does not employ, procure, or engage any compensated person to solicit or receive contributions.

(b) "Professional fund raising counsel or consultant" does not include:

(i) an individual acting in the individual's capacity as a bona fide officer, director, volunteer, or full-time employee of a charitable organization;

(ii) an attorney, investment counselor, or banker who, in the conduct of that person's profession, advises a client regarding legal, investment, or financial advice; or

(iii) a person who tangentially prepares materials, including a person who:

(A) makes copies;

(B) cuts or folds flyers; or

(C) creates a graphic design or other artwork without providing strategic or campaign-related input.

[~~(14)~~](18) "Public grant" means the same as the term "grant" is defined in Section 63G-6a-103.

[~~(15)~~](19)(a) "Vending device" means a container used by a charitable organization or professional fund raiser, for the purpose of collecting a charitable solicitation, contribution, or donation whether or not the device offers a product or item in return for the contribution or donation.

(b) "Vending device" includes machines, boxes, jars, wishing wells, barrels, or any other container.

[~~(16)~~](20) "Vending device decal" means any decal, tag, or similar designation material that is attached to a vending device, whether or not used or placed by a charitable organization or professional fund raiser, that would indicate that all or a portion of the proceeds from the purchase of items from the vending device will go to a specific charitable organization.

Section 4. Section 13-22-3 is amended to read:

13-22-3. Investigative and enforcement powers -- Education.

(1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) Upon request, the attorney general shall give legal advice to, and act as counsel for, the division in

the exercise of the division's responsibilities under this chapter.

(3) The division may [~~make any investigation it considers~~]audit or investigate as necessary to determine whether [~~any~~]a person is violating, has violated, or is about to violate [~~any~~]a provision of this chapter or [~~any~~]a rule made or order issued under this chapter. As part of the investigation, the division may:

(a) require a person to file a statement in writing;

(b) administer oaths, subpoena witnesses and compel [~~their attendance~~]a witness to attend, compel sworn responses to written questions, take evidence, and examine under oath [~~any~~]a person in connection with an investigation; and

(c) require the production of [~~any~~]books, papers, documents, merchandise, or other material relevant to the investigation.

[~~(2) Whenever it appears to the director that substantial evidence exists that any person has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may do any of the following in addition to other specific duties under this chapter:~~]

[~~(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may issue an order to cease and desist from engaging in the act or practice or from doing any act in furtherance of the activity; or~~]

[~~(b) the director may bring an action in the appropriate district court of this state to enjoin the acts or practices constituting the violation or to enforce compliance with this chapter or any rule made or order issued under this chapter.~~]

[~~(3) Whenever it appears to the director by a preponderance of the evidence that a person has engaged in or is engaging in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may assess an administrative fine of up to $500 per violation up to $10,000 for any series of violations arising out of the same operative facts.~~]

(4) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the director may impose an administrative fine of up to $2,500 for each violation of this chapter; or

(b) the division may bring an action in a court with jurisdiction to enjoin the acts or practices constituting the violation or to enforce compliance with this chapter or a rule made or order issued under this chapter.

(5) Upon a proper showing, the court hearing an action brought under Subsection [~~(2)(b)~~](4)(b) may:

(a) issue an injunction;

(b) enter a declaratory judgment;

(c) appoint a receiver for the defendant or the defendant's assets and order the defendant to pay the expenses of the receiver;

(d) order disgorgement of any money received in violation of this chapter;

(e) order rescission of agreements violating this chapter;

(f) impose [~~a fine of not more than $2,000~~]fines for each violation of this chapter; and

(g) impose a civil penalty[~~,~~] or any other relief the court [~~considers just~~]determines reasonable and necessary.

(6) If a court with jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

[~~(5)~~](7)[~~(a)~~] In assessing the amount of a fine or penalty under [~~Subsection~~] [~~(3), (4)(f), or (4)(g)~~] Subsection (4)(a), (5)(f), or (5)(g), the director or court imposing the fine or penalty [~~shall~~]may consider the gravity of the violation[~~ and the intent of the violator~~].

[~~(b) If it does not appear by a preponderance of the evidence that the violator acted in bad faith or with intent to harm the public, the director or court shall excuse payment of the fine or penalty.~~]

(8)(a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of up to $5,000 for each violation.

(b) A court may impose a civil penalty authorized under this section in a civil action brought by the attorney general on behalf of the division.

[~~(6)~~](9) The division may provide or contract to provide public education and voluntary education for applicants and registrants under this chapter. The education may be in the form of publications, advertisements, seminars, courses, or other appropriate means. The scope of the education may include:

(a) the requirements, prohibitions, and regulated practices under this chapter;

(b) suggestions for effective financial and organizational practices for charitable organizations;

(c) charitable giving and solicitation;

(d) potential problems with solicitations and fraudulent or deceptive practices; and

(e) any other matter relevant to the subject of this chapter.

(10) Nothing in this chapter limits other available rights or remedies authorized under the laws of this state or the United States.

Section 5. Section 13-22-4 is amended to read:

13-22-4. Action for damages.

[~~(1) A person who willfully violates any provision of this chapter, either by failing to comply with any requirement or by doing any act prohibited in the chapter, is guilty of a class B misdemeanor. Each day the violation is committed or permitted to continue constitutes a separate punishable offense.~~ ~~(2)~~] Nothing in this [~~section~~]chapter precludes any person damaged as a result of a charitable solicitation from maintaining a civil action for damages or injunctive relief.

[~~(3) The division may maintain an action for damages or injunctive relief on behalf of itself or any other person to enforce compliance with this chapter.~~]

Section 6. Section 13-22-5 is amended to read:

13-22-5. Registration required.

[~~(1)(a) An organization may not engage in an activity described in Subsection (1)(b) unless the organization is:~~]

[~~(i) exempt under Section 13-22-8; or~~]

[~~(ii) registered with the division in accordance with this chapter.~~]

[~~(b) Unless an organization meets the requirements of Subsection (1)(a), the organization may not knowingly solicit, promote, or sponsor a charitable solicitation if the charitable solicitation:~~]

[~~(i) originates in Utah;~~]

[~~(ii) is received in Utah; or~~]

[~~(iii) is caused to be made through business operations in Utah.~~]

[~~(2) Subsection (1) does not prohibit an organization from receiving an unsolicited contribution.~~]

[~~(3)~~](1)[~~(a)~~] Unless a person acting as a professional fund raiser [~~obtains a permit~~]is registered with the division in accordance with Section 13-22-9, the person may not:

[~~(i)~~](a) make or facilitate a solicitation either directed toward the state or originating from the state; or

[~~(ii)~~](b) maintain a place of business in the state or employ an individual located in the state.

[~~(b) Subsection (3)(a) applies regardless of whether a charitable organization receiving the services of a professional fund raiser is required to register under this chapter.~~]

[~~(4)~~](2)[~~(a)~~] Unless a person acting as a professional fund raising [~~counsel or~~]consultant [~~obtains a permit~~]is registered with the division in accordance with Section 13-22-9, the person may not:

[~~(i)~~](a) maintain a place of business in the state or employ an individual located in the state; or

[~~(ii)~~](b) provide any service of a professional fund raising [~~counsel or~~]consultant to or for a charitable organization, or any other person, over which the state has general jurisdiction.

[~~(b) Subsection (4)(a) applies regardless of whether a charitable organization receiving the services of a professional fund raising counsel or consultant is required to register under this chapter.~~]

[~~(5) A person required to obtain a permit under Subsection (3) or (4) may not provide any service to or on behalf of an organization required to register under Subsection (1) if the organization is not registered in accordance with Section 13-22-6.~~]

Section 7. Section 13-22-9 is amended to read:

13-22-9. Professional fund raiser's or fund raising consultant's registration.

(1) A person applying for or renewing a [~~permit~~]registration as a professional fund raiser or a professional fund raising [~~counsel or~~]consultant shall:

(a) pay an application fee as determined under Section 63J-1-504; and

(b) submit a written application, verified under oath, on a form approved by the division that includes:

(i) the applicant's name, address, telephone number, facsimile number, if any;

(ii) the name and address of [~~any~~]each organization or person controlled by, controlling, or affiliated with the applicant;

(iii) the applicant's business, occupation, or employment for the three-year period immediately preceding the date of the application;

(iv) whether it is an individual, joint venture, partnership, limited liability company, corporation, association, or other entity;

(v) the names and residence addresses of [~~any officer or director of the applicant~~]the applicant's officers and directors;

(vi) the name and address of the applicant's registered agent for service of process and a consent to service of process;

(vii) if a professional fund raiser:

(A) the purpose of the solicitation and use of the contributions to be solicited;

(B) the method by which the solicitation will be conducted and the projected length of time it is to be conducted;

(C) the anticipated expenses of the solicitation, including all commissions, costs of collection, salaries, and [~~any other items~~]other expenses;

(D) a statement of what percentage of the contributions collected as a result of the solicitation

are projected to remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of the flat fee; and

(E) a statement of total contributions collected or received by the professional fund raiser within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use made of the contributions;

(viii) if a professional fund raising [~~counsel or~~]consultant:

(A) the purpose of the plan, management, advice, [~~counsel~~]or preparation of materials for, or with respect to, the solicitation and use of the contributions solicited;

(B) the method by which the plan, management, advice, [~~counsel,~~]or preparation of materials for, or with respect to, the solicitation will be organized or coordinated and the projected length of time of the solicitation;

(C) the anticipated expenses of the plan, management, advice, [~~counsel,~~]or preparation of materials for, or with respect to, the solicitation, including all commissions, costs of collection, salaries, and [~~any other items~~]other expenses;

(D) a statement of total fees to be earned or received from the charitable organization declared in the application, and what percentage of the contributions collected as a result of the plan, management, advice, [~~counsel,~~] or preparation of materials for, or with respect to, the solicitation are projected after deducting the total fees to be earned or received remain available to the charitable organization declared in the application, including a satisfactory statement of the factual basis for the projected percentage and projected anticipated revenues provided to the charitable organization, and if a flat fee is charged, documentation to support the reasonableness of such flat fee; and

(E) a statement of total net fees earned or received within the calendar year immediately preceding the date of the application, including a description of the expenditures made from or the use of the net earned or received fees in the planning, management, advising, [~~counseling,~~]or preparation of materials for, or with respect to, the solicitation and use of the contributions solicited for the charitable organization;

(ix) disclosure of any injunction, judgment, or administrative order against the applicant or the applicant's conviction of [~~any crime involving moral turpitude~~]a crime involving a charitable solicitation or a felony involving fraud, dishonesty, a false statement, forgery, or theft;

[~~(x) a copy of any written agreements with any charitable organization;~~]

(x) each written agreement the applicant has with a charitable organization;

(xi) [~~the~~]disclosure of any injunction, judgment, or administrative order or conviction of [~~any crime involving moral turpitude~~]a crime involving a charitable solicitation or a felony involving fraud, dishonesty, a false statement, forgery, or theft with respect to any officer, director, manager, operator, or principal of the applicant;

(xii) a copy of all agreements to which the applicant is, or proposes to be, a party regarding the use of proceeds;

(xiii) an acknowledgment that fund raising in the state will not commence until both the professional fund raiser or professional fund raising [~~counsel or~~]consultant and the charity, and its parent foundation, if any, are registered and in compliance with this chapter; and

(xiv) [~~any~~]additional information the division may require by rule.

(2) If [~~any~~]information contained in the application for [~~a permit~~]registration becomes incorrect or incomplete, the applicant or registrant shall, within 30 days after the information becomes incorrect or incomplete, correct the application or file the complete information required by the division.

(3) In addition to the [~~permit~~]registration fee, an applicant failing to file [~~a permit application~~]an application for registration or renewal by the due date or filing an incomplete [~~permit application~~]application for registration or renewal shall pay an additional fee of $25 for each month or part of a month after the date on which the [~~permit application~~]application for registration or renewal [~~were~~]was due to be filed.

Section 8. Section 13-22-11 is amended to read:

13-22-11. Expiration of registration.

[~~(1) Each charitable organization registration issued under this chapter expires annually on the earlier of January 1, April 1, July 1, or October 1 following the completion of 12 months after the date of initial issuance.~~]

[~~(2)~~](1) Each professional fund raiser's [~~permit~~]registration issued under this chapter expires annually on the date of issuance.

[~~(3)~~](2) Each professional fund raising [~~counsel's or~~]consultant's [~~permit~~]registration issued under this chapter expires annually on the date of issuance.

[~~(4)~~](3) A registration [~~or permit~~]may be renewed only by complying with the requirements for obtaining the original registration[~~ or permit~~].

Section 9. Section 13-22-12 is amended to read:

13-22-12. Grounds for denial, suspension, or revocation.

[~~(1)~~] The director may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act,

issue an order to deny, suspend, or revoke an application[~~, registration, permit, or information card~~]or registration, upon a finding that the order is in the public interest and that:

[~~(a)~~](1) the application for registration or renewal is incomplete or misleading in any material respect;

[~~(b)~~](2) the applicant or registrant or [~~any~~]an officer, director, agent, or employee of the applicant or registrant has:

[~~(i)~~](a) violated this chapter or committed [~~any of the prohibited acts and practices~~]a prohibited act or practice described in this chapter;

[~~(ii)~~](b) been enjoined by [~~any~~]a court, or is the subject of an administrative order issued in this or another state, if the injunction or order includes a finding or admission of fraud, breach of fiduciary duty, material misrepresentation, or if the injunction or order was based on a finding of lack of integrity, truthfulness, or mental competence of the applicant;

[~~(iii)~~](c) been convicted of a crime involving [~~moral turpitude~~]fraud, dishonesty, a false statement, forgery, or theft;

[~~(iv)~~](d) obtained or attempted to obtain a registration [~~or a permit~~]by misrepresentation;

[~~(v)~~](e) materially misrepresented or caused to be misrepresented the purpose and manner in which contributed funds and property will be used in connection with [~~any~~]a solicitation;

[~~(vi)~~](f) caused or allowed [~~any~~]a paid solicitor to violate [~~any~~]a rule made or order issued under this chapter by the division;

[~~(vii)~~](g) failed to take corrective action with [~~its solicitors who have~~]a solicitor that has violated this chapter or committed [~~any of the prohibited acts and practices of~~]an act or practice prohibited by this chapter;

[~~(viii)~~](h) used, or attempted to use a name that [~~either is deceptively similar to a name used by an existing registered or exempt charitable organization, or appears~~]is deceptive or is reasonably likely to cause confusion [~~of names~~];

[~~(ix)~~](i) failed to timely file with the division [~~any~~]a report or information required in this chapter or by rules made under this chapter; or

[~~(x)~~](j) failed to pay a fine imposed by the division in accordance with Section 13-22-3[~~; or~~].

[~~(c) the applicant for registration or renewal has no charitable purpose.~~]

[~~(2) The director may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, issue an order to revoke or suspend a claim of exemption filed under Subsection 13-22-8(4), upon a finding that the order is in the public interest and that:~~]

[~~(a) the notice of claim of exemption is incomplete or false or misleading in any material respect; or~~]

[~~(b) any provision of this chapter, or any rule made or order issued by the division under this chapter has been violated in connection with a charitable solicitation by any exempt organization.~~]

Section 10. Section 13-22-13 is amended to read:

13-22-13. Prohibited practices.

In connection with [~~any~~]a solicitation, each of the following acts and practices is prohibited:

(1) stating or implying that registration constitutes endorsement or approval by the division or [~~any~~]a governmental entity;

(2) violating [~~any of the requirements~~]a requirement of this chapter or [~~any rule~~]a rule made under this chapter;

(3) making [~~any untrue~~]a false statement of a material fact or failing to state a material fact necessary to make statements made, in the context of the circumstances under which they are made, not misleading, whether in connection with a charitable solicitation or a filing with the division; and

(4) violating an order issued by the division under [~~Subsection 13-22-3(2) or (3)~~]Section 13-22-3.

Section 11. Section 13-22-14 is amended to read:

13-22-14. Accuracy not guaranteed.

(1) By issuing a [~~permit~~]registration, the state does not guarantee the accuracy of any representation contained in the [~~permit~~]registration, nor does it warrant that any statement made by the holder of the [~~permit~~]registration is truthful. The state makes no certification as to the charitable worthiness of any organization on whose behalf a solicitation is made nor as to the moral character of the holder of the [~~permit~~]registration.

(2) The following statement shall appear on each [~~permit~~]registration: "THE STATE OF UTAH MAKES NO CERTIFICATION AS TO THE CHARITABLE WORTHINESS OF ANY ORGANIZATION ON WHOSE BEHALF A SOLICITATION IS MADE NOR AS TO THE MORAL CHARACTER OF THE HOLDER OF THE [~~PERMIT~~]REGISTRATION."

[~~(3) No solicitation for charitable purposes shall use the fact or requirement of registration or of the filing of any report with the division pursuant to this chapter with the intent to cause or in a manner tending to cause any person to believe that the solicitation, the manner in which it is conducted, its purposes, any use to which the proceeds will be applied or the person or organization conducting it has been or will be in any way endorsed, sanctioned, or approved by the division or any governmental agency or office.~~]

Section 12. Section 13-22-15 is repealed and re-enacted to read:

13-22-15. Financial reports required -- Rulemaking.

(1)(a) Beginning January 1, 2025, and subject to Subsection (2), a charitable organization that is a nonprofit corporation, or that is a foreign nonprofit corporation, shall file an unredacted copy of the charitable organization's most recent IRS Form 990, 990-EZ, 990-N, or 990-PF.

(b) Subsection (1)(a) does not apply to a nonprofit corporation or a foreign nonprofit corporation that is not required to file a Form 990, 990-EZ, 990-N, or 990-PF with the IRS.

(2)(a)(i) The division may not require a charitable organization to file Schedule B of a form described in Subsection (1).

(ii) An IRS Form 990-T is not required to be filed under this section.

(b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) the manner in which a charitable organization is required to file the forms described in Subsection (1); and

(ii) the process by which a charitable organization is required to file the forms described in Subsection (1).

Section 13. Section 13-22-16 is amended to read:

13-22-16. Separate accounts and receipts required.

(1)(a) Each professional fund raiser shall segregate and maintain all contributed funds in an account held separately from the professional fund raiser's operating account.

(b) Each contribution in the control or custody of the professional fund raiser shall, no later than 10 days after the day on which the contribution is received, be deposited into an account at a bank or other federally insured financial institution that is in the name of the charitable organization.

(c) The charitable organization shall maintain and administer the account and shall have sole control of all withdrawals.

(2) Each [~~organization required to be registered under this chapter and each~~]professional fund raiser shall:

(a) maintain a record of each contribution of money, securities, or cash equivalent sufficient to allow the organization or professional fund raiser to provide a receipt to the contributor upon request or as required by law; and

(b) provide a contributor a receipt for each contribution upon request or as required by law.

(3) [~~An organization required to be registered under this chapter and each~~]A professional fund raiser shall develop and maintain adequate internal controls for receipt, management, and disbursement of money that are reasonable in light of the organization's or professional fund raiser's assets and organizational complexity.

Section 14. Section 13-22-17 is amended to read:

13-22-17. Written agreement required.

(1) A professional fund raiser may only engage in activities on behalf of a charitable organization through written agreement with the organization.

(2) A professional fund raising [~~counsel or~~]consultant may only engage in activities on behalf of a charitable organization through written agreement with the organization.

(3) A charitable organization may only engage the services of a professional fund raiser or professional fund raising [~~counsel or~~]consultant through written agreement.

(4) A professional fund raiser or professional fund raising consultant shall file each agreement described in this section with its application for registration.

[~~(4) Copies of the agreement required by this section shall be attached to all applications for registration and or a permit.~~]

Section 15. Section 13-22-22 is amended to read:

13-22-22. Charitable sales promotions.

[~~(1) Every charitable organization which agrees to permit a charitable sales promotion to be conducted by a commercial co-venturer on its behalf shall file with the division a notice of the promotion prior to its commencement within this state. The notice shall state:~~]

[~~(a) the names of the charitable organization and commercial co-venturer;~~]

[~~(b) that the charitable organization and the commercial co-venturer will conduct a charitable sales promotion; and~~]

[~~(c) the date the charitable sales promotion is expected to commence.~~]

[~~(2) Prior to the commencement of a charitable sales promotion within this state, every charitable organization which agrees to permit a charitable sales promotion to be conducted in its behalf, shall obtain a written agreement, containing such terms as may be required by rule of the division, from the commercial co-venturer which shall be available to the division upon request.~~]

[~~(3) A commercial co-venturer shall keep the final accounting for each charitable sales promotion conducted in this state for three years after the final accounting date and make the accounting available to the division upon request.~~

~~(4) The~~]A commercial co-venturer shall disclose in each advertisement for a charitable sales promotion the dollar amount or percent per unit of goods or services purchased or used that will benefit the charitable organization or purpose.

Section 16. Section 13-22-24 is enacted to read:

13-22-24. Fund raising campaign registration required.

(1) As used in this section, "fund raising campaign" means charitable solicitation activity that a professional fund raiser engages in on behalf of a charitable organization where the professional fund raiser receives a portion of the funds raised or other compensation in exchange for services.

(2) Before commencing a fund raising campaign, a professional fund raiser shall submit to the division:

(a) projected expenses and revenue for the campaign;

(b) bank account information for the bank account where the professional fund raiser will hold contributions collected in connection with the fund raising campaign;

(c) the solicitation scripts that will be used for the fund raising campaign;

(d) an affirmation from the professional fund raiser that the charity has approved the solicitation materials to be used in the fund raising campaign; and

(e) names and contact information for the individuals overseeing the fund raising campaign.

(3) No later than 90 days after the day on which the fund raising campaign ends, the professional fund raiser shall submit a report to the division detailing:

(a) all contributions collected during the fund raising campaign;

(b) all contributions paid to the charitable organization as a result of the fund raising campaign; and

(c) expenses paid by the charitable organization to the professional fund raiser for the fund raising campaign.

(4) A professional fund raiser shall keep records related to the information described in Subsection (2) for five years after the day on which the fund raising campaign ends.

Section 17. Section 13-25a-102 is amended to read:

13-25a-102. Definitions.

As used in this chapter:

(1) "Advertisement" means material offering for sale, or advertising the availability or quality of, any property, good, or service.

(2)(a) "Automated telephone dialing system" means equipment used to:

(i) store or produce telephone numbers;

(ii) call a stored or produced number; and

(iii) connect the number called with a recorded message or artificial voice.

(b) "Automated telephone dialing system" does not include a system used in an emergency involving the immediate health or safety of a person, including a burglar alarm system, voice messaging system, fire alarm system, or other similar system.

(3) "Division" means the Division of Consumer Protection.

(4)(a) "Established business relationship" means a relationship that:

(i) is based on inquiry, application, purchase, or transaction regarding products or services offered;

(ii) is formed by a voluntary two-way communication between a person making a telephone solicitation and a person to whom a telephone solicitation is made; and

(iii) has not been terminated by:

(A) an act by either person; or

(B) the passage of 18 months since the most recent inquiry, application, purchase, transaction, or voluntary two-way communication.

(b) "Established business relationship" includes a relationship with an affiliate as defined in Section 16-10a-102.

(5) "Facsimile machine" means equipment used for:

(a) scanning or encoding text or images for conversion into electronic signals for transmission; or

(b) receiving electronic signals and reproducing them as a duplicate of the original text or image.

(6) "Negative response" means a statement from a person stating the person does not wish to listen to the sales presentation or participate in the solicitation presented in the telephone call.

(7) "On-call emergency provider" means an individual who is required by an employer to be on call to respond to a medical emergency.

(8) "Telephone solicitation" means the initiation of a telephone call or message for a commercial purpose or to seek a financial donation, including calls:

(a) encouraging the purchase or rental of, or investment in, property, goods, or services, regardless of whether the transaction involves a nonprofit organization;

(b) soliciting a sale of or extension of credit for property or services to the person called;

(c) soliciting information that will be used for:

(i) the direct solicitation of a sale of property or services to the person called; or

(ii) an extension of credit to the person called for a sale of property or services;

(d) soliciting a charitable [~~donation involving the exchange of any premium, prize, gift, ticket,~~

~~subscription, or other benefit in connection with any appeal made for a charitable purpose~~] contribution; or

(e) encouraging the person called to sell real or personal property.

(9) "Telephone solicitor" means [~~any~~]an individual, firm, organization, partnership, association, or corporation who makes or causes to be made an unsolicited telephone call, including calls made by use of an automated telephone dialing system.

(10) "Unsolicited telephone call" means a telephone call for a commercial purpose or to seek a financial donation other than a call made:

(a) in response to an express request of the person called;

(b) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

(c) to a person with whom the telephone solicitor has an established business relationship; or

(d) as required by law for a medical purpose.

Section 18. Section 13-25a-111 is amended to read:

13-25a-111. Exemptions.

Notwithstanding any other provision of this chapter, Sections 13-25a-103 and 13-25a-108 do not apply to[~~:~~]

[~~(1) a telephone call made for a charitable purpose as defined in Section 13-22-2;~~]

[~~(2) a charitable solicitation as defined in Section 13-22-2; or~~]

[~~(3)~~] a person who holds and acts within the scope of a license or registration:

[~~(a)~~](1) under Title 31A, Insurance Code;

[~~(b)~~](2) issued by the Division of Real Estate established in Section 61-2-201; or

[~~(c)~~](3) issued by the National Association of Securities Dealers.

Section 19. Section 16-6a-102 is amended to read:

16-6a-102. Definitions.

As used in this chapter:

(1)(a) "Address" means a location where mail can be delivered by the United States Postal Service.

(b) "Address" includes:

(i) a post office box number;

(ii) a rural free delivery route number; and

(iii) a street name and number.

(2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the person specified.

(3) "Articles of incorporation" include:

(a) amended articles of incorporation;

(b) restated articles of incorporation;

(c) articles of merger; and

(d) a document of a similar import to the documents described in Subsections (3)(a) through (c).

(4) "Assumed corporate name" means a name assumed for use in this state:

(a) by a:

(i) foreign corporation [~~pursuant to~~]as described in Section 16-10a-1506; or

(ii) a foreign nonprofit corporation [~~pursuant to~~]as described in Section 16-6a-1506; and

(b) because the corporate name of the foreign corporation described in Subsection (4)(a) is not available for use in this state.

(5)(a) Except as provided in Subsection (5)(b), "board of directors" means the body authorized to manage the affairs of a domestic or foreign nonprofit corporation.

(b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the board of directors because of a power delegated to that person [~~pursuant to~~]under Subsection 16-6a-801(2).

(6)(a) "Bylaws" means the one or more codes of rules, other than the articles of incorporation, adopted [~~pursuant to~~]under this chapter for the regulation or management of the affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by which the codes of rules are designated.

(b) "Bylaws" includes:

(i) amended bylaws; and

(ii) restated bylaws.

(7)(a) "Cash" or "money" means:

(i) legal tender;

(ii) a negotiable instrument; or

(iii) other cash equivalent readily convertible into legal tender.

(b) "Cash" and "money" are used interchangeably in this chapter.

(8) "Charitable organization" means the same as that term is defined in Section 13-22-2.

[~~(8)~~](9)(a) "Class" means a group of memberships that has the same right with respect to voting, dissolution, redemption, transfer, or other characteristics.

(b) For purposes of Subsection [~~(8)(a)~~](9)(a), a right is considered the same if it is determined by a formula applied uniformly to a group of memberships.

[~~(9)~~](10)(a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed the writing.

(b) "Conspicuous" includes printing or typing in:

(i) italics;

(ii) boldface;

(iii) contrasting color;

(iv) capitals; or

(v) underlining.

[~~(10)~~](11) "Control" or a "controlling interest" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity by:

(a) the ownership of voting shares;

(b) contract; or

(c) a means other than those specified in Subsection [~~(10)(a) or (b)~~](11)(a) or (b).

[~~(11)~~](12) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or "cooperative" means a nonprofit corporation organized or existing under this chapter.

[~~(12)~~](13) "Corporate name" means:

(a) the name of a domestic corporation as stated in the domestic corporation's articles of incorporation;

(b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit corporation's articles of incorporation;

(c) the name of a foreign corporation as stated in the foreign corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation; or

(d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit corporation's:

(i) articles of incorporation; or

(ii) document of similar import to articles of incorporation.

[~~(13)~~](14)(a) "Corporate records" means the records described in Section 16-6a-1601.

(b) "Corporate records" does not include correspondence, communications, notes, or other similar information, regardless of format or method of storage, that are not an official decision, published document, or record of the corporation.

[~~(14)~~](15) "Corporation" or "domestic corporation" means a corporation for profit that:

(a) is not a foreign corporation; and

(b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation Act.

[~~(15)~~](16) "Delegate" means a person elected or appointed to vote in a representative assembly:

(a) for the election of a director; or

(b) on matters other than the election of a director.

[~~(16)~~](17) "Deliver" includes delivery by mail or another means of transmission authorized by Section 16-6a-103, except that delivery to the division means actual receipt by the division.

[~~(17)~~](18) "Director" means a member of the board of directors.

[~~(18)~~](19)(a) "Distribution" means the payment of a dividend or any part of the income or profit of a nonprofit corporation to the nonprofit corporation's:

(i) members;

(ii) directors; or

(iii) officers.

(b) "Distribution" does not include a fair-value payment for:

(i) a good sold; or

(ii) a service received.

[~~(19)~~](20) "Division" means the Division of Corporations and Commercial Code.

[~~(20)~~](21) "Effective date," when referring to a document filed by the division, means the time and date determined in accordance with Section 16-6a-108.

[~~(21)~~](22) "Effective date of notice" means the date notice is effective as provided in Section 16-6a-103.

[~~(22)~~](23) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.

[~~(23)~~](24)(a) "Employee" includes an officer of a nonprofit corporation.

(b)(i) Except as provided in Subsection [~~(23)(b)(ii)~~](24)(b)(ii), "employee" does not include a director of a nonprofit corporation.

(ii) Notwithstanding Subsection [~~(23)(b)(i)~~](24)(b)(i), a director may accept one or more duties that make that director an employee of a nonprofit corporation.

[~~(24)~~](25) "Entity" includes:

(a) a domestic or foreign corporation;

(b) a domestic or foreign nonprofit corporation;

(c) a limited liability company;

(d) a profit or nonprofit unincorporated association;

(e) a business trust;

(f) an estate;

(g) a partnership;

(h) a trust;

(i) two or more persons having a joint or common economic interest;

(j) a state;

(k) the United States; or

(l) a foreign government.

[~~(25)~~](26) "Executive director" means the executive director of the Department of Commerce.

[~~(26)~~](27) "Foreign corporation" means a corporation for profit incorporated under a law other than the laws of this state.

[~~(27)~~](28) "Foreign nonprofit corporation" means an entity:

(a) incorporated under a law other than the laws of this state; and

(b) that would be a nonprofit corporation if formed under the laws of this state.

[~~(28)~~](29) "Governmental entity" means:

(a)(i) the executive branch of the state;

(ii) the judicial branch of the state;

(iii) the legislative branch of the state;

(iv) an independent entity, as defined in Section 63E-1-102;

(v) a political subdivision of the state;

(vi) a state institution of higher education, as defined in Section 53B-3-102;

(vii) an entity within the state system of public education; or

(viii) the National Guard; or

(b) any of the following that is established or controlled by a governmental entity listed in Subsection [~~(28)(a)~~](29)(a) to carry out the public's business:

(i) an office;

(ii) a division;

(iii) an agency;

(iv) a board;

(v) a bureau;

(vi) a committee;

(vii) a department;

(viii) an advisory board;

(ix) an administrative unit; or

(x) a commission.

[~~(29)~~](30) "Governmental subdivision" means:

(a) a county;

(b) a city;

(c) a town; or

(d) another type of governmental subdivision authorized by the laws of this state.

[~~(30)~~](31) "Individual" means:

(a) a natural person;

(b) the estate of an incompetent individual; or

(c) the estate of a deceased individual.

[~~(31)~~](32) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as amended from time to time, or to corresponding provisions of subsequent internal revenue laws of the United States of America.

[~~(32)~~](33)(a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail, properly addressed, first-class postage prepaid.

(b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the proper fee is paid.

[~~(33)~~](34)(a) "Member" means one or more persons identified or otherwise appointed as a member of a domestic or foreign nonprofit corporation as provided:

(i) in the articles of incorporation;

(ii) in the bylaws;

(iii) by a resolution of the board of directors; or

(iv) by a resolution of the members of the nonprofit corporation.

(b) "Member" includes:

(i) "voting member"; and

(ii) a shareholder in a water company.

[~~(34)~~](35) "Membership" refers to the rights and obligations of a member or members.

[~~(35)~~](36) "Mutual benefit corporation" means a nonprofit corporation:

(a) that issues shares of stock to its members evidencing a right to receive distribution of water or otherwise representing property rights; or

(b) all of whose assets are contributed or acquired by or for the members of the nonprofit corporation or [~~their~~]the members' predecessors in interest to serve the mutual purposes of the members.

[~~(36)~~](37) "Nonprofit corporation" or "domestic nonprofit corporation" means an entity that:

(a) is not a foreign nonprofit corporation; and

(b) is incorporated under or subject to this chapter.

[~~(37)~~](38) "Notice" means the same as that term is defined in Section 16-6a-103.

[~~(38)~~](39) "Party related to a director" means:

(a) the spouse of the director;

(b) a child of the director;

(c) a grandchild of the director;

(d) a sibling of the director;

(e) a parent of the director;

(f) the spouse of an individual described in Subsections [~~(38)(b) through (e)~~](39)(b) through (e);

(g) an individual having the same home as the director;

(h) a trust or estate of which the director or another individual specified in this Subsection [~~(38)~~](39) is a substantial beneficiary; or

(i) any of the following of which the director is a fiduciary:

(i) a trust;

(ii) an estate;

(iii) an incompetent;

(iv) a conservatee; or

(v) a minor.

[~~(39)~~](40) "Person" means an:

(a) individual; or

(b) entity.

[~~(40)~~](41) "Principal office" means:

(a) the office, in or out of this state, designated by a domestic or foreign nonprofit corporation as its principal office in the most recent document on file with the division providing that information, including:

(i) an annual report;

(ii) an application for a certificate of authority; or

(iii) a notice of change of principal office; or

(b) if no principal office can be determined, a domestic or foreign nonprofit corporation's registered office.

[~~(41)~~](42) "Proceeding" includes:

(a) a civil suit;

(b) arbitration;

(c) mediation;

(d) a criminal action;

(e) an administrative action; or

(f) an investigatory action.

[~~(42)~~](43) "Receive," when used in reference to receipt of a writing or other document by a domestic or foreign nonprofit corporation, means the writing or other document is actually received:

(a) by the domestic or foreign nonprofit corporation at:

(i) its registered office in this state; or

(ii) its principal office;

(b) by the secretary of the domestic or foreign nonprofit corporation, wherever the secretary is found; or

(c) by another person authorized by the bylaws or the board of directors to receive the writing or other document, wherever that person is found.

[~~(43)~~](44)(a) "Record date" means the date established under Part 6, Members, or Part 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of the nonprofit corporation's members.

(b) The determination described in Subsection [~~(43)(a)~~](44)(a) shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

[~~(44)~~](45) "Registered agent" means the registered agent of:

(a) a domestic nonprofit corporation; or

(b) a foreign nonprofit corporation.

[~~(45)~~](46) "Registered office" means the office within this state designated by a domestic or foreign nonprofit corporation as its registered office in the most recent document on file with the division providing that information, including:

(a) articles of incorporation;

(b) an application for a certificate of authority; or

(c) a notice of change of registered office.

[~~(46)~~](47) "Secretary" means the corporate officer to whom the bylaws or the board of directors delegates responsibility under Subsection 16-6a-818(3) for:

(a) the preparation and maintenance of:

(i) minutes of the meetings of:

(A) the board of directors; or

(B) the members; and

(ii) the other records and information required to be kept by the nonprofit corporation [~~pursuant to~~]as described in Section 16-6a-1601; and

(b) authenticating records of the nonprofit corporation.

[~~(47)~~](48) "Share" means a unit of interest in a nonprofit corporation.

[~~(48)~~](49) "Shareholder" means a person in whose name a share is registered in the records of a nonprofit corporation.

[~~(49)~~](50) "State," when referring to a part of the United States, includes:

(a) a state;

(b) a commonwealth;

(c) the District of Columbia;

(d) an agency or governmental and political subdivision of a state, commonwealth, or District of Columbia;

(e) territory or insular possession of the United States; or

(f) an agency or governmental and political subdivision of a territory or insular possession of the United States.

[~~(50)~~](51) "Street address" means:

(a)(i) street name and number;

(ii) city or town; and

(iii) United States post office zip code designation; or

(b) if, by reason of rural location or otherwise, a street name, number, city, or town does not exist, an appropriate description other than that described in Subsection [~~(50)(a)~~](51)(a) fixing as nearly as possible the actual physical location, but only if the information includes:

(i) the rural free delivery route;

(ii) the county; and

(iii) the United States post office zip code designation.

[~~(51)~~](52) "Tribal nonprofit corporation" means a nonprofit corporation:

(a) incorporated under the law of a tribe; and

(b) that is at least 51% owned or controlled by the tribe.

[~~(52)~~](53) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of [~~their~~]the tribe's status as Indians.

[~~(53)~~](54) "United States" includes a district, authority, office, bureau, commission, department, and another agency of the United States of America.

[~~(54)~~](55) "Vote" includes authorization by:

(a) written ballot; and

(b) written consent.

[~~(55)~~](56)(a) "Voting group" means all the members of one or more classes of members or directors that, under this chapter, the articles of incorporation, or the bylaws, are entitled to vote and be counted together collectively on a matter.

(b) All members or directors entitled by this chapter, the articles of incorporation, or the bylaws to vote generally on a matter are for that purpose a single voting group.

[~~(56)~~](57)(a) "Voting member" means a person entitled to vote for all matters required or permitted under this chapter to be submitted to a vote of the members, except as otherwise provided in the articles of incorporation or bylaws.

(b) A person is not a voting member solely because of:

(i) a right the person has as a delegate;

(ii) a right the person has to designate a director; or

(iii) a right the person has as a director.

(c) Except as the bylaws may otherwise provide, "voting member" includes a "shareholder" if the nonprofit corporation has shareholders.

[~~(57)~~](58) "Water company" means:

(a) the same as that term is defined in Subsection 16-4-102(5); or

(b) a mutual benefit corporation, when the stock in the mutual benefit corporation represents a right to receive a distribution of water for beneficial use.

Section 20. Section 16-6a-203 is amended to read:

16-6a-203. Incorporation -- Required filings.

(1) A nonprofit corporation is incorporated, and its corporate existence begins:

(a) when the articles of incorporation are filed by the division; or

(b) if a delayed effective date is specified [~~pursuant to~~]as described in Subsection 16-6a-108(2), on the delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective date.

(2) Notwithstanding Subsection 16-6a-110(4), the filing of the articles of incorporation by the division is conclusive proof that all conditions precedent to incorporation have been satisfied, except in a proceeding by the state to:

(a) cancel or revoke the incorporation; or

(b) involuntarily dissolve the nonprofit corporation.

(3) Beginning January 1, 2025, a nonprofit corporation that is a charitable organization, unless exempted by Section 13-22-15, shall file with the division the information described by Section 13-22-15 in the form described in Section 13-22-15.

Section 21. Section 16-6a-1503 is amended to read:

16-6a-1503. Application for authority to conduct affairs.

(1) A foreign nonprofit corporation may apply for authority to conduct affairs in this state by delivering to the division for filing an application for authority to conduct affairs setting forth:

(a) its corporate name and its assumed corporate name, if any;

(b) the name of the state or country under whose law it is incorporated;

(c) its date of incorporation;

(d) its period of duration;

(e) the street address of its principal office;

(f) the information required by Subsection 16-17-203(1);

(g) the names and usual business addresses of its current directors and officers;

(h) the date it commenced or expects to commence conducting affairs in this state; and

(i) the additional information the division determines is necessary or appropriate to determine whether the application for authority to conduct affairs should be filed.

(2) With the completed application required by Subsection (1) the foreign nonprofit corporation shall deliver to the division for a certificate of existence, or a document of similar import that is:

(a) authenticated by the division or other official having custody of corporate records in the state or country under whose law it is incorporated; and

(b) dated within 90 days before the day on which the application for authority to conduct affairs is filed.

(3) The foreign nonprofit corporation shall include in the application for authority to conduct affairs, or in an accompanying document, written consent to appointment by its designated registered agent.

(4) Beginning January 1, 2025, a foreign nonprofit corporation that is a charitable organization, unless exempted by Section 13-22-15, shall file the information described in Section 13-22-15 in the form described in Section 13-22-15.

[~~(4)~~](5)(a) The division may permit a tribal nonprofit corporation to apply for authority to conduct affairs in this state in the same manner as a nonprofit corporation incorporated in another state.

(b) If a tribal nonprofit corporation elects to apply for authority to conduct affairs in this state, for purposes of this chapter, the tribal nonprofit corporation shall be treated in the same manner as a foreign nonprofit corporation incorporated under the laws of another state.

Section 22. Section 42-2-6.6 is amended to read:

42-2-6.6. Assumed name.

(1) The assumed name:

(a) may not contain:

(i) [~~any~~]a word or phrase that indicates or implies that the business is organized for [~~any~~]a purpose other than a purpose contained in the business's application; or

(ii) for an assumed name that is changed or approved on or after May 4, 2022, the number sequence "911";

(b) shall be distinguishable from any registered name or trademark of record in the offices of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code [~~pursuant to~~]under Subsection (2);

(c) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

(d) an assumed name authorized for use in this state on or after May 1, 2000, may not contain the words:

(i) "incorporated";

(ii) "inc."; or

(iii) a variation of "incorporated" or "inc."

(2) Notwithstanding Subsection [~~(1)(c)~~](1)(d), an assumed name may contain a word listed in Subsection [~~(1)(c)~~](1)(d) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:

(a) Subsection [~~16-6a-102(26)~~]16-6a-102(27);

(b) Subsection [~~16-6a-102(35)~~]16-6a-102(36);

(c) Subsection 16-10a-102(11); or

(d) Subsection 16-10a-102(20).

(3) The Division of Corporations and Commercial Code shall authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks that are on the division's records; or

(b) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) The assumed name, for purposes of recordation, shall be either translated into English or transliterated into letters of the English alphabet if the assumed name is not in English.

(5) The Division of Corporations and Commercial Code may not approve an application for an assumed name to [~~any~~]a person violating this section.

(6) The director of the Division of Corporations and Commercial Code shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(7) A name that implies by [~~any~~]a word in the name that the business is an agency of the state or [~~of any of the state's political subdivisions~~]a political subdivision of the state, if the business is not actually such a legally established agency, may not be approved for filing by the Division of Corporations and Commercial Code.

(8) Section 16-10a-403 applies to this chapter.

(9)(a) The requirements of Subsection (1)(d) do not apply to a person who filed a certificate of assumed and of true name with the Division of Corporations and Commercial Code on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, [~~any~~]a person who carries on, conducts, or transacts business in this state under an assumed name shall comply with the requirements of Subsection (1)(d).

Section 23. Repealer.

This bill repeals:

Section 13-22-6, Application for registration.

Section 13-22-8, Exemptions.

Section 13-22-21, Appeal on behalf of individual.

Section 24. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 103
H. B. 44
Passed February 5, 2024
Approved March 13, 2024
Effective May 1, 2024

SOCIAL WORK LICENSURE COMPACT

Chief Sponsor: Sandra Hollins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill enacts the Social Work Licensure Compact.

Highlighted Provisions:

This bill:

- enacts the Social Work Licensure Compact;
- provides rulemaking authority; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-103.1, as enacted by Laws of Utah 2022, Chapter 466
58-60-205, as last amended by Laws of Utah 2023, Chapters 283, 339

ENACTS:

58-60b-101, Utah Code Annotated 1953
58-60b-102, Utah Code Annotated 1953
58-60b-103, Utah Code Annotated 1953
58-60b-104, Utah Code Annotated 1953
58-60b-105, Utah Code Annotated 1953
58-60b-106, Utah Code Annotated 1953
58-60b-107, Utah Code Annotated 1953
58-60b-108, Utah Code Annotated 1953
58-60b-109, Utah Code Annotated 1953
58-60b-110, Utah Code Annotated 1953
58-60b-111, Utah Code Annotated 1953
58-60b-112, Utah Code Annotated 1953
58-60b-113, Utah Code Annotated 1953
58-60b-114, Utah Code Annotated 1953
58-60b-115, Utah Code Annotated 1953
58-60b-116, Utah Code Annotated 1953
58-60b-201, Utah Code Annotated 1953

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

Section 1. Section 58-60-103.1 is amended to read:

58-60-103.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the Counseling Compact under Chapter 60a, Counseling Compact, until the criminal background check described in this section is completed[.]; or

(c) issue a letter of qualification to participate in the Social Work Licensure Compact under Chapter 60b, Social Work Licensure Compact, until the criminal background check described in this section is completed.

Section 2. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(ii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(i);

(f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203;

(g) pass the examination requirement established by rule under Section 58-1-203; and

(h) if the applicant is applying to participate in the [~~Counseling Compact under Chapter 60a, Counseling Compact,~~]Social Work Licensure Compact under Chapter 60b, Social Work Licensure Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

(3) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection [~~(4)~~](3); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum.

(4) The division shall ensure that the rules for an examination described under Subsection (1)(g) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 3. Section 58-60b-101 is enacted to read:

58-60b-101. Section 1 -- Purpose.

CHAPTER 60B. SOCIAL WORK LICENSURE COMPACT

Part 1. Compact Text

The purpose of this Compact is to facilitate interstate practice of Regulated Social Workers by improving public access to competent Social Work Services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Social Work Services;

B. Reduce overly burdensome and duplicative requirements associated with holding multiple licenses;

C. Enhance the Member States' ability to protect the public's health and safety;

D. Encourage the cooperation of Member States in regulating multistate practice;

E. Promote mobility and address workforce shortages by eliminating the necessity for licenses in multiple States by providing for the mutual recognition of other Member State licenses;

F. Support military families;

G. Facilitate the exchange of licensure and disciplinary information among Member States;

H. Authorize all Member States to hold a Regulated Social Worker accountable for abiding by a Member State's laws, regulations, and applicable professional standards in the Member State in which the client is located at the time care is rendered; and

I. Allow for the use of telehealth to facilitate increased access to regulated Social Work Services.

Section 4. Section 58-60b-102 is enacted to read:

58-60b-102. Section 2 -- Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Military Member" means any individual with full-time duty status in the active armed forces of the United States including members of the National Guard and Reserve.

B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a Licensing Authority or other authority against a Regulated Social Worker, including actions against an individual's license or Multistate Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation on the Licensee's practice, or any other Encumbrance on licensure affecting a Regulated Social Worker's authorization to practice, including issuance of a cease and desist action.

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Licensing Authority to address practitioners with an Impairment.

D. "Charter Member States" means Member States who have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as described in Section 14.

E. "Compact Commission" or "Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Social Work Licensure Compact Commission, as described in Section 10, and which shall operate as an instrumentality of the Member States.

F. "Current Significant Investigative Information" means:

1. Investigative information that a Licensing Authority, after a preliminary inquiry that includes notification and an opportunity for the Regulated Social Worker to respond has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction as may be defined by the Commission; or

2. Investigative information that indicates that the Regulated Social Worker represents an immediate threat to public health and safety, as may be defined by the Commission, regardless of whether the Regulated Social Worker has been notified and has had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including, continuing education, examination, licensure, Current Significant Investigative Information, Disqualifying Event, Multistate License(s) and Adverse Action information or other information as required by the Commission.

H. "Domicile" means the jurisdiction in which the Licensee resides and intends to remain indefinitely.

I. "Disqualifying Event" means any Adverse Action or incident which results in an Encumbrance that disqualifies or makes the Licensee ineligible to either obtain, retain or renew a Multistate License.

J. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and

unrestricted practice of Social Work licensed and regulated by a Licensing Authority.

K. "Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the compact and Commission.

L. "Home State" means the Member State that is the Licensee's primary Domicile.

M. "Impairment" means a condition(s) that may impair a practitioner's ability to engage in full and unrestricted practice as a Regulated Social Worker without some type of intervention and may include alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

N. "Licensee(s)" means an individual who currently holds a license from a State to practice as a Regulated Social Worker.

O. "Licensing Authority" means the board or agency of a Member State, or equivalent, that is responsible for the licensing and regulation of Regulated Social Workers.

P. "Member State" means a state, commonwealth, district, or territory of the United States of America that has enacted this Compact.

Q. "Multistate Authorization to Practice" means a legally authorized privilege to practice, which is equivalent to a license, associated with a Multistate License permitting the practice of Social Work in a Remote State.

R. "Multistate License" means a license to practice as a Regulated Social Worker issued by a Home State Licensing Authority that authorizes the Regulated Social Worker to practice in all Member States under Multistate Authorization to Practice.

S. "Qualifying National Exam" means a national licensing examination approved by the Commission.

T. "Regulated Social Worker" means any clinical, master's or bachelor's Social Worker licensed by a Member State regardless of the title used by that Member State.

U. "Remote State" means a Member State other than the Licensee's Home State.

V. "Rule(s)" or "Rule(s) of the Commission" means a regulation or regulations duly promulgated by the Commission, as authorized by the Compact, that has the force of law.

W. "Single State License" means a Social Work license issued by any State that authorizes practice only within the issuing State and does not include Multistate Authorization to Practice in any Member State.

X. "Social Work" or "Social Work Services" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities through the care and services provided by a Regulated Social Worker as set forth in the Member State's statutes and regulations in the State where the services are being provided.

Y. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Social Work.

Z. "Unencumbered License" means a license that authorizes a Regulated Social Worker to engage in the full and unrestricted practice of Social Work.

Section 5. Section 58-60b-103 is enacted to read:

58-60b-103. Section 3 -- State participation in the Compact.

A. To be eligible to participate in the compact, a potential Member State must currently meet all of the following criteria:

1. License and regulate the practice of Social Work at either the clinical, master's, or bachelor's category.

2. Require applicants for licensure to graduate from a program that is:

a. Operated by a college or university recognized by the Licensing Authority;

b. Accredited, or in candidacy by an institution that subsequently becomes accredited, by an accrediting agency recognized by either:

i. the Council for Higher Education Accreditation, or its successor; or

ii. the United States Department of Education; and

c. Corresponds to the licensure as outlined in Section 4.

3. Require applicants for clinical licensure to complete a period of supervised practice.

4. Have a mechanism in place for receiving, investigating, and adjudicating complaints about Licensees.

B. To maintain membership in the Compact a Member State shall:

1. Require that applicants for a Multistate License pass a Qualifying National Exam for the corresponding category of Multistate License sought as outlined in Section 4;

2. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

3. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Current Significant Investigative Information regarding a Licensee;

4. Implement procedures for considering the criminal history records of applicants for a Multistate License. Such procedures shall include the submission of fingerprints or other biometric- based information by applicants for the

purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

5. Comply with the Rules of the Commission;

6. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable Home State laws;

7. Authorize a Licensee holding a Multistate License in any Member State to practice in accordance with the terms of the Compact and Rules of the Commission; and

8. Designate a delegate to participate in the Commission meetings.

C. A Member State meeting the requirements of Section 3.A and 3.B of this Compact shall designate the categories of Social Work licensure that are eligible for issuance of a Multistate License for applicants in such Member State. To the extent that any Member State does not meet the requirements for participation in the Compact at any particular category of Social Work licensure, such Member State may choose, but is not obligated to, issue a Multistate License to applicants that otherwise meet the requirements of Section 4 for issuance of a Multistate License in such category or categories of licensure.

D. The Home State may charge a fee for granting the Multistate License.

Section 6. Section 58-60b-104 is enacted to read:

58-60b-104. Section 4 -- Social Worker participation in the Compact.

A. To be eligible for a Multistate License under the terms and provisions of the Compact, an applicant, regardless of category must:

1. Hold or be eligible for an active, Unencumbered License in the Home State;

2. Pay any applicable fees, including any State fee, for the Multistate License;

3. Submit, in connection with an application for a Multistate License, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

4. Notify the Home State of any Adverse Action, Encumbrance, or restriction on any professional license taken by any Member State or non-Member State within 30 days from the date the action is taken;

5. Meet any continuing competence requirements established by the Home State; and

6. Abide by the laws, regulations, and applicable standards in the Member State where the client is located at the time care is rendered.

B. An applicant for a clinical-category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a clinical-category Qualifying National Exam; or

b. Licensure of the applicant in their Home State at the clinical category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.

2. Attain at least a master's degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. the Council for Higher Education Accreditation or its successor; or

ii. the United States Department of Education.

3. Fulfill a practice requirement, which shall be satisfied by demonstrating completion of either:

a. A period of postgraduate supervised clinical practice equal to a minimum of three thousand hours; or

b. A minimum of two years of full-time postgraduate supervised clinical practice; or

c. The substantial equivalency of the foregoing practice requirements which the Commission may determine by Rule.

C. An applicant for a master's-category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a master's-category Qualifying National Exam;

b. Licensure of the applicant in their Home State at the master's category, beginning prior to such time as a Qualifying National Exam was required by the Home State at the master's category and accompanied by a continuous period of Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.

2. Attain at least a master's degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. the Council for Higher Education Accreditation or its successor; or

ii. the United States Department of Education.

D. An applicant for a bachelor's category Multistate License must meet all of the following requirements:

1. Fulfill a competency requirement, which shall be satisfied by either:

a. Passage of a bachelor's- category Qualifying National Exam;

b. Licensure of the applicant in their Home State at the bachelor's category, beginning prior to such time as a Qualifying National Exam was required by the Home State and accompanied by a period of continuous Social Work licensure thereafter, all of which may be further governed by the Rules of the Commission; or

c. The substantial equivalency of the foregoing competency requirements which the Commission may determine by Rule.

2. Attain at least a bachelor's degree in Social Work from a program that is:

a. Operated by a college or university recognized by the Licensing Authority; and

b. Accredited, or in candidacy that subsequently becomes accredited, by an accrediting agency recognized by either:

i. the Council for Higher Education Accreditation or its successor; or

ii. the United States Department of Education.

E. The Multistate License for a Regulated Social Worker is subject to the renewal requirements of the Home State. The Regulated Social Worker must maintain compliance with the requirements of Section 4(A) to be eligible to renew a Multistate License.

F. The Regulated Social Worker's services in a Remote State are subject to that Member State's regulatory authority. A Remote State may, in accordance with due process and that Member State's laws, remove a Regulated Social Worker's Multistate Authorization to Practice in the Remote State for a specific period of time, impose fines, and take any other necessary actions to protect the health and safety of its citizens.

G. If a Multistate License is encumbered, the Regulated Social Worker's Multistate Authorization to Practice shall be deactivated in all Remote States until the Multistate License is no longer encumbered.

H. If a Multistate Authorization to Practice is encumbered in a Remote State, the regulated Social Worker's Multistate Authorization to Practice may be deactivated in that State until the Multistate Authorization to Practice is no longer encumbered.

Section 7. Section 58-60b-105 is enacted to read:

58-60b-105. Section 5 -- Issuance of a Multistate License.

A. Upon receipt of an application for Multistate License, the Home State Licensing Authority shall determine the applicant's eligibility for a Multistate License in accordance with Section 4 of this Compact.

B. If such applicant is eligible pursuant to Section 4 of this Compact, the Home State Licensing Authority shall issue a Multistate License that authorizes the applicant or Regulated Social Worker to practice in all Member States under a Multistate Authorization to Practice.

C. Upon issuance of a Multistate License, the Home State Licensing Authority shall designate whether the Regulated Social Worker holds a Multistate License in the Bachelors, Masters, or Clinical category of Social Work.

D. A Multistate License issued by a Home State to a resident in that State shall be recognized by all Compact Member States as authorizing Social Work Practice under a Multistate Authorization to Practice corresponding to each category of licensure regulated in each Member State.

Section 8. Section 58-60b-106 is enacted to read:

58-60b-106. Section 6 -- Authority of Interstate Compact Commission and Member State Licensing Authorities.

A. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the practice of Social Work in that State.

B. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

C. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to take Adverse Action against a Licensee's Single State License to practice Social Work in that State.

D. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Remote State to take Adverse Action against a Licensee's Multistate Authorization to Practice in that State.

E. Nothing in this Compact, nor any Rule of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Licensee's Home State to take Adverse Action against a Licensee's Multistate License based upon information provided by a Remote State.

Section 9. Section 58-60b-107 is enacted to read:

58-60b-107. Section 7 -- Reissuance of a Multistate License by a new Home State.

A. A Licensee can hold a Multistate License, issued by their Home State, in only one Member State at any given time.

B. If a Licensee changes their Home State by moving between two Member States:

1. The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.

2. Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered and eligible for reissuance under the terms of the Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.

3. Prior to the reissuance of the Multistate License, the new Home State shall conduct procedures for considering the criminal history records of the Licensee. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records.

4. If required for initial licensure, the new Home State may require completion of jurisprudence requirements in the new Home State.

5. Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new Home State, then the Licensee shall be subject to the new Home State requirements for the issuance of a Single State License in that State.

C. If a Licensee changes their primary State of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, then the Licensee shall be subject to the State requirements for the issuance of a Single State License in the new Home State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one Home State, and only one Multistate License.

E. Nothing in this Compact shall interfere with the requirements established by a Member State for the issuance of a Single State License.

Section 10. Section 58-60b-108 is enacted to read:

58-60b-108. Section 8 -- Military families.

An Active Military Member or their spouse shall designate a Home State where the individual has a Multistate License. The individual may retain their Home State designation during the period the service member is on active duty.

Section 11. Section 58-60b-109 is enacted to read:

58-60b-109. Section 9 -- Adverse Actions.

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Regulated Social Worker's Multistate Authorization to Practice only within that Member State, and issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

2. Only the Home State shall have the power to take Adverse Action against a Regulated Social Worker's Multistate License.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Regulated Social Worker who changes their Home State during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the Data System shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Regulated Social Worker the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Regulated Social Worker.

E. A Member State may take Adverse Action based on the factual findings of another Member State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Social Work practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the Multistate License of a Regulated Social Worker, the Regulated Social Worker's Multistate Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Multistate License. All Home State disciplinary orders that impose Adverse Action against the license of a Regulated Social Worker shall include a statement that the Regulated Social Worker's Multistate Authorization to Practice is deactivated in all Member States until all conditions of the decision, order or agreement are satisfied.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State and all other Member States of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

J. Nothing in this Compact shall authorize a Member State to demand the issuance of subpoenas for attendance and testimony of witnesses or the production of evidence from another Member State for lawful actions within that Member State.

K. Nothing in this Compact shall authorize a Member State to impose discipline against a Regulated Social Worker who holds a Multistate Authorization to Practice for lawful actions within another Member State.

Section 12. Section 58-60b-110 is enacted to read:

58-60b-110. Section 10 -- Establishment of Social Work Licensure Compact Commission.

A. The Compact Member States hereby create and establish a joint government agency whose membership consists of all member states that have enacted the compact known as the Social Work Licensure Compact Commission. The Commission is an instrumentality of the Compact States acting jointly and not an instrumentality of any one state. The Commission shall come into existence on or after the effective date of the Compact as set forth in Section 14.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Authority.

2. The delegate shall be either:

a. A current member of the State Licensing Authority at the time of appointment, who is a Regulated Social Worker or public member of the Licensing Authority; or

b. An administrator of the Licensing Authority or their designee.

3. The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.

4. The Commission may recommend removal or suspension of any delegate from office.

5. A Member State's Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within 60 days of the vacancy.

6. Each delegate shall be entitled to one vote on all matters before the Commission requiring a vote by Commission delegates.

7. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates to meet by telecommunication, video conference or other means of communication.

8. The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference or other similar electronic means.

C. The Commission shall have the following powers:

1. Establish the fiscal year of the Commission;

2. Establish code of conduct and conflict of interest policies;

3. Establish and amend Rules and bylaws;

4. Maintain its financial records in accordance with the bylaws;

5. Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules and the bylaws;

6. Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any Licensing Authority to sue or be sued under applicable law shall not be affected;

7. Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission and designate an agent to do so on the Commission's behalf;

8. Purchase and maintain insurance and bonds;

9. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

10. Conduct an annual financial review;

11. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

12. Assess and collect fees;

13. Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and

services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;

14. Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;

15. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

16. Establish a budget and make expenditures;

17. Borrow money;

18. Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

19. Provide and receive information from, and cooperate with, law enforcement agencies;

20. Establish and elect an Executive Committee, including a chair and a vice chair;

21. Determine whether a State's adopted language is materially different from the model compact language such that the State would not qualify for participation in the Compact; and

22. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:

a. Oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its Rules and bylaws, and other such duties as deemed necessary;

b. Recommend to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;

c. Ensure Compact administration services are appropriately provided, including by contract;

d. Prepare and recommend the budget;

e. Maintain financial records on behalf of the Commission;

f. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

g. Establish additional committees as necessary;

h. Exercise the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and

i. Other duties as provided in the Rules or bylaws of the Commission.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. The chair and vice chair of the Commission shall be voting members of the Executive Committee;

b. The Commission shall elect five voting members from the current membership of the Commission;

c. Up to four (4) ex-officio, nonvoting members from four (4) recognized national Social Work organizations; and

d. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.

4. The Executive Committee shall meet at least annually.

a. Executive Committee meetings shall be open to the public, except that the Executive Committee may meet in a closed, non-public meeting as provided in subsection F.2 below.

b. The Executive Committee shall give seven (7) days' notice of its meetings, posted on its website and as determined to provide notice to persons with an interest in the business of the Commission.

c. The Executive Committee may hold a special meeting in accordance with subsection F.1.b below.

E. The Commission shall adopt and provide to the Member States an annual report.

F. Meetings of the Commission

1. All meetings shall be open to the public, except that the Commission may meet in a closed, non-public meeting as provided in subsection F.2 below.

a. Public notice for all meetings of the full Commission of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 12, except that the Commission may hold a special meeting as provided in subsection F.1.b below.

b. The Commission may hold a special meeting when it must meet to conduct emergency business by giving 48 hours' notice to all commissioners, on the Commission's website, and other means as provided in the Commission's rules. The Commission's legal counsel shall certify that the Commission's need to meet qualifies as an emergency.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting for the Commission or Executive Committee or other committees of the Commission to receive legal advice or to discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees;

c. Current or threatened discipline of a Licensee by the Commission or by a Member State's Licensing Authority;

d. Current, threatened, or reasonably anticipated litigation;

e. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

f. Accusing any person of a crime or formally censuring any person;

g. Trade secrets or commercial or financial information that is privileged or confidential;

h. Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

i. Investigative records compiled for law enforcement purposes;

j. Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

k. Matters specifically exempted from disclosure by federal or Member State law; or

l. Other matters as promulgated by the Commission by Rule.

3. If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

G. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, as provided in C(13).

3. The Commission may levy on and collect an annual assessment from each Member State and impose fees on licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.

H. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.

2. The Commission shall defend any member, officer, executive director, employee and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any

actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

4. Nothing herein shall be construed as a limitation on the liability of any licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.

5. Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's state action immunity or state action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.

6. Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.

Section 13. Section 58-60b-111 is enacted to read:

58-60b-111. Section 11 -- Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated Data System.

B. The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.

C. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license and information related thereto;

4. Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation not made confidential under Member State law;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. The presence of Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.

D. The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a Member State.

E. Current Significant Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

1. It is the responsibility of the Member States to report any Adverse Action against a Licensee and to monitor the database to determine whether Adverse Action has been taken against a Licensee. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

F. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

G. Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.

Section 14. Section 58-60b-112 is enacted to read:

58-60b-112. Section 12 -- Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.

B. The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's laws, regulations, and applicable standards that govern the practice of Social Work as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.

C. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules shall become binding on the day following adoption or the date specified in the Rule or amendment, whichever is later.

D. If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

E. Rules shall be adopted at a regular or special meeting of the Commission.

F. Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow

persons to provide oral and written comments, data, facts, opinions, and arguments.

G. Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform;

2. To persons who have requested notice of the Commission's notices of proposed rulemaking; and

3. In such other way(s) as the Commission may by Rule specify.

H. The Notice of Proposed Rulemaking shall include:

1. The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed rule;

2. If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the Notice of Proposed Rulemaking;

3. The text of the proposed Rule and the reason therefor;

4. A request for comments on the proposed Rule from any interested person; and

5. The manner in which interested persons may submit written comments.

I. All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.

J. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

K. The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the Rulemaking record and the full text of the Rule.

1. The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.

2. The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.

3. The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Section 12.L, the effective date of the Rule shall be no sooner than 30 days after issuing the notice that it adopted or amended the Rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with 48 hours' notice, with opportunity to comment, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

N. No Member State's rulemaking requirements shall apply under this compact.

Section 15. Section 58-60b-113 is enacted to read:

58-60b-113. Section 13 -- Oversight, dispute resolution, and enforcement.

A. Oversight

1. The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.

2. Except as otherwise provided in this Compact, venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct or any such similar matter.

3. The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.

2. The Commission shall provide a copy of the notice of default to the other Member States.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority and each of the Member States' Licensing Authority.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of said notice of termination.

G. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

H. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

I. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

J. Enforcement

1. By majority vote as provided by Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.

2. A Member State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. No person other than a Member State shall enforce this compact against the Commission.

Section 16. Section 58-60b-114 is enacted to read:

58-60b-114. Section 14 -- Effective date, withdrawal, and amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State.

1. On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the first seven Member States ("Charter Member States") to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.

a. A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Section 13.

b. If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than seven.

2. Member States enacting the Compact subsequent to the seven initial Charter Member States shall be subject to the process set forth in Section 10(C)(21) to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.

3. All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.

4. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules and bylaws shall be subject to the Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

B. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until 180 days after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.

3. Upon the enactment of a statute withdrawing from this compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this compact for a minimum of 180 days after the date of such notice of withdrawal.

C. Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

D. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Section 17. Section 58-60b-115 is enacted to read:

58-60b-115. Section 15 -- Construction and severability.

A. This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.

B. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.

C. Notwithstanding subsection B of this section, the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Section 13.B, terminate a Member State's participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Section 18. Section 58-60b-116 is enacted to read:

58-60b-116. Section 16 -- Consistent effect and conflict with other state laws.

A. A Licensee providing services in a Remote State under a Multistate Authorization to Practice shall adhere to the laws and regulations, including laws, regulations, and applicable standards, of the Remote State where the client is located at the time care is rendered.

B. Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

Section 19. Section 58-60b-201 is enacted to read:

58-60b-201. Rulemaking authority -- State authority over scope of practice.

Part 2. Division Implementation

(1) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

(2) Notwithstanding any provision in Sections 58-60b-101 through 58-60b-114, Sections 58-60b-101 through 58-60b-114 do not supersede state law related to an individual's scope of practice under this title.

Section 20. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 104
H. B. 58
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

LICENSING AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses licensing.

Highlighted Provisions:

This bill:

- permits the Department of Agriculture to establish the minimum experience required for licensure under the Utah Pesticide Control Act;
- broadens the Division of Professional Licensing's (division) discretion to accept substantially similar education or experience in satisfaction of standard licensing requirements;
- permits the division to issue a limited supervised training permit to an applicant seeking licensure by endorsement under certain circumstances;
- establishes a licensure by endorsement process that applies to all other statutory licensure by endorsement processes;
- requires that the division create an annual report related to licensure by endorsement; and
- defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-1-112, as enacted by Laws of Utah 2023, Chapter 222
4-14-111, as last amended by Laws of Utah 2018, Chapter 457
58-1-302, as last amended by Laws of Utah 2023, Chapter 222

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

Section 1. Section 4-1-112 is amended to read:

4-1-112. License by endorsement.

(1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(2) Subject to Subsections (4) through (7), the department shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the department determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory.

(3) Subject to Subsections (4) through (7), the department may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i)(A) the department determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and

(B) [~~the applicant has at least one year of experience practicing~~]under the license issued in the other state, district, territory, or jurisdiction, the applicant has at least one year of experience or a lesser minimum amount of experience established by the department; or

(ii) the department determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the department determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.

(4) The department may refuse to issue a license to an applicant under this section if:

(a) the department determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's other license.

(5) Before the department issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(7) This section is subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

Section 2. Section 4-14-111 is amended to read:

4-14-111. Registration required for a pesticide business.

(1) A pesticide applicator business shall register with the department by:

(a) submitting an application on a form provided by the department;

(b) paying the registration fee; and

(c) certifying that the business is in compliance with this chapter and departmental rules authorized by this chapter.

(2)(a) By following the procedures and requirements of Section 63J-1-504, the department shall establish a registration fee based on the number of pesticide applicators employed by the pesticide applicator business.

(b)(i) Notwithstanding Section 63J-1-504, the department shall deposit the fees as dedicated credits and may only use the fees to administer and enforce this chapter.

(ii) The Legislature may annually designate the revenue generated from the fee as nonlapsing in an appropriations act.

(3) The department shall issue a business registration certificate to a pesticide applicator business if the individual or entity:

(a) has complied with the requirements of this section;

(b) has shown evidence of competence in the pesticide profession and meets the certification requirements established by rule;

(c) provides evidence that the owner or qualifying party is a certified applicator;

(d) provides evidence that the owner or qualifying party:

(i) has been a certified applicator for at least two years out of the 10 years immediately before the date of the application for a business registration certificate is received by the department; [~~or~~]

(ii) holds an associate degree or higher in horticulture, agricultural sciences, biological sciences, pest management, or a related field; or

(iii) has held a comparable license issued in another state, district, territory, or jurisdiction and meets the requirements described in Subsection 4-1-112(2);

(e) demonstrates good character;

(f) has no outstanding infractions and owes no money to the department; and

(g) pays the licensing fee established by the department.

(4) A registration certificate expires on December 31 of the second calendar year after the calendar year in which the registration certificate is issued.

(5)(a) The department may suspend a registration certificate if the pesticide applicator business violates this chapter or any rules authorized by it.

(b) A pesticide applicator business whose registration certificate has been suspended may apply to the department for reinstatement of the registration certificate by demonstrating compliance with this chapter and rules authorized by this chapter.

(6) A pesticide applicator business shall:

(a) only employ a pesticide applicator who has received a license from the department, as required by Section 4-14-103; and

(b) ensure that all employees comply with this chapter and the rules authorized by this chapter.

(7) An individual or entity applying for a business registration certificate does not have to meet the requirements of Subsection (3)(d) if the individual's or entity's sole use of pesticides is limited to:

(a) providing ornamental and turf pest control spot treatment services; and

(b) herbicides with labels that contain the signal word "caution" or "warning."

Section 3. Section 58-1-302 is amended to read:

58-1-302. License by endorsement.

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

(a) [~~"license"~~]"License" means an authorization that permits the holder to engage in the practice of a profession regulated under this title.

(b) "Limited supervised training permit" means a temporary authorization to work in a limited professional capacity that would otherwise require licensure under this title.

(2) Subject to Subsections (4) through (7), the division shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:

(a) the division determines that the license issued in the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;

(b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and

(c) the applicant's license is in good standing in the other state, district, or territory where the license was issued.

(3) Subject to [~~Subsections (4) through (7)~~]the other provisions of this section, the division may issue a license to an applicant who:

(a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i)(A) the division determines that the applicant's education, credentialing examination, experience, and skills demonstrate competency in the profession for which the licensure is sought in this state; and

(B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or

(ii) the division determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the current requirements for the license sought in this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the division determines that the [~~education or~~]education, credentialing examination, and experience was substantially similar to the current [~~education or~~]education, credentialing examination, and experience requirements for the license sought in this state.

(4) The division may refuse to issue a license to an applicant under this section if:

(a) the division determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or

(b) the applicant has a previous or pending disciplinary action related to the applicant's license.

(5) Before the division issues a license to an applicant under this section, the applicant shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.

(6)(a) For an applicant who is or has been licensed in another jurisdiction, but does not satisfy the requirements of Subsection (2) or (3), the division may evaluate and determine whether:

(i) the applicant is eligible for a license under this title because the applicant's education, credentialing examination, or experience obtained in the other jurisdiction is substantially similar to the education, credentialing examination, or experience requirements for the license; or

(ii) in light of the applicant's education or experience obtained in the other jurisdiction, the applicant's education or experience would be substantially similar to the education or experience requirements for a license under this title, if the applicant obtains additional education or experience.

(b) After the division chooses to evaluate an applicant under Subsection (6)(a), the division may issue a limited supervised training permit to the applicant if:

(i) the applicant has an employment offer from an employer in the state;

(ii) the employer attests to the division that the applicant will work under the direct supervision of an individual who:

(A) holds a license in good standing of the same classification as the limited supervised training permit; and

(B) has held the license for a minimum period of time defined by the division;

(iii)(A) the division needs additional time to make a determination under Subsection (6)(a)(i); or

(B) the division determines under Subsection (6)(a)(ii) that additional education or experience would make the applicant's education or experience substantially similar to the education or experience requirements for a license under this title, the applicant wishes to pursue the education or experience, and the division establishes a deadline for the applicant to complete the additional education or experience;

(iv) the applicant pays a fee determined by the department under Section 63J-1-504;

(v) the applicant meets the minimum professional standards to work in a supervised environment that the division, in consultation with the applicable board, establishes for the applicable profession;

(vi) the applicant submits to a background check, if required for the license for which the applicant applied; and

(vii) the applicant meets with the applicable board, if requested, to evaluate the applicant's qualifications.

(c)(i) A limited supervised training permit issued under this Subsection (6) expires:

(A) on the deadline that the division establishes for the applicant to complete the additional education or experience described in Subsection (6)(b)(iii)(B); or

(B) upon the division's grant or denial of the applicant's application for licensure by endorsement.

(ii) The division may not renew or otherwise extend a limited supervised training permit unless:

(A) a circumstance or hardship arose beyond the limited supervised training permit holder's control that prevented the limited supervised training permit holder from completing the licensure process;

(B) the limited supervised training permit holder presents satisfactory evidence to the division that

the limited supervised training permit holder is making reasonable progress toward obtaining licensure in the state;

(C) the division grants the renewal or extension for a period proportionate to the circumstance or hardship; and

(D) the limited supervised training permit holder's employer consents in writing to the renewal or extension.

[~~(6)~~](7) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

(8)(a) The provisions of this section control over any conflicting licensure by endorsement provision in another chapter of this title.

(b) The division, in consultation with the applicable licensing board and professional educators that help establish and monitor educational requirements for the profession of the applicant under review, shall ensure that the provisions of this section apply uniformly to the administration and enforcement of licensure by endorsement for each license type under this title.

(9) The division shall compile and post on the division's website an annual report that includes:

(a) the number of licenses and limited supervised training permits issued under this section during the preceding year;

(b) each determination in which the division deems specified education, credentialing examination, experience, or skills substantially similar to the education, credentialing examination, experience, or skills required for a license sought under this section; and

(c) documentation of each instance in which the applicable board disagreed with the division's determination that an applicant's education, credentialing examination, experience, or skills from another jurisdiction were substantially similar to the education, credentialing examination, experience, or skills required for the license sought under this section.

[~~(7) In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.~~]

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 105
H. B. 68
Passed February 28, 2024
Approved March 13, 2024
Effective July 1, 2024

DRUG SENTENCING MODIFICATIONS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill addresses the sentencing for an individual convicted of distributing illegal drugs in certain circumstances.

Highlighted Provisions:

This bill:

- requires a court, with certain exceptions, to sentence an individual convicted of distributing drugs to an indeterminate prison term if the individual, while distributing the drugs, intentionally or knowingly:
  - had a dangerous weapon readily accessible for immediate use; or
  - distributed a firearm or possessed a firearm with intent to distribute the firearm; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-37-8, as last amended by Laws of Utah 2023, Chapters 312, 329
58-37-8, as last amended by Laws of Utah 2023, Chapters 310, 312 and 329

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

Section 1. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c)(i) [~~A~~]Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as [~~provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently~~]described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm or had a firearm readily accessible for immediate use, as those terms are defined in Section 76-10-501; or

(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C - - Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D - - Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58- 37b- 4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child- care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76- 10- 501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76- 8- 311.3.

(b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d)(i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands,

coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment; or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength, effectiveness, or purity of the substance for a public health or safety reason.

(12)(a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c)(i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13)(a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16)(a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26B-4-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 2. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of this chapter, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c)(i) [~~A~~]Except as provided in Subsection (1)(c)(ii), a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as [~~provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently~~]described in Subsection (1)(b) and Title 76, Chapter 3, Punishments.

(ii) The court shall impose an indeterminate prison term for a person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) that is a first degree felony or a second degree felony if the trier of fact finds beyond a reasonable doubt that, during the commission or furtherance of the violation, the person intentionally or knowingly:

(A) used, drew, or exhibited a dangerous weapon, as that term is defined in Section 76-10-501, that is not a firearm, in an angry, threatening, intimidating, or coercive manner;

(B) used a firearm or had a firearm readily accessible for immediate use, as those terms are defined in Section 76-10-501; or

(C) distributed a firearm, as that term is defined in Section 76-10-501, or possessed a firearm with intent to distribute the firearm.

(iii) Notwithstanding Subsection (1)(c)(ii), a court may suspend the indeterminate prison term for a person convicted under Subsection (1)(c)(ii) if the court:

(A) details on the record the reasons why it is in the interests of justice not to impose the indeterminate prison term;

(B) makes a finding on the record that the person does not pose a significant safety risk to the public; and

(C) orders the person to complete the terms and conditions of supervised probation provided by the Department of Corrections.

(d)(i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under

Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) The Administrative Office of the Courts shall report to the Division of Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b)(i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i) through (vi);

(viii) in the presence of a person younger than 18 years old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b)(i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense.

(d)(i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6)(a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8)(a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research;

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment;or

(c) a healthcare facility, substance use harm reduction services program, or drug addiction treatment facility that temporarily possesses a controlled or counterfeit substance to conduct a test or analysis on the controlled or counterfeit substance to identify or analyze the strength,

effectiveness, or purity of the substance for a public health or safety reason.

(12)(a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c)(i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13)(a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16)(a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 53-2d-101, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 58-37-8 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 106
H. B. 69
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

DUI TESTING AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to testing of bodily fluids for purposes of an investigation of driving under the influence.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services to:
  - test blood and urine samples for both drugs and alcohol;
  - provide the testing results in a timely manner; and
  - provide test results through a secure medium to the Driver License Division and relevant law enforcement agencies;
- requires an administrative testing fee to be charged as part of an administrative impound fee for an individual whose vehicle is impounded related to an arrest for driving under the influence;
- amends a provision allowing the use of a blood and urine test in certain administrative proceedings;
- enacts provisions regarding permissible uses of a blood and urine test by the Driver License Division;
- amends provisions related to shortening a driver license suspension, in certain circumstances, for a person not participating in a 24-7 sobriety program;
- requires the Department of Public Safety to make rules to establish standards for proper usage and administration of oral fluid and portable breath tests as part of a field sobriety test;
- amends provisions related to driver license revocation for a subsequent offense related to driving under the influence;
- requires law enforcement agencies to provide training on the use of oral fluid and portable breath tests as part of a field sobriety test; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-216, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-304, as renumbered and amended by Laws of Utah 2022, Chapter 255
26B-8-406, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-407, as renumbered and amended by Laws of Utah 2023, Chapter 306
41-6a-509, as last amended by Laws of Utah 2023, Chapters 239, 384
41-6a-515.6, as enacted by Laws of Utah 2017, Chapter 283
41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
53-3-104, as last amended by Laws of Utah 2021, Chapter 284
53-3-223, as last amended by Laws of Utah 2023, Chapters 239, 384

ENACTS:

53-3-111, Utah Code Annotated 1953
53-25-102, Utah Code Annotated 1953

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

Section 1. Section 26B-1-216 is amended to read:

26B-1-216. Powers and duties of the department -- Quality and design.

The department shall:

(1) monitor and evaluate the quality of services provided by the department including:

(a) in accordance with Part 5, Fatality Review, monitoring, reviewing, and making recommendations relating to a fatality review;

(b) overseeing the duties of the child protection ombudsman appointed under Section 80-2-1104; and

(c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;

(2) conduct investigations described in Section 80-2-703; [~~and~~]

(3) develop an integrated human services system and implement a system of care by:

(a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;

(b) establishing and maintaining department contracts with public and private service providers;

(c) establishing standards for the use of service providers who contract with the department;

(d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;

(e) centralizing the department's administrative operations; and

(f) integrating, analyzing, and applying department-wide data and research to monitor the

quality, effectiveness, and outcomes of services provided by the department[.]; and

(4)(a) coordinate with the Driver License Division, the Department of Public Safety, and any other law enforcement agency to test and provide results of blood or urine samples submitted to the department as part of an investigation for a driving offense that may have occurred and there is reason to believe the individual's blood or urine may contain:

(i) alcohol; or

(ii) other drugs or substances that the department reasonably determines could impair an individual or that is illegal for the individual to possess or consume; and

(b) ensure that the results of the test described in Subsection (4)(a) are provided through a secure medium and in a timely manner.

Section 2. Section 26B-1-304 is amended to read:

26B-1-304. Restricted account created to fund drug testing for law enforcement agencies.

(1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.

(2) The account consists of[:]

(a) a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account[.]; and

(b) the deposits described in Subsection 41-6a-1406(6)(b)(v) from the administrative testing fee related to vehicles impounded under Section 41-6a-527.

(3) The department shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Section 3. Section 26B-8-406 is amended to read:

26B-8-406. Disclosure of health data -- Limitations.

The department may not make a disclosure of any identifiable health data unless:

(1) one of the following persons has consented to the disclosure:

(a) the individual;

(b) the next-of-kin if the individual is deceased;

(c) the parent or legal guardian if the individual is a minor or mentally incompetent; or

(d) a person holding a power of attorney covering such matters on behalf of the individual;

(2) the disclosure is to a governmental entity in this or another state or the federal government, provided that:

(a) the data will be used for a purpose for which they were collected by the department; and

(b) the recipient enters into a written agreement satisfactory to the department agreeing to protect such data in accordance with the requirements of this part and department rule and not permit further disclosure without prior approval of the department;

(3) the disclosure is to an individual or organization, for a specified period, solely for bona fide research and statistical purposes, determined in accordance with department rules, and the department determines that the data are required for the research and statistical purposes proposed and the requesting individual or organization enters into a written agreement satisfactory to the department to protect the data in accordance with this part and department rule and not permit further disclosure without prior approval of the department;

(4) the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation, or investigation of the department and such governmental entity agrees not to use those data for making any determination affecting the rights, benefits, or entitlements of any individual to whom the health data relates;

(5) the disclosure is of specific medical or epidemiological information to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or agencies responsible to enforce quarantine, when necessary to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the department considers to be dangerous or important or that may affect the public health;

(6)(a) the disclosure is of specific medical or epidemiological information to a "health care provider" as defined in Section 78B-3-403, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or to protect the health of others closely associated with the patient; and

(b) this Subsection (6) does not create a duty to warn third parties;

(7) the disclosure is necessary to obtain payment from an insurer or other third-party payor in order for the department to obtain payment or to coordinate benefits for a patient; [~~or~~]

(8) the disclosure is to the subject of the identifiable health data[.]; or

(9) the disclosure is limited to the results of a blood or urine test and the disclosure is:

(a) to the Driver License Division, as authorized by Section 53-3-111; or

(b) to the requesting law enforcement agency as part of an investigation, as authorized by Subsection 26B-1-216(4).

Section 4. Section 26B-8-407 is amended to read:

26B-8-407. Disclosure of health data -- Discretion of department -- Exception.

(1) Any disclosure provided for in Section 26B-8-406 shall be made at the discretion of the department.

(2) Notwithstanding Subsection (1), the disclosure provided for in[-]:

(a) Subsection 26B-8-406(4) shall be made when the requirements of that paragraph are met[-]; and

(b) Subsection 26B-8-406(9) is not discretionary.

Section 5. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1)(a) The Driver License Division shall, if the person is 21 years old or older at the time of arrest:

(i) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

(ii) revoke for a period of two years the license of a person if:

(A) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(B) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(b)(i) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete 120 days of the interlock restriction.

(ii) If a person elects to become an interlock restricted driver under Subsection 53-3-223(10)(a), and the person fails to complete the full 120 days of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 53-3-223(10)(a).

(c)(i) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), the Driver License Division may not suspend the operator's license for a violation of Section 41-6a-502 as described in Subsection (1)(a)(i) unless the person fails to complete three years of the interlock restriction under Subsection 41-6a-521(7).

(ii) If a person elects to become an interlock restricted driver under Subsection 41-6a-521(7), and the person fails to complete the full three years of interlock restriction, the Driver License Division:

(A) shall suspend the operator's license as described in Subsection (1)(a)(i) for a period of 120 days from the date the ignition interlock system was removed from the vehicle; and

(B) may not reduce the 120-day suspension for any days the person was compliant with the interlock restriction under Subsection 41-6a-521(7).

(2) The Driver License Division shall, if the person is 19 years old or older but under 21 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h)(i) is 18 years old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9)(a)(i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10)(a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11)(a) A court that reported a conviction of a violation of Section 41-6a-502 to the Driver License Division may shorten the suspension or revocation period imposed under Subsection (1) before completion of the suspension or revocation period if the person:

(i) is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; [~~or~~]

(ii)(A) is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program; and

(B) has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension or revocation period in accordance with Section 41-6a-518[~~.~~]; or

(iii) has had their operator license suspended under Subsection (1)(a)(i), and the court does not have a problem solving court program approved by the Judicial Council or access to a 24-7 sobriety program as defined in Section 41-6a-515.5, if the person:

(A) has installed an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(B) did not inflict bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner.

(b) If a court shortens a person's license suspension or revocation period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension or revocation period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete or comply with a condition that allowed the court to shorten the person's license suspension or revocation period under Subsection (11)(a).

(d)(i)(A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

(ii)(A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502 is based.

Section 6. Section 41-6a-515.6 is amended to read:

41-6a-515.6. Field sobriety test training.

Each law enforcement agency shall ensure that each peace officer receives training on the current standard field sobriety testing guidelines established by the National Highway Traffic Safety Administration and in accordance with Section 53-25-102.

Section 7. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6)(a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays[~~.~~]:

(A) an administrative impound fee of $400; and

(B) in addition to the administrative fee described in Subsection (6)(a)(iv)(A), an administrative testing fee of $30; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv)(A) shall be dedicated credits to the Motor Vehicle Division[~~;~~].

(ii) [~~$147~~]One-hundred and forty-seven dollars of the administrative impound fee assessed under Subsection (6)(a)(iv)(A) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106[~~;~~].

(iii) [~~$20~~]Twenty dollars of the administrative impound fee assessed under Subsection (6)(a)(iv)(A) shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319[~~; and~~].

(iv) [~~the~~]After the distributions described in Subsections (6)(b)(i) through (iii), the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv)(A) shall be deposited into the General Fund.

(v) The administrative testing fee described in Subsection (6)(a)(iv)(B) shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.

(c) The administrative impound fee and the administrative testing fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7)(a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 8. Section 53-3-104 is amended to read:

53-3-104. Division duties.

The division shall:

(1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) for examining applicants for a license, as necessary for the safety and welfare of the traveling public;

(b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident status, Utah residence address, proof of legal presence, proof of citizenship in the United States, honorable or general discharge from the United States military, and other proof or documentation required under this chapter;

(c) for acceptable documentation to verify that an individual is homeless as verified by the Department of Workforce Services, for purposes of residency, address verification, and obtaining a fee waiver;

(d) regarding the restrictions to be imposed on an individual driving a motor vehicle with a temporary learner permit or learner permit;

(e) for exemptions from licensing requirements as authorized in this chapter;

(f) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

(g) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

(i) ways drivers can improve air quality; and

(ii) the harmful effects of vehicle emissions;

(2) examine each applicant according to the class of license applied for;

(3) license motor vehicle drivers;

(4) file every application for a license received by the division and shall maintain indices containing:

(a) all applications denied and the reason each was denied;

(b) all applications granted; and

(c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

(5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

(6) file all accident reports and abstracts of court records of convictions received by the division under state law;

(7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

(8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

(9) search the license files, compile, and furnish a report on the driving record of any individual licensed in the state in accordance with Section 53-3-109;

(10) develop and implement a record system as required by Section 41-6a-604;

(11) in accordance with Section 53G-10-507, establish:

(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

(b) minimal standards for the tests; and

(c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

(12) in accordance with Section 53-3-510, establish:

(a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

(b) minimal standards for the test; and

(c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

(13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

(14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of an individual who is an applicant for voter registration under Section 20A-2-206; [~~and~~]

(15) in accordance with Section 53-3-407.1, establish:

(a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

(b) minimum standards for the commercial driver license skills test; and

(c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license[~~.~~]; and

(16) receive from the Department of Health and Human Services a result from a blood or urine test of an individual arrested for driving under the influence and use the blood or urine test result in an administrative hearing or agency review involving the individual who is the subject of the blood or urine test as described in Section 53-3-111.

Section 9. Section 53-3-111 is enacted to read:

53-3-111. Blood and urine test reports -- Permissible uses and restrictions.

(1) The division shall receive a result of a blood or urine test report in accordance with Title 26B, Chapter 8, Part 4, Health Statistics.

(2)(a) The division may only use an individual's personally identifiable health data from a blood and urine test in connection with:

(i) an administrative hearing involving that individual;

(ii) in accordance with Title 63G, Chapter 4, Part 3, Agency Review, an agency review of the administrative hearing described in Subsection (2)(a)(i); or

(iii) in accordance with Title 63G, Chapter 4, Part 4, Judicial Review, a judicial review of the administrative hearing described in Subsection (2)(a)(i).

(b)(i) The division shall aggregate and anonymize data from a blood and urine test.

(ii) The division may only use the anonymized and aggregated data from blood and urine tests:

(A) to create a report required or requested by the Legislature; or

(B) to create statistical reports for criminal justice agencies.

(3) The division shall securely retain each blood and urine test as a private record as provided in

Title 63G, Chapter 2, Government Records Access and Management Act.

(4) The division may provide the information from a blood and urine test received under this section:

(a) to the individual who is the subject of the blood and urine test;

(b) to the individual's attorney in connection with an administrative proceeding before the division; or

(c) as otherwise required by law.

Section 10. Section 53-3-223 is amended to read:

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

(1)(a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

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

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

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

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

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

(c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207.

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

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

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

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

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

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

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207;

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

(iii) the test results, if any.

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

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

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

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

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

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

(7)(a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years old or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years old at the time of arrest:

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

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

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

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

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

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

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

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

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

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

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

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

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

(9)(a) Notwithstanding the provisions in Subsection (7)(a)(i), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) if:

(i)(A) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5; or

(B) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a problem solving court program approved by the Judicial Council, including a driving under the influence court program or a drug court program, and has elected to become an interlock restricted driver as a condition of probation during the remainder of the person's suspension period in accordance with Section 41-6a-518; and

(ii) the person has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i).

(b) If a person's license is reinstated under Subsection (9)(a), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(10)(a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

(ii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(iii) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b)(i) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A).

(ii) If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the 120-day ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:

(A) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120-day ignition interlock restriction period;

(B) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(C) the person may not elect to become an ignition interlock restricted driver under this section.

(c) If a person elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

(11)(a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(B), the person may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the suspension if the person:

(i) was charged with a violation of Section 41-6a-502 that is a misdemeanor;

(ii) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(B);

(iii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(b)(i) The person shall remain an ignition interlock restricted driver for a period of two years from the original effective date of the suspension under Subsection (7)(a)(i)(B).

(ii) If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the two-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different provider within 24 hours:

(A) the person's driver license shall be suspended under Subsection (7)(a)(i)(B) for the remainder of the two-year ignition interlock restriction period;

(B) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(C) the person may not elect to become an ignition interlock restricted driver under this section.

(c) Notwithstanding Subsections (11)(a) and (b), if the person is subsequently convicted of the violation of Section 41-6a-502 that gave rise to the suspension under Subsection (7)(a)(i)(B), the division shall revoke the person's license under Subsection 41-6a-509(1)(a)(ii), and the person is no longer an ignition interlock restricted driver under this Subsection (11).

(12)(a) Notwithstanding the provisions in Subsection (7)(a)(i)(B), the division shall reinstate a person's license prior to completion of the two-year suspension period imposed under Subsection (7)(a)(i)(B) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502, 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

(b) If the person elected to become an ignition interlock restricted driver under Subsection (11), and the division receives written verification of the person's dismissal of a charge for violation of Section 41-6a-502, the driver is no longer an ignition interlock restricted driver under Subsection (11)(b)(i), and the division shall reinstate the person's license prior to the completion of the two-year ignition interlock restriction period under Subsection (11)(b)(i).

Section 11. Section 53-25-102 is enacted to read:

53-25-102. Standards for oral fluid and portable breath tests -- Rulemaking.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish standards for the proper use of oral fluid and portable breath testing as part of a field sobriety test.

(2) Each law enforcement agency shall provide training to ensure that:

(a) oral fluid and portable breath testing techniques and practices comply with the rules described in Subsection (1); and

(b) oral fluid and portable breath testing equipment is used in a manner consistent with manufacturer and industry standards.

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 107
H. B. 81
Passed February 2, 2024
Approved March 13, 2024
Effective May 1, 2024

DOMESTIC VIOLENCE MODIFICATIONS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends the definition of domestic violence in Title 77, Chapter 36, Cohabitant Abuse Procedures Act.

Highlighted Provisions:

This bill:

- adds the crime of propelling a bodily substance or material to the list of crimes that qualify as a domestic violence offense in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-36-1, as last amended by Laws of Utah 2022, Chapters 185, 430

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

Section 1. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4)(a) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another.

(b) "Domestic violence" or "domestic violence offense" includes the commission of or attempt to commit, any of the following offenses by one cohabitant against another:

[~~(a)~~](i) aggravated assault, as described in Section 76-5-103;

[~~(b)~~](ii) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

[~~(c)~~](iii) assault, as described in Section 76-5-102;

[~~(d)~~](iv) criminal homicide, as described in Section 76-5-201;

[~~(e)~~](v) harassment, as described in Section 76-5-106;

[~~(f)~~](vi) electronic communication harassment, as described in Section 76-9-201;

[~~(g)~~](vii) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

[~~(h)~~](viii) mayhem, as described in Section 76-5-105;

(ix) propelling a bodily substance or material, as described in Section 76-5-102.9;

[~~(i)~~](x) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

[~~(j)~~](xi) stalking, as described in Section 76-5-106.5;

[~~(k)~~](xii) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

[~~(l)~~](xiii) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

[~~(m)~~](xiv) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

[~~(n)~~](xv) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

[~~(o)~~](xvi) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

[~~(p)~~](xvii) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

[~~(q)~~](xviii) child abuse, as described in Section 76-5-114;

[~~(r)~~](xix) threatening use of a dangerous weapon, as described in Section 76-10-506;

[~~(s)~~](xx) threatening violence, as described in Section 76-5-107;

[~~(t)~~](xxi) tampering with a witness, as described in Section 76-8-508;

[~~(u)~~](xxii) retaliation against a witness or victim, as described in Section 76-8-508.3;

[~~(v)~~](xxiii) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205;

[~~(w)~~](xxiv) sexual battery, as described in Section 76-9-702.1;

[~~(x)~~](xxv) voyeurism, as described in Section 76-9-702.7;

[~~(y)~~](xxvi) damage to or interruption of a communication device, as described in Section 76-6-108; or

[~~(z)~~](xxvii) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 108
H. B. 86
Passed February 28, 2024
Approved March 13, 2024
Effective March 13, 2024

PUBLIC SAFETY DATA AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends and enacts provisions related to the collection and reporting of public safety data.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Alcohol Abuse Tracking Committee to report certain information to the State Commission on Criminal and Juvenile Justice and to the Law Enforcement and Criminal Justice Interim Committee;
- amends the dates for certain required reports;
- renames the "criminal and juvenile justice database" to the "public safety portal";
- clarifies that the State School Board's school disciplinary and law enforcement action report is a report required to be included in the public safety portal managed by the State Commission on Criminal and Juvenile Justice;
- provides the State Commission on Criminal and Juvenile Justice with authority to contract with private and governmental entities to assist criminal justice agencies in complying with certain data reporting requirements;
- creates the public safety portal grant program; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-427, as renumbered and amended by Laws of Utah 2023, Chapter 305
53E-3-516, as last amended by Laws of Utah 2023, Chapters 115, 161
63A-16-1001, as last amended by Laws of Utah 2023, Chapter 161
63A-16-1002, as last amended by Laws of Utah 2023, Chapters 158, 161, 382, and 448
63M-7-214, as last amended by Laws of Utah 2022, Chapter 390
63M-7-216, as last amended by Laws of Utah 2023, Chapter 330
63M-7-218, as last amended by Laws of Utah 2023, Chapters 158, 161 and 382

ENACTS:

63A-16-1003, Utah Code Annotated 1953

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

Section 1. Section 26B-1-427 is amended to read:

26B-1-427. Alcohol Abuse Tracking Committee -- Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the Alcohol Abuse Tracking Committee that consists of:

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

(b) the commissioner of the Department of Public Safety or the commissioner's designee;

(c) the director of the Department of Alcoholic Beverage Services or that director's designee;

(d) the executive director of the Department of Workforce Services or that executive director's designee;

(e) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;

(f) the state court administrator or the state court administrator's designee; and

(g) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3)(a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to,

plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall[~~.~~]:

(a) report the information collected under Subsection (6) annually to the governor[~~ and the Legislature~~], the Law Enforcement and Criminal Justice Interim Committee, and the State Commission on Criminal and Juvenile Justice by no later than the July 1 immediately following the calendar year for which the information is collected; and

(b) provide all data collected before January 1, 2024, under Subsection (6) to the State Commission on Criminal and Juvenile Justice.

Section 2. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means the same as that term is defined in Section 53G-8-510.

[~~(b) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.~~]

(b)(i) "Law enforcement action" means a significant law enforcement interaction with a minor.

(ii) "Law enforcement action" includes the following actions against a minor:

(A) a search and seizure;

(B) an arrest;

(C) the issuance of a citation;

(D) the filing of a delinquency petition, indictment, or criminal information;

(E) a referral to the juvenile court; or

(F) use of force by a law enforcement officer.

(c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(d) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(d)~~](e) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(e) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:~~]

[~~(i) a search and seizure by an SRO;~~]

[~~(ii) issuance of a criminal citation;~~]

[~~(iii) issuance of a ticket or summons;~~]

[~~(iv) filing a delinquency petition; or~~]

[~~(v) referral to a probation officer.~~]

(f)(i) "School disciplinary action" means an action by a public school to formally discipline a student of that public school.

(ii) "School disciplinary action" includes a suspension or an expulsion.

[~~(f)~~](g) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

[~~(g)~~](h)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

[~~(h)~~](i) "[~~.~~]School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) [~~Beginning on July 1, 2023, the~~]The state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

[~~(a) arrests of a minor;~~]

[~~(b) other law enforcement activities;~~]

[~~(c)~~](a) school disciplinary actions;[~~ and~~]

[~~(d)~~](b) minors found in possession of a dangerous weapon[~~.~~]; and

(c) law enforcement actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each school in an LEA:

[~~(a) the number of arrests of a minor, including the reason why the minor was arrested;~~]

[~~(b)~~](a) the number of [~~other~~]law enforcement [~~activities~~]actions, including the following information for each incident:

(i) the reason for the [~~other~~]law enforcement [~~activity~~]action; and

(ii) the type of [~~other~~]law enforcement [~~activity~~]action used;

[~~(c)~~](b) the number of school disciplinary actions[~~imposed~~], including the following information for each incident:

(i) the reason for the school disciplinary action; and

(ii) the type of school disciplinary action;

[~~(d)~~](c) the number of SROs employed;

[~~(e)~~](d) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and

[~~(f)~~](e) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) [~~through (e)~~]and (b):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 3. Section 63A-16-1001 is amended to read:

63A-16-1001. Definitions.

As used in this part:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, and incarceration of an individual involved in criminal activity, including law enforcement, correctional facilities, jails, courts, probation, and parole.

[~~(3) "Database" means the criminal and juvenile justice database created in this part.~~]

[~~(4)~~](3) "Division" means the Division of Technology Services created in Section 63A-16-103.

(4) "Grant" means a grant awarded under Section 63A-16-1003.

(5) "Program" means the public safety portal grant program created in Section 63A-16-1003.

(6) "Public safety portal" means the data portal created in Section 63A-16-1002.

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

Section 4. Section 63A-16-1002 is amended to read:

63A-16-1002. Public safety portal.

(1) The commission shall oversee the creation and management of a [~~criminal and juvenile justice database~~]public safety portal for information and data required to be reported to the commission[~~, organized by county,~~] and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the [~~database~~]public safety portal.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the [~~database~~]public safety portal;

(b) a [~~portal~~]gateway, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information [~~in the database~~]from the public safety portal;

(d) a protocol for accessing information in the [~~database~~]public safety portal that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed [~~through~~]from the public safety portal by participating data source, data use entities, and regulators.

[~~(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.~~]

[~~(5)~~](4) The [~~database~~]public safety portal shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 26B-1-427, Alcohol Abuse Tracking Committee;

[~~(d)~~](e) Section 41-6a-511, courts to collect and maintain data;

[~~(e)~~](f) Section 53-23-101, reporting requirements for reverse-location warrants;

[~~(f)~~](g) Section 53-24-102, sexual assault offense reporting requirements for law enforcement agencies;

(h) Section 53E-3-516, school disciplinary and law enforcement action report;

[~~(g)~~](i) Section 63M-7-214, law enforcement agency grant reporting;

[~~(h)~~](j) Section 63M-7-216, prosecutorial data collection;

[~~(i)~~](k) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(j)~~](l) Section 64-13-25, standards for programs;

[~~(k)~~](m) Section 64-13-45, department reporting requirements;

[~~(l)~~](n) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

[~~(m)~~](o) Section 77-7-8.5, use of tactical groups;

[~~(n)~~](p) Section 77-11b-404, forfeiture reporting requirements;

[~~(o)~~](q) Section 77-20-103, release data requirements;

[~~(p)~~](r) Section 77-22-2.5, court orders for criminal investigations;

[~~(q)~~](s) Section 78A-2-109.5, court demographics reporting;

[~~(r)~~](t) Section 80-6-104, data collection on offenses committed by minors; and

[~~(s)~~](u) any other statutes which require the collection of specific data and the reporting of that data to the commission.

[~~(6)~~](5) [~~The~~]Before October 1, 2025, the commission shall report[~~:~~]

[~~(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and (b)~~] all data collected [~~as of December 31, 2022,~~]to the Law Enforcement and Criminal Justice Interim Committee[~~, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023~~].

(6) The commission may:

(a) enter into contracts with private or governmental entities to assist entities in complying with the data reporting requirements of Subsection (4); and

(b) adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules to administer this section, including establishing requirements and procedures for collecting the data described in Subsection (4).

Section 5. Section 63A-16-1003 is enacted to read:

63A-16-1003. Public safety portal grant program.

(1)(a) There is created within the commission the public safety portal grant program.

(b) The purpose of the program is to award grants to assist entities in complying with the data reporting requirements described in Subsection 63A-16-1002(4).

(c) The program is funded with existing appropriations previously designated for the purpose of facilitating data collection and any ongoing appropriations made by the Legislature for the program.

(2) An entity that submits a proposal for a grant to the commission shall include details in the proposal regarding:

(a) how the entity plans to use the grant to fulfill the purpose described in Subsection (1)(b);

(b) any plan to use funding sources in addition to the grant for proposal;

(c) any existing or planned partnerships with another individual or entity to implement the proposal; and

(d) other information the commission determines is necessary to evaluate the proposal.

(3) When evaluating a proposal for a grant, the commission shall consider:

(a) the likelihood that the proposal will accomplish the purpose described in Subsection (1)(b);

(b) the cost of the proposal; and

(c) the viability and sustainability of the proposal.

(4) Subject to Subsection (2), the commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) eligibility criteria for a grant;

(b) the form and process for submitting a proposal to the commission for a grant;

(c) the method and formula for determining a grant amount; and

(d) reporting requirements for a grant recipient.

Section 6. Section 63M-7-214 is amended to read:

63M-7-214. Commission on Criminal and Juvenile Justice -- Grants.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Law enforcement agency" means a state or local law enforcement agency.

(c) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:

(i) programs, including education, prevention, treatment, and research programs; and

(ii) enforcement of laws regarding illegal drugs.

(2) The commission shall implement law enforcement operations and programs related to reducing illegal drug activity as listed in Subsection (3).

(3)(a) The first priority of the commission is to annually allocate not more than $2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.

(b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

(4)(a) In allocating grants and determining the amount of the grants to carry out the purposes of Subsection (3), the commission shall consider:

(i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and

(ii) the agency's cooperation with other state and local agencies and task forces.

(b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

[~~(5) The commission shall allocate grants to local law enforcement agencies to assist in complying with the requirements of Subsection 63A-16-1002(4). The commission shall only use funds appropriated for this purpose for the grants.~~]

[~~(6)~~](5) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.

[~~(7)~~](6) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.

[~~(8)~~](7)(a) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare and file with the commission and the state auditor a report in a form specified by the commission.

(b) The report shall include the following regarding each grant:

(i) the agency's name;

(ii) the amount of the grant;

(iii) the date of the grant;

(iv) how the grant has been used; and

(v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

Section 7. Section 63M-7-216 is amended to read:

63M-7-216. Prosecutorial data collection -- Policy transparency.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b)(i) "Criminal case" means a case where an offender is charged with an offense for which a mandatory court appearance is required under the Uniform Bail Schedule.

(ii) "Criminal case" does not mean a case for criminal non-support under Section 76-7-201 or any proceeding involving collection or payment of child support, medical support, or child care expenses by or on behalf of the Office of Recovery Services under Section 26B-9-108 or 76-7-202.

(c) "Offense tracking number" means a distinct number applied to each criminal offense by the Bureau of Criminal Identification.

(d) "Pre-filing diversion" means an agreement between a prosecutor and an individual prior to

being charged with a crime, before an information or indictment is filed, in which the individual is diverted from the traditional criminal justice system into a program of supervision and supportive services in the community.

(e) "Post-filing diversion" is as described in Section 77-2-5.

(f) "Prosecutorial agency" means the Office of the Attorney General and any city, county, or district attorney acting as a public prosecutor.

(g) "Publish" means to make aggregated data available to the general public.

(2) Beginning July 1, 2021, all prosecutorial agencies within the state shall submit the following data with regards to each criminal case referred to it from a law enforcement agency to the commission for compilation and analysis:

(a) the defendant's:

(i) full name;

(ii) offense tracking number;

(iii) date of birth; and

(iv) zip code;

(b) referring agency;

(c) whether the prosecutorial agency filed charges, declined charges, initiated a pre-filing diversion, or asked the referring agency for additional information;

(d) if charges were filed, the case number and the court in which the charges were filed;

(e) all charges brought against the defendant;

(f) whether bail was requested and, if so, the requested amount;

(g) the date of initial discovery disclosure;

(h) whether post-filing diversion was offered and, if so, whether it was entered;

(i) if post-filing diversion or other plea agreement was accepted, the date entered by the court; and

(j) the date of conviction, acquittal, plea agreement, dismissal, or other disposition of the case.

(3)(a) The information required by Subsection (2), including information that was missing or incomplete at the time of an earlier submission but is presently available, shall be submitted within 90 days of the last day of March, June, September, and December of each year for the previous 90-day period in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the information shall be submitted on the next working day.

(4) The prosecutorial agency shall maintain a record of all information collected and transmitted to the commission for 10 years.

(5) The commission shall include in the plan required by Subsection 63M-7-204(1)(k) an analysis of the data received, comparing and contrasting the practices and trends among and between prosecutorial agencies in the state. The Law Enforcement and Criminal Justice Interim Committee may request an in-depth analysis of the data received annually. Any request shall be in writing and specify which data points the report shall focus on.

(6) The commission may provide assistance to prosecutorial agencies in setting up a method of collecting and reporting data required by this section.

(7) Beginning January 1, 2021, all prosecutorial agencies shall publish specific office policies. If the agency does not maintain a policy on a topic in this subsection, the agency shall affirmatively disclose that fact. Policies shall be published online on the following topics:

(a) screening and filing criminal charges;

(b) plea bargains;

(c) sentencing recommendations;

(d) discovery practices;

(e) prosecution of juveniles, including whether to prosecute a juvenile as an adult;

(f) collection of fines and fees;

(g) criminal and civil asset forfeiture practices;

(h) services available to victims of crime, both internal to the prosecutorial office and by referral to outside agencies;

(i) diversion programs; and

(j) restorative justice programs.

[~~(8)(a) A prosecutorial agency not in compliance with this section by July 1, 2022, in accordance with the commission's guidelines may not receive grants or other funding intended to assist with bringing the agency into compliance with this section. In addition, any funds received for the purpose of bringing the agency into compliance with this section shall be returned to the source of the funding.~~]

[~~(b) Only funding received from the commission by a prosecutorial agency specifically intended to assist the agency with compliance with this section may be recalled.~~]

Section 8. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

(1) [~~Beginning July 1, 2023~~]Except as provided in Subsection (2), the commission may not award [~~any~~]a grant of state funds to [~~any~~]an entity subject to, and not in compliance with, the reporting requirements in [~~Subsections 63A-16-1002(5)(a) through (r)~~]Subsection 63A-16-1002(4).

(2) The commission may award a grant to an entity under Section 63A-16-1003 even if the entity is not in compliance with the reporting

requirements described in Subsection 63A-16-1002(4).

Section 9. Effective date.

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

CHAPTER 109
H. B. 99
Passed February 13, 2024
Approved March 13, 2024
Effective May 1, 2024

CONSUMER CREDIT PROTECTION AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Credit Services Organizations Act.

Highlighted Provisions:

This bill:

- requires consumer credit services organizations to disclose certain information when providing a credit report to a buyer; and
- defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-21-7.5, Utah Code Annotated 1953

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

Section 1. Section 13-21-7.5 is enacted to read:

13-21-7.5. Required disclosures.

(1) As used in this section:

(a) "Consumer reporting agency" means the same as that term is defined in Section 13-45-102.

(b) "Credit report" means the same as that term is defined in Section 13-45-102.

(c) "Credit score" means the same as that term is defined in Section 31A-22-320.

(2) When a consumer credit services organization provides a credit report to a buyer, the credit services organization shall provide to the buyer a written disclosure that identifies:

(a) the consumer reporting agency providing the information in the report;

(b) the name of the credit score model used by the credit reporting agency to calculate the credit score; and

(c) the minimum and maximum possible scores under the credit score model used by the credit reporting agency in the credit report.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 110
H. B. 100
Passed February 23, 2024
Approved March 13, 2024
Effective July 1, 2024

WORKFORCE DEVELOPMENT FUNDING AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill establishes the Workforce Initiatives Fund within the Department of Workforce Services (department).

Highlighted Provisions:

This bill:

- defines terms;
- replaces the department's Special Administrative Expense Account with a special revenue fund known as the Workforce Initiatives Fund, consisting of interest and penalties collected by the department under the Employment Support Act;
- authorizes the department to use Workforce Initiatives Fund revenues for the administration of the Utah Workforce Services Code and to cover the costs of the department's workforce development programs; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Workforce Services - Administration - Administrative Support as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $70,500
- to Department of Workforce Services - Operations and Policy - Information Technology as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $1,350,000
- to Department of Workforce Services - Operations and Policy - Other Assistance as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $100,000
- to Department of Workforce Services - Operations and Policy - Workforce Development as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $1,365,500
- to Department of Workforce Services - State Office of Rehabilitation - Deaf and Hard of Hearing as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $1,500
- to Department of Workforce Services - Unemployment Insurance - Adjudication as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $110,900
- to Department of Workforce Services - Unemployment Insurance - Unemployment Insurance Administration as an ongoing appropriation:
  - from the Workforce Initiatives Fund, $726,600

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-38-104, as last amended by Laws of Utah 2011, Chapters 303, 342
35A-4-305, as last amended by Laws of Utah 2012, Chapter 15
35A-4-314, as last amended by Laws of Utah 2023, Chapter 401
35A-4-507, as last amended by Laws of Utah 2011, Chapter 342
63B-10-401, as last amended by Laws of Utah 2023, Chapter 369

REPEALS AND REENACTS:

35A-4-506, as last amended by Laws of Utah 2013, Chapter 315

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

Section 1. Section 31A-38-104 is amended to read:

31A-38-104. Authorization -- Money transferred for reserves.

(1) The Department of Workforce Services may:

(a) convert the bridge program to the state program through any of the following, or combination of the following, that the Department of Workforce Services considers best serves the needs of qualified participants:

(i) a contract with a licensed insurance company authorized to do business in the state;

(ii) through any other arrangement acceptable under the Trade Reform Act; or

(iii) a self-insurance program through a third party administrator as provided in Subsection 31A-38-103(3)(b)(ii); and

(b) obligate up to $2,000,000 of the [~~Special Administrative Expense Account~~]Workforce Initiatives Fund created in Section 35A-4-506 as reserves for the state program.

(2) The money in Subsection (1)(b) may be used until the reserves in the state program become adequate.

Section 2. Section 35A-4-305 is amended to read:

35A-4-305. Collection of contributions -- Unpaid contributions to bear interest -- Offer to compromise.

(1)(a) Contributions unpaid on the date on which they are due and payable, as prescribed by the division, shall bear interest at the rate of 1% per month from and after that date until payment plus accrued interest is received by the division.

(b)(i) Contribution reports not made and filed by the date on which they are due as prescribed by the division are subject to a penalty to be assessed and collected in the same manner as contributions due

under this section equal to 5% of the contribution due if the failure to file on time was not more than 15 days, with an additional 5% for each additional 15 days or fraction thereof during which the failure continued, but not to exceed 25% in the aggregate and not less than $25 with respect to each reporting period.

(ii) If a report is filed after the required time and it is shown to the satisfaction of the division or its authorized representative that the failure to file was due to a reasonable cause and not to willful neglect, no addition shall be made to the contribution.

(c)(i) If contributions are unpaid after 10 days from the date of the mailing or personal delivery by the division or its authorized representative, of a written demand for payment, there shall attach to the contribution, to be assessed and collected in the same manner as contributions due under this section, a penalty equal to 5% of the contribution due.

(ii) A penalty may not attach if within 10 days after the mailing or personal delivery, arrangements for payment have been made with the division, or its authorized representative, and payment is made in accordance with those arrangements.

(d) The division shall assess as a penalty a service charge, in addition to any other penalties that may apply, in an amount not to exceed the service charge imposed by Section 7-15-1 for dishonored instruments if:

(i) any amount due the division for contributions, interest, other penalties or benefit overpayments is paid by check, draft, order, or other instrument; and

(ii) the instrument is dishonored or not paid by the institution against which it is drawn.

(e) Except for benefit overpayments under Subsection 35A-4-405(5), benefit overpayments, contributions, interest, penalties, and assessed costs, uncollected three years after they become due, may be charged as uncollectible and removed from the records of the division if:

(i) no assets belonging to the liable person and subject to attachment can be found; and

(ii) in the opinion of the division there is no likelihood of collection at a future date.

(f) Interest and penalties collected in accordance with this section shall be [~~paid~~]deposited into the [~~Special Administrative Expense Account created by~~]Workforce Initiatives Fund created in Section 35A-4-506.

(g) Action required for the collection of sums due under this chapter is subject to the applicable limitations of actions under Title 78B, Chapter 2, Statutes of Limitations.

(2)(a) If an employer fails to file a report when prescribed by the division for the purpose of determining the amount of the employer's contribution due under this chapter, or if the report when filed is incorrect or insufficient or is not satisfactory to the division, the division may determine the amount of wages paid for employment during the period or periods with respect to which the reports were or should have been made and the amount of contribution due from the employer on the basis of any information it may be able to obtain.

(b) The division shall give written notice of the determination to the employer.

(c) The determination is considered correct unless:

(i) the employer, within 10 days after mailing or personal delivery of notice of the determination, applies to the division for a review of the determination as provided in Section 35A-4-508; or

(ii) unless the division or its authorized representative of its own motion reviews the determination.

(d) The amount of contribution determined under Subsection (2)(a) is subject to penalties and interest as provided in Subsection (1).

(3)(a) If, after due notice, an employer defaults in the payment of contributions, interest, or penalties on the contributions, or a claimant defaults in a repayment of benefit overpayments and penalties on the overpayments, the amount due shall be collectible by civil action in the name of the division, and the employer adjudged in default shall pay the costs of the action.

(b) Civil actions brought under this section to collect contributions, interest, or penalties from an employer, or benefit overpayments and penalties from a claimant shall be:

(i) heard by the court at the earliest possible date; and

(ii) entitled to preference upon the calendar of the court over all other civil actions except:

(A) petitions for judicial review under this chapter; and

(B) cases arising under the workers' compensation law of this state.

(c)(i)(A) To collect contributions, interest, or penalties, or benefit overpayments and penalties due from employers or claimants located outside Utah, the division may employ private collectors providing debt collection services outside Utah.

(B) Accounts may be placed with private collectors only after the employer or claimant has been given a final notice that the division intends to place the account with a private collector for further collection action.

(C) The notice shall advise the employer or claimant of the employer's or claimant's rights under this chapter and the applicable rules of the department.

(ii)(A) A private collector may receive as compensation up to 25% of the lesser of the amount collected or the amount due, plus the costs and fees

of any civil action or postjudgment remedy instituted by the private collector with the approval of the division.

(B) The employer or claimant shall be liable to pay the compensation of the collector, costs, and fees in addition to the original amount due.

(iii) A private collector is subject to the federal Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692 et seq.

(iv)(A) A civil action may not be maintained by a private collector without specific prior written approval of the division.

(B) When division approval is given for civil action against an employer or claimant, the division may cooperate with the private collector to the extent necessary to effect the civil action.

(d)(i) Notwithstanding Section 35A-4-312, the division may disclose the contribution, interest, penalties or benefit overpayments and penalties, costs due, the name of the employer or claimant, and the employer's or claimant's address and telephone number when any collection matter is referred to a private collector under Subsection (3)(c).

(ii) A private collector is subject to the confidentiality requirements and penalty provisions provided in Section 35A-4-312 and Subsection 76-8-1301(4), except to the extent disclosure is necessary in a civil action to enforce collection of the amounts due.

(e) An action taken by the division under this section may not be construed to be an election to forego other collection procedures by the division.

(4)(a) In the event of a distribution of an employer's assets under an order of a court under the laws of Utah, including a receivership, assignment for benefits of creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for wages of not more than $400 to each claimant, earned within five months of the commencement of the proceeding.

(b) If an employer commences a proceeding in the Federal Bankruptcy Court under a chapter of 11 U.S.C. 101 et seq., as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, contributions, interest, and penalties then or thereafter due shall be entitled to the priority provided for taxes, interest, and penalties in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

(5)(a) In addition and as an alternative to any other remedy provided by this chapter and provided that no appeal or other proceeding for review provided by this chapter is then pending and the time for taking it has expired, the division may issue a warrant in duplicate, under its official seal, directed to the sheriff of any county of the state, commanding the sheriff to levy upon and sell the real and personal property of a delinquent employer or claimant found within the sheriff's county for the payment of the contributions due, with the added penalties, interest, or benefit overpayment and penalties, and costs, and to return the warrant to the division and pay into the fund the money collected by virtue of the warrant by a time to be specified in the warrant, not more than 60 days from the date of the warrant.

(b)(i) Immediately upon receipt of the warrant in duplicate, the sheriff shall file the duplicate with the clerk of the district court in the sheriff's county.

(ii) The clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the delinquent employer or claimant mentioned in the warrant, and in appropriate columns the amount of the contribution, penalties, interest, or benefit overpayment and penalties, and costs, for which the warrant is issued and the date when the duplicate is filed.

(c) The amount of the docketed warrant shall:

(i) have the force and effect of an execution against all personal property of the delinquent employer; and

(ii) become a lien upon the real property of the delinquent employer or claimant in the same manner and to the same extent as a judgment duly rendered by a district court and docketed in the office of the clerk.

(d) After docketing, the sheriff shall:

(i) proceed in the same manner as is prescribed by law with respect to execution issued against property upon judgments of a court of record; and

(ii) be entitled to the same fees for the sheriff's services in executing the warrant, to be collected in the same manner.

(6)(a) Contributions imposed by this chapter are a lien upon the property of an employer liable for the contribution required to be collected under this section who shall sell out the employer's business or stock of goods or shall quit business, if the employer fails to make a final report and payment on the date subsequent to the date of selling or quitting business on which they are due and payable as prescribed by rule.

(b)(i) An employer's successor, successors, or assigns, if any, are required to withhold sufficient of the purchase money to cover the amount of the contributions and interest or penalties due and payable until the former owner produces a receipt from the division showing that they have been paid or a certificate stating that no amount is due.

(ii) If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser is personally liable for the payment of the amount of the contributions required to be paid by the former owner, interest and penalties accrued and unpaid by the former owner, owners, or assignors.

(7)(a) If an employer is delinquent in the payment of a contribution, the division may give notice of the amount of the delinquency by registered mail to all

persons having in their possession or under their control, any credits or other personal property belonging to the employer, or owing any debts to the employer at the time of the receipt by them of the notice.

(b) A person notified under Subsection (7)(a) shall neither transfer nor make any other disposition of the credits, other personal property, or debts until:

(i) the division has consented to a transfer or disposition; or

(ii) 20 days after the receipt of the notice.

(c) All persons notified under Subsection (7)(a) shall, within five days after receipt of the notice, advise the division of credits, other personal property, or other debts in their possession, under their control or owing by them, as the case may be.

(8)(a)(i) Each employer shall furnish the division necessary information for the proper administration of this chapter and shall include wage information for each employee, for each calendar quarter.

(ii) The information shall be furnished at a time, in the form, and to those individuals as the department may by rule require.

(b)(i) Each employer shall furnish each individual worker who is separated that information as the department may by rule require, and shall furnish within 48 hours of the receipt of a request from the division a report of the earnings of any individual during the individual's base-period.

(ii) The report shall be on a form prescribed by the division and contain all information prescribed by the division.

(c)(i) For each failure by an employer to conform to this Subsection (8) the division shall, unless good cause is shown, assess a $50 penalty if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The penalty is to be collected in the same manner as contributions due under this chapter.

(d)(i) The division shall prescribe rules providing standards for determining which contribution reports shall be filed on magnetic or electronic media or in other machine-readable form.

(ii) In prescribing these rules, the division:

(A) may not require an employer to file contribution reports on magnetic or electronic media unless the employer is required to file wage data on at least 250 employees during any calendar quarter or is an authorized employer representative who files quarterly tax reports on behalf of 100 or more employers during any calendar quarter;

(B) shall take into account, among other relevant factors, the ability of the employer to comply at reasonable cost with the requirements of the rules; and

(C) may require an employer to post a bond for failure to comply with the rules required by this Subsection (8)(d).

(9)(a)(i) An employer liable for payments in lieu of contributions shall file Reimbursable Employment and Wage Reports.

(ii) The reports are due on the last day of the month that follows the end of each calendar quarter unless the division, after giving notice, changes the due date.

(iii) A report postmarked on or before the due date is considered timely.

(b)(i) Unless the employer can show good cause, the division shall assess a $50 penalty against an employer who does not file Reimbursable Employment and Wage Reports within the time limits set out in Subsection (9)(a) if the filing was not more than 15 days late.

(ii) If the filing is more than 15 days late, the division shall assess an additional penalty of $50 for each 15 days, or a fraction of the 15 days that the filing is late, not to exceed $250 per filing.

(iii) The division shall assess and collect the penalties referred to in this Subsection (9)(b) in the same manner as prescribed in Sections 35A-4-309 and 35A-4-311.

(10) If a person liable to pay a contribution or benefit overpayment imposed by this chapter neglects or refuses to pay it after demand, the amount, including any interest, additional amount, addition to contributions, or assessable penalty, together with any additional accruable costs, shall be a lien in favor of the division upon all property and rights to property, whether real or personal belonging to the person.

(11)(a) The lien imposed by Subsection (10) arises at the time the assessment, as defined in the department rules, is made and continues until the liability for the amount assessed, or a judgment against the taxpayer arising out of the liability, is satisfied.

(b)(i) The lien imposed by Subsection (10) is not valid as against a purchaser, holder of a security interest, mechanics' lien holder, or judgment lien creditor until the division files a warrant with the clerk of the district court.

(ii) For the purposes of this Subsection (11)(b):

(A) "Judgment lien creditor" means a person who obtains a valid judgment of a court of record for recovery of specific property or a sum certain of money, and who in the case of a recovery of money, has a perfected lien under the judgment on the property involved. A judgment lien does not include inchoate liens such as attachment or garnishment liens until they ripen into a judgment. A judgment lien does not include the determination or assessment of a quasi-judicial authority, such as a state or federal taxing authority.

(B) "Mechanics' lien holder" means any person who has a lien on real property, or on the proceeds of

a contract relating to real property, for services, labor, or materials furnished in connection with the construction or improvement of the property. A person has a lien on the earliest date the lien becomes valid against subsequent purchasers without actual notice, but not before the person begins to furnish the services, labor, or materials.

(C) "Person" means:

(I) an individual;

(II) a trust;

(III) an estate;

(IV) a partnership;

(V) an association;

(VI) a company;

(VII) a limited liability company;

(VIII) a limited liability partnership; or

(IX) a corporation.

(D) "Purchaser" means a person who, for adequate and full consideration in money or money's worth, acquires an interest, other than a lien or security interest, in property which is valid under state law against subsequent purchasers without actual notice.

(E) "Security interest" means any interest in property acquired by contract for the purpose of securing payment or performance of an obligation or indemnifying against loss or liability. A security interest exists at any time:

(I) the property is in existence and the interest has become protected under the law against a subsequent judgment lien arising out of an unsecured obligation; and

(II) to the extent that, at that time, the holder has parted with money or money's worth.

(12)(a) Except in cases involving a violation of unemployment compensation provisions under Section 76-8-1301, Subsection 35A-4-304(5), or Subsection 35A-4-405(5), and at the discretion of the division, the division may accept an offer in compromise from an employer or claimant to reduce past due debt arising from contributions or benefit overpayments imposed under this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules for allowing an offer in compromise provided under Subsection (12)(a).

Section 3. Section 35A-4-314 is amended to read:

35A-4-314. Disclosure of information for debt collection -- Court order -- Procedures -- Use of information restrictions -- Penalties.

(1) The division shall disclose to a creditor who has obtained judgment against a debtor the name and address of the last known employer of the debtor if:

(a) the judgment creditor obtains a court order requiring disclosure of the information as described in Subsection (2); and

(b) the judgment creditor completes the requirements described in Subsection (3), including entering into a written agreement with the division.

(2)(a) A court shall grant an order to disclose the information described in Subsection (1) if, under the applicable Utah Rules of Civil Procedure:

(i) the judgment creditor files a motion with the court, which includes a copy of the judgment, and serves a copy of the motion to the judgment debtor and the division;

(ii) the judgment debtor and the division have the opportunity to respond to the motion; and

(iii) the court denies or overrules any objection to disclosure in the judgment debtor's and the division's response.

(b) A court may not grant an order to disclose the information described in Subsection (1), if the court finds that the division has established that disclosure will have a negative effect on:

(i) the willingness of employers to report wage and employment information; or

(ii) the willingness of individuals to file claims for unemployment benefits.

(c) The requirements of Subsection 63G-2-202(7) and Section 63G-2-207 do not apply to information sought through a court order as described in this section.

(3) If a court order is granted in accordance with this section, a judgment creditor shall:

(a) provide to the division a copy of the order requiring the disclosure;

(b) enter into a written agreement with the division, in a form approved by the division;

(c) pay the division a reasonable fee that reflects the cost for processing the request as established by department rule; and

(d) comply with the data safeguard and security measures described in 20 C.F.R. Sec. 603.9 with respect to information received from the division under this section.

(4) If a judgment creditor complies with Subsection (3), the division shall provide the information to the judgment creditor within 14 business days after the day on which the creditor complies with Subsection (3).

(5) A judgment creditor may not:

(a) use the information obtained under this section for a purpose other than satisfying the judgment between the creditor and debtor; or

(b) disclose or share the information with any other person.

(6) The division may audit a judgment creditor or other party receiving information under this section for compliance with the data safeguard and security measures described in 20 C.F.R. Sec. 603.9.

(7) If a judgment creditor or other party fails to comply with the data safeguard and security measures under 20 C.F.R. Sec. 603.9, the judgment creditor or other party is subject to a civil penalty of no more than $10,000 enforceable by the Utah Office of the Attorney General as follows:

(a) the attorney general, on the attorney general's own behalf or on behalf of the division, may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the civil penalty; and

(b) if the attorney general prevails in enforcing the civil penalty against the judgment creditor or other party:

(i) the attorney general is entitled to an award for reasonable attorney fees, court costs, and investigative expenses; and

(ii) the civil penalty shall be deposited into the [~~special administrative expense account described in Subsection 35A-4-506(1)~~]Workforce Initiatives Fund created in Section 35A-4-506.

Section 4. Section 35A-4-506 is repealed and re-enacted to read:

35A-4-506. Workforce Initiatives Fund.

(1) As used in this section, "fund" means the Workforce Initiatives Fund created in Subsection (2).

(2) There is created an expendable special revenue fund known as the "Workforce Initiatives Fund."

(3) The fund consists of:

(a) except as provided in Subsection (7), interest and penalties collected under this chapter, less refunds made under Subsection 35A-4-306(5);

(b) money requisitioned under Section 35A-4-507;

(c) gifts, grants, donations, contributions, or any other conveyance of money that may be made to the fund from public or private sources; and

(d) interest and earnings on fund money.

(4) The state treasurer shall:

(a) invest money in the fund in accordance with Title 51, Chapter 7, State Money Management Act; and

(b) deposit interest and earnings derived from investing fund money into the fund.

(5) Subject to Subsection (6), the department may expend money in the fund:

(a) for the administration of this title;

(b) to establish reserves for the state program created under Title 31A, Chapter 38, Federal Health Care Tax Credit Program Act, in accordance with Subsection 31A-38-104(1)(b);

(c) to cover the costs of programs or initiatives implemented by the department for workforce development;

(d) for a purpose which supports the department, employers, or workforce initiatives; and

(e) for programs that reinvest in the workforce.

(6)(a) Money in the fund shall be made available to replace, within a reasonable time, any money received by this state under Section 302 of the Social Security Act, 42 U.S.C. Sec. 502, as amended, that because of any action of contingency has been lost or has been expended for purposes other than or in amounts in excess of those necessary for the proper administration of this chapter.

(b) If the department expends money in the fund for a purpose unrelated to the administration of the unemployment compensation program as described in Subsection 303(a)(8) of the Social Security Act, 42 U.S.C. Sec. 503(a)(8), as amended, the division shall develop and follow a cost allocation plan in compliance with United States Department of Labor regulations, including the cost principles described in 29 C.F.R. Sec. 97.22(b) and 2 C.F.R. Part 225.

(7) In accordance with Subsection 303(a)(11) of the Social Security Act, 42 U.S.C. Sec. 503(a)(8), as amended, the department shall deposit 15% of civil penalties collected for fraud under Subsection 35A-4-405(5)(c)(i) into the Unemployment Compensation Fund established in Section 35A-4-501.

Section 5. Section 35A-4-507 is amended to read:

35A-4-507. Authority to obtain money from state's account in federal unemployment trust fund -- Use and deposit.

(1) Notwithstanding the provisions of Sections 35A-4-501 and 35A-4-506, the department may requisition and receive from the state's account in the unemployment trust fund in the treasury of the United States the money standing to the state's credit as may, consistent with conditions for approval of this chapter under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., be used for expenses of administering this chapter and to expend the money for that purpose.

(2) Money requisitioned under Subsection (1) shall be deposited [~~in the Special Administrative Expense Account created by Section 35A-4-506~~]into the Workforce Initiatives Fund created in Section 35A-4-506.

Section 6. Section 63B-10-401 is amended to read:

63B-10-401. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that:

(a) Utah State University use institutional funds to plan, design, and construct an expansion of the HPER Building under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the Moran Eye Center II project under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct the E. E. Jones Medical Science Addition under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) It is the intent of the Legislature that:

(a) the University of Utah use institutional funds to plan, design, and construct a Museum of Natural History under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(5) It is the intent of the Legislature that:

(a) Dixie College use institutional funds to plan, design, and construct the Hurricane Education Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the college may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(6) It is the intent of the Legislature that:

(a) Southern Utah University use institutional funds to plan, design, and construct the Shakespearean Festival Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the college may not request state funds for operations and maintenance.

(7) It is the intent of the Legislature that:

(a) the Department of Corrections use donations to plan, design, and construct the Wasatch Family History Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the department may request state funds for operations and maintenance.

(8) It is the intent of the Legislature that:

(a) the Department of Workforce Services use $1,186,700 from its Special Administrative Expense Account[~~ created in Section 35A-4-506~~] to plan, design, and construct an addition to the Cedar City Employment Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated; and

(b) the department may request state funds for operations and maintenance.

(9) It is the intent of the Legislature that the Division of Facilities Construction and Management, acting on behalf of the Department of Natural Resources, may enter into a lease purchase agreement with Carbon County to provide needed space for agency programs in the area if the Department of Natural Resources obtains the approval of the Division of Facilities Construction and Management by demonstrating that the lease purchase will be a benefit to the state and that the lease, including operation and maintenance costs, can be funded within existing agency budgets.

Section 7. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 7(a) Operating and Capital Budgets

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

ITEM 1

To Department of Workforce Services - Administration

From Workforce Initiatives Fund $70,500

Schedule of Programs:

Administrative Support	$70,500

ITEM 2

To Department of Workforce Services - Operations and Policy

From Workforce Initiatives Fund $2,815,500

Schedule of Programs:

Information Technology	$1,350,000
Other Assistance	$100,000
Workforce Development	$1,365,500

ITEM 3

To Department of Workforce Services - State Office of Rehabilitation

From Workforce Initiatives Fund $1,500

Schedule of Programs:

Deaf and Hard of Hearing	$1,500

ITEM 4

To Department of Workforce Services - Unemployment Insurance

From Workforce Initiatives Fund $837,500

Schedule of Programs:

Adjudication	$110,900
Unemployment Insurance Administration	$726,600

The Legislature authorizes the Department of Workforce Services, as allowed by the fund's authorizing statute, to spend all available money in the Workforce Initiatives Fund for Fiscal Year 2025 regardless of the amount appropriated. The Legislature authorizes the Department of Government Operations, Division of State Finance to transfer remaining balances in the Special Administrative Expense Account to the Workforce Initiatives Fund as of the effective date of this bill. The Legislature intends that all nonlapsing Special Administrative Expense Account amounts retained at the end of Fiscal Year 2024 for use in Fiscal Year 2025 within the Department of Workforce Services' Housing and Community Development or Operations and Policy line items become part of the Workforce Initiatives Fund and be authorized as available for use within the Department of Workforce Services' Housing and Community Development or Operations and Policy line items in Fiscal Year 2025.

Section 8. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 111
H. B. 101
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

LAW ENFORCEMENT REPORTING REQUIREMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses law enforcement reporting requirements.

Highlighted Provisions:

This bill:

- restructures law enforcement reporting requirements in Title 53, Public Safety Code;
- requires a law enforcement agency to report certain information on lawfully seized firearms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-25-101, as enacted by Laws of Utah 2023, Chapter 427
63A-16-1002, as last amended by Laws of Utah 2023, Chapters 158, 161, 382, and 448
63M-7-204, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500

ENACTS:

53-25-501, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53-24-101, (Renumbered from 53-24-101, as enacted by Laws of Utah 2023, Chapter 158)
53-24-102, (Renumbered from 53-24-102, as enacted by Laws of Utah 2023, Chapter 158)
53-24-103, (Renumbered from 53-24-103, as enacted by Laws of Utah 2023, Chapter 158)
53-23-101, (Renumbered from 53-23-101, as enacted by Laws of Utah 2023, Chapter 382)
53-26-101, (Renumbered from 53-26-101, as enacted by Laws of Utah 2023, Chapter 500)

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

Section 1. Section 53-25-101 is amended to read:

53-25-101. Prohibition on disclosure of identity of minor homicide victim.

CHAPTER 25. LAW ENFORCEMENT REQUIREMENTS

Part 1. Disclosure Restrictions

(1) As used in this section:

(a) "Criminal homicide" means the same as that term is defined in Section 76-5-201.

(b) "Media outlet" means a bona fide newspaper, magazine, or broadcast media enterprise, whether conducted on a for-profit or nonprofit basis, engaged in the business of providing news and information to the general public.

(c) "Minor victim" means the victim of a criminal homicide if the victim is younger than 18 years old.

(d) "Parent or legal guardian" does not include an individual who is a suspect or defendant with respect to the criminal homicide.

(2) A law enforcement agency [~~and~~]or a law enforcement officer may not disclose [~~to a representative of a media outlet~~]the name or other personally identifying information of a minor victim [~~until~~]to a representative of a media outlet unless the law enforcement agency or law enforcement officer has made a reasonable effort to obtain the consent of the minor victim's parent or legal guardian for the disclosure.

Section 2. Section 53-25-201, which is renumbered from Section 53-24-101 is renumbered and amended to read:

~~53-24-101~~. 53-25-201. Sexual assault offense policy and public information requirements for law enforcement agencies.

Part 2. Sexual assault offense policy and reporting requirements

(1)(a) Beginning January 1, 2024, a law enforcement agency shall create and maintain a policy regarding the law enforcement agency's processes for handling sexual assault investigations.

(b) A policy described under Subsection (1)(a) shall include current best practices for handling sexual assault investigations, including:

(i) protocols and training on responses to sexual trauma;

(ii) emergency response procedures, including prompt contact with the victim and the preservation of evidence; and

(iii) referrals to sexual assault support services.

(c) A law enforcement agency shall publicly post on the law enforcement agency's website the policy described in Subsection (1)(a).

(2) Beginning January 1, 2024, a law enforcement agency shall create and publicly post on the law enforcement agency's website a guide for victims of sexual assault that includes:

(a) a description of the law enforcement agency's processes for handling sexual assault investigations;

(b) contact information for victims of sexual assault to obtain more information from the law enforcement agency; and

(c) referral information for sexual assault victim support services.

Section 3. Section 53-25-202, which is renumbered from Section 53-24-102 is renumbered and amended to read:

~~53-24-102~~. 53-25-202. Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-5-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section 76-9-702.1.

(2)(a) Beginning January 1, 2025, a law enforcement agency shall annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

(i) was reported to the law enforcement agency;

(ii) was investigated by a detective; and

(iii) was referred to a prosecutor for prosecution.

(b) A law enforcement agency shall:

(i) compile the report described in Subsection (2)(a) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection (2)(a) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 4. Section 53-25-203, which is renumbered from Section 53-24-103 is renumbered and amended to read:

~~53-24-103~~. 53-25-203. Exemption.

The provisions of this [~~chapter~~]part do not apply to a law enforcement agency created under Section 41-3-104.

Section 5. Section 53-25-301, which is renumbered from Section 53-23-101 is renumbered and amended to read:

~~53-23-101~~. 53-25-301. Reporting requirements for reverse-location warrants.

Part 3. Reporting requirements for reverse-location warrants

(1) As used in this section:

(a) "Anonymized" means the same as that term is defined in Section 77-23f-101.

(b) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(c) "Electronic device" means the same as that term is defined in Section 77-23f-101.

(d) "Law enforcement agency" means the same as that term is defined in Section 77-23c-101.2.

(e) "Reverse-location information" means the same as that term is defined in Section 77-23f-101.

(f) "Reverse-location warrant" means a warrant seeking reverse-location information under Section 77-23f-102, 77-23f-103, or 77-23f-104.

(2)(a) Beginning January 1, 2024, a law enforcement agency shall annually on or before April 30 submit a report to the commission with the following data for the previous calendar year:

(i) the number of reverse-location warrants requested by the law enforcement agency under Section 77-23f-102, 77-23f-103, or 77-23f-104;

(ii) the number of reverse-location warrants that a court or magistrate granted after a request described in Subsection (2)(a)(i);

(iii) the number of investigations that used information obtained under a reverse-location warrant to investigate a crime that was not the subject of the reverse-location warrant;

(iv) the number of times reverse-location information was obtained under an exception listed in Section 77-23f-106;

(v) the warrant identification number for each warrant described under Subsection (2)(a)(ii) or (iii); and

(vi) the number of electronic devices for which anonymized electronic device data was obtained under each reverse-location warrant described under Subsection (2)(a)(ii).

(b) A law enforcement agency shall compile the report described in Subsection (2)(a) for each year in the standardized format developed by the commission under Subsection (4).

(3) If a reverse-location warrant is requested by a multijurisdictional team of law enforcement officers, the reporting requirement in this section is the responsibility of the commanding agency or governing authority of the multijurisdictional team.

(4) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish on the commission's website a report of the data described in Subsection (2).

Section 6. Section 53-25-401, which is renumbered from Section 53-26-101 is renumbered and amended to read:

~~53-26-101.~~ 53-25-401. Law enforcement reporting requirements for genetic genealogy database utilizations .

Part 4. Reporting requirements for genetic genealogy database utilizations

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Genetic genealogy database utilization" means the same as that term is defined in Section 53-10-403.7.

(c) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(d) "Qualifying case" means the same as that term is defined in Section 53-10-403.7.

(2)(a) Beginning on January 1, 2024, a law enforcement agency shall annually on or before April 30 submit a report to the commission with the following data for the previous calendar year:

(i) the number of genetic genealogy database utilizations requested by the law enforcement agency under Section 53-10-403.7; and

(ii) for each utilization described in Subsection (2)(a)(i):

(A) if applicable, the type of qualifying case;

(B) for a criminal investigation, the alleged offense;

(C) whether the case was a cold case, as that term is defined in Section 53-10-115, at the time of the request for the utilization; and

(D) whether the results of the utilization revealed the identity of the owner of the DNA specimen.

(b) A law enforcement agency shall compile the report described in Subsection (2)(a) for each year in the standardized format developed by the commission under Subsection (4).

(3) If a genetic genealogy database utilization is requested by a multijurisdictional team of law enforcement officers, the reporting requirement in this section is the responsibility of the commanding agency or governing authority of the multijurisdictional team.

(4) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2), including the number of genetic genealogy database utilizations requested by each reporting law enforcement agency; and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 7. Section 53-25-501 is enacted to read:

53-25-501. Reporting requirements for seized firearms.

Part 5. Reporting requirements for seized firearms

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Firearm" means the same as that term is defined in Section 76-10-501.

(c) "Restricted person" means a Category I or Category II restricted person as defined in Section 76-10-503.

(2) Beginning on July 1, 2026, a law enforcement agency, not including the Department of Corrections, shall annually on or before April 30 report to the commission the following data for the previous calendar year:

(a) the number of firearms the law enforcement agency lawfully seized from restricted persons;

(b) the types of firearms the law enforcement agency lawfully seized from restricted persons;

(c) information on where the restricted persons obtained the firearms seized by the law enforcement agency if the information is known or discoverable by the law enforcement agency; and

(d) the reasons under Subsection 76-10-503(1)(a) or (b) that made the individuals who had weapons seized restricted persons.

Section 8. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a criminal and juvenile justice database for information and data required to be reported to the commission, organized by county,

and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 41-6a-511, courts to collect and maintain data;

(e) Section [~~53-23-101~~]53-25-301, reporting requirements for reverse-location warrants;

(f) Section [~~53-24-102~~]53-25-202, sexual assault offense reporting requirements for law enforcement agencies;

(g) Section 53-25-501, reporting requirements for seized firearms;

[~~(g)~~](h) Section 63M-7-214, law enforcement agency grant reporting;

[~~(h)~~](i) Section 63M-7-216, prosecutorial data collection;

[~~(i)~~](j) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(j)~~](k) Section 64-13-25, standards for programs;

[~~(k)~~](l) Section 64-13-45, department reporting requirements;

[~~(l)~~](m) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

[~~(m)~~](n) Section 77-7-8.5, use of tactical groups;

[~~(n)~~](o) Section 77-11b-404, forfeiture reporting requirements;

[~~(o)~~](p) Section 77-20-103, release data requirements;

[~~(p)~~](q) Section 77-22-2.5, court orders for criminal investigations;

[~~(q)~~](r) Section 78A-2-109.5, court demographics reporting;

[~~(r)~~](s) Section 80-6-104, data collection on offenses committed by minors; and

[~~(s)~~](t) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement, and Criminal Justice Standing Committee not later than January 16, 2023.

Section 9. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program

and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees ; and

(z) receive, compile, and publish on the commission's website the data provided under:

(i) Section [~~53-23-101~~]53-25-202;

(ii) Section [~~53-24-102~~]53-25-301; and

(iii) Section [~~53-26-101~~]53-25-401.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 10. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 112
H. B. 102
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

PEACE OFFICER STANDARDS AND TRAINING AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies the training requirements of peace officers.

Highlighted Provisions:

This bill:

- modifies the annual training requirements for peace officers;
- requires certain peace officer trainings currently required to be completed annually to be completed in a three year cycle; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-202, as last amended by Laws of Utah 2023, Chapters 158, 445

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

Section 1. Section 53-6-202 is amended to read:

53-6-202. Basic training course -- Completion required -- Annual training -- Prohibition from exercising powers -- Reinstatement.

(1)(a) The director shall:

(i)(A) suggest and prepare subject material; and

(B) schedule instructors for basic training courses; or

(ii) review the material and instructor choices submitted by a certified academy.

(b) The subject material, instructors, and schedules shall be approved or disapproved by a majority vote of the council.

(2) The materials shall be reviewed and approved by the council on or before July 1st of each year and may from time to time be changed or amended by majority vote of the council.

(3) The basic training in a certified academy:

(a) shall be appropriate for the basic training of peace officers in the techniques of law enforcement in the discretion of the director; [~~and~~]

(b) may not include the use of chokeholds, carotid restraints, or any act that impedes the breathing or circulation of blood likely to produce a loss of consciousness, as a valid method of restraint[~~.~~]; and

(c) shall include instruction on identifying, responding to, and reporting a criminal offense that is motivated by a personal attribute as that term is defined in Section 76-3-203.14.

(4)(a) All peace officers shall satisfactorily complete the basic training course or the waiver process provided for in this chapter as well as annual certified training of not less than 40 hours as the director, with the advice and consent of the council, directs.

(b) A peace officer who fails to satisfactorily complete the annual training described in Subsection (4)(a) shall automatically be prohibited from exercising peace officer powers until any deficiency is made up.

(c) The annual training described in Subsection (4)(a) shall include training focused on arrest control and de-escalation training.

[~~(c)(i) Beginning July 1, 2021, the annual training shall include no less than 16 hours of training focused on mental health and other crisis intervention responses, arrest control, and de-escalation training.~~]

[~~(ii) Standards for the training shall be determined by each law enforcement agency or department and approved by the director or designee.~~]

[~~(iii) Each law enforcement agency or department shall include a breakdown of the 16 hours within the annual audit submitted to the division.~~]

(5)(a) Beginning July 1, 2024, all peace officers who are currently employed shall participate in a training at least every three years focused on the following:

(i) mental health and other crisis intervention responses;

(ii) intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders; and

(iii) responses to sexual traumas and investigations of sexual assault and sexual abuse in accordance with Section 53-10-908.

(b) Any training in which a peace officer participates as described in Subsection (5)(a) shall count toward the peace officer's 40-hour required annual training described in Subsection (4)(a) for the year in which the peace officer participated in the training.

(6)(a) The director or the director's designee, in coordination with the council, shall promulgate the standards for the trainings described in Subsection (4).

(b) The chief law enforcement officer or executive officer of the peace officer's employing agency shall determine if a peace officer has complied with the standards established under Subsection (6)(a).

[~~(5) Beginning July 1, 2021, the director shall ensure that annual training covers intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders.~~]

[~~(6) Beginning July 1, 2023, the director shall ensure that annual training covers at least one hour of training on responses to sexual traumas and investigations of sexual assault and sexual abuse in accordance with Section 53-10-908.~~]

[~~(7) Beginning July 1, 2023, the director shall, subject to approval by a majority vote of the council, ensure that the basic training curriculum covers instruction on identifying, responding to, and reporting a criminal offense that is motivated by a personal attribute, as that term is defined in Section 76-3-203.14, victim targeting penalty enhancement.~~]

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 113
S. B. 24
Passed February 13, 2024
Approved March 13, 2024
Effective May 1, 2024

PHYSICIAN ASSISTANT PRACTICE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions relating to physician assistants.

Highlighted Provisions:

This bill:

- clarifies the scope of practice for physician assistants.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26B-1-501, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-201, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-123, as last amended by Laws of Utah 2023, Chapter 295 and renumbered and amended by Laws of Utah 2023, Chapter 306
26B-4-409, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-410, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-7-216, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-402, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-104, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-115, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-118, as renumbered and amended by Laws of Utah 2023, Chapter 306
53-2a-1601, as enacted by Laws of Utah 2022, Chapter 111
53-3-206, as last amended by Laws of Utah 2023, Chapter 391
53-3-220, as last amended by Laws of Utah 2023, Chapter 415
53G-6-204, as last amended by Laws of Utah 2023, Chapter 162
53G-6-603, as last amended by Laws of Utah 2022, Chapter 329
53G-9-403, as last amended by Laws of Utah 2022, Chapter 214
58-37c-3, as last amended by Laws of Utah 2015, Chapter 258
75-2a-104, as last amended by Laws of Utah 2009, Chapter 99
75-2a-106, as last amended by Laws of Utah 2023, Chapter 330
75-2a-117, as last amended by Laws of Utah 2009, Chapter 99
75-5-301.5, as enacted by Laws of Utah 2022, Chapter 358 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 358
75-5-303, as last amended by Laws of Utah 2018, Chapter 455
76-5-111, as last amended by Laws of Utah 2022, Chapter 181

Sections affected by Coordination Clause:

26B-7-402, as renumbered and amended by Laws of Utah 2023, Chapter 30825

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

Section 1. Section 26B-1-501 is amended to read:

26B-1-501. Definitions.

As used in this part:

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2) "Child" means the same as that term is defined in Section 80-1-102.

(3) "Committee" means a fatality review committee that is formed under Section 26B-1-503 or 26B-1-504.

(4) "Dependency" means the same as that term is defined in Section 80-1-102.

(5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection 26B-1-502(6).

(6) "Near fatality" means alleged abuse or neglect that, as certified by a physician or physician assistant, places a child in serious or critical condition.

(7) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b)(i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

(i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 80-1-102.

(9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Section 2. Section 26B-2-201 is amended to read:

26B-2-201. Definitions.

As used in this part:

(1)(a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

(b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-71-101.

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5)(a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self-sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b)(i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26B-2-228(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his

gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13)(a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that meets the definition of hospital under Section 76-7-301 or 76-71-201, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b)(i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided;[~~and~~]

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis[~~.~~]; and

(iv) provides physician assistant services.

(15)(a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 3. Section 26B-3-123 is amended to read:

26B-3-123. Reimbursement of telemedicine services and telepsychiatric consultations.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26B-4-704.

(b) "Telemedicine services" means the same as that term is defined in Section 26B-4-704.

(c) "Telepsychiatric consultation" means a consultation between a physician or physician assistant and a board certified psychiatrist, both of whom are licensed to engage in the practice of medicine or physician assistant services in the state, that utilizes:

(i) the health records of the patient, provided from the patient or the referring physician or physician assistant;

(ii) a written, evidence-based patient questionnaire; and

(iii) telehealth services that meet industry security and privacy standards, including compliance with the:

(A) Health Insurance Portability and Accountability Act; and

(B) Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

(2) This section applies to:

(a) a managed care organization that contracts with the Medicaid program; and

(b) a provider who is reimbursed for health care services under the Medicaid program.

(3) The Medicaid program shall reimburse for telemedicine services at the same rate that the Medicaid program reimburses for other health care services.

(4) The Medicaid program shall reimburse for audio-only telehealth services as specified by division rule.

(5) The Medicaid program shall reimburse for telepsychiatric consultations at a rate set by the Medicaid program.

Section 4. Section 26B-4-409 is amended to read:

26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:

(a) epinephrine auto-injectors for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2)(a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician or physician assistant is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

(5)(a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Section 5. Section 26B-4-410 is amended to read:

26B-4-410. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411 with respect to an anaphylactic reaction or asthma emergency:

(a) a qualified adult;

(b) a physician, physician assistant, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;

(d) a qualified epinephrine auto-injector entity; and

(e) a qualified stock albuterol entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 6. Section 26B-7-216 is amended to read:

26B-7-216. Serological testing of pregnant or recently delivered women.

(1) As used in this section, a "standard serological test" means a test for syphilis approved by the department and made at an approved laboratory.

(2)(a) Every licensed physician[~~and~~], surgeon, or physician assistant attending a pregnant or recently delivered woman for conditions relating to her pregnancy shall take or cause to be taken a sample of blood of the woman at the time of first examination or within 10 days thereafter.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(c) The provisions of this section do not apply to any female who objects thereto on the grounds that she is a bona fide member of a specified, well recognized religious organization whose teachings are contrary to the tests.

(3)(a) Every other person attending a pregnant or recently delivered woman, who is not permitted by law to take blood samples, shall within 10 days from the time of first attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

(b) The blood sample shall be submitted to an approved laboratory for a standard serological test for syphilis.

(4)(a) An approved laboratory is a laboratory approved by the department according to its rules governing the approval of laboratories for the purpose of this title.

(b) In submitting the sample to the laboratory the physician or physician assistant shall designate whether it is a prenatal test or a test following recent delivery.

(5) The laboratory shall transmit a detailed report of the standard serological test, showing the result thereof to the physician or physician assistant.

Section 7. Section 26B-7-402 is amended to read:

26B-7-402. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) restaurants and all places where food or drink is handled, sold or served to the public;

(2) public swimming pools;

(3) public baths including saunas, spas, massage parlors, and suntan parlors;

(4) public bathing beaches;

(5) schools which are publicly or privately owned or operated;

(6) recreational resorts, camps, and vehicle parks;

(7) amusement parks and all other centers and places used for public gatherings;

(8) mobile home parks and highway rest stops;

(9) construction or labor camps;

(10) jails, prisons and other places of incarceration or confinement;

(11) hotels and motels;

(12) lodging houses and boarding houses;

(13) service stations;

(14) barbershops and beauty shops, including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in [~~Section~~]Subsection 58-11a-304(13);

(15) physician[~~and~~], physician assistant, and dentist offices;

(16) public buildings and grounds;

(17) public conveyances and terminals; and

(18) commercial tanning facilities.

Section 8. Section 26B-8-104 is amended to read:

26B-8-104. Birth certificates -- Execution and registration requirements.

(1) As used in this section, "birthing facility" means a general acute hospital or birthing center as defined in Section 26B-2-201.

(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this part.

(3)(a) For each live birth that occurs in a birthing facility, the administrator of the birthing facility, or his designee, shall obtain and enter the information required under this part on the certificate, securing the required signatures, and filing the certificate.

(b)(i) The date, time, place of birth, and required medical information shall be certified by the birthing facility administrator or his designee.

(ii) The attending physician, physician assistant, or nurse midwife may sign the certificate, but if the attending physician, physician assistant primarily responsible for providing assistance to the mother at birth, or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility administrator or his designee shall enter the attending physician's, physician assistant's, or nurse midwife's name and transmit the certificate to the local registrar.

(iii) The information on the certificate about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4)(a) For live births that occur outside a birthing facility, the birth certificate shall be completed and filed by the physician, physician assistant, nurse, midwife, or other person primarily responsible for providing assistance to the mother at the birth. If there is no such person, either the presumed or declarant father shall complete and file the certificate. In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.

(b) The certificate shall be completed as fully as possible and shall include the date, time, and place of birth, the mother's name, and the signature of the person completing the certificate.

(5)(a) For each live birth to an unmarried mother that occurs in a birthing facility, the administrator or director of that facility, or his designee, shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B-15-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6)(a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

Section 9. Section 26B-8-115 is amended to read:

26B-8-115. Fetal death certificate -- Filing and registration requirements.

(1) A fetal death certificate shall be filed for each fetal death which occurs in this state. The certificate shall be filed within five days after delivery with the local registrar or as otherwise directed by the state registrar. The certificate shall be registered if it is completed and filed in accordance with this part.

(2) When a dead fetus is delivered in an institution, the institution administrator or his designated representative shall prepare and file the fetal death certificate. The attending physician or physician assistant shall state in the certificate the cause of death and sign the certificate.

(3) When a dead fetus is delivered outside an institution, the physician in attendance at or immediately after delivery shall complete, sign, and file the fetal death certificate.

(4) When a fetal death occurs without medical attendance at or immediately after the delivery or when inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall investigate the cause of death and prepare and file the certificate of fetal death within five days after taking charge of the case.

(5) When a fetal death occurs in a moving conveyance and the dead fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of death is unknown, the death shall be registered in this state. The place where the dead fetus was first removed from the conveyance or found shall be considered the place of death.

(6) Final disposition of the dead fetus may not be made until the fetal death certificate has been registered.

Section 10. Section 26B-8-118 is amended to read:

26B-8-118. Certificate of early term stillbirth.

(1) As used in this section, "early term stillborn child" means a product of human conception, other than in the circumstances described in Subsection 76-7-301(1), that:

(a) is of at least 16 weeks' gestation but less than 20 weeks' gestation, calculated from the day on which the mother's last normal menstrual period began to the day of delivery; and

(b) is not born alive.

(2) The state registrar shall issue a certificate of early term stillbirth to a parent of an early term stillborn child if:

(a) the parent requests, on a form created by the state registrar, that the state registrar register and issue a certificate of early term stillbirth for the early term stillborn child; and

(b) the parent files with the state registrar:

(i)(A) a signed statement from a physician, or physician assistant if a physician is not in attendance at the delivery, confirming the delivery of the early term stillborn child; or

(B) an accurate copy of the parent's medical records related to the early term stillborn child; and

(ii) any other record the state registrar determines, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is necessary for accurate recordkeeping.

(3) The certificate of early term stillbirth described in Subsection (2) shall meet all of the format and filing requirements of Section 26B-8-103.

(4) A person who prepares a certificate of early term stillbirth under this section shall leave blank any references to an early term stillborn child's name if the early term stillborn child's parent does not wish to provide a name for the early term stillborn child.

Section 11. Section 53-2a-1601 is amended to read:

53-2a-1601. Definitions.

As used in this part:

(1) "Emergency responder" includes a:

(a) firefighter;

(b) structural engineer;

(c) physician;

(d) physician assistant;

[~~(d)~~](e) paramedic; or

[~~(e)~~](f) technical rescue specialist.

(2) "Emergency response team" means a group of emergency responders placed at the direction, control, and funding of the Division of Emergency

Management, in accordance with an agreement between the Division of Emergency Management and a sponsoring agency and the provisions of this part, to assist in urban search and rescue:

(a) in response to a disaster, emergency, or important event; or

(b) in anticipation of a forecasted severe weather event, a flood, or a planned important event.

(3) "Emergency response team member" means an individual who is:

(a) an emergency responder;

(b) a member of an emergency response team; and

(c) acting within the scope of the individual's duties for an emergency response team.

(4) "Important event" includes an event attended by one or more officials of the United States or one or more foreign dignitaries and where a large crowd has or is anticipated to gather.

(5) "Sponsoring agency" means an entity in the state that executes a written agreement to organize a National Urban Search and Rescue Response System task force as described in 44 C.F.R. Part 208 to assist the Federal Emergency Management Agency during a disaster or emergency.

Section 12. Section 53-3-206 is amended to read:

53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician assistant licensed under Title 58, Chapter 70A, Utah Physician Assistant Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2)(a) Subject to Subsection (2)(d), and notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow an individual to take an examination of the individual's knowledge of the state traffic laws in the individual's preferred language:

(i) if the individual is a refugee, an approved asylee, or a covered humanitarian parolee:

(A) the first time the individual applies for a limited-term license certificate; and

(B) the first time the individual applies for a renewal of a limited-term license certificate; and

(ii) for any other individual applying for a class D license certificate:

(A) the first time the individual applies for a class D license certificate; and

(B) the first time the individual applies for a renewal of a class D license certificate.

(b)(i) Upon the second renewal of a refugee's, an approved asylee's, or a covered humanitarian parolee's limited-term license certificate for a refugee, an approved asylee, or a covered humanitarian parolee that has taken the knowledge exam in the individual's preferred language under Subsection (2)(a), the division shall re-examine the individual's knowledge of the state traffic laws in English.

(ii) Upon the second renewal of an individual's class D license certificate of an individual who has taken the knowledge exam in the individual's preferred language under Subsection (2)(a)(ii), the division shall re-examine the individual's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for the examination of the individual's knowledge of the state traffic laws in the individual's preferred language.

(d)(i) Beginning on July 1, 2023, for a class D license certificate, except for a driving privilege card issued under Section 53-3-207, the division shall administer the written knowledge examination in as many languages as reasonably possible given budgetary and other constraints.

(ii) If the division is unable to administer the written knowledge examination in a particular language, an individual may take an examination with the assistance of a translator approved by the division.

(iii) If an individual takes the examination with the assistance of a translator, the individual is responsible for the costs of the translator.

(e) In order to provide the services described in Subsection (2)(d)(i), the division may contract with a private vendor to provide the translation services or technology.

(3)(a) For an applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, the division shall provide the examination of an individual's knowledge of the state traffic laws in five commonly spoken languages in the state, other

than English, as determined under Subsection (3)(c).

(b) An applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, may request to take the examination of the individual's knowledge of the state traffic laws in a language other than English, if the requested language is one of five commonly spoken languages in the state as determined under Subsection (3)(c).

(c)(i) The Division of Multicultural Affairs created in Section 9-21-201 shall recommend five commonly spoken languages in the state, other than English, for examination of an individual's knowledge of the state traffic laws.

(ii) The division shall offer the examination of an individual's knowledge of the state traffic laws in the five commonly spoken languages, other than English, recommended by the Division of Multicultural Affairs created in Section 9-21-201.

(4) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(5) The division shall examine each applicant according to the class of license applied for.

(6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

(7) The division shall provide a report to the Transportation Interim Committee on or before October 1, 2023, regarding the written knowledge examination in languages other than English, including:

(a) costs associated with the program;

(b) the number of languages provided;

(c) the likelihood of adding additional languages in the future; and

(d) other information the division finds relevant.

Section 13. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, negligently operating a vehicle resulting in death under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition

interlock system in violation of Section 41-6a-518.2; or

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d)(i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e)(i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A)(I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B)(I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on

the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4)(a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician or physician assistant that:

(I) to the physician's or physician assistant's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician or physician assistant is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 14. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1)(a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over age 16 may receive a partial release from school to enter employment, or

attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician or physician assistant if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over the age of 16 is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2)(a)(i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed and notarized affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed and notarized affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed and notarized affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed and notarized affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4)(a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 15. Section 53G-6-603 is amended to read:

53G-6-603. Requirement of birth certificate for enrollment of students -- Procedures.

(1) As used in this section:

(a) "Child trafficking" means human trafficking of a child in violation of Section 76-5-308.5.

(b) "Enroller" means an individual who enrolls a student in a public school.

(c) "Review team" means a team described in Subsection (4), assigned to determine a student's biological age as described in this section.

(d) "Social service provider" means the same as that term is defined in Section 53E-3-524.

(2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a particular school, that school shall notify the enroller in writing that within 30 days the enroller shall provide to the school either:

(a) a certified copy of the student's birth certificate; or

(b)(i) other reliable proof of the student's:

(A) identity;

(B) biological age; and

(C) relationship to the student's legally responsible individual; and

(ii) an affidavit explaining the enroller's inability to produce a copy of the student's birth certificate.

(3)(a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately reflects the student's biological age, the enroller shall provide to the school:

(i) an affidavit explaining the reasons for the inaccuracy described in Subsection (3)(a); and

(ii) except as provided in Subsection (4), supporting documentation that establishes the student's biological age.

(b) The supporting documentation described in Subsection (3)(a)(ii) may include:

(i) a religious, hospital, [~~or~~—]physician, or physician assistant certificate showing the student's date of birth;

(ii) an entry in a family religious text;

(iii) an adoption record;

(iv) previously verified school records;

(v) previously verified immunization records;

(vi) documentation from a social service provider; or

(vii) other legal documentation, including from a consulate, that reflects the student's biological age.

(4)(a) If the supporting documentation described in Subsection (3)(b) is not available, the school shall assign a review team to work with the enroller to

determine the student's biological age for an LEA to use for a student's enrollment and appropriate placement in a public school.

(b) The review team described in Subsection (4)(a):

(i) may include:

(A) an appropriate district administrator;

(B) the student's teacher or teachers;

(C) the school principal;

(D) a school counselor;

(E) a school social worker;

(F) a school psychologist;

(G) a culturally competent and trauma-informed community representative;

(H) a school nurse or other school health specialist;

(I) an interpreter, if necessary; or

(J) a relevant educational equity administrator; and

(ii) shall include at least three members, at least one of which has completed the instruction described in Subsection 53G-9-207(3)(a), no more than two years prior to the member's appointment to the review team.

(c) In addition to any duty to comply with the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403, a school shall report to local law enforcement and to the division any sign of child trafficking that the review team identifies in carrying out the review team's duties described in Subsection (4)(a).

Section 16. Section 53G-9-403 is amended to read:

53G-9-403. Personnel to perform health examination.

A local school board may use teachers or school nurses to conduct examinations required under this part and licensed physicians or physician assistants as needed for medical consultation related to those examinations.

Section 17. Section 58-37c-3 is amended to read:

58-37c-3. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Controlled substance precursor" includes a chemical reagent and means any of the following:

(a) Phenyl-2-propanone;

(b) Methylamine;

(c) Ethylamine;

(d) D-lysergic acid;

(e) Ergotamine and its salts;

(f) Diethyl malonate;

(g) Malonic acid;

(h) Ethyl malonate;

(i) Barbituric acid;

(j) Piperidine and its salts;

(k) N-acetylanthranilic acid and its salts;

(l) Pyrrolidine;

(m) Phenylacetic acid and its salts;

(n) Anthranilic acid and its salts;

(o) Morpholine;

(p) Ephedrine;

(q) Pseudoephedrine;

(r) Norpseudoephedrine;

(s) Phenylpropanolamine;

(t) Benzyl cyanide;

(u) Ergonovine and its salts;

(v) 3,4-Methylenedioxyphenyl-2-propanone;

(w) propionic anhydride;

(x) Insosafrole;

(y) Safrole;

(z) Piperonal;

(aa) N-Methylephedrine;

(bb) N-ethylephedrine;

(cc) N-methylpseudoephedrine;

(dd) N-ethylpseudoephedrine;

(ee) Hydriotic acid;

(ff) gamma butyrolactone (GBL), including butyrolactone, 1,2 butanolide, 2-oxanolone, tetrahydro-2-furanone, dihydro-2(3H)-furanone, and tetramethylene glycol, but not including gamma aminobutric acid (GABA);

(gg) 1,4 butanediol;

(hh) any salt, isomer, or salt of an isomer of the chemicals listed in Subsections (1)(a) through (gg);

(ii) Crystal iodine;

(jj) Iodine at concentrations greater than 1.5% by weight in a solution or matrix;

(kk) Red phosphorous, except as provided in Section 58-37c-19.7;

(ll) anhydrous ammonia, except as provided in Section 58-37c-19.9;

(mm) any controlled substance precursor listed under the provisions of the Federal Controlled Substances Act which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14; and

(nn) any chemical which is designated by the director under the emergency listing provisions set forth in Section 58-37c-14.

(2) "Deliver," "delivery," "transfer," or "furnish" means the actual, constructive, or attempted transfer of a controlled substance precursor.

(3) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(4) "Person" means any individual, group of individuals, proprietorship, partnership, joint venture, corporation, or organization of any type or kind.

(5) "Practitioner" means a physician, physician assistant, dentist, podiatric physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, pharmaceutical manufacturer, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(6)(a) "Regulated distributor" means a person within the state who provides, sells, furnishes, transfers, or otherwise supplies a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated distributor" does not include any person excluded from regulation under this chapter.

(7)(a) "Regulated purchaser" means any person within the state who receives a listed controlled substance precursor chemical in a regulated transaction.

(b) "Regulated purchaser" does not include any person excluded from regulation under this chapter.

(8) "Regulated transaction" means any actual, constructive or attempted:

(a) transfer, distribution, delivery, or furnishing by a person within the state to another person within or outside of the state of a threshold amount of a listed precursor chemical; or

(b) purchase or acquisition by any means by a person within the state from another person within or outside the state of a threshold amount of a listed precursor chemical.

(9) "Retail distributor" means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor are limited almost exclusively to sales for personal use:

(a) in both number of sales and volume of sales; and

(b) either directly to walk-in customers or in face-to-face transactions by direct sales.

(10) "Threshold amount of a listed precursor chemical" means any amount of a controlled substance precursor or a specified amount of a controlled substance precursor in a matrix; however, the division may exempt from the provisions of this chapter a specific controlled substance precursor in a specific amount and in certain types of transactions which provisions for exemption shall be defined by the division by rule adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Unlawful conduct" as defined in Section 58-1-501 includes knowingly and intentionally:

(a) engaging in a regulated transaction without first being appropriately licensed or exempted from licensure under this chapter;

(b) acting as a regulated distributor and selling, transferring, or in any other way conveying a controlled substance precursor to a person within the state who is not appropriately licensed or exempted from licensure as a regulated purchaser, or selling, transferring, or otherwise conveying a controlled substance precursor to a person outside of the state and failing to report the transaction as required;

(c) acting as a regulated purchaser and purchasing or in any other way obtaining a controlled substance precursor from a person within the state who is not a licensed regulated distributor, or purchasing or otherwise obtaining a controlled substance precursor from a person outside of the state and failing to report the transaction as required;

(d) engaging in a regulated transaction and failing to submit reports and keep required records of inventories required under the provisions of this chapter or rules adopted pursuant to this chapter;

(e) making any false statement in any application for license, in any record to be kept, or on any report submitted as required under this chapter;

(f) with the intent of causing the evasion of the recordkeeping or reporting requirements of this chapter and rules related to this chapter, receiving or distributing any listed controlled substance precursor chemical in any manner designed so that the making of records or filing of reports required under this chapter is not required;

(g) failing to take immediate steps to comply with licensure, reporting, or recordkeeping requirements of this chapter because of lack of knowledge of those requirements, upon becoming informed of the requirements;

(h) presenting false or fraudulent identification where or when receiving or purchasing a listed controlled substance precursor chemical;

(i) creating a chemical mixture for the purpose of evading any licensure, reporting or recordkeeping requirement of this chapter or rules related to this chapter, or receiving a chemical mixture created for that purpose;

(j) if the person is at least 18 years of age, employing, hiring, using, persuading, inducing, enticing, or coercing another person under 18 years of age to violate any provision of this chapter, or

assisting in avoiding detection or apprehension for any violation of this chapter by any federal, state, or local law enforcement official; and

(k) obtaining or attempting to obtain or to possess any controlled substance precursor or any combination of controlled substance precursors knowing or having a reasonable cause to believe that the controlled substance precursor is intended to be used in the unlawful manufacture of any controlled substance.

(12) "Unprofessional conduct" as defined in Section 58-1-102 and as may be further defined by rule includes the following:

(a) violation of any provision of this chapter, the Controlled Substance Act of this state or any other state, or the Federal Controlled Substance Act; and

(b) refusing to allow agents or representatives of the division or authorized law enforcement personnel to inspect inventories or controlled substance precursors or records or reports relating to purchases and sales or distribution of controlled substance precursors as such records and reports are required under this chapter.

Section 18. Section 75-2a-104 is amended to read:

75-2a-104. Capacity to make health care decisions -- Presumption -- Overcoming presumption.

(1) An adult is presumed to have:

(a) health care decision making capacity; and

(b) capacity to make or revoke an advance health care directive.

(2) To overcome the presumption of capacity described in Subsection (1)(a), a physician, an APRN, or[~~, subject to Subsection (6),~~] a physician assistant who has personally examined the adult and assessed the adult's health care decision making capacity must:

(a) find that the adult lacks health care decision making capacity;

(b) record the finding in the adult's medical chart including an indication of whether the adult is likely to regain health care decision making capacity; and

(c) make a reasonable effort to communicate the determination to:

(i) the adult;

(ii) other health care providers or health care facilities that the person who makes the finding would routinely inform of such a finding; and

(iii) if the adult has a surrogate, any known surrogate.

(3)(a) An adult who is found to lack health care decision making capacity in accordance with Subsection (2) may, at any time, challenge the finding by:

(i) submitting to a health care provider a written notice stating that the adult disagrees with the physician's or physician assistant's finding; or

(ii) orally informing the health care provider that the adult disagrees with the finding.

(b) A health care provider who is informed of a challenge under Subsection (3)(a), shall, if the adult has a surrogate, promptly inform the surrogate of the adult's challenge.

(c) A surrogate informed of a challenge to a finding under this section, or the adult if no surrogate is acting on the adult's behalf, shall inform the following of the adult's challenge:

(i) any other health care providers involved in the adult's care; and

(ii) the health care facility, if any, in which the adult is receiving care.

(d) Unless otherwise ordered by a court, a finding, under Subsection (2), that the adult lacks health care decision making capacity, is not in effect if the adult challenges the finding under Subsection (3)(a).

(e) If an adult does not challenge the finding described in Subsection (2), the health care provider and health care facility may rely on a surrogate, pursuant to the provisions of this chapter, to make health care decisions for the adult.

(4) A health care provider or health care facility that relies on a surrogate to make decisions on behalf of an adult has an ongoing obligation to consider whether the adult continues to lack health care decision making capacity.

(5) If at any time a health care provider finds, based on an examination and assessment, that the adult has regained health care decision making capacity, the health care provider shall record the results of the assessment in the adult's medical record, and the adult can direct the adult's own health care.

[~~(6) A physician assistant may not make a finding described in Subsection (2), unless the physician assistant is permitted to make the finding under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.~~]

Section 19. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- POLST order.

(1) A POLST order may be created by or on behalf of a person as described in this section.

(2) A POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or[~~, subject to Subsection (11),~~] physician assistant of the person to whom the POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A POLST order shall be signed:

(a) personally, by the physician, APRN, or[~~, subject to Subsection (11),~~] physician assistant of the person to whom the POLST order relates; and

(b)(i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the POLST order on behalf of the person;

(ii) if the person to whom the POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the POLST order relates is a minor, by a parent or guardian of the minor.

(4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A POLST order:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a POLST order in good faith; or

(b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a POLST order described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new POLST order.

(9)(a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a POLST order may revoke a POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the POLST order; or

(ii) completing and signing a new POLST order.

(c) A surrogate may not revoke a POLST order during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10)(a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a POLST order.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

[~~(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.~~]

[~~(12)~~](11)(a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the POLST order; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the POLST order in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the POLST order attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection [~~(12)(a)(ii)(B)~~](11)(a)(ii)(B):

(i) may not be the same individual who signs the POLST order under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 20. Section 75-2a-117 is amended to read:

75-2a-117. Optional form.

(1) The form created in Subsection (2), or a substantially similar form, is presumed valid under this chapter.

(2) The following form is presumed valid under Subsection (1):

Utah Advance Health Care Directive
(Pursuant to Utah Code Section 75-2a-117)

Part I: Allows you to name another person to make health care decisions for you when you cannot make decisions or speak for yourself.

Part II: Allows you to record your wishes about health care in writing.

Part III: Tells you how to revoke or change this directive.

Part IV: Makes your directive legal.

_____

My Personal Information

Name:_____

Street Address:_____

City, State, Zip Code:

_____

Telephone: _____Cell Phone: _____

Birth date: _____

_____

Part I: My Agent (Health Care Power of Attorney)

A. No Agent

If you do not want to name an agent: initial the box below, then go to Part II; do not name an agent in B or C below. No one can force you to name an agent.

_____ I do not want to choose an agent.

B. My Agent

Agent's Name:

_____

Street Address:

_____

City, State, Zip Code:

_____

Home Phone: ( ) _____ Cell Phone: ( ) _____
Work Phone: ( ) _____

C. My Alternate Agent

This person will serve as your agent if your agent, named above, is unable or unwilling to serve.

Alternate Agent's Name:

_____

Street Address:

_____

City, State, Zip Code:

_____

Home Phone: ( ) _____ Cell Phone: ( ) _____
Work Phone: ( ) _____

D. Agent's Authority

If I cannot make decisions or speak for myself (in other words, after my physician or another authorized provider finds that I lack health care decision making capacity under Section 75-2a-104 of the Advance Health Care Directive Act), my agent has the power to make any health care decision I could have made such as, but not limited to:

• Consent to, refuse, or withdraw any health care. This may include care to prolong my life such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation), and dialysis, and mental health care, such as convulsive therapy and psychoactive medications. This authority is subject to any limits in paragraph F of Part I or in Part II of this directive.

• Hire and fire health care providers.

• Ask questions and get answers from health care providers.

• Consent to admission or transfer to a health care provider or health care facility, including a mental health facility, subject to any limits in paragraphs E and F of Part I.

• Get copies of my medical records.

• Ask for consultations or second opinions.

My agent cannot force health care against my will, even if a physician has found that I lack health care decision making capacity.

E. Other Authority

My agent has the powers below ONLY IF I initial the "yes" option that precedes the statement.

I authorize my agent to:

YES _____ NO _____ Get copies of my medical records at any time, even when I can speak for myself.

YES _____ NO _____ Admit me to a licensed health care facility, such as a hospital, nursing home, assisted living, or other facility for long- term placement other than convalescent or recuperative care.

F. Limits/Expansion of Authority

I wish to limit or expand the powers of my health care agent as follows:

_____

_____

G. Nomination of Guardian

Even though appointing an agent should help you avoid a guardianship, a guardianship may still be necessary. Initial the "YES" option if you want the court to appoint your agent or, if your agent is unable or unwilling to serve, your alternate agent, to serve as your guardian, if a guardianship is ever necessary.

YES _____ NO _____

I, being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate my agent, or if my agent is unable or unwilling to serve, I hereby nominate my alternate agent, to serve as my guardian in the event that, after the date of this instrument, I become incapacitated.

H. Consent to Participate in Medical Research

YES _____ NO _____ I authorize my agent to consent to my participation in medical research or clinical trials, even if I may not benefit from the results.

I. Organ Donation

YES _____ NO _____ If I have not otherwise agreed to organ donation, my agent may consent to the donation of my organs for the purpose of organ transplantation.

_____

Part II: My Health Care Wishes (Living Will)

I want my health care providers to follow the instructions I give them when I am being treated, even if my instructions conflict with these or other advance directives. My health care providers should always provide health care to keep me as comfortable and functional as possible.

Choose only one of the following options, numbered Option 1 through Option 4, by placing your initials before the numbered statement. Do not initial more than one option. If you do not wish to document end- of- life wishes, initial Option 4. You may choose to draw a line through the options that you are not choosing.

Option 1

_____ Initial

I choose to let my agent decide. I have chosen my agent carefully. I have talked with my agent about my health care wishes. I trust my agent to make the health care decisions for me that I would make under the circumstances. Additional Comments:

_____

Option 2

_____ Initial

I choose to prolong life. Regardless of my condition or prognosis, I want my health care team to try to prolong my life as long as possible within the limits of generally accepted health care standards.

Other:_____

Option 3

_____ Initial

I choose not to receive care for the purpose of prolonging life, including food and fluids by tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care and routine medical care that will keep me as comfortable and functional as possible, even if that care may prolong my life.

If you choose this option, you must also choose either (a) or (b), below.

_____ Initial

(a) I put no limit on the ability of my health care provider or agent to withhold or withdraw life- sustaining care.

If you selected (a), above, do not choose any options under (b).

_____ Initial

(b) My health care provider should withhold or withdraw life- sustaining care if at least one of the following initialed conditions is met:

_____ I have a progressive illness that will cause death.

_____ I am close to death and am unlikely to recover.

_____ I cannot communicate and it is unlikely that my condition will improve.

_____ I do not recognize my friends or family and it is unlikely that my condition will improve.

_____ I am in a persistent vegetative state.

Other:

_____

Option 4

_____ Initial

I do not wish to express preferences about health care wishes in this directive.

Other:

_____

_____

Additional instructions about your health care wishes:

_____

_____

_____

If you do not want emergency medical service providers to provide CPR or other life sustaining measures, you must work with a physician, physician assistant or APRN to complete an order that reflects your wishes on a form approved by the Utah Department of Health and Human Services.

Part III: Revoking or Changing a Directive

I may revoke or change this directive by:

1. Writing "void" across the form, or burning, tearing, or otherwise destroying or defacing this document or directing another person to do the same on my behalf;

2. Signing a written revocation of the directive, or directing another person to sign a revocation on my behalf;

3. Stating that I wish to revoke the directive in the presence of a witness who: is 18 years of age or older; will not be appointed as my agent in a substitute directive; will not become a default surrogate if the directive is revoked; and signs and dates a written document confirming my statement; or

4. Signing a new directive. (If you sign more than one Advance Health Care Directive, the most recent one applies.)

Part IV: Making My Directive Legal

I sign this directive voluntarily. I understand the choices I have made and declare that I am emotionally and mentally competent to make this directive. My signature on this form revokes any living will or power of attorney form, naming a health care agent, that I have completed in the past.

_____

Date

_____

Signature

_____

City, County, and State of Residence

I have witnessed the signing of this directive, I am 18 years of age or older, and I am not:

1. related to the declarant by blood or marriage;

2. entitled to any portion of the declarant's estate according to the laws of intestate succession of any state or jurisdiction or under any will or codicil of the declarant;

3. a beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or transfer on death deed that is held, owned, made, or established by, or on behalf of, the declarant;

4. entitled to benefit financially upon the death of the declarant;

5. entitled to a right to, or interest in, real or personal property upon the death of the declarant;

6. directly financially responsible for the declarant's medical care;

7. a health care provider who is providing care to the declarant or an administrator at a health care facility in which the declarant is receiving care; or

8. the appointed agent or alternate agent.

_____ _____

Signature of Witness Printed Name of Witness

_____

Street Address City State Zip Code

If the witness is signing to confirm an oral directive, describe below the circumstances under which the directive was made.

_____

_____

Section 21. Section 75-5-301.5 is amended to read:

75-5-301.5. Rights of a person alleged to be incapacitated -- Rights of an incapacitated person.

(1) Except as otherwise provided by this chapter or any other law, a person alleged to be incapacitated has the right to:

(a) be represented by counsel before a guardianship is imposed and have counsel represent the person during the guardianship proceeding;

(b) receive a copy of all documents filed in a guardianship proceeding;

(c) have a relative, [~~a~~]physician, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the person during the guardianship proceeding;

(d) receive information about guardianships from the court; and

(e) be treated with respect and dignity.

(2) Except as otherwise provided by this chapter or any other law, an incapacitated person for whom a guardian is appointed has right to:

(a) have counsel represent the incapacitated person at any time after the guardian is appointed;

(b) have a relative, [~~a~~]physician, physician assistant, or any interested person speak about or raise any issue of concern on behalf of the person in any court hearing about the guardianship;

(c) receive a copy of all documents filed in court regarding the guardianship;

(d) receive information about guardianships from the court;

(e) ask questions and express concerns or complaints about a guardian and the actions of a guardian to the court;

(f) participate in developing an individualized plan for the incapacitated person's care, including:

(i) managing the incapacitated person's assets and property;

(ii) determining the incapacitated person's residence; and

(iii) determining the services to be received by the incapacitated person;

(g) be given consideration in regards to the incapacitated person's current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs;

(h) remain as independent as possible, including giving deference to the incapacitated person's preference for the incapacitated person's residence and standard of living:

(i) as expressed or demonstrated before a determination of capacity was made; or

(ii) as currently expressed or demonstrated by the incapacitated person if the preference is reasonable under the circumstances;

(i) be granted the greatest degree of freedom possible that is consistent with the reasons for the guardianship;

(j) be able to exercise control over all aspects of the incapacitated person's life that are not granted to the guardian in the order of appointment;

(k) engage in any activity that the court has not expressly reserved for the guardian, including marriage or domestic partnership, traveling, working, or having a driver license;

(l) be treated with respect and dignity;

(m) be treated fairly by the incapacitated person's guardian;

(n) maintain privacy and confidentiality in personal matters;

(o) receive telephone calls and personal mail and associate with relatives and acquaintances unless the guardian and the court determine that the association should be restricted or prohibited in accordance with Section 75-5-312.5;

(p) receive timely, effective, and appropriate health care and medical treatment that does not violate the incapacitated person's rights;

(q) have all services provided by a guardian at a reasonable rate of compensation;

(r) have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing;

(s) receive prudent financial management of the incapacitated person's property;

(t) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), receive a copy of an accounting report regarding the incapacitated person's estate that is submitted to the court by the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator is appointed for the incapacitated person;

(u) receive and control the incapacitated person's salary;

(v) maintain a bank account and manage the incapacitated person's personal money; and

(w) ask the court to:

(i) review the management activity of a guardian if a dispute cannot be resolved regarding the guardian's management;

(ii) continue to review the need for a guardianship or to modify or terminate a guardianship; and

(iii) enter an order restoring the incapacitated person's capacity at the earliest possible time.

(3) The rights of an incapacitated person under this section do not abrogate any remedy provided by law.

(4) Any right described in this section may be:

(a) addressed in a guardianship proceeding; or

(b) enforced through a private cause of action.

Section 22. Section 75-5-303 is amended to read:

75-5-303. Procedure for court appointment of a guardian of an incapacitated person.

(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2)(a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician or physician assistant appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5)(a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii)(A) an intellectual disability; and

(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed $20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201;

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);

(vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and

(vii) the court appoints a visitor under Subsection (4).

Section 23. Section 76-5-111 is amended to read:

76-5-111. Abuse of a vulnerable adult -- Penalties.

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

(i) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(ii) "Abuse" means:

(A) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;

(B) causing physical injury by knowing or intentional acts or omissions;

(C) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's or physician assistant's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the vulnerable adult; or

(D) deprivation of life-sustaining treatment, except:

(I) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(II) when informed consent, as defined in this section, has been obtained.

(iii) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with

care, food, shelter, clothing, supervision, medical or other health care, or other necessities for pecuniary gain, by contract, or as a result of friendship, or in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(iv)(A) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(B) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(v) "Elder adult" means an individual 65 years old or older.

(vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.

(viii) "Informed consent" means:

(A) a written expression by the individual or authorized by the individual, stating that the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the individual desires that the services be withdrawn, except that a written expression is valid only if the individual is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or

(B) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

(ix)(A) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(I) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(II) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(III) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(B) "Isolation" does not include an act:

(I) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(II) performed pursuant to the treatment plan or instructions of a physician, physician assistant, or other professional advisor of the vulnerable adult.

(x) "Neglect" means:

(A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;

(B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(C) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(D) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

(E) abandonment by a caretaker.

(xi)(A) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

(B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

(xii) "Position of trust and confidence" means the position of a person who:

(A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

(B) is a joint tenant or tenant in common with a vulnerable adult;

(C) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

(D) is a caretaker of a vulnerable adult.

(xiii) "Serious physical injury" means any physical injury or set of physical injuries that:

(A) seriously impairs a vulnerable adult's health;

(B) was caused by use of a dangerous weapon;

(C) involves physical torture or causes serious emotional harm to a vulnerable adult; or

(D) creates a reasonable risk of death.

(xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that individual's ability to:

(A) provide personal protection;

(B) provide necessities such as food, shelter, clothing, or medical or other health care;

(C) obtain services necessary for health, safety, or welfare;

(D) carry out the activities of daily living;

(E) manage the adult's own resources; or

(F) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under circumstances other than those likely to produce death or serious physical injury:

(a) causes a vulnerable adult to suffer harm, abuse, or neglect;

(b) having the care or custody of a vulnerable adult, causes or permits that vulnerable adult's person or health to be injured, abused, or neglected; or

(c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.

(3)(a) A violation of Subsection (2):

(i) is a class A misdemeanor if done intentionally or knowingly;

(ii) is a class B misdemeanor if done recklessly; or

(iii) is a class C misdemeanor if done with criminal negligence.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on isolation of a vulnerable adult is a third degree felony.

(4)(a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

(b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

(5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:

(a) undergo appropriate counseling as a condition of the sentence; and

(b) pay for the costs of the ordered counseling.

Section 24. Effective date.

This bill takes effect on May 1, 2024.

Section 25. Coordinating S.B. 24 with H.B. 403.

If S.B. 24, Physician Assistant Practice Amendments, and H.B. 403, Body Art Facility Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 26B-7-402(15) be amended to read:

"(15) [~~physician and dentist offices~~] an office of a physician, physician assistant, or dentist;".

CHAPTER 114
S. B. 25
Passed February 20, 2024
Approved March 13, 2024
Effective May 1, 2024

FINANCIAL INSTITUTION AND CONSUMER NOTIFICATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions relating to commercial financing transactions and consumer lender notifications.

Highlighted Provisions:

This bill:

- repeals provisions relating to disclosures for commercial financing transactions;
- requires a consumer lender to submit to the commissioner of financial institutions evidence of registration through the Nationwide Multistate Licensing System and Registry; and
- defines terms; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-27-101, as enacted by Laws of Utah 2022, Chapter 449
7-27-202, as enacted by Laws of Utah 2022, Chapter 449
70C-1-302, as last amended by Laws of Utah 2009, Chapter 72
70C-8-202, as last amended by Laws of Utah 2013, Chapter 73
70C-8-203, as last amended by Laws of Utah 2014, Chapter 97

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

Section 1. Section 7-27-101 is amended to read:

7-27-101. Definitions.

As used in this chapter:

(1) "Accounts receivable purchase transaction" means a transaction in which a business forwards or otherwise sells to a person all or a portion of the business's accounts, as defined in Section 70A-9a-102, or payment intangibles, as defined in Section 70A-9a-102, at a discount to the accounts' or payment intangibles' expected value.

(2)(a) "Broker" means [~~a person who, for compensation or the expectation of compensation, arranges a commercial financing transaction between a third party and a business in the state~~]a person who:

(i) for compensation or the expectation of compensation, obtains a commercial financing product or an offer for a commercial financing product from a third party that, if executed, would bind the third party; and

(ii) communicates the offer described in Subsection (2)(a)(i) to a business located in the state.

(b) "Broker" does not include:

(i) a provider; or

(ii) a person whose compensation is not based or dependent on the terms of a specific commercial financing product that the person obtains or offers.

(3) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(4)(a) "Business purpose transaction" means a transaction from which the resulting proceeds that a business receives are:

(i) provided to the business; or

(ii) intended to be used to carry on the business.

(b) "Business purpose transaction" does not include a transaction from which the resulting proceeds are intended to be used for personal, family, or household purposes.

(c) For purposes of determining whether a transaction is a business purpose transaction, a provider may rely on a written statement of intended purpose, signed by an individual authorized to sign on behalf of the business. The written statement may be contained in an application, agreement, or other document signed by an individual authorized to sign on behalf of the business.

(5) "Commercial financing transaction" means a business purpose transaction:

(a) under which a person extends a business a commercial loan or a commercial open-end credit plan; or

(b) that is an accounts receivable purchase transaction.

(6) "Commercial loan" means a loan to a business, regardless of whether the loan is secured.

(7) "Commercial open-end credit plan" means commercial financing extended to a business on terms under which:

(a) the creditor reasonably contemplates repeat transactions; and

(b) subject to any limit set by the creditor, the amount of financing that the creditor may extend to the business during the term of the plan is made available to the extent that any outstanding balance is repaid.

(8) "Motor vehicle dealer" means a dealer as defined in Section 41-3-102.

(9)(a) "Provider" means a person who consummates more than five commercial financing transactions in the state during any calendar year.

(b) "Provider" includes a person who, under a written agreement with a depository institution, offers one or more commercial financing products provided by the depository institution via an online platform that the person administers.

Section 2. Section 7-27-202 is amended to read:

7-27-202. Disclosures for commercial financing transactions.

(1)[~~(a)~~] Before consummating a commercial financing transaction, a provider shall disclose the terms of the commercial financing transaction in accordance with this section and rules made by the commissioner.

[~~(b) In addition to the requirements of Subsection (1)(a), for a commercial open-end credit plan, the provider shall make the disclosures described in this section:~~]

[~~(i) after any disbursement of funds that occurs after the parties consummate the commercial financing transaction; and~~]

[~~(ii) no later than 15 days after the last day of the calendar month in which the disbursement of funds occurs.~~]

(2) A provider shall disclose the following information in connection with each commercial financing transaction:

(a) the total amount of funds provided to the business under the terms of the commercial financing transaction;

(b) the total amount of funds disbursed to the business under the terms of the commercial financing transaction, if less than the amount described in Subsection (2)(a);

(c) the total amount to be paid to the provider under the terms of the commercial financing transaction;

(d) the total dollar cost of the commercial financing transaction, calculated by finding the difference between:

(i) the amount described in Subsection (2)(a); and

(ii) the amount described in Subsection (2)(c);

(e)(i) the manner, frequency, and amount of each payment; or

(ii) if the amount of each payment may vary, the manner, frequency, and estimated amount of the initial payment; and

(f) a statement of whether there are any costs or discounts associated with prepayment under the commercial financing transaction, including a reference to the paragraph in the commercial financing transaction agreement that creates each cost or discount[~~; and~~].

[~~(g) any amount of the funds described in Subsection (2)(a) that the provider pays to a broker in connection with the commercial financing transaction.~~]

(3) The commercial financing transaction agreement shall include a description of the methodology for calculating any variable payment amount and the circumstances that may cause a payment amount to vary.

(4) The provisions of this section apply to a commercial financing transaction consummated on or after January 1, 2023.

Section 3. Section 70C-1-302 is amended to read:

70C-1-302. Definitions.

As used in this title:

(1) "Agreement" means the bargain of the parties in fact as stated in a written contract or otherwise as found in the parties' language or by implication from other circumstances, including:

(a) course of dealing;

(b) usage of trade; or

(c) course of performance.

(2) "Commissioner" means the commissioner of financial institutions appointed under Section 7-1-202.

[~~(2)~~](3) "Contract" means a document containing written terms and conditions of a credit agreement.

[~~(3)~~](4)(a) "Creditor" means:

(i) a party:

(A) who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment; and

(B) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;

(ii) an issuer of a credit card that extends either open-end credit or credit that:

(A) is not subject to a finance charge; and

(B) is not payable by written agreement in more than four installments; and

(iii) an issuer of a credit card that extends closed-end credit that:

(A) is subject to a finance charge; or

(B) is payable by written agreement in more than four installments.

(b)(i) For purposes of this Subsection [~~(3),~~](4), a party is considered to extend consumer credit regularly only if the party extends credit in the preceding calendar year:

(A) more than 25 times; or

(B) more than five times for a transaction secured by a dwelling.

(ii) If a person does not meet the numerical standards described in Subsection [~~(3)(b)(i)~~](4)(b)(i) in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

[~~(4)~~](5) "Dwelling" means a residential structure attached to real property that contains one to four units including any of the following if used as a residence:

(a) a condominium unit;

(b) a cooperative unit;

(c) a manufactured home; or

(d) a house.

[~~(5)~~](6) "Earnings" means compensation paid or payable to an individual or for the individual's account for personal services rendered or to be rendered by the individual whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension, retirement, or disability program.

[~~(6)~~](7) "Installment" means a payment upon a debt that is part of a series of payments, each of which is less than the original amount of the debt and scheduled as to a specific amount and due date by agreement of the parties for the purpose of repaying the debt.

(8) "Nationwide database" means the Nationwide Multistate Licensing System and Registry, described in 12 U.S.C. Sec. 5101.

[~~(7)~~](9) "Party" means an individual and any other entity legally capable of entering into a binding contract.

Section 4. Section 70C-8-202 is amended to read:

70C-8-202. Notification.

(1)(a) A party who is subject to this part shall file notification with the department at least 30 days before commencing business in this state.

(b) After filing the notification required by Subsection (1)(a), a party shall file a notification on or before [~~January~~]December 31 of each year.

(c) A notification required by this Subsection (1) shall:

(i) state the name of the party;

(ii) state the name in which the business is transacted if different from that required in Subsection (1)(c)(i);

(iii) state the address of the party's principal office, which may be outside this state;

(iv) state the address of:

(A) each office or retail store, if any, in this state at which credit is offered or extended to a consumer; or

(B) in the case of a party taking an assignment of an obligation, each office or place of business within this state at which business is transacted;

(v) if credit is extended to a consumer other than at an office or retail store in this state, state a brief description of the manner in which the credit transaction occurs;

(vi) state the name and address in this state of a designated agent upon whom service of process may be made;

(vii) [~~submit~~]include evidence satisfactory to the commissioner that the [~~person~~]party is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under Title 16, Corporations, or Title 48, Unincorporated Business Entity Act;[~~ and~~]

(viii) include evidence satisfactory to the commissioner that the party is registered with the nationwide database; and

[~~(viii)~~](ix) [~~provide~~] include any other information considered pertinent by the department.

(2) If information in a notification becomes inaccurate after filing, a party is not required to file further notification until required to renew the party's notification.

(3)(a) A party who fails to file a notification or pay a fee required by this part may not extend credit to a consumer in this state until the party fully complies with this part.

(b) A party who willfully violates this Subsection (3) is guilty of a class B misdemeanor.

Section 5. Section 70C-8-203 is amended to read:

70C-8-203. Fees -- Examinations.

(1) A party required to file notification under Section 70C-8-202 shall, on or before [~~January 31~~]December 31 of each year, pay to the department an annual fee of $100.

(2) In addition to filing notification, a party subject to this part, and a depository institution subject to this title:

(a) may be required to make a book or record relating to a consumer credit transaction available to the department or its authorized representative for examination; and

(b) shall pay to the department a fee to be set by the department based on an hourly rate per each examiner.

(3) No portion of a fee paid or owed to the department under this part is refundable because a party voluntarily or involuntarily ceases to extend credit to consumers:

(a) during the period covered by the fee; or

(b) before the time of an examination by the department of a book or record pertaining to a preceding consumer credit transaction.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 115
H. B. 104
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

PROPERTY OWNER ASSOCIATION AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions of the Condominium Ownership Act and the Community Association Act in relation to radon mitigation.

Highlighted Provisions:

This bill:

- limits a homeowners' association's authority to adopt or enforce a rule that prohibits an owner from making modifications for radon mitigation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-8.1, as last amended by Laws of Utah 2023, Chapter 503
57-8a-218, as last amended by Laws of Utah 2023, Chapter 503

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

Section 1. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2)(a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3)(a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8)(a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) An association of unit owners:

(a) shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions; and

(b) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(11)(a) Except as provided in this Subsection (11), a rule may not prohibit a unit owner from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (11)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications may apply to modifications for radon mitigation unless the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a unit owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

[~~(11)~~](12) A rule shall be reasonable.

[~~(12)~~](13) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(13)~~](14) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 2. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2)(a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4)(a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6)(a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7)(a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii)(A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (8)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9)(a) Subject to Subsection (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(10)(a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16)(a) An association

shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions .

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to water-efficient landscaping ; or

(ii) prohibit low water use on lawns during drought conditions.

(c) An association subject to this chapter and formed before March 5, 2023, shall adopt rules required under Subsection (16)(a) before June 30, 2023.

(17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(18)(a) Except as provided in Subsection (18)(b), a rule may not prohibit the owner of a residential lot from making modifications, consistent with industry standards, for radon mitigation.

(b) Subsection (18)(a) does not apply if the modifications would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(c) A rule governing the placement or external appearance of modifications for radon mitigation

does not apply to a lot owner's modifications if the rule would:

(i) unreasonably interfere with the modifications' functionality; or

(ii) add more than 40% of the modifications' original cost to the cost of installing the modifications.

(d) A rule may require that a lot owner making modifications related to radon mitigation:

(i) demonstrate or provide proof of radon contamination; and

(ii) provide proof that the modifications and any related construction will be performed by a licensed person.

[~~(18)~~](19) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

[~~(19)~~](20) A rule shall be reasonable.

[~~(20)~~](21) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

[~~(21)~~](22) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(22)~~](23) This section applies to an association regardless of when the association is created.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 116
H. B. 110
Passed February 22, 2024
Approved March 13, 2024
Effective July 1, 2024

SEX AND KIDNAP OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- changes references from the Department of Corrections to the Department of Public Safety;
- clarifies the purpose of the Department of Public Safety keeping certain information for individuals on the Sex and Kidnap Offender Registry; and
- clarifies the requirements the Bureau of Criminal Identification and the Department of Corrections must check for when an individual petitions to be removed from the registry.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2023, Chapters 328, 454
53-3-804, as last amended by Laws of Utah 2023, Chapter 328
77-27-5.2, as enacted by Laws of Utah 2021, Chapter 410
77-27-21.7, as last amended by Laws of Utah 2023, Chapters 18, 117
77-41-103, as last amended by Laws of Utah 2023, Chapters 123, 128
77-41-112, as last amended by Laws of Utah 2023, Chapters 124, 128
80-5-201, as last amended by Laws of Utah 2023, Chapter 123

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

Section 1. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6)(a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b)(i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state

resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7)(a)(i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e)(i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f)(i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8)(a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D)(I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints, or a fingerprint confirmation form described in Subsection 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i)(A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10)(a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11)(a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15)(a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of [~~Corrections~~]Public Safety, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21)(a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii)(A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 2. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c)(i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3)(a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) An individual person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5)(a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving; and

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c)(i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

(6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of [~~Corrections~~]Public Safety, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

Section 3. Section 77-27-5.2 is amended to read:

77-27-5.2. Board authority to order removal from Sex and Kidnap Offender Registry.

(1) If the board grants a pardon for a conviction that is the basis for an individual's registration on the Sex and Kidnap Offender Registry, the board shall issue an order directing the Department of [~~Corrections~~]Public Safety to remove the individual's name and personal information relating to the pardoned conviction from the Sex and Kidnap Offender Registry.

(2) An order described in Subsection (1), issued by the board, satisfies the notification requirement described in Subsection 77-41-113(1)(b).

Section 4. Section 77-27-21.7 is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

(a) "Condominium project" means the same as that term is defined in Section 57-8-3.

(b) "Minor" means an individual who is younger than 18 years old;

(c)(i) "Protected area" means the premises occupied by:

(A) a licensed day care or preschool facility;

(B) a public swimming pool or a swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a community park that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(E) a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity; and

(F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

(A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the immediate family of the sex offender and the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;

(B) a park, playground, or swimming pool located on the property of a residential home;

(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

(d) "Sex offender" means an adult or juvenile who is required to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry, due to a conviction for an offense that is committed against a person younger than 18 years old.

(2) For purposes of Subsection (1)(c)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of [~~Corrections~~]Public Safety that the victim elects to restrict the sex offender from the area and authorizes the Department of [~~Corrections~~]Public Safety to advise the sex offender of the area where the victim resides; and

(c) the Department of [~~Corrections~~]Public Safety notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(c)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii)(A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii)(A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for a sports team of which a minor who is younger than 18 years old is a member.

(4) A sex offender who violates this section is guilty of:

(a) a class A misdemeanor; or

(b) if previously convicted of violating this section within the last ten years, a third degree felony.

Section 5. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department, to assist law enforcement in investigating kidnapping and sex-related crimes and in apprehending offenders, shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex and kidnap offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection 77-41-102(10) or (18), within three business days; and

(b) the arrest of a person suspected of any of the offenses listed in Subsection 77-41-102(10) or (18), within five business days.

(3) Upon convicting a person of any of the offenses listed in Subsection 77-41-102(10) or (18), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Sex and Kidnap Offender Registry office within the department.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for any offense listed in Subsection 77-41-102(10) or (18), the court shall, within three business days, forward a signed copy of the order to the Sex and Kidnap Offender Registry office within the department.

(5) The department may intervene in any matter, including a criminal action, where the matter purports to affect a person's lawfully entered registration requirement.

(6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) any other relevant identifying information as determined by the department;

(b) maintain the Sex Offender and Kidnap Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i)(A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

Section 6. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex and Kidnap Offender Registry may petition the court for an order removing the offender from the Sex and Kidnap Offender Registry if:

(a)(i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;

(b)(i) if the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c)(i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) Section 76-4-401, enticing a minor, if the offense is a class A misdemeanor;

(b) Section 76-5-301, kidnapping;

(c) Section 76-5-304, unlawful detention, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) Section 76-5-401, unlawful sexual activity with a minor if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) Section 76-5-401.1, sexual abuse of a minor, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) Section 76-9-702.7, voyeurism, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection 77-41-102(10)(c) or 77-41-102(18)(c), if the offense is not substantially equivalent to an offense described in Subsection 77-41-102(10)(a) or 77-41-102(18)(a).

(3)(a)(i) An offender seeking removal from the Sex and Kidnap Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b)(i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) [~~request information from the Department of Corrections regarding~~]determine whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), [~~or~~] (c)(ii), (c)(iv), or (c)(v).

[~~(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of Corrections shall issue a document reflecting whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v), or (c)(ii), (c)(iv), (c)(v).~~]

[~~(iii)~~](ii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

[~~(iv) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.~~]

(4)(a)(i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5)(a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex and Kidnap Offender Registry, the office of the prosecutor shall provide notice of the petition by first-class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) any other information the office of the prosecutor feels the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6)(a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence-based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex and Kidnap Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77-41-105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77-41-105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77-41-106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

Section 7. Section 80-5-201 is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of [~~Corrections~~]Public Safety who:

(i) is adjudicated for an offense listed in Subsection 77-41-102(18)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii)(A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3)(a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Section 8. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 117
H. B. 119
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

SCHOOL EMPLOYEE FIREARM POSSESSION AMENDMENTS

Chief Sponsor: Tim Jimenez
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates a program regarding the possession of a firearm by a school employee.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Educator-Protector Program to incentivize school teachers to responsibly secure or carry a firearm on school grounds; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-505.5, as last amended by Laws of Utah 2021, Chapter 141

ENACTS:

53-22-105, Utah Code Annotated 1953

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

Section 1. Section 53-22-105 is enacted to read:

53-22-105. Educator-Protector Program.

(1) As used in this section:

(a) "Annual classroom response training" means a training for a teacher:

(i) that is held at least once a year and is administered, at no cost to a teacher, by the individual identified by the county sheriff as described in Section 53-22-103; and

(ii) where the teacher is trained:

(A) on how to defend a classroom against active threats emphasizing the teacher's role in stationary defense; and

(B) on the safe loading, unloading, storage, and carrying of firearms in a school setting.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(c) "Local education agency" means the same as that term is defined in Section 53E-1-102.

(d) "Program" means the Educator-Protector Program created under this section.

(e) "Teacher" means an individual employed by a local education agency who has an assignment to teach in a classroom.

(2) There is created the Educator-Protector Program to incentivize a teacher to responsibly secure or carry a firearm on the grounds of the school where the teacher is employed.

(3)(a) To participate in the program, a teacher shall:

(i) have completed an annual classroom response training within six months before the day on which the teacher joins the program;

(ii) have a valid concealed carry permit issued under Title 53, Chapter 5, Part 7, Concealed Firearm Act; and

(iii) certify to the department that:

(A) the teacher satisfies the requirements described in Subsections (3)(a)(i) and (3)(a)(ii); and

(B) if applicable, intends to securely store or carry a firearm on the grounds of a school where the teacher is employed.

(b) After joining the program, to retain the teacher's active status in the program, a teacher shall:

(i) participate in annual classroom response training; and

(ii) comply with any rules established by the department in accordance with Subsection (10).

(4)(a) The state security chief shall:

(i) track each teacher that participates in the program by collecting a photograph, name, and contact information for each teacher;

(ii) make the information described in Subsection (4)(a) readily available to each law enforcement agency in the state; and

(iii) provide reasonable reimbursement, using funds appropriated by the Legislature, to a county sheriff for providing a teacher with annual classroom response training.

(b) The state security chief shall categorize the information described in Subsection (4)(a)(i) by school.

(5) A teacher participating in the program:

(a) may store the teacher's firearm on the grounds of a school only if:

(i) the firearm is stored in a biometric gun safe;

(ii) the biometric gun safe is located in the teacher's classroom or office; and

(iii) the teacher is physically present on the grounds of the school while the firearm is stored in the biometric gun safe; and

(b) shall carry the teacher's firearm in a concealed manner unless during an active threat.

(6) This section does not prohibit an individual who has a valid concealed carry permit but is not

participating in the program from carrying firearms on the grounds of a school as described in Subsection 76-10-505.5(4).

(7)(a) A teacher who has active status in the program is not liable for any civil damages or penalties if the teacher:

(i) when carrying or storing a firearm:

(A) is acting in good faith; and

(B) is not grossly negligent; or

(ii) threatens, draws, or otherwise uses a firearm reasonably believing the action to be necessary in compliance with Section 76-2-402.

(b) A local education agency is not liable for civil damages or penalties resulting from a teacher who is participating in the program carrying, using, or storing a firearm at a school.

(8) A local education agency may not prevent a teacher from participating in the program under this section.

(9)(a) Any information or record created detailing a teacher's participation in the program is:

(i) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(ii) available only to:

(A) the state security chief;

(B) a local law enforcement agency that would respond to the school in case of an emergency; and

(C) the individual identified by the county sheriff as described in Section 53-22-103.

(b) The information or record described in Subsection (9)(a) includes the information described in Subsection (4)(a)(i) and any personal identifying information of a teacher participating in the program collected or obtained during annual classroom response training.

(c) An individual who intentionally or knowingly provides the information described in Subsection (9)(a) to an individual or entity not listed in Subsection (9)(a)(ii) is guilty of a class A misdemeanor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may adopt rules to administer this section.

Section 2. Section 76-10-505.5 is amended to read:

76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.

(1) As used in this section, "on or about school premises" means:

(a)(i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b)(i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education;[~~and~~]or

[~~(iii)~~](c)[~~(A)~~](i) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

[~~(B)~~](ii) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) [~~A person~~]An actor may not possess any dangerous weapon, firearm, or short barreled shotgun, as those terms are defined in Section 76-10-501, at a place that the [~~person~~]actor knows, or has reasonable cause to believe, is on or about school premises as defined in this section.

(3)(a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the [~~person~~]actor is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the [~~person~~]actor is authorized to possess a firearm as provided under Section 53-5-704.5, unless the [~~person~~]actor is in a location where the [~~person~~]actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the [~~person~~]actor responsible for its possession or use; or

(e) the possession is:

(i) at the [~~person's~~]actor's place of residence or on the [~~person's~~]actor's property; or

(ii) in any vehicle lawfully under the [~~person's~~]actor's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not[-]:

(a) prohibit prosecution of a more serious weapons offense that may occur on or about school premises; or

(b) prevent an actor from securely storing a firearm on the grounds of a school if the actor participates in the Educator-Protector Program created in Section 53-22-105 and complies with Subsection 53-22-105(5)(a).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 118
H. B. 122
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

MOTOR VEHICLE EQUIPMENT AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill modifies motor vehicle lighting requirements.

Highlighted Provisions:

This bill:

- prohibits illuminating an auxiliary light that exhibits certain characteristics on a public roadway.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1604, as last amended by Laws of Utah 2017, Chapter 83

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

Section 1. Section 41-6a-1604 is amended to read:

41-6a-1604. Motor vehicle head lamps, tail lamps, stop lamps, and other lamps -- Requirements -- Penalty.

(1) A motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle.

(2)(a) A motor vehicle, trailer, semitrailer, pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps and two or more red reflectors mounted on the rear.

(b)(i) Except as provided under Subsections (2)(b)(ii), (2)(c), and Section 41-6a-1612, all stop lamps or other lamps and reflectors mounted on the rear of a vehicle shall display or reflect a red color.

(ii) A turn signal or hazard warning light may be red or yellow.

(c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate.

(3)(a) A motor vehicle, trailer, semitrailer, and pole trailer shall be equipped with two or more stop lamps and flashing turn signals.

(b) A supplemental stop lamp may be mounted on the rear of a vehicle, if the supplemental stop lamp:

(i) emits a red light;

(ii) is mounted:

(A) and constructed so that no light emitted from the device, either direct or reflected, is visible to the driver;

(B) not lower than 15 inches above the roadway; and

(C) on the vertical center line of the vehicle; and

(iii) is the size, design, and candle power that conforms to federal standards regulating stop lamps.

(4)(a) Each head lamp, tail lamp, supplemental stop lamp, flashing turn lamp, other lamp, or reflector required under this part shall comply with the requirements and limitations established under Section 41-6a-1601.

(b) The department, by rules made under Section 41-6a-1601, may require trucks, buses, motor homes, motor vehicles with truck-campers, trailers, semitrailers, and pole trailers to have additional lamps and reflectors.

(5) The department, by rules made under Section 41-6a-1601, may allow:

(a) one tail lamp on any vehicle equipped with only one when it was made;

(b) one stop lamp on any vehicle equipped with only one when it was made; and

(c) passenger cars and trucks with a width less than 80 inches and manufactured or assembled prior to January 1, 1953, need not be equipped with electric turn signal lamps.

(6)(a) As used in this section, "continuously flashing light system" means a light system for a supplemental stop lamp described in Subsection (3)(b) in which the stop lamp or reflector pulses rapidly for no more than five seconds when the brake is applied and then converts to a continuous light as a normal stop lamp or reflector until the time that the brake is released.

(b) A motor vehicle, trailer, semitrailer, and pole trailer may be equipped with a continuously flashing light system.

(7) Except as provided under Subsection (8) or (9), an auxiliary light installed on a motor vehicle may only be illuminated on a public roadway if the light:

(a) conforms to the color and location of:

(i) white or amber, if the light is located on or visible from the front of the vehicle;

(ii) amber, if the light is located on or visible from the side of the vehicle; or

(iii) amber or red, if the light is located on or visible from the rear of the vehicle;

(b) emits a steady beam of light and does not blink, oscillate, rotate, or flash;

(c) does not emit a beam that:

(i) is brighter than the vehicle's original equipment lighting;

(ii) has a greater candlepower than the vehicle's original equipment lighting; or

(iii) distracts from the visibility of the vehicle's original equipment lighting; and

(d) does not distract or impair the vision of the operator or other drivers on the roadway.

(8) Subsection (7) does not apply to lighting:

(a) installed by the vehicle's manufacturer in accordance with 49 C.F.R. Sec. 571.108; or

(b) devices provided by transportation network companies as defined in Section 13-51-102 to identify and indicate the status of a vehicle used to provide transportation network services as defined in Section 13-51-102, when approved by the department as permitted by Section 41-6a-1602.

(9) Subsection (7) does not apply to off-highway vehicle operating on a public road designated for off-highway vehicle use.

(10) A violation of this section is an infraction.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 119
H. B. 132
Passed February 15, 2024
Approved March 13, 2024
Effective May 1, 2024

PHARMACY AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill allows pharmacists and pharmacy interns to substitute prescribed drugs under certain circumstances.

Highlighted Provisions:

This bill:

- defines terms;
- allows pharmacists and pharmacy interns to substitute prescribed drugs under certain circumstances;
- requires the Division of Professional Licensing, in consultation with certain licensing boards, to develop a therapeutically similar drug list; and
- provides rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-605, as last amended by Laws of Utah 2020, Chapter 372

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

Section 1. Section 58-17b-605 is amended to read:

58-17b-605. Drug product equivalents and similar drug products.

(1) For the purposes of this section:

(a)(i) "Drug" is as defined in Section 58-17b-102.

(ii) "Drug" [~~does not mean~~]includes a "biological product" as defined in Section 58-17b-605.5.

(b) "Drug product equivalent" means[~~:~~]

[~~(i)~~] a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the United States Food and Drug Administration[~~; and~~].

[~~(ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol designated by division rule made under Subsection (9).~~]

(c) "Osteopathic Physician and Surgeon's Licensing Board" means the board created in Section 58-68-201.

(d) "Physicians Licensing Board" means the board created in Section 58-67-201.

(e) "Therapeutically similar drug product" means a drug product that:

(i) provides a similar level of therapeutic benefit and risk to a patient as another drug product; and

(ii) is on the list of therapeutically similar drugs created by the division in accordance with Subsection (9).

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug by brand or proprietary name may substitute[~~-~~]:

(a) a drug product equivalent for the prescribed drug [~~only~~] if:

[~~(a)~~](i) the purchaser specifically requests or consents to the substitution of a drug product equivalent;

[~~(b)~~](ii) the drug product equivalent is of the same generic type and is designated the therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration;

[~~(c)~~](iii) the drug product equivalent is permitted to move in interstate commerce;

[~~(d)~~](iv) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed drug, whether a substitute or not[~~, and~~];

(v) the substitution is not otherwise prohibited by [~~this chapter;~~]law; and

[~~(e)~~](vi) the prescribing practitioner has not indicated that a drug product equivalent may not be substituted for the drug, as provided in Subsection (6); [~~and~~]or

[~~(f) the substitution is not otherwise prohibited by law.~~]

(b) a therapeutically similar drug product if:

(i) the prescriber has written "similar substitution authorized" on the prescription for the prescribed drug;

(ii) the therapeutically similar drug product is listed on the therapeutically similar drug list described in Subsection (9) as a drug that can be substituted for the prescribed drug;

(iii) the purchaser specifically requests or consents to the substitution of the therapeutically similar drug;

(iv) the dispensed therapeutically similar drug product is permitted to move in interstate commerce;

(v) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the therapeutically similar drug product;

(vi) the substitution is not otherwise prohibited by law; and

(vii) the substitution:

(A) results in a decreased cost to the patient;

(B) is covered on the patient's health benefit plan formulary as a preferred drug or at the same or lower payment tier;

(C) is necessary because the pharmacist does not have the originally prescribed medication available to dispense to the patient; or

(D) would be beneficial to the patient for any reason if the patient and pharmacist mutually agree that the substitution would benefit the patient.

(3)(a) Each out-of-state mail service pharmacy dispensing a drug product equivalent or a therapeutically similar drug product as a substitute for another drug into this state shall notify the patient of the substitution either by telephone or in writing.

(b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to a drug product equivalent or a therapeutically similar drug product substituted for another drug, including labeling and record keeping.

(4)(a) Pharmacists or pharmacy interns may not substitute without the prescriber's authorization on trade name drug product prescriptions unless the product is currently categorized in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration as a drug product considered to be therapeutically equivalent to another drug product.

(b) A pharmacist or pharmacy intern that substitutes a drug product for a therapeutically similar drug product under Subsection (2)(b), for any prescription intended to last longer than 30 days, shall notify the prescriber that the pharmacist or pharmacy intern substituted the drug.

(5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product equivalent or a therapeutically similar drug product under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

(6)(a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner may indicate a prohibition on substitution either by writing "dispense as written" or signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted".

(b) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

(7)(a) A pharmacist or pharmacy intern who substitutes a drug product equivalent or therapeutically similar drug product for a prescribed drug shall communicate the substitution to the purchaser.

(b) The drug product equivalent or therapeutically similar drug product container shall be labeled with the name of the drug dispensed[~~, and the~~].

(c) The pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug product equivalent or the therapeutically similar drug product dispensed in [~~its~~] place of the prescribed drug.

(8)(a) For purposes of this Subsection (8), "substitutes" means to substitute:

(i) a generic drug for another generic drug;

(ii) a generic drug for a nongeneric drug;

(iii) a nongeneric drug for another nongeneric drug; or

(iv) a nongeneric drug for a generic drug.

(b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a patient with a seizure disorder shall indicate a prohibition on substitution of a drug product equivalent in the manner provided in Subsection (6)(a) or (b).

(c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who cannot dispense the prescribed drug as written, and who needs to substitute a drug product equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the prescribing practitioner prior to the substitution.

(d) Notification under Subsection (8)(c) is not required if the drug product equivalent is paid for in whole or in part by Medicaid.

(9)(a) [~~The division shall designate by rule made in~~]In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing Board [~~created in Section 58-67-201~~], and the Osteopathic Physician and Surgeon's Licensing Board [~~created in Section 58-68-201, appropriate substitutes for albuterol.~~], the division shall create a therapeutically similar drug product list that contains lists of drug products that are therapeutically similar to each other.

(b) [~~Subsections (2)(b) and (4) do not apply to the substitution of a drug product equivalent for albuterol.~~]The division may not add a drug product to the therapeutically similar drug product list if the addition is opposed by:

(i) the board;

(ii) the Physicians Licensing Board; or

(iii) the Osteopathic Physician and Surgeon's Licensing Board.

(c) When considering a drug to be added to the therapeutically similar drug product list, the division shall consult with each board described in Subsection (9)(b).

(d) When consulting with the division under Subsection (9)(c), a board described in Subsection (9)(b) may:

(i) review clinical practice guidelines;

(ii) review peer- reviewed studies; and

(iii) consult with medical specialists who are familiar with the drug under consideration.

(e) When creating the therapeutically similar drug product list, before considering any other types of drugs, the division shall consider:

(i) albuterol inhalers;

(ii) injectable forms of insulin; and

(iii) diabetic test strips.

(f) The division may, in consultation with each board described in Subsection (9)(b), create standards in rule for considering drug products that should be added to the therapeutically similar drug product list.

(10) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 120
S. B. 31
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

INSURANCE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill updates the Insurance Code.

Highlighted Provisions:

This bill:

- defines terms;
- exempts a health care sharing ministry from regulation under the Insurance Code, provided the health care sharing ministry makes certain disclosures to participants;
- requires that the commissioner evaluate annually the state's health insurance market and provide that evaluation to the Health and Human Services Interim Committee;
- removes provisions relating to the commissioner declaring a rule in effect during a transition period;
- clarifies the scope of the consumer assistance that the commissioner provides;
- authorizes an insurer to electronically deliver a policy document to an insured under certain conditions;
- expands the list of prohibited life insurance policy provisions;
- updates the duties of the Office of Consumer Health Assistance;
- modifies the commissioner's enforcement authority to allow the commissioner to accept or compromise a forfeiture after the filing of a complaint;
- amends provisions relating to mutual insurance holding companies;
- amends the enforcement provisions under this chapter;
- removes the filing fee for a rate filing;
- addresses the allowable amount of a rate or other charge used by a title insurer;
- allows a licensee to make installment payments on a judgment if the payments are not more than 60 days overdue;
- requires that certain licensees and prospective licensees report to the commissioner any civil action that is filed against the licensee or prospective licensee and involves conduct related to a professional or occupational license;
- institutes new capital and net worth requirements for title insurance producers;
- removes the requirement that an individual title insurance producer file an annual report with the commissioner;
- allows a federal home loan bank to obtain collateral pledged by an insurer-member when the member-insurer is in receivership;
- requires that the commissioner conduct a study and produce a report relating to lowering health benefit plan insurance premiums and market stabilization;
- increases the fee that the commissioner may assess certain admitted and nonadmitted insurers;
- authorizes an association captive insurance company to provide homeowners' insurance, subject to commissioner approval; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Insurance Department - Insurance Department Administration as a one-time appropriation:
  - from the General Fund Restricted - Relative Value Study Account, One-time, $400,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-1-103, as last amended by Laws of Utah 2021, Chapter 252
31A-1-301, as last amended by Laws of Utah 2023, Chapter 327
31A-2-201.2, as last amended by Laws of Utah 2019, Chapters 241, 439
31A-2-211, as last amended by Laws of Utah 1987, Chapter 161
31A-2-215, as last amended by Laws of Utah 2002, Chapter 308
31A-2-216, as last amended by Laws of Utah 2002, Chapter 308
31A-2-308, as last amended by Laws of Utah 2019, Chapter 193
31A-4-113.5, as last amended by Laws of Utah 2023, Chapter 194
31A-6a-109, as enacted by Laws of Utah 1992, Chapter 203
31A-16-102.6, as enacted by Laws of Utah 2022, Chapter 198
31A-19a-203, as last amended by Laws of Utah 2004, Chapter 117
31A-19a-209, as last amended by Laws of Utah 2023, Chapter 194
31A-20-108, as last amended by Laws of Utah 2009, Chapter 349
31A-21-316, as enacted by Laws of Utah 2014, Chapter 77
31A-21-402, as last amended by Laws of Utah 2021, Chapter 252
31A-22-401, as last amended by Laws of Utah 1986, Chapter 204
31A-22-605, as last amended by Laws of Utah 2017, Chapter 168
31A-22-614, as last amended by Laws of Utah 2011, Chapter 366
31A-22-620, as last amended by Laws of Utah 2015, Chapter 244
31A-22-802, as last amended by Laws of Utah 2011, Chapter 366
31A-22-2002, as last amended by Laws of Utah 2021, Chapter 252
31A-23a-105, as last amended by Laws of Utah 2014, Chapters 290, 300
31A-23a-111, as last amended by Laws of Utah 2023, Chapter 194

31A-23a-406, as last amended by Laws of Utah 2023, Chapter 194
31A-23a-413, as last amended by Laws of Utah 2015, Chapter 312
31A-26-301.6, as last amended by Laws of Utah 2023, Chapter 328
31A-28-113, as last amended by Laws of Utah 2018, Chapter 391
31A-31-108, as last amended by Laws of Utah 2013, Chapter 319
31A-35-202, as last amended by Laws of Utah 2016, Chapter 234
31A-35-406, as last amended by Laws of Utah 2021, Chapter 252
31A-37-202, as last amended by Laws of Utah 2023, Chapter 194
31A-37-204, as last amended by Laws of Utah 2023, Chapter 194
31A-37-502, as last amended by Laws of Utah 2019, Chapter 193

ENACTS:
31A-2-218.1, Utah Code Annotated 1953
31A-23a-119, Utah Code Annotated 1953
31A-27a-108.1, Utah Code Annotated 1953

REPEALS:
31A-2-303, as last amended by Laws of Utah 2009, Chapter 388

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

Section 1. Section 31A-1-103 is amended to read:

31A-1-103. Scope and applicability of title.

(1) This title does not apply to:

(a) a retainer contract made by an attorney-at-law:

(i) with an individual client; and

(ii) under which fees are based on estimates of the nature and amount of services to be provided to the specific client;

(b) a contract similar to a contract described in Subsection (1)(a) made with a group of clients involved in the same or closely related legal matters;

(c) an arrangement for providing benefits that do not exceed a limited amount of consultations, advice on simple legal matters, either alone or in combination with referral services, or the promise of fee discounts for handling other legal matters;

(d) limited legal assistance on an informal basis involving neither an express contractual obligation nor reasonable expectations, in the context of an employment, membership, educational, or similar relationship;

(e) legal assistance by employee organizations to their members in matters relating to employment;

(f) death, accident, health, or disability benefits provided to a person by an organization or its affiliate if:

(i) the organization is tax exempt under Section 501(c)(3) of the Internal Revenue Code and has had its principal place of business in Utah for at least five years;

(ii) the person is not an employee of the organization; and

(iii)(A) substantially all the person's time in the organization is spent providing voluntary services:

(I) in furtherance of the organization's purposes;

(II) for a designated period of time; and

(III) for which no compensation, other than expenses, is paid; or

(B) the time since the service under Subsection (1)(f)(iii)(A) was completed is no more than 18 months; or

(g) a prepaid contract of limited duration that provides for scheduled maintenance only.

(2)(a) This title restricts otherwise legitimate business activity.

(b) What this title does not prohibit is permitted unless contrary to other provisions of Utah law.

(3) Except as otherwise expressly provided, this title does not apply to:

(a) those activities of an insurer where state jurisdiction is preempted by Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended;

(b) ocean marine insurance;

(c) death, accident, health, or disability benefits provided by an organization [~~if the organization:~~]that:

(i) has as the organization's principal purpose to achieve charitable, educational, social, or religious objectives rather than to provide death, accident, health, or disability benefits;

(ii) does not incur a legal obligation to pay a specified amount;[~~and~~]

(iii) does not create reasonable expectations of receiving a specified amount on the part of an insured person; and

(iv) is not a health care sharing ministry that provides that a participant make a contribution to pay another participant's qualified expenses with no assumption of risk or promise to pay.

(d) other business specified in rules adopted by the commissioner on a finding that:

(i) the transaction of the business in this state does not require regulation for the protection of the interests of the residents of this state; or

(ii) it would be impracticable to require compliance with this title;

(e) except as provided in Subsection (4), a transaction independently procured through negotiations under Section 31A-15-104;

(f) self-insurance;

(g) reinsurance;

(h) subject to Subsection (5), an employee or labor union group insurance policy covering risks in this state or an employee or labor union blanket insurance policy covering risks in this state, if:

(i) the policyholder exists primarily for purposes other than to procure insurance;

(ii) the policyholder:

(A) is not a resident of this state;

(B) is not a domestic corporation; or

(C) does not have the policyholder's principal office in this state;

(iii) no more than 25% of the certificate holders or insureds are residents of this state;

(iv) on request of the commissioner, the insurer files with the department a copy of the policy and a copy of each form or certificate; and

(v)(A) the insurer agrees to pay premium taxes on the Utah portion of the insurer's business, as if the insurer were authorized to do business in this state; and

(B) the insurer provides the commissioner with the security the commissioner considers necessary for the payment of premium taxes under Title 59, Chapter 9, Taxation of Admitted Insurers;

(i) to the extent provided in Subsection (6):

(i) a manufacturer's or seller's warranty; and

(ii) a manufacturer's or seller's service contract;

(j) except to the extent provided in Subsection (7), a public agency insurance mutual;[~~or~~]

(k) except as provided in Chapter 6b, Guaranteed Asset Protection Waiver Act, a guaranteed asset protection waiver[~~.~~]; or

(l) a health care sharing ministry, if the health care sharing ministry:

(i) provides to each participant upon enrollment and annually thereafter a written statement of nationwide data from the preceding calendar year that lists the total dollar amount of contributions provided to participants toward qualified expenses; and

(ii) includes a written disclaimer, titled "Notice", on or with each application and all guideline materials that states:

(A) the health care sharing ministry is not an insurance company;

(B) nothing the health care sharing ministry offers or provides is an insurance policy, including the health care sharing ministry's guidelines or plan of operations;

(C) participation in the health care sharing ministry is entirely voluntary and no participant is compelled by law to contribute to another participant's expenses;

(D) participation in the health care sharing ministry or subscription to any of the health care sharing ministry's services is not insurance; and

(E) each participant is always personally responsible for the participant's expenses regardless of whether the participant receives payment for the expenses through the health care sharing ministry or whether this health care sharing ministry continues to operate.

(4) A transaction described in Subsection (3)(e) is subject to taxation under Section 31A-3-301.

(5)(a) After a hearing, the commissioner may order an insurer of certain group insurance policies or blanket insurance policies to transfer the Utah portion of the business otherwise exempted under Subsection (3)(h) to an authorized insurer if the contracts have been written by an unauthorized insurer.

(b) If the commissioner finds that the conditions required for the exemption of a group or blanket insurer are not satisfied or that adequate protection to residents of this state is not provided, the commissioner may require:

(i) the insurer to be authorized to do business in this state; or

(ii) that any of the insurer's transactions be subject to this title.

(c) Subsection (3)(h) does not apply to a blanket insurance policy offering accident and health insurance.

(6)(a) As used in Subsection (3)(i) and this Subsection (6):

(i) "manufacturer's or seller's service contract" means a service contract:

(A) made available by:

(I) a manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B) made available:

(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(i)(A) is liable for services to be provided under the service contract including, if the manufacturer's or seller's service contract designates, providing parts and labor;

(ii) "manufacturer's or seller's warranty" means the guaranty of:

(A)(I) the manufacturer of a product;

(II) a seller of a product; or

(III) an affiliate of a manufacturer or seller of a product;

(B)(I) on one or more specific products; or

(II) on products that are components of a system; and

(C) under which the person described in Subsection (6)(a)(ii)(A) is liable for services to be provided under the warranty, including, if the manufacturer's or seller's warranty designates, providing parts and labor; and

(iii) "service contract" means the same as that term is defined in Section 31A-6a-101.

(b) A manufacturer's or seller's warranty may be designated as:

(i) a warranty;

(ii) a guaranty; or

(iii) a term similar to a term described in Subsection (6)(b)(i) or (ii).

(c) This title does not apply to:

(i) a manufacturer's or seller's warranty;

(ii) a manufacturer's or seller's service contract paid for with consideration that is in addition to the consideration paid for the product itself; and

(iii) a service contract that is not a manufacturer's or seller's warranty or manufacturer's or seller's service contract if:

(A) the service contract is paid for with consideration that is in addition to the consideration paid for the product itself;

(B) the service contract is for the repair or maintenance of goods;

(C) the purchase price of the product is $3,700 or less;

(D) the product is not a motor vehicle; and

(E) the product is not the subject of a home warranty service contract.

(d) This title does not apply to a manufacturer's or seller's warranty or service contract paid for with consideration that is in addition to the consideration paid for the product itself regardless of whether the manufacturer's or seller's warranty or service contract is sold:

(i) at the time of the purchase of the product; or

(ii) at a time other than the time of the purchase of the product.

(7)(a) For purposes of this Subsection (7), "public agency insurance mutual" means an entity formed by two or more political subdivisions or public agencies of the state:

(i) under Title 11, Chapter 13, Interlocal Cooperation Act; and

(ii) for the purpose of providing for the political subdivisions or public agencies:

(A) subject to Subsection (7)(b), insurance coverage; or

(B) risk management.

(b) Notwithstanding Subsection (7)(a)(ii)(A), a public agency insurance mutual may not provide health insurance unless the public agency insurance mutual provides the health insurance using:

(i) a third party administrator licensed under Chapter 25, Third Party Administrators;

(ii) an admitted insurer; or

(iii) a program authorized by Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(c) Except for this Subsection (7), a public agency insurance mutual is exempt from this title.

(d) A public agency insurance mutual is considered to be a governmental entity and political subdivision of the state with all of the rights, privileges, and immunities of a governmental entity or political subdivision of the state including all the rights and benefits of Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 2. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

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

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) a fixed indemnity contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

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

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

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

(3) "Administrator" means the same as that term is defined in Subsection [~~(182).~~](187).

(4) "Adult" means an individual who is 18 years old or older.

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

(6) "Agency" means:

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

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

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

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

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

(10) "Application" means a document:

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

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

(A) insure the risk under:

(I) the coverage as originally offered; or

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

(B) decline to insure the risk; or

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

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

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

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

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

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

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

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

(a) without individual underwriting or application; and

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

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

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

(a) that is open to the public;

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

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

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection [~~(95).~~](98).

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

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

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

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

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

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by a parent organization; and

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

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

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

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

(i) owned by the insureds; and

(ii) whose purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

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

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

(b) a third party.

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

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

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27)(a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28)(a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29)(a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34)(a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35)(a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26B-3-108;

(ii) the Children's Health Insurance Program under Section 26B-3-904; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37)(a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42)(a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43)(a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48)(a) "Direct response solicitation" means an offer for life or accident and health insurance coverage that allows the individual to apply for or enroll in the insurance coverage on the basis of the offer.

(b) "Direct response solicitation" does not include an offer for:

(i) insurance through an employee benefit plan that is exempt from state regulation under federal law; or

(ii) credit life insurance or credit accident and health insurance through a individual's creditor.

(49) "Direct response insurance policy" means an insurance policy solicited and sold without the policyholder having direct contact with a natural person intermediary.

[~~(48)~~](50) "Director" means a member of the board of directors of a corporation.

[~~(49)~~](51) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

[~~(50)~~](52) "Disability income insurance" means the same as that term is defined in Subsection [~~(86).~~](89).

[~~(51)~~](53) "Domestic insurer" means an insurer organized under the laws of this state.

[~~(52)~~](54) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

[~~(53)~~](55)(a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection [~~(53)(b).~~](55)(b).

(b) "Eligible employee" includes:

(i) an owner, sole proprietor, or partner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) an independent contractor if the individual is included under a health benefit plan of a small employer.

(c) "Eligible employee" does not include, unless eligible under Subsection [~~(53)(b).~~](55)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection [~~(53)(a)(i);~~](55)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection [~~(53)(a)(i).~~](55)(a)(i).

[~~(54)~~](56) "Emergency medical condition" means a medical condition that:

(a) manifests itself by acute symptoms, including severe pain; and

(b) would cause a prudent layperson possessing an average knowledge of medicine and health to reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:

(i) placing the layperson's health or the layperson's unborn child's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

[~~(55)~~](57) "Employee" means:

(a) an individual employed by an employer; or

(b) an individual who meets the requirements of Subsection [~~(53)(b).~~](55)(b).

[~~(56)~~](58) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

[~~(57)~~](59)(a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

[~~(58)~~](60) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

[~~(59)~~](61)(a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

[~~(60)~~](62) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

[~~(61)~~](63) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

[~~(62)~~](64)(a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money; or

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

[~~(63)~~](65) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

[~~(64)~~](66)(a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

[~~(65)~~](67) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

[~~(66)~~](68) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

[~~(67)~~](69)(a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A- 3- 103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection [~~(67)(a).~~](69)(a).

[~~(68)~~](70) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

[~~(69)~~](71) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

[~~(70)~~](72)(a) "Fixed indemnity insurance" means accident and health insurance written to provide a fixed amount for a specified event relating to or resulting from an illness or injury.

(b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

[~~(71)~~](73) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

[~~(72)~~](74)(a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

[~~(73)~~](75) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

[~~(74)~~](76) "General lines of authority" include:

(a) the general lines of insurance in Subsection [~~(75);~~](77);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

[~~(75)~~](77) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

[~~(76)~~](78) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a)(i) to an employee; or

(ii) to a dependent of an employee; and

(b)(i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

[~~(77)~~](79)(a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

[~~(78)~~](80) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

[~~(79)~~](81) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

[~~(80)~~](82)(a) "Health benefit plan" means a policy, contract, certificate, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care, including major medical expense coverage.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare [~~supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);~~]supplement insurance;

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

[~~(81)~~](83) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

[~~(82)~~](84)(a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

[~~(83)~~](85) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(86) "Health care sharing ministry" means an entity that:

(a) is a tax-exempt nonprofit entity under the Internal Revenue Code;

(b) limits participants to those who are of a similar faith;

(c) facilitates the sharing of a participant's qualified expenses, as defined by the entity, among other participants by:

(i) matching a participant who has qualified expenses with one or more participants who are able to contribute to paying for the qualified expenses; and

(ii) arranging, directly or indirectly, for each contributing participant's contribution to be used to pay for the qualified expenses;

(d) requires an individual to make one or more minimum payments or contributions as a condition of one or more of the following:

(i) becoming a participant;

(ii) remaining a participant; or

(iii) receiving a contribution to pay qualified expenses; and

(e) in carrying out the functions described in this Subsection (86), makes no assumption of risk or promise to pay any qualified expenses.

[~~(84)~~](87) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

[~~(85)~~](88) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

[~~(86)~~](89) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

[~~(87)~~](90) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

[~~(88)~~](91) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

[~~(89)~~](92) "Independently procured insurance" means insurance procured under Section 31A-15-104.

[~~(90)~~](93) "Individual" means a natural person.

[~~(91)~~](94) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

[~~(92)~~](95) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

[~~(93)~~](96)(a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

[~~(94)~~](97) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[~~(95)~~](98) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club;

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy offering title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections [~~(95)(a)~~](98)(a) through (h) in a manner designed to evade this title.

[~~(96)~~](99) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

[~~(97)~~](100) "Insurance group" means the persons that comprise an insurance holding company system.

[~~(98)~~](101) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

[~~(99)~~](102)(a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b)(i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c)(i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

[~~(100)~~](103)(a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection [~~(100)(a).~~](103)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

[~~(101)~~](104)(a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a governmental entity.

[~~(102)~~](105) "Interinsurance exchange" means the same as that term is defined in Subsection [~~(163).~~](168).

[~~(103)~~](106) "Internationally active insurance group" means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

[~~(104)~~](107) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

[~~(105)~~](108) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

[~~(106)~~](109) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

[~~(107)~~](110) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

[~~(108)~~](111)(a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

[~~(109)~~](112)(a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

[~~(110)~~](113)(a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

[~~(111)~~](114)(a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

[~~(112)~~](115) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

[~~(113)~~](116) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

[~~(114)~~](117) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

[~~(115)~~](118) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

[~~(116)~~](119) "Limited lines authority" includes the lines of insurance listed in Subsection [~~(115).~~](118).

[~~(117)~~](120) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

[~~(118)~~](121)(a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C)(I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections [~~(118)(a)(iv)(A)~~](121)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement [~~coverage~~]insurance;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage;

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement; or

(xi) limited long-term care as defined in Section 31A-22-2002.

[~~(119)~~](122) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b)(i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

[~~(120)~~](123) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(124) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the federal Social Security Act, as then constituted or later amended.

(125)(a) "Medicare supplement insurance" means health insurance coverage that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of individuals eligible for Medicare.

(b) "Medicare supplement insurance" does not include:

(i) a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act;

(ii) a policy issued under a demonstration project specified in 42 U.S.C. Sec. 1395ss(g)(1);

(iii) a Medicare Advantage plan established under Medicare Part C;

(iv) an outpatient prescription drug plan established under Medicare Part D; or

(v) any health care prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act.

[~~(121)~~](126) "Member" means a person having membership rights in an insurance corporation.

[~~(122)~~](127) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

[~~(123)~~](128) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

[~~(124)~~](129) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

[~~(125)~~](130) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

[~~(126)~~](131) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii)(A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections [~~(126)(b)(iii)(A)~~](131)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

[~~(127)~~](132) "Mutual" means a mutual insurance corporation.

[~~(128)~~](133) "NAIC" means the National Association of Insurance Commissioners.

[~~(129)~~](134) "NAIC liquidity stress test framework" means a NAIC publication that includes:

(a) a history of the NAIC's development of regulatory liquidity stress testing;

(b) the scope criteria applicable for a specific data year; and

(c) the liquidity stress test instructions and reporting templates for a specific data year, as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

[~~(130)~~](135) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

[~~(131)~~](136) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

[~~(132)~~](137) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

[~~(133)~~](138) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

[~~(134)~~](139) "Order" means an order of the commissioner.

[~~(135)~~](140) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

[~~(136)~~](141) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

[~~(137)~~](142) "Outline of coverage" means a summary that explains an accident and health insurance policy.

[~~(138)~~](143) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a)(i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection [~~(138)(a)(i);~~](143)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection [~~(138)(a)(i);~~](143)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

[~~(139)~~](144) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

[~~(140)~~](145) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

[~~(141)~~](146) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

[~~(142)~~](147) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

[~~(143)~~](148) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

[~~(144)~~](149) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B)(I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection [~~(144)(a)~~](149)(a) or (b), the calendar year.

[~~(145)~~](150)(a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

[~~(146)~~](151) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

[~~(147)~~](152) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy offering life insurance over a period of years.

[~~(148)~~](153) "Policy summary" means a synopsis describing the elements of a life insurance policy.

[~~(149)~~](154) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

[~~(150)~~](155) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

[~~(151)~~](156)(a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c)(i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

[~~(152)~~](157) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

[~~(153)~~](158) "Proceeding" includes an action or special statutory proceeding.

[~~(154)~~](159) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

[~~(155)~~](160)(a) "Property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

[~~(156)~~](161) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i)(A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

[~~(157)~~](162) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

[~~(158)~~](163)(a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

[~~(159)~~](164)(a) "Rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not include:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

[~~(160)~~](165) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

[~~(161)~~](166)(a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

[~~(162)~~](167) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

[~~(163)~~](168) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

[~~(164)~~](169) "Reinsurance" means an insurance transaction where an insurer, for consideration,

transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

[~~(165)~~](170) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

[~~(166)~~](171) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

[~~(167)~~](172)(a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

[~~(168)~~](173) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

[~~(169)~~](174) "Scope criteria" means the designated exposure bases and minimum magnitudes for a specified data year that are used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

[~~(170)~~](175) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

[~~(171)~~](176)(a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections [~~(171)(a)(i)~~](176)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

[~~(172)~~](177) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection [~~(172).~~](177).

[~~(173)~~](178)(a) "Self-insurance" means an arrangement under which a person provides for spreading the person's own risks by a systematic plan.

(b) "Self-insurance" includes:

(i) an arrangement under which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement under which a person with a managed program of self-insurance and risk management undertakes to indemnify the person's affiliate, subsidiary, director, officer, or employee for liability or risk that arises out of the person's relationship with the affiliate, subsidiary, director, officer, or employee.

(c) "Self-insurance" does not include:

(i) an arrangement under which a number of persons spread their risks among themselves; or

(ii) an arrangement with an independent contractor.

[~~(174)~~](179) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

[~~(175)~~](180) "Short-term limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

[~~(176)~~](181) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

[~~(177)~~](182)(a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i)(A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include an owner or a sole proprietor that does not employ at least one employee.

[~~(178)~~](183) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

[~~(179)~~](184)(a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

[~~(180)~~](185) Subject to Subsection [~~(92)(b),~~] (95)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

[~~(181)~~](186)(a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b)(i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

[~~(182)~~](187) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the

subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

[~~(183)~~](188) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

[~~(184)~~](189) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

[~~(185)~~](190)(a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

[~~(186)~~](191)(a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

[~~(187)~~](192) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

[~~(188)~~](193) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage described in Subsection [~~(155).~~](160).

[~~(189)~~](194) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

[~~(190)~~](195) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

[~~(191)~~](196) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 3. Section 31A-2-201.2 is amended to read:

31A-2-201.2. Evaluation of health insurance market.

(1)(a) Each year the commissioner shall:

[~~(a)~~](i) conduct an evaluation of the state's health insurance market;

[~~(b)~~](ii) report the findings of the evaluation to the [~~Health and Human Services Interim Committee~~] Office of Legislative Research and General Counsel before [~~December 1~~]February 1 of each year; and

[~~(c)~~](iii) publish the findings of the evaluation on the department website.

(b) After the president of the Senate and the speaker of the House of Representatives appoint members to the Health and Human Services Interim Committee for the year in which the Office of Legislative Research and General Counsel receives a report under this subsection, the Office of Legislative Research and General Counsel shall provide a copy of the report to each member of the committee.

(2) The evaluation required by this section shall:

(a) analyze the effectiveness of the insurance regulations and statutes in promoting a healthy, competitive health insurance market that meets the needs of the state, and includes an analysis of:

(i) the availability and marketing of individual and group products;

(ii) rate changes;

(iii) coverage and demographic changes;

(iv) benefit trends;

(v) market share changes; and

(vi) accessibility;

(b) assess complaint ratios and trends within the health insurance market, which assessment shall include complaint data from the Office of Consumer Health Assistance within the department;

(c) contain recommendations for action to improve the overall effectiveness of the health insurance market, administrative rules, and statutes;

(d) include claims loss ratio data for each health insurance company doing business in the state;

(e) include information about pharmacy benefit managers collected under Section 31A-46-301; and

(f) include information, for each health insurance company doing business in the state, regarding:

(i) preauthorization determinations; and

(ii) adverse benefit determinations.

(3) When preparing the evaluation and report required by this section, the commissioner may seek the input of insurers, employers, insured persons, providers, and others with an interest in the health insurance market.

(4) The commissioner may adopt administrative rules for the purpose of collecting the data required by this section, taking into account the business confidentiality of the insurers.

(5) Records submitted to the commissioner under this section shall be maintained by the commissioner as protected records under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 4. Section 31A-2-211 is amended to read:

31A-2-211. Rules and forms during transition period.

(1) The commissioner's rules adopted under former Title 31 are rescinded unless continued under Subsection (3).

(2) Between May 1, 1985, and July 1, 1986, the commissioner may prepare and adopt rules to implement or supplement provisions under Title 31A, Insurance Code. These rules are effective on July 1, 1986, or on the effective date of the particular provision, if that is later than July 1, 1986.

[~~(3) The commissioner may issue orders declaring that all or part of a rule in effect under former Title 31 remains in effect until a date specified under the order, which date may not be later than June 30, 1989. No rule continued under this subsection may be inconsistent with other provisions under Title 31A, Insurance Code. Notice of the order shall be given under Section 31A-2-303.~~]

[~~(4)~~](3) Every form used, issued, or required by the Insurance Department and approved by the commissioner or otherwise legitimately in use immediately prior to the effective date of this title may continue to be used until replaced in accordance with the provisions of this title.

Section 5. Section 31A-2-215 is amended to read:

31A-2-215. Consumer education.

(1) In furtherance of the purposes in Section 31A-1-102, the commissioner may educate consumers about insurance and provide consumer assistance.

(2) Consumer education may include:

(a) outreach activities; and

(b) the production or collection and dissemination of educational materials.

(3)[~~(a)~~] Consumer assistance may include[~~explaining~~]:

(a) explaining:

(i) the terms of a policy;

(ii) a policy's complaint, grievance, or adverse benefit determination procedure; and

(iii) the fundamentals of self-advocacy[~~.~~]; and

(b) informal efforts to negotiate a resolution of a dispute between a consumer and a licensee.

(4)(a) Notwithstanding Subsection [~~(3)(a),~~](3) and Section 31A-2-216, consumer assistance may not include[~~-~~]:

(i) commencing an administrative, judicial, or other proceeding against a licensee to obtain specific relief from the licensee for a specific consumer; or

(ii) [~~testifying or representing a consumer in any grievance or adverse benefit determination, arbitration, judicial, or related proceeding, unless the proceeding is in connection with an enforcement action brought under Section 31A-2-308.~~] otherwise representing a consumer in any administrative, judicial, or other proceeding.

(5) Nothing in this section prohibits the commissioner from taking enforcement action for violations under Section 31A-2-308.

[~~(4)~~](6) The commissioner may adopt rules necessary to implement the requirements of this section.

Section 6. Section 31A-2-216 is amended to read:

31A-2-216. Office of Consumer Health Assistance.

(1) The commissioner shall establish[~~:~~]

[~~(a)~~] an Office of Consumer Health Assistance before July 1, 1999[~~; and~~].

[~~(b) a committee to advise the commissioner on consumer assistance rendered under this section.~~]

(2) The office shall:

(a) be a resource for health [~~care~~]insurance consumers concerning health [~~care~~]insurance coverage or the need for such coverage;

(b) help health [~~care~~]insurance consumers understand:

(i) contractual rights and responsibilities;

(ii) statutory protections; and

(iii) available remedies, including adverse benefit determination processes;

(c) educate health [~~care~~]insurance consumers:

(i) by producing or collecting and disseminating educational materials to consumers[~~,~~]and health insurers[~~, and health benefit plans~~]; and

(ii) through outreach and other educational activities;

(d) for health [~~care~~]insurance consumers that have difficulty in accessing their health insurance policies because of language, disability, age, or ethnicity, provide information and services, directly or through referral[~~, such as:~~];

[~~(i) information and referral; and~~]

[~~(ii) adverse benefit determination process initiation;~~]

(e) analyze and monitor federal and state consumer health[~~-related~~]insurance statutes, rules, and regulations; and

(f) summarize information gathered under this section and make the summaries available to the public, government agencies, and the Legislature.

(3) The office may:

(a) obtain data from health [~~care~~]insurance consumers as necessary to further the office's duties under this section;

(b) investigate complaints and attempt to resolve complaints at the lowest possible level; and

(c) assist, but not testify or represent, a consumer in an adverse benefit determination, arbitration, judicial, or related proceeding, unless the proceeding is in connection with an enforcement action [~~brought~~]under Section 31A-2-308.

(4) The commissioner may adopt rules necessary to implement the requirements of this section.

Section 7. Section 31A-2-218.1 is enacted to read:

31A-2-218.1. Section 1332 Waiver Study.

(1) As used in this section:

(a) "Secretary" means the secretary of the United States Department of Health and Human Services.

(b) "Section 1332 waiver" means a waiver for state innovation under 45 C.F.R. Part 155, Subpart N.

(2) The commissioner shall conduct a study to determine the feasibility of a state-based program designed to:

(a) lower health benefit plan insurance premiums; and

(b) increase stabilization in the market.

(3) The commissioner, in the study described in Subsection (2), shall create a proposal for a Section 1332 waiver that includes:

(a) a list of provisions the state should seek to waive and the rationale for waiving each provision;

(b) data, assumptions, targets, and other information sufficient to determine that the proposed waiver will provide coverage at least as comprehensive as coverage that would be provided absent the waiver;

(c) coverage and cost sharing protections that keep premiums at least as affordable as would be provided absent the Section 1332 waiver;

(d) actuarial analyses, actuarial certifications, and financial modeling that:

(i) support the estimates that the proposal will comply with the comprehensive coverage requirements, the affordability requirement, the scope of coverage requirement, and the federal deficit requirement; and

(ii) include:

(A) a detailed 10-year budget plan that is deficit-neutral to the federal government;

(B) all costs to the state, including administrative costs, and other costs to the federal government; and

(C) a detailed analysis regarding the estimated impact of the Section 1332 waiver on health insurance coverage in the state;

(e) proposed legislative changes to provide the state authority to implement the proposed waiver;

(f) implementation plans with a timeline;

(g) categories of covered individuals with high-cost medical conditions who may be reinsured through the proposed waiver, including a recommendation for a multi-year phased-in approach;

(h) reinsurance parameters, including co-insurance, attachment points, or limits;

(i) set premium reduction targets;

(j) a detailed plan for a budget and program implementation; and

(k) a complete application for submission to the secretary.

(4) To carry out the requirements in Subsections (2) and (3) the commissioner may partner or contract with a person that the commissioner determines is appropriate, subject to Title 63G, Chapter 6a, Utah Procurement Code.

(5) On or before November 1, 2024, the commissioner shall submit to the Business and Labor Interim Committee a final written report describing the study described in this section.

Section 8. Section 31A-2-308 is amended to read:

31A-2-308. Enforcement penalties and procedures.

(1)(a) A person who violates any insurance statute or rule or any order issued under Subsection 31A-2-201(4) shall forfeit to the state up to twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b)(i) The commissioner may order an individual producer, surplus line producer, limited line producer, managing general agent, reinsurance intermediary, adjuster, third party administrator, navigator, or insurance consultant who violates an insurance statute or rule to forfeit to the state not more than $2,500 for each violation.

(ii) The commissioner may order any other person who violates an insurance statute or rule to forfeit to the state not more than $5,000 for each violation.

(c)(i) The commissioner may order an individual producer, surplus line producer, limited line producer, managing general agent, reinsurance intermediary, adjuster, third party administrator, navigator, or insurance consultant who violates an order issued under Subsection 31A-2-201(4) to forfeit to the state not more than $2,500 for each violation. Each day the violation continues is a separate violation.

(ii) The commissioner may order any other person who violates an order issued under Subsection 31A-2-201(4) to forfeit to the state not more than $5,000 for each violation. Each day the violation continues is a separate violation.

(d) The commissioner may accept or compromise any forfeiture[~~under this Subsection (1) until after a complaint is filed under Subsection (2). After the filing of the complaint, only the attorney general may compromise the forfeiture~~].

(2) When a person fails to comply with an order issued under Subsection 31A-2-201(4), including a forfeiture order, the commissioner may file an action in any court of competent jurisdiction or obtain a court order or judgment:

(a) enforcing the commissioner's order;

(b)(i) directing compliance with the commissioner's order and restraining further violation of the order; and

(ii) subjecting the person ordered to the procedures and sanctions available to the court for punishing contempt if the failure to comply continues; or

(c) imposing a forfeiture in an amount the court considers just, up to $10,000 for each day the failure to comply continues after the filing of the complaint until judgment is rendered.

(3)(a) The Utah Rules of Civil Procedure govern actions brought under Subsection (2), except that the commissioner may file a complaint seeking a court-ordered forfeiture under Subsection (2)(c) no sooner than two weeks after giving written notice of the commissioner's intention to proceed under Subsection (2)(c).

(b) The commissioner's order issued under Subsection 31A-2-201(4) may contain a notice of intention to seek a court-ordered forfeiture if the commissioner's order is disobeyed.

(4) If, after a court order is issued under Subsection (2), the person fails to comply with the commissioner's order or judgment:

(a) the commissioner may certify the fact of the failure to the court by affidavit; and

(b) the court may, after a hearing following at least five days written notice to the parties subject to the order or judgment, amend the order or judgment to add the forfeiture or forfeitures, as prescribed in Subsection (2)(c), until the person complies.

(5)(a) The proceeds of the forfeitures under this section, including collection expenses, shall be paid into the General Fund.

(b) The expenses of collection shall be credited to the department's budget.

(c) The attorney general's budget shall be credited to the extent the department reimburses the attorney general's office for its collection expenses under this section.

(6)(a) Forfeitures and judgments under this section bear interest at the rate charged by the United States Internal Revenue Service for past due taxes on the:

(i) date of entry of the commissioner's order under Subsection (1); or

(ii) date of judgment under Subsection (2).

(b) Interest accrues from the later of the dates described in Subsection (6)(a) until the forfeiture and accrued interest are fully paid.

(7) A forfeiture may not be imposed under Subsection (2)(c) if:

(a) at the time the forfeiture action is commenced, the person was in compliance with the commissioner's order; or

(b) the violation of the order occurred during the order's suspension.

(8) The commissioner may seek an injunction as an alternative to issuing an order under Subsection 31A-2-201(4).

(9)(a) A person is guilty of a class B misdemeanor if that person:

(i) intentionally violates:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4);

(ii) intentionally permits a person over whom that person has authority to violate:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4); or

(iii) intentionally aids any person in violating:

(A) an insurance statute of this state; or

(B) an order issued under Subsection 31A-2-201(4).

(b) Unless a specific criminal penalty is provided elsewhere in this title, the person may be fined not more than:

(i) $10,000 if a corporation; or

(ii) $5,000 if a person other than a corporation.

(c) If the person is an individual, the person may, in addition, be imprisoned for up to one year.

(d) As used in this Subsection (9), "intentionally" has the same meaning as under Subsection 76-2-103(1).

(10)(a) A person who knowingly and intentionally violates Section 31A-4-102, 31A-8a-208, 31A-15-105, 31A-23a-116, or 31A-31-111 is guilty of a felony as provided in this Subsection (10).

(b) When the value of the property, money, or other things obtained or sought to be obtained in violation of Subsection (10)(a):

(i) is less than $5,000, a person is guilty of a third degree felony; or

(ii) is or exceeds $5,000, a person is guilty of a second degree felony.

(11)(a) After a hearing, the commissioner may, in whole or in part, revoke, suspend, place on probation, limit, or refuse to renew the licensee's license or certificate of authority:

(i) when a licensee of the department, other than a domestic insurer:

(A) persistently or substantially violates the insurance law; or

(B) violates an order of the commissioner under Subsection 31A-2-201(4);

(ii) if there are grounds for delinquency proceedings against the licensee under Section 31A-27a-207; or

(iii) if the licensee's methods and practices in the conduct of the licensee's business endanger, or the licensee's financial resources are inadequate to safeguard, the legitimate interests of the licensee's customers and the public.

(b) Additional license termination or probation provisions for licensees other than insurers are set forth in Sections 31A-19a-303, 31A-19a-304, 31A-23a-111, 31A-23a-112, 31A-25-208, 31A-25-209, 31A-26-213, 31A-26-214, 31A-35-501, and 31A-35-503.

(12) The enforcement penalties and procedures set forth in this section are not exclusive, but are cumulative of other rights and remedies the commissioner has pursuant to applicable law.

Section 9. Section 31A-4-113.5 is amended to read:

31A-4-113.5. Filing requirements -- National Association of Insurance Commissioners.

(1)(a) Each domestic, foreign, and alien insurer who is authorized to transact insurance business in this state shall annually file with the NAIC a copy of the insurer's:

(i) annual statement convention blank on or before March 1;

(ii) market conduct annual statements[~~:~~] on or before the applicable date determined by the NAIC; and

[~~(A) on or before April 30, for all lines of business except health; and~~]

[~~(B) on or before June 30, for the health line of business; and~~]

(iii) any additional filings required by the commissioner for the preceding year.

(b)(i) The information filed with the NAIC under Subsection (1)(a)(i) shall:

(A) be prepared in accordance with the NAIC's:

(I) annual statement instructions; and

(II) Accounting Practices and Procedures Manual; and

(B) include:

(I) the signed jurat page; and

(II) the actuarial certification.

(ii) An insurer shall file with the NAIC amendments and addenda to information filed with the commissioner under Subsection (1)(a)(i).

(c) The information filed with the NAIC under Subsection (1)(a)(ii) shall be prepared in accordance

with the NAIC's Market Conduct Annual Statement Industry User Guide.

(d) At the time an insurer makes a filing under this Subsection (1), the insurer shall pay any filing fees assessed by the NAIC.

(e) A foreign insurer that is domiciled in a state that has a law substantially similar to this section shall be considered to be in compliance with this section.

(2) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the department by the Insurance Regulatory Information System are confidential and may not be disclosed by the department.

(3) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of any insurer failing to:

(a) submit the filings under Subsection (1)(a) when due or within any extension of time granted for good cause by:

(i) the commissioner; or

(ii) the NAIC; or

(b) pay by the time specified in Subsection (3)(a) a fee the insurer is required to pay under this section to:

(i) the commissioner; or

(ii) the NAIC.

Section 10. Section 31A-6a-109 is amended to read:

31A-6a-109. Enforcement provisions.

[~~Anyone violating of any of the provisions of this chapter or any rule made pursuant to the grant of rulemaking authority under this title may be assessed an administrative forfeiture equal to two times the amount of any profit gained from the violation. In addition an administrative forfeiture may be assessed for each violation not to exceed $1,000 per violation.~~]

(1) If the commissioner finds, as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, that a person has violated any provision of this chapter, the commissioner may take one or more of the following actions:

(a) revoke a registration issued under this chapter;

(b) suspend, for a specified period of 12 months or less, a registration issued under this chapter;

(c) deny an application for a registration under this chapter;

(d) assess a forfeiture equal to two times the amount of any profit gained from the violation; or

(e) assess an additional forfeiture not to exceed $1,000 per violation.

(2) If the violations are continuing, or are of a serious nature, or a person's business practices in connection with the solicitation, sale, offering for sale, or performance under a service contract subject to this chapter, constitute a danger to the legitimate interests of consumers or the public, the commissioner may enjoin the person from soliciting, selling, or offering to sell service contracts in this state either permanently or for a stated period of time.

Section 11. Section 31A-16-102.6 is amended to read:

31A-16-102.6. Mutual insurance holding companies.

(1) As used in this section:

(a) "Intermediate holding company" means a holding company that:

(i) is a subsidiary of a mutual insurance holding company;

(ii) directly or through a subsidiary of the holding company, holds one or more subsidiary insurers, including a reorganized mutual insurer; and

(iii) if the subsidiary insurers were not held by the holding company, a majority of the voting shares of the subsidy insurers' capital stock would be required under this section to be owned by the mutual insurance holding company.

(b) "Majority of the voting shares" means the shares of a reorganized mutual insurer's capital stock that carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the reorganized mutual insurer's capital stock for the election of directors and other matters submitted to a vote of the reorganized mutual insurer's shareholders.

(2)(a) With the commissioner's approval, a domestic mutual insurer may reorganize by forming a mutual insurance holding company in which:

(i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the domestic mutual insurer's policyholders become membership interests in the mutual insurance holding company; and

(ii) the domestic mutual insurer is reorganized as a domestic stock insurance company.

(b) The commissioner may approve a domestic mutual insurer's reorganization under this Subsection (2) if:

(i) the domestic mutual insurer's reorganization plan:

(A) properly protects the interests of the domestic mutual insurer's policyholders;

(B) is fair and equitable to the domestic mutual insurer's policyholders;[~~ and~~]

(C) is approved by a majority of the domestic mutual insurer's policyholders present at any regular or special meeting of the policyholders at which a quorum is present; and

[~~(C)~~](D) satisfies the requirements of Subsections 31A-16-103(8) through (10);

(ii) the initial shares of the reorganized domestic mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and

(iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized domestic mutual insurer's capital stock.

(c) With the commissioner's approval, the mutual insurance holding company may allow in the mutual insurance holding company's articles and bylaws that a policyholder of a stock insurer that is or becomes a subsidiary of the mutual insurance holding company to be a member of the mutual insurance holding company.

(d) The domestic mutual insurer:

(i) shall provide the domestic mutual insurer's policyholders notice of the reorganization plan and the related member meeting by first-class mail;

(ii) shall include in a notice described in Subsection (2)(d)(i), a copy of the full reorganization plan and all related plan materials;

(iii) may satisfy the requirement in Subsection (2)(d)(ii) by including with the notice of reorganization a URL link at which the policyholders can access the full reorganization plan and any related materials electronically; and

(iv) shall provide a physical copy of the reorganization plan and all related plan materials to a policyholder upon request.

(3)(a) With the commissioner's approval, a domestic mutual insurer may reorganize by merging the domestic mutual insurer's policyholders' membership interests into an existing domestic mutual insurance holding company formed under Subsection (2), if:

(i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the domestic mutual insurer's policyholders become membership interests in the mutual insurance holding company; and

(ii) the domestic mutual insurer is reorganized as a domestic stock insurance company subsidiary of the existing domestic mutual insurance holding company or intermediate holding company.

(b) The commissioner may approve a domestic mutual insurance company's reorganization under this Subsection (3) if:

(i) the domestic mutual insurer's reorganization plan:

(A) properly protects the interests of the domestic mutual insurer's policyholders;

(B) is fair and equitable to the domestic mutual insurer's policyholders; and

(C) satisfies the requirements of Subsections 31A-16-103(8) through (10);

(ii) all of the initial shares of the capital stock of the reorganized insurance company are issued to the mutual insurance holding company or intermediate holding company; and

(iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized domestic mutual insurer's capital stock.

(c) The commissioner may require, as a condition of approval, any modifications to the proposed merger the commissioner finds necessary for the protection of the policyholders' interests.

[~~(3)~~](4)(a) With the commissioner's approval, a foreign mutual insurer organized under the laws of any other state that would qualify to become a domestic insurer organized under the laws of this state may reorganize by [~~forming a~~]merging the foreign mutual insurer's policyholders' membership interests into an existing domestic mutual insurance holding company [~~system~~]formed under Subsection (2) in which:

(i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the foreign mutual insurer's policyholders become membership interests in the mutual insurance holding company; and

(ii) the foreign mutual insurer is reorganized as a foreign stock insurance company subsidiary of the existing domestic mutual insurance holding company or intermediate holding company.

(b) The commissioner may approve a foreign mutual insurer's reorganization under this Subsection (4) if:

(i) the foreign mutual insurer's reorganization plan:

(A) complies with any other law or rule applicable to the foreign mutual insurer;

(B) properly protects the interests of the foreign mutual insurer's policyholders;

(C) is fair and equitable to the foreign mutual insurer's policyholders; and

(D) satisfies the requirements of Subsections 31A-16-103(8) through (10);

(ii) all of the initial shares of the reorganized foreign mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and

(iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized foreign mutual insurer's capital stock.

(c) After a [~~merger~~]reorganization contemplated by this Subsection (4), the reorganized foreign mutual insurer may:

(i) remain a foreign corporation; and

(ii) with the commissioner's approval, be admitted to conduct business in this state.

(d) A foreign mutual insurer that is a party to a reorganization plan may redomesticate in this state by complying with the applicable requirements of this state and the foreign mutual insurer's state of domicile.

[~~(4)~~](5)(a) As a condition of approval, the commissioner may require a mutual insurer to modify the mutual insurer's reorganization plan to protect the interests of the mutual insurer's policyholders.

(b) If the commissioner determines reasonably necessary, at the reorganizing mutual insurer's expense, the commissioner may retain a third-party consultant to assist the commissioner in reviewing the mutual insurer's reorganization plan.

(c) The commissioner has jurisdiction over a mutual insurance holding company or intermediate holding company organized in accordance with this section.

(d) Subject to the commissioner's approval, a reorganized mutual insurer or a stock insurance subsidiary within a mutual insurance company may issue a dividend or distribution to the mutual insurance holding company or intermediate holding company.

[~~(5)~~](6)(a) Subject to the provisions of this section, a mutual insurance holding company resulting from the reorganization of a domestic mutual insurer shall be incorporated in accordance with and is subject to the provisions of Chapter 5, Domestic Stock and Mutual Insurance Corporations as if it were a mutual insurer.

(b) A mutual insurance holding company's articles of incorporation and bylaws are subject to commissioner's approval in the same manner as an insurance company's articles of incorporation and bylaws.

[~~(6)~~](7)(a) A mutual insurance holding company is:

(i) subject to Chapter 27a, Insurer Receivership Act; and

(ii) a party to any proceeding under Chapter 27a, Insurer Receivership Act, involving an insurer that is a subsidiary of the mutual insurance holding company as a result of a reorganization in accordance with this section.

(b) In a proceeding under Chapter 27a, Insurer Receivership Act, involving a reorganized mutual insurer, the assets of the mutual insurance holding company are assets of the estate of the reorganized mutual insurer for the purpose of satisfying the claims of the reorganized mutual insurer's policyholders.

(c) A mutual insurance holding company may be dissolved or liquidated only by:

(i) prior approval of the commissioner; or

(ii) court order in accordance with Chapter 27a, Insurer Receivership Act.

[~~(7)~~](8)(a) Section 31A-5-506 does not apply to a mutual insurer's reorganization or merger under this section.

(b) Section 31A-5-506 applies to demutualization of a mutual insurance holding company.

(c) The following sections do not apply to a mutual insurance holding company:

(i) Sections 31A-5-204 through 31A-5-217.5;

(ii) Sections 31A-5-301 through 31A-5-307;

(iii) Section 31A-5-505; and

(iv) Section 31A-5-509.

(d) Notwithstanding Section 31A-5-203, a mutual insurance holding company is not required to include "insurance" in the mutual insurance holding company's name.

[~~(8)~~](9) A membership interest in a domestic mutual insurance holding company is not a security under Utah law.

[~~(9)~~](10)(a) The ownership of a majority of the voting shares of a reorganized mutual insurer's capital stock includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner.

(b) The indirect ownership described in [~~Subsection (9)(a)~~]Subsection (10)(a) may not result in the mutual insurance holding company owning less than the equivalent of the majority of the voting shares of the reorganized mutual insurer's capital stock.

[~~(10)~~](11)(a) A mutual insurance holding company or intermediate holding company may not sell, transfer, assign, pledge, encumber, hypothecate, alienate, or subject to a security interest or lien the majority of the voting shares of the reorganized mutual insurer's capital stock.

(b) An act that violates [~~Subsection (10)(a)~~]Subsection (11)(a) is void in reverse chronological order of the date the act occurred.

(c) The majority of the voting shares of the reorganized mutual insurer's capital stock are not subject to execution and levy under Utah law.

(d) The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized mutual insurers, or two or more intermediate holding companies that were subsidiaries of the same mutual insurance holding company, are subject to the same requirements, restrictions, and limitations described in this section that applied to the shares of the merging or consolidating reorganized mutual insurers or intermediate holding companies before the merger or consolidation.

[~~(11)~~](12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to implement the provisions of this section.

Section 12. Section 31A-19a-203 is amended to read:

31A-19a-203. Rate filings.

(1)(a) Except as provided in Subsections (4) and (5), every authorized insurer and every rate service organization licensed under Section 31A-19a-301 that has been designated by any insurer for the filing of pure premium rates under Subsection 31A-19a-205(2) shall file with the commissioner the following for use in this state:

(i) all rates;

(ii) all supplementary information; and

(iii) all changes and amendments to rates and supplementary information.

(b) An insurer shall file its rates by filing:

(i) its final rates; or

(ii) either of the following to be applied to pure premium rates that have been filed by a rate service organization on behalf of the insurer as permitted by Section 31A-19a-205:

(A) a multiplier; or

(B)(I) a multiplier; and

(II) an expense constant adjustment.

(c) Every filing under this Subsection (1) shall state:

(i) the effective date of the rates; and

(ii) the character and extent of the coverage contemplated.

(d) Except for workers' compensation rates filed under Sections 31A-19a-405 and 31A-19a-406, each filing shall be within 30 days after the rates and supplementary information, changes, and amendments are effective.

(e) A rate filing is considered filed when it has been received[~~:~~]

[~~(i) with the applicable filing fee as prescribed under Section 31A-3-103; and~~]

[~~(ii)~~] pursuant to procedures established by the commissioner.

(f) The commissioner may by rule prescribe procedures for submitting rate filings by electronic means.

(2)(a) To show compliance with Section 31A-19a-201, at the same time as the filing of the rate and supplementary rate information, an insurer shall file all supporting information to be used in support of or in conjunction with a rate.

(b) If the rate filing provides for a modification or revision of a previously filed rate, the insurer is required to file only the supporting information that supports the modification or revision.

(c) If the commissioner determines that the insurer did not file sufficient supporting information, the commissioner shall inform the insurer in writing of the lack of sufficient supporting information.

(d) If the insurer does not provide the necessary supporting information within 45 calendar days of the date on which the commissioner mailed notice under Subsection (2)(c), the rate filing may be:

(i) considered incomplete and unfiled; and

(ii) returned to the insurer as:

(A) not filed; and

(B) not available for use.

(e) Notwithstanding Subsection (2)(d), the commissioner may extend the time period for filing supporting information.

(f) If a rate filing is returned to an insurer as not filed and not available for use under Subsection (2)(d), the insurer may not use the rate filing for any policy issued or renewed on or after 60 calendar days from the date the rate filing was returned.

(3) At the request of the commissioner, an insurer using the services of a rate service organization shall provide a description of the rationale for using the services of the rate service organization, including the insurer's:

(a) own information; and

(b) method of use of the rate service organization's information.

(4)(a) An insurer may not make or issue a contract or policy except in accordance with the rate filings that are in effect for the insurer as provided in this chapter.

(b) Subsection (4)(a) does not apply to contracts or policies for inland marine risks for which filings are not required.

(5) Subsection (1) does not apply to inland marine risks, which, by general custom, are not written according to standardized manual rules or rating plans.

(6)(a) The insurer may file a written application, stating the insurer's reasons for using a higher rate than that otherwise applicable to a specific risk.

(b) If the application described in Subsection (6)(a) is filed with and not disapproved by the commissioner within 10 days after filing, the higher rate may be applied to the specific risk.

(c) The rate described in this Subsection (6) may be disapproved without a hearing.

(d) If disapproved, the rate otherwise applicable applies from the effective date of the policy, but the insurer may cancel the policy pro rata on 10 days' notice to the policyholder.

(e) If the insurer does not cancel the policy under Subsection (6)(d), the insurer shall refund any excess premium from the effective date of the policy.

(7)(a) Agreements may be made between insurers on the use of reasonable rate modifications for insurance provided under Section 31A-22-310.

(b) The rate modifications described in Subsection (7)(a) shall be filed immediately upon agreement by the insurers.

Section 13. Section 31A-19a-209 is amended to read:

31A-19a-209. Special provisions for title insurance.

(1)(a)(i) The Title and Escrow Commission may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Section 31A-2-404, establishing rate standards and rating methods.

(ii) The commissioner shall determine compliance with rate standards and rating methods for title insurers, individual title insurance producers, and agency title insurance producers.

(b) In addition to the considerations in determining compliance with rate standards and rating methods as set forth in Sections 31A-19a-201 and 31A-19a-202, including for title insurers, the commissioner and the Title and Escrow Commission shall consider the costs and expenses incurred by title insurers, individual title insurance producers, and agency title insurance producers pertaining to the business of title insurance including:

(i) the maintenance of title plants; and

(ii) the examining of public records to determine insurability of title to real property.

(2) A title insurer[~~, individual title insurance producer, or agency title insurance producer~~] may not use any rate or other charge relating to the business of title insurance[~~, including rates or charges for escrow~~] that would cause the title [~~insurance company, individual title insurance producer, or agency title insurance producer to:~~]insurer to fail to adequately underwrite a title insurance policy.

[~~(a) operate at less than the cost of doing the insurance business; or~~]

[~~(b) fail to adequately underwrite a title insurance policy.~~]

Section 14. Section 31A-20-108 is amended to read:

31A-20-108. Single risk limitation.

(1) This section applies to all lines of insurance, including ocean marine and reinsurance, except:

(a) title insurance;

(b) workers' compensation insurance;

(c) occupational disease insurance;

(d) employers' liability insurance; and

(e) health insurance.

(2)(a) Except as provided under Subsections (3) and (4) and under Section 31A-20-109, an insurer authorized to do an insurance business in Utah may not expose itself to loss on a single risk in an amount exceeding 10% of its capital and surplus.

(b) The commissioner may adopt rules to calculate surplus under this section.

(c) An insurer may deduct the portion of a risk reinsured by a reinsurance contract worthy of a reserve credit under Sections 31A-17-404 through 31A-17-404.4 in determining the limitation of risk under this section.

(3)(a) The commissioner may adopt rules, after hearings held with notice [~~provided under Section 31A-2-303~~]as required by law, to specify the maximum exposure to which an assessable mutual may subject itself.

(b) The rules described in Subsection (3)(a) may provide for classifications of insurance and insurers to preserve the solidity of insurers.

(4) As used in this section, a "single risk" includes all losses reasonably expected as a result of the same event.

(5) A company transacting fidelity or surety insurance may expose itself to a risk or hazard in excess of the amount prescribed in Subsection (2), if the commissioner, after considering all the facts and circumstances, approves the risk.

Section 15. Section 31A-21-316 is amended to read:

31A-21-316. Electronic notices and documents.

(1) As used in this section:

(a) "Delivered by electronic means" includes:

(i) delivery to an electronic mail address at which a party has consented to receive a notice or document; or

(ii) posting on an electronic network or site accessible by way of the Internet, a mobile application, a computer, a mobile device, a tablet, or any other electronic device, together with separate notice of the posting that is provided by:

(A) electronic mail to the address at which the party has consented to receive notice; or

(B) any other delivery method that has been consented to by the party.

(b)(i) "Party" means a recipient of a notice or document required as part of an insurance transaction.

(ii) "Party" includes an applicant, an insured, or a policyholder.

(c) "Policy document" means a policy, certificate, amendment, or endorsement.

(2) Subject to [~~Subsection (4)~~]Subsections (4) and (5), a notice to a party or another document required under applicable law in an insurance transaction or that serves as evidence of insurance coverage may be delivered, stored, and presented by electronic means if it meets the requirements of Title 46, Chapter 4, Uniform Electronic Transactions Act.

(3) Delivery of a notice or document in accordance with this section is considered equivalent to any delivery method required under applicable law.

(4) [~~Subject to Subsection (5), a~~]A notice or document may be delivered by electronic means by an insurer to a party under this section if:

(a) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(b) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(i) any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;

(ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means, including:

(A) a condition or consequence imposed if consent is withdrawn;

(B) when the insurer will make the party's withdrawal effective, during or at the conclusion of the policy term; and

(C) the procedure a party is to follow to withdraw consent to have a notice or document delivered by electronic means;

(iii) whether the party's consent applies:

(A) only to the particular transaction as to which the notice or document must be given; or

(B) to identified categories of notices or documents that may be delivered by electronic means during the course of the party's relationship with the insured; and

(iv) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and

(c) the party:

(i) before giving consent, is provided with a statement of the electronic delivery and retrieval method requirements for access to and retention of a notice or document delivered by electronic means;

(ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for a notice or document delivered by electronic means as to which the party has given consent; and

(iii) is provided a process to update information needed to contact the party electronically[.];

[~~(5)~~](d)[~~(a) After~~]after consent of the party is given and if a change in the electronic delivery or retrieval methods creates a substantial risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, the insurer[~~ shall~~]:

(i) [~~provide~~]provides the party with a statement of:

(A) the revised electronic delivery or retrieval methods; and

(B) the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under Subsection (4)(b)(ii);[~~ and~~]

(ii) [~~comply~~]complies with Subsection (4)(b)[.]; and

[~~(b) Failure by an insurer to comply with this Subsection (5) is treated, at the election of the party, as a withdrawal of consent for purposes of this section.~~]

[~~(c) When an electronic mail address provided by the party to facilitate delivery by electronic means is returned with a message as undeliverable each time electronic delivery is attempted over a period not to exceed two business days, the party is presumed to have withdrawn consent for the purposes of this section.~~]

[~~(d)~~]

[~~(i)~~](e) [~~An~~]an insurer [~~shall file~~]files with the department the consent statement described under Subsection (4)(b), which includes conditions or consequences for a party to revoke the party's consent to conduct an insurance transaction, electronically.

[~~(ii)~~](i) An insurer shall file the consent statement described in [~~Subsection (5)(d)(i)~~]Subsection (4)(b) before the insurer uses the consent statement.

[~~(iii)~~](ii) The insurer shall communicate to the party in accordance with Subsection (4)(b) the conditions or consequences for a party to revoke the party's consent.

(5)(a) An insurer may deliver a policy document to a party, by electronic means and without the party's consent to receive the policy document by electronic means, if:

(i) the party has not withdrawn the consent described in this Subsection (5);

(ii) the insurer provides a clear and conspicuous statement in paper form, to the party, informing the party of:

(A) the party's right or option to have the policy document provided or made available in paper or another nonelectronic form;

(B) the party's right to withdraw consent to the electronic delivery of a policy document, including the procedure a party must follow to withdraw consent to electronic delivery of a policy document;

(C) policy documents that the insurer may deliver electronically;

(D) the means by which a party may obtain a paper copy of a policy document that the insurer delivered electronically;

(E) the electronic delivery and retrieval method requirements for access to and retention of a policy document delivered electronically; and

(F) the process to update the party's electronic contact information; and

(iii) the party demonstrates the ability to electronically access the information contained in the policy document.

(b) This Subsection (5) does not apply to a life insurance policy document.

(6) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(7) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(8) If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(9) The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with Subsection (4)(c)(ii).

(10) This section does not apply to or affect a notice or document delivered by an insurer in an electronic form before July 1, 2014, to a party who, before July 1, 2014, has consented to receive the notice or document in an electronic form otherwise allowed by law.

(11) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 1, 2014, and pursuant to this section, an insurer intends to deliver an additional notice or document to the party in an electronic form, then before delivering the additional notices or documents electronically, the insurer shall notify the party of:

(a) the notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(b) the party's right to withdraw consent to have notices or documents delivered by electronic means.

(12)(a) Except as otherwise provided by Section 31A-21-102, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.

(b) If a provision of this title or applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the party authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

(13) For purposes of this section, an insurer's failure to comply with Subsection (4) or (5) constitutes a withdrawal of the party's consent.

(14) A party is presumed to have withdrawn consent under this section if the email address the party provides to receive a policy document returns a message stating that the message is undeliverable each time the insurer attempts electronic delivery over a period of up to two business days.

[~~(13)~~](15) This section may not be construed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, P. Law 106-229, as amended.

Section 16. Section 31A-21-402 is amended to read:

31A-21-402. Definitions.

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

[~~(1)(a) "Direct response solicitation" means any offer an insurer makes to persons in this state, either directly or through a third party, to effect life or accident and health insurance coverage which enables the individual to apply or enroll for the insurance on the basis of the offer.~~]

[~~(b) "Direct response solicitation" does not include:~~]

[~~(i) solicitations for insurance through an employee benefit plan exempt from state regulation under preemptive federal law; or~~]

[~~(ii) solicitations through an individual's creditor with respect to credit life or credit accident and health insurance.~~ ~~(2)~~ "Mass]As used in this part, "mass marketed life or accident and health insurance" means the insurance under any individual, franchise, group, or blanket insurance policy offering life or accident and health insurance:

[~~(a)~~](1) that is offered by means of direct response solicitation through:

[~~(i)~~](a) a sponsoring organization; or

[~~(ii)~~](b) the mails or other mass communications media; and

[~~(b)~~](2) under which the person insured pays all or substantially all of the cost of the person's insurance.

Section 17. Section 31A-22-401 is amended to read:

31A-22-401. Prohibited life insurance policy provisions.

No life insurance company may issue or deliver any life insurance policy subject to this chapter under Section 31A-21-101 which contains any provision:

(1) forfeiting the policy for failure to repay any loan on the policy or to pay interest on the loan while the total indebtedness on the policy is less than its loan value, and in ascertaining the indebtedness due upon policy loans, the interest, if not paid when due, may be added to the principal of those loans and may bear interest at the same rate as the principal;

(2) claiming that the policy was issued or became effective more than one year before the original application for the insurance is executed, if the insured would then be rated at an age more than one year younger than his age at the date of his application, unless the aggregate amount of the annual premiums for the whole term of the back-dated period is paid in cash;[~~or~~]

(3) allowing assessments or calls to be made upon policyholders[~~.~~]; or

(4) allowing an insurer to cancel or terminate a policy for a reason other than:

(a) nonpayment of a premium when due; or

(b) as allowed pursuant to Subsection 31A-21-105(2).

Section 18. Section 31A-22-605 is amended to read:

31A-22-605. Accident and health insurance standards.

(1) The purposes of this section include:

(a) reasonable standardization and simplification of terms and coverages of individual and franchise accident and health insurance policies, including accident and health insurance contracts of insurers licensed under Chapter 7, Nonprofit Health Service Insurance Corporations, and Chapter 8, Health Maintenance Organizations and Limited Health Plans, to facilitate public understanding and comparison in purchasing;

(b) elimination of provisions contained in individual and franchise accident and health insurance contracts that may be misleading or confusing in connection with either the purchase of those types of coverages or the settlement of claims; and

(c) full disclosure in the sale of individual and franchise accident and health insurance contracts.

[~~(2) As used in this section:~~]

[~~(a) "Direct response insurance policy" means an individual insurance policy solicited and sold without the policyholder having direct contact with a natural person intermediary.~~]

[~~(b) "Medicare" means the same as that term is defined in Subsection 31A-22-620(1)(e).~~]

[~~(c) "Medicare supplement policy" means the same as that term is defined in Subsection 31A-22-620(1)(f).~~]

[~~(3)~~](2) This section applies to all individual and franchise accident and health policies.

[~~(4)~~](3) The commissioner shall adopt rules, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:

(a) standards for the manner and content of policy provisions, and disclosures to be made in connection with the sale of policies covered by this section, dealing with at least the following matters:

(i) terms of renewability;

(ii) initial and subsequent conditions of eligibility;

(iii) nonduplication of coverage provisions;

(iv) coverage of dependents;

(v) preexisting conditions;

(vi) termination of insurance;

(vii) probationary periods;

(viii) limitations;

(ix) exceptions;

(x) reductions;

(xi) elimination periods;

(xii) requirements for replacement;

(xiii) recurrent conditions;

(xiv) coverage of persons eligible for Medicare; and

(xv) definition of terms;

(b) minimum standards for benefits under each of the following categories of coverage in policies covered in this section:

(i) basic hospital expense coverage;

(ii) basic medical-surgical expense coverage;

(iii) hospital confinement indemnity coverage;

(iv) major medical expense coverage;

(v) income replacement coverage;

(vi) accident only coverage;

(vii) specified disease or specified accident coverage;

(viii) limited benefit health coverage; and

(ix) nursing home and long-term care coverage;

(c) the content and format of the outline of coverage, in addition to that required under Subsection [~~(6);~~](5);

(d) the method of identification of policies and contracts based upon coverages provided; and

(e) rating practices.

[~~(5)~~](4) Nothing in Subsection [~~(4)(b)~~](3)(b) precludes the issuance of policies that combine categories of coverage in Subsection [~~(4)(b)~~](3)(b) provided that any combination of categories meets the standards of a component category of coverage.

[~~(6)~~](5) The commissioner may adopt rules, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, relating to the following matters:

(a) establishing disclosure requirements for insurance policies covered in this section, designed to adequately inform the prospective insured of the need for and extent of the coverage offered, and requiring that this disclosure be furnished to the prospective insured with the application form, unless it is a direct response insurance policy;

(b)(i) prescribing caption or notice requirements designed to inform prospective insureds that particular insurance coverages are not [~~Medicare Supplement coverages~~]Medicare supplement insurance; and

(ii) applying the requirements of Subsection [~~(6)(b)(i) apply~~](5)(b)(i) to all insurance policies and certificates sold to persons eligible for Medicare; and

(c) requiring the disclosures or information brochures to be furnished to the prospective insured on direct response insurance policies, upon his request or, in any event, no later than the time of the policy delivery.

[~~(7)~~](6) A policy covered by this section may be issued only if it meets the minimum standards established by the commissioner under Subsection [~~(4),~~](3), an outline of coverage accompanies the policy or is delivered to the applicant at the time of the application, and, except with respect to direct response insurance policies, an acknowledged receipt is provided to the insurer. The outline of coverage shall include:

(a) a statement identifying the applicable categories of coverage provided by the policy as prescribed under Subsection [~~(4);~~](3);

(b) a description of the principal benefits and coverage;

(c) a statement of the exceptions, reductions, and limitations contained in the policy;

(d) a statement of the renewal provisions, including any reservation by the insurer of a right to change premiums;

(e) a statement that the outline is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions; and

(f) any other contents the commissioner prescribes.

[~~(8)~~](7) If a policy is issued on a basis other than that applied for, the outline of coverage shall accompany the policy when it is delivered and it shall clearly state that it is not the policy for which application was made.

[~~(9)~~](8)(a) Notwithstanding Subsection 31A-22-606(1), limited accident and health policies or certificates issued to persons eligible for Medicare shall contain a notice prominently printed on or attached to the cover or front page which states that the policyholder or certificate holder has the right to return the policy for any reason within 30 days after its delivery and to have the premium refunded.

(b) This Subsection [~~(9)~~](8) does not apply to a policy issued to an employer group.

Section 19. Section 31A-22-614 is amended to read:

31A-22-614. Claims under accident and health policies.

(1) Section 31A-21-312 applies generally to claims under accident and health policies.

(2)(a) Subject to Subsection (1), an accident and health insurance policy may not contain a claim notice requirement less favorable to the insured, or an insured's network provider, than one which requires written notice of the claim within 20 days after the occurrence or commencement of any loss covered by the policy. The policy shall specify to whom claim notices may be given.

(b) If a loss of time benefit under a policy may be paid for a period of at least two years, an insurer may require periodic notices that the insured continues to have a disability, unless the insured is legally incapacitated. The insured's, or the insured's network provider's, delay in giving that notice does not impair the insured's, the insured's network provider's, or beneficiary's right to any indemnity which would otherwise have accrued during the six months preceding the date on which that notice is actually given.

(3) An accident and health insurance policy may not contain a time limit on proof of loss which is more restrictive to the insured, or the insured's network provider, than a provision requiring written proof of loss, delivered to the insurer, within the following time:

(a) for a claim where periodic payments are contingent upon continuing loss, within [~~90~~]120 days after the termination of the period for which the insurer is liable; or

(b) for any other claim, within [~~90~~]120 days after the date of the loss.

(4)(a)(i) Section 31A-26-301 applies generally to the payment of claims.

(ii) Indemnity for loss of life is paid in accordance with the beneficiary designation effective at the time of payment. If no valid beneficiary designation exists, the indemnity is paid to the insured's estate. Any other accrued indemnities unpaid at the insured's death are paid to the insured's estate.

(b) Reasonable facility of payment clauses, specified by the commissioner by rule or in approving the policy form, are permitted. Payment made in good faith and in accordance with those clauses discharges the insurer's obligation to pay those claims.

(c) All or a portion of any indemnities provided under an accident and health policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering the services.

Section 20. Section 31A-22-620 is amended to read:

31A-22-620. Medicare Supplement Insurance Minimum Standards Act.

(1) As used in this section:

(a) "Applicant" means:

(i) in the case of an individual Medicare supplement insurance policy, the person who seeks to contract for insurance benefits; and

(ii) in the case of a group Medicare supplement insurance policy, the proposed certificate holder.

(b) "Certificate" means any certificate delivered or issued for delivery in this state under a group Medicare supplement insurance policy.

(c) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the issuer.

(d) "Issuer" includes insurance companies, fraternal benefit societies, health care service plans, health maintenance organizations, and any other entity delivering, or issuing for delivery in this state, Medicare supplement insurance policies or certificates.

[~~(e) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.~~]

[~~(f) "Medicare Supplement Policy":~~]

[~~(i) means a group or individual policy of health insurance, other than a policy issued pursuant to a contract under Section 1876 of the federal Social Security Act, 42 U.S.C. Sec. 1395 et seq., or an issued policy under a demonstration project specified in 42 U.S.C. Sec. 1395ss(g)(1), that is advertised, marketed, or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical, or surgical expenses of persons eligible for Medicare; and~~]

[~~(ii) does not include Medicare Advantage plans established under Medicare Part C, outpatient prescription drug plans established under Medicare Part D, or any health care prepayment plan that provides benefits pursuant to an agreement under Section 1833(a)(1)~~]

[~~(A) of the Social Security Act.~~]

[~~(g)~~](e) "Policy form" means the form on which the policy is delivered or issued for delivery by the issuer.

(2)(a) Except as otherwise specifically provided, this section applies to:

(i) all Medicare supplement insurance policies delivered or issued for delivery in this state on or after the effective date of this section;

(ii) all certificates issued under group Medicare supplement insurance policies, that have been delivered or issued for delivery in this state on or after the effective date of this section; and

(iii) policies or certificates that were in force prior to the effective date of this section, with respect to requirements for benefits, claims payment, and policy reporting practice under Subsection (3)(d), and loss ratios under Subsection (4).

(b) This section does not apply to a policy of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination of employers and labor unions, for employees or former employees or a combination of employees and former employees, or for members or former members of the labor organizations, or a combination of members and former members of labor organizations.

(c) This section does not prohibit, nor does it apply to insurance policies or health care benefit plans, including group conversion policies, provided to Medicare eligible persons that are not marketed or held out to be Medicare supplement insurance policies or benefit plans.

(3)(a) A Medicare supplement insurance policy or certificate in force in the state may not contain benefits that duplicate benefits provided by Medicare.

(b) Notwithstanding any other provision of law of this state, a Medicare supplement policy or certificate may not exclude or limit benefits for loss incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than: "A condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage."

(c) The commissioner shall adopt rules to establish specific standards for policy provisions of Medicare supplement insurance policies and certificates. The standards adopted shall be in addition to and in accordance with applicable laws of this state. A requirement of this title relating to minimum required policy benefits, other than the minimum standards contained in this section, may not apply to Medicare supplement insurance policies and certificates. The standards may include:

(i) terms of renewability;

(ii) initial and subsequent conditions of eligibility;

(iii) nonduplication of coverage;

(iv) probationary periods;

(v) benefit limitations, exceptions, and reductions;

(vi) elimination periods;

(vii) requirements for replacement;

(viii) recurrent conditions; and

(ix) definitions of terms.

(d) The commissioner shall adopt rules establishing minimum standards for benefits, claims payment, marketing practices, compensation arrangements, and reporting practices for Medicare supplement insurance policies and certificates.

(e) The commissioner may adopt rules to conform Medicare supplement insurance policies and

certificates to the requirements of federal law and regulations, including:

(i) requiring refunds or credits if the policies do not meet loss ratio requirements;

(ii) establishing a uniform methodology for calculating and reporting loss ratios;

(iii) assuring public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance;

(iv) establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;

(v) establishing a policy for holding public hearings prior to approval of premium increases;

(vi) establishing standards for Medicare select policies and certificates; and

(vii) nondiscrimination for genetic testing or genetic information.

(f) The commissioner may adopt rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a Medicare supplement insurance policy or certificate.

(4) Medicare supplement insurance policies shall return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall make rules to establish minimum standards for loss ratios of Medicare supplement insurance policies on the basis of incurred claims experience, or incurred health care expenses where coverage is provided by a health maintenance organization on a service basis rather than on a reimbursement basis, and earned premiums in accordance with accepted actuarial principles and practices.

(5)(a) To provide for full and fair disclosure in the sale of [~~Medicare supplement policies, a Medicare supplement policy~~]Medicare supplement insurance, a Medicare supplement insurance policy or certificate may not be delivered in this state unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The commissioner shall prescribe the format and content of the outline of coverage required by Subsection (5)(a).

(c) For purposes of this section, "format" means style arrangements and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. The outline of coverage shall include:

(i) a description of the principal benefits and coverage provided in the policy;

(ii) a statement of the renewal provisions, including any reservation by the issuer of a right to change premiums; and disclosure of the existence of any automatic renewal premium increases based on the policyholder's age; and

(iii) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(d) The commissioner may make rules for captions or notice if the commissioner finds that the rules are:

(i) in the public interest; and

(ii) designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than:

(A) a [~~medicare~~]Medicare supplement insurance policy; or

(B) a disability income policy.

(e) The commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, that is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the commissioner may require by rule that the informational brochure be provided concurrently with delivery of the outline of coverage to any prospective insureds eligible for Medicare. With respect to direct response insurance policies, the commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insureds eligible for Medicare, but in no event later than the time of policy delivery.

(f) The commissioner may adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health policies, subscriber contracts, or certificates by persons eligible for Medicare.

(6) Notwithstanding Subsection (1), Medicare supplement insurance policies and certificates shall have a notice prominently printed on the first page of the policy or certificate, or attached to the front page, stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Any refund made pursuant to this section shall be paid directly to the applicant by the issuer in a timely manner.

(7) Every issuer of Medicare supplement insurance policies or certificates in this state shall provide a copy of any Medicare supplement insurance advertisement intended for use in this state, whether through written or broadcast medium, to the commissioner for review.

(8) The commissioner may adopt rules to conform Medicare and Medicare supplement insurance policies and certificates to the marketing requirements of federal law and regulation.

Section 21. Section 31A-22-802 is amended to read:

31A-22-802. Definitions.

As used in this part:

[~~(1) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.~~]

[~~(2) "Credit life insurance" means life insurance on the life of a debtor in connection with a specific loan or credit transaction.~~]

[~~(3)~~](1) "Credit transaction" means any transaction under which the payment for money loaned or for goods, services, or properties sold or leased is to be made on future dates.

[~~(4)~~](2) "Creditor" means the lender of money or the vendor or lessor of goods, services, or property, for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of any lender or vendor.

[~~(5)~~](3) "Debtor" means a borrower of money or a purchaser, including a lessee under a lease intended as security, of goods, services, or property, for which payment is arranged through a credit transaction.

[~~(6)~~](4) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a credit transaction, including principal finance charges and interest.

[~~(7)~~](5) "Net indebtedness" means the total amount required to liquidate the indebtedness, exclusive of any unearned interest, any insurance on the monthly outstanding balance coverage, or any finance charge.

[~~(8)~~](6) "Net written premiums" means gross written premiums minus refunds on termination.

Section 22. Section 31A-22-2002 is amended to read:

31A-22-2002. Definitions.

As used in this part:

(1) "Applicant" means:

(a) when referring to an individual limited long-term care insurance policy, the person who seeks to contract for benefits; and

(b) when referring to a group limited long-term care insurance policy, the proposed certificate holder.

(2) "Elimination period" means the length of time between meeting the eligibility for benefit payment and receiving benefit payments from an insurer.

(3) "Group limited long-term care insurance" means a limited long-term care insurance policy that is delivered or issued for delivery:

(a) in this state; and

(b) to an eligible group, as described under Subsection [~~31A-22-701(2)~~]31A-22-701(1).

(4)(a) "Limited long-term care insurance" means an insurance policy, endorsement, or rider that is advertised, marketed, offered, or designed to provide coverage:

(i) for less than 12 consecutive months for each covered person;

(ii) on an expense-incurred, indemnity, prepaid or other basis; and

(iii) for one or more necessary or medically necessary diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services that is provided in a setting other than an acute care unit of a hospital.

(b) "Limited long-term care insurance" includes a policy or rider described in Subsection (4)(a) that provides for payment of benefits based on cognitive impairment or the loss of functional capacity.

(c) "Limited long-term care insurance" does not include an insurance policy that is offered primarily to provide:

(i) basic Medicare supplement insurance coverage;

(ii) basic hospital expense coverage;

(iii) basic medical-surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) disability income or related asset-protection coverage;

(vii) accidental only coverage;

(viii) specified disease or specified accident coverage; or

(ix) limited benefit health coverage.

(5) "Preexisting condition" means a condition for which medical advice or treatment is recommended:

(a) by, or received from, a provider of health care services; and

(b) within six months before the day on which the coverage of an insured person becomes effective.

(6) "Waiting period" means the time an insured waits before some or all of the insured's coverage becomes effective.

Section 23. Section 31A-23a-105 is amended to read:

31A-23a-105. General requirements for individual and agency license issuance and renewal.

(1)(a) The commissioner shall issue or renew a license to a person described in Subsection (1)(b) to act as:

(i) a producer;

(ii) a surplus lines producer;

(iii) a limited line producer;

(iv) a consultant;

(v) a managing general agent; or

(vi) a reinsurance intermediary.

(b) The commissioner shall issue or renew a license under Subsection (1)(a) to a person who, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) satisfies the application requirements under Section 31A-23a-104;

(ii) satisfies the character requirements under Section 31A-23a-107;

(iii) satisfies applicable continuing education requirements under Section 31A-23a-202;

(iv) satisfies applicable examination requirements under Section 31A-23a-108;

(v) satisfies applicable training period requirements under Section 31A-23a-203;

(vi) if an applicant for a resident individual producer license, certifies that, to the extent applicable, the applicant:

(A) is in compliance with Section 31A-23a-203.5; and

(B) will maintain compliance with Section 31A-23a-203.5 during the period for which the license is issued or renewed;

(vii) has not committed an act that is a ground for denial, suspension, or revocation as provided in Section 31A-23a-111;

(viii) if a nonresident:

(A) complies with Section 31A-23a-109; and

(B) holds an active similar license in that person's home state;

(ix) if an applicant for an individual title insurance producer or agency title insurance producer license, satisfies the requirements of Section 31A-23a-204;

(x) if an applicant for a license to act as a life settlement provider or life settlement producer, satisfies the requirements of Section 31A-23a-117; and

(xi) pays the applicable fees under Section 31A-3-103.

(2)(a) This Subsection (2) applies to the following persons:

(i) an applicant for a pending:

(A) individual or agency producer license;

(B) surplus lines producer license;

(C) limited line producer license;

(D) consultant license;

(E) managing general agent license; or

(F) reinsurance intermediary license; or

(ii) a licensed:

(A) individual or agency producer;

(B) surplus lines producer;

(C) limited line producer;

(D) consultant;

(E) managing general agent; or

(F) reinsurance intermediary.

(b) A person described in Subsection (2)(a) shall report to the commissioner:

(i) an administrative action taken against the person, including a denial of a new or renewal license application:

(A) in another jurisdiction; or

(B) by another regulatory agency in this state;[~~and~~]

(ii) a criminal prosecution taken against the person in any jurisdiction[~~,~~]; and

(iii) a civil action filed against the person in any jurisdiction if the action involves conduct related to a professional or occupational license, certification, authorization, or registration, regardless of whether the person held the license, certification, authorization, or registration.

(c) The report required by Subsection (2)(b) shall:

(i) be filed:

(A) at the time the person files the application for an individual or agency license; and

(B) for an action or prosecution that occurs on or after the day on which the person files the application:

(I) for an administrative action, within 30 days of the final disposition of the administrative action; or

(II) for a criminal prosecution or civil action, within 30 days of the initial appearance before a court; and

(ii) include a copy of the complaint or other relevant legal documents related to the action or prosecution described in Subsection (2)(b).

(3)(a) The department may require a person applying for a license or for consent to engage in the business of insurance to submit to a criminal background check as a condition of receiving a license or consent.

(b) A person, if required to submit to a criminal background check under Subsection (3)(a), shall:

(i) submit a fingerprint card in a form acceptable to the department; and

(ii) consent to a fingerprint background check by:

(A) the Utah Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) For a person who submits a fingerprint card and consents to a fingerprint background check under Subsection (3)(b), the department may request:

(i) criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, from the Bureau of Criminal Identification; and

(ii) complete Federal Bureau of Investigation criminal background checks through the national criminal history system.

(d) Information obtained by the department from the review of criminal history records received under this Subsection (3) shall be used by the department for the purposes of:

(i) determining if a person satisfies the character requirements under Section 31A-23a-107 for issuance or renewal of a license;

(ii) determining if a person has failed to maintain the character requirements under Section 31A-23a-107; and

(iii) preventing a person who violates the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033, from engaging in the business of insurance in the state.

(e) If the department requests the criminal background information, the department shall:

(i) pay to the Department of Public Safety the costs incurred by the Department of Public Safety in providing the department criminal background information under Subsection (3)(c)(i);

(ii) pay to the Federal Bureau of Investigation the costs incurred by the Federal Bureau of Investigation in providing the department criminal background information under Subsection (3)(c)(ii); and

(iii) charge the person applying for a license or for consent to engage in the business of insurance a fee equal to the aggregate of Subsections (3)(e)(i) and (ii).

(4) To become a resident licensee in accordance with Section 31A-23a-104 and this section, a person licensed as one of the following in another state who moves to this state shall apply within 90 days of establishing legal residence in this state:

(a) insurance producer;

(b) surplus lines producer;

(c) limited line producer;

(d) consultant;

(e) managing general agent; or

(f) reinsurance intermediary.

(5)(a) The commissioner may deny a license application for a license listed in Subsection (5)(b) if the person applying for the license, as to the license type and line of authority classification applied for under Section 31A-23a-106:

(i) fails to satisfy the requirements as set forth in this section; or

(ii) commits an act that is grounds for denial, suspension, or revocation as set forth in Section 31A-23a-111.

(b) This Subsection (5) applies to the following licenses:

(i) producer;

(ii) surplus lines producer;

(iii) limited line producer;

(iv) consultant;

(v) managing general agent; or

(vi) reinsurance intermediary.

(6) Notwithstanding the other provisions of this section, the commissioner may:

(a) issue a license to an applicant for a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission; and

(b) renew a license for a title insurance line of authority only with the concurrence of the Title and Escrow Commission.

Section 24. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee;

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5)(a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) [~~fails to pay a final judgment rendered against the person within 60 days after the day on which the judgment became final~~]is more than 60 days past due on an enforceable final judgment;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) has been convicted of, or has entered a plea in abeyance as defined in Section 77-2a-1 to:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii)(A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8)(a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 25. Section 31A-23a-119 is enacted to read:

31A-23a-119. Special requirements for agency title insurance producers.

(1) As used in this section:

(a) "Applicable percentage" means:

(i) on February 1, 2024, through January 31, 2025, 2.5%;

(ii) on February 1, 2025, through January 31, 2026, 3%;

(iii) on February 1, 2026, through January 31, 2027, 3.5%;

(iv) on February 1, 2027, through January 31, 2028, 4%; and

(v) on February 1, 2028, through January 31, 2029, 4.5%.

(b) "Sufficient capital and net worth" means:

(i) for a new title entity:

(A) $100,000 for the first five years after becoming a new agency title insurance producer; or

(B) after the first five years after becoming a new agency title insurance producer, the greater of $50,000, or on February 1 of each year, an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to $150,000; or

(ii) for a title entity licensed before May 14, 2019:

(A) for the time period beginning on February 1, 2020, and ending on January 31, 2029, the lesser of an amount equal to the applicable percentage of the title entity's average annual gross revenue over the two calendar years immediately preceding the February 1 on which the applicable percentage applies or $150,000; and

(B) beginning on February 1, 2029, the greater of $50,000 or an amount equal to 5% of the title entity's average annual gross revenue over the preceding two calendar years, up to $150,000.

(2) Before May 1 of each year, each agency title insurance producer shall submit a report to the commissioner containing proof satisfactory to the commissioner that the agency title insurance producer had sufficient capital and net worth for the preceding calendar year.

Section 26. Section 31A-23a-406 is amended to read:

31A-23a-406. Title insurance producer's business.

(1) As used in this section:

(a) "Automated clearing house network" or "ACH network" means a national electronic funds transfer system regulated by the Federal Reserve and the Office of the Comptroller of the Currency.

(b) "Depository institution" means the same as that term is defined in Section 7-1-103.

(c) "Funds transfer system" means the same as that term is defined in Section [~~7-1-103.~~] 70A-4a-105.

(2) An individual title insurance producer or agency title insurance producer may do escrow involving real property transactions if all of the following exist:

(a) the individual title insurance producer or agency title insurance producer is licensed with:

(i) the title line of authority; and

(ii) the escrow subline of authority;

(b) the individual title insurance producer or agency title insurance producer is appointed by a title insurer authorized to do business in the state;

(c) except as provided in Subsection (4), the individual title insurance producer or agency title insurance producer issues one or more of the following as part of the transaction:

(i) an owner's policy offering title insurance;

(ii) a lender's policy offering title insurance; or

(iii) if the transaction does not involve a transfer of ownership, an endorsement to an owner's or a lender's policy offering title insurance;

(d) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is deposited:

(i) in a federally insured depository institution, as defined in Section 7-1-103, that:

(A) has a branch in this state, if the individual title insurance producer or agency title insurance producer depositing the money is a resident licensee; and

(B) is authorized by the depository institution's primary regulator to engage in trust business, as defined in Section 7-5-1, in this state; and

(ii) in a trust account that is separate from all other trust account money that is not related to real estate transactions;

(e) money deposited with the individual title insurance producer or agency title insurance producer in connection with any escrow is the property of the one or more persons entitled to the money under the provisions of the escrow;

(f) money deposited with the individual title insurance producer or agency title insurance producer in connection with an escrow is segregated escrow by escrow in the records of the individual title insurance producer or agency title insurance producer;

(g) earnings on money held in escrow may be paid out of the [~~escrow~~]trust account to any person in accordance with the conditions of the escrow;

(h) the escrow does not require the individual title insurance producer or agency title insurance producer to hold:

(i) construction money; or

(ii) money held for exchange under Section 1031, Internal Revenue Code; and

(i) the individual title insurance producer or agency title insurance producer shall maintain a physical office in Utah staffed by a person with an escrow subline of authority who processes the escrow.

(3) Notwithstanding Subsection (2), an individual title insurance producer or agency title insurance producer may engage in the escrow business if:

(a) the escrow involves:

(i) a mobile home;

(ii) a grazing right;

(iii) a water right; or

(iv) other personal property authorized by the commissioner; and

(b) the individual title insurance producer or agency title insurance producer complies with this section except for Subsection (2)(c).

(4)(a) Subsection (2)(c) does not apply if the transaction is for the transfer of real property from the School and Institutional Trust Lands Administration.

(b) This subsection does not prohibit an individual title insurance producer or agency title insurance producer from issuing a policy described in Subsection (2)(c) as part of a transaction described in Subsection (4)(a).

(5) Money held in escrow:

(a) is not subject to any debts of the individual title insurance producer or agency title insurance producer;

(b) may only be used to fulfill the terms of the individual escrow under which the money is accepted; and

(c) may not be used until the conditions of the escrow are met.

(6) Assets or property other than escrow money received by an individual title insurance producer or agency title insurance producer in accordance with an escrow shall be maintained in a manner that will:

(a) reasonably preserve and protect the asset or property from loss, theft, or damages; and

(b) otherwise comply with the general duties and responsibilities of a fiduciary or bailee.

(7)(a) A check from the trust account described in Subsection (2)(d) may not be drawn, executed, or dated, or money otherwise disbursed unless the segregated [~~escrow~~]trust account from which money is to be disbursed contains a sufficient credit balance consisting of collected and cleared money at the time the check is drawn, executed, or dated, or money is otherwise disbursed.

(b) As used in this Subsection (7), money is considered to be "collected and cleared," and may be disbursed as follows:

(i) cash may be disbursed on the same day the cash is deposited;

(ii) a wire transfer may be disbursed on the same day the wire transfer is deposited;

(iii) the proceeds of one or more of the following financial instruments may be disbursed on the same day the financial instruments are deposited if received from a single party to the real estate transaction and if the aggregate of the financial instruments for the real estate transaction is less than $10,000:

(A) a cashier's check, certified check, or official check that is drawn on an existing account at a federally insured financial institution;

(B) a check drawn on the trust account of a principal broker or associate broker licensed under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, if the individual title insurance producer or agency title insurance producer has reasonable and prudent grounds to believe sufficient money will be available from the trust account on which the check is drawn at the time of disbursement of proceeds from the individual title insurance producer or agency title insurance producer's [~~escrow~~]trust account;

(C) a personal check not to exceed $500 per closing; or

(D) a check drawn on the [~~escrow~~]trust account of another individual title insurance producer or agency title insurance producer, if the individual title insurance producer or agency title insurance producer in the escrow transaction has reasonable and prudent grounds to believe that sufficient money will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of money from the [~~escrow~~]trust account of the individual title insurance producer or agency title insurance producer in the escrow transaction;

(iv) deposits made through the ACH network may be disbursed on the same day the deposit is made if:

(A) the transferred funds remain uniquely designated and traceable throughout the entire ACH network transfer process;

(B) except as a function of the ACH network process, the transferred funds are not subject to comingling or third party access during the transfer process;

(C) the transferred funds are deposited into the title insurance producer's [~~escrow~~]trust account and are available for disbursement; and

(D) either the ACH network payment type or the title insurance producer's systems prevent the transaction from being unilaterally canceled or

reversed by the consumer once the transferred funds are deposited to the individual title insurance producer or agency title producer; or

(v) deposits may be disbursed on the same day the deposit is made if the deposit is made via:

(A) the Federal Reserve Bank through the Federal Reserve's Fedwire funds transfer system; or

(B) a funds transfer system provided by an association of [~~banks~~]federally insured depository institutions.

(c) A check or deposit not described in Subsection (7)(b) may be disbursed:

(i) within the time limits provided under the Expedited Funds Availability Act, 12 U.S.C. Sec. 4001 et seq., as amended, and related regulations of the Federal Reserve System; or

(ii) upon notification from the financial institution to which the money has been deposited that final settlement has occurred on the deposited financial instrument.

(8) An individual title insurance producer or agency title insurance producer shall maintain a record of a receipt or disbursement of escrow money.

(9) An individual title insurance producer or agency title insurance producer shall comply with:

(a) Section 31A-23a-409;

(b) Title 46, Chapter 1, Notaries Public Reform Act; and

(c) any rules adopted by the Title and Escrow Commission, subject to Section 31A-2-404, that govern escrows.

(10) If an individual title insurance producer or agency title insurance producer conducts a search for real estate located in the state, the individual title insurance producer or agency title insurance producer shall conduct a reasonable search of the public records.

Section 27. Section 31A-23a-413 is amended to read:

31A-23a-413. Title insurance producer's annual report.

An agency title insurance producer[~~ and an individual title insurance producer who is not an employee of a title insurer or who has not been designated by an agency title insurance producer~~] shall annually file with the commissioner, by a date and in a form the commissioner specifies by rule, a verified statement of the agency title insurance producer's [~~or individual title insurance producer's~~]financial condition, transactions, and affairs as of the end of the preceding calendar year.

Section 28. Section 31A-26-301.6 is amended to read:

31A-26-301.6. Health care claims practices.

(1) As used in this section:

(a) "Health care provider" means a person licensed to provide health care under:

(i) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; or

(ii) Title 58, Occupations and Professions.

(b) "Insurer" means an admitted or authorized insurer, as defined in Section 31A-1-301, and includes:

(i) a health maintenance organization; and

(ii) a third party administrator that is subject to this title, provided that nothing in this section may be construed as requiring a third party administrator to use its own funds to pay claims that have not been funded by the entity for which the third party administrator is paying claims.

(c) "Provider" means a health care provider to whom an insurer is obligated to pay directly in connection with a claim by virtue of:

(i) an agreement between the insurer and the provider;

(ii) [~~a~~]an accident and health insurance policy or contract of the insurer; or

(iii) state or federal law.

(2) An insurer shall timely pay every valid insurance claim submitted by a provider in accordance with this section.

(3)(a) Except as provided in Subsection (4), within 30 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation for the denial.

(b)(i) Subject to Subsection (3)(b)(ii), the time period described in Subsection (3)(a) may be extended by 15 days if the insurer:

(A) determines that the extension is necessary due to matters beyond the control of the insurer; and

(B) before the end of the 30-day period described in Subsection (3)(a), notifies the provider and insured in writing of:

(I) the circumstances requiring the extension of time; and

(II) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(ii) If an extension is necessary due to a failure of the provider or insured to submit the information necessary to decide the claim:

(A) the notice of extension required by this Subsection (3)(b) shall specifically describe the required information; and

(B) the insurer shall give the provider or insured at least 45 days from the day on which the provider or insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (3)(b)(ii)(A).

(4)(a) In the case of a claim for income replacement benefits, within 45 days of the day on which the insurer receives a written claim, an insurer shall:

(i) pay the claim; or

(ii) deny the claim and provide a written explanation of the denial.

(b) Subject to Subsections (4)(d) and (e), the time period described in Subsection (4)(a) may be extended for 30 days if the insurer:

(i) determines that the extension is necessary due to matters beyond the control of the insurer; and

(ii) before the expiration of the 45-day period described in Subsection (4)(a), notifies the insured of:

(A) the circumstances requiring the extension of time; and

(B) the date by which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(c) Subject to Subsections (4)(d) and (e), the time period for complying with Subsection (4)(a) may be extended for up to an additional 30 days from the day on which the 30-day extension period provided in Subsection (4)(b) ends if before the day on which the 30-day extension period ends, the insurer:

(i) determines that due to matters beyond the control of the insurer a decision cannot be rendered within the 30-day extension period; and

(ii) notifies the insured of:

(A) the circumstances requiring the extension; and

(B) the date as of which the insurer expects to pay the claim or deny the claim with a written explanation for the denial.

(d) A notice of extension under this Subsection (4) shall specifically explain:

(i) the standards on which entitlement to a benefit is based; and

(ii) the unresolved issues that prevent a decision on the claim.

(e) If an extension allowed by Subsection (4)(b) or (c) is necessary due to a failure of the insured to submit the information necessary to decide the claim:

(i) the notice of extension required by Subsection (4)(b) or (c) shall specifically describe the necessary information; and

(ii) the insurer shall give the insured at least 45 days from the day on which the insured receives the notice before the insurer denies the claim for failure to provide the information requested in Subsection (4)(b) or (c).

(5) If a period of time is extended as permitted under Subsection (3)(b), (4)(b), or (4)(c), due to an insured or provider failing to submit information necessary to decide a claim, the period for making the benefit determination shall be tolled from the date on which the notification of the extension is sent to the insured or provider until the date on which the insured or provider responds to the request for additional information.

(6) An insurer shall pay all sums to the provider or insured that the insurer is obligated to pay on the claim, and provide a written explanation of the insurer's decision regarding any part of the claim that is denied within 20 days of receiving the information requested under Subsection (3)(b), (4)(b), or (4)(c).

(7)(a) Whenever an insurer makes a payment to a provider on any part of a claim under this section, the insurer shall also send to the insured an explanation of benefits paid.

(b) Whenever an insurer denies any part of a claim under this section, the insurer shall also send to the insured:

(i) a written explanation of the part of the claim that was denied; and

(ii) notice of the adverse benefit determination review process established under Section 31A-22-629.

(c) This Subsection (7) does not apply to a person receiving benefits under the state Medicaid program as defined in Section 26B-3-101, unless required by the Department of Health and Human Services or federal law.

(8)(a) A late fee shall be imposed on:

(i) an insurer that fails to timely pay a claim in accordance with this section; and

(ii) a provider that fails to timely provide information on a claim in accordance with this section.

(b) The late fee described in Subsection (8)(a) shall be determined by multiplying together:

(i) the total amount of the claim the insurer is obliged to pay;

(ii) the total number of days the response or the payment is late; and

(iii) 0.033% daily interest rate.

(c) Any late fee paid or collected under this Subsection (8) shall be separately identified on the documentation used by the insurer to pay the claim.

(d) For purposes of this Subsection (8), "late fee" does not include an amount that is less than $1.

(9) Each insurer shall establish a review process to resolve claims-related disputes between the insurer and providers.

(10) An insurer or person representing an insurer may not engage in any unfair claim settlement practice with respect to a provider. Unfair claim settlement practices include:

(a) knowingly misrepresenting a material fact or the contents of an insurance policy in connection with a claim;

(b) failing to acknowledge and substantively respond within 15 days to any written communication from a provider relating to a pending claim;

(c) denying or threatening to deny the payment of a claim for any reason that is not clearly described in the insured's policy;

(d) failing to maintain a payment process sufficient to comply with this section;

(e) failing to maintain claims documentation sufficient to demonstrate compliance with this section;

(f) failing, upon request, to give to the provider written information regarding the specific rate and terms under which the provider will be paid for health care services;

(g) failing to timely pay a valid claim in accordance with this section as a means of influencing, intimidating, retaliating, or gaining an advantage over the provider with respect to an unrelated claim, an undisputed part of a pending claim, or some other aspect of the contractual relationship;

(h) failing to pay the sum when required and as required under Subsection (8) when a violation has occurred;

(i) threatening to retaliate or actual retaliation against a provider for the provider applying this section;

(j) any material violation of this section; and

(k) any other unfair claim settlement practice established in rule or law.

(11)(a) The provisions of this section shall apply to each contract between an insurer and a provider for the duration of the contract.

(b) Notwithstanding Subsection (11)(a), this section may not be the basis for a bad faith insurance claim.

(c) Nothing in Subsection (11)(a) may be construed as limiting the ability of an insurer and a provider from including provisions in their contract that are more stringent than the provisions of this section.

(12)(a) Pursuant to Chapter 2, Part 2, Duties and Powers of Commissioner, the commissioner may conduct examinations to determine an insurer's level of compliance with this section and impose sanctions for each violation.

(b) The commissioner may adopt rules only as necessary to implement this section.

(c) The commissioner may establish rules to facilitate the exchange of electronic confirmations when claims-related information has been received.

(d) Notwithstanding Subsection (12)(b), the commissioner may not adopt rules regarding the review process required by Subsection (9).

(13) Nothing in this section may be construed as limiting the collection rights of a provider under Section 31A-26-301.5.

(14) Nothing in this section may be construed as limiting the ability of an insurer to:

(a) recover any amount improperly paid to a provider or an insured:

(i) in accordance with Section 31A-31-103 or any other provision of state or federal law;

(ii) within 24 months of the amount improperly paid for a coordination of benefits error;

(iii) within 12 months of the amount improperly paid for any other reason not identified in Subsection (14)(a)(i) or (ii); or

(iv) within 36 months of the amount improperly paid when the improper payment was due to a recovery by Medicaid, Medicare, the Children's Health Insurance Program, or any other state or federal health care program;

(b) take any action against a provider that is permitted under the terms of the provider contract and not prohibited by this section;

(c) report the provider to a state or federal agency with regulatory authority over the provider for unprofessional, unlawful, or fraudulent conduct; or

(d) enter into a mutual agreement with a provider to resolve alleged violations of this section through mediation or binding arbitration.

(15) A[~~health care~~] provider may only seek recovery from the insurer for an amount improperly paid by the insurer within the same time frames as Subsections (14)(a) and (b).

(16)(a) An insurer may offer the remittance of payment through a credit card or other similar arrangement.

(b)(i) A[~~health care~~] provider may elect not to receive remittance through a credit card or other similar arrangement.

(ii) An insurer:

(A) shall permit a[~~health care~~] provider's election described in Subsection (16)(b)(i) to apply to the[~~health care~~] provider's entire practice; and

(B) may not require a[~~health care~~] provider's election described in Subsection (16)(b)(i) to be made on a patient-by-patient basis.

(c) An insurer may not require a[~~health care~~] provider or insured to accept remittance through a credit card or other similar arrangement.

Section 29. Section 31A-27a-108.1 is enacted to read:

31A-27a-108.1. Injunctions and orders applicable to a federal home loan bank.

(1) As used in this section:

(a) "Federal home loan bank" means the same as that term is defined in 12 U.S.C. Sec. 1422.

(b) "Insurer-member" means an insurer that is a member as defined in 12 U.S.C. Sec. 1422.

(2)(a) Notwithstanding any other provision of this chapter, after the seventh day following the filing of a delinquency proceeding, a state court may not stay or prohibit a federal home loan bank from exercising its rights regarding collateral pledged by an insurer-member.

(b) A federal home loan bank may repurchase any outstanding capital stock that is in excess of the amount of federal home loan bank stock that the federal loan bank requires the insurer-member to hold as a minimum investment if:

(i) the insurer-member is subject to a delinquency proceeding;

(ii) the federal home loan bank exercises the federal home loan bank's rights regarding collateral pledged by the insurer-member;

(iii) the federal home loan bank, in good faith, determines the repurchase is permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan; and

(iv) the repurchase is consistent with the federal home loan bank's current capital stock practices that apply to the federal home loan bank's entire membership.

(c) Subject to Subsection (2)(d), after a court appoints a receiver for an insurer-member, a federal home loan bank shall provide the receiver a process, and establish a timeline, for the following:

(i) the release of collateral that exceeds the amount required to support secured obligations remaining after any repayment of loans as determined in accordance with the applicable agreements between the federal home loan bank and the insurer-member;

(ii) the release of any of the insurer-member's collateral remaining in the federal home loan bank's possession following full repayment of all outstanding secured obligations of the insurer-member;

(iii) the payment of fees owed by the insurer-member and the operation of deposits and other accounts of the insurer-member with the federal home loan bank; and

(iv) the possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

(d) An insurer-member shall provide the information described in Subsection (2)(c) within 10 business days after the day on which the receiver requests the information.

(e) Upon request from a receiver, a federal home loan bank shall provide any available options for an insurer-member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees, subject to:

(i) market conditions;

(ii) the terms of any loan outstanding to the insurer-member;

(iii) the applicable policies of the federal home loan bank; and

(iv) the federal home loan bank's compliance with federal laws and regulations.

(3)(a) Notwithstanding any other provision of this chapter, the receiver for an insurer-member may not void any transfer of, or any obligation to transfer, money or any other property arising under or in connection with:

(i) any federal home loan bank security agreement;

(ii) any pledge, security, collateral, or guarantee agreement; or

(iii) any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement.

(b) Notwithstanding Subsection (3)(a), an insurer-member may avoid a transfer if a party to the transfer made the transfer with intent to hinder, delay, or defraud the insurer-member, the receiver for the insurer-member, or an existing or future creditor.

(c) This subsection shall not affect a receiver's rights regarding advances to an insurer-member in a delinquency proceeding pursuant to 12 C.F.R. Sec. 1266.4.

Section 30. Section 31A-28-113 is amended to read:

31A-28-113. Credit for assessments paid.

(1)(a) A member insurer may offset against its premium tax, income tax, or franchise tax liability to this state an assessment described in Subsection 31A-28-109(2)(b) to the extent of 20% of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(b) To the extent that the offsets described in Subsection (1)(a) exceed[~~premium~~] tax liability, the offsets may be carried forward and used to offset[~~premium~~] tax liability in future years.

(c) If a member insurer ceases doing business, all uncredited assessments may be credited against its[~~premium~~] tax liability for the year it ceases doing business.

(2)(a) A member insurer that is exempt from taxes described in Subsection (1) may recoup the member insurer's assessment by a surcharge on premiums in a sum reasonably calculated to recoup the assessments over a reasonable period of time, as approved by the commissioner.

(b) Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax, income tax,

franchise tax, producer commission, or, to the extent allowed under federal law, medical loss ratio.

(c) If a member insurer collects excess surcharges, the member insurer shall remit the excess amount to the association, and the excess amount shall be applied to reduce future assessments in the appropriate account.

(3)(a) Money shall be paid by the member insurers to the state in a manner required by the State Tax Commission if the money:

(i) is acquired by refund in accordance with Subsection 31A-28-109(6) from the association by member insurers; and

(ii) has been offset against[~~premium~~] taxes as provided in Subsection (1).

(b) The association shall notify the commissioner that the refunds described in Subsection (3)(a) have been made.

Section 31. Section 31A-31-108 is amended to read:

31A-31-108. Assessment of insurers.

(1) For purposes of this section:

(a) The commissioner shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define:

(i) "annuity consideration";

(ii) "membership fees";

(iii) "other fees";

(iv) "deposit-type contract funds"; and

(v) "other considerations in Utah."

(b) "Insurance fraud provisions" means:

(i) this chapter;

(ii) Section 34A-2-110; and

(iii) Section 76-6-521.

(c) "Utah consideration" means:

(i) the total premiums written for Utah risks;

(ii) annuity consideration;

(iii) membership fees collected by the insurer;

(iv) other fees collected by the insurer;

(v) deposit-type contract funds; and

(vi) other considerations in Utah.

(d) "Utah risks" means insurance coverage on the lives, health, or against the liability of persons residing in Utah, or on property located in Utah, other than property temporarily in transit through Utah.

(2) To implement insurance fraud provisions, the commissioner may assess an admitted insurer and a nonadmitted insurer transacting insurance under Chapter 15, Part 1, Unauthorized Insurers and Surplus Lines, and Chapter 15, Part 2, Risk Retention Groups Act, an annual fee as follows:

(a) [~~$200~~]$225 for an insurer for which the sum of the Utah consideration is less than or equal to $1,000,000;

(b) [~~$450~~]$525 for an insurer for which the sum of the Utah consideration is greater than $1,000,000 but is less than or equal to $2,500,000;

(c) [~~$800~~]$925 for an insurer for which the sum of the Utah consideration is greater than $2,500,000 but is less than or equal to $5,000,000;

(d) [~~$1,600~~]$1,850 for an insurer for which the sum of the Utah consideration is greater than $5,000,000 but less than or equal to $10,000,000;

(e) [~~$6,100~~]$7,000 for an insurer for which the sum of the Utah consideration is greater than $10,000,000 but less than $50,000,000; and

(f) [~~$15,000~~]$17,250 for an insurer for which the sum of the Utah consideration equals or exceeds $50,000,000.

(3) Money received by the state under this section shall be deposited into the Insurance Fraud Investigation Restricted Account created in Subsection (4).

(4)(a) There is created in the General Fund a restricted account known as the "Insurance Fraud Investigation Restricted Account."

(b) The Insurance Fraud Investigation Restricted Account shall consist of the money received by the commissioner under this section and Subsections 31A-31-109(1)(a)(ii), (1)(b), (2)(b)(i), (2)(c), and (3)(a). Money ordered paid under Subsections 31A-31-109(1)(a)(i) and (2)(a) shall be deposited in the Insurance Fraud Victim Restitution Fund pursuant to Section 31A-31-108.5.

(c) The commissioner shall administer the Insurance Fraud Investigation Restricted Account. Subject to appropriations by the Legislature, the commissioner shall use the money deposited into the Insurance Fraud Investigation Restricted Account to pay for a cost or expense incurred by the commissioner in the administration, investigation, and enforcement of insurance fraud provisions.

Section 32. Section 31A-35-202 is amended to read:

31A-35-202. Board responsibilities.

(1) The board shall:

(a) meet:

(i) at least quarterly; and

(ii) at the call of the chair;

(b) make written recommendations to the commissioner for rules governing the following aspects of the bail bond insurance business:

(i) qualifications, applications, and fees for obtaining:

(A) a license required by this Section 31A-35-401; or

(B) a certificate;

(ii) limits on the aggregate amounts of bail bonds;

(iii) unprofessional conduct;

(iv) procedures for hearing and resolving allegations of unprofessional conduct; and

(v) sanctions for unprofessional conduct;

(c) screen:

(i) bail bond agency license applications; and

(ii) persons applying for a bail bond agency license; and

(d) recommend to the commissioner action regarding the granting, [~~renewing, ~~]suspending, revoking, and reinstating of bail bond agency license.

(2) Nothing in Subsection (1)(d) precludes the commissioner from suspending a license under Section 31A-35-504.

[~~(2)~~](3) The board may:

(a) conduct investigations of allegations of unprofessional conduct on the part of persons or bail bond agencies involved in the business of bail bond insurance; and

(b) provide the results of the investigations described in Subsection [~~(2)(a)~~](3)(a) to the commissioner with recommendations for:

(i) action; and

(ii) any appropriate sanctions.

Section 33. Section 31A-35-406 is amended to read:

31A-35-406. Initial licensing, license renewal, and license reinstatement.

(1) An applicant for an initial bail bond agency license shall:

(a) complete and submit to the department an application;

(b) submit to the department, as applicable, a copy of the applicant's:

(i) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

(ii) verified financial statement, as required under Subsection 31A-35-404(2); or

(iii) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

(c) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

(2)(a) A license under this chapter expires annually effective at midnight on August [~~14~~]31.

(b) To renew a bail bond agency license issued under this chapter, on or before [~~July 15~~]August 31, the bail bond agency shall:

(i) complete and submit to the department a renewal application that includes certification that:

(A) a principal of the agency attended or participated by telephone in at least one entire board meeting during the 12-month period before [~~July 15~~]August 31; and

(B) as of May 1, the agency complies with aggregate bond limits established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) submit to the department, as applicable, a copy of the applicant's:

(A) irrevocable letter of credit, as required under Subsection 31A-35-404(1);

(B) verified financial statement, as required under Subsection 31A-35-404(2); or

(C) qualifying power of attorney, as required under Subsection 31A-35-404(3); and

(iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

(c) A bail bond agency shall renew the bail bond agency's license under this chapter annually as established by department rule, regardless of when the license is issued.

(3)(a) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year after the day on which the license expires by complying with the renewal requirements described in Subsection (2).

(b) If a bail bond agency license has been expired for more than one year, the person applying for reinstatement of the bail bond agency license shall comply with the initial licensing requirements described in Subsection (1).

(4) If a bail bond agency license is suspended, the applicant may not submit an application for a bail bond agency license until after the day on which the period of suspension ends.

(5) The department shall deposit a fee collected under this section in the restricted account created in Section 31A-35-407.

Section 34. Section 31A-37-202 is amended to read:

31A-37-202. Permissive areas of insurance.

(1) Except as provided in Subsections (2) and (3), a captive insurance company may not directly insure a risk other than the risk of the captive insurance company's parent or affiliated company.

(2) In addition to the risks described in Subsection (1), an association captive insurance company may insure the risk of:

(a) a member organization of the association captive insurance company's association; or

(b) an affiliate of a member organization of the association captive insurance company's association.

(3) The following may insure a risk of a controlled unaffiliated business:

(a) an industrial insured captive insurance company;

(b) a protected cell;

(c) a pure captive insurance company; or

(d) a sponsored captive insurance company.

(4) To the extent allowed by a captive insurance company's organizational charter, a captive insurance company may provide any type of insurance described in this title, except:

(a) workers' compensation insurance;

(b) personal motor vehicle insurance;

(c) homeowners' insurance; and

(d) any component of the types of insurance described in Subsections (4)(a) through (c).

(5) A captive insurance company may not provide coverage for:

(a) a wager or gaming risk;

(b) loss of an election; or

(c) the penal consequences of a crime.

(6) Unless the punitive damages award arises out of a criminal act of an insured, a captive insurance company may provide coverage for punitive damages awarded, including through adjudication or compromise, against the captive insurance company's:

(a) parent; or

(b) affiliated company.

(7) Notwithstanding Subsection (4), if approved by the commissioner[~~,~~]:

(a) a captive insurance company may insure as a reimbursement a limited layer or deductible of workers' compensation coverage[~~.~~]; and

(b) an association captive insurance company that satisfies the requirements of this chapter may provide homeowners' insurance.

Section 35. Section 31A-37-204 is amended to read:

31A-37-204. Paid-in capital -- Other capital.

(1)(a) The commissioner may not issue a certificate of authority to a company described in Subsection (1)(c) unless the company possesses and thereafter maintains unimpaired paid-in capital and unimpaired paid-in surplus of:

(i) in the case of a pure captive insurance company:

(A) except as provided in Subsection (1)(a)(i)(B), not less than $250,000; or

(B) if the pure captive insurance company is not acting as a pool that facilitates risk distribution for other captive insurers, an amount that is the greater of:

(I) not less than 20% of the company's total aggregate risk; or

(II) $50,000;

(ii) in the case of an association captive insurance company, not less than $750,000;

(iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than $700,000;

(iv) in the case of a sponsored captive insurance company, not less than [~~$500,000,~~]$250,000 of which a minimum of [~~$200,000~~]$50,000 is provided by the sponsor; or

(v) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.

(b) The paid-in capital and surplus required under this Subsection (1) may be in the form of:

(i)(A) cash; or

(B) cash equivalent;

(ii) an irrevocable letter of credit:

(A) issued by:

(I) a bank chartered by this state;

(II) a member bank of the Federal Reserve System; or

(III) a member bank of the Federal Deposit Insurance Corporation;

(B) approved by the commissioner;

(iii) marketable securities as determined by Subsection (5); or

(iv) some other thing of value approved by the commissioner, for a period not to exceed 45 days, to facilitate the formation of a captive insurance company in this state pursuant to an approved plan of liquidation and reorganization of another captive insurance company or alien captive insurance company in another jurisdiction.

(c) This Subsection (1) applies to:

(i) a pure captive insurance company;

(ii) a sponsored captive insurance company;

(iii) a special purpose captive insurance company;

(iv) an association captive insurance company; or

(v) an industrial insured captive insurance company.

(2)(a) The commissioner may, under Section 31A-37-106, prescribe additional capital based on the type, volume, and nature of insurance business transacted.

(b) The capital prescribed by the commissioner under this Subsection (2) may be in the form of:

(i) cash;

(ii) an irrevocable letter of credit issued by:

(A) a bank chartered by this state; or

(B) a member bank of the Federal Reserve System; or

(iii) marketable securities as determined by Subsection (5).

(3)(a) Except as provided in Subsection (3)(c), a branch captive insurance company, as security for the payment of liabilities attributable to branch operations, shall, through its branch operations, establish and maintain a trust fund:

(i) funded by an irrevocable letter of credit or other acceptable asset; and

(ii) in the United States for the benefit of:

(A) United States policyholders; and

(B) United States ceding insurers under:

(I) insurance policies issued; or

(II) reinsurance contracts issued or assumed.

(b) The amount of the security required under this Subsection (3) shall be no less than:

(i) the capital and surplus required by this chapter; and

(ii) the reserves on the insurance policies or reinsurance contracts, including:

(A) reserves for losses;

(B) allocated loss adjustment expenses;

(C) incurred but not reported losses; and

(D) unearned premiums with regard to business written through branch operations.

(c) Notwithstanding the other provisions of this Subsection (3):

(i) the commissioner may permit a branch captive insurance company that is required to post security for loss reserves on branch business by its reinsurer to reduce the funds in the trust account required by this section by the same amount as the security posted if the security remains posted with the reinsurer; and

(ii) a branch captive insurance company that is the result of the licensure of an alien captive insurance company that is not formed in an alien jurisdiction is not subject to the requirements of this Subsection (3).

(4)(a) A captive insurance company may not pay the following without the prior approval of the commissioner:

(i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or

(ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.

(b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distributions on the retention, at the time of each payment, of capital or surplus in excess of:

(i) amounts specified by the commissioner under Section 31A-37-106; or

(ii) determined in accordance with formulas approved by the commissioner under Section 31A-37-106.

(5) For purposes of this section, marketable securities means:

(a) a bond or other evidence of indebtedness of a governmental unit in the United States or Canada or any instrumentality of the United States or Canada; or

(b) securities:

(i) traded on one or more of the following exchanges in the United States:

(A) New York;

(B) American; or

(C) NASDAQ;

(ii) when no particular security, or a substantially related security, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 50% of the minimum capital and surplus requirement; and

(iii) when no group of up to four particular securities, consolidating substantially related securities, applied toward the required minimum capital and surplus requirement of Subsection (1) represents more than 90% of the minimum capital and surplus requirement.

(6) Notwithstanding Subsection (5), to protect the solvency and liquidity of a captive insurance company, the commissioner may reject the application of specific assets or amounts of specific assets to satisfying the requirement of Subsection (1).

Section 36. Section 31A-37-502 is amended to read:

31A-37-502. Examination.

(1)(a) As provided in this section, the commissioner, or a person appointed by the commissioner, [~~shall~~]may examine each captive insurance company [~~in each five-year period.~~]at least once every five years, or more frequently if the commissioner determines a more frequent examination is prudent.

(b) The five-year period described in Subsection (1)(a) shall be determined on the basis of five full annual accounting periods of operation.

(c) The examination is to be made as of:

(i) December 31 of the full five-year period; or

(ii) the last day of the month of an annual accounting period authorized for a captive insurance company under this section.

[~~(d) In addition to an examination required under this Subsection (1), the commissioner, or a person~~

~~appointed by the commissioner may examine a captive insurance company whenever the commissioner determines it to be prudent.~~]

(2) During an examination under this section the commissioner, or a person appointed by the commissioner, shall thoroughly inspect and examine the affairs of the captive insurance company to ascertain all or any combination of the following:

(a) the financial condition of the captive insurance company;

(b) the ability of the captive insurance company to fulfill the insurance policy obligations of the captive insurance company; and

(c) whether the captive insurance company has complied with this chapter.

[~~(3) The commissioner may accept a comprehensive annual independent audit in lieu of an examination:~~]

[~~(a) of a scope satisfactory to the commissioner; and~~]

[~~(b) performed by an independent auditor approved by the commissioner.~~]

[~~(4)~~](3) A captive insurance company that is inspected and examined under this section shall pay, as provided in Subsection 31A-37-201(6)(b), the expenses and charges of an inspection and examination.

Section 37. Repealer.

This bill repeals:

Section 31A-2-303, Notice.

Section 38. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 38(a) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To Insurance Department Administration

From General Fund Restricted - Relative Value Study Account, One-time $400,000

Schedule of Programs:

Administration $400,000

The Legislature intends that the appropriation under this item be used for the study described in Section 31A-2-218.1.

Section 39. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 1, 2024.

(2)(a) Except as provided in Subsection (2)(b), the actions affecting Section 31A-2-218.1 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If this bill is not approved by two-thirds of all members elected to each house, the actions affecting Section 31A-2-218.1 take effect on May 1, 2024.

(3) The actions affecting Section 31A-22-614 take effect on July 1, 2024.

CHAPTER 121
S. B. 43
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

COMMERCIAL FILING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill requires a filing office to send notice to a secured party of record if a debtor files a termination statement terminating a financing statement.

Highlighted Provisions:

This bill:

- requires a filing office to send notice to a secured party of record if a debtor files a termination statement terminating a financing statement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

70A-9a-513, as enacted by Laws of Utah 2000, Chapter 252

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

Section 1. Section 70A-9a-513 is amended to read:

70A-9a-513. Termination statement.

(1) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(a) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) the debtor did not authorize the filing of the initial financing statement.

(2) To comply with Subsection (1), a secured party shall cause the secured party of record to file the termination statement:

(a) within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(b) if earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(3) In cases not governed by Subsection (1), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(a) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(b) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(c) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(d) the debtor did not authorize the filing of the initial financing statement.

(4) Except as otherwise provided in Section 70A-9a-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 70A-9a-510, for purposes of Subsections 70A-9a-519(7), 70A-9a-522(1), and 70A-9a-525(3), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

(5)(a) If a debtor files a termination statement, the filing office shall send to the secured party of record for the financing statement to which the termination statement relates, a notice stating that the termination statement has been filed.

(b) The filing office shall send notice described in Subsection (5)(a):

(i)(A) by mail to the address provided for the secured party of record in the financing statement; or

(B) by electronic mail to the electronic mail address provided by the secured party of record, if any; and

(ii) no later than 14 days after the day on which the termination statement is filed.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 122
S. B. 50
Passed February 22, 2024
Approved March 13, 2024
Effective May 1, 2024

AGGRAVATED ASSAULT MODIFICATIONS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends the crime of aggravated assault.

Highlighted Provisions:

This bill:

- amends the crime of aggravated assault when an individual is impeding the breathing or circulation of blood of another individual.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-103, as last amended by Laws of Utah 2022, Chapter 181

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

Section 1. Section 76-5-103 is amended to read:

76-5-103. Aggravated assault -- Penalties.

(1)(a) As used in this section, "targeting a law enforcement officer" means the same as that term is defined in Section 76-5-202.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated assault if the actor:

(a)(i) attempts, with unlawful force or violence, to do bodily injury to another;

(ii) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(iii) commits an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) includes in the actor's conduct under Subsection (2)(a) the use of:

(i) a dangerous weapon;

(ii) any act that intentionally or knowingly impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence[~~ that is likely to produce a loss of consciousness~~] by:

(A) applying pressure to the neck or throat of an individual; or

(B) obstructing the nose, mouth, or airway of an individual; or

(iii) other means or force likely to produce death or serious bodily injury.

(3)(a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

(i) the act results in serious bodily injury; or

(ii) an act under Subsection (2)(b)(ii) produces a loss of consciousness.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if the conduct constitutes targeting a law enforcement officer and results in serious bodily injury.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 123
H. B. 140
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

AMENDMENTS TO CUSTODY AND PARENT-TIME

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

LONG TITLE

General Description:

This bill addresses custody and parent-time arrangements.

Highlighted Provisions:

This bill:

- addresses the continuing jurisdiction of a court over a custody or parent-time order;
- provides that a substantial and material change in circumstances for a custody order includes a parent residing with an individual, or providing the individual with access to the parent's child, when the individual has been convicted of certain crimes;
- amends the advisory guidelines for a custody and parent-time arrangement to allow for parental notification when a parent is residing with an individual, or providing the individual with access to the parent's child, and the individual has been convicted of certain crimes;
- amends the advisory guidelines for a custody and parent-time arrangement in regard to notification of a parent in the event of a medical emergency; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10.4, as last amended by Laws of Utah 2023, Chapter 44
30-3-33, as last amended by Laws of Utah 2017, Chapter 224

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

Section 1. Section 30-3-10.4 is amended to read:

30-3-10.4. Modification or termination of order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the child; and

(b) knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).

[~~(1)~~](3) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c)(i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

[~~(2)~~](4)(a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.

[~~(3)~~](5) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the parents to file a parenting plan in accordance with this chapter.

[~~(4)~~](6) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

[~~(5)~~](7) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

[~~(6)~~](8) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 2. Section 30-3-33 is amended to read:

30-3-33. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5, the following advisory guidelines are suggested to govern [~~all parent-time arrangements~~]a custody and parent-time arrangement between parents.

[~~(1)~~](2) [~~Parent-time schedules~~]A parent-time schedule mutually agreed upon by both parents [~~are~~]is preferable to a court-imposed solution.

[~~(2)~~](3) [~~The~~]A parent-time schedule shall be used to maximize the continuity and stability of the child's life.

[~~(3)~~](4) [~~Special consideration shall be given by each parent~~]Each parent shall give special consideration to make the child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

[~~(4)~~](5)(a) The court shall determine the responsibility for the pick up, delivery, and return of the child [~~shall be determined by the court~~] when the parent-time order is entered[~~, and may be changed~~].

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

[~~(5)~~](c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the child ready for parent-time at the time the child is to be picked up[~~ and shall ~~]; and

(ii) be present at the custodial home or [~~shall ~~]make reasonable alternate arrangements to receive the child at the time the child is returned.

[~~(6)~~](d) If the custodial parent will be transporting the child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the child[~~, and ~~]; and

(ii) have the child ready to be picked up at the appointed time and place[~~,~~] or have made reasonable alternate arrangements for the custodial parent to pick up the child.

[~~(7)~~](6) [~~Regular~~]A parent may not interrupt regular school hours [~~may not be interrupted ~~]for a school-age child for the exercise of parent-time[~~ by either parent~~].

[~~(8)~~](7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents[~~ and may ~~]; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections 30-3-35 and 30-3-35.5.

[~~(9)~~](8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

[~~(10)~~](9) [~~Neither parent-time nor child support is to be withheld due to either~~]A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

[~~(11)~~](10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the child is participating or being honored[~~, and the~~].

(b) The noncustodial parent [~~shall be~~]is entitled to attend and participate fully in the functions described in Subsection (10)(a).

[~~(12)~~](c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records [~~and shall be notified immediately by the custodial parent~~].

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

[~~(13)~~](11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

[~~(14)~~](12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available[~~, provided that if the parties~~].

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available[~~,~~]by taking into consideration:

[~~(a)~~](i) the best interests of the child;

[~~(b)~~](ii) each parent's ability to handle any additional expenses for virtual parent-time; and

[~~(c)~~](iii) any other factors the court considers material.

[~~(15)~~](13)(a) Parental care [~~shall be~~]is presumed to be better care for the child than surrogate care [~~and the~~].

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the children, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

[~~(16)~~](14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent [~~and shall~~]; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

[~~(17)~~](15)(a) Each parent [~~shall be~~]is entitled to an equal division of major religious holidays celebrated by the parents[~~, and the~~].

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

[~~(18)~~](16) If the child is on a different parent-time schedule than a sibling, based on Sections 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

[~~(19)~~](17)(a) When one or both parents are service members or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to Section 30-3-10.

(b) [~~Servicemembers~~]Service members shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18) A parent shall immediately notify the other parent if:

(a) the parent resides with an individual or provides an individual with access to the child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (18)(b)(iii)(A) through (D).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 124
H. B. 1
Passed January 25, 2024
Approved March 13, 2024
Effective July 1, 2024

PUBLIC EDUCATION BASE BUDGET AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2023, and ending June 30, 2024, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2024, and ending June 30, 2025.

Highlighted Provisions:

This bill:

- clarifies application of statute regarding prior-year plus growth hold harmless provisions;
- requires the State Board of Education (state board) to establish a uniform amount for the Beverley Taylor Sorenson Elementary Arts Learning Program;
- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) initially at $4,443 for fiscal year 2024-2025;
- adjusts the number of WPUs in certain programs for student enrollment changes and statutory formula calculations;
- appropriates funds to the Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account;
- makes an appropriation from the Uniform School Fund Restricted - Trust Distribution Account to the School LAND Trust program to support educational programs in the public schools;
- adjusts the revenue targets and estimates tax rates for the statewide Basic Rate and WPU Value Rate according to statutory provisions;
- provides appropriations for other purposes as described;
- approves intent language; and
- makes technical changes.

Money Appropriated in this Bill:

- This bill appropriates $19,093,800 in operating and capital budgets for fiscal year 2024, including:
  - $9,122,900 from Uniform School Fund; and
  - $9,970,900 from various sources as detailed in this bill.
- This bill appropriates $7,742,706,000 in operating and capital budgets for fiscal year 2025, including:
  - $9,157,400 from General Fund;
  - $4,543,948,700 from Uniform School Fund;
  - $242,027,800 from Income Tax Fund; and
  - $2,947,572,100 from various sources as detailed in this bill.
- This bill appropriates $3,327,000 in expendable funds and accounts for fiscal year 2025.
- This bill appropriates $881,484,300 in restricted fund and account transfers for fiscal year 2025, including:
  - $500,599,900 from Uniform School Fund;
  - $379,134,400 from Income Tax Fund; and
  - $1,750,000 from various sources as detailed in this bill.
- This bill appropriates $118,600 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-207, as last amended by Laws of Utah 2019, Chapter 186
53F-2-301, as last amended by Laws of Utah 2023, Chapters 7, 467 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 467
53F-2-302, as last amended by Laws of Utah 2023, Chapters 347, 467
53F-2-506, as last amended by Laws of Utah 2020, Chapters 264, 408

REPEALS:

53F-2-210, as enacted by Laws of Utah 2021, Chapter 439

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

Section 1. Section 53F-2-207 is amended to read:

53F-2-207. Loss in student enrollment -- Board action.

To avoid penalizing [~~a school district~~]an LEA financially for an excessive loss in student enrollment due to factors beyond [~~its~~]the LEA's control, the state board may allow a percentage increase in units otherwise allowable during [~~any~~]a year when [~~a school district's~~]an LEA's average daily membership for the year drops more than 4% below the average for the highest two of the preceding three years in the [~~school district~~]LEA.

Section 2. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

(e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (3)(a).

(h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (3)(a).

(2)(a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2023~~]2024, is [~~$708,960,800~~]$759,529,000 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, [~~2023~~]2024, is [~~.001356~~].001429.

(3)(a) The WPU value amount for the fiscal year that begins on July 1, [~~2023~~]2024, is [~~$27,113,600~~]$27,872,700 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, [~~2023~~]2024, is .000052.

(4)(a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the estimate of the WPU value rate provided in Subsection (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(5)(a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b)(i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (5).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (5).

(6)(a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate.

(b)(i) If the difference described in Subsection (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

(b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 3. Section 53F-2-302 is amended to read:

53F-2-302. Determination of weighted pupil units.

(1) The number of weighted pupil units in the Minimum School Program for each year is the total of the units for each school district and, subject to Subsection (5), charter school, determined in accordance with this section.

(2) The number of weighted pupil units is computed by adding the average daily membership of all pupils of the [~~school district or charter school~~]LEA attending schools, other than self-contained classes for children with a disability.

(3)(a) Except as provided in Subsection (3)(b), for a fiscal year beginning on or after July 1, 2023, the number of weighted pupil units for kindergarten students shall be computed by adding the average daily membership of all pupils of the [~~school district or charter school~~]LEA enrolled in kindergarten.

(b) The number of weighted pupil units is computed by multiplying the average daily membership for the number of students who are enrolled in kindergarten for less than the equivalent length of the schedule for grades 1 through 3, based on the October 1 data described in Section 53F-2-302, by .55.

(4)(a) The state board shall use prior year plus growth to determine average daily membership in distributing money under the Minimum School Program where the distribution is based on kindergarten through grade 12 ADMs or weighted pupil units.

(b) Under prior year plus growth, kindergarten through grade 12 average daily membership for the current year is based on the actual kindergarten through grade 12 average daily membership for the previous year plus an estimated percentage growth factor.

(c) The growth factor is the percentage increase in total average daily membership on the first school day of October in the current year as compared to the total average daily membership on the first school day of October of the previous year.

(d) If the calculations described in Subsections (4)(a) through (c) show a loss in enrollment for an LEA due to factors beyond the LEA's control, the state board may allow a percentage increase in units for the LEA to account for the loss.

(5) In distributing funds to charter schools under this section, charter school pupils shall be weighted, where applicable, as follows:

(a) except as provided in Subsection (3)(b), .9 for pupils in kindergarten through grade 6;

(b) .99 for pupils in grades 7 through 8; and

(c) 1.2 for pupils in grades 9 through 12.

Section 4. Section 53F-2-506 is amended to read:

53F-2-506. Beverley Taylor Sorenson Elementary Arts Learning Program.

(1) As used in this section:

(a) "Endowed chair" means a person who holds an endowed position or administrator of an endowed program for the purpose of arts and integrated arts instruction at an endowed university.

(b) "Endowed university" means an institution of higher education in the state that:

(i) awards elementary education degrees in arts instruction;

(ii) has received a major philanthropic donation for the purpose of arts and integrated arts instruction; and

(iii) has created an endowed position as a result of a donation described in Subsection (1)(b)(ii).

(c) "Integrated arts advocate" means a person who:

(i) advocates for arts and integrated arts instruction in the state; and

(ii) coordinates with an endowed chair pursuant to the agreement creating the endowed chair.

(2) The Legislature finds that a strategic placement of arts in elementary education can impact the critical thinking of students in other core subject areas, including mathematics, reading, and science.

(3) The Beverley Taylor Sorenson Elementary Arts Learning Program is created to enhance the social, emotional, academic, and arts learning of students in kindergarten through grade 6 by integrating arts teaching and learning into core subject areas and providing professional development for positions that support elementary arts and integrated arts education.

(4) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, and subject to Subsection (5), the state board shall[~~,~~]:

(a) [~~after consulting with~~]consult and receive recommendations from the endowed chairs and the integrated arts advocate[~~ and receiving their recommendations, administer a grant program to enable LEAs to:~~];

[~~(a)~~](b) administer a program for an LEA to receive funds to hire highly qualified arts specialists, art coordinators, and other positions that support arts education and arts integration;

(c) beginning with the 2024-2025 school year, establish a uniform amount for the funds described in Subsection (4)(b);

(d) ensure the uniform amount described in Subsection (4)(c) does not duplicate state funding an educator receives under the educator salary adjustment described in Section 53F-2-405;

[~~(b)~~](e) provide up to $10,000 in one-time funds for each new school [~~arts specialist~~]educator described under Subsection [~~(4)(a)~~](4)(b) to purchase supplies and equipment;[~~and~~]

[~~(c)~~](f) engage in other activities that improve the quantity and quality of integrated arts education[~~.~~]; and

(g) before June 1, 2024, report to the Public Education Appropriations Subcommittee the uniform amount described in Subsection (4)(c).

(5)(a) An LEA that receives [~~a grant~~]funds under Subsection (4) shall provide matching funds [~~of no less than 20% of the grant amount, including no less than 20% of the grant amount for actual salary and benefit costs per full-time equivalent position funded under Subsection (4)(a)~~]equal to the difference between the uniform amount established in Subsection (4)(c) and the actual cost of the educator's salary.

(b) An LEA may not[~~:~~]

[~~(i)~~] include administrative, facility, or capital costs to provide the matching funds required under Subsection (5)(a)[~~; or~~].

[~~(ii) use funds from the Beverley Taylor Sorenson Elementary Arts Learning Program to supplant funds for existing programs.~~]

(6) An LEA that receives [~~a grant~~]funds under this section shall partner with an endowed chair to provide professional development in integrated elementary arts education.

(7) From money appropriated for the Beverley Taylor Sorenson Elementary Arts Learning Program, the state board shall administer a[~~grant~~] program to fund activities within arts and the integrated arts programs at an endowed university in the college where the endowed chair resides to:

(a) provide high quality professional development in elementary integrated arts education in accordance with the professional learning standards in Section 53G-11-303 to LEAs that receive [~~a grant~~]funds under Subsection (4);

(b) design and conduct research on:

(i) elementary integrated arts education and instruction;

(ii) implementation and evaluation of the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(iii) effectiveness of the professional development under Subsection (7)(a); and

(c) provide the public with integrated elementary arts education resources.

(8) The board shall annually:

(a) review the funding the Legislature appropriates for the Beverley Taylor Sorenson Elementary Arts Learning Program; and

(b) recommend any adjustments as part of the board's annual budget request[~~.~~], including:

(i) an increase to the uniform amount established in Subsection (4)(c); and

(ii) increases for adding additional schools to the Beverley Taylor Sorenson Elementary Arts Learning Program.

(9) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Beverley Taylor Sorenson Elementary Arts Learning Program.

Section 5. Repealer.

This bill repeals:

Section 53F-2-210, Use of data to determine funding in fiscal years 2021 and 2022.

Section 6. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 6(a) Operating and Capital Budgets

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

ITEM 1

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

From Beginning	
Nonlapsing Balances	33,894,500
From Closing	
Nonlapsing Balances	(46,422,200)
Schedule of Programs:	
Kindergarten	(7,595,800)
Grades 1 - 12	(9,597,900)
Foreign Exchange	(192,800)
Necessarily Existent Small Schools	5,234,500
Special Education - Add-on	100
Students At-Risk Add-on	(375,800**)**

ITEM 2

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

From Uniform School Fund, One-time	9,122,900
From Beginning	
Nonlapsing Balances	19,538,000
From Closing	
Nonlapsing Balances	(20,814,000)
Schedule of Programs	
Charter School	

Local Replacement (1,205,000)
Educator Salary Adjustments 9,122,900
Digital Teaching and Learning Program 450,000
Charter School Funding Base Program (521,000)

ITEM 3

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Beginning

Nonlapsing Balances 12,661,000

Schedule of Programs:

Board Local Levy Program 12,661,000

ITEM 4

To State Board of Education - Child Nutrition Programs

From Beginning

Nonlapsing Balances 18,588,900

From Closing

Nonlapsing Balances (18,574,000)

Schedule of Programs:

Child Nutrition 14,900

ITEM 5

To State Board of Education - Educator Licensing

From Beginning

Nonlapsing Balances 1,135,100

From Closing

Nonlapsing Balances (1,411,400)

Schedule of Programs:

STEM Endorsement Incentives (220,000)
National Board-Certified Teachers (56,300)

ITEM 6

To State Board of Education - Fine Arts Outreach

From Beginning

Nonlapsing Balances 366,700

From Closing

Nonlapsing Balances (366,700)

ITEM 7

To State Board of Education - Contracted Initiatives and Grants

From Beginning

Nonlapsing Balances 19,306,300

From Closing

Nonlapsing Balances (14,560,300)

From Lapsing Balance 15,700

Schedule of Programs:

Carson Smith Autism Awareness 15,700
Scholarships (429,600)
Contracts and Grants 4,500,000
Software Licenses for Early Literacy (449,100)
General Financial Literacy (14,600)
Intergenerational Poverty Interventions 9,300
Interventions for Reading Difficulties 157,300
Paraeducator to Teacher Scholarships (10,500)
ProStart Culinary Arts Program (20,000)
UPSTART (766,100)
ULEAD 135,400
Competency-Based Education Grants 19,100
Special Needs Opportunity Scholarship Administration (35,200)
Education Technology Management System (50,000)
Education Innovation Program 1,700,000

ITEM 8

To State Board of Education - MSP Categorical Program Administration

From Beginning

Nonlapsing Balances 1,046,600

From Closing

Nonlapsing Balances (418,000)

Schedule of Programs:

Adult Education (62,300)
Beverley Taylor Sorenson Elem. Arts Learning Program (13,700)
CTE Comprehensive Guidance 800
Digital Teaching and Learning 31,100
Dual Immersion 13,100
At-Risk Students 87,200
Special Education State Programs 304,300
Youth-in-Custody 133,900
Early Literacy Program 200)
CTE Online Assessments 1,200
State Safety and Support Program 22,800
Student Health and Counseling Support Program 30,000
Early Learning Training and Assessment 76,200
Early Intervention 4,200

ITEM 9

To State Board of Education - Science Outreach

From Beginning

Nonlapsing Balances 251,200

From Closing

Nonlapsing Balances (294,300)

Schedule of Programs:
Informal Science Education Enhancement (30,000)
Provisional Program (13,100)

ITEM 10

To State Board of Education - Policy, Communication, & Oversight

From Beginning
Nonlapsing Balances 17,293,900

From Closing
Nonlapsing Balances (17,276,000)

Schedule of Programs:
Policy and Communication (642,600)
Student Support Services 642,600
School Turnaround and Leadership Development Act 17,900

ITEM 11

To State Board of Education - System Standards & Accountability

From Beginning
Nonlapsing Balances 25,652,600

From Closing
Nonlapsing Balances (23,047,200)

Schedule of Programs:
Student Achievement (127,900)
Teaching and Learning 287,600
Career and Technical Education 138,500
Special Education 11,200
Early Literacy Outcomes Improvement 2,196,000
CPR Training Grant Program 100,000

ITEM 12

To State Board of Education - State Charter School Board

From Beginning
Nonlapsing Balances 1,382,700

From Closing
Nonlapsing Balances (1,382,700)

ITEM 13

To State Board of Education - Utah Schools for the Deaf and the Blind

From Beginning
Nonlapsing Balances 459,500

From Closing
Nonlapsing Balances 418,500

Schedule of Programs:
Administration 907,400
Transportation and Support Services 458,400
Utah State Instructional Materials Access Center 125,200
School for the Deaf (274,100)
School for the Blind (338,900)

ITEM 14

To State Board of Education - Statewide Online Education Program Subsidy

From Beginning
Nonlapsing Balances (700,000)

From Closing
Nonlapsing Balances 479,400

Schedule of Programs:
Statewide Online Education Program (220,600)

ITEM 15

To State Board of Education - State Board and Administrative Operations

From Beginning
Nonlapsing Balances 26,361,300

From Closing
Nonlapsing Balances (24,114,200)

Schedule of Programs:
Data and Statistics 185,400
School Trust 61,700
Statewide Financial Management Systems Grants 2,000,000

ITEM 16

To State Board of Education - Public Education Capital Projects

From Beginning
Nonlapsing Balances 500,000

Schedule of Programs:
Small School District Capital Projects 500,000

Subsection 6(b) Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 17

To State Board of Education - Charter School Revolving Account

From Beginning Fund Balance 1,177,400

From Closing Fund Balance (1,177,400)

ITEM 18

To State Board of Education - Hospitality and Tourism Mgmt. Education Acct.

From Beginning Fund Balance	(137,500)
From Closing Fund Balance	137,500

ITEM 19

To State Board of Education - School Building Revolving Account

From Beginning Fund Balance	(8,126,800)
From Closing Fund Balance	8,126,800

Subsection 6(c) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 20

To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Beginning Fund Balance	(457,600)
From Closing Fund Balance	457,600

Subsection 6(d) Fiduciary Funds

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

ITEM 21

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

From Beginning Fund Balance	(12,500)
From Closing Fund Balance	12,500

Section 7. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 7(a) Operating and Capital Budgets

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

ITEM 22

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

From Uniform School Fund	3,399,955,400
From Local Revenue	787,401,700
From Beginning Nonlapsing Balances	83,328,200
From Closing Nonlapsing Balances	(91,116,800)

Schedule of Programs:

Kindergarten (39,217 WPUs)	166,646,800
Grades 1 - 12 (607,978 WPUs)	2,701,246,400
Foreign Exchange (405 WPUs)	1,606,800
Necessarily Existent Small Schools (10,661 WPUs)	47,366,800
Professional Staff (57,457 WPUs)	255,281,600
Special Education - Add-on (101,350 WPUs)	450,298,100
Special Education - Self-Contained (11,588 WPUs)	51,485,600
Special Education - Preschool (11,306 WPUs)	50,232,600
Special Education - Extended School Year (457 WPUs)	2,030,500
Special Education - Impact Aid (2,060 WPUs)	9,152,500
Special Education - Extended Year for Special Educators (909 WPUs)	4,038,800
Career and Technical Education - Add-on (29,087 WPUs)	129,233,500
Class Size Reduction (42,357 WPUs)	188,192,300
Enrollment Growth Contingency	19,101,000
Students At-Risk Add-on (23,330 WPUs)	103,655,200

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Minimum School Program - Basic School Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) Percentage of students proficient in numeracy on the Kindergarten Entry and Exit Profile entry assessment (Target = 83.33%);

(2) Percentage of students proficient in literacy on the Kindergarten Entry and Exit Profile exit assessment (Target = 70%);

(3) Percentage of students proficient in numeracy on the Kindergarten Entry and Exit Profile exit assessment (Target = 85%);

(4) Number of students K-12 that were suspended during the reported academic year (Target = 9,655);

(5) Percentage students K-12 that were suspended during the reported academic year (Target = 1.43%);

(6) Number of students K-12 that were expelled during the reported academic year (Target = 37);

(7) Percentage of students in grades 1-12 in public schools that are chronically absent (Target = 17.33%);

(8) Percentage of teachers who are professionally qualified for their assignment (Target = 87.30%);

(9) Four-Year Cohort Graduation Rate for state of Utah (Target = 92.1%);

(10) Percentage students successfully completing readiness coursework (Target = 86%);

(11) Percentage of students in Utah scoring 18 or above on American College Test (Target = 74%);

(12) Percentage of students making typical or better progress on Acadience Reading Pathways of Progress (Target = 60%);

(13) Percentage of students making typical or better progress on Acadience Math Pathways of Progress (Target = 60%);

(14) Percentage of students proficient on science in grades 4-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 65.67%);

(15) Percentage of students proficient on English Language Arts in grades 3-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 63.33%);

(16) Percentage of students proficient on mathematics in grades 3-8 Readiness, Improvement, Success, Empowerment or Dynamic Learning Maps (Target = 62.8%);

(17) Percentage of 4th grade students proficient or above on English Language Arts National Assessment of Educational Progress (Target = 64.10%);

(18) Percentage of 8th grade students proficient or above on English Language Arts National Assessment of Educational Progress (Target = 64.10%);

(19) Percentage of 4th grade students proficient or above on mathematics National Assessment of Educational Progress (Target = 66.50%);

(20) Percentage of 8th grade students proficient or above on mathematics National Assessment of Educational Progress (Target = 66.50%);

(21) Percentage of 4th grade students proficient or above on science National Assessment of Educational Progress (Target = 67.10%);

(22) Percentage of 8th grade students proficient or above on science National Assessment of Educational Progress (Target = 67.10%);

(23) Percentage of students proficient in literacy on the Kindergarten Entry and Exit Profile entry assessment (Target = 72.67%); and

(24) Percentage students K-12 that were expelled during the reported academic year (Target = 0.07%).

ITEM 23

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

From Uniform School Fund	1,041,266,000
From Income Tax Fund Restricted	
- Charter School Levy Account	39,510,900
From Teacher and Student	
Success Account	195,673,100
From Uniform School Fund Rest.	
- Trust Distribution Account	106,221,900
From Beginning	
Nonlapsing Balances	49,575,900
From Closing	
Nonlapsing Balances	(49,575,900)

Schedule of Programs:

Pupil Transportation To & From School	129,224,500
Flexible Allocation	84,362,300
At-Risk Students - Gang Prevention and Intervention	90,500
Youth-in-Custody	32,651,800
Adult Education	18,350,700
Enhancement for Accelerated Students	7,098,500
Concurrent Enrollment	20,424,800
School LAND Trust Program	106,221,900
Charter School Local Replacement	263,073,100
Educator Salary Adjustments	423,959,600
Teacher Salary Supplement	24,036,200
Dual Immersion	279,900
Teacher Supplies and Materials	5,500,000
Beverley Taylor Sorenson Elem. Arts Learning Program	19,445,000
Teacher and Student Success Program	210,673,100
Student Health and Counseling Support Program	25,480,000
Grants for Professional Learning	3,935,000
Charter School Funding Base Program	7,865,000

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the MSP Related to Basic School Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) percent of youth with high mental health treatment needs identified by Student Health and Risk Prevention data (Target is 16.40%); and

(2) percent of educators in Digital Teaching and Learning LEAs that have an EdTech endorsement (Target is 10%).

ITEM 24

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund	102,727,300
From Local Levy Growth Account	127,553,300
From Local Revenue	915,238,800
From Income Tax Fund Restricted -	
Minimum Basic Growth Account	56,250,000
Schedule of Programs:	
Voted Local Levy Program	727,845,500
Board Local Levy Program	473,923,900

ITEM 25

To State Board of Education - School Building Programs - Capital Outlay Programs

From Income Tax Fund	14,499,700
From Income Tax Fund Restricted -	
Minimum Basic Growth Account	18,750,000
Schedule of Programs:	
Foundation Program	27,610,900
Enrollment Growth Program	5,638,800

ITEM 26

To State Board of Education - Child Nutrition Programs

From Income Tax Fund	400
From Federal Funds	354,219,900
From Dedicated Credits Revenue	6,200
From Dedicated Credit - Liquor Tax	50,098,800
From Revenue Transfers	(570,300)
From Beginning	
Nonlapsing Balances	19,086,700
From Closing	
Nonlapsing Balances	(17,410,200)
Schedule of Programs:	
Child Nutrition	373,893,200
Federal Commodities	31,538,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Child Nutrition line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) Percentage of districts participating in School Breakfast and Lunch Programs (Target = 100%);

(2) Percentage of charter schools participating in School Breakfast and Lunch Programs (Target = 100%); and

(3) Percentage of charter schools participating in School Breakfast and Lunch Programs (Target = 55%).

ITEM 27

To State Board of Education - Educator Licensing

From Income Tax Fund	5,010,600
From Revenue Transfers	(384,900)
From Beginning	
Nonlapsing Balances	2,826,600
From Closing	
Nonlapsing Balances	(2,214,000)
Schedule of Programs:	
Educator Licensing	3,264,800
STEM Endorsement Incentives	1,627,200
National Board- Certified Teachers	346,300

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Educator Licensing line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) Percentage of K-12 teachers that had a mentor assigned as a new educator (Target = 78.20%);

(2) Percentage of K-12 mentored teachers with positive impact on improved instruction (Target = 86.67%);

(3) Percentage of educators with a professional license (Target = 91%);

(4) Percentage of educators with an associate license (Target = 5.0%);

(5) Percentage of educators with a District or Charter-Specific license (Target = 4.0%);

(6) Number of license areas recommended by Utah Institutions of Higher Education (Target = 9,500); and

(7) Percentage of newly recommended educators working in public schools (Target = Institution Specific).

ITEM 28

To State Board of Education - Fine Arts Outreach

From Income Tax Fund	6,175,000
From Beginning Nonlapsing Balances	395,900

From Closing Nonlapsing Balances (395,900)

Schedule of Programs:

Professional Outreach Programs in the Schools 6,121,000
Subsidy Program 54,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Fine Arts Outreach line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) School Districts Served (Target = 100%);

(2) Student Experiences (Target = 500,000);

(3) Efficacy of Programming (Target = 90%);

(4) Professional Learning (Target = 26,000); and

(5) Charters Schools Served (Target = 90%).

ITEM 29

To State Board of Education - Contracted Initiatives and Grants

From General Fund 8,742,800

From Income Tax Fund 73,490,800

From General Fund Restricted - Autism Awareness Account 50,700

From Revenue Transfers (135,700)

From Beginning Nonlapsing Balances 23,117,500

From Closing Nonlapsing Balances (20,614,200)

Schedule of Programs:

Autism Awareness 50,700
Carson Smith Scholarships 8,244,000
Computer Science Initiatives 3,117,500
Contracts and Grants 713,700
Software Licenses for Early Literacy 12,733,100
Early Warning Program 700,000
Elementary Reading Assessment Software Tools 3,767,100
General Financial Literacy 474,400
Intergenerational Poverty Interventions 1,060,000
IT Academy 500,000
Paraeducator to Teacher Scholarships 30,500
Partnerships for Student Success 2,851,700
ProStart Culinary Arts Program 501,500
UPSTART 30,500
ULEAD 536,400
Supplemental Educational Improvement Matching Grants 159,600
Competency-Based Education Grants 3,043,800
Special Needs Opportunity Scholarship Administration 62,500
Education Technology Management System 1,850,000
School Data Collection and Analysis 900,000
Education Innovation Program 751,500
Utah Fits All Scholarship Program 42,573,400

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Contracted Initiatives and Grants line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) Percentage of Carson Smith Scholarship participating schools complying with annual reporting requirements (Target = 100%);

(2) Percentage of proficiency in English language Arts for Intergenerational Poverty after school students (Target = 52.60%);

(3) Percentage of proficiency in mathematics for Intergenerational Poverty after school students (Target = 49%);

(4) Percentage of proficiency in science for Intergenerational Poverty after school students (Target = 54%);

(5) Percentage proficient of 3rd grade students at Partnership for Student Success schools in English Language Arts (Target = 52%);

(6) Percentage proficient of 8th grade students at Partnership for Student Success schools in mathematics (Target = 49.30%); and

(7) Percentage high school graduation rate for students at Partnership for Student Success schools (Target = 90.60%).

ITEM 30

To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund 7,905,500

From Revenue Transfers (515,500)

From Beginning Nonlapsing Balances 2,947,000

From Closing Nonlapsing Balances (1,514,100)

Schedule of Programs:

Adult Education 259,300
Beverley Taylor Sorenson Elem. Arts Learning Program 245,700
CTE Comprehensive Guidance 289,800

Digital Teaching and Learning 483,200
Dual Immersion 621,400
At-Risk Students 587,900
Special Education State Programs 467,700
Youth-in-Custody 1,438,400
Early Literacy Program 450,800
CTE Online Assessments 625,500
CTE Student Organizations 1,010,900
State Safety and Support Program 698,900
Student Health and Counseling Support Program 360,500
Early Learning Training and Assessment 1,051,000
Early Intervention 231,900

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the MSP Categorical Program Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) Arts Learning Program Implementation (Target = 50);

(2) Guest Educator Support (Target = 150);

(3) Beverley Taylor Sorenson Arts Learning Program Survey (Target = 100%);

(4) Dual Immersion Professional Learning (Target = 1,800); and

(5) Digital Teaching and Learning Participation (Target = 740).

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the MSP Categorical Program Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Board shall report on the following performance measures:

(1) number of Dual Language Immersion educators receiving professional learning (Target is 900); and

(2) number of guest Dual Language Immersion educators receiving direct support services (Target is 180).

ITEM 31

To State Board of Education - Regional Education Service Agencies

From Income Tax Fund 2,115,000

Schedule of Programs:

Regional Education Service Agencies 2,115,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Regional Education Service Agencies line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) Professional Learning - Participation (Target = 20,000);

(2) Technical Support Services (Target = 7,000);

(3) Educator Training - Higher Education Credits (Target = 1,500);

(4) Professional Learning - Training (Target = 3,000); and

(5) Professional Learning - Participation (Target = 20,000).

ITEM 32

To State Board of Education - Science Outreach

From Income Tax Fund 6,265,000

From Beginning Nonlapsing Balances 936,900

From Closing Nonlapsing Balances (936,900)

Schedule of Programs:

Informal Science Education Enhancement 6,040,000
Provisional Program 225,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Science Outreach line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) Student Experiences (Target = 380,000);

(2) Student Field trips (Target = 375,000); and

(3) Professional Learning (Target = 2,000).

ITEM 33

To State Board of Education - Policy, Communication, & Oversight

From General Fund 414,300

From Income Tax Fund 18,504,600

From Federal Funds 62,601,400

From Dedicated Credits Revenue 64,300

From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 5,084,200

From General Fund Restricted

- Mineral Lease 167,000

From Revenue Transfers (1,028,600)

From Income Tax Fund Restricted - Underage Drinking Prevention Program

Restricted Account 1,759,500

From Beginning

Nonlapsing Balances 29,531,300

From Closing

Nonlapsing Balances (30,938,800)

Schedule of Programs:

Math Teacher Training 110,700
Teacher Retention in Indigenous Schools Grants 726,400
Policy and Communication 1,908,600
Student Support Services 78,611,400
School Turnaround and Leadership Development Act 4,802,100

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the Policy, Communication, & Oversight line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) Educator Training Participation (Target = 6,000); and

(2) Special Education Compliance (Target = 100%).

ITEM 34

To State Board of Education - System Standards & Accountability

From General Fund 100

From Income Tax Fund 34,332,700

From Federal Funds 178,498,000

From Dedicated Credits Revenue 7,069,700

From Expendable Receipts 447,800

From General Fund Restricted

- Mineral Lease 404,100

From Revenue Transfers (2,466,700)

From Beginning

Nonlapsing Balances 34,445,700

From Closing

Nonlapsing Balances (19,990,000)

Schedule of Programs:

Student Achievement 450,200
Teaching and Learning 30,966,700
Assessment and Accountability 29,418,100
Career and Technical Education 18,512,200
Special Education 141,342,500
RTC Fees 82,600
Early Literacy Outcomes Improvement 11,549,100
CPR Training Grant Program 420,000

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the System Standards and Accountability line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the state board shall report on the following performance measures:

(1) Percentage of Local Education Agencies meeting Individuals with Disabilities Education Act state targets (Target = Federal standard set in the annual percentage rates with targets in each of 17 indicators);

(2) Percentage of Springboard Schools that have successfully exited (Target = 100%);

(3) Percentage of educators demonstrating competency in Science of Reading (Target = 95%);

(4) Percentage of educators engaging in Career & Technical Education plans and upskilling (Target = 61%);

(5) Number of educators that engaged in State Board of Education created coursework (Target = State Board of Education is adding a flag to the existing Massively Integrated Data Analytics System to capture this data set. The agency will gather the baseline as part of the first-year implementation);

(6) Number of educators engaged in State Board of Education Alternate Path to Professional Educator Licensure for Special Education licensure program (Target = 300);

(7) Number of course completers for trauma informed courses with State Board of Education (Target = 1,530);

(8) Percentage of districts participating in Personalized, Competency-Based Learning Professional Learning (Target = 33); and

(9) Percentage of charter schools participating in Personalized, Competency-Based Learning Professional Learning (Target = 28).

ITEM 35

To State Board of Education - State Charter School Board

From Income Tax Fund 3,830,800

From Revenue Transfers (275,100)

From Beginning

Nonlapsing Balances 7,702,700

From Closing

Nonlapsing Balances (7,133,600)

Schedule of Programs:

State Charter School Board & Administration 2,158,900
Statewide Charter School Training Programs 400,000
New Charter School Start-up Funding 1,565,900

In accordance with UCA 63J-1-903, the Legislature intends that the State Board of Education report the final status of performance measures established in FY 2024 appropriations bills for the State Charter School Board line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Board of Education shall report on the following performance measures:

(1) State Charter School Board Member Training (Target = 50%);

(2) Open Meetings Act Compliance - Charter Schools (Target = 100%); and

(3) Local Charter School Outreach (Target = 100%).

ITEM 36

To State Board of Education - Utah Charter School Finance Authority

From Income Tax Fund Restricted - Charter School Reserve Account 50,000

Schedule of Programs:

Utah Charter School Finance Authority 50,000

ITEM 37

To State Board of Education - Utah Schools for the Deaf and the Blind

From Income Tax Fund 42,256,000

From Federal Funds 114,200

From Dedicated Credits Revenue 5,020,700

From Revenue Transfers 6,564,400

From Beginning Nonlapsing Balances 10,291,200

From Closing Nonlapsing Balances (15,151,700)

Schedule of Programs:

Support Services 16,000
Administration 12,714,500
Transportation and Support Services 12,180,200
Utah State Instructional Materials Access Center 1,759,500
School for the Deaf 12,843,100
School for the Blind 9,581,500

ITEM 38

To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund 9,901,700

From Revenue Transfers (60,900)

From Beginning Nonlapsing Balances 3,734,300

From Closing Nonlapsing Balances (3,659,000)

Schedule of Programs:

Statewide Online Education Program 77,800
Home and Private School Students 8,912,100
Small High School Support 926,200

ITEM 39

To State Board of Education - State Board and Administrative Operations

From General Fund 200

From Income Tax Fund 17,740,000

From Federal Funds 1,828,300

From General Fund Restricted - Mineral Lease 1,194,300

From Gen. Fund Rest. - Land Exchange Distribution Account 16,300

From General Fund Restricted - School Readiness Account 68,500

From Revenue Transfers 5,863,800

From Uniform School Fund Rest. - Trust Distribution Account 805,500

From Beginning Nonlapsing Balances 32,254,700

From Closing Nonlapsing Balances (18,676,800)

Schedule of Programs:

Financial Operations 4,701,500
Information Technology 15,675,300
Indirect Cost Pool 7,895,000
Data and Statistics 2,085,300
School Trust 814,600
Statewide Financial Management Systems Grants 2,000,000
Board and Administration 7,923,100

ITEM 40

To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Acct. 3,565,800

Schedule of Programs:

School and Institutional Trust

Fund Office 3,565,800

Subsection 7(b) Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 41

To State Board of Education - Charter School Revolving Account

From Dedicated Credits Revenue 4,600

From Interest Income 132,200

From Repayments 1,511,400

From Beginning Fund Balance 8,436,000

From Closing Fund Balance (8,572,800)

Schedule of Programs:

Charter School Revolving Account 1,511,400

ITEM 42

To State Board of Education - Hospitality and Tourism Mgmt. Education Acct.

From Dedicated Credits Revenue 300,000

From Interest Income 5,200

From Beginning Fund Balance 262,900

From Closing Fund Balance (218,100)

Schedule of Programs:

Hospitality and Tourism Management Education Account 350,000

ITEM 43

To State Board of Education - School Building Revolving Account

From Dedicated Credits Revenue 500

From Interest Income 112,800

From Repayments 1,465,600

From Beginning Fund Balance 2,090,300

From Closing Fund Balance (2,203,600)

Schedule of Programs:

School Building Revolving Account 1,465,600

ITEM 44

To State Board of Education - Charter School Closure Reserve Account

From Beginning Fund Balance 1,002,800

From Closing Fund Balance (1,002,800)

Subsection 7(c) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 45

To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Uniform School Fund 481,507,900

From Beginning Fund Balance 1,711,200

From Closing Fund Balance (1,711,200)

Schedule of Programs:

Public Education Economic Stabilization Restricted Account 481,507,900

ITEM 46

To Income Tax Fund Restricted - Minimum Basic Growth Account

From Income Tax Fund 75,000,000

Schedule of Programs:

Income Tax Fund Restricted - Minimum Basic Growth Account 75,000,000

ITEM 47

To Underage Drinking Prevention Program Restricted Acct

From Liquor Control Fund 1,750,000

Schedule of Programs:

Underage Drinking Prevention Program Restricted Account 1,750,000

ITEM 48

To Local Levy Growth Account

From Income Tax Fund 108,461,300

From Uniform School Fund 19,092,000

Schedule of Programs:

Local Levy Growth Account 127,553,300

ITEM 49

To Teacher and Student Success Account

From Income Tax Fund 195,673,100

Schedule of Programs:

Teacher and Student Success Account 195,673,100

Subsection 7(d) Fiduciary Funds

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

ITEM 50

To State Board of Education - Education Tax Check-off Lease Refunding

From Beginning Fund Balance 39,600

From Closing Fund Balance (37,400)

Schedule of Programs:

Education Tax Check-off Lease Refunding 2,200

ITEM 51

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

From Dedicated Credits Revenue 115,000

From Interest Income 5,400

From Beginning Fund Balance 281,300

From Closing Fund Balance (285,300)

Schedule of Programs:

Schools for the Deaf and the Blind Donation Fund 116,400

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

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

(a) the actions affecting Section 53F-2-302;

(b) Section 6, FY 2024 Appropriations;

(c) Subsection 6(a), Operating and Capital Budgets;

(d) Subsection 6(b), Expendable Funds and Accounts;

(e) Subsection 6(c), Restricted Fund and Account Transfers; and

(f) Subsection 6(d), Fiduciary Funds.

CHAPTER 125
H. B. 145
Passed February 22, 2024
Approved March 13, 2024
Effective May 1, 2024

VETERINARY AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to veterinary practice.

Highlighted Provisions:

This bill:

- allows a veterinary technician to carry out delegated tasks from a veterinarian under direct or indirect supervision; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-102, as last amended by Laws of Utah 2020, Chapter 435
58-28-502, as last amended by Laws of Utah 2023, Chapter 329

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

Section 1. Section 58-28-102 is amended to read:

58-28-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Abandonment" means to forsake entirely or to refuse to provide care and support for an animal placed in the custody of a licensed veterinarian.

(2) "Administer" means:

(a) the direct application by [~~a person~~]an individual of a prescription drug or device by injection, inhalation, ingestion, or by any other means, to the body of an animal that is a patient or is a research subject; or

(b) a veterinarian providing to the owner or caretaker of an animal a prescription drug for application by injection, inhalation, ingestion, or any other means to the body of the animal by the owner or caretaker in accordance with the veterinarian's written directions.

(3) "Animal" means any animal other than a human.

(4) "AVMA" means American Veterinary Medical Association.

(5) "Board" means the Veterinary Board established in Section 58-28-201.

(6) "Client" means the patient's owner, the owner's agent, or other person responsible for the patient.

(7) "Direct supervision" means a veterinarian [~~licensed under this chapter~~]is present and available for face-to-face contact with the patient and [~~person~~]individual being supervised, at the time the patient is receiving veterinary care.

(8) "Extra-label use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with approved labeling.

(9) "Immediate supervision" means the veterinarian [~~licensed under this chapter~~]is present with the individual being supervised, while the individual is performing the delegated tasks.

(10) "Indirect supervision" means a veterinarian [~~licensed under this chapter~~]:

(a) has given either written or verbal instructions for veterinary care of a patient to the [~~person~~]individual being supervised; and

(b) is available to the [~~person~~]individual being supervised by telephone or other electronic means of communication during the period of time in which the veterinary care is given to the patient.

(11) "Practice of veterinary medicine, surgery, and dentistry" means to:

(a) diagnose, prognose, or treat any disease, defect, deformity, wound, injury, or physical condition of any animal;

(b) administer, prescribe or dispense any drug, medicine, treatment, method, or practice, perform any operation or manipulation, apply any apparatus or appliance for the cure, relief, or correction of any animal disease, deformity, defect, wound, or injury, or otherwise practice any veterinary medicine, dentistry, or surgery on any animal;

(c) represent by verbal or written claim, sign, word, title, letterhead, card, or any other manner that one is a licensed veterinarian or qualified to practice veterinary medicine, surgery, or dentistry;

(d) hold oneself out as able to practice veterinary medicine, surgery, or dentistry;

(e) solicit, sell, or furnish any parenterally administered animal disease cures, preventions, or treatments, with or without the necessary instruments for the administration of them, or any and all worm and other internal parasitic remedies, upon any agreement, express or implied, to administer these cures, preventions, treatments, or remedies; or

(f) assume or use the title or designation, "veterinary," "veterinarian," "animal doctor," "animal surgeon," or any other title, designation, words, letters, abbreviations, sign, card, or device tending to indicate that such [~~person~~]individual is qualified to practice veterinary medicine, surgery, or dentistry.

(12) "Practice of veterinary technology" means to perform tasks that are:

(a) related to the care and treatment of animals;

(b) delegated by a veterinarian[~~licensed under this chapter~~];

(c) performed under the direct or indirect supervision of a veterinarian[~~licensed under this chapter~~]; and

(d) permitted by administrative rule and performed in accordance with the standards of the profession.

(13)(a) "State certification" means a designation granted by the division on behalf of the state to an individual who has met the requirements for state certification as a veterinary technician related to the practice of veterinary technology.

(b) "State certification" does not grant a state certified veterinary technician the exclusive right to practice veterinary technology.

(14) "State certified" means, when used in conjunction with the occupation of veterinary technician, a title that:

(a) may be used by [~~a person~~]an individual who has met state certification requirements related to the occupation of veterinary technician as described in this chapter; and

(b) may not be used by [~~a person~~]an individual who has not met the state certification requirements related to the occupation of veterinary technician as described in this chapter.

(15)(a) "Teeth floating" means the removal of enamel points and the smoothing, contouring, and leveling of dental arcades and incisors of equine and other farm animals.

(b) "Teeth floating" does not include a dental procedure on a canine or feline.

(16) "Unlawful conduct" is defined in Sections 58-1-501 and 58-28-501.

(17) "Unlicensed assistive personnel":

(a) means any unlicensed [~~person~~]individual, regardless of title, to whom tasks are delegated by a veterinarian [~~licensed under this chapter~~]as permitted by administrative rule and in accordance with the standards of the profession; and

(b) includes:

(i) a veterinary assistant, if working under immediate supervision;

(ii) a state certified veterinary technician;

(iii) a veterinary technician who:

(A) has graduated from a program of veterinary technology accredited by the AVMA that is at least a two-year program; and

(B) is working under direct supervision or indirect supervision; and

(iv) a veterinary technologist who:

(A) has graduated from a four-year program of veterinary technology accredited by the AVMA; and

(B) is working under indirect supervision.

(18) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-28-502 and may be further defined by rule.

(19) "Veterinarian" means an individual licensed under this chapter to engage in the practice of veterinary medicine, surgery, and dentistry.

[~~(19)~~](20) "Veterinarian-client-patient relationship" means:

(a) a veterinarian [~~licensed under this chapter~~] has assumed responsibility for making clinical judgements regarding the health of an animal and the need for medical treatment of an animal, and the client has agreed to follow the veterinarian's instructions;

(b) the veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, including knowledge of the keeping and care of the animal as a result of recent personal examination of the animal or by medically appropriate visits to the premises where the animal is housed; and

(c) the veterinarian has arranged for emergency coverage for follow-up evaluation in the event of adverse reaction or the failure of the treatment regimen.

Section 2. Section 58-28-502 is amended to read:

58-28-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

(c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

(d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

(e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

(f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

(g) violating Chapter 37, Utah Controlled Substances Act;

(h) [~~delegating tasks to unlicensed assistive personnel in violation of standards of the profession~~

~~and in violation of Subsection (2)~~]delegating to unlicensed assistive personnel:

(i) a task that violates the standards of the profession or Subsection (2); or

(ii) the administration of anesthesia or sedation if the delegating veterinarian is not providing direct supervision of the administration; and

(i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2)(a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian [~~licensed under this chapter~~], patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a state certified veterinary technician or a veterinary technician, while under the direct or indirect supervision of a veterinarian [~~licensed under this chapter~~], patient care and treatment that requires a technical understanding of veterinary medicine if the veterinarian provides written or oral instructions to the state certified veterinary technician;

[~~(iii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technician by the veterinarian;~~]

[~~(iv)~~](iii) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession;

[~~(v)~~](iv) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating; or

[~~(vi)~~](v) discussing the effects of the following on an animal with the owner of an animal:

(A) a cannabinoid or industrial hemp product, as those terms are defined in Section 4-41-102; or

(B) THC or medical cannabis, as those terms are defined in Section 26B-4-201.

(b) The delegation of tasks permitted under Subsections (2)(a)(i) through [~~(v)~~](iv) does not include:

(i) diagnosing;

(ii) prognosing;

(iii) surgery; or

(iv) prescribing drugs, medicines, or appliances.

(3) Notwithstanding any provision of this section, a veterinarian [~~licensed under this chapter~~]is not prohibited from engaging in a discussion described in Subsection [~~(2)(a)(vi)~~](2)(a)(v).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 126
H. B. 147
Passed February 27, 2024
Approved March 13, 2024
Effective May 1, 2024

THREAT OF VIOLENCE AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends the threat of violence offense.

Highlighted Provisions:

This bill:

- adds threatening to commit certain sexual offenses to the conduct that qualifies as the threat of violence offense;
- repeals a provision regarding reimbursement and restitution; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-107, as last amended by Laws of Utah 2022, Chapter 181

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

Section 1. Section 76-5-107 is amended to read:

76-5-107. Threat of violence -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2)[~~(a)~~] An actor commits a threat of violence if the actor:

[~~(i)~~](a)[~~(A)~~](i) threatens to commit an offense[~~.~~]:

(A) under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(B) involving bodily injury, death, or substantial property damage; and

[~~(B)~~](ii) acts with intent to place an individual in fear[~~ of imminent~~]:

(A) that the actor will imminently commit an offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against the individual; or

(B) of imminent serious bodily injury, substantial bodily injury, or death; or

[~~(ii)~~](b) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to an individual.

[~~(b) A threat under this section may be express or implied.~~]

(3)(a) A violation of Subsection (2) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

[~~(c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.~~]

(4) It is not a defense under this section that the actor did not attempt to or was incapable of carrying out the threat.

(5) A threat under Subsection (2) may be express or implied.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 127
H. B. 148
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

ARTIFICIAL PORNOGRAPHIC IMAGES AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions in Title 76, Chapter 5b, Sexual Exploitation Act.

Highlighted Provisions:

This bill:

- clarifies that certain prohibited materials in Title 76, Chapter 5b, Sexual Exploitation Act, includes computer- generated videos; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76- 5b- 103, as last amended by Laws of Utah 2023, Chapter 231
76- 5b- 203, as last amended by Laws of Utah 2022, Chapter 181
76- 5b- 204, as last amended by Laws of Utah 2022, Chapters 181, 184 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 184
76- 5b- 205, as last amended by Laws of Utah 2022, Chapters 112, 181 and 185 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 185

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

Section 1. Section 76- 5b- 103 is amended to read:

76- 5b- 103. Definitions.

As used in this chapter:

(1) "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer- generated image[~~or~~], picture, or video, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is of a minor engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(2) "Distribute" means[~~the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child sexual abuse material or vulnerable adult sexual abuse material with or without consideration~~], with or without consideration, to sell, exhibit, display, provide, give, grant admission to, provide access to, or otherwise transfer.

(3) "Identifiable minor" means [~~a person~~]an individual:

(a)(i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual [~~person~~]individual by the [~~person's~~]individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(4) "Identifiable vulnerable adult" means [~~a person~~]an individual:

(a)(i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual [~~person~~]individual by the [~~person's~~]individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(5) "Lacks capacity to consent" [~~is as~~]means the same as that term is defined in Section 76- 5- 111.4.

(6) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

(7) "Minor" means [~~a person~~]an individual younger than 18 years old.

(8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(9) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material; or

(b) the securing or hiring of [~~persons~~]individuals to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material.

(10) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between [~~persons~~]individuals of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any [~~person~~]individual;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any [~~person~~]individual;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the explicit representation of the defecation or urination functions.

(11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(12) "Vulnerable adult" [~~is as~~]means the same as that term is defined in Subsection 76-5-111(1).

(13) "Vulnerable adult sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 2. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

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

[~~(i) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.~~]

[~~(ii)~~](i) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image[~~or~~], picture, or video, whether made or produced by electronic, mechanical, or other means, that depicts:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct.

[~~(iii)~~](ii) "Sexually explicit conduct" means actual or simulated:

(A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between [~~persons~~]individuals of the same or opposite sex;

(B) masturbation;

(C) bestiality;

(D) sadistic or masochistic activities;

(E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

(F) visual depiction of nudity or partial nudity;

(G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(H) explicit representation of the defecation or urination functions.

[~~(iv)~~](iii) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

[~~(v)~~](iv) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) An actor commits the offense of distribution of an intimate image if:

(i) the actor knowingly or intentionally distributes to a third party, or knowingly duplicates or copies an intimate image of an individual who is 18 years old or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm;

(ii) the actor has not received consent from the individual depicted in the image to distribute the intimate image;

(iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

(iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the individual depicted in the image as a result of the distribution.

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3)(a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(4) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

(5)(a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

Section 3. Section 76-5b-204 is amended to read:

76-5b-204. Sexual extortion -- Penalties.

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

(i) "Adult" means an individual 18 years [~~of age~~]old or older.

(ii) "Child" means any individual under the age of 18.

[~~(iii) "Distribute" means the same as that term is defined in Section 76-5b-203.~~]

[~~(iv)~~](iii) "Intimate image" means the same as that term is defined in Section 76-5b-203.

[~~(v)~~](iv) "Position of special trust" means the same as that term is defined in Section 76-5-404.1.

[~~(vi)~~](v) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(vii)~~](vi) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(viii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) An actor commits the offense of sexual extortion if the actor:

(i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in

sexually explicit conduct, communicates by any means a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image or video of the victim;

(ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

(A) to the victim's person, property, or reputation; or

(B) to distribute an intimate image or video of the victim; or

(iii) with intent to obtain a thing of value from a victim communicates, by any means, a threat to distribute an intimate image or video of the victim.

(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the victim is a child or vulnerable adult;

(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(iii) the actor caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(iv) the actor was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;

(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;

(vi) the actor occupied a position of special trust in relation to the victim;

(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(3)(a) If the actor is an adult:

(i) A violation of Subsection (2)(a) is a third degree felony.

(ii) A violation of Subsection (2)(b) in which the victim is an adult is a second degree felony.

(iii) A violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.

(b) If the actor is a child:

(i) A violation of Subsection (2)(a) is a class A misdemeanor.

(ii) A violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap between the actor and the victim.

(c) An actor commits a separate offense under this section:

(i) for each victim the actor subjects to the offense outlined in Subsection (2)(a); and

(ii) for each separate time the actor subjects a victim to the offense outlined Subsection (2)(a).

(d) This section does not preclude an actor from being charged and convicted of a separate criminal act if the actor commits the separate criminal act while the individual violates or attempts to violate this section.

(4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

Section 4. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

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

(i) "Child" means an individual under 18 years old.

(ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image [~~or~~], picture, or video, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

[~~(iii) "Distribute" means the same as that term is defined in Section 76-5b-203.~~]

[~~(iv)~~](iii) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(v)~~](iv) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(vi)~~](v) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(i) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(ii) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(b) An actor who is 18 years old or older commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2)(a), the individual depicted in the counterfeit intimate image is a child.

(3)(a)(i) A violation of Subsection (2)(a) that is knowing or intentional is a class A misdemeanor.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is knowing or intentional is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(b)(i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree felony.

(ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is knowing or intentional is a second degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.

(4) This section does not apply to:

(a)(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual depicted in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5)(a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 128
H. B. 155
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CHANGES TO FIREWORKS PROVISIONS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies a provision relating to fireworks.

Highlighted Provisions:

This bill:

- provides that restrictions to when sales of fireworks can occur do not apply to specified online and other sales.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-7-225, as last amended by Laws of Utah 2023, Chapter 341

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

Section 1. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks -- Criminal penalty -- Permissible closure of certain areas -- Maps and signage.

(1) Except as provided in Section 53-7-221, this section supersedes any other code provision regarding the sale or discharge of fireworks.

(2)(a) [~~A~~]Except as provided in Subsection (2)(b), a person may sell class C common state approved explosives in the state as follows:

[~~(a)~~](i) beginning on June 24 and ending on July 25;

[~~(b)~~](ii) beginning on December 29 and ending on December 31; and

[~~(c)~~](iii) two days before and on the Chinese New Year's eve.

(b) The restrictions in Subsection (2)(a) do not apply to:

(i) online sales to a person outside the state for use outside the state; or

(ii) sales to persons described in Subsection 53-7-222(1)(b)(i)(A).

(3) A person may not discharge class C common state approved explosives in the state except as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 2 and ending on July 5; and

(ii) beginning on July 22 and ending on July 25;

(b)(i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the county, municipality, or metro township determines to celebrate New Year's eve on the prior Saturday, then a person may discharge class C common state approved explosives on that prior Saturday within the county, municipality, or metro township;

(c) between the hours of 11 a.m. and 11 p.m. on January 1; and

(d) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person is guilty of an infraction, punishable by a fine of up to $1,000, if the person discharges a class C common state approved explosive:

(a) outside the legal discharge dates and times described in Subsection (3); or

(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

(5)(a) Except as provided in Subsection (5)(b) or (c), a county, a municipality, a metro township, or the state forester may not prohibit a person from discharging class C common state approved explosives during the permitted periods described in Subsection (3).

(b)(i) As used in this Subsection (5)(b), "negligent discharge":

(A) means the improper use and discharge of a class C common state approved explosive; and

(B) does not include the date or location of discharge or the type of explosive used.

(ii) A municipality or metro township may prohibit:

(A) the discharge of class C common state approved explosives in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or

(B) the negligent discharge of class C common state approved explosives.

(iii) A county may prohibit the negligent discharge of class C common state approved explosives.

(c) The state forester may prohibit the discharge of class C common state approved explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

(6) If a municipal legislative body, the state forester, or a metro township legislative body provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition

under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);

(b) provide the map described in Subsection (6)(a) to:

(i) each retailer that sells fireworks within the county; and

(ii) the state fire marshal; and

(c) publish the map on the county's website.

(7) A retailer that sells fireworks shall display:

(a) a sign that:

(i) is clearly visible to the general public in a prominent location near the point of sale;

(ii) indicates the legal discharge dates and times described in Subsection (3); and

(iii) indicates the criminal charge and fine associated with discharge:

(A) outside the legal dates and times described in Subsection (3); and

(B) within an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b); and

(b) the map that the county provides, in accordance with Subsection (6)(b).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 129
H. B. 164
Passed February 9, 2024
Approved March 13, 2024
Effective May 1, 2024

DIGITAL CURRENCY MODIFICATIONS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Michael S. Kennedy

Cosponsor:
Joseph Elison
Michael J. Petersen
Kera Birkeland
Ken Ivory
Rex P. Shipp
Brady Brammer
Colin W. Jack
Keven J. Stratton
Walt Brooks
Trevor Lee
Jordan D. Teuscher
Scott H. Chew
Phil Lyman
Douglas R. Welton

LONG TITLE

General Description:

This bill makes modifications to the Uniform Commercial Code.

Highlighted Provisions:

This bill:

- defines terms; and
- excludes certain digital currencies from the definition of money.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-1502, as last amended by Laws of Utah 2012, Chapter 399
70A-1a-201, as enacted by Laws of Utah 2007, Chapter 272

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

Section 1. Section 59-1-1502 is amended to read:

59-1-1502. Specie legal tender is legal tender in the state -- Person may not compel another person to tender or accept specie legal tender -- Court or congressional action to authorize gold or silver coin or bullion as legal tender.

(1) Specie legal tender is legal tender in the state.

(2) Except as expressly provided by contract, a person may not compel any other person to tender or accept specie legal tender.

(3) Gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is considered to be specie legal tender and is legal tender in the state if:

(a) a court of competent jurisdiction issues a final, unappealable judgment or order determining that the state may recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state; or

(b) Congress enacts legislation that:

(i) expressly provides that the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, is legal tender in the state; or

(ii) expressly allows the state to recognize the gold or silver coin or bullion, other than gold or silver coin that is issued by the United States, as legal tender in the state.

(4) A central bank digital currency, as defined in Section 70A-1a-201, is not specie legal tender and is not legal tender in the state.

Section 2. Section 70A-1a-201 is amended to read:

70A-1a-201. General definitions.

(1) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other chapters of this title that apply to particular chapters or parts thereof, have the meanings stated.

(2) Subject to definitions contained in other chapters of this title that apply to particular chapters or parts thereof:

(a) "Action," in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(b) "Aggrieved party" means a party entitled to pursue a remedy.

(c) "Agreement," as distinguished from "contract," means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 70A-1a-303.

(d) "Bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(e) "Bearer" means a person in possession of a negotiable instrument, document of title, or certificated security that is payable to bearer or indorsed in blank.

(f) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods.

(g) "Branch" includes a separately incorporated foreign branch of a bank.

(h) "Burden of establishing" a fact means the burden of persuading the trier of fact that the

existence of the fact is more probable than its nonexistence.

(i) "Buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Chapter 2, Uniform Commercial Code - Sales, may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(j) "Central bank digital currency" means a digital currency, a digital medium of exchange, or a digital monetary unit of account issued by the United States Federal Reserve System, a federal agency, a foreign government, a foreign central bank, or a foreign reserve system, that is:

(i) made directly available to a consumer by such entities; or

(ii) processed or validated directly by such entities.

[~~(j)~~](k) "Conspicuous," with reference to a term, means so written, displayed, or presented that a reasonable person against which it is to operate ought to have noticed it. Whether a term is conspicuous or not is a decision for the court. Conspicuous terms include the following:

(i) a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(ii) language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

[~~(k)~~](l) "Consumer" means an individual who enters into a transaction primarily for personal, family, or household purposes.

[~~(l)~~](m) "Contract," as distinguished from "agreement," means the total legal obligation that results from the parties' agreement as determined by this title as supplemented by any other applicable laws.

[~~(m)~~](n) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

[~~(n)~~](o) "Defendant" includes a person in the position of defendant in a counterclaim, cross-claim, or third-party claim.

[~~(o)~~](p) "Delivery," with respect to an instrument, document of title, or chattel paper, means voluntary transfer of possession.

[~~(p)~~](q) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

[~~(q)~~](r) "Fault" means a default, breach, or wrongful act or omission.

[~~(r)~~](s) "Fungible goods" means:

(i) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(ii) goods that by agreement are treated as equivalent.

[~~(s)~~](t) "Genuine" means free of forgery or counterfeiting.

[~~(t)~~](u) "Good faith" means honesty in fact in the conduct or transaction concerned.

[~~(u)~~](v) "Holder" means:

(i) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession; or

(ii) the person in possession of a document of title if the goods are deliverable either to bearer or to the order of the person in possession.

[~~(v)~~](w) "Insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved.

[~~(w)~~](x) "Insolvent" means:

(i) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(ii) being unable to pay debts as they become due; or

(iii) being insolvent within the meaning of federal bankruptcy law.

[~~(x)~~](y)(i) "Money" means a medium of exchange currently authorized or adopted by a domestic or foreign government.

(ii) [~~The term includes~~]"Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries.

(iii) "Money" does not include a central bank digital currency.

[~~(y)~~](z) "Organization" means a person other than an individual.

[~~(z)~~](aa) "Party," as distinguished from "third party," means a person that has engaged in a transaction or made an agreement subject to this title.

[~~(aa)~~](bb) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, instrumentality, public corporation, or any other legal or commercial entity.

[~~(bb)~~](cc) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into.

[~~(cc)~~](dd) "Purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

[~~(dd)~~](ee) "Purchaser" means a person that takes by purchase.

[~~(ee)~~](ff) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(ff)~~](gg) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

[~~(gg)~~](hh) "Representative" means a person empowered to act for another, including an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate.

[~~(hh)~~](ii) "Right" includes remedy.

[~~(ii)~~](jj) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Chapter 9a, Uniform Commercial Code - Secured Transactions. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 70A-2-401, but a buyer may also acquire a "security interest" by complying with Chapter 9a, Uniform Commercial Code - Secured Transactions. Except as otherwise provided in Section 70A-2-505, the right of a seller or lessor of goods under Chapter 2, Uniform Commercial Code - Sales, or Chapter 2a, Uniform Commercial Code - Leases, to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a "security interest" by complying with Chapter 9a, Uniform Commercial Code - Secured Transactions. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 70A-2-401 is limited in effect to a reservation of a "security interest." Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to Section 70A-1a-203.

[~~(jj)~~](kk) "Send" in connection with a writing, record, or notice means:

(i) to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances; or

(ii) in any other way to cause to be received any record or notice within the time it would have arrived if properly sent.

[~~(kk)~~](ll) "Signed" includes using any symbol executed or adopted with present intention to adopt or accept a writing.

[~~(ll)~~](mm) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

[~~(mm)~~](nn) "Surety" includes a guarantor or other secondary obligor.

[~~(nn)~~](oo) "Term" means a portion of an agreement that relates to a particular matter.

[~~(oo)~~](pp) "Unauthorized signature" means a signature made without actual, implied, or apparent authority. The term includes a forgery.

[~~(pp)~~](qq) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

[~~(qq)~~](rr) "Writing" includes printing, typewriting, or any other intentional reduction to tangible form. "Written" has a corresponding meaning.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 130
H. B. 165
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

FEDERAL LAW ENFORCEMENT AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Michael S. Kennedy

Cosponsor:
Stephanie Gricius
Matt MacPherson
Stewart E. Barlow
Matthew H. Gwynn
A. Cory Maloy
Bridger Bolinder
Jon Hawkins
Mike Schultz
Walt Brooks
Colin W. Jack
Keven J. Stratton
Jefferson S. Burton
Tim Jimenez
Jordan D. Teuscher
Tyler Clancy
Phil Lyman
Ryan D. Wilcox

LONG TITLE

General Description:

This bill concerns the release of an alien within the state by a federal officer.

Highlighted Provisions:

This bill:

- defines terms; and
- requires a federal officer to follow certain procedures before releasing an alien within the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
53- 13- 106.13, Utah Code Annotated 1953

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

Section 1. Section 53- 13- 106.13 is enacted to read:

53- 13- 106.13. Notification requirement for federal officers before the release of an alien within the state.

(1) As used in this section:

(a)(i) "Alien" means an individual who is illegally present in the United States.

(ii) "Alien" does not include a permit holder as that term is defined in Section 63G- 12- 102.

(b) "Custody" means in the physical and legal custody of a federal law enforcement agency.

(c) "Federal law enforcement agency" means an entity or division of the federal government that exists primarily to:

(i) prevent and detect crime and enforce criminal laws, statutes, and ordinances; or

(ii) enforce federal immigration laws.

(d) "Federal officer" means an individual:

(i) who works for a federal law enforcement agency; and

(ii) whose duties consist of the investigation and enforcement of federal laws.

(2) A federal officer may not release an alien from custody within the state unless the federal officer provides written notice three business days before the release to:

(a) the attorney general or the attorney general's designee; and

(b) the county sheriff or the county sheriff's designee of the county in which the release is to take place.

(3) In providing the written notice under Subsection (2)(b), the federal officer shall also provide:

(a) the specific address or location where the alien will be released;

(b) the date and time at which the alien will be released; and

(c) whether the federal officer is aware of any outstanding criminal warrants concerning the alien who will be released.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 131
H. B. 170
Passed February 20, 2024
Approved March 13, 2024
Effective May 1, 2024

UNEMPLOYMENT INSURANCE AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies the Employment Security Act.

Highlighted Provisions:

This bill:

- identifies certain conduct that may disqualify an individual from receiving unemployment benefits;
- requires the Unemployment Insurance Division within the Department of Workforce Services to make rules governing certain disqualifications for unemployment benefits;
- requires the Department of Workforce Services to develop and maintain a website for employers to access information and report possible fraud in relation to unemployment insurance; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-4-405, as last amended by Laws of Utah 2013, Chapter 315

ENACTS:

35A-4-509, Utah Code Annotated 1953

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

Section 1. Section 35A-4-405 is amended to read:

35A-4-405. Ineligibility for benefits.

Except as otherwise provided in Subsection (5), an individual is ineligible for benefits or for purposes of establishing a waiting period:

(1)(a) For the week in which the claimant left work voluntarily without good cause, if so found by the division, and for each week thereafter until the claimant has performed services in bona fide, covered employment and earned wages for those services equal to at least six times the claimant's weekly benefit amount.

(b) A claimant may not be denied eligibility for benefits if the claimant leaves work under circumstances where it would be contrary to equity and good conscience to impose a disqualification.

(c) Using available information from employers and the claimant, the division shall consider for the purposes of this chapter the reasonableness of the claimant's actions, and the extent to which the actions evidence a genuine continuing attachment to the labor market in reaching a determination of whether the ineligibility of a claimant is contrary to equity and good conscience.

(d) Except as provided in Subsection (1)(e), a claimant who has left work voluntarily to accompany or follow the claimant's spouse to a new locality does so without good cause for purposes of this Subsection (1).

(e) A claimant who has left work voluntarily to accompany or follow the claimant's spouse to a new locality does so with good cause for purposes of this Subsection (1) and is eligible to receive benefits if:

(i) the claimant's spouse is a member of the United States armed forces and the claimant's spouse has been relocated by a full-time assignment scheduled to last at least 180 days while on:

(A) active duty as defined in 10 U.S.C. Sec. 101(d)(1); or

(B) active guard or reserve duty as defined in 10 U.S.C. Sec. 101(d)(6);

(ii) it is impractical as determined by the division for the claimant to commute to the previous work from the new locality;

(iii) the claimant left work voluntarily no earlier than 15 days before the scheduled start date of the spouse's active-duty assignment; and

(iv) the claimant otherwise meets and follows the eligibility and reporting requirements of this chapter, including registering for work with the division or, if the claimant has relocated to another state, the equivalent agency of that state.

(2)(a) For the week in which the claimant was discharged for just cause or for an act or omission in connection with employment, not constituting a crime, which is deliberate, willful, or wanton and adverse to the employer's rightful interest, if so found by the division, and thereafter until the claimant has earned an amount equal to at least six times the claimant's weekly benefit amount in bona fide covered employment.

(b) For the week in which the claimant was discharged for dishonesty constituting a crime or any felony or class A misdemeanor in connection with the claimant's work as shown by the facts, together with the claimant's admission, or as shown by the claimant's conviction of that crime in a court of competent jurisdiction and for the 51 next following weeks.

(c) Wage credits shall be deleted from the claimant's base period, and are not available for this or any subsequent claim for benefits.

(3)(a)(i) If the division finds that the claimant has failed without good cause to properly[~~,~~]:

(A) apply for available suitable work[~~,~~];

(B) appear for a scheduled interview for suitable work;

(C) [~~to~~]accept a referral to suitable work offered by the employment office[~~,~~]; or

(D) [~~to~~]accept suitable work offered by an employer or the employment office.

(ii) For purposes of Subsection (3)(a)(i)(D), the division shall consider a claimant's failure to accept an offer of suitable work from an employer or the employment office within three business days after the day on which the offer is sent as a failure to accept suitable work.

[~~(ii)~~](iii) The ineligibility continues until the claimant has performed services in bona fide covered employment and earned wages for the services in an amount equal to at least six times the claimant's weekly benefit amount.

(b)(i) A claimant may not be denied eligibility for benefits for failure to apply, accept referral, or accept available suitable work under circumstances where it would be contrary to equity and good conscience to impose a disqualification.

(ii) The division shall consider the purposes of this chapter, the reasonableness of the claimant's actions, and the extent to which the actions evidence a genuine continuing attachment to the labor market in reaching a determination of whether the ineligibility of a claimant is contrary to equity and good conscience.

(c) In determining whether work is suitable for an individual, the division shall consider the:

(i) degree of risk involved to the individual's health, safety, and morals;

(ii) individual's physical fitness and prior training;

(iii) individual's prior earnings and experience;

(iv) individual's length of unemployment;

(v) prospects for securing local work in the individual's customary occupation;

(vi) wages for similar work in the locality; and

(vii) distance of the available work from the individual's residence.

(d) Prior earnings shall be considered on the basis of all four quarters used in establishing eligibility and not just the earnings from the most recent employer. The division shall be more prone to find work as suitable the longer the claimant has been unemployed and the less likely the prospects are to secure local work in his customary occupation.

(e) Notwithstanding any other provision of this chapter, no work is suitable, and benefits may not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(i) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(iii) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules governing ineligibility for benefits under this Subsection (3).

(4) For any week in which the division finds that the claimant's unemployment is due to a stoppage of work that exists because of a strike involving the claimant's grade, class, or group of workers at the factory or establishment at which the claimant is or was last employed.

(a) If the division finds that a strike has been fomented by a worker of any employer, none of the workers of the grade, class, or group of workers of the individual who is found to be a party to the plan, or agreement to foment a strike, shall be eligible for benefits. However, if the division finds that the strike is caused by the failure or refusal of any employer to conform to any law of the state or of the United States pertaining to hours, wages, or other conditions of work, the strike may not render the workers ineligible for benefits.

(b) If the division finds that the employer, the employer's agent or representative has conspired, planned, or agreed with any of the employer's workers, their agents or representatives to foment a strike, that strike may not render the workers ineligible for benefits.

(c) A worker may receive benefits if, subsequent to the worker's unemployment because of a strike as defined in this Subsection (4), the worker has obtained employment and has been paid wages of not less than the amount specified in Subsection 35A-4-401(4) and has worked as specified in Subsection 35A-4-403(1)(f). During the existence of the stoppage of work due to this strike the wages of the worker used for the determination of his benefit rights may not include any wages the worker earned from the employer involved in the strike.

(5)(a) For each week a claimant obtains a benefit under this chapter by willfully making a false statement or representation or by knowingly failing to report a material fact, and a penalty of no more than 49 additional weeks as follows:

(i) 13 weeks for the first week the false statement or representation was made or fact withheld to receive a benefit; and

(ii) six weeks for each additional week the false statement or representation was made or fact withheld to receive a benefit.

(b) The additional penalty weeks shall begin on the Sunday of the week the determination finding the claimant in violation of this Subsection (5) is issued.

(c)(i) Each claimant found in violation of this Subsection (5) shall repay to the division the overpayment and, as a civil penalty for fraud, an amount equal to the overpayment.

(ii) The overpayment is the amount of benefits the claimant received by direct reason of fraud.

(iii) Subject to the requirements of Subsection 35A-4-506(7), the civil penalty for fraud amount shall be treated as any other penalty under this chapter.

(iv) The repayment of an overpayment and a civil penalty for fraud shall be collectible by civil action or warrant in the manner provided in Subsections 35A-4-305(3) and (5).

(d) A claimant is ineligible for future benefits or waiting week credit, and any wage credits earned by the claimant shall be unavailable for purposes of paying benefits, if any amount owed under this Subsection (5) remains unpaid.

(e) Determinations under this Subsection (5) shall be appealable in the manner provided by this chapter for appeals from other benefit determinations.

(f) If the fraud determination is based solely on unreported or underreported work or earnings, or both, and the claimant would have been eligible for benefits if the work or earnings, or both, had been correctly reported, the individual does not lose eligibility for that week because of the misreporting but is liable for the overpayment and subject to the penalties in Subsection (5)(c) and the disqualification periods for future weeks in Subsection (5)(a).

(6) For any week with respect to which or a part of which the claimant has received or is seeking unemployment benefits under an unemployment compensation law of another state or the United States. If the appropriate agency of the other state or of the United States finally determines that the claimant is not entitled to those unemployment benefits, this disqualification does not apply.

(7)(a) For any week with respect to which the claimant is receiving, has received, or is entitled to receive remuneration in the form of:

(i) wages in lieu of notice, or a dismissal or separation payment; or

(ii) accrued vacation or terminal leave payment.

(b) If the remuneration is less than the benefits that would otherwise be due, the claimant is entitled to receive for that week, if otherwise eligible, benefits reduced as provided in Subsection 35A-4-401(3).

(8)(a) For any week in which the individual's benefits are based on service for an educational institution in an instructional, research, or principal administrative capacity and that begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract if the individual performs services in the first of those academic years or terms and if there is a contract or reasonable assurance that the individual will perform services in that capacity for an educational institution in the second of the academic years or terms.

(b)(i) For any week in which the individual's benefits are based on service in any other capacity for an educational institution, and that week begins during a period between two successive academic years or terms if the individual performs those services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms.

(ii) If compensation is denied to any individual under this Subsection (8) and the individual was not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, the individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this Subsection (8).

(c) With respect to any services described in Subsection (8)(a) or (b), compensation payable on the basis of those services shall be denied to an individual for any week that commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

(d)(i) With respect to services described in Subsection (8)(a) or (b), compensation payable on the basis of those services as provided in Subsection (8)(a), (b), or (c) shall be denied to an individual who performed those services in an educational institution while in the employ of an educational service agency in accordance with the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3304(a)(6)(A)(iv).

(ii) For purposes of this Subsection (8)(d), "educational service agency" means a governmental agency or entity established and operated exclusively for the purpose of providing the services described in Subsection (8)(a) or (b) to an educational institution.

(e) With respect to services described in Subsection (8)(a) or (b), compensation payable on the basis of those services as provided in Subsection (8)(a), (b), or (c) shall be denied to an individual who performed those services:

(i) to or on behalf of an educational institution in accordance with the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3304(a)(6)(A)(v); and

(ii) while employed by a governmental entity, Indian tribe, or nonprofit organization, to which the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3309(a)(1) applies.

(f) Benefits based on service in employment, defined in Subsections 35A-4-204(2)(d) and (e) are payable in the same amount, on the same terms and subject to the same conditions as compensation

payable on the basis of other services subject to this chapter.

(9) For any week that commences during the period between two successive sport seasons or similar periods if the individual performed any services, substantially all of which consist of participating in sports or athletic events or training or preparing to participate in the first of those seasons or similar periods and there is a reasonable assurance that individual will perform those services in the later of the seasons or similar periods.

(10)(a) For any week in which the benefits are based upon services performed by an alien, unless the alien is an individual who has been lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services or was permanently residing in the United States under color of law at the time the services were performed, including an alien who is lawfully present in the United States as a result of the application of Subsection 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. 1182(d)(5)(A).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

Section 2. Section 35A-4-509 is enacted to read:

35A-4-509. Department to maintain website for employers.

(1) The department shall develop and maintain a website through which employers may:

(a) access the following information:

(i) the division's rules and processes for the administration of this chapter;

(ii) a description of conduct that disqualifies a claimant from receiving benefits under Section 35A-4-405;

(iii) instructions for detecting and reporting possible violations of Section 35A-4-405;

(iv) information about the process for determining whether a claimant has violated Section 35A-4-405, including the factors considered by the division in making the determination;

(v) any other resources available to employers to assist in understanding the requirements of this chapter; and

(vi) the division contact information;

(b) report possible violations of Section 35A-4-405 to the division; and

(c) communicate directly with the division.

(2) The department shall ensure that the website described in Subsection (1):

(a) is developed in a user-friendly manner with simple, easy-to-understand language; and

(b) is directly accessible via a link from the main page of the division's website.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 132
H. B. 174
Passed February 28, 2024
Approved March 13, 2024
Effective January 1, 2025

AUTOMATIC RENEWAL CONTRACT REQUIREMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses automatic renewal contract requirements.

Highlighted Provisions:

This bill:

- requires a person who offers a contract with an automatic renewal provision to disclose certain information to the consumer regarding the renewal and cancellation of the contract;
- requires a person who offers a trial period offer to disclose certain information to the consumer regarding the expiration of the trial period and purchase obligations upon expiration;
- voids any renewal contract provision that violates this section;
- authorizes the Division of Consumer Protection (division) to enforce the provisions in this bill;
- requires fines and civil penalties for a violation of the provisions in this bill;
- requires fines and civil penalties received by the division for a violation of the provisions in this bill to be placed in the Consumer Protection Education and Training Fund;
- grants administrative rulemaking authority;
- makes technical and conforming changes; and
- defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, 509, and 536

ENACTS:

13-70-101, Utah Code Annotated 1953
13-70-201, Utah Code Annotated 1953
13-70-301, Utah Code Annotated 1953

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act;

(z) Chapter 67, Online Dating Safety Act; [~~and~~]

(aa) Chapter 68, Lawyer Referral Consultants Registration Act[~~.~~]; and

(bb) Chapter 70, Automatic Renewal Contracts Act.

Section 2. Section 13-70-101 is enacted to read:

13-70-101. Definitions.

CHAPTER 70. AUTOMATIC RENEWAL CONTRACTS ACT

Part 1. General Provisions

As used in this chapter:

(1) "Automatic renewal provision" means a provision under a contract that is automatically renewed at the end of a definite, paid term for a subsequent, paid term that is longer than 45 days.

(2) "Clearly and conspicuously disclose" means to disclose:

(a) in print:

(i) in larger type than the surrounding text;

(ii) in contrasting type, font, or color to the surrounding text of the same size; or

(iii) in a manner set off from the surrounding text of the same size by symbols or other marks that clearly call attention to the language; or

(b) through audio, in a volume and cadence sufficient to be readily audible and understandable.

(3) "Division" means the Division of Consumer Protection established in Section 13-2-1.

(4) "Rental agreement" means any agreement, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions regarding the use or occupancy of real property for residential or commercial purposes.

(5) "Trial period offer" means an offer to provide a period of time to sample or use a product or service without payment.

Section 3. Section 13-70-201 is enacted to read:

13-70-201. Automatic renewal provisions -- Trial period offers -- Notice -- Exceptions.

Part 2. Automatic Renewal Contract

(1) Except as provided in Subsection (3), a person who provides an individual a product or service under a contract with an automatic renewal provision shall provide a notice to the individual, at least 30 but not more than 60 days before the day on which the automatic renewal provision renews, that clearly and conspicuously discloses:

(a) the renewal date;

(b) the total renewal cost; and

(c) options for cancellation of the contract.

(2) Except as provided in Subsection (3), a person who provides an individual a trial period offer shall provide a notice to the individual, at least three days before the day on which the period of time under the trial period offer expires, that clearly and conspicuously discloses:

(a) the trial period offer expiration date;

(b) the price to be charged for the product or service, or any further purchase obligations to be imposed on the individual, after the expiration date; and

(c) options for cancellation of the contract.

(3) This section does not apply to:

(a) any individual or entity regulated under Title 31A, Insurance Code, or an affiliate of the individual or entity;

(b) a person providing a service contract, as defined in Section 31A-6a-101;

(c) a financial institution or an affiliate of a financial institution regulated under Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq.;

(d) a public utility, as defined in Section 54-2-1;

(e) an entity or affiliate of the entity that provides services regulated by the Federal Communications Commission, Federal Energy Regulatory Commission, or Federal Professional Services Council;

(f) a rental agreement; or

(g) an agreement for property management, as defined in 61-2f-102.

(4) An automatic renewal provision that violates this section is void.

Section 4. Section 13-70-301 is enacted to read:

13-70-301. Administration and enforcement -- Division powers -- Fees -- Rulemaking.

Part 3. Enforcement

(1) The division shall administer and enforce this chapter in accordance with Chapter 2, Division of Consumer Protection.

(2) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(b) the division may bring a civil action to enforce this chapter.

(3) In a civil action by the division to enforce this chapter, the court may:

(a) declare that an act or practice violates this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of any money received after a violation of this chapter;

(d) order payment of disgorged money to an injured individual;

(e) impose a civil penalty of up to $2,500 for each violation of this chapter; or

(f) award any other relief that the court deems reasonable and necessary.

(4) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5)(a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division.

(c) The division shall deposit money received for the payment of a fine or civil penalty under this section into the General Fund.

(6) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to enforce this chapter.

Section 5. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 133
H. B. 177
Passed February 22, 2024
Approved March 13, 2024
Effective May 1, 2024

FORCIBLE ENTRY WARRANT AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the requirements for law enforcement officers to forcibly enter a premises.

Highlighted Provisions:

This bill:

- defines terms;
- provides an exception to the requirement that a law enforcement officer knock and demand admission and wait a reasonable time before forcibly entering a premises in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7-8, as last amended by Laws of Utah 2022, Chapter 131

77-7-8.1, as enacted by Laws of Utah 2022, Chapter 131

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

Section 1. Section 77-7-8 is amended to read:

77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.

(1) As used in this section:

(a) "Daytime hours" means the same as that term is defined in Section 77-7-5.

(b) ["~~Forcible entry~~"]"Forcibly enter" means entering any [~~building, room, conveyance, compartment, or other enclosure~~]premises by force.

(c) "Knock" means to knock with reasonably strong force in a quick succession of three or more contacts with a door or other point of entry into a building that would allow the occupant to reasonably hear the peace officer's demand for entry.

(d) "Knock and announce warrant" means a lawful search warrant that authorizes entry into a building after knocking and demanding entry onto [~~property or building as outlined~~]a premises described in Subsection (2).

(e) "Nighttime hours" means the same as that term is defined in Section 77-7-5.

(f) "Peace officer" means the same as that term is defined in Section 53-1-102.

(g) "Premises" means any building, room, conveyance, compartment, or other enclosure.

[~~(f)~~](h)(i) "Supervisory official" means a command-level officer [~~and~~].

(ii) "Supervisory official" includes [~~all sheriffs, heads of law enforcement agencies~~]a sheriff, a head of a law enforcement agency, and [~~all~~]a supervisory enforcement [~~officers~~]officer equivalent to a sergeant rank or higher.

(2)(a) Subject to the provisions of this [~~subsection, an~~]Subsection (2), a peace officer when making a lawful arrest, or serving a [~~lawful~~]knock and announce warrant, may [~~make forcible entry~~]forcibly enter a premises:

(i) [~~where the person~~]if the individual to be arrested is located[~~,~~] within the premises; or

(ii) [~~ where ~~]if there is probable cause [~~for believing the person to be ~~]to believe that the individual is located within the premises.

(b)(i) [~~Before making the forcible entry, the ~~]Subject to Subsection (3), before forcibly entering a premises as described in Subsection (2)(a), a peace officer shall:

[~~(i)~~](A) wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing [~~which ~~]that identifies the [~~person ~~]individual as a law enforcement officer;

[~~(ii)~~](B) audibly identify himself or herself as a law enforcement officer;

[~~(iii)~~](C) knock and demand admission more than once;

[~~(iv)~~](D) wait a reasonable period of time for an occupant to admit access after knocking and demanding admission; and

[~~(v)~~](E) explain the purpose for which admission is desired.

[~~(c)~~](3)[~~(i)~~](a) [~~The officer need not knock, give a demand and explanation, or identify himself or herself, before making a forcible entry ~~]A peace officer does not need to:

(i) comply with the requirements of Subsection (2)(b)(i)(B), (2)(b)(i)(C), (2)(b)(i)(D), and (2)(b)(i)(E) before forcibly entering a premises:

(A) under the exceptions in Section 77-7-6 or 77-7-8.1;

(B) where there is probable cause to believe exigent circumstances exist due to the destruction of evidence; or

(C) where there is reasonable suspicion to believe exigent circumstances exist due to the physical safety of [~~an~~] a peace officer or individual inside or in near proximity to the [~~building. ~~]premises; or

(ii) comply with the requirements described in Subsections (2)(b)(i)(C) and (2)(b)(i)(D) before forcibly entering a premises if the officer, or another peace officer:

(A) has been near the premises for an extended amount of time and a reasonable person would conclude that an individual on the premises knows or should know that a peace officer is present;

(B) has demanded admission and announced an intent to enter the premises more than once; and

(C) has complied with Subsections (2)(b)(i)(A), (2)(b)(i)(B), and (2)(b)(i)(E).

[~~(ii)~~](b) [~~The~~]If a peace officer forcibly enters a premises under Subsection (3)(a)(i), the peace officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering the premises.

[~~(d)~~](4) The peace officer may use only that force [~~which~~] that is reasonable and necessary to [~~effectuate forcible entry~~]forcibly enter a premises under this section.

[~~(3)~~](5) Subject to Subsection [~~(4)~~](6), if the [~~building~~]premises to be entered under Subsection [~~(2)~~](2)(a) appears to be a private residence or the peace officer knows the [~~building~~] premises is a private residence, and if there is no consent to enter or there are no exigent circumstances, the peace officer shall, before entering the [~~building~~]premises:

(a) obtain an arrest or search warrant if the [~~building~~]premises is the residence of the [~~person~~]individual to be arrested; or

(b) obtain a search warrant if the building is a private residence, but not the residence of the [~~person~~]individual whose arrest is sought.

[~~(4)~~](6) Before seeking a warrant from a judge or magistrate under Subsection [~~(2)~~](2)(a), a supervisory official shall, using the peace officer's affidavit:

(a) independently perform an assessment to evaluate the totality of the circumstances;

(b) ensure reasonable intelligence gathering efforts have been made;

(c) ensure a threat assessment was completed on the [~~person or building~~]individual or premises to be searched; and

(d) determine either that there is a sufficient basis to support seeking a warrant or require that the peace officer continue evidence gathering efforts.

[~~(5)~~](7) Notwithstanding any other provision of this chapter, [~~forcible entry under this section~~]a peace officer may not [~~be made~~]forcibly enter a premises based solely [~~for the alleged~~]on:

(a) the alleged possession or use of a controlled substance under Section 58-37-8; or

(b) [~~the~~]the alleged possession of drug paraphernalia as defined in Section 58-37a-3.

[~~(6)~~](8) All arrest warrants are subject to the conditions [~~set forth~~]described in Subsection 77-7-5(2).

[~~(7)~~](9) [~~Unless specifically requested by the affiant and approved by a judge or magistrate, all knock and announce warrants shall be served~~]A peace officer shall serve a knock and announce warrant during daytime hours unless a peace officer has requested, and a judge or magistrate has approved, for the warrant to be served during nighttime hours.

Section 2. Section 77-7-8.1 is amended to read:

77-7-8.1. Forcible entry to conduct a search -- Conditions requiring a warrant -- No-knock warrants.

(1) As used in this section:

(a) "Daytime hours" means the same as that term is defined in Section 77-7-5.

(b) ["~~Forcible entry~~"]"Forcibly enter" means the same as that term is defined in Section 77-7-8.

(c) "Nighttime hours" means the same as that term is defined in Section 77-7-5.

(d) "No-knock warrant" means a lawful search warrant that authorizes entry [~~into a building~~]onto a premises without notice to any occupant [~~in the property or building~~]on the premises at the time of service.

(e) "Supervisory official" means the same as that term is defined in Section 77-7-8.

(f) "Peace officer" means the same as that term is defined in Section 53-1-102.

(g) "Premises" means any property, building, room, conveyance, compartment, or other enclosure.

(2) Subject to the provisions of this section, [~~an~~]a peace officer serving a lawful no-knock warrant may [~~make a forcible entry onto the property or building~~]forcibly enter a premises to be searched without notice.

(3) Before seeking a no-knock warrant from a judge or magistrate under Subsection (2), a supervisory official shall, using the peace officer's affidavit:

(a) independently perform an assessment to evaluate the totality of the circumstances;

(b) ensure reasonable intelligence gathering efforts have been made;

(c) ensure a threat assessment was completed on the [~~person or building~~]individual or premises to be searched; and

(d) determine either that there is a sufficient basis to support seeking a warrant or require that the peace officer continue evidence gathering efforts.

(4)(a) The affidavit for a no-knock warrant shall describe:

(i) why the peace officer believes the suspect is unable to be detained or the residence searched using less invasive or less confrontational methods;

(ii) investigative activities that have been undertaken to ensure that the correct [~~building~~] premises is identified and that potential harm to innocent third parties, the [~~building~~]premises, and officers may be minimized; or

(iii) the present or imminent threat of serious bodily injury or death to [~~a person~~]an individual inside, outside, or in near proximity to the [~~building~~]premises.

(b) [~~A~~]A peace officer shall serve a no-knock warrant [~~shall be served~~]during daytime hours unless [~~the~~]a peace officer's affidavit states sufficient grounds to believe a search is necessary during nighttime hours.

(5) [~~Upon serving a no-knock warrant, an~~]An officer shall wear readily identifiable markings when serving a no-knock warrant, including a badge and vest or clothing with a distinguishing label or other writing [~~which~~]that shows that the [~~person~~]individual is a [~~law enforcement~~]peace officer.

(6) Notwithstanding any other provision of this chapter, [~~an~~]a peace officer may not request a no-knock warrant if the warrant is solely for a misdemeanor investigation.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 134
H. B. 204
Passed February 22, 2024
Approved March 13, 2024
Effective July 1, 2024

TOWING REQUIREMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to notice required for impound tows and tows that are not impound tows.

Highlighted Provisions:

This bill:

- allows a law enforcement officer to impound a vehicle if the operator:
  - operates the vehicle in willful or wanton disregard of the signal of a law enforcement officer so as to interfere with or endanger the operation of any vehicle or person; or
  - knowingly or intentionally attempts to flee or elude a law enforcement officer by vehicle or other means;
- clarifies what type of notice is required when a vehicle is impounded;
- clarifies what type of notice is required for the removal of a vehicle that is not an impound; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-210, as last amended by Laws of Utah 2018, Chapter 133
41-6a-505, as last amended by Laws of Utah 2023, Chapters 328, 415
41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
53-3-106, as last amended by Laws of Utah 2023, Chapter 328
63I-1-241, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335
72-9-603, as last amended by Laws of Utah 2022, Chapter 92
72-9-604, as last amended by Laws of Utah 2023, Chapter 219

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

Section 1. Section 41-6a-210 is amended to read:

41-6a-210. Failure to respond to officer's signal to stop -- Fleeing -- Causing property damage or bodily injury -- Suspension of driver's license -- Forfeiture of vehicle -- Penalties.

(1)(a) An operator who receives a visual or audible signal from a law enforcement officer to bring the vehicle to a stop may not:

(i) operate the vehicle in willful or wanton disregard of the signal so as to interfere with or endanger the operation of any vehicle or person; or

(ii) knowingly or intentionally attempt to flee or elude a law enforcement officer by vehicle or other means.

(b)(i) A person who violates Subsection (1)(a) is guilty of a felony of the third degree.

(ii) The court shall, as part of any sentence under this Subsection (1), impose a fine of not less than $1,000.

(c) A law enforcement officer may impound a vehicle of a person who violates Subsection (1)(a).

(2)(a) An operator who violates Subsection (1) and while so doing causes death or serious bodily injury to another person, under circumstances not amounting to murder or aggravated murder, is guilty of a felony of the second degree.

(b) The court shall, as part of any sentence under this Subsection (2), impose a fine of not less than $5,000.

(3)(a) In addition to the penalty provided under this section or any other section, a person who violates Subsection (1)(a) or (2)(a) shall have the person's driver license revoked under Subsection 53-3-220(1)(a)(ix) for a period of one year.

(b)(i) The court shall forward the report of the conviction to the division.

(ii) If the person is the holder of a driver license from another jurisdiction, the division shall notify the appropriate officials in the licensing state.

Section 2. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

(a) the court shall:

(i)(A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2)(a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i)(A) impose a jail sentence of not less than two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4)(a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or

had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed:

(a) the court shall:

(i)(A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6)(a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i)(A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8)(a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research Medical Cannabis, or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10)(a) For Subsection (9) or Subsection 41-6a-502(2)(c)(i), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12)(a)(i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 3. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is [~~removed or~~]impounded as provided under Section

41-1a-1101, 41-6a-210, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the [~~removal or~~] impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be [~~removed or~~]impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection [~~(10)~~](11).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is[~~:~~]

[~~(i) removed or~~] impounded as described in Subsection (1)[~~; or~~].

[~~(ii) removed or impounded by any law enforcement or government entity.~~]

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the [~~removal~~]impoundment shall be sent to the Motor Vehicle Division, in an electronic format approved by the Motor Vehicle Division, by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the case number designated by the peace officer, law enforcement agency number, or government entity;

[~~(iv)~~](v) the license number, temporary permit number, or other identification number issued by a state agency;

[~~(v)~~](vi) the date, time, and place of impoundment;

[~~(vi)~~](vii) the reason for removal or impoundment;

[~~(vii)~~](viii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

[~~(viii)~~](ix) the place where the vehicle, vessel, or outboard motor is stored.

(d)(i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(ii) The State Tax Commission shall ensure that the form described in this Subsection (4) is provided in an electronic format.

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) A report described in this Subsection (5) is required for any vehicle, vessel, or outboard motor that is removed, except for:

(i) a vehicle, vessel, or outboard motor that is impounded for a reason described in Subsection (1); or

(ii) a vehicle, vessel, or outboard motor for which a removal is performed in accordance with Section 72-9-603.

(b) For a removal described in Subsection (5)(a), the relevant law enforcement officer shall provide documentation to the tow truck operator or tow truck motor carrier that includes:

(i) the name and badge number of the peace officer;

(ii) the name and originating agency identifier of the law enforcement agency; and

(iii) the case number designated by the law enforcement officer or law enforcement agency.

(c) For a removal described in Subsection (5)(a), before noon on the next business day following the date of the removal of the vehicle, vessel, or outboard motor, the tow truck operator or tow truck motor carrier shall send to the Motor Vehicle Division in an electronic format approved by the Motor Vehicle Division:

(i) the report described in Subsection (4); or

(ii) the report described in Subsection (5)(d).

(d) For a removal described in Subsection (5)(a), if the tow truck operator or tow truck motor carrier does not provide the report described in Subsection (4), the tow truck operator or tow truck motor carrier shall provide a report to the Motor Vehicle Division that includes:

(i) the name and badge number of the relevant peace officer;

(ii) the name and originating agency identifier of the law enforcement agency;

(iii) the law enforcement agency case number;

(iv) subject to Subsection (5)(e), the vehicle identification number and the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date and time of the removal of the vehicle, vessel, or outboard motor; and

(vi) the reason for the removal of the vehicle, vessel, or outboard motor.

(e) If either the vehicle identification number or the license number, temporary permit number, or other identification number issued by a state agency is not available, the report shall include:

(i) as much information as is available from both the vehicle identification number and the license plate number of the vehicle, vessel, or outboard motor; and

(ii) a description of the vehicle, vessel, or outboard motor, including the color, make, model, and model year of the vehicle, vessel, or outboard motor.

(f) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (5), a tow truck motor carrier may not:

(i) collect any fee associated with the removal; or

(ii) begin charging storage fees.

(g) A vehicle, vessel, or outboard motor removed under this Subsection (5) shall be removed to:

(i) a state impound yard; or

(ii) a location that has been requested by the registered owner at the time of removal, if payment is made to the tow truck motor carrier or tow truck operator at the time of removal.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to establish proper format and information required on the form described in Subsection (5)(e), including submission in an electronic format.

[~~(5)~~](6)(a) Except as provided in Subsection [~~(5)(e)~~](6)(d) and upon receipt of [~~the report~~]a report described in Subsection (4) or (5), the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection [~~(5)(a)~~](6)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection [~~(5)(e)~~](6)(d) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection [~~(5)(a)~~](6)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

[~~(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.~~]

[~~(e)~~](d) The Motor Vehicle Division is not required to give notice under this Subsection [~~(5)~~](6) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

[~~(6)~~](7)(a) The vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released after a party described in Subsection [~~(5)(a)~~](6)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded or removed vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) Twenty-nine dollars of the administrative impound fee assessed under Subsection [~~(6)(a)(iv)~~](7)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection [~~(6)(a)(iv)~~](7)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection [~~(6)(a)(iv)~~](7)(a)(iv) shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and

(iv) the remainder of the administrative impound fee assessed under Subsection [~~(6)(a)(iv)~~](7)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection [~~(6)(a)(iv)~~](7)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection [~~(5)(a)~~](6)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection [~~(6)~~](7).

[~~(7)~~](8)(a) For an impounded or a removed vehicle, vessel, or outboard motor not claimed by a party described in Subsection [~~(5)(a)~~](6)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded or removed vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment or removal is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

[~~(8)~~](9) A party described in Subsection [~~(5)(a)~~](6)(a) that pays all fees and charges incurred in the impoundment or removal of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

[~~(9)~~](10) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

[~~(10)~~](11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

[~~(11)~~](12)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection [~~(11)(b)~~](12)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 4. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3)(a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of $45, $100 shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.

(6) All money received under Subsection [~~41-6a-1406(6)(c)(ii)~~]41-6a-1406(7)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner appointed under Section 26B-8-202 for use in carrying out duties related to highway crash deaths under Subsection 26B-8-205(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9)(a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health and Human Services, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 5. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) the subsection in Section 41-6a-102 that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection [~~41-6a-1406(6)(b)(iii)~~] 41-6a-1406(7)(b)(iii), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

Section 6. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

[~~(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection 41-6a-1406(4); and~~]

(i) provide relevant information to the impound vehicle service system database administered by the Motor Vehicle Division, including:

(A) the date and time of the removal of the vehicle, vessel, or outboard motor;

(B) a description of the vehicle, vessel, or outboard motor; and

(C) the vehicle identification number or vessel or outboard motor identification number; and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (16)(e).

(2) Until the tow truck operator or tow truck motor carrier reports the [~~removal as~~]information required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(a) collect any fee associated with the removal; or

(b) begin charging storage fees.

(3)(a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck motor carrier may not perform a tow truck service at the request or direction of a private property owner or the property owner's agent unless:

(i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the tow truck service; or

(ii) the property owner erects signage that meets the requirements of:

(A) Subsection (4)(b)(ii); and

(B) Subsection (7) or (8).

(b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or outboard motor:

(i) from a location where parking is prohibited by law, including:

(A) a designated fire lane;

(B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking stall or space; or

(C) a marked parking stall or space legally designated for disabled persons;

(ii) from a location where it is reasonably apparent that the location is not open to parking;

(iii) from a location where all public access points are controlled by:

(A) a permanent gate, door, or similar feature allowing the vehicle to access the facility; or

(B) a parking attendant;

(iv) from a location that materially interferes with access to private property;

(v) from the property of a detached single-family dwelling or duplex; or

(vi) pursuant to a legal repossession.

(4)(a) A private property owner may, subject to the requirements of a local ordinance, enforce parking restrictions by:

(i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce parking restrictions on behalf of the property owner in accordance with Subsection (7);

(ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier on a case-by-case basis in accordance with Subsection (8); or

(iii) requesting a tow from a tow truck motor carrier after providing 24-hour written notice in accordance with Subsection (9).

(b)(i) Any agreement between a private property owner and tow truck motor carrier authorizing the tow truck motor carrier to patrol and monitor the property under Subsection (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.

(ii) In addition to the signage described in Subsection (7) or (8), a private property owner who allows public parking shall erect appropriate signage on the property indicating clear instructions for parking at the property.

(iii) Where a single parking area includes abutting parcels of property owned by two or more private property owners who enforce different parking restrictions under Subsection (7) or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8), erect signage as required by this section:

(A) at each entrance to the property owner's parcel from another property owner's parcel; and

(B) if there is no clearly defined entrance between one property owner's parcel and another property owner's parcel, at intervals of 40 feet or less along the line dividing the property owner's parcel from the other property owner's parcel.

(iv) Where there is no clearly defined entrance to a parking area from a highway, the property owner shall erect signage as required by this section at intervals of 40 feet or less along any portion of a property line where a vehicle, vessel, or outboard motor may enter the parking area.

(5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

(6) In addition to any other powers provided by law, a political subdivision or state agency may:

(a) enforce parking restrictions in accordance with Subsections (7) through (9) on property that is:

(i) owned by the political subdivision or state agency;

(ii) located outside of the public right-of-way; and

(iii) open to public parking; and

(b) request or direct a tow truck service in order to abate a public nuisance on private property over which the political subdivision or state agency has jurisdiction.

(7) For private property where parking is enforced under Subsection (4)(a)(i), the property owner shall ensure that each entrance to the property has the following signs located on the

property and clearly visible to the driver of a vehicle entering the property:

(a) a top sign that is 24 inches tall by 18 inches wide and has:

(i) a blue, reflective background with a 1/2 inch white border;

(ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is Patrolled";

(iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed; and

(iv) two-inch, white letters at the bottom of the sign with the capitalized words "Towing Enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) a top half that is red background with white, reflective letters indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(ii) a bottom half that has a white, reflective background with red letters indicating:

(A) the name and telephone number of the tow truck motor carrier that the property owner has authorized to patrol the property; and

(B) the Internet web address "tow.utah.gov".

(8) For private property where parking is enforced under Subsection (4)(a)(ii):

(a) a tow truck motor carrier may not:

(i) patrol and monitor the property;

(ii) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or

(iii) act as the property owner's agent to request a tow truck service; and

(b) the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

(ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";

(iii) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(iv) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:

(A) either:

(I) the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service; or

(II) the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and

(B) the Internet web address "tow.utah.gov".

(9)(a) For private property without signage meeting the requirements of Subsection (7) or (8), the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the private property 24 hours after the property owner or the property owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance with this Subsection (9).

(b) The written notice described in Subsection (9)(a) shall:

(i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or outboard motor;

(ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or outboard motor will be towed from the property if it is not removed within 24 hours after the time indicated in Subsection (9)(b)(i);

(iii) be at least four inches tall and four inches wide; and

(iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on the driver's side window of the vehicle, vessel, or outboard motor.

(c) A property owner may authorize a tow truck motor carrier to act as the property owner's agent for purposes of affixing the written notice described in Subsection (9)(a) to a vehicle, vessel, or outboard motor.

(10) The department shall publish on the department Internet website the signage requirements and written notice requirements and illustrated or photographed examples of the signage and written notice requirements described in Subsections (7) through (9).

(11) It is an affirmative defense to any claim, based on the lack of notice, that arises from the towing of a vehicle, vessel, or outboard motor from private property that the property had signage meeting the requirements of:

(a) Subsection (4)(b)(ii); and

(b) Subsection (7) or (8).

(12) The party described in Subsection [~~41-6a-1406(5)(a)~~]41-6a-1406(6)(a) with an

interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (16); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(13)(a) The fees under Subsection (12) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection (13)(a) in an approved state impound yard until a party described in Subsection [~~41-6a-1406(5)(a)~~] 41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the fees described in Subsection (12); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

(14)(a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection [~~41-6a-1406(5)(a)~~]41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the fees described in Subsection (12); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

(15)(a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (16).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection (17), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal;

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (16)(a)(i); and

(iii) an impound yard may charge for the after-hours release of a vehicle, vessel, or outboard motor stored as a result of one of the conditions described in Subsection (16)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the [~~removal as~~]information required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection [~~41-6a-1406(5)(a)~~]41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b);

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(f) set a maximum rate for an after-hours fee allowed under Subsection (19)(b).

(17) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection [~~41-6a-1406(5)(a)~~]41-6a-1406(6)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(18)(a)(i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (16).

(ii) In addition to the maximum rates established under Subsection (16) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (16).

(19) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

(20) A tow truck motor carrier or a tow truck operator may not:

(a) share contact or other personal information of an owner of a vehicle, vessel, or outboard motor for which the tow truck motor carrier or tow truck operator has performed a tow service; and

(b) receive payment for referring a person for whom the tow truck motor carrier or tow truck operator has performed a tow service to another service, including:

(i) a lawyer referral service;

(ii) a medical provider;

(iii) a funding agency;

(iv) a marketer for any service described in Subsections (20)(b)(i) through (iii);

(v) a marketer for any other service; or

(vi) a third party vendor.

Section 7. Section 72-9-604 is amended to read:

72-9-604. Preemption of local authorities - - Tow trucks.

(1) As used in this section:

(a) "Abandoned" means a vehicle, vessel, or outboard motor for which a party described in Subsection [~~41-6a-1406(5)(a)~~]41-6a-1406(6)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice that the vehicle, vessel, or outboard motor was towed by a towing entity:

(i) pay the relevant fees; and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) "Towing entity" means:

(i) a political subdivision of this state;

(ii) a state agency;

(iii) an interlocal agency created under Title 11, Chapter 13, Interlocal Cooperation Act; or

(iv) a special service district created under Title 17D, Chapter 1, Special Service District Act.

(2)(a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

(i) any provision of this part;

(ii) Section 41-6a-1401;

(iii) Section 41-6a-1407; or

(iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

(i) is holding the vehicle, vessel, or outboard motor as evidence; and

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(3) A tow truck motor carrier that has a county or municipal business license for a place of business located within that county or municipality may not be required to obtain another business license in order to perform a tow truck service in another county or municipality if there is not a business location in the other county or municipality.

(4) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

(5) A county or municipal legislative body may require an annual tow truck safety inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

(a) no fee is charged for the inspection; and

(b) the inspection complies with federal motor carrier safety regulations.

(6)(a) A tow truck shall be subject to only one annual safety inspection under Subsection (5)(b).

(b) A county or municipality that requires the additional annual safety inspection shall accept the same inspection performed by another county or municipality.

(7)(a)(i) If a towing entity uses a towing dispatch vendor described in Section 53-1-106.2, the towing

entity may charge a fee to cover costs associated with the use of a dispatch vendor as described in Section 53-1-106.2.

(ii) Except as provided in Subsection (8), a fee described in Subsection (7)(a)(i) may not exceed the actual costs of the dispatch vendor contracted to provide the dispatch service.

(b)(i) Except as provided in Subsection (7)(b)(ii), if a towing entity does not use a towing dispatch vendor described in Section 53-1-106.2, the towing entity may not charge a fee to cover costs associated with providing towing dispatch and rotation service.

(ii) A special service district created under Title 17D, Chapter 1, Special Service District Act, that charges a dispatch fee on or before January 1, 2023, may continue to charge a fee related to dispatch costs.

(iii) Except as provided in Subsection (8), a fee described in Subsection (7)(b)(ii) may not exceed an amount reasonably reflective to the actual costs of providing the towing dispatch and rotation service.

(c) A towing entity may not charge a fee described in Subsection (7)(a)(i) or (7)(b)(ii) unless the relevant governing body of the towing entity has approved the fee amount.

(d) In addition to fees set by the department in rules made in accordance with Subsection 72-9-603(16), a tow truck operator or a tow truck motor carrier may pass through a fee described in this Subsection (7) to owners, lien holders, or insurance providers of towed vehicles, vessels, or outboard motors.

(8)(a) In addition to the fees described in Subsection (7), a tow truck operator or tow truck motor carrier may charge an additional fee to absorb unrecovered costs of abandoned vehicles related to the fees described in Subsections (7)(a)(i) and (7)(b)(ii).

(b) Beginning May 3, 2023, and ending on June 30, 2025, a tow truck operator or tow truck motor carrier may charge a fee described in Subsection (8)(a) in an amount not to exceed an amount greater than 25% of the relevant fee described in Subsection (7)(a)(i) or (7)(b)(ii).

(c)(i) Beginning January 1, 2025, and annually thereafter, the towing entity shall, based on data provided by the State Tax Commission, determine the percentage of vehicles, vessels, or outboard motors that were abandoned during the previous year by:

(A) determining the total number of vehicles, vessels, or outboard motors that were towed as part of a towing entity's towing rotation during the previous calendar year that were also abandoned; and

(B) dividing the number described in Subsection (8)(c)(i)(A) by the total number of vehicles, vessels, or outboard motors that were towed as part of the towing entity's towing rotation during the previous calendar year.

(ii) No later than March 31, 2025, and each year thereafter, the towing entity shall publish:

(A) the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii); and

(B) the percentage described in Subsection (8)(c)(i).

(iii) Beginning on July 1, 2025, and each year thereafter, a tow truck operator or a tow truck motor carrier may charge a fee authorized in Subsection (8)(a) in an amount equal to the percentage described in Subsection (8)(c)(i) multiplied by the relevant fee amount described in Subsection (7)(a)(i) or (7)(b)(ii).

(d) A tow truck operator or tow truck motor carrier shall list on a separate line on the towing invoice any fee described in this Subsection (8).

(9) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(10) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

Section 8. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 135
H. B. 213
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIME VICTIM RECORDS AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill places restrictions on certain records relating to crime victims.

Highlighted Provisions:

This bill:

- defines terms;
- provides that certain records relating to the payment of reparations by the Utah Office for Victims of Crime are not public records;
- allows for the release of certain records relating to the payment of reparations by the Utah Office for Victims of Crime under certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-30, as last amended by Laws of Utah 2022, Chapter 415
52-4-205, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
63G-2-305.5, as last amended by Laws of Utah 2021, Chapter 231
63M-7-502, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430
63M-14-205, as enacted by Laws of Utah 2021, Chapter 179
63N-16-201, as last amended by Laws of Utah 2022, Chapter 332

ENACTS:

63M-7-527, Utah Code Annotated 1953

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

Section 1. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website; or

(b) the booking photograph is a protected record under Subsection 63G-2-305[~~(81)~~](80).

(3)(a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4)(a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5)(a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 2. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed

to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26B-1-403, to review and discuss an individual case, as described in Subsection 26B-1-403(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection [~~63G-2-305(82)~~] 63G-2-305(81);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection [~~63G-2-305(83)~~]63G-2-305(82);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

[~~(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:~~]

[~~(a) a victim's application or request for benefits;~~]

[~~(b) a victim's receipt or denial of benefits; and~~]

[~~(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;~~]

[~~(65)~~](64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

[~~(66)~~](65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except

for application materials for a publicly announced finalist;

[~~(67)~~](66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

[~~(68)~~](67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

[~~(69)~~](68) work papers as defined in Section 31A-2-204;

[~~(70)~~](69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

[~~(71)~~](70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

[~~(72)~~](71) a record described in Section 31A-37-503;

[~~(73)~~](72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

[~~(74)~~](73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

[~~(75)~~](74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

[~~(76)~~](75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

[~~(77)~~](76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection [~~(75) or (76)~~](74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

[~~(78)~~](77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

[~~(79)~~](78) a record submitted to the Insurance Department under Section 31A-48-103;

[~~(80)~~](79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

[~~(81)~~](80) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

[~~(82)~~](81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

[~~(83)~~](82) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection [~~(83)~~](82) may not be used to restrict access to a record evidencing a final contract or approval decision;

[~~(84)~~](83) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection [~~(84)(a)~~](83)(a);

[~~(85)~~](84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

[~~(86)~~](85) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and

[~~(87)~~](86) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 4. Section 63G-2-305.5 is amended to read:

63G-2-305.5. Viewing or obtaining lists of signatures.

(1) The records custodian of a signature described in Subsection [~~63G-2-305(75)~~]63G-2-305(74) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of the individuals who signed the petition or request; and

(b) permit an individual to view, but not take a copy or other image of, the signatures on a political petition described in Subsection [~~63G-2-305(75)~~]63G-2-305(74).

(2) The records custodian of a signature described in Subsection [~~63G-2-305(76)~~]63G-2-305(75) shall, upon request, except for a name or signature classified as private under Title 20A, Chapter 2, Voter Registration:

(a) provide a list of the names of registered voters, excluding the names that are classified as private under Title 20A, Chapter 2, Voter Registration; and

(b) except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, permit an individual to view, but not take a copy or other image of, the signature on a voter registration record.

(3) Except for a signature classified as private under Title 20A, Chapter 2, Voter Registration, the records custodian of a signature described in Subsection [~~63G-2-305(77)~~]63G-2-305(76) shall, upon request, permit an individual to view, but not take a copy or other image of, a signature.

Section 5. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(6) "Child" means an unemancipated individual who is under 18 years old.

(7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the [~~victim or~~]claimant has received, or that is readily available to the [~~victim~~]claimant from:

(a) the offender;

(b) the insurance of the offender or the [~~victim~~]claimant;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the [~~victim~~]claimant for the loss the [~~victim~~]claimant sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(8)(a) "Confidential record" means a record in the custody of the office that relates to a claimant's eligibility for a reparations award.

(b) "Confidential record" includes:

(i) a reparations claim;

(ii) any correspondence regarding:

(A) the approval or denial of a reparations claim; or

(B) the payment of a reparations award;

(iii) a document submitted to the office in support of a reparations award;

(iv) a medical or mental health treatment plan; and

(v) an investigative report provided to the office by a law enforcement agency.

[~~(8)~~](9) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(9)~~](10)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

[~~(10)~~](11)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

[~~(11)~~](12) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

[~~(12)~~](13) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

[~~(13)~~](14) "Director" means the director of the office.

[~~(14)~~](15) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

[~~(15)~~](16)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

[~~(16)~~](17) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

[~~(17)~~](18) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

[~~(18)~~](19) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

[~~(19)~~](20)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection [~~(19)(a)~~](20)(a).

[~~(20)~~](21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(21)~~](22)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

[~~(22)~~](23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(23)~~](24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(24)~~](25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

[~~(25)~~](26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(27) "Nonpublic restitution record" means a restitution record that contains a claimant's medical or mental health information.

[~~(26)~~](28) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

[~~(27)~~](29) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

[~~(28)~~](30) "Offense" means a violation of Title 76, Utah Criminal Code.

[~~(29)~~](31) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[~~(30)~~](32) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(33) "Public restitution record" means a restitution record that does not contain a claimant's medical or mental health information.

[~~(31)~~](34) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(32)~~](35) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(33)~~](36)(a) "Reparations officer" means an individual employed by the office to investigate [~~claims of victims~~]a claimant's request for reparations and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(34)~~](37) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(35)~~](38)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(36)~~](39) "Restitution" means the same as that term is defined in Section 77-38b-102.

(40)(a) "Restitution record" means a record documenting payments made to, or on behalf of, a claimant by the office that the office relies on to support a restitution request made in accordance with Section 77-38b-205.

(b) "Restitution record" includes:

(i) a notice of restitution;

(ii) an itemized list of payments;

(iii) an invoice, receipt, or bill submitted to the office for reimbursement; and

(iv) any documentation that the office relies on to establish a nexus between an offender's criminally injurious conduct and a reparations award made by the office.

[~~(37)~~](41) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~](42) "Service provider" means an individual or agency who provides a service to a [~~victim~~]claimant for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(39)~~](43) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(40)~~](44) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

[~~(41)~~](45) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(42)~~](46) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(43)~~](47)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(44)~~](48) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 6. Section 63M-7-527 is enacted to read:

63M-7-527. Records -- Requirements for release.

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a confidential record, a public restitution record, and a nonpublic restitution record may only be disclosed as provided in this section.

(2) A confidential record may be provided to:

(a) the claimant who is the subject of the record if the record requested does not contain mental health treatment information; or

(b) the person who submitted the record to the office.

(3) A confidential record may be used in:

(a) a criminal investigation or prosecution when the office suspects that a reparations claim may be fraudulent; or

(b) a subrogation action brought by the office in accordance with Section 63M-7-519.

(4)(a) The office may disclose a public restitution record for the purpose of carrying out this part.

(b) The office shall disclose a public restitution record to the Board of Pardons and Parole for a restitution matter.

(5)(a) If the office requests restitution in a criminal case and the offender requests a restitution hearing, the office shall provide a nonpublic restitution record to the court, the prosecuting attorney, and counsel for the offender.

(b) A person may not:

(i) disseminate a nonpublic restitution record obtained under this Subsection (5); or

(ii) share a nonpublic restitution record with the offender unless the office and claimant agree, in writing, to the disclosure.

(6) Before the office may disclose a restitution record under Subsection (4) or (5), the office shall redact:

(a) the name, not including the initials, of a minor or an individual who has been the victim of a sexual assault;

(b) the contact information of a claimant or a witness, including a physical address, phone number, or email address;

(c) a claimant's date of birth and social security number; and

(d) any information that would jeopardize the health or safety of a claimant.

Section 7. Section 63M-14-205 is amended to read:

63M-14-205. Records.

(1) The records of the authority and the river commissioner shall be maintained by the authority.

(2) The authority may classify a record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, including a record described in Subsection 63G-2-305[~~(82)~~](81).

Section 8. Section 63N-16-201 is amended to read:

63N-16-201. General Regulatory Sandbox Program -- Application requirements.

(1) There is created in the regulatory relief office the General Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the regulatory relief office:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain legal protections and limited access to the

market in the state to demonstrate an offering without obtaining a license or other authorization that might otherwise be required;

(c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and

(d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.

(3)(a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.

(b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program.

(c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.

(4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:

(a) confirms the applicant is subject to the jurisdiction of the state;

(b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an offering will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) contains a description of the offering to be demonstrated, including statements regarding:

(i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;

(ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;

(iii) how the offering would benefit consumers;

(iv) how the offering is different from other offerings available in the state;

(v) what risks might exist for consumers who use or purchase the offering;

(vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;

(vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;

(viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and

(ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;

(f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and

(g) provides any other required information as determined by the regulatory relief office.

(5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(6) An applicant shall file a separate application for each offering that the applicant wishes to demonstrate.

(7) After an application is filed, the regulatory relief office shall:

(a) classify, as a protected record, any part of the application that the office determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant in accordance with Subsection 63G-2-305[~~(83)~~](82);

(b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and

(c) seek additional information from the applicant that the regulatory relief office determines is necessary.

(8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:

(a) review the application and refer the application to each applicable government agency that regulates the applicant's business;

(b) provide to the applicant:

(i) an acknowledgment of receipt of the application; and

(ii) the identity and contact information of each regulatory agency to which the application has been referred for review; and

(c) provide public notice, on the office's website and through other appropriate means, of each law or regulation that the office is considering to suspend or waive under the application.

(9)(a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.

(b) The report shall:

(i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and

(ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.

(c)(i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.

(ii) The applicable agency may only request one extension per application.

(d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.

(e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.

(f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.

(g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:

(i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:

(A) required by federal law or regulation; or

(B) previously approved for use by a federal agency; or

(ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:

(A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and

(B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.

(h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10)(a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.

(b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.

(c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.

(d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11)(a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.

(b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant; and

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

(a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

(b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and

(c) certain state laws or regulations that regulate an offering should not be waived or suspended even

if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14)(a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.

(b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15)(a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

(b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.

(c) The denial of an application submitted under this section is not subject to:

(i) agency or judicial review; or

(ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) The director shall deny an application for participation in the regulatory sandbox described by this section if the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.

(17)(a) When an applicant is approved for participation in the regulatory sandbox, the director shall provide public notice of the approval on the office's website and through other appropriate means.

(b) The public notice described in Subsection (17)(a) shall state:

(i) the name of the sandbox participant;

(ii) the industries the sandbox participant represents; and

(iii) each law or regulation that is suspended or waived for the sandbox participant as allowed by the regulatory sandbox.

(18) In addition to the information described in Subsection (17), the office shall make the following information available on the office's website and through other appropriate means:

(a) documentation regarding the office's determination and grounds for approving each sandbox participant; and

(b) public notice regarding any sandbox participant's revocation to participate in the regulatory sandbox.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 136
H. B. 215
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

HOME SOLAR ENERGY AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Residential Solar Energy Disclosure Act.

Highlighted Provisions:

This bill:

- requires a solar retailer to provide a copy of the signed agreement in electronic form, and offer the customer a paper form;
- prohibits beginning installation until four business days after providing the signed copy of the solar agreement to the customer;
- provides the customer with a four business day cancellation period after receiving the agreement;
- adds enforcement authority for the Division of Consumer Protection, including court action; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-52-201, as enacted by Laws of Utah 2018, Chapter 290
13-52-202, as enacted by Laws of Utah 2018, Chapter 290
13-52-301, as enacted by Laws of Utah 2018, Chapter 290

ENACTS:

13-52-207, Utah Code Annotated 1953

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

Section 1. Section 13-52-201 is amended to read:

13-52-201. Disclosure statement required.

(1)[~~(a) Before~~]At the time of entering a solar agreement, a solar retailer shall provide to a potential customer a separate, written disclosure statement as provided in this section and, as applicable, Sections 13-52-202, 13-52-203, 13-52-204, and 13-52-205.

[~~(b)(i) The requirement under Subsection (1)(a) may be satisfied by the electronic delivery of a disclosure statement to the potential customer.~~]

[~~(ii) An electronic document under Subsection (1)(a) satisfies the font-size standard under Subsection (2)(a) if the required disclosures are displayed in a clear and conspicuous manner.~~]

(2) A disclosure statement under Subsection (1) shall:

(a) be in paper form;

(b) be in at least 12-point font;

[~~(b)~~](c) contain:

(i) the name, address, telephone number, and any email address of the potential customer;

(ii) the name, address, telephone number, and email address of the solar retailer; and

(iii)(A) the name, address, telephone number, email address, and state contractor license number of the person who is expected to install the system that is the subject of the solar agreement; and

(B) if the solar retailer selected the person who is expected to provide operations or maintenance support to the potential customer or introduced that person to the potential customer, the name, address, telephone number, email address, and state contractor license of the operations or maintenance support person; and

[~~(c)~~](d) include applicable information and disclosures as provided in Sections 13-52-202, 13-52-203, 13-52-204, and 13-52-205.

Section 2. Section 13-52-202 is amended to read:

13-52-202. Contents of disclosure statement for any solar agreement.

If a solar retailer is proposing to enter any solar agreement with a potential customer, the disclosure statement required in Subsection 13-52-201(1) shall include:

(1) a statement indicating that operations or maintenance services are not included as part of the solar agreement, if those services are not included as part of the solar agreement;

(2) if the solar retailer provides any written estimate of the savings the potential customer is projected to realize from the system:

(a)(i) the estimated projected savings over the life of the solar agreement; and

(ii) at the discretion of the solar retailer, the estimated projected savings over any longer period not to exceed the anticipated useful life of the system;

(b) any material assumptions used to calculate estimated projected savings and the source of those assumptions, including:

(i) if an annual electricity rate increase is assumed, the rate of the increase and the solar retailer's basis for the assumption of the rate increase;

(ii) the potential customer's eligibility for or receipt of tax credits or other governmental or utility incentives;

(iii) system production data, including production degradation;

(iv) the system's eligibility for interconnection under any net metering or similar program;

(v) electrical usage and the system's designed offset of the electrical usage;

(vi) historical utility costs paid by the potential customer;

(vii) any rate escalation affecting a payment between the potential customer and the solar retailer; and

(viii) the costs associated with replacing equipment making up part of the system or, if those costs are not assumed, a statement indicating that those costs are not assumed; and

(c) two separate statements in capital letters in close proximity to any written estimate of projected savings, with substantially the following form and content:

(i) "THIS IS AN ESTIMATE. UTILITY RATES MAY GO UP OR DOWN AND ACTUAL SAVINGS, IF ANY, MAY VARY. HISTORICAL DATA ARE NOT NECESSARILY REPRESENTATIVE OF FUTURE RESULTS. FOR FURTHER INFORMATION REGARDING RATES, CONTACT YOUR LOCAL UTILITY OR THE STATE PUBLIC SERVICE COMMISSION."; and

(ii) "TAX AND OTHER FEDERAL, STATE, AND LOCAL INCENTIVES VARY AS TO REFUNDABILITY AND ARE SUBJECT TO CHANGE OR TERMINATION BY LEGISLATIVE OR REGULATORY ACTION, WHICH MAY IMPACT SAVINGS ESTIMATES. CONSULT A TAX PROFESSIONAL FOR MORE INFORMATION.";

(3) a notice with substantially the following form and content: "Legislative or regulatory action may affect or eliminate your ability to sell or get credit for any excess power generated by the system, and may affect the price or value of that power.";

(4) a notice describing any right a customer has under Section 13-52-207, and any other applicable law to cancel or rescind a solar agreement;

(5) a statement describing the system and indicating the system design assumptions, including the make and model of the solar panels and inverters, system size, positioning of the panels on the customer's property, estimated first-year energy production, and estimated annual energy production degradation, including the overall percentage degradation over the term of the solar agreement or, at the solar retailer's option, over the estimated useful life of the system;

(6) a description of any warranty, representation, or guarantee of energy production of the system;

(7) the approximate start and completion dates for the installation of the system;

(8) a statement that the solar retailer may not begin installation of the system until at least four business days after the day on which the solar retailer and customer enter into a contract;

[~~(8)~~](9) a statement indicating whether any warranty or maintenance obligations related to the system may be transferred by the solar retailer to a third party and, if so, a statement with substantially the following form and content: "The maintenance and repair obligations under your contract may be assigned or transferred without your consent to a third party who will be bound to all the terms of the contract. If a transfer occurs, you will be notified of any change to the address, email address, or phone number to use for questions or payments or to request system maintenance or repair.";

[~~(9)~~](10) if the solar retailer will not obtain customer approval to connect the system to the customer's utility, a statement to that effect and a description of what the customer must do to interconnect the system to the utility;

[~~(10)~~](11) a description of any roof penetration warranty or other warranty that the solar retailer provides the customer or a statement, in bold capital letters, that the solar retailer does not provide any warranty;

[~~(11)~~](12) a statement indicating whether the solar retailer will make a fixture filing or other notice in the county real property records covering the system, including a Notice of Independently Owned Solar Energy System, and any fees or other costs associated with the filing that may be charged to the customer;

[~~(12)~~](13) a statement in capital letters with substantially the following form and content: "NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO MAKE ANY PROMISE TO YOU THAT IS NOT CONTAINED IN THIS DISCLOSURE STATEMENT CONCERNING COST SAVINGS, TAX BENEFITS, OR GOVERNMENT OR UTILITY INCENTIVES. YOU SHOULD NOT RELY UPON ANY PROMISE OR ESTIMATE THAT IS NOT INCLUDED IN THIS DISCLOSURE STATEMENT.";

[~~(13)~~](14) a statement in capital letters with substantially the following form and content: "[name of solar retailer] IS NOT AFFILIATED WITH ANY UTILITY COMPANY OR GOVERNMENT AGENCY. NO EMPLOYEE OR REPRESENTATIVE OF [name of solar retailer] IS AUTHORIZED TO CLAIM AFFILIATION WITH A UTILITY COMPANY OR GOVERNMENT AGENCY."; and

[~~(14)~~](15) any additional information, statement, or disclosure the solar retailer considers appropriate, as long as the additional information, statement, or disclosure does not have the purpose or effect of obscuring the disclosures required under this part.

Section 3. Section 13-52-207 is enacted to read:

13-52-207. Customer ability to cancel solar agreement.

(1) A solar retailer shall provide to the customer a copy of the signed solar agreement, including any disclosures required under this chapter:

(a) in electronic and in paper form, unless the customer declines the paper copy in writing; and

(b) if the solar retailer marketed services for residential solar energy systems to the customer in a language other than English, in that language.

(2) A solar agreement is not enforceable against the customer unless the requirements in Subsection (1) are met.

(3) A solar retailer may not begin installation of any solar equipment until four business days after the day on which the solar retailer provides the customer the solar agreement described in Subsection (1).

(4) If a customer cancels a solar agreement under Subsection 13-11-4(2)(m) or Subsection 13-26-5(2)(a), the solar retailer shall within 10 days:

(a) return any check signed by the customer as payment under the terms of the solar agreement; and

(b) refund any money provided by the customer under the terms of the solar agreement.

(5) A solar agreement described in Subsection (1) shall clearly:

(a) state the customer's right to cancel the solar agreement under this section; and

(b) provide an email address and a mailing address where the customer can send the solar retailer a notice of cancellation of the solar agreement.

(6) Subsection (1)(a) only applies to sales where the customer has a right to cancel the purchase as described in Subsection 13-11-4(2)(m) or Subsection 13-26-5(2)(a).

Section 4. Section 13-52-301 is amended to read:

13-52-301. Division enforcement authority -- Administrative fine.

(1) Subject to Subsection (2), the division may enforce the provisions of this chapter by:

(a) conducting an investigation into an alleged violation of this chapter;

(b) issuing a cease and desist order against a further violation of this chapter; [~~and~~]

(c) imposing an administrative fine of up to $2,500 for each violation of this chapter; and

(d) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

[~~(c) imposing an administrative fine of no more than $2,500 per solar agreement on a solar retailer that:~~]

[~~(i) materially fails to comply with the disclosure requirements of this chapter; or~~]

[~~(ii) violates any other provision of this chapter, if the division finds that the violation is a willful or intentional attempt to mislead or deceive a customer.~~]

(2) [~~The division may not commence any enforcement action under this section more than four years after the date of execution of the solar agreement with respect to which a violation is alleged to have occurred.~~]In a court action by the division to enforce a provision of this chapter, the court may:

(a) declare that an act or practice violates a provision of this chapter;

(b) issue an injunction for a violation of this chapter;

(c) order disgorgement of any money received in violation of this chapter;

(d) order payment of disgorged money to an injured purchaser or consumer;

(e) impose a fine of up to $2,500 for each violation of this chapter; or

(f) award any other relief that the court deems reasonable and necessary.

(3) The division shall, in its discretion:

(a) deposit an administrative fine collected under Subsection (1)(c) in the Consumer Protection Education and Training Fund created in Section 13-2-8; or

(b) distribute an administrative fine collected under Subsection (1)(c) to a customer adversely affected by the solar retailer's failure or violation resulting in a fine under Subsection (1)(c), if the division has conducted an administrative proceeding resulting in a determination of the appropriateness and amount of any distribution to a customer.

(4) Nothing in this chapter may be construed to affect:

(a) a remedy a customer has independent of this chapter; or

(b) the division's ability or authority to enforce any other law or regulation.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 137
H. B. 216
Passed February 21, 2024
Approved March 13, 2024
Effective May 1, 2024

ELIMINATING MINIMUM TIME REQUIREMENTS FOR PROFESSIONAL TRAINING

Chief Sponsor: Norman K Thurston
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses the educational and experience requirements for certain professions.

Highlighted Provisions:

This bill:

- eliminates the requirement that an applicant for one of the following licenses complete certain educational or experience requirements within a minimum time period: funeral service director, barber, esthetician, audiologist, massage therapist, and psychologist; and
- prohibits the Division of Real Estate from requiring an applicant for an appraiser license to complete the educational or experience requirements within a minimum time period.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-9-302, as last amended by Laws of Utah 2022, Chapter 415
58-11a-302, as last amended by Laws of Utah 2021, Chapters 285, 409
58-41-5, as last amended by Laws of Utah 2020, Chapter 339
58-47b-302, as last amended by Laws of Utah 2023, Chapter 225
58-61-304, as last amended by Laws of Utah 2020, Chapter 339
61-2g-311, as last amended by Laws of Utah 2014, Chapter 350
61-2g-313, as last amended by Laws of Utah 2014, Chapter 350

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

Section 1. Section 58-9-302 is amended to read:

58-9-302. Qualifications for licensure.

(1) Each applicant for licensure as a funeral service director shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have obtained a high school diploma or its equivalent or a higher education degree;

(d) have obtained an associate degree, or its equivalent, in mortuary science from a school of funeral service accredited by the American Board of Funeral Service Education or other accrediting body recognized by the U.S. Department of Education;

(e) have completed not less than 2,000 hours and 50 embalmings[~~, over a period of not less than one year,~~] of satisfactory performance in training as a licensed funeral service intern under the supervision of a licensed funeral service director; and

(f) obtain a passing score on examinations approved by the division in collaboration with the board.

(2) Each applicant for licensure as a funeral service intern shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have obtained a high school diploma or its equivalent or a higher education degree; and

(d) obtain a passing score on an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a funeral service establishment and each funeral service establishment licensee shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have in place:

(i) an embalming room for preparing dead human bodies for burial or final disposition, which may serve one or more facilities operated by the applicant;

(ii) a refrigeration room that maintains a temperature of not more than 40 degrees fahrenheit for preserving dead human bodies prior to burial or final disposition, which may serve one or more facilities operated by the applicant; and

(iii) maintain at all times a licensed funeral service director who is responsible for the day-to-day operation of the funeral service establishment and who is personally available to perform the services for which the license is required;

(d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service director if the funeral service establishment sells preneed funeral arrangements;

(e) file with the completed application a copy of each form of contract or agreement the applicant will use in the sale of preneed funeral arrangements;

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product to be sold by the provider or the provider's sales agent; and

(g) if the applicant intends to offer alkaline hydrolysis in a funeral service establishment, provide evidence that in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the funeral service establishment meets the minimum standards for the handling, holding, and processing of deceased human remains in a safe, clean, private, and respectful manner; and

(ii) all operators of the alkaline hydrolysis equipment have received adequate training.

(4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have obtained a high school diploma or its equivalent or a higher education degree;

(d) have obtained a passing score on an examination approved by the division in collaboration with the board;

(e) affiliate with a licensed funeral service establishment; and

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product.

Section 2. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours[~~, over a period of not less than 25 weeks~~];

(ii)(A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(c)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(d) meet one of the following requirements established by rule:

(i) pass an examination that consists of a written theory portion and a practical portion; or

(ii) pass a practical examination and provide the written attestation of a licensed barber or cosmetologist/barber instructor who participated in the school or training under Subsection (1)(c), stating that the applicant has the necessary training and skill to be a licensed barber.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 250 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,000 hours of experience as a barber; and

(e) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii)(A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(d) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 400 hours or the equivalent number of credit hours; or

(iii) a minimum of 3,000 hours of experience as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(d) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 150 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(e) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school[~~ whose curriculum consists of not less than 15 weeks of esthetic instruction~~] with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii)(A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(c)(iii)(A); and

(d) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(e) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience in esthetics; and

(e) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii)(A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(c)(ii)(A);

(iii) being a state licensed cosmetologist/barber; or

(iv) completion of an approved hair designer apprenticeship; and

(d) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 300 hours or the equivalent number of credit hours; or

(iii) a minimum of 2,500 hours of experience as a hair designer or as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii)(A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(c)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(d) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (24), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 75 hours or the equivalent number of credit hours; or

(iii) a minimum of 600 hours of experience in nail technology; and

(e) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (22).

(20) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

(21)(a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection (21)(a).

(22) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

(23) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

(24) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

(25) In order to encourage economic development in the state, the department may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

Section 3. Section 58-41-5 is amended to read:

58-41-5. Licensure requirements.

(1) To obtain and maintain a license as an audiologist beginning July 1, 2010, an applicant must:

(a) submit a completed application in the form and content prescribed by the division and pay a fee to the department in accordance with Section 63J-1-504;

(b) provide the committee with verification that the applicant is the legal holder of a clinical doctor's degree or AuD, in audiology, from an accredited university or college, based on a program of studies primarily in the field of audiology;

(c) be in compliance with the regulations of conduct and codes of ethics for the profession of audiology;

(d) submit to the board certified evidence of having completed at least one academic year of professional experience, at least 30 hours per week,[~~for an academic year,~~] of direct clinical experience in treatment and management of patients, supervised and attested to by one holding an audiologist license under this chapter, the CCC, or their full equivalent; and

(e) pass a nationally standardized examination in audiology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed audiologists appointed by the board.

(2) To obtain and maintain a license as an audiologist prior to July 1, 2010, an applicant shall:

(a) comply with Subsections (1)(a), (c), (d), and (e); and

(b) provide the committee with verification that the applicant has received at least a master's degree in the area of audiology from an accredited university or college, based on a program of studies primarily in the field of audiology, and holds the CCC or its full equivalent.

(3) An individual who, prior to July 1, 2010, is licensed as an audiologist under this chapter is, on or after July 1, 2010, considered to hold a current license under this chapter as an audiologist and is subject to this chapter.

(4) To obtain and maintain a license as a speech-language pathologist, an applicant must:

(a) comply with Subsection (1)(a);

(b) provide the committee with verification that the applicant has received at least a master's degree in speech-language pathology from an accredited university or college, based on a program of studies primarily in the field of speech-language pathology;

(c) be in compliance with the regulations of conduct and code of ethics for the profession of speech-language pathology;

(d) comply with Subsection (1)(b), except that the supervision and attestation requirement shall be from a licensed speech-language pathologist rather than a licensed audiologist; and

(e) pass a nationally standardized examination in speech-language pathology which is the same as or equivalent to the examination required for the CCC and with pass-fail criteria equivalent to current ASHA standards, and the board may require the applicant to pass an acceptable practical demonstration of clinical skills to an examining committee of licensed speech-language pathologists appointed by the board.

Section 4. Section 58-47b-302 is amended to read:

58-47b-302. License classifications -- Qualifications for licensure.

(1) The division shall issue licenses under this chapter in the classifications of:

(a) massage therapist;

(b) massage apprentice;

(c) massage assistant; and

(d) massage assistant in-training.

(2) An applicant for licensure as a massage therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older;

(d) have either:

(i)(A) graduated from a school of massage having a curriculum that meets standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) completed equivalent education and training in compliance with division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) completed a massage apprenticeship program consisting of a minimum of 1,000 hours of supervised training[~~over a minimum of 12 months~~] and in accordance with standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(e) pass:

(i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing Examination; or

(ii) any other examination established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for licensure as a massage apprentice shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) be 18 years old or older;

(d) provide satisfactory evidence to the division that the applicant will practice as a massage apprentice only under the direct supervision of a licensed massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy as a licensed massage therapist; and

(e) pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4)(a) An applicant for licensure as a massage assistant shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department in accordance with Section 63J-1-504;

(iii) be 18 years old or older;

(iv) subject to Subsection (4)(b), complete at least 300 hours of education and training approved by division rule made accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(v) provide satisfactory evidence to the division that the applicant will practice as a massage assistant only under the indirect supervision of a massage therapy supervisor; and

(vi) pass an examination as required by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The 300-hour education and training requirement described in Subsection (4)(a) shall include:

(i) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the direct supervision of a massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy; and

(ii) at least 150 hours of education and training while the applicant is:

(A) enrolled in massage school; or

(B) licensed as a massage assistant in-training and under the indirect supervision of a massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful practice of massage therapy.

(5) An applicant for licensure as a massage assistant in-training shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department in accordance with Section 63J-1-504;

(c) be 18 years old or older; and

(d) provide satisfactory evidence to the division that the applicant will practice as a massage assistant in-training under the supervision of a massage therapist for a period of no more than six months for the purpose of satisfying the requirements described in Subsections (4)(a)(iv) and (4)(b) for licensure as a massage assistant.

(6)(a) A massage therapist may supervise at one time up to six individuals licensed as a massage apprentice or massage assistant in-training.

(b) A massage therapy supervisor may supervise at one time up to six individuals licensed as a massage assistant.

(7) A new massage therapist, massage apprentice, massage assistant, or massage assistant in-training applicant shall submit to and pass a criminal background check in accordance with Section 58-47b-302.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section 58-61-304 is amended to read:

58-61-304. Qualifications for licensure by examination or endorsement.

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(d) have completed a minimum of 4,000 hours of psychology training as defined by division rule under Section 58-1-203[~~ in not less than two years and~~] under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

(e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)(d), and for which documented evidence demonstrates not less

than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203;

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3)(a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), (g), and (h).

(b)(i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the Psychologist Licensing Board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 6. Section 61-2g-311 is amended to read:

61-2g-311. State-licensed appraiser -- Authority and qualifications.

(1) A state-licensed appraiser is authorized to appraise complex and noncomplex 1-4 family residential units in this state having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations.

(2) A state-licensed appraiser is authorized to appraise vacant or unimproved land having a transaction value permitted under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and related federal regulations that is utilized for 1-4 family purposes or for which the highest and best use is 1-4 family purposes and subdivisions for which a development analysis/appraisal is not necessary.

(3) A state-licensed appraiser may not issue a certified appraisal report.

(4) To qualify as a state-licensed appraiser, an applicant must:

(a) be of good moral character;

(b) demonstrate honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community;

(c) pass the licensing examination with a satisfactory score as determined by the Appraisal Qualification Board;

(d) successfully complete the educational requirements established by rule in accordance with Subsection (5); and

(e) possess the experience in real property appraisal established by rule in accordance with Subsection (5).

(5)(a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (4)(d); and

(ii) the experience in real property appraisal described in Subsection (4)(e).

(b) The educational and experience requirements established under Subsection (5)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

(c) The division may not require that an applicant complete the educational or experience requirements established under Subsection (5)(a) within a minimum time period.

(d) Subsection (5)(c) does not apply if federal law requires a minimum time period for appraiser education or experience.

Section 7. Section 61-2g-313 is amended to read:

61-2g-313. State-certified residential appraiser -- Authority and qualifications.

(1) An applicant for certification as a residential appraiser shall provide to the division evidence of:

(a) the applicant's good moral character, honesty, competency, integrity, truthfulness, and general fitness to command the confidence of the community;

(b) completion of the certification examination with a satisfactory score as determined by the Appraisal Qualification Board;

(c) completion of the educational requirements established by rule in accordance with Subsection (3); and

(d) experience in real property appraisal as established by rule in accordance with Subsection (3).

(2) Upon request by the division, an applicant shall make available to the division for examination:

(a) a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed; and

(b) a sample selected by the division of appraisal reports that the applicant has prepared in the course of the applicant's appraisal practice.

(3)(a) The division shall, with the concurrence of the board, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish:

(i) the educational requirements described in Subsection (1)(c); and

(ii) the experience in real property appraisal described in Subsection (1)(d).

(b) The educational and experience requirements established under Subsection (3)(a) shall meet or exceed the educational requirements and the hourly experience requirements adopted by the Appraisal Qualification Board.

(c) The division may not require that an applicant complete the educational or experience requirements established under Subsection (3)(a) within a minimum time period.

(d) Subsection (3)(c) does not apply if federal law requires a minimum time period for appraiser education or experience.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 138
H. B. 217
Passed February 28, 2024
Approved March 13, 2024
Effective July 1, 2024

VOLUNTEER EMERGENCY MEDICAL SERVICE PERSONNEL INSURANCE PROGRAM AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to the Volunteer Emergency Medical Service Personnel Insurance Program.

Highlighted Provisions:

This bill:

- defines terms;
- expands eligibility for the Volunteer Emergency Medical Service Personnel Insurance Program (program);
- allows the program to offer dental benefits, life insurance benefits, and disability insurance benefits;
- renames the program; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-20-201, as last amended by Laws of Utah 2023, Chapter 328

53-2d-703, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310

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

Section 1. Section 49-20-201 is amended to read:

49-20-201. Program participation -- Eligibility -- Optional for certain groups.

Part 2. Membership Eligibility

(1)(a) The state shall participate in the program on behalf of the state's employees.

(b) Other employers, including political subdivisions and educational institutions, are eligible, but are not required, to participate in the program on behalf of their employees.

(2)(a) As provided in Subsection 26B-3-908(5), the Department of Health and Human Services may participate in the program for the purpose of providing health and dental benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program.

(b) If the Department of Health and Human Services participates in the program under the provisions of this Subsection (2), all insurance risk associated with the Utah Children's Health Insurance Program shall be the responsibility of the Department of Health and Human Services and not the program or the office.

(3) Volunteer emergency medical service personnel are eligible to participate in the program in accordance with Section [~~26B-4-136~~]53-2d-703.

(4) A covered individual shall be eligible for coverage after termination of employment under rules adopted by the board.

(5) Only the following are eligible for Medicare supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B coverage:

(a) retirees;

(b) members;

(c) participants;

(d) employees who have medical employee benefit plan coverage at the time of their retirement; and

(e) current spouses of those who are eligible under Subsections (5)(a) through (d).

Section 2. Section 53-2d-703 is amended to read:

53-2d-703. Volunteer Emergency Medical Service Personnel Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Basic life insurance benefit" means the standard group life insurance benefit offered by PEHP that combines basic life, line-of-duty, accidental death and disability, and dependent coverage into one benefit package.

(b) "Basic long-term disability benefit" means a $1,000 monthly benefit arising from a disability determined in accordance with Title 49, Chapter 21, Public Employee's Long-term Disability Act and excluding any coverage offered on a pilot basis.

(c) "Dental plan" means the same as that term is defined in Section 31A-22-646.

(d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

[~~(b)~~](e) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

[~~(c)~~](f) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

[~~(d)~~](g) "Political subdivision" means a county, a municipality, a limited purpose government entity

described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(e)~~](h) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(i) "Qualifying community" means a city or community that:

(i) has a population less than or equal to 3,000; and

(ii) is located within a county of the second class.

(2) The Volunteer Emergency Medical Service Personnel[~~Health~~] Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making[~~health~~] insurance available to volunteer emergency medical service personnel in accordance with this section.

(3)(a) The bureau shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel[~~Health~~] Insurance Program described in this section.

(b) The qualifying association will create promotional campaigns for the Volunteer Emergency Medical Service Personnel Insurance Program and volunteer emergency medical service recruitment and retention including outreach to local government entities through social media, video production, and other media platforms.

(4) Participation in the program is limited to [~~emergency medical service personnel~~]any individual who:

(a) [~~are~~]is licensed under Section 53-2d-402 [~~and~~]as an emergency medical technician, an advanced emergency medical technician, or a paramedic;

(b) [~~are~~]is able to perform all necessary functions associated with the license;

[~~(b)~~](c) [~~provide~~]provides emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period; and

(ii) within a qualifying community or a county of the third, fourth, fifth, or sixth class by responding to the number of calls described in Subsection (4)(c)(i); and

(iii)(A) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106; or

(B) as a part-time unbenefited employee, as classified by the employing local government entity;

[~~(c)~~](d) if seeking health insurance:

(i)(A) [~~are~~]is not eligible for a health benefit plan through an employer or a spouse's employer; and

[~~(d)~~](B) [~~are~~]is not eligible for medical coverage under a government sponsored healthcare program; [~~and~~]or

(ii) the individual's premium cost for individual, double, or family coverage through another source exceeds 20% or greater of the premium cost of the program created by this section;

(e) if seeking dental insurance:

(i)(A) is not eligible for a dental plan through an employer or a spouse's employer; and

(B) is not eligible for dental coverage under a government sponsored healthcare program; or

(ii) the individual's premium cost for individual, double, or family coverage exceeds 20% or greater of the premium cost of the program created by this section; and

[~~(e)~~](f) [~~reside~~]resides in the state.

(5)(a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) [~~Benefits~~]Health and dental benefits available to program participants under PEHP are limited to health insurance and dental insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel [~~Health~~]Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(c) Within existing appropriations, the Volunteer Emergency Medical Service Personnel Insurance Program may offer basic life insurance and long-term disability insurance to participants to enhance recruitment and retention efforts.

(6)(a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design, [~~and~~]eligibility for the program[~~.~~], and to implement this section.

(b) The bureau shall convene an advisory board:

(i) to advise the bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 139
H. B. 220
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

DIVORCE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to alimony determinations.

Highlighted Provisions:

This bill:

- adds factors to be considered when determining the standard of living that existed during a marriage;
- requires a look-back period for information provided to demonstrate the financial conditions and needs of a spouse seeking to be awarded alimony;
- places restrictions on when a court can reduce a showing of need related to alimony;
- provides means for demonstrating income and the standard of living during a marriage;
- modifies provisions related to when a court may elect to equalize income between parties by means of an alimony award; and
- provides potential limitations on imputation of income for alimony purposes in some circumstances where the recipient spouse has no recent full-time work history or has been diagnosed with a disability.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

30-3-5, as last amended by Laws of Utah 2023, Chapters 327, 418

ENACTS:

30-3-5.5, Utah Code Annotated 1953

Sections affected by Coordination Clause:

30-3-5.5, Utah Code Annotated 19534
81-1-204, Utah Code Annotated 19534
81-4-502, Utah Code Annotated 19534
81-4-503, Utah Code Annotated 19534
81-4-504, Utah Code Annotated 19534

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

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

(1) As used in this section:

(a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(b) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;

(iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the child.

(c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

(3) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b)(i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 26B, Chapter 9, Recovery Services and Administration of Child Support; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

(4)(a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

(5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

(6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

(7)(a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a child or parent if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the child.

(10)(a) The court shall consider at least the following factors in determining alimony:

(i) the standard of living existing during the marriage, which factors shall include the following:

(A) income;

(B) the approximate value of real and personal property; and

(C) any other factor that the court determines to be appropriate to enable the court to make a determination of the standard of living existing during the marriage;

(ii) the financial condition and needs of the recipient spouse, provided that the court shall permit the recipient spouse to show need by itemizing expenses present during the marriage rather than by itemizing post petition expenses;

[~~(ii)~~](iii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

[~~(iii)~~](iv) the ability of the payor spouse to provide support;

[~~(iv)~~](v) the length of the marriage;

[~~(v)~~](vi) whether the recipient spouse has custody of a minor child requiring support;

[~~(vi)~~](vii) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

[~~(vii)~~](viii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(c) The court may, when fault is at issue, close the proceedings and seal the court records.

(d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance

with Subsection (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(e)(i)(A) The court may[~~, under appropriate circumstances,~~] attempt to equalize the parties' respective standards of living.

(B) If a marriage has been in effect for 10 years or more, and if the recipient spouse has significantly diminished workplace experience resulting from an agreement between the spouses that the recipient spouse reduce their workplace experience to care for a child of the payor spouse, it shall be the rebuttable presumption that the court equalize the parties' standard of living. This presumption can be rebutted by a showing of good cause, and the court shall enter specific findings of fact as to the evidentiary basis for its determination.

(ii) Subsection (10)(e)(i) may not be applied to or used as the basis to modify an alimony award if the petition for divorce was filed before May 1, 2024.

(f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(11)(a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d)(i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection (10) or this Subsection (11).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(e)(i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.

(ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.

(iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

(12)(a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse.

(b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

(13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the party to pay temporary alimony to the current spouse; and

(b) shall terminate any order that the party pay temporary alimony to the current spouse.

(14)(a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

Section 2. Section 30-3-5.5 is enacted to read:

30-3-5.5. Imputed income for recipient spouse for alimony purposes -- No recent work history or disability.

(1) Notwithstanding the provisions of Section 30-3-5 or 78B-12-203, the court may, in determining imputation of income to a recipient spouse, apply the provisions of this section if the recipient spouse:

(a) has diminished workplace experience that resulted from an agreement between the spouses that the recipient spouse reduce their workplace experience to care for a child of the payor spouse; or

(b) has been diagnosed with a disability that has caused a reduction in the recipient spouse's workplace experience.

(2) If a recipient spouse meets the requirements of Subsection (1)(a) or (b), the court:

(a) may consider reasonable efforts made by the recipient spouse to improve their employment situation and any reasonable barrier to obtaining or retaining employment; and

(b) is not required to consider that the recipient spouse may be underemployed if the recipient spouse is employed and has shown reasonable barriers to improving the recipient spouse's employment.

(3)(a) In making an income imputation under this section, the court may use relevant provisions of Section 78B-12-203, provided that the provision is not contrary to the requirements of this section.

(b) When considering what constitutes a reasonable barrier to obtaining or retaining employment, the court:

(i) may include in its analysis a determination of the length of time that is considered by the court to be recent as relates to a recipient spouse's work history, training, or education under this section;

(ii) may consider whether the recipient spouse:

(A) is fully competitive against other employment applicants whose work history, training, or education is current; and

(B) in the case of a disability, is fully competitive against other employment applicants who do not have a disability; and

(iii) may impute any income as it relates to employment for which the spouse is fully competitive and has not shown any reasonable barriers to obtain.

(c) If the court imputes any income to a recipient spouse who qualifies for income determination under this section, the court shall enter specific findings of fact as to the evidentiary basis for imputing the income.

(4)(a) After a divorce decree has been entered, subject to the requirements of Subsection 30-3-5(11), the court may review an income imputation to a recipient spouse under this section.

(b) A recipient spouse's showing that barriers have prevented significant improvement of the recipient spouse's employment situation, despite reasonable efforts on the part of the recipient spouse to improve their employment situation, may, in the court's determination, constitute a substantial material change in circumstances and eligibility to review an income imputation under this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

Section 4. Coordinating H.B. 220 with S.B. 95.

If S.B. 95, Domestic Relations Recodification, and H.B. 220, Divorce Amendments, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) Section 81-4-502 enacted in S.B. 95 be amended to read:

"81-4-502. Determination of Alimony.

(1) For a proceeding under Chapter 4, Dissolution of Marriage, or in a proceeding to modify alimony, the court shall consider at least the following factors in determining alimony:

(a) the standard of living existing during the marriage, which factors shall include the following:

(i) income;

(ii) the approximate value of real and personal property; and

(iii) any other factor that the court determines to be appropriate to enable the court to make a determination of the standard of living existing during the marriage;

(b) the financial condition and needs of the payee, provided that the payee may show financial needs by itemizing expenses present during the marriage rather than by itemizing post petition expenses;

(c) the payee's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a minor child of the payor;

(d) the ability of the payor to provide support;

(e) the length of the marriage;

(f) whether the payee has custody of a minor child requiring support;

(g) whether the payee worked in a business owned or operated by the payor; and

(h) whether the payee directly contributed to any increase in the payor's skill by paying for education received by the payor or enabling the payor to attend school during the marriage.

(2) (a) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(b) The court may, when fault is at issue, close the proceedings and seal the court records.

(3) (a) Except as otherwise provided by this section, the court shall consider the standard of living, existing at the time of separation, in determining alimony in accordance with this section.

(b) In considering all relevant facts and principles, the court may, in the court's discretion, base alimony on the standard of living that existed at the time of trial.

(4) (a) The court may attempt to equalize the parties' respective standards of living.

(b) (i) If a marriage has been in effect for 10 years or more, and if the payee has significantly diminished workplace experience resulting from an agreement between the spouses that the payee reduce the payee's workplace experience to care for a minor child of the payor, it shall be the rebuttable presumption that the court equalize the parties' standard of living.

(ii) The presumption under Subsection (4)(b)(i) can be rebutted by a showing of good cause, and the court shall enter specific findings of fact as to the evidentiary basis for its determination.

(c) This Subsection (4) may not be applied to or used as the basis to modify an alimony award if the petition for divorce was filed before May 1, 2024.

(5) (a) If the marriage is short in duration and a minor child has not been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(b) In determining alimony when a marriage of short duration dissolves and a minor child has not been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(6) (a) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the parties due to the collective efforts of both parties, the court shall consider the change when dividing the marital property and in determining the amount of alimony.

(b) If a party's earning capacity has been greatly enhanced through the efforts of both parties during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(7) (a) Except as provided in Subsection (7)(c), the court may not order alimony for a period of time longer than the length of the marriage.

(b) If a party is ordered to pay temporary alimony during the pendency of a divorce action, the court shall count the period of time that the party pays temporary alimony towards the period of time for which the party is ordered to pay alimony.

(c) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.".

(2) Section 30-3-5.5 enacted in H.B. 220 be renumbered to Section 81-4-503 and be amended to read:

"81-4-503. Imputed income for payee for alimony purposes - - No recent work history or disability.

(1) Notwithstanding the provisions of Section 81-4-502 or 81-6-203, the court may, in determining imputation of income to a payee, apply the provisions of this section if the payee:

(a) has diminished workplace experience, that resulted from an agreement between the spouses that the payee reduce the payee's workplace experience to care for a minor child of the payor; or

(b) has been diagnosed with a disability that has caused a reduction in the payee's workplace experience.

(2) If a payee meets the requirements of Subsection (1)(a) or (b), the court:

(a) may consider reasonable efforts made by the payee to improve the payee's employment situation and any reasonable barrier to obtaining or retaining employment; and

(b) is not required to consider that the payee may be underemployed if the payee is employed and has shown reasonable barriers to improving the payee's employment.

(3) (a) In making an income imputation under this section, the court may use relevant provisions of Section 81-6-203, provided that the provision is not contrary to the requirements of this section.

(b) When considering what constitutes a reasonable barrier to obtaining or retaining employment, the court:

(i) may include in its analysis a determination of the length of time that is considered by the court to be recent as it relates to a payee's work history, training, or education under this section;

(ii) may consider whether the payee:

(A) is fully competitive against other employment applicants whose work history, training, or education is current; and

(B) in the case of a disability, is fully competitive against other employment applicants who do not have a disability; and

(iii) may impute any income as it relates to employment for which the spouse is fully competitive and has not shown any reasonable barriers to obtain.

(c) If the court imputes any income to a payee who qualifies for income determination under this section, the court shall enter specific findings of fact as to the evidentiary basis for imputing the income.

(4) (a) After a divorce decree has been entered, subject to the requirements of Section 81-4-504, the court may review an income imputation to a payee under this section.

(b) A payee's showing that barriers have prevented significant improvement of the payee's employment situation, despite reasonable efforts on the part of the payee to improve the payee's employment situation, may, in the court's determination, constitute a substantial material change in circumstances and eligibility to review an income imputation under this section.".

(3) Section 81-4-503 enacted in S.B. 95 be renumbered to Section 81-4-504;

(4) Section 81-4-504 enacted in S.B. 95 be renumbered to Section 81-4-505; and

(5) The reference in Section 81-1-204 in S.B. 95 to "Section 81-4-503" be changed to "Section 81-4-504".

CHAPTER 140
H. B. 225
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

UNLAWFUL KISSING OF A CHILD OR MINOR

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill concerns unlawful kissing of a child or minor.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a mistake as to the victim's age is not a defense to the offense of unlawfully kissing a child;
- creates the offenses of unlawfully kissing a child and unlawfully kissing a minor;
- establishes criminal penalties; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-304.5, as last amended by Laws of Utah 2022, Chapter 181
76-10-1303, as last amended by Laws of Utah 2022, Chapter 124

ENACTS:

76-5-416.2, Utah Code Annotated 1953
76-5-416.4, Utah Code Annotated 1953

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

Section 1. Section 76-2-304.5 is amended to read:

76-2-304.5. Mistake as to victim's age not a defense.

(1) It is not a defense to the [~~crime of child kidnapping, a violation of Section 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a child, a violation of Section 76-5-404.1; aggravated sexual abuse of a child, a violation of Section 76-5-404.3; or an attempt to commit any of these offenses,~~]following offenses that the actor mistakenly believed the victim to be 14 years old or older at the time of the alleged offense or was unaware of the victim's true age[~~.~~]:

(a) child kidnapping, Section 76-5-301.1;

(b) rape of a child, Section 76-5-402.1;

(c) object rape of a child, Section 76-5-402.3;

(d) sodomy on a child, Section 76-5-403.1;

(e) sexual abuse of a child, Section 76-5-404.1;

(f) aggravated sexual abuse of a child, Section 76-5-404.3;

(g) unlawful kissing of a child, Section 76-5-416.2; or

(h) an attempt to commit an offense listed in Subsections (1)(a) through (1)(g).

(2) It is not a defense to the [~~crime of unlawful sexual activity with a minor, a violation of Section 76-5-401; sexual abuse of a minor, a violation of Section 76-5-401.1; or an attempt to commit either of these offenses,~~]following offenses that the actor mistakenly believed the victim to be 16 years old or older at the time of the alleged offense or was unaware of the victim's true age[~~.~~]:

(a) unlawful sexual activity with a minor, Section 76-5-401;

(b) sexual abuse of a minor, Section 76-5-401.1; or

(c) an attempt to commit an offense listed in Subsection (2)(a) or (2)(b).

(3) It is not a defense to the [~~crime of aggravated human trafficking, a violation of Section 76-5-310, aggravated human smuggling, a violation of Section 76-5-310.1, or human trafficking of a child, a violation of Section 76-5-308.5,~~]following offenses that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age[~~.~~]:

(a) human trafficking of a child, Section 76-5-308.5;

(b) aggravated human trafficking, Section 76-5-310;

(c) aggravated human smuggling, Section 76-5-310.1;

(d) unlawful sexual conduct with a minor, Subsection 76-5-401.2(2)(a)(ii);

(e) patronizing a prostitute, Section 76-10-1303;

(f) aggravated exploitation of prostitution, Section 76-10-1306; or

(g) sexual solicitation, Section 76-10-1313.

[~~(4) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Subsection 76-5-401.2(2)(a)(ii), that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age.~~]

[~~(5) It is not a defense to any of the following crimes that the actor mistakenly believed the victim to be 18 years old or older at the time of the alleged offense or was unaware of the victim's true age:~~]

[~~(a) patronizing a prostitute, a violation of Section 76-10-1303;~~]

[~~(b) aggravated exploitation of a prostitute, a violation of Section 76-10-1306; or~~]

[~~(c) sexual solicitation, a violation of Section 76-10-1313.~~]

Section 2. Section 76-5-416.2 is enacted to read:

76-5-416.2. Unlawful kissing of a child.

(1)(a) As used in this section, "child" means an individual who is under 14 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful kissing of a child if the actor:

(a) is 18 years old or older; and

(b) intentionally or knowingly:

(i) kisses a child on the child's mouth; and

(ii) penetrates the minor's mouth with the actor's tongue.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Any penetration, however slight, of the mouth of the child by the actor's tongue is sufficient to constitute a violation of this section.

Section 3. Section 76-5-416.4 is enacted to read:

76-5-416.4. Unlawful kissing of a minor.

(1)(a) As used in this section, "minor" means an individual who is 14 years old or older but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawful kissing of a minor if the actor:

(a) intentionally or knowingly:

(i) kisses a minor on the minor's mouth; and

(ii) penetrates the minor's mouth with the actor's tongue; and

(b) is older than the minor by 10 years or more.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) Any penetration, however slight, of the mouth of the minor by the actor's tongue is sufficient to constitute a violation of this section.

Section 4. Section 76-10-1303 is amended to read:

76-10-1303. Patronizing a prostitute.

(1) An actor is guilty of patronizing a prostitute if the actor:

(a) pays or offers or agrees to pay a prostituted individual, or an individual the actor believes to be a prostituted individual, a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) or Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third degree felony.

(5)(a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a second degree felony.

(b) In accordance with [~~Subsection 76-2-304.5(5)(a)~~]Section 76-2-304.5, it is not a defense to a prosecution under Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection (5)(a).

(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection (5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more serious offense.

(6) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine; and

(b) the defendant to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 141
H. B. 231
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

MOTOR VEHICLE INSURANCE MODIFICATIONS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to uninsured and underinsured motorist coverage.

Highlighted Provisions:

This bill:

- clarifies that certain benefits related to the Utah Labor Commission do not need to be exhausted before uninsured or underinsured motorist coverage can be paid.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327
31A-22-305.3, as last amended by Laws of Utah 2023, Chapters 69, 327

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

Section 1. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a)(i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii)(A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d)(i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4)(a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c)(i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for

which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e)(i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g)(i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5)(a)(i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b)(i) All persons, including governmental entities, that are engaged in the business of, or that

accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self- insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

[~~(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A- 2- 106(5);~~]

(i) in order to avoid double recovery, does not cover any benefit under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A- 2- 704, or the Employers' Reinsurance Fund created in Section 34A- 2- 702, except that:

(A) the covered person is credited an amount described in Subsection 34A- 2- 106(5); and

(B) the benefits described in this Subsection (5)(c)(i) do not need to be paid before an uninsured motorist claim may be pursued and resolved;

(ii) may not be subrogated by the workers' compensation insurance carrier, [~~workers' compensation insurance,~~] uninsured employer, the Uninsured Employers' Fund created in Section 34A- 2- 704, or the Employers' Reinsurance Fund created in Section 34A- 2- 702;

(iii) may not be reduced by any benefits provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A- 2- 704, or the Employers' Reinsurance Fund created in Section 34A- 2- 702;

(iv) notwithstanding Subsection 31A- 1- 103(3)(f), may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41- 1a- 1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41- 1a- 1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53- 13- 103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" [~~has the same meaning as under~~]means the same as that term is defined in Section 41- 1a- 102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7)(a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b)(i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a) through (c) shall be secondary coverage.

(8)(a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c)(i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f)(i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9)(a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l)(i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the

uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q)(i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r)(i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10)(a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A)(I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health

care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B)(I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b)(i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c)(i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h)(i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii)(A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i)(i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l)(i)(A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed.

(B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11)(a) A person shall commence an action on a written policy or contract for uninsured motorist coverage within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 2. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" [~~has the same meaning as~~]means the same as that term is defined in Section 31A-22-305.

(b)(i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2)(a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3)(a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d)(i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e)(i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g)(i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k)(i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4)(a)(i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b)(i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii)(A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A- 22- 305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix)(A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

[~~(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);~~]

(i) in order to avoid double recovery, does not cover any benefit under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act, provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702, except that:

(A) the covered person is credited an amount described in Subsection 34A-2-106(5); and

(B) the benefits described in this Subsection (4)(c)(i) do not need to be paid before an underinsured motorist claim may be pursued and resolved.

(ii) may not be subrogated by a workers' compensation insurance carrier, [~~workers' compensation insurance,~~] uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by the workers' compensation insurance carrier, uninsured employer, the Uninsured Employers' Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8)(a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l)(i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q)(i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r)(i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9)(a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A)(I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B)(I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b)(i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c)(i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h)(i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii)(A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i)(i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l)(i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one

or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 142
H. B. 238
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

SEXUAL EXPLOITATION OF A MINOR AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill criminalizes certain conduct relating to child sexual abuse material.

Highlighted Provisions:

This bill:

- amends the definition of child sexual abuse material;
- provides a severability clause; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-103, as last amended by Laws of Utah 2023, Chapter 231
76-5b-201, as last amended by Laws of Utah 2023, Chapters 231, 330
76-5b-201.1, as last amended by Laws of Utah 2023, Chapter 231

ENACTS:

76-5b-303, Utah Code Annotated 1953

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

Section 1. Section 76-5b-103 is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) "Child sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is[~~-~~]:

(i) of a minor engaging in sexually explicit conduct; or

(ii) artificially generated and depicts an individual with substantial characteristics of a minor engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(2) "Distribute" means the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child sexual abuse material or vulnerable adult sexual abuse material with or without consideration.

(3) "Identifiable minor" means [~~a person~~]an individual:

(a)(i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual [~~person~~]individual by the [~~person's~~]individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(4) "Identifiable vulnerable adult" means [~~a person~~]an individual:

(a)(i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual [~~person~~]individual by the [~~person's~~]individual's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(5) "Lacks capacity to consent" [~~is as~~]means the same as that term is defined in Section 76-5-111.4.

(6) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

(7) "Minor" means [~~a person~~]an individual who is younger than 18 years old.

(8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(9) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material; or

(b) the securing or hiring of [~~persons~~]individuals to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child sexual abuse material or vulnerable adult sexual abuse material.

(10) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether

between [~~persons~~]individuals of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any [~~person~~]individual;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any [~~person~~]individual;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the explicit representation of the defecation or urination functions.

(11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(12) "Vulnerable adult" [~~is as~~]means the same as that term is defined in Subsection 76-5-111(1).

(13) "Vulnerable adult sexual abuse material" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 2. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child sexual abuse material.

(3)(a) A violation of Subsection (2) is a second degree felony.

(b) It is a separate offense under this section:

(i) for each minor depicted in the child sexual abuse material; and

(ii) for each time the same minor is depicted in different child sexual abuse material.

[~~(4)(a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.~~]

[~~(b)~~](4) For a charge of violating this section, it is an affirmative defense that:

[~~(i)~~](a) the defendant:

[~~(A)~~](i) did not solicit the child sexual abuse material from the minor depicted in the child sexual abuse material;

[~~(B)~~](ii) is not more than two years older than the minor depicted in the child sexual abuse material; and

[~~(C)~~](iii) upon request of a law enforcement agent or the minor depicted in the child sexual abuse material, removes from an electronic device or destroys the child sexual abuse material and all copies of the child sexual abuse material in the defendant's possession; and

[~~(ii)~~](b) the child sexual abuse material does not depict an offense under Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the

Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 3. Section 76-5b-201.1 is amended to read:

76-5b-201.1. Aggravated sexual exploitation of a minor.

(1) As used in this section:

(a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated sexual exploitation of a minor if the actor:

(a) intentionally distributes child sexual abuse material;

(b) knowingly produces child sexual abuse material; or

(c) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) or (b) or Section 76-5b-201.

(3)(a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a first degree felony.

(b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.

(c) A violation of Subsection (2)(a) is a second degree felony if the child sexual abuse material depicts an individual who is:

(i) 14 years old or older; or

(ii) pubescent.

(4) It is a separate offense under this section:

(a) for each minor depicted in the child sexual abuse material; and

(b) for each time the same minor is depicted in different child sexual abuse material.

[~~(5)(a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.~~]

[~~(b)~~](5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) The following are not criminally or civilly liable under this section when acting in good faith compliance with Section 77-4-201:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child sexual abuse material on tangible or intangible property, or of detecting and reporting the presence of child sexual abuse material on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child sexual abuse material during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child sexual abuse material during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child sexual abuse material during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Health and Human Services who is required to view child sexual abuse material within the scope of the employee's employment; or

(g) an attorney who is required to view child sexual abuse material within the scope of the attorney's responsibility to represent the Department of Health and Human Services, including the divisions and offices within the Department of Health and Human Services.

Section 4. Section 76-5b-303 is enacted to read:

76-5b-303. Severability.

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 143
S. B. 60
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

DRUG PARAPHERNALIA AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill concerns possession of certain types of drug paraphernalia.

Highlighted Provisions:

This bill:

- provides for the dismissal of a charge of possession of certain types of drug paraphernalia under specified conditions;
- specifies the conditions and provides the burden of proof necessary for a dismissal; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37a-5, as last amended by Laws of Utah 2011, Chapter 101

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

Section 1. Section 58-37a-5 is amended to read:

58-37a-5. Unlawful acts.

(1)(a) It is unlawful for [~~any~~]a person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body in violation of this chapter.

(b) [~~Any~~]A person who violates Subsection (1)(a) is guilty of a class B misdemeanor.

(2)(a) It is unlawful for [~~any~~]a person to deliver, possess with intent to deliver, or manufacture with intent to deliver, any drug paraphernalia, knowing that the drug paraphernalia will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce a controlled substance into the human body in violation of this act.

(b) [~~Any~~]A person who violates Subsection (2)(a) is guilty of a class A misdemeanor.

(3) [~~Any~~]A person 18 years [~~of age~~]old or older who delivers drug paraphernalia to a person younger than 18 years [~~of age~~]old and who is three years or more younger than the person making the delivery is guilty of a third degree felony.

(4)(a) It is unlawful for [~~any~~]a person to place in this state in [~~any~~]a newspaper, magazine, handbill, or other publication [~~any~~]an advertisement, knowing that the purpose of the advertisement is to promote the sale of drug paraphernalia.

(b) [~~Any~~]A person who violates Subsection (4)(a) is guilty of a class B misdemeanor.

(5)(a) A person may not be charged with distribution of hypodermic syringes as drug paraphernalia if at the time of sale or distribution the syringes are in a sealed sterile package and are for a legitimate medical purpose, including:

(i) injection of prescription medications as prescribed by a practitioner; or

(ii) the prevention of disease transmission.

(b) A person may not be charged with possession of a hypodermic [~~syringes~~]syringe as drug paraphernalia if the syringe is unused and is in a sealed sterile package.

(6) In a prosecution under Subsection (1) for possession of a hypodermic syringe or needle, the prosecutor or the court may dismiss the charge if the person establishes, by a preponderance of the evidence, that:

(a) at the time of the offense:

(i) the hypodermic syringe or needle was stored in a sealed puncture-resistant container, such as a medical sharps disposal container, that was clearly marked on the outside of the container with a warning that identified the container as containing medical waste; and

(ii) the person was enrolled or participating in a syringe exchange program under Section 26B-7-117; and

(b) after the day of the offense, but before the day on which the case is adjudicated, the person demonstrated an intent to engage with substance abuse treatment by commencing, continuing, or completing a substance use disorder treatment program.

[~~(6)~~](7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 144
H. B. 248
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

INMATE AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill concerns inmates.

Highlighted Provisions:

This bill:

- defines terms;
- directs the Higher Education and Corrections Council to facilitate postsecondary education for inmates housed in county jails;
- directs the Utah Board of Higher Education to assign student success advisors to correctional facilities;
- requires an institution of higher education to consider an inmate a state resident for tuition purposes;
- requires the Department of Corrections (department) to:
  - create a reentry division that focuses on the successful reentry of inmates into the community;
  - coordinate with the Board of Pardons and Parole (board) regarding inmate records and ensure that inmate records are complete and, when applicable, shared with the board;
  - report on the department's inmate program implementation progress;
  - publish a notice informing an individual depositing money into an inmate's account that a process exists for the individual to review the inmate's financial records;
  - provide certain assistance to an inmate participating in a postsecondary certificate or degree program;
  - use an inmate's board hearing when determining the timing of an inmate's programs;
  - create an incentive program to encourage an inmate to complete the inmate's programs by the inmate's board hearing;
  - ensure that an inmate may continue participating in programs under certain circumstances;
  - under certain circumstances, start an inmate in at least two of the inmate's programs as soon as the inmate's case action plan is created;
  - allow an inmate to participate in more than one program at a time throughout the inmate's time within the correctional facility under certain circumstances;
  - prioritize placement of inmates in county correctional facilities that meet specified requirements regarding inmate programs;
  - periodically confer with an inmate to determine whether the inmate is on track to complete the inmate's programs by the inmate's board hearing;
  - include in an inmate's record the reason why certain program requirements were not met, if the department is unable to meet specified program requirements; and
  - provide an annual report on the department's public website concerning inmate program data;
- requires the board to use certain factors when setting an inmate's board hearing; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-402, as last amended by Laws of Utah 2023, Chapter 254
53B-8-102, as last amended by Laws of Utah 2023, Chapters 44, 50
53B-35-101, as enacted by Laws of Utah 2022, Chapter 147
53B-35-202, as enacted by Laws of Utah 2022, Chapter 147
64-13-6, as last amended by Laws of Utah 2023, Chapter 177
64-13-23, as last amended by Laws of Utah 2021, Chapter 260
64-13-42, as last amended by Laws of Utah 2018, Chapter 415
64-13-48, as enacted by Laws of Utah 2022, Chapter 144
77-27-7, as last amended by Laws of Utah 2022, Chapter 430

ENACTS:

53B-35-301, Utah Code Annotated 1953
64-13-50, Utah Code Annotated 1953

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

Section 1. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1)(a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education;

(ii) controls, oversees, and regulates the Utah system of higher education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board; and

(b)(i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs[~~, and~~];

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation[~~.~~]; and

(u) coordinate with the Department of Corrections to establish educational programs for inmates as described in Section 64-13-6.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the[~~Legislature's~~] Education Interim Committee by October 31 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii)(A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Inmate" means the same as that term is defined in Section 64-13-1.

[~~(c)~~](d) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

[~~(d)~~](e) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

[~~(e)~~](f) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3)(a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in [~~Title 53B, Chapter 8, Tuition Waiver and Scholarships~~] Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i)(A) the military service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include [~~any~~]one of the items described in Subsection (8)(c)(iii); [~~or~~]

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include [~~any~~]one of the items described in Subsection (8)(c)(iii)[~~.~~];

(f) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law[~~.~~]; or

(g) an inmate:

(i) during the time the inmate is enrolled in the course; and

(ii) for one year after the day on which the inmate is released from a correctional facility as defined in Section 64-13-1.

(9)(a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military service member or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14)(a) A person who has established domicile in Utah for full-time permanent employment may

rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15)(a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16)(a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 3. Section 53B-35-101 is amended to read:

53B-35-101. Definitions.

As used in this chapter[~~, "council"~~]:

(1) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(2) "Council" means the Higher Education and Corrections Council created in Section 53B-35-201.

(3) "Department" means the Department of Corrections created in Section 64-13-2.

(4) "Inmate" means the same as that term is defined in Section 64-13-1.

(5) "Institution of higher education" means an institution described in Section 53B-1-102.

Section 4. Section 53B-35-202 is amended to read:

53B-35-202. Council duties -- Reporting.

(1) The council shall:

(a) coordinate, facilitate, and support [~~the delivery of~~]higher education delivered in the state's correctional facilities, including the county jails under contract with the Department of Corrections to house inmates, to prepare incarcerated individuals for integration and productive employment upon release;

(b) explore and provide recommendations to the board and the[~~Utah~~] Department of Corrections for the efficient and effective delivery of higher education programs to incarcerated individuals, including:

(i) evidence-based practices and technologies;

(ii) methods of maximizing and facilitating incarcerated individuals' access to educational programs;

(iii) methods of supporting and facilitating timely completion of courses, certificates, and degrees;

(iv) methods of emphasizing educational programs that:

(A) align with current and future workforce demands of the state;

(B) lead to occupations that are accessible to released incarcerated individuals;

(C) provide sustainable wages following release; and

(D) maximize accessibility and timely completion during incarceration;

(v) use of cross-institutional application of coursework toward certificates and degrees;

(vi) use of coursework that encourages personal and civic development; and

(vii) methods of leveraging innovative course delivery, including technology resources;

(c) explore methods and make recommendations for the collection and analysis of critical data regarding:

(i) enrollment and completion of postsecondary education courses, certificate programs, credentials, and degree programs;

(ii) federal and state student aid awarded to incarcerated individuals;

(iii) costs of postsecondary education in prison, including any recommendations for continued improvement; and

(iv) outcomes of formerly incarcerated individuals who participated in postsecondary programming during incarceration if the individual is under the supervision of the Department of Corrections, including recidivism, employment, and post-release postsecondary education engagement; and

(d) recommend requests for legislative appropriations to the board to support the purposes and objectives of the council.

(2) The council shall annually report regarding the council's plans and programs, the number of enrollees served, and the number of enrollees receiving degrees and certificates to:

(a) the board;

(b) before the committee's November interim committee meeting, the Education Interim Committee; and

(c) at least 30 days before the beginning of the annual legislative session, the Higher Education Appropriations Subcommittee.

Section 5. Section 53B-35-301 is enacted to read:

53B-35-301. Higher education student advisors.

Part 3. Student Support

(1) A degree-granting institution of higher education providing education to inmates in a correctional facility shall provide relevant academic and career advising services that are substantially similar to services provided to a student who is not a confined or incarcerated individual.

(2) Each participating institution of higher education described in Subsection (1) shall report annually to the council regarding the guidance and support provided.

Section 6. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i)(A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90 days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall[~~.~~]:

(A) integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements; and

(B) require that a case manager will:

(I) ensure that an assessment of the education level, occupational interests, and aptitudes of the inmate has been completed;

(II) refer the inmate to a higher education student advisor at an institution offering programs consistent with the inmate's interests and aptitudes for advisement on educational preferences and plans;

(III) incorporate the inmate's interests, aptitudes, and student advisement into an education plan consistent with the guidance provided by the Higher Education and Corrections Council created in Section 53B-35-201; and

(IV) refer the inmate to the student advisor at the institution called for in the case action plan for guidance and assistance with the education process;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that an inmate has reasonable access to legal research;

(o) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; [~~and~~]

[~~(o)~~](p) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102;

(q) create a reentry division that focuses on the successful reentry of inmates into the community;

(r) coordinate with the Board of Pardons and Parole regarding inmate records that are necessary for the Board of Pardons and Parole to make necessary determinations regarding an inmate; and

(s) ensure that inmate records regarding discipline, programs, and other relevant metrics are:

(i) complete and updated in a timely manner; and

(ii) when applicable, shared with the Board of Pardons and Parole in a timely manner.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3)(a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5)(a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding[-]:

(i) the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time[.]; and

(ii) the progress of the department's implementation of the inmate program requirements described in Section 64-13-50.

(6)(a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c)(i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 7. Section 64-13-23 is amended to read:

64-13-23. Offender's income and finances.

(1) The department may require each offender, while in the custody of the department or while on probation or parole, to place funds received or earned by the offender from any source into:

(a) an account administered by the department; or

(b) a joint account with the department at a federally insured financial institution.

(2) The department may require each offender to maintain a minimum balance in an account under Subsection (1) for the particular offender's use upon:

(a) discharge from the custody of the department; or

(b) completion of parole or probation.

(3) If the funds are placed in a joint account at a federally insured financial institution:

(a) any interest accrues to the benefit of the offender account; and

(b) the department may require that the signatures of both the offender and a departmental representative be submitted to the financial institution to withdraw funds from the account.

(4) If the funds are placed in an account administered by the department, the department may by rule designate:

(a) a certain portion of the offender's funds as interest-bearing savings; and

(b) a portion of the offender's funds as noninterest-bearing to be used for day-to-day expenses.

(5) The department may withhold part of the offender's funds in an account under Subsection (1) for expenses of:

(a) supervision or treatment;

(b) restitution, reparation, fines, alimony, support payments, or similar court-ordered payments;

(c) obtaining the offender's DNA specimen, if the offender is required under Section 53-10-404 to provide a specimen;

(d) department-ordered repayment of a fine that is incurred under Section 64-13-33; and

(e) [~~any~~]other debt to the state.

(6)(a) An offender may not be granted free process in civil actions, including petitions for a writ of habeas corpus, if, at any time from the date the cause of action arose through the date the cause of action remains pending, there are any funds in an account under Subsection (1) that have not been withheld or are not subject to withholding under Subsection (4) or (5).

(b) The amount assessed for the filing fee, service of process and other fees and costs shall not exceed the total amount of funds the offender has in excess of the indigence threshold established by the department but not less than $25 including the withholdings under Subsection (4) or (5) during the identified period of time.

(c) The amounts assessed shall not exceed the regular fees and costs provided by law.

(7) The department may disclose information on offender accounts to the Office of Recovery Services and other appropriate state agencies.

(8) The department shall publish a notice on the department's website, and any website used by an individual depositing funds into an offender's account, that the individual may request from the department a copy of a statement of the offender's financial account in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 64-13-42 is amended to read:

64-13-42. Prison Telephone Surcharge Account -- Funding inmate and offender education and training programs.

(1)(a) There is created within the General Fund a restricted account known as the Prison Telephone Surcharge Account.

(b) The Prison Telephone Surcharge Account consists of:

(i) [~~beginning July 1, 2006, ~~]revenue generated by the state from pay telephone services located at any correctional facility as defined in Section 64-13-1;

(ii) interest on account money;

(iii)(A) money paid by inmates participating in postsecondary education provided by the department; and

(B) money repaid by former inmates who have a written agreement with the department to pay for a specified portion of the tuition costs under the department's deferred tuition payment program;

(iv) money collected by the Office of State Debt Collection for debt described in Subsection (1)(b)(iii); and

(v) money appropriated by the Legislature.

(2) Upon appropriation by the Legislature, money from the Prison Telephone Surcharge Account shall be used by the department for education and training programs for offenders and inmates as defined in Section 64-13-1.

Section 9. Section 64-13-48 is amended to read:

64-13-48. Educational and career-readiness programs.

(1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that appropriate evidence-based and evidence-informed educational or career-readiness programs are made available to an inmate as soon as practicable after the creation of the inmate's case action plan.

(2) The department shall provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men.

(3) Before an inmate begins an educational or career-readiness program, the department shall provide reasonable access to resources necessary for an inmate to apply for grants or other available financial aid that may be available to pay for the inmate's program.

(4)(a) The department shall consider an inmate's current participation in an educational or career-readiness program when the department makes a decision with regard to an inmate's:

(i) transfer to another area or facility; or

(ii) appropriate disciplinary sanction.

(b) When possible, the department shall use best efforts to allow an inmate to continue the inmate's participation in an educational or career-readiness program while the facility is under lockdown, quarantine, or a similar status.

(5)(a) The department shall maintain records on an inmate's educational progress, including completed life skills, certifications, and credit- and non-credit-bearing courses, made while the inmate is incarcerated.

(b) The department shall facilitate the transfer of information related to the inmate's educational process upon the inmate's release, including the inmate's post-release contact information and the records described in Subsection (5)(a), to:

(i) the inmate; or

(ii) an entity that the inmate has authorized to receive the inmate's records or post-release contact information, including an institution:

(A) from which the inmate received educational instruction while the inmate was incarcerated; or

(B) at which the inmate plans to continue the inmate's post-incarceration education.

(6) Beginning May 1, 2023, the department shall provide an annual report to the Higher Education Appropriations Subcommittee regarding educational and career-readiness programs for inmates, which shall include:

(a) the number of inmates who are participating in an educational or career-readiness program,

including an accredited postsecondary education program;

(b) the percentage of inmates who are participating in an educational or career-readiness program as compared to the total inmate population;

(c) inmate program completion and graduation data, including the number of completions and graduations in each educational or career-readiness program;

(d) the potential effect of educational or career-readiness programs on recidivism, as determined by a comparison of:

(i) the total number of inmates who return to incarceration after a previous incarceration; and

(ii) the number of inmates who return to incarceration after a previous incarceration who participated in or completed an educational or career-readiness program;

(e) the number of inmates who were transferred to a different facility while currently participating in an educational or career-readiness program, including the number of inmates who were unable to continue a program after a transfer to a different facility; and

(f) the department's:

(i) recommendation for resources that may increase inmates' access to and participation in an educational or career-readiness program; and

(ii) estimate of how many additional inmates would participate in an educational or career-readiness program if the resources were provided.

(7) The department shall:

(a) ensure that an inmate enrolled in an educational or career-readiness program has access to modern technology determined by the provider of the program as necessary for an inmate to participate in the program; and

(b) assist an inmate in applying for jobs within 30 days before the day on which the inmate is released from the department's custody.

[~~(7)~~](8) The department may make rules in accordance with Section 64-13-10 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

Section 10. Section 64-13-50 is enacted to read:

64-13-50. Inmate program requirements -- Records -- Reporting.

(1) As used in this section:

(a) "Board" means the Board of Pardons and Parole.

(b) "Board hearing" means a hearing established under Subsection 77-27-7(1), which is the earliest possible point at which the board may consider an inmate's release from a correctional facility.

(c)(i) "Program" means a part of an inmate's case action plan that is required or optional and includes:

(A) sex offender treatment;

(B) substance use treatment;

(C) educational programs, including literacy programs;

(D) career-readiness programs;

(E) life-skills training; and

(F) transition programs meant to prepare an inmate who is about to leave a correctional facility in accordance with Section 64-13-10.6.

(ii) "Program" includes online and in-person programs.

(2) On or before January 1, 2026, the department shall:

(a) use an inmate's board hearing when determining the timing of an inmate's programs to ensure that an inmate will have the ability to complete all of the inmate's programs by the inmate's board hearing;

(b) create an incentive plan to encourage an inmate to complete the inmate's programs by the inmate's board hearing;

(c) in accordance with Subsection 64-13-48(4) and Subsection (3), use the department's best efforts to ensure that when an inmate is transferred within a correctional facility or to a different correctional facility, the inmate is able to continue all programs that the inmate has already started and has not yet completed, without requiring the inmate to restart a program from the beginning or wait on a waiting list for the program, unless the program's continuation would be impossible due to the inmate's transfer to a more restrictive setting due to a behavioral or disciplinary violation;

(d) in accordance with Subsection (3), use the department's best efforts to ensure that if an inmate opts out of an optional program, the inmate is able to rejoin the program within six months without being required to restart the program from the beginning or wait on a waiting list;

(e) in accordance with Subsection (3), as soon as an inmate's case action plan is created in accordance with Subsection 64-13-6(1)(m), use the department's best efforts to start the inmate in at least two of the inmate's programs;

(f) in accordance with Subsection (3), use the department's best efforts to allow an inmate to participate in more than one program at a time throughout the inmate's time within the correctional facility, including, if applicable, providing technological methods for an inmate to participate in an online program;

(g) in accordance with Section 64-13e-103, prioritize the placement of inmates within county correctional facilities that:

(i) offer, allow, or facilitate department-specified programs for inmates; and

(ii) collect and provide inmate program completion data to the department; and

(h) periodically confer with an inmate and, if necessary, the board, to determine whether the inmate is on track to complete all of the inmate's programs by the inmate's board hearing.

(3) If the department is unable to meet a requirement described in Subsection (2)(c), (2)(d), (2)(e), or (2)(f), the department shall:

(a) include in the inmate's records the reason why the requirement was not met; and

(b) ensure the information described in Subsection (3)(a) is made available to the board.

(4) The department shall provide an annual report on the department's public website that states how many inmates:

(a) are currently participating in one or more programs; and

(b) have successfully completed one or more programs during the prior year.

Section 11. Section 77-27-7 is amended to read:

77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists -- Mental competency.

(1)(a) The Board of Pardons and Parole shall determine within six months after the date of an offender's commitment to the custody of the Department of Corrections, for serving a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and shall promptly notify the offender of the date.

(b) When determining the hearing date under Subsection (1)(a), the board shall consider:

(i) the type and severity of offenses;

(ii) prior criminal history;

(iii) criminogenic risk factors; and

(iv) evidence-based assessments.

(2) Before reaching a final decision to release any offender under this chapter, the chair shall cause the offender to appear before the board, its panel, or any appointed hearing officer, who shall personally interview the offender to consider the offender's fitness for release and verify as far as possible information furnished from other sources. Any offender may waive a personal appearance before the board. Any offender outside of the state shall, if ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in which the offender is housed in lieu of an appearance before the board. The offender shall be promptly notified in writing of the board's decision.

(3)(a) In the case of an offender convicted of violating or attempting to violate any of the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within six months prior to a hearing at which an original parole date is granted on any offense listed in this Subsection (3).

(b) The alienists shall report in writing the results of the examination to the board prior to the hearing. The report of the appointed alienists shall specifically address the question of the offender's current mental condition and attitudes as they relate to any danger the offender may pose to children or others if the offender is released on parole.

(4) A parolee may petition the board for termination of lifetime parole as provided in Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3, or 76-5-405, and released on parole before January 1, 2019.

(5) In any case where an offender's mental competency is questioned by the board, the chair may appoint one or more alienists to examine the offender and report in writing to the board, specifically addressing the issue of competency.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules governing:

(a) the hearing process;

(b) alienist examination; and

(c) parolee petitions for termination of parole.

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 145
S. B. 63
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

BOARD OF PARDONS AND PAROLE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill modifies provisions relating to the Board of Pardons and Parole.

Highlighted Provisions:

This bill:

- clarifies provisions concerning sentencing, credit for time served, and competency proceedings to reflect the existing jurisdiction of the Board of Pardons and Parole (board);
- provides that the board may intervene in certain proceedings;
- modifies provisions relating to offender eligibility for the earned time program;
- modifies provisions relating to when the board may stay the determination of an offender's hearing date for certain proceedings;
- replaces the term "alienist" with "licensed mental health professional" for certain examinations;
- grants the board the ability to appoint counsel or a lay representative for an offender under certain conditions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-201, as last amended by Laws of Utah 2023, Chapters 184, 497
77-15-3, as last amended by Laws of Utah 2018, Chapter 147
77-18-111, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-27-5, as last amended by Laws of Utah 2023, Chapters 151, 173
77-27-5.4, as last amended by Laws of Utah 2016, Third Special Session, Chapter 4
77-27-7, as last amended by Laws of Utah 2022, Chapter 430

ENACTS:

77-27-7.1, Utah Code Annotated 1953

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

Section 1. Section 76-3-201 is amended to read:

76-3-201. Sentences or combination of sentences allowed -- Restitution and other costs -- Civil penalties.

(1) As used in this section:

(a)(i) "Convicted" means:

(A) having entered a plea of guilty, a plea of no contest, or a plea of guilty with a mental condition; or

(B) having received a judgment of guilty or a judgment of guilty with a mental condition.

(ii) "Convicted" does not include an adjudication of an offense under Section 80-6-701.

(b) "Restitution" means the same as that term is defined in Section 77-38b-102.

(2) Within the limits provided by this chapter, a court may sentence an individual convicted of an offense to any one of the following sentences, or combination of the following sentences:

(a) to pay a fine;

(b) to removal or disqualification from public or private office;

(c) except as otherwise provided by law, to probation in accordance with Section 77-18-105;

(d) in accordance with Subsection 77-18-111(4), to imprisonment;

(e) on or after April 27, 1992, to life in prison without parole; or

(f) to death.

(3)(a) This chapter does not deprive a court of authority conferred by law:

(i) to forfeit property;

(ii) to dissolve a corporation;

(iii) to suspend or cancel a license;

(iv) to permit removal of an individual from office;

(v) to cite for contempt; or

(vi) to impose any other civil penalty.

(b) A court may include a civil penalty in a sentence.

(4) In addition to any other sentence that a sentencing court may impose, the court shall order an individual to:

(a) pay restitution in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act;

(b) subject to Section 77-32b-104, pay the cost expended by an appropriate governmental entity under Section 77-30-24 for the extradition of the individual if the individual:

(i) was extradited to this state, under Title 77, Chapter 30, Extradition, to resolve pending criminal charges; and

(ii) is convicted of an offense in the county for which the individual is returned;

(c) subject to Subsection (5) and Subsections 77-32b-104(2), (3), and (4), pay the cost of medical care, treatment, hospitalization, and related transportation, as described in Section 17-50-319,

that is provided by a county to the individual while the individual is in a county correctional facility before and after sentencing if:

(i) the individual is convicted of an offense that results in incarceration in the county correctional facility; and

(ii)(A) the individual is not a state prisoner housed in the county correctional facility through a contract with the Department of Corrections; or

(B) the reimbursement does not duplicate the reimbursement under Section 64-13e-104 if the individual is a state probationary inmate or a state parole inmate; and

(d) pay any other cost that the court determines is appropriate under Section 77-32b-104.

(5) The cost of medical care under Subsection (4)(c) does not include expenses incurred by the county correctional facility in providing reasonable accommodation for an inmate qualifying as an individual with a disability as defined and covered by the Americans with Disabilities Act, 42 U.S.C. 12101 through 12213, including medical and mental health treatment for the inmate's disability.

Section 2. Section 77-15-3 is amended to read:

77-15-3. Petition for inquiry regarding defendant -- Filing -- Contents.

(1) When a defendant charged with a public offense[~~ or serving a sentence of imprisonment~~] is incompetent to proceed, an individual described in Subsection (2)(b) may file a petition in the district court of the county where the charge is pending or where the defendant is confined.

(2)(a)(i) The petition shall contain a certificate that it is filed in good faith and on reasonable grounds to believe the defendant is incompetent to proceed.

(ii) [~~-~~]The petition shall contain a recital of the facts, observations, and conversations with the defendant that have formed the basis for the petition.

(iii) If filed by defense counsel, the petition may not disclose information in violation of the attorney-client privilege.

(b) The petition may be based upon knowledge or information and belief and may be filed by the defendant, any person acting on behalf of the defendant, the prosecuting attorney, or any person having custody or supervision over the defendant.

Section 3. Section 77-18-111 is amended to read:

77-18-111. Sentence -- Term -- Construction.

(1) If an individual is convicted of a crime and the judgment provides for a commitment to the state prison, the court shall not fix a definite term of imprisonment unless otherwise provided by law.

(2) The sentence and judgment of imprisonment shall be for an indeterminate term of not less than the minimum and not to exceed the maximum term provided by law for the particular crime.

(3) Except as otherwise expressly provided by law, every sentence, regardless of the sentence's form or terms, which purports to be for a shorter or different period of time, shall be construed to be a sentence for the term between the minimum and maximum periods of time provided by law and shall continue until the maximum period has been reached unless sooner terminated or commuted by authority of the board.

(4)(a) A court may not order that a term of imprisonment commences before the day upon which the sentence of imprisonment is imposed, except to correct a sentence consistent with Rule 22(e) or 30(b) of the Utah Rules of Criminal Procedure.

(b) The board may grant an individual credit for time served or other credit against a sentence, including as provided in Subsection 76-3-208(1)(b) or Section 76-3-403 or 77-27-5.4.

Section 4. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1)(a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The [~~Board of Pardons and Parole~~]board shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d)(i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~, by the board~~].

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e)(i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(f) A commutation or pardon may be granted only after a full hearing before the board.

(2)(a) In the case of [~~any hearings~~]a hearing, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d)(i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3)(a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4)(a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the [~~Board of Pardons and Parole~~]board.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5)(a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the [~~Department of Corrections~~]department regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the [~~Department of Corrections~~]department that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate

parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(8) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:

(a) correction of an order that has or will impact the board's jurisdiction; or

(b) clarification regarding an order that may impact the board's jurisdiction.

(9) A motion to intervene brought under Subsection (8)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

Section 5. Section 77-27-5.4 is amended to read:

77-27-5.4. Earned time program.

(1) The board shall establish an earned time program that reduces the period of incarceration for offenders who successfully complete specified programs, the purpose of which is to reduce the risk of recidivism.

(2) The earned time program shall:

(a) provide not less than four months of earned time credit each for the completion of up to two programs that:

(i) are approved by the board in collaboration with the [~~Department of Corrections~~]department; and

(ii) are recommended programs that are part of the offender's case action plan; and

(b) allow the board to grant in [~~its~~]the board's discretion earned time credit in addition to the earned time credit provided under Subsection (2)(a).

(3) The earned time program may not provide earned time credit for [~~offenders~~]an offender:

(a) whose previously ordered release date does not provide enough time, including time for transition services, for the [~~Board of Pardons and Parole~~]board to grant the earned time credit;

(b) who [~~have~~]has been sentenced by the court to a term of life without the possibility of parole;

(c) who [~~have~~]has been ordered by the [~~Board of Pardons and Parole~~]board to serve until the expiration of the offender's sentence, including a life sentence;

(d) who [~~do~~]does not have a current release date; [~~or~~]

(e) who [~~have~~]has not met a contingency requirement for release that has been ordered by the board[~~.~~]; or

(f) who has been given a termination date by the board.

(4) The board may order the forfeiture of earned time credits under this section if [~~it~~]the board determines a rescission hearing is necessary.

(5) The department shall notify the board not more than 30 days after an offender completes a program as defined in Subsection [~~77-27-5.4(2)(a)~~](2)(a).

(6) The board shall collect data for the fiscal year regarding the operation of the earned time credit program, including:

(a) the number of offenders who have earned time credit under this section in the prior year;

(b) the amount of time credit earned in the prior year;

(c) the number of offenders who forfeited earned time credit; and

(d) additional related information as requested by the Commission on Criminal and Juvenile Justice.

(7) The board shall collaborate with the [~~Department of Corrections~~]department in the establishment of the earned time credit program.

(8) To the extent possible, programming and hearings shall be provided early enough in an offender's incarceration to allow the offender to earn time credit.

Section 6. Section 77-27-7 is amended to read:

77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of licensed mental health professional -- Mental competency -- Rulemaking authority.

[~~(1) The Board of Pardons and Parole shall determine within six months after the date of an offender's commitment to the custody of the Department of Corrections, for serving a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and shall promptly notify the offender of the date.~~]

(1)(a) For an offender serving a sentence upon conviction of a felony or class A misdemeanor offense, the board shall:

(i) within six months after the day on which the offender is committed to the custody of the department, set a hearing date to establish the offender's release date or date for rehearing; and

(ii) promptly notify the offender of the date described in Subsection (1)(a)(i).

(b)(i) The board may delay setting the hearing date described in Subsection (1)(a)(i) if the offender has an additional pending criminal case at the time of the offender's commitment to the custody of the department.

(ii) For purposes of Subsection (1)(b)(i), a pending criminal case includes:

(A) uncharged conduct that is being screened for prosecution, unless one year has passed since the

day on which the board was notified of the screening and no charge has been filed within that time period; and

(B) charged conduct that has not reached resolution.

(c) If the board delays setting the hearing date as described in Subsection (1)(b), the board shall set a hearing date no later than six months after the day on which the final criminal case described in Subsection (1)(b) has been resolved.

(d)(i) If the board delays setting the hearing date as described in Subsection (1)(b), the board shall establish and use a process to monitor the progress of the pending criminal action by seeking or obtaining updates no less frequently than every six months.

(ii) The board shall establish the process described in Subsection (1)(d)(i) by creating rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)(a) Before reaching a final decision to release [~~any~~]an offender under this chapter, the chair shall cause the offender to appear before the board, [~~its~~]the board's panel, or [~~any~~]an appointed hearing officer, who shall personally interview the offender to consider the offender's fitness for release and verify as far as possible information furnished from other sources.

(b) [~~Any~~]An offender may waive a personal appearance before the board.

(c)(i) [~~Any~~]An offender outside of the state shall, if ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in which the offender is housed in lieu of an appearance before the board.

(ii) [~~,~~]The offender shall be promptly notified in writing of the board's decision.

(3)(a) In the case of an offender convicted of violating or attempting to violate any of the provisions of Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, the chair may appoint one or more [~~alienists~~]licensed mental health professionals who shall examine the offender within six months prior to a hearing at which an original parole date is granted on any offense listed in this Subsection (3).

(b)(i) The [~~alienists~~]licensed mental health professional shall report in writing the results of the examination to the board prior to the hearing.

(ii) The report of the appointed [~~alienists~~]licensed mental health professional shall specifically address the question of the offender's current mental condition and attitudes as they relate to any danger the offender may pose to children or others if the offender is released on parole.

(4) A parolee may petition the board for termination of lifetime parole as provided in Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302(2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3, or 76-5-405, and released on parole before January 1, 2019.

(5) In [~~any~~]a case [~~where~~]in which an offender's mental competency is questioned by the board, the chair may appoint one or more [~~alienists~~]licensed mental health professionals to examine the offender and report in writing to the board, specifically addressing the issue of competency.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules governing:

(a) the hearing process;

(b) [~~alienist examination~~]licensed mental health professional examinations; and

(c) parolee petitions for termination of parole.

Section 7. Section 77-27-7.1 is enacted to read:

77-27-7.1. Appointment of counsel or lay representative -- Procedures.

(1) If the board in the board's discretion determines that an offender within the board's jurisdiction is unable, due to physical, mental, or other circumstances, to meaningfully participate in a board hearing or other board proceeding, the board may appoint, at the board's own expense, legal counsel or a lay representative to assist the offender.

(2) The board shall determine the scope of the representation described in Subsection (1) based on a review of the totality of the circumstances.

(3) This section does not prevent the board from:

(a) appointing a licensed mental health professional in accordance with Section 77-27-7; or

(b) otherwise seeking information concerning the offender from the department or another entity.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 146
S. B. 66
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIMINAL OFFENSE AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill amends the definition of counterfeit intimate image.

Highlighted Provisions:

This bill:

- amends the definition of counterfeit intimate image.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-205, as last amended by Laws of Utah 2022, Chapters 112, 181 and 185 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 185

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

Section 1. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

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

(i) "Child" means an individual under 18 years old.

(ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, generated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(A) exposed human male or female genitals or pubic area, with less than an opaque covering;

(B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(C) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(iii) "Distribute" means the same as that term is defined in Section 76-5b-203.

(iv) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(v) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(vi) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(i) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(ii) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(b) An actor who is 18 years old or older commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2)(a), the individual depicted in the counterfeit intimate image is a child.

(3)(a)(i) A violation of Subsection (2)(a) that is knowing or intentional is a class A misdemeanor.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is knowing or intentional is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(b)(i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree felony.

(ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is knowing or intentional is a second degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.

(4) This section does not apply to:

(a)(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual depicted in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5)(a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76- 10- 1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76- 10- 1230, is not negligent under this section if it complies with Section 76- 10- 1231.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 147
S. B. 72
Passed February 8, 2024
Approved March 13, 2024
Effective July 1, 2024

BUREAU OF EMERGENCY MEDICAL SERVICES AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Dan N. Johnson

LONG TITLE

General Description:

This bill makes technical and conforming changes related to the Bureau of Emergency Medical Services.

Highlighted Provisions:

This bill:

- authorizes the Department of Public Safety to enter into contracts and to make rules related to emergency medical services prior to the transition of the emergency medical services regulatory authority; and
- makes technical and conforming changes related to the Bureau of Emergency Medical Services.

Money Appropriated in this Bill:

NoneÂ

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-48-101.5, as last amended by Laws of Utah 2023, Chapters 16, 327
26B-6-210, as renumbered and amended by Laws of Utah 2023, Chapter 308
53-2d-101, as last amended by Laws of Utah 2023, Chapters 16, 327 and renumbered and amended by Laws of Utah 2023, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
53-2d-304, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-402, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-410, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-509, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-805, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
58-57-7, as last amended by Laws of Utah 2023, Chapter 329
63G-4-102, as last amended by Laws of Utah 2023, Chapter 329
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467
75-2a-103, as last amended by Laws of Utah 2023, Chapters 139, 330
75-2a-106, as last amended by Laws of Utah 2023, Chapter 330
76-10-3105, as last amended by Laws of Utah 2023, Chapter 330
80-2-1002, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

53-2d-101.1, Utah Code Annotated 1953

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

Section 1. Section 11-48-101.5 is amended to read:

11-48-101.5. Definitions.

As used in this chapter:

(1)(a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or [~~ten~~]10 digit telephone call received directly by an ambulance provider licensed under [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act.

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

(3) "Political subdivision" means a county, city, town, special district, or service district.

Section 2. Section 26B-6-210 is amended to read:

26B-6-210. Statewide database -- Restricted use and access.

(1) The division shall maintain a database for reports of vulnerable adult abuse, neglect, or exploitation made pursuant to this part.

(2) The database shall include:

(a) the names and identifying data of the alleged abused, neglected, or exploited vulnerable adult and the alleged perpetrator;

(b) information regarding whether or not the allegation of abuse, neglect, or exploitation was found to be:

(i) supported;

(ii) inconclusive;

(iii) without merit; or

(iv) for reports for which the finding is made before May 5, 2008:

(A) substantiated; or

(B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a license, privilege, or approval made by:

(i) the department;

(ii) the Division of Professional Licensing;

(iii) the Division of Licensing and Background Checks within the department;

(iv) the Bureau of Emergency Medical Services [~~and Preparedness~~], within the [~~department, or a designee of the Bureau of Emergency Medical Services and Preparedness~~]Department of Public Safety;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 3. Section 53-2d-101 is amended to read:

53-2d-101. Definitions.

As used in this chapter:

(1)(a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

[~~(2) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 53-2d-809.~~]

[~~(3)~~](2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

[~~(4)~~](3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

[~~(5)~~](4) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

[~~(6)~~](5)(a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

[~~(7)~~](6) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

[~~(8)~~](7) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

[~~(9)~~](8) "Committee" means the State Emergency Medical Services Committee created by Section 53-2d-104.

[~~(10)~~](9) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

[~~(11) "Division" means the Division of Emergency Management created in Section 53-2a-103.~~]

[~~(12)~~](10) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

[~~(13)~~](11) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

[~~(14)~~](12) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

[~~(15)~~](13)(a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

[~~(16)~~](14) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

[~~(17)~~](15) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections [~~(17)(a)~~](15)(a) through (c).

[~~(18)~~](16) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

[~~(19)~~](17) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

[~~(20)~~](18) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

[~~(21)~~](19) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

[~~(22)~~](20) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(23)~~](21) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(24)~~](22) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

[~~(25)~~](23) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

[~~(26)~~](24) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26B-4-119.

[~~(27)~~](25) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(28)~~](26) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

[~~(29)~~](27) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(30)~~](28) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(31)~~](29) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(32)~~](30) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

[~~(33)~~](31) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 4. Section 53-2d-101.1 is enacted to read:

53-2d-101.1. Contracting authority -- Rulemaking authority.

(1) The department may enter into any contract or agreement to ensure a proper and orderly transition of the emergency medical services regulatory authority from the Department of Health and Human Services to the department.

(2)(a) Notwithstanding any other provision of law and subject to Subsection (2)(b), the department may initiate the rulemaking process in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for duties the department will undertake beginning July 1, 2024, related to emergency medical services.

(b) A proposed rule made under Subsection (2)(a) may not become effective until July 1, 2024.

Section 5. Section 53-2d-304 is amended to read:

53-2d-304. Statewide trauma registry and quality assurance program.

(1) The bureau shall:

(a) establish and fund a statewide trauma registry to collect and analyze information on the incidence, severity, causes, and outcomes of trauma;

(b) establish, by rule, the data elements, the medical care providers that shall report, and the time frame and format for reporting;

(c) use the data collected to:

(i) improve the availability and delivery of prehospital and hospital trauma care;

(ii) assess trauma care delivery, patient care outcomes, and compliance with the requirements of this [~~part~~]chapter and applicable department rules; and

(iii) regularly produce and disseminate reports to data providers, state government, and the public; and

(d) support data collection and abstraction by providing:

(i) a data collection system and technical assistance to each hospital that submits data; and

(ii) funding or, at the discretion of the bureau, personnel for collection and abstraction for each hospital not designated as a trauma center under the standards established pursuant to Section 53-2d-305.

(2)(a) Each hospital shall submit trauma data in accordance with rules established under Subsection (1).

(b) A hospital designated as a trauma center shall submit data as part of the ongoing quality

assurance program established in Section 53-2d-303.

(3) The department shall assess:

(a) the effectiveness of the data collected pursuant to Subsection (1); and

(b) the impact of the statewide trauma system on the provision of trauma care.

(4) Data collected under this section shall be subject to Title 26B, Chapter 8, Part 4, Health Statistics.

(5) No person may be held civilly liable for having provided data to the department in accordance with this section.

Section 6. Section 53-2d-402 is amended to read:

53-2d-402. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) advanced emergency medical services technician;

(iii) emergency medical services technician;

(iv) emergency medical responder;

[~~(iv)~~](v) behavioral emergency services technician; and

[~~(v)~~](vi) advanced behavioral emergency services technician;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The bureau shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The bureau shall coordinate with local mental health authorities described in Section 17-43-301 to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section 53-2d-602, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 53-2d-410.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 53-2d-410.5.

Section 7. Section 53-2d-410 is amended to read:

53-2d-410. Background clearance for emergency medical service personnel.

(1) Subject to Section 53-2d-410.5, the bureau shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 53-2d-402 from whom the bureau receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The bureau shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The bureau shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the bureau obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The bureau shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the bureau will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 53-2d-402 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the bureau may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the department's Licensing Information System described in Section 80-2-1002;

(f) the department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 26B-6-210;

(g) Division of Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the bureau for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the bureau shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The bureau shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The bureau may disclose personal identification information the bureau receives under Subsection (1) to the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The bureau may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other bureau costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the department; and

(b) notify the bureau upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

[~~(12) The bureau shall use the Direct Access Clearance System database created under Section 26B-2-241 to manage information about the background clearance status of each individual for whom the bureau is required to make a determination under Subsection (1).~~]

[~~(13)~~](12) Clearance granted for an individual licensed or certified under Section 53-2d-402 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 8. Section 53-2d-509 is amended to read:

53-2d-509. Ground ambulance and paramedic licenses -- Hearing and presiding officers.

(1) The bureau shall set training standards for hearing officers and presiding officers.

(2) At a minimum, a presiding officer shall:

(a) be familiar with the theory and application of public convenience and necessity; [~~and~~]

(b) have a working knowledge of the emergency medical service system in the state[~~.~~]; and

(c) be licensed to practice law in the state.

[~~(3) In addition to the requirements in Subsection (2), a hearing officer shall also be licensed to practice law in the state.~~]

[~~(4)~~](3) The bureau shall provide training for hearing officer and presiding officer candidates in the theory and application of public convenience and necessity and on the emergency medical system in the state.

[~~(5) The bureau shall maintain a roster of no less than five individuals who meet the minimum qualifications for both presiding and hearing officers and the standards set by the bureau.~~]

[~~(6) The parties may mutually select an officer from the roster if the officer is available.~~]

[~~(7) If the parties cannot agree upon an officer under Subsection (4), the bureau shall randomly~~

~~select an officer from the roster or from a smaller group of the roster agreed upon by the applicant and the objecting interested parties.~~]

Section 9. Section 53-2d-805 is amended to read:

53-2d-805. Duties of emergency medical dispatch centers.

An emergency medical dispatch center shall:

(1) implement a system to receive and manage the information reported to the emergency medical dispatch center under Section 53-2d-803;

(2) record in the system described in Subsection (1), all information received under Section 53-2d-803 within 14 days after the day on which the information is received;

(3) inform an individual who calls to report a potential incident of sudden cardiac arrest of the location of an AED located at the address of the potential sudden cardiac arrest;

(4) provide verbal instructions to an individual described in Subsection (3) to:

(a) help the individual determine if a patient is in cardiac arrest; and

(b) if needed:

(i) provide direction to start CPR;

(ii) offer instructions on how to perform CPR; or

(iii) offer instructions on how to use an AED, if one is available; and

(5) provide the information contained in the system described in Subsection (1), upon request, to the [~~office~~]bureau.

Section 10. Section 58-57-7 is amended to read:

58-57-7. Exemptions from licensure.

(1)(a) For purposes of Subsection (2)(b), "qualified" means an individual who is a registered polysomnographic technologist or a Diplomate certified by the American Board of Sleep Medicine.

(b) For purposes of Subsections (2)(f) and (g), "supervision" means one of the following will be immediately available for consultation in person or by phone:

(i) a practitioner;

(ii) a respiratory therapist;

(iii) a Diplomate of the American Board of Sleep Medicine; or

(iv) a registered polysomnographic technologist.

(2) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of respiratory therapy subject to the stated circumstances and limitations without being licensed under this chapter:

(a) any person who provides gratuitous care for a member of his immediate family without representing himself as a licensed respiratory care practitioner;

(b) any person who is a licensed or qualified member of another health care profession, if this practice is consistent with the accepted standards of the profession and if the person does not represent himself as a respiratory care practitioner;

(c) any person who serves in the Armed Forces of the United States or any other agency of the federal government and is engaged in the performance of his official duties;

(d) any person who acts under a certification issued pursuant to [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act, while providing emergency medical services;

(e) any person who delivers, installs, or maintains respiratory related durable medical equipment and who gives instructions regarding the use of that equipment in accordance with Subsections 58-57-2(3) and (6), except that this exemption does not include any clinical evaluation or treatment of the patient;

(f) any person who is working in a practitioner's office, acting under supervision; and

(g) a polysomnographic technician or trainee, acting under supervision, as long as the technician or trainee administers the following only in a sleep lab, sleep center, or sleep facility:

(i) oxygen titration; and

(ii) positive airway pressure that does not include mechanical ventilation.

(3) Nothing in this chapter permits a respiratory care practitioner to engage in the unauthorized practice of other health disciplines.

Section 11. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or

interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Office of Substance Use and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t)(i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action;

(x) the suspension of operations under Subsection 32B-1-304(3); or

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5)(a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7)(a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 12. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-101.1 is repealed on July 1, 2024.

[~~(4)~~](5) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

[~~(5)~~](6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(6)~~](7) Section 53-7-109 is repealed on July 1, 2024.

[~~(7)~~](8) Section 53-22-104 is repealed December 31, 2023.

[~~(8)~~](9) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](10) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](11) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](12) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](13) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](14) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](15) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](17) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](18) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](20) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](21) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](22) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 13. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a POLST order.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person that is licensed, designated, or certified under [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the individual.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(16)(a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(17) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

(18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(19) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(20) "POLST order" means an order, on a form designated by the Department of Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 14. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- POLST order.

(1) A POLST order may be created by or on behalf of a person as described in this section.

(2) A POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A POLST order shall be signed:

(a) personally, by the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; and

(b)(i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the POLST order on behalf of the person;

(ii) if the person to whom the POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the POLST order relates is a minor, by a parent or guardian of the minor.

(4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A POLST order:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a POLST order in good faith; or

(b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a POLST order described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new POLST order.

(9)(a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a POLST order may revoke a POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the POLST order; or

(ii) completing and signing a new POLST order.

(c) A surrogate may not revoke a POLST order during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10)(a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a POLST order.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.

(12)(a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the POLST order; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the POLST order in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the POLST order attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (12)(a)(ii)(B):

(i) may not be the same individual who signs the POLST order under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 15. Section 76-10-3105 is amended to read:

76-10-3105. Exempt activities.

(1) This act may not be construed to prohibit:

(a) the activities of any public utility to the extent that those activities are subject to regulation by the public service commission, the state or federal department of transportation, the federal energy regulatory commission, the federal communications commission, the interstate commerce commission, or successor agencies;

(b) the activities of any insurer, insurance producer, independent insurance adjuster, or rating organization including, but not limited to, making or participating in joint underwriting or reinsurance arrangements, to the extent that those activities are subject to regulation by the commissioner of insurance;

(c) the activities of securities dealers, issuers, or agents, to the extent that those activities are subject to regulation under the laws of either this state or the United States;

(d) the activities of any state or national banking institution, to the extent that the activities are regulated or supervised by state government officers or agencies under the banking laws of this state or by federal government officers or agencies under the banking laws of the United States;

(e) the activities of any state or federal savings and loan association to the extent that those activities are regulated or supervised by state government officers or agencies under the banking laws of this state or federal government officers or agencies under the banking laws of the United States;

(f) the activities of a political subdivision to the extent authorized or directed by state law, consistent with the state action doctrine of federal antitrust law; or

(g) the activities of an emergency medical service provider licensed under [~~Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System~~]Title 53, Chapter 2d, Emergency Medical Services Act, to the extent that those activities are regulated by state government officers or agencies under that act.

(2)(a) The labor of a human being is not a commodity or article of commerce.

(b) Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purpose of mutual help and not

having capital stock or conducted for profit, or to forbid or restrain individual members of these organizations from lawfully carrying out their legitimate objects; nor may these organizations or membership in them be held to be illegal combinations or conspiracies in restraint of trade under the antitrust laws.

(3)(a) As used in this section, an entity is also a municipality if the entity was formed under Title 11, Chapter 13, Interlocal Cooperation Act, prior to January 1, 1981, and the entity is:

(i) a project entity as defined in Section 11-13-103;

(ii) an electric interlocal entity as defined in Section 11-13-103; or

(iii) an energy services interlocal entity as defined in Section 11-13-103.

(b) The activities of the entities under Subsection (3)(a) are authorized or directed by state law.

Section 16. Section 80-2-1002 is amended to read:

80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1)(a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

(i) for licensing purposes; or

(ii) as otherwise provided by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.

(2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

(c) the information described in Subsection (3);

(d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

(f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the finding in the Management Information System.

(4) Information or a record contained in the Licensing Information System is:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:

(i) to the Office of Licensing created in Section 26B-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from an individual whose name is listed in the Licensing Information System;

(iii) to a person designated by the Department of Health and Human Services, only for the following purposes:

(A) licensing a child care program or provider; or

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect; [~~or~~]

[~~(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;~~]

(iv) to a person designated by the Department of Workforce Services and approved by the Department of Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;

(v) to the Bureau of Emergency Medical Services, within the Department of Public Safety, in determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

[~~(v)~~](vi) as provided in Section 26B-2-121; or

[~~(vi)~~](vii) to the department or another person, as provided in this chapter.

(5) A person designated by the Department of Health and Human Services[~~or~~], the Department of Workforce Services, or the Bureau of Emergency Medical Services under Subsection (4) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to persons allowed access by statute.

(6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7)(a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.

Section 17. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) If approved by two-thirds of all the members elected to each house, the actions affecting Sections 53-2d-101.1 (effective upon governor's approval) and 63I-2-253 (effective upon governor's approval) take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 148
S. B. 70
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

JUDICIARY AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Brian S. King

LONG TITLE

General Description:

This bill amends provisions regarding the number of judges in each judicial district.

Highlighted Provisions:

This bill:

- increases the number of district court judges in the Third Judicial District;
- increases the number of juvenile court judges in the Fourth Judicial District; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-1-103, as last amended by Laws of Utah 2022, Chapter 271
78A-1-104, as last amended by Laws of Utah 2023, Chapter 511

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

Section 1. Section 78A-1-103 is amended to read:

78A-1-103. Number of district court judges.

The number of district court judges [~~shall be~~]is:

(1) four district court judges in the First Judicial District;

(2) 14 district court judges in the Second Judicial District;

(3) [~~31~~]32 district court judges in the Third Judicial District;

(4) 13 district court judges in the Fourth Judicial District;

(5) seven district court judges in the Fifth Judicial District;

(6) two district court judges in the Sixth Judicial District;

(7) three district court judges in the Seventh Judicial District; and

(8) three district court judges in the Eighth Judicial District.

Section 2. Section 78A-1-104 is amended to read:

78A-1-104. Number of juvenile court judges.

The number of juvenile court judges [~~shall be~~]is:

(1) two juvenile court judges in the First [~~Juvenile~~]Judicial District;

(2) six juvenile court judges in the Second [~~Juvenile~~]Judicial District;

(3) nine juvenile court judges in the Third [~~Juvenile~~]Judicial District;

(4) [~~six juvenile~~]seven juvenile court judges in the Fourth [~~Juvenile~~]Judicial District;

(5) three juvenile court judges in the Fifth [~~Juvenile~~]Judicial District;

(6) two juvenile court judges in the Sixth [~~Juvenile~~]Judicial District;

(7) two juvenile court judges in the Seventh [~~Juvenile~~]Judicial District; and

(8) two juvenile court judges in the Eighth [~~Juvenile~~]Judicial District.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 149
H. B. 259
Passed February 15, 2024
Approved March 13, 2024
Effective May 1, 2024

JUVENILE INTERROGATION MODIFICATIONS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the interrogation of a child.

Highlighted Provisions:

This bill:

- clarifies the requirements for an interrogation of a child;
- requires a law enforcement agency to make an audio or visual recording of an interrogation of a child;
- addresses the admissibility of a recorded or unrecorded interrogation of a child;
- addresses the admissibility of an admission, confession, or statement by a child as a result of an interrogation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-206, as last amended by Laws of Utah 2023, Chapter 436

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

Section 1. Section 80-6-206 is amended to read:

80-6-206. Interrogation of a child -- Presence of a parent, legal guardian, or other adult -- Prohibition on false information or unauthorized statement -- Admissibility of admission, confession, or statement by child.

(1) As used in this section:

(a) "Custodial interrogation" means any interrogation of a [~~minor~~]child while the individual is in custody.

(b)(i) "Friendly adult" means an adult:

(A) who has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(c)(i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2)(a) If a child is subject to a custodial interrogation for an offense, the child has the right to have:

[~~(a)~~](i) [~~to have~~]the child's parent or guardian present during an interrogation of the child; or

[~~(b)~~](ii) [~~to have~~]a friendly adult present during an interrogation of the child if:

[~~(i)~~](A) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

[~~(ii)~~](B) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(b) A child's parent or guardian, or a friendly adult, is present at a custodial interrogation if:

(i) the parent, guardian, or friendly adult attends the custodial interrogation in person or by video; and

(ii) an interpreter is provided to the child and the parent, guardian, or friendly adult if the child or the parent, guardian, or friendly adult is unable to speak or understand English.

(3) If a child is subject to a custodial interrogation for an offense, the child may not be interrogated unless:

(a) the child has been advised, in accordance with Subsection (4), of:

(i) the child's constitutional rights; and

(ii) if the child has a right to have a parent, guardian, or friendly adult present during the interrogation under this section, the child's right to have a parent or guardian, or a friendly adult[~~ if applicable under Subsection (2)(b),~~] present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) [~~except as provided in Subsection (6), the child's parent or guardian, or the friendly adult if applicablÂe under Subsection (2)(b),~~]if the child has a right to have a parent, guardian, or friendly adult present during the interrogation under this section, the child's parent or guardian, or a friendly adult, was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; [~~and~~]

(d) if the child is being held in a detention facility or a secure care facility, the child has had a meaningful opportunity to consult with the child's appointed or retained attorney and the child's appointed or retained attorney is present for the interrogation; and

[~~(d)~~](e) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 80-2-705.

(4) Before the custodial interrogation of a child by a peace officer or a juvenile probation officer, the peace officer or juvenile probation officer shall disclose the following to the child:

(a) You have the right to remain silent.

(b) If you do not want to talk to me, you do not have to talk to me.

(c) If you decide to talk to me, you have the right to stop answering my questions or talking to me at any time.

(d) Anything you say can and will be used against you in court.

(e) If you talk to me, I can tell a judge and everyone else in court everything that you tell me.

(f) You have the right to have a parent or guardian, or a friendly adult if applicable, with you while I ask you questions.

(g) You have the right to a lawyer.

(h) You can talk to a lawyer before I ask you any questions and you can have that lawyer with you while I ask you questions.

(i) If you want to talk to a lawyer, a lawyer will be provided to you for free.

(j) These are your rights.

(k) Do you understand the rights that I have just told you?

(l) Do you want to talk to me?

(5)(a) A peace officer's, or a juvenile probation officer's, compliance with Subsection (4) is determined by examining the entirety of the officer's disclosures to the child.

(b) A peace officer's, or a juvenile probation officer's, failure to strictly comply with, or state the exact language of, Subsection (4) is not grounds by itself for finding the officer has not complied with Subsection (4).

(6) [~~A~~]Notwithstanding Subsection (2), a child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver [~~under Subsection (3)~~]as described in Subsection (3)(c) or to give permission to the custodial interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer or a juvenile probation officer has relied on that misrepresentation in good faith; [~~or~~]

(c) a peace officer, a juvenile probation officer, or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or [~~legal~~]guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time at which the child is taken into temporary custody[~~.~~]; or

(d) the child is being held in a detention facility or a secure care facility and the child's appointed or retained attorney is required to be present for the interrogation as described in Subsection (7).

(7)(a) [~~If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual~~]If a child is being held in a detention facility or a secure care facility and the child is subject to a custodial interrogation for an offense, the [~~individual~~]child may not be interrogated unless:

(i) the [~~individual~~]child has had a meaningful opportunity to consult with the [~~individual's~~]child's appointed or retained attorney;

(ii) the [~~individual~~]child waives the [~~individual's~~]child's constitutional rights after consultation with the [~~individual's~~]child's appointed or retained attorney; and

(iii) the [~~individual's~~]child's appointed or retained attorney is present for the interrogation.

(b) Subsection (7)(a) does not apply to a juvenile probation officer or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the [~~individual~~]child on behalf of a peace officer or a law enforcement agency.

(c) A child's appointed or retained attorney is present at a custodial interrogation as described in this Subsection (7) if the attorney attends the custodial interrogation in person or by video.

(8) If a child is subject to a custodial interrogation for an offense, a peace officer, or an individual interrogating a child on behalf of a peace officer or a law enforcement agency, may not knowingly:

(a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or

(b) make an unauthorized statement about leniency for the offense.

(9) A law enforcement agency shall make an audio recording or an audio-video recording that accurately records a custodial interrogation of a child.

(10)(a) If a peace officer or juvenile probation officer intentionally, knowingly, or recklessly fails to comply with the requirements for a custodial interrogation of a child as described in this section, any admission, confession, or statement made by the child as a result of the custodial interrogation is presumed:

(i) to not be voluntarily, knowingly, and intelligently made; and

(ii) to not be admissible as evidence against the child.

(b) A prosecuting attorney may only overcome the presumption described in Subsection (10)(a) by a preponderance of the evidence showing that the child had the ability to comprehend and waive:

(i) the child's constitutional rights; and

(ii) if the child has a right to have a parent, guardian, or friendly adult present under this section, the child's right to have a parent or guardian, or a friendly adult, present during the custodial interrogation.

(c) When a custodial interrogation of a child is not accurately recorded as described in Subsection (9), a court shall determine whether a statement made by the child in the custodial interrogation is admissible in accordance with Rule 616 of the Utah Rules of Evidence.

[~~(9)~~](11) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 150
S. B. 76
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

EVIDENCE RETENTION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill amends provisions related to the retention and disposal of evidence of an offense.

Highlighted Provisions:

This bill:

- clarifies the requirements for disposing of wildlife seized by the Division of Wildlife Resources;
- amends the time period for retaining evidence of a felony offense;
- clarifies that the time period requirements do not require an agency to return or dispose of evidence of a felony offense;
- provides that an agency is not required to retain evidence of a felony offense in certain circumstances;
- provides the requirements for an agency seeking to no longer retain evidence of a felony offense;
- amends the time period for retaining biological evidence of a violent felony offense;
- amends the notification requirements regarding the retention of biological evidence of a violent felony offense; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23A-5-201, as last amended by Laws of Utah 2023, Chapter 448 and renumbered and amended by Laws of Utah 2023, Chapter 103
77-11a-204, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11a-205, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11a-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11a-302, as enacted by Laws of Utah 2023, Chapter 448
77-11a-303, as enacted by Laws of Utah 2023, Chapter 448
77-11a-305, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11c-103, as enacted by Laws of Utah 2023, Chapter 448
77-11c-202, as enacted by Laws of Utah 2023, Chapter 448
77-11c-203, as enacted by Laws of Utah 2023, Chapter 448
77-11c-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11c-401, as renumbered and amended by Laws of Utah 2023, Chapter 448

ENACTS:

77-11c-302, Utah Code Annotated 1953
77-11c-303, Utah Code Annotated 1953

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

Section 1. Section 23A-5-201 is amended to read:

23A-5-201. Enforcement authority of conservation officers -- Seizure and disposition of property.

(1) A conservation officer shall enforce the provisions of this title in accordance with the same procedures and requirements for a law enforcement officer of this state.

(2)(a) Except as provided in Subsection (2)(b), a conservation officer may seize property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

(b) A conservation officer shall seize protected wildlife illegally taken or held.

(3)(a) If a conservation officer seizes wildlife as part of an investigation or prosecution of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for the offense, the division is not required to retain the wildlife under Title 77, Chapter 11c, Retention of Evidence.

(b) If the division does not retain wildlife under Subsection (3)(a), the division is required to preserve sufficient evidence from the wildlife for use as evidence in the prosecution of a person for the offense.

(4)(a) If a conservation officer seizes wildlife and the wildlife or parts of the wildlife are perishable, the division may donate the wildlife or parts of the wildlife to be used for charitable purposes.

(b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for charitable purposes under Subsection (4)(a), the division may dispose of the wildlife or parts of the wildlife in a reasonable manner.

[~~(5)(a) The court may order the division to sell or dispose of protected wildlife that is seized by a conservation officer if the division is permitted by law to sell or dispose of the wildlife.~~]

(5)(a) If a defendant is convicted of the offense for which protected wildlife is seized and the division is permitted by law to sell or dispose of the protected wildlife, the division may sell or dispose of the protected wildlife or part of the wildlife.

(b) The division may not sell migratory wildfowl but the division shall donate the migratory wildfowl to be used for charitable purposes.

(c) The division shall deposit the proceeds from the sale of protected wildlife into the Wildlife Resources Account.

(6) If the division disposes of wildlife and the defendant is acquitted of the offense for which the wildlife is seized or the entire case for the offense is dismissed, the court may order the division to:

(a) provide the owner of the disposed wildlife with wildlife that is reasonably equivalent in value to the disposed wildlife within 180 days after the day on which the court enters the order; or

(b) if the division is unable to obtain wildlife that is reasonably equivalent in value to the disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of the disposed wildlife in accordance with Subsection 23A-5-312(2) within 180 days after the day on which the court enters the order.

(7)(a) If a conservation officer seizes a vehicle under Section 77-11a-201, the division shall store the seized vehicle in a public or private garage, state impound lot, or any other secured storage facility.

(b) The division shall release a seized vehicle to the owner no later than 30 days after the day on which the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person charged with a felony under this title.

(c) The owner of a seized vehicle is liable for the payment of any impound fee if:

(i) the owner used the vehicle for the unlawful taking or possessing of wildlife; and

(ii) the owner is convicted of an offense under this title.

(d) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped that involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle that violates this chapter.

Section 2. Section 77-11a-204 is amended to read:

77-11a-204. Custody of seized property and contraband.

(1) An agency with custody of seized property or contraband shall:

(a) hold the property or contraband in safe custody until the property or contraband is [~~released~~]returned or disposed of in accordance with:

(i) this chapter; and

(ii) Chapter 11c, Retention of Evidence; and

(b) maintain a record of the property or contraband, including:

(i) a detailed inventory of all property or contraband seized;

(ii) the name of the person from which the property or contraband was seized; and

(iii) the agency's case number.

(2)(a) Except as provided in Subsection (2)(b), no later than 30 days after the day on which a peace officer seizes property in the form of cash or other readily negotiable instruments, an agency shall deposit the property into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.

(b) A prosecuting attorney may authorize one or more written extensions of the 30-day period under Subsection (2)(a) if the property needs to maintain the form in which the property was seized for evidentiary purposes or other good cause.

(3) An agency shall:

(a) have written policies for the identification, tracking, management, and safekeeping of seized property and contraband; and

(b) shall have a written policy that prohibits the transfer, sale, or auction of seized property and contraband to an employee of the agency.

Section 3. Section 77-11a-205 is amended to read:

77-11a-205. Transfer or release of seized property to another governmental entity -- Requirements.

(1) Except as provided in Subsections (3)(a) through (c), upon the seizure of property by a peace officer, the property is subject to the exclusive jurisdiction of a district court of this state.

(2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting attorney may not directly or indirectly transfer or release seized property to a federal agency or to a governmental entity not created or subject to the laws of this state.

(3) An agency or prosecuting attorney may transfer or release seized property to a federal agency or to a governmental entity not created or subject to the laws of this state if:

(a)(i) the property is cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the property is seized;

(b)(i) the property is not cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 77-11b-203;

(c)(i) the property was used in the commission of an offense in another state; and

(ii) an agency of that state requests the transfer of the property before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 77-11b-203; or

(d) a district court authorizes, in accordance with Subsection (5), the transfer or release of the property to an agency of another state or a federal agency upon a petition by a prosecuting attorney or a federal prosecutor.

(4)(a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district court for the transfer or release of seized property.

(b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection (4)(a), the petition shall include:

(i) a detailed description of the property seized;

(ii) the location where the property was seized;

(iii) the date the property was seized;

(iv) the case number assigned by the agency; and

(v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency or an agency of another state;

(B) contains the names and addresses of any known claimant; and

(C) is signed by the prosecuting attorney or federal prosecutor.

(5) A district court may not authorize the transfer or release of seized property under Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

(a) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint after the property is seized;

(b) the property may only be forfeited under federal law;

(c) forfeiting the property under state law would unreasonably burden the prosecuting attorney or agency; or

(d) the property was subject to a federal criminal investigation before the property was seized.

(6)(a) Before a district court may order the transfer of seized property in accordance with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a notice to:

(i) each address contained in the declaration under Subsection (4)(b)(v) to give a claimant the right to be heard with regard to the transfer; and

(ii)(A) if a federal prosecutor files the petition under Subsection (4), the prosecuting attorney that is representing the agency with custody of the property; or

(B) if a prosecuting attorney files the petition under Subsection (4), the federal prosecutor who will receive the property upon the transfer or release of the property.

(b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition to transfer the property within 10 days after the day on which the notice is mailed, the district court shall issue the district court's order in accordance with this section.

(c) If the declaration does not include an address for a claimant, the district court shall delay the district court's order under this section for 20 days to allow time for the claimant to appear and make an objection.

(d)(i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer the property to a federal agency or to another governmental entity not created or subject to the laws of this state, the district court shall promptly set the matter for hearing.

(ii) In making a determination under Subsection (5), the district court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, protections afforded under state and federal law, pending state or federal investigations, and any other relevant matter.

(7) If an agency receives property, money, or other things of value under a federal law that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds from the sale of forfeited property, the agency:

(a) shall use the property, money, or other things of value in compliance with federal laws and regulations relating to equitable sharing;

(b) may use the property, money, or other things of value for a law enforcement purpose described in Subsection 77-11b-403(10); and

(c) may not use the property, money, or other thing of value for a law enforcement purpose prohibited in Subsection 77-11b-403(11).

(8) An agency awarded an equitable share of property forfeited by the federal government may use the award money only after approval of the use by the agency's legislative body.

(9) If a district court exercises exclusive jurisdiction over seized property, the district court's exclusive jurisdiction is terminated if [~~the property is released by the agency with custody of the property~~]the agency with custody of the property returns the property to a claimant under:

(a) [~~Part 3, Release of Seized Property to Claimant~~]Part 3, Return of Seized Property to Claimant; or

(b) Section 77-11b-203.

Section 4. Section 77-11a-301 is amended to read:

77-11a-301. Return of seized property to claimant -- Generally.

Part 3. Return of Seized Property to Claimant

(1)(a) An agency with custody of seized property, or the prosecuting attorney, may [~~release~~]return the property to a claimant if the agency or the prosecuting attorney:

(i) determines that the agency does not need to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.

(b) An agency with custody of seized property, or the prosecuting attorney, may not [~~release~~]return property under this Subsection (1) if the property is subject to retention or preservation under Chapter 11c, Retention of Evidence.

(2) An agency with custody of the seized property, or the prosecuting attorney, shall [~~release~~]return the property to a claimant if:

(a) the claimant posts a surety bond or cash with the court in accordance with Section 77-11a-302;

(b) the court orders the [~~release~~]return of property to the claimant for hardship purposes under Section 77-11a-303;

(c) a claimant establishes that the claimant is an innocent owner or an interest holder under Section 77-11a-304; or

(d) the court orders property retained as evidence to be [~~released~~]returned to the claimant under Section 77-11a-305.

(3)(a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the owner of the computer.

(b) The agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) If a peace officer for the Division of Wildlife Resources seizes a vehicle, the Division of Wildlife Resources shall [~~release~~]return the vehicle to a claimant in accordance with Section 23A-5-201.

(5) If an agency is not required, or is no longer required, to retain or preserve property as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to [~~release~~]return or dispose of the property, the agency shall exercise due diligence in attempting to notify the claimant of the property to advise the claimant that the property is to be returned.

(6)(a) Before an agency may [~~release~~]return seized property to a person claiming ownership of the property, the person shall establish that the person:

(i) is the owner of the property; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (6)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

(c) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

(d) The agency shall:

(i) retain a copy of the receipt; and

(ii) provide a copy of the receipt to the owner.

Section 5. Section 77-11a-302 is amended to read:

77-11a-302. Return of seized property to claimant by surety bond or cash.

(1) Except as provided in Subsection (2), a claimant may obtain [~~release~~]the return of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.

(2) A court may refuse to order the [~~release~~]return of property under Subsection (1) if:

(a) the bond tendered for the property is inadequate;

(b) the property is subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence;

(c) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture under Section 77-11b-102; or

(d) the property is contraband.

(3) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

Section 6. Section 77-11a-303 is amended to read:

77-11a-303. Return of seized property subject to forfeiture to claimant for hardship.

(1) A claimant is entitled to the immediate [~~release~~]return of seized property for which the agency has filed a notice of intent to forfeit under Section 77-11b-201 if:

(a) the claimant had a possessory interest in the property at the time of seizure;

(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any child from attending elementary or secondary school;

(iv) preventing or hindering an individual from receiving necessary medical care;

(v) preventing the care of a dependent child or adult who is elderly or disabled;

(vi) leaving an individual homeless; or

(vii) any other condition that the court determines causes a substantial hardship;

(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and

(d) the determination of substantial hardship under this Subsection (1) is based upon the property's use before the seizure.

(2) A claimant may file a motion or petition for hardship release under this section:

(a) in the court in which forfeiture proceedings have commenced; or

(b) in a district court where there is venue under Section 77-11a-102 if a forfeiture proceeding has not yet commenced.

(3) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.

(4) The court shall:

(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and

(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.

(5) If the claimant demonstrates substantial hardship under Subsection (1), the court shall order the agency to immediately return the property [~~immediately released~~]to the claimant pending completion of any forfeiture proceeding.

(6) The court may place conditions on [~~release~~]the return of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.

(7) The hardship release under this section does not apply to:

(a) contraband;

(b) property that is subject to the retention or preservation requirements under Chapter 11c, Retention of Evidence; or

(c) property that is likely to be used to commit additional offenses if returned to the claimant.

Section 7. Section 77-11a-305 is amended to read:

77-11a-305. Release of seized property to claimant when seized property is retained as evidence.

(1)(a) A claimant may file a petition with the court for the return of the property that is being retained as evidence in accordance with Chapter 11c, Retention of Evidence.

(b) The claimant may file the petition in:

(i) the court in which criminal proceedings have commenced regarding the offense for which the property is being retained as evidence; or

(ii) the district court with venue under Section 77-11a-102 if there are no pending criminal proceedings.

(c) A claimant shall serve a copy of the petition on the prosecuting attorney or federal prosecutor and the agency with custody of the property.

(2)(a) The court shall provide an opportunity for an expedited hearing.

(b) After the opportunity for an expedited hearing, the court may order that the property is:

(i) returned to the claimant if the claimant is the owner as determined by the court;

(ii) if the offense subjecting the property to seizure results in a conviction, applied directly or by proceeds of the sale of the property toward restitution, fines, or fees owed by the claimant in an amount set by the court;

(iii) converted to a public interest use;

(iv) held for further legal action;

(v) sold at public auction and the proceeds of the sale applied to a public interest use; or

(vi) destroyed.

(3) Before the court can order property be returned to a claimant, the claimant shall establish, by clear and convincing evidence, that the claimant:

(a) is the owner of the property; and

(b) may lawfully possess the property.

(4) If the court orders the property to be returned to the claimant, the agency with custody of the property shall return the property to the claimant as expeditiously as possible.

Section 8. Section 77-11c-103 is amended to read:

77-11c-103. Disposal or return of evidence.

When evidence is no longer subject to retention under this chapter, the agency shall:

(1) return evidence that is property to a claimant under [~~Title 77, Chapter 11a, Part 3, Release of Seized Property to Claimant~~]Chapter 11a, Part 3, Return of Seized Property to Claimant; or

(2) dispose of evidence that is property or contraband in accordance with [~~Title 77, Chapter 11a, Part 4, Disposal of Seized Property and Contraband~~]Chapter 11a, Part 4, Disposal of Seized Property and Contraband.

Section 9. Section 77-11c-202 is amended to read:

77-11c-202. Requirements for not retaining evidence of a misdemeanor offense -- Preservation of sufficient evidence.

(1) An agency is not required to retain evidence of a misdemeanor offense under Section 77-11c-201 if:

(a)(i) the agency determines that:

(A) the size, bulk, or physical character of the evidence renders retention impracticable; or

(B) the evidence poses a security or safety problem for the agency;

(ii) the agency preserves sufficient evidence of the property, contraband, item, or substance for use as evidence in a prosecution of the offense[~~, in accordance with this section~~];

(iii) the agency sends a written request under Subsection 77-11c-203(1) to the prosecuting attorney for permission to [~~release~~]return or dispose of the evidence; and

(iv) the prosecuting attorney grants the agency's written request in accordance with Section 77-11c-203;

(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or

(c) the evidence is wildlife or parts of wildlife.

(2)(a) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor offense.

(b) Subsection (1)(a) does not apply when the [~~release~~]return or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

(3) If [~~evidence~~]the evidence described in Subsection (1) is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

(a) collecting and preserving a sample of the controlled substance [~~and a sample of biological evidence from the controlled substance~~]for independent testing and use as evidence;

(b) taking a photographic or video record of the controlled substance with identifying case numbers;

(c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency; and

(d) if the controlled substance exceeds 10 pounds, retain at least one pound of the controlled substance that is randomly selected from the controlled substance.

(4) If [~~evidence~~]the evidence described in Subsection (1) is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

(a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency; and

(c) taking a photographic or video record of the drug paraphernalia with identifying case numbers.

(5) If [~~evidence~~]the evidence described in Subsection (1) is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

(a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense; and

[~~(b) collecting a sample of biological evidence from the computer for independent testing and use as evidence; and~~]

[~~(c)~~](b) taking a photographic or video record of the computer with identifying case numbers.

(6) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by[~~:~~]

[~~(a) collecting and preserving a sample of biological evidence from the property, contraband, item, or substance for independent testing and use as evidence; and (b)~~] taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers.

Section 10. Section 77-11c-203 is amended to read:

77-11c-203. Request to prosecuting attorney by agency -- Notification to defendant.

(1) If an agency determines that the agency is not required to retain evidence of a misdemeanor offense under Subsection 77-11c-202(1)(a)(i) and the agency seeks to [~~release~~]return or dispose of the evidence, the agency shall send a written request to the prosecuting attorney that:

(a) identifies the evidence;

(b) explains the reason for which the agency is not required to retain the evidence under Subsection 77-11c-202(1)(a)(i); and

(c) explains the steps that the agency will take, or has taken, to preserve sufficient evidence of the

property, contraband, item, or substance for use as evidence in a prosecution of the offense.

(2) If the prosecuting attorney receives a written request under Subsection (1) and determines that the agency needs to retain the evidence for a prosecution of the misdemeanor offense, the prosecuting attorney shall send a written notification to the agency that explains the reason for which the prosecuting attorney is denying the agency's request.

(3) If the prosecuting attorney receives a written request under Subsection (1) and determines that the agency does not need to retain the evidence for a prosecution of the misdemeanor offense, the prosecuting attorney shall provide written notice of the intent to not retain the evidence that:

(a) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(i) any individual charged with or adjudicated for the offense; and

(ii) the individual's most recent attorney of record; and

(b) explains that the individual receiving the notice may submit a written objection to the prosecuting attorney.

(4)(a) An individual, who is charged with or adjudicated for the offense, may submit a written objection to the [~~disposal or release~~]return or disposal of the evidence by the agency no later than 30 days after the day on which the prosecuting attorney receives proof of delivery under Subsection (3).

(b) If an individual submits a written objection under Subsection (4)(a), the prosecuting attorney shall send a written notification to the agency that explains the reason for which the prosecuting attorney is denying the agency's request.

(c) If the prosecuting attorney does not receive a written objection within the time period described in Subsection (4)(a), the prosecuting attorney shall send a written notification to the agency that grants the agency's request to [~~release~~]return or dispose of the evidence.

(5)(a) If a prosecuting attorney receives a written request from an agency seeking to [~~release~~]return or dispose of evidence, the prosecuting attorney shall:

(i) provide a notice of receipt to the agency within 15 days after the day on which the prosecuting attorney receives the written request; and

(ii) send a written notification to the agency of the prosecuting attorney's decision to deny or grant an agency's written request within 60 days after the day on which the prosecuting attorney receives the agency's written request.

(b) If an agency does not receive a notice of receipt under Subsection (5)(a)(i) or a written notification under Subsection (5)(a)(ii), the agency may send the written request to the district attorney, county attorney, attorney general, or other prosecuting attorney who directly oversees and supervises the prosecuting attorney.

(6) If a prosecuting attorney denies an agency's written request to [~~release~~]return or dispose of evidence under this section, the agency shall retain the evidence in accordance with Section 77-11c-201.

(7) The requirements of this section do not apply when the [~~release~~]return or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

Section 11. Section 77-11c-301 is amended to read:

77-11c-301. Retention of evidence for felony offenses.

[~~(1) Except as provided in Subsection (4) and Subsection 23A-5-201(3), an agency shall retain evidence of a felony offense:~~]

[~~(a) at the discretion of the prosecuting attorney; or~~]

[~~(b) until all direct appeals and retrials are final.~~]

[~~(2) If the prosecuting attorney decides to retain control over the evidence of the felony offense in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize the disposal of the evidence.~~]

(1) Except as provided in Subsection (4), an agency shall retain evidence of a felony offense:

(a) for the longer of:

(i) the length of the statute of limitations for the felony offense if:

(A) charges are not filed for the felony offense; or

(B) the felony offense remains unsolved;

(ii) the length of time that any individual convicted of the felony offense, or a lesser included offense, remains in custody;

(iii) one year after the day on which all direct appeals of the final judgment for any individual convicted of the felony offense, or a lesser included offense, are exhausted; or

(iv) the length of time that a petition for postconviction relief, and any appeal of the petition, is pending if an individual convicted of the felony offense files the petition within the one-year time period described in Subsection (1)(c); or

(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution of the felony offense resulted in an acquittal or dismissal.

[~~(3)~~](2) An agency shall ensure that evidence of a felony offense is subject to a continuous chain of custody.

(3) Subsection (1) does not require an agency to return or dispose of evidence of a felony offense.

(4) An agency shall retain and preserve biological evidence of a violent felony offense in accordance

with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

Section 12. Section 77-11c-302 is enacted to read:

77-11c-302. Requirements for not retaining evidence of felony offense -- Preservation of sufficient evidence.

(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if:

(a)(i) the agency determines that:

(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and

(B) the evidence no longer has any significant evidentiary value;

(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and

(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Subsection 77-11c-303;

(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or

(c) the evidence is wildlife or parts of wildlife.

(2) Subsection (1) does not require an agency to return or dispose of evidence of a felony offense.

(3) Subsection (1) does not apply to biological evidence of a violent felony offense because an agency is required to retain biological evidence of a violent felony offense as described in Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

(4) If the evidence described in Subsection (1) is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

(a) collecting and preserving a sample of the controlled substance for independent testing and use as evidence;

(b) taking a photographic or video record of the controlled substance with identifying case numbers;

(c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency;

(d) if the controlled substance exceeds 10 pounds, retaining at least one pound of the controlled substance that is randomly selected from the controlled substance; and

(e) for a violent felony offense, collecting and preserving biological evidence from the controlled substance as described in Section 77-11c-401.

(5) If the evidence described in Subsection (1) is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

(a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency;

(c) taking a photographic or video record of the drug paraphernalia with identifying case numbers; and

(d) for a violent felony offense, collecting and preserving biological evidence from the drug paraphernalia as described in Section 77-11c-401.

(6) If the evidence described in Subsection (1) is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

(a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense;

(b) taking a photographic or video record of the computer with identifying case numbers; and

(c) for a violent felony offense, collecting and preserving biological evidence from the computer as described in Section 77-11c-401.

(7) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by:

(a) taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers; and

(b) for a violent felony offense, collecting and preserving biological evidence as described in Section 77-11c-401.

Section 13. Section 77-11c-303 is enacted to read:

77-11c-303. Procedure for authorizing the return or disposal of evidence of a felony offense.

(1) If an agency determines that the agency is not required to retain evidence of a felony offense under Subsection 77-11c-302(1)(a)(i), and the agency seeks to return or dispose of the evidence, the agency shall send a written request to the prosecuting attorney that:

(a) identifies the evidence;

(b) explains the reason that the agency is not required to retain the evidence under Subsection 77-11c-302(1)(a)(i); and

(c) explains the steps that the agency will take, or has taken, to preserve sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense.

(2) If a prosecuting attorney receives a written request described in Subsection (1), the prosecuting attorney shall:

(a) provide a notice of receipt to the agency within 15 days after the day on which the prosecuting attorney receives the written request; and

(b) send a written notification to the agency of the prosecuting attorney's decision to deny or grant an agency's written request within 60 days after the day on which the prosecuting attorney receives the agency's written request.

(3) If an agency sends a written request described in Subsection (1) to the prosecuting attorney, the agency shall also send the written request by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(a) any individual who remains in custody based on a conviction related to the evidence;

(b) the private attorney or public defender of record for each individual described in Subsection (3)(a);

(c) the entity that employed the private attorney or public defender described in Subsection (3)(b) at the time of the criminal conviction;

(d) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection (3)(a); and

(e) the Utah attorney general.

(4)(a) If a person described in Subsection (3) receives a written request from an agency seeking to return or dispose of evidence of the felony offense, the person may object to the agency's written request to return or dispose of evidence of the felony offense.

(b) To object to an agency's request under Subsection (4)(a), the person must send a written objection to the agency and prosecuting attorney within 60 days after the day on which the person receives the agency's written request.

(5) If the prosecuting attorney receives a written request under Subsection (2) and determines that the agency needs to retain the evidence for a prosecution of the felony offense, the prosecuting attorney shall send a written notification to the agency that explains the reason for which the prosecuting attorney is denying the agency's request.

(6) The agency may petition the court for an order granting the agency's request to return or dispose of the evidence of a felony offense if:

(a) the prosecuting attorney denies the agency's written request or does not respond to an agency's written request within the time periods described in Subsection (2); or

(b) a person described in Subsection (3) objects to the agency's written request.

(7) The court shall hold a hearing on the agency's petition to determine whether an agency's request to return or dispose of evidence should be granted.

(8) After a hearing on the agency's petition, the court shall grant an agency's request to return or dispose of evidence of a felony offense if the court determines, by a preponderance of the evidence, that:

(a) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency;

(b) the evidence no longer has any significant evidentiary value; and

(c) the agency will take, or has taken, steps to preserve sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense.

(9) If the court determines that a prosecuting attorney, or a person described in Subsection (3), objects to an agency's request to dispose or return of physical evidence of a felony offense because the physical evidence contains biological evidence that would be evidence in a prosecution of the offense, the court may require the agency to collect and preserve biological evidence from the physical evidence before the agency returns or disposes of the evidence.

(10) If a prosecuting attorney denies the agency's written request or a person described in Subsection (3) objects to the agency's written request, the agency shall retain the evidence of a felony offense as described in Section 77-11c-301 until:

(a) the agency obtains a court order granting the agency's request to return or dispose of the evidence as described in Subsection (8); or

(b) the time periods described in Section 77-11c-301 have expired.

Section 14. Section 77-11c-401 is amended to read:

77-11c-401. Preservation of biological evidence -- Procedures -- Inventory request.

(1) Except as provided in Section 77-11c-402, an evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense in accordance with this part.

(2) An evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense:

(a) for the longer of:

(i) the length of the statute of limitations for the violent felony offense if:

(A) no charges are filed for the violent felony offense; or

(B) the violent felony offense remains unsolved;

[~~(ii) the length of time that the individual convicted of the violent felony offense or any lesser included violent offense remains in custody; or~~]

[~~(iii) the length of time that a co-defendant remains in custody;~~]

(ii) the length of time that any individual convicted of the violent felony offense, or a lesser included offense, remains in custody;

(iii) one year after the day on which all direct appeals of the judgment for any individual convicted of the violent felony offense, or a lesser included offense, are exhausted; or

(iv) the length of time that a petition for postconviction relief, and any appeal of the petition, is pending if an individual convicted of the violent felony offense files the petition within the one-year time period described in Subsection (2)(a)(iii); or

(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution of the violent felony offense resulted in an acquittal or dismissal.

[~~(b)~~](3) An evidence collecting or retaining entity shall ensure that biological evidence under Subsection (2) is:

(a) preserved in an amount and manner sufficient to:

(i) develop a DNA profile; and

(ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

[~~(c)~~](b) subject to a continuous chain of custody.

[~~(3)~~](4)(a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

(b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection [~~(3)(a)~~](4)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

(i) describes the efforts taken to locate the biological evidence; and

(ii) affirms that the biological evidence could not be located.

[~~(4)~~](5) The evidence collecting or retaining entity may dispose of biological evidence before the day on which the period described in Subsection [~~(2)(a)~~](2) expires if:

(a) no other provision of federal or state law requires the evidence collecting or retaining entity to preserve the biological evidence;

(b) the evidence collecting or retaining entity sends notice in accordance with Subsection [~~(5)~~](6); and

(c) an individual notified under Subsection [~~(5)(a)~~](6)(a) does not within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection [~~(5)~~](6):

(i) file a motion for testing of the biological evidence under Section 78B-9-301; or

(ii) submit a written request under Subsection [~~(5)(b)(ii)~~](6)(b)(ii).

[~~(5)~~](6) If the evidence collecting or retaining entity intends to dispose of the biological evidence before the day on which the period described in Subsection [~~(2)(a)~~](2) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

(a) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(i) an individual who remains in custody based on a criminal conviction related to the biological evidence;

(ii) the private attorney or public defender of record for each individual described in Subsection [~~(5)(a)(i)~~](6)(a)(i);

(iii) the entity that employed the private attorney or public defender at the time of the criminal conviction;

[~~(iii)~~](iv) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection [~~(5)(a)(i)~~](6)(a)(i); and

[~~(iv)~~](v) the Utah attorney general; and

(b) explains that the party receiving the notice may:

(i) file a motion for testing of biological evidence under Section 78B-9-301; or

(ii) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

[~~(6)~~](7)(a) Subject to Subsections [~~(6)(b)~~](7)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence under Subsection [~~(5)(b)(ii)~~](6)(b)(ii), the evidence collecting or retaining entity shall retain the biological evidence while the defendant remains in custody.

(b) Subject to Subsection (6)(c), the evidence collecting or retaining entity may only return or dispose of physical evidence of a violent felony offense as described in Part 3, Retention of Evidence for Felony Offenses.

[~~(b) Subject to Subsection (6)(c), the evidence collecting or retaining entity is not required to preserve physical evidence that may contain biological evidence if the physical evidence's size, bulk, or physical character renders retention impracticable.~~]

(c) If the evidence collecting or retaining entity [~~determines that retention is impracticable~~]is not required to retain physical evidence of the violent felony offense under Part 3, Retention of Evidence for Felony Offenses, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

(i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

(ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

[~~(7)~~](8) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

(a) retain the biological evidence; or

(b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 151
H. B. 271
Passed February 28, 2024
Approved March 13, 2024
Effective July 1, 2024

LAW ENFORCEMENT EMPLOYEE OVERTIME AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses overtime pay for certain state and local employees.

Highlighted Provisions:

This bill:

- defines terms;
- subject to certain exceptions, modifies provisions relating to the number of hours that a state employee engaged in law enforcement activities must work to qualify for overtime pay;
- authorizes a city or county employing an individual engaged in law enforcement activities to compensate that individual for overtime pay in accordance with the modification described above; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-17-502, as last amended by Laws of Utah 2022, Chapter 447

ENACTS:

10-3-1109.5, Utah Code Annotated 1953
17-33-11.7, Utah Code Annotated 1953

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

Section 1. Section 10-3-1109.5 is enacted to read:

10-3-1109.5. Overtime for law enforcement personnel.

(1) As used in this section:

(a) "Nonexempt employee" means a municipal employee who is nonexempt under the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(b) "Overtime" means hours worked in excess of a nonexempt employee's work period.

(c) "Regular hourly rate" means the hourly rate of pay a nonexempt employee receives for hours worked during a work period.

(d) "Work period" means the maximum number of hours, within a specified number of consecutive days, that a nonexempt employee may work before the nonexempt employee is compensated for overtime.

(2) The governing body of a municipality that employs a nonexempt employee engaged in law enforcement activities may, except as otherwise required by a contract or a collective bargaining agreement, enact an ordinance or pass a resolution that:

(a) designates a work period for the nonexempt employee that is the same as, or equivalent to, a work period described in Subsection 63A-17-502(2); and

(b) compensates the nonexempt employee for overtime at a rate of one and one-half times the nonexempt employee's regular hourly rate.

Section 2. Section 17-33-11.7 is enacted to read:

17-33-11.7. Overtime for law enforcement personnel -- Exception.

(1) As used in this section:

(a) "Nonexempt employee" means an county employee who is nonexempt under the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(b) "Overtime" means hours worked in excess of a nonexempt employee's work period.

(c) "Regular hourly rate" means the hourly rate of pay a nonexempt employee receives for hours worked during a work period.

(d) "Work period" means the maximum number of hours, within a specified number of consecutive days, that a nonexempt employee may work before the nonexempt employee is compensated for overtime.

(2) This section does not apply to a county subject to Chapter 30a, Peace Officer Merit System in Counties of the First Class Act.

(3) The legislative body of a county that employs a nonexempt employee engaged in law enforcement activities may, except as otherwise required by a contract or a collective bargaining agreement, enact an ordinance or pass a resolution that:

(a) designates a work period for the nonexempt employee that is the same as, or equivalent to, a work period described in Subsection 63A-17-502(2); and

(b) compensates the nonexempt employee for overtime at a rate of one and one-half times the nonexempt employee's regular hourly rate.

Section 3. Section 63A-17-502 is amended to read:

63A-17-502. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for a nonexempt [~~employees~~]employee, overtime hours earned during a fiscal year that, at

the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for an exempt [~~employees~~]employee, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy- making, or advisory responsibility.

(c) "Department" means, except as otherwise provided in this section, the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Services, the Insurance Department, the Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the [~~Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq~~]FLSA.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the [~~Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.,~~]FLSA by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of [~~the~~]an employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection [~~(4)(b)~~](5)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

[~~(m) "Work period" means:~~]

[~~(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;~~]

[~~(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and~~]

[~~(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.~~]

(m) "Work period" means:

(i) for a nonexempt employee, except a nonexempt law enforcement or hospital employee, a consecutive seven day, 24 hour work period of 40 hours;

(ii) for an exempt employee, a 14 day, 80 hour payroll cycle;

(iii) for a nonexempt hospital employee, the period the division establishes by rule according to the requirements of the FLSA; or

(iv) for a nonexempt law enforcement employee as defined in the FLSA:

(A) who is employed by the Department of Natural Resources, the period the division establishes by rule according to the requirements of the FLSA; or

(B) who is employed by a department other than the Department of Natural Resources, the period the division establishes by rule in accordance with Subsection (2).

(2) Except for the Department of Natural Resources, the division shall require each department employing a nonexempt law enforcement employee to designate one of the following work periods applicable to that employee:

(a) 80 hours in a 14 consecutive day payroll cycle; or

(b) 160 hours in a 28 consecutive day payroll cycle.

[~~(2)~~](3) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

[~~(3)~~](4)(a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one- half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one- half times the rate per hour that the state employee receives for nonovertime work.

(c) [~~Any~~]A nonexempt employee who elects to take time off under this Subsection [~~(3)~~](4) shall be paid for any overtime worked in excess of the cap established by the division.

(d) Before working any overtime, [~~each~~]a nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for [~~employees who elect~~]an employee who elects to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for [~~employees who elect~~]an employee who elects to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

[~~(4)~~](5)(a)(i) Except as provided in Subsection [~~(4)(a)(ii)~~](5)(a)(ii), each department shall compensate [~~exempt employees who work~~]each exempt employee who works overtime by granting [~~them~~]the employee time off at the rate of one hour off for each hour of overtime worked.

(ii) The director of the division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay [~~employees~~]an employee for overtime worked at the rate per hour that the employee receives for nonovertime work, if that department has funds available.

(b)(i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection [~~(4)~~](5), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

[~~(c)(i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.~~]

[~~(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.~~]

[~~(d)~~](c) The overtime authorized for an exempt employee under this Subsection (5) is not an entitlement, a benefit, or a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection [~~(4)(a)(ii)~~](5)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

[~~(5)~~](6) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether [~~that~~]the employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA and Subsection (2), establishing the maximum number of hours that a

nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of [~~any FLSA determinations~~]an FLSA determination made by the division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

[~~(6)~~](7)(a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, [~~any~~]an employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.

(c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 4. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 152
S. B. 73
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

STATE FOOD SUPPLY AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill restricts the regulation of local food.

Highlighted Provisions:

This bill:

- defines terms;
- places restrictions on state regulation of local food;
- limits rulemaking authority in relation to local food; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-1-109, as renumbered and amended by Laws of Utah 2017, Chapter 345
26A-1-102, as last amended by Laws of Utah 2023, Chapter 327
26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327
26B-7-201, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-202, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-301, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-302, as renumbered and amended by Laws of Utah 2023, Chapter 308
73-3d-101, as enacted by Laws of Utah 2023, Chapter 126
73-3d-201, as enacted by Laws of Utah 2023, Chapter 126

ENACTS:

53-2a-222, Utah Code Annotated 1953

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

Section 1. Section 4-1-109 is amended to read:

4-1-109. General definitions.

As used in this title:

(1) "Agricultural product" or "product of agriculture" means any product that is derived from agriculture, including any product derived from aquaculture as defined in Section 4-37-103.

(2) "Agriculture" means the science and art of the production of plants and animals useful to man, including the preparation of plants and animals for human use and disposal by marketing or otherwise.

(3) "Commissioner" means the commissioner of agriculture and food.

(4) "Department" means the Department of Agriculture and Food created in Chapter 2, Administration.

(5) "Dietary supplement" means the same as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(6) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(7) "Local food" means an agricultural product or livestock that is:

(a) produced, processed, and distributed for sale or consumption within the state; and

(b) sold to an end consumer within the state.

[~~(7)~~](8) "Organization" means a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

[~~(8)~~](9) "Person" means a natural person or individual, corporation, organization, or other legal entity.

Section 2. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(5) "Local food" means the same as that term is defined in Section 4-1-109.

[~~(5)~~](6) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

[~~(6)~~](7) "Mental health authority" means a local mental health authority created in Section 17-43-301.

[~~(7)~~](8) "Multicounty local health department" means a local health department that is formed

under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

[~~(8)~~](9) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

[~~(9)~~](10)(a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in a certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

[~~(10)~~](11) "Public health emergency" means the same as that term is defined in Section 26B-7-301.

[~~(11)~~](12) "Single county local health department" means a local health department that is created by the governing body of one county to provide services to the county and the municipalities within that county.

[~~(12)~~](13) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

[~~(13)~~](14) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

[~~(14)~~](15) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 3. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety[~~—~~], in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c)(i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) [~~Nothing in this part may be construed to~~]This part does not authorize a local health department to[~~- enforce an ordinance, rule, or regulation requiring~~]:

(a) require the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling[.]; or

(b) control the production, processing, distribution, or sale price of local food in response to a public health emergency.

(7)(a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c)(i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d)(i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8)(a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b)(i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d)(i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9)(a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a

local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b)(i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c)(i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10)(a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections [~~(8)(a) and (c)~~](10)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 4. Section 26B-7-201 is amended to read:

26B-7-201. Definitions.

As used in this part:

(1) "Ambulatory surgical center" means the same as that term is defined in Section 26B-2-201.

(2) "Carrier" means an infected individual or animal who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for man. The carrier state may occur in an individual with an infection that is inapparent throughout its course, commonly known as healthy or asymptomatic carrier, or during the incubation period, convalescence, and postconvalescence of an individual with a clinically recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under either circumstance the carrier state may be of short duration, as a temporary or transient carrier, or long duration, as a chronic carrier.

(3) "Communicable disease" means illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from a reservoir to a susceptible host, either directly, as from an infected individual or

animal, or indirectly, through an intermediate plant or animal host, vector, or the inanimate environment.

(4) "Communicable period" means the time or times during which an infectious agent may be transferred directly or indirectly from an infected individual to another individual, from an infected animal to a human, or from an infected human to an animal, including arthropods.

(5) "Contact" means an individual or animal having had association with an infected individual, animal, or contaminated environment so as to have had an opportunity to acquire the infection.

(6) "End stage renal disease facility" is as defined in Section 26B-2-201.

(7)(a) "Epidemic" means the occurrence or outbreak in a community or region of cases of an illness clearly in excess of normal expectancy and derived from a common or propagated source.

(b) The number of cases indicating an epidemic will vary according to the infectious agent, size, and type of population exposed, previous experience or lack of exposure to the disease, and time and place of occurrence.

(c) Epidemicity is considered to be relative to usual frequency of the disease in the same area, among the specified population, at the same season of the year.

(8) "General acute hospital" is as defined in Section 26B-2-201.

(9) "Incubation period" means the time interval between exposure to an infectious agent and appearance of the first sign or symptom of the disease in question.

(10) "Infected individual" means an individual who harbors an infectious agent and who has manifest disease or inapparent infection. An infected individual is one from whom the infectious agent can be naturally acquired.

(11) "Infection" means the entry and development or multiplication of an infectious agent in the body of man or animals. Infection is not synonymous with infectious disease; the result may be inapparent or manifest. The presence of living infectious agents on exterior surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but contamination of such surfaces and articles.

(12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus, protozoan, or helminth that is capable of producing infection or infectious disease.

(13) "Infectious disease" means a disease of man or animals resulting from an infection.

(14) "Isolation" means the separation, for the period of communicability, of infected individuals or animals from others, in such places and under such conditions as to prevent the direct or indirect conveyance of the infectious agent from those infected to those who are susceptible or who may spread the agent to others.

(15) "Local food" means the same as that term is defined in Section 4-1-109.

[~~(15)~~](16) "Order of constraint" means the same as that term is defined in Section 26B-7-301.

[~~(16)~~](17) "Quarantine" means the restriction of the activities of well individuals or animals who have been exposed to a communicable disease during its period of communicability to prevent disease transmission.

[~~(17)~~](18) "School" means a public, private, or parochial nursery school, licensed or unlicensed day care center, child care facility, family care home, Head Start program, kindergarten, elementary, or secondary school through grade 12.

[~~(18)~~](19) "Sexually transmitted disease" means those diseases transmitted through sexual intercourse or any other sexual contact.

[~~(19)~~](20) "Specialty hospital" is as defined in Section 26B-2-201.

Section 5. Section 26B-7-202 is amended to read:

26B-7-202. Authority to investigate and control epidemic infections and communicable disease.

(1) Subject to Subsection [~~(3)~~](4) and the restrictions in this title, the department has authority to investigate and control the causes of epidemic infections and communicable disease, and shall provide for the detection, reporting, prevention, and control of communicable diseases and epidemic infections or any other health hazard which may affect the public health.

(2) This part does not authorize the department to control the production, processing, distribution, or sale price of local food in response to a public health emergency, as that term is defined in Section 26B-7-301.

[~~(2)~~](3)(a) As part of the requirements of Subsection (1), the department shall distribute to the public and to health care professionals:

(i) medically accurate information about sexually transmitted diseases that may cause infertility and sterility if left untreated, including descriptions of:

(A) the probable side effects resulting from an untreated sexually transmitted disease, including infertility and sterility;

(B) medically accepted treatment for sexually transmitted diseases;

(C) the medical risks commonly associated with the medical treatment of sexually transmitted diseases; and

(D) suggested screening by a private physician or physician assistant; and

(ii) information about:

(A) public services and agencies available to assist individuals with obtaining treatment for the sexually transmitted disease;

(B) medical assistance benefits that may be available to the individual with the sexually transmitted disease; and

(C) abstinence before marriage and fidelity after marriage being the surest prevention of sexually transmitted disease.

(b) The information [~~required by~~]described in Subsection [~~(2)(a)~~](3)(a):

(i) shall be distributed by the department and by local health departments free of charge;

(ii) shall be relevant to the geographic location in which the information is distributed by:

(A) listing addresses and telephone numbers for public clinics and agencies providing services in the geographic area in which the information is distributed; and

(B) providing the information in English as well as other languages that may be appropriate for the geographic area.

(c)(i) Except as provided in Subsection [~~(2)(c)(ii)~~](3)(c)(ii), the department shall develop written material that includes the information [~~required by~~]described in this Subsection [~~(2)~~](3).

(ii) In addition to the written materials [~~required by~~]described in Subsection [~~(2)(c)(i)~~](3)(c)(i), the department may distribute the information [~~required by~~]described in this Subsection [~~(2)~~](3) by any other methods the department determines is appropriate to educate the public, excluding public schools, including websites, toll free telephone numbers, and the media.

(iii) If the information [~~required by~~]described in Subsection [~~(2)(b)(ii)(A)~~](3)(b)(ii)(A) is not included in the written pamphlet developed by the department, the written material shall include either a website, or a 24-hour toll free telephone number that the public may use to obtain that information.

[~~(3)~~](4)(a) The Legislature may at any time terminate by joint resolution an order of constraint issued by the department as described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of constraint issued by the relevant local health department as described in this section in response to a declared public health emergency.

Section 6. Section 26B-7-301 is amended to read:

26B-7-301. Definitions.

As used in this part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

(3) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

(4) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

(5) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section 26B-4-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to restriction is found.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

(8) "Local food" means the same as that term is defined in Section 4-1-109.

[~~(8)~~](9)(a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

[~~(9)~~](10) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

[~~(10)~~](11) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

[~~(11)~~](12) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

[~~(12)~~](13) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

[~~(13)~~](14) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

[~~(14)~~](15) "Subject to restriction" as applied to an individual, or a group of individuals, means the individual or group of individuals is:

(a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;

(b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;

(c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or

(d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.

Section 7. Section 26B-7-302 is amended to read:

26B-7-302. Executive director -- Power to order abatement of public health hazard -- Limitation on power to control local food.

(1) If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.

(2) This part does not authorize the executive director to control the production, processing, distribution, or sale price of local food in response to a public health emergency.

Section 8. Section 53-2a-222 is enacted to read:

53-2a-222. Control of local food.

(1) As used in this section, "local food" means the same as that term is defined in Section 4-1-109.

(2) Subject to the provisions of Title 13, Chapter 41, Price Controls During Emergencies Act, the governor, an executive branch agency, or a political subdivision may not control the distribution or sale price of local food in response to a state of emergency or local emergency.

Section 9. Section 73-3d-101 is amended to read:

73-3d-101. Definitions.

As used in this chapter:

(1) "Electric utility" means:

(a) a municipal electric utility, as defined in Section 10-19-102;

(b) an electric interlocal entity, as defined in Section 11-13-103;

(c) an energy services interlocal entity, as defined in Section 11-13-103;

(d) a project entity, as defined in Section 11-13-103;

(e) an electric improvement district, as defined in Section 17B-2a-406; or

(f) an electrical corporation, as defined in Section 54-2-1.

(2) "Local food" means the same as that term is defined in Section 4-1-109.

[~~(2)~~](3) "Military facility" means an installation, base, air field, camp, post, station, yard, center, or other facility owned, leased, or operated by, or under the jurisdiction of, the United States Department of Defense or the National Guard.

[~~(3)~~](4) "Person entitled to make a request" means:

(a) the holder of an approved but unperfected application to appropriate water;

(b) the record owner of a perfected water right; or

(c) a person who provides water using an approved but unperfected application or a perfected water right with the written authorization of a person described in Subsection [~~(3)(a)~~](4)(a) or (b).

[~~(4)~~](5) "Temporary water shortage emergency" means an interruption of water delivery for which the governor may declare an emergency in accordance with Section 73-3d-201.

Section 10. Section 73-3d-201 is amended to read:

73-3d-201. Declaration of a temporary water shortage emergency by the governor.

(1)(a) Subject to the requirements of this section, the governor may declare a temporary water shortage emergency by issuing an executive order if, on the governor's own initiative or at the request of a person entitled to make a request, the governor determines that an existing or imminent short-term interruption of water delivery in this state caused by manmade or natural causes other than drought:

(i) threatens:

(A) the availability or quality of an essential water supply or water supply infrastructure; or

(B) the operation of the economy; and

(ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace, health, safety, or welfare of the people of this state.

(b) The governor may only issue the executive order declaring a temporary water shortage emergency described in Subsection (1)(a):

(i) with the advice and recommendation of the state engineer; and

(ii) in consultation with the emergency management administration committee created by Section 53-2a-105.

(c) An executive order issued under this Subsection (1) shall state with specificity:

(i) the nature of the interruption of water supply;

(ii) subject to Subsection (2), the time period for which the temporary water shortage emergency is declared;

(iii) a description of the geographic area that is subject to the executive order;

(iv) a list of the specific persons entitled to make a request who may exercise the preferential use of water under Section 73-3d-301 during the effective period of the temporary water shortage emergency; and

(v) the purposes outlined in Subsection 73-3d-301(1) for which a person who is described in Subsection (1)(c)(iv) may take the water subject to Section 73-3d-301.

(d) Subject to the provisions of Title 13, Chapter 41, Price Controls During Emergencies Act, an executive order issued under this Subsection (1) may not control the distribution or sale price of local food.

[~~(d)~~](e) Before providing a recommendation to the governor under Subsection (1)(b)(i), the state engineer shall require a person entitled to make a request who is described in Subsection (1)(c)(iv) to provide a written statement describing how the person entitled to make a request has exhausted other reasonable means to acquire water.

[~~(e)~~](f) A person entitled to make a request who is described in Subsection (1)(c)(iv) may take water preferentially during a temporary water shortage emergency only for a purpose authorized by the executive order.

[~~(f)~~](g)(i) Within seven calendar days of the day on which the governor issues an executive order declaring a temporary water shortage emergency, the Legislative Management Committee shall:

(A) review the executive order;

(B) advise the governor on the declaration of a temporary water shortage emergency; and

(C) recommend to the Legislature whether the executive order should be kept as issued by the governor, extended, or terminated.

(ii) The failure of the Legislative Management Committee to meet as required by Subsection [~~(1)(f)(i)~~](1)(g)(i) does not affect the validity of the executive order declaring a temporary water shortage emergency.

(2)(a) The governor shall state in an executive order declaring a temporary water shortage emergency the time period for which the temporary water shortage emergency is declared, except that the governor may not declare a temporary water shortage emergency for longer than 30 days after the date the executive order is issued.

(b) The governor may terminate an executive order declaring a temporary water shortage emergency before the expiration of the time period stated in the executive order.

(c) An executive order declaring a temporary water emergency issued by the governor within 30

days of the expiration or termination of a prior executive order for the same emergency is considered an extension subject to Subsection (2)(e).

(d) The Legislature may extend the time period of an executive order declaring a temporary water shortage emergency by joint resolution, except that the Legislature may not extend a temporary water shortage emergency for longer than one year from the day on which the executive order declaring a temporary water shortage emergency is issued.

(e) An executive order declaring a temporary water shortage emergency may be renewed or extended only by joint resolution of the Legislature.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 153
H. B. 273
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

SENTENCING MODIFICATIONS FOR CERTAIN DUI OFFENSES

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to negligently operating a vehicle resulting in death and who may become an ignition interlock restricted driver.

Highlighted Provisions:

This bill:

- renames the offense of negligently operating a vehicle resulting in death;
- creates a sentencing guideline for automobile homicide;
- modifies the fee for an impounded vehicle;
- modifies who may elect to become an ignition interlock restricted driver; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-501, as last amended by Laws of Utah 2023, Chapters 328, 415
41-6a-521, as last amended by Laws of Utah 2023, Chapter 384
41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
41-6a-1901, as last amended by Laws of Utah 2022, Chapter 116
53-3-220, as last amended by Laws of Utah 2023, Chapter 415
53-3-414, as last amended by Laws of Utah 2022, Chapters 46, 116
53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457
75-2-803, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 157
76-5-201, as last amended by Laws of Utah 2022, Chapters 116, 181 and last amended by Coordination Clause, Laws of Utah 2022, Chapters 116, 181
76-5-207, as last amended by Laws of Utah 2023, Chapter 415
78B-9-402, as last amended by Laws of Utah 2022, Chapters 116, 430
80-6-712, as last amended by Laws of Utah 2022, Chapters 116, 155, 426, and 430
80-6-804, as last amended by Laws of Utah 2023, Chapter 236

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

Section 1. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l)(i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Sections 41-6a-502 and 41-6a-520.1:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii)(A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under this part; and

(ii) expungement under Title 77, Chapter 40a, Expungement.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part;

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) [~~negligently operating a vehicle resulting in death~~]automobile homicide under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 2. Section 41-6a-521 is amended to read:

41-6a-521. Revocation hearing for refusal -- Appeal.

(1)(a) A person who has been notified of the Driver License Division's intention to revoke the person's license under Section 41-6a-520 is entitled to a hearing.

(b) A request for the hearing shall be made in writing within 10 calendar days after the day on which notice is provided.

(c) Upon request in a manner specified by the Driver License Division, the Driver License Division shall grant to the person an opportunity to be heard within 29 days after the date of arrest.

(d) If the person does not make a request for a hearing before the Driver License Division under

this Subsection (1), the person's privilege to operate a motor vehicle in the state is revoked beginning on the 45th day after the date of arrest:

(i) for a person 21 years old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (1)(d)(i)(B) or (9), 18 months; or

(B) 36 months if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;

(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207; or

(ii) for a person under 21 years old on the date of arrest:

(A) except as provided in Subsection (1)(d)(ii)(B), until the person is 21 years old or for a period of two years, whichever is longer; or

(B) until the person is 21 years old or for a period of 36 months, whichever is longer, if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231; or

(II) conviction for an offense under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

(2)(a) Except as provided in Subsection (2)(b), if a hearing is requested by the person, the hearing shall be conducted by the Driver License Division in:

(i) the county in which the offense occurred; or

(ii) a county which is adjacent to the county in which the offense occurred.

(b) The Driver License Division may hold a hearing in some other county if the Driver License Division and the person both agree.

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

(a) whether a peace officer had reasonable grounds to believe that a person was operating a motor vehicle in violation of Section 41-6a-502, 41-6a-517, 41-6a-530, or 53-3-231; and

(b) whether the person refused to submit to the test or tests under Section 41-6a-520.

(4)(a) In connection with the hearing, the division or its authorized agent:

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

(ii) shall issue subpoenas for the attendance of necessary peace officers.

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

(5)(a) If after a hearing, the Driver License Division determines that the person was requested to submit to a chemical test or tests and refused to submit to the test or tests, or if the person fails to appear before the Driver License Division as required in the notice, the Driver License Division shall revoke the person's license or permit to operate a motor vehicle in Utah beginning on the date the hearing is held:

(i) for a person 21 years old or older on the date of arrest, for a period of:

(A) except as provided in Subsection (5)(a)(i)(B) or (9), 18 months; or

(B) 36 months if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;

(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207; or

(ii) for a person under 21 years of age on the date of arrest:

(A) except as provided in Subsection (5)(a)(ii)(B), until the person is 21 years old or for a period of two years, whichever is longer; or

(B) until the person is 21 years old or for a period of 36 months, whichever is longer, if the person previously committed an offense that occurred within the preceding 10 years from the date of the arrest that resulted in a:

(I) license sanction under Section 41-6a-517, 41-6a-520, 41-6a-530, 53-3-223, or 53-3-231;

(II) conviction under Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502;

(III) conviction for an offense under Section 76-5-102.1; or

(IV) conviction for an offense under Section 76-5-207.

(b) The Driver License Division shall also assess against the person, in addition to any fee imposed under Subsection 53-3-205(12), a fee under Section 53-3-105, which shall be paid before the person's driving privilege is reinstated, to cover administrative costs.

(c) The fee shall be cancelled if the person obtains an unappealed court decision following a proceeding allowed under Subsection (2) that the revocation was improper.

(6)(a) Any person whose license has been revoked by the Driver License Division under this section following an administrative hearing may seek judicial review.

(b) Judicial review of an informal adjudicative proceeding is a trial.

(c) Venue is in the district court in the county in which the offense occurred.

(7) If the Driver License Division revokes a person's driving privilege under Subsection (1)(d)(i)(A) [~~or~~],(1)(d)(ii)(A), (5)(a)(i)(A),or (5)(a)(ii)(A), the person may petition the division and elect to become an ignition interlock restricted driver after the driver serves at least 90 days of the revocation if the person:

(a) has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) [~~or~~],(1)(d)(ii)(A), (5)(a)(i)(A),or (5)(a)(ii)(A);

(b) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(c) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(d) pays the appropriate original license fees under Section 53-3-105; and

(e) completes the license application process including successful completion of required testing.

(8)(a) A person who elects to become an ignition interlock restricted driver under Subsection (7) shall remain an ignition interlock restricted driver for a period of three years.

(b) If the person described under Subsection (8)(a) removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the three-year ignition interlock restriction period and does not install a new ignition interlock device from the same or a different ignition interlock provider within 24 hours:

(i) the person's driving privilege shall be revoked under Subsection (1)(d)(i)(A) [~~or~~],(1)(d)(ii)(A), (5)(a)(i)(A), or (5)(a)(ii)(A) for a period of 18 months from the date the ignition interlock device was removed from the vehicle;

(ii) no days may be subtracted from the 18-month revocation period under Subsection (8)(b)(i) for any days the person was in compliance with the interlock restriction under Subsection (7);

(iii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iv) the person may not elect to become an ignition interlock restricted driver under this section.

(9)(a) Notwithstanding the provisions in Subsection (1)(d)(i)(A) or (5)(a)(i)(A), the division shall reinstate a person's driving privilege before completion of the revocation period imposed under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) if:

(i) the reporting court notifies the Driver License Division that the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5;

(ii) the person has served at least 90 days of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A); and

(iii) the person has a valid driving privilege, with the exception of the revocation under Subsection (1)(d)(i)(A) or (5)(a)(i)(A).

(b) If a person's driving privilege is reinstated under Subsection (9)(a), the person is required to:

(i) install an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007;

(ii) pay the license reinstatement application fees described in Subsections 53-3-105(26) and (27);

(iii) pay the appropriate original license fees under Section 53-3-105; and

(iv) complete the license application process including successful completion of required testing.

(c) If the reporting court notifies the Driver License Division that a person has failed to complete all requirements of the 24-7 sobriety program, the division:

(i) shall revoke the person's driving privilege under Subsection (1)(d)(i)(A) or (5)(a)(i)(A) for a period of 18 months from the date of the notice; and

(ii) may not subtract any days from the 18-month revocation period for:

(A) days during which the person's driving privilege previously was revoked; or

(B) days during which the person was compliant with the 24-7 sobriety program.

Section 3. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6)(a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of [~~$400~~]$425; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7)(a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 4. Section 41-6a-1901 is amended to read:

41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and records -- Notice to Department of State.

(1) As used in this section, "diplomat" means an individual who:

(a) has a driver license issued by the United States Department of State; or

(b) claims immunities or privileges under 22 U.S.C. [~~Sections~~]Secs. 254a through 258a with respect to:

(i) a moving traffic violation under this title or a moving traffic violation of an ordinance of a local authority; or

(ii) operating a motor vehicle while committing any of the following offenses:

(A) [~~negligently operating a vehicle resulting in death~~]automobile homicide under Section 76-5-207;

(B) manslaughter under Section 76-5-205;

(C) negligent homicide under Section 76-5-206;

(D) aggravated assault under Section 76-5-103; or

(E) reckless endangerment under Section 76-5-112.

(2) A law enforcement officer who stops a motor vehicle and has probable cause to believe that the driver is a diplomat that has committed a violation described under Subsection (1)(b)(i) or (ii) shall:

(a) as soon as practicable, contact the United States Department of State in order to verify the driver's status and immunity, if any;

(b) record all relevant information from any driver license or identification card, including a driver license or identification card issued by the United States Department of State; and

(c) within five working days after the date the officer stops the driver, forward all of the following to the Department of Public Safety:

(i) if the driver is involved in a vehicle accident, the vehicle accident report;

(ii) if a citation or other charging document was issued to the driver, a copy of the citation or other charging document; and

(iii) if a citation or other charging document was not issued to the driver, a written report of the incident.

(3) The Department of Public Safety shall:

(a) file each vehicle accident report, citation or other charging document, and incident report that the Department of Public Safety receives under this section;

(b) keep convenient records or make suitable notations showing each:

(i) conviction;

(ii) finding of responsibility; and

(iii) vehicle accident; and

(c) within five working days after receipt, send a copy of each document and record described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions, of the United States Department of State.

(4) This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation committed by a diplomat.

Section 5. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, [~~negligently operating a vehicle resulting in death~~]automobile homicide under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d)(i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e)(i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A)(I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B)(I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4)(a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 6. Section 53-3-414 is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1)(a) An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the person was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

(A) personal injury in accordance with Section 41-6a-401.3;

(B) death in accordance with Section 41-6a-401.5; or

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of manslaughter under Section 76-5-205, negligent homicide under Section 76-5-206, or [~~negligently operating a vehicle resulting in death~~]automobile homicide under Section 76-5-207.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3)(a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4)(a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving:

(a) the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4); or

(b) an act or practice of severe forms of trafficking in persons as defined and described in 22 U.S.C. Sec. 7102(11).

(6)(a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of

the current serious traffic violation disqualification period.

(7)(a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than $5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10)(a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11)(a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12)(a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13)(a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a

violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under Title 77, Chapter 40a, Expungement.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

Section 7. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) [~~negligently operating a vehicle resulting in death~~]automobile homicide, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Subsection 76-8-309(2);

(xv) a felony violation of assault on an elected official, Section 76-8-315;

(xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xix) a felony violation of sexual battery, Section 76-9-702.1;

(xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxvi) commercial obstruction, Subsection 76-10-2402(2);

(xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxix) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Section 8. Section 75-2-803 is amended to read:

75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Conviction" means the same as that term is defined in Section 77-38b-102.

(b) "Decedent" means a deceased individual.

(c) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(d)(i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for which the elements are established by a preponderance of the evidence and by applying the same principles of culpability and defenses described in Title 76, Utah Criminal Code.

(ii) "Disqualifying homicide" does not include an offense for:

(A) [~~negligently operating a vehicle resulting in death~~]automobile homicide, as described in Section 76-5-207; and

(B) automobile homicide involving using a handheld wireless communication device while driving, as described in Section 76-5-207.5.

(e) "Governing instrument" means a governing instrument executed by the decedent.

(f) "Killer" means an individual who commits a disqualifying homicide.

(g) "Revocable" means a disposition, appointment, provision, or nomination under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer regardless of whether at the time or immediately before death:

(i) the decedent was empowered to designate the decedent in place of the decedent's killer; or

(ii) the decedent had the capacity to exercise the power.

(2)(a) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance.

(b) If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed the killer's intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing

declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that a killer cannot profit from the killer's wrong.

(7)(a) An interested person may petition the court to determine whether an individual has committed a disqualifying homicide of the decedent.

(b) An individual has committed a disqualifying homicide of the decedent for purposes of this section if:

(i) unless the court finds that disinheritance would create a manifest injustice, the court finds that, by a preponderance of the evidence, the individual has committed a disqualifying homicide of the decedent; or

(ii) the court finds that a judgment of conviction has been entered against the individual for a disqualifying homicide of the decedent and all direct appeals for the judgment have been exhausted.

(8)(a) Before a court determines whether an individual committed a disqualifying homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:

(i) enter a temporary restraining order, an injunction, or a temporary restraining order and an injunction, to preserve the property or assets of the killer or the killer's estate;

(ii) require the execution of a trustee's bond under Section 75- 7- 702 for the killer's estate;

(iii) establish a constructive trust on any property or assets of the killer or the killer's estate that is effective from the time the killer's act caused the death of the decedent; or

(iv) take any other action necessary to preserve the property or assets of the killer or the killer's estate:

(A) until a court makes a determination under Subsection (7); or

(B) for the payment of all damages and judgments for conduct resulting in the disqualifying homicide of the decedent.

(b) Upon a petition for a temporary restraining order or an injunction under Subsection (8)(a)(i), a court may enter a temporary restraining order against an owner's property in accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity of a hearing, if the court determines that:

(i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent; and

(ii) notice of the hearing would likely result in the property being:

(A) sold, distributed, destroyed, or removed; and

(B) unavailable to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent.

(9)(a)(i) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(ii) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b)(i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.

(ii) Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by the payor or third party to or with:

(A) the court having jurisdiction of the probate proceedings relating to the decedent's estate; or

(B) if no proceedings have been commenced, the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence.

(iii) The court shall hold the funds or item of property and, upon the court's determination under this section, shall order disbursement in accordance with the determination.

(iv) Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(10)(a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is:

(i) not obligated under this section to return the payment, item of property, or benefit; and

(ii) not liable under this section for the amount of the payment or the value of the item of property or benefit.

(b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit to the person who is entitled to the payment, property, or benefit under this section; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to the payment, property, or benefit under this section.

(c) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted.

Section 9. Section 76-5-201 is amended to read:

76-5-201. Criminal homicide -- Designations of offenses -- Exceptions -- Application of consensual altercation defense.

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

(i) "Abortion" means the same as that term is defined in Section 76-7-301.

(ii) "Criminal homicide" means an act causing the death of another human being, including an unborn child at any stage of the unborn child's development.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) The following are criminal homicide:

(a) aggravated murder;

(b) murder;

(c) manslaughter;

(d) child abuse homicide;

(e) homicide by assault;

(f) negligent homicide; and

(g) [~~negligently operating a vehicle resulting in death~~]automobile homicide.

(3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide if:

(a) the death of an unborn child is caused by an abortion;

(b) the sole reason for the death of an unborn child is that the actor:

(i) refused to consent to:

(A) medical treatment; or

(B) a cesarean section; or

(ii) failed to follow medical advice; or

(c) a woman causes the death of her own unborn child, and the death:

(i) is caused by a criminally negligent act or reckless act of the woman; and

(ii) is not caused by an intentional or knowing act of the woman.

(4) The provisions governing a defense of a consensual altercation as described in Section 76-5-104 apply to this part.

Section 10. Section 76-5-207 is amended to read:

76-5-207. Automobile homicide -- Penalties -- Evidence.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(iii) "Drug" means:

(A) a controlled substance;

(B) a drug as defined in Section 58-37-2; or

(C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits [~~negligently operating a vehicle resulting in death~~]automobile homicide if the actor:

(a)(i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual;

(ii)(A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the

actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b)(i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony, punishable by a term of imprisonment of not less than five years nor more than 15 years; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of [~~negligently operating a vehicle resulting in death~~]automobile homicide under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5)(a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

(6) If, when imposing a sentence under this section, the court finds that it is in the interest of justice to suspend the imposition of prison, the court shall detail the finding on the record, including why a suspended prison sentence is in the interest of justice.

(7) Notwithstanding Subsection (3)(a), the court may impose a sentence of not less than three years nor more than 15 years if the court details on the record why it is in the interest of justice.

Section 11. Section 78B-9-402 is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(2)(a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;

(ii) the specific evidence identified by the petitioner in the petition establishes innocence;

(iii) the material evidence is not merely cumulative of evidence that was known;

(iv) the material evidence is not merely impeachment evidence; and

(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.

(b)(i) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a).

(ii) If the court finds the petition does not meet all the requirements of Subsection (2)(a), the court

shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.

(3)(a) The petition shall also contain an averment that:

(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post- trial motion or postconviction motion, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(b)(i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

(ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied, the court may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(A) was not discovered by the petitioner or the petitioner's counsel;

(B) is material upon the issue of factual innocence; and

(C) has never been presented to a court.

(4)(a) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence.

(b) The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or self serving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section 78B- 9- 301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9)(a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b)(i) The assigned judge shall conduct an initial review of the petition.

(ii) If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general.

(iii) If, upon completion of the initial review, the court does not dismiss the petition, the court shall order the attorney general to file a response to the petition.

(iv) The attorney general shall, within 30 days after the day on which the attorney general receives the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c)(i) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if the court finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted.

(ii) No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d)(i) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing.

(ii) If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending

before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12)(a) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions.

(b) Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14)(a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between two individuals and as recognized by the law; and

(ii) "Spouse" means an individual married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c)(i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Individual, except [~~negligently operating a vehicle resulting in death~~]automobile homicide under Section 76-5-207, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

Section 12. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2)(a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4)(a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours;

(iv) there is an outstanding fine; or

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7)(a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

(8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~]automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p)(i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 13. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2)(a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.

(c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by

the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.

(f) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

(i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or

(ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.

(3)(a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian;

(ii) at an independent living program contracted or operated by the division; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, [~~negligently operating a vehicle resulting in death~~]automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p)(i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Section 14. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 154
S. B. 77
Passed February 7, 2024
Approved March 13, 2024
Effective May 1, 2024

WATER RIGHTS RESTRICTED ACCOUNT AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies provisions related to the Water Rights Restricted Account.

Highlighted Provisions:

This bill:

- modifies the purposes for which money in the Water Rights Restricted Account may be expended; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1.6, as enacted by Laws of Utah 2022, Chapter 106

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

Section 1. Section 73-2-1.6 is amended to read:

73-2-1.6. Water Rights Restricted Account.

(1) As used in this section:

(a) "Account" means the Water Rights Restricted Account created by this section.

(b) "Division" means the Division of Water Rights.

(2) There is created in the General Fund a restricted account known as the "Water Rights Restricted Account."

(3) The account shall consist of the money deposited into the account under Subsection 59-12-103(5)(e).

(4) Upon appropriation, the division may use money in the account for:

(a) costs incurred by the division that benefit water rights adjudications, including:

[~~(a)~~](i) employing technical staff;

[~~(b)~~](ii) acquiring equipment;

[~~(c)~~](iii) obtaining legal support; [~~and~~]

[~~(d)~~](iv) conducting studies[~~.~~];

(A) installing, operating, and maintaining measurement infrastructure; and

(B) sharing the costs of installed United States Geological Survey stream gauges; and

(b) not to exceed 5% of the money deposited into the account under Subsection 59-12-103(5)(e) in the fiscal year preceding the fiscal year of appropriation, costs incurred by the division to acquire, manage, and analyze surface and groundwater data, not limited to geographic areas of adjudication.

(5)(a) The account may not exceed $8,000,000 at the end of a fiscal year.

(b) If the account exceeds $8,000,000 at the end of a fiscal year, the Division of Finance shall deposit into the Water Resources Conservation and Development Fund, created in Section 73-10-24, the money in excess of the amount necessary to maintain the account balance at $8,000,000.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 155
S. B. 82
Passed February 7, 2024
Approved March 13, 2024
Effective May 1, 2024

PUBLIC ACCOMMODATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill modifies provisions related to places of public accommodation.

Highlighted Provisions:

This bill:

- clarifies the scope of state law governing places of public accommodation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-7-3, as last amended by Laws of Utah 2018, Chapter 130

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

Section 1. Section 13-7-3 is amended to read:

13-7-3. Equal right in business establishments, places of public accommodation, and enterprises regulated by the state.

(1) All persons within the jurisdiction of this state are free and equal and are entitled to full and equal accommodations, advantages, facilities, privileges, goods and services in all business establishments and in all places of public accommodation, and by all enterprises regulated by the state of every kind whatsoever, without discrimination on the basis of race, color, sex, pregnancy, religion, ancestry or national origin.

(2) Nothing in this act shall be construed to deny any person the right to regulate the operation of a business establishment or place of public accommodation or an enterprise regulated by the state in a manner which applies uniformly to all persons without regard to race, color, sex, pregnancy, religion, ancestry, or national origin; or to deny any religious organization the right to regulate the operation and procedures of its establishments.

(3) Nothing in this act regulates business website accessibility.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 156
H. B. 276
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIME VICTIMS RESTITUTION AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to victim reparations and the Utah Office for Victims of Crimes.

Highlighted Provisions:

This bill:

- requires law enforcement agencies to provide copies of investigative reports to the Utah Office for Victims of Crimes to assist the office in performing its official duties;
- establishes timelines, procedures, and sharing restrictions in relation to the request and provision of documents;
- establishes a criminal penalty for unauthorized use or distribution of an investigative report; and
- makes conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-502, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430
77-37-4, as last amended by Laws of Utah 2022, Chapter 335

ENACTS:

63M-7-527, Utah Code Annotated 1953

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

Section 1. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(6) "Child" means an unemancipated individual who is under 18 years old.

(7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(9)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

[~~(20)~~](21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(21)~~](22)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

[~~(22)~~](23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(23)~~](24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(24)~~](25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

[~~(25)~~](26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(26)~~](27) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

[~~(27)~~](28) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

[~~(28)~~](29) "Offense" means a violation of Title 76, Utah Criminal Code.

[~~(29)~~](30) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[~~(30)~~](31) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

[~~(31)~~](32) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(32)~~](33) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(33)~~](34)(a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(34)~~](35) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(35)~~](36)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(36)~~](37) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(37)~~](38) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~](39) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(39)~~](40) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(40)~~](41) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

[~~(41)~~](42) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(42)~~](43) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(43)~~](44)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(44)~~](45) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 2. Section 63M-7-527 is enacted to read:

63M-7-527. Determination of eligibility for victim reparations -- Law enforcement agency to provide investigative reports -- Restrictions on usage -- Criminal penalty.

(1)(a) Notwithstanding Section 63G-2-206, and subject to Subsection (1)(c), a law enforcement agency shall provide a copy of an investigative report that describes the facts and circumstances of a criminal episode within 10 business days of the date the law enforcement agency receives a request for that information from the office.

(b) Before releasing an investigative report, the law enforcement agency may redact the following information:

(i) the name of:

(A) an undercover officer; or

(B) a confidential informant; and

(ii) any information that would:

(A) jeopardize the investigation; or

(B) disclose law enforcement techniques not generally known to the public.

(c) If a criminal episode remains under investigation when the office requests an investigative report and the law enforcement agency determines that release of an investigative report at that time would jeopardize the investigation, a law enforcement agency may provide a detailed description of the following information, instead of providing an investigative report, within 10 business days of the date the law enforcement agency received the original request from the office:

(i) the law enforcement agency's case number;

(ii) the location where the criminal episode occurred;

(iii) the criminal conduct under investigation;

(iv) a summary of the criminal episode;

(v) verification that the claimant is a victim of the criminal conduct;

(vi) any information regarding whether the claimant's conduct may have contributed to the criminal conduct; and

(vii) whether the claimant was and continues to be cooperative with law enforcement.

(d) An investigative report provided under Subsection (1)(a), or information provided under Subsection (1)(c), shall contain sufficient information for the office to determine whether a claimant is eligible for a reparations award under Sections 63M-7-509 and 63M-7-510.

(e) If an investigative report or information provided to the office by a law enforcement agency is not sufficient for the office to determine whether a claimant is eligible for a reparations award, the office may contact the law enforcement agency for additional information.

(f)(i) A law enforcement agency may give written notice that a request may take up to an additional 10 business days to process if exigent circumstances exist, which include:

(A) a circumstance where another agency is using relevant documents;

(B) the request requires review of a voluminous amount of documents;

(C) the request requires legal review;

(D) the request requires extensive redaction;

(E) the law enforcement agency is currently processing multiple requests; or

(F) other exigent circumstances.

(ii) Notice of an extended response time shall include the type of exigent circumstances involved and the new due date for the response.

(2)(a) An investigative report provided under this section may only be used for the purpose of carrying out the provisions of this part.

(b) An investigative report received under this section:

(i) may only be viewed by the office, the board, and legal counsel for the office; and

(ii) may not be further disclosed or disseminated for any reason.

(3) The office shall dispose of or retain an investigative report received under this section in a secure manner.

(4) An investigative report provided to the office under this section is not subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

(5) A public employee or other person who knowingly or intentionally uses or distributes an investigative report, or information received from an investigative report, in violation of the requirements of Subsection (2) is guilty of a class B misdemeanor.

Section 3. Section 77-37-4 is amended to read:

77-37-4. Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.

(5)(a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.

(b) A court order described in Subsection (5)(a):

(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and

(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.

(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.

(d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

(6)(a) The following offices and their designated employees may distribute and receive a recording

or transcript to and from one another without a court order:

(i) the Division of Child and Family Services;

(ii) administrative law judges employed by the Department of Human Services;

(iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section 80-2-703;

(iv) an office of the city attorney, county attorney, district attorney, or attorney general;

(v) a law enforcement agency;

(vi) a Children's Justice Center established under Section 67-5b-102; or

(vii) the attorney for the child who is the subject of the interview.

(b) In a criminal case or in a juvenile court in which the state is a party:

(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;

(ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;

(iii) the attorney for the defendant or respondent may do one or both of the following:

(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or

(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and

(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.

(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.

(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.

(e)(i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:

(A) the suspect is a parent or guardian of the child victim;

(B) the suspect resides in the home with the child victim; or

(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.

(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).

(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i)(i) In an investigation under Section 53E-6-506, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under State Board of Education authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing authorized under that section, the investigator operating under State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under State Board of Education authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under State Board of Education authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.

(iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter into

evidence a recording or transcript in the course of a prosecution.

(j) Notwithstanding any other provision in this section, a law enforcement agency shall provide an investigative report to the Utah Office for Victims of Crime as provided under Section 63M- 7- 527.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 157
H. B. 282
Passed February 27, 2024
Approved March 13, 2024
Effective May 1, 2024

UTAH OFFICE OF REGULATORY RELIEF AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to the Utah Office of Regulatory Relief.

Highlighted Provisions:

This bill:

- requires the Utah Office of Regulatory Relief to:
  - review laws and regulations each year affecting different industries to determine if there are laws or regulations that are unnecessarily burdensome to those industries; and
  - submit a report to the Legislature; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-16-103, as last amended by Laws of Utah 2022, Chapter 332
63N-16-104, as last amended by Laws of Utah 2022, Chapter 332
63N-16-105, as enacted by Laws of Utah 2021, Chapter 373

ENACTS:

63N-16-302, Utah Code Annotated 1953

REPEALS:

63N-16-101, as enacted by Laws of Utah 2021, Chapter 373

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

Section 1. Section 63N-16-103 is amended to read:

63N-16-103. Creation of the regulatory relief office and appointment of director -- Responsibilities of the regulatory relief office.

(1) There is created within the Governor's Office of Economic Opportunity the Utah Office of Regulatory Relief.

(2)(a) The regulatory relief office shall be administered by a director.

(b) The director shall report to the executive director and may appoint staff subject to the approval of the executive director.

(3) The regulatory relief office shall:

(a) administer the provisions of this chapter;

(b) administer the regulatory sandbox program; and

(c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program.

(4) The regulatory relief office may:

[~~(a) review state laws and regulations that may unnecessarily inhibit the creation and success of new companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;~~]

[~~(b) create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;~~]

[~~(c)~~](a) propose potential reciprocity agreements between states that use or are proposing to use similar programs to the regulatory sandbox[~~programs as described in this chapter~~]; and

[~~(d)~~](b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:

(i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and

(ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Section 2. Section 63N-16-104 is amended to read:

63N-16-104. Creation and duties of advisory committee.

(1) There is created the General Regulatory Sandbox Program Advisory Committee.

(2) The advisory committee shall have 11 members as follows:

(a) six members appointed by the director who represent businesses interests and are selected from a variety of industry clusters;

(b) three members appointed by the director who represent state agencies that regulate businesses;

(c) one member of the Senate, appointed by the president of the Senate; and

(d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(3)(a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the

length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.

(4) The director shall select a chair of the advisory committee on an annual basis.

(5) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.

(6) The advisory committee shall[~~.~~]:

(a) advise and make recommendations to the regulatory relief office as described in this chapter; and

(b) designate the laws and regulations of an industry for potential study by the regulatory relief office as described in Section 63N-16-105.

(7) The regulatory relief office shall provide administrative staff support for the advisory committee.

(8)(a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

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

Section 3. Section 63N-16-105 is amended to read:

63N-16-105. Annual report.

(1) [~~The executive director shall include in the annual report described in Section 63N-1a-306 a written report from the director on the activities of the regulatory relief office, which report shall include:~~]On or before October 1 of each year, the regulatory relief office shall prepare and submit an annual written report to the governor, the Business and Labor Interim Committee, and the Economic Development and Workforce Services Interim Committee for the preceding fiscal year.

(2) The annual report described in Subsection (1) shall include:

(a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;

(b) recommendations regarding any laws or regulations that should be permanently modified;

(c) information regarding outcomes for consumers; [~~and~~]

(d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office[~~.~~]; and

(e) the information described in Subsection 63N-16-302(5).

[~~(2) By October 1 of each year, the executive director shall provide the written report from the director on the activities of the regulatory relief office described in Subsection (1) to the Business and Labor Interim Committee.~~]

Section 4. Section 63N-16-302 is enacted to read:

63N-16-302. Proactive regulatory relief efforts.

Part 3. Regulatory Relief

(1) As used in this section:

(a) "Regulatory framework" means a framework for determining the risk level to the public if a law or regulation that inhibits the creation or success of new and existing companies or industries were to be permanently removed or temporarily waived.

(b) "Risk level" means a level of risk categorized from low, medium, and high.

(2) The regulatory relief office may:

(a) review, at any time, any existing state laws or regulations that may unnecessarily inhibit the creation or success of companies or industries other than the occupational regulations of individuals reviewed by the Office of Professional Licensure Review under Title 13, Chapter 1b, Office of Professional Licensure Review; and

(b) provide recommendations to the governor and the Legislature on modifying those state laws and regulations described in Subsection (2)(a).

(3) The regulatory relief office shall:

(a) create a regulatory framework; and

(b) annually study the laws and regulations of at least two industries selected from:

(i) an industry targeted for economic development by the Unified Economic Opportunity Commission as described in Section 63N-1a-202; or

(ii) an industry designated by the General Regulatory Sandbox Program Advisory Committee for study by the regulatory relief office.

(4) In undertaking the review described in Subsection (3), the regulatory relief office shall:

(a) identify any law or regulation that the regulatory relief office determines inhibits the creation or success of new and existing companies or industries;

(b) apply the regulatory framework to the identified law or regulation; and

(c) consider:

(i) the history of the identified regulation or law, including the reasons why the regulation or law was originally enacted;

(ii) whether the identified regulation or law:

(A) creates an unnecessary barrier to industry for businesses; or

(B) imposes an unnecessary cost to businesses or consumers;

(iii) whether the penalty for violation of the regulation or law, if any, is proportional to the potential harm; and

(iv) if there are potentially less burdensome alternatives to the existing regulation or law and apply the regulatory framework to that alternative.

(5) The regulatory relief office shall submit as part of the report described in Section 63N-16-105:

(a) a detailed overview of the regulatory relief office's study of the laws and regulations as described in this section, including the reasons why the laws and regulations of a particular industry were selected for study and the strategy the office implemented to study the laws and regulations of that industry; and

(b) recommended changes to a law or regulation identified by the regulatory relief office in Subsection (4) that the regulatory relief office determines:

(i) is inhibiting the success of businesses, companies, or industries; and

(ii) would not present a high risk level to the public if the law or regulation were permanently removed or temporarily waived.

Section 5. Repealer.

This bill repeals:

Section 63N-16-101, Title.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 158
H. B. 300
Passed February 26, 2024
Approved March 13, 2024
Effective July 1, 2024

COURT AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to courts.

Highlighted Provisions:

This bill:

- amends provisions related to a district court;
- amends provisions related to court venue;
- addresses the effect of the consolidation of counties on actions, proceedings, and matters pending in the juvenile court;
- addresses actions pending in the juvenile court for a new county;
- clarifies the role and duties of a constable;
- clarifies the jurisdiction of the district court;
- amends the definition of a public official in Title 63G, Chapter 23, Property Donated to State by Public Official, to address a judge of a juvenile court or the Business and Chancery Court;
- allows the presiding officer of the Judicial Council to establish a pool of two district court judges to preside over actions in the Business and Chancery Court when there are fewer than three judges for the Business and Chancery Court and a Business and Chancery Court judge is unable to preside over an action due to recusal or disqualification;
- amends the jurisdiction of the district court to address a district court judge presiding over an action in the Business and Chancery Court;
- amends the definitions related to the Business and Chancery Court;
- amends the jurisdiction of the Business and Chancery Court;
- allows the Business and Chancery Court to resolve all claims for which the Business and Chancery Court has jurisdiction and any request for a provisional remedy related to a claim that is being transferred to another court due to a lack of jurisdiction or a demand for a jury trial;
- clarifies that the Business and Chancery Court is required to transfer an action or claim to the district court if a party demands a trial by jury in accordance with the Utah Rules of Business and Chancery Procedure and the Business and Chancery Court finds that the party has a right to trial by jury on a claim in the action;
- removes the requirement that the Business and Chancery Court is located in Salt Lake City;
- clarifies the jurisdiction of the juvenile court;
- repeals statutes related to district court jurisdiction; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-32-112, as renumbered and amended by Laws of Utah 2017, Chapter 345
8-5-2, as last amended by Laws of Utah 2002, Chapter 123
10-2-710, as enacted by Laws of Utah 1981, Chapter 55
10-3-208, as last amended by Laws of Utah 2023, Chapter 45
10-7-32, as last amended by Laws of Utah 2010, Chapter 378
10-7-66, as last amended by Laws of Utah 1996, Chapter 198
10-11-3, as last amended by Laws of Utah 2022, Chapter 432
11-13-309, as last amended by Laws of Utah 2010, Chapter 378
13-11-6, as last amended by Laws of Utah 2012, Chapter 152
13-11a-4, as enacted by Laws of Utah 1989, Chapter 205
13-11a-6, as enacted by Laws of Utah 2009, Chapter 133
13-12-7, as last amended by Laws of Utah 2010, Chapter 378
13-21-8, as last amended by Laws of Utah 2006, Chapter 47
13-22-3, as last amended by Laws of Utah 2008, Chapter 382
13-44-301, as last amended by Laws of Utah 2019, Chapter 348
13-45-401, as last amended by Laws of Utah 2019, Chapter 348
13-63-301, as enacted by Laws of Utah 2023, Chapter 498
13-63-501, as enacted by Laws of Utah 2023, Chapter 477
16-10a-809, as last amended by Laws of Utah 2008, Chapter 364
17-2-106, as renumbered and amended by Laws of Utah 2009, Chapter 350
17-3-7, Utah Code Annotated 1953
17-16-6.5, as last amended by Laws of Utah 2023, Chapter 45
17-25-1, as last amended by Laws of Utah 2003, Chapter 204
17-50-103, as last amended by Laws of Utah 2023, Chapter 15
17B-1-313, as last amended by Laws of Utah 2023, Chapters 15, 435
17C-1-102, as last amended by Laws of Utah 2023, Chapter 15
17C-2-304, as last amended by Laws of Utah 2019, Chapter 376
17C-5-406, as last amended by Laws of Utah 2019, Chapter 376
17D-1-212, as enacted by Laws of Utah 2008, Chapter 360
17D-2-602, as last amended by Laws of Utah 2012, Chapter 369

17D-4-305, as renumbered and amended by Laws of Utah 2021, Chapter 314
18-1-4, as enacted by Laws of Utah 2014, Chapter 32
19-4-109, as last amended by Laws of Utah 2020, Chapter 256
19-4-113, as last amended by Laws of Utah 2023, Chapter 255
19-5-115, as last amended by Laws of Utah 2021, Chapter 139
19-6-115, as renumbered and amended by Laws of Utah 1991, Chapter 112
19-6-206, as renumbered and amended by Laws of Utah 1991, Chapter 112
19-6-306, as last amended by Laws of Utah 1995, Chapter 324
19-6-309, as last amended by Laws of Utah 1992, Chapter 30
19-6-310, as last amended by Laws of Utah 2009, Chapter 356
19-6-316, as last amended by Laws of Utah 2010, Chapter 324
19-6-318, as last amended by Laws of Utah 2010, Chapter 324
19-6-325, as last amended by Laws of Utah 2010, Chapter 324
19-6-424.5, as last amended by Laws of Utah 2012, Chapter 360
19-6-425, as last amended by Laws of Utah 2012, Chapter 360
19-6-804, as last amended by Laws of Utah 2020, Chapter 27
19-8-119, as last amended by Laws of Utah 2021, Chapter 202
23A-13-201, as renumbered and amended by Laws of Utah 2023, Chapter 103
26B-3-1110, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-1114, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-1115, as renumbered and amended by Laws of Utah 2023, Chapter 306
31A-22-305, as last amended by Laws of Utah 2023, Chapters 69, 185 and 327
31A-22-305.3, as last amended by Laws of Utah 2023, Chapters 69, 327
31A-22-321, as last amended by Laws of Utah 2015, Chapter 345
32B-4-205, as enacted by Laws of Utah 2010, Chapter 276
34-20-10, as last amended by Laws of Utah 2008, Chapter 382
34-20-11, as last amended by Laws of Utah 1997, Chapter 296
34-28-9.5, as enacted by Laws of Utah 2017, Chapter 85
34A-1-407, as last amended by Laws of Utah 2001, Chapter 291
34A-5-102, as last amended by Laws of Utah 2016, Chapters 330, 370
34A-6-202, as last amended by Laws of Utah 2013, Chapter 413
38-1a-308, as last amended by Laws of Utah 2015, Chapter 303
38-1a-804, as last amended by Laws of Utah 2020, Chapter 115
38-1a-805, as enacted by Laws of Utah 2015, Chapter 303
38-2-4, as last amended by Laws of Utah 1996, Chapter 198
38-9-204, as renumbered and amended by Laws of Utah 2014, Chapter 114
38-9-205, as renumbered and amended by Laws of Utah 2014, Chapter 114
38-9-303, as enacted by Laws of Utah 2014, Chapter 114
38-9a-201, as last amended by Laws of Utah 2008, Chapter 223
38-9a-202, as enacted by Laws of Utah 2005, Chapter 93
38-9a-205, as enacted by Laws of Utah 2005, Chapter 93
38-11-110, as last amended by Laws of Utah 2010, Chapter 31
40-8-9, as last amended by Laws of Utah 2007, Chapter 322
40-8-9.1, as enacted by Laws of Utah 2002, Chapter 194
40-10-14, as last amended by Laws of Utah 2008, Chapter 382
40-10-20, as last amended by Laws of Utah 1997, Chapter 99
40-10-21, as last amended by Laws of Utah 2008, Chapter 382
40-10-22, as last amended by Laws of Utah 2008, Chapter 3
41-6a-1622, as renumbered and amended by Laws of Utah 2005, Chapter 2
51-2a-401, as last amended by Laws of Utah 2018, Chapter 256
51-7-22.5, as enacted by Laws of Utah 2004, Chapter 248
53-2d-605, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-7-406, as last amended by Laws of Utah 2013, Chapter 394
53B-28-506, as last amended by Laws of Utah 2023, Chapter 381
53E-9-310, as last amended by Laws of Utah 2019, Chapter 186
53G-5-501, as last amended by Laws of Utah 2023, Chapter 54
54-4-27, as last amended by Laws of Utah 2009, Chapter 388
54-5-3, as last amended by Laws of Utah 1993, Chapter 214
54-8a-12, as enacted by Laws of Utah 2008, Chapter 344
54-8b-13, as last amended by Laws of Utah 2010, Chapter 324
54-13-7, as last amended by Laws of Utah 2011, Chapter 340
54-13-8, as last amended by Laws of Utah 2015, Chapter 102
54-14-308, as enacted by Laws of Utah 1997, Chapter 197
54-22-205, as enacted by Laws of Utah 2018, Chapter 230
57-11-11, as last amended by Laws of Utah 2023, Chapter 435
57-11-13, as last amended by Laws of Utah 2008, Chapter 382
57-11-18, as enacted by Laws of Utah 1973, Chapter 158

58-37-11, as enacted by Laws of Utah 1971, Chapter 145
63A-3-507, as last amended by Laws of Utah 2021, Chapters 145, 260
63G-4-403, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-7-501, as renumbered and amended by Laws of Utah 2008, Chapter 382
63G-7-502, as last amended by Laws of Utah 2016, Chapter 33
63G-20-204, as enacted by Laws of Utah 2015, Chapter 46
63G-20-302, as enacted by Laws of Utah 2015, Chapter 46
63G-23-102, as last amended by Laws of Utah 2022, Chapter 125
63H-1-601, as last amended by Laws of Utah 2022, Chapter 207
63L-5-301, as renumbered and amended by Laws of Utah 2008, Chapter 382
63L-8-304, as last amended by Laws of Utah 2023, Chapter 34
65A-8a-104, as last amended by Laws of Utah 2010, Chapter 40
67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480
67-3-3, as last amended by Laws of Utah 2018, Chapter 256
70A-2-807, as enacted by Laws of Utah 1997, Chapter 166
70C-8-105, as enacted by Laws of Utah 1985, Chapter 159
70D-2-504, as renumbered and amended by Laws of Utah 2009, Chapter 72
72-10-106, as last amended by Laws of Utah 2019, Chapter 431
72-16-401, as last amended by Laws of Utah 2020, Chapter 423
75-2-105, as last amended by Laws of Utah 2019, Chapter 264
75-2-801, as last amended by Laws of Utah 2011, Chapter 366
75-2a-120, as enacted by Laws of Utah 2007, Chapter 31
75-5a-102, as enacted by Laws of Utah 1990, Chapter 272
75-7-105, as last amended by Laws of Utah 2019, Chapter 153
75-7-203, as repealed and reenacted by Laws of Utah 2004, Chapter 89
75-7-205, as repealed and reenacted by Laws of Utah 2004, Chapter 89
75-11-102, as enacted by Laws of Utah 2017, Chapter 16
76-10-1605, as last amended by Laws of Utah 2008, Chapter 3
78A-1-103.5, as enacted by Laws of Utah 2023, Chapter 394
78A-5-102, as last amended by Laws of Utah 2022, Chapters 155, 318
78A-5a-101, as enacted by Laws of Utah 2023, Chapter 394
78A-5a-103, as enacted by Laws of Utah 2023, Chapter 394
78A-5a-104, as enacted by Laws of Utah 2023, Chapter 394
78A-5a-204, as enacted by Laws of Utah 2023, Chapter 394
78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
78A-7-106, as last amended by Laws of Utah 2023, Chapter 34
78A-10a-501, as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
78A-10a-502, as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
78A-10a-503, as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
78A-10a-504, as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
78A-10a-505, as enacted by Laws of Utah 2023, Chapter 394 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 250
78B-6-105, as last amended by Laws of Utah 2023, Chapter 115
78B-6-112, as last amended by Laws of Utah 2021, Chapter 262
78B-6-401, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-408, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-1238, as renumbered and amended by Laws of Utah 2008, Chapter 3

REPEALS:

17D-3-104, as enacted by Laws of Utah 2008, Chapter 360
78B-12-103, as renumbered and amended by Laws of Utah 2008, Chapter 3

Sections affected by Coordination Clause:

78B-12-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330148

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

Section 1. Section 4-32-112 is amended to read:

4-32-112. Judicial review of orders enforcing chapter.

(1) Any party aggrieved by an order issued under Subsection 4-32-109(4) or under Subsection 4-32-110(1), (2), or (3) may obtain judicial review.

[~~(2) The district courts have jurisdiction to enforce this chapter, and to prevent and restrain violations of this chapter, and have jurisdiction in all other kinds of cases arising under this chapter.~~]

[~~(3)~~](2) All proceedings for the enforcement of this chapter, or to restrain violations of this chapter, shall be by and in the name of this state.

Section 2. Section 8-5-2 is amended to read:

8-5-2. Action in court for title to lots.

(1) If [~~either~~] the grantee, or person claiming through the grantee, fails to comply with the

demand or notice, the municipality or cemetery maintenance district may bring an action in [~~the district court of the county in which the cemetery is located~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against all parties who have not responded to the notice for the purpose of terminating the rights of the parties in the lots or parcels and restoring the lots or parcels to the municipality or cemetery maintenance district free of any right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or assigns.

(2) Any action to reclaim title to grave sites, parcels, or lots shall be brought and determined in the same manner as actions concerning other real property.

(3) The portion of any grave site, lot, or parcel in which a body is buried may not be included in any action to revest title to the lot, site, or parcel in the municipality or cemetery maintenance district, and the grave site in which a body is interred shall remain undisturbed together with any adjoining property so as to allow the proper approach to the grave site.

Section 3. Section 10-2-710 is amended to read:

10-2-710. Limitation on jurisdiction of court to consider disincorporation petition.

[~~No district court has jurisdiction to~~]A court may not consider a petition seeking disincorporation of a municipality or to order an election based upon the submission of such a petition if:

(1) the disincorporation petition is filed with the court less than two years after the official date of incorporation of the municipality which the petition seeks to dissolve; or

(2) the disincorporation petition is filed with the court less than two years after the date of an election held to decide the question of dissolution of the municipality which the petition seeks to dissolve.

Section 4. Section 10-3-208 is amended to read:

10-3-208. Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

(i) a person acting on behalf of a candidate at the direction of the reporting entity;

(ii) a person employed by a candidate in the candidate's capacity as a candidate;

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c)(i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d)(i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f)(i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h)(i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2)(a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) through (7).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) through (7).

(3) Each candidate:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any campaign contributions received into a personal or business account.

(4)(a) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(b) Each candidate who is not eliminated at a municipal primary election shall file a campaign finance statement with the municipal clerk or recorder no later than:

(i) 28 days before the day on which the municipal general election is held;

(ii) seven days before the day on which the municipal general election is held; and

(iii) 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(5) If a municipality does not conduct a primary election for a race, each candidate who will

participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

(6) Each campaign finance statement described in Subsection (4) or (5) shall:

(a) except as provided in Subsection (6)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives $500 or less in contributions and spends $500 or less on the candidate's campaign.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8)(a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than $50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (8)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (9).

(9) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 35 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i)(A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

(11)(a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:

(i) may send an electronic notice to the candidate that states:

(A) that the candidate failed to timely file the campaign finance statement; and

(B) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified; and

(ii) may impose a fine of $50 on the candidate.

(b) The municipal clerk or recorder shall disqualify a candidate and inform the appropriate

election official that the candidate is disqualified if the candidate fails to file a campaign finance statement described in Subsection (4) or (5) within 24 hours after the deadline for filing the report.

(c) If a candidate is disqualified under Subsection (11)(b), the election official:

(i) shall:

(A) notify every opposing candidate for the municipal office that the candidate is disqualified;

(B) send an email notification to each voter who is eligible to vote in the municipal election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(C) post notice of the disqualification on a public website; and

(D) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that candidate.

(12) An election official may fulfill the requirements described in Subsection (11)(c)(i) in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a written notice:

(a) informing the voter that the candidate is disqualified; or

(b) directing the voter to a public website to inform the voter whether a candidate on the ballot is disqualified.

(13) Notwithstanding Subsection (11)(b), a candidate who timely files each campaign finance statement required under Subsection (4) or (5) is not disqualified if:

(a) the statement details accurately and completely the information required under Subsection (6), except for inadvertent omissions or insignificant errors or inaccuracies; and

(b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(14) A candidate for municipal office who is disqualified under Subsection (11)(b) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(15) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

(16)(a) A private party in interest may bring a civil action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (16)(a), the court may award costs and attorney fees to the prevailing party.

Section 5. Section 10-7-32 is amended to read:

10-7-32. Actions to recover taxes.

(1) It shall also be competent for any municipality to bring a civil action against any party owning or operating any such railway liable to pay such taxes to recover the amount thereof, or any part thereof, delinquent and unpaid, in any court having jurisdiction of the amount, and obtain judgment and have execution therefor, and no property, real or personal, shall be exempt from any such execution; provided, that real estate may not be levied upon by execution except by execution out of the [~~district~~]court on judgment therein, or transcript of judgment filed therein, as is now or hereafter may be provided by law.

(2) No defense shall be allowed in any such civil action except such as goes to the groundwork, equity and justice of the tax, and the burden of proof shall rest upon the party assailing the tax.

(3) In case part of such special tax shall be shown to be invalid, unjust or inequitable, judgment shall be rendered for such amount as is just and equitable.

Section 6. Section 10-7-66 is amended to read:

10-7-66. Fines and forfeitures to be paid to treasurer -- Exceptions.

Except where otherwise provided by law in relation to fines, fees, and forfeitures imposed or received by [~~district courts~~]a court of this state, all fines and forfeitures for the violation of ordinances shall be paid into the treasury of the corporation at such times and in such manner as may be prescribed by ordinance.

Section 7. Section 10-11-3 is amended to read:

10-11-3. Neglect of property owners -- Removal or abatement by municipality -- Costs of removal or abatement -- Notice -- File action or lien -- Property owner objection.

(1)(a) If an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, a municipal inspector may:

(i) at the expense of the municipality, employ necessary assistance to enter the property and destroy, remove, or abate one or more items or conditions identified in a written notice described in Section 10-11-2; and

(ii)(A) prepare an itemized statement in accordance with Subsection (1)(b); and

(B) mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within 30 days

after the day on which the statement is post-marked.

(b) The statement described in Subsection (1)(a)(ii)(A) shall:

(i) include:

(A) the address of the property described in Subsection (1)(a);

(B) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and

(C) the address of the municipal treasurer where payment may be made for the expenses; and

(ii) notify the property owner:

(A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;

(B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and

(C) where the owner may file the objection, including the municipal office and address.

(c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last-known address according to the records of the county recorder.

(d)(i) A municipality may file a notice of a lien, including a copy of the statement described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the county recorder of the county in which the property is located.

(ii) If a municipality files a notice of a lien indicating that the municipality intends to certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien after all amounts owing are paid.

(2)(a) If an owner fails to file a timely written objection as described in Subsection (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the municipality may:

(i) file an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; or

(ii) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.

(b) If a municipality pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:

(i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and

(ii) execute on the judgment in the manner provided by law.

(3)(a) If a property owner files an objection in accordance with Subsection (1)(b)(ii), the municipality shall:

(i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) mail or deliver notice of the hearing date and time to the property owner.

(b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

(c) The property owner shall pay any actual cost due after a decision by the municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within 30 days after the day on which the hearing is held.

(4) If the property owner fails to pay in accordance with Subsection (3)(c), the municipality may:

(a) file an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the actual cost determined under Subsection (3)(b); or

(b) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.

(5) This section does not affect or limit:

(a) a municipal governing body's power to pass an ordinance as described in Section 10-3-702; or

(b) a criminal or civil penalty imposed by a municipality in accordance with Section 10-3-703.

Section 8. Section 11-13-309 is amended to read:

11-13-309. Venue for civil action -- No trial de novo.

[~~(1)~~ ~~Any~~]

(1)(a) A person may bring a civil action seeking to challenge, enforce, or otherwise have reviewed, any order of the board, or any alleviation contract[~~, shall be brought only in the district court for the county within which is located the candidate to which the order or contract pertains. If the candidate is the state of Utah, the action shall be brought in the district court for Salt Lake County~~].

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if a person brings an action described in Subsection (1)(a) in the district court, the person shall bring the action in:

(a) the county in which the candidate, to which the order or contract pertains, is located; or

(b) Salt Lake County if the candidate is the state of Utah.

(3) Any action brought in any judicial district shall be ordered transferred to the court where venue is proper under this section.

[~~(2)~~](4) In any civil action seeking to challenge, enforce, or otherwise review, any order of the board, a trial de novo may not be held.

(5) The matter shall be considered on the record compiled before the board, and the findings of fact made by the board may not be set aside by the [~~district~~]court unless the board clearly abused its discretion.

Section 9. Section 13-11-6 is amended to read:

13-11-6. Service of process.

(1) In addition to any other method provided by rule or statute, personal jurisdiction over a supplier may be acquired in a civil action or proceeding instituted in [~~the district court~~]a court of this state by the service of process as provided in Subsection (3).

(2)(a) A supplier that engages in any act or practice in this state governed by this chapter, or engages in a consumer transaction subject to this chapter, may designate an agent upon whom service of process may be made in the state.

(b) A designation of an agent under Subsection (2)(a) shall be in writing and filed with the Division of Corporations and Commercial Code.

(c) An agent designated under this Subsection (2) shall be a resident of or a corporation authorized to do business in the state.

(3)(a) Subject to Subsection (3)(b), process upon a supplier may be served as provided in Section 16-17-301 if:

(i) a designation is not made and filed under Subsection (2); or

(ii) process cannot be served in the state upon the designated agent.

(b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of the process and pleadings by registered or certified mail to the defendant at the defendant's last reasonably ascertainable address.

(c) The plaintiff shall file an affidavit of compliance with this section:

(i) with the clerk of the court; and

(ii) on or before the return day of the process, if any, or within any future time the court allows.

Section 10. Section 13-11a-4 is amended to read:

13-11a-4. Injunctive relief -- Damages -- Attorney fees -- Corrective advertising -- Notification required.

[~~(1) The district courts of this state have jurisdiction over any supplier as to any act or practice in this state governed by this chapter or as to any claim arising from a deceptive trade practice as defined in this chapter.~~]

[~~(2)~~](1)(a)(i) Any person or the state may [~~maintain an action~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin a continuance of any act in violation of this chapter and, if injured by the act, for the recovery of damages.

(ii) If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this chapter, it shall enjoin the defendant from continuance of the violation.

(iii) It is not necessary that actual damages be proven.

(b) In addition to injunctive relief, the plaintiff is entitled to recover from the defendant the amount of actual damages sustained or $2,000, whichever is greater.

(c)(i) Costs shall be allowed to the prevailing party unless the court otherwise directs.

(ii) The court shall award [~~attorneys'~~]attorney fees to the prevailing party.

[~~(3)~~](2) The court may order the defendant to promulgate corrective advertising by the same media and with the same distribution and frequency as the advertising found to violate this chapter.

[~~(4)~~](3) The remedies of this section are in addition to remedies otherwise available for the same conduct under state or local law.

[~~(5)~~](4)(a) No action for injunctive relief may be brought for a violation of this chapter unless the complaining person first gives notice of the alleged violation to the prospective defendant and provides the prospective defendant an opportunity to promulgate a correction notice by the same media as the allegedly violating advertisement.

(b) If the prospective defendant does not promulgate a correction notice within 10 days of receipt of the notice, the complaining person may file a lawsuit under this chapter.

Section 11. Section 13-11a-6 is amended to read:

13-11a-6. Truth in music advertising -- Exemptions -- Penalties.

(1) A person may not advertise or conduct a live musical performance by a performing group by using a false, deceptive, or otherwise misleading affiliation between a performing group and a recording group of the same name.

(2) This section does not apply to:

(a) a performing group that is the registrant and owner of a registered federal service mark for the group name;

(b) a performance by a performing group that is clearly identified in all advertising and promotional materials as a salute or tribute;

(c) a performing group at least one member of which was a member of the recording group and has a legal right to use of the group name;

(d) the advertising does not relate to a live musical performance occurring in this state; or

(e) a performance authorized in writing by the recording group.

[~~(3)(a) This section may be enforced by bringing an action in the district court for any county in which the live musical performance is advertised or conducted.~~]

(3)(a) A person may enforce this section by bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action described in Subsection (3)(a) in the county in which the live musical performance is advertised or conducted if the person brings the action in the district court.

[~~(b)~~](c) A party injured by a violation of this section may obtain an injunction and recover actual damages.

[~~(c)~~](d) The prevailing party in an action under Subsection (3)(a) may be awarded costs and attorney fees.

Section 12. Section 13-12-7 is amended to read:

13-12-7. Equitable relief -- Attorney fees and costs -- Action for failure to renew -- Damages limited.

[~~The district courts for the district wherein the dealer resides or wherein the dealership was to be established shall have jurisdiction over any action involving a violation of this act.~~]

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person may bring an action regarding a violation of this chapter in the county where the dealer resides or the dealership was to be established if the person brings the action in the district court.

(2) In addition to such relief as may be available at common law, the [~~courts~~]court may grant such equitable relief, both interim and final, as may be necessary to remedy those violations including declaratory judgments, injunctive relief, and punitive damages as well as actual damages.

(3) The prevailing party may, in the court's sole discretion, be awarded [~~attorney's~~]attorney fees and expert witness fees in addition to such other relief as the court may deem equitable.

(4) In any action for failure to renew an agreement, damages shall be limited to actual damages, including the value of the dealer's equity in the dealership, together with reasonable [~~attorney's~~]attorney fees and costs.

Section 13. Section 13-21-8 is amended to read:

13-21-8. Burden of proving exception -- Penalties -- Court's criminal and equitable jurisdiction -- Prosecution.

(1)(a) Any waiver by a buyer of any part of this chapter is void.

(b) Any attempt by a credit services organization to have a buyer waive rights given by this chapter is a violation of this chapter.

(2) In any proceeding involving this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming the exemption or exception.

(3)(a) Any person who violates this chapter is guilty of a class A misdemeanor.

(b) [~~Any district court of this state has jurisdiction to~~]A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may restrain and enjoin [~~the~~]a violation of this chapter.

(4) The attorney general, any county attorney, any district attorney, or any city attorney may prosecute misdemeanor actions or institute injunctive or civil proceedings, or both, under this chapter.

(5) The remedies, duties, prohibitions, and penalties of this chapter are not exclusive and are in addition to all other causes of action, remedies, and penalties provided by law.

(6)(a) In addition to other penalties under this section, the division director may issue a cease and desist order and impose an administrative fine of up to $2,500 for each violation of this chapter.

(b) All money received through administrative fines imposed under this section shall be deposited [~~in~~]into the Consumer Protection Education and Training Fund created by Section 13-2-8.

Section 14. Section 13-22-3 is amended to read:

13-22-3. Investigative and enforcement powers -- Education.

(1) The division may make any investigation it considers necessary to determine whether any person is violating, has violated, or is about to violate any provision of this chapter or any rule made or order issued under this chapter. As part of the investigation, the division may:

(a) require a person to file a statement in writing;

(b) administer oaths, subpoena witnesses and compel their attendance, take evidence, and examine under oath any person in connection with an investigation; and

(c) require the production of any books, papers, documents, merchandise, or other material relevant to the investigation.

(2) Whenever it appears to the director that substantial evidence exists that any person has engaged in, is engaging in, or is about to engage in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may do any of the following in addition to other specific duties under this chapter:

(a) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may

issue an order to cease and desist from engaging in the act or practice or from doing any act in furtherance of the activity; or

(b) the director may bring an action in [~~the appropriate district court of this state~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the acts or practices constituting the violation or to enforce compliance with this chapter or any rule made or order issued under this chapter.

(3) Whenever it appears to the director by a preponderance of the evidence that a person has engaged in or is engaging in any act or practice prohibited in this chapter or constituting a violation of this chapter or any rule made or order issued under this chapter, the director may assess an administrative fine of up to $500 per violation up to $10,000 for any series of violations arising out of the same operative facts.

(4) Upon a proper showing, the court hearing an action brought under Subsection (2)(b) may:

(a) issue an injunction;

(b) enter a declaratory judgment;

(c) appoint a receiver for the defendant or the defendant's assets;

(d) order disgorgement of any money received in violation of this chapter;

(e) order rescission of agreements violating this chapter;

(f) impose a fine of not more than $2,000 for each violation of this chapter; and

(g) impose a civil penalty, or any other relief the court considers just.

(5)(a) In assessing the amount of a fine or penalty under Subsection (3), (4)(f), or (4)(g), the director or court imposing the fine or penalty shall consider the gravity of the violation and the intent of the violator.

(b) If it does not appear by a preponderance of the evidence that the violator acted in bad faith or with intent to harm the public, the director or court shall excuse payment of the fine or penalty.

(6) The division may provide or contract to provide public education and voluntary education for applicants and registrants under this chapter. The education may be in the form of publications, advertisements, seminars, courses, or other appropriate means. The scope of the education may include:

(a) the requirements, prohibitions, and regulated practices under this chapter;

(b) suggestions for effective financial and organizational practices for charitable organizations;

(c) charitable giving and solicitation;

(d) potential problems with solicitations and fraudulent or deceptive practices; and

(e) any other matter relevant to the subject of this chapter.

Section 15. Section 13-44-301 is amended to read:

13-44-301. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce this chapter's provisions.

(2)(a) Nothing in this chapter creates a private right of action.

(b) Nothing in this chapter affects any private right of action existing under other law, including contract or tort.

(3) A person who violates this chapter's provisions is subject to a civil penalty of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(4)(a) In addition to the penalties provided in Subsection (3), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

[~~(b) The attorney general shall bring an action under this chapter in:~~]

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) [~~the district court located in~~] Salt Lake City; or

(ii) [~~the district court for the district~~]the county in which resides a consumer who is affected by the violation.

(5) The attorney general shall deposit any amount received under Subsection (3), (4), or (10) into the Attorney General Litigation Fund created in Section 76-10-3114.

(6) In enforcing this chapter, the attorney general may:

(a) investigate the actions of any person alleged to violate Section 13-44-201 or 13-44-202;

(b) subpoena a witness;

(c) subpoena a document or other evidence;

(d) require the production of books, papers, contracts, records, or other information relevant to an investigation;

(e) conduct an adjudication in accordance with Title 63G, Chapter 4, Administrative Procedures Act, to enforce a civil provision under this chapter; and

(f) enter into a confidentiality agreement in accordance with Subsection (7).

(7)(a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (7)(a).

(c) A confidentiality agreement entered into under Subsection (7)(a) or a confidentiality order issued under Subsection (7)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(8) A subpoena issued under Subsection (6) may be served by certified mail.

(9) A person's failure to respond to a request or subpoena from the attorney general under Subsection (6)(b), (c), or (d) is a violation of this chapter.

(10)(a) The attorney general may inspect and copy all records related to the business conducted by the person alleged to have violated this chapter, including records located outside the state.

(b) For records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general's expenses to inspect the records, including travel costs.

(c) Upon notification from the attorney general of the attorney general's intent to inspect records located outside of the state, the person who is found to have violated this chapter shall pay the attorney general $500, or a higher amount if $500 is estimated to be insufficient, to cover the attorney general's expenses to inspect the records.

(d) To the extent an amount paid to the attorney general by a person who is found to have violated this chapter is not expended by the attorney general, the amount shall be refunded to the person who is found to have violated this chapter.

(e) The Division of Corporations and Commercial Code or any other relevant entity shall revoke any authorization to do business in this state of a person who fails to pay any amount required under this Subsection (10).

(11)(a) Subject to Subsection (11)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, produced the document, or produced material waives confidentiality in writing.

(b) Subject to Subsections (11)(c) and (11)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony or produced the document or material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony or produced the document or material, or the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(12)(a) An administrative action filed under this chapter shall be commenced no later than 10 years after the day on which the alleged breach of system security last occurred.

(b) A civil action under this chapter shall be commenced no later than five years after the day on which the alleged breach of system security last occurred.

Section 16. Section 13-45-401 is amended to read:

13-45-401. Enforcement -- Confidentiality agreement -- Penalties.

(1) The attorney general may enforce the provisions of this chapter.

(2) A person who violates a provision of this chapter is subject to a civil fine of:

(a) no greater than $2,500 for a violation or series of violations concerning a specific consumer; and

(b) no greater than $100,000 in the aggregate for related violations concerning more than one consumer, unless:

(i) the violations concern:

(A) 10,000 or more consumers who are residents of the state; and

(B) 10,000 or more consumers who are residents of other states; or

(ii) the person agrees to settle for a greater amount.

(3)(a) In addition to the penalties provided in Subsection (2), the attorney general may seek, in an action brought under this chapter:

(i) injunctive relief to prevent future violations of this chapter; and

(ii) attorney fees and costs.

[~~(b) The attorney general shall bring an action under this chapter in:~~]

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings an action under this chapter in the district court, the attorney general shall bring the action in:

(i) [~~the district court located in~~]Salt Lake City; or

(ii) [~~the district court for the district~~]the county in which resides a consumer who is the subject of a credit report on which a violation occurs.

(4) The attorney general shall deposit any amount received under Subsection (2) or (3) into the Attorney General Litigation Fund created in Section 76-10-3114.

(5)(a) If the attorney general has reasonable cause to believe that an individual is in possession, custody, or control of information that is relevant to enforcing this chapter, the attorney general may enter into a confidentiality agreement with the individual.

(b) In a civil action brought under this chapter, a court may issue a confidentiality order that incorporates the confidentiality agreement described in Subsection (5)(a).

(c) A confidentiality agreement entered into under Subsection (5)(a) or a confidentiality order issued under Subsection (5)(b) may:

(i) address a procedure;

(ii) address testimony taken, a document produced, or material produced under this section;

(iii) provide whom may access testimony taken, a document produced, or material produced under this section;

(iv) provide for safeguarding testimony taken, a document produced, or material produced under this section; or

(v) require that the attorney general:

(A) return a document or material to an individual; or

(B) notwithstanding Section 63A-12-105 or a retention schedule created in accordance with Section 63G-2-604, destroy the document or material at a designated time.

(6)(a) Subject to Subsection (6)(c), the attorney general shall keep confidential a procedure agreed to, testimony taken, a document produced, or material produced under this section pursuant to a subpoena, confidentiality agreement, or confidentiality order, unless the individual who agreed to the procedure, provided testimony, or produced the document or material waives confidentiality in writing.

(b) Subject to Subsections (6)(c) and (6)(d), the attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section to the extent the use is not restricted or prohibited by a confidentiality agreement or a confidentiality order.

(c) The attorney general may use, in an enforcement action taken under this section, testimony taken, a document produced, or material produced under this section that is restricted or prohibited from use by a confidentiality agreement or a confidentiality order if the individual who provided testimony, produced the document, or produced the material waives the restriction or prohibition in writing.

(d) The attorney general may disclose testimony taken, a document produced, or material produced under this section, without consent of the individual who provided the testimony, produced the document, or produced the material, or without the consent of an individual being investigated, to:

(i) a grand jury; or

(ii) a federal or state law enforcement officer, if the person from whom the information was obtained is notified 20 days or greater before the day on which the information is disclosed, and the federal or state law enforcement officer certifies that the federal or state law enforcement officer will:

(A) maintain the confidentiality of the testimony, document, or material; and

(B) use the testimony, document, or material solely for an official law enforcement purpose.

(7) A civil action filed under this chapter shall be commenced no later than five years after the day on which the alleged violation last occurred.

Section 17. Section 13-63-301 is amended to read:

13-63-301. Private right of action.

(1) Beginning March 1, 2024, a person may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a person that does not comply with a requirement of Part 1, General Requirements.

[~~(2) A suit filed under the authority of this section shall be filed in the district court for the district in which a person bringing the action resides.~~]

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action described in Subsection (1) in the county in which the person bringing the action resides if the person brings the action in the district court.

(3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of violation; or

(ii) actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

Section 18. Section 13-63-501 is amended to read:

13-63-501. Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

(1) Beginning March 1, 2024, a person may bring an action [~~under this section~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against a social media company to recover damages incurred after March 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

[~~(2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.~~]

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action described in Subsection (1) in the county in which the Utah minor account holder resides if the person brings the action in the district court.

(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $2,500 per each incident of harm; or

(ii) actual damages for addiction, financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

(4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was a caused as a consequence of using or having an account on the social media company's social media platform.

Section 19. Section 16-10a-809 is amended to read:

16-10a-809. Removal of directors by judicial proceeding.

(1) [~~The district court of the county in this state where a corporation's principal office is located or, if it has no principal office in this state, the district court for Salt Lake County~~]A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may remove a director in a proceeding commenced [~~either~~]by the corporation or by [~~its~~]the corporation's shareholders holding at least 10% of the outstanding shares of any class if the court finds that:

(a) the director engaged in fraudulent or dishonest conduct or gross abuse of authority or discretion with respect to the corporation; and

(b) removal is in the best interest of the corporation.

(2) The court that removes a director may bar the director from reelection for a period prescribed by the court.

(3) If shareholders commence a proceeding under Subsection (1), they shall make the corporation a party defendant.

(4) A director who is removed pursuant to this section may deliver to the division for filing a statement to that effect pursuant to Section 16-10a-1608.

Section 20. Section 17-2-106 is amended to read:

17-2-106. Effect of consolidation.

(1) All territory included within the boundaries of the originating county becomes, upon consolidation, the territory of the consolidating county.

(2) The precincts and school districts existing in the originating county continue and become precincts and school districts in the consolidating county and remain as then organized until changed in the manner provided by law, and the officers of those precincts and school districts hold their respective offices until the expiration of the applicable terms.

(3) The ownership of all property, both real and personal, held and owned by the originating county

at the time of consolidation is vested in the consolidating county.

(4) The terms of all county officers in the originating county terminate and cease on the day the consolidation takes effect, and those officers shall immediately deliver to the corresponding officers of the consolidating county all books, records, and papers of the originating county.

(5) Any person who is confined under lawful commitment in the county jail of the originating county, or otherwise lawfully held to answer for alleged violation of any of the criminal laws of this state, shall be immediately delivered to the sheriff of the consolidating county, and such person shall be confined in its county jail for the unexpired term of the sentence or held as specified in the commitment.

(6)(a) All criminal proceedings pending in the originating county shall be prosecuted to judgment and execution in the consolidating county.

(b) All offenses committed in the originating county before consolidation that have not been prosecuted shall be prosecuted in the consolidating county.

(7) All actions, proceedings, and matters pending in:

(a) the district court of the originating county may be proceeded with in the district court of the consolidating county[~~.~~]; and

(b) the juvenile court of the originating county may be proceeded with in the juvenile court of the consolidating county.

(8) All indebtedness of the originating county are transferred to and become the indebtedness of the consolidating county with the same effect as if it had been incurred by the consolidating county.

Section 21. Section 17-3-7 is amended to read:

17-3-7. Pending civil and criminal actions.

(1) All civil and criminal actions [~~which shall be~~]that are pending in the territory embraced in [~~such~~]a new county shall be prosecuted to judgment and execution [~~therein, and all~~]in the new county.

(2) All actions pending in the district court or the juvenile court in any county shall be prosecuted to judgment and execution in the county in which the same are pending, subject to change of venue as provided by law.

Section 22. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1)(a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

(i) candidates for county office; and

(ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account [~~in~~]into a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c)(i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution [~~in~~]into a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5)(a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and

(ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6)(a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited [~~in~~]into an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10)(a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of $100 on the candidate.

(12)(a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.

(c) A candidate who is disqualified under Subsection (12)(a) shall file with the county clerk a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(13) If a candidate is disqualified under Subsection (12)(a), the election official:

(a) shall:

(i) notify every opposing candidate for the county office that the candidate is disqualified;

(ii) send an email notification to each voter who is eligible to vote in the county election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(iii) post notice of the disqualification on the county's website; and

(iv) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(b) may not count any votes for that candidate.

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the county's website to inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

(a) the candidate files the interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(16)(a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

(17)(a) Any private party in interest may bring [~~a civil action in district court~~]an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (17)(a), the court shall award costs and attorney fees to the prevailing party.

(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i)(A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Section 23. Section 17-25-1 is amended to read:

17-25-1. General powers and duties.

(1) [~~Every~~]A constable shall:

(a) attend the justice courts within [~~his~~]the constable's city or county when required by contract or court order; and

(b) execute, serve, and return all process directed or delivered to [~~him~~]the constable by a judge of the justice court serving the city or county, or by any competent authority within the limits of this section.

[~~(2) Any constable may serve any process throughout the state.~~]

(2) A constable may:

(a) serve any process throughout the state; and

(b) carry out all other functions associated with a constable.

(3) A constable shall serve exclusively as an agent for:

(a) the state, city, or county that has a contract with the constable; or

(b) the court authorizing or directing the constable.

(4) Except as otherwise provided in this part, a constable may not serve as an agent, or be deemed to be serving as an agent, for a person that is not described in Subsection (3).

Section 24. Section 17-50-103 is amended to read:

17-50-103. Use of "county" prohibited -- Legal action to compel compliance.

(1) For purposes of this section:

(a)(i) "Existing local entity" means a special district, special service district, or other political subdivision of the state created before May 1, 2000.

(ii) "Existing local entity" does not include a county, city, town, or school district.

(b)(i) "New local entity" means a city, town, school district, special district, special service district, or other political subdivision of the state created on or after May 1, 2000.

(ii) "New local entity" does not include a county.

(c)(i) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, that:

(A) by statute is a political and corporate entity separate from the county that created the special district; and

(B) by statute is not subject to the direction and control of the county that created the special district.

(ii) The county legislative body's statutory authority to appoint members to the governing body of a special district does not alone make the special district subject to the direction and control of that county.

(2)(a) A new local entity may not use the word "county" in its name.

(b) After January 1, 2005, an existing local entity may not use the word "county" in its name unless the county whose name is used by the existing local entity gives its written consent.

(3) A county with a name similar to the name of a new local entity or existing local entity in violation of this section may bring legal action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel compliance with this section.

Section 25. Section 17B-1-313 is amended to read:

17B-1-313. Publication of notice of board resolution or action -- Contest period -- No contest after contest period.

(1) After the board of trustees of a special district adopts a resolution or takes other action on behalf of the district, the board may provide for the publication of a notice of the resolution or other action.

(2) Each notice under Subsection (1) shall:

(a) include, as the case may be:

(i) the language of the resolution or a summary of the resolution; or

(ii) a description of the action taken by the board;

(b) state that:

(i) any person in interest may file an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to contest the regularity, formality, or legality of the resolution or action within 30 days after the date of publication; and

(ii) if the resolution or action is not contested by filing an action in [~~district court~~]a court within the 30-day period, no one may contest the regularity, formality, or legality of the resolution or action after the expiration of the 30-day period; and

(c) be published for the special district, as a class A notice under Section 63G-30-102, for at least 30 days.

(3) For a period of 30 days after the date of the publication, any person in interest may contest the regularity, formality, or legality of the resolution or other action by filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(4) After the expiration of the 30-day period under Subsection (3), no one may contest the regularity, formality, or legality of the resolution or action for any cause.

Section 26. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in [~~the district court of the~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, and in a county in which the agency is located if the action is filed in the district court.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30)(a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A)(I) that is no longer in operation as an airport; or

(II)(Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31)(a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35)(a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective

date, guides and controls the project area development.

(52)(a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 27. Section 17C-2-304 is amended to read:

17C-2-304. Challenging a development impediment determination -- Time limit -- De novo review.

(1) If the board makes a development impediment determination under Subsection

17C-2-102(1)(a)(ii)(B) and that determination is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the determination by [~~filing an action with the district court for the county in which the property is located~~]bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A person shall file a challenge under Subsection (1) within 30 days after the taxing entity committee approves the board's development impediment determination.

(3) In each action under this section, the [~~district~~]court shall review the development impediment determination under the standards of review provided in Subsection 10-9a-801(3).

Section 28. Section 17C-5-406 is amended to read:

17C-5-406. Challenging a finding of development impediment determination -- Time limit -- Standards governing court review.

(1) If a board makes a development impediment determination under Subsection 17C-5-402(2)(c)(ii), a record owner of property located within the survey area may challenge the determination by [~~filing an action in the district court in the county in which the property is located~~]bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, no later than 30 days after the day on which the board makes the determination.

(2) In an action under this section:

(a) the agency shall transmit to the [~~district~~]court the record of the agency's proceedings, including any minutes, findings, determinations, orders, or transcripts of the agency's proceedings;

(b) the [~~district~~]court shall review the development impediment determination under the standards of review provided in Subsection 10-9a-801(3); and

(c)(i) if there is a record:

(A) the [~~district~~]court's review is limited to the record provided by the agency; and

(B) the [~~district~~]court may not accept or consider any evidence outside the record of the agency, unless the evidence was offered to the agency and the district court determines that the agency improperly excluded the evidence; or

(ii) if there is no record, the [~~district~~]court may call witnesses and take evidence.

Section 29. Section 17D-1-212 is amended to read:

17D-1-212. Action to challenge the creation of a special service district or a service to be provided.

(1) A person may [~~file an action in district court~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, challenging the creation of a special service district or a service that a special service district is proposed to provide if:

(a) the person filed a written protest under Section 17D-1-206;

(b) the person:

(i)(A) is a registered voter within the special service district; and

(B) alleges in the action that the procedures used to create the special service district violated applicable law; or

(ii)(A) is an owner of property included within the boundary of the special service district; and

(B) alleges in the action that:

(I) the person's property will not be benefitted by a service that the special service district is proposed to provide; or

(II) the procedures used to create the special service district violated applicable law; and

(c) the action is filed within 30 days after the date that the legislative body adopts a resolution or ordinance creating the special service district.

(2) If an action is not filed within the time specified under Subsection (1), a registered voter or an owner of property located within the special service district may not contest the creation of the special service district or a service that the special service district is proposed to provide.

Section 30. Section 17D-2-602 is amended to read:

17D-2-602. Contesting the legality of a resolution or other proceeding -- No cause of action after contest period.

(1) For a period of 30 days after publication of a resolution or other proceeding under Subsection 17D-2-601(1) or a notice under Subsection 17D-2-601(2), any person in interest may [~~file an action in district court~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, contesting the regularity, formality, or legality of:

(a) a resolution or other proceeding;

(b) any bonds or a lease agreement authorized by a resolution or other proceeding; or

(c) any provision made for the security or payment of local building authority bonds or lease agreement.

(2) After the period referred to in Subsection (1), no one may have a cause of action to contest for any reason the regularity, formality, or legality of any of the matters listed in Subsection (1).

Section 31. Section 17D-4-305 is amended to read:

17D-4-305. Action to contest tax, fee, or proceeding -- Requirements -- Exclusive remedy -- Bonds, taxes, and fees incontestable.

(1) A person who contests a tax or fee or any proceeding to create a public infrastructure district, levy a tax, or impose a fee may bring a civil action against the public infrastructure district or the creating entity to:

(a) set aside the proceeding; or

(b) enjoin the levy, imposition, or collection of a tax or fee.

(2) The person bringing an action described in Subsection (1):

(a) notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, shall bring the action [~~in the district court with jurisdiction~~]in the county in which the public infrastructure district is located if the person brings the action in the district court; and

(b) may not bring the action against or serve a summons relating to the action on the public infrastructure district more than 30 days after the effective date of the:

(i) creation of the public infrastructure district, if the challenge is to the creation of the public infrastructure district; or

(ii) tax or fee, if the challenge is to a tax or fee.

(3) An action under Subsection (1) is the exclusive remedy of a person who:

(a) claims an error or irregularity in a tax or fee or in any proceeding to create a public infrastructure district, levy a tax, or impose a fee; or

(b) challenges a bondholder's right to repayment.

(4) After the expiration of the 30-day period described in Subsection (2)(b):

(a) a bond issued or to be issued with respect to a public infrastructure district and any tax levied or fee imposed becomes incontestable against any person who has not brought an action and served a summons in accordance with this section;

(b) a person may not bring a suit to:

(i) enjoin the issuance or payment of a bond or the levy, imposition, collection, or enforcement of a tax or fee; or

(ii) attack or question in any way the legality of a bond, tax, or fee; and

(c) a court may not inquire into the matters described in Subsection (4)(b).

(5)(a) This section does not insulate a public infrastructure district from a claim of misuse of funds after the expiration of the 30-day period described in Subsection (2)(b).

(b)(i) Except as provided in Subsection (5)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of funds.

(ii) The limitation in Subsection (5)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of funds.

Section 32. Section 18-1-4 is amended to read:

18-1-4. Use of arbitration in personal injury from dog attack cases.

(1) A person injured as a result of a dog attack may elect to submit all third party bodily injury claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a [~~district~~]court if:

(a) the claimant or the claimant's representative has:

(i) previously and timely filed a complaint in a [~~district~~]court that includes a third party bodily injury claim; and

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

(b) the notice required under Subsection (1)(a)(ii) is filed while the action under Subsection (1)(a)(i) is still pending.

(2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that may not exceed $50,000 in addition to any medical premise benefits and any claim for property damage.

(b) A party who elects to proceed against a defendant under this section:

(i) waives the right to obtain a judgment against the personal assets of the defendant; and

(ii) is limited to recovery only against available limits of insurance coverage.

(3) A claim for punitive damages may not be made in an arbitration proceeding under Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial de novo under Subsection (11).

(4)(a) A party who has elected arbitration under this section may rescind the party's election if the rescission is made within:

(i) 90 days after the election to arbitrate; and

(ii) no less than 30 days before any scheduled arbitration hearing.

(b) A party seeking to rescind an election to arbitrate under this Subsection (4) shall:

(i) file a notice of the rescission of the election to arbitrate with the [~~district~~]court in which the matter was filed; and

(ii) send copies of the notice of the rescission of the election to arbitrate to all counsel of record to the action.

(c) All discovery completed in anticipation of the arbitration hearing shall be available for use by the parties as allowed by the Utah Rules of Civil Procedure and the Utah Rules of Evidence.

(d) A party who has elected to arbitrate under this section and then rescinded the election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this section again.

(5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected under this section or the date the answer is filed, whichever is longer.

(6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.

(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of the defendant.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (6)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (6)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (6)(d)(i) shall select one additional arbitrator to be included in the panel.

(7) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(a); and

(b) if an arbitration panel is selected under Subsection (6)(d):

(i) each party shall pay the fees and costs of the arbitrator selected by that party's side; and

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(d)(ii).

(8) Except as otherwise provided in this section and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence apply to the arbitration proceeding.

(b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied liberally with the intent of concluding the claim in a timely and cost-efficient manner.

(c) Discovery shall be conducted in accordance with the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the [~~district~~]court in which the matter is filed.

(d) Dispositive motions shall be filed, heard, and decided by the [~~district~~]court prior to the arbitration proceeding in accordance with the court's scheduling order.

(10) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(11) An arbitration award issued under this section shall be the final resolution of all bodily injury claims between the parties and may be reduced to judgment by the court upon motion and notice unless:

(a) either party, within 20 days after service of the arbitration award:

(i) files a notice requesting a trial de novo in the [~~district~~]court; and

(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo under Subsection (11)(a)(i); or

(b) the arbitration award has been satisfied.

(12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;

(ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice of appeal; and

(iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and the Utah Rules of Evidence in the [~~district~~]court.

(b) In accordance with the Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11).

(13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least $5,000 and is at least 30% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (13) may not exceed $6,000.

(14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (14) may not exceed $6,000.

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages was not disclosed in:

(a) writing prior to the arbitration proceeding; or

(b) response to discovery contrary to the Utah Rules of Civil Procedure.

(16) If a [~~district~~]court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith, as described in Section 78B-5-825, the [~~district~~]court may award reasonable attorney fees to the nonmoving party.

(17) Nothing in this section is intended to affect or prevent any first party claim from later being brought under any first party insurance policy under which the injured person is a covered person.

(18)(a) If a defendant requests a trial de novo under Subsection (11), the total verdict at trial may not exceed $15,000 above any available limits of insurance coverage and the total verdict may not exceed $65,000.

(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may not exceed $50,000.

(19) All arbitration awards issued under this section shall bear postjudgment interest pursuant to Section 15-1-4.

Section 33. Section 19-4-109 is amended to read:

19-4-109. Violations -- Penalties -- Reimbursement for expenses.

(1) As used in this section, "criminal negligence" means the same as that term is defined in Section 76-2-103.

(2)(a) A person who violates this chapter, a rule or order issued under the authority of this chapter, or the terms of a permit or other administrative authorization issued under the authority of this chapter is subject to an administrative penalty:

(i) not to exceed $1,000 per day per violation, with respect to a public water system serving a population of less than 10,000 individuals; or

(ii) exactly $1,000 per day per violation, with respect to a public water system serving a population of more than 10,000 individuals.

(b) In all cases, each day of violation is considered a separate violation.

(3) The director may assess and make a demand for payment of an administrative penalty under this section and may compromise or settle that penalty.

(4) To make a demand for payment of an administrative penalty assessed under this section, the director shall issue a notice of agency action, specifying, in addition to the requirements for notices of agency action contained in Title 63G, Chapter 4, Administrative Procedures Act:

(a) the date, facts, and nature of each act or omission charged;

(b) the provision of the statute, rule, order, permit, or administrative authorization that is alleged to have been violated;

(c) each penalty that the director proposes to assess, together with the amount and date of effect of that penalty; and

(d) that failure to pay the penalty or respond may result in a civil action for collection.

(5) A person notified according to Subsection (4) may request an adjudicative proceeding.

(6) Upon request by the director, the attorney general may institute a civil action to collect a penalty assessed under this section.

(7)(a) A person who, with criminal negligence, violates any rule or order made or issued pursuant to this chapter, or with criminal negligence fails to take corrective action required by an order, is guilty of a class B misdemeanor and subject to a fine of not more than $5,000 per day for each day of violation.

(b) In addition, the person is subject, in a civil proceeding, to a penalty of not more than $5,000 per day for each day of violation.

(8)(a) The director may bring a civil action for appropriate relief, including a permanent or temporary injunction, for a violation for which the director is authorized to issue a compliance order under Section 19-4-107.

(b) [~~The~~]Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring an action under this Subsection (8) in the [~~district court~~]county where the violation occurs if the director brings the action in a district court.

(9)(a) The attorney general is the legal advisor for the board and the director and shall defend them in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate action under this section and be represented by the attorney general.

(10) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent further or continued violation of the order.

(11) A bond may not be required for injunctive relief under this chapter.

(12)(a) Except as provided in Subsection (12)(b), a penalty assessed and collected under the authority of this section shall be deposited into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules that define:

(i) qualifying environmental enforcement activities; and

(ii) qualifying extraordinary expenses.

Section 34. Section 19-4-113 is amended to read:

19-4-113. Water source protection ordinance.

(1) As used in this section, "municipality" means the same as that term is defined in Section 10-1-104.

(2)(a) Before May 3, 2010, a first or second class county shall:

(i) adopt an ordinance in compliance with this section after:

(A) considering the rules established by the board to protect a watershed or water source used by a public water system;

(B) consulting with a wholesale water supplier or retail water supplier whose drinking water source is within the county's jurisdiction;

(C) considering the effect of the proposed ordinance on:

(I) agriculture production within an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas; and

(II) a manufacturing, industrial, or mining operation within the county's jurisdiction; and

(D) holding a public hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) file a copy of the ordinance with the board.

(b) A municipality in a first or second class county may adopt an ordinance that a first or second class county is required to adopt by this section by following the procedures and requirements of this section.

(3)(a) A county ordinance adopted in accordance with this section applies to the incorporated and unincorporated areas of the county unless a municipality adopts an ordinance in accordance with this section.

(b) A municipal ordinance adopted in accordance with this section supercedes, within the municipality's jurisdiction, a county ordinance adopted in accordance with this section.

(4) An ordinance required or authorized by this section at a minimum shall:

(a) designate a drinking water source protection zone in accordance with Subsection (5) for a groundwater source that is:

(i) used by a public water system; and

(ii) located within the county's or municipality's jurisdiction;

(b) contain a zoning provision regulating the storage, handling, use, or production of a hazardous or toxic substance within a drinking water source protection zone designated under Subsection (4)(a); and

(c) authorize a retail water supplier or wholesale water supplier to seek enforcement of the ordinance provision required by Subsections (4)(a) and (b) in a [~~district court located within the county or municipality~~]court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if the county or municipality:

(i) notifies the retail water supplier or wholesale water supplier within 10 days of receiving notice of a violation of the ordinance that the county or municipality will not seek enforcement of the ordinance; or

(ii) does not seek enforcement within two days of a notice of violation of the ordinance when the violation may cause irreparable harm to the groundwater source.

(5) A county shall designate a drinking water source protection zone required by Subsection (4)(a) within:

(a) a 100 foot radius from the groundwater source; and

(b) a 250 day groundwater time of travel to the groundwater source if the supplier calculates the time of travel in the public water system's drinking water source protection plan in accordance with board rules.

(6) A zoning provision required by Subsection (4)(b) is not subject to Subsection 17-41-402(3).

(7) An ordinance authorized by Section 10-8-15 supercedes an ordinance required or authorized by this section to the extent that the ordinances conflict.

(8) The board shall provide information, guidelines, and technical resources to a county or municipality preparing and implementing an ordinance in accordance with this section.

(9) A third, fourth, fifth, or sixth class county or a municipality located within a third, fourth, fifth, or sixth class county may adopt an ordinance in accordance with this section to establish a drinking water source protection zone and take any other action allowed under this section.

Section 35. Section 19-5-115 is amended to read:

19-5-115. Violations -- Penalties -- Civil actions by director -- Ordinances and rules of political subdivisions -- Acts of individuals.

(1) As used in this section:

(a) "Criminal negligence" means the same as that term is defined in Section 76-2-103.

(b) "Knowingly" means the same as that term is defined in Section 76-2-103.

(c) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

(d) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(e) "Willfully" means the same as that term is defined in Section 76-2-103.

(2) A person who violates this chapter, or any permit, rule, or order adopted under this chapter, upon a showing that the violation occurred, is subject in a civil proceeding to a civil penalty not to exceed $10,000 per day of violation.

(3)(a) A person is guilty of a class A misdemeanor and is subject to imprisonment under Section 76-3-204 and a fine not exceeding $25,000 per day who, with criminal negligence:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(b) A person is guilty of a third degree felony and is subject to imprisonment under Section 76-3-203 and a fine not to exceed $50,000 per day of violation who knowingly:

(i) discharges pollutants in violation of Subsection 19-5-107(1) or in violation of any condition or limitation included in a permit issued under Subsection 19-5-107(3);

(ii) violates Section 19-5-113;

(iii) violates a pretreatment standard or toxic effluent standard for publicly owned treatment works; or

(iv) manages sewage sludge in violation of this chapter or rules adopted under this chapter.

(4) A person is guilty of a third degree felony and subject to imprisonment under Section 76-3-203 and shall be punished by a fine not exceeding $10,000 per day of violation if that person knowingly:

(a) makes a false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, or order issued under this chapter; or

(b) falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this chapter.

(5)(a) A person is guilty of a second degree felony and, upon conviction, is subject to imprisonment under Section 76-3-203 and a fine of not more than $250,000 if that person:

(i) knowingly violates this chapter, or any permit, rule, or order adopted under this chapter; and

(ii) knows at that time that the person is placing another person in imminent danger of death or serious bodily injury.

(b) If a person is an organization, the organization shall, upon conviction of violating Subsection (5)(a), be subject to a fine of not more than $1,000,000.

(c)(i) A defendant who is an individual is considered to have acted knowingly if:

(A) the defendant's conduct placed another person in imminent danger of death or serious bodily injury; and

(B) the defendant was aware of or believed that there was an imminent danger of death or serious bodily injury to another person.

(ii) Knowledge possessed by a person other than the defendant may not be attributed to the defendant.

(iii) Circumstantial evidence may be used to prove that the defendant possessed actual knowledge, including evidence that the defendant took affirmative steps to be shielded from receiving relevant information.

(d)(i) It is an affirmative defense to prosecution under this Subsection (5) that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of:

(A) an occupation, a business, or a profession; or

(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and the other person was aware of the risks involved before giving consent.

(ii) The defendant has the burden of proof to establish an affirmative defense under this Subsection (5)(d) and shall prove that defense by a preponderance of the evidence.

(6) For purposes of Subsections (3) through (5), a single operational upset that leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(7)(a) The director may [~~begin~~]bring a civil action for appropriate relief, including a permanent or temporary injunction, for any violation or threatened violation for which the director is authorized to issue a compliance order under Section 19-5-111.

(b) [~~The~~]Notwithstanding Title 78A, Chapter 3a, Venue for Civil Actions, the director shall bring a civil action in the district court where the violation or threatened violation occurs if the director brings the action in a district court.

(8)(a) The attorney general is the legal advisor for the board and the director and shall defend the board or director in an action or proceeding brought against the board or director.

(b) The county attorney or district attorney, as appropriate under Section 17-18a-202 or 17-18a-203, in the county in which a cause of action arises, shall bring an action, civil or criminal, requested by the director, to abate a condition that exists in violation of, or to prosecute for the violation of, or to enforce, the laws or the standards, orders, and rules of the board or the director issued under this chapter.

(c) The director may initiate an action under this section and be represented by the attorney general.

(9) If a person fails to comply with a cease and desist order that is not subject to a stay pending administrative or judicial review, the director may initiate an action for and be entitled to injunctive relief to prevent any further or continued violation of the order.

(10) A political subdivision of the state may enact and enforce ordinances or rules for the implementation of this chapter that are not inconsistent with this chapter.

(11)(a) Except as provided in Subsection (11)(b), penalties assessed and collected under the authority of this section shall be deposited into the General Fund.

(b) The department may reimburse itself and local governments from money collected from civil penalties for extraordinary expenses incurred in environmental enforcement activities.

(c) The department shall regulate reimbursements by making rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) define qualifying environmental enforcement activities; and

(ii) define qualifying extraordinary expenses.

(12)(a) For purposes of this section or an ordinance or rule enacted by a political subdivision under Subsection (10), an act performed by an individual wholly within the scope of the individual's employment with an organization, is attributed to the organization.

(b) Notwithstanding the other provisions of this section, an action may not be brought against an individual acting wholly within the scope of the individual's employment with an organization if the action is brought under:

(i) this section;

(ii) an ordinance or rule issued by a political subdivision under Subsection (10); or

(iii) any local law or ordinance governing discharge.

Section 36. Section 19-6-115 is amended to read:

19-6-115. Imminent danger to health or environment -- Authority of executive director to initiate action to restrain.

Notwithstanding any other provision of this part, upon receipt of evidence that the handling, transportation, treatment, storage, or disposal of any solid or hazardous waste, or a release from an underground storage tank, is presenting an imminent and substantial danger to health or the environment, the executive director may bring suit on behalf of this state in [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to immediately restrain any person contributing, or who has contributed, to that action to stop the handling, storage, treatment, transportation, or disposal or to take other action as appropriate.

Section 37. Section 19-6-206 is amended to read:

19-6-206. Exclusive remedy for devaluation of property caused by approved facility.

(1)(a) Before construction of a hazardous waste management facility, but in no case later than nine months after approval of a plan for a hazardous waste treatment, storage, or disposal facility, any owner or user of property adversely affected by approval may bring an action in [~~a district court of competent jurisdiction~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against the owner of the proposed facility.

(b) If the court determines that the planned construction and operation of the hazardous waste management facility will result in the devaluation of the plaintiff's property or will otherwise interfere with the plaintiff's rights in the property, [~~it~~]the court shall order the owner to compensate the plaintiff in an amount equal to the value of the plaintiff's loss.

(2) The remedy provided in Subsection (1) is the exclusive remedy for owners or users aggrieved by the proposed construction and operation of a hazardous waste treatment, disposal, or storage facility, and no court has jurisdiction to enjoin the construction or operation of any facility located at a site included in the siting plan adopted by the board.

(3)(a) Nothing in this part prevents an owner or user of property aggrieved by the construction and operation of a facility from seeking damages that result from a subsequent modification of the design or operation of a facility but damages are limited to the incremental damage that results from the modification.

(b) Any action for damages from a modification shall be brought within nine months after the plans for modification of the design or operation of the facility are approved.

(4) For the purpose of assessing damages, the value of the rights affected is fixed at the date the facility plan is approved and the actual value of the right at that date is the basis for the determination of the amount of damage suffered, and no improvements to the property subsequent to the date of approval of the plans shall be included in the assessment of damages. Similarly, for any subsequent modification of a facility, value is fixed at the date of approval of the amended facility plan.

(5)(a) The owner or operator of a proposed facility may, at any time before an award of damages, abandon the construction or operation of the facility or any modification and cause the action to be dismissed.

(b) As a condition of dismissal, however, the owner or operator shall compensate the plaintiff for any actual damage sustained as a result of construction or operation of the facility before abandonment together with court costs and a reasonable attorney's fee.

(6) Nothing in this part prevents a court from enjoining any activity at a hazardous waste facility that is outside of, or not in compliance with, the terms and conditions of an approved hazardous waste operations plan.

Section 38. Section 19-6-306 is amended to read:

19-6-306. Penalties -- Lawsuits.

(1) Any person who violates any final order or rule issued or made under this part is subject in a civil proceeding to a penalty of not more than $10,000 per day for each day of violation.

(2) Any person who violates the terms of any agreement made under authority of this part is subject in a civil proceeding to pay:

(a) any penalties stipulated in the agreement; or

(b) if no penalties are stipulated in the agreement, a penalty of not more than $10,000 per day for each day of violation.

(3) The executive director shall deposit all civil penalties collected under the authority of this section into the General Fund.

(4)(a) The executive director may enforce any orders issued under authority of this part by bringing a suit to enforce the order in [~~the district court in Salt Lake County or in the district court in the county where the hazardous substances release occurred~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the executive director brings a suit described in Subsection (4)(a) in the district court, the executive director shall bring the suit in:

(i) Salt Lake County; or

(ii) the county where the hazardous substances release occurred.

[~~(b)~~](c) After a remedial investigation has been completed, the executive director may bring a suit in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against all responsible parties, asking the court for injunctive relief and to apportion liability among the responsible parties for performance of remedial action.

Section 39. Section 19-6-309 is amended to read:

19-6-309. Emergency provisions.

(1)(a) If the executive director has reason to believe any hazardous materials release that occurred after March 18, 1985, is presenting a direct and immediate threat to public health or the environment, the executive director may:

(i) issue an order requiring the owner or operator of the facility to take abatement action within the time specified in the order; or

(ii) bring suit on behalf of the state in [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to require the owner or operator to take immediate abatement action.

(b) If the executive director determines the owner or operator cannot be located or is unwilling or unable to take abatement action, the executive director may:

(i) reach an agreement with one or more potentially responsible parties to take abatement action; or

(ii) use fund money to investigate the release and take abatement action.

(2) The executive director may use money from the fund created in Section 19-6-307:

(a) for abatement action even if an adjudicative proceeding or judicial review challenging an order or a decision to take abatement action is pending; and

(b) to investigate a suspected hazardous materials release if he has reason to believe the release may present a direct and immediate threat to public health.

(3) This section takes precedence over any conflicting provision in this part.

Section 40. Section 19-6-310 is amended to read:

19-6-310. Apportionment of liability -- Liability agreements -- Legal remedies.

(1) The executive director may recover only the proportionate share of costs of any investigation and abatement performed under Section 19-6-309 and this section from each responsible party, as provided in this section.

(2)(a) In apportioning responsibility for the investigation and abatement, or liability for the costs of the investigation and abatement, in any administrative proceeding or judicial action, the following standards apply:

(i) liability shall be apportioned in proportion to each responsible party's respective contribution to the release; and

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of hazardous materials contributed by a responsible party, and the comparative behavior of a responsible party in contributing to the release, relative to other responsible parties.

(b) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility before March 18, 1985, who may otherwise be a responsible party but who did not know that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(c) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility on or after March 18, 1985, who may otherwise be a responsible party but who did not know and had no reason to know, after having taken all appropriate inquiry into the previous ownership and uses of the facility, consistent with good commercial or customary practice at the time of the purchase, that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be considered to have contributed to the release and may be liable for a proportionate share of costs as provided under this section either by affirmatively causing a release or by failing to take action to prevent or abate a release which has originated at or from the facility. A person whose property is contaminated by migration from an offsite release is not considered to have contributed to the release unless the person takes actions which exacerbate the release.

(e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person who is not considered to have contributed to a release under Subsection (2)(d) is not considered to have contributed to a release solely by failing to take abatement or remedial action pursuant to an administrative order.

(f)(i) The burden of proving proportionate contribution shall be borne by each responsible party.

(ii) If a responsible party does not prove his proportionate contribution, the court or the executive director shall apportion liability to the party based solely on available evidence and the standards of Subsection (2)(a).

(iii) The ability of a responsible party to pay is not a factor in the apportionment of liability.

(g) The court may not impose joint and several liability.

(h) Each responsible party is strictly liable solely for his proportionate share of investigation and abatement costs.

(3) The failure of the executive director to name all responsible parties is not a defense to an action under this section.

(4)(a) Any party who incurs costs under Section 19-6-309 and this section in excess of [~~his~~]the party's liability may seek contribution from any other party who is or may be liable under Section 19-6-309 and this section for the excess costs in [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (4)(a), the court shall allocate costs using the standards set forth in Subsection (2).

(5)(a) A party who has resolved his liability in an agreement under Section 19-6-309 and this section is not liable for claims for contribution regarding matters addressed in the settlement.

(b)(i) An agreement does not discharge any of the liability of responsible parties who are not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this subsection reduces the potential liability of other responsible parties by the amount of the agreement.

(6)(a) If the executive director obtains less than complete relief from a party who has resolved his liability in an agreement under Section 19-6-309 and this section, the executive director may bring an action against any party who has not resolved his liability in an agreement.

(b) In apportioning liability, the standards of Subsection (2) apply.

(c) A party who resolved his liability for some or all of the costs in an agreement under Section 19-6-309 and this section may seek contribution from any person who is not party to an agreement under Section 19-6-309 and this section.

(7)(a) An agreement made under Section 19-6-309 and this section may provide that the executive director will pay for costs of actions that the parties have agreed to perform, but which the executive director has agreed to finance, under the agreement.

(b) If the executive director makes payments from the fund, he may recover the amount paid using the

authority of Section 19-6-309 and this section or any other applicable authority.

(8)(a) The executive director may not recover costs of any investigation performed under the authority of Subsection 19-6-309(2)(b) if the investigation does not confirm that a release presenting a direct and immediate threat to public health has occurred.

(b) This subsection takes precedence over any conflicting provision of this section regarding cost recovery.

Section 41. Section 19-6-316 is amended to read:

19-6-316. Liability for costs of remedial investigations -- Liability agreements.

(1) The executive director may recover only a proportionate share of costs of any remedial investigation performed under Sections 19-6-314 and 19-6-315 from each responsible party, as provided in this section.

(2)(a) In apportioning responsibility for the remedial investigation, or liability for the costs of the remedial investigation, in any administrative proceeding or judicial action, the following standards apply:

(i) liability shall be apportioned in proportion to each responsible party's respective contribution to the release;

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of hazardous substances contributed by a responsible party, and the comparative behavior of a responsible party in contributing to the release, relative to other responsible parties.

(b) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility before March 18, 1985, who may otherwise be a responsible party but who did not know that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(c) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility on or after March 18, 1985, who may otherwise be a responsible party but who did not know and had no reason to know, after having taken all appropriate inquiry into the previous ownership and uses of the facility, consistent with good commercial or customary practice at the time of the purchase, that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(d) A responsible party who is not exempt under Subsection (2)(b) or (c) may be considered to have contributed to the release and may be liable for a proportionate share of costs as provided under this section either by affirmatively causing a release or by failing to take action to prevent or abate a release which has originated at or from the facility. A person whose property is contaminated by migration from an offsite release is not considered to have contributed to the release unless the person takes actions which exacerbate the release.

(e) A responsible party who meets the criteria in Subsection (2)(b) or (c) or a person who is not considered to have contributed to a release under Subsection (2)(d) is not considered to have contributed to a release solely by failing to take abatement or remedial action pursuant to an administrative order.

(f)(i) The burden of proving proportionate contribution shall be borne by each responsible party.

(ii) If a responsible party does not prove his proportionate contribution, the court or the executive director shall apportion liability to the party based solely on available evidence and the standards of Subsection (2)(a).

(iii) The ability of a responsible party to pay is not a factor in the apportionment of liability.

(g) The court may not impose joint and several liability.

(h) Each responsible party is strictly liable solely for his proportionate share of investigation costs.

(3) The failure of the executive director to name all responsible parties is not a defense to an action under this section.

(4)(a) Any party who incurs costs under this part in excess of his liability may seek contribution from any other party who is or may be liable under this part for the excess costs in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (4)(a), the court shall allocate costs using the standards set forth in Subsection (2).

(5)(a) A party who has resolved his liability in an agreement under Sections 19-6-314 through this section is not liable for claims for contribution regarding matters addressed in the settlement.

(b)(i) An agreement does not discharge any of the liability of responsible parties who are not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this Subsection (5)(b) reduces the potential liability of other responsible parties by the amount of the agreement.

(6)(a) If the executive director obtains less than complete relief from a party who has resolved his liability in an agreement under Sections 19-6-314 through this section, the executive director may bring an action against any party who has not resolved his liability in an agreement.

(b) In apportioning liability, the standards of Subsection (2) apply.

(c) A party who resolved his liability for some or all of the costs in an agreement under Sections 19-6-314 through this section may seek contribution from any person who is not party to an agreement under Sections 19-6-314 through this section.

(7)(a) An agreement made under Sections 19-6-314 through this section may provide that the executive director will pay for costs of actions that the parties have agreed to perform, but which the executive director has agreed to finance, under the agreement.

(b) If the executive director makes payments from the fund, he may recover the amount paid using the authority of Sections 19-6-314 through this section or any other applicable authority.

Section 42. Section 19-6-318 is amended to read:

19-6-318. Remedial action liability -- Liability agreements.

(1)(a) In apportioning responsibility for the remedial action in any administrative proceeding or judicial action under Sections 19-6-317 and 19-6-319, the following standards apply:

(i) liability shall be apportioned in proportion to each responsible party's respective contribution to the release;

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of hazardous substances contributed by a responsible party, and the comparative behavior of a responsible party in contributing to the release, relative to other responsible parties.

(b) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility before March 18, 1985, who may otherwise be a responsible party but who did not know that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(c) Liability may not be apportioned against a current or previous owner or operator who acquired or became the operator of the facility on or after March 18, 1985, who may otherwise be a responsible party but who did not know and had no reason to know, after having taken all appropriate inquiry into the previous ownership and uses of the facility, consistent with good commercial or customary practice at the time of the purchase, that any hazardous material which is the subject of a release was on, in, or at the facility prior to acquisition or operation of the facility, and the release is not the result of an act or omission of the current or previous owner or operator.

(d) A responsible party who is not exempt under Subsection (1)(b) or (c) may be considered to have contributed to the release and may be liable for a proportionate share of costs as provided under this section either by affirmatively causing a release or by failing to take action to prevent or abate a release which has originated at or from the facility. A person whose property is contaminated by migration from an offsite release is not considered to have contributed to the release unless the person takes actions which exacerbate the release.

(e) A responsible party who meets the criteria in Subsection (1)(b) or (c) or a person who is not considered to have contributed to a release under Subsection (1)(d) is not considered to have contributed to a release solely by failing to take abatement or remedial action pursuant to an administrative order.

(f)(i) The burden of proving proportionate contribution shall be borne by each responsible party.

(ii) If a responsible party does not prove his proportionate contribution, the court or the director shall apportion liability to the party solely based on available evidence and the standards of Subsection (1)(a).

(iii) The ability of a responsible party to pay is not a factor in the apportionment of liability.

(g) The court may not impose joint and several liability.

(h) Each responsible party is strictly liable solely for his proportionate share of remedial action costs.

(2) The failure of the executive director to name all responsible parties is not a defense to an action under this section.

(3)(a) Any party who incurs costs under Sections 19-6-317 through 19-6-320 in excess of his liability may seek contribution from any other party who is or may be liable under Sections 19-6-317 through 19-6-320 for the excess costs in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (3)(a), the court shall allocate costs using the standards set forth in Subsection (1).

(4)(a) A party who has resolved his liability in an agreement under Sections 19-6-317 through 19-6-320 is not liable for claims for contribution regarding matters addressed in the settlement.

(b)(i) An agreement does not discharge any of the liability of responsible parties who are not parties to the agreement, unless the terms of the agreement provide otherwise.

(ii) An agreement made under this Subsection (4)(b) reduces the potential liability of other responsible parties by the amount of the agreement.

(5)(a) If the executive director obtains less than complete relief from a party who has resolved his liability in an agreement under Sections 19-6-317

through 19-6-320, the executive director may bring an action against any party who has not resolved his liability in an agreement.

(b) In apportioning liability, the standards of Subsection (1) apply.

(c) A party who resolved his liability for some or all of the costs in an agreement under Sections 19-6-317 through 19-6-320 may seek contribution from any person who is not party to an agreement under Sections 19-6-317 through 19-6-320.

(6)(a) An agreement made under Sections 19-6-317 through 19-6-320 may provide that the executive director will pay for costs of actions that the parties have agreed to perform, but which the executive director has agreed to finance, under the agreement.

(b) If the executive director makes payments, he may recover the amount using the authority of Sections 19-6-317 through 19-6-320 or any other applicable authority.

Section 43. Section 19-6-325 is amended to read:

19-6-325. Voluntary agreements -- Parties -- Funds -- Enforcement.

(1)(a) Under this part, and subject to Subsection (1)(b), the executive director may enter into a voluntary agreement with a responsible party providing for the responsible party to conduct an investigation or a cleanup action on sites that contain hazardous materials.

(b) The executive director and a responsible party may not enter into a voluntary agreement under this part unless all known potentially responsible parties:

(i) have been notified by either the executive director or the responsible party of the proposed agreement; and

(ii) have been given an opportunity to comment on the proposed agreement prior to the parties' entering into the agreement.

(2)(a) The executive director may receive funds from any responsible party that signs a voluntary agreement allowing the executive director to:

(i) review any proposals outlining how the investigation or cleanup action is to be performed; and

(ii) oversee the investigation or cleanup action.

(b) Funds received by the executive director under this section shall be deposited in the fund and used by the executive director as provided in the voluntary agreement.

(3) If a responsible party fails to perform as required under a voluntary agreement entered into under this part, the executive director may take action and seek penalties to enforce the agreement as provided in the agreement.

(4) The executive director may not use the provisions of Section 19-6-310, 19-6-316, or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any person not a party to that agreement.

(5)(a) Any party who incurs costs under a voluntary agreement in excess of his liability may seek contribution from any other party who is or may be liable under this part for the excess costs in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (5)(a), the court shall allocate costs using the standards in Subsection 19-6-310(2).

(6) This section takes precedence over conflicting provisions in this chapter regarding agreements with responsible parties to conduct an investigation or cleanup action.

Section 44. Section 19-6-424.5 is amended to read:

19-6-424.5. Apportionment of liability -- Liability agreements -- Legal remedies -- Amounts recovered.

(1) After providing notice and opportunity for comment to responsible parties identified and named under Section 19-6-420, the director may:

(a) issue written orders determining responsible parties;

(b) issue written orders apportioning liability among responsible parties; and

(c) take action, including legal action or issuing written orders, to recover costs from responsible parties, including costs of any investigation, abatement, and corrective action performed under this part.

(2)(a) In any apportionment of liability, whether made by the director or made in any administrative proceeding or judicial action, the following standards apply:

(i) liability shall be apportioned among responsible parties in proportion to their respective contributions to the release; and

(ii) the apportionment of liability shall be based on equitable factors, including the quantity, mobility, persistence, and toxicity of regulated substances contributed by a responsible party, and the comparative behavior of a responsible party in contributing to the release, relative to other responsible parties.

(b)(i) The burden of proving proportionate contribution shall be borne by each responsible party.

(ii) If a responsible party does not prove the responsible party's proportionate contribution, the court or the director shall apportion liability to the party based on available evidence and the standards of Subsection (2)(a).

(c) The court, the board, or the director may not impose joint and several liability.

(d) Each responsible party is strictly liable for his share of costs.

(3) The failure of the director to name all responsible parties is not a defense to an action under this section.

(4) The director may enter into an agreement with any responsible party regarding that party's proportionate share of liability or any action to be taken by that party.

(5) The director and a responsible party may not enter into an agreement under this part unless all responsible parties named and identified under Subsection 19-6-420(1)(a):

(a) have been notified in writing by either the director or the responsible party of the proposed agreement; and

(b) have been given an opportunity to comment on the proposed agreement prior to the parties' entering into the agreement.

(6)(a) Any party who incurs costs under this part in excess of [~~his~~]the party's liability may seek contribution from any other party who is or may be liable under this part for the excess costs in [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) In resolving claims made under Subsection (6)(a), the court shall allocate costs using the standards in Subsection (2).

(7)(a) A party who has resolved his liability under this part is not liable for claims for contribution regarding matters addressed in the agreement or order.

(b)(i) An agreement or order determining liability under this part does not discharge any of the liability of responsible parties who are not parties to the agreement or order, unless the terms of the agreement or order expressly provide otherwise.

(ii) An agreement or order determining liability made under this subsection reduces the potential liability of other responsible parties by the amount of the agreement or order.

(8)(a) If the director obtains less than complete relief from a party who has resolved his liability under this section, the director may bring an action against any party who has not resolved his liability as determined in an order.

(b) In apportioning liability, the standards of Subsection (2) apply.

(c) A party who resolved his liability for some or all of the costs under this part may seek contribution from any person who is not a party to the agreement or order.

(9)(a) An agreement or order determining liability under this part may provide that the director will pay for costs of actions that the parties have agreed to perform, but which the director has agreed to finance, under the terms of the agreement or order.

(b) If the director makes payments from the fund or state cleanup appropriation, he may recover the amount paid using the authority of Section 19-6-420 and this section or any other applicable authority.

(c) Any amounts recovered under this section shall be deposited [~~in~~]into the Petroleum Storage Tank Cleanup Fund created under Section 19-6-405.7.

Section 45. Section 19-6-425 is amended to read:

19-6-425. Violation of part -- Civil penalty -- Civil action.

(1) Except as provided in Section 19-6-407, any person who violates any requirement of this part or any order issued or rule made under the authority of this part is subject to a civil penalty of not more than $10,000 per day for each day of violation.

(2)(a) The director may enforce any requirement, rule, agreement, or order issued under this part by bringing [~~a suit in the district court~~]an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director shall bring an action in the county where the underground storage tank or petroleum storage tank is located if the director brings the action in the district court.

(3) The department shall deposit the penalties collected under this part in the Petroleum Storage Tank Restricted Account created under Section 19-6-405.5.

Section 46. Section 19-6-804 is amended to read:

19-6-804. Restrictions on disposal and transfer of tires -- Penalties.

(1)(a) An individual, including a waste tire transporter, may not transfer for temporary storage more than 12 whole tires at one time to a landfill or other location in the state authorized by the director to receive waste tires, except for purposes authorized by board rule.

(b) Tires are exempt from this Subsection (1) if the original tire has a rim diameter greater than 24.5 inches.

(c) A person, including a waste tire transporter, may not dispose of waste tires or store waste tires in any manner not allowed under this part or rules made under this part.

(2) The operator of the landfill or other authorized location shall direct that the waste tires be stored in a designated area to facilitate retrieval if a market becomes available for the disposed waste tires or material derived from waste tires.

(3) An individual, including a waste tire transporter, may dispose of shredded waste tires in a landfill in accordance with Section 19-6-812, and may also, without reimbursement, dispose in a landfill materials derived from waste tires that do

not qualify for reimbursement under Section 19-6-812, but the landfill shall dispose of the material in accordance with Section 19-6-812.

(4) A tire retailer may only transfer ownership of a waste tire described in Subsection 19-6-803(28)(b) to:

(a) a person who purchases it for the person's own use and not for resale; or

(b) a waste tire transporter that:

(i) is registered in accordance with Section 19-6-806; and

(ii) agrees to transport the tire to:

(A) a tire retailer that sells the tire wholesale or retail; or

(B) a recycler.

(5)(a)(i) An individual, including a waste tire transporter, violating this section is subject to enforcement proceedings and a civil penalty of not more than $100 per waste tire or per passenger tire equivalent disposed of in violation of this section.

(ii) A warning notice may be issued before taking further enforcement action under this Subsection (5).

[~~(b) A civil proceeding to enforce this section and collect penalties under this section may be brought in the district court where the violation occurred by the director, the local health department, or the county attorney having jurisdiction over the location where the tires were disposed in violation of this section.~~]

(b) The director, the local health department, or the county attorney with jurisdiction over the location where the tires were disposed in violation of this section, may bring an action to enforce this section and collect penalties in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the director, local health department, or county attorney shall bring an action described in Subsection (5)(b) in the county where the violation occurred if the action is brought in the district court.

[~~(c)~~](d) Penalties collected under this section shall be deposited [~~in~~]into the fund.

Section 47. Section 19-8-119 is amended to read:

19-8-119. Apportionment or contribution.

(1) Any party who incurs costs under a voluntary agreement entered into under this part in excess of the party's liability may seek contribution in an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, from any other party who is or may be liable under Subsection 19-6-302(21) or 19-6-402(27) for the excess costs after providing written notice to any other party that the party bringing the action has entered into a voluntary agreement and will incur costs.

(2) In resolving claims made under Subsection (1), the court shall allocate costs using the standards in Subsection 19-6-310(2).

Section 48. Section 23A-13-201 is amended to read:

23A-13-201. Creation of a migratory bird production area.

(1)(a) On or before July 1, 2022, an owner or owners of at least 500 contiguous acres of land in an unincorporated area may dedicate the land as a migratory bird production area by filing a notice of dedication with the county recorder of the county in which the land is located.

(b) The notice of dedication shall contain:

(i) the legal description of the land included within the migratory bird production area;

(ii) the name of the owner or owners of the land included within the migratory bird production area; and

(iii) an affidavit signed by each landowner that all of the land, except as provided by Subsection (2), within the migratory bird production area is:

(A) actively managed for migratory bird:

(I) production;

(II) habitat; or

(III) hunting; and

(B) used for a purpose compatible with the purposes described in Subsection (1)(b)(iii)(A).

(c) A person who files a notice of dedication under this section shall give a copy of the notice of dedication within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.

(2)(a) The notice of dedication may designate land, the amount of which is less than 1% of the total acreage within a migratory bird production area, upon which the landowner may build a structure described in Subsection 23A-13-302(1)(c).

(b)(i) An owner may build or maintain a road, dike, or water control structure within the migratory bird production area.

(ii) A road, dike, or water control structure is not considered a structure for purposes of Subsection (2)(a).

(3)(a) Within 30 days of the day on which the county legislative body receives a copy of the notice of dedication under Subsection (1)(c), the county legislative body may bring an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to cancel or revise a migratory bird production area on the basis that an affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.

(b) In bringing the action, the county legislative body shall specify the portion of the migratory bird

production area and the affidavit subject to the action.

(c) In an action brought under this Subsection (3), the person who files an affidavit described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that the affidavit is accurate.

(d) If the court cancels or revises a migratory bird production area, the person who filed the original notice of dedication shall file a revision notice with the county recorder reflecting the court's order.

(4) In accordance with Section 23A-13-202, a person may at any time add land to a migratory bird production area created under this section.

Section 49. Section 26B-3-1110 is amended to read:

26B-3-1110. Revocation of license of assisted living facility -- Appointment of receiver.

(1)(a) If the license of an assisted living facility is revoked for violation of this part, the county attorney may [~~file a petition with the district court for the county in which the facility is located~~]bring a petition in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for the appointment of a receiver.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring the petition in the county in which the facility is located if the person brings the petition in the district court.

(2) The [~~district~~]court shall issue an order to show cause why a receiver should not be appointed returnable within five days after the filing of the petition.

(3)(a) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the facility.

(b) The court may determine fair compensation for the receiver.

(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court.

Section 50. Section 26B-3-1114 is amended to read:

26B-3-1114. Investigations -- Civil investigative demands.

(1) The attorney general may take investigative action under Subsection (2) if the attorney general has reason to believe that:

(a) a person has information or custody or control of documentary material relevant to the subject matter of an investigation of an alleged violation of this part;

(b) a person is committing, has committed, or is about to commit a violation of this part; or

(c) it is in the public interest to conduct an investigation to ascertain whether or not a person is committing, has committed, or is about to commit a violation of this part.

(2) In taking investigative action, the attorney general may:

(a) require the person to file on a prescribed form a statement in writing, under oath or affirmation describing:

(i) the facts and circumstances concerning the alleged violation of this part; and

(ii) other information considered necessary by the attorney general;

(b) examine under oath a person in connection with the alleged violation of this part; and

(c) in accordance with Subsections (7) through (18), execute in writing, and serve on the person, a civil investigative demand requiring the person to produce the documentary material and permit inspection and copying of the material.

(3) The attorney general may not release or disclose information that is obtained under Subsection (2)(a) or (b), or any documentary material or other record derived from the information obtained under Subsection (2)(a) or (b), except:

(a) by court order for good cause shown;

(b) with the consent of the person who provided the information;

(c) to an employee of the attorney general or the department;

(d) to an agency of this state, the United States, or another state;

(e) to a special assistant attorney general representing the state in a civil action;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(4) The attorney general may use documentary material derived from information obtained under Subsection (2)(a) or (b), or copies of that material, as the attorney general determines necessary in the enforcement of this part, including presentation before a court.

(5)(a) If a person fails to file a statement as required by Subsection (2)(a) or fails to submit to an examination as required by Subsection (2)(b), the attorney general may [~~file in district court~~]bring in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, a complaint for an order to compel the person to within a period stated by court order:

(i) file the statement required by Subsection (2)(a); or

(ii) submit to the examination required by Subsection (2)(b).

(b) Failure to comply with an order entered under Subsection (5)(a) is punishable as contempt.

(6) A civil investigative demand shall:

(a) state the rule or statute under which the alleged violation of this part is being investigated;

(b) describe the:

(i) general subject matter of the investigation; and

(ii) class or classes of documentary material to be produced with reasonable specificity to fairly indicate the documentary material demanded;

(c) designate a date within which the documentary material is to be produced; and

(d) identify an authorized employee of the attorney general to whom the documentary material is to be made available for inspection and copying.

(7) A civil investigative demand may require disclosure of any documentary material that is discoverable under the Utah Rules of Civil Procedure.

(8) Service of a civil investigative demand may be made by:

(a) delivering an executed copy of the demand to the person to be served or to a partner, an officer, or an agent authorized by appointment or by law to receive service of process on behalf of that person;

(b) delivering an executed copy of the demand to the principal place of business in this state of the person to be served; or

(c) mailing by registered or certified mail an executed copy of the demand addressed to the person to be served:

(i) at the person's principal place of business in this state; or

(ii) if the person has no place of business in this state, to the person's principal office or place of business.

(9) Documentary material demanded in a civil investigative demand shall be produced for inspection and copying during normal business hours at the office of the attorney general or as agreed by the person served and the attorney general.

(10) The attorney general may not produce for inspection or copying or otherwise disclose the contents of documentary material obtained pursuant to a civil investigative demand except:

(a) by court order for good cause shown;

(b) with the consent of the person who produced the information;

(c) to an employee of the attorney general or the department;

(d) to an agency of this state, the United States, or another state;

(e) to a special assistant attorney general representing the state in a civil action;

(f) to a political subdivision of this state; or

(g) to a person authorized by the attorney general to receive the information.

(11)(a) With respect to documentary material obtained pursuant to a civil investigative demand, the attorney general shall prescribe reasonable terms and conditions allowing such documentary material to be available for inspection and copying by the person who produced the material or by an authorized representative of that person.

(b) The attorney general may use such documentary material or copies of it as the attorney general determines necessary in the enforcement of this part, including presentation before a court.

(12)(a) A person may file a complaint, stating good cause, to extend the return date for the demand or to modify or set aside the demand.

(b) A complaint under this Subsection (12) shall be filed in [~~district~~]court before the earlier of:

(i) the return date specified in the demand; or

(ii) the 20th day after the date the demand is served.

(13) Except as provided by court order, a person who has been served with a civil investigative demand shall comply with the terms of the demand.

(14)(a) A person who has committed a violation of this part in relation to the Medicaid program in this state or to any other medical benefit program administered by the state has submitted to the jurisdiction of this state.

(b) Personal service of a civil investigative demand under this section may be made on the person described in Subsection (14)(a) outside of this state.

(15) This section does not limit the authority of the attorney general to conduct investigations or to access a person's documentary materials or other information under another state or federal law, the Utah Rules of Civil Procedure, or the Federal Rules of Civil Procedure.

(16) The attorney general may [~~file a complaint in district court~~]bring a complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an order to enforce the civil investigative demand if:

(a) a person fails to comply with a civil investigative demand; or

(b) copying and reproduction of the documentary material demanded:

(i) cannot be satisfactorily accomplished; and

(ii) the person refuses to surrender the documentary material.

(17) If a complaint is filed under Subsection (16), the court may determine the matter presented and may enter an order to enforce the civil investigative demand.

(18) Failure to comply with a final order entered under Subsection (17) is punishable by contempt.

Section 51. Section 26B-3-1115 is amended to read:

26B-3-1115. Limitation of actions -- Civil acts antedating this section -- Civil

burden of proof -- Estoppel -- Joint civil liability -- Venue.

(1) An action under this part may not be brought after the later of:

(a) six years after the date on which the violation was committed; or

(b) three years after the date an official of the state charged with responsibility to act in the circumstances discovers the violation, but in no event more than 10 years after the date on which the violation was committed.

(2) A civil action brought under this part may be brought for acts occurring prior to the effective date of this section if the limitations period set forth in Subsection (1) has not lapsed.

(3) In any civil action brought under this part the state shall be required to prove by a preponderance of evidence, all essential elements of the cause of action including damages.

(4) Notwithstanding any other provision of law, a final judgment rendered in favor of the state in any criminal proceeding under this part, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any civil action under this part which involves the same transaction.

(5) Civil liability under this part shall be joint and several for a violation committed by two or more persons.

(6) A person shall bring an action under this part:

(a) in Salt Lake County; or

(b) in accordance with Title 78A, Chapter 3a, Venue for Civil Actions.

[~~(6) Any action brought by the state under this part shall be brought in district court in Salt Lake County or in any county where the defendant resides or does business.~~]

Section 52. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a)(i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii)(A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d)(i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4)(a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the

maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c)(i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e)(i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g)(i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5)(a)(i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b)(i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self- insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A- 2- 106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A- 2- 704, or the Employers' Reinsurance Fund created in Section 34A- 2- 702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A- 2- 704, or the Employers' Reinsurance Fund created in Section 34A- 2- 702;

(iv) notwithstanding Subsection 31A- 1- 103(3)(f), may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41- 1a- 1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41- 1a- 1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53- 13- 103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41- 1a- 102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7)(a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b)(i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a) through (c) shall be secondary coverage.

(8)(a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c)(i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f)(i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9)(a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l)(i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable

uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means; and

(ii) [~~either party,~~]within 20 days after service of the arbitration award, a party:

(A) files a complaint requesting a trial de novo in [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q)(i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation [~~pursuant to~~]in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence[~~ in the district court~~].

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, [~~either~~]a party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r)(i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a [~~district~~]court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the [~~district~~]court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10)(a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection (10)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A)(I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought,

for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B)(I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b)(i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c)(i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial

payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h)(i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii)(A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i)(i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l)(i)(A) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed.

(B) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11)(a) A person shall commence an action on a written policy or contract for uninsured motorist coverage within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 53. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b)(i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2)(a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover

damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3)(a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d)(i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e)(i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g)(i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k)(i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l)(i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4)(a)(i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b)(i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii)(A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A- 22- 305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix)(A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A- 2- 106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) notwithstanding Subsection 31A-1-103(3)(f) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5)(a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for underinsured motorist coverage shall be commenced within four years after the inception of loss.

(b) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the settlement check representing the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8)(a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e)(i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i)(i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l)(i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q)(i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation [~~pursuant to~~]in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence[~~in the district court~~].

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r)(i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a [~~district~~]court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the [~~district~~]court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9)(a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the

covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A)(I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B)(I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b)(i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c)(i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26B, Chapter 3, Part 9, Utah Children's Health Insurance Program, or if the claim is subject to any other state or federal statutory liens, tender the

amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a) through (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h)(i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii)(A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i)(i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l)(i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 54. Section 31A-22-321 is amended to read:

31A-22-321. Use of arbitration in third party motor vehicle accident cases.

(1) A person injured as a result of a motor vehicle accident may elect to submit all third party bodily

injury claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a [~~district court~~]court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if:

(a) the claimant or the claimant's representative has:

(i) previously and timely filed a complaint in a [~~district~~]court that includes a third party bodily injury claim; and

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

(b) the notice required under Subsection (1)(a)(ii) is filed while the action under Subsection (1)(a)(i) is still pending.

(2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that does not exceed $50,000 in addition to any available personal injury protection benefits and any claim for property damage.

(b) A claim for reimbursement of personal injury protection benefits is to be resolved between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

(c) A claim for property damage may not be made in an arbitration proceeding under Subsection (1) unless agreed upon by the parties in writing.

(d) A party who elects to proceed against a defendant under this section:

(i) waives the right to obtain a judgment against the personal assets of the defendant; and

(ii) is limited to recovery only against available limits of insurance coverage.

(e)(i) This section does not prevent a party from pursuing an underinsured motorist claim as set out in Section 31A-22-305.3.

(ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to the $50,000 limit described in Subsection (2)(a).

(iii) There shall be no right of subrogation on the part of the underinsured motorist carrier for a claim submitted to arbitration under this section.

(3) A claim for punitive damages may not be made in an arbitration proceeding under Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial de novo under Subsection (11).

(4)(a) A person who has elected arbitration under this section may rescind the person's election if the rescission is made within:

(i) 90 days after the election to arbitrate; and

(ii) no less than 30 days before any scheduled arbitration hearing.

(b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:

(i) file a notice of the rescission of the election to arbitrate with the [~~district~~]court in which the matter was filed; and

(ii) send copies of the notice of the rescission of the election to arbitrate to all counsel of record to the action.

(c) All discovery completed in anticipation of the arbitration hearing shall be available for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of Evidence.

(d) A party who has elected to arbitrate under this section and then rescinded the election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this section again.

(5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected under this section is subject to Rule 26, Utah Rules of Civil Procedure.

(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected under this section or the date the answer is filed, whichever is longer.

(6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.

(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of the defendant.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (6)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (6)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional arbitrator to be included in the panel.

(7) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(a); and

(b) if an arbitration panel is selected under Subsection (6)(d):

(i) each party shall pay the fees and costs of the arbitrator selected by that party's side; and

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(d)(ii).

(8) Except as otherwise provided in this section and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and Utah Rules of Evidence apply to the arbitration proceeding.

(b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied liberally with the intent of concluding the claim in a timely and cost-efficient manner.

(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the [~~district~~]court in which the matter is filed.

(d) Dispositive motions shall be filed, heard, and decided by the [~~district~~]court prior to the arbitration proceeding in accordance with the court's scheduling order.

(10) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(11) An arbitration award issued under this section shall be the final resolution of all bodily injury claims between the parties and may be reduced to judgment by the court upon motion and notice unless:

(a) either party, within 20 days after service of the arbitration award:

(i) files a notice requesting a trial de novo in the [~~district~~]court; and

(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo under Subsection (11)(a)(i); or

(b) the arbitration award has been satisfied.

(12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional 90 days shall be allowed for further discovery;

(ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice of appeal; and

(iii) the claim shall proceed through litigation [~~pursuant to~~]in accordance with the Utah Rules of Civil Procedure and Utah Rules of Evidence[~~ in the district court~~].

(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

(13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least $5,000 and is at least 30% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (13)(c), the costs under Subsection (13)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (13) may not exceed $6,000.

(14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs.

(b) Except as provided in Subsection (14)(c), the costs under Subsection (14)(a) shall include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(ii) the costs of expert witnesses and depositions.

(c) An award of costs under this Subsection (14) may not exceed $6,000.

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(a) was not fully disclosed in writing prior to the arbitration proceeding; or

(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(16) If a [~~district~~]court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825, the [~~district~~]court may award reasonable attorney fees to the nonmoving party.

(17) Nothing in this section is intended to affect or prevent any first party claim from later being brought under any first party insurance policy under which the injured person is a covered person.

(18)(a) If a defendant requests a trial de novo under Subsection (11), in no event can the total verdict at trial exceed $15,000 above any available limits of insurance coverage and in no event can the total verdict exceed $65,000.

(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may not exceed $50,000.

(19) All arbitration awards issued under this section shall bear postjudgment interest pursuant to Section 15-1-4.

(20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of the notice requesting a trial de novo with the commissioner notifying the commissioner of the party's request for a trial de novo under Subsection (11).

Section 55. Section 32B-4-205 is amended to read:

32B-4-205. Prosecutions.

(1)(a) A prosecution for a violation of this title shall be in the name of the state.

(b) A criminal action for violation of a county or municipal ordinance enacted in furtherance of this title shall be in the name of the governmental entity involved.

(2)(a) A prosecution for violation of this title shall be brought by the county attorney of the county or

district attorney of the prosecution district where the violation occurs. If a county attorney or district attorney fails to initiate or diligently pursue a prosecution authorized and warranted under this title, the attorney general shall exercise supervisory authority over the county attorney or district attorney to ensure prosecution is initiated and diligently pursued.

(b) If a violation occurs within a city or town, prosecution may be brought by either the county, district, or city attorney, notwithstanding any provision of law limiting the powers of a city attorney.

(c) A city or town prosecutor has the responsibility of initiating and diligently pursuing prosecutions for a violation of a local ordinance enacted in furtherance of this title or commission rules.

(3)[~~(a) A prosecution for a violation of this title shall be commenced~~]Notwithstanding Section 76-1-201, a prosecuting attorney shall commence a prosecution by the return of an indictment or the filing of an information [~~with the district court of the~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the county in which the offense occurs or where the premises are located upon which an alcoholic product is seized, if the offense involves an alcoholic product.

[~~(b) An offense prescribed by this title that is not described in Subsection (3)(a) shall be filed before a court having jurisdiction of the offense committed.~~]

(4)(a) Unless otherwise provided by law, an information may not be filed charging the commission of a felony or class A misdemeanor under this title unless authorized by a prosecuting attorney.

(b) This Subsection (4) does not apply if the magistrate has reasonable cause to believe that the person to be charged may avoid apprehension or escape before approval can be obtained.

(5)(a) In describing an offense respecting the sale, keeping for sale, or other disposal of an alcoholic product, or the possessing, keeping, purchasing, consumption, or giving of an alcoholic product in an information, indictment, summons, judgment, warrant, or proceeding under this title, it is sufficient to state the possessing, purchasing, keeping, sale, keeping for sale, giving, consumption, or disposal of the alcoholic product without stating:

(i) the name or kind of alcoholic product;

(ii) the price of the alcoholic product;

(iii) any person to whom the alcoholic product is sold or disposed of;

(iv) by whom the alcoholic product is taken or consumed; or

(v) from whom the alcoholic product is purchased or received.

(b) It is not necessary to state the quantity of alcoholic product possessed, purchased, kept, kept for sale, sold, given, consumed, or disposed of, except in the case of an offense when the quantity is essential, and then it is sufficient to allege the sale or disposal of more or less than the quantity.

(6) If an offense is committed under a local ordinance enacted to carry out this title, it is sufficient if the charging document refers to the chapter and section of the ordinance under which the offense is committed.

Section 56. Section 34-20-10 is amended to read:

34-20-10. Unfair labor practices -- Powers of board to prevent -- Procedure.

(1)(a) The board may prevent any person from engaging in any unfair labor practice, as listed in Section 34-20-8, affecting intrastate commerce or the orderly operation of industry.

(b) This authority is exclusive and is not affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

(2) The board shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

(3) When it is charged that any person has engaged in or is engaged in any unfair labor practice, the board, or any agent or agency designated by the board, may issue and serve a notice of agency action on that person.

(4)(a) If, upon all the testimony taken, the board finds that any person named in the complaint has engaged in or is engaging in an unfair labor practice, the board shall state its findings of fact and shall issue and serve on the person an order to cease and desist from the unfair labor practice and to take other affirmative action designated by the commission, including reinstatement of employees with or without back pay, to effectuate the policies of this chapter.

(b) The order may require the person to make periodic reports showing the extent to which it has complied with the order.

(c) If, upon all the testimony taken, the board determines that no person named in the complaint has engaged in or is engaging in any unfair labor practice, the board shall state its findings of fact and shall issue an order dismissing the complaint.

(5)(a) The board may petition [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the order and for appropriate temporary relief or for a restraining order.

(b) The board shall certify and file in the court:

(i) a transcript of the entire record in the proceeding;

(ii) the pleadings and testimony upon which the order was entered; and

(iii) the findings and order of the board.

(c) When the petition is filed, the board shall serve notice on all parties to the action.

(d) Upon filing of the petition, the court has jurisdiction of the proceeding and of the question to be determined.

(e) The court may grant temporary relief or a restraining order, and, based upon the pleadings, testimony, and proceedings set forth in the transcript, order that the board's order be enforced, modified, or set aside in whole or in part.

(f) The court may not consider any objection that was not presented before the board, its member, agent, or agency, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances.

(g) The board's findings of fact, if supported by evidence, are conclusive.

(h)(i) If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the board, its member, agent, or agency, the court may order additional evidence to be taken before the board, its member, agent, or agency, and to be made part of the transcript.

(ii) The board may modify its findings as to the facts, or make new findings, because of the additional evidence taken and filed.

(iii) The board shall file the modified or new findings, which, if supported by evidence, are conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order.

Section 57. Section 34-20-11 is amended to read:

34-20-11. Hearings and investigations -- Power of board -- Witnesses -- Procedure.

For the purpose of all hearings and investigations, which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Sections 34-20-9 and 34-20-10:

(1) The board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the board shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question, before the board, its member, agent, or agency conducting the hearing or investigation. Any member of the board, or any agent or agency designated by the board, for these purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Attendance of witnesses and the production of evidence may be required from any place in the state at any duly designated place of hearing.

(2)(a) In case of contumacy or refusal to obey a subpoena issued to any person, [~~any district court of Utah within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business upon application by the board shall have jurisdiction to issue to the person~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, may issue an order requiring the person to:

(i) appear before the board, [~~its~~]or the board's member, agent, or agency, to produce evidence if so ordered[~~, or to~~]; or

(ii) give testimony touching the matter under investigation or in question[~~; and any~~].

(b) A failure to obey the order of the court may be punished by the court as a contempt.

(3) In the event a witness asserts a privilege against self- incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

(4) Complaints, orders, and other processes and papers of the board, its member, agent, or agency, may be served either personally, by certified or registered mail, by telegraph, or by leaving a copy at the principal office or place of business of the person required to be served. The verified return by the individual serving the documents setting forth the manner of the service shall be proof of the service, and the return post office receipt or telegram receipt when certified or registered and mailed or telegraphed shall be proof of service. Witnesses summoned before the board, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees paid for the same services in the courts of the state.

(5) All departments and agencies of the state, when directed by the governor, shall furnish to the board, upon its request, all records, papers, and information in their possession relating to any matter before the board.

Section 58. Section 34-28-9.5 is amended to read:

34-28-9.5. Private cause of action.

(1) Except as provided in Subsection (2), for a wage claim that is less than or equal to $10,000, the employee shall exhaust the employee's administrative remedies described in Section 34-28-9 and rules made by the commission under Section 34-28-9 before the employee may file an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) An employee may file an action for a wage claim in [~~district~~]a court without exhausting the administrative remedies described in Section

34-28-9 and rules made by the commission under Section 34-28-9 if:

(a) the employee's wage claim is over $10,000;

(b)(i) the employee's wage claim is less than or equal to $10,000;

(ii) the employee asserts one or more additional claims against the same employer; and

(iii) the aggregate amount of damages resulting from the claims described in this Subsection (2)(b) is greater than $10,000; or

(c)(i) in the same civil action, more than one employee files a wage claim against an employer; and

(ii) the aggregate amount of the employees' combined wage claim is greater than $10,000.

(3) In an action under this section, the court may award an employee:

(a) actual damages;

(b) an amount equal to 2.5% of the unpaid wages owed to the employee, assessed daily for the lesser of:

(i) the period beginning the day on which the court issues a final order and ending the day on which the employer pays the unpaid wages owed to the employee; or

(ii) 20 days after the day on which the court issues a final order; and

(c) a penalty described in Subsection 34-28-5(1)(c), if applicable.

Section 59. Section 34A-1-407 is amended to read:

34A-1-407. Investigation of places of employment -- Violations of rules or orders -- Temporary injunction.

(1)(a) Upon complaint by any person that any employment or place of employment, regardless of the number of persons employed, is not safe for any employee or is in violation of state law, the commission shall refer the complaint for investigation and administrative action under:

(i) Chapter 2, Workers' Compensation Act;

(ii) Chapter 3, Utah Occupational Disease Act;

(iii) Chapter 5, Utah Antidiscrimination Act;

(iv) Chapter 6, Utah Occupational Safety and Health Act;

(v) Chapter 7, Safety; or

(vi) any combination of Subsections (1)(a)(i) through (v).

(b) Notwithstanding Subsection (1)(a) and Title 40, Chapter 2, Coal Mine Safety Act, for any Utah mine subject to the Federal Mine Safety and Health Act, the sole duty of the commission is to notify the appropriate federal agency of the complaint.

(2) Notwithstanding any other penalty provided in this title, if any employer, after receiving notice, fails or refuses to obey the rules or order of the commission relative to the protection of the life, health, or safety of any employee, [~~the district court of Utah~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, is empowered, upon petition of the commission to issue, ex parte and without bond, a temporary injunction restraining the further operation of the employer's business.

Section 60. Section 34A-5-102 is amended to read:

34A-5-102. Definitions -- Unincorporated entities -- Joint employers -- Franchisors.

(1) As used in this chapter:

(a) "Affiliate" means the same as that term is defined in Section 16-6a-102.

(b) "Apprenticeship" means a program for the training of apprentices including a program providing the training of those persons defined as apprentices by Section 35A-6-102.

(c) "Bona fide occupational qualification" means a characteristic applying to an employee that:

(i) is necessary to the operation; or

(ii) is the essence of the employee's employer's business.

[~~(d) "Court" means:~~]

[~~(i) the district court in the judicial district of the state in which the asserted unfair employment practice occurs; or~~]

[~~(ii) if the district court is not in session at that time, a judge of the court described in Subsection (1)(d)(i).~~]

(d) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(e) "Director" means the director of the division.

(f) "Disability" means a physical or mental disability as defined and covered by the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(g) "Division" means the Division of Antidiscrimination and Labor.

(h) "Employee" means a person applying with or employed by an employer.

(i)(i) "Employer" means:

(A) the state;

(B) a political subdivision;

(C) a board, commission, department, institution, school district, trust, or agent of the state or a political subdivision of the state; or

(D) a person employing 15 or more employees within the state for each working day in each of 20 calendar weeks or more in the current or preceding calendar year.

(ii) "Employer" does not include:

(A) a religious organization, a religious corporation sole, a religious association, a religious society, a religious educational institution, or a religious leader, when that individual is acting in the capacity of a religious leader;

(B) any corporation or association constituting an affiliate, a wholly owned subsidiary, or an agency of any religious organization, religious corporation sole, religious association, or religious society; or

(C) the Boy Scouts of America or its councils, chapters, or subsidiaries.

(j) "Employment agency" means a person:

(i) undertaking to procure employees or opportunities to work for any other person; or

(ii) holding the person out to be equipped to take an action described in Subsection (1)(j)(i).

(k) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec. 105, of the federal government.

(l) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(m) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(n) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(o) "Gender identity" has the meaning provided in the Diagnostic and Statistical Manual (DSM-5). A person's gender identity can be shown by providing evidence, including, but not limited to, medical history, care or treatment of the gender identity, consistent and uniform assertion of the gender identity, or other evidence that the gender identity is sincerely held, part of a person's core identity, and not being asserted for an improper purpose.

(p) "Joint apprenticeship committee" means an association of representatives of a labor organization and an employer providing, coordinating, or controlling an apprentice training program.

(q) "Labor organization" means an organization that exists for the purpose in whole or in part of:

(i) collective bargaining;

(ii) dealing with employers concerning grievances, terms or conditions of employment; or

(iii) other mutual aid or protection in connection with employment.

(r) "National origin" means the place of birth, domicile, or residence of an individual or of an individual's ancestors.

(s) "On-the-job-training" means a program designed to instruct a person who, while learning the particular job for which the person is receiving instruction:

(i) is also employed at that job; or

(ii) may be employed by the employer conducting the program during the course of the program, or when the program is completed.

(t) "Person" means:

(i) one or more individuals, partnerships, associations, corporations, legal representatives, trusts or trustees, or receivers;

(ii) the state; and

(iii) a political subdivision of the state.

(u) "Pregnancy, childbirth, or pregnancy-related conditions" includes breastfeeding or medical conditions related to breastfeeding.

(v) "Presiding officer" means the same as that term is defined in Section 63G-4-103.

(w) "Prohibited employment practice" means a practice specified as discriminatory, and therefore unlawful, in Section 34A-5-106.

(x) "Religious leader" means an individual who is associated with, and is an authorized representative of, a religious organization or association or a religious corporation sole, including a member of clergy, a minister, a pastor, a priest, a rabbi, an imam, or a spiritual advisor.

(y) "Retaliate" means the taking of adverse action by an employer, employment agency, labor organization, apprenticeship program, on-the-job training program, or vocational school against one of its employees, applicants, or members because the employee, applicant, or member:

(i) opposes an employment practice prohibited under this chapter; or

(ii) files charges, testifies, assists, or participates in any way in a proceeding, investigation, or hearing under this chapter.

(z) "Sexual orientation" means an individual's actual or perceived orientation as heterosexual, homosexual, or bisexual.

(aa) "Undue hardship" means an action that requires significant difficulty or expense when considered in relation to factors such as the size of the entity, the entity's financial resources, and the nature and structure of the entity's operation.

(bb) "Unincorporated entity" means an entity organized or doing business in the state that is not:

(i) an individual;

(ii) a corporation; or

(iii) publicly traded.

(cc) "Vocational school" means a school or institution conducting a course of instruction, training, or retraining to prepare individuals to follow an occupation or trade, or to pursue a manual, technical, industrial, business, commercial, office, personal services, or other nonprofessional occupations.

(2)(a) For purposes of this chapter, an unincorporated entity that is required to be licensed under Title 58, Chapter 55, Utah Construction

Trades Licensing Act, is presumed to be the employer of each individual who, directly or indirectly, holds an ownership interest in the unincorporated entity.

(b) Pursuant to rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an unincorporated entity may rebut the presumption under Subsection (2)(a) for an individual by establishing by clear and convincing evidence that the individual:

(i) is an active manager of the unincorporated entity;

(ii) directly or indirectly holds at least an 8% ownership interest in the unincorporated entity; or

(iii) is not subject to supervision or control in the performance of work by:

(A) the unincorporated entity; or

(B) a person with whom the unincorporated entity contracts.

(c) As part of the rules made under Subsection (2)(b), the commission may define:

(i) "active manager";

(ii) "directly or indirectly holds at least an 8% ownership interest"; and

(iii) "subject to supervision or control in the performance of work."

(3) For purposes of determining whether two or more persons are considered joint employers under this chapter, an administrative ruling of a federal executive agency may not be considered a generally applicable law unless that administrative ruling is determined to be generally applicable by a court of law, or adopted by statute or rule.

(4)(a) For purposes of this chapter, a franchisor is not considered to be an employer of:

(i) a franchisee; or

(ii) a franchisee's employee.

(b) With respect to a specific claim for relief under this chapter made by a franchisee or a franchisee's employee, this Subsection (4) does not apply to a franchisor under a franchise that exercises a type or degree of control over the franchisee or the franchisee's employee not customarily exercised by a franchisor for the purpose of protecting the franchisor's trademarks and brand.

(5) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action under this chapter in the judicial district in which the asserted unfair employment practice occurs if the action is brought in the district court.

Section 61. Section 34A-6-202 is amended to read:

34A-6-202. Standards -- Procedure for issuance, modification, or revocation by division -- Emergency temporary standard -- Variances from standards -- Statement of reasons for administrator's actions -- Judicial review -- Priority for establishing standards.

(1)(a) The division, as soon as practicable, shall issue as standards any national consensus standard, any adopted federal standard, or any adopted Utah standard, unless it determines that issuance of the standard would not result in improved safety or health.

(b) All codes, standards, and rules adopted under Subsection (1)(a) shall take effect 30 days after publication unless otherwise specified.

(c) If any conflict exists between standards, the division shall issue the standard that assures the greatest protection of safety or health for affected employees.

(2) The division may issue, modify, or revoke any standard as follows:

(a) The division shall publish a proposed rule issuing, modifying, or revoking an occupational safety or health standard and shall afford interested parties an opportunity to submit written data or comments as prescribed by Title 63G, Chapter 3, Utah Administrative Rulemaking Act. When the administrator determines that a rule should be issued, the division shall publish the proposed rule after the expiration of the period prescribed by the administrator for submission.

(b) The administrator, in issuing standards for toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if the employee has regular exposure to the hazard during an employee's working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and other information deemed appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience under this and other health and safety laws. Whenever practicable, the standard shall be expressed in terms of objective criteria and of the performance desired.

(c)(i) Any employer may apply to the administrator for a temporary order granting a variance from a standard issued under this section. Temporary orders shall be granted only if the employer:

(A) files an application which meets the requirements of Subsection (2)(c)(iv);

(B) establishes that the employer is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed for compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(C) establishes that the employer is taking all available steps to safeguard the employer's employees against hazards; and

(D) establishes that the employer has an effective program for compliance as quickly as practicable.

(ii) Any temporary order shall prescribe the practices, means, methods, operations, and processes which the employer shall adopt and use while the order is in effect and state in detail the employer's program for compliance with the standard. A temporary order may be granted only after notice to employees and an opportunity for a public hearing; provided, that the administrator may issue one interim order effective until a decision is made after public hearing.

(iii) A temporary order may not be in effect longer than the period reasonably required by the employer to achieve compliance. In no case shall the period of a temporary order exceed one year.

(iv) An application for a temporary order under Subsection (2)(c) shall contain:

(A) a specification of the standard or part from which the employer seeks a variance;

(B) a representation by the employer, supported by representations from qualified persons having first- hand knowledge of the facts represented, that the employer is unable to comply with the standard or some part of the standard;

(C) a detailed statement of the reasons the employer is unable to comply;

(D) a statement of the measures taken and anticipated with specific dates, to protect employees against the hazard;

(E) a statement of when the employer expects to comply with the standard and what measures the employer has taken and those anticipated, giving specific dates for compliance; and

(F) a certification that the employer has informed the employer's employees of the application by:

(I) giving a copy to their authorized representative;

(II) posting a statement giving a summary of the application and specifying where a copy may be examined at the place or places where notices to employees are normally posted; and

(III) by other appropriate means.

(v) The certification required under Subsection (2)(c)(iv) shall contain a description of how employees have been informed.

(vi) The information to employees required under Subsection (2)(c)(v) shall inform the employees of their right to petition the division for a hearing.

(vii) The administrator is authorized to grant a variance from any standard or some part of the standard when the administrator determines that it is necessary to permit an employer to participate in a research and development project approved by the administrator to demonstrate or validate new and improved techniques to safeguard the health or safety of workers.

(d)(i) Any standard issued under this subsection shall prescribe the use of labels or other forms of warning necessary to ensure that employees are apprised of all hazards, relevant symptoms and emergency treatment, and proper conditions and precautions of safe use or exposure. When appropriate, a standard shall prescribe suitable protective equipment and control or technological procedures for use in connection with such hazards and provide for monitoring or measuring employee exposure at such locations and intervals, and in a manner necessary for the protection of employees. In addition, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available by the employer, or at the employer's cost, to employees exposed to hazards in order to most effectively determine whether the health of employees is adversely affected by exposure. If medical examinations are in the nature of research as determined by the division, the examinations may be furnished at division expense. The results of such examinations or tests shall be furnished only to the division; and, at the request of the employee, to the employee's physician.

(ii) The administrator may by rule make appropriate modifications in requirements for the use of labels or other forms of warning, monitoring or measuring, and medical examinations warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(e) Whenever a rule issued by the administrator differs substantially from an existing national consensus standard, the division shall publish a statement of the reasons why the rule as adopted will better effectuate the purposes of this chapter than the national consensus standard.

(f) Whenever a rule, standard, or national consensus standard is modified by the secretary so as to make less restrictive the federal Williams- Steiger Occupational Safety and Health Act of 1970, the less restrictive modification shall be immediately applicable to this chapter and shall be immediately implemented by the division.

(3)(a) The administrator shall provide an emergency temporary standard to take immediate effect upon publication if the administrator determines that:

(i) employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and

(ii) that the standard is necessary to protect employees from danger.

(b) An emergency standard shall be effective until superseded by a standard issued in accordance with the procedures prescribed in this Subsection (3)(c).

(c) Upon publication of an emergency standard the division shall commence a proceeding in accordance with Subsection (2) and the standard as

published shall serve as a proposed rule for the proceedings. The division shall issue a standard under Subsection (3) no later than 120 days after publication of the emergency standard.

(4)(a) Any affected employer may apply to the division for a rule or order for a variance from a standard issued under this section. Affected employees shall be given notice of each application and may participate in a hearing. The administrator shall issue a rule or order if the administrator determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and a workplace to the employer's employees that are as safe and healthful as those which would prevail if the employer complied with the standard.

(b) The rule or order issued under Subsection (4)(a) shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations and processes that the employer must adopt and use to the extent they differ from the standard in question.

(c) A rule or order issued under Subsection (4)(a) may be modified or revoked upon application by an employer, employees, or by the administrator on its own motion, in the manner prescribed for its issuance under this Subsection (4) at any time after six months from its issuance.

(5) The administrator shall include a statement of reasons for the administrator's actions when the administrator:

(a) issues any code, standard, rule, or order;

(b) grants any exemption or extension of time; or

(c) compromises, mitigates, or settles any penalty assessed under this chapter.

(6) Any person adversely affected by a standard issued under this section, at any time prior to 60 days after a standard is issued, may file a petition challenging [~~its~~]the standard's validity with [~~the district court having jurisdiction for judicial review~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration. A copy of the petition shall be served upon the division by the petitioner. The filing of a petition may not, unless otherwise ordered by the court, operate as a stay of the standard. The determinations of the division shall be conclusive if supported by substantial evidence on the record as a whole.

(7) In determining the priority for establishing standards under this section, the division shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The administrator shall also give due regard to the recommendations of the Department of Health and Human Services about the need for mandatory standards in determining the priority for establishing the standards.

Section 62. Section 38-1a-308 is amended to read:

38-1a-308. Intentional submission of excessive lien notice -- Criminal and civil liability.

(1) As used in this section, "residential project" means a project on real property:

(a) for which a preconstruction service or construction work is provided; and

(b) that consists of:

(i) one single-family residence; or

(ii) one multi-family residence that contains no more than four units.

(2) A person is guilty of a class B misdemeanor if:

(a) the person intentionally submits for recording a notice of preconstruction lien or notice of construction lien against any property containing a greater demand than the sum due; and

(b) by submitting the notice, the person intends:

(i) to cloud the title;

(ii) to exact from the owner or person liable by means of the excessive notice of preconstruction or construction lien more than is due; or

(iii) to procure any unjustified advantage or benefit.

(3)(a) As used in this Subsection (3), "third party" means an owner, original contractor, or subcontractor.

(b) In addition to any criminal penalty under Subsection (2), a person who submits a notice of preconstruction lien or notice of construction lien as described in Subsection (2) is liable to a third party who is affected by the notice of preconstruction lien or the notice of construction lien for twice the amount by which the lien notice exceeds the amount actually due or the actual damages incurred by the owner, original contractor, or subcontractor, whichever is greater.

(4) The parties to a claim described in Subsection (3)(b) who agree to arbitrate the claim shall arbitrate in accordance with Subsections (5) through (15) if the notice of preconstruction lien, or the notice of construction lien, that is the subject of the claim is:

(a) for a residential project; and

(b) for $50,000 or less.

(5)(a) Unless otherwise agreed to by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.

(b) All parties shall agree on the single arbitrator described in Subsection (5)(a) within 60 days after the day on which an answer is filed.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (5)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (5)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators selected under Subsection (5)(d)(i) shall select one additional arbitrator to be included in the panel.

(6) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(b); or

(b) if an arbitration panel is selected under Subsection (5)(d):

(i) each party shall pay the fees and costs of that party's selected arbitrator; and

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (5)(d)(ii).

(7) Except as otherwise provided in this section or otherwise agreed to by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(8)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and the Utah Rules of Evidence shall apply to an arbitration proceeding under this section.

(b) The Utah Rules of Civil Procedure and the Utah Rules of Evidence shall be applied liberally with the intent of resolving the claim in a timely and cost-efficient manner.

(c) Subject to the provisions of this section, [~~discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the claim is filed~~]the parties shall conduct discovery in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure.

(d) Unless otherwise agreed to by the parties or ordered by the court, discovery in an arbitration proceeding under this section shall be limited to the discovery available in a tier 1 case under Rule 26 of the Utah Rules of Civil Procedure.

(9) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(10) An arbitration award issued under this section:

(a) shall be the final resolution of all excessive notice claims described in Subsection (3)(b) that are:

(i) between the parties;

(ii) for a residential project; and

(iii) for $50,000 or less; and

(b) may be reduced to judgment by the court upon motion and notice, unless:

(i) any party, within 20 days after the day on which the arbitration award is served, files a notice requesting a trial de novo in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration; or

(ii) the arbitration award has been satisfied.

(11)(a) Upon filing a notice requesting a trial de novo under Subsection [~~(10)~~](10)(b)(i):

(i) unless otherwise stipulated to by the parties or ordered by the court, the parties are allowed an additional 60 days for discovery; and

(ii) the claim shall proceed through litigation [~~pursuant to~~]in accordance with the Utah Rules of Civil Procedure and the Utah Rules of Evidence[~~in the district court~~].

(b) The additional discovery time described in Subsection (11)(a)(i) shall run from the day on which the notice requesting a trial de novo is filed.

(12) If the plaintiff, as the moving party in a trial de novo requested under Subsection [~~(10)~~](10)(b)(i), does not obtain a verdict that is at least 10% greater than the arbitration award, the plaintiff is responsible for all of the nonmoving party's costs, including expert witness fees.

(13) If a defendant, as the moving party in a trial de novo requested under Subsection [~~(10)~~](10)(b)(i), does not obtain a verdict that is at least 10% less than the arbitration award, the defendant is responsible for all of the nonmoving party's costs, including expert witness fees.

(14) If a [~~district~~]court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith, as defined in Section 78B-5-825, the [~~district~~]court may award reasonable attorney fees to the nonmoving party.

(15) All arbitration awards issued under this section shall bear postjudgment interest pursuant to Section 15-1-4.

Section 63. Section 38-1a-804 is amended to read:

38-1a-804. Notice of release of lien and substitution of alternate security.

(1) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or any original contractor or subcontractor affected by the lien, who disputes the correctness or validity of the lien may submit for recording a notice of release of lien and substitution of alternate security:

(a) that meets the requirements of Subsection (2);

(b) in the office of each applicable county recorder where the lien was recorded; and

(c) at any time before the date that is 180 days after the first summons is served in an action to foreclose the preconstruction or construction lien for which the notice under this section is submitted for recording.

(2) A notice of release of lien and substitution of alternate security recorded under Subsection (1) shall:

(a) meet the requirements for the recording of documents in Title 57, Chapter 3, Recording of Documents;

(b) reference the preconstruction or construction lien sought to be released, including the applicable entry number, book number, and page number; and

(c) have as an attachment a surety bond or evidence of a cash deposit that:

(i)(A) if a surety bond, is executed by a surety company that is treasury listed, A- rated by AM Best Company, and authorized to issue surety bonds in this state; or

(B) if evidence of a cash deposit, meets the requirements established by rule by the Department of Commerce in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) is in an amount equal to:

(A) 150% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for $25,000 or more;

(B) 175% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for at least $15,000 but less than $25,000; or

(C) 200% of the amount claimed by the claimant under the preconstruction or construction lien or as determined under Subsection (7), if the lien claim is for less than $15,000;

(iii) is made payable to the claimant;

(iv) is conditioned for the payment of:

(A) the judgment that would have been rendered, or has been rendered against the project property in the action to enforce the lien; and

(B) any costs and attorney fees awarded by the court; and

(v) has as principal:

(A) the owner of the interest in the project property; or

(B) the original contractor or subcontractor affected by the lien.

(3)(a) Upon the recording of the notice of release of lien and substitution of alternate security under Subsection (1), the real property described in the notice shall be released from the preconstruction lien or construction lien to which the notice applies.

(b) A recorded notice of release of lien and substitution of alternate security is effective as to any amendment to the preconstruction or construction lien being released if the bond amount remains enough to satisfy the requirements of Subsection (2)(c)(ii).

(4)(a) Upon the recording of a notice of release of lien and substitution of alternate security under Subsection (1), the person recording the notice shall serve a copy of the notice, together with any attachments, within 30 days upon the claimant.

(b) If a suit is pending to foreclose the preconstruction or construction lien at the time the notice is served upon the claimant under Subsection (4)(a), the claimant shall, within 90 days after the receipt of the notice, institute proceedings to add the alternate security as a party to the lien foreclosure suit.

(5) The alternate security attached to a notice of release of lien shall be discharged and released upon:

(a) the failure of the claimant to commence a suit against the alternate security within the same time as an action to enforce the lien under Section 38- 1a- 701;

(b) the failure of the lien claimant to institute proceedings to add the alternate security as a party to a lien foreclosure suit within the time required by Subsection (4)(b);

(c) the dismissal with prejudice of the lien foreclosure suit or suit against the alternate security as to the claimant; or

(d) the entry of judgment against the claimant in:

(i) a lien foreclosure suit; or

(ii) suit against the alternate security.

(6) If a copy of the notice of release of lien and substitution of alternate security is not served upon the claimant as provided in Subsection (4)(a), the claimant has six months after the discovery of the notice to commence an action against the alternate security, except that no action may be commenced against the alternate security after two years from the date the notice was recorded.

(7)(a)(i) The owner of any interest in a project property that is subject to a recorded preconstruction or construction lien, or an original contractor or subcontractor affected by the lien, who disputes the amount claimed under a preconstruction or construction lien may petition [~~the district court in the county in which the notice of lien is recorded~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a summary determination of the correct amount owing under the lien for the sole purpose of providing alternate security.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a petition described in Subsection (7)(a)(i) in the county in which the notice of lien is recorded if the person brings the petition in the district court.

(b) A petition under this Subsection (7) shall:

(i) state with specificity the factual and legal bases for disputing the amount claimed under the preconstruction or construction lien; and

(ii) be supported by a sworn affidavit and any other evidence supporting the petition.

(c) A petitioner under Subsection (7)(a) shall, as provided in Utah Rules of Civil Procedure, Rule 4, serve on the claimant:

(i) a copy of the petition; and

(ii) a notice of hearing if a hearing is scheduled.

(d) If a court finds a petition under Subsection (7)(a) insufficient, the court may dismiss the petition without a hearing.

(e) If a court finds a petition under Subsection (7)(a) sufficient, the court shall schedule a hearing within 10 days to determine the correct amount claimed under the preconstruction or construction lien for the sole purpose of providing alternate security.

(f) A claimant may:

(i) attend a hearing held under this Subsection (7); and

(ii) contest the petition.

(g) A determination under this section is limited to a determination of the amount claimed under a preconstruction or construction lien for the sole purpose of providing alternate security and does not conclusively establish:

(i) the amount to which the claimant is entitled;

(ii) the validity of the claim; or

(iii) any person's right to any other legal remedy.

(h) If a court, in a proceeding under this Subsection (7), determines that the amount claimed under a preconstruction or construction lien is excessive, the court shall set the amount for the sole purpose of providing alternate security.

(i) In an order under Subsection (7)(h), the court shall include a legal description of the project property.

(j) A petitioner under this Subsection (7) may record a certified copy of any order issued under this Subsection (7) in the county in which the lien is recorded.

(k) A court may not award attorney fees for a proceeding under this Subsection (7), but shall consider those attorney fees in any award of attorney fees under any other provision of this chapter.

Section 64. Section 38-1a-805 is amended to read:

38-1a-805. Failure to file notice -- Petition to nullify preconstruction or construction lien -- Expedited proceeding.

(1)(a) An owner of an interest in a project property that is subject to a recorded preconstruction lien or a recorded construction lien may petition [~~the district court in the county in which the project property is located~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary relief to nullify the preconstruction lien or the construction lien if:

[~~(a)~~](i) the owner claims that the preconstruction lien or the construction lien is invalid because:

[~~(i)~~](A) the lien claimant did not timely file a notice of preconstruction service under Section 38-1a-401; or

[~~(ii)~~](B) the lien claimant did not timely file a preliminary notice under Section 38-1a-501;

[~~(b)~~](ii) the owner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

[~~(c)~~](iii) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a petition described in Subsection (1)(a) in the county in which the project property is located if the person brings the petition in the district court.

(2) A written request to withdraw described in Subsection (1) shall:

(a) be delivered by certified mail to the lien claimant at the lien claimant's address provided in the recorded preconstruction lien or the recorded construction lien;

(b) state the owner's name, address, and telephone number;

(c) contain:

(i)(A) the name of the county in which the property that is subject to the preconstruction lien or the construction lien is located; and

(B) the tax parcel identification number of each parcel that is subject to the preconstruction lien or the construction lien; or

(ii) a legal description of the property that is subject to the preconstruction lien or the construction lien;

(d) state that the lien claimant has failed to timely file:

(i) a notice of preconstruction service under Section 38-1a-401; or

(ii) a preliminary notice under Section 38-1a-501;

(e) request that the lien claimant withdraw the lien claimant's preconstruction lien or construction lien within 10 business days after the day on which the written request to withdraw is sent; and

(f) state that if the lien claimant does not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the written request to withdraw is sent, the owner may petition a court to nullify the lien in an expedited proceeding under this section.

(3) A petition under Subsection (1) shall:

(a) state with specificity that:

(i) the lien claimant's preconstruction lien or the lien claimant's construction lien is invalid because the lien claimant did not file a notice of

preconstruction service or a preliminary notice, as applicable;

(ii) the petitioner sent the lien claimant a written request to withdraw in accordance with Subsection (2); and

(iii) the lien claimant did not withdraw the preconstruction lien or the construction lien within 10 business days after the day on which the owner sent the written request to withdraw;

(b) be supported by a sworn affidavit of the petitioner; and

(c) be served on the lien claimant, in accordance with the Rules of Civil Procedure, within three business days after the day on which the petitioner files the petition in the [~~district~~]court.

(4)(a) If the court finds that a petition does not meet the requirements described in Subsection (3), the court may dismiss the petition without a hearing.

(b) If the court finds that a petition meets the requirements described in Subsection (3), the court shall schedule an expedited hearing to determine whether the preconstruction lien or the construction lien is invalid because the lien claimant failed to file a notice of preconstruction service or a preliminary notice, as applicable.

(5)(a) If the court grants a hearing, within three business days after the day on which the court schedules the hearing and at least seven business days before the day on which the hearing is scheduled, the petitioner shall serve on the lien claimant, in accordance with the Rules of Civil Procedure, a copy of the petition, notice of the hearing, and a copy of the court's order granting the expedited hearing.

(b) The lien claimant may attend the hearing and contest the petition.

(6) An expedited proceeding under this section may only determine:

(a) whether the lien claimant filed a notice of preconstruction service or a preliminary notice; and

(b) if the lien claimant failed to file a notice of preconstruction service or a preliminary notice, whether the lien claimant's preconstruction lien or construction lien is valid.

(7)(a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is invalid, the court shall issue an order that:

(i) contains a legal description of the property;

(ii) declares the preconstruction lien or the construction lien void ab initio;

(iii) releases the property from the lien; and

(iv) awards costs and reasonable attorney fees to the petitioner.

(b) The petitioner may submit a copy of an order issued under Subsection (7)(a) to the county recorder for recording.

(8)(a) If, following a hearing, the court determines that the preconstruction lien or the construction lien is valid, the court shall:

(i) dismiss the petition; and

(ii) award costs and reasonable attorney fees to the lien claimant.

(b) The dismissal order shall contain a legal description of the property.

(c) The lien claimant may submit a copy of the dismissal order to the county recorder for recording.

(9) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section 65. Section 38-2-4 is amended to read:

38-2-4. Disposal of property by lienholder -- Procedure.

(1) Any party holding a lien upon personal property as provided in this chapter may dispose of the property in the manner provided in Subsection (2).

(2)(a) The lienor shall give notice to the owner of the property, to the customer as indicated on the work order, and to all other persons claiming an interest in or lien on it, as disclosed by the records of the Motor Vehicle Division, lieutenant governor's office, or of corresponding agencies of any other state in which the property appears registered or an interest in or lien on it is evidenced if known by the lienor.

(b) The notice shall be sent by certified mail at least 30 days before the proposed or scheduled date of any sale and shall contain:

(i) a description of the property and its location;

(ii) the name and address of the owner of the property, the customer as indicated on the work order, and any person claiming an interest in or lien on the property;

(iii) the name, address, and telephone number of the lienor;

(iv) notice that the lienor claims a lien on the property for labor and services performed and interest and storage fees charged, if any, and the cash sum which, if paid to the lienor, would be sufficient to redeem the property from the lien claimed by the lienor;

(v) notice that the lien claimed by the lienor is subject to enforcement under this section and that the property may be sold to satisfy the lien;

(vi) the date, time, and location of any proposed or scheduled sale of the property and whether the sale is private or public, except that no property may be sold earlier than 45 days after completion of the repair work; and

(vii) notice that the owner of the property has a right to recover possession of the property without instituting judicial proceedings by posting bond.

(3) If the owner of the property is unknown or his whereabouts cannot be determined, or if the owner or any person notified under Subsection (2) fails to acknowledge receipt of the notice, the lienor, at least 20 days before the proposed or scheduled date of sale of the property, shall publish the notice required by this section once in a newspaper circulated in the county where the vehicle is held.

(4) A lienee may have his property released from any lien claimed on it under this chapter by filing with the clerk of a [~~justice court or district~~]court a cash or surety bond, payable to the person claiming the lien, and conditioned for the payment of any judgment that may be recovered on the lien, with costs, interest, and storage fees.

(5)(a) The lienor has 60 days after receiving notice that the lienee has filed the bond provided in Subsection (4) to file suit to foreclose his lien.

(b) If the lienor fails to timely file an action, the clerk of the court shall release the bond.

(6) Property subject to lien enforcement under this section may be sold by the lienor at public or private sale; however, in the case of a private sale, every aspect of the sale, including the method, manner, time, place, and terms shall be commercially reasonable.

(7) This section may not be construed to affect an owner's right to redeem his property from the lien at any time prior to sale by paying the amount claimed by the lienor for work done, interest, and storage fees charged and any costs incurred by the repair shop for using enforcement procedures under this section.

Section 66. Section 38-9-204 is amended to read:

38-9-204. Petition to file lien -- Notice to record interest holders -- Summary relief -- Contested petition.

(1) A lien claimant whose document is rejected pursuant to Section 38-9-202 may petition [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an expedited determination that the lien may be recorded.

(2) A petition under Subsection (1) shall:

(a) be filed:

(i) [~~with the district court~~]notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, in the county of the county recorder who refused to record the document if the petition is filed in the district court; and

(ii) within 10 days after the day on which the person who files the petition receives the notice under Subsection 38-9-202(1)(b) of the county recorder's refusal to record the document;

(b) state with specificity the grounds why the document should lawfully be recorded; and

(c) be supported by a sworn affidavit of the lien claimant.

(3) If the court finds the petition is insufficient, it may dismiss the petition without a hearing.

(4)(a) If the court grants a hearing, the petitioner shall, by certified or registered mail, serve a copy of the petition, notice of hearing, and a copy of the court's order granting an expedited hearing on all record interest holders of the property sufficiently in advance of the hearing to enable any record interest holder to attend the hearing.

(b) Any record interest holder of the property has the right to attend and contest the petition.

(5)(a) If, following a hearing, the court finds that the document may lawfully be recorded, the court shall issue an order directing the county recorder to accept the document for recording.

(b) If the petition is contested, the court may award costs and reasonable attorney fees to the prevailing party.

(6)(a) A summary proceeding under this section:

(i) may only determine whether a contested document, on its face, shall be recorded by the county recorder; and

(ii) may not determine the truth of the content of the document or the property or legal rights of the parties beyond the necessary determination of whether the document shall be recorded.

(b) A court's grant or denial of a petition under this section may not restrict any other legal remedies of any party, including any right to injunctive relief pursuant to Rules of Civil Procedure, Rule 65A, Injunctions.

(7) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section 67. Section 38-9-205 is amended to read:

38-9-205. Petition to nullify lien -- Notice to lien claimant -- Summary relief -- Finding of wrongful lien -- Wrongful lien is void.

(1)(a) A record interest holder of real property against which a wrongful lien is recorded may petition [~~the district court in the county in which the document is recorded~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for summary relief to nullify the wrongful lien.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a record interest holder shall bring a petition described in Subsection (1)(a) in the county in which the document is recorded if the person brings the petition in the district court.

(2) The petition described in Subsection (1) shall state with specificity the claim that the lien is a

wrongful lien and shall be supported by a sworn affidavit of the record interest holder.

(3)(a) If the court finds the petition insufficient, the court may dismiss the petition without a hearing.

(b) If the court finds the petition is sufficient, the court shall schedule a hearing within 10 days to determine whether the document is a wrongful lien.

(c) The record interest holder shall serve a copy of the petition on the lien claimant and a copy of a notice of the hearing pursuant to Rules of Civil Procedure, Rule 4, Process.

(d) The lien claimant is entitled to attend and contest the petition.

(4) A summary proceeding under this section:

(a) may only determine whether a document is a wrongful lien; and

(b) may not determine any other property or legal rights of the parties or restrict other legal remedies of any party.

(5)(a) If, following a hearing, the court determines that the recorded document is a wrongful lien, the court shall issue an order declaring the wrongful lien void ab initio, releasing the property from the lien, and awarding costs and reasonable attorney fees to the petitioner.

(b)(i) The record interest holder may submit a certified copy of the order to the county recorder for recording.

(ii) The order shall contain a legal description of the real property.

(c) If the court determines that the claim of lien is valid, the court shall dismiss the petition and may award costs and reasonable attorney's fees to the lien claimant. The dismissal order shall contain a legal description of the real property. The prevailing lien claimant may record a certified copy of the dismissal order.

(6) If the court determines that the recorded document is a wrongful lien, the wrongful lien is void ab initio and provides no notice of claim or interest.

(7) If a petition under this section contains a claim for damages, the proceedings related to the claim for damages may not be expedited under this section.

Section 68. Section 38-9-303 is amended to read:

38-9-303. Enforcement proceeding required.

(1)(a) For a nonconsensual common law document recorded on or after May 13, 2014, within 10 business days after the day on which a document sponsor submits a nonconsensual common law document to the county recorder for recording, the document sponsor shall [~~file a complaint in district court in the county of the county recorder where the nonconsensual common law document was recorded for a proceeding~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to obtain an order that the nonconsensual common law document is valid and enforceable.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the document sponsor shall bring an action described in Subsection (1)(a) in the county of the county recorder where the nonconsensual common law document was recorded if the person brings the petition in the district court.

(2) A complaint to initiate [~~a judicial proceeding~~]an action described in Subsection (1) shall:

(a) state with specificity the grounds that make the nonconsensual common law document valid and enforceable;

(b) be supported by the document sponsor's sworn affidavit; and

(c) name each affected person as an opposing party.

(3) If the court finds that a complaint [~~filed under Subsection (1)~~]does not meet the requirements described in Subsection (2), the court may dismiss the complaint without a hearing.

(4) If a complaint [~~filed under Subsection (1)~~] meets the requirements described in Subsection (2), the court:

(a) shall hold a hearing;

(b) following the hearing, shall issue an order that:

(i) states whether the nonconsensual common law document is valid and enforceable; and

(ii) includes a legal description of the real property that is the subject of the complaint; and

(c) may award costs and reasonable attorney fees to the prevailing party.

(5) Within three business days after the day on which the court issues a final order in a proceeding under this section, the prevailing party shall submit a copy of the court's final order to the county recorder for recording.

(6) A nonconsensual common law document is presumed invalid and unenforceable.

(7) A person's lack of belief in the jurisdiction or authority of the state or of the government of the United States is not a defense to liability under this section.

(8) A court's order in [~~a proceeding~~]an action under this section does not restrict any other legal remedies available to any party, including any right to injunctive relief under Utah Rules of Civil Procedure, Rule 65A, Injunctions.

Section 69. Section 38-9a-201 is amended to read:

38-9a-201. Wrongful lien injunction -- Forms.

(1)(a) Any person who believes that [~~he or she~~]the person is the victim of a wrongful lien may file a verified written petition for a civil wrongful lien injunction against the person filing, making, or uttering the lien, notice of interest, or other encumbrance in [~~the district court in the district in which the petitioner or respondent resides or in which any of the events occurred~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A minor accompanied by [~~his or her~~]the minor's parent or guardian may file a petition on [~~his or her~~]the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(2)(a)(i) The Administrative Office of the Courts shall develop and adopt forms for petitions, ex parte civil wrongful lien injunctions, civil wrongful lien injunctions, service, and any other necessary forms in accordance with the provisions of this chapter on or before May 2, 2005.

(ii) The office shall provide the forms adopted under Subsection (2)(a)(i) to the clerk of each district court.

(b) The court clerks shall provide the forms to persons seeking to proceed under this chapter.

(c) The [~~district~~]courts shall issue all petitions, injunctions, ex parte injunctions, and any other necessary forms in the form prescribed by the Administrative Office of the Courts.

Section 70. Section 38-9a-202 is amended to read:

38-9a-202. Petition for wrongful lien injunction -- Ex parte injunction.

(1) The petition for a civil wrongful lien injunction shall include:

(a) the name of the petitioner, except that at the petitioner's request his or her address shall be disclosed to the court for purposes of service, but may not be listed on the petition, and shall be maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown;

(b) the name and address, if known, of the respondent;

(c) specific actions and dates of the actions constituting the alleged wrongful lien;

(d) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

(e) corroborating evidence of a wrongful lien, which may be in the form of a police report, affidavit, record, statement, item, letter, copy of the lien, or any other evidence which tends to prove the allegation of wrongful lien.

(2) If the court determines there is reason to believe that a wrongful lien has been made, uttered, recorded, or filed, the court may issue an ex parte civil wrongful lien injunction that includes any of the following:

(a) enjoining the respondent from making, uttering, recording, or filing any further liens without specific permission of the court;

(b) ordering that the lien be nullified; and

(c) any other relief necessary or convenient for the protection of the petitioner and other specifically designated persons under the circumstances.

(3) An ex parte civil wrongful lien injunction issued under this section shall state on its face:

(a) that the respondent is entitled to a hearing, upon written request filed with the court within 10 days of the service of the injunction;

(b) the name and address of the [~~district~~]court where the request may be filed;

(c) that if the respondent fails to request a hearing within 10 days of service, the ex parte civil wrongful lien injunction is automatically modified to a civil wrongful lien injunction without further notice to the respondent and that the civil wrongful lien injunction expires three years after service on the respondent;

(d) the following statement: "Attention. This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of making a wrongful lien and any other crime you may have committed in disobeying this order."; and

(e) that if the respondent requests, in writing, a hearing after the ten-day period specified in Subsection (3)(a) the court shall set a hearing within a reasonable time from the date the hearing is requested.

(4) The ex parte civil wrongful lien injunction shall be served on the respondent within 90 days after the date it is signed, and is effective upon service.

Section 71. Section 38-9a-205 is amended to read:

38-9a-205. Remedies -- Actions arising from injunctions -- Attorney fees.

(1) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

[~~(2) The district court shall hear and decide all matters arising pursuant to this chapter.~~]

[~~(3)~~](2) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney's fees.

Section 72. Section 38-11-110 is amended to read:

38-11-110. Issuance of certificates of compliance.

(1)(a) The director may issue a certificate of compliance only after determining through an

informal proceeding, as set forth in Title 63G, Chapter 4, Administrative Procedures Act:

(i) that the owner is in compliance with Subsections 38-11-204(4)(a) and (b); or

(ii) subject to Subsection (2), that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If the director determines through an informal proceeding under Subsection (1)(a) that an owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(i) is not in compliance as provided in Subsection (1)(a)(i), the director may not issue a certificate of compliance.

(2)(a) An owner seeking the issuance of a certificate of compliance under Subsection (1)(a)(ii) shall submit an affidavit, as defined by the division by rule, affirming that the owner is entitled to protection under Subsection 38-11-107(1)(b).

(b) If an owner's affidavit under Subsection (2)(a) is disputed, the owner may file a complaint in [~~small claims court or district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to resolve the dispute.

(c) The director may issue a certificate of compliance to an owner seeking issuance of a certificate under Subsection (1)(a)(ii) if:

(i) the owner's affidavit under Subsection (2)(a) is undisputed; or

(ii) [~~a small claims court or district court~~]a court resolves any dispute over the owner's affidavit in favor of the owner.

Section 73. Section 40-8-9 is amended to read:

40-8-9. Evasion of chapter or orders -- Penalties -- Limitations of actions -- Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement notice, or show cause order -- Suspension or revocation of permit -- Review -- Division enforcement authority -- Appeal provisions.

(1)(a) A person, owner, or operator who willfully or knowingly evades this chapter, or who for the purpose of evading this chapter or any order issued under this chapter, willfully or knowingly makes or causes to be made any false entry in any report, record, account, or memorandum required by this chapter, or by the order, or who willfully or knowingly omits or causes to be omitted from a report, record, account, or memorandum, full, true, and correct entries as required by this chapter, or by the order, or who willfully or knowingly removes from this state or destroys, mutilates, alters, or falsifies any record, account, or memorandum, is guilty of a class B misdemeanor and, upon conviction, is subject to a fine of not more than $10,000 for each violation.

(b) Each day of willful failure to comply with an emergency order is a separate violation.

(2) No suit, action, or other proceeding based upon a violation of this chapter, or any rule or order issued under this chapter, may be commenced or maintained unless the suit, action, or proceeding is commenced within five years from the date of the alleged violation.

(3)(a) If, on the basis of information available, the division has reason to believe that a person is in violation of a requirement of this chapter or a permit condition required by this chapter, the division shall immediately order inspection of the mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a previous inspection of the mining operation.

(b)(i) If, on the basis of an inspection, the division determines that a condition or practice exists, or that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, and the condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall immediately order a cessation of mining and operations or the portion relevant to the condition, practice, or violation.

(ii) The cessation order shall remain in effect until the division determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the division.

(iii) If the division finds that the ordered cessation of mining operations, or a portion of the operation, will not completely abate the imminent danger to the health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the division considers necessary to abate the imminent danger or the significant environmental harm.

(c)(i) If, on the basis of an inspection, the division determines that a permittee is in violation of a requirement of this chapter or a permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall issue a notice to the permittee or his agent specifying a reasonable time, but not more than 90 days, for the abatement of the violation and providing an opportunity for a conference with the division.

(ii) If, upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown, and upon the written finding of the division, the division finds that the violation has not been abated, it shall immediately order a cessation of mining operations or the portion of the mining operation relevant to the violation.

(iii) The cessation order shall remain in effect until the division determines that the violation has been abated or until modified, vacated, or

terminated by the division pursuant to this Subsection (3).

(iv) In the order of cessation issued by the division under this Subsection (3), the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d)(i) Notices and orders issued under this section shall set forth with reasonable specificity:

(A) the nature of the violation and the remedial action required;

(B) the period of time established for abatement; and

(C) a reasonable description of the portion of the mining and reclamation operation to which the notice or order applies.

(ii) Each notice or order issued under this section shall be given promptly to the permittee or his agent by the division, and the notices and orders shall be in writing and shall be signed by the director, or his authorized representative who issues notices or orders.

(iii) A notice or order issued under this section may be modified, vacated, or terminated by the division, but any notice or order issued under this section which requires cessation of mining by the operator shall expire within 30 days of the actual notice to the operator, unless a conference is held with the division.

(4)(a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in [~~the district court for the district in which the mining and reclamation operation is located, or in which the permittee of the operation has his principal office,~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if the permittee or [~~his~~]the permittee's agent:

(i) violates or fails or refuses to comply with an order or decision issued by the division under this chapter;

(ii) interferes with, hinders, or delays the division, or its authorized representatives, in carrying out the provisions of this chapter;

(iii) refuses to admit the authorized representatives to the mine;

(iv) refuses to permit inspection of the mine by the authorized representative; or

(v) refuses to furnish any information or report requested by the division in furtherance of the provisions of this chapter.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings the action described in Subsection (4)(a) in the district court, the attorney general shall bring the action in the county in which:

(i) the mining and reclamation operation is located; or

(ii) the permittee of the operation has the permittee's principal office.

[~~(b)~~](c)(i) The court shall have jurisdiction to provide the appropriate relief.

(ii) Relief granted by the court to enforce an order under Subsection (4)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, prior to this completion or termination, the [~~district~~]court granting the relief sets it aside or modifies the order.

(5)(a)(i) A permittee issued a notice or order by the division, pursuant to the provisions of Subsections (3)(b) and (3)(c), or a person having an interest which may be adversely affected by the notice or order, may apply to the board for review of the notice or order within 30 days of receipt of the notice or order, or within 30 days of a modification, vacation, or termination of the notice or order.

(ii) Upon receipt of this application, the board shall pursue an investigation as it considers appropriate.

(iii) The investigation shall provide an opportunity for a public hearing at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or that person to present information relating to the issuance and continuance of the notice or order of the modification, vacation, or termination of the notice or order.

(iv) The filing of an application for review under this Subsection (5)(a) shall not operate as a stay of an order or notice.

(b)(i) The permittee and other interested persons shall be given written notice of the time and place of the hearing at least five days prior to the hearing.

(ii) This hearing shall be of record and shall be subject to judicial review.

(c)(i) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, with a detailed statement giving the reasons for granting this relief.

(ii) The board shall issue an order or decision granting or denying this relief expeditiously.

(d)(i) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to this section, the board shall hold a public hearing, after giving written notice of the time, place, and date of the hearing.

(ii) The hearing shall be of record and shall be subject to judicial review.

(iii) Within 60 days following the public hearing, the board shall issue and furnish to the permittee and all other parties to the hearing, a written decision, and the reasons for the decision, regarding suspension or revocation of the permit.

(iv) If the board revokes the permit, the permittee shall immediately cease mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare the performance bonds forfeited for the operation.

(e) An action taken by the board under this section, or any other provision of the state program, is subject to judicial review by a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

[~~(e) Action by the board taken under this section or any other provision of the state program shall be subject to judicial review by the appropriate district court within the state.~~]

(6) A criminal proceeding for a violation of this chapter, or a regulation or order issued under this chapter, shall be commenced within five years from the date of the alleged violation.

Section 74. Section 40-8-9.1 is amended to read:

40-8-9.1. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation -- Civil penalties.

(1)(a)(i) A permittee who violates a permit condition or other provision of this chapter, may be assessed a civil penalty by the division.

(ii) If the violation leads to the issuance of a cessation order under [~~Section~~]Subsection 40-8-9(3), the civil penalty shall be assessed.

(b)(i) The penalty may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be considered to be a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

(i) the permittee's history of previous violations at the particular mining operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

(iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(2)(a) Within 30 days after the issuance of a notice or order charging that a violation of this chapter has occurred, the division shall inform the permittee of the proposed assessment.

(b) The person charged with the penalty shall then have 30 days to pay the proposed assessment in full, or request an informal conference with the division.

(c) The informal conference held by the division may address either the amount of the proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.

(e)(i) Prior to any review of the proposed assessment or the fact of a violation by the board, and within 30 days of receipt of the decision made by the division in the informal conference, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.

(ii) If the permittee fails to forward the amount of the penalty to the division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If, through administrative or judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the division shall, within 30 days, remit the appropriate amount to the operator with interest accumulated.

(3)(a) A civil penalty assessed by the division shall be final only after the person charged with a violation described under Subsection (1) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-8-9.

(d) A hearing under this section shall be of record and shall be conducted pursuant to board rules governing the proceedings.

(e) If the person charged with a violation does not attend the public hearing, a civil penalty shall be assessed by the division after the division:

(i) has determined:

(A) that a violation did occur; and

(B) the amount of the penalty which is warranted; and

(ii) has issued an order requiring that the penalty be paid.

[~~(4) Civil penalties owed under this chapter may be recovered in a civil action brought by the attorney general of Utah at the request of the board in any appropriate district court of the state.~~]

(4) At the request of the board, the attorney general may bring a civil action in a court with

jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with an order issued under Section 40-8-9, or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), a director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

(7) Any person who knowingly makes a false statement, representation, or certification, or knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or an order or decision issued by the board under this chapter shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(8)(a) An operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-8-9(3)(b) within the period permitted for a correction of the violation shall be assessed a civil penalty of not less than $750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-8-9(3)(b) may not end until:

(i) the entry of a final order by the board, in a review proceeding initiated by the operator, in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

(ii) the entry of an order of the court, a review proceeding initiated by the operator, in which the court orders the suspension of the abatement requirements of the citation.

(9) Money received by the state from civil penalties collected from actions resulting from this chapter shall be deposited into the division's Abandoned Mine Reclamation Fund as established under Section 40-10-25.1 and shall be used for the reclamation of mined land impacts not covered by reclamation bonds.

Section 75. Section 40-10-14 is amended to read:

40-10-14. Division's findings issued to applicant and parties to conference -- Notice to applicant of approval or disapproval of application -- Hearing -- Temporary relief -- Appeal to district court -- Further review.

(1) If a conference has been held under Subsection 40-10-13(2), the division shall issue and furnish the applicant for a permit and persons who are parties to the proceedings with the written finding of the division granting or denying the permit in whole or in part and stating the reasons, within the 60 days after the conference.

(2) If there has been no conference held under Subsection 40-10-13(2), the division shall notify the applicant for a permit within a reasonable time as set forth in rules, taking into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not written objection to the application has been filed, whether the application has been approved or disapproved in whole or part.

(3) Upon approval of the application, the permit shall be issued. If the application is disapproved, specific reasons shall be set forth in the notification. Within 30 days after the applicant is notified of the final decision of the division on the permit application, the applicant or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final determination. The board shall hold a hearing pursuant to the rules of practice and procedure of the board within 30 days of this request and provide notification to all interested parties at the time that the applicant is notified. Within 30 days after the hearing the board shall issue and furnish the applicant, and all persons who participated in the hearing, with the written decision of the board granting or denying the permit in whole or in part and stating the reasons.

(4) Where a hearing is requested pursuant to Subsection (3), the board may, under conditions it prescribes, grant temporary relief it deems appropriate pending final determination of the proceedings if:

(a) all parties to the proceedings have been notified and given an opportunity to be heard on a request for temporary relief;

(b) the person requesting the relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceedings; and

(c) the relief will not adversely affect the public health or safety or cause significant imminent environmental harm to land, air, or water resources.

(5) For the purpose of the hearing, the board may administer oaths, subpoena witnesses or written or

printed materials, compel attendance of the witnesses or production of the materials, and take evidence, including, but not limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant in the general vicinity of the proposed operation. A verbatim record of each public hearing required by this chapter shall be made, and a transcript made available on the motion of any party or by order of the board.

(6)(a) An applicant or person with an interest which is or may be adversely affected who has participated in the proceedings as an objector, and who is aggrieved by the decision of the board, may appeal the decision of the board directly to the Utah Supreme Court.

(b) If the board fails to act within the time limits specified in this chapter, the applicant or any person with an interest which is or may be adversely affected[~~, who~~] and has requested a hearing in accordance with Subsection (3), may bring an action in [~~the district court for the county in which the proposed operation is located~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the applicant or person shall bring an action described in Subsection (6)(b) in the county in which the proposed operation is located if the petition is brought in the district court.

[~~(c)~~](d) Any party to the action in [~~district~~]court may appeal from the final judgment, order, or decree of the [~~district~~]court.

[~~(d)~~](e) Time frames for appeals under Subsections (6)(a) through [~~(c)~~](d) shall be consistent with applicable provisions in Section 63G-4-401.

Section 76. Section 40-10-20 is amended to read:

40-10-20. Civil penalty for violation of chapter -- Informal conference -- Public hearing -- Contest of violation or amount of penalty -- Collection -- Criminal penalties -- Civil penalty for failure to correct violation.

(1)(a) Any permittee who violates any permit condition or other provision of this chapter may be assessed a civil penalty by the division. If the violation leads to the issuance of a cessation order under Section 40-10-22, the civil penalty shall be assessed.

(b)(i) The penalty may not exceed $5,000 for each violation.

(ii) Each day of a continuing violation may be deemed a separate violation for purposes of the penalty assessments.

(c) In determining the amount of the penalty, consideration shall be given to:

(i) the permittee's history of previous violations at the particular surface coal mining operation;

(ii) the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;

(iii) whether the permittee was negligent; and

(iv) the demonstrated good faith of the permittee in attempting to achieve rapid compliance after notification of the violation.

(2)(a) Within 30 days after the issuance of a notice or order charging that a violation of this chapter has occurred, the division shall inform the permittee of the proposed assessment.

(b) The person charged with the penalty shall then have 30 days to pay the proposed assessment in full, or request an informal conference before the division.

(c) The informal conference held by the division may address either the amount of the proposed assessment or the fact of the violation, or both.

(d) If the permittee who requested the informal conference and participated in the proceedings is not in agreement with the results of the informal conference, the permittee may, within 30 days of receipt of the decision made by the division in the informal conference, request a hearing before the board.

(e)(i) Prior to any review of the proposed assessment or the fact of a violation by the board, and within 30 days of receipt of the decision made by the division in the informal conference, the permittee shall forward to the division the amount of the proposed assessment for placement in an escrow account.

(ii) If the operator fails to forward the amount of the penalty to the division within 30 days of receipt of the results of the informal conference, the operator waives any opportunity for further review of the fact of the violation or to contest the amount of the civil penalty assessed for the violation.

(iii) If, through administrative or judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the division shall within 30 days remit the appropriate amount to the operator with interest accumulated.

(3)(a) A civil penalty assessed by the division shall be final only after the person charged with a violation described under Subsection (1) has been given an opportunity for a public hearing.

(b) If a public hearing is held, the board shall make findings of fact and shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) When appropriate, the board shall consolidate the hearings with other proceedings under Section 40-10-22.

(d) Any hearing under this section shall be of record and shall be conducted pursuant to board rules governing the proceedings.

(e) If the person charged with a violation fails to avail himself of the opportunity for a public hearing,

a civil penalty shall be assessed by the division after the division:

(i) has determined:

(A) that a violation did occur; and

(B) the amount of the penalty which is warranted; and

(ii) has issued an order requiring that the penalty be paid.

[~~(4) Civil penalties owed under this chapter may be recovered in a civil action brought by the attorney general of Utah at the request of the board in any appropriate district court of the state.~~]

(4) At the request of the board, the attorney general may bring a civil action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover a civil penalty owed under this chapter.

(5) Any person who willfully and knowingly violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order issued under Section 40-10-22 or any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision under Subsection (3), shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(6) Whenever a corporate permittee violates a condition of a permit issued pursuant to this chapter or fails or refuses to comply with any order incorporated in a final decision issued by the board under this chapter, except an order incorporated in a decision issued under Subsection (3), any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under Subsections (1) and (5).

(7) Whoever knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision issued by the board under this chapter shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

(8)(a) Any operator who fails to correct a violation for which a notice or cessation order has been issued under Subsection 40-10-22(1) within the period permitted for its correction shall be assessed a civil penalty of not less than $750 for each day during which the failure or violation continues.

(b) The period permitted for correction of a violation for which a notice of cessation order has been issued under Subsection 40-10-22(1) may not end until:

(i) the entry of a final order by the board, in the case of any review proceedings initiated by the operator in which the board orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements; or

(ii) the entry of an order of the court, in the case of any review proceedings initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation.

Section 77. Section 40-10-21 is amended to read:

40-10-21. Civil action to compel compliance with chapter -- Venue -- Division and board as parties -- Court costs -- Security when temporary restraining order or injunction sought -- Other rights not affected -- Action for damages.

(1)[~~(a)~~] Except as provided in Subsection (2), any person having an interest [~~which~~]that is or may be adversely affected may [~~commence a civil action~~]bring an action on the person's own behalf to compel compliance with this chapter against:

[~~(i)~~](a) the state or any other governmental instrumentality or agency to the extent permitted by the 11th Amendment to the United States Constitution or Title 63G, Chapter 7, Governmental Immunity Act of Utah, which is alleged to be in violation of the provisions of this chapter or of any rule, order, or permit issued pursuant to it;

[~~(ii)~~](b) any person who is alleged to be in violation of any rule, order, or permit issued pursuant to this chapter; or

[~~(iii)~~](c) the division or board where there is alleged a failure of the division or board to perform any act or duty under this chapter which is not discretionary with the division or with the board.

[~~(b) The district courts shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties.~~]

(2) [~~No action may be commenced~~]A person may not bring an action:

(a) under Subsection [~~(1)(a)(i) or (ii)~~](1)(a) or (b):

(i) prior to 60 days after the [~~plaintiff~~]person has given notice in writing of the violation to the division and to any alleged violator; or

(ii) if the attorney general has commenced and is diligently prosecuting a civil action in a court of the state to require compliance with the provisions of this chapter, or any rule, order, or permit issued pursuant to this chapter; or

(b) under Subsection [~~(1)(a)(iii)~~](1)(c) prior to 60 days after the [~~plaintiff~~]person has given notice in writing of the action to the board, in the manner as the board prescribes by rule, except that the [~~action may be brought immediately~~]person may bring the action immediately after the notification in the case where the violation or order complained of constitutes an imminent threat to the health or

safety of the [~~plaintiff~~]person or would immediately affect a legal interest of the [~~plaintiff~~]person.

[~~(3)(a) Any action concerning a violation of this chapter or the rules promulgated under it may be brought only in the judicial district in which the surface coal mining operation complained of is located.~~]

(3)(a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action under this section in the county in which the surface coal mining operation is located.

(b) In the action, the division and board, if not a party, may intervene as a matter of right.

(4)(a) The court, in issuing any final order in any action brought pursuant to Subsection (1), may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines that award is appropriate.

(b) The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Utah Rules of Civil Procedure.

(5) Nothing in this section may restrict any right which any person, or class of persons, has under any statute or common law to seek enforcement of any of the provisions of this chapter and the rules promulgated under it, or to seek any other relief, including relief against the division and board.

(6)(a) Any person who is injured in his person or property through the violation by an operator of any rule, order, or permit issued pursuant to this chapter may bring an action for damages, including reasonable attorney and expert witness fees, only in the judicial district in which the surface coal mining operation complained of is located.

(b) Nothing in this Subsection (6) shall affect the rights established by or limits imposed under Utah workmen's compensation laws.

Section 78. Section 40-10-22 is amended to read:

40-10-22. Violation of chapter or permit conditions -- Inspection -- Cessation order, abatement notice, or show cause order -- Suspension or revocation of permit -- Review -- Costs assessed against either party.

(1)(a) Whenever, on the basis of any information available, including receipt of information from any person, the division has reason to believe that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, the division shall immediately order inspection of the surface coal mining operation at which the alleged violation is occurring, unless the information available to the division is a result of a previous inspection of the surface coal mining operation. When the inspection results from information provided to the division by any person, the division shall notify that person when the inspection is proposed to be carried out, and that person shall be allowed to accompany the inspector during the inspection.

(b) When, on the basis of any inspection, the division determines that any condition or practices exist, or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall immediately order a cessation of surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the division determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the division pursuant to Subsection (1)(e). Where the division finds that the ordered cessation of surface coal mining and reclamation operations, or any portion of same, will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm to land, air, or water resources, the division shall, in addition to the cessation order, impose affirmative obligations on the operator requiring him to take whatever steps the division deems necessary to abate the imminent danger or the significant environmental harm.

(c) When, on the basis of an inspection, the division determines that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm to land, air, or water resources, the division shall issue a notice to the permittee or his agent fixing a reasonable time but not more than 90 days for the abatement of the violation and providing opportunity for conference before the division. If upon expiration of the period of time as originally fixed or subsequently extended, for good cause shown, and upon the written finding of the division, the division finds that the violation has not been abated, it shall immediately order a cessation of surface coal mining and reclamation operations or the portion of same relevant to the violation. The cessation order shall remain in effect until the division determines that the violation has been abated or until modified, vacated, or terminated by the division pursuant to Subsection (1)(e). In the order of cessation issued by the division under this subsection, the division shall determine the steps necessary to abate the violation in the most expeditious manner possible and shall include the necessary measures in the order.

(d) When on the basis of an inspection the division determines that a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed, and if the division also finds that these violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that these

violations are willfully caused by the permittee, the division shall initiate agency action by requesting the board to issue an order to show cause to the permittee as to why the permit should not be suspended or revoked and shall provide opportunity for a public hearing. If a hearing is requested, the board shall give notice in accordance with the rules of practice and procedure of the board. Upon the permittee's failure to show cause as to why the permit should not be suspended or revoked, the board shall immediately enter an order to suspend or revoke the permit.

(e) Notices and orders issued under this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the permittee or his agent by the division, and the notices and orders shall be in writing and shall be signed by the director, or his authorized representative who issues such notice or order. Any notice or order issued under this section may be modified, vacated, or terminated by the division, but any notice or order issued under this section which requires cessation of mining by the operator shall expire within 30 days of actual notice to the operator unless a conference is held before the division.

(2)(a) The division may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order [~~in the district court for the district in which the surface coal mining and reclamation operation is located or in which the permittee of the operation has his principal office, whenever such permittee or his agent~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, whenever a permittee or the permittee's agent:

(i) violates or fails or refuses to comply with any order or decision issued under this chapter;

(ii) interferes with, hinders, or delays the division or its authorized representatives in carrying out the provisions of this chapter;

(iii) refuses to admit the authorized representatives to the mine;

(iv) refuses to permit inspection of the mine by the authorized representative;

(v) refuses to furnish any information or report requested by the division in furtherance of the provisions of this chapter; or

(vi) refuses to permit access to and copying of such records as the division determines necessary in carrying out the provisions of this chapter.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the attorney general brings the action described in Subsection (2)(a) in the district court, the attorney general shall bring the action in the county in which:

(i) the surface coal mining and reclamation operation is located; or

(ii) the permittee of the operation has the permittee's principal office.

[~~(b)~~](c)(i) The [~~district~~]court shall have jurisdiction to provide such relief as may be appropriate.

(ii) Any relief granted by the [~~district~~]court to enforce an order under Subsection (2)(a)(i) shall continue in effect until the completion or final termination of all proceedings for review of that order under this chapter, unless, prior to this completion or termination, the Utah Supreme Court on review grants a stay of enforcement or sets aside or modifies the board's order which is being appealed.

(3)(a) A permittee issued a notice or order by the division pursuant to the provisions of Subsections (1)(b) and (1)(c), or any person having an interest which may be adversely affected by the notice or order, may initiate board action by requesting a hearing for review of the notice or order within 30 days of receipt of it or within 30 days of its modification, vacation, or termination. Upon receipt of this application, the board shall cause such investigation to be made as it deems appropriate. The investigation shall provide an opportunity for a public hearing at the request of the applicant or the person having an interest which is or may be adversely affected to enable the applicant or that person to present information relating to the issuance and continuance of the notice or order or the modification, vacation, or termination of it. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(b) The permittee and other interested persons shall be given written notice of the time and place of the hearing in accordance with the rules of practice and procedure of the board, but the notice may not be less than five days prior to the hearing. This hearing shall be of record and shall be subject to judicial review.

(c) Pending completion of the investigation and hearing required by this section, the applicant may file with the board a written request that the board grant temporary relief from any notice or order issued under this section, together with a detailed statement giving the reasons for granting this relief. The board shall issue an order or decision granting or denying this relief expeditiously; and where the applicant requests relief from an order for cessation of coal mining and reclamation operations issued pursuant to Subsections (1)(b) or (1)(c), the order or decision on this request shall be issued within five days of its receipt. The board may grant the relief under such conditions as it may prescribe, if a hearing has been held in the locality of the permit area on the request for temporary relief and the conditions of Subsections 40- 10- 14(4)(a), 40- 10- 14(4)(b), and 40- 10- 14(4)(c) are met.

(d) Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to this section, the board shall hold a public hearing after giving notice in accordance with the rules of practice and procedure of the board. Within 60 days following the hearing, the board shall issue and furnish to the permittee and all other parties to the hearing an order containing the basis for its decision on the suspension or revocation of the permit. If the board revokes the permit, the permittee shall immediately cease surface coal mining operations on the permit area and shall complete reclamation within a period specified by the board, or the board shall declare as forfeited the performance bonds for the operation.

(e) Whenever an order is entered under this section or as a result of any adjudicative proceeding under this chapter, at the request of any person, a sum equal to the aggregate amount of all costs and expenses (including attorney fees) as determined by the board to have been reasonably incurred by that person in connection with his participation in the proceedings, including any judicial review of agency actions, may be assessed against either party as the court, resulting from judicial review, or the board, resulting from adjudicative proceedings, deems proper.

(f) Action by the board taken under this section or any other provision of the state program shall be subject to judicial review by the Utah Supreme Court as prescribed in Section 78A-3-102, but the availability of this review shall not be construed to limit the operation of the citizen suit in Section 40-10-21, except as provided in this latter section.

Section 79. Section 41-6a-1622 is amended to read:

41-6a-1622. Purchase and testing of equipment by department -- Prohibition against sale of substandard devices -- Injunction -- Review -- Appeal.

(1) The department may purchase and test equipment described in Section 41-6a-1619 to determine whether it complies with the standards under this part.

(2) Upon identification of unapproved or substandard devices being sold or offered for sale, the department shall give notice to the person selling them that the person is in violation of Section 41-6a-1619 and that selling or offering them for sale is prohibited.

(3)(a) In order to enforce the prohibition against the sale or offer for sale of unapproved or substandard devices, the department may file a petition in [~~the district court of the county in which the person maintains a place of business~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin any further sale or offer of sale of the unapproved or substandard part.

(b) An injunction under Subsection (3)(a) shall be issued upon a prima facie showing that:

(i) the part is of a type required to be approved by the department under this part;

(ii) the part has not been approved; and

(iii) the part is being sold or offered for sale.

(4)(a) Any person enjoined under Subsection (3) may file a petition for a review of the court's order in the county in which the injunction was issued.

(b) A copy of the petition shall be served on the department and the department shall have 30 days after the service to file an answer, but the petition shall not act as a stay of the injunction.

(c) At the hearing on the petition, the judge shall sit without intervention of a jury and shall only receive evidence as to whether the parts in question:

(i) are of a type for which approval by the department is required;

(ii) have not been approved; and

(iii) are being sold or offered for sale in violation of Section 41-6a-1619.

(d) Following a hearing under Subsection (4)(c), the injunction shall be continued if the court finds that each condition under Subsection (4)(c) has been met.

(5) Either party may appeal the decision of the court[~~ in the same manner as in other civil appeals from the district court~~].

Section 80. Section 51-2a-401 is amended to read:

51-2a-401. Prohibiting access to and withholding funds from an entity that does not comply with the accounting report requirements.

(1) If a political subdivision, interlocal organization, or other local entity does not comply with the accounting report requirements of Section 51-2a-201, the state auditor may:

(a) withhold allocated state funds to pay the cost of the accounting report, in accordance with Subsection (2); or

(b) prohibit financial access, in accordance with Subsection (3).

(2)(a) If the state auditor does not prohibit financial access in accordance with Subsection (3), the state auditor may withhold allocated state funds sufficient to pay the cost of the accounting report from any local entity described in Subsection (1).

(b) If no allocated state funds are available for withholding, the local entity shall reimburse the state auditor for any cost incurred in completing the accounting reports required under Section 51-2a-402.

(c) The state auditor shall release the withheld funds if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

(3)(a) If the state auditor does not withhold funds in accordance with Subsection (2), the state auditor may prohibit any local entity described in Subsection (1) from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to the account.

(b) The state auditor shall remove the prohibition on accessing funds described in Subsection (3)(a) if the local entity meets the accounting report requirements either voluntarily or by action under Section 51-2a-402.

Section 81. Section 51-7-22.5 is amended to read:

51-7-22.5. Enforcement.

(1) Whenever it appears to the council that any person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or any rule issued under authority of this chapter:

(a) the council may bring an action in [~~the appropriate district court of this state or the appropriate court of~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, or a court with jurisdiction in another state, to enjoin the acts or practices and to enforce compliance with this chapter or any rule under this chapter; and

(b) upon a proper showing in an action brought under this section, the court may:

(i) issue a permanent or temporary, prohibitory, or mandatory injunction;

(ii) issue a restraining order or writ of mandamus or other extraordinary writ;

(iii) enter a declaratory judgment;

(iv) order disgorgement;

(v) order rescission;

(vi) impose a fine of not more than $50,000 for each violation of the chapter; or

(vii) provide any other relief that the court considers appropriate.

(2) An indictment or information may not be returned nor may a civil complaint be filed under this chapter more than five years after discovery of the alleged violation.

Section 82. Section 53-2d-605 is amended to read:

53-2d-605. Service interruption or cessation -- Receivership -- Default coverage -- Notice.

(1)(a) Acting in the public interest, the department may petition [~~the district court where an ambulance or paramedic provider operates or the district court with jurisdiction in Salt Lake County~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to appoint the bureau or an independent receiver to continue the operations of a provider upon any one of the following conditions:

[~~(a)~~](i) the provider ceases or intends to cease operations;

[~~(b)~~](ii) the provider becomes insolvent;

[~~(c)~~](iii) the bureau has initiated proceedings to revoke the provider's license and has determined that the lives, health, safety, or welfare of the population served within the provider's exclusive geographic service area are endangered because of the provider's action or inaction pending a full hearing on the license revocation; or

[~~(d)~~](iv) the bureau has revoked the provider's license and has been unable to adequately arrange for another provider to take over the provider's exclusive geographic service area.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if the department brings a petition described in Subsection (1)(a) in the district court, the department shall bring the petition in:

(i) Salt Lake County; or

(ii) the county in which the ambulance or paramedic provider operates.

(2) If a licensed or designated provider ceases operations or is otherwise unable to provide services, the bureau may arrange for another licensed provider to provide services on a temporary basis until a license is issued.

(3) A licensed provider shall give the department 30 days' notice of its intent to cease operations.

Section 83. Section 53-7-406 is amended to read:

53-7-406. Penalties.

(1)(a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 53-7-403:

(i) for a first offense shall be liable for a civil penalty not to exceed $10,000 per each sale of cigarettes; and

(ii) for a subsequent offense shall be liable for a civil penalty not to exceed $25,000 per each sale of such cigarettes.

(b) A penalty imposed under Subsection (1)(a) may not exceed $100,000 during any 30-day period against any one entity described in Subsection (1).

(2)(a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells cigarettes in violation of Section 53-7-403 shall:

(i) for a first offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $500 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $1,000 for each sale or offer of sale; and

(ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:

(A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $2,000 for each sale or offer of sale; and

(B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed $5,000 for each sale or offer of sale.

(b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not exceed $25,000 during a 30-day period.

(3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false certification:

(a) for a first offense, be liable for a civil penalty of at least $75,000; and

(b) for a subsequent offense, be liable for a civil penalty not to exceed $250,000.

(4) Any person violating any other provision in this part shall be liable for a civil penalty for each violation:

(a) for a first offense, not to exceed $1,000; and

(b) for a subsequent offense, not to exceed $5,000.

(5)(a) In addition to any other remedy provided by law, the state fire marshal or attorney general may [~~file an action in district court~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a violation of this part, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this part, including enforcement costs relating to the specific violation and attorney fees.

(b) Each violation of this part or of rules or regulations adopted under this part constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

Section 84. Section 53B-28-506 is amended to read:

53B-28-506. Penalties.

(1) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(a) except as provided in Subsection [~~(1)(d)~~](2), may not enter into a future contract with an institution; [~~and~~]

(b) may be required by the board to pay a civil penalty of up to $25,000[~~.~~]; and

(c) may be required to pay:

(i) an institution's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(ii) any expense incurred by the institution as result of the unauthorized sharing or use of student data.

[~~(e)~~]

[~~(d)~~](2) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

[~~(i)~~](a) the education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

[~~(ii)~~](b) the third-party contractor demonstrates:

[~~(A)~~](i) if the third-party contractor is under contract with the education entity, current compliance with this part; or

[~~(B)~~](ii) an ability to comply with the requirements of this part.

(3)(a) [~~The~~]If necessary, the board may bring an action in [~~the district court of the county in which the office of the education entity is located, if necessary,~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce payment of the civil penalty described in Subsection (1)(b).

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the board shall bring an action described in Subsection (3)(a) in the county in which the office of the education entity is located if the action is brought in the district court.

[~~(f)~~](4) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

[~~(2)~~](5)(a) A student or a minor student's parent may bring an action against a third-party contractor in a court [~~of competent jurisdiction~~]with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section 53B-28-505 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53B-28-505, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section 85. Section 53E-9-310 is amended to read:

53E-9-310. Penalties.

(1)(a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;

(ii) may be required by the state board to pay a civil penalty of up to $25,000; and

(iii) may be required to pay:

(A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

(B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the state board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with an education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The state board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d)(i) The state board may bring an action [~~in the district court of the county in which the office of the state board is located~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state board shall bring an action described in Subsection (1)(d)(i) in the county in which the office of the state board is located if the action is brought in the district court.

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2)(a) A parent or adult student may bring an action in a court [~~of competent jurisdiction~~]with jurisdiction under Title 78A, Judiciary and Judicial Administration, for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.

(b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:

(i) damages; and

(ii) costs.

Section 86. Section 53G-5-501 is amended to read:

53G-5-501. Noncompliance -- Rulemaking.

(1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53G-5-503(4):

(a) the charter school governing board; and

(b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

(2)(a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:

(i) subject to the requirements of Subsection (4), take one or more of the following actions:

(A) remove a charter school director or finance officer;

(B) remove a charter school governing board member;

(C) appoint an interim director, mentor, or finance officer to work with the charter school; or

(D) appoint a governing board member;

(ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or

(iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.

(b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.

(3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working.

(4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) specifying the timeline for remedying deficiencies under Subsection (1); and

(b) ensuring the compliance of a charter school with its approved charter agreement.

(6)(a)(i) An authorizer may petition [~~the district court where a charter school is located or incorporated to appoint a receiver, and the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to appoint a receiver.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the authorizer shall bring a petition described in Subsection (6)(a)(i) in the county in which a charter school is located or incorporated if the action is brought in the district court.

(b) The court may appoint a receiver if the authorizer establishes that the charter school:

(i) is subject to closure under Section 53G-5-503; and

(ii)(A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or

(B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.

[~~(b)~~](c) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

[~~(c)~~](d) Among other duties ordered by the court, the receiver shall:

(i) ensure the protection of the charter school's assets;

(ii) preserve money owed to creditors; and

(iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.

[~~(d)~~](e) If the authorizer does not request, or the court does not appoint, a receiver:

(i) the authorizer may reconstitute the governing board of a charter school; or

(ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of liabilities and obligations in accordance with Subsection 53G-5-504(7) and state board rule.

[~~(e)~~](f) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:

(i) petitions [~~a district court~~]a court to appoint a receiver, as described in Subsection (6)(a);

(ii) reconstitutes the governing board, as described in Subsection [~~(6)(d)(i)~~](6)(e)(i); or

(iii) carries out closure procedures, as described in Subsection [~~(6)(d)(ii)~~](6)(e)(ii).

Section 87. Section 54-4-27 is amended to read:

54-4-27. Payment of dividends -- Notice -- Restraint.

(1) No gas or electric corporation doing business in this state shall pay any dividend upon its common stock prior to 30 days after the date of the declaration of such dividend by the board of directors of such utility corporation.

(2) Within five days after the declaration of such dividend the management of such corporation shall:

(a) notify the utilities commission in writing of the declaration of said dividend, the amount thereof, the date fixed for payment of the same; and

(b) publish a notice, including the information described in Subsection (2)(a):

(i) in a newspaper having general circulation in the city or town where its principal place of business is located; and

(ii) as required in Section 45-1-101.

(3) If the commission, after investigation, shall find that the capital of any such corporation is being impaired or that its service to the public is likely to become impaired or is in danger of impairment, it may issue an order directing such utility corporation to refrain from the payment of said dividend until such impairment is made good or danger of impairment is avoided.

(4) [~~The district court of any county in which said utility is doing business in this state is authorized upon a suit by the commission to~~]A court may enforce the order of the commission[~~, and empowered to~~]and issue a restraining order pending final determination of the action.

Section 88. Section 54-5-3 is amended to read:

54-5-3. Default in payment of fee -- Procedure to collect -- Penalties.

(1)(a) If the public utility fee is due and the payment is in default, [~~a lien in the amount of the fee may be filed against the property of the utility and may be foreclosed in an action brought by the executive director of the Department of Commerce in the district court of any county in which property of the delinquent utility is located.~~]the executive director of the Department of Commerce may:

(i) file a lien in the amount of the property of the utility; and

(ii) bring an action to foreclose the property in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the executive director shall bring an action described in Subsection (1)(a)(ii) in the county in which the property of the delinquent utility is located if the action is brought in the district court.

(2)(a) If the fee computed and imposed under this chapter is not paid within 60 days after it becomes due, the rights and privileges of the delinquent utility shall be suspended.

(b) The executive director of the Department of Commerce shall transmit the name of the utility to the Public Service Commission, which may immediately enter an order suspending the operating rights of the utility.

Section 89. Section 54-8a-12 is amended to read:

54-8a-12. Enforcement -- Attorney general.

(1)(a)(i) The attorney general may bring an action [~~in the district court located~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the attorney general shall bring the action described in Subsection (1)(a)(i) in the county in which the excavation is located [~~to enforce this chapter~~]if the attorney general brings the action in the district court.

(b) The right of any person to bring a civil action for damage arising from an excavator's or operator's actions or conduct relating to underground facilities is not affected by:

(i) a proceeding commenced by the attorney general under this chapter; or

(ii) the imposition of a civil penalty under this chapter.

(c) If the attorney general does not bring an action under Subsection (1)(a), the operator or excavator may pursue any remedy, including a civil penalty.

(2) Any civil penalty imposed and collected under this chapter shall be deposited into the General Fund.

Section 90. Section 54-8b-13 is amended to read:

54-8b-13. Rules governing operator assisted services.

(1) The commission shall make rules to implement the following requirements pertaining to the provision of operator assisted services:

(a) Rates, surcharges, terms, or conditions for operator assisted services shall be provided to customers upon request without charge.

(b) A customer shall be made aware, prior to incurring any charges, of the identity of the operator service provider handling the operator assisted call by a form of signage placed on or near the telephone or by verbal identification by the operator service provider.

(c) Any contract between an operator service provider and an aggregator shall contain language which assures that any person making a telephone call on any telephone owned or controlled by the aggregator or operator service provider can access:

(i) where technically feasible, any other operator service provider operating in the relevant geographic area; and

(ii) the public safety emergency telephone numbers for the jurisdiction where the aggregator's telephone service is geographically located.

(d) No operator service provider shall transfer a call to another operator service provider unless that transfer is accomplished at, and billed from, the call's place of origin. If such a transfer is not technically possible, the operator service provider shall inform the caller that the call cannot be transferred as requested and that the caller should hang up and attempt to reach another operator service provider through the means provided by that other operator service provider.

(2)(a) The Division of Public Utilities shall be responsible for enforcing any rule adopted by the commission under this section.

(b) If the Division of Public Utilities determines that any person, or any officer or employee of any person, is violating any rule adopted under this section, the division shall serve written notice upon the alleged violator which:

(i) specifies the violation;

(ii) alleges the facts constituting the violation; and

(iii) specifies the corrective action to be taken.

(c) After serving notice as required in Subsection (2)(b), the division may request the commission to issue an order to show cause.

(d) After a hearing, the commission may impose penalties and, if necessary, may request the attorney general to enforce the order in [~~district~~]a court.

(3)(a) Any person who violates any rule made under this section or fails to comply with any order issued pursuant to this section is subject to a penalty not to exceed $2,000 per violation.

(b) In the case of a continuing violation, each day that the violation continues constitutes a separate and distinct offense.

(4) A penalty assessment under this section does not relieve the person assessed from civil liability for claims arising out of any act which was a violation of any rule under this section.

Section 91. Section 54-13-7 is amended to read:

54-13-7. Minimum distances for placement of structures and facilities near main and transmission lines.

(1) As used in this section:

(a) "Main" has the meaning set forth in 49 C.F.R. Section 192.3.

(b) "Minimum distance" means:

(i) the width of a recorded easement when the width is described;

(ii) 15 feet when the width of a recorded easement is undefined; or

(iii) for any underground facility, it means an area measured one foot vertically and three feet horizontally from the outer surface of a main or transmission line.

(c) "Transmission line" has the meaning set forth in 49 C.F.R. Section 192.3.

(d) "Underground facility" has the meaning set forth in Section 54-8a-2.

(2)(a) After April 30, 1995, a building or structure requiring slab support or footings, or an underground facility may not be placed within the minimum distance of a main or transmission line.

(b) Subsection (2)(a) does not apply if:

(i) the building or structure is used for public or railroad transportation, natural gas pipeline purposes, or by a public utility subject to the jurisdiction or regulation of the Public Service Commission;

(ii) in order to receive natural gas service, the building or structure must be located within the minimum distance of the pipeline;

(iii) the owner or operator of the main or transmission line has been notified prior to construction or placement pursuant to Section 54-8a-4 and has given written permission; or

(iv) the commission by rule exempts such action from the provisions of Subsection (2)(a).

(3)(a) An owner or operator of a main or transmission line may obtain a mandatory injunction from [~~the district court of the judicial district~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, against any person who violates Subsection (2).

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the owner or operator shall bring an action described in Subsection (3)(a) in the county in which the main or transmission line is located [~~against any person who violates Subsection (2)~~]if the action is brought in the district court.

(4) The penalties specified in [~~Title 54, Chapter 7, Hearings, Practice, and Procedure~~]Chapter 7, Hearings, Practice, and Procedure, do not apply to a violation of this section.

Section 92. Section 54-13-8 is amended to read:

54-13-8. Violation of chapter -- Penalty.

(1) Any person engaged in intrastate pipeline transportation who is determined by the commission, after notice and an opportunity for a hearing, to have violated any provision of this chapter or any rule or order issued under this chapter, is liable for a civil penalty of not more than $100,000 for each violation for each day the violation persists.

(2) The maximum civil penalty assessed under this section may not exceed $1,000,000 for any related series of violations.

(3) The amount of the penalty shall be assessed by the commission by written notice.

(4) In determining the amount of the penalty, the commission shall consider:

(a) the nature, circumstances, and gravity of the violation; and

(b) with respect to the person found to have committed the violation:

(i) the degree of culpability;

(ii) any history of prior violations;

(iii) the effect on the person's ability to continue to do business;

(iv) any good faith in attempting to achieve compliance;

(v) the person's ability to pay the penalty; and

(vi) any other matter, as justice may require.

(5)(a) A civil penalty assessed under this section may be recovered in an action brought by the attorney general on behalf of the state in [~~the appropriate district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, or before referral to the attorney general, it may be compromised by the commission.

(b) The amount of the penalty, when finally determined, or agreed upon in compromise, may be deducted from any sum owed by the state to the person charged.

(6) Any penalty collected under this section shall be deposited in the General Fund.

Section 93. Section 54-14-308 is amended to read:

54-14-308. Judicial review in formal adjudicative proceedings.

The Court of Appeals has jurisdiction to review any decision of the board in a formal adjudicative proceeding as described in Sections 63G-4-403 and 78A-4-103.

Section 94. Section 54-22-205 is amended to read:

54-22-205. Disputes.

A dispute under this chapter involving an electric entity shall be resolved as follows:

(1) if the electric entity is a public utility, in accordance with Section 54-7-9; and

(2) if the electric entity is not a public utility, by [~~filing an action with the district court~~]bringing an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

Section 95. Section 57-11-11 is amended to read:

57-11-11. Rules of division -- Notice and hearing requirements -- Filing advertising material -- Injunctions -- Intervention by division in suits -- General powers of division.

(1)(a) The division shall prescribe reasonable rules which shall be adopted, amended, or repealed only after a public hearing.

(b) The division shall:

(i) publish notice of the public hearing described in Subsection (1)(a) for the state, as a class A notice under Section 63G-30-102, for at least 20 days before the day of the hearing; and

(ii) send a notice to a nonprofit organization which files a written request for notice with the division at least 20 days before the day of the hearing.

(2) The rules shall include but need not be limited to:

(a) provisions for advertising standards to assure full and fair disclosure; and

(b) provisions for escrow or trust agreements, performance bonds, or other means reasonably necessary to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for.

(3) These provisions, however, shall not be required if the city or county in which the subdivision is located requires similar means of assurance of a nature and in an amount no less adequate than is required under said rules:

(a) provisions for operating procedures;

(b) provisions for a shortened form of registration in cases where the division determines that the purposes of this act do not require a subdivision to be registered pursuant to an application containing all the information required by Section 57-11-6 or do not require that the public offering statement contain all the information required by Section 57-11-7; and

(c) other rules necessary and proper to accomplish the purpose of this chapter.

(4) The division by rule or order, after reasonable notice, may require the filing of advertising material relating to subdivided lands prior to its distribution, provided that the division must approve or reject any advertising material within 15 days from the receipt thereof or the material shall be considered approved.

(5)(a) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter or a rule or order hereunder, the agency, with or without prior administrative proceedings, may bring an action in [~~the district court of the district where said person maintains his residence or a place of business or where said act or practice has occurred or is about to occur,~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the acts or practices and to enforce compliance with this chapter or any rule or order hereunder.

(b) Upon proper showing, a court may grant injunctive relief or temporary restraining orders [~~shall be granted, and~~]or appoint a receiver or conservator[~~ may be appointed~~].

(c) The division shall not be required to post a bond in any court proceedings.

(6) The division shall be allowed to intervene in a suit involving subdivided lands, either as a party or as an amicus curiae, where it appears that the interpretation or constitutionality of any provision of law will be called into question. In any suit by or against a subdivider involving subdivided lands, the subdivider promptly shall furnish the agency notice of the suit and copies of all pleadings. Failure to do so may, in the discretion of the division, constitute grounds for the division withholding any approval required by this chapter.

(7) The division may:

(a) accept registrations filed in other states or with the federal government;

(b) contract with public agencies or qualified private persons in this state or other jurisdictions to perform investigative functions; and

(c) accept grants-in-aid from any source.

(8) The division shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules, and common administrative practices.

Section 96. Section 57-11-13 is amended to read:

57-11-13. Enforcement powers of division -- Cease and desist orders.

(1)(a) If the director has reason to believe that any person has been or is engaging in conduct violating this chapter, or has violated any lawful order or rule of the division, the director shall issue and serve upon the person a cease and desist order and may also order the person to take such affirmative actions the director determines will carry out the purposes of this chapter.

(b) The person served may request an adjudicative proceeding within 10 days after receiving the order.

(c) The cease and desist order remains in effect pending the hearing.

(d) The division shall follow the procedures and requirements of Title 63G, Chapter 4,

Administrative Procedures Act, if the person served requests a hearing.

(2)(a) After the hearing the director may issue an order making the cease and desist order permanent if the director finds there has been a violation of this chapter.

(b) If no hearing is requested and the person served does not obey the director's order, the director shall [~~file suit~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, in the name of the Department of Commerce and the Division of Real Estate to enjoin the person from violating this chapter. [~~The action shall be filed in the district court in the county in which the conduct occurred or where the person resides or carries on business.~~]

(3) The remedies and action provided in this section may not interfere with or prevent the prosecution of any other remedies or actions including criminal prosecutions.

Section 97. Section 57-11-18 is amended to read:

57-11-18. Dispositions subject to chapter -- Jurisdiction of courts.

(1) Dispositions of subdivided lands are subject to this [~~act, and the district courts of this state have jurisdiction in claims or causes of action arising under this act,~~]chapter.

(2) A court of this state has jurisdiction in a claim or action arising under this chapter if:

[~~(1)~~](a) [~~The~~]the subdivided lands offered for disposition are located in this state;

[~~(2)~~](b) [~~The~~]the subdivider's principal office is located in this state; or

[~~(3)~~](c) [~~Any~~]any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

Section 98. Section 58-37-11 is amended to read:

58-37-11. Court action to enjoin violations -- Jury trial.

(1) [~~The district courts of this state shall have jurisdiction in proceedings in accordance with the rules of those courts to~~]A court may enjoin violations of this act.

(2) If an alleged violation of an injunction or restraining order issued under this section occurs, the accused may demand a jury trial in accordance with [~~the rules of the district courts~~]the Utah Rules of Civil Procedure.

Section 99. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6)(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i)(A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7)(a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9)(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant.

(11)(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12)(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by [~~the district~~]a court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the [~~Utah~~]Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii)(A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 100. Section 63G-4-403 is amended to read:

63G-4-403. Judicial review -- Formal adjudicative proceedings.

(1) As provided by statute, the Supreme Court or the Court of Appeals has jurisdiction to review all final agency action resulting from formal adjudicative proceedings as described in Sections 78A-3-102 and 78A-4-103.

(2)(a) To seek judicial review of final agency action resulting from formal adjudicative proceedings, the petitioner shall file a petition for review of agency action with the appropriate appellate court in the form required by the appellate rules of the appropriate appellate court.

(b) The appellate rules of the appropriate appellate court shall govern all additional filings and proceedings in the appellate court.

(3) The contents, transmittal, and filing of the agency's record for judicial review of formal adjudicative proceedings are governed by the Utah Rules of Appellate Procedure, except that:

(a) all parties to the review proceedings may stipulate to shorten, summarize, or organize the record; and

(b) the appellate court may tax the cost of preparing transcripts and copies for the record:

(i) against a party who unreasonably refuses to stipulate to shorten, summarize, or organize the record; or

(ii) according to any other provision of law.

(4) The appellate court shall grant relief only if, on the basis of the agency's record, it determines that a person seeking judicial review has been substantially prejudiced by any of the following:

(a) the agency action, or the statute or rule on which the agency action is based, is unconstitutional on its face or as applied;

(b) the agency has acted beyond the jurisdiction conferred by any statute;

(c) the agency has not decided all of the issues requiring resolution;

(d) the agency has erroneously interpreted or applied the law;

(e) the agency has engaged in an unlawful procedure or decision-making process, or has failed to follow prescribed procedure;

(f) the persons taking the agency action were illegally constituted as a decision-making body or were subject to disqualification;

(g) the agency action is based upon a determination of fact, made or implied by the agency, that is not supported by substantial evidence when viewed in light of the whole record before the court; or

(h) the agency action is:

(i) an abuse of the discretion delegated to the agency by statute;

(ii) contrary to a rule of the agency;

(iii) contrary to the agency's prior practice, unless the agency justifies the inconsistency by giving facts and reasons that demonstrate a fair and rational basis for the inconsistency; or

(iv) otherwise arbitrary or capricious.

Section 101. Section 63G-7-501 is amended to read:

63G-7-501. Actions brought under this chapter.

[~~(1) The district courts have exclusive, original jurisdiction over any action brought under this chapter. (2)~~] An action brought under this chapter may not be tried as a small claims action.

Section 102. Section 63G-7-502 is amended to read:

63G-7-502. Venue of actions.

(1) [~~Actions against the state may be brought in the county in which the claim arose or in Salt Lake County.~~]Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action described in this chapter in:

(a) Salt Lake County; or

(b) the county in which the claim arose.

(2)[~~(a) Actions against a county may be brought in the county in which the claim arose, or in the defendant county.~~]

(a) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action against a county in:

(i) the county in which the claim arose; or

(ii) the defendant county.

(b)(i) A district court judge of the defendant county may transfer venue to any county contiguous to the defendant county.

(ii) A motion to transfer may be filed ex parte.

(3) [~~Actions against all other political subdivisions, including cities and towns, shall be brought in the county in which the political subdivision is located or in the county in which the claim arose.~~]Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action against any other political subdivision, including a city or a town, in the county in which:

(a) the political subdivision is located; or

(b) the claim arose.

Section 103. Section 63G-20-204 is amended to read:

63G-20-204. Remedies -- Attorney fees and costs.

(1)(a) A person aggrieved by a violation of this part may:

(i) seek injunctive or other civil relief to require a state or local government or a state or local government official to comply with the requirements of this part; or

(ii) seek removal of the local government official for malfeasance in office according to the procedures and requirements of Title 77, Chapter 6, Removal by Judicial Proceedings.

(b) The court may award reasonable attorney fees and costs to the prevailing party.

(2)(a) A person aggrieved by a violation of this part may bring a civil action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(i) shall grant the plaintiff appropriate legal or equitable relief; and

(ii) may award reasonable attorney fees and costs to the prevailing party.

Section 104. Section 63G-20-302 is amended to read:

63G-20-302. Remedies -- Civil action -- Attorney fees and costs.

(1) A person aggrieved by a violation of this part may bring a civil action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) If the plaintiff establishes one or more violations of this part by a preponderance of the evidence, the court:

(a) shall grant the plaintiff appropriate legal or equitable relief; and

(b) may award reasonable attorney fees and costs to the prevailing party.

Section 105. Section 63G-23-102 is amended to read:

63G-23-102. Definitions.

As used in this chapter:

(1) "Public official" means, except as provided in Subsection (3), the same as that term is defined in Section 36-11-102.

(2) "Public official" includes a judge or justice of:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals; [~~or~~]

(c) a district court[~~,~~];

(d) a juvenile court; or

(e) the Business and Chancery Court.

(3) "Public official" does not include a local official or an education official as defined in Section 36-11-102.

Section 106. Section 63H-1-601 is amended to read:

63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the authority board first:

(a) adopts a parameters resolution that sets forth:

(i) the maximum:

(A) amount of the bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2)(a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry

the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6)(a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in [~~the district court of the county in which the person resides~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 107. Section 63L-5-301 is amended to read:

63L-5-301. Remedies.

(1)(a) A person whose free exercise of religion has been substantially burdened by a government entity in violation of Section 63L-5-201 may bring an action in [~~the district court of~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the person shall bring an action described in Subsection (1)(a) in the county where the largest portion of the property subject to the land use regulation is located if the action is brought in the district court.

(2) Any person who asserts a claim or defense against a government entity under this chapter may request:

(a) declaratory relief;

(b) temporary or permanent injunctive relief to prevent the threatened or continued violation; or

(c) a combination of declaratory and injunctive relief.

(3) A person may not bring an action under this chapter against an individual, other than an action against an individual acting in the individual's official capacity as an officer of a government entity.

Section 108. Section 63L-8-304 is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property located on the public land.

(2) At the request of the director, the attorney general may [~~institute a civil action in a district court~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4)(a) The locally elected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources have authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

(d) A conservation officer shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a

state certified peace officer in performing the officer's duties on public land.

Section 109. Section 65A-8a-104 is amended to read:

65A-8a-104. Notification of intent to conduct forest practices.

(1) No later than 30 days before an operator commences forest practices, the operator shall notify the division of the operator's intent to conduct forest practices.

(2) The notification shall include:

(a) the name and address of the operator;

(b) the name, address, and other current contact information of the landowner;

(c) a legal description of the area in which the forest practices are to be conducted;

(d) a description of the proposed forest practices to be conducted, including the number of acres with timber to be harvested; and

(e) an agreement granting the state forestry personnel permission to enter the area in which the forest practices are to be conducted to conduct an inspection, when the state forestry personnel reasonably consider an inspection necessary to ensure compliance with this chapter.

(3) Upon the receipt of notification, the division shall, within 10 days, mail to the landowner and the operator:

(a) an acknowledgment of notification;

(b) information on Forest Water Quality Guidelines; and

(c) any other information the division believes would assist the landowner and operator in conducting forest practices.

(4)(a) Failure to notify the division in accordance with this section is a class B misdemeanor.

(b)(i) The division may [~~file an action in the district court of any county in which the area in which the forest practices are to be conducted is located~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin an operator engaged in conduct violating this chapter from operating until the operator complies with this chapter.

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the division shall bring an action described in Subsection (4)(b)(i) in the county in which the forest practices are to be conducted is located if the division brings the action in the district court.

(c) In an action by the division in accordance with Subsection (4)(b), the operator shall pay reasonable attorney fees and all court costs incurred by the division because of the action.

Section 110. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1)(a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3)(a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c)(i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed

through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance

with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14)(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15)(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v)(A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17)(a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state

auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the Special Needs Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section 111. Section 67-3-3 is amended to read:

67-3-3. Disbursements of public funds -- Suspension of disbursements -- Procedure upon suspension.

(1) The state auditor may suspend any disbursement of public funds whenever, in the state auditor's opinion, the disbursement is contrary to law.

(2)(a) If the validity of a disbursement described in Subsection (1) is not established within six months from the date of original suspension, the state auditor shall refer the matter to the attorney general for appropriate action.

(b) If, in the attorney general's opinion, the suspension described in Subsection (2)(a) was justified, the attorney general shall immediately notify the state auditor, who shall immediately make demand upon the surety of the disbursing or certifying officer.

(c) If the state auditor makes a demand under Subsection (2)(b), the surety shall immediately meet the demand and pay into the state treasury by certified check or legal tender any amount or amounts disbursed and involved in the suspension.

(3)(a) The state auditor shall ensure that each suspension is in writing.

(b) The state auditor shall:

(i) prepare a form to be known as the notice of suspension;

(ii) ensure that the form contains complete information as to:

(A) the payment suspended;

(B) the reason for the suspension;

(C) the amount of money involved; and

(D) any other information that will clearly establish identification of the payment;

(iii) retain the original of the suspension notice;

(iv) serve one copy of the suspension notice upon:

(A) the disbursing or certifying officer;

(B) any member of the finance commission; and

(C) the surety of the disbursing or certifying officer, except that mailing the copy to the surety company constitutes legal service;

(v) attach one copy of the suspension notice to the document under suspension; and

(vi) take receipts entered upon the original suspension notice held by the state auditor from the disbursing or certifying officer, the finance commission, and the surety.

(4)(a) Immediately upon any suspension becoming final, the finance commission shall:

(i) cause an entry to be made debiting the disbursing or certifying officer with the amount of money involved in any suspension notice; and

(ii) credit the account originally charged by the payment.

(b) Upon release of final suspension by the state auditor, the finance commission shall make a reversing entry, crediting the disbursing or certifying officer, and like credit shall be given in all recoveries from the surety.

(5)(a) In accordance with this Subsection (5), the state auditor may prohibit the access of a state or local taxing or fee- assessing unit to money held by the state or in an account of a financial institution, if the state auditor determines that the local taxing or fee- assessing unit is not in compliance with state law regarding budgeting, expenditures, financial reporting of public funds, and transparency.

(b) The state auditor may not withhold funds under Subsection (5)(a) until the state auditor:

(i) sends formal notice of noncompliance to the state or local taxing or fee- assessing unit; and

(ii) allows the state or local taxing or fee- assessing unit 60 calendar days to:

(A) make the specified corrections; or

(B) demonstrate to the state auditor that the specified corrections are not legally required.

(c) If, after receiving notice under Subsection (5)(b), the state or local fee- assessing unit does not make the specified corrections and the state auditor does not agree with any demonstration under Subsection (5)(b)(ii)(B), the state auditor:

(i) shall provide notice to the taxing or fee- assessing unit of the unit's failure to comply;

(ii) shall provide a recommended timeline for corrective actions;

(iii) may prohibit the taxing or fee- assessing unit from accessing money held by the state; and

(iv) may prohibit the taxing or fee- assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee- assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, requesting an order of the court to prohibit a financial institution from providing the taxing or fee- assessing unit access to an account.

(d) The state auditor shall remove the prohibition on accessing funds described in Subsections (5)(c)(iii) and (iv) if:

(i) the state or local taxing or fee- assessing unit makes the specified corrections described in Subsection (5)(b); or

(ii) the state auditor agrees with a demonstration under Subsection (5)(b)(ii)(B).

Section 112. Section 70A-2-807 is amended to read:

70A-2-807. Consumer may not waive rights under chapter -- Enforcement -- Remedies not exclusive.

(1) Any waiver by a consumer of rights under this chapter is void.

(2)(a) A consumer may bring an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce the consumer's rights under this chapter.

(b) The court shall award a consumer who prevails in an action under this chapter twice the amount of any pecuniary loss, together with costs, disbursements, reasonable attorney's fees, and any equitable relief that the court determines is appropriate.

(3)(a) The attorney general may file an action in [~~district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce this chapter on behalf of any consumer or in its own behalf.

(b) In addition to the other remedies provided in this chapter, the attorney general is also entitled to an award for reasonable attorney's fees, court costs, and investigative expenses.

(4) This chapter shall not be construed as imposing any liability on an authorized dealer or

lessor or as creating a cause of action by a consumer against a dealer or lessor, except regarding any express warranties made by the dealer or lessor apart from the manufacturer's warranties.

(5) Nothing in this chapter shall limit or impair the rights or remedies which are otherwise available to a consumer under any other provision of law.

Section 113. Section 70C-8-105 is amended to read:

70C-8-105. Judicial review.

(1)(a) Any party aggrieved by any rule, order, temporary order, decision, ruling, or other act or failure to act by the department under this title is entitled to judicial review.

(b) Within 30 days after receiving notice of a rule, order, temporary order, decision, or other ruling, or within 120 days after the department has failed to act upon a request or application, the aggrieved party may file an application for judicial review with [~~a court of competent jurisdiction~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the aggrieved party shall file an application in the county in which the applicant is located or in the Third District Court if the application is brought in the district court.

(d) The court may void any rule, order, temporary order, decision, ruling, or other act of the department it finds to be arbitrary, capricious, an abuse of discretion, in excess of the department's authority, or otherwise contrary to law.

(2)(a) Any party upon showing that it may be subject to potential irreparable injury by any proposed rule or order of the department may, without exhausting its administrative remedies, apply for a declaratory judgment as to any question of law arising out of the rule or order.

(b) The applications shall be filed in the Third District Court.

(3) Any action for judicial review of acts or failures to act of the department shall be heard by the court and shall be based on the record made before the department unless the court finds good cause to admit additional and otherwise proper evidence.

(4)(a) Filing an application for judicial review does not stay the adoption or enforcement of any rule, order, temporary order, decision, or ruling of the department.

(b) The court may expressly stay any rule, order, decision, or ruling of the department during the pendency of judicial proceedings challenging them upon terms and conditions it deems appropriate after finding that the possible harm to all interested parties is, on balance, likely to be less if the stay is imposed, or if the applicant and the department stipulate to the imposition of a stay.

Section 114. Section 70D-2-504 is amended to read:

70D-2-504. Orders.

(1) If the commissioner determines that a person engaging in business as a lender, broker, or servicer is violating, has violated, or the commissioner has reasonable cause to believe is about to violate this chapter or a rule of the commissioner made under this chapter, the commissioner may:

(a) order the person to cease and desist from committing a further violation; and

(b) in the most serious instances may prohibit the person from continuing to engage in business as a lender, broker, or servicer.

(2)(a) If the commissioner determines that a practice that the commissioner alleges is unlawful should be enjoined during the pendency of a proceeding incident to an allegation, the commissioner may issue a temporary order in accordance with Section 63G-4-502:

(i) at the commencement of the proceedings; or

(ii) at any time after the proceeding commences.

(b) For purposes of Section 63G-4-502, an immediate and significant danger to the public health, safety, or welfare exists if the commissioner finds from specific facts supported by sworn statement or the records of a person subject to the order that loan applicants or mortgagors are otherwise likely to suffer immediate and irreparable injury, loss, or damage before a proceeding incident to a final order can be completed.

(3) The commissioner may not award damages or penalties under this chapter against a lender, broker, or servicer.

(4)(a) An order issued by the commissioner under this chapter shall:

(i) be in writing;

(ii) be delivered to or served upon the person affected; and

(iii) specify the order's effective date, which may be immediate or at a later date.

(b) An order remains in effect until:

(i) withdrawn by the commissioner; or

(ii) terminated by a court order.

(c) [~~An order of the commissioner, upon~~]Upon an application made on or after the order's effective date [~~to the Third District Court, or in any other district court, may be enforced~~]to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, the court may enforce an order of the commissioner ex parte and without notice by an order to comply entered by the court.

Section 115. Section 72-10-106 is amended to read:

72-10-106. Enforcement of chapter -- Fees for services by department.

(1)(a) The department and every county and municipal officer required to enforce state laws shall enforce and assist in the enforcement of this chapter.

(b) The department may enforce this chapter by [~~injunction in the district courts of this state~~]seeking an injunction in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(c) Other departments and political subdivisions of this state may cooperate with the department in the development of aeronautics within this state.

(2)(a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.

(b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.

(c) Each fee established in this manner shall be submitted to and approved by the Legislature as part of the department's annual appropriations request.

(d) The department may not charge or collect any fee proposed in this manner without approval by the Legislature.

Section 116. Section 72-16-401 is amended to read:

72-16-401. Penalty for violation.

(1) If an owner-operator or operator violates a provision of this chapter with respect to an amusement ride, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the director may:

(a) deny, suspend, or revoke, in whole or in part, the owner-operator's annual amusement ride permit or multi-ride permit for the amusement ride; or

(b) impose fines or administrative penalties in accordance with rules made by the committee.

(2) Upon a violation of a provision of this chapter, the director may [~~file an action in district court~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enjoin the operation of an amusement ride.

Section 117. Section 75-2-105 is amended to read:

75-2-105. No taker -- Minerals and mineral proceeds.

(1) As used in this section:

(a) "Mineral" means the same as that term is defined in Section 67-4a-102.

(b) "Mineral proceeds" means the same as that term is defined in Section 67-4a-102.

(c) "Operator" means the same as that term is defined in Section 40-6-2, 40-8-4, or 40-10-3, and includes any other person holding mineral proceeds of an owner.

(d) "Owner" means the same as that term is defined in Section 38-10-101, 40-6-2, or 40-8-4.

(e) "Payor" means the same as that term is defined in Section 40-6-2, and includes a person who undertakes or has a legal obligation to distribute any mineral proceeds.

(2) If there is no taker under this chapter, the intestate estate passes upon the decedent's death to the state for the benefit of the permanent state school fund.

(3) When minerals or mineral proceeds pass to the state pursuant to Subsection (2), the Utah School and Institutional Trust Lands Administration shall administer the interests in the minerals or mineral proceeds for the support of the common schools pursuant to Sections 53C-1-102 and 53C-1-302, but may exercise its discretion to abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration.

(4)(a) If a probate or other proceeding has not adjudicated the state's rights under Subsection (2), the state, and the Utah School and Institutional Trust Lands Administration with respect to any minerals or mineral proceeds referenced in Subsection (3), may bring an action [~~in district court in any district in which part of the property related to the minerals or mineral proceeds is located~~]in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to quiet title the minerals, mineral proceeds, or property.

(b) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, the state or the Utah School and Institutional Trust Lands Administration, shall bring an action described in Subsection (4)(a) in the county in which the property related to the minerals or mineral process is located if the action is brought in the district court.

(5) In an action brought under Subsection (4), the [~~district~~]court shall quiet title to the minerals, mineral proceeds, or property in the state if:

(a) no interested person appears in the action and demonstrates entitlement to the minerals, mineral proceeds, or property after notice has been given pursuant to Section 78B-6-1303 and in the manner described in Section 75-1-401; and

(b) the requirements of Section 78B-6-1315 are met.

(6)(a) If an operator, owner, or payor determines that minerals or mineral proceeds form part of a decedent's intestate estate, and has not located an heir of the decedent, the operator, owner, or payor shall submit to the Utah School and Institutional Trust Lands Administration the information in the operator's, owner's, or payor's possession concerning the identity of the decedent, the results of a good faith search for heirs specified in Section 75-2-103, the property interest from which the minerals or mineral proceeds derive, and any potential heir.

(b) The operator, owner, or payor shall submit the information described in Subsection (6)(a) within 180 days of acquiring the information.

Section 118. Section 75-2-801 is amended to read:

75-2-801. Disclaimer of property interests -- Time -- Form -- Effect -- Waiver and bar -- Remedy not exclusive -- Application.

(1) A person, or the representative of a person, to whom an interest in or with respect to property or an interest therein devolves by whatever means may disclaim it in whole or in part by delivering or filing a written disclaimer under this section. The right to disclaim exists notwithstanding:

(a) any limitation on the interest of the disclaimant in the nature of a spendthrift provision or similar restriction; or

(b) any restriction or limitation on the right to disclaim contained in the governing instrument. For purposes of this subsection, the "representative of a person" includes a personal representative of a decedent, a conservator of a person with a disability, a guardian of a minor or incapacitated person, and an agent acting on behalf of the person within the authority of a power of attorney.

(2) The following rules govern the time when a disclaimer shall be filed or delivered:

(a)(i) If the property or interest has devolved to the disclaimant under a testamentary instrument or by the laws of intestacy, the disclaimer shall be filed, if of a present interest, not later than nine months after the death of the deceased owner or deceased donee of a power of appointment and, if of a future interest, not later than nine months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested.

(ii) The disclaimer shall be filed in [~~the district court of the county~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(iii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an action described in Subsection (2)(a) in the county in which proceedings for the administration of the estate of the deceased owner or deceased donee of the power have been commenced if the action is brought in the district court.

(iv) A copy of the disclaimer shall be delivered in person or mailed by registered or certified mail, return receipt requested, to any personal representative or other fiduciary of the decedent or donee of the power.

(b) If a property or interest has devolved to the disclaimant under a nontestamentary instrument or contract, the disclaimer shall be delivered or filed, if of a present interest, not later than nine months after the effective date of the nontestamentary instrument or contract and, if of a future interest, not later than nine months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. If the person entitled to disclaim does not know of the existence of the interest, the disclaimer shall be delivered or filed not later than nine months after the person learns of the existence of the interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to the maker or another the entire legal and equitable ownership of the interest. The disclaimer or a copy thereof shall be delivered in person or mailed by registered or certified mail, return receipt requested, to the person who has legal title to or possession of the interest disclaimed.

(c) A surviving joint tenant or tenant by the entireties may disclaim as a separate interest any property or interest therein devolving to him by right of survivorship. A surviving joint tenant or tenant by the entireties may disclaim the entire interest in any property or interest therein that is the subject of a joint tenancy or tenancy by the entireties devolving to the surviving joint tenant or tenant by the entireties, if the joint tenancy or tenancy by the entireties was created by act of a deceased joint tenant or tenant by the entireties, the survivor did not join in creating the joint tenancy or tenancy by the entireties, and has not accepted a benefit under it.

(d) If real property or an interest therein is disclaimed, a copy of the disclaimer may be recorded in the office of the county recorder of the county in which the property or interest disclaimed is located.

(3) The disclaimer shall:

(a) describe the property or interest disclaimed;

(b) declare the disclaimer and extent thereof; and

(c) be signed by the disclaimant.

(4) The effects of a disclaimer are:

(a) If property or an interest therein devolves to a disclaimant under a testamentary instrument, under a power of appointment exercised by a testamentary instrument, or under the laws of intestacy, and the decedent has not provided for another disposition of that interest, should it be disclaimed, or of disclaimed, or failed interests in general, the disclaimed interest devolves as if the disclaimant had predeceased the decedent, but if by law or under the testamentary instrument the descendants of the disclaimant would share in the disclaimed interest per capita at each generation or otherwise were the disclaimant to predecease the decedent, then the disclaimed interest passes per capita at each generation, or passes as directed by the governing instrument, to the descendants of the disclaimant who survive the decedent. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest disclaimed takes effect as if the disclaimant had predeceased the decedent. A disclaimer relates back for all purposes to the date of death of the decedent.

(b) If property or an interest therein devolves to a disclaimant under a nontestamentary instrument or contract and the instrument or contract does not provide for another disposition of that interest,

should it be disclaimed, or of disclaimed or failed interests in general, the disclaimed interest devolves as if the disclaimant has predeceased the effective date of the instrument or contract, but if by law or under the nontestamentary instrument or contract the descendants of the disclaimant would share in the disclaimed interest per capita at each generation or otherwise were the disclaimant to predecease the effective date of the instrument, then the disclaimed interest passes per capita at each generation, or passes as directed by the governing instrument, to the descendants of the disclaimant who survive the effective date of the instrument. A disclaimer relates back for all purposes to that date. A future interest that takes effect in possession or enjoyment at or after the termination of the disclaimed interest takes effect as if the disclaimant had died before the effective date of the instrument or contract that transferred the disclaimed interest.

(c) The disclaimer or the written waiver of the right to disclaim is binding upon the disclaimant or person waiving and all persons claiming through or under either of them.

(5) The right to disclaim property or an interest therein is barred by:

(a) an assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor;

(b) a written waiver of the right to disclaim;

(c) an acceptance of the property or interest or a benefit under it; or

(d) a sale of the property or interest under judicial sale made before the disclaimer is made.

(6) This section does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest therein under any other statute.

(7) An interest in property that exists on July 1, 1998, as to which, if a present interest, the time for filing a disclaimer under this section has not expired or, if a future interest, the interest has not become indefeasibly vested or the taker finally ascertained, may be disclaimed within nine months after July 1, 1998.

Section 119. Section 75-2a-120 is amended to read:

75-2a-120. Judicial relief.

A [~~district~~]court may enjoin or direct a health care decision, or order other equitable relief based on a petition filed by:

(1) a patient;

(2) an agent of a patient;

(3) a guardian of a patient;

(4) a default surrogate of a patient;

(5) a health care provider of a patient;

(6) a health care facility providing care for a patient; or

(7) an individual who meets the requirements of Section 75-2a-108.

Section 120. Section 75-5a-102 is amended to read:

75-5a-102. Definitions.

As used in this part:

(1) "Adult" means an individual who is 21 years [~~of age~~]old or older.

(2) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

(3) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the accounts of others.

(4) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

[~~(5) "Court" means the probate division of the district court for the county in which the custodian resides.~~]

(5) "Court" means a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) "Custodial property" means:

(a) any interest in property transferred to a custodian under this part; and

(b) the income from and proceeds of that interest in property.

(7) "Custodian" means a person so designated under Section 75-5a-110 or a successor or substitute custodian designated under Section 75-5a-119.

(8) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(9) "Legal representative" means an individual's personal representative or conservator.

(10) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

(11) "Minor" means an individual who is [~~not yet 21 years of age~~]under 21 years old.

(12) "Person" means an individual, corporation, organization, or other legal entity.

(13) "Personal representative" means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions.

(14) "State" includes any state of the United States, the district of Columbia, the

Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(15) "Transfer" means a transaction that creates custodial property under Section 75-5a-110.

(16) "Transferor" means a person who makes a transfer under this part.

(17) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

Section 121. Section 75-7-105 is amended to read:

75-7-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;

(e) the effect of a spendthrift provision, Section 25-6-502, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;

(f) the power of the court under Section 75-7-702 to require, dispense with, or modify or terminate a bond;

(g) the effect of an exculpatory term under Section 75-7-1008;

(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the [~~subject-matter jurisdiction of the court and venue for commencing a proceeding as provided~~]jurisdiction and venue requirements for an action involving the trust as described in Sections 75-7-203 and 75-7-205.

Section 122. Section 75-7-203 is amended to read:

75-7-203. Jurisdiction over an action involving a trust.

[~~(1) The district court has exclusive jurisdiction of proceedings in this state brought by a trustee or beneficiary concerning the administration of a trust.~~]

[~~(2) The district court has concurrent jurisdiction with other courts of this state of other proceedings involving a trust.~~]

(1) A court of this state has jurisdiction as described in Title 78A, Judiciary and Judicial Administration, over an action involving a trust.

[~~(3)~~](2) This section does not preclude judicial or nonjudicial alternative dispute resolution.

Section 123. Section 75-7-205 is amended to read:

75-7-205. Venue.

[~~(1) Except as otherwise provided in Subsection (2), venue for a judicial proceeding involving a trust is in the county in which the trust's principal place of administration is or will be located and, if the trust is created by will and the estate is not yet closed, in the county in which the decedent's estate is being administered.~~]

[~~(2) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in any county of this state in which a beneficiary resides, in any county in which any trust property is located, and if the trust is created by will, in the county in which the decedent's estate was or is being administered.~~]

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and except as provided in Subsection (2), a person shall bring an action involving a trust, if the action is brought in the district court, in:

(a) the county in which the trust's principal place of administration is or will be located; or

(b) if the trust is created by a will and the estate is not yet closed, the county in which the decedent's estate is being administered.

(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, and if a trust has no trustee, a person shall bring an action for the appointment of a trustee, if the action is brought in the district court, in:

(a) a county of this state in which a beneficiary resides;

(b) a county in which any trust property is located; or

(c) if the trust is created by a will, the county in which the decedent's estate was or is being administered.

Section 124. Section 75-11-102 is amended to read:

75-11-102. Definitions.

As used in this chapter:

(1) "Account" means an arrangement under a terms of service agreement in which a custodian

carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5)(a) "Conservator" means a person appointed by a court to manage the estate of a living individual.

(b) "Conservator" includes a limited conservator.

(6) "Content of an electronic communication" means information concerning the substance or meaning of the communication that:

(a) has been sent or received by a user;

(b) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(c) is not readily accessible to the public.

(7) "Court" means [~~the district court~~]a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(8) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(9) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(10)(a) "Digital asset" means an electronic record in which an individual has a right or interest.

(b) "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(11) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) "Electronic communication" has the same meaning as the definition in 18 U.S.C. Sec. 2510(12).

(13) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(14) "Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

(15)(a) "Guardian" means a person appointed by a court to manage the affairs of a living individual.

(b) "Guardian" includes a limited guardian.

(16) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

(17) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms of service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

(18) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

(19) "Personal representative" means an executor, administrator, special administrator, or person that performs substantially the same function under the law of this state other than this chapter.

(20) "Power of attorney" means a record that grants an agent authority to act in the place of a principal.

(21) "Principal" means an individual who grants authority to an agent in a power of attorney.

(22)(a) "Protected person" means an individual for whom a conservator or guardian has been appointed.

(b) "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

(23) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(24) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14).

(25) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

(26)(a) "Trustee" means a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another.

(b) "Trustee" includes a successor trustee.

(27) "User" means a person that has an account with a custodian.

(28) "Will" includes a codicil, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

Section 125. Section 76-10-1605 is amended to read:

76-10-1605. Remedies of person injured by a pattern of unlawful activity -- Double damages -- Costs, including attorney fees -- Arbitration -- Agency -- Burden of proof -- Actions by attorney general or

county attorney -- Dismissal -- Statute of limitations -- Authorized orders of a court.

(1) A person injured in his person, business, or property by a person engaged in conduct forbidden by any provision of Section 76-10-1603 may [~~sue in an appropriate district court and recover twice the damages he sustains~~]bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to recover twice the damages that the person sustains, regardless of whether:

(a) the injury is separate or distinct from the injury suffered as a result of the acts or conduct constituting the pattern of unlawful conduct alleged as part of the cause of action; or

(b) the conduct has been adjudged criminal by any court of the state or of the United States.

(2) A party who prevails on a cause of action brought under this section recovers the cost of the suit, including reasonable attorney fees.

(3) All actions arising under this section which are grounded in fraud are subject to arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(4) In all actions under this section, a principal is liable for actual damages for harm caused by an agent acting within the scope of either his employment or apparent authority. A principal is liable for double damages only if the pattern of unlawful activity alleged and proven as part of the cause of action was authorized, solicited, requested, commanded, undertaken, performed, or recklessly tolerated by the board of directors or a high managerial agent acting within the scope of his employment.

(5) In all actions arising under this section, the burden of proof is clear and convincing evidence.

(6) The attorney general, county attorney, or, if within a prosecution district, the district attorney may maintain actions under this section on behalf of the state, the county, or any person injured by a person engaged in conduct forbidden by any provision of Section 76-10-1603, to prevent, restrain, or remedy injury as defined in this section and may recover the damages and costs allowed by this section.

(7) In all actions under this section, the elements of each claim or cause of action shall be stated with particularity against each defendant.

(8) If an action, claim, or counterclaim brought or asserted by a private party under this section is dismissed prior to trial or disposed of on summary judgment, or if it is determined at trial that there is no liability, the prevailing party shall recover from the party who brought the action or asserted the claim or counterclaim the amount of its reasonable expenses incurred because of the defense against the action, claim, or counterclaim, including a reasonable attorney's fee.

(9) An action or proceeding brought under this section shall be commenced within three years after the conduct prohibited by Section 76-10-1603 terminates or the cause of action accrues, whichever is later. This provision supersedes any limitation to the contrary.

(10)(a) In any action brought under this section, [~~the district court has jurisdiction to~~]the court may prevent, restrain, or remedy injury as defined by this section by issuing appropriate orders after making provisions for the rights of innocent persons.

(b) Before liability is determined in any action brought under this section, the [~~district~~]court may:

(i) issue restraining orders and injunctions;

(ii) require satisfactory performance bonds or any other bond it considers appropriate and necessary in connection with any property or any requirement imposed upon a party by the court; and

(iii) enter any other order the court considers necessary and proper.

(c) After a determination of liability, the [~~district~~]court may, in addition to granting the relief allowed in Subsection (1), do any one or all of the following:

(i) order any person to divest himself of any interest in or any control, direct or indirect, of any enterprise;

(ii) impose reasonable restrictions on the future activities or investments of any person, including prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, to the extent the Utah Constitution and the Constitution of the United States permit; or

(iii) order the dissolution or reorganization of any enterprise.

(d) However, if an action is brought to obtain any relief provided by this section, and if the conduct prohibited by Section 76-10-1603 has for its pattern of unlawful activity acts or conduct illegal under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, the court may not enter any order that would amount to a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States, or Article I, Sec. 15 of the Utah Constitution. The court shall, upon the request of any affected party, and upon the notice to all parties, prior to the issuance of any order provided for in this subsection, and at any later time, hold hearings as necessary to determine whether any materials at issue are obscene or pornographic and to determine if there is probable cause to believe that any act or conduct alleged violates Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222. In making its findings the court shall be guided by the same considerations required of a court making similar findings in criminal cases brought under Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, including, but not limited to, the definitions in Sections 76-10-1201, 76-10-1203, and 76-10-1216, and the exemptions in Section 76-10-1226.

Section 126. Section 78A-1-103.5 is amended to read:

78A-1-103.5. Number of Business and Chancery Court judges -- Disqualification or recusal of a Business and Chancery Court judge.

(1) The Business and Chancery Court shall consist of one judge.

(2) If there are fewer than three judges for the Business and Chancery Court under Subsection (1), the presiding officer of the Judicial Council shall designate a pool of two district court judges to preside over actions in the Business and Chancery Court.

(3) A district court judge designated under Subsection (2) may preside over an action when each Business and Chancery Court judge is unable to preside over an action due to recusal or disqualification.

Section 127. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

(1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(2) A district court judge may:

(a) issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees[.]; and

(b) preside over an action for which the Business and Chancery Court has jurisdiction if:

(i) the district court judge is designated by the presiding officer of the Judicial Council to preside over an action in the Business and Chancery Court as described in Section 78A-1-103.5; and

(ii) a Business and Chancery Court judge is unable to preside over the action due to recusal or disqualification.

(3) The district court has jurisdiction:

(a) over matters of lawyer discipline consistent with the rules of the Supreme Court[.];

[~~(4)~~](b) [~~The district court has jurisdiction~~]over all matters properly filed in the circuit court prior to July 1, 1996[.];

(c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);

(d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;

(e) over a petition seeking to terminate parental rights as described in Section 78B-6-112;

(f) except as provided in Subsection 78A-6-103(2)(a)(xiv), an adoption proceeding; and

(g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

[~~(5)~~](4) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

[~~(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.~~]

[~~(7)~~](5) The district court has jurisdiction to review:

[~~(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in the district court's review of agency adjudicative proceedings; and~~]

[~~(b) municipal administrative proceedings in accordance with Section 10-3-703.7.~~]

(a) a municipal administrative proceeding as described in Section 10-3-703.7;

(b) a decision resulting from a formal adjudicative proceeding by the State Tax Commission as described in Section 59-1-601;

(c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

(d) by trial de novo, a final order of the Department of Transportation resulting from formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard Control Act.

(6) The district court has original and exclusive jurisdiction over an action brought under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

[~~(8)~~](7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has [~~not formed and then~~]formed and dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older[.].

[~~(9)~~](8) If a district court has jurisdiction in accordance with Subsection [~~(5), (8)(a), or (8)(b)~~](4), (7)(a), or (7)(b), the district court has jurisdiction

over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

[~~(10)~~](9) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

[~~(11)~~](10)(a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

(11) The Supreme Court and Court of Appeals have jurisdiction over an appeal from a final order, judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

Section 128. Section 78A-5a-101 is amended to read:

78A-5a-101. Definitions.

(1) "Action" means a lawsuit or case commenced in a court.

(2)(a) "Asset" means property of all kinds, real or personal and tangible or intangible.

(b) "Asset" includes:

(i) cash, except for any reasonable compensation or salary for services rendered;

(ii) stock or other investments;

(iii) goodwill;

(iv) an ownership interest;

(v) a license;

(vi) a cause of action; and

(vii) any similar property.

(3) "Beneficial shareholder" means the same as that term is defined in Section 16-10a-1301.

(4) "Blockchain" means [~~a cryptographically secured, chronological, and decentralized consensus ledger or consensus database maintained via Internet, peer-to-peer network, or other interaction~~]the same as that term is defined in Section 63A-16-108.

(5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

(6) "Board" means the board of directors or trustees of a corporation.

(7) "Business" means any enterprise carried on for the purpose of gain or economic profit.

(8)(a) "Business organization" means an organization in any form that is primarily engaged in business.

(b) "Business organization" includes:

(i) an association;

(ii) a corporation;

(iii) a joint stock company;

(iv) a joint venture;

(v) a limited liability company;

(vi) a mutual fund trust;

(vii) a partnership; or

(viii) any other similar form of an organization described in Subsections (8)(b)(i) through (vii).

(c) "Business organization" does not include a governmental entity as defined in Section 63G-7-102.

(9) "Claim" means a written demand or assertion in an action.

(10) "Commercial tenant" means the same as that term is defined in Section 78B-6-801.

[~~(10)~~](11) "Consumer contract" means a contract entered into by a consumer for the purchase of goods or services for personal, family, or household purposes.

[~~(11)~~](12) "Court" means the Business and Chancery Court established in Section 78A-5a-102.

[~~(12)~~](13) "Decentralized autonomous organization" means [~~an organization that is created by a smart contract deployed on a permissionless blockchain that implements specific decision-making or governance rules enabling individuals to coordinate themselves in a decentralized fashion~~]the same as that term is defined in Section 48-5-101.

[~~(13)~~](14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

[~~(14)~~](15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(16) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

[~~(15)~~](17) "Health care" means the same as that term is defined in Section 78B-3-403.

[~~(16)~~](18) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(17)~~](19) "Monetary damages" does not include:

(a) punitive or exemplary damages;

(b) prejudgment or postjudgment interest; or

(c) attorney fees or costs.

[~~(18)~~](20) "Officer" means an individual designated by a board, or other governing body of a business organization, to act on behalf of the business organization.

[~~(19)~~](21) "Owner" means a person who, directly or indirectly, owns or controls an ownership interest in a business organization regardless of whether

the person owns or controls the ownership interest through another person, a power of attorney, or another business organization.

[~~(20)~~](22) "Ownership interest" means an interest owned in a business organization, including any shares, membership interest, partnership interest, or governance or transferable interest.

[~~(21) "Permissionless blockchain" means a public distributed ledger that allows an individual to transact and produce blocks in accordance with the blockchain protocol, whereby the validity of the block is not determined by the identity of the producer.~~]

[~~(22)~~](23) "Personal injury" means a physical or mental injury, including wrongful death.

[~~(23)~~](24) "Professional" means an individual whose profession requires a license, registration, or certification on the basis of experience, education, testing, or training.

(25)(a) "Provisional remedy" means a temporary order by a court while an action is pending.

(b) "Provisional remedy" includes a preliminary injunction, a temporary restraining order, a prejudgment writ, or an appointment of a receiver.

[~~(24)~~](26) "Security" means the same as that term is defined in Section 61-1-13.

[~~(25)~~](27) "Shareholder" means the record shareholder or the beneficial shareholder.

[~~(26) "Smart contract" means code deployed on a permissionless blockchain that consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network that produces a change on the blockchain network.~~]

[~~(27)~~](28) "Record shareholder" means the same as that term is defined in Section 16-10a-1301.

[~~(28)~~](29) "Trustee" means a person that holds or administers an ownership interest on behalf of a third party.

Section 129. Section 78A-5a-103 is amended to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b)(i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization; [~~or~~]

(iii) that is a shareholder derivative action[~~.~~]; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

[~~(2) The Business and Chancery Court may exercise supplemental jurisdiction over all claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1), except that the Business and Chancery Court may not exercise jurisdiction over:~~]

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business

and Chancery Court under Subsection (1) if the claim arises from the same set of facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including [~~any~~]a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

[~~(iii) a wrongful termination of employment or a prohibited or discriminatory employment practice;~~]

[~~(iv)~~](iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 30, Husband and Wife;

(vi) Title 63G, Chapter 4, Administrative Procedures Act;

(vii) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

(viii) Title 78B, Chapter 6, Part 5, Eminent Domain;

(ix) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

(x) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(xi) Title 78B, Chapter 12, Utah Child Support Act;

(xii) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

(xiii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

(xiv) Title 78B, Chapter 15, Utah Uniform Parentage Act;

(xv) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; or

(xvi) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act; [~~or~~]

(b) any action in which a governmental entity is a party; or

[~~(b)~~](c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section 130. Section 78A-5a-104 is amended to read:

78A-5a-104. Trier of fact and law -- Demand for jury trial.

(1) The Business and Chancery Court is the trier of fact and law in an action before the Business and Chancery Court.

(2) [~~The~~]Notwithstanding Section 78A-5a-103, the Business and Chancery Court shall transfer an action, or any claim in an action, to the district court if:

(a) a party to the action demands a trial by jury in accordance with the Utah Rules of [~~Civil Procedure~~]Business and Chancery Procedure; and

(b) the Business and Chancery Court finds the party that made the demand has the right to a trial by jury on a claim in the action.

(3) Before the Business and Chancery Court transfers an action or a claim under Subsection (2), the Business and Chancery Court may:

(a) bifurcate the action and resolve all claims in which the party does not have a right to a trial by jury; and

(b) administrate and adjudicate the action or claim being transferred prior to a trial by jury, including any pleading, provisional remedy, discovery, or motion.

Section 131. Section 78A-5a-204 is amended to read:

78A-5a-204. Location of the Business and Chancery Court -- Court facilities -- Costs.

[~~(1) The Business and Chancery Court is located in Salt Lake City.~~]

[~~(2)~~](1) The Business and Chancery Court may perform any of the Business and Chancery Court's functions in any location within the state.

[~~(3)~~](2) The Judicial Council shall provide, from appropriations made by the Legislature, court space suitable for the conduct of court business for the Business and Chancery Court.

[~~(4)~~](3) The Judicial Council may, in order to carry out the Judicial Council's obligation to provide facilities for the Business and Chancery Court, lease space to be used by the Business and Chancery Court.

[~~(5)~~](4) A lease or reimbursement for the Business and Chancery Court must comply with the standards of the Division of Facilities Construction and Management that are applicable to state agencies.

[~~(6)~~](5) The cost of salaries, travel, and training required for the discharge of the duties of judges, secretaries of judges or court executives, court executives, and court reporters for the Business and Chancery Court are paid from appropriations made by the Legislature.

Section 132. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in [~~Subsection~~]Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 133. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1)(a) Except for an offense for which the district court has original jurisdiction under Subsection [~~78A-5-102(8)~~]78A-5-102(7) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3)(a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6)(a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Section 134. Section 78A-10a-501 is amended to read:

78A-10a-501. Definitions.

As used in this part:

(1) "Commission" means the Business and Chancery Court Nominating Commission created in Section 78A-10a-502.

(2) "Commissioner" means an individual appointed by the governor to serve on the Business and Chancery Court Nominating Commission.

Section 135. Section 78A-10a-502 is amended to read:

78A-10a-502. Creation.

(1) There is created the Business and Chancery Court Nominating Commission.

(2) The Business and Chancery Court Nominating Commission shall nominate individuals to fill judicial vacancies on the Business and Chancery Court.

Section 136. Section 78A-10a-503 is amended to read:

78A-10a-503. Membership -- Appointment -- Vacancies -- Removal.

(1) The Business and Chancery Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a four-year term.

(2) A commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms; or

(b) a member of the Legislature to serve as a member of the commission.

(4) In determining whether to appoint an individual to serve as a commissioner, the governor shall consider whether the individual's appointment would ensure that the commission selects applicants without any regard to partisan political consideration.

(5) The governor shall appoint the chair of the commission from among the membership of the commission.

(6) The governor shall fill any vacancy in the commission caused by the expiration of a commissioner's term.

(7)(a) If a commissioner is disqualified, removed, or is otherwise unable to serve, the governor shall appoint a replacement commissioner to fill the vacancy for the unexpired term.

(b) A replacement commissioner appointed under Subsection (7)(a) may not be reappointed upon expiration of the term of service.

(8) The governor may remove a commissioner from the commission at any time with or without cause.

Section 137. Section 78A-10a-504 is amended to read:

78A-10a-504. Procedure -- Staff -- Rules -- Recusal.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the State Commission on Criminal and Juvenile Justice under Section 78A-10a-201; and

(b) resolve any questions regarding the rules described in Subsection (3)(a).

(4) A commissioner who is a licensed attorney may recuse oneself if there is a conflict of interest that makes the commissioner unable to serve.

Section 138. Section 78A-10a-505 is amended to read:

78A-10a-505. Expenses -- Per diem and travel.

A commissioner may not receive compensation or benefits for the commissioner's service but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

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

(3) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 139. Section 78B-6-105 is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) [~~An adoption proceeding shall be commenced by filing a petition in~~]Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:

(a) [~~the district court in the district~~]in the county where the prospective adoptive parent resides;

(b) if the prospective adoptive parent is not a resident of this state, [~~the district court in the district~~]in the county where:

(i) the adoptee was born;

(ii) the adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed; or

(c) [~~the juvenile court as provided in Subsection 78A-6-103(2)(a)(xiv) and~~]if the adoption proceeding is brought in the juvenile court as described in Subsection 78A-6-103(2)(a)(xiv), in accordance with Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

(3) A petition for adoption:

(a) may be filed before the birth of a child;

(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and

(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(i) the time for filing has been extended by the court; or

(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4)(a) If a person whose consent for the adoption is required under Section 78B-6-120 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried mother without her consent.

(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served is sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 140. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A [~~district court has jurisdiction to terminate parental rights in a child if the party that filed the petition is~~]party may bring a petition seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4)(a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) [~~This section does not grant jurisdiction to a district court to~~]A court may not terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The [~~district~~]court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent an individual who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 141. Section 78B-6-401 is amended to read:

78B-6-401. Power to issue declaratory judgment -- Form -- Effect.

[~~(1) Each district court~~]

(1)(a) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.

(b) An action or proceeding may not be open to objection on the ground that a declaratory judgment or decree is prayed for.

(2) The declaration may be either affirmative or negative in form and effect and shall have the force and effect of a final judgment or decree.

Section 142. Section 78B-6-408 is amended to read:

78B-6-408. Rights, status, legal relations under instruments, or statutes may be determined.

A person with an interest in a deed, will, or written contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may request the [~~district~~]court to determine any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations.

Section 143. Section 78B-6-1238 is amended to read:

78B-6-1238. Clerk of court to be custodian.

(1) If the security of the proceeds of the sale is taken, or when an investment of any proceeds is made, it shall be done, except as otherwise provided, in the name of the clerk of the [~~district~~]court.

(2) The clerk of the court shall hold the security for the use and benefit of the parties interested, subject to an order of the court.

Section 144. Repealer.

This bill repeals:

Section 17D-3-104, District court jurisdiction.

Section 78B-12-103, District court jurisdiction.

Section 145. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2024.

(2)(a) Except as provided in Subsection (2)(b), if approved by two-thirds of all members elected to each house, Sections 78A-10a-501, 78A-10a-502, 78A-10a-503, 78A-10a-504, and 78A-10a-505 take effect upon approval by the governor, or the

day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If this bill is not approved by two-thirds of all members elected to each house, Sections 78A-10a-501, 78A-10a-502, 78A-10a-503, 78A-10a-504, and 78A-10a-505 take effect on May 1, 2024.

(3) The actions affecting Section 78A-5a-103 (Effective 10/01/24) take effect on October 1, 2024.

Section 147. Coordinating H.B. 300 with S.B. 95.

If H.B. 300, Court Amendments, and S.B. 95, Domestic Relations Recodification, both pass and become law, the Legislature intends that, on September 1, 2024, the amendments to Section 78B-12-103 in S.B. 95 supersede the amendments to Section 78B-12-103 in H.B. 300.

CHAPTER 159
S. B. 84
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- revises definitions;
- replaces the term "Go Utah" with the term "GOEO";
- modifies the membership of the Governor's Office of Economic Opportunity board;
- modifies provisions regarding the Unified Economic Opportunity Commission;
- modifies provisions about the purpose of the Economic Opportunity Act;
- modifies terms describing the Industrial Assistance Account;
- creates a procurement exception for the Office of Tourism;
- aligns reporting dates;
- modifies grant programs related to broadband services access;
- creates the Broadband Equity Access and Deployment Grant Program;
- creates the Innovation in Artificial Intelligence Grant Pilot Program; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

53B-7-702, as last amended by Laws of Utah 2021, Chapters 282, 351 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 187
53B-7-704, as last amended by Laws of Utah 2021, Chapter 282
53B-10-201, as last amended by Laws of Utah 2022, Chapter 370
53B-10-203, as last amended by Laws of Utah 2021, Chapter 282
59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
63G-6a-804, as last amended by Laws of Utah 2020, Chapter 257
63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63N-1a-102, as last amended by Laws of Utah 2022, Chapters 200, 362
63N-1a-103, as enacted by Laws of Utah 2021, Chapter 282
63N-1a-201, as last amended by Laws of Utah 2023, Chapter 499
63N-1a-202, as last amended by Laws of Utah 2022, Chapters 200, 362
63N-1a-301, as last amended by Laws of Utah 2022, Chapters 200, 307
63N-1a-401, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-1a-402, as renumbered and amended by Laws of Utah 2022, Chapter 362
63N-1b-404, as last amended by Laws of Utah 2023, Chapter 499
63N-2-104.2, as enacted by Laws of Utah 2022, Chapter 200
63N-2-107, as last amended by Laws of Utah 2022, Chapter 200
63N-2-504, as last amended by Laws of Utah 2021, Chapter 282
63N-2-512, as last amended by Laws of Utah 2023, Chapter 471
63N-2-808, as last amended by Laws of Utah 2021, Chapter 282
63N-3-102, as last amended by Laws of Utah 2023, Chapter 499
63N-3-105, as last amended by Laws of Utah 2023, Chapter 499
63N-3-106, as last amended by Laws of Utah 2023, Chapter 499
63N-3-107, as last amended by Laws of Utah 2023, Chapter 499
63N-3-111, as last amended by Laws of Utah 2023, Chapter 499
63N-3-112, as last amended by Laws of Utah 2022, Chapter 362
63N-3-1101, as enacted by Laws of Utah 2022, Chapter 296
63N-3-1102, as enacted by Laws of Utah 2022, Chapter 296
63N-4-103, as last amended by Laws of Utah 2022, Chapter 274
63N-4-104, as last amended by Laws of Utah 2022, Chapter 362
63N-4-105, as last amended by Laws of Utah 2021, Chapter 282
63N-7-102, as repealed and reenacted by Laws of Utah 2022, Chapter 362
63N-8-102, as last amended by Laws of Utah 2023, Chapter 499
63N-8-103, as last amended by Laws of Utah 2023, Chapter 499
63N-8-104, as last amended by Laws of Utah 2021, Chapter 282
63N-13-305, as last amended by Laws of Utah 2022, Chapter 240
63N-16-301, as enacted by Laws of Utah 2021, Chapter 373
63N-17-102, as enacted by Laws of Utah 2021, Chapter 282
63N-17-201, as last amended by Laws of Utah 2022, Chapter 458
63N-17-202, as last amended by Laws of Utah 2023, Chapter 499
63N-17-203, as enacted by Laws of Utah 2022, Chapter 458

63N-17-301, as enacted by Laws of Utah 2021, Chapter 282

ENACTS:
63N-3-1301, Utah Code Annotated 1953
63N-3-1302, Utah Code Annotated 1953
63N-17-401, Utah Code Annotated 1953

REPEALS:
63N-1a-101, as renumbered and amended by Laws of Utah 2021, Chapter 282
63N-17-101, as enacted by Laws of Utah 2021, Chapter 282

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

Section 1. Section 53B-7-702 is amended to read:

53B-7-702. Definitions.

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined by the Department of Workforce Services in accordance with Section 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

(5) ["~~GO Utah office~~"] "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(6) "Job" means an occupation determined by the Department of Workforce Services.

(7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.

(8) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

(9) "Performance" means total performance across the metrics described in [~~Sections 53B-7-706 and 53B-7-707~~]Section 53B-7-706.

(10) "Research university" means the University of Utah or Utah State University.

(11) "Targeted job" means a job designated by the Department of Workforce Services or [~~the GO Utah office~~]GOEO in accordance with Section 53B-7-704.

(12) "Technical college" means:

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

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

(13) "Technical college graduate" means an individual who:

(a) has earned a certificate from an accredited program at a technical college; and

(b) is no longer enrolled in the technical college.

Section 2. Section 53B-7-704 is amended to read:

53B-7-704. Designation of targeted jobs -- Determination of estimated revenue growth from targeted jobs -- Reporting.

(1) As used in this section, "baseline amount" means the average annual wages for targeted jobs over calendar years 2014, 2015, and 2016, as determined by the Department of Workforce Services using the best available information.

(2)(a) The Department of Workforce Services shall designate, as a targeted job, a job that:

(i) has a base employment level of at least 100 individuals;

(ii) ranks in the top 20% of jobs for outlook based on:

(A) projected number of openings; and

(B) projected rate of growth;

(iii) ranks in the top 20% of jobs for median annual wage; and

(iv) requires postsecondary training.

(b) The Department of Workforce Services shall designate targeted jobs every other year.

(c) [~~The GO Utah office~~]GOEO may, after consulting with the Department of Workforce Services and industry representatives, designate a job that has significant industry importance as a targeted job.

(d) Annually, the Department of Workforce Services and [~~the GO Utah office~~]GOEO shall report to the Higher Education Appropriations Subcommittee on targeted jobs, including:

(i) the method used to determine which jobs are targeted jobs;

(ii) changes to which jobs are targeted jobs; and

(iii) the reasons for each change described in Subsection (2)(d)(ii).

(3) Based on the targeted jobs described in Subsection (2), the Department of Workforce Services shall annually determine the estimated revenue growth from targeted jobs by:

(a) determining the total estimated wages for targeted jobs for the year:

(i) based on the average wages for targeted jobs, calculated using the most recently available wage

data and data from each of the two years before the most recently available data; and

(ii) using the best available information;

(b) determining the change in estimated wages for targeted jobs by subtracting the baseline amount from the total wages for targeted jobs described in Subsection (3)(a); and

(c) multiplying the change in estimated wages for targeted jobs described in Subsection (3)(b) by 3.6%.

(4) Annually, at least 30 days before the first day of the legislative general session, the Department of Workforce Services shall report the estimated revenue growth from targeted jobs to:

(a) the Office of the Legislative Fiscal Analyst; and

(b) the Division of Finance.

Section 3. Section 53B-10-201 is amended to read:

53B-10-201. Definitions.

As used in this part:

(1) "Award" means a monetary grant awarded in accordance with Section 53B-10-202.

(2) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student for purposes of the program.

(3) [~~"GO Utah office"~~] "GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(4) "Institution" means an institution of higher education described in Subsection 53B-1-102(1)(a).

(5) "Program" means the Talent Development Award Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by [~~the GO Utah office~~]GOEO under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an award for the current two-year period; or

(b)(i) that was [~~selected~~]identified in accordance with Section 53B-10-203 at the time a recipient received an award; and

(ii)(A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an award.

Section 4. Section 53B-10-203 is amended to read:

53B-10-203. Identification of qualifying jobs and qualifying degrees.

(1) Every other year, [~~the GO Utah office~~]GOEO shall [~~select~~]identify:

(a) five qualifying jobs that:

(i) have the highest demand for new employees; and

(ii) offer high wages; and

(b) the qualifying degrees for each qualifying job.

(2) [~~The GO Utah office~~]GOEO shall:

(a) ensure that each qualifying job:

(i) ranks in the top 40% of jobs based on an employment index that considers the job's growth rate and total openings;

(ii) ranks in the top 40% of jobs for wages; and

(iii) requires an associate's degree or a bachelor's degree; and

(b) report the five qualifying jobs and qualifying degrees to the board.

Section 5. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) [~~"GO Utah office"~~]"GOEO" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of [~~the GO Utah office~~]GOEO provide to [~~the GO Utah office~~]GOEO all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), [~~the GO Utah office~~]GOEO may not request and the commission may not provide to [~~the GO Utah office~~]GOEO a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to [~~the GO Utah office~~]GOEO, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of [~~the GO Utah office~~]GOEO provide to [~~the GO Utah office~~]GOEO other tax information.

(B) Before providing other tax information to [~~the GO Utah office~~]GOEO, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) [~~The GO Utah office~~]GOEO may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from [~~the GO Utah office~~]GOEO under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if [~~the GO Utah office~~]GOEO received the tax information from the commission in accordance with this Subsection (4)(n).

(B) [~~The GO Utah office~~]GOEO may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information [~~the GO Utah office~~]GOEO provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), [~~the GO Utah office~~]GOEO, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 6. Section 63G-6a-804 is amended to read:

63G-6a-804. Purchase of prison industry goods.

(1) As used in this section:

(a) "Applicable procurement unit" means a procurement unit that is not:

(i) a political subdivision of the state; [~~or~~]

(ii) the Utah Schools for the Deaf and the Blind; or

(iii) the Utah Office of Tourism.

(b) "Correctional industries division" means the Division of Correctional Industries, created in Section 64-13a-4.

(c) "Correctional industries director" means the director of the correctional industries division, appointed under Section 64-13a-4.

(2)(a) An applicable procurement unit shall purchase goods and services produced by the correctional industries division as provided in this section.

(b) A procurement unit that is not an applicable procurement unit may, and is encouraged to, purchase goods and services under this section.

(c) A procurement unit is not required to use a standard procurement process to purchase goods or services under this section.

(3) On or before July 1 of each year, the correctional industries director shall:

(a) publish and distribute to all procurement units and other interested public entities a catalog of goods and services produced by the correctional industries division, including a description and price of each item offered for sale; and

(b) update and revise the catalog described in Subsection (3)(a) during the year as the correctional industries director considers necessary.

(4)(a) An applicable procurement unit may not purchase any goods or services provided by the correctional industries division from any other source unless the correctional industries director and the procurement official or, in the case of institutions of higher education, the institutional procurement officer, determine in writing that purchase from the correctional industries division is not feasible due to one of the following circumstances:

(i) the good or service offered by the correctional industries division does not meet the reasonable requirements of the procurement unit;

(ii) the good or service cannot be supplied within a reasonable time by the correctional industries division; or

(iii) the cost of the good or service, including basic price, transportation costs, and other expenses of

acquisition, is not competitive with the cost of procuring the item from another source.

(b) In cases of disagreement under Subsection (4)(a):

(i) the decision may be appealed to a board consisting of:

(A) the director of the Department of Corrections;

(B) the director of Administrative Services; and

(C) a neutral third party agreed upon by the other two members of the board;

(ii) in the case of an institution of higher education of the state, the president of the institution, or the president's designee, shall make the final decision; or

(iii) in the case of any of the following entities, a person designated by the rulemaking authority shall make the final decision:

(A) a legislative procurement unit;

(B) a judicial procurement unit; or

(C) a public transit district.

Section 7. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection [~~63N-8-103(3)(c)~~] 63N-8-103(3)(b), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 8. Section 63N-1a-102 is amended to read:

63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the [~~GO Utah~~]GOEO board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the [~~GO Utah~~]GOEO board.

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

(4) "Economic opportunity agency" includes:

(a) the Department of Workforce Services;

(b) the Department of Cultural and Community Engagement;

(c) the Department of Commerce;

(d) the Department of Natural Resources;

(e) the Office of Energy Development;

(f) the State Board of Education;

(g) institutions of higher education;

(h) the Utah Multicultural Commission;

(i) the World Trade Center Utah;

(j) local government entities;

(k) associations of governments;

(l) the Utah League of Cities and Towns;

(m) the Utah Association of Counties;

(n) the Economic Development Corporation of Utah;

(o) the Small Business Administration;

(p) chambers of commerce;

(q) industry associations;

(r) small business development centers; and

(s) other entities identified by the commission or the executive director.

(5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) [~~"GO Utah board"~~]"GOEO board" means the Board of Economic Opportunity created in Section 63N-1a-401.

(8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:

(a) at least 110% of the average wage of the county in which the employment position exists; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office

determines the project is in a county experiencing economic distress.

(9)(a) "Incremental job" means a full-time employment position in the state that:

(i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

(10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

(11) "Office" or ["~~GO Utah office~~"]"GOEO" means the Governor's Office of Economic Opportunity.

(12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

(13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

(14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.

(15) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section 53B-34-102.

(16) "Targeted industry" means an industry or group of industries targeted by the commission under Section 63N-1a-202, for economic development in the state.

Section 9. Section 63N-1a-103 is amended to read:

63N-1a-103. Purpose.

(1) The [~~mission~~]purpose of the Economic Opportunity Act and the entities established [~~herein~~]in the act is to catalyze strategic economic opportunities for all residents of the state with a vision of creating economically thriving communities, businesses, and families throughout the state.

(2) The [~~mission and vision are~~]purpose is realized through targeted efforts that demonstrably improve quality of life, measured by the extent to which the efforts accomplish the following strategic goals:

(a) catalyzing targeted industry growth;

(b) supporting economically thriving communities;

(c) empowering students and workers with market-relevant skills;

(d) stimulating economic growth in rural and multicultural communities through household level efforts; and

(e) securing healthy and resilient ecosystems for current and future generations.

Section 10. Section 63N-1a-201 is amended to read:

63N-1a-201. Creation of commission.

(1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the [~~mission~~]purpose described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the state strategic goals.

(2) The commission consists of:

(a) the following voting members:

(i) the governor, who shall serve as the chair of the commission;

(ii) the executive director, who shall serve as the vice chair of the commission;

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

(iv) the executive director of the Department of Transportation;

(v) the executive director of the Department of Natural Resources;

(vi) the executive director of the Department of Commerce;

(vii) the commissioner of the Department of Agriculture and Food;

(viii) the executive director of the Governor's Office of Planning and Budget;

(ix) the commissioner of higher education;

(x) the state superintendent of public instruction;

(xi) the president of the Senate [~~or the president's designee~~];

(xii) the speaker of the House of Representatives [~~or the speaker's designee~~];

(xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;

(xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and

(xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and

(b) the following non-voting members:

(i) the chief executive officer of World Trade Center Utah;

(ii) the chief executive officer of the Economic Development Corporation of Utah;

(iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission; and

(iv) the chief executive officer of one of the following entities, appointed by the chair of the commission:

(A) the Utah Inland Port Authority created in Section 11-58-201;

(B) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(C) the Military Installation Development Authority created in Section 63H-1-201.

(3)(a) A majority of commission members, not including a vacancy, constitutes a quorum for the [~~purposes~~]purpose of conducting commission business [~~and the~~].

(b) The action of a majority of a quorum constitutes the action of the commission.

(4) The executive director of the office, or the executive director's designee, is the executive director of the commission.

(5) The office shall provide:

(a) office space and administrative staff support for the commission; and

(b) the central leadership and coordination of the commission's efforts in the field of economic development.

(6)(a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

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

Section 11. Section 63N-1a-202 is amended to read:

63N-1a-202. Commission duties.

(1) The commission shall:

(a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:

(i) unifies and coordinates economic development efforts in the state;

(ii) includes key performance indicators for long-term progress toward the state strategic goals;

(iii) establishes reporting and accountability processes for the key performance indicators; and

(iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;

(b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;

(c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;

(d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the [~~mission and vision~~]purpose described in Section 63N-1a-103;

(e) at least once every five years, identify which industries or groups of industries shall be targeted for economic development in the state;

(f) establish strategies for the recruitment and retention of targeted industries while respecting the different needs of rural and urban areas throughout the state;

(g) establish strategies for supporting entrepreneurship and small business development in the state;

(h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

(i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;

(j) support the development of a prepared workforce that can support targeted industries identified by the commission;

(k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;

(l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

(m) study the unique needs of multicultural communities throughout the state and develop

household-level plans to ensure residents of the state can participate in economic opportunities in the state;

(n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;

(o) support an integrated international trade strategy for the state;

(p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and

(q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees, the [~~GO Utah~~]GOEO board, the talent board, and any working groups established under Subsection (2).

(2) The commission may establish working groups as is[~~deemed~~] appropriate to assist and advise the commission on specified topics or issues related to the commission's duties.

(3) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306[,] that includes:

(a) the activity to achieve the statewide economic development strategy;

(b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;

(c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and

(d) any legislative recommendations.

Section 12. Section 63N-1a-301 is amended to read:

63N-1a-301. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Opportunity.

(2) The office is:

(a) responsible for implementing the statewide economic development strategy developed by the commission; and

(b) the industrial and business promotion authority of the state.

(3) The office shall:

(a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;

(b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;

(c) administer and coordinate state and federal economic development grant programs;

(d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

(f) act to create, develop, attract, and retain business, industry, and commerce in the state[~~,~~]:

(i) in accordance with the statewide economic development plan and commission directives; and

(ii) subject to the restrictions in Section 11-41-103;

(g) act to enhance the state's economy;

(h) act to assist strategic industries that are likely to drive future economic growth;

(i) assist communities in the state in developing economic development capacity and coordination with other communities;

(j) identify areas of education and workforce development in the state that can be improved to support economic and business development;

(k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:

(i) enhancing statewide access to entrepreneurship opportunities and small business support;

(ii) focusing industry recruitment and expansion of targeted industries;

(iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and

(iv) assisting communities with technical support to aid those communities in improving economic development opportunities;

(l) submit an annual written report as described in Section 63N-1a-306; and

(m) perform other duties as provided by the Legislature.

(4) [~~In order to perform its~~]To perform the office's duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor,

but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited into the General Fund as dedicated credits of the office.

(6)(a) The office shall:

(i) obtain the advice of the [~~GO Utah~~]GOEO board before implementing a change to a policy, priority, or objective under which the office operates; and

(ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).

(b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 13. Section 63N-1a-401 is amended to read:

63N-1a-401. Creation of Board of Economic Opportunity.

(1)(a) There is created within the office the Board of Economic Opportunity, consisting of [~~15~~]nine members appointed by the chair of the commission, in consultation with the executive director, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies[~~,~~].

(b) The nine members described in Subsection (1)(a) shall include:

(i) one member associated with the state's rural communities;

(ii) one member associated with direct entrepreneurship in the state;

(iii) one member associated with higher education in the state;

(iv) [~~at least five of whom reside in a county of the third, fourth, fifth, or sixth class.~~]five members, other than the members described in Subsections (1)(b)(i) through (iii), that are associated with a targeted industry; and

(v) one at-large member.

[~~(b)~~](c) Notwithstanding the requirements of Subsection (1)(a), the chair of the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

[~~(c)~~](d) The members may not serve more than two full consecutive terms except [~~where~~]when the chair of the commission determines that an additional term is in the best interest of the state.

[~~(2) In appointing members of the board, the chair of the commission shall ensure that:~~]

[~~(a) no more than eight members of the board are from one political party; and~~]

[~~(b) members represent a variety of geographic areas and economic interests of the state.~~]

[~~(3)~~](2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(4) Eight members of the board constitute~~]

(3) A majority of board members, not including a vacancy, constitutes a quorum for conducting board business and exercising board power.

[~~(5)~~](4) The chair of the commission shall select one board member as the board's chair and one member as the board's vice chair.

[~~(6)~~](5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

[~~(7)~~](6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 14. Section 63N-1a-402 is amended to read:

63N-1a-402. Board of Economic Opportunity duties and powers.

(1) The [~~GO Utah~~]GOEO board shall advise and assist the office to:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(b) promote and encourage the development, attraction, expansion, and retention of businesses, industries, and commerce in the state;

(c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce in the state;

(d) act to enhance the state's economy;

(e) develop policies, priorities, and objectives regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

(f) administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state;

(g) ensure that economic development programs are available to all areas of the state in accordance with federal and state law;

(h) identify local, regional, and statewide rural economic development and planning priorities;

(i) understand, through study and input, issues relating to local, regional, and statewide rural economic development, including challenges,

opportunities, best practices, policy, planning, and collaboration; and

[~~(j) make recommendations regarding loans, grants, or other assistance from the Industrial Assistance Account as provided in Section 63N-3-105; and~~]

[~~(k)~~](j) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~GO Utah~~]GOEO board may, in consultation with the executive director, make rules for the conduct of the [~~GO Utah~~]GOEO board's business.

Section 15. Section 63N-1b-404 is amended to read:

63N-1b-404. Annual report.

(1) The subcommittee shall annually prepare a report for inclusion in the commission's report to the office under Subsection [~~63N-1a-202(3)~~]63N-1a-202(4).

(2) The report described in Subsection (1) shall:

(a) describe how the subcommittee fulfilled the subcommittee's statutory purposes and duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 16. Section 63N-2-104.2 is amended to read:

63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or termination.

(1) If the office determines that a business entity is eligible for a tax credit under Section 63N-2-104.1, the office may enter into a written agreement with the business entity that:

(a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;

(b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;

(c) establishes the length of time the business entity may claim a tax credit;

(d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;

(e) requires the business entity to submit to audits for verification of any tax credit claimed; and

(f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.

(2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:

(a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;

(b) consider the following factors:

(i) whether the new commercial project provides vital or specialized support to supply chains;

(ii) whether the new commercial project provides an innovative product, technology, or service;

(iii) the number and wages of new incremental jobs associated with the new commercial project;

(iv) the amount of financial support provided by local government entities for the new commercial project;

(v) the amount of capital expenditures associated with the new commercial project;

(vi) whether the new commercial project returns jobs transferred overseas;

(vii) the rate of unemployment in the county in which the new commercial project is located;

(viii) whether the new commercial project creates a remote work opportunity;

(ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);

(x) whether the business entity commits to hiring Utah workers for the new commercial project;

(xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;

(xii) whether the business entity's headquarters are located within the state;

(xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;

(xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; and

(xv) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and

(c) consult with the [~~GO Utah~~]GOEO board.

(3)[~~(a)~~] In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:

[~~(i)~~](a) authorize a higher or optimized amount of tax credit for a new commercial project located

within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and

[~~(ii)~~](b) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

[~~(b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.~~]

(4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:

(a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;

(b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or

(c) an increase in the business entity's operations that:

(i) is outside the scope of the written agreement or outside the boundaries of a development zone; and

(ii) results in new state revenue not subject to the incentive.

Section 17. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenue, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a)(i) the total estimated amount of new state [~~revenues~~]revenue created from new commercial projects;

(ii) the estimated amount of new state [~~revenues~~]revenue from new commercial projects that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new written agreement that the office entered into since the last report;

(b) the estimated amount of new state [~~revenues~~]revenue that will be generated under each written agreement described in Subsection (2)(a);

(c) the estimated maximum amount of tax credits that a business entity could qualify for under each written agreement described in Subsection (2)(a); and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.

(4) By [~~June 30~~]October 1, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Section 18. Section 63N-2-504 is amended to read:

63N-2-504. Independent review committee.

(1) In accordance with rules adopted by the office under Section 63N-2-509, the [~~GO Utah~~]GOEO board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.

(2) The review committee shall consist of:

(a) one member appointed by the executive director to represent the office;

(b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;

(c) two members appointed by:

(i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

(ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed

under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;

(d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;

(e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;

(f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and

(g) one member appointed by the [~~GO Utah~~]GOEO board.

(3)(a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.

(b) A vacancy may be filled in the same manner as an appointment under Subsection (2).

(4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.

(5) The office shall provide any necessary staff support to the review committee.

Section 19. Section 63N-2-512 is amended to read:

63N-2-512. Hotel Impact Mitigation Fund.

(1) As used in this section:

(a) "Affected hotel" means a hotel built in the state before July 1, 2014.

(b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by [~~the GO Utah board~~]GOEO;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(10);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

(5)(a) In accordance with office rules, [~~the GO Utah board~~]GOEO shall annually pay up to $2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b)(i) If the amount [~~the GO Utah board~~]GOEO pays under Subsection (5)(a) in any year is less than $2,100,000, [~~the GO Utah board~~]GOEO shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between $2,100,000 and the amount paid under Subsection (5)(a).

(ii) [~~The GO Utah board~~]GOEO shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much [~~the GO Utah board~~]GOEO is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Section 20. Section 63N-2-808 is amended to read:

63N-2-808. Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

(1)(a) The office, with advice from the [~~GO Utah~~]GOEO board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.

(b) The agreement described in Subsection (1)(a) shall:

(i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;

(ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and

(iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.

(2)(a) The office, with advice from the [~~GO Utah~~]GOEO board, shall enter into an agreement

with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.

(b) The agreement described in Subsection (2)(a):

(i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;

(iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and

(iv) may require the life science establishment to provide the office with other data that:

(A) ensure compliance with the requirements of this chapter; and

(B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Section 21. Section 63N-3-102 is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Applicant" means an individual, for profit business entity, nonprofit, corporation, partnership, unincorporated association, government entity, executive branch department or division of a department, a political subdivision, a state institution of higher education, or any other administrative unit of the state.

[~~(2)~~](3) "Economic opportunities" means business situations or community circumstances which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state.

[~~(3)~~](4) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

[~~(4)~~](5) "Talent development grant" means a grant awarded under Section 63N-3-112.

Section 22. Section 63N-3-105 is amended to read:

63N-3-105. Qualification for assistance -- Application requirements.

(1) Subject to the requirements of this part, the administrator may provide loans, grants, or other financial assistance from the restricted account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator in a form approved by the administrator; and

(b) meets the qualifications of Subsection (2).

(2) As part of an application for receiving financial assistance under this part, an applicant shall demonstrate the following to the satisfaction of the administrator:

(a) the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the expenditure of money necessitated by the economic opportunity;

(b) how the economic opportunity will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;

(d) for an application for a loan, the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(e) any other criteria the administrator considers appropriate.

(3)(a) The administrator may exempt an applicant from any of the requirements of Subsection (2) if:

(i) the applicant is part of a targeted industry; or

(ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and the applicant's operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state[~~; or~~].

[~~(iii) the GO Utah board recommends awarding a grant to the applicant.~~]

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(1)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

[~~(4) The GO Utah board shall make recommendations to the administrator regarding applications for loans, grants, or other financial assistance from the Industrial Assistance Account.~~]

[~~(5)~~](4) Before awarding any money under this part, the administrator shall:

(a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 23. Section 63N-3-106 is amended to read:

63N-3-106. Structure of loans, grants, and assistance -- Repayment -- Earned credits.

(1)(a) Subject to Subsection (1)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.

(b) Loans made under this part shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.

(c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.

(2)(a) The administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.

(b) The value of the credits described in Subsection (2)(a) shall be based on factors determined by the administrator, including:

(i) the number of Utah jobs created;

(ii) the increased economic activity in Utah; or

(iii) other events and activities that occur as a result of the restricted account assistance.

(3)(a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.

(b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (2).

(4)(a)(i) At the end of each fiscal year, the Division of Finance shall [~~set aside~~]transfer the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (4)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

(ii) [~~The set aside~~]The transfer under Subsection (4)(a)(i) [~~shall be~~]is capped at $50,000,000[~~, at which time no subsequent contributions may be made and any interest accrued above the $50,000,000 cap shall be deposited~~]and the Division of Finance shall deposit any interest accrued above the $50,000,000 cap into the General Fund.

(b) The [~~set aside~~]Division of Finance shall make the transfer required by Subsection (4)(a)[~~ shall be made~~] after the [~~transfer of surplus~~]Division of Finance transfers the General Fund revenue surplus[~~ is made~~]:

(i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;

(ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and

(iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.

(c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Section 24. Section 63N-3-107 is amended to read:

63N-3-107. Agreements.

The administrator shall enter into agreements with each successful applicant that have specific terms and conditions for each loan, grant, or financial assistance under this part, including:

(1) for a loan:

(a) repayment schedules;

(b) interest rates;

(c) specific economic activity required to qualify for the loan or for repayment credits;

(d) collateral or security, if any; and

(e) other terms and conditions considered appropriate by the administrator; and

(2) for a grant or other financial assistance:

(a) requirements for compliance monitoring[~~, for a period of five years~~];

(b) repayment for nonperformance or departure from the state;

(c) collateral or security, if any; and

(d) other terms and conditions considered appropriate by the administrator.

Section 25. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

(1)(a) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

(b) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

[~~(2) In evaluating the economic impact of applications for assistance, the GO Utah board shall use an econometric cost-benefit model.~~]

[~~(3)~~](2) The [~~GO Utah board~~]administrator may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(2).

Section 26. Section 63N-3-112 is amended to read:

63N-3-112. Talent development grants.

(1) A for-profit business that is creating new incremental high paying jobs in the state, may apply to receive a talent development grant from the restricted account.

(2) In accordance with the provisions of this section and in consultation with the [~~GO Utah~~]GOEO board, the administrator may award up to $10,000 per new job created.

(3) The administrator shall designate an application process for a business to apply for the grant.

(4) A business may apply to receive a grant only after each employee has been employed at qualifying wage levels for at least 12 consecutive months.

(5) [~~Money~~]The office shall deduct money granted for a talent development grant under this section[~~shall be deducted~~] from any other money or incentive awarded by the office to the business.

(6) Grants awarded under this section are only to reimburse a business for the costs incurred to recruit, hire, train, and otherwise employ an employee in a newly created job.

(7) [~~A~~]As part of the application process, a business shall submit a hiring and training plan detailing [~~what~~]how the grant money will be used[~~for as part of the application process~~].

(8) The administrator may[~~-only~~] grant an award only up to an amount that is no more than 25% of the estimated costs to be incurred by the business for the costs in the hiring and training plan.

Section 27. Section 63N-3-1101 is amended to read:

63N-3-1101. Definitions.

As used in this part:

(1) "Grant" means a grant awarded under Section 63N-3-1102.

(2) "Program" means the Manufacturing Modernization Grant Program created in Section 63N-3-1102.

(3) "Targeted industry" means an industry or group of industries targeted by the [~~GO Utah~~]GOEO board under Section 63N-3-111 for economic development in the state.

Section 28. Section 63N-3-1102 is amended to read:

63N-3-1102. Manufacturing Modernization Grant Program -- Creation -- Purpose -- Requirements -- Rulemaking -- Report.

(1)(a) There is created the Manufacturing Modernization Grant Program to be administered by the office.

(b) The purpose of the program is to award grants to existing Utah businesses to establish, relocate, retain, or develop manufacturing industry in the state and lessen dependence on manufacturing overseas.

(2)(a) An entity that submits a proposal for a grant to the office shall include details in the proposal regarding:

(i) [~~how the entity plans~~]the entity's plan to use the grant to fulfill the purpose described in Subsection (1)(b);

(ii) any plan to use funding sources in addition to a grant for the proposal; and

(iii) any existing or planned partnerships between the entity and another individual or entity to implement the proposal.

(b) In evaluating a proposal for a grant, the office shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (1)(b);

(ii) the extent to which any additional funding sources or existing or planned partnerships will benefit the proposal; and

(iii) the viability and sustainability of the proposal.

(c) In determining a grant award, the office:

(i) [~~shall~~]may consult with the [~~GO Utah~~]GOEO board; and

(ii) may prioritize a targeted industry or an entity with fewer than 250 employees.

(3) Before receiving the grant, a grant recipient shall enter into a written agreement with the office that specifies:

(a) the grant amount;

(b) the time period and structure for distribution of the grant, including any terms and conditions the recipient is required to meet to receive a distribution; and

(c) the expenses for which the recipient may use the grant, including:

(i) [~~to acquire~~]acquisition of manufacturing equipment;

(ii) production, design, or engineering costs;

(iii) specialized employee training;

(iv) technology upgrades; or

(v) [~~to provide~~]provision of a grant to another individual or entity for the expenses described in Subsections (3)(c)(i) through (iv) or to otherwise fulfill the recipient's proposal.

(4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) the form and process for submitting a proposal to the office for a grant;

(b) [~~which~~]the entities that are eligible to apply for a grant;

(c) the method and formula for determining a grant amount; and

(d) the reporting requirements for a grant recipient.

(5) On or before [~~November 30~~]October 1 of each year, the office shall provide a written report to the Economic Development and Workforce Services Interim Committee regarding:

(a) each grant awarded; and

(b) the economic impact of each grant.

Section 29. Section 63N-3-1301 is enacted to read:

63N-3-1301. Definitions.

Part 13. Innovation in Artificial Intelligence Grant Pilot Program

As used in this part:

(1) "Business entity" means a for-profit or nonprofit organization.

(2) "Pilot program" means the Innovation in Artificial Intelligence Grant Pilot Program created in Section 63N-3-1302.

(3) "Student" means a child enrolled in a public or private school, grades kindergarten through twelfth grade.

Section 30. Section 63N-3-1302 is enacted to read:

63N-3-1302. Innovation in Artificial Intelligence Grant Pilot Program created -- Purpose -- Requirements -- Report.

(1) There is created the Innovation in Artificial Intelligence Grant Pilot Program, to be administered subject to the availability of funds by the office as described in this section.

(2)(a) The purpose of the pilot program is to award a grant to a business entity to develop a program, material, and curriculum to:

(i) teach a course on artificial intelligence to students, with an emphasis on practical training; and

(ii) prepare students for career opportunities in technology.

(b) A business entity that is awarded a grant under this section shall work in partnership with a public or private school.

(3) A business entity that submits an application for a grant to the office shall include the following details in the application:

(a) how the business entity proposes to fulfill the purpose described in Subsection (2)(a);

(b) how the business entity proposes to work with a public or private school, as described in Subsection (2)(b); and

(c) any existing or planned partnership between the business entity and another individual or business entity to implement the proposal in the application.

(4) In evaluating an application for a grant, the office shall consider:

(a) the likelihood that the business entity's proposal will accomplish the purpose described in Subsection (2)(a); and

(b) the overall viability of the proposal.

(5) Before a business entity that has an approved application for a grant may receive grant funds, the business entity shall enter into a written agreement with the office that specifies:

(a) the grant amount; and

(b) the time period and structure for distribution of grant funds, including any terms and conditions the office requires.

(6) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the pilot program, including:

(a) establishing criteria and procedures for applying for and awarding a grant under this section; and

(b) reporting requirements from a business entity after a grant is awarded.

(7) The office shall include an annual written update on the pilot program in the report described in Section 63N-1a-306.

Section 31. Section 63N-4-103 is amended to read:

63N-4-103. Purpose of the Center for Rural Development.

The Center for Rural Development is established to:

(1) foster and support economic development programs and activities for the benefit of rural counties and communities;

(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;

(3) foster and support leadership training programs and activities for the benefit of:

(a) rural leaders in both the public and private sectors;

(b) economic development and planning personnel; and

(c) rural government officials;

(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges;

(5) work to enhance the capacity of [~~the GO Utah office~~]GOEO to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and

(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 32. Section 63N-4-104 is amended to read:

63N-4-104. Duties.

(1) The Center for Rural Development shall:

(a) work to enhance the capacity of the office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

(b) work with the [~~GO Utah~~]GOEO board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah;

(c) assist in administering the Rural Opportunity Program created in Section 63N-4-802; and

(d) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2)[~~(a)~~] The Center for Rural Development may[~~:~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties.

[~~(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;~~]

[~~(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and~~]

[~~(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.~~]

[~~(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).~~]

Section 33. Section 63N-4-105 is amended to read:

63N-4-105. Program manager.

(1) The executive director [~~shall~~]may appoint a director for the Center for Rural Development with the approval of the governor.

(2) The director of the Center for Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.

(3) Upon change of the executive director, the director of the Center for Rural Development may not be dismissed without cause for at least 180 days.

Section 34. Section 63N-7-102 is amended to read:

63N-7-102. Utah Office of Tourism created -- Appointment of managing director -- Responsibilities of tourism office.

(1) There is created within [~~the GO Utah office~~]GOEO the Utah Office of Tourism.

(2)(a) The executive director shall appoint a managing director of the tourism office.

(b) The managing director may, with the approval of the executive director, appoint staff.

(3) The tourism office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, branding, destination development, and destination management program for the state;

(c) receive approval from the board under Subsection 63N-7-202(1)(a) before implementing the program described in Subsection (3)(b);

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and advantages of the state at large;

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the state;

(g) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

(h) ensure that any plan or program developed under this Subsection (3) addresses, but not be limited to, the following policies:

(i) enhancing the state's image;

(ii) promoting the state as a year-round destination;

(iii) encouraging expenditures by visitors to the state; and

(iv) expanding the markets where the state is promoted.

Section 35. Section 63N-8-102 is amended to read:

63N-8-102. Definitions.

As used in this chapter:

(1) "Digital media company" means a company engaged in the production of a digital media project.

(2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

(3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; [~~and~~]

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

(4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

(5) "Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

(6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

(7) "New state [~~revenues~~]revenue" means:

(a) incremental new state sales and use tax [~~revenues~~]revenue generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax [~~revenues~~]revenue that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state [~~revenues~~]revenue generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections (7)(a), (b), and (c).

(8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

(9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

(10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.

(11) "Rural production" means a state-approved production in which at least 75% of the total number of production days occur within:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class that has a national park within or partially within the county's boundaries.

(12) "State-approved production" means a production under Subsections (2) and (5) that is:

(a) approved by the office and ratified by the [~~GO Utah board~~]Board of Tourism Development created in Section 63N-7-201; and

(b) produced in the state by a motion picture company.

(13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(14) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 36. Section 63N-8-103 is amended to read:

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

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

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

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

(d) The office shall:

(i) with the advice of the [~~GO Utah board~~]Board of Tourism Development created in Section 63N-7-201, administer the restricted account; and

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

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

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

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

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

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

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

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

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

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

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

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

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

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

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

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

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

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

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

(ii) provide a digital record of the tax credit certificate to the State Tax Commission.

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

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

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

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

[~~(b) For the fiscal year ending June 30, 2022, the office may issue $8,393,700 in tax credit certificates under this part.~~]

[~~(c)~~](b) For fiscal years 2023 and 2024, in addition to the amount of tax credit certificates authorized under Subsection (3)(a), the office may issue $12,000,000 in tax credit certificates under this part only for rural productions.

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

Section 37. Section 63N-8-104 is amended to read:

63N-8-104. Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.

(1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:

(a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and

(b) criteria for determining the amount of the incentive.

(2) The office shall ensure that those standards include the following:

(a) an incentive may only be issued for a state-approved production by a motion picture company or digital media company;

(b) financing has been obtained and is in place for the production; and

(c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.

(3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.

(4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.

(5)(a) The office, with advice from the [~~GO Utah board~~]Board of Tourism Development created in Section 63N-7-201, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.

(b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:

(i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:

(A) employing a significant percentage of cast and crew from Utah;

(B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits; or

(C) other promotion opportunities as agreed upon by the office and the motion picture company; and

(ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.

(c) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.

(6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):

(a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;

(b) specifies:

(i) the nature of the incentive; and

(ii) the maximum amount of the motion picture incentive that the motion picture company or

digital media company may earn for a taxable year and over the life of the production;

(c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;

(d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and

(e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Section 38. Section 63N-13-305 is amended to read:

63N-13-305. Office oversight over contract performance of facilitator -- Office reports to Legislature.

(1) The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.

(2) Before [~~November 15~~]October 1 of each year, the office shall provide an annual report to the Economic Development and Workforce Services Interim Committee of the facilitator's activities under this part.

Section 39. Section 63N-16-301 is amended to read:

63N-16-301. Regulatory relief web page.

(1) The regulatory relief office shall create and maintain on [~~the GO Utah office's~~]GOEO's website a web page that invites residents and businesses in the state to make suggestions regarding laws and regulations that could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state.

(2) On at least a quarterly basis, the regulatory relief office shall compile the results of suggestions from the web page and provide a written report to the governor, the Business and Labor Interim Committee, and the Economic Development and Workforce Services Interim Committee that describes the most common suggestions.

(3) In creating the report described in Subsection (2), the regulatory relief office and the advisory committee:

(a) shall ensure that private information of residents and businesses that make suggestions on the web page is not made public; and

(b) may evaluate the suggestions and provide analysis and suggestions regarding which state laws and regulations could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state while still protecting consumers.

Section 40. Section 63N-17-102 is amended to read:

63N-17-102. Definitions.

As used in this chapter:

(1) "Broadband center" means the Utah Broadband Center created in Section 63N-17-201.

[~~(2) "Eligible applicant" means:~~]

[~~(a) a telecommunications provider or an Internet service provider;~~]

[~~(b) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or~~]

[~~(c) a tribal government.~~]

(2) "Final proposal" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(4).

(3) "Initial proposal" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(3).

(4) "Letter of intent" means the submission provided by the state to the Assistant Secretary of Commerce for Communications and Information as part of the state's BEAD Application, as set forth in 47 U.S.C. Sec. 1702(e)(1)(B).

[~~(3)~~](5) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(6) "Subgrantee" means an entity that receives funds from the state under:

(a) the Broadband Access Grant Program created in Section 63N-17-301; or

(b) the Broadband Equity Access and Deployment Grant Program created in Section 63N-17-401.

(7) "State BEAD application" means a submission by the state for a grant under the federal Broadband Equity Access and Deployment Program established under 47 U.S.C. Sec. 1702(b), consisting of a letter of intent, initial proposal, and final proposal.

[~~(4) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.~~]

[~~(5) "Unserved area" means an area of the state that is rural and unserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.~~]

Section 41. Section 63N-17-201 is amended to read:

63N-17-201. Utah Broadband Center -- Creation -- Director -- Duties.

(1) There is created within the office the Utah Broadband Center.

(2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.

(3) The broadband center shall:

(a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;

(b) develop the statewide digital connectivity plan described in Section 63N-17-203;

(c) carry out the duties described in Section 63N-17-202; [~~and~~]

(d) administer the Broadband Access Grant Program in accordance with Part 3, Broadband Access Grant Program[~~.~~]; and

(e) administer the Broadband Equity Access and Deployment Grant Program in accordance with Part 4, Broadband Equity Access and Deployment Program.

[~~(e)~~](f) The broadband center shall ensure efficiency with respect to:

(i) expenditure of funds; and

(ii) avoiding duplication of efforts.

[~~(f)~~](g) The broadband center shall consider administering broadband infrastructure funds in a manner that:

(i) efficiently maximizes the leverage of federal funding;

(ii) avoids the use of public funds for broadband facilities that duplicate existing broadband facilities that already meet or exceed federal standards; and

(iii) accounts for the benefits and costs to the state of existing facilities, equipment, and services of public and private broadband providers.

Section 42. Section 63N-17-202 is amended to read:

63N-17-202. Infrastructure and broadband coordination.

(1) The broadband center shall partner with the Utah Geospatial Resource Center created in Section 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:

(a) voluntarily submitted broadband availability, speeds, and other broadband data;

(b) voluntarily submitted public utility data;

(c) workforce data, including information regarding:

(i) enterprise zones designated under Section 63N-2-206;

(ii) public institutions of higher education; and

(iii) APEX accelerators;

(d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;

(e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and

(f) other relevant economic development data as determined by the office, including data provided by partner organizations.

(2) The broadband center may:

(a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;

(b) facilitate coordination between broadband providers and public and private entities;

(c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;

(d) create a voluntary broadband [~~advisory committee~~]alliance, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;

(e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and

(f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:

(i) apply for federal grants;

(ii) participate in federal programs; and

(iii) administer federally funded broadband-related programs.

Section 43. Section 63N-17-203 is amended to read:

63N-17-203. Statewide digital connectivity plan.

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

[~~(a)~~](1) "Commission" means the Utah Broadband Center Advisory Commission created in Section 36-29-109.

[~~(b)~~](2) "Strategic plan" means the statewide digital connectivity plan created in [~~Subsection (2)~~]accordance with Subsections (2) and (3).

[~~(2)~~](3) The broadband center shall develop the [~~statewide digital connectivity~~]strategic plan.

[~~(3)~~](4) The strategic plan shall include strategies to:

(a) implement broadband connectivity statewide;

(b) promote digital equity;

(c) apply for federal infrastructure funds; and

(d) apply for additional funds.

[~~(4)~~](5) In developing the strategic plan, the broadband center shall work with the commission.

[~~(5)~~](6) The broadband center shall provide the commission with quarterly status updates regarding:

(a) implementation of the commission's recommendations;

(b) [~~recommendations the center has received from the Transportation Commission, created in Section 72-1-301;~~]the grant programs created in Sections 63N-17-301 and 63N-17-401, including:

(i) applications received for grant funding;

(ii) grant awards about to be made by the broadband center;

(iii) grant awards made by the broadband center; and

(iv) projects implemented with grant funding;

(c) strategic plan development;

(d) strategic plan implementation;

(e) grants received in addition to those described in Subsection (6)(b);

(f) projects funded in addition to those described in Subsection (6)(b); and

(g) recommendations for legislation.

[~~(6)~~](7) The broadband center shall submit the strategic plan to the commission for the commission's recommendation before finalizing the strategic plan.

[~~(7)~~](8) On or before [~~November 30~~]October 1 of each year, the broadband center shall report to the commission and the Public Utilities, Energy, and Technology Interim Committee regarding[~~ the~~] status updates[~~ described in Subsection (5)~~].

Section 44. Section 63N-17-301 is amended to read:

63N-17-301. Creation of Broadband Access Grant Program.

(1) As used in this part:

(a) "Eligible applicant" means:

(i) a telecommunications provider or an Internet service provider;

(ii) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or

(iii) a tribal government.

(b) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

(c) "Unserved area" means an area of the state that is unserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

(2) There is established a grant program known as the Broadband Access Grant Program that is administered by the broadband center in accordance with this part.

[~~(2)~~](3)(a) The broadband center may award a grant under this part to an eligible applicant [~~who~~]that submits to the broadband center an application that includes a proposed project to extend broadband service to individuals and businesses in an unserved area or an underserved area by providing last-mile connections to end users.

(b) Subsection [~~(2)(a)~~](3)(a) does not prohibit the broadband center from awarding a grant for a proposed project that also includes middle-mile elements that are necessary for the last-mile connections.

[~~(3)~~](4) In awarding grants under this part, the broadband center shall:

(a) based on the following criteria and in the order provided, prioritize proposed projects:

(i) located in unserved areas;

(ii) located in underserved areas;

(iii)(A) that the eligible applicant developed after meaningful engagement with the impacted community to identify the community's needs and innovative means of providing a public benefit that addresses the community's needs; and

(B) that include, as a component of the proposed project, a long-term public benefit to the impacted community developed in response to the eligible applicant's engagement with the community;

(iv) located in an economically distressed area of the state, as measured by indices of unemployment, poverty, or population loss;

(v) that make the greatest investment in last-mile connections;

(vi) that provide higher speed broadband access to end users; and

(vii) for which the eligible applicant provides at least 25% of the money needed for the proposed project, with higher priority to proposed projects for which the eligible applicant provides a greater percentage of the money needed for the proposed project; and

(b) consider the impact of available funding for the proposed project from other sources, including money from matching federal grant programs.

[~~(4) The broadband center may not award a grant under this part that exceeds $7,500,000.~~]

(5) For a project that the eligible applicant cannot complete in a single fiscal year, the broadband center may distribute grant proceeds for the project over the course of the project's construction.

[~~(6) In awarding grants under this part, the broadband center shall ensure that grant funds are not used in a manner that causes competition among projects that are substantially supported by state funds, as determined in accordance with rule made by the broadband center.~~]

[~~(7)~~](6) In awarding a grant under this part, the broadband center shall ensure that grant funds are not used by a subgrantee in a manner that causes competition among projects that are substantially supported by state funds or federal funds subgranted by the state, as determine in accordance with rules made by the broadband center in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) As provided in and subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, a record submitted to the broadband center that contains a trade secret or confidential commercial information described in Subsection 63G-2-305(2) is a protected record.

Section 45. Section 63N-17-401 is enacted to read:

63N-17-401. Creation of Broadband Equity Access and Deployment Grant Program.

Part 4. Broadband Equity Access and Deployment Grant Program

(1) There is established a grant program known as the Broadband Equity Access and Deployment Grant Program that is administered by the broadband center in accordance with:

(a) this part; and

(b) the requirements of the National Telecommunications and Information Administration's Broadband Equity Access and Deployment Program, 47 U.S.C. Sec. 1702 et seq.

(2) The broadband center shall:

(a) prepare and submit the state's Broadband Equity Access and Deployment application, including the letter of intent, initial proposal, and final proposal to the National Telecommunications and Information Administration;

(b) administer the Broadband Equity Access and Deployment Grant Program in accordance with this section and as approved by the National Telecommunications and Information Administration;

(c) accept and process an application for subgranted funds;

(d) report to the broadband commission quarterly on:

(i) the progress of the broadband center's submission described in Subsection (2)(a);

(ii) the administration of the program;

(iii) applications received for subgranted funding;

(iv) approved applications for subgranted funds; and

(v) projects supported by subgranted funds;

(e) ensure that a subgrantee complies with the state's final proposal to the National Telecommunications and Information Administration; and

(f) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(3) The broadband commission shall give the broadband center recommendations during the quarterly reports described in Subsection (2)(d).

(4) The broadband center may approve an application for subgranted funds if:

(a) the application meets the requirements of this section;

(b) the application meets any rule made pursuant to this section;

(c) the application meets the requirements of the National Telecommunications and Information Administration's Broadband Equity Access and Deployment Program, 47 U.S.C. Sec. 1702 et seq.; and

(d) the broadband center has informed the broadband commission about the application, as described in Subsection (2)(d).

(5) After the broadband center completes a competitive application process for subgranted funds but before the broadband center notifies the applicant of the award, the broadband center shall present to the broadband commission on the subgrant award.

Section 46. Repealer.

This bill repeals:

Section 63N-1a-101, Title.

Section 63N-17-101, Title.

Section 47. Effective date.

This bill takes effect on May 1, 2024.

Section 48. Revisor instructions.

The Legislature intends that, on May 1, 2024, all references to the term "GO Utah" change to "GOEO" in any new language added to the Utah Code by legislation that passes in the 2024 General Session and becomes law.

CHAPTER 160
H. B. 308
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIME VICTIM AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to victims of crime.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Office for Victims of Crime to provide a law enforcement agency with educational materials regarding sexual assault victims;
- amends the duties of the Utah Council on Victims of Crime;
- amends the duties of the Utah Victim Services Commission;
- creates a victim rights committee in each judicial district of the state;
- establishes the membership of a victim rights committee;
- creates a process for submitting a complaint alleging a violation of a victim's right;
- clarifies the relief that a victim may seek from a court for a violation of a victim's right;
- clarifies that a defendant may not seek relief from a court for a violation of victim's rights;
- requires a prosecuting attorney to consult with, and receive a request from, a victim before a criminal action involving a domestic violence offense is transferred from the justice court to the district court;
- repeals a statute on district victims' rights committees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
63M-7-502, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430
63M-7-603, as last amended by Laws of Utah 2021, Chapter 172
63M-7-904, as enacted by Laws of Utah 2023, Chapter 150
77-38-11, as last amended by Laws of Utah 2010, Chapter 331
78A-7-106, as last amended by Laws of Utah 2023, Chapter 34

ENACTS:
63M-7-506.5, Utah Code Annotated 1953
63M-7-1001, Utah Code Annotated 1953
63M-7-1002, Utah Code Annotated 1953
63M-7-1003, Utah Code Annotated 1953

REPEALS:
77-37-5, as last amended by Laws of Utah 2023, Chapter 237

Sections affected by Coordination Clause:
63M-7-904, as enacted by Laws of Utah 2023, Chapter 15012

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

Section 1. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(6) "Child" means an unemancipated individual who is under 18 years old.

(7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except

in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(9)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement agency" means a public or private agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision of this state.

[~~(20)~~](21) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(21)~~](22)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

[~~(22)~~](23) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(23)~~](24) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(24)~~](25) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

[~~(25)~~](26) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(26)~~](27) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

[~~(27)~~](28) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

[~~(28)~~](29) "Offense" means a violation of Title 76, Utah Criminal Code.

[~~(29)~~](30) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[~~(30)~~](31) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

[~~(31)~~](32) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(32)~~](33) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(33)~~](34)(a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(34)~~](35) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(35)~~](36)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(36)~~](37) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(37)~~](38) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~](39) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(39)~~](40) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(40)~~](41) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

[~~(41)~~](42) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(42)~~](43) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(43)~~](44)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(44)~~](45) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 2. Section 63M-7-506.5 is enacted to read:

63M-7-506.5. Duties of the office.

The office shall provide educational materials to a law enforcement agency to assist the law enforcement agency with informing a victim of a sexual assault of the victim's right to request

testing of the victim and of the offender alleged to have committed the sexual assault as described in Section 53-10-802.

Section 3. Section 63M-7-603 is amended to read:

63M-7-603. Duties of the council.

(1) The council shall:

(a) make recommendations to the Legislature, the governor, and the Judicial Council on the following:

(i) enforcing existing rights of victims of crime;

(ii) enhancing rights of victims of crime;

(iii) the role of victims of crime in the criminal justice system;

(iv) victim restitution;

(v) educating and training criminal justice professionals on the rights of victims of crime; and

(vi) enhancing services to victims of crimes; and

(b) provide training on the rights of victims of crime[~~; and~~].

[~~(c) establish a subcommittee to consider complaints not resolved by the Victims' Rights Committee established in Section 77-37-5.~~]

(2) The council:

(a) shall advocate the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(b) subject to court rules and the governor's approval, may advocate in appellate courts on behalf of a victim of crime as described in Subsection 77-38-11(2)(a)(ii); and

(c) may establish additional subcommittees to assist in accomplishing its duties[~~; and~~].

[~~(d) shall select and appoint individuals in accordance with Section 77-37-5 to act as chairpersons of the judicial district victims' rights committees and provide assistance to the committees in their operations.~~]

Section 4. Section 63M-7-904 is amended to read:

63M-7-904. Duties of the commission -- Report.

(1) The commission shall, in partnership with state agencies and organizations, including the Children's Justice Center Program, the Utah Office for Victims of Crime, the Utah Council on Victims of Crime, and the Division of Child and Family Services:

(a) review and assess the duties and practices of the State Commission on Criminal and Juvenile Justice regarding services and criminal justice policies pertaining to victims;

(b) encourage and facilitate the development and coordination of trauma-informed services for crime victims throughout the state;

(c) encourage and foster public and private partnerships for the purpose of:

(i) assessing needs for crime victim services throughout the state;

(ii) developing crime victim services and resources throughout the state; and

(iii) coordinating crime victim services and resources throughout the state;

(d) generate unity for ongoing efforts to reduce and eliminate the impact of crime on victims through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(e) recommend and support the creation, dissemination, and implementation of statewide policies and plans to address crimes, including domestic violence, sexual violence, child abuse, and driving under the influence of drugs and alcohol;

(f) develop a systematic process and clearinghouse for the collection and dissemination of data on domestic violence and sexual violence;

(g) collect information on statewide funding for crime victim services and prevention efforts, including the sources, disbursement, and outcomes of statewide funding for crime victim services and prevention efforts;

(h) consider recommendations from any subcommittee of the commission; and

(i) make recommendations regarding:

(i) the duties and practices of the State Commission on Criminal and Juvenile Justice to ensure that:

(A) crime victims are a vital part of the criminal justice system of the state;

(B) all crime victims and witnesses are treated with dignity, respect, courtesy, and sensitivity; and

(C) the rights of crime victims and witnesses are honored and protected by law in a manner no less vigorous than protections afforded to criminal defendants; and

(ii) statewide funding for crime victim services and prevention efforts.

(2) The commission may[~~-~~]:

(a) recommend to the Legislature the services to be funded by the Victim Services Restricted Account[~~.~~];

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the process by which a victim, or a representative of a victim, may submit a complaint alleging a violation of the victim's rights; and

(c) review any action taken by a victim rights committee created in accordance with Section 63M-7-1002.

(3) The commission shall report the commission's recommendations annually to the State Commission on Criminal and Juvenile Justice, the governor, the Judicial Council, the Executive

Offices and Criminal Justice Appropriations Subcommittee, the Health and Human Services Interim Committee, the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee.

(4) When taking an action or making a recommendation, the commission shall respect that a state agency is bound to follow state law and may have duties or responsibilities imposed by state law.

Section 5. Section 63M-7-1001 is enacted to read:

63M-7-1001. Definitions.

Part 10. Victim Rights Committees

As used in this part:

(1) "Committee" means a victim rights committee established in each judicial district as described in Section 63M-7-1002.

(2) "Victim Services Commission" means the Utah Victim Services Commission established in Section 63M-7-902.

(3)(a) "Criminal justice agency" means an agency that is directly involved in the apprehension, prosecution, incarceration, or supervision of an individual involved in criminal conduct.

(b) "Criminal justice agency" includes:

(i) a law enforcement agency as defined in Section 63M-7-502;

(ii) a prosecuting agency;

(iii) the Department of Corrections created in Section 64-13-2; or

(iv) the Board of Pardons and Parole created in Section 77-27-2.

(4) "Member" means an individual appointed to a committee.

(5) "Representative of a victim" means the same as that term is defined in Section 77-38-2.

(6)(a) "Victim" means an individual against whom criminal conduct has allegedly been committed.

(b) "Victim" does not include an individual who is an accomplice or codefendant to criminal conduct.

(7) "Victim advocate" means the same as that term is defined in Section 77-37-403.

(8) "Victim's rights" means the rights afforded to a victim under Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section 28.

Section 6. Section 63M-7-1002 is enacted to read:

63M-7-1002. Victim rights committee for each judicial district -- Members -- Terms.

(1) There is created a victim rights committee in each judicial district of this state.

(2) The Victim Services Commission shall appoint a chair to serve on each committee.

(3) The chair shall appoint, with the Victim Services Commission's consent, the following individuals to serve on each committee:

(a) a county or district attorney within the judicial district, or the county or district attorney's designee;

(b) a municipal attorney within the judicial district, or the municipal attorney's designee;

(c) a sheriff within the judicial district, or the sheriff's designee;

(d) a chief of police within the judicial district, or the chief of police's designee;

(e) a representative of the Division of Adult Probation and Parole within the Department of Corrections;

(f) a victim advocate; and

(g) any other representative as appropriate.

(4) A member is:

(a) appointed to serve a four-year term; and

(b) eligible for reappointment.

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

(6) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 63M-7-1003 is enacted to read:

63M-7-1003. Complaint of violation of victim rights -- Criminal justice agency policy about complaints.

(1)(a) When a committee receives a complaint, the committee shall review the complaint to determine whether the complaint alleges a violation of a victim's rights.

(b) If a complaint alleges a violation of a victim's rights in another judicial district, the committee shall forward the complaint to the judicial district where the violation allegedly occurred.

(2)(a) If the committee receives a complaint that does not allege a violation of a victim's rights, the committee shall send a letter to the victim, or the representative of a victim:

(i) explaining that the committee may only address a violation of the victim's rights; and

(ii) describing any other resources that may be available to the victim or the representative of the victim.

(b) The committee shall send the letter described in Subsection (2)(a) within 30 days after the day on which the committee receives the complaint.

(3) If the complaint does allege a violation of a victim's rights, the committee shall forward a copy of the complaint to the person that is the subject of the complaint.

(4) The committee shall schedule a meeting for the committee to review the complaint as soon as practicable.

(5) If a criminal justice agency investigates a complaint regarding a violation of a victim's rights and the committee receives a complaint about the same violation, the criminal justice agency shall provide the criminal justice agency's investigative findings related to the complaint to the committee.

(6) After reviewing the complaint and any findings submitted by a criminal justice agency under Subsection (5), the committee may:

(a) inform the person of a victim's rights and the obligations required by law;

(b) refer the victim, or the representative of a victim, to other resources in the community; or

(c) inform the victim, or the representative of a victim, of the victim's rights and remedies described in Title 77, Chapter 37, Victims' Rights, Title 77, Chapter 38, Crime Victims, and Utah Constitution, Article I, Section 28.

(7) Within 30 days after the day on which the committee meeting is held, the chair of the committee shall send a letter to the victim, or the representative of a victim, describing any action taken by the committee.

(8) A criminal justice agency shall establish a policy for addressing a complaint alleging a violation of a victim's rights.

Section 8. Section 77-38-11 is amended to read:

77-38-11. Enforcement -- Appellate review -- No right to money damages.

(1) If a person acting under color of state law allegedly violates the rights of a victim described in this chapter, Chapter 37, Victims' Rights, or Utah Constitution, Article I, Section 28, the victim, or a representative of a victim, may file a complaint with a victim rights committee as described in Section 63M-7-1003.

[~~(1)~~](2) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief, including prospective injunctive relief, may be brought against the individual and the governmental entity that employs the individual.

[~~(2)~~](3)(a) The victim of a crime or representative of a victim of a crime[~~, including any Victims' Rights Committee as defined in Section 77-37-5~~] may:

(i) bring an action for declaratory relief or for a writ of mandamus defining or enforcing the rights of victims and the obligations of government entities under this chapter;

(ii) petition to file an amicus brief in any court in any case affecting crime victims; and

(iii) after giving notice to the prosecution and the defense, seek an appropriate remedy for a violation of a victim's right from the [~~judge~~]court assigned to the case involving the issue[~~ as provided in Section 77-38-11~~].

(b) Adverse rulings on these actions or on a motion or request brought by a victim of a crime or a representative of a victim of a crime may be appealed under the rules governing appellate actions, provided that an appeal may not constitute grounds for delaying any criminal or juvenile proceeding.

(c) An appellate court shall review all properly presented issues, including issues that are capable of repetition but would otherwise evade review.

[~~(3)~~](4)(a) Upon a showing that the victim has not unduly delayed in seeking to protect the victim's right, and after hearing from the prosecution and the defense, the [~~judge~~]court shall determine whether a right of the victim has been violated.

(b) If the [~~judge~~]court determines that a victim's right has been violated, the [~~judge shall proceed to~~]court shall:

(i) determine the appropriate remedy for the violation of the victim's right by hearing from the victim and the parties[~~,~~]and considering all factors relevant to the issue[~~, and then awarding~~]; and

(ii) award an appropriate remedy to the victim.

(5)(a) The court shall[~~-~~]:

(i) reconsider any judicial decision or judgment affected by a violation of the victim's right; and

(ii) [~~determine whether, ~~]upon affording the victim the right and further hearing from the prosecution and the defense, determine whether the decision or judgment would have been different.

(b) If the court's decision or judgment would have been different, the court shall enter the new different decision or judgment as the appropriate remedy.

(c) If necessary to protect the victim's right, [~~the new decision or judgment shall be entered ~~]the court shall enter the new decision or judgment nunc pro tunc to the time the first decision or judgment was reached.

(d) In no event shall the appropriate remedy be a new trial, damages, attorney fees, or costs.

[~~(c)~~](6)(a) The appropriate remedy under Subsection (4) or (5) shall include only actions necessary to provide the victim the right to which the victim was entitled[~~ and~~].

(b) The appropriate remedy under Subsection (4) or (5) may include reopening previously held proceedings.

(7)(a) Subject to Subsection [~~(3)(d) ~~](7)(c), the court may reopen a sentence or a previously entered guilty or no contest plea only if [~~doing so ~~]reopening the sentence or plea:

(i) would not preclude continued prosecution or sentencing the defendant; and

(ii) would not otherwise permit the defendant to escape justice.

(b) [~~Any remedy shall be tailored~~]The court shall tailor a remedy to provide the victim with an appropriate remedy without violating any constitutional right of the defendant.

[~~(d)~~](c) If the court sets aside a previously entered plea of guilty or no contest, and [~~thereafter~~]the continued prosecution of the charge is held to be prevented by the defendant's having been previously put in jeopardy, the order setting aside the plea is void and the plea is reinstated as of the date of [~~its~~]the plea's original entry.

[~~(e)~~](d) The court may not award as a remedy the dismissal of any criminal charge.

[~~(f)~~](e) The court may not award any remedy if the proceeding that the victim is challenging occurred more than 90 days before the day on which the victim filed an action alleging the violation of the right.

[~~(4)~~](8) The failure to provide the rights in this chapter or [~~Title 77, Chapter 37, Victims' Rights~~]Chapter 37, Victims' Rights, shall not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

(9) A defendant convicted of an offense may not bring an action or complaint concerning a violation of this chapter or Chapter 37, Victims' Rights.

Section 9. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1)(a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3)(a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6)(a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a notice of transfer is filed by the prosecuting attorney, the prosecuting attorney shall certify in the notice of transfer that:

(i) the prosecuting attorney, or a representative from the prosecuting attorney's office, has consulted with all alleged victims about transferring the criminal action to the district court; and

(ii) an alleged victim requested the transfer of the criminal action to the district court.

(d) The justice court shall transfer a criminal action to the district court if the justice court receives a notice of transfer from:

(i) the defendant as described in Subsection (6)(b); or

(ii) the prosecuting attorney as described in Subsection (6)(b) and the prosecuting attorney's notice of intent complies with Subsection (6)(c).

[~~(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.~~]

Section 10. Repealer.

This bill repeals:

Section 77-37-5, Remedies -- District Victims' Rights Committee.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

Section 12. Coordinating H.B. 308 with H.B. 532.

If H.B. 308, Crime Victim Amendments, and H.B. 532, State Boards and Commissions Modifications, both pass and become law, the Legislature intends that, on December 31, 2024, the following language replace Subsection 63M-7-904(3)(d) enacted in H.B. 532:

"(d) review any action taken by a victim rights committee created in accordance with Section 63M-7-1002.".

CHAPTER 161
H. B. 318
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

DECENTRALIZED AUTONOMOUS ORGANIZATION ACT AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes changes to the Decentralized Autonomous Organization Act.

Highlighted Provisions:

This bill:

- clarifies that the Division of Corporations and Commercial Code files a decentralized autonomous organization's certificate of organization and does not issue a certificate of organization;
- makes modifications to the permitted names of a decentralized autonomous organization to align with permitted names for other entities formed in the state; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

48-5-103, as enacted by Laws of Utah 2023, Chapter 85
48-5-105, as enacted by Laws of Utah 2023, Chapter 85
48-5-201, as enacted by Laws of Utah 2023, Chapter 85

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

Section 1. Section 48-5-103 is amended to read:

48-5-103. Powers of the division.

(1)(a) The division may make, amend, or rescind a rule, form, or order when necessary to carry out this chapter.

(b) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division may by rule:

(a) provide the form and content of a registration requirement required under this chapter;

(b) provide the method of determining whether formation requirements described in Section 48-5-201 have been met and when to [~~issue~~]file a certificate of organization; and

(c) identify industry standards for determining whether the decentralized autonomous organization has undergone security review for quality assurance.

Section 2. Section 48-5-105 is amended to read:

48-5-105. Permitted names.

(1)(a) The name of a limited liability decentralized autonomous organization shall contain the words limited liability decentralized autonomous organization or limited decentralized autonomous organization or the abbreviation L.L.D., LLD, L.D., or LD.

(b) Limited may be abbreviated as Ltd., and decentralized autonomous organization may be abbreviated as DAO.

(2) Except as authorized by Subsection (3), the name of a decentralized autonomous organization shall be distinguishable as defined in Subsection (4) upon the records of the division from:

(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or

(b) any tradename, trademark, or service mark registered with the division.

(3)(a) A decentralized autonomous organization may apply to the division for approval to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the name for which the decentralized autonomous organization applies under Subsection (3)(a) if:

(i) the other person with a name that is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) files a form approved by the division to change the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) decentralized autonomous organization;

(ii) DAO;

(iii) limited liability decentralized autonomous organization;

(iv) L.L.D. or L.L.DAO; or

(v) L.D. or L.DAO;

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a decentralized autonomous organization is an agency of this state or any of the state's political subdivisions, if the decentralized autonomous organization is not actually such a legally established agency or subdivision.

(7) The authorization to reserve or register a decentralized autonomous organization name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a decentralized autonomous organization may not contain:

(a) the term:

(i) association;

(ii) corporation;

(iii) incorporated;

(iv) partnership;

(v) limited liability company;

(vi) limited partnership; or

(vii) L.P.;

(b) any word or abbreviation that is of like import to the terms listed in Subsection (8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) Olympic;

(ii) Olympiad; or

(iii) Citius Altius Fortius; or

[~~(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, the terms:~~]

[~~(i) university;~~]

[~~(ii) college; or~~]

[~~(iii) institute or institution; or~~]

[~~(e)~~](d) the number sequence 911.

(9) A person, other than a decentralized autonomous organization formed under this chapter or another decentralized autonomous organization that is authorized to transact business in this state, may not use in the person's name in this state the term:

(a) limited liability decentralized autonomous organization;

(b) limited decentralized autonomous organization;

(c) L.L.DAO or L.L.D; or

(d) L.DAO or L.D.

Section 3. Section 48-5-201 is amended to read:

48-5-201. Formation requirements.

(1)(a) One or more persons may act as organizers to form a decentralized autonomous organization by delivering to the division for filing a certificate of organization.

(b) At least one of the organizers of a decentralized autonomous organization shall be an individual.

(2)(a) A certificate of organization shall provide:

(i) the name of the decentralized autonomous organization, which shall comply with Section [~~48-3a-108~~]48-5-105;

(ii) the name of an organizer that is an individual;

(iii) the street and mailing address of the organizer described in Subsection (2)(a)(ii);

(iv) the name and address of the legal representative; and

(v) the information required by Subsection 16-17-203(1).

(b) An organizer may request that the information provided in Subsections (2)(a)(ii) and (iii) is redacted by the division before any public disclosure of the filing.

(3) A decentralized autonomous organization shall submit evidence to the division in a form required by the division that the decentralized autonomous organization has complied with the following requirements:

(a) the decentralized autonomous organization is deployed on a permissionless blockchain;

(b) the decentralized autonomous organization has a unique public address through which an individual can review and monitor the decentralized autonomous organization's transactions;

(c) the software code of the decentralized autonomous organization is available in a public forum for any person to review;

(d) the software code of the decentralized autonomous organization has undergone quality assurance;

(e) the decentralized autonomous organization has a graphical user interface that:

(i) allows a person to read the value of the key variables of the decentralized autonomous organization's smart contracts;

(ii) allows a person to monitor all transactions originating from, or addressed to, the decentralized autonomous organization's smart contracts;

(iii) specifies the restrictions on a member's ability to redeem tokens;

(iv) makes available the decentralized autonomous organization's by- laws; and

(v) displays the mechanism to contact the administrator of the decentralized autonomous organization;

(f) the governance system of the decentralized autonomous organization is decentralized;

(g) the decentralized autonomous organization has at least one member;

(h)(i) there is a publicly specified communication mechanism that allows a person to contact the registered agent of the decentralized autonomous organization and provide legally recognized service; and

(ii) a member or administrator of the decentralized autonomous organization is able to access the contents of this communication mechanism; and

(i) the decentralized autonomous organization describes or provides a dispute resolution mechanism that is:

(i) binding on the decentralized autonomous organization, the members, and participants of the decentralized autonomous organization; and

(ii) able to resolve disputes with third parties capable of settlement by alternative dispute resolution.

(4) Notwithstanding the requirements of Subsection (3)(e)(iv), a decentralized autonomous organization may redact sensitive information from the by- laws before making the by- laws available, if those redactions are necessary to protect the privacy of individual members or participants in the decentralized autonomous organization.

(5) A decentralized autonomous organization is formed when the decentralized autonomous organization's certificate of organization becomes effective and the decentralized autonomous organization submits the evidence required in Subsection (3).

(6) Upon formation, the decentralized autonomous organization shall have limited liability, subject to the provisions of Section 48- 5- 202.

[~~(7) A decentralized autonomous organization may request a certificate of organization from the division to signify that the decentralized autonomous organization has complied with the requirements for legal personality under this act.~~]

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 162
H. B. 319
Passed February 23, 2024
Approved March 13, 2024
Effective July 1, 2024

EXCHANGE OF CLINICAL HEALTH INFORMATION AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the electronic exchange of clinical health information.

Highlighted Provisions:

This bill:

- adds data analysis and reporting to the scope of functions of the emergency medical services data system;
- clarifies that the Bureau of Emergency Medical Services may share information regarding traffic safety and public safety within the Department of Public Safety;
- authorizes the Department of Public Safety to share clinical health information collected by emergency medical service providers to a qualified network;
- limits the use of clinical health information by an emergency medical service provider to providing and improving the emergency medical service provider's services; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-2d-203, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310

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

Section 1. Section 53-2d-203 is amended to read:

53-2d-203. Data collection.

(1) As used in this section:

(a) "Clinical health information" means the same as that term is defined in Section 26B-8-411.

(b) "Electronic exchange" means the same as that term is defined in Section 26B-8-411.

(c) "Emergency medical service provider" means the same as that term is defined in Section 53-2d-101.

(d) "Emergency medical services" means the same as that term is defined in Section 53-2d-101.

(e) "Qualified network" means the same as that term is defined in Section 26B-8-411.

(2) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection [~~(2)~~](3).

[~~(2)~~](3)(a) The bureau shall establish an emergency medical services data system, which shall provide for the collection, analysis, and reporting of information, as defined by the committee, relating to the response, treatment, and care of patients who use or have used the emergency medical services system.

(b) The committee shall coordinate with the Health Data Authority created in Title 26B, Chapter 8, Part 5, Utah Health Data Authority, to create a report of data collected by the Health Data Committee under Section 26B-8-504 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection [~~(2)(b)(ii)~~](3)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection [~~(2)(b)(iii)(B)~~](3)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The bureau may share, [~~with~~]within the department, information from the emergency medical services data system that:

(i) relates to traffic incidents; and

(ii) is for the improvement of traffic and public safety.

(d) Information shared under Subsection [~~(2)(c)~~](3)(c) may not[~~:~~]

[~~(i)~~] be used for the prosecution of criminal matters[~~; or~~].

[~~(ii) include any personally identifiable information.~~]

(e) Subject to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended:

(i) the department may submit clinical health information about a patient, to a qualified network, via electronic exchange of clinical health information, if:

(A) the electronic exchange of clinical health information meets the standards established by the department under Section 26B-8-411; and

(B) the clinical health information was collected by an emergency medical service provider performing emergency medical services for the provider's patient;

(ii) in connection with providing emergency medical services to a patient, an emergency medical service provider may, through electronic exchange, access the patient's clinical health information that is pertinent to the emergency medical services provided; and

(iii) an emergency medical service provider may use clinical health information only to provide and improve the quality of the emergency medical service provider's services.

[~~(3)~~](4)(a) On or before October 1, the department shall make the information in Subsection [~~(2)(b)~~](3)(b) public and send the information in Subsection [~~(2)(b)~~](3)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection [~~(2)(b)~~](3)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26B-8-506.

[~~(4)~~](5) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection [~~(2)(a)~~](3)(a);

(b) are not required to provide information to the department under Subsection [~~(2)(b)~~](3)(b); and

(c) may provide information to the department under Subsection [~~(2)(b)~~](3)(b) or [~~(3)(b)~~](4)(b).

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 163
H. B. 322
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

SEXUAL ASSAULT INVESTIGATION AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill address sexual assault investigations by law enforcement agencies.

Highlighted Provisions:

This bill:

- requires the Peace Officer Standards and Training Council to establish a model sexual assault investigation policy that can be used by law enforcement agencies;
- requires a law enforcement agency to report to the State Commission on Criminal and Juvenile Justice whether the law enforcement agency has complied with certain statutory requirements regarding sexual assault investigations; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-107, as last amended by Laws of Utah 2022, Chapter 182
53-6-109, as enacted by Laws of Utah 2021, Chapter 316
53-24-102, as enacted by Laws of Utah 2023, Chapter 158

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

Section 1. Section 53-6-107 is amended to read:

53-6-107. General duties of council.

(1) The council shall:

(a) advise the director regarding:

(i) the approval, certification, or revocation of certification of any certified academy established in the state;

(ii) minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;

(iii) minimum qualifications for instructors at a certified academy;

(iv) the minimum basic training requirements that peace officers shall complete before receiving certification;

(v) the minimum basic training requirements that dispatchers shall complete before receiving certification; and

(vi) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;

(b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;

(c) make recommendations and reports to the commissioner and governor from time to time;

(d) choose from the sanctions to be imposed against certified peace officers as provided in Section 53-6-211, and dispatchers as provided in Section 53-6-309;

(e) establish and annually review[~~-~~]:

(i) minimum use of force standards for all peace officers in the state;

[~~(f)~~](ii) [~~establish and annually review~~]minimum standards for officer intervention and the reporting of police misconduct based on Section 53-6-210.5; and

(iii) the best practices for investigating sexual assaults;

(f) in consultation with the Utah Victim Services Commission's subcommittee on rape and sexual assault created in Subsection 63M-7-903(5)(b), create and, if necessary, annually update a model sexual assault investigation policy based on the best practices established in Subsection (1)(e)(iii) that can be adopted and used by a law enforcement agency; and

(g) perform other acts as necessary to carry out the duties of the council in this chapter.

(2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

Section 2. Section 53-6-109 is amended to read:

53-6-109. Mandatory compliance with minimum use of force standards.

Peace officers and the agencies that employ peace officers shall comply with, and enforce compliance with, the minimum use of force standards described in Subsection [~~53-6-107(1)(e)~~]53-6-107(1)(e)(i).

Section 3. Section 53-24-102 is amended to read:

53-24-102. Sexual assault offense reporting requirements for law enforcement agencies.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Sexual assault offense" means:

(i) rape, Section 76-5-402;

(ii) rape of a child, Section 76-5-402.1;

(iii) object rape, Section 76-5-402.2;

(iv) object rape of a child, Section 76-5-402.3;

(v) forcible sodomy, Section 76-5-403;

(vi) sodomy on a child, Section 76-5-403.1;

(vii) forcible sexual abuse, Section 76-5-404;

(viii) sexual abuse of a child, Section 76-5-404.1;

(ix) aggravated sexual abuse of a child, Section 76-5-404.3;

(x) aggravated sexual assault, Section 76-5-405; or

(xi) sexual battery, Section 76-9-702.1.

(2)(a) Beginning January 1, 2025, a law enforcement agency shall[~~.~~]:

(i) annually, on or before April 30, submit a report to the commission for the previous calendar year containing the number of each type of sexual assault offense that:

[~~(i)~~](A) was reported to the law enforcement agency;

[~~(ii)~~](B) was investigated by a detective; and

[~~(iii)~~](C) was referred to a prosecutor for prosecution; and

(ii) submit a report to the commission on whether the law enforcement agency has created and publicly posted on the law enforcement agency's website:

(A) the policy described in Subsection 53-24-101(1)(a); and

(B) the guide described in Subsection 53-24-101(2)(a).

(b) A law enforcement agency shall:

(i) compile the report described in Subsection [~~(2)(a)~~](2)(a)(i) for each calendar year in the standardized format developed by the commission under Subsection (3); and

(ii) publicly post the information reported in Subsection [~~(2)(a)~~](2)(a)(i) on the law enforcement agency's website.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 164
H. B. 328
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

VICTIMS OF SEXUAL OFFENSES AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to victims of sexual offenses.

Highlighted Provisions:

This bill:

- defines terms;
- moves a statute regarding custody and parent-time for a child conceived as a result of a sexual offense;
- amends the requirements for retaining or disposing of a sexual assault kit;
- requires an agency to provide a victim with notice of intent when the agency intends to destroy or dispose of a sexual assault kit;
- addresses the rights for victims of sexual offenses, including rights related to sexual assault kits;
- allows for the termination of parental rights of a parent who was convicted of a sexual offense that resulted in conception of the child when termination is in the best interests of the child; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

30-3-10, as last amended by Laws of Utah 2023, Chapters 44, 327
53-10-902, as renumbered and amended by Laws of Utah 2022, Chapter 430
77-11c-101, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11c-201, as enacted by Laws of Utah 2023, Chapter 448
77-11c-202, as enacted by Laws of Utah 2023, Chapter 448
77-11c-301, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11c-401, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-37-2, as enacted by Laws of Utah 1987, Chapter 194
77-37-3, as last amended by Laws of Utah 2023, Chapter 448
80-4-301, as last amended by Laws of Utah 2022, Chapter 335

REPEALS AND REENACTS:

53-10-905, as renumbered and amended by Laws of Utah 2022, Chapter 430

REPEALS:

76-5-414, as enacted by Laws of Utah 2013, Chapter 193

Sections affected by Coordination Clause:

77-11c-301, as renumbered and amended by Laws of Utah 2023, Chapter 44814
77-11c-302, as enacted in S.B. 76 (2024 General Session)14
77-11c-401, as renumbered and amended by Laws of Utah 2023, Chapter 44814

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

Section 1. Section 30-3-10 is amended to read:

30-3-10. Custody and parent-time of a child -- Custody factors -- Child conceived as a result of a sexual offense.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4)(a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5)(a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b)(i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years old or older shall be given added weight, but is not the single controlling factor.

(c)(i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are service members and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(iii) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(iv) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(11) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the child unless:

(a) the nonconvicted biological parent, or the legal guardian of the child, consents to custody or parent-time and the court determines it is in the best interest of the child to award custody or parent-time to the convicted parent; or

(b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the child.

(12) A denial of custody or parent-time under Subsection (11) does not:

(a) terminate the parental rights of the parent denied parent-time or custody; or

(b) affect the obligation of the convicted parent to financially support the child.

Section 2. Section 53-10-902 is amended to read:

53-10-902. Definitions.

[~~For purposes of~~]As used in this part:

(1) "Collecting facility" means a hospital, health care facility, or other facility that performs sexual assault examinations.

(2) "Department" means the Department of Public Safety.

(3) "Restricted kit" means a sexual assault kit:

(a) that is collected by a collecting facility; and

(b) for which a victim who is 18 years old or older at the time of the sexual assault kit evidence collection declines:

(i) to have his or her sexual assault kit processed; and

(ii) to have the sexual assault examination form shared with any entity outside of the collection facility.

(4) "Sexual assault kit" means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of [~~sexual assault~~]a sexual offense.

(5) "Sexual offense" means the same as that term is defined in Section 77-37-2.

[~~(5)~~](6) "Trauma-informed, victim-centered" means policies, procedures, programs, and practices that:

(a) have demonstrated an ability to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in the life of a victim[~~ of sexual assault or sexual abuse~~]; and

(b) encourage law enforcement officers to interact with victims [~~of sexual assault or sexual abuse~~]with compassion and sensitivity in a nonjudgmental manner.

(7) "Victim" means an individual against whom a sexual offense has been committed or allegedly been committed.

Section 3. Section 53-10-905 is repealed and re-enacted to read:

53-10-905. Sexual assault kit retention and disposal -- Notification.

(1) As used in this section:

(a) "Agency" means the same as that term is defined in Section 77-11a-101.

(b) "Agency" includes an evidence collecting or retaining entity as defined in Section 77-11c-101.

(2) An agency with custody of a sexual assault kit shall preserve the sexual assault kit in accordance with Title 77, Chapter 11c, Retention of Evidence.

(3) An agency shall send a notice to a victim that the agency intends to dispose of a sexual assault kit if:

(a) the agency intends to dispose of the sexual assault kit before the applicable time period described in Section 77-11c-201, 77-11c-301, or 77-11c-401 expires; and

(b) the victim provided a written request to the agency investigating the sexual offense that the victim receive notice of when the agency intends to dispose of the sexual assault kit.

(4) An agency shall send a notice of intent to dispose of a sexual assault kit to the victim:

(a) at least 180 days before the day on which the agency intends to dispose of the sexual assault kit; and

(b) by certified mail, return receipt requested, or a delivery service that provides proof of delivery.

(5) If a victim receives a notice of intent to dispose of a sexual assault kit, the victim may submit a written request, within the 180-day period described in Subsection (4)(a), that the agency retain the sexual assault kit.

(6) A notice of intent to dispose of a sexual assault kit shall provide the victim with information on how to submit a written request described in Subsection (5).

(7) If an agency receives a written request to retain the sexual assault kit from the victim within the 180-day period described in Subsection (4)(a), the agency shall retain the sexual assault kit for the applicable time period described in Section 77-11c-201, 77-11c-301, or 77-11c-401.

Section 4. Section 77-11c-101 is amended to read:

77-11c-101. Definitions.

As used in this chapter:

(1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

(2) "Adjudicated" means that:

(a)(i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

(ii) a sentence has been imposed by the court; or

(b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.

(3) "Adjudication" means:

(a) a judgment of conviction by plea or verdict of an offense; or

(b) an adjudication for an offense by a juvenile court under Section 80-6-701.

(4) "Agency" means the same as that term is defined in Section 77-11a-101.

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

(6)(a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault [~~examination~~]kit; and

(iv) for a violent felony offense, material described in this Subsection (6) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.

(7) "Claimant" means the same as that term is defined in Section 77-11a-101.

(8) "Computer" means the same as that term is defined in Section 77-11a-101.

(9) "Continuous chain of custody" means:

(a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

(b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.

(10) "Contraband" means the same as that term is defined in Section 77-11a-101.

(11) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(12) "Court" means a municipal, county, or state court.

(13) "DNA" means deoxyribonucleic acid.

(14) "DNA profile" means a unique identifier of an individual derived from DNA.

(15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(16) "Evidence" means property, contraband, or an item or substance that:

(a) is seized or collected as part of an investigation or prosecution of an offense; and

(b) may reasonably be used to incriminate or exculpate an individual for an offense.

(17)(a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

(b) "Evidence collecting or retaining entity" includes:

(i) a medical or forensic entity;

(ii) a law enforcement agency;

(iii) a court; and

(iv) an official, employee, or agent of an entity or agency described in this Subsection (17).

(c) "Evidence collecting or retaining entity" does not include a collecting facility as defined in Section 53-10-902.

(18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.

(19) "In custody" means an individual who:

(a) is incarcerated, civilly committed, on parole, or on probation; or

(b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

(21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

(22) "Physical evidence" includes evidence that:

(a) is related to:

(i) an investigation;

(ii) an arrest; or

(iii) a prosecution that resulted in a judgment of conviction; and

(b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

(23) "Property" means the same as that term is defined in Section 77-11a-101.

(24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

(25) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

(26) "Victim" means the same as that term is defined in Section 53-10-902.

[~~(25)~~](27) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.

[~~(26)~~](28) "Wildlife" means the same as that term is defined in Section 23A-1-101.

Section 5. Section 77-11c-201 is amended to read:

77-11c-201. Retention of evidence of misdemeanor offenses.

(1) An agency shall retain evidence of a misdemeanor offense for the longer of:

(a) the length of the statute of limitations for the offense if:

(i) no charges are filed for the offense; or

(ii) the offense remains unsolved;

(b) 60 days after the day on which any individual charged with the offense is acquitted if each individual charged with the offense is acquitted;

(c) 90 days after the day on which any individual is adjudicated for the offense if:

(i) each individual charged with the offense has been adjudicated;

(ii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense; and

(iii) there is no post-trial motion pending in the court:

(A) for a new trial under Rule 24 of the Utah Rules of Criminal Procedure;

(B) to amend or make additional findings of fact under Rule 52(b) of the Utah Rules of Civil Procedure; or

(C) for relief under Rule 60(b) of the Utah Rules of Civil Procedure;

(d) 30 days after the day on which any individual is adjudicated by a district court for the offense on a trial de novo from the justice court if:

(i) each individual charged with the offense has been adjudicated by a justice court or a district court on a trial de novo from the justice court; and

(ii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense; [~~or~~]

(e) 30 days after the day on which an appellate court issues a remittitur for an appeal of any individual adjudicated for the offense if:

(i) the appellate court's final decision upholds the individual's adjudication;

(ii) each individual charged with the offense has been adjudicated; and

(iii) there is no appeal pending in:

(A) an appellate court for any individual adjudicated for the offense; or

(B) the district court for a trial de novo for any individual adjudicated by a justice court for the offense[~~.~~]; or

(f) 20 years from the day on which the evidence is collected if the evidence is a sexual assault kit.

(2) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor offense.

(3) An agency shall ensure that evidence of a misdemeanor offense is subject to a continuous chain of custody.

Section 6. Section 77-11c-202 is amended to read:

77-11c-202. Requirements for not retaining evidence -- Preservation of sufficient evidence.

(1) An agency is not required to retain evidence of a misdemeanor offense under Section 77-11c-201 if:

(a)(i) the agency determines that:

(A) the size, bulk, or physical character of the evidence renders retention impracticable; or

(B) the evidence poses a security or safety problem for the agency;

(ii) the agency preserves sufficient evidence of the property, contraband, item, or substance for use as evidence in a prosecution of the offense in accordance with this section;

(iii) the agency sends a written request under Subsection 77-11c-203(1) to the prosecuting attorney for permission to release or dispose of the evidence; and

(iv) the prosecuting attorney grants the agency's written request in accordance with Section 77-11c-203;

(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or

(c) the evidence is wildlife or parts of wildlife.

(2) Notwithstanding Subsection (1), the agency may not dispose of evidence of a misdemeanor offense that is a sexual assault kit before the day on which the time period described in Section 77-11c-201 expires if:

(a) the agency sends a notice to the victim as described in Section 53-10-905; and

(b) the victim submits a written request for retention of the evidence within the 180-day period described in Section 53-10-905.

[~~(2)~~](3)(a) Subsection (1) does not require an agency to return or dispose of evidence of a misdemeanor offense.

(b) Subsection (1)(a) does not apply when the release or disposal of evidence of a misdemeanor offense is in compliance with a memorandum of understanding between the agency and the prosecuting attorney.

[~~(3)~~](4) If evidence is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

(a) collecting and preserving a sample of the controlled substance and a sample of biological evidence from the controlled substance for independent testing and use as evidence;

(b) taking a photographic or video record of the controlled substance with identifying case numbers;

(c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency; and

(d) if the controlled substance exceeds 10 pounds, retain at least one pound of the controlled substance that is randomly selected from the controlled substance.

[~~(4)~~](5) If evidence is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

(a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency; and

(c) taking a photographic or video record of the drug paraphernalia with identifying case numbers.

[~~(5)~~](6) If evidence is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

(a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense;

(b) collecting a sample of biological evidence from the computer for independent testing and use as evidence; and

(c) taking a photographic or video record of the computer with identifying case numbers.

[~~(6)~~](7) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by:

(a) collecting and preserving a sample of biological evidence from the property, contraband, item, or substance for independent testing and use as evidence; and

(b) taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers.

Section 7. Section 77-11c-301 is amended to read:

77-11c-301. Retention of evidence for felony offenses.

(1) Except as provided in Subsection (4) and Subsection 23A-5-201(3), an agency shall retain evidence of a felony offense:

(a) at the discretion of the prosecuting attorney; or

(b) until all direct appeals and retrials are final.

(2) If the prosecuting attorney decides to retain control over the evidence of the felony offense in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize the disposal of the evidence.

(3) An agency shall ensure that evidence of a felony offense is subject to a continuous chain of custody.

(4) An agency shall retain and preserve biological evidence of a violent felony offense in accordance with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

(5)(a) Notwithstanding Subsection (1), an agency shall retain evidence of a felony offense that is a sexual assault kit for at least 20 years from the day on which the evidence is collected.

(b) An agency may not dispose of evidence of a felony offense that is a sexual assault kit before the day on which the time period described in Subsection (5)(a) expires if:

(i) the agency sends a notice to the victim in accordance with Section 53-10-905; and

(ii) the victim submits a written request for retention of the evidence within the 180-day period described in Section 53-10-905.

Section 8. Section 77-11c-401 is amended to read:

77-11c-401. Preservation of biological evidence -- Procedures -- Inventory request.

(1) Except as provided in Section 77-11c-402, an evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense in accordance with this part.

(2) An evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense[~~:~~] for the longer of:

[~~(a) for the longer of:~~]

[~~(i)~~](a) the length of the statute of limitations for the violent felony offense if:

[~~(A)~~](i) no charges are filed for the violent felony offense; or

[~~(B)~~](ii) the violent felony offense remains unsolved;

[~~(ii)~~](b) the length of time that the individual convicted of the violent felony offense or any lesser included violent offense remains in custody; [~~or~~]

[~~(iii)~~](c) the length of time that a co-defendant remains in custody; or

(d) 20 years from the day on which the biological evidence is the contents of a sexual assault kit.

[~~(b)~~](3) An evidence collecting or retaining entity shall ensure that biological evidence under Subsection (2) is:

(a) preserved in an amount and manner sufficient to:

(i) develop a DNA profile; and

(ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

[~~(c)~~](b) subject to a continuous chain of custody.

[~~(3)~~](4)(a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

(b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection [~~(3)(a)~~](4)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

(i) describes the efforts taken to locate the biological evidence; and

(ii) affirms that the biological evidence could not be located.

[~~(4) The evidence collecting or retaining entity may dispose of biological evidence before the day on which the period described in Subsection (2)(a) expires if:~~]

[~~(a) no other provision of federal or state law requires the evidence collecting or retaining entity to preserve the biological evidence;~~]

[~~(b) the evidence collecting or retaining entity sends notice in accordance with Subsection (5); and~~]

[~~(c) an individual notified under Subsection (5)(a) does not within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (5):~~]

[~~(i) file a motion for testing of the biological evidence under Section 78B-9-301; or~~]

[~~(ii) submit a written request under Subsection (5)(b)(ii).~~]

(5)(a) If the evidence collecting or retaining entity intends to dispose of [~~the~~]biological evidence of a violent felony offense before the day on which the period described in Subsection [~~(2)(a)~~](2) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

[~~(a)~~](i) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

[~~(i)~~](A) an individual who remains in custody based on a criminal conviction related to the biological evidence;

[~~(ii)~~](B) the private attorney or public defender of record for each individual described in Subsection [~~(5)(a)(i)~~](5)(a)(i)(A);

[~~(iii)~~](C) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection [~~(5)(a)(i)~~](5)(a)(i)(A); and

[~~(iv)~~](D) the Utah attorney general; and

[~~(b)~~](ii) explains that the party receiving the notice may:

[~~(i)~~](A) file a motion for testing of biological evidence under Section 78B-9-301 if the party is

the individual convicted of the violent felony offense; or

[~~(ii)~~](B) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

(b) An individual must file a motion, or submit a written request, described in Subsection (5)(a)(ii) within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (5).

(c) An evidence collecting or retaining entity shall send a notice of intent to dispose of biological evidence that is the contents of a sexual assault kit to a victim in accordance with Section 53-10-905.

(6) The evidence collecting or retaining entity may not dispose of biological evidence of a violent felony offense before the day on which the time period described in Subsection (2) expires if:

(a) the evidence collecting or retaining entity is required by federal or state law to preserve the biological evidence; or

(b)(i) the evidence collecting or retaining entity sends notice in accordance with:

(A) Subsection (5); and

(B) Section 53-10-905 if the biological evidence is the contents of a sexual assault kit; and

(ii) an individual notified under Subsection (5)(a) or Section 53-10-905:

(A) files a motion for testing of the biological evidence under Section 78B-9-301 within the 180-day period described in Subsection (5)(b); or

(B) submits a written request for retention of the biological evidence within the 180-day period described in Subsection (5)(b) or Section 53-10-905.

[~~(6)~~](7)(a) Subject to Subsections [~~(6)(b)~~](7)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence[~~ under Subsection (5)(b)(ii)~~], the evidence collecting or retaining entity shall retain the biological evidence [~~while the defendant remains in custody~~]for the time period described in Subsection (2).

(b) Subject to Subsection [~~(6)(c)~~](7)(c), the evidence collecting or retaining entity is not required to preserve physical evidence that may contain biological evidence if the physical evidence's size, bulk, or physical character renders retention impracticable.

(c) If the evidence collecting or retaining entity determines that retention is impracticable, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

(i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

(ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

[~~(7)~~](8) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

(a) retain the biological evidence; or

(b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.

Section 9. Section 77-37-2 is amended to read:

77-37-2. Definitions.

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

(1) "Alleged sexual offender" means the same as that term is defined in Section 53-10-801.

[~~(1)~~](2) "Child" means a person who is younger than 18 years [~~of age~~]old, unless otherwise specified in statute. The rights to information as extended in this chapter also apply to the parents, custodian, or legal guardians of children.

[~~(2)~~](3) "Family member" means spouse, child, sibling, parent, grandparent, or legal guardian.

(4) "HIV infection" means the same as that term is defined in Section 53-10-801.

(5) "Sexual assault kit" means the same as that term is defined in Section 53-10-902.

(6) "Sexual offense" means any conduct described in:

(a) Title 76, Chapter 5, Part 4, Sexual Offenses;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Section 76-7-102, incest;

(d) Section 76-9-702, lewdness; or

(e) Section 76-9-702.1, sexual battery.

(7) "Victim" means an individual, including a minor, against whom an offense has been allegedly committed.

[~~(3) "Victim" means a person against whom a crime has allegedly been committed, or against whom an act has allegedly been committed by a juvenile or incompetent adult, which would have been a crime if committed by a competent adult.~~]

[~~(4)~~](8) "Witness" means any person who has been subpoenaed or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether any action or proceeding has commenced.

Section 10. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice

proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Chapter 11a, Seizure of Property and Contraband, and Chapter 11d, Lost or Mislaid Property. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

[~~(j) Victims of sexual offenses have the following rights:~~]

[~~(i) the right to request voluntary testing for themselves for HIV infection as provided in Section 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section 53-10-802;~~]

[~~(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;~~]

[~~(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;~~]

[~~(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and~~]

[~~(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).~~]

[~~(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.~~]

[~~(2) The law enforcement agency investigating a sexual offense may:~~]

[~~(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;~~]

[~~(b) require that the victim's request be in writing; and~~]

[~~(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.~~]

[~~(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:~~]

[~~(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.~~]

[~~(b)(i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.~~]

[~~(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.~~]

[~~(e) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.~~]

[~~(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).~~]

(2) In addition to the rights of a victim described in Subsection (1), a victim of a sexual offense has the right to:

(a) request voluntary testing for themselves for HIV infection as described in Section 53-10-803;

(b) request mandatory testing of the alleged sexual offender for HIV infection as described in Section 53-10-802;

(c) not to be prevented from, or charged for, a medical forensic examination;

(d) have the evidence from a sexual assault kit, or the contents of the sexual assault kit, preserved for the time periods described in Title 77, Chapter 11c, Retention of Evidence, without any charge to the victim;

(e) be informed whether a DNA profile was obtained from the testing of the evidence in a sexual assault kit or from other crime scene evidence;

(f) be informed whether a DNA profile developed from the evidence in a sexual assault kit, or from other crime scene evidence, has been entered into the Utah Combined DNA Index System;

(g) be informed of any result from a sexual assault kit or from other crime scene evidence if that disclosure would not impede or compromise an ongoing investigation, including:

(i) whether there is a match between a DNA profile developed from the evidence in a sexual assault kit, or from other crime scene evidence, and a DNA profile contained in the Utah Combined DNA Index System; and

(ii) a toxicology result or other information that is collected from a sexual assault kit as part of a medical forensic examination of the victim;

(h) be informed in writing of policies governing the collection and preservation of a sexual assault kit;

(i) be informed of the status and location of a sexual assault kit;

(j) upon written request by the victim, receive a notice of intent from an agency, as defined in Section 53-10-905, if the agency intends to destroy or dispose of evidence from a sexual assault kit;

(k) be granted further preservation of the sexual assault kit if the agency, as defined in Section 53-10-905, intends to destroy or dispose of evidence from a sexual assault kit and the victim submits a written request as described in Section 53-10-905;

(l) designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (2) or Subsections (3) and (4); and

(m) be informed of all the enumerated rights in this Subsection (2).

(3) Subsections (2)(e) through (g) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(4) A law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (2)(e) through (g) upon the request of the victim of the sexual offense, or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email if an email address is available.

(5) A law enforcement agency investigating a sexual offense shall:

(a) notify the victim of the sexual offense, or the victim's designee, if the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not be confirmed;

(b) provide the information described in this section in a timely manner; and

(c) upon request of the victim or the victim's designee, advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(6) The law enforcement agency investigating the sexual offense is responsible for informing the victim of the sexual offense, or the victim's designee, of the rights established under this section.

[~~(4)~~](7) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 11. Section 80-4-301 is amended to read:

80-4-301. Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.

(1) Subject to the protections and requirements of Section 80-4-104, and if the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds[~~ any one of the following~~]:

(a) [~~that~~]the parent has abandoned the child;

(b) [~~that~~]the parent has neglected or abused the child;

(c) [~~that~~]the parent is unfit or incompetent;

(d)(i) the parent was convicted of a sexual offense, as defined in Section 77-37-2, or a comparable offense under the laws of the state where the offense occurred, against the other parent of the child;

(ii) the offense resulted in the conception of the child; and

(iii) termination is in the best interest of the child;

[~~(d)~~](e)(i) [~~that~~]the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;

(ii) [~~that~~]the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and

(iii) [~~that~~]there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

[~~(e)~~](f) failure of parental adjustment, as defined in this chapter;

[~~(f)~~](g) [~~that~~]only token efforts have been made by the parent:

(i) to support or communicate with the child;

(ii) to prevent neglect of the child;

(iii) to eliminate the risk of serious harm to the child; or

(iv) to avoid being an unfit parent;

[~~(g)~~](h)(i) [~~that~~]the parent has voluntarily relinquished the parent's parental rights to the child; and

(ii) [~~that~~]termination is in the child's best interest;

[~~(h)~~](i) [~~that,~~]after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

[~~(i)~~](j) the terms and conditions of safe relinquishment of a newborn child have been complied with[~~, in accordance with~~] as described in Part 5, Safe Relinquishment of a Newborn Child.

(2) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

(3)(a) Except as provided in Subsection (3)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), [~~(d), (e), (f), or (h)~~](e), (f), (g), or (i).

(b) Notwithstanding Subsection (3)(a), the juvenile court is not required to make the finding under Subsection (3)(a) before terminating a parent's rights:

(i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or

(ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Section 12. Repealer.

This bill repeals:

Section 76-5-414, Child conceived as a result of sexual offense -- Custody and parent-time.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

Section 14. Coordinating H.B. 328 with S.B. 76.

If H.B. 328, Victims of Sexual Offenses Amendments, and S.B. 76, Evidence Retention Amendments, both pass and become law, the Legislature intends that, on May 1, 2024:

(1) Section 77-11c-301 be amended to read:

[~~"~~] **"77-11c-301. Retention of evidence for felony offenses.**

[~~(1) Except as provided in Subsection (4) and Subsection 23A-5-201(3), an agency shall retain evidence of a felony offense:~~

~~(a) at the discretion of the prosecuting attorney; or~~

~~(b) until all direct appeals and retrials are final.~~

~~(2) If the prosecuting attorney decides to retain control over the evidence of the felony offense in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize the disposal of the evidence.~~]

(1) Except as provided in Subsection (4), an agency shall retain evidence of a felony offense:

(a) for the longer of:

(i) the length of the statute of limitations for the felony offense if:

(A) charges are not filed for the felony offense; or

(B) the felony offense remains unsolved;

(ii) the length of time that any individual convicted of the felony offense, or a lesser included offense, remains in custody;

(iii) one year after the day on which all direct appeals of the final judgment for any individual convicted of the felony offense, or a lesser included offense, are exhausted;

(iv) the length of time that a petition for postconviction relief, and any appeal of the petition, is pending if an individual convicted of the felony offense files the petition within the one-year time period described in Subsection (1)(a)(iii); or

(v) 20 years from the day on which the evidence is collected if the evidence is the contents of a sexual assault kit; or

(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution of the felony offense resulted in an acquittal or dismissal.

[~~(3)~~](2) An agency shall ensure that evidence of a felony offense is subject to a continuous chain of custody.

(3) Subsection (1) does not require an agency to return or dispose of evidence of a felony offense.

(4) An agency shall retain and preserve biological evidence of a violent felony offense in accordance with Part 4, Preservation of Biological Evidence for Violent Felony Offenses.";

(2) Section 77-11c-302 that is enacted by S.B. 76 be amended to read:

"77-11c-302. Requirements for not retaining evidence of felony offense -- Preservation of sufficient evidence.

(1) An agency is not required to retain evidence of a felony offense under Section 77-11c-301 if:

(a) (i) the agency determines that:

(A) the size, bulk, or physical character of the evidence renders retention impracticable or the evidence poses a security or safety problem for the agency; and

(B) the evidence no longer has any significant evidentiary value;

(ii) the agency preserves sufficient evidence from the property, contraband, item, or substance for use as evidence in a prosecution of the offense; and

(iii) a prosecuting attorney or a court authorizes the agency to return or dispose of the evidence as described in Section 77-11c-303;

(b) a court orders the agency to return evidence that is property to a claimant under Section 77-11a-305; or

(c) the evidence is wildlife or parts of wildlife.

(2) Notwithstanding Subsection (1), the agency may not dispose of evidence of a felony offense that is a sexual assault kit before the day on which the time period described in Section 77-11c-301 expires if:

(a) the agency sends a notice to the victim in accordance with Section 53-10-905; and

(b) the victim submits a written request for retention of the evidence within the 180-day period described in Section 53-10-905.

(3) Subsection (1) does not require an agency to return or dispose of evidence of a felony offense.

(4) Subsection (1) does not apply to biological evidence of a violent felony offense because an agency is required to retain biological evidence of a violent felony offense as described in Part 4, Preservation of Biological Evidence for Violent Felony Offenses.

(5) If the evidence described in Subsection (1) is a controlled substance, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the controlled substance by:

(a) collecting and preserving a sample of the controlled substance for independent testing and use as evidence;

(b) taking a photographic or video record of the controlled substance with identifying case numbers;

(c) maintaining a written report of a chemical analysis of the controlled substance if a chemical analysis was performed by the agency;

(d) if the controlled substance exceeds 10 pounds, retaining at least one pound of the controlled substance that is randomly selected from the controlled substance; and

(e) for a violent felony offense, collecting and preserving biological evidence from the controlled substance as described in Section 77-11c-401.

(6) If the evidence described in Subsection (1) is drug paraphernalia, an agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the drug paraphernalia by:

(a) collecting and preserving a sample of the controlled substance from the drug paraphernalia for independent testing and use as evidence;

(b) maintaining a written report of a chemical analysis of the drug paraphernalia if a chemical analysis was performed by the agency;

(c) taking a photographic or video record of the drug paraphernalia with identifying case numbers; and

(d) for a violent felony offense, collecting and preserving biological evidence from the drug paraphernalia as described in Section 77-11c-401.

(7) If the evidence described in Subsection (1) is a computer, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the computer by:

(a) extracting all data from the computer that would be evidence in a prosecution of an individual for the offense;

(b) taking a photographic or video record of the computer with identifying case numbers; and

(c) for a violent felony offense, collecting and preserving biological evidence from the computer as described in Section 77-11c-401.

(8) For any other type of evidence, the agency shall preserve sufficient evidence under Subsection (1)(a)(ii) of the property, contraband, item, or substance by:

(a) taking a photographic or video record of the property, contraband, item, or substance with identifying case numbers; and

(b) for a violent felony offense, collecting and preserving biological evidence as described in Section 77-11c-401."; and

(3) Section 77-11c-401 be amended to read:

"77-11c-401. Preservation of biological evidence -- Procedures -- Inventory request.

(1) Except as provided in Section 77-11c-402, an evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense in accordance with this part.

(2) An evidence collecting or retaining entity shall preserve biological evidence of a violent felony offense:

(a) for the longer of:

(i) the length of the statute of limitations for the violent felony offense if:

(A) no charges are filed for the violent felony offense; or

(B) the violent felony offense remains unsolved;

[~~(ii) the length of time that the individual convicted of the violent felony offense or any lesser included violent offense remains in custody; or~~

~~(iii) the length of time that a co-defendant remains in custody;~~]

(ii) the length of time that any individual convicted of the violent felony offense, or a lesser included offense, remains in custody;

(iii) one year after the day on which all direct appeals of the judgment for any individual convicted of the violent felony offense, or a lesser included offense, are exhausted;

(iv) the length of time that a petition for postconviction relief, and any appeal of the petition, is pending if an individual convicted of the violent felony offense files the petition within the one-year time period described in Subsection (2)(a)(iii); or

(v) 20 years from the day on which the biological evidence is collected if the biological evidence is the contents of a sexual assault kit; or

(b) at the discretion of the prosecuting attorney or federal prosecutor if the prosecution of the violent felony offense resulted in an acquittal or dismissal.

[~~(b)~~] (3) An evidence collecting or retaining entity shall ensure that biological evidence under Subsection (2) is:

(a) preserved in an amount and manner sufficient to:

(i) develop a DNA profile; and

(ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

[~~(c)~~](b) subject to a continuous chain of custody.

[~~(3)~~](4) (a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

(b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection [~~(3)(a)~~](4)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

(i) describes the efforts taken to locate the biological evidence; and

(ii) affirms that the biological evidence could not be located.

[~~(4)The evidence collecting or retaining entity may dispose of biological evidence before the day on which the period described in Subsection (2)(a) expires if:~~

~~(a) no other provision of federal or state law requires the evidence collecting or retaining entity to preserve the biological evidence;~~

~~(b) the evidence collecting or retaining entity sends notice in accordance with Subsection (5); and~~

~~(c) an individual notified under Subsection (5)(a) does not within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (5):~~

~~(i) file a motion for testing of the biological evidence under Section 78B-9-301; or~~

~~(ii) submit a written request under Subsection (5)(b)(ii).~~]

(5) (a) If the evidence collecting or retaining entity intends to dispose of[~~the~~] biological evidence of a violent felony offense before the day on which the period described in Subsection [~~(2)(a)~~](2) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

[~~(a)~~] (i) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

[~~(i)~~] (A) an individual who remains in custody based on a criminal conviction related to the biological evidence;

[~~(ii)~~] (B) the private attorney or public defender of record for each individual described in Subsection [~~(5)(a)(i)~~](5)(a)(i)(A);

(C) the entity that employed the private attorney or public defender at the time of the criminal conviction;

[~~(iii)~~] (D) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection [~~(5)(a)(i)~~](5)(a)(i)(A); and

[~~(iv)~~] (E) the Utah attorney general; and

[~~(b)~~] (ii) explains that the party receiving the notice may:

[~~(i)~~] (A) file a motion for testing of biological evidence under Section 78B-9-301 if the party is the individual convicted of the violent felony offense; or

[~~(ii)~~] (B) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

(b) An individual must file a motion, or submit a written request, described in Subsection (5)(a)(ii) within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (5)(a).

(c) An evidence collecting or retaining entity shall send a notice of intent to dispose of biological evidence that is the contents of a sexual assault kit to a victim in accordance with Section 53-10-905.

(6) The evidence collecting or retaining entity may not dispose of biological evidence of a violent felony offense before the day on which the time period described in Subsection (2) expires if:

(a) the evidence collecting or retaining entity is required by federal or state law to preserve the biological evidence; or

(b) (i) the evidence collecting or retaining entity sends notice in accordance with:

(A) Subsection (5); and

(B) Section 53-10-905 if the biological evidence is the contents of a sexual assault kit; and

(ii) an individual notified under Subsection (5)(a) or Section 53-10-905:

(A) files a motion for testing of the biological evidence under Section 78B-9-301 within the 180-day period described in Subsection (5)(b); or

(B) submits a written request for retention of the biological evidence within the 180-day period described in Subsection (5)(b) or Section 53-10-905.

[~~(6)~~] (7) (a) Subject to Subsections [~~(6)(b)~~](7)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence[~~under Subsection (5)(b)(ii)~~], the evidence collecting or retaining entity shall retain the biological evidence [~~while the defendant remains in custody~~]for the time period described in Subsection (2).

[~~(b) Subject to Subsection (6)(c), the evidence collecting or retaining entity is not required to preserve physical evidence that may contain biological evidence if the physical evidence's size, bulk, or physical character renders retention impracticable.~~]

(b) Subject to Subsection (7)(c), the evidence collecting or retaining entity may only return or dispose of physical evidence of a violent felony offense as described in Part 3, Retention of Evidence for Felony Offenses.

(c) If the evidence collecting or retaining entity [~~determines that retention is impracticable~~]is not required to retain physical evidence of the violent felony offense under Part 3, Retention of Evidence for Felony Offenses, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

(i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

(ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

[~~(7)~~] (8) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

(a) retain the biological evidence; or

(b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.".

CHAPTER 165
S. B. 101
Passed February 26, 2024
Approved March 13, 2024
Effective July 1, 2024

LIMITED LIABILITY COMPANY AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill provides guidelines regarding the dissolution of limited liability companies.

Highlighted Provisions:

This bill:

- provides that a limited liability company is dissolved on the date specified in the limited liability company's certificate of organization; and
- applies the dissolution requirement to any limited liability company regardless of the limited liability company's formation date.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

48-3a-701, as enacted by Laws of Utah 2013, Chapter 412
48-3a-701, as last amended by Laws of Utah 2023, Chapter 401
48-3a-1405, as enacted by Laws of Utah 2013, Chapter 412

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

Section 1. Section 48-3a-701 is amended to read:

48-3a-701. Events causing dissolution.

A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) an event,[~~or~~] circumstance, or date that the certificate of organization or operating agreement states causes dissolution;

(2) the consent of all the members;

(3) the passage of 90 consecutive days during which the limited liability company has no members unless:

(a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(b) at least one person becomes a member in accordance with the consent;

(4) on application by a member, the entry by the district court of an order dissolving the limited liability company on the grounds that:

(a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or

(b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;

(5) on application by a member, the entry by the district court of an order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:

(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

(6) the signing and filing of a statement of administrative dissolution by the division under Subsection 48-3a-708(3).

Section 2. Section 48-3a-701 is amended to read:

48-3a-701. Events causing dissolution.

A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) an event,[~~or~~] circumstance, or date that the certificate of organization or operating agreement states causes dissolution;

(2) the consent of all the members;

(3) the passage of 90 consecutive days during which the limited liability company has no members unless:

(a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(b) at least one person becomes a member in accordance with the consent;

(4) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that:

(a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or

(b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;

(5) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:

(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

(6) the signing and filing of a statement of administrative dissolution by the division under Subsection 48-3a-708(3).

Section 3. Section 48-3a-1405 is amended to read:

48-3a-1405. Application to existing relationships.

(1) Before January 1, 2016, this chapter governs only:

(a) a limited liability company formed on or after January 1, 2014; and

(b) except as otherwise provided in Subsection (3), a limited liability company formed before January 1, 2014, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all limited liability companies.

(3) For the purposes of applying this chapter to a limited liability company formed before January 1, 2014:

(a) the limited liability company's articles of organization are deemed to be the limited liability company's certificate of organization;

(b) for the purposes of applying Subsection 48-3a-102(15) and subject to Subsection 48-3a-114(4), language in the limited liability company's articles of organization designating the limited liability company's management structure operates as if that language were in the operating agreement; [~~and~~]and

(c)(i) the limited liability company has perpetual duration unless otherwise stated in the limited liability company's articles of organization[~~.~~]; and

(ii) after the limited liability company's duration ends in accordance with the articles of organization, the limited liability company is dissolved, and its activities and affairs must be wound up.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 48-3a-701 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 166
S. B. 104
Passed February 28, 2024
Approved March 13, 2024
Effective January 1, 2025

CHILDREN'S DEVICE PROTECTION ACT

Chief Sponsor: Todd D. Weiler
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill enacts the Children's Device Protection Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires a tablet or a smartphone (a device) manufactured on or after January 1, 2025, to automatically enable a filter upon device activation by a minor;
- requires the filter enabled for minors at activation to:
  - prevent a minor user of the device from accessing material that is obscene through Internet browsers or search engines; and
  - provide non-minor users the option to deactivate and re-activate the filter with a password;
- permits the attorney general to bring civil actions against manufacturers of devices that do not comply with this bill;
- permits private civil actions by parents and guardians of minors against manufacturers and others who violate provisions of this bill; and
- makes it a criminal offense for any person, with the exception of a parent or legal guardian, to enable the removal of the filter on a device in the possession of a minor.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
63I-2-278, as last amended by Laws of Utah 2023, Chapters 33, 250

ENACTS:
76-10-1238, Utah Code Annotated 1953
78B-6-2601, Utah Code Annotated 1953
78B-6-2602, Utah Code Annotated 1953
78B-6-2603, Utah Code Annotated 1953
78B-6-2604, Utah Code Annotated 1953
78B-6-2605, Utah Code Annotated 1953
78B-6-2606, Utah Code Annotated 1953

REPEALS:
78B-6-2202, as enacted by Laws of Utah 2021, Chapter 416 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416
78B-6-2203, as enacted by Laws of Utah 2021, Chapter 416 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416
78B-6-2204, as enacted by Laws of Utah 2021, Chapter 416 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416
78B-6-2205, as enacted by Laws of Utah 2021, Chapter 416 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416
78B-6-2206, as enacted by Laws of Utah 2021, Chapter 416 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 416

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

Section 1. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Title 78A and Title 78B.

(1) Section 78A-2-804 is repealed on July 1, 2024.

(2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

[~~(3) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.~~]

[~~(4)~~](3) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

Section 2. Section 76-10-1238 is enacted to read:

76-10-1238. Deactivation of a device filter.

(1)(a) An adult individual, other than the parent or legal guardian of the minor in possession of a device, who intentionally disables the filter required under Section 78B-6-2602 on a device in possession of a minor for the purpose of disseminating pornography to the minor, commits a class A misdemeanor.

(b) For each offense of Subsection (1)(a), the violator is subject to a fine in an amount not to exceed $2,500.

(2) A person who has a prior conviction under this section, who commits a subsequent violation of Subsection (1)(a), is guilty of a third degree felony and shall, for each separate offense, be fined in an amount not to exceed $5,000 and may be imprisoned for zero to five years.

Section 3. Section 78B-6-2601 is enacted to read:

78B-6-2601. Definitions.

Part 26. Children's Device Protection Act

As used in this part:

(1) "Activate" means the process of powering on a device and associating the device with a user account.

(2) "Device" means a tablet or a smart phone manufactured on or after January 1, 2025.

(3) "Filter" means generally accepted and commercially reasonable software used on a device that is capable of preventing the device from accessing or displaying obscene material through Internet browsers or search engines owned or controlled by the manufacturer in accordance with prevailing industry standards including blocking known websites linked to obscene content via mobile data networks, wired Internet networks, and wireless Internet networks.

(4) "Internet" means the same as that term is defined in Section 13-40-102.

(5) "Manufacturer" means a person that:

(a)(i) is engaged in the business of manufacturing a device;

(ii) holds the patents for the device the person manufactures; or

(iii) holds the patents for the operating system on a device; and

(b) has a commercial registered agent as that term is defined in Section 16-17-102.

(6) "Minor" means an individual under the age of 18 who is not emancipated, married, or a member of the armed forces of the United States.

(7) "Obscenity" means the same as that term is defined in Section 32B-1-504.

(8) "Operating system" means software that manages all of the other application programs on a device.

(9) "Password" means a string of characters or other secure method used to enable, deactivate, modify, or uninstall a filter on a device.

(10)(a) "Retailer" means a person, that is not a manufacturer, that sells a device directly to consumers.

(b) "Retailer" includes an employee of a retailer acting in the course and scope of the employee's employment.

(11) "Smart phone" means the same as that term is defined in Section 63A-2-101.5.

(12) "Tablet" means a mobile device that:

(a) is equipped with a mobile operating system, touchscreen display, and rechargeable battery; and

(b) has the ability to support access to a cellular network.

(13) "Video game console" means a discrete computing system, including the system's components and peripherals, primarily used for playing video games, but does not include a smartphone or tablet.

Section 4. Section 78B-6-2602 is enacted to read:

78B-6-2602. Filter required.

All devices activated in the state shall:

(1) contain a filter;

(2) ask the user to provide the user's age during activation and account set-up;

(3) automatically enable the filter when the user is a minor based on the age provided by the user as described in Subsection (2);

(4) allow a password to be established for the filter;

(5) notify the user of the device when the filter blocks the device from accessing a website; and

(6) allow a non-minor user who has a password the option to deactivate and re-activate the filter.

Section 5. Section 78B-6-2603 is enacted to read:

78B-6-2603. Manufacturer liability.

(1) A manufacturer of a device is subject to civil liability if:

(a) a device is activated in the state;

(b) the device does not, upon activation in the state, enable a filter that complies with the requirements described in Section 78B-6-2602; and

(c) the minor accesses material that is obscene on the device.

(2) Notwithstanding Subsection (1), this section does not apply to a manufacturer that makes a good faith effort to provide a device that, upon activation of the device in the state, automatically enables a filter in accordance with Section 78B-6-2602.

(3) Nothing in this part:

(a) applies to a device manufactured before January 1, 2025;

(b) applies to a video game console; or

(c) creates a cause of action against a retailer of a device.

Section 6. Section 78B-6-2604 is enacted to read:

78B-6-2604. Individual liability.

With the exception of a minor's parent or legal guardian, a person may be liable in a civil and criminal action for intentionally enabling the password to remove the filter on a device in the possession of a minor if the minor accesses content that is obscene on the device.

Section 7. Section 78B-6-2605 is enacted to read:

78B-6-2605. Proceedings by the attorney general.

(1) The attorney general may bring an action in court against a person for a violation of this chapter:

(a) to enjoin any action that constitutes a violation of this chapter by the issuance of a temporary restraining order or preliminary or permanent injunction;

(b) to recover from a violator a civil penalty not to exceed $5,000 per violation, and not to exceed a total of $50,000 in aggregate, as determined by the court;

(c) to recover from a violator the attorney general's reasonable expenses, investigative costs, and attorney fees; and

(d) to obtain other appropriate relief as provided for under this chapter.

(2) The attorney general may seek revocation of any license or certificate authorizing a manufacturer to engage in business in this state if, after the manufacturer is found to have violated provisions of this part, the manufacturer demonstrates a repeated pattern of violations of the provisions of this part.

(3) For purposes of assessing a penalty under this section, a manufacturer is considered to have committed a separate violation for each device manufactured on or after January 1, 2025, that violates the provisions of Section 78B-6-2602.

Section 8. Section 78B-6-2606 is enacted to read:

78B-6-2606. Civil action by parent or legal guardian.

(1) A parent or legal guardian of a minor that accesses obscene content on a device as a result of a manufacturer's failure to comply with of Section 78B-6-2602 may bring a private cause of action in court against the manufacturer.

(2) A person bringing an action under Subsection (1) may recover:

(a)(i) actual damages; or

(ii) where actual damages are difficult to ascertain due to the nature of the injury, $50,000 for each violation;

(b) if a violation is found to be knowing and willful, punitive damages in an amount determined by the court;

(c) nominal damages;

(d) attorney fees; and

(e) such other relief as the court deems appropriate, including court costs and expenses.

(3) Nothing herein shall preclude the bringing of a class action lawsuit against a manufacturer where the manufacturer's conduct in violation of Section 78B-6-2602 is knowing and willful.

(4) A parent or legal guardian of a minor may bring an action against any person who is not the parent or legal guardian of the child and who disables the filter from a device in the possession of the child which results in the minor's exposure to obscene content.

(5) A person bringing an action under Subsection (4) may recover:

(a)(i) actual damages; or

(ii) where actual damages are difficult to ascertain due to the nature of the injury, $1,000 for each violation; and

(b) such other relief as the court deems appropriate.

Section 9. Repealer.

This bill repeals:

Section 78B-6-2202, Definitions.

Section 78B-6-2203, Filter required.

Section 78B-6-2204, Liability.

Section 78B-6-2205, Damages -- Class action.

Section 78B-6-2206, Civil action for enforcement -- Penalties.

Section 10. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

(2) The actions affecting Section 63I-2-278 (effective 05/01/24) take effect on May 1, 2024.

CHAPTER 167
S. B. 110
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

DOMESTIC VIOLENCE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill modifies a sunset date.

Highlighted Provisions:

This bill:

- extends the sunset date on a provision that regulates the transfer of certain domestic violence cases from a justice court to a district court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423

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

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(3) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, [~~2024~~]2029.

(4) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

(5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

(7) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2024.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 168
H. B. 334
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

WARNING LABEL AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions that create a cause of action for injury of a minor by pornographic material.

Highlighted Provisions:

This bill:

- modifies certain exemptions for liability for entities for a cause of action for injury of a minor by pornographic material;
- changes provisions of the safe harbor protections for liability for a cause of action for injury of a minor by pornographic material;
- clarifies who must give a warning of the harmful impact of exposing pornographic material to a minor; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-2102, as enacted by Laws of Utah 2017, Chapter 464
78B-6-2103, as last amended by Laws of Utah 2020, Chapter 442
78B-6-2105, as enacted by Laws of Utah 2020, Chapter 442

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

Section 1. Section 78B-6-2102 is amended to read:

78B-6-2102. Exemptions.

(1) If the conditions of Subsection (2) are met, this part does not apply to:

(a) the following, as defined in the Communications Act of 1934, as amended:

(i) an interactive computer service;

(ii) a telecommunications service, information service, or mobile service, including a commercial mobile service; or

(iii) a multichannel video programming distributor;

(b) an Internet service provider;

(c) a provider of an electronic communications service;

(d) a distributor of Internet-based video services;

(e) a host company as defined in Section 76-10-1230; or

(f) a distributor of electronic or computerized game software that users manipulate through interactive devices.

(2) This part does not apply to an entity described in Subsection (1) if:

(a) the distribution of pornographic material by the entity occurs only incidentally through the entity's function of:

(i) transmitting or routing data from one person to another person;

(ii) providing a connection between one person and another person; or

(iii) providing data storage space or data caching to a person; and

(b) the entity does not intentionally aid or abet in the distribution of the pornographic material[~~, and~~].

[~~(c) the entity does not knowingly receive from or through a person who distributes the pornographic material a fee greater than the fee generally charged by the entity, as a specific condition for permitting the person to distribute the pornographic material.~~]

Section 2. Section 78B-6-2103 is amended to read:

78B-6-2103. Liability -- Safe harbor.

(1) A person who is not exempt under Section 78B-6-2102, and who [~~predominately~~]distributes or otherwise [~~predominately~~]provides pornographic material to consumers is liable to a person if:

(a) at the time the pornographic material is viewed by the person, the person is a minor; and

(b) the pornographic material is the proximate cause for the person being harmed physically or psychologically, or by emotional or medical illnesses as a result of that pornographic material.

(2) Nothing in this part affects any private right of action existing under other law, including contract.

(3) Notwithstanding Subsection (1), a person who distributes or otherwise provides pornographic material is not liable under this section if the person who distributes or otherwise provides pornographic material:

(a) provides a warning that:

(i) is conspicuous;

(ii) appears before the pornographic material can be accessed; and

(iii) consists of a good faith effort to warn persons accessing the pornographic material that the pornographic material may be harmful to minors; and

(b) makes a good faith effort to verify the age of a person accessing the pornographic material.

(4) Subsection (3) may not be interpreted as exempting a person from complying with Title 13, Chapter 39, Child Protection Registry.

(5)(a) Notwithstanding Section 78B-6-2105, a person who is not exempt under Section 78B-6-2102, and who [~~predominately~~]distributes or otherwise [~~predominately~~]provides obscene material to consumers without a warning label or without the metadata described in Subsection 78B-6-2105(3)(b) is not liable if the person demonstrates reasonable efforts to determine the location of recipients of obscene material within the state and the placement of warning labels on material that enters the state. Reasonable efforts shall result in a compliance rate that exceeds 75% of the content believed to enter the state within the shorter of six months prior to any claim, or from May 12, 2020, to the time of the claim. Proof of reasonable efforts shall remove liability only for the type of compliance for which reasonable efforts have been proven.

(b) The use of virtual private networks or similar technology by the consumer to hide the consumer's location may not be included in a compliance rate calculation.

(6) Notwithstanding Section 78B-6-2105, a video game without a warning label is not liable if it has a rating of the Entertainment Software Rating Board or equivalent, as long as it also explicitly provides notice of the content as part of the rating.

Section 3. Section 78B-6-2105 is amended to read:

78B-6-2105. Civil action for enforcement -- Penalties.

(1) A person who [~~predominately~~]distributes or otherwise [~~predominately~~]provides pornographic material to consumers [~~with the intent to earn revenue or profit directly or indirectly from the distribution~~]may not distribute any obscene material or performance as defined in Section 76-10-1203 without first giving a clear and reasonable warning of the harmful impact of exposing minors to the material or performance.

(2) The warning of the harm shall be prominently displayed in the following form:

STATE OF UTAH WARNING

Exposing minors to obscene material may damage or negatively impact minors.

[~~(2)~~](3)(a) For print publications created after May 12, 2020, the warning in Subsection [~~(1)~~](2) shall be placed in clear, readable type on the cover of each publication which includes material as defined in Section 76-10-1201.

(b) For digital publications:

(i) the warning in Subsection [~~(1)~~](2) shall be displayed in searchable text format and for at least five seconds prior to the display of any video or each image which includes material as defined in Section 76-10-1201; or

(ii) if the website complies with Subsection 78B-6-2103(3), it is not required to display the warning in Subsection [~~(1)~~](2) prior to each video or image contained on the website.

[~~(3)~~](4) A person who violates this section shall be liable for a civil penalty not to exceed $2,500 per violation, plus filing fees and attorney fees, in addition to any other penalty established by law, and enjoined from further violations.

(5) The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction.

(6) Each of the following violations shall create a separate liability per violation:

(a) the sale or display of potentially harmful content without the warning required in Subsection [~~(1),~~](2), in accordance with Subsection [~~(2)~~](3); or

(b) the absence of the following searchable text within the website's metadata - utahobscenitywarning.

[~~(4)~~](7) The determination by a court as to whether a person is distributing material the state considers to be obscene material or performance as defined in Section 78B-6-1203 shall be proven by clear and convincing evidence. All other elements of proof shall be proven by a preponderance of the evidence.

[~~(5)~~](8) The court, in ordering payment, shall specify each amount for the civil penalty, filing fees, and attorney fees.

[~~(6)~~](9) In assessing the amount of a civil penalty for a violation of this chapter, the court shall consider all of the following:

(a) the nature and extent of the violation;

(b) the number and severity of the violations;

(c) the economic effect of the penalty on the violator;

(d) whether the violator took good faith measures to comply with this chapter and when those measures were taken;

(e) the willfulness of the violator's misconduct;

(f) the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community as a whole; and

(g) any other factor that the court determines justice requires.

[~~(7)~~](10) Actions pursuant to this section may be brought by the attorney general's office in the name of the people of the state or by a private person in accordance with Subsection [~~(8)~~](11).

[~~(8)~~](11) A private person may bring an action in the public interest pursuant to this section if:

(a) the person has served notice of an alleged violation of Section 78B-6-2103 on the alleged violator and the attorney general's office;

(b) the attorney general's office has not provided a letter to the noticing party within 60 days of receipt of the notice of an alleged violation indicating that:

(i) an action is currently being pursued or will be pursued by the attorney general's office regarding the violation; or

(ii) the attorney general believes that there is no merit to the action; and

(c) the alleged violator has not responded to the notice of alleged violation or returned the proof of compliance form provided in Subsection [~~(14)~~](17).

[~~(9)~~](12) If a lawsuit is commenced, the plaintiff may include additional violations in the claim that are discovered through the discovery process.

[~~(10)~~](13) Notice of the alleged violation shall be executed by the attorney for the noticing party, or by the noticing party, if the noticing party is not represented by an attorney, and include a notice of alleged violation. The notice of alleged violation shall:

(a) state that the person executing the notice believes that there is a violation; and

(b) provide factual information sufficient to establish the basis for the alleged violation.

[~~(11)~~](14) A person who serves a notice of alleged violation identified in Subsection [~~(10)~~](13) shall complete and provide to the alleged violator at the time the notice of alleged violation is served, a notice of special compliance procedure and proof of compliance form pursuant to Subsection [~~(14)~~](17). The person may file an action against the alleged violator, or recover from the alleged violator if:

(a) the notice of alleged violation alleges that the alleged violator failed to provide a clear and reasonable warning as required under Subsection (1); and

(b) within 14 days after receipt of the notice of alleged violation, the alleged violator has not:

(i) corrected the alleged violation and all similar violations known to the alleged violator;

(ii) agreed to pay a penalty for the alleged violation in the amount of $500 per violation; and

(iii) notified, in writing, the noticing party that the violation has been corrected.

[~~(12)~~](15) The written notice required in Subsection [~~(11)(b)(iii)~~](14)(b)(iii) shall be the notice of special compliance procedure and proof of compliance form specified in Subsection [~~(14)~~](17). The alleged violator shall deliver the civil penalty to the noticing party within 30 days of receipt of the notice of alleged violation.

[~~(13)~~](16) The attorney general shall review the notice of alleged violation and may confer with the noticing party. If the attorney general believes there is no merit to the action, the attorney general shall, within 45 days of receipt of the notice of alleged violation, provide a letter to the noticing party and the alleged violator stating that the attorney general believes there is no merit to the action.

[~~(14)~~](17) The notice required to be provided to an alleged violator pursuant to Subsection [~~(11)~~](14) shall be presented as follows:

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE

PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are in violation of Utah Code Section 78B- 6- 2103.

The Noticing Party may bring legal proceedings against you for the alleged violation checked below if:

(1) you have not actually taken the corrective steps that you have certified in this form;

(2) the Noticing Party has not received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice; and

(3) the Noticing Party does not receive the required $500 penalty payment for each violation alleged from you at the address shown above postmarked within 30 days of your receiving this notice.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

This notice of alleged violation is for failure to warn against an exposure to minors of materials considered harmful to minors. (provide complete description of violation, including when and where observed)

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with Utah Code Section 78B- 6- 2103, for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving this notice.

I hereby agree to pay, within 30 days of receipt of this notice, a penalty of $500 for each violation

alleged to the Noticing Party only and certify that I have complied with by (check only one of the following):

[ ] Posting a warning or warnings, and attaching a copy of that warning and a photograph accurately showing its placement on the print or digital publication.

[ ] Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

CERTIFICATION

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under Utah Code Section 76-10-1206.

Signature of alleged violator or authorized representative:

Date:

Name and title of signatory:

[~~(15)~~](18) An alleged violator may satisfy the conditions set forth in Subsection [~~(14)~~](17) only one time for a specific violation.

[~~(16)~~](19) Notwithstanding Subsection [~~(14)~~](17), the attorney general may file an action pursuant to Subsection [~~(7)~~](10) against an alleged violator. In any action, the amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator to a private person in accordance with Subsection [~~(14)~~] (17) for the same alleged violation.

[~~(17)~~](20) Payments shall be made in accordance with this section.

(a) A civil penalty ordered by the court shall be paid to the plaintiff as directed by the court.

(b) A penalty paid in accordance with the special compliance procedure in Subsection [~~(14)~~](17) shall be made directly to the noticing party.

[~~(18)~~](21) The Utah Office for Victims of Crime shall receive 50% of any penalty paid in accordance with this section. Funds received shall be deposited [~~in~~]into the Crime Victim Reparations Fund created in Section 63M-7-526. The penalty amount upon which the 50% is calculated may not include attorney fees or costs awarded by the court.

(a) If the penalty is paid to a noticing party in accordance with Subsection [~~(14)~~](17), the noticing party shall remit the required amount along with a copy of the Special Compliance Procedure document.

(b) If a civil penalty is ordered by the court, the plaintiff shall remit the required amount along with a copy of the court order.

[~~(19)~~](22) The attorney general's office shall provide to the Utah Office for Victims of Crime a copy of all notices of alleged violations to which the attorney general's office did not respond with a letter of no merit in accordance with Subsection [~~(13)~~](16).

[~~(20)~~](23) The court shall provide to the Utah Office for Victims of Crime a copy of the court's order for payment.

[~~(21)~~](24) The Utah Office for Victims of Crime shall:

(a) maintain a record of documents and payments submitted pursuant to Subsections [~~(18), (19), and (20)~~](21), (22), and (23);

(b) create and provide to the Legislature in odd-numbered years beginning November 2021, a report containing the following for the previous two years:

(i) the number of notices of alleged violations received from the attorney general's office;

(ii) the number of court orders received; and

(iii) the total amount received and deposited into the Crime Victim Reparations Fund.

[~~(22)~~](25) This section does not apply to:

(a) a person portrayed in obscene or pornographic material that is created, duplicated, or distributed without the person's knowledge or consent; or

(b) a person who is coerced or blackmailed into distributing obscene or pornographic material.

[~~(23)~~](26) Beginning May 1, 2025, and at each five-year interval, the dollar amount of the civil penalty provided in Subsection [~~(3)~~](4) shall be adjusted by the Judicial Council based on the change in the annual Consumer Price Index for the most recent five-year period ending on December 31 of the previous year, and rounded to the nearest five dollars. The attorney general shall publish the dollar amount of the civil penalty together with the date of the next scheduled adjustment.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 169
S. B. 119
Passed February 27, 2024
Approved March 13, 2024
Effective May 1, 2024

FIRE AND RESCUE TRAINING AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill adds aircraft rescue firefighting training to the fire prevention, education, and training program.

Highlighted Provisions:

This bill:

- adds aircraft rescue firefighting training to the fire prevention, education, and training program; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-29-202, as enacted by Laws of Utah 2020, Chapter 403

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

Section 1. Section 53B-29-202 is amended to read:

53B-29-202. Fire prevention, education, and training program.

(1) With technical advice and support from the fire board, Utah Valley University shall operate a statewide fire and rescue service training program that:

(a) provides instruction, training, and testing for:

(i) Utah Valley University students; and

(ii) firefighters and emergency rescue personnel throughout the state, whether paid or volunteer;

(b) explores new methods of firefighting, fire training, and fire prevention;

(c) provides training for fire and arson detection and investigation;

(d) provides training to students, firefighters, and emergency rescue personnel on how to conduct public education programs to promote fire safety;

(e) provides aircraft rescue firefighting training;

[~~(e)~~](f) provides for certification of firefighters, pump operators, instructors, officers, and rescue personnel; and

[~~(f)~~](g) provides facilities and props for teaching firefighting and emergency rescue skills.

(2) Utah Valley University shall ensure that the curriculum, training, and facilities offered in the fire and rescue training program are sufficient to allow individuals who successfully complete the program to receive applicable certification as a firefighter or emergency rescue professional.

(3) Utah Valley University and the fire board shall consult together regarding:

(a) the development and content of the curriculum and training of the fire and rescue training program;

(b) the identification of individuals who will be permitted to participate in the fire and rescue program without cost; and

(c) the establishment of certification standards and requirements.

(4) Utah Valley University shall allow individuals designated by the fire board to participate in and complete the fire and rescue training program without cost and to receive applicable certification.

(5) Utah Valley University and the fire board shall by contract establish terms to:

(a) define the scope and content of the fire and rescue training program;

(b) identify the fire and rescue personnel throughout the state who will be permitted to participate in the fire and rescue training program without cost; and

(c) define other aspects of the relationship between Utah Valley University and the fire board relating to the fire and rescue training program that are mutually beneficial.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 170
S. B. 123
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

COMMERCIAL EMAIL ACT

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies the Utah Commercial Email Act.

Highlighted Provisions:

This bill:

- changes the definition of Utah email address; and
- modifies provisions regarding the prohibited uses of email.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-65-101, as enacted by Laws of Utah 2023, Chapter 377

13-65-201, as enacted by Laws of Utah 2023, Chapter 377

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

Section 1. Section 13-65-101 is amended to read:

13-65-101. Definitions.

As used in this chapter:

(1) "Advertiser" means a person who advertises the person's product, service, or website through the use of commercial email.

(2) "Commercial email" means an email used primarily to:

(a) advertise or promote a commercial website, product, or service; or

(b) solicit money, property, or personal information.

(3) "Division" means the Division of Consumer Protection.

(4) "Domain name" means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) "Electronic mail service provider" means a company or a service that provides routing, relaying, handling, storage, or support for email addresses and email inboxes.

(6) "Header information" means information attached to an email, including:

(a) the originating domain name;

(b) the originating email address;

(c) the destination;

(d) the routing information; and

(e) any other information that appears in the header line identifying, or purporting to identify, a person initiating the message.

(7) "Initiate" means an act of:

(a) originating, transmitting, or sending commercial email; or

(b) promising, paying, or providing other consideration for another person to originate, transmit, or send a commercial email.

(8)(a) "Initiator" means a person who:

(i) originates, transmits, or sends commercial email; or

(ii) promises, pays, or provides other consideration for another person to originate, transmit, or send a commercial email.

(b) "Initiator" does not include a person whose activities are a routine conveyance.

(9) "Preexisting or current business relationship" means a situation where the recipient has:

(a) made an inquiry and provided an email address; or

(b) made an application, a purchase, or a transaction, with or without consideration, related to a product or a service offered by the advertiser.

(10) "Recipient" means an addressee of an unsolicited email.

(11) "Routine conveyance" means an Internet service provider's or email provider's automatic electronic mail message processes, including routing, relaying, handling, or storing through an automatic technical process, for which a person other than the Internet service provider or email provider has identified the electronic mail message recipients and provided the recipients' addresses.

(12) "Unsolicited commercial email" means a commercial email sent by an advertiser to a recipient that:

(a) has not provided direct consent to the advertiser to receive the commercial email; and

(b) does not have a preexisting or current relationship with the advertiser.

(13) "Utah email address" means an email address that [~~is~~]:

(a) is provided by an electronic mail service provider that sends bills for providing and maintaining that email address to a mailing address in this state;

(b) is ordinarily accessed from a computer located in this state; [~~or~~]

(c) is provided to an individual who is currently a resident of this state; or

(d) results in delivery of an email to a server in Utah.

Section 2. Section 13-65-201 is amended to read:

13-65-201. Prohibited uses of email.

An advertiser or an initiator may not [~~knowingly~~] initiate or advertise in a commercial email sent from this state or sent to a Utah email address if:

(1) the commercial email contains or is accompanied by a third party's domain name without the permission of the third party;

(2) the commercial email contains or is accompanied by false, misrepresented, or forged header information, even if the commercial email contains truthful identifying information for the advertiser in the body of the email; or

(3) the commercial email has a subject line that is likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the identity of the advertiser, the contents, or the subject matter of the commercial email.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 171
S. B. 125
Passed February 23, 2024
Approved March 13, 2024
Effective May 1, 2024

SECONDARY WATER AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions related to secondary water.

Highlighted Provisions:

This bill:

- amends definitions;
- modifies who may meter at strategic points of a system as approved by the state engineer;
- changes certain caps on grants for secondary water metering; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-34, as last amended by Laws of Utah 2023, Chapter 260
73-10-34.5, as last amended by Laws of Utah 2023, Chapter 260

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

Section 1. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering - - Loans and grants.

(1) As used in this section:

(a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b)(i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(c) "Critical area" means an area:

(i) serviced by one of the four largest water conservancy districts, as defined in Section 17B-1-102, measured by operating budgets; or

(ii) within the Great Salt Lake basin, which includes:

(A) the surveyed meander line of the Great Salt Lake;

(B) the drainage areas of the Bear River or the Bear River's tributaries;

(C) the drainage areas of Bear Lake or Bear Lake's tributaries;

(D) the drainage areas of the Weber River or the Weber River's tributaries;

(E) the drainage areas of the Jordan River or the Jordan River's tributaries;

(F) the drainage areas of Utah Lake or Utah Lake's tributaries;

(G) other water drainages lying between the Bear River and the Jordan River that are tributary to the Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii)(B) through (F); and

(H) the drainage area of Tooele Valley.

[~~(e)~~](d) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

[~~(d)~~](e)(i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

[~~(e)~~](f)(i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

[~~(f)~~](g) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.

[~~(g)~~](h)(i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

[~~(h)~~](i) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

[~~(i)~~](j) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

[~~(j)~~](k) "Secondary water supplier" means an entity that supplies pressurized secondary water.

[~~(k)~~](l) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii)(A) is a city, town, or metro township; or

(B) supplies 5,000 or fewer secondary water connections.

(2)(a)(i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

(c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(e)(i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12- month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12- month period in which the secondary water supplier supplied pressurized secondary water.

(4)(a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low- interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73- 10- 24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5)(a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can

demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8)(a)(i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g)(i) The state engineer's final order may be reviewed by trial de novo by the district court in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

(13)(a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter at strategic points of the system as approved by the state engineer under this Subsection (13) if:

(i) the system has no or minimal storage and relies primarily on stream flow;

(ii)(A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and

(B) less than 50% of the secondary water is used by residential secondary water users; or

(iii) the system has a mix of pressurized lines and open ditches and:

(A) 1,000 or fewer users[~~; and~~]if any part of the system is within a critical area; or

(B) [~~a mix of pressurized lines and open ditches.~~]2,500 or fewer users for a system not described in Subsection (13)(a)(iii)(A).

(b)(i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.

(ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).

Section 2. Section 73-10-34.5 is amended to read:

73-10-34.5. Grant money for existing secondary water metering to facilitate full metering -- Other grants.

(1) As used in this section:

(a) "Applicant" means a secondary water supplier or group of secondary water suppliers that applies for a grant under this section.

(b) "Board" means the Board of Water Resources.

(c) "Division" means the Division of Water Resources.

(d) "Project" means the purchase or installation of a meter for a secondary water system that as of May 4, 2022, provides secondary water service that is not metered.

(e) "Secondary water" means the same as that term is defined in Section 73-10-34.

(f) "Secondary water connection" means the same as that term is defined in Section 73-10-34.

(g) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(2)(a) The board may issue grants in an amount appropriated by the Legislature in accordance with this section to an applicant to fund projects for meters on secondary water systems that before May 4, 2022, provide secondary water service that is not metered.

(b) The board may not issue a grant under this section to fund:

(i) metering of secondary water for service that begins on or after May 4, 2022; or

(ii) the replacement or repair of an existing secondary water meter.

(c) Notwithstanding the other provisions of this section, the board may issue a grant under this section to a secondary water supplier to reimburse the secondary water supplier for the costs incurred by the secondary water supplier that are associated with installing meters on a secondary water system on or after March 3, 2021, but before May 4, 2022, except that the grant issued under this Subsection (2)(c):

(i) shall be included in calculating the total grant amount under Subsections (3)(a) through (c);

(ii) may not exceed 70% of the costs associated with a project described in this Subsection (2)(c), including installation and purchase of meters; and

(iii) shall comply with Subsection (6).

(3)(a) A secondary water supplier with 7,000 secondary water connections or less is eligible for a total grant amount under this section of up to [~~$5,000,000~~]$10,000,000.

(b) A secondary water supplier with more than 7,000 secondary water connections is eligible for a total grant amount under this section of up to [~~$10,000,000~~]$20,000,000.

(c) If a secondary water supplier applies for a grant as part of a group of secondary water suppliers, the total grant amount described in Subsection (3)(a) or (b) applies to each member of the group and is not based on the number of secondary water connections of the entire group.

(d)(i) Subject to the other provisions of this section, a grant may not exceed the following amounts for the costs associated with a project, including installation and purchase of meters:

(A) for calendar year 2022, 70% of the costs of a project;

(B) for calendar year 2023, 70% of the costs of a project;

(C) for calendar year 2024, 65% of the costs of a project;

(D) for calendar year 2025, 60% of the costs of a project; and

(E) for calendar year 2026, 50% of the costs of a project.

(ii) Beginning with calendar year 2027, a grant under this section shall consist of providing a meter or funding to obtain a meter, which may not exceed the following for costs associated with the project:

(A) for calendar year 2027, 40% of the costs of a project;

(B) for calendar year 2028, 30% of the costs of a project;

(C) for calendar year 2029, 20% of the costs of a project; and

(D) for calendar year 2030, 10% of the costs of a project.

(e) A secondary water supplier may pay the secondary water supplier's portion of the costs of a project through a loan from the board under Section 73-10-34 by filing a separate application with the board.

(f) A meter purchased with grant money received under this section shall allow for data communication between the meter and other devices designed to manage use of secondary water that is:

(i) open and available to an end user; and

(ii) open so that it can integrate with third-party providers.

(4)(a)(i) To obtain a grant under this section, an applicant shall submit an application with the division during a period of time designated by the board.

(ii) If there remains money described in Subsection (2) after the grants for applications submitted during the time period described in this Subsection (4)(a) are awarded, the board may designate one or more additional time periods so that the entire amount described in Subsection (2) is awarded by December 31, 2024.

(b) An application submitted to the division shall include:

(i) a detailed project cost estimate including meter costs and installation costs;

(ii) a total number of pressurized secondary water connections in the applicable secondary water supplier's system;

(iii) the number of meters to be installed under the grant;

(iv) a detailed estimated secondary water use reduction including:

(A) average lot size calculations;

(B) average irrigated acreage; and

(C) estimated water applied before the project versus after completion of the project;

(v) the timeline for purchase and installation of meters under the project;

(vi) an agreement to:

(A) provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by a customer specific Internet portal that provides information on the customer's usage more frequently than monthly; or

(B) bill according to usage using a tiered conservation rate and provide an educational component described in Subsection (4)(b)(vi)(A); and

(vii) additional information the board considers helpful.

(5)(a) The division shall:

(i) review and prioritize an application submitted under Subsection (4); and

(ii) recommend to the board which applicants should be awarded a grant under this section.

(b) In prioritizing applications under this Subsection (5), the division shall rank the applicants on the basis of the following weighted factors:

(i) 60% weight based on the ratio of estimated water use reduction divided by total state investment;

(ii) 20% weight based on an applicant facing current or potential water shortages when installation of meters and subsequent water use reductions will result in delaying or eliminating the need for new water development; and

(iii) 20% weight based on a project's accelerated construction schedule, prompt start, and prompt finish.

(6) As a condition of receiving a grant under this section, the recipient shall enter into an agreement with the board to use the grant money. The agreement shall:

(a) be executed by no later than December 31, 2024; and

(b) require that the grant money be spent by December 31, 2026, and the project completed under the terms of the grant.

(7) Notwithstanding the other provisions of this section, the board may issue a grant to a secondary water supplier:

(a) that installed meters on secondary water connections before May 4, 2022;

(b) that has not otherwise received a grant under this section;

(c) for the purpose of water conservation; and

(d) in an amount not to exceed $2,000,000.

(8) Notwithstanding the other provisions of this section, the board may issue a grant to or convert a grant previously issued to a secondary water supplier described in Subsection 73-10-34(13)(a)(iii) from money appropriated under this section to fund a project that is an alternative to metering, such as lining ditches or improving head gates, if the secondary water supplier establishes to the satisfaction of the board that the alternative project will conserve more water than is expected to be conserved through metering.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the board may make rules establishing the procedure for applying for a grant under this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 172
S. B. 131
Passed February 26, 2024
Approved March 13, 2024
Effective May 1, 2024

INFORMATION TECHNOLOGY ACT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill enacts provisions related to disclosures and penalties associated with the use of synthetic media and artificial intelligence.

Highlighted Provisions:

This bill:

- defines terms;
- for an audio or visual communication intended to influence voting that contains synthetic media, requires that the communication include specified disclosures based on the type of synthetic media included;
- imposes penalties for violations; and
- allows a court or other sentencing body to consider the use of artificial intelligence as an aggravating factor in sentencing.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

20A-11-1104, Utah Code Annotated 1953
76-3-203.18, Utah Code Annotated 1953

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

Section 1. Section 20A-11-1104 is enacted to read:

20A-11-1104. Disclosure of synthetic media.

(1) As used in this section:

(a) "Artificial intelligence" means a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments.

(b)(i) "Creator" means a person that uses artificial intelligence to generate synthetic media.

(ii) "Creator" does not include a person that solely provides the technology used in the creation of the synthetic media.

(c) "Digital content provenance" means purely factual information that:

(i) details a digital resource's creator, origin, context, history, and editing process; and

(ii) conforms to an open industry technical standard.

(d) "Generative artificial intelligence" means artificial intelligence technology that is capable of creating content such as text, audio, image, or video based on patterns learned from large volumes of data rather than being explicitly programmed with rules.

(e) "Sponsor" means a person that pays for the content that uses artificial intelligence to generate synthetic media.

(f) "Synthetic audio media" means audio content that was substantially produced by generative artificial intelligence.

(g) "Synthetic visual media" means an image or video that was substantially produced by generative artificial intelligence.

(2) This section applies to an audio or visual communication that:

(a) is paid for by a candidate campaign committee, political action committee, political issues committee, political party, or a person using a contribution;

(b) is intended to influence voting for or against a candidate or ballot proposition in an election or primary in the state; and

(c) contains synthetic media.

(3) An audio communication described in Subsection (2) that contains synthetic audio media shall include audibly at the beginning and end of the communication the words, "Contains content generated by AI."

(4) A visual communication described in Subsection (2) that contains synthetic media shall display throughout the duration of each portion of the communication containing synthetic media, in legible writing, the words:

(a) "This video content generated by AI," if the content is a video that includes synthetic visual media but not synthetic audio media;

(b) "This image generated by AI," if the content is an image that includes synthetic visual media but not synthetic audio media;

(c) "This audio content generated by AI," if the video includes synthetic audio media but not synthetic visual media; or

(d) "This content generated by AI," if the communication includes both synthetic audio media and synthetic visual media.

(5) In addition to the requirements in Subsections (3) and (4), a creator or sponsor who publishes an online digital audio or visual communication described in Subsection (2) that is viewable, audible, or accessible in the state shall ensure the advertisement carries embedded tamper-evident digital content provenance that discloses:

(a) the initial author and creator of the content;

(b) any subsequent entities that edited, altered, or otherwise modified the content; and

(c) any use of generative artificial intelligence in generating or modifying the substantive content.

(6)(a) In a civil action brought against the creator or the sponsor of content that includes synthetic media by a person to enforce this section, the court may impose a civil penalty not to exceed $1,000 against a person for each violation of this section that the court finds a person has committed.

(b) Compliance with this section does not exempt a person from civil or criminal liability for violations of other applicable law.

Section 2. Section 76-3-203.18 is enacted to read:

76-3-203.18. Use of artificial intelligence -- Aggravating factor.

(1) As used in this section:

(a) "Artificial intelligence" means the same as that term is defined in Section 20A-11-1104.

(b) "Material assistance" means providing significant or essential support, information, tools, or other means that facilitate planning, commission, or concealment of a criminal offense.

(2) The sentencing judge or the Board of Pardons and Parole may consider as an aggravating factor in their deliberations that the defendant committed or facilitated the criminal offense with the intentional or knowing use and material assistance of an artificial intelligence system.

(3) This section does not affect or restrict the exercise of judicial sentencing discretion under any other provision of Utah law.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 76-3-203.18 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 173
S. B. 127
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

NURSE APPRENTICE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions related to nurse apprentice licenses.

Highlighted Provisions:

This bill:

- modifies when a nurse apprentice license expires.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-306.1, as enacted by Laws of Utah 2022, Chapter 277

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

Section 1. Section 58-31b-306.1 is amended to read:

58-31b-306.1. Registered nurse apprentice license.

(1) The division shall issue a registered nurse apprentice license to an individual who meets the qualifications under Subsection 58-31b-302(3).

(2) Unless the division extends the license for a specified period of time by written notification provided to the individual, the license expires on the earlier of:

(a) one year from the day on which the license is issued;

(b) [~~after~~]75 days after the day on which the division receives notice from the examination agency that the individual failed to take or pass the examinations described in Subsection 58-31b-302(4)(f)[~~, the day on which the division notifies the applicant that the license is expired~~]; or

(c) the day on which the division issues the individual a license as a registered nurse.

(3) A license described in Subsection (1) is:

(a) valid only in Utah; and

(b) not an eligible license under Chapter 31e, Nurse Licensure Compact - Revised.

(4) The division may make rules to administer the license described in Subsection (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 174
S. B. 139
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

COMPETENCY AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to a defendant's competency to stand trial.

Highlighted Provisions:

This bill:

- establishes a process by which a court may order the ongoing administration of antipsychotic medication for the purpose of maintaining a defendant's competency to stand trial; and
- makes a technical correction.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-15-6, as last amended by Laws of Utah 2023, Chapters 171, 330

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

Section 1. Section 77-15-6 is amended to read:

77-15-6. Commitment on finding of incompetency to stand trial -- Subsequent hearings -- Notice to prosecuting attorneys.

(1)(a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to be incompetent to proceed, the court shall order the defendant committed to the department for restoration treatment.

(b)(i) Except as provided in Subsection (1)(b)(ii), the court may recommend but may not order placement of a defendant who is found incompetent to proceed.

(ii) The court may order that the defendant be placed in a secure setting rather than a nonsecure setting.

(c) Following restoration screening, the department's designee shall designate and inform the court of the specific placement and restoration treatment program for the defendant.

(d) Restoration treatment shall be of sufficient scope and duration to:

(i) restore the defendant to competency; or

(ii) determine whether the defendant can be restored to competency in the foreseeable future.

(e) A defendant who a court determines is incompetent to proceed may not be held for restoration treatment longer than:

(i) the time reasonably necessary to determine that the defendant cannot become competent to stand trial in the foreseeable future; and

(ii) the maximum period of incarceration that the defendant could receive if the defendant were convicted of the most severe offense of the offenses charged.

(2)(a) A defendant who is receiving restoration treatment shall receive a progress toward competency evaluation, by:

(i) a forensic evaluator, designated by the department; and

(ii) an additional forensic evaluator, if requested by a party and paid for by the requesting party.

(b) A forensic evaluator shall complete a progress toward competency evaluation and submit a report within 90 days after the day on which the forensic evaluator receives the commitment order from the department.

(c) The report shall:

(i) assess whether the defendant is exhibiting false or exaggerated physical or psychological symptoms;

(ii) describe any diagnostic instruments, methods, and observations used by the evaluator to make the determination;

(iii) describe the defendant's current mental illness or intellectual disability, if any;

(iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated symptoms on the defendant's competency to stand trial;

(v) assess the facility's or program's capacity to provide appropriate restoration treatment for the defendant;

(vi) assess the nature of restoration treatment provided to the defendant;

(vii) assess what progress the defendant has made toward competency restoration, with respect to the factors identified by the court in its initial order;

(viii) assess whether the defendant can reasonably be restored to competency in the foreseeable future given the restoration treatment currently being provided and the facility's or program's capacity to provide appropriate restoration treatment for the defendant; [~~and~~]

(ix) assess the likelihood of restoration to competency, the amount of time estimated to achieve competency, or the amount of time estimated to determine whether restoration to competency may be achieved[~~.~~]; and

(x) include a statement by the facility's treating physician regarding:

(A) whether the defendant is taking any antipsychotic medication as prescribed;

(B) whether ongoing administration of antipsychotic medication is necessary to maintain the defendant's competency to stand trial;

(C) whether antipsychotic medication is substantially likely to maintain the defendant's competency to stand trial;

(D) whether antipsychotic medication is substantially unlikely to produce side effects which would significantly interfere with the defendant's ability to assist in the defendant's defense;

(E) that no less intrusive means are available, and whether any of those means have been attempted to render the defendant competent; and

(F) whether antipsychotic medication is medically appropriate and in the defendant's best medical interest in light of the defendant's medical condition.

(3)(a) The court on its own motion or upon motion by either party or the department may appoint an additional forensic evaluator to conduct a progress toward competency evaluation.

(b) If the court appoints an additional forensic evaluator upon motion of a party, that party shall pay the costs of the additional forensic evaluator.

(4)(a) Within 15 days after the day on which the court receives the forensic evaluator's report of the progress toward competency evaluation, the court shall hold a hearing to review the defendant's competency.

(b) At the hearing, the burden of proving that the defendant is competent to stand trial is on the proponent of competency.

(c) Following the hearing, the court shall determine by a preponderance of evidence whether the defendant[~~is~~]:

(i) is competent to stand trial;

(ii) is competent, but requires the ongoing administration of antipsychotic medication in order to maintain the defendant's competency to stand trial;

[~~(ii)~~](iii) is incompetent to proceed, with a substantial probability that the defendant may become competent in the foreseeable future; or

[~~(iii)~~](iv) is incompetent to proceed, without a substantial probability that the defendant may become competent in the foreseeable future.

(5)(a) If at any time the court determines that the defendant is competent to stand trial, the court shall:

(i) proceed with the trial or other procedures as may be necessary to adjudicate the charges; [~~and~~]

(ii) order that the defendant be returned to the placement and status that the defendant was in at the time when the petition for the adjudication of competency was filed or raised by the court, unless the court determines that placement of the defendant in a less restrictive environment is more appropriate[~~.~~];

(iii) order the ongoing administration of antipsychotic medication to the defendant for the purpose of maintaining the defendant's competency to stand trial, if the court finds that the administration of antipsychotic medication is necessary to maintain the defendant's competency to stand trial under Subsection (4)(c)(ii); and

(iv) require the agency, jail, or prison with custody over the defendant to report to the court any noncompliance with the court's orders under this Subsection (5) within 48 hours of the noncompliance.

(b) If the court determines that the defendant is incompetent to proceed with a substantial probability that the defendant may become competent in the foreseeable future, the court may order that the defendant remain committed to the department or the department's designee for the purpose of restoration treatment.

(c)(i) If the court determines that the defendant is incompetent to proceed without a substantial probability that the defendant may become competent in the foreseeable future, the court shall order the defendant released from commitment to the department, unless the prosecutor or another individual informs the court that civil commitment proceedings pursuant to Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, will be initiated.

(ii) The commitment proceedings must be initiated by a petition filed within seven days after the day on which the court makes the determination described in Subsection [~~(4)(c)(iii)~~](4)(c)(iv), unless the court finds that there is good cause to delay the initiation of the civil commitment proceedings.

(iii) The court may order the defendant to remain committed to the department until the civil commitment proceedings conclude.

(iv) If the defendant is civilly committed and admitted to a secure setting, the department shall provide notice to the court that adjudicated the defendant incompetent to proceed and to the prosecution agency that prosecuted the case at least 60 days before any proposed release of the committed individual from the secure setting.

(6)(a) At any time following the court's order under Subsection (5)(a)(iii), the defendant, the prosecuting attorney, the department, the treating physician, or the agency, jail, or prison with custody over the defendant, may notify the court of the need to review the medication order under Subsection (5)(a)(iii) for continued appropriateness and feasibility.

(b) The court shall set the matter for a hearing if the notification under Subsection (6)(a) establishes good cause to review the matter.

[~~(6)~~](7) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall schedule a competency review hearing for the earlier of:

(a) the department's best estimate of when the defendant may be restored to competency; or

(b) three months after the day on which the court determined under Subsection (5)(b) to extend the defendant's commitment.

[~~(7)~~](8) Unless the defendant is charged with a crime listed in Subsection [~~(8)~~](9), if a defendant is incompetent to proceed by the day of the competency review hearing that follows the extension of a defendant's commitment, the court shall:

(a) order the defendant be:

(i) released or temporarily detained pending civil commitment proceedings as described in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment up to 45 additional days.

[~~(8)~~](9) If the defendant is charged with aggravated murder, murder, attempted murder, manslaughter, or a first degree felony and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the hearing held pursuant to Subsection [~~(6)~~](7), the court may extend the commitment for a period not to exceed nine months for the purpose of restoration treatment, with a mandatory review hearing at the end of the nine-month period.

[~~(9)~~](10) Unless the defendant is charged with aggravated murder or murder, if, at the nine-month review hearing described in Subsection [~~(8)~~](9), the court determines that the defendant is incompetent to proceed, the court shall:

(a)(i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 135 additional days.

[~~(10)~~](11) If the defendant is charged with aggravated murder or murder and the court determines that the defendant is making reasonable progress towards restoration of competency at the time of the nine-month review hearing described in Subsection [~~(8)~~](9), the court may extend the commitment for a period not to exceed 24 months for the purpose of restoration treatment.

[~~(11)~~](12) If the court extends the defendant's commitment term under Subsection [~~(10)~~](11), the court shall hold a hearing no less frequently than at 12-month intervals following the extension for the purpose of determining the defendant's competency status.

[~~(12)~~](13) If, at the end of the 24-month commitment period described in Subsection [~~(10)~~](11), the court determines that the defendant is incompetent to proceed, the court shall:

(a)(i) order the defendant be released or temporarily detained pending civil commitment proceedings as provided in Subsection (5)(c); and

(ii) terminate the defendant's commitment to the department for restoration treatment; or

(b) if the forensic evaluator reports to the court that there is a substantial probability that restoration treatment will bring the defendant to competency to stand trial in the foreseeable future, extend the defendant's commitment for restoration treatment for up to 12 additional months.

[~~(13)~~](14)(a) Neither release from a pretrial incompetency commitment under the provisions of this section nor civil commitment requires dismissal of criminal charges.

(b) The court may retain jurisdiction over the criminal case and may order periodic reviews.

[~~(14)~~](15) A defendant who is civilly committed pursuant to Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, may still be adjudicated competent to stand trial under this chapter.

[~~(15)~~](16)(a) The remedy for a violation of the time periods specified in this section, other than those specified in Subsection (5)(c), [~~(7)~~](8), [~~(9)~~](10), or [~~(12)~~](13), shall be a motion to compel the hearing, or mandamus, but Ânot release from detention or dismissal of the criminal charges.

(b) The remedy for a violation of the time periods specified in Subsection (5)(c), [~~(7)~~](8), [~~(9)~~](9), or [~~(12)~~](13), or is not dismissal of the criminal charges.

[~~(16)~~](17) In cases in which the treatment of the defendant is precluded by court order for a period of time, that time period may not be considered in computing time limitations under this section.

[~~(17)~~](18)(a) If, at any time, the defendant becomes competent to stand trial while the defendant is committed to the department, the clinical director of the Utah State Hospital, the department, or the department's designee shall certify that fact to the court.

(b) The court shall conduct a competency review hearing:

(i) within 15 working days after the day on which the court receives the certification described in Subsection [~~(17)(a)~~](18)(a); or

(ii) within 30 working days after the day on which the court receives the certification described in Subsection [~~(17)(a)~~](18)(a), if the court determines that more than 15 working days are necessary for good cause related to the defendant's competency.

[~~(18)~~](19) The court may order a hearing at any time on the court's own motion or upon recommendations of the clinical director of the Utah State Hospital or other facility or the department.

[~~(19)~~](20) Notice of a hearing on competency to stand trial shall be given to the prosecuting attorney and all counsel of record.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 175
H. B. 336
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

DEPARTMENT OF PUBLIC SAFETY AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions concerning the Department of Public Safety.

Highlighted Provisions:

This bill:

- amends provisions concerning certain fees in the Department of Public Safety Restricted Account;
- amends eligibility requirements for peace officer and dispatcher training and certification;
- modifies the circumstances under which the Peace Officer Standards and Training Council may discipline a peace officer or a dispatcher; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-106, as last amended by Laws of Utah 2023, Chapter 328
53-6-203, as last amended by Laws of Utah 2022, Chapter 10
53-6-211, as last amended by Laws of Utah 2023, Chapter 452
53-6-302, as last amended by Laws of Utah 2021, First Special Session, Chapter 13
53-6-309, as last amended by Laws of Utah 2020, Chapter 35

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

Section 1. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3)(a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection [~~53-3-105(25)~~] 53-3-105(27) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of $45, $100 shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.

(6) All money received under Subsection [~~41-6a-1406(6)(c)(ii)~~]41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner appointed under Section 26B-8-202 for use in carrying out duties related to highway crash deaths under Subsection 26B-8-205(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9)(a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health and Human Services, on or before December 31, the amount the department expects to collect under Subsection [~~53-3-105(25)~~]53-3-105(27) in the next fiscal year.

Section 2. Section 53-6-203 is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be[~~ either~~]:

(i) a United States citizen; [~~or~~]

(ii) a United States national; or

[~~(ii)~~](iii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be at least:

(i) 19 years old at the time of certification as a special function officer or correctional officer; or

(ii) 21 years old at the time of certification as a law enforcement officer;

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer; and

(g) meet all other standards required by POST.

(2)(a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3)(a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 3. Section 53-6-211 is amended to read:

53-6-211. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting -- Judicial appeal.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a peace officer, if the peace officer:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the peace officer's ability to perform duties;

(c) engages in, or is convicted of, conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(d) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning issued based on Garrity v. New Jersey, 385 U.S. 493 (1967);

(e) engages in sexual conduct while on duty;

(f) is certified as a law enforcement peace officer, as defined in Section 53-13-102, and is unable to possess a firearm under state or federal law;

(g) is found by a court or by a law enforcement agency to have knowingly engaged in conduct that involves dishonesty or deception in violation of a policy of the peace officer's employer or in violation of a state or federal law;

(h) is found by a court or by a law enforcement agency to have knowingly engaged in biased or prejudicial conduct against one or more individuals based on the individual's race, color, sex, pregnancy, age, religion, national origin, disability, sexual orientation, or gender identity; or

(i) is a chief, sheriff, or administrative officer of a law enforcement agency and fails to comply with Subsection (6).

(2) The council may not issue a Letter of Caution or suspend or revoke the certification of a peace officer for a violation of state or federal law or a violation of a law enforcement agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3)(a) The division is responsible for investigating officers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the

peace officer involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d)(i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a peace officer asserts an affirmative defense, the peace officer has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the officer engaged in conduct that is in violation of Subsection (1), the division shall present the finding and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the chief, sheriff, or administrative officer of the police agency which employs the involved peace officer of the investigation and shall provide any information or comments concerning the peace officer received from that agency regarding the peace officer to the council before a Letter of Caution is issued, or a peace officer's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the officer is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4)(a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law, and the information concerning the peace officer provided by the officer's employing agency; and

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the officer's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A member of the council shall recuse him or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the officer;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same law enforcement agency as the officer whose case is before the council.

(5)(a) Termination of a peace officer, whether voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a peace officer by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a peace officer's certification by the council if the peace officer was terminated for any of the reasons under Subsection (1).

(6)(a) A chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsections (1)(a) through (h) shall conduct an administrative or internal investigation into the allegation and report the findings of the investigation to the division if the allegation is substantiated.

(b) If a peace officer who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsections (1)(a) through (h) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the chief, sheriff, or administrative officer of that law enforcement agency shall complete the investigation and report the findings to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 4. Section 53-6-302 is amended to read:

53-6-302. Applicants for certification examination -- Requirements.

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

(a) be[~~either~~]:

(i) a United States citizen;

(ii) a United States national; or

[~~(ii)~~](iii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be 18 years old or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher; and

(g) meet all other standards required by POST.

(2)(a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3)(a) Notwithstanding Title 77, Chapter 40a, Expungement, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Section 5. Section 53-6-309 is amended to read:

53-6-309. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a dispatcher, if the dispatcher:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;

(d) engages in, or is convicted of, conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

(e) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967); or

(f) engages in sexual conduct while on duty.

(2) The council may not issue a Letter of Caution, or suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3)(a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d)(i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a Letter of Caution is issued, or a dispatcher's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4)(a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency; and

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the dispatcher;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.

(5)(a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(6)(a) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(b) If a dispatcher who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the agency shall report the allegations and any investigation results to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 176
H. B. 337
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

AMENDMENTS TO MANDATORY COURSES FOR FAMILY LAW ACTIONS

Chief Sponsor: Joseph Elison
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions regarding mandatory courses in family law actions.

Highlighted Provisions:

This bill:

- clarifies the requirements for mandatory courses in temporary separation, divorce, and parentage actions;
- clarifies the requirements for the divorce orientation course in a temporary separation action;
- addresses a waiver of a mandatory course requirement by the court in a temporary separation, divorce, and parentage action;
- creates a parenting course for unmarried parties in a parentage action;
- addresses the requirements for a parenting course in a parentage action; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-4, as last amended by Laws of Utah 2018, Chapter 470
30-3-4.5, as last amended by Laws of Utah 2010, Chapter 34
30-3-10.3, as last amended by Laws of Utah 2012, Chapter 271
30-3-10.4, as last amended by Laws of Utah 2023, Chapter 44
30-3-10.9, as last amended by Laws of Utah 2018, Chapter 37
30-3-11.3, as last amended by Laws of Utah 2022, Chapter 272
30-3-11.4, as last amended by Laws of Utah 2022, Chapter 272
30-3-35.2, as enacted by Laws of Utah 2021, Chapter 399
51-9-408, as last amended by Laws of Utah 2021, Chapter 262
78B-15-610, as last amended by Laws of Utah 2019, Chapter 188

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

Section 1. Section 30-3-4 is amended to read:

30-3-4. Pleadings -- Decree -- Mandatory course requirements -- Use of affidavit -- Private records.

(1) As used in this section, "mandatory courses" means:

(a) the mandatory parenting course described in Subsection 30-3-11.3(1)(a); and

(b) the divorce orientation course described in Section 30-3-11.4.

[~~(1)~~](2)(a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.

(b) A decree of divorce may not be granted upon default or otherwise except upon legal evidence taken in the cause. If the decree is to be entered upon the default of the respondent, evidence to support the decree may be submitted upon the affidavit of the petitioner with the approval of the court.

[~~(c) If the petitioner and the respondent have a child or children, a decree of divorce may not be granted until both parties have attended the mandatory course described in Section 30-3-11.3 or 30-3-11.4, and have presented a certificate of course completion to the court. The court may waive this requirement, on its own motion or on the motion of one of the parties, if it determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.~~]

[~~(d)~~](c) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

(3)(a) If the parties to the divorce action have a child, the parties shall attend the mandatory courses:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a child, the parties may choose to attend the divorce orientation course described in Section 30-3-11.4.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(4) For a party that is unable to pay the costs of the mandatory courses, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the mandatory courses if the court determines the party is not indigent.

(5)(a) Except for a temporary restraining order under Rule 65 of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(b) It is an affirmative defense in a divorce action that a party has not completed the mandatory courses and the action may not continue until a party has complied with the mandatory courses.

(6)(a) Notwithstanding Subsections (3) and (5)(b), the court may waive the requirement that the parties attend the mandatory courses, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

[~~(2)~~](7)(a) A party to an action brought under this title or to an action under Title 78B, Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or enforce a judgment in the action may file a motion to have the file other than the final judgment, order, or decree classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the file, or any part thereof other than the final order, judgment, or decree, as private. An order classifying part of the file as private does not apply to subsequent filings.

(c) The record is private until the judge determines it is possible to release the record without prejudice to the interests that justified the closure. Any interested person may petition the court to permit access to a record classified as private under this section. The petition shall be served on the parties to the closure order.

Section 2. Section 30-3-4.5 is amended to read:

30-3-4.5. Motion for temporary separation order.

(1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:

(a) the petitioner is lawfully married to the respondent; and

(b) both parties are residents of the state for at least 90 days prior to the date of filing.

(2) The temporary orders are valid for one year from the date of the hearing, or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

[~~(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.~~]

(4)(a) If the parties to the temporary separation action have a child, the parties shall attend the divorce orientation course described in Section 30-3-11.4:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to the temporary separation action do not have a child, the parties may choose to attend the divorce orientation course described in Section 30-3-11.4.

(c) The clerk of the court shall provide notice to a petitioner of the divorce orientation course requirement.

(d) A petition shall include information regarding the divorce orientation course requirement when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the divorce orientation course, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the divorce orientation course if the court determines the party is not indigent.

(6)(a) Except for a temporary restraining order under Rule 65 of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the temporary separation petition until the moving party completes the divorce orientation course.

(b) It is an affirmative defense in a temporary separation action that a party has not completed the divorce orientation course and the action may not continue until a party has complied with the divorce orientation course.

(7)(a) Notwithstanding Subsections (4) or (6)(b), the court may waive the requirement that the parties attend the divorce orientation course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the temporary separation action to proceed.

[~~(5)~~](8) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.

[~~(6)~~](9) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.

Section 3. Section 30-3-10.3 is amended to read:

30-3-10.3. Terms of joint legal or physical custody order.

[~~(1) Unless the court orders otherwise, before a final order of joint legal custody or joint physical custody is entered both parties shall attend the mandatory course for divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion from the course to the court.~~]

[~~(2)~~](1) An order of joint legal or physical custody shall provide terms the court determines appropriate, which may include specifying:

(a) either the county of residence of the child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the child;

(b) that the parents shall exchange information concerning the health, education, and welfare of the child, and where possible, confer before making decisions concerning any of these areas;

(c) the rights and duties of each parent regarding the child's present and future physical care, support, and education;

(d) provisions to minimize disruption of the child's attendance at school and other activities, his daily routine, and his association with friends; and

(e) as necessary, the remaining parental rights, privileges, duties, and powers to be exercised by the parents solely, concurrently, or jointly.

[~~(3)~~](2) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 30-3-10.8.

[~~(4)~~](3) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child the majority of the time.

[~~(5)~~](4) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, including payments by one custodian to the other.

[~~(6)~~](5) An order of joint legal custody, in itself, is not grounds for modifying a support order.

[~~(7)~~](6) An order of joint legal or physical custody shall require a parenting plan incorporating a dispute resolution procedure the parties agree to use:

(a) in accordance with Section 30-3-10.9, or as ordered by the court in accordance with Subsection 30-3-10.2(5); and

(b) before seeking enforcement or modification of the terms and conditions of the order of joint legal or physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Section 4. Section 30-3-10.4 is amended to read:

30-3-10.4. Modification or termination of order.

(1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c)(i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection [~~30-3-10.3(7)~~]30-3-10.3(6); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(2)(a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal custody or

joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and may order the parents to file a parenting plan in accordance with this chapter.

(4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(6) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 5. Section 30-3-10.9 is amended to read:

30-3-10.9. Parenting plan -- Objectives -- Required provisions -- Dispute resolution -- Education plan.

(1) The objectives of a parenting plan are to:

(a) provide for the child's physical care;

(b) maintain the child's emotional stability;

(c) provide for the child's changing needs as the child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the child consistent with the definitions outlined in this chapter;

(e) minimize the child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their minor children through agreements in the parenting plan rather than relying on judicial intervention; and

(g) protect the best interests of the child.

(2) The parenting plan shall contain provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the child, and provisions addressing notice and parent-time responsibilities in the event of the relocation of either party. It may contain other provisions comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.

(3) A process for resolving disputes shall be provided unless precluded or limited by statute. A dispute resolution process may include:

(a) counseling;

(b) mediation or arbitration by a specified individual or agency; or

(c) court action.

(4) In the dispute resolution process:

(a) preference shall be given to the provisions in the parenting plan;

(b) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

(c) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;

(d) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;

(e) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney fees and financial sanctions to the prevailing parent;

(f) the district court has the right of review from the dispute resolution process; and

(g) the provisions of this Subsection (4) shall be set forth in any final decree or order.

(5)(a) Subject to the other provisions of this Subsection (5), the parenting plan shall allocate decision-making authority to one or both parties regarding the child's education, healthcare, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the child in these specified areas or in other areas into the plan, consistent with the criteria outlined in Subsection 30-3-10.7(2) and Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.

(b) A child's education plan shall designate the following:

(i) the home residence for purposes of identifying the appropriate school or another specific plan that provides for where the child will attend school;

(ii) which parent has authority to make education decisions for the child if the parents cannot agree; and

(iii) whether one or both parents have access to the child during school and authority to check the child out of school.

(c) If no education provision is included in the parent plan:

(i) a parent with sole physical custody shall make the decisions listed in Subsection (5)(b);

(ii) in the event of joint physical custody when one parent has custody a majority of the time, pursuant to Subsection [~~30-3-10.3(4)~~]30-3-10.3(3):

(A) the parent having the child the majority of the time shall make the decisions listed in Subsections (5)(b)(i) and (ii); and

(B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school; or

(iii) in the event of joint physical custody when the parents have custody an equal amount of time:

(A) the court shall determine how the decisions listed in Subsections (5)(b)(i) and (ii) are made; and

(B) both parents with joint physical custody shall have access to the child during school and authority to check the child out of school.

(6) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.

(7) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

(8) The plan shall include a residential schedule that designates in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

(9) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

(10)(a) When one or both parents are service members, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.

(b) The provisions in the parenting plan described in Subsection (10)(a) shall comport substantially with the requirements of an agreement made pursuant to Section 78B-20-201.

Section 6. Section 30-3-11.3 is amended to read:

30-3-11.3. Mandatory parenting course for parties in a divorce or parentage action.

(1) The Judicial Council shall approve and implement[~~.~~]:

(a) a mandatory parenting course[~~ for divorcing parents~~] in all judicial districts[~~. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.~~] for married parties in a divorce action determining issues of child custody and parent-time; and

(b) a mandatory parenting course in all judicial districts for unmarried parties in a parentage action determining issues of child custody and parent-time.

(2) The Judicial Council shall adopt rules to implement and administer [~~this program~~]the mandatory parenting courses described in Subsection (1).

[~~(3)(a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.~~]

[~~(b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.~~]

[~~(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.~~]

[~~(5)~~](3) [~~The mandatory course shall instruct both parties:~~]The mandatory parenting courses shall educate and sensitize parties to the needs of the parties' child during and after the court process, including instructing the parties:

(a) about [~~divorce and its impacts~~]the impact of the court process, and its outcome, on:

(i) [~~their child or children~~]the child;

(ii) [~~their~~]the family relationship; and

(iii) [~~their financial responsibilities for their child or children~~]the financial responsibilities of the parties to the child; and

(b) that domestic violence has a harmful effect on children and family relationships.

[~~(6)~~](4)(a) [~~The course~~]The mandatory parenting courses may be provided through live instruction, video instruction, or an online provider.

(b) The online and video options under Subsection (4)(a) must be formatted as interactive presentations that ensure active participation and learning by the [~~parent~~]party.

[~~(7)~~](5)(a) The Administrative Office of the Courts shall administer [~~the course pursuant to~~]the mandatory parenting courses, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts.

(b) The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties[~~, pursuant to Subsection (9).~~] as described in Subsection (7).

[~~(8)~~](6) A certificate of completion constitutes evidence to the court of [~~course~~]completion of a parenting course under this section by the parties.

[~~(9)~~](7)(a) Each party shall pay the [~~costs of the~~]cost of a parenting course to the independent contractor providing the course at the time and place of the course.

(b) A fee of $8 shall be collected, as part of [~~the course~~]a parenting course fee paid by each participant, and deposited in the Children's Legal Defense Account[~~,~~] described in Section 51-9-408.

[~~(b)~~](c) Each party who is unable to pay the [~~costs of the~~]cost of a parenting course may attend the parenting course, without payment, upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. [~~In those situations, the independent contractor shall be reimbursed for the independent contractor's costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of indigency and may order the payment of the costs if so determined.~~]

(d) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to reimburse an independent contractor for the costs of a party who is unable to pay for a parenting course under Subsection (7)(c).

[~~(10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).~~]

[~~(11)~~](8) The Administrative Office of the Courts shall:

(a) adopt a program to evaluate the effectiveness of [~~the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.~~]the mandatory parenting courses; and

(b) provide progress reports to the Judiciary Interim Committee if requested.

Section 7. Section 30-3-11.4 is amended to read:

30-3-11.4. Mandatory orientation course for divorce or temporary separation actions.

(1)(a) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce.

(b) A couple with no minor children is not required, but may choose to attend the course. [~~The purpose of the course is to educate parties about the divorce process and reasonable alternatives.~~]

[~~(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.~~]

[~~(3)(a) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce or petition for temporary separation, until the moving party completes the divorce orientation course.~~]

[~~(b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court under Section 30-3-4.~~]

[~~(4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.~~]

[~~(5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included with the petition or motion, when served on the respondent.~~]

[~~(6)~~](2) The divorce orientation course shall be neutral, unbiased, and at least one hour in duration[~~, and include:~~].

(3) The divorce orientation course shall educate the parties about the divorce process and reasonable alternatives, including instructing the parties on:

(a) options available as alternatives to divorce;

(b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;

(c) resources available to improve or strengthen the marriage;

(d) a discussion of the positive and negative consequences of divorce;

(e) a discussion of the process of divorce;

(f) options available for proceeding with a divorce, including:

(i) mediation;

(ii) collaborative law; and

(iii) litigation; and

(g) a discussion of post-divorce resources.

[~~(7)~~](4) The divorce orientation course may be provided in conjunction with [~~the mandatory course for divorcing parents~~]a mandatory parenting course required by Section 30-3-11.3.

[~~(8)~~](5) The Administrative Office of the Courts shall administer the [~~course pursuant to~~]divorce orientation course, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts.

[~~(9)~~](6) The divorce orientation course may be through live instruction, video instruction, or through an online provider.

[~~(10)~~](7)(a) A [~~participant~~]party shall pay the [~~costs~~]cost of the divorce orientation course[~~, which may not exceed $30,~~] to the independent contractor providing the course at the time and place of the course.

(b) A party may not be charged more than $30 to participate in the divorce orientation course.

(c) A petitioner may not be charged more than $15 to participate in the divorce orientation course if the

petitioner attends a live instruction course within 30 days after the day on which the petitioner filed the action.

(d) A respondent may not be charged more than $15 to participate in the divorce orientation course if the respondent attends a live instruction course within 30 days after the day on which the respondent is served with the action.

[~~(b) A petitioner who attends a live instruction course within 30 days of filing may not be charged more than $15 for the course.~~]

[~~(c) A respondent who attends a live instruction course within 30 days of being served with a petition for divorce may not be charged more than $15 for the course.~~]

[~~(d)~~](e) A fee of $5 shall be collected, as part of the divorce orientation course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

[~~(e)~~](f) Each party who is unable to pay the costs of the course may attend the divorce orientation course, without payment, upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. [~~The independent contractor shall be reimbursed for the independent contractor's costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for indigency may be ordered to pay the costs of the course.~~]

(g) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to reimburse an independent contractor for the costs of a party who is unable to pay for the divorce orientation course under Subsection (7)(f).

[~~(11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be indigent as provided in Subsection (10)(e).~~]

[~~(12)~~](8) The Online Court Assistance Program shall include instructions with the forms for divorce that inform the petitioner of the requirement of this section.

[~~(13)~~](9) A certificate of completion constitutes evidence to the court of [~~course~~] completion of the divorce orientation course by the parties.

[~~(14) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.~~]

[~~(15)~~](10) The Administrative Office of the Courts shall:

(a) adopt a program to evaluate the effectiveness of [~~the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.~~]the divorce orientation course described in this section; and

(b) provide progress reports to the Judiciary Interim Committee if requested.

Section 8. Section 30-3-35.2 is amended to read:

30-3-35.2. Equal parent-time schedule.

(1)(a) A court may order the equal parent-time schedule described in this section if the court determines that:

(i) the equal parent-time schedule is in the child's best interest;

(ii) each parent has been actively involved in the child's life; and

(iii) each parent can effectively facilitate the equal parent-time schedule.

(b) To determine whether each parent has been actively involved in the child's life, the court shall consider:

(i) each parent's demonstrated responsibility in caring for the child;

(ii) each parent's involvement in child care;

(iii) each parent's presence or volunteer efforts in the child's school and at extracurricular activities;

(iv) each parent's assistance with the child's homework;

(v) each parent's involvement in preparation of meals, bath time, and bedtime for the child;

(vi) each parent's bond with the child; and

(vii) any other factor the court considers relevant.

(c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:

(i) the geographic distance between the residence of each parent and the distance between each residence and the child's school;

(ii) each parent's ability to assist with the child's after school care;

(iii) the health of the child and each parent, consistent with Subsection 30-3-10(6);

(iv) the flexibility of each parent's employment or other schedule;

(v) each parent's ability to provide appropriate playtime with the child;

(vi) each parent's history and ability to implement a flexible schedule for the child;

(vii) physical facilities of each parent's residence; and

(viii) any other factor the court considers relevant.

(2)(a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with an order incorporating the equal parent-time schedule.

(b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

(c) Under the equal parent-time schedule, neither parent is considered to have the child the majority of the time for the purposes of Subsection [~~30-3-10.3(4)~~]30-3-10.3(3) or 30-3-10.9(5)(c)(ii).

(d) Child support for the equal parent-time schedule shall be consistent with Section 78B-12-208.

(e)(i) A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.

(ii) For the purpose of calculating child support under Section 78B-12-208, the amount of time to be spent with the parent who has the lower gross monthly income is considered 183 overnights, regardless of whether the parent receives 182 overnights or 183 overnights under Subsection (2)(e)(i).

(3)(a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:

(i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;

(ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and

(iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.

(b) The child exchange shall take place:

(i) at the time the child's school begins; or

(ii) if school is not in session, at 9 a.m.

(4)(a) The parents may create a holiday schedule.

(b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:

(i) order the holiday schedule described in Section 30-3-35; and

(ii) designate which parent shall exercise parent-time for each holiday described in Section 30-3-35.

(5)(a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.

(b)(i) One parent may make a designation at any time and the other parent may make a designation after May 1.

(ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.

(c) The court shall designate which parent may make the earlier designation described in Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.

(d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Section 9. Section 51-9-408 is amended to read:

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3)(a) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

[~~(i) implementing the Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and the Mediation Program - Child Custody or Parent-time;~~]

(i) implementing the mandatory courses described in Sections 30-3-11.3 and 30-3-11.4 and the mediation program for child custody or parent-time;

(ii) implemeÂnting the use of guardians ad litem in accordance with Sections 78A-2-703, 78A-2-705, 78A-2-803, and 78B-3-102;

(iii) the training of attorney guardians ad litem and volunteers as provided in Section 78A-2-803;

(iv) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section 30-3-38; and

(v) implementing and administering the Divorce Education for Children Program.

(b) The Children's Legal Defense Account may not be used to supplant funding for the guardian ad litem program under Section 78A-2-803.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a)(i) through (v):

(a) the additional $10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of $4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of $200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 10. Section 78B-15-610 is amended to read:

78B-15-610. Joinder of judicial proceedings -- Court reliance of custody and parent-time standards -- Mandatory parenting course.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(3) A court may rely on Title 30, Chapter 3, Divorce, in determining issues related to custody or parent-time.

(4)(a) If a parentage action is determining issues of custody or parent-time for a child and the parents of the child are not married, the parties shall attend the mandatory parenting course described in Subsection 30-3-11.3(1)(b) within:

(i) for the petitioner, 60 days after the day on which the petition is filed; and

(ii) for the respondent, 30 days after the day on which the respondent is served.

(b) The clerk of the court shall provide notice to a petitioner that the petitioner is required to attend the parenting course.

(c) A petition shall include information regarding the parenting course when the petition is served on the respondent.

(d) The court may not grant a final custody or parent-time order in a parentage action until:

(i) both parties have attended the parenting course; and

(ii) both parties have presented a certificate of course completion to the court.

(5) For a party that is unable to pay the costs of the parenting course, and before the court enters an order for custody or parent-time in the parentage action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the parenting course if the court determines the party is not indigent.

(6)(a) Notwithstanding Subsection (4), the court may waive the requirement that the parties attend the parenting course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may proceed with entering a final custody or parent-time order.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 177
H. B. 338
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

MENTALLY ILL OFFENDERS AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions relating to offenders with a mental condition.

Highlighted Provisions:

This bill:

- adds specific disorders to a definition of mental illness;
- provides additional requirements for the provision and use of documents and arrest reports for treatment assessments and hearings relating to mentally ill offenders;
- clarifies scheduling requirements for competency evaluations and treatment assessments;
- clarifies when a third party service provider may be used; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-305, as last amended by Laws of Utah 2023, Chapter 184
77-16a-101, as last amended by Laws of Utah 2023, Chapters 184, 330
77-16a-103, as repealed and reenacted by Laws of Utah 2023, Chapter 184

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

Section 1. Section 76-2-305 is amended to read:

76-2-305. Mental condition -- Use as a defense -- Influence of alcohol or other substance voluntarily consumed.

(1) As used in this section:

(a)(i) "Mental condition" means a mental illness or a mental disability that substantially impairs an individual's mental, emotional, or behavioral functioning.

(ii) "Mental condition" does not include a mental abnormality that is manifested solely by repeated criminal conduct, anti-social behavior, or a substance use disorder.

(b) "Mental disability" means an intellectual disability or a neurodevelopmental disorder as those terms are defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(c) "Mental illness" means the following mental disorders as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association:

(i) schizophrenia spectrum and other psychotic disorders; [~~or~~]

(ii) bipolar I disorder;

(iii) post-traumatic stress disorder; or

[~~(ii)~~](iv) other serious mental health conditions with psychotic features.

(2)(a) It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of a mental condition, lacked the mental state required as an element of the offense charged.

(b) A mental condition is not otherwise a defense, but may be evidence in mitigation of the penalty in a capital felony under Section 76-3-207 and may be evidence of special mitigation reducing the level of a criminal homicide or attempted criminal homicide offense under Section 76-5-205.5.

(3) The defense defined in this section includes the defenses known as "insanity" and "diminished mental capacity."

(4) A person who asserts a defense of insanity or diminished mental capacity, and who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense is not excused from criminal responsibility on the basis of a mental condition if the alcohol or substance caused, triggered, or substantially contributed to the mental condition.

Section 2. Section 77-16a-101 is amended to read:

77-16a-101. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole established under Section 77-27-2.

(2) "Department" means the Department of Health and Human Services.

(3) "Executive director" means the executive director of the Department of Health and Human Services.

(4) "Forensic evaluator" means a licensed mental health professional who is:

(a) not involved in the defendant's treatment; and

(b) trained and qualified to conduct a guilty with a mental condition evaluation.

(5) "Mental condition" means the same as that term is defined in Section 76-2-305.

(6) "Mental disability" means the same as that term is defined in Section 76-2-305.

(7) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, or organization that contracts with a local mental health authority.

(8) "Mental health supervision" includes regular and periodic activities including:

(a) the review of a defendant's assessment, diagnostic formulation, individual service plan development, and progress toward completion of care;[~~and~~]

(b) identification of barriers to a defendant's care, assistance in removing barriers to a defendant's care, continuation of services to a defendant, authorization of care for a defendant, and the observation of the delivery of clinical care to a defendant[~~.~~]; and

(c) the provision of an update report to a court as required under Subsection 77-16a-103(5)(g).

(9) "Mental illness" means the same as that term is defined in Section 76-2-305.

(10) "Offender with a mental condition" means an individual who has been adjudicated guilty with a mental condition.

(11) "Secure setting" means a jail, prison, or locked inpatient medical facility approved by the department.

(12) "UDC" means the Department of Corrections.

Section 3. Section 77-16a-103 is amended to read:

77-16a-103. Plea of guilty with a mental condition -- Procedures -- Sentencing -- Reduction -- Costs.

(1)(a)(i) If a defendant wishes to enter a plea of guilty with a mental condition, the parties may stipulate as to:

(A) whether the defendant had a mental condition at the time of the commission of the offense; and

(B) whether the defendant could benefit from supervision or treatment.

(ii) If the parties stipulate as described in Subsection (1)(a)(i), the court shall enter findings consistent with the parties' stipulation if the stipulation is supported by sufficient evidence.

(b) If the parties do not stipulate to Subsection (1)(a)(i), the court shall hold a hearing and determine, by clear and convincing evidence:

(i) whether the defendant had a mental condition at the time of the commission of the offense; and

(ii) whether the defendant could benefit from supervision or treatment.

(c) After reviewing the stipulation described in Subsection (1)(a)(i) or conducting a hearing under Subsection (1)(b):

(i) if the court finds that the defendant had a mental condition at the time of the offense, the court shall accept the defendant's plea of guilty with a mental condition; or

(ii) if the court finds that the defendant did not have a mental condition at the time of the offense, the court may not accept the defendant's plea of guilty with a mental condition.

(2)(a) If a defendant wishes to enter a plea of guilty with a mental condition for a felony offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination, which may be conducted only by a forensic evaluator appointed by the department, to determine:

(i) whether the defendant had a mental condition at the time of the commission of the offense;

(ii) whether the defendant could benefit from supervision or treatment; or

(iii) whether the defendant currently is competent to enter a plea.

(b)(i) If a defendant wishes to enter a plea of guilty with a mental condition for a misdemeanor offense and the parties do not stipulate to Subsection (1)(a)(i), before holding the hearing described in Subsection (1)(b), the court may order the defendant to submit to an examination by a forensic evaluator.

(ii) [~~Unless otherwise ordered by the court, the~~]The examination[~~described in Subsection (2)(b)(i)~~] shall determine:

(A) whether the defendant had a mental condition at the time of the commission of the offense;

(B) whether the defendant could benefit from supervision or treatment; or

(C) whether the defendant currently is competent to enter a plea.

(c) Before an examination is conducted pursuant to Subsection (1)(b) or this Subsection (2):

(i) the petitioner or other party, as directed by the court or requested by the department, shall provide to the forensic evaluation provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments; and

(ii) for purposes of a guilty with a mental condition evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(A) with the defendant's consent, a forensic evaluation provider or the department on the department's request; or

(B) pursuant to an order of the court, a forensic evaluation provider.

(3)(a) If a defendant relies on a private mental health evaluation in support of the defendant's plea of guilty with a mental condition and the parties do not stipulate to Subsection (1)(a)(i), upon the request of the prosecutor before the hearing described in Subsection (1)(b), the court shall order the defendant to submit to an examination by:

[~~(a)~~](i) the department if the offense is a felony; or

[~~(b)~~](ii) the department or a forensic evaluator if the offense is a misdemeanor.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the private mental health evaluation provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a guilty with a mental condition evaluation, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a private mental health evaluation provider or the department on the department's request; or

(ii) pursuant to an order of the court, a private mental health evaluation provider.

(4) If a court finds that a defendant was guilty with a mental condition at the time of the offense in accordance with Subsection (1)(c)(i) but would not benefit from available supervision or treatment, the court shall hold a sentencing hearing within 45 days of the entry of the defendant's plea of guilty with a mental condition.

(5)(a) If a court finds that a defendant had a mental condition at the time of the commission of the offense, the defendant could benefit from supervision or treatment, and has entered a plea of guilty with a mental condition in accordance with Subsection (1)(c)(i), the court:

(i) shall order:

(A) the department to provide a treatment assessment of the defendant and to submit to the court treatment recommendations for the defendant; or

(B) the defendant to arrange for a treatment assessment of the defendant with a private provider and for the private provider to submit to the court treatment recommendations for the defendant;

(ii) shall schedule a treatment review hearing within 30 days after the day on which the court entered the plea of guilty with a mental condition; and

(iii) may defer sentencing for up to one year in accordance with Subsection (6), if the defendant consents to a deferred sentence.

(b) The petitioner or other party, as directed by the court or requested by the department, shall provide to the treatment assessment provider nonmedical information and materials relevant to a treatment assessment, including the charging document, arrest or incident reports pertaining to the charged offense, known criminal history information, and known prior mental health evaluations and treatments.

(c) For purposes of a guilty with a mental condition treatment assessment, a custodian of mental health records pertaining to the defendant, including the defendant's prior mental health evaluations or records relating to the defendant's substance use disorder, may provide the records to:

(i) with the defendant's consent, a treatment assessment provider or the department on the department's request; or

(ii) pursuant to an order of the court, a treatment assessment provider.

[~~(b)~~](d) At the treatment review hearing described in Subsection (5)(a)(ii), the court shall:

(i) consider all available diagnosis, treatment, and supervision recommendations;

(ii) if a party does not agree with treatment recommendations issued by the department under Subsection (5)(a)(i)(A), hold a hearing on the issue of the department's recommendations and make appropriate modifications to the recommendations if necessary; and

(iii) order the defendant to comply with all treatment and supervision recommendations that[~~the court finds~~] are in the best interest of the defendant and public safety.

[~~(c)~~](e)(i) In determining treatment and supervision recommendations under Subsection [~~(5)(b)~~](5)(d), the court may order the defendant to be placed in a secure setting as described in Subsections [~~(5)(c)(ii) and (iii)~~](5)(e)(ii) and (iii) if the court finds that the placement would be in the best interest of the defendant, a victim of the defendant, or public safety.

(ii)(A) If the offense is a class C misdemeanor, the court may not place the defendant in a secure setting for more than 90 days.

(B) If the offense is a class B misdemeanor, the court may not place the defendant in a secure setting for more than six months.

(C) If the offense is a class A misdemeanor or a felony, the court may place the defendant in a secure setting for up to one year.

(iii) The court shall, before making a determination as to a secure setting placement, notify the executive director of the proposed placement and provide the department with an opportunity to:

(A) evaluate the defendant; and

(B) make a recommendation regarding placement to the court.

[~~(d)~~](f) If the court determines that the defendant is eligible for supervised release as part of the

defendant's treatment and supervision recommendations under Subsection [~~(5)(b)~~](5)(d), except as provided in Section 76-3-406, the court may order:

(i) if the offense is a felony:

(A) supervision by Adult Probation and Parole, or a third party that is approved by Adult Probation and Parole, for a period of up to one year in accordance with the applicable supervision provisions described in Title 64, Chapter 13, Department of Corrections - State Prison; [~~or~~]and

(B) [~~supervision including~~]mental health supervision by:

(I) the department or a local mental health authority; or

(II) if the court determines that it is appropriate, a public or private entity that provides mental or behavioral health services and is approved by the[~~department or the court~~]; or

(ii) if the offense is a misdemeanor, [~~supervision including~~]mental health supervision by:

(A) a local mental health authority; or

(B) if the court determines that it is appropriate, a public or private entity that provides mental or behavioral health services and is approved by the department[~~ or the court~~].

[~~(e)~~](g)(i) After the initial review hearing described in Subsection (5)(a), the court shall hold periodic review hearings approximately every 90 days, the frequency of which may be modified by the court.

(ii) At a review hearing described in Subsection [~~(5)(e)(i)~~](5)(g)(i):

(A) the department or the department's designee shall report on the progress of the defendant, provide recommendations for the defendant's future care, treatment, and secure or unsecure placement, and advise the court on the medical necessity of treatments for the defendant;

(B) the court shall review the status of the defendant and determine whether any changes are needed to the defendant's supervision or treatment plan; and

(C) a party may request, if the party has a good faith basis, that the court review or change the defendant's placement within a secure or non-secure setting.

[~~(f)~~](h) If a defendant is willfully non-compliant with the treatment or supervision ordered by the court under this Subsection (5), the court shall hold an order to show cause hearing to determine whether the court should:

(i) proceed with sentencing under Subsection (6);

(ii) change the defendant's placement to a secure setting;

(iii) impose another sanction; or

(iv) take no action.

(6)(a) The court shall defer sentencing for a defendant who has pleaded guilty with a mental condition as described in Subsection (5) until:

(i) the court determines, after an order to show cause hearing or a review hearing as described in Subsection (5), that:

(A) the defendant is willfully non-compliant with treatment or supervision and is unlikely to become compliant with further ordered treatment or supervision; or

(B) the defendant has reached the maximum benefit of treatment and supervision; or

(ii) one year has elapsed after the day on which the court entered the defendant's plea of guilty with a mental condition.

(b) At the sentencing hearing, the court shall:

(i) consider all treatment and supervision that has occurred before the sentencing hearing in the defendant's case;

(ii) credit any time the defendant has spent in a mental health facility or other residential treatment facility or a secure facility against the defendant's sentence;

(iii) consider victim input;

(iv) consider the best interests of the defendant, including which sentence will help prevent the defendant:

(A) from losing the defendant's ability to control the defendant's state of mental health; and

(B) from committing additional criminal conduct related to the defendant's mental condition;

(v) consider the best interest of public safety; and

(vi) consider any other relevant factor or circumstance.

(7)(a) Except as provided in Subsection [~~(7)(c)~~](7)(b), after a defendant who has been sentenced under Subsection (6) has completed the defendant's sentence and any probation or parole:

[~~(a)~~](i) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), the court has jurisdiction to enter a judgment of conviction and shall reduce the judgment of conviction for the offense by two degrees from the original offense; and

[~~(b)~~](ii) notwithstanding the contrary provisions in Subsection 76-3-402(4) or 76-3-406(1), if the prosecuting attorney specifically agrees in writing or on the court record at any time, the court has jurisdiction to consider and enter a judgment of conviction and may enter a judgment of conviction for the offense that is reduced by up to three degrees from the original offense.

[~~(c)~~](b) If a defendant's probation is revoked and any suspended sentence is imposed, the defendant may not receive a reduction under this Subsection (7).

(8)(a)(i) Except as provided in Subsection (8)(a)(iv), when the offense is a state offense,

expenses of examination, observation, and treatment for the defendant shall be paid by the department when not paid for by the defendant's insurance.

(ii) Travel expenses shall be paid by the county where prosecution is commenced.

(iii) Expenses of examination for a defendant charged with a violation of a municipal or county ordinance shall be paid by the municipality or county that commenced the prosecution.

(iv) The department is not responsible for payment for an evaluation described in Subsection [~~(3)(b)~~](3)(a)(ii) that is conducted by a forensic evaluator who is privately retained by a party.

(b)(i) Provisions in this part for the support at public expense of a defendant with a mental condition do not release an insurer of a defendant with a mental condition from liability for the care or treatment of the defendant with a mental condition.

(ii) The department is authorized to collect amounts spent on a defendant with a mental condition from an insurer of the defendant with a mental condition.

(iii) A health insurance company may not deny coverage for court-ordered treatment or supervision of a defendant with a mental condition solely based on the fact that the treatment or supervision is ordered by a court if the treatment or supervision is medically necessary and would otherwise be a covered benefit under the defendant's insurance plan.

(9) A guilty with a mental condition evaluation conducted under this section is also subject to the procedural requirements of Subsections 77-15-5(8) through (11) and 77-15-6(4)(a).

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 178
H. B. 344
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

JUDICIAL RULES REVIEW AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies the duties and structure of the Judicial Rules Review Committee and the Administrative Rules Review and General Oversight Committee.

Highlighted Provisions:

This bill:

- disbands the Judicial Rules Review Committee;
- moves the organizational statute for the Administrative Rules Review and General Oversight Committee to Title 36, Legislature;
- changes the name of the Administrative Rules Review and General Oversight Committee to the Rules Review and General Oversight Committee;
- places the duties and oversight of the Judicial Rules Review Committee within the duties and oversight of the Rules Review and General Oversight Committee;
- amends provisions requiring production of documents and information;
- reorganizes statutes to accommodate the consolidation of committees;
- clarifies existing statutory language; and
- makes corresponding changes and updates cross references.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-201, as last amended by Laws of Utah 2023, Chapter 272
19-1-206, as last amended by Laws of Utah 2023, Chapter 327
19-1-207, as last amended by Laws of Utah 2022, Chapter 443
19-5-104.5, as last amended by Laws of Utah 2022, Chapter 443
26B-1-207, as last amended by Laws of Utah 2023, Chapter 272
26B-1-219, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-129, as renumbered and amended by Laws of Utah 2023, Chapter 306
40-6-22, as last amended by Laws of Utah 2022, Chapter 443
53B-27-303, as last amended by Laws of Utah 2022, Chapter 443
54-17-701, as last amended by Laws of Utah 2022, Chapter 443
63A-5b-607, as last amended by Laws of Utah 2023, Chapter 329
63A-13-202, as last amended by Laws of Utah 2022, Chapter 443
63A-13-305, as last amended by Laws of Utah 2022, Chapter 443
63C-9-403, as last amended by Laws of Utah 2023, Chapter 329
63G-3-301, as last amended by Laws of Utah 2022, Chapter 443
63G-3-304, as last amended by Laws of Utah 2022, Chapter 443
63G-3-402, as last amended by Laws of Utah 2022, Chapter 443
63G-3-403, as last amended by Laws of Utah 2022, Chapter 443
63G-3-502, as last amended by Laws of Utah 2022, Chapter 443
72-6-107.5, as last amended by Laws of Utah 2023, Chapter 330
79-2-404, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

36-35-101, Utah Code Annotated 1953
63G-3-503, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

36-32-207, (Renumbered from 36-32-207, as enacted by Laws of Utah 2020, Chapter 154)
63G-3-501, (Renumbered from 63G-3-501, as last amended by Laws of Utah 2023, Chapter 329)
36-32-202, (Renumbered from 36-32-202, as enacted by Laws of Utah 2020, Chapter 154)
36-32-203, (Renumbered from 36-32-203, as enacted by Laws of Utah 2020, Chapter 154)
36-32-206, (Renumbered from 36-32-206, as enacted by Laws of Utah 2020, Chapter 154)

REPEALS:

36-32-101, as enacted by Laws of Utah 2020, Chapter 154
36-32-102, as enacted by Laws of Utah 2020, Chapter 154
36-32-201, as enacted by Laws of Utah 2020, Chapter 154
36-32-204, as enacted by Laws of Utah 2020, Chapter 154
36-32-205, as enacted by Laws of Utah 2020, Chapter 154

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

Section 1. Section 19-1-201 is amended to read:

19-1-201. Powers and duties of department -- Rulemaking authority -- Committee -- Monitoring environmental impacts of inland port.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Health and Human Services to delineate specific responsibilities to assure that assessment and management of risk to human

health from the environment are properly administered;

(b) consult with the Department of Health and Human Services and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(c) coordinate implementation of environmental programs to maximize efficient use of resources by developing, in consultation with local health departments, a Comprehensive Environmental Service Delivery Plan that:

(i) recognizes that the department and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually;

(d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as follows:

(i) for a board created in Section 19-1-106, rules regarding:

(A) board meeting attendance; and

(B) conflicts of interest procedures; and

(ii) procedural rules that govern:

(A) an adjudicative proceeding, consistent with Section 19-1-301; and

(B) a special adjudicative proceeding, consistent with Section 19-1-301.5;

(e) ensure that training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) subject to Subsection (2), establish annual fees that conform with Title V of the Clean Air Act for each regulated pollutant as defined in Section 19-2-109.1, applicable to a source subject to the Title V program.

(2)(a) A fee established under Subsection (1)(f) is in addition to a fee assessed under Subsection (6)(i) for issuance of an approval order.

(b) In establishing a fee under Subsection (1)(f), the department shall comply with Section 63J-1-504 that requires a public hearing and requires the established fee to be submitted to the Legislature for the Legislature's approval as part of the department's annual appropriations request.

(c) A fee established under this section shall cover the reasonable direct and indirect costs required to develop and administer the Title V program and the small business assistance program established under Section 19-2-109.2.

(d) A fee established under Subsection (1)(f) shall be established for all sources subject to the Title V program and for all regulated pollutants.

(e) An emission fee may not be assessed for a regulated pollutant if the emissions are already accounted for within the emissions of another regulated pollutant.

(f) An emission fee may not be assessed for any amount of a regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

(g) An emission fee shall be based on actual emissions for a regulated pollutant unless a source elects, before the issuance or renewal of a permit, to base the fee during the period of the permit on allowable emissions for that regulated pollutant.

(h) The fees collected by the department under Subsection (1)(f) and penalties collected under Subsection 19-2-109.1(4) shall be deposited into the General Fund as the Air Pollution Operating Permit Program dedicated credit to be used solely to pay for the reasonable direct and indirect costs incurred by the department in developing and administering the program and the small business assistance program under Section 19-2-109.2.

(3) The department shall establish a committee that consists of:

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

(b) two representatives of the department appointed by the executive director; and

(c) three representatives of local health departments appointed by a group of all the local health departments in the state.

(4)(a) The committee established in Subsection (3) shall:

(i) review the allocation of environmental quality resources between the department and the local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate rules and department policies that affect local health departments in accordance with Subsection (4)(b);

(iii) consider policy changes proposed by the department or by local health departments;

(iv) coordinate the implementation of environmental quality programs to maximize environmental quality resources; and

(v) review each department application for any grant from the federal government that affects a local health department before the department submits the application.

(b) When evaluating a policy or rule that affects a local health department, the committee shall:

(i) compute an estimate of the cost a local health department will bear to comply with the policy or rule;

(ii) specify whether there is any funding provided to a local health department to implement the policy or rule; and

(iii) advise whether the policy or rule is still needed.

(c) Before November 1 of each year, the department shall provide a report to the [~~Administrative~~]Rules Review and General Oversight Committee regarding the determinations made under Subsection (4)(b).

(5) The committee shall create bylaws to govern the committee's operations.

(6) The department may:

(a) investigate matters affecting the environment;

(b) investigate and control matters affecting the public health when caused by environmental hazards;

(c) prepare, publish, and disseminate information to inform the public concerning issues involving environmental quality;

(d) establish and operate programs, as authorized by this title, necessary for protection of the environment and public health from environmental hazards;

(e) use local health departments in the delivery of environmental health programs to the extent provided by law;

(f) enter into contracts with local health departments or others to meet responsibilities established under this title;

(g) acquire real and personal property by purchase, gift, devise, and other lawful means;

(h) prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the Legislature;

(i) in accordance with Section 63J-1-504, establish a schedule of fees that may be assessed for actions and services of the department that are reasonable, fair, and reflect the cost of services provided;

(j) for an owner or operator of a source subject to a fee established by Subsection (6)(i) who fails to timely pay that fee, assess a penalty of not more than 50% of the fee, in addition to the fee, plus interest on the fee computed at 12% annually;

(k) prescribe by rule reasonable requirements not inconsistent with law relating to environmental quality for local health departments;

(l) perform the administrative functions of the boards established by Section 19-1-106, including the acceptance and administration of grants from the federal government and from other sources, public or private, to carry out the board's functions;

(m) upon the request of a board or a division director, provide professional, technical, and clerical staff and field and laboratory services, the extent of which are limited by the money available to the department for the staff and services; and

(n) establish a supplementary fee, not subject to Section 63J-1-504, to provide service that the person paying the fee agrees by contract to be charged for the service to efficiently use department resources, protect department permitting processes, address extraordinary or unanticipated stress on permitting processes, or make use of specialized expertise.

(7) In providing service under Subsection (6)(n), the department may not provide service in a manner that impairs another person's service from the department.

(8)(a) As used in this Subsection (8):

(i) "Environmental impacts" means:

(A) impacts on air quality, including impacts associated with air emissions; and

(B) impacts on water quality, including impacts associated with storm water runoff.

(ii) "Inland port" means the same as that term is defined in Section 11-58-102.

(iii) "Inland port area" means the area in and around the inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(iv) "Monitoring facilities" means:

(A) for monitoring air quality, a sensor system consisting of monitors to measure levels of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment with internal data storage that are interconnected at all times to capture air quality readings and store data; and

(B) for monitoring water quality, facilities to collect groundwater samples, including in existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to storm water.

(b) The department shall:

(i) develop and implement a sampling and analysis plan to:

(A) characterize the environmental baseline for air quality and water quality in the inland port area;

(B) characterize the environmental baseline for only air quality for the Salt Lake International Airport; and

(C) define the frequency, parameters, and locations for monitoring;

(ii) establish and maintain monitoring facilities to measure the environmental impacts in the inland port area arising from destruction, construction, development, and operational activities within the inland port;

(iii) publish the monitoring data on the department's website; and

(iv) provide at least annually before November 30 a written report summarizing the monitoring data to:

(A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part 3, Port Authority Board; and

(B) the Legislative Management Committee.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 3. Section 19-1-207 is amended to read:

19-1-207. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may not make, amend, or repeal a rule related to air or water quality pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall report to the [~~Administrative~~]Rules Review and General Oversight Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after August 31, 2020, but on or before June 30, 2021, the Air Quality Board, Division of Air Quality, Water Quality Board, or Division of Water Quality may not impose a new fee or increase a fee related to air or water quality pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders

in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 4. Section 19-5-104.5 is amended to read:

19-5-104.5. Legislative review and approval.

(1) Before sending a total maximum daily load and implementation strategy to the EPA for review and approval, the Water Quality Board shall submit the total maximum daily load:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the total maximum daily load will require a public or private expenditure in excess of $10,000,000 but less than $100,000,000 for compliance; or

(b) for approval to the Legislature if the total maximum daily load will require a public or private expenditure of $100,000,000 or more.

(2)(a) As used in this Subsection (2):

(i) "Expenditure" means the act of expending funds:

(A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a group of private agricultural facilities; and

(B) through an initial capital investment, or through operational costs over a three-year period.

(ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in accordance with 33 U.S.C. Sec. 1342.

(b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall submit the rule or standard as directed in Subsections (2)(c) and (d).

(c)(i) If compliance with the rule or standard requires an expenditure in excess of $250,000, but less than $10,000,000, the board shall submit the rule or standard for review to the Natural Resources, Agriculture, and Environment Interim Committee.

(ii)(A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources, Agriculture, and Environment Interim Committee shall review a rule or standard the board submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment Interim Committee's committee meeting immediately following the day on which the board submits the rule or standard.

(B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days after the day on which the board submits the rule or standard for review, the Natural Resources, Agriculture, and Environment Interim Committee shall review the rule or standard during the committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

(d) If compliance with the rule or standard requires an expenditure of $10,000,000 or more, the board shall submit the rule or standard for approval to the Legislature.

(e)(i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in Subsection (2)(b) using:

(A) an independent, licensed engineer; and

(B) industry-accepted project cost estimate methods.

(ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).

(f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply with the rule or standard.

(3) In reviewing a rule or standard, the Natural Resources, Agriculture, and Environment Interim Committee may:

(a) consider the impact of the rule or standard on:

(i) economic costs and benefit;

(ii) public health; and

(iii) the environment;

(b) suggest additional areas of consideration; or

(c) recommend the rule or standard to the board for:

(i) adoption; or

(ii) re-evaluation followed by further review by the Natural Resources, Agriculture, and Environment Interim Committee.

(4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the committee shall:

(a) before the review, directly inform the chairs of the [~~Administrative~~]Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(b) after the review, directly inform the chairs of the [~~Administrative~~]Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

Section 5. Section 26B-1-207 is amended to read:

26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

(1) In establishing public health policy, the department shall consult with the local health

departments established under Title 26A, Chapter 1, Local Health Departments.

(2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3)(a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

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

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);

(iii) consider department policy and rule changes proposed by the department or local health departments;

(iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d)(i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

(g) When evaluating a policy or rule that affects a local health department, the committee shall determine:

(i) whether the department has the authority to promulgate the policy or rule;

(ii) an estimate of the cost a local health department will bear to comply with the policy or rule;

(iii) whether there is any funding provided to a local health department to implement the policy or rule; and

(iv) whether the policy or rule is still needed.

(h) Before November 1 of each year, the department shall provide a report to the [~~Administrative~~]Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).

Section 6. Section 26B-1-219 is amended to read:

26B-1-219. Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

(i) health care as defined in Section 78B-3-403;

(ii) a prescription drug as defined in Section 58-17b-102;

(iii) a prescription device as defined in Section 58-17b-102;

(iv) a nonprescription drug as defined in Section 58-17b-102; or

(v) any supply or treatment that is intended for use in the course of providing health care as defined in Section 78B-3-403.

(b)(i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:

(A) the distribution of a scarce health care resource; or

(B) qualifications or criteria for a person to receive a scarce health care resource.

(ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

(i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;

(ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and

(iii) that the federal government has allocated to the state to distribute.

(2)(a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

(b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

(a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:

(i) the [~~Administrative~~]Rules Review and General Oversight Committee created in Section [~~63G-3-501~~]36-35-102;

(ii) the governor or the governor's designee;

(iii) the president of the Senate or the president's designee;

(iv) the speaker of the House of Representatives or the speaker's designee;

(v) the executive director or the executive director's designee; and

(vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and

(b) procedures for an emergency circumstance which shall include, at a minimum:

(i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and

(ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.

(4)(a) Within 30 days after March 22, 2022, the department shall send to the [~~Administrative~~]Rules Review and General Oversight Committee all rationing criteria that:

(i) were adopted, modified, required, facilitated, or recommended by the department prior to March 22, 2022; and

(ii) on March 22, 2022, were in effect and in use to distribute or qualify a person to receive scarce health care resources.

(b) During the 2022 interim, the [~~Administrative~~] Rules Review and General Oversight Committee shall, under Subsection [~~63G-3-501(3)(d)(i)~~] 36-35-102(3)(c), review each of the rationing criteria submitted by the department under this Subsection [~~(4)(a)~~](4).

(5) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:

(a) have the force and effect of law, or is solely advisory, informative, or descriptive;

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

(c) are developed solely by the department or in collaboration with other individuals or entities.

(6) This section:

(a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

(b) does not limit a private entity from developing or implementing rationing criteria; and

(c) does not require the department to adopt, modify, require, facilitate, or recommend rationing

criteria that the department does not determine to be necessary or appropriate.

(7) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:

(a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;

(b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(c) to the extent that compliance with this section would result in a direct violation of federal law;

(d) that are necessary for administration of the Medicaid program;

(e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or

(f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Section 7. Section 26B-3-129 is amended to read:

26B-3-129. Review of claims -- Audit and investigation procedures.

(1)(a) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health care professionals subject to audit and investigation under the state Medicaid program, to establish procedures for audits and investigations that are fair and consistent with the duties of the department as the single state agency responsible for the administration of the Medicaid program under Section 26B-3-108 and Title XIX of the Social Security Act.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the department under Subsection (1)(a), the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section [~~63G-3-501~~]36-35-102.

(2) The department shall:

(a) notify and educate providers and health care professionals subject to audit and investigation under the Medicaid program of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the department under the provisions of this section;

(b) ensure that the department, or any entity that contracts with the department to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, as defined in Section 63A-13-102, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds $200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(3)(a) If the department, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to the Social Services Appropriations Subcommittee; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the department or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b)(i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, General Government, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 8. Section 36-12-24, which is renumbered from Section 36-32-207 is renumbered and amended to read:

~~36-32-207~~. 36-12-24. Legislative counsel attendance at Supreme Court advisory committees.

[~~The~~]An attorney from the Office of Legislative Research and General Counsel shall, when practicable, attend meetings of the advisory committees of the Supreme Court.

Section 9. Section 36-35-101 is enacted to read:

36-35-101. Definitions.

As used in this chapter:

(1) "Agency rule" means the same as the term "rule" is defined in Section 63G-3-101.

(2) "Committee" means the Rules Review and General Oversight Committee.

(3) "Court Rule" means any of the following, whether existing, new, or proposed:

(a) rules of procedure, evidence, or practice for use of the courts of this state;

(b) rules governing and managing the appellate process adopted by the Supreme Court; or

(c) rules adopted by the Judicial Council for the administration of the courts of the state.

(4) "Judicial advisory committee" means the committee that proposes to the Supreme Court rules or changes in court rules related to:

(a) civil procedure;

(b) criminal procedure;

(c) juvenile procedure;

(d) appellate procedure;

(e) evidence;

(f) professional conduct; and

(g) the subject matter focus of any other committee that the Supreme Court establishes to propose rules or changes in court rules to the Supreme Court.

(5) "Judicial council" means the administrative body of the courts, established in Utah Constitution, Article VIII, Section 12, and Section 78A-2-104.

(6) "Proposal for court rule" means the proposed language in a court rule that is submitted to:

(a) the Judicial Council;

(b) the advisory committee; or

(c) the Supreme Court.

(7) "Rule" means an agency rule or a court rule.

Section 10. Section 36-35-102, which is renumbered from Section 63G-3-501 is renumbered and amended to read:

~~63G-3-501~~. 36-35-102. Rules Review and General Oversight Committee.

(1)(a) There is created [~~an Administrative~~]a Rules Review and General Oversight Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c)(i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d)(i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f)(i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules and court rules, amendments to existing agency rules and court rules, and repeals of existing agency rules and court rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3)(a) The committee shall exercise continuous oversight of the administrative rulemaking process under Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, and shall, for each general session of the Legislature, request legislation that considers legislative reauthorization of agency rules as provided under Section 63G-3-502.

(b) The committee shall examine each agency rule, including any agency rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:

(i) whether the agency rule is authorized by statute;

(ii) whether the agency rule complies with legislative intent;

(iii) the agency rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the agency rule's impact on affected persons;

(v) the agency rule's total cost to entities regulated by the state;

(vi) the agency rule's benefit to the citizens of the state; and

(vii) whether adoption of the agency rule requires legislative review or approval.

(c)(i) The committee may examine and review:

[~~(i)~~](A) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act;

[~~(ii)~~](B) any public health order issued during a public health emergency declared in accordance with Title 26A, Local Health Authorities, or Title 26B, Utah Health and Human Services Code; or

[~~(iii)~~](C) [~~an agency's policies~~]any agency policy that:

[~~(A)~~](I) [~~affect~~]affects a class of persons other than the agency; or

[~~(B)~~](II) [~~are~~]is contrary to legislative intent.

(ii) If the committee chooses to examine or review an order or policy described in Subsection (3)(c)(i), the agency that issued the order or policy shall, upon request by the committee, provide to the committee:

(A) a copy of the order or policy; and

(B) information related to the order or policy.

[~~(d)(i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.~~]

[~~(ii) Notwithstanding anything to the contrary in this section, the committee may not examine an agency's internal policies, procedures, or practices. (iii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee~~].

(d) The committee shall review court rules as provided in Section 36-35-103 and Section 36-35-104.

[~~(e) An agency shall respond to a request from the committee for:~~]

[~~(i) an agency's policy described in Subsection (3)(c)(iii); or~~]

[~~(ii) information related to an agency's policy described in Subsection (3)(c)(iii).~~]

(4)(a) To carry out the requirements of Subsection (3), the committee may examine any other issues that the committee considers necessary.

(b) Notwithstanding anything to the contrary in this section, the committee may not examine the internal policies, procedures, or practices of an agency or judicial branch entity.

[~~(f)~~](c) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

[~~(4)~~](5) When the committee reviews an existing rule, the committee chairs[~~-~~]:

(a) shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency or judicial branch entity whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee[~~.~~] during the review of the rule; and

(b) may notify and refer the rule to the chairs of the interim committee that has jurisdiction over a particular agency or judicial branch entity when the committee determines that an issue involved in the rule may be more appropriately addressed by that committee.

[~~(5)~~](6) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule or proposal for court rule.

[~~(6)~~](7) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

[~~(7)~~](8)(a) The committee may prepare written findings of the committee's review of a rule, proposal for court rule, policy, practice, or procedure and may include any recommendation, including:

(i) legislative action; [~~or~~]

(ii) action by a standing committee or interim committee[~~.~~];

(iii) agency rulemaking action;

(iv) Supreme Court rulemaking action; or

(v) Judicial Council rulemaking action.

(b) When the committee reviews a rule, the committee shall provide to the agency or judicial branch entity that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency or judicial branch entity notify the committee of any changes the agency or judicial branch entity makes to the rule.

(c) The committee shall provide a copy of the committee's findings described in Subsection [~~(7)(a)~~](8)(a), if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency or judicial branch entity whose rule, policy, practice, or procedure is the subject of the finding; [~~and~~]

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency or judicial branch entity that made the rule[~~.~~];

(vii) the governor; and

(viii) if the findings involve a court rule or judicial branch entity:

(A) the Judiciary Interim Committee;

(B) the Supreme Court; and

(C) the Judicial Council.

[~~(8)~~](9)(a)(i) The committee may submit a report on the committee's review under this section to each member of the Legislature at each regular session.

(ii) The report shall include:

(A) any finding or recommendation the committee made under Subsection [~~(7)~~](8);

(B) any action an agency, the Supreme Court, or the Judicial Council took in response to a committee recommendation; and

(C) any recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize [~~a~~]an agency rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the agency rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

(c) If the committee recommends legislation, the committee may prepare legislation for consideration by the Legislature at the next general session.

Section 11. Section 36-35-103, which is renumbered from Section 36-32-202 is renumbered and amended to read:

~~36-32-202~~. 36-35-103. Submission of court rules or proposals for court rules.

(1) The Supreme Court or the Judicial Council shall submit to the committee and the governor each [~~court rule, proposal for~~]proposed court rule and each new court rule, and any additional information related to [~~a court rule or proposal for~~]the court rule that the Supreme Court or Judicial Council considers relevant:

(a) when the court rule [~~or proposal for court rule~~] is submitted:

(i) to the Judicial Council for consideration or approval for public comment; or

(ii) to the Supreme Court by the advisory committee after the advisory committee's consideration or approval; and

(b) when the [~~approved court rule or approved proposal for~~]court rule is made available to members of the bar and the public for public comment.

(2) At the time of submission under Subsection (1), the Supreme Court or Judicial Council shall provide the committee with the name and contact information of a Supreme Court advisory committee or Judicial Council employee whom the committee may contact about the submission.

Section 12. Section 36-35-104, which is renumbered from Section 36-32-203 is renumbered and amended to read:

~~36-32-203~~. 36-35-104. Review of court rules -- Criteria.

(1) As used in this section, "court rule" means a [~~new court rule, a~~]proposal for a court rule, a new court rule, or an existing court rule.

(2) The committee may review and evaluate:

(a) [~~shall review and evaluate~~]a submission of:

(i) a new court rule; or

(ii) a proposal for a court rule; and

(b) [~~may review~~]an existing court rule.

(3) [~~The~~]If the committee [~~shall~~]chooses to conduct a review of a court rule [~~described in~~]as provided under Subsection (2), the review shall be based on the following criteria:

(a) whether the court rule is authorized by the state constitution or by statute;

(b) if authorized by statute, whether the court rule complies with legislative intent;

(c) whether the court rule is in conflict with existing statute or governs a policy expressed in statute;

(d) whether the court rule is primarily substantive or procedural in nature;

(e) whether the court rule infringes on the powers of the executive or legislative branch of government;

(f) the impact of the court rule on an affected person;

(g) the purpose for the court rule, and if applicable, the reason for a change to an existing court rule;

(h) the anticipated cost or savings due to the court rule to:

(i) the state budget;

(ii) local governments; and

(iii) individuals; and

(i) the cost to an affected person of complying with the court rule.

Section 13. Section 40-6-22 is amended to read:

40-6-22. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the board or division may not make, amend, or repeal a rule pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board or division shall report to the [~~Administrative~~]Rules Review and General Oversight Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after August 31, 2020, but on or before June 30, 2021, the board or division may not impose a new fee or increase a fee pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 14. Section 53B-27-303 is amended to read:

53B-27-303. Complaint process -- Reporting.

(1) Before August 1, 2019, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2)(a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the board shall:

(i) examine the complaint and, within 30 days after the day on which the board receives the complaint, determine whether the complaint is made in good faith; and

(ii)(A) if the board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, the board shall submit a report to the [~~Administrative~~]Rules Review and General Oversight Committee detailing:

(i) the number of complaints the board received during the preceding year;

(ii) the number of complaints the board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the board received during the preceding year.

(3) If the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the board directs the institution.

Section 15. Section 54-17-701 is amended to read:

54-17-701. Rules for carbon capture and geological storage.

(1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:

(a) site characterization approval;

(b) geomechanical, geochemical, and hydrogeological simulation;

(c) risk assessment;

(d) mitigation and remediation protocols;

(e) issuance of permits for test, injection, and monitoring wells;

(f) specifications for the drilling, construction, and maintenance of wells;

(g) issues concerning ownership of subsurface rights and pore space;

(h) allowed composition of injected matter;

(i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;

(j) closure and decommissioning procedure;

(k) short- and long-term liability and indemnification for sequestration sites;

(l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and

(m) other issues as identified.

(2) The entities listed in Subsection (1) shall report to the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).

(3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities, Energy, and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.

(4) The recommended rules developed under this section apply to the injection of carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

(5) The recommended rules developed under this section do not apply to the injection of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the purpose of enhanced hydrocarbon recovery.

(6) Rules recommended under this section shall:

(a) ensure that adequate health and safety standards are met;

(b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon capture and geologic sequestration; and

(c) provide adequate regulatory oversight and public information concerning carbon capture and geologic sequestration.

Section 16. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6)(a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7)(a)(i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b)(i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created under Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10)(a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11)(a)(i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26B-1-309.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 17. Section 63A-13-202 is amended to read:

63A-13-202. Duties and powers of inspector general and office.

(1) The inspector general of Medicaid services shall:

(a) administer, direct, and manage the office;

(b) inspect and monitor the following in relation to the state Medicaid program:

(i) the use and expenditure of federal and state funds;

(ii) the provision of health benefits and other services;

(iii) implementation of, and compliance with, state and federal requirements; and

(iv) records and recordkeeping procedures;

(c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;

(d) investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program;

(e) consult with the Centers for Medicaid and Medicare Services and other states to determine and implement best practices for:

(i) educating and communicating with health care professionals and providers about program and audit policies and procedures;

(ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and

(iii) differentiating between honest mistakes and intentional errors, or fraud, waste, and abuse, if the office enters into settlement negotiations with the provider or health care professional;

(f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the state Medicaid program;

(g) work closely with the fraud unit to identify and recover improperly or fraudulently expended Medicaid funds;

(h) audit, inspect, and evaluate the functioning of the division for the purpose of making recommendations to the Legislature and the department to ensure that the state Medicaid program is managed:

(i) in the most efficient and cost- effective manner possible; and

(ii) in a manner that promotes adequate provider and health care professional participation and the provision of appropriate health benefits and services;

(i) regularly advise the department and the division of an action that could be taken to ensure that the state Medicaid program is managed in the most efficient and cost- effective manner possible;

(j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid program, to the fraud unit;

(k) refer potential criminal conduct, including relevant data from the controlled substance database, relating to Medicaid fraud, to law enforcement in accordance with Title 58, Chapter 37f, Controlled Substance Database Act;

(l) determine ways to:

(i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program; and

(ii) balance efforts to reduce costs and avoid or minimize increased costs of the state Medicaid program with the need to encourage robust health care professional and provider participation in the state Medicaid program;

(m) recover improperly paid Medicaid funds;

(n) track recovery of Medicaid funds by the state;

(o) in accordance with Section 63A- 13- 502:

(i) report on the actions and findings of the inspector general; and

(ii) make recommendations to the Legislature and the governor;

(p) provide training to:

(i) agencies and employees on identifying potential fraud, waste, or abuse of Medicaid funds; and

(ii) health care professionals and providers on program and audit policies and compliance; and

(q) develop and implement principles and standards for the fulfillment of the duties of the inspector general, based on principles and standards used by:

(i) the Federal Offices of Inspector General;

(ii) the Association of Inspectors General; and

(iii) the United States Government Accountability Office.

(2)(a) The office may, in fulfilling the duties under Subsection (1), conduct a performance or financial audit of:

(i) a state executive branch entity or a local government entity, including an entity described in Section 63A- 13- 301, that:

(A) manages or oversees a state Medicaid program; or

(B) manages or oversees the use or expenditure of state or federal Medicaid funds; or

(ii) Medicaid funds received by a person by a grant from, or under contract with, a state executive branch entity or a local government entity.

(b)(i) The office may not, in fulfilling the duties under Subsection (1), amend the state Medicaid program or change the policies and procedures of the state Medicaid program.

(ii) The office shall identify conflicts between the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins and recommend that the department reconcile inconsistencies. If the department does not reconcile the inconsistencies, the office shall report the inconsistencies to the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section [~~63G- 3- 501~~]36- 35- 102.

(iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to the department making the provider manual or Medicaid information bulletin available to the public.

(c) Beginning July 1, 2013, the Department of Health and Human Services shall submit a Medicaid provider manual and a Medicaid information bulletin to the office for the review required by Subsection (2)(b)(ii) prior to releasing the document to the public. The department and the Office of Inspector General of Medicaid Services shall enter into a memorandum of understanding regarding the timing of the review process under Subsection (2)(b)(iii).

(3)(a) The office shall, in fulfilling the duties under this section to investigate, discover, and recover fraud, waste, and abuse in the Medicaid program, apply the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins in effect at the time the medical services were provided.

(b) A health care provider may rely on the policy interpretation included in a current Medicaid provider manual or a current Medicaid information bulletin that is available to the public.

(4) The inspector general of Medicaid services, or a designee of the inspector general of Medicaid services within the office, may take a sworn statement or administer an oath.

Section 18. Section 63A-13-305 is amended to read:

63A-13-305. Audit and investigation procedures.

(1)(a) The office shall, in accordance with Section 63A-13-602, adopt administrative rules in consultation with providers and health care professionals subject to audit and investigation under this chapter to establish procedures for audits and investigations that are fair and consistent with the duties of the office under this chapter.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the office under Subsection (1)(a) or Section 63A-13-602, the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section [~~63G-3-501~~]36-35-102.

(2) The office shall notify and educate providers and health care professionals subject to audit and investigation under this chapter of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the office under the provisions of this section and Section 63A-13-602.

Section 19. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 20. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4)(a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c)(i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the office shall publish the rule

analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one- year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one- year period;

(d) the total cost that would incur to all impacted entities over a five- year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9)(a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11)(a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12)(a) Except as provided in Sections 63G- 3- 303 and 63G- 3- 304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13)(a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) $250,000 to a single person; or

(ii) $7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the [~~Administrative~~]Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the [~~Administrative~~]Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the [~~Administrative~~]Rules Review and General Oversight Committee that the [~~Administrative~~]Rules Review and General Oversight Committee not recommend reauthorization of the rule in the [~~omnibus~~]legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14)(a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the [~~Administrative~~]Rules Review and General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative [~~Administrative~~]Rules Review and General Oversight Committee and provide the reasons for the delay.

Section 21. Section 63G-3-304 is amended to read:

63G-3-304. Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(2)(a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the office and the members of the [~~Administrative~~]Rules Review and General Oversight Committee:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

(d) Subject to Subsection 63G-3-502(4), the rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.

Section 22. Section 63G-3-402 is amended to read:

63G-3-402. Office of Administrative Rules -- Duties generally.

(1) The office shall:

(a) record in a register the receipt of all agency rules, rule analysis forms, and notices of effective dates;

(b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;

(c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the office may publish the complete text of any proposed rule that the director determines is too long to print or too expensive to publish by reference to the text maintained by the office;

(d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;

(e) publish a digest of all rules and notices contained in the most recent bulletin;

(f) publish at least annually an index of all changes to the administrative code and the effective date of each change;

(g) print, or contract to print, all rulemaking publications the director determines necessary to implement this chapter;

(h) distribute without charge the bulletin and administrative code to state-designated repositories, the [~~Administrative~~]Rules Review and General Oversight Committee, the Office of Legislative Research and General Counsel, and the two houses of the Legislature;

(i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;

(j) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;

(k) provide agencies assistance in rulemaking;

(l) if the department operates the office as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(m) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures; and

(n) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.

(2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.

(3) The office may after notifying the agency make nonsubstantive changes to rules filed with the office or published in the bulletin or code by:

(a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;

(b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(d) updating or correcting annotations associated with a section, part, rule, or title; and

(e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) In addition, the office may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;

(b) eliminate obsolete and redundant words; and

(c) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

(5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after publication of the rule in the bulletin, the office shall publish a list of nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

(a) the affected code citation;

(b) a brief description of the change; and

(c) the date the change was made.

(6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.

Section 23. Section 63G-3-403 is amended to read:

63G-3-403. Repeal and reenactment of Utah Administrative Code.

(1) When the director determines that the Utah Administrative Code requires extensive revision and reorganization, the office may repeal the code and reenact a new code according to the requirements of this section.

(2) The office may:

(a) reorganize, reformat, and renumber the code;

(b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and

(c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The office may make nonsubstantive changes in the code by:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication;

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;

(d) eliminating all obsolete or redundant words;

(e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(g) updating or correcting annotations associated with a section, part, rule, or title; and

(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4)(a) To inform the public about the proposed code reenactment, the office shall publish in the bulletin:

(i) notice of the code reenactment;

(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;

(iii) locations where the proposed reenactment of the code may be reviewed; and

(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make the text of their reenacted rules available:

(A) for public review during regular business hours; and

(B) in an electronic version; and

(ii) comply with the requirements of Subsection 63G-3-301(10).

(5) The office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

(6) The office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the [~~Administrative~~]Rules Review and General Oversight Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Section 24. Section 63G-3-502 is amended to read:

63G-3-502. Legislative reauthorization of agency rules -- Extension of rules by governor.

(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2)(a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.

(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3)(a) The [~~Administrative~~]Rules Review and General Oversight Committee shall have [~~omnibus legislation prepared for consideration by the Legislature during its~~]legislation prepared for the Legislature to consider the reauthorization of rules during its annual general session.

(b) The [~~omnibus~~]legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".

(c) Before sending the legislation to the governor for the governor's action, the [~~Administrative~~] Rules Review and General Oversight Committee may send a letter to the governor and to the agency explaining specifically why the committee believes [~~any~~]a rule should not be reauthorized.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the [~~omnibus~~]legislation considered by the Legislature.

(4) The [~~Administrative~~]Rules Review and General Oversight Committee may have legislation prepared for consideration by the Legislature in the annual general session or a special session regarding any rule made according to emergency rulemaking procedures described in Section 63G-3-304.

(5) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

(6)(a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c)(i) If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, the governor may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the [~~omnibus bill~~]legislation required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (6)(b) and (c).

Section 25. Section 63G-3-503 is enacted to read:

63G-3-503. Agency rules oversight.

Oversight of the rulemaking process is conducted by the Rules Review and General Oversight Committee created in Section 36-35-502.

Section 26. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the

qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 27. Section 78A-2-203.5, which is renumbered from Section 36-32-206 is renumbered and amended to read:

~~36-32-206~~. 78A-2-203.5. Submission of court rules or proposed court rules.

When the Supreme Court or Judicial Council submits a court rule or proposal for court rule for public comment, the Supreme Court or Judicial Council shall submit the court rule or proposal for court rule to publication houses that publish court rules, proposals to court rules, case law, or other relevant information for individuals engaged in the legal profession.

Section 28. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the

department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of

qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's [~~Administrative~~]Rules Review and General Oversight Committee created in Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 29. Repealer.

This bill repeals:

Section 36-32-101, Title.

Section 36-32-102, Definitions.

Section 36-32-201, Establishment of committee -- Membership -- Duties.

Section 36-32-204, Committee review -- Fiscal analyst -- Powers of committee.

Section 36-32-205, Findings -- Report -- Distribution of report.

Section 30. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 179
H. B. 350
Passed February 23, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIMINAL INTENT AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill concerns mental states for criminal offenses involving threats.

Highlighted Provisions:

This bill:

- modifies the applicable mental state for a threat in the criminal offense of:
  - stalking;
  - threatened or attempted assault on an elected official; and
  - tampering with or retaliating against a juror; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.5, as last amended by Laws of Utah 2023, Chapter 111
76-5-106.5, as last amended by Laws of Utah 2022, Chapters 142, 181 and 418
76-8-313, as last amended by Laws of Utah 1996, Chapter 45
76-8-508.5, as last amended by Laws of Utah 1992, Chapter 219

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

Section 1. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76-5-102.5;

(C) disarming a police officer, Section 76-5-102.8;

(D) aggravated assault, Section 76-5-103;

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5(2);

(H) threat of terrorism, Section 76-5-107.3;

(I) aggravated child abuse, Subsection 76-5-109.2(3)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-114;

(K) abuse or neglect of a child with a disability, Section 76-5-110;

(L) abuse or exploitation of a vulnerable adult, Section 76-5-111, 76-5-111.2, 76-5-111.3, or 76-5-111.4;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5b-201;

(Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

(AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(BB) aggravated burglary and burglary of a dwelling under Chapter 6, Part 2, Burglary and Criminal Trespass;

(CC) aggravated robbery and robbery under Chapter 6, Part 3, Robbery;

(DD) theft by extortion under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i) or (ii);

(EE) tampering with a witness under Subsection 76-8-508(1);

(FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(GG) tampering with a juror under Subsection [~~76-8-508.5(2)(c)~~]76-8-508.5(2)(a)(iii);

(HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed under Section 76-6-406 under the circumstances described in Subsection 76-6-406(1)(a)(i), (ii), or (ix);

(II) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

(JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

(KK) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

(LL) unlawful discharge of a firearm under Section 76-10-508;

(MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

(NN) bus hijacking under Section 76-10-1504; and

(OO) discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3)(a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b)(i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4)(a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c)(i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5)(a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 2. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

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

(i) "Course of conduct" means two or more acts directed at or toward a specific individual, including:

(A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about an individual, or interferes with an individual's property:

(I) directly, indirectly, or through any third party; and

(II) by any action, method, device, or means; or

(B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(I) approaches or confronts an individual;

(II) appears at the individual's workplace or contacts the individual's employer or coworker;

(III) appears at an individual's residence or contacts an individual's neighbor, or enters property owned, leased, or occupied by an individual;

(IV) sends material by any means to the individual or for the purpose of obtaining or disseminating information about or communicating with the individual to a member of the individual's family or household, employer, coworker, friend, or associate of the individual;

(V) places an object on or delivers an object to property owned, leased, or occupied by an individual, or to the individual's place of employment with the intent that the object be delivered to the individual; or

(VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(ii)(A) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(B) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.

(iii) "Immediate family" means a spouse, parent, child, sibling, or any other individual who regularly resides in the household or who regularly resided in the household within the prior six months.

(iv) "Private investigator" means the same as that term is defined in Section 76-9-408.

(v) "Reasonable person" means a reasonable person in the victim's circumstances.

(vi) "Stalking" means an offense as described in Subsection (2).

(vii) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another individual's telephone or computer by addressing the communication to the recipient's telephone number.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific individual and knows [~~or should know that~~]or is reckless as to whether the course of conduct would cause a reasonable person:

(i) to fear for the individual's own safety or the safety of a third individual; or

(ii) to suffer other emotional distress; or

(b) violates:

(i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(3)(a) A violation of Subsection (2) is a class A misdemeanor:

(i) upon the actor's first violation of Subsection (2); or

(ii) if the actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

(i) has been previously convicted of an offense of stalking;

(ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the actor:

(i) used a dangerous weapon or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(ii) has been previously convicted two or more times of the offense of stalking;

(iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(iv) has been convicted two or more times, in any combination, of offenses under Subsection (3)(b)(i), (ii), or (iii);

(v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(vi) has been previously convicted of an offense under Subsection (3)(b)(iv) or (v).

(4) In a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6)(a) Except as provided in Subsection (6)(b), an actor does not violate this section if the actor is acting:

(i) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and

(ii) for a legitimate official or business purpose.

(b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.

(7)(a) A permanent criminal stalking injunction limiting the contact between the actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(8)(a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (8)(b).

(b)(i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 3. Section 76-8-313 is amended to read:

76-8-313. Threatened or attempted assault on an elected official.

[~~A person commits~~]An actor commits threatened or attempted assault on an elected official[~~ when he~~]:

(1) if the actor attempts or threatens, irrespective of a showing of immediate force or violence, to inflict bodily injury [~~to the~~]on an elected official with the intent to impede, intimidate, or interfere with the elected official in the performance of [~~his~~]the elected official's official duties or with the intent to retaliate against the elected official because of the performance of [~~his~~]the elected official's official duties[~~.~~]; and

(2) if the actor's conduct described in Subsection (1) involves a threat, the actor is reckless as to whether the actor's threat would be considered to be threatening by a reasonable person who received the threat.

Section 4. Section 76-8-508.5 is amended to read:

76-8-508.5. Tampering with or retaliating against a juror.

(1)(a) As used in this section, "juror" means [~~a person~~]an individual:

[~~(a)~~](i) summoned for jury duty; or

[~~(b)~~](ii) serving as or having served as a juror or alternate juror in any court or as a juror on any grand jury of the state.

(b) Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) [~~A person is guilty of tampering with a juror if he~~] An actor commits tampering or retaliating against a juror if the actor:

(a) attempts to or actually influences a juror in the discharge of the juror's service by:

[~~(a)~~](i) communicating with the juror by any means, directly or indirectly, except for [~~attorneys~~]an attorney in the lawful discharge of [~~their~~]the attorney's duties in open court;

[~~(b)~~](ii) offering, conferring, or agreeing to confer any benefit upon the juror; or

[~~(c)~~](iii)(A) communicating to the juror a threat that a reasonable person would believe to be a threat to injure:

[~~(i)~~](I) the juror's person or property; or

[~~(ii)~~](II) the person or property of [~~any other person~~]another individual in whose welfare the juror is interested[~~.~~]; and

(B) the actor is reckless as to whether the actor's threat would be considered to be threatening by a reasonable person who received the threat; or

[~~(3)~~](b) [~~A person is guilty of tampering with a juror if he commits any~~]commits an unlawful act in retaliation for [~~anything done~~]an action taken by the juror in the discharge of the juror's service:

[~~(a)~~](i) to the juror's person or property; or

[~~(b)~~](ii) to the person or property of [~~any other person~~]another individual in whose welfare the juror is interested.

[~~(4)~~](3) [~~Tampering with a juror~~]A violation of Subsection (2) is a third degree felony.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 180
H. B. 352
Passed February 28, 2024
Approved March 13, 2024
Effective October 1, 2024

AMENDMENTS TO EXPUNGEMENT

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses the expungement of records.

Highlighted Provisions:

This bill:

- repeals sunset dates regarding issuance and filing fees for expungement;
- repeals language relating to the suspension of issuance fees for certificates of eligibility for expungement and filing fees for petitions for expungement;
- creates a sunset date for an expungement working group;
- creates an expungement working group to study issues related to automatic expungement;
- allows a court to issue an order of expungement for a plea in abeyance when the defendant has completed a problem solving court program and the court dismisses the case against the defendant;
- defines terms related to expungement;
- clarifies automatic deletion of a traffic offense;
- amends provisions related to the automatic expungement of a case, including:
  - requiring an individual to submit a form to receive an automatic expungement on and after October 1, 2024, but before January 1, 2026;
  - providing that a court automatically expunge cases that are eligible for expungement on and after January 1, 2026;
  - for an individual seeking an automatic expungement on and after January 1, 2025, prohibiting an automatic expungement if the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections; and
  - prohibiting an automatic expungement if there is a criminal proceeding pending in this state against the individual for a misdemeanor or felony offense, unless the proceeding is for a traffic offense;
- provides that the court and Bureau of Criminal Identification are the only agencies that expunge records affected by an automatic expungement order;
- clarifies the certificate of eligibility process;
- allows for the waiver of an issuance fee for a certificate of eligibility or a special certificate if a court finds that the individual filing the petition for expungement is indigent;
- requires a court to consider the total number of cases for which an individual has received a certificate of expungement when determining whether the individual is indigent;
- requires a subsequent court to waive a filing fee for a petition for expungement if a prior court found the individual to be indigent within 180 days before the filing of the petition for expungement;
- clarifies the distribution of an expungement order based on a petition and the expungement of records affected by an expungement order based on a petition;
- establishes the priority of expungement orders that are processed by a court and the Bureau of Criminal Identification;
- requires an agency to develop and implement a process to identify expunged records and keep, index, and maintain all expunged records of arrest;
- clarifies the effect of an expungement;
- addresses the waiver of a fee for a petition for expungement when the individual has previously received a waiver for a petition for expungement from a prior court;
- requires the Administrative Office of the Courts to include a warning on an affidavit of indigency;
- clarifies the expungement of records regarding protective orders, stalking injunctions, and juvenile records;
- repeals a statute regarding the time periods for expungement or deletion and identifying and processing clean slate eligible cases; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63I-1-277, as last amended by Laws of Utah 2022, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 384
63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
77-2a-3, as last amended by Laws of Utah 2023, Chapters 113, 415
77-40a-101, as last amended by Laws of Utah 2023, Chapter 265
77-40a-104, as last amended by Laws of Utah 2023, Chapter 265
77-40a-201, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-202, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-301, as enacted by Laws of Utah 2022, Chapter 250
77-40a-302, as last amended by Laws of Utah 2023, Chapter 265
77-40a-303, as last amended by Laws of Utah 2023, Chapter 265
77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
77-40a-305, as last amended by Laws of Utah 2023, Chapters 265, 330
77-40a-306, as last amended by Laws of Utah 2023, Chapter 330
77-40a-401, as last amended by Laws of Utah 2023, Chapter 265

77-40a-402, as last amended by Laws of Utah 2023, Chapter 265
77-40a-403, as last amended by Laws of Utah 2023, Chapter 265
77-40a-404, as last amended by Laws of Utah 2023, Chapter 265
78A-2-302, as last amended by Laws of Utah 2023, Chapter 184
78A-7-209.5, as enacted by Laws of Utah 2022, Chapter 276
78B-7-1001, as enacted by Laws of Utah 2022, Chapter 270
78B-7-1004, as enacted by Laws of Utah 2022, Chapter 270
80-6-1001, as last amended by Laws of Utah 2023, Chapter 115
80-6-1006.1, as enacted by Laws of Utah 2023, Chapter 115

ENACTS:
63M-7-221, Utah Code Annotated 1953
77-40a-204, Utah Code Annotated 1953
77-40a-205, Utah Code Annotated 1953
77-40a-206, Utah Code Annotated 1953
77-40a-207, Utah Code Annotated 1953
77-40a-307, Utah Code Annotated 1953

REPEALS:
77-40a-203, as renumbered and amended by Laws of Utah 2022, Chapter 250

Sections affected by Coordination Clause:
77-40a-301, as enacted by Laws of Utah 2022, Chapter 25033
77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
77-40a-306, as last amended by Laws of Utah 2023, Chapter 33033
77-40a-401, as last amended by Laws of Utah 2023, Chapter 265
78A-2-302, as last amended by Laws of Utah 2023, Chapter 18433

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

Section 1. Section 63I-1-277 is amended to read:

63I-1-277. Repeal dates: Title 77.

[~~Subsection 77-40a-304(5), regarding the suspension of issuance fees for certificates of eligibility, is repealed on July 1, 2023.~~]Reserved.

Section 2. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

[~~(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.~~]

[~~(2)~~](1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

[~~(3)~~](2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.

[~~(4)~~](3) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

[~~(5)~~](4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(6)~~](5) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

[~~(7)~~](6) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2024.

Section 3. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63H-7a-303 is repealed July 1, 2024.

(6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(7) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

(8) Section 63M-7-221, establishing an expungement working group, is repealed on April 30, 2025.

[~~(8)~~](9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(9)~~](10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 4. Section 63M-7-221 is enacted to read:

63M-7-221. Expungement working group.

(1) As used in this section:

(a) "Agency" means the same as that term is defined in Section 77-40a-101.

(b) "Automatic expungement" means the same as that term is defined in Section 77-40a-101.

(2) The commission shall establish a working group to:

(a) study the challenges of implementing automatic expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion;

(b) determine the time and resources that an agency would need to implement automatic expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion;

(c) determine whether an investment in technology is needed or could be helpful in implementing automatic expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion; and

(d) consider possible statutory changes to improve the implementation of automatic expungement under Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

(3) The working group described in Subsection (2) shall consist of:

(a) at least one representative of:

(i) the Bureau of Criminal Identification established in Section 53-10-201;

(ii) the Administrative Office of the Courts;

(iii) a local law enforcement agency; and

(iv) an advocacy group that represents or assists individuals with expungement; and

(b) any other individual or organization recommended by the executive director of the commission.

(4) On or before November 1, 2024, the commission shall provide a written report to the Judiciary Interim Committee describing:

(a) the information gathered by the working group under Subsection (2); and

(b) any recommendations for statutory changes with respect to the information gathered by the working group under Subsection (2).

Section 5. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court -- Expungement.

(1)(a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense[~~ and enter judgment of conviction and impose sentence for a lower degree of offense; or~~], enter a judgment of conviction for the lower degree of the offense, and impose a sentence for the lower degree of the offense;

(b) allow withdrawal of the defendant's plea and order the dismissal of the case[~~.~~]; or

(c) issue an order of expungement for all records of the offense if:

(i) the defendant successfully completes a problem solving court program that is certified by the Judicial Council; and

(ii) the court allows the withdrawal of the defendant's plea and orders the dismissal of the case.

(3)(a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement and only as provided in the plea in abeyance agreement or as agreed to by all parties, the court may [~~reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties.~~]:

(i) reduce the degree of the offense, enter a judgment of conviction for the lower degree of the offense, and impose a sentence for the lower degree of the offense;

(ii) allow withdrawal of the defendant's plea and order the dismissal of the case; or

(iii) issue an order of expungement for all records of the offense if:

(A) the defendant successfully completes a problem solving court program that is certified by the Judicial Council; and

(B) the court allows the withdrawal of the defendant's plea and orders the dismissal of the case.

(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6)(a) The terms of a plea in abeyance shall include:

(i) a specific amount of restitution that the defendant will pay, as agreed to by the defendant and the prosecuting attorney;

(ii) a certification from the prosecuting attorney that:

(A) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(B) all victims, including the Utah Office for Victims of Crime, are not seeking restitution; or

(iii) an agreement between the parties that restitution will be determined by the court at a subsequent hearing in accordance with Section 77-38b-205.

(b) At a subsequent hearing described in Subsection (6)(a)(iii), the court shall order the defendant, as a modified term of the plea in abeyance, to pay restitution to all victims for the entire amount of pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(c) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the plea in abeyance agreement.

(d) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

(7)(a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(8) No plea may be held in abeyance in any case involving:

(a) a sexual offense against an individual who is under 14 years old; or

(b) a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517, 41-6a-520, 41-6a-520.1, 41-6a-521.1, 76-5-102.1, or 76-5-207.

(9)(a) If the terms of a plea in abeyance agreement allow a court to issue an order of expungement as described in Subsection (2)(c), the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the offense of the terms of the plea in abeyance agreement.

(b) The notice under Subsection (9)(a) shall:

(i) state that the victim has a right to object to the expungement; and

(ii) provide instructions for registering an objection with the court.

(c) If there is a victim of the offense, the victim may file an objection with the court before the court makes a finding as to whether the defendant successfully completed the terms of the plea in abeyance agreement as described in Subsection (3).

(d) The defendant may respond, in writing, to any objection filed by the victim within 14 days after the day on which the objection is received by the court.

(10) If the court issues an order of expungement under Subsection (3)(a)(iii), the court shall:

(a) expunge all records of the case as described in Section 77-40a-401; and

(b) notify the Bureau of Criminal Identification of the order of expungement.

(11)(a) Upon receiving notice from the court of an expungement order as described in Subsection (10), the Bureau of Criminal Identification shall notify any agency, as defined in Section 77-40a-101, affected by the expungement order.

(b) For purposes of Subsection (11)(a), the Bureau of Criminal Identification may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:

(i) sentenced to prison in this state; or

(ii) under the jurisdiction of the Board of Pardons and Parole.

(c) The Bureau of Criminal Identification shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(12) The defendant may deliver copies of the expungement to any agency, as defined in Section 77-40a-101, affected by the order of expungement.

(13) If an agency receives an expungement order under this part, the agency shall expunge all records for the case in accordance with Section 77-40a-401.

Section 6. Section 77-40a-101 is amended to read:

77-40a-101. Definitions.

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

[~~(2)~~](3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

[~~(3)~~](4) "Certificate of eligibility" means a document issued by the bureau stating that the

criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

[~~(4)(a) "Clean slate eligible case" means, except as provided in Subsection (4)(c), a case:~~]

[~~(i) where each conviction within the case is:~~]

[~~(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);~~]

[~~(B) a class B or class C misdemeanor conviction; or~~]

[~~(C) an infraction conviction;~~]

[~~(ii) that involves an individual:~~]

[~~(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40a-303(4) and (5) without taking into consideration the exception in Subsection 77-40a-303(7); and~~]

[~~(B) against whom no criminal proceedings are pending in the state; and~~]

[~~(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:~~]

[~~(A) at least five years for a class C misdemeanor or an infraction;~~]

[~~(B) at least six years for a class B misdemeanor; and~~]

[~~(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).~~]

[~~(b) "Clean slate eligible case" includes a case:~~]

[~~(i) that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:~~]

[~~(A) except as provided in Subsection (4)(c), each charge within the case is a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;~~]

[~~(B) the individual involved meets the requirements of Subsection (4)(a)(ii); and~~]

[~~(C) the time periods described in Subsections (4)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed; or~~]

[~~(ii) where charges are dismissed without prejudice if each conviction, or charge that was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or (b)(i).~~]

[~~(c) "Clean slate eligible case" does not include a case:~~]

[~~(i) where the individual is found not guilty by reason of insanity;~~]

[~~(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:~~]

[~~(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or~~]

[~~(B) has not been satisfied according to court records; or~~]

[~~(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:~~]

[~~(A) any of the offenses listed in Subsection 77-40a-303(2)(a);~~]

[~~(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;~~]

[~~(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;~~]

[~~(D) sexual battery in violation of Section 76-9-702.1;~~]

[~~(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;~~]

[~~(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;~~]

[~~(G) damage to or interruption of a communication device in violation of Section 76-6-108;~~]

[~~(H) a domestic violence offense as defined in Section 77-36-1; or~~]

[~~(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).~~]

(7) "Clean slate eligible case" means a case that is eligible for automatic expungement under Section 77-40a-205.

[~~(5)~~](8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(9) "Court" means a district court or a justice court.

(10) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(6)~~](11) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

[~~(7)~~](12) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

[~~(8)~~](13) "Department" means the Department of Public Safety established in Section 53-1-103.

[~~(9)~~](14) "Drug possession offense" means[~~ an offense under~~]:

(a) an offense described in Subsection 58-37-8(2), except for:

(i) [~~any~~]an offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) [~~any~~]an offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) an offense for driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) an offense described in Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) an offense described in Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection [~~(9)~~](14).

[~~(10)~~](15)(a) "Expunge" means to [~~seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.~~]remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

(16) "Indigent" means a financial status that results from a court finding that a petitioner is financially unable to pay the fee to file a petition for expungement under Section 78A-2-302.

[~~(11)~~](17) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[~~(12)~~](18)(a) "Minor regulatory offense" means, except as provided in Subsection [~~(12)(c)~~](18)(c), a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection [~~(12)(b)~~](18)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections [~~(12)(c)(i)~~](18)(c)(i) through (iv).

[~~(13)~~](19) "Petitioner" means an individual applying for expungement under this chapter.

[~~(14)~~](20) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

(21) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material, regardless of physical form or characteristics, that:

(a) is contained in the agency's file regarding the arrest, detention, investigation, conviction, sentence, incarceration, probation, or parole of an individual; and

(b) is prepared, owned, received, or retained by an agency, including a court.

[~~(15)~~](22)(a) "Traffic offense" means, except as provided in Subsection [~~(15)(b)~~](22)(b):

(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to an offense listed in Subsections [~~(15)(a)(i)~~](22)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to an offense listed in Subsection [~~(15)(b)(i)~~](22)(b)(i) or (ii).

[~~(16)~~](23) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 7. Section 77-40a-104 is amended to read:

77-40a-104. Department rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(1) implement procedures for processing an automatic expungement;

(2) implement procedures for applying for certificates of eligibility;

(3) specify procedures for receiving a certificate of eligibility;

(4) create forms and determine information necessary to be provided to the bureau; and

(5) implement procedures for the confirmation of an expungement under Subsection [~~77-40a-403(2)~~]77-40a-401(4).

Section 8. Section 77-40a-201 is amended to read:

77-40a-201. General provisions for automatic expungement and deletion.

Part 2. Automatic Expungement and Deletion

[~~(1)(a) Except as provided in Subsection (1)(b) and subject to Section 77-40a-203, this section governs the process for the automatic expungement of all records in:~~]

[~~(i) except as provided in Subsection (2)(e), a case that resulted in an acquittal on all charges;~~]

[~~(ii) except as provided in Subsection (3)(e), a case that is dismissed with prejudice; or~~]

[~~(iii) a case that is a clean slate eligible case.~~]

[~~(b) This section does not govern automatic expungement of a traffic offense.~~]

[~~(2)(a) Except as provided in Subsection (2)(e), the process for automatic expungement of records for a case that resulted in an acquittal on all charges is as described in Subsections (2)(b) through (d).~~]

[~~(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:~~]

[~~(i) issue, without a petition, an expungement order; and~~]

[~~(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.~~]

[~~(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.~~]

[~~(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is automatically expunged under this Subsection (2), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.~~]

[~~(e) For purposes of this section, a case that resulted in acquittal on all charges does not include a case that resulted in an acquittal because the individual is found not guilty by reason of insanity.~~]

[~~(3)(a) The process for an automatic expungement of a case that is dismissed with prejudice is as described in Subsections (3)(b) through (d).~~]

[~~(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:~~]

[~~(i) issue, without a petition, an expungement order; and~~]

[~~(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.~~]

[~~(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.~~]

[~~(d) For a case dismissed on or before May 1, 2020, that is automatically expunged under this Subsection (3), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.~~]

[~~(e) For purposes of this Subsection (3), a case that is dismissed with prejudice does not include a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).~~]

[~~(4)(a) The process for the automatic expungement of a clean slate eligible case is as described in Subsections (4)(b) through (g) and in accordance with any rules made by the Judicial Council or the Supreme Court.~~]

[~~(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of Criminal Procedure, shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be a clean slate eligible case.~~]

[~~(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the prosecuting agency shall provide written notice in accordance with any rules made by the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic expungement for any of the following reasons:~~]

[~~(i) after reviewing the agency record, the prosecuting agency believes that the case does not meet the definition of a clean slate eligible case;~~]

[~~(ii) the individual has not paid court-ordered restitution to the victim; or~~]

[~~(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual with a clean slate eligible case is continuing to engage in criminal activity within or outside of the state.~~]

[~~(d)(i) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (4)(c) within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the court may not proceed with automatic expungement.~~]

[~~(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is sent without the prosecuting agency providing written notice of an objection for a reason described in Subsection (4)(c), the court may proceed with automatic expungement.~~]

[~~(e) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:~~]

[~~(i) issue, without a petition, an expungement order; and~~]

[~~(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.~~]

[~~(f) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.~~]

[~~(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is automatically expunged under this Subsection (4), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.~~]

[~~(5)~~](1) Nothing in this section precludes an individual from filing a petition for expungement of records that are eligible for automatic expungement or deletion under this section if an automatic expungement or deletion has not occurred pursuant to this section.

[~~(6)~~](2) An automatic expungement performed under this [~~section~~]part does not preclude a person from requesting access to expunged records in accordance with Section 77-40a-403 or 77-40a-404.

[~~(7)~~](3)(a) The Judicial Council and the Supreme Court shall make rules to govern the process for automatic expungement.

(b) The rules under Subsection [~~(7)(a)~~](3)(a) may authorize:

(i) a presiding judge of a district court to issue an expungement order for any case when the requirements for automatic expungement are met; and

(ii) a presiding judge of a justice court to issue an expungement order for any justice court case within the presiding judge's judicial district when the requirements for automatic expungement are met.

(4) An individual does not have a cause of action for damages as a result of the failure to:

(a) identify an individual's case as eligible for automatic expungement or deletion under this part; or

(b) automatically expunge or delete the records of a case that is eligible under this part.

Section 9. Section 77-40a-202 is amended to read:

77-40a-202. Automatic deletion for traffic offense by a court.

(1) [~~Subject to Section 77-40a-203,~~]A court shall delete all records for the following traffic offenses[~~shall be deleted~~] without a court order or notice to the prosecuting agency:

(a) a traffic offense case that resulted in an acquittal on all charges;

(b) a traffic offense case that is dismissed with prejudice, except for a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b); or

(c) a traffic offense case for which the following time periods have elapsed from the day on which the case is adjudicated:

(i) at least five years for a class C misdemeanor or an infraction; or

(ii) at least six years for a class B misdemeanor.

(2) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated on or after May 1, 2020, the court shall delete all records for the traffic offense upon identification.

(3) For a traffic offense case that results in an acquittal, is dismissed, or is adjudicated before May 1, 2020, the court shall delete all records for the traffic offense within one year of the day on which the case is identified as eligible for deletion.

[~~(2) The Judicial Council shall make rules to provide an ongoing process for identifying and deleting records on all traffic offenses described in Subsection (1).~~]

Section 10. Section 77-40a-204 is enacted to read:

77-40a-204. Request for automatic expungement of a case -- Automatic expungement before October 1, 2024, and on and after January 1, 2026.

(1)(a) On and after October 1, 2024, but before January 1, 2026, an individual must submit the necessary form to the court to receive an expungement of a case that is eligible under this part.

(b) If a form is submitted as described in Subsection (1), the court shall determine whether the individual has a case that qualifies for expungement in accordance with Sections 77-40a-205 and 77-40a-206.

(2) A court shall automatically expunge a case in accordance with this part if the court identified the case as being eligible for automatic expungement before October 1, 2024, and the requirements for automatic expungement were met under this part.

(3) On and after January 1, 2026, a court shall automatically expunge a case in accordance with this part if the court identifies the case as being eligible for automatic expungement.

(4) A court shall make reasonable efforts, within available funding, to expunge a case under Subsection (3) as quickly as practicable with the goal of:

(a) expunging a case that resulted in an acquittal on all charges on or after May 1, 2020, 60 days after acquittal;

(b) expunging a case that resulted in a dismissal with prejudice, other than a case that is dismissed with prejudice as a result of successful completion of

a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b), on or after May 1, 2020, 180 days after:

(i) for a case in which no appeal was filed, the day on which the entire case against the individual is dismissed with prejudice; or

(ii) for a case in which an appeal was filed, the day on which a court issues a final nonappealable order;

(c) expunging a clean slate eligible case that is adjudicated or dismissed on or after May 1, 2020, and is not a traffic offense within 30 days of the court determining that the requirements for expungement have been satisfied under Section 77-40a-205; and

(d) expunging a case adjudicated or dismissed before May 1, 2020, within one year of the day on which the case is identified as eligible for automatic expungement.

Section 11. Section 77-40a-205 is enacted to read:

77-40a-205. Automatic expungement of state records for a clean slate case.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204;

(b) the case is eligible for expungement under this section; and

(c) the prosecuting agency does not object to the expungement of the case as described in Subsection (6).

(2) Except as otherwise provided in Subsection (3), a case is eligible for expungement under this section if:

(a)(i) each conviction within the case is a conviction for:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(ii) the following time periods have passed after the day on which the individual is adjudicated:

(A) at least five years for the conviction of a class C misdemeanor offense or an infraction;

(B) at least six years for the conviction of a class B misdemeanor offense; or

(C) at least seven years for the conviction of a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i); or

(b)(i) the case is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) or the case is dismissed without prejudice;

(ii) each charge within the case is:

(A) a misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B misdemeanor offense;

(C) a class C misdemeanor offense; or

(D) an infraction; and

(iii) the following time periods have passed after the day on which the case is dismissed:

(A) at least five years for a charge in the case for a class C misdemeanor offense or an infraction;

(B) at least six years for a charge in the case for a class B misdemeanor offense; or

(C) at least seven years for a charge in the case for a class A misdemeanor offense for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(3) A case is not eligible for expungement under this section if:

(a) the individual has a total number of convictions in courts of this state that exceed the limits under Subsection 77-40a-303(4) or (5) without taking into consideration:

(i) the exception in Subsection 77-40a-303(7); or

(ii) any infraction, traffic offense, or minor regulatory offense;

(b) there is a criminal proceeding for a misdemeanor or felony offense pending in a court of this state against the individual, unless the proceeding is for a traffic offense;

(c) for an individual seeking an automatic expungement on and after January 1, 2025, the individual is incarcerated in the state prison or on probation or parole that is supervised by the Department of Corrections;

(d) the case resulted in the individual being found not guilty by reason of insanity;

(e) the case establishes a criminal accounts receivable that:

(i) has been entered as a civil accounts receivable or a civil judgment of restitution and transferred to the Office of State Debt Collection under Section 77-18-114; or

(ii) has not been satisfied according to court records; or

(f) the case resulted in a plea held in abeyance or a conviction for the following offenses:

(i) any of the offenses listed in Subsection 77-40a-303(2)(a);

(ii) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(iii) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(iv) sexual battery in violation of Section 76-9-702.1;

(v) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(vi) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(vii) damage to or interruption of a communication device in violation of Section 76-6-108;

(viii) a domestic violence offense as defined in Section 77-36-1; or

(ix) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(4) A prosecuting agency that has complied with Rule 42 of the Utah Rules of Criminal Procedure shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be eligible for automatic expungement under this section.

(5) Within 35 days after the day on which the notice described in Subsection (4) is sent, the prosecuting agency shall provide written notice in accordance with Rule 42 of the Utah Rules of Criminal Procedure if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(a) the prosecuting agency believes that the case is not eligible for expungement under this section after reviewing the agency record;

(b) the individual has not paid restitution to the victim as ordered by the court; or

(c) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual involved in the case is continuing to engage in criminal activity within or outside of the state.

(6) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (5) within 35 days after the day on which the notice under Subsection (4) is sent, the court may not proceed with automatic expungement of the case.

(7) If 35 days pass after the day on which the notice described in Subsection (4) is sent without the prosecuting agency providing written notice of an objection under Subsection (5), the court shall proceed with automatic expungement of the case.

(8) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court in accordance with Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 12. Section 77-40a-206 is enacted to read:

77-40a-206. Automatic expungement of state records for a case resulting in an acquittal or dismissal with prejudice.

(1) A court shall issue an order of expungement, without the filing of a petition, for all records of the case that are held by the court and the bureau if:

(a) on and after October 1, 2024, but before January 1, 2026, the individual submitted a form requesting expungement of a case as described in Section 77-40a-204; and

(b) the case is eligible for expungement under this section.

(2) Except as provided in Subsection (3), a case is eligible for expungement under this section if:

(a)(i) the case resulted in an acquittal on all charges; and

(ii) at least 60 days have passed after the day on which the case resulted in an acquittal; or

(b)(i) the case is dismissed with prejudice; and

(ii) at least 180 days have passed after the day on which:

(A) for a case in which no appeal was filed, the entire case against the individual is dismissed with prejudice; or

(B) for a case in which an appeal was filed, a court issues a final nonappealable order.

(3) A case is not eligible for expungement under Subsection (2) if:

(a) the case resulted in an acquittal because the individual is found not guilty by reason of insanity; or

(b) the case is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).

(4) If a court issues an order of expungement under Subsection (1), the court shall:

(a) expunge all records of the case held by the court as described in Section 77-40a-401; and

(b) notify the bureau and the prosecuting agency identified in the case, based on information available to the court, of the order of expungement.

Section 13. Section 77-40a-207 is enacted to read:

77-40a-207. Automatic expungement by the bureau.

(1) Upon receiving notice from a court of an expungement order under this part, the bureau shall expunge all records of the case in accordance with Section 77-40a-401.

(2) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(3) Except for the court and the bureau, an agency is not required to expunge all records of a case that is automatically expunged under this part.

Section 14. Section 77-40a-301 is amended to read:

77-40a-301. Application for certificate of eligibility for expungement -- Penalty for false or misleading information on application.

(1) If an individual seeks to expunge the individual's criminal record in regard to an arrest, investigation, detention, or conviction, the individual shall:

(a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a certificate of eligibility for expungement of the criminal record and pay the application fee as described in Section 77-40a-304;

[~~(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and~~]

(b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and

(c) file a petition for expungement in accordance with Section 77-40a-305.

(2)(a) An individual who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(b) Regardless of whether the individual is prosecuted, the bureau may deny a certificate of eligibility to anyone who knowingly provides false information on an application.

Section 15. Section 77-40a-302 is amended to read:

77-40a-302. Requirements for certificate of eligibility to expunge records of arrest, investigation, and detention.

(1) Except as provided in Subsection (2), if a petitioner is arrested or charged with an offense, the petitioner is eligible to receive a certificate of eligibility from the bureau to expunge records of the arrest, investigation, and detention in the case for the offense if:

(a) the following time periods have passed:

(i) at least 30 days have passed after the day on which the [~~individual~~]petitioner is arrested or charged for the offense;

(ii) at least three years have passed after the day on which the petitioner was convicted of the traffic offense if there is a conviction in the case for a traffic offense that is a class C misdemeanor or an infraction; and

(iii) at least four years have passed after the day on which the petitioner was convicted of the traffic offense if there is a conviction in the case for a traffic offense that is a class B misdemeanor; and

(b) one of the following occurs:

(i) an investigating law enforcement agency and the prosecuting attorney have screened the case and determined that no charges will be filed against the petitioner;

(ii) all charges in the case are dismissed with prejudice;

(iii) if a charge in the case is dismissed without prejudice or without condition:

(A) the prosecuting attorney consents in writing to the issuance of a certificate of eligibility; or

(B) at least 180 days have passed after the day on which the charge is dismissed;

(iv) the petitioner is acquitted at trial on all of the charges in the case; or

(v) the statute of limitations expires on all of the charges in the case[~~; and~~].

[~~(c)(i) there is a conviction in the case for a traffic offense that is a class C misdemeanor or an infraction, at least three years have passed after the day on which the petitioner was convicted of the traffic offense; or~~]

[~~(ii) there is a conviction in the case for a traffic offense that is a class B misdemeanor, at least four years have passed after the day on which the petitioner was convicted of the traffic offense.~~]

(2) A petitioner is not eligible for a certificate of eligibility under Subsection (1) if:

(a) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(b) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(c) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense; or

(d) there is a criminal protective order or a criminal stalking injunction in effect for the case.

Section 16. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or

released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2);

(v) an offense, or a combination of offenses, that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

(e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;

(f) there is a criminal protective order or a criminal stalking injunction in effect for the case; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District Court.

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

(i) a class B misdemeanor;

(ii) a class C misdemeanor;

(iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged[~~ in accordance with Section 77-40a-201~~].

(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 17. Section 77-40a-304 is amended to read:

77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.

(1)(a) When a petitioner applies for a certificate of eligibility as described in Subsection 77-40a-301(1)[~~,~~]:

(i) the petitioner shall pay an application fee at the time the petitioner submits an application for a certificate of eligibility to the bureau; and

(ii) the bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether the petitioner is eligible to receive a certificate of eligibility under this chapter.

(b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention, and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.

[~~(c) Once the eligibility process is complete, the bureau shall notify the petitioner.~~]

[~~(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:~~]

[~~(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days from the day on which the certificate is issued;~~]

[~~(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility; and~~]

[~~(iii) the petitioner shall pay the issuance fee established by the department as described in Subsection (2).~~]

[~~(e)~~](c) If[~~, after reasonable research,~~] a disposition for an arrest on the criminal history file is unobtainable after reasonable research, the bureau may issue a special certificate giving determination of eligibility to the court, except that the bureau may not issue the special certificate if:

(i) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense; or

(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense.

(2)(a) Once the eligibility process is complete, the bureau shall notify the petitioner.

(b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303 and the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate:

(i) the bureau shall issue a certificate of eligibility or special certificate that is valid for a period of 180 days from the day on which the certificate is issued;

(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility or special certificate; and

(iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for the issuance of a certificate of eligibility or special certificate.

[~~(2)(a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.~~]

[~~(b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.~~]

[~~(c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection (2)(d) applies.~~]

[~~(d) An issuance fee may not be assessed against a petitioner who~~]

(3) The bureau shall issue a certificate of eligibility or special certificate without requiring the payment of the issuance fee if the petitioner:

(a) qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77,

Chapter 2, Prosecution, Screening, and Diversion[.]; or

(b) indicates on the application for a certificate of eligibility that the petitioner reasonably believes, as of the date of the application, that the fee to file a petition for expungement is likely to be waived by a court because the petitioner is indigent.

[~~(e) Funds generated under this Subsection (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.~~]

[~~(3)~~](4) The bureau shall include on [~~the~~]a certificate of eligibility all information that is needed for the court to issue a valid expungement order.

[~~(4)~~](5) The bureau shall provide clear written instructions to the petitioner that explain:

(a) the process for a petition for expungement; and

(b) what is required of the petitioner to complete the process for a petition for expungement.

(6) If a petitioner indicates on the application for a certificate of eligibility that a court is likely to waive the fee for a petition for expungement as described in Subsection (3)(b), the bureau shall:

(a) inform the petitioner that the petitioner will be required to pay an issuance fee before an agency will expunge the offense if a court does not waive the fee for a petition for expungement; and

(b) provide the petitioner with the form for waiving a court fee for a petition for expungement.

(7) If the bureau issues a certificate of eligibility or a special certificate without requiring payment of the issuance fee as described in Subsection (3)(b), the bureau shall charge the petitioner the issuance fee upon the bureau's receipt of an order deciding a petition for expungement unless the court communicates to the bureau that the fee to file the petition for expungement was waived because the petitioner is indigent.

(8)(a) If the petitioner qualifies for a waiver of the issuance fee under Subsection (7) and the expungement order grants the petition for expungement, the bureau shall process the expungement order in accordance with Section 77-40a-401 as if the petitioner paid the issuance fee.

(b) If the petitioner does not qualify for a waiver of the issuance fee under Subsection (7) and the expungement order grants the petition for expungement, the bureau may not process the expungement order as described in Section 77-40a-401, or notify other agencies affected by the expungement order as described in Section 77-40a-307, until the petitioner pays the issuance fee.

(c) If the bureau issues a certificate of eligibility or special certificate without requiring payment of the issuance fee under Subsection (3)(b), the bureau may not charge the petitioner an issuance fee on the grounds that the validity of the certificate described in (2)(b)(i) has expired.

(9) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.

(10) The department shall deposit funds generated by application and issuance fees under this section into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility for expungement.

Section 18. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

(1)(a) The petitioner shall file a petition for expungement, in accordance with the Utah Rules of Criminal Procedure, that includes the identification number for the certificate of eligibility described in Subsection [~~77-40a-304(1)(d)(ii)~~]77-40a-304(2)(b)(ii).

(b) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(2)(a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility is no longer valid as described in Subsection [~~77-40a-304(1)(d)(i)~~]77-40a-304(2)(b)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic offense case without obtaining a certificate of eligibility if:

(a)(i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the petitioner was convicted; or

(ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the petitioner was convicted;

(b) there is no traffic offense case pending against the petitioner;

(c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and

(d) the petitioner is not currently on probation for a traffic offense case.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5)(a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6)(a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7)(a) The prosecuting attorney may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(b) If there is a victim of the offense for which expungement is sought, the victim may respond to the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.

(8)(a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10)(a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(12)(a) If the petitioner seeks a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, the court shall consider the total number of cases for which the petitioner has received a certificate of eligibility and is seeking expungement in determining whether the petitioner is indigent under Subsection 78A-2-302(3)(e) even if the court does not have jurisdiction over a case for which the petitioner is seeking expungement.

(b) If a court grants a waiver of the fee required for a petition for expungement in accordance with Section 78A-2-302, and only upon a request from the petitioner, a subsequent court shall grant a waiver of a fee for a petition for expungement if the prior court waived the fee for a petition for expungement within 180 days before the day on which the petitioner filed the petition for expungement with the subsequent court.

Section 19. Section 77-40a-306 is amended to read:

77-40a-306. Order of expungement.

(1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a

qualifying condition, as that term is defined in Section 26B-4-201; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(f) the interests of the public would not be harmed by granting the expungement.

(2)(a) If the court denies a petition described in Subsection (1)(c) because the prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of eligibility if charges are not refiled within 180 days after the day on which the court denies the petition.

(b) A prosecuting attorney who opposes an expungement of a case dismissed without prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecuting attorney is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (1)(c).

(3) If the court grants a petition described in Subsection (1)(e), the court shall make the court's findings in a written order.

(4) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

(5) If a court issues an order of expungement under this section, the court shall:

(a) expunge all records of the case as described in Section 77-40a-401; and

(b) notify the bureau of the order of expungement.

Section 20. Section 77-40a-307 is enacted to read:

77-40a-307. Distribution of expungement order based on a petition to all agencies.

(1)(a) Upon receiving notice from the court of an expungement order as described in Subsection 77-40a-306(5), the bureau shall notify all agencies affected by the expungement order.

(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:

(i) sentenced to prison in this state; or

(ii) under the jurisdiction of the Board of Pardons and Parole.

(c) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(2) A petitioner may deliver copies of the expungement to all agencies affected by the order of expungement.

(3) If an agency receives an expungement order under this part, the agency shall expunge all records for the case in accordance with Section 77-40a-401.

Section 21. Section 77-40a-401 is amended to read:

77-40a-401. Processing of expungement order -- Written confirmation of expungement -- Effect of an expungement. Part 4. Expungement of Criminal Records

[~~(1)(a) The bureau, upon receiving notice from the court, shall notify all criminal justice agencies affected by the expungement order.~~]

[~~(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:~~]

[~~(i) sentenced to prison in this state; or~~]

[~~(ii) under the jurisdiction of the Board of Pardons and Parole.~~]

[~~(c) A petitioner may deliver copies of the expungement to all criminal justice agencies affected by the order of expungement.~~]

[~~(d) An individual, who receives an expungement order under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.~~]

[~~(2) Unless otherwise provided by law or ordered by a court to respond differently, an individual or agency who has received an expungement of an arrest or conviction under this chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did not occur.~~]

[~~(3) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.~~]

[~~(4) An agency receiving an expungement order shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which expungement is ordered.~~]

[~~(5) Unless ordered by a court to do so, or in accordance with Section 77-40a-403, a government agency or official may not divulge information or records that have been expunged.~~]

(1) In processing an expungement order, a court and the bureau shall give priority to:

(a) first, an expungement order granting a petition for expungement under Part 3, Petition for Expungement;

(b) second, an expungement order upon a pardon by the Board of Pardons and Parole as described in Section 77-27-5.1;

(c) third, an expungement order upon a plea in abeyance as described in Section 77-2a-3;

(d) fourth, an expungement order where an individual submitted a form requesting automatic expungement under Part 2, Automatic Expungement and Deletion; and

(e) fifth, an expungement order where the court identified the case as being eligible for automatic expungement under Part 2, Automatic Expungement and Deletion.

(2) An individual, who receives an expungement order under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.

(3) An agency shall:

(a) develop and implement a process to identify an expunged record; and

(b) keep, index, and maintain all expunged records of arrests and convictions.

(4)(a) If an individual who receives an expungement requests confirmation from an agency, the agency shall provide the individual with written confirmation that:

(i) the agency has identified all records subject to expungement; and

(ii) except as otherwise provided by Sections 77-40a-402 and 77-40a-403, the agency will restrict or deny access to all of the expunged records.

(b) The bureau may charge a fee for providing a written confirmation under Subsection (4)(a) in accordance with the process in Section 63J-1-504.

(5) Upon entry of an expungement order, an individual, who received the expungement, may respond to any inquiry as though the arrest, investigation, detention, prosecution, or conviction did not occur unless otherwise provided by law or ordered by a court to respond differently.

(6)(a) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the order.

(b) Any action taken by an agency after issuance of the order but prior to the agency's receipt of a copy of the order may not be invalidated by the order.

(7) An expungement order may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body prior to issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order;

(c) remove any evidence relating to the individual including records of arrest, which the administrative body has used or may use in these proceedings; or

(d) prevent an agency from maintaining, sharing, or distributing any record required by law.

Section 22. Section 77-40a-402 is amended to read:

77-40a-402. Distribution for order for vacatur.

(1) An individual who receives an order for vacatur under Subsection 78B-9-108(2) shall be responsible for delivering a copy of the order for vacatur to all affected [~~criminal justice agencies and officials~~]agencies.

(2) To complete delivery of the order for vacatur to the bureau, the individual shall complete and attach to the order for vacatur an application for a certificate of eligibility for expungement, including identifying information and fingerprints, in accordance with Section 77-40a-301.

(3) Except as otherwise provided in this section, the bureau shall treat the order for vacatur and attached certificate of eligibility for expungement the same as a valid order for expungement under Section 77-40a-401.

(4) Unless otherwise provided by law or ordered by a court to respond differently, an individual who has received a vacatur of conviction under Subsection 78B-9-108(2) may respond to any inquiry as though the conviction did not occur.

(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of Investigation.

(6) An agency receiving an order for vacatur shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which vacatur is ordered.

(7) [~~A government~~]An agency or official may not divulge information contained in a record of arrest, investigation, detention, or conviction after receiving an order for vacatur to any person or agency, except for:

(a) the individual for whom vacatur was ordered; or

(b) Peace Officer Standards and Training, in accordance with Section 53-6-203 and Subsection [~~77-40a-403(4)(b)~~]77-40a-403(2)(b).

(8) The bureau may not count vacated convictions against any future expungement eligibility.

Section 23. Section 77-40a-403 is amended to read:

77-40a-403. Release and use of expunged records.

[~~(1)(a) The bureau, after receiving an expungement order, shall keep, index, and maintain all expunged records of arrests and convictions.~~]

[~~(b) Any agency, other than the bureau, receiving an expungement order shall develop and~~

~~implement a process to identify and maintain an expunged record.~~]

[~~(2)(a) An agency shall provide an individual who receives an expungement with written confirmation that the agency has expunged all records of the offense for which the individual received the expungement if the individual requests confirmation from the agency.~~]

[~~(b) The bureau may charge a fee for providing a written confirmation under Subsection (2)(a) in accordance with the process in Section 63J-1-504.~~]

[~~(3)~~](1)(a) [~~An employee of the bureau, or any agency with an expunged record, may not~~]An agency with an expunged record, or any employee of an agency with an expunged record, may not knowingly or intentionally divulge any information contained in the expunged record to any person, or another agency, without a court order unless:

(i) specifically authorized by statute; or

(ii) subject to Subsection [~~(3)(b)~~](1)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record with another agency or person that does not use the records management system for the purpose of record management.

[~~(4)~~](2) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

[~~(5)~~](3) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

[~~(6)~~](4) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

[~~(7)~~](5) Except as provided in Subsection [~~(9)~~](7), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

[~~(8)~~](6) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

[~~(9)~~](7) If[~~, after obtaining an expungement,~~] an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction[~~, the state~~] after obtaining an expungement, the prosecuting attorney may petition the court to open the expunged records upon a showing of good cause.

[~~(10)~~](8)(a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection [~~(10)~~](8) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

[~~(11)~~](9) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 24. Section 77-40a-404 is amended to read:

77-40a-404. Confirmation of expungement -- Access to expunged records by individuals.

(1) An individual who receives an expungement may request a written confirmation from an agency

under Subsection [~~77-40a-403(2)~~]77-40a-401(4) to confirm that the agency has expunged all records of the offense for which the individual received the expungement.

(2) The following individuals may view or obtain an expunged record under this chapter or Section 77-27-5.1:

(a) the petitioner or an individual who receives an automatic expungement under [~~Section 77-40a-201~~]Part 2, Automatic Expungement and Deletion;

(b) a law enforcement officer, who was involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

(c) a party to a civil action arising out of the expunged incident if the information is kept confidential and utilized only in the action.

Section 25. Section 78A-2-302 is amended to read:

78A-2-302. Waiver of fees, costs, and security -- Indigent litigants -- Affidavit.

(1) As used in Sections 78A-2-302 through 78A-2-309:

(a) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental condition, no contest; and

(ii) a conviction of any crime or offense.

(b) "Indigent" means [~~an individual who is financially unable to pay fees and costs or give security~~]a financial status that results from a court finding that a petitioner is financially unable to pay the fee, a cost, or give security.

(c) "Prisoner" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if :

(a) the individual submits an affidavit demonstrating that the individual is indigent[~~.~~]; or

(b) the cause is a petition for expungement and the individual provides the court with proof that another court granted a waiver of the fee for a petition for expungement as described in Subsection 77-40a-305(12)(b).

(3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:

(a) the individual has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;

(b) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;

(c) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or

(d) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities.

(4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall contain complete information on the individual's:

(a) identity and residence;

(b) amount of income, including any government financial support, alimony, or child support;

(c) assets owned, including real and personal property;

(d) business interests;

(e) accounts receivable;

(f) securities, checking and savings account balances;

(g) debts; and

(h) monthly expenses.

(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the amount of money held in the prisoner's trust account at the time the affidavit under Subsection (2) is executed in accordance with Section 78A-2-305.

(6) An affidavit of indigency under this section shall state the following:

I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

(7) The Administrative Office of the Courts shall include on a form for an affidavit of indigency the following warning: "It is a crime for anyone to intentionally or knowingly provide false or misleading information to the court when seeking a waiver of a court fee."

Section 26. Section 78A-7-209.5 is amended to read:

78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers -- Duties.

(1)(a) In judicial districts having more than one justice court judge, the justice court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive an additional $2,000 per annum as compensation from the Justice

Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as presiding judge.

(2)(a) In judicial districts having more than two justice court judges, the justice court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive an additional $1,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as associate presiding judge.

(3) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) working with each justice court judge in the district to implement policies and rules of the Judicial Council;

(b) exercising powers and performing administrative duties as authorized by the Judicial Council;

(c) if there is no other appointed justice court judge in that court available, assigning a justice court judge to hear a case in which a judge has been disqualified in accordance with rules of the Supreme Court;

(d) if a justice court judge of the district cannot perform the justice court judge's duties in a case or cases due to illness, death, or other incapacity, and the governing body has not appointed a temporary justice court judge in accordance with Section 78A-7-208:

(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

(ii) facilitating judicial coverage with the appointing municipal or county authority until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208, or a new justice court judge is formally appointed and takes office, in accordance with Section 78A-7-202; and

(e) entering orders of expungement in cases expunged in accordance with [~~Section 77-40a-201~~]Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

(4)(a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 27. Section 78B-7-1001 is amended to read:

78B-7-1001. Definitions.

As used in this part:

(1)(a) [~~Except as provided in Subsection (1)(b), "agency"~~] "Agency" means, except as provided in Subsection (1)(b), a state, county, or local government entity that generates or maintains records relating to a civil order for which expungement may be ordered.

(b) "Agency" does not include the Division of Child and Family Services created in Section 80-2-201.

(2) "Civil order" means:

(a) an ex parte civil protective order;

(b) an ex parte civil stalking injunction;

(c) a civil protective order; or

(d) a civil stalking injunction.

[~~(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by an agency when the record includes a civil order.~~]

(3)(a) "Expunge" means to remove a record from public inspection by:

(i) sealing the record; or

(ii) restricting or denying access to the record.

(b) "Expunge" does not include the destruction of a record.

(4) "Petitioner" means an individual petitioning for expungement of a civil order under this part.

Section 28. Section 78B-7-1004 is amended to read:

78B-7-1004. Distribution and effect of order of expungement -- Penalty.

(1) An individual who receives an order of expungement under Section 78B-7-1003 shall be responsible for delivering a copy of the order of expungement to any affected agency.

[~~(2) Upon receipt of an order of expungement as described in Subsection (1), an agency shall expunge all records described in the expungement order that are under the control of the agency.~~]

(2) If an agency receives an expungement order as described in Subsection (1), the agency shall expunge all records affected by the expungement order.

(3) Upon entry of an expungement order by a court under Section 78B-7-1003:

(a) the civil order is considered to never have occurred; and

(b) the petitioner may reply to an inquiry on the matter as though there was never a civil order.

(4)(a) Unless ordered by a court to do so, an agency or official may not divulge information or records that have been expunged under this part.

(b) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the expungement order.

(c) Any action taken by an agency after issuance of the expungement order but before the agency's receipt of a copy of the expungement order may not be invalidated by the order.

(5) An expungement order under this part may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body before issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order; or

(c) prevent an agency from maintaining, sharing, or distributing any record required by law.

(6) An employee or agent of an agency that is prohibited from disseminating information from an expunged record under this section who knowingly or intentionally discloses identifying information from the expunged record, unless allowed by law, is guilty of a class A misdemeanor.

(7) Records expunged under this part may be released to, or viewed by, the following individuals:

(a) the petitioner; or

(b) parties to a civil action arising out of the expunged civil order, providing the information is kept confidential and utilized only in the action.

(8) This part does not preclude a court from considering the same circumstances or evidence for which an expunged civil order was issued in any proceeding that occurs after the civil order is expunged.

Section 29. Section 80-6-1001 is amended to read:

80-6-1001. Definitions.

As used in this part:

(1) "Abstract" means a copy or summary of a court's disposition.

(2)(a) "Agency" means a state, county, or local government entity that generates or maintains records for which expungement may be ordered under this part.

(b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.

(3)(a) "Expunge" means [~~to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency~~]to remove a juvenile record from public inspection by:

(i) sealing the juvenile record; or

(ii) restricting or denying access to the juvenile record.

(b) "Expunge" does not include the destruction of a juvenile record.

(4)(a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.

(b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

Section 30. Section 80-6-1006.1 is amended to read:

80-6-1006.1. Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.

(1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.

(2) The juvenile court may not order:

(a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or

(b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:

(i) the record is unsupported; or

(ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.

(3)(a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.

(b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.

(4)(a) Upon receipt of an expungement order, an agency shall:

(i) [~~to avoid destruction or expungement of records in whole or in part, expunge only the references to the individual's name in the records relating to the individual's adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is ordered~~]expunge all records affected by the expungement order; and

(ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.

(b) An agency that receives a copy of an expungement order shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.

(5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:

(a) may not disclose records expunged in an expungement order unless required by law;

(b) are not required to destroy any photograph or record created under Section 80-6-608;

(c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:

(i) the treatment and programming of the individual;

(ii) housing of the individual;

(iii) applicable guidelines regarding the individual; or

(iv) supervision conditions for the individual;

(d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (4)(b).

(6) Upon entry of an expungement order:

(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.

(7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Section 31. Repealer.

This bill repeals:

Section 77-40a-203, Time periods for expungement or deletion -- Identification and processing of clean slate eligible cases.

Section 32. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on October 1, 2024.

(2) Section 63M-7-221 takes effect on May 1, 2024.

Section 33. Coordinating H.B. 352 with S.B. 163.

If H.B. 352, Amendments to Expungement, and S.B. 163, Expungement Revisions, both pass and become law, the Legislature intends that, on October 1, 2024:

(1) the following language replace Subsection 77-40a-301(1)(b) enacted in H.B. 352 and S.B. 163:

"(b) except as provided in Subsections 77-40a-304(3) and (7), pay the issuance fee for the certificate of eligibility or special certificate as described in Section 77-40a-304 if the individual is eligible to receive a certificate of eligibility or special certificate; and";

(2) Subsection 77-40a-306(5) enacted in H.B. 352 not be enacted;

(3) Subsection 77-40a-401(3) enacted in H.B. 352 be amended to read:

"(3)(a) An agency shall:

(i) develop and implement a process to identify an expunged record; and

(ii) keep, index, and maintain all expunged records of arrests and convictions.

(b) Subsection (3)(a) does not prevent an agency from maintaining or destroying a record in accordance with a retention schedule when the record is an expunged record.

(c) An agency is not required to redact an expunged record, or a record referencing an expunged record, that pertains to more than one individual until the agency is required to release the record."; and

(4) Subsection 78A-2-302(2) be amended to read:

"(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if:

(a) the individual submits an affidavit demonstrating that the individual is indigent[.]; or

(b) the cause is a petition for expungement and: (i) the individual provides the court with proof that another court granted a waiver of the fee for a petition for expungement as described in Subsection 77-40a-305(12)(b); or

(ii) the individual is receiving services for the expungement from a nonprofit organization, or a public benefit corporation, that provides services to low-income individuals seeking expungement.".

CHAPTER 181
H. B. 356
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

BAIL AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to bail and pretrial release.

Highlighted Provisions:

This bill:

- amends the requirements for collecting pretrial information when an individual is arrested without a warrant and is booked at a jail facility; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-20-202, as last amended by Laws of Utah 2023, Chapter 447

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

Section 1. Section 77-20-202 is amended to read:

77-20-202. Collection of pretrial information.

(1) [~~On or after May 4, 2022, when~~]When an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement[~~ to the extent that the information is reasonably available to the employee~~]:

(a) identification information for the individual, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's date of birth;

(iii) the individual's state identification number;

(iv) the individual's mobile phone number; and

(v) the individual's email address;

(b) the individual's residential address;

(c) any pending criminal charge or warrant for the individual, including the offense tracking number of the current offense for which the individual is booked;

(d) the individual's probation or parole supervision status;

(e) whether the individual was on pretrial release for another criminal offense prior to the booking of the individual for the current criminal offense if the employee knows that the individual was on pretrial release for a prior criminal offense;

(f) the individual's financial circumstances to the best of the individual's knowledge at the time of booking, including:

(i) the individual's current employer;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents;

(vi) any financial support or benefit that the individual receives from a state or federal government; and

(vii) any other information about the individual's financial circumstances that may be relevant;

(g) any ties the individual has to the community, including:

(i) the length of time that the individual has been at the individual's residential address;

(ii) any enrollment in a local college, university, or trade school; and

(iii) the name and contact information for any family member or friend that the individual believes would be willing to provide supervision of the individual; [~~and~~]

(h) the results of a lethality assessment completed in accordance with Section 77-36-2.1, if any[~~.~~]; and

(i) whether the individual is under the influence of alcohol or a controlled substance to a degree that would endanger the individual or another individual if the individual is released.

(2) Upon request, the jail facility, or the pretrial services program, shall provide the information described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.

(3) Any information collected from an individual under Subsection (1) is inadmissible in any court proceeding other than:

(a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or offenses, for which the individual was arrested or charged with; or

(b) another criminal proceeding regarding prosecution for providing a false statement under Subsection (1).

(4) Nothing in this section prohibits a court and a county from entering into an agreement regarding information to be submitted to the court with a probable cause statement.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 182
H. B. 358
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

PREGNANT AND POSTPARTUM INMATE AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amend provisions related to pregnant and postpartum inmates.

Highlighted Provisions:

This bill:

- provides that the Department of Corrections may not establish a nursery for a female inmate and the inmate's infant within a correctional facility;
- amends the Correctional Postnatal and Early Childhood Advisory Board; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329

63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332

63I-1-264, as enacted by Laws of Utah 2023, Chapter 420

64-13-46, as last amended by Laws of Utah 2023, Chapter 420

RENUMBERS AND AMENDS:

26B-1-434, (Renumbered from 26B-1-434, as enacted by Laws of Utah 2023, Chapter 420)

REPEALS:

64-13-46.5, as enacted by Laws of Utah 2023, Chapter 420

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

Section 1. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.~~]

[~~(19)~~](18) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](19) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](20) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](21) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](22) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](23) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](24) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](25) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](26) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](27) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](28) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

[~~(30)~~](29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(31)~~](30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(32)~~](31) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(33)~~](32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(34)~~](33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(35)~~](34) Section 26B-5-120 is repealed December 31, 2026.

[~~(36)~~](35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(37)~~](36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(38)~~](37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(39)~~](38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(40)~~](39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(41)~~](40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(42)~~](41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(43)~~](42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.~~]

[~~(19)~~](18) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](19) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](20) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](21) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](22) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](23) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](24) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](25) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](26) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](27) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](28) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(30)~~](29) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(31)~~](30) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(32)~~](31) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(33)~~](32) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(34)~~](33) Section 26B-5-120 is repealed December 31, 2026.

[~~(35)~~](34) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(36)~~](35) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(37)~~](36) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(38)~~](37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(39)~~](38) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(40)~~](39) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(41)~~](40) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](41) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 3. Section 63I-1-264 is amended to read:

63I-1-264. Repeal dates: Title 64.

[~~Section 64-13-46.5, Correctional Facility Nursery, is repealed July 1, 2026~~].

Section 64-13-46.1, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2025.

Section 4. Section 64-13-46 is amended to read:

64-13-46. Pregnant inmates.

(1) As used in this section:

(a) "Postpartum recovery" means, as determined by the pregnant inmate's physician, the period immediately following delivery, including the entire period the inmate is in the hospital or health care facility after birth.

(b) "Restraints" means any physical restraint or mechanical device used to control the movement of an inmate's body or limbs, including flex cuffs, soft restraints, shackles, or a convex shield.

(c)(i) "Shackles" means metal restraints, including leg irons, belly chains, or a security or tether chain.

(ii) "Shackles" does not include hard metal handcuffs.

(2) Subject to Subsections (3) and (4), if the staff of a correctional facility knows or has reason to believe that an inmate is pregnant or is in postpartum recovery, the staff shall, when restraining the inmate at any time or location, use the least restrictive restraints necessary to ensure the safety and security of the inmate and others.

(3) A correctional staff member may not use restraints on an inmate during the third trimester of pregnancy, labor, or childbirth unless a correctional staff member makes an individualized determination that there are compelling grounds to believe that the inmate presents:

(a) an immediate and serious risk of harm to the inmate, the inmate's infant, medical staff, correctional staff, or the public; or

(b) a substantial risk of escape that cannot reasonably be reduced by the use of other existing means.

(4) Notwithstanding Subsection (3), under no circumstances may shackles, leg restraints, or waist restraints be used on an inmate during the third trimester of pregnancy, labor, childbirth, or postpartum recovery.

(5) Correctional staff present during labor or childbirth shall:

(a) be stationed in a location that offers the maximum privacy to the inmate, while taking into consideration safety and security concerns; and

(b) be female, if practicable.

(6) If a correctional staff member authorizes restraints under Subsection (2) or (3), the correctional staff member shall make a written record of the authorization and use of the restraints that includes:

(a) an explanation of the grounds for the correctional staff member's authorization on the use of restraints;

(b) the type of restraints that were used; and

(c) the length of time the restraints were used.

(7) The record described in Subsection (6):

(a) shall be retained by the correctional facility for five years;

(b) shall be available for public inspection with individually identifying information redacted; and

(c) may not be considered a medical record under state or federal law.

(8) For a minimum of 48 hours after an inmate has given birth, a correctional facility shall, if directed by the inmate's physician, allow the infant to remain with the inmate at the health care facility.

(9) A correctional facility shall provide:

(a) an inmate who is pregnant, or who has given birth within the past six weeks, access to a social worker to help the inmate:

(i) arrange childcare;

(ii) establish a reunification plan; and

(iii) establish a substance abuse treatment plan, if needed; and

(b) an inmate in postpartum recovery access to postpartum care for up to 12 weeks as determined by the inmate's physician.

(10) The department may not create or operate a nursery in a correctional facility to provide space for a female inmate and the inmate's child.

Section 5. Section 64-13-46.1, which is renumbered from Section 26B-1-434 is renumbered and amended to read:

~~26B-1-434.~~ 64-13-46.1. Correctional Postnatal and Early Childhood Advisory Board -- Duties -- Rulemaking.

(1) As used in this part:

(a) "Advisory board" means the Correctional Postnatal and Early Childhood Advisory Board.

(b) "Correctional facility" means a facility operated by the department or a county sheriff that houses inmates in a secure setting.

[~~(b)~~](c) "Incarcerated mother" means [~~the same as that term is defined in Section 64-13-46.5~~]an inmate who:

(i) has recently given birth before entering a correctional facility;

(ii) is pregnant and incarcerated in a correctional facility; or

(iii) has given birth while incarcerated in a correctional facility.

(2) The advisory board shall consist of the following members:

(a) two individuals from the [~~Department of Corrections~~]department, appointed by the executive director[~~ of the Department of Corrections~~];

(b) one individual appointed by the Board of Pardons and Parole;

(c) one individual appointed by the president of the Utah Sheriffs' Association; and

[~~(c)~~](d) [~~six~~]four individuals appointed by the executive director [~~of the department~~]of the Department of Health and Human Services, including:

[~~(i) two individuals from the department with experience in child care licensing;~~]

[~~(ii)~~](i) two pediatric healthcare providers;

[~~(iii)~~](ii) one individual with expertise in early childhood development; and

[~~(iv)~~](iii) one individual with experience advocating for incarcerated women.

(3)(a) Except as provided in Subsection (3)(b), a member of the advisory board shall be appointed for a four-year term.

(b) A member that is appointed to complete an unexpired term may complete the unexpired term and serve a subsequent four-year term.

(c) Appointments and reappointments may be staggered so that one-fourth of the advisory board changes each year.

(d) The advisory board shall annually elect a chair and co-chair of the board from among the members of the board to serve a two-year term.

(4) The advisory board shall meet at least bi-annually, or more frequently as determined by the executive director, the chair, or three or more members of the advisory board.

(5) A majority of the board constitutes a quorum and a vote of the majority of the members present constitutes an action of the advisory board.

(6) A member of the advisory board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) The advisory board shall:

(a) review research regarding childhood development and best practices for [~~infants placed in a nursery located within a secure correctional environment~~]placing infants and incarcerated mothers in a diversion program not located in a correctional facility;

[~~(b) as part of the advisory board's review of research under Subsection (7)(a), study the benefits of having a nursery for infants and incarcerated mothers located within a secure correctional environment and the benefits of placing an infant or incarcerated mother in a diversion program removed from a secure correctional environment;~~]

[~~(c)~~](b) study the costs of implementing a diversion program for infants and incarcerated mothers removed from a [~~secure correctional environment~~]correctional facility;

[~~(d)~~](c) create a provisional plan for implementing a diversion program for infants and incarcerated mothers removed from a [~~secure correctional environment~~]correctional facility; and

[~~(e)~~](d) advise and make recommendations to the department and county sheriffs regarding rules and policies for [~~any nursery established by the Department of Corrections to provide space for incarcerated mothers and infants.~~]placing an infant or incarcerated mother in a diversion program not located in a correctional facility.

[~~(8) The advisory board, upon request from the Department of Corrections, may:~~]

[~~(a) after considering the specific circumstances of an infant and the infant's incarcerated mother, extend the age that qualifies the infant for a nursery under Subsection 64-13-46.5(2) up to 24 months old if:~~]

[~~(i) the extension is in the best interest of the infant; and~~]

[~~(ii) without the extension the infant would be separated from the incarcerated mother while the incarcerated mother remains in the correctional facility; or~~]

[~~(b) allow an incarcerated mother who has committed a violent felony to be provided space in a nursery if it is in the best interest of the incarcerated mother's infant.~~]

[~~(9)~~](8) On or before November 30, 2024, the advisory board shall provide a report of the advisory board's research and study under Subsections (7)(a) through [~~(d)~~](c), including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee.

[~~(10) The department shall:~~]

[~~(a) after receiving recommendations from the advisory board under Subsection (7)(e), adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for certification of a nursery established in a secure correctional environment that address:~~]

[~~(i) the safety of the nursery for infants and incarcerated mothers;~~]

[~~(ii) the childhood development needs of the infants in the nursery;~~]

[~~(iii) the specific medical needs of the infants and incarcerated mothers in the nursery;~~]

[~~(iv) the appropriate needs of the incarcerated mothers in the nursery; and~~]

[~~(v) any other requirements recommended by the advisory board that the department deems necessary for the nursery; and~~]

[~~(b) certify that any nursery established by the Department of Corrections is in compliance with the rules established under this section before the nursery begins operations.~~]

[~~(11) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding corrective action, including closure of a nursery established by the Department of Corrections, if the Department of Corrections fails to comply with the rules established under this section.~~]

Section 6. Repealer.

This bill repeals:

Section 64-13-46.5, Correctional facility nursery.

Section 7. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-1-226 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 183
H. B. 360
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

OUTDOOR RECREATION AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill authorizes private support for maintenance of outdoor recreation infrastructure.

Highlighted Provisions:

This bill:

- defines terms;
- permits the Division of Outdoor Recreation to accept private funding and labor for maintenance of outdoor recreation infrastructure;
- grants the division rulemaking authority regarding private funding and labor for maintenance of outdoor recreation infrastructure; and
- provides a repeal date, subject to legislative review.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63I-1-279, as last amended by Laws of Utah 2023, Chapter 211

ENACTS:
79-7-601, Utah Code Annotated 1953
79-7-602, Utah Code Annotated 1953

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

Section 1. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

(1) Subsection 79-2-201(2)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)(q), related to the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)(r)(i), related to an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.

(4) Subsection 79-2-201(2)(s), related to the Wildlife Board Nominating Committee, is repealed July 1, 2028.

(5) Subsection 79-2-201(2)(t), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

(6) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(7) Title 79, Chapter 7, Part 6, Private Maintenance, is repealed July 1, 2029.

[~~(7)~~](8) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 2. Section 79-7-601 is enacted to read:

79-7-601. Definitions.

Part 6. Private Maintenance

As used in this part:

(1) "Director" means the director of the division, as described in Section 79-7-202.

(2) "Outdoor recreation infrastructure" means the same as that term is defined in Section 51-9-901.

Section 3. Section 79-7-602 is enacted to read:

79-7-602. Private funding for maintenance of outdoor recreation infrastructure.

(1) The division may:

(a) permit a person to volunteer labor or funding to maintain outdoor recreation infrastructure; and

(b) recognize the person providing the labor or funding through signage or other indication.

(2) A person desiring to volunteer labor or funding to maintain outdoor recreation infrastructure shall submit an application to the division on a form provided by the division.

(3) The director shall appoint a manager to oversee the administration of this section.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Subsection (1), including rules for:

(a) outdoor recreation infrastructure maintenance;

(b) partnerships between private and public entities; and

(c) the duties of the manager.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 184
H. B. 363
Passed February 16, 2024
Approved March 13, 2024
Effective May 1, 2024

LIVESTOCK GRAZING AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill makes changes to provisions relating to grazing under the Utah Public Land Management Act.

Highlighted Provisions:

This bill:

- recognizes a federal grazing allotment as a valid existing right in range management; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
63L-11-302, as enacted by Laws of Utah 2021, Chapter 382

ENACTS:
63L-8-404, Utah Code Annotated 1953

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

Section 1. Section 63L-8-404 is enacted to read:

63L-8-404. Valid existing right.

(1) As used in this section, "valid existing right" means an interest in property that a person secures by meeting the requirements of this section.

(2) A property right associated with a grazing allotment on public lands is a valid existing right if the owner of the grazing allotment:

(a) has a valid permit or lease issued by a federal agency that authorizes the permit or lease holder to use the public lands for grazing domestic livestock;

(b) grazes the land in a manner consistent with sustained yield;

(c) is able to demonstrate that the lands included in the grazing allotment covered by the permit are chiefly valuable for grazing; and

(d) obtains the preference rights to the lease or permit described in Subsection (2)(a) and begins grazing livestock on the public lands before a final decision by a federal agency to withdraw the public lands from use for livestock grazing.

Section 2. Section 63L-11-302 is amended to read:

63L-11-302. Principles to be recognized and promoted.

The office shall recognize and promote the following principles when preparing any policies, plans, programs, processes, or desired outcomes relating to federal lands and natural resources on federal lands under Section 63L-11-301:

(1)(a) the citizens of the state are best served by applying multiple-use and sustained-yield principles in public land use planning and management; and

(b) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions that:

(i) achieve and maintain in perpetuity a high-level annual or regular periodic output of mineral and various renewable resources from public lands;

(ii) support valid existing transportation, mineral, and grazing privileges at the highest reasonably sustainable levels;

(iii) support the specific plans, programs, processes, and policies of state agencies and local governments;

(iv) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion without permanent impairment of the productivity of the land;

(v) meet the recreational needs and the personal and business-related transportation needs of the citizens of the state by providing access throughout the state;

(vi) meet the recreational needs of the citizens of the state;

(vii) meet the needs of wildlife;

(viii) provide for the preservation of cultural resources, both historical and archaeological;

(ix) meet the needs of economic development;

(x) meet the needs of community development; and

(xi) provide for the protection of water rights;

(2) managing public lands for wilderness characteristics circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management standard that applies to all Bureau of Land Management and United States. Forest Service lands that are not wilderness areas or wilderness study areas;

(3) all waters of the state are:

(a) owned exclusively by the state in trust for the state's citizens;

(b) are subject to appropriation for beneficial use; and

(c) are essential to the future prosperity of the state and the quality of life within the state;

(4) the state has the right to develop and use the state's entitlement to interstate rivers;

(5) all water rights desired by the federal government must be obtained through the state water appropriation system;

(6) land management and resource- use decisions which affect federal lands should give priority to and support the purposes of the compact between the state and the United States related to school and institutional trust lands;

(7) development of the solid, fluid, and gaseous mineral resources of the state is an important part of the economy of the state, and of local regions within the state;

(8) the state should foster and support industries that take advantage of the state's outstanding opportunities for outdoor recreation;

(9) wildlife constitutes an important resource and provides recreational and economic opportunities for the state's citizens;

(10) proper stewardship of the land and natural resources is necessary to ensure the health of the watersheds, timber, forage, and wildlife resources to provide for a continuous supply of resources for the people of the state and the people of the local communities who depend on these resources for a sustainable economy;

(11) forests, rangelands, timber, and other vegetative resources:

(a) provide forage for livestock;

(b) provide forage and habitat for wildlife;

(c) provide resources for the state's timber and logging industries;

(d) contribute to the state's economic stability and growth; and

(e) are important for a wide variety of recreational pursuits;

(12) management programs and initiatives that improve watersheds and forests and increase forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural industries by utilizing proven techniques and tools are vital to the state's economy and the quality of life in the state; [~~and~~]

(13)(a) land management plans, programs, and initiatives should provide that the amount of domestic livestock forage, expressed in animal unit months, for permitted, active use as well as the wildlife forage included in that amount, be no less than the maximum number of animal unit months sustainable by range conditions in grazing allotments and districts, based on an on- the- ground and scientific analysis;

(b) the state opposes the relinquishment or retirement of grazing animal unit months in favor of conservation, wildlife, and other uses;

(c)(i) the state favors the best management practices that are jointly sponsored by cattlemen, sportsmen, and wildlife management groups such as chaining, logging, seeding, burning, and other direct soil and vegetation prescriptions that are demonstrated to restore forest and rangeland health, increase forage, and improve watersheds in grazing districts and allotments for the benefit of domestic livestock and wildlife;

(ii) when practices described in Subsection (13)(c)(i) increase a grazing allotment's forage beyond the total permitted forage use that was allocated to that allotment in the last federal land use plan or allotment management plan still in existence as of January 1, 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced committee of livestock and wildlife representatives that is appointed and constituted by the governor for that purpose; and

(iii) the state favors quickly and effectively adjusting wildlife population goals and population census numbers in response to variations in the amount of available forage caused by drought or other climatic adjustments, and state agencies responsible for managing wildlife population goals and population census numbers will, when making those adjustments, give due regard to both the needs of the livestock industry and the need to prevent the decline of species to a point of listing under the terms of the Endangered Species Act;

(d) the state opposes the transfer of grazing animal unit months to wildlife for supposed reasons of rangeland health;

(e) reductions in domestic livestock animal unit months must be temporary and scientifically based upon rangeland conditions;

(f) policies, plans, programs, initiatives, resource management plans, and forest plans may not allow the placement of grazing animal unit months in a suspended use category unless there is a rational and scientific determination that the condition of the rangeland allotment or district in question will not sustain the animal unit months sought to be placed in suspended use;

(g) any grazing animal unit months that are placed in a suspended use category should be returned to active use when range conditions improve;

(h) policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses; and

(i) in established grazing districts, animal unit months that have been reduced due to rangeland health concerns should be restored to livestock when rangeland conditions improve, and should not be converted to wildlife use[.]; and

(14) a grazing allotment on federal public lands is a valid existing right for purposes of federal land withdrawals when the owner of the grazing allotment meets the requirements described in Section 63L-8-404.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 185
S. B. 143
Passed February 26, 2024
Approved March 13, 2024
Effective July 1, 2024

MILITARY OCCUPATIONAL LICENSING RENEWAL AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses professional or occupational license requirements for service members.

Highlighted Provisions:

This bill:

- provides for the waiver of fees and penalties associated with the reactivation of an expired professional or occupational license of a deployed service member.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

58-1-308, as last amended by Laws of Utah 2016, Chapter 238

71A-8-103, as last amended by Laws of Utah 2023, Chapter 328 and renumbered and amended by Laws of Utah 2023, Chapter 44

71A-8-103, as last amended by Laws of Utah 2023, Chapters 310, 328 and renumbered and amended by Laws of Utah 2023, Chapter 44

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

Section 1. Section 58-1-308 is amended to read:

58-1-308. Term of license -- Expiration of license -- Renewal of license -- Reinstatement of license -- Application procedures.

(1)(a) Each license issued under this title shall be issued in accordance with a two-year renewal cycle established by rule.

(b) A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2)(a) The expiration date of a license shall be shown on the license.

(b) A license that is not renewed prior to the expiration date shown on the license automatically expires.

(c) A license automatically expires prior to the expiration date shown on the license upon the death of a licensee who is a natural person, or upon the dissolution of a licensee that is a partnership, corporation, or other business entity.

(d) If the existence of a dissolved partnership, corporation, or other business entity is reinstated prior to the expiration date shown upon the entity's expired license issued by the division, the division shall, upon written application, reinstate the applicant's license, unless it finds that the applicant no longer meets the qualifications for licensure.

(e) Expiration of licensure is not an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(3)(a) The division shall notify each licensee in accordance with procedures established by rule that the licensee's license is due for renewal and that unless an application for renewal is received by the division by the expiration date shown on the license, together with the appropriate renewal fee and documentation showing completion of or compliance with renewal qualifications, the license will not be renewed.

(b) Examples of renewal qualifications which by statute or rule the division may require the licensee to document completion of or compliance with include:

(i) continuing education;

(ii) continuing competency;

(iii) quality assurance;

(iv) utilization plan and protocol;

(v) financial responsibility;

(vi) certification renewal; and

(vii) calibration of equipment.

(4)(a)(i) An application for renewal that complies with Subsection (3) is complete.

(ii) A renewed license shall be issued to applicants who submit a complete application, unless it is apparent to the division that the applicant no longer meets the qualifications for continued licensure.

(b)(i) The division may evaluate or verify documentation showing completion of or compliance with renewal requirements on an entire population or a random sample basis, and may be assisted by advisory peer committees.

(ii) If necessary, the division may complete its evaluation or verification subsequent to renewal and, if appropriate, pursue action to suspend or revoke the license of a licensee who no longer meets the qualifications for continued licensure.

(c) The application procedures specified in Subsection 58-1-301(2), apply to renewal applications to the extent they are not in conflict with this section.

(5)(a) Any license that is not renewed may be reinstated:

(i) upon submission of an application for reinstatement, payment of the renewal fee together with a reinstatement fee determined by the

department under Section 63J-1-504, and upon submission of documentation showing completion of or compliance with renewal qualifications; and

(ii)(A) at any time within two years after nonrenewal; or

(B) between two years and five years after nonrenewal, if established by rule made by the division in consultation with the applicable licensing board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The application procedures specified in Subsection 58-1-301(2) apply to the reinstatement applications to the extent they are not in conflict with this section.

(c) Except as otherwise provided by rule, a license that is reinstated no later than 120 days after it expires shall be retroactively reinstated to the date it expired.

(6)(a) Except as provided in Subsection (5)(a), if not reinstated within two years, the holder may obtain a license only if the holder meets requirements provided by the division by rule or by statute for a new license.

(b) Each licensee under this title who has been active in the licensed occupation or profession while in the full-time employ of the United States government or under license to practice that occupation or profession in any other state or territory of the United States may reinstate the licensee's license without taking an examination by submitting an application for reinstatement, paying the current annual renewal fee and the reinstatement fee, and submitting documentation showing completion of or compliance with any renewal qualifications at any time within six months after reestablishing domicile within Utah or terminating full-time government service.

(7) A service member may reactivate an expired professional or occupational license as described in 71A-8-103.

Section 2. Section 71A-8-103 is amended to read:

71A-8-103. Employees in military service -- Extension of licenses for deployed service members and members of National Guard and reservists ordered to active duty.

(1) As used in this section, "license" means any license issued under:

(a) Title 58, Occupations and Professions; and

(b) Section 26B-4-116.

(2) [~~Any~~]A license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on state or federal active duty [~~shall be~~]is extended until 90 days after the member is discharged from active duty status.

(3) A license held by a service member that expires while the member is deployed is extended for 90 days after the last date of the deployment listed on the service member's deployment order.

(4) The licensing agency shall renew a license extended under Subsection (2) or (3) until the next date that the license expires or for the period that the license is normally issued, at no cost to the service member, member of the National Guard, or reserve component of the armed forces if all of the following conditions are met:

(a) the service member, National Guard member, or reservist requests renewal of the license within 90 days [~~after being discharged;~~]after the termination date of the activation or deployment orders;

(b) the service member, National Guard member, or reservist provides the licensing agency with a copy of the [~~member's or reservist's~~]individual's official orders calling the member or reservist to active duty or deployment, and official orders discharging the member or reservist from active duty or deployment; and

(c) the service member, the National Guard member, or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

[~~(4)~~](5) The provisions of this section do not apply to:

(a) regularly scheduled annual training;

(b) in-state active National Guard and reserve orders; or

(c) orders that do not require the service member to relocate outside of this state.

Section 3. Section 71A-8-103 is amended to read:

71A-8-103. Extension of licenses for members of National Guard and reservists ordered to active duty .

(1) As used in this section, "Âlicense" means any license issued under:

(a) Title 58, Occupations and Professions; and

(b) Section 53-2d-402.

(2) [~~Any~~]A license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on state or federal active duty [~~shall be~~]is extended until 90 days after the member is discharged from active duty status.

(3) A license held by a service member that expires while the member is deployed is extended for 90 days after the last date of the deployment listed on the service member's deployment order.

[~~(3)~~](4) The licensing agency shall renew a license extended under Subsection (2) or (3) until the next date that the license expires or for the period that the license is normally issued, at no cost to the service member, member of the National Guard, or

reserve component of the armed forces if all of the following conditions are met:

(a) the service member, National Guard member, or reservist requests renewal of the license within 90 days [~~after being discharged;~~]after the termination date of the activation or deployment orders;

(b) the service member, National Guard member, or reservist provides the licensing agency with a copy of the [~~member's or reservist's~~]individual's official orders calling the member or reservist to active duty or deployment, and official orders discharging the member or reservist from active duty or deployment; and

(c) the service member, the National Guard member, or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

[~~(4)~~](5) The provisions of this section do not apply:

(a) to regularly scheduled annual training;

(b) in-state active National Guard and reserve orders; or

(c) orders that do not require the service member to relocate outside of this state.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The changes affecting Section 71A-8-103 take effect on July 1, 2024.

CHAPTER 186
S. B. 149
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

ARTIFICIAL INTELLIGENCE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill creates the Artificial Intelligence Policy Act.

Highlighted Provisions:

This bill:

- defines terms;
- establishes liability for use of artificial intelligence (AI) that violates consumer protection laws if not properly disclosed;
- creates the Office of Artificial Intelligence Policy (office) and a regulatory AI analysis program;
- enables temporary mitigation of regulatory impacts during AI pilot testing;
- establishes the Artificial Intelligence Learning Laboratory Program to assess technologies, risks, and policy;
- requires disclosure when an individual interacts with AI in a regulated occupation; and
- grants the office rulemaking authority over AI programs and regulatory exemptions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-11-4, as last amended by Laws of Utah 2021, Chapters 138, 154
13-61-101, as last amended by Laws of Utah 2023, Chapter 327
63I-2-213, as last amended by Laws of Utah 2023, Chapter 33

ENACTS:

13-2-12, Utah Code Annotated 1953
13-70-101, Utah Code Annotated 1953
13-70-201, Utah Code Annotated 1953
13-70-301, Utah Code Annotated 1953
13-70-302, Utah Code Annotated 1953
13-70-303, Utah Code Annotated 1953
13-70-304, Utah Code Annotated 1953
13-70-305, Utah Code Annotated 1953
76-2-107, Utah Code Annotated 1953

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

Section 1. Section 13-2-12 is enacted to read:

13-2-12. Generative artificial intelligence -- Impact on liability for violation of consumer protection law.

(1) As used in this section:

(a) "Generative artificial intelligence" means an artificial system that:

(i) is trained on data;

(ii) interacts with a person using text, audio, or visual communication; and

(iii) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.

(b) "License" means a state-granted authorization for a person to engage in a specified occupation:

(i) based on the person meeting personal qualifications established under state law; and

(ii) where state law requires the authorization before the person may lawfully engage in the occupation for compensation.

(c) "Regulated occupation" means an occupation regulated by the Department of Commerce that requires a person to obtain a license or state certification to practice the occupation.

(d) "State certification" means a state-granted authorization given to a person to use the term "state certified" as part of a designated title related to engaging in a specified occupation:

(i) based on the person meeting personal qualifications established under state law; and

(ii) where state law prohibits a noncertified person from using the term "state certified" as part of a designated title but does not otherwise prohibit a noncertified person from engaging in the occupation for compensation.

(2) It is not a defense to the violation of any statute administered and enforced by the division, as described in Section 13-2-1, that generative artificial intelligence:

(a) made the violative statement;

(b) undertook the violative act; or

(c) was used in furtherance of the violation.

(3) A person who uses, prompts, or otherwise causes generative artificial intelligence to interact with a person in connection with any act administered and enforced by the division, as described in Section 13-2-1, shall clearly and conspicuously disclose to the person with whom the generative artificial intelligence interacts, if asked or prompted by the person, that the person is interacting with generative artificial intelligence and not a human.

(4)(a) A person who provides the services of a regulated occupation shall prominently disclose when a person is interacting with a generative artificial intelligence in the provision of regulated services.

(b) Nothing in this section permits a person to provide the services of a regulated occupation through generative artificial intelligence without meeting the requirements of the regulated occupation.

(5) A disclosure described Subsection (4)(a) shall be provided:

(a) verbally at the start of an oral exchange or conversation; and

(b) through electronic messaging before a written exchange.

(6) The division shall administer and enforce the provisions of this section in accordance with Chapter 2, Division of Consumer Protection.

(7) In addition to the division's enforcement powers described by Chapter 2, Division of Consumer Protection:

(a) the division director may impose an administrative fine for up to $2,500 for each violation of this section; and

(b) the division may bring an action in court to enforce a provision of this section.

(8) In a court action by the division to enforce a provision of this section, the court may:

(a) declare that an act or practice violates a provision of this section;

(b) issue an injunction for a violation of this section;

(c) order disgorgement of any money received in violation of this section;

(d) order payment of disgorged money to a person injured by a violation of this section;

(e) impose a fine of up to $2,500 for each violation of this section; or

(f) award any other relief that the court deems reasonable and necessary.

(9) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(10)(a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the attorney general on behalf of the division.

Section 2. Section 13-11-4 is amended to read:

13-11-4. Deceptive act or practice by supplier.

(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(a) indicates that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits, if it has not;

(b) indicates that the subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not;

(c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or has been used to an extent that is materially different from the fact;

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist, including any of the following reasons falsely used in an advertisement:

(i) "going out of business";

(ii) "bankruptcy sale";

(iii) "lost our lease";

(iv) "building coming down";

(v) "forced out of business";

(vi) "final days";

(vii) "liquidation sale";

(viii) "fire sale";

(ix) "quitting business"; or

(x) an expression similar to any of the expressions in Subsections (2)(d)(i) through (ix);

(e) indicates that the subject of a consumer transaction has been supplied in accordance with a previous representation, if it has not;

(f) indicates that the subject of a consumer transaction will be supplied in greater quantity than the supplier intends;

(g) indicates that replacement or repair is needed, if it is not;

(h) indicates that a specific price advantage exists, if it does not;

(i) indicates that the supplier has a sponsorship, approval, license, certification, or affiliation the supplier does not have;

(j)(i) indicates that a consumer transaction involves or does not involve a warranty, a disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if the representation is false; or

(ii) fails to honor a warranty or a particular warranty term;

(k) indicates that the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a consumer transaction in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to

enter into other consumer transactions, if receipt of the benefit is contingent on an event occurring after the consumer enters into the transaction;

(l) after receipt of payment for goods or services, fails to ship the goods or furnish the services within the time advertised or otherwise represented or, if no specific time is advertised or represented, fails to ship the goods or furnish the services within 30 days, unless within the applicable time period the supplier provides the buyer with the option to:

(i) cancel the sales agreement and receive a refund of all previous payments to the supplier if the refund is mailed or delivered to the buyer within 10 business days after the day on which the seller receives written notification from the buyer of the buyer's intent to cancel the sales agreement and receive the refund; or

(ii) extend the shipping date to a specific date proposed by the supplier;

(m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale within three business days of the time of purchase if:

(i) the sale is made other than at the supplier's established place of business pursuant to the supplier's personal contact, whether through mail, electronic mail, facsimile transmission, telephone, or any other form of direct solicitation; and

(ii) the sale price exceeds $25;

(n) promotes, offers, or grants participation in a pyramid scheme as defined under Title 76, Chapter 6a, Pyramid Scheme Act;

(o) represents that the funds or property conveyed in response to a charitable solicitation will be donated or used for a particular purpose or will be donated to or used by a particular organization, if the representation is false;

(p) if a consumer indicates the consumer's intention of making a claim for a motor vehicle repair against the consumer's motor vehicle insurance policy:

(i) commences the repair without first giving the consumer oral and written notice of:

(A) the total estimated cost of the repair; and

(B) the total dollar amount the consumer is responsible to pay for the repair, which dollar amount may not exceed the applicable deductible or other copay arrangement in the consumer's insurance policy; or

(ii) requests or collects from a consumer an amount that exceeds the dollar amount a consumer was initially told the consumer was responsible to pay as an insurance deductible or other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that amount is less than the full amount the motor vehicle insurance policy requires the insured to pay as a deductible or other copay arrangement, unless:

(A) the consumer's insurance company denies that coverage exists for the repair, in which case, the full amount of the repair may be charged and collected from the consumer; or

(B) the consumer misstates, before the repair is commenced, the amount of money the insurance policy requires the consumer to pay as a deductible or other copay arrangement, in which case, the supplier may charge and collect from the consumer an amount that does not exceed the amount the insurance policy requires the consumer to pay as a deductible or other copay arrangement;

(q) includes in any contract, receipt, or other written documentation of a consumer transaction, or any addendum to any contract, receipt, or other written documentation of a consumer transaction, any confession of judgment or any waiver of any of the rights to which a consumer is entitled under this chapter;

(r) charges a consumer for a consumer transaction or a portion of a consumer transaction that has not previously been agreed to by the consumer;

(s) solicits or enters into a consumer transaction with a person who lacks the mental ability to comprehend the nature and consequences of:

(i) the consumer transaction; or

(ii) the person's ability to benefit from the consumer transaction;

(t) solicits for the sale of a product or service by providing a consumer with an unsolicited check or negotiable instrument the presentment or negotiation of which obligates the consumer to purchase a product or service, unless the supplier is:

(i) a depository institution under Section 7-1-103;

(ii) an affiliate of a depository institution; or

(iii) an entity regulated under Title 7, Financial Institutions Act;

(u) sends an unsolicited mailing to a person that appears to be a billing, statement, or request for payment for a product or service the person has not ordered or used, or that implies that the mailing requests payment for an ongoing product or service the person has not received or requested;

(v) issues a gift certificate, instrument, or other record in exchange for payment to provide the bearer, upon presentation, goods or services in a specified amount without printing in a readable manner on the gift certificate, instrument, packaging, or record any expiration date or information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record;

(w) misrepresents the geographical origin or location of the supplier's business;

(x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal provisions;

(y) violates Section 13-59-201; or

(z) fails to comply with the restrictions of Subsection 13-54-202(2).

(3)(a) The notice required by Subsection (2)(m) shall:

(i) be a conspicuous statement written in dark bold with at least 12-point type on the first page of the purchase documentation; and

(ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period reflecting the supplier's cancellation policy but not less than three business days) AFTER THE DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS LATER."

(b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's cancellation policy:

(i) is communicated to the buyer; and

(ii) offers greater rights to the buyer than Subsection (2)(m).

(4)(a) A gift certificate, instrument, or other record that does not print an expiration date in accordance with Subsection (2)(v) does not expire.

(b) A gift certificate, instrument, or other record that does not include printed information concerning a fee to be charged and deducted from the balance of the gift certificate, instrument, or other record is not subject to the charging and deduction of the fee.

(c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other record useable at multiple, unaffiliated sellers of goods or services if an expiration date is printed on the gift certificate, instrument, or other record.

Section 3. Section 13-61-101 is amended to read:

13-61-101. Definitions.

As used in this chapter:

(1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.

(2) "Affiliate" means an entity that:

(a) controls, is controlled by, or is under common control with another entity; or

(b) shares common branding with another entity.

(3) "Aggregated data" means information that relates to a group or category of consumers:

(a) from which individual consumer identities have been removed; and

(b) that is not linked or reasonably linkable to any consumer.

(4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

(5) "Authenticate" means to use reasonable means to determine that a consumer's request to exercise the rights described in Section 13-61-201 is made by the consumer who is entitled to exercise those rights.

(6)(a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.

(b) "Biometric data" includes data described in Subsection (6)(a) that are generated by automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any other unique biological pattern or characteristic that is used to identify a specific individual.

(c) "Biometric data" does not include:

(i) a physical or digital photograph;

(ii) a video or audio recording;

(iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

(iv) information captured from a patient in a health care setting; or

(v) information collected, used, or stored for treatment, payment, or health care operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(8) "Child" means an individual younger than 13 years old.

(9) "Consent" means an affirmative act by a consumer that unambiguously indicates the consumer's voluntary and informed agreement to allow a person to process personal data related to the consumer.

(10)(a) "Consumer" means an individual who is a resident of the state acting in an individual or household context.

(b) "Consumer" does not include an individual acting in an employment or commercial context.

(11) "Control" or "controlled" as used in Subsection (2) means:

(a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting securities of an entity;

(b) control in any manner over the election of a majority of the directors or of the individuals exercising similar functions; or

(c) the power to exercise controlling influence of the management of an entity.

(12) "Controller" means a person doing business in the state who determines the purposes for which and the means by which personal data are processed, regardless of whether the person makes the determination alone or with others.

(13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(14)(a) "Deidentified data" means data that:

[~~(a)~~](i) cannot reasonably be linked to an identified individual or an identifiable individual; and

[~~(b)~~](ii) are possessed by a controller who:

[~~(i)~~](A) takes reasonable measures to ensure that a person cannot associate the data with an individual;

[~~(ii)~~](B) publicly commits to maintain and use the data only in deidentified form and not attempt to reidentify the data; and

[~~(iii)~~](C) contractually obligates any recipients of the data to comply with the requirements described in Subsections (14)(b)(i) and (ii).

(b) "Deidentified data" includes synthetic data.

(15) "Director" means the director of the Division of Consumer Protection.

(16) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(17) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(18) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(19) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(20) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.

(21) "Institution of higher education" means a public or private institution of higher education.

(22) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

(23) "Nonprofit corporation" means:

(a) the same as that term is defined in Section 16-6a-102; or

(b) a foreign nonprofit corporation as defined in Section 16-6a-102.

(24)(a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.

(b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.

(25) "Process" means an operation or set of operations performed on personal data, including collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(26) "Processor" means a person who processes personal data on behalf of a controller.

(27) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(28) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, if the additional information is:

(a) kept separate from the consumer's personal data; and

(b) subject to appropriate technical and organizational measures to ensure that the personal data are not attributable to an identified individual or an identifiable individual.

(29) "Publicly available information" means information that a person:

(a) lawfully obtains from a record of a governmental entity;

(b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or

(c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.

(30) "Right" means a consumer right described in Section 13-61-201.

(31)(a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.

(b) "Sale," "sell," or "sold" does not include:

(i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;

(ii) a controller's disclosure of personal data to an affiliate of the controller;

(iii) considering the context in which the consumer provided the personal data to the controller, a controller's disclosure of personal data to a third party if the purpose is consistent with a consumer's reasonable expectations;

(iv) the disclosure or transfer of personal data when a consumer directs a controller to:

(A) disclose the personal data; or

(B) interact with one or more third parties;

(v) a consumer's disclosure of personal data to a third party for the purpose of providing a product or service requested by the consumer or a parent or legal guardian of a child;

(vi) the disclosure of information that the consumer:

(A) intentionally makes available to the general public via a channel of mass media; and

(B) does not restrict to a specific audience; or

(vii) a controller's transfer of personal data to a third party as an asset that is part of a proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes control of all or part of the controller's assets.

(32)(a) "Sensitive data" means:

(i) personal data that reveals:

(A) an individual's racial or ethnic origin;

(B) an individual's religious beliefs;

(C) an individual's sexual orientation;

(D) an individual's citizenship or immigration status; or

(E) information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional;

(ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of identifying a specific individual; or

(iii) specific geolocation data.

(b) "Sensitive data" does not include personal data that reveals an individual's:

(i) racial or ethnic origin, if the personal data are processed by a video communication service; or

(ii) if the personal data are processed by a person licensed to provide health care under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and Professions, information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional.

(33)(a) "Specific geolocation data" means information derived from technology, including global position system level latitude and longitude coordinates, that directly identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

(b) "Specific geolocation data" does not include:

(i) the content of a communication; or

(ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(34) "Synthetic data" means data that has been generated by computer algorithms or statistical models and does not contain personal data.

[~~(34)~~](35)(a) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained from the consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.

(b) "Targeted advertising" does not include advertising:

(i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;

(ii) based on the context of a consumer's current search query or visit to a website or online application;

(iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or

(iv) processing personal data solely to measure or report advertising:

(A) performance;

(B) reach; or

(C) frequency.

[~~(35)~~](36) "Third party" means a person other than:

(a) the consumer, controller, or processor; or

(b) an affiliate or contractor of the controller or the processor.

[~~(36)~~](37) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the information's disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain the information's secrecy.

Section 4. Section 13-70-101 is enacted to read:

13-70-101. Definitions.

CHAPTER 70. ARTIFICIAL INTELLIGENCE POLICY ACT

Part 1. General Provisions

As used in this chapter:

(1) "Applicant" means a person that applies for participation in the regulatory learning laboratory.

(2) "Artificial intelligence" means a machine-based system that makes predictions, recommendations, or decisions influencing real or virtual environments.

(3) "Artificial intelligence technology" means a computer system, application, or other product that uses or incorporates one or more forms of artificial intelligence.

(4) "Department" means the Department of Commerce.

(5) "Director" means the director of the office.

(6) "Executive director" means the executive director of the Department of Commerce.

(7) "Learning agenda" means the areas of artificial intelligence applications, risks, and policy considerations selected by the office for focus by the learning laboratory.

(8) "Learning laboratory" means the artificial intelligence analysis and research program created in Section 13-70-301.

(9) "Office" means the Office of Artificial Intelligence Policy created in Section 13-70-201.

(10) "Participant" means a person that is accepted to participate in the learning laboratory.

(11) "Regulatory mitigation agreement" means an agreement between a participant, the office, and relevant state agencies described in Section 13-70-302.

(12) "Regulatory mitigation" means:

(a) when restitution to users may be required;

(b) terms and conditions related to any cure period before penalties may be assessed;

(c) any reduced civil fines during the participation term; and

(d) other terms tailored to identified issues of the artificial intelligence technology.

Section 5. Section 13-70-201 is enacted to read:

13-70-201. Creation of Office of Artificial Intelligence Policy -- Director appointed -- Duties and authority.

Part 2. Office of Artificial Intelligence Policy

(1) There is created in the department the Office of Artificial Intelligence Policy.

(2) The executive director of the department shall appoint a director to oversee the management and operations of the office.

(3) The office shall:

(a) create and administer an artificial intelligence learning laboratory program;

(b) consult with businesses and other stakeholders in the state about potential regulatory proposals;

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(i) procedures, requirements, and fees to apply to participate in the learning laboratory program;

(ii) criteria for invitation, acceptance, denial, or removal of participants;

(iii) data usage limitations and cybersecurity criteria for participants;

(iv) required participant disclosures to consumers;

(v) reporting requirements for participants to the office;

(vi) criteria for limited extension of the participation period; and

(vii) other requirements necessary to administer the learning laboratory; and

(d) report annually, before November 30, to the Business and Labor Interim Committee regarding:

(i) the proposed learning agenda for the learning laboratory;

(ii) the findings, participation, and outcomes of the learning laboratory; and

(iii) recommended legislation from findings from the learning laboratory.

Section 6. Section 13-70-301 is enacted to read:

13-70-301. Artificial Intelligence Learning Laboratory Program.

Part 3. Artificial Intelligence Learning Laboratory Program

(1) There is established the Artificial Intelligence Learning Laboratory Program, to be administered by the office.

(2) The purpose of the learning laboratory is to:

(a) analyze and research the risks, benefits, impacts, and policy implications of artificial intelligence technologies to inform the state regulatory framework;

(b) encourage development of artificial intelligence technologies in the state;

(c) evaluate the effectiveness and viability of current, potential, or proposed regulation on artificial intelligence technologies with artificial intelligence companies; and

(d) produce findings and recommendations for legislation and regulation of artificial intelligence.

(3)(a) The office shall periodically set a learning agenda for the learning laboratory that establishes the specific areas of artificial intelligence policy the office intends to study.

(b) In establishing the learning agenda, the office may consult with:

(i) relevant agencies;

(ii) industry leaders;

(iii) academic institutions in the state; and

(iv) key stakeholders with relevant knowledge, experience, or expertise in the area.

(4) The office may invite and receive an application from a person to participate in the learning laboratory.

(5) The office shall establish the procedures and requirements for sending an invitation and receiving requests to participate in the learning laboratory in accordance with the purposes of the learning laboratory.

(6) In selecting participants for the learning laboratory, the office shall consider:

(a) the relevance and utility of an invitee or applicant's artificial intelligence technology to the learning agenda;

(b) the invitee or applicant's expertise and knowledge specific to the learning agenda; and

(c) other factors identified by the office as relevant to participation in the learning laboratory.

(7) The office shall work with participants to establish benchmarks and assess outcomes of participation in the learning laboratory.

Section 7. Section 13-70-302 is enacted to read:

13-70-302. Regulatory mitigation agreements.

(1) A participant who uses or wants to utilize an artificial intelligence technology in the state may apply for regulatory mitigation according to criteria and procedures outlined by the office by rule made under Section 13-70-201.

(2) The office may grant, on a temporary basis, regulatory mitigation to a participant by entering into a regulatory mitigation agreement with the office and relevant agencies.

(3) To receive regulatory mitigation, a participant must demonstrate that the applicant meets eligibility criteria established in Section 13-70-303.

(4) A regulatory mitigation agreement between a participant and the office and relevant agencies shall specify:

(a) limitations on scope of the use of the participant's artificial intelligence technology, including:

(i) the number and types of users;

(ii) geographic limitations; and

(iii) other limitations to implementation;

(b) safeguards to be implemented; and

(c) any regulatory mitigation granted to the applicant.

(5) The office shall consult with relevant agencies regarding appropriate terms in a regulatory mitigation agreement.

(6) A participant remains subject to all legal and regulatory requirements not expressly waived or modified by the terms of the regulatory mitigation agreement.

(7)(a) The office may remove a participant at any time and for any reason, and the participant does not have an expectation of a property right or license to participate in the learning laboratory.

(b) A participant demonstrating an artificial intelligence technology that violates legal or regulatory requirements or the terms of the participation agreement may be immediately removed from further participation and subject to all applicable civil and criminal penalties.

(8) Participation in the learning laboratory does not constitute an endorsement or approval from the state.

(9) The state shall not be responsible for any claims, liabilities, damages, losses, or expenses arising out of a participant's involvement in the learning laboratory.

Section 8. Section 13-70-303 is enacted to read:

13-70-303. Regulatory mitigation eligibility requirements -- Application evaluation and admission.

(1) To be eligible for regulatory mitigation, a participant shall demonstrate to the office that:

(a) the participant has the technical expertise and capability to responsibly develop and test the proposed artificial intelligence technology;

(b) the participant has sufficient financial resources to meet obligations during testing;

(c) the artificial intelligence technology provides potential substantial consumer benefits that may outweigh identified risks from mitigated enforcement of regulations;

(d) the participant has an effective plan to monitor and minimize identified risks from testing; and

(e) the scale, scope, and duration of proposed testing is appropriately limited based on risk assessments.

(2) To evaluate whether an applicant meets eligibility criteria to receive regulatory mitigation, the office may consult with relevant agencies and outside experts regarding the application.

Section 9. Section 13-70-304 is enacted to read:

13-70-304. Participation in Artificial Intelligence Learning Laboratory.

(1)(a) The office may approve an applicant to participate in the program.

(b) An approved applicant becomes a participant by entering into a participation agreement with the office and relevant state agencies.

(2) A participant shall:

(a) provide required information to state agencies in accordance with the terms of the participation agreement; and

(b) report to the office as required in the participation agreement.

(3) The office may establish additional cybersecurity auditing procedures applicable to participants demonstrating artificial intelligence technologies that the office considers higher risk.

(4) A participant shall retain records as required by office rule or the participation agreement.

(5) A participant shall immediately report to the office any incidents resulting in consumer harm, privacy breach, or unauthorized data usage, which may result in removal of the participant from the learning laboratory.

Section 10. Section 13-70-305 is enacted to read:

13-70-305. Program extension.

(1) An initial regulatory mitigation agreement shall be in force for no longer than 12 months.

(2) A participant may request a single 12-month extension for participation in the learning laboratory period no later than 30 days before the end of the initial 12-month period.

(3) The office shall grant or deny an extension request before expiration of the initial demonstration period.

Section 11. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16 is repealed on July 1, 2024.

(2) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

(3) Title 13, Chapter 70, Artificial Intelligence Act, is repealed on May 1, 2025.

Section 12. Section 76-2-107 is enacted to read:

76-2-107. Commission of offense with aid of generative artificial intelligence.

(1) As used in this section, "generative artificial intelligence" means the same as that term is defined in Section 13-2-12.

(2) An actor may be found guilty of an offense if:

(a) the actor commits the offense with the aid of a generative artificial intelligence; or

(b) the actor intentionally prompts or otherwise causes a generative artificial intelligence to commit the offense.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 187
H. B. 366
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

CRIMINAL JUSTICE AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- amends provisions regarding the chair of a Criminal Justice Coordinating Council;
- amends the crime for an escape;
- moves the crime for an aggravated escape to a separate statute;
- addresses the use of an algorithm or a risk assessment tool score in determinations about pretrial release, diversion, sentencing, probation, and parole;
- requires the Administrative Office of the Courts to collect data regarding the total scores for pretrial risk assessment tools and on whether a defendant was previously convicted of an offense; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-5, as last amended by Laws of Utah 2004, Chapter 301
17-55-201, as last amended by Laws of Utah 2023, Chapters 249, 257
53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457
63A-16-1002, as last amended by Laws of Utah 2023, Chapters 158, 161, 382, and 448
64-13-14.5, as last amended by Laws of Utah 2015, Chapter 412
76-5-203, as last amended by Laws of Utah 2022, Chapter 181
77-2-5, as last amended by Laws of Utah 2021, Chapters 43, 260
77-18-103, as last amended by Laws of Utah 2023, Chapter 155
77-18-105, as last amended by Laws of Utah 2023, Chapters 111, 257
77-20-205, as last amended by Laws of Utah 2023, Chapters 408, 447
77-27-5, as last amended by Laws of Utah 2023, Chapters 151, 173
78A-2-109.5, as last amended by Laws of Utah 2023, Chapter 441

ENACTS:

76-8-309.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

76-8-309, as last amended by Laws of Utah 2022, Chapter 181

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

Section 1. Section 17-22-5 is amended to read:

17-22-5. Sheriff's classification of jail inmates -- Classification criteria -- Alternative incarceration programs -- Limitation.

(1) Except as provided in Subsection (4), the sheriff shall adopt and implement written policies for admission of prisoners to the county jail and the classification of persons incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community. To the extent authorized by law, any written admission policies shall be applied equally to all entities using the county correctional facilities.

(2) Except as provided in Subsection (4), each county sheriff shall assign prisoners to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

(3)(a) Except as provided in Subsection (4), a county sheriff may develop and implement alternative incarceration programs that may or may not involve housing a prisoner in a jail facility.

(b) A prisoner housed under an alternative incarceration program under Subsection (3)(a) shall be considered to be in the full custody and control of the sheriff for purposes of [~~Section~~]Sections 76-8-309 and 76-8-309.1.

(c) A prisoner may not be placed in an alternative incarceration program under Subsection (3)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under Subsection 17-22-5.5(2); or

(ii) ordered by the court.

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

Section 2. Section 17-55-201 is amended to read:

17-55-201. Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1)(a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2)(a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the Department of Corrections;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

[~~(3) A council shall rotate the position of the chair among the members.~~]

(3)(a) A member who is an elected county official shall serve as chair of the council.

(b) The council shall elect the member to serve as chair under Subsection (3)(a).

(4)(a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) As part of the council's duties described in Subsection (4)(a)(i), the council shall prepare a list of private probation providers for a court to provide to defendants as described in Section 77-18-105.

(6) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 3. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, [~~Subsection 76-8-309(2)~~]Section 76-8-309.1;

(xv) a felony violation of assault on an elected official, Section 76-8-315;

(xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xix) a felony violation of sexual battery, Section 76-9-702.1;

(xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxvi) commercial obstruction, Subsection 76-10-2402(2);

(xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxix) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).

Section 4. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall

provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 41-6a-511, courts to collect and maintain data;

(e) Section 53-23-101, reporting requirements for reverse-location warrants;

(f) Section 53-24-102, sexual assault offense reporting requirements for law enforcement agencies;

(g) Section 63M-7-214, law enforcement agency grant reporting;

(h) Section 63M-7-216, prosecutorial data collection;

(i) Section 64-13-21, supervision of sentenced offenders placed in community;

(j) Section 64-13-25, standards for programs;

(k) Section 64-13-45, department reporting requirements;

(l) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(m) Section 77-7-8.5, use of tactical groups;

(n) Section 77-11b-404, forfeiture reporting requirements;

(o) Section 77-20-103, release data requirements;

(p) Section 77-22-2.5, court orders for criminal investigations;

(q) Section 78A-2-109.5, court [~~demographics reporting~~]data collection on criminal cases;

(r) Section 80-6-104, data collection on offenses committed by minors; and

(s) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 5. Section 64-13-14.5 is amended to read:

64-13-14.5. Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2) The department shall establish rules governing offenders on release status. A copy of the rules shall be furnished to the offender and to any employer or other person participating in the offender's release program. Any employer or other participating person shall agree in writing to abide by the rules and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate guidelines established by the Utah Sentencing Commission, including prosecution for escape under Section 76-8-309 or 76-8-309.1 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 6. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1)(a) As used in this section, "predicate offense" means:

(i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

(ii) aggravated child abuse, under Subsection 76-5-109.2(3)(a), when the abused individual is younger than 18 years old;

(iii) kidnapping under Section 76-5-301;

(iv) child kidnapping under Section 76-5-301.1;

(v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

(vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

(ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

(xi) sodomy upon a child under Section 76-5-403.1;

(xii) forcible sexual abuse under Section 76-5-404;

(xiii) sexual abuse of a child under Section 76-5-404.1;

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

(xv) aggravated sexual assault under Section 76-5-405;

(xvi) arson under Section 76-6-102;

(xvii) aggravated arson under Section 76-6-103;

(xviii) burglary under Section 76-6-202;

(xix) aggravated burglary under Section 76-6-203;

(xx) robbery under Section 76-6-301;

(xxi) aggravated robbery under Section 76-6-302;

(xxii) escape [~~or aggravated escape~~]under Section 76-8-309;

(xxiii) aggravated escape under Section 76-8-309.1;or

[~~(xxiii)~~](xxiv) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct that creates a grave risk of death to another individual and thereby causes the death of the other individual;

(d)(i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) an individual other than a party described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide that would be aggravated murder, but the offense is reduced in accordance with Subsection 76-5-202(4).

(3)(a)(i) A violation of Subsection (2) is a first degree felony.

(ii) A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4)(a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the

viewpoint of a reasonable person under the then existing circumstances.

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5)(a) Any predicate offense that constitutes a separate offense does not merge with the crime of murder.

(b) An actor who is convicted of murder, based on a predicate offense that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 7. Section 76-8-309 is repealed and re-enacted to read:

76-8-309. Escape.

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

(i) "Agency" means a law enforcement agency, the Department of Corrections, a county or district attorney's office, the Office of the Attorney General, the Board of Pardons and Parole, or the judicial branch, including the Judicial Council, the Administrative Office of the Courts, or a similar administrative unit of the judicial branch.

(ii) "Confinement in a state prison" means:

(A)(I) the individual is housed in a state prison, or any other facility in accordance with a contract with the Department of Corrections or Section 80-6-507, after being sentenced and committed;

(II) the individual's sentence has not been terminated or voided; and

(III) the individual is not on parole;

(B) the individual is being housed in a county jail, after felony commitment, in accordance with a contract with the Department of Corrections;

(C) the individual is on parole and the individual is in prehearing custody after an arrest for a parole violation;

(D) the individual is housed in a state prison and is being transported as a prisoner in the state prison by a correctional officer; or

(E) the individual is housed in a state prison, or any other facility in accordance with a contract with the Department of Corrections or Section 80-6-507, and the individual is permitted to leave temporarily for a work release or home visit and is required to return at a designated time.

(iii) "Lawful authorization" does not include authorization to leave official custody, or to remove or disable a tracking device, if the authorization was obtained by means of deceit, fraud, or other artifice.

(iv)(A) "Offender" means an individual who is in official custody.

(B) "Offender" includes an individual who is under trusty status.

(v) "Official custody" means:

(A) confinement in a state prison;

(B) the individual is lawfully detained in a facility for secure confinement of minors that is operated by the Division of Juvenile Justice Services;

(C)(I) the individual is lawfully detained in a county jail before trial or sentencing or the individual is housed in a county jail after sentencing and commitment;

(II) the individual's sentence has not been terminated or voided; and

(III) the individual is not on parole or probation;

(D) the individual is lawfully detained following an arrest regardless of whether the individual was arrested with or without a warrant; or

(E) the individual is on probation and the individual is in prehearing custody after an arrest for a probation violation.

(vi)(A) "Tracking device" means a device that reveals the device's location or movement by the transmission or recording of an electronic signal.

(B) "Tracking device" includes a satellite-based radio navigation system.

(vii) "Volunteer" means a person who donates service without pay or other compensation except for expenses actually and reasonably incurred with approval by the supervising agency.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits escape if the actor:

(a) is an offender who, without lawful authorization:

(i) leaves official custody; or

(ii) intentionally or knowingly removes, disables, or permits the removal or disabling of, a tracking device that is installed or employed as an alternative to incarceration; or

(b)(i) is convicted as a party to an offense under this section, as described in Section 76-2-202; and

(ii) is an employee at, or a volunteer of, an agency.

(3)(a) Except as provided by Subsection (3)(b) or Section 76-8-309.1, a violation of Subsection (2)(a) is a third degree felony.

(b) Except as provided by Section 76-8-309.1, a violation of Subsection (2)(a) is a second degree felony if the actor leaves confinement in a state

prison without lawful authorization, including failing to return from a work release or home visit by the time designated for return.

(c) Except as provided in Section 76-8-309.1, a violation of Subsection (2)(b) is a second degree felony.

(4)(a) For purposes of an attempt to commit an escape under Section 76-4-102, the conception of the design to escape is conduct constituting a substantial step toward the commission of the crime.

(b) For purposes of a conspiracy to commit an escape under Section 76-4-201, the conception of the design to escape is an overt act in pursuance of the conspiracy to commit the crime.

(c) For an inchoate offense of escape, an escape is considered a continuing activity that commences with the conception of the design to escape and continues until the actor's attempt to escape is thwarted or abandoned or the actor commits the escape as described in Subsection (2)(a).

(5) For a completed offense of escape, an escape is considered a continuing activity that commences when the actor commits an escape as described in Subsection (2)(a) and continues until the actor is returned to official custody or the actor's escape is thwarted or abandoned.

(6) A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

Section 8. Section 76-8-309.1 is enacted to read:

76-8-309.1. Aggravated escape.

(1)(a) As used in this section, "escape" means an offense under Section 76-8-309.

(b) Terms defined in Sections 76-1-101.5 and 76-8-101 apply to this section.

(2) An actor commits aggravated escape if, during the course of the commission of an escape, the actor:

(a) uses a dangerous weapon; or

(b) causes serious bodily injury to another.

(3) A violation of Subsection (2) is a first degree felony.

(4) A court sentencing an actor for a violation of this section shall impose a consecutive sentence to any other sentence the actor is either serving or ordered to serve.

Section 9. Section 77-2-5 is amended to read:

77-2-5. Diversion agreement -- Negotiation -- Contents.

(1) At any time after the commencement of prosecution and before conviction, the prosecuting attorney may, by written agreement with the defendant, filed with the court, and upon approval of the court, divert a defendant to a non-criminal diversion program.

(2) A defendant shall be represented by counsel during negotiations for diversion and at the time of execution of any diversion agreement unless the defendant has knowingly and intelligently waived the defendant's right to counsel.

(3) The defendant has the right to be represented by counsel at any court hearing relating to a diversion program.

(4)(a) A diversion agreement, entered into between the prosecuting attorney and the defendant and approved by a [~~magistrate~~]court, shall contain a full, detailed statement of the requirements agreed to by the defendant and the reasons for diversion.

(b) The diversion agreement described in Subsection (4)(a) shall include an agreement, by the parties, for a specific amount of restitution that the defendant will pay, unless the prosecuting attorney certifies that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) the defendant does not owe any restitution.

(5)(a) If the court approves a diversion agreement that includes an agreement by the parties for the amount of restitution that the defendant will pay, the court shall order the defendant to pay restitution in accordance with the terms of the diversion agreement.

(b) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the diversion agreement.

(6) A decision by a prosecuting attorney not to divert a defendant is not subject to judicial review.

(7) A diversion agreement entered into between the prosecution and the defense and approved by a magistrate may contain an order that the defendant pay a nonrefundable diversion fee that:

(a) shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 or Section 78A-7-120; and

(b) may not exceed the suggested fine listed in the Uniform Fine Schedule adopted by the Judicial Council.

(8) A diversion agreement may not be approved unless the defendant knowingly and intelligently waives the defendant's constitutional right to a speedy trial before a magistrate and in the diversion agreement.

(9)(a) The court shall, on the defendant's request, consider the defendant's ability to pay a diversion fee before ordering the defendant to pay a diversion fee.

(b) The court may:

(i) consider any relevant evidence in determining the defendant's ability to pay a diversion fee; and

(ii) lower or waive the diversion fee based on that evidence.

(10) A diversion program longer than two years is not permitted.

(11) The court may not rely solely on an algorithm or a risk assessment tool score in determining whether the court should approve the defendant's diversion to a non-criminal diversion program.

Section 10. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;

(d) recommendations for treatment for the defendant; and

(e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(3) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(4)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the Division of Adult Probation and Parole or the law enforcement agency.

(b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(6)(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(7) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8)(a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

(9) The court may not rely solely on an algorithm or a risk assessment tool score in determining the appropriate sentence for a defendant.

Section 11. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3)(a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4)(a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5)(a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b)(i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6)(a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b)(i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7)(a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8)(a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d)(i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation[~~,~~]:

(a) the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements[~~.~~]; and

(b) the court may not rely solely on an algorithm or a risk assessment tool score.

Section 12. Section 77-20-205 is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1)(a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to

support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(4) In making a determination about pretrial release, a magistrate or judge shall impose only conditions of release that are reasonably available and necessary to reasonably ensure:

(a) the individual's appearance in court when required;

(b) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(c) the safety and welfare of the public; and

(d) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(5) Except as provided in Subsection (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a

reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

(6)(a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(7)(a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(8) In making a determination about pretrial release, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

(vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely:

(a) on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony[.]; or

(b) on an algorithm or a risk assessment tool score.

(10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge.

Section 13. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1)(a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d)(i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e)(i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(f) A commutation or pardon may be granted only after a full hearing before the board.

(2)(a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d)(i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3)(a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4)(a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5)(a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(8) The board may not rely solely on an algorithm or a risk assessment tool score in determining whether parole should be granted or terminated for an offender.

Section 14. Section 78A-2-109.5 is amended to read:

78A-2-109.5. Court data collection and reporting.

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall submit the following information to the commission for each criminal case filed with the court:

(a) case number;

(b) the defendant's:

(i) full name;

(ii) offense tracking number; and

(iii) date of birth;

(c) charges filed;

(d) initial appearance date;

(e) bail amount set by the court, if any;

(f) whether the defendant was represented by a public defender, private counsel, or pro se; [~~and~~]

(g) whether the defendant had previously been convicted of an offense;

[~~(g)~~](h) final disposition of the charges[~~.~~]; and

(i) if the defendant is convicted, the defendant's total score for any pretrial risk assessment used by a magistrate or judge in making a determination about pretrial release as described in Section 77-20-205.

(3)(a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.

(4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:

(a) the number of cases in which a preliminary hearing is set and placed on the court calendar;

(b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;

(c) the number of cases, and the average time to disposition for those cases, in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;

(d) the number of cases, and the average time to disposition for those cases, in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;

(e) the number of cases, and the average time to disposition for those cases, in which only witness testimony is submitted as probable cause at the preliminary hearing; and

(f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.

(5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M- 7- 205.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

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Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

FRAUDULENT DEED AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill modifies provisions related to real property.

Highlighted Provisions:

This bill:

- creates civil liability for an individual who records a fraudulent deed;
- establishes a process by which an individual may nullify a fraudulent deed;
- directs how a court should treat a petition to nullify a fraudulent deed;
- limits a court's review of a fraudulent deed to determining whether the deed is a fraudulent deed;
- mandates court-ordered consequences for recording a fraudulent deed;
- prohibits a court from expediting any proceeding related to damages resulting from a fraudulent deed; and
- defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
57-31-101, Utah Code Annotated 1953
57-31-201, Utah Code Annotated 1953
57-31-202, Utah Code Annotated 1953

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

Section 1. Section 57-31-101 is enacted to read:

57-31-101. Definitions.

CHAPTER 31. FRAUDULENT DEEDS ACT

Part 1. Definitions

As used in this chapter:

(1) "Deed" means an instrument in writing, including any conveyance that affects, purports to affect, describes, or otherwise concerns any right, title, or interest in real property.

(2) "Fraudulent deed" means a deed that is not executed or authorized to be executed by the record interest holder.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in real property.

(4) "Purported grantee" means a person who is identified as the grantee on a fraudulent deed.

(5) "Purported grantor" means a person who executes or causes to be executed a fraudulent deed.

(6) "Record interest holder" means a person:

(a) who holds or possesses a present, lawful property interest in real property; and

(b) whose name and interest in the real property appears in the county recorder's records for the county in which the property is located.

Section 2. Section 57-31-201 is enacted to read:

57-31-201. Civil liability for recording a fraudulent deed -- Damages.

Part 2. Remedies

(1) A purported grantor who records a fraudulent deed or causes a fraudulent deed to be recorded in the office of a county recorder is liable to a record interest holder as described in Subsection (2).

(2) If a court determines that a deed is a fraudulent deed under Section 57-31-202, the purported grantor is liable to the record interest holder for:

(a) the greater of:

(i) $10,000; or

(ii) treble actual damages; and

(b) reasonable attorney fees and costs.

Section 3. Section 57-31-202 is enacted to read:

57-31-202. Petition to nullify fraudulent deed -- Notice to purported grantor and purported grantee -- Summary relief.

(1) A record interest holder may petition a court to nullify a fraudulent deed and record a lis pendens on a property affected by the fraudulent deed.

(2) A petition described in Subsection (1) shall:

(a) state with specificity that the deed is a fraudulent deed; and

(b) be supported by a sworn affidavit of the record interest holder.

(3)(a) A court considering a petition described in Subsection (1) may dismiss the petition without a hearing, if the court finds the petition insufficient.

(b) If the court dismisses a petition as described in Subsection (3)(a), the court shall include the reason for dismissing the petition in the order of dismissal.

(c) If the court finds the petition sufficient, the court shall schedule a hearing within 10 days after the day on which the petition is filed for the purpose of determining whether the deed is a fraudulent deed.

(d) The record interest holder shall serve a copy of the petition and a copy of the notice of the hearing on the purported grantee and, if known to the record interest holder, the purported grantor.

(e) The purported grantor and purported grantee may attend the hearing described in Subsection (3)(c) to contest the petition.

(4) A proceeding under this section:

(a) may only determine whether a document is a fraudulent deed; and

(b) may not determine any other property or legal rights of the parties or restrict other legal remedies of any party.

(5)(a) If, after the hearing described in Subsection (3), a court determines that a deed is a fraudulent deed:

(i) the court shall:

(A) issue an order declaring the fraudulent deed void ab initio and the fraudulent deed provides no conveyance of any interest in real property;

(B) in the order described in Subsection (5)(a)(i)(A), include a legal description of the property and a reference to the recording of the fraudulent deed; and

(C) award costs and reasonable attorney fees to the petitioner; and

(ii) the record interest holder shall submit a certified copy of the order, containing a legal description of the real property, to the county recorder for recording.

(b) If, after the hearing described in Subsection (3), a court determines that the deed is not a fraudulent deed:

(i) the court:

(A) shall dismiss the petition;

(B) may award costs and reasonable attorney fees to the purported grantor and purported grantee; and

(C) shall include in the dismissal order a legal description of the property; and

(ii) the purported grantor or purported grantee shall record a certified copy of the dismissal order.

(6) If a petition under this section contains a claim for damages, a court may not expedite the proceedings related to the claim for damages.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 189
H. B. 369
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

DEFENSIVE FORCE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill concerns when defensive force may be used in certain situations.

Highlighted Provisions:

This bill:

- modifies provisions concerning when defensive force or deadly force may be used in certain situations involving individuals and specific types of property; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-405, as last amended by Laws of Utah 1985, Chapter 252
76-2-406, as last amended by Laws of Utah 2010, Chapter 377
76-2-407, as enacted by Laws of Utah 2002, Chapter 273

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

Section 1. Section 76-2-405 is amended to read:

76-2-405. Force or deadly force in defense of habitation, vehicle, or place of business or employment.

(1) [~~A person~~]Except as provided in Subsection (2), an actor is justified in using force against [~~another~~]an individual when and to the extent that [~~he~~]the actor reasonably believes that the force is necessary to prevent or terminate the [~~other's~~]individual's unlawful entry into the actor's vehicle or unlawful entry or attack upon [~~his~~]the actor's habitation or place of business or employment.

(2) [~~; however, he~~]An actor is justified in [~~the use of~~]using force [~~which~~]against the individual described in Subsection (1) that is intended or likely to cause death or serious bodily injury to the individual only if:

(a)(i) the entry is made or attempted in a violent and tumultuous manner, surreptitiously, or by stealth[~~,~~]; and

(ii) [~~he~~]the actor reasonably believes:

(A) that the entry is attempted or made for the purpose of assaulting or [~~offering~~]perpetrating personal violence [~~to any person, dwelling, or being~~]against any individual who dwells in or is present in the habitation or is present in the vehicle, or place of business or employment; and

(B) [~~he reasonably believes~~]that the force is necessary to prevent the assault or [~~offer~~] perpetration of personal violence; or

(b) [~~he~~]the actor reasonably believes that:

(i) the entry is made or attempted for the purpose of committing a felony in the habitation; and

(ii) [~~that~~]the force is necessary to prevent the commission of the felony.

[~~(2)~~](3)(a) [~~The person using~~]An actor who uses force or deadly force [~~in defense of~~]against an individual to defend the actor's habitation is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the entry or attempted entry is:

(i) [~~is~~] unlawful; and

(ii) [~~is~~] made or attempted:

(A) by use of force[~~, or~~];

(B) in a violent and tumultuous manner[~~, or~~];

(C) surreptitiously or by stealth[~~, or~~]; or

(D) for the purpose of committing a felony.

(b) An actor who uses force or deadly force against an individual to defend the actor's vehicle or place of business or employment is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if:

(i) the actor knew or had reason to believe that the individual:

(A) entered, or attempted to enter, unlawfully and with force, the actor's occupied vehicle or place of business or employment; or

(B) removed, or attempted to remove, unlawfully and with force, the actor from the actor's vehicle or place of business or employment; and

(ii) the actor:

(A) did not provoke the individual; and

(B) was not otherwise engaged in criminal activity, other than a traffic offense, at the time the force was used.

(c) The presumption in Subsection (3)(b) applies to an actor's use of force or deadly force against an individual to protect a third person if:

(i) under the circumstances as the actor believes them to be, the actor would be justified under Subsection (3)(b) in using force or deadly force to protect the actor against the unlawful force or unlawful deadly force that the actor reasonably believes to be threatening the third person the actor seeks to protect; and

(ii) the actor reasonably believes that the actor's intervention is immediately necessary to protect the third person.

Section 2. Section 76-2-406 is amended to read:

76-2-406. Force in defense of property -- Affirmative defense.

(1) [~~A person~~]Except as provided in Section 76-2-405, an actor is justified in using force, other than deadly force, against another individual when and to the extent that the [~~person~~]actor reasonably believes that force is necessary to prevent or terminate [~~another person's~~]the individual's criminal interference with real property or personal property:

(a) lawfully in the [~~person's~~]actor's possession;

(b) lawfully in the possession of a member of the [~~person's~~]actor's immediate family; or

(c) belonging to [~~a person~~]an individual whose property the [~~person~~]actor has a legal duty to protect.

(2) In determining reasonableness under Subsection (1), the trier of fact shall, in addition to any other factors, consider the following factors:

(a) the apparent or perceived extent of the damage to the property;

(b) property damage previously caused by the other [~~person~~]individual;

(c) threats of personal injury or damage to property that have been made previously by the other [~~person~~]individual; and

(d) any patterns of abuse or violence between the [~~person~~]actor and the [~~other person~~]individual.

Section 3. Section 76-2-407 is amended to read:

76-2-407. Deadly force in defense of individuals on real property.

(1) As used in this section, "forcible felony" means the same as that term is defined in Section 76-2-402.

(2) [~~A person~~]An actor is justified in using force intended or likely to cause death or serious bodily injury against [~~another~~]an individual in [~~his~~]the actor's defense of [~~persons~~]another individual on real property other than [~~his habitation~~]the places or situations described in Section 76-2-405 if:

(a) [~~he~~]the actor is in lawful possession of the real property;

(b) [~~he~~]the actor reasonably believes that the force is necessary to prevent or terminate the [~~other person's~~]individual's trespass onto the real property;

(c) the individual's trespass is made or attempted by use of force or in a violent and tumultuous manner; and

(d)(i) the [~~person~~]actor reasonably believes:

(A) that the individual's trespass is attempted or made for the purpose of committing violence against [~~any person~~]an individual on the real property; and

(B) [~~he reasonably believes~~]that the force is necessary to prevent personal violence; or

(ii) the [~~person~~]actor reasonably believes that:

(A) the individual's trespass is made or attempted for the purpose of committing a forcible felony [~~as defined in Section 76-2-402~~]that poses imminent peril of death or serious bodily injury to [~~a person~~] an individual on the real property; and

(B) [~~that~~]the force is necessary to prevent the commission of [~~that~~]the forcible felony.

[~~(2)~~](3) [~~The person using~~]An actor who uses deadly force in defense of [~~persons~~]an individual on real property under Subsection [~~(1)~~](2) is presumed for the purpose of both civil and criminal cases to have acted reasonably and had a reasonable fear of imminent peril of death or serious bodily injury if the trespass or attempted trespass:

(a) is unlawful; and

(b) is made or attempted:

(i) by use of force[~~, or~~];

(ii) in a violent and tumultuous manner[~~,~~]; or

(iii) for the purpose of committing a forcible felony.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 190
H. B. 373
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

ENVIRONMENTAL QUALITY AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the Environmental Quality Code.

Highlighted Provisions:

This bill:

- defines terms;
- requires meetings between the Federalism Commission and the Department of Environmental Quality;
- repeals the Air Quality Policy Advisory Board;
- addresses sales and use tax exemptions and certifications related to pollution control;
- addresses the powers and duties of the Board of Oil, Gas, and Mining, including rulemaking, and the Division of Oil, Gas, and Mining; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-12-102, as last amended by Laws of Utah 2018, Chapter 120
19-12-202, as enacted by Laws of Utah 2014, Chapter 24
19-12-305, as enacted by Laws of Utah 2014, Chapter 24
40-6-5, as last amended by Laws of Utah 2022, Chapter 62
40-6-16, as last amended by Laws of Utah 2022, Chapter 108
63C-4a-303, as last amended by Laws of Utah 2023, Chapter 71

ENACTS:

19-1-110, Utah Code Annotated 1953

REPEALS:

19-2a-102, as last amended by Laws of Utah 2021, Chapter 69

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

Section 1. Section 19-1-110 is enacted to read:

19-1-110. Department discussions with the Federalism Commission.

(1) As used in this section, "commission" means the Federalism Commission created in Section 63C-4a-302.

(2) The department shall meet with the commission as scheduled by the chairs of the commission and consistent with the usual schedule of the commission.

(3) The commission may discuss with the department:

(a) needs of industries that are subject to regulation under this title;

(b) needs of the department;

(c) policy and rulemaking changes or implementation;

(d) United States Environmental Protection Agency regulations and other federal regulations that affect industries regulated under this title or the department; and

(e) any other issue that is related to the environment or the functioning of the department.

Section 2. Section 19-12-102 is amended to read:

19-12-102. Definitions.

As used in this chapter:

(1) "Air pollutant" means the same as that term is defined in Section 19-2-102.

(2) "Air pollutant source" means the same as that term is defined in Section 19-2-102.

(3) "Air pollution" means the same as that term is defined in Section 19-2-102.

(4)(a) ["~~Director~~]Except as provided in Subsection (4)(b), "director" means:

[~~(a)~~](i) for purposes of an application or certification under this chapter related to air pollution, the director of the Division of Air Quality; or

[~~(b)~~](ii) for purposes of an application or certification under this chapter related to water pollution, the director of the Division of Water Quality.

(b) For purposes of an application or certification under this chapter related to property within the jurisdiction of the Board of Oil, Gas, and Mining under Section 40-6-5, "director" means the director of the Division of Oil, Gas, and Mining.

(5)(a) "Freestanding pollution control property" means tangible personal property located in the state, regardless of whether a purchaser purchases the tangible personal property voluntarily or to comply with a requirement of a governmental entity, if:

(i) the primary purpose of the tangible personal property is the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air

pollution, or air contamination sources, and the use of one or more air cleaning devices; and

(ii) the tangible personal property is not used at, in the construction of, or incorporated into a pollution control facility.

(b) "Freestanding pollution control property" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) other property;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi- public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (5)(b)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate, waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(6)(a) "Pollution control facility" means real property in the state, regardless of whether a purchaser purchases the real property voluntarily or to comply with a requirement of a governmental entity, if the primary purpose of the real property is the prevention, control, or reduction of air pollution or water pollution by:

(i) the disposal or elimination of, or redesign to eliminate, waste and the use of treatment works for industrial waste; or

(ii)(A) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources; and

(B) the use of one or more air cleaning devices.

(b) "Pollution control facility" includes:

(i) an addition to real property described in Subsection (6)(a);

(ii) the reconstruction of real property described in Subsection (6)(a); or

(iii) an improvement to real property described in Subsection (6)(a).

(c) "Pollution control facility" does not include:

(i) a consumable:

(A) chemical that is not reusable;

(B) cleaning material that is not reusable; or

(C) supply that is not reusable;

(ii) the following used for human waste:

(A) a septic tank; or

(B) another facility;

(iii) property installed, constructed, or used for the moving of sewage to a collection facility of a public or quasi- public sewerage system;

(iv) the following used for the comfort of personnel:

(A) an air conditioner;

(B) a fan; or

(C) an item similar to Subsection (6)(c)(iv)(A) or (B); or

(v) office equipment or an office supply if the primary purpose of the office equipment or office supply is not the prevention, control, or reduction of air or water pollution by:

(A) the disposal or elimination of, or redesign to eliminate waste, and the use of treatment works for industrial waste; or

(B) the disposal, elimination, or reduction of, or redesign to eliminate or reduce, air pollutants, air pollution, or air contamination sources, and the use of one or more air cleaning devices.

(7) "Treatment works" means the same as that term is defined in Section 19- 5- 102.

(8) "Waste" means the same as that term is defined in Section 19- 5- 102.

(9) "Water pollution" has the same meaning as "pollution" under Section 19- 5- 102.

Section 3. Section 19- 12- 202 is amended to read:

19- 12- 202. Certification required before claiming a sales and use tax exemption.

(1) Before a person may claim a sales and use tax exemption under Section 19- 12- 201, the person shall obtain certification issued in accordance with Section 19- 12- 303.

(2) [~~For~~]Except as provided in Subsection (4), for purposes of Subsection (1), if a certification relates to air pollution:

(a) a person shall submit an application under Section 19- 12- 301 or 19- 12- 302 to the director of the Division of Air Quality; and

(b) the director of the Division of Air Quality shall perform the duties described in:

(i) Section 19- 12- 303 related to certification; and

(ii) Section 19-12-304 related to revocation of certification.

(3) [~~For~~]Except as provided in Subsection (4), for purposes of Subsection (1), if a certification relates to water pollution:

(a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the director of the Division of Water Quality; and

(b) the director of the Division of Water Quality shall perform the duties described in:

(i) Section 19-12-303 related to certification; and

(ii) Section 19-12-304 related to revocation of certification.

(4) For purposes of Subsection (1), if a certification relates to property within the jurisdiction of the Board of Oil, Gas, and Mining under Section 40-6-5:

(a) a person shall submit an application under Section 19-12-301 or 19-12-302 to the director of the Division of Oil, Gas, and Mining; and

(b) the director of the Division of Oil, Gas, and Mining shall perform the duties described in:

(i) Section 19-12-303 related to certification; and

(ii) Section 19-12-304 related to revocation of certification.

Section 4. Section 19-12-305 is amended to read:

19-12-305. Rulemaking authority.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to air pollution, other than air pollution related to property described in Subsection (3), the Air Quality Board may make rules establishing procedures for:

(a) processing and evaluating an application for certification; and

(b) the issuance and revocation of a certification.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to water pollution, other than water pollution related to property described in Subsection (3), the Water Quality Board may make rules establishing procedures for:

(a) processing and evaluating an application for certification; and

(b) the issuance or revocation of a certification.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of a certification related to property within the jurisdiction of the Board of Oil, Gas, and Mining under Section 40-6-5, the Board of Oil, Gas and Mining may make rules establishing procedures for:

(a) processing and evaluating an application for certification; and

(b) the issuance or revocation of a certification.

Section 5. Section 40-6-5 is amended to read:

40-6-5. Jurisdiction of board -- Rules.

(1) The board has jurisdiction over all persons and property necessary to enforce this chapter. The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The board shall make rules and orders as necessary to administer the following provisions:

(a) Ownership of all facilities for the production, storage, treatment, transportation, refining, or processing of oil and gas shall be identified.

(b) Well logs, directional surveys, and reports on well location, drilling, and production shall be made and filed with the division. Logs of wells marked "confidential" shall be kept confidential for one year after the date on which the log is required to be filed, unless the operator gives written permission to release the log at an earlier date. Production reports shall be:

(i) filed monthly;

(ii) accurate; and

(iii) in a form that reasonably serves the needs of state agencies and private fee owners.

(c) Monthly reports from gas processing plants shall be filed with the division.

(d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to prevent:

(i) the escape of oil, gas, or water out of the reservoir in which they are found into another formation;

(ii) the detrimental intrusion of water into an oil or gas reservoir;

(iii) the pollution of fresh water supplies by oil, gas, or salt water;

(iv) blowouts;

(v) cavings;

(vi) seepages;

(vii) fires; and

(viii) unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(e) The drilling of wells may not commence without an adequate and approved supply of water as required by Title 73, Chapter 3, Appropriation. This Subsection (2)(e) is not intended to impose additional legal requirements, but to assure that existing legal requirements concerning the use of water have been met before the commencement of drilling.

(f) Subject to Subsection (9), an operator shall furnish a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to:

(i) plug each dry or abandoned well;

(ii) repair each well causing waste or pollution;

(iii) maintain and restore the well site; and

(iv) except as provided in Subsection (8), protect a surface land owner against unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(g) Production from wells shall be separated into oil and gas and measured by means and upon standards that are prescribed by the board and reflect current industry standards.

(h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and any accumulation of nonmerchantable waste crude oil shall be treated and processed, as prescribed by the board.

(i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or salt water disposal in this state shall maintain complete and accurate records of the quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or injected for a period of at least six years. The records shall be available for examination by the board or the board's agents at any reasonable time. Rules enacted to administer this Subsection (2)(i) shall be consistent with applicable federal requirements.

(j) Any person with an interest in a lease shall be notified when all or part of that interest in the lease is sold or transferred.

(k) The assessment and collection of administrative penalties is consistent with Section 40-6-11.

(3) The board has the authority to regulate:

(a) all operations for and related to the production of oil or gas including:

(i) drilling, testing, equipping, completing, operating, producing, and plugging of wells; and

(ii) reclamation of sites;

(b) the spacing and location of wells;

(c) operations to increase ultimate recovery, such as:

(i) cycling of gas;

(ii) the maintenance of pressure; and

(iii) the introduction of gas, water, or other substances into a reservoir;

(d) the disposal of salt water and oil-field wastes;

(e) the underground and surface storage of oil, gas, or products; and

(f) the flaring of gas from an oil well.

(4) For the purposes of administering this chapter, the board may designate:

(a) wells as:

(i) oil wells; or

(ii) gas wells; and

(b) pools as:

(i) oil pools; or

(ii) gas pools.

(5) The board has exclusive jurisdiction over:

(a) class II injection wells, as defined by the federal Environmental Protection Agency or a successor agency;

(b) pits and ponds in relation to these injection wells;

(c) when granted primacy by the Environmental Protection Agency, class VI injection wells, as defined by the Environmental Protection Agency or a successor agency; and

(d) storage facilities, as that term is defined in Section 40-11-1.

(6) The board has jurisdiction:

(a) to hear questions regarding multiple mineral development conflicts with oil and gas operations if there:

(i) is potential injury to other mineral deposits on the same lands; or

(ii) are simultaneous or concurrent operations conducted by other mineral owners or lessees affecting the same lands; and

(b) to enter the board's order or rule with respect to those questions.

(7) The board has enforcement powers with respect to operators of minerals other than oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple mineral development issues.

(8) Subsection (2)(f)(iv) does not apply if the surface land owner is a party to, or a successor of a party to:

(a) a lease of the underlying privately owned oil and gas;

(b) a surface use agreement applicable to the surface land owner's surface land; or

(c) a contract, waiver, or release addressing an owner's or operator's use of the surface land owner's surface land.

(9)(a) The board shall review rules made under Subsection (2)(f) to determine whether the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas operations.

(b) During the board's review under this Subsection (9), the board may consider the bonding schemes of other states.

(10) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, related to procedures under Title 19, Chapter 12, Pollution Control Act, for certification by the director of the division.

Section 6. Section 40-6-16 is amended to read:

40-6-16. Duties of division.

In addition to the duties assigned by the board, the division shall:

(1) develop and implement an inspection program that will include [~~but not be limited to~~] production data, pre-drilling checks, and site security reviews;

(2) publish a monthly production report;

(3) publish a monthly gas processing plant report;

(4) review and evaluate, [~~prior to~~]before a hearing, evidence submitted with the petition to be presented to the board;

(5) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5;

(6) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit;

(7) complete the verification of natural gas to hydrogen conversion plants required by Section 59-5-102; [~~and~~]

(8) issue tax credit certificates in accordance with Section 40-6-24[~~.~~]; and

(9) through the division's director, implement Title 19, Chapter 12, Pollution Control Act.

Section 7. Section 63C-4a-303 is amended to read:

63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on federalism -- Environment discussions.

(1)(a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

(i) as agreed by a majority of the commission;

(ii) submitted to the commission by a council member; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b)(i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(c)(i) As used in this Subsection (1)(c), "interim committee" means the same as that term is defined in Section 36-12-1.

(ii) The commission shall provide an annual report to each interim committee concerning any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(iii) The commission may notify the appropriate interim committee of any law or action by the federal government that implicates the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b)(i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity;

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy; or

(d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission or the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(7)(a) The commission shall develop curriculum for a seminar on the principles of federalism.

(b) The curriculum under Subsection (7)(a) shall be available to the general public and include:

(i) fundamental principles of federalism;

(ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(iii) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(iv) the authority and limits on the authority of the federal government as found in the United States Constitution;

(v) the relationship between the state and federal governments;

(vi) methods of evaluating a federal law in the context of the principles of federalism;

(vii) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(viii) the separate and independent powers of the state that serve as a check on the federal government;

(ix) first amendment rights and freedoms contained therein; and

(x) any other issues relating to federalism the commission considers necessary.

(8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(9) The commission shall submit a report on or before November 30 of each year to the Government Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

(10) The commission shall comply with Section 19-1-110 in discussions with the Department of Environmental Quality on issues related to the environment or the functioning of the Department of Environmental Quality.

Section 8. Repealer.

This bill repeals:

Section 19-2a-102, Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 191
H. B. 370
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

DISPATCHER DISCIPLINE AMENDMENTS

Chief Sponsor: Ariel Defay
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill concerns disciplinary action against a dispatcher.

Highlighted Provisions:

This bill:

- removes addiction to alcohol or a controlled substance as a basis for disciplinary action against a dispatcher by the Peace Officer Standards and Training Council; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-309, as last amended by Laws of Utah 2020, Chapter 35

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

Section 1. Section 53-6-309 is amended to read:

53-6-309. Suspension or revocation of certification -- Right to a hearing -- Grounds -- Notice to employer -- Reporting.

(1) The council has the authority to issue a Letter of Caution, or suspend or revoke the certification of a dispatcher, if the dispatcher:

(a) willfully falsifies any information to obtain certification;

(b) has any physical or mental disability affecting the dispatcher's ability to perform duties;

[~~(c) is addicted to alcohol or any controlled substance, unless the dispatcher reports the addiction to the employer and to the director as part of a departmental early intervention process;~~]

[~~(d)~~](c) engages in conduct constituting a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction;

[~~(e)~~](d) refuses to respond, or fails to respond truthfully, to questions after having been issued a warning based on Garrity v. New Jersey, 385 U.S. 493 (1967); or

[~~(f)~~](e) engages in sexual conduct while on duty.

(2) The council may not issue a Letter of Caution, or suspend or revoke the certification of a dispatcher for a violation of the employing agency's policies, general orders, or guidelines of operation that do not amount to a cause of action under Subsection (1).

(3)(a) The division is responsible for investigating dispatchers who are alleged to have engaged in conduct in violation of Subsection (1).

(b) The division shall initiate all adjudicative proceedings under this section by providing to the dispatcher involved notice and an opportunity for a hearing before an administrative law judge.

(c) All adjudicative proceedings under this section are civil actions, notwithstanding whether the issue in the adjudicative proceeding is a violation of statute that may be prosecuted criminally.

(d)(i) The burden of proof on the division in an adjudicative proceeding under this section is by clear and convincing evidence.

(ii) If a dispatcher asserts an affirmative defense, the dispatcher has the burden of proof to establish the affirmative defense by a preponderance of the evidence.

(e) If the administrative law judge issues findings of fact and conclusions of law stating there is sufficient evidence to demonstrate that the dispatcher engaged in conduct that is in violation of Subsection (1), the division shall present the findings and conclusions issued by the administrative law judge to the council.

(f) The division shall notify the agency that employs the involved dispatcher of the investigation and shall provide any information or comments concerning the dispatcher received from that agency regarding the dispatcher to the council before a Letter of Caution is issued, or a dispatcher's certification may be suspended or revoked.

(g) If the administrative law judge finds that there is insufficient evidence to demonstrate that the dispatcher is in violation of Subsection (1), the administrative law judge shall dismiss the adjudicative proceeding.

(4)(a) The council shall:

(i) accept the administrative law judge's findings of fact and conclusions of law and the information concerning the dispatcher provided by the dispatcher's employing agency; and

(ii) choose whether to issue a Letter of Caution, or suspend or revoke the dispatcher's certification.

(b) Before making a decision, the council may consider aggravating and mitigating circumstances.

(c) A council member shall recuse himself or herself from consideration of an issue that is before the council if the council member:

(i) has a personal bias for or against the dispatcher;

(ii) has a substantial pecuniary interest in the outcome of the proceeding and may gain or lose some benefit from the outcome; or

(iii) employs, supervises, or works for the same agency as the dispatcher whose case is before the council.

(5)(a) Termination of a dispatcher, whether voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(b) Employment by another agency, or reinstatement of a dispatcher by the original employing agency after termination by that agency, whether the termination was voluntary or involuntary, does not preclude suspension or revocation of a dispatcher's certification by the council if the dispatcher was terminated for any of the reasons under Subsection (1).

(6)(a) An agency that is made aware of an allegation against a dispatcher employed by that agency that involves conduct in violation of Subsection (1) shall investigate the allegation and report to the division if the allegation is found to be true.

(b) If a dispatcher who is the subject of an internal or administrative investigation into allegations that include any of the conditions or circumstances outlined in Subsection (1) resigns, retires, or otherwise separates from the investigating law enforcement agency before the conclusion of the investigation, the agency shall report the allegations and any investigation results to the division.

(7) The council's issuance of a Letter of Caution, or suspension or revocation of an officer's certification under Subsection (4) may be appealed under Title 63G, Chapter 4, Part 4, Judicial Review.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 192
S. B. 156
Passed March 1, 2024
Approved March 13, 2024
Effective July 1, 2024

TAX MODIFICATIONS

Chief Sponsor: Michael K. McKell
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill addresses taxation related to radioactive waste facilities.

Highlighted Provisions:

This bill:

- creates a new tax rate for certain uncontainerized, unprocessed class A waste;
- includes certain radioactive waste facility tax revenue in the calculation of a taxpayer's high cost infrastructure development tax credit; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-24-103.5, as last amended by Laws of Utah 2005, Chapter 10
79-6-602, as last amended by Laws of Utah 2023, Chapter 473

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

Section 1. Section 59-24-103.5 is amended to read:

59-24-103.5. Radioactive waste disposal, processing, and recycling facility tax.

(1) On and after July 1, 2003, there is imposed a tax on a radioactive waste facility, or a processing or recycling facility, as provided in this chapter.

(2) The tax is equal to the sum of the following amounts:

(a) 12% of the gross receipts of a radioactive waste facility derived from the disposal of containerized class A waste;

(b) 10% of the gross receipts of a radioactive waste facility derived from the disposal of processed class A waste;

(c) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste from a governmental entity or an agent of a governmental entity:

(i) pursuant to a contract entered into on or after April 30, 2001;

(ii) pursuant to a contract substantially modified on or after April 30, 2001;

(iii) pursuant to a contract renewed or extended on or after April 30, 2001; or

(iv) not pursuant to a contract;

(d) except as provided in Subsection (2)(e), 5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste received by the facility from an entity other than a governmental entity or an agent of a governmental entity;

(e) .5% of the gross receipts of a radioactive waste facility derived from the disposal of uncontainerized, unprocessed class A waste received by the facility if the uncontainerized, unprocessed class A waste does not exceed 10% of the radioactive concentration limit for class A waste as defined in 10 C.F.R. Sec. 61.55;

[~~(e)~~](f) 5% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste, other than the mixed waste described in Subsection [~~(2)(f)~~](2)(g), received from:

(i) an entity other than a governmental entity or an agent of a governmental entity; or

(ii) a governmental entity or an agent of a governmental entity:

(A) pursuant to a contract entered into on or after April 30, 2005;

(B) pursuant to a contract substantially modified on or after April 30, 2005;

(C) pursuant to a contract renewed or extended on or after April 30, 2005; or

(D) not pursuant to a contract;

[~~(f)~~](g) 10% of the gross receipts of a radioactive waste facility derived from the disposal of mixed waste:

(i)(A) received from an entity other than a governmental entity or an agent of a governmental entity; or

(B) received from a governmental entity or an agent of a governmental entity:

(I) pursuant to a contract entered into on or after April 30, 2005;

(II) pursuant to a contract substantially modified on or after April 30, 2005;

(III) pursuant to a contract renewed or extended on or after April 30, 2005; or

(IV) not pursuant to a contract; and

(ii) that contains a higher radionuclide concentration level than the mixed waste received by any radioactive waste facility in the state [~~prior to~~]before April 1, 2004;

[~~(g)~~](h) 10 cents per cubic foot of alternate feed material received at a radioactive waste facility for disposal or reprocessing; and

[~~(b)~~](i) 10 cents per cubic foot of byproduct material received at a radioactive waste facility for disposal.

(3) For purposes of the tax imposed by this section, a fraction of a cubic foot is considered to be a full cubic foot.

(4) Except as provided in Subsections [~~(2)(e) and (2)(f)~~](2)(f) and (g), the tax imposed by this section does not apply to radioactive waste containing material classified as hazardous waste under 40 C.F.R. Part 261.

Section 2. Section 79-6-602 is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

(3) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

(4) "High cost infrastructure project" means a project, including an energy delivery project or a fuel standard compliance project:

(a)(i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(ii) that involves new investment of at least $50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility for the storage or production of fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) $10,000,000.

(5) "Infrastructure" means:

(a) an energy delivery project;

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern;

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state; or

(i) an underground mine infrastructure project.

(6)(a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection (6)(a).

(7) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Subsection 59-24-103.5(2)(e);

(b) Title 59, Chapter 5, Part 1, Oil and Gas Severance Tax;

[~~(b)~~](c) Title 59, Chapter 5, Part 2, Mining Severance Tax;

[~~(c)~~](d) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

[~~(d)~~](e) Title 59, Chapter 10, Individual Income Tax Act; and

[~~(e)~~](f) Title 59, Chapter 12, Sales and Use Tax Act.

(8) "Office" means the Office of Energy Development created in Section 79-6-401.

(9) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

(10) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

(11)(a) "Underground mine infrastructure project" means a project that:

(i) is designed to create permanent underground infrastructure to facilitate underground mining operations; and

(ii) services multiple levels or areas of an underground mine or multiple underground mines.

(b) "Underground mine infrastructure project" includes:

(i) an underground access or a haulage road, entry, ramp, or decline;

(ii) a vertical or incline mine shaft;

(iii) a ventilation shaft or an air course; or

(iv) a conveyor or a truck haulageway.

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 193
S. B. 160
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

INDIGENT DEFENSE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to indigent defense.

Highlighted Provisions:

This bill:

- repeals the Indigent Defense Funds Board;
- amends provisions related to assigning an indigent defense service provider to represent an indigent individual;
- amends the duties of the Indigent Defense Commission and the Office of Indigent Defense Services to incorporate the duties of the Indigent Defense Funds Board;
- amends provisions related to using and administering the Indigent Aggravated Murder Defense Fund;
- repeals provisions that allow an indigent defense service provider to file a motion with the court for an order for the payment of extraordinary indigent defense expenses; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
78B-22-102, as last amended by Laws of Utah 2022, Chapters 281, 451
78B-22-203, as last amended by Laws of Utah 2023, Chapter 182
78B-22-404, as last amended by Laws of Utah 2022, Chapter 451
78B-22-452, as last amended by Laws of Utah 2021, Chapter 228
78B-22-701, as last amended by Laws of Utah 2023, Chapter 182
78B-22-702, as last amended by Laws of Utah 2023, Chapter 182
78B-22-703, as last amended by Laws of Utah 2023, Chapter 182
78B-22-704, as last amended by Laws of Utah 2023, Chapter 182

RENUMBERS AND AMENDS:
78B-22-502, (Renumbered from 78B-22-502, as last amended by Laws of Utah 2020, Chapter 392)

REPEALS:
78B-22-501, as last amended by Laws of Utah 2022, Chapter 451
78B-22-705, as enacted by Laws of Utah 2023, Chapter 182

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

Section 1. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

[~~(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.~~]

[~~(3)~~](2) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

[~~(4)~~](3) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

[~~(5)~~](4) "Executive Director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

[~~(6)~~](5) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual.

[~~(7)~~](6) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual through:

(a) a contract with an indigent defense system to provide indigent defense services;

(b) an order issued by the court under Subsection 78B-22-203(2)(a); or

(c) direct employment with an indigent defense system.

[~~(8)~~](7) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

[~~(9)~~](8) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is

responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

[~~(10)~~](9) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection [~~(10)~~](9)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

[~~(11)~~](10) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(12)~~](11) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

[~~(13)~~](12) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 2. Section 78B-22-203 is amended to read:

78B-22-203. Order for indigent defense services.

(1)(a) [~~A~~]Except as provided in Subsection (6), a court shall appoint an indigent defense service provider who is employed by an indigent defense system or who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual; and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2)(a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system if the court finds by clear and convincing evidence that:

(i) all the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3)(a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) A court may only order the representation of an indigent individual by an indigent defense service provider in accordance with this section.

(5) A court may not order indigent defense resources be provided to an indigent individual, except as provided in[~~:~~] Subsection (3).

[~~(a) Subsection (3); or~~]

[~~(b) Section 78B-22-705.~~]

(6)(a) For an individual prosecuted for aggravated murder and found indigent, a court from a county participating in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701 shall notify the Office of Indigent Defense Services of the finding of indigency.

(b) The office shall assign an indigent defense service provider qualified under Utah Rules of Criminal Procedure, Rule 8, with whom the office has a preliminary contract to provide indigent defense services for an assigned rate.

Section 3. Section 78B-22-404 is amended to read:

78B-22-404. Powers and duties of the commission.

(1) The commission shall:

(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

(c) emphasize the importance of ensuring constitutionally effective indigent defense services;

(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; [~~and~~]

(e) oversee individuals and entities involved in providing indigent defense services[~~.~~]; and

(f) manage county participation in the Indigent Aggravated Murder Defense Fund created in Section 78B-22-701.

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

Section 4. Section 78B-22-452 is amended to read:

78B-22-452. Duties of the office.

(1) The office shall:

(a) establish an annual budget for the office for the Indigent Defense Resources Restricted Account created in Section 78B-22-405;

(b) assist the commission in performing the commission's statutory duties described in this chapter;

(c) identify and collect data that is necessary for the commission to:

(i) aid, oversee, and review compliance by indigent defense systems with the commission's core principles for the effective representation of indigent individuals; and

(ii) provide reports regarding the operation of the commission and the provision of indigent defense services by indigent defense systems in the state;

(d) assist indigent defense systems by reviewing contracts and other agreements, to ensure compliance with the commission's core principles for effective representation of indigent individuals;

(e) establish procedures for the receipt and acceptance of complaints regarding the provision of indigent defense services in the state;

(f) establish procedures to award grants to indigent defense systems under Section 78B-22-406 that are consistent with the commission's core principles;

(g) create and enter into contracts consistent with Section 78B-22-454 to provide indigent defense services for an indigent defense inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as classified in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203;

(h) assist the commission in developing and reviewing advisory caseload guidelines and procedures;

(i) investigate, audit, and review the provision of indigent defense services to ensure compliance with the commission's core principles for the effective representation of indigent individuals;

(j) administer the Child Welfare Parental Representation Program in accordance with Part 8, Child Welfare Parental Representation Program;

(k) administer the Indigent Aggravated Murder Defense Fund in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

(l) assign an indigent defense service provider to represent an individual prosecuted for aggravated murder in accordance with Part 7, Indigent Aggravated Murder Defense Fund;

[~~(k)~~](m) annually report to the governor, Legislature, Judiciary Interim Committee, and Judicial Council, regarding:

(i) the operations of the commission;

(ii) the operations of the indigent defense systems in the state; and

(iii) compliance with the commission's core principles by indigent defense systems receiving grants from the commission;

[~~(l)~~](n) submit recommendations to the commission for improving indigent defense services in the state;

[~~(m)~~](o) publish an annual report on the commission's website; and

[~~(n)~~](p) perform all other duties assigned by the commission related to indigent defense services.

(2) The office may enter into contracts and accept, allocate, and administer funds and grants from any public or private person to accomplish the duties of the office.

(3) Any contract entered into under this part shall require that indigent defense services are provided in a manner consistent with the commission's core principles implemented under Section 78B-22-404.

Section 5. Section 78B-22-701 is amended to read:

78B-22-701. Establishment of Indigent Aggravated Murder Defense Fund -- Use of fund -- Compensation for indigent legal defense from fund.

(1) As used in this part, "fund" means the Indigent Aggravated Murder Defense Fund.

(2)(a) There is established a custodial fund known as the "Indigent Aggravated Murder Defense Fund."

(b) The [~~Division of Finance~~]office shall disburse money from the fund at the direction of the [~~board~~]commission and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to [~~assist participating counties with expenses for indigent defense services, as provided in Subsection (6), to~~]fulfill the constitutional and statutory mandates for the provision of constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited into the fund is used only:

(a) [~~to reimburse participating counties for expenses incurred for indigent defense services provided to an indigent individual, other than a state inmate in a state prison, who is prosecuted for aggravated murder in a participating county; and~~]to pay an indigent defense service provider appointed to represent an individual prosecuted for aggravated murder;

(b) for defense resources necessary to effectively represent the individual; and

(c) for costs associated with the management of the fund and defense service providers.

[~~(b) for administrative costs pursuant to Section 78B-22-501.~~]

Section 6. Section 78B-22-701.5, which is renumbered from Section 78B-22-502 is renumbered and amended to read:

~~78B-22-502~~. 78B-22-701.5. Administration of Indigent Aggravated Murder Defense Fund.

(1) The commission shall establish rules and procedures for the application by a county for disbursements, and the screening and approval of the applications for the money from the fund.

[~~(1)~~](2) The [~~board~~]office shall:

[~~(a) establish rules and procedures for the application by a county for disbursements, and the screening and approval of the applications for money from the fund;~~]

[~~(b)~~](a) receive, screen, and approve, or disapprove the application of a county for disbursements from the fund;

[~~(c)~~](b) calculate the amount of the annual contribution to be made to the fund by each participating county;

[~~(d)~~](c) prescribe forms for the application for money from the fund;

[~~(e)~~](d) oversee and approve the disbursement of money from the fund as described in Section 78B-22-701; and

[~~(f) establish the board's own rules of procedure, elect the board's own officers, and appoint committees of the board's members and other people as may be reasonable and necessary; and~~]

[~~(g)~~](e) negotiate, enter into, and administer contracts with legal counsel, qualified under and meeting the standards consistent with this chapter, to provide indigent defense services to an indigent individual prosecuted in a participating county for an offense involving aggravated murder.

[~~(2) The board may provide to the court a list of attorneys qualified under Utah Rules of Criminal Procedure, Rule 8, with which the board has a preliminary contract to provide indigent defense services for an assigned rate.~~]

Section 7. Section 78B-22-702 is amended to read:

78B-22-702. County participation.

(1)(a) A county may participate in the fund subject to the provisions of this chapter.

(b) A county that does not participate in the fund, or is not current in the county's assessments for the fund, is ineligible to receive money from the fund.

(c) The [~~board~~]commission may revoke a county's participation in the fund if the county fails to pay the county's assessments when due.

(2) To participate in the fund, the legislative body of a county shall:

(a) adopt a resolution approving participation in the fund and committing that county to fulfill the assessment requirements as set forth in Subsection (3) and Section 78B-22-703; and

(b) submit a certified copy of that resolution together with an application to the [~~board~~]commission.

(3) By January 15 of each year, a participating county shall contribute to the fund an amount computed in accordance with Section 78B-22-703.

(4) A participating county may withdraw from participation in the fund upon:

(a) adoption by the county's legislative body of a resolution to withdraw; and

(b) notice to the [~~board~~]commission by January 1 of the year before withdrawal.

(5) A county withdrawing from participation in the fund, or whose participation in the fund has been revoked for failure to pay the county's assessments when due, shall forfeit the right to:

(a) any previously paid assessment;

(b) relief from the county's obligation to pay the county's assessment during the period of the county's participation in the fund; and

(c) any benefit from the fund, including reimbursement of costs that accrued after the last day of the period for which the county has paid the county's assessment.

Section 8. Section 78B-22-703 is amended to read:

78B-22-703. County and state obligations.

(1)(a) Except as provided in Subsection (1)(b), a participating county shall pay into the fund annually an amount calculated by multiplying the average of the percent of the county's population to the total population of all participating counties and of the percent of the county's taxable value of the locally and centrally assessed property located within that county to the total taxable value of the locally and centrally assessed property to all participating counties by the total fund assessment for that year to be paid by all participating counties as is determined by the [~~board~~]commission to be sufficient such that it is unlikely that a deficit will occur in the fund in any calendar year.

(b) The fund minimum is equal to or greater than 50 cents per person of all counties participating.

(c) The amount paid by a participating county under this Subsection (1) is the total county obligation for payment of costs in accordance with Section 78B-22-701.

(2)(a) A county that elects to initiate participation in the fund, or reestablish participation in the fund after participation was terminated, is required to make an equity payment in addition to the assessment required by Subsection (1).

(b) The equity payment is determined by the [~~board~~]commission and represent what the county's equity in the fund would be if the county had made assessments into the fund for each of the previous two years.

(3) If the fund balance after contribution by the state and participating counties is insufficient to replenish the fund annually to at least $250,000, the [~~board~~]commission by a majority vote may terminate the fund.

(4) If the fund is terminated, the remaining money shall continue to be administered and disbursed in accordance with the provision of this chapter until exhausted, at which time the fund shall cease to exist.

(5)(a) If the fund runs a deficit during any calendar year, the state is responsible for the deficit.

(b) In the calendar year following a deficit year, the [~~board~~]commission shall increase the

assessment required by Subsection (1) by an amount at least equal to the deficit of the previous year, which combined amount becomes the base assessment until another deficit year occurs.

(6) In a calendar year in which the fund runs a deficit, or is projected to run a deficit, the [~~board~~]commission shall request a supplemental appropriation to pay for the deficit from the Legislature in the following general session.

(7) The state shall pay any or all of the reasonable and necessary money for the deficit into the fund.

Section 9. Section 78B-22-704 is amended to read:

78B-22-704. Application and qualification for fund money.

(1) A participating county may apply to the [~~board~~]office for benefits from the fund if that county has incurred, or reasonably anticipates incurring, expenses for indigent defense services provided to an indigent individual for an offense involving aggravated murder.

(2) An application may not be made nor benefits provided from the fund for a case filed before September 1, 1998.

(3) [~~Except as provided in Subsection (4), if~~]If the application of a participating county is approved by the [~~board~~]office, the [~~board~~]office shall negotiate, enter into, and administer a contract for the cost of indigent defense services with an attorney or entity appointed to represent the indigent individual.

[~~(4) The board shall pay an indigent defense service provider with a contract under Subsection (3) for indigent defense resources approved by a court under Section 78B-22-705.~~]

[~~(5)~~](4) A nonparticipating county is responsible for paying for indigent defense services in the nonparticipating county and is not eligible for any legislative relief.

Section 10. Repealer.

This bill repeals:

Section 78B-22-501, Indigent Defense Funds Board -- Members -- Administrative support.

Section 78B-22-705, Extraordinary expense -- Motion.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 194
S. B. 163
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

EXPUNGEMENT REVISIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- defines terms;
- provides a timeline for a prosecuting attorney to respond to a motion to reduce a conviction for purposes of expungement;
- modifies a chapter title related to expungement;
- clarifies the requirements for applying for the expungement of a criminal record;
- clarifies provisions related to a special certificate that is issued by the Bureau of Criminal Identification;
- clarifies the certificate of eligibility process;
- addresses venue for the filing of a petition for expungement of a criminal record, an eviction record, a record of a protective order or stalking injunction, or a juvenile record;
- requires a court to notify the Bureau of Criminal Identification that an order of expungement for a criminal case has been issued and to provide the Bureau of Criminal Identification with all information needed for expungement;
- requires a court to provide a petitioner with certified copies of an order of expungement;
- addresses the expungement of criminal records when an agency has a retention schedule;
- addresses the redaction of an expunged record when the record pertains to more than one individual;
- clarifies the opening of expunged records when the individual is charged with a felony or an offense eligible for enhancement;
- modifies the requirements for indigency to address the waiver of a fee for a petition for expungement;
- requires the Administrative Office of the Courts to include a warning on an affidavit of indigency;
- clarifies the jurisdiction of the justice court over a petition for expungement;
- moves a provision regarding removing the link between an individual's personal identifying information and a dismissed case regarding a protective order or stalking injunction from Title 77, Chapter 40a, Expungement of Criminal Records, to Title 78B, Chapter 7, Part 10, Expungement of Protective Orders and Stalking Injunctions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

20A-2-101.3, as enacted by Laws of Utah 2011, Chapter 395
41-6a-501, as last amended by Laws of Utah 2023, Chapters 328, 415
53-3-414, as last amended by Laws of Utah 2022, Chapters 46, 116
53-6-302, as last amended by Laws of Utah 2021, First Special Session, Chapter 13
53-9-108, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 18
63G-4-107, as last amended by Laws of Utah 2021, Chapters 84, 344
76-3-402, as last amended by Laws of Utah 2023, Chapter 132
77-2-2.3, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-27-5.1, as last amended by Laws of Utah 2017, Chapter 356
77-40a-101, as last amended by Laws of Utah 2023, Chapter 265
77-40a-105, as renumbered and amended by Laws of Utah 2022, Chapter 250
77-40a-301, as enacted by Laws of Utah 2022, Chapter 250
77-40a-304, as last amended by Laws of Utah 2023, Chapter 265
77-40a-305, as last amended by Laws of Utah 2023, Chapters 265, 330
77-40a-306, as last amended by Laws of Utah 2023, Chapter 330
77-40a-403, as last amended by Laws of Utah 2023, Chapter 265
77-40a-404, as last amended by Laws of Utah 2023, Chapter 265
77-41-109, as last amended by Laws of Utah 2023, Chapter 123
78A-2-302, as last amended by Laws of Utah 2023, Chapter 184
78A-6-350, as renumbered and amended by Laws of Utah 2021, Chapter 261
78A-6-350, as last amended by Laws of Utah 2023, Chapter 401
78A-7-106, as last amended by Laws of Utah 2023, Chapter 34
78A-7-209.5, as enacted by Laws of Utah 2022, Chapter 276
78B-6-853, as enacted by Laws of Utah 2022, Chapter 372
78B-7-1003, as last amended by Laws of Utah 2023, Chapters 139, 265

ENACTS:

78B-7-1002.1, Utah Code Annotated 1953
80-6-1001.2, Utah Code Annotated 1953

Sections affected by Coordination Clause:

78A-2-302, as last amended by Laws of Utah 2023, Chapter 18430
78A-7-106, as last amended by Laws of Utah 2023, Chapter 3429

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

Section 1. Section 20A-2-101.3 is amended to read:

20A-2-101.3. Convicted misdemeanants -- Restoration of right to vote or hold office.

(1) As used in this section, "misdemeanant" means a person convicted of a misdemeanor for an offense under this title.

(2) A misdemeanant's right to register to vote and to vote in an election is restored when the misdemeanant:

(a) is sentenced to probation; or

(b) has successfully completed the term of incarceration to which the misdemeanant was sentenced.

(3) A misdemeanant's right to hold elective office is restored when:

(a) the misdemeanor for an offense under this title is expunged as provided in [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records; or

(b)(i) five years have passed since the date of the misdemeanant's most recent misdemeanor conviction of an offense under this title;

(ii) the misdemeanant has paid all court-ordered restitution and fines; and

(iii) for each misdemeanor conviction that has not been expunged, the misdemeanant has:

(A) completed probation in relation to the misdemeanor; or

(B) successfully completed the term of incarceration associated with the misdemeanor.

Section 2. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l)(i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Sections 41-6a-502 and 41-6a-520.1:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii)(A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under this part; and

(ii) expungement under [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part;

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 3. Section 53-3-414 is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1)(a) An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the person was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

(A) personal injury in accordance with Section 41-6a-401.3;

(B) death in accordance with Section 41-6a-401.5; or

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of manslaughter under Section 76-5-205, negligent homicide under

Section 76-5-206, or negligently operating a vehicle resulting in death under Section 76-5-207.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3)(a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4)(a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving:

(a) the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4); or

(b) an act or practice of severe forms of trafficking in persons as defined and described in 22 U.S.C. Sec. 7102(11).

(6)(a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7)(a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than $5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in

its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10)(a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11)(a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12)(a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13)(a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

Section 4. Section 53-6-302 is amended to read:

53-6-302. Applicants for certification examination -- Requirements.

(1) Before being allowed to take a dispatcher certification examination, each applicant shall meet the following requirements:

(a) be either:

(i) a United States citizen; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be 18 years old or older at the time of employment as a dispatcher;

(c) be a high school graduate or have a G.E.D. equivalent;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duty as a dispatcher; and

(g) meet all other standards required by POST.

(2)(a) An application for certification shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3)(a) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records, regarding expungements, or a similar statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) Subsection (3)(a) applies to convictions entered both before and after May 1, 1995.

(4) Any background check or background investigation performed under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant is considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-309(1).

Section 5. Section 53-9-108 is amended to read:

53-9-108. Qualifications for licensure.

(1)(a) An applicant under this chapter shall be at least:

(i) 21 years [~~of age~~]old to apply for an agency license or a registrant license; or

(ii) 18 years [~~of age~~]old to apply for an apprentice license.

(b) An applicant may not have been:

(i) convicted of a felony;

(ii) convicted of an act involving illegally using, carrying, or possessing a dangerous weapon;

(iii) convicted of an act of personal violence or force on any person or convicted of threatening to commit an act of personal violence or force against another person;

(iv) convicted of an act constituting dishonesty or fraud;

(v) convicted of an act involving moral turpitude within the past 10 years unless the conviction has been expunged under the provisions of [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records;

(vi) placed on probation or parole;

(vii) named in an outstanding arrest warrant; or

(viii) convicted of illegally obtaining or disclosing private, controlled, or protected records as provided in Section 63G-2-801.

(c) If previously or currently licensed in another state or jurisdiction, the applicant shall be in good standing within that state or jurisdiction.

(2) In assessing if an applicant meets the requirements under Subsection (1)(b), the board shall consider mitigating circumstances presented by an applicant.

(3)(a) An applicant for an agency license shall have:

(i) a minimum of 5,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government; or

(ii) if the applicant held a registrant license or an apprentice license under this chapter on or before May 1, 2010, a minimum of 2,000 hours of investigative experience that consists of actual work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, or an investigator for a state, county, or municipal government.

(b) An applicant for a registrant license shall have a minimum of 2,000 hours of investigative experience that consists of actual investigative work performed as a licensed private investigator, an investigator in the private sector, an investigator for the federal government, an investigator for a state, county, or municipal government, or a process server.

(c) At least 1,000 hours of the investigative experience required under this Subsection (3) shall have been performed within 10 years immediately prior to the application.

(d) An applicant shall substantiate investigative work experience required under this Subsection (3) by providing:

(i) the exact details as to the character and nature of the investigative work on a form prescribed by the bureau and certified by the applicant's employers; or

(ii) if the applicant is applying for the reinstatement of an agency license, internal records of the applicant that demonstrate the investigative work experience requirement has previously been met.

(e)(i) The applicant shall prove completion of the investigative experience required under this Subsection (3) to the satisfaction of the board and the board may independently verify the certification offered on behalf of the applicant.

(ii) The board may independently confirm the claimed investigative experience and the verification of the applicant's employers.

(4) An applicant for an apprentice license, lacking the investigative experience required for a registrant license, shall meet all of the qualification standards in Subsection (1), and shall complete an apprentice application.

(5) An applicant for an agency or registrant license may receive credit toward the hours of investigative experience required under Subsection (3) as follows:

(a) an applicant may receive credit for 2,000 hours of investigative experience if the applicant:

(i) has an associate's degree in criminal justice or police science from an accredited college or university; or

(ii) is certified as a peace officer; and

(b) an applicant may receive credit for 4,000 hours of investigative experience if the applicant has a bachelor's degree in criminal justice or police science from an accredited college or university.

(6) The board shall determine if the applicant may receive credit under Subsection (5) toward the investigative and educational experience requirements under Subsection (3).

Section 6. Section 63G-4-107 is amended to read:

63G-4-107. Petition to remove agency action from public access.

(1) An individual may petition the agency that maintains, on a state-controlled website available to the public, a record of administrative disciplinary action, to remove the record of administrative disciplinary action from public access on the state-controlled website, if:

(a)(i) five years have passed since:

(A) the date the final order was issued; or

(B) if no final order was issued, the date the administrative disciplinary action was commenced; or

(ii) the individual has obtained a criminal expungement order under [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records, for the individual's criminal records related to the same incident or conviction upon which the administrative disciplinary action was based;

(b) the individual has successfully completed all action required by the agency relating to the administrative disciplinary action within the time frame set forth in the final order, or if no time frame is specified in the final order, within the time frame set forth in Title 63G, Chapter 4, Administrative Procedures Act;

(c) from the time that the original administrative disciplinary action was filed, the individual has not violated the same statutory provisions or administrative rules related to those statutory provisions that resulted in the original administrative disciplinary action; and

(d) the individual pays an application fee determined by the agency in accordance with Section 63J-1-504.

(2) The individual petitioning the agency under Subsection (1) shall provide the agency with a written request containing the following information:

(a) the petitioner's full name, address, telephone number, and date of birth;

(b) the information the petitioner seeks to remove from public access; and

(c) an affidavit certifying that the petitioner is in compliance with the provisions of Subsection (1).

(3) Within 30 days of receiving the documents and information described in Subsection (2):

(a) the agency shall review the petition and all documents submitted with the petition to determine whether the petitioner has met the requirements of Subsections (1) and (2); and

(b) if the agency determines that the petitioner has met the requirements of Subsections (1) and (2), the agency shall immediately remove the record of administrative disciplinary action from public access on the state-controlled website.

(4) Notwithstanding the provisions of Subsection (3), an agency is not required to remove a recording, written minutes, or other electronic information from the Utah Public Notice Website, created under Section 63A-16-601, if the recording, written minutes, or other electronic information is required to be available to the public on the Utah Public Notice Website under the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 7. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c)(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 62A-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 62A-2-101;

(E) a youth program, as that term is defined in Section 62A-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b)(i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge

but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8)(a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(d) If a defendant files a motion under this section, the prosecuting attorney shall respond to the motion within 35 days after the day on which the motion is filed with the court.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10)(a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) An individual required to register as a sex offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender.

(15)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.

Section 8. Section 77-2-2.3 is amended to read:

77-2-2.3. Reducing the level of an offense.

(1) Notwithstanding any other provision of law, a prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute.

(2) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in statute; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in statute.

(3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does not affect the requirements for registration of the offense under Title 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of an offense described in Section 77-41-102 or 77-43-102.

(4) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records.

Section 9. Section 77-27-5.1 is amended to read:

77-27-5.1. Board authority to order expungement.

(1) Upon granting a pardon, the board shall issue an expungement order, directing any criminal justice agency to remove the recipient's identifying information relating to the expunged convictions from its records.

(a) When a pardon has been granted, employees of the Board of Pardons and Parole may not divulge any identifying information regarding the pardoned person to any person or agency, except for the pardoned person.

(b) The Bureau of Criminal Identification may not count pardoned convictions against any future expungement eligibility.

(2) An expungement order, issued by the board, has at least the same legal effect and authority as an order of expungement issued by a court, pursuant to [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records.

(3) The board shall provide clear written directions to the recipient along with a list of agencies known to be affected by the expungement order.

Section 10. Section 77-40a-101 is amended to read:

77-40a-101. Definitions.

CHAPTER 40A. EXPUNGEMENT OF CRIMINAL RECORDS

As used in this chapter:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(2) "Automatic expungement" means the expungement of records of an investigation, arrest, detention, or conviction of an offense without the filing of a petition.

[~~(2)~~](3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

[~~(3)~~](4) "Certificate of eligibility" means a document issued by the bureau stating that the

criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(6) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

[~~(4)~~](7)(a) "Clean slate eligible case" means, except as provided in Subsection [~~(4)(c),~~](7)(c) a case:

(i) where each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40a-303(4) and (5) without taking into consideration the exception in Subsection 77-40a-303(7); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case:

(i) that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(A) except as provided in Subsection [~~(4)(c)~~](7)(c), each charge within the case is a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i), a class B or class C misdemeanor, or an infraction;

(B) the individual involved meets the requirements of Subsection [~~(4)(a)(ii)~~](7)(a)(ii); and

(C) the time periods described in Subsections [~~(4)(a)(iii)(A)~~](7)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed; or

(ii) where charges are dismissed without prejudice if each conviction, or charge that was dismissed, in the case would otherwise meet the requirements under Subsection [~~(4)(a)~~](7)(a) or (b)(i).

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40a-303(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Individual;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

[~~(5)~~](8) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(9) "Court" means a district court or a justice court.

(10) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(6)~~](11) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

[~~(7)~~](12) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

[~~(8)~~](13) "Department" means the Department of Public Safety established in Section 53-1-103.

[~~(9)~~](14) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except:

(i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana;

(ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or

(iii) driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection [~~(9)~~](14).

[~~(10)~~](15) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

[~~(11)~~](16) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[~~(12)~~](17)(a) "Minor regulatory offense" means, except as provided in Subsection [~~(12)(c)~~](17)(c), a class B or C misdemeanor offense or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

(c) "Minor regulatory offense" does not include:

(i) any drug possession offense;

(ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iii) an offense under Sections 73-18-13 through 73-18-13.6;

(iv) except as provided in Subsection [~~(12)(b)~~](17)(b), an offense under Title 76, Utah Criminal Code; or

(v) any local ordinance that is substantially similar to an offense listed in Subsections [~~(12)(c)(i)~~](17)(c)(i) through (iv).

[~~(13)~~](18) "Petitioner" means an individual applying for expungement under this chapter.

[~~(14)~~](19) "Plea in abeyance" means the same as that term is defined in Section 77-2a-1.

(20) "Special certificate" means a document issued as described in Subsection 77-40a-304(1)(c) by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

[~~(15)~~](21)(a) "Traffic offense" means, except as provided in Subsection [~~(15)(b)~~](21)(b):

(i) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 41, Chapter 6a, Traffic Code;

(ii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an infraction, a class B misdemeanor offense, or a class C misdemeanor offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to an offense listed in Subsections [~~(15)(a)(i)~~](21)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to an offense listed in Subsection [~~(15)(b)(i)~~](21)(b)(i) or (ii).

[~~(16)~~](22) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 11. Section 77-40a-105 is amended to read:

77-40a-105. Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section:

(a) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) "Personal identifying information" means:

(i) a current name, former name, nickname, or alias; and

(ii) date of birth.

(2)(a) An individual whose criminal case is dismissed[~~, or civil case filed in accordance with Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, is denied,~~] may move the court for an order to remove the link between the individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts.

(b) If a motion is filed under Subsection (2)(a), the court shall grant the motion if:

(i) 30 days have passed from the day on which the case is dismissed [~~or denied~~];

(ii) no appeal is filed for the dismissed [~~or denied~~]case within the 30-day period described in Subsection (2)(b)(i); and

(iii) no charge in the case was a domestic violence offense.

(3) Removing the link to personal identifying information of a court record under Subsection (2)

does not affect a prosecuting, arresting, or other agency's records.

(4) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Section 12. Section 77-40a-301 is amended to read:

77-40a-301. Requirements for expunging a criminal record -- Penalty for false or misleading information on application.

(1) If an individual seeks to expunge the individual's criminal record in regard to an arrest, investigation, detention, or conviction, the individual shall:

(a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a certificate of eligibility for expungement of the criminal record and pay the application fee as described in Section 77-40a-304;

[~~(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and~~]

(b) except as provided in Subsection 77-40a-304(2), pay the issuance fee for the certificate of eligibility or special certificate as described in Section 77-40a-304 if the individual is eligible to receive a certificate of eligibility or special certificate; and

(c) file a petition for expungement in accordance with Section 77-40a-305.

(2)(a) An individual who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(b) Regardless of whether the individual is prosecuted, the bureau may deny a certificate of eligibility to anyone who knowingly provides false information on an application.

Section 13. Section 77-40a-304 is amended to read:

77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.

(1)(a) When a petitioner applies for a certificate of eligibility as described in Subsection 77-40a-301(1)[~~,~~]:

(i) the petitioner shall pay an application fee at the time the petitioner submits an application for a certificate of eligibility to the bureau; and

(ii) the bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether the petitioner is eligible to receive a certificate of eligibility under this chapter.

(b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention, and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.

[~~(c) Once the eligibility process is complete, the bureau shall notify the petitioner.~~]

[~~(d) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303:~~]

[~~(i) the bureau shall issue a certificate of eligibility that is valid for a period of 180 days from the day on which the certificate is issued;~~]

[~~(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility; and~~]

[~~(iii) the petitioner shall pay the issuance fee established by the department as described in Subsection (2).~~]

[~~(e)~~](c) If[~~, after reasonable research,~~] a disposition for an arrest on the criminal history file is unobtainable after reasonable research, the bureau may issue a special certificate giving determination of eligibility to the court, except that the bureau may not issue the special certificate if:

(i) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(ii) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense; or

(iii) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense.

(2)(a) Once the eligibility process is complete, the bureau shall notify the petitioner.

(b) If the petitioner meets all of the criteria under Section 77-40a-302 or 77-40a-303 and the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate:

(i) the bureau shall issue a certificate of eligibility or special certificate that is valid for a period of 180 days from the day on which the certificate is issued;

(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility or special certificate; and

(iii) except as provided in Subsection (3), the petitioner shall pay an additional fee for the issuance of a certificate of eligibility or special certificate.

[~~(2)(a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.~~]

[~~(b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.~~]

[~~(c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is~~

~~appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection (2)(d) applies.~~]

[~~(d) An issuance fee may not be assessed against a petitioner who~~]

(3) The bureau shall issue a certificate of eligibility or special certificate without requiring the payment of the issuance fee if the petitioner qualifies for a certificate of eligibility under Section 77-40a-302 unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

[~~(e) Funds generated under this Subsection (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.~~]

[~~(3)~~](4) The bureau shall include on [~~the~~]a certificate of eligibility all information that is needed for the court to issue a valid expungement order.

[~~(4)~~](5) The bureau shall provide clear written instructions to the petitioner that explain:

(a) the process for a petition for expungement; and

(b) what is required of the petitioner to complete the process for a petition for expungement.

(6) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.

(7) The department shall deposit funds generated by application and issuance fees under this section into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility for expungement.

Section 14. Section 77-40a-305 is amended to read:

77-40a-305. Petition for expungement -- Venue -- Prosecutorial responsibility -- Hearing.

(1)(a) The petitioner shall file a petition for expungement[~~,~~] in accordance with Rule 42 of the Utah Rules of Criminal Procedure[~~, that includes~~].

(b) A petitioner shall include the identification number for the certificate of eligibility or special certificate described in Subsection [~~77-40a-304(1)(d)(ii).~~]77-40a-304(2)(b)(ii) in the petition for expungement, unless the petitioner is not required to obtain a certificate of eligibility under Subsection (3) or (4).

[~~(b)~~](c) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(d) A petitioner shall bring a petition for expungement:

(i) in the court where the criminal case was filed; or

(ii) if charges were never filed, in the district court in the county in which the arrest occurred or the citation was issued.

(2)(a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility or special certificate from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility or special certificate is no longer valid as described in Subsection [~~77-40a-304(1)(d)(i)~~]77-40a-304(2)(b)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic offense case without obtaining a certificate of eligibility if:

(a)(i) for a traffic offense case with a class C misdemeanor or infraction, at least three years have passed after the day on which the [~~petitioner was convicted~~]case was adjudicated or dismissed; or

(ii) for a traffic offense case with a class B misdemeanor, at least four years have passed after the day on which the [~~petitioner was convicted~~]case was adjudicated or dismissed;

(b) there is no traffic offense case pending against the petitioner;

(c) there is no plea in abeyance for a traffic offense case pending against the petitioner; and

(d) the petitioner is not currently on probation for a traffic offense case.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5)(a) The court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility or special certificate to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city

attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

(6)(a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility or special certificate, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(7)(a) The prosecuting attorney may respond to the petition by filing a recommendation or objection with the court within 35 days after the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

(b) If there is a victim of the offense for which expungement is sought, the victim may respond to the petition by filing a recommendation or objection with the court within 60 days after the day on which the petition for expungement was filed with the court.

(8)(a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(9) The petitioner may respond in writing to any objections filed by the prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after the day on which the objection or response is received.

(10)(a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

(c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(d) The court shall review the petition, the certificate of eligibility or special certificate, and any written responses submitted regarding the petition.

(11) If no objection is received within 60 days from the day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

Section 15. Section 77-40a-306 is amended to read:

77-40a-306. Order of expungement.

(1) If a petition for expungement is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

[~~(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;~~]

[~~(b) the statutory requirements have been met;~~]

(a) except as provided in Subsection (1)(b) and Subsection 77-40a-305(3) or (4):

(i) the certificate of eligibility is valid and contains the information needed for the court to issue an order for expungement; and

(ii) the statutory requirements for expungement have been met;

(b) if the petitioner obtained a special certificate from the bureau:

(i) the special certificate is valid; and

(ii) there is sufficient information in the petition for the court to determine that the statutory requirements for expungement have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26B-4-201; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(f) the interests of the public would not be harmed by granting the expungement.

(2)(a) If the court denies a petition described in Subsection (1)(c) because the prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of eligibility if charges are not refiled within 180 days after the day on which the court denies the petition.

(b) A prosecuting attorney who opposes an expungement of a case dismissed without prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecuting attorney is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (1)(c).

(3) If the court grants a petition described in Subsection (1)(e), the court shall make the court's findings in a written order.

(4) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

(5) If the court issues an order of expungement under this section, the court shall:

(a) expunge all records of the case as described in Section 77-40a-401;

(b) notify the bureau of the order of expungement; and

(c) provide the bureau with the order of expungement and all relevant information available to the court that the bureau will need to identify an expunged record.

(6)(a) The petitioner may request certified copies of an order of expungement within 28 days after the day on which the court issues an order of expungement.

(b) If a petitioner makes a request under Subsection (6)(a), the court shall provide the petitioner with certified copies of the order of expungement.

Section 16. Section 77-40a-403 is amended to read:

77-40a-403. Retention and release of expunged records -- Agencies.

[~~(1)(a) The bureau, after receiving an expungement order,~~]

(1)(a) After receiving an order of expungement, the bureau shall keep, index, and maintain all expunged records of arrests and convictions.

(b) [~~Any~~]An agency, other than the bureau, receiving an [~~expungement order~~]order of expungement shall develop and implement a process to identify and maintain an expunged record.

(c) Subsection (1)(b) does not prevent an agency from maintaining or destroying a record in accordance with a retention schedule when the record is an expunged record.

(d) An agency is not required to redact an expunged record, or a record referencing an expunged record, that pertains to more than one individual until the agency is required to release the record.

(2)(a) An agency shall provide an individual who receives an expungement with written confirmation that the agency has expunged all records of the offense for which the individual received the expungement if the individual requests confirmation from the agency.

(b) The bureau may charge a fee for providing a written confirmation under Subsection (2)(a) in accordance with the process in Section 63J-1-504.

(3)(a) An employee of the bureau, or any agency with an expunged record, may not divulge any information contained in the expunged record to any person or agency without a court order unless:

(i) specifically authorized by [~~statute~~]Subsection (4) or Section 77-40a-404; or

(ii) subject to Subsection (3)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record [~~with~~]to another agency or person [~~that~~], or allow another agency or person access to an expunged record, if that agency or person does not use the records management system for the purpose of record management.

(4) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(5) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(6) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

(7) Except as provided in Subsection (9), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(8) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(9) If an individual is charged with a felony, or an offense eligible for enhancement based on a prior conviction, after obtaining an order of expungement, the prosecuting attorney may petition the court in which the individual is charged to open the expunged records upon a showing of good cause.

[~~(9) If, after obtaining an expungement, an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction, the state may petition the court to open the expunged records upon a showing of good cause.~~]

(10)(a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (10) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(11) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 17. Section 77-40a-404 is amended to read:

77-40a-404. Confirmation of expungement -- Access to expunged records by individuals.

(1) An individual who receives an expungement may request a written confirmation from an agency under Subsection 77-40a-403(2) to confirm that the agency has expunged all records of the offense for which the individual received the expungement.

(2) The following individuals may view or obtain an expunged record under this chapter or Section 77-27-5.1:

(a) the petitioner or an individual who receives an automatic expungement under [~~Section 77-40a-201~~]Part 2, Automatic Expungement and Deletion;

(b) a law enforcement officer, who was involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

(c) a party to a civil action arising out of the expunged incident if the information is kept confidential and utilized only in the action.

Section 18. Section 77-41-109 is amended to read:

77-41-109. Miscellaneous provisions.

(1)(a) If an offender is to be temporarily sent on any assignment outside a secure facility in which the offender is confined on any assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (1) does not apply to any person temporarily released under guard from the institution in which the person is confined.

(2) Notwithstanding [~~Title 77, Chapter 40a, Expungement~~]Title 77, Chapter 40a, Expungement of Criminal Records, a person convicted of any offense listed in Subsection 77-41-102(10) or (18) is not relieved from the responsibility to register as required under this section, unless the offender is removed from the registry under Section 77-41-112 or Section 77-41-113.

Section 19. Section 78A-2-302 is amended to read:

78A-2-302. Indigent litigants -- Affidavit.

(1) As used in Sections 78A-2-302 through 78A-2-309:

(a) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental condition, no contest; and

(ii) a conviction of any crime or offense.

(b) "Indigent" means an individual who is financially unable to pay fees and costs or give security.

(c) "Prisoner" means an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if the individual submits an affidavit demonstrating that the individual is indigent.

(3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:

(a) for a cause that is not a petition for expungement, the individual has an income level at or below 150% of the United States poverty level, as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;

(b) for a cause that is a petition for expungement:

(i) if the individual has a household size of one, two, or three, the individual has an income level at or below 150% of the United States poverty level for a household size of three, as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; or

(ii) if the individual has a household size of four or more, the individual has an income level at or below 150% of the United States poverty level for that individual's household size, as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;

[~~(b)~~](c) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;

[~~(c)~~](d) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or

[~~(d)~~](e) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities.

(4) An affidavit demonstrating that an individual is indigent under Subsection [~~(3)(d)~~](3)(e) shall contain complete information on the individual's:

(a) identity and residence;

(b) amount of income, including any government financial support, alimony, or child support;

(c) assets owned, including real and personal property;

(d) business interests;

(e) accounts receivable;

(f) securities, checking and savings account balances;

(g) debts; and

(h) monthly expenses.

(5) If the individual under Subsection (3) is a prisoner, the prisoner shall disclose the amount of money held in the prisoner's trust account at the time the affidavit under Subsection (2) is executed in accordance with Section 78A-2-305.

(6) An affidavit of indigency under this section shall state the following:

I, (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

(7) The Administrative Office of the Courts shall include on a form for an affidavit of indigency the following warning: "It is a crime for anyone to intentionally or knowingly provide false or misleading information to the court when seeking a waiver of a court fee."

Section 20. Section 78A-6-350 is amended to read:

78A-6-350. Venue -- Dismissal without adjudication on merits.

(1) Notwithstanding Title 78B, Chapter 3, Part 3, Place of Trial -- Venue, a proceeding for a minor's case in the juvenile court shall be commenced in the court of the district in which:

(a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter 6, Juvenile Justice:

(i) the minor is living or found; or

(ii) the alleged offense occurred; or

(b) for [~~all other proceedings~~]any other proceeding, the minor is living or found.

(2) If a party seeks to transfer a case to another district after a petition has been filed in the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of Juvenile Procedure.

(3) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits may not preclude refiling within the same district or another district where there is venue for the case.

Section 21. Section 78A-6-350 is amended to read:

78A-6-350. Venue -- Dismissal without adjudication on merits.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a proceeding for a minor's case in the juvenile court shall be commenced in the court of the district in which:

(a) except as provided in Section 80-6-1001.2, for a proceeding under Title 80, Chapter 6, Juvenile Justice:

(i) the minor is living or found; or

(ii) the alleged offense occurred; or

(b) for [~~all other proceedings~~]any other proceeding, the minor is living or found.

(2) If a party seeks to transfer a case to another district after a petition has been filed in the juvenile court, the juvenile court may transfer the case in accordance with the Utah Rules of Juvenile Procedure.

(3) The dismissal of a petition in one district where the dismissal is without prejudice and where there has been no adjudication upon the merits may not preclude refiling within the same district or another district where there is venue for the case.

Section 22. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1)(a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3)(a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) [~~Justice courts have jurisdiction of small claims cases~~]A justice court has jurisdiction over:

(a) a small claims case under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court[~~.~~]; or

(b) a petition for expungement under Title 77, Chapter 40a, Expungement of Criminal Records.

(6)(a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Section 23. Section 78A-7-209.5 is amended to read:

78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers -- Duties.

(1)(a) In judicial districts having more than one justice court judge, the justice court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive an additional $2,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as presiding judge.

(2)(a) In judicial districts having more than two justice court judges, the justice court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive an additional $1,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as associate presiding judge.

(3) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) working with each justice court judge in the district to implement policies and rules of the Judicial Council;

(b) exercising powers and performing administrative duties as authorized by the Judicial Council;

(c) if there is no other appointed justice court judge in that court available, assigning a justice court judge to hear a case in which a judge has been disqualified in accordance with rules of the Supreme Court;

(d) if a justice court judge of the district cannot perform the justice court judge's duties in a case or cases due to illness, death, or other incapacity, and the governing body has not appointed a temporary justice court judge in accordance with Section 78A-7-208:

(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

(ii) facilitating judicial coverage with the appointing municipal or county authority until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208, or a new justice court judge is formally appointed and takes office, in accordance with Section 78A-7-202; and

(e) entering orders of expungement in cases expunged in accordance with [~~Section 77-40a-201~~]Title 77, Chapter 40a, Part 2, Automatic Expungement and Deletion.

(4)(a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 24. Section 78B-6-853 is amended to read:

78B-6-853. Expungement by petition for eviction -- Venue -- Objection.

(1) Any party to an eviction may petition the court to expunge all records of the eviction if:

(a) the eviction was for:

(i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or

(ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and

(b) any judgment for the eviction has been satisfied and a satisfaction of judgment has been filed for the judgment.

(2)(a) A petitioner shall file a petition and provide notice to any other party to the eviction in accordance with the Utah Rules of Civil Procedure.

(b) A petitioner shall bring a petition to expunge records of an eviction in the court that issued the order of restitution.

(3)(a) Any party to the eviction may file a written objection to the petition with the court.

(b) If the court receives a written objection to the petition, the court may not expunge the eviction.

(4) Except as provided in Subsection (5), the court shall order expungement of all records of the eviction if the court does not receive a written objection within 60 days from the day on which the petition is filed.

(5) A court may not expunge an eviction if the judgment for the eviction has not been satisfied.

Section 25. Section 78B-7-1002.1 is enacted to read:

78B-7-1002.1. Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section, "personal identifying information" means:

(a) a current name, former name, nickname, or alias; and

(b) date of birth.

(2) If a civil order is sought against an individual and the court denies the civil order, the individual may move the court for an order to remove the link between the individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts.

(3) If a motion is filed under Subsection (2), the court shall grant the motion if:

(a) 30 days have passed from the day on which the case is denied; and

(b) an appeal has not been filed in the denied case within the 30-day period described in Subsection (3)(a).

(4) Removing the link to personal identifying information of a court record under Subsection (3) does not affect another agency's records.

(5) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Section 26. Section 78B-7-1003 is amended to read:

78B-7-1003. Requirements for expungement of protective order or stalking injunction -- Venue.

(1)(a) An individual against whom a civil order is sought may petition the court to expunge records of the civil order.

(b) A petitioner shall bring a petition for expungement under Subsection (1) in the court that issued the civil order.

[~~(b) A petition under Subsection (1)(a) shall be filed~~]

(2) The petitioner shall file the petition for expungement under Subsection (1) in accordance with the Utah Rules of Civil Procedure.

[~~(2)~~](3)(a) The petitioner shall provide notice to the individual filed the civil order against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(b) The individual who filed the civil order against the petitioner:

(i) may file a written objection with the court within 30 days after the day on which the petition is received by the individual; and

(ii) if the individual files a written objection, provide a copy of the written objection to the petitioner.

(c) If the court receives a written objection to the petition for expungement of a civil order, the court shall:

(i) set a date for a hearing on the petition;

(ii) provide notice at least 30 days before the day on which the hearing is held to:

(A) all parties of the civil order; and

(B) any other person or agency that the court has reason to believe may have relevant information related to the expungement of the civil order.

(d) The petitioner may respond, in writing, to any written objection within 14 days after the day on which the written objection is received by the court.

[~~(3)~~](4) If no written objection is received within 60 days from the day on which the petition for expungement is filed under Subsection (1), the court may grant the expungement in accordance with Subsection [~~(4) or (5)~~](5) or (6) without a hearing.

[~~(4)~~](5) A court may expunge an ex parte civil protective order or an ex parte civil stalking injunction if:

(a) the ex parte civil protective order or the ex parte civil stalking injunction was issued but:

(i) the ex parte civil protective order or the ex parte civil stalking injunction is dismissed, dissolved, or expired upon a hearing by the court;

(ii) the court did not issue a civil protective order or a civil stalking injunction on the same circumstances for which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iii) at least 30 days have passed from the day on which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(v) there are no criminal proceedings pending against the petitioner in the state; or

(b)(i) the individual who filed the ex parte civil protective order or the ex parte civil stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex parte civil stalking injunction;

(ii) at least 30 days have passed from the day on which the hearing on the ex parte civil protective order or the ex parte civil stalking injunction was set to occur, including any continuance, postponement, or rescheduling of the hearing;

(iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(iv) there are no criminal proceedings pending against the petitioner in the state.

[~~(5)~~](6) A court may expunge a civil protective order or a civil stalking injunction if:

(a) the civil protective order or the civil stalking injunction has been dismissed, dissolved, vacated, or expired;

(b) three years have passed from the day on which the civil protective order or the civil stalking injunction is dismissed, dissolved, vacated, or expired;

(c) the petitioner has not been arrested, charged, or convicted for violating the civil protective order or the civil stalking injunction; and

(d) there are no criminal proceedings pending against the petitioner in the state.

Section 27. Section 80-6-1001.2 is enacted to read:

80-6-1001.2. Venue for petition seeking expungement.

Notwithstanding Section 78A-6-350 and Title 78B, Chapter 3a, Venue for Civil Actions, a petitioner shall bring a petition for expungement under this part:

(1) in the court where the petition for delinquency was filed; or

(2) if a petition for delinquency was never filed, in the juvenile court in the county in which the arrest occurred or the citation was issued.

Section 28. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 78A-6-350 (Effective 07/01/24) take effect on July 1, 2024.

Section 29. Coordinating S.B. 163 with S.B. 180.

If S.B. 163, Expungement Revisions, and S.B. 180, Court Jurisdiction Modifications, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 78A-7-106(4) enacted in S.B. 180 be amended to read:

"(4) A justice court has jurisdiction over:

(a) a small claims case under Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court; and

(b) a petition for expungement as described in Title 77, Chapter 40a, Expungement of Criminal Records.".

Section 30. Coordinating S.B. 163 with H.B. 352.

If S.B. 163, Expungement Revisions, and H.B. 352, Amendments to Expungement, both pass and become law, the Legislature intends that, on October 1, 2024, Subsection (4) in the coordination clause in H.B. 352 affecting Subsection 78A-2-302(2) not be implemented.

CHAPTER 195
H. B. 381
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CONCEALED FIREARM INSTRUCTOR AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill concerns training requirements for a concealed firearms instructor applicant.

Highlighted Provisions:

This bill:

- modifies training requirements for a concealed firearms instructor applicant; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2022, Chapter 250

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

Section 1. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1)(a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b)(i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3)(a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d)(i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section 76-10-503.

(4)(a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8)(a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9)(a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or another nationally recognized firearm training organization that customarily offers firearm safety

and firearm law instructor training or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c)(i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii)(A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d)(i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11)(a)(i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii)(A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16)(a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e)(i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 196
H. B. 399
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

INSURANCE DEPARTMENT COMPLAINT AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill broadens the Insurance Department's enforcement authority.

Highlighted Provisions:

This bill:

- authorizes the Insurance Department to take enforcement action against a title insurance producer if the title insurance producer does not have an appointment from a title insurer.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-23a-204, as last amended by Laws of Utah 2015, Chapter 330

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

Section 1. Section 31A-23a-204 is amended to read:

31A-23a-204. Special requirements for title insurance producers and agencies.

An individual title insurance producer or agency title insurance producer shall be licensed in accordance with this chapter, with the additional requirements listed in this section.

(1)(a) A person that receives a new license under this title as an agency title insurance producer shall at the time of licensure be owned or managed by at least one individual who is licensed for at least three of the five years immediately preceding the date on which the agency title insurance producer applies for a license with both:

(i) a title examination line of authority; and

(ii) an escrow line of authority.

(b) An agency title insurance producer subject to Subsection (1)(a) may comply with Subsection (1)(a) by having the agency title insurance producer owned or managed by:

(i) one or more individuals who are licensed with the title examination line of authority for the time period provided in Subsection (1)(a); and

(ii) one or more individuals who are licensed with the escrow line of authority for the time period provided in Subsection (1)(a).

(c) A person licensed as an agency title insurance producer shall at all times during the term of licensure be owned or managed by at least one individual who is licensed for at least three years within the preceding five-year period with both:

(i) a title examination line of authority; and

(ii) an escrow line of authority.

(d) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt an attorney with real estate experience from the experience requirements in Subsection (1)(a).

(e) An individual who satisfies the requirements of this Subsection (1) is known as a "qualifying licensee." At any given time, an individual may be a qualifying licensee for not more than two agency title insurance producers.

(2)(a) An individual title insurance producer or agency title insurance producer appointed by an insurer shall maintain:

(i) a fidelity bond;

(ii) a professional liability insurance policy; or

(iii) a financial protection:

(A) equivalent to that described in Subsection (2)(a)(i) or (ii); and

(B) that the commissioner considers adequate.

(b) The bond, insurance, or financial protection required by this Subsection (2):

(i) shall be supplied under a contract approved by the commissioner to provide protection against the improper performance of any service in conjunction with the issuance of a contract or policy of title insurance; and

(ii) be in a face amount no less than $250,000.

(c) The Title and Escrow Commission may by rule, subject to Section 31A-2-404, exempt individual title insurance producer or agency title insurance producers from the requirements of this Subsection (2) upon a finding that, and only so long as, the required policy or bond is generally unavailable at reasonable rates.

(3) An individual title insurance producer or agency title insurance producer appointed by an insurer may maintain a reserve fund to the extent money was deposited before July 1, 2008, and not withdrawn to the income of the individual title insurance producer or agency title insurance producer.

(4) An examination for licensure shall include questions regarding the examination of title to real property.

(5) An individual title insurance producer may not perform the functions of escrow unless the individual title insurance producer has been examined on the fiduciary duties and procedures involved in those functions.

(6) The Title and Escrow Commission may adopt rules, establishing an examination for a license that

will satisfy this section, subject to Section 31A-2-404, and after consulting with the commissioner's test administrator.

(7) A license may be issued to an individual title insurance producer or agency title insurance producer who has qualified:

(a) to perform only examinations of title as specified in Subsection (4);

(b) to handle only escrow arrangements as specified in Subsection (5); or

(c) to act as a title marketing representative.

(8)(a) A person licensed to practice law in Utah is exempt from the requirements of Subsections (2) and (3) if that person issues 12 or less policies in any 12-month period.

(b) In determining the number of policies issued by a person licensed to practice law in Utah for purposes of Subsection (8)(a), if the person licensed to practice law in Utah issues a policy to more than one party to the same closing, the person is considered to have issued only one policy.

(9) A person licensed to practice law in Utah, whether exempt under Subsection (8) or not, shall maintain a trust account separate from a law firm trust account for all title and real estate escrow transactions.

(10) The department may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, take any of the following actions against a title insurance producer if the title insurance producer does not have an appointment from a title insurer as described in Section 31A-23a-115:

(a) suspend or revoke the title insurance producer's license;

(b) freeze a bank account associated with the title insurance producer's business;

(c) subpoena the title insurance producer's records;

(d) enjoin the title producer's business operations; or

(e) post, at the title producer's business location, a notice of an action listed in Subsections (10)(a) through (10)(d).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 197
H. B. 395
Passed March 1, 2024
Approved March 13, 2024
Effective July 1, 2024

DUI OFFENSE AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to driving under the influence, including penalties, sentencing, and pretrial detention.

Highlighted Provisions:

This bill:

- defines terms;
- provides that an actor is guilty of a class A misdemeanor when the actor commits driving under the influence while also operating a vehicle in the opposite direction of traffic on a one-way highway with more than one lane of traffic;
- reduces the blood alcohol concentration allowed for an individual to plea down to impaired driving;
- requires the Department of Public Safety to waive participation and testing fees entirely or in part for indigent individuals participating in the 24-7 sobriety program;
- requires an individual for whom the Department of Public Safety waived fees to reimburse the Department of Public Safety under certain circumstances;
- amends provisions related to sentences for certain individuals with prior convictions for driving under the influence who violate ignition interlock requirements;
- allows an ignition interlock restricted driver to petition the Driver License Division for removal of the restriction in certain circumstances if certain conditions are met;
- clarifies that an ignition interlock restriction period begins on the date of installation of the ignition interlock system;
- clarifies that the prohibition on operating a motor vehicle without an ignition interlock system installed on the vehicle begins on the date of conviction, not the date of installation of the ignition interlock system;
- amends penalties for subsequent offenses related to refusal of a chemical test or negligent operation of a vehicle that results in injury;
- requires the Sentencing Commission to amend sentencing guidelines for certain offenses related to ignition interlock restricted drivers and of negligent operation of a vehicle that results in injury when there is evidence that the individual was also driving under the influence;
- amends provisions related to pretrial detention of an individual arrested for driving under the influence with another case pending or while on probation for a previous offense of driving under the influence;
- requires pretrial detention or electronic monitoring for an individual that is arrested for driving under the influence while already on probation for or while another case is pending for driving under the influence; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

41-6a-501, as last amended by Laws of Utah 2023, Chapters 328, 415
41-6a-502, as last amended by Laws of Utah 2023, Chapter 415
41-6a-502.5, as last amended by Laws of Utah 2023, Chapter 328
41-6a-505, as last amended by Laws of Utah 2023, Chapters 328, 415
41-6a-515.5, as last amended by Laws of Utah 2021, Chapter 83
41-6a-518.2, as last amended by Laws of Utah 2023, Chapters 384, 415
41-6a-520.1, as enacted by Laws of Utah 2023, Chapter 415
53-3-1007, as last amended by Laws of Utah 2023, Chapter 384
63M-7-404, as last amended by Laws of Utah 2023, Chapter 111
76-5-102.1, as last amended by Laws of Utah 2023, Chapters 111, 415
77-20-201, as last amended by Laws of Utah 2023, Chapter 408

Sections affected by Coordination Clause:

63M-7-404.3, Utah Code Annotated 195313

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

Section 1. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in-depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58-37-2;

(ii) a drug as defined in Section 58-17b-102; or

(iii) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

(f) "Extreme DUI" means an offense of driving under the influence under Section 41-1a-502 where there is admissible evidence that the individual:

(i) had a blood or breath alcohol level of .16 or higher;

(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the individual's body that were not:

(A) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; or

(B) prescribed.

[~~(f)~~](g) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

[~~(g)~~](h) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

[~~(h)~~](i) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

[~~(i)~~](j) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

[~~(j)~~](k) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104.

[~~(k)~~](l) "Substance abuse treatment program" means a state licensed substance abuse program.

[~~(l)~~](m)(i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Sections 41-6a-502 and 41-6a-520.1:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii)(A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under Sections 41-6a-512 and 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) Section 76-5-207;

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

(viii) a violation described in Subsections (2)(a)(i) through (vii), which judgment of conviction is reduced under Section 76-3-402;

(ix) refusal of a chemical test under Subsection 41-6a-520.1(1); or

(x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the

United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under this part; and

(ii) expungement under Title 77, Chapter 40a, Expungement.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part;

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 2. Section 41-6a-502 is amended to read:

41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Penalities -- Reporting of convictions.

(1) An actor commits driving under the influence if the actor operates or is in actual physical control of a vehicle within this state if the actor:

(a) has sufficient alcohol in the actor's body that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2)(a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time of the offense;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time of the offense;

(iii) [~~the actor~~]at the time of the offense, also violated[~~-~~]:

(A) Section 41-6a-712 or 41-6a-714 [~~at the time of the offense~~]; or

(B) Section 41-6a-709, if the violation occurs on a one-way highway, other than a roundabout, that has more than one lane of traffic; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after:

(A) a felony conviction; or

(B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

[~~(ii) the current conviction is at any time after a conviction of:~~]

[~~(A) a violation of Section 76-5-207;~~]

[~~(B) a felony violation of this section, Section 76-5-102.1, 41-6a-520.1, or a statute previously in effect in this state that would constitute a violation of this section; or~~]

[~~(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.~~]

(3) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(4) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

(5) A court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.

(6) An offense described in this section is a strict liability offense.

(7) A guilty or no contest plea to an offense described in this section may not be held in abeyance.

(8) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time of the offense.

Section 3. Section 41-6a-502.5 is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b)(i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3)(a)(i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5)(a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6)(a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7)(a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or

(b) to a person charged with extreme DUI.

[~~(b) where there is admissible evidence that the individual:~~]

[~~(i) had a blood or breath alcohol level of .16 or higher;~~]

[~~(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or~~]

[~~(iii) had a combination of two or more controlled substances in the person's body that were not:~~]

[~~(A) prescribed by a licensed physician; or~~]

[~~(B) recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.~~]

Section 4. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of [~~Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in~~

~~accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed~~]extreme DUI:

(a) the court shall:

(i)(A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (1)(b)(i) and (ii).

(2)(a) If an individual described in Subsection (1) is participating in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the [~~24/7~~]24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i)(A) impose a jail sentence of not less than two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4)(a) If an individual described in Subsection (3) is participating in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the [~~24/7~~]24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction [~~is~~] [~~based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or prescribed~~]amounts to extreme DUI:

(a) the court shall:

(i)(A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6)(a) If an individual described in Subsection (5) is participating in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the [~~24/7~~]24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Section 41-6a-501 that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i)(A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii)(A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii)(A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8)(a) If an individual described in Subsection (7) is participating in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the [~~24/7~~]24-7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation [~~where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research Medical Cannabis, or prescribed,~~]for a conviction of extreme DUI, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10)(a) For Subsection (9) or Subsection 41-6a-502(2)(c)(i), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a [~~24/7~~]24-7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the [~~24/7~~]24-7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-502(2)(c), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12)(a)(i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device

or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 5. Section 41-6a-515.5 is amended to read:

41-6a-515.5. Sobriety program for DUI.

(1) As used in this section:

(a) "24-7 sobriety program" means a 24 hours a day, seven days a week sobriety and drug monitoring program that:

(i) requires an individual to abstain from alcohol or drugs for a period of time;

(ii) requires an individual to submit to random drug testing; and

(iii) requires the individual to be subject to testing to determine the presence of alcohol:

(A) twice a day at a central location where timely sanctions may be applied;

(B) by continuous remote sensing or transdermal alcohol monitoring by means of an electronic monitoring device that allows timely sanctions to be applied; or

(C) by an alternate method that is approved by the National Highway Traffic Safety Administration.

(b)(i) "Testing" means a procedure for determining the presence and level of alcohol or a drug in an individual's breath or body fluid, including blood, urine, saliva, or perspiration.

(ii) "Testing" includes any combination of the use of:

(A) remote and in-person breath testing;

(B) drug patch testing;

(C) urinalysis testing;

(D) saliva testing;

(E) continuous remote sensing;

(F) transdermal alcohol monitoring; or

(G) alternate body fluids approved for testing by the commissioner of the department.

(2) The department may establish a 24-7 sobriety program with a law enforcement agency that is able to meet the 24-7 sobriety program qualifications and requirements under this section.

(3)(a) The 24-7 sobriety program shall include use of multiple testing methodologies for the presence of alcohol or drugs that:

(i) best facilitates the ability to apply timely sanctions for noncompliance;

(ii) is available at an affordable cost; and

(iii) provides for positive, behavioral reinforcement for program compliance.

(b) The commissioner shall consider the following factors to determine which testing methodologies are best suited for each participant:

(i) whether a device is available;

(ii) whether the participant is capable of paying the fees and costs associated with each testing methodology;

(iii) travel requirements based on each testing methodology and the participant's circumstances;

(iv) the substance or substances for which testing will be required; and

(v) other factors the commissioner considers relevant.

(4)(a) The 24-7 sobriety program shall be supported by evidence of effectiveness and satisfy at least two of the following categories:

(i) the program is included in the federal registry of evidence-based programs and practices;

(ii) the program has been reported in a peer-reviewed journal as having positive effects on the primary targeted outcome; or

(iii) the program has been documented as effective by informed experts and other sources.

(b) If a law enforcement agency participates in a 24-7 sobriety program, the department shall assist in the creation and administration of the program in the manner provided in this section.

(c) A 24-7 sobriety program shall have at least one testing location and two daily testing times approximately 12 hours apart.

(d) [~~A person~~]An individual who is ordered by a judge to participate in the 24-7 sobriety program for a first conviction as defined in Subsection 41-6a-501(2) shall be required to participate in a 24-7 sobriety program for at least 30 days.

(e) If [~~a person~~]an individual who is ordered by a judge to participate in the 24-7 sobriety program has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based, the [~~person~~]individual shall be required to participate in a 24-7 sobriety program for at least one year.

(5)(a) If a law enforcement agency participates in a 24-7 sobriety program, the law enforcement agency may designate an entity to provide the testing services or to take any other action required or authorized to be provided by the law enforcement agency pursuant to this section, except that the law enforcement agency's designee may not determine whether an individual is required to participate in the 24-7 sobriety program.

(b) Subject to the requirement in Subsection (4)(c), the law enforcement agency shall establish the testing locations and times for the county.

(6)(a) The commissioner of the department shall establish a data management technology plan for data collection on 24-7 sobriety program participants.

(b) All required data related to participants in the 24-7 sobriety program shall be received into the data management technology plan.

(c) The data collected under this Subsection (6) is owned by the state.

(7)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

(b) The rules under Subsection (7)(a) shall:

(i) provide for the nature and manner of testing and the procedures and apparatus to be used for testing;

(ii) establish reasonable participation and testing fees for the program, including the collection of fees to pay the cost of installation, monitoring, and deactivation of any testing device;

(iii) establish a process for determining indigency and waiving of a portion of the participation and testing fees for indigent individuals in accordance with Subsection (8);

[~~(iii)~~](iv) require and provide for the approval of a 24-7 sobriety program data management technology plan that shall be used by the department and participating law enforcement agencies to manage testing, data access, fees and fee payments, and any required reports; and

[~~(iv)~~](v) establish a model sanctioning schedule for program noncompliance.

(8)(a) The department may waive the department's portion of the participation and testing fees, entirely or in part, for individuals who meet the requirements for indigency provided in Section 78B-22-202.

(b) The department may not waive the portion of the participation and testing fees that are retained by a participating law enforcement agency or testing program site.

(c) The department may periodically adjust participation and testing fees to offset lost program revenue resulting from any fee waivers.

(d) If an individual for whom the department waived fees under this Subsection (8) fails to successfully complete all of the requirements of the 24-7 sobriety program, a court may order the individual to pay the department for any waived fees.

Section 6. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system -- Exemptions.

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

[~~(b)(i) "Interlock restricted driver" means a person who:~~]

[~~(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;~~]

[~~(B) within the last 18 months has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;~~]

[~~(C)(I) within the last three years has been convicted of an offense which would be a conviction as defined under Section 41-6a-501; and~~]

[~~(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Section 41-6a-501;~~]

[~~(D) within the last three years has been convicted of a violation of this section;~~]

[~~(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520;~~]

[~~(F) within the last three years has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1 and was under 21 years old at the time the offense was committed;~~]

[~~(G) within the last six years has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1 for an offense that occurred after May 1, 2006; or~~]

[~~(H) within the last 10 years has been convicted of a violation of Section 76-5-207 for an offense that occurred after May 1, 2006.~~]

(b)(i) "Interlock restricted driver" means a person who has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system.

(ii) "Interlock restricted driver" includes, for the time periods described in Subsection (2), a person who:

(A) has been convicted of a violation under Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;

(B) has been convicted of an offense which would be a conviction as defined under Section 41-6a-501, and that offense is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Section 41-6a-501;

(C) has been convicted of a violation of this section;

(D) has been convicted of a violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section

76-5-102.1 and was under 21 years old at the time the offense was committed;

(E) has been convicted of a felony violation of Section 41-6a-502, Subsection 41-6a-520.1(1), or Section 76-5-102.1;

(F) has been convicted of a violation of Section 76-5-207; or

(G) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520.

[~~(ii)~~](iii) "Interlock restricted driver" does not include a person:

(A) whose current conviction described in Subsection [~~(1)(b)(i)(C)(I)~~](1)(b)(ii)(B) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection [~~(1)(b)(i)(C)(II)~~](1)(b)(ii)(B) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection [~~(1)(b)(i)(B) or (F)~~](1)(b)(ii)(A) or (E) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection [~~(1)(b)(i)(B), (C), or (F)~~](1)(b)(ii)(A), (B), or (D) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection [~~(7)~~](8).

(2)(a) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) begins on:

(i) for a violation described in Subsections (1)(b)(ii)(A) through (F), the date of conviction; or

(ii) for a person described in Subsection (1)(b)(ii)(G), the effective date of the revocation.

(b) The ignition interlock restriction period for an ignition interlock restricted driver under Subsection (1)(b)(ii) ends:

(i) for a violation described in Subsection (1)(b)(ii)(A), 18 months from the day the ignition interlock restricted driver:

(A) provides proof of installation of the ignition interlock system; and

(B) reinstates their driving privilege;

(ii) for a violation described in Subsections (1)(b)(ii)(B) through (D) and Subsection (1)(b)(ii)(G), two years from the date the ignition interlock restricted driver:

(A) provides proof of installation of the ignition interlock system; and

(B) reinstates their driving privilege;

(iii) for a violation described in Subsection (1)(b)(ii)(E), three years from the date the ignition interlock restricted driver:

(A) provides proof of installation of the ignition interlock system; and

(B) reinstates their driving privilege; and

(iv) for a violation described in Subsection (1)(b)(ii)(F), four years from the date the ignition interlock restricted driver:

(A) provides proof of installation of the ignition interlock system; and

(B) reinstates their driving privilege.

(c) If an ignition interlock system is removed from the vehicle before the restriction period under Subsection (2)(b) has ended, the ignition interlock restriction period is extended by the number of days the ignition interlock system was removed from the person's vehicle.

(d) An ignition interlock restricted driver may petition the Driver License Division for removal of the ignition interlock restriction related to a first offense under Section 41-6a-502, and the Driver License Division may grant the petition, if:

(i) the ignition interlock restricted driver was 21 years old or older at the time of the offense;

(ii) the individual does not have a prior conviction, as defined in Section 41-6a-501, that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based;

(iii) at least two years have elapsed since the date of the conviction under Section 41-6a-502; and

(iv) during the time frame from the date of conviction under Section 41-6a-502 to the date the person petitions the Driver License Division for removal of the ignition interlock restriction:

(A) the ignition interlock restricted driver certifies to the division that the ignition interlock restricted driver has not operated a motor vehicle;

(B) there is no evidence of a traffic or driving related violation on the ignition interlock restricted driver's driving record; and

(C) there is no evidence of a motor vehicle crash involving the interlock restricted driver where the interlock restricted driver was operating a motor vehicle.

[~~(2)~~](3) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

[~~(3)~~](4) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(4)~~](5) An interlock restricted driver who operates or is in actual physical control of a vehicle

in the state without an ignition interlock system is guilty of a class B misdemeanor.

[~~(5)~~](6) It is an affirmative defense to a charge of a violation of Subsection [~~(4)~~](5) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection [~~(5)(a)~~](6)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection [~~(5)(a)~~](6)(a) was in the scope of the interlock restricted driver's employment.

[~~(6)~~](7) The affirmative defense described in Subsection [~~(5)~~](6) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

[~~(7)~~](8)(a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

[~~(8)~~](9)(a)(i) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual has a medical condition that prohibits the individual from providing a deep lung breath sample.

(ii) In support of a petition under Subsection [~~(8)(a)(i)~~](9)(a)(i), the individual shall provide documentation from a physician that describes the individual's medical condition and whether the individual's medical condition would prohibit the individual from being able to provide a deep breath lung sample.

(b) If the division is able to establish that an individual is unable to provide a deep breath lung sample as a result of a medical condition, the division may remove the ignition interlock restriction.

Section 7. Section 41-6a-520.1 is amended to read:

41-6a-520.1. Refusing a chemical test.

(1) An actor commits refusing a chemical test if:

(a) a peace officer issues the warning required in Subsection 41-6a-520(2)(a);

(b) a court issues a warrant to draw and test the blood; and

(c) after Subsections (1)(a) and (b), the actor refuses to submit to a test of the actor's blood.

(2)(a) A violation of Subsection (1) is a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a class A misdemeanor if the actor:

(i) has a passenger younger than 16 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(ii) is 21 years old or older and has a passenger younger than 18 years old in the vehicle at the time the officer had grounds to believe the actor was driving under the influence;

(iii) also violated Section 41-6a-712 or 41-6a-714 at the time of the offense; or

(iv) has one prior conviction within 10 years of:

(A) the current conviction under Subsection (1); or

(B) the commission of the offense upon which the current conviction is based.

(c) Notwithstanding Subsection (2)(a), a violation of Subsection (1) is a third degree felony if:

(i) the actor has two or more prior convictions, each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the current conviction is at any time after:

(A) a felony conviction; or

(B) any conviction described in Subsection (2)(c)(ii)(A) for which judgment of conviction is reduced under Section 76-3-402.

[~~(ii) the current conviction is at any time after a conviction of:~~]

[~~(A) a violation of Section 76-5-207;~~]

[~~(B) a felony violation of this section, Section 76-5-102.1, 41-6a-502, or a statute previously in effect in this state that would constitute a violation of this section; or~~]

[~~(C) any conviction described in Subsection (2)(c)(ii)(A) or (B) which judgment of conviction is reduced under Section 76-3-402.~~]

(3) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction, with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than is required under Section 41-6a-505;

(b) any fine imposed shall be $100 more than is required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual, in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring, in accordance with Section 41-6a-506.

(4)(a) The offense of refusing a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

(5) An actor is guilty of a separate offense under Subsection (1) for each passenger in the vehicle that is younger than 16 years old at the time the officer had grounds to believe the actor was driving under the influence.

Section 8. Section 53-3-1007 is amended to read:

53-3-1007. Ignition interlock system provider -- Notification to the division upon installation or removal of an ignition interlock system -- Monitoring and reporting requirements -- Penalties.

(1) An ignition interlock system provider who installs an ignition interlock system on an individual's vehicle shall:

(a) provide proof of installation to the individual; and

(b) electronically notify the division of installation of an ignition interlock system on the individual's vehicle.

(2) An ignition interlock system provider shall electronically notify the division if an individual has:

(a) removed an ignition interlock system from the individual's vehicle;

(b) attempted to start the motor vehicle with a measurable breath alcohol concentration, and the attempt to start the motor vehicle was prevented by the ignition interlock system, including the date and time of each attempt; or

(c) failed to report to the ignition interlock provider for the purpose of monitoring the device every 60 days, or more frequently if ordered by the court as described in Subsection 41-6a-518(5)(a).

(3) If an individual is an interlock restricted driver and the individual removes an ignition interlock system as described in Subsection (2)(a), the division shall:

(a) suspend the individual's driving privilege for the duration of the restriction period as defined in Section 41-6a-518.2; and

(b) notify the individual of the suspension period in place and the requirements for reinstatement of the driving privilege with respect to the ignition interlock restriction suspension.

(4) The division shall clear a suspension described in Subsection (3) upon:

(a) receipt of payment of the fee or fees required under Section 53-3-105; and

(b)(i) receipt of electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the individual's vehicle or the vehicle the individual will be operating;

(ii) if the individual does not own a vehicle or will not be operating a vehicle owned by another individual:

(A) electronic verification that the individual does not have a vehicle registered in the individual's name in the state; and

(B) receipt of employer verification, as defined in Subsection 41-6a-518(1); or

(iii) if the individual is not a resident of Utah, electronic verification that the individual is licensed in the individual's state of residence or is in the process of obtaining a license in the individual's state of residence.

(5) If Subsection (4)(b)(ii) applies, the division shall every six months:

(a) electronically verify the individual does not have a vehicle registered in the individual's name in the state; and

(b) require the individual to provide updated documentation described in Subsection (4)(b)(ii).

(6) If the individual described in Subsection (5) does not provide the required documentation described in Subsection (4)(b)(ii), the division shall suspend the individual's driving privilege until:

(a) the division receives payment of the fee or fees required under Section 53-3-105; and

(b)(i) the division:

(A) receives electronic notification from an ignition interlock system provider showing proof of the installation of an ignition interlock system on the individual's vehicle or the vehicle the individual will be operating; or

(B) if the individual does not own a vehicle or will not be operating a vehicle owned by another individual, receives electronic verification that the individual does not have a vehicle registered in the individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1); or

(ii) if the individual is not a resident of Utah, electronic verification that the individual is licensed in the individual's state of residence or is in the process of obtaining a license in the individual's state of residence.

(7) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the division shall suspend the license of any individual without receiving a record of the individual's conviction of crime seven days after receiving electronic notification from an ignition interlock system provider that an individual has removed an ignition interlock system from the individual's vehicle or a vehicle owned by another individual and operated by the individual if the individual is an interlock restricted driver until:

(a) the division receives payment of the fee or fees specified in Section 53-3-105; and

(b)(i)(A) the division receives electronic notification from an ignition interlock system provider showing new proof of the installation of an ignition interlock system on the individual's vehicle or the vehicle the individual will be operating; or

(B) if the individual does not own a vehicle or will not be operating a vehicle owned by another individual, the division receives electronic verification that the individual does not have a vehicle registered in the individual's name in the state, and receives employer verification, as defined in Subsection 41-6a-518(1);

(ii) if the individual is not a resident of Utah, the division receives electronic verification that the individual is licensed in the individual's state of residence or is in the process of obtaining a license in the individual's state of residence; or

(iii) the individual's interlock restricted period has expired.

(8)(a) Upon receipt of a notice described in Subsection (2)(b) or (2)(c), the division shall extend the individual's ignition interlock restriction period by 60 days.

(b) The division shall notify the individual of the modified ignition interlock restriction period described in Subsection (8)(a).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) procedures for certification and regulation of ignition interlock system providers;

(b) acceptable documentation for proof of the installation of an ignition interlock device;

(c) procedures for an ignition interlock system provider to electronically notify the division;

(d) procedures for an ignition interlock system provider to provide monitoring of an ignition interlock system and reporting the results of monitoring;

(e) procedures for the removal of an ignition interlock restriction if the individual is unable to provide a deep lung breath sample as a result of a medical condition and is unable to properly use an ignition interlock system as described in Subsection [~~41-6a-518.2(8)~~]41-6a-518.2(9); and

(f) policies and procedures for the administration of the ignition interlock system program created under this section.

Section 9. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2)(a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3)(a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4)(a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:

(i) the seriousness of any violation of the condition of probation;

(ii) the probationer's conduct while on probation; and

(iii) the probationer's criminal history.

(5)(a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:

(i) the seriousness of any violation of the condition of parole;

(ii) the individual's conduct while on parole; and

(iii) the individual's criminal history.

(6) The commission shall establish graduated and evidence- based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8)(a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out- of- home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post- adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community- based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish and maintain supervision length guidelines in accordance with this section.

(10)(a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed $50,000:

(i) securities fraud, Sections 61-1-1 and 61-1-21;

(ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;

(iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

(iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(v) arson, Section 76-6-102;

(vi) burglary, Section 76-6-202;

(vii) theft under Title 76, Chapter 6, Part 4, Theft;

(viii) forgery, Section 76-6-501;

(ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

(x) insurance fraud, Section 76-6-521;

(xi) computer crimes, Section 76-6-703;

(xii) mortgage fraud, Section 76-6-1203;

(xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

(xiv) communications fraud, Section 76-10-1801;

(xv) money laundering, Section 76-10-1904; and

(xvi) other offenses in the discretion of the commission.

(b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix with proportionate escalating sanctions based on the amount of a victim's loss.

(c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection (10)(a).

(11)(a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.

(b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection (11)(a), including the application of aggravating and mitigating factors specific to the offense.

(12)(a) Before July 1, 2024, the commission shall review and revise the commission's sentencing guidelines and supervision length guidelines to reflect appropriate penalties for the following offenses:

(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2;

(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death, Section 76-5-207.

(b) The guidelines under Subsection (12)(a) shall consider the following:

(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;

(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;

(iii) the offender's number of previous convictions for driving under the influence related offenses including those defined in Subsection 41-6a-501(2)(a); and

(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.

Section 10. Section 76-5-102.1 is amended to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Drug" means the same as that term is defined in Section 76-5-207.

(iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

(iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a)(i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii)(A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b)(i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

[~~(a)(i) a class A misdemeanor; or~~]

[~~(ii) a third degree felony if the bodily injury is serious bodily injury; and~~]

(a)(i) a class A misdemeanor; or

(ii) a third degree felony if the actor has two or more driving under the influence related convictions under Subsection 41-6a-501(2)(a), each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based;

(iii) a third degree felony, if the current conviction is at any time after the conviction of:

(A) a conviction, as the term conviction is defined in Subsection 41-6a-501(2), that is a felony; or

(B) any conviction described in Subsection (3)(a)(iii)(A) for which judgment of conviction is reduced under Section 76-3-402; or

(iv) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5)(a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 11. Section 77-20-201 is amended to read:

77-20-201. Right to bail -- Capital felony.

(1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with:

(a) a capital felony when there is substantial evidence to support the charge;

(b) a felony committed while on parole or on probation for a felony conviction, or while free on bail awaiting trial on a previous felony charge, when there is substantial evidence to support the current felony charge;

(c) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that:

(i) the individual would constitute a substantial danger to any other individual or to the community after considering available conditions of release that the court may impose if the individual is released on bail; or

(ii) the individual is likely to flee the jurisdiction of the court if the individual is released on bail;

(d) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual violated a material condition of release while previously on bail;

(e) a domestic violence offense if:

(i) there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence after considering available conditions of release that the court may impose if the individual is released on bail;

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual;

(ii) there is substantial evidence to support the charge; and

(iii) the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to the community after considering available conditions of release that the court may impose if the individual is released on bail; [~~or~~]

(g) a felony violation of Section 76-9-101 if:

(i) there is substantial evidence to support the charge; and

(ii) the court finds, by clear and convincing evidence, that the individual is not likely to appear for a subsequent court appearance[~~.~~]; or

(h) except as provided in Subsection (4), the offense of driving under the influence or driving with a measurable controlled substance in the body:

(i) if committed while on parole or on probation for a driving under the influence or driving with a measurable controlled substance in the body conviction; or

(ii) while the individual is out of custody awaiting trial on a previous driving under the influence or driving with a measurable controlled substance in the body charge, when the court finds there is substantial evidence to support the current charge.

(2) Notwithstanding any other provision of this section, there is a rebuttable presumption that an individual is a substantial danger to the community under Subsection (1)(f)(iii):

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for, or charged with, the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for, or charged with, the offense of driving with a measurable controlled substance in the body and the offense resulted in death or serious bodily injury to an individual.

(3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecuting attorney has not filed a notice to seek the death penalty.

(4) For purposes of Subsection (1)(h), there is a rebuttable presumption that an individual would not constitute a substantial danger to any other person or the community if:

(a) the court orders the person to participate in an inpatient drug and alcohol treatment program; or

(b) the court orders the person to participate in home confinement through the use of electronic monitoring as described in Section 41-6a-506.

Section 12. Effective date.

This bill takes effect on July 1, 2024.

Section 13. Coordinating H.B. 395 with S.B. 200 if S.B. 213 does not pass and become law.

If H.B. 395, DUI Offense Amendments, and S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, both pass and become law, and S.B. 213, Criminal Justice Modifications, does not pass and become law, the Legislature intends that, on July 1, 2024, Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

"Â63M-7-404.3. Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(3) (a) Before July 1, 2024, the commission shall review and revise the commission's sentencing guidelines and supervision length guidelines to reflect appropriate penalties for the following offenses:

(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2;

(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death, Section 76-5-207.

(b) The guidelines under Subsection (3)(a) shall consider the following:

(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;

(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;

(iii) the offender's number of previous convictions for driving under the influence related offenses including those defined in Subsection 41-6a-501(2)(a); and

(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.".

CHAPTER 198
S. B. 167
Passed February 27, 2024
Approved March 13, 2024
Effective May 1, 2024

COURT TRANSCRIPT FEE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies statutory provisions that relate to court transcripts.

Highlighted Provisions:

This bill:

- modifies state certification requirements for state certified court reporters; and
- modifies the cost and cost structure of court transcript fees.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-74-302, as last amended by Laws of Utah 2020, Chapter 339

78A-2-408, as last amended by Laws of Utah 2021, Chapter 224

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

Section 1. Section 58-74-302 is amended to read:

58-74-302. Qualifications for state certification.

(1) Each applicant for state certification as a state certified court reporter under this chapter shall:

(a) be at least 18 years of age;

(b) be a citizen of the United States[~~ and a resident of the state~~];

(c) submit an application in a form prescribed by the division;

(d) pay a fee determined by the department under Section 63J-1-504;

(e) possess a high degree of skill and ability in the art of court reporting; and

(f) submit evidence that the applicant has completed and passed the Registered Professional Reporter Examination of the National Court Reporters Association or the Certified Verbatim Reporter Examination of the National Verbatim Reporters Association.

(2) A person granted a certificate to practice as a state certified court reporter may use the abbreviation "C.C.R." or "C.V.R." as long as the person's certificate is current and valid.

Section 2. Section 78A-2-408 is amended to read:

78A-2-408. Transcripts and copies -- Fees.

(1) The Judicial Council shall by rule provide for a standard page format for transcripts of court [~~hearings~~]proceedings.

(2)(a) Except as provided in [~~Subsections (2)(c) and (e)~~]Subsections (2)(c), (2)(e), and (2)(g), the [~~fee~~]base rate for a transcript of a court session, or any part of a court session, may not be more than[~~$4.50~~]:

(i) $6.00 per page for the body of the transcript, which includes the initial preparation of the transcript and one certified copy; plus

(ii) $0.50 per page for the word index.

(b) The preparer shall:

(i) deposit the original text file[~~ and printed transcript~~] with the clerk of the court by means of an approved electronic filing service provider; and

(ii) provide the person requesting the transcript with [~~the~~]an electronic certified copy.

(c) The cost of additional copies of the transcript shall be [~~as provided in Subsection 78A-2-301(1)~~] $0.50 per page.

(d) The transcript for an appeal shall be prepared within the time period permitted by the Utah Rules of Appellate Procedure.

(e) The fee for a transcript that is guaranteed to be prepared:

[~~(i) within three business days of the request, shall be 1-1/2 times the base rate; and~~]

[~~(ii)~~](i) within one business day of the request[~~,~~] shall be double the base rate[~~.~~];

(ii) within three business days of the request shall be 1.75 times the base rate;

(iii) within one calendar week shall be 1.5 times the base rate; and

(iv) within two calendar weeks shall be 1.25 times the base rate.

(f) Payment for a transcript under this section is the responsibility of the party requesting the transcript, except for a court ordered transcript as provided in Subsection (3)(a), and the time for production of the transcript begins once financial arrangements are made with the certified court transcriber.

(g) Child welfare cases shall be billed at the two calendar week rate to meet the deadlines of the Utah Appellate Courts.

(3)(a) When a transcript is ordered by the court, the fees shall be paid by the parties to the action in equal proportion or as ordered by the court.

(b) The fee for a transcript in a criminal case in which the defendant is found to be an indigent individual, as defined in Section 78B-22-102, shall be paid in accordance with Subsection 78B-22-203(3).

[~~(4)(a) The fee for the preparation of a transcript of a court hearing by an official court transcriber and the fee for the preparation of the transcript by a certified court reporter of a hearing before any court, referee, master, board, or commission of this state shall be:~~]

[~~(i) in accordance with Subsection (2); and~~]

[~~(ii) payable to the person preparing the transcript.~~]

[~~(b) Payment for a transcript under this section is the responsibility of the party requesting the transcript.~~]

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 199
S. B. 180
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

COURT JURISDICTION MODIFICATIONS

Chief Sponsor: Jen Plumb
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill addresses the jurisdiction of the juvenile and justice courts.

Highlighted Provisions:

This bill:

- clarifies the jurisdiction of the juvenile court and the justice court; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
78A-5-102, as last amended by Laws of Utah 2022, Chapters 155, 318
78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
78A-6-103.5, as last amended by Laws of Utah 2022, Chapter 155
78A-7-106, as last amended by Laws of Utah 2023, Chapter 34
80-6-303, as last amended by Laws of Utah 2023, Chapter 161

ENACTS:

78A-7-101.1, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

78A-7-101, (Renumbered from 78A-7-101, as last amended by Laws of Utah 2023, Chapter 475)

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

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(3) Subsection [~~78A-7-106(6)~~]78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.

(4) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

(5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

(7) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2024.

Section 2. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

(1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(2) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

(3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(5) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(6) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.

(7) The district court has jurisdiction to review:

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in the district court's review of agency adjudicative proceedings; and

(b) municipal administrative proceedings in accordance with Section 10-3-703.7.

(8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or

has not formed and then dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older.

(9) If a district court has jurisdiction in accordance with Subsection (5), (8)(a), or (8)(b), the district court has jurisdiction over an offense listed in Subsection [~~78A-7-106(2)~~]78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

(10) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

(11)(a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

Section 3. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as [~~otherwise provided by Sections 78A-5-102.5 and 78A-7-106~~]provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in [~~Subsection~~]Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; [~~and~~]

(c) the extension of a nonjudicial adjustment under Section 80-6-304[~~.~~]; and

[~~(3)~~](d) [~~The juvenile court has original jurisdiction over~~]a petition for special findings under Section 80-3-505.

(3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:

(a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;

(b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or

(c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection [~~78A-7-106(4)~~]78A-7-106(6) and Section 80-6-303.

Section 4. Section 78A-6-103.5 is amended to read:

78A-6-103.5. Exclusive jurisdiction of the juvenile court -- Transfer from district court.

(1) Except as provided in Subsection (3), the juvenile court has exclusive jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance under municipal, state, or federal law that is:

(a) committed by a child and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction as described in Subsection 78A-6-103(1)(a); [~~and~~]or

(b) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction as described in Subsection 78A-6-103(1)(b).

(2) The juvenile court has exclusive jurisdiction over a misdemeanor, infraction, or violation of an ordinance under municipal or state law that:

(a) is committed by an individual:

(i) who was 18 years old and enrolled in high school at the time of the offense; and

(ii) who is under 21 years old at the time of all court proceedings;

(b) is committed on school property where the individual was enrolled:

(i) when school was in session; or

(ii) during a school-sponsored activity, as defined in Section 53G-8-211; and

(c) arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction as described in Subsection 78A-6-103(1)(c).

[~~(2) For purposes of this section, the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:~~]

[~~(a) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and~~]

[~~(b) an offense for operation in willful or wanton disregard for safety, as described in Section 73-18-12.~~]

(3) If a juvenile court transfers jurisdiction of an offense to the district court under Section 80-6-504, the exclusive jurisdiction of the juvenile court over that offense is terminated.

(4) Upon entry of an order transferring an offense to the juvenile court in accordance with Subsection

78A-5-102.5(6) or (7), the juvenile court gains or regains jurisdiction over any offense for which the juvenile court has original or exclusive jurisdiction.

(5) After a district court transfers an offense to the juvenile court under Subsection 78A-5-102.5(6) or (7), the juvenile court shall:

(a) proceed upon the criminal information as if the criminal information were a petition under Section 80-6-305; and

(b) if the minor was convicted of the transferred offense, enter the conviction as an adjudication and proceed with disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(6) For purposes of this section and Section 78A-5-102.5, an offense transferred to the juvenile court from the district court under Subsection 78A-5-102.5(6) or (7) is an adjudication and not a conviction.

Section 5. Section 78A-7-101.1 is enacted to read:

78A-7-101.1. Definitions for chapter.

As used in this chapter:

(1) "Adult high school student" means an individual who:

(a) is 18 years old and enrolled in high school at the time of the offense;

(b) is under 21 years old at the time of all court proceedings; and

(c) committed the offense on school property where the individual is enrolled:

(i) when school was in session; or

(ii) during a school-sponsored activity, as defined in Section 53G-8-211.

(2) "Body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(3) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.

(4) "Minor" means an individual who is 16 or 17 years old.

Section 6. Section 78A-7-101.5, which is renumbered from Section 78A-7-101 is renumbered and amended to read:

~~78A-7-101.~~ 78A-7-101.5. Creation of justice court -- Not of record -- Independent branch of local government -- Classes of justice courts.

(1)(a) Under Article VIII, Section 1, Utah Constitution, there is created a court not of record known as the justice court.

(b) The judges of this court are justice court judges.

(2) A justice court is:

(a) a court of this state in accordance with Section 78A-1-101;

(b) a part of the state judiciary even though the justice court is funded and staffed by a municipality or county; and

(c) independent from the other branches of government for a municipality or county.

(3) A justice court may not be treated as part of the executive or legislative branches or offices of a municipality or county.

(4) A municipality or county may only operate a justice court as authorized by this chapter.

(5) Justice courts shall be divided into the following classes:

(a) Class I: 501 or more case filings per month;

(b) Class II: 201-500 case filings per month;

(c) Class III: 61-200 case filings per month; and

(d) Class IV: 60 or fewer case filings per month.

Section 7. Section 78A-7-106 is amended to read:

78A-7-106. Original jurisdiction of a justice court -- Territorial jurisdiction -- Transfer of a case.

[~~(1)(a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.~~]

[~~(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:~~]

[~~(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and~~]

[~~(ii) class B and C misdemeanor and infraction violations of:~~]

[~~(A) Title 23A, Wildlife Resources Act;~~]

[~~(B) Title 41, Chapter 1a, Motor Vehicle Act;~~]

[~~(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;~~]

[~~(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;~~]

[~~(E) Title 41, Chapter 22, Off-highway Vehicles;~~]

[~~(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;~~]

[~~(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;~~]

[~~(H) Title 73, Chapter 18b, Water Safety; and~~]

[~~(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.~~]

[~~(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:~~]

[~~(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and~~]

[~~(b) class B and C misdemeanor and infraction violations of:~~]

[~~(i) Title 23A, Wildlife Resources Act;~~]

[~~(ii) Title 41, Chapter 1a, Motor Vehicle Act;~~]

[~~(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;~~]

[~~(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;~~]

[~~(v) Title 41, Chapter 22, Off-highway Vehicles;~~]

[~~(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;~~]

[~~(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;~~]

[~~(viii) Title 73, Chapter 18b, Water Safety; and~~]

[~~(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.~~]

(1) A justice court has original jurisdiction over class B and C misdemeanors, violations of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(2) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(a) class C misdemeanor and infraction violations described in Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor violations described in:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 6a, Traffic Code;

(iii) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(iv) Title 41, Chapter 22, Off-highway Vehicles;

(v) Title 73, Chapter 18, State Boating Act;

(vi) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(vii) Title 73, Chapter 18b, Water Safety; and

(viii) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) Notwithstanding Subsection (1) or (2), a justice court does not have original jurisdiction over:

(a) an offense described in Subsection (1) or (2) if:

(i) the district court has exclusive jurisdiction over the offense in accordance with Subsection 78A-5-102(8) or Section 78A-5-102.5; or

(ii) the juvenile court has exclusive jurisdiction over the offense in accordance with Section 78A-6-103.5; or

(b) the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(i) class B and C misdemeanor violations described in Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(ii) a class B misdemeanor violation described in Section 73-18-12.

(4) A justice court has jurisdiction over a small claims case under Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

[~~(3)~~](5)[~~(a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made. (b)~~] An offense is committed within the territorial jurisdiction of a justice court if:

[~~(i)~~](a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

[~~(ii)~~](b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

[~~(iii)~~](c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

[~~(iv)~~](d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

[~~(v)~~](e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

[~~(vi)~~](f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

[~~(A)~~](i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

[~~(B)~~](ii) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

[~~(C)~~](iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

[~~(D)~~](iv) the offense is committed on or near the boundary of the court's jurisdiction;

[~~(vii)~~](g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

[~~(viii)~~](h) jurisdiction is otherwise specifically provided by law.

[~~(4)~~](6) If [~~in a criminal case the defendant is 16 or 17 years old, a justice court judge~~]a defendant in a criminal case before a justice court is a minor, the justice court may transfer the case to the juvenile court for further proceedings if the justice court [~~judge~~]determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

[~~(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.~~]

[~~(6)~~](7)[~~(a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.~~]

[~~(b)~~](a) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

[~~(c)~~](b) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection [~~(6)(b)~~](7)(a), the justice court shall transfer the criminal action to the district court.

Section 8. Section 80-6-303 is amended to read:

80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

(1)(a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that [~~an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense~~]the juvenile court has jurisdiction over the offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b)(i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 80-6-502; or

(B) transferred to the district court in accordance with Section 80-6-504.

(ii) [~~Notwithstanding Subsection (1)(a), a~~]A justice court may decline to transfer an offense for which the justice court has original jurisdiction under [~~Subsection 78A-7-106(2)~~]Section 78A-7-106.

(2)(a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and

(iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Sections 78A-5-102 and 78A-7-106.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 200
S. B. 187
Passed February 22, 2024
Approved March 13, 2024
Effective May 1, 2024

UTAH FAIR HOUSING ACT AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill requires a good faith effort in resolving matters before the Labor Commission under the Utah Fair Housing Act.

Highlighted Provisions:

This bill:

- eliminates an exemption in the Utah Fair Housing Act;
- codifies a good faith requirement for a legal representative to attempt resolution of a matter before the Labor Commission; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-21-3, as last amended by Laws of Utah 2015, Chapter 13
57-21-10, as last amended by Laws of Utah 2019, Chapter 100

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

Section 1. Section 57-21-3 is amended to read:

57-21-3. Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to a single-family dwelling unit sold or rented by its owner if:

[~~(a) the owner is not a partnership, association, corporation, or other business entity;~~]

[~~(b)~~](a) the owner does not own an interest in four or more single-family dwelling units held for sale or lease at the same time;

[~~(c)~~](b) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

[~~(d)~~](c) the owner does not retain or use the facilities or services of a real estate broker or salesperson; and

[~~(e)~~](d) the owner does not use a discriminatory housing practice under Subsection 57-21-5(2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility if:

(a) the discrimination is by sex, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in a single-family dwelling by an owner-occupant of the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families; and

(b) the owner-occupant resides in one of the units.

(4)(a)(i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling or temporary or permanent residence facility the entity owns or operates for primarily noncommercial purposes to persons of the same religion; or

(B) giving preference to persons of the same religion when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates for primarily noncommercial purposes.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(a)(i):

(A) a religious organization, association, or society; or

(B) a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

(b)(i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent residence facility, the entity owns or operates to persons of a particular religion, sex, sexual orientation, or gender identity; or

(B) giving preference to persons of a particular religion, sex, sexual orientation, or gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(b)(i):

(A) an entity described in Subsection (4)(a)(ii); and

(B) a person who owns a dwelling, or a temporary or permanent residence facility, that is under contract with an entity described in Subsection (4)(a)(ii).

(5)(a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a private club not open to the public, including a fraternity or sorority associated with an institution of higher education, from:

(i) limiting the rental or occupancy of lodgings to members; or

(ii) giving preference to its members.

(b) This Subsection (5) applies only if the private club owns or operates the lodgings as an incident to its primary purpose and not for a commercial purpose.

(6) This chapter does not prohibit distinctions based on inability to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

(7) This chapter does not prohibit a nonprofit educational institution from:

(a) requiring its single students to live in a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;

(b) segregating a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the basis of sex or familial status or both:

(i) for reasons of personal modesty or privacy; or

(ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or

(c) otherwise assisting another person in making a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:

(i) regulations implementing the federal Fair Housing Amendments Act of 1988;

(ii) Title IX of the Education Amendments of 1972; or

(iii) other applicable law.

(8) This chapter does not prohibit any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(9) A provision of this chapter that pertains to familial status does not apply to the existence, development, sale, rental, advertisement, or financing of an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.

Section 2. Section 57-21-10 is amended to read:

57-21-10. Judicial election or formal adjudicative hearing.

(1)(a) If, pursuant to Subsection 57-21-9(6) or (7)(b)(ii), the director issues a written determination, a party to the complaint may obtain de novo review of the determination by submitting a written request for a formal adjudicative hearing to be conducted by the commission's Division of Adjudication in accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings, to the director within 30 days after the day on which the director issues the determination.

(b) If the director does not receive a timely request for review, the director's determination becomes the final order of the commission and is not subject to further agency action or direct judicial review.

(2) If a party files a timely request for review pursuant to Subsection (1):

(a) any party to the complaint may elect to have the de novo review take place in a civil action in the district court rather than in a formal adjudicative hearing with the Division of Adjudication by filing an election with the commission in accordance with rules established by the commission pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the form and time period for the election;

(b) the complainant shall file a complaint for review in the forum selected pursuant to Subsection (2)(a) within 30 days after the completion of the forum selection process; and

(c) the commission shall determine whether the director's determination is supported by substantial evidence.

(3)(a) The commission shall provide legal representation on behalf of the aggrieved person, including the filing of a complaint for review as required by Subsection (2)(b),[~~ to support and enforce the director's determination~~] in the de novo review proceeding, if:

(i) in accordance with Subsection 57-21-9(7)(b)(ii), the director issued a written determination finding reasonable cause to believe that a discriminatory housing practice had occurred, or was about to occur; and

(ii) under Subsection (2)(c), the commission determines that the director's determination under 57-21-9(7)(b)(ii) is supported by substantial evidence.

(b) An attorney who provides legal representation under Subsection (3)(a) shall consult with the

parties in good faith and attempt to resolve the matter based upon a review of the facts, witnesses, evidence, and the likelihood of success.

[~~(b)~~](c) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the commission's determination, under Subsection (2)(c), regarding the existence or nonexistence of substantial evidence to support the director's determination is not subject to further agency action or direct judicial review.

(4) Upon timely application, an aggrieved person may intervene with respect to the issues to be determined in a formal adjudicative hearing or in a civil action brought under this section.

(5) If a formal adjudicative hearing is elected:

(a) the presiding officer shall commence the formal adjudicative hearing within 150 days after the day on which a request for review of the director's determination is filed, unless it is impracticable to do so;

(b) the investigator who investigated the matter may not participate:

(i) in the formal adjudicative hearing, except as a witness; or

(ii) in the deliberations of the presiding officer;

(c) any party to the complaint may file a written request to the Division of Adjudication for review of the presiding officer's order in accordance with Section 63G-4-301 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings; and

(d) a final order of the commission under this section is subject to judicial review as provided in Section 63G-4-403 and Title 34A, Chapter 1, Part 3, Adjudicative Proceedings.

(6) If a civil action is elected, the commission is barred from continuing or commencing any adjudicative proceeding in connection with the same claims under this chapter.

(7)(a) The commission shall make final administrative disposition of the complaint alleging a discriminatory housing practice within one year after the complainant filed the complaint, unless it is impracticable to do so.

(b) If the commission is unable to make final administrative disposition within the time period described in Subsection (7)(a), the commission shall notify the complainant, respondent, and any other interested party in writing of the reasons for the delay.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 201
S. B. 188
Passed February 26, 2024
Approved March 13, 2024
Effective May 1, 2024

PROFESSIONAL LICENSING REVISIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Brady Brammer

LONG TITLE

General Description:
This bill modifies provisions related to professional licensing.

Highlighted Provisions:
This bill:

- modifies continuing education requirements for licensed construction contractors; and
- makes technical changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
58-55-302.5, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

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

Section 1. Section 58-55-302.5 is amended to read:

58-55-302.5. Continuing education requirements for contractor licensees -- Continuing education courses.

(1)(a) Each contractor licensee under a license issued under this chapter shall complete six hours of approved continuing education during each two-year renewal cycle established by rule under Subsection 58-55-303(1).

(b) Each contractor licensee who has a renewal cycle that ends on or after January 1, 2020, [~~shall~~]may complete one hour of approved continuing education on energy conservation as part of the six required hours.

(2)(a) The commission shall, with the concurrence of the division, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a program of approved continuing education for contractor licensees.

(b) Except as provided in [~~Subsection (2)(e), beginning on or after June 1, 2015,~~]Subsections (2)(c) and (e), only courses offered by any of the following may be included in the program of approved continuing education for contractor licensees:

(i) the Associated General Contractors of Utah;

(ii) Associated Builders and Contractors, Utah Chapter;

(iii) the Utah Home Builders Association;

(iv) the National Electrical Contractors Association Intermountain Chapter;

(v) the Utah Plumbing & Heating Contractors Association;

(vi) the Independent Electrical Contractors of Utah;

(vii) the Rocky Mountain Gas Association;

(viii) the Utah Mechanical Contractors Association;

(ix) the Sheet Metal Contractors Association;

(x) the Intermountain Electrical Association;

(xi) [~~the Builders Bid Service of Utah~~]the American Subcontractors Association, Utah Chapter; or

(xii) Utah Roofing Contractors Association.

(c) An approved continuing education program for a contractor licensee may include a course approved by an entity described in Subsections (2)(b)(i) through (2)(b)(iii).

(d)(i) Except as provided in Subsections (2)(d)(ii) and (iii), an entity listed in Subsections (2)(b)(iv) through (2)(b)(xii) may only offer and market continuing education courses to a licensee who is a member of the entity.

(ii) An entity described in Subsection (2)(b)(iv), (vi), or (x) may offer and market a continuing education course that the entity offers to satisfy the continuing education requirement described in Subsection 58-55-302.7(2)(a) to a contractor in the electrical trade.

(iii) An entity described in Subsection (2)(b)(v) or (viii) may offer and market a continuing education course that the entity offers to satisfy[~~-~~]:

(A) the continuing education requirement described in Subsection 58-55-302.7(2)(b) to a contractor in the plumbing trade; or

(B) the continuing education requirement described in Subsection (1) for a contractor licensee that is licensed in the specialty contractor classification of HVAC contractor.

(e) [~~On or after June 1, 2015, an~~]An approved continuing education program for a contractor licensee may include a course offered and taught by:

(i) a state executive branch agency;

(ii) the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001; or

(iii) a nationally or regionally accredited college or university that has a physical campus in the state.

(f) [~~On or after June 1, 2017, for~~]For a contractor licensee that is licensed in the specialty contractor classification of HVAC contractor, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(3) The division may contract with a person to establish and maintain a continuing education registry to include:

(a) a list of courses that the division has approved for inclusion in the program of approved continuing education; and

(b) a list of courses that:

(i) a contractor licensee has completed under the program of approved continuing education; and

(ii) the licensee may access to monitor the licensee's compliance with the continuing education requirement established under Subsection (1).

(4) The division may charge a fee, as established by the division under Section 63J-1-504, to administer the requirements of this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 202
S. B. 193
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

ARBITRATION AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill makes changes to the use of arbitration in cases involving a third party motor vehicle accident.

Highlighted Provisions:

This bill:

- modifies arbitration award limitations;
- modifies provisions relating to a trial de novo; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-321, as last amended by Laws of Utah 2015, Chapter 345

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

Section 1. Section 31A-22-321 is amended to read:

31A-22-321. Use of arbitration in third party motor vehicle accident cases.

(1) A person injured as a result of a motor vehicle accident may elect to submit all third party bodily injury claims to arbitration by filing a notice of the submission of the claim to binding arbitration in a district court if:

(a) the claimant or the claimant's representative has:

(i) previously and timely filed a complaint in a district court that includes a third party bodily injury claim; and

(ii) filed a notice to submit the claim to arbitration within 14 days after the complaint has been answered; and

(b) the notice required under Subsection (1)(a)(ii) is filed while the action under Subsection (1)(a)(i) is still pending.

(2)(a) If a party submits a bodily injury claim to arbitration under Subsection (1), the party submitting the claim or the party's representative is limited to an arbitration award that does not exceed [~~$50,000~~]$75,000 or the defendant's per person limits of third party bodily insurance, whichever is less, in addition to any available personal injury protection benefits and any claim for property damage.

(b) A claim for reimbursement of personal injury protection benefits is to be resolved between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

(c) A claim for property damage may not be made in an arbitration proceeding under Subsection (1) unless agreed upon by the parties in writing.

(d) A party who elects to proceed against a defendant under this section:

(i) waives the right to obtain a judgment against the personal assets of the defendant; and

(ii) is limited to recovery only against available limits of insurance [~~coverage~~], plus a maximum $15,000 in excess of policy limits, and available costs if appealed.

(e)(i) This section does not prevent a party from pursuing an underinsured motorist claim as set out in Section 31A-22-305.3.

(ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to [~~the $50,000 limit~~]the defendant's per person limits of third party bodily insurance coverage [~~described in Subsection (2)(a)~~]or the $75,000 limit.

(iii) There shall be no right of subrogation on the part of the underinsured motorist carrier for a claim submitted to arbitration under this section.

(3) A claim for punitive damages may not be made in an arbitration proceeding under Subsection (1) or any subsequent proceeding, even if the claim is later resolved through a trial de novo under Subsection (11).

(4)(a) A person who has elected arbitration under this section may rescind the person's election if the rescission is made within:

(i) 90 days after the election to arbitrate; and

(ii) no less than 30 days before any scheduled arbitration hearing.

(b) A person seeking to rescind an election to arbitrate under this Subsection (4) shall:

(i) file a notice of the rescission of the election to arbitrate with the district court in which the matter was filed; and

(ii) send copies of the notice of the rescission of the election to arbitrate to all counsel of record to the action.

(c) All discovery completed in anticipation of the arbitration hearing shall be available for use by the parties as allowed by the Utah Rules of Civil Procedure and Utah Rules of Evidence.

(d) A party who has elected to arbitrate under this section and then rescinded the election to arbitrate under this Subsection (4) may not elect to arbitrate the claim under this section again.

(5)(a) Unless otherwise agreed to by the parties or by order of the court, an arbitration process elected

under this section is subject to Rule 26, Utah Rules of Civil Procedure.

(b) Unless otherwise agreed to by the parties or ordered by the court, discovery shall be completed within 150 days after the date arbitration is elected under this section or the date the answer is filed, whichever is longer.

(6)(a) Unless otherwise agreed to in writing by the parties, a claim that is submitted to arbitration under this section shall be resolved by a single arbitrator.

(b) Unless otherwise agreed to by the parties or ordered by the court, all parties shall agree on the single arbitrator selected under Subsection (6)(a) within 90 days of the answer of the defendant.

(c) If the parties are unable to agree on a single arbitrator as required under Subsection (6)(b), the parties shall select a panel of three arbitrators.

(d) If the parties select a panel of three arbitrators under Subsection (6)(c):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (6)(d)(i) shall select one additional arbitrator to be included in the panel.

(7) Unless otherwise agreed to in writing:

(a) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(a); and

(b) if an arbitration panel is selected under Subsection (6)(d):

(i) each party shall pay the fees and costs of the arbitrator selected by that party's side; and

(ii) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (6)(d)(ii).

(8) Except as otherwise provided in this section and unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(9)(a) Subject to the provisions of this section, the Utah Rules of Civil Procedure and Utah Rules of Evidence apply to the arbitration proceeding.

(b) The Utah Rules of Civil Procedure and Utah Rules of Evidence shall be applied liberally with the intent of concluding the claim in a timely and cost- efficient manner.

(c) Discovery shall be conducted in accordance with Rules 26 through 37 of the Utah Rules of Civil Procedure and shall be subject to the jurisdiction of the district court in which the matter is filed.

(d) Dispositive motions shall be filed, heard, and decided by the district court prior to the arbitration proceeding in accordance with the court's scheduling order.

(10) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(11) An arbitration award issued under this section shall be the final resolution of all bodily injury claims between the parties and may be reduced to judgment by the court upon motion and notice unless:

(a) either party, within 20 days after service of the arbitration award:

(i) files a notice requesting a trial de novo in the district court; and

(ii) serves the nonmoving party with a copy of the notice requesting a trial de novo under Subsection (11)(a)(i); or

(b) the arbitration award has been satisfied.

(12)(a) Upon filing a notice requesting a trial de novo under Subsection (11):

(i) unless otherwise stipulated to by the parties or ordered by the court, an additional [~~90~~]120 days shall be allowed for further discovery;

(ii) the additional discovery time under Subsection (12)(a)(i) shall run from the notice of appeal; and

(iii) the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(b) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a request for trial de novo filed under Subsection (11)(a)(i).

(13)(a) If the plaintiff, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least $5,000 and is at least 30% greater than the damages awarded in arbitration [~~award,~~], excluding the items listed in Subsection (19), the plaintiff is responsible for all of the nonmoving party's costs.

(b) [~~Except as provided in Subsection (13)(c), the~~]The costs [~~under~~]described in Subsection (13)(a) [~~shall~~]include:

(i) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; [~~and~~]

(ii) the costs of expert witnesses and depositions[~~.~~];

(iii) the arbitration costs paid by the prevailing party under Subsection (7);

(iv) prejudgment interest described in Section 78B- 5- 824; and

(v) postjudgment interest described in Section 15- 1- 4.

[~~(c) An award of costs under this Subsection (13) may not exceed $6,000.~~]

(14)(a) If a defendant, as the moving party in a trial de novo requested under Subsection (11), does not obtain a verdict that is at least 30% less than [~~the arbitration award~~]the damages awarded in

arbitration, excluding the items described in Subsection (19), the defendant is responsible for all of the nonmoving party's costs.

(b) [~~Except as provided in Subsection (14)(c), the~~]The costs [~~under~~]described in Subsection (14)(a) [~~shall~~]include:

(i) [~~any costs set forth~~]costs described in Rule 54(d), Utah Rules of Civil Procedure; [~~and~~]

(ii) the costs of expert witnesses and depositions[~~.~~];

(iii) the arbitration costs paid by the prevailing party under Subsection (7);

(iv) prejudgment interest described in Section 78B-5-824; and

(v) postjudgment interest described in Section 15-1-4.

[~~(c) An award of costs under this Subsection (14) may not exceed $6,000.~~]

(15) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsections (13) and (14), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(a) was not fully disclosed in writing prior to the arbitration proceeding; or

(b) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(16) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith as defined in Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(17) Nothing in this section is intended to affect or prevent any first party claim from later being brought under any first party insurance policy under which the injured person is a covered person.

(18)(a) If a defendant requests a trial de novo under Subsection (11)[~~, in no event can the total verdict at trial~~], the total damages award at trial may not exceed $15,000 above any available per person limits of insurance coverage[~~ and in no event can the total verdict exceed $65,000~~], not including the costs described in Subsection (14)(b).

(b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may not exceed [~~$50,000~~]$75,000, or the per person limits of insurance coverage, whichever is less.

(19) All arbitration awards issued under this section shall [~~bear postjudgment interest pursuant to Section 15-1-4.~~]include:

(a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;

(b) the arbitration costs paid by the prevailing party under Subsection (7);

(c) prejudgment interest described in Section 78B-5-824; and

(d) postjudgment interest described in Section 15-1-4.

(20) If a party requests a trial de novo under Subsection (11), the party shall file a copy of the notice requesting a trial de novo with the commissioner notifying the commissioner of the party's request for a trial de novo under Subsection (11).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 203
H. B. 406
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

FIREARMS FINANCIAL TRANSACTION AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Chris H. Wilson

Cosponsor:
Tyler Clancy
Candice B. Pierucci
Cheryl K. Acton
Paul A. Cutler
Mike Schultz
Carl R. Albrecht
Stephanie Gricius
Rex P. Shipp
Melissa G. Ballard
Jon Hawkins
Casey Snider
Stewart E. Barlow
Ken Ivory
Andrew Stoddard
Kera Birkeland
Trevor Lee
Keven J. Stratton
Bridger Bolinder
Rosemary T. Lesser
Mark A. Strong
Brady Brammer
Anthony E. Loubet
Jordan D. Teuscher
Walt Brooks
Phil Lyman
Christine F. Watkins
Jefferson S. Burton
Matt MacPherson
Stephen L. Whyte
Kay J. Christofferson
Thomas W. Peterson

LONG TITLE

General Description:

This bill addresses consumer transactions related to firearms.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits the use of a firearms merchant category code;
- establishes a complaint process and civil penalties for certain violations; and
- gives enforcement powers to the attorney general.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
13- 70- 101, Utah Code Annotated 1953
13- 70- 201, Utah Code Annotated 1953
13- 70- 301, Utah Code Annotated 1953

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

Section 1. Section 13- 70- 101 is enacted to read:

13- 70- 101. Definitions.

CHAPTER 70. FIREARM FINANCIAL TRANSACTIONS

Part 1. General Provisions

(1) "Ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in a firearm.

(2) "Customer" means an individual who presents a payment card to a merchant for the purchase of a good or service.

(3) "Financial entity" means any person involved in facilitating or processing a payment card transaction, including:

(a) a payment card network;

(b) a merchant acquirer; or

(c) a payment facilitator.

(4) "Firearm" means the same as that term is defined in Section 76- 10- 501.

(5)(a) "Firearm accessory or component" means a device specifically adapted to:

(i) enable the wearing or carrying about one's person or the storage or mounting in or on any conveyance of a firearm; or

(ii) be inserted into or affixed to a firearm to enable, alter, or improve the functioning or capabilities of the firearm.

(b) "Firearm accessory or component" includes a telescopic or laser sight, magazine, flash or sound suppressor, folding or aftermarket stock or grip, speedloader, brace, ammunition carrier, or light for target illumination.

(6) "Firearms code" means the merchant category code 5723, approved in September 2022 by the International Organization for Standardization, for firearms retailers.

(7) "Firearms retailer" means a merchant engaged in the lawful business of selling or trading firearms, firearm accessories or components, or ammunition.

(8) "Merchant" means a person physically located in the state who accepts a payment card from a customer for the purchase of a good or service.

(9) "Payment card" means a card, code, or other means by which a person may debit a deposit account or use a line of credit to purchase a good or service.

(10) "Reloading supplies" means any equipment, component, or material designed for the reloading

of ammunition, including reloading presses, shell holders, powder measures, priming tools, reloading manuals, casings, and gunpowder.

Section 2. Section 13-70-201 is enacted to read:

13-70-201. Limitations on firearms merchant codes.

Part 2. Prohibited Conduct

(1) For the processing of a payment card transaction, a financial entity may not assign to a firearms retailer or require a firearms retailer to use the firearms code.

(2) For purposes of the sale of a firearm, a firearm accessory or component, ammunition, or reloading supplies, a firearms retailer may not provide the firearms code to a financial entity.

(3) A financial entity may not otherwise classify a firearms retailer separately from general merchandise retailers or sporting goods retailers.

(4) Nothing in this chapter:

(a) limits a financial entity's ability to:

(i) negotiate with responsible parties; or

(ii) comply with state or federal laws or regulations; or

(b) impairs a financial entity's activities related to dispute processing, fraud or compliance management, or protecting transaction integrity from concerns related to illegal or suspicious activities, data breaches, or cyber risks.

Section 3. Section 13-70-301 is enacted to read:

13-70-301. Enforcement powers of the attorney general.

Part 3. Enforcement

(1)(a) The attorney general has the sole authority to enforce the provisions of this chapter.

(b) Nothing in this chapter creates a private right of action.

(2)(a) If a person believes that a financial entity violated or is in violation of this chapter, the person may file a complaint with the attorney general.

(b) Upon receipt of a complaint, the attorney general shall initiate an investigation.

(3) If, based on investigation, the attorney general believes that a financial entity violated or is in violation of this chapter, the attorney general shall send the financial entity written notice that identifies each violation and directs the financial entity to cease each violation within 30 days after the day on which the financial entity receives the notice.

(4)(a) The attorney general shall initiate a civil action against a financial entity that fails to cease a violation of this chapter within the 30-day time period described in Subsection (3).

(b) In an action under this subsection, the attorney general may seek, and the court may order:

(i) injunctive relief;

(ii)(A) if the court determines that the financial entity recklessly violated a provision of this chapter, a civil fine of $10,000 for each violation or actual damages, whichever is greater; or

(B) if the court determines that the financial entity willfully violated a provision of this chapter, a civil fine of $25,000 for each violation or actual damages, whichever is greater; and

(iii) costs and reasonable attorney fees to the attorney general if the court issues an injunction or imposes a civil fine.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 204
H. B. 421
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

HOMELESSNESS AND VULNERABLE POPULATIONS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to the oversight and provision of services for individuals experiencing homelessness and other vulnerable populations.

Highlighted Provisions:

This bill:

- authorizes the Utah State Hospital to contract for certain services;
- establishes the HOME Court Pilot Program to provide for comprehensive, court-supervised treatment and services to individuals in Salt Lake County with mental illness;
- provides for the duty of the executive committee of the Utah Homelessness Council (council) to serve in an advisory capacity for the council;
- requires the council to establish standards for prioritizing beds in homeless shelters;
- prohibits a homeless shelter from receiving funds from the Office of Homeless Services (office) upon failing to comply with the council's prioritization standards;
- allows a homeless shelter to receive grants from the council upon providing any amount of matching funds;
- requires the council to consider the amount of matching grants provided by a homeless shelter in awarding grants;
- allows the Department of Public Safety to receive Homeless Shelter Cities Mitigation Restricted Account funds (mitigation funds) under certain circumstances;
- clarifies that mitigation funds are nonlapsing and allows the office to disburse uncommitted mitigation funds to municipalities in the following year;
- prohibits a municipality from receiving mitigation funds unless the municipality enforces certain prohibitions and demonstrates improvement in reducing certain conduct;
- exempts certain counties from winter response plan requirements if a county develops a year-round plan for addressing the needs of individuals experiencing homelessness;
- increases the temperature for a code blue alert to take effect;
- allows a municipality to implement emergency measures to assist individuals experiencing homelessness during dangerous weather conditions;
- amends provisions concerning how a health care provider submits a request for an individual who voluntarily requests to be restricted from purchasing or possessing firearms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

35A-16-203, as last amended by Laws of Utah 2023, Chapter 302
35A-16-205, as last amended by Laws of Utah 2022, Chapter 403
35A-16-302, as last amended by Laws of Utah 2023, Chapter 302
35A-16-401, as last amended by Laws of Utah 2023, Chapter 302
35A-16-402, as last amended by Laws of Utah 2023, Chapter 302
35A-16-403, as last amended by Laws of Utah 2023, Chapter 302
35A-16-502, as repealed and reenacted by Laws of Utah 2023, Chapter 302
35A-16-701, as enacted by Laws of Utah 2023, Chapter 302
35A-16-702, as enacted by Laws of Utah 2023, Chapter 302
53-5c-301, as last amended by Laws of Utah 2023, Chapter 405
53-5c-302, as enacted by Laws of Utah 2023, Chapter 405
59-12-205, as last amended by Laws of Utah 2023, Chapters 302, 471 and 492
63J-1-602.1, as last amended by Laws of Utah 2023, Chapters 26, 33, 34, 194, 212, 330, 419, 434, 448, and 534

ENACTS:

26B-5-381, Utah Code Annotated 1953
26B-5-382, Utah Code Annotated 1953
35A-16-205.1, Utah Code Annotated 1953

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

Section 1. Section 26B-5-381 is enacted to read:

26B-5-381. Contracted state hospital services.

(1) In accordance with the authority, responsibilities, and duties granted to the division and state hospital under this part, the state hospital may contract with any willing provider to:

(a) supervise and treat a patient with a mental illness who has been committed to the state hospital's custody; or

(b) facilitate the reentry of a discharged patient into the community.

(2) A provider who enters into a contract with the state hospital under Subsection (1) shall provide a level of supervision and security that is equal to or greater than the level of supervision and security that:

(a) is necessary to treat the patient with a mental illness; and

(b) would be offered at or recommended by the state hospital.

(3) In collaboration with the Division of Integrated Healthcare, the superintendent and clinical director shall provide a report to the Health and Human Services Interim Committee at or before the committee's 2024 November interim meeting that includes information and recommendations on:

(a) the number of patients with a mental illness served through a state hospital contract in accordance with Subsection (1), and the nature of the services rendered;

(b) addressing the needs of patients with complex legal and mental health statuses who are expected to have significantly long stays at the state hospital and who are not able to be discharged into the community;

(c) the creation of a low-acuity step-down facility to assist patients described in Subsection (3)(b); and

(d) opportunities for collaboration with local mental health authorities and other willing providers to provide low-acuity step-down services to assist patients described in Subsection (3)(b).

Section 2. Section 26B-5-382 is enacted to read:

26B-5-382. HOME Court Pilot Program -- Requirements -- Funding -- Reporting.

(1) As used in this section, "pilot program" means the HOME Court Pilot Program established in Subsection (2).

(2) Subject to appropriations from the Legislature and the assignment of a judge to preside over the proceedings, the Third Judicial District Court of Salt Lake County shall establish and administer a HOME Court Pilot Program beginning October 1, 2024, and ending June 30, 2029, that provides for comprehensive and individualized, court-supervised treatment and services to individuals with mental illness.

(3) The pilot program shall:

(a) allow a person to petition the court for an order requiring an individual's participation in the pilot program;

(b) require the court to substitute the local mental health authority as the petitioner if the initial petitioner is not the local mental health authority;

(c) provide an opportunity for the parties to enter into an agreement regarding an individual's participation in the pilot program, including a treatment plan, prior to a court order under Subsection (3)(e);

(d) provide for a hearing at which information is presented to determine whether an individual qualifies for court-ordered participation in the pilot program as provided in Subsection (3)(e);

(e) require the court to order an individual to participate in the pilot program if, upon completion of the hearing described in Subsection (3)(d), the court finds by clear and convincing evidence that:

(i) the individual resides or may be presently found within Salt Lake County;

(ii) the individual has a mental illness;

(iii) because of the individual's mental illness, the individual:

(A) is unlikely to survive or remain safe without supervision, assistance, or services; or

(B) meets the criteria described in Subsection 26B-5-351(14)(c)(i) or (ii);

(iv) there is no appropriate less-restrictive alternative to a court order for participation in the pilot program;

(v) the individual is likely to benefit from participation in the pilot program; and

(vi) there is adequate capacity within the pilot program to meet the individual's need for services described in Subsection (3)(f);

(f) upon the court's order for an individual to participate in the pilot program, require the local mental health authority to prepare a comprehensive and individualized treatment plan, for approval by the court, that includes the following components for the individual to successfully achieve the purposes of the pilot program:

(i) mental health services;

(ii) housing resources;

(iii) social services;

(iv) case management;

(v) peer support;

(vi) exit or transition services; and

(vii) individualized goals for the successful completion of the pilot program;

(g) upon the court's approval of a treatment plan prepared by the local mental health authority:

(i) require the local mental health authority to coordinate services required for participation in the pilot program; and

(ii) require the court to conduct regular review hearings as deemed necessary to evaluate the individual's progress in completing the treatment plan; and

(h) operate in a manner that is consistent with the procedures for ordering assisted outpatient treatment under Section 26B-5-351.

(4)(a)(i) If a individual participating in the pilot program has an outstanding warrant or pending criminal matter in another Utah court, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's participation in the pilot program.

(ii) Upon receiving notice of an individual's participation in the pilot program under Subsection (4)(a)(i), the other court may, if deemed appropriate, recall the warrant or stay the case in which the individual is involved unless the warrant or case involves a felony charge.

(iii) In determining whether to recall a warrant or stay a case under Subsection (4)(a)(ii), the other court shall consider the likelihood of the individual's successful completion of the pilot program, the severity of the pending charges, the impact on victims' rights, and the impact on the government's ability and right to prosecute the case.

(b)(i) If an individual described in Subsection (4)(a)(i) successfully completes the pilot program, the Third Judicial District Court of Salt Lake County may notify the other court in which the individual has an outstanding warrant or pending criminal matter regarding the individual's successful completion of the pilot program.

(ii) Upon receiving notice of an individual's successful completion of the pilot program under Subsection (4)(b)(i), the other court shall consider the effect of the individual's completion of the pilot program on the case pending before that court, including the dismissal of criminal charges if deemed appropriate.

(5)(a) Costs of all services provided under the pilot program, including the costs incurred by the multidisciplinary team described in Subsection (5)(b)(ii)(B), shall be paid by Salt Lake County.

(b) If the Legislature appropriates money to the division for implementation of the pilot program, the division shall:

(i) require the local mental health authority, as part of the plan required under Subsection 17-43-301(6)(a)(ii), to submit to the division a proposal for implementation of the pilot program on or before May 15 of each year;

(ii) review the proposal described in Subsection (5)(b)(i) to ensure that the proposal:

(A) meets the requirements of this section; and

(B) establishes a multidisciplinary team, with a sufficient number of stakeholders, to adequately address the provision of treatment and services under the pilot program;

(iii) upon approval of the proposal described in Subsection (5)(b)(i), contract funds appropriated for the pilot program with the local mental health authority; and

(iv) conduct an annual audit and review of the local mental health authority, and any contracted provider, regarding the use of funds appropriated for the pilot program.

(c) The matching requirement in Subsection 17-41-301(6)(a)(x) does not apply to funds appropriated by the Legislature for the pilot program.

(d) Subject to appropriation by the Legislature, Salt Lake County may:

(i) apply to the division to receive funds to cover the county's costs under the pilot program; and

(ii) pay county contributions to the nonfederal share of Medicaid expenditures with funds appropriated for the pilot program.

(6) The department shall:

(a) establish and evaluate metrics for the success of the pilot program with input from the local mental health authority, the Utah Homelessness Council created in Section 35A-16-204, and the Judicial Council; and

(b) in collaboration with the local mental health authority, submit to the Health and Human Services Interim Committee a report on or before June 30 of each year, beginning in calendar year 2025, regarding the outcomes of the pilot program.

Section 3. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(e) provide administrative support to and serve as a member of the homelessness council;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, Continuum of Care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; [~~and~~]

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state[~~.~~]; and

(e) takes into consideration the success of the HOME Court Pilot Program established in Section 26B-5-382.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6)(a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan;

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state; and

(iv) in coordination with the homelessness council, a complete accounting of the office's disbursement of funds during the previous fiscal year from:

(A) the Pamela Atkinson Homeless Account created in Section 35A-16-301;

(B) the Homeless to Housing Reform Restricted Account created in Section 35A-16-303;

(C) the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(D) the COVID-19 Homeless Housing and Services Grant Program created in Section 35A-16-602; and

(E) any other grant program created in statute that is administered by the office.

Section 4. Section 35A-16-205 is amended to read:

35A-16-205. Duties of the homelessness council and executive committee.

(1) The homelessness council:

[~~(1)~~](a) shall provide final approval for:

[~~(a)~~](i) the homeless services budget;

[~~(b)~~](ii) the strategic plan; and

[~~(c)~~](iii) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

[~~(2)~~](b) in cooperation with the coordinator, shall:

[~~(a)~~](i) develop and maintain the homeless services budget;

[~~(b)~~](ii) develop and maintain the strategic plan; and

[~~(c)~~](iii) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

[~~(3)~~](c) shall review local and regional plans for providing services to individuals experiencing homelessness;

[~~(4)~~](d) shall cooperate with local homeless councils to:

[~~(a)~~](i) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

[~~(b)~~](ii) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

[~~(c)~~](iii) align local funding to projects that improve outcomes and target specific needs in each community;

[~~(5)~~](e) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

[~~(6)~~](f) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data; [~~and~~]

[~~(7)~~](g) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

[~~(a)~~](i) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

[~~(b)~~](ii) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award[~~.~~]; and

(h) shall establish standards for the prioritization of beds located in homeless shelters in accordance with Section 35A-16-205.1.

(2) The executive committee shall act in an advisory capacity for the homelessness council and make recommendations regarding the homelessness council's duties under Subsection (1).

Section 5. Section 35A-16-205.1 is enacted to read:

35A-16-205.1. Homelessness council to establish standards for the prioritization of homeless shelter beds -- Dissemination -- Compliance with standards required for receipt of state funds.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the homelessness council shall make rules establishing standards for the prioritization of beds located in a homeless shelter.

(2) In establishing standards under Subsection (1), the homelessness council shall:

(a) assign highest priority for available beds to:

(i) individuals eligible for Temporary Assistance for Needy Families funds pursuant to 42 U.S.C. Sec. 604; and

(ii) individuals discharged from the Utah State Hospital created in Section 26B-5-302; and

(b) require a homeless shelter, if feasible, to allocate an average of 85% of the total number of beds located in a homeless shelter to individuals described in Subsection (2)(a)(i).

(3) The office shall disseminate the standards established by the homelessness council under Subsection (1) to each homeless shelter located within the state.

(4) Notwithstanding any other provisions in this chapter, state funds may not be awarded under this chapter directly to or for the benefit of a homeless shelter located within the state unless the homeless shelter complies with the standards established by the homelessness council under Subsection (1).

Section 6. Section 35A-16-302 is amended to read:

35A-16-302. Uses of Homeless to Housing Reform Restricted Account.

(1) The homelessness council may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-16-303.

(2) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the homelessness council and the coordinator that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the homelessness council before the awarding of the grant or contract.

(3) In determining the awarding of a grant or contract under this section, the homelessness council and the coordinator shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(c) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(d) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(e) address the needs identified in the strategic plan described in Section 35A-16-203 for inclusion in the annual written report described in Section 35A-1-109.

(4) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, of the homelessness council, with the concurrence of the coordinator, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(5) In accordance with Subsection (4), and subject to the approval the homelessness council, with the concurrence of the coordinator, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the homelessness council, with the concurrence of the coordinator; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(6)(a) If a homeless shelter commits to provide any amount of matching funds under this Subsection (6), the homelessness council, with the concurrence of the coordinator, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (6), the homelessness council, with the concurrence of the coordinator, shall consider:

(i) the number of beds available at the homeless shelter [~~and~~];

(ii) the number and quality of the homeless services provided by the homeless shelter[~~.~~]; and

(iii) the amount of matching funds provided by the homeless shelter.

(7) The office may expend money from the restricted account to offset actual office and homelessness council expenses related to administering this section.

Section 7. Section 35A-16-401 is amended to read:

35A-16-401. Definitions.

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Authorized provider" means a nonprofit provider of homeless services that is authorized by a third-tier eligible municipality to operate a temporary winter response shelter within the municipality in accordance with Part 5, Winter Response Plan Requirements.

(3) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

(4) "Eligible services" means any activities or services that mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i)(A) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office; and

(B) operates for no less than three months during the period beginning October 1 and ending April 30 of the following year; or

(ii)(A) meets the definition of a homeless shelter under Section 35A-16-501; and

(B) [~~increases capacity during a winter response period, as defined in Section 35A-16-501, in accordance with Subsection 35A-16-502(6)(a)~~] contains beds that are utilized as part of a county's winter response plan under Section 35A-16-502.

(6) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

(7) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

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

(9) "Public safety services" means law enforcement, emergency medical services, or fire protection.

(10) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

(11) "Third-tier eligible municipality" means a municipality that:

(a) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year; and

(b) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services.

Section 8. Section 35A-16-402 is amended to read:

35A-16-402. Homeless Shelter Cities Mitigation Restricted Account -- Formula for disbursing account funds to eligible municipalities.

(1) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(2) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205;

(b) interest earned on the account; and

(c) appropriations made to the account by the Legislature.

(3) The office shall administer the account.

(4)(a) Subject to appropriations, the office shall annually disburse funds from the account as follows:

(i) 87.5% shall be disbursed to first-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office;

(ii) 2.5% shall be disbursed to second-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office; and

(iii) 10% shall be disbursed to third-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, in accordance with a formula established by the office and approved by the homelessness council.

(b) In disbursing funds to second-tier municipalities under Subsection (4)(a)(ii), the maximum amount of funds that the office may disburse each year to a single second-tier municipality may not exceed 50% of the total amount of funds disbursed under Subsection (4)(a)(ii).

(c) The office may disburse funds under Subsection (4)(a)(iii) to an authorized provider of a third-tier eligible municipality.

(d) The office may disburse funds to a third-tier municipality or an authorized provider under Subsection (4)(a)(iii) regardless of whether the municipality receives funds under Subsection (4)(a)(i) as a first-tier municipality or funds under Subsection (4)(a)(ii) as a second-tier municipality.

(e) If any account funds are available to the office for disbursement under this section after making the disbursements required in Subsection (4)(a), the office may disburse the available account funds to third-tier municipalities that have been approved to receive account funds under Section 35A-16-403.

(f)(i) Notwithstanding any other provision in this section, if an eligible municipality requests account funds under Section 35A-16-403 and the request is denied for the sole reason that the municipality has failed to comply with the requirements of Subsection 35A-16-403(2)(g)(i), the office may disburse the account funds that the municipality would otherwise have received to:

(A) eligible municipalities in accordance with the provisions of this Subsection (4); or

(B) subject to Subsection (4)(f)(ii), the Department of Public Safety.

(ii)(A) The office may not disburse account funds to the Department of Public Safety under Subsection (4)(f)(i) unless the disbursement is recommended and approved by the homelessness council.

(B) The Department of Public Safety shall use any account funds received under Subsection (4)(f)(i) to assist in the enforcement of state laws that promote the safety or well-being of individuals experiencing homelessness.

(5) In disbursing account funds to municipalities under Subsection (4), the office may not consider the capacity of an eligible shelter to qualify a municipality for multiple tiers of funding.

[~~(5)~~](6) The office may use up to 2.75% of any appropriations made to the account by the Legislature to offset the office's administrative expenses under this part.

(7) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

(8) The office may disburse any uncommitted account funds to municipalities under this section in the following year.

Section 9. Section 35A-16-403 is amended to read:

35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

(2)(a) The homelessness council shall set aside time on the agenda of a homelessness council meeting that occurs before the beginning of the next fiscal year to allow an eligible municipality to present a request for account funds for that next fiscal year.

(b) An eligible municipality may present a request for account funds by:

(i) sending an electronic copy of the request to the homelessness council before the meeting; and

(ii) appearing at the meeting to present the request.

(c) The request described in Subsection [~~(2)(b)(ii)~~](2)(b)(i) shall contain:

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes; and

(iv) the amount of account funds requested.

(d)(i) On or before September 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the homelessness council a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The homelessness council may request additional information as needed to make the evaluation described in Subsection (2)(e).

(e) The homelessness council shall evaluate a request made in accordance with this Subsection (2) and may take the following factors into consideration in determining whether to approve or deny the request:

(i) the strength of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4);

(iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's needs due to the location of an eligible shelter; and

(v) any other considerations identified by the homelessness council.

(f) After making the evaluation described in Subsection (2)(e), and subject to Subsection (2)(g), the homelessness council shall vote to either approve or deny an eligible municipality's request for account funds.

(g)(i) [~~Except as provided in Subsection (2)(g)(ii), an eligible municipality may not~~]In addition to the evaluation under Subsection (2)(e), the homelessness council may not approve an eligible municipality's request to receive account funds under this section unless the eligible municipality:

(A) enforces an ordinance that prohibits camping;

(B) enforces an ordinance or other applicable state law prohibiting conduct that impedes or blocks traffic in violation of Subsection 41-6a-1009(4); and

(C) demonstrates improvement in reducing the conduct described in Subsections (2)(g)(i)(A) and (B).

[~~(ii) Subsection (2)(g)(i) does not apply if each homeless shelter located within the county in which the eligible municipality is located is at full capacity, as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(ii) In determining whether an eligible municipality has demonstrated improvement under Subsection (2)(g)(i)(C), the homelessness council shall consider:

(A) the specific measures taken by the municipality to reduce the conduct described in Subsections (2)(g)(i)(A) and (B), and the effectiveness of those measures in reducing the conduct;

(B) the strategies utilized by the municipality in managing and improving public spaces within the municipality, and the impact of these strategies on safety, cleanliness, and the well-being of the community; and

(C) the gap between the number of individuals experiencing homelessness within the municipality and the availability of beds at homeless shelters to which the individuals experiencing homelessness have reasonable access, and any changes to this gap over time.

(iii) The homelessness council may coordinate with the Department of Public Safety for the receipt of quantitative and qualitative data to determine compliance with applicable state and local laws.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the approval of the homelessness council, the office shall make rules establishing standards for the information required by an eligible municipality to demonstrate improvement under Subsection (2)(g)(i)(C).

(h) If the homelessness council approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 10. Section 35A-16-502 is amended to read:

35A-16-502. Winter response plan required -- Contents -- Review -- Consequences after determination of noncompliance.

(1)(a) The task force for an applicable county that is a county of the first class shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2023, 2024, and 2025.

(b) [~~The~~]Except as provided in Subsection (3), the task force for an applicable county not described in Subsection (1)(a) shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2024 and 2025.

(2) The winter response plan shall:

(a) provide assurances to the office that the applicable county will meet the applicable county's targeted winter response bed count or other accommodations during the subsequent winter response period by establishing plans for the requisite need during the subsequent winter response period;

(b) ensure that any temporary winter response shelter planned for operation within the applicable county will meet all local zoning requirements;

(c) include a detailed transportation plan, budget, revenue sources, including in-kind sources, and any other component specified by the office under Subsection (3) as a requirement for the applicable county to achieve compliance with this section;

(d) include a detailed county plan for a code blue event as defined in Section 35A-16-701, including the number and location of available beds for individuals experiencing homelessness for the duration of the code blue event; and

(e) be approved by the chief executive officer of:

(i) any municipality located within the applicable county in which a temporary winter response shelter is planned for operation during the subsequent winter response period; and

(ii) the applicable county, if a temporary winter response shelter is planned for operation within an unincorporated area of the county.

(3) The requirements of Subsection (1)(b) do not apply to an applicable county if:

(a) on or before August 1, 2024, the applicable county submits to the office:

(i) documentation demonstrating that the applicable county is developing a plan to address the needs of individuals experiencing homelessness within the county throughout the entire year, as opposed to only during the winter response period; and

(ii) a county plan for a code blue event as described in Subsection (2)(d);

(b) on or before August 1, 2025, the applicable county submits to the office the year-round plan developed under Subsection (3)(a)(i); and

(c) the office determines that the applicable county's year-round plan meets the requirements of a winter response plan as described in Subsection (2) for the entire year.

[~~(3)~~](4) To assist a task force in preparing a winter response plan, by no later than March 30 of the year in which the winter response plan is due, the applicable local homeless council, in coordination with the office, shall provide the following information to the task force:

(a) the targeted winter response bed count;

(b) the requirements for the plan described in Subsection (2)(d);

(c) the availability of funds that can be used to mitigate the winter response plan; and

(d) any component required for the winter response plan to achieve compliance that is not described in Subsection (2).

[~~(4)~~](5) In preparing the winter response plan, the task force shall coordinate with:

(a) the office;

(b) the applicable local homeless council;

(c) for Salt Lake County, the conference of mayors for Salt Lake County; and

(d) for an applicable county not described in Subsection [~~(4)(c)~~](5)(c), the council of governments for the applicable county.

[~~(5)~~](6) In conducting site selection for a temporary winter response shelter under a winter response plan, the task force shall prioritize:

(a) a site located more than one mile from any homeless shelter;

(b) a site located more than one mile from any permanent supportive housing, as verified by the office; and

(c) a site located in a municipality or unincorporated area of the applicable county that does not have a homeless shelter.

[~~(6)~~](7)(a) On or before August 15 of the year in which a winter response plan is submitted, the office shall:

(i) conduct a review of the winter response plan for compliance with this section; and

(ii) send a written notice of the office's determination regarding compliance to:

(A) the task force for the applicable county;

(B) the council of governments for the applicable county;

(C) the applicable local homeless council; and

(D) the legislative body of each municipality located within the applicable county.

(b) For purposes of Section 35A-16-502.5, an applicable county is in noncompliance with this section if:

(i) the applicable county's task force fails to submit a timely winter response plan under this section; or

(ii) the office determines that the winter response plan prepared for the applicable county does not comply with this section.

[~~(7)~~](8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing requirements for an applicable county's compliance with this section.

Section 11. Section 35A-16-701 is amended to read:

35A-16-701. Definitions.

As used in this part:

(1) "Affected county" means a county of the first, second, third, or fourth class in which a code blue event is anticipated.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an affected county.

(3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide temporary shelter to under a conditional use permit.

(4) "Code blue alert" means a proclamation issued by the Department of Health and Human Services under Section 35A-16-702 to alert the public of a code blue event.

(5) "Code blue event" means a weather event in which the National Weather Service predicts temperatures of [~~15~~]18 degrees Fahrenheit or less, including wind chill, or any other extreme weather conditions established in rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), to occur in any county of the first, second, third, or fourth class for two hours or longer within the next 24 to 48 hours.

(6) "Homeless shelter" means a facility that provides temporary shelter to individuals experiencing homelessness.

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

Section 12. Section 35A-16-702 is amended to read:

35A-16-702. Code blue alert -- Content -- Dissemination -- Rulemaking.

(1) The Department of Health and Human Services shall:

(a) monitor and evaluate forecasts and advisories produced by the National Weather Service;

(b) issue a code blue alert under this section if the Department of Health and Human Services identifies a code blue event; and

(c) disseminate the code blue alert to:

(i) the public at large;

(ii) homeless shelters located within an affected county;

(iii) local government entities located within an affected county;

(iv) the office; and

(v) any other relevant public or private entities that provide services to individuals experiencing homelessness within an affected county.

(2) The code blue alert shall:

(a) identify each affected county;

(b) specify the duration of the code blue alert;

(c) describe the provisions that take effect for the duration of the code blue alert as described in Section 35A-16-703; and

(d) include the information prepared by the office under Subsection (3).

(3)(a) The office shall prepare and regularly update information to assist individuals experiencing homelessness during a code blue event, including:

(i) the location and availability of homeless shelters and other community resources and services for individuals experiencing homelessness;

(ii) information regarding public safety and emergency services; and

(iii) any other information considered relevant by the office.

(b) The office shall submit to the Department of Health and Human Services the information prepared and updated under Subsection (3)(a).

(4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Health and Human Services, in coordination with the office, shall make rules to implement this section.

(b) The rules under Subsection (4)(a) shall:

(i) establish any extreme weather conditions that warrant the issuance of a code blue alert; and

(ii) establish standards for:

(A) monitoring and evaluating National Weather Service forecasts and advisories to identify code blue events;

(B) issuing code blue alerts under this section, including the form, content, and dissemination of code blue alerts;

(C) the provisions that take effect within an affected county for the duration of a code blue alert[~~, as provided in~~]under Section 35A-16-703; and

(D) coordinating with the office to receive the information described in Subsection (3).

(5) Nothing in this section prohibits a municipality from [~~issuing a safety alert based on other~~]implementing emergency plans or other measures to assist individuals experiencing homelessness at times when environmental conditions [~~that~~] present a substantial threat to the health or safety of individuals experiencing homelessness, provided that the emergency plans or other measures implemented by the municipality do not conflict with any applicable provisions that take effect during a code blue event in accordance with Section 35A-16-703.

Section 13. Section 53-5c-301 is amended to read:

53-5c-301. Voluntary restrictions on firearm purchase and possession.

(1) An individual who is not a restricted person under Section 76-10-503 may voluntarily request to be restricted from the purchase or possession of firearms.

(2) An individual requesting to be restricted under Subsection (1) may request placement on one of the following restricted lists:

(a) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm for 180 days with automatic removal of the individual from the restricted list at the end of the 180 days; and

(ii) allows the individual to request removal 30 days after the day on which the individual is added to the restricted list; or

(b) a restricted list that:

(i) restricts the individual from purchasing or possessing a firearm indefinitely; and

(ii) allows the individual to request removal 90 days after the day on which the individual is added to the restricted list.

(3)(a) Subject to Subsections (8) and (9), the bureau shall develop a process and forms for inclusion on, and removal from, a restricted list as described in Subsection (2) to be maintained by the bureau.

(b) The bureau shall make the forms for inclusion and removal available by download through the bureau's website and require, at a minimum, the following information for the individual described in Subsection (1):

(i) name;

(ii) address;

(iii) date of birth;

(iv) contact information;

(v) signature; and

(vi)(A) if the individual is entered on the restricted list as described in Subsection (2)(a), an acknowledgment of the statement in Subsection (8)(a); or

(B) if the individual is entered on the restricted list as described in Subsection (2)(b), an acknowledgment of the statement in Subsection (8)(b).

(4)(a) An individual requesting inclusion on a restricted list under Subsection (2) shall:

(i) deliver the completed form in person to a law enforcement agency; or

(ii) direct the individual's health care provider under Section 53-5c-302 to electronically deliver the individual's [~~completed form~~]request to the bureau.

(b) The law enforcement agency described in Subsection (4)(a)(i):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a form from someone other than the individual named on the form; and

(iii) shall transmit the form electronically to the bureau through the Utah Criminal Justice Information System.

(5) Upon receipt of a verified form provided under this section or Section 53-5c-302 requesting inclusion on a restricted list, the bureau shall, within 24 hours, add the individual's name to the restricted list.

(6)(a) For an individual added to the restricted list described in Subsection (2)(a):

(i) the individual may not request removal from the restricted list unless the individual has been on the restricted list for at least 30 days;

(ii) the bureau shall remove the individual from the restricted list 180 days after the day on which the individual was added to the restricted list, unless the individual:

(A) requests to be removed from the restricted list after 30 days;

(B) requests to remain on the restricted list; or

(C) directs the individual's health care provider to request that the individual remain on the restricted list;

(iii) a request for an extension shall be made in the same manner as the original request; and

(iv) the individual may continue to request, or direct the individual's health care provider to continue to request, extensions every 180 days.

(b) For an individual added to a restricted list under Subsection (2)(b), the individual:

(i) may not request removal from the restricted list unless the individual has been on the restricted list for at least 90 days; and

(ii) shall remain on the restricted list, unless the bureau receives a request from the individual to

have the individual's name removed from the restricted list.

(7) If an individual restricted under this section is a concealed firearm permit holder, the individual's permit shall be:

(a) suspended upon entry on the restricted list; and

(b) reinstated upon removal from the restricted list, unless:

(i) the permit has been revoked, been suspended for a reason other than under this section, or has expired; or

(ii) the individual has become a restricted person under Section 76-10-503.

(8)(a) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

["]By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms for a minimum of 30 days, and up to 6 months. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 30 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(b) The form for an individual seeking to be placed on the restricted list described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

["]By presenting this completed form to a law enforcement agency, I understand that I am requesting that my name be placed on a restricted list that restricts my ability to purchase or possess firearms indefinitely. I understand that by voluntarily making myself a temporarily restricted person, I may not have a firearm in my possession and any attempt to purchase a firearm while I am on the restricted list will be declined. I also understand that any time after 90 days, I may request removal from the restricted list and all previous rights will be restored. In addition, if I am in possession of a valid concealed firearm permit, my permit will be suspended during the time I am on the restricted list, but will be reinstated upon my removal, unless the permit has expired, been revoked, been suspended for another reason, or I become ineligible to possess a firearm. Additionally, I acknowledge that if I possess a firearm or attempt to purchase a firearm while outside Utah, I will be subject to the law of that location regarding restricted persons."

(9)(a) An individual requesting removal from a restricted list shall deliver a completed removal form in person to:

(i) the law enforcement agency that processed the inclusion form if the individual was placed on the restricted list under Subsection (4)(a)(i); or

(ii) the individual's local law enforcement agency if the individual was placed on the restricted list under Subsection (4)(a)(ii).

(b) The law enforcement agency described in Subsection (9)(a):

(i) shall verify the individual's identity before accepting the form;

(ii) may not accept a removal form from someone other than the individual named on the form; and

(iii) shall transmit the removal form electronically to the bureau through the Utah Criminal Justice Information System.

(10) Upon receipt of a verified removal form, the bureau shall, after three business days, remove the individual from the restricted list and remove the information from the National Instant Criminal Background Check System.

(11) For an individual added to the restricted list under Subsection (2)(a), within 30 days before the 180-day removal deadline, the bureau shall notify the individual at the address listed on the inclusion form described in Subsection (4) and, if applicable, the law enforcement agency that processed the inclusion form, that the individual is due to be removed from the restricted list, and the date on which the removal will occur, unless the individual requests an extension of up to 180 days.

(12)(a) A law enforcement agency that receives a request for inclusion under Subsection (4)(a)(i) shall:

(i) maintain the completed form and all subsequent completed forms in a separate file; and

(ii) for an individual added to the restricted list under Subsection (2)(a), destroy the entire file within five days after the date indicated in the notification if the individual does not request an extension after notification in accordance with Subsection (11).

(b) A law enforcement agency that receives a removal request under Subsection (9) shall destroy the entire file associated with the individual within five days after the day on which the information is transmitted to the bureau.

(c) Upon removal of an individual from a restricted list, the bureau shall destroy all records related to the inclusion and removal of the individual within five days after the day on which the individual was removed.

(d) All forms and records created in accordance with this section are classified as private records in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(13) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 14. Section 53-5c-302 is amended to read:

53-5c-302. Assistance from a health care provider -- Restricted list.

(1) An individual who is not a restricted person under Section 76-10-503 and is seeking inclusion on a restricted list under Section 53-5c-301 may direct the individual's health care provider to electronically deliver the individual's inclusion [~~form~~]request described in Section 53-5c-301 to the bureau.

(2) In addition to the inclusion form described in Section 53-5c-301, the bureau shall create a form, available by download through the bureau's website, for:

(a) an individual who is directing a health care provider to electronically deliver the individual's inclusion [~~form~~]request and require, at a minimum, the following information:

(i) the individual's signature;

(ii) the name of the individual's health care provider; and

(iii) the individual's acknowledgment of the statement in Subsection (4)(a); and

(b) a health care provider who is delivering an individual's inclusion [~~forms~~]request and require, at a minimum, the following information for the health care provider:

(i) the health care provider's name;

(ii) the name of the health care provider's organization;

(iii) the health care provider's license or certification, including the license or certification number;

(iv) the health care provider's signature; and

(v) the health care provider's acknowledgment of the statement in Subsection (4)(b).

(3)(a) An individual who is directing a health care provider to electronically deliver the individual's [~~inclusion form~~]request to be included on a restricted list shall, in the presence of the health care provider, complete the forms described in Section 53-5c-301 and Subsection (2)(a).

(b) The health care provider:

(i) shall verify the individual's identity before accepting the forms;

(ii) may not accept forms from someone other than the individual named on the forms;

(iii) shall complete the form described in Subsection (2)(b); and

(iv) shall deliver the [~~individual's and health care provider's forms electronically to the bureau~~] request to the bureau electronically and maintain a copy of the completed request in the individual's health record.

(4)(a) The form described in Subsection (2)(a) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

["]By presenting this completed form to my health care provider, I understand that I am requesting that my health care provider present my name to the Bureau of Criminal Identification to be placed on a restricted list that restricts my ability to purchase or possess firearms."

(b) The form described in Subsection (2)(b) shall have the following language prominently displayed before the signature:

"ACKNOWLEDGMENT

["]By presenting this completed form to the Bureau of Criminal Identification, I understand that I am acknowledging that I have verified the identity of [name of individual seeking inclusion on a restricted list] and have witnessed [name of individual] sign the form requesting that [name of individual] be placed on a restricted list that restricts [name of individual]'s ability to purchase or possess firearms. I affirm that [name of individual] is currently my patient, and I am a licensed health care provider acting within the scope of my license, certification, practice, education, or training."

(5) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop the process and forms to implement this section.

Section 15. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2)(a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the

percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii)(A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3)(a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4)(a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by an amount equal to one-twelfth of $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

(5)(a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c)(i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6)(a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 16. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

[~~(21)~~](22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

[~~(22)~~](23) The Oil and Gas Conservation Account created in Section 40-6-14.5.

[~~(23)~~](24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

[~~(24)~~](25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

[~~(25)~~](26) The License Plate Restricted Account created by Section 41-1a-122.

[~~(26)~~](27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account

created by Section 41-3-110 to the State Tax Commission.

[~~(27)~~](28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

[~~(28)~~](29) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

[~~(29)~~](30) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

[~~(30)~~](31) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

[~~(31)~~](32) The DNA Specimen Restricted Account created in Section 53-10-407.

[~~(32)~~](33) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

[~~(33)~~](34) The Higher Education Capital Projects Fund created in Section 53B-22-202.

[~~(34)~~](35) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

[~~(35)~~](36) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

[~~(36)~~](37) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

[~~(37)~~](38) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

[~~(38)~~](39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

[~~(39)~~](40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

[~~(40)~~](41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

[~~(41)~~](42) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

[~~(42)~~](43) The Relative Value Study Restricted Account created in Section 59-9-105.

[~~(43)~~](44) The Cigarette Tax Restricted Account created in Section 59-14-204.

[~~(44)~~](45) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

[~~(45)~~](46) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

[~~(46)~~](47) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

[~~(47)~~](48) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

[~~(48)~~](49) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(49)~~](50) The Immigration Act Restricted Account created in Section 63G-12-103.

[~~(50)~~](51) Money received by the military installation development authority, as provided in Section 63H-1-504.

[~~(51)~~](52) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

[~~(52)~~](53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

[~~(53)~~](54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

[~~(54)~~](55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(55)~~](56) The Motion Picture Incentive Account created in Section 63N-8-103.

[~~(56)~~](57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

[~~(57)~~](58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

[~~(58)~~](59) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(59)~~](60) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(60)~~](61) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(61)~~](62) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

[~~(62)~~](63) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(63)~~](64) Fees for certificate of admission created under Section 78A-9-102.

[~~(64)~~](65) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(65)~~](66) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(66)~~](67) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(67)~~](68) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(68)~~](69) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 17. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) Except as provided in Subsection (2)(b), if approved by two-thirds of all the members elected to each house, the actions affecting Section 59-12-205 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If this bill is not approved by two-thirds of all members elected to each house, the actions affecting Section 59-12-205 take effect on May 1, 2024.

Section 18. Retrospective operation.

Section 59-12-205 has retrospective operation to January 1, 2024.

CHAPTER 205
H. B. 424
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

LEWDNESS INVOLVING A CHILD AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill concerns the offense of lewdness involving a child.

Highlighted Provisions:

This bill:

- modifies the offense of lewdness involving a child; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-9-702.5, as last amended by Laws of Utah 2022, Chapter 185

Sections affected by Coordination Clause:

76-9-702.5, as last amended by Laws of Utah 2022, Chapter 1853

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

Section 1. Section 76-9-702.5 is amended to read:

76-9-702.5. Lewdness involving a child.

(1) As used in this section, "in the presence of" includes within visual contact through an electronic device.

(2) [~~A person is guilty of~~]An actor commits lewdness involving a child if[~~:~~]:

(a) the [~~person~~]actor, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly[~~:~~]

[~~(a)~~] does any of the following in the presence of a child who is under 14 years [~~of age~~]old:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes [~~his or her~~]the actor's genitals, [~~the~~]female breast below the top of the areola, [~~the~~]buttocks, [~~the~~]anus, or [~~the~~]pubic area:

(A) in a public place; or

(B) in a private place under circumstances the [~~person~~]actor should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child; or

(iii) masturbates; [~~or~~]

[~~(iv) performs any other act of lewdness; or~~]

(b) the actor is 18 years old or older and, under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly does any of the following in the presence of a child who is under 14 years old with the intent to cause affront or alarm to the child or with the intent to arouse or gratify the sexual desire of the actor or the child:

(i) simulates masturbation;

(ii) performs an act of simulated intercourse or sodomy;

(iii) displays the actor's male genitals or prosthetic male genitals in a discernibly turgid state, even if completely and opaquely covered;

(iv) engages in erotic touching of the actor's nude breast, regardless of the actor's sex or how the breast was developed or created; or

(v) involves a child in an act that would lead a reasonable person to conclude that the child is engaging in an act of:

(A) simulated intercourse or sodomy; or

(B) simulated masturbation;

[~~(b)~~](c) the actor, under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, intentionally or knowingly causes a child under [~~the age of~~]14 years old to expose [~~his or her~~]the child's genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child; or

(d) the actor performs any other act of lewdness.

(3)(a) [~~Lewdness involving a child is a class A misdemeanor, except under Subsection (3)(b)~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~Lewdness involving a child is a third degree felony if at the time of the violation:~~]A violation of Subsection (2) is a third degree felony if at the time of the violation, the actor:

(i) [~~the person~~]is a sex offender as defined in Section 77-27-21.7; or

(ii) [~~the person has~~]previously has been convicted of a violation of this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Coordinating H.B. 424 with H.B. 257.

If H.B. 424, Lewdness Involving a Child Amendments, and H.B. 257, Sex-based Designations for Privacy, Anti-bullying, and

Women's Opportunities, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 76-9-702.5(3) be amended to read:

"(3)(a) [~~Lewdness involving a child is a class A misdemeanor, except under Subsection (3)(b)~~]Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) [~~Lewdness involving a child is a third degree felony if at the time of the violation:~~]A violation of Subsection (2) is a third degree felony if, at the time of the violation, the actor:

(i) [~~the person~~]is a sex offender as defined in Section 77-27-21.7; [~~or~~

~~(ii) the person has~~](ii) [~~-~~]previously has been convicted of a violation of this section[~~.~~];

(iii) commits the violation of Subsection (2) while also committing the offense of:

(A) criminal trespass in a sex-designated changing room under Subsection 76-6-206(2)(d);

(B) lewdness under Section 76-9-702;

(C) voyeurism under Section 76-9-702.7; or

(D) loitering in a privacy space under Section 76-9-702.8; or

(iv) commits the violation of Subsection (2) in a sex-designated privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.".

CHAPTER 206
S. B. 194
Passed February 28, 2024
Approved March 13, 2024
Effective October 1, 2024

SOCIAL MEDIA REGULATION AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill enacts provisions related to age assurance and protecting minors in the Utah Minor Protection in Social Media Act (Act).

Highlighted Provisions:

This bill:

- defines terms;
- requires social media companies to verify a new account holder's age using an approved system;
- requires a social media service to:
  - enable maximum default privacy settings on a Utah minor account holder's account;
  - provide supervisory tools and verifiable parental consent mechanisms on a Utah minor account holder's account; and
  - provide confidentiality protections for minors' data;
- establishes the Division of Consumer Protection's enforcement powers relating to the Act;
- provides compliance safe harbors when social media companies implement approved systems for age assurance and verifiable parental consent; and
- contains a severability clause.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2023, Chapters 31, 36, 377, 458, 477, 498, 509, and 536

ENACTS:

13-71-101, Utah Code Annotated 1953
13-71-102, Utah Code Annotated 1953
13-71-201, Utah Code Annotated 1953
13-71-202, Utah Code Annotated 1953
13-71-203, Utah Code Annotated 1953
13-71-204, Utah Code Annotated 1953
13-71-301, Utah Code Annotated 1953
13-71-302, Utah Code Annotated 1953
13-71-401, Utah Code Annotated 1953

Sections affected by Coordination Clause:

78B-3-1101, Utah Code Annotated 195312

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

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 10a, Music Licensing Practices Act;

(b) Chapter 11, Utah Consumer Sales Practices Act;

(c) Chapter 15, Business Opportunity Disclosure Act;

(d) Chapter 20, New Motor Vehicle Warranties Act;

(e) Chapter 21, Credit Services Organizations Act;

(f) Chapter 22, Charitable Solicitations Act;

(g) Chapter 23, Health Spa Services Protection Act;

(h) Chapter 25a, Telephone and Facsimile Solicitation Act;

(i) Chapter 26, Telephone Fraud Prevention Act;

(j) Chapter 28, Prize Notices Regulation Act;

(k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(l) Chapter 34, Utah Postsecondary School and State Authorization Act;

(m) Chapter 41, Price Controls During Emergencies Act;

(n) Chapter 42, Uniform Debt-Management Services Act;

(o) Chapter 49, Immigration Consultants Registration Act;

(p) Chapter 51, Transportation Network Company Registration Act;

(q) Chapter 52, Residential Solar Energy Disclosure Act;

(r) Chapter 53, Residential, Vocational and Life Skills Program Act;

(s) Chapter 54, Ticket Website Sales Act;

(t) Chapter 56, Ticket Transferability Act;

(u) Chapter 57, Maintenance Funding Practices Act;

(v) Chapter 61, Utah Consumer Privacy Act;

(w) Chapter 63, Utah Social Media Regulation Act;

(x) Chapter 64, Vehicle Value Protection Agreement Act;

(y) Chapter 65, Utah Commercial Email Act;

(z) Chapter 67, Online Dating Safety Act; [~~and~~]

(aa) Chapter 68, Lawyer Referral Consultants Registration Act[~~.~~]; and

(bb) Chapter 71, Utah Minor Protection in Social Media Act.

Section 2. Section 13-71-101 is enacted to read:

13-71-101. Definitions.

CHAPTER 71. UTAH MINOR PROTECTION IN SOCIAL MEDIA ACT

Part 1. General Provisions

(1) "Account holder" means a person who has, creates, or opens an account or profile to use a social media service.

(2) "Age assurance system" means measures reasonably calculated to enable a social media company to identify whether a current or prospective Utah account holder is a minor with an accuracy rate of at least 95%.

(3) "Connected account" means an account on the social media service that is directly connected to:

(a) the minor account holder's account; or

(b) an account that is directly connected to an account directly connected to the minor account holder's account.

(4) "Content" means any information, visual depictions, tools, features, links, software, or other materials that appear on or are available or enabled through a social media service.

(5) "Directly connected" means an account on the social media service that is connected to another account by:

(a) sending a request to connect to another account holder and having the request to connect accepted by the other account holder; or

(b) receiving a request to connect from another account holder and accepting the request to connect.

(6) "Director" means the director of the division.

(7) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(8) "Minor" means an individual under 18 years old that:

(a) has not been emancipated as that term is defined in Section 80-7-102; or

(b) has not been married.

(9) "Parent" includes a legal guardian.

(10)(a) "Personal information" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

(b) "Personal information" includes a person's:

(i) first and last name;

(ii) date of birth;

(iii) home or physical address, including street name and city;

(iv) screen or user name that reveals an individual's email address, first name, or last name;

(v) telephone number;

(vi) Social Security number;

(vii) photograph, video, or audio file containing a person's image or voice;

(viii) geolocation information sufficient to identify street name and city; and

(ix) any other identifier that a person may use to contact a specific individual.

(11) "Push notification" means an automatic electronic message displayed on an account holder's device, when the user interface for the social media service is not actively open or visible on the device, that prompts the account holder to repeatedly check and engage with the social media service.

(12) "Resident" means the same as that term is defined in Section 53-3-102.

(13) "Social media company" means an entity that owns or operates a social media service.

(14)(a) "Social media service" means a public website or application that:

(i) displays content that is primarily generated by account holders and not by the social media company;

(ii) permits an individual to register as an account holder and create a profile that is made visible to the general public or a set of other users defined by the account holder;

(iii) connects account holders to allow users to interact socially with each other within the website or application;

(iv) makes available to each account holder a list or lists of other account holders with whom the account holder shares a connection within the system; and

(v) allows account holders to post content viewable by other users.

(b) "Social media service" does not include:

(i) email;

(ii) cloud storage; or

(iii) document viewing, sharing, or collaboration services.

(15) "User" means an individual who accesses or uses a social media service.

(16)(a) "Utah account holder" means a person who is a Utah resident and an account holder.

(b) "Utah account holder" includes a Utah minor account holder.

(17) "Utah minor account holder" means a Utah account holder who is a minor.

(18) "Verifiable parental consent" means authorization from a parent for a social media service to collect, use, and disclose personal information of a Utah minor account holder, that complies with the following verifiability requirements:

(a) the social media service shall provide advance notice to the parent describing information practices related to the minor account holder's personal information; and

(b) the social media service shall receive confirmation that the parent received the notice described in Subsection (18)(a).

Section 3. Section 13-71-102 is enacted to read:

13-71-102. Legislative findings.

The Legislature finds that:

(1) the state has a compelling interest in safeguarding the well-being and privacy of minors in the state;

(2) the proliferation of social media services has led to the widespread collection and utilization of personal information, exposing minors to potential privacy and identity related harms;

(3) the addictive design features of certain social media services contribute to excessive use of a social media service by minors, impacting sleep patterns, academic performance, and overall health;

(4) social media services are designed without sufficient tools to allow adequate parental oversight, exposing minors to risks that could be mitigated with proper parental involvement and control;

(5) the state has enacted safeguards around products and activities that pose risks to minors, including regulations on motor vehicles, medications, and products and services targeted to children;

(6) prolonged and unregulated social media use has been linked to adverse effects on the mental health of minors, including increased rates of anxiety, depression, and social isolation;

(7) existing measures employed by social media companies to protect minors have proven insufficient; and

(8) the state should ensure that minors' personal data is given special protection, as minors may have less awareness of the risks, consequences, and safeguards related to a social media company's processing of minors' personal data.

Section 4. Section 13-71-201 is enacted to read:

13-71-201. Age assurance required.

Part 2. General Requirements

(1) A social media company shall implement an age assurance system to determine whether a current or prospective Utah account holder on the social media company's social media service is a minor.

(2) A Utah account holder that the social media company identifies as a minor through the use of an age assurance system is subject to the requirements in Sections 13-71-202 and 13-71-203.

(3) A social media company shall:

(a) implement a review process allowing account holders to appeal the account holder's age designation by submitting documentary evidence to establish the account holder's age range; and

(b) review evidence submitted by the account holder and make a determination within 30 days of submission of the evidence.

(4) A social media company shall segregate any personal information gathered specifically within the age assurance system and shall not use the personal information for any other purposes except for the purposes listed in Subsections 13-71-204(4)(a) through (f).

Section 5. Section 13-71-202 is enacted to read:

13-71-202. Requirements for Utah minor account holders.

A social media company shall, for Utah minor account holders on the social media service:

(1) set default privacy settings to prioritize maximum privacy, including settings that:

(a) restrict the visibility of a Utah minor account holder's account to only connected accounts;

(b) limit the Utah minor account holder's ability to share content to only connected accounts;

(c) restrict any data collection and sale of data from a Utah minor account holder's account that is not required for core functioning of the social media service;

(d) disable search engine indexing of Utah minor account holder profiles;

(e) restrict a Utah minor account holder's direct messaging capabilities to only allow direct messaging to connected accounts; and

(f) allow a Utah minor account holder to download a file with all information associated with the Utah minor account holder's account;

(2) implement and maintain reasonable security measures, including data encryption, to protect the confidentiality, security, and integrity of personal information collected from a Utah minor account holder;

(3) provide an easily accessible and understandable notice that:

(a) describes any information the social media company collects from a Utah minor account holder; and

(b) explains how the information may be used or disclosed;

(4) upon request of a Utah minor account holder:

(a) delete the personal information of the Utah minor account holder, unless the information is required to be retained under Section 13-61-203, or a different provision of state or federal law; and

(b) remove any information or material the Utah minor account holder made publicly available through the social media service; and

(5) disable the following features that prolong user engagement:

(a) autoplay functions that continuously play content without user interaction;

(b) scroll or pagination that loads additional content as long as the user continues scrolling; and

(c) push notifications prompting repeated user engagement.

Section 6. Section 13-71-203 is enacted to read:

13-71-203. Supervisory tools.

(1) A social media company shall offer supervisory tools for a Utah minor account holder that the Utah minor account holder may decide to activate.

(2) The supervisory tools described in Subsection (1) shall include capabilities for an individual selected by the Utah minor account holder to:

(a) set time limits for the Utah minor account holder's daily social media service usage across devices;

(b) schedule mandatory breaks for the Utah minor account holder during selected days and times across devices;

(c) view:

(i) data detailing the Utah minor account holder's total and average daily time spent on the social media service across devices;

(ii) a list of connected accounts;

(iii) a list of accounts blocked by the Utah minor account holder;

(iv) the Utah minor account holder's:

(A) privacy settings;

(B) content sensitivity settings; and

(C) direct messaging settings and permissions; and

(d) receive notifications when the Utah minor account holder changes an account setting described in this Subsection (2).

Section 7. Section 13-71-204 is enacted to read:

13-71-204. Parental consent -- Data privacy for Utah minor accounts.

(1) A social media company may not allow a Utah minor account holder to change the default data privacy setting described in Subsection 13-71-202(1) without first obtaining verifiable parental consent.

(2) A social media company's terms of service related to a Utah minor account holder shall be presumed to include an assurance of confidentiality for the Utah minor account holder's personal information.

(3) The presumption of confidentiality in Subsection (2) may be overcome if the social media company obtains verifiable parental consent.

(4) The presumption of confidentiality in Subsection (2) does not apply to a social media company's internal use or external sharing of a Utah minor account holder's personal information if the use or sharing is necessary to:

(a) maintain or analyze functioning of the social media service;

(b) enable network communications;

(c) personalize the user's experience based on the user's age and location;

(d) display a username chosen by the Utah minor account holder;

(e) obtain age assurance information as required under Section 13-71-201; or

(f) comply with the requirements of this chapter or other federal or state laws.

Section 8. Section 13-71-301 is enacted to read:

13-71-301. Enforcement powers.

Part 3. Division Enforcement Powers

(1) The division shall administer and enforce the provisions of Part 2, General Requirements, in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of the division's responsibilities under this part.

(3)(a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in court to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that the act or practice violates a provision of this chapter;

(ii) enjoin actions that violate this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a civil penalty of up to $2,500 for each violation of this chapter;

(vi) award actual damages to an injured purchaser or consumer; and

(vii) award any other relief that the court deems reasonable and necessary.

(c) If a court grants judgment or injunctive relief to the division, the court shall award the division:

(i) reasonable attorney fees;

(ii) court costs; and

(iii) investigative fees.

(4)(a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the division, or by the attorney general on behalf of the division.

(5) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section 9. Section 13-71-302 is enacted to read:

13-71-302. Age assurance and verifiable parental consent safe harbor.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) to establish processes and means by which a social media company may:

(i) assure whether an account holder is a minor in accordance with Section 13-71-201; and

(ii) obtain verifiable parental consent in accordance with Section 13-71-203; and

(b) to establish criteria a social media company may use to determine whether the social media company's age assurance system is 95% accurate.

(2) A social media company is not subject to an enforcement action for a violation of Section 13-71-201 if the social media company implements and maintains an age assurance system that complies with rules made by the division as described in Subsection (1)(a)(i).

(3) A social media company is considered to have obtained verifiable parental consent if the social media company obtains parental consent through a mechanism that complies with the rules made by the division as described in Subsection (1)(a)(ii).

Section 10. Section 13-71-401 is enacted to read:

13-71-401. Severability.

Part 4. Severability

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

(3) Nothing in this chapter shall displace any other available remedies or rights authorized under the laws of this state or the United States.

Section 11. Effective date.

This bill takes effect on October 1, 2024.

Section 12. Coordinating S.B. 194 with H.B. 464.

If S.B. 194, Social Media Regulation Amendments, and H.B. 464, Social Media Amendments, both pass and become law, the Legislature intends that, on October 1, 2024:

(1) Subsection 78B-3-1101(1) enacted in H.B. 464 be amended to read:

"(1) "Account holder" means the same as that term is defined in Section 13-71-101.";

(2) Subsection 78B-3-1101(4) enacted in H.B. 464 be amended to read:

"(4) "Content" means the same as that term is defined in Section 13-71-101.";

(3) Subsection 78B-3-1101(8) enacted in H.B. 464 be amended to read:

"(8) "Minor" means the same as that term is defined in Section 13-71-101."; and

(4) Subsections 78B-3-1101(12) through (16) enacted in H.B. 464 be amended to read:

"(12) "Social media company" means the same as that term is defined in Section 13-71-101.

(13) "Social media service" means the same as that term is defined in Section 13-71-101.

(14) "User" means the same as that term is defined in Section 13-71-101.

(15) "Utah account holder" means the same as that term is defined in Section 13-71-101.

(16) "Utah minor account holder" means the same as that term is defined in Section 13-71-101Â.".

CHAPTER 207
S. B. 198
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

POINT OF THE MOUNTAIN STATE LAND AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions relating to the Point of the Mountain State Land Authority.

Highlighted Provisions:

This bill:

- modifies the definition of point of the mountain state land, for purposes of the Point of the Mountain State Land Authority Act;
- modifies a provision relating to an annual assessment the Authority is authorized to levy on leased property;
- enacts provisions relating to bonds issued by the Authority;
- modifies provisions relating to limitations on Authority board members; and
- provides for a portion of state sales tax revenue generated from point of the mountain state land to be paid to the Authority until bonds secured by the revenue are paid.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-59-102, as last amended by Laws of Utah 2023, Chapters 16, 263
11-59-202, as last amended by Laws of Utah 2023, Chapter 139
11-59-207, as enacted by Laws of Utah 2022, Chapter 237
11-59-306, as last amended by Laws of Utah 2022, Chapter 237
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471

ENACTS:

11-59-601, Utah Code Annotated 1953
11-59-602, Utah Code Annotated 1953
11-59-603, Utah Code Annotated 1953
11-59-604, Utah Code Annotated 1953
11-59-605, Utah Code Annotated 1953
11-59-606, Utah Code Annotated 1953

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

Section 1. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(6) "Point of the mountain state land" means :

(a) the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility[.]; and

(b) any land, in addition to the land described in Subsection (6)(a), that:

(i) the state acquires; and

(ii) is contiguous to the land described in Subsection (6)(a).

(7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 2. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

[~~(1)~~] The authority may:

[~~(a)~~](1) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

[~~(b)~~](2) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

[~~(c)~~](3) sue and be sued;

[~~(d)~~](4) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

[~~(e)~~](5) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

[~~(f)~~](6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

[~~(g)~~](7) enter into a lease agreement on real or personal property, either as lessee or lessor;

[~~(h)~~](8) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

[~~(i)~~](9) exercise powers and perform functions under a contract, as authorized in the contract;

[~~(j)~~](10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

[~~(k)~~](11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

[~~(l)~~](12) subject to [~~Subsection (2)~~]Part 6, Authority Bonds, issue bonds to finance the undertaking of any development objectives of the authority[~~, including~~];

(13) issue bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

[~~(m)~~](14) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

[~~(n)~~](15) transact other business and exercise all other powers provided for in this chapter;

[~~(o)~~](16) enter into a development agreement with a developer of some or all of the point of the mountain state land;

[~~(p)~~](17) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

[~~(q)~~](18) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

[~~(r)~~](19) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land;

[~~(s)~~](20) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter;

[~~(t)~~](21) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

[~~(u)~~](22) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

[~~(2) The authority may not issue bonds under this part unless the board first:~~]

[~~(a) adopts a parameters resolution for the bonds that sets forth:~~]

[~~(i) the maximum:~~]

[~~(A) amount of bonds;~~]

[~~(B) term; and~~]

[~~(C) interest rate; and~~]

[~~(ii) the expected security for the bonds; and~~]

[~~(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.~~]

[~~(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:~~]

[~~(a) the Executive Appropriations Committee; and~~]

[~~(b) the State Finance Review Commission created in Section 63C-25-201.~~]

Section 3. Section 11-59-207 is amended to read:

11-59-207. Annual assessment on leased property.

(1) As used in this section:

(a) "Annual [~~fee~~]assessment" means [~~a fee~~]an assessment:

(i) that is levied and collected each year, as provided in this section; and

(ii) in an amount that is the equivalent of the cumulative real property tax that would be levied and collected on leased property by all taxing entities if the leased property were not exempt property.

(b) "Exempt property" means real property that is exempt from ad valorem property tax because the real property is owned by the state.

(c) "Lease agreement" means an agreement by which a private person leases from the state real property that is part of the point of the mountain state land.

(d)(i) "Leased property" means real property that:

(A) is part of the point of the mountain state land;

(B) is leased by a private person; and

(C) would be subject to ad valorem property tax if the real property were owned by the private person.

(ii) "Leased property" includes attachments and other improvements to the real property that would be included in an assessment of the value of the real property if the real property were not exempt property.

(e) "Leased property value" means the value that leased property would have if the leased property were subject to ad valorem property tax.

(f) "Lessee" means a private person that leases property that is part of the point of the mountain state land under a lease agreement.

(2) Beginning January 1 of the year immediately following the execution of a lease agreement, a lessee under the lease agreement shall pay an annual [~~fee~~]assessment with respect to the leased property that is the subject of the lease agreement.

(3) In a county in which the point of the mountain state land is located:

(a) the county assessor shall determine the leased property value of leased property that is subject to an annual [~~fee~~]assessment as though the leased property were subject to ad valorem property tax;

(b) the county treasurer shall collect an annual [~~fee~~]assessment in the same way and at the same time that the treasurer would collect ad valorem property tax on the leased property if the leased property were subject to ad valorem property tax;

(c) the county may retain an administrative fee for collecting and distributing the annual [~~fee~~]assessment in the same amount that would apply if the leased property were not exempt property; and

(d) the county treasurer shall distribute to the authority all revenue from an annual [~~fee~~]assessment on leased property in the same way and at the same time as the treasurer distributes ad valorem property tax revenue to taxing entities in accordance with Section 59-2-1365.

(4) Leased property is not subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section 4. Section 11-59-306 is amended to read:

11-59-306. Limitations on board members.

(1) As used in this section:

(a) "Designated individual" means an individual:

(i)(A) who is a member of the Senate or House of Representatives;

(B) who has been appointed as a member of the board under Subsection 11-59-302(2)(a) or (b); and

(C) whose legislative district includes some or all of the point of the mountain state land; or

(ii) who is designated to serve as a board member under Subsection 11-59-302(2)(e) or (f).

(b) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

(c) "Family member" means a parent, spouse, sibling, child, or grandchild.

(d)(i) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

[~~(i)~~](A) a legal or equitable interest;

[~~(ii)~~](B) an option on real property;

[~~(iii)~~](C) an interest under a contract;

[~~(iv)~~](D) fee simple ownership;

[~~(v)~~](E) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

[~~(vi)~~](F) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

[~~(vii)~~](G) leasehold interest; and

[~~(viii)~~](H) any other real property interest that is capable of being owned.

(ii) "Interest in real property" does not include:

(A) an interest in a personal residence in which the individual resides or, in the case of an intended future acquisition, intends to reside; or

(B) an interest as a tenant paying market-rate rent in a building that is located on point of the mountain state land.

(2) An individual may not serve as a member of the board if:

(a) subject to Subsection (5) for a designated individual, the individual owns an interest in real property[~~, other than a personal residence in which the individual resides,~~] on or within five miles of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property[~~, other than a personal residence in which the family member resides,~~] located on or within one-half mile of the point of the mountain state land;

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land; or

(d) the individual or a family member of the individual receives or is expected to receive a direct financial benefit.

(3)(a) Before taking office as a board member, an individual shall submit to the authority a statement:

(i) verifying that the individual's service as a board member does not violate Subsection (2); and

(ii) for a designated individual, identifying any interest in real property[~~, other than a personal residence in which the individual resides,~~] located on or within five miles of the point of the mountain state land.

(b) If a designated individual takes action, during the individual's service as a board member, to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property[~~, other than a personal residence in which the individual intends to live,~~] located on or within five miles of the point of the mountain state land, the designated individual shall submit a written statement to the board chair describing the action, the interest in real property that the designated individual intends to acquire, and the location of the real property.

(4) Except for a board member who is a designated individual, a board member is disqualified from further service as a board member if the board member, at any time during the board member's service on the board, takes any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property[~~, other than a personal residence in which the member intends to reside,~~] located on or within five miles of the point of the mountain state land.

(5) A designated individual who submits a written statement under Subsection (3)(a)(ii) or (b) may not serve or continue to serve as a board member unless at least two-thirds of all other board members conclude that the designated individual's service as a board member does not and will not create a material conflict of interest impairing the ability of the designated individual to exercise fair and impartial judgment as a board member and to act in the best interests of the authority.

(6)(a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

Section 5. Section 11-59-601 is enacted to read:

11-59-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds -- Notice.

Part 6. Authority Bonds

(1) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution, as defined in Section 63C-25-101, for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2)(a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing the issuance of the bonds or the trust indenture under which the bonds are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) for the area within the authority's boundaries, as a class A notice under Section 63G-30-102, for at least 30 days; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6)(a)(i) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 30 days after the publication under Subsection (5).

(ii) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person filing a complaint under Subsection (6)(a)(i) shall bring the action in the county in which the person resides if the action is brought in district court.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 6. Section 11-59-602 is enacted to read:

11-59-602. Sources from which bonds may be payable -- Authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the authority derives from or holds in connection with its undertaking and carrying out development of point of the mountain state land;

(d) revenue from an annual assessment under Section 11-59-207;

(e) authority revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the authority; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of authority bonds, the authority may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which authority right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of authority real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure authority bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though the covenants or actions are not specifically enumerated in this chapter.

Section 7. Section 11-59-603 is enacted to read:

11-59-603. Purchase of authority bonds.

(1) Any individual, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an authority under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of authority bonds of any duty to exercise reasonable care in selecting and purchasing securities.

Section 8. Section 11-59-604 is enacted to read:

11-59-604. Those executing bonds not personally liable -- Limitation of obligations under bond -- Negotiability.

(1) A member of the board or other person executing an authority bond is not liable personally on the bond.

(2)(a) A bond issued by the authority is not a general obligation or liability of the state or any political subdivision of the state and does not constitute a charge against the general credit or taxing powers of the state or any political subdivision of the state.

(b) A bond issued by the authority is not payable out of any funds or properties other than those of the authority.

(c) The state and political subdivisions of the state are not and may not be held liable on a bond issued by the authority.

(d) A bond issued by the authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the authority under this part is fully negotiable.

Section 9. Section 11-59-605 is enacted to read:

11-59-605. Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the authority under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an authority and authority board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the authority with or for the benefit of the obligee, and require the authority to carry out the covenants and agreements of the authority and to fulfill all duties imposed on the authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2)(a)(i) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(ii) The rights that the board may confer under Subsection (2)(a)(i) are the rights to:

(A) cause possession of all or part of a development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an authority's development project and of the rents and profits from it; and

(C) require the authority and its board and employees to account as if the authority and the board and employees were the trustees of an express trust.

(b) If a receiver is appointed through the exercise of a right granted under Subsection (2)(a)(ii)(B), the receiver:

(i) may enter and take possession of the development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(ii) shall keep money collected as receiver for the authority in separate accounts and apply it pursuant to the authority obligations as the court directs.

Section 10. Section 11-59-606 is enacted to read:

11-59-606. Bonds exempt from taxes -- Authority may purchase its own bonds.

(1) A bond issued by the authority under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) The authority may purchase the authority's own bonds at a price that the board determines.

(3) Nothing in this section limits the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the authority on its rents, fees, grants, properties, or revenues.

Section 11. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59- 12- 104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59- 12- 104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59- 12- 104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59- 12- 211 through 59- 12- 215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer

software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and

Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16)(a) As used in this Subsection (16):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (16)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land" means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from the

sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (16)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (16)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e)(i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (16)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (16)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (16)(e)(i).

Section 12. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect

and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and

records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue

described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of

2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit

reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16)(a) As used in this Subsection (16):

(i) "Additional land" means point of the mountain state land described in Subsection 11-59-102(6)(b) that the point of the mountain authority acquires after the point of the mountain authority provides the commission a map under Subsection (16)(c).

(ii) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(iii) "Point of the mountain state land"Â means the same as that term is defined in Section 11-59-102.

(b) Notwithstanding Subsection (3)(a), the commission shall distribute to the point of the mountain authority 50% of the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring on the point of the mountain state land.

(c) The distribution under Subsection (16)(b) shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map that:

(i) accurately describes the point of the mountain state land; and

(ii) the point of the mountain authority certifies as accurate.

(d) A distribution under Subsection (16)(b) with respect to additional land shall begin the next calendar quarter that begins at least 90 days after the point of the mountain authority provides the commission a map of point of the mountain state land that:

(i) accurately describes the point of the mountain state land, including the additional land; and

(ii) the point of the mountain authority certifies as accurate.

(e)(i) Upon the payment in full of bonds secured by the sales and use tax revenue distributed to the point of the mountain authority under Subsection (16)(b), the point of the mountain authority shall immediately notify the commission in writing that the bonds are paid in full.

(ii) The commission shall discontinue distributions of sales and use tax revenue under Subsection (16)(b) at the beginning of the calendar quarter that begins at least 90 days after the date that the commission receives the written notice under Subsection (16)(e)(i).

Section 13. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 59-12-103 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

CHAPTER 208
S. B. 200
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

STATE COMMISSION ON CRIMINAL AND JUVENILE JUSTICE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions regarding the State Commission on Criminal and Juvenile Justice.

Highlighted Provisions:

This bill:

- adjusts the number of members on:
  - the State Commission on Criminal and Juvenile Justice; and
  - the sentencing commission;
- amends the duties of the Sentencing Commission;
- requires the Legislature to approve the sentencing and supervision length guidelines and the juvenile disposition guidelines developed by the State Commission on Criminal and Juvenile Justice; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

36-29-108, as last amended by Laws of Utah 2023, Chapter 112
63M-7-102, as enacted by Laws of Utah 2023, Chapter 177
63M-7-202, as last amended by Laws of Utah 2023, Chapter 150
63M-7-204, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500
63M-7-402, as last amended by Laws of Utah 2020, Chapter 154
63M-7-405, as last amended by Laws of Utah 2022, Chapter 274
63M-7-406, as renumbered and amended by Laws of Utah 2008, Chapter 382
64-13-6, as last amended by Laws of Utah 2023, Chapter 177
64-13-14.5, as last amended by Laws of Utah 2015, Chapter 412
64-13-21, as last amended by Laws of Utah 2022, Chapter 187
64-13g-102, as last amended by Laws of Utah 2023, Chapter 177
76-3-202, as last amended by Laws of Utah 2022, Chapter 181
76-5-102.1, as last amended by Laws of Utah 2023, Chapters 111, 415
76-5-207, as last amended by Laws of Utah 2023, Chapter 415
77-2a-2, as last amended by Laws of Utah 2020, Chapter 281
77-18-105, as last amended by Laws of Utah 2023, Chapters 111, 257
77-18-108, as last amended by Laws of Utah 2023, Chapter 113
77-27-5, as last amended by Laws of Utah 2023, Chapters 151, 173
77-27-10, as last amended by Laws of Utah 2022, Chapter 430
77-27-11, as last amended by Laws of Utah 2022, Chapter 115
77-27-32, as enacted by Laws of Utah 2023, Chapter 151
80-6-307, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-607, as renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

63M-7-101.5, Utah Code Annotated 1953
63M-7-401.1, Utah Code Annotated 1953
63M-7-402.5, Utah Code Annotated 1953
63M-7-404.1, Utah Code Annotated 1953
63M-7-404.3, Utah Code Annotated 1953
63M-7-404.5, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63M-7-401, (Renumbered from 63M-7-401, as last amended by Laws of Utah 2021, Chapter 173)

REPEALS:

63M-7-403, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-7-404, as last amended by Laws of Utah 2023, Chapter 111

Sections affected by Coordination Clause:

63M-7-202, as last amended by Laws of Utah 2023, Chapter 15034

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

Section 1. Section 36-29-108 is amended to read:

36-29-108. Criminal Code Evaluation Task Force.

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director of the [~~Utah~~] Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the Department of Corrections or the executive director's designee;

(h) the commissioner of the Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4)(a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5)(a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and related statutes and make recommendations regarding:

(a) the proper classification of crimes by degrees of felony and misdemeanor;

(b) standardizing the format of criminal statutes; and

(c) other modifications related to the criminal code and related statutes.

(8) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed July 1, 2028.

Section 2. Section 63M-7-101.5 is enacted to read:

63M-7-101.5. Definitions for chapter.

As used in this chapter:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Desistance" means an individual's abstinence from further criminal activity after a previous criminal conviction.

(3) "Intervention" means a program, sanction, supervision, or event that may impact recidivism.

(4) "Recidivism" means a return to criminal activity after a previous criminal conviction.

(5) "Recidivism standard metric" means the number of individuals who are returned to prison for a new conviction within the three years after the day on which the individuals were released from prison.

Section 3. Section 63M-7-102 is amended to read:

63M-7-102. Recidivism metrics -- Reporting.

[~~(1) For purposes of this chapter:~~]

[~~(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.~~]

[~~(b) "Desistance" means an individual's abstinence from further criminal activity after a previous criminal conviction.~~]

[~~(c) "Intervention" means a program, sanction, supervision, or event that may impact recidivism.~~]

[~~(d) "Recidivism" means a return to criminal activity after a previous criminal conviction.~~]

[~~(e) "Recidivism standard metric" means the number of individuals who are returned to prison for a new conviction within the three years after the day on which the individuals were released from prison.~~]

[~~(2)~~](1)(a) The commission, the Department of Corrections, and the Board of Pardons and Parole, when reporting data on statewide recidivism, shall include data reflecting the recidivism standard metric.

(b)(i) On or before August 1, 2024, the commission shall reevaluate the recidivism standard metric to determine whether new data streams allow for a broader definition, which may include criminal convictions that do not include prison time.

(ii) On or before November 1, 2024, the commission shall report to the Law Enforcement and Criminal Justice Interim Committee:

(A) the result of the reevaluation described in Subsection [~~(2)(b)(i)~~](1)(b)(i); and

(B) other recommendations regarding standardized recidivism metrics.

[~~(3)~~](2) A report on statewide criminal recidivism may also include other information reflecting available recidivism, intervention, or desistance data.

[~~(4)~~](3) A criminal justice institution, agency, or entity required to report adult recidivism data to the commission:

(a) shall include:

(i) a clear description of the eligible individuals, including:

(A) the criminal population being evaluated for recidivism; and

(B) the interventions that are being evaluated;

(ii) a clear description of the beginning and end of the evaluation period; and

(iii) a clear description of the events that are considered as a recidivism-triggering event; and

(b) may include supplementary data including:

(i) the length of time that elapsed before a recidivism-triggering event described in Subsection [~~(4)(a)(iii)~~](3)(a)(iii) occurred;

(ii) the severity of a recidivism-triggering event described in Subsection [~~(4)(a)(iii)~~](3)(a)(iii);

(iii) measures of personal well-being, education, employment, housing, health, family or social support, civic or community engagement, or legal involvement; or

(iv) other desistance metrics that may capture an individual's behavior following the individual's release from an intervention.

[~~(5)~~](4) Unless otherwise specified in statute:

(a) the evaluation period described in Subsection [~~(4)(a)(ii)~~](3)(a)(ii) is three years; and

(b) a recidivism-triggering event under Subsection [~~(4)(a)(iii)~~](3)(a)(iii) shall include:

(i) an arrest;

(ii) an admission to prison;

(iii) a criminal charge; or

(iv) a criminal conviction.

Section 4. Section 63M-7-202 is amended to read:

63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

(1) The State Commission on Criminal and Juvenile Justice is composed of [~~26~~]17 voting members as follows:

[~~(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;~~]

[~~(b)~~](a) the state court administrator or the state court administrator's designee;

[~~(c)~~](b) the executive director of the Department of Corrections or the executive director's designee;

[~~(d)~~](c) the executive director of the Department of Health and Human Services or the executive director's designee;

[~~(e)~~](d) the commissioner of the Department of Public Safety or the commissioner's designee;

[~~(f)~~](e) the attorney general or an attorney designated by the attorney general;

[~~(g)~~](f) the president of the chiefs of police association or a chief of police designated by the association's president;

[~~(h)~~](g) the president of the sheriffs' association or a sheriff designated by the association's president;

[~~(i)~~](h) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

[~~(j)~~](i) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

[~~(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;~~]

[~~(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;~~]

(j) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile Justice Oversight Committee designated by the chair;

[~~(m)~~](k) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;

[~~(n) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;~~]

[~~(o) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;~~]

[~~(p)~~](l) [~~the chair of the~~]an indigent defense attorney, appointed by the Utah Indigent Defense Commission[~~, or a member of the Indigent Defense Commission designated by the chair~~];

[~~(q) the Salt Lake County District Attorney or an attorney designated by the district attorney; and~~]

[~~(r) the following members designated to serve four-year terms:~~]

[~~(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;~~]

[~~(ii) a representative of the statewide association of public attorneys designated by the association's officers;~~]

[~~(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and~~]

[~~(iv) one member of the Senate who is appointed by the president of the Senate.~~]

(m) a criminal prosecutor, appointed by the Statewide Association of Public Attorneys and Prosecutors;

(n) a criminal defense attorney, appointed by the Utah Association of Criminal Defense Lawyers;

(o) the executive director of the commission;

(p) an education professional, appointed by the State Board of Education; and

(q) the director of the Division of Juvenile Justice and Youth Services or the director's designee.

[~~(2) The governor shall appoint the remaining five members to four- year staggered terms as follows:~~]

[~~(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;~~]

[~~(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;~~]

[~~(c) one representative of public education;~~]

[~~(d) one citizen representative; and~~]

[~~(e) a representative from a local faith who has experience with the criminal justice system.~~]

[~~(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.~~]

[~~(4)~~](2) In addition to the members designated in Subsection (1), the following may serve as non- voting members:

(a) a district court judge appointed by the Judicial Council; and

(b) a juvenile court judge appointed by the Judicial Council.

(3) In appointing the members under [~~Subsection (2)~~]Subsections (1) and (2), the [~~governor~~] appointing authority shall take into account the geographical makeup of the commission.

Section 5. Section 63M- 7- 204 is amended to read:

63M- 7- 204. Duties of commission.

(1) The [~~State Commission on Criminal and Juvenile Justice administration~~]commission shall:

(a) promote the commission's purposes as enumerated in Section 63M- 7- 201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[~~; and~~];

(z) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-23-101;

(ii) Section 53-24-102; and

(iii) Section 53-26-101; and

(aa) accept public comment.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

(3) In fulfilling the commission's duties under Subsection (1), the commission may seek input and request assistance from groups with knowledge and expertise in criminal justice, including other boards and commissions affiliated or housed within the commission.

Section 6. Section 63M-7-401.1 is enacted to read:

63M-7-401.1. Definitions for part.

As used in this part:

(1) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an offense under Section 80-6-701.

(2) "Adult sentencing and supervision length guidelines" means the guidelines established in Section 63M-7-404.3.

(3) "Civil disability" means a legal right or privilege that is revoked as a result of the individual's conviction or adjudication.

(4) "Collateral consequence" means:

(a) a discretionary disqualification; or

(b) a mandatory sanction.

(5) "Conviction" means the same as that term is defined in Section 77-38b-102.

(6) "Disadvantage" means any legal or regulatory restriction that:

(a) is imposed on an individual as a result of the individual's conviction or adjudication; and

(b) is not a civil disability or a legal penalty.

(7) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage that a court in a civil proceeding, or a federal, state, or local government agency or official, may impose on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

(8) "Juvenile" means a minor as that term is defined in Section 80-1-102.

(9) "Juvenile disposition guidelines" means the guidelines established in Section 63M-7-404.5.

(10) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

(a) is imposed on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and

(b) is not included in the judgment for the adjudication or conviction.

(11) "Master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.

(12) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the laws of this state, another state, or the United States.

(13) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the individual for the individual's conviction or adjudication.

(14) "Sentencing commission" means the sentencing commission created in Section 63M-7-401.2.

Section 7. Section 63M-7-401.2, which is renumbered from Section 63M-7-401 is renumbered and amended to read:

~~63M-7-401.~~ 63M-7-401.2. Creation -- Members -- Appointment -- Qualifications.

(1) There is created [~~a state commission to be known as the Sentencing Commission~~]the sentencing commission, within the commission, that is composed of [~~28~~]15 voting members.

(2) The [~~commission shall~~]sentencing commission shall:

(a) develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~, and elect its~~]; and

(b) elect the sentencing commission's officers.

[~~(2)~~](3) The sentencing commission's members shall be:

[~~(a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;~~]

[~~(b) two members of the Senate, appointed by the president of the Senate and not of the same political party;~~]

[~~(c)~~](a) the executive director of the Department of Corrections or [~~a designee appointed by the executive director~~]the executive director's designee;

[~~(d)~~](b) the director of the Division of Juvenile Justice and Youth Services or [~~a designee appointed by the director~~]the director's designee;

[~~(e)~~](c) the executive director of the [~~Commission on Criminal and Juvenile Justice or a designee appointed by the executive director~~]commission or the executive director's designee;

[~~(f)~~](d) the chair of the Board of Pardons and Parole or [~~a designee appointed by the chair~~]the chair's designee;

[~~(g) the chair of the Youth Parole Authority or a designee appointed by the chair;~~]

[~~(h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;~~]

[~~(i) two juvenile court judges designated by the chair of the Judicial Council;~~]

[~~(j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;~~]

[~~(k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;~~]

[~~(l) the director of Salt Lake Legal Defenders or a designee appointed by the director;~~]

[~~(m)~~](e) the state court administrator or the state court administrator's designee;

(f) a criminal defense attorney, appointed by the Utah Association of Criminal Defense Lawyers;

(g) an indigent defense attorney, appointed by the Indigent Defense Commission;

(h) the attorney general or [~~a designee appointed by the attorney general~~]the attorney general's designee;

[~~(n)~~](i) a criminal prosecutor, appointed by the Statewide Association of Public Attorneys and Prosecutors;

[~~(o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;~~]

[~~(p)~~](j) a representative of the Utah Sheriff's Association appointed by the governor;

[~~(q) a chief of police appointed by the governor;~~]

[~~(r)~~](k) a licensed professional, appointed by the governor, who assists in the rehabilitation of [~~adult offenders~~]individuals convicted of an offense;

[~~(s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;~~]

[~~(t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population;~~]

[~~(u) one member from the public at large appointed by the governor; and~~]

[~~(v) a representative of an organization that specializes in civil rights or civil liberties on behalf~~

~~of incarcerated individuals appointed by the governor.~~]

(l) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;

(m) the chair of the Juvenile Justice Oversight Committee or a member of the Juvenile Justice Oversight Committee designated by the chair;

(n) a juvenile prosecuting attorney, appointed by the Statewide Association of Public Attorneys and Prosecutors; and

(o) a juvenile defense attorney, appointed by the Utah Association of Criminal Defense Lawyers.

(4) In addition to the members described in Subsection (3), the following may serve as non-voting members:

(a) a district court judge appointed by the Judicial Council; and

(b) a juvenile court judge appointed by the Judicial Council.

(5) The executive director of the commission shall hire a director of the sentencing commission to administer and manage the sentencing commission.

Section 8. Section 63M-7-402 is amended to read:

63M-7-402. Terms of members -- Reappointment -- Vacancy.

(1)(a) Except as required by Subsection (1)(b), [~~as terms of current commission members expire,~~] the appointing authority shall appoint each new member or reappointed member to a four-year term as the terms of members of the sentencing commission expire.

(b) [~~Notwithstanding the requirements of Subsection (1)(a), the~~]The appointing authority shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of [~~commission members~~]members of the sentencing commission are staggered so that approximately half of the sentencing commission is appointed every two years.

(2) If a member of the sentencing commission no longer holds a qualifying position, resigns, or is unable to serve, the appointing authority shall fill the vacancy.

[~~(2)~~](3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

Section 9. Section 63M-7-402.5 is enacted to read:

63M-7-402.5. Compensation of members.

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

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

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

Section 10. Section 63M-7-404.1 is enacted to read:

63M-7-404.1. Duties of the sentencing commission.

(1) The sentencing commission shall establish and maintain:

(a) the adult sentencing and supervision length guidelines described in Section 63M-7-404.3;

(b) the juvenile disposition guidelines described in Section 63M-7-404.5;

(c) a master offense list described in Section 63M-7-405; and

(d) a collateral consequences guide described in Section 63M-7-405.

(2) The sentencing commission may make recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the adult sentencing and supervision length guidelines described in Section 63M-7-404.3;

(b) the juvenile disposition guidelines described in Section 63M-7-404.5;

(c) a master offense list described in Section 63M-7-405; and

(d) a collateral consequences guide described in Section 63M-7-405.

(3) The sentencing commission shall use existing data and resources from state criminal justice agencies in carrying out the duties of the sentencing commission.

(4) The sentencing commission shall:

(a) provide training and recommendations regarding the adult sentencing and supervision length guidelines, the juvenile disposition guidelines, and other documents maintained by the sentencing commission to the three branches of government, in coordination with the commission; and

(b) assist and respond to questions from all three branches of government.

(5)(a) The sentencing commission may provide analysis and recommendations to the commission regarding proposed legislation or other policy changes that may impact sentencing, release, or supervision of individuals convicted of crimes.

(b) The sentencing commission may not take public positions on proposed legislation or other proposed policy changes by the Legislature.

(6) The sentencing commission may employ professional assistance and other staff members

that the sentencing commission considers necessary to comply with this part.

(7) The sentencing commission shall coordinate with the commission on criminal and juvenile justice issues, budget, and administrative support.

Section 11. Section 63M-7-404.3 is enacted to read:

63M-7-404.3. Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

Section 12. Section 63M-7-404.5 is enacted to read:

63M-7-404.5. Juvenile disposition guidelines.

(1) The sentencing commission shall establish and maintain juvenile disposition guidelines that:

(a) respond to public comment;

(b) relate dispositional practices and rehabilitative resources;

(c) increase equity in disposition orders;

(d) better define responsibility for disposition orders; and

(e) enhance the discretion of the juvenile court while preserving the role of the Youth Parole Authority.

(2) The juvenile disposition guidelines shall address how to appropriately respond to negative and positive behavior of juveniles who are:

(a) nonjudicially adjusted;

(b) placed on diversion;

(c) placed on probation;

(d) placed on community supervision;

(e) placed in an out-of-home placement; or

(f) placed in a secure care facility.

(3) The juvenile disposition guidelines shall include:

(a) other sanctions and incentives including:

(i) recommended responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) recommended responses that target the juvenile's criminogenic risk and needs; and

(iv) recommended incentives for compliance, including earned discharge credits;

(b) a recommendation that, when a juvenile court interacts with a juvenile described in Subsection (2), the juvenile court shall consider:

(i) the seriousness of the negative and positive behavior of the juvenile;

(ii) the juvenile's conduct postadjudication; and

(iii) the juvenile's delinquency history; and

(c) appropriate sanctions for a juvenile who commits sexual exploitation of a minor as described in Section 76-5b-201, or aggravated sexual exploitation of a minor as described in Section 76-5b-201.1, including the application of aggravating and mitigating factors specific to the offense.

Section 13. Section 63M-7-405 is amended to read:

63M-7-405. Master offense list -- Collateral consequences guide.

[~~(1)(a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:~~]

[~~(i) Section 63A-3-106;~~]

[~~(ii) Section 63A-3-107; and~~]

[~~(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.~~]

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

[~~(2)(a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.~~]

[~~(b) The commission shall use existing data and resources from state criminal justice agencies.~~]

[~~(c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.~~]

[~~(3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.~~]

[~~(4)~~](1)[~~(a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.~~]

[~~(b)~~](a) [~~No later than May 1, 2017, the~~]The sentencing commission shall create a master offense list.

[~~(c)~~](b) [~~No later than June 30 of each calendar~~]On or before June 30 of each year, the sentencing commission shall:

(i) after the last day of the general legislative session, update the master offense list; and

(ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.

[~~(5) As used in Subsection (6):~~]

[~~(a) "Adjudication" means an adjudication, as that term is defined in Section 80-1-102, of an offense under Section 80-6-701.~~]

[~~(b) "Civil disability" means a legal right or privilege that is revoked as a result of the individual's conviction or adjudication.~~]

[~~(c) "Collateral consequence" means:~~]

[~~(i) a discretionary disqualification; or~~]

[~~(ii) a mandatory sanction.~~]

[~~(d) "Conviction" means the same as that term is defined in Section 77-38b-102.~~]

[~~(e) "Disadvantage" means any legal or regulatory restriction that:~~]

[~~(i) is imposed on an individual as a result of the individual's conviction or adjudication; and~~]

[~~(ii) is not a civil disability or a legal penalty.~~]

[~~(f) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage that a court in a civil proceeding, or a federal, state, or local government agency or official, may impose on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.~~]

[~~(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:~~]

[~~(i) is imposed on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and~~]

[~~(ii) is not included in the judgment for the adjudication or conviction.~~]

[~~(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the laws of this state, another state, or the United States.~~]

[~~(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the individual for the individual's conviction or adjudication.~~]

[~~(6)~~](2)(a) The sentencing commission shall:

(i) identify any provision of state law, including the Utah Constitution, and any administrative rule that imposes a collateral consequence;

(ii) prepare and compile a guide that contains all the provisions identified in Subsection [~~(6)(a)(i) on or before October 1, 2022~~](2)(a)(i); and

(iii) update the guide described in Subsection [~~(6)(a)(ii)~~](2)(a)(ii) annually.

(b) The sentencing commission shall state in the guide described in Subsection [~~(6)(a)~~](2)(a) that:

(i) the guide has not been enacted into law;

(ii) the guide does not have the force of law;

(iii) the guide is for informational purposes only;

(iv) an error or omission in the guide, or in any reference in the guide:

(A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition; and

(B) does not prevent a collateral consequence from being imposed;

(v) any laws or regulations for a county, a municipality, another state, or the United States, imposing a collateral consequence are not included in the guide; and

(vi) the guide does not include any provision of state law or any administrative rule imposing a collateral consequence that is enacted on or after March 31 of each year.

(c) The sentencing commission shall:

(i) place the statements described in Subsection [~~(6)(b)~~](2)(b) in a prominent place at the beginning of the guide; and

(ii) make the guide available to the public on the sentencing commission's website.

(d) The sentencing commission shall:

(i) present the updated guide described in Subsection [~~(6)(a)(iii)~~](2)(a)(iii) annually to the Law Enforcement and Criminal Justice Interim Committee; and

(ii) identify and recommend legislation on collateral consequences to the Law Enforcement and Criminal Justice Interim Committee.

Section 14. Section 63M-7-406 is amended to read:

63M-7-406. Reports -- Legislative approval -- Publication of reports.

(1)(a) On or before October 31 of each year, the commission shall submit the sentencing and supervision length guidelines and juvenile disposition guidelines created in accordance with Sections 63M-7-404.3 and 63M-7-404.5 to the Law Enforcement and Criminal Justice Interim Committee and the Judiciary Interim Committee for review, including any legislative recommendations.

(b) Beginning January 1, 2025, the Legislature shall annually authorize, by passing a concurrent resolution, the sentencing and supervision length guidelines and the juvenile disposition guidelines submitted in accordance with Subsection (1)(a).

(c) The existing sentencing and supervision length guidelines and juvenile disposition guidelines that were approved in accordance with Subsection (1)(b) shall remain in effect until the day on which the Legislature reauthorizes the sentencing and supervision length guidelines and juvenile disposition guidelines as described in Subsection (1)(b).

(2) The sentencing commission shall also be authorized to prepare, publish, and distribute from time to time reports of [~~its~~] studies, recommendations, and statements from the sentencing commission.

Section 15. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i)(A) if an offender is to be supervised in the community, the department shall establish a case action plan for the offender no later than 60 days after the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan for the offender no later than 90

days after the day on which the offender is committed to the custody of the department;

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change;

(n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(o) when reporting on statewide recidivism, include the metrics and requirements described in Section 63M-7-102.

(2) The department may in the course of supervising probationers and parolees:

(a) respond [~~in accordance with the graduated and evidence-based processes established by the Utah Sentencing Commission under Subsection 63M-7-404(6),~~] to an individual's violation of one or more terms of the probation or parolein accordance with the graduated and evidence-based processes established by the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3)(a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5)(a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

(6)(a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c)(i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing

court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 16. Section 64-13-14.5 is amended to read:

64-13-14.5. Limits of confinement place -- Release status -- Work release.

(1) The department may extend the limits of the place of confinement of an inmate when, as established by department policies and procedures, there is cause to believe the inmate will honor the trust, by authorizing the inmate under prescribed conditions:

(a) to leave temporarily for purposes specified by department policies and procedures to visit specifically designated places for a period not to exceed 30 days;

(b) to participate in a voluntary training program in the community while housed at a correctional facility or to work at paid employment;

(c) to be housed in a nonsecure community correctional center operated by the department; or

(d) to be housed in any other facility under contract with the department.

(2)(a) The department shall establish rules governing offenders on release status.

(b) A copy of the rules established under Subsection (2)(a) shall be furnished to the offender and to any employer or other person participating in the offender's release program.

(c) Any employer or other participating person shall agree in writing to abide by the rules established under Subsection (2)(a) and to notify the department of the offender's discharge or other release from a release program activity, or of any violation of the rules governing release status.

(3) The willful failure of an inmate to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the department is an escape from custody.

(4) If an offender is arrested for the commission of a crime, the arresting authority shall immediately notify the department of the arrest.

(5) The department may impose appropriate sanctions pursuant to Section 64-13-21 upon offenders who violate [~~guidelines established by the Utah Sentencing Commission~~]the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, including prosecution for escape under Section 76-8-309 and for unauthorized absence.

(6) An inmate who is housed at a nonsecure correctional facility and on work release may not be required to work for less than the current federally established minimum wage, or under substandard working conditions.

Section 17. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1)(a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with [~~sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission~~]the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, giving priority, based on available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established [~~by the Utah Sentencing Commission~~]in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established [~~by the Utah Sentencing Commission~~]in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4)(a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost

savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6)(a)(i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7)(a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 18. Section 64-13g-102 is amended to read:

64-13g-102. Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) the recidivism percentage, using applicable recidivism metrics described in Subsections [~~63M-7-102(2) and (4)~~]63M-7-102(1) and (3);

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d)(i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by $2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by $2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

(a) 15% of the payment may be used by the department for expenses related to administering the program; and

(b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:

(i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;

(ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;

(iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;

(iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;

(v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training; or

(vi) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9)(a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 19. Section 76-3-202 is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) [~~Every~~]As described in Subsection 77-27-5(7), every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the

individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the [~~supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5(7),~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(2)(a) Except as provided in Subsection (2)(b), [~~every~~]an individual committed to the state prison to serve an indeterminate term and released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section 64-13-21.

(b) [~~Every~~]An individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of [~~any~~]a felony offense under Chapter 5, Offenses Against the Individual, or [~~any~~]an attempt, conspiracy, or solicitation to commit [~~any of these felony offenses~~]the offense, shall complete a term of parole that extends through the expiration of the individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

(3) [~~Every~~]An individual convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse; Section 76-5-404.1, sexual abuse of a child; or Section 76-5-404.3, aggravated sexual abuse of a child; or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the individual is earlier terminated by the Board of Pardons and Parole.

(4) An individual who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.

(5) An individual paroled following a former parole revocation may not be discharged from the individual's sentence until:

(a) the individual has served the applicable period of parole under this section outside of confinement;

(b) the individual's maximum sentence has expired; or

(c) the Board of Pardons and Parole orders the individual to be discharged from the sentence.

(6)(a) All time served on parole, outside of confinement and without violation, constitutes service toward the total sentence.

(b) Any time an individual spends outside of confinement after commission of a parole violation does not constitute service toward the total sentence unless the individual is exonerated at a parole revocation hearing.

(c)(i) Any time an individual spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service toward the total sentence.

(ii) In the case of exoneration by the board, the time spent is included in computing the total parole term.

(7) When a parolee causes the parolee's absence from the state without authority from the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.

(8)(a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.

(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.

(9) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.

(10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole.

Section 20. Section 76-5-102.1 is amended to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Drug" means the same as that term is defined in Section 76-5-207.

(iii) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

(iv) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a)(i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii)(A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the

actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b)(i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

(a)(i) a class A misdemeanor; or

(ii) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5)(a) A judge imposing a sentence under this section may consider:

(i) the [~~sentencing guidelines developed in accordance with Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 21. Section 76-5-207 is amended to read:

76-5-207. Negligently operating a vehicle resulting in death -- Penalties -- Evidence.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(iii) "Drug" means:

(A) a controlled substance;

(B) a drug as defined in Section 58-37-2; or

(C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in death if the actor:

(a)(i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual;

(ii)(A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b)(i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5)(a) A judge imposing a sentence under this section may consider:

(i) the [~~sentencing guidelines developed in accordance with Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 22. Section 77-2a-2 is amended to read:

77-2a-2. Plea in abeyance agreement -- Negotiation -- Contents -- Terms of agreement -- Waiver of time for sentencing.

(1) At any time after acceptance of a plea of guilty or no contest but before entry of judgment of conviction and imposition of sentence, the court may, upon motion of both the prosecuting attorney and the defendant, hold the plea in abeyance and not enter judgment of conviction against the defendant nor impose sentence upon the defendant within the time periods contained in Rule 22(a), Utah Rules of Criminal Procedure.

(2) A defendant shall be represented by counsel during negotiations for a plea in abeyance and at the time of acknowledgment and affirmation of any plea in abeyance agreement unless the defendant knowingly and intelligently waives the defendant's right to counsel.

(3) A defendant has the right to be represented by counsel at any court hearing relating to a plea in abeyance agreement.

(4)(a) Any plea in abeyance agreement entered into between the prosecution and the defendant and approved by the court shall include a full, detailed recitation of the requirements and conditions agreed to by the defendant and the reason for requesting the court to hold the plea in abeyance.

(b) If the plea is to a felony or any combination of misdemeanors and felonies, the agreement shall be in writing and shall, before acceptance by the court, be executed by the prosecuting attorney, the defendant, and the defendant's counsel in the presence of the court.

(5)(a) Except as provided in Subsection (5)(b), a plea may not be held in abeyance for a period longer than 18 months if the plea is to any class of misdemeanor or longer than three years if the plea is to any degree of felony or to any combination of misdemeanors and felonies.

(b)(i) For a plea in abeyance agreement that [~~Adult Probation and Parole~~]the Department of Corrections supervises, the plea may not be held in abeyance for a period longer than the initial term of probation required under the [~~supervision length guidelines described in Section 63M-7-404~~]adult sentencing and supervision length guidelines, as

defined in Section 63M-7-401.1, if the initial term of probation is shorter than the period required under Subsection (5)(a).

(ii) Subsection (5)(b)(i) does not:

(A) apply to a plea that is held in abeyance in a drug court created under Title 78A, Chapter 5, Part 2, Drug Court, or a problem solving court approved by the Judicial Council; or

(B) prohibit court supervision of a plea in abeyance agreement after the day on which the [~~Adult Probation and Parole~~]Department of Corrections supervision described in Subsection (5)(b)(i) ends and before the day on which the plea in abeyance agreement ends.

(6) Notwithstanding Subsection (5), a plea may be held in abeyance for up to two years if the plea is to any class of misdemeanor and the plea in abeyance agreement includes a condition that the defendant participate in a problem solving court approved by the Judicial Council.

(7) A plea in abeyance agreement may not be approved unless the defendant, before the court, and any written agreement, knowingly and intelligently waives time for sentencing as designated in Rule 22(a), Utah Rules of Criminal Procedure.

Section 23. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department;

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3)(a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4)(a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(c) If a court orders supervised probation and determines that a public probation provider is unavailable or inappropriate to supervise the defendant, the court shall make available to the defendant the list of private probation providers prepared by a criminal justice coordinating council under Section 17-55-201.

(5)(a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b)(i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6)(a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-3-410;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b)(i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7)(a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the [~~supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the [~~supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8)(a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d)(i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section 24. Section 77-18-108 is amended to read:

77-18-108. Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

(1)(a) The department shall send a written notice to the court:

(i) when the department is recommending termination of supervision for a defendant; or

(ii) before a defendant's supervision will be terminated by law.

(b) The written notice under this Subsection (1) shall include:

(i) a probation progress report; and

(ii) if the department is responsible for the collection of the defendant's criminal accounts receivable, a summary of the criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(c)(i) Upon receipt of the written notice under Subsection (1)(a), the court shall:

(A) file the written notice on the docket; and

(B) provide notice to all parties in the criminal case.

(ii) A party shall have a reasonable opportunity to respond to the written notice under Subsection (1)(a).

(d) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall send a written notice to the Office of State Debt Collection with a summary of the defendant's criminal accounts receivable, including the amount of restitution ordered and the amount of restitution that has been paid.

(2)(a) The court may modify the defendant's probation in accordance with the [~~supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(b) The court may not:

(i) extend the length of a defendant's probation, except upon:

(A) waiver of a hearing by the defendant; or

(B) a hearing and a finding by the court that the defendant has violated the terms of probation;

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

(iii) terminate a defendant's probation before expiration of the probation period until the court:

(A) reviews the docket to determine whether the defendant owes a balance on the defendant's criminal accounts receivable; and

(B) enters a finding of whether the defendant owes restitution under Section 77-38b-205.

(c) The court may find under Subsection (2)(b)(iii)(B) that the defendant does not owe restitution if no request for restitution has been filed with the court.

(3)(a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.

(b)(i) If the court determines there is probable cause, the court shall order that the defendant be served with:

(A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and

(B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.

(ii) The order under Subsection (3)(b)(i)(B) shall:

(A) be served upon the defendant at least five days before the day on which the hearing is held;

(B) specify the time and place of the hearing; and

(C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant is indigent, and the right to present evidence at the hearing.

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d)(i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g)(i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(4)(a)(i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.

(b) If the court orders a sanction for a defendant who violated terms of probation, the court may:

(i) order a period of incarceration that is consistent with the [~~guidelines established by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4)~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1;

(ii) order a period of incarceration that deviates from the guidelines with an explanation for the deviation on the record;

(iii) order treatment services that are immediately available in the community for a defendant that needs substance abuse or mental health treatment, as determined by a screening and assessment;

(iv) execute the sentence previously imposed; or

(v) order any other appropriate sanction.

(c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.

(5)(a) Any time served by a defendant:

(i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the [~~guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.

(b) The running of the probation period is tolled upon:

(i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or

(ii) the issuance of an order or a warrant under Subsection (3).

Section 25. Section 77-27-5 is amended to read:

77-27-5. Board of Pardons and Parole authority.

(1)(a) Subject to this chapter and other laws of the state, and except for a conviction for treason or impeachment, the board shall determine by majority decision when and under what conditions an offender's conviction may be pardoned or commuted.

(b) The Board of Pardons and Parole shall determine by majority decision when and under what conditions an offender committed to serve a sentence at a penal or correctional facility, which is under the jurisdiction of the department, may:

(i) be released upon parole;

(ii) have a fine or forfeiture remitted;

(iii) have the offender's criminal accounts receivable remitted in accordance with Section 77-32b-105 or 77-32b-106;

(iv) have the offender's payment schedule modified in accordance with Section 77-32b-103; or

(v) have the offender's sentence terminated.

(c) The board shall prioritize public safety when making a determination under Subsection (1)(a) or (1)(b).

(d)(i) The board may sit together or in panels to conduct hearings.

(ii) The chair shall appoint members to the panels in any combination and in accordance with rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the board.

(iii) The chair may participate on any panel and when doing so is chair of the panel.

(iv) The chair of the board may designate the chair for any other panel.

(e)(i) Except after a hearing before the board, or the board's appointed examiner, in an open session, the board may not:

(A) remit a fine or forfeiture for an offender or the offender's criminal accounts receivable;

(B) release the offender on parole; or

(C) commute, pardon, or terminate an offender's sentence.

(ii) An action taken under this Subsection (1) other than by a majority of the board shall be affirmed by a majority of the board.

(f) A commutation or pardon may be granted only after a full hearing before the board.

(2)(a) In the case of any hearings, timely prior notice of the time and location of the hearing shall be given to the offender.

(b) The county or district attorney's office responsible for prosecution of the case, the sentencing court, and law enforcement officials responsible for the defendant's arrest and conviction shall be notified of any board hearings through the board's website.

(c) Whenever possible, the victim or the victim's representative, if designated, shall be notified of original hearings and any hearing after that if notification is requested and current contact information has been provided to the board.

(d)(i) Notice to the victim or the victim's representative shall include information provided in Section 77-27-9.5, and any related rules made by the board under that section.

(ii) The information under Subsection (2)(d)(i) shall be provided in terms that are reasonable for the lay person to understand.

(3)(a) A decision by the board is final and not subject for judicial review if the decision is regarding:

(i) a pardon, parole, commutation, or termination of an offender's sentence;

(ii) the modification of an offender's payment schedule for restitution; or

(iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.

(b) Deliberative processes are not public and the board is exempt from Title 52, Chapter 4, Open and Public Meetings Act, when the board is engaged in the board's deliberative process.

(c) Pursuant to Subsection 63G-2-103(25)(b)(xi), records of the deliberative process are exempt from Title 63G, Chapter 2, Government Records Access and Management Act.

(d) Unless it will interfere with a constitutional right, deliberative processes are not subject to disclosure, including discovery.

(e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.

(4)(a) This chapter may not be construed as a denial of or limitation of the governor's power to grant respite or reprieves in all cases of convictions for offenses against the state, except treason or conviction on impeachment.

(b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the next session of the Board of Pardons and Parole.

(c) At the next session of the board, the board:

(i) shall continue or terminate the respite or reprieve; or

(ii) may commute the punishment or pardon the offense as provided.

(d) In the case of conviction for treason, the governor may suspend execution of the sentence until the case is reported to the Legislature at the Legislature's next session.

(e) The Legislature shall pardon or commute the sentence or direct the sentence's execution.

(5)(a) In determining when, where, and under what conditions an offender serving a sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the offender's criminal accounts receivable remitted, or have the offender's sentence commuted or terminated, the board shall:

(i) consider whether the offender has made restitution ordered by the court under Section 77-38b-205, or is prepared to pay restitution as a condition of any parole, pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a commutation or termination of the offender's sentence;

(ii) except as provided in Subsection (5)(b), develop and use a list of criteria for making determinations under this Subsection (5);

(iii) consider information provided by the Department of Corrections regarding an offender's individual case action plan; and

(iv) review an offender's status within 60 days after the day on which the board receives notice from the Department of Corrections that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.

(b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.

(6) In determining whether parole may be terminated, the board shall consider:

(a) the offense committed by the parolee; and

(b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.

(7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the [~~supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.

Section 26. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1)(a) When the Board of Pardons and Parole releases an offender on parole, it shall, in

accordance with Section 64-13-21, issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a condition of parole established [~~by the Sentencing Commission in accordance with Section 64-13-21~~]in the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii)(A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c)(i) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee.

(ii) The original agreement shall remain with the board's file.

(2)(a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, 76-5-302, 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3)(a)(i) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program.

(ii) [-]The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

(6) When a parolee commits a violation of the parole agreement, the department may:

(a) respond in accordance with the graduated and evidence-based responses established in accordance with Section 64-13-21; or

(b) when the graduated and evidence-based responses established in accordance with Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 27. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2)(a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:

(i) shall immediately report the alleged violation to the board, by means of an incident report; and

(ii) make any recommendation regarding the incident.

(b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and

(b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or the board's appointed examiner.

(5)(a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c)(i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

(d)(i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6)(a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board may impose a period of incarceration:

(i) consistent with the [~~guidelines under Subsection 63M-7-404(5)~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; or

(ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

Section 28. Section 77-27-32 is amended to read:

77-27-32. Reporting requirements.

(1) The board shall publicly display metrics on the board's website, including:

(a) a measure of recidivism;

(b) a measure of time under board jurisdiction;

(c) a measure of prison releases by category;

(d) a measure of parole revocations;

(e) a measure of alignment of board decisions with the [~~guidelines established by the Sentencing Commission under Section 63M-7-404~~]adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1; and

(f) a measure of the aggregate reasons for departing from the guidelines described in Subsection (1)(e).

(2) On or before September 30 of each year, the board shall submit to the commission and the Law Enforcement and Criminal Justice Interim Committee a report for the previous fiscal year that summarizes the metrics in Subsection (1).

Section 29. Section 80-6-307 is amended to read:

80-6-307. Dispositional report required in minors' cases -- Exceptions.

(1) A juvenile probation officer, or other agency designated by the juvenile court, shall make a dispositional report in writing in all minors' cases in which a petition has been filed, except in cases involving violations of traffic laws or ordinances, violations of wildlife laws and boating laws, and other minor cases.

(2) When preparing a dispositional report and recommendation in a minor's case, the juvenile probation officer, or other agency designated by the juvenile court, shall consider the juvenile disposition guidelines [~~developed in accordance with Section 63M-7-404~~], as defined in Section

63M-7-401.1, and any other factors relevant to the disposition designated in the juvenile disposition guidelines .

(3) Where the allegations of a petition filed under Section 80-6-305 are denied, the investigation may not be made until the juvenile court has made an adjudication.

Section 30. Section 80-6-607 is amended to read:

80-6-607. Case planning and appropriate responses.

(1) For a minor adjudicated and placed on probation under Section 80-6-702 or committed to the division under Section 80-6-703 , a case plan shall be created and:

(a) developed in collaboration with the minor and the minor's family;

(b) individualized to the minor;

(c) informed by the results of a validated risk and needs assessment under Section 80-6-606; and

(d) tailored to the minor's offense and history.

(2)(a) The Administrative Office of the Courts and the division shall develop a statewide system of appropriate responses to guide responses to the behaviors of minors:

(i) undergoing nonjudicial adjustments;

(ii) whose case is under the jurisdiction of the juvenile court; and

(iii) in the custody of the division.

(b) The system of responses shall include both sanctions and incentives that:

(i) are swift and certain;

(ii) include a continuum of community based responses for minors living at home;

(iii) target a minor's criminogenic risks and needs, as determined by the results of a validated risk and needs assessment under Section 80-6-606, and the severity of the violation; and

(iv) authorize earned discharge credits as one incentive for compliance.

(c) After considering the [~~juvenile disposition guidelines established by the Sentencing Commission, in accordance with Section 63M-7-404~~] juvenile disposition guidelines, as defined in Section 63M-7-401.1, the system of appropriate responses under Subsections (2)(a) and (b) shall be developed.

(3)(a) A response to compliant or noncompliant behavior under Subsection (2) shall be documented in the minor's case plan.

(b) Documentation under Subsection (3)(a) shall include:

(i) positive behaviors and incentives offered;

(ii) violations and corresponding sanctions; and

(iii) whether the minor has a subsequent violation after a sanction.

(4) Before referring a minor to a juvenile court for judicial review, or to the authority if the minor is under the jurisdiction of the authority, in response to a contempt filing under Section 78A-6-353 or an order to show cause, a pattern of appropriate responses shall be documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .

(5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte protective order listed in Section 78B-7-803, the violation may be filed directly with the juvenile court.

Section 31. Repealer.

This bill repeals:

Section 63M-7-403, Vacancies.

Section 63M-7-404, Purpose -- Duties.

Section 32. Effective date.

This bill takes effect on May 1, 2024.

Section 33. Coordinating S.B. 200 with H.B. 532.

If S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, and H.B. 532, State Boards and Commissions Modifications, both pass and become law, the Legislature intends that, on October 1, 2024, the amendments to Section 63M-7-202 in S.B. 200 supersede the amendments to Section 63M-7-202 in H.B. 532.

CHAPTER 209
S. B. 202
Passed February 29, 2024
Approved March 13, 2024
Effective May 2, 2024

REGULATIONS FOR LEGAL SERVICES

Chief Sponsor: Michael K. McKell
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions relating to lawyer referral consultants.

Highlighted Provisions:

This bill:

- subject to certain exceptions, establishes a time period during which a lawyer referral consultant is prohibited from contacting a potential client.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-68-401, as enacted by Laws of Utah 2023, Chapter 536

REPEALS:

13-69-201, as enacted by Laws of Utah 2023, Chapter 536

13-69-202, as enacted by Laws of Utah 2023, Chapter 536

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

Section 1. Section 13-68-401 is amended to read:

13-68-401. Unlawful acts.

(1) It is unlawful for a lawyer referral consultant or any other person to:

(a) make a false or misleading statement to a client while providing services to that client;

(b) make a guarantee or promise to a client, unless the guarantee or promise is in writing and [~~the lawyer referral consultant has some~~]there is basis in fact for making the guarantee or promise; [~~or~~]

(c) charge a client a fee for referral of the client to another person for services that the lawyer referral consultant cannot or will not provide to the client[~~.~~]; or

(d) communicate with a prospective client for the purpose of obtaining or referring business if the communication concerns a disaster, or an action for personal injury or wrongful death, unless:

(i) the disaster, injury, or death occurred more than 30 days before the communication;

(ii) the prospective client is a person who has a prior familial, prior personal, or prior professional relationship with the lawyer to be referred, the lawyer referral consultant, or the person communicating with the prospective client;

(iii) the communication is initiated by the prospective client; or

(iv) the communication is requested by a third party who has a prior familial or prior close personal relationship with the prospective client.

(2) A sign describing the prohibition described in Subsection (1)(c) shall be conspicuously displayed in the office of a lawyer referral consultant.

Section 2. Repealer.

This bill repeals:

Section 13-69-201, Fiduciary duty.

Section 13-69-202, Cause of action.

Section 3. Effective date.

This bill takes effect on May 2, 2024.

CHAPTER 210
S. B. 207
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

PHARMACY PRACTICE ACT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends and enacts provisions related to pharmacists and pharmacies.

Highlighted Provisions:

This bill:

- makes technical corrections;
- defines "written communication";
- for a pharmacy other than a class D pharmacy, requires the pharmacist-in-charge, and not each manager, to submit fingerprint cards and consent to a fingerprint background check;
- grants limited rulemaking authority to the Division of Professional Licensing to prescribe a method by which a pharmacy may update the address registered to a pharmacy's license;
- under certain conditions, allows a hospital pharmacy to dispense a limited supply of a prescription drug to an individual who is no longer a patient in the hospital;
- modifies provisions governing patient counseling;
- allows for the delivery of medication guides and medication package inserts via written communication, as defined;
- permits a pharmacy to update the address registered to a pharmacy's license, if there has been no change in the underlying ownership or control of the pharmacy;
- modifies requirements related to pharmacy audits; and
- applies the provisions of Title 58, Chapter 88, Part 2, Dispensing Practice, to a physician who dispenses a prescription drug or device to a patient for the patient's immediate needs, subject to conditions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-102, as last amended by Laws of Utah 2023, Chapters 223, 328
58-17b-306, as last amended by Laws of Utah 2023, Chapter 223
58-17b-603, as enacted by Laws of Utah 2004, Chapter 280
58-17b-610.6, as last amended by Laws of Utah 2022, Chapter 465
58-17b-613, as last amended by Laws of Utah 2015, Chapter 336
58-17b-614, as last amended by Laws of Utah 2020, Chapter 339
58-17b-622, as last amended by Laws of Utah 2023, Chapter 329
58-88-202, as enacted by Laws of Utah 2022, Chapter 353

REPEALS:

58-17b-610.5, as last amended by Laws of Utah 2020, Chapter 81

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

Section 1. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3)(a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or

activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b)(i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15)(a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18)(a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26)(a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections [~~(26)(a)(i), (ii), (iii), and (iv)~~](26)(a)(i) through (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy-contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug-drug;

(ii) drug-food;

(iii) drug-disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under-utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

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

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35)(a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39)(a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio- pharmaceutical service.

(42) "Out- of- state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45)(a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47)(a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

(b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

(c) an individual who manages the facility in which a licensed pharmacy is located;

(d) an individual who oversees the operations of a licensed pharmacy;

(e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

(f) another operations or site manager of a licensed pharmacy.

(55) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(56)(a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the Physicians Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered

on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

(o) issuing a prescription in accordance with Section 58-17b-627.

(59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(63) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(66) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(67) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(69)(a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(72) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

(76) "Written communication" means a physical document, or an electronic communication, by or from which the recipient may read or access the information intended to be communicated, including:

(a) email;

(b) text message; and

(c) quick response (QR) code.

Section 2. Section 58-17b-306 is amended to read:

58-17b-306. Qualifications for licensure as a pharmacy.

(1) Each applicant for licensure under this section, except for those applying for a class D license, shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) satisfy the division that the applicant, and each owner, officer, or manager of the applicant have not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(d) demonstrate the licensee's operations will be in accordance with all federal, state, and local laws relating to the type of activity engaged in by the licensee, including regulations of the Federal Drug Enforcement Administration and Food and Drug Administration;

(e) maintain operating standards established by division rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) for each pharmacy [~~manager, submit~~]license, ensure that the pharmacist in charge, as defined by the division, submits fingerprint cards and [~~consent~~]consents to a fingerprint background check in accordance with Section 58-17b-307; and

(g) acknowledge the division's authority to inspect the licensee's business premises pursuant to Section 58-17b-103.

(2) Each applicant applying for a class D license shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) present to the division verification of licensure in the state where physically located and verification that such license is in good standing;

(d) satisfy the division that the applicant and each of the applicant's pharmacy managers has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this section, indicates there is cause to believe that issuing a license to the applicant is inconsistent with the interest of the public's health, safety, or welfare;

(e) for each pharmacy manager, submit fingerprint cards and consent to a fingerprint background check in accordance with Section 58-17b-307;

(f) provide a statement of the scope of pharmacy services that will be provided and a detailed description of the protocol as described by rule by which pharmacy care will be provided, including any collaborative practice arrangements with other health care practitioners;

(g) sign an affidavit attesting that any healthcare practitioners employed by the applicant and physically located in Utah have the appropriate license issued by the division and in good standing;

(h) sign an affidavit attesting that the applicant will abide by the pharmacy laws and regulations of the jurisdiction in which the pharmacy is located; and

(i) if an applicant engages in compounding, submit the most recent inspection report:

(i) conducted within two years before the application for licensure; and

(ii)(A) conducted as part of the National Association of Boards of Pharmacy Verified Pharmacy Program; or

(B) performed by the state licensing agency of the state in which the applicant is a resident and in accordance with the National Association of Boards

of Pharmacy multistate inspection blueprint program.

(3)(a) Each license issued under this section shall be [~~issued for~~]associated with a single, specific address[~~, and is not transferable or assignable~~].

(b) By rule made in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall allow a licensee to update, by request to the division, the address associated with the licensee under Subsection (3)(a), to a new address if the licensee requests the change of address at least 90 days before the day on which the licensee begins operating at the new address.

Section 3. Section 58-17b-603 is amended to read:

58-17b-603. Identification of pharmacy personnel.

[~~(1)~~] All individuals employed in a pharmacy facility having any contact with the public or patients receiving services from that pharmacy facility shall wear on their person a clearly visible and readable identification showing the individual's name and position.

[~~(2) When communicating by any means, written, verbal, or electronic, pharmacy personnel must identify themselves as to licensure classification.~~]

Section 4. Section 58-17b-610.6 is amended to read:

58-17b-610.6. Hospital pharmacy dispensing prescription drugs.

(1) As used in this section, "controlled substance" means a substance classified as a controlled substance under the Controlled Substances Act, Title II, Pub. L. No. 91-513 et seq., or Section 58-37-4.

[~~(1)~~](2)(a) [~~The~~]Subject to Subsection (2)(b), the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies, to establish guidelines under which a hospital pharmacy may dispense a limited supply of a prescription drug to an individual who is no longer a patient in the hospital setting if:

[~~(a)~~](i) the individual is discharged from the hospital on the same day that the hospital pharmacy dispenses the prescription drug to the individual;

(ii) in the professional judgment of the practitioner, dispensing the drug is necessary for the patient's immediate needs;

[~~(b)~~](iii) the class A pharmacy with which the patient has an established pharmacy-patient relationship:

[~~(i)~~](A) is not open at the time of the patient's discharge; or

[~~(ii)~~](B) unable to dispense the medication for any reason;

[~~(c)~~](iv) the hospital pharmacy dispenses a quantity of the prescription drug that is not more than a 72-hour supply; and

[~~(d)~~](v) dispensing the prescription drug complies with protocols established by the hospital pharmacy.

(b)(i) A hospital pharmacy may dispense an opioid antagonist to a patient without satisfying Subsection (2)(a)(iii).

(ii) A hospital pharmacy that dispenses an opioid antagonist to a patient under Subsection (2)(b)(i) shall accept as payment the wholesale acquisition cost at the time of dispensing.

[~~(2)~~](3) A hospital pharmacy, or a practitioner or pharmacist in the hospital, may dispense a prescription drug in accordance with rules made under Subsection [~~(1)~~](2).

Section 5. Section 58-17b-613 is amended to read:

58-17b-613. Patient counseling.

(1) A pharmacy shall verbally offer to counsel a patient or a patient's agent in a personal face-to-face discussion regarding each prescription drug dispensed, if the patient or patient's agent:

(a) delivers the prescription in person to the pharmacist or pharmacy intern; or

(b) receives the drug in person at the time it is dispensed at the pharmacy facility.

(2) A pharmacist or pharmacy intern at a pharmacy that receives a prescription from a patient by means other than personal delivery, and that dispenses [~~prescription drugs~~]a prescribed drug to the patient by means other than personal delivery, shall provide the patient with:

[~~(a) provide patient counseling to a patient regarding each prescription drug the pharmacy dispenses; and~~]

(a) for a class D pharmacy, a toll-free telephone number at which the patient may contact a pharmacist or pharmacy intern at the pharmacy for patient counseling regarding the prescribed drug; or

(b) [~~provide each patient with a toll-free telephone number by which the patient can~~]for a class A pharmacy, a telephone number by which the patient may contact a pharmacist or pharmacy intern at the pharmacy for [~~counseling~~]patient counseling regarding the prescribed drug.

(3) Notwithstanding the provisions of Subsections (1) and (2), a pharmacist or a pharmacy intern may:

(a) provide patient counseling to an individual under the jurisdiction of the Utah Department of Corrections or a county detention facility via a written, telephone, or electronic communication[~~.~~]; and

(b) provide medication guides or package inserts via written communication.

Section 6. Section 58-17b-614 is amended to read:

58-17b-614. Notification.

(1) A pharmacy shall report in writing to the division not later than 10 business days:

(a) before the date of:

(i) a permanent closure of the pharmacy facility;

(ii) a change of business name or ownership of the pharmacy facility;

(iii) a change of location of the pharmacy facility;

(iv) a sale or transfer of any controlled substance as a result of the permanent closing or change of ownership of the pharmacy facility; or

(v) any matter or occurrence that the division requires by rule to be reported; or

(b) after the day on which:

(i) a final administrative disciplinary order is issued against the pharmacy license holder by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy;

(ii) a final order against a pharmacist is issued who is designated as the pharmacist-in-charge of the pharmacy by the regulatory or licensing agency of the state in which the pharmacy is located if the pharmacy is a class D pharmacy; or

(iii) any matter or occurrence that the division requires by rule to be reported.

(2) The division may grant a licensee's request to change the business name registered to a licensed pharmacy facility, if there has been no change in the underlying ownership or control of the pharmacy since the last time the business name of the pharmacy was registered or changed.

[~~(2)~~](3) A pharmacy shall report in writing to the division a disaster, accident, or emergency that may affect the purity or labeling of a drug, medication, device, or other material used in the diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the disaster, accident, or emergency as defined by rule.

[~~(3)~~](4) A reporting pharmacy shall maintain a copy of any notification required by this section for two years and make a copy available for inspection.

Section 7. Section 58-17b-622 is amended to read:

58-17b-622. Pharmacy benefit management services -- Auditing of pharmacy records -- Appeals.

(1) For purposes of this section:

(a) "Audit" means a review of the records of a pharmacy by or on behalf of an entity that finances or reimburses the cost of health care services or pharmaceutical products.

(b) "Audit completion date" means:

(i) for an audit that does not require an on-site visit at the pharmacy, the date on which the pharmacy, in response to the initial audit request, submits records or other documents to the entity conducting the audit, as determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the records or other documents are transmitted electronically; and

(ii) for an audit that requires an on-site visit at a pharmacy, the date on which the auditing entity completes the on-site visit, including any follow-up visits or analysis which shall be completed within 60 days after the day on which the on-site visit begins.

(c) "Entity" includes:

(i) a pharmacy benefits manager or coordinator;

(ii) a health benefit plan;

(iii) a third party administrator as defined in Section 31A-1-301;

(iv) a state agency; or

(v) a company, group, or agent that represents, or is engaged by, one of the entities described in Subsections (1)(c)(i) through (iv).

(d) "Extrapolation" means a method of using a mathematical formula that uses the audit results from a small sample of insurance claims and projects the results over a larger group of insurance claims.

[~~(d)~~](e) "Fraud" means an intentional act of deception, misrepresentation, or concealment in order to gain something of value.

[~~(e)~~](f) "Health benefit plan" means:

(i) a health benefit plan as defined in Section 31A-1-301; or

(ii) a health, dental, medical, Medicare supplement, or conversion program offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2)(a) Except as provided in Subsection (2)(b), this section applies to:

(i) a contract for the audit of a pharmacy entered into, amended, or renewed on or after July 1, 2012; and

(ii) an entity that conducts an audit of the pharmacy records of a pharmacy licensed under this chapter.

(b) This section does not apply to an audit of pharmacy records:

(i) for a federally funded prescription drug program, including:

(A) the state Medicaid program;

(B) the Medicare Part D program;

(C) a Department of Defense prescription drug program; and

(D) a Veterans Affairs prescription drug program; or

(ii) when fraud or other intentional and willful misrepresentation is alleged and the pharmacy audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation.

(3)(a) An audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist who is employed by or working with the auditing entity and who is licensed in the state or another state.

(b) If an audit is conducted on site at a pharmacy, the entity conducting the audit:

(i) shall give the pharmacy 10 days advanced written notice of:

(A) the audit; and

(B) the range of prescription numbers or a date range included in the audit; and

(ii) may not audit a pharmacy during the first five business days of the month, unless the pharmacy agrees to the timing of the audit.

(c) An entity may not audit claims:

(i) submitted more than 18 months prior to the audit, unless:

(A) required by federal law; or

(B) the originating prescription is dated in the preceding six months; or

(ii) that exceed 200 selected prescription claims annually.

(d) Subsection (3)(c)(ii) does not apply to any investigative audit that involves fraud, waste, abuse, or willful misrepresentation.

(4)(a) An entity may not:

(i) include dispensing fees in the calculations of overpayments unless the prescription is considered a misfill;

(ii) recoup funds for prescription clerical or recordkeeping errors, including typographical errors, scrivener's errors, and computer errors on a required document or record unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation;

(iii) recoup funds for refills dispensed in accordance with Section 58-17b-608.1, unless the health benefit plan does not cover the prescription drug dispensed by the pharmacy;

(iv) collect any funds, charge-backs, or penalties until the audit and all appeals are final, unless the audit entity is alleging fraud or other intentional or willful misrepresentation and the audit entity has evidence that the pharmacy's actions reasonably indicate fraud or intentional and willful misrepresentation; or

(v) recoup funds or collect any funds, charge-backs, or penalties from a pharmacy in response to a request for audit unless the pharmacy confirms to the entity the date on which the pharmacy received the request for audit.

(b) Auditors shall only have access to previous audit reports on a particular pharmacy if the previous audit was conducted by the same entity except as required for compliance with state or federal law.

(5) A pharmacy subject to an audit:

(a) may use one or more of the following to validate a claim for a prescription, refill, or change in a prescription:

(i) electronic or physical copies of records of a health care facility, or a health care provider with prescribing authority;

(ii) any prescription that complies with state law;

(iii) the pharmacy's own physical or electronic records; or

(iv) the physical or electronic records, or valid copies of the physical or electronic records, of a practitioner or health care facility as defined in Section 26B-2-201; and

(b) may not be required to provide the following records to validate a claim for a prescription, refill, or change in a prescription:

(i) if the prescription was handwritten, the physical handwritten version of the prescription; or

(ii) a note from the practitioner regarding the patient or the prescription that is not otherwise required for a prescription under state or federal law.

(6)(a)(i) An entity that audits a pharmacy shall establish:

(A) a maximum time for the pharmacy to submit records or other documents to the entity following receipt of an audit request for records or documents; and

(B) a maximum time for the entity to provide the pharmacy with a preliminary audit report following submission of records under Subsection (6)(a)(i)(A).

(ii) The time limits established under Subsections (6)(a)(i)(A) and (B):

(A) shall be identical; and

(B) may not be less than seven days or more than 60 days.

(iii) An entity that audits a pharmacy may not, after the audit completion date, request additional records or other documents from the pharmacy to complete the preliminary audit report described in Subsection (6)(b).

(b) An entity that audits a pharmacy shall provide the pharmacy with a preliminary audit report[~~,~~]:

(i) delivered to the pharmacy or its corporate office of record, within the time limit established under Subsection (6)(a)(i)(B)[~~.~~]; and

(ii) that includes a notation and detailed explanation for each suspected error.

(c)(i) Except as provided in Subsection (6)(c)(ii), a pharmacy has 30 days following receipt of the preliminary audit report to respond to questions, provide additional documentation, and comment on and clarify findings of the audit.

(ii) An entity may grant a reasonable extension under Subsection (6)(c)(i) upon request by the pharmacy.

(iii) Receipt of the report under Subsection (6)(c)(i) shall be determined by:

(A) postmark or other evidence of the date of mailing; or

(B) the date of transmission if the report is transmitted electronically.

(iv) If a dispute exists between the records of the auditing entity and the pharmacy, the records maintained by the pharmacy shall be presumed valid for the purpose of the audit.

(7) If an audit results in the dispute or denial of a claim, the entity conducting the audit shall allow any of the following:

(a) the pharmacy to resubmit a claim using any commercially reasonable method, including fax, mail, or electronic claims submission [~~provided that the period of time when a claim may be resubmitted has not expired under the rules of the plan sponsor; and~~]within 30 days from the day on which the audit report is received by the pharmacy; or

(b) the health benefit plan or other entity that finances or reimburses the cost of health care services or pharmaceutical products to rerun the claim if the health benefit plan or other entity chooses to rerun the claim at no cost to the pharmacy.

(8)(a) Within 60 days after the completion of the appeals process under Subsection (9), a final audit report shall be delivered to the pharmacy or its corporate office of record.

(b) The final audit report shall include:

(i) a disclosure of any money recovered by the entity that conducted the audit[~~.~~]; and

(ii) legal or contractual information supporting any money recovered, recoupments, or penalties included in the report.

(9)(a) An entity that audits a pharmacy shall establish a written appeals process for appealing a preliminary audit report and a final audit report, and shall provide the pharmacy with notice of the written appeals process.

(b) If the pharmacy benefit manager's contract or provider manual contains the information required by this Subsection (9), the requirement for notice is met.

(10) An auditing entity conducting a pharmacy audit may not:

(a) use extrapolation when conducting an audit, including calculating recoupments or penalties for audits, unless otherwise required by federal law or a self-funded insurance plan; or

(b) compensate an employee or contractor participating in the audit in a manner that is based on the amount claimed or the actual amount recouped from the pharmacy being audited.

Section 8. Section 58-88-202 is amended to read:

58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and exceptions.

(1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug at a licensed dispensing practice if the drug is:

(a) packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;

(b) dispensed:

(i) at a licensed dispensing practice at which the dispensing practitioner regularly practices; and

(ii) under a prescription issued by the dispensing practitioner to the dispensing practitioner's patient;

(c) for a condition that is not expected to last longer than 30 days; and

(d) for a condition for which the patient has been evaluated by the dispensing practitioner on the same day on which the dispensing practitioner dispenses the drug.

(2) A dispensing practitioner may not dispense:

(a) a controlled substance as defined in Section 58-37-2;

(b) a drug or class of drugs that is designated by the division under Subsection 58-88-205(2);

(c) gabapentin; or

(d) a supply of a drug under this part that exceeds a 30-day supply.

(3) A dispensing practitioner may not make a claim against workers' compensation or automobile insurance for a drug dispensed under this part for outpatient use unless the dispensing practitioner is contracted with a pharmacy network established by the claim payor.

(4) When a dispensing practitioner dispenses a drug to the patient under this part, a dispensing practitioner shall:

(a) disclose to the patient verbally and in writing that the patient is not required to fill the prescription through the licensed dispensing practice and that the patient has a right to fill the prescription through a pharmacy; and

(b) if the patient will be responsible to pay cash for the drug, disclose:

(i) that the patient will be responsible to pay cash for the drug; and

(ii) the amount that the patient will be charged by the licensed dispensing practice for the drug.

(5) This part does not:

(a) require a dispensing practitioner to dispense a drug under this part;

(b) limit a health care prescriber from dispensing under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

(c) apply to a physician who dispenses:

(i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with Section 58-1-501.3 or Section 58-17b-610; or

[~~(ii) a prescription drug or device to a patient for a patient's immediate need in an emergency department in accordance with Section 58-17b-610.5; or~~]

[~~(iii)~~](ii) a drug in an emergency situation as defined by the division in rule under Chapter 17b, Pharmacy Practice Act.

Section 9. Repealer.

This bill repeals:

Section 58-17b-610.5, Dispensing in emergency department -- Patient's immediate need.

Section 10. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 211
S. B. 214
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

COMMUNITY RENEWABLE ENERGY AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Trevor Lee

LONG TITLE

General Description:

This bill removes a provision related to the community renewable energy program.

Highlighted Provisions:

This bill:

- removes the provision that requires a municipality or county to adopt a resolution to achieve 100% renewable energy by 2030; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-17-902, as enacted by Laws of Utah 2019, Chapter 471
54-17-903, as enacted by Laws of Utah 2019, Chapter 471

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

Section 1. Section 54-17-902 is amended to read:

54-17-902. Definitions.

As used in this part:

(1)(a) "Auxiliary services" means those services necessary to safely and reliably:

(i) interconnect and transmit electric power from any renewable energy resource constructed or acquired for a community renewable energy program; and

(ii) integrate and supplement electric power from any renewable energy resource.

(b) "Auxiliary services" shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.

(2) "Commission" means the Public Service Commission created in Section 54-1-1.

(3) "Community renewable energy program" means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more renewable energy resources to a participating customer within a participating community.

(4) "County" means the unincorporated area of a county.

(5) "Division" means the Division of Public Utilities created in Section 54-4a-1.

(6)(a) "Initial opt-out period" means the period of time immediately after the community renewable energy program's commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.

(b) "Initial opt-out period" may not be shorter than three typical billing cycles of the qualified utility.

(7) "Municipality" means a city or a town as defined in Section 10-1-104.

(8) "Office" means the Office of Consumer Services created in Section 54-10a-101.

(9) "Ongoing costs" means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.

(10) "Participating community" means a municipality or a county:

(a) whose residents are served by a qualified utility; and

(b) the municipality or county meets the requirements in Section 54-17-903.

(11) "Participating customer" means:

(a) a customer of a qualified utility located within the boundary of a municipality or county where a community renewable energy program has been approved by the commission; and

(b) the customer has not exercised the right to not participate in the community renewable energy program as provided in Section 54-17-905.

(12) "Qualified utility" means the same as that term is defined in Section 54-17-801.

(13) "Renewable electric energy supply" means incremental renewable energy resources that are developed to meet the [~~equivalent of the~~]annual electric energy consumption of participating customers within a participating community.

(14) "Renewable energy resource" means:

(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:

(i) wind;

(ii) solar photovoltaic or thermal solar technology;

(iii) a geothermal resource; or

(iv) a hydroelectric plant; or

(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:

(i) increases efficient energy usage;

(ii) is capable of being used for demand response; or

(iii) facilitates the use and development of renewable generation resources through electrical grid management or energy storage.

(15) "Replaced asset" means an existing thermal energy resource:

(a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's customers, including customers within a participating community;

(b) that was built or acquired prior to commission approval and the effective date of the community renewable energy program; and

(c) to the extent the asset is no longer used to serve participating customers.

Section 2. Section 54-17-903 is amended to read:

54-17-903. Program requirement for a municipality or county.

(1) Customers of a qualified utility may be served by the community renewable energy program described in this part if the municipality or county satisfies the requirements of Subsection (2).

(2) The municipality or county in which the customer resides shall:

[~~(a) adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030;~~]

[~~(b)~~](a) enter into an agreement with a qualified utility:

(i) with the stipulation of payment by the municipality or county to the qualified utility for the costs of:

(A) third-party expertise contracted for by the division and the office, for assistance with activities associated with initial approval of the community renewable energy program; and

(B) providing notice to the municipality's or county's customers as provided in Section 54-17-905;

(ii) determining the obligation for the payment of any termination charges under Subsection 54-17-905(3) that are not paid by a participating customer and not included in participating customer rates under Subsections 54-17-904(2) and (4); and

(iii) identifying any initially proposed replaced asset;

[~~(c)~~](b) adopt a local ordinance that:

(i) establishes participation in the renewable energy program; and

(ii) is consistent with the terms of the agreement entered into with the qualified utility under Subsection [~~(2)(b)~~](2)(a); and

[~~(d)~~](c) comply with any other terms or conditions required by the commission.

(3) The local ordinance required in Subsection [~~(2)(c)~~](2)(b) shall be adopted by the municipality or county within 90 days after the date of the commission order approving the community renewable energy program.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 212
S. B. 215
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

MOTOR VEHICLE CONSUMER DATA PROTECTION

Chief Sponsor: Chris H. Wilson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill enacts provisions related to motor vehicle consumer data protection.

Highlighted Provisions:

This bill:

- defines terms; and
- enacts provisions related to storing, sharing, and accessing motor vehicle consumer data.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-70-101, Utah Code Annotated 1953
13-70-102, Utah Code Annotated 1953
13-70-201, Utah Code Annotated 1953
13-70-202, Utah Code Annotated 1953
13-70-203, Utah Code Annotated 1953

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

Section 1. Section 13-70-101 is enacted to read:

13-70-101. Definitions.

CHAPTER 70. MOTOR VEHICLE CONSUMER DATA PROTECTION

Part 1. General Provisions

As used in this chapter:

(1) "Authorized integrator" means a third party with whom a franchisee enters into a contract to perform a specific function for a franchisee that allows the third party to access protected dealer data or to write data to a dealer data system, or both, to carry out the specified function.

(2) "Consumer data" means non-public personal information defined in 15 U.S.C. Sec. 6809(4) as it existed on January 1, 2024.

(3) "Cyber ransom" means to encrypt, restrict, or prohibit, or to threaten or attempt to encrypt, restrict, or prohibit a franchisee's or a franchisee's authorized integrator's access to protected dealer data or other dealer data to obtain payment not agreed to by the franchisee or the franchisee's authorized integrator in a written contract for services or goods.

(4)(a) "Dealer data system" means a software, hardware, or firmware system that is owned, leased, or licensed by a franchisee, that includes a system of web-based applications, computer software, or computer hardware, whether located at the franchisee's dealership or hosted remotely, and that stores or provides access to protected dealer data.

(b) "Dealer data system" means a dealership management system or a consumer relationship management system.

(5) "Dealer data vendor" means a third party dealer management system provider, consumer relationship management system provider, or third party vendor providing similar services that store protected dealer data pursuant to a contract with the franchisee.

(6) "Dealership" means the same as that term is defined in Section 13-14-102.

(7) "Fee" means payment for access to protected dealer data which is in addition to charges written in an executed contract for goods or services.

(8) "Franchisee" means the same as that term is defined in Section 13-14-102.

(9) "Franchisee program" means a bonus, incentive, rebate, or other payment program that a franchisor offers to a franchisee.

(10) "Franchisor" means the same as that term is defined in Section 13-14-102.

(11)(a) "Manufacturer" means a manufacturer of new motor vehicles.

(b) "Manufacturer" does not include a manufacturer acting in the capacity of a vendor, service provider, dealer data vendor, or an affiliate or subsidiary of a manufacturer operating as a vendor, service provider, or a dealer data vendor.

(c) "Manufacturer" does not include a manufacturer that does not have a franchisee in the state.

(12) "Other generally accepted standards" means security standards that are at least as comprehensive as STAR standards.

(13) "Prior express written consent" means a franchisee's express written consent to protected dealer data sharing that:

(a) is in a document separate from any other:

(i) consent;

(ii) contract;

(iii) franchise agreement; or

(iv) writing;

(b) identifies all parties with whom the protected dealer data may be shared; and

(c) contains:

(i) all details that the franchisee requires relating to the scope and nature of the protected dealer data to be shared, including the data fields and the duration for which the sharing is authorized; and

(ii) all provisions and restrictions that are required under federal law to allow sharing the protected dealer data.

(14)(a) "Protected dealer data" means:

(i) consumer data that:

(A)(I) a consumer provides to a franchisee; or

(II) a franchisee otherwise obtains; and

(B) is stored in the franchisee's dealer data system;

(ii) other data that relates to a franchisee's daily business operations and is stored in the franchisee's dealer data system; and

(iii) motor vehicle diagnostic data.

(b) "Protected dealer data" does not include data that:

(i) is otherwise publicly available; or

(ii) a franchisor or third party obtains through another source.

(15)(a) "Required manufacturer data" means data that:

(i) a manufacturer is required to obtain under federal or state law;

(ii) is required to complete or verify a transaction between the franchisee and the manufacturer;

(iii) is motor vehicle diagnostic data; or

(iv) is reasonably necessary for:

(A) a safety notice, recall notice, manufacturer field action, or other legal notice obligation relating to the repair, service, and update of a motor vehicle;

(B) the sale and delivery of a new motor vehicle or certified used motor vehicle to a consumer, including necessary data for the vehicle manufacturer to activate services purchased by the consumer;

(C) the validation and payment of consumer or franchisee incentives;

(D) claims for franchisee-supplied services relating to warranty parts or repairs;

(E) the evaluation of franchisee performance, including the evaluation of the franchisee's monthly financial statements and sales or service, consumer satisfaction with the franchisee through direct consumer contact, or consumer surveys;

(F) franchisee and market analytics;

(G) the identification of the franchisee that sold or leased a specific motor vehicle and the date of the transaction;

(H) marketing purposes designed for the benefit of franchisees, or to direct leads to the franchisee providing the dealer protected data to the franchisor;

(I) the development, evaluation, or improvement of the manufacturer's products or services; or

(J) the daily operational interactions of the franchisee with the manufacturer or other franchisees through applications hosted on the manufacturer's dealer electronic communications system.

(b) "Required manufacturer data" does not include:

(i) consumer data on the consumer's credit application; or

(ii) a franchisee's individualized notes about a consumer that are not related to a transaction.

(16) "Service provider" means a person that processes protected dealer data on behalf of a franchisee and that receives, from or on behalf of the franchisee, consumer protected dealer data for a business purpose pursuant to a written contract, if the contract prohibits the person from:

(a) selling or sharing the protected dealer data;

(b) retaining, using, or disclosing the protected dealer data for any purpose other than for the business purposes specified in the contract for the franchisee, including retaining, using, or disclosing the protected dealer data for a commercial purpose other than the business purposes specified in the contract with the franchisee, or as permitted under this title;

(c) retaining, using, or disclosing the protected dealer data outside of the direct business relationship between the service provider and the franchisee; or

(d) combining the protected dealer data that the service provider receives from, or on behalf of, the franchisee with personal information that the service provider receives from, or on behalf of, another person or persons, or collects from the service provider's own interaction with the consumer.

(17) "STAR standards" means the current, applicable security standards published by the Standards for Technology in Automotive Retail.

(18)(a) "Third party" means a person other than a franchisee.

(b) "Third party" includes:

(i) a service provider;

(ii) a vendor, including a dealer data vendor and authorized integrator;

(iii) a manufacturer acting in the capacity of a vendor, service provider, or dealer data vendor; or

(iv) an affiliate of a manufacturer described in Subsection (18)(b)(iii).

(c) "Third party" does not include:

(i) a governmental entity acting pursuant to federal, state, or local law;

(ii) a person acting pursuant to a valid court order;

(iii) a manufacturer, not acting in the capacity of a vendor, service provider, or dealer data vendor; or

(iv) an affiliate of a manufacturer described in Subsection (18)(c)(iii).

(19) "Vendor" means a person to whom a franchisee makes available protected dealer data for a business purpose, pursuant to a written contract with the franchisee, if the contract:

(a) prohibits the vendor from:

(i) selling or sharing the protected dealer data;

(ii) retaining, using, or disclosing the protected dealer data for any purpose other than for the business purposes specified in the contract, including retaining, using, or disclosing the protected dealer data for a commercial purpose other than the business purposes specified in the contract, or as otherwise permitted under this title;

(iii) retaining, using, or disclosing the protected dealer data outside of the direct business relationship between the vendor and the franchisee; and

(iv) combining the protected dealer data that the vendor receives pursuant to a written contract with the franchisee with personal information that the vendor receives from or on behalf of another person or persons, or collects from the vendor's own interaction with the consumer;

(b) includes a certification made by the vendor that the vendor understands the restrictions in Subsection (19)(a)(i) and will comply with the restrictions; and

(c) permits, subject to agreement with the vendor, the franchisee to monitor the vendor's compliance with the contract through measures, including ongoing manual reviews, automated scans, regular assessments, audits, or other technical and operational testing at least once every 12 months.

(20) "Unreasonable restriction" means:

(a) an unreasonable limitation or condition on the scope or nature of the data that is shared with an authorized integrator;

(b) an unreasonable limitation or condition on the ability of an authorized integrator to write data to a dealer data system;

(c) an unreasonable limitation or condition on a third party that accesses or shares protected dealer data or that writes data to a dealer data system;

(d) requiring unreasonable access to a franchisor's or a third party's sensitive, competitive, or other confidential business information as a condition for accessing protected dealer data or sharing protected dealer data with an authorized integrator;

(e) prohibiting or limiting a franchisee's ability to store, copy, securely share, or use protected dealer data outside of the dealer data system in any manner or for any reason; or

(f) allowing access to, or accessing protected dealer data without, the franchisee's prior express written consent.

Section 2. Section 13-70-102 is enacted to read:

13-70-102. Applicability.

This chapter does not:

(1) govern, restrict, or apply to data outside of a dealer data system, including data that is generated by a motor vehicle or a device that a consumer connects to a motor vehicle;

(2) authorize a franchisee or third party to use data that the franchisee or third party obtains from a person in a manner that is inconsistent with:

(a) an agreement with the person; or

(b) the purposes for which the person provides the data to the franchisee or third party; or

(3) except as is necessary to fulfill a franchisee's obligation to provide warranty, repair, or service to consumers, grant a franchisee:

(a) ownership of motor vehicle diagnostic data; or

(b) rights to share or use motor vehicle diagnostic data.

Section 3. Section 13-70-201 is enacted to read:

13-70-201. Data submissions to franchisors or third parties.

Part 2. Data Protection Regulations

(1) A franchisor or third party may not require a franchisee to grant to the franchisor, third party, or person acting on behalf of the franchisor or third party, direct or indirect access to the franchisee's dealer data system.

(2) A franchisee may submit or push data or information to a franchisor or third party through an electronic file format or protocol if the electronic file format or protocol:

(a) is widely accepted; and

(b) complies with:

(i) STAR standards; or

(ii) other generally accepted standards.

Section 4. Section 13-70-202 is enacted to read:

13-70-202. Service provider contracts -- Franchisors and third parties -- Prohibitions -- Requirements.

(1)(a) A service provider contract may permit the franchisee to monitor the service provider's compliance with the contract through ongoing manual reviews, automated scans, regular assessments, audits, or other technical and operational testing, at least once every 12 months.

(b) If a service provider or vendor engages another person to assist the service provider or vendor in processing protected dealer data for a business purpose on behalf of the franchisee, or if another person engaged by the service provider or vendor engages a person to assist in processing protected dealer data for that business purpose, the service

provider or vendor shall notify the franchisee of that engagement, and the engagement shall be pursuant to a written contract binding the person to observe all the requirements described in Subsection 13- 70- 101(16).

(2) A franchisor or third party may not:

(a) access, share, sell, copy, use, or transmit protected dealer data without prior express written consent;

(b) engage in any act of cyber ransom; or

(c) take action to prohibit or limit a franchisee's ability to protect, store, copy, share, or use protected dealer data, including:

(i) imposing a fee for, or other restriction on, the franchisee or authorized integrator:

(A) accessing or sharing protected dealer data;

(B) writing data to a dealer data system; or

(C) submitting or pushing data or information to the third party under Subsection 13- 70- 201(2);

(ii) unreasonably prohibiting a third party or an authorized integrator that satisfies STAR standards or other generally accepted standards from integrating into the franchisee's dealer data system; or

(iii) placing an unreasonable restriction on integration by an authorized integrator or third party.

(3)(a) Notwithstanding Subsection (2)(c)(i)(A), a franchisor or a third party may charge a franchisee the franchisor's or third party's actual third party costs, including a reasonable profit margin for providing access to protected dealer data to a franchisee, authorized integrator, or other third party if the franchisor or third party:

(i) discloses the charge to the franchisee in writing; and

(ii) upon written request by the franchisee, provides to the franchisee documentation that the charges were agreed to in writing by the franchisee or provided for in the contract for services or goods.

(b) If a third party fails to comply with Subsection (3)(a), a charge described in Subsection (3)(a) is a fee prohibited under Subsection (2)(c)(i).

(4)(a) A franchisee may unilaterally revoke or amend the prior express written consent described in Subsection (2)(a):

(i) with 60 days notice without cause; or

(ii) immediately for cause.

(b)(i) Except as provided in Subsection (4)(b)(ii), a franchisor may not seek or require prior express written consent as a condition of or factor for consideration or eligibility for a:

(A) franchisor program;

(B) standard or policy; or

(C) benefit to a franchisee.

(ii) If a franchisor's program reasonably requires delivery of information that is protected dealer data to qualify for the program and receive franchisor program benefits, a franchisee shall provide the information to participate in the franchisor program.

(5) This section does not:

(a) limit a franchisee's, franchisor's, or third party's obligations:

(i) as a service provider;

(ii) under federal, state, or local law, to protect and secure protected dealer data; or

(iii) regarding required manufacturer data; and

(b) require a franchisor to pay a benefit to a franchisee if the franchisee refuses to provide data reasonably necessary to participate in the franchisor program.

(6) A franchisor or franchisor's selected third party may not require a franchisee to pay a fee for sharing required manufacturer data if:

(a) the franchisor requires a franchisee to provide required manufacturer data through a specific third party that the franchisor selects;

(b) the franchisor does not allow the franchisee to submit the required manufacturer data using the franchisee's choice of a third party vendor;

(c) the franchisee's data is in a format that is compatible with the format required by the franchisor; and

(d) the third party vendor satisfies the STAR standards or other generally accepted standards.

(7) A franchisor may not access, sell, copy, use, transmit, or require a franchisee to share or provide access to protected dealer data, unless:

(a) the protected dealer data is required manufacturer data; or

(b) the franchisee provides prior express written consent.

(8) A franchisor may only use required manufacturer data that the franchisor obtains from a dealer data system for the purposes described in Subsection 13- 70- 101(14).

(9)(a) A franchisor, authorized integrator, or other third party shall indemnify a franchisee for any claims or damages if:

(i) the claims or damages directly result from a violation of this section by the party from whom the franchisee is seeking indemnification;

(ii) the claims or damages directly result from a violation of this section by:

(A) a vendor or contractor as an agent acting on behalf of the party from whom the franchisee is seeking indemnification; or

(B) a vendor or other service provider who the party from whom the franchisee is seeking indemnification required the franchisee to use; and

(iii) the claims or damages result from a violation of this section for:

(A) accessing or providing access to protected dealer data;

(B) using protected dealer data; or

(C) disclosing protected dealer data.

(b) A franchisee bringing a cause of action against a franchisor, authorized integrator, or other third party for a violation of this section has the burden of proof.

(10) Notwithstanding Subsection (6), this chapter does not restrict or limit a franchisor's right to:

(a) access or obtain required manufacturer data;

(b) use, share, copy, or transmit required manufacturer data for the purposes described in Subsection 13-70-101(15); or

(c) use or control data that is:

(i) proprietary to the franchisor;

(ii) created by the franchisor;

(iii) obtained from a source other than the franchisee; or

(iv) public information.

Section 5. Section 13-70-203 is enacted to read:

13-70-203. Dealer data vendors -- Authorized integrators -- Requirements.

(1)(a) A dealer data vendor shall adopt and make available to a franchisee and authorized integrator in a standardized framework:

(i) the exchange, integration, and sharing of data between a dealer data system and an authorized integrator; and

(ii) the retrieval of data by an authorized integrator.

(b) The standardized framework described in Subsection (1)(a) shall comply with STAR standards or other generally accepted standards.

(2)(a) Except as provided in Subsection (2)(b), a dealer data vendor shall provide to an authorized integrator access to open application programming interfaces for the standardized framework described in Subsection (1) that meet the reasonable commercial or technical standard for secure data integration.

(b) If the open application interfaces described in Subsection (2)(a) do not meet the reasonable commercial or technical standard for secure data integration, a dealer data vendor may provide to an authorized integrator a similar open access integration method that:

(i) provides the same or better access to an authorized integrator as an application programming interface; and

(ii) uses the standardized framework described in Subsection (1).

(3) A dealer data vendor and an authorized integrator:

(a) may access, use, store, or share protected dealer data or any other data from a dealer data system only to the extent allowed in the written agreement with the franchisee;

(b) shall, upon a franchisee's request, provide the franchisee with a list of all persons:

(i) with whom the dealer data vendor or authorized integrator is sharing, or has shared, protected dealer data; or

(ii) to whom the dealer data vendor or authorized integrator has allowed or is allowing access to protected dealer data; and

(c) shall allow a franchisee to audit the dealer data vendor's or authorized integrator's access to and use of protected dealer data.

(4) A franchisee may terminate an agreement between a dealer data vendor or authorized integrator and the franchisee relating to access to, sharing of, selling of, copying, using, or transmitting protected dealer data upon 90 days' notice.

(5)(a) If a dealer data vendor or authorized integrator receives a franchisee's notice described in Subsection (4), the dealer data vendor or authorized integrator shall ensure a secure transition of all protected dealer data to a successor dealer data vendor or successor authorized integrator.

(b) In fulfilling the dealer data vendor's or authorized integrator's duties under Subsection (5)(a), a dealer data vendor or authorized integrator shall:

(i) provide access to or an electronic copy of all protected dealer data and all other data stored in the dealer data system in:

(A) a commercially reasonable time; and

(B) a format that the successor dealer data vendor or successor authorized integrator can access and use; and

(ii) before the agreement terminates, delete or return to the franchisee all protected dealer data pursuant to the franchisee's written directions.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 213
S. B. 222
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

EGG PRODUCTION AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill modifies provisions related to the confinement of egg-laying hens.

Highlighted Provisions:

This bill:

- extends the deadline for a farm owner or operator to have a cage-free housing system for an egg-laying hen in an enclosure; and
- requires the department to provide a report to the Business and Labor Interim Committee related to farm owner and operator implementation of the cage-free requirement.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-4a-103, as enacted by Laws of Utah 2021, Chapter 323
4-4a-107, as enacted by Laws of Utah 2021, Chapter 323

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

Section 1. Section 4-4a-103 is amended to read:

4-4a-103. Prohibitions.

Beginning on January 1, [~~2025~~]2030, a farm owner or operator may not knowingly confine an egg-laying hen in an enclosure:

(1) that is not a cage-free housing system; or

(2) that has less than the amount of usable floor space per hen as required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.

Section 2. Section 4-4a-107 is amended to read:

4-4a-107. Report.

(1) The department shall provide a report on this chapter to the Business and Labor Interim Committee [~~during or before the November interim meeting in 2023~~]at an interim meeting in 2027 that occurs before October 31.

(2) The report described in Subsection (1) shall include an update on:

(a) [~~efforts taken~~]the progress by farm owners and operators to [~~come into compliance~~]comply with Section 4-4a-103; and

(b) the retail demand for and conditions related to the sale of cage-free eggs.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 214
S. B. 224
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

ENERGY INDEPENDENCE AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions related to planning and cost recovery for certain energy resource decisions and allows a large-scale electric utility to establish a Utah fire fund.

Highlighted Provisions:

This bill:

- modifies the factors the Public Service Commission (commission) must consider when evaluating certain proposed energy resource decisions;
- establishes parameters for an affected electrical utility's recovery of costs associated with proven dispatchable generation resources located within the state;
- encourages the commission to evaluate the purchase of excess proven dispatchable generation capacity;
- allows a large-scale electric utility to create a Utah fire fund to supplement other insurance for making certain fire damage payments;
- establishes requirements for administration, funding, and access to a Utah fire fund; and
- enacts provisions related to filing and resolving claims against an electrical corporation for damages caused by wildfire.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-17-102, as last amended by Laws of Utah 2008, Chapter 382
54-17-201, as last amended by Laws of Utah 2008, Chapters 374, 382
54-17-302, as last amended by Laws of Utah 2008, Chapters 374, 382
54-17-303, as last amended by Laws of Utah 2008, Chapter 374
54-17-402, as last amended by Laws of Utah 2018, Chapter 449
54-17-403, as last amended by Laws of Utah 2018, Chapter 449

ENACTS:

54-17-1001, Utah Code Annotated 1953
54-17-1002, Utah Code Annotated 1953
54-24-301, Utah Code Annotated 1953
54-24-302, Utah Code Annotated 1953
54-24-303, Utah Code Annotated 1953

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

Section 1. Section 54-17-102 is amended to read:

54-17-102. Definitions.

As used in this chapter:

(1) "Affected electrical utility" means an electrical corporation with at least 200,000 retail customers in the state.

(2) "Benchmark option" means an energy resource against which bids in an open bid process may be evaluated that:

(a) could be constructed or owned by:

(i) an affected electrical utility; or

(ii) an affiliate of an affected electrical utility; or

(b) may be a purchase of:

(i) electricity;

(ii) electric generating capacity; or

(iii) electricity and electric generating capacity.

(3) "Dispatchability" means the extent to which an energy resource is dispatchable.

(4) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

[~~(3)~~](5) "Integrated resource plan" means a plan that contains:

(a) the demand and energy forecast by the affected electrical utility for at least a ten-year period;

(b) the affected electrical utility's options for meeting the requirements shown in [~~its~~]the affected electrical utility's load and resource forecast in an economic and reliable manner, including:

(i) demand-side and supply-side options; and

(ii) a brief description and summary cost-benefit analysis, if available, of each option that was considered;

(c) the affected electrical utility's assumptions and conclusions with respect to the effect of the plan on the cost and reliability of energy service;

(d) a description of the external environmental and economic consequences of the plan to the extent practicable; and

(e) any other data and analyses as the commission may require.

(6) "Intermittent resource" means an energy resource that relies on a variable fuel source that interrupts energy generation, resulting in periods of non-production or reduced production.

(7) "Proven dispatchable generation resource" means a significant energy resource that has demonstrated the capability to provide dispatchable energy.

(8)(a) "Risk" means the probability that an energy resource will produce negative consequences that

outweigh anticipated positive results and undermine the public interest.

(b) "Risk" includes the probability that:

(i) overreliance on intermittent resources will create instability or inadequacy in meeting electricity demand;

(ii) the energy resource will be unable to provide a consistent and resilient supply of electricity to consumers; and

(iii) electricity costs will become unsustainable for consumers.

[~~(4)~~](9) "Significant energy resource" for an affected electrical utility means a resource that consists of:

(a) a total of 100 megawatts or more of new generating capacity that has a dependable life of 10 or more years;

(b) a purchase of the following if the contract is for a term of 10 or more years and not less than 100 megawatts:

(i) electricity;

(ii) electric generating capacity; or

(iii) electricity and electrical generating capacity;

(c) the purchase or lease by an affected electrical utility from an affiliated company of:

(i) a generating facility;

(ii) electricity;

(iii) electrical generating capacity; or

(iv) electricity and electrical generating capacity;

(d) a contract with an option for the affected electrical utility or an affiliate to purchase a resource that consists of not less than 100 megawatts or more of new generating capacity that has a remaining dependable life of 10 or more years; or

(e) a type of resource designated by the commission as a significant energy resource in rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, after considering the affected electrical utility's integrated resource plan and action plan.

[~~(5)~~](10) "Solicitation" means a request for proposals or other invitation for persons to submit a bid or proposal through an open bid process for construction or acquisition of a significant energy resource.

Section 2. Section 54-17-201 is amended to read:

54-17-201. Solicitation process required -- Exception.

(1)(a) An affected electrical utility shall comply with this chapter to acquire or construct a significant energy resource after February 25, 2005.

(b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant energy resource for which the affected electrical utility has issued a solicitation before February 25, 2005.

(2)(a) Except as provided in Subsection (3), to acquire or construct a significant energy resource, an affected electrical utility shall conduct a solicitation process that is approved by the commission.

(b) To obtain the approval of the commission of a solicitation process, the affected electrical utility shall file with the commission a request for approval that includes:

(i) a description of the solicitation process the affected electrical utility will use;

(ii) a complete proposed solicitation; and

(iii) any other information the commission requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) In ruling on the request for approval of a solicitation process, the commission shall determine whether the solicitation process:

(i) complies with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) is in the public interest, taking into consideration:

(A) the dispatchability of the significant energy resource;

(B) the state's desire to have proven dispatchable generation resources operating within the state to ensure adequate resources to reliably meet the state's energy needs;

(C) whether the proposal is consistent with the state energy policy described in Section 79-6-301;

(D) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state, including any lowered costs resulting from the ability to sell excess energy generated in an interstate energy market;

[~~(B)~~](E) long-term and short-term impacts;

[~~(C)~~](F) risk;

[~~(D)~~](G) reliability;

[~~(E)~~](H) financial impacts on the affected electrical utility; and

[~~(F)~~](I) other factors determined by the commission to be relevant.

(d) Before approving a solicitation process under this section the commission:

(i) may hold a public hearing; and

(ii) shall provide an opportunity for public comment.

(e) As part of [~~its~~]the commission's review of a solicitation process, the commission may provide

the affected electrical utility guidance on any additions or changes to [~~its~~]the commission's proposed solicitation process.

(f) Unless the commission determines that additional time to analyze a solicitation process is warranted and is in the public interest, within 60 days of the day on which the affected electrical utility files a request for approval of the solicitation process, the commission shall:

(i) approve a proposed solicitation process;

(ii) suggest modifications to a proposed solicitation process; or

(iii) reject a proposed solicitation process.

(3) Notwithstanding Subsection (2), an affected electrical utility may acquire or construct a significant energy resource without conducting a solicitation process if it obtains a waiver of the solicitation requirement in accordance with Section 54-17-501.

(4) In accordance with the commission's authority under Subsection 54-12-2(2), the commission shall determine:

(a) whether this chapter or another competitive bidding procedure shall apply to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator; and

(b) if this chapter applies as provided in Subsection (4)(a), the manner in which this chapter applies to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator.

Section 3. Section 54-17-302 is amended to read:

54-17-302. Approval of a significant energy resource decision required.

(1) If pursuant to Part 2, Solicitation Process, an affected electrical utility is required to conduct a solicitation for a significant energy resource or obtains a waiver of the requirement to conduct a solicitation under Section 54-17-501, but does not obtain a waiver of the requirement to obtain approval of the significant energy resource decision under Section 54-17-501, the affected electrical utility shall obtain approval of [~~its~~]the affected electrical utility's significant energy resource decision:

(a) after the completion of the solicitation process, if the affected electrical utility is required to conduct a solicitation; and

(b) before an affected electrical utility may construct or enter into a binding agreement to acquire the significant energy resource.

(2)(a) To obtain the approval required by Subsection (1), the affected electrical utility shall file a request for approval with the commission.

(b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In ruling on a request for approval of a significant energy resource decision, the commission shall determine whether the significant energy resource decision:

(a) is reached in compliance with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b)(i) is reached in compliance with the solicitation process approved by the commission in accordance with Part 2, Solicitation Process; or

(ii) is reached after the waiver of the solicitation process as provided in Subsection 54-17-201(3); and

(c) is in the public interest, taking into consideration:

(i) the dispatchability of the significant energy resource;

(ii) the state's desire to have proven dispatchable generation resources operating within the state to ensure adequate resources to reliably meet the state's energy needs;

(iii) whether the proposal is consistent with the state energy policy described in Section 79-6-301;

(iv) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state, including any lowered costs resulting from the ability to sell excess energy generated in an interstate energy market;

[~~(ii)~~](v) long-term and short-term impacts;

[~~(iii)~~](vi) risk;

[~~(iv)~~](vii) reliability;

[~~(v)~~](viii) financial impacts on the affected electrical utility; and

[~~(vi)~~](ix) other factors determined by the commission to be relevant.

(4) The commission may not approve a significant energy resource decision under this section before holding a public hearing.

(5) Unless the commission determines that additional time to analyze a significant energy resource decision is warranted and is in the public interest, within 120 days of the day on which the affected electrical utility files a request for approval, the commission shall:

(a) approve the significant energy resource decision;

(b) approve the significant energy resource decision subject to conditions imposed by the commission; or

(c) disapprove the significant energy resource decision.

(6) The commission shall include in [~~its~~]the commission's order under this section:

(a) findings as to the total projected costs for construction or acquisition of an approved significant energy resource; and

(b) the basis upon which the findings described in Subsection (6)(a) are made.

(7) Notwithstanding any other provision of this part, an affected electrical utility may acquire a significant energy resource without obtaining approval pursuant to this section if it obtains a waiver of the requirement for approval in accordance with Section 54-17-501.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for approval of a significant energy resource decision under this section.

Section 4. Section 54-17-303 is amended to read:

54-17-303. Cost recovery.

(1)(a) Except as otherwise provided in this section, and excluding cost recovery for costs associated with proven dispatchable generation resources, which is governed by Section 54-17-1002, if the commission approves a significant energy resource decision under Section 54-17-302, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:

(i) relevant to the proceeding;

(ii) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource; and

(iii) up to the projected costs specified in the commission's order issued under Section 54-17-302.

(b)(i) The commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of the incremental cost relevant to the proceeding that were prudently incurred by the affected electrical utility to identify, evaluate, and submit a reasonable benchmark option, whether or not the benchmark option is selected or becomes operational.

(ii) A recoverable cost under Subsection (1)(b)(i) shall be included in the affected electrical utility's project costs for the purpose of evaluating the project's cost-effectiveness.

(iii) A recoverable cost under Subsection (1)(b)(i) may not be added to the cost or otherwise considered in the evaluation of a project proposed by any person other than the affected electrical utility for the purpose of evaluating that person's proposal.

(c) Except to the extent that the commission enters an order under Section 54-17-304, an increase from the projected costs specified in the commission's order issued under Section 54-17-302 shall be subject to review by the commission as part of a rate hearing under Section 54-7-12.

(2)(a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i) or (ii), the commission may disallow some or all costs incurred in connection with an approved significant energy resource decision if the commission finds that an affected electrical utility's actions in implementing an approved significant energy resource decision are not prudent because of new information or changed circumstances that occur after:

(i) the commission's approval of the significant energy resource decisions under Section 54-17-302; or

(ii) a commission order to proceed under Section 54-17-304.

(b) In making a determination of prudence under Subsection (2)(a), the commission shall use the standards identified in Section 54-4-4.

(3) Notwithstanding any other provision of this chapter, the commission may disallow some or all of the costs incurred by an affected electrical utility in connection with an approved significant energy resource decision upon a finding by the commission that the affected electrical utility is responsible for a material misrepresentation or concealment in connection with an approval process under this chapter.

Section 5. Section 54-17-402 is amended to read:

54-17-402. Request for review of resource decision.

(1) Beginning on February 25, 2005, before implementing a resource decision, an energy utility may request that the commission approve all or part of a resource decision in accordance with this part.

(2)(a) To obtain the approval permitted by Subsection (1), the energy utility shall file a request for approval with the commission.

(b) The request for approval required by this section shall include any information required by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) A request for approval of natural gas infrastructure development shall include:

(i) a description of the proposed rural gas infrastructure development project;

(ii) an explanation of projected benefits from the proposed rural gas infrastructure development project;

(iii) the estimated costs of the rural gas infrastructure development project; and

(iv) any other information the commission requires.

(3) In ruling on a request for approval of a resource decision, the commission shall determine whether the decision:

(a) is reached in compliance with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) is in the public interest, taking into consideration:

(i)(A) the dispatchability of the energy resource;

(B) the state's desire to have proven dispatchable generation resources operating within the state to ensure adequate resources to reliably meet the state's energy needs and to make needed dispatchable generation from proven dispatchable energy generation resources available to the bulk electric system to support reliability;

(C) whether the proposal is consistent with the state energy policy described in Section 79-6-301;

(D) whether it will most likely result in the acquisition, production, and delivery of utility services at the lowest reasonable cost to the retail customers of an energy utility located in this state, including any lowered costs resulting from the ability to sell excess energy generated in an interstate energy market;

[~~(B)~~](E) long-term and short-term impacts;

[~~(C)~~](F) risk;

[~~(D)~~](G) reliability;

[~~(E)~~](H) financial impacts on the energy utility; and

[~~(F)~~](I) other factors determined by the commission to be relevant; or

(ii) for a request for approval of rural gas infrastructure development:

(A) the potential benefits to previously unserved rural areas;

(B) the potential number of new customers;

(C) natural gas consumption; and

(D) revenues, costs, and other factors determined by the commission to be relevant.

(4) In a decision relating to a request for approval of rural gas infrastructure development, the commission may determine that spreading all or a portion of the costs of the rural gas infrastructure development to the larger customer base is in the public interest.

(5)(a) If the commission approves a proposed resource decision only in part, the commission shall explain in the order issued under this section why the commission does not approve the resource decision in total.

(b) Recovery of expenses incurred in connection with parts of a resource decision that are not approved is subject to the review of the commission as part of a rate hearing under Section 54-7-12.

(6) The commission may not approve a resource decision in whole or in part under this section before holding a public hearing.

(7) Unless the commission determines that additional time to analyze a resource decision is warranted and is in the public interest, within 180 days of the day on which the energy utility files a request for approval, the commission shall:

(a) approve all or part of the resource decision;

(b) approve all or part of the resource decision subject to conditions imposed by the commission; or

(c) disapprove all or part of the resource decision.

(8) The commission shall include in [~~its~~]the commission's order under this section:

(a) findings as to the approved projected costs of a resource decision; and

(b) the basis upon which the findings described in Subsection (8)(a) are made.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for approval of a resource decision under this section.

Section 6. Section 54-17-403 is amended to read:

54-17-403. Cost recovery.

(1)(a) Except as otherwise provided in this section, and excluding cost recovery for costs associated with proven dispatchable generation resources, which is governed by Section 54-17-1002, if the commission approves any portion of an energy utility's resource decision under Section 54-17-402, the commission shall, in a general rate case or other appropriate commission proceeding, include in the energy utility's retail rates the state's share of costs:

(i) relevant to that proceeding;

(ii) incurred by the energy utility in implementing the approved resource decision; and

(iii) up to the projected costs specified in the commission's order issued under Section 54-17-402.

(b) Except to the extent that the commission issues an order under Section 54-17-404, any increase from the projected costs specified in the commission's order issued under Section 54-17-402 shall be subject to review by the commission as part of a rate hearing under Section 54-7-12.

(c) If the commission approves a request for approval of rural gas infrastructure development under Section 54-17-402, the commission may approve the inclusion of rural gas infrastructure development costs within the gas corporation's base rates if:

(i) the inclusion of those costs will not increase the base distribution non-gas revenue requirement by more than 2% in any three-year period;

(ii) the distribution non-gas revenue requirement increase related to the infrastructure development costs under Subsection (1)(c)(i) does not exceed 5% in the aggregate; and

(iii) the applicable distribution non-gas revenue requirement is the annual revenue requirement determined in the gas corporation's most recent rate case.

(2)(a) Subsequent to the commission issuing an order described in Subsection (2)(a)(i) or (ii), the commission may disallow some or all costs incurred in connection with an approved resource decision if the commission finds that an energy utility's actions in implementing an approved resource decision are not prudent because of new information or changed circumstances that occur after:

(i) the commission approves the resource decision under Section 54-17-402; or

(ii) the commission issues an order to proceed under Section 54-17-404.

(b) In making a determination of prudence under Subsection (2)(a), the commission shall use the standards identified in Section 54-4-4.

(3) Notwithstanding any other provision of this chapter, the commission may disallow some or all of the costs incurred by an energy utility in connection with an approved resource decision upon a finding by the commission that the energy utility is responsible for a material misrepresentation or concealment in connection with an approval process under this chapter.

Section 7. Section 54-17-1001 is enacted to read:

54-17-1001. Acquiring excess proven dispatchable generation capacity.

(1) As used in this section:

(a) "Allocation agreement" means a multi-state agreement that allocates the costs and benefits from energy resources serving multiple states to each participating state.

(b) "Division" means the Division of Public Utilities established in Section 54-4a-1.

(c) "Excess proven dispatchable generation capacity" means electric generation capacity from a proven dispatchable generating resource located in the state that is subject to an allocation agreement, where excess capacity becomes available as another state transitions away from the use of proven dispatchable generation resources.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) If the affected electrical utility becomes aware that the affected electrical utility will have excess proven dispatchable generation capacity at an in-state proven dispatchable generation resource, the affected electrical utility shall provide notice to:

(a) the commission;

(b) the division;

(c) the office;

(d) the president of the Senate; and

(e) the speaker of the House of Representatives.

(3) An affected electrical utility that becomes aware of excess proven dispatchable generation capacity shall provide the notice described in Subsection (2):

(a) by July 1, 2024, for any excess capacity the utility is aware of on or before May 1, 2024; or

(b) within 60 days after the day the utility becomes aware of the excess capacity, for any excess capacity the utility becomes aware of after May 1, 2024.

(4) An affected electrical utility may not offer excess proven dispatchable generation capacity for sale outside of the state unless the affected electrical utility has complied with Subsection (2).

(5)(a) After receiving the notice described in Subsection (2), the division shall immediately begin negotiations through an allocation agreement process for excess proven dispatchable generation capacity.

(b) The division shall provide regular updates on the status of negotiations under Subsection (5)(a) to the president of the Senate, the speaker of the House of Representatives, and other relevant stakeholders as determined by the commission.

(6) When reviewing an affected electrical utility's application seeking approval of an agreement to allocate another state's existing share of excess proven dispatchable generation capacity, the commission shall consider:

(a) the state energy policy described in Section 79-6-301;

(b) recommendations made by the president of the Senate, the speaker of the House of Representatives, and the office;

(c) current and forecasted electricity needs within the state and the region;

(d) the potential impact on long-term electricity costs for ratepayers in the state;

(e) the potential to resell excess electricity on interstate energy markets to lower costs for state ratepayers;

(f) the additional operating costs borne by the state as the sole purchaser of capacity or energy from the proven dispatchable generation resource;

(g) opportunities to coordinate with neighboring states with similar energy policies and goals;

(h) that any excess capacity allocated and approved in rates under an agreement described in Subsection (5) shall be operated in a manner that prioritizes the interests of ratepayers in the state;

(i) that all revenues from the sale of excess capacity that is allocated and approved in rates under an agreement described in Subsection (5) shall be credited to ratepayers in the state; and

(j) any other factors the commission determines relevant.

Section 8. Section 54-17-1002 is enacted to read:

54-17-1002. Cost recovery for proven dispatchable generation assets.

(1) Notwithstanding any other provision of law, the recovery of costs associated with the acquisition, expansion, maintenance, retrofitting, fueling, or operation of a proven dispatchable generation resource, as well as the reasonable legal fees and costs associated with efforts to preserve the continued operation of a proven dispatchable generation resource, is governed by this section.

(2) To recover costs described in Subsections (3) and (5), an affected electrical utility is required to demonstrate, to the commission's satisfaction:

(a) the amount sought to be recovered that is attributable to the state;

(b) a detailed description of the actions taken by the affected electrical utility resulting in the costs sought to be recovered;

(c) that the actions taken by the affected electrical utility resulting in the costs sought to be recovered were:

(i) reasonable when considering available dispatchable resources; and

(ii) necessary to acquire, operate, and maintain dispatchable resources; and

(d) that the recovery of costs for the actions taken by the affected electrical utility is in the public interest.

(3) Subject to requirements of Subsection (2), the commission shall allow an affected electrical utility to recover through the affected electrical utility's rates, as established in a general rate case or other appropriate commission proceeding, the reasonable costs associated with:

(a) any commission approved significant energy resource decision relating to a proven dispatchable generation resource within the state;

(b) any commission approved voluntary resource decision relating to a proven dispatchable generation resource within the state;

(c) costs necessary to acquire, expand, retrofit, or maintain proven dispatchable generation resources located within the state to comply with federal law or ensure the efficient operation of those resources;

(d) costs to obtain needed generation due to a federal decision or mandate requiring the closure, retirement, or decommission of a proven dispatchable generation resource within the state until permanent replacement generation can be obtained or constructed;

(e) stranded costs due to any federal decision or mandate to close, retire, or decommission proven dispatchable generation resources located within the state; and

(f) reasonable legal fees and costs arising out of efforts to preserve the continued operation of proven dispatchable generation resources that are either located within the state or that provide generation to the state.

(4) An affected electrical utility may recover fuel- related costs associated with acquiring and transporting fuel necessary for operating a proven dispatchable generation resource located within the state if the affected electrical utility demonstrates to the commission's satisfaction that:

(a) any fuel purchase for the proven dispatchable generation resource is at a cost less than or equal to the lower of:

(i) the current market price for that fuel in the general geographic area from which the resource is extracted; or

(ii) the cost to purchase that fuel from an affiliate company of the affected electrical utility;

(b) any fuel transportation costs are reasonable in comparison to current fuel transportation market rates;

(c) the term of collective fuel supply contracts entered into by the affected electrical utility is reasonable to ensure necessary fuel supply for the affected electrical utility; and

(d) that the cost for the affected electrical utility to maintain a reasonable stockpile of fuel for up to one year for the proven dispatchable generation resource is reasonable according to prudent utility practice.

(5)(a) An affected electrical utility:

(i) may recover reasonable ongoing operating costs incurred in connection with the operation of a proven dispatchable generation resource located within the state; and

(ii) has a presumption that the ongoing operating costs described in Subsection (5)(a)(i) are reasonable as determined by the commission in a general rate case or other appropriate commission proceeding.

(b) A party may submit evidence in a commission proceeding to challenge the reasonableness of the affected electrical utility's operating costs.

(c) If an affected electrical utility's operating costs are unchallenged or the commission determines after a commission proceeding that a challenging party has failed to demonstrate that the affected electrical utility's operating costs are not reasonable, the affected electrical utility is entitled to recover operating costs associated with a proven dispatchable generation resource in rates.

(d) If the commission determines, after hearing evidence from a challenging party, that the affected electrical utility's operating costs are not reasonable, the commission shall establish reasonable rates that allow the affected electrical utility to recover only reasonable operating costs associated with a proven dispatchable generation resource.

(6)(a) Upon filing of a request for recovery under this section from an affected electrical utility that is expected to result in a rate increase, the commission shall provide a written notice of the request to the Executive Appropriations Committee and the

Public Utilities, Energy, and Technology Interim Committee.

(b) Upon receiving the notice described in Subsection (6)(a), the Executive Appropriations Committee may review the affected utility's request for cost recovery and determine whether to direct committee staff, or an otherwise qualified third party to intervene and advocate on behalf of the Legislature.

Section 9. Section 54-24-301 is enacted to read:

54-24-301. Utah fire funds -- Creation -- Sources of funding.

Part 3. Utah Fire Fund

(1) As used in this part:

(a)(i) "Eligible payment" means an amount owed by a large-scale electric utility to a third party in the state that exceeds the large-scale electric utility's applicable insurance coverage, including self-insurance.

(ii) "Eligible payment" includes amounts owed as a result of:

(A) a settlement agreement resolving economic damages arising out of a fire claim; or

(B) economic damages awarded in a finally adjudicated fire claim.

(iii) "Eligible payment" does not include an amount for damages to infrastructure owned by a large-scale electric utility caused by a fire event.

(b) "Fire event" means any unplanned or uncontrolled fire in the state alleged to have been caused by an electrical corporation.

(c) "Fire claim" means any claim, whether based on negligence, nuisance, trespass, or any other claim for relief, brought by a non-governmental person against an electrical corporation in any civil action to recover for damage resulting from a fire event.

(d) "Inflation" means the seasonally adjusted Consumer Price Index for all urban consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) "Utah fire fund" means a fund that may be created under this section by a large-scale electric utility to serve as a resource to supplement other forms of insurance to make eligible payments.

(2)(a) A large-scale electric utility may create a Utah fire fund by filing notice with the commission.

(b) The creation of a Utah fire fund under this section does not:

(i) establish an exclusive fund for payment of eligible claims; or

(ii) prohibit a large-scale electric utility from proposing, or the commission from approving, other mechanisms for third party liability coverage that are in the public interest.

(3) A Utah fire fund shall consist of:

(a) a reasonable and prudent fire surcharge that a large-scale electric utility may charge to the large-scale electric utility customers, as approved by the commission in a rate case, to be collected over a 10-year period from the date of the commission's approval of the Utah fire fund;

(b) investment income from money in the fund; and

(c) other amounts deposited into the fund as otherwise required by law.

(4) The commission shall approve a large-scale electric utility's request to create a Utah fire fund for a large-scale electric utility if the large-scale electric utility demonstrates to the commission's satisfaction:

(a) that the fund:

(i) is in the public interest;

(ii) supports the financial health of the large-scale electric utility; and

(iii) maintains or improves the large-scale electric utility's ability to deliver safe and reliable services;

(b) that the fire surcharge does not result in an increase over current rates:

(i) for all customers, more than 4.95%; and

(ii) for an average residential customer more than $3.70 a month.

(5) Notwithstanding any other provision of law, a Utah fire fund created under this part may not be used for payments related to any fire or property damage claim originating or occurring outside of the state.

Section 10. Section 54-24-302 is enacted to read:

54-24-302. Utah fire fund administration.

(1) Upon creation of a Utah fire fund under Section 54-24-301, a large-scale electric utility shall:

(a) open a separate investment account designated as the Utah fire fund to hold all assets as described in Subsection 54-24-301(3) and designate the chief executive officer, chief financial officer, and other appropriate representatives as authorized by the board of directors of the utility as the account signatories;

(b) invest Utah fire fund assets collected under Subsection 54-24-301(3) only in accordance with Title 51, Chapter 7, State Money Management Act, with all investment returns remaining in the Utah fire fund and not allocated to other accounts of the large-scale electric utility;

(c) record all customer funds received into the large-scale electric utility's Utah fire fund account in a separate ledger account that reflects deposits, disbursements, assets, liabilities, equity, income, and expenditures related to the fund;

(d) report all Utah fire fund account activity, including investment statements and ledger

account reconciliations, to the commission annually, unless otherwise directed by commission order or regulation;

(e) identify the Utah fire fund investment account as restricted in the large-scale electric utility's financial statements, with an offsetting regulatory liability owed back to customers in the event the funds are not fully utilized; and

(f) maintain records of the assets, liabilities, equity, income, and expenditures of the large-scale electric utility's Utah fire fund.

(2)(a) For all fire claims arising out of fire events that occurred in a calendar year, a large-scale electric utility may not receive disbursement of funds from a Utah fire fund until the large-scale electric utility has first paid $10,000,000 towards eligible payments from the large-scale electric utility's own funds, not included in its regulated revenue requirement.

(b) Subject to Subsection (2)(a), a large-scale electric utility may disburse funds from the large-scale electric utility's Utah fire fund to pay eligible payments.

(3) A surcharge described in Section 54-24-301 that funds a large-scale electric utility's Utah fire fund shall terminate on the earliest of the following dates:

(a) the date that is 10 years after the effective date of the commission approved surcharge that established the large-scale electric utility's Utah fire fund;

(b) the date on which the assets in the large-scale electric utility's Utah fire fund reach an amount equal to 50% of the large-scale electric utility's Utah revenue requirement established in the large-scale electric utility's most recently approved general rate case; or

(c) the date on which the commission determines, on the commission's own motion, that the surcharge should terminate, regardless of the current balance in the Utah fire fund.

(4)(a) In a rate case or other appropriate proceeding, any party may challenge the amount of the disbursement from the large-scale electric utility's Utah fire fund used for the settlement of a fire claim.

(b) If an expenditure is challenged under Subsection (5)(a):

(i) the commission may require that the large-scale electric utility replenish the large-scale electric utility's Utah fire fund for any amount that the commission determines was imprudent; and

(ii) the burden is on the challenging party to prove imprudence.

(c) The use of a Utah fire fund to pay a judgment relating to a fire claim is considered prudent and is not subject to challenge.

(5) If the commission orders a large-scale electric utility to reimburse a Utah fire fund due to imprudence under this Subsection (5), the large-scale electric utility's total reimbursement obligation may not exceed 10% of the large-scale electric utility's distribution equity rate base assigned to this state for the calendar year in which the calculation is performed.

Section 11. Section 54-24-303 is enacted to read:

54-24-303. Fire claims against an electrical corporation.

(1) A fire claim shall be brought within two years from the date of the ignition of the fire.

(2) Subject to the limitations described in this section and Section 65A-3-4, an injured plaintiff may recover for a fire claim:

(a) economic losses to compensate for damage to property; and

(b) noneconomic losses to compensate for pain, suffering, and inconvenience.

(3) Subject to Subsection (6), the amount of damages recoverable under Subsection (2)(a) for economic loss to property shall be calculated as the lesser of:

(a) the cost to restore the property to the property's pre-fire condition; or

(b) the difference between:

(i) the fair market value of the property immediately before the fire; and

(ii) the fair market value of the property after the fire.

(4)(a) Subject to Subsections (4)(b) and (6), the amount of damages recoverable under Subsection (2)(b) for noneconomic loss may not exceed:

(i) for a person who is not physically injured as a result of the fire, $100,000; or

(ii) for a person who is physically injured as a result of the fire, $450,000.

(b) The limitation described in Subsection (4)(a)(ii) does not apply in a wrongful death action.

(5)(a) Beginning on July 1, 2025, and on July 1 of each year thereafter until July 1, 2031, the commission shall adjust the limitation on recoverable damages described in Subsection (4) for inflation.

(b) By July 15 of each year described in Subsection (5)(a), the commission shall:

(i) certify the inflation-adjusted limitation on recoverable damages calculated under this subsection; and

(ii) inform the Administrative Office of the Courts of the adjusted limitation on recoverable damages.

(6) The limitations on an electrical corporation's liability for recoverable damages described in Subsections (3) and (4) apply unless:

(a) the electrical corporation did not have a wildland fire protection plan approved by the

electrical corporation's own governing authority in place before the occurrence of the fire event; or

(b) the public service commission determines, in an action brought under Subsection (7), that the electrical corporation was in material noncompliance with the electrical corporation's wildland fire protection plan in the area of the fire event at the time the fire event occurred.

(7)(a) A party may bring a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act, requesting the commission to determine whether an electrical corporation was in material noncompliance with the electrical corporation's wildland fire protection plan in the area of a specific fire event.

(b) The commission's determination for an action brought under Subsection (7)(a) is binding on all fire claims arising out of the specific fire event.

(c) A party shall bring or join an action described in Subsection (7)(a) within 180 days of a fire event.

(d) Unless the commission determines additional time to complete the analysis required to make a determination under (7)(a) is in the public interest, the commission shall make a determination within 120 days from the date a party files a request for a determination.

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 215
S. B. 228
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

PROTECTIVE ORDER AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill addresses cohabitant abuse protective orders.

Highlighted Provisions:

This bill:

- clarifies when a court may amend or dismiss the criminal provisions of a cohabitant abuse protective order.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-605, as last amended by Laws of Utah 2021, Chapter 159

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

Section 1. Section 78B-7-605 is amended to read:

78B-7-605. Dismissal.

(1) [~~The~~]Except as otherwise provided in Subsection 78B-7-603(10) concerning the criminal provisions of a cohabitant abuse protective order, the court may amend or dismiss a protective order issued in accordance with this part that has been in effect for at least one year if the court finds that:

(a) the basis for the issuance of the protective order no longer exists;

(b) the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order; and

(c) the petitioner's actions demonstrate that the petitioner no longer has a reasonable fear of the respondent.

(2) The court shall enter sanctions against either party if the court determines that either party acted:

(a) in bad faith; or

(b) with intent to harass or intimidate the other party.

(3) If a divorce proceeding is pending between parties to a protective order action, the court shall dismiss the protective order when the court issues a decree of divorce for the parties if:

(a) the respondent files a motion to dismiss a protective order in both the divorce action and the protective order action and personally serves the petitioner; and

(b)(i) the parties stipulate in writing or on the record to dismiss the protective order; or

(ii) based on evidence at the divorce trial, the court determines that the petitioner no longer has a reasonable fear of future harm, abuse, or domestic violence.

(4) When the court dismisses a protective order, the court shall immediately:

(a) issue an order of dismissal to be filed in the protective order action; and

(b) transmit a copy of the order of dismissal to the statewide domestic violence network as described in Section 78B-7-113.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 216
S. B. 231
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

PUBLIC SURVEILLANCE PROHIBITION AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill prohibits a governmental entity from obtaining certain types of surveillance information.

Highlighted Provisions:

This bill:

- defines and modifies terms;
- prohibits a governmental entity from obtaining certain types of surveillance information without a warrant;
- provides exceptions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-23d-102, as last amended by Laws of Utah 2023, Chapter 16

77-23e-102, as enacted by Laws of Utah 2021, Chapter 200

ENACTS:

77-23d-106, Utah Code Annotated 1953

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

Section 1. Section 77-23d-102 is amended to read:

77-23d-102. Definitions.

CHAPTER 23D. SURVEILLANCE PRIVACY

As used in this chapter:

(1) "Airport" means the same as that term is defined in Section 72-10-102.

(2) "Authorized property" means:

(a) a building or part of a building owned or leased by a law enforcement agency or a correctional facility;

(b) critical infrastructure if owned or operated by a government entity;

(c) an elementary or secondary public or charter school;

(d) a courthouse; or

(e) an airport.

(3) "Biometric surveillance information" means the analysis of surveillance information using biometric software to identify an individual's identity or location using the individual's physical attributes or manner.

(4) "Critical infrastructure" means the same as that term is defined in Section 76-6-106.3.

(5)(a) "Government entity" means the state, a county, a municipality, a higher education institution, a special district, a special service district, charter school, or any other political subdivision of the state or an administrative subunit of [~~any~~]a political subdivision[~~, including~~].

(b) "Government entity" includes a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

[~~(2)~~](6) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or other remote sensing or detection technology used by the individual operating the device to obtain information, not otherwise directly observable, about individuals, items, or activities within a closed structure.

(7) "Public safety threat" means a documented reasonable articulable suspicion of:

(a) a threat to commit a violent felony by a specific individual towards a person, a group of people, or a place; or

(b) a threat by a specific individual to commit an offense under Section 76-5-107, Threat of violence.

(8) "Surveillance information" means future, current, or historical information produced by the digital monitoring of an area that can be used to create biometric surveillance information.

[~~(3)~~](9) "Target" means a person or a structure upon which a government entity intentionally collects or attempts to collect information using an imaging surveillance device.

(10) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 2. Section 77-23d-106 is enacted to read:

77-23d-106. Biometric surveillance information.

(1) Except as provided in Subsection (2), a government entity may not obtain biometric surveillance information without:

(a) a search warrant; and

(b) an existing written policy that:

(i) concerns the government entity's use, management, and auditing of biometric surveillance information; and

(ii) is posted and publicly available on:

(A) the government entity's website; or

(B) the Utah Public Notice Website created in Section 63A-16-601, if the government entity does not have a website.

(2) A government entity may obtain biometric surveillance information without a search warrant:

(a) on authorized property;

(b) in accordance with a judicially recognized exception to warrant requirements; or

(c) a public safety threat.

Section 3. Section 77-23e-102 is amended to read:

77-23e-102. Definitions.

As used in this chapter:

(1) "Department" means the Department of Public Safety, created in Section 53-1-103.

(2) "Facial biometric data" means data derived from a measurement, pattern, contour, or other characteristic of an individual's face, either directly or from an image.

(3)(a) "Facial recognition comparison" means the process of comparing an image or facial biometric data to an image database.

(b) "Facial recognition comparison" does not include biometric surveillance information as that term is defined in Section 77-23d-102.

(4)(a) "Facial recognition system" means a computer system that, for the purpose of attempting to determine the identity of an unknown individual, uses an algorithm to compare biometric data of the face of the unknown individual to facial biometric data of known individuals.

(b) "Facial recognition system" does not include:

(i) a system described in Subsection (4)(a) that is available for use, free of charge, by the general public; or

(ii) a system a consumer uses for the consumer's private purposes.

(5)(a) "Government entity" means:

(i) an executive department agency of the state;

(ii) the office of:

(A) the governor;

(B) the lieutenant governor;

(C) the state auditor;

(D) the attorney general; or

(E) the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) a legislative committee of the Legislature;

(xv) a court, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) a state institution of higher education as that term is defined in Section 53B-3-102;

(xvii) an entity within the system of public education that receives funding from the state; or

(xviii) a political subdivision of the state as that term is defined in Section 63G-7-102.

(b) "Government entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity described in Subsection (5)(a) that is funded or established by the government to carry out the public's business; or

(ii) an individual acting as an agent of a government entity or acting on behalf of an entity described in this Subsection (5).

(6)(a) "Image database" means a database maintained by a government entity that contains images the government entity captures of an individual while the individual interacts with the government entity.

(b) "Image database" does not include publicly available information.

(7) "Law enforcement agency" means a public entity that exists primarily to prevent, detect, or prosecute crime or enforce criminal statutes or ordinances.

(8) "Trained employee" [~~.~~]means an individual who is trained to make a facial recognition comparison and identification and who has completed implicit bias training.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 217
S. B. 233
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

MEDICAL CANNABIS AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill modifies provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- allows the delivery of medical cannabis to more address types;
- allows a medical cannabis pharmacy to engage in additional targeted marketing;
- allows a medical cannabis processor to engage in targeted marketing subject to administrative rule;
- allows a medical clinic to engage in targeted marketing;
- prohibits anticompetitive behavior;
- modifies provisions related to cannabis production facility applications;
- modifies the duties and membership of the Medical Cannabis Production and Pharmacy Licensing Board (licensing board);
- prohibits the use of certain terms on medical cannabis products;
- modifies reporting requirements;
- changes requirements related to felonies and obtaining certain cannabis business licenses;
- requires pharmacy licenses to be renewed and awarded under the licensing board;
- allows additional medical providers to provide recommendations to the Compassionate Use Board;
- modifies provisions related to public employee protections for medical cannabis and other prescription use;
- allows a public employee to file a complaint with the Labor Commission regarding discriminatory practices related to medical cannabis use;
- creates a penalty for a health care provider who provides medical cannabis recommendations for an entity that is violating advertisement restrictions; and
- extends the repeal date of the Medical Cannabis Governance Structure Working Group.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327
4-41a-201, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
4-41a-201.1, as enacted by Laws of Utah 2021, Chapter 350
4-41a-202, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-301, as last amended by Laws of Utah 2023, Chapter 313
4-41a-401, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1
4-41a-602, as last amended by Laws of Utah 2023, Chapter 313
4-41a-802, as last amended by Laws of Utah 2023, Chapter 273
4-41a-1001, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1005, as renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1101, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1102, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1106, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
4-41a-1202, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-1-421, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-201, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-202, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-4-204, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter

307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-4-207, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-213, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-4-245, as enacted by Laws of Utah 2023, Chapter 273
63I-2-236, as last amended by Laws of Utah 2023, Chapters 87, 101 and 273

ENACTS:
4-41a-604, Utah Code Annotated 1953
34A-5-114, Utah Code Annotated 1953

Sections affected by Coordination Clause:
4-41a-102, as last amended by Laws of Utah 2023, Chapters 273, 313 and 32726
26B-4-201, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 30726

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

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(3)(a) "Anticompetitive business practice" means any practice that reduces the amount of competition in the medical cannabis market that would be considered an attempt to monopolize, as defined in Section 76-10-3103.

(b) "Anticompetitive business practice" may include:

(i) agreements that may be considered unreasonable when competitors interact to the extent that they are:

(A) no longer acting independently; or

(B) when collaborating are able to wield market power together;

(ii) monopolizing or attempting to monopolize trade by:

(A) acting to maintain or acquire a dominant position in the market; or

(B) preventing new entry into the market; or

(iii) other conduct outlined in rule.

[~~(3)~~](4)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

[~~(4)~~](5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

[~~(5)~~](6) "Cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(6)~~](7) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

[~~(7)~~](8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(8)~~](9) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(9)~~](10) "Cannabis cultivation facility agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

[~~(10)~~](11) "Cannabis derivative product" means a product made using cannabis concentrate.

[~~(11)~~](12) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(12)~~](13) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(13)~~](14) "Cannabis processing facility agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

[~~(14)~~](15) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

[~~(15)~~](16) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(16)~~](17) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(17)~~](18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(18)~~](19) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(19)~~](20) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(20)~~](21) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility[~~,~~]:

(i) the medical cannabis cardholder's home address; or

(ii) an address designated by the medical cannabis cardholder that:

(A) is the medical cannabis cardholder's workplace; and

(B) is not a community location; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(21)~~](22) "Department" means the Department of Agriculture and Food.

[~~(22)~~](23) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(24) "Government issued photo identification" means the same as that term is defined in Section 26B-4-201, including expired identification in accordance with Section 26B-4-244.

[~~(23)~~](25) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(24)~~](26)(a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(25)~~](27) "Independent cannabis testing laboratory agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(26)~~](28) "Inventory control system" means a system described in Section 4-41a-103.

[~~(27)~~](29) "Licensing board" or "board" means the Cannabis Production Establishment and Pharmacy Licensing Advisory Board created in Section 4-41a-201.1.

[~~(28)~~](30) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(29)~~](31) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

[~~(30)~~](32) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(31)~~](33) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(32)~~](34) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

[~~(33)~~](35) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

[~~(34)~~](36) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(35)~~](37) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(36)~~](38) "Medical cannabis shipment" means a shipment of medical cannabis [~~or a medical cannabis product~~]that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(37)~~](39) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

[~~(38)~~](40) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

[~~(39)~~](41) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(40)~~](42) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(41)~~](43) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(42)~~](44) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(43)~~](45) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(44)~~](46) "State electronic verification system" means the system described in Section 26B-4-202.

(47) "Targeted marketing" means the promotion of a cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event;

(c) other marketing material that is physically available or digitally displayed in a medical cannabis pharmacy; or

(d) a leaflet a medical cannabis pharmacy places in the opaque package or box that is provided to an individual when obtaining medical cannabis:

(i) in the medical cannabis pharmacy;

(ii) at the medical cannabis pharmacy's drive-through pick up window; or

(iii) in a medical cannabis shipment.

[~~(45)~~](48) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(46)~~](49) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(47)~~](50) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(48)~~](51) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2)(a)(i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a licensing process that the department initiates after March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4-41a-201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4-41a-406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of [~~2%~~]10% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a liquid cash account with a financial institution or a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c)(i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department[~~:~~]

[~~(i)~~] an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[~~; or~~]; and

[~~(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and~~]

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4)(a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(8)(a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under this title, the licensing board may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter;

(f) if, after a change of ownership described in Subsection (15)(b), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; [~~or~~]

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b)[~~.~~]; or

(h) if, following an investigation conducted pursuant to Subsection 4-41a-201.1(11), the board identifies that the licensee has participated in anticompetitive business practices.

(10)(a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13)(a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14)(a) Notwithstanding this section, the department:

(i) may operate or partner with a research university to operate an independent cannabis testing laboratory;

(ii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

(A) the department issues at least two licenses to independent cannabis testing laboratories; and

(B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

(iii) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

(A) fewer than two licensed independent cannabis testing laboratories are operating; or

(B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b)(i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15)(a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 3. Section 4-41a-201.1 is amended to read:

4-41a-201.1. Cannabis Production Establishment and Pharmacy Licensing Advisory Board -- Composition -- Duties.

(1) There is created within the department the Cannabis Production Establishment and Pharmacy Licensing Advisory Board.

(2) The commissioner shall:

(a) appoint the members of the board;

(b) submit the name of each individual that the commissioner appoints under Subsection (2)(a) to the governor for confirmation or rejection; and

(c) if the governor rejects an appointee that the commissioner submits under Subsection (2)(b), appoint another individual in accordance with this Subsection (2).

(3)(a) Except as provided in Subsection (3)(c), the board shall consist of the following [~~six~~]eight members:

(i) the following [~~five~~]seven voting members whom the commissioner appoints:

(A) one member of the public;

(B) one member with knowledge and experience in the pharmaceutical or nutraceutical manufacturing industry;

(C) one member representing law enforcement;

(D) one member whom an organization representing medical cannabis patients recommends; [~~and~~]

(E) a chemist who has experience with cannabis and who is associated with a research university; [~~and~~]

(F) a pharmacist who is not associated with the medical cannabis industry; and

(G) an accountant; and

(ii) the commissioner or the commissioner's designee as a non-voting member, except to cast a deciding vote in the event of a tie.

(b) The commissioner may appoint a [~~seventh~~]ninth member to the board who has a background in the cannabis cultivation and processing industry.

(c) The commissioner or the commissioner's designee shall serve as the chair of the board.

(d) An individual is not eligible for appointment to be a member of the board if the individual:

(i) has any commercial or ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier;

(ii) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier; or

(iii) is employed or contracted to lobby on behalf of any cannabis production establishment, medical cannabis pharmacy, or medical cannabis courier.

(4)(a) Except as provided in Subsection (4)(b), a voting board member shall serve a term of four years, beginning July 1 and ending June 30.

(b) Notwithstanding Subsection (4)(a), for the initial appointments to the board, the commissioner shall stagger the length of the terms of board members to ensure that the commissioner appoints two or three board members every two years.

(c) As a board member's term expires:

(i) the board member is eligible for reappointment; and

(ii) the commissioner shall make an appointment, in accordance with Subsection (2), for the new term before the end of the member's term.

(d) When a vacancy occurs on the board for any reason other than the expiration of a board member's term, the commissioner shall appoint a replacement to the vacant position, in accordance with Subsection (2), for the unexpired term.

(e) In making appointments, the commissioner shall ensure that no two members of the board are employed by or represent the same company or nonprofit organization.

(f) The commissioner may remove a board member for cause, neglect of duty, inefficiency, or malfeasance.

(5)(a)(i) [~~Four~~]Five members of the board constitute a quorum of the board.

(ii) An action of the majority of the board members when a quorum is present constitutes an action of the board.

(b) The department shall provide staff support to the board.

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

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) The board shall:

(a) meet as called by the chair to review cannabis production establishment and pharmacy license applications;

(b) review each license application for compliance with:

(i) this chapter; and

(ii) department rules;

(c) conduct a public hearing to consider the license application;

(d) approve the department's license application forms and checklists; and

(e) make a determination on each license application.

(7) The board shall hold a public hearing to review a cannabis production establishment's or pharmacy's license if the establishment:

(a) changes ownership by an interest of 20% or more;

(b) changes or adds a location;

(c) upgrades to a different licensing tier under department rule;

(d) changes extraction or formulation standard operating procedures;

(e) adds an industrial hemp processing or cultivation license to the same location as the cannabis production establishment's processing facility; or

(f) as necessary based on the recommendation of the department.

(8) In a public hearing held under Subsection (7), the board may consider the following in determining whether to approve a request to change pharmacy locations:

(a) medical cannabis availability, quality, and variety;

(b) whether geographic dispersal among licensees is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders;

(c) the extent to which the pharmacy can increase efficiency and reduce the cost to patients of medical cannabis; and

(d) the factors listed in Subsection 4-41a-1004(7).

(9) In a public hearing held pursuant to Subsection (7), the board may not approve a request to change a medical cannabis pharmacy location outside of the pharmacy's current region established under Subsection 4-41a-1005(1)(c)(ii)(A).

[~~(8)~~](10)(a) The board shall meet annually in December to consider cannabis production establishment and pharmacy license renewal applications.

(b) During the meeting described in Subsection [~~(8)(a)~~](10)(a):

(i) a representative from each applicant for renewal shall:

(A) attend in person or electronically; or

(B) submit information before the meeting, as the board may require, for the board's consideration; [~~and~~]

(ii) the board shall consider, for each cannabis cultivation facility seeking renewal, information including:

(A) the amount of biomass the licensee produced during the current calendar year;

(B) the amount of biomass the licensee projects to produce during the following year;

(C) the amount of hemp waste the licensee currently holds;

(D) the current square footage or acres of growing area the licensee uses; and

(E) the square footage or acres of growing area the licensee projects to use in the following year; [~~and~~]

(iii) the board shall consider, for each cannabis processing facility seeking renewal, information including:

(A) methods and procedures for extraction;

(B) standard operating procedures; and

(C) a complete listing of the medical dosage forms that the licensee produces[~~.~~]; and

(iv) the board shall consider, for each cannabis pharmacy seeking renewal, information including:

(A) product availability, quality, and variety;

(B) the pharmacy's operating procedures and practices; and

(C) the factors listed in Subsection 4-41a-1003(1).

(c) Following consideration of the information provided under Subsection (10)(b), the board may elect to approve, deny, or issue conditional approval of a cannabis production establishment or pharmacy license renewal application.

[~~(c)~~](d) The information a licensee or license applicant provides to the board for a license determination constitutes a protected record under Subsection 63G-2-305(1) or (2) if the applicant or licensee provides the board with the information regarding business confidentiality required in Section 63G-2-309.

(11) In cooperation with the attorney general, the board may investigate information received by the department indicating that a licensee is potentially engaging in anticompetitive business practices.

Section 4. Section 4-41a-202 is amended to read:

4-41a-202. Cannabis production establishment owners and directors -- Criminal background checks.

(1) Each applicant for a license as a cannabis production establishment shall submit to the department, at the time of application, from each individual who has a financial or voting interest of [~~2%~~]10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 5. Section 4-41a-301 is amended to read:

4-41a-301. Cannabis production establishment agent -- Registration.

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent, regardless of whether the individual is a seasonal, temporary, or permanent employee.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4)(a) The department shall, within 15 business days after the day on which the department receives a complete application from a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the prospective agent:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) which cannabis production establishment agent designations the applicant desires; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5)(a) The department shall designate, on an individual's cannabis production establishment agent registration card

the type of cannabis production establishment for which the individual is authorized to act as an agent.

(b) When issuing a card under Subsection (5)(a) the department:

(i) may issue a cannabis production establishment agent registration card that contains both a cannabis processing facility designation and a cannabis cultivator facility designation; and

(ii) if the cannabis production establishment agent registration card will contain an independent cannabis testing laboratory designation, may not include any other designations.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a certification standard that the department has reviewed and approved.

(7)(a) The department shall ensure that the certification standard described in Subsection (6) includes training:

(i) in Utah medical cannabis law;

(ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

(iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

(iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9)(a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(10) A cannabis production establishment shall:

(a) maintain a list of each employee that holds a cannabis production establishment agent registration card; and

(b) provide the list to the department upon request.

Section 6. Section 4-41a-401 is amended to read:

4-41a-401. Cannabis production establishment -- General operating requirements.

(1)(a) A cannabis production establishment shall operate in accordance with the operating plan described in Sections 4-41a-201 and 4-41a-204.

(b) A cannabis production establishment shall notify the department before a change in the cannabis production establishment's operating plan.

(c)(i) If a cannabis production establishment changes the cannabis production establishment's operating plan, the establishment shall ensure that the new operating plan complies with this chapter.

(ii) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to:

(A) review a change notification described in Subsection (1)(b);

(B) identify for the cannabis production establishment each point of noncompliance between the new operating plan and this chapter;

(C) provide an opportunity for the cannabis production establishment to address each identified point of noncompliance; and

(D) suspend or revoke a license if the cannabis production establishment fails to cure the noncompliance.

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41a-301; and

(b) at the physical address provided to the department under Section 4-41a-201.

(3) A cannabis production establishment may not employ an individual who is younger than 21 years old.

(4) A cannabis production establishment may not employ an individual who has been convicted, under state or federal law, of:

(a) a felony in the preceding 10 years; or

(b) after December 3, 2018, a misdemeanor for drug distribution.

(5) A cannabis production establishment may authorize an individual who is at least 18 years old and is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment:

(a) tracks and monitors the individual at all times while the individual is at the cannabis production establishment; and

(b) maintains a record of the individual's access, including arrival and departure.

(6) A cannabis production establishment shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the cannabis production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(c) a lock or equivalent restrictive security feature on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 7. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol, cannabidiol, and any known cannabinoid that is greater than 1% of the total cannabinoids contained in the cannabis or cannabis product as determined under Subsection 4-41a-701(4);

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes;

(v) includes a warning label that states:

(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider.";

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; or

(C) for a container labeled on or after January 1, 2024, "WARNING: Cannabis has intoxicating effects, may be addictive, and may increase risk of mental illness. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider."; and

(vi) for raw cannabis or a cannabis product sold in a vaporizer cartridge labeled on or after May 3, 2023, includes a warning label that states:

(A) "WARNING: Vaping of cannabis-derived products has been associated with lung injury."; and

(B) "WARNING: Inhalation of cannabis smoke has been associated with lung injury.".

(2) To ensure that a cannabis product that a cannabis processing facility processes or produces has a medical rather than recreational disposition, the facility may not produce or process a product whose logo, product name, or brand name includes terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganja," "Mary Jane," "high," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

[~~(2)~~](3) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

[~~(3)~~](4) For any cannabis product that contains an artificially derived cannabinoid, the cannabis processing facility shall ensure that the label clearly:

(a) identifies each artificially derived cannabinoid; and

(b) identifies that each artificially derived cannabinoid is an artificially derived cannabinoid.

[~~(4)~~](5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) shall make rules to establish:

(i) a standard labeling format that:

(A) complies with the requirements of this section; and

(B) ensures inclusion of a pharmacy label; and

(ii) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality; and

(b) may make rules to further define standards regarding images, words, phrases, or containers

that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

Section 8. Section 4-41a-604 is enacted to read:

4-41a-604. Advertising.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing conditions under which a cannabis processing facility may engage in targeted marketing.

Section 9. Section 4-41a-802 is amended to read:

4-41a-802. Report.

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed; [~~and~~]

(g) the expenses incurred and revenues generated under this chapter[~~.~~]; and

(h) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Health and Human Services.

(2) The department may not include personally identifying information in the report described in this section.

(3) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 10. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2)(a)(i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy [~~in accordance with Title 63G, Chapter 6a, Utah Procurement Code~~]through the licensing board created under Section 4-41a-201.1.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c)(i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the

nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(f) In considering the issuance of a medical cannabis pharmacy license under this section, the department may consider the extent to which the pharmacy can increase efficiency and reduce the cost to patients of medical cannabis.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5)(a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6)[~~(a)~~] The [~~department~~]licensing board may revoke a license under this part:

[~~(i)~~](a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

[~~(ii)~~](b) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

[~~(iii)~~](c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

[~~(A)~~](i) a felony; or

[~~(B)~~](ii) after December 3, 2018, a misdemeanor for drug distribution;

[~~(iv)~~](d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

[~~(v)~~](e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; [~~or~~]

[~~(vi)~~](f) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter[~~.~~]; or

(g) if through an investigation conducted under Subsection 4-41a-201.1(11) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the board finds that the licensee has participated in anticompetitive business practices.

[~~(b) The department shall rescind a notice of an intent to issue a license under this part to an~~

~~applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.~~]

(7)(a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10)(a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11)(a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the [~~board's~~]department's cost of conducting the application review.

Section 11. Section 4-41a-1005 is amended to read:

4-41a-1005. Maximum number of licenses.

(1)(a) Except as provided in [~~Subsections~~]Subsection (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) [~~If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the~~]The department shall:

(A) divide the state into no less than four geographic regions, set by the department in rule;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d)(i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection

(1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).

(2)(a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 4-41a-1004(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 4-41a-108; or

(B) a financial institution in accordance with Subsection 4-41a-108(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

Section 12. Section 4-41a-1101 is amended to read:

4-41a-1101. Operating requirements -- General.

(1)(a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section 4-41a-1001 and, if applicable, Section 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department performing an inspection under Section 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection 26B-4-213(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9)(a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following

information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b)(i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26B-4-204(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26B-4-213(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26B-4-231(5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11)(a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis[~~,~~] or cannabis residue from a medical cannabis device[~~, or medical cannabis product~~] in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis [~~or medical cannabis products~~].

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis [~~or medical cannabis products~~]by:

(i) rendering the deposited medical cannabis [~~or medical cannabis products~~]unusable and unrecognizable before transporting deposited medical cannabis [~~or medical cannabis products~~]from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis [~~or medical cannabis products~~]in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) A medical cannabis pharmacy:

(a) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(b) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(c) shall ensure that a pharmacy medical provider described in Subsection (12)(a) works onsite during all business hours;

(d) shall designate one pharmacy medical provider described in Subsection (12)(a) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy; and

(e) shall allow the pharmacist-in-charge to determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.

[~~(12)~~](13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 13. Section 4-41a-1102 is amended to read:

4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1)(a) A medical cannabis pharmacy may not sell a product other than:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i)(A) a medical cannabis card; or

(B) a Department of Health and Human Services registration described in Subsection 26B-4-213(10); and

(ii) a corresponding government issued photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device or medical cannabis [~~product~~]to an individual described in Subsection 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26B-1-421(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) except for a medical cannabis cardholder approved under Subsection 26B-4-245(2), more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5) any medical cannabis.

(3)(a) A medical cannabis pharmacy shall:

(i)(A) access the state electronic verification system before dispensing cannabis or a cannabis

product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (3)(a)(i)(A) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26B-4-201;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public;

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption; and

(vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection [~~4-41a-602(4)~~]4-41a-701(4) at or before the point of sale.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(4)(a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(5)(a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this chapter or Title 26B, Utah Health and Human Services Code.

Section 14. Section 4-41a-1106 is amended to read:

4-41a-1106. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3)(a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the

applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8)(a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(9)(a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26B-4-219 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

(d) A medical cannabis pharmacy agent may not access the electronic verification system following the termination of the medical cannabis pharmacy agent's employment.

(10) A medical cannabis pharmacy shall:

(a) maintain a list of employees that have a medical cannabis pharmacy agent registration card; and

(b) provide the list to the department upon request.

Section 15. Section 4-41a-1202 is amended to read:

4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3)(a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):

(a) has been convicted under state or federal law of:

(i) a felony in the preceding 10 years; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Production Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation

Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15)(a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16)(a) Except as provided in Subsection(16)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 16. Section 26B-1-421 is amended to read:

26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2)(a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints [~~and the Senate confirms~~]with the advice and consent of the Senate:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(3)(a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

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

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's [~~qualified~~]recommending medical provider is actively treating the individual for an intractable [ ]condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the [~~qualified~~]recommending medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the [~~qualified~~]recommending medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's [~~qualified~~]recommending medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a [~~qualified~~]recommending medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or [~~medical cannabis product~~]medical cannabis to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or [~~medical cannabis product~~]medical cannabis;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee and the Medical Cannabis Governance Structure Working Group:

(i) the number of compassionate use recommendations the board issued during the past year; [~~and~~]

(ii) the types of conditions for which the board recommended compassionate use[~~.~~]; and

(iii) the number of applications that are not completed.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7)(a)(i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval

under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the [~~qualified~~]recommending medical provider described in Subsection (5)(a).

(b)(i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Section 17. Section 26B-4-201 is amended to read:

26B-4-201. Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Administration of criminal justice" means the performance of detection, apprehension, detention, pretrial release, post-trial release, prosecution, and adjudication.

[~~(2)~~](3) "Advertise" or "advertising" means information provided by a medical cannabis pharmacy in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

[~~(3)~~](4) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

[~~(4)~~](5) "[~~-~~]Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

[~~(5)~~](6) "Cannabis" means marijuana.

[~~(6)~~](7) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

[~~(7)~~](8) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~](9) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

[~~(9)~~](10) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(10)~~](11) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(11)~~](12) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(12)~~](13) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(13)~~](14) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

[~~(14)~~](15) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

[~~(15)~~](16) "Delivery address" means[~~:~~] the same as that term is defined in Section 4-41a-102.

[~~(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or~~]

[~~(b) for a medical cannabis cardholder that is a facility, the facility's address.~~]

[~~(16)~~](17) "Department" means the Department of Health and Human Services.

[~~(17)~~](18) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b)(i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

[~~(18)~~](19) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(19)~~](20) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(20)~~](21) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(21)~~](22) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

[~~(22)~~](23) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(23)~~](24) "Inventory control system" means the system described in Section 4-41a-103.

[~~(24)~~](25) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26B-4-230(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(25)~~](26) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(26)~~](27) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).

[~~(27)~~](28) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(28)~~](29) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(29)~~](30) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(30)~~](31) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in [~~Subsection(17)(b)~~]Subsection (18)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(31)~~](32) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical

cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(32)~~](33) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

[~~(33)~~](34) "Medical cannabis courier agent" means the same as that term is defined in Section 4-41a-102.

[~~(34)~~](35)(a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(35)~~](36) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(36)~~](37) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(37)~~](38) "Medical cannabis pharmacy" means a person that:

(a)(i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(38)~~](39) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.

[~~(39)~~](40) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(40)~~](41) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

[~~(41)~~](42) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(42)~~](43)(a) "Medicinal dosage form" means:

(i) for processed medical cannabis[~~, or a medical cannabis product~~], the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; [~~or~~]

(J) an aerosol; [~~or~~]

(K) a suppository preparation; or

(L) a soft or hard confection that is a uniform rectangular cuboid or uniform spherical shape, is homogeneous in color and texture, and each piece is a single serving; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system .

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(42)(a)(ii)~~](43)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(42)(a)(ii)~~](43)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(42)(a)(ii)~~](43)(a)(ii), except as provided in Subsection [~~(42)(b)~~](43)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(42)(a)(ii)~~](43)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage[~~.~~]; [~~or~~]

(v) a substance described in Subsection [~~(42)(a)(i)~~](43)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters[~~.~~]; or

(vi) a substance that contains or is covered to any degree with chocolate.

[~~(43)~~](44) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

[~~(44)~~](45) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(45)~~](46) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.

[~~(46)~~](47) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(47)~~](48) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.

[~~(48)~~](49) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

[~~(49)~~](50) "Qualifying condition" means a condition described in Section 26B-4-203.

[~~(50)~~](51) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(51)~~](52) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(52)~~](53) "Recommending qualifications" means that an individual:

(a)(i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(53)~~](54) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(54)~~](55) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(55)~~](56) "Targeted marketing" means [~~the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:~~]the promotion by a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider of a medical cannabis recommendation service using any of the following methods:

[~~(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;~~]

[~~(b) an in-person marketing event that is:~~]

[~~(i) held inside a medical cannabis pharmacy; and~~]

[~~(ii) in an area where only a medical cannabis cardholder may access the event; or~~]

[~~(c) other marketing material that is physically available or digitally displayed in:~~]

[~~(i) a medical cannabis pharmacy; and~~]

[~~(ii) an area where only a medical cannabis cardholder has access~~]

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information;

(b) an in-person marketing event that is held in an area where only an individual who is at least 21 years old may access the event;

(c) other marketing material that is physically or digitally displayed in the office of the medical clinic or office that employs a qualified medical provider; or

(d) a leaflet that a qualified medical provider, medical clinic, or medical office that employs a qualified medical provider shares with an individual who is at least 21 years old.

[~~(56)~~](57) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(57)~~](58) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 18. Section 26B-4-202 is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement[~~:~~] only to verify the validity of an individual's medical cannabis card for the administration of criminal justice and through a database used by law enforcement; and

[~~(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or~~]

[~~(ii) after obtaining a warrant; and~~]

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3)(a) An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4)(a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7)[~~(a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony. (b)~~] Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8)[~~(a)~~] Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

[~~(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this part authorizes is guilty of a third degree felony.~~]

(9)(a) Except as provided in [~~Subsection~~]Subsections (9)(c) and (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) A law enforcement officer who uses the database used by law enforcement to access information in the electronic verification system for a reason that is not the administration of criminal justice is guilty of a class B misdemeanor.

[~~(c)~~](d) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(d)~~](e) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

[~~(e)~~](f) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 19. Section 26B-4-204 is amended to read:

26B-4-204. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1)(a)(i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) An individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i)(A) the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26B-4-213(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2)(a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department an acknowledgment that the individual has completed four hours of continuing education related to medical cannabis;

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3)(a) An individual shall complete the continuing education related to medical cannabis in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) The department may, in consultation with the Division of Professional Licensing, develop continuing education related to medical cannabis.

(c) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of [~~medical cannabis products~~]medical cannabis based on the qualifying condition underlying a medical cannabis recommendation.

(4)(a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 1.5% of the total amount of medical cannabis patient cardholders.

(b) If a qualified medical provider receives payment from an insurance plan for services provided under this chapter, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap described in Subsection (4)(a).

(5) A recommending medical provider may recommend medical cannabis to an individual under this part only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6)(a) Except as provided in [~~Subsection~~]Subsections (6)(b) and (c), a person may not advertise that the person or the person's

employee recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and Section 4-41a-109, a qualified medical provider[~~ or clinic or~~], medical clinic, or medical office that employs a qualified medical provider may advertise only the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

(iii) a qualifying condition that the individual treats;

(iv) [~~that the individual is registered as a qualified medical provider and recommends medical cannabis; or~~]that the qualified medical provider, medical clinic, or medical office evaluates patients for medical cannabis recommendations;

(v) a scientific study regarding medical cannabis use[~~.~~]; or

(vi) contact information.

(c) Notwithstanding Subsection (6)(a) and Section 4-41a-109, qualified medical provider, medical clinic, or medical office that employs a qualified medical provider may engage in targeted marketing, as determined by the department through rule, for advertising medical cannabis recommendation services.

(7)(a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not:

(a) receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

[~~(a)~~](i) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

[~~(b)~~](ii) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

[~~(c)~~](iii) a recommending medical provider or pharmacy medical provider[~~.~~]; or

(b) provide a medical cannabis recommendation at a medical clinic or medical office that is violating the advertising limitations described in Subsection (6).

(10)(a) [~~On or before November 1, 2021,~~]Each quarter, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii)(A) for cash payment without insurance, the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation[~~, either~~] as an actual cash rate [~~or, if the provider or entity bills insurance, an average cash rate.~~]; and

(B) whether the qualified medical provider or the entity that employs the qualified medical provider bills insurance.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii)(A); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 20. Section 26B-4-207 is amended to read:

26B-4-207. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in

accordance with this part, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

[~~(2)(a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat:~~]

[~~(i) an employee's use of medical cannabis in accordance with this part or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance; and~~]

[~~(ii) an employee's status as a medical cannabis cardholder or an employee's medical cannabis recommendation from a qualified medical provider or limited provider in the same way the state or political subdivision treats an employee's prescriptions for any prescribed controlled substance.~~]

[~~(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to retaliatory action, as that term is defined in Section 67-19a-101, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.~~]

[~~(c) Subsections (2)(a) and (b) do not apply:~~]

[~~(i) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position;~~]

[~~(ii) if the employee's position is dependent on a license or peace officer certification that is subject to federal regulations, including 18 U.S.C. Sec. 922(g)(3); or~~]

[~~(iii) if an employee described in Subsections 34A-2-102(1)(h)(ii) through (vi) uses medical cannabis during the 12 hours immediately preceding the employee's shift or during the employee's shift.~~]

[~~(3)~~](2)(a)(i) A state employer or a political subdivision employer shall take the action described in Subsection [~~(3)(a)(ii)~~](2)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this part; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this part.

(ii) The employer described in Subsection [~~(3)(a)(i)~~](2)(a)(i) shall give the employee or prospective employee described in Subsection [~~(3)(a)(i)~~](2)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection [~~(3)(a)(i)~~](2)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection [~~(3)(a)~~](2)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection [~~(3)(a)~~](2)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection [~~(3)(a)~~](2)(a).

[~~(4)~~](3) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 21. Section 26B-4-213 is amended to read:

26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1)(a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).

(b)(i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2)(a) An individual is eligible for a medical cannabis patient card if:

(i)(A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b)(i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's [~~qualified~~]recommending medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c)(i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's [~~qualified~~]recommending medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3)(a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c)(i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26B-4-204(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii)(A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;

(b) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's government issued photo identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and

(c) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5)(a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

(b)(i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6)(a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7)(a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b)(i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use [~~cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or~~]medical cannabis or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of [~~cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,~~]medical cannabis or a medical cannabis device.

(8)(a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

(A) violates this part; or

(B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11)(a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12)(a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 22. Section 26B-4-245 is amended to read:

26B-4-245. Purchasing and use limitations -- Exception.

(1) An individual with a medical cannabis card:

[~~(1)~~](a) may purchase, in any one 28-day period, up to the legal dosage limit of:

[~~(a)~~](i) unprocessed cannabis in a medicinal dosage form; and

[~~(b)~~](ii) a cannabis product in a medicinal dosage form;

[~~(2)~~](b) may not purchase:

[~~(a)~~](i) except as provided in Subsection (2), more medical cannabis than described in Subsection (1)(a); or

[~~(b)~~](ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(4), any medical cannabis; and

[~~(3)~~](c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26B-4-231(4), has not recommended.

(2)(a) A qualified medical provider may petition the department to waive the 28-day period limit described in Subsection (1)(a) for a medical cannabis cardholder if the medical cannabis cardholder:

(i) has been diagnosed with a terminal illness;

(ii) has a life expectancy of six months or less; and

(iii) needs the waiver for palliative purposes.

(b) The department shall:

(i) consult with the Compassionate Use Board to determine whether the waiver should be granted;

(ii) issue a response to the petition within 10 days from the day on which the petition is received.

(c) The department may waive the 28-day period limit for no more than 180 days.

(d) A petition described in this Subsection (2) may be combined with the petition described in Subsection 26B-1-421(6).

Section 23. Section 34A-5-114 is enacted to read:

34A-5-114. Nondiscrimination for medical cannabis use while employed by the government -- Medical cannabis and prescription use.

(1) As used in this section:

(a) "Adverse employment action" means any of the following in regards to an employee:

(i) dismissal from employment;

(ii) suspension from employment;

(iii) reduction in compensation;

(iv) failing to increase compensation by an amount that the employee is otherwise entitled to or was promised;

(v) failure to promote an employee if the employee would have otherwise been promoted; or

(vi) threaten to take an action described in Subsections (1)(a)(i) through (v).

(b) "Government employer" means an employer that is the state or a political subdivision of the state.

(c) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.

(2)(a) A government employer may take an adverse employment action against an employee for failing a drug test for the use of medical cannabis that is obtained and used in accordance with state law only if the government employer would take an adverse employment action against an employee for failing a drug test for the use of a prescribed controlled substance that was used in accordance with state law.

(b) A government employer may take an adverse employment action against an employee for the sole reason of the employee being a medical cannabis cardholder only if the government employer would take an adverse employment action against an

employee for the sole reason that the employee has a prescription for a controlled substance.

(c) A government employer that would take an adverse action described in Subsection (2)(a) or (2)(b) shall have a written policy that:

(i) is comprehensive in nature regarding when an employee would be disciplined; and

(ii) does not treat medical cannabis any differently than another controlled substance.

(3) Subsection (2) does not apply:

(a) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position; or

(b) if the employee's position is dependent on a license or peace officer certification that is subject to federal regulations, including 18 U.S.C. Sec. 922(g)(3).

(4) Before taking an adverse employment action against an employee solely because the employee is a medical cannabis cardholder or holds a prescription for another controlled substance, a government employer shall:

(a) consult with legal counsel, if one is employed or contracted with to provide services to the government employer; and

(b) obtain approval from:

(i) for a political subdivision, the mayor or county executive; or

(ii) for a state employer, the state employer's agency head or the agency head's designee.

(5) An employee described in this section:

(a) may file a complaint in accordance with Section 34A-5-107 with the commission; and

(b) is entitled to any remedies under this chapter for an employer's violation of Subsection (2).

(6) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 24. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2 is repealed July 1, [~~2024~~]2025.

(2) Section 36-29-107.5 is repealed on November 30, 2024.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

(5) Section 36-29-111 is repealed July 1, 2025.

(6) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(7) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

Section 25. Effective date.

This bill takes effect on May 1, 2024.

Section 26. Coordinating S.B. 233 with S.B. 46.

If S.B. 233, Medical Cannabis Amendments, and S.B. 46, Health and Human Services Amendments, both pass and become law, the Legislature intends that, on May 1, 2024:

(1) Subsection 4-41a-102(46) in S.B. 46 does not take effect; and

(2) the amendments to Subsection 26B-4-201(56) in S.B. 233 supersede the repeal of Subsection 26B-4-201(55), related to targeted marketing, in S.B. 46.

CHAPTER 218
S. B. 234
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

MORTGAGE COMMISSION

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill makes changes to the Utah Residential Mortgage Practices and Licensing Act.

Highlighted Provisions:

This bill:

- clarifies the attorney exemption under the Utah Residential Mortgage Practices and Licensing Act; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2c-105, as last amended by Laws of Utah 2018, Chapter 55
61-2c-301, as last amended by Laws of Utah 2020, Chapter 72
61-2c-401, as last amended by Laws of Utah 2018, Chapter 213

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

Section 1. Section 61-2c-105 is amended to read:

61-2c-105. Scope of chapter -- Exemptions.

(1)(a) Except as to an individual who will engage in an activity as a mortgage loan originator, this chapter applies to a closed-end residential mortgage loan secured by a first lien or equivalent security interest on a dwelling.

(b) This chapter does not apply to a transaction covered by Title 70C, Utah Consumer Credit Code.

(2) The following are exempt from this chapter:

(a) the federal government;

(b) a state;

(c) a political subdivision of a state;

(d) an agency of or entity created by a governmental entity described in Subsections (2)(a) through (c) including:

(i) the Utah Housing Corporation created in Section 63H-8-201;

(ii) the Federal National Mortgage Corporation;

(iii) the Federal Home Loan Mortgage Corporation;

(iv) the Federal Deposit Insurance Corporation;

(v) the Resolution Trust Corporation;

(vi) the Government National Mortgage Association;

(vii) the Federal Housing Administration;

(viii) the National Credit Union Administration;

(ix) the Farmers Home Administration; and

(x) the United States Department of Veterans Affairs;

(e) a depository institution;

(f) an entity that controls, is controlled by, or is under common control with a depository institution;

(g) an employee or agent of an entity described in Subsections (2)(a) through (f):

(i) when that person acts on behalf of the entity described in Subsections (2)(a) through (f); and

(ii) including an employee of:

(A) a depository institution;

(B) a subsidiary of a depository institution that is:

(I) owned and controlled by the depository institution; and

(II) regulated by a federal banking agency, as defined in 12 U.S.C. Sec. 5102; or

(C) an institution regulated by the Farm Credit Administration;

(h) except as provided in Subsection (3), a person who:

(i) makes a loan:

(A) secured by an interest in real property;

(B) with the person's own money; and

(C) for the person's own investment; and

(ii) that does not engage in the business of making loans secured by an interest in real property;

(i) except as provided in Subsection (3), a person who receives a mortgage, deed of trust, or consensual security interest on real property if the individual or entity:

(i) is the seller of real property; and

(ii) receives the mortgage, deed of trust, or consensual security interest on real property as security for a separate money obligation;

(j) a person who receives a mortgage, deed of trust, or consensual security interest on real property if:

(i) the person receives the mortgage, deed of trust, or consensual security interest as security for an obligation payable on an installment or deferred payment basis;

(ii) the obligation described in Subsection (2)(j)(i) arises from a person providing materials or services

used in the improvement of the real property that is the subject of the mortgage, deed of trust, or consensual security interest; and

(iii) the mortgage, deed of trust, or consensual security interest is created without the consent of the owner of the real property that is the subject of the mortgage, deed of trust, or consensual security interest;

(k) a nonprofit corporation that:

(i)(A) is exempt from paying federal income taxes;

(B) is certified by the United States Small Business Administration as a small business investment company;

(C) is organized to promote economic development in this state; and

(D) has as the nonprofit corporation's primary activity providing financing for business expansion;

(ii) is a community development financial institution; or

(iii)(A) is exempt from paying federal income taxes;

(B) has as the nonprofit corporation's primary purpose serving the public by helping low-income individuals and families build, repair, or purchase housing;

(C) does not require, under the terms of a mortgage, a balloon payment; and

(D) to perform loan originator activities, uses only unpaid volunteers or employees whose compensation is not based on the number or size of the mortgage transactions that the employees originate;

(l) an employee or volunteer for a nonprofit corporation described in Subsection (2)(k)(ii) or (iii), working within the scope of the nonprofit corporation's business;

(m) except as provided in Subsection (3), a court appointed fiduciary; or

(n) except as provided in Subsection (6), and subject to Subsection (5)(a), an attorney admitted to practice law in this state:

(i) if the attorney is not principally engaged in the business of negotiating residential mortgage loans when considering the attorney's ordinary practice as a whole for all the attorney's clients; and

(ii) when the attorney engages in loan modification assistance in the course of the attorney's practice as an attorney.

(3) An individual who will engage in an activity as a mortgage loan originator is exempt from this chapter only if the individual is an employee or agent exempt under Subsection (2)(g).

(4)(a) A loan processor or loan underwriter who is not a mortgage loan originator is not required to obtain a license under this chapter when the loan processor or loan underwriter is:

(i) employed by, and acting on behalf of, a person or entity licensed under this chapter; and

(ii) under the direction of and subject to the supervision of a person licensed under this chapter.

(b) A loan processor or loan underwriter who is an independent contractor is not exempt under Subsection (4)(a).

(5)(a) [~~Notwithstanding Subsection (2)(m), an attorney~~]An attorney who is exempt from this chapter may not engage in conduct described in Section 61-2c-301 when transacting business of residential mortgage loans.

(b) If an attorney exempt from this chapter violates Subsection (5)(a), the attorney:

(i) is not subject to enforcement by the division under Part 4, Enforcement; and

(ii) may be subject to disciplinary action generally applicable to an attorney admitted to practice law in this state.

(c) If the division receives a complaint alleging an attorney exempt from this chapter is in violation of Subsection (5)(a) or that an attorney subject to this chapter has violated this chapter, the division shall forward the complaint to the Utah State Bar for disciplinary action.

(6)(a) An individual who is exempt under Subsection (2), (3), or (4) may voluntarily obtain a license under this chapter by complying with Part 2, Licensure.

(b) An individual who voluntarily obtains a license under this Subsection (6) shall comply with all the provisions of this chapter.

(c) Notwithstanding Subsection (6)(b), an attorney who voluntarily obtains a license under this chapter is not subject to the provisions of this chapter when the attorney is acting within the scope of the attorney's role as an attorney, including when acting as an attorney for an individual or entity regulated under this chapter.

Section 2. Section 61-2c-301 is amended to read:

61-2c-301. Prohibited conduct -- Violations of the chapter.

(1) A person, when transacting the business of residential mortgage loans in this state, may not:

(a) violate Section 8 of RESPA;

(b) charge a fee in connection with a residential mortgage loan transaction:

(i) that is excessive; or

(ii) without providing to the loan applicant a written statement signed by the loan applicant:

(A) stating whether or not the fee or deposit is refundable; and

(B) describing the conditions, if any, under which all or a portion of the fee or deposit will be refunded to the loan applicant;

(c) act incompetently in the transaction of the business of residential mortgage loans such that the person fails to:

(i) safeguard the interests of the public; or

(ii) conform to acceptable standards of the residential mortgage loan industry;

(d) do any of the following as part of a residential mortgage loan transaction, regardless of whether the residential mortgage loan closes:

(i) make a false statement or representation;

(ii) cause false documents to be generated; or

(iii) knowingly permit false information to be submitted by any party;

(e) give or receive compensation or anything of value, or withhold or threaten to withhold payment of an appraiser fee, to influence the independent judgment of an appraiser in reaching a value conclusion in a residential mortgage loan transaction, except that it is not a violation of this section for a licensee to withhold payment because of a bona fide dispute regarding a failure of the appraiser to comply with the licensing law or the Uniform Standards of Professional Appraisal Practice;

(f) violate or not comply with:

(i) this chapter;

(ii) an order of the commission or division; or

(iii) a rule made by the division;

(g) fail to respond within the required time period to:

(i) a notice or complaint of the division; or

(ii) a request for information from the division;

(h) make false representations to the division, including in a licensure statement;

(i) engage in the business of residential mortgage loans with respect to the transaction if the person also acts in any of the following capacities with respect to the same residential mortgage loan transaction:

(i) appraiser;

(ii) escrow agent;

(iii) real estate agent;

(iv) general contractor; or

(v) title insurance producer;

(j) engage in unprofessional conduct as defined by rule;

(k) engage in an act or omission in transacting the business of residential mortgage loans that constitutes dishonesty, fraud, or misrepresentation;

(l) engage in false or misleading advertising;

(m)(i) fail to account for money received in connection with a residential mortgage loan;

(ii) use money for a different purpose from the purpose for which the money is received; or

(iii) except as provided in Subsection (4), retain money paid for services if the services are not performed;

(n) fail to provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling in accordance with Subsection (5);

(o) engage in an act that is performed to:

(i) evade this chapter; or

(ii) assist another person to evade this chapter;

(p) recommend or encourage default, delinquency, or continuation of an existing default or delinquency, by a mortgage applicant on an existing indebtedness before the closing of a residential mortgage loan that will refinance all or part of the indebtedness;

(q) in the case of the lending manager of an entity or a branch office of an entity, fail to exercise reasonable supervision over the activities of:

(i) unlicensed staff; or

(ii) a mortgage loan originator who is affiliated with the lending manager;

(r) pay or offer to pay an individual who does not hold a license under this chapter for work that requires the individual to hold a license under this chapter;

(s) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(i) provide a title insurance product or service without the approval required by Section 31A-2-405; or

(ii) knowingly provide false or misleading information in the statement required by Subsection 31A-2-405(2);

(t) represent to the public that the person can or will perform any act of a mortgage loan originator if that person is not licensed under this chapter because the person is exempt under Subsection 61-2c-105(4), including through:

(i) advertising;

(ii) a business card;

(iii) stationery;

(iv) a brochure;

(v) a sign;

(vi) a rate list; or

(vii) other promotional item;

(u)(i) engage in an act of loan modification assistance without being licensed under this chapter;

(ii) engage in an act of foreclosure rescue that requires licensure as a real estate agent or real estate broker under Chapter 2, Division of Real Estate, without being licensed under that chapter;

(iii) engage in an act of loan modification assistance without entering into a written

agreement specifying which one or more acts of loan modification assistance will be completed;

(iv) request or require a person to pay a fee before obtaining:

(A) a written offer for a loan modification from the person's lender or servicer; and

(B) the person's written acceptance of the offer from the lender or servicer;

(v) induce a person seeking a loan modification to hire the licensee to engage in an act of loan modification assistance by:

(A) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(B) falsely representing or advertising that the licensee is acting on behalf of:

(I) a government agency;

(II) the person's lender or loan servicer; or

(III) a nonprofit or charitable institution;

(vi) recommend or participate in a loan modification that requires a person to:

(A) transfer title to real property to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(B) make a mortgage payment to a person other than the person's loan servicer; or

(C) refrain from contacting the person's:

(I) lender;

(II) loan servicer;

(III) attorney;

(IV) credit counselor; or

(V) housing counselor; or

(vii) for an agreement for loan modification assistance entered into on or after May 11, 2010, engage in an act of loan modification assistance without offering in writing to the person entering into the agreement for loan modification assistance a right to cancel the agreement within three business days after the day on which the person enters the agreement;

(v) sign or initial a document on behalf of another person, except for in a circumstance allowed by the division by rule, with the concurrence of the commission, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(w) violate or fail to comply with a provision of Title 57, Chapter 28, Utah Reverse Mortgage Act; or

(x) engage in any act or practice that violates appraisal independence as defined in 15 U.S.C. Sec. 1639e or in the policies and procedures of:

(i) the Federal Home Loan Mortgage Corporation; or

(ii) the Federal National Mortgage Association.

(2) Regardless of whether the crime is related to the business of residential mortgage loans, it is a violation of this chapter for a licensee or a person who is a certified education provider to:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor; or

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor.

(3) A lending manager does not violate Subsection (1)(q) if:

(a) in contravention of the lending manager's written policies and instructions, an affiliated licensee of the lending manager violates:

(i) this chapter; or

(ii) rules made by the division under this chapter;

(b) the lending manager established and followed reasonable procedures to ensure that affiliated licensees receive adequate supervision;

(c) upon learning of a violation by an affiliated licensee, the lending manager attempted to prevent or mitigate the damage;

(d) the lending manager did not participate in or ratify the violation by an affiliated licensee; and

(e) the lending manager did not attempt to avoid learning of the violation.

(4) Notwithstanding Subsection (1)(m)(iii), a licensee may, upon compliance with Section 70D-2-305, charge a reasonable cancellation fee for work done originating a mortgage if the mortgage is not closed.

(5)(a) Except as provided in Subsection (5)(b), a person transacting the business of residential

mortgage loans in this state shall provide a prospective borrower a copy of each appraisal and any other written valuation developed in connection with an application for credit that is to be secured by a first lien on a dwelling on or before the earlier of:

(i) as soon as reasonably possible after the appraisal or other valuation is complete; or

(ii) three business days before the day of the settlement.

(b) Subject to Subsection (5)(c), unless otherwise prohibited by law, a prospective borrower may waive the timing requirement described in Subsection (5)(a) and agree to receive each appraisal and any other written valuation:

(i) less than three business days before the day of the settlement; or

(ii) at the settlement.

(c)(i) Except as provided in Subsection (5)(c)(ii), a prospective borrower shall submit a waiver described in Subsection (5)(b) at least three business days before the day of the settlement.

(ii) Subsection (5)(b) does not apply if the waiver only pertains to a copy of an appraisal or other written valuation that contains only clerical changes from a previous version of the appraisal or other written valuation and the prospective borrower received a copy of the original appraisal or other written valuation at least three business days before the day of the settlement.

(d) If a prospective borrower submits a waiver described in Subsection (5)(b) and the transaction never completes, the person transacting the business of residential mortgage loans shall provide a copy of each appraisal or any other written valuation to the applicant no later than 30 days after the day on which the person knows the transaction will not complete.

Section 3. Section 61-2c-401 is amended to read:

61-2c-401. Investigations.

(1) The division may, either publicly or privately, investigate or cause to be investigated the actions of any of the following when engaged in the business of residential mortgage loans:

(a)(i) a licensee;

(ii) a person required to be licensed under this chapter; or

(iii) the following with respect to an entity that is a licensee or an entity required to be licensed under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(a)(iii);

(b)(i) an applicant for licensure or renewal of licensure under this chapter; or

(ii) the following with respect to an entity that has applied for a license or renewal of licensure under this chapter:

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(b)(ii); or

(c) except as provided in Subsection 61-2c-105(6)(c), a person who transacts the business of residential mortgage loans within this state.

(2) In conducting investigations, records inspections, and adjudicative proceedings, the division may:

(a) administer an oath or affirmation;

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a record or information relevant to an investigation; and

(e) serve a subpoena by certified mail.

(3)(a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(4) A failure to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served is considered as a separate violation of this chapter, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce a record.

(5) The division may inspect and copy a record related to the business of residential mortgage loans by a licensee under this chapter, regardless of whether the record is maintained at a business location in Utah, in conducting:

(a) investigations of complaints; or

(b) inspections of the record required to be maintained under:

(i) this chapter; or

(ii) rules adopted by the division under this chapter.

(6)(a) If a licensee maintains a record required by this chapter and the rules adopted by the division under this chapter outside Utah, the licensee is responsible for all reasonable costs, including reasonable travel costs, incurred by the division in inspecting the record.

(b) Upon receipt of notification from the division that a record maintained outside Utah is to be examined in connection with an investigation or an examination, the licensee shall deposit with the division a deposit of $500 to cover the division's expenses in connection with the examination of the record.

(c) If the deposit described in Subsection (6)(b) is insufficient to meet the estimated costs and expenses of examination of the record, the licensee shall make an additional deposit to cover the estimated costs and expenses of the division.

(d)(i) A deposit under this Subsection (6) shall be deposited in the General Fund as a dedicated credit to be used by the division under Subsection (6)(a).

(ii) The division, with the concurrence of the executive director, may use a deposit as a dedicated credit for the records inspection costs under Subsection (6)(a).

(iii) A deposit under this Subsection (6) shall be refunded to the licensee to the extent it is not used, together with an itemized statement from the division of all amounts it has used.

(7) Failure to deposit with the division a deposit required to cover the costs of examination of a record that is maintained outside Utah shall result in automatic suspension of a license until the deposit is made.

(8)(a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a record required under this chapter, including the costs incurred to copy an electronic record in a universally readable format.

(b) If a person fails to pay the costs described in Subsection (8)(a) when due, the person's license or certification is automatically suspended:

(i) beginning the day on which the payment of costs is due; and

(ii) ending the day on which the costs are paid in full.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 219
H. B. 432
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

CHILD ABUSE AND NEGLECT REPORTING AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Michael K. McKell

Cosponsor:
Katy Hall
Carol S. Moss
Nelson T. Abbott
Sahara Hayes
Karen M. Peterson
Cheryl K. Acton
Ken Ivory
Candice B. Pierucci
Melissa G. Ballard
Marsha Judkins
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Tyler Clancy
Jason B. Kyle
Jordan D. Teuscher
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Trevor Lee
Raymond P. Ward
Jennifer Dailey- Provost
Steven J. Lund
Douglas R. Welton
Stephanie Gricius
Ashlee Matthews
Mark A. Wheatley

LONG TITLE

General Description:

This bill amends provisions regarding child abuse and neglect reporting requirements.

Highlighted Provisions:

This bill:

- provides that a member of the clergy may report ongoing abuse or neglect even if the perpetrator made a confession to the clergy member;
- provides that a report by a member of the clergy is not intended to affect the application of any privilege under the Utah Rules of Evidence; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80- 2- 602, as renumbered and amended by Laws of Utah 2022, Chapter 334

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

Section 1. Section 80-2-602 is amended to read:

80-2-602. Child abuse and neglect reporting requirements -- Exceptions.

(1) Except as provided in Subsection (3), if a person, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.

(2)(a)(i) If a peace officer or law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.

(b)(i) The division shall, in addition to the division's own investigation in accordance with Section 80- 2- 701, coordinate with the law enforcement agency on an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a report under Subsection (1), the law enforcement agency shall provide a final investigatory report to the division upon request.

(3) Subject to Subsection (4), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of the confession; or

(b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(4)(a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report the information even if the member of the clergy also received information about the abuse or neglect from the confession of the perpetrator.

(b) When a member of the clergy reasonably believes that a child is the subject of ongoing abuse or neglect, the member of the clergy may report the information even if the perpetrator made a

confession to the member of the clergy regarding the abuse or neglect.

[~~(b)~~](c) Exemption of the reporting requirement for an individual described in Subsection (3) does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

(d) A report by a member of the clergy under Subsection (4) is not intended to have any effect on the application of a privilege outlined in the Utah Rules of Evidence.

(5) The physician- patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 220
S. B. 242
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

UTAH LAKE MODIFICATIONS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses Utah Lake.

Highlighted Provisions:

This bill:

- repeals the Utah Lake Restoration Act;
- repeals the provisions related to the Utah Lake Diking Project; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-65-206, as last amended by Laws of Utah 2023, Chapter 34

REPEALS:

65A-15-101, as enacted by Laws of Utah 2018, Chapter 381
65A-15-102, as enacted by Laws of Utah 2018, Chapter 381
65A-15-103, as enacted by Laws of Utah 2018, Chapter 381
65A-15-201, as last amended by Laws of Utah 2022, Chapter 60
65A-15-202, as enacted by Laws of Utah 2018, Chapter 381
73-12-1, Utah Code Annotated 1953
73-12-2, Utah Code Annotated 1953
73-12-3, Utah Code Annotated 1953
73-12-4, Utah Code Annotated 1953

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

Section 1. Section 11-65-206 is amended to read:

11-65-206. Applicability of other law -- Cooperation of state and local governments -- Authority of other agencies not affected -- Attorney general to provide legal services.

(1) The lake authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(2) A department, division, or other agency of the state and a political subdivision of the state is encouraged, upon the board's request, to cooperate with the lake authority to provide the support, information, or other assistance reasonably necessary to help the lake authority fulfill the lake authority's duties and responsibilities under this chapter.

(3) Nothing in this chapter may be construed to affect or impair:

(a) the authority of the Department of Environmental Quality, created in Section 19-1-104, to regulate under Title 19, Environmental Quality Code, consistent with the purposes of this chapter; or

(b) the authority of the Division of Wildlife Resources, created in Section 23A-2-201, to regulate under Title 23A, Wildlife Resources Act, consistent with the purposes of this chapter.

(4) In accordance with Utah Constitution, Article XVII, Section 1, nothing in this chapter may be construed to override, supersede, interfere with, or modify:

(a) any water right in the state;

(b) the operation of a water facility or project; or

(c) the role or authority of the state engineer.

(5)(a) Except as otherwise explicitly provided, nothing in this chapter may be construed to authorize the lake authority to interfere with or take the place of another governmental entity in that entity's process of considering an application or request for a liceÂnse, permit, or other regulatory or governmental permission for an action relating to water of Utah Lake or land within the lake authority boundary.

(b) The lake authority shall respect and, if applicable and within the lake authority's powers, implement a license, permit, or other regulatory or governmental permission described in Subsection (5)(a).

[~~(6) Nothing in this chapter may be construed to allow the authority to:~~]

[~~(a) consider an application for the disposal of land within the lake authority boundary under Title 65A, Chapter 15, Utah Lake Restoration Act; or~~]

[~~(b) issue bonding or other financing for a project under Title 65A, Chapter 15, Utah Lake Restoration Act.~~]

[~~(7)~~](6) The attorney general shall provide legal services to the board.

Section 2. Repealer.

This bill repeals:

Section 65A-15-101, Title.

Section 65A-15-102, Definitions.

Section 65A-15-103, Legislative findings.

Section 65A-15-201, Division recommendation on disposal of state land in exchange for Utah Lake restoration project -- Approval of Legislature and governor required -- Criteria -- Division

recommendations for defining and meeting objectives.

Section 65A-15-202, Status of state lands after a change in ownership.

Section 73-12-1, Governor authorized to convey to the United States lands or interests in said lands in bed of or on margin of Utah Lake.

Section 73-12-2, Manner of executing and attesting deeds.

Section 73-12-3, Description of land.

Section 73-12-4, Purposes for which land is to be used.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 221
S. B. 248
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

PERMITTED OCCUPATIONS FOR MINORS AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends provisions related to employment of minors.

Highlighted Provisions:

This bill:

- modifies the working hours requirements for minors 16 years old and younger;
- amends certain occupations permitted for minors;
- amends exemptions for permitted occupations with no specific age limit;
- defines terms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-23-103, as last amended by Laws of Utah 1997, Chapter 375
34-23-202, as renumbered and amended by Laws of Utah 1990, Chapter 8
34-23-204, as last amended by Laws of Utah 1996, Chapter 240
34-23-205, as last amended by Laws of Utah 1996, Chapter 240
34-23-206, as last amended by Laws of Utah 1996, Chapter 240
34-23-207, as last amended by Laws of Utah 1996, Chapter 240

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

Section 1. Section 34-23-103 is amended to read:

34-23-103. Definitions.

As used in this chapter:

(1) "Calendar week" means a period of any seven consecutive calendar days.

[~~(1)~~](2) "Casual work" is employment on an incidental, occasional, or nonregular basis which is not considered full-time or routine.

[~~(2)~~](3) "Commission" means the Labor Commission.

[~~(3)~~](4) "Division" means the Division of Antidiscrimination and Labor in the commission.

(5) "Hazardous agricultural occupation" means any occupation defined as hazardous by the United States Department of Labor under 29 C.F.R. Sec. 570.71, subject to the exception described in 29 C.F.R. Sec. 570.70(b) and the exemptions described in 29 C.F.R. Sec. 570.72.

[~~(4)~~](6) "Hazardous occupation" is any occupation defined as hazardous by the United States Department of Labor under 29 U.S.C. Sec. 201 et seq., the Fair Labor Standards Act.

[~~(5) "Minor" is a person under the age of 18 years.~~]

(7) "Labor Day" means the legal holiday called Labor Day established in Section 63G-1-301.

(8) "Minor" means an individual under 18 years old.

(9) "Minor's school district" means the public school district in which a minor resides while the minor is employed.

(10) "School day" means any calendar day in which students are required to attend school, including a partial day, in a minor's school district.

(11) "School week" means any calendar week in which students are required to attend school, including a partial day, in a minor's school district.

Section 2. Section 34-23-202 is amended to read:

34-23-202. Employment of minors under 16 during school hours -- Hours of work limited.

(1) A minor under [~~the age of 16~~]16 years old may not be employed or permitted to work during school hours except as authorized by the proper school authorities.

(2) [~~A~~]Except as provided in the exemptions described in 29 U.S.C. Sec. 213 and the exceptions described in 29 C.F.R. Sec. 570.35:

(a) a minor under [~~the age of 16~~]16 years old may not be permitted to work:

[~~(a) before or after school in excess of four hours a day;~~]

[~~(b) before 5:00 a.m. or after 9:30 p.m., unless the next day is not a school day;~~]

[~~(c) in excess of eight hours in any 24-hour period; or~~]

[~~(d) more than 40 hours in any week.~~]

(i) more than three hours in one school day;

(ii) more than 18 hours in one school week;

(iii) more than eight hours in one calendar day;

(iv) more than 40 hours in one calendar week; or

(v) except as provided in Subsection (2)(b), before 7:00 a.m. or after 7:00 p.m.

(b) beginning on June 1 and ending on Labor Day, a minor under 16 years old may work until, but not after, 9:00 p.m.

Section 3. Section 34-23-204 is amended to read:

34-23-204. Permitted occupations for minors 14 or older.

(1) Minors 14 years [~~of age~~]old or older may work in a wide variety of nonhazardous occupations including:

(a) retail food services;

(b) automobile service stations, except for the operation of motor vehicles and the use of hoists;

[~~(c) public messenger service;~~]

[~~(d)~~](c) janitorial and custodial service;

[~~(e)~~](d) lawn care;

[~~(f)~~](e) the use of approved types of vacuum cleaners, floor polishers, [~~power~~]lawn mowers, and sidewalk snow removal equipment; and

[~~(g)~~](f) other similar work as approved by the division.

(2) Minors 14 years [~~of age~~]old or older may also work in nonhazardous areas in manufacturing, warehousing and storage, construction, and other such areas not determined harmful by the division.

Section 4. Section 34-23-205 is amended to read:

34-23-205. Permitted occupations for minors 12 or older.

Minors 12 years [~~of age~~]old or older may work in occupations such as:

(1) [~~the sale and delivery of periodicals;~~]delivery of newspapers to consumers;

[~~(2) door-to-door sale and delivery of merchandise;~~]

[~~(3)~~](2) baby-sitting;

[~~(4)~~](3) [~~nonhazardous~~]agricultural [~~work~~] occupations that are not hazardous agricultural occupations; and

[~~(5)~~](4) any other occupation not determined harmful by the division.

Section 5. Section 34-23-206 is amended to read:

34-23-206. Permitted occupations for minors 10 or older.

Minors 10 years [~~of age~~]old or older may work in occupations such as:

(1) delivery of [~~handbills, newspapers, advertising, and advertising samples;~~]newspapers to consumers;

[~~(2) shoe-shining;~~]

[~~(3) gardening and lawn care involving no power-driven lawn or snow removal equipment;~~]

[~~(4)~~](2) caddying; and

[~~(5)~~](3) any occupation not determined harmful by the division.

Section 6. Section 34-23-207 is amended to read:

34-23-207. Permitted occupations with no specific age limitations or restrictions.

With consent of the minor's parent, guardian, or custodian, no specific age limitations or restrictions are imposed and the restrictions described in Section 34-23-202 do not apply for:

(1) home chores and other work done for parent or guardian;

(2) any casual work not determined harmful by the division;

(3) an agricultural [~~work including the operation of power-driven farm machinery in the production of agricultural products~~]occupation that is not a hazardous agricultural occupation;[~~or~~]

(4) acting or performing in:

(a) a motion picture;

(b) a theatrical production;

(c) a performing arts production;

(d) a radio broadcast; or

(e) a television production; or

[~~(4)~~](5) work for which a specific, written authorization has been made by the division.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 222
H. B. 443
Passed February 26, 2024
Approved March 13, 2024
Effective May 1, 2024

UTAH CONSUMER SALES PRACTICES ACT AMENDMENTS

Chief Sponsor: James Cobb
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of the Utah Consumer Sales Practices Act relating to class action lawsuits.

Highlighted Provisions:

This bill:

- clarifies provisions relating to targeted solicitations involving financial information;
- requires that a court provide notice to the enforcing authority 60 days before a hearing related to a filed offer of settlement in a class action lawsuit;
- allows the enforcing authority to intervene in the class action for the limited purpose of objecting to the offer of settlement; and
- increases the time period in which the enforcing authority may intervene as an interested party in a class action.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

13-11-4.1, as enacted by Laws of Utah 2020, Chapter 173
13-11-21, as last amended by Laws of Utah 2010, Chapter 324

ENACTS:

13-11-21.1, Utah Code Annotated 1953

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

Section 1. Section 13-11-4.1 is amended to read:

13-11-4.1. Targeted solicitations involving financial information -- Restrictions.

(1) As used in this section:

(a) "Account holder" means a person for whom a personal account is held by a financial institution.

(b) "Financial institution" means:

(i) a state or federally chartered:

(A) bank;

(B) savings and loan association;

(C) savings bank;

(D) industrial bank; or

(E) credit union;

(ii) any other institution under the jurisdiction of the commissioner of Financial Institutions as described in Title 7, Financial Institutions Act; or

(iii) a person who:

(A) is subject to Title 61, Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; and

(B) engages in the business of residential mortgage loans as defined in Section 61-2c-102.

(c)(i) "Specific account information" means information that is:

(A) relative to the account of an account holder, in addition to the name of the account holder; and

(B) not provided by the financial institution that holds the account holder's account to the person offering a targeted solicitation.

(ii) "Specific account information" includes:

(A) a loan number;

(B) a loan amount; or

(C) any other specific account or loan information.

(d) "Targeted solicitation" means any written or oral advertisement or solicitation for products or services that:

(i) is addressed to an account holder;

(ii) contains specific account information;

(iii) is offered by a supplier that is not sponsored by or affiliated with the financial institution that holds the account holder's account; and

(iv) is not authorized by the financial institution that holds the account holder's account.

(2)(a) A supplier who is not the financial institution of an account holder may not represent, directly or indirectly, that the supplier is the financial institution of the account holder.

(b) If a presiding officer or court determines appropriate after considering other relevant factors, the following actions by a supplier who is not the financial institution of an account holder establish a presumption that the supplier is representing that the supplier is the financial institution of the account holder in violation of Subsection (2)(a):

(i) the use or reference to the name, trade name, or trademark of the financial institution of the account holder, when sending a targeted solicitation, unless the supplier has written authorization from the financial institution;

(ii) the placement of specific account information on the outside of an envelope, visible through the envelope window, or on a postcard, when sending a [~~target~~]targeted solicitation by direct mail; or

(iii) the placement of specific account information in the subject line, when sending a targeted solicitation by email.

(3)(a) A targeted solicitation, if offered in writing, shall include a clear and conspicuous statement in

bold type on the front page of the document containing:

(i) the name, address, and telephone number of the supplier offering the targeted solicitation; and

(ii) a statement indicating that the supplier offering the targeted solicitation is not sponsored by or affiliated with the financial institution that holds the account holder's account.

(b) If the targeted solicitation is offered orally, the supplier offering the targeted solicitation shall verbally communicate the statement described in Subsection (3)(a) at the time the oral solicitation is offered to the account holder.

(4) A supplier who violates this section commits a deceptive act or practice under Subsection 13-11-4(1).

Section 2. Section 13-11-21 is amended to read:

13-11-21. Settlement of class action -- Complaint in class action delivered to enforcing authority.

(1)(a)(i) A defendant in a class action may file a written offer of settlement. If it is not accepted within a reasonable time by a plaintiff class representative, the defendant may file an affidavit reciting the rejection.

(ii) The court may determine that the offer has enough merit to present to the members of the class. If [~~it~~]the court so determines, [~~it~~]the court shall order a hearing to determine whether the offer should be approved.

(iii) [~~ It shall give the best notice of the hearing that is practicable under the circumstances, including~~]The court shall provide at least 60 days advance notice of the hearing:

(A) to the enforcing authority; and

(B) [~~to~~]to the extent practicable, to each member who can be identified through reasonable effort.

(iv) The notice described in Subsection (1)(a)(iii) shall specify the terms of the offer and a reasonable period within which members of the class who request it are entitled to be included in the class.

(v) The statute of limitations for those who are excluded pursuant to this [~~Subsection (1)~~]Subsection (1)(a)(v) is tolled for the period the class action has been pending, plus an additional year. Within 60 days of receipt of the notice required by this Subsection (1)(a), the enforcing authority may intervene in the class action for the limited purpose of objecting to the offer of settlement.

(b) If a member who has previously lost an opportunity to be excluded from the class is excluded at his request in response to notice of the offer of settlement during the period specified under Subsection (1)(a), he may not thereafter participate in a class action for damages respecting the same consumer transaction, unless the court later disapproves the offer of settlement or approves a settlement materially different from that proposed in the original offer of settlement. After the expiration of the period of limitations, a member of the class is not entitled to be excluded from it.

(c) If the court later approves the offer of settlement, including changes, if any, required by the court in the interest of a just settlement of the action, it shall enter judgment, which is binding on all persons who are then members of the class. If the court disapproves the offer or approves a settlement materially different from that proposed in the original offer, notice shall be given to a person who was excluded from the action at his request in response to notice of the offer under Subsection (1)(a), and he is entitled to rejoin the class and, in the case of the approval, participate in the settlement.

(2) On the commencement of a class action under Section 13-11-19, the class representative shall mail by certified mail with return receipt requested or personally serve a copy of the complaint on the enforcing authority. Within [~~30~~]180 days after the receipt of a copy of the complaint, but not thereafter, the enforcing authority may intervene in the class action for purposes of participation as an interested party in litigation of the class action.

Section 3. Section 13-11-21.1 is enacted to read:

13-11-21.1. Retrospective Operation.

The provisions of this bill apply to any claim for which a court has not issued a final, unappealable judgment or order as of May 1, 2024.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

Section 5. Revisor instructions.

The Legislature intends that the reference to "this bill" in Section 13-11-21.1 be replaced with the bill's designated chapter number in the Laws of Utah.

CHAPTER 223
S. B. 255
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

TRESPASSING OF A LONG-TERM GUEST AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies criminal trespass by long-term guest to a residence.

Highlighted Provisions:

This bill:

- clarifies that an immediate family member is not a long-term guest; and
- addresses resolution of the circumstance in which one party attempts to remove a long-term guest and another party gives express permission for the long-term guest to stay.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-206.4, as last amended by Laws of Utah 2023, Chapter 111

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

Section 1. Section 76-6-206.4 is amended to read:

76-6-206.4. Criminal trespass by long-term guest to a residence.

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

(i) "Burglary" means an offense described in Section 76-6-202, 76-6-203, or 76-6-204.

(ii) "Long-term guest" means an individual who is not a tenant, nor the immediate family member of an owner or tenant, but who is given express or implied permission by [~~the person who is the primary occupant~~]an owner or tenant of the residence or someone with apparent authority to act for [~~the primary occupant~~]an owner or tenant to enter a portion of a residence or temporarily occupy a portion of a residence:

(A) for a period of time longer than 48 hours; and

(B) without providing the owner or [~~primary occupant~~]tenant of the residence compensation or entering into an agreement that the individual provide labor in lieu of providing the owner or primary occupant compensation for occupying the residence.

(iii) "Residence" means an improvement to real property used or occupied as a primary or secondary dwelling.

(iv) "Tenant" means a person who has the right to occupy a residence under a rental agreement or lease, or has a tenancy by operation of law.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

[~~(2) An actor commits criminal trespass of a residence if the actor:~~]

[~~(a) is a long-term guest; and~~]

[~~(b) in circumstances not amounting to burglary, remains in a residence after the actor receives notice against remaining in the residence by personal communication to the actor by the person who is the primary occupant of the residence or someone with apparent authority to act for the primary occupant.~~]

(2)(a) Except as provided in Subsection (2)(b), a long-term guest commits criminal trespass of a residence if the long-term guest, in circumstances not amounting to burglary, remains in a residence after receiving notice to leave the residence from:

(i) an owner;

(ii) a tenant; or

(iii) someone with apparent authority to act for an owner or a tenant.

(b) A long-term guest does not commit criminal trespass if:

(i) the long-term guest has express permission to remain in the residence from a separate owner or tenant; and

(ii) the express permission is not:

(A) revoked by the owner or tenant described in Subsection (2)(b)(i); or

(B) rendered void under Subsection (2)(c).

(c) The express permission described in Subsection (2)(b) is void if:

(i) the long-term guest or a visitor of the long-term guest:

(A) uses or distributes illegal drugs at the residence;

(B) distributes alcohol to a minor at the residence;

(C) commits a crime against a person or property at the residence; or

(D) commits a behavior that threatens or substantially endangers the security, safety, well-being, or health of other persons at the residence or threatens or damages property at the residence; or

(ii) the long-term guest commits a felony after occupying the residence, regardless of whether the long-term guest enters into a plea agreement for a lower offense and regardless of where the felony takes place.

(3) A violation of Subsection (2) is a class B misdemeanor.

(4) Before a law enforcement officer escorts [~~an actor~~]a long-term guest from a residence for a

violation of Subsection (2), the law enforcement officer shall provide the [~~actor~~]long-term guest a reasonable time for the [~~actor~~]long-term guest to collect the [~~actor's~~]long-term guest's personal belongings.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 224
H. B. 464
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

SOCIAL MEDIA AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill concerns harm to minors from social media.

Highlighted Provisions:

This bill:

- defines terms;
- amends the criminal offense of electronic communication harassment and creates a civil cause of action to address certain conduct involving minors;
- enacts legislative findings regarding potential harms of excessive social media use by minors;
- allows a private right of action related to harms to minors from excessive social media use and establishes related provisions;
- establishes an affirmative defense for a social media company to defend against the private right of action;
- prohibits waivers of rights and protections; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

76-9-201, as last amended by Laws of Utah 2023, Chapter 111

ENACTS:

78B-3-1101, Utah Code Annotated 1953
78B-3-1102, Utah Code Annotated 1953
78B-3-1103, Utah Code Annotated 1953
78B-3-1104, Utah Code Annotated 1953
78B-3-1105, Utah Code Annotated 1953
78B-3-1106, Utah Code Annotated 1953

REPEALS:

13-63-101, as enacted by Laws of Utah 2023, Chapters 477, 498
13-63-102, as enacted by Laws of Utah 2023, Chapter 498
13-63-103, as enacted by Laws of Utah 2023, Chapter 498
13-63-104, as enacted by Laws of Utah 2023, Chapter 498
13-63-105, as enacted by Laws of Utah 2023, Chapter 498
13-63-201, as enacted by Laws of Utah 2023, Chapter 498
13-63-202, as enacted by Laws of Utah 2023, Chapter 498
13-63-203, as enacted by Laws of Utah 2023, Chapter 498
13-63-301, as enacted by Laws of Utah 2023, Chapter 498
13-63-401, as enacted by Laws of Utah 2023, Chapter 477
13-63-501, as enacted by Laws of Utah 2023, Chapter 477
13-63-601, as enacted by Laws of Utah 2023, Chapters 477, 498
13-63-701, as enacted by Laws of Utah 2023, Chapters 477, 498

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

Section 1. Section 76-9-201 is amended to read:

76-9-201. Electronic communication harassment -- Definitions -- Penalties.

(1) As used in this section:

(a)(i) "Adult" means an individual 18 years old or older.

(ii) "Adult" does not include an individual who is 18 years old and enrolled in high school.

(b) "Electronic communication" means a communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at a specific individual.

(c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.

(d)(i) "Minor" means an individual who is younger than 18 years old.

(ii) "Minor" includes an individual who is 18 years old and enrolled in high school.

(e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).

[~~(e)~~](f) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.

(2) Except to the extent the person's conduct constitutes an offense under Section 76-9-203, a person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:

(a)(i) makes repeated contact by means of electronic communications, regardless of whether a conversation ensues; or

(ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:

(A) contacts the electronic communication device of the recipient; or

(B) causes an electronic communication device of the recipient to ring or to receive other notification

of attempted contact by means of electronic communication;

(b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;

(c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or

(d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.

(3) A person is guilty of electronic communication harassment if the person:

(a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission; or

(b) sends a communication by electronic mail, instant message, or other similar means, if:

(i) the communication references personal identifying information of another individual;

(ii) the person sends the communication:

(A) without the individual's consent; and

(B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and

(iii) with the intent to:

(A) cause an individual physical, emotional, or economic injury or damage; or

(B) defraud an individual.

(4) A person is guilty of electronic communication harassment if:

(a) the person:

(i) is an adult;

(ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the person; and

(iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (4)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and

(b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in Subsection (4)(a)(ii).

[~~(4)~~](5)(a) [~~Electronic communication harassment~~]Except as provided in Subsection (5)(b), a violation of Subsection (2) or (3) is a class B misdemeanor.

(b) A second or subsequent [~~offense of electronic communication harassment~~]violation of Subsection (2) or (3) is a class A misdemeanor.

(c) A violation of Subsection (4) is a class A misdemeanor.

[~~(5)~~](6)(a) Except as provided under Subsection [~~(5)(b)~~](6)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of an offense under this section.

(b) This section does not create a civil cause of action based on electronic communications made for legitimate business purposes.

(7)(a) A minor victim has a civil right of action against an actor who violates Subsection (4).

(b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled to recover from the actor:

(i) damages resulting from the violation of Subsection (4);

(ii) reasonable attorney fees; and

(iii) court costs.

Section 2. Section 78B-3-1101 is enacted to read:

78B-3-1101. Definitions.

Part 11. Harm to Minors by Algorithmically Curated Social Media Service

As used in this part:

(1) "Account holder" means a person who has, creates, or opens an account or profile to use an algorithmically curated social media service.

(2)(a) "Adverse mental health outcome" means a condition affecting a minor's mental health that is:

(i) diagnosable by a licensed mental health care provider; and

(ii) acknowledged by professional mental health experts as having a negative impact on a minor's well-being.

(b) "Adverse mental health outcome" includes depression, anxiety, suicidal thoughts or behaviors, and self-harm thoughts or behaviors.

(3) "Algorithmically curated social media service" means a social media service that drives user engagement primarily through the use of:

(a) a curation algorithm; and

(b) engagement driven design elements.

(4) "Content" means any information, visual depiction, or other material that appears on or is available or enabled through a social media service.

(5)(a) "Curation algorithm" means a computational process or set of rules used by a

social media platform that determines, influences, or personalizes, designed to encourage prolonged or frequent engagement:

(i) the content a user views;

(ii) the order in which content is displayed;

(iii) how prominently content is displayed; or

(iv) the manner in which content is displayed.

(b) "Curation algorithm" does not include the curation of:

(i) responses to specific user queries or user prompts requesting content related to defined topics or interests selected by the user; or

(ii) content to ensure only age appropriate material is provided to a user based on the user's age;

(iii) content that prevents a minor from viewing violent, bullying, threatening, or harassing content; or

(iv) content to comply with any state or federal law restricting the display of material harmful to minors.

(6) "Engagement driven design elements" means:

(a) autoplay features that continuously play content without requiring user interaction;

(b) scroll or pagination that loads additional content as long as the user continues scrolling; or

(c) push notifications.

(7) "Excessive use" means the use of a social media service by a minor to an extent that the use substantially interferes with the minor's normal functioning in:

(a) academic performance;

(b) sleep;

(c) in-person relationships;

(d) mental health; or

(e) physical health.

(8) "Minor" means an individual who is under 18 years old that:

(a) has not been emancipated as that term is defined in Section 80-7-102; or

(b) has not been married.

(9) "Parent" includes a legal guardian.

(10) "Push notification" means an automatic electronic message displayed on an account holder's device, when the user interface for the social media service is not actively open or visible on the device, that prompts the account holder to repeatedly check and engage with the social media service.

(11) "Resident" means the same as that term is defined in Section 53-3-102.

(12) "Social media company" means an entity that owns or operates a social media service.

(13)(a) "Social media service" means a public website or application that:

(i) displays content that is primarily generated by account holders and not by the social media company;

(ii) permits an individual to register as an account holder and create a profile that is made visible to the general public or a set of other users defined by the account holder;

(iii) connects account holders to allow users to interact socially with each other within the website or application;

(iv) makes available to each account holder a list or lists of other account holders with whom the account holder shares a connection within the system; and

(v) allows account holders to post content viewable by other users.

(b) "Social media service" does not include:

(i) email;

(ii) cloud storage; or

(iii) document viewing, sharing, or collaboration services.

(14) "User" means an individual who accesses or uses an algorithmically curated social media service.

(15)(a) "Utah account holder" means a person who is a Utah resident and an account holder.

(b) "Utah account holder" includes a Utah minor account holder.

(16) "Utah minor account holder" means a Utah account holder who is a minor.

Section 3. Section 78B-3-1102 is enacted to read:

78B-3-1102. Legislative findings.

The Legislature finds that:

(1) social media services utilize curation algorithms and engagement driven design elements to maximize user engagement;

(2) minors are particularly vulnerable to manipulation by the use of curation algorithms and engagement driven design elements;

(3) a minor's excessive use of an algorithmically curated social media service is likely to cause adverse mental health outcomes in minors, regardless of the content being viewed;

(4) the risk of an adverse mental health outcome resulting from the excessive use of an algorithmically curated social media service increases when a minor uses the service for more than three hours per day, or during regular sleeping hours;

(5) algorithmically curated social media services are designed without sufficient tools to allow adequate parental oversight, exposing minors to risks that could be mitigated with additional parental control;

(6) protecting minors from the risks associated with the use of algorithmically curated social media services requires intervention at a societal level, informed by expertise in technology, psychology, and youth mental health;

(7) the state has a long-established role and responsibility in implementing protections and regulations to safeguard the health and welfare of minors;

(8) the state has enacted safeguards around products and activities that pose risks to minors, including regulations on motor vehicles, medications, and products and services targeted to children;

(9) any adverse mental health outcomes for minors that are linked to the excessive use of algorithmically curated social media services are a serious public health concern for the state; and

(10) the state has a compelling interest to protect minors in the state against adverse mental health outcomes.

Section 4. Section 78B-3-1103 is enacted to read:

78B-3-1103. Private right of action.

(1) A Utah minor account holder or a Utah minor account holder's parent may bring a cause of action against a social media company in court for an adverse mental health outcome arising, in whole or in part, from the minor's excessive use of the social media company's algorithmically curated social media service.

(2) To recover damages in a cause of action brought under this section, a person bringing the cause of action must demonstrate:

(a) that the Utah minor account holder has been diagnosed by a licensed mental health care provider with an adverse mental health outcome; and

(b) that the adverse mental health outcome was caused by the Utah minor account holder's excessive use of an algorithmically curated social media service.

(3) Except as provided in Subsection (4), a person who brings an action described in Subsection (1), is entitled to a rebuttable presumption that:

(a) the Utah minor account holder's adverse mental health outcome was caused, in whole or in part, by the Utah minor account holder's excessive use of the algorithmically curated social media service; and

(b) the Utah minor account holder's excessive use of the algorithmically curated social media service was caused, in whole or in part, by the algorithmically curated social media service's curation algorithm and engagement driven design elements.

(4) A social media company that complies with the provisions of Section 78B-11-1104 is entitled to a rebuttable presumption that:

(a) the Utah minor account holder's adverse mental health outcome was not caused, in whole or in part, by the Utah minor account holder's excessive use of the algorithmically curated social media service; and

(b) the Utah minor account holder's excessive use of the algorithmically curated social media service was not caused, in whole or in part, by the algorithmically curated social media service's curation algorithm and engagement driven design elements.

(5) If a court or fact finder finds that a Utah minor account holder suffered any adverse mental health outcome as a result of the Utah minor account holder's use of a social media company's algorithmically curated social media service, the person seeking relief is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) $10,000 for each adverse mental health outcome incidence; or

(ii) the amount of actual damages.

(6) A social media company may not be held liable under this part:

(a) based on the content of material posted by users of the algorithmically curated social media service; or

(b) for declining to restrict access to or modify user posts based solely on the content of those posts.

(7) Nothing in this part shall displace any other available remedies or rights authorized under the laws of this state or the United States.

Section 5. Section 78B-3-1104 is enacted to read:

78B-3-1104. Affirmative defense.

(1) A person is not entitled to the rebuttable presumption described in Subsection 78B-11-1103(3), and a social media company is entitled to the rebuttable presumption described in Subsection 78B-11-1103(4), if the social media company demonstrates to the court that the social media company:

(a) limits a Utah minor account holder's use of the algorithmically curated social media service to no more than three hours in a 24 hour period across all devices;

(b) restricts a Utah minor account holder from accessing the algorithmically curated social media service between the hours of 10:30 p.m. and 6:30 a.m.;

(c) requires the parent or legal guardian of the minor to consent to a Utah minor account holder's use of the algorithmically curated social media service; and

(d) disables engagement driven design elements for a Utah minor account holder's account.

(2) A social media company may utilize settings that are enabled at the device level to impose the requirements described in Subsection (1).

(3) Notwithstanding Subsection (2), a social media company remains liable to ensure that the Utah minor account holder's account is subject to the restrictions of Subsection (1).

Section 6. Section 78B-3-1105 is enacted to read:

78B-3-1105. Waiver prohibited.

A waiver or limitation, or a purported waiver or limitation, of any of the following is void as unlawful, is against public policy, and a court or arbitrator may not enforce or give effect to the waiver, notwithstanding any contract or choice-of-law provision in a contract:

(1) a protection or requirement provided under this chapter;

(2) the right to cooperate with or file a complaint with a government agency;

(3) the right to a private right of action as provided under this chapter; or

(4) the right to recover actual damages, statutory damages, civil penalties, costs, or fees as allowed by this chapter.

Section 7. Section 78B-3-1106 is enacted to read:

78B-3-1106. Severability.

(1) If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.

(2) The provisions of this chapter are severable.

Section 8. Repealer.

This bill repeals:

Section 13-63-101, Definitions.

Section 13-63-102, Age requirements for use of social media platform -- Parental consent -- Rulemaking authority of division.

Section 13-63-103, Prohibition on data collection for certain accounts -- Prohibition on advertising -- Use of information -- Search results -- Directed content.

Section 13-63-104, Parental access to social media account.

Section 13-63-105, Limited hours of access for minors -- Parental access and options.

Section 13-63-201, Investigative powers of the division.

Section 13-63-202, Enforcement powers of the division.

Section 13-63-203, Division report.

Section 13-63-301, Private right of action.

Section 13-63-401, Social media platform design regulations -- Enforcement and auditing authority -- Penalties.

Section 13-63-501, Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

Section 13-63-601, Waiver prohibited.

Section 13-63-701, Severability.

Section 9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on October 1, 2024:

(a) Section 78B-3-1101;

(b) Section 78B-3-1102;

(c) Section 78B-3-1103;

(d) Section 78B-3-1104;

(e) Section 78B-3-1105; and

(f) Section 78B-3-1106.

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CHAPTER 225
H. B. 467
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

CHILD ABANDONMENT AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill amends the child abandonment statute.

Highlighted Provisions:

This bill:

- adds inducement by misrepresentation as a statutory basis for a criminal charge of child abandonment against an enterprise; and
- codifies defenses to a criminal charge of child abandonment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-109.3, as last amended by Laws of Utah 2023, Chapter 448

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

Section 1. Section 76-5-109.3 is amended to read:

76-5-109.3. Child abandonment.

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

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

(iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C)(I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, induces by misrepresentation, or causes another to violate Subsection (2)(a).

(3)(a)(i) A violation of Subsection (2) is a third degree felony.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious physical injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b)(i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 77, Chapter 11b, Forfeiture of Seized Property.

(4)(a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 80-4-502;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

(c) It is a defense to prosecution under Subsection (2)(a)(i) that the actor committed child abandonment due to:

(i) intimidation;

(ii) isolation;

(iii) harassment;

(iv) coercion;

(v) the actor's reasonable fear of bodily harm; or

(vi) the reasonable actions of the actor to protect the safety and welfare of the actor or another individual.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 226
H. B. 483
Passed February 28, 2024
Approved March 13, 2024
Effective May 1, 2024

CONSTRUCTION TRADE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the exemptions from licensure under the Utah Construction Trades Licensing Act and adds to the definition of qualifying violation.

Highlighted Provisions:

This bill:

- modifies the threshold dollar amount allowing a person to engage in construction trades without being licensed; and
- adds failure to obtain a building permit as a qualifying violation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-305, as last amended by Laws of Utah 2020, Chapter 339
58-55-503, as last amended by Laws of Utah 2023, Chapters 111, 223

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

Section 1. Section 58-55-305 is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on work incidental to their own business;

(d) a sole owner of property engaged in building:

(i) no more than one residential structure per year on the sole owner's property and no more than three residential structures per five years on the sole owner's property for the sole owner's noncommercial, nonpublic use, except that a person other than the property owner or a person described in Subsection (1)(e), who engages in building a residential structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on the sole owner's property for the sole owner's noncommercial, nonpublic use that are incidental to a residential structure on the property, including a shed, carport, or detached garage;

(e)(i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h)(i) subject to Subsection 58-1-401(2) and Sections 58-55-501 and 58-55-502, a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than [~~$3,000,~~]$7,000, including both labor and materials, and including all changes or additions to the contracted or agreed upon work; and

(ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this section:

(A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within any six month period of time:

(I) [~~must~~]shall be performed by a licensed electrical or plumbing contractor, if the project involves an electrical or plumbing system; and

(II) may be performed by a licensed journeyman electrician or plumber or an individual referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system such as a faucet, toilet, fixture, device, outlet, or electrical switch;

(B) installation, repair, or replacement of a residential or commercial gas appliance or a combustion system on a Subsection (1)(h)(i) project [~~must~~]shall be performed by a person who has received certification under Subsection 58-55-308(2) except as otherwise provided in Subsection 58-55-308(2)(d) or 58-55-308(3);

(C) installation, repair, or replacement of water-based fire protection systems on a Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems contractor or a licensed journeyman plumber;

(D) work as an alarm business or company or as an alarm company agent shall be performed by a licensed alarm business or company or a licensed alarm company agent, except as otherwise provided in this chapter;

(E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i) project must be performed by a licensed alarm business or company or a licensed alarm company agent;

(F) installation, repair, or replacement of a heating, ventilation, or air conditioning system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor licensed by the division;

(G) installation, repair, or replacement of a radon mitigation system or a soil depressurization system must be performed by a licensed contractor; and

(H) if the total value of the project is greater than [~~$1,000,~~]$3,000, the person shall file with the division a one-time affirmation, subject to periodic reaffirmation as established by division rule, that the person has:

(I) public liability insurance in coverage amounts and form established by division rule; and

(II) if applicable, workers compensation insurance which would cover an employee of the person if that employee worked on the construction project;

(i) a person practicing a specialty contractor classification or construction trade which the director does not classify by administrative rule as significantly impacting the public's health, safety, and welfare;

(j) owners and lessees of property and persons regularly employed for wages by owners or lessees of property or their agents for the purpose of maintaining the property, are exempt from this chapter when doing work upon the property;

(k)(i) a person engaged in minor plumbing work that is incidental, as defined by the division by rule, to the [~~replacement or~~]repair of a fixture or an appliance in a residential or small commercial building, or structure used for agricultural use, as defined in Section 15A-1-202, provided that no modification is made to:

(A) existing culinary water, soil, waste, or vent piping; or

(B) a gas appliance or combustion system; and

(ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or an appliance is not included in the exemption provided under Subsection (1)(k)(i);

(l) a person who ordinarily would be subject to the plumber licensure requirements under this chapter when installing or repairing a water conditioner or other water treatment apparatus if the conditioner or apparatus:

(i) meets the appropriate state construction codes or local plumbing standards; and

(ii) is installed or repaired under the direction of a person authorized to do the work under an appropriate specialty contractor license;

(m) a person who ordinarily would be subject to the electrician licensure requirements under this chapter when employed by:

(i) railroad corporations, telephone corporations or their corporate affiliates, elevator contractors or constructors, or street railway systems; or

(ii) public service corporations, rural electrification associations, or municipal utilities who generate, distribute, or sell electrical energy for light, heat, or power;

(n) a person involved in minor electrical work incidental to a mechanical or service installation, including the outdoor installation of an above-ground, prebuilt hot tub;

(o) a person who ordinarily would be subject to the electrician licensure requirements under this chapter but who during calendar years 2009, 2010, or 2011 was issued a specialty contractor license for the electrical work associated with the installation, repair, or maintenance of solar energy panels, may continue the limited electrical work for solar energy panels under a specialty contractor license;

(p) a student participating in construction trade education and training programs approved by the commission with the concurrence of the director under the condition that:

(i) all work intended as a part of a finished product on which there would normally be an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed building inspector; and

(ii) a licensed contractor obtains the necessary building permits;

(q) a delivery person when replacing any of the following existing equipment with a new gas appliance, provided there is an existing gas shutoff valve at the appliance:

(i) gas range;

(ii) gas dryer;

(iii) outdoor gas barbeque; or

(iv) outdoor gas patio heater;

(r) a person performing maintenance on an elevator as defined in Section 58-55-102, if the maintenance is not related to the operating integrity of the elevator; and

(s) an apprentice or helper of an elevator mechanic licensed under this chapter when working under the general direction of the licensed elevator mechanic.

(2) A compliance agency as defined in Section 15A-1-202 that issues a building permit to a person requesting a permit as a sole owner of property referred to in Subsection (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of the permit.

Section 2. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) As used in this section:

(a) "Person" means, in reference to Subsection 58-55-504(2), an individual, and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) "Qualifying violation" means a violation under:

(i) Subsection 58-55-308(2);

(ii) Subsections 58-55-501(1) through (3), (7), (9), (10), (12), (14), (16)(e), (18), or (20) through (28);

(iii) Subsection 58-55-502(4)(a) or (11); or

(iv) Subsection 58-55-504(2).

(2)(a) A person who violates Subsection 58-55-501(1) through (7), (9), (10), (12), (14), (15), (16)(e), or (21) through (28), Subsection 58-55-308(2), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after the citation is final, is guilty of a class A misdemeanor.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(3) A person who violates Subsection 58-55-501(13) is guilty of:

(a) an infraction; or

(b) if the violator did so with the intent to deprive the person to whom money is to be paid of the money received, of theft under Section 76-6-404.

(4) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(5)(a)(i) If upon inspection or investigation, the division concludes that a person has committed a qualifying violation or violated any rule or order issued with respect to a qualifying violation, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(A) promptly issue a citation to the person according to this chapter and any pertinent rules;

(B) attempt to negotiate a stipulated settlement; or

(C) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who committed a qualifying violation, as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine and may, in addition to or in lieu of, be ordered to cease and desist from engaging in the qualifying violation.

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) A citation shall:

(i) be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(ii) clearly state that the recipient must notify the division in writing within 20 calendar days after the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(iii) clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d)(i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year after the date on which the violation that is the subject of the citation is reported to the division.

(h)(i) Except as provided in Subsections (5)(h)(ii) and (6), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled under Subsection (5)(a), a fine of up to $1,000;

(B) for a second offense handled under Subsection (5)(a), a fine of up to $2,000; and

(C) for any subsequent offense handled under Subsection (5)(a), a fine of up to $2,000 for each day of continued offense.

(ii) Except as provided in Subsection (6), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled under Subsection (5)(a), a fine of up to $2,000;

(B) for a second offense handled under Subsection (5)(a), a fine of up to $4,000; and

(C) for any subsequent offense handled under Subsection (5)(a), a fine of up to $4,000 for each day of continued offense.

(i)(i) For purposes of issuing a final order under this section and assessing a fine under Subsection (5)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second qualifying violation; or

(B)(I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (5)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (5)(i)(i)(B)(I) that the person committed a second or subsequent qualifying violation; and

(IV) after determining that the person committed a second or subsequent qualifying violation under Subsection (5)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (5)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (5)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) for each individual is considered a separate violation.

(6) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(7) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(8)(a) A penalty imposed by the director under Subsection (5) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 227
H. B. 500
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

REAL ESTATE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies the Real Estate Code and the Real Estate Licensing and Practices Act.

Highlighted Provisions:

This bill:

- removes the 10-day reporting requirement for criminal convictions;
- enhances penalties for violations involving vulnerable adults and adults over a certain age;
- modifies licensing fee maximums;
- requires the Department of Real Estate to provide notice of a disciplinary proceeding to the principal broker; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2c-102, as last amended by Laws of Utah 2020, Chapter 72
61-2c-402, as last amended by Laws of Utah 2022, Chapter 204
61-2f-102, as last amended by Laws of Utah 2017, Chapter 182
61-2f-301, as last amended by Laws of Utah 2012, Chapter 166
61-2f-401, as last amended by Laws of Utah 2023, Chapter 141
61-2f-404, as last amended by Laws of Utah 2016, Chapter 384
61-2g-306, as last amended by Laws of Utah 2012, Chapter 166
63I-2-261, as last amended by Laws of Utah 2023, Chapter 33

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

Section 1. Section 61-2c-102 is amended to read:

61-2c-102. Definitions.

(1) As used in this chapter:

(a) "Affiliation" means that a mortgage loan originator is associated with a principal lending manager in accordance with Section 61-2c-209.

(b) "Applicant" means a person applying for a license under this chapter.

(c) "Approved examination provider" means a person approved by the nationwide database or by the division as an approved test provider.

(d) "Associate lending manager" means an individual who:

(i) qualifies under this chapter as a principal lending manager; and

(ii) works by or on behalf of another principal lending manager in transacting the business of residential mortgage loans.

(e) "Balloon payment" means a required payment in a mortgage transaction that:

(i) results in a greater reduction in the principle of the mortgage than a regular installment payment; and

(ii) is made during or at the end of the term of the loan.

(f) "Branch lending manager" means an individual who is:

(i) licensed as a lending manager; and

(ii) designated in the nationwide database by the individual's sponsoring entity as being responsible to work from a branch office and to supervise the business of residential mortgage loans that is conducted at the branch office.

(g) "Branch office" means a licensed entity's office:

(i) for the transaction of the business of residential mortgage loans regulated under this chapter;

(ii) other than the main office of the licensed entity; and

(iii) that operates under:

(A) the same business name as the licensed entity; or

(B) another trade name that is registered with the division under the entity license.

(h) "Business day" means a day other than:

(i) a Saturday;

(ii) a Sunday; or

(iii) a federal or state holiday.

(i)(i) "Business of residential mortgage loans" means for compensation or in the expectation of compensation to:

(A) engage in an act that makes an individual a mortgage loan originator;

(B) make or originate a residential mortgage loan;

(C) directly or indirectly solicit a residential mortgage loan for another;

(D) unless exempt under Section 61-2c-105 or excluded under Subsection (1)(i)(ii), render services related to the origination of a residential mortgage loan including:

(I) preparing a loan package;

(II) communicating with the borrower or lender;

(III) advising on a loan term;

(IV) receiving, collecting, or distributing information common for the processing or underwriting of a loan in the mortgage industry; or

(V) communicating with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan; or

(E) engage in loan modification assistance.

(ii) "Business of residential mortgage loans" does not include:

(A) ownership of an entity that engages in the business of residential mortgage loans if the owner does not personally perform the acts listed in Subsection (1)(i)(i);

(B) acting in one or more of the following capacities:

(I) a loan wholesaler;

(II) an account executive for a loan wholesaler;

(III) a loan closer; or

(IV) funding a loan; or

(C) if employed by a person who owns or services an existing residential mortgage loan, the direct negotiation with the borrower for the purpose of loan modification.

(j) "Certified education provider" means a person who is certified under Section 61-2c-204.1 to provide Utah-specific prelicensing education.

(k) "Closed-end" means a loan:

(i) with a fixed amount borrowed; and

(ii) that does not permit additional borrowing secured by the same collateral.

(l) "Commission" means the Residential Mortgage Regulatory Commission created in Section 61-2c-104.

(m) "Community development financial institution" means the same as that term is defined in 12 U.S.C. Sec. 4702.

(n) "Compensation" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to an individual or entity for or in consideration of:

(i) services;

(ii) personal or real property; or

(iii) another thing of value.

(o) "Concurrence" means that entities given a concurring role must jointly agree for the action to be taken.

(p) "Continuing education" means education an individual takes in order to meet the education requirements imposed by Sections 61-2c-204.1 and 61-2c-205 to activate, renew, or reinstate a license under this chapter.

(q) "Control," as used in Subsection 61-2c-105(2)(f), means the power to directly or indirectly:

(i) direct or exercise a controlling interest over:

(A) the management or policies of an entity; or

(B) the election of a majority of the directors, officers, managers, or managing partners of an entity;

(ii) vote 20% or more of a class of voting securities of an entity by an individual; or

(iii) vote more than 5% of a class of voting securities of an entity by another entity.

(r)(i) "Control person" means an individual identified by an entity registered with the nationwide database as being an individual directing the management or policies of the entity.

(ii) "Control person" may include one of the following who is identified as provided in Subsection (1)(r)(i):

(A) a manager;

(B) a managing partner;

(C) a director;

(D) an executive officer; or

(E) an individual who performs a function similar to an individual listed in this Subsection (1)(r)(ii).

(s) "Depository institution" means the same as that term is defined in Section 7-1-103.

(t) "Director" means the director of the division.

(u) "Division" means the Division of Real Estate.

(v) "Dwelling" means a residential structure attached to real property that contains one to four family units including any of the following if used as a residence:

(i) a condominium unit;

(ii) a cooperative unit;

(iii) a manufactured home; or

(iv) a house.

(w) "Employee":

(i) means an individual:

(A) whose manner and means of work performance are subject to the right of control of, or are controlled by, another person; and

(B) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form issued by the controlling person; and

(ii) does not include an independent contractor who performs duties other than at the direction of, and subject to the supervision and instruction of, another person.

(x) "Entity" means:

(i) a corporation;

(ii) a limited liability company;

(iii) a partnership;

(iv) a company;

(v) an association;

(vi) a joint venture;

(vii) a business trust;

(viii) a trust; or

(ix) another organization.

(y) "Executive director" means the executive director of the Department of Commerce.

(z) "Federal licensing requirements" means Secure and Fair Enforcement for Mortgage Licensing, 12 U.S.C. Sec. 5101 et seq.

(aa) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) engage, or offer to engage, in an act that:

(A) the person represents will assist a borrower in preventing a foreclosure; and

(B) relates to a transaction involving the transfer of title to residential real property; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(aa)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(aa)(i).

(bb) "Inactive status" means a dormant status into which an unexpired license is placed when the holder of the license is not currently engaging in the business of residential mortgage loans.

(cc) "Lending manager" means an individual licensed as a lending manager under Section 61-2c-206 to transact the business of residential mortgage loans.

(dd) "Licensee" means a person licensed with the division under this chapter.

(ee) "Licensing examination" means the examination required by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(ff) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(i) act, or offer to act, on behalf of a person to:

(A) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(I) an increase or decrease in an interest rate;

(II) a change to the type of interest rate;

(III) an increase or decrease in the principal amount of the residential mortgage loan;

(IV) a change in the number of required period payments;

(V) an addition of collateral;

(VI) a change to, or addition of, a prepayment penalty;

(VII) an addition of a cosigner; or

(VIII) a change in persons obligated under the existing residential mortgage loan; or

(B) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(ii) as an employee or agent of another person:

(A) solicit, or offer that the other person will engage in an act described in Subsection (1)(ff)(i); or

(B) negotiate terms in relationship to an act described in Subsection (1)(ff)(i).

(gg)(i) "Mortgage loan originator" means an individual who, for compensation or in expectation of compensation:

(A)(I) takes a residential mortgage loan application;

(II) offers or negotiates terms of a residential mortgage loan for the purpose of:

(Aa) a purchase;

(Bb) a refinance;

(Cc) a loan modification assistance; or

(Dd) a foreclosure rescue; or

(III) directly or indirectly solicits a residential mortgage loan for another person; and

(B) is licensed as a mortgage loan originator in accordance with this chapter.

(ii) "Mortgage loan originator" does not include a person who:

(A) is described in Subsection (1)(gg)(i), but who performs exclusively administrative or clerical tasks as described in Subsection (1)(i)(ii)(A);

(B)(I) is licensed under Chapter 2f, Real Estate Licensing and Practices Act;

(II) performs only real estate brokerage activities; and

(III) receives no compensation from:

(Aa) a lender;

(Bb) a lending manager; or

(Cc) an agent of a lender or lending manager; or

(C) is solely involved in extension of credit relating to a timeshare plan, as defined in 11 U.S.C. Sec. 101(53D).

(hh) "Nationwide database" means the Nationwide Mortgage Licensing System and Registry, authorized under federal licensing requirements.

(ii) "Nontraditional mortgage product" means a mortgage product other than a 30-year fixed rate mortgage.

(jj) "Person" means an individual or entity.

(kk) "Prelicensing education" means education taken by an individual seeking to be licensed under this chapter in order to meet the education requirements imposed by Section 61-2c-204.1 or 61-2c-206 for an individual to obtain a license under this chapter.

(ll) "Principal lending manager" means an individual:

(i) licensed as a lending manager under Section 61-2c-206; and

(ii) identified in the nationwide database by the individual's sponsoring entity as the entity's principal lending manager.

(mm) "Prospective borrower" means a person applying for a mortgage from a person who is required to be licensed under this chapter.

(nn) "Record" means information that is:

(i) prepared, owned, received, or retained by a person; and

(ii)(A) inscribed on a tangible medium; or

(B)(I) stored in an electronic or other medium; and

(II) in a perceivable and reproducible form.

(oo) "Residential mortgage loan" means an extension of credit, if:

(i) the loan or extension of credit is secured by a:

(A) mortgage;

(B) deed of trust; or

(C) consensual security interest; and

(ii) the mortgage, deed of trust, or consensual security interest described in Subsection (1)(oo)(i):

(A) is on a dwelling located in the state; and

(B) is created with the consent of the owner of the residential real property.

(pp) "Section 8 of RESPA" means 12 U.S.C. Sec. 2607 and any rules made thereunder.

(qq) "Settlement" means the time at which each of the following is complete:

(i) the borrower and, if applicable, the seller sign and deliver to each other or to the escrow or closing office each document required by:

(A) the real estate purchase contract;

(B) the lender;

(C) the title insurance company;

(D) the escrow or closing office;

(E) the written escrow instructions; or

(F) applicable law;

(ii) the borrower delivers to the seller, if applicable, or to the escrow or closing office any money, except for the proceeds of any new loan, that the borrower is required to pay; and

(iii) if applicable, the seller delivers to the buyer or to the escrow or closing office any money that the seller is required to pay.

(rr) "Settlement services" means a service provided in connection with a real estate settlement, including a title search, a title examination, the provision of a title certificate, services related to title insurance, services rendered by an attorney, preparing documents, a property survey, rendering a credit report or appraisal, a pest or fungus inspection, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan, and the processing of a federally related mortgage.

(ss) "Sponsorship" means an association in accordance with Section 61-2c-209 between an individual licensed under this chapter and an entity licensed under this chapter.

(tt) "State" means:

(i) a state, territory, or possession of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

(uu) "Uniform state test" means the uniform state content section of the qualified written test developed by the nationwide database.

(vv) "Unique identifier" means the same as that term is defined in 12 U.S.C. Sec. 5102.

(ww) "Utah-specific" means an educational requirement under this chapter that relates specifically to Utah.

(xx) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

(2)(a) If a term not defined in this section is defined by rule, the term shall have the meaning established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) If a term not defined in this section is not defined by rule, the term shall have the meaning commonly accepted in the business community.

Section 2. Section 61-2c-402 is amended to read:

61-2c-402. Disciplinary action.

(1) Subject to the requirements of Section 61-2c-402.1, the commission, with the concurrence of the division, may impose a sanction described in Subsection (2) against a person if the person:

(a)(i) is a licensee or a person required to be licensed under this chapter; and

(ii) violates this chapter; or

(b)(i) is not registered under this chapter; and

(ii) violated a provision of this chapter during a period in which:

(A) the provision of this chapter was in effect; and

(B) the person was registered or required to be registered under this chapter; or

(c)(i) is a certified education provider or person required to be certified to provide prelicensing or continuing education under this chapter; and

(ii) violates this chapter.

(2) The commission, with the concurrence of the director, may against a person described in Subsection (1):

(a) impose an educational requirement;

(b) impose a civil penalty against the individual or entity in an amount not to exceed the greater of:

(i) except as provided in Subsection (2)(b)(ii), $5,000 for each violation;

(ii) $10,000 for each violation, if the person knew or should have known that the property owner was an individual 65 years old or older, or a vulnerable adult; or

[~~(ii)~~](iii) the amount equal to any gain or economic benefit derived from each violation;

(c) deny an application for an original license;

(d) do any of the following to a license under this chapter:

(i) suspend;

(ii) revoke;

(iii) place on probation;

(iv) reduce a lending manager license to a loan originator license;

(v) deny renewal;

(vi) deny reinstatement; or

(vii) in the case of a denial of a license or a suspension that extends to the expiration date of a license, set a waiting period for a person to apply for a license under this chapter;

(e) issue a cease and desist order;

(f) require the reimbursement of the division of costs incurred by the division related to the recovery, storage, or destruction of a record that the person disposes of in a manner that violates this chapter or a rule made under this chapter;

(g) modify a sanction described in Subsections (2)(a) through (f) if the commission finds that the person complies with court ordered restitution; or

(h) impose any combination of sanctions described in this Subsection (2).

(3)(a) If the commission, with the concurrence of the division, issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(b) If a person fails to comply with a stated deadline:

(i) the person's license or certificate is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4)(a) A person whose license was revoked under this chapter before May 11, 2010, may request that the revocation be converted to a suspension under this Subsection (4):

(i) if the revocation was not as a result of a felony conviction involving fraud, misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and

(ii) by filing a written request with the division.

(b) Upon receipt of a request to convert a revocation under this Subsection (4), the commission, with the concurrence of the director, shall determine whether to convert the revocation.

(c) The commission may delegate to the division the authority to [~~make a decision on~~]decide whether to convert a revocation.

(d) If the division, acting under Subsection (4)(c), denies a request to convert a revocation, the person who requests the conversion may appeal the decision in a hearing conducted by the commission:

(i) after the division denies the request to convert the revocation; and

(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The commission may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

(5)(a) A person whose license the commission revokes in accordance with this section may file a written request with the division for the vacation of the license revocation, if the person:

(i) has not held a license under this chapter for at least eight years before the day on which the person files the request; and

(ii) has not been convicted of a felony involving:

(A) fraud;

(B) misrepresentation;

(C) deceit;

(D) dishonesty;

(E) breach of trust; or

(F) money laundering.

(b) After receiving a written request a person makes in accordance with Subsection (5)(a), the commission may vacate the revocation of the person's license:

(i) after a hearing; and

(ii) with the concurrence of the division.

(c) A person whose license revocation is vacated in accordance with this Subsection (5) may apply for licensure in accordance with this chapter.

Section 3. Section 61-2f-102 is amended to read:

61-2f-102. Definitions.

As used in this chapter:

(1) "Associate broker" means an individual who is:

(a) employed or engaged as an independent contractor by or on behalf of a principal broker to perform an act described in Subsection (20) for valuable consideration; and

(b) licensed under this chapter as an associate broker.

(2) "Branch broker" means an associate broker who manages a principal broker's branch office under the supervision of the principal broker.

(3) "Branch office" means a principal broker's real estate brokerage office that is not the principal broker's main office.

(4) "Business day" means a day other than:

(a) a Saturday;

(b) a Sunday; or

(c) a federal or state holiday.

(5) "Business opportunity" means the sale, lease, or exchange of any business that includes an interest in real estate.

(6) "Commission" means the Real Estate Commission established under this chapter.

(7) "Concurrence" means the entities given a concurring role must jointly agree for action to be taken.

(8) "Condominium homeowners' association" means the condominium unit owners acting as a group in accordance with declarations and bylaws.

(9)(a) "Condominium hotel" means one or more condominium units that are operated as a hotel.

(b) "Condominium hotel" does not mean a hotel consisting of condominium units, all of which are owned by a single entity.

(10) "Condominium unit" means the same as that term is defined in Section 57-8-3.

(11) "Director" means the director of the Division of Real Estate.

(12) "Division" means the Division of Real Estate.

(13) "Dual broker" means a principal broker of a real estate sales brokerage who obtains from the division a dual broker license in order to function as the principal broker of a property management company that is a separate entity from the real estate sales brokerage.

(14) "Entity" means:

(a) a corporation;

(b) a partnership;

(c) a limited liability company;

(d) a company;

(e) an association;

(f) a joint venture;

(g) a business trust;

(h) a trust; or

(i) any organization similar to an entity described in Subsections (14)(a) through (h).

(15) "Executive director" means the director of the Department of Commerce.

(16) "Foreclosure rescue" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) engage, or offer to engage, in an act that:

(i) the person represents will assist a borrower in preventing a foreclosure; and

(ii) relates to a transaction involving the transfer of title to residential real property; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (16)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (16)(a).

(17) "Loan modification assistance" means, for compensation or with the expectation of receiving valuable consideration, to:

(a) act, or offer to act, on behalf of a person to:

(i) obtain a loan term of a residential mortgage loan that is different from an existing loan term including:

(A) an increase or decrease in an interest rate;

(B) a change to the type of interest rate;

(C) an increase or decrease in the principal amount of the residential mortgage loan;

(D) a change in the number of required period payments;

(E) an addition of collateral;

(F) a change to, or addition of, a prepayment penalty;

(G) an addition of a cosigner; or

(H) a change in persons obligated under the existing residential mortgage loan; or

(ii) substitute a new residential mortgage loan for an existing residential mortgage loan; or

(b) as an employee or agent of another person:

(i) solicit, or offer that the other person will engage in an act described in Subsection (17)(a); or

(ii) negotiate terms in relationship to an act described in Subsection (17)(a).

(18) "Main office" means the address which a principal broker designates with the division as the principal broker's primary brokerage office.

(19) "Person" means an individual or entity.

(20) "Principal broker" means an individual who is licensed or required to be licensed as a principal broker under this chapter who:

(a) sells or lists for sale real estate, including real estate being sold as part of a foreclosure rescue, or a business opportunity with the expectation of receiving valuable consideration;

(b) buys, exchanges, or auctions real estate, an option on real estate, a business opportunity, or an improvement on real estate with the expectation of receiving valuable consideration;

(c) advertises, offers, attempts, or otherwise holds the individual out to be engaged in the business described in Subsection (20)(a) or (b);

(d) is employed by or on behalf of the owner of real estate or by a prospective purchaser of real estate and performs an act described in Subsection (20)(a), whether the individual's compensation is at a stated salary, a commission basis, upon a salary and commission basis, or otherwise;

(e) with the expectation of receiving valuable consideration, manages property owned by another person;

(f) advertises or otherwise holds the individual out to be engaged in property management;

(g) with the expectation of receiving valuable consideration, assists or directs in the procurement of prospects for or the negotiation of a transaction listed in Subsections (20)(a) and (e);

(h) except for a mortgage lender, title insurance producer, or an employee of a mortgage lender or title insurance producer, assists or directs in the closing of a real estate transaction with the expectation of receiving valuable consideration;

(i) engages in foreclosure rescue; or

(j) advertises, offers, attempts, or otherwise holds the person out as being engaged in foreclosure rescue.

(21)(a) "Property management" means engaging in, with the expectation of receiving valuable consideration, the management of real estate owned by another person or advertising or otherwise claiming to be engaged in property management by:

(i) advertising for, arranging, negotiating, offering, or otherwise attempting or participating in a transaction calculated to secure the rental or leasing of real estate;

(ii) collecting, agreeing, offering, or otherwise attempting to collect rent for the real estate and accounting for and disbursing the money collected; or

(iii) authorizing expenditures for repairs to the real estate.

(b) "Property management" does not include:

(i) hotel or motel management;

(ii) rental of tourist accommodations, including hotels, motels, tourist homes, condominiums, condominium hotels, mobile home park accommodations, campgrounds, or similar public accommodations for a period of less than 30 consecutive days, and the management activities associated with these rentals; or

(iii) the leasing or management of surface or subsurface minerals or oil and gas interests, if the leasing or management is separate from a sale or lease of the surface estate.

(22) "Property management sales agent" means a sales agent who:

(a) is affiliated with a dual broker through the dual broker's property management company; and

(b) is designated by the dual broker as a property management sales agent.

(23) "Real estate" includes leaseholds and business opportunities involving real property.

(24)(a) "Regular salaried employee" means an individual who performs a service for wages or other remuneration, whose employer withholds federal employment taxes under a contract of hire, written or oral, express or implied.

(b) "Regular salaried employee" does not include an individual who performs services on a project-by-project basis or on a commission basis.

(25) "Reinstatement" means restoring a license that has expired or has been suspended.

(26) "Reissuance" means the process by which a licensee may obtain a license following revocation of the license.

(27) "Renewal" means extending a license for an additional licensing period on or before the date the license expires.

(28) "Sales agent" means an individual who is:

(a) affiliated with a principal broker, either as an independent contractor or an employee as provided in Section 61-2f-303, to perform for valuable consideration an act described in Subsection (20); and

(b) licensed under this chapter as a sales agent.

(29) "Vulnerable adult" means the same as that term is defined in Section 26B-6-201.

Section 4. Section 61-2f-301 is amended to read:

61-2f-301. Reporting requirements.

(1) A licensee shall notify the division of the following by sending the division a signed

statement within 10 business days [~~of~~]after the day on which:

[~~(a) a conviction of, or the entry of a plea in abeyance to:~~]

[~~(i) a felony; or~~]

[~~(ii) a misdemeanor involving financial services or a financial services- related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion;~~]

[~~(b) the potential resolution of a felony or of a misdemeanor described in Subsection (1)(a)(ii) by:~~]

[~~(i) a diversion agreement; or~~]

[~~(ii) another agreement under which a criminal charge is held in suspense for a period of time;~~]

[~~(c)~~](a) [~~the filing of~~]a personal or brokerage bankruptcy is filed, if the licensee is a principal broker;

[~~(d)~~](b) [~~the suspension, revocation, surrender, cancellation, or denial of~~]a license or registration of the licensee that is necessary to engage in an occupation or profession is suspended, revoked, surrendered, canceled, or denied, regardless of whether the license or registration is issued by this state or another jurisdiction; or

[~~(e)~~](c) [~~the entry of~~]a cease and desist order or a temporary or permanent injunction is issued:

(i) against the licensee by a court or administrative agency; and

(ii) on the basis of:

(A) conduct or a practice involving the business of real estate; or

(B) conduct involving fraud, misrepresentation, or deceit.

(2) The commission, with the concurrence of the director, shall enforce the reporting requirement under this section pursuant to Section 61- 2f- 404.

Section 5. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

(1)(a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed written consent of the parties;

(3)(a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4)(a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48- 3a- 1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase,

sale, or rental is made for that person or for an undisclosed principal;

(11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(16) any other conduct which constitutes dishonest dealing;

(17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(21) violating Title 57, Chapter 30, Residential Property Service Agreements;

(22)(a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(23) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a)(i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

(24) as a principal broker, placing a lien on real property, unless authorized by law;

(25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or

(26) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section 6. Section 61-2f-404 is amended to read:

61-2f-404. Disciplinary action -- Judicial review.

(1)(a) On the basis of a violation of this chapter, the commission with the concurrence of the director, may issue an order:

(i) imposing an educational requirement;

(ii) imposing a civil penalty not to exceed the greater of:

(A) except as provided in Subsection (1)(a)(ii)(B), $5,000 for each violation; [~~or~~]

(B) $10,000 for each violation, if the person knew or should have known that the property owner was an individual 65 years old or older, or a vulnerable adult; or

[~~(B)~~](C) the amount of any gain or economic benefit derived from each violation;

(iii) taking any of the following actions related to a license, registration, or certificate:

(A) revoking;

(B) suspending;

(C) placing on probation;

(D) denying the renewal, reinstatement, or application for an original license, registration, or certificate; or

(E) in the case of denial or revocation of a license, registration, or certificate, setting a waiting period for an applicant to apply for a license, registration, or certificate under this title;

(iv) issuing a cease and desist order;

(v) modifying an action described in Subsections (1)(a)(i) through (iv) if the commission finds that the person complies with court ordered restitution; or

(vi) doing any combination of Subsections (1)(a)(i) through (v).

(b)(i) If the commission with the concurrence of the director issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(ii) If a person fails to comply by the stated deadline:

(A) the person's license, registration, or certificate is automatically suspended:

(I) beginning the day specified in the order as the deadline for compliance; and

(II) ending the day on which the person complies in full with the order; and

(B) if the person fails to pay a fine required by an order, the division may begin a collection process:

(I) established by the division, with the concurrence of the commission, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(II) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(c) [~~If a licensee is an active sales agent or active associate broker, the~~]In a manner determined by the division, the division shall inform [~~the~~]a principal broker[-]:

(i) with whom [~~the~~]a licensee is affiliated of[-]:

(A) [~~the charge~~]a complaint made to the division against the licensee that requires a written response from the licensee;

(B) a violation alleged against the licensee by the division;

(C) [~~and of~~]the time and place of any disciplinary hearing[.] regarding the licensee; and

(D) the resolution of a violation alleged described in Subsection (1)(c)(i)(B); and

(ii) upon inquiry from a principal broker regarding an affiliated licensee:

(A) disciplinary actions made by the division against the licensee for the past five years; and

(B) the resolution of the disciplinary actions described in Subsection (1)(c)(ii)(A).

(d) A person previously licensed under this chapter remains responsible for, and is subject to disciplinary action for, an act the person committed while the person was licensed in violation of this chapter or an administrative rule in effect at the time the person committed the act, regardless of whether the person is currently licensed.

(2)(a) An applicant, certificate holder, licensee, registrant, or person aggrieved, including the complainant, may obtain agency review by the executive director and judicial review of any adverse ruling, order, or decision of the division.

(b) If an applicant, certificate holder, registrant, or licensee prevails in the appeal and the court finds that the state action was undertaken without substantial justification, the court may award reasonable litigation expenses to the applicant, certificate holder, registrant, or licensee as provided under Title 78B, Chapter 8, Part 5, Small Business Equal Access to Justice Act.

(c)(i) An order, ruling, or decision of the division shall take effect and become operative 30 days after the service of the order, ruling, or decision unless otherwise provided in the order.

(ii) If an appeal is taken by a licensee, registrant, or certificate holder, the division may stay enforcement of an order, ruling, or decision in accordance with Section 63G-4-405.

(iii) An appeal is governed by the Utah Rules of Appellate Procedure.

(3) The commission and the director shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Section 7. Section 61-2g-306 is amended to read:

61-2g-306. Renewal of license, certification, or registration.

(1) To renew a license, certification, or registration, before the license, certification, or registration expires, the holder of the license, certification, or registration shall submit to the division in compliance with procedures set through the concurrence of the division and the board:

(a) an application for renewal;

(b) a fee established by the division and the board, in accordance with Section 63J-1-504; and

(c) evidence in the form prescribed by the division of having completed the continuing education requirements for renewal specified in this chapter.

(2)(a) A license, certification, or registration expires if it is not renewed on or before its expiration date.

(b) For a period of 30 days after the expiration date, a license, certification, or registration may be reinstated upon:

(i) payment of a renewal fee and a late fee determined through the concurrence of the division and the board; and

(ii) satisfying the continuing education requirements specified in Section 61-2g-307.

(c) After the 30-day period described in Subsection (2)(b), and until six months after the expiration date, a license, certification, or registration may be reinstated by:

(i) paying a renewal fee and a reinstatement fee determined through the concurrence of the division and the board; and

(ii) satisfying the continuing education requirements specified in Section 61-2g-307.

(d) After the six-month period described in Subsection (2)(c), and until one year after the expiration date, a license, certification, or registration may be reinstated by:

(i) paying a renewal fee and a reinstatement fee determined through the concurrence of the division and the board in accordance with Section 63J-1-504;

(ii) providing proof acceptable to the division, with the concurrence of the board, of the person having satisfied the continuing education requirements of Section 61-2g-307; and

(iii) providing proof acceptable to the division, with the concurrence of the board, of the person completing 24 hours of continuing education:

(A) in addition to the requirements in Section 61-2g-307; and

(B) on a subject determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(e) The division shall relicense, recertify, or reregister a person who does not renew that person's license, certification, or registration within one year after the expiration date as prescribed for an original application.

(f) Notwithstanding Subsection (2)(a), the division may extend the term of a license, certification, or registration that would expire under Subsection (2)(a) except for the extension if:

(i)(A) the person complies with the requirements of this section to renew the license, certification, or registration; and

(B) the application for renewal remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending under this chapter a disciplinary action.

(3) A person who is licensed, certified, or registered under this chapter shall notify the

division of the following by sending the division a signed statement within 10 business days [~~of~~]after the day on which:

[~~(a) a conviction of, or the entry of a plea in abeyance to:~~]

[~~(i) a felony; or~~]

[~~(ii) a misdemeanor involving financial services or a financial services-related business, fraud, a false statement or omission, theft or wrongful taking of property, bribery, perjury, forgery, counterfeiting, or extortion;~~]

[~~(b) the potential resolution of a felony or of a misdemeanor described in Subsection (3)(a)(ii) by:~~]

[~~(i) a diversion agreement; or~~]

[~~(ii) any other agreement under which a criminal charge is suspended for a period of time;~~]

[~~(c)~~](a) the [~~suspension, revocation, surrender, cancellation, or denial of a~~]person's professional license, certification, or registration [~~of the person,~~]is suspended, revoked, surrendered, canceled, or denied, regardless of whether the license, certification, or registration is issued by this state or another jurisdiction; or

[~~(d)~~](b) [~~the entry of~~]a cease and desist order or a temporary or permanent injunction is entered:

(i) against the person by a court or administrative agency; and

(ii) on the basis of:

(A) conduct or a practice involving an act regulated by this chapter; or

(B) conduct involving fraud, misrepresentation, or deceit.

(4) The board, with the concurrence of the division, shall enforce the reporting requirement of Subsection (3) pursuant to Section 61-2g-502.

Section 8. Section 63I-2-261 is amended to read:

63I-2-261. Repeal dates: Title 61.

[~~Section 61-2-204 is repealed on July 1, 2024~~].

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 228
H. B. 530
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

LICENSED SCHOOL PSYCHOLOGICAL PRACTITIONER AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts provisions relating to the licensure of a licensed school psychological practitioner.

Highlighted Provisions:

This bill:

- creates a new license category under the Psychologist Licensing Act for a licensed school psychological practitioner;
- defines the scope of practice for a licensed school psychological practitioner; and
- specifies the requirements to receive a license as a licensed school psychological practitioner.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-61-301, as last amended by Laws of Utah 2001, Chapter 281
58-61-304, as last amended by Laws of Utah 2020, Chapter 339
58-61-308, as enacted by Laws of Utah 2001, Chapter 281

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

Section 1. Section 58-61-301 is amended to read:

58-61-301. Licensure required.

(1)(a) A license is required to engage in the practice of psychology, except as specifically provided in Section 58-1-307.

(b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be certified under this chapter as a psychology resident in order to engage in a residency program of supervised clinical training necessary to meet licensing requirements as a psychologist under this chapter.

(2) The division shall issue to a person who qualifies under this chapter a license in the classification of:

(a) psychologist; [~~or~~]

(b) certified psychology resident[~~.~~]; or

(c) licensed school psychological practitioner.

Section 2. Section 58-61-304 is amended to read:

58-61-304. Qualifications for licensure by examination or endorsement.

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(d) have completed a minimum of 4,000 hours of psychology training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

(e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203;

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3)(a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), (g), and (h).

(b)(i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the Psychologist Licensing Board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

(4) An applicant for licensure as a licensed school psychological practitioner shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a master's degree or equivalent certification program approved by the division that:

(i) consists of at least 60 semester hours or 90 quarter hours in school psychology at an accredited institution; and

(ii) includes training in at least the following topics:

(A) understanding the organization, administration, and operation of schools, the major roles of personnel employed in schools, and curriculum development;

(B) directing psychological and psycho-educational assessments and intervention including all areas of exceptionality;

(C) individual and group intervention and remediation techniques, including consulting, behavioral methods, counseling, and primary prevention;

(D) understanding the ethical and professional practice and legal issues related to the work of school psychologists;

(E) social psychology, including interpersonal relations, communications, and consultation with students, parents, and professional personnel;

(F) coordination and work with community-school relations and multicultural education programs and assessments; and

(G) the use and evaluation of tests and measurements, developmental psychology, affective and cognitive processes, social and biological bases of behavior, personality, and psychopathology;

(d) provide evidence demonstrating that the applicant has:

(i) completed a one school year internship, or the equivalent, with a minimum of 1,200 clock hours in school psychology, at least 600 hours of which shall be in a school setting or a setting with an educational component; and

(ii) completed at least five years of successful experience as a school psychologist in the state; and

(e) provide a recommendation from:

(i) the institution that the applicant attended under Subsection (4)(c); and

(ii) one or more local education agencies, as defined in Section 53E-1-102, that employed the applicant as a school psychologist for the period described in Subsection (4)(d)(ii).

Section 3. Section 58-61-308 is amended to read:

58-61-308. Scope of practice -- Limitations.

(1) [A]An individual licensed as a psychologist may engage in all acts and practices defined as the

practice of psychology without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(2) An individual certified as a psychology resident may engage in all acts and practices defined as the practice of psychology only under conditions of employment as a psychology resident and under the supervision of a licensed psychologist who is an approved psychology training supervisor as defined by division rule. A certified psychology resident shall not engage in the independent practice of psychology.

(3)(a) An individual licensed as a licensed school psychological practitioner may provide services outside of a school setting if the services are:

(i) provided in accordance with the most recent professional standards adopted by the National Association of School Psychologists; and

(ii) related to:

(A) academic, behavioral, and mental health support;

(B) academic evaluation, assessment, and data analysis; or

(C) consultation with educators or families.

(b) An individual licensed as a licensed school psychological practitioner may not engage in diagnosing, the practice of mental health therapy, psychological evaluation, neuropsychological assessment, or neuropsychological evaluation.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 229
H. B. 537
Passed March 1, 2024
Approved March 13, 2024
Effective May 1, 2024

COUNTERFEIT AIRBAG AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill prohibits a counterfeit or nonfunctional airbag.

Highlighted Provisions:

This bill:

- prohibits certain actions involving a counterfeit or nonfunctional airbag; and
- establishes penalties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

41- 1a- 1321, Utah Code Annotated 1953

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

Section 1. Section 41- 1a- 1321 is enacted to read:

41- 1a- 1321. Counterfeit airbags.

(1) As used in this section:

(a) "Airbag" means an inflatable passive restraint system component for occupants of motor vehicles which is part of an automobile supplemental restraint system that:

(i) operates in the event of a crash; and

(ii) meets applicable federal safety standards for the specific make, model, and year of the motor vehicle in which the airbag is installed.

(b) "Counterfeit automobile supplemental restraint system component" means a replacement motor vehicle passive restraint system component, including an airbag, that displays an identical or substantially similar mark to the manufacturer's or supplier's genuine trademark without authorization.

(c) "Nonfunctional airbag" means a replacement airbag that:

(i) was previously deployed or damaged;

(ii) may not be sold or leased under 49 U.S.C. Sec. 30120(j);

(iii) has a fault that is detected by the vehicle diagnostic system after the installation procedure is completed; or

(iv) includes any part or object installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed.

(d) "Person" includes the owner or lessee of a motor vehicle, a body shop, dealer, remanufacturer, salvage rebuilder, vehicle service maintenance facility, or an entity or individual engaged in the repair of motor vehicles or the replacement or repair of an airbag passive restraint system.

(2) A person may not, with criminal negligence, manufacture, import, sell, offer for sale, install, or reinstall a counterfeit or nonfunctional airbag.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class A misdemeanor.

(b) A violation of Subsection (2) is a second degree felony if the person causes:

(i) serious injury, as defined in Section 76- 1- 101.5, to an individual;

(ii) substantial injury, as defined in Section 76- 1- 101.5, to an individual; or

(iii) the death of an individual.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 230
H. B. 584
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

ECONOMIC INTERRUPTION AMENDMENTS

Chief Sponsor: Matt MacPherson
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses the economic interruption of a business or governmental entity due to property damage or theft.

Highlighted Provisions:

This bill:

- defines terms;
- creates a crime for property damage resulting in economic interruption of a business or governmental entity;
- creates a sentencing enhancement for property damage resulting in economic interruption of a business or governmental entity when the defendant has previous convictions of that same offense;
- creates a crime for theft resulting in economic interruption of a business or governmental entity; and
- creates a sentencing enhancement for theft resulting in economic interruption of a business or governmental entity when the defendant has previous convictions of that same offense.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
76-6-113, Utah Code Annotated 1953
76-6-414, Utah Code Annotated 1953

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

Section 1. Section 76-6-113 is enacted to read:

76-6-113. Property damage resulting in economic interruption -- Enhanced penalties.

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

(i) "Business" means an enterprise carried on for the purpose of gain or economic profit.

(ii) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(iii) "Economic interruption" means any disruption or cessation to the operations of a business or governmental entity that results in:

(A) the business or governmental entity ceasing operations for at least one day; or

(B) the employees of the business or governmental entity being unable to perform labor for the business or governmental entity for at least one day.

(b) Terms defined in Sections 76-1-101.5 and 76-6-101 apply to this section.

(2) An actor commits property damage resulting in economic interruption if:

(a) the actor intentionally, knowingly, recklessly, or negligently damages, defaces, or destroys a business's or governmental entity's property; and

(b) the actor's actions under Subsection (2)(a) cause an economic interruption for the business or governmental entity.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense under this section that the actor did not know that the victim is a business or governmental entity.

(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the actor is guilty of:

(a) a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2); and

(b) a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(6) A prior conviction used for a penalty enhancement under Subsection (5) is a conviction that is from a separate criminal episode than:

(a) the most recent violation of Subsection (2); and

(b) any other prior conviction that is used to enhance the penalty for the most recent violation of Subsection (2).

(7) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under Subsection (5).

Section 2. Section 76-6-414 is enacted to read:

76-6-414. Theft resulting in economic interruption -- Enhanced penalties.

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

(i) "Business" means the same as that term is defined in Section 76-6-113.

(ii) "Governmental entity" means the same as that term is defined in Section 76-6-113.

(iii) "Economic interruption" means the same as that term is defined in Section 76-6-113.

(b) Terms defined in Sections 76-1-101.5 and 76-6-401 apply to this section.

(2) An actor commits theft resulting in economic interruption if:

(a) the actor intentionally, knowingly, recklessly, or negligently obtains or exercises unauthorized control over a business's or governmental entity's property with the intent to deprive the business or governmental entity of the property; and

(b) the actor's actions under Subsection (2)(a) cause an economic interruption for the business or governmental entity.

(3) A violation of Subsection (2) is a class A misdemeanor.

(4) It is not a defense under this section that the actor did not know that the victim is a business or governmental entity.

(5) If the trier of facts finds that the actor committed a violation of Subsection (2), the actor is guilty of:

(a) a third degree felony if the actor has two prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2); and

(b) a second degree felony if the actor has at least three prior convictions for a violation of Subsection (2) within five years before the day on which the actor committed the most recent violation of Subsection (2).

(6) A prior conviction used for a penalty enhancement under Subsection (5) is a conviction that is from a separate criminal episode than:

(a) the most recent violation of Subsection (2); and

(b) any other prior conviction that is used to enhance the penalty for the most recent violation of Subsection (2).

(7) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under Subsection (5).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 231
S. B. 11
Passed February 2, 2024
Approved March 13, 2024
Effective May 1, 2024

SEX AND KIDNAP OFFENDER REGISTRY ACCESS

Chief Sponsor: Chris H. Wilson
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill addresses access to information included on the Sex and Kidnap Offender Registry.

Highlighted Provisions:

This bill:

- requires the Department of Corrections to make certain information collected by the department for the purpose of registering sex and kidnap offenders searchable on the Sex Offender and Kidnap Offender Notification and Registration website;
- clarifies that the Department of Corrections is not required to report the results of searches to a law enforcement agency;
- prohibits the department from disclosing the name or other identifying information of a sex or kidnap offender; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-41-110, as last amended by Laws of Utah 2023, Chapter 123

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

Section 1. Section 77-41-110 is amended to read:

77-41-110. Sex offender and kidnap offender registry -- Department to maintain.

(1) The department shall maintain a Sex Offender and Kidnap Offender Notification and Registration website on the Internet, which shall contain a disclaimer informing the public:

(a) the information contained on the site is obtained from offenders and the department does not guarantee its accuracy or completeness;

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or threats against offenders or their families are prohibited and doing so may violate Utah criminal laws.

(2) The Sex Offender and Kidnap Offender Notification and Registration website shall be indexed by both the surname of the offender and by postal codes.

(3) The department shall construct the Sex Offender Notification and Registration website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

(4) Except as provided in Subsection [~~(5)~~](7), the Sex Offender and Kidnap Offender Notification and Registration website shall include the following registry information:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) the addresses of the offender's primary, secondary, and temporary residences;

(c) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(d) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;

(g) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student;

(h) a list of places where the offender works as a volunteer; and

(i) the crimes listed in Subsections 77-41-102(10) and (18) that the offender has been convicted of or for which the offender has been adjudicated delinquent in juvenile court.

(5)(a) The department shall enable the public to search the Sex and Kidnap Offender Notification and Registration website to determine if the following search criteria are linked to an offender:

(i) telephone numbers or other designations for an offender provided under Subsection 77-41-105(7)(h);

(ii) Internet identifiers or other addresses for an offender provided under Subsection 77-41-105(7)(i); and

(iii) names and Internet addresses of websites on which an offender is registered using an online identifier, including the online identifier used to access the website.

(b) The department shall ensure that a search performed using the criteria in Subsection (5)(a):

(i) provides the individual requesting the search with only information regarding whether the criteria are linked to an offender; and

(ii) does not return the name or any other identifying information about an offender.

(c) The department is not required to:

(i) report the results of the search under Subsection (5)(a) to a law enforcement agency; or

(ii) based on the results of a search under Subsection (5)(a), open an investigation.

[~~(5)~~](6) The department, [~~its~~]the department's personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this chapter and will be presumed to have acted in good faith by reporting information.

[~~(6)~~](7) The department shall redact information that, if disclosed, could reasonably identify a victim.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 232
S. B. 14
Passed February 29, 2024
Approved March 13, 2024
Effective May 1, 2024

CORPORATE DISSOLUTION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions related to the administrative dissolution of a business entity.

Highlighted Provisions:

This bill:

- allows certain administratively dissolved business entities to apply for reinstatement under the business entity's original name, if the name is available;
- provides that an administratively dissolved business entity retains the business entity's name for five years after dissolution;
- applies the reinstatement process retroactively;
- requires that a corporation or a pass-through entity report the following on the corporation's or pass-through entity's tax return:
  - whether the entity has filed a current annual report with the Division of Corporations; and
  - the entity's commerce entity number; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

16-6a-1412, as last amended by Laws of Utah 2023, Chapter 191
16-10a-1422, as last amended by Laws of Utah 2023, Chapter 191
16-16-1212, as last amended by Laws of Utah 2010, Chapter 378
48-1d-1103, as enacted by Laws of Utah 2013, Chapter 412
48-2e-811, as enacted by Laws of Utah 2013, Chapter 412
48-3a-709, as enacted by Laws of Utah 2013, Chapter 412
59-7-505, as last amended by Laws of Utah 2021, Chapter 367
59-10-1403, as last amended by Laws of Utah 2023, Chapter 470

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

Section 1. Section 16-6a-1412 is amended to read:

16-6a-1412. Reinstatement following administrative dissolution -- Reinstatement after voluntary dissolution.

(1) A nonprofit corporation administratively dissolved under Section 16-6a-1411 may apply to the division for reinstatement [~~within two years~~]under the nonprofit corporation's same name at any time after the effective date of dissolution [~~by delivering~~]if the nonprofit corporation's name is available and the nonprofit corporation delivers to the division for filing an application for reinstatement that:

(a) states:

(i) the effective date of the nonprofit corporation's administrative dissolution and the nonprofit corporation's corporate name on the effective date of dissolution;

(ii) that the ground or grounds for dissolution:

(A) did not exist; or

(B) have been eliminated;

(iii) the corporate name under which the nonprofit corporation is being reinstated;

(iv) the corporate name that satisfies the requirements of Section 16-6a-401;

(v) that the nonprofit corporation has paid all fees or penalties imposed under this chapter or other applicable state law;

(vi) that the nonprofit corporation:

(A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

(B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission;

(vii) the address of the nonprofit corporation's registered office;

(viii) the name of the nonprofit corporation's registered agent at the office stated in [~~Subsection (1)(f),~~]Subsection (1)(a)(vii);

(ix) the federal employer identification number of the nonprofit corporation; and

(x) any additional information the division determines is necessary or appropriate; and

(b) includes the written consent to appointment by the designated registered agent.

(2) A nonprofit corporation administratively dissolved under Section 16-6a-1411 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the nonprofit corporation's same corporate name if the nonprofit corporation's name is available and the nonprofit corporation delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a)(i), (1)(a)(iii) through (x), and (1)(b).

(3) A nonprofit corporation administratively dissolved under Section 16-6a-1411 retains the nonprofit corporation's corporate name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

[~~(2)~~](4)(a) After receiving a nonprofit corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the nonprofit corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the nonprofit corporation is in good standing.

(b) The State Tax Commission shall certify that a nonprofit corporation is in good standing if the nonprofit corporation:

(i) has paid all taxes, fees, and penalties the nonprofit corporation owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the nonprofit corporation owes to the State Tax Commission.

(c) If a nonprofit corporation is not in good standing as described in [~~Subsection (2)(b)~~]Subsection (4)(b), the State Tax Commission shall:

(i) notify the division, stating that the nonprofit corporation is not in good standing; and

(ii) notify the nonprofit corporation, explaining in detail why the nonprofit corporation is not in good standing.

[~~(3)~~](5)(a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required under [~~Subsection (1)~~]Subsection (1) or (2);

(ii) the division determines that the information in the application is correct; and

(iii) the State Tax Commission certifies that the nonprofit corporation is in good standing as described in [~~Subsection (2)(b)~~]Subsection (4)(b).

(b) The division shall mail written notice of the revocation to the nonprofit corporation in the manner provided in Subsection 16-6a-1411(5) stating the effective date of the dissolution.

[~~(4)~~](6) When the reinstatement is effective:

(a) the reinstatement relates back to and takes effect as of the effective date of the administrative dissolution;

(b) the nonprofit corporation may carry on the nonprofit corporation's activities, under the name [~~stated pursuant to Subsection (1)(a)(iii)~~]provided in the application for reinstatement, as if the administrative dissolution had never occurred; and

(c) an act of the nonprofit corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred.

[~~(5)~~](7)(a) The division may make rules for the reinstatement of a nonprofit corporation voluntarily dissolved.

(b) The rules made under [~~Subsection (5)(a)~~]Subsection (7)(a) shall be substantially similar to the requirements of this section for reinstatement of a nonprofit corporation that is administratively dissolved.

Section 2. Section 16-10a-1422 is amended to read:

16-10a-1422. Reinstatement following dissolution.

(1) A corporation dissolved under Section 16-10a-1403 or 16-10a-1421 may apply to the division for reinstatement [~~within two years~~]under the corporation's same corporate name at any time after the effective date of dissolution [~~by delivering~~]if the corporation's corporate name is available and the corporation delivers to the division for filing an application for reinstatement that:

(a) states:

(i) the effective date of the corporation's dissolution;

(ii) the corporation's corporate name as of the effective date of dissolution;

(iii) that the grounds for dissolution either did not exist or have been eliminated;

(iv) the corporate name under which the corporation is being reinstated;

(v) that the name stated in Subsection (1)(a)(iv) satisfies the requirements of Section 16-10a-401;

(vi) that the corporation has paid all fees or penalties imposed under this chapter or other applicable state law;

(vii) that the corporation:

(A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or

(B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed to the State Tax Commission;

(viii) the address of the corporation's registered office in this state;

(ix) the name of the corporation's registered agent at the office stated in Subsection (1)(a)(viii);

(x) the federal employer identification number of the corporation; and

(xi) any additional information the division determines to be necessary or appropriate; and

(b) includes the written consent to appointment by the designated registered agent.

(2) A corporation administratively dissolved under Section 16-10a-1403 or 16-10a-1421 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the corporation's same corporate name if the corporation's name is available and the corporation delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a)(i), (1)(a)(ii), (1)(a)(iv) through (xi), and (1)(b).

(3) A corporation administratively dissolved under Section 16-10a-1403 or 16-10a-1421 retains the corporation's corporate name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

[~~(2)~~](4)(a) After receiving a corporation's application for reinstatement, the division shall:

(i) provide the State Tax Commission with the corporation's federal employer identification number; and

(ii) request that the State Tax Commission certify that the corporation is in good standing.

(b) The State Tax Commission shall certify that a corporation is in good standing if the corporation:

(i) has paid all taxes, fees, and penalties the corporation owed to the State Tax Commission; or

(ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the corporation owes to the State Tax Commission.

(c) If a corporation is not in good standing as described in [~~Subsection (2)(b)~~]Subsection (4)(b), the State Tax Commission shall:

(i) notify the division, stating that the corporation is not in good standing; and

(ii) notify the corporation, explaining in detail why the corporation is not in good standing.

[~~(3)~~](5)(a) The division shall revoke the administrative dissolution if:

(i) the division determines that the application for reinstatement contains the information required under [~~Subsection (1)~~]Subsection (1) or (2);

(ii) the division determines that the information in the application is correct; and

(iii) the State Tax Commission certifies that the corporation is in good standing as described in [~~Subsection (2)(b)~~]Subsection (4)(b).

(b) The division shall mail to the corporation in the manner provided in Subsection 16-10a-1421(5) written notice of:

(i) the revocation; and

(ii) the effective date of the revocation.

[~~(4)~~](6)(a) When the reinstatement is effective, the reinstatement relates back to the effective date of the administrative dissolution.

(b) Upon reinstatement:

(i) an act of the corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred; and

(ii) the corporation may carry on the corporation's business, under the name [~~stated pursuant to Subsection (1)(a)(iv)~~]provided in the application for reinstatement, as if the administrative dissolution had never occurred.

Section 3. Section 16-16-1212 is amended to read:

16-16-1212. Reinstatement following administrative dissolution.

(1) A limited cooperative association that has been dissolved administratively may apply to the division for reinstatement [~~not later than two years~~]under the limited cooperative association's same name at any time after the effective date of dissolution[~~. The application shall be delivered to the division for filing and state~~]if the limited cooperative association's name is available and the limited cooperative association delivers to the division for filing an application for reinstatement that states:

(a) the name of the association and the effective date of its administrative dissolution;

(b) that the grounds for dissolution either did not exist or have been eliminated; and

(c) that the association's name satisfies the requirements of Section 16-16-111.

(2) A limited cooperative association administratively dissolved on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited cooperative association's same name if the limited cooperative association's name is available and the limited cooperative association delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) and (c).

(3) A limited cooperative association retains the limited cooperative association's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

[~~(2)~~](4) If the division determines that an application contains the information required by Subsection (1) or (2) and that the information is correct, the division shall:

(a) prepare a declaration of reinstatement;

(b) file the original of the declaration; and

(c) serve a copy of the declaration on the association.

[~~(3)~~](5) When reinstatement under this section becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the limited cooperative association may resume or continue its activities as if the administrative dissolution had not occurred.

Section 4. Section 48-1d-1103 is amended to read:

48-1d-1103. Reinstatement.

(1) A limited liability partnership whose statement of qualification has been revoked administratively under Section 48-1d-1102 may apply to the division for reinstatement of the statement of qualification [~~not later than two years~~]under the limited liability partnership's same name, at any time after the effective date of the revocation[~~. The application must state:~~]if the

limited liability partnership's name is available and the limited liability partnership delivers to the division for filing an application for reinstatement of the statement of qualification that states:

(a) the name of the partnership at the time of the administrative revocation of its statement of qualification and, if needed, a different name that satisfies Section 48-1d-1105;

(b) the address of the principal office of the partnership and information required under Subsection 16-17-203(1);

(c) the effective date of administrative revocation of the partnership's statement of qualification; and

(d) that the grounds for revocation did not exist or have been cured.

(2) A limited liability partnership whose statement of qualification has been revoked administratively under Section 48-1d-1102 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited liability partnership's same name if the limited liability partnership's name is available and the limited liability partnership delivers to the division for filing an application for reinstatement of the statement of qualification that satisfies the requirements of Subsections (1)(a) through (c).

(3) A limited liability partnership retains the limited liability partnership's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the administrative revocation of the statement of qualification is effective.

[~~(2)~~](4) To have its statement of qualification reinstated, a partnership whose statement of qualification has been revoked administratively must pay all fees, taxes, and penalties that were due to the division at the time of the administrative revocation and all fees, taxes, and penalties that would have been due to the division while the partnership's statement of qualification was revoked administratively.

[~~(3)~~](5) If the division determines that the application contains the information required by Subsection (1) or (2), is satisfied that the information is correct, and determines that all payments required to be made to the division by [~~Subsection (2)~~]Subsection (4) have been made, the division shall:

(a) cancel the statement of revocation and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;

(b) file the statement of revocation; and

(c) serve a copy of the statement of revocation on the limited liability partnership.

[~~(4)~~](6) When reinstatement under this section is effective, the following rules apply:

(a) the reinstatement relates back to and takes effect as of the effective date of the administrative revocation; and

(b) the partnership's status as a limited liability partnership continues as if the revocation had not occurred, except for the rights of a person arising out of an act or omission in reliance on the revocation before the person knew or had notice of the reinstatement are not affected.

Section 5. Section 48-2e-811 is amended to read:

48-2e-811. Reinstatement.

(1) A limited partnership that is administratively dissolved under Section 48-2e-810 may apply to the division for reinstatement [~~not later than two years~~]under the limited partnership's same name at any time after the effective date of dissolution[~~. The application must state~~]if the limited partnership's name is available and the limited partnership delivers to the division for filing an application for reinstatement that states:

(a) the name of the limited partnership at the time of its administrative dissolution and, if needed, a different name that satisfies Section 48-2e-108;

(b) the address of the principal office of the limited partnership and the name and address of its registered agent;

(c) the effective date of the limited partnership's administrative dissolution; and

(d) that the grounds for dissolution did not exist or have been cured.

(2) A limited partnership administratively dissolved under Section 48-2e-810 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited partnership's same name if the limited partnership's name is available and the limited partnership delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) through (c).

(3) A limited partnership retains the limited partnership's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

[~~(2)~~](4) To be reinstated, a limited partnership must pay all fees, taxes, interest, and penalties that were due to the division at the time of its administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the division while the limited partnership was administratively dissolved.

[~~(3)~~](5) If the division determines that an application under Subsection (1) or (2) contains the information required, is satisfied that the information is correct, and determines that all payments required to be made to the division by [~~Subsection (2)~~]Subsection (4) have been made, the division shall:

(a) cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;

(b) file the statement of reinstatement; and

(c) serve a copy of the statement of reinstatement on the limited partnership.

[~~(4)~~](6) When reinstatement under this section is effective, the following rules apply:

(a) The restatement relates back to and takes effect as of the effective date of the administrative dissolution.

(b) The limited partnership resumes carrying on its activities and affairs as if the administrative dissolution had not occurred.

(c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

Section 6. Section 48-3a-709 is amended to read:

48-3a-709. Reinstatement.

(1) A limited liability company that is administratively dissolved under Section 48-3a-708 may apply to the division for reinstatement [~~not later than two years~~]under the limited liability company's same name at any time after the effective date of dissolution[~~. The application must state:~~]if the limited liability company's name is available and the limited liability company delivers to the division for filing an application for reinstatement that states:

(a) the name of the limited liability company at the time of its administrative dissolution and, if needed, a different name that satisfies Section 48-3a-108;

(b) the address of the principal office of the limited liability company and the name and address of its registered agent;

(c) the effective date of the limited liability company's administrative dissolution; and

(d) that the grounds for dissolution did not exist or have been cured.

(2) A limited liability company administratively dissolved under Section 48-3a-708 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited liability company's same name if the limited liability company's name is available and the limited liability company delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) through (c).

(3) A limited liability company retains the limited liability company's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

[~~(2)~~](4) To be reinstated, a limited liability company must pay all fees, taxes, interest, and penalties that were due to the division at the time of its administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the division while the limited liability company was administratively dissolved.

[~~(3)~~](5) If the division determines that an application under Subsection (1) or (2) contains the information required by Subsection (1) or (2), is satisfied that the information is correct, and determines that all payments required to be made to the division by [~~Subsection (2)~~]Subsection (4) have been made, the division shall:

(a) cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;

(b) file the statement of reinstatement; and

(c) serve a copy of the statement of reinstatement on the limited liability company.

[~~(4)~~](6) When reinstatement under this section is effective, the following rules apply:

(a) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution.

(b) The limited liability company may resume its activities and affairs as if the administrative dissolution had not occurred.

(c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

Section 7. Section 59-7-505 is amended to read:

59-7-505. Returns required -- When due -- Extension of time -- Exemption from filing.

(1) Each corporation subject to taxation under this chapter shall make a return, except that a group of corporations filing a combined report under Part 4, Combined Reporting, shall file one combined report.

(a) The return shall be signed by a responsible officer of the corporation, the signature of whom need not be notarized but when signed shall be considered as made under oath.

(b)(i) In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, those receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns.

(ii) Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(2)(a) A corporation required to make a return under this chapter shall make a return on or before the later of:

(i) the 15th day of the fourth month following the close of the taxable year; or

(ii) the day on which the corporation is required to file a federal income tax return.

(b) Interest accrues from the day on which a return is due under this Subsection (2).

(3)(a) The commission shall allow a taxpayer an extension of time for filing a return.

(b) Except as provided in Subsection (3)(c), the extension described in Subsection (3)(a) may be for up to six months.

(c) For a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, a taxpayer may receive an extension described in Subsection (3)(a) for the time period that ends on the last day of the extension to file the taxpayer's federal income tax return.

(4) Each return shall be made to the commission.

(5) A corporation incorporated or qualified to do business in this state before January 1, 1973, is not liable for filing a return or paying tax measured by income for the taxable year in which the corporation legally terminates the corporation's existence.

(6) A corporation incorporated or qualified to do business or that had the corporation's authority to do business reinstated on or after January 1, 1973, shall file a return and pay the tax measured by income for each period during which the corporation had the right to do business in this state, and the return shall be filed and the tax paid within three months and 15 days after the close of this period.

(7) If a corporation terminates the corporation's existence under Section 16-10a-1401, the corporation is not required to file a return if the corporation provides a statement to the commission that no business has been conducted during that period.

(8)(a) A corporation commencing to do business in Utah after qualification or incorporation with the Division of Corporations and Commercial Code is not required to file a return for the period commencing with the date of incorporation or qualification and ending on the last day of the same month, if that corporation was not doing business in and received no income from sources in the state during such period.

(b) In determining whether a corporation comes within the provisions of this chapter, affidavits on behalf of the corporation that it did no business in and received no income from sources in Utah during such period shall be filed with the commission.

(9) An entity required to file a return under this section shall report on the entity's return:

(a) whether the entity has filed a current annual report with the Division of Corporations; and

(b) the entity's commerce entity number.

Section 8. Section 59-10-1403 is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3) and except as provided in Subsection 59-10-1403.2(2), a pass-through entity is not subject to a tax imposed by this chapter.

(2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of Sections 59-10-507, 59-10-514, and 59-10-516.

(4) For purposes of taxation under this title, a pass-through entity that transacts business in the state shall be classified in the same manner as the pass-through entity is classified for federal income tax purposes.

(5)(a) If a change is made in a pass-through entity's net income or loss on the pass-through entity's federal income tax return because of an action of the federal government, the pass-through entity shall file with the commission within 90 days after the date of a final determination of the action:

(i) a copy of the pass-through entity's amended federal income tax return or federal adjustment; and

(ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.

(b) If a change is made in a pass-through entity's net income on the pass-through entity's federal income tax return because the pass-through entity files an amended federal income tax return, the pass-through entity shall file with the commission, within 90 days after the date the taxpayer files the amended federal income tax return:

(i) a copy of the pass-through entity's amended federal income tax return; and

(ii) an amended state income tax return that conforms with the changes made in the pass-through entity's amended federal income tax return.

(6)(a) A pass-through entity subject to the return filing requirements under Subsection (3), shall report on the pass-through entity's return:

(i) whether the entity has filed a current annual report with the Division of Corporations; and

(ii) the entity's commerce entity number.

(b) Subsection (6)(a) does not apply to an individual, estate, or trust.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

Section 10. Retrospective operation.

The following sections have retrospective operation for a taxable year beginning on or after January 1, 2024:

(1) Section 59-7-505; and

(2) Section 59- 10- 1403.

CHAPTER 233
S. B. 18
Passed February 14, 2024
Approved March 13, 2024
Effective May 1, 2024

WATER MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill addresses regulation of water.

Highlighted Provisions:

This bill:

- modifies forfeiture provisions in relation to saved water;
- grants rulemaking authority related to saved water;
- defines terms;
- addresses changes to a water right in relation to saved water;
- provides for proofs related to saved water;
- addresses certificates of appropriation in relation to saved water;
- modifies provisions related to segregation and saved water;
- clarifies language related to agricultural water optimization and saved water;
- modifies requirements for grants for agicultural water optimization;
- repeals certain language related to agricultural water optimization; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-4, as last amended by Laws of Utah 2023, Chapter 230
73-2-1, as last amended by Laws of Utah 2023, Chapter 16
73-3-3, as last amended by Laws of Utah 2022, Chapter 43
73-3-8, as last amended by Laws of Utah 2023, Chapter 253
73-3-16, as last amended by Laws of Utah 2021, Chapter 81
73-3-17, as last amended by Laws of Utah 2020, Chapter 278
73-3-27, as last amended by Laws of Utah 2009, Chapter 247
73-10g-203.5, as enacted by Laws of Utah 2023, Chapter 261
73-10g-205, as enacted by Laws of Utah 2023, Chapter 261
73-10g-206, as enacted by Laws of Utah 2023, Chapter 261

REPEALS:

73-10g-208, as enacted by Laws of Utah 2023, Chapter 261

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

Section 1. Section 73-1-4 is amended to read:

73-1-4. Reversion to the public by abandonment or forfeiture for nonuse within seven years -- Saved water -- Nonuse application.

(1) As used in this section:

(a) "Public entity" means:

(i) the United States;

(ii) an agency of the United States;

(iii) the state;

(iv) a state agency;

(v) a political subdivision of the state; or

(vi) an agency of a political subdivision of the state.

(b) "Public water supplier" means an entity that:

(i) supplies water, directly or indirectly, to the public for municipal, domestic, or industrial use; and

(ii) is:

(A) a public entity;

(B) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission;

(C) a community water system:

(I) that:

(Aa) supplies water to at least 100 service connections used by year-round residents; or

(Bb) regularly serves at least 200 year-round residents; and

(II) whose voting members:

(Aa) own a share in the community water system;

(Bb) receive water from the community water system in proportion to the member's share in the community water system; and

(Cc) pay the rate set by the community water system based on the water the member receives; or

(D) a water users association:

(I) in which one or more public entities own at least 70% of the outstanding shares; and

(II) that is a local sponsor of a water project constructed by the United States Bureau of Reclamation.

(c) "Saved water" means the same as that term is defined in Section 73-3-3.

[~~(c)~~](d) "Shareholder" means the same as that term is defined in Section 73-3-3.5.

[~~(d)~~](e) "Water company" means the same as that term is defined in Section 73-3-3.5.

[~~(e)~~](f) "Water supply entity" means an entity that supplies water as a utility service or for irrigation purposes and is also:

(i) a municipality, water conservancy district, metropolitan water district, irrigation district, or other public agency;

(ii) a water company regulated by the Public Service Commission; or

(iii) any other owner of a community water system.

(2)(a) Except as provided in Subsection (2)(b) or (e), when an appropriator or the appropriator's successor in interest abandons or ceases to beneficially use all or a portion of a water right for a period of at least seven years, the water right or the unused portion of that water right is subject to forfeiture in accordance with Subsection (2)(c).

(b)(i) An appropriator or the appropriator's successor in interest may file an application for nonuse with the state engineer.

(ii) A nonuse application may be filed on all or a portion of the water right, including water rights held by a water company.

(iii) After giving written notice to the water company, a shareholder may file a nonuse application with the state engineer on the water represented by the stock.

(iv)(A) The approval of a nonuse application excuses the requirement of beneficial use of water from the date of filing.

(B) The time during which an approved nonuse application is in effect does not count toward the seven-year period described in Subsection (2)(a).

(v) The filing or approval of a nonuse application or a series of nonuse applications under Subsection (3) does not:

(A) constitute beneficial use of a water right;

(B) protect a water right that is already subject to forfeiture under this section; or

(C) bar a water right owner from:

(I) using the water under the water right as permitted under the water right; or

(II) claiming the benefit of Subsection (2)(e) or any other forfeiture defense provided by law.

(c)(i) Except as provided in Subsection (2)(c)(ii), a water right or a portion of the water right may not be forfeited unless a judicial action to declare the right forfeited is commenced:

(A) within 15 years from the end of the latest period of nonuse of at least seven years; or

(B) within the combined time of 15 years from the end of the most recent period of nonuse of at least seven years and the time the water right was subject to one or more nonuse applications.

(ii)(A) The state engineer, in a proposed determination of rights filed with the court and prepared in accordance with Section 73-4-11, may not assert that a water right was forfeited unless the most recent period of nonuse of seven years ends or occurs:

(I) during the 15 years immediately preceding the day on which the state engineer files the proposed determination of rights with the court; or

(II) during the combined time immediately preceding the day on which the state engineer files the proposed determination of rights consisting of 15 years and the time the water right was subject to one or more approved nonuse applications.

(B) After the day on which a proposed determination of rights is filed with the court a person may not assert that a water right subject to that determination was forfeited before the issuance of the proposed determination, unless the state engineer asserts forfeiture in the proposed determination, or a person, in accordance with Section 73-4-11, makes an objection to the proposed determination that asserts forfeiture.

(iii) A water right, found to be valid in a decree entered in an action for general determination of rights under Chapter 4, Determination of Water Rights, is subject to a claim of forfeiture based on a seven-year period of nonuse that begins after the day on which the state engineer filed the related proposed determination of rights with the court, unless the decree provides otherwise.

(iv) If in a judicial action a court declares a water right forfeited, on the date on which the water right is forfeited:

(A) the right to beneficially use the water reverts to the public; and

(B) the water made available by the forfeiture:

(I) first, satisfies other water rights in the hydrologic system in order of priority date; and

(II) second, may be appropriated as provided in this title.

(d) Except as provided in Subsection (2)(e), this section applies whether the unused or abandoned water or a portion of the water is:

(i) permitted to run to waste; or

(ii) beneficially used by others without right with the knowledge of the water right holder.

(e) This section does not apply to:

(i) the beneficial use of water according to a written, terminable lease or other agreement with the appropriator or the appropriator's successor in interest;

(ii) a water right if its place of use is contracted under an approved state agreement or federal conservation fallowing program;

(iii) those periods of time when a surface water or groundwater source fails to yield sufficient water to satisfy the water right;

(iv) a water right when water is unavailable because of the water right's priority date;

(v) a water right to store water in a surface reservoir, or an aquifer in accordance with [~~Title 73, Chapter 3b, Groundwater Recharge and Recovery Act~~]Chapter 3b, Groundwater Recharge and Recovery Act, if the water is stored for present or future beneficial use;

(vi) a water right if a water user has beneficially used substantially all of the water right within a seven-year period, provided that this exemption does not apply to the adjudication of a water right in a general determination of water rights under Chapter 4, Determination of Water Rights;

(vii) except as provided by Subsection (2)(g), a water right:

(A)(I) owned by a public water supplier;

(II) represented by a public water supplier's ownership interest in a water company; or

(III) to which a public water supplier owns the right of beneficial use; and

(B) conserved or held for the reasonable future water requirement of the public, which is determined according to Subsection (2)(f);

(viii) a supplemental water right during a period of time when another water right available to the appropriator or the appropriator's successor in interest provides sufficient water so as to not require beneficial use of the supplemental water right;

(ix) a period of nonuse of a water right during the time the water right is subject to an approved change application where the applicant is diligently pursuing certification;

(x) a water right to store water in a surface reservoir if:

(A) storage is limited by a safety, regulatory, or engineering restraint that the appropriator or the appropriator's successor in interest cannot reasonably correct; and

(B) not longer than seven years have elapsed since the limitation described in Subsection (2)(e)(x)(A) is imposed; [~~or~~]

(xi) a water right subject to an approved change application for use within a water bank that has been authorized but not dissolved under Chapter 31, Water Banking Act, during the period of time the state engineer authorizes the water right to be used within the water bank[~~.~~]; or

(xii) subject to Subsection (2)(h), that portion of a water right that is quantified as saved water in a final order from the state engineer approving a change application, but not to exceed the amount subsequently verified by the state engineer in a certificate issued under Section 73-3-17.

(f)(i) The reasonable future water requirement of the public is the amount of water needed in the next 40 years by:

(A) the persons within the public water supplier's reasonably anticipated service area based on reasonably anticipated population growth; or

(B) other water use demand.

(ii) For purposes of Subsection (2)(f)(i), a community water system's reasonably anticipated service area:

(A) is the area served by the community water system's distribution facilities; and

(B) expands as the community water system expands the distribution facilities in accordance with Title 19, Chapter 4, Safe Drinking Water Act.

(iii) The state engineer shall by rule made in accordance with Subsection 73-2-1(4) establish standards for a written plan that may be presented as evidence in conformance with this Subsection (2)(f), except that before a rule establishing standards for a written plan under this Subsection (2)(f) takes effect, in addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall present the rule to:

(A) if the Legislature is not in session, the Natural Resources, Agriculture, and Environment Interim Committee; or

(B) if the Legislature is in session, the House of Representatives and Senate Natural Resources, Agriculture, and Environment standing committees.

(g) For a water right acquired by a public water supplier on or after May 5, 2008, Subsection (2)(e)(vii) applies if:

(i) the public water supplier submits a change application under Section 73-3-3; and

(ii) the state engineer approves the change application.

(h) Saved water does not retain the protection of Subsection (2)(e)(xii) and any period of nonuse for saved water begins to run the day on which:

(i) the underlying water right that serves as the basis for the saved water is declared by court decree to have been lost due to forfeiture under this section; or

(ii) the title of a right to saved water segregated under Section 73-3-27 is conveyed independent of the underlying water right.

(3)(a) The state engineer shall furnish a nonuse application form requiring the following information:

(i) the name and address of the applicant;

(ii) a description of the water right or a portion of the water right, including the point of diversion, place of use, and priority;

(iii) the quantity of water;

(iv) the period of use;

(v) the extension of time applied for;

(vi) a statement of the reason for the nonuse of the water; and

(vii) any other information that the state engineer requires.

(b)(i) Upon receipt of the application, the state engineer shall publish a notice of the application once a week for two successive weeks:

(A) in a newspaper of general circulation in the county in which the source of the water supply is located and where the water is to be beneficially used; and

(B) as required in Section 45-1-101.

(ii) The notice shall:

(A) state that an application has been made; and

(B) specify where the interested party may obtain additional information relating to the application.

(c) An interested person may file a written protest with the state engineer against the granting of the application:

(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and

(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.

(d) In a proceeding to determine whether the nonuse application should be approved or rejected, the state engineer shall follow Title 63G, Chapter 4, Administrative Procedures Act.

(e) After further investigation, the state engineer may approve or reject the application.

(4)(a) The state engineer shall grant a nonuse application on all or a portion of a water right for a period of time not exceeding seven years if the applicant shows a reasonable cause for nonuse.

(b) A reasonable cause for nonuse includes:

(i) a demonstrable financial hardship or economic depression;

(ii) a physical cause or change that renders use beyond the reasonable control of the water right owner so long as the water right owner acts with reasonable diligence to resume or restore the use;

(iii) the initiation of water conservation or an efficiency practice, or the operation of a groundwater recharge recovery program approved by the state engineer;

(iv) operation of a legal proceeding;

(v) the holding of a water right or stock in a mutual water company without use by a water supply entity to meet the reasonable future requirements of the public;

(vi) situations where, in the opinion of the state engineer, the nonuse would assist in implementing an existing, approved water management plan; or

(vii) the loss of capacity caused by deterioration of the water supply or delivery equipment if the applicant submits, with the application, a specific plan to resume full use of the water right by replacing, restoring, or improving the equipment.

(5)(a) Sixty days before the expiration of a nonuse application, the state engineer shall notify the applicant by mail or by a form of electronic communication through which receipt is verifiable, of the date when the nonuse application will expire.

(b) An applicant may file a subsequent nonuse application in accordance with this section.

Section 2. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3)(a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights;

(h) preferences of water rights under Section 73-3-21.5; [~~or~~]

(i) the form and content of applications and related documents, maps, and reports[~~.~~]; or

(j) the administration of saved water, as defined in Section 73-3-3, including:

(i) quantifying saved water;

(ii) reporting related to saved water;

(iii) verifying saved water;

(iv) segregating saved water; and

(v) the subsequent placement to beneficial use of saved water.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8)(a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 3. Section 73-3-3 is amended to read:

73-3-3. Changes to a water right.

(1) As used in this section:

(a) "Agricultural water optimization project" means a project that:

(i) accomplishes agricultural water optimization as defined in Section 73-10g-203.5; and

(ii) generates saved water.

[~~(a)~~](b) "Change" means a change to the:

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

[~~(b)~~](c) "Fixed time change" means a change for a fixed period of time exceeding one year and not exceeding 10 years, including a fixed time change described in Section 73-3-30.

(d) "Net decrease in depletion" means a net decrease in water consumed that is accomplished by implementing an agricultural water optimization project under a perfected water right.

(e) "Net reduction in diversion" means a net decrease in water diverted under a perfected water right that is accomplished by implementing an agricultural water optimization project.

[~~(c)~~](f) "Permanent change" means a change, for an indefinite period of time, including a permanent change described in Section 73-3-30.

[~~(d)~~](g) "Person entitled to the use of water" means:

(i) the holder of an approved but unperfected application to appropriate water;

(ii) the record owner of a perfected water right;

(iii) a person who has written authorization from a person described in Subsection [~~(1)(d)(i) or (ii)~~](1)(g)(i) or (ii) to file a change application on that person's behalf; or

(iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

[~~(e)~~](h)(i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

(i) "Saved water" means:

(i) the net decrease in depletion or net reduction in diversion resulting from an agricultural water optimization project as quantified by the state engineer in a final order approving a change application filed under this section:

(A) on a perfected water right;

(B) issued before the commencement of physical construction of the agricultural water optimization project; and

(C) describing the agricultural water optimization project and, as applicable, the net decrease in depletion and net reduction in diversion; or

(ii) as applicable, the net decrease in depletion and net reduction in diversion recognized in a certificate issued by the state engineer according to Section 73-3-17 after an applicant has filed proof of appropriation on an approved change application described in Subsection (3)(d).

[~~(f)~~](j) "Split season change" means a change when the holder of a perfected right grants to a water user the right to make sequential use of a portion of the water right.

[~~(g)~~](k) "Temporary change" means a change for a period of time, not exceeding one year, including a temporary change described in Section 73-3-30.

(2)(a) A person who proposes to file a change application may request consultation with the state engineer, or the state engineer's designee, before filing the application to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer's regional office for the region where the proposed change would occur.

(3)(a) A person entitled to the use of water may make a change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:

(i) the person makes the change in accordance with this section;

(ii) except as provided by Section 73-3-30, the change does not impair an existing right without just compensation or adequate mitigation; and

(iii) the state engineer approves the change application, consistent with Section 73-3-8.

(b) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(c) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:

(i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and

(ii) the record owner of the water right.

(d) A person entitled to the use of water may file a change application on a perfected water right to request the state engineer to:

(i) quantify saved water; or

(ii) subject to Section 73-3-8, allow beneficial use of saved water separate from the underlying water right that serves as the basis of the saved water.

(4)(a) Before making a change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer.

(b) The application described in Subsection (4)(a) shall include:

(i) the applicant's name;

(ii) the water right description, including the water right number;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, nature, period, and extent of the currently approved use;

(viii) the place, nature, period, and extent of the proposed use;

(ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;

(x) any proposed change to the storage of water; [~~and~~]

(xi) if the change application proposes to quantify saved water, the anticipated quantity of saved water; and

[~~(xi)~~](xii) any other information that the state engineer requires.

(c) A shareholder in a water company who seeks to make a change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

(a) that the change will not cause a specific existing right to experience quantity impairment; [~~or~~]

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c)[~~.~~]; and

(c) that, if the change application proposes to quantify saved water:

(i) the net decrease in depletion or net reduction in diversion can be reliably sustained over the life of the agricultural water optimization project; and

(ii) an agricultural water optimization project proposing a net reduction in diversion does not increase depletion allowed by the underlying perfected water right that serves as the basis of the saved water.

(6) A change of an approved application to appropriate water does not:

(a) affect the priority of the original application to appropriate water; or

(b) extend the time period within which the construction of work is to begin or be completed.

(7) Any person who makes a change without first filing and obtaining approval of a change application providing for the change:

(a)(i) obtains no right by the change;

[~~(b)~~](ii) is guilty of an offense punishable under Section 73-2-27 if the change is made knowingly or intentionally; and

[~~(c)~~](iii) shall comply with the change application process[~~.~~]; and

(b) obtains no right to saved water.

(8)(a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) A replacement well must be drilled in accordance with the requirements of Section 73-3-28.

Section 4. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals -- Request for agency action.

(1)(a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2)(a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3)(a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked if the applicant fails to comply with terms of the royalty contract.

(4)(a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(5)(a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application, including to:

(i) prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed[.]; and

(ii) ensure that the recognition and subsequent use of saved water, as defined in Section 73-3-3:

(A) is quantified, reported, and verified;

(B) does not lead to an enlargement of the depletion or diversion amounts in the underlying water right that serves as the basis of the saved water, or an increase in the authorized number of irrigated acres unless depletion is accounted for and regulated in the condition;

(C) is limited to the net decrease in depletion and net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(D) is limited to the volume of water that will be sustained over time from the net decrease in depletion or net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(E) does not violate an existing water agreement; and

(F) when based solely on a net reduction in diversion, the subsequent use is limited to nonconsumptive beneficial uses and does not increase the depletion allowed by the underlying water right that serves as the basis of the saved water or otherwise cause quantity impairment to an existing water right when the saved water is beneficially used separate from the underlying water right.

(d) [~~A~~]Except for an application proposing to quantify saved water, a condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6)(a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to

make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c)(i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30(7); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

Section 5. Section 73-3-16 is amended to read:

73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof of completion of the works and application of the water to a beneficial use is due.

(2)(a) On or before the date set for completing the proof in accordance with the approved application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(b) The filing of a proof in accordance with this section is a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act, only between the applicant and the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

(a) a description of the works constructed;

(b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

(c) the method of:

(i) applying the water to beneficial use; or

(ii) verifying a net decrease in depletion or net reduction in diversion in accordance with an application to quantify saved water, as defined in Section 73-3-3; and

(d)(i) detailed measurements:

(A) of water put to beneficial use; and

(B) if applicable, demonstrating the quantity of saved water, as defined in Section 73-3-3;

(ii) the date the measurements were made; and

(iii) the name of the person making the measurements.

(4)(a)(i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed pursuant to Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, its agencies, political subdivisions, or

public and quasi-municipal corporations are stockholders, the proof shall include:

(A) a statement indicating construction of the project works has been completed;

(B) a description of the major features with appropriate maps, profiles, drawings, and reservoir area-capacity curves;

(C) a description of the point or points of diversion and rediversion;

(D) project operation data;

(E) a map showing the place of use of water and a statement of the purpose and method of use;

(F) the project plan for beneficial use of water under the applications and the quantity of water required; and

(G) a statement indicating what type of measuring devices have been installed.

(ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a)(i).

(b) Proof on an application for appropriation or permanent change for a surface storage facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the reasonable requirements of the public shall include:

(i) a description of the completed water storage facility;

(ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir area-capacity curves as required by the state engineer;

(iii) the quantity of water stored in acre-feet;

(iv) a description of the water distribution facility for the delivery of the water; and

(v) the project plan for beneficial use of water including any existing contracts for water delivery.

(5) The proof on an application shall be sworn to by the applicant or the applicant's appointed representative.

(6)(a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed professional engineer that show:

(i) the location of the completed works;

(ii) the nature and extent of the completed works;

(iii) the natural stream or source from which and the point where the water is diverted and, in the case of a nonconsumptive use, the point where the water is returned; and

(iv) the place of use.

(b) The state engineer may waive the filing of maps, profiles, and drawings if in the state engineer's opinion the written proof adequately describes the works and the nature and extent of beneficial use.

(7) In those areas in which general determination proceedings are pending, or have been concluded, under Chapter 4, Determination of Water Rights, the state engineer may petition the district court for permission to:

(a) waive the requirements of this section and Section 73-3-17; and

(b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to it in accordance with Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.

(8) This section does not apply to a fixed time or temporary change application.

Section 6. Section 73-3-17 is amended to read:

73-3-17. Certificate of appropriation -- Evidence.

(1) Upon the satisfaction of the state engineer that an appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed time change authorized by Section 73-3-30 has been perfected in accordance with the application, and that the water appropriated or affected by the change has been put to a beneficial use, as required by Section 73-3-16 or 73-3-30, or demonstrated to be saved water, as defined in Section 73-3-3, the state engineer shall issue a certificate, in duplicate, setting forth:

(a) the name and post-office address of the person by whom the water is used;

(b) the quantity of water in acre-feet or the flow in second-feet appropriated and, if applicable, the quantity of saved water, as defined in Section 73-3-3;

(c) the purpose for which the water is used;

(d) the time during which the water is to be used each year;

(e) the name of the stream or water source:

(i) from which the water is diverted; or

(ii) within which an instream flow is maintained;

(f) the date of the appropriation or change; and

(g) other information that defines the extent and conditions of actual application of the water to a beneficial use.

(2) A certificate issued on an application for one of the following types of projects need show no more than the facts shown in the proof submitted under Section 73-3-16:

(a) a project constructed according to Chapter 10, Board of Water Resources - Division of Water Resources;

(b) a federal project constructed by the United States Bureau of Reclamation, referred to in Section 73-3-16; and

(c) a surface water storage facility in excess of 1,000 acre-feet constructed by a public water supplier.

(3) A certificate issued under this section does not:

(a) extend the rights described in the application; or

(b) constitute a determination by the state engineer as to whether the perfected appropriation or change has or may result in interference, impairment, injury, or other harm to another water right.

(4) Failure to file proof of appropriation or proof of change of the water on or before the date set for the filing causes the application to lapse.

(5)(a) One copy of a certificate issued under this section shall be filed in the office of the state engineer and the other copy shall be delivered to the appropriator or to the person making the change who may record the certificate in the office of the county recorder of the county in which the water is diverted from the natural stream or source.

(b) The state engineer is not required to deliver a copy of a certificate issued under this section to a person other than the appropriator or the person making the change.

(6) The certificate issued under this section is prima facie evidence of the owner's right to use the water in the quantity, for the purpose, at the place, and during the time specified in the certificate, subject to prior rights.

Section 7. Section 73-3-27 is amended to read:

73-3-27. Requests for segregation or consolidation.

(1)(a) Upon written request, the state engineer shall segregate into two or more parts the following in the state engineer's records:

(i) an application to:

(A) under Section 73-3-2, appropriate water;

(B) under Section 73-3-3, permanently change:

(I) the point of diversion;

(II) the place of water use; or

(III) the purpose of water use; and

(ii) a water right for which:

(A) the state engineer has issued a certificate according to Section 73-3-17;

(B) a court has entered a judgment according to Section 73-4-15; and

(C) a person has filed a claim according to Section 73-5-13.

(b) A person shall:

(i) submit the request authorized by Subsection (1)(a) on a form furnished by the state engineer; and

(ii) include:

(A) the water right number to be segregated;

(B) the name and post-office address of the owner of the application or water right;

(C) a statement of the nature of the proposed segregation;

(D) the reasons for the proposed segregation; and

(E) other information the state engineer may require to accomplish the segregation.

(c) Notwithstanding Subsection (1)(a), saved water, as defined in Section 73-3-3, may not be segregated from the underlying water right that serves as the basis of the saved water, except in accordance with rules made under Section 73-2-1 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)(a) An action taken by the state engineer on an application or water right before segregation is applicable in all respects to the segregated parts of the application or water right.

(b) After the state engineer segregates the application or water right, each segregated part is a separate application or water right in the state engineer's records.

(c) The segregation of an application or a water right in the state engineer's records does not:

(i) confirm the validity or good standing of the segregated parts of the application or water right; or

(ii) extend the time for the construction of works for an application.

(3) Upon written request, the state engineer may consolidate two or more applications or water rights if the applications or water rights:

(a) are from the same source;

(b) have the same priority date; and

(c) are sufficiently consistent in definition that the consolidated application or water right may be described without referring to the characteristics of the individual application or water right that existed before consolidation.

Section 8. Section 73-10g-203.5 is amended to read:

73-10g-203.5. Definitions.

As used in this part:

(1) "Account" means the Agricultural Water Optimization Account created in Section 73-10g-204.

(2) "Agricultural water optimization" means the implementation of agricultural and water

management practices that maintain viable agriculture [~~while reducing~~]without increasing water depletion to enhance water availability and minimize impacts on water supply, water quality, and the environment.

(3) "Change application" means an application filed under Section 73-3-3.

(4) "Committee" means the Agricultural Water Optimization Committee created in Section 73-10g-205.

(5) "Conservation commission" means the conservation commission created in Section 4-18-104.

(6) "Department" means the Department of Agriculture and Food.

[~~(7) "Depletion reduction" means a net decrease in water consumed accomplished by implementing water optimization practices during beneficial use of water under an approved water right.~~]

[~~(8) "Diversion reduction" means a decrease in net diversion amount from that allowed under a water right accomplished by implementation of water optimization practices.~~]

[~~(9)~~](7) "Funding application" means an application filed under Section 73-10g-206.

[~~(10)~~](8) "Saved water" means [~~the water quantified as depletion reduction or diversion reduction in a final order approving a change application filed in conjunction with an agricultural water optimization project~~]the same as that term is defined in Section 73-3-3.

Section 9. Section 73-10g-205 is amended to read:

73-10g-205. Agricultural Water Optimization Committee.

(1) There is created in the department a committee known as the "Agricultural Water Optimization Committee" that consists of:

(a) the commissioner of the department, or the commissioner's designee;

(b) the director of the division, or the director's designee;

(c) the director of the Division of Water Rights, or the director's designee;

(d) the dean of the College of Agriculture and Applied Science from Utah State University, or the dean's designee;

(e) one individual representing local conservation districts created by Title 17D, Chapter 3, Conservation District Act, appointed by the executive director of the Department of Natural Resources;

(f) one individual representing water conservancy districts, appointed by the executive director of the Department of Natural Resources; and

(g) three Utah residents representing the interests of the agriculture industry appointed by the executive director of the Department of Natural Resources.

(2)(a) An individual appointed under Subsection (1) shall serve for a term of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director of the Department of Natural Resources shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(3)(a) The presence of five members constitutes a quorum.

(b) The vote of five members constitutes the transaction of business by the committee.

(c) The committee shall select one of the committee's members to be chair. The committee may select a member to be vice chair to act in place of the chair:

(i) during the absence or disability of the chair; or

(ii) as requested by the chair.

(d) The committee shall convene at the times and places prescribed by the chair.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The department shall provide administrative support to the committee.

(6) The committee shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(a) eligibility requirements for a grant issued under Section 73-10g-206, except that the eligibility requirements shall:

(i) require at least a match for grant money of 50% of the total costs, except that for a grant application filed on or after January 1, 2024, the eligibility requirements shall require at least a match of 25% of the total costs for a drip or automated surge irrigation project;

(ii) consider the statewide need to distribute grant money;

(iii) require a grant recipient to construct or install and maintain one or more measuring devices as necessary to comply with Section 73-5-4 and rules adopted by the Division of Water Rights regarding installation, use, and maintenance of devices to measure water use and to demonstrate water use in accordance with a project funded by a grant; and

(iv) require a grant recipient to report water diversion and use measurements to the state engineer pursuant to Section 73-5-4 and rules made by the state engineer, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for water measurement and reporting;

(b) the process for applying for a grant issued under Section 73-10g-206; and

(c) preliminary screening criteria to be used by the department under Subsection 73-10g-206(2)(d).

(7) The committee shall, in coordination with the division:

(a) as of July 1, 2023, assume oversight of all remaining research and contracts of the previous Agricultural Water Optimization Task Force activities;

(b) post research to address and account for farm economics at the enterprise and community level that affects agricultural water optimization and encourage market behavior that financially rewards agricultural water optimization practices;

(c) oversee research to identify obstacles to and constraints upon optimization of agricultural water use, and to recommend management tools, technologies, and other opportunities to optimize agricultural water use as measured at the basin level; and

(d) facilitate benefits for farmers who optimize water use and protect water quality.

(8) The committee shall comply with Section 73-10g-206 related to grants issued under this part.

Section 10. Section 73-10g-206 is amended to read:

73-10g-206. Agricultural water optimization grants -- Demonstration of water savings.

(1) The conservation commission may issue a grant described in Subsection 73-10g-204(3) in accordance with the procedures in this section.

(2)(a) The committee shall establish funding application periods during which a person may apply for a grant under this part.

(b) During a funding application period, a person may file a funding application with the department for preliminary screening of eligibility to receive a grant under this part, including requisite water savings.

(c) The department shall screen the funding applications for eligibility.

(d) If the department determines that an applicant meets eligibility requirements and proposes water savings, the department shall provide the applicant preliminary approval.

(e) After receiving preliminary approval under Subsection (2)(d), the applicant shall engage in a pre-filing consultation with the Division of Water Rights under Subsection 73-3-3(2) to determine whether a change application is required to accomplish the project proposed in the funding application or to quantify saved water [~~that may be made available for beneficial use as part of the project~~].

(f) Once the Division of Water Rights determines whether the person is required to file a change application, the person may complete the funding application process and file the completed funding application with the committee.

(g) The committee shall review completed funding applications to rank the funding applications and recommend to the conservation commission which applicants should receive a grant under this part for the relevant funding application period.

(h) The conservation commission may issue a grant under this section only after receipt of the recommendations of the committee.

(3) If the conservation commission issues a grant under this part, before the grant recipient may receive the grant money, the grant recipient shall:

(a) enter into a contract with the department that includes:

(i) the expectations for the grant recipient;

(ii) the life expectancy of a project;

(iii) the process of certifying completion; and

(iv) design requirements;

(b) file any needed change application and obtain a final order from the state engineer approving the change application, including any judicial review of the state engineer's order; and

(c) demonstrate how the grant recipient shall comply with the requirements of the final order approving the related change application.

(4) A grant recipient shall comply with the monitoring and reporting requirements under the contract described in Subsection (3).

(5) The department shall:

(a) monitor the grant related activities of a grant recipient;

(b) certify a project funded by a grant once the project is complete;

(c) determine whether there are funding sources other than the account to fund the grant; and

(d) provide information needed by the division or the Division of Water Rights to fulfill the division's or the Division of Water Rights' statutory duties, including those designated in this chapter.

(6) The department may:

(a) conduct outreach campaigns related to the grant program, including the program's purpose and expectations for grant recipients;

(b) solicit funding applications and assist persons in applying for a grant under this part;

(c) assist grant recipients in developing a project; and

(d) coordinate with federal agencies and the division for evaluation of funding applications and for assistance with implementing projects for which funding has been provided under this part.

(7) Grant money may be used by the department or a grant recipient for the hiring of third-party consultants as appropriate to complete a project funded by grant money.

(8) The division, upon request from the committee, may assist with evaluation of funding applications and implementation of projects funded under this part.

Section 11. Repealer.

This bill repeals:

Section 73-10g-208, Water use pursuant to a water optimization change application.

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 234
S. B. 23
Passed February 28, 2024
Approved March 13, 2024
Effective July 1, 2024

OFFENDER REGISTRY AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions relating to the Sex and Kidnap Offender Registry and the Child Abuse Offender Registry.

Highlighted Provisions:

This bill:

- merges the Sex and Kidnap Offender Registry and the Child Abuse Offender Registry into a single registry called the "Sex, Kidnap, and Child Abuse Offender Registry";
- changes the length of time an offender must register on the Sex, Kidnap, and Child Abuse Offender Registry when convicted of the crime of enticing a minor in certain circumstance; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-51-107, as last amended by Laws of Utah 2020, Chapters 276, 377
13-67-101, as enacted by Laws of Utah 2023, Chapter 31
26B-2-120, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305
53-3-205, as last amended by Laws of Utah 2023, Chapters 328, 454
53-3-216, as last amended by Laws of Utah 2019, Chapter 382
53-3-804, as last amended by Laws of Utah 2023, Chapter 328
53-3-806.5, as last amended by Laws of Utah 2019, Chapter 381
53-3-807, as last amended by Laws of Utah 2019, Chapters 381, 382
53-10-404, as last amended by Laws of Utah 2021, Chapter 262
63G-2-302, as last amended by Laws of Utah 2023, Chapters 329, 471
63G-7-301, as last amended by Laws of Utah 2023, Chapter 516
63M-7-801, as enacted by Laws of Utah 2023, Chapter 155
76-1-201, as last amended by Laws of Utah 2017, Chapter 282
76-1-202, as last amended by Laws of Utah 2017, Chapter 282
76-3-402, as last amended by Laws of Utah 2023, Chapter 132
76-5-401, as last amended by Laws of Utah 2023, Chapter 123
76-5-401.1, as last amended by Laws of Utah 2023, Chapter 123
76-5-401.3, as last amended by Laws of Utah 2023, Chapters 123, 161
76-9-702, as last amended by Laws of Utah 2023, Chapter 123
76-9-702.1, as last amended by Laws of Utah 2023, Chapter 123
77-2-2.3, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-11c-101, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-27-5.2, as enacted by Laws of Utah 2021, Chapter 410
77-27-21.7, as last amended by Laws of Utah 2023, Chapters 18, 117
77-27-21.8, as last amended by Laws of Utah 2015, Chapter 258
77-38-605, as last amended by Laws of Utah 2023, Chapter 237
77-40a-303, as last amended by Laws of Utah 2023, Chapter 265
77-40a-403, as last amended by Laws of Utah 2023, Chapter 265
77-41-102, as last amended by Laws of Utah 2023, Chapters 123, 128
77-41-103, as last amended by Laws of Utah 2023, Chapters 123, 128
77-41-105, as last amended by Laws of Utah 2023, Chapters 123, 124
77-41-106, as last amended by Laws of Utah 2023, Chapters 123, 457
77-41-107, as last amended by Laws of Utah 2023, Chapter 123
77-41-109, as last amended by Laws of Utah 2023, Chapter 123
77-41-110, as last amended by Laws of Utah 2023, Chapter 123
77-41-112, as last amended by Laws of Utah 2023, Chapters 124, 128
77-41-113, as last amended by Laws of Utah 2023, Chapter 123
77-41-114, as enacted by Laws of Utah 2023, Chapter 123
78B-8-302, as last amended by Laws of Utah 2023, Chapters 49, 123
80-5-201, as last amended by Laws of Utah 2023, Chapter 123

REPEALS:

77-41-101, as enacted by Laws of Utah 2012, Chapter 145
77-43-101, as enacted by Laws of Utah 2017, Chapter 282
77-43-102, as last amended by Laws of Utah 2023, Chapter 128
77-43-103, as enacted by Laws of Utah 2017, Chapter 282
77-43-104, as last amended by Laws of Utah 2023, Chapter 128
77-43-105, as enacted by Laws of Utah 2017, Chapter 282
77-43-106, as enacted by Laws of Utah 2017, Chapter 282
77-43-107, as enacted by Laws of Utah 2017, Chapter 282

77-43-108, as enacted by Laws of Utah 2017, Chapter 282
77-43-109, as last amended by Laws of Utah 2023, Chapter 128

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

Section 1. Section 13-51-107 is amended to read:

13-51-107. Driver requirements.

(1) Before a transportation network company allows an individual to use the transportation network company's software application as a transportation network driver, the transportation network company shall:

(a) require the individual to submit to the transportation network company:

(i) the individual's name, address, and age;

(ii) a copy of the individual's driver license, including the driver license number; and

(iii) proof that the vehicle that the individual will use to provide transportation network services is registered with the Division of Motor Vehicles;

(b) require the individual to consent to a criminal background check of the individual by the transportation network company or the transportation network company's designee; and

(c) obtain and review a report that lists the individual's driving history.

(2) A transportation company may not allow an individual to provide transportation network services as a transportation network driver if the individual:

(a) has committed more than three moving violations in the three years before the day on which the individual applies to become a transportation network driver;

(b) has been convicted, in the seven years before the day on which the individual applies to become a transportation network driver, of:

(i) driving under the influence of alcohol or drugs;

(ii) fraud;

(iii) a sexual offense;

(iv) a felony involving a motor vehicle;

(v) a crime involving property damage;

(vi) a crime involving theft;

(vii) a crime of violence; or

(viii) an act of terror;

(c) is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;

(d) does not have a valid Utah driver license; or

(e) is not at least 18 years [~~of age~~]old.

(3)(a) A transportation network company shall prohibit a transportation network driver from accepting a request for a prearranged ride if the motor vehicle that the transportation network driver uses to provide transportation network services fails to comply with:

(i) equipment standards described in Section 41-6a-1601; and

(ii) emission requirements adopted by a county under Section 41-6a-1642.

(b)(i) If upon visual inspection, a defect relating to the equipment standards described in Section 41-6a-1601 can be reasonably identified, an airport operator may perform a safety inspection of a transportation network driver's vehicle operating within the airport to ensure compliance with equipment standards described in Section 41-6a-1601.

(ii) An airport operator shall conduct all inspections under this Subsection (3) in such a manner to minimize impact to the transportation network driver's and transportation network company vehicle's availability to provide prearranged rides.

(4) A transportation network driver, while providing transportation network services, shall carry proof, in physical or electronic form, that the transportation network driver is covered by insurance that satisfies the requirements of Section 13-51-108.

Section 2. Section 13-67-101 is amended to read:

13-67-101. Definitions.

As used in this chapter:

(1) "Banned member" means a member whose account or profile is the subject of a fraud ban.

(2) "Criminal background screening" means a name search for an individual's criminal conviction and is conducted by searching:

(a) available and regularly updated government public record databases that in the aggregate provide national coverage for criminal conviction records; or

(b) a regularly updated database with national coverage of criminal conviction records and sexual offender registries maintained by a private vendor.

(3)(a) "Criminal conviction" means a conviction for a crime in this state, another state, or under federal law.

(b) "Criminal conviction" includes an offense that would require registration under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or under a similar law in a different jurisdiction.

(4) "Division" means the Division of Consumer Protection in the Department of Commerce.

(5) "Fraud ban" means the expulsion of a member from an online dating service because, in the

judgment of the online dating service provider, there is a significant risk the member will attempt to obtain money from another member through fraudulent means.

(6) "Member" means an individual who submits to an online dating service provider the information required by the online dating service provider to access the online dating service provider's online dating service.

(7) "Online dating service" means a product or service that is:

(a) conducted through a website or a mobile application; and

(b) primarily marketed and intended to offer a member access to dating or romantic relationships with another member by arranging or facilitating the social introduction of members.

(8) "Online dating service provider" means a person predominately engaged in the business of offering an online dating service.

(9) "Utah member" means a member who provides a Utah billing address or zip code when registering with an online dating service provider.

Section 3. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a)(i) "Applicant" means, notwithstanding Section 26B-2-101:

(A) an individual who applies for an initial license or certification or a license or certification renewal under this part;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office; or

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services; or

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.

(e) "Criminal finding" means a record of:

(i) an arrest or a warrant for an arrest;

(ii) charges for a criminal offense; or

(iii) a criminal conviction.

(f) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(g) "Mental health professional" means an individual who:

(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(ii) engaged in the practice of mental health therapy.

(h) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry; or

(v) a state child abuse or neglect registry.

(i)(i) "Peer support specialist" means an individual who:

(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and

(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.

(ii) "Peer support specialist" includes a certified peer support specialist.

(iii) "Peer support specialist" does not include a mental health professional.

(j) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504; and

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon submission of the information described in this Subsection (2);

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4); and

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) if the applicant is applying to become a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001 for:

(A) the applicant; and

(B) any adult living in the applicant's home;

(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described in Subsection (2);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80- 2- 1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4)(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5)(a) Except as provided in Subsection (5)(b), after conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation;

(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;

(E) aggravated arson, as described in Section 76- 6- 103;

(F) aggravated burglary, as described in Section 76- 6- 203;

(G) aggravated robbery, as described in Section 76- 6- 302;

(H) identity fraud crime, as described in Section 76- 6- 1102;

(I) sexual battery, as described in Section 76- 9- 702.1; or

(J) a violent offense committed in the presence of a child, as described in Section 76- 3- 203.10; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider, a mental health professional, or in a program that serves only adults with a primary mental health diagnosis, with or without a co- occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (6).

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years before the date on which the applicant submits the information described in Subsection (2);

(b) has a felony charge or conviction for an offense not described in Subsection (5) with a date of charge or conviction that is no more than 10 years before the date on which the applicant submits the application under Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(c) has a class B misdemeanor or class C misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years after, and no more than 10 years before, the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(d) has a misdemeanor conviction for an offense not described in Subsection (5) with a date of conviction that is no more than three years before the date on which the applicant submits information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(e) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5);

(f) appears on the Sex[~~ and~~], Kidnap, and Child Abuse Offender Registry described in [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;

(g) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5);

(h) has a pending charge for an offense described in Subsection (5);

(i) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding;

(l)(i) is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years before the day on which the applicant submits the information described in Subsection (2):

(A) has a felony or misdemeanor charge or conviction;

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; or

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;

(m)(i)(A) is seeking a position in a congregate care program;

(B) is seeking to become a prospective foster or adoptive parent; or

(C) is an applicant described in Subsection (1)(a)(i)(F); and

(ii)(A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or

(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii).

(7)(a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying.

(b) At the conclusion of the comprehensive review, the office shall deny an application to an applicant if the office finds:

(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or

(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.

(8) The office shall approve an application to an applicant who is not denied under this section.

(9)(a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under this section.

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with this section.

(10)(a) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is associated with the licensee or department contractor and the department conducts a background screening in accordance with this section;

(ii) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(iii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iv) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(v) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(b) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(11)(a) Within 30 days after the day on which the applicant submits the information described in Subsection (2), the office shall notify the applicant of any potentially disqualifying criminal findings or non-criminal findings.

(b) If the notice under Subsection (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this part:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (11)(b); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(12)(a) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.

(b) The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 26B-2-105, of the program.

(13)(a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program or an applicant seeking to become a prospective foster or adoptive parent, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (13)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (13)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to an applicant seeking a position in a congregate care program or an applicant to become a prospective foster or adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(Q) aggravated arson, as described in Section 76-6-103;

(R) aggravated burglary, as described in Section 76-6-203;

(S) aggravated robbery, as described in Section 76-6-302;

(T) lewdness involving a child, as described in Section 76-9-702.5;

(U) incest, as described in Section 76-7-102; or

(V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(c)(i).

(d) Notwithstanding Subsections (5) through (10), the office shall deny a license or license renewal to an individual seeking a position in a congregate care program or a prospective foster or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the individual was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6), the office shall conduct the comprehensive review of an applicant's background check under this section if the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6) and (7); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services for purposes of approval or denial of an application for a prospective foster or adoptive parent.

Section 4. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6)(a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b)(i) An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7)(a)(i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e)(i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f)(i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8)(a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D)(I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints, or a fingerprint confirmation form described in Subsection 53-3-205.5(1)(a)(ii), and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender, in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i)(A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10)(a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11)(a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is

accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15)(a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26B-8-301, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry office in the Department of [~~Corrections~~]Public Safety, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21)(a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii)(A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 5. Section 53-3-216 is amended to read:

53-3-216. Change of address -- Duty of licensee to notify division within 10 days -- Change of name -- Proof necessary -- Method of giving notice by division.

(1)(a) Except as provided in Subsection (1)(b), if an individual, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the individual's new address and the number of any license certificate held by the individual.

(b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, after applying for or receiving a license, moves from the address named in the application or in the license certificate issued to the individual, the individual shall, within 30 days after the day on which the individual moves, apply for an updated license in-person at a division office.

(2) If an applicant requests to change the surname on the applicant's license, the division shall issue a

substitute license with the new name upon receiving an application and fee for a duplicate license and any of the following proofs of the applicant's full legal name:

(a) an original or certified copy of the applicant's marriage certificate;

(b) a certified copy of a court order under Title 42, Chapter 1, Change of Name, showing the name change;

(c) an original or certified copy of a birth certificate issued by a government agency;

(d) a certified copy of a divorce decree or annulment granted the applicant that specifies the name change requested; or

(e) a certified copy of a divorce decree that does not specify the name change requested together with:

(i) an original or certified copy of the applicant's birth certificate;

(ii) the applicant's marriage license;

(iii) a driver license record showing use of a maiden name; or

(iv) other documentation the division finds acceptable.

(3)(a) If the division is authorized or required to give a notice under this chapter or other law regulating the operation of vehicles, the notice shall, unless otherwise prescribed, be given by:

(i) personal delivery to the individual to be notified; or

(ii) deposit in the United States mail with postage prepaid, addressed to the individual at the individual's address as shown by the records of the division.

(b) The giving of notice by mail is complete upon the expiration of four days after the deposit of the notice.

(c) Proof of the giving of notice in either manner may be made by the certificate of an officer or employee of the division or affidavit of an individual 18 years of age or older, naming the individual to whom the notice was given and specifying the time, place, and manner of giving the notice.

(4) The division may use state mailing or United States Postal Service information to:

(a) verify an address on an application or on records of the division; and

(b) correct mailing addresses in the division's records.

(5) A violation of the provisions of Subsection (1) is an infraction.

Section 6. Section 53-3-804 is amended to read:

53-3-804. Application for identification card -- Required information -- Release of anatomical gift information -- Cancellation of identification card.

(1) To apply for a regular identification card or limited-term identification card, an applicant shall:

(a) be a Utah resident;

(b) have a Utah residence address; and

(c) appear in person at any license examining station.

(2) An applicant shall provide the following information to the division:

(a) true and full legal name and Utah residence address;

(b) date of birth as set forth in a certified copy of the applicant's birth certificate, or other satisfactory evidence of birth, which shall be attached to the application;

(c)(i) social security number; or

(ii) written proof that the applicant is ineligible to receive a social security number;

(d) place of birth;

(e) height and weight;

(f) color of eyes and hair;

(g) signature;

(h) photograph;

(i) evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(i) that the applicant is:

(A) a United States citizen;

(B) a United States national; or

(C) a legal permanent resident alien; or

(ii) of the applicant's:

(A) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(B) pending or approved application for asylum in the United States;

(C) admission into the United States as a refugee;

(D) pending or approved application for temporary protected status in the United States;

(E) approved deferred action status;

(F) pending application for adjustment of status to legal permanent resident or conditional resident; or

(G) conditional permanent resident alien status;

(j) an indication whether the applicant intends to make an anatomical gift under Title 26B, Chapter 8, Part 3, Revised Uniform Anatomical Gift Act;

(k) an indication whether the applicant is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with

[~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and

(l) an indication whether the applicant is a veteran of the United States Armed Forces, verification that the applicant has received an honorable or general discharge from the United States Armed Forces, and an indication whether the applicant does or does not authorize sharing the information with the state Department of Veterans and Military Affairs.

(3)(a) The requirements of Section 53-3-234 apply to this section for each individual, age 16 and older, applying for an identification card.

(b) Refusal to consent to the release of information under Section 53-3-234 shall result in the denial of the identification card.

(4) An individual person who knowingly fails to provide the information required under Subsection (2)(k) is guilty of a class A misdemeanor.

(5)(a) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(b) A person who holds a regular or limited term Utah driver license and chooses to relinquish the person's driving privilege may apply for an identification card under this chapter, provided:

(i) the driver:

(A) no longer qualifies for a driver license for failure to meet the requirement in Section 53-3-304; or

(B) makes a personal decision to permanently discontinue driving;[~~ and~~]

(ii) the driver:

(A) submits an application to the division on a form approved by the division in person, through electronic means, or by mail;

(B) affirms their intention to permanently discontinue driving; and

(C) surrenders to the division the driver license certificate; and

(iii) the division possesses a digital photograph of the driver obtained within the preceding 10 years.

(c)(i) The division shall waive the fee under Section 53-3-105 for an identification card for an original identification card application under this Subsection (5).

(ii) The fee waiver described in Subsection (5)(c)(i) does not apply to a person whose driving privilege is suspended or revoked.

(6) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex[~~ and~~], Kidnap, and Child Abuse Offender Registry office in the Department of [~~Corrections~~]Public Safety, the names and addresses of all applicants who, under Subsection (2)(k), indicate they are required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

Section 7. Section 53-3-806.5 is amended to read:

53-3-806.5. Identification card required if offender does not have driver license.

(1)(a) [~~If a person is~~]An individual who does not hold a current driver license in compliance with Section 53-3-205 and is required to register as a sex offender, kidnap offender, or child abuse offender in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry or as a child abuse offender in accordance with Title 77, Chapter 43, Child Abuse Offender Registry, and the person does not hold a current driver license in compliance with Section 53-3-205, the person~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, shall obtain an identification card.

(b) The [~~person~~]individual shall maintain a current identification card during [~~any time the person~~]the time the individual is required to register as a sex offender, kidnap offender, or child abuse offender and the [~~person~~]individual does not hold a valid driver license.

(2) Failure to maintain a current identification card as required under Subsection (1) is a class A misdemeanor for each month of violation of Subsection (1).

Section 8. Section 53-3-807 is amended to read:

53-3-807. Expiration -- Address and name change -- Extension.

(1)(a) A regular identification card expires on the birth date of the applicant in the fifth year after the issuance of the regular identification card.

(b) A limited-term identification card expires on:

(i) the expiration date of the period of time of the individual's authorized stay in the United States or on the birth date of the applicant in the fifth year after the issuance of the limited-term identification card, whichever is sooner; or

(ii) on the date of issuance in the first year after the year that the limited-term identification card was issued if there is no definite end to the individual's period of authorized stay.

(2)(a) Except as provided in Subsection (2)(b), if an individual has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the individual shall, within 10 days after the day on which the individual moves, notify the division in a manner specified by the division of the individual's new address.

(b) If an individual who is required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry,

has applied for and received an identification card and subsequently moves from the address shown on the application or on the card, the individual shall, within 30 days after the day on which the individual moves, apply for an updated identification card in-person at a division office.

(3) If an individual has applied for and received an identification card and subsequently changes the individual's name under Title 42, Chapter 1, Change of Name, the individual:

(a) shall surrender the card to the division; and

(b) may apply for a new card in the individual's new name by:

(i) furnishing proper documentation to the division as provided in Section 53-3-804; and

(ii) paying the fee required under Section 53-3-105.

(4) A person 21 years [~~of age~~]old or older with a disability, as defined under the Americans with Disabilities Act of 1990, Pub. L. 101-336, may extend the expiration date on an identification card for five years if the person with a disability or an agent of the person with a disability:

(a) requests that the division send the application form to obtain the extension or requests an application form in person at the division's offices;

(b) completes the application;

(c) certifies that the extension is for a person 21 years [~~of age~~]old or older with a disability; and

(d) returns the application to the division together with the identification card fee required under Section 53-3-105.

(5)(a) The division may extend a valid regular identification card issued after January 1, 2010, for five years at any time within six months before the day on which the identification card expires.

(b) The application for an extension of a regular identification card is accompanied by a fee under Section 53-3-105.

(c) The division shall allow extensions:

(i) by mail, electronic means, or other means as determined by the division at the appropriate extension fee rate under Section 53-3-105; and

(ii) only if the applicant qualifies under this section.

(6)(a) A regular identification card may only be extended once under Subsections (4) and (5).

(b) After an extension an application for an identification card must be applied for in person at the division's offices.

Section 9. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2)(a) A person under Section 53-10-403 or any person required to register as a sex offender, kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b)(i)(A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3)(a)(i) All fees collected under Subsection (2) shall be deposited [~~in~~]into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e)(i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section

from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5)(a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 80-6-608.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c)[.]; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6)(a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7)(a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b)(i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 10. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4)[~~ or 77-43-108(4)~~];

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); and

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)(a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 11. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1)(a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Section 63G-7-302, as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) as to any claim for attorney fees or costs under Section 63G-2-209, 63G-2-405, or 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk,

sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment;

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102, required to register under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, whose status as a sex offender, kidnap offender, or child abuse offender would have been revealed in a background check under Section 53G-11-402; and

(k) as to any action brought under Section 78B-6-2303.

(3)(a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4)(a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii)(A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 12. Section 63M-7-801 is amended to read:

63M-7-801. Definitions.

As used in this part:

(1) "Board" means the Sex Offense Management Board created in Section 63M-7-802.

(2) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(3) "Registry" means the registry established in [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

Section 13. Section 76-1-201 is amended to read:

76-1-201. Jurisdiction of offenses.

(1) A person is subject to prosecution in this state for an offense which [~~he~~]the person commits, while either within or outside the state, by [~~his~~]the person's own conduct or that of another for which [~~he~~]the person is legally accountable, if:

(a) the offense is committed either wholly or partly within the state;

(b) the conduct outside the state constitutes an attempt to commit an offense within the state;

(c) the conduct outside the state constitutes a conspiracy to commit an offense within the state and an act in furtherance of the conspiracy occurs in the state; or

(d) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of both this state and the other jurisdiction.

(2) An offense is committed partly within this state if either the conduct which is any element of the offense, or the result which is an element, occurs within this state.

(3) In homicide offenses, the "result" is either the physical contact which causes death or the death itself.

(a) If the body of a homicide victim is found within the state, the death shall be presumed to have occurred within the state.

(b) If jurisdiction is based on this presumption, this state retains jurisdiction unless the defendant proves by clear and convincing evidence that:

(i) the result of the homicide did not occur in this state; and

(ii) the defendant did not engage in any conduct in this state which is any element of the offense.

(4)(a) An offense which is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission.

(b) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender, kidnap offender, or child abuse registration[~~ or Subsection 77-43-105(3) for child abuse offender registration~~], the offense is considered to be committed:

(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(5)(a) If no jurisdictional issue is raised, the pleadings are sufficient to establish jurisdiction.

(b) The defendant may challenge jurisdiction by filing a motion before trial stating which facts exist that deprive the state of jurisdiction.

(c) The burden is upon the state to initially establish jurisdiction over the offense by a preponderance of the evidence by showing under the provisions of Subsections (1) through (4) that the offense was committed either wholly or partly within the borders of the state.

(d) If after the prosecution has met its burden of proof under Subsection (5)(c) the defendant claims that the state is deprived of jurisdiction or may not exercise jurisdiction, the burden is upon the defendant to prove by a preponderance of the evidence:

(i) any facts claimed; and

(ii) why those facts deprive the state of jurisdiction.

(6) Facts that deprive the state of jurisdiction or prohibit the state from exercising jurisdiction include the fact that the:

(a) defendant is serving in a position that is entitled to diplomatic immunity from prosecution

and that the defendant's country has not waived that diplomatic immunity;

(b) defendant is a member of the armed forces of another country and that the crime that he is alleged to have committed is one that due to an international agreement, such as a status of forces agreement between his country and the United States, cedes the exercise of jurisdiction over him for that offense to his country;

(c) defendant is an enrolled member of an Indian tribe, as defined in Section 9-9-101, and that the Indian tribe has a legal status with the United States or the state that vests jurisdiction in either tribal or federal courts for certain offenses committed within the exterior boundaries of a tribal reservation, and that the facts establish that the crime is one that vests jurisdiction in tribal or federal court; or

(d) offense occurred on land that is exclusively within federal jurisdiction.

(7)(a) The Legislature finds that identity fraud under Chapter 6, Part 11, Identity Fraud Act, involves the use of personal identifying information which is uniquely personal to the consumer or business victim of that identity fraud and which information is considered to be in lawful possession of the consumer or business victim wherever the consumer or business victim currently resides or is found.

(b) For purposes of Subsection (1)(a), an offense which is based on a violation of Chapter 6, Part 11, Identity Fraud Act, is committed partly within this state, regardless of the location of the offender at the time of the offense, if the victim of the identity fraud resides or is found in this state.

(8) The judge shall determine jurisdiction.

Section 14. Section 76-1-202 is amended to read:

76-1-202. Venue of actions.

(1) Criminal actions shall be tried in the county, district, or precinct where the offense is alleged to have been committed. In determining the proper place of trial, the following provisions shall apply:

(a) If the commission of an offense commenced outside the state is consummated within this state, the offender shall be tried in the county where the offense is consummated.

(b) When conduct constituting elements of an offense or results that constitute elements, whether the conduct or result constituting elements is in itself unlawful, shall occur in two or more counties, trial of the offense may be held in any of the counties concerned.

(c) If a person committing an offense upon the person of another is located in one county and his victim is located in another county at the time of the commission of the offense, trial may be held in either county.

(d) If a cause of death is inflicted in one county and death ensues in another county, the offender may be tried in either county.

(e) A person who commits an inchoate offense may be tried in any county in which any act that is an element of the offense, including the agreement in conspiracy, is committed.

(f) Where a person in one county solicits, aids, abets, agrees, or attempts to aid another in the planning or commission of an offense in another county, he may be tried for the offense in either county.

(g) When an offense is committed within this state and it cannot be readily determined in which county or district the offense occurred, the following provisions shall be applicable:

(i) When an offense is committed upon any railroad car, vehicle, watercraft, or aircraft passing within this state, the offender may be tried in any county through which such railroad car, vehicle, watercraft, or aircraft has passed.

(ii) When an offense is committed on any body of water bordering on or within this state, the offender may be tried in any county adjacent to such body of water. The words "body of water" shall include but not be limited to any stream, river, lake, or reservoir, whether natural or man-made.

(iii) A person who commits theft may be tried in any county in which he exerts control over the property affected.

(iv) If an offense is committed on or near the boundary of two or more counties, trial of the offense may be held in any of such counties.

(v) For any other offense, trial may be held in the county in which the defendant resides, or, if he has no fixed residence, in the county in which he is apprehended or to which he is extradited.

(h) A person who commits an offense based on Chapter 6, Part 11, Identity Fraud Act, may be tried in the county:

(i) where the victim's personal identifying information was obtained;

(ii) where the defendant used or attempted to use the personally identifying information;

(iii) where the victim of the identity fraud resides or is found; or

(iv) if multiple offenses of identity fraud occur in multiple jurisdictions, in any county where the victim's identity was used or obtained, or where the victim resides or is found.

(i) For the purpose of establishing venue for a violation of Subsection 77-41-105(3) concerning sex offender, kidnap offender, or child abuse offender registration[~~ or Subsection 77-43-105(3) for child abuse offender registration~~], the offense is considered to be committed:

(i) at the most recent registered primary residence of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(2) All objections of improper place of trial are waived by a defendant unless made before trial.

Section 15. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c)(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section 62A-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section 62A-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section 62A-2-101;

(E) a youth program, as that term is defined in Section 62A-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b)(i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8)(a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10)(a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of

the individual's record in accordance with Title 77, Chapter 40a, Expungement.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender, kidnap offender, or child abuse offender until the registration requirements under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, have expired.

(b) An individual required to register as a sex offender, kidnap offender, or child abuse offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender, kidnap offender, or child abuse offender.

[~~(15)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.~~]

[~~(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.~~]

Section 16. Section 76-5-401 is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

(1)(a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(3)(a) A violation of Subsection (2) is a third degree felony.

(b)(i) Notwithstanding Subsection (3)(a) or (c), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, the offense is a class B misdemeanor.

(ii) An offense under Subsection (3)(b)(i) is not subject to registration under Subsection [~~77-41-102(18)(a)(vii)~~]77-41-102(19)(a)(vii).

(c)(i) Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

(ii) An offense under Subsection (3)(c)(i) is not subject to registration under Subsection [~~77-41-102(18)(a)(vii)~~]77-41-102(19)(a)(vii).

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) aggravated sexual assault, in violation of Section 76-5-405; or

(e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Section 17. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.

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

(i) "Indecent liberties" means:

(A) the actor touching another individual's genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual's body to touch the actor's or another's genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including

genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

(ii) "Minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the actor:

(i) is four years or more older than the minor; and

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor;

(B) touches the breast of a female minor; or

(C) otherwise takes indecent liberties with the minor.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2)(a) is:

(a) a class A misdemeanor; and

(b) not subject to registration under Subsection [~~77-41-102(18)(a)(viii)~~]77-41-102(19)(a)(viii) on a first offense if the offender was younger than 21 years old at the time of the offense.

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) object rape, in violation of Section 76-5-402.2;

(d) forcible sodomy, in violation of Section 76-5-403;

(e) aggravated sexual assault, in violation of Section 76-5-405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 18. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1)(a) As used in this section, "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual activity if the actor:

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape[~~, in violation of~~] under Section 76-5-402;

(b) rape of a child[~~, in violation of~~] under Section 76-5-402.1;

(c) object rape[~~, in violation of~~] under Section 76-5-402.2;

(d) object rape of a child[~~, in violation of~~] under Section 76-5-402.3;

(e) forcible sodomy[~~, in violation of~~] under Section 76-5-403;

(f) sodomy on a child[~~, in violation of~~] under Section 76-5-403.1;

(g) sexual abuse of a child[~~, in violation of~~] under Section 76-5-404;

(h) aggravated sexual assault[~~, in violation of~~] under Section 76-5-405;

(i) incest[~~, in violation of~~] under Section 76-7-102; or

(j) an attempt to commit [~~any~~]an offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection [~~77-41-102(18)~~]77-41-102(19).

Section 19. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations under Section 76-5-412, custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another individual who is 14 years old or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2)(a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c)(i) For purposes of this Subsection (2) and Subsection [~~77-41-102(18)~~]77-41-102(19), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 20. Section 76-9-702.1 is amended to read:

76-9-702.1. Sexual battery.

(1) [~~A person~~]An actor is guilty of sexual battery if the [~~person~~]actor, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another [~~person~~]individual, or the breast of a female [~~person~~]individual, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the [~~person~~]individual touched.

(2) Offenses referred to in Subsection (1) are:

(a) rape[~~,~~] under Section 76-5-402;

(b) rape of a child[~~,~~] under Section 76-5-402.1;

(c) object rape[~~,~~] under Section 76-5-402.2;

(d) object rape of a child[~~,~~] under Section 76-5-402.3;

(e) forcible sodomy[~~,~~] under Subsection 76-5-403(2);

(f) sodomy on a child[~~,~~] under Section 76-5-403.1;

(g) forcible sexual abuse[~~,~~] under Section 76-5-404;

(h) sexual abuse of a child[~~,~~] under Section 76-5-404.1;

(i) aggravated sexual abuse of a child[~~,~~] under Section 76-5-404.3;

(j) aggravated sexual assault[~~,~~] under Section 76-5-405; and

(k) an attempt to commit [~~any~~]an offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

(4)(a) For purposes of Subsection [~~77-41-102(18)~~]77-41-102(19) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(b) This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 21. Section 77-2-2.3 is amended to read:

77-2-2.3. Reducing the level of an offense.

(1) Notwithstanding any other provision of law, a prosecuting attorney may:

(a) present and file an information charging an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute if the prosecuting attorney believes that the sentence would be disproportionate to the offense because there are special circumstances relating to the offense; or

(b) subject to the approval of the court, amend an information, as part of a plea agreement, to charge an individual for an offense under Subsections 76-3-103(1)(b) through (d), Subsection 76-3-103(2), or Section 76-3-104 with a classification of the offense at one degree lower than the classification that is provided in statute.

(2) A court may:

(a) enter a judgment of conviction for an offense filed under Subsection (1) at one degree lower than classified in statute; and

(b) impose a sentence for the offense filed under Subsection (1) at one degree lower than classified in statute.

(3) A conviction of an offense at one degree lower than classified in statute under Subsection (2) does not affect the requirements for registration of the offense under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry, or Title 77, Chapter 43, Child Abuse Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, if the elements of the offense for which the defendant is convicted are the same as the elements of an offense described in Section 77-41-102[~~, or 77-43-102~~].

(4) This section does not preclude an individual from obtaining and being granted an expungement for the individual's record in accordance with Title 77, Chapter 40a, Expungement.

Section 22. Section 77-11c-101 is amended to read:

77-11c-101. Definitions.

As used in this chapter:

(1) "Acquitted" means the same as that term is defined in Section 77-11b-101.

(2) "Adjudicated" means that:

(a)(i) a judgment of conviction by plea or verdict of an offense has been entered by a court; and

(ii) a sentence has been imposed by the court; or

(b) a judgment has been entered for an adjudication of an offense by a juvenile court under Section 80-6-701.

(3) "Adjudication" means:

(a) a judgment of conviction by plea or verdict of an offense; or

(b) an adjudication for an offense by a juvenile court under Section 80-6-701.

(4) "Agency" means the same as that term is defined in Section 77-11a-101.

(5) "Appellate court" means the Utah Court of Appeals, the Utah Supreme Court, or the United States Supreme Court.

(6)(a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault examination kit; and

(iv) for a violent felony offense, material described in this Subsection (6) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.

(7) "Claimant" means the same as that term is defined in Section 77-11a-101.

(8) "Computer" means the same as that term is defined in Section 77-11a-101.

(9) "Continuous chain of custody" means:

(a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

(b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.

(10) "Contraband" means the same as that term is defined in Section 77-11a-101.

(11) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(12) "Court" means a municipal, county, or state court.

(13) "DNA" means deoxyribonucleic acid.

(14) "DNA profile" means a unique identifier of an individual derived from DNA.

(15) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(16) "Evidence" means property, contraband, or an item or substance that:

(a) is seized or collected as part of an investigation or prosecution of an offense; and

(b) may reasonably be used to incriminate or exculpate an individual for an offense.

(17)(a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

(b) "Evidence collecting or retaining entity" includes:

(i) a medical or forensic entity;

(ii) a law enforcement agency;

(iii) a court; and

(iv) an official, employee, or agent of an entity or agency described in this Subsection (17).

(18) "Exhibit" means property, contraband, or an item or substance that is admitted into evidence for a court proceeding.

(19) "In custody" means an individual who:

(a) is incarcerated, civilly committed, on parole, or on probation; or

(b) is required to register under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry.

(20) "Law enforcement agency" means the same as that term is defined in Section 77-11a-101.

(21) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

(22) "Physical evidence" includes evidence that:

(a) is related to:

(i) an investigation;

(ii) an arrest; or

(iii) a prosecution that resulted in a judgment of conviction; and

(b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

(23) "Property" means the same as that term is defined in Section 77-11a-101.

(24) "Prosecuting attorney" means the same as that term is defined in Section 77-11a-101.

(25) "Violent felony offense" means the same as the term "violent felony" is defined in Section 76-3-203.5.

(26) "Wildlife" means the same as that term is defined in Section 23A-1-101.

Section 23. Section 77-27-5.2 is amended to read:

77-27-5.2. Board authority to order removal from Sex, Kidnap, and Child Abuse Offender Registry.

(1) If the board grants a pardon for a conviction that is the basis for an individual's registration on the Sex[~~ and~~], Kidnap, and Child Abuse Offender Registry, the board shall issue an order directing the Department of [~~Corrections~~]Public Safety to remove the individual's name and personal information relating to the pardoned conviction from the Sex[~~ and~~], Kidnap, and Child Abuse Offender Registry.

(2) An order described in Subsection (1), issued by the board, satisfies the notification requirement described in Subsection 77-41-113(1)(b).

Section 24. Section 77-27-21.7 is amended to read:

77-27-21.7. Sex offender restrictions.

(1) As used in this section:

(a) "Condominium project" means the same as that term is defined in Section 57-8-3.

(b) "Minor" means an individual who is younger than 18 years old;

(c)(i) "Protected area" means the premises occupied by:

(A) a licensed day care or preschool facility;

(B) a public swimming pool or a swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(C) a public or private primary or secondary school that is not on the grounds of a correctional facility;

(D) a community park that is open to the public or a park maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex;

(E) a public playground or a playground maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex, including those areas designed to provide minors with space, recreational equipment, or other amenities intended to allow minors to engage in physical activity; and

(F) except as provided in Subsection (1)(c)(ii), an area that is 1,000 feet or less from the residence of a victim of the sex offender if the sex offender is subject to a victim requested restriction.

(ii) "Protected area" does not include:

(A) the area described in Subsection (1)(c)(i)(F) if the victim is a member of the immediate family of the sex offender and the terms of the sex offender's agreement of probation or parole allow the sex offender to reside in the same residence as the victim;

(B) a park, playground, or swimming pool located on the property of a residential home;

(C) a park or swimming pool that prohibits minors at all times from using the park or swimming pool; or

(D) a park or swimming pool maintained, operated, or owned by a homeowners' association, condominium project, or apartment complex established for residents 55 years old or older if no minors are present at the park or swimming pool at the time the sex offender is present at the park or swimming pool.

(d) "Sex offender" means an adult or juvenile who is required to register in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, due to a conviction for an offense that is committed against a person younger than 18 years old.

(2) For purposes of Subsection (1)(c)(i)(F), a sex offender is subject to a victim requested restriction if:

(a) the sex offender is on probation or parole for an offense that requires the offender to register in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;

(b) the victim or the victim's parent or guardian advises the Department of [~~Corrections~~]Public Safety that the victim elects to restrict the sex offender from the area and authorizes the Department of [~~Corrections~~]Public Safety to advise the sex offender of the area where the victim resides; and

(c) the Department of [~~Corrections~~]Public Safety notifies the sex offender in writing that the sex offender is prohibited from being in the area described in Subsection (1)(c)(i)(F) and provides a description of the location of the protected area to the sex offender.

(3) A sex offender may not:

(a) be in a protected area except:

(i) when the sex offender must be in a protected area to perform the sex offender's parental responsibilities;

(ii)(A) when the protected area is a public or private primary or secondary school; and

(B) the school is open and being used for a public activity other than a school-related function that involves a minor; or

(iii)(A) if the protected area is a licensed day care or preschool facility located within a building that is open to the public for purposes other than the operation of the day care or preschool facility; and

(B) the sex offender does not enter a part of the building that is occupied by the day care or preschool facility; or

(b) serve as an athletic coach, manager, or trainer for a sports team of which a minor who is younger than 18 years old is a member.

(4) A sex offender who violates this section is guilty of:

(a) a class A misdemeanor; or

(b) if previously convicted of violating this section within the last ten years, a third degree felony.

Section 25. Section 77-27-21.8 is amended to read:

77-27-21.8. Sex offender in presence of a child -- Definitions -- Penalties.

(1) As used in this section:

(a) "Accompany" means:

(i) to be in the presence of an individual; and

(ii) to move or travel with that individual from one location to another, whether outdoors, indoors, or in or on any type of vehicle.

(b) "Child" means an individual younger than 14 years of age.

(2) A sex offender subject to registration in accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, for an offense committed or attempted to be committed against a child younger than 14 years of age is guilty of a class A misdemeanor if the sex offender requests, invites, or solicits a child to accompany the sex offender, under circumstances that do not constitute an attempt to violate Section 76-5-301.1, child kidnapping, unless:

(a)(i) the sex offender, prior to accompanying the child:

(A) verbally advises the child's parent or legal guardian that the sex offender is on the state sex offender registry and is required by state law to obtain written permission in order for the sex offender to accompany the child; and

(B) requests that the child's parent or legal guardian provide written authorization for the sex offender to accompany the child, including the specific dates and locations;

(ii) the child's parent or legal guardian has provided to the sex offender written authorization, including the specific dates and locations, for the sex offender to accompany the child; and

(iii) the sex offender has possession of the written authorization and is accompanying the child only at the dates and locations specified in the authorization;

(b) the child's parent or guardian has verbally authorized the sex offender to accompany the child either in the child's residence or on property appurtenant to the child's residence, but in no other locations; or

(c) the child is the natural child of the sex offender, and the offender is not prohibited by any court order, or probation or parole provision, from contact with the child.

(3)(a) A sex offender convicted of a violation of Subsection (2) is subject to registration in

accordance with [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, for an additional five years subsequent to the required registration under Section 77-41-105.

(b) The period of additional registration imposed under Subsection (3)(a) is also in addition to any period of registration imposed under Subsection 77-41-107(3) for failure to comply with registration requirements.

(4) It is not a defense to a prosecution under this section that the defendant mistakenly believed the individual to be 14 years of age or older at the time of the offense or was unaware of the individual's true age.

(5) This section does not apply if a sex offender is acting to rescue a child who is in an emergency and life-threatening situation.

Section 26. Section 77-38-605 is amended to read:

77-38-605. Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this part.

(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.

(3) The application shall include:

(a) the applicant's name;

(b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;

(c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;

(d) a statement that the applicant understands and consents to:

(i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;

(ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;

(iii) develop a safety plan with a program assistant;

(iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;

(v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;

(vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and

(vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:

(i) a law enforcement, court, or other state, local, or federal government agency record; or

(ii) a document from:

(A) a domestic violence program, facility, or shelter;

(B) a sexual assault program; or

(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;

(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;

(g) a statement by the applicant that the applicant:

(i) resides at a residential address that is not known by the assailant;

(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or

(iii) will relocate to a different residential address in the state within 90 days that is not known by the assailant;

(h) the actual address that:

(i) the applicant requests that the commission not disclose; and

(ii) is at risk of discovery by the assailant or potential assailant;

(i) a statement by the applicant disclosing:

(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and

(ii) the court that issued the order or has jurisdiction over the action;

(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;

(k) a statement by the applicant that:

(i) the applicant, or a minor or an incapacitated individual residing at the same address as the

applicant, will benefit from participation in the program;

(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides; and

(iii) the applicant does not have a current obligation to register as a sex offender[~~ or a~~], kidnap offender, or child abuse offender under [~~Title 77, Chapter 41, Sex and Kidnap Offender Registry; and~~]Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry;

[~~(iv) the applicant does not have a current obligation to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry;~~]

(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true;

(m) a statement that:

(i) if the applicant intends to use the assigned address for any correspondence with the State Tax Commission, the applicant must provide the State Tax Commission with the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission; and

(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

(A) the motor vehicle or hull identification number;

(B) the license plate or registration number for the motor vehicle or the watercraft; and

(C) the physical address where each motor vehicle or watercraft is stored; and

(n) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Section 27. Section 77-40a-303 is amended to read:

77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

(1) Except as otherwise provided by this section, a petitioner is eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for the conviction that the petitioner seeks to expunge:

(i) 10 years for the conviction of a misdemeanor under Subsection 41-6a-501(2);

(ii) 10 years for the conviction of a felony for operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(iii) seven years for the conviction of a felony;

(iv) five years for the conviction of a drug possession offense that is a felony;

(v) five years for the conviction of a class A misdemeanor;

(vi) four years for the conviction of a class B misdemeanor; or

(vii) three years for the conviction of a class C misdemeanor or infraction.

(2) A petitioner is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction under Subsection (1) if:

(a) except as provided in Subsection (3), the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) a felony conviction described in Subsection 41-6a-501(2);

(v) an offense, or a combination of offenses, that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(vi) a registerable child abuse offense as defined in Subsection [~~77-43-102(2);~~]77-41-102(1);

(b) there is a criminal proceeding for a misdemeanor or felony offense pending against the petitioner, unless the criminal proceeding is for a traffic offense;

(c) there is a plea in abeyance for a misdemeanor or felony offense pending against the petitioner, unless the plea in abeyance is for a traffic offense;

(d) the petitioner is currently incarcerated, on parole, or on probation, unless the petitioner is on probation or parole for an infraction, a traffic offense, or a minor regulatory offense;

(e) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility;

(f) there is a criminal protective order or a criminal stalking injunction in effect for the case; or

(g) the bureau determines that the petitioner's criminal history makes the petitioner ineligible for a certificate of eligibility under Subsection (4) or (5).

(3) Subsection (2)(a) does not apply to a conviction for a qualifying sexual offense, as defined in Section 76-3-209, if, at the time of the offense, a petitioner who committed the offense was at least 14 years old but under 18 years old, unless the petitioner was convicted by a district court as an adult in accordance with Title 80, Chapter 6, Part 5, Transfer to District Court.

(4) Subject to Subsections (6), (7), and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(5) Subject to Subsections (7) and (8), a petitioner is not eligible to receive a certificate of eligibility if, at the time the petitioner seeks the certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(6) If the petitioner's criminal history contains convictions for both a drug possession offense and a non-drug possession offense arising from the same criminal episode, the bureau shall count that criminal episode as a conviction under Subsection (4) if any non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (1)(c) than any drug possession offense in that episode.

(7) Except as provided in Subsection (8), if at least 10 years have passed after the day on which the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions:

(a) each numerical eligibility limit under Subsections (4)(a) and (b) shall be increased by one; and

(b) each numerical eligibility limit under Subsections (4)(c) and (d) is not applicable if the highest level of convicted offense in the criminal episode is:

(i) a class B misdemeanor;

(ii) a class C misdemeanor;

(iii) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(iv) an infraction.

(8) When determining whether a petitioner is eligible for a certificate of eligibility under Subsection (4), (5), or (7), the bureau may not consider a petitioner's pending case or prior conviction for:

(a) an infraction;

(b) a traffic offense;

(c) a minor regulatory offense; or

(d) a clean slate eligible case that was automatically expunged in accordance with Section 77-40a-201.

(9) If the petitioner received a pardon before May 14, 2013, from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes in accordance with Section 77-27-5.1.

Section 28. Section 77-40a-403 is amended to read:

77-40a-403. Retention and release of expunged records -- Agencies.

(1)(a) The bureau, after receiving an expungement order, shall keep, index, and maintain all expunged records of arrests and convictions.

(b) Any agency, other than the bureau, receiving an expungement order shall develop and implement a process to identify and maintain an expunged record.

(2)(a) An agency shall provide an individual who receives an expungement with written confirmation that the agency has expunged all records of the offense for which the individual received the expungement if the individual requests confirmation from the agency.

(b) The bureau may charge a fee for providing a written confirmation under Subsection (2)(a) in accordance with the process in Section 63J-1-504.

(3)(a) An employee of the bureau, or any agency with an expunged record, may not divulge any information contained in the expunged record to any person or agency without a court order unless:

(i) specifically authorized by statute; or

(ii) subject to Subsection (3)(b), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(b) An agency with a records management system may not disclose any information in an expunged record with another agency or person that does not use the records management system for the purpose of record management.

(4) The following entities or agencies may receive information contained in expunged records upon specific request:

(a) the Board of Pardons and Parole;

(b) Peace Officer Standards and Training;

(c) federal authorities if required by federal law;

(d) the State Board of Education;

(e) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office; and

(f) a research institution or an agency engaged in research regarding the criminal justice system if:

(i) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(ii) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(iii) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(iv) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(5) Except as otherwise provided by this section or by court order, a person, an agency, or an entity authorized by this section to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, including distribution on a public website.

(6) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(a) stalking as described in Section 76-5-106.5;

(b) a domestic violence offense as defined in Section 77-36-1;

(c) an offense that would require the individual to register as a sex offender, kidnap offender, or child abuse offender as defined in Section 77-41-102; or

(d) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

(7) Except as provided in Subsection (9), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(8) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(9) If, after obtaining an expungement, an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction, the state may petition the court to open the expunged records upon a showing of good cause.

(10)(a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (10) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(11) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 29. Section 77-41-102 is amended to read:

77-41-102. Definitions.

CHAPTER 41. SEX, KIDNAP, AND CHILD ABUSE OFFENDER REGISTRY

As used in this chapter:

(1) "Child abuse offender" means an individual:

(a) who has been convicted in this state of a violation of:

(i) aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b); or

(ii) attempting, soliciting, or conspiring to commit aggravated child abuse under Subsection 76-5-109.2(3)(a) or (b);

(b)(i) who has been convicted of a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including a state, federal, or military court, that is substantially equivalent to the offense listed in Subsection (1)(a); and

(ii)(A) who is a Utah resident; or

(B) who is not a Utah resident but is in this state for a total of 10 days in a 12-month period,

regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a child abuse offender in another jurisdiction of original conviction;

(B) who is required to register as a child abuse offender by a state, a federal, or a military court; or

(C) who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or a previous registration requirement; and

(ii) who is in this state for a total of 10 days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of the offense listed in Subsection (1)(a) or a substantially equivalent offense in another jurisdiction; or

(B) who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (1)(a);

(e) who is found not guilty by reason of insanity in this state or in another jurisdiction of the offense listed in Subsection (1)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for the offense listed in Subsection (1)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

[~~(2)~~](3) "Business day" means a day on which state offices are open for regular business.

[~~(3)~~](4) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

[~~(4)~~](5)(a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

[~~(5)~~](6) "Department" means the Department of Public Safety.

[~~(6)~~](7) "Division" means the Division of Juvenile Justice Services.

[~~(7)~~](8) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

[~~(8)~~](9) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

[~~(9)~~](10) "Jurisdiction" means any state, Indian Country, United States Territory, or[~~any~~] property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

[~~(10)~~](11) "Kidnap offender" means [~~any~~]an individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) [~~Subsection 76-5-301(2)(c) or (d),~~]kidnapping under Subsection 76-5-301(2)(c) or (d);

(ii) [~~Section 76-5-301.1,~~]child kidnapping under Section 76-5-301.1;

(iii) [~~Section 76-5-302,~~]aggravated kidnapping under Section 76-5-302;

(iv) [~~Section 76-5-308,~~]human trafficking for labor under Section 76-5-308;

(v) [~~Section 76-5-308.3,~~]human smuggling under Section 76-5-308.3;

[~~(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;~~]

[~~(vii)~~](vi) [~~Section 76-5-308.5,~~]human trafficking of a child for labor under Subsection 76-5-308.5(4)(a);

[~~(viii)~~](vii) [~~Section 76-5-310,~~]aggravated human trafficking under Section 76-5-310;

[~~(ix)~~](viii) [~~Section 76-5-310.1,~~]aggravated human smuggling under Section 76-5-310.1;

[~~(x)~~](ix) [~~Section 76-5-311,~~]human trafficking of a vulnerable adult for labor under Section 76-5-311; or

[~~(xi)~~](x) attempting, soliciting, or conspiring to commit [~~any~~]a felony offense listed in Subsections [~~(10)(a)(i)~~](11)(a)(i) through [~~(x),~~](ix);

(b)(i) who has been convicted of [~~any~~]a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including [~~any~~]a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection [~~(10)(a)~~](11)(a); and

(ii)(A) who is[~~:~~]

[~~(A)~~] a Utah resident; or

(B) who is not a Utah resident[~~, but who, in any 12-month period,~~] but is in this state for a total of 10[~~-or more~~] days in a 12-month period, regardless of whether[~~-or not~~] the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a kidnap offender in [~~any other~~]another jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by [~~any~~]a state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or [~~any~~]a previous registration [~~requirements~~] requirement; and

(ii) [~~in any 12-month period,~~]who is in this state for a total of 10 [~~or more~~]days in a 12-month period, regardless of whether [~~or not~~] the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection [~~(10),~~](11)(a) or any substantially equivalent offense in another jurisdiction; or

(B) [~~as a result of the conviction,~~]who is required to register in the individual's state of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (11)(a);

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection [~~(10)~~](11)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection [~~(10)(a)~~](11)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

[~~(11)~~](12) "Natural parent" means a minor's biological or adoptive parent, [~~and includes~~]including the minor's noncustodial parent.

[~~(12)~~](13) "Offender" means a [~~kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18)~~]child abuse offender, kidnap offender, or sex offender.

[~~(13)~~](14) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

[~~(14)~~](15) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at [~~any~~]a future date.

[~~(15)~~](16) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

[~~(16)~~](17) "Registration website" means the Sex[~~and~~], Kidnap, and Child Abuse Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

[~~(17)~~](18) "Secondary residence" means [~~any~~]real property that the offender owns or has a financial interest in, or [~~any~~]a location where[~~, in any 12-month period,~~] the offender stays overnight a total of 10 or more nights in a 12-month period when not staying at the offender's primary residence.

[~~(18)~~](19) "Sex offender" means [~~any~~]an individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of [~~Section 76-4-401,~~] enticing a minor under Section 76-4-401;

(ii) [~~Section 76-5b-202,~~]sexual exploitation of a vulnerable adult under Section 76-5b-202;

(iii) [~~Section 76-5-308.1,~~]human trafficking for sexual exploitation under Section 76-5-308.1;

(iv) [~~Section 76-5-308.5,~~]human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(v) [~~Section 76-5-310,~~]aggravated human trafficking for sexual exploitation under Section 76-5-310;

(vi) [~~Section 76-5-311,~~]human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

(vii) [~~Section 76-5-401,~~]unlawful sexual activity with a minor under Section 76-5-401, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) [~~Section 76-5-401.1,~~]sexual abuse of a minor under Section 76-5-401.1, except as provided in Subsection 76-5-401.1(3);

(ix) [~~Section 76-5-401.2,~~]unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2;

(x) [~~Section 76-5-402,~~]rape under Section 76-5-402;

(xi) [~~Section 76-5-402.1,~~]rape of a child under Section 76-5-402.1;

(xii) [~~Section 76-5-402.2,~~]object rape under Section 76-5-402.2;

(xiii) [~~Section 76-5-402.3,~~]object rape of a child under Section 76-5-402.3;

(xiv) a felony violation of[~~, Section 76-5-403,~~] forcible sodomy under Section 76-5-403;

(xv) [~~Section 76-5-403.1,~~]sodomy on a child under Section 76-5-403.1;

(xvi) [~~Section 76-5-404,~~]forcible sexual abuse under Section 76-5-404;

(xvii) [~~Section 76-5-404.1,~~]sexual abuse of a child[~~,~~] under Section 76-5-404.1;

(xviii) [~~or Section 76-5-404.3,~~]aggravated sexual abuse of a child under Section 76-5-404.3;

[~~(xviii)~~](xix) [~~Section 76-5-405,~~]aggravated sexual assault under Section 76-5-405;

[~~(xix)~~](xx) [~~Section 76-5-412,~~]custodial sexual relations under Section 76-5-412, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

[~~(xx)~~](xxi) [~~Section 76-5b-201,~~]sexual exploitation of a minor under Section 76-5b-201;

[~~(xxi)~~](xxii) [~~Section 76-5b-201.1,~~]aggravated sexual exploitation of a minor under Section 76-5b-201.1;

[~~(xxii)~~](xxiii) [~~Section 76-5b-204,~~]sexual extortion or aggravated sexual extortion under Section 76-5b-204;

[~~(xxiii)~~](xxiv) [~~Section 76-7-102,~~]incest under Section 76-7-102;

[~~(xxiv)~~](xxv) [~~Section 76-9-702,~~]lewdness under Section 76-9-702, if the individual has been convicted of the offense four or more times;

[~~(xxv)~~](xxvi) [~~Section 76-9-702.1,~~]sexual battery under Section 76-9-702.1, if the individual has been convicted of the offense four or more times;

[~~(xxvi)~~](xxvii) any combination of convictions of [~~Section 76-9-702,~~]lewdness under Section 76-9-702, and of [~~Section 76-9-702.1,~~]sexual battery under Section 76-9-702.1, that total four or more convictions;

[~~(xxvii)~~](xxviii) [~~Section 76-9-702.5,~~]lewdness involving a child under Section 76-9-702.5;

[~~(xxviii)~~](xxix) a felony or class A misdemeanor violation of [~~Section 76-9-702.7,~~]voyeurism under Section 76-9-702.7;

[~~(xxix)~~](xxx) [~~Section 76-10-1306,~~]aggravated exploitation of prostitution under Section 76-10-1306; or

[~~(xxx)~~](xxxi) attempting, soliciting, or conspiring to commit [~~any~~]a felony offense listed in this Subsection [~~(18)(a)~~](19)(a);

(b)(i) who has been convicted of [~~any~~]a crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including [~~any~~]a state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection [~~(18)(a)~~](19)(a); and

(ii)(A) who is[~~:~~]

[~~(A)~~] a Utah resident; or

(B) who is not a Utah resident[~~, but who, in any 12-month period,~~] but is in this state for a total of 10 [~~or more~~]days in a 12-month period, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a sex offender in [~~any other~~]another jurisdiction of original conviction;

(B) who is required to register as a sex offender by [~~any~~]a state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or [~~any~~]a previous registration [~~requirements~~] requirement; and

(ii) who[~~, in any 12-month period,~~] is in [~~the~~]this state for a total of 10 [~~or more~~]days in a 12-month period, regardless of whether [~~or not~~]the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection [~~(18)(a), or any~~](19)(a) or a substantially equivalent offense in [~~any~~]another jurisdiction; or

(B) who is[~~, as a result of the conviction,~~] required to register in the individual's jurisdiction of residence based on a conviction for an offense that is not substantially equivalent to an offense listed in Subsection (19)(a);

(e) who is found not guilty by reason of insanity in this state, or in [~~any other~~]another jurisdiction of one or more offenses listed in Subsection [~~(18)(a)~~](19)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection [~~(18)(a)~~](19)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

[~~(19)~~](20) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

[~~(20)~~](21) "Vehicle" means [~~any~~]a motor vehicle, an aircraft, or a watercraft subject to registration in any jurisdiction.

Section 30. Section 77-41-103 is amended to read:

77-41-103. Department duties.

(1) The department shall:

(a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders and sex[~~and~~], kidnap, and child abuse offenses;

(b) make information listed in Subsection 77-41-110(4) available to the public; and

(c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-41-110(4), but only:

(i) for the purposes under this chapter; or

(ii) in accordance with Section 63G-2-206.

(2) [~~Any~~]A law enforcement agency shall, in the manner prescribed by the department, inform the department of:

(a) the receipt of a report or complaint of an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19), within three business days; and

(b) the arrest of [~~a person~~]an individual suspected of [~~any of the offenses~~]an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19), within five business days.

(3) Upon convicting [~~a person of any of the offenses~~]an individual of an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19), the [~~convicting~~]sentencing court shall within three business days forward a signed copy of the judgment and sentence to the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry office within the department.

(4) Upon modifying, withdrawing, setting aside, vacating, or otherwise altering a conviction for [~~any~~]an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19), the court shall, within three business days, forward a signed copy of the order to the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry office within the department.

(5)(a) [~~The~~]Subject to Subsection (5)(b), the department may intervene in any matter, including a criminal action, where the matter purports to affect [~~a person's lawfully entered registration requirement~~]an individual's registration requirements under this chapter.

(b) Except as provided in Subsection (5)(c), the department may only file a motion to intervene under Subsection (5)(a) within 60 days after the day on which:

(i) the sentencing court enters a judgment or sentence against an individual for an offense listed in Subsection 77-41-102(1), (11), or (19), if the details of the written plea agreement, judgment, or sentence indicate that the individual's registration requirements under this chapter could be affected; or

(ii) a court modifies, withdraws, sets aside, vacates, or otherwise alters an individual's conviction for an offense listed in Subsection 77-41-102(1), (11), or (19), affecting the individual's registration requirement under this chapter and the written plea agreement, judgment, or sentence entered at the time the individual was sentenced did not indicate that the individual's registration requirement could be affected.

(c) For a judgment or sentence, or other court order modifying, withdrawing, setting aside, vacating, or otherwise altering an individual's conviction for an offense listed in Subsection 77-41-102(1), (11), or (19), affecting the individual's registration requirement under this chapter that was entered on or before July, 1, 2024, the department may file a motion to intervene before November 1, 2024.

(6) The department shall:

(a) provide the following additional information when available:

(i) the crimes the offender has been convicted of or adjudicated delinquent for;

(ii) a description of the offender's primary and secondary targets; and

(iii) [~~any~~]other relevant identifying information as determined by the department;

(b) maintain the [~~Sex Offender and Kidnap Offender~~]Sex, Kidnap, and Child Abuse Offender Notification and Registration website; and

(c) ensure that the registration information collected regarding an offender's enrollment or employment at an educational institution is:

(i)(A) promptly made available to any law enforcement agency that has jurisdiction where the institution is located if the educational institution is an institution of higher education; or

(B) promptly made available to the district superintendent of the school district where the offender is employed if the educational institution is an institution of primary education; and

(ii) entered into the appropriate state records or data system.

Section 31. Section 77-41-105 is amended to read:

77-41-105. Registration of offenders -- Offender responsibilities.

(1)(a) An offender who enters this state from another jurisdiction is required to register under Subsection (3) and Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19).

(b) The offender shall register with the department within 10 days after the day on which the offender enters the state, regardless of the offender's length of stay.

(2)(a) An offender required to register under Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19) who is under supervision by the department shall register in person with the Division of Adult Probation and Parole.

(b) An offender required to register under Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19) who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.

(3)(a) Except as provided in Subsections (3)(b), (3)(c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register each year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(b) Except as provided in Subsections (3)(c)(iii), (4), and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection [~~77-41-102(10)(a) or (18)(a)~~]77-41-102(1), (11), or (19), a substantially similar offense, another offense that requires registration in the jurisdiction of conviction, or an offender who is ordered by a court of another jurisdiction to register as an offender shall register for the time period required by the jurisdiction where the offender was convicted or ordered to register.

(c)(i) An offender convicted as an adult of an offense listed in Section 77-41-106 shall, for the offender's lifetime, register each year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days after the day on which there is a change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (7).

(ii) Except as provided in Subsection (3)(c)(iii), the registration requirement described in Subsection (3)(c)(i) is not subject to exemptions and may not be terminated or altered during the offender's lifetime, unless a petition is granted under Section 77-41-112.

(iii)(A) If the sentencing court at any time after conviction determines that the offense does not involve force or coercion, lifetime registration under Subsection (3)(c)(i) does not apply to an offender who commits the offense when the offender is under 21 years old.

(B) For an offense listed in Section 77-41-106, an offender who commits the offense when the offender is under 21 years old shall register for the registration period required under Subsection (3)(a), unless a petition is granted under Section 77-41-112.

(d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:

(i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or

(ii) at the location of the offender at the time the offender is apprehended.

(4) Notwithstanding Subsection (3) and Section 77-41-106, an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.

(5)(a) Except as provided in Subsection (5)(b), in the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of Subsection (3).

(b) If the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the registration website.

(6) A sex offender who violates Section 77-27-21.8 regarding being in the presence of a child while required to register under this chapter shall register for an additional five years

subsequent to the registration period otherwise required under this chapter.

(7) An offender shall provide the department or the registering entity with the following information:

(a) all names and aliases by which the offender is or has been known;

(b) the addresses of the offender's primary and secondary residences;

(c) a physical description, including the offender's date of birth, height, weight, eye and hair color;

(d) the make, model, color, year, plate number, and vehicle identification number of a vehicle or vehicles the offender owns or drives more than 12 times per year;

(e) a current photograph of the offender;

(f) a set of fingerprints, if one has not already been provided;

(g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

(h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;

(i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;

(j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;

(k) a copy of the offender's passport, if a passport has been issued to the offender;

(l) if the offender is an alien, all documents establishing the offender's immigration status;

(m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;

(n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and a change of enrollment or employment status of the offender at an educational institution;

(o) the name, the telephone number, and the address of a place where the offender is employed or will be employed;

(p) the name, the telephone number, and the address of a place where the offender works as a volunteer or will work as a volunteer; and

(q) the offender's social security number.

(8)(a) An offender may change the offender's name in accordance with Title 42, Chapter 1, Change of Name, if the name change is not contrary to the interests of the public.

(b) Notwithstanding Section 42-1-2, an offender shall provide notice to the department at least 30 days before the day on which the hearing for the name change is held.

(c) The court shall provide a copy of the order granting the offender's name change to the department within 10 days after the day on which the court issues the order.

(d) If the court orders an offender's name changed, the department shall publish on the registration website the offender's former name, and the offender's changed name as an alias.

(9) Notwithstanding Subsections (7)(i) and (j) and 77-41-103(1)(c), an offender is not required to provide the department with:

(a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or

(b) online identifiers for the offender's financial accounts, including a bank, retirement, or investment account.

Section 32. Section 77-41-106 is amended to read:

77-41-106. Offenses requiring lifetime registration.

Offenses referred to in Subsection 77-41-105(3)(c)(i) requiring lifetime registration are:

(1) [~~any~~]an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19) if, at the time of the conviction for the offense, the offender has previously been convicted of an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19) or has previously been required to register as a sex offender, kidnap offender, or child abuse offender for an offense committed as a juvenile;

(2) a conviction for [~~any of the~~]a following [~~offenses~~]offense, including attempting, soliciting, or conspiring to commit [~~any~~]a felony of:

(a) [~~Section 76-5-301.1, ~~]child kidnapping under Section 76-5-301.1, except if the offender is a natural parent of the victim;

(b) [~~Section 76-5-402, ~~]rape under Section 76-5-402;

(c) [~~Section 76-5-402.1, ~~]rape of a child under Section 76-5-402.1;

(d) [~~Section 76-5-402.2, ~~]object rape under Section 76-5-402.2;

(e) [~~Section 76-5-402.3, ~~]object rape of a child under Section 76-5-402.3;

(f) [~~Section 76-5-403.1, ~~]sodomy on a child under Section 76-5-403.1;

(g) [~~Section 76-5-404.3, ~~]aggravated sexual abuse of a child under Section 76-5-404.3; or

(h) [~~Section 76-5-405,~~]aggravated sexual assault under Section 76-5-405;

(3) [~~Section 76-5-308.1,~~]human trafficking for sexual exploitation under Section 76-5-308.1;

(4) [~~Section 76-5-308.5,~~]human trafficking of a child for sexual exploitation under Subsection 76-5-308.5(4)(b);

(5) [~~Section 76-5-310,~~]aggravated human trafficking for sexual exploitation under Section 76-5-310;

(6) [~~Section 76-5-311,~~]human trafficking of a vulnerable adult for sexual exploitation under Section 76-5-311;

[~~(7) Section 76-4-401, a felony violation of enticing a minor;~~]

[~~(8)~~](7) [~~Section 76-5-302,~~]aggravated kidnapping under Section 76-5-302, except if the offender is a natural parent of the victim;

[~~(9)~~](8) [~~Section 76-5-403,~~]forcible sodomy under Section 76-5-403;

[~~(10)~~](9) [~~Section 76-5-404.1,~~]sexual abuse of a child under Section 76-5-404.1;

[~~(11)~~](10) [~~Section 76-5b-201,~~]sexual exploitation of a minor under Section 76-5b-201;

[~~(12)~~](11) [~~Section 76-5b-201.1,~~]aggravated sexual exploitation of a minor under Section 76-5b-201.1;

[~~(13)~~](12) [~~Subsection 76-5b-204(2)(b),~~]aggravated sexual extortion under Subsection 76-5b-204(2)(b); or

[~~(14)~~](13) [~~Section 76-10-1306,~~]aggravated exploitation of prostitution under Section 76-10-1306, on or after May 10, 2011; or

(14) a felony violation of enticing a minor under Section 76-4-401 if the offender enticed the minor to engage in sexual activity that is one of the offenses described in Subsections (2) through (13).

Section 33. Section 77-41-107 is amended to read:

77-41-107. Penalties.

(1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of:

(a) a third degree felony and shall be sentenced to serve a term of incarceration for not less than 30 days and also at least one year of probation if:

(i) the offender is required to register for a felony conviction or adjudicated delinquent for what would be a felony if the juvenile were an adult of an offense listed in Subsection [~~77-41-102(10)(a) or (18)(a)~~]77-41-102(1), (11), or (19); or

(ii) the offender is required to register for the offender's lifetime under Subsection 77-41-105(3)(c); or

(b) a class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 30 days and also at least one year of probation if the offender is required to register for a misdemeanor conviction or is adjudicated delinquent for what would be a misdemeanor if the juvenile were an adult of an offense listed in Subsection [~~77-41-102(10)(a) or (18)(a)~~]77-41-102(1), (11), or (19).

(2)(a) Neither the court nor the Board of Pardons and Parole may release an individual who violates this chapter from serving the term required under Subsection (1).

(b) This Subsection (2) supersedes any other provision of the law contrary to this chapter.

(3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Section 34. Section 77-41-109 is amended to read:

77-41-109. Miscellaneous provisions.

(1)(a) If an offender is to be temporarily sent on [~~any~~]an assignment outside a secure facility in which the offender is confined on [~~any~~]an assignment, including, without limitation, firefighting or disaster control, the official who has custody of the offender shall, within a reasonable time prior to removal from the secure facility, notify the local law enforcement agencies where the assignment is to be filled.

(b) This Subsection (1) does not apply to [~~any person~~]an offender temporarily released under guard from the institution in which the [~~person~~]offender is confined.

(2) Notwithstanding Title 77, Chapter 40a, Expungement, [~~a person~~]an offender convicted of [~~any~~]an offense listed in Subsection [~~77-41-102(10) or (18)~~]77-41-102(1), (11), or (19) is not relieved from the responsibility to register as required under this section, unless the offender is removed from the registry under Section 77-41-112 or Section 77-41-113.

Section 35. Section 77-41-110 is amended to read:

77-41-110. Sex offender, kidnap offender, and child abuse offender registry -- Department to maintain.

(1) The department shall maintain a [~~Sex Offender and Kidnap~~]Sex, Kidnap, and Child Abuse Offender Notification and Registration website on the Internet, which shall contain a disclaimer informing the public:

(a) the information contained on the site is obtained from offenders and the department does not guarantee its accuracy or completeness;

(b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and

(c) harassment, stalking, or threats against offenders or their families are prohibited and doing so may violate Utah criminal laws.

(2) The [~~Sex Offender and Kidnap~~]Sex, Kidnap, and Child Abuse Offender Notification and Registration website shall be indexed by both the surname of the offender and by postal codes.

(3) The department shall construct the Sex, Kidnap, and Child Abuse Offender Notification and Registration website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.

(4) Except as provided in Subsection (5), the [~~Sex Offender and Kidnap~~]Sex, Kidnap, and Child Abuse Offender Notification and Registration website shall include the following registry information:

(a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;

(b) the addresses of the offender's primary, secondary, and temporary residences;

(c) a physical description, including the offender's date of birth, height, weight, and eye and hair color;

(d) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;

(e) a current photograph of the offender;

(f) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;

(g) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student;

(h) a list of places where the offender works as a volunteer; and

(i) the crimes listed in Subsections [~~77-41-102(10) and (18)~~]77-41-102(1), (11), or (19) that the offender has been convicted of or for which the offender has been adjudicated delinquent in juvenile court.

(5) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this chapter and will be presumed to have acted in good faith by reporting information.

(6) The department shall redact information that, if disclosed, could reasonably identify a victim.

Section 36. Section 77-41-112 is amended to read:

77-41-112. Removal from registry -- Requirements -- Procedure.

(1) An offender who is required to register with the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry may petition the court for an order removing the offender from the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry if:

(a)(i) the offender was convicted of an offense described in Subsection (2);

(ii) at least five years have passed after the day on which the offender's sentence for the offense terminated;

(iii) the offense is the only offense for which the offender was required to register;

(iv) the offender has not been convicted of another offense, excluding a traffic offense, since the day on which the offender was convicted of the offense for which the offender is required to register, as evidenced by a certificate of eligibility issued by the bureau;

(v) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense;

(b)(i) [~~if~~]the offender is required to register in accordance with Subsection 77-41-105(3)(a);

(ii) at least 10 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 10-year period after the date described in Subsection (1)(b)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender successfully completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense; and

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; or

(c)(i) the offender is required to register in accordance with Subsection 77-41-105(3)(c);

(ii) at least 20 years have passed after the later of:

(A) the day on which the offender was placed on probation;

(B) the day on which the offender was released from incarceration to parole;

(C) the day on which the offender's sentence was terminated without parole;

(D) the day on which the offender entered a community-based residential program; or

(E) for a minor, as defined in Section 80-1-102, the day on which the division's custody of the offender was terminated;

(iii) the offender has not been convicted of another offense that is a class A misdemeanor, felony, or capital felony within the most recent 20-year period after the date described in Subsection (1)(c)(ii), as evidenced by a certificate of eligibility issued by the bureau;

(iv) the offender completed all treatment ordered by the court or the Board of Pardons and Parole relating to the offense;

(v) the offender has paid all restitution ordered by the court or the Board of Pardons and Parole relating to the offense; and

(vi) the offender submits to an evidence-based risk assessment to the court, with the offender's petition, that:

(A) meets the standards for the current risk assessment, score, and risk level required by the Board of Pardons and Parole for parole termination requests;

(B) is completed within the six months before the date on which the petition is filed; and

(C) describes the evidence-based risk assessment of the current level of risk to the safety of the public posed by the offender.

(2) The offenses referred to in Subsection (1)(a)(i) are:

(a) [~~Section 76-4-401,~~]enticing a minor under Section 76-4-401, if the offense is a class A misdemeanor;

(b) [~~Section 76-5-301,~~]kidnapping under Section 76-5-301;

(c) [~~Section 76-5-304,~~]unlawful detention under Section 76-5-304, if the conviction of violating Section 76-5-304 is the only conviction for which the offender is required to register;

(d) [~~Section 76-5-401,~~]unlawful sexual activity with a minor under Section 76-5-401, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(e) [~~Section 76-5-401.1,~~]sexual abuse of a minor under Section 76-5-401.1, if, at the time of the offense, the offender is not more than 10 years older than the victim;

(f) [~~Section 76-5-401.2,~~]unlawful sexual conduct with a 16 or 17 year old under Section 76-5-401.2, and at the time of the offense, the offender is not more than 15 years older than the victim;

(g) [~~Section 76-9-702.7,~~]voyeurism under Section 76-9-702.7, if the offense is a class A misdemeanor; or

(h) an offense for which an individual is required to register under Subsection [~~77-41-102(10)(c) or 77-41-102(18)(c)~~]77-41-102(1)(c), (11)(c), or (19)(c), if the offense is not substantially equivalent to an offense described in Subsection [~~77-41-102(10)(a) or 77-41-102(18)(a)~~] 77-41-102(1)(a), (11)(a), or (19)(a).

(3)(a)(i) An offender seeking removal from the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry under this section shall apply for a certificate of eligibility from the bureau.

(ii) An offender who intentionally or knowingly provides false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(iii) Regardless of whether the offender is prosecuted, the bureau may deny a certificate of eligibility to an offender who provides false information on an application.

(b)(i) The bureau shall:

(A) perform a check of records of governmental agencies, including national criminal databases, to determine whether an offender is eligible to receive a certificate of eligibility; and

(B) request information from the Department of Corrections regarding whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v),[~~or~~](c)(ii), (c)(iv), or (c)(v).

(ii) Upon request from the bureau under Subsection (3)(b)(i)(B), the Department of Corrections shall issue a document reflecting whether the offender meets the requirements described in Subsection (1)(a)(ii), (a)(v), (a)(vi), (b)(ii), (b)(iv), (b)(v),[~~or~~](c)(ii), (c)(iv), or (c)(v).

(iii) If the offender meets the requirements described in Subsection (1)(a), (b), or (c), the bureau shall issue a certificate of eligibility to the offender, which is valid for a period of 90 days after the day on which the bureau issues the certificate.

(iv) The bureau shall provide a copy of the document provided to the bureau under Subsection (3)(b)(ii) to the offender upon issuance of a certificate of eligibility.

(4)(a)(i) The bureau shall charge application and issuance fees for a certificate of eligibility in accordance with the process in Section 63J-1-504.

(ii) The application fee shall be paid at the time the offender submits an application for a certificate of eligibility to the bureau.

(iii) If the bureau determines that the issuance of a certificate of eligibility is appropriate, the offender will be charged an additional fee for the issuance of a certificate of eligibility.

(b) Funds generated under this Subsection (4) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(5)(a) The offender shall file the petition, including original information, the court docket, the certificate of eligibility from the bureau, and the document from the department described in Subsection (3)(b)(iv) with the court, and deliver a copy of the petition to the office of the prosecutor.

(b) Upon receipt of a petition for removal from the Sex[~~and~~], Kidnap, and Child Abuse Offender

Registry, the office of the prosecutor shall provide notice of the petition by first- class mail to the victim at the most recent address of record on file or, if the victim is still a minor under 18 years old, to the parent or guardian of the victim.

(c) The notice described in Subsection (5)(b) shall include a copy of the petition, state that the victim has a right to object to the removal of the offender from the registry, and provide instructions for registering an objection with the court.

(d) The office of the prosecutor shall provide the following, if available, to the court within 30 days after the day on which the office receives the petition:

(i) presentencing report;

(ii) an evaluation done as part of sentencing; and

(iii) [~~any~~]other information the office of the prosecutor [~~feels~~]determines the court should consider.

(e) The victim, or the victim's parent or guardian if the victim is a minor under 18 years old, may respond to the petition by filing a recommendation or objection with the court within 45 days after the day on which the petition is mailed to the victim.

(6)(a) The court shall:

(i) review the petition and all documents submitted with the petition; and

(ii) hold a hearing if requested by the prosecutor or the victim.

(b)(i) Except as provided in Subsections (6)(b)(ii) and (iii), the court may grant the petition and order removal of the offender from the registry if the court determines that the offender has met the requirements described in Subsection (1)(a) or (b) and removal is not contrary to the interests of the public.

(ii) When considering a petition filed under Subsection (1)(c), the court shall determine whether the offender has demonstrated, by clear and convincing evidence, that the offender is rehabilitated and does not pose a threat to the safety of the public.

(iii) In making the determination described in Subsection (6)(b)(ii), the court may consider:

(A) the nature and degree of violence involved in the offense that requires registration;

(B) the age and number of victims of the offense that requires registration;

(C) the age of the offender at the time of the offense that requires registration;

(D) the offender's performance while on supervision for the offense that requires registration;

(E) the offender's stability in employment and housing;

(F) the offender's community and personal support system;

(G) other criminal and relevant noncriminal behavior of the offender both before and after the offense that requires registration;

(H) the level of risk posed by the offender as evidenced by the evidence- based risk assessment described in Subsection (1)(c)(vi); and

(I) any other relevant factors.

(c) In determining whether removal is contrary to the interests of the public, the court may not consider removal unless the offender has substantially complied with all registration requirements under this chapter at all times.

(d) If the court grants the petition, the court shall forward a copy of the order directing removal of the offender from the registry to the department and the office of the prosecutor.

(e)(i) Except as provided in Subsection (6)(e)(ii), if the court denies the petition, the offender may not submit another petition for three years.

(ii) If the offender files a petition under Subsection (1)(c) and the court denies the petition, the offender may not submit another petition for eight years.

(7) The court shall notify the victim and the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry office in the department of the court's decision within three days after the day on which the court issues the court's decision in the same manner described in Subsection (5).

(8) Except as provided in Subsection (9), an offender required to register under Subsection 77- 41- 105(3)(b) may petition for early removal from the registry under Subsection (1)(b) if the offender:

(a) meets the requirements of Subsections (1)(b)(ii) through (v);

(b) has resided in this state for at least 183 days in a year for two consecutive years; and

(c) intends to primarily reside in this state.

(9) An offender required to register under Subsection 77- 41- 105(3)(b) for life may petition for early removal from the registry under Subsection (1)(c) if:

(a) the offense requiring the offender to register is substantially equivalent to an offense listed in Section 77- 41- 106;

(b) the offender meets the requirements of Subsections (1)(c)(ii) through (vi);

(c) the offender has resided in this state for at least 183 days in a year for two consecutive years; and

(d) the offender intends to primarily reside in this state.

Section 37. Section 77- 41- 113 is amended to read:

77- 41- 113. Removal for offenses or convictions for which registration is no longer required.

(1) The department shall automatically remove an individual who is currently on the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry because of a conviction if:

(a) the only offense or offenses for which the individual is on the registry are listed in Subsection (2); or

(b) the department receives a formal notification or order from the court or the Board of Pardons and Parole that the conviction for the offense or offenses for which the individual is on the registry have been reversed, vacated, or pardoned.

(2) The offenses described in Subsection (1)(a) are:

(a) a class B or class C misdemeanor for enticing a minor[~~,~~] under Section 76-4-401;

(b) kidnapping[~~, based upon~~] under Subsection 76-5-301(2)(a) or (b);

(c) child kidnapping[~~,~~] under Section 76-5-301.1, if the offender was the natural parent of the child victim;

(d) unlawful detention[~~,~~] under Section 76-5-304;

(e) a third degree felony for unlawful sexual intercourse before 1986, or a class B misdemeanor for unlawful sexual intercourse, under Section 76-5-401; or

(f) sodomy, but not forcible sodomy, under Section 76-5-403.

(3)(a) The department shall notify an individual who has been removed from the registry in accordance with Subsection (1).

(b) The notice described in Subsection (3)(a) shall include a statement that the individual is no longer required to register as a sex offender or kidnap offender.

(4) An individual who is currently on the Sex[~~and~~], Kidnap, and Child Abuse Offender Registry may submit a request to the department to be removed from the registry if the individual believes that the individual qualifies for removal under this section.

(5) The department, upon receipt of a request for removal from the registry shall:

(a) check the registry for the individual's current status;

(b) determine whether the individual qualifies for removal based upon this section; and

(c) notify the individual in writing of the department's determination and whether the individual:

(i) qualifies for removal from the registry; or

(ii) does not qualify for removal.

(6) If the department determines that the individual qualifies for removal from the registry, the department shall remove the offender from the registry.

(7) If the department determines that the individual does not qualify for removal from the registry, the department shall provide an explanation in writing for the department's determination. The department's determination is final and not subject to administrative review.

(8) Neither the department nor [~~any~~]an employee of the department may be civilly liable for a determination made in good faith in accordance with this section.

(9)(a) The department shall provide a response to a request for removal within 30 days of receipt of the request.

(b) [~~–~~]If the response under Subsection (9)(a) cannot be provided within 30 days, the department shall notify the individual that the response may be delayed up to 30 additional days.

Section 38. Section 77-41-114 is amended to read:

77-41-114. Registration for individuals under 18 years old at the time of the offense.

(1) Except for an offender who is subject to lifetime registration under Subsection 77-41-106(1), the department shall, if the offender was under 18 years old at the time of the offense, maintain, but not publish, the offender's information on the registration website for an offense listed in Subsection [~~77-41-102(10)(a), (e), or (f) or 77-41-102(18)(a), (e), or (f)~~]77-41-102(1)(a), (c), or (f), (11)(a), (c), or (f), or (19)(a), (c), or (f).

(2)(a) If, based on the information provided to the department by the sentencing court, prosecuting entity, offender, or offender's counsel, the department cannot determine if the offender is eligible for an exemption to publication on the registration website as described in Subsection (1), the department shall continue to publish the offender's information on the registration website.

(b) Information may be provided to the department at any time in order to clarify the offender's age at the time of the offense.

(c) This section does not prohibit the department from seeking or receiving information from individuals or entities other than those identified in Subsection (2)(a).

(3) This section applies to offenders with a registration requirement on or after May 3, 2023, regardless of when the offender was first required to register.

(4) An offender convicted after May 3, 2023, of an offense committed when the individual was under 18 years old, is not subject to registration requirements under this chapter unless the offender:

(a) is charged by criminal information in juvenile court under Section 80-6-503;

(b) is bound over to district court in accordance with Section 80-6-504; and

(c) is convicted of a qualifying offense described in Subsection [~~77-41-102(10)(a) or 77-41-102(18)(a)~~] 77-41-102(1)(a), (11)(a), or (19)(a).

Section 39. Section 78B-8-302 is amended to read:

78B-8-302. Process servers.

(1) A complaint, a summons, or a subpoena may be served by [~~a person~~]an individual who is:

(a) 18 years old or older at the time of service; and

(b) not a party to the action or a party's attorney.

(2) Except as provided in Subsection (5), the following may serve all process issued by the courts of this state:

(a) a peace officer employed by a political subdivision of the state acting within the scope and jurisdiction of the peace officer's employment;

(b) a sheriff or appointed deputy sheriff employed by a county of the state;

(c) a constable, or the constable's deputy, serving in compliance with applicable law;

(d) an investigator employed by the state and authorized by law to serve civil process; [~~and~~]or

(e) a private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act.

(3) A private investigator licensed in accordance with Title 53, Chapter 9, Private Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

(4) While serving process, a private investigator shall:

(a) have on the investigator's [~~person~~]body a visible form of credentials and identification identifying:

(i) the investigator's name;

(ii) that the investigator is a licensed private investigator; and

(iii) the name and address of the agency employing the investigator or, if the investigator is self-employed, the address of the investigator's place of business;

(b) verbally communicate to the person being served that the investigator is acting as a process server; and

(c) print on the first page of each document served:

(i) the investigator's name and identification number as a private investigator; and

(ii) the address and phone number for the investigator's place of business.

(5) [~~Any service~~]The following may only serve process under this section when the use of force is authorized on the face of the document, or when a breach of the peace is imminent or likely under the totality of the circumstances[~~, may only be served by~~]:

(a) a law enforcement officer, as defined in Section 53-13-103; or

(b) a special function officer, as defined in Section 53-13-105, who is:

(i) employed as an appointed deputy sheriff by a county of the state; or

(ii) a constable.

(6) The following may not serve process issued by a court:

(a) [~~a person~~]an individual convicted of a felony violation of an offense listed in Subsection [~~77-41-102(18)~~]77-41-102(19); or

(b) [~~a person~~]an individual who is a respondent in a proceeding described in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, in which a court has granted the petitioner a protective order.

(7) [~~A person~~]An individual serving process shall:

(a) legibly document the date and time of service on the front page of the document being served;

(b) legibly print the process server's name, address, and telephone number on the return of service;

(c) sign the return of service in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act;

(d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the badge number of the process server on the return of service; and

(e) if the process server is a private investigator, legibly print the private investigator's identification number on the return of service.

Section 40. Section 80-5-201 is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of [~~Corrections~~]Public Safety who:

(i) is adjudicated for an offense listed in Subsection [~~77-41-102(18)(a) or 77-43-102(2)~~] 77-41-102(1) or 77-41-102(19);

(ii) is committed to the division for secure care; and

(iii)(A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3)(a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Section 41. Repealer.

This bill repeals:

Section 77-41-101, Title.

Section 77-43-101, Title.

Section 77-43-102, Definitions.

Section 77-43-103, Department duties.

Section 77-43-104, Registration of offenders -- Department and agency requirements.

Section 77-43-105, Registration of offenders -- Offender responsibilities.

Section 77-43-106, Penalties.

Section 77-43-107, Classification of information.

Section 77-43-108, Child Abuse Offender Registry -- Department to maintain.

Section 77-43-109, Fees.

Section 42. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 235
H. B. 153
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

CHILD CARE REVISIONS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to caring for children.

Highlighted Provisions:

This bill:

- makes optional the requirement to obtain a certificate from the Department of Health and Human Services to provide residential child care;
- limits the number of children under three years old for which a residential child care provider operating without a license or certificate may provide care;
- requires a residential child care provider operating without a license or a certificate to submit to criminal history check requirements;
- authorizes the Department of Health and Human Services to make rules regarding submission to criminal history checks;
- raises the age of a child dependent for whom an individual taxpayer may claim a child tax credit; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-2-402, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-404, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-405, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-406, as renumbered and amended by Laws of Utah 2023, Chapter 305
59-10-1047, as enacted by Laws of Utah 2023, Chapter 462
78A-6-209, as last amended by Laws of Utah 2023, Chapters 115, 330
78A-6-209, as last amended by Laws of Utah 2023, Chapters 115, 310 and 330

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

Section 1. Section 26B-2-402 is amended to read:

26B-2-402. Duties of the department -- Enforcement of part -- Licensing committee requirements.

(1) With regard to residential child care licensed [~~or~~], certified, or subject to criminal background checks under this part, the department may:

(a) make and enforce rules to implement this part and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and

(b) make and enforce rules necessary to carry out the purposes of this part, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees.

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) The department shall make rules that allow a regulated provider to provide after school child care for a reasonable number of qualifying children in excess of the regulated provider's capacity limit, without requiring the regulated provider to obtain a waiver or new license from the department.

(4) Rules made under this part by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5)(a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(6) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits

and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

(7) Notwithstanding the definition of "qualifying child" in Section 26B-2-401, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

(8) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

(9)(a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (9)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(10) The licensing committee , with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

(11) The department shall set and collect licensing and other fees in accordance with Section 26B-1-209.

Section 2. Section 26B-2-404 is amended to read:

26B-2-404. Residential Child Care Certificate.

(1) Except as provided in Section 26B-2-405, a person [~~shall obtain~~]may request a Residential Child Care Certificate from the department if[~~:~~] the person provides residential child care for eight or fewer qualifying children.

[~~(a) the person provides residential child care for seven or eight qualifying children; or~~]

[~~(b) the person:~~]

[~~(i) provides residential child care for six or less qualifying children; and~~]

[~~(ii) requests to be certified.~~]

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section 26B-1-209; and

(iii) in accordance with Section 26B-2-406, identifying information for each adult person and each juvenile age 12 through 17 years old who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 80-2-1002;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a certified provider in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 3. Section 26B-2-405 is amended to read:

26B-2-405. Exclusions from part -- Criminal background checks by an excluded person.

(1)(a) Except as provided in [~~Subsection (1)(b)~~]Subsections (1)(b) and (1)(c), the provisions and requirements of this part do not apply to:

(i) a facility or program owned or operated by an agency of the United States government;

(ii) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

(iii) a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection;

(iv) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;

(v) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state;

(vi) care provided at a residential support program that is licensed by the department;

(vii) center based child care for four or [~~less~~]fewer qualifying children, unless the provider requests to be licensed under Section 26B-2-403; or

(viii) residential child care for [~~six or less~~]eight or fewer qualifying children, unless the provider requests to be licensed under Section 26B-2-403 or certified under Section 26B-2-404.

[~~(b) Notwithstanding Subsection (1)(a), a person who~~]

(b)(i) A person that does not hold a license or certificate from the department under this part may not, at any given time, provide child care in the person's home for more than 10 children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

(ii) A person providing care described in Subsection (1)(a)(viii) may not provide, at any given time, child care in the person's home for more than two children who are under three years old.

(c) A person providing care described in Subsection (1)(a)(viii) that is not a certified provider or a licensed provider under this part is subject to the requirements of Section 26B-2-406.

(2) The licensing and certification requirements of this part do not apply to:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) provides care to a child who is over the age of four and under the age of 13; or

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

(iii) the care is provided on a sporadic basis;

(iv) the care does not include diapering a qualifying child; and

(v) the care does not include preparing or serving meals to a qualifying child.

(3) An exempt provider shall submit to the department:

(a) the information required under Subsections 26B-2-406(1) and (2); and

(b) of the children receiving care from the exempt provider:

(i) the number of children who are less than two years old;

(ii) the number of children who are at least two years old and less than five years old; and

(iii) the number of children who are five years old or older.

(4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(5)(a) Except as provided in Subsection (5)(b), the department may not release the information the department collects from exempt providers under Subsection (3).

(b) The department may release an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Section 4. Section 26B-2-406 is amended to read:

26B-2-406. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1)(a) Each exempt provider, except as provided in Subsection (1)(c), each person described in Subsection 26B-2-405(1)(a)(viii) that is not a certified provider or a licensed provider, and each person requesting a residential certificate or to be licensed or to renew a license under this part shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

(i) owners;

(ii) directors;

(iii) members of the governing body;

(iv) employees;

(v) providers of care;

(vi) volunteers, except parents of children enrolled in the programs; and

(vii) all adults residing in a residence where child care is provided.

(b)(i) The Utah Division of Criminal Investigation and Technical Services within the Department of Public Safety shall process the information required under Subsection (1)(a) to determine whether the individual has been convicted of any crime.

(ii) The Utah Division of Criminal Investigation and Technical Services shall submit fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record check.

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(b).

(c) An exempt provider who provides care to a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to this Subsection (1), unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2)(a)(i) Each person requesting a residential certificate or to be licensed or to renew a license under this part and each person described in Subsection 26B-2-405(1)(a)(viii) that is not a certified provider or a licensed provider shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided.

(ii) The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in Subsections (4) and (5), a licensee under this part, a person described in Subsection 26B-2-405(1)(a)(viii) that is not a certified provider or a licensed provider, or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for a child care program or an exempt provider;

(c) reside at the premises where child care is provided; or

(d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4)(a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

(ii) specific acts adjudicated in juvenile court, which if committed by an adult would be misdemeanors.

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

(a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.

(6) The department may retain background check information submitted to the department for up to one year after the day on which the covered individual is no longer associated with a Utah child care provider.

Section 5. Section 59-10-1047 is amended to read:

59-10-1047. Nonrefundable child tax credit.

(1) As used in this section:

(a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's federal individual income tax return is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Qualifying child" means an individual:

(i) with respect to whom the claimant is allowed to claim a tax credit under Section 24, Internal Revenue Code, on the claimant's federal individual income tax return for the taxable year; and

(ii) who is at least one year old and younger than [~~four~~]five years old on the last day of the claimant's taxable year.

(f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Subject to Subsection 59-10-1002.2, a claimant may claim a nonrefundable tax credit of $1,000 for each qualifying child.

(3) A claimant may not carry forward or carry back the amount of the tax credit that exceeds the claimant's tax liability.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.10 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $27,000;

(b) for a federal individual income tax return that is allowed a single filing status or head of household filing status, $43,000; and

(c) for a federal individual income tax return [~~under this chapter~~] that is allowed a joint filing status, $54,000.

Section 6. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Division of Licensing and Background Checks for the purpose of conducting a background check in accordance with Section 26B-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services for the purpose of evaluating under the provisions of Subsection 26B-2-406(3) whether a [~~licensee~~]person should be permitted to operate a residential child care without a license or

a certificate or to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services to determine whether an individual meets the background screening requirements of Sections 26B-2-238 through 26B-2-241, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services to determine whether to grant, deny, or revoke background clearance under Section 26B-4-124 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26B-4-116, with the understanding that the Department of Health and Human Services' must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4)(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 7. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and administrative hearings in accordance with Section 80-2-707;

(e) the Division of Licensing and Background Checks for the purpose of conducting a background check in accordance with Section 26B-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services for the purpose of evaluating under the provisions of Subsection 26B-2-406(3) whether a [~~licensee~~]person should be permitted to operate a residential child care without a license or a certificate or to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health and Human Services to determine whether an

individual meets the background screening requirements of Sections 26B-2-238 through 26B-2-241, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health and Human Services' inspection of records before the Department of Health and Human Services makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Bureau of Emergency Medical Services to determine whether to grant, deny, or revoke background clearance under Section 53-2d-410 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 53-2d-402, with the understanding that the Bureau of Emergency Medical Services must provide the individual who committed the offense an opportunity to respond to any information gathered from the inspection of records before the Bureau of Emergency Medical Services makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4)(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary for the minor.

(b) A juvenile court may close the records described in Subsection (4)(a) to the public if the juvenile court finds, on the record, that the records are closed for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 8. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) Section 78A-6-209 (Effective 07/01/24) takes effect on July 1, 2024.

(b) The actions affecting Section 59-10-1047 take effect for a taxable year beginning on or after January 1, 2025.

CHAPTER 236
H. B. 184
Passed February 27, 2024
Approved March 14, 2024
Effective January 1, 2025

VEHICLE OWNER REGISTRATION AND INSURANCE REQUIREMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill allows an individual to show proof of registration and insurance for certain vehicles through digital means and requires certain vehicles to be added to the Uninsured Motorist Identification Database Program.

Highlighted Provisions:

This bill:

- defines terms and amends certain definitions;
- provides the option for an individual to display the vehicle registration card for an off-highway vehicle through digital means;
- provides the option for an individual to display proof of insurance for a boat through digital means;
- requires certain motorboats and street-legal all-terrain vehicles to pay the uninsured motorist identification fee;
- requires the Uninsured Motorist Identification Database Program to include street-legal all-terrain vehicles and motorboats;
- includes a street-legal all-terrain vehicle in the definition of a motor vehicle for purposes of motor vehicle insurance provisions, including required coverage; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-22-301, as last amended by Laws of Utah 2021, Chapter 245
31A-22-315, as last amended by Laws of Utah 2008, Chapter 382
41-1a-1218, as last amended by Laws of Utah 2023, Chapter 33
41-1a-1220, as last amended by Laws of Utah 2008, Chapter 322
41-6a-102, as last amended by Laws of Utah 2023, Chapters 219, 532
41-12a-103, as last amended by Laws of Utah 2008, Chapter 371
41-12a-303.2, as last amended by Laws of Utah 2018, Chapters 30, 160
41-12a-802, as last amended by Laws of Utah 1998, Chapter 36
41-12a-803, as last amended by Laws of Utah 2012, Chapters 243, 347 and 347
41-12a-804, as last amended by Laws of Utah 2013, Chapter 138
41-12a-805, as last amended by Laws of Utah 2012, Chapter 243
41-22-3, as last amended by Laws of Utah 2023, Chapters 11, 64
73-18-13.5, as last amended by Laws of Utah 2022, Chapter 68
73-18c-304, as last amended by Laws of Utah 2015, Chapter 412

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

Section 1. Section 31A-22-301 is amended to read:

31A-22-301. Definitions.

As used in this part:

(1)(a) "Motor vehicle" means the same as that term is defined in Section 41-6a-102.

(b) For purposes of this chapter, "motor vehicle" includes a street-legal all-terrain vehicle.

(2) "Motor vehicle business" means a motor vehicle sales agency, repair shop, service station, storage garage, or public parking place.

(3) "Motor vehicle liability policy" means a policy which satisfies the requirements of Sections 31A-22-303 and 31A-22-304.

(4) "Motorboat" means the same as that term is defined in Section 73-18c-102.

[~~(4)~~](5) "Occupying" means being in or on a motor vehicle as a passenger or operator, or being engaged in the immediate acts of entering, boarding, or alighting from a motor vehicle.

[~~(5)~~](6) "Operator" means the same as that term is defined in Subsection 41-12a-103(7).

[~~(6)~~](7) "Owner" means the same as that term is defined in Subsection 41-12a-103(8).

[~~(7)~~](8) "Pedestrian" means any natural person not occupying a motor vehicle.

(9) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

Section 2. Section 31A-22-315 is amended to read:

31A-22-315. Motor vehicle insurance reporting -- Penalty.

(1)(a) As used in this section, "commercial motor vehicle insurance coverage" means an insurance policy that:

(i) includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage; and

(ii) is defined by the department.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules defining commercial motor vehicle insurance coverage.

(2)(a) Except as provided in Subsections (2)(b) and (c), each insurer that issues a policy that includes motor vehicle liability coverage, uninsured

motorist coverage, underinsured motorist coverage, or personal injury coverage under this part shall before the seventh and twenty-first day of each calendar month provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, a record of each motor vehicle or motorboat insurance policy in effect for vehicles registered or garaged in Utah as of the previous submission that was issued by the insurer.

(b) Each insurer that issues commercial motor vehicle insurance coverage shall before the seventh day of each calendar month provide to the Department of Public Safety's designated agent selected in accordance with Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, a record of each commercial motor vehicle insurance policy in effect for vehicles registered or garaged in Utah as of the previous month that was issued by the insurer.

(c) An insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage under this part is not required to provide a record of a motor vehicle insurance policy in effect for a vehicle to the Department of Public Safety's designated agent under Subsection (2)(a) or (b) if the policy covers a vehicle that is registered under Section 41-1a-221, 41-1a-222, or 41-1a-301.

(d) This Subsection (2) does not preclude more frequent reporting.

(3)(a) A record provided by an insurer under Subsection (2)(a) shall include:

(i) the name, date of birth, and driver license number, if the insured provides a driver license number to the insurer, of each insured owner or operator, and the address of the named insured;

(ii) the make, year, and vehicle identification number of each insured vehicle; and

(iii) the policy number, effective date, and expiration date of each policy.

(b) A record provided by an insurer under Subsection (2)(b) shall include:

(i) the named insured;

(ii) the policy number, effective date, and expiration date of each policy; and

(iii) the following information, if available:

(A) the name, date of birth, and driver license number of each insured owner or operator, and the address of the named insured; and

(B) the make, year, and vehicle identification number of each insured vehicle.

(4) Each insurer shall provide this information by an electronic means or by another form the Department of Public Safety's designated agent agrees to accept.

(5)(a) The commissioner may, following procedures set forth in Title 63G, Chapter 4, Administrative Procedures Act, assess a fine against an insurer of up to $250 for each day the insurer fails to comply with this section.

(b) If an insurer shows that the failure to comply with this section was inadvertent, accidental, or the result of excusable neglect, the commissioner shall excuse the fine.

Section 3. Section 41-1a-1218 is amended to read:

41-1a-1218. Uninsured motorist identification fee for tracking motor vehicle insurance -- Exemption -- Deposit.

(1)(a) Except as provided in Subsections (1)(b) and (c), at the time application is made for registration or renewal of registration [~~of a motor vehicle~~] under this chapter, the applicant shall pay an uninsured motorist identification fee of:

(i) $1 on each motor vehicle[~~.~~]or street-legal all-terrain vehicle; or

(ii) $2 on each motorboat.

(b) Except as provided in Subsection (1)(c), at the time application is made for registration or renewal of registration of a motor vehicle for a six-month registration period under Section 41-1a-215.5, the applicant shall pay an uninsured motorist identification fee of 75 cents on each motor vehicle.

(c) The following are exempt from the fee required under Subsection (1)(a) or (b):

(i) a commercial vehicle registered as part of a fleet under Section 41-1a-222 or Section 41-1a-301;

(ii) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3); and

(iii) a motor vehicle with a Purple Heart special group license plate issued:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(2) The revenue generated under this section shall be deposited in the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

Section 4. Section 41-1a-1220 is amended to read:

41-1a-1220. Registration reinstatement fee.

(1)(a) [~~At~~]Except as provided in Subsection (1)(b), at the time application is made for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under Subsection 41-1a-110(2), the applicant shall pay a registration reinstatement fee of $100.

(b) The registration reinstatement fee does not apply to a motorboat.

(2) The fee imposed under Subsection (1):

(a) is in addition to any other fee imposed under this chapter; and

(b) shall be deposited in the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

(3) The division shall waive the registration reinstatement fee imposed under this section if:

(a) the registration was revoked under Subsection 41-1a-110(2)(a)(ii); and

(b) a person had owner's or operator's security in effect for the vehicle at the time of the alleged violation or on the day following the time limit provided after the second notice under Subsection 41-12a-804(2).

Section 5. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

[~~(3)~~](5) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

[~~(4)~~](6) "Autocycle" means the same as that term is defined in Section 53-3-102.

[~~(5)~~](7)(a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

[~~(6)~~](8)(a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

[~~(7)~~](9)(a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

[~~(8)~~](10) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(i)~~](20)(d)(i).

[~~(9)~~](11) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(ii)~~](20)(d)(ii).

[~~(10)~~](12) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(iii)~~](20)(d)(iii).

[~~(11)~~](13) "Commissioner" means the commissioner of the Department of Public Safety.

[~~(12)~~](14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

[~~(13)~~](15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i)(A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

[~~(14)~~](16) "Department" means the Department of Public Safety.

[~~(15)~~](17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

[~~(16)~~](18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

[~~(17)~~](19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

[~~(18)~~](20) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

[~~(19)~~](21)(a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

[~~(20)~~](22) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[~~(21)~~](23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[~~(22)~~](24) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

[~~(23)~~](25) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[~~(24)~~](26)(a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(25)~~](27) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~(26)~~](28) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~(27)~~](29) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(28)~~](30) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(29)~~](31) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(30)~~](32)(a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(31)~~](33) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(32)~~](34) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(33)~~](35) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(34)~~](36) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(35)~~](37) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(36)~~](38)(a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(37)~~](39) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(38)~~](40)(a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(39)~~](41) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(39)(a)~~](41)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(40)~~](42) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(41)~~](43)(a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(42)~~](44)(a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(43)~~](45)(a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(44)~~](46) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(45)~~](47)(a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(46)~~](48) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(47)~~](49) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(48)~~](50) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(49)~~](51) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(50)~~](52) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(51)~~](53)(a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(52)~~](54) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(53)~~](55) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(54)~~](56) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(55)~~](57) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(56)~~](58) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach,

or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(57)~~](59) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(58)~~](60) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(59)~~](61) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(60)~~](62) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(61)~~](63) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(62)~~](64) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(63)~~](65)(a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(64)~~](66) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(65)~~](67)(a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(66)~~](68)(a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(67)~~](69) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(68)~~](70) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(69)~~](71)(a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(70)~~](72) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(71)~~](73) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(72)~~](74) "Stop" when required means complete cessation from movement.

[~~(73)~~](75) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(74)~~](76) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(75)~~](77) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(76)~~](78) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(77)~~](79) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(78)~~](80) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(79)~~](81) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(80)~~](82) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(81)~~](83)(a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(82)~~](84) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(83)~~](85) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(84)~~](86) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(85)~~](87) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(86)~~](88) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 6. Section 41-12a-103 is amended to read:

41-12a-103. Definitions.

As used in this chapter:

(1) "Department" means the Department of Public Safety.

(2) "Judgment" means any judgment that is final by:

(a) expiration without appeal of the time within which an appeal might have been perfected; or

(b) final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action for damages:

(i) arising out of the ownership, maintenance, or use of any motor vehicle, including damages for care and loss of services because of bodily injury to or death of any person, or because of injury to or destruction of property including the loss of use of the property; or

(ii) on a settlement agreement.

(3) "License" or "license certificate" have the same meanings as under Section 53-3-102.

(4)(a) "Motor vehicle" means every self-propelled vehicle that is designed for use upon a highway, including trailers and semitrailers designed for use with other motorized vehicles.

(b) "Motor vehicle" does not include traction engines, road rollers, farm tractors, tractor cranes, power shovels, and well drillers, and every vehicle that is propelled by electric power obtained from overhead wires but not operated upon rails.

(5) "Motorboat" means the same as that term is defined in Section 73-18c-102.

[~~(5)~~](6) "Nonresident" means every person who is not a resident of Utah.

[~~(6)~~](7) "Nonresident's operating privilege" means the privilege conferred upon a person who is not a resident of Utah by the laws of Utah pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in Utah.

[~~(7)~~](8) "Operator" means every person who is in actual physical control of a motor vehicle.

[~~(8)~~](9) "Owner" means:

(a) a person who holds legal title to a motor vehicle;

(b) a lessee in possession;

(c) a conditional vendee or lessee if a motor vehicle is the subject of a conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession in the conditional vendee or lessee; or

(d) a mortgagor if a motor vehicle is the subject of a mortgage with the mortgagor entitled to possession.

[~~(9)~~](10) "Owner's or operator's security," "owner's security," or "operator's security" means any of the following:

(a) an insurance policy or combination of policies conforming to Section 31A-22-302, which is issued by an insurer authorized to do business in Utah;

(b) an insurance policy or combination of policies issued or renewed prior to January 1, 2009 that:

(i) conformed to the minimum coverage limits of Section 31A-22-304 prior to January 1, 2009; and

(ii) conform to the current requirements other than the minimum coverage limits of policies issued in accordance with Section 31A-22-302;

(c) a surety bond issued by an insurer authorized to do a surety business in Utah in which the surety is subject to the minimum coverage limits and other requirements of policies conforming to Section 31A-22-302, which names the department as a creditor under the bond for the use of persons entitled to the proceeds of the bond;

(d) a deposit with the state treasurer of cash or securities complying with Section 41-12a-406;

(e) maintaining a certificate of self-funded coverage under Section 41-12a-407; or

(f) a policy conforming to Section 31A-22-302 issued by the Risk Management Fund created in Section 63A-4-201.

[~~(10)~~](11) "Registration" means the issuance of the certificates and registration plates issued under the laws of Utah pertaining to the registration of motor vehicles.

[~~(11)~~](12) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

Section 7. Section 41-12a-303.2 is amended to read:

41-12a-303.2. Evidence of owner's or operator's security to be carried when operating motor vehicle -- Defense -- Penalties.

(1) As used in this section:

(a) "Division" means the Motor Vehicle Division of the State Tax Commission.

(b) "Registration materials" means the evidences of motor vehicle registration, including all registration cards, license plates, temporary permits, and nonresident temporary permits.

(2)(a)(i) A person operating a motor vehicle shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motor vehicle the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person is exempt from the requirements of Subsection (2)(a)(i) if the person is operating:

(A) a government-owned or leased motor vehicle; or

(B) an employer-owned or leased motor vehicle and is driving it with the employer's permission.

(iii) A person operating a vehicle that is owned by a rental company, as defined in Section 31A-22-311, may comply with Subsection (2)(a)(i) by having in the person's immediate possession, or displaying, the rental vehicle's rental agreement, as defined in Section 31A-22-311.

(b) Evidence of owner's or operator's security includes any one of the following:

(i) a copy of the operator's valid:

(A) insurance policy;

(B) insurance policy declaration page;

(C) binder notice;

(D) renewal notice; or

(E) card issued by an insurance company as evidence of insurance;

(ii) a certificate of insurance issued under Section 41-12a-402;

(iii) a certified copy of a surety bond issued under Section 41-12a-405;

(iv) a certificate of the state treasurer issued under Section 41-12a-406;

(v) a certificate of self-funded coverage issued under Section 41-12a-407; or

(vi) information that the vehicle or driver is insured from the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(c) A card issued by an insurance company as evidence of owner's or operator's security under Subsection (2)(b)(i)(E) on or after July 1, 2014, may not display the owner's or operator's address on the card.

(d)(i) A person may provide to a peace officer evidence of owner's or operator's security described in this Subsection (2) in:

(A) a hard copy format; or

(B) an electronic format using a mobile electronic device.

(ii) If a person provides evidence of owner's or operator's security in an electronic format using a mobile electronic device under this Subsection (2)(d), the peace officer viewing the owner's or operator's security on the mobile electronic device may not view any other content on the mobile electronic device.

(iii) Notwithstanding any other provision under this section, a peace officer is not subject to civil liability or criminal penalties under this section if the peace officer inadvertently views content other than the evidence of owner's or operator's security on the mobile electronic device.

(e)(i) Evidence of owner's or operator's security from the Uninsured Motorist Identification Database Program described under Subsection (2)(b)(vi) supercedes any evidence of owner's or operator's security described under[~~-~~]:

(A) Subsection (2)(b)(i)(D) or (E)[~~-~~]; or

(B) for a motorboat, Subsection 73-18c-304(1)(b).

(ii) A peace officer may not cite or arrest a person for a violation of Subsection (2)(a) if the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program, information indicates that the vehicle or driver is insured.

(3) It is an affirmative defense to a charge or in an administrative action under this section that the person had owner's or operator's security in effect for the vehicle the person was operating at the time of the person's citation or arrest.

(4)(a) The following are considered proof of owner's or operator's security for purposes of Subsection (3) and Section 41-12a-804:

(i) evidence defined in Subsection (2)(b);

(ii) a written statement from an insurance producer or company verifying that the person had the required motor vehicle insurance coverage on the date specified; or

(iii) a written statement from an insurance producer or company, or provision in an insurance policy, indicating that the policy provides coverage for a newly purchased car and the coverage extended to the date specified.

(b) The court considering a citation issued under this section shall allow the evidence or a written statement under Subsection (4)(a) and a copy of the citation to be electronically submitted or mailed to the clerk of the court to satisfy Subsection (3).

(c) The notice under Section 41-12a-804 shall specify that the written statement under Subsection (4)(a) and a copy of the notice shall be faxed or mailed to the designated agent to satisfy the proof of owner's or operator's security required under Section 41-12a-804.

(5)(a) A person who is convicted of violating Subsection (2)(a)(i):

(i) is guilty of an infraction for a first offense and subject to a fine of not less than $400; and

(ii) is guilty of a class C misdemeanor for each offense subsequent to the first offense that is committed within three years after the day on which the person commits the first offense and subject to a fine of not less than $1,000.

(b) A court may waive up to $300 of a fine charged under Subsection (5)(a) if the person demonstrates that the owner's or operator's security required under Section 41-12a-301 was obtained after the violation but before sentencing.

(6) Upon receiving notification from a court of a conviction for a violation of this section, the department:

(a) shall suspend the person's driver license; and

(b) may not renew the person's driver license or issue a driver license to the person until the person gives the department proof of owner's or operator's security.

(i) This proof of owner's or operator's security shall be given by any of the ways required under Section 41-12a-401.

(ii) This proof of owner's or operator's security shall be maintained with the department for a three-year period.

(iii) An insurer that provides a certificate of insurance as provided under Section 41-12a-402 or 41-12a-403 may not terminate the insurance policy unless notice of termination is filed with the department no later than 10 days after termination as required under Section 41-12a-404.

(iv) If a person who has canceled the certificate of insurance applies for a license within three years from the date proof of owner's or operator's security was originally required, the department shall refuse the application unless the person reestablishes proof of owner's or operator's security and maintains the proof for the remainder of the three-year period.

Section 8. Section 41-12a-802 is amended to read:

41-12a-802. Definitions.

As used in this part:

(1) "Account" means the Uninsured Motorist Identification Restricted Account created in Section 41-12a-806.

(2) "Database" means the Uninsured Motorist Identification Database created in Section 41-12a-803.

(3) "Designated agent" means the third party the department contracts with under Section 41-12a-803.

(4) "Division" means the Driver License Division created in Section 53-3-103.

(5)(a) "Motor vehicle" has the same meaning as set forth in Section 41-1a-102.

(b) "Motor vehicle" includes a street-legal all-terrain vehicle.

(6) "Motor Vehicle Division" means the Motor Vehicle Division of the State Tax Commission created in Section 41-1a-106.

(7) "Program" means the Uninsured Motorist Identification Database Program created in Section 41-12a-803.

(8) "Street-legal all-terrain vehicle" means the same as that term is defined in Section 41-6a-102.

Section 9. Section 41-12a-803 is amended to read:

41-12a-803. Program creation -- Administration -- Selection of designated agent -- Duties -- Rulemaking -- Audits.

(1) There is created the Uninsured Motorist Identification Database Program to:

(a) establish an Uninsured Motorist Identification Database to verify compliance with[-]:

(i) motor vehicle owner's or operator's security requirements under Section 41-12a-301 and other provisions under this part; and

(ii) motorboat owner's or operator's security requirements under Section 73-18c-304 and other provisions under this part;

(b) assist in reducing the number of uninsured motor vehicles on the highways of the state and uninsured motorboats on the waters of the state;

(c) assist in increasing compliance with motor vehicle and motorboat registration and sales and use tax laws;

(d) assist in protecting a financial institution's bona fide security interest in a motor vehicle or motorboat; and

(e) assist in the identification and prevention of identity theft and other crimes.

(2) The program shall be administered by the department with the assistance of the designated agent and the Motor Vehicle Division.

(3)(a) The department shall contract in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a third party to establish and maintain an Uninsured Motorist Identification Database for the purposes established under this part.

(b) The contract may not obligate the department to pay the third party more money than is available in the account.

(4)(a) The third party under contract under this section is the department's designated agent, and shall develop and maintain a computer database from the information provided by:

(i) insurers under Section 31A-22-315;

(ii) the division under Subsection (6); and

(iii) the Motor Vehicle Division under Section 41-1a-120.

(b)(i) The database shall be developed and maintained in accordance with guidelines established by the department so that state and local law enforcement agencies and financial institutions as defined in Section 7-1-103 can efficiently access the records of the database, including reports useful for the implementation of the provisions of this part.

(ii)(A) The reports shall be in a form and contain information approved by the department.

(B) The reports may be made available through the Internet or through other electronic medium, if the department determines that sufficient security is provided to ensure compliance with Section 41-12a-805 regarding limitations on disclosure of information in the database.

(5) With information provided by the department and the Motor Vehicle Division, the designated agent shall, at least monthly for submissions under Subsection 31A-22-315(2)(b) or at least twice a month for submissions under Subsection 31A-22-315(2)(a):

(a) update the database with the motor vehicle and motorboat insurance information provided by the insurers in accordance with Section 31A-22-315; and

(b) compare all current motor vehicle and motorboat registrations against the database.

(6) The division shall provide the designated agent with the name, date of birth, address, and driver license number of all persons on the driver license database.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules and develop procedures in cooperation with the Motor Vehicle Division to use the database for the purpose of administering and enforcing this part.

(8)(a) The designated agent shall archive computer data files at least semi-annually for auditing purposes.

(b) The internal audit unit of the tax commission provided under Section 59-1-206 shall audit the program at least every three years.

(c) The audit under Subsection (8)(b) shall include verification of:

(i) billings made by the designated agent; and

(ii) the accuracy of the designated agent's matching of vehicle registration with insurance data.

(9) Upon request, the designated agent shall make available the information provided by insurers under Section 31A-22-315.5 to:

(a) state and local law enforcement agencies; and

(b) financial institutions as defined in Section 7-1-103.

Section 10. Section 41-12a-804 is amended to read:

41-12a-804. Notice -- Proof -- Revocation of registration -- False statements -- Penalties -- Exemptions -- Sales tax enforcement.

(1) If the comparison under Section 41-12a-803 shows that a motor vehicle or motorboat is not insured for three consecutive months, the Motor Vehicle Division shall direct that the designated agent provide notice to the owner of the motor vehicle or motorboat that the owner has 15 days to provide:

(a) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(2); or

(b) proof of exemption from the owner's or operator's security requirements.

(2) If an owner of a motor vehicle or motorboat fails to provide satisfactory proof of owner's or operator's security to the designated agent, the designated agent shall:

(a) provide a second notice to the owner of the motor vehicle or motorboat that the owner now has 15 days to provide:

(i) proof of owner's or operator's security in a form allowed under Subsection 41-12a-303.2(2); or

(ii) proof of exemption from the owner's or operator's security requirements;

(b) for each notice provided, indicate information relating to the owner's failure to provide proof of owner's or operator's security in the database; and

(c) provide this information to state and local law enforcement agencies as requested in accordance with the provisions under Section 41-12a-805.

(3) The Motor Vehicle Division:

(a) shall revoke the registration upon receiving notification under Subsection 41-1a-110(2);

(b) shall provide appropriate notices of the revocation, the legal consequences of operating a vehicle with revoked registration and without owner's or operator's security, and instructions on how to get the registration reinstated; and

(c) may direct the designated agent to provide the notices under this Subsection (3).

(4) Any action by the Motor Vehicle Division to revoke the registration of a motor vehicle or motorboat under this section may be in addition to an action by a law enforcement agency to impose the penalties under Section 41-12a-302 or 41-12a-303.2.

(5)(a) A person may not provide a false or fraudulent statement to the Motor Vehicle Division or designated agent.

(b) In addition to any other penalties, a person who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(6) The department and the Motor Vehicle Division shall direct the designated agent to exempt from this section a farm truck that:

(a) meets the definition of a farm truck under Section 41-1a-102; and

(b) is registered as a farm truck under Title 41, Chapter 1a, Motor Vehicle Act.

(7) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner's and operator's security requirements of this chapter.

(8) If a comparison under Section 41-12a-803 shows that a motor vehicle or motorboat may not be in compliance with motor vehicle or motorboat registration or sales and use tax laws, the Motor Vehicle Division may direct that the designated agent provide notice to the owner of a motor vehicle or motorboat that information exists which indicates the possible violation.

Section 11. Section 41-12a-805 is amended to read:

41-12a-805. Disclosure of insurance information -- Penalty.

(1) Information in the database established under Section 41-12a-803 provided by a person to the designated agent is considered to be the property of the person providing the information.

(2) The information may not be disclosed from the database under Title 63G, Chapter 2, Government Records Access and Management Act, or otherwise, except as follows:

(a) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall verify insurance information through the state computer network for a state or local government agency or court;

(b) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall, upon request, issue to any state or local government agency or court a certificate documenting the insurance information, according to the database, of a specific individual or motor vehicle or motorboat for the time period designated by the government agency;

(c) upon request, the department or its designated agent shall disclose whether or not a person is an insured individual and the insurance company name to:

(i) that individual or, if that individual is deceased, any interested person of that individual, as defined in Section 75-1-201;

(ii) the parent or legal guardian of that individual if the individual is an unemancipated minor;

(iii) the legal guardian of that individual if the individual is legally incapacitated;

(iv) a person who has power of attorney from the insured individual;

(v) a person who submits a notarized release from the insured individual dated no more than 90 days before the date the request is made; or

(vi) a person suffering loss or injury in a motor vehicle or motorboat accident in which the insured individual is involved, but only as part of an accident report as authorized in Section 41-12a-202;

(d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations by state or local law enforcement agencies related to the:

(i) registration and renewal of registration of a motor vehicle under Title 41, Chapter 1a, Motor Vehicle Act;

(ii) registration and renewal of registration of a motorboat under Title 73, Chapter 18, State Boating Act;

[~~(ii)~~](iii) purchase of a motor vehicle or motorboat under Title 59, Chapter 12, Sales and Use Tax Act; and

[~~(iii)~~](iv) owner's or operator's security requirements under Section 41-12a-301 or 73-18c-304;

(e) upon request of a peace officer acting in an official capacity under the provisions of Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement, or prosecution;

(f) for the purpose of the state auditor, the legislative auditor general, or other auditor of the state conducting audits of the program;

(g) upon request of a financial institution as defined under Section 7-1-103 for the purpose of protecting the financial institution's bona fide security interest in a motor vehicle or motorboat; and

(h) upon the request of a state or local law enforcement agency for the purpose of investigating and prosecuting identity theft and other crimes.

(3)(a) The department may allow the designated agent to prepare and deliver upon request, a report on the insurance information of a person or motor vehicle or motorboat in accordance with this section.

(b) The report may be in the form of:

(i) a certified copy that is considered admissible in any court proceeding in the same manner as the original; or

(ii) information accessible through the Internet or through other electronic medium if the department determines that sufficient security is provided to ensure compliance with this section.

(c) The department may allow the designated agent to charge a fee established by the department under Section 63J-1-504 for each:

(i) document authenticated, including each certified copy;

(ii) record accessed by the Internet or by other electronic medium; and

(iii) record provided to a financial institution under Subsection (2)(g).

(4) A person who knowingly releases or discloses information from the database for a purpose other than those authorized in this section or to a person who is not entitled to it is guilty of a third degree felony.

(5) An insurer is not liable to any person for complying with Sections 31A-22-315 and 31A-22-315.5 by providing information to the designated agent.

(6) Neither the state nor the department's designated agent is liable to any person for gathering, managing, or using the information in the database as provided in Sections 31A-22-315 and 31A-22-315.5 and this part.

Section 12. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1)(a) Unless exempted under Section 41-22-9, a person may not operate or place and an owner may not give another person permission to operate or place any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2)(a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4)(a)(i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(b) Upon each annual registration, the Motor Vehicle Division shall issue a registration decal and a registration card for each off-highway vehicle registered.

(c) The off-highway vehicle license plate:

(i) shall contain a unique five-digit number, using numbers, letters, or a combination of numbers and letters, to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1;

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible;

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

(d)(i) At all times, [~~a registration card~~]proof of registration shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(ii) An individual may show proof of registration by displaying:

(A) a digital copy or photograph of the registration card on a mobile electronic device;

(B) proof of registration on a mobile electronic device through a mobile application approved by the relevant state agency; or

(C) an original registration card issued by the Motor Vehicle Division.

(e) An off-highway vehicle that is a motorcycle or a snowmobile is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5)(a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5);

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6)(a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 13. Section 73-18-13.5 is amended to read:

73-18-13.5. Motorboat accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of registration materials.

(1) Upon request of a peace officer investigating an accident involving a motorboat as defined in Section 73-18c-102, the operator of the motorboat shall provide evidence of the owner's or operator's security required under Section 73-18c-301.

(2) The peace officer shall record on a form approved by the division:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information; and

(c) whether the peace officer finds reasonable cause to believe that any information given is not correct.

(3) The peace officer shall deposit all completed forms with the peace officer's agency, which shall forward the forms to the division no later than 10 days after receipt.

(4)(a) The division shall revoke the registration of a motorboat as defined in Section 73-18c-102 involved in an accident unless the owner or operator can demonstrate to the division compliance with the owner's or operator's security requirement of Section 73-18c-301 at the time of the accident.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

(5) A person may appeal a revocation issued under Subsection (4) in accordance with procedures established by the division, after notifying the commission, by rule that are consistent with Title 63G, Chapter 4, Administrative Procedures Act.

(6)(a) Any person whose registration is revoked under Subsection (4) shall return the registration card and decals for the motorboat to the division.

(b) If the person fails to return the registration materials as required, they shall be confiscated under Section 73-18-13.6.

(7) The division may, after notifying the commission, make rules for the enforcement of this section.

(8) In this section, "evidence of owner's or operator's security" includes any one of the following:

(a) the operator's:

(i) insurance policy;

(ii) binder notice;

(iii) renewal notice; or

(iv) card issued by an insurance company as evidence of insurance;

(b) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(c) a certificate of the state treasurer issued under Section 73-18c-305; or

(d) a certificate of self-funded coverage issued under Section 73-18c-306.

(9) A person may provide evidence of owner's or operator's security as described in Subsection (8)(a) by displaying:

(a) a digital copy or photograph of the evidence of owner's or operator's security; or

(b) evidence of owner's or operator's security through a mobile application.

Section 14. Section 73-18c-304 is amended to read:

73-18c-304. Evidence of owner's or operator's security to be carried when operating motorboat -- Defense -- Penalties.

(1)(a)(i) Except as provided in Subsection (1)(a)(ii), a person operating a motorboat shall:

(A) have in the person's immediate possession evidence of owner's or operator's security for the motorboat the person is operating; and

(B) display it upon demand of a peace officer.

(ii) A person operating a government-owned or government-leased motorboat is exempt from the requirements of Subsection (1)(a)(i).

(b) Evidence of owner's or operator's security includes any one of the following:

(i) the operator's:

(A) insurance policy;

(B) binder notice;

(C) renewal notice; or

(D) card issued by an insurance company as evidence of insurance;

(ii) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(iii) a certificate of the state treasurer issued under Section 73-18c-305; [~~or~~]

(iv) a certificate of self-funded coverage issued under Section 73-18c-306[~~.~~];

(v) a digital copy or photograph of the evidence of owner's or operator's security described in Subsections (1)(b)(i) through (iv); or

(vi) a mobile application displaying evidence of owner's or operator's security described in Subsections (1)(b)(i) through (iv).

(2) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the motorboat the person was operating at the time of the person's citation or arrest.

(3)(a) A letter from an insurance producer or company verifying that the person had the required liability insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (2).

(b) The court considering a citation issued under this section shall allow the letter under Subsection (3)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (2).

(4) A violation of this section is a class C misdemeanor.

(5) If a person is convicted of a violation of this section and if the person is the owner of a motorboat, the court shall:

(a) require the person to surrender the person's registration materials to the court; and

(b) forward the registration materials, together with a copy of the conviction, to the division.

(6)(a) Upon receiving notification from a court of a conviction for a violation of this section, the division shall revoke the person's motorboat registration.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

Section 15. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 237
H. B. 200
Passed February 15, 2024
Approved March 14, 2024
Effective May 1, 2024

ORDER FOR LIFE SUSTAINING TREATMENT AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to orders for life sustaining treatment.

Highlighted Provisions:

This bill:

- modifies professional conduct standards for physicians, advance practice registered nurses, and physician assistants related to do not resuscitate orders; and
- makes technical and conforming changes related to orders for life sustaining treatment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-502, as last amended by Laws of Utah 2023, Chapters 223, 301 and 329
58-67-502, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329
58-68-502, as last amended by Laws of Utah 2023, Chapters 2, 301, 317, and 329
58-70a-503, as last amended by Laws of Utah 2023, Chapter 329
75-2a-103, as last amended by Laws of Utah 2023, Chapters 139, 330
75-2a-106, as last amended by Laws of Utah 2023, Chapter 330

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

Section 1. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d)(i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) violating Section 58-31b-801;

(o) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(p) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the person licensed or certified under the provisions of this chapter is found guilty of a crime in connection with the violation;

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (n) or Subsection 58-1-501(1); [~~or~~]

(r) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis[~~.~~]; or

(s) for an advance practice registered nurse, designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 2. Section 58-67-502 is amended to read:

58-67-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1)[~~.~~]; [~~or~~]

(g) performing, or causing to be performed, upon an individual who is less than 18 years old:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure[~~.~~]; or

(h) designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy[~~.~~].

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 3. Section 58-68-502 is amended to read:

58-68-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5;

(d) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis;

(e) performing or inducing an abortion in violation of the requirements of Section 76-7-302 or Section 76-7a-201, regardless of whether the individual licensed under this chapter is found guilty of a crime in connection with the violation;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1); [~~or~~]

(g) performing or causing to be performed, upon an individual who is less than 18 years old[~~;~~]:

(i) a primary sex characteristic surgical procedure; or

(ii) a secondary sex characteristic surgical procedure[~~.~~]; or

(h) designating a child as do not resuscitate without parental consent.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis:

(i) when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis; or

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26B-4-201, providing pharmacy medical provider services in a medical cannabis pharmacy.

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician described in Subsection (2)(b).

Section 4. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1); [~~and~~]

(g) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis[~~.~~]; or

(h) designating a child as do not resuscitate without parental consent.

(2)(a) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 5. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include [~~a POLST order~~]an order for life sustaining treatment.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner; and

[~~(c) acting under a consultation and referral plan with a physician; and~~]

[~~(d)~~](c) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the [~~person~~]individual resulting from a treatment outweigh the burdens to the [~~person~~]individual resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the [~~person~~]individual;

(b) the degree of physical pain or discomfort caused to the [~~person~~]individual by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the [~~person~~]individual's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the [~~person~~]individual by subjecting the [~~person~~]individual to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the [~~person~~]individual;

(e) the prognosis of the [~~person~~]individual for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the [~~person~~]individual receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular [~~person~~]individual as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the individual.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

(16)(a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(17) "Order for life sustaining treatment" means an order related to life sustaining treatment, on a form designated by the Department of Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(17)~~](18) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

[~~(18)~~](19) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(19)~~](20) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(20) "POLST order" means an order, on a form designated by the Department of Health and Human Services under Section 75-2a-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.~~]

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

Section 6. Section 75-2a-106 is amended to read:

75-2a-106. Emergency medical services -- Order for life sustaining treatment.

(1) [~~A POLST order~~]An order for life sustaining treatment may be created by or on behalf of [~~a person~~]an individual as described in this section.

(2) [~~A POLST order~~]An order for life sustaining treatment shall, in consultation with the [~~person~~]individual authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or[~~, subject to Subsection (11),~~] physician assistant of the [~~person~~]individual to whom the [~~POLST order~~]order for life sustaining treatment relates; or

(b) a health care provider who:

(i) is acting under the supervision of [~~a person~~]an individual described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) [~~A POLST order~~]An order for life sustaining treatment shall be signed:

(a) personally, by the physician, APRN, or[~~, subject to Subsection (11),~~] physician assistant of the [~~person~~]individual to whom the [~~POLST order~~]order for life sustaining treatment relates; and

(b)(i) if the [~~person~~]individual to whom the [~~POLST order~~]order for life sustaining treatment relates is an adult with health care decision making capacity, by:

(A) the [~~person~~]individual; or

(B) an adult who is directed by the [~~person~~]individual to sign the [~~POLST order~~]order for life sustaining treatment on behalf of the [~~person~~]individual;

(ii) if the [~~person~~]individual to whom the [~~POLST order~~]order for life sustaining treatment relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section 75-2a-111;

(B) the majority of the class of surrogates with the highest priority under Section 75-2a-111; or

(C) [~~a person~~]an individual directed to sign the [~~POLST order~~]order for life sustaining treatment by, and on behalf of, the [~~persons~~]individuals described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the [~~person~~]individual to whom the [~~POLST order~~]order for life sustaining treatment relates is a minor, by a parent or guardian of the minor.

(4) If [~~a POLST order~~]an order for life sustaining treatment relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) [~~A POLST order~~]An order for life sustaining treatment:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the [~~POLST order~~]order for life sustaining treatment was made;

(c) may specify the level of life sustaining care to be provided to the [~~person~~]individual to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the [~~person~~]individual to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with [~~a POLST order~~]an order for life sustaining treatment in good faith; or

(b) providing life sustaining treatment to [~~a person~~]an individual when [~~a POLST order~~]an order for life sustaining treatment directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of [~~a POLST order~~]an order for life sustaining treatment described in this section conflict with the provisions of an advance health care directive made under Section 75-2a-107, the provisions of the [~~POLST order~~]order for life sustaining treatment take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke [~~a POLST order~~]an order for life sustaining treatment by:

(a) orally informing emergency service personnel;

(b) writing "void" across the [~~POLST order~~]order for life sustaining treatment form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the [~~POLST order~~]order for life sustaining treatment form; or

(ii) a bracelet or other evidence of the [~~POLST order~~]order for life sustaining treatment;

(d) asking another adult to take the action described in this Subsection (8) on the [~~person~~]individual's behalf;

(e) signing or directing another adult to sign a written revocation on the [~~person~~]individual's behalf;

(f) stating, in the presence of an adult witness, that the [~~person~~]individual wishes to revoke the order; or

(g) completing a new [~~POLST order~~]order for life sustaining treatment.

(9)(a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke [~~a POLST order~~]an order for life sustaining treatment if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign [~~a POLST order~~]an order for life sustaining treatment may revoke [~~a POLST order~~]an order for life sustaining treatment, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the [~~POLST order~~]order for life sustaining treatment; or

(ii) completing and signing a new [~~POLST order~~]order for life sustaining treatment.

(c) A surrogate may not revoke [~~a POLST order~~]an order for life sustaining treatment during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10)(a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section 75-2a-117.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare [~~a POLST order~~]an order for life sustaining treatment.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

[~~(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement, as defined in Section 58-70a-102.~~]

[~~(12)~~](11)(a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the [~~POLST order~~]order for life sustaining treatment; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the [~~POLST order~~]order for life sustaining treatment in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the [~~POLST order~~]order for life sustaining treatment attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection [~~(12)(a)(ii)(B)~~](11)(a)(ii)(B):

(i) may not be the same individual who signs the [~~POLST order~~]order for life sustaining treatment under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 238
H. B. 389
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

MEDICAL CANNABIS PHARMACY MODIFICATIONS

Chief Sponsor: Walt Brooks
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis pharmacies.

Highlighted Provisions:

This bill:

- defines terms;
- creates a pharmacy ownership limit;
- clarifies that the pharmacist-in-charge of a medical cannabis pharmacy determines which products are stocked at the medical cannabis pharmacy;
- authorizes the use of a closed-door medical cannabis pharmacy;
- limits the amount of closed-door medical cannabis pharmacies in certain areas; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327
4-41a-406, as last amended by Laws of Utah 2023, Chapter 327
4-41a-1001, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
10-9a-528, as last amended by Laws of Utah 2023, Chapters 273, 327 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
17-27a-525, as last amended by Laws of Utah 2023, Chapters 273, 327 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
26B-1-435, as enacted by Laws of Utah 2023, Chapter 273
26B-4-219, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-4-231, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

ENACTS:

4-41a-1206, Utah Code Annotated 1953

REPEALS:

26B-1-435.1, as enacted by Laws of Utah 2023, Chapter 273

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

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(3)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(4) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(5) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(6) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

(7) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(8) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(9) "Cannabis cultivation facility agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

(10) "Cannabis derivative product" means a product made using cannabis concentrate.

(11) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(12) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(13) "Cannabis processing facility agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(14) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

(15) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(16) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(17) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(18) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

[~~(18)~~](19) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(19)~~](20) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(20)~~](21) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(21)~~](22) "Department" means the Department of Agriculture and Food.

[~~(22)~~](23) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[~~(23)~~](24) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(24)~~](25)(a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(25)~~](26) "Independent cannabis testing laboratory agent" means an individual who[~~:~~] holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(26)~~](27) "Inventory control system" means a system described in Section 4-41a-103.

[~~(27)~~](28) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(28)~~](29) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(29)~~](30) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

[~~(30)~~](31) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(31)~~](32) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(32)~~](33) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

[~~(33)~~](34) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

[~~(34)~~](35) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(35)~~](36) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(36)~~](37) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(37)~~](38) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

[~~(38)~~](39) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(40) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

[~~(39)~~](41) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(40)~~](42) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(41)~~](43) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(42)~~](44) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(43)~~](45) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(44)~~](46) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(45)~~](47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(46)~~](48) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(47)~~](49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(48)~~](50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-406 is amended to read:

4-41a-406. Local control.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(b)~~](c) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(c)~~](d) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(2)(a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a

cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

(a) on the sole basis that the applicant, or cannabis production establishment violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility;

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-501; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 3. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not[-]:

(a) operate as a medical cannabis pharmacy without a license that the department issues under this part[-];

(b) obtain a medical cannabis pharmacy license if obtaining the license would cause the person to exceed the pharmacy ownership limit;

(c) obtain a partial ownership share of a medical cannabis pharmacy if obtaining the partial ownership share would cause the person to exceed the pharmacy ownership limit; or

(d) enter into any contract or agreement that allows the person to directly or indirectly control the operations of a medical cannabis pharmacy if the person's control of the medical cannabis pharmacy would cause the person to effectively exceed the pharmacy ownership limit.

(2)(a)(i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c)(i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5)(a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6)(a) The department may revoke a license under this part:

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution;

(iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7)(a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10)(a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11)(a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 4. Section 4-41a-1206 is enacted to read:

4-41a-1206. Closed-door medical cannabis pharmacy.

(1)(a) Subject to Subsections (1)(b) and (c), a home delivery medical cannabis pharmacy may open a single closed-door medical cannabis pharmacy.

(b) A home delivery medical cannabis pharmacy may not open a closed-door medical cannabis pharmacy unless the home delivery medical cannabis pharmacy:

(i) has an operating plan that includes a closed-door medical cannabis pharmacy; and

(ii) obtains a license issued by the department for a closed-door medical cannabis pharmacy.

(c) An entity that owns multiple home delivery medical cannabis pharmacies may open only one closed-door medical cannabis pharmacy.

(d) The department may institute a fee in accordance with Section 63J-1-504 to administer this section.

(2) A home delivery medical cannabis pharmacy that opens a closed-door medical cannabis pharmacy under Subsection (1) shall ensure:

(a) that a pharmacy medical provider who is a licensed pharmacist:

(i) is directly supervising the packaging of an order; and

(ii) is present in the closed-door medical cannabis pharmacy when an order is packaged for delivery; and

(b) all record keeping requirements, labeling requirements, and patient counseling requirements described in this chapter and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, are satisfied before sending out an order.

(3) An individual who prepares an order at a closed-door medical cannabis pharmacy under this section shall be registered as:

(a) a pharmacy medical provider; or

(b) a medical cannabis pharmacy agent.

(4)(a) A closed-door medical cannabis pharmacy shall operate:

(i) except as provided in Subsection (4)(b), in a facility that is accessible only by an individual who is a pharmacy medical provider or a medical cannabis pharmacy agent; and

(ii) at a physical address in accordance with Subsection (6).

(b) A closed-door medical cannabis pharmacy may authorize an individual who is at least 18 years old and is not a pharmacy medical provider or a cannabis pharmacy agent to access the closed-door medical cannabis pharmacy if the closed-door medical cannabis pharmacy:

(i) tracks and monitors the individual at all times while the individual is at the closed-door medical cannabis pharmacy; and

(ii) maintains a record of the individual's access, including arrival and departure.

(c) A closed-door medical cannabis pharmacy shall operate in a facility that has:

(i) a single, secure public entrance; and

(ii) a security system with a backup power source that:

(A) detects and records entry into the closed-door medical cannabis pharmacy;

(B) provides notice of an unauthorized entry to law enforcement when the closed-door medical cannabis pharmacy is closed; and

(C) a lock or equivalent restrictive security feature on any area where the closed-door medical cannabis pharmacy stores a cannabis product.

(d) A closed-door medical cannabis pharmacy shall ensure that any cannabis or cannabis products in the closed-door medical cannabis pharmacy that are intended for home delivery are separated in a manner that is readily distinguishable from any other cannabis or cannabis product in the facility.

(5) A closed-door medical cannabis pharmacy may only provide cannabis or a cannabis product to an individual through a delivery that complies with this part.

(6)(a) A person may not locate a closed-door medical cannabis pharmacy:

(i) within 1,000 feet of a community location; or

(ii) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(b) The proximity requirements described in Subsection (6)(a) shall be measured from the nearest entrance to the closed-door medical cannabis pharmacy by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(c) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (6)(a) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed closed-door medical cannabis pharmacy without the waiver.

(d) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (6)(a).

(7) When determining where a closed-door medical cannabis pharmacy may open, the licensing board:

(a) shall utilize geographic regions created by the department through rule;

(b) shall prioritize allowing entities that do not have a medical cannabis pharmacy in a region to open a closed-door medical cannabis pharmacy in the region;

(c) of the total amount of closed-door medical cannabis pharmacies, may allow only three closed-door medical cannabis pharmacies to operate in counties of the first and second class as described in Section 17-50-501; and

(d) for determining the three closed-door medical cannabis pharmacies described in Subsection (7)(c), consider the following:

(i) the history of compliance with state law and rules for all licenses issued under this chapter;

(ii) the medical cannabis pharmacy's willingness to offer a variety of brands and products;

(iii) the ability of the operating plan to ensure the safety and security of the community;

(iv) the suitability of the proposed location and the location's ability to serve the local community; and

(v) any other relevant information determined through rule.

(8) A closed-door medical cannabis pharmacy may not account for more than:

(a) for an entity that holds a single medical cannabis pharmacy license, the greater of:

(i) 35% of the medical cannabis pharmacy's total revenue; or

(ii) $2,000,000 in total revenue; or

(b) for an entity that holds more than one medical cannabis pharmacy license, the greater of:

(i) 35% of the total revenue of the entity's medical cannabis pharmacy that generates the most revenue; or

(ii) $2,000,000 in total revenue.

(9) Notwithstanding any other provision of this section, the department may issue only three closed-door medical cannabis pharmacy licenses before July 1, 2027.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

Section 5. Section 10-9a-528 is amended to read:

10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

[~~(b)~~](c) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

[~~(c)~~](d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(2)(a)(i) A municipality may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

(3)(a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~4-41a-110~~]4-41a-1105.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 6. Section 17-27a-525 is amended to read:

17-27a-525. Cannabis production establishments and medical cannabis pharmacies.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

[~~(b)~~](c) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

[~~(c)~~](d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(2)(a)(i) A county may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

(3)(a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section [~~4-41a-110~~]4-41a-1105.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 17-27a-509.5(2).

Section 7. Section 26B-1-435 is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2)(a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a qualified medical provider who has recommended medical cannabis to at least 100 patients [~~who have a medical cannabis patient card at the time of appointment~~]before being appointed;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3)(a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4)(a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5)(a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) [~~The~~]For a term lasting one year, the advisory board shall annually designate [~~one of the advisory board's members~~]members of the advisory board to serve as chair [~~for a one-year period.~~]and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

(8) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes;

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(9) The advisory board shall:

(a) review any draft rule that is authorized under this chapter or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 8. Section 26B-4-219 is amended to read:

26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

(1)(a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) The pharmacist-in-charge shall determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.

[~~(b)~~](c) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2)(a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on

behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider as a pharmacy medical provider.

(3)(a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of [~~a~~] medical cannabis [~~product~~] based on the qualifying condition underlying a medical cannabis recommendation.

(4)(a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5)(a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6)(a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section 9. Section 26B-4-231 is amended to read:

26B-4-231. Partial filling -- Pharmacy medical provider directions of use.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing guidelines.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing guidelines, subject to the dosing limits in Subsection 4-41a-1102(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing guidelines for the partial fill under Subsection 4-41a-1102(5) or (6); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

(5) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (5)(a); and

(ii) [~~unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (6),~~]after completing the review described in Subsection (5)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

Section 10. Repealer.

This bill repeals:

Section 26B-1-435.1, Medical Cannabis Policy Advisory Board duties.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 239
S. B. 181
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

NATIVE AMERICAN HEALTH AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill requires the Department of Health and Human Services (department) to apply for a Medicaid waiver related to traditional healing services.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the department to apply for a Medicaid waiver to reimburse traditional healing services under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26B-3-230, Utah Code Annotated 1953

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

Section 1. Section 26B-3-230 is enacted to read:

26B-3-230. Traditional healing services waiver.

(1) As used in this section:

(a) "Eligible facility" means any of the following:

(i) an Indian Health Service facility;

(ii) a tribal health program designated under the Indian Self-Determination and Education Assistance Act, Pub. L. No. 93-638;

(iii) an urban Indian organization as that term is defined in 25 U.S.C. Sec. 1603; or

(iv) a facility operated by a person that contracts with an organization described in Subsection (1)(a)(iii).

(b) "Traditional healing provider" means an individual who provides traditional healing services in a manner that is recognized by an American Indian or Alaskan Native tribe as being consistent with the tribe's traditional healing practices.

(c) "Traditional healing services" means a system of culturally appropriate healing methods for physical, mental, and emotional healing.

(2) On or before January 1, 2025, the department shall apply for a Medicaid waiver to reimburse for traditional healing services provided by a traditional healing provider in an eligible facility to an enrollee who is a member of an American Indian or Alaskan Native tribe.

(3) A service under this section may not be reimbursed if:

(a) the traditional healing provider is restricted from providing the service;

(b) the service is contraindicated by a medical provider due to the potential to cause harm; or

(c) the service is not part of the patient's plan of care.

(4) The department may further define and limit services described in this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 240
S. B. 46
Passed February 9, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH AND HUMAN SERVICES AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill clarifies and amends provisions affecting the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- makes technical and corresponding amendments;
- clarifies provisions that the Department of Health and Human Services has identified as not applicable or incongruous after the 2023 recodification pertaining to health and human services;
- creates the Division of Health Access within the Department of Health and Human Services;
- removes the authority of the chair of the Utah Substance Use and Mental Health Advisory Council to establish the goals and budget for an application for a federal grant, in a situation where the six-member committee comprised of individuals from the Department of Health and Human Services and local health departments is unable to agree by two-thirds majority on the goals and budget for a reviewable application for a federal grant;
- modifies the prescribed procedures for the Department of Health and Family Services' review of an individual's appeal of the Compassionate Use Board's denial of the individual's application for a medical cannabis card;
- creates the Office of Licensing within the Division of Licensing and Background Checks;
- creates the Office of Background Processing within the Division of Licensing and Background Checks;
- removes education, experience, and knowledge requirements to serve as the director of the Division of Licensing and Background Checks;
- modifies the definition of "applicant" for individuals seeking approval to have direct access to children or vulnerable adults;
- modifies the terms of background checks and ongoing fingerprint monitoring to which an applicant must consent in connection with applying to the Office of Background Processing for direct access to children or vulnerable adults;
- requires the Office of Background Processing to search the Sex and Kidnap Offender Registry as part of its duties in performing a background check;
- prescribes other procedures for the Office of Background Processing to follow in performing a background check;
- modifies the parameters under which an applicant with a criminal history, or an applicant who is listed on a child abuse and neglect registry of any state, is screened by the Office of Background Processing or may qualify for direct access to children and vulnerable adults;
- modifies the numerical limit of foster children who may reside in a home, and establishes when those limits may be exceeded;
- reduces from two years to 180 days the length of time a certification for direct patient access is valid before renewal is required;
- modifies the definition of "rural county" to mean counties of the third through sixth classes (i.e. classes with populations less than 175,000) and no longer to mean counties with populations less than 50,000;
- modifies the definition of "rural hospital" as a result of modifying the definition of "rural county";
- removes the requirement that the executive director of the Department of Health and Human Services consider the advice of the chairman of the Department of Pathology at the University of Utah and the dean of the law school at the University of Utah;
- requires that a county executive obtain the approval of the state's chief medical examiner before appointing a county medical examiner;
- clarifies which records of a medical examiner are subject to production by the medical examiner, when a portion of the medical examiner's record relates to an issue of public health or safety;
- permits a medical examiner, prior to taking required steps pertaining to identification of an unidentified body, to release the unidentified body to the county in which the body was found;
- removes the requirement that a county or funeral director adopt the identification number the medical examiner assigned to an unidentified body;
- removes the requirement that a county inform the medical examiner of certain information pertaining to the county's disposition of an unidentified body;
- removes the requirement that a medical examiner maintain a file for unidentified bodies;
- expands the scope of individuals from whom a psychological autopsy examiner may gather information regarding a decedent's death; and
- expands the scope of information a psychological autopsy examiner may gather regarding a decedent's death.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327
4-41a-1001, as last amended by Laws of Utah 2023,

Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

4-41a-1102, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

4-41a-1202, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

17-43-203, as last amended by Laws of Utah 2004, Chapter 80

17-43-301, as last amended by Laws of Utah 2023, Chapters 15, 327

26A-1-112, as last amended by Laws of Utah 2011, Chapter 297

26A-1-113, as last amended by Laws of Utah 2022, Chapter 415

26A-1-120, as last amended by Laws of Utah 2002, Chapter 249

26B-1-202, as last amended by Laws of Utah 2023, Chapter 302

26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305

26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305 and 310

26B-1-207, as last amended by Laws of Utah 2023, Chapter 272

26B-1-237, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-324, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-414, as last amended by Laws of Utah 2023, Chapter 249 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-421, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-1-422.1, as enacted by Laws of Utah 2023, Chapter 269 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305

26B-1-435, as enacted by Laws of Utah 2023, Chapter 273

26B-1-435.1, as enacted by Laws of Utah 2023, Chapter 273

26B-1-502, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-101, as last amended by Laws of Utah 2023, Chapter 305

26B-2-103, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-104, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-120, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-122, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-128, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-201, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-202, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-204, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-238, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-239, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-240, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-241, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-241, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 305

26B-3-114, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-212, as last amended by Laws of Utah 2023, Chapter 316 and renumbered and amended by Laws of Utah 2023, Chapter 306

26B-4-118, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-136, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-152, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-154, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-201, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-202, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-4-213, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-4-214, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-222, as last amended by Laws of Utah 2023, Chapters 273, 281 and renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-245, as enacted by Laws of Utah 2023,

Chapter 273
26B-4-701, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-5-101, as last amended by Laws of Utah 2023, Chapter 308
26B-5-403, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-401, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-213, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-215, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-201, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-202, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-203, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-205, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-207, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-210, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-217, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-221, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-223, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-225, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-227, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-229, as renumbered and amended by Laws of Utah 2023, Chapter 306
34A-6-107, as renumbered and amended by Laws of Utah 1997, Chapter 375
53-2a-802, as last amended by Laws of Utah 2022, Chapter 447
53-2d-404, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-503, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-2d-703, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-10-404, as last amended by Laws of Utah 2021, Chapter 262
53-10-407, as last amended by Laws of Utah 2021, Chapter 262
53E-10-301, as last amended by Laws of Utah 2021, Chapter 379
53G-8-211, as last amended by Laws of Utah 2023, Chapter 161
53G-8-213, as enacted by Laws of Utah 2023, Chapter 161
53G-10-406, as last amended by Laws of Utah 2022, Chapter 447
58-17b-309.7, as last amended by Laws of Utah 2023, Chapter 328
58-17b-620, as last amended by Laws of Utah 2023, Chapter 328
63B-3-102, as last amended by Laws of Utah 2014, Chapter 196
63B-3-301, as last amended by Laws of Utah 2023, Chapter 369
63B-4-102, as last amended by Laws of Utah 2014, Chapter 196
63B-11-702, as last amended by Laws of Utah 2003, Chapter 171
63M-7-208, as last amended by Laws of Utah 2023, Chapter 161
63M-7-401, as last amended by Laws of Utah 2021, Chapter 173
63M-7-601, as last amended by Laws of Utah 2023, Chapter 150
63M-7-702, as last amended by Laws of Utah 2023, Chapter 150
63M-7-802, as enacted by Laws of Utah 2023, Chapter 155
67-5b-101, as last amended by Laws of Utah 2016, Chapter 290
76-3-401.5, as enacted by Laws of Utah 2021, Chapter 37 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
76-5-101, as last amended by Laws of Utah 2022, Chapter 181
76-5-413, as last amended by Laws of Utah 2022, Chapters 181, 255
76-8-311.5, as renumbered and amended by Laws of Utah 2021, Chapter 261
77-16b-102, as last amended by Laws of Utah 2021, Chapter 262
77-38-3, as last amended by Laws of Utah 2023, Chapter 426
77-41-102, as last amended by Laws of Utah 2023, Chapter 123
77-41-102, as last amended by Laws of Utah 2023, Chapters 123, 128
78A-6-212, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-7-804, as last amended by Laws of Utah 2023, Chapters 237, 426
78B-7-805, as last amended by Laws of Utah 2021, Chapter 159 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 159
78B-24-307, as last amended by Laws of Utah 2023, Chapter 330
78B-24-308, as last amended by Laws of Utah 2023, Chapter 330
80-2-301, as last amended by Laws of Utah 2023, Chapter 280
80-2-703, as renumbered and amended by Laws of Utah 2022, Chapter 334
80-2-1001, as last amended by Laws of Utah 2023, Chapters 309, 330
80-2-1002, as last amended by Laws of Utah 2023, Chapter 330
80-3-409, as last amended by Laws of Utah 2023, Chapters 309, 320
80-5-102, as last amended by Laws of Utah 2022, Chapter 255
80-5-103, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-401, as last amended by Laws of Utah 2023, Chapter 93
80-6-102, as last amended by Laws of Utah 2022, Chapter 155

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

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advertise" or "advertising" means information provided by a person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

[~~(2)~~](3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

[~~(3)~~](4)(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

[~~(4)~~](5) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

[~~(5)~~](6) "Cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(6)~~](7) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

[~~(7)~~](8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

[~~(8)~~](9) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

[~~(9)~~](10) "Cannabis cultivation facility agent" means an individual who: holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

[~~(10)~~](11) "Cannabis derivative product" means a product made using cannabis concentrate.

[~~(11)~~](12) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

[~~(12)~~](13) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

[~~(13)~~](14) "Cannabis processing facility agent" means an individual who:

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

[~~(14)~~](15) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

[~~(15)~~](16) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

[~~(16)~~](17) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

[~~(17)~~](18) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[~~(18)~~](19) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(19)~~](20) "Cultivation space" means, quantified in square feet, the horizontal area in which a

cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(20)~~](21) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(21)~~](22) "Department" means the Department of Agriculture and Food.

[~~(22)~~](23) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[~~(23)~~](24) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(24)~~](25)(a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(25)~~](26) "Independent cannabis testing laboratory agent" means an individual who: holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(26)~~](27) "Inventory control system" means a system described in Section 4-41a-103.

[~~(27)~~](28) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(28)~~](29) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(29)~~](30) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

[~~(30)~~](31) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(31)~~](32) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(32)~~](33) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

[~~(33)~~](34) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

[~~(34)~~](35) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(35)~~](36) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(36)~~](37) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(37)~~](38) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

[~~(38)~~](39) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

[~~(39)~~](40) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(40)~~](41) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(41)~~](42) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(42)~~](43) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(43)~~](44) " Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

[~~(44)~~](45) "State electronic verification system" means the system described in Section 26B-4-202.

(46) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:

(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;

(b) an in-person marketing event that is:

(i) held inside a medical cannabis pharmacy; and

(ii) in an area where only a medical cannabis cardholder may access the event; or

(c) other marketing material that is physically available or digitally displayed in:

(i) a medical cannabis pharmacy; and

(ii) an area where only a medical cannabis cardholder has access.

[~~(45)~~](47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(46)~~](48) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(47)~~](49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(48)~~](50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section 4-41a-1001 is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2)(a)(i) Subject to Subsections (4) and (5) and to Section 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 10% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this part and with a relevant municipal or county law that is consistent with Section 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c)(i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to [~~site~~]cite the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5)(a) If an applicant for a medical cannabis pharmacy license under this section holds another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

(i) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(ii) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6)[~~(a)~~] The department may revoke a license under this part:

[~~(i)~~](a) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the department's intent to award a license to the medical cannabis pharmacy;

[~~(ii)~~](b) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

[~~(iii)~~](c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

[~~(A)~~](i) a felony; or

[~~(B)~~](ii) after December 3, 2018, a misdemeanor for drug distribution;

[~~(iv)~~](d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action;

[~~(v)~~](e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

[~~(vi)~~](f) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

[~~(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.~~]

(7)(a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Production Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10)(a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11)(a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 3. Section 4-41a-1102 is amended to read:

4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1)(a) A medical cannabis pharmacy may not sell a product other than:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i)(A) a medical cannabis card; or

(B) a Department of Health and Human Services registration described in Subsection 26B-4-213(10); and

(ii) a corresponding government issued photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device or medical cannabis product to an individual described in Subsection 26B-4-213(2)(a)(i)(B) or to a minor described in Subsection 26B-4-213(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26B-1-421(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) any medical cannabis to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26B-4-231(5)[~~ any medical cannabis~~].

(3)(a) A medical cannabis pharmacy shall:

(i)(A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (3)(a)(i) indicates that the individual has met the maximum

amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26B-4-201;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public;

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption; and

(vi) beginning January 1, 2024, for a cannabis product that is cannabis flower, vaporizer cartridges, or concentrate, provide the product's terpene profiles collected under Subsection 4-41a-602(4) at or before the point of sale.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(4)(a) Except as provided in Subsection (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(5)(a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this chapter or Title 26B, Utah Health and Human Services Code.

Section 4. Section 4-41a-1202 is amended to read:

4-41a-1202. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3)(a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 10% or greater in the proposed medical cannabis courier; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(i).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(i):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;

(c) an individual described in Subsection (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Production Enterprise Fund.

[~~(8) The department shall begin accepting applications under this section on or before July 1, 2020.~~]

[~~(9)~~](8) The department's authority to issue a license under this section is plenary and is not subject to review.

[~~(10)~~](9) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 10% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

[~~(11)~~](10) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection [~~(10)~~](9) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection [~~(10)~~](9) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

[~~(12)~~](11) The department shall:

(a) assess an individual who submits fingerprints under Subsection [~~(10)~~](9) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection [~~(12)(a)~~](11)(a) to the Bureau of Criminal Identification.

[~~(13)~~](12) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

[~~(14)~~](13) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

[~~(15)~~](14)(a) A medical cannabis courier license is not [~~transferrable~~]transferable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection [~~(15)(b)~~](14)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

[~~(16)~~](15)(a) Except as provided in Subsection [~~(16)(b)~~](15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection [~~(15)(a)~~](14)(a) and subject to Section 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 5. Section 17-43-203 is amended to read:

17-43-203. Definition of "public funds" -- Responsibility for oversight of public funds -- Substance abuse programs and services.

(1) As used in this section, "public funds":

(a) means:

(i) federal money received from the [~~department or the Department of Health~~]Department of Health and Human Services; and

(ii) state money appropriated by the Legislature to the [~~department, the Department of Health~~]Department of Health and Human Services, a county governing body, or a local substance abuse authority for the purposes of providing substance abuse programs or services; and

(b) includes that federal and state money:

(i) even after the money has been transferred by a local substance abuse authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for the local substance abuse authority; and

(ii) while in the possession of the private provider.

(2) Each local substance abuse authority is responsible for oversight of all public funds received by it, to determine that those public funds are utilized in accordance with federal and state law, the rules and policies of the [~~department and the Department of Health~~]Department of Health and Human Services, and the provisions of any contract between the local substance abuse authority and the [~~department, the Department of Health,~~]Department of Health and Human Services or a private provider. That oversight includes requiring that neither the contract provider, as described in Subsection (1), nor any of its employees:

(a) violate any applicable federal or state criminal law;

(b) knowingly violate any applicable rule or policy of the [~~department or Department of Health~~]Department of Health and Human Services, or knowingly violate any provision of contract between the local substance abuse authority and the [~~department, the Department of Health,~~]Department of Health and Human Services or the private provider;

(c) knowingly keep any false account or make any false entry or erasure in any account of or relating to the public funds;

(d) fraudulently alter, falsify, conceal, destroy, or obliterate any account of or relating to public funds;

(e) fail to ensure competent oversight for lawful disbursement of public funds;

(f) appropriate public funds for an unlawful use or for a use that is not in compliance with contract provisions; or

(g) knowingly or intentionally use public funds unlawfully or in violation of a governmental contract provision, or in violation of state policy.

(3) Each local substance abuse authority that knows or reasonably should know of any of the circumstances described in Subsection (2), and that fails or refuses to take timely corrective action in good faith shall, in addition to any other penalties provided by law, be required to make full and complete repayment to the state of all public funds improperly used or expended.

(4) Any public funds required to be repaid to the state by a local substance abuse authority under Subsection (3), based upon the actions or failure of the contract provider, may be recovered by the local substance abuse authority from its contract provider, in addition to the local substance abuse authority's costs and attorney's fees.

Section 6. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2)(a)(i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section [~~26B-1-102~~]26B-5-101, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3)(a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i)(A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii)(A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5)(a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6)(a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7)(a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services

provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii)(A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 26B-5-350, to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment.

Section 7. Section 26A-1-112 is amended to read:

26A-1-112. Appointment of personnel.

(1) All local health department personnel shall be hired by the local health officer or the local health officer's designee in accordance with the merit system, personnel policies, and compensation plans approved by the board and ratified pursuant to Subsection (2). The personnel shall have qualifications for their positions equivalent to those approved for comparable positions in the Departments of [~~Health~~]Health and Human Services and Environmental Quality.

(2) The merit system, personnel policies, and compensation plans approved under Subsection (1) shall be ratified by all the counties participating in the local health department.

(3) Subject to the local merit system, employees of the local health department may be removed by the local health officer for cause. A hearing shall be granted if requested by the employee.

Section 8. Section 26A-1-113 is amended to read:

26A-1-113. Right of entry to regulated premises by representatives for inspection.

(1) Upon presenting proper identification, authorized representatives of local health departments may enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances as adopted by the Departments of [~~Health~~]Health and Human Services and Environmental Quality, local boards of health, county or municipal governing bodies, or administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act.

(2) Section 58-56-9 does not apply to health inspectors acting under this section.

(3) This section does not authorize local health departments to inspect private dwellings.

Section 9. Section 26A-1-120 is amended to read:

26A-1-120. County attorney or district attorney to represent and advise department, board, officers, and employees.

(1) Except as otherwise provided in this section, the county attorney of the county in which the headquarters of the local health department is located shall serve as legal advisor to the local health department in all civil matters involving the local health department.

(2) The county attorney of the county where a civil claim arises shall bring any action requested by a local health department to abate a condition that exists in violation of, or to restrain or enjoin any action which is in violation of the public health laws and rules of the Departments of [~~Health~~]Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws, ordinances, and rules pertaining to health and sanitary matters.

(3)(a) The district attorney or county attorney having criminal jurisdiction shall prosecute criminal violations of the public health laws and rules of the Departments of [~~Health~~]Health and Human Services and Environmental Quality, the standards, regulations, orders, and notices, of a local health department, and other laws and rules pertaining to health and sanitary matters.

(b) Violations of local ordinances relating to public health matters shall be prosecuted by the prosecuting attorney of the jurisdiction enacting the ordinance.

(4) The county attorney of a county where an action arises shall, if requested by the county attorney designated in Subsection (1):

(a) act as legal adviser to the local health department and the board with respect to the action; and

(b) defend all actions and proceedings brought in that county against the local health department, the board, or the officers and employees of the local health department.

Section 10. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by [~~Section 62A-5a-105~~]Section 26B-1-430 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this

Subsection (19) "public funds" means the same as that term is defined in Section [~~62A-15-102~~]26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be

examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this [~~title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code~~]Title 26B, Utah Health and Human Services Code;

(47) oversee public education vision screening as described in Section 53G-9-404; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

Section 11. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) State Emergency Medical Services Committee;

(e) Air Ambulance Committee;

(f) Health Data Committee;

(g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(h) Child Care Provider Licensing Committee;

(i) Primary Care Grant Committee;

(j) Adult Autism Treatment Program Advisory Committee;

(k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(l) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality and Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities;[~~ and~~]

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services[.]; and

(d) relating to clinical services, the Division of Health Access.

(4) The executive director may establish offices[~~and bureaus~~] to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 12. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) Health Data Committee;

(e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(f) Child Care Provider Licensing Committee;

(g) Primary Care Grant Committee;

(h) Adult Autism Treatment Program Advisory Committee;

(i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(j) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality and Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities;[~~and~~]

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services[.]; and

(d) relating to clinical services, the Division of Health Access.

(4) The executive director may establish offices[~~and bureaus~~] to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 13. Section 26B-1-207 is amended to read:

26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

(1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3)(a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection [~~(3)(e)(iii)~~](3)(c)(iv).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection [~~(3)(e)(iv)~~](3)(c)(v).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

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

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate the allocation of public health resources between the department and local health departments, including whether funds allocated by contract were allocated in accordance with the formula described in Section 26A-1-116;

(ii) evaluate policies and rules that affect local health departments in accordance with Subsection (3)(g);

(iii) consider department policy and rule changes proposed by the department or local health departments;

(iv) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(v) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d)(i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by[~~:~~]

[~~(A)~~] a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i)[~~; or~~].

[~~(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.~~]

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

(g) When evaluating a policy or rule that affects a local health department, the committee shall determine:

(i) whether the department has the authority to promulgate the policy or rule;

(ii) an estimate of the cost a local health department will bear to comply with the policy or rule;

(iii) whether there is any funding provided to a local health department to implement the policy or rule; and

(iv) whether the policy or rule is still needed.

(h) Before November 1 of each year, the department shall provide a report to the Administrative Rules Review and General Oversight Committee regarding the determinations made under Subsection (3)(g).

Section 14. Section 26B-1-237 is amended to read:

26B-1-237. Office of Internal Audit.

The[~~ Utah~~] Office of Internal Audit:

(1) may not be placed within [~~the~~]a division;

(2) shall be placed directly under, and report directly to, the executive director of the Department of Health and Human Services; and

(3) shall have full access to all records of the [~~division~~]department.

Section 15. Section 26B-1-324 is amended to read:

26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2)(a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:

(i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) behavioral health receiving centers as defined in Section 26B-5-114;

(iv) stabilization services as described in Section [~~26B-1-102~~]26B-5-101;

(v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;

(vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;

(vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;

(viii) frontline support for the SafeUT Crisis Line; or

(ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the account;

(d) the anticipated expenditures from the account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the account.

(5) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.

(6)(a) As used in this Subsection (6):

(i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

(b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.

(c) In each year that the department identifies a health benefit plan that meets the description in Subsection (6)(b), the department shall provide a report on the information gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Section 16. Section 26B-1-414 is amended to read:

26B-1-414. Child Care Provider Licensing Committee -- Duties.

(1)(a) The Child Care [~~Center~~]Provider Licensing Committee shall be comprised of 12 members appointed by the governor with the advice and consent of the Senate in accordance with this Subsection (1).

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care as defined in Section 26B-2-401; and

(ii) hold an active license as a child care center from the department to provide center based child care as defined in Section 26B-2-401.

(c) The governor shall appoint two members who hold an active license as a residential child care provider and one member who is a certified residential child care provider.

(d)(i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in a licensed center based child care facility;

(B) a parent with a child in a residential based child care facility;

(C) a child development expert from the state system of higher education;

(D) except as provided in Subsection (1)(f), a pediatrician licensed in the state;

(E) a health care provider; and

(F) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(d)(i)(C), a member appointed under Subsection (1)(d)(i) may not be an employee of the state or a political subdivision of the state.

(e) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(f) For the appointment described in Subsection (1)(d)(i)(D), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(f), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(d)(i)(D); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(d)(i)(D) within 90 days after the day on which the governor sends the notice described in Subsection (1)(f)(ii)(A).

(2)(a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4)(a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Seven members of the licensing committee constitute a quorum for the transaction of business.

(6) A member appointed under Subsection (1)(b) may not vote on any action proposed by the licensing committee regarding residential child care.

(7) A member appointed under Subsection (1)(c) may not vote on any action proposed by the licensing committee regarding center based child care.

(8) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The licensing committee shall:

(a) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee

(b) in concurrence with the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the purposes of Chapter 2, Part 4, Child Care Licensing, that govern center based child care and residential child care, as those terms are defined in Section 26B-2-401, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation, policies, and procedures that providers shall have in place in order to be licensed, in accordance with this Subsection (9);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and ensure compliance with statute and rule; and

(vii) guidelines necessary to ensure consistency and appropriateness in the regulation and discipline of licensees;

(c) advise the department on the administration of a matter affecting center based child care or residential child care, as those terms are defined in Section 26B-2-401;

(d) advise and assist the department in conducting center based child care provider seminars and residential child care seminars; and

(e) perform other duties as provided in Section 26B-2-402.

(10)(a) The licensing committee may not enforce the rules adopted under this section.

(b) the department shall enforce the rules adopted under this section in accordance with Section 26B-2-402.

Section 17. Section 26B-1-421 is amended to read:

26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2)(a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(3)(a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

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

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a qualified medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7)(a)(i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b)[~~(i)~~] If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

[~~(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:~~]

[~~(A) the department shall notify the Compassionate Use Board of the department's determination; and~~]

[~~(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.~~]

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Section 18. Section 26B-1-422.1 is amended to read:

26B-1-422.1. Reports.

(1)(a) On or before August 1 of each year, the [~~council~~]Early Childhood Utah Advisory Council created in Section 26B-1-422 shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.

(b) The annual report shall include:

(i) a statewide assessment concerning the availability of high-quality pre-kindergarten services for children from low-income households;

(ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:

(A) identifying opportunities for and barriers to collaboration and coordination among federally-funded and state-funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;

(B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;

(C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and

(D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and

(iii) the recommendations described in Subsection 26B-1-422(4)(e).

(2) In addition to the annual report described in Subsection (1)(a), on or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent, a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Section 19. Section 26B-1-435 is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership.

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2)(a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

(A) a qualified medical provider who has at least 100 patients who have a medical cannabis patient card at the time of appointment;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility, as defined in Section 4-41a-102;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A)

or (B) also owns or operates a licensed cannabis processing facility.

(3)(a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4)(a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5)(a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) The advisory board shall annually designate one of the advisory board's members to serve as chair for a one-year period.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

Section 20. Section 26B-1-435.1 is amended to read:

26B-1-435.1. Medical Cannabis Policy Advisory Board duties.

(1) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes;

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(2) The advisory board shall:

(a) review any draft rule that is authorized under [~~this chapter~~]Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Utah Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 21. Section 26B-1-502 is amended to read:

26B-1-502. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person designated by the department shall:

(a)(i) for a death, complete a deceased client report form, created by the department; or

(ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality client report form, created by the department; and

(b) forward the completed client report form to the director of the office or division that has jurisdiction over the region or facility.

(2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:

(a) the executive director; and

(b) the fatality review coordinator or the fatality review coordinator's designee.

(3) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records regarding the individual who is the subject of the client report form.

(4) Each person who receives a request for a record described in Subsection (3) shall provide a copy of the record to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

(5) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection (3), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.

(6)(a) In accordance with Subsection (6)(b), within seven days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection (5)(b), the director of the Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.

(b) The director of the Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in Subsection [~~26B-1-501(6)(a)~~]26B-1-501(7)(a) or (b), unless:

(I) the near fatality or the death is due to a natural cause; or

(II) the director of the Division of Continuous Quality and Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the Division of Continuous Quality and Improvement or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii)(A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Section 22. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4)(a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5)(a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv)(A) does not provide the treatment or services described in Subsection [~~(38)(a)~~](39)(a); or

(B) provides the treatment or services described in Subsection [~~(38)(a)~~](39)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b)(i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(38)(a)~~](39)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(38)(a)~~](39)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(38)(a)~~](39)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(38)(a)~~](39)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Certification" means a less restrictive level of licensure issued by the department.

[~~(6)~~](7) "Child" means an individual under 18 years old.

[~~(7)~~](8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(8)~~](9) "Child-placing agency" means a person that engages in child placing.

[~~(9)~~](10) "Client" means an individual who receives or has received services from a licensee.

[~~(10)~~](11)(a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

[~~(11)~~](12) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(12)~~](13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(13)~~](14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(14)~~](15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background [~~screening~~]check approval issued by the office.

[~~(15)~~](16) "Director" means the director of the office.

[~~(16)~~](17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(17)~~](18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(18)~~](19) "Elder adult" means a person 65 years old or older.

[~~(19)~~](20) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

[~~(20)~~](21) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

[~~(21)~~](22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(22)~~](23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(23)~~](24)(a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(24)~~](25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(25)~~](26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(26)~~](27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(27)~~](28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(28)~~](29) "Licensee" means an individual or a human services program licensed by the office.

[~~(29)~~](30) "Local government" means a city, town, metro township, or county.

[~~(30)~~](31) "Minor" means child.

[~~(31)~~](32) "Office" means the Office of Licensing within the department.

[~~(32)~~](33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c)(i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(33)~~](34) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(34)~~](35) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(35)~~](36) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(36)~~](37)(a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v)(A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(37)~~](38) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(38)~~](39)(a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(39)~~](40)(a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(40)~~](41) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(41)~~](42) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(42)~~](43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(43)~~](44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(44)~~](45) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(44)(a)~~](45)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(45)~~](46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(46)~~](47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(47)~~](48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(48)~~](49)(a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(49)~~](50)(a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 23. Section 26B-2-103 is amended to read:

26B-2-103. Division of Licensing and Background Checks.

(1) There is created the [~~Office of Licensing~~]Division of Licensing and Background Checks within the department.

(2) The [~~office~~]division shall be the licensing and background screening authority for the department, and is vested with all the powers, duties, and responsibilities described in:

(a) this part;

(b) Part 2, Health Care Facility Licensing and Inspection; [~~and~~]

(c) Part 4, Child Care Licensing; and

[~~(c)~~](d) Part 6, Mammography Quality Assurance.

(3) The executive director shall appoint the director of the [~~office~~]division.

(4) There are created within the division the Office of Licensing and the Office of Background Processing.

[~~(4) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable of health and human services licensing.~~]

Section 24. Section 26B-2-104 is amended to read:

26B-2-104. Division responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under this title, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B)(I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;

(vii) what constitutes an "outpatient treatment program" for purposes of this part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the incident occurs;

(xi) guidelines for the policies and procedures described in Sections 26B-2-109 and 26B-2-123;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections 26B-2-109 and 26B-2-123; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this part;

(d) if the United States Department of State executes an agreement with the office that

designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(n) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 25. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a)(i) "Applicant" means[~~, notwithstanding Section 26B-2-101~~] an individual who is associated with a certification, contract, or licensee with the department under this part and has direct access, including:

(A) [~~an individual who applies for an initial license or certification or a license or certification renewal under this part~~]an adoptive parent or prospective adoptive parent, including an applicant for an adoption in accordance with Section 78B-6-128;

(B) [~~an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult~~]a foster parent or prospective foster parent;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

[~~(D) a department contractor;~~]

[~~(E)~~](D) an individual who transports a child for a youth transportation company;

[~~(F)~~](E) an individual who provides certified peer support, as defined in Section 26B-5-610;

(F) an individual who provides peer support, has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder;

(G) an individual who has lived experience with the services provided by the department, and uses that lived experience to provide support, guidance, or services to promote resiliency and recovery;

(H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and engaged in the practice of mental health therapy, as defined in Section 58-60-102;

(I) [~~a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual~~]an individual, other than the child or vulnerable adult receiving the service, who is 12 years old or older and resides in a home, that is licensed or certified by the [~~office~~]division; or

[~~(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)~~]

(J) an individual who is 12 years old or older and is associated with a certification, contract, or licensee with the department under this part and has or will likely have direct access.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services;[~~ or~~]

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services[~~.~~];

(C) a parent of a person receiving services from the Division of Services for People with Disabilities, if the parent provides direct care to and resides with the person, including if the parent provides direct care to and resides with the person pursuant to a court order; or

(D) an individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule adopted by the Department of Health and Human Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a program director or a member, as defined by Section 26B-2-105, of the program.

(b) "Application" means a background [~~screening~~]check application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

[~~(d) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.~~]

[~~(e)~~](d) "Criminal finding" means a record of:

(i) an arrest [~~or~~] for a criminal offense;

(ii) a warrant for [~~an~~]a criminal arrest;

[~~(ii)~~](iii) charges for a criminal offense; or

[~~(iii)~~](iv) a criminal conviction.

[~~(f)~~](e) "Direct access" means that an individual has, or likely will have:

(i) contact with or access to a child or vulnerable adult by which the individual will have the opportunity for personal communication or touch with the child or vulnerable adult; or

(ii) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parent or legal guardian, or the vulnerable adult.

(f)(i) "Direct access qualified" means that the applicant has an eligible determination by the office within the license and renewal time period; and

(ii) no more than 180 days have passed since the date on which the applicant's association with a certification, contract, or licensee with the department expires.

(g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(h) "Licensee" means an individual or a human services program licensed by the division.

[~~(g) "Mental health professional" means an individual who:~~]

[~~(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and~~]

[~~(ii) engaged in the practice of mental health therapy.~~]

[~~(h)~~](i) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) juvenile court arrest, adjudication, and disposition records;

[~~(iv)~~](v) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry; or

[~~(v)~~](vi) a state child abuse or neglect registry.

(j) "Office" means the Office of Background Processing within the department.

[~~(i)(i) "Peer support specialist" means an individual who:~~]

[~~(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and~~]

[~~(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.~~]

[~~(ii) "Peer support specialist" includes a certified peer support specialist.~~]

[~~(iii) "Peer support specialist" does not include a mental health professional.~~]

[~~(j)~~](k) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.~~]

(2) Except as provided in Subsection[~~—~~] (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504;[~~ and~~]

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon [~~submission of the information described in this Subsection (2)~~]association with a certification, contract, or licensee with the department;

(ii) ongoing monitoring of fingerprints and registries until no longer [~~associated with a licensee for 90 days~~]associated with a certification, contract, or licensee with the department for 180 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections [~~(3)(d)~~](3)(c) and (4);[~~ and~~]

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories[~~.~~]; and

(e) an application showing an applicant's association with a certification, contract, or a licensee with the department, for the purpose of the office tracking the direct access qualified status of the applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) search the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry for an applicant 18 years old or older;

[~~(iv)~~](v) if the applicant is [~~applying to become~~]associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001[~~ for:~~];

[~~(A) the applicant; and~~]

[~~(B) any adult living in the applicant's home;~~]

[~~(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;~~]

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

[~~(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described in Subsection (2);~~]

[~~(c)~~](b) may conduct all or portions of a background check [~~of an applicant~~]in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

[~~(d)~~](c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

[~~(e)~~](d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the

applicant's fingerprints if the applicant [~~applies for:~~]is associated with more than one certification, contract, or licensee with the department;

[~~(i) more than one license;~~]

[~~(ii) direct access to a child or a vulnerable adult in more than one human services program; or~~]

[~~(iii) direct access to a child or a vulnerable adult under a contract with the department;~~]

[~~(f)~~](e) [~~shall track the status of each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases~~]shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;

[~~(g)~~](f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

[~~(h)~~](g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any [~~individual~~]applicant working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the [~~applicant submits the information described in Subsection (2)~~]application is submitted to the office; and

[~~(i)~~](h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4)(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection [~~(3)(d)~~](3)(c), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that [~~an individual's direct access to a child or a vulnerable adult has ceased for 90 days~~]an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5)(a) Except as provided in Subsection (5)(b), [~~after conducting the background check described in Subsections (3) and (4),~~]the office shall deny [~~an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of~~]direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation or prostitution;

[~~(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;~~]

(D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

(E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;

(F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;

(G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;

(H) an offense included in Title 76, Chapter 7, Offenses Against the Family;

(I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;

(K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(E)~~](L) aggravated arson, as described in Section 76-6-103;

[~~(F)~~](M) aggravated burglary, as described in Section 76-6-203;

(N) aggravated exploitation of prostitution, as described in Section 76-10-1306;

[~~(G)~~](O) aggravated robbery, as described in Section 76-6-302;

(P) endangering persons in a human services program, as described in Section 26B-2-113;

(Q) failure to report, as described in Section 80-2-609;

[~~(H)~~](R) identity fraud crime, as described in Section 76-6-1102;

(S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;

(T) riot, as described in Section 76-9-101;

[~~(I)~~](U) sexual battery, as described in Section 76-9-702.1; or

(V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section 76-10-506; or

[~~(J) a violent offense committed in the presence of a child, as described in Section 76-3-203.10; or~~]

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider[~~,~~]or a mental health professional, [~~or in a~~]if the applicant provides services in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with [~~Subsection (6)~~]Subsection (7).

(c) The office shall deny direct access qualified status to an applicant if the office finds that a court order prohibits the applicant from having direct access to a child or vulnerable adult.

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction [~~for an offense described in Subsection (5) with a date of conviction that is more than three years before the date on which the applicant submits the information described in Subsection (2)~~]that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);

(b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection [~~(5) with a date of charge or conviction that is no more than 10 years before the date on which the applicant submits the application under Subsection (2) and no criminal findings or non-criminal findings after the date of conviction~~](5)(a);

(c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;

[~~(c)~~](d) has a class B misdemeanor or class C misdemeanor conviction [~~for an offense described in Subsection (5) with a date of conviction that is more than three years after, and no more than 10 years before, the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction~~]that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);

(e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;

[~~(d)~~](f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection [~~(5) with a date of conviction that is no more than three years before the date on which the applicant submits information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction~~](5)(a);

(g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;

[~~(e)~~](h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection [~~(5)~~](5)(a);

[~~(f)~~](i) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

[~~(g)~~](j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection [~~(5)~~](5)(a);

[~~(h)~~](k) has a pending charge for an offense described in Subsection [~~(5)~~](5)(a);

[~~(i)~~](l) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002[~~that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing~~];

[~~(j)~~](m) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;

(n) has a listing that occurred no more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210[~~that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing~~];

(o) has a listing that occurred more than 15 years from the date on which the office conducts the background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after the date of the listing;

[~~(k)~~](p) has a substantiated finding that occurred no more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504 [~~that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding~~]; or

(q) has a substantiated finding that occurred more than 15 years from the date on which the office conducts the background check of severe child abuse or neglect under Section 80-3-404 or 80-3-504, with criminal or non-criminal findings after the date of the listing.

[~~(l)(i) is seeking a position:~~]

[~~(A) as a peer support provider;~~]

[~~(B) as a mental health professional; or~~]

[~~(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and~~]

[~~(ii) within three years before the day on which the applicant submits the information described in Subsection (2):~~]

[~~(A) has a felony or misdemeanor charge or conviction;~~]

[~~(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;~~]

[~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; or~~]

[~~(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;~~]

[~~(m)(i)(A) is seeking a position in a congregate care program;~~]

[~~(B) is seeking to become a prospective foster or adoptive parent; or~~]

[~~(C) is an applicant described in Subsection (1)(a)(i)(F); and~~]

[~~(ii)(A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);~~]

[~~(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;~~]

[~~(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;~~]

[~~(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or~~]

[~~(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or~~]

[~~(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii).~~]

(7)(a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;[~~and~~]

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying[~~.~~]; and

(ix) if the background check of an applicant is being conducted for the purpose of giving direct access qualified status to an applicant seeking a position in a congregate care program or to become a prospective foster or adoptive parent, any listing in the Division of Child and Family Services' Management Information System described in Section 80-2-1001.

(b) At the conclusion of the comprehensive review, the office shall deny [~~an application to an applicant if the office finds:~~]direct access qualified status to an applicant if the office finds the approval would likely create a risk of harm to a child or vulnerable adult.

[~~(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or~~]

[~~(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.~~]

(8) The office shall [~~approve an application~~]grant direct access qualified status to an applicant who is not denied under this section.

(9)(a) The office may conditionally [~~approve an application of~~]grant direct access qualified status to an applicant, for a maximum of 60 days after the day on which the office sends written notice[~~to the applicant under Subsection (11)~~], without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise [~~approve an application of~~]grant direct access qualified status to the applicant under this section.

(b) The office may conditionally [~~approve an application of~~]grant direct access qualified status to an applicant, for a maximum of one year after the day on which the office sends written notice [~~to the applicant under Subsection (11)~~], without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise [~~approve an application of~~]grant direct access qualified status to the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall [~~approve or deny the application of~~]grant or deny direct access qualified status to the applicant in accordance with this section.

(10)(a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.

[~~(a)~~](b) A licensee[~~or department contractor~~] may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

[~~(i) the individual is associated with the licensee or department contractor and the department conducts a background screening in accordance with this section;~~]

[~~(ii)~~](i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

[~~(iii)~~](ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

[~~(iv)~~](iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

[~~(v)~~](iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

[~~(b)~~](c) Notwithstanding any other provision of this section, an [~~individual for whom the office denies an application may not~~]applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office [~~approves a subsequent application by the individual~~]grants direct access qualified status to the applicant through a subsequent application in accordance with this section.

[~~(11)(a) Within 30 days after the day on which the applicant submits the information described in~~

~~Subsection (2), the office shall notify the applicant of any potentially disqualifying criminal findings or non-criminal findings.~~]

[~~(b) If the notice under Subsection (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.~~]

[~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this part:~~]

[~~(i) defining procedures for the challenge of the office's background check decision described in Subsection (11)(b); and~~]

[~~(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.~~]

(11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.

[~~(12)(a) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section~~]

(12)(a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.

(b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.

(c) The office shall conduct a comprehensive review for an applicant if:

(i) the applicant is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

[~~(b) The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 26B-2-105, of the program~~]

[~~(13)(a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program or an applicant seeking to become a prospective foster or adoptive parent, the office shall:~~]

(13)(a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

(b) As federally required, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the [~~applicant described in Subsection (13)(a)(i)~~]prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

[~~(b)~~](c) The requirements described in Subsection [~~(13)(a)~~](13)(b) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in [~~Subsection (5)~~]Subsections (5), (6), and (7).

[~~(c)~~](d) Notwithstanding Subsections (5) through (10), the office shall deny [~~a clearance to an applicant seeking a position in a congregate care program or an applicant to become a prospective foster or adoptive parent if the applicant has been convicted of~~]direct access qualified status if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;

[~~(D)~~](E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

[~~(E)~~](F) aggravated murder, as described in Section 76-5-202;

[~~(F)~~](G) murder, as described in Section 76-5-203;

[~~(G)~~](H) manslaughter, as described in Section 76-5-205;

[~~(H)~~](I) child abuse homicide, as described in Section 76-5-208;

[~~(I)~~](J) homicide by assault, as described in Section 76-5-209;

[~~(J)~~](K) kidnapping, as described in Section 76-5-301;

[~~(K)~~](L) child kidnapping, as described in Section 76-5-301.1;

[~~(L)~~](M) aggravated kidnapping, as described in Section 76-5-302;

[~~(M)~~](N) human trafficking of a child, as described in Section 76-5-308.5;

[~~(N)~~](O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(O)~~](P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

[~~(P)~~](Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

[~~(Q)~~](R) aggravated arson, as described in Section 76-6-103;

[~~(R)~~](S) aggravated burglary, as described in Section 76-6-203;

[~~(S)~~](T) aggravated robbery, as described in Section 76-6-302;

[~~(T)~~](U) lewdness involving a child, as described in Section 76-9-702.5;

[~~(U)~~](V) incest, as described in Section 76-7-102; or

[~~(V)~~](W) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection [~~(13)(c)(i)~~](13)(d)(i).

[~~(d)~~](e) Notwithstanding Subsections (5) through (10), the office shall deny [~~a license or license renewal to an individual seeking a position in a congregate care program or a prospective foster or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the individual~~]direct access qualified status to an applicant if, within the five years from the date on which the office conducts the background check, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

[~~(e)~~](f) In addition to the circumstances described in Subsection (6), the office shall conduct [~~the~~]a comprehensive review of an applicant's background check under this section if [~~the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.~~]the applicant:

(i) has an offense described in Subsection (5)(a);

(ii) has an infraction conviction entered on a date that is no more than three years before the date on which the office conducts the background check;

(iii) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation database described in Section 26B-6-210;

(v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections [~~(6) and (7)~~](6), (7), and (13); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services for purposes of [~~approval or denial of an~~

~~application for a prospective foster or adoptive parent~~]granting or denying direct access qualified status to an applicant.

Section 26. Section 26B-2-122 is amended to read:

26B-2-122. Access to vulnerable adult abuse and neglect information.

(1) For purposes of this section:

(a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.

(b) "Personal care attendant" means the same as that term is defined in Section 26B-6-401.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access the database created by Section 26B-6-210 for the purpose of:

(a)(i) determining whether a person associated with a licensee, with direct access to vulnerable adults, has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a licensee that a person associated with the licensee has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation;

(b)(i) determining whether a direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; or

(c)(i) determining whether a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation; and

(ii) informing a person described in Subsections 26B-6-401(9)(a)(i) through (iv) that a personal care attendant has a supported or substantiated finding of:

(A) abuse;

(B) neglect; or

(C) exploitation.

(3) The department shall receive and process personal identifying information under Subsection [~~26B-2-120(1)~~]26B-2-120(2) for the purposes described in Subsection (2).

(4) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this part and Chapter 6, Part 2, Abuse, Neglect, or Exploitation of a Vulnerable Adult, defining the circumstances under which a person may have direct access or provide services to vulnerable adults when the person is listed in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210 as having a supported or substantiated finding of abuse, neglect, or exploitation.

Section 27. Section 26B-2-128 is amended to read:

26B-2-128. Numerical limit of foster children in a foster home.

[~~(1) Except as provided in Subsection (2) or (3), no more than:~~]

[~~(a) four foster children may reside in the foster home of a licensed foster parent; or~~]

[~~(b) three foster children may reside in the foster home of a certified foster parent.~~]

(1)(a) No more than four foster children may reside in the foster home of a licensed foster parent.

(b) No more than three foster children may reside in the foster home of a certified foster parent.

[~~(2) When placing a sibling group into a foster home, the limits in Subsection (1) may be exceeded if:~~]

[~~(a) no other foster children reside in the foster home;~~]

[~~(b) only one other foster child resides in the foster home at the time of a sibling group's placement into the foster home; or~~]

[~~(c) a sibling group re-enters foster care and is placed into the foster home where the sibling group previously resided.~~]

[~~(3)~~](2) When placing a child into a foster home, the limits [~~in~~]under Subsection (1) may be exceeded:

(a) to place a child into a foster home where a sibling of the child currently resides; or

(b) to place a child in a foster home where the child previously resided.

(3) The limits under Subsection (1) may be exceeded for:

(a) placement of a sibling group in a foster home with no more than one other foster child placement;

(b) placement of a child or sibling group in a foster home where the child or sibling group previously resided; or

(c) placement of a child in a foster home where a sibling currently resides.

Section 28. Section 26B-2-201 is amended to read:

26B-2-201. Definitions.

As used in this part:

(1)(a) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

(b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under Section 76-7-301 or Section [~~76-71-101~~]76-7a-101.

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5)(a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self-sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b)(i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26B-2-228(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13)(a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, a clinic that meets the definition of hospital under Section 76-7-301 or [~~76-71-201~~]76-7a-101, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b)(i) provides or otherwise makes available to enrolled participants at least the following basic

health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15)(a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 29. Section 26B-2-202 is amended to read:

26B-2-202. Duties of department.

(1) The department shall:

(a) enforce rules established pursuant to this part;

(b) authorize an agent of the department to conduct inspections of health care facilities pursuant to this part;

(c) collect information authorized by the committee that may be necessary to ensure that adequate health care facilities are available to the public;

(d) collect and credit fees for licenses as free revenue;

(e) collect and credit fees for conducting plan reviews as dedicated credits;

(f)(i) collect and credit fees for conducting [~~clearance~~]certification for direct patient access under Sections 26B-2-239 and 26B-2-240; and

(ii) beginning July 1, 2012:

(A) up to $105,000 of the fees collected under Subsection (1)(f)(i) are dedicated credits; and

(B) the fees collected for background checks under Subsection 26B-2-240(6) and Subsection 26B-2-241(4) shall be transferred to the Department of Public Safety to reimburse the Department of Public Safety for its costs in conducting the federal background checks;

(g) designate an executive secretary from within the department to assist the committee in carrying out its powers and responsibilities;

(h) establish reasonable standards for criminal background checks by public and private entities;

(i) recognize those public and private entities that meet the standards established pursuant to Subsection (1)(h); and

(j) provide necessary administrative and staff support to the committee.

(2) The department may:

(a) exercise all incidental powers necessary to carry out the purposes of this part;

(b) review architectural plans and specifications of proposed health care facilities or renovations of health care facilities to ensure that the plans and specifications conform to rules established by the committee; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules as necessary to implement the provisions of this part.

Section 30. Section 26B-2-204 is amended to read:

26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee -- Licensing of a clinic meeting the definition of hospital.

(1)(a) No abortion clinic may operate in the state on or after January 1, 2024, or the last valid date of an abortion clinic license issued under the requirements of this section, whichever date is later.

(b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an abortion in violation of any provision of state law.

(2) The state may not issue a license for an abortion clinic after May 2, 2023.

(3) For any license for an abortion clinic that is issued under this section:

(a) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

(b) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

(c) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

(i) a type I abortion clinic; and

(ii) a type II abortion clinic.

(d) To receive and maintain a license described in this section, an abortion clinic shall:

(i) apply for a license on a form prescribed by the department;

(ii) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established [~~unde7r~~]under Subsection (3) that relate to the type of abortion clinic licensed;

(iii) comply with the recordkeeping and reporting requirements of Section 76-7-313;

(iv) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition;

(v) pay the annual licensing fee; and

(vi) cooperate with inspections conducted by the department.

(e) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. At least one of the inspections shall be made without providing notice to the abortion clinic.

(f) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(g) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

(4)(a) Notwithstanding any other provision of this section, the department may license a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.

(b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.

Section 31. Section 26B-2-238 is amended to read:

26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.

As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

(1) [~~"Clearance"~~]"Certification for direct patient access" means approval by the department under Section 26B-2-239 for an individual to have direct patient access.

(2) "Covered body" means a covered provider, covered contractor, or covered employer.

(3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.

(4) "Covered employer" means an individual who:

(a) engages a covered individual to provide services in a private residence to:

(i) an aged individual, as defined by department rule; or

(ii) a disabled individual, as defined by department rule;

(b) is not a covered provider; and

(c) is not a licensed health care facility within the state.

(5) "Covered individual":

(a) means an individual:

(i) whom a covered body engages; and

(ii) who may have direct patient access;

(b) includes:

(i) a nursing assistant, as defined by department rule;

(ii) a personal care aide, as defined by department rule;

(iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;

(iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;

(v) an executive;

(vi) administrative staff, including a manager or other administrator;

(vii) dietary and food service staff;

(viii) housekeeping and maintenance staff; and

(ix) any other individual, as defined by department rule, who has direct patient access; and

(c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.

(6) "Covered provider" means:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a nursing care facility;

(d) a small health care facility;

(e) an assisted living facility;

(f) a hospice;

(g) a home health agency; or

(h) a personal care agency.

(7) "Direct patient access" means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:

(a) cause physical or mental harm;

(b) commit theft; or

(c) view medical or financial records.

(8) "Engage" means to obtain one's services:

(a) by employment;

(b) by contract;

(c) as a volunteer; or

(d) by other arrangement.

(9) "Long-term care hospital":

(a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and

(b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).

(10) "Patient" means an individual who receives health care services from one of the following covered providers:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a hospice;

(d) a home health agency; or

(e) a personal care agency.

(11) "Personal care agency" means a health care facility defined by department rule.

(12) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a nursing care facility;

(b) a small health care facility;

(c) an assisted living facility; or

(d) a hospice that provides living quarters as part of its services.

(13) "Residential setting" means a place provided by a covered provider:

(a) for residents to live as part of the services provided by the covered provider; and

(b) where an individual who is not a resident also lives.

(14) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.

Section 32. Section 26B-2-239 is amended to read:

26B-2-239. Certification for direct patient access required -- Application by covered providers, covered contractors, and individuals.

(1) The definitions in Section 26B-2-238 apply to this section.

(2)(a) A covered provider may engage a covered individual only if the individual has [~~clearance~~]certification for direct patient access.

(b) A covered contractor may supply a covered individual to a covered employer or covered provider only if the individual has [~~clearance~~]certification for direct patient access.

(c) A covered employer may engage a covered individual who does not have [~~clearance~~]certification for direct patient access.

(3)(a) Notwithstanding Subsections (2)(a) and (b), if a covered individual does not have [~~clearance~~]certification for direct patient access, a covered provider may engage the individual or a covered contractor may supply the individual to a covered provider or covered employer:

(i) under circumstances specified by department rule; and

(ii) only while an application for [~~clearance~~]certification for direct patient access for the individual is pending.

(b) For purposes of Subsection (3)(a), an application is pending if the following have been submitted to the department for the individual:

(i) an application for [~~clearance~~]certification for direct patient access;

(ii) the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(iii) any fees established by the department under Subsection 26B-2-240(9).

(4)(a) As provided in Subsection (4)(b), each covered provider and covered contractor operating in this state shall:

(i) collect from each covered individual the contractor engages, and each individual the contractor intends to engage as a covered individual, the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(ii) submit to the department an application for [~~clearance~~]certification for direct patient access for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) [~~Clearance~~]Certification for direct patient access granted for an individual pursuant to an application submitted by a covered provider or a covered contractor is valid [~~until the later of:~~]for 180 days after the date on which the engaged employment lapses.

(i) two years after the individual is no longer engaged as a covered individual; or

(ii) the covered provider's or covered contractor's next license renewal date.

(5)(a) A covered provider that provides services in a residential setting shall:

(i) collect the personal identification information specified by the department under Subsection 26B-2-240(4)(b) for each individual 12 years old or older, other than a resident, who resides in the residential setting; and

(ii) submit to the department an application for [~~clearance~~]certification for direct patient access for the individual, including:

(A) the personal identification information; and

(B) any fees established by the department under Subsection 26B-2-240(9).

(b) A covered provider that provides services in a residential setting may allow an individual 12 years old or older, other than a resident, to reside in the residential setting only if the individual has [~~clearance~~]certification for direct patient access.

(6)(a) An individual may apply for [~~clearance~~]certification for direct patient access by submitting to the department an application, including:

(i) the personal identification information specified by the department under Subsection 26B-2-240(4)(b); and

(ii) any fees established by the department under Subsection 26B-2-240(9).

(b) [~~Clearance~~]Certification for direct patient access granted to an individual who makes application under Subsection (6)(a) is valid for [~~two years~~]180 days after the date the engaged employment lapses unless the department determines otherwise based on the department's ongoing review under Subsection 26B-2-240(4)(a).

Section 33. Section 26B-2-240 is amended to read:

26B-2-240. Department authorized to grant, deny, or revoke certification for direct patient access -- Department may limit direct patient access -- Certification for direct patient access.

(1) The definitions in Section 26B-2-238 apply to this section.

(2)(a) As provided in this section, the department may grant, deny, or revoke [~~clearance~~]certification for direct patient access for an individual, including a covered individual.

(b) The department may limit the circumstances under which a covered individual granted [~~clearance~~]certification for direct patient access may have direct patient access, based on the relationship factors under Subsection (4) and other mitigating factors related to patient and resident protection.

(c) The department shall determine whether to grant [~~clearance~~]certification for direct patient access for each applicant for whom it receives:

(i) the personal identification information specified by the department under Subsection (4)(b); and

(ii) any fees established by the department under Subsection (9).

(d) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain [~~clearance~~]certification for direct patient access, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Division of Child and Family Services Licensing Information System described in Section 80-2-1002;

(e) child abuse or neglect findings described in Section 80-3-404;

(f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains [~~clearance~~]certification for direct patient access:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for [~~clearance~~]certification for direct patient access, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for [~~clearance~~]certification for direct patient access.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for [~~clearance~~]certification for direct patient access, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a)

to determine whether [~~clearance~~]certification for direct patient access should be retained.

Section 34. Section 26B-2-241 is amended to read:

26B-2-241. Direct Access Clearance System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom the department has received[~~:~~]

[~~(i)~~] an application for [~~clearance~~]certification for direct patient access under this part; [~~or (ii) an application for background clearance under Section 26B-4-124;~~] and

(b) indicates whether an application is pending and whether [~~clearance~~]certification for direct patient access has been granted and retained for[~~:~~]

[~~(i)~~] an applicant under this part[~~; and~~].

[~~(ii) an applicant for background clearance under Section 26B-4-124.~~]

(3)(a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections (2)(a)(i) and (2)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c)(i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

(4) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information, including any fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a); and

(b) notify the department upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(5) A covered body is not civilly liable for submitting to the department information required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an individual who does not have clearance to have direct patient access under Section 26B-2-240.

Section 35. Section 26B-2-241 is amended to read:

26B-2-241. Direct Access Clearance System database -- Contents and use -- Department of Public Safety retention of information and notification -- No civil liability for providing information.

(1) The definitions in Section 26B-2-238 apply to this section.

(2) The department shall create and maintain a Direct Access Clearance System database, which:

(a) includes the names of individuals for whom[~~:~~]

[~~(i)~~] the department has received an application for [~~clearance~~]certification for direct patient access under this part; [~~or~~]and

[~~(ii) the Bureau of Emergency Medical Services has received an application for background clearance under Section 53-2d-410; and~~]

(b) indicates whether an application is pending and whether clearance has been granted and retained for[~~:~~]

[~~(i)~~] an applicant under this part[~~; and~~].

[~~(ii) an applicant for background clearance under Section 53-2d-410.~~]

(3)(a) The department shall allow covered providers and covered contractors to access the database electronically.

(b) Data accessible to a covered provider or covered contractor is limited to the information under Subsections (2)(a)(i) and (2)(b)(i) for:

(i) covered individuals engaged by the covered provider or covered contractor; and

(ii) individuals:

(A) whom the covered provider or covered contractor could engage as covered individuals; and

(B) who have provided the covered provider or covered contractor with sufficient personal identification information to uniquely identify the individual in the database.

(c)(i) The department may establish fees, in accordance with Section 63J-1-504, for use of the database by a covered contractor.

(ii) The fees may include, in addition to any fees established by the department under Subsection 26B-2-240(9), an initial set-up fee, an ongoing access fee, and a per-use fee.

(4) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information, including any fingerprints, sent to the division by the department pursuant to Subsection 26B-2-240(3)(a); and

(b) notify the department upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(5) A covered body is not civilly liable for submitting to the department information required under this section, Section 26B-2-239, or Section 26B-2-240, or refusing to employ an individual who does not have [~~clearance~~]certification for direct patient access to have direct patient access under Section 26B-2-240.

Section 36. Section 26B-3-114 is amended to read:

26B-3-114. Department standards for eligibility under Medicaid -- Funds for abortions.

(1)(a) The department may develop standards and administer policies relating to eligibility under the Medicaid program [~~as long as they are consistent~~]if the standards and policies comply with [~~Subsection 26B-4-704(8)~~]Section 26B-3-108.

(b) An applicant receiving Medicaid assistance may be limited to particular types of care or services or to payment of part or all costs of care determined to be medically necessary.

(2) The department may not provide any funds for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is to perform an abortion, unless the life of the mother would be endangered if an abortion were not performed.

(3) Any employee of the department who authorizes payment for an abortion contrary to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of office.

(4) Any person or organization that, under the guise of other medical treatment, provides an abortion under auspices of the Medicaid program is guilty of a third degree felony and subject to forfeiture of license to practice medicine or authority to provide medical services and treatment.

Section 37. Section 26B-3-212 is amended to read:

26B-3-212. Limited family planning services for low-income individuals.

(1) As used in this section:

(a)(i) "Family planning services" means family planning services that are provided under the state Medicaid program, including:

(A) sexual health education and family planning counseling; and

(B) other medical diagnosis, treatment, or preventative care routinely provided as part of a family planning service visit.

(ii) "Family planning services" do not include an abortion, as that term is defined in Section 76-7-301 or 76-7a-101.

(b) "Low-income individual" means an individual who:

(i) has an income level that is equal to or below 185% of the federal poverty level; and

(ii) does not qualify for full coverage under the Medicaid program.

(2) Before January 1, 2024, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to:

(a) offer a program that provides family planning services to low-income individuals; and

(b) receive a federal match rate of 90% of state expenditures for family planning services provided under the waiver or state plan amendment.

Section 38. Section 26B-4-118 is amended to read:

26B-4-118. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1)(a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that[~~beginning on or after January 31, 2014,~~] every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the department for all ambulances and emergency medical response vehicle operators.

(2) The department shall, based on the requirements established in Subsection (1), issue

permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 39. Section 26B-4-136 is amended to read:

26B-4-136. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Sections 26B-4-150 through 26B-4-170; and

(ii) [~~as of January 1, 2022,~~]does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The department shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 26B-4-116 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5)(a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6)(a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 40. Section 26B-4-152 is amended to read:

26B-4-152. Establishment of maximum rates.

(1) The department shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the department on the maximum rates that should be set under Subsection (1).

(3)(a) [~~The department shall prohibit ground~~]Ground ambulance providers and paramedic providers [~~from charging~~]may not charge fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 41. Section 26B-4-154 is amended to read:

26B-4-154. Ground ambulance and paramedic licenses -- Agency notice of approval.

(1) [~~Beginning January 1, 2004, if~~]If the department determines that the application meets the minimum requirements for licensure under Section 26B-4-153, the department shall issue a notice of the approved application to the applicant.

(2) A current license holder responding to a request for proposal under Section 26B-4-156 is considered an approved applicant for purposes of Section 26B-4-156 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

(a) the information described in Subsections 26B-4-153(4)(a)(i) through (iii); and

(b)(i) if the license holder is a private entity, a financial statement, a pro forma budget and necessary letters of credit demonstrating a financial ability to expand service to a new service area; or

(ii) if the license holder is a governmental entity, a letter from the governmental entity's governing body demonstrating the governing body's willingness to financially support the application.

Section 42. Section 26B-4-201 is amended to read:

26B-4-201. Definitions.

As used in this part:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Advertise" [~~or "advertising"~~]means information provided by a [~~medical cannabis pharmacy~~]person in any medium:

(a) to the public; and

(b) that is not age restricted to an individual who is at least 21 years old.

(3) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

4) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(5) "Cannabis" means marijuana.

[~~(6) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.~~]

[~~(7)~~](6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~](7) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

[~~(9)~~](8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(10)~~](9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(11)~~](10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(12) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.~~]

[~~(13)~~](11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26B-4-213(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

[~~(14)~~](12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

[~~(15)~~](13) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

[~~(16)~~](14) "Department" means the Department of Health and Human Services.

[~~(17)~~](15) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26B-4-214; or

(b)(i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26B-4-214(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26B-4-214(1)(b)(ii).

[~~(18)~~](16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(19)~~](17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(20) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.~~]

[~~(21)~~](18) "Government issued photo identification" means any of the following forms of identification:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a foreign passport.

[~~(22)~~](19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(23)~~](20) "Inventory control system" means the system described in Section 4-41a-103.

[~~(24)~~](21) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26B-4-230(5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(25)~~](22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(26)~~](23) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card[~~, or provisional patient card~~] as a result of the individual's recommendation, in accordance with Subsection 26B-4-204(1)(b).

[~~(27)~~](24) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(28)~~](25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(29)~~](26) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(30)~~](27) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection[~~(17)(b)~~] (15)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26B-4-214(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26B-4-214(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(31)~~](28) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(32)~~](29) "Medical cannabis courier" means the same as that term is defined in Section 4-41a-102.

[~~(33) "Medical cannabis courier agent" means the same as that term is defined in Section 4-41a-102.~~]

[~~(34)~~](30)(a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(35)~~](31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(36)~~](32) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(37)~~](33) "Medical cannabis pharmacy" means a person that:

(a)(i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(38)~~](34) "Medical cannabis pharmacy agent" means an individual who holds a valid medical cannabis pharmacy agent registration card issued by the department.

[~~(39)~~](35) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(40)~~](36) "Medical cannabis shipment" means the same as that term is defined in Section 4-41a-102.

[~~(41)~~](37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(42)~~](38)(a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that[~~, after December 1, 2022,~~] does not exceed 30 [~~ml~~]milliliters;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape;

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis [~~flowers~~]flower in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and[~~ after December 31, 2020,~~] a barcode that provides information connected to an inventory control system[-].

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (42)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(42)(a)(ii)~~](38)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(42)(a)(ii)~~](38)(a)(ii), except as provided in Subsection [~~(42)(b)~~](38)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(42)(a)(ii)~~](38)(a)(ii) after the legal use termination date;

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch;

(iv) a liquid suspension that is branded as a beverage ; or

(v) a substance described in Subsection [~~(42)(a)(i)~~](38)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters.

[~~(43)~~](39) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26B-4-203.

[~~(44) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.~~]

[~~(45)~~](40) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26B-4-219.

[~~(46)~~](41) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(47)~~](42) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26B-4-204.

[~~(48)~~](43) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26B-1-310.

[~~(49)~~](44) "Qualifying condition" means a condition described in Section 26B-4-203.

[~~(50)~~](45) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(51)~~](46) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(52)~~](47) "Recommending qualifications" means that an individual:

(a)(i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(53)~~](48) "State central patient portal" means the website the department creates, in accordance with Section 26B-4-236, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(54)~~](49) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(55) "Targeted marketing" means the promotion by a medical cannabis pharmacy of a medical cannabis product, medical cannabis brand, or a medical cannabis device using any of the following methods:~~]

[~~(a) electronic communication to an individual who is at least 21 years old and has requested to receive promotional information from the medical cannabis pharmacy;~~]

[~~(b) an in-person marketing event that is:~~]

[~~(i) held inside a medical cannabis pharmacy; and~~]

[~~(ii) in an area where only a medical cannabis cardholder may access the event; or~~]

[~~(c) other marketing material that is physically available or digitally displayed in:~~]

[~~(i) a medical cannabis pharmacy; and~~]

[~~(ii) an area where only a medical cannabis cardholder has access.~~]

[~~(56)~~](50) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

[~~(57)~~](51) "THC analog" means the same as that term is defined in Section 4-41-102.

Section 43. Section 26B-4-202 is amended to read:

26B-4-202. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26B-4-213;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically [~~recommendtreatment~~] recommend treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(d) allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 4-41a-1101(10)(a), to:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

(ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider;

(iii) record a limited medical provider's renewal of the provider's previous recommendation; and

(iv) submit an initial application, renewal application, or application payment on behalf of an individual applying for any of the following:

(A) a medical cannabis patient card;

(B) a medical cannabis guardian card; or

(C) a medical cannabis caregiver card;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this part;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(iii) the Division of Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 4-41a-1102(3)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3)(a) An employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4)(a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) A prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26B-4-222; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7)(a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8)(a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this part authorizes is guilty of a third degree felony.

(9)(a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 44. Section 26B-4-213 is amended to read:

26B-4-213. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1)(a) Subject to Section 26B-4-246, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26B-4-214 submits an application in accordance with this section or Section 26B-4-214, the department shall:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26B-4-214(4).

(b)(i) Upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2)(a) An individual is eligible for a medical cannabis patient card if:

(i)(A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b)(i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section

63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c)(i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26B-1-421, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26B-4-214.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) If the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26B-4-214(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3)(a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's government issued photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c)(i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26B-4-204(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) visit with the patient face-to-face for an initial recommendation unless the patient:

(i) prefers a virtual visit; and

(ii)(A) is on hospice or has a terminal illness according to the patient's medical provider; or

(B) is a resident of an assisted living facility, as defined in Section 26B-2-201, or a nursing care facility, as defined in Section 26B-2-201;

(b) before recommending or renewing a recommendation for medical cannabis in a

medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's government issued photo identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during a visit with the patient; and

(c) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5)(a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) one year from the day the card is issued.

(b)(i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26B-4-203 expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26B-4-203 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26B-4-203 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6)(a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26B-1-421.

(b) The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7)(a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b)(i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this part and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(8)(a) The department may revoke a medical cannabis card that the department issues under this section if:

(i) the recommending medical provider withdraws the medical provider's recommendation for medical cannabis; or

(ii) the cardholder:

(A) violates this part; or

(B) is convicted under state or federal law of, after March 17, 2021, a drug distribution offense.

(b) The department may not refuse to issue a medical cannabis card to a patient solely based on a prior revocation under Subsection (8)(a)(i).

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26B-4-203(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11)(a) [~~On or before September 1, 2021, the~~]The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12)(a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26B-4-201, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 45. Section 26B-4-214 is amended to read:

26B-4-214. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1)(a) A cardholder described in Section 26B-4-213 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(b)(i) [~~Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a~~]A cardholder described in Section 26B-4-213 may designate one of the following types of facilities as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26B-2-201;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26B-2-201; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26B-2-201.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b); and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees

serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26B-4-213(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26B-4-213.

(d)(i) [~~Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon~~]Upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26B-4-203, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under 26B-4-246.

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this part, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis.

(3)(a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26B-4-213 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26B-4-215;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26B-4-213(9) .

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26B-4-213 who designated the applicant;

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26B-4-213 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26B-4-213 expires.

(7)(a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26B-4-213 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26B-4-213 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 46. Section 26B-4-222 is amended to read:

26B-4-222. Report.

(1) By the November interim meeting each year, [~~beginning in 2020,~~]the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies in [~~consulatation~~]consultation with the Department of Agriculture and Food.

(2) The report shall include information provided by the Center for Medical Cannabis Research described in Section 53B-17-1402.

(3) The department may not include personally identifying information in the report described in this section.

(4) The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 47. Section 26B-4-245 is amended to read:

26B-4-245. Purchasing and use limitations.

An individual with a medical cannabis card:

(1) may purchase, in any one 28-day period, up to the legal dosage limit of:

(a) unprocessed cannabis in a medicinal dosage form; and

(b) a cannabis product in a medicinal dosage form;

(2) may not purchase:

(a) more medical cannabis than described in Subsection (1)(a); or

(b) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection [~~26B-4-231(4)~~]26B-4-231(5), any medical cannabis; and

(3) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection [~~26B-4-231(4)~~]26B-4-231(5), has not recommended.

Section 48. Section 26B-4-701 is amended to read:

26B-4-701. Definitions.

As used in this part:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician [~~assistance~~]assistant education, doctor of pharmacy education, dental education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(4) "Health care professionals in training" means medical students and residents, [~~advance~~]advanced practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.

(5) "Hospital" means a general acute hospital, as defined in Section 26B-2-201.

(6) "Physician" means a person:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(7) "Rural county" means a county [~~with a population of less than 50,000, as determined by:~~]of the third, fourth, fifth, or sixth class under Section 17-50-501.

[~~(a) the most recent official census or census estimate of the United States Bureau of the Census; or~~]

[~~(b) the most recent population estimate for the county from the Utah Population Committee, if a population figure for the county is not available under Subsection (7)(a).~~]

(8) "Rural hospital" means a hospital located within a rural county.

(9) "UMEC" means the Utah Medical Education Council created in Section 26B-4-706.

Section 49. Section 26B-5-101 is amended to read:

26B-5-101. Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section [~~26B-1-202~~]26B-1-1202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12)(a) "Public funds" means federal money received from the department, and state money

appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 50. Section 26B-5-403 is amended to read:

26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness;

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5)(a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment

proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g)(i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10)(a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

(i) the original petition for commitment;

(ii) admission notes;

(iii) diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12)(a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [~~26B-5-704~~]26B-5-404, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 51. Section 26B-6-401 is amended to read:

26B-6-401. Definitions.

As used in this part:

(1) "Approved provider" means a person approved by the division to provide [~~home-based~~]home- and community-based services.

(2) "Board" means the Utah State Developmental Center Board created under Section 26B-1-429.

(3)(a) "Brain injury" means an acquired injury to the brain that is neurological in nature, including a cerebral vascular accident.

(b) "Brain injury" does not include a deteriorating disease.

(4) "Designated intellectual disability professional" means:

(a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act, who:

(i)(A) has at least one year of specialized training in working with persons with an intellectual disability; or

(B) has at least one year of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability; or

(b) a clinical social worker, certified social worker, marriage and family therapist, or professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, who:

(i) has at least two years of clinical experience with persons with an intellectual disability; and

(ii) is designated by the division as specially qualified, by training and experience, in the treatment of an intellectual disability.

(5) "Deteriorating disease" includes:

(a) multiple sclerosis;

(b) muscular dystrophy;

(c) Huntington's chorea;

(d) Alzheimer's disease;

(e) ataxia; or

(f) cancer.

(6) "Developmental center" means the Utah State Developmental Center, established in accordance with Part 5, Utah State Developmental Center.

(7) "Director" means the director of the Division of Services for People with Disabilities.

(8) "Direct service worker" means a person who provides services to a person with a disability:

(a) when the services are rendered in:

(i) the physical presence of the person with a disability; or

(ii) a location where the person rendering the services has access to the physical presence of the person with a disability; and

(b)(i) under a contract with the division;

(ii) under a grant agreement with the division; or

(iii) as an employee of the division.

(9)(a) "Disability" means a severe, chronic disability that:

(i) is attributable to:

(A) an intellectual disability;

(B) a condition that qualifies a person as a person with a related condition, as defined in 42 C.F.R. Sec. 435.1010;

(C) a physical disability; or

(D) a brain injury;

(ii) is likely to continue indefinitely;

(iii)(A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a substantial functional limitation in three or more of the following areas of major life activity:

(I) self-care;

(II) receptive and expressive language;

(III) learning;

(IV) mobility;

(V) self-direction;

(VI) capacity for independent living; or

(VII) economic self-sufficiency; or

(B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial limitation in three or more of the following areas:

(I) memory or cognition;

(II) activities of daily life;

(III) judgment and self-protection;

(IV) control of emotions;

(V) communication;

(VI) physical health; or

(VII) employment; and

(iv) requires a combination or sequence of special interdisciplinary or generic care, treatment, or other services that:

(A) may continue throughout life; and

(B) must be individually planned and coordinated.

(b) "Disability" does not include a condition due solely to:

(i) mental illness;

(ii) personality disorder;

(iii) deafness or being hard of hearing;

(iv) visual impairment;

(v) learning disability;

(vi) behavior disorder;

(vii) substance abuse; or

(viii) the aging process.

(10) "Division" means the Division of Services for People with Disabilities.

(11) "Eligible to receive division services" or "eligibility" means qualification, based on criteria established by the division, to receive services that are administered by the division.

(12) "Endorsed program" means a facility or program that:

(a) is operated:

(i) by the division; or

(ii) under contract with the division; or

(b) provides services to a person committed to the division under Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(13) "Licensed physician" means:

(a) an individual licensed to practice medicine under:

(i) Title 58, Chapter 67, Utah Medical Practice Act; or

(ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(b) a medical officer of the United States Government while in this state in the performance of official duties.

(14) "Limited support services" means services that are administered by the division to individuals with a disability:

(a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for Medicare and Medicaid Services that permits the division to limit services to an individual who is eligible to receive division services; and

(b) through a program that:

(i) was not operated by the division on or before January 1, 2020; and

(ii)(A) limits the kinds of services that an individual may receive; or

(B) sets a maximum total dollar amount for program services provided to each individual.

(15) "Physical disability" means a medically determinable physical impairment that has resulted in the functional loss of two or more of a person's limbs.

(16) "Public funds" means state or federal funds that are disbursed by the division.

(17) "Resident" means an individual under observation, care, or treatment in an intermediate care facility for people with an intellectual disability.

(18) "Sustainability fund" means the Utah State Developmental Center Long-Term Sustainability Fund created in Section 26B-1-331.

Section 52. Section 26B-7-213 is amended to read:

26B-7-213. Sexually transmitted infections -- Examinations by authorities -- Treatment of infected persons.

State, county, and municipal health officers within their respective jurisdictions may make examinations of persons reasonably suspected of being infected with [~~venereal disease~~]sexually transmitted infections. Persons infected with [~~venereal disease~~]sexually transmitted infections shall be required to report for treatment to either a reputable physician or physician assistant and continue treatment until cured or to submit to treatment provided at public expense until cured.

Section 53. Section 26B-7-215 is amended to read:

26B-7-215. Sexually transmitted infections -- Examination and treatment of persons in prison or jail.

(1)(a) All persons confined in any state, county, or city prison or jail shall be examined, and if infected, treated for [~~venereal diseases~~]sexually transmitted infections by the health authorities.

(b) The prison authorities of every state, county, or city prison or jail shall make available to the health authorities such portion of the prison or jail as may be necessary for a clinic or hospital wherein all persons suffering with [~~venereal disease~~]sexually transmitted infections at the time of the expiration of their terms of imprisonment, shall be isolated and treated at public expense until cured.

(2)(a) The department may require persons suffering with [~~venereal disease~~]sexually transmitted infections at the time of the expiration of their terms of imprisonment to report for treatment to a licensed physician or physician assistant or submit to treatment provided at public expense in lieu of isolation.

(b) Nothing in this section shall interfere with the service of any sentence imposed by a court as a punishment for the commission of crime.

Section 54. Section 26B-8-201 is amended to read:

26B-8-201. Definitions.

As used in this part:

(1) "Dead body" means the same as that term is defined in Section 26B-8-101.

(2)(a) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces.

(b) "Death by violence" includes death that appears to have been due to homicide, death that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more

than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Health care professional" means any of the following while acting in a professional capacity:

(a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)(e).

(5) "Medical examiner" means the state medical examiner appointed pursuant to Section 26B-8-202 or a deputy appointed by the medical examiner.

(6) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent;[~~and~~]

(b) reports that the medical examiner makes regarding a decedent[.]; and

(c) all administrative forms and correspondence related to a decedent's case.

(7) "Regional pathologist" means [~~a trained~~]an American Board of Pathology certified pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26B-8-202(3).

(8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(9) "Sudden [~~infant death syndrome~~]unexpected infant death" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(10) "Suicide" means death caused by an intentional and voluntary act of an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.

(12)(a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 55. Section 26B-8-202 is amended to read:

26B-8-202. Chief medical examiner -- Appointment -- Qualifications -- Authority.

(1) The executive director[~~, with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah,~~] shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of Pathology.

(2)(a) The medical examiner shall serve at the will of the executive director.

(b) The medical examiner has authority to:

(i) employ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system;

(ii) conduct investigations and pathological examinations;

(iii) perform autopsies authorized in this title;

(iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection 26B-8-321(3), retain tissues and biological samples:

(A) for scientific purposes;

(B) where necessary to accurately certify the cause and manner of death; or

(C) for tissue from an unclaimed body, subject to Section 26B-8-225, in order to donate the tissue or biological sample to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 56. Section 26B-8-203 is amended to read:

26B-8-203. County medical examiners.

The county executive, with the advice and consent of the county legislative body and approval of the chief medical examiner, may appoint medical examiners for their respective counties.

Section 57. Section 26B-8-205 is amended to read:

26B-8-205. Jurisdiction of medical examiner.

Upon notification under Section 26B-8-206 or investigation by the medical examiner's office, the medical examiner shall assume [~~custody of~~]jurisdiction over a deceased body if it appears that death:

(1) was by violence, gunshot, suicide, or accident;

(2) was sudden death while in apparent good health;

(3) occurred unattended, except that an autopsy may only be performed in accordance with the provisions of Subsection 26B-8-207(3);

(4) occurred under suspicious or unusual circumstances;

(5) resulted from poisoning or overdose of drugs;

(6) resulted from a disease that may constitute a threat to the public health;

(7) resulted from disease, injury, toxic effect, or unusual exertion incurred within the scope of the decedent's employment;

(8) was due to [~~sudden infant death syndrome~~]sudden unexpected infant death;

(9) occurred while the decedent was in prison, jail, police custody, the state hospital, or in a detention or medical facility operated for the treatment of persons with a mental illness, persons who are emotionally disturbed, or delinquent persons;

(10) resulted directly from the actions of a law enforcement officer, as defined in Section 53-13-103;

(11) was associated with diagnostic or therapeutic procedures; or

(12) was described in this section when request is made to assume custody by a county or district attorney or law enforcement agency in connection with a potential homicide investigation or prosecution.

Section 58. Section 26B-8-207 is amended to read:

26B-8-207. Custody of dead body and personal effects -- Examination of scene of death -- Preservation of body -- Autopsies.

(1)(a) Upon notification of a death under Section 26B-8-206, the medical examiner shall assume [~~custody of~~]jurisdiction over the deceased body, clothing on the body, biological samples taken, and any article on or near the body which may aid the medical examiner in determining the cause of death except those articles which will assist the investigative agency to proceed without delay with the investigation.

(b) In all cases the scene of the event may not be disturbed until authorization is given by the senior ranking peace officer from the law enforcement agency having jurisdiction of the case and conducting the investigation.

(c) Where death appears to have occurred under circumstances listed in Section 26B-8-205, the person or persons finding or having custody of the body, or jurisdiction over the investigation of the death, shall take reasonable precautions to preserve the body and body fluids so that minimum deterioration takes place.

(d) A person may not move a body [~~in the custody~~]under the jurisdiction of the medical examiner unless:

(i) the medical examiner, or district attorney or county attorney that has criminal jurisdiction, authorizes the person to move the body;

(ii) a designee of an individual listed in this Subsection (1)(d) authorizes the person to move the body;

(iii) not moving the body would be an affront to public decency or impractical; or

(iv) the medical examiner determines the cause of death is likely due to natural causes.

(e) The body can under direction of the medical examiner or the medical examiner's designee be moved to a place specified by the medical examiner or the medical examiner's designee.

(2)(a) If the medical examiner has [~~custody of~~]jurisdiction over a body, a person may not clean or embalm the body without first obtaining the medical examiner's permission.

(b) An intentional or knowing violation of Subsection (2)(a) is a class B misdemeanor.

(3)(a) When the medical examiner assumes lawful [~~custody of~~]jurisdiction over a body under Subsection 26B-8-205(3) solely because the death was unattended, an autopsy may not be performed unless requested by the district attorney, county attorney having criminal jurisdiction, or law enforcement agency having jurisdiction of the place where the body is found.

(b) The county attorney or district attorney and law enforcement agency having jurisdiction shall consult with the medical examiner to determine the need for an autopsy.

(c) If the deceased chose not to be seen or treated by a health care professional for a spiritual or religious reason, a district attorney, county attorney, or law enforcement agency, may not request an autopsy or inquest under Subsection (3)(a) solely because of the deceased's choice.

(d) The medical examiner or medical examiner's designee may not conduct a requested autopsy

described in Subsection (3)(a) if the medical examiner or medical examiner's designee determines:

(i) the request violates Subsection (3)(c); or

(ii) the cause of death can be determined without performing an autopsy.

Section 59. Section 26B-8-210 is amended to read:

26B-8-210. Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.

(1) If a medical examiner determines that the death of a person who is 12 years old or older at the time of death resulted from poisoning or overdose involving a[~~prescribed~~] controlled substance prescribed to the decedent, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of Professional Licensing, created in Section 58-1-103, that includes:

(a) the decedent's name;

(b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and

(c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.

(2) This section does not create a new cause of action.

Section 60. Section 26B-8-217 is amended to read:

26B-8-217. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2)(a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the [~~medical examiner's final report of examination for the decedent, including the~~] autopsy report, toxicology report, lab reports, [~~and~~]investigative reports, documents generated by the medical examiner related to any report, and any other specifically requested portions of the medical examiner record, if any, to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) [~~Upon~~]Subject to Subsection (2)(c), upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of [~~the of the medical examiner's final report of examination for the decedent, including any other reports~~]any medical examiner report or other portions of the medical examiner's record described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of [~~the medical examiner's final report of examination, including any other reports~~]a report or portion of the medical examiner's record described in Subsection (2)(a), if the [~~final~~]report or portion of the medical examiner's record relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b)(i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the department; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health and Human Services Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

(8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 61. Section 26B-8-221 is amended to read:

26B-8-221. Authority of county attorney or district attorney to subpoena witnesses and compel testimony -- Determination if decedent died by unlawful means.

(1) The district attorney or county attorney having criminal jurisdiction may subpoena witnesses and compel testimony concerning the death of any person and have such testimony reduced to writing under his direction and may employ a [~~shorthand~~]court reporter for that purpose at the same compensation as is allowed to reporters in the district courts. When the testimony has been taken down by the [~~shorthand~~]court reporter, a transcript thereof, duly certified, shall constitute the deposition of the witness.

(2) Upon review of all facts and testimony taken concerning the death of a person, the district attorney or county attorney having criminal jurisdiction shall determine if the decedent died by unlawful means and shall also determine if criminal prosecution shall be instituted.

Section 62. Section 26B-8-223 is amended to read:

26B-8-223. Authority of examiner to provide organ or other tissue for transplant purposes.

(1) When requested by the licensed physician of a patient who is in need of an organ or other tissue for transplant purpose, by a legally created Utah eye bank, organ bank or medical facility, the medical examiner may provide an organ or other tissue if:

(a) a decedent who may provide a suitable organ or other tissue for the transplant is in the custody of the medical examiner;

(b) the medical examiner is assured that the requesting party has made reasonable search for and inquiry of next of kin of the decedent and that no objection by the next of kin is known by the requesting party; and

(c) the removal of the organ or other tissue will not interfere with the investigation or autopsy or alter the post-mortem facial appearance.

(2) When the medical examiner [~~is in custody of~~]has jurisdiction over a decedent who may provide a suitable organ or other tissue for transplant purposes, he may contact the appropriate eye bank, organ bank or medical facility and notify them concerning the suitability of the organ or other tissue. In such contact the medical examiner may disclose the name of the decedent so that necessary clearances can be obtained.

(3) No person shall be held civilly or criminally liable for any acts performed pursuant to this section.

Section 63. Section 26B-8-225 is amended to read:

26B-8-225. Burial of an unclaimed body -- Request by the school of medicine at the University of Utah -- Medical examiner may retain tissue for dog training.

(1) Except as described in Subsection (2) or (3), a county shall provide, at the county's expense, decent [~~burial for~~]disposition of an unclaimed body found in the county.

(2) A county is not responsible for decent [~~burial~~]disposition of an unclaimed body found in the county if the body is requested by the dean of the school of medicine at the University of Utah under Section 53B-17-301.

(3) For an unclaimed body that is temporarily in the medical examiner's custody before [~~burial~~]disposition under Subsection (1), the medical examiner may retain tissue from the unclaimed body in order to donate the tissue to an individual who is affiliated with an established search and rescue dog organization, for the purpose of training a dog to search for human remains.

Section 64. Section 26B-8-227 is amended to read:

26B-8-227. Registry of unidentified deceased persons.

(1) If the identity of a deceased person over which the medical examiner has jurisdiction under Section 26B-8-205 is unknown, the medical examiner shall do the following[~~, before releasing the body to the county in which the body was found as provided in Section 26B-8-225~~]:

(a) assign a unique identifying number to the body;

(b) create and maintain a file under the assigned number;

(c) examine the body, take samples, and perform other related tasks for the purpose of deriving information that may be useful in ascertaining the identity of the deceased person;

(d) use the identifying number in all records created by the medical examiner that pertains to the body;

(e) record all information pertaining to the body in the file created and maintained under Subsection (1)(b);

(f) communicate the unique identifying number to the county in which the body was found; and

(g) access information from available government sources and databases in an attempt to ascertain the identity of the deceased person.

[~~(2) A county which has received a body to which Subsection (1) applies:~~]

[~~(a) shall adopt and use the same identifying number assigned by Subsection (1) in all records created by the county that pertain to the body;~~]

[~~(b) require any funeral director or sexton who is involved in the disposition of the body to adopt and use the same identifying number assigned by Subsection (1) in all records created by the funeral director or sexton pertaining to the body; and~~]

[~~(c) shall provide a decent burial for the body.~~]

[~~(3) Within 30 days of receiving a body to which Subsection (1) applies, the county shall inform the medical examiner of the disposition of the body including the burial plot. The medical examiner shall record this information in the file created and maintained under Subsection (1)(b).~~]

[~~(4) The requirements of Subsections (1) and (6) apply to a county examiner appointed under Section 26B-8-203, with the additional requirements that the county examiner:~~]

[~~(a) obtain a unique identifying number from the medical examiner for the body; and~~]

[~~(b) send to the medical examiner a copy of the file created and maintained in accordance with Subsection (1)(b), including the disposition of the body and burial plot, within 30 days of releasing the body.~~]

[~~(5) The medical examiner shall maintain a file received under Subsection (4) in the same way that it maintains a file created and maintained by the medical examiner in accordance with Subsection (1)(b).~~]

[~~(6)~~](2) The medical examiner shall cooperate and share information generated and maintained under this section with a person who demonstrates:

(a) a legitimate personal or governmental interest in determining the identity of a deceased person; and

(b) a reasonable belief that the body of that deceased person may have come into the custody of the medical examiner.

Section 65. Section 26B-8-229 is amended to read:

26B-8-229. Psychological autopsy examiner.

(1) With funds appropriated by the Legislature for this purpose, the department shall provide compensation, at a standard rate determined by the department, to a psychological autopsy examiner.

(2) The psychological autopsy examiner shall:

(a) work with the medical examiner to compile data regarding suicide related deaths;

(b) as relatives, associates, and acquaintances of the deceased are willing, gather information[~~ from relatives of the deceased~~] regarding the [~~psychological reasons for~~]circumstances that preceded the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b);

(d) in accordance with all applicable privacy laws subject to approval by the department, share the database described in Subsection (2)(c) with the University of Utah Department of Psychiatry or other university-based departments conducting research on suicide;

(e) coordinate no less than monthly with the suicide prevention coordinator described in Subsection 26B-5-611(2); and

(f) coordinate no less than quarterly with the state suicide prevention coalition.

Section 66. Section 34A-6-107 is amended to read:

34A-6-107. Research and related activities.

(1)(a) The division, after consultation with other appropriate agencies, shall conduct, directly or by grants or contracts, whether federal or otherwise, research, experiments, and demonstrations in the area of occupational safety and health, including studies of psychological factors involved in innovative methods, techniques, and approaches for dealing with occupational safety and health problems.

(b)(i) The division, to comply with its responsibilities under this section, and to develop needed information regarding toxic substances or harmful physical agents, may make rules requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents reasonably believed to endanger the health or safety of employees.

(ii) The division may establish programs for medical examinations and tests necessary for determining the incidence of occupational diseases and the susceptibility of employees to the diseases.

(iii) Nothing in this chapter authorizes or requires a medical examination, immunization, or treatment for persons who object on religious grounds, except when necessary for the protection of the health or safety of others.

(iv) Any employer who is required to measure and record employee exposure to substances or physical agents as provided under Subsection (1)(b) may receive full or partial financial or other assistance to defray additional expense incurred by measuring and recording as provided in this Subsection (1)(b).

(c)(i) Following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, the division shall determine whether any substance normally found in a workplace has toxic effects in the concentrations used or found, and shall submit its determination both to employers and affected employees as soon as possible.

(ii) The division shall immediately take action necessary under Section 34A-6-202 or 34A-6-305 if the division determines that:

(A) any substance is toxic at the concentrations used or found in a workplace; and

(B) the substance is not covered by an occupational safety or health standard promulgated under Section 34A-6-202.

(2) The division may inspect and question employers and employees as provided in Section 34A-6-301, to carry out its functions and responsibilities under this section.

(3) The division is authorized to enter into contracts, agreements, or other arrangements with appropriate federal or state agencies, or private organizations to conduct studies about its responsibilities under this chapter. In carrying out its responsibilities under this subsection, the division shall cooperate with the Department of [~~Health~~]Health and Human Services and the Department of Environmental Quality to avoid any duplication of efforts under this section.

(4) Information obtained by the division under this section shall be disseminated to employers and employees and organizations of them.

Section 67. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1)(a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage Services Commission, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of [~~Health~~]Health and Human Services, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, [~~the Department of Human Services, ~~]the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6)(a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 68. Section 53-2d-404 is amended to read:

53-2d-404. Permits for emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

(1)(a) To ensure that emergency medical service vehicles and nonemergency secured behavioral health transport vehicles are adequately staffed, safe, maintained, properly equipped, and safely operated, the committee shall establish permit requirements at levels it considers appropriate in the following categories:

(i) ambulance;

(ii) emergency medical response vehicle; and

(iii) nonemergency secured behavioral health transport vehicle.

(b) The permit requirements under Subsections (1)(a)(i) and (ii) shall include a requirement that[~~beginning on or after January 31, 2014,~~] every operator of an ambulance or emergency medical response vehicle annually provide proof of the successful completion of an emergency vehicle operator's course approved by the bureau for all ambulances and emergency medical response vehicle operators.

(2) The bureau shall, based on the requirements established in Subsection (1), issue permits to emergency medical service vehicles and nonemergency secured behavioral health transport vehicles.

Section 69. Section 53-2d-503 is amended to read:

53-2d-503. Establishment of maximum rates.

(1) The bureau shall, after receiving recommendations under Subsection (2), establish maximum rates for ground ambulance providers and paramedic providers that are just and reasonable.

(2) The committee may make recommendations to the bureau on the maximum rates that should be set under Subsection (1).

(3)(a) [~~The bureau shall prohibit ground~~]Ground ambulance providers and paramedic providers [~~from charging~~]may not charge fees for transporting a patient when the provider does not transport the patient.

(b) The provisions of Subsection (3)(a) do not apply to ambulance providers or paramedic providers in a geographic service area which contains a town as defined in Subsection 10-2-301(2)(f).

Section 70. Section 53-2d-703 is amended to read:

53-2d-703. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 5, Ambulance and Paramedic Providers; and

(ii) [~~as of January 1, 2022,~~]does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The bureau shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 53-2d-402 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5)(a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6)(a) The bureau may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The bureau shall convene an advisory board:

(i) to advise the bureau on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 71. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" refers to any person as described under Section 53-10-403.

(2)(a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b)(i)(A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3)(a)(i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e)(i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or a finding of jurisdiction by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5)(a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 80-6-608.

(c) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c).; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

(d) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6)(a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from

persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7)(a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8)(a) The Department of Corrections, the juvenile court, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b)(i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 72. Section 53-10-407 is amended to read:

53-10-407. DNA Specimen Restricted Account.

(1) There is created the DNA Specimen Restricted Account, which is referred to in this section as "the account."

(2) The sources of money for the account are:

(a) DNA collection fees paid under Section 53-10-404;

(b) any appropriations made to the account by the Legislature; and

(c) all federal money provided to the state for the purpose of funding the collection or analysis of DNA specimens collected under Section 53-10-403.

(3) The account shall earn interest, and this interest shall be deposited in the account.

(4) The Legislature may appropriate money from the account solely for the following purposes:

(a) to the Department of Corrections for the costs of collecting DNA specimens as required under Section 53-10-403;

(b) to the juvenile court for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-6-608;

(c) to the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services for the costs of collecting DNA specimens as required under Sections 53-10-403 and 80-5-201; and

(d) to the Department of Public Safety for the costs of:

(i) storing and analyzing DNA specimens in accordance with the requirements of this part;

(ii) DNA testing which cannot be performed by the Utah State Crime Lab, as provided in Subsection 78B-9-301(7); and

(iii) reimbursing sheriffs for collecting the DNA specimens as provided under Sections 53-10-404 and 53-10-404.5.

(5) Appropriations from the account to the Department of Corrections, the juvenile court, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, and to the Department of Public Safety are nonlapsing.

Section 73. Section 53E-10-301 is amended to read:

53E-10-301. Definitions.

As used in this part:

(1) "Career and technical education course" means a concurrent enrollment course in career and technical education, as determined by the policy established by the Utah Board of Higher Education under Section 53E-10-302.

(2) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.

(3) "Educator" means the same as that term is defined in Section 53E-6-102.

(4) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(6).

(5) "Eligible student" means a student who:

(a)(i) is enrolled in, and counted in average daily membership in, a public school within the state; or

(ii) is in the custody of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services and subject to the jurisdiction of the Youth Parole Authority;

(b) has on file a plan for college and career readiness as described in Section 53E-2-304; and

(c) is in grade 9, 10, 11, or 12.

(6) "Institution of higher education" means an institution described in Subsection 53B-1-102(1)(a).

(7) "License" means the same as that term is defined in Section 53E-6-102.

(8) "Local education agency" or "LEA" means a school district or charter school.

(9) "Qualifying experience" means an LEA employee's experience in an academic field that:

(a) qualifies the LEA employee to teach a concurrent enrollment course in the academic field; and

(b) may include the LEA employee's:

(i) number of years teaching in the academic field;

(ii) holding a higher level secondary teaching credential issued by the state board;

(iii) research, publications, or other scholarly work in the academic field;

(iv) continuing professional education in the academic field;

(v) portfolio of work related to the academic field; or

(vi) professional work experience or certifications in the academic field.

(10) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 74. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that has:

(i) had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) been rated as effective by a standardized program evaluation tool; or

(iii) been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii)(A) is truant at least 10 times during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section [~~62A-15-102~~]26B-5-101.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l)(i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(a) when school is in session; or

(b) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, the school administrator, the school administrator's designee, or a school resource officer may refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a youth court or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; or

(vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection (5), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed the same offense on school property on two previous occasions; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for both of the two previous offenses.

(5) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

(6) Notwithstanding Subsection (4), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(7)(a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (7)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353, when the underlying offense is a status offense or infraction.

(e) If a minor is referred to a court under Subsection (4), the court may use, when available, the resources of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services or the [~~Division of Substance Abuse and Mental Health~~]Office of Substance Use and Mental Health to address the minor.

(8) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

Section 75. Section 53G-8-213 is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed violent felony or weapon offense.

(1) As used in this section:

(a) "Multidisciplinary team" means the local education agency, the juvenile court, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

Section 76. Section 53G-10-406 is amended to read:

53G-10-406. Underage Drinking and Substance Abuse Prevention Program -- State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

(b) a school-based prevention program for students in grade 7 or 8; and

(c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3)(a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

(c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage Services or the executive director's designee;

(b) the executive director of the Department of Health and Human Services or the executive director's designee;

(c) the director of the [~~Division of Substance Abuse and Mental Health~~]Office of Substance Use and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6)(a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective.

(7)(a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

(c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section 77. Section 58-17b-309.7 is amended to read:

58-17b-309.7. Opioid treatment program.

(1) As used in this section:

(a) "Covered provider" means an individual who is licensed to engage in:

(i) the practice of advanced practice registered nursing as defined in Section 58-31b-102;

(ii) the practice of registered nursing as defined in Section 58-31b-102; or

(iii) practice as a physician assistant as defined in Section 58-70a-102.

(b) "Opioid treatment program" means a program or practitioner that is:

(i) engaged in dispensing an opiate medication assisted treatment for opioid use disorder;

(ii) registered under 21 U.S.C. Sec. 823(g)(1);

(iii) licensed by the [~~Office of Licensing~~]Division of Licensing and Background Checks within the Department of Health and Human Services created in Section 26B-2-103; and

(iv) certified by the federal Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11.

(2) A covered provider may dispense opiate medication assisted treatment at an opioid treatment program if the covered provider:

(a) is operating under the direction of a pharmacist;

(b) dispenses the opiate medication assisted treatment under the direction of a pharmacist; and

(c) acts in accordance with division rule made under Subsection (3).

(3) The division shall, in consultation with practitioners who work in an opioid treatment program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish guidelines under which a covered provider may dispense opiate medication assisted treatment to a patient in an opioid treatment program under this section.

Section 78. Section 58-17b-620 is amended to read:

58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26B-7-201, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the [~~physician and the medical director~~]public health department physician medical director or the physician medical director of the state Department of Health and Human Services licensed under Chapter 67, Utah Medical Practices Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6)(a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

(7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection if the drug is:

(a) a prepackaged drug as defined in Section 58-17b-802;

(b) dispensed under a prescription authorized by this section;

(c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the health department;

(d) provided in accordance with a dispensing standard that is issued by a physician who is employed by the health department; and

(e) if applicable, in accordance with requirements established by the division in collaboration with the board under Subsection (8).

(8) The division may make rules in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific requirements regarding the dispensing of a drug under Subsection (7).

Section 79. Section 63B-3-102 is amended to read:

63B-3-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed $64,600,000.

(2)(a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

1 Alterations, Repairs, and Improvements	$5,000,000
TOTAL IMPROVEMENTS	$5,000,000

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT PRIORITY	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS

1	University of Utah Marriott Library Phase III (Final)	$13,811,500	$881,600
2	Bridgerland Applied Technology Center Utah State University Space	$2,400,000	$0
3	Weber State University - Heat Plant	$2,332,100	$9,600
4	Department of Health and Human Services - ~~[Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services]~~ Division of Juvenile Justice and Youth Services	$4,180,000	$400,000
5	Snow College - Administrative Services/Student Center	$3,885,100	$224,500
6	Ogden Weber Applied Technology Center - Metal Trades Building Design and Equipment Purchase	$750,000	$0
7	Department of Corrections B-Block Remodel	$1,237,100	$72,000
8	Utah State University - Old Main Phase III Design	$550,000	$0
9	Department of Corrections - 144 bed Uintah Expansion	$6,700,000	$168,800
10	Southern Utah University Administrative Services/Student Center	$5,630,400	$314,200
11	Anasazi Museum	$760,200	$8,500
12	Hill Air Force Base - Easements Purchase	$9,500,000	$0
13	Signetics Building Remodel	$2,000,000	$0
14	Antelope Island Visitors Center	$750,000	$30,000
15	State Fair Park - Master Study	$150,000	$0
16	Utah National Guard - Draper Land	$380,800	$0
17	Davis Applied Technology Center - Design	$325,000	$0
18	Palisade State Park - Land and Park Development	$800,000	$0
19	Department of Health and Human Services - Cedar City Land	$80,000	$0
20	Department of Health and Human Services - Clearfield Land	$163,400	$0
21	Electronic technology, equipment, and hardware	$2,500,000	$0
	TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	$58,885,600	
	TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	$63,885,600	

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3)(a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4)(a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5)(a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 80. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building

Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the Division of Facilities Construction and Management allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4)(a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5)(a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(6)(a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $9,000,000 for the acquisition or construction of up to two field offices for the Department of Health and Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(7)(a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Services, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Services not be increased to fund these lease payments.

(8)(a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the Division of Facilities Construction and Management participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, formerly known as the Division of Youth Corrections and then the Division of Juvenile Justice Services, develop a flexible use prototype facility for [~~the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~]the Division of Juvenile Justice and Youth Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d)(i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections [~~renamed in 2003 to the Division of Juvenile Justice Services~~], now known as the Division of Juvenile Justice and Youth Services, is used to design and construct one facility and design the other;

(ii) the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) [~~that~~]both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the [~~Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks, formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I- 15.

(20) It is the intent of the Legislature that the Ogden- Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden- Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Division of Facilities Construction and Management;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 81. Section 63B-4-102 is amended to read:

63B-4-102. Maximum amount -- Projects authorized.

(1) The total amount of bonds issued under this part may not exceed $45,300,000.

(2)(a) Proceeds from the issuance of bonds shall be provided to the division to provide funds to pay all or part of the cost of acquiring and constructing the projects listed in this Subsection (2).

(b) These costs may include the cost of acquiring land, interests in land, easements and rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or convenient to the facilities, interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, and all related engineering, architectural, and legal fees.

(c) For the division, proceeds shall be provided for the following:

CAPITAL IMPROVEMENTS

Alterations, Repairs, and Improvements	$7,200,000
TOTAL IMPROVEMENTS	$7,200,000

CAPITAL AND ECONOMIC DEVELOPMENT

PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
Corrections - Uinta IVA	$11,300,000	$212,800
Utah County Youth Correctional Facility	$6,650,000	$245,000
Ogden Weber Applied Technology Center - Metal Trades	$5,161,000	$176,000
Project Reserve Fund	$3,500,000	None
Weber State University - Browning Center Remodel	$3,300,000	None
Heber Wells Building Remodel	$2,000,000	None
Higher Education Davis County - Land Purchase	$1,600,000	None
National Guard -- Provo Armory	$1,500,000	$128,000
Department of Natural Resources - Pioneer Trails Visitor Center	$900,000	$65,000
Higher Education Design Projects	$800,000	Varies depending upon projects selected
Salt Lake Community College - South Valley Planning	$300,000	None
Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, now known as the Division of Juvenile Justice and Youth Services - Logan Land Purchase	$120,000	None
TOTAL CAPITAL AND ECONOMIC DEVELOPMENT	$37,131,000	
TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT	$44,331,000	

(d) For purposes of this section, operations and maintenance costs:

(i) are estimates only;

(ii) may include any operations and maintenance costs already funded in existing agency budgets; and

(iii) are not commitments by this Legislature or future Legislatures to fund those operations and maintenance costs.

(3)(a) The amounts funded as listed in Subsection (2) are estimates only and do not constitute a

limitation on the amount that may be expended for any project.

(b) The board may revise these estimates and redistribute the amount estimated for a project among the projects authorized.

(c) The commission, by resolution and in consultation with the board, may delete one or more projects from this list if the inclusion of that project or those projects in the list could be construed to violate state law or federal law or regulation.

(4)(a) The division may enter into agreements related to these projects before the receipt of proceeds of bonds issued under this chapter.

(b) The division shall make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund.

(c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds of bonds issued under this chapter.

(d) The commission may, by resolution, make any statement of intent relating to that reimbursement that is necessary or desirable to comply with federal tax law.

(5)(a) For those projects for which only partial funding is provided in Subsection (2), it is the intent of the Legislature that the balance necessary to complete the projects be addressed by future Legislatures, either through appropriations or through the issuance or sale of bonds.

(b) For those phased projects, the division may enter into contracts for amounts not to exceed the anticipated full project funding but may not allow work to be performed on those contracts in excess of the funding already authorized by the Legislature.

(c) Those contracts shall contain a provision for termination of the contract for the convenience of the state.

(d) It is also the intent of the Legislature that this authorization to the division does not bind future Legislatures to fund projects initiated from this authorization.

Section 82. Section 63B-11-702 is amended to read:

63B-11-702. Other capital facility authorizations and intent language.

(1) It is the intent of the Legislature that:

(a) Salt Lake Community College use donations and other institutional funds to plan, design, and construct a renovation of and addition to the Grand Theater under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the college may request state funds for operations and maintenance to the extent that the college is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(2) It is the intent of the Legislature that:

(a) the University of Utah use donations, grants, and other institutional funds to plan, design, and construct a Department of Chemistry Gauss House under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(3) It is the intent of the Legislature that:

(a) the University of Utah use donations and other institutional funds to plan, design, and construct an expansion of the Eccles Health Science Library and the associated parking structure under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(4) It is the intent of the Legislature that:

(a) the University of Utah use donations and other institutional funds to plan, design, and construct a Phase II Addition to the Moran Eye Center under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

(5) It is the intent of the Legislature that:

(a) the University of Utah use donations and other institutional funds to plan, design, and construct a Children's Dance Theatre under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may not request state funds for operations and maintenance.

(6) It is the intent of the Legislature that:

(a) Utah State University use donations and other institutional funds to plan, design, and construct a Teaching Pavilion at its Animal Science Farm under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the university may request state funds for operations and maintenance to the extent that the university is able to demonstrate to the Board of Regents that the facility meets approved academic and training purposes under Board of Regents policy R710.

(7) It is the intent of the Legislature that:

(a) the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services use donations to plan, design, and construct a chapel at the Slate Canyon Youth Corrections Facility under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the division may not request additional state funding for operations and maintenance.

(8) It is the intent of the Legislature that the Utah National Guard use federal funds and proceeds from the sale of property to acquire a site for new facilities in Salt Lake or Davis County.

(9) It is the intent of the Legislature that:

(a) the Utah National Guard use donations and grants to plan, design, and construct the renovation and expansion of the Fort Douglas Military Museum under the direction of the director of the Division of Facilities Construction and Management unless supervisory authority has been delegated;

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

(c) the National Guard may not request additional state funding for operations and maintenance.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management pursue the exchange of public safety facilities in Orem if:

(i) the land and newly constructed replacement facilities meet the needs of the Driver License Division and the Utah Highway Patrol; and

(ii) the replacement property and facilities can be obtained at a cost that is not less than the market value of the existing property and facilities; and

(b) the division confirms the value of the properties to be exchanged.

Section 83. Section 63M-7-208 is amended to read:

63M-7-208. Juvenile justice oversight -- Delegation -- Effective dates.

(1) The State Commission on Criminal and Juvenile Justice shall:

(a) support implementation and expansion of evidence-based juvenile justice programs and practices, including assistance regarding implementation fidelity, quality assurance, and ongoing evaluation;

(b) examine and make recommendations on the use of third-party entities or an intermediary organization to assist with implementation and to support the performance-based contracting system authorized in Subsection (1)(m);

(c) oversee the development of performance measures to track juvenile justice reforms, and ensure early and ongoing stakeholder engagement in identifying the relevant performance measures;

(d) evaluate currently collected data elements throughout the juvenile justice system and contract reporting requirements to streamline reporting, reduce redundancies, eliminate inefficiencies, and ensure a focus on recidivism reduction;

(e) review averted costs from reductions in out-of-home placements for juvenile justice youth placed with the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services and the Division of Child and Family Services, and make recommendations to prioritize the reinvestment and realignment of resources into community-based programs for youth living at home, including the following:

(i) statewide expansion of:

(A) juvenile receiving centers, as defined in Section 80-1-102;

(B) mobile crisis outreach teams, as defined in Section [~~62A-15-102~~]26B-5-101;

(C) youth courts; and

(D) victim-offender mediation;

(ii) statewide implementation of nonresidential diagnostic assessment;

(iii) statewide availability of evidence-based programs and practices including cognitive behavioral and family therapy programs for minors assessed by a validated risk and needs assessment as moderate or high risk;

(iv) implementation and infrastructure to support the sustainability and fidelity of evidence-based juvenile justice programs, including resources for staffing, transportation, and flexible funds; and

(v) early intervention programs such as family strengthening programs, family wraparound services, and proven truancy interventions;

(f) assist the Administrative Office of the Courts in the development of a statewide sliding scale for

the assessment of fines, fees, and restitution, based on the ability of the minor's family to pay;

(g) analyze the alignment of resources and the roles and responsibilities of agencies, such as the operation of early intervention services, receiving centers, and diversion, and make recommendations to reallocate functions as appropriate, in accordance with Section 80-5-401;

(h) comply with the data collection and reporting requirements under Section 80-6-104;

(i) develop a reasonable timeline within which all programming delivered to minors in the juvenile justice system must be evidence-based or consist of practices that are rated as effective for reducing recidivism by a standardized program evaluation tool;

(j) provide guidelines to be considered by the Administrative Office of the Courts and the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services in developing tools considered by the Administrative Office of the Courts and the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services in developing or selecting tools to be used for the evaluation of juvenile justice programs;

(k) develop a timeline to support improvements to juvenile justice programs to achieve reductions in recidivism and review reports from relevant state agencies on progress toward reaching that timeline;

(l) subject to Subsection (2), assist in the development of training for juvenile justice stakeholders, including educators, law enforcement officers, probation staff, judges, [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services staff, Division of Child and Family Services staff, and program providers;

(m) subject to Subsection (3), assist in the development of a performance-based contracting system, which shall be developed by the Administrative Office of the Courts and the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services for contracted services in the community and contracted out-of-home placement providers;

(n) assist in the development of a validated detention risk assessment tool that is developed or adopted and validated by the Administrative Office of the Courts and the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services as provided in Section 80-5-203; and

(o) annually issue and make public a report to the governor, president of the Senate, speaker of the House of Representatives, and chief justice of the Utah Supreme Court on the progress of the reforms and any additional areas in need of review.

(2) Training described in Subsection (1)(l) should include instruction on evidence-based programs and principles of juvenile justice, such as risk, needs, responsivity, and fidelity, and shall be supplemented by the following topics:

(a) adolescent development;

(b) identifying and using local behavioral health resources;

(c) cross-cultural awareness;

(d) graduated responses;

(e) Utah juvenile justice system data and outcomes; and

(f) gangs.

(3) The system described in Subsection (1)(m) shall provide incentives for:

(a) the use of evidence-based juvenile justice programs and practices rated as effective by the tools selected in accordance with Subsection (1)(j);

(b) the use of three-month timelines for program completion; and

(c) evidence-based programs and practices for minors living at home in rural areas.

(4) The State Commission on Criminal and Juvenile Justice may delegate the duties imposed under this section to a subcommittee or board established by the State Commission on Criminal and Juvenile Justice in accordance with Subsection 63M-7-204(2).

Section 84. Section 63M-7-401 is amended to read:

63M-7-401. Creation -- Members -- Appointment -- Qualifications.

(1) There is created a state commission to be known as the Sentencing Commission composed of 28 members. The commission shall develop by-laws and rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and elect its officers.

(2) The commission's members shall be:

(a) two members of the House of Representatives, appointed by the speaker of the House and not of the same political party;

(b) two members of the Senate, appointed by the president of the Senate and not of the same political party;

(c) the executive director of the Department of Corrections or a designee appointed by the executive director;

(d) the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services or a designee appointed by the director;

(e) the executive director of the Commission on Criminal and Juvenile Justice or a designee appointed by the executive director;

(f) the chair of the Board of Pardons and Parole or a designee appointed by the chair;

(g) the chair of the Youth Parole Authority or a designee appointed by the chair;

(h) two trial judges and an appellate judge appointed by the chair of the Judicial Council;

(i) two juvenile court judges designated by the chair of the Judicial Council;

(j) an attorney in private practice who is a member of the Utah State Bar, experienced in criminal defense, and appointed by the Utah Bar Commission;

(k) an attorney who is a member of the Utah State Bar, experienced in the defense of minors in juvenile court, and appointed by the Utah Bar Commission;

(l) the director of Salt Lake Legal Defenders or a designee appointed by the director;

(m) the attorney general or a designee appointed by the attorney general;

(n) a criminal prosecutor appointed by the Statewide Association of Public Attorneys;

(o) a juvenile court prosecutor appointed by the Statewide Association of Public Attorneys;

(p) a representative of the Utah Sheriff's Association appointed by the governor;

(q) a chief of police appointed by the governor;

(r) a licensed professional appointed by the governor who assists in the rehabilitation of adult offenders;

(s) a licensed professional appointed by the governor who assists in the rehabilitation of juvenile offenders;

(t) two members from the public appointed by the governor who exhibit sensitivity to the concerns of victims of crime and the ethnic composition of the population;

(u) one member from the public at large appointed by the governor; and

(v) a representative of an organization that specializes in civil rights or civil liberties on behalf of incarcerated individuals appointed by the governor.

Section 85. Section 63M-7-601 is amended to read:

63M-7-601. Creation -- Members -- Chair.

(1) There is created within the governor's office the Utah Council on Victims of Crime.

(2) The council is composed of 28 voting members as follows:

(a) a representative of the State Commission on Criminal and Juvenile Justice appointed by the executive director;

(b) a representative of the Department of Corrections appointed by the executive director;

(c) a representative of the Board of Pardons and Parole appointed by the chair;

(d) a representative of the Department of Public Safety appointed by the commissioner;

(e) a representative of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services appointed by the director;

(f) a representative of the Utah Office for Victims of Crime appointed by the director;

(g) a representative of the Office of the Attorney General appointed by the attorney general;

(h) a representative of the United States Attorney for the district of Utah appointed by the United States Attorney;

(i) a representative of Utah's Native American community appointed by the director of the Division of Indian Affairs after input from federally recognized tribes in Utah;

(j) a professional or volunteer working in the area of violence against women and families appointed by the governor;

(k) a representative of the Department of Health and Human Services Violence and Injury Prevention Program appointed by the program's manager;

(l) the chair of each judicial district's victims' rights committee;

(m) a representative of the Statewide Association of Public Attorneys appointed by that association;

(n) a representative of the Utah Chiefs of Police Association appointed by the president of that association;

(o) a representative of the Utah Sheriffs' Association appointed by the president of that association;

(p) a representative of a Children's Justice Center appointed by the attorney general;

(q) the director of the Division of Child and Family Services or that individual's designee;

(r) the chair of the Utah Victim Services Commission or the chair's designee; and

(s) the following members appointed by the members in Subsections (2)(a) through (2)(r) to serve four-year terms:

(i) an individual who engages in community based advocacy;

(ii) a citizen representative; and

(iii) a citizen representative who has been a victim of crime.

(3) The council shall annually elect:

(a) one member to serve as chair;

(b) one member to serve as vice-chair; and

(c) one member to serve as treasurer.

Section 86. Section 63M-7-702 is amended to read:

63M-7-702. Domestic Violence Offender Treatment Board -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the executive director of the Department of Health and Human Services, or the executive director's designee;

(c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;

(d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;

(e) the chair of the Utah Victim Services Commission or the chair's designee;

(f) the director of the Utah Office for Victims of Crime, or the director's designee;

(g) the chair of the Board of Pardons and Parole, or the chair's designee;

(h) the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, or the director's designee;

(i) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and

(j) ten individuals appointed by the executive director of the commission, including:

(i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) a clinical social worker;

(B) a marriage and family therapist;

(C) a professional counselor; and

(D) a psychologist;

(ii) one individual who represents an association of criminal defense attorneys;

(iii) one criminal defense attorney who primarily represents indigent criminal defendants;

(iv) one individual who represents an association of prosecuting attorneys;

(v) one individual who represents law enforcement;

(vi) one individual who represents an association of criminal justice victim advocates; and

(vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.

(2)(a) A member may not serve on the board for more than eight consecutive years.

(b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(c) A member of the board serves until the member's successor is appointed.

(3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.

(4)(a) A majority of the board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least quarterly on a date the board sets.

Section 87. Section 63M-7-802 is amended to read:

63M-7-802. Sex Offense Management Board -- Creation -- Members appointment -- Qualifications -- Terms.

(1) There is created within the commission the Sex Offense Management Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the commissioner of the Department of Public Safety, or the commissioner's designee;

(c) the attorney general, or the attorney general's designee;

(d) an officer with the adult probation and parole section of the Department of Corrections with experience supervising adults convicted of sex offenses, appointed by the executive director of the Department of Corrections;

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

(f) an individual who represents the Administrative Office of the Courts appointed by the state court administrator;

(g) the director of the Utah Office for Victims of Crime, or the director's designee;

(h) the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, or the director's designee;

(i) the chair of the Board of Pardons and Parole, or the chair's designee; and

(j) nine individuals appointed by the executive director of the commission, including:

(i) the following two individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) an individual with experience in the treatment of adults convicted of sex offenses in the community;

(B) an individual with experience in the treatment of juveniles adjudicated of sex offenses in the community;

(ii) an individual who represents an association of criminal defense attorneys;

(iii) an individual who is a criminal defense attorney experienced in indigent criminal defense;

(iv) an individual who represents an association of prosecuting attorneys;

(v) an individual who represents law enforcement;

(vi) an individual who represents an association of criminal justice victim advocates;

(vii) an individual who is a clinical polygraph examiner experienced in providing polygraph examinations to individuals convicted of sex offenses; and

(viii) an individual who has been previously convicted of a sex offense and has successfully completed treatment and supervision for the offense.

(2)(a) A member described in Subsection (1)(j) shall serve a four-year term.

(b) If a vacancy occurs among a member described in Subsection (1)(j), the executive director of the commission may appoint a new individual to fill the remainder of the term.

(c) When a term of a member described in Subsection (1)(j) expires, the executive director of the commission shall appoint a new member or reappoint the member whose term has expired to a new four-year term.

(3) The members of the board shall vote on a chair and co-chair of the board from among the members described in Subsection (1) to serve a two-year term.

(4) A majority of the board constitutes a quorum.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least six times per year on dates the board sets.

Section 88. Section 67-5b-101 is amended to read:

67-5b-101. Definitions.

As used in this part:

(1) "Center" means a Children's Justice Center established in accordance with Section 67-5b-102.

(2) "Child abuse case" means a juvenile, civil, or criminal case involving a child abuse victim.

(3) "Child abuse victim" means a child 17 years [~~of age~~]old or younger who is:

(a) a victim of:

(i) sexual abuse; or

(ii) physical abuse; or

(b) a victim or a critical witness in any criminal case, such as a child endangerment case described in Section 76-5-112.5.

(4) "Officers and employees" means any person performing services for two or more public agencies as agreed in a memorandum of understanding in accordance with Section 67-5b-104.

(5) "Public agency" means a municipality, a county, the attorney general, the Division of Child and Family Services, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, the Department of Corrections, the juvenile court, or the Administrative Office of the Courts.

(6) "Satellite office" means a child-friendly facility supervised by a Children's Justice Center established in accordance with Section 67-5b-102.

(7)(a) "Volunteer" means any individual who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

(b) "Volunteer" does not include an individual participating in human subjects research or a court-ordered compensatory service worker as defined in Section 67-20-2.

Section 89. Section 76-3-401.5 is amended to read:

76-3-401.5. Concurrent or consecutive sentence with a juvenile disposition.

(1) As used in this section:

(a) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(b) "Board" means the Board of Pardons and Parole created in Section 77-27-2.

(c) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(d)(i) "Juvenile disposition" means an order for commitment to the custody of the division under Subsection 80-6-703(2).

(ii) "Juvenile disposition" includes an order for secure care under Subsection 80-6-705(1).

(e) "Secure correctional facility" means the same as that term is defined in Section 64-13-1.

(f) "Secure care" means the same as that term is defined in Section 80-1-102.

(2) If a defendant who is 18 years old or older is serving a juvenile disposition, a court may not terminate the juvenile disposition for the defendant when:

(a) the defendant is convicted of an offense; and

(b) the court imposes a sentence under Section 76-3-201 for the offense.

(3)(a) If a defendant who is 18 years old or older is convicted and sentenced for an offense and the defendant is serving a juvenile disposition at the time of sentencing, the court shall determine whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(b) The court shall state on the record and in the order of judgment and commitment whether the sentence imposed is to run concurrently or consecutively with the juvenile disposition.

(c) In determining whether a sentence is to run concurrently or consecutively with a juvenile disposition, the court shall consider:

(i) the gravity and circumstances of the offense for which the defendant is convicted;

(ii) the number of victims; and

(iii) the history, character, and rehabilitative needs of the defendant.

(d) If an order of judgment and commitment does not clearly state whether the sentence is to run consecutively or concurrently with the juvenile disposition, the division shall request clarification from the court.

(e) Upon receipt of the request under Subsection (3)(d), the court shall enter a clarified order of judgment and commitment stating whether the sentence is to run concurrently or consecutively to the juvenile disposition.

(4) If a court orders a sentence for imprisonment to run concurrently with a juvenile disposition for secure care, the defendant shall serve the sentence in secure care until the juvenile disposition is terminated by the authority in accordance with Section 80-6-804.

(5) If a court orders a sentence for imprisonment in a county jail to run concurrently with a juvenile disposition for secure care and the disposition is terminated before the defendant's sentence for imprisonment in the county jail is terminated, the division shall:

(a) notify the county jail at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from secure care; and

(b) facilitate the transfer or release of the defendant in accordance with the order of judgment and commitment imposed by the court.

(6)(a) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care:

(i) the board has authority over the defendant for purposes of ordering parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, restitution, and any other authority granted by law; and

(ii) the court and the division shall immediately notify the board that the defendant will remain in secure care as described in Subsection (4) for the board to schedule a hearing for the defendant in accordance with board procedures.

(b) If a court orders a sentence for imprisonment in a secure correctional facility to run concurrently with a juvenile disposition for secure care and the juvenile disposition is terminated before the defendant's sentence is terminated, the division shall:

(i) notify the board and the Department of Corrections at least 14 days before the day on which the defendant's disposition is terminated or the defendant is released from the secure care; and

(ii) facilitate a release or transfer of the defendant in accordance with the order of judgment and commitment imposed by the court.

Section 90. Section 76-5-101 is amended to read:

76-5-101. Definitions.

Unless otherwise provided, as used in this part:

(1) "Detained individual" means an individual detained under Section 77-7-15.

(2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services regardless of whether the confinement is legal.

Section 91. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations with youth receiving state services -- Penalties -- Defenses and limitations.

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

(i) "Actor" means:

(A) an individual employed by the Department of Health and Human Services created in Section 26B-1-201, or an employee of a private provider or contractor; or

(B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(ii) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(iii) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(iv) "Private provider or contractor" means a person that contracts with the:

(A) department to provide services or functions that are part of the operation of the department; or

(B) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(v) "Youth receiving state services" means an individual:

(A) younger than 18 years old, except as provided under Subsection (1)(a)(v)(B), who is:

(I) in the custody of the department under Section 80-6-703; or

(II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(B) younger than 21 years old:

(I) who is in the custody of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, or the Division of Child and Family Services; or

(II) whose case is under the jurisdiction of the juvenile court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii)(A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a)(i) are:

(i) having sexual intercourse with a youth receiving state services;

(ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or

(iii)(A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3)(a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a second degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5)(a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 92. Section 76-8-311.5 is amended to read:

76-8-311.5. Aiding or concealing a juvenile offender -- Trespass of a secure care facility -- Criminal penalties.

(1) As used in this section:

(a) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(b) "Juvenile offender" means the same as that term is defined in Section 80-1-102.

(c) "Secure care" means the same as that term is defined in Section 80-1-102.

(d) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(2) An individual who commits any of the following offenses is guilty of a class A misdemeanor:

(a) entering, or attempting to enter, a building or enclosure appropriated to the use of juvenile offenders, without permission;

(b) entering any premises belonging to a secure care facility and committing or attempting to commit a trespass or damage on the premises of a secure care facility; or

(c) willfully annoying or disturbing the peace and quiet of a secure care facility or of a juvenile offender in a secure care facility.

(3) An individual is guilty of a third degree felony who:

(a) knowingly harbors or conceals a juvenile offender who has:

(i) escaped from secure care; or

(ii) as described in Subsection (4), absconded from:

(A) a facility or supervision; or

(B) supervision of the division; or

(b) willfully aided or assisted a juvenile offender who has been lawfully committed to a secure care facility in escaping or attempting to escape from the secure care facility.

(4) As used in this section:

(a) a juvenile offender absconds from a facility under this section when the juvenile offender:

(i) leaves the facility without permission; or

(ii) fails to return at a prescribed time.

(b) A juvenile offender absconds from supervision when the juvenile offender:

(i) changes the juvenile offender's residence from the residence that the juvenile offender reported to the division as the juvenile offender's correct address to another residence, without notifying the division or obtaining permission; or

(ii) for the purpose of avoiding supervision:

(A) hides at a different location from the juvenile offender's reported residence; or

(B) leaves the juvenile offender's reported residence.

Section 93. Section 77-16b-102 is amended to read:

77-16b-102. Definitions.

As used in this chapter:

(1) "Correctional facility" means:

(a) a county jail;

(b) a secure correctional facility as defined by Section 64-13-1; or

(c) a secure care facility as defined in Section 80-1-102.

(2) "Correctional facility administrator" means:

(a) a county sheriff in charge of a county jail;

(b) a designee of the executive director of the Utah Department of Corrections; or

(c) a designee of the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(3) "Medical supervision" means under the direction of a licensed physician, physician assistant, or nurse practitioner.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Prisoner" means:

(a) any individual who is a pretrial detainee or who has been committed to the custody of a sheriff or the Utah Department of Corrections, and who is physically in a correctional facility; and

(b) any individual who is 18 years old or older and younger than 21 years old, and who has been committed to the custody of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

Section 94. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (g) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (g), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4)(a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, described in Subsections 77-38-2(5)(a) through (g) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5)(a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (g) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (g) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7)(a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(h).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (g) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10)(a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12)(a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14)(a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413.2 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any

specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c)(i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15)(a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

Section 95. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4)(a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental condition; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(5) "Department" means the Department of Corrections.

(6) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(8) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(10) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (10)(a)(i) through (x);

(b)(i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12- month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12- month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (10); or

(f)(i) who is adjudicated under Section 80- 6- 701 for one or more offenses listed in Subsection (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80- 1- 102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80- 6- 605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18).

(13) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77- 41- 110 and the information on the website.

(17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12- month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(18) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76- 4- 401, enticing a minor;

(ii) Section 76- 5b- 202, sexual exploitation of a vulnerable adult;

(iii) Section 76- 5- 308.1, human trafficking for sexual exploitation;

(iv) Section 76- 5- 308.5, human trafficking of a child for sexual exploitation;

(v) Section 76- 5- 310, aggravated human trafficking for sexual exploitation;

(vi) Section 76- 5- 311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76- 5- 401, unlawful sexual activity with a minor, except as provided in Subsection 76- 5- 401(3)(b) or (c);

(viii) Section 76- 5- 401.1, sexual abuse of a minor, except as provided in Subsection 76- 5- 401.1(3);

(ix) Section 76- 5- 401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76- 5- 402, rape;

(xi) Section 76- 5- 402.1, rape of a child;

(xii) Section 76- 5- 402.2, object rape;

(xiii) Section 76- 5- 402.3, object rape of a child;

(xiv) a felony violation of Section 76- 5- 403, forcible sodomy;

(xv) Section 76- 5- 403.1, sodomy on a child;

(xvi) Section 76- 5- 404, forcible sexual abuse;

(xvii) Section 76- 5- 404.1, sexual abuse of a child, or Section 76- 5- 404.3, aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxiii) Section 76-7-102, incest;

(xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvii) Section 76-9-702.5, lewdness involving a child;

(xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxix) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (18)(a);

(b)(i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (18)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (18)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 96. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4)(a) "Convicted" means a plea or conviction of:

(i) guilty;

(ii) guilty with a mental illness; or

(iii) no contest.

(b) "Convicted" includes, unless otherwise specified, the period a plea is held in abeyance

pursuant to a plea in abeyance agreement as defined in Section 77-2a-1.

(c) "Convicted" does not include:

(i) a withdrawn or dismissed plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(5) "Department" means the Department of Public Safety.

(6) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(7) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(8) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(9) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(10) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor;

(v) Section 76-5-308.3, human smuggling;

(vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vii) Section 76-5-308.5, human trafficking of a child for labor;

(viii) Section 76-5-310, aggravated human trafficking;

(ix) Section 76-5-310.1, aggravated human smuggling;

(x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (10)(a)(i) through (x);

(b)(i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (10)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (10), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (10); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (10)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before

expiration of the division's jurisdiction over the individual.

(11) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(12) "Offender" means a kidnap offender as defined in Subsection (10) or a sex offender as defined in Subsection (18).

(13) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(14) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(15) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(16) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(17) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(18) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult;

(iii) Section 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

(xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxiii) Section 76-7-102, incest;

(xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvii) Section 76-9-702.5, lewdness involving a child;

(xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxix) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (18)(a);

(b)(i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (18)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c)(i)(A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d)(i)(A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii)(A) who was convicted of one or more offenses listed in Subsection (18)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (18)(a); or

(f)(i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (18)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense if:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday;

(B) the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605 and the individual remains in the division's custody until 30 days before the individual's 25th birthday; or

(C) the individual is moved from the division's custody to the custody of the department before expiration of the division's jurisdiction over the individual.

(19) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(20) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 97. Section 78A-6-212 is amended to read:

78A-6-212. Information supplied to the Division of Juvenile Justice and Youth Services.

(1) A juvenile probation officer shall render full and complete cooperation to the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services in supplying the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services with all pertinent information relating to a juvenile offender committed to the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(2) Information under Subsection (1) includes prior criminal history, social history, psychological evaluations, and identifying information specified by the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

Section 98. Section 78B-7-804 is amended to read:

78B-7-804. Sentencing and continuous protective orders for a domestic violence offense -- Modification -- Expiration.

(1) Before a perpetrator who has been convicted of or adjudicated for a domestic violence offense may be placed on probation, the court shall consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3)(a) Because of the serious, unique, and highly traumatic nature of domestic violence crimes, the high recidivism rate of violent offenders, and the demonstrated increased risk of continued acts of violence subsequent to the release of a perpetrator who is convicted of or adjudicated for domestic violence, it is the finding of the Legislature that domestic violence crimes warrant the issuance of continuous protective orders under this Subsection (3) because of the need to provide ongoing protection for the victim and to be consistent with the purposes of protecting victims' rights under Title 77, Chapter 38, Crime Victims, and Article I, Section 28 of the Utah Constitution.

(b) Except as provided in Subsection (6), if a perpetrator is convicted of a domestic violence offense resulting in a sentence of imprisonment, including jail, that is to be served after conviction, the court shall issue a continuous protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim unless:

(i) the court determines by clear and convincing evidence that the victim does not a have a reasonable fear of future harm or abuse; and

(ii) the court conducts a hearing.

(c)(i) The court shall notify the perpetrator of the right to request a hearing.

(ii) A victim has a right to request a hearing.

(iii) If the perpetrator or the victim requests a hearing under this Subsection (3)(c), the court shall hold the hearing at the time determined by the court.

(iv) The continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(v) A prosecutor shall use reasonable efforts to notify a victim of a hearing described in Subsection (3)(b)(ii).

(d) A continuous protective order is permanent in accordance with this Subsection (3) and may include:

(i) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(ii) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(iii) an order prohibiting the perpetrator from going to the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or other household member;

(iv) an order directing the perpetrator to pay restitution to the victim as may apply, and shall be enforced in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act; and

(v) any other order the court considers necessary to fully protect the victim and members of the victim's family or other household member.

(4) A continuous protective order may be modified or dismissed only if the court determines by clear and convincing evidence that all requirements of Subsection (3) have been met and the victim does not have a reasonable fear of future harm or abuse.

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3), a district court may issue a continuous protective order at any time if the victim files a petition with the court, and after notice and hearing the court finds that a continuous protective order is necessary to protect the victim.

(6)(a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section 99. Section 78B-7-805 is amended to read:

78B-7-805. Sentencing protective orders and continuous protective orders for an offense that is not domestic violence -- Modification -- Expiration.

(1) Before a perpetrator has been convicted of or adjudicated for an offense that is not domestic violence is placed on probation, the court may consider the safety and protection of the victim and any member of the victim's family or household.

(2) The court may condition probation or a plea in abeyance on the perpetrator's compliance with a sentencing protective order that includes:

(a) an order enjoining the perpetrator from threatening to commit or committing acts of domestic violence against the victim or other family or household member;

(b) an order prohibiting the perpetrator from harassing, telephoning, contacting, or otherwise communicating with the victim, directly or indirectly;

(c) an order requiring the perpetrator to stay away from the victim's residence, school, place of employment, and the premises of any of these, or a specified place frequented regularly by the victim or any designated family or household member;

(d) an order prohibiting the perpetrator from purchasing, using, or possessing a firearm or other specified weapon;

(e) an order directing the perpetrator to surrender any weapons the perpetrator owns or possesses; and

(f) an order imposing any other condition necessary to protect the victim and any other designated family or household member or to rehabilitate the perpetrator.

(3)(a) If a perpetrator is convicted of an offense that is not domestic violence resulting in a sentence of imprisonment that is to be served after conviction, the court may issue a continuous

protective order at the time of the conviction or sentencing limiting the contact between the perpetrator and the victim if the court determines by clear and convincing evidence that the victim has a reasonable fear of future harm or abuse.

(b)(i) The court shall notify the perpetrator of the right to request a hearing.

(ii) If the perpetrator requests a hearing under this Subsection (3), the court shall hold the hearing at the time determined by the court and the continuous protective order shall be in effect while the hearing is being scheduled and while the hearing is pending.

(c) Except as provided in Subsection (6), a continuous protective order is permanent in accordance with this Subsection (3)(c) and may include any order described in Subsection 78B-7-804(3)(c).

(4) A continuous protective order issued under this section may be modified or dismissed only in accordance with Subsection 78B-7-804(4).

(5) Except as provided in Subsection (6), in addition to the process of issuing a continuous protective order described in Subsection (3)(a), a district court may issue a continuous protective order at any time in accordance with Subsection 78B-7-804(5).

(6)(a) Unless the juvenile court transfers jurisdiction of the offense to the district court under Section 80-6-504, a continuous protective order may not be issued under this section against a perpetrator who is a minor.

(b) Unless the court sets an earlier date for expiration, a sentencing protective order issued under this section against a perpetrator who is a minor expires on the earlier of:

(i) the day on which the juvenile court terminates jurisdiction; or

(ii) in accordance with Section 80-6-807, the day on which the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services discharges the perpetrator.

Section 100. Section 78B-24-307 is amended to read:

78B-24-307. Child-placing agency compliance.

(1) [~~The Office of Licensing~~]The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2)(a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section 101. Section 78B-24-308 is amended to read:

78B-24-308. Rulemaking authority.

[~~The Office of Licensing~~]The Division of Licensing and Background Checks, created in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.

Section 102. Section 80-2-301 is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; and

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i); and

(p) perform other duties and functions required by law.

(3)(a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4)(a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7)(a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 103. Section 80-2-703 is amended to read:

80-2-703. Conflict child protective services investigations -- Authority of investigators.

(1)(a) The department, through the [~~Office of Quality and Design created in Section 62A-18-103~~]Division of Continuous Quality and Improvement, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect if:

(i) the report occurs while the child is in the custody of the division; or

(ii) the executive director of the department determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

(b) If a report is made while a child is in the custody of the division that indicates the child is abused or neglected:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) An investigator described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) An investigator described in Subsection (1), if not a law enforcement officer, shall have the same rights, duties, and authority of a child welfare caseworker to:

(a) make a thorough investigation under Section 80-2-701 upon receiving a report of alleged abuse or neglect of a child, with the primary purpose of the investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of the investigator's investigation, including determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and forward a copy of the report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an allegation of educational neglect.

Section 104. Section 80-2-1001 is amended to read:

80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the [~~Office of Licensing~~]Division of Licensing and Background Checks created in Section 26B-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:

(a) a record of all past action taken by the division with regard to the child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent failed any child and family plan; and

(g) the number of different child welfare caseworkers who have been assigned to the child in the past.

(4) For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an

electronic national registry of supported or substantiated cases of abuse and neglect;

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis;

(v) as provided in Subsection (6) or Section 80-2-1002; or

(vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described in Section 80-2-1101.

(6)(a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.

(c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

(d)(i) The Office of Guardian Ad Litem may only access:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the child; or

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 105. Section 80-2-1002 is amended to read:

80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1)(a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

(i) for licensing purposes; or

(ii) as otherwise provided by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.

(2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

(c) the information described in Subsection (3);

(d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

(f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the finding in the Management Information System.

(4) Information or a record contained in the Licensing Information System is:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:

(i) to the [~~Office of Licensing~~]Division of Licensing and Background Checks created in Section 26B-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from an individual whose name is listed in the Licensing Information System;

(iii) to a person designated by the Department of Health and Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) to a person designated by the Department of Workforce Services and approved by the Department of Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;

(v) as provided in Section 26B-2-121; or

(vi) to the department or another person, as provided in this chapter.

(5) A person designated by the Department of Health and Human Services or the Department of Workforce Services under Subsection (4) shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to persons allowed access by statute.

(6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7)(a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.

Section 106. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1)(a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2)(a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7)(a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, [~~beyond~~]by a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b)(i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8)(a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and

(ii) if parent-time is denied, state the facts that justify the denial.

(b) Parent-time shall be under the least restrictive conditions necessary to:

(i) protect the physical safety of the child; or

(ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

(c)(i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

(ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(10)(a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(11)(a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(12) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(13)(a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(14)(a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(15)(a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(16)(a) If, for a relative placement, an interstate placement requested under the Interstate Compact

on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 107. Section 80-5-102 is amended to read:

80-5-102. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2)(a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Director" means the director of the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services.

(7) "Discharge" means the same as that term is defined in Section 80-6-102.

(8) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(9) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(11) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

(12) "Rescission" means the same as that term is defined in Section 80-6-102.

(13) "Restitution" means the same as that term is defined in Section 80-6-102.

(14) "Revocation" means the same as that term is defined in Section 80-6-102.

(15) "Temporary custody" means the same as that term is defined in Section 80-6-102.

(16) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the Department of Health and Human Services, created in Section 26B-1-201, as a residential support program.

(17) "Termination" means the same as that term is defined in Section 80-6-102.

(18) "Victim" means the same as that term is defined in Section 80-6-102.

(19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

(20)(a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

(21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Section 108. Section 80-5-103 is amended to read:

80-5-103. Creation of division -- Jurisdiction.

(1) There is created the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services within the department.

(2) The division shall be under the administration and supervision of the executive director of the department.

(3) The division has jurisdiction over all minors committed to the division under Sections 80-6-703 and 80-6-705.

Section 109. Section 80-5-401 is amended to read:

80-5-401. Youth services for prevention and early intervention -- Program standards -- Program services.

(1) The division shall establish and operate prevention and early intervention youth services programs which shall include evidence-informed and research-informed interventions to:

(a) help youth and families avoid entry into the juvenile justice system; and

(b) improve attendance and academic achievement.

(2) The division shall adopt statewide policies and procedures, including minimum standards for the organization and operation of youth services programs.

(3) The division shall establish housing, programs, and procedures to ensure that minors who are receiving services under this section and who are not committed to the division are served separately from minors who are committed to the division.

(4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.

(5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated minors placed with the division.

(6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

(7) Youth receiving services under this section or from the division may not be placed into the legal custody of the division unless the youth qualifies for such disposition under Section 80-6-703.

Section 110. Section 80-6-102 is amended to read:

80-6-102. Definitions.

As used in this chapter:

(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the [~~Division of Juvenile Justice Services~~]Division of Juvenile Justice and Youth Services created in Section 80-5-103.

(10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.

(11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

(12) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

(13) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

(14) "Rescission" means a written order of the authority that rescinds a date for parole.

(15) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if

the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

(16) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

(a) terminates supervision of a juvenile offender's parole; and

(b) directs a juvenile offender to return to secure care.

(17) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

(18) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

(19)(a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

(ii) the Utah Office for Victims of Crime.

(20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

(21) "Work program" means the same as that term is defined in Section 80-5-102.

(22) "Youth services" means the same as that term is defined in Section 80-5-102.

Section 111. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 26B-1-204 (Effective 07/01/24);

(b) Section 26B-2-241 (Effective 07/01/24);

(c) Section 53-2d-404 (Effective 07/01/24);

(d) Section 53-2d-503 (Effective 07/01/24);

(e) Section 53-2d-703 (Effective 07/01/24); and

(f) Section 77-41-102 (Effective 07/01/24).

CHAPTER 241
S. B. 12
Passed January 31, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX DEFERRAL AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill provides for the deferral of tax notice charges.

Highlighted Provisions:

This bill:

- defines terms;
- provides authority for a county to defer charges that are listed on a property tax notice (tax notice charges);
- provides authority and circumstances for a county to receive reimbursement from the State Tax Commission for deferred tax notice charges; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1801, as last amended by Laws of Utah 2023, Chapter 354
59-2-1802, as last amended by Laws of Utah 2023, Chapter 354
59-2-1802.5, as enacted by Laws of Utah 2023, Chapter 354
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
63J-1-602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 330, 345, 354, and 534
63J-1-602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 310, 330, 345, 354, and 534

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

Section 1. Section 59-2-1801 is amended to read:

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a postponement of a tax due date or a tax notice charge granted in accordance with Section 59-2-1802 or 59-2-1802.5.

(3) "Eligible owner" means an owner of an attached or a detached single-family residence:

(a)(i) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under this part;

(ii) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and

(iii) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year; or

(b) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (3)(a).

(4) "Household" means the same as that term is defined in Section 59-2-1202.

(5) "Household income" means the same as that term is defined in Section 59-2-1202.

(6) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates; and

(d) stocks or bonds.

(7) "Indigent individual" [~~is~~]means a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a)(i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Section 59-2-1208;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(8) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

(9) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

(10) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

(11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(12) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

Section 2. Section 59-2-1802 is amended to read:

59-2-1802. Tax and tax notice charge deferral -- County discretion to grant deferral -- Creation of lien and due date.

(1)(a) In accordance with this part and after receiving an application and giving notice to the taxpayer, a county may grant a deferral [~~of a tax~~] on residential property.

(b) In determining whether to grant an application for a deferral under this section, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years before the day on which the applicant applied for deferral.

(2) A county may grant a deferral described in Subsection (1) at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3)(a) Taxes and tax notice charges deferred under this part accumulate with interest and applicable recording fees as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien:

(i) upon the owner selling or otherwise disposing of the residential property; or

(ii) when the residential property is no longer the owner's primary residence.

(d)(i) Notwithstanding Subsection (3)(c), an owner that receives a deferral does not have to pay the deferred taxes[~~—and~~], deferred tax notice charges, or applicable recording fees when the residential property transfers:

(A) to the owner's surviving spouse as a result of the owner's death; or

(B) between the owner and a trust described in Section 59-2-1805 for which the owner is the grantor.

(ii) After the residential property transfers to the owner's surviving spouse, the deferred taxes, deferred tax notice charges, and applicable recording fees are due:

(A) upon the surviving spouse selling or otherwise disposing of the residential property; or

(B) when the residential property is no longer the surviving spouse's primary residence.

(e) When the deferral period ends:

(i) the lien becomes due [~~as a property tax~~]and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4)(a) If a county grants an owner more than one deferral for the same single-family residence, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(5)(a) For each residential property for which the county grants a deferral, the treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien [~~for deferred property taxes~~].

(b) The record described in this Subsection (5) is the official record of the amount of the lien.

(6) Taxes and tax notice charges deferred under this part bear interest at a rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d).

Section 3. Section 59-2-1802.5 is amended to read:

59-2-1802.5. Nondiscretionary tax and tax notice charge deferral for elderly property owners.

(1) An eligible owner may apply for a deferral under this section if:

(a) the eligible owner uses the single-family residence as the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for the deferral;

(b) with respect to the single-family residence, there are no:

(i) delinquent property taxes;

(ii) delinquent tax notice charges; or

(iii) outstanding penalties, interest, or administrative costs related to a delinquent property tax or a delinquent tax notice charge;

(c)(i) the value of the single-family residence for which the eligible owner applies for the deferral is no greater than the median property value of:

(A) attached single-family residences within the county, if the single-family residence is an attached single-family residence; or

(B) detached single-family residences within the county, if the single-family residence is a detached single-family residence; or

(ii) the eligible owner has owned the single-family residence for a continuous 20-year period as of January 1 of the year for which the eligible owner applies for the deferral; and

(d) the holder of each mortgage or trust deed outstanding on the single-family residence gives written approval of the deferral.

(2) If the conditions in Subsection (1) are satisfied and the applicant complies with the other applicable provisions of this part[:]

[~~(a)~~] , a county shall defer the property tax and tax notice charges on an attached single-family residence or a detached single-family residence for an application of deferral made on or after January 1, 2024[~~; and~~].

[~~(b) a county may defer the property tax on an attached single-family residence or a detached single-family residence for an application of deferral made before January 1, 2024.~~]

(3) The values described in Subsection (1)(c) are based on the county assessment roll for the county in which the single-family residence is located.

(4) For purposes of Subsection (1)(c)(ii), ownership is considered continuous regardless of whether the single-family residence is transferred between an eligible owner who is an individual and an eligible owner that is a trust.

(5)(a) Upon application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax or tax notice charge that the county defers in accordance with this section.

(b) The commission may not reimburse a county:

(i) before the county approves the deferral; or

(ii) for a tax or tax notice charge assessed after December 31, 2026.

(c) A county that receives money in accordance with this Subsection (5) shall:

(i) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax and deferred tax notice charge; and

(ii) repay the money no later than 30 days after the day on which the deferral lien is satisfied.

(d) The commission shall deposit money received under Subsection (5)(c)(ii) into the General Fund.

Section 4. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63H-7a-303 is repealed July 1, 2024.

(6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(7) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for[~~property tax~~] deferral reimbursements, is repealed July 1, 2027.

(8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The Emergency Medical Services Grant Program in Section 26B-4-107.

(11) The primary care grant program created in Section 26B-4-310.

(12) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(13) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(14) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(15) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(16) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63C-9-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for [~~deferred property taxes~~]deferrals in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 6. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(18) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Emergency Medical Services Grant Program in Section 53-2d-207.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63C-9-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

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(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for [~~deferred property taxes~~]deferrals in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

Section 8. Retrospective operation.

The following sections have retrospective operation to January 1, 2024:

(1) Section 59-2-1801;

(2) Section 59-2-1802; and

(3) Section 59-2-1802.5.

CHAPTER 242
S. B. 16
Passed February 2, 2024
Approved March 14, 2024
Effective November 1, 2024

MOTOR VEHICLE ACT AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends provisions and definitions related to certain motor vehicles to clarify titling and registration requirements.

Highlighted Provisions:

This bill:

- allows the Division of Motor Vehicles to provide title to certain off-highway vehicles;
- defines terms and amends the definitions of certain motor vehicles;
- amends a provision to allow certain motor vehicles to emit visible contaminants; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2023, Chapters 33, 532
41-1a-507, as renumbered and amended by Laws of Utah 1992, Chapter 1
41-6a-102, as last amended by Laws of Utah 2023, Chapters 219, 532
41-6a-1626, as last amended by Laws of Utah 2021, Chapter 282
41-22-2, as last amended by Laws of Utah 2022, Chapters 68, 88

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

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of

business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24)(a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30)(a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32)(a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41)(a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section 73-18-2.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45)(a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49)(a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Original issue license plate" means a license plate that is of a format and type issued by the state in the same year as the model year of a vehicle that is a model year 1973 or older.

(51) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(52)(a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(53) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(54) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(55)(a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(56) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(57) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

(58) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(59) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(60) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(61) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(62) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(63) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(64) "Registration decal" means the decal issued by the division that is evidence of compliance with the division's registration requirements.

(65)(a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(66) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(67) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(68) "Restored-modified vehicle" means a motor vehicle that has been restored and modified with modern parts and technology, including emission control technology and an on-board diagnostic system.

(69) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(70) "Sailboat" means the same as that term is defined in Section 73-18-2.

(71) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(72) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(73) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418 or Part 16, Sponsored Special Group License Plates.

(74)(a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (74)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(75)(a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(76) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(77)(a) "Standard license plate" means a license plate for general issue described in Subsection 41-1a-402(1).

(b) "Standard license plate" includes a license plate for general issue that the division issues before January 1, 2024.

(78) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

(79) "Street-legal all-terrain vehicle" or "street-legal ATV" means the same as that term is defined in Section 41-6a-102.

[~~(79)~~](80) "Symbol decal" means the decal that is designed to represent a special group and displayed on a special group license plate.

[~~(80)~~](81) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(81)~~](82)(a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(82)~~](83) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(83)~~](84) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(84)~~](85) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(85)~~](86) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(86)~~](87) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(87)~~](88) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(88)~~](89) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(89)~~](90) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(90)~~](91) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(91)~~](92) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(92)~~](93) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(93)~~](94) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-507 is amended to read:

41-1a-507. Exceptions to title requirements for off-highway vehicles.

(1) Each off-highway vehicle operated in this state and identified by the manufacturer as a 1988 year model or newer is subject to the titling provisions of this part except:

(a) off-highway vehicles owned and operated by nonresidents of the state; and

(b) off-highway vehicles owned and operated by the federal government[~~; and~~].

[~~(c) off-highway vehicles that are registered for highway use.~~]

(2) The division may not provide title to an off-highway vehicle identified by the manufacturer as a 1987 year model or older[~~,~~] unless the off-highway vehicle is:

(a) a motorcycle; or

(b) a street-legal all-terrain vehicle.

Section 3. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

[~~(3)~~](5) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

[~~(4)~~](6) "Autocycle" means the same as that term is defined in Section 53-3-102.

[~~(5)~~](7)(a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

[~~(6)~~](8)(a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

[~~(7)~~](9)(a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

[~~(8)~~](10) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(i).~~](20)(d)(i).

[~~(9)~~](11) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(ii).~~](20)(d)(ii).

[~~(10)~~](12) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection [~~(18)(d)(iii).~~](20)(d)(iii).

[~~(11)~~](13) "Commissioner" means the commissioner of the Department of Public Safety.

[~~(12)~~](14) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

[~~(13)~~](15) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i)(A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

[~~(14)~~](16) "Department" means the Department of Public Safety.

[~~(15)~~](17) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

[~~(16)~~](18) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

[~~(17)~~](19) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

[~~(18)~~](20) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

[~~(19)~~](21)(a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

[~~(20)~~](22) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

[~~(21)~~](23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

[~~(22)~~](24) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

[~~(23)~~](25) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

[~~(24)~~](26)(a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(25)~~](27) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

[~~(26)~~](28) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

[~~(27)~~](29) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(28)~~](30) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(29)~~](31) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(30)~~](32)(a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(31)~~](33) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(32)~~](34) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(33)~~](35) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(34)~~](36) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(35)~~](37) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(36)~~](38)(a) "Low-speed vehicle" means a four wheeled [~~electric~~]motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(37)~~](39) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(38)~~](40)(a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(39)~~](41) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(39)(a)~~](41)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(40)~~](42) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(41)~~](43)(a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(42)~~](44)(a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(43)~~](45)(a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(44)~~](46) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(45)~~](47)(a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(46)~~](48) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(47)~~](49) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(48)~~](50) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(49)~~](51) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(50)~~](52) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(51)~~](53)(a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(52)~~](54) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(53)~~](55) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(54)~~](56) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(55)~~](57) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(56)~~](58) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(57)~~](59) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(58)~~](60) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(59)~~](61) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(60)~~](62) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(61)~~](63) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(62)~~](64) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(63)~~](65)(a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(64)~~](66) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(65)~~](67)(a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(66)~~](68)(a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(67)~~](69) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(68)~~](70) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(69)~~](71)(a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(70)~~](72) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(71)~~](73) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(72)~~](74) "Stop" when required means complete cessation from movement.

[~~(73)~~](75) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(74)~~](76) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(75)~~](77) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(76)~~](78) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(77)~~](79) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(78)~~](80) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(79)~~](81) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(80)~~](82) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(81)~~](83)(a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(82)~~](84) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(83)~~](85) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(84)~~](86) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(85)~~](87) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(86)~~](88) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 4. Section 41-6a-1626 is amended to read:

41-6a-1626. Mufflers -- Prevention of noise, smoke, and fumes -- Air pollution control devices.

(1)(a) A vehicle shall be equipped, maintained, and operated to prevent excessive or unusual noise.

(b) A motor vehicle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation.

(c) A person may not use a muffler cut-out, bypass, or similar device on a vehicle.

(2)(a) [~~Except while the engine is being warmed to the recommended operating temperature, the~~]The engine and power mechanism of a gasoline-powered motor vehicle may not emit visible contaminants during operation[~~.~~] unless:

(i) the engine of the motor vehicle is being warmed to the recommended operating temperature; or

(ii) the motor vehicle is exempt from an emissions inspection under Section 41-6a-1642.

(b)(i) As used in this Subsection (2)(b), "heavy tow" means a tow that exceeds the vehicle's maximum tow weight.

(ii) A diesel engine manufactured on or after January 1, 2008, may not emit visible contaminants during operation:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(iii) A diesel engine manufactured before January 1, 2008, may not emit visible contaminants of a shade or density that obscures a contrasting background by more than 20%, for more than five consecutive seconds:

(A) except while the engine is being warmed to the recommended operating temperature or under a heavy tow; or

(B) unless the diesel engine is in a vehicle with a manufacturer's gross vehicle weight rating in excess of 26,000 pounds.

(c) A person who violates the provisions of Subsection (2)(a) is guilty of an infraction and shall be fined:

(i) not less than $50 for a violation; or

(ii) not less than $100 for a second or subsequent violation within three years of a previous violation of this section.

(d) A person who violates the provisions of Subsection (2)(b) is guilty of an infraction and shall be fined:

(i) not less than $100 for a violation; or

(ii) not less than $500 for a second or subsequent violation within three years of a previous violation of this section.

(e)(i) As used in this section:

(A) "Local health department" means the same as that term is defined in Section 26A-1-102.

(B) "Nonattainment area" means a part of the state where air quality is determined to exceed the National Ambient Air Quality Standards, as defined in the Clean Air Act Amendments of 1970, Pub. L. No. 91-604, Sec. 109, for fine particulate matter (PM 2.5).

(ii) Within a nonattainment area, for a second or subsequent violation of Subsection (2)(a) or (2)(b), the court shall report the violations to the local health department at a regular interval.

(iii) If the local health department receives a notification as described in Subsection (2)(e)(ii), and the local health department determines that the registered vehicle is unable to meet state or local air emission standards, the local health department shall send notification to the Motor Vehicle Division.

(3)(a) If a motor vehicle is equipped by a manufacturer with air pollution control devices, the devices shall be maintained in good working order and in constant operation.

(b) For purposes of the first sale of a vehicle at retail, an air pollution control device may be substituted for the manufacturer's original device if the substituted device is at least as effective in the reduction of emissions from the vehicle motor as the air pollution control device furnished by the manufacturer of the vehicle as standard equipment for the same vehicle class.

(c) A person who renders inoperable an air pollution control device on a motor vehicle is guilty of an infraction.

(4) Subsection (3) does not apply to a motor vehicle altered and modified to use clean fuel, as defined under Section 59-13-102, when the emissions from the modified or altered motor vehicle are at levels

that comply with existing state or federal standards for the emission of pollutants from a motor vehicle of the same class.

(5) A violation of Subsection (1), (2), or (3) is an infraction.

Section 5. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3)(a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 3,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(4)(a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed or modified primarily for recreational use on unimproved terrain, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11)(a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 6. Effective date.

This bill takes effect on November 1, 2024.

CHAPTER 243
S. B. 21
Passed January 31, 2024
Approved March 14, 2024
Effective May 1, 2024

STATE TAX COMMISSION PUBLIC MEETING REQUIREMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Rosemary T. Lesser

LONG TITLE

General Description:

This bill modifies provisions relating to meetings held by the State Tax Commission (the commission).

Highlighted Provisions:

This bill:

- ▶ makes permanent the authority for the commission:
  - to make amendments to commission publications that are not substantive without holding a public meeting; and
  - to hold a meeting that is not open to the public to provide guidance to the commission's employees on the interpretation and application of a law administered by the commission; and
- ▶ repeals a requirement that the commission provide a report to the Revenue and Taxation Interim Committee containing information on commission meetings that were not open to the public and that were held during the previous year to provide guidance to commission employees.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-259, as last amended by Laws of Utah 2023, Chapter 52

REPEALS:

59-1-213.2, as last amended by Laws of Utah 2019, Chapter 29

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

Section 1. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates: Title 59.

[~~(1) Section 59-1-213.1 is repealed May 9, 2024.~~]

[~~(2) Section 59-1-213.2 is repealed May 9, 2024.~~]

[~~(3)~~](1) Subsection 59-1-403(4)(aa), which authorizes the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

[~~(4) Subsection 59-1-405(1)(g) is repealed May 9, 2024.~~]

[~~(5) Subsection 59-1-405(2)(b) is repealed May 9, 2024.~~]

[~~(6)~~](2) Section 59-7-618.1 is repealed July 1, 2029.

[~~(7)~~](3) Section 59-9-102.5 is repealed December 31, 2030.

[~~(8)~~](4) Section 59-10-1033.1 is repealed July 1, 2029.

Section 2. Repealer.

This bill repeals:

Section 59-1-213.2, Annual report on provision of guidance by the commission.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 244
S. B. 22
Passed February 12, 2024
Approved March 14, 2024
Effective May 1, 2024

TAX INFORMATION SHARING AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Joseph Elison

LONG TITLE

General Description:

This bill addresses the disclosure of tax information by the State Tax Commission.

Highlighted Provisions:

This bill:

- authorizes the State Tax Commission to share certain information with the Division of Finance within the Department of Government Operations to facilitate payments to taxpayers.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329

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

Section 1. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township;

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3,

Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be

attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service

Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection [~~(4)(aa)(ii)(A)~~](4)(bb)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection [~~(4)(aa)~~](4)(bb).

(cc) Notwithstanding Subsection (2), the commission may provide to the Division of Finance within the Department of Government Operations any information necessary to facilitate a payment from the commission to a taxpayer, including:

(i) the name of the taxpayer entitled to the payment or any other person legally authorized to receive the payment;

(ii) the taxpayer identification number of the taxpayer entitled to the payment;

(iii) the payment identification number and amount of the payment;

(iv) the tax year to which the payment applies and date on which the payment is due;

(v) a mailing address to which the payment may be directed; and

(vi) information regarding an account at a depository institution to which the payment may be directed, including the name of the depository institution, the type of account, the account number, and the routing number for the account.

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 245
S. B. 27
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

BEHAVIORAL HEALTH SYSTEM AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill creates the Utah Behavioral Health Commission.

Highlighted Provisions:

This bill:

- creates the Utah Behavioral Health Commission (commission) within the Department of Health and Human Services;
- describes the commission's purpose and duties;
- creates certain subcommittees under the commission, including moving certain existing behavioral health entities under the direction of the commission;
- creates the Legislative Policy Committee under the direction of the commission, and describes that committee's duties;
- provides a sunset date for the commission;
- renumbers and amends provisions relating to the Utah Substance Use and Mental Health Advisory Committee, moves that committee within the Department of Health and Human Services, and removes the State Commission on Criminal and Juvenile Justice as staff to that committee;
- modifies the membership of certain existing behavioral health entities;
- amends the sunset date for the Education and Mental Health Coordinating Committee;
- repeals the Behavioral Health Delivery Working Group;
- repeals the Drug-related Offenses Reform Act; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-32, as last amended by Laws of Utah 2023, Chapter 408
26B-1-324, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-329, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-425, as last amended by Laws of Utah 2023, Chapter 139 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-427, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-428, as last amended by Laws of Utah 2023, Chapter 300 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-213, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-223, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-5-112, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-112.5, as enacted by Laws of Utah 2023, Chapter 270
26B-5-114, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-120, as enacted by Laws of Utah 2023, Chapter 270
26B-5-403, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-609, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-610, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-611, as renumbered and amended by Laws of Utah 2023, Chapter 308
32B-2-210, as last amended by Laws of Utah 2022, Chapter 447
32B-2-306, as last amended by Laws of Utah 2021, Chapter 291
32B-2-402, as last amended by Laws of Utah 2022, Chapter 255
32B-2-404, as last amended by Laws of Utah 2014, Chapter 119
32B-2-405, as last amended by Laws of Utah 2016, Chapter 144
32B-7-305, as last amended by Laws of Utah 2022, Chapter 447
53F-2-522, as last amended by Laws of Utah 2023, Chapters 193, 328
63C-18-102, as last amended by Laws of Utah 2023, Chapter 329
63C-18-202, as last amended by Laws of Utah 2023, Chapters 270, 329
63C-18-203, as last amended by Laws of Utah 2023, Chapters 270, 329
63C-23-102, as last amended by Laws of Utah 2022, Chapter 274
63C-23-201, as enacted by Laws of Utah 2021, Chapter 171
63C-23-202, as enacted by Laws of Utah 2021, Chapter 171
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
63I-1-232, as last amended by Laws of Utah 2022, Chapter 34

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63M-7-202, as last amended by Laws of Utah 2023, Chapter 150
64-13-45, as last amended by Laws of Utah 2019, Chapters 311, 385
77-18-102, as last amended by Laws of Utah 2023, Chapter 330
77-18-103, as last amended by Laws of Utah 2023, Chapter 155

ENACTS:
26B-5-701, Utah Code Annotated 1953
26B-5-702, Utah Code Annotated 1953
26B-5-703, Utah Code Annotated 1953
26B-5-704, Utah Code Annotated 1953
26B-5-705, Utah Code Annotated 1953
26B-5-706, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
63M-7-301, (Renumbered from 63M-7-301, as last amended by Laws of Utah 2023, Chapters 150, 266 and 330)
63M-7-302, (Renumbered from 63M-7-302, as last amended by Laws of Utah 2019, Chapter 246)
63M-7-303, (Renumbered from 63M-7-303, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 330)
63M-7-304, (Renumbered from 63M-7-304, as last amended by Laws of Utah 2010, Chapters 39, 286)

REPEALS:
26B-3-138, as renumbered and amended by Laws of Utah 2023, Chapter 306
63C-18-101, as last amended by Laws of Utah 2020, Chapter 303
63C-23-101, as enacted by Laws of Utah 2021, Chapter 171
63M-7-305, as last amended by Laws of Utah 2021, Chapter 260
63M-7-306, as last amended by Laws of Utah 2010, Chapter 39
77-18-104, as renumbered and amended by Laws of Utah 2021, Chapter 260

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

Section 1. Section 17-22-32 is amended to read:

17-22-32. County jail reporting requirements.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b)(i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the Untied States Federal Bureau of Investigation;

(c) the number of inmates booked into the county jail;

(d) the number of inmates held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement;

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;

(f) for each inmate booked into the county jail:

(i) the name of the agency that arrested the inmate;

(ii) the date and time the inmate was booked into and released from the custody of the county jail;

(iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a county sheriff or a court;

(v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;

(vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and

(vii) the state identification number of the inmate;

(g) the number of in-custody deaths that occurred at the county jail;

(h) for each in-custody death[;]:

(i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);

(j) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(k) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

(l) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3)(a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii)(A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

(4) The commission shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law;

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee before November 1 of each year; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(5) The commission may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

(6) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody shall be made available to the public.

Section 2. Section 26B-1-324 is amended to read:

26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2)(a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) After consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee created

in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:

(i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) behavioral health receiving centers as defined in Section 26B-5-114;

(iv) stabilization services as described in Section [~~26B-1-102~~]26B-5-101;

(v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;

(vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;

(vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;

(viii) frontline support for the SafeUT Crisis Line; or

(ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response [~~Commission~~]Committee, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the account;

(d) the anticipated expenditures from the account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the account.

(5) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.

(6)(a) As used in this Subsection (6):

(i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

(b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.

(c) In each year that the department identifies a health benefit plan that meets the description in Subsection (6)(b), the department shall provide a report on the information gathered under Subsection (6)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Section 3. Section 26B-1-329 is amended to read:

26B-1-329. Mental Health Services Donation Fund.

(1) As used in this section:

(a) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) "Mental health therapy" means treatment or prevention of a mental illness, including:

(i) conducting a professional evaluation of an individual's condition of mental health, mental

illness, or emotional disorder consistent with standards generally recognized by mental health therapists;

(ii) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;

(iii) prescribing a plan or medication for the prevention or treatment of a condition of a mental illness or an emotional disorder; and

(iv) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.

(c) "Qualified individual" means an individual who:

(i) is experiencing a mental health crisis; and

(ii) calls a local mental health crisis line as defined in Section 26B-5-610 or the statewide mental health crisis line as defined in Section 26B-5-610.

(2) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."

(3)(a) The fund shall consist of:

(i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

(ii) interest earned on money in the fund.

(b) The Office of Substance Use and Mental Health shall administer the fund in accordance with this section.

(4) The Office of Substance Use and Mental Health shall award fund money to an entity in the state that provides mental health and substance use treatment for the purpose of:

(a) providing through telehealth or in-person services, mental health therapy to qualified individuals;

(b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and

(c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.

(5) Fund money may only be used for the purposes described in Subsection (4).

(6) The Office of Substance Use and Mental Health shall provide an annual report to the Behavioral Health Crisis Response [~~Commission~~]Committee, created in Section 63C-18-202, regarding:

(a) the entity that is awarded a grant under Subsection (4);

(b) the number of qualified individuals served by the entity with fund money; and

(c) any costs or benefits as a result of the award of the grant.

Section 4. Section 26B-1-425 is amended to read:

26B-1-425. Utah Health Workforce Advisory Council -- Creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section 26B-4-706.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce as defined in Section [~~26B-4-701~~]26B-4-705.

(5)(a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

(7)(a) As used in this Subsection (7), "health workforce" means the same as that term is defined in Section [~~26B-4-706~~]26B-4-705.

(b) The council shall:

(i) meet at least once each quarter;

(ii) study and provide recommendations to an entity described in Subsection (8) regarding:

(A) health workforce supply;

(B) health workforce employment trends and demand;

(C) options for training and educating the health workforce;

(D) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including shortages, recruitment, retention, and other Utah health workforce priorities as determined by the council;

(iii) provide guidance to an entity described in Subsection (8) regarding health workforce related matters;

(iv) review and comment on legislation relevant to Utah's health workforce; and

(v) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training.

(8) The council shall provide information described in Subsections (7)(b)(ii) and (iii) to:

(a) the Legislature;

(b) the department;

(c) the Department of Workforce Services;

(d) the Department of Commerce;

(e) the Utah Medical Education Council; and

(f) any other entity the council deems appropriate upon the entity's request.

(9)(a) The Utah Medical Education Council created in Section 26B-4-706 is a subcommittee of the council.

(b) The council may establish subcommittees to support the work of the council.

(c) A member of the council shall chair a subcommittee created by the council.

(d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any individual to the subcommittee.

(10) For any report created by the council that pertains to any duty described in Subsection (7), the council shall:

(a) provide the report to:

(i) the department; and

(ii) any appropriate legislative committee; and

(b) post the report on the council's website.

(11) The executive director shall:

(a) ensure the council has adequate staff to support the council and any subcommittee created by the council; and

(b) provide any available information upon the council's request if:

(i) that information is necessary for the council to fulfill a duty described in Subsection (7); and

(ii) the department has access to the information.

(12) A member of the council or a subcommittee created by the council may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Section 5. Section 26B-1-427 is amended to read:

26B-1-427. Alcohol Abuse Tracking Committee -- Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the Alcohol Abuse Tracking Committee that consists of:

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

(b) the commissioner of the Department of Public Safety or the commissioner's designee;

(c) the director of the Department of Alcoholic Beverage Services or that director's designee;

(d) the executive director of the Department of Workforce Services or that executive director's designee;

(e) the chair of the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee or the chair's designee;

(f) the state court administrator or the state court administrator's designee; and

(g) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3)(a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section 6. Section 26B-1-428 is amended to read:

26B-1-428. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section 26B-1-204.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2)(a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3)(a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in Section [~~63M-7-301~~]26B-5-801 when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in Section [~~63M-7-301~~]26B-5-801, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 7. Section 26B-3-213 is amended to read:

26B-3-213. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c)(i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2) In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202, the department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with CMS, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

Section 8. Section 26B-3-223 is amended to read:

26B-3-223. Delivery system adjustments for the targeted adult Medicaid program.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section 26B-3-207.

(2) The department may implement the delivery system adjustments authorized under Subsection (3) only on the later of:

(a) July 1, 2023; and

(b) the department determining that the Medicaid program, including providers and managed care organizations, are satisfying the metrics established in collaboration with the [~~working group convened under Subsection 26B-3-138(2)~~]Behavioral Health Delivery Working Group.

(3) The department may, for individuals who are enrolled in the targeted adult Medicaid program:

(a) integrate the delivery of behavioral and physical health in certain counties; and

(b) deliver behavioral health services through an accountable care organization where implemented.

(4) Before implementing the delivery system adjustments described in Subsection (3) in a county, the department shall, at a minimum, seek input from:

(a) individuals who qualify for the targeted adult Medicaid program who reside in the county;

(b) the county's executive officer, legislative body, and other county officials who are involved in the delivery of behavioral health services;

(c) the local mental health authority and local substance abuse authority that serves the county;

(d) Medicaid managed care organizations operating in the state, including Medicaid accountable care organizations;

(e) providers of physical or behavioral health services in the county who provide services to enrollees in the targeted adult Medicaid program in the county; and

(f) other individuals that the department deems necessary.

(5) If the department provides Medicaid coverage through a managed care delivery system under this section, the department shall include language in the department's managed care contracts that require the managed care plan to:

(a) be in compliance with federal Medicaid managed care requirements;

(b) timely and accurately process authorizations and claims in accordance with Medicaid policy and contract requirements;

(c) adequately reimburse providers to maintain adequacy of access to care;

(d) provide care management services sufficient to meet the needs of Medicaid eligible individuals enrolled in the managed care plan's plan; and

(e) timely resolve any disputes between a provider or enrollee with the managed care plan.

(6) The department may take corrective action if the managed care organization fails to comply with the terms of the managed care organization's contract.

Section 9. Section 26B-5-112 is amended to read:

26B-5-112. Mobile crisis outreach team expansion.

(1) In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee, established in Section 63C-18-202, the division shall award grants for the development of:

(a) five mobile crisis outreach teams:

(i) in counties of the second, third, fourth, fifth, or sixth class; or

(ii) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

(b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class.

(2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(5) In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee, established in Section 63C-18-202, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1).

Section 10. Section 26B-5-112.5 is amended to read:

26B-5-112.5. Mobile Crisis Outreach Team Grant Program.

(1) As used in this section, [~~"commission"~~] "committee" means the Behavioral Health Crisis Response [~~Commission~~]Committee established in Section 63C-18-202.

(2) The [~~commission~~]committee shall provide recommendations and the division shall award grants for the development of up to five mobile crisis outreach teams.

(3) A mobile crisis outreach team that is awarded a grant under Subsection (2) shall provide mental health crisis services 24 hours per day, seven days per week, and every day of the year.

(4) The division shall prioritize the award of a grant described in Subsection (2) to entities based on:

(a) the outstanding need for crisis outreach services within the area the proposed mobile crisis outreach team will serve; and

(b) the capacity for implementation of the proposed mobile crisis outreach team in accordance with the division's established standards and requirements for mobile crisis outreach teams.

(5)(a) In consultation with the [~~commission~~]committee, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (2).

(b)(i) The rules created under Subsection (5)(a) shall implement a funding structure for a mobile crisis outreach team developed using a grant awarded under this section.

(ii) The funding structure described in Subsection (5)(b)(i) shall provide for tiers and phases of shared funding coverage between the state and counties.

Section 11. Section 26B-5-114 is amended to read:

26B-5-114. Behavioral Health Receiving Center Grant Program.

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) [~~"Commission"~~]"Committee" means the Behavioral Health Crisis Response

[~~Commission~~]Committee established in Section 63C-18-202.

(c) "Project" means a behavioral health receiving center project described in Subsection (2) or (3)(a).

(2) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.

(3)(a) Before July 1, 2023, the division shall issue a request for proposals in accordance with this section to award a grant to one county of the third class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.

(b) Subject to appropriations by the Legislature, the division shall award grants under this Subsection (3) before December 31, 2023.

(c) The [~~commission~~]committee shall provide recommendations to the division regarding the development and implementation of a behavioral health receiving center.

(4) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

(5) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection (5)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (7).

(6) A recipient of a grant under this section shall enroll as a Medicaid provider and meet minimum standards of care for behavioral health receiving centers established by the division.

(7) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (4);

(b) the extent to which the population described in Subsection (5)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

(8) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:

(a) data gathered in relation to each project described in Subsection (2);

(b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;

(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers;

(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center; and

(e) recommendations for appropriate Medicaid reimbursement for rural behavioral health receiving centers.

(9)(a) In consultation with the [~~commission~~]committee, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, for the application and award of a grant under this section.

(b)(i) The rules created under Subsection (9)(a) shall:

(A) implement a funding structure for a behavioral health receiving center developed using a grant awarded under this section;

(B) include implementation standards and minimum program requirements for a behavioral health receiving center developed using a grant awarded under this section, including minimum guidelines and standards of care, and minimum staffing requirements; and

(C) require a behavioral health receiving center developed using a grant awarded under this section to operate 24 hours per day, seven days per week, and every day of the year.

(ii) The funding structure described in Subsection (9)(b)(i)(A) shall provide for tiers and phases of shared funding coverage between the state and counties.

(10) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) grants awarded under Subsection (3)(a); and

(b) the details of each project described in Subsection (3)(a).

(11) Before June 30, 2026, the division shall provide a report to the Health and Human Services Interim Committee that includes:

(a) data gathered in relation to each project described in Subsection (3)(a); and

(b) an update on the items described in Subsections (8)(b) through (d).

Section 12. Section 26B-5-120 is amended to read:

26B-5-120. Virtual crisis outreach team grant program.

(1) As used in this section:

(a) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.

(b) ["~~Commission~~"]"Committee" means the Behavioral Health Crisis Response [~~Commission~~]Committee established in Section 63C-18-202.

[~~(c) "Committee" means the Health and Human Services Interim Committee.~~]

[~~(d)~~](c) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-609.

[~~(e)~~](d) "Virtual crisis outreach program" means a program that provides the following real-time services 24 hours per day, seven days per week, and every day of the year:

(i) crisis support, by a qualified mental or behavioral health professional, to law enforcement officers; and

(ii) peer support services, by a certified peer support specialist, to individuals experiencing behavioral health crises.

(2) In consultation with the [~~commission~~]committee and in accordance with the requirements of this section, the division shall award a grant for the development of a virtual crisis outreach program that primarily serves counties of the third, fourth, fifth, or sixth class.

(3) The division shall prioritize the award of the grant described in Subsection (2) based on the extent to which providing the grant to the applicant will increase the provision of crisis support and peer support services in areas:

(a) with frequent mental or behavioral health provider shortages; and

(b) where only one mobile crisis outreach team is available to serve multiple counties of the third, fourth, fifth, or sixth class.

(4) When not providing crisis support or peer support services to law enforcement or individuals in a county of the third, fourth, fifth, or sixth class, the virtual crisis outreach program developed using a grant under this section shall provide support services as needed to mobile crisis outreach teams in counties of the first or second class.

(5) In consultation with the [~~commission~~]committee, the division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grant described in Subsection (2).

(6) Before June 30, 2024, the division shall submit a written report to the [~~committee~~]Health and Human Services Interim Committee regarding the virtual crisis outreach program developed using the grant awarded under this section.

(7) Before June 30, 2026, the division shall submit a written report to the [~~committee~~]Health and Human Services Interim Committee regarding:

(a) data gathered in relation to the rural virtual crisis outreach team developed using the grant awarded under this section;

(b) knowledge gained relating to the provision of virtual crisis outreach services;

(c) recommendations for the future use of virtual crisis outreach services; and

(d) obstacles encountered in the provision of virtual crisis outreach services.

Section 13. Section 26B-5-403 is amended to read:

26B-5-403. Residential and inpatient settings -- Commitment proceeding -- Child in physical custody of local mental health authority.

(1) A child may receive services from a local mental health authority in an inpatient or residential setting only after a commitment proceeding, for the purpose of transferring physical custody, has been conducted in accordance with the requirements of this section.

(2) That commitment proceeding shall be initiated by a petition for commitment, and shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant to the procedures and requirements of this section. If the findings described in Subsection (4) exist, the proceeding shall result in the transfer of physical custody to the appropriate local mental health authority, and the child may be placed in an inpatient or residential setting.

(3) The neutral and detached fact finder who conducts the inquiry:

(a) shall be a designated examiner; and

(b) may not profit, financially or otherwise, from the commitment or physical placement of the child in that setting.

(4) Upon determination by a fact finder that the following circumstances clearly exist, the fact finder may order that the child be committed to the physical custody of a local mental health authority:

(a) the child has a mental illness;

(b) the child demonstrates a reasonable fear of the risk of substantial danger to self or others;

(c) the child will benefit from care and treatment by the local mental health authority; and

(d) there is no appropriate less-restrictive alternative.

(5)(a) The commitment proceeding before the neutral and detached fact finder shall be conducted in as informal manner as possible and in a physical setting that is not likely to have a harmful effect on the child.

(b) The child, the child's parent or legal guardian, the petitioner, and a representative of the appropriate local mental health authority:

(i) shall receive informal notice of the date and time of the proceeding; and

(ii) may appear and address the petition for commitment.

(c) The neutral and detached fact finder may, in the fact finder's discretion, receive the testimony of any other person.

(d) The fact finder may allow a child to waive the child's right to be present at the commitment proceeding, for good cause shown. If that right is waived, the purpose of the waiver shall be made a matter of record at the proceeding.

(e) At the time of the commitment proceeding, the appropriate local mental health authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the commitment proceeding, shall provide the neutral and detached fact finder with the following information, as it relates to the period of current admission:

(i) the petition for commitment;

(ii) the admission notes;

(iii) the child's diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(f) The information described in Subsection (5)(e) shall also be provided to the child's parent or legal guardian upon written request.

(g)(i) The neutral and detached fact finder's decision of commitment shall state the duration of the commitment. Any commitment to the physical custody of a local mental health authority may not exceed 180 days. Prior to expiration of the commitment, and if further commitment is sought, a hearing shall be conducted in the same manner as the initial commitment proceeding, in accordance with the requirements of this section.

(ii) At the conclusion of the hearing and subsequently in writing, when a decision for commitment is made, the neutral and detached fact finder shall inform the child and the child's parent or legal guardian of that decision and of the reasons for ordering commitment.

(iii) The neutral and detached fact finder shall state in writing the basis of the decision, with specific reference to each of the criteria described in Subsection (4), as a matter of record.

(6) A child may be temporarily committed for a maximum of 72 hours, excluding Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health authority in accordance with the procedures described in Section 26B-5-331 and upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily committed shall be released at the expiration of the 72 hours unless the procedures and findings required by this section for the commitment of a child are satisfied.

(7) A local mental health authority shall have physical custody of each child committed to it under this section. The parent or legal guardian of a child committed to the physical custody of a local mental health authority under this section, retains legal custody of the child, unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases when the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services has legal custody of a child, that division shall retain legal custody for purposes of this part.

(8) The cost of caring for and maintaining a child in the physical custody of a local mental health authority shall be assessed to and paid by the child's parents, according to their ability to pay. For purposes of this section, the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to the child's parents, if the child is in the legal custody of either of those divisions at the time the child is committed to the physical custody of a local mental health authority under this section, unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery Services

shall assist those divisions in collecting the costs assessed pursuant to this section.

(9) Whenever application is made for commitment of a minor to a local mental health authority under any provision of this section by a person other than the child's parent or guardian, the local mental health authority or its designee shall notify the child's parent or guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled proceeding.

(10)(a) Each child committed pursuant to this section is entitled to an appeal within 30 days after any order for commitment. The appeal may be brought on the child's own petition or on petition of the child's parent or legal guardian, to the juvenile court in the district where the child resides or is currently physically located. With regard to a child in the custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth Services, the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's office is responsible for appeals brought pursuant to this Subsection (10)(a).

(b) Upon receipt of the petition for appeal, the court shall appoint a designated examiner previously unrelated to the case, to conduct an examination of the child in accordance with the criteria described in Subsection (4), and file a written report with the court. The court shall then conduct an appeal hearing to determine whether the findings described in Subsection (4) exist by clear and convincing evidence.

(c) Prior to the time of the appeal hearing, the appropriate local mental health authority, its designee, or the mental health professional who has been in charge of the child's care prior to commitment, shall provide the court and the designated examiner for the appeal hearing with the following information, as it relates to the period of current admission:

(i) the original petition for commitment;

(ii) admission notes;

(iii) diagnosis;

(iv) physicians' orders;

(v) progress notes;

(vi) nursing notes; and

(vii) medication records.

(d) Both the neutral and detached fact finder and the designated examiner appointed for the appeal hearing shall be provided with an opportunity to review the most current information described in Subsection (10)(c) prior to the appeal hearing.

(e) The child, the child's parent or legal guardian, the person who submitted the original petition for commitment, and a representative of the appropriate local mental health authority shall be notified by the court of the date and time of the appeal hearing. Those persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the court shall review the record and findings of the neutral and detached fact finder, the report of the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion, allow or require the testimony of the neutral and detached fact finder, the designated examiner, the child, the child's parent or legal guardian, the person who brought the initial petition for commitment, or any other person whose testimony the court deems relevant. The court may allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that waiver is granted, the purpose shall be made a part of the court's record.

(11) Each local mental health authority has an affirmative duty to conduct periodic evaluations of the mental health and treatment progress of every child committed to its physical custody under this section, and to release any child who has sufficiently improved so that the criteria justifying commitment no longer exist.

(12)(a) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional may release an improved child to a less restrictive environment, as they determine appropriate. Whenever the local mental health authority or its designee, and the child's current treating mental health professional, determine that the conditions justifying commitment no longer exist, the child shall be discharged and released to the child's parent or legal guardian. With regard to a child who is in the physical custody of the State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the child's current treating mental health professional.

(b) A local mental health authority or its designee, in conjunction with the child's current treating mental health professional, is authorized to issue a written order for the immediate placement of a child not previously released from an order of commitment into a more restrictive environment, if the local authority or its designee and the child's current treating mental health professional has reason to believe that the less restrictive environment in which the child has been placed is exacerbating the child's mental illness, or increasing the risk of harm to self or others.

(c) The written order described in Subsection (12)(b) shall include the reasons for placement in a more restrictive environment and shall authorize any peace officer to take the child into physical custody and transport the child to a facility designated by the appropriate local mental health authority in conjunction with the child's current treating mental health professional. Prior to admission to the more restrictive environment, copies of the order shall be personally delivered to the child, the child's parent or legal guardian, the administrator of the more restrictive environment, or the administrator's designee, and the child's former treatment provider or facility.

(d) If the child has been in a less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the child or the child's representative may request a

review within 30 days of the change, by a neutral and detached fact finder as described in Subsection (3). The fact finder shall determine whether:

(i) the less restrictive environment in which the child has been placed is exacerbating the child's mental illness or increasing the risk of harm to self or others; or

(ii) the less restrictive environment in which the child has been placed is not exacerbating the child's mental illness or increasing the risk of harm to self or others, in which case the fact finder shall designate that the child remain in the less restrictive environment.

(e) Nothing in this section prevents a local mental health authority or its designee, in conjunction with the child's current mental health professional, from discharging a child from commitment or from placing a child in an environment that is less restrictive than that designated by the neutral and detached fact finder.

(13) Each local mental health authority or its designee, in conjunction with the child's current treating mental health professional shall discharge any child who, in the opinion of that local authority, or its designee, and the child's current treating mental health professional, no longer meets the criteria specified in Subsection (4), except as provided by Section 26B-5-405. The local authority and the mental health professional shall assure that any further supportive services required to meet the child's needs upon release will be provided.

(14) Even though a child has been committed to the physical custody of a local mental health authority under this section, the child is still entitled to additional due process proceedings, in accordance with Section [~~26B-5-704~~]26B-5-404, before any treatment that may affect a constitutionally protected liberty or privacy interest is administered. Those treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and psychosurgery.

Section 14. Section 26B-5-609 is amended to read:

26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) [~~"Commission"~~]"Committee" means the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section 26B-4-101.

(c) "Emergency medical services" means the same as that term is defined in Section 26B-4-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g)(i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

(2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section 26B-5-331.

(3)(a) With recommendations from the [~~commission~~]committee, the division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division may delegate the MCOT plan requirement described in Subsection (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 15. Section 26B-5-610 is amended to read:

26B-5-610. Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification -- Operational standards.

(1) As used in this section:

(a) "Certified peer support specialist" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide warm line under the supervision of at least one mental health therapist.

(b) ["~~Commission~~"]"Committee" means the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202.

(c) "Crisis worker" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.

(d) "Local mental health crisis line" means a phone number or other response system that is:

(i) accessible within a particular geographic area of the state; and

(ii) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.

(e) "Mental health crisis" means the same as that term is defined in Section 26B-5-609.

(f) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(g) "Statewide mental health crisis line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.

(h) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.

(2)(a) The division shall enter into a new contract or modify an existing contract to manage and operate, in accordance with this part, the statewide mental health crisis line and the statewide warm line.

(b) Through the contracts described in Subsection (2)(a) and in consultation with the [~~commission~~]committee, the division shall set standards of care and practice for:

(i) the mental health therapists and crisis workers who staff the statewide mental health crisis line; and

(ii) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.

(3)(a) The division shall establish training and minimum standards for the qualification or certification of:

(i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines; and

(ii) certified peer support specialists who staff the statewide warm line.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection (3)(a).

(4) In consultation with the [~~commission~~]committee, the division shall ensure that:

(a) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

(i) mental health therapists; or

(ii) crisis workers;

(b) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health crisis line, an individual described in Subsection (4)(a) answers the call without the caller first:

(i) waiting on hold; or

(ii) being screened by an individual other than a mental health therapist or crisis worker;

(c) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;

(d) the following individuals are available to staff and answer calls to the statewide warm line during the hours and days of operation set by the division under Subsection (5):

(i) mental health therapists;

(ii) crisis workers; or

(iii) certified peer support specialists;

(e) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and

(f) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.

(5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

Section 16. Section 26B-5-611 is amended to read:

26B-5-611. Suicide prevention -- Reporting requirements.

(1) As used in this section:

[~~(a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.~~]

[~~(b)~~](a) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

[~~(c)~~](b) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection (3).

(c) "Commission" means the Utah Behavioral Health Commission created in Section 26B-5-702.

(d) "Coordinator" means the state suicide prevention coordinator appointed under Subsection (2).

(e) "Fund" means the Governor's Suicide Prevention Fund created in Section 26B-1-325.

(f) "Intervention" means an effort to prevent a person from attempting suicide.

(g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

(2) The division shall appoint a state suicide prevention coordinator to, under the direction of the commission, administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The coordinator shall:

(a) establish a Statewide Suicide Prevention [~~Coalition~~]Committee with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

(4) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training;

(h) postvention training; or

(i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

(5) The coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

(c) applicable divisions and offices within the department;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(6) The coordinator shall provide [~~a~~]an annual written report to the [~~Health and Human Services Interim Committee, at or before the October meeting every year,~~]commission on:

(a) implementation of the state suicide prevention program, as described in Subsections (2) and (4);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; [~~and~~]

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator[~~.~~]; and

(e) the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

(7) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection 26B-5-102(3).

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section 26B-5-110, which shall include:

(i) attendance at the suicide prevention education course described in Subsection 26B-5-102(3); and

(ii) distribution of the firearm safety brochures or packets created in Subsection 26B-5-102(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

(9) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of $100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice and Youth Services.

[~~(10) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.~~]

Section 17. Section 26B-5-701 is enacted to read:

26B-5-701. Definitions.

Part 7. Utah Behavioral Health Commission

As used in this part:

(1) "Commission" means the Utah Behavioral Health Commission created in Section 26B-5-702.

(2) "Master plan" means the Utah Behavioral Health Assessment and Master Plan.

(3) "Mental disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(4) "Substance use disorder" means the same as that term is defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Section 18. Section 26B-5-702 is enacted to read:

26B-5-702. Utah Behavioral Health Commission -- Creation -- Members -- Chair.

(1) There is created within the department the Utah Behavioral Health Commission.

(2) The commission is composed of the following 11 members:

(a) one individual who has lived experience with a substance use disorder, appointed by the governor with the advice and consent of the Senate;

(b) one individual who has lived experience with a mental disorder, appointed by the governor with the advice and consent of the Senate;

(c) one individual who represents families of individuals with behavioral health issues, appointed by the governor with the advice and consent of the Senate;

(d) one individual who represents state behavioral health agencies, appointed by the governor with the advice and consent of the Senate;

(e) one individual who represents major healthcare systems, appointed by the governor with the advice and consent of the Senate;

(f) one individual who represents private acute care providers, appointed by the governor with the advice and consent of the Senate;

(g) one individual who represents private outpatient providers, appointed by the governor with the advice and consent of the Senate;

(h) one individual who represents county behavioral health authorities, appointed by the chair of the Utah Behavioral Healthcare Committee with the advice and consent of the Senate;

(i) one individual who represents rural communities, appointed by the speaker of the House of Representatives;

(j) one individual who represents large employers, appointed by the president of the Senate; and

(k) one individual who represents historically underrepresented populations, appointed by the joint minority caucus leaders.

(3)(a) After all 11 members of the commission have been appointed, the governor shall appoint the chair of the commission from among the membership of the commission to serve a two-year term.

(b) A commission member may not serve as chair of the commission for more than two consecutive terms.

(4)(a) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (4)(b).

(b) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(c) The terms of members appointed under Subsections (2)(h) through (k) shall be staggered so that:

(i) members appointed under Subsections (2)(h) and (i) shall serve four-year terms;

(ii) the initial members appointed under Subsections (2)(j) and (k) shall serve an initial two-year term; and

(iii) after the initial members appointed under Subsections (2)(j) and (k) serve an initial two-year term, members appointed under Subsections (2)(j) and (k) shall serve four-year terms.

(d)(i) The commission may remove a member of the commission for cause by a majority vote of the commission.

(ii) The person who appointed a member of the commission may remove that member for cause.

(e) If a vacancy occurs in the membership of the commission for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(5)(a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum of the commission constitutes the action of the commission.

(6) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(7) Consistent with the provisions of this part, the commission may adopt bylaws to govern the commission's operation.

Section 19. Section 26B-5-703 is enacted to read:

26B-5-703. Purpose -- Duties -- Reporting.

(1) The purpose of the commission is to be the central authority for coordinating behavioral health initiatives between state and local governments, health systems, and other interested persons, to ensure that Utah's behavioral health systems are comprehensive, aligned, effective, and efficient.

(2) To fulfill the commission's purpose, the commission shall:

(a) establish a shared vision across public and private sectors for improving Utah's behavioral health systems;

(b) make recommendations, including policy recommendations, and advise the governor, executive branch agencies, and the Legislature on matters pertaining to behavioral health;

(c) provide feedback on proposed bills, rules, policies, and budgets relating to behavioral health;

(d) encourage participation in the commission's work by individuals and populations directly impacted by behavioral health issues, including family members of individuals with behavioral health issues;

(e) engage private sector payers, providers, and business and employer groups in the commission's work;

(f) continually review and revise the master plan as appropriate;

(g) identify priorities and lead efforts to implement and advance those priorities by coordinating and collaborating closely with public and private persons throughout the state;

(h) identify areas where innovation is necessary to improve behavioral health access and care;

(i) cooperate with the Utah System of Higher Education, the State Board of Education, the Division of Professional Licensing, the Utah Health Workforce Advisory Council, and the department to oversee the creation and implementation of behavioral health workforce initiatives for the state;

(j) collaborate with the Utah State Hospital, the Department of Corrections, county jails, and the department;

(k) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 26B-5-611;

(l) develop methods or models for implementing and coherently communicating cross-sector strategies;

(m) hold the state's behavioral health systems accountable for clear, measurable outcomes; and

(n) maintain independence from the department and the governor such that the commission and its committees are able to provide independent advice and recommendations, especially regarding proposed bills and policy considerations.

(3)(a) The commission shall meet at least quarterly, but may meet at other times as scheduled by the chair.

(b) The chair of the commission shall set the agenda for each commission meeting with input from commission members and staff.

(c) Notice of the time and place of a commission meeting shall be given to each member and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(d) A commission meeting is open to the public unless the meeting or a portion of a meeting is closed by the commission pursuant to Section 52-4-204 or Section 52-4-205.

(4) On or before December 31, 2024, the commission shall provide a report to the Legislature that includes:

(a) recommendations for behavioral health measures and targets to be included in the next update to the master plan;

(b) recommendations for consolidating into the commission other commissions, committees, subcommittees, task forces, working groups, or other bodies pertaining to behavioral health;

(c) recommendations on the next steps for reviewing and potentially redefining state law and program options regarding county-based behavioral health services; and

(d) recommendations on key budget priorities and key legislative policies for the 2025 General Session and thereafter.

(5)(a) Beginning in 2025, by no later than September 30 of each year, the commission shall provide a report to the Health and Human Services Interim Committee that describes the commission's work during the preceding year and includes, in accordance with Section 26B-5-705, any legislative recommendations from the commission.

(b) Before the commission submits a legislative recommendation to the Health and Human Services Interim Committee or the Legislature, the Legislative Policy Committee created in Section 26B-5-705 shall review the recommendation.

(6) Neither the commission nor a committee of the commission may obtain any individual's health or medical information, whether identifiable or deidentified, without first obtaining the consent of the individual or the individual's legal representative.

Section 20. Section 26B-5-704 is enacted to read:

26B-5-704. Committees -- Creation -- Duties.

(1) Each committee created under this part or formed by the commission in accordance with this section serves under the direction of the commission.

(2) In addition to the committees created under this part or formed by the commission, the following are committees of the commission and shall serve under the direction of the commission to assist the commission in performing the commission's duties:

(a) the Behavioral Health Crisis Response Committee created in Section 63C-18-202;

(b) the Education and Mental Health Coordinating Committee created in Section 63C-23-201;

(c) the Utah Substance Use and Mental Health Advisory Committee created in Section 26B-5-801; and

(d) the Statewide Suicide Prevention Committee created under Section 26B-5-611.

(3)(a) In addition to the committees described in Subsection (2) or created under this part, the commission may form committees to support the commission in fulfilling the commission's duties.

(b) When forming a committee, the commission shall:

(i) appoint members to the committee who represent a range of views and expertise; and

(ii) adopt procedures and directives for the committee.

(c) Unless otherwise provided for in statute, a member of a committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

Section 21. Section 26B-5-705 is enacted to read:

26B-5-705. Legislative Policy Committee -- Creation -- Duties -- Staff.

(1) As used in this section, "committee" means the Legislative Policy Committee created in Subsection (2).

(2) Under the commission, there is created the Legislative Policy Committee.

(3)(a) The committee is composed of five legislators, appointed as follows:

(i) the speaker of the House of Representatives shall appoint one member of the House of Representatives;

(ii) the minority leader of the House of Representatives shall appoint one member of the House of Representatives;

(iii) the president of the Senate shall appoint one member of the Senate;

(iv) the minority leader of the Senate shall appoint one member of the Senate; and

(v) the speaker of the House of Representatives and the president of the Senate shall jointly appoint one legislator.

(b) The speaker, president, and minority leaders:

(i) shall make the appointments described in Subsection (3)(a) after consulting with the chairs of the Health and Human Services Interim Committee and the chairs of the Social Services Appropriations Subcommittee; and

(ii) are encouraged but not required to appoint to the committee legislators who are members of one or more of the following:

(A) the Health and Human Services Interim Committee; or

(B) the Social Services Appropriations Subcommittee.

(4) The speaker of the House of Representatives and the president of the Senate shall each designate

one of their appointees as a co-chair of the committee.

(5) The individual who appoints a member of the committee may change the appointment at any time.

(6) The committee shall:

(a) assist the commission and any of the commission's other committees with developing policy and legislative recommendations; and

(b) review any legislative recommendation proposed by the commission before the legislative recommendation is provided to the Health and Human Services Interim Committee or the Legislature.

(7) The committee may:

(a) submit its own proposed legislation to the commission for consideration; and

(b) provide other services as requested by the commission.

(8)(a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the committee.

(9) The Office of Legislative Research and General Counsel shall provide staff support to the committee.

Section 22. Section 26B-5-706 is enacted to read:

26B-5-706. Staff.

(1) The Office of Substance Use and Mental Health within the Department of Health and Human Services shall provide staff support to the commission and, unless otherwise specified by statute, to each of the commission's committees.

(2) The Office of Legislative Research and General Counsel may provide additional staff support to the commission.

Section 23. Section 26B-5-801, which is renumbered from Section 63M-7-301 is renumbered and amended to read:

~~63M-7-301~~. 26B-5-801. Definitions -- Creation of committee -- Membership -- Terms.

Part 8. Utah Substance Use and Mental Health Advisory Committee

(1)(a) As used in this part, [~~"council"~~]"committee" means the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in this section.

(b) There is created within the [~~governor's office~~]department the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee, which serves under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702.

(2) The [~~council~~]committee shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of Integrated Healthcare or the director's designee;

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

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

(g) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice and Youth Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each [~~committee~~]subcommittee established by the [~~council~~]committee;

(t) the chair or co-chair of the Statewide Suicide Prevention [~~Coalition~~]Committee created under Subsection 26B-5-611(3);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the chair of the Utah Victim Services Commission or the chair's designee;

(w) the superintendent of the Utah State Hospital or the superintendent's designee;

(x) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(y) in addition to the voting members described in Subsections (2)(a) through (x), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (x) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military service member or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of Integrated Healthcare as a peer support specialist as described in Subsection 26B-5-102(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the [~~council~~]committee.

Section 24. Section 26B-5-802, which is renumbered from Section 63M-7-302 is renumbered and amended to read:

~~63M-7-302.~~ 26B-5-802. Chair -- Vacancies -- Quorum -- Expenses.

(1) The Utah Substance Use and Mental Health Advisory [~~Council~~]Committee shall annually select one of its members to serve as chair and one of its members to serve as vice chair.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.

(3) A majority of the members of the [~~council~~]committee constitutes a quorum.

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

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(5) The [~~council~~]committee may establish [~~committees~~]subcommittees as needed to assist in accomplishing its duties under Section [~~63M-7-303~~]26B-5-803.

Section 25. Section 26B-5-803, which is renumbered from Section 63M-7-303 is renumbered and amended to read:

~~63M-7-303.~~ 26B-5-803. Duties of council.

(1) [~~The~~]Under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702, the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any [~~committee~~]subcommittee created under Section [~~63M-7-302~~]26B-5-802;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, forensic mental health, and related issues;

[~~(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;~~]

[~~(h)~~](g) comply with Section 32B-2-306;

[~~(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 26B-5-611;~~]

[~~(j)~~](h) advise the Department of Health and Human Services regarding the state hospital

admissions policy for individuals in the custody of the Department of Corrections;

[~~(k)~~](i) regarding the interaction between an individual with a mental illness or an intellectual disability and the civil commitment system, criminal justice system, or juvenile justice system:

(i) promote communication between and coordination among all agencies interacting with the individual;

(ii) study, evaluate, and recommend changes to laws and procedures;

(iii) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with the individual; and

(iv) promote judicial education;

[~~(l)~~](j) study the long-term need for adult patient staffed beds at the state hospital, including:

(i) the total number of staffed beds currently in use at the state hospital;

(ii) the current staffed bed capacity at the state hospital;

(iii) the projected total number of staffed beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the [~~council~~]committee finds relevant to projecting the total number of staffed beds; and

(iv) the cost associated with the projected total number of staffed beds described in Subsection [~~(1)(l)(iii)~~](1)(j)(iii); and

[~~(m)~~](k) each year report on whether the pay of the state hospital's employees is adequate based on market conditions.

(2) The [~~council~~]committee shall meet quarterly or more frequently as determined necessary by the chair.

(3) The [~~council~~]committee shall report:

(a) with the assistance and staff support from the state hospital, regarding the items described in Subsections [~~(1)(l)~~](1)(j) and [~~(m)~~](k), including any recommendations, to the [~~Health and Human Services Interim Committee before October 1 of each year~~]Utah Behavioral Health Commission on or before July 31 of each year; and

(b) any other recommendations annually to the commission, the governor, the Legislature, and the Judicial Council.

Section 26. Section 26B-5-804, which is renumbered from Section 63M-7-304 is renumbered and amended to read:

~~63M-7-304.~~ 26B-5-804. Chair -- Vacancies -- Quorum -- Expenses.

(1) The members of each [~~committee~~]subcommittee established by the [~~council~~]committee shall annually select a chair or co-chairs from among the members of the [~~committee~~]subcommittee.

(2) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as the position was originally filled.

(3) A majority of the members of a [~~committee~~]subcommittee constitutes a quorum for the transaction of business by the [~~committee~~]subcommittee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 27. Section 32B-2-210 is amended to read:

32B-2-210. Alcoholic Beverage Services Advisory Board.

(1) There is created within the department an advisory board known as the "Alcoholic Beverage Services Advisory Board."

(2) The advisory board shall consist of eight voting members and one nonvoting member as follows:

(a) four voting members appointed by the commission:

(i) one of whom represents the retail alcohol industry;

(ii) one of whom represents the wholesale alcohol industry;

(iii) one of whom represents the alcohol manufacturing industry; and

(iv) one of whom represents the restaurant industry;

(b) two voting members appointed by the commission, each of whom represents an organization that addresses alcohol or drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee who serves as a voting member;

(d) the chair of the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee, or the chair's designee, who serves as a voting member; and

(e) the chair of the commission or the chair's designee from the members of the commission, who serves as a nonvoting member.

(3)(a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4)(a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7)(a) Five members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 28. Section 32B-2-306 is amended to read:

32B-2-306. Underage drinking prevention media and education campaign.

(1) As used in this section:

(a) "Advisory [~~council~~]committee" means the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in Section [~~63M-7-301~~]26B-5-801.

(b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2)(a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

(3) The department shall deposit 0.6% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4) The advisory [~~council~~]committee shall:

(a) provide ongoing oversight of a media and education campaign funded under this section;

(b) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory [~~council~~]committee related to the membership and duties of the underage drinking prevention workgroup;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

(e) approve plans submitted by the department in accordance with Subsection (5).

(5)(a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory [~~council~~]committee.

(b) The department shall:

(i) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory [~~council~~]committee detailing the intended use of the money appropriated under this section;

(ii) upon approval of the plan by the advisory [~~council~~]committee, conduct the media and education campaign in accordance with the guidelines made by the advisory [~~council~~]committee; and

(iii) submit to the advisory [~~council~~]committee annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

Section 29. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory [~~council~~]committee" means the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in Section [~~63M-7-301~~]26B-5-801.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city;

(ii) a town; or

(iii) a metro township.

(f)(i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Integrated Healthcare within the Department of Health and Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4)(a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 30. Section 32B-2-404 is amended to read:

32B-2-404. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.

(1)(a) The money deposited into the account under Section 32B-2-403 shall be distributed to municipalities and counties:

(i) to the extent appropriated by the Legislature, except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and

(ii) as provided in this Subsection (1).

(b) The amount appropriated from the account shall be distributed as follows:

(i) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;

(ii) 30% to municipalities and counties on the basis of each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

(iii) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:

(A) state stores;

(B) package agencies;

(C) retail licensees; and

(D) off-premise beer retailers; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this part on the basis of the percentage of the state population located in each county.

(c)(i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:

(A) the municipality may not receive money under this part; and

(B) the State Tax Commission:

(I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.

(ii) If the advisory [~~council~~]committee finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory [~~council~~]committee may direct the State Tax Commission to distribute the money to the municipality.

(2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

(i) multiply by two the total number of convictions in the state obtained during the annual conviction time period for violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or Section 76-5-207; and

(ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and

(c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(3) By not later than September 1 each year:

(a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for alcohol-related offenses in each municipality or county in the state during the annual conviction time period; and

(b) the advisory [~~council~~]committee shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(4) By not later than December 1 of each year, the advisory [~~council~~]committee shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

(b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);

(c) a municipality or county that may not receive a distribution because the advisory [~~council~~]committee has suspended the payment under Subsection 32B-2-405(2)(a); and

(d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5)(a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory [~~council~~]committee notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

(b)(i) The advisory [~~council~~]committee shall prepare forms for use by a municipality or county in applying for a distribution under this part.

(ii) A form described in this Subsection (5) may require the submission of information the advisory [~~council~~]committee considers necessary to enable the State Tax Commission to comply with this part.

Section 31. Section 32B-2-405 is amended to read:

32B-2-405. Reporting by municipalities and counties -- Grants.

(1) A municipality or county that receives money under this part during a fiscal year shall by no later than October 1 following the fiscal year:

(a) report to the advisory [~~council~~]committee:

(i) the programs or projects of the municipality or county that receive money under this part;

(ii) if the money for programs or projects were exclusively used as required by Subsection 32B-2-403(2);

(iii) indicators of whether the programs or projects that receive money under this part are effective; and

(iv) if money received under this part was not expended by the municipality or county; and

(b) provide the advisory [~~council~~]committee a statement signed by the chief executive officer of the county or municipality attesting that the money

received under this part was used in addition to money appropriated or otherwise available for the county's or municipality's law enforcement and was not used to supplant that money.

(2) The advisory [~~council~~]committee may, by a majority vote:

(a) suspend future payments under Subsection 32B-2-404(4) to a municipality or county that:

(i) does not file a report that meets the requirements of Subsection (1); or

(ii) the advisory [~~council~~]committee finds does not use the money as required by Subsection 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection (1); and

(b) cancel a suspension under Subsection (2)(a).

(3) The State Tax Commission shall notify the advisory [~~council~~]committee of the balance of any undistributed money after the annual distribution under Subsection 32B-2-404(5).

(4)(a) Subject to the requirements of this Subsection (4), the advisory [~~council~~]committee shall award the balance of undistributed money under Subsection (3):

(i) as prioritized by majority vote of the advisory [~~council~~]committee; and

(ii) as grants to:

(A) a county;

(B) a municipality;

(C) the department;

(D) the Department of Human Services;

(E) the Department of Public Safety; or

(F) the State Board of Education.

(b) By not later than May 30 of the fiscal year of the appropriation, the advisory [~~council~~]committee shall notify the State Tax Commission of grants awarded under this Subsection (4).

(c) The State Tax Commission shall make payments of a grant:

(i) upon receiving notice as provided under Subsection (4)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (4) shall use the grant money exclusively for programs or projects described in Subsection 32B-2-403(2).

Section 32. Section 32B-7-305 is amended to read:

32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.

(1) The Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:

(a) for the actual costs of an alcohol-related compliance check investigation conducted pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection (1)(a);

(c) if the municipal or county law enforcement agency completes and submits to the Department of Public Safety a report within 90 days after the day on which the compliance check investigation described in Subsection (1)(a) occurs in a format required by the Department of Public Safety; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection (1)(c) until the amount allocated by the Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.

(2) By no later than October 1 of each year, the Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee on the compliance check investigations:

(a) funded during the previous fiscal year; and

(b) reimbursed under Subsection (1).

Section 33. Section 53F-2-522 is amended to read:

53F-2-522. Public education mental health screening.

(1) As used in this section:

(a) "Division" means the Division of Integrated Healthcare within the Department of Health and Human Services.

(b) "Non-participating LEA" means an LEA that does not administer an approved mental health screening program described in this section.

(c) "Participating LEA" means an LEA that has an approved screening program described in this section.

(d) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(e) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

(f) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2)(a) On or before July 1, 2023, an LEA governing board shall determine whether the LEA will be a participating LEA or a non-participating LEA for the 2023-24 school year.

(b)(i) During the 2023-24 school year, and each year after, a participating LEA may change the LEA's participation status and become a non-participating LEA for the next school year by reporting the status change to the state board by the end of the current school year.

(ii) An LEA that changed the LEA's status from participating to non-participating in Subsection (2)(b)(i) is subject to the requirements of a non-participating LEA described in Subsection (2)(c).

(c)(i) During the 2023-24 school year, and each year after, a non-participating LEA's governing board shall submit a record of determination to the state board by the end of the school year, which record shall state whether the non-participating LEA will:

(A) maintain the LEA's non-participating status; or

(B) change the LEA's status to be a participating LEA.

(ii) If the non-participating LEA determines the LEA will change participation status and become a participating LEA, the LEA's status of participation will change at the end of the current school year.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, establish who may access and use a participating student's screening data;

(iii) establish a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

(iv) determine whether a parent is eligible to receive the financial support described in Subsection (5)(a) as a qualifying parent; and

(v) apply for and distribute the financial support described in Subsection (5)(a);

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division; and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before November 30 of each year, submit a report on the screening programs to the State Suicide Prevention [~~Coalition~~]Committee created under [~~Subsection 26B-5-611(2)~~]Section 26B-5-611 and the Education Interim Committee in accordance with Section 53E-1-201 that contains the following:

(i) the approximate number of participating students that were screened in each participating LEA the previous school year;

(ii) the names and number of:

(A) participating LEAs; and

(B) non-participating LEAs;

(iii) an overview of how participating LEAs utilized distributed funds; and

(iv) whether the amount of distributed funds to each participating LEA was sufficient for the participating LEA's needs.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected evidence-based screening program to the state board for approval;

(b) implement and administer a state board-approved mental health screening program to participating students in the participating LEA by:

(i) annually notifying each parent with a student in the participating LEA that the parent may have the student screened for mental health conditions;

(ii) obtaining prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA screens a participating student;

(iii) screening the student for mental health conditions; and

(iv) if results of a participating student's screening indicate a potential mental health condition, notifying the parent of the participating student of:

(A) the participating student's results; and

(B) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity;

(c) use state board-distributed funds for the purposes described in Subsection (5)(a); and

(d) provide the state board with necessary information and data for the state board to complete the report described in Subsection (3)(c).

(5)(a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to:

(i) implement and administer a mental health screening for participating students as described in Subsection (4)(b); and

(ii) assist a qualifying parent to pay for resources described in Subsection (4)(b)(iv)(B) that cannot be provided by a school mental health professional in the school setting.

(b) The state board may not distribute funds described in Subsection (5)(a) to a non-participating LEA.

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

Section 34. Section 63C-18-102 is amended to read:

63C-18-102. Definitions.

CHAPTER 18. BEHAVIORAL HEALTH CRISIS RESPONSE COMMITTEE

As used in this chapter:

(1) ["~~Commission~~"]"Committee" means the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202.

(2) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(3) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(4) "Statewide warm line" means the same as that term is defined in Section 26B-5-610.

Section 35. Section 63C-18-202 is amended to read:

63C-18-202. Committee established -- Members.

Part 2. Committee Creation

(1) [~~There~~]Under the Utah Behavioral Health Commission created in Section 26B-5-702, there is created the Behavioral Health Crisis Response [~~Commission~~]Committee, composed of the following members:

(a) the executive director of the Huntsman Mental Health Institute;

(b) the governor or the governor's designee;

(c) the director of the Office of Substance Use and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

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

(f) one member of the public, appointed by the chair of the [~~commission~~]committee and approved by the [~~commission~~]committee;

(g) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the [~~commission~~]committee and approved by the [~~commission~~]committee, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(h) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

(i) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

(j) one individual who represents the Utah Hospital Association, appointed by the chair of the [~~commission~~]committee;

(k) one individual who represents law enforcement, appointed by the chair of the [~~commission~~]committee;

(l) one individual who has lived with a mental health disorder, appointed by the chair of the [~~commission~~]committee;

(m) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the [~~commission~~]committee; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

(n) one individual who represents an accountable care organization, as defined in Section 26B-3-219, with a statewide membership base;

(o) one individual who represents 911 call centers and public safety answering points, appointed by the chair of the [~~commission~~]committee;

(p) one individual who represents Emergency Medical Services, appointed by the chair of the [~~commission~~]committee;

(q) one individual who represents the mobile wireless service provider industry, appointed by the chair of the [~~commission~~]committee;

(r) one individual who represents rural telecommunications providers, appointed by the chair of the [~~commission~~]committee;

(s) one individual who represents voice over internet protocol and land line providers, appointed by the chair of the [~~commission;~~]committee; and

(t) one individual who represents the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns[~~; and~~].

[~~(u) three or six legislative members, the number of which shall be decided jointly by the speaker of the House of Representatives and the president of the Senate, appointed as follows:~~]

[~~(i) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint three legislative members to the commission, the speaker shall appoint one member of the House of Representatives, the president shall appoint one member of the Senate, and the speaker and the president shall jointly appoint one legislator from the minority party; or~~]

[~~(ii) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint six legislative members to the commission:~~]

[~~(A) the speaker of the House of Representatives shall appoint three members of the House of Representatives, no more than two of whom may be from the same political party; and~~]

[~~(B) the president of the Senate shall appoint three members of the Senate, no more than two of whom may be from the same political party.~~]

(2)(a) Except as provided in Subsection (2)(d), the executive director of the Huntsman Mental Health Institute is the chair of the [~~commission~~]committee.

(b) The chair of the [~~commission~~]committee shall appoint a member of the [~~commission~~]committee to serve as the vice chair of the [~~commission~~]committee, with the approval of the [~~commission~~]committee.

(c) The chair of the [~~commission~~]committee shall set the agenda for each [~~commission~~]committee meeting.

(d) If the executive director of the Huntsman Mental Health Institute is not available to serve as the chair of the [~~commission~~]committee, the [~~commission~~]committee shall elect a chair from among the [~~commission's~~]committee's members.

(3)(a) A majority of the members of the [~~commission~~]committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the [~~commission~~]committee.

(4)[~~(a) Except as provided in Subsection (4)(b), a~~]A member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the [~~commission~~]committee.

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

(5) The Office of the Attorney General shall provide staff support to the [~~commission~~]committee.

Section 36. Section 63C-18-203 is amended to read:

63C-18-203. Committee duties -- Reporting requirements.

(1) [~~The commission~~]Under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702, the committee shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the [~~commission's~~]committee's duties described in Subsections (1)(a) and (b);

(d) recommend standards for the certifications described in Section 26B-5-610; and

(e) coordinate services provided by local mental health crisis lines and mobile crisis outreach teams, as defined in Section 62A-15-1401.

(2) The [~~commission~~]committee shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) operating the statewide 988 hotline:

(i) in accordance with federal law;

(ii) to ensure the efficient and effective routing of calls to an appropriate crisis center; and

(iii) to directly respond to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

(3) The [~~commission~~]committee may conduct other business related to the [~~commission's~~]committee's duties described in this section.

(4) The [~~commission~~]committee shall consult with the Office of Substance Use and Mental Health regarding:

(a) the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Section 26B-5-610; and

(b) the incorporation of the statewide mental health crisis line and the statewide warm line into behavioral health systems throughout the state.

(5) [~~Beginning in 2023, by no later than the last interim meeting of the Health and Human Services Interim Committee each year, the commission~~]The committee shall report to the [~~Health and Human Services Interim Committee~~]Utah Behavioral Health Commission on the matters described in Subsections (1) and (2), including any recommendations, legislation proposals, and opportunities for behavioral health crisis response system improvement.

Section 37. Section 63C-23-102 is amended to read:

63C-23-102. Definitions.

CHAPTER 23. EDUCATION AND MENTAL HEALTH COORDINATING COMMITTEE

As used in this chapter:

(1) [~~"Council"~~]"Committee" means the Education and Mental Health Coordinating [~~Council~~]Committee created in Section 63C-23-201.

(2) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

(3) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(4) "Local substance abuse authority" means a local substance abuse authority described in Section 17-43-201.

Section 38. Section 63C-23-201 is amended to read:

63C-23-201. Education and Mental Health Coordinating Committee -- Membership -- Quorum and voting requirements -- Compensation -- Staff support.

Part 2. Education and Mental Health Coordinating Committee

(1) [~~There~~]Under the direction of the Utah Behavioral Health Commission created in Section 26B-5-702, there is created the Education and Mental Health Coordinating [~~Council~~]Committee to:

(a) provide action-oriented guidance to legislative and other state leaders on how to meet the behavioral health needs, including mental health and substance use issues, facing youth and families within the state; and

(b) ensure close collaboration and alignment with existing statewide behavioral health efforts and groups, including:

(i) the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202; and

(ii) the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee created in Section [~~63M-7-301~~]26B-5-801.

(2) The [~~council~~]committee consists of the following members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

(c) an individual with expertise in behavioral health whom the governor appoints;

(d) the state superintendent of public instruction appointed under Section 53E-3-301 or the state superintendent's designee;

(e) the chief executive officer of the Huntsman Mental Health Institute at the University of Utah or the chief executive officer's designee;

(f) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(g) the commissioner of higher education appointed under Section 53B-1-408 or the commissioner's designee; and

(h) the following individuals whom the president of the Senate and the speaker of the House of Representatives jointly appoint:

(i) a community-oriented behavioral health leader from the private sector;

(ii) the president or chief executive officer of an association that represents hospitals within the state;

(iii) a community health executive from an academic medical system;

(iv) a community health executive from an integrated healthcare system;

(v) the president or chief executive officer of a nonprofit organization that provides comprehensive mental health care to children and families across the socioeconomic spectrum; and

(vi) a mental health research expert.

(3)(a) The members described in Subsections (2)(a) and (2)(h)(i) shall serve as co-chairs of the [~~council~~]committee.

(b) A [~~council~~]committee member whom the speaker of the House of Representatives and the president of the Senate jointly appoint under Subsection (2)(h), and the [~~council~~]committee member whom the governor appoints under Subsection (2)(c), shall serve a term of two years.

(c) The speaker of the House of Representatives, the president of the Senate, and the governor shall:

(i) make the initial appointments described in Subsection (2) before July 1, 2021; and

(ii) make appointments for subsequent terms for the [~~council~~]committee positions described in Subsection (2)(b) before July 1 of each odd-numbered year, by:

(A) reappointing the [~~council~~]committee member whose term expires under Subsection (3)(b); or

(B) appointing a new [~~council~~]committee member.

(d) The speaker of the House of Representatives and the president of the Senate may change the appointment described in Subsections (2)(a) and (b) at any time.

(4)(a) The salary and expenses of a [~~council~~]committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A [~~council~~]committee member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the [~~council~~]committee; and

(ii) may receive per diem and reimbursement for travel expenses that the [~~council~~]committee member incurs as a [~~council~~]committee member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5)(a) A majority of the [~~council~~]committee members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the [~~council~~]committee.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the [~~council~~]committee.

Section 39. Section 63C-23-202 is amended to read:

63C-23-202. Committee duties -- Reporting requirements.

(1) The [~~council~~]committee shall:

(a) meet at least twice per quarter; and

(b) make findings and recommendations to:

(i) generate a common framework for preventing and addressing mild, moderate, and serious behavioral health concerns that youth within the state face;

(ii) clarify roles among LEAs, local mental health authorities, local substance abuse authorities, and other behavioral health partners regarding the practical and legal obligations of screening, assessment, and the provision of care; and

(iii) facilitate joint development of state and local plans among LEAs, local mental health authorities, local substance abuse authorities, and other behavioral health partners that:

(A) describe how the entities will collaborate to meet the behavioral health needs of youth within the state; and

(B) provide clarity and consistency in the standardization, collection, analysis, and application of behavioral health-related data to drive improvement.

(2) At least once per quarter, the [~~council~~]committee co-chairs shall report to the speaker of the House of Representatives and the president of the Senate regarding the findings and recommendations described in Subsection (1)(b).

(3) [~~At or before the November interim meeting, the council~~]On or before July 31 of each year, the committee shall report the [~~council's~~]committee's findings and recommendations described in Subsection (1)(b) to the [~~Education Interim Committee and the Health and Human Services Interim Committee~~]Utah Behavioral Health Commission.

Section 40. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response [~~Commission~~]Committee, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response [~~Commission~~]Committee, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "[~~and~~]In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

(30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the

Behavioral Health Crisis Response [~~Commission~~]Committee, established in Section 63C-18-202," is repealed December 31, 2026.

(32) Section 26B-5-112.5 is repealed December 31, 2026.

(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(35) Section 26B-5-120 is repealed December 31, 2026.

(36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(37) In relation to the Behavioral Health Crisis Response [~~Commission~~]Committee, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the [~~commission~~]committee," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the [~~commission~~]committee," is repealed; [~~and~~]

(e) Subsection 26B-5-610(4), the language that states "In consultation with the [~~commission~~]committee," is repealed[~~.~~]; and

(f) Subsection 26B-5-704(2)(a) is repealed.

[~~(38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~]

[~~(39)~~](38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(39) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

(40) Subsection 26B-5-704(2)(b), related to the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(41) In relation to the Utah Substance Use and Mental Health Advisory Committee, on January 1, 2033, Sections 26B-5-801, 26B-5-802, 26B-5-803, and 26B-5-804 are repealed.

[~~(40)~~](42) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(41)~~](43) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(42)~~](44) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(43)~~](45) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 41. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response [~~Commission~~]Committee, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response [~~Commission~~]Committee, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "[~~and~~]In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response [~~Commission~~]Committee, established in Section 63C-18-202," is repealed December 31, 2026.

(31) Section 26B-5-112.5 is repealed December 31, 2026.

(32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(34) Section 26B-5-120 is repealed December 31, 2026.

(35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(36) In relation to the Behavioral Health Crisis Response [~~Commission~~]Committee, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the [~~commission~~]committee," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the [~~commission~~]committee," is repealed; [~~and~~]

(e) Subsection 26B-5-610(4), the language that states "In consultation with the [~~commission~~]committee," is repealed[~~.~~]; and

(f) Subsection 26B-5-704(2)(a) is repealed.

[~~(37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.~~]

[~~(38)~~](37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(38) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

(39) Subsection 26B-5-704(2)(b), related to the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(40) In relation to the Utah Substance Use and Mental Health Advisory Committee, on January 1, 2033, Sections 26B-5-801, 26B-5-802, 26B-5-803, and 26B-5-804 are repealed.

[~~(39)~~](41) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(40)~~](42) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(41)~~](43) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](44) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 42. Section 63I-1-232 is amended to read:

63I-1-232. Repeal dates: Title 32A through 32B.

In relation to the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee, on January 1, 2033:

(1) Subsection 32B-2-306(1)(a) is repealed;

(2) Subsection 32B-2-306(4), the language that states "advisory [~~council~~]committee" is repealed and replaced with "department";

(3) Subsections 32B-2-306(4)(b) and (e) are repealed;

(4) Subsection 32B-2-306(5)(a), the language that states "in cooperation with the advisory [~~council~~]committee" is repealed;

(5) Subsection 32B-2-306(5)(b) is amended to read:

"(b) The department shall:(i) prepare a plan detailing the intended use of the money appropriated under this section; and(ii) conduct the media and education campaign in accordance with the guidelines created by the department under Subsection (4)(c).";

(6) Subsection 32B-2-402(1)(b) is repealed;

(7) Sections 32B-2-404 and 32B-2-405, the language that states "advisory [~~council~~]committee" is repealed and replaced with "department";

(8) Subsection 32B-2-405(2), the language that states "by a majority vote" is repealed; and

(9) Subsection 32B-2-405(4)(a)(i), the language that states "majority vote of" is repealed.

Section 43. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) [~~Title 63C, Chapter 18, Behavioral Health Crisis Response Commission~~]Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(9) [~~Title 63C, Chapter 23, Education and Mental Health Coordinating Council~~]Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed [~~July 1, 2026~~]December 31, 2024.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:~~]

[~~(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;~~]

[~~(b) Section 63M-7-305, the language that states "council" is replaced with "commission";~~ ~~(c)~~ ~~Subsection 63M-7-305(1)(a) is repealed and replaced with:~~

~~"(1) "Commission" means the Commission on Criminal and Juvenile Justice.";~~ ~~and~~ (d) Subsection ~~63M-7-305(2) is repealed and replaced with:~~

~~"(2) The commission shall:~~

~~(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and~~

~~(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".~~]

[~~(22)~~](21) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](22) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](29) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 44. Section 63M-7-202 is amended to read:

63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

(1) The State Commission on Criminal and Juvenile Justice is composed of 26 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator or the state court administrator's designee;

(c) the executive director of the Department of Corrections or the executive director's designee;

(d) the executive director of the Department of Health and Human Services or the executive director's designee;

(e) the commissioner of the Department of Public Safety or the commissioner's designee;

(f) the attorney general or an attorney designated by the attorney general;

(g) the president of the chiefs of police association or a chief of police designated by the association's president;

(h) the president of the sheriffs' association or a sheriff designated by the association's president;

(i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

(j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

(k) the chair of the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee or a member of the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee designated by the chair;

(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;

(m) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;

(n) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;

(o) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

(p) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

(q) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

(r) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

(c) one representative of public education;

(d) one citizen representative; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

Section 45. Section 64-13-45 is amended to read:

64-13-45. Department reporting requirements.

(1) As used in this section:

(a)(i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the department.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a correctional facility, other than a county jail.

(b) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

(c) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) The department shall submit a report to the Commission on Criminal and Juvenile Justice, created in Section 63M-7-201, before June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year, including:

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a); and

(ii) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(b) the department policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use disorder or mental health disorder;

(c) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:

(i) the types of restraints used; and

(ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public; and

(d) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law ; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory [~~Council~~]Committee before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

Section 46. Section 77-18-102 is amended to read:

77-18-102. Definitions.

As used in this chapter:

(1) "Assessment" means[~~, except as provided in Section 77-18-104,~~] the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

(11) "Restitution" means the same as that term is defined in Section 77-38b-102.

(12) "Screening" means[~~, except as provided in Section 77-18-104,~~] a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

(13) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Section 47. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

[~~(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;~~]

[~~(d)~~](c) recommendations for treatment for the defendant; and

[~~(e)~~](d) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(3) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(4)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the Division of Adult Probation and Parole or the law enforcement agency.

(b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(6)(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(7) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for

purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8)(a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

Section 48. Repealer.

This bill repeals:

Section 26B-3-138, Behavioral health delivery working group.

Section 63C-18-101, Title.

Section 63C-23-101, Title.

Section 63M-7-305, Drug-Related Offenses Reform Act -- Coordination.

Section 63M-7-306, Staffing.

Section 77-18-104, Screening, assessment, and treatment.

Section 49. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-1-226 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 246
S. B. 29
Passed February 2, 2024
Approved March 14, 2024
Effective January 1, 2025

TRUTH IN TAXATION MODIFICATIONS

Chief Sponsor: Chris H. Wilson
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill modifies notice and public hearing requirements in the property tax code.

Highlighted Provisions:

This bill:

- modifies the requirements for public hearings held in connection with judgment levies and property tax increases;
- excludes certain revenue sources from the calculation of a taxing entity's budgeted property tax revenue for the prior year;
- requires a taxing entity proposing a property tax increase to provide notice of the scope and purpose of the tax increase and the taxing entity's public website;
- requires a public auditor to resolve any conflicts in public hearing dates for affected taxing entities;
- allows a county auditor to audit a taxing entity's compliance with the notice and public hearings requirements for a property tax increase;
- prohibits the State Tax Commission from certifying a property tax rate increase if the taxing entity fails to meet notice and public hearing requirements;
- modifies the required contents of the property tax valuation notice provided by a county auditor;
- modifies the requirements for a county auditor in connection with consolidated public hearings;
- allows the State Tax Commission to make certain revenue adjustments based on errors associated with uniform fees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-918.5, as last amended by Laws of Utah 2016, Chapter 98
59-2-919, as last amended by Laws of Utah 2023, Chapters 16, 435
59-2-919.1, as last amended by Laws of Utah 2023, Chapters 7, 471
59-2-919.2, as last amended by Laws of Utah 2023, Chapter 435
59-2-924.2, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section 59-2-918.5 is amended to read:

59-2-918.5. Hearings on judgment levies -- Advertisement.

(1) A taxing entity may not impose a judgment levy unless it first advertises its intention to do so and holds a public hearing in accordance with the requirements of this section.

(2)(a) The advertisement required by this section may be combined with the advertisement described in Section 59-2-919.

(b) The advertisement shall be at least 1/8 of a page in size and shall meet the type, placement, and frequency requirements established under Section 59-2-919.

(c)(i) For taxing entities operating under a July 1 through June 30 fiscal year the public hearing shall be held [~~at the same time as the hearing at which the annual budget is adopted~~]10 or more days after notice is provided to property owners pursuant to Section 59-2-919.1.

(ii) For taxing entities operating under a January 1 through December 31 fiscal year:

(A) for an eligible judgment issued on or after March 1 but on or before September 15, the public hearing shall be held at the same time as the hearing at which the annual budget is adopted; or

(B) for an eligible judgment issued on or after September 16 but on or before the last day of February, the public hearing shall be held [~~at the same time as the hearing at which property tax levies are set~~]10 or more days after notice is provided to property owners pursuant to Section 59-2-919.1.

(3) The advertisement shall specify the date, time, and location of the public hearing at which the levy will be considered and shall set forth the total amount of the eligible judgment and the tax impact on an average residential and business property located within the taxing entity.

(4) If a final decision regarding the judgment levy is not made at the public hearing, the taxing entity shall announce at the public hearing the scheduled time and place for consideration and adoption of the judgment levy.

(5)(a) The date, time, and place of [~~public hearings required by Subsections (2)(c)(i) and (2)(c)(ii)(B)~~]a public hearing required under this section shall be included on the notice provided to property owners pursuant to Section 59-2-919.1.

(b) The requirements of Subsections 59-2-919(8)(b)(i) and (c) through (f) apply to a public hearing required under this section.

Section 2. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions -- Audit.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include:

(i) revenue received by a taxing entity from a debt service levy voted on by the public[.];

(ii) revenue generated by the combined basic rate as defined in Section 53F-2-301; or

(iii) revenue generated by the charter school levy described in Section 53F-2-703.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3)(a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b)(i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper- case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59- 2- 1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(vi) shall include a brief statement of the primary purpose for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (3)(c)(v);

[~~(v)~~](vii) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v); [~~and~~]

(viii) shall state the Internet address for the taxing entity's public website; and

[~~(vi)~~](ix) may contain other [~~property tax~~]information approved by the commission.

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5)(a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F- 8- 301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6)(a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45- 1- 101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45- 1- 101; and

(iii) for the taxing entity, as a class A notice under Section 63G- 30- 102, for at least 14 days before the day on which the taxing entity conducts the public hearing described in Subsection (3)(a)(v) or (4)(b).

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4- inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e)(i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); [~~and~~]

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); [~~and~~]

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase; and

(C) state the Internet address for the taxing entity's public website.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59- 2- 919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would receive an additional $_____ in property tax revenue per year as a result of the tax increase.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's property tax budgeted revenue excluding eligible new growth.

[~~All~~]The (name of the taxing entity) invites all concerned citizens [~~are invited~~]to a public hearing [~~on the tax increase~~]for the purpose of hearing comments regarding the proposed tax increase and to explain the reasons for the proposed tax increase.

PUBLIC HEARING

Date/Time:

(date) (time)

Location:

(name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity) or visit (Internet address for the taxing entity's public website)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45- 1- 101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59- 2- 919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8)(a)(i)[~~(A)~~] A fiscal year taxing entity shall, on or before [~~March~~]June 1, notify the [~~county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed~~]commission and the county auditor of the date, time, and place of the public hearing described in Subsection (4)(b).

[~~(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59- 2- 919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).~~]

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the [~~county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed~~]commission and the county auditor of the date, time, and place of the public hearing described in Subsection (3)(a)(v).

(b)(i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall:

(A) state the dollar amount of additional ad valorem tax revenue that would be generated each year by the proposed increase in the certified tax rate;

(B) explain the reasons for the proposed tax increase, including the taxing entity's intended use of additional ad valorem tax revenue described in Subsection (8)(b)(ii)(A);

(C) if the county auditor compiles the list required by Section 59-2-919.2, present the list at the public hearing and make the list available on the taxing entity's public website; and

(D) provide an interested party desiring to be heard an opportunity to present oral testimony[~~:~~] within reasonable time limits and without unreasonable restriction on the number of individuals allowed to make public comment.

[~~(A) within reasonable time limits; and~~]

[~~(B) without unreasonable restriction on the number of individuals allowed to make public comment.~~]

(c)(i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) [~~A county legislative body~~]The county auditor shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e)(i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f)(i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B-1-643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10-5-107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10-6-135.5.

(9)(a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

(10)(a) A county auditor may conduct an audit to verify a taxing entity's compliance with Subsection (8).

(b) If the county auditor, after completing an audit, finds that a taxing entity has failed to meet the requirements of Subsection (8), the county auditor shall prepare and submit a report of the auditor's findings to the commission.

(c) The commission may not certify a tax rate that exceeds a taxing entity's certified tax rate if, on or before September 15 of the year in which the taxing entity is required to hold the public hearing described in Subsection (3)(a)(v) or (4)(b), the

commission determines that the taxing entity has failed to meet the requirements of Subsection (8).

Section 3. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii)(A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4); [~~and~~]

(D) levies for debt service voted on by the public;

(E) levies imposed for special purposes under Section 10-6-133.4; and

[~~(D)~~](F) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301;

(vii) the tax impact on the property;

(viii) the date, time, and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); [~~and~~]

(xii) instructions on how the taxpayer may obtain additional information regarding the valuation of the property, including the characteristics and features of the property, from at least one the following sources:

(A) a website maintained by the county; or

(B) the county assessor's office; and

[~~(xii)~~](xiii) other [~~property tax~~]information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii); [~~and~~]

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate[~~.~~]; and

(d) for each taxing entity proposing a tax increase, the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved.

(4)(a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b)(i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 4. Section 59-2-919.2 is amended to read:

59-2-919.2. Consolidated advertisement of public hearings.

(1)(a) Except as provided in Subsection (1)(b), on the same day on which a taxing entity provides the notice to the county required under Subsection 59-2-919(8)(a)(i), the taxing entity shall provide to the county auditor the information required by Subsection 59-2-919(8)(a)(i).

(b) A taxing entity is not required to notify the county auditor of the taxing entity's public hearing in accordance with Subsection (1)(a) if the taxing entity is exempt from the notice requirements of Section 59-2-919.

(2) If as of July 22, two or more taxing entities notify the county auditor under Subsection (1), the county auditor shall by no later than July 22 of each year:

(a) compile a list of the taxing entities that notify the county auditor under Subsection (1);

(b) include on the list described in Subsection (2)(a), the following information for each taxing entity on the list:

(i) the name of the taxing entity;

(ii) the date, time, and location of the public hearing described in Subsection 59-2-919(8)(a)(i);

(iii) the average dollar increase on a residence in the taxing entity that the proposed tax increase would generate; [~~and~~]

(iv) the average dollar increase on a business in the taxing entity that the proposed tax increase would generate;

(v) the dollar amount of additional ad valorem tax revenue, as defined in Section 59-2-919, that would be generated each year if the proposed tax increase is approved;

(vi) the approximate percentage increase in ad valorem tax revenue for the taxing entity if the proposed tax increase is approved; and

(vii) other information approved by the commission;

(c) provide a copy of the list described in Subsection (2)(a) to each taxing entity that notifies the county auditor under Subsection (1); and

(d) in addition to the requirements of Subsection (3), if the county has a webpage, publish a copy of the list described in Subsection (2)(a) on the county's webpage until December 31.

(3)(a) At least two weeks before any public hearing included in the list under Subsection (2) is held, the county auditor shall publish:

(i) the list compiled under Subsection (2); and

(ii) a statement that:

(A) the list is for informational purposes only;

(B) the list should not be relied on to determine a person's tax liability under this chapter; and

(C) for specific information related to the tax liability of a taxpayer, the taxpayer should review the taxpayer's tax notice received under Section 59-2-919.1.

(b) Except as provided in Subsection (3)(d)(ii), the information described in Subsection (3)(a) shall be published:

(i) in no less than 1/4 page in size;

(ii) except for the heading described in Subsection (3)(b)(iii), in not less than 10-point type;

(iii) under the following heading at the top of the document in not less than 18-point boldface type: "NOTICE OF PROPOSED TAX INCREASES"; and

[~~(ii) in type no smaller than 18 point; and~~]

[~~(iii)~~](iv) surrounded by a 1/4-inch border.

(c) The published information described in Subsection (3)(a) and published in accordance with Subsection (3)(d)(i) may not be placed in the portion

of a newspaper where a legal notice or classified advertisement appears.

(d) A county auditor shall publish the information described in Subsection (3)(a):

(i)(A) in a newspaper or combination of newspapers that are:

(I) published at least one day per week;

(II) of general interest and readership in the county; and

(III) not of limited subject matter; and

(B) once each week for the two weeks preceding the first hearing included in the list compiled under Subsection (2); and

(ii) for two weeks preceding the [~~the~~]day of the first hearing included in the list compiled under Subsection (2):

(A) as required in Section 45-1-101; and

(B) for the county, as a class A notice under Section 63G-30-102.

(4) A taxing entity that notifies the county auditor under Subsection (1) shall provide the list described in Subsection (2)(c) to a person:

(a) who attends the public hearing described in Subsection 59-2-919(8)(a)(i) of the taxing entity; or

(b) who requests a copy of the list.

(5)(a) A county auditor shall by no later than 30 days from the day on which the last publication of the information required by Subsection (3)(a) is made:

(i) determine the costs of compiling and publishing the list; and

(ii) charge each taxing entity included on the list an amount calculated by dividing the amount determined under Subsection (5)(a) by the number of taxing entities on the list.

(b) A taxing entity shall pay the county auditor the amount charged under Subsection (5)(a).

(6) The publication of the list under this section does not remove or change the notice requirements of Section 59-2-919 for a taxing entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(a) relating to the publication of a consolidated advertisement which includes the information described in Subsection (2) for a taxing entity that overlaps two or more counties;

(b) relating to the payment required in Subsection (5)(b); and

(c) to oversee the administration of this section and provide for uniform implementation.

Section 5. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3)(a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5)(a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b)(i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6)(a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7)(a) The base taxable value as defined in Section 17C-1-102 shall be reduced for any year to the

extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, special district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8)(a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

(9) If a taxing entity receives decreased revenues from uniform fees on tangible personal property under Section 59-2-405 as a result of any error in applying uniform fees to motor vehicle registration in the calendar year beginning on January 1, 2023, the commission may, for the calendar year beginning on January 1, 2024, increase the taxing entity's budgeted revenue to offset the decreased revenues.

Section 6. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect for a taxable year beginning on or after January 1, 2025.

(2) The actions affecting Section 59-2-924.2 take effect on May 1, 2024.

Section 7. Retrospective operation.

Section 59-2-924.2 has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 247
S. B. 32
Passed January 31, 2024
Approved March 14, 2024
Effective May 1, 2024

CAREGIVER COMPENSATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jennifer Dailey- Provost

LONG TITLE

General Description:

This bill amends a definition related to reimbursement for certain personal care services under Medicaid.

Highlighted Provisions:

This bill:

- provides that, if approved by CMS, a step- parent may be reimbursed for providing certain personal care services to an individual who is enrolled in a specific Medicaid waiver.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B- 3- 222, as last amended by Laws of Utah 2023, Chapter 315 and renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B- 3- 222 is amended to read:

26B- 3- 222. Medicaid waiver expansion for extraordinary care reimbursement.

(1) As used in this section:

(a) "Existing home and community- based services waiver" means an existing home and community- based services waiver in the state that serves an individual:

(i) with an acquired brain injury;

(ii) with an intellectual or physical disability; or

(iii) who is 65 years old or older.

(b) "Guardian" means a person appointed by a court to manage the affairs of a living individual.

(c) "Parent" means a biological [~~or~~]parent, adoptive parent, or step- parent of an individual.[~~."~~]

(d) "Personal care services" means a service that:

(i) is furnished to an individual who is not an inpatient nor a resident of a hospital, nursing facility, intermediate care facility, or institution for mental diseases;

(ii) is authorized for an individual described in Subsection (1)(d)(i) in accordance with a plan of treatment;

(iii) is provided by an individual who is qualified to provide the services; and

(iv) is furnished in a home or another community- based setting.

(e) "Waiver enrollee" means an individual who is enrolled in an existing home and community- based services waiver.

(2) Before July 1, 2021, the department shall apply with CMS for an amendment to an existing home and community- based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee who is the individual's spouse.

(3) If CMS approves the amendment described in Subsection (2), the department shall implement the program described in Subsection (2).

(4) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (2).

(5) Before July 1, 2023, the department shall apply with CMS for an amendment to an existing home and community- based services waiver to implement a program to offer reimbursement to an individual who provides personal care services that constitute extraordinary care to a waiver enrollee to whom the individual is a parent or guardian.

(6) If CMS approves the amendment described in Subsection (5), the department shall implement the program described in Subsection (5).

(7) The department shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, define "extraordinary care" for purposes of Subsection (5).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 248
S. B. 33
Passed February 2, 2024
Approved March 14, 2024
Effective May 1, 2024

INDIVIDUAL INCOME TAX ACT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the State Tax Commission's determination of domicile for purposes of individual income taxation.

Highlighted Provisions:

This bill:

- establishes an irrebuttable presumption of domicile in the state based on an individual's voting record;
- allows the State Tax Commission to consider evidence of certain tax filings in determining domicile;
- repeals provisions addressing temporary absences from the state; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-136, as last amended by Laws of Utah 2021, Chapter 392

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

Section 1. Section 59-10-136 is amended to read:

59-10-136. Domicile.

(1)(a) An individual is considered to have domicile in this state if:

(i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; [~~or~~]

(ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state[~~.~~]; or

(iii) the individual or the individual's spouse, in that taxable year:

(A) votes in this state in a regular general election, municipal general election, primary election, or special election;

(B) has not registered to vote in another state; and

(C) has not voted in another state that does not require voter registration.

(b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:

(i) is the noncustodial parent of a dependent:

(A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's federal individual income tax return; and

(B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and

(ii)(A) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i); or

(B) was never married to the custodial parent of the dependent described in Subsection (1)(b)(i).

[~~(2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:~~]

[~~(a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;~~]

[~~(b) the individual or the individual's spouse:~~]

[~~(i) votes in this state in a regular general election, municipal general election, primary election, or special election during the taxable year; and~~]

[~~(ii) has not registered to vote in another state in that taxable year; or~~]

[~~(c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.~~]

[~~(3)~~](2)(a) Subject to Subsection [~~(3)(b)~~](2)(b), if the requirements of Subsection (1) [~~or (2)~~]are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:

(i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and

(ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.

(b) The determination of whether an individual is considered to have domicile in this state under this

Subsection [~~(3)(a)~~](2) shall be based on the preponderance of the evidence, taking into consideration the totality of only the following facts and circumstances:

(i) whether the individual or the individual's spouse has a driver license in this state;

(ii) whether the individual or the individual's spouse receives a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;

[~~(ii)~~](iii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;

[~~(iii)~~](iv) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;

[~~(iv)~~](v) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return;

[~~(v)~~](vi) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

[~~(vi)~~](vii) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;

[~~(vii)~~](viii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;

[~~(viii)~~](ix) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;

[~~(ix)~~](x) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;

(xi) whether the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state;

[~~(x)~~](xii) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;

[~~(xi)~~](xiii) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile;

[~~(xii)~~](xiv) whether the individual is an individual described in Subsection (1)(b);

[~~(xiii)~~](xv) whether the individual:

(A) maintains a place of abode in [~~the~~]this state; and

(B) spends in the aggregate 183 or more days of the taxable year in [~~the~~]this state; or

[~~(xiv)~~](xvi) whether the individual or the individual's spouse:

(A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and

(B) has not registered to vote in another state during a taxable year described in Subsection [~~(3)(b)(xiv)(A)~~](2)(b)(xvi)(A).

[~~(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes spending a day of the taxable year in the state.~~]

[~~(4)(a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:~~]

[~~(i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and~~]

[~~(ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:~~]

[~~(A) return to this state for more than 30 days in a calendar year;~~]

[~~(B) claim a personal exemption or a tax credit under Section 24, Internal Revenue Code, on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);~~]

[~~(C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;~~]

[~~(D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that~~

~~individual's or individual's spouse's primary residence; or~~]

[~~(E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.~~]

[~~(b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.~~]

[~~(c) For purposes of Subsection (4)(a), an absence from the state:~~]

[~~(i) begins on the later of the date:~~]

[~~(A) the individual leaves this state; or~~]

[~~(B) the individual's spouse leaves this state; and~~]

[~~(ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.~~]

[~~(d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:~~]

[~~(i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and~~]

[~~(ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.~~]

[~~(e)(i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.~~]

[~~(ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:~~]

[~~(A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and~~]

[~~(B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).~~]

[~~(5)~~](3) Notwithstanding [~~Subsections (2) and (3)~~]Subsection (2), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under Subsection (2) [~~or (3)~~]if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

(a) is not an owner of property in this state;

(b) [~~does not return to this state for~~]has not spent in the aggregate more than 30 days [~~in a calendar~~]of the taxable year in this state;

(c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;

(d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and

(e) does not have a driver license in this state.

[~~(6)~~](4)[~~(a) Except as provided in Subsection (5), an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.~~]

[~~(b)~~](a) For purposes of this section, an individual is not considered to have a spouse if:

(i) the individual is legally separated or divorced from the spouse; or

(ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.

[~~(c)~~](b) Except as provided in Subsection [~~(6)(b)(ii)~~](4)(a)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether [~~an~~]the individual has a spouse.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsections (2)(b)(xv) and (3)(b), the commission may by rule define what constitutes spending a day of the taxable year in this state.

[~~(7) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.~~]

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 249
S. B. 38
Passed February 2, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX APPEALS MODIFICATIONS

Chief Sponsor: Daniel McCay
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to property tax appeals.

Highlighted Provisions:

This bill:

- requires any expenses incurred by a county in an objection to the State Tax Commission's assessment of property to be apportioned equally among all taxing entities located within the county.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59- 2- 1328, as last amended by Laws of Utah 2002, Chapters 196, 240

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

Section 1. Section 59-2-1328 is amended to read:

59-2-1328. Judgment or order against state or taxing entity -- Payment to taxpayer -- County recovery of portion of payment to taxpayer from the state or a taxing entity other than the county -- Apportionment of expenses incurred by county in objection to assessment by commission.

(1) If a taxpayer obtains a final and unappealable judgment or order in accordance with Section 59- 2- 1330 ordering a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year, the state or the taxing entity against which the taxpayer obtained the final and unappealable judgment or order shall:

(a) audit and allow the final and unappealable judgment or order;

(b) cause a warrant to be drawn for the amount recovered by the final and unappealable judgment or order; and

(c) pay the taxpayer as required by Section 59- 2- 1330.

(2) At the request of a county, the state or a taxing entity shall cause a warrant to be drawn upon the treasurer of the state or the taxing entity in favor of the county:

(a) if:

(i) the final and unappealable judgment or order described in Subsection (1) is obtained against a county; and

(ii) any portion of the taxes included in the final and unappealable judgment or order described in Subsection (1):

(A) is levied by the state or a taxing entity other than the county; and

(B) has been paid over to the state or the taxing entity described in Subsection (2)(a)(ii)(A) by the county; and

(b) for the state's or the taxing entity's proportionate share of a payment to a taxpayer required by Section 59- 2- 1330.

(3) For purposes of Subsection (2), the state's or a taxing entity's proportionate share of a payment to a taxpayer required by Section 59- 2- 1330 is an amount equal to the product of:

(a) the percentage by which the amount of any tax levied against any property for which the taxpayer paid a tax under this chapter for a calendar year was reduced in accordance with the final and unappealable judgment or order described in Subsection (1); and

(b) the total amount of the taxes for the property described in Subsection (1) paid over to the state or the taxing entity by the county for the calendar year described in Subsection (3)(a).

(4) If the final and unappealable judgment or order described in Subsection (1) results from an objection to the commission's assessment of property to which the county is a party under Section 59- 2- 1007, any expenses incurred by the county in connection with the objection shall be apportioned proportionately among each taxing entity located within the county.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 250
S. B. 42
Passed January 31, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH AND HUMAN SERVICES REPORTING REQUIREMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies and repeals reporting provisions related to Department of Health and Human Services programs.

Highlighted Provisions:

This bill:

- modifies and repeals reporting provisions related to Department of Health and Human Services programs;
- replaces a report for the Hepatitis C Outreach Pilot Program with a sunset date for the pilot program; and
- makes technical changes

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26A-1-115, as last amended by Laws of Utah 2023, Chapter 272
26A-1-129, as enacted by Laws of Utah 2020, Chapter 347
26B-1-324, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-326, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-327, as last amended by Laws of Utah 2023, Chapter 534 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-328, as last amended by Laws of Utah 2023, Chapter 534 and renumbered and amended by Laws of Utah 20Â23, Chapter 305
26B-1-329, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-402, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-422, as last amended by Laws of Utah 2023, Chapter 269 and renumbered and amended by Laws of Utah 2023, Chapter 305 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305
26B-1-424, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-210, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-218, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-4-702, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-703, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-711, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-5-102, as last amended by Laws of Utah 2023, Chapter 177 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-110, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-114, as last amended by Laws of Utah 2023, Chapter 270 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-116, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-611, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-304, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-703, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-117, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-119, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-504, as renumbered and amended by Laws of Utah 2023, Chapter 306
63C-18-203, as last amended by Laws of Utah 2023, Chapters 270, 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
63I-1-276, as last amended by Laws of Utah 2023, Chapter 398
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
78B-6-140, as last amended by Laws of Utah 2023, Chapters 289, 466
80-2-1104, as renumbered and amended by Laws of Utah 2022, Chapter 334

REPEALS:

26B-2-503, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-6-510, as renumbered and amended by Laws of Utah 2023, Chapter 308

26B-7-224, as last amended by Laws of Utah 2023, Chapter 111 and renumbered and amended by Laws of Utah 2023, Chapter 308

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

Section 1. Section 26A-1-115 is amended to read:

26A-1-115. Apportionment of costs -- Contracts to provide services -- Percentage match of state funds -- Audit.

(1)(a) The cost of establishing and maintaining a multicounty local health department may be apportioned among the participating counties on the basis of population in proportion to the total population of all counties within the boundaries of the local health department, or upon other bases agreeable to the participating counties.

(b) Costs of establishing and maintaining a county health department shall be a charge of the county creating the local health department.

(c) Money available from fees, contracts, surpluses, grants, and donations may also be used to establish and maintain local health departments.

(d) As used in this Subsection (1), "population" means population estimates prepared by the Utah Population Committee.

(2) The cost of providing, equipping, and maintaining suitable offices and facilities for a local health department is the responsibility of participating governing bodies.

(3) Local health departments that comply with all department rules and secure advance approval of proposed service boundaries from the department may by contract receive funds under Section 26A-1-116 from the department to provide specified public health services.

(4) Contract funds distributed under Subsection (3) shall be in accordance with Section 26A-1-116 and policies and procedures adopted by the department.

(5) Department rules shall require that contract funds be used for public health services and not replace other funds used for local public health services.

(6)(a)(i) All state funds distributed by contract from the department to local health departments for public health services shall be matched by those local health departments at a percentage determined by the department in consultation with local health departments.

(ii) Counties shall have no legal obligation to match state funds at percentages in excess of those established by the department and shall suffer no penalty or reduction in state funding for failing to exceed the required funding match.

(b) By October 1 of each year, [~~the department, in consultation with each local health department~~]the local health departments, shall submit a collective written report to the Social Services Appropriations Subcommittee describing, for the preceding five fiscal years, each county's annual per capita contribution to a local health department that is used to meet the minimum performance standards described in Section 26A-1-106.

(c) A county may submit an additional written report separate from the report described in Subsection (6)(b) to the Social Services Appropriations Subcommittee outlining a county's contribution to public and community health in the county through other methods that are additional to the annual per capita contribution described in Subsection (6)(b).

(7)(a) Each local health department shall cause an annual financial and compliance audit to be made of its operations by a certified public accountant. The audit may be conducted as part of an annual county government audit of the county where the local health department headquarters are located.

(b) The local health department shall provide a copy of the audit report to the department and the local governing bodies of counties participating in the local health department.

Section 2. Section 26A-1-129 is amended to read:

26A-1-129. Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program -- Reporting.

(1) As used in this section, "grant program" means the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in this section.

(2) There is created the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program which shall be administered by local health departments in accordance with this section.

(3)(a) A local health department shall administer the grant program with funds allocated to the grant program under Subsection 59-14-807(4)(d), to award grants to:

(i) a coalition of community organizations that is focused on substance abuse prevention;

(ii) a local government agency, including a law enforcement agency, for a program that is focused on substance abuse prevention; or

(iii) a local education agency as defined in Section 53E-1-102.

(b) A recipient of a grant under the grant program shall use the grant to address root causes and factors associated with the use of electronic cigarettes, marijuana, and other drugs:

(i) by addressing one or more risk or protective factors identified in the Utah Student Health and Risk Prevention Statewide Survey; and

(ii) through one or more of the following activities aimed at reducing use of electronic cigarettes, marijuana, and other drugs:

(A) providing information;

(B) enhancing individual skills;

(C) providing support to activities that reduce risk or enhance protections;

(D) enhancing access or reducing barriers systems, processes, or programs;

(E) changing consequences by addressing incentives or disincentives;

(F) changing the physical design or structure of an environment to reduce risk or enhance protections; or

(G) supporting modifications or changing policies.

(c) The grant program shall provide funding for a program or purpose that is:

(i) evidence- based; or

(ii) a promising practice as defined by the United States Centers for Disease Control and Prevention.

(4)(a) An applicant for a grant under the grant program shall submit an application to the local health department that has jurisdiction over the area in which the applicant is proposing use of grant funds.

(b) The application described in Subsection (4)(a) shall:

(i) provide a summary of how the applicant intends to expend grant funds; and

(ii) describe how the applicant will meet the requirements described in Subsection (3).

(c) A local health department may establish the form or manner in which an applicant must submit an application for the grant program under this section.

(5)(a) A local health department shall:

(i) on or before June 30 of each year:

(A) review each grant application the local health department receives for the grant program; and

(B) select recipients for a grant under the grant program; and

(ii) before July 15 of each year, disperse grant funds to each selected recipient.

(b) A local health department may not award a single grant under this section in an amount that exceeds $100,000.

(6)(a) Before August 1 of each year, a recipient of a grant under the grant program shall, for the previous year, submit a report to the local health department that:

(i) provides an accounting for the expenditure of grant funds;

(ii) describes measurable outcomes as a result of the expenditures;

(iii) describes the impact and effectiveness of programs and activities funded through the grant; and

(iv) indicates the amount of grant funds remaining on the date that the report is submitted.

(b)(i) A grant recipient shall submit the report described in Subsection (6)(a) before August 1 of each year until the grant recipient expends all funds awarded to the recipient under the grant program.

(ii) After a grant recipient expends all funds awarded to the recipient under the grant program, the grant recipient shall submit a final report to the local health department with the information described in Subsection (6)(a).

(7)(a) On or before September 1 of each year, each local health department shall submit the reports described in Subsection (6) to the Association of Local Health Departments.

(b) The Association of Local Health Departments shall compile the reports and, in collaboration with the Department of Health, submit a report to the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the grant program;

(ii) the impact and effectiveness of programs and activities that the grant program funds during the previous fiscal year; and

(iii) any recommendations for legislation.

(c) The report described in this Subsection (7) may be combined with the report described in Subsection 26B- 1- 428(4)(a).

Section 3. Section 26B-1-324 is amended to read:

26B-1-324. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses -- Reporting.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2)(a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse

authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) After consultation with the Behavioral Health Crisis Response Commission created in Section 63C-18-202, and local substance use authorities and local mental health authorities described in Sections 17-43-201 and 17-43-301, the division shall expend funds from the account on any of the following programs:

(i) the Statewide Mental Health Crisis Line, as defined in Section 26B-5-610, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mobile crisis outreach teams as defined in Section 26B-5-609, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) behavioral health receiving centers as defined in Section 26B-5-114;

(iv) stabilization services as described in Section 26B-1-102;

(v) mental health crisis services, as defined in Section 26B-5-101, provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis as defined in Section 26B-5-101;

(vi) crisis intervention training for first responders, as that term is defined in Section 78B-4-501;

(vii) crisis worker certification training for first responders, as that term is defined in Section 78B-4-501;

(viii) frontline support for the SafeUT Crisis Line; or

(ix) suicide prevention gatekeeper training for first responders, as that term is defined in Section 78B-4-501.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

[~~(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:~~]

[~~(a) the amount of each disbursement from the account;~~]

[~~(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;~~]

[~~(c) any conditions placed by the division on the disbursements from the account;~~]

[~~(d) the anticipated expenditures from the account for the next fiscal year;~~]

[~~(e) the amount of any unexpended funds carried forward;~~]

[~~(f) the number of Statewide Mental Health Crisis Line calls received;~~]

[~~(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and~~]

[~~(h) other relevant justification for ongoing support from the account.~~]

[~~(5)~~](4) Notwithstanding Subsection (2)(c), allocations made to local substance use authorities and local mental health authorities for behavioral health receiving centers or mobile crisis outreach teams before the end of fiscal year 2023 shall be maintained through fiscal year 2027, subject to appropriation.

[~~(6)~~](5)(a) As used in this Subsection [~~(6)~~](5):

(i) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(ii) "Mental health service provider" means a behavioral health receiving center or mobile crisis outreach team.

(b) The department shall coordinate with each mental health service provider that receives state funds to determine which health benefit plans, if any, have not contracted or have refused to contract with the mental health service provider at usual and customary rates for the services provided by the mental health service provider.

(c) In each year that the department identifies a health benefit plan that meets the description in Subsection [~~(6)(b)~~](5)(b), the department shall provide a report on the information gathered under Subsection [~~(6)(b)~~](5)(b) to the Health and Human Services Interim Committee at or before the committee's October meeting.

Section 4. Section 26B-1-326 is amended to read:

26B-1-326. Suicide Prevention and Education Fund.

(1) There is created an expendable special revenue fund known as the Suicide Prevention and Education Fund.

(2) The fund shall consist of funds transferred from the Concealed Weapons Account in accordance with Subsection 53-5-707(5)(d).

(3) Money in the fund shall be used for suicide prevention efforts that include a focus on firearm safety as related to suicide prevention.

(4) The Office of Substance Use and Mental Health shall establish a process by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expenditure of money from the fund.

[~~(5) The Office of Substance Use and Mental Health shall make an annual report to the Legislature regarding the status of the fund, including a report detailing amounts received, expenditures made, and programs and services funded.~~]

Section 5. Section 26B-1-327 is amended to read:

26B-1-327. Survivors of Suicide Loss Account.

(1) As used in this section:

(a)(i) "Cohabitant" means an individual who lives with another individual.

(ii) "Cohabitant" does not include a relative.

(b) "Relative" means father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2) Upon appropriation, the Office of Substance Use and Mental Health shall award grants from the appropriation to a person who provides, for no or minimal cost:

(a) clean-up of property affected or damaged by an individual's suicide, as reimbursement for the costs incurred for the clean-up; and

(b) bereavement services to a relative, legal guardian, or cohabitant of an individual who dies by suicide.

[~~(3) Before November 30 of each year, the Office of Substance Use and Mental Health shall report to the Health and Human Services Interim Committee regarding expenditures made in accordance with this section.~~]

Section 6. Section 26B-1-328 is amended to read:

26B-1-328. Psychiatric and Psychotherapeutic Consultation Program Account -- Creation -- Administration -- Uses.

(1) As used in this section:

(a) "Child care" means the child care services defined in Section 35A-3-102 for a child during early childhood.

(b) "Child care provider" means a person who provides child care or mental health support or interventions to a child during early childhood.

(c) "Child mental health care facility" means a facility that provides licensed mental health care programs and services to children and families and employs a child mental health therapist.

(d) "Child mental health therapist" means a mental health therapist who:

(i) is knowledgeable and trained in early childhood mental health; and

(ii) provides mental health services to children during early childhood.

(e) "Division" means the Division of Integrated Healthcare within the department.

(f) "Early childhood" means the time during which a child is zero to six years old.

(g) "Early childhood psychotherapeutic telehealth consultation" means a consultation regarding a child's mental health care during the child's early childhood between a child care provider or a mental health therapist and a child mental health therapist that is focused on psychotherapeutic and psychosocial interventions and is completed through the use of electronic or telephonic communication.

(h) "Health care facility" means a facility that provides licensed health care programs and services and employs at least two psychiatrists, at least one of whom is a child psychiatrist.

(i) "Primary care provider" means:

(i) an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(ii) a physician as defined in Section 58-67-102; or

(iii) a physician assistant as defined in Section 58-70a-102.

(j) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(k) "Telehealth psychiatric consultation" means a consultation regarding a patient's mental health care, including diagnostic clarification, medication adjustment, or treatment planning, between a primary care provider and a psychiatrist that is completed through the use of electronic or telephonic communication.

(2) Upon appropriation, the Office of Substance Use and Mental Health shall award grants from the appropriation to:

(a) at least one health care facility to implement a program that provides a primary care provider access to a telehealth psychiatric consultation when the primary care provider is evaluating a patient for or providing a patient mental health treatment; and

(b) at least one child mental health care facility to implement a program that provides access to an early childhood psychotherapeutic telehealth consultation to:

(i) a mental health therapist as defined in Section 58-60-102 when the mental health therapist is evaluating a child for or providing a child mental health treatment; or

(ii) a child care provider when the child care provider is providing child care to a child.

(3) The Office of Substance Use and Mental Health may award and distribute grant money to a health care facility or child mental health care facility only if the health care facility or child mental health care facility:

(a) is located in the state; and

(b) submits an application in accordance with Subsection (4).

(4) An application for a grant under this section shall include:

(a) the number of psychiatrists employed by the health care facility or the number of child mental health therapists employed by the child mental health care facility;

(b) the health care facility's or child mental health care facility's plan to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);

(c) the estimated cost to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);

(d) any plan to use one or more funding sources in addition to a grant under this section to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2);

(e) the amount of grant money requested to fund the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2); and

(f) any existing or planned contract or partnership between the health care facility and another person to implement the telehealth psychiatric consultation program or the early childhood psychotherapeutic telehealth consultation program described in Subsection (2).

(5) A health care facility or child mental health care facility that receives grant money under this section shall file a report with the division before October 1 of each year that details for the immediately preceding calendar year:

(a) the type and effectiveness of each service provided in the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program;

(b) the utilization of the telehealth psychiatric program or the early childhood psychotherapeutic telehealth consultation program based on metrics or categories determined by the division;

(c) the total amount expended from the grant money; and

(d) the intended use for grant money that has not been expended.

[~~(6) Before November 30 of each year, the department shall report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) expenditures made in accordance with this section; and~~]

[~~(b) a summary of any report provided to the division under Subsection (5).~~]

Section 7. Section 26B-1-329 is amended to read:

26B-1-329. Mental Health Services Donation Fund.

(1) As used in this section:

(a) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) "Mental health therapy" means treatment or prevention of a mental illness, including:

(i) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized by mental health therapists;

(ii) establishing a diagnosis in accordance with established written standards generally recognized by mental health therapists;

(iii) prescribing a plan or medication for the prevention or treatment of a condition of a mental illness or an emotional disorder; and

(iv) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized by mental health therapists.

(c) "Qualified individual" means an individual who:

(i) is experiencing a mental health crisis; and

(ii) calls a local mental health crisis line as defined in Section 26B-5-610 or the statewide mental health crisis line as defined in Section 26B-5-610.

(2) There is created an expendable special revenue fund known as the "Mental Health Services Donation Fund."

(3)(a) The fund shall consist of:

(i) gifts, grants, donations, or any other conveyance of money that may be made to the fund from public or private individuals or entities; and

(ii) interest earned on money in the fund.

(b) The Office of Substance Use and Mental Health shall administer the fund in accordance with this section.

(4) The Office of Substance Use and Mental Health shall award fund money to an entity in the

state that provides mental health and substance use treatment for the purpose of:

(a) providing through telehealth or in-person services, mental health therapy to qualified individuals;

(b) providing access to evaluations and coordination of short-term care to assist a qualified individual in identifying services or support needs, resources, or benefits for which the qualified individual may be eligible; and

(c) developing a system for a qualified individual and a qualified individual's family to access information and referrals for mental health therapy.

(5) Fund money may only be used for the purposes described in Subsection (4).

[~~(6) The Office of Substance Use and Mental Health shall provide an annual report to the Behavioral Health Crisis Response Commission, created in Section 63C-18-202, regarding:~~]

[~~(a) the entity that is awarded a grant under Subsection (4);~~]

[~~(b) the number of qualified individuals served by the entity with fund money; and~~]

[~~(c) any costs or benefits as a result of the award of the grant.~~]

Section 8. Section 26B-1-402 is amended to read:

26B-1-402. Rare Disease Advisory Council Grant Program -- Creation -- Reporting.

(1) As used in this section:

(a) "Council" means the Rare Disease Advisory Council described in Subsection (3).

(b) "Grantee" means the recipient of a grant under this section to operate the program.

(c) "Rare disease" means a disease that affects fewer than 200,000 individuals in the United States.

(2)(a) Within legislative appropriations, the department shall issue a request for proposals for a grant to administer the provisions of this section.

(b) The department may issue a grant under this section if the grantee agrees to:

(i) convene the council in accordance with Subsection (3);

(ii) provide staff and other administrative support to the council; and

(iii) in coordination with the department, report to the Legislature in accordance with Subsection (4).

(3) The Rare Disease Advisory Council convened by the grantee shall:

(a) advise the Legislature and state agencies on providing services and care to individuals with a rare disease;

(b) make recommendations to the Legislature and state agencies on improving access to treatment and services provided to individuals with a rare disease;

(c) identify best practices to improve the care and treatment of individuals in the state with a rare disease;

(d) meet at least two times in each calendar year; and

(e) be composed of members identified by the department, including at least the following individuals:

(i) a representative from the department;

(ii) researchers and physicians who specialize in rare diseases, including at least one representative from the University of Utah;

(iii) two individuals who have a rare disease or are the parent or caregiver of an individual with a rare disease; and

(iv) two representatives from one or more rare disease patient organizations that operate in the state.

(4) Before [~~November 30, 2021, and before~~]November 30 of every odd-numbered year[~~thereafter~~], the [~~department~~]grantee shall report to the Health and Human Services Interim Committee on:

(a) the activities of the grantee and the council; and

(b) recommendations and best practices regarding the ongoing needs of individuals in the state with a rare disease.

Section 9. Section 26B-1-422 is amended to read:

26B-1-422. Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties.

(1) As used in this section:

(a) "Early childhood" refers to a child in the state who is eight years old or younger; and

(b) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(2) There is created the Early Childhood Utah Advisory Council.

(3)(a) The department shall:

(i) make rules establishing the membership, duties, and procedures of the council in accordance with the requirements of:

(A) this section;

(B) the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b; and

(C) Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) provide necessary administrative and staff support to the council.

(b) A member of the council may not receive compensation or benefits for the member's service.

(4) The duties of the council include:

(a) improving and coordinating the quality of programs and services for children in accordance with the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b;

(b) supporting Utah parents and families by providing comprehensive and accurate information regarding the availability of voluntary services for children in early childhood from state agencies and other private and public entities;

(c) facilitating improved coordination between state agencies and community partners that provide services to children in early childhood;

(d) sharing and analyzing information regarding early childhood issues in the state;

(e) providing recommendations to the department, the Department of Workforce Services, and the State Board of Education regarding a comprehensive delivery system of services for children in early childhood that addresses the following four areas:

(i) family support and safety;

(ii) health and development;

(iii) early learning; and

(iv) economic development; and

(f) identifying opportunities for and barriers to the alignment of standards, rules, policies, and procedures across programs and agencies that support children in early childhood.

(5) To fulfill the duties described in Subsection (4), the council shall:

(a) directly engage with parents, families, community members, and public and private service providers to identify and address:

(i) the quality, effectiveness, and availability of existing services for children in early childhood and the coordination of those services;

(ii) gaps and barriers to entry in the provision of services for children in early childhood; and

(iii) community- based solutions in improving the quality, effectiveness, and availability of services for children in early childhood;

(b) seek regular and ongoing feedback from a wide range of entities and individuals that use or provide services for children in early childhood, including entities and individuals that use, represent, or provide services for any of the following:

(i) children in early childhood who live in urban, suburban, or rural areas of the state;

(ii) children in early childhood with varying socioeconomic backgrounds;

(iii) children in early childhood with varying ethnic or racial heritages;

(iv) children in early childhood from various geographic areas of the state; and

(v) children in early childhood with special needs;

(c) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to children in early childhood;

(d) study and evaluate the effectiveness of policies, procedures, and programs implemented by other states and nongovernmental entities that address the needs of children in early childhood;

(e) identify policies, procedures, and programs that are impeding efforts to help children in early childhood in the state and recommend changes to those policies, procedures, and programs;

(f) identify policies, procedures, and programs related to children in early childhood in the state that are inefficient or duplicative and recommend changes to those policies, procedures, and programs;

(g) recommend policy, procedure, and program changes to address the needs of children in early childhood;

(h) develop methods for using interagency information to inform comprehensive policy and budget decisions relating to early childhood services; and

(i) develop strategies and monitor efforts concerning:

(i) increasing school readiness;

(ii) improving access to early child care and early education programs; and

(iii) improving family and community engagement in early childhood education and development.

(6) In fulfilling the council's duties, the council may request and receive, from any state or local governmental agency or institution, information relating to early childhood, including reports, audits, projections, and statistics.

[~~(7)(a) On or before August 1 of each year, the council shall provide an annual report to the executive director, the executive director of the Department of Workforce Services, and the state superintendent.~~]

[~~(b) The annual report shall include:~~]

[~~(i) a statewide assessment concerning the availability of high- quality pre- kindergarten services for children from low- income households;~~]

[~~(ii) a statewide strategic report addressing the activities mandated by the Improving Head Start for School Readiness Act of 2007, 42 U.S.C. Sec. 9837b, including:~~]

[~~(A) identifying opportunities for and barriers to collaboration and coordination among federally- funded and state- funded child health and development, child care, and early childhood education programs and services, including collaboration and coordination among state~~

~~agencies responsible for administering such programs;~~]

[~~(B) evaluating the overall participation of children in existing federal, state, and local child care programs and early childhood health, development, family support, and education programs;~~]

[~~(C) recommending statewide professional development and career advancement plans for early childhood educators and service providers in the state, including an analysis of the capacity and effectiveness of programs at two- and four-year public and private institutions of higher education that support the development of early childhood educators; and~~]

[~~(D) recommending improvements to the state's early learning standards and high-quality comprehensive early learning standards; and~~]

[~~(iii) the recommendations described in Subsection (4)(e).~~]

[~~(8)~~](7) [~~In addition to the annual report described in Subsection (7)(a), on~~]On or before August 1, 2024, and at least every five years thereafter, the council shall provide to the executive director, the executive director of the Department of Workforce Services, and the state superintendent a statewide needs assessment concerning the quality and availability of early childhood education, health, and development programs and services for children in early childhood.

Section 10. Section 26B-1-424 is amended to read:

26B-1-424. Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.

(1) As used in this section, "autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(2) The Adult Autism Treatment Advisory Committee created in Section 26B-1-204 shall consist of six members appointed by the governor to two-year terms as follows:

(a) one individual who:

(i) has a doctorate degree in psychology;

(ii) is a licensed behavior analyst practicing in the state; and

(iii) has treated adults with an autism spectrum disorder for at least three years;

(b) one individual who is:

(i) employed by the department; and

(ii) has professional experience with the treatment of autism spectrum disorder;

(c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

(i) family members of an adult with an autism spectrum disorder;

(ii) representatives of an association that advocates for adults with an autism spectrum disorder; and

(iii) specialists or professionals who work with adults with an autism spectrum disorder; and

(d) one individual who is:

(i) a health insurance professional;

(ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and

(iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.

(3)(a) Notwithstanding Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure the terms of members are staggered so that approximately half of the advisory committee is appointed every year.

(b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.

(c) The advisory committee shall annually elect a chair from its membership.

(d) A majority of the advisory committee constitutes a quorum at any meeting and, if a quorum exists, the action of the majority of members present is the action of the advisory committee.

(4) The advisory committee shall meet as necessary to:

(a) advise the department regarding implementation of the Adult Autism Treatment Program created in Section 26B-4-602; and

(b) make recommendations to the department and the Legislature for improving the Adult Autism Treatment Program[~~; and~~].

[~~(c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:~~]

[~~(i) the executive director;~~]

[~~(ii) the Health and Human Services Interim Committee; and~~]

[~~(iii) the Social Services Appropriations Subcommittee.~~]

(5) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7)(a) The department shall staff the advisory committee.

(b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account created in Section 26B-1-322.

Section 11. Section 26B-3-210 is amended to read:

26B-3-210. Medicaid waiver expansion.

(1) As used in this section:

(a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.

(b) "Medicaid waiver expansion" means an expansion of the Medicaid program in accordance with this section.

(2)(a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid Expansion Fund, created in Section 26B-1-315;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4)(a) In consultation with the department, Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(b) As part of the provision described in Subsection (2)(b)(iv), the department shall apply for a waiver to permit the creation of an integrated delivery system:

(i) for any geographic area that expresses interest in integrating the delivery of services under Subsection (2)(b)(iv); and

(ii) in which the department:

(A) may permit a local mental health authority to integrate the delivery of behavioral health services and physical health services;

(B) may permit a county, local mental health authority, or Medicaid accountable care organization to integrate the delivery of behavioral health services and physical health services to select groups within the population that are newly eligible under the Medicaid waiver expansion; and

(C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate payments for behavioral health services and physical health services to plans or providers.

(5)(a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

[~~(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:~~]

[~~(a) the number of individuals who enrolled in the Medicaid waiver program;~~]

[~~(b) costs to the state for the Medicaid waiver program;~~]

[~~(c) estimated costs for the current and following state fiscal year; and~~]

[~~(d) recommendations to control costs of the Medicaid waiver expansion.~~]

Section 12. Section 26B-3-218 is amended to read:

26B-3-218. Medicaid waiver for inpatient care in an institution for mental diseases.

(1) As used in this section, "institution for mental diseases" means the same as that term is defined in 42 C.F.R. Sec. 435.1010.

(2) Before August 1, 2020, the division shall apply for a Medicaid waiver or a state plan amendment with CMS to offer a program that provides reimbursement for mental health services that are provided:

(a) in an institution for mental diseases that includes more than 16 beds; and

(b) to an individual who receives mental health services in an institution for mental diseases for a period of more than 15 days in a calendar month.

(3) If the waiver or state plan amendment described in Subsection (2) is approved, the department shall[~~:~~]

[~~(a)~~] develop and offer the program described in Subsection (2)[~~; and~~].

[~~(b) submit to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee any report that the department submits to CMS that relates to the budget neutrality, independent waiver evaluation, or performance metrics of the program described in Subsection (2), within 15 days after the day on which the report is submitted to CMS.~~]

(4) Notwithstanding Sections 17-43-201 and 17-43-301, if the waiver or state plan amendment described in Subsection (2) is approved, a county does not have to provide matching funds to the state for the mental health services described in Subsection (2) that are provided to an individual who qualifies for Medicaid coverage under Section 26B-3-113 or 26B-3-207.

Section 13. Section 26B-4-702 is amended to read:

26B-4-702. Creation of Utah Health Care Workforce Financial Assistance Program -- Duties of department.

(1) As used in this section:

(a) "Eligible professional" means a geriatric professional or a health care professional who is eligible to participate in the program.

(b) "Geriatric professional" means a person who:

(i) is a licensed:

(A) health care professional;

(B) social worker;

(C) occupational therapist;

(D) pharmacist;

(E) physical therapist; or

(F) psychologist; and

(ii) is determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession.

(c) "Health care professional" means:

(i) a licensed:

(A) physician;

(B) physician assistant;

(C) nurse;

(D) dentist; or

(E) mental health therapist; or

(ii) another licensed health care professional designated by the department by rule.

(d) "Program" means the Utah Health Care Workforce Financial Assistance Program created in this section.

(e) "Underserved area" means an area designated by the department as underserved by health care professionals, based upon the results of a needs assessment developed by the department in consultation with the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419.

(2) There is created within the department the Utah Health Care Workforce Financial Assistance Program to provide, within funding appropriated by the Legislature for the following purposes:

(a) professional education scholarships and loan repayment assistance to health care professionals who locate or continue to practice in underserved areas; and

(b) loan repayment assistance to geriatric professionals who locate or continue to practice in underserved areas.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(a) application procedures;

(b) eligibility criteria;

(c) selection criteria;

(d) service conditions, which at a minimum shall include professional service in an underserved area for a minimum period of time by any person receiving a scholarship or loan repayment assistance;

(e) penalties for failure to comply with service conditions or other terms of a scholarship or loan repayment contract;

(f) criteria for modifying or waiving service conditions or penalties in case of extreme hardship or other good cause; and

(g) administration of contracts entered into before the effective date of this act, between the

department and scholarship or loan repayment recipients, as authorized by law.

(4) The department may provide education loan repayment assistance to an eligible professional if the eligible professional:

(a) agrees to practice in an underserved area for the duration of the eligible professional's participation in the program; and

(b) submits a written commitment from the health care facility employing the eligible professional that the health care facility will provide education loan repayment assistance to the eligible professional in an amount equal to 20% of the total award amount provided to the eligible professional.

(5) The department shall seek and consider the recommendations of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419 as it develops and modifies rules to administer the program.

(6) Funding for the program:

(a) shall be a line item within the appropriations act;

(b) shall be nonlapsing unless designated otherwise by the Legislature; and

(c) may be used to cover administrative costs of the program, including reimbursement expenses of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419.

(7) Refunds for loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

[~~(8) The department shall prepare an annual report on the revenues, expenditures, and outcomes of the program.~~]

Section 14. Section 26B-4-703 is amended to read:

26B-4-703. Rural Physician Loan Repayment Program -- Purpose -- Repayment limit -- Funding -- Reporting -- Rulemaking -- Advisory committee.

(1) There is created within the department the Rural Physician Loan Repayment Program to provide, within funding appropriated by the Legislature for this purpose, education loan repayment assistance to physicians in accordance with Subsection (2).

(2) The department may enter into an education loan repayment assistance contract with a physician if:

(a) the physician:

(i) locates or continues to practice in a rural county; and

(ii) has a written commitment from a rural hospital that the hospital will provide education loan repayment assistance to the physician;

(b) the assistance provided by the program does not exceed the assistance provided by the rural hospital; and

(c) the physician is otherwise eligible for assistance under administrative rules adopted under Subsection (6).

(3) Funding for the program:

(a) shall be a line item within an appropriations act;

(b) may be used to pay for the per diem and travel expenses of the Rural Physician Loan Repayment Program Advisory Committee under Subsection 26B-1-423(5); and

(c) may be used to pay for department expenses incurred in the administration of the program:

(i) including administrative support provided to the Rural Physician Loan Repayment Program Advisory Committee created under Subsection 26B-1-423(7); and

(ii) in an amount not exceeding 10% of funding for the program.

(4) Refunds of loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

(5) [~~The~~]Before November 2025 and every five years thereafter, the department shall [~~prepare an annual~~]provide a report of the program's revenues, expenditures, and outcomes for the preceding five years to the Social Services Appropriations Subcommittee.

(6)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(i) application procedures;

(ii) eligibility criteria;

(iii) verification of the amount provided by a rural hospital to a physician for repayment of the physician's education loans;

(iv) service conditions, which at a minimum shall include professional service by the physician in the rural hospital providing loan repayment assistance to the physician;

(v) selection criteria and assistance amounts;

(vi) penalties for failure to comply with service conditions or other terms of a loan repayment assistance contract; and

(vii) criteria for modifying or waiving service conditions or penalties in the case of extreme hardship or for other good cause.

(b) The department shall seek and consider the recommendations of the Rural Physician Loan

Repayment Program Advisory Committee created in Section 26B-1-423 as it develops and modifies rules to administer the program.

Section 15. Section 26B-4-711 is amended to read:

26B-4-711. Residency grant program.

(1) As used in this section:

(a) "D.O. program" means an osteopathic medical program that prepares a graduate to obtain licensure as a doctor of osteopathic medicine upon completing a state's licensing requirements.

(b) "M.D. program" means a medical education program that prepares a graduate to obtain licensure as a doctor of medicine upon completing a state's licensing requirements.

(c) "Residency program" means a program that provides training for graduates of a D.O. program or an M.D. program.

(2) UMEC shall develop a grant program where a sponsoring institution in Utah may apply for a grant to establish a new residency program or expand a current residency program.

(3) An applicant for a grant shall:

(a) provide the proposed specialty area for each grant funded residency position;

(b) identify where the grant funded residency position will provide care;

(c)(i) provide proof that the residency program is accredited by the Accreditation Council for Graduate Medical Education; or

(ii) identify what actions need to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(d) identify how a grant funded residency position will be funded once the residency program exhausts the grant money;

(e) agree to implement selection processes for a residency position that treat applicants from D.O. programs and applicants from M.D. programs equally;

(f) agree to provide information identified by UMEC that relates to post-residency employment outcomes for individuals who work in grant funded residency positions; and

(g) provide any other information related to the grant application UMEC deems necessary.

(4) UMEC shall prioritize awarding grants to new or existing residency programs that will:

(a) address a workforce shortage, occurring in Utah, for a specialty; or

(b) serve an underserved population, including a rural population.

(5) [~~Before November 1, 2023, and each~~]Each November 1 until November 2026 and then every three years thereafter, the Health Workforce Advisory Council, in consultation with UMEC, shall provide a written report to the Higher Education Appropriations Subcommittee and the Social Services Appropriations Subcommittee describing:

(a) which sponsoring institutions received a grant;

(b) the number of residency positions created; and

(c) for each residency position created:

(i) the type of specialty;

(ii) where the residency position provides care; and

(iii) an estimated date of when a grant funded residency position will no longer need grant funding.

Section 16. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1)(a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a)(i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b)(i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313;

(c)(i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division

directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h)(i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any

recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program[~~; and~~].

[~~(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.~~]

(4)(a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5)(a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 17. Section 26B-5-110 is amended to read:

26B-5-110. Suicide Prevention Education Program -- Definitions -- Grant requirements.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(2) There is created a Suicide Prevention Education Program to fund suicide prevention education opportunities for federally licensed firearms dealers who operate a retail establishment open to the public and the dealers' employees.

(3) The division, in conjunction with the bureau, shall provide a grant to an employer described in Subsection (2) in accordance with the criteria provided in Subsection [~~26B-5-611(8)(b)~~] 26B-5-611(7)(b).

(4) An employer may apply for a grant of up to $2,500 under the program.

Section 18. Section 26B-5-114 is amended to read:

26B-5-114. Behavioral Health Receiving Center Grant Program.

(1) As used in this section:

(a) "Behavioral health receiving center" means a 23-hour nonsecure program or facility that is responsible for, and provides mental health crisis services to, an individual experiencing a mental health crisis.

(b) "Commission" means the Behavioral Health Crisis Response Commission established in Section 63C-18-202.

(c) "Project" means a behavioral health receiving center project described in Subsection (2) or (3)(a).

(2) Before July 1, 2020, the division shall issue a request for proposals in accordance with this section to award a grant to one or more counties of the first or second class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.

(3)(a) Before July 1, 2023, the division shall issue a request for proposals in accordance with this section to award a grant to one county of the third class, as classified in Section 17-50-501, to develop and implement a behavioral health receiving center.

(b) Subject to appropriations by the Legislature, the division shall award grants under this Subsection (3) before December 31, 2023.

(c) The commission shall provide recommendations to the division regarding the development and implementation of a behavioral health receiving center.

(4) The purpose of a project is to:

(a) increase access to mental health crisis services for individuals in the state who are experiencing a mental health crisis; and

(b) reduce the number of individuals in the state who are incarcerated or in a hospital emergency room while experiencing a mental health crisis.

(5) An application for a grant under this section shall:

(a) identify the population to which the behavioral health receiving center will provide mental health crisis services;

(b) identify the type of mental health crisis services the behavioral health receiving center will provide;

(c) explain how the population described in Subsection (5)(a) will benefit from the provision of mental health crisis services;

(d) provide details regarding:

(i) how the proposed project plans to provide mental health crisis services;

(ii) how the proposed project will ensure that consideration is given to the capacity of the behavioral health receiving center;

(iii) how the proposed project will ensure timely and effective provision of mental health crisis services;

(iv) the cost of the proposed project;

(v) any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the proposed project;

(vi) any plan to use funding sources in addition to a grant under this section for the proposed project;

(vii) the sustainability of the proposed project; and

(viii) the methods the proposed project will use to:

(A) protect the privacy of each individual who receives mental health crisis services from the behavioral health receiving center;

(B) collect nonidentifying data relating to the proposed project; and

(C) provide transparency on the costs and operation of the proposed project; and

(e) provide other information requested by the division to ensure that the proposed project satisfies the criteria described in Subsection (7).

(6) A recipient of a grant under this section shall enroll as a Medicaid provider and meet minimum standards of care for behavioral health receiving centers established by the division.

(7) In evaluating an application for the grant, the division shall consider:

(a) the extent to which the proposed project will fulfill the purposes described in Subsection (4);

(b) the extent to which the population described in Subsection (5)(a) is likely to benefit from the proposed project;

(c) the cost of the proposed project;

(d) the extent to which any existing or planned contracts or partnerships between the applicant and other individuals or entities to develop and implement the project, or additional funding sources available to the applicant for the proposed project, are likely to benefit the proposed project; and

(e) the viability and innovation of the proposed project.

[~~(8) Before June 30, 2023, the division shall report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) data gathered in relation to each project described in Subsection (2);~~]

[~~(b) knowledge gained relating to the provision of mental health crisis services in a behavioral health receiving center;~~]

[~~(c) recommendations for the future use of mental health crisis services in behavioral health receiving centers;~~]

[~~(d) obstacles encountered in the provision of mental health crisis services in a behavioral health receiving center; and~~]

[~~(e) recommendations for appropriate Medicaid reimbursement for rural behavioral health receiving centers.~~]

[~~(9)~~](8)(a) In consultation with the commission, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of a grant under this section.

(b)(i) The rules created under Subsection [~~(9)(a)~~](8)(a) shall:

(A) implement a funding structure for a behavioral health receiving center developed using a grant awarded under this section;

(B) include implementation standards and minimum program requirements for a behavioral health receiving center developed using a grant awarded under this section, including minimum guidelines and standards of care, and minimum staffing requirements; and

(C) require a behavioral health receiving center developed using a grant awarded under this section to operate 24 hours per day, seven days per week, and every day of the year.

(ii) The funding structure described in Subsection [~~(9)(b)(i)(A)~~](8)(b)(i)(A) shall provide for tiers and phases of shared funding coverage between the state and counties.

[~~(10)~~](9) Before June 30, 2024, the division shall report to the Health and Human Services Interim Committee regarding:

(a) grants awarded under Subsection (3)(a); and

(b) the details of each project described in Subsection (3)(a).

[~~(11)~~](10) Before June 30, 2026, the division shall provide a report to the Health and Human Services Interim Committee that includes[~~:~~]

[~~(a)~~] data gathered in relation to each project described in Subsection (3)(a)[~~; and~~].

[~~(b) an update on the items described in Subsections (8)(b) through (d).~~]

Section 19. Section 26B-5-116 is amended to read:

26B-5-116. Suicide prevention technical assistance program.

(1) As used in this section, "technical assistance" means training for the prevention of suicide.

(2)(a) Before July 1, 2021, and each subsequent July 1, the division shall solicit applications from health care organizations to receive technical assistance provided by the division.

(b) The division shall approve at least one but not more than six applications each year.

(c) The division shall determine which applicants receive the technical assistance before December 31 of each year.

(3) An application for technical assistance under this section shall:

(a) identify the population to whom the health care organization will provide suicide prevention services;

(b) identify how the health care organization plans to implement the skills and knowledge gained from the technical assistance;

(c) identify the health care organization's current resources used for the prevention of suicide;

(d) explain how the population described in Subsection (3)(a) will benefit from the health care organization receiving technical assistance;

(e) provide details regarding:

(i) how the health care organization will provide timely and effective suicide prevention services;

(ii) any existing or planned contracts or partnerships between the health care organization and other persons that are related to suicide prevention; and

(iii) the methods the health care organization will use to:

(A) protect the privacy of each individual to whom the health care organization provides suicide prevention services; and

(B) collect non-identifying data; and

(f) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for technical assistance, the division shall consider:

(a) the extent to which providing technical assistance to the health care organization will fulfill the purpose of preventing suicides in the state;

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the health care organization receiving the technical assistance;

(c) the cost of providing the technical assistance to the health care organization; and

(d) the extent to which any of the following are likely to benefit the heath care organization's ability to assist in preventing suicides in the state:

(i) existing or planned contracts or partnerships between the applicant and other persons to develop and implement other initiatives; or

(ii) additional funding sources available to the applicant for suicide prevention services.

[~~(5) Before June 30, 2022, and each subsequent June 30, the division shall submit a written report to the Health and Human Services Interim Committee regarding each health care organization the division provided technical assistance to in the preceding year under this section.~~]

[~~(6) Before June 30, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:~~]

[~~(a) data gathered in relation to providing technical assistance to a health care organization;~~]

[~~(b) knowledge gained relating to providing technical assistance;~~]

[~~(c) recommendations for the future regarding how the state can better prevent suicides; and~~]

[~~(d) obstacles encountered when providing technical assistance.~~]

Section 20. Section 26B-5-611 is amended to read:

26B-5-611. Suicide prevention -- Reporting requirements.

(1) As used in this section:

(a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(c) "Coalition" means the Statewide Suicide Prevention Coalition created under Subsection (3).

(d) "Coordinator" means the state suicide prevention coordinator appointed under Subsection (2).

(e) "Fund" means the Governor's Suicide Prevention Fund created in Section 26B-1-325.

(f) "Intervention" means an effort to prevent a person from attempting suicide.

(g) "Legal intervention" means an incident in which an individual is shot by another individual who has legal authority to use deadly force.

(h) "Postvention" means intervention after a suicide attempt or a suicide death to reduce risk and promote healing.

(i) "Shooter" means an individual who uses a gun in an act that results in the death of the actor or another individual, whether the act was a suicide, homicide, legal intervention, act of self-defense, or accident.

(2) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(3) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

(4) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training;

(h) postvention training; or

(i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

(5) The coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

(c) applicable divisions and offices within the department;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

[~~(6) The coordinator shall provide a written report to the Health and Human Services Interim Committee, at or before the October meeting every year, on:~~]

[~~(a) implementation of the state suicide prevention program, as described in Subsections (2) and (4);~~]

[~~(b) data measuring the effectiveness of each component of the state suicide prevention program;~~]

[~~(c) funds appropriated for each component of the state suicide prevention program; and~~]

[~~(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.~~]

[~~(7)~~](6) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection 26B-5-102(3).

[~~(8)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section 26B-5-110, which shall include:

(i) attendance at the suicide prevention education course described in Subsection 26B-5-102(3); and

(ii) distribution of the firearm safety brochures or packets created in Subsection 26B-5-102(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

[~~(9)~~](8) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of $100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice and Youth Services.

[~~(10)~~](9) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 21. Section 26B-6-304 is amended to read:

26B-6-304. Powers and duties of the office.

(1) The office shall:

(a) develop and operate a statewide program to:

(i) educate the public about the role and function of guardians and conservators;

(ii) educate guardians and conservators on:

(A) the duties of a guardian and a conservator; and

(B) standards set by the National Guardianship Association for guardians and conservators; and

(iii) serve as a guardian, conservator, or both for a ward upon appointment by a court when no other person is able and willing to do so and the office petitioned for or agreed in advance to the appointment;

(b) possess and exercise all the powers and duties specifically given to the office by virtue of being appointed as guardian or conservator of a ward, including the power to access a ward's records;

(c) review and monitor the personal and, if appropriate, financial status of each ward for whom the office has been appointed to serve as guardian or conservator;

(d) train and monitor each employee and volunteer, and monitor each contract provider to whom the office has delegated a responsibility for a ward;

(e) retain all court-delegated powers and duties for a ward;

(f) report on the personal and financial status of a ward as required by a court in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property;

(g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section 63I-5-401, include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator; and

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property[~~; and~~].

[~~(l) submit recommendations for changes in state law and funding to the governor and the Legislature and report to the governor and Legislature, upon request.~~]

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section 26B-6-305;

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection 26B-6-305(1);

(d) solicit and receive private donations to provide guardian and conservator services under this part; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

Section 22. Section 26B-6-703 is amended to read:

26B-6-703. Powers and duties of ombudsman.

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

(3) develop a website to provide the information described in Subsection (2) in a form that is easily accessible;

(4) receive, process, and investigate complaints in accordance with this part;

(5) review periodically the procedures of state entities that serve individuals with a disability;

(6) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under this section, including the long-term care ombudsman program, created in Section 26B-2-303, and the child protection ombudsman, appointed under Section 80-2-1104, when there is overlap between the responsibilities of the ombudsman and the long-term care ombudsman program or the child protection ombudsman;

(7) as appropriate, make recommendations to the division regarding rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the ombudsman's duties under this part; and

[~~(8) submit annually, by July 1, to the Health and Human Services Interim Committee, a report describing:~~]

[~~(a) the work of the ombudsman; and~~]

[~~(b) any recommendations for statutory changes to improve the effectiveness of the ombudsman in performing the duties under this section; and~~]

[~~(9)~~](8) perform other duties required by law.

Section 23. Section 26B-7-117 is amended to read:

26B-7-117. Syringe exchange and education.

(1) The following may operate a syringe exchange program in the state to prevent the transmission of disease and reduce morbidity and mortality among individuals who inject drugs, and those individuals' contacts:

(a) a government entity, including:

(i) the department;

(ii) a local health department; or

(iii) a local substance abuse authority, as defined in Section 26B-5-101;

(b) a nongovernment entity, including:

(i) a nonprofit organization; or

(ii) a for-profit organization; or

(c) any other entity that complies with Subsections (2) and [~~(4)~~](3).

(2) An entity operating a syringe exchange program in the state shall:

(a) facilitate the exchange of an individual's used syringe for one or more new syringes in sealed sterile packages;

(b) ensure that a recipient of a new syringe is given verbal and written instruction on:

(i) methods for preventing the transmission of blood-borne diseases, including hepatitis C and human immunodeficiency virus; and

(ii) options for obtaining:

(A) services for the treatment of a substance use disorder;

(B) testing for a blood-borne disease; and

(C) an opiate antagonist; and

(c) report annually to the department the following information about the program's activities:

(i) the number of individuals who have exchanged syringes;

(ii) the number of used syringes exchanged for new syringes; and

(iii) the number of new syringes provided in exchange for used syringes.

[~~(3) No later than October 1, 2017, and every two years thereafter, the department shall report to the Legislature's Health and Human Services Interim Committee on:~~]

[~~(a) the activities and outcomes of syringe programs operating in the state, including:~~]

[~~(i) the number of individuals who have exchanged syringes;~~]

[~~(ii) the number of used syringes exchanged for new syringes;~~]

[~~(iii) the number of new syringes provided in exchange for used syringes;~~]

[~~(iv) the impact of the programs on blood-borne infection rates; and~~]

[~~(v) the impact of the programs on the number of individuals receiving treatment for a substance use disorder;~~]

[~~(b) the potential for additional reductions in the number of syringes contaminated with blood-borne disease if the programs receive additional funding;~~]

[~~(c) the potential for additional reductions in state and local government spending if the programs receive additional funding;~~]

[~~(d) whether the programs promote illicit use of drugs; and~~]

[~~(e) whether the programs should be continued, continued with modifications, or terminated.~~]

[~~(4)~~](3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how and when an entity operating a syringe exchange program shall make the report required by Subsection (2)(c).

Section 24. Section 26B-7-119 is amended to read:

26B-7-119. Hepatitis C Outreach Pilot Program.

(1) As used in this section, "Hepatitis C outreach organization" means a private nonprofit organization that:

(a) has an established relationship with individuals who are at risk of acquiring acute Hepatitis C;

(b) helps individuals who need Hepatitis C treatment, but who do not qualify for payment of the treatment by the Medicaid program or another health insurer, to obtain treatment;

(c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and diagnosis, including clinical staff with the training and ability to provide:

(i) specimen collection for Hepatitis C testing;

(ii) clinical assessments;

(iii) consultation regarding blood-borne diseases; and

(iv) case management services for patient support during Hepatitis C treatment; or

(d) has a partnership with a health care facility that can provide clinical follow-up and medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

(2) There is created within the department the Hepatitis C Outreach Pilot Program.

(3) Before September 1, 2020, the department shall, as funding permits, make grants to Hepatitis C outreach organizations in accordance with criteria established by the department under Subsection (4).

(4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) create application requirements for a grant from the program;

(b) establish criteria for determining:

(i) whether a grant is awarded, including criteria that ensure grants are awarded to areas of the state, including rural areas, that would benefit most from the grant; and

(ii) the amount of a grant; and

(c) specify reporting requirements for the recipient of a grant under this section.

[~~(5) Before October 1, 2021, and before October 1 every year thereafter, the department shall submit a report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot Program.~~]

Section 25. Section 26B-8-504 is amended to read:

26B-8-504. Health care cost and reimbursement data.

(1) The committee shall, as funding is available:

(a) establish a plan for collecting data from data suppliers to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; [~~and~~]

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the committee;

(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the [~~Medicaid Office of the Inspector General~~]Office of Inspector General of Medicaid Services to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26B-4-106; and

(f) share data collected under this part with the state auditor for use in the health care price transparency tool described in Section 67-3-11[~~; and~~].

[~~(g) publish annually a report on primary care spending within Utah.~~]

(2) A data supplier is not liable for a breach of or unlawful disclosure of the data caused by an entity that obtains data in accordance with Subsection (1).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

Section 26. Section 63C-18-203 is amended to read:

63C-18-203. Commission duties -- Reporting requirements.

(1) The commission shall:

(a) identify a method to integrate existing local mental health crisis lines to ensure each individual who accesses a local mental health crisis line is connected to a qualified mental or behavioral health professional, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line;

(b) study how to establish and implement a statewide mental health crisis line and a statewide warm line, including identifying:

(i) a statewide phone number or other means for an individual to easily access the statewide mental health crisis line, including a short code for text messaging and a three-digit number for calls;

(ii) a statewide phone number or other means for an individual to easily access the statewide warm line, including a short code for text messaging and a three-digit number for calls;

(iii) a supply of:

(A) qualified mental or behavioral health professionals to staff the statewide mental health crisis line; and

(B) qualified mental or behavioral health professionals or certified peer support specialists to staff the statewide warm line; and

(iv) a funding mechanism to operate and maintain the statewide mental health crisis line and the statewide warm line;

(c) coordinate with local mental health authorities in fulfilling the commission's duties described in Subsections (1)(a) and (b);

(d) recommend standards for the certifications described in Section 26B-5-610; and

(e) coordinate services provided by local mental health crisis lines and mobile crisis outreach teams, as defined in Section 62A-15-1401.

(2) The commission shall study and make recommendations regarding:

(a) crisis line practices and needs, including:

(i) quality and timeliness of service;

(ii) service volume projections;

(iii) a statewide assessment of crisis line staffing needs, including required certifications; and

(iv) a statewide assessment of technology needs;

(b) primary duties performed by crisis line workers;

(c) coordination or redistribution of secondary duties performed by crisis line workers, including responding to non-emergency calls;

(d) operating the statewide 988 hotline:

(i) in accordance with federal law;

(ii) to ensure the efficient and effective routing of calls to an appropriate crisis center; and

(iii) to directly respond to calls with trained personnel and the provision of acute mental health, crisis outreach, and stabilization services;

(e) opportunities to increase operational and technological efficiencies and effectiveness between 988 and 911, utilizing current technology;

(f) needs for interoperability partnerships and policies related to 911 call transfers and public safety responses;

(g) standards for statewide mobile crisis outreach teams, including:

(i) current models and projected needs;

(ii) quality and timeliness of service;

(iii) hospital and jail diversions; and

(iv) staffing and certification;

(h) resource centers, including:

(i) current models and projected needs; and

(ii) quality and timeliness of service;

(i) policy considerations related to whether the state should:

(i) manage, operate, and pay for a complete behavioral health system; or

(ii) create partnerships with private industry; and

(j) sustainable funding source alternatives, including:

(i) charging a 988 fee, including a recommendation on the fee amount;

(ii) General Fund appropriations;

(iii) other government funding options;

(iv) private funding sources;

(v) grants;

(vi) insurance partnerships, including coverage for support and treatment after initial call and triage; and

(vii) other funding resources.

(3) The commission may conduct other business related to the commission's duties described in this section.

(4) The commission shall consult with the Office of Substance Use and Mental Health regarding:

(a) the standards and operation of the statewide mental health crisis line and the statewide warm line, in accordance with Section 26B-5-610; and

(b) the incorporation of the statewide mental health crisis line and the statewide warm line into behavioral health systems throughout the state.

[~~(5) Beginning in 2023, by no later than the last interim meeting of the Health and Human Services Interim Committee each year, the commission shall report to the Health and Human Services Interim Committee on the matters described in Subsections (1) and (2), including any recommendations, legislation proposals, and opportunities for behavioral health crisis response system improvement.~~]

Section 27. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.~~]

[~~(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.~~]

[~~(7)~~](5) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

[~~(8)~~](6) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

[~~(9)~~](7) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(10)~~](8) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(11)~~](9) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(12)~~](10) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

[~~(13)~~](11) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

[~~(14)~~](12) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](13) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](14) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](15) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](16) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](17) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](18) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](19) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](20) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](21) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](22) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](23) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](24) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](25) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](26) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](27) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

[~~(30)~~](28) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(31)~~](29) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(32)~~](30) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(33)~~](31) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(34)~~](32) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(35)~~](33) Section 26B-5-120 is repealed December 31, 2026.

[~~(36)~~](34) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(37)~~](35) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(38)~~](36) Subsections 26B-5-611(1)(a) and [~~(10)~~](8), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(39)~~](37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(40)~~](38) [~~Subsection 26B-7-119(5)~~]Section 26B-7-119, related to [~~reports to the Legislature on the outcomes of~~]the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.~~]

[~~(42)~~](39) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(43)~~](40) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 28. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.~~]

[~~(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.~~]

[~~(7)~~](5) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

[~~(8)~~](6) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

[~~(9)~~](7) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(10)~~](8) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(11)~~](9) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(12)~~](10) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

[~~(13)~~](11) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

[~~(14)~~](12) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](13) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](14) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](15) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](16) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](17) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](18) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](19) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](20) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](21) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](22) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](23) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](24) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](25) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](26) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](27) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(30)~~](28) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(31)~~](29) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(32)~~](30) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(33)~~](31) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(34)~~](32) Section 26B-5-120 is repealed December 31, 2026.

[~~(35)~~](33) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(36)~~](34) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(37)~~](35) Subsections 26B-5-611(1)(a) and [~~(10)~~](8), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(38)~~](36) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(39)~~](37) [~~Subsection 26B-7-119(5)~~]Section 26B-7-119, related to [~~reports to the Legislature on the outcomes of~~]the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.~~]

[~~(41)~~](38) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](39) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 29. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

(1) Subsection 76-7-313(6), relating to the report provided by the Department of Health and Human Services, is repealed July 1, 2027.

(2) Section 76-10-526.1, relating to an information check before the private sale of a firearm, is repealed July 1, 2025.

Section 30. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(10) Section 26B-3-142 is repealed July 1, 2024.

(11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(13) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(14) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(15) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.~~]

[~~(16)~~](15) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 31. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(8) Section 26B-3-142 is repealed July 1, 2024.

(9) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(10) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(11) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(12) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.~~]

[~~(13)~~](12) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 32. Section 78B-6-140 is amended to read:

78B-6-140. Itemization of fees and expenses -- Reporting.

(1)(a) Except as provided in Subsection (5), before the date that a final decree of adoption is entered, a prospective adoptive parent or, if the child was placed by a child-placing agency, the person or agency placing the child shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child was placed by a child-placing agency, the person or agency placing the child.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2)(a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall require itemization of the following items in connection with the adoption:

(i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

(vii) all public funds used for any medical or hospital costs in connection with the:

(A) pregnancy;

(B) delivery of the child; or

(C) care of the child; and

(viii) if a child-placing agency placed the child:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption;

(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(3)(a) If a child-placing agency, that is licensed by this state, placed the child, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each even-numbered year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year; and

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 26B-2-127(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

(5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

Section 33. Section 80-2-1104 is amended to read:

80-2-1104. Child protection ombudsman -- Responsibility -- Authority -- Report.

(1) As used in this section:

(a) "Complainant" means a person who initiates a complaint with the ombudsman.

(b) "Complaint" means a complaint regarding an act or omission by the division with respect to a particular child.

(c) "Ombudsman" means the child protection ombudsman appointed under this section.

(2)(a) There is created within the department the position of child protection ombudsman.

(b) The executive director of the department shall:

(i) appoint an ombudsman who has:

(A) recognized executive and administrative capacity; and

(B) experience in child welfare, and in state laws and policies governing abused, neglected, and dependent children; and

(ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.

(c) The ombudsman shall:

(i) serve at the pleasure of the executive director of the department; and

(ii) devote full-time to the duties described in this section.

(3) The ombudsman shall:

(a) unless the ombudsman decides not to investigate the complaint, upon receipt of a complaint, investigate whether an act or omission of the division with respect to a particular child:

(i) is contrary to statute, rule, or policy;

(ii) places a child's health or safety at risk;

(iii) is made without an adequate statement of reason; or

(iv) is based on irrelevant, immaterial, or erroneous grounds;

(b) notify the complainant and the division of:

(i) the ombudsman's decision to investigate or not investigate the complaint; and

(ii) if the ombudsman decides not to investigate the complaint, the reason for the decision;

(c) if the ombudsman finds that a person's act or omission violates state or federal criminal law, immediately report the finding to the appropriate county or district attorney or to the attorney general;

(d) immediately notify the division if the ombudsman finds that a child needs protective custody;

(e) prepare a written report of the findings and recommendations, if any, of each investigation;

(f) make recommendations to the division if the ombudsman finds that:

(i) a matter should be further considered by the division;

(ii) an administrative act should be addressed, modified, or canceled;

(iii) action should be taken by the division with regard to one of the division's employees; or

(iv) any other action should be taken by the division;

(g) subject to Subsection (3), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern the following:

(i) receiving and processing a complaint;

(ii) notifying a complainant and the division regarding a decision to investigate or to decline to investigate a complaint;

(iii) prioritizing workload;

(iv) maximum time within which an investigation is required to be completed;

(v) conducting an investigation;

(vi) notifying a complainant and the division regarding the results of an investigation; and

(vii) making recommendations based on the findings and results of investigations;

(h) within appropriations from the Legislature, employ staff as may be necessary to carry out the ombudsman's duties under this section;

(i) provide information regarding the role, duties, and functions of the ombudsman to public agencies, private entities, and individuals; and

[~~(j) provide an annual report regarding the ombudsman's duties and recommendations for improvements to the child welfare system to:~~]

[~~(i) the Child Welfare Legislative Oversight Panel;~~]

[~~(ii) the governor;~~]

[~~(iii) the division; and~~]

[~~(iv) the executive director of the department; and~~]

[~~(k)~~](j) as appropriate, make recommendations to the division regarding individual child welfare cases, and the rules, policies, and operations of the division.

(4)(a) The ombudsman may:

(i) decline to investigate a complaint or continue an investigation of a complaint;

(ii) conduct an investigation on the ombudsman's own initiative;

(iii) conduct further investigation upon the request of the complainant or upon the ombudsman's own initiative; and

(iv) advise a complainant to pursue administrative remedies or channels of a complaint before pursuing a complaint with the ombudsman.

(b) Subsection (4)(a)(iv) does not prevent a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.

(5)(a) A record of the ombudsman regarding an individual child welfare case shall be classified in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The ombudsman shall have access to all of the department's written and electronic records and databases, including those regarding individual child welfare cases.

(c) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the ombudsman shall maintain the same classification that was designated by the department.

Section 34. Repealer.

This bill repeals:

Section 26B-2-503, Recommendation for Community Health Worker Certification Advisory Board.

Section 26B-6-510, Dental services reporting.

Section 26B-7-224, Study on violent incidents and fatalities involving substance abuse -- Report.

Section 35. Effective date.

(1) Subject to Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Sections 63I-1-226 (Effective 07/01/24) and 63I-2-226 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 251
S. B. 45
Passed February 28, 2024
Approved March 14, 2024
Effective January 1, 2025

LICENSE PLATE REVISIONS

Chief Sponsor: Daniel McCay
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends provisions related to license plates, including requirements for display, fees, distribution, design, and funding.

Highlighted Provisions:

This bill:

- removes the requirement for the Motor Vehicle Division to issue two license plates in most circumstances;
- removes the requirement for an owner of a vehicle to display a license plate on the front of a vehicle;
- removes the requirement for two registration decals for both the month and year, and consolidates the registration information into one decal;
- requires a license plate design or redesign to be approved by the License Plate Design Review Board;
- requires an additional fee for personalized license plates;
- allows the Motor Vehicle Division to use funds in the License Plate Restricted Account for certain additional purposes;
- allows an institution of higher education to design the collegiate special group license plate for the institution, subject to approval by the license plate design review board;
- requires a person applying to create a new sponsored special group license plate to pay an additional fee to cover the costs of designing and administering the new license plate;
- requires the Motor Vehicle Division to transition to central distribution of license plates;
- amends certain design characteristics of license plates regarding embossing;
- prohibits a license plate cover and prohibits a license plate frame that obscures the license plate number or decals;
- requires $1 from certain license plate fees to be deposited into the Motor Vehicle Safety Impact Restricted Account;
- allows law enforcement to use license plate reading technology to access information in the Utah Criminal Justice Information System for certain purposes;
- grants rulemaking authority to the State Tax Commission related to license plate administration; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-48-103, as enacted by Laws of Utah 2011, Chapter 357
41-1a-108, as renumbered and amended by Laws of Utah 1992, Chapter 1
41-1a-122, as enacted by Laws of Utah 2023, Chapter 33
41-1a-221, as last amended by Laws of Utah 2018, Chapter 20
41-1a-232, as last amended by Laws of Utah 2021, Chapter 135
41-1a-301, as last amended by Laws of Utah 2018, Chapter 20
41-1a-401, as last amended by Laws of Utah 2023, Chapters 22, 33 and 440
41-1a-402, as repealed and reenacted by Laws of Utah 2023, Chapter 33
41-1a-403, as last amended by Laws of Utah 2023, Chapter 440
41-1a-404, as last amended by Laws of Utah 2023, Chapter 440
41-1a-407, as last amended by Laws of Utah 2018, Chapter 20
41-1a-410, as last amended by Laws of Utah 1993, Chapter 222
41-1a-411, as last amended by Laws of Utah 2020, Chapter 259
41-1a-412, as renumbered and amended by Laws of Utah 1992, Chapter 1
41-1a-413, as last amended by Laws of Utah 2018, Chapter 454
41-1a-416, as last amended by Laws of Utah 2023, Chapters 33, 219
41-1a-419, as last amended by Laws of Utah 2023, Chapter 33
41-1a-701, as last amended by Laws of Utah 2018, Chapter 454
41-1a-703, as last amended by Laws of Utah 2018, Chapter 454
41-1a-704, as last amended by Laws of Utah 2015, Chapter 412
41-1a-1105, as last amended by Laws of Utah 1998, Chapter 281
41-1a-1211, as last amended by Laws of Utah 2023, Chapter 33
41-1a-1603, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1604, as enacted by Laws of Utah 2023, Chapter 33
41-1a-1605, as enacted by Laws of Utah 2023, Chapter 33
41-3-105, as last amended by Laws of Utah 2022, Chapter 259
41-3-209, as last amended by Laws of Utah 2018, Chapter 387
41-6a-403, as last amended by Laws of Utah 2008, Chapter 382
41-6a-2002, as last amended by Laws of Utah 2023, Chapter 524
41-6a-2003, as last amended by Laws of Utah 2023, Chapter 524
41-12a-303, as last amended by Laws of Utah 2001, Chapter 85
41-12a-602, as enacted by Laws of Utah 1985, Chapter 242

53-8-214, as last amended by Laws of Utah 2023, Chapters 33, 212

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

Section 1. Section 13-48-103 is amended to read:

13-48-103. Motor vehicle rental company -- Fee disclosure and collection requirements.

(1) A motor vehicle rental company may include separately stated surcharges, fees, or charges in a rental agreement, including:

(a) motor vehicle license cost recovery fees;

(b) airport access fees;

(c) airport concession fees; and

(d) all applicable taxes.

(2) If a motor vehicle rental company includes a motor vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the motor vehicle rental company's good-faith estimate of the motor vehicle rental company's daily charge as calculated by the motor vehicle rental company to recover its actual total annual motor vehicle titling, registration, obtaining [~~license plates~~]a license plate, and motor vehicle inspection and emission costs.

(3) If the total amount of the motor vehicle license cost recovery fees collected by a motor vehicle rental company under this section in any calendar year exceeds the motor vehicle rental company's actual costs to license, title, register, and obtain [~~license plates~~]a license plate for the motor vehicles and have the motor vehicles pass inspections and emissions for that calendar year, the motor vehicle rental company shall retain the excess amount and adjust the estimated average per motor vehicle license cost recovery fee for the following calendar year by the corresponding amount.

Section 2. Section 41-1a-108 is amended to read:

41-1a-108. Division inspection of applications for registration, certificate of title, or license plate.

(1) The division shall examine and determine the genuineness, regularity, and legality of each application for:

(a) registration of a vehicle;

(b) a certificate of title for a vehicle, vessel, or outboard motor;

(c) [~~license plates~~]a license plate; and

(d) any other request lawfully made to the division.

(2) The division may investigate or require additional information on any application or request necessary to implement this chapter.

(3) When the division is satisfied as to the genuineness, regularity, and legality of an application and that the applicant is entitled to register the vehicle and to the issuance of a certificate of title, the division shall register the vehicle, issue a certificate of title and issue [~~license plates~~]a license plate.

Section 3. Section 41-1a-122 is amended to read:

41-1a-122. License Plate Restricted Account.

(1) As used in this section, "account" means the License Plate Restricted Account created by this section.

(2) There is created within the General Fund a restricted account known as the License Plate Restricted Account.

(3)(a) The account shall be funded from the fees described in[~~-~~]:

(i) Subsection 41-1a-1201(3)[~~.~~];

(ii) Subsection 41-1a-1604(2)(c); and

(iii) other fees as provided in this chapter.

(b) The fees described in Subsection (3)(a) shall be paid to the division, which shall deposit them in the account.

(4) The Legislature shall appropriate the funds in the account to the commission to cover the costs of[ ]:

(a) issuing license plates and decals[~~.~~];

(b) processing applications for personalized license plates;

(c) centrally distributing license plates; and

(d) contracting with a vendor to design license plates.

(5)(a) For fiscal year 2024-25, the commission may expend up to $100,000 for design and redesign of license plates.

(b) Beginning with the 2025-26 fiscal year, and each fiscal year thereafter, the commission may expend up to $50,000 for the design and redesign of license plates.

[~~(5)~~](6) In accordance with Section 63J-1-602.1, appropriations made to the division from the account are nonlapsing.

Section 4. Section 41-1a-221 is amended to read:

41-1a-221. Registration of vehicles of political subdivisions or state -- Expiration of registration -- Certification of information -- Failure to comply.

(1)(a) An entity referred to in Subsection 41-1a-407(1) shall register each vehicle that it owns, operates, or leases.

(b) This section does not apply to unmarked vehicles referred to in Section 41-1a-407.

(2) A registration card and license plate issued to an entity under this section or Subsection

41-1a-407(1) are in full force and effect until the vehicle is no longer owned or operated by that entity.

(3)(a) If the owner of a vehicle subject to the provisions of this section transfers or assigns title or interest in the vehicle, the registration of that vehicle expires.

(b) The transferor shall remove the license plate or plates and within 20 days from the date of transfer:

(i) destroy the license plate or plates; or

(ii) forward the license plate or plates to the division to be destroyed.

(4) A violation of this section is an infraction.

Section 5. Section 41-1a-232 is amended to read:

41-1a-232. Special fleet registration decals and license plates.

(1) As used in this section:

(a) "Rental agreement" has the same meaning as defined in Section 31A-22-311.

(b) "Rental company" has the same meaning as defined in Section 31A-22-311.

(c) "Rental fleet" means more than 25 motor vehicles that are:

(i) owned by a rental company;

(ii) offered for rental without a hired driver through a rental agreement; and

(iii) designated by the registered owner of the motor vehicle as a rental fleet vehicle at the time of registration.

(2)(a) An owner that registers a motor vehicle under Section 41-1a-215 or 41-1a-215.5 may obtain an alternative special registration card and registration [~~decals~~]decal for the license [~~plates~~]plate if the motor vehicle is:

(i)(A) owned by a rental company; and

(B) maintained in the rental company's rental fleet; or

(ii) owned or leased as part of a commercial fleet and is not owned or leased by a rental company.

(b) The registration card and registration [~~decals~~]decal for the license [~~plates~~]plate issued under Subsection (2)(a) are valid for the life of the motor vehicle while the motor vehicle is maintained in the rental fleet or is part of a commercial fleet.

(3)(a) An owner that receives the alternative special registration card and registration [~~decals~~]decal for the license [~~plates~~]plate issued under this section shall:

(i) renew the registration in accordance with Section 41-1a-216; and

(ii) comply with all the prerequisites for registration or registration renewal under Section 41-1a-203.

(b) Notwithstanding the registration renewals requirement under Subsection 41-1a-216(2)(b), the alternative special registration card and registration [~~decals~~]decal issued under this section do not expire and are valid for the life of the motor vehicle while the motor vehicle is maintained in the rental fleet or is part of a commercial fleet.

(4) If the registration renewal requirements under Subsection (3)(a) are not complied with, the registration is suspended or revoked.

Section 6. Section 41-1a-301 is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) For purposes of this section, "registrant" means an owner or operator of one or more commercial vehicles operating in two or more jurisdictions applying for apportioned registration and licensing of a commercial vehicle.

(2)(a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) The division may not grant apportioned registration for vehicles operated exclusively in this state.

(3)(a) If no operations were conducted during the preceding year, in computing fees due:

(i) the application shall contain a statement of the proposed operations; and

(ii) the division shall determine fees based on average per vehicle distance requirements under the International Registration Plan.

(b) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(4) The division shall determine the registration fee for apportioned vehicles as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (4)(b) by the quotient obtained under Subsection (4)(a).

(5) The registrant may list trailers or semitrailers of apportioned fleets separately as "trailer fleets" on

the application, with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(6)(a)(i) When the registrant has paid the proper fees and cleared the property tax or in lieu fee under Section 41-1a-206 or 41-1a-207, the division shall issue a registration card and license plate for each unit listed on the application.

(ii) The owner or operator shall carry an original registration in each vehicle at all times.

(b) The owner or operator may carry original registration cards for trailers or semitrailers in the power unit.

(c)(i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued:

(A) neither the registrant nor the division may cancel the registration process; and

(B) the division shall complete registration and the registrant shall pay the fees and any property tax or in lieu fee due for the vehicle for which the permit was issued.

(iii) The division may not issue temporary permits for renewals.

(d)(i) The division shall issue one distinctive license plate for apportioned vehicles.

(ii) The owner or operator shall display the plate on the front of an apportioned truck tractor or power unit or on the rear of any other apportioned vehicle.

(iii)(A) The division shall issue distinctive decals or a distinctive license plate displaying the word "apportioned" or the abbreviation "APP" for each apportioned vehicle.

(B) A registrant of an apportioned vehicle is not required to display [~~month or year decals~~]a registration decal.

(iv) At the request of a registrant of an apportioned vehicle, the division may issue a second license plate, for a total of two, to display on both the front and rear of the apportioned vehicle.

(e) The division shall charge a nonrefundable administrative fee, determined by the commission pursuant to Section 63J-1-504, for each temporary permit, registration, or both.

(7) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the registrant has secured proper interstate and intrastate authority.

(8)(a) The division shall register vehicles added to an apportioned fleet after the beginning of the registration year by applying the quotient under Subsection (4)(a) for the original application to the fees due for the remainder of the registration year.

(b)(i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c)(i) An owner-operator, who is a lessor, may register the vehicle in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The division shall allocate the fees according to the operational records of the owner-operator.

(d)(i) At the option of the lessor, the lessee may register a leased vehicle.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall appear on the registration.

(iii) The division shall allocate the fees according to the records of the carrier.

(9)(a) When the division has accepted an application for apportioned registration, the registrant shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) Upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits, the registrant shall provide the records to the division.

(c) The division may not make an assessment for deficiency or claim for credit for any period for which records are no longer required.

(d) The division may assess interest in the amount prescribed by Section 59-1-402 from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(10)(a) Except as provided in Subsection (10)(b), the division shall deposit all state fees collected under this section in the Transportation Fund.

(b) The commission may use the following fees as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303:

(i) $5 of each temporary registration permit fee paid under Subsection (13)(a)(i) for a single unit; and

(ii) $10 of each temporary registration permit fee paid under Subsection (13)(a)(ii) for multiple units.

(11) If registration is for less than a full year, the division shall assess fees for apportioned registration according to Section 41-1a-1207.

(a)(i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant shall file a supplemental application.

(ii) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is heavier than the replaced vehicle, the division shall assess additional registration fees.

(iii) If the registrant is replacing a vehicle for one withdrawn from the fleet, the division shall issue a new registration card.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(12)(a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class by the equivalent tax figure from the following tables:

Vehicle or Combination Registered Weight	Age of Vehicle	Equivalent Tax
12,000 pounds or less	12 or more years	$10
12,000 pounds or less	9 or more years but less than 12 years	$50
12,000 pounds or less	6 or more years but less than 9 years	$80
12,000 pounds or less	3 or more years but less than 6 years	$110
12,000 pounds or less	Less than 3 years	$150

Vehicle or Combination Registered Weight	Equivalent Tax
12,001 - 18,000 pounds	$150
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (12)(a)(i) by the fraction computed under Subsection (4) for the apportioned fleet for the registration year.

(b) For registration described in Subsection (12)(a), the division shall assess fees as provided in Section 41-1a-1207.

(13)(a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of:

(i) $25 for a single unit; and

(ii) $50 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

(14) The division may not register a park model recreational vehicle under this section.

(15) A violation of this section is an infraction.

Section 7. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1)(a) Except as provided in [~~Subsection (1)(e)~~]Subsections (1)(c), (d), and (e), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one registration decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one registration decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) [~~two identical license plates~~]one license plate for every other vehicle.

(b) The license plate or registration decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or registration decal is issued or used upon any other vehicle than the registered vehicle.

(c)(i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under this part or Part 16, Special Group License Plates.

(d)(i) For a vehicle described in Section 41-1a-301, the division upon registering a vehicle

shall issue a license plate or set of license plates as provided in that section.

(ii) For any commercial vehicle that operates intrastate, at the request of the registrant, the division upon registering a vehicle may issue two license plates, for display on both the front and rear of the intrastate commercial vehicle.

(e) The division upon registering a vehicle may, until inventory of license plate sets is exhausted, but no later than December 31, 2025, issue a set of two plates.

(f) The division shall ensure that license plates are distributed from a central location as soon as practicable, but no later than July 1, 2025.

(2) The division may receive applications for registration renewal, renew registration, and issue a new license [~~plates~~]plate or registration [~~decals~~]decal at any time prior to the expiration of registration.

(3)(a)(i) Except as provided in Subsection (3)(a)(ii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) Notwithstanding Subsection (3)(a)(i), a historical support special group license plate may be treated with a place face that is partially reflective and provides effective and dependable reflective brightness during the service period of the license plate.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4)(a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 8. Section 41-1a-402 is amended to read:

41-1a-402. Standard license plates -- Required colors, numerals, and letters -- Expiration.

(1)(a) Upon registering a vehicle, the division shall issue to the owner a standard license plate described in Subsection (1)(b) unless the division issues to the owner:

(i) a special group license plate in accordance with Section 41-1a-418; or

(ii) an apportioned vehicle license plate in accordance with Section 41-1a-301.

(b) The division may offer up to four standard license plate options at one time, each with a different design as follows:

(i) two designs that incorporate one or more elements that represent the state's economy or geography;

(ii) one design that represents the state's values or culture; and

(iii) one design that commemorates a current event relevant to the state or a significant anniversary of a historic event relevant to the state.

(c) The division shall offer:

(i) each design described in Subsection (1)(b)(i) or (ii) for at least a 10-year period; and

(ii) each design described in Subsection (1)(b)(iii) for no more than a five-year period.

(d) The division may not offer more than four standard license plate designs at any one time.

(2) Before the division may offer a design described in Subsection (1)(b), the division shall:

(a) consult with the Utah Department of Cultural and Community Engagement regarding the proposed design;

(b) identify which current standard license plate design will be replaced by the proposed design; and

(c) submit the proposed design to the [~~governor for approval; and~~]commission.

[~~(d) if the governor approves the design pursuant to Subsection (2)(c), submit to the Transportation Interim Committee a request for the Legislature to approve the proposed design by concurrent resolution.~~]

[~~(3) The division may issue a new standard license plate design only if:~~]

[~~(a) the Legislature has by concurrent resolution approved the standard license plate design; and~~]

[~~(b) sufficient funds are appropriated for the initial costs of production.~~]

(3)(a) If the commission receives a submission for a proposed design of a standard license plate as described in Subsection (2)(c), or a sponsored special group license plate as described in Section 41-1a-419 and Part 16, Sponsored Special Group License Plates, the commission shall notify:

(i) the governor;

(ii) the speaker of the House of Representatives; and

(iii) the president of the Senate.

(b) After receiving a notification described in Subsection (3)(a):

(i) the governor shall appoint an individual to the license plate design review board described in Subsection (3)(c);

(ii) the speaker of the House of Representatives shall appoint a member of the House of Representatives to the license plate design review board described in Subsection (3)(c); and

(iii) the president of the Senate shall appoint a member of the Senate to the license plate design review board described in Subsection (3)(c).

(c)(i) The license plate design review board, comprised of the members appointed as described in Subsection (3)(b), shall review proposed license plate designs.

(ii) The member of the license plate design review board appointed by the governor shall serve as chair and convene the license plate design review board.

(iii) The license plate design review board shall:

(A) review each proposed license plate design; and

(B) vote whether to approve or reject the proposed license plate design.

(iv) If all three members of the license plate design review board are not present, the license plate design review board may not consider or vote on a proposed license plate design.

(v) The license plate design review board shall notify the commission and the division regarding the results of the vote to approve each proposed license plate design.

(d) The license plate design review board is not subject to Title 52, Chapter 4, Open and Public Meetings Act.

(e) If the license plate design review board approves a proposed license plate design, the division may begin the processes necessary for production and distribution of the license plate.

(4)(a) Except as provided in Subsection (4)(b), the division may not order or produce a standard license plate that is discontinued under this section.

(b) The division may issue a discontinued standard license plate until the division exhausts the discontinued standard license plate's remaining stock.

(5)(a) Each license plate shall have displayed on it:

[~~(a)~~](i) the registration number assigned to the vehicle for which the license plate is issued;

[~~(b)~~](ii) the name of the state; and

[~~(c)~~](iii) unless exempted by Section 41-1a-301 or 41-1a-407, a registration decal showing the date of expiration displayed in accordance with Subsection (8).

(b) No later than July 1, 2025, each license plate:

(i) shall have an embossed edge around the perimeter of the plate; and

(ii) may not have embossed registration numbers or characters.

(6) If registration is extended by affixing a registration decal to the license plate, the expiration date of the registration decal governs the expiration date of the license plate.

(7)(a)(i) Except as provided under Subsection (7)(b), Subsection 41-1a-215(2), and Section 41-1a-216, [~~license plates~~]a license plate shall be renewed annually.

[~~(b)~~](ii)[~~(i)~~](A) The division shall issue the vehicle owner a month registration decal and a year registration decal upon the vehicle's first registration with the division.

[~~(ii)~~](B) The division shall issue the vehicle owner only a year registration decal upon subsequent renewals of registration to validate registration renewal.

(b) Beginning on January 1, 2025, the division shall issue one registration decal displaying both the month and year.

(8)(a) Except as otherwise provided in Subsection (8)(b) and by rule:

[~~(a)~~](i) the month registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the left position; and

[~~(b)~~](ii) the year registration decal issued in accordance with Subsection (7) shall be displayed on the license plate in the right position.

(b) Beginning on January 1, 2025, the registration decal shall be displayed on the upper right position.

(9) The current year registration decal issued in accordance with Subsection (7) shall be placed over or in place of the previous year registration decal.

(10) If a license plate[~~, month registration decal, or year~~] or registration decal is lost or destroyed, a replacement shall be issued upon application and payment of the fees required under Section 41-1a-1211 or 41-1a-1212.

(11)(a) A violation of this section is an infraction.

(b) A court shall waive a fine for a violation under this section if:

(i) the registration for the vehicle was current at the time of the citation; and

(ii) the person to whom the citation was issued provides, within 21 business days, evidence that the license plate and registration [~~decals~~]decal are properly displayed in compliance with this section.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regarding the placement and positioning of registration [~~decals~~]decal on [~~license plates~~]a license plate issued by the division.

Section 9. Section 41-1a-403 is amended to read:

41-1a-403. Plates to be legible from 100 feet.

(1) License plates and the required letters and numerals on them, except the [~~decals~~]registration decal and the slogan, shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight.

[~~(2) An individual may not attach a tinted or translucent license plate cover that obscures the readability of the license plate as required in Subsection (1).~~]

(2) An individual may not attach to or over a license plate:

(a) a license plate cover; or

(b) a license plate frame that obscures or blocks the readability of the license plate number or registration decal on a license plate.

(3) A violation of this section is an infraction.

Section 10. Section 41-1a-404 is amended to read:

41-1a-404. Location and position of plates -- Visibility of plates -- Exceptions.

[~~(1) License plates issued for a vehicle other than a motorcycle, trailer, vintage vehicle, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.~~]

[~~(2)(a) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.~~]

[~~(b)(i) An owner of a vintage vehicle shall ensure that a license plate is attached to the rear of the vintage vehicle.~~]

[~~(ii) An owner of a vintage vehicle is not required to display a license plate on the front of the vintage vehicle.~~]

(1) Except as provided in Section 41-1a-301 relating to a vehicle with apportioned registration, the owner or operator of a vehicle shall ensure that the license plate is attached to the rear of the vehicle as described in this section.

[~~(3)~~](2) Except as provided in Subsection [~~(5)~~](3), a license plate shall at all times be:

(a) securely fastened:

(i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials or a tinted or translucent license plate cover; and

(ii) in a condition to be clearly legible.

[~~(4) Enforcement by a state or local law enforcement officer of the requirement under Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.~~]

[~~(5)~~](3) The provisions of Subsections [~~(3)(a)(iii) and (3)(b)~~](2)(a)(iii) and (2)(b) do not apply:

(a) to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

(i) a trailer hitch;

(ii) a wheelchair lift or wheelchair carrier;

(iii) a trailer being towed by the vehicle;

(iv) a bicycle rack, ski rack, or luggage rack; or

(v) a similar cargo carrying device; or

(b) to a military vehicle if the license plate is in the military vehicle and ready for inspection by law enforcement upon request.

[~~(6)~~](4) A violation of this section is an infraction.

Section 11. Section 41-1a-407 is amended to read:

41-1a-407. Plates issued to political subdivisions or state -- Use of "EX" letters -- Confidential information.

(1) Except as provided in Subsection (2), each municipality, board of education, school district, state institution of learning, county, other governmental division, subdivision, or district, and the state shall:

(a) place a license plate displaying the letters, "EX" on every vehicle owned and operated by it or leased for its exclusive use; and

(b) display an identification mark designating the vehicle as the property of the entity in a conspicuous place on both sides of the vehicle.

(2) The entity need not display the "EX" license plate or the identification mark required by Subsection (1) if:

(a) the vehicle is in the direct service of the governor, lieutenant governor, attorney general, state auditor, or state treasurer of Utah;

(b) the vehicle is used in official investigative work where secrecy is essential;

(c) the vehicle is used in an organized Utah Highway Patrol operation that is:

(i) conducted within a county of the first or second class as defined under Section 17-50-501, unless no more than one unmarked vehicle is used for the operation;

(ii) approved by the Commissioner of Public Safety;

(iii) of a duration of 14 consecutive days or less; and

(iv) targeted toward careless driving, aggressive driving, and accidents involving:

(A) violations of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(B) speeding violations for exceeding the posted speed limit by 21 or more miles per hour;

(C) speeding violations in a reduced speed school zone under Section 41-6a-604;

(D) violations of Section 41-6a-1002 related to pedestrian crosswalks; or

(E) violations of Section 41-6a-702 related to lane restrictions;

(d) the vehicle is provided to an official of the entity as part of a compensation package allowing unlimited personal use of that vehicle;

(e) the personal security of the occupants of the vehicle would be jeopardized if the "EX" license plate were in place; or

(f) the vehicle is used in routine enforcement on a state highway with four or more lanes involving:

(i) violations of Section 41-6a-701 related to operating a vehicle on the right side of a roadway;

(ii) violations of Section 41-6a-702 related to left lane restrictions;

(iii) violations of Section 41-6a-704 related to overtaking and passing vehicles proceeding in the same direction;

(iv) violations of Section 41-6a-711 related to following a vehicle at a safe distance; and

(v) violations of Section 41-6a-804 related to turning and changing lanes.

(3) Plates issued to Utah Highway Patrol vehicles may bear the capital letters "UHP," a beehive logo, and the call number of the trooper to whom the vehicle is issued.

(4)(a) The commission shall issue "EX" and "UHP" plates.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the procedure for application for and distribution of the plates.

(5) For a vehicle that qualifies for an "EX" or "UHP" license [~~plates~~]plate, the entity is not required to display the month or year registration [~~decals~~]decal described in Section 41-1a-402.

(6)(a) Information shall be confidential for vehicles that are not required to display the "EX" license plate or the identification mark under Subsections (2)(a), (b), (d), and (e).

(b)(i) If a law enforcement officer's identity must be kept secret, the law enforcement officer's agency head may request in writing that the division remove the license plate information of the officer's personal vehicles from all public access files and place it in a confidential file until the assignment is completed.

(ii) The agency head shall notify the division when the assignment is completed.

(7) A peace officer engaged in an organized operation under Subsection (2)(c) shall be in a uniform clearly identifying the law enforcement agency the peace officer is representing during the operation.

Section 12. Section 41-1a-410 is amended to read:

41-1a-410. Eligibility for personalized plates.

(1) A person who is the registered owner of a vehicle not subject to registration under Section 41-1a-301, registered with the division, or who applies for an original registration of a vehicle not subject to registration under Section 41-1a-301, may upon payment of the fee prescribed in Section 41-1a-1211 apply to the division for [~~personalized license plates~~]a personalized license plate.

(2) Application shall be made in accordance with Section 41-1a-411.

(3) The personalized [~~plates~~]license plate shall be affixed to the vehicle for which registration is sought in lieu of the regular license [~~plates~~]plate.

(4) [~~Personalized license plates~~]A personalized license plate shall be issued only to the registered owner of the vehicle on which they are to be displayed.

Section 13. Section 41-1a-411 is amended to read:

41-1a-411. Application for personalized plates -- Refusal authorized.

(1) An applicant for [~~personalized license plates~~]a personalized license plate or renewal of the [~~plates~~]plate shall file an application for the [~~plates~~]plate in the form and by the date the division requires, indicating the combination of letters, numbers, or both requested as a registration number.

(2)(a) Except as provided in Subsection (3), the division may refuse to issue any combination of letters, numbers, or both that:

(i) may carry connotations offensive to good taste and decency or that would be misleading; or

(ii) disparages a group based on:

(A) race;

(B) color;

(C) national origin;

(D) religion;

(E) age;

(F) sex;

(G) gender identity;

(H) sexual orientation;

(I) citizenship status; or

(J) physical or mental disability.

(b) The division may refuse to issue a combination of letters, numbers, or both as a registration number if that same combination is already in use as a registration number on an existing license plate.

(3)(a) Except as provided in Subsection (2) or (3)(b), the division may not refuse a combination of letters, numbers, or both as a registration number if:

(i) the license plate is an honor special group license plate as described in Section 41-1a-421, and the combination of letters, numbers, or both refers to:

(A) a year related to military service;

(B) a military branch; or

(C) an official achievement, badge, or honor received for military service; or

(ii) the combination of letters, numbers, or both as a registration number refers to an official state symbol described in Section 63G-1-601.

(b) If an applicant requests a combination containing only numbers, the division may refuse the combination if the combination includes less than four numerical digits.

Section 14. Section 41-1a-412 is amended to read:

41-1a-412. Design of personalized plates.

The personalized license [~~plates~~]plate shall be the same color and design as a regular license [~~plates~~]plate designed for the type of vehicle being licensed and shall consist of numbers, letters, or any combination as fixed by the division, provided that there are no conflicts with existing or anticipated license plate series.

Section 15. Section 41-1a-413 is amended to read:

41-1a-413. Personalized plates -- Sale of vehicle -- Transfer of plates -- Release of priority.

Except as provided in Subsection 41-1a-401(1)(c), if a person who has been issued a personalized license [~~plates~~]plate sells, trades, or otherwise releases ownership of the vehicle for which the personalized license [~~plates have~~]plate has been issued, that person shall immediately:

(1) apply to display the license [~~plates~~]plate on a different vehicle owned by the person; or

(2) surrender the license [~~plates~~]plate to the division and release his priority to the letters and numbers displayed on the personalized license [~~plates~~]plate.

Section 16. Section 41-1a-416 is amended to read:

41-1a-416. Original issue license plates -- Alternative stickers -- Rulemaking.

(1) The owner of a motor vehicle that is a model year 1973 or older may apply to the division for permission to display an original issue license plate.

(2) An owner described in Subsection (1) shall:

(a) complete an application on a form provided by the division;

(b) supply and submit to the division for approval the original issue license plate that the owner intends to display on the motor vehicle; and

(c) pay the fees prescribed in Sections 41-1a-1206 and 41-1a-1211.

(3) Before approving an application described in this section, the division shall determine that the original issue license plate:

(a) is of a format and type issued by the state for use on a motor vehicle;

(b) has numbers and characters that are unique and do not conflict with existing license plate series in this state;

(c) is legible, durable, and otherwise in a condition that serves the purposes of this chapter; and

(d) is from the same year of issue as the model year of the motor vehicle on which the original issue license plate is to be displayed.

(4)(a) Except as provided in this section, the owner of a motor vehicle displaying an original issue license [~~plates~~]plate approved under this section is not exempt from any requirement described in this chapter.

(b) An original issue license plate approved under this section is exempt from:

(i) the provisions of Section 41-1a-401 regarding reflectorization; and

(ii) Section 41-1a-403.

(c) Notwithstanding Subsection (4)(a), if a motor vehicle displaying an original issue license plate is also a vintage vehicle as defined in Section 41-21-1, the motor vehicle qualifies for the same exemptions as a vintage vehicle.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules for the implementation of this section.

Section 17. Section 41-1a-419 is amended to read:

41-1a-419. Plate design and review -- Personalized special group license plates -- Rulemaking.

(1)(a) In accordance with Subsection [~~(1)(b),~~](1)(c), and except as provided in Subsection (1)(b), the division shall determine the design and number of numerals or characters on a special group license plate.

(b)(i) When the division has technology and processes in place to centrally distribute license plates, but no later than July 1, 2025, subject to Subsection (1)(c)(iii), an institution may design a collegiate special group license plate for the institution in accordance with Subsection (1)(c).

(ii) If an institution chooses to design a collegiate special group license plate for the institution, the institution is responsible for any design costs.

[~~(b)~~](c)(i) Except as provided in Subsection [~~(1)(b)(ii)~~](1)(c)(ii), each special group license plate shall display:

(A) the word Utah;

(B) the name or identifying slogan of the special group; and

[~~(C) a symbol decal not exceeding two positions in size representing the special group; and~~]

[~~(D)~~](C) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(ii) The division, in consultation with the Utah State Historical Society, shall design the historical support special group license plate, which shall:

(A) have a black background;

(B) have white characters; and

(C) display the word Utah.

(iii) The design of a special group license plate is subject to approval by the license plate design review board as described in Subsection 41-1a-402(3).

(2)(a) The division shall, after consultation with a representative designated by the sponsoring organization as defined in Section 41-1a-1601, specify the word or words comprising the special group name and the symbol decal to be displayed upon the special group license plate.

(b) A special group license plate symbol decal may not be redesigned:

(i) unless the division receives a redesign fee established by the division under Section 63J-1-504; and

(ii) more frequently than every five years.

(c) A special group license plate symbol decal may not be reordered unless the division receives a symbol decal reorder fee established by the division in accordance with Section 63J-1-504.

(3) The license plates issued for horseless carriages prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner and the license plates may not be recalled by the division.

(4) Subject to Subsection 41-1a-411(4)(a), a person who meets the requirements described in this part or Part 16, Sponsored Special Group License Plates, for a special group license plate may, apply for a personalized special group license plate in accordance with Sections 41-1a-410 and 41-1a-411.

(5) Subject to this chapter, the commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender special group license plates; and

(b) establish the number of numerals or characters for special group license plates.

Section 18. Section 41-1a-701 is amended to read:

41-1a-701. Transfer by owner -- Removal of plates.

(1)(a) If the owner of a registered vehicle transfers the title or interest to the vehicle the registration of the vehicle expires.

(b) Unless an owner has included the transfer of a license plate as part of a sale, trade, or ownership release of a vehicle, the owner shall remove the license plate or plates from the transferred vehicle.

(2)(a) If an owner does not transfer a license plate to a person as part of a sale, trade, or ownership release of a vehicle, within 20 days from the date of transfer the owner shall forward the plates to the division to be destroyed or may have the plates assigned to another vehicle, subject to the rules of the division.

(b) If an owner transfers a license plate as part of a sale, trade, or ownership release of a vehicle, the new registered owner of the transferred vehicle shall apply to the division to have the plates assigned to the new registered owner.

(3) A violation of this section is an infraction.

Section 19. Section 41-1a-703 is amended to read:

41-1a-703. New owner to secure new registration and new certificate of title.

(1) The transferee, before operating or permitting the operation of a transferred vehicle on a highway, shall:

(a) present to the division the certificate of registration and the certificate of title, properly endorsed;

(b) apply for a new certificate of title and obtain a new registration for the transferred vehicle, as upon an original registration, except as permitted under Sections 41-1a-223, 41-1a-520, and 41-1a-704; and

(c) apply to the division to have the license plate or plates assigned to the new registered owner of the transferred vehicle if the license plate or plates were included as part of the sale, trade, or ownership release of the transferred vehicle.

(2) A violation of this section is an infraction.

Section 20. Section 41-1a-704 is amended to read:

41-1a-704. Transfer by operation of law.

(1) Except as provided under Subsection (2), if the title or interest of an owner in or to a registered

vehicle passes to another person other than by voluntary transfer:

(a) the registration of the vehicle expires; and

(b) the vehicle may not be operated upon a highway until the person entitled to possession of the vehicle applies for and obtains a valid registration or temporary permit.

(2)(a) A vehicle under Subsection (1) may be operated on the highways by the person entitled to its possession or his legal representative, for a distance not exceeding 75 miles, upon displaying on the vehicle the license plate or plates issued to the former owner.

(b) If title is vested in a person holding a lien or encumbrance on the vehicle, the new title holder may apply to the Motor Vehicle Enforcement Division for special plates issued under Section 41-3-505 to transporters and may operate the repossessed vehicle under the special plate for the purposes of:

(i) transporting the vehicle to a garage or warehouse; or

(ii) demonstrating the vehicle for sale.

(3) A violation of this section is an infraction.

Section 21. Section 41-1a-1105 is amended to read:

41-1a-1105. Records to be kept by public garage, impound lot, or impound yard.

(1)(a) Each person engaged in the business of operating a public garage, impound lot, or impound yard shall keep a record of every vehicle, vessel, or outboard motor stored in it for compensation for a period longer than 12 hours.

(b) The record shall include:

(i) the name and address of the person storing the vehicle, vessel, or outboard motor;

(ii) a brief description of the vehicle, vessel, or outboard motor, including the name or make, identification number, and license number shown by the license plate or plates; and

(iii) the mileage shown on the vehicle's odometer both upon arrival at and upon its release from the public garage, impound lot, or impound yard, if the vehicle is equipped with an odometer.

(2) Every record kept under Subsection (1) shall be open to inspection by any peace officer.

Section 22. Section 41-1a-1211 is amended to read:

41-1a-1211. License plate fees -- Application fees for issuance and renewal of personalized and special group license plates -- Replacement fee for license plates -- Postage fees.

(1)(a) Except as provided in Subsections (11), (12), and (13),[~~and (14),~~] a license plate fee established in accordance with Section 63J-1-504 shall be paid to the division for the issuance of any new license plate under Part 4, License Plates and Registration Indicia.

(b) The license plate fee shall be deposited as follows:

(i) beginning on January 1, 2025, $1 from the license plate fees, other than a license plate fee for a motorcycle or trailer, into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214;

[~~(i)~~](ii) $1 [~~in~~]into the Transportation Fund; and

[~~(ii)~~](iii) the remainder of the fee charged under Subsection (1)(a) into the License Plate Restricted Account, as provided in Section 41-1a-1201.

(2)(a) An applicant for original issuance of a personalized license [~~plates~~]plate issued under Section 41-1a-410 shall pay a $50 per set license plate application fee in addition to the fee required in Subsection (1).

(b) In addition to the fee described in Subsection (2)(a), an applicant for original issuance of a personalized license plate issued under Section 41-1a-410 shall pay a $25 processing fee.

(c) The fee described in Subsection (2)(b) shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

(3) Beginning July 1, 2003, a person who applies for a special group license plate shall pay a $5 fee for the original [~~set of license plates~~]license plate in addition to the fee required under Subsection (1).

(4) An applicant for original issuance of a personalized special group license [~~plates~~]plate shall pay the license plate application fees required in Subsection (2) in addition to the license plate fees and license plate application fees established under Subsections (1) and (3).

(5) An applicant for renewal of a personalized license [~~plates~~]plate issued under Section 41-1a-410 shall pay a $10 per set application fee.

(6)(a) The division may charge a fee established under Section 63J-1-504 to recover the costs for the replacement of any license plate issued under Part 4, License Plates and Registration Indicia.

(b) The license plate fee for the replacement of any license plate as described in Subsection (6)(a) shall be deposited as follows:

(i) beginning on January 1, 2025, $1 from the license plate fees, other than a license plate fee for a motorcycle or trailer, into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214;

[~~(i)~~](ii) $1 [~~in~~]into the Transportation Fund; and

[~~(ii)~~](iii) the remainder of the fee charged under Subsection (6)(a) into the License Plate Restricted Account, as provided in Section 41-1a-1201.

(7)(a) The division may charge a fee established under Section 63J-1-504 to recover the division's costs for the replacement of a symbol decal issued under Section 41-1a-418.

(b) The fee described in Subsection (7)(a) shall be deposited into the License Plate Restricted Account as described in Section 41-1a-1201.

(8) The division may charge a fee established under Section 63J-1-504 to recover the cost of issuing stickers under Section 41-1a-416.

(9) In addition to any other fees required by this section, the division shall assess a fee established under Section 63J-1-504 to cover postage expenses if a new or replacement license [~~plates are~~]plate is mailed to the applicant.

(10) The fees required under this section are separate from and in addition to registration fees required under Section 41-1a-1206.

(11)(a) An applicant for a license plate issued under Section 41-1a-407 is not subject to the license plate fee under Subsection (1).

(b) An applicant for a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the fees under Subsections (1), (3), and (7).

(12) A person is exempt from the fee under Subsection (1) or (6) if the person:

(a) was issued a clean fuel special group license plate in accordance with Section 41-1a-418 prior to the effective date of rules made by the Department of Transportation under Subsection 41-6a-702(5)(b);

(b) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b), is no longer eligible for a clean fuel special group license plate under the rules made by the Department of Transportation; and

(c) upon renewal or reissuance, is required to replace the clean fuel special group license plate with a new license plate.

(13) An individual is exempt from the license plate fee under Subsection (1) if the individual presents official documentation that the individual is a recipient of the Purple Heart Award in one of the following forms:

(a) official documentation issued by a recognized association representing peace officers who:

(i) receive a salary from a federal, state, county, or municipal government or any other subdivision of the state; and

(ii) work in the state;

(b) a membership card in the Military Order of the Purple Heart; or

(c) an original or certificate in lieu of the applicant's military discharge form, DD-214, issued by the National Personnel Records Center.

Section 23. Section 41-1a-1603 is amended to read:

41-1a-1603. Application requirements -- Fees -- Contributions -- Rulemaking.

(1) An applicant for a sponsored special group license plate shall submit to the division:

(a) in a form and manner that the division prescribes, a complete application;

(b) payment of the fee for the issuance of the sponsored special group license plate established under Subsection (4)(a)(i);

(c) the required contribution for the sponsored special group license plate, unless the applicant previously paid the required contribution as part of a preorder application described in Subsection (4); and

(d) if the sponsoring organization elects to require verification as described in Section 41-1a-1604, a verification form obtained from the sponsoring organization.

(2) An applicant who owns a vehicle with the sponsoring organization's sponsored special group license plate shall submit to the division the required contribution to renew the sponsored special group license plate.

(3)(a) An applicant who wishes to obtain a new type of sponsored special group license plate may preorder the new type of sponsored special group license plate by:

(i) submitting to the sponsoring organization associated with the new type of sponsored special group license plate a complete preorder form created by the division; and

(ii) making the required contribution to the sponsoring organization.

(b) After the division approves the sponsoring organization's request for the new type of sponsored special group license plate under Section 41-1a-1604, an applicant who submitted a preorder in accordance with Subsection (3)(a) may apply for the sponsored special group license plate in accordance with Subsection (1).

(4)(a) The division shall, in accordance with Section 63J-1-504, establish:

(i) the fee to charge an applicant for the division's costs of issuing or renewing a sponsored special group license plate or symbol decal; and

(ii) the fee to charge a sponsoring organization for the division's costs of designing and administering a new type of sponsored special group license plate, in accordance with Subsection 41-1a-1604(2)(c); and

(iii) subject to Subsection (4)(b), in an amount equal to at least $25, the minimum annual contribution amount an applicant is required to make to obtain or renew the sponsoring organization's sponsored special group license plate.

(b) A fee paid in accordance with Subsection (4)(a)(i)[~~ or (ii)~~] shall be deposited into the License

Plate Restricted Account created in Subsection 41-1a-122.

(c) A sponsoring organization may establish a required contribution amount for the sponsoring organization's sponsored special group license plate that is greater than the amount established by the division under Subsection [~~(4)(a)(iii)~~](4)(a)(ii).

(5) An applicant's contribution is a voluntary contribution for funding the sponsoring organization's activities and not a motor vehicle registration fee.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish and administer the sponsored special group license plate program.

Section 24. Section 41-1a-1604 is amended to read:

41-1a-1604. New sponsored special group license plates -- Eligibility criteria.

(1) If a sponsoring organization satisfies the requirements of this part, the division shall approve an application for a new type of sponsored special group license plate and issue the sponsored special group license plate in accordance with this part.

(2) Subject to the other provisions of this part, a sponsoring organization requesting a new type of sponsored special group license plate shall submit to the division, in a form and manner the division prescribes:

(a) a complete application requesting the new type of sponsored special group license plate that includes:

(i) information about the sponsoring organization the division needs to process the request;

(ii) contact information for an individual representing the sponsoring organization;

(iii) if the sponsoring organization establishes a required contribution amount under Subsection 41-1a-1603(4)(b) that is greater than the minimum required contribution amount established under Subsection 41-1a-1603(4)(a)(iii), the amount of the required contribution;

(iv) account information to allow the division to disburse funds from required contributions the division collects through the sponsored special group license plate program to the sponsoring organization;

(v) a link to a functional website described in Subsection (7); and

(vi) if the sponsoring organization requires an applicant to submit a verification form described in Subsection (8)(b)(i), a statement indicating that a verification form is required;

(b) at least 500 complete preorder applications for the new type of sponsored special group license plate, including verification that each preorder application included the required contribution;

(c)(i) the fee for the cost of [~~designing and administering~~]initiating the new type of sponsored special group license plate established under Subsection 41-1a-1603(4)(a)(ii)[~~; and~~], which shall be deposited into the License Plate Restricted Account created in Section 41-1a-122; and

(ii) an additional fee for the cost of implementation, design, and system programming for the new type of sponsored special group license plate, which shall be deposited into the License Plate Restricted Account created in Section 41-1a-122; and

(d) if the new type of sponsored special group license plate is a private nonprofit special group license plate:

(i) a copy of the Internal Revenue Service letter approving the sponsoring organization's Section 501(c)(3) status;

(ii) an affidavit signed under penalty of perjury declaring that the sponsoring organization has a charitable purpose; and

(iii) an indication of the private nonprofit organization's charitable purpose.

(3) If an application under Subsection (2) is for a special group license plate that was discontinued in accordance with this part, each registered vehicle with the discontinued special group license plate is considered a complete preorder application for the purposes of Subsection (2)(b).

(4) The division:

(a) may share data collected under Subsection (2)(d)(iii) with the Legislature and the state auditor;

(b) may not use the information in Subsection (2)(d)(iii) in deciding whether to approve the sponsoring organization's application; and

(c) is not required to evaluate the accuracy or veracity of information the private nonprofit organization provides under Subsection (2)(d).

(5) Except as otherwise provided in this part, the division may not begin design work on or issue a new type of sponsored special group license plate unless the sponsoring organization satisfies the requirements of Subsection (2).

(6) A sponsoring organization that is a state agency may request a state agency recognition special group license plate without meeting the minimum preorder requirements of Subsection (2)(b) if:

(a) the governor certifies that there is a legitimate government operations purpose for issuing the state agency recognition special group license plate; and

(b) through appropriation or any other source, funds are available to cover the start-up and administrative costs of the state agency recognition special group license plate.

(7) A sponsoring organization of a sponsored special group license plate issued in accordance with this part shall maintain a functional website that:

(a) explains how the sponsoring organization will use the required contributions in accordance with this part;

(b) if applicable, makes available the sponsoring organization's most recent Internal Revenue Service Form 990; and

(c) provides instructions for how to obtain a verification form if the sponsoring organization elects to require verification in accordance with Subsection (8).

(8)(a) A sponsoring organization may establish eligibility requirements for the sponsoring organization's sponsored special group license plate.

(b) If a sponsoring organization establishes eligibility requirements under this subsection, the sponsoring organization shall:

(i) inform the division that a verification form is required as part of an application for the sponsoring organization's sponsored special group license plate;

(ii) establish a process for providing a verification form to an applicant; and

(iii) provide a verification form prescribed by the division to an applicant who satisfies the sponsoring organization's eligibility requirements.

(9)(a) A sponsored special group license plate design is subject to approval by the license plate design review board as described in Subsection 41-1a-402(3).

(b) [~~The~~]Subject to approval by the license plate design review board as described in Subsection 41-1a-402(3), the division shall begin issuing the new type of sponsored special group license plate no later than six months after the day on which the division receives the items described in Subsection (2).

(10) The division may:

(a) consider a request for a sponsored special group license plate for two or more military branches as a request for a single type of sponsored special group license plate for the purposes of meeting the eligibility criteria described in this section; and

(b) charge an appropriate fee for ordering multiple symbol decals for each military branch.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish fees and the process for administering applications for new sponsored special group license plates described in Subsection (2)(c).

Section 25. Section 41-1a-1605 is amended to read:

41-1a-1605. Collegiate special group license plates.

(1) A sponsoring organization that is an institution [~~shall only~~]may use funds received through the sponsored special group license plate program only for the institution's academic scholarships.

(2) The state auditor may audit each institution to verify that the money an institution collects from contributors is used only for academic scholarships.

(3) A sponsoring organization that is an institution may establish the contribution amount required to obtain the institution's collegiate special group license plate.

Section 26. Section 41-3-105 is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)(a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3)(a) The administrator may investigate any suspected or alleged violation of:

(i) this chapter;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4)(a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6)(a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

(7)(a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license [~~plates~~]plate, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

(10) The Office of the Attorney General shall provide prosecution of this chapter.

Section 27. Section 41-3-209 is amended to read:

41-3-209. Administrator's findings -- Suspension and revocation of license.

(1) If the administrator finds that an applicant is not qualified to receive a license, a license may not be granted.

(2)(a) If the administrator finds that there is reasonable cause to deny, suspend, or revoke a license issued under this chapter, the administrator shall deny, suspend, or revoke the license.

(b) Reasonable cause for denial, suspension, or revocation of a license includes, in relation to the applicant or license holder or any of the applicant or license holder's partners, officers, or directors:

(i) lack of a principal place of business or authorized service center as required by this chapter;

(ii) lack of a sales tax license required under Title 59, Chapter 12, Sales and Use Tax Act;

(iii) lack of a bond in effect as required by this chapter;

(iv) current revocation or suspension of a dealer, dismantler, auction, or salesperson license issued in another state;

(v) nonpayment of required fees;

(vi) making a false statement on any application for a license under this chapter or for a special license [~~plates~~]plate;

(vii) a violation of any state or federal law involving motor vehicles;

(viii) a violation of any state or federal law involving controlled substances;

(ix) charges filed with any county attorney, district attorney, or U.S. attorney in any court of competent jurisdiction for a violation of any state or federal law involving motor vehicles;

(x) a violation of any state or federal law involving fraud;

(xi) a violation of any state or federal law involving a registerable sex offense under Section 77-41-106;

(xii) having had a license issued under this chapter revoked within five years from the date of application; or

(xiii) failure to comply with any applicable qualification or requirement imposed under this chapter.

(c) Any action taken by the administrator under Subsection (2)(b)(ix) shall remain in effect until a final resolution is reached by the court involved or the charges are dropped.

(3) If the administrator finds that an applicant is not qualified to receive a license under this section, the administrator shall provide the applicant written notice of the reason for the denial.

(4) If the administrator finds that the license holder has been convicted by a court of competent jurisdiction of violating any of the provisions of this chapter or any rules made by the administrator, or finds other reasonable cause, the administrator may, by complying with the emergency procedures of Title 63G, Chapter 4, Administrative Procedures Act:

(a) suspend the license on terms and for a period of time the administrator finds reasonable; or

(b) revoke the license.

(5)(a) After suspending or revoking a license, the administrator may take reasonable action to:

(i) notify the public that the licensee is no longer in business; and

(ii) prevent the former licensee from violating the law by conducting business without a license.

(b) Action under Subsection (5)(a) may include signs, banners, barriers, locks, bulletins, and notices.

(c) Any business being conducted incidental to the business for which the former licensee was licensed may continue to operate subject to the preventive action taken under this subsection.

Section 28. Section 41-6a-403 is amended to read:

41-6a-403. Vehicle accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of plates -- Penalties.

(1)(a) Upon request of a peace officer investigating an accident involving a motor vehicle, the operator of the motor vehicle shall provide evidence of the owner's or operator's security required under Section 41-12a-301.

(b) The evidence of owner's or operator's security includes information specified under Section 41-12a-303.2.

(2) The peace officer shall record on a form approved by the department:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information;

(c) whether the officer finds reasonable cause to believe that any information given is not correct; and

(d) whether other information available to the peace officer indicates that owner's or operator's security is in effect.

(3) The peace officer shall deposit all completed forms with the peace officer's law enforcement agency, which shall forward the forms to the department no later than 10 days after receipt.

(4)(a) The department shall within 10 days of receipt of the forms from the law enforcement agency take action as follows:

(i) if the operator provided no information under Subsection (1) and other information available to the peace officer does not indicate that owner's or operator's security is in effect, the department shall take direct action under Subsection 53-3-221(13); or

(ii) if the peace officer noted or the department determines that there is reasonable cause to believe that the information given under Subsection (1) is not correct, the department shall contact directly the insurance company or other provider of security as described in Section 41-12a-303.2 and request verification of the accuracy of the information submitted as of the date of the accident.

(b) The department may require the verification under Subsection (4)(a)(ii) to be in a form specified by the department.

(c) The insurance company or other provider of security shall return the verification to the department within 30 days of receipt of the request.

(d) If the department does not receive verification within 35 days after sending the request, or within the 35 days receives notice that the information was not correct, the department shall take action under Subsection 53-3-221(13).

(5)(a) The owner of a vehicle with an unexpired license [~~plates~~]plate for which security is not provided as required under this chapter shall return the plates for the vehicle to the Motor Vehicle Division unless specifically permitted by statute to retain them.

(b) If the owner fails to return the plates as required, the plates shall be confiscated under Section 53-3-226.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the enforcement of this section.

(7) A person is guilty of a class B misdemeanor, and shall be fined not less than $100, who:

(a) when requested to provide security information under Subsection (1), or Section 41-12a-303.2, provides false information;

(b) falsely represents to the department that security required under this chapter is in effect; or

(c) sells a vehicle to avoid the penalties of this section as applicable either to himself or a third party.

Section 29. Section 41-6a-2002 is amended to read:

41-6a-2002. Definitions.

As used in this chapter:

(1) "Active criminal investigation" means an officer has documented reasonable suspicion that a crime is being or has been committed, and believes the suspected criminal activity may be connected to a vehicle, a registered owner of a vehicle, or an occupant of a vehicle.

[~~(1)~~](2) "Automatic license plate reader system" means a system of one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert an image of a license plate into computer-readable data.

[~~(2)~~](3) "Captured plate data" means the global positioning system coordinates, date and time, photograph, license plate number, and any other data captured by or derived from an automatic license plate reader system.

[~~(3)~~](4)(a) "Governmental entity" means:

(i) executive department agencies of the state;

(ii) the offices of the governor, the lieutenant governor, the state auditor, the attorney general, and the state treasurer;

(iii) the Board of Pardons and Parole;

(iv) the Board of Examiners;

(v) the National Guard;

(vi) the Career Service Review Office;

(vii) the State Board of Education;

(viii) the Utah Board of Higher Education;

(ix) the State Archives;

(x) the Office of the Legislative Auditor General;

(xi) the Office of the Legislative Fiscal Analyst;

(xii) the Office of Legislative Research and General Counsel;

(xiii) the Legislature;

(xiv) legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(xv) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(xvi) any state-funded institution of higher education or public education;

(xvii) any political subdivision of the state; or

(xviii) a law enforcement agency.

(b) "Governmental entity" includes:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsections [~~(3)(a)(i)~~](4)(a)(i) through (xviii) that is funded or established by the government to carry out the public's business; or

(ii) a person acting as an agent of a governmental entity or acting on behalf of a governmental entity.

[~~(4)~~](5) "Nongovernmental entity" means a person that is not a governmental entity.

[~~(5)~~](6) "Secured area" means an area, enclosed by clear boundaries, to which access is limited and not open to the public and entry is only obtainable through specific access-control points.

Section 30. Section 41-6a-2003 is amended to read:

41-6a-2003. Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) Subject to Subsection (3), an automatic license plate reader system may be used:

(a) by a law enforcement agency to access captured license plate data:

(i) as part of an active criminal investigation;

(ii) to apprehend an individual with an outstanding warrant;

(iii) to locate a missing or endangered person; or

(iv) to locate a stolen vehicle;

(b) by a law enforcement agency to access the Utah Criminal Justice Information System to:

(i) verify valid vehicle registration information;

(ii) confirm vehicle identification;

(iii) verify insurance information; or

(iv) identify a stolen vehicle;

[~~(b)~~](c) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

[~~(c)~~](d) by a parking enforcement entity for regulating the use of a parking facility;

[~~(d)~~](e) for the purpose of controlling access to a secured area;

[~~(e)~~](f) for the purpose of collecting an electronic toll;

[~~(f)~~](g) for the purpose of enforcing motor carrier laws;

[~~(g)~~](h) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis;

[~~(h)~~](i) by an institution of higher education within the state system of higher education as described in Section 53B-1-102:

(i) for a purpose described in Subsections (2)(a) through [~~(d)~~](e); or

(ii) if the data collected is anonymized, for research and educational purposes;

[~~(i)~~](j) by the Utah Inland Port Authority, created in Section 11-58-201, or by a contractor of the Utah Inland Port Authority with the approval of the board of the Utah Inland Port Authority, if:

(i) the automatic license plate reader system is used only within a project area, as defined in Section 11-58-102, of the Utah Inland Port Authority;

(ii) the purpose of using the automatic license plate reader system is to improve supply chain efficiency or the efficiency of the movement of goods by analyzing and researching data related to commercial vehicle traffic; and

(iii) specific license plate information is anonymized; or

[~~(j)~~](k) by an international airport owned by a governmental entity for the purpose of promoting efficient regulation and implementation of traffic control and direction, parking, security, and other similar operational objectives on the airport campus.

(3) A law enforcement agency may not use an automatic license plate reader system unless:

(a) the law enforcement agency has a written policy regarding the use, management, and auditing of the automatic license plate reader system;

(b) for any stationary device installed with the purpose of capturing license plate data of vehicles traveling on a state highway, the law enforcement agency obtains a special use permit as described in Section 72-1-212 from the Department of Transportation before installing the device; and

(c) the policy under Subsection (3)(a) and any special use permits granted in accordance with Subsection (3)(b) are:

(i) posted and publicly available on the appropriate city, county, or state website; or

(ii) posted on the Utah Public Notice Website created in Section 63A-16-601 if the law enforcement agency does not have access to a website under Subsection (3)(c)(i).

Section 31. Section 41-12a-303 is amended to read:

41-12a-303. Condition to obtaining registration, license plates, or safety inspection.

The owner of a motor vehicle required to maintain owner's security under Section 41-12a-301 may be required to swear or affirm, in a manner specified by the State Tax Commission, or present other reasonable evidence that he has owner's security in effect at the time of registering, obtaining a license [~~plates~~]plate for, or a safety inspection of the motor vehicle.

Section 32. Section 41-12a-602 is amended to read:

41-12a-602. Filing of false report.

Any person who gives information required in a report provided for under Section 41-12a-502, knowing or having reason to believe that the information is false, or who shall forge or, without authority, sign any evidence of proof of owner's or operator's security, or who files or offers for filing any such evidence of proof, knowing or having reason to believe that it is forged or signed without authority, or who falsely swears or affirms when obtaining a license [~~plates~~]plate, a safety inspection, or a registration under Section 41-12a-303, is guilty of a class A misdemeanor.

Section 33. Section 53-8-214 is amended to read:

53-8-214. Creation of the Motor Vehicle Safety Impact Restricted Account.

(1) There is created a restricted account within the General Fund known as the Motor Vehicle Safety Impact Restricted Account.

(2) The account includes:

(a) deposits made to the restricted account from registration fees as described in Subsection 41-1a-1201(7);

(b) deposits into the account as described in Section 41-1a-1211;

[~~(b)~~](c) donations or deposits made to the account; and

[~~(c)~~](d) any interest earned on the account.

(3) Upon appropriation, the division may use funds in the account to improve motor vehicle safety, mitigate impacts, and enforce safety provisions, including the following:

(a) hiring new Highway Patrol troopers;

(b) payment of overtime for Highway Patrol troopers; and

(c) acquisition of equipment to improve motor vehicle safety impacts and enforcement.

(4) The division shall annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee to justify expenditures and use of funds in the account.

Section 34. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on January 1, 2025.

(2) The actions affecting Sections 41-1a-402 and 41-1a-1211 take effect on July 1, 2024.

CHAPTER 252
S. B. 54
Passed February 12, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX REFUND AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill modifies provisions related to property tax refunds.

Highlighted Provisions:

This bill:

- requires a county, following an appeal to the county's board of equalization, to issue any warranted property tax refund to the taxpayer that paid the property taxes; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59- 2- 1004, as last amended by Laws of Utah 2022, Chapter 168

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

Section 1. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59- 2- 1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59- 1- 602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by changing the final assessed value for the previous taxable year for the real property by the median property value change.

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property on or after January 1 of the previous year and before January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59- 2- 1006;

(B) the appeal described in Subsection (1)(e)(i)(A), resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

(f) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2)(a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection [~~(9)~~](10) authorizing a taxpayer to make an application by telephone or other electronic means.

(b)(i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c)(i)(A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(ii)(A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(3)(a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4)(a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b)(i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6)(a) Except as provided in Subsection [~~(6)(c)~~](6)(b), at least five days before the day on which the county board of equalization holds a public hearing on an appeal:

(i) the county assessor shall provide the taxpayer any evidence the county assessor relies upon in support of the county assessor's valuation; and

(ii) the taxpayer shall provide the county assessor any evidence not previously provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

(b)(i) The deadline described in Subsection (6)(a) does not apply to evidence that is commercial information as defined in Section 59-1-404, if:

(A) for the purpose of complying with Section 59-1-404, the county assessor requires that the taxpayer execute a nondisclosure agreement before the county assessor discloses the evidence; and

(B) the taxpayer fails to execute the nondisclosure agreement before the deadline described in Subsection (6)(a).

(ii) The county assessor shall disclose evidence described in Subsection (6)(b)(i) as soon as practicable after the county assessor receives the executed nondisclosure agreement.

(iii) The county assessor shall provide the taxpayer a copy of the nondisclosure agreement with reasonable time for the taxpayer to review and execute the agreement before the deadline described in Subsection (6)(a) expires.

(c) If at the public hearing, a party presents evidence not previously provided to the other party, the county board of equalization shall allow the other party to respond to the evidence in writing within 10 days after the day on which the public hearing occurs.

(d)(i) A county board of equalization may adopt rules governing the deadlines described in this Subsection (6), if the rules are no less stringent than the provisions of this Subsection (6).

(ii) A county board of equalization's rule that complies with Subsection (6)(d)(i) controls over the provisions of this subsection.

(7)(a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b)(i) For purposes of this Subsection (7)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (7)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (7)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (7)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (7)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (7)(c); and

(ii) hear the appeal at the meeting described in Subsection (7)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h)(i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (7)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(8)(a) If the decision of the county board of equalization warrants a refund of any amount of property taxes paid for the tax year for the real property that is the subject of the appeal, the county shall issue the refund directly to the taxpayer that paid the property taxes, or an officer or agent of that taxpayer as identified in the information provided under Subsection (8)(b), regardless of whether the taxpayer is the owner of record of the real property at the time the decision is rendered.

(b) A taxpayer entitled to a refund under this section that is not the owner of record of the real property subject to the appeal shall, within 10 calendar days after the day on which the decision of the county board of equalization is rendered, provide the following information to the county board of equalization:

(i) a statement that the taxpayer is entitled to receive the refund under Subsection (8)(a);

(ii) the name of the taxpayer, or an officer or agent of that taxpayer, entitled to receive the refund;

(iii) the mailing address of the taxpayer, or an officer or agent of that taxpayer, to which the taxpayer requests the refund to be sent; and

(iv) any other information requested by the county board of equalization.

[~~(8)~~](9) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59- 2- 1006.

[~~(9)~~](10) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 253
S. B. 58
Passed February 12, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX ADMINISTRATION AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies the procedures for obtaining a residential property exemption on a primary residence.

Highlighted Provisions:

This bill:

- requires an owner of a residential property occupied by a tenant to submit a written declaration that the property is the primary residence of the tenant;
- provides the form of the written declaration and limits the information a county assessor may obtain from the owner or the tenant;
- recodifies a similar declaration requirement for residential property under construction in the procedures for obtaining a residential property exemption code; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-103, as last amended by Laws of Utah 2020, Chapters 38, 40
59-2-103.5, as last amended by Laws of Utah 2022, Chapter 239

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

Section 1. Section 59-2-103 is amended to read:

59-2-103. Rate of assessment of property -- Residential property.

(1) As used in this section:

(a)(i) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.

(ii) "Household" includes married individuals, who are not legally separated, who have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(2) All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

(3) Subject to Subsections (4) through [~~(7)~~](6) and Section 59-2-103.5, for a calendar year, the fair market value of residential property located within the state is allowed a residential exemption equal to a 45% reduction in the value of the property.

(4) Part-year residential property located within the state is allowed the residential exemption described in Subsection (3) if the part-year residential property is used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption.

(5) No more than one acre of land per residential unit may qualify for the residential exemption described in Subsection (3).

(6)(a) Except as provided in Subsections (6)(b)(ii) and (iii), a residential exemption described in Subsection (3) is limited to one primary residence per household.

(b) An owner of multiple primary residences located within the state is allowed a residential exemption under Subsection (3) for:

(i) subject to Subsection (6)(a), the primary residence of the owner;

(ii) each residential property that is the primary residence of a tenant; and

(iii) subject to Subsection [~~(7)~~]59-2-103.5(4), each residential property described in Subsection 59-2-102(34)(b)(ii).

[~~(7) Before residential property described in Subsection 59-2-102(34)(b)(ii) is allowed a residential exemption described in Subsection (3), an owner of the residential property shall file with the county assessor a written declaration that:~~]

[~~(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;~~]

[~~(b) is signed by each owner of the residential property; and~~]

[~~(c) is on a form prescribed by the commission.~~]

Section 2. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to [~~Subsection (8)~~]Subsections (4), (5), and (10), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before the county applies a residential exemption [~~under Section 59-2-103 may be applied~~]authorized under Section 59-2-103 to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2)(a) The application described in Subsection (1):

(i) shall be on a form the commission [~~prescribes~~]provides by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules [~~prescribing~~]providing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information[~~, provided~~] in the form [~~prescribed~~]provided by the commission under this Subsection (2).

(3)(a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a county may apply a residential exemption [~~may be applied~~] to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee not to exceed $50.

(4) Before a county allows residential property described in Subsection 59-2-102(34)(b)(ii) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(a) states under penalty of perjury that, to the best of each owner's knowledge, upon completion of construction or occupancy of the residential property, the residential property will be used for residential purposes as a primary residence;

(b) is signed by each owner of the residential property; and

(c) is on a form approved by the commission.

(5)(a) Before a county allows residential property described in Subsection 59-2-103(6)(b) a residential exemption authorized under Section 59-2-103, an owner of the residential property shall file with the county assessor a written declaration that:

(i) states under penalty of perjury that, to the best of each owner's knowledge, the residential property will be used for residential purposes as a primary residence of a tenant;

(ii) is signed by each owner of the residential property; and

(iii) is on a form approved by the commission.

(b)(i)(A) In addition to the declaration, a county assessor may request from an owner a current lease agreement signed by the tenant.

(B) If the lease agreement is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a county assessor may request a copy of the real estate insurance policy for the property.

(C) If the real estate insurance policy is insufficient for a county assessor to make a determination about eligibility for a residential exemption, a county assessor may request a copy of a filing from the most recent federal tax return showing that the owner had profit or loss from the residential property as a rental.

(ii) A county assessor may not request information from an owner's tenant.

[~~(4)~~](6) Except as provided in Subsection [~~(5)~~](7), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a

residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

[~~(5)~~](7) A property owner is not required to file a written statement or make the declaration described in Subsection [~~(4)~~](6) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

[~~(6)~~](8) Subsections (2) through [~~(5)~~](7) do not apply to qualifying exempt primary residential rental personal property.

[~~(7)~~](9)(a) Subject to Subsection [~~(8)~~](10), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection [~~(8)~~](10) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection [~~(7)(a)~~](9)(a) in which a property owner qualifies for an exemption [~~described in Subsection 59-2-1115(2)~~]authorized under Section 59-2-1115 for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption [~~under Subsection 59-2-1115(2)~~]authorized under Section 59-2-1115.

[~~(8)~~](10)(a) After an ownership interest in residential property changes, the county assessor shall:

(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection [~~(8)(d)~~](10)(d) within 90 days after the day on which the county assessor mails the notice under this Subsection [~~(8)(a)~~](10)(a); and

(ii) provide the owner of the residential property with the form described in Subsection [~~(8)(e)~~](10)(e) to make the written declaration described in Subsection [~~(8)(d)~~](10)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection [~~(8)(a)~~](10)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection [~~(8)(a)~~](10)(a) if:

(i) the owner is using a post office box or rural route box located in the county where the residential property is located; and

(ii) the residential property is located in a county of the fourth, fifth, or sixth class.

(d) An owner of residential property that receives a notice described in Subsection [~~(8)(a)~~](10)(a) shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form [~~provided~~]described in Subsection [~~(8)(e)~~](10)(e).

(e) The written declaration required by Subsection [~~(8)(d)~~](10)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s):_____
_____

Home Phone:_____
_____

Work Phone:_____
_____

Mailing Address:_____
_____

Residential Pâroperty Information

Physical Address:_____

_____

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes

No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes

No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

_____(Owner signature)
_____Date (mm/dd/yyyy)

_____(Owner printed name)

(f) For purposes of a written declaration described in this Subsection [~~(8)~~](10), a county may not request information from a property owner beyond the information described in the form provided in Subsection [~~(8)(e)~~](10)(e).

(g) (i) If, after receiving a written declaration filed under Subsection [~~(8)(d)~~](10)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and the county's reason for the redetermination.

(ii) The redetermination provided in Subsection [~~(8)(g)(i)(A)~~](10)(g)(i)(A) is final unless:

(A) except as provided in Subsection [~~(8)(g)(iii)~~](10)(g)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(h) (i) If a residential property owner fails to file a written declaration required by Subsection [~~(8)(d)~~](10)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection [~~(8)(d)~~](10)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection [~~(8)(d)~~](10)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection [~~(8)(h)(i)~~](10)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection [~~(8)(d)~~](10)(d) after receiving the notice described in Subsection [~~(8)(h)(i)~~](10)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration unless:

(A) except as provided in Subsection [~~(8)(h)(iii)~~](10)(h)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(iv) A property owner that is disqualified to receive the residential exemption under Subsection [~~(8)(h)(ii)~~](10)(h)(ii) may file an application

described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection [~~(8)~~](10) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 254
S. B. 59
Passed February 26, 2024
Approved March 14, 2024
Effective May 1, 2024

GOVERNMENT LEASED PROPERTY TAX EXEMPTION

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the property tax exemptions in the Property Tax Act.

Highlighted Provisions:

This bill:

- defines terms to provide the circumstances under which property leased to a government entity qualifies for a property tax exemption; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1101, as last amended by Laws of Utah 2023, Chapters 16, 147 and 471
59-2-1102, as last amended by Laws of Utah 2023, Chapter 471

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

Section 1. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) "Compliance period" means a period equal to 15 taxable years beginning with the first taxable year for which the taxpayer claims a tax credit under Section 42, Internal Revenue Code, or Section 59-7-607 or 59-10-1010.

(c)(i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(c)(ii).

(d) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(e)(i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(f) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii)(A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(g) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(h)(i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

(C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(iii) "Nonprofit entity" includes an entity that is not an entity described in Subsection (1)(h)(i) if the entity jointly owns a property that:

(A) is used for the purpose of providing permanent supportive housing;

(B) has an owner that is an entity described in Subsection (1)(h)(i) or that is a housing authority that operates the permanent supportive housing;

(C) has an owner that receives public funding from a federal, state, or local government entity to provide support services and rental subsidies to the permanent supportive housing;

(D) is intended to be transferred at or before the end of the compliance period to an entity described in Subsection (1)(h)(i) or a housing authority that will continue to operate the property as permanent supportive housing; and

(E) has been certified by the Utah Housing Corporation as meeting the requirements described in Subsections (1)(h)(iii)(A) through (D).

(i) "Permanent supportive housing" means a housing facility that:

(i) provides supportive services;

(ii) makes a 15- year commitment to provide rent subsidies to tenants of the housing facility when the housing facility is placed in service;

(iii) receives an allocation of federal low- income housing tax credits in accordance with 26 U.S.C. Sec. 42; and

(iv) leases each unit to a tenant:

(A) who, immediately before leasing the housing, was homeless as defined in 24 C.F.R. 583.5; and

(B) whose rent is capped at no more than 30% of the tenant's household income.

(j)(i) "Property of" means property that an entity listed in Subsection (3)(a)(ii) or (iii) has a legal right to possess.

(ii) "Property of" includes a lease of real property if:

(A) the property is wholly leased to a state or political subdivision entity listed in Subsection (3)(a)(ii) or (iii) under a triple net lease; and

(B) the lease is in effect for the entire calendar year.

[~~(j)~~](k) "Supportive service" means a service that is an eligible cost under 24 C.F.R. 578.53.

(l) "Triple net lease" means a lease agreement under which the lessee is responsible for the real estate taxes, building insurance, and maintenance of the property separate from and in addition to the rental price.

(2)(a) Except as provided in Subsection (2)(b)[~~-~~], an exemption under this part may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) [~~Notwithstanding Subsection (2)(a), a~~]A claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(3)(a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) special districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used

exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6)(a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate an exemption under this part; and

(b) designate one or more persons to perform the functions given to the county under this part.

(9) If a person is dissatisfied with an exemption decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 2. Section 59-2-1102 is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1)(a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection (10)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

(2) Except as provided in Subsection (7) and subject to Subsection (8), [~~a reduction in the value of property may not be made under this part,~~]a county board of equalization may not grant an exemption under this part unless the person affected or the person's agent:

(a) submits a written application to the county board of equalization; and

(b) verifies the application by signed statement.

(3)(a) The county board of equalization may require a person making an application for

exemption [~~or reduction~~] to appear before the county board of equalization and be examined under oath.

(b) If the county board of equalization requires a person making an application for exemption [~~or reduction~~] to appear before the county board of equalization, [~~a reduction may not be made or exemption granted unless the person~~]the county board of equalization may not grant an exemption unless the person affected or the person's agent appears and answers all questions pertinent to the inquiry.

(4) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

(5) Except as provided in Subsection (10)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

(6) Any [~~property owner~~]person that made an exemption application and is dissatisfied with the decision of the county board of equalization regarding any [~~reduction or~~] exemption may appeal to the commission under Section 59-2-1006.

(7)(a) [~~Notwithstanding Subsection (2), a~~]A county board of equalization may not require an owner of property to file an application in accordance with this section [~~in order~~] to claim an exemption for the property under the following:

[~~(a)~~](i) [~~Subsections~~]Subsection 59-2-1101(3)(a)(i) [~~through (iii)~~];

[~~(b)~~](ii) Subsection 59-2-1101(3)(a)(vi) or (viii);

[~~(c)~~](iii) Section 59-2-1110;

[~~(d)~~](iv) Section 59-2-1111;

[~~(e)~~](v) Section 59-2-1112;

[~~(f)~~](vi) Section 59-2-1113; or

[~~(g)~~](vii) Section 59-2-1114.

(b) A county board of equalization may not require an owner of property to file an application in accordance with this section to claim an exemption for the property described in Subsection 59-2-1101(3)(a)(ii) or (iii) unless the property is property described in Subsection 59-2-1101(1)(j)(ii).

(8)(a) Except as provided in Subsection (8)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection (9), require an owner of that property to file an application in accordance with this section [~~in order~~] to claim an exemption for that property.

(b) [~~Notwithstanding Subsection (8)(a), a~~]A county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection (8)(a) if:

(i) the owner filed an application under Subsection (8)(a);

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection (8)(b)(ii) is in effect.

(c)(i) For the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on or before March 1 on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection (8)(c)(i);

(B) the contents of the form for the annual statement required by Subsection (8)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection (8)(c)(i).

(iii) The commission shall make the form described in Subsection (8)(c)(ii)(A) available to counties.

(d) On or before April 1, a county board of equalization shall notify each property owner [~~who~~]that fails to timely file an annual statement in accordance with Subsection (8)(c) of the county board of equalization's intent to revoke the exemption.

(e) An owner of exempt property described in Subsection 59-2-1101(3)(a)(iv) may file the annual statement described in Subsection (8)(c) after March 1 if the property owner:

(i) files the annual statement on or before March 31; and

(ii) includes a statement of facts establishing that the property owner was unable to file the annual statement on or before March 1 due to one of the following conditions and no other responsible party was capable of filing the annual statement:

(A) a medical emergency of the property owner, an immediate family member of the property owner, or the property owner's agent;

(B) the death of the property owner, an immediate family member of the property owner, or the property owner's agent; or

(C) other extraordinary and unanticipated circumstances.

(9)(a) For purposes of this Subsection (9), "exclusive use exemption" means the same as that term is defined in Section 59-2-1101.

(b) For purposes of Subsection (1)(a), when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that

person may apply for the exclusive use exemption on or before the later of:

(i) the day set by rule as the deadline for filing a property tax exemption application; or

(ii) 120 days after the day on which the property is acquired.

(10)(a) Notwithstanding Subsection (1)(c), if a person files an application for an exemption [~~is filed~~] under Subsection (9), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection (5), if an application for an exemption is filed under Subsection (9), a county board of equalization shall hold the hearing and render the decision described in Subsection (5) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2024.

CHAPTER 255
S. B. 69
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

INCOME TAX AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Kay J. Christofferson

Cosponsor:
Wayne A. Harper
Scott D. Sandall
J. Stuart Adams
Don L. Ipson
Jerry W Stevenson
Heidi Balderree
John D. Johnson
Daniel W. Thatcher
Curtis S. Bramble
Michael S. Kennedy
Evan J. Vickers
David G. Buxton
Daniel McCay
Todd D. Weiler
Kirk A. Cullimore
Michael K. McKell
Ronald M. Winterton
Lincoln Fillmore
Ann Millner
Keith Grover
Derrin R. Owens

LONG TITLE

General Description:

This bill modifies income tax provisions.

Highlighted Provisions:

This bill:

- amends the corporate franchise and income tax rates; and
- amends the individual income tax rate.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59- 7- 104, as last amended by Laws of Utah 2023, Chapter 459
59- 7- 201, as last amended by Laws of Utah 2023, Chapter 459
59- 10- 104, as last amended by Laws of Utah 2023, Chapter 459

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

Section 1. Section 59- 7- 104 is amended to read:

59- 7- 104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59- 7- 102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.65~~]4.55% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Section 2. Section 59- 7- 201 is amended to read:

59- 7- 201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59- 7- 102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59- 7- 104.

(2) The tax imposed by Subsection (1) shall be [~~4.65~~]4.55% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Section 3. Section 59- 10- 104 is amended to read:

59- 10- 104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.65~~]4.55%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59- 10- 104.1.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

Section 5. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 256
S. B. 88
Passed February 14, 2024
Approved March 14, 2024
Effective May 1, 2024

JUVENILE JUSTICE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies requirements regarding the collection of a DNA specimen from a minor adjudicated by the juvenile court;
- allows the Division of Juvenile Justice Services to manage accounts and finances for minors in the custody of the Division of Juvenile Justice Services;
- provides that a minor may not be placed in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention;
- provides a time period in which an agency is required to send an affidavit to an individual who is the subject of an expungement order by the juvenile court; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-403, as last amended by Laws of Utah 2023, Chapters 328, 457
53-10-403.5, as last amended by Laws of Utah 2023, Chapters 184, 500
53-10-404, as last amended by Laws of Utah 2021, Chapter 262
53-10-406, as last amended by Laws of Utah 2022, Chapter 113
78A-6-353, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-1-102, as last amended by Laws of Utah 2023, Chapter 330
80-5-202, as last amended by Laws of Utah 2023, Chapter 139
80-6-205, as last amended by Laws of Utah 2022, Chapter 155
80-6-608, as last amended by Laws of Utah 2023, Chapter 330
80-6-704, as enacted by Laws of Utah 2021, Chapter 261
80-6-1006.1, as enacted by Laws of Utah 2023, Chapter 115

ENACTS:

80-5-304, Utah Code Annotated 1953

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

Section 1. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to[~~any person who~~]:

(a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) a person who has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) a minor:

(i)(A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the jurisdiction of the juvenile court on or after July 1, 2002; or

(B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002; and

(ii) who is 14 years old or older at the time of the commission of the offense described in Subsection (2).

[~~(e) is a minor under Subsection (3).~~]

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c)(i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26B-8-315;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

(vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

(ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section 76-5-310.1;

(x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xiii) sale of a child, Section 76-7-203;

(xiv) aggravated escape, Subsection 76-8-309(2);

(xv) a felony violation of assault on an elected official, Section 76-8-315;

(xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xix) a felony violation of sexual battery, Section 76-9-702.1;

(xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxvi) commercial obstruction, Subsection 76-10-2402(2);

(xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxix) violation of condition for release after arrest under Section 78B-7-802.

[~~(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:~~]

[~~(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or~~]

[~~(b) is in the legal custody of the Division of Juvenile Justice and Youth Services on or after July 1, 2002, for an offense under Subsection (2).~~]

Section 2. Section 53-10-403.5 is amended to read:

53-10-403.5. Definitions.

As used in this section and Sections 53-10-403, 53-10-403.7, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Adjudication" means the same as that term is defined in Section 80-1-102.

[~~(1)~~](2) "Bureau" means the Bureau of Forensic Services.

[~~(2)~~](3) "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.

[~~(3)~~](4) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty with a mental condition;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

[~~(4)~~](5) "DNA" means deoxyribonucleic acid.

[~~(5)~~](6) "DNA profile" means the patterns of fragments of DNA used to identify an individual.

[~~(6)~~](7) "DNA specimen" or "specimen" means a biological sample collected from an individual or a crime scene, or that is collected as part of an investigation.

[~~(7)~~](8) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(9) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(8)~~](10) "Rapid DNA" means the fully automated process of developing a DNA profile.

[~~(9)~~](11) "Violent felony" means any offense under Section 76-3-203.5.

Section 3. Section 53-10-404 is amended to read:

53-10-404. DNA specimen analysis -- Requirement to obtain the specimen.

(1) As used in this section, "person" [~~refers to any person as described under Section 53-10-403~~]means a person or minor described in Section 53-10-403.

(2)(a) A person under Section 53-10-403 or any person required to register as a sex offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry, shall provide a DNA specimen and shall reimburse the agency responsible for obtaining the DNA specimen $150 for the cost of obtaining the DNA specimen unless:

(i) the person was booked under Section 53-10-403 and is not required to reimburse the agency under Section 53-10-404.5; or

(ii) the agency determines the person lacks the ability to pay.

(b)(i)(A) The responsible agencies shall establish guidelines and procedures for determining if the person is able to pay the fee.

(B) An agency's implementation of Subsection (2)(b)(i) meets an agency's obligation to determine an inmate's ability to pay.

(ii) An agency's guidelines and procedures may provide for the assessment of $150 on the inmate's county trust fund account and may allow a negative balance in the account until the $150 is paid in full.

(3)(a)(i) All fees collected under Subsection (2) shall be deposited in the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the saliva DNA specimen.

(ii) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(b) The responsible agency shall determine the method of collecting the DNA specimen. Unless the responsible agency determines there are substantial reasons for using a different method of collection or the person refuses to cooperate with the collection, the preferred method of collection shall be obtaining a saliva specimen.

(c) The responsible agency may use reasonable force, as established by its guidelines and procedures, to collect the DNA sample if the person refuses to cooperate with the collection.

(d) If the judgment places the person on probation, the person shall submit to the obtaining of a DNA specimen as a condition of the probation.

(e)(i) Under this section a person is required to provide one DNA specimen and pay the collection fee as required under this section.

(ii) The person shall provide an additional DNA specimen only if the DNA specimen previously provided is not adequate for analysis.

(iii) The collection fee is not imposed for a second or subsequent DNA specimen collected under this section.

(f) Any agency that is authorized to obtain a DNA specimen under this part may collect any outstanding amount of a fee due under this section from any person who owes any portion of the fee and deposit the amount in the DNA Specimen Restricted Account created in Section 53-10-407.

(4)(a) The responsible agency shall cause a DNA specimen to be obtained as soon as possible and transferred to the Department of Public Safety:

(i) after a conviction or [~~a finding of jurisdiction~~]an adjudication by the juvenile court;

(ii) on and after January 1, 2011, through December 31, 2014, after the booking of a person for any offense under Subsection 53-10-403(1)(c); and

(iii) on and after January 1, 2015, after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(ii).

(b) On and after May 13, 2014, through December 31, 2014, the responsible agency may cause a DNA specimen to be obtained and transferred to the Department of Public Safety after the booking of a person for any felony offense, as provided under Subsection 53-10-403(1)(d)(i).

(c) If notified by the Department of Public Safety that a DNA specimen is not adequate for analysis, the agency shall, as soon as possible:

(i) obtain and transmit an additional DNA specimen; or

(ii) request that another agency that has direct access to the person and that is authorized to collect DNA specimens under this section collect the necessary second DNA specimen and transmit it to the Department of Public Safety.

(d) Each agency that is responsible for collecting DNA specimens under this section shall establish:

(i) a tracking procedure to record the handling and transfer of each DNA specimen it obtains; and

(ii) a procedure to account for the management of all fees it collects under this section.

(5)(a) The Department of Corrections is the responsible agency whenever the person is committed to the custody of or is under the supervision of the Department of Corrections.

[~~(b) The juvenile court is the responsible agency regarding a minor under Subsection 53-10-403(3), but if the minor has been committed to the legal custody of the Division of Juvenile Justice Services, that division is the responsible agency if a DNA specimen of the minor has not previously been obtained by the juvenile court under Section 80-6-608.~~]

(b) If a minor described in Subsection 53-10-403(3) is not committed to the legal custody of the Division of Juvenile Justice Services upon an adjudication, the juvenile court is the responsible agency regarding the collection of a DNA specimen from the minor.

(c) If a minor described in Subsection 53-10-403(3) is committed to the legal custody of the Division of Juvenile Justice Services upon an adjudication, the Division of Juvenile Justice Services is the responsible agency regarding the collection of a DNA specimen from the minor.

[~~(c)~~](d) The sheriff operating a county jail is the responsible agency regarding the collection of DNA specimens from persons who:

(i) have pled guilty to or have been convicted of an offense listed under Subsection 53-10-403(2) but who have not been committed to the custody of or are not under the supervision of the Department of Corrections;

(ii) are incarcerated in the county jail:

(A) as a condition of probation for a felony offense; or

(B) for a misdemeanor offense for which collection of a DNA specimen is required;

(iii) on and after January 1, 2011, through May 12, 2014, are booked at the county jail for any offense under Subsection 53-10-403(1)(c)[~~,~~]; and

(iv) are booked at the county jail:

(A) by a law enforcement agency that is obtaining a DNA specimen for any felony offense on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b); or

(B) on or after January 1, 2015, for any felony offense.

[~~(d)~~](e) Each agency required to collect a DNA specimen under this section shall:

(i) designate employees to obtain the saliva DNA specimens required under this section; and

(ii) ensure that employees designated to collect the DNA specimens receive appropriate training and that the specimens are obtained in accordance with generally accepted protocol.

(6)(a) As used in this Subsection (6), "department" means the Department of Corrections.

(b) Priority of obtaining DNA specimens by the department is:

(i) first, to obtain DNA specimens of persons who as of July 1, 2002, are in the custody of or under the supervision of the department before these persons are released from incarceration, parole, or probation, if their release date is prior to that of persons under Subsection (6)(b)(ii), but in no case later than July 1, 2004; and

(ii) second, the department shall obtain DNA specimens from persons who are committed to the custody of the department or who are placed under the supervision of the department after July 1, 2002, within 120 days after the commitment, if possible, but not later than prior to release from incarceration if the person is imprisoned, or prior to the termination of probation if the person is placed on probation.

(c) The priority for obtaining DNA specimens from persons under Subsection (6)(b)(ii) is:

(i) first, persons on probation;

(ii) second, persons on parole; and

(iii) third, incarcerated persons.

(d) Implementation of the schedule of priority under Subsection (6)(c) is subject to the priority of Subsection (6)(b)(i), to ensure that the Department of Corrections obtains DNA specimens from persons in the custody of or under the supervision of the Department of Corrections as of July 1, 2002, prior to their release.

(7)(a) As used in this Subsection (7):

(i) "Court" means the juvenile court.

(ii) "Division" means the Division of Juvenile Justice Services.

(b) Priority of obtaining DNA specimens by the court from minors under Section 53-10-403 whose cases are under the jurisdiction of the court but who are not in the legal custody of the division shall be:

(i) first, to obtain specimens from minors whose cases, as of July 1, 2002, are under the court's jurisdiction, before the court's jurisdiction over the minors' cases terminates; and

(ii) second, to obtain specimens from minors whose cases are under the jurisdiction of the court after July 1, 2002, within 120 days of the minor's case being found to be within the court's jurisdiction, if possible, but no later than before the court's jurisdiction over the minor's case terminates.

(c) Priority of obtaining DNA specimens by the division from minors under Section 53-10-403 who are committed to the legal custody of the division shall be:

(i) first, to obtain specimens from minors who as of July 1, 2002, are within the division's legal custody and who have not previously provided a DNA specimen under this section, before termination of the division's legal custody of these minors; and

(ii) second, to obtain specimens from minors who are placed in the legal custody of the division after July 1, 2002, within 120 days of the minor's being placed in the custody of the division, if possible, but no later than before the termination of the court's jurisdiction over the minor's case.

(8)(a) The Department of Corrections, the juvenile court, the Division of Juvenile Justice Services, and all law enforcement agencies in the state shall by policy establish procedures for obtaining saliva DNA specimens, and shall provide training for employees designated to collect saliva DNA specimens.

(b)(i) The department may designate correctional officers, including those employed by the adult probation and parole section of the department, to obtain the saliva DNA specimens required under this section.

(ii) The department shall ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol.

(c) Blood DNA specimens shall be obtained in accordance with Section 53-10-405.

Section 4. Section 53-10-406 is amended to read:

53-10-406. DNA specimen analysis -- Bureau responsibilities.

(1) The bureau shall:

(a) administer and oversee the DNA specimen collection process;

(b) store each DNA specimen and associated records received;

(c) analyze each specimen, or contract with a qualified public or private laboratory to analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the identity of the person;

(d) maintain a criminal identification database containing information derived from DNA analysis;

(e) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;

(f) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;

(g) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;

(h) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c); and

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and associated records, and criminal identification information obtained from the analysis.

(2) Procedures for DNA analysis may include all techniques which the department determines are accurate and reliable in establishing identity.

(3)(a) In accordance with Section 63G-2-305, each DNA specimen and associated record is classified as protected.

(b) The department may not transfer or disclose any DNA specimen, associated record, or criminal identification information obtained, stored, or maintained under this section, except under the provisions of this section.

(4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the department determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.

(5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.

(6) A person whose DNA specimen is obtained under this part may, personally or through a legal representative, submit:

(a) to the court a motion for a court order requiring the destruction of the person's DNA specimen, associated record, and any criminal identification record created in connection with that specimen, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

(i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal; or

(b) to the department a request for the destruction of the person's DNA specimen, and associated record, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

(i) no charge arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after the day on which the person is booked; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal.

(7) A court order issued under Subsection (6)(a) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.

(8) The department shall destroy the person's DNA specimen, and associated record, and remove the person's DNA record from the database described in Subsection (1)(d), if:

(a) the person provides the department with:

(i) a court order for destruction described in Subsection (6)(a), and a certified copy of:

(A) the court order reversing the conviction, judgment, or order;

(B) a court order to set aside the conviction; or

(C) the dismissal or acquittal of the charge regarding which the person was arrested; or

(ii) a written request for destruction of the DNA specimen, and associated record, and removal of the DNA record from the database described in Subsection (6)(b), and a certified copy of:

(A) a declination to prosecute from the prosecutor; or

(B) a court document that indicates all charges have been resolved by a final judgment of dismissal with prejudice or acquittal; and

(b) the department determines that the person is not obligated to submit a DNA specimen as a result of a separate conviction or [~~juvenile~~]adjudication for an offense listed in Subsection 53-10-403(2).

(9) The department may not destroy a person's DNA specimen or remove a person's DNA record from the database described in Subsection (1)(d) if the person has a prior conviction or a pending charge for which collection of a sample is authorized in accordance with Section 53-10-404.

(10) A DNA specimen, associated record, or criminal identification record created in connection with that specimen may not be affected by an order to set aside a conviction, except under the provisions of this section.

(11) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.

(12)(a)(i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.

(ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.

(iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.

(iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.

(b)(i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third degree felony.

(ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

Section 5. Section 78A-6-353 is amended to read:

78A-6-353. Contempt -- Penalty -- Enforcement of fine, fee, or restitution.

(1) An individual who willfully violates or refuses to obey any order of the juvenile court may be proceeded against for contempt of court.

(2) If a juvenile court finds an individual who is 18 years old or older in contempt of court, the juvenile court may impose sanctions on the individual in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(3)[~~(a)~~] Except as otherwise provided in [~~this Subsection (3)~~]Subsection (4), if a juvenile court finds a child in contempt of court, the juvenile court may:

[~~(i)~~](a) place the child on probation in accordance with Section 80-6-702;

[~~(ii)~~](b) order the child to detention, or an alternative to detention, in accordance with Section 80-6-704; or

[~~(iii)~~](c) require the child to pay a fine or fee in accordance with Section 80-6-709.

[~~(b)~~](4)(a) The juvenile court may only order a child to secure detention under Subsection [~~(3)(a)(ii)~~](3)(b) for no longer than 72 hours, excluding weekends and legal holidays.

[~~(c)~~](b) The juvenile court may not suspend all or part of an order to secure detention upon compliance with conditions imposed by the juvenile court.

[~~(d)~~](c) The juvenile court may not enforce a disposition under Subsection [~~(3)(a)(iii)~~](3)(c) through an order for detention, a community-based program, or secure care.

[~~(4)~~](5) On the sole basis of a child's absence from placement, a juvenile court may not hold a child in contempt under this section if the child:

(a) is in the legal custody of the Division of Child and Family Services; and

(b) is missing, has been abducted, or has run away.

Section 6. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1)(a) "Abuse" means:

(i)(A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

[~~(3)(a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.~~]

[~~(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.~~]

(3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4)(a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12)(a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13)(a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's

parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

(39)(a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(45)(a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i)(A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii)(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii)(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

(57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(58)(a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(59) "Neglected child" means a child who has been subjected to neglect.

(60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b)(i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

(61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

(63) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64)(a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

(68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(69)(a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(70)(a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

(73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

(76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

(79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

(84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(85) "Status offense" means an offense that would not be an offense but for the age of the offender.

(86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

(90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

(98) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Section 7. Section 80-5-202 is amended to read:

80-5-202. Division rulemaking authority -- Reports on sexual assault.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to:

(a) establish standards for the admission of a minor to detention;

(b) describe good behavior for which credit may be earned under Subsection [~~80-6-704(4)~~] 80-6-704(5);

(c) establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division;

(d) establish policies and procedures regarding sexual assaults that occur in detention and secure care facilities; and

(e) establish the qualifications and conditions for services provided by the division under Section 80-6-809.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and

(b) that govern the operation of detention and secure care facilities.

(3) A rule made by the division under Subsection (1)(a):

(a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and

(b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.

(4) The rules described in Subsection (1)(d) shall:

(a) require education and training, including:

(i) providing to minors detained in secure care and detention facilities, at intake and periodically, easy-to-understand information, which is developed and approved by the division, on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and

(ii) providing training specific to sexual assault to division mental health professionals and all division employees who have direct contact with minors regarding treatment and methods of prevention and investigation;

(b) require reporting of any incident of sexual assault, including:

(i) ensuring the confidentiality of sexual assault reports from minors and the protection of minors who report sexual assault; and

(ii) prohibiting retaliation and disincentives for reporting sexual assault;

(c) require safety and care for minors who report sexual assault, including:

(i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the minor's safety by separating the minor from the minor's assailant, if known;

(ii) providing acute trauma care for minors who report sexual assault, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(iii) providing confidential mental health counseling for minors who report sexual assault, including:

(A) access to outside community groups or victim advocates that have expertise in sexual assault counseling; and

(B) enabling confidential communication between minors and community groups and victim advocates; and

(iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;

(d) require staff reporting of sexual assault and staff discipline for failure to report or for violating sexual assault policies, including:

(i) requiring all division employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the director or the director's designee;

(ii) requiring disciplinary action for a division employee who fails to report as required; and

(iii) requiring division employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for division employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules;

(e) require that any report of an incident of sexual assault be referred to the Division of Child and Family Services or a law enforcement agency with jurisdiction over the detention or secure care facility in which the alleged sexual assault occurred; and

(f) require data collection and reporting of all incidents of sexual assault from each detention and secure care facility.

(5) The division shall annually report the data described in Section (4)(f) to the Law Enforcement and Criminal Justice Interim Committee.

Section 8. Section 80-5-304 is enacted to read:

80-5-304. Income and finances for minors in the custody of the division.

(1) If a minor is committed to the custody of the division, the division may establish:

(a) an account for the minor that is administered by the division; or

(b) a joint account for the minor and the division at a federally insured financial institution.

(2) The division may:

(a) collect funds earned or received by a minor; and

(b) place the funds earned or received by the minor into an account described in Subsection (1).

(3) The division may:

(a) only use funds placed in an account described in Subsection (1) for the minor, including using the funds to pay restitution, reparations, fines, alimony, support payments, cost of care, or similar court-ordered payments owed by the minor; and

(b) provide the minor with any funds remaining in an account described in Subsection (1) upon the minor's transition and termination from the custody of the division.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to establish the administration of accounts and finances for minors in the custody of the division.

Section 9. Section 80-6-205 is amended to read:

80-6-205. Admission to detention -- Alternative to detention -- Rights of a minor in detention.

(1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:

(a) admit the minor to secure detention;

(b) admit the minor to home detention;

(c) place the minor in [~~another~~]an alternative to detention, except that the staff member may not place the minor in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention; or

(d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.

(2) [~~A minor may not be admitted to detention~~]The designated staff member may not admit a minor to detention under Subsection (1) unless:

(a) the minor is detainable based on the detention guidelines; or

(b) the minor has been brought to detention in accordance with:

(i) a court order;

(ii) a warrant [~~in accordance with~~]described in Section 80-6-202; or

(iii) a division warrant [~~in accordance with~~]described in Section 80-6-806.

(3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.

(4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.

(5)(a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.

(b)(i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.

(ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:

(a) immediately notify the minor's parent, guardian, or custodian; and

(b) promptly notify the juvenile court of the placement.

(7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.

(8)(a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:

(i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);

(ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the minor's rights [~~under~~]described in Subsection (8)(a) if a compelling reason exists to limit the minor's rights.

(c) A minor admitted to detention shall be immediately advised of the minor's rights described in this Subsection (8).

Section 10. Section 80-6-608 is amended to read:

80-6-608. When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.

(1) The division shall take a photograph and fingerprints of a minor who is:

(a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and

(b) admitted to a detention facility for the alleged commission of the offense.

(2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:

(a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years old or older; or

(b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.

(3) The juvenile court shall take a photograph of a minor who is:

(a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and

(b) adjudicated for the offense described in Subsection (3)(a).

(4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.

(5) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:

(a) the victim;

(b) the parent or guardian of a victim who is younger than 14 years old; or

(c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201.

(6) HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:

(a) upon the request of:

(i) the victim;

(ii) the parent or guardian of a victim who is younger than 14 years old; or

(iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201; and

(b) in which:

(i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.

(7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years old without the consent of the juvenile court.

(8)(a) Photographs taken under this section may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary; and

(iii) the division.

(b) Fingerprints may be distributed or disbursed to:

(i) state and local law enforcement agencies;

(ii) the judiciary;

(iii) the division; and

(iv) agencies participating in the Western Identification Network.

(9)(a) A DNA specimen shall be obtained from a minor who is [~~under the jurisdiction of the juvenile court as described in Subsection 53-10-403(3)~~]adjudicated by the juvenile court as described in Subsection 53-10-403(1)(e).

(b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:

(i) designated employees of the juvenile court; or

(ii) if the minor is committed to the division, designated employees of the division.

(c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.

(d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.

(e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Section 11. Section 80-6-704 is amended to read:

80-6-704. Detention or alternative to detention -- Limitations.

(1)(a) The juvenile court may order a minor to detention, or an alternative to detention, if the minor is adjudicated for:

(i) an offense under Section 80-6-701; or

(ii) contempt of court under Section 78A-6-353.

(b) Except as provided in Subsection [~~78A-6-353(3)~~]78A-6-353(4), and subject to the juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court may order a minor to detention, or an alternative to detention, under Subsection [~~(1)~~](1)(a) for a period not to exceed 30 cumulative days for an adjudication.

(c) If a minor is held in detention before an adjudication, the time spent in detention before the adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection [~~(1)(a)~~](1)(b).

(d) If a minor spent more than 30 days in detention before a disposition[~~, under Subsection (1)~~], the juvenile court may not order the minor to detention under this section.

(2) An order for detention under Subsection (1) may not be suspended upon conditions ordered by the juvenile court.

(3) A juvenile court may not order a minor to detention for:

(a) contempt of court, except to the extent permitted under Section 78A-6-353;

(b) a violation of probation;

(c) failure to pay a fine, fee, restitution, or other financial obligation;

(d) unfinished compensatory or community service hours;

(e) an infraction; or

(f) a status offense.

(4) A juvenile court may not order a minor be placed in a correctional facility that is intended to hold adults accused or convicted of offenses as an alternative to detention under Subsection (1).

[~~(4)~~](5)(a) If a minor is held in detention under this section, the minor is eligible to receive credit for good behavior against the period of detention.

(b) The rate of credit is one day of credit for good behavior for every three days spent in detention.

[~~(5)~~](6)(a) A minor may not be held in secure detention following a disposition by the juvenile court:

(i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

(ii) except as provided in Subsection [~~(5)(b)~~](6)(b), for a community-based program.

(b) If a minor is awaiting placement by the division under Section 80-6-703, a minor may not be held in secure detention for longer than 72 hours, excluding weekends and holidays.

(c) The period of detention under Subsection [~~(5)(b)~~](6)(b) may be extended by the juvenile court for a cumulative total of seven calendar days if:

(i) the division, or another agency responsible for placement, files a written petition with the juvenile court requesting the extension and setting forth good cause; and

(ii) the juvenile court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.

(d) The juvenile court may extend the period of detention beyond the seven calendar days if the juvenile court finds, by clear and convincing evidence, that:

(i) the division, or another agency responsible for placement, does not have space for the minor; and

(ii) the safety of the minor and community requires an extension of the period of detention.

(e) The division, or the agency with custody of the minor, shall report to the juvenile court every 48 hours, excluding weekends and holidays, regarding whether the division, or another agency responsible for placement, has space for the minor.

(f) The division, or agency, requesting an extension shall promptly notify the detention facility that a written petition has been filed.

(g) The juvenile court shall promptly notify the detention facility regarding the juvenile court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

Section 12. Section 80-6-1006.1 is amended to read:

80-6-1006.1. Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.

(1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.

(2) The juvenile court may not order:

(a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or

(b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:

(i) the record is unsupported; or

(ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.

(3)(a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.

(b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.

(4)(a) Upon receipt of an expungement order, an agency shall:

(i) to avoid destruction or expungement of records in whole or in part, expunge only the references to the individual's name in the records relating to the individual's adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is ordered; and

(ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.

(b) [~~An agency that~~]Within 60 days after the day on which an agency receives a copy of an expungement order, the agency shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.

(5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:

(a) may not disclose records expunged in an expungement order unless required by law;

(b) are not required to destroy any photograph or record created under Section 80-6-608;

(c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:

(i) the treatment and programming of the individual;

(ii) housing of the individual;

(iii) applicable guidelines regarding the individual; or

(iv) supervision conditions for the individual;

(d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and

(e) are not required to mail an affidavit under Subsection (4)(b).

(6) Upon entry of an expungement order:

(a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and

(b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.

(7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 257
S. B. 130
Passed February 14, 2024
Approved March 14, 2024
Effective May 1, 2024

OVERDOSE OUTREACH PROVIDER AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Carol S. Moss

LONG TITLE

General Description:

This bill modifies provisions related to overdose outreach providers.

Highlighted Provisions:

This bill:

- adds peer support specialists, social workers, and substance use disorder counselors to the definition of overdose outreach provider.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-4-501, as renumbered and amended by Laws of Utah 2023, Chapter 307

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

Section 1. Section 26B-4-501 is amended to read:

26B-4-501. Definitions.

As used in this part:

(1) "Controlled substance" means the same as that term is defined in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) "Critical access hospital" means a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998).

(3) "Designated facility" means:

(a) a freestanding urgent care center;

(b) a general acute hospital; or

(c) a critical access hospital.

(4) "Dispense" means the same as that term is defined in Section 58-17b-102.

(5) "Division" means the Division of Professional Licensing created in Section 58-1-103.

(6) "Emergency contraception" means the use of a substance, approved by the United States Food and Drug Administration, to prevent pregnancy after sexual intercourse.

(7) "Freestanding urgent care center" means the same as that term is defined in Section 59-12-801.

(8) "General acute hospital" means the same as that term is defined in Section 26B-2-201.

(9) "Health care facility" means a hospital, a hospice inpatient residence, a nursing facility, a dialysis treatment facility, an assisted living residence, an entity that provides home- and community-based services, a hospice or home health care agency, or another facility that provides or contracts to provide health care services, which facility is licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(10) "Health care provider" means:

(a) a physician, as defined in Section 58-67-102;

(b) an advanced practice registered nurse, as defined in Section 58-31b-102;

(c) a physician assistant, as defined in Section 58-70a-102; or

(d) an individual licensed to engage in the practice of dentistry, as defined in Section 58-69-102.

(11) "Increased risk" means risk exceeding the risk typically experienced by an individual who is not using, and is not likely to use, an opiate.

(12) "Opiate" means the same as that term is defined in Section 58-37-2.

(13) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal Food and Drug Administration for the diagnosis or treatment of an opiate-related drug overdose.

(14) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a person would reasonably believe to require medical assistance.

(15) "Overdose outreach provider" means:

(a) a law enforcement agency;

(b) a fire department;

(c) an emergency medical service provider, as defined in Section 26B-4-101;

(d) emergency medical service personnel, as defined in Section 26B-4-101;

(e) an organization providing treatment or recovery services for drug or alcohol use;

(f) an organization providing support services for an individual, or a family of an individual, with a substance use disorder;

(g) a certified peer support specialist, as defined in Section 26B-5-610;

[~~(g)~~](h) an organization providing substance use or mental health services under contract with a local substance abuse authority, as defined in Section 26B-5-101, or a local mental health authority, as defined in Section 26B-5-101;

[~~(h)~~](i) an organization providing services to the homeless;

[~~(i)~~](j) a local health department;

[~~(j)~~](k) an individual licensed to practice[~~pharmacy~~] under:

(i) Title 58, Chapter 17b, Pharmacy Practice Act;

(ii) Title 58, Chapter 60, Part 2, Social Worker Licensing Act; or

(iii) Title 58, Chapter 60, Part 5, Substance Use Disorder Counselor Act; or

[~~(k)~~](l) an individual.

(16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(17) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(18) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(19) "Physician" means the same as that term is defined in Section 58-67-102.

(20) "Practitioner" means:

(a) a physician; or

(b) any other person who is permitted by law to prescribe emergency contraception.

(21) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(22)(a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(23) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses, that may result in a pregnancy.

(24) "Victim of sexual assault" means any person who presents to receive, or receives, medical care in consequence of being subjected to sexual assault.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 258
S. B. 132
Passed March 1, 2024
Approved March 14, 2024
Effective January 1, 2025

PROPERTY TAX APPEALS AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill modifies provisions related to property tax appeals.

Highlighted Provisions:

This bill:

- authorizes counties to use certain local tax funds to pay for property tax refunds owed as a result of an objection to the assessment of property assessed by the State Tax Commission without voter approval;
- modifies the time period for which new growth is calculated for centrally-assessed property;
- establishes exceptions to the requirement for the State Tax Commission to stay a pending appeal under judicial review;
- allows a taxing entity to impose a judgment levy in multiple years;
- extends the period of time in which the state or a taxing entity has to pay a taxpayer that receives a reduction in the amount of taxes owed following an appeal; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-36-54, as last amended by Laws of Utah 2014, Chapter 176
59-1-613, as enacted by Laws of Utah 2021, Chapter 238
59-2-924, as last amended by Laws of Utah 2023, Chapter 502
59-2-1330, as last amended by Laws of Utah 2015, Chapter 201

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

Section 1. Section 17-36-54 is amended to read:

17-36-54. Tax stability and trust fund -- Use of principal -- Determination of necessity -- Election -- Exception.

(1)(a) [~~If~~]Except as provided in Subsection (2), if the legislative body of a county that has established a tax stability and trust fund under Section 17-36-51 determines that it is necessary for purposes of that county to use any portion of the principal of the fund, the county legislative body shall submit this proposition to the electorate of that county in a special election called and held in the manner provided for in Title 11, Chapter 14, Local Government Bonding Act, for the holding of bond elections.

[~~(2)~~](b) If the proposition is approved at the special election by a majority of the qualified electors of the county voting at the election, then that portion of the principal of the fund covered by the proposition may be transferred to the county general fund for use for purposes of that county.

(2)(a) The requirements of Subsection (1) do not apply to the use of any portion of the principal of a tax stability and trust fund established under Section 17-36-51 for payment of any refund of property taxes owed by the county as a result of an objection to the assessment of property assessed by the State Tax Commission under Section 59-2-1007.

(b) The legislative body of a county may, by ordinance or resolution, authorize the use of any portion of the tax stability and trust fund for the purpose described in Subsection (2)(a).

Section 2. Section 59-1-613 is amended to read:

59-1-613. Judicial review -- Mandatory stay of certain commission cases.

(1) [~~Unless~~]Except as provided in Subsection (2) or unless all parties otherwise agree, upon request, the commission shall stay an appeal of the valuation or equalization of real or personal property, if:

(a) a commission decision on the valuation or equalization of real or personal property is under judicial review; and

(b) the commission decision described in Subsection (1)(a) and the pending commission appeal involve the same:

(i) taxpayer;

(ii) legal issue or valuation principle; and

(iii) to a material degree, facts.

(2) Subsection (1) does not apply if:

(a) the commission determines that the case under judicial review is not likely to have a material influence on the outcome of the pending commission appeal; or

(b) the property taxes subject to the pending commission appeal have not been paid in accordance with Section 59-2-1330.

[~~(2)~~](3) An appeal stayed in accordance with Subsection (1) is stayed until the court issues a final decision after judicial review of the commission decision.

Section 3. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority

-- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a)(i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c)(i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(v) for a host local government, the same as that term is defined in Section 63N-2-502; or

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602.

(e) "Centrally assessed benchmark value" means an amount equal to the [~~highest~~]average year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for [~~a previous calendar year that begins on or after January 1, 2015~~]the previous three calendar years, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f)(i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(v) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vi) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government; or

(vii) for the State Fair Park Authority created in Section 11-68-201, the taxable value of:

(A) fair park land, as defined in Section 11-68-101, that is subject to a privilege tax under Section 11-68-402; or

(B) personal property located on property that is subject to the privilege tax described in Subsection (1)(n)(vii)(A).

(o)(i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation; or

(v) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4)(a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6)(a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7)(a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8)(a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9)(a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 4. Section 59-2-1330 is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to

assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county assessor or the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection (3) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

(3)(a) For purposes of Subsection (2), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from:

(I) a county board of equalization;

(II) the commission; or

(III) a court of competent jurisdiction;

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (4) through (7).

(4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (4)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (4)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (4)(a);

(ii) Subsection (4)(b); and

(iii) Subsection (4)(c).

(5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (5)(a);

(ii) Subsection (5)(b); and

(iii) Subsection (5)(c).

(6) Except as provided in Subsection (7):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or (5)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (4) or (5); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the state treasurer in accordance with Section 51-7-5.

(7) Notwithstanding Subsection (6):

(a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

(b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(8)(a) Each taxing entity may levy a tax to pay its share of the final and unappealable judgment or order described in Subsection (3) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the certified tax rate is set under Section 59-2-924;

(ii) the [~~amount of the judgment levy~~]following information is included on the notice under Section 59-2-919.1:

(A) the amount of the judgment levy; and

(B) the term of the judgment levy; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(c) A taxing entity may divide a judgment levy under this Subsection (8) and impose the judgment levy in more than one subsequent tax year.

(9)(a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the property tax due date established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (9)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(10)(a) Except as provided in Subsection (10)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within [~~60~~]120 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (3); or

(ii) if a judgment levy is imposed in accordance with Subsection (8):

(A) if the payment to the taxpayer required by this section is [~~$5,000~~]$15,000 or more, no later than December 31 of the first year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than [~~$5,000~~]$15,000, within [~~60~~]120 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (3).

(b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (10)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The following sections take effect for a taxable year beginning on or after January 1, 2025:

(a) Section 59-1-613;

(b) Section 59-2-924; and

(c) Section 59-2-1330.

CHAPTER 259
S. B. 133
Passed February 27, 2024
Approved March 14, 2024
Effective July 1, 2024

ELECTRONIC CIGARETTE AND OTHER NICOTINE PRODUCT AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions relating to the retail sale of electronic cigarettes and other nicotine products.

Highlighted Provisions:

This bill:

- requires the State Tax Commission to report suspected sales of illegal electronic cigarette products or nicotine products to the local health department, the Department of Health and Human Services, and the Department of Public Safety;
- requires the local health department to investigate whether the sale is illegal;
- requires the State Tax Commission to maintain and publish a list of all persons licensed to distribute an electronic cigarette product or a nicotine product in the state;
- requires an electronic cigarette product or a nicotine product retailer to purchase the products from a distributor that is licensed in the state;
- requires the State Tax Commission to impose a penalty upon a retailer that purchases an electronic cigarette product or nicotine product from a person other than a licensed distributor; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Public Safety - Programs & Operations - CITS State Bureau of Investigation as an ongoing appropriation:
  - from the General Fund, $750,000
- to Department of Public Safety - Programs & Operations - CITS State Bureau of Investigation as a one-time appropriation:
  - from the General Fund, One-time, $250,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327

ENACTS:
59-14-803.5, Utah Code Annotated 1953
59-14-810, Utah Code Annotated 1953

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

Section 1. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety , in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws;[~~and~~]

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually[.]; and

(e) investigate a report made in accordance with Section 59-14-810 to determine whether a product is sold in violation of law.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c)(i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7)(a) Except as provided in Subsection (7)(c), a local health department may not declare a public

health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c)(i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d)(i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8)(a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b)(i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d)(i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9)(a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b)(i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c)(i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10)(a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 2. Section 59-14-803.5 is enacted to read:

59-14-803.5. Publication of licensed distributors -- Retailer transaction only with licensed distributor -- Penalty.

(1)(a) The commission shall maintain a list that includes the identity of each person licensed under this part to distribute an electronic cigarette product or a nicotine product.

(b) The list shall be:

(i) published on the commission website; and

(ii) updated by the commission at least once per quarter.

(2) A retailer may obtain an electronic cigarette product or a nicotine product only from a licensed distributor identified on the list described in Subsection (1).

(3)(a) The commission may impose a penalty against a retailer that purchases an electronic cigarette product or a nicotine product from a person other than a licensed distributor.

(b) The penalty is in an amount equal to the tax that is due under Section 59-14-804 on the electronic cigarette product or the nicotine product.

Section 3. Section 59-14-810 is enacted to read:

59-14-810. Reports of illegal product.

If the commission suspects that an electronic cigarette product or a nicotine product is being sold in the state in violation of a law other than a law described in this part, the commission shall report the name of the seller, the type of product, and the county where the product was sold:

(1) to the local health department for the county where the sale occurs;

(2) the Department of Health and Human Services; and

(3) the Department of Public Safety.

Section 4. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 4(a) Operating and Capital Budgets

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

ITEM 1

To Department of Public Safety - Programs & Operations

From General Fund	$750,000
From General Fund, One- time	$250,000

Schedule of Programs:

CITS State Bureau of Investigation	$1,000,000

The Legislature intends that appropriations provided under this section be used by the Department of Public Safety to investigate suspected crimes involving an electronic cigarette product or a nicotine product.

Section 5. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 260
S. B. 134
Passed February 14, 2024
Approved March 14, 2024
Effective May 1, 2024

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions relating to child welfare.

Highlighted Provisions:

This bill:

- extends the sunset date for the Interdisciplinary Parental Representation Pilot Program from December 31, 2024, to December 31, 2026;
- extends certain deadlines related to contested adoptions;
- clarifies that the Division of Child and Family Services shall provide necessary information when filing a complaint for failure to report child abuse or neglect; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
78B-6-133, as last amended by Laws of Utah 2021, Chapter 262
80-2-608, as enacted by Laws of Utah 2022, Chapter 334
80-2-609, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and amended by Laws of Utah 2022, Chapter 334

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

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(3) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.

(4) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

(5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

(7) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, [~~2024~~]2026.

Section 2. Section 78B-6-133 is amended to read:

78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.

(1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that person's rights pursuant to the provisions of this chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(2)(a) If there are proper grounds to terminate the person's parental rights, the court shall order that the person's rights be terminated.

(b) If there are not proper grounds to terminate the person's parental rights, the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the child; and

(iii) award custody of the child in accordance with the child's best interest.

(c) Termination of a person's parental rights does not terminate the right of a relative of the parent to seek adoption of the child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the child.

(4) If the court dismisses the adoption petition, the fact that a person relinquished a child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the child's best interest for custody to be awarded to such person or that:

(a) the person is unfit or incompetent to be a parent;

(b) the person has neglected or abandoned the child;

(c) the person is not interested in having custody of the child; or

(d) the person has forfeited the person's parental presumption.

(5) Any custody order entered pursuant to this section may also:

(a) include provisions for:

(i) parent- time; or

(ii) visitation by an interested third party; and

(b) provide for the financial support of the child.

(6)(a) If a person or entity whose consent is required for an adoption under Subsection 78B- 6- 120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as set forth in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the child.

(7)(a) A person may not contest an adoption after the final decree of adoption is entered, if that person:

(i) was a party to the adoption proceeding;

(ii) was served with notice of the adoption proceeding; or

(iii) executed a consent to the adoption or relinquishment for adoption.

(b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.

(c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:

(i) regardless of whether the adoption is contested directly or collaterally; and

(ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.

(d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:

(i) a final decree of adoption; or

(ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).

(8) A court that has jurisdiction over a child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:

(a) to a petitioner:

(i) with whom the child is placed;

(ii) who has custody or guardianship of the child;

(iii) who has filed a written statement with the court within [~~120 days~~]eight months after the day on which the shelter hearing is held:

(A) requesting immediate placement of the child with the petitioner; and

(B) expressing the petitioner's intention of adopting the child;

(iv) who is a relative with whom the child has a significant and substantial relationship and who was unaware, within the first [~~120 days~~]eight months after the day on which the shelter hearing is held, of the child's removal from the child's parent; or

(v) who is a relative with whom the child has a significant and substantial relationship and, in a case where the child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the child:

(A) was actively involved in the child's child welfare case with the division or the juvenile court while the child's parent engaged in reunification services; and

(B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or

(b) if the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the child.

(9)(a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a child to be placed for adoption with a petitioner:

(i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah Adoption Act; and

(ii)(A) with whom the child has continuously resided for six months;

(B) who has filed a written statement with the court within [~~120 days~~]eight months after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

(C) who is a relative described in Subsection (8)(a)(iv).

(b) The court may consider other factors relevant to the best interest of the child to determine whether the presumption is rebutted.

(c) The court shall weigh the best interest of the child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).

(10) Nothing in this section shall be construed to prevent the division or the child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

(11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Section 3. Section 80-2-608 is amended to read:

80-2-608. Confidential identity of person who reports.

Except as provided in Sections 80-2-609, 80-2-611, and 80-2-1005, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

Section 4. Section 80-2-609 is amended to read:

80-2-609. Failure to report -- Threats and intimidation -- Penalty.

(1) If the division has substantial grounds to believe that a person knowingly failed to report under Section 80-2-602 or 80-2-603, the division shall file a complaint with:

(a) the Division of Professional Licensing if the person is a health care provider, as defined in Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the person is a law enforcement officer, as defined in Section 53-13-103; or

(c) the State Board of Education if the person is an educator, as defined in Section 53E-6-102.

(2) The division shall:

(a) provide the information deemed necessary for action on the complaint by the entities listed in Subsection (1); and

(b) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information the division shall provide under Subsection (1).

[~~(2)~~](3)(a) A person is guilty of a class B misdemeanor if the person willfully fails to report under Section 80-2-602 or 80-2-603.

(b) If a person is convicted under Subsection [~~(2)(a)~~](3)(a), the court may order the person, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse and neglect of children.

(c) In determining whether it would be appropriate to charge a person with a violation of Subsection [~~(2)(a)~~](3)(a), the prosecuting attorney shall take into account whether a reasonable person would not have reported suspected abuse or neglect of a child because reporting would have placed the person in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use a person's violation of Subsection [~~(2)(a)~~](3)(a) as the basis for charging the person with another offense.

(e) A prosecution for failure to report under Subsection [~~(2)(a)~~](3)(a) shall be commenced within two years after the day on which the person had knowledge of the suspected abuse or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed to report.

[~~(3)~~](4) Under circumstances not amounting to a violation of Section 76-8-508, a person is guilty of a class B misdemeanor if the person threatens, intimidates, or attempts to intimidate a child who is the subject of the report under Section 80-2-602 or 80-2-603, the person who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 261
S. B. 147
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

ADOPTION REVISIONS

Chief Sponsor: Chris H. Wilson
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses adoptions.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Office of Licensing within the Department of Health and Human Services (department) to issue a conditional human services program license for a license applicant whose license was previously revoked;
- requires the department to provide pregnancy support services, subject to available funding;
- amends language concerning appointment of an indigent defense service provider for termination of parental rights proceedings;
- allows a birth parent to elect to receive certain postpartum counseling at the expense of a child-placing agency or prospective adoptive parents;
- amends provisions relating to consent to adoption by an unmarried biological father;
- allows a prospective adoptive parent to use a foster care home study for purposes of adoption;
- modifies when a final decree of adoption may be entered;
- modifies provisions relating to the reporting of fees and expenses for an adoption; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Health and Human Services - Children, Youth, & Families - Family Health as an ongoing appropriation:
  - from the General Fund, $245,000

Other Special Clauses:

None

Utah Code Sections Affected:
AMENDS:
26B-2-105, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-301, as renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
78B-6-103, as last amended by Laws of Utah 2023, Chapter 330
78B-6-112, as last amended by Laws of Utah 2021, Chapter 262
78B-6-119, as last amended by Laws of Utah 2009, Chapter 159
78B-6-120, as last amended by Laws of Utah 2017, Chapter 156
78B-6-121, as last amended by Laws of Utah 2021, Chapter 262
78B-6-122, as last amended by Laws of Utah 2023, Chapter 289
78B-6-128, as last amended by Laws of Utah 2023, Chapter 330
78B-6-136.5, as last amended by Laws of Utah 2021, Chapter 65
78B-6-140, as last amended by Laws of Utah 2023, Chapters 289, 466
ENACTS:
26B-4-326, Utah Code Annotated 1953

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

Section 1. Section 26B-2-105 is amended to read:

26B-2-105. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation, association, or governmental unit acting severally or jointly with any other individual, agency, firm, corporation, association, or governmental unit may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this part and the rules under the authority of this part.

(2)(a) For purposes of this Subsection (2), "member" means a person or entity that is associated with another person or entity:

(i) as a member;

(ii) as a partner;

(iii) as a shareholder; or

(iv) as a person or entity involved in the ownership or management of a human services program owned or managed by the other person or entity.

(b) A license issued under this part may not be assigned or transferred.

(c) [~~An~~]The office shall treat an application for a license under this part[~~, shall be treated~~] as an application for reinstatement of a revoked license if:

(i)(A) the person or entity applying for the license had a license revoked under this part; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A)(I) had a license revoked under this part; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B)(I) was a member of an entity that had a license revoked under this part at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3)(a) Subject to Section 26B-2-110, and after the five-year waiting period described in Subsection 26B-2-110(1)(c), the office may conditionally approve an application for reinstatement as described in Subsection (2)(c), for a maximum of two years, if:

(i) the applicant's license was previously revoked due to repeated or chronic violations; or

(ii) after the applicant's license was previously revoked, the applicant associated with another human services program that provides a service that is substantially similar to the services for which the applicant was previously licensed.

(b) If the office issues a conditional license under Subsection (3)(a), the office shall prepare a conditional license plan describing the terms and conditions of the conditional license.

[~~(3)~~](4) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

[~~(4)~~](5)(a) Except as provided in Subsection [~~(4)(c)~~](5)(c), each license issued under this part expires at midnight on the last day of the same month the license was issued, one year following the date of issuance unless the license has been:

(i) previously revoked by the office;

(ii) voluntarily returned to the office by the licensee; or

(iii) extended by the office.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

(i) is not in compliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(ii) has engaged in a pattern of noncompliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(iii) has engaged in conduct that is grounds for denying a license under Section 26B-2-112; or

(iv) has engaged in conduct that poses a substantial risk of harm to any person.

(c) The office may issue a renewal license that expires at midnight on the last day of the same month the license was issued, two years following the date of issuance, if:

(i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and

(ii) the licensee has not violated this part or a rule made under this part.

[~~(5)~~](6) Any licensee that is in operation at the time rules are made in accordance with this part shall be given a reasonable time for compliance as determined by the rule.

[~~(6)~~](7)(a) A license for a human services program issued under this section shall apply to a specific human services program site.

(b) A human services program shall obtain a separate license for each site where the human services program is operated.

Section 2. Section 26B-4-301 is amended to read:

26B-4-301. Definitions.

As used in this part:

(1) "Committee" means the Primary Care Grant Committee described in Section 26B-1-410.

(2) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

(3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

(4) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the office.

(5) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

(6) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

(7) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

(8) "Office" means the Office of Emergency Medical Services and Preparedness within the department.

(9) "Pregnancy support services" means services that:

(a) encourage childbirth instead of voluntary termination of pregnancy; and

(b) assist pregnant women, or women who may become pregnant, to choose childbirth whether they intend to parent or select adoption for the child.

[~~(9)~~](10) "Primary care grant" means a grant awarded by the department under Subsection 26B-4-310(1).

[~~(10)~~](11)(a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

Section 3. Section 26B-4-326 is enacted to read:

26B-4-326. Pregnancy support services.

The department shall, as funding permits and either directly or through one or more third parties, provide pregnancy support services, which may include:

(1) medical care and information, including pregnancy tests, sexually transmitted infection tests, pregnancy-related health screenings, ultrasound services, prenatal care, or birth planning and classes;

(2) nutritional services and education;

(3) housing, education, and employment assistance during pregnancy and up to one year following a birth;

(4) adoption education, planning, and services;

(5) child care assistance, if necessary for the client to receive pregnancy support services;

(6) parenting education and support services for up to one year following a birth;

(7) material items that are supportive of pregnancy and childbirth, including cribs, car seats, clothing, formula, and other safety devices; or

(8) information regarding health care benefits, including Medicaid coverage for the client for pregnancy care that provides health coverage for the client's child upon birth.

Section 4. Section 78B-6-103 is amended to read:

78B-6-103. Definitions.

As used in this part:

(1) "Adoptee" means a person who:

(a) is the subject of an adoption proceeding; or

(b) has been legally adopted.

(2) "Adoption" means the judicial act that:

(a) creates the relationship of parent and child where it did not previously exist; and

(b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption proceeding" means any proceeding under this part.

(5) "Adoption service provider" means:

(a) a child-placing agency;

(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;

(ii) prospective adoptive parents; or

(iii) birth parents; or

(c) the Office of Licensing within the Department of Health and Human Services.

[~~(5)~~](6) "Adoptive parent" means an individual who has legally adopted an adoptee.

[~~(6)~~](7) "Adult" means an individual who is 18 years [~~of age~~]old or older.

[~~(7)~~](8) "Adult adoptee" means an adoptee who is 18 years [~~of age~~]old or older and was adopted as a minor.

[~~(8)~~](9) "Adult sibling" means an adoptee's brother or sister, who is 18 years [~~of age~~]old or older and whose birth mother or father is the same as that of the adoptee.

[~~(9)~~](10) "Birth mother" means the biological mother of a child.

[~~(10)~~](11) "Birth parent" means:

(a) a birth mother;

(b) a man whose paternity of a child is established;

(c) a man who:

(i) has been identified as the father of a child by the child's birth mother; and

(ii) has not denied paternity; or

(d) an unmarried biological father.

[~~(11)~~](12) "Child-placing agency" means an agency licensed to place children for adoption under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.

[~~(12)~~](13) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.

[~~(13)~~](14) "Division" means the Division of Child and Family Services, within the Department of Health and Human Services, created in Section 80-2-201.

[~~(14)~~](15) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

[~~(15)~~](16) "Genetic and social history" means a comprehensive report, when obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles, and grandparents:

(a) medical history;

(b) health status;

(c) cause of and age at death;

(d) height, weight, and eye and hair color;

(e) ethnic origins;

(f) where appropriate, levels of education and professional achievement; and

(g) religion, if any.

[~~(16)~~](17) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

[~~(17)~~](18) "Identifying information" means information that is in the possession of the office and that contains the name and address of a pre-existing parent or an adult adoptee, or other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or an adult adoptee, including information on a birth certificate or in an adoption document.

[~~(18)~~](19) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:

(a) certified social worker;

(b) clinical social worker;

(c) psychologist;

(d) marriage and family therapist;

(e) clinical mental health counselor; or

(f) an equivalent licensed professional of another state, district, or territory of the United States.

[~~(19)~~](20) "Man" means a male individual, regardless of age.

[~~(20)~~](21) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

[~~(21)~~](22) "Office" means the Office of Vital Records and Statistics within the Department of Health and Human Services operating under Title 26B, Chapter 8, Part 1, Vital Statistics.

[~~(22)~~](23) "Parent," for purposes of Subsection 78B-6-112(6) and Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

[~~(23)~~](24) "Potential birth father" means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and

(b) was not married to the biological mother of the child described in Subsection [~~(23)(a)~~](24)(a) at the time of the child's conception or birth.

[~~(24)~~](25) "Pre-existing parent" means:

(a) a birth parent; or

(b) an individual who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.

[~~(25)~~](26) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

[~~(26)~~](27) "Relative" means:

(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or first cousin of a child's parent; and

(b) in the case of a child defined as an "Indian child" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

[~~(27)~~](28) "Unmarried biological father" means a man who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection [~~(27)(a)~~](28)(a) at the time of the child's conception or birth.

Section 5. Section 78B-6-112 is amended to read:

78B-6-112. District court jurisdiction over termination of parental rights proceedings.

(1) A district court has jurisdiction to terminate parental rights in a child if the party that filed the petition is seeking to terminate parental rights in the child for the purpose of facilitating the adoption of the child.

(2) A petition to terminate parental rights under this section may be:

(a) joined with a proceeding on an adoption petition; or

(b) filed as a separate proceeding before or after a petition to adopt the child is filed.

(3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.

(4)(a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.

(b) This section does not grant jurisdiction to a district court to terminate parental rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.

(5) The district court may terminate an individual's parental rights in a child if:

(a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the child, in accordance with:

(i) the requirements of this chapter; or

(ii) the laws of another state or country, if the consent is valid and irrevocable;

(b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

(c) the individual:

(i) received notice of the adoption proceeding relating to the child under Section 78B-6-110; and

(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;

(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the child; or

(e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent [~~an individual~~]a parent who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 6. Section 78B-6-119 is amended to read:

78B-6-119. Counseling for parents.

(1) Subject to Subsection (2)(a), before relinquishing a child to a child-placing agency, or consenting to the adoption of a child, a parent of the child has the right to participate in, or elect to participate in, counseling:

(a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;

(b) for up to three sessions of at least 50 minutes per session completed prior to relinquishing a child or within three months following the relinquishment of a child; and

(c) subject to Subsection (2)(b), at the expense of the:

(i) child-placing agency; or

(ii) prospective adoptive parents.

(2)(a) Notwithstanding Subsection (1), a parent who has the right to participate in the counseling described in this section may waive that right.

(b) Notwithstanding Subsection (1)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the counseling described in Subsection (1) may not exceed $400, unless an agreement for a greater amount is signed by:

(i) the parent who receives the counseling; and

(ii) the child-placing agency or prospective adoptive parents.

(3) Before a parent relinquishes a child to a child-placing agency, or consents to the adoption of a child, the parent shall be informed of the right described in Subsection (1) by the:

(a) child-placing agency;

(b) prospective adoptive parents; or

(c) representative of a person described in Subsection (3)(a) or (b).

(4) If the parent who is entitled to the counseling as described in Subsection (1) elects to attend one or more counseling sessions following the relinquishment of a child:

(a) the parent of the child shall inform the child-placing agency or prospective adoptive parents of this election prior to relinquishing the child to a child-placing agency or consenting to the adoption of the child; and

(b) the parent of the child and the child-placing agency or attorney representing a prospective adoptive parent of the child shall enter into an

agreement to pay for the counseling in accordance with this section.

[~~(4)~~](5)(a) Subject to Subsections [~~(4)(b)~~](3)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:

(i) is signed by each parent who:

(A) relinquishes the parent's parental rights; or

(B) consents to the adoption; and

(ii) states that, before the parent took the action described in Subsection [~~(4)(a)(i)(A)~~](5)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling described in this section at the expense of the:

(A) child-placing agency; or

(B) prospective adoptive parents.

(b) The statement described in Subsection [~~(4)(a)~~](5)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or

(ii) consents to the adoption.

(c) Failure by a person to give the notice described in Subsection (3), or pay for the counseling described in this section:

(i) shall not constitute grounds for invalidating a:

(A) relinquishment of parental rights; or

(B) consent to adoption; and

(ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by the parent or guardian who took the action described in Subsection [~~(4)(c)(i)(A)~~](5)(c)(i)(A) or (B) against the person required to:

(A) give the notice described in Subsection (3); or

(B) pay for the counseling described in this section.

Section 7. Section 78B-6-120 is amended to read:

78B-6-120. Necessary consent to adoption or relinquishment for adoption.

(1) Except as provided in Subsection (2), consent to adoption of a child, or relinquishment of a child for adoption, is required from:

(a) the adoptee, if the adoptee is more than 12 years [~~of age~~]old, unless the adoptee does not have the mental capacity to consent;

(b) a man or woman who:

(i) by operation of law under Section 78B-15-204, is recognized as the father or mother of the proposed adoptee, unless:

(A) the presumption is rebutted under Section 78B-15-607; [~~or~~]

(B) at the time of the marriage, the man or woman knew or reasonably should have known that the marriage to the mother of the proposed adoptee was or could be declared invalid; or

[~~(B)~~](C) the man or woman was not married to the mother of the proposed adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed adoptee; or

(ii) is the father of the adoptee by a previous legal adoption;

(c) the mother of the adoptee;

(d) a biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;

(e) consistent with Subsection (3), a biological parent who has executed and filed a voluntary declaration of paternity with the state registrar of vital statistics within the Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, prior to the mother's execution of consent to adoption or her relinquishment of the child for adoption;

(f) an unmarried biological father, of an adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), only if he fully and strictly complies with the requirements of Sections 78B-6-121 and 78B-6-122; and

(g) the person or agency to whom an adoptee has been relinquished and that is placing the child for adoption.

(2)(a) The consent of a person described in Subsections (1)(b) through (g) is not required if the adoptee is 18 years [~~of age~~]old or older.

(b) The consent of a person described in Subsections (1)(b) through (f) is not required if the person's parental rights relating to the adoptee have been terminated.

(3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when it is entered into a database that:

(a) can be accessed by the Department of Health and Human Services; and

(b) is designated by the state registrar of vital statistics as the official database for voluntary declarations of paternity.

Section 8. Section 78B-6-121 is amended to read:

78B-6-121. Consent of unmarried biological father.

(1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to Subsections (5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth, consent of an unmarried biological father is not required unless the unmarried biological father:

(a)(i) developed a substantial relationship with the child by:

(A) visiting the child monthly, unless the unmarried biological father was physically or

financially unable to visit the child on a monthly basis; or

(B) engaging in regular communication with the child or with the person or authorized agency that has lawful custody of the child;

(ii) took some measure of responsibility for the child and the child's future; and

(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child of a fair and reasonable sum in accordance with the father's ability; or

(b)(i) openly lived with the child:

(A)(I) if the child is one year old or older, for a period of at least six months during the one-year period immediately preceding the day on which the child is placed with prospective adoptive parents; or

(II) if the child is less than one year old, for a period of at least six months during the period of time beginning on the day on which the child is born and ending on the day on which the child is placed with prospective adoptive parents; and

(B) immediately preceding placement of the child with prospective adoptive parents; and

(ii) openly held himself out to be the father of the child during the six-month period described in Subsection (1)(b)(i)(A).

(2)(a) If an unmarried biological father was prevented from complying with a requirement of Subsection (1) by the person or authorized agency having lawful custody of the child, the unmarried biological father is not required to comply with that requirement.

(b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been met, shall not preclude a determination that the father failed to meet the requirements of Subsection (1).

(3) Except as provided in Subsections (6) and 78B-6-122(1), and subject to Subsection (5), with regard to a child who is six months old or less at the time the child is placed with prospective adoptive parents, consent of an unmarried biological father is not required unless, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, the unmarried biological father:

(a) initiates proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act;

(b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

(i) stating that he is fully able and willing to have full custody of the child;

(ii) setting forth his plans for care of the child; and

(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(c) consistent with Subsection (4), files notice of the commencement of paternity proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the Department of Health and Human Services, in a confidential registry established by the department for that purpose; and

(d) offered to pay and paid, during the pregnancy and after the child's birth, a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his financial ability, unless:

(i) he did not have actual knowledge of the pregnancy;

(ii) he was prevented from paying the expenses by the person or authorized agency having lawful custody of the child; or

(iii) the mother refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection (3)(d).

(4)(a) The notice described in Subsection (3)(c) is considered filed when received by the state registrar of vital statistics.

(b) If the unmarried biological father fully complies with the requirements of Subsection (3), and an adoption of the child is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with his financial ability.

(5) Unless his ability to assert the right to consent has been lost for failure to comply with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the child's birth to fully and strictly comply with the requirements of Subsection (3).

(6) Consent of an unmarried biological father is not required under this section if:

(a) the court determines, in accordance with the requirements and procedures of Title 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;

(b)(i) a declaration of paternity declaring the unmarried biological father to be the father of the child is rescinded under Section 78B-15-306; and

(ii) the unmarried biological father fails to comply with Subsection (3) within 10 business days after the day that notice of the rescission described in Subsection (6)(b)(i) is mailed by the Office of Vital Records within the Department of Health and Human Services as provided in Section 78B-15-306; or

(c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to preserve his rights in accordance with the requirements of that section.

(7) Unless the adoptee is conceived or born within a marriage, the petitioner in an adoption

proceeding shall, prior to entrance of a final decree of adoption, file with the court a certificate from the state registrar of vital statistics within the Department of Health and Human Services, stating:

(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (3)(d); and

(b)(i) that no filing has been found pertaining to the father of the child in question; or

(ii) if a filing is found, the name of the putative father and the time and date of filing.

Section 9. Section 78B-6-122 is amended to read:

78B-6-122. Qualifying circumstance.

(1)(a) For purposes of this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:

(i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

(ii) the mother intended to give birth to the child in the state;

(iii) the child was born in the state; or

(iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption:

(A) in the state; or

(B) under the laws of the state.

(b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an unmarried biological father has demonstrated a full commitment to his parental responsibilities, a court shall consider the totality of the circumstances, including, if applicable:

(i) efforts he has taken to discover the location of the child or the child's mother;

(ii) whether he has expressed and demonstrated an interest in taking responsibility for the child;

(iii) whether, and to what extent, he has developed, or attempted to develop, a relationship with the child;

(iv) whether he offered to provide and, unless the offer was rejected, did provide, financial support for the child or the child's mother;

(v) whether, and to what extent, he has communicated, or attempted to communicate, with the child or the child's mother;

(vi) whether he has timely filed legal proceedings to establish his paternity of, and take responsibility for, the child;

(vii) whether he has timely filed a notice with a public official or agency relating to:

(A) his paternity of the child; or

(B) legal proceedings to establish his paternity of the child; or

(viii) other evidence that shows whether he has demonstrated a full commitment to his parental responsibilities.

(c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried biological father is required with respect to an adoptee who is under the age of 18 if:

(i)(A) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

(B) before the mother executed a consent to adoption or relinquishment of the child for adoption, the unmarried biological father fully complied with the requirements to establish parental rights and duties in the child, and to preserve the right to notice of a proceeding in connection with the adoption of the child, imposed by:

(I) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the mother resided in before the mother executed the consent to adoption or relinquishment of the child for adoption; or

(II) the state where the child was conceived; and

(C) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to his parental responsibilities, as described in Subsection (1)(b); or

(ii)(A) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; and

(B) the unmarried biological father complied with the requirements of Section 78B-6-121 before the later of:

(I) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

(II) the time that the mother executed a consent to adoption or relinquishment of the child for adoption.

(2) An unmarried biological father who does not fully and strictly comply with the requirements of Section 78B-6-121 and this section is considered to have waived and surrendered any right in relation to the child, including the right to:

(a) notice of any judicial proceeding in connection with the adoption of the child; and

(b) consent, or refuse to consent, to the adoption of the child.

Section 10. Section 78B-6-128 is amended to read:

78B-6-128. Preplacement adoptive evaluations -- Exceptions.

(1)(a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c)(i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d)(i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 26B-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, to the Office of [~~Licensing~~]Background Processing within the Department of Health and Human Services for a background check in accordance with Section 26B-2-120, or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Health and Human Services from the records of the Department of Health and Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Health and Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Health and Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Health and Human Services shall comply with Section 78B-6-131.

(6)(a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of Health and Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

(10) A home study completed for the purposes of foster care licensing in accordance with Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a proceeding under this part.

Section 11. Section 78B-6-136.5 is amended to read:

78B-6-136.5. Timing of entry of final decree of adoption -- Posthumous adoption.

(1) Except as provided in Subsection (2), a final decree of adoption may not be entered until the earlier of:

(a) when the child has lived in the home of the prospective adoptive parent for [~~six~~]three months; or

(b) when the child has been placed for adoption with the prospective adoptive parent for [~~six~~]three months.

(2)(a) If the prospective adoptive parent is the spouse of the preexisting parent, a final decree of adoption may not be entered until the child has lived in the home of that prospective adoptive parent for [~~one year~~]six months, unless, based on a finding of good cause, the court orders that the final decree of adoption may be entered at an earlier time.

(b) The court may, based on a finding of good cause, order that the final decree of adoption be entered at [~~an earlier~~]a later time than described in Subsection (1).

(3) The court has authority to enter a final decree of adoption after a child's death upon the request of the prospective adoptive parent or parents of the child if:

(a) the child dies during the time that the child is placed in the home of a prospective adoptive parent or parents for the purpose of adoption; or

(b) the prospective adoptive parent is the spouse of a preexisting parent of the child and the child lived with the prospective adoptive parent before the child's death.

(4) The court may enter a final decree of adoption declaring that a child is adopted by:

(a) both a deceased and a surviving adoptive parent if after the child is placed in the home of the child's prospective adoptive parents:

(i) one of the prospective adoptive parents dies;

(ii) the surviving prospective adoptive parent requests that the court enter the decree; and

(iii) the decree is entered after the child has lived in the home of the surviving prospective adoptive parent for at least [~~six~~]three months; or

(b) a spouse of a preexisting parent if after the child has lived with the spouse of the preexisting parent:

(i) the preexisting parent, or the spouse of the preexisting parent, dies;

(ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and

(iii) the child has lived in the same home as the spouse of the preexisting parent for at least [~~one year~~]six months.

(5) Upon request of a surviving preexisting parent, or a surviving parent for whom adoption of a child has been finalized, the court may enter a final decree of adoption declaring that a child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.

(6) The court may enter a final decree of adoption declaring that a child is adopted by both deceased prospective adoptive parents if:

(a) both of the prospective adoptive parents die after the child is placed in the prospective adoptive parents' home; and

(b) it is in the best interests of the child to enter the decree.

(7) Nothing in this section shall be construed to grant any rights to the preexisting parents of a child to assert any interest in the child during the [~~six~~]three-month or [~~one-year~~]six-month periods described in this section.

Section 12. Section 78B-6-140 is amended to read:

78B-6-140. Itemization of fees and expenses -- Reporting.

(1)(a) Except as provided in Subsection (5), before the date that a final decree of adoption is entered, a prospective adoptive parent or, if the child was placed by a child-placing agency, the person or agency placing the child shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child was placed by a child-placing agency, the person or agency placing the child.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2)(a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall require itemization of the following items in connection with the adoption:

(i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

(vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

(vii) all public funds used for any medical or hospital costs in connection with the:

(A) pregnancy;

(B) delivery of the child; or

(C) care of the child; and

(viii) if a child-placing agency placed the child:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption;

(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit that is submitted

in a form accepted by the Office of Licensing within the Department of Health and Human Services if the affidavit contains the same information and is in a reasonably equivalent format as the uniform affidavit form prescribed by the Judicial Council.

(3)(a) If a child-placing agency, that is licensed by this state, placed the child, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year; [~~and~~]

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 26B-2-127(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

(5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

Section 13. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 13(a) Operating and Capital Budgets

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

ITEM 1

To Department of Health and Human Services - Children, Youth, & Families

From General Fund	$245,000
Schedule of Programs:	
Family Health	$245,000

The Legislature intends that the Department of Health and Human Services use the appropriation under this item to provide pregnancy support services in accordance with Section 26B-4-326.

Section 14. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 262
S. B. 166
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH BENEFIT AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions related to health benefit plans and prescription drugs.

Highlighted Provisions:

This bill:

- defines terms; and
- requires health benefit plans to create certain procedures related to prescription drugs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
31A-22-660, Utah Code Annotated 1953

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

Section 1. Section 31A-22-660 is enacted to read:

31A-22-660. Health benefit plan procedures related to prescription drugs.

(1) As used in this section, "long-term drug" means an enrollee's prescription drug where the prescription has been active for at least 180 days with the health benefit plan.

(2)(a) Except as provided in Subsection (2)(b), before a health benefit plan requires an enrollee to change from a prescribed long-term drug to another drug, the health benefit plan shall:

(i) at least 30 days before the day on which the health benefit plan will require the enrollee to change from the long-term drug to another drug, provide notice that the health benefit plan will require the individual to change to another drug; and

(ii) provide a justification for the change upon request.

(b) Subsection (2)(a) does not apply if:

(i) the change requires the individual to try a generic or a biosimilar of the long-term drug; or

(ii) the long-term drug is not on the health benefit plan's formulary.

(3) A health benefit plan shall provide an enrollee a justification as to why an enrollee must try a certain drug before a health benefit plan will cover a different prescribed drug.

(4) This section does not apply to a drug that is provided under the health benefit plan's medical benefit.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 263
S. B. 182
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX ASSESSMENT AMENDMENTS

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

LONG TITLE

General Description:

This bill modifies provisions related to property tax assessment.

Highlighted Provisions:

This bill:

- provides additional remedies for a property owner who experiences an increase in valuation over a certain threshold solely due to valuation when there are no significant changes to the property;
- requires reporting to the State Tax Commission and the Revenue and Taxation Interim Committee when a county values property over the threshold;
- modifies the burdens of proof for parties to an appeal at the county board of equalization and State Tax Commission;
- directs county assessors in rural areas to seek assistance in the assessment process;
- requires a county assessor to classify types of real property for purposes of property tax assessments and provides that the classification is public information;
- provides that the State Tax Commission will conduct an education and training program for county assessors;
- provides for a penalty for a county assessor who fails to comply with the education and training requirement;
- modifies provisions related to the Multicounty Appraisal Trust;
- provides the requirements for adopting the statewide property tax system;
- establishes when a tax is delinquent after receiving a deferral for property with an increase in valuation over a certain threshold;
- provides for posting of payment when a partial payment is made on property subject to deferral; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-303, as last amended by Laws of Utah 2019, Chapter 16
59-2-303.1, as last amended by Laws of Utah 2016, Chapter 135
59-2-703, as last amended by Laws of Utah 2008, Chapter 382
59-2-1004, as last amended by Laws of Utah 2022, Chapter 168
59-2-1008, as repealed and reenacted by Laws of Utah 1988, Chapter 3
59-2-1330, as last amended by Laws of Utah 2015, Chapter 201
59-2-1331, as last amended by Laws of Utah 2018, Chapter 197
59-2-1343, as last amended by Laws of Utah 2018, Chapter 197
59-2-1601, as last amended by Laws of Utah 2022, Chapter 451
59-2-1606, as last amended by Laws of Utah 2020, Chapter 447
59-2-1801, as last amended by Laws of Utah 2023, Chapter 354

ENACTS:

59-2-109.1, Utah Code Annotated 1953
59-2-303.3, Utah Code Annotated 1953
59-2-702.5, Utah Code Annotated 1953
59-2-1004.1, Utah Code Annotated 1953
59-2-1802.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

59-2-109, as last amended by Laws of Utah 2023, Chapter 471

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

Section 1. Section 59-2-109 is repealed and re-enacted to read:

59-2-109. Burden of proof.

(1) For an appeal to the commission involving the valuation or equalization of real property assessed under Part 2, Assessment of Property, the party carrying the burden of proof shall demonstrate:

(a) substantial error in the original assessed value; and

(b) a sound evidentiary basis to support the value the party requests.

(2)(a) For an appeal to the county board of equalization or the commission involving the valuation or equalization of real property assessed under Part 3, County Assessment, the party carrying the burden of proof shall demonstrate:

(i) except as provided in Subsection (2)(b), substantial error in:

(A) the original assessed value in an appeal to the county board of equalization; or

(B) the value set by the county board of equalization in an appeal to the commission; and

(ii) a sound evidentiary basis to support the value the party requests.

(b) The party carrying the burden of proof does not have to show substantial error as required by Subsection (2)(a)(i) if the party is requesting:

(i) the original assessed value in an appeal to the county board of equalization; or

(ii) the value set by the county board of equalization in an appeal to the commission.

(3) For property assessed under Part 2, Assessment of Property, the commission has the burden of proof, if the commission is a party to the appeal that asserts that the fair market value of the assessed property is greater than the original assessed value for that calendar year.

(4) For property assessed under Part 3, County Assessment, the following shall carry the burden of proof before a county board of equalization or the commission:

(a) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to support the value the county assessor or the county board of equalization requests; and

(b) the taxpayer that is a party to the appeal has the burden of proof to support the value the taxpayer requests.

(5) A preponderance of the evidence suffices to sustain the burden for all parties.

Section 2. Section 59-2-109.1 is enacted to read:

59-2-109.1. Burden of proof for an appeal involving property eligible for deferral for 2023.

(1) This section applies to an appeal to the county board of equalization or the commission involving the valuation or equalization of real property that is eligible for a deferral under Section 59-2-1802.1 for the calendar year that begins on January 1, 2023.

(2)(a) The party carrying the burden of proof shall demonstrate:

(i) except as provided in Subsection (2)(b), substantial error in:

(A) the adjusted value set by the county assessor in accordance with Section 59-2-303.3 in an appeal to the county board of equalization; or

(B) the value set by the county board of equalization in an appeal to the commission; and

(ii) a sound evidentiary basis to support the value the party requests.

(b) The party carrying the burden of proof does not have to show substantial error as required by Subsection (2)(a)(i) if the party is requesting:

(i) the adjusted value in an appeal to the board of equalization; or

(ii) the value set by the county board of equalization in an appeal to the commission.

(3) The following shall carry the burden of proof:

(a) the county assessor or the county board of equalization that is a party to the appeal has the burden of proof to support the value the county assessor or the county board of equalization requests; and

(b) the taxpayer that is a party to the appeal has the burden of proof to support the value the taxpayer requests.

Section 3. Section 59-2-303 is amended to read:

59-2-303. General duties of county assessor.

(1)(a) Before May 22 each year, the county assessor shall:

(i) ascertain the names of the owners of all property that is subject to taxation by the county;

(ii) except as provided in Subsection (2), assess the property to the owner, claimant of record, or occupant in possession or control at midnight on January 1 of the taxable year; and

(iii) conduct the review process described in Section 59-2-303.2.

(b) No mistake in the name or address of the owner or supposed owner of property renders the assessment invalid.

(2) If a conveyance of ownership of the real property was recorded in the office of a county recorder after January 1 but more than 14 calendar days before the day on which the county treasurer mails the tax notice, the county assessor shall assess the property to the new owner.

(3) A county assessor shall become fully acquainted with all property in the county assessor's county, as provided in Section 59-2-301.

(4) A county assessor in a county of the third, fourth, fifth, or sixth class shall seek assistance from other county assessors or an appraiser contracted in accordance with Section 59-2-703 for the county assessor to meet the requirements of Section 59-2-303.1.

Section 4. Section 59-2-303.1 is amended to read:

59-2-303.1. Mandatory cyclical appraisals.

(1) For purposes of this section:

(a) "Corrective action" includes:

(i) factoring pursuant to Section 59-2-704;

(ii) notifying the state auditor that the county failed to comply with the requirements of this section; or

(iii) filing a petition for a court order requiring a county to take action.

(b) "Mass appraisal system" means a computer assisted mass appraisal system that:

(i) a county assessor uses to value real property; and

(ii) includes at least the following system features:

(A) has the ability to update all parcels of real property located within the county each year;

(B) can be programmed with specialized criteria;

(C) provides uniform and equal treatment of parcels within the same class of real property throughout the county; and

(D) annually updates all parcels of residential real property within the county using accepted valuation methodologies as determined by rule.

(c) "Property review date" means the date a county assessor completes a detailed review of the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

(2)(a) The county assessor shall annually update property values of property as provided in Section 59-2-301 based on a systematic review of current market data.

(b) The county assessor shall conduct the annual update described in Subsection (2)(a) by using a mass appraisal system[~~ on or before the following:~~].

[~~(i) for a county of the first class, January 1, 2009;~~]

[~~(ii) for a county of the second class, January 1, 2011;~~]

[~~(iii) for a county of the third class, January 1, 2014; and~~]

[~~(iv) for a county of the fourth, fifth, or sixth class, January 1, 2015.~~]

(c) The county assessor and the commission shall jointly certify that the county's mass appraisal system meets the requirements:

(i) described in Subsection (1)(b); and

(ii) of the commission.

(3)(a) In addition to the requirements in Subsection (2), the county assessor shall complete a detailed review of property characteristics for each property at least once every five years.

(b) The county assessor shall maintain on the county's [~~computer~~]mass appraisal system, a record of the last property review date for each parcel of real property located within the county assessor's county.

(c)(i) The county assessor shall maintain on the county's mass appraisal system a parcel's property tax class or category that is used for the purpose of property tax assessment on the annual assessment date.

(ii) The classifications or categories of real property under Subsection (3)(c)(i) shall include, at minimum:

(A) primary residential;

(B) commercial;

(C) vacant land;

(D) secondary residential; and

(E) non-taxable.

(iii) The classifications or categories of real property used by the county assessor, and the classification or category applied to a specific parcel, is public information.

(4)(a) The commission shall take corrective action if the commission determines that:

(i) a county assessor has not satisfactorily followed the current mass appraisal standards, as provided by law;

(ii) the sales-assessment ratio, coefficients of dispersion, or other statistical measures of appraisal performance related to the studies required by Section 59-2-704 are not within the standards provided by law; or

(iii) the county assessor has failed to comply with the requirements of this section.

(b) If a county assessor fails to comply with the requirements of this section for one year, the commission shall assist the county assessor in fulfilling the requirements of Subsections (2) and (3).

(c) If a county assessor fails to comply with the requirements of this section for two consecutive years, the county will lose the county's allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy authorized in Sections 59-2-1602 and 59-2-1603.

(d) If a county loses its allocation of the revenue generated statewide from the imposition of the multicounty assessing and collecting levy described in Subsection (4)(c), the revenue the county would have received shall be distributed to the Multicounty Appraisal Trust created by interlocal agreement by all counties in the state.

(5)(a) On or before July 1, 2008, the county assessor shall prepare a five-year plan to comply with the requirements of Subsections (2) and (3).

(b) The plan shall be available in the county assessor's office for review by the public upon request.

(c) The plan shall be annually reviewed and revised as necessary.

(6)(a) A county assessor shall create, maintain, and regularly update a database containing the following information that the county assessor may use to enhance the county's ability to accurately appraise and assess property on an annual basis:

[~~(a)~~](i) fee and other appraisals;

[~~(b)~~](ii) property characteristics and features;

[~~(c)~~](iii) property surveys;

[~~(d)~~](iv) sales data; and

[~~(e)~~](v) any other data or information on sales, studies, transfers, changes to property, or property characteristics.

(b) A county assessor may provide access to the information in the database to another county assessor that requests assistance in accordance with Section 59-2-303.

Section 5. Section 59-2-303.3 is enacted to read:

59-2-303.3. Automatic review for property with 150% or more valuation increase.

(1) As used in this section, "qualifying increase" means a valuation increase that is equal to or more than 150% higher than the previous year's valuation for property that:

(a) is county assessed; and

(b) on or after January 1 of the previous year and before January 1 of the current year, has not had:

(i) a physical improvement if the fair market value of the physical improvement increases enough to result in the valuation increase solely as a result of the physical improvement;

(ii) a zoning change if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the change in the legal description of the real property.

(2)(a) For the calendar year beginning on January 1, 2023, the county assessor shall review the assessment of the property with a qualifying increase on or before May 31, 2024.

(b) For a calendar year beginning on or after January 1, 2024, the county assessor shall review the assessment of a property with a qualifying increase before delivery of the assessment book to the county auditor in accordance with Section 59-2-311.

(c) The county assessor shall retain a record of the properties for which the county assessor conducts a review in accordance with this Subsection (2) and the results of that review.

(3)(a) When the county assessor conducts the review described in Subsection (2):

(i) if the county assessor determines that the assessed value of the property reflects the property's fair market value, the county assessor may not adjust the property's assessed value; or

(ii) if the county assessor determines that the assessed value of the property does not reflect the review property's fair market value, the county assessor shall adjust the assessed value of the review property to reflect the fair market value.

(b) If a county assessor makes an adjustment under Subsection (3)(a) for the calendar year beginning on January 1, 2023, the county legislative body shall authorize a refund of the property tax that is overpaid as a result of the adjustment.

(c) If a county assessor makes an adjustment under Subsection (3)(a) for the calendar year beginning on January 1, 2024, the county assessor shall list the adjusted value set in accordance with this section as the original assessed value on the valuation notice sent in accordance with Section 59-2-919.1.

(4)(a) Upon completing the review described in Subsection (2), the county assessor shall report to the commission:

(i) the number of properties that:

(A) required a review in accordance with Subsection (2); and

(B) the county reduced the value as a result of the review; and

(ii) the parcel number of any property:

(A) that required a review in accordance with Subsection (2);

(B) that has an increase in value of $50,000 or more; and

(C) for which the county assessor did not reduce the value.

(b)(i) A county that has any property subject to a review in accordance with this section for two consecutive years shall report to the Revenue and Taxation Interim Committee:

(A) at the same meeting or a meeting after the meeting during which the commission makes the report described in Section 59-2-1008;

(B) in the same year as the commission report; and

(C) on the number of properties with a qualifying increase and the reasons for the qualifying increases.

(ii) The requirement to report applies if the county has a property that is subject to review under this section in each of two consecutive years regardless of whether the property that is subject to review is the same property for each year.

(iii) The requirement to report does not apply if the qualifying increase is less than $50,000.

(5) The review process described in this section does not supersede or otherwise affect a taxpayer's right to appeal or to seek judicial review of the valuation or equalization of a review property in accordance with:

(a) Part 10, Equalization;

(b) Chapter 1, Part 6, Judicial Review; or

(c) Title 63G, Chapter 4, Part 4, Judicial Review.

Section 6. Section 59-2-702.5 is enacted to read:

59-2-702.5. Education and training for county assessors.

(1)(a) The commission shall conduct a program of education and training for county assessors that offers instruction on:

(i) a county assessor's statutory obligations; and

(ii) the practical application of mass appraisal techniques to satisfy a county assessor's statutory obligations.

(b) The commission shall confer a designation of completion upon a county assessor each time that

the county assessor completes the program under Subsection (1)(a).

(2)(a) A county assessor shall obtain a designation of completion under Subsection (1)(b) within 12 months after the day on which the county assessor starts a term of office.

(b) If a county assessor fails to obtain a designation of completion, the commission shall take corrective action, as defined in Section 59-2-303.1.

Section 7. Section 59-2-703 is amended to read:

59-2-703. Commission to assist county assessors -- Appraisers provided upon request -- Costs of services -- Contingency fee arrangements prohibited.

(1)(a) The commission shall, upon request and pursuant to mutual agreement, provide county assessors with technical assistance and appraisal aid.

(b) [~~It~~]The commission shall provide certified or licensed appraisers who, upon request of the county assessor and pursuant to mutual agreement, shall perform appraisals of property and other technical services as needed by the county assessor.

(c) The commission shall calculate the costs of these services [~~shall be computed by the commission upon the basis of~~]based on the number of days of services rendered.

(d) Each county shall pay to the commission 50% of the cost of the services [~~which they receive~~]that the county receives.

(2)(a) Both the commission and counties may contract with a private firm or an individual to conduct appraisals.

(b) A county assessor may request the private firm or individual conducting appraisals to assist the county assessor in meeting the requirements of Section 59-2-303.1.

[~~(b)~~](c)(i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the commission and counties may disclose the name of the taxpayer and the taxpayer's address to the contract appraiser.

(ii) A private appraiser is subject to the confidentiality requirements and penalty provisions provided in Title 63G, Chapter 2, Part 8, Remedies.

[~~(c)~~](d)(i) Neither the commission nor a county may contract with a private firm or an individual under a contingency fee arrangement to assess property or prosecute or defend an appeal.

(ii) An appraisal that has been prepared on a contingency fee basis may not be allowed in any proceeding before a county board of equalization or the commission.

Section 8. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by changing the final assessed value for the previous taxable year for the real property by the median property value change.

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property on or after January 1 of the previous year and before January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59-2-1006;

(B) the appeal described in Subsection (1)(e)(i)(A), resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

(f) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2)(a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection (9) authorizing a taxpayer to make an application by telephone or other electronic means.

(b)(i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c)(i)(A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(ii)(A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(3)(a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4)(a) [~~Except as provided in Subsection (4)(b), the~~]The taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b)[~~(i)~~] For an appeal involving qualified real property[~~:~~]

[~~(A)~~] the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value[~~; and~~].

[~~(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).~~]

[~~(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).~~]

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6)(a) Except as provided in Subsection (6)(c), at least five days before the day on which the county board of equalization holds a public hearing on an appeal:

(i) the county assessor shall provide the taxpayer any evidence the county assessor relies upon in support of the county assessor's valuation; and

(ii) the taxpayer shall provide the county assessor any evidence not previously provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

(b)(i) The deadline described in Subsection (6)(a) does not apply to evidence that is commercial information as defined in Section 59-1-404, if:

(A) for the purpose of complying with Section 59-1-404, the county assessor requires that the taxpayer execute a nondisclosure agreement before the county assessor discloses the evidence; and

(B) the taxpayer fails to execute the nondisclosure agreement before the deadline described in Subsection (6)(a).

(ii) The county assessor shall disclose evidence described in Subsection (6)(b)(i) as soon as practicable after the county assessor receives the executed nondisclosure agreement.

(iii) The county assessor shall provide the taxpayer a copy of the nondisclosure agreement with reasonable time for the taxpayer to review and execute the agreement before the deadline described in Subsection (6)(a) expires.

(c) If at the public hearing, a party presents evidence not previously provided to the other party, the county board of equalization shall allow the other party to respond to the evidence in writing within 10 days after the day on which the public hearing occurs.

(d)(i) A county board of equalization may adopt rules governing the deadlines described in this Subsection (6), if the rules are no less stringent than the provisions of this Subsection (6).

(ii) A county board of equalization's rule that complies with Subsection (6)(d)(i) controls over the provisions of this subsection.

(7)(a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b)(i) For purposes of this Subsection (7)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection (7)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection (7)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection (7)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection (7)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection (7)(c); and

(ii) hear the appeal at the meeting described in Subsection (7)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h)(i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection (7)(h)(i) shall be the

assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

(8) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(9) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 9. Section 59-2-1004.1 is enacted to read:

59-2-1004.1. Appeals of valuation or equalization of property eligible for deferral for 2023.

(1)(a) Subject to Subsections (2) through (4) and for the calendar year that begins on January 1, 2023, a taxpayer may file an appeal to the commission of the valuation or equalization of real property that is eligible for a deferral under Section 59-2-1802.1 for the calendar year that begins on January 1, 2023, if:

(i) the taxpayer filed an appeal of the valuation or equalization of the property with the county board of equalization for the calendar year that begins on January 1, 2023;

(ii) the county board of equalization has issued a decision in accordance with Section 59-2-1004;

(iii) the parties have not entered a stipulation regarding the value of the property; and

(iv) the county board of equalization does not make an adjustment in accordance with Subsection 59-2-303.3.

(b) A taxpayer shall file an appeal to the commission on or before June 30, 2025.

(c) This Subsection (1) does not allow more than one formal adjudicative proceeding by the commission for the calendar year beginning on January 1, 2023.

(2)(a) For the calendar year that begins on January 1, 2023, a taxpayer may file an appeal of the valuation or equalization of real property for which a county assessor makes an adjustment under Subsection 59-2-303.3(3) for the calendar year that begins on January 1, 2023, in accordance with this Subsection (2).

(b) A taxpayer shall make an appeal under this Subsection (2):

(i) to the county board of equalization; and

(ii) on or before June 30, 2025.

(c) If a taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

(d) A taxpayer may file an appeal of the valuation or equalization of property under this Subsection (2) regardless of whether:

(i) the taxpayer previously filed an appeal of the valuation or equalization of the property for the calendar year that begins on January 1, 2023;

(ii) the county board of equalization has issued a decision on the appeal in accordance with Section 59-2-1004;

(iii) the commission has issued a decision on the appeal in accordance with Section 59-2-1006;

(iv) the parties have entered a stipulation regarding the value of the property; or

(v) any appeal of the valuation or equalization of the property for the calendar year that begins on January 1, 2023, has been closed.

(3) Except as specifically provided in this section:

(a) an appeal to the county board of equalization shall be filed in accordance with Section 59-2-1004; and

(b) an appeal to the commission shall be filed in accordance with Section 59-2-1006.

(4) For each property eligible to receive a deferral under Section 59-2-1802.1, this section may not be interpreted to require a taxpayer to refile:

(a) an application to appeal in accordance with Section 59-2-1004 if an appeal before the county board of equalization is pending for the calendar year that begins on January 1, 2023; or

(b) a notice of appeal in accordance with Section 59-2-1006 if an appeal before the commission is pending for the calendar year that begins on January 1, 2023.

Section 10. Section 59-2-1008 is amended to read:

59-2-1008. Investigations by commission -- Assessment of escaped property -- Increase or decrease of assessed valuation.

(1) As used in this section, "review information" means, as reported by a county assessor:

(a) the number of properties that:

(i) required a review in accordance with Section 59-2-303.3; and

(ii) the county reduced the value as a result of the review; and

(b) the parcel number of any property:

(i) that required a review in accordance with Section 59-2-303.3;

(ii) that has an increase in value of $50,000 or more; and

(iii) for which the county assessor did not reduce the value.

(2)(a) Each year the commission shall conduct an investigation throughout each county of the state to determine whether all property subject to taxation

is on the assessment rolls[~~,~~] and whether the property is being assessed at fair market value.

(b) When, after any investigation, [~~it is found~~]the commission finds that any property [~~which~~]that is subject to taxation is not assessed, [~~then~~]the commission shall direct the county assessor, the county board of equalization, or the county auditor, as [~~it~~]the commission may determine, to enter the assessment of the escaped property.

[~~(2)~~](3) If [~~it is found~~]the commission finds that any property in any county is not being assessed at [~~its~~]the property's fair market value, the commission shall, for the purpose of equalizing the value of property in the state, increase or decrease the valuation of the property in order to enforce the assessment of all property subject to taxation upon the basis of its fair market value, and shall direct the county assessor, the county board of equalization, or the county auditor, as [~~it~~]the commission may determine, to correct the value of the property in a manner prescribed by the commission.

[~~(3)~~](4) The county assessors, county boards of equalization, and county auditors shall make all increases or decreases as may be required by the commission to make the assessment of all property within the county conform to [~~its~~]the property's fair market value.

(5) Each year, after receiving the review information from a county assessor and on or before June 8, the commission shall:

(a) review the assessment of a property described in Subsection (1)(b); and

(b) if warranted, take action as described in Subsection 59-1-210(23).

(6) For review information relating to the calendar year that begins January 1, 2023, the commission shall on or before June 15, 2024:

(a) review the assessment of a property described in Subsection (1)(b); and

(b) if warranted, take reasonable action to correct an error in assessment and report any action to the county auditor.

(7) The commission shall report the review information and the number of properties for which an adjustment is made in accordance with Subsection (5) to the Revenue and Taxation Interim Committee annually on or before the September interim meeting.

(8) The commission shall include in the report the name of each county that reported review information for the current calendar year and the previous calendar year.

Section 11. Section 59-2-1330 is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to[~~ the county assessor or~~] the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2)(a) The county treasurer shall apply a payment that is insufficient to cover both a tax or tax notice charge that is deferred in accordance with Part 18, Tax Deferral and Tax Abatement, and a current year property tax or tax notice charge to the current tax year property tax or tax notice charge first.

(b) The county treasurer shall send notice to the property owner:

(i) that the payment was insufficient;

(ii) that the county applied the payment to the tax or tax notice charges for the current tax year; and

(iii) of the amount of tax and tax notice charge that is outstanding.

[~~(2)~~](3) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection [~~(3)~~](4) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

[~~(3)~~](4)(a) For purposes of Subsection [~~(2)~~](3), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection [~~(2)~~](3) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from[~~:~~] a county board of equalization, the commission, or a court of competent jurisdiction;

[~~(I) a county board of equalization;~~]

[~~(II) the commission; or~~]

[~~(III) a court of competent jurisdiction;~~]

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections [~~(4)~~](5) through [~~(7)~~](8).

[~~(4)~~](5) For purposes of Subsections[~~, (2) and~~] (3) and (4), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection [~~(4)(a)~~](5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection [~~(2)~~](3); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection [~~(3)~~](4);

(b) if the difference described in this Subsection [~~(4)(b)~~](5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection [~~(3)~~](4);

(c) as provided in Subsection [~~(6)(a)~~](7)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections [~~(4)(a) and (4)(b)~~](5)(a) and (5)(b); and

(d) as provided in Subsection [~~(6)(b)~~](7)(b), interest on the sum of the amounts described in[~~:~~] Subsections (5)(a), (5)(b), and (5)(c).

[~~(i) Subsection (4)(a);~~]

[~~(ii) Subsection (4)(b); and~~]

[~~(iii) Subsection (4)(c).~~]

[~~(5)~~](6) For purposes of Subsections[~~, (2) and~~] (3) and (4), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection [~~(5)(a)~~](6)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection [~~(2)~~](3); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection [~~(3)~~](4);

(b) if the difference described in this Subsection [~~(5)(b)~~](6)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection [~~(3)~~](4);

(c) as provided in Subsection [~~(6)(a)~~](7)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections [~~(5)(a) and (5)(b)~~](6)(a) and (6)(b); and

(d) as provided in Subsection [~~(6)(b)~~](7)(b), interest on the sum of the amounts described in[~~:~~] Subsections (6)(a), (6)(b), and (6)(c).

[~~(i) Subsection (5)(a);~~]

[~~(ii) Subsection (5)(b); and~~]

[~~(iii) Subsection (5)(c).~~]

[~~(6)~~](7) Except as provided in Subsection [~~(7)~~](8):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection [~~(4)(c) or (5)(c)~~](5)(c) or (6)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection[~~(4)(d) or~~] (5)(d) or (6)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection [~~(2)~~](3); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection[~~(4) or~~] (5) or (6); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the state treasurer in accordance with Section 51-7-5.

[~~(7) Notwithstanding Subsection (6):~~]

[~~(a)~~](8)(a) [~~the~~]The state may not pay or refund interest to a taxpayer under Subsection [~~(6)~~](7) on any tax the taxpayer paid in accordance with Subsection [~~(2)~~](3) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317[~~; and~~].

(b) [~~a~~]A taxing entity may not pay or refund interest to a taxpayer under Subsection [~~(6)~~](7) on any tax the taxpayer paid in accordance with Subsection [~~(2)~~](3) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

[~~(8)~~](9)(a) Each taxing entity may levy a tax to pay [~~its~~]the taxing entity's share of the final and

unappealable judgment or order described in Subsection [~~(3)~~](4) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the certified tax rate is set under Section 59-2-924;

(ii) the amount of the judgment levy is included on the notice under Section 59-2-919.1; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection [~~(8)(a)~~](9)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

[~~(9)~~](10)(a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the property tax due date established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection [~~(9)(a)~~](10)(a) is not required to pay penalties or interest on an assessment described in Subsection [~~(9)(a)~~](10)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection [~~(9)(a)~~](10)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection [~~(9)(b)(i)~~](10)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

[~~(10)~~](11)(a) Except as provided in Subsection [~~(10)(b)~~](11)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 60 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection [~~(3)~~](4); or

(ii) if a judgment levy is imposed in accordance with Subsection [~~(8)~~](9):

(A) if the payment to the taxpayer required by this section is $5,000 or more, no later than December 31 of the year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than $5,000, within 60 days after the date the final and unappealable judgment or order is issued in accordance with Subsection [~~(3)~~](4).

(b) [~~Notwithstanding Subsection (10)(a), a~~]A taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection [~~(10)(a)~~](11)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 12. Section 59-2-1331 is amended to read:

59-2-1331. Property tax due date -- Date tax is delinquent -- Penalty -- Interest -- Payments -- Refund of prepayment.

(1)(a) Except as provided in Subsection (1)(b) and subject to Subsections (1)(c) and (d), all property taxes, unless otherwise specifically provided for under Section 59-2-1332, or other law, and any tax notice charges, are due on November 30 of each year following the date of levy.

(b) If November 30 falls on a Saturday, Sunday, or holiday:

(i) the date of the next following day that is not a Saturday, Sunday, or holiday shall be substituted in Subsection (1)(a) and Subsection 59-2-1332(1) for November 30; and

(ii) the date of the day occurring 30 days after the date under Subsection (1)(b)(i) shall be substituted in Subsection 59-2-1332(1) for December 30.

(c) If a property tax is paid or postmarked after the due date described in this Subsection (1) the property tax is delinquent.

(d) A county treasurer or other public official, public entity, or public employee may not require the payment of a property tax before the due date described in this Subsection (1).

(2)(a) Except as provided in Subsections (2)(e)[~~and~~], (f), and (g)(i), for each parcel, all delinquent taxes and tax notice charges on each separately assessed parcel are subject to a penalty of 2.5% of the amount of the delinquent taxes and tax notice charges or $10, whichever is greater.

(b) Unless the delinquent taxes and tax notice charges, together with the penalty, are paid on or before January 31, the amount of taxes and tax notice charges and penalty shall bear interest on a per annum basis from the January 1 immediately following the delinquency date.

(c) Except as provided in Subsection (2)(d), for purposes of Subsection (2)(b), the interest rate is equal to the sum of:

(i) 6%; and

(ii) the federal funds rate target:

(A) established by the Federal Open Markets Committee; and

(B) that exists on the January 1 immediately following the date of delinquency.

(d) The interest rate described in Subsection (2)(c) may not be:

(i) less than 7%; or

(ii) more than 10%.

(e) The penalty described in Subsection (2)(a) is 1% of the amount of the delinquent taxes and tax notice charges or $10, whichever is greater, if all delinquent taxes, all tax notice charges, and the penalty are paid on or before the January 31 immediately following the delinquency date.

(f) This section does not apply to the costs, charges, and interest rate accruing on any tax notice charge related to an assessment assessed in accordance with:

(i) Title 11, Chapter 42, Assessment Area Act; or

(ii) Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(g)(i) The county shall waive any penalty or interest for a property granted a deferral in accordance with Section 59-2-1802.1 from the day of the delinquency through the end of the deferral period.

(ii) Penalties and interest accrue in accordance with this Subsection (2) on any tax or tax notice charge that is delinquent after the deferral period ends.

(3)(a) If the delinquency exceeds one year, the amount of taxes, tax notice charges, and penalties for that year and all succeeding years shall bear interest until settled in full through redemption or tax sale.

(b) The interest rate to be applied shall be calculated for each year as established under Subsection (2) and shall apply on each individual year's delinquency until paid.

(4) The county treasurer may accept and credit on account against taxes and tax notice charges becoming due during the current year, at any time before or after the tax rates are adopted, but not subsequent to the date of delinquency, either:

(a) payments in amounts of not less than $10; or

(b) the full amount of the unpaid tax and tax notice charges.

(5)(a) At any time before the county treasurer provides the tax notice described in Section 59-2-1317, the county treasurer may refund amounts accepted and credited on account against taxes and tax notice charges becoming due during the current year.

(b) Upon recommendation by the county treasurer, the county legislative body shall adopt rules or ordinances to implement the provisions of this Subsection (5).

Section 13. Section 59-2-1343 is amended to read:

59-2-1343. Tax sale listing.

(1)(a) If any property is not redeemed by March 15 following the lapse of four years from the date when any item in Subsection (1)(b) became delinquent, the county treasurer shall immediately file a listing with the county auditor of all properties whose redemption period is expiring in the nearest forthcoming tax sale to pay all outstanding property taxes and tax notice charges.

(b) [A]Except as provided in Subsection (1)(c), a delinquency of any of the following triggers the tax sale process described in Subsection (1)(a):

(i) property tax; or

(ii) a tax notice charge.

(c) A property tax or a tax notice charge that is deferred in accordance with Section 59-2-1802.1 is delinquent only if full payment of the property tax and any tax notice charges is not made before the end of the five-year deferral period.

(2) The listing is known as the "tax sale listing."

Section 14. Section 59-2-1601 is amended to read:

59-2-1601. Definitions.

As used in this part:

(1) "County additional property tax" means the property tax levy described in Subsection 59-2-1602(4).

(2) "Fund" means the Property Tax Valuation Fund created in Section 59-2-1602.

(3) "Multicounty Appraisal Trust" means the Multicounty Appraisal Trust created by an agreement:

(a) entered into by all of the counties in the state; and

(b) authorized by Title 11, Chapter 13, Interlocal Cooperation Act.

(4) "Multicounty assessing and collecting levy" means a property tax levied in accordance with Subsection 59-2-1602(2).

(5)(a) "Property valuation service" means any service or technology that promotes uniform assessment levels for the valuation of personal property and real property in accordance with Part 3, County Assessment.

(b) "Property valuation service" includes statewide aerial imagery, change detection, sketch validation, exception analysis, commercial valuation modeling, residential valuation modeling, automated valuation modeling, and equity analysis.

[~~(5)~~](6) "Statewide property tax system" means a computer assisted system for mass appraisal, equalization, collection, distribution, and administration related to property tax, created by the Multicounty Appraisal Trust in accordance with Section 59-2-1606.

Section 15. Section 59-2-1606 is amended to read:

59-2-1606. Statewide property tax system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.

(1) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59-2-1602 shall be used to provide funding for[~~,~~]:

(a) a statewide property tax system that will promote:

[~~(a)~~](i) the accurate valuation of property;

[~~(b)~~](ii) the establishment and maintenance of uniform assessment levels among counties within the state;

[~~(c)~~](iii) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes; and

[~~(d)~~](iv) the uniform filing of a signed statement a county assessor requests under Section 59-2-306, including implementation of a statewide electronic filing system[~~,~~]; and

(b) property valuation services within the counties.

(2)(a) An association representing at least two-thirds of the counties in the state shall appoint a trustee.

[~~(2)~~](b) The trustee of the Multicounty Appraisal Trust shall:

[~~(a)~~](i) determine which projects to fund, including property valuation services within counties; and

[~~(b)~~](ii) oversee the administration of a statewide property tax system that meets the requirements of Subsection (1)(a).

(3)(a) Except as provided in Subsection (3)(b), each county shall adopt the statewide property tax system on or before January 1, 2026.

(b) A county is exempt from the requirement in Subsection (3)(a) if:

(i) the county utilizes a computer assisted property tax system for mass appraisal other than the statewide property tax system;

(ii) the county demonstrates to the trustee of the Multicounty Appraisal Trust and to the commission that the property tax system described in Subsection (3)(b)(i) is interoperable with the statewide property tax system; and

(iii) the trustee of the Multicounty Appraisal Trust and the commission approve the county's exemption from the requirement in Subsection (3)(a).

(c) The commission and an association that represents at least two-thirds of the counties in the state shall assist any county adopting the statewide property tax system.

Section 16. Section 59-2-1801 is amended to read:

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a postponement of a tax due date or a tax notice charge granted in accordance with Section 59-2-1802, 59-2-1802.1, or 59-2-1802.5.

(3) "Eligible owner" means an owner of an attached or a detached single-family residence:

(a)(i) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under this part;

(ii) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and

(iii) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year; or

(b) that is a trust described in Section 59-2-1805 if the grantor of the trust is an individual described in Subsection (3)(a).

(4) "Household" means the same as that term is defined in Section 59-2-1202.

(5) "Household income" means the same as that term is defined in Section 59-2-1202.

(6) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates; and

(d) stocks or bonds.

(7) "Indigent individual" [~~is~~]means a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a)(i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in Section 59-2-1208;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

(8) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

(9) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

(10) "Qualifying increase" means a valuation that is equal to or more than 150% higher than the previous year's valuation for property that:

(a) is county assessed; and

(b) on or after January 1 of the previous year and before January 1 of the current year has not had:

(i) a physical improvement if the fair market value of the physical improvement increases enough to result in the valuation increase solely as a result of the physical improvement;

(ii) a zoning change if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases enough to result in the valuation increase solely as a result of the change in the legal description of the real property.

[~~(10)~~](11) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

[~~(11)~~](12) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

(13) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.

Section 17. Section 59-2-1802.1 is enacted to read:

59-2-1802.1. Property tax deferral for property with a qualifying increase.

(1)(a) A county shall grant a deferral for any real property if an owner of the property:

(i) applies for a property tax deferral on or before the date provided in Subsection (1)(b); and

(ii) has a qualifying increase for the calendar year that begins on January 1, 2023, or January 1, 2024.

(b) The owner of the property shall apply for a deferral on or before the later of:

(i) June 30, 2025; or

(ii) if an appeal of valuation or equalization of a property described in Subsection (1)(a) is filed with a county board of equalization, the commission, or a court of competent jurisdiction, 30 days after the day on which the county board of equalization, the commission, or a court of competent jurisdiction issues a final, unappealable judgment or order.

(2)(a) The period of deferral is five years.

(b) The property owner shall pay 20% of the taxes and tax notice charges due during each year of the five-year deferral period.

(c) A county shall grant a separate five-year deferral period if an owner has a qualifying increase for both the calendar year that begins on January 1, 2023, and the calendar year that begins on January 1, 2024.

(3)(a) Taxes and tax notice charges deferred under this part accumulate as a lien against the residential property.

(b) A lien described in this Subsection (3) has the same legal status as a lien described in Section 59-2-1325.

(c) To release the lien described in this Subsection (3), an owner shall pay the total amount subject to the lien on or before the earlier of:

(i) the day on which the five-year deferral period ends; or

(ii) the day the owner sells or otherwise disposes of the real property.

(d) When the deferral period ends:

(i) the lien becomes due and subject to the collection procedures described in Section 59-2-1331; and

(ii) the date of levy is the date that the deferral period ends.

(4)(a) Notwithstanding Section 59-2-1331, a county may not impose a penalty or interest during the period of deferral.

(b) If the property owner does not make all deferred payments before the day on which the five-year deferral period ends, the county may assess a penalty or interest in accordance with Section 59-2-1331 on the unpaid amount.

(5)(a) If a county grants an owner more than one deferral for the same property, the county is not required to submit for recording more than one lien.

(b) Each subsequent deferral relates back to the date of the initial lien filing.

(6)(a) For each property for which the county grants a deferral, the treasurer shall maintain a record that is an itemized account of the total amount of deferred property taxes and deferred tax notice charges subject to the lien.

(b) The record described in this Subsection (6) is the official record of the amount of the lien.

(7) For a property that has a qualifying increase for the calendar year that begins on January 1, 2023, or January 1, 2024, a county assessor shall include with the notice provided in accordance with Section 59-2-919.1 for the calendar year that begins on January 1, 2024, a notice informing the owner of record of:

(a)(i) for a property that has a qualifying increase for the calendar year that begins on January 1, 2023, the option to file an appeal under the extended period described in Section 59-2-1004.1; or

(ii) for a property that has a qualifying increase for the calendar year that begins on January 1, 2024, the option to file an appeal under Section 59-2-1004;

(b) instructions for filing an appeal;

(c) the option to apply for a deferral in accordance with this section; and

(d) the ability of the county to waive any penalty or interest assessed in accordance with Section 59-2-1331.

Section 18. Effective date.

This bill takes effect on May 1, 2024.

Section 19. Retrospective operation.

(1) The following sections have retrospective operation to January 1, 2023:

(a) Section 59-2-109.1; and

(b) Section 59-2-1004.1.

(2) The following sections have retrospective operation to January 1, 2024:

(a) Section 59-2-109;

(b) Section 59-2-303;

(c) Section 59-2-303.1;

(d) Section 59-2-303.3;

(e) Section 59-2-702.5;

(f) Section 59-2-703;

(g) Section 59-2-1004;

(h) Section 59-2-1008;

(i) Section 59-2-1330;

(j) Section 59-2-1331;

(k) Section 59-2-1343;

(l) Section 59-2-1801; and

(m) Section 59-2-1802.1.

CHAPTER 264
S. B. 197
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

MEDICAID REIMBURSEMENT RATE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill addresses Medicaid reimbursement rates.

Highlighted Provisions:

This bill:

- defines terms; and
- establishes a budgeting mechanism under which Medicaid reimbursement rates for applied behavior analysis may increase.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-203, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-3-203 is amended to read:

26B-3-203. Base budget appropriations for Medicaid accountable care organizations, behavioral health plans, and ABA services -- Forecast of behavioral health services cost.

(1) As used in this section:

(a) "ABA service" means a service applying applied behavior analysis, as that term is defined in Section 31A-22-642.

(b) "ABA service reimbursement rate" means the Medicaid reimbursement rate developed by the division, in accordance with Part 1, Health Care Assistance, and paid to a provider for providing an ABA service.

[~~(a)~~](c) "ACO" means an accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

[~~(b)~~](d) "Base budget" means the same as that term is defined in legislative rule.

[~~(c)~~](e) "Behavioral health plan" means a managed care or fee for service delivery system that contracts with or is operated by the department to provide behavioral health services to Medicaid eligible individuals.

[~~(d)~~](f) "Behavioral health services" means mental health or substance use treatment or services.

[~~(e)~~](g) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

[~~(f)~~](h) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Committee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

[~~(g)~~](i) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall, subject to Subsection (5)[~~,~~]:

(a) in fiscal years 2025 and 2026:

(i) include an appropriation to the department in an amount [~~necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 102% and less than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.~~]that would, prior to the application of Subsection (4)(a)(ii), allow the department to ensure that the next fiscal year PMPMs for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPMs for the ACOs and behavioral health plans multiplied by 102%;

(ii) subject to Subsection (4)(a)(iii), allocate the amount appropriated under Subsection (4)(a)(i) to provide substantially the same year-over-year percentage point increase to:

(A) the PMPMs for ACOs and behavioral health plans; and

(B) each ABA service reimbursement rate; and

(iii) for the initial appropriation under Subsection (4)(a)(i), prior to providing the percentage point increases under Subsection (4)(a)(ii), allocate from the total amount appropriated under Subsection (4)(a)(i) an amount necessary to increase and substantially equalize each of the ABA service reimbursement rates with a corresponding reimbursement rate paid for providing the same or substantially similar service under an ACO or a behavioral health plan; and

(b) beginning in fiscal year 2027, include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPMs for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPMs for the ACOs and the behavioral health plans multiplied by 102%, and less than or equal to the current fiscal year PMPMs for the ACOs and the behavioral health plans multiplied by the General Fund growth factor.

(5) The appropriations provided to the department for behavioral health plans under this section shall be reduced by the amount contributed by counties in the current fiscal year for behavioral health plans in accordance with Subsections 17-43-201(5)(k) and 17-43-301(6)(a)(x).

(6) In order for the department to estimate the impact of Subsections (2) through (4) before identification of the next fiscal year ongoing General Fund revenue estimate, the Governor's Office of Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide the estimate to the department no later than November 1 of each year.

(7) The Office of the Legislative Fiscal Analyst shall include an estimate of the cost of behavioral health services in any state Medicaid funding or savings forecast that is completed in coordination with the department and the Governor's Office of Planning and Budget.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 265
S. B. 199
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

PLACENTAL TISSUE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Katy Hall

LONG TITLE

General Description:

This bill requires certain health care providers to provide certain disclosures when administering a treatment using placental stem cells.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain health care providers to provide certain disclosures to a patient when administering a treatment using placental stem cells; and
- creates a penalty for failing to provide the disclosures.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
58-1-512, Utah Code Annotated 1953

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

Section 1. Section 58-1-512 is enacted to read:

58-1-512. Stem cell disclosure.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Human cells, tissues, or cellular or tissue-based products" has the same meaning as in 21 C.F.R. Sec. 1271.3 as it exists on May 1, 2024.

(c)(i) "Stem cell therapy" means a treatment involving the use of afterbirth placental perinatal stem cells or human cells, tissues, or cellular or tissue-based products.

(ii) "Stem cell therapy" does not include treatment or research using human cells or tissues that were derived from a fetus or embryo after an abortion.

(2) A health care provider whose scope of practice includes the use of stem cell therapy may perform a stem cell therapy that is not approved by the United States Food and Drug Administration, if the health care provider provides the patient with the following written notice before performing the therapy:

"THIS NOTICE MUST BE PROVIDED TO YOU UNDER UTAH LAW. This health care practitioner performs one or more stem cell therapies that have not yet been approved by the United States Food and Drug Administration. You are encouraged to consult with your primary care provider before undergoing a stem cell therapy."

(3)(a) The written notice described in Subsection (2) shall be:

(i) on paper that is at least eight and one-half inches by eleven inches; and

(ii) written in no less than forty point type.

(b) The health care provider shall prominently display the written notice in the entrance and in an area visible to patients in the health care provider's office.

(4)(a) A health care provider who is required to provide written notice under Subsection (2) shall obtain a signed consent form before performing the therapy.

(b) The consent form shall:

(i) be signed by the patient, or, if the patient is legally not competent, the patient's representative; and

(ii) state, in language the patient could reasonably be expected to understand:

(A) the nature and character of the proposed treatment, including the treatment's United States Food and Drug Administration approval status;

(B) the anticipated results of the proposed treatment;

(C) the recognized possible alternative forms of treatment; and

(D) the recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment.

(5)(a) A health care provider described in Subsection (2) shall include the notice described in Subsection (2) in any advertisement for the stem cell therapy.

(b) In a print advertisement, the notice shall be clearly legible, in a font size no smaller than the largest font size used in the advertisement.

(c) In any other advertisement, the notice shall be:

(i) clearly legible in a font size no smaller than the largest font size used in the advertisement; or

(ii) clearly spoken.

(6) This section does not apply to:

(a) a health care provider who has obtained approval for an investigational new drug or device from the United States Food and Drug Administration for the use of human cells, tissues, or cellular or tissue-based products; or

(b) a health care provider who performs a stem cell therapy under an employment or other contract

on behalf of an institution certified by any of the following:

(i) the Foundation for the Accreditation of Cellular Therapy;

(ii) the Blood and Marrow Transplant Clinical Trials Network;

(iii) the Association for the Advancement of Blood and Biotherapies; or

(iv) an entity with expertise regarding stem cell therapy as determined by the division.

(7) A violation of this section is unprofessional conduct.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 266
S. B. 212
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

SUBSTANCE USE TREATMENT IN CORRECTIONAL FACILITIES

Chief Sponsor: Jen Plumb
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill allows the Department of Corrections to cooperate with medical personnel to provide medication assisted treatment to inmates who had an active medication assisted treatment plan prior to incarceration.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Department of Corrections, in collaboration with the Department of Health and Human Services, to cooperate with medical personnel to continue a medication assisted treatment plan for inmates who had an active medication assisted treatment plan prior to incarceration;
- provides that a correctional facility may, at the direction of the chief administrative officer, store medications used for medication assisted treatment plans;
- requires the Department of Health and Human Services to provide an annual report to the Health and Human Services Interim Committee regarding the medication assisted treatment plans for individuals committed to the custody of the Department of Corrections;
- provides a repeal date for the required report; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-4-325, as enacted by Laws of Utah 2023, Chapter 322
63I-2-264, as last amended by Laws of Utah 2021, Chapter 366

ENACTS:

64-13-25.1, Utah Code Annotated 1953

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

Section 1. Section 26B-4-325 is amended to read:

26B-4-325. Medical care for inmates -- Reporting of statistics.

As used in this section:

(1) "Correctional facility" means a facility operated to house inmates in a secure or nonsecure setting:

(a) by the Department of Corrections; or

(b) under a contract with the Department of Corrections.

(2) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(3) "Inmate" means an individual who is:

(a) committed to the custody of the Department of Corrections; and

(b) housed at a correctional facility or at a county jail at the request of the Department of Corrections.

(4) "Medical monitoring technology" means a device, application, or other technology that can be used to improve health outcomes and the experience of care for patients, including evidence-based clinically evaluated software and devices that can be used to monitor and treat diseases and disorders.

(5) "Terminally ill" means the same as that term is defined in Section 31A-36-102.

(6) The department shall:

(a) for each health care facility owned or operated by the Department of Corrections, assist the Department of Corrections in complying with Section 64-13-39;

(b) create policies and procedures for providing services to inmates; [~~and~~]

(c) in coordination with the Department of Corrections, develop standard population indicators and performance measures relating to the health of inmates[~~.~~]; and

(d) collaborate with the Department of Corrections to comply with Section 64-13-25.1.

(7) Beginning July 1, 2023, and ending June 30, 2024, the department shall:

(a) evaluate and study the use of medical monitoring technology and create a plan for a pilot program that identifies:

(i) the types of medical monitoring technology that will be used during the pilot program; and

(ii) eligibility for participation in the pilot program; and

(b) make the indicators and performance measures described in Subsection (6)(c) available to the public through the Department of Corrections and the department websites.

(8) Beginning July 1, 2024, and ending June 30, 2029, the department shall implement the pilot program.

(9) The department shall submit to the Health and Human Services Interim Committee and the Law Enforcement and Criminal Justice Interim Committee:

(a) a report on or before October 1 of each year regarding the costs and benefits of the pilot program;

(b) a report that summarizes the indicators and performance measures described in Subsection (6)(c) on or before October 1, 2024; and

(c) an updated report before October 1 of each year that compares the indicators and population measures of the most recent year to the initial report described in Subsection (9)(b).

Section 2. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates: Title 64.

(1) Section 64-13e-103.2 is repealed June 30, 2024.

(2) Section 64-13-25.1(4), related to reporting on continuation or discontinuation of a medication assisted treatment plan, is repealed July 1, 2026.

Section 3. Section 64-13-25.1 is enacted to read:

64-13-25.1. Medication assisted treatment plan.

(1) As used in this section, "medication assisted treatment plan" means a prescription plan to use a medication, such as buprenorphine, methadone, or naltrexone, to treat substance use withdrawal symptoms or an opioid use disorder.

(2) In collaboration with the Department of Health and Human Services the department may cooperate with medical personnel to continue a medication assisted treatment plan for an inmate who had an active medication assisted treatment plan within the last six months before being committed to the custody of the department.

(3) A medication used for a medication assisted treatment plan under Subsection (2):

(a) shall be an oral, short-acting medication unless the chief administrative officer or other medical personnel who is familiar with the inmate's medication assisted treatment plan determines that a long-acting, non-oral medication will provide a greater benefit to the individual receiving treatment;

(b) may be administered to an inmate under the direction of the chief administrative officer of the correctional facility;

(c) may, as funding permits, be paid for by the department or the Department of Health and Human Services; and

(d) may be left or stored at a correctional facility at the discretion of the chief administrative officer of the correctional facility.

(4) Before November 30 each year, the Department of Health and Human Services shall provide a report to the Health and Human Services Interim Committee that details, for each category, the number of individuals in the custody of the department who, in the preceding 12 months:

(a) had an active medication assisted treatment plan within the six months preceding commitment to the custody of the department;

(b) continued a medication assisted treatment plan following commitment to the custody of the department; and

(c) discontinued a medication assisted treatment plan prior to, at the time of, or after commitment to the custody of the department and, as available, the type of medication discontinued and the reason for the discontinuation.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 267
S. B. 229
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH AND HUMAN SERVICES LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill consolidates and amends provisions relating to the licenses, certificates, and certifications issued by the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions relating to the use of emergency safety intervention in licensed congregate care programs;
- consolidates into a single part and amends provisions concerning licenses, certificates, and certifications issued by the Department of Health and Human Services, including provisions addressing:
  - revocation, suspension, sanctions, and penalties;
  - adjudicative proceedings;
  - access restrictions and injunctive relief;
  - criminal penalties; and
  - investigations, records, and enforcement; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-101, as last amended by Laws of Utah 2023, Chapter 305
26B-2-105, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-107, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-120, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-123, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-222, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-502, as renumbered and amended by Laws of Utah 2023, Chapter 307
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
76-7-314, as last amended by Laws of Utah 2023, Chapters 301, 330
80-2-909, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

26B-2-701, Utah Code Annotated 1953
26B-2-702, Utah Code Annotated 1953
26B-2-703, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-2-209, (Renumbered from 26B-2-209, as renumbered and amended by Laws of Utah 2023, Chapter 305)
26B-2-214, (Renumbered from 26B-2-214, as renumbered and amended by Laws of Utah 2023, Chapter 305)
26B-2-114, (Renumbered from 26B-2-114, as renumbered and amended by Laws of Utah 2023, Chapter 305)
26B-2-113, (Renumbered from 26B-2-113, as renumbered and amended by Laws of Utah 2023, Chapter 305)
26B-2-133, (Renumbered from 26B-2-133, as renumbered and amended by Laws of Utah 2023, Chapter 305)
26B-2-408, (Renumbered from 26B-2-408, as renumbered and amended by Laws of Utah 2023, Chapter 305)

REPEALS:

26B-2-110, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-111, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-112, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-208, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-210, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-211, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-215, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-216, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-409, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-410, as renumbered and amended by Laws of Utah 2023, Chapter 305

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

Section 1. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4)(a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5)(a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv)(A) does not provide the treatment or services described in Subsection [~~(38)(a)~~](39)(a); or

(B) provides the treatment or services described in Subsection [~~(38)(a)~~](39)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b)(i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(38)(a)~~](39)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(38)(a)~~](39)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(38)(a)~~](39)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(38)(a)~~](39)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10)(a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the office.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

[~~(19)~~](20) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

[~~(20)~~](21) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

[~~(21)~~](22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(22)~~](23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(23)~~](24)(a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(24)~~](25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(25)~~](26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(26)~~](27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(27)~~](28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(28)~~](29) "Licensee" means an individual or a human services program licensed by the office.

[~~(29)~~](30) "Local government" means a city, town, metro township, or county.

[~~(30)~~](31) "Minor" means child.

[~~(31)~~](32) "Office" means the Office of Licensing within the department.

[~~(32)~~](33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c)(i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(33)~~](34) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(34)~~](35) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are

provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(35)~~](36) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(36)~~](37)(a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v)(A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(37)~~](38) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(38)~~](39)(a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(39)~~](40)(a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(40)~~](41) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(41)~~](42) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(42)~~](43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(43)~~](44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(44)~~](45) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(44)(a)~~](45)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(45)~~](46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(46)~~](47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(47)~~](48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(48)~~](49)(a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

[~~(49)~~](50)(a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 2. Section 26B-2-105 is amended to read:

26B-2-105. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation, association, or governmental unit acting severally or jointly with any other individual, agency, firm, corporation, association, or governmental unit may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this part and the rules under the authority of this part.

(2)(a) For purposes of this Subsection (2), "member" means a person or entity that is associated with another person or entity:

(i) as a member;

(ii) as a partner;

(iii) as a shareholder; or

(iv) as a person or entity involved in the ownership or management of a human services program owned or managed by the other person or entity.

(b) A license issued under this part may not be assigned or transferred.

(c) An application for a license under this part shall be treated as an application for reinstatement of a revoked license if:

(i)(A) the person or entity applying for the license had a license revoked under this part; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A)(I) had a license revoked under this part; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B)(I) was a member of an entity that had a license revoked under this part at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

(4)(a) Except as provided in Subsection (4)(c), each license issued under this part expires at midnight on the last day of the same month the license was issued, one year following the date of issuance unless the license has been:

(i) previously revoked by the office;

(ii) voluntarily returned to the office by the licensee; or

(iii) extended by the office.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

(i) is not in compliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(ii) has engaged in a pattern of noncompliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(iii) has engaged in conduct that is grounds for denying a license under Section [~~26B-2-112~~]26B-2-703; or

(iv) has engaged in conduct that poses a substantial risk of harm to any person.

(c) The office may issue a renewal license that expires at midnight on the last day of the same month the license was issued, two years following the date of issuance, if:

(i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and

(ii) the licensee has not violated this part or a rule made under this part.

(5) Any licensee that is in operation at the time rules are made in accordance with this part shall be given a reasonable time for compliance as determined by the rule.

(6)(a) A license for a human services program issued under this section shall apply to a specific human services program site.

(b) A human services program shall obtain a separate license for each site where the human services program is operated.

Section 3. Section 26B-2-107 is amended to read:

26B-2-107. Administrative inspections.

(1)(a) Subject to Subsection (1)(b), the office may, for the purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee.

(b)(i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b).

(2) Before conducting an inspection under Subsection (1), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section [~~26B-2-113~~]26B-2-707.

(3) In conducting an inspection under Subsection (1), the office may, after meeting the requirements of Subsection (2):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

(4) An inspection conducted under Subsection (1) shall be during regular business hours and may be announced or unannounced.

(5) The licensee shall make copies of inspection reports available to the public upon request.

(6) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking information from other sources to determine compliance with this part.

Section 4. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a)(i) "Applicant" means, notwithstanding Section 26B-2-101:

(A) an individual who applies for an initial license or certification or a license or certification renewal under this part;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office; or

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services; or

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.

(e) "Criminal finding" means a record of:

(i) an arrest or a warrant for an arrest;

(ii) charges for a criminal offense; or

(iii) a criminal conviction.

(f) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(g) "Mental health professional" means an individual who:

(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(ii) engaged in the practice of mental health therapy.

(h) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry; or

(v) a state child abuse or neglect registry.

(i)(i) "Peer support specialist" means an individual who:

(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and

(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.

(ii) "Peer support specialist" includes a certified peer support specialist.

(iii) "Peer support specialist" does not include a mental health professional.

(j) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504; and

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon submission of the information described in this Subsection (2);

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4); and

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) if the applicant is applying to become a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001 for:

(A) the applicant; and

(B) any adult living in the applicant's home;

(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described in Subsection (2);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the

individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80- 2- 1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4)(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5)(a) Except as provided in Subsection (5)(b), after conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation;

(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;

(E) aggravated arson, as described in Section 76- 6- 103;

(F) aggravated burglary, as described in Section 76- 6- 203;

(G) aggravated robbery, as described in Section 76- 6- 302;

(H) identity fraud crime, as described in Section 76- 6- 1102;

(I) sexual battery, as described in Section 76- 9- 702.1; or

(J) a violent offense committed in the presence of a child, as described in Section 76- 3- 203.10; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider, a mental health professional, or in a program that serves only adults with a primary

mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (6).

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years before the date on which the applicant submits the information described in Subsection (2);

(b) has a felony charge or conviction for an offense not described in Subsection (5) with a date of charge or conviction that is no more than 10 years before the date on which the applicant submits the application under Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(c) has a class B misdemeanor or class C misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years after, and no more than 10 years before, the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(d) has a misdemeanor conviction for an offense not described in Subsection (5) with a date of conviction that is no more than three years before the date on which the applicant submits information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(e) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5);

(f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

(g) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5);

(h) has a pending charge for an offense described in Subsection (5);

(i) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding;

(l)(i) is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years before the day on which the applicant submits the information described in Subsection (2):

(A) has a felony or misdemeanor charge or conviction;

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; or

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;

(m)(i)(A) is seeking a position in a congregate care program;

(B) is seeking to become a prospective foster or adoptive parent; or

(C) is an applicant described in Subsection (1)(a)(i)(F); and

(ii)(A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or

(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii).

(7)(a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying.

(b) At the conclusion of the comprehensive review, the office shall deny an application to an applicant if the office finds:

(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or

(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.

(8) The office shall approve an application to an applicant who is not denied under this section.

(9)(a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under this section.

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with this section.

(10)(a) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is associated with the licensee or department contractor and the department conducts a background screening in accordance with this section;

(ii) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(iii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iv) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(v) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(b) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(11)(a) Within 30 days after the day on which the applicant submits the information described in Subsection (2), the office shall notify the applicant of any potentially disqualifying criminal findings or non-criminal findings.

(b) If the notice under Subsection (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection [~~26B-2-111(2)~~] 26B-2-703(12), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this part:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (11)(b); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(12)(a) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.

(b) The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 26B-2-105, of the program.

(13)(a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program or an applicant seeking to become a prospective foster or adoptive parent, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (13)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (13)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to an applicant seeking a position in a congregate care program or an applicant to become a prospective foster or adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(Q) aggravated arson, as described in Section 76-6-103;

(R) aggravated burglary, as described in Section 76-6-203;

(S) aggravated robbery, as described in Section 76-6-302;

(T) lewdness involving a child, as described in Section 76-9-702.5;

(U) incest, as described in Section 76-7-102; or

(V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(c)(i).

(d) Notwithstanding Subsections (5) through (10), the office shall deny a license or license renewal to an individual seeking a position in a congregate care program or a prospective foster or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the individual was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6), the office shall conduct the comprehensive review of an applicant's background check under this section if the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6) and (7); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services for purposes of approval or denial of an application for a prospective foster or adoptive parent.

Section 5. Section 26B-2-123 is amended to read:

26B-2-123. Congregate care program regulation.

(1)(a) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

[~~(a)~~](i) a strip search unless the congregate care program determines and documents that a strip search is necessary to protect an individual's health or safety;

[~~(b)~~](ii) a body cavity search unless the congregate care program determines and documents that a body cavity search is necessary to protect an individual's health or safety;

[~~(c)~~](iii) inducing pain to obtain compliance;

[~~(d)~~](iv) hyperextending joints;

[~~(e)~~](v) peer restraints;

[~~(f)~~](vi) discipline or punishment that is intended to frighten or humiliate;

[~~(g)~~](vii) requiring or forcing the child to take an uncomfortable position, including squatting or bending;

[~~(h)~~](viii) for the purpose of punishing or humiliating, requiring or forcing the child to repeat physical movements or physical exercises such as running laps or performing push-ups;

[~~(i)~~](ix) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

[~~(j)~~](x) denying an essential program service;

[~~(k)~~](xi) depriving the child of a meal, water, rest, or opportunity for toileting;

[~~(l)~~](xii) denying shelter, clothing, or bedding;

[~~(m)~~](xiii) withholding personal interaction, emotional response, or stimulation;

[~~(n)~~](xiv) prohibiting the child from entering the residence;

[~~(o)~~](xv) abuse as defined in Section 80-1-102; and

[~~(p)~~](xvi) neglect as defined in Section 80-1-102.

(b) A properly used emergency safety intervention is not considered a cruel, severe, unusual, or unnecessary practice.

(2) Before a congregate care program may use a restraint[~~, or~~], seclusion, or emergency safety intervention, the congregate care program shall:

(a) develop and implement written policies and procedures that:

(i) describe the circumstances under which a staff member may use a restraint[~~, or~~], seclusion, or emergency safety intervention;

(ii) describe which staff members are authorized to use a restraint[~~, or~~], seclusion, or emergency safety intervention;

(iii) describe procedures for monitoring a child that is restrained or in seclusion;

(iv) describe time limitations on the use of a restraint or seclusion;

(v) require immediate and continuous review of the decision to use a restraint[~~, or~~], seclusion, or emergency safety intervention;

(vi) require documenting the use of a restraint[~~ or~~], seclusion, or emergency safety intervention;

(vii) describe record keeping requirements for records related to the use of a restraint[~~, or~~], seclusion, or emergency safety intervention;

(viii) to the extent practicable, require debriefing the following individuals if debriefing would not interfere with an ongoing investigation, violate any law or regulation, or conflict with a child's treatment plan:

(A) each witness to the event;

(B) each staff member involved; and

(C) the child who was restrained or in seclusion;

(ix) include a procedure for complying with Subsection (5); and

(x) provide an administrative review process and required follow up actions after a child is restrained or put in seclusion; and

(b) consult with the office to ensure that the congregate care program's written policies and procedures align with applicable law.

(3) A congregate care program:

(a) may use a passive physical restraint only if the passive physical restraint is supported by a nationally or regionally recognized curriculum focused on non-violent interventions and de-escalation techniques;

(b) may not use a chemical or mechanical restraint unless the office has authorized the congregate care program to use a chemical or mechanical restraint;

(c) shall ensure that a staff member that uses a restraint on a child is:

(i) properly trained to use the restraint; and

(ii) familiar with the child and if the child has a treatment plan, the child's treatment plan; and

(d) shall train each staff member on how to intervene if another staff member fails to follow correct procedures when using a restraint.

(4)(a) A congregate care program:

(i) may use seclusion if:

(A) the purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) no less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) for coercion, retaliation, or humiliation; or

(B) due to inadequate staffing or for the staff's convenience.

(b) While a child is in seclusion, a staff member who is familiar to the child shall actively supervise the child for the duration of the seclusion.

(5) Subject to the office's review and approval, a congregate care program shall develop:

(a) suicide prevention policies and procedures that describe:

(i) how the congregate care program will respond in the event a child exhibits self-injurious, self-harm, or suicidal behavior;

(ii) warning signs of suicide;

(iii) emergency protocol and contacts;

(iv) training requirements for staff, including suicide prevention training;

(v) procedures for implementing additional supervision precautions and for removing any additional supervision precautions;

(vi) suicide risk assessment procedures;

(vii) documentation requirements for a child's suicide ideation and self-harm;

(viii) special observation precautions for a child exhibiting warning signs of suicide;

(ix) communication procedures to ensure all staff are aware of a child who exhibits warning signs of suicide;

(x) a process for tracking suicide behavioral patterns; and

(xi) a post-intervention plan with identified resources; and

(b) based on state law and industry best practices, policies and procedures for managing a child's behavior during the child's participation in the congregate care program.

(6)(a) A congregate care program:

(i) subject to Subsection (6)(b), shall facilitate weekly confidential voice-to-voice communication between a child and the child's parents, guardian, foster parents, and siblings, as applicable;

(ii) shall ensure that the communication described in Subsection (6)(a)(i) complies with the child's treatment plan, if any; and

(iii) may not use family contact as an incentive for proper behavior or withhold family contact as a punishment.

(b) For the communication described in Subsection (6)(a)(i), a congregate care program may not:

(i) deny the communication unless state law or a court order prohibits the communication; or

(ii) modify the frequency or form of the communication unless:

(A) the office approves the modification; or

(B) state law or a court order prohibits the frequency or the form of the communication.

Section 6. Section 26B-2-222 is amended to read:

26B-2-222. Licensing of a new nursing care facility -- Approval for a licensed bed in an existing nursing care facility -- Fine for excess Medicare inpatient revenue.

(1) Notwithstanding Section 26B-2-201, as used in this section:

(a) "Medicaid" means the Medicaid program, as that term is defined in Section 26B-3-101.

(b) "Medicaid certification" means the same as that term is defined in Section 26B-3-301.

(c) "Nursing care facility" and "small health care facility":

(i) mean the following facilities licensed by the department under this part:

(A) a skilled nursing facility;

(B) an intermediate care facility; or

(C) a small health care facility with four to 16 beds functioning as a skilled nursing facility; and

(ii) do not mean:

(A) an intermediate care facility for the intellectually disabled;

(B) a critical access hospital that meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998);

(C) a small health care facility that is hospital based; or

(D) a small health care facility other than a skilled nursing care facility with no more than 16 beds.

(d) "Rural county" means the same as that term is defined in Section 26B-3-301.

(2) Except as provided in Subsection (6) and Section 26B-2-227, a new nursing care facility shall be approved for a health facility license only if:

(a) under the provisions of Section 26B-3-311 the facility's nursing care facility program has received Medicaid certification or will receive Medicaid certification for each bed in the facility;

(b) the facility's nursing care facility program has received or will receive approval for Medicaid certification under Subsection 26B-3-311(5), if the facility is located in a rural county; or

(c)(i) the applicant submits to the department the information described in Subsection (3); and

(ii) based on that information, and in accordance with Subsection (4), the department determines that approval of the license best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility.

(3) A new nursing care facility seeking licensure under Subsection (2) shall submit to the department the following information:

(a) proof of the following as reasonable evidence that bed capacity provided by nursing care facilities within the county or group of counties that would be impacted by the facility is insufficient:

(i) nursing care facility occupancy within the county or group of counties:

(A) has been at least 75% during each of the past two years for all existing facilities combined; and

(B) is projected to be at least 75% for all nursing care facilities combined that have been approved for licensure but are not yet operational;

(ii) there is no other nursing care facility within a 35-mile radius of the new nursing care facility seeking licensure under Subsection (2); and

(b) a feasibility study that:

(i) shows the facility's annual Medicare inpatient revenue, including Medicare Advantage revenue, will not exceed 49% of the facility's annual total revenue during each of the first three years of operation;

(ii) shows the facility will be financially viable if the annual occupancy rate is at least 88%;

(iii) shows the facility will be able to achieve financial viability;

(iv) shows the facility will not:

(A) have an adverse impact on existing or proposed nursing care facilities within the county or group of counties that would be impacted by the facility; or

(B) be within a three-mile radius of an existing nursing care facility or a new nursing care facility that has been approved for licensure but is not yet operational;

(v) is based on reasonable and verifiable demographic and economic assumptions;

(vi) is based on data consistent with department or other publicly available data; and

(vii) is based on existing sources of revenue.

(4) When determining under Subsection (2)(c) whether approval of a license for a new nursing care facility best meets the needs of the current and future patients of nursing care facilities within the area impacted by the new facility, the department shall consider:

(a) whether the county or group of counties that would be impacted by the facility is underserved by specialized or unique services that would be provided by the facility; and

(b) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of current and future nursing care facility patients within the impacted area.

(5) The department may approve the addition of a licensed bed in an existing nursing care facility only if:

(a) each time the facility seeks approval for the addition of a licensed bed, the facility satisfies each requirement for licensure of a new nursing care facility in Subsections (2)(c), (3), and (4); or

(b) the bed has been approved for Medicaid certification under Section 26B-3-311 or 26B-3-313.

(6) Subsection (2) does not apply to a nursing care facility that:

(a) has, by the effective date of this act, submitted to the department schematic drawings, and paid applicable fees, for a particular site or a site within a three-mile radius of that site;

(b) before July 1, 2016:

(i) filed an application with the department for licensure under this section and paid all related fees due to the department; and

(ii) submitted to the department architectural plans and specifications, as defined by the department by administrative rule, for the facility;

(c) applies for a license within three years of closing for renovation;

(d) replaces a nursing care facility that:

(i) closed within the past three years; or

(ii) is located within five miles of the facility;

(e) is undergoing a change of ownership, even if a government entity designates the facility as a new nursing care facility; or

(f) is a state-owned veterans home, regardless of who operates the home.

(7)(a) For each year the annual Medicare inpatient revenue, including Medicare Advantage revenue, of a nursing care facility approved for a health facility license under Subsection (2)(c) exceeds 49% of the facility's total revenue for the year, the facility shall be subject to a fine of $50,000, payable to the department.

(b) A nursing care facility approved for a health facility license under Subsection (2)(c) shall submit to the department the information necessary for the department to annually determine whether the facility is subject to the fine in Subsection (7)(a).

(c) The department:

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information a nursing care facility shall submit to the department under Subsection (7)(b);

(ii) shall annually determine whether a facility is subject to the fine in Subsection (7)(a);

(iii) may take one or more of the actions in Section 26B-2-202 or [~~26B-2-208~~]26B-2-703 against a facility for nonpayment of a fine due under Subsection (7)(a); and

(iv) shall deposit fines paid to the department under Subsection (7)(a) into the Nursing Care Facilities Provider Assessment Fund, created in Section 26B-3-405.

Section 7. Section 26B-2-701 is enacted to read:

26B-2-701. Definitions.

Part 7. Penalties and Investigations

As used in this part:

(1) "Certificate" means a residential child care certificate issued by the office.

(2) "Certification" means an approval to operate in compliance with local or federal requirements or regulations, completed by the office or on behalf of the office for a local or federal agency.

(3) "Client" means an individual, resident, or patient who receives services from a provider.

(4) "Program or facility" means the settings, activities, services, procedures, and premises used by a provider to provide services regulated by the department.

(5) "Provider" means a license holder, certificate holder, or legally responsible person that provides services regulated by the department.

Section 8. Section 26B-2-702 is enacted to read:

26B-2-702. Licensure.

(1) A person that operates a program or facility that requires a license, certificate, or certification under this chapter is subject to this part regardless of whether the person holds a license, certificate, or certification.

(2) A person may not offer a service, operate or provide services, or engage in any activity regulated by this chapter without holding a license, certificate, or certification issued or approved under this chapter.

(3) A person who holds a license, certificate, or certification under this chapter may only provide services to the extent allowed by the license, certificate, or certification.

(4) A person may not advertise or represent that the person holds a license, certificate, or certification required by this chapter unless the person holds that license, certificate, or certification.

(5) A person who violates this section is subject to Section 26B-1-224.

Section 9. Section 26B-2-703 is enacted to read:

26B-2-703. Sanctions -- Penalties and adjudicative procedure -- Rulemaking.

(1) If the department has reason to believe that a provider has failed to comply with this chapter or rules made pursuant to this chapter, the department may serve a notice of agency action to commence an adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the department may deny, place conditions on, suspend, or revoke a license, certificate, or certification, and invoke penalties, including restricting or prohibiting new admissions to a program or facility, if the department finds that there has been:

(a) a failure to comply with:

(i) rules established under this chapter; or

(ii) any lawful order of the department or a local health department, or applicable rule, statute, regulation, or requirement;

(b) aiding, abetting, or permitting the commission of any illegal act;

(c) conduct adverse to the standards required to provide services and promote public trust, including aiding, abetting, or permitting the commission of abuse, neglect, exploitation, harm, mistreatment, or fraud; or

(d) a failure to provide applicable health and safety services for clients.

(3)(a) The department may act on an emergency basis if the department determines immediate action is necessary to protect a client.

(b) Immediate action taken under Subsection (3)(a) may include restricting new admissions to a program or facility, or increased monitoring of the operations of a program or facility.

(4) The department may impose civil monetary penalties against any person, in a sum not to exceed $10,000 per violation, in:

(a) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(b) a similar administrative proceeding adopted by a county or local government; or

(c) a judicial civil proceeding.

(5) Assessment of a civil penalty or administrative penalty does not preclude the department or a local health department from:

(a) seeking criminal penalties;

(b) denying, revoking, imposing conditions on, or refusing to renew a license, certificate, or certification; or

(c) seeking injunctive or equitable remedies.

(6) If the department revokes a license, certificate, or certification, the office may not grant a new license, certificate, or certification unless:

(a) at least five years have passed since the day on which the provider was served with final notice that the provider's license, certificate, or certification was revoked; and

(b) the office determines that the interests of the public will not be jeopardized by granting the provider a new license, certificate, or certification.

(7) If the department does not renew a license, certificate, or certification because of noncompliance with the provisions of this part or rules adopted under this part, the department may not issue a new license, certificate, or certification unless:

(a) at least one year has passed since the day on which the renewal was denied;

(b) the provider complies with all renewal requirements; and

(c) the office determines that the interests of the public will not be jeopardized by issuing a new license, certificate, or certification.

(8) The office may suspend a license, certificate, or certification for up to three years.

(9) When a license, certificate, or certification has been suspended, the office may restore, or restore subject to conditions, the suspended license, certificate, or certification upon a determination that the:

(a) conditions upon which the suspension were based have been completely or partially corrected; and

(b) interests of the public will not be jeopardized by restoration of the license, certificate, or certification.

(10) If a provider fails to comply with the provisions of this chapter, the department may impose a penalty on the provider that is less than or equal to the cost incurred by the department, which may include:

(a) the cost to continue providing services, including ensuring client safety and relocating clients through the transition or closure of a program or facility;

(b) the cost to place an administrator or department representative as a monitor in a program or facility; or

(c) the cost to assess to the provider those costs incurred by the department.

(11) If a congregate care program or facility knowingly fails to comply with the provisions of Section 26B-2-124, the office may impose a penalty on the congregate care program or facility that is less than or equal to the cost of care incurred by the state for a private-placement child described in Subsection 26B-2-124(3).

(12) If the department finds that an abortion has been performed in violation of Section 76-7-314 or 76-7a-201, the department shall deny or revoke the license.

(13) A provider, program or facility, or person may commence adjudicative proceedings in accordance with Title 63G, Chapter 4, Administrative Procedures Act, regarding all agency actions that determine the legal rights, duties, privileges, immunities, or other legal interests of the provider, program or facility, or persons associated with the provider, including all office actions to grant, deny, place conditions on, revoke, suspend, withdraw, or amend an authority, right, license, certificate, or certification under this part.

(14) Subject to the requirements of federal and state law, the office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish sanctions, penalties, and adjudicative proceedings as described in this chapter.

Section 10. Section 26B-2-704, which is renumbered from Section 26B-2-209 is renumbered and amended to read:

~~26B-2-209~~. 26B-2-704. Failure to follow certain health care claims practices -- Penalties.

(1) The department may assess a fine of up to $500 per violation against a health care facility that violates Section 31A-26-313.

(2) The department shall waive the fine described in Subsection (1) if:

(a) the health care facility demonstrates to the department that the health care facility mitigated

and reversed any damage to the insured caused by the health care facility or third party's violation; or

(b) the insured does not pay the full amount due on the bill that is the subject of the violation, including any interest, fees, costs, and expenses, within 120 days after the day on which the health care facility or third party makes a report to a credit bureau or takes an action in violation of Section 31A-26-313.

Section 11. Section 26B-2-705, which is renumbered from Section 26B-2-214 is renumbered and amended to read:

~~26B-2-214.~~ 26B-2-705. Immediate access restriction.

(1) If, in any program or facility requiring a license, certificate, or certification under this part, the department finds a condition[~~ in any licensed health care facility~~] that is a clear hazard to the public health or safety, the department may immediately order that [~~facility closed~~]the facility restrict access and may prevent the entrance of any [~~resident or patient~~]client onto the premises of that facility until the condition is eliminated.

(2) Parties aggrieved by the actions of the department under this section may obtain an adjudicative proceeding and judicial review.

Section 12. Section 26B-2-706, which is renumbered from Section 26B-2-114 is renumbered and amended to read:

~~26B-2-114.~~ 26B-2-706. Action by department for injunction.

[~~In addition to, and notwithstanding,~~] Notwithstanding the existence of any other remedy[~~ provided by law~~], the department may, in [~~a~~]the manner provided by law and upon the advice of the attorney general, who shall represent the department in the proceedings, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of a[~~ human services~~] program or facility in violation of this [~~part~~]chapter or rules established under this [~~part~~]chapter.

Section 13. Section 26B-2-707, which is renumbered from Section 26B-2-113 is renumbered and amended to read:

~~26B-2-113.~~ 26B-2-707. Operating a program or facility in violation of this chapter -- Criminal penalties.

(1)(a) [~~A~~]In addition to the penalties in Section 26B-1-224, any person who owns, establishes, conducts, maintains, manages, or operates a[~~ human services~~] program or facility in violation of this [~~part~~]chapter is guilty of a class A misdemeanor[~~ if the violation endangers or harms the health, welfare, or safety of persons participating in that program~~].

(b) Conviction in a criminal proceeding does not preclude the office from:

(i) assessing a civil penalty or an administrative penalty;

(ii) denying, placing conditions on, suspending, or revoking a license, certificate, or certification; or

(iii) seeking injunctive or equitable relief.

[~~(2) Any person that violates a provision of this part, lawful orders of the office, or rules adopted under this part may be assessed a penalty not to exceed the sum of $10,000 per violation, in:~~]

[~~(a) a judicial civil proceeding; or~~]

[~~(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.~~]

[~~(3)~~](2) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

(a) seeking criminal penalties;

(b) denying, placing conditions on, suspending, or revoking a license, certificate, or certification; or

(c) seeking injunctive or equitable relief.

[~~(4) The office may assess the human services program the cost incurred by the office in placing a monitor.~~]

[~~(5)~~](3) Notwithstanding Subsection (1)(a) and subject to [~~Subsections~~]Subsection (1)(b)[~~ and (2)~~], an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder;

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(c) referring a clinical sample to a person, including a laboratory, for testing that is used toward the furnishing of any item or service for the treatment of a substance use disorder.

[~~(6)~~](4) Subsection [~~(5)~~](3) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental

health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder services;

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt, through standard questions for solicitation of consumer criteria or through any other means, to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that:

(A) are set in advance;

(B) are consistent with the fair market value for those information services; and

(C) are not based on the potential value of the goods or services that a health care provider, practice group, or substance use disorder treatment program may provide to a patient; or

(f) payments by a laboratory to a person that:

(i) does not have a financial interest in or with a facility or person who refers a clinical sample to the laboratory;

(ii) is not related to an owner of a facility or a person who refers a clinical sample to the laboratory;

(iii) is not related to and does not have a financial relationship with a health care provider who orders the laboratory to conduct a test that is used toward the furnishing of an item or service for the treatment of a substance use disorder;

(iv) identifies, in advance of providing marketing or sales services, the types of clinical samples that each laboratory will receive, if the person provides marketing or sales services to more than one laboratory;

(v) the person does not identify as or hold itself out to be a laboratory or part of a network with an insurance payor, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection [~~(6)(f)(vii)(B)~~](4)(f)(vii)(B);

(vi) the person identifies itself in all marketing materials as a salesperson for a licensed laboratory and identifies each laboratory that the person represents, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection [~~(6)(f)(vii)(B)~~](4)(f)(vii)(B); and

(vii)(A) is a sales person employed by the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment; or

(B) is a person under contract with the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment, if the total compensation paid by the laboratory does not exceed the total compensation that the laboratory pays to employees of the laboratory for similar marketing or sales services.

[~~(7)~~](5)(a) A person may not knowingly or willfully, in exchange for referring an individual to a youth transportation company:

(i) offer, pay, promise to pay, solicit, or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, including:

(A) a commission;

(B) a bonus;

(C) a kickback;

(D) a bribe; or

(E) a rebate; or

(ii) engage in any split- fee arrangement.

(b) A person who violates Subsection [~~(7)(a)~~](5)(a) is guilty of a class A misdemeanor and shall be assessed a penalty in accordance with [~~Subsection (2)~~]this part.

Section 14. Section 26B-2-708, which is renumbered from Section 26B-2-133 is renumbered and amended to read:

~~26B-2-133~~. 26B-2-708. Injunctive relief and civil penalty for unlawful child placing -- Enforcement by county attorney or attorney general.

(1) The office or another interested person may commence an action in court to enjoin any person[~~, agency, firm, corporation, or association~~] from violating Section 26B-2-127.

(2) The office shall:

(a) solicit information from the public relating to violations of Section 26B-2-127; and

(b) upon identifying a violation of Section 26B-2-127:

(i) send a written notice to the person who violated Section 26B-2-127 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Professional Licensing.

(3)(a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 26B-2-127 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section 26B-2-127, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4)(a) In addition to the remedies provided in Subsections (1) and (3), any person[~~, agency, firm, corporation, or association~~] found to be in violation of Section 26B-2-127 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than $10,000 for each violation.

(b) Each act in violation of Section 26B-2-127, including each placement or attempted placement of a child, is a separate violation.

(5)(a) The amount recovered as a penalty under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the court shall apportion the penalty among the entities, according to the entities' involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 15. Section 26B-2-709, which is renumbered from Section 26B-2-408 is renumbered and amended to read:

~~26B-2-408.~~ 26B-2-709. Complaint investigations -- Records.

(1) As used in this section:

(a) "Anonymous complainant" means a complainant for whom the department does not have the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made.

(b) "Child care program" means the same as that term is defined in Section 26B-2-401.

[~~(b)~~](c) "Confidential complainant" means a complainant for whom the department has the minimum personal identifying information necessary, including the complainant's full name, to attempt to communicate with the complainant after a complaint has been made, but who elects under Subsection (3)(c) not to be identified to the subject of the complaint.

(d) "Exempt provider" means the same as that term is defined in Section 26B-2-401.

[~~(c)~~](e) "Subject of the complaint" means the [~~licensee or certificate holder~~]provider about whom the complainant is informing the department.

(2) The department may conduct investigations necessary to enforce the provisions of this [~~part~~]chapter.

(3)(a) If the department receives a complaint about a[~~child care~~] program or facility or an exempt provider, the department shall:

(i) solicit information from the complainant to determine whether the complaint suggests actions or conditions that could pose a serious risk to the safety or well-being of a [~~qualifying child~~]client;

(ii) as necessary:

(A) encourage the complainant to disclose the minimum personal identifying information necessary, including the complainant's full name, for the department to attempt to subsequently communicate with the complainant;

(B) if the complaint is against a child care program or an exempt provider, inform the complainant that the department may not investigate an anonymous complaint;

(C) if the complaint is not against a child care program or an exempt provider, inform the complainant that the department may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information;

[~~(C)~~](D) inform the complainant that the identity of a confidential complainant may be withheld from the subject of a complaint only as provided in Subsection [~~(3)(c)(ii)~~](3)(c)(iii); and

[~~(D)~~](E) inform the complainant that the department may be limited in its use of information provided by a confidential complainant, as provided in Subsection [~~(3)(c)(ii)(B)~~](3)(c)(iii)(B); and

(iii) inform the complainant that a person is guilty of a class B misdemeanor under Section 76-8-506 if the person gives false information to the department with the purpose of inducing a change in that person's or another person's [~~licensing or certification~~]license, certificate, or certification status.

(b) If the complainant elects to be an anonymous complainant, or if the complaint concerns events [~~which~~]that occurred more than six [~~weeks~~]months before the complainant contacted the department, the department:

(i) shall refer the information in the complaint to the Division of Child and Family Services within the department, law enforcement, or any other appropriate agency, if the complaint suggests actions or conditions which could pose a serious risk to the safety or well-being of a [~~child~~]client;

(ii) may not investigate or substantiate the complaint if the complaint is against a child care program or an exempt provider; and

(iii) may, during a regularly scheduled annual survey, inform the[~~exempt~~] provider[~~, licensee, or certificate holder~~] that is the subject of the complaint of allegations or concerns raised by[~~:~~]

[~~(A)~~] the anonymous complainant[~~; or~~].

[~~(B) the complainant who reported events more than six weeks after the events occurred.~~]

(c)(i) If the complainant elects to be a confidential complainant, the department shall determine whether the complainant wishes to remain confidential:

(A) only until the investigation of the complaint has been completed; or

(B) indefinitely.

(ii)[~~(A)~~] If the complainant elects to remain confidential only until the investigation of the complaint has been completed, the department shall disclose the name of the complainant to the subject of the complaint at the completion of the investigation, but no sooner.

[~~(B)~~](iii) If the complainant elects to remain confidential indefinitely, the department:

[~~(I)~~](A) notwithstanding Subsection 63G-2-201(5)(b), may not disclose the name of the complainant, including to the subject of the complaint; and

[~~(II)~~](B) may not use information provided by the complainant to substantiate an alleged violation of state law or department rule unless the department independently corroborates the information.

(4)(a) Prior to conducting an investigation of a[~~child care~~] program or facility or an exempt provider in response to a complaint, a department investigator shall review the complaint with the investigator's supervisor.

(b) The investigator may proceed with the investigation only if:

(i) the supervisor determines the complaint is credible;

(ii) the complaint is not from an anonymous complainant and against a child care program or an exempt provider; and

(iii) prior to the investigation, the investigator informs the subject of the complaint of:

(A) except as provided in Subsection (3)(c), the name of the complainant; and

(B) except as provided in Subsection (4)(c), the substance of the complaint.

(c) An investigator is not required to inform the subject of a complaint of the substance of the complaint prior to an investigation if doing so would jeopardize the investigation. However, the investigator shall inform the subject of the complaint of the substance of the complaint as soon as doing so will no longer jeopardize the investigation.

(5) If the department is unable to substantiate a complaint, any record related to the complaint or the investigation of the complaint:

(a) shall be classified under Title 63G, Chapter 2, Government Records Access and Management Act, as:

(i) a private or controlled record if appropriate under Section 63G-2-302 or 63G-2-304; or

(ii) a protected record under Section 63G-2-305; and

(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an individual [~~child care program, exempt provider, licensee, certificate holder,~~]provider, exempt provider, or complainant.

(6) Any record of the department related to a complaint[~~by an anonymous complainant~~] is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, and, notwithstanding Subsection 63G-2-201(5)(b), may not be disclosed in a manner that identifies an individual[~~child care~~] program or facility, exempt provider, [~~licensee, certificate holder~~]provider, or complainant.

Section 16. Section 26B-4-502 is amended to read:

26B-4-502. Emergency contraception services for a victim of sexual assault.

(1) Except as provided in Subsection (2), a designated facility shall provide the following services to a victim of sexual assault:

(a) provide the victim with written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid;

(b) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the designated facility;

(c) offer a complete regimen of emergency contraception to a victim of sexual assault;

(d) provide, at the designated facility, emergency contraception to the victim of sexual assault upon her request;

(e) maintain a protocol, prepared by a physician, for the administration of emergency contraception at the designated facility to a victim of sexual assault; and

(f) develop and implement a written policy to ensure that a person is present at the designated facility, or on-call, who:

(i) has authority to dispense or prescribe emergency contraception, independently, or under the protocol described in Subsection (1)(e), to a victim of sexual assault; and

(ii) is trained to comply with the requirements of this section.

(2) A freestanding urgent care center is exempt from the requirements of Subsection (1) if:

(a) there is a general acute hospital or a critical access hospital within 30 miles of the freestanding urgent care center; and

(b) an employee of the freestanding urgent care center provides the victim with:

(i) written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and

(ii) the name and address of the general acute hospital or critical access hospital described in Subsection (2)(a).

(3) A practitioner shall comply with Subsection (4) with regard to a person who is a victim of sexual assault, if the person presents to receive medical care, or receives medical care, from the practitioner at a location that is not a designated facility.

(4) A practitioner described in Subsection (3) shall:

(a) provide the victim with written and oral medical information regarding emergency contraception that is unbiased, accurate, and generally accepted by the medical community as being scientifically valid; and

(b)(i)(A) orally inform the victim of sexual assault that the victim may obtain emergency contraception at the facility where the practitioner is located; and

(B) provide emergency contraception to the victim of sexual assault, if she requests emergency contraception; or

(ii) inform the victim of sexual assault of the nearest location where she may obtain emergency contraception.

(5)(a) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to enforce the provisions of this section.

(b) The department shall, in an expeditious manner, investigate any complaint received by the department regarding the failure of a health care facility to comply with a requirement of this section.

(c) If the department finds a violation of this section or any rules adopted under this section, the department may take one or more of the actions described in Section [~~26B-2-208~~]26B-2-703.

Section 17. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section [~~26B-2-408~~]26B-2-709:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a [~~child care program or residential child care~~]provider, program, or facility which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a [~~child care program or residential child care~~]provider, program, or facility;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law,

ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in

Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 18. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The Department of Health and Human Services shall report a physician's violation of any provision of this part to the Physicians Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the Physicians Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section [~~26B-2-208~~]26B-2-703 against a health care facility if a violation of this chapter occurs at the health care facility.

Section 19. Section 80-2-909 is amended to read:

80-2-909. Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the Interstate Compact on the Placement of Children established under Section 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of Sections 26B-2-127, 26B-2-131, 26B-2-132,

[~~26B-2-133~~]and 26B-2-708, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

Section 20. Repealer.

This bill repeals:

Section 26B-2-110, License revocation -- Suspension.

Section 26B-2-111, Adjudicative proceedings.

Section 26B-2-112, Violations -- Penalties.

Section 26B-2-208, Violations -- Denial or revocation of license -- Restricting or prohibiting new admissions -- Monitor.

Section 26B-2-210, Issuance of new license after revocation -- Restoration.

Section 26B-2-211, License issued to facility in compliance or substantial compliance with part and rules.

Section 26B-2-215, Action by department for injunction.

Section 26B-2-216, Operating facility in violation of part a misdemeanor.

Section 26B-2-409, License violations -- Penalties.

Section 26B-2-410, Offering or providing care in violation of part -- Misdemeanor.

Section 21. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 268
S. B. 241
Passed February 28, 2024
Approved March 14, 2024
Effective July 1, 2024

STATE FUNDING AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to state funding.

Highlighted Provisions:

This bill:

- changes the Brain Injury Fund to a restricted account and renames it the Brain Injury Account;
- clarifies how carry forward funds are deposited into the Division of Services for People with Disabilities Restricted Account;
- changes the Alternative Eligibility Expendable Revenue Fund to a restricted account and renames it the Alternative Eligibility Account;
- creates the State Armory Fund;
- increases the amount the Legislature may appropriate from the Uninsured Motorist Identification Restricted Account to the Peace Officer Standards and Training Division for certain law enforcement training;
- modifies the Department of Government Operations' authority to transfer money appropriated for certain costs;
- allows the Division of Finance to transfer money from the Income Tax Fund to the Uniform School Fund under certain circumstances;
- increases the amount of revenue bonds the Utah Board of Higher Education may issue to finance the West Valley Health and Community Center;
- changes the Transient Room Tax Fund to a fiduciary fund;
- repeals:
  - the Invasive Species Mitigation Account; and
  - the Prison Project Fund; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-17-115, as last amended by Laws of Utah 2018, Chapter 355
26B-1-318, as last amended by Laws of Utah 2023, Chapter 335 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-335, as enacted by Laws of Utah 2023, Chapter 325
26B-3-910, as enacted by Laws of Utah 2023, Chapter 332
39A-2-102, as renumbered and amended by Laws of Utah 2022, Chapter 373
41-12a-806, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
53F-9-201, as last amended by Laws of Utah 2022, Chapter 456
53F-9-201, as last amended by Laws of Utah 2023, Chapter 293
63B-32-101, as enacted by Laws of Utah 2022, Chapter 315
63J-1-206, as last amended by Laws of Utah 2022, Chapters 40, 425
63J-1-207, as renumbered and amended by Laws of Utah 2009, Chapter 183
63N-3-403, as renumbered and amended by Laws of Utah 2015, Chapter 283

REPEALS:

4-17-114, as last amended by Laws of Utah 2018, Chapter 355
63A-5b-1107, as last amended by Laws of Utah 2023, Chapter 534
63B-25-101, as last amended by Laws of Utah 2020, Chapter 152

Sections affected by Coordination Clause:

26B-1-318, as last amended by Laws of Utah 2023, Chapter 335 and renumbered and amended by Laws of Utah 2023, Chapter 30517

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

Section 1. Section 4-17-115 is amended to read:

4-17-115. Cooperative agreements and grants to rehabilitate areas infested with or threatened by invasive species.

The department may:

(1) enter into a cooperative agreement with a political subdivision, a state agency, a federal agency, a tribe, a county weed board, a cooperative weed management area, a nonprofit organization, a university, or a private landowner to:

(a) rehabilitate or treat an area infested with, or threatened by, an invasive species; or

(b) conduct research related to invasive species; and

[~~(2) expend money from the Invasive Species Mitigation Account created in Section 4-17-114; and~~]

[~~(3)~~](2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to[~~:~~]award grants and administer this section.

[~~(a) administer this section; and~~]

[~~(b) give grants from the Invasive Species Mitigation Account.~~]

Section 2. Section 26B-1-318 is amended to read:

26B-1-318. Brain Injury Account.

(1) There is created [~~an expendable special revenue fund~~]a restricted account within the General Fund known as the "[~~-~~]Brain Injury [~~Fund~~]Account."

(2) The [~~fund~~]account shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) additional amounts as appropriated by the Legislature.

[~~(3) The fund shall be administered by the executive director.~~]

[~~(4) Fund~~]

(3) Upon appropriation by the Legislature, account money may be used to:

(a) educate the general public and professionals regarding understanding, treatment, and prevention of brain injury;

(b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a brain injury and their families; and

(d) provide grants to persons or organizations to provide the services described in Subsections [~~(4)(a), (b), and (c).~~](3)(a) through (c).

[~~(5)~~](4) Not less that 50% of the [~~fund~~]account shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection [~~(6)~~](5).

[~~(6)~~](5) An individual who receives services either paid for from the [~~fund~~]account, or through an organization under contract with the [~~fund~~]account, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a brain injury which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this section.

[~~(7)~~](6) The [~~fund~~]account may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

[~~(8)~~](7) All actual and necessary operating expenses for the Brain Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the [~~fund~~]account.

[~~(9)~~](8) The [~~fund~~]account may not be used for medical treatment, long-term care, or acute care.

Section 3. Section 26B-1-335 is amended to read:

26B-1-335. Division of Services for People with Disabilities Restricted Account.

(1) As used in this section, "account" means the Division of Services for People with Disabilities Restricted Account created in Subsection (2).

(2) There is created [~~in the General Fund an account~~]a restricted account within the General Fund known as the "Division of Services for People with Disabilities Restricted Account."

(3) The account consists of:

(a) carry forward funds from the division's budget; and

(b) unexpended balances lapsed to the account from the division's budget.

(4) At the close of a fiscal year, the division may, without an appropriation, deposit into the account carry forward funds described in Subsection (3).

[~~(4)~~](5) Subject to appropriation, the Department of Health and Human Services may expend funds from the account to serve individuals eligible for division services statewide.

Section 4. Section 26B-3-910 is amended to read:

26B-3-910. Alternative eligibility -- Report -- Alternative Eligibility Account.

(1) A child who is not a traditionally eligible child may enroll in the program if:

(a) the child:

(i) has been living in the state for at least 180 days before the day on which the child applies for the program; and

(ii) meets the requirements described in Subsections 26B-3-903(1)(a) through (e); and

(b) the child's parent has unsubsidized employment.

(2)(a) Enrollment under Subsection (1) is subject to funds in the Alternative Eligibility [~~Expendable Revenue Fund~~]Account.

(b) The department may create a waiting list for enrollment under Subsection (2)(a) if eligible applicants exceed funds in the Alternative Eligibility [~~Expendable Revenue Fund~~]Account.

(3) Notwithstanding Section 26B-3-904, the program benefits, coverage, and cost sharing for a child enrolled under this section shall be equal to

the benefits, coverage, and cost sharing provided to a child who:

(a) is eligible under Subsection 26B-3-903(1); and

(b) resides in a household that has a gross family income equal to 200% of the federal poverty level.

(4) Notwithstanding Section 26B-3-906, program services provided to a child enrolled under this section shall be funded by the Alternative Eligibility [~~Expendable Revenue Fund~~]Account.

(5) Each year the department enrolls a child in the program under this section, the department shall submit a report to the Health and Human Services Interim Committee before November 30 detailing:

(a) the number of individuals served under the program;

(b) average duration of coverage for individuals served under the program;

(c) the cost of the program; and

(d) any benefits of the program, including data showing:

(i) percentage of enrolled individuals who had well-child visits with a primary care practitioner at recommended ages;

(ii) percentage of enrolled individuals who received a comprehensive or periodic oral evaluation;

(iii) percentage of enrolled individuals who received recommended immunizations at recommended ages;

(iv) rate of emergency department visits per 1,000 member months;

(v) rate of medication adherence to treat chronic conditions; and

(vi) a comparison of utilization patterns before and after enrollment.

(6)(a) There is created [~~an expendable special revenue fund~~]a restricted account within the General Fund known as the "Alternative Eligibility [~~Expendable Revenue Fund~~]Account."

(b) The Alternative Eligibility [~~Expendable Revenue Fund~~]Account shall consist of:

(i) appropriations by the Legislature;

(ii) any other funds received as donations for the [~~fund~~]account; and

(iii) interest earned on the account.

(c) If the balance of the Alternative Eligibility [~~Expendable Revenue Fund~~]Account exceeds $4,500,000, state funds shall be transferred from the Alternative Eligibility [~~Expendable Revenue Fund~~]Account to the General Fund in an amount equal to the amount needed to reduce the balance of the Alternative Eligibility [~~Expendable Revenue Fund~~]Account to $4,500,000.

(d) [~~Money~~]The Legislature may appropriate money in the Alternative Eligibility [~~Expendable Revenue Fund shall be used~~]Account to provide benefits to a child enrolled in the program under this section.

Section 5. Section 39A-2-102 is amended to read:

39A-2-102. Responsibilities of State Armory Board.

(1) The board shall supervise and control all facilities, ranges, training lands, and all real property held or acquired for the military purposes of the state.

(2) The board may:

(a) provide suitable facilities, ranges, and training lands for the different organizations of the National Guard;

(b) lease real property throughout the state wherever necessary for the use of organizations of the National Guard and for the storage of state and government property at a rental that the board considers reasonable;

(c) erect facilities and ranges at places within the state that it considers necessary upon lands to which it has acquired the legal title;

(d) expend military funds to acquire legal title to lands and to construct facilities and ranges;

(e) sell and lease property that the board holds under Subsection (1) for purposes consistent with the mission of the Utah National Guard; and

(f) conduct meetings and take official action in person or as necessary via electronic means, including telephone or video teleconferencing, or a combination of these methods.

(3)(a) Subject to Subsection (3)(b), the board may take options for the purchase of any premises under lease to the state for National Guard purposes:

(i) at any time during the life of the lease; and

(ii) when the purchase is in the state's interest.

(b) An option is not binding upon the board until it is approved by the Legislature.

(4)(a) Before legally binding the state to sell or lease any real property owned by the National Guard, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(b) Before legally binding the state to purchase any interest in real property, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(c) The Legislative Management Committee shall review each proposal and may approve or disapprove the sale.

[~~(5) The proceeds from the sales and leases of real property authorized by this section shall be appropriated to the State Armory Board to be~~

~~applied toward the acquisition and sale of real property, and the construction of new armories.~~]

[~~(6) Funds may be deposited into a public treasury investment fund to earn interest until use.~~]

(5)(a) There is created an expendable special revenue fund known as the "State Armory Fund."

(b) The State Armory Fund shall consist of:

(i) proceeds from the sales and leases of real property authorized by this section;

(ii) appropriations by the Legislature; and

(iii) interest earned on the fund.

(c) Subject to the Legislative Management Committee's review and recommendation, the State Armory Board may expend money in the State Armory Fund to pay for the acquisition and sale of real property and the construction of new armories.

Section 6. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3)(a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than [~~$1,500,000~~]$2,000,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6)(a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 7. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 20 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund , established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund [~~pursuant to~~]under Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; [~~and~~]

(c) money transferred to the fund under Section 63J-1-207; and

[~~(c)~~](d) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3)(a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of Planning and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

Section 8. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 5% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 20 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 5% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund, established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund [~~pursuant to~~]under Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; [~~and~~]

(c) money transferred to the fund under Section 63J-1-207; and

[~~(c)~~](d) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3)(a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of Planning and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

Section 9. Section 63B-32-101 is amended to read:

63B-32-101. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the fourth wing of Kahlert Village;

(b) the University of Utah use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $47,600,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the fourth wing of Kahlert Village subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the West Valley Health and Community Center;

(b) the University of Utah use clinical revenues and other non- state revenues of the University of Utah Health Sciences as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed [~~$400,000,000~~]$800,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the West Valley Health and Community Center subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(3) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing improvements to Maverik Stadium;

(b) Utah State University use existing student fees as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed $7,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct improvements to Maverik Stadium subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(4) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Dixie State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing Campus View Suites Phase Three;

(b) Dixie State University use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed $62,500,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct Campus View Suites Phase Three subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(5) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah Valley University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah Valley University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a parking garage;

(b) Utah Valley University use parking fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed $12,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct a parking garage subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

(6) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the

Legislature, to finance the university's share of the cost of constructing the Applied Sciences Building;

(b) the University of Utah use donations and university funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (6); and

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (6) may not exceed $25,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the university of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the University's share of the cost of constructing a Mental Health Facility;

(b) the University of Utah use donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (7); and

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (7) may not exceed $65,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(8) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of purchasing The Cottages at Shakespeare Lane apartment complex and adjoining home;

(b) Southern Utah University use donations, student housing rental fees, and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (8);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (8) may not exceed $12,000,000 for acquisition proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements; and

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

(9) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing an indoor football practice facility;

(b) the University of Utah use donations and nonstate university funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (9);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (9) may not exceed $62,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the indoor football practice facility, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

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

Section 10. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1)(a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2)(a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c)(i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f)(i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; and

(b) the Department of Government Operations may transfer money appropriated [~~for the purpose of paying the costs of paid employee parental leave and postpartum recovery leave under Section 63A-17-511 to another department, agency, institution, or division~~]to another department, agency, institution, or division for the purpose of paying the costs of pay for performance under Section 63A-17-112.

Section 11. Section 63J-1-207 is amended to read:

63J-1-207. Uniform School Fund -- Appropriations.

(1) Appropriations made from the General Fund to the Uniform School Fund to assist in financing the state's portion of the minimum school program, as provided by law, shall be conditioned upon available revenue.

(2) If revenues to the General Fund are not sufficient to permit transfers to the Uniform School Fund as provided by appropriation, the state fiscal officers shall withhold transfers from the General Fund to the Uniform School Fund during the fiscal period, as in their judgment the available revenues justify until:

(a) all other appropriations made by law have been provided for;

(b) any modifications to department and agency work programs have been made; and

(c) the governor has approved the transfer.

(3) Transfers from the General Fund to the Uniform School Fund shall be made at such times as required to equalize the property levy for each fiscal year.

(4) If, at the end of a fiscal year, there is a deficit in the Uniform School Fund, the Division of Finance may transfer from the Income Tax Fund to the Uniform School Fund an amount equal to the deficit.

Section 12. Section 63N-3-403 is amended to read:

63N-3-403. Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.

(1) There is created [~~an expendable special revenue~~]a fiduciary fund held by the state in a purely custodial capacity known as the Transient Room Tax Fund.

(2)(a) The fund shall be funded by the portion of the sales and use tax described in Subsection 59-12-301(2).

(b)(i) The fund shall earn interest.

(ii) Any interest earned on fund money shall be deposited into the fund.

(3)(a) Subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:

(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;

(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply; or

(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The executive director may not expend more than $20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

Section 13. Repealer.

This bill repeals:

Section 4-17-114, Invasive Species Mitigation Account created.

Section 63A-5b-1107, Development of new correctional facilities.

Section 63B-25-101, General obligation bonds for prison project -- Maximum amount -- Use of proceeds.

Section 14. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The actions affecting Section 53F-9-201 (Effective 01/01/25) take effect on January 1, 2025.

Section 15. Coordinating S.B. 241 with H.B. 73.

If this S.B. 241, Funds Amendments, and H.B. 73, Rehabilitation Services Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the amendments to Section 26B-1-318 in H.B.73 supersede the amendments to Section 26B-1-318 in S.B. 241.

CHAPTER 269
S. B. 243
Passed March 1, 2024
Approved March 14, 2024
Effective January 1, 2025

AIRCRAFT PROPERTY TAX MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions related to property tax assessment for aircrafts.

Highlighted Provisions:

This bill:

- limits the type of airline property subject to property tax assessment by the State Tax Commission to mobile flight equipment;
- provides that airline property other than mobile flight equipment is subject to local property tax assessment;
- clarifies the manner in which a fleet adjustment is made by the State Tax Commission to determine the fair market value of an aircraft fleet; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-201, as last amended by Laws of Utah 2023, Chapter 471
59-2-202, as last amended by Laws of Utah 2008, Chapter 382
59-2-204, as last amended by Laws of Utah 1999, Chapter 71
59-2-801, as last amended by Laws of Utah 2020, Chapter 38

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

Section 1. Section 59-2-201 is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Determination of value of aircraft -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1)(a) By May 1 of each year, the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) all [~~operating property of~~]mobile flight equipment of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters that are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b)(i) [~~For purposes of~~]Subsection (1)(a)(iii)[~~, operating property of an air charter service~~] does not include an aircraft that is:

(A) used by [~~the~~]an air charter service for air charter; and

(B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

(I) a principal, owner, or member of the air charter service; or

(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(iii) Except as provided in Subsection (1)(a)(iii), property in the state owned by an airline, air charter service, or air contract service shall be assessed by the local county assessor.

(2)(a) The commission may not assess property owned by a telecommunications service provider.

(b) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(i) The commission shall assess and collect property tax annually on state-assessed commercial vehicles that are registered pursuant to Section 41-1a-222 or 41-1a-228.

(ii) State-assessed commercial vehicles brought into the state that are required to be registered in

Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(iii) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

(iv) The commission shall adjust the value of state- assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3)(a) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property.

(b) The commission shall determine the rate of capitalization applicable to mines, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions.

(c) In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4)(a) As used in this Subsection (4), "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are:

(i) identified by year, make, and model; and

(ii) in average condition typical for the aircraft's type and vintage.

(b)(i) Except as provided in Subsection (4)(d), the commission shall use an aircraft pricing guide[~~, adjusted as provided in Subsection (4)(c),~~] to determine the fair market value of aircraft assessed under this part.

(ii) The commission shall use the Airliner Price Guide as the aircraft pricing guide, except that:

(A) if the Airliner Price Guide is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide;

(B) if an aircraft is not listed in the Airliner Price Guide, the commission shall use the Aircraft Bluebook Price Digest as the aircraft pricing guide; and

(C) if the Aircraft Bluebook Price Digest is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide.

(c)(i) [~~To reflect the value of an~~]The commission shall make a fleet adjustment in accordance with Subsection (4)(c)(ii) or (iii) to assess the fair market value of a fleet of aircraft or a fleet of the same aircraft type that is used as part of the [~~operating property~~]mobile flight equipment of an airline, air charter service, or air contract service[~~, the fair market value of the aircraft shall include a fleet adjustment as provided in this Subsection (4)(c)~~].

(ii) If the aircraft pricing guide provides [~~a method for making~~]for a fleet adjustment to determine the fair market value of the fleet of aircraft or the fleet of the same aircraft type, the commission shall [~~use the method described~~]make the fleet adjustment in the manner provided in the aircraft pricing guide.

(iii) If the aircraft pricing guide does not provide [~~a method for making~~]for a fleet adjustment to determine the fair market value of the fleet of aircraft or the fleet of the same aircraft type, the commission shall make [~~a fleet adjustment by reducing the aircraft pricing guide value of each aircraft in the fleet by .5% for each aircraft over three aircraft up to a maximum 20% reduction~~]the adjustment the commission determines most reasonably reflects the fair market value of the fleet of aircraft or fleet of the same aircraft type.

(d) The commission may use an alternative method for valuing aircraft of an airline, air charter service, or air contract service if the commission:

(i) has clear and convincing evidence that the aircraft values reflected in the aircraft pricing guide do not reasonably reflect fair market value of the aircraft; and

(ii) cannot identify an alternative aircraft pricing guide from which the commission may determine aircraft value.

(5) Immediately following the assessment, the commission shall send, by certified mail, notice of the assessment to the owner or operator of the assessed property and the assessor of the county in which the property is located.

(6) The commission may consult with a county in valuing property in accordance with this part.

(7) The local county assessor shall separately assess property that is assessed by the unitary method if the commission determines that the property:

(a) is not necessary to the conduct of the business; and

(b) does not contribute to the income of the business.

Section 2. Section 59-2-202 is amended to read:

59-2-202. Statement of taxpayer -- Extension of time for filing -- Assessment

without statement -- Penalty for failure to file statement or information -- Waiver, reduction, or compromise of penalty -- Appeals.

(1)(a) A person, or an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall, on or before March 1 of each year, file with the commission a statement:

(i) signed and sworn to by the person, officer, or agent;

(ii) showing in detail all real property and tangible personal property located in the state that the person owns or operates;

(iii) containing the number of miles of taxable tangible personal property in each county:

(A) that the person owns or operates; and

(B) as valued on January 1 of the year for which the person, officer, or agent is furnishing the statement; and

(iv) containing any other information the commission requires.

(b) Subsection (1)(a) applies to:

(i) the following property located in the state:

(A) a public utility;

(B) mobile flight equipment of an airline;

(C) mobile flight equipment of an air charter service; or

(D) mobile flight equipment of an air contract service; or

(ii) the following property located in more than one county in the state:

(A) a pipeline company;

(B) a power company;

(C) a canal company;

(D) an irrigation company; or

(E) a telephone company.

(c)(i) The commission may allow an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 30 days, unless the commission determines that extraordinary circumstances require a longer period of extension.

(ii) The commission shall grant a person, or an officer or agent of that person, an extension for filing the statement under Subsection (1)(a) for a time period not exceeding 15 days if:

(A) a federal regulatory agency requires the taxpayer to file a statement that contains the same information as the statement under Subsection (1)(a); and

(B) the person, or an officer or agent of that person, requests the commission to grant the extension.

(2) The commission shall assess and list the property described in Subsection (1)(b) using the best information obtainable by the commission if a person, or an officer or agent of that person, fails to file the statement required under Subsection (1)(a) on or before the later of:

(a) March 1; or

(b) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period.

(3)(a) Except as provided in Subsection (3)(c), the commission shall assess a person a penalty as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

(i) the statement required under Subsection (1)(a) on or before the later of:

(A) March 1; or

(B) if the commission allows an extension under Subsection (1)(c) for filing the statement, the day after the last day of the extension period; or

(ii) any other information the commission determines to be necessary to:

(A) establish valuations for assessment purposes; or

(B) apportion an assessment.

(b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

(i) 10% of the person's estimated tax liability under this chapter for the current calendar year not to exceed $50,000; or

(ii) $100.

(c)(i) Notwithstanding Subsections (3)(a) and (4), the commission may waive, reduce, or compromise a penalty imposed under this section if the commission finds there are reasonable grounds for the waiver, reduction, or compromise.

(ii) If the commission waives, reduces, or compromises a penalty under Subsection (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or compromising the penalty.

(4) The county treasurer shall collect the penalty imposed under Subsection (3) as provided in Section 59-2-1308.

(5) A person subject to a penalty under Subsection (3) may appeal the penalty according to procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

Section 3. Section 59-2-204 is amended to read:

59-2-204. Record of assessment of public utility and air travel companies -- Review by county assessor.

(1) Each year, the commission shall prepare a record of assessment of the following companies:

(a) public utility companies;

(b) airlines;

(c) air charter services; and

(d) air contract services.

(2) The record of assessment under Subsection (1) shall include:

(a) the name of each person engaged in business within the state in a company described in Subsection (1);

(b) for each company described in Subsection (1), the total value of all of the company's tangible [~~and intangible~~]properties subject to assessment by the commission; and

(c) any other information as determined by the commission.

(3) At the request of a county assessor, the commission shall provide to the county assessor:

(a) the record of assessment described in Subsection (1); and

(b) the information upon which the assessments and apportionments contained in the record of assessment are made.

Section 4. Section 59-2-801 is amended to read:

59-2-801. Apportionment of property assessed by commission.

(1) As used in this section:

(a)(i) Except as provided in Subsection (1)(a)(ii), "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(A) a county; and

(B) a school district.

(ii) "Designated tax area" includes a tax area created by the overlapping boundaries of the taxing entities described in Subsection (1)(a)(i)[~~,~~] and:

(A) a city or town if the boundaries of the school district under Subsection (1)(a)(i) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (1)(a)(i) are located entirely within the special service district.

(b) "Ground hours" means the total number of hours during the calendar year immediately preceding the January 1 described in Section 59-2-103 that aircraft owned or operated by the following are on the ground:

(i) an air charter service;

(ii) an air contract service; or

(iii) an airline.

(2) Before May 25 of each year, the commission shall apportion to each tax area the total assessment of all of the property the commission assesses as provided in Subsections (2)(a) through [~~(f)~~](e).

(a)(i) The commission shall apportion the assessments of the property described in Subsection (2)(a)(ii):

(A) to each tax area through which the public utility or company described in Subsection (2)(a)(ii) operates; and

(B) in proportion to the property's value in each tax area.

(ii) Subsection (2)(a)(i) applies to property owned by:

(A) a public utility, except for the rolling stock of a public utility;

(B) a pipeline company;

(C) a power company;

(D) a canal company; or

(E) an irrigation company.

(b) The commission shall apportion the assessments of the rolling stock of a railroad:

(i) to the tax areas through which railroads operate; and

(ii) in the proportion that the length of the main tracks, sidetracks, passing tracks, switches, and tramways of the railroads in each tax area bears to the total length of the main tracks, sidetracks, passing tracks, switches, and tramways in the state.

(c) The commission shall apportion the assessments of the property of a car company to:

(i) each tax area in which a railroad is operated; and

(ii) in the proportion that the length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in each tax area bears to the total length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state.

(d)(i) The commission shall apportion the assessments of the property described in Subsection (2)(d)(ii) to each tax area in which the property is located.

(ii) Subsection (2)(d)(i) applies to the following property:

(A) mines;

(B) mining claims; or

(C) mining property.

(e)(i) The commission shall apportion the assessments of the property described in Subsection (2)(e)(ii) to:

(A) each designated tax area; and

(B) in the proportion that the ground hours in each designated tax area bear to the total ground hours in the state.

(ii) Subsection (2)(e)(i) applies to the mobile flight equipment owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

[~~(f)(i) The commission shall apportion the assessments of the property described in Subsection (2)(f)(ii) to each tax area in which the property is located as of January 1 of each year.~~]

[~~(ii) Subsection (2)(f)(i) applies to the real and tangible personal property, other than mobile flight equipment, owned by an:~~]

[~~(A) air charter service;~~]

[~~(B) air contract service; or~~]

[~~(C) airline.~~]

(3)(a)(i)(A) State-assessed commercial vehicles that weigh 12,001 pounds or more shall be taxed at a statewide average rate which is calculated from the overall county average tax rates from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted by lane miles of principal routes in each county.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."

(ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject to the uniform fee provided in Section 59-2-405.1.

(b) The combined revenue from all state-assessed commercial vehicles shall be apportioned to the counties based on:

(i) 40% by the percentage of lane miles of principal routes within each county as determined by the commission; and

(ii) 60% by the percentage of total state-assessed vehicles having business situs in each county.

(c) At least quarterly, the commission shall apportion the total taxes paid on state-assessed commercial vehicles to the counties.

(d) Each county shall apportion its share of the revenues under this Subsection (3) to the taxing entities within its boundaries in the same proportion as the assessments of other:

(i) real property;

(ii) tangible personal property; and

(iii) property assessed by the commission.

Section 5. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2025.

CHAPTER 270
S. B. 245
Passed March 1, 2024
Approved March 14, 2024
Effective January 1, 2025

COUNTY SALES AND USE TAX AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies distribution provisions of the County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

Highlighted Provisions:

This bill:

- revises the distribution of 16% of the revenue from the county botanical, cultural, recreational, and zoological organizations or facilities tax in a county of the first class.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-702, as last amended by Laws of Utah 2017, Chapter 382
59-12-704, as last amended by Laws of Utah 2021, Chapter 396

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

Section 1. Section 59-12-702 is amended to read:

59-12-702. Definitions.

As used in this part:

(1) "Administrative unit" means a division of a private nonprofit organization or institution that:

(a) would, if it were a separate entity, be a botanical organization or cultural organization; and

(b) consistently maintains books and records separate from those of [~~its~~]the administrative unit's parent organization.

(2) "Aquarium" means a park or building where a collection of water animals and plants is kept for study, conservation, and public exhibition.

(3) "Aviary" means a park or building where a collection of birds is kept for study, conservation, and public exhibition.

(4) "Botanical organization" means:

(a) a private nonprofit organization or institution having as [~~its~~]the private nonprofit organization's or institution's primary purpose the advancement and preservation of plant science through horticultural display, botanical research, and community education; or

(b) an administrative unit.

(5) "Cultural facility" means the same as that term is defined in Section 59-12-602.

(6)(a) "Cultural organization" means:

[~~(i) means:~~]

[~~(A)~~](i) a private nonprofit organization or institution having as [~~its~~]the private nonprofit organization's or institution's primary purpose the advancement and preservation of:

[~~(I)~~](A) natural history;

[~~(II)~~](B) art;

[~~(III)~~](C) music;

[~~(IV)~~](D) theater;

[~~(V)~~](E) dance; or

[~~(VI)~~](F) cultural arts, including literature, a motion picture, or storytelling; and

[~~(B)~~](ii) an administrative unit[~~; and~~].

[~~(ii)~~](b) "Cultural organization" includes, for purposes of Subsections 59-12-704(1)(d) and [~~(6)~~](10) only:

[~~(A)~~](i) a private nonprofit organization or institution having as [~~its~~]the private nonprofit organization's or institution's primary purpose the advancement and preservation of history; or

[~~(B)~~](ii) a municipal or county cultural council having as [~~its~~]the municipal or county cultural council's primary purpose the advancement and preservation of:

[~~(I)~~](A) history;

[~~(II)~~](B) natural history;

[~~(III)~~](C) art;

[~~(IV)~~](D) music;

[~~(V)~~](E) theater; or

[~~(VI)~~](F) dance.

[~~(b)~~](c) "Cultural organization" does not include:

(i) an agency of the state;

(ii) except as provided in Subsection [~~(6)(a)(ii)(B)~~](6)(b)(ii), a political subdivision of the state;

(iii) an educational institution [~~whose annual revenues are~~]for which annual revenue is directly derived more than 50% from state funds; or

(iv) in a county of the first or second class, a radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(7) "Institution" means an institution of higher education listed in Subsection 53B-1-102(1)(a).

(8) "Recreational facility" means a publicly owned or operated park, campground, marina, dock, golf

course, playground, athletic field, gymnasium, swimming pool, trail system, or other facility used for recreational purposes.

(9) "Rural radio station" means a nonprofit radio station based in a county of the third, fourth, fifth, or sixth class.

(10) In a county of the first class, "zoological facility" means a public, public-private partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway, roadway, office, administration facility, public service facility, educational facility, enclosure, public viewing area, animal barrier, animal housing, animal care facility, and veterinary and hospital facility related to the advancement, exhibition, or preservation of a mammal, bird, reptile, fish, or an amphibian.

(11)(a)(i) Except as provided in Subsection (11)(a)(ii), "zoological organization" means a public, public-private partnership, or private nonprofit organization having as its primary purpose the advancement and preservation of zoology.

(ii) In a county of the first class, "zoological organization" means a nonprofit organization having as [~~its~~]nonprofit organization's primary purpose the advancement and exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

(b) "Zoological organization" does not include an agency of the state, educational institution, radio or television broadcasting network or station, cable communications system, newspaper, or magazine.

(12) "Zoological park" means a park or garden where a collection of wild animals is kept for study, conservation, and public exhibition.

Section 2. Section 59-12-704 is amended to read:

59-12-704. Distribution of revenue -- Advisory board creation -- Determining operating expenses -- Administrative charge.

(1) Except as provided in Subsections [~~(3)(b)~~](7)(b) and [~~(5)~~](9), and subject to the requirements of this section, [~~any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body~~]the county legislative body of a county of the first class shall distribute annually any revenue collected under this part to support cultural facilities, recreational facilities, and zoological facilities and botanical organizations, cultural organizations, and zoological organizations within that first class county as follows:

[~~(a) 30% of the revenue collected by the county under this section shall be distributed by the county legislative body to support cultural facilities and recreational facilities located within the county;~~]

[~~(b)(i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii), 16% of the revenue collected by the county under this section shall be distributed by the county legislative body to support no more than three zoological facilities and zoological organizations located within the county, having average annual operating expenses of $1,500,000 or more as determined under Subsection (3), with:~~]

[~~(A) 63.5% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park;~~]

[~~(B) 28.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium; and~~]

[~~(C) 8.25% of that revenue being distributed to support a zoological organization having as its primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;~~]

[~~(ii) if more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (1)(b)(i); and~~]

[~~(iii) if no zoological organization or zoological facility qualifies to receive money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (3);~~]

[~~(c)(i) 45% of the revenue collected by the county under this section shall be distributed to no more than 22 botanical organizations and cultural organizations:~~]

[~~(A) each of which has average annual operating expenses of more than $250,000 as determined under Subsection (3); and~~]

[~~(B) whose activities impact all or a significant region of the county or state;~~]

[~~(ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the money described in Subsection (1)(c)(i) among the botanical organizations and cultural organizations in proportion to their average annual operating expenses as determined under Subsection (3); and~~]

[~~(iii) the amount distributed to any botanical organization or cultural organization described in Subsection (1)(c)(i) may not exceed 35% of the~~

~~botanical organization's or cultural organization's operating budget; and~~]

[~~(d)(i) 9% of the revenue collected by the county under this section shall be distributed to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c)(i) in communities throughout the county; and~~]

[~~(ii) the county legislative body shall determine how the money shall be distributed among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).~~]

(a) 30% of the revenue to support cultural facilities and recreational facilities located within the county;

(b) 16% of the revenue to support zoological facilities and zoological organizations located within the county as provided in Subsection (2);

(c) as provided in Subsection (5), 45% of the revenue to support no more than 22 botanical organizations and cultural organizations:

(i) each of which has average annual operating expenses of more than $250,000 as determined under Subsection (7); and

(ii) whose activities impact all or a significant region of the county or state; and

(d) 9% of the revenue to botanical organizations and cultural organizations that do not receive revenue under Subsection (1)(c) in communities throughout the county as determined by the county legislative body.

(2)(a) The distribution described in Subsection (1)(b) shall support no more than three zoological facilities and zoological organizations located within the county and having average annual operating expenses of $1,500,000 or more as determined under Subsection (7).

(b) For the calendar years that begin on or after January 1, 2025, and on or before January 1, 2029, the county shall distribute the 16% of the revenue as follows:

(i) 8.25% of the revenue to support a zoological organization having as the zoological organization's primary purpose the operation of an aviary, or a zoological facility that is part of or integrated with an aviary;

(ii) an amount equal to the amount distributed during the previous calendar year to support a zoological organization having as the zoological organization's primary purpose the operation of a zoological park, or a zoological facility that is part of or integrated with a zoological park; and

(iii) the remaining amount to a zoological organization having as the zoological organization's primary purpose the operation of an aquarium, or a zoological facility that is part of or integrated with an aquarium.

(c) For a calendar year that begins on or after January 1, 2030, the county shall provide by ordinance for the distribution of the 16% of revenue to no more than three zoological facilities and zoological organizations located within the county and having average annual operating expenses of $1,500,000 or more as determined under Subsection (7).

(3) If more than one zoological organization or zoological facility qualifies to receive the money described in Subsection (2), the county legislative body shall distribute the money described in the subsection for which more than one zoological organization or zoological facility qualifies to whichever zoological organization or zoological facility the county legislative body determines is most appropriate, except that a zoological organization or zoological facility may not receive money under more than one subsection under Subsection (2).

(4) If no zoological organization or zoological facility qualifies to receive money described in Subsection (2), the county legislative body shall distribute the money described in the subsection for which no zoological organization or zoological facility qualifies among the zoological organizations or zoological facilities qualifying for and receiving money under the other subsections in proportion to the zoological organizations' or zoological facilities' average annual operating expenses as determined under Subsection (7).

(5)(a) Subject to Subsection (5)(b), the county legislative body shall distribute the money described in Subsection (1)(c) among the botanical organizations and cultural organizations in proportion to the botanical organizations' and cultural organizations' average annual operating expenses as determined under Subsection (7).

(b) The county may not distribute to any botanical organization or cultural organization described in Subsection (1)(c) an amount that exceeds 35% of the botanical organization's or cultural organization's operating budget.

[~~(2)~~](6)(a) The county legislative body of each county shall create an advisory board to advise the county legislative body on disbursement of funds to botanical organizations and cultural organizations under Subsection [~~(1)(c)(i)~~](1)(c).

(b)(i) The advisory board under Subsection [~~(2)(a)~~](6)(a) shall consist of seven members appointed by the county legislative body.

(ii) [~~In a county of the first class, two of the seven members of the advisory board under Subsection (2)(a) shall be appointed by the Division of Arts and Museums created in Section 9-6-201~~]In a county of the first class, the Division of Arts and Museums created in Section 9-6-201 shall appoint two of the seven members of the advisory board under Subsection (6)(a).

[~~(3)~~](7)(a) Except as provided in Subsection [~~(3)(b)~~](7)(b), to be eligible to receive money collected by the county under this part, a botanical organization, cultural organization, zoological organization, and zoological facility located within a county of the first class shall, every year:

(i) calculate its average annual operating expenses based upon audited operating expenses for three preceding fiscal years; and

(ii) submit to the appropriate county legislative body:

(A) a verified audit of annual operating expenses for each of those three preceding fiscal years; and

(B) the average annual operating expenses as calculated under Subsection [~~(3)(a)(i)~~](7)(a)(i).

(b) The county legislative body may waive the operating expenses reporting requirements under Subsection [~~(3)(a)~~](7)(a) for organizations described in Subsection [~~(1)(d)(i)~~](1)(d).

[~~(4)~~](8) When calculating average annual operating expenses as described in Subsection [~~(3)~~](7), each botanical organization, cultural organization, and zoological organization shall use the same three-year fiscal period as determined by the county legislative body.

[~~(5)~~](9)(a) By July 1 of each year, the county legislative body of a first class county may index the threshold amount in Subsections (1)(c) and (d).

(b) Any change under Subsection [~~(5)(a)~~](9)(a) shall be rounded off to the nearest $100.

[~~(6)~~](10)(a) In a county except for a county of the first class, the county legislative body shall by ordinance provide for the distribution of the entire amount of the [~~revenues~~]revenue generated by the tax imposed by this section:

(i) as provided in this Subsection [~~(6)~~](10); and

(ii) as stated in the opinion question described in Subsection 59-12-703(1).

(b) [~~Pursuant to~~]In accordance with an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection [~~(6)(a)~~](10)(a) may distribute to a city, town, or political subdivision within the county [~~revenues~~]revenue generated by a tax under this part.

(c) The [~~revenues~~]revenue distributed under Subsection [~~(6)(a)~~](10)(a) or (b) shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless of whether the [~~revenues are~~]revenue is distributed:

(i) directly by the county described in Subsection [~~(6)(a)~~](10)(a) to be used for an organization or facility defined in Section 59-12-702; or

(ii) in accordance with an interlocal agreement described in Subsection [~~(6)(b)~~](10)(b).

[~~(7)~~](11) A county legislative body may retain up to 1.5% of the proceeds from a tax under this part for the cost of administering this part.

[~~(8)~~](12) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the [~~revenues~~]revenue the commission collects from a tax under this part.

Section 3. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 271
S. B. 261
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

OPIOID SETTLEMENT PROCEEDS AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill addresses the Opioid Litigation Proceeds Restricted Account.

Highlighted Provisions:

This bill:

- requires a recipient of opioid settlement proceeds to report certain data regarding the recipient's use of the opioid settlement proceeds.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-211, as enacted by Laws of Utah 2023, Chapter 319

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

Section 1. Section 26B-5-211 is amended to read:

26B-5-211. Administration of opioid litigation proceeds -- Requirements for governmental entities receiving opioid funds -- Reporting.

(1) As used in this section:

(a) "Office" means the Office of Substance Use and Mental Health within the department.

(b) "Opioid funds" means money received by the state or a political subdivision of the state as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of opioids.

(c) "Restricted account" means the Opioid Litigation Proceeds Restricted Account created in Section 51-9-801.

(2) Opioid funds may not be used to:

(a) reimburse expenditures that were incurred before the opioid funds were received by the governmental entity; or

(b) supplant or take the place of any funds that would otherwise have been expended for that purpose.

(3) The office shall serve as the reporting entity to receive, compile, and submit any reports related to opioid funds that are required by law, contract, or other agreement.

(4) The requirement described in Subsection (5) applies to:

(a) a recipient of opioid funds from the restricted account, in any year that opioid funds are received; and

(b) a political subdivision that received opioid funds.

(5) A person described in Subsection (4) shall provide an annual report to the office, in a form and by a date established by the office, that includes:

(a) an accounting of all opioid funds that were received by the person in the year;

(b) the number of individuals served through programs funded by the opioid funds, including the individuals' age, gender, and other demographic factors reported in a de-identified manner;

(c) the measures that were used to determine whether the program funded by the opioid funds achieved the intended outcomes; [~~and~~]

(d) if applicable, any information required to be submitted to the reporting entity under applicable law, contract, or other agreement[~~.~~]; and

(e) the percentage of total funds received by the person in the year that the person used to promote the items under Subsections (6)(d)(i) through (vi).

(6) [~~Beginning October 1, 2023, and on or before October 1 of each year thereafter~~]On or before October 1 of each year, the office shall provide a written report that includes:

(a) the opening and closing balance of the restricted account for the previous fiscal year;

(b) the name of and amount received by each recipient of funds from the restricted account;

(c) a description of the intended use of each award, including the specific program, service, or resource funded, population served, and measures that the recipient used or will use to assess the impact of the award;

(d) the amount of funds expended to address each of the following items and the degree to which the department administered the program or subcontracted with a private entity:

(i) treatment services;

(ii) recovery support services;

(iii) prevention;

(iv) criminal justice;

(v) harm reduction; and

(vi) expanding any of the following services:

(A) housing;

(B) legal support;

(C) education; and

(D) job training;

[~~(d)~~](e) a description of any finding or concern as to whether all opioid funds disbursed from the restricted account violated the prohibitions in Subsection (2) and, if applicable, complied with the requirements of a settlement agreement; [~~and~~]

[~~(e)~~](f) the performance indicators and progress toward improving outcomes and reducing mortality and other harms related to substance use disorders[~~.~~]; and

(g) administrative costs including indirect rates and direct service costs.

(7) The office shall provide the information that is received, compiled, and submitted under this section:

(a) to the Health and Human Services Interim Committee;

(b) to the Social Services Appropriations Subcommittee;

(c) if required under the terms of a settlement agreement under which opioid funds are received, to the administrator of the settlement agreement in accordance with the terms of the settlement agreement; and

(d) in a publicly accessible location on the department's website.

(8) The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 272
S. B. 250
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX INCOME REQUIREMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- aligns the maximum annual amount allowed for a renter's credit with the amount allowed for a homeowner's credit; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:
59-2-1209, as last amended by Laws of Utah 2022, Chapter 196

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

Section 1. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for gross rent that does not constitute a rental assistance payment -- Calculation of credit when rent includes utilities -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2021, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of gross rent allowed as a credit
$0 -- $11,785	9.5%
$11,786 -- $15,716	8.5%
$15,717 -- $19,643	7.0%
$19,644 -- $23,572	5.5%
$23,573 -- $27,503	4.0%
$27,504 -- $31,198	3.0%
$31,199 -- $34,666	2.5%

(b) For a calendar year beginning on or after January 1, 2022, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the [~~consumer price index~~]Consumer Price Index housing for the preceding calendar year and the [~~consumer price index~~]Consumer Price Index housing for calendar year 2020.

(2) A claimant may claim a renter's credit under this part only for gross rent that does not constitute a rental assistance payment.

(3) For purposes of calculating gross rent when a claimant's rent includes electricity or natural gas and the utility amount is not itemized in the statement provided in accordance with Section 59-2-1213, the commission shall deduct from rent:

(a) 7% of rent if the rent includes electricity or natural gas but not both; or

(b) 13% of rent if the rent includes both electricity and natural gas.

(4) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

(5) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

(6) A credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under [~~Subsection 59-2-1208(1)(a) ~~]Section 59-2-1208.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 273
S. B. 262
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

ORGAN TRANSPLANT AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill addresses forced organ harvesting.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits an issuer of accident and health insurance from covering a human organ transplant or post-transplant care under certain circumstances;
- authorizes a deputy director from the Department of Health and Human Services to designate a country known to have participated in forced organ harvesting; and
- provides a severability clause.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

31A-22-660, Utah Code Annotated 1953

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

Section 1. Section 31A-22-660 is enacted to read:

31A-22-660. Definitions -- Prohibitions concerning organ harvesting -- Severability.

(1) As used in this section, "forced organ harvesting" means the removal of one or more organs from a living individual, or from an individual killed for the purpose of removal of one or more of the individual's organs, by means of coercion, abduction, deception, fraud, or abuse of power or a position of vulnerability.

(2) An issuer of accident and health insurance may not cover a human organ transplant or post-transplant care if:

(a) the human organ transplant operation is performed in the People's Republic of China or any other country known to have participated in forced organ harvesting, as designated pursuant to Subsection (3); or

(b) the human organ to be transplanted was procured by sale or donation originating in the People's Republic of China or any other country known to have participated in forced organ harvesting, as designated pursuant to Subsection (3).

(3)(a) The deputy director of the Department of Health and Human Services described in Subsection 26B-1-203(4) may designate additional countries with governments that fund, sponsor, or otherwise facilitate forced organ harvesting.

(b) If the deputy director designates an additional country under Subsection (3)(a), the deputy director shall provide written notice to the executive director of the Department of Health and Human Services and the insurance commissioner.

(4) If any provision of this section or the application of any provision of this section to any person or circumstance is held to be invalid, the remainder of this section shall be given effect without the invalid provision or application. The provisions of Section 31A-22-660 are severable.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 274
H. B. 32
Passed February 1, 2024
Approved March 14, 2024
Effective July 1, 2024

SHORT-TERM RENTAL MODIFICATIONS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the taxation of short-term rentals of accommodations and motor vehicles.

Highlighted Provisions:

This bill:

- defines "short-term rental" in the sales and use tax code;
- applies the defined term to the taxes on accommodations and motor vehicles; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-48a-101, as enacted by Laws of Utah 2023, Chapter 361
59-12-102, as last amended by Laws of Utah 2023, Chapters 329, 361
59-12-102, as last amended by Laws of Utah 2023, Chapters 329, 361 and 459
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471
59-12-602, as last amended by Laws of Utah 2023, Chapter 361
59-12-603, as last amended by Laws of Utah 2023, Chapters 361, 471 and 479
59-12-1201, as last amended by Laws of Utah 2023, Chapters 361, 471

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

Section 1. Section 13-48a-101 is amended to read:

13-48a-101. Definitions.

As used in this chapter:

(1)(a) "Car sharing" means the authorized use of a motor vehicle:

(i) by an individual other than the owner of the motor vehicle; and

(ii) through a peer-to-peer car-sharing program.

(b) "Car sharing" does not mean the business of providing private passenger motor vehicles to the public as used in Section 31A-22-311.

(2)(a) "Car-sharing agreement" means an agreement:

(i) applicable to a shared vehicle owner and a shared vehicle driver; and

(ii) that governs a shared vehicle driver's use of a shared vehicle through a car-sharing program.

(b) "Car-sharing agreement" does not mean:

(i) a rental agreement, as defined in Section 31A-22-311; or

(ii) a short-term rental as that term is defined in Section [~~59-12-602~~]59-12-102.

(3) "Car-sharing delivery period" means the period of time during which a shared vehicle is being delivered to the location of the car-sharing start time, if applicable, as documented by the governing car-sharing agreement.

(4) "Car-sharing period" means the period of time that:

(a)(i) begins at the car-sharing delivery period; or

(ii) if there is no car-sharing delivery period, begins at the car-sharing start time; and

(b) ends at the car-sharing termination time.

(5)(a) "Car-sharing program" or "peer-to-peer car-sharing program" means a business platform that connects motor vehicle owners with drivers to enable the sharing of motor vehicles for consideration.

(b) "Car-sharing program" does not mean:

(i) a motor vehicle rental company, as defined in Section 13-48-102; or

(ii) a rental company, as defined in Section 31A-22-311.

(6) "Car-sharing start time" means the time when a shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of the shared vehicle is scheduled to begin, as documented in the records of the car-sharing program.

(7) "Car-sharing termination time" means the earliest of the following events:

(a) the expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car-sharing agreement, if the shared vehicle is delivered to the location agreed upon in the car-sharing agreement;

(b) when the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a car-sharing program, which alternatively agreed upon location shall be incorporated into the car-sharing agreement; and

(c) when the shared vehicle owner or shared vehicle owner's authorized designee takes possession and control of the shared vehicle.

(8) "Individual-owned shared vehicle" means:

(a) for a motor vehicle purchased in the state, a shared vehicle for which applicable sales tax and use tax was paid on the purchase; or

(b) for a motor vehicle not purchased in the state, a shared vehicle for which:

(i) an applicable use tax was paid to this state on the purchase; or

(ii) sales tax or use tax was paid on the purchase in the jurisdiction in which the motor vehicle was purchased.

(9) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(10) "Shared vehicle" means a motor vehicle that is available for use by an individual other than the shared vehicle owner through a car-sharing program.

(11)(a) "Shared vehicle driver" means an individual who has been authorized to drive a shared vehicle by the shared vehicle owner under a car-sharing program.

(b) "Shared vehicle driver" does not mean a renter, as defined in Section 31A-22-311.

(12)(a) "Shared vehicle owner" means:

(i) the registered owner of a motor vehicle made available for car sharing; or

(ii) a person designated by the registered owner of a motor vehicle made available for car sharing.

(b) "Shared vehicle owner" does not mean a rental company, as defined in Section 31A-22-311.

Section 2. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2)(a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3)(a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(c)(i);

(d) Subsection 59-12-103(2)(d);

(e) Subsection 59-12-103(2)(e)(i)(A)(I);

(f) Section 59-12-204;

(g) Section 59-12-401;

(h) Section 59-12-402;

(i) Section 59-12-402.1;

(j) Section 59-12-703;

(k) Section 59-12-802;

(l) Section 59-12-804;

(m) Section 59-12-1102;

(n) Section 59-12-1302;

(o) Section 59-12-1402;

(p) Section 59-12-1802;

(q) Section 59-12-2003;

(r) Section 59-12-2103;

(s) Section 59-12-2213;

(t) Section 59-12-2214;

(u) Section 59-12-2215;

(v) Section 59-12-2216;

(w) Section 59-12-2217;

(x) Section 59-12-2218;

(y) Section 59-12-2219; or

(z) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13)(a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18)(a) [~~Except as provided in Subsection (18)(b), "biomass~~]"Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19)(a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c)(i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d)(i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e)(i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(24)(a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).

(27)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b)(i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(29) "Computer" means an electronic device that accepts information:

(a)(i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (31)(a) and (b).

(32)(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be converted into real property.

(34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(35)(a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (37)(b)(i) through (v);

(c)(i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(38)(a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(39) "Digital audio- visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(41)(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(43)(a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B- 2- 201;

(B) a health care provider as defined in Section 78B- 3- 403;

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(45)(a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(46)(a) [~~Except as provided in Subsection (46)(c), "durable~~]"Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (47)(b)(i) through (vi).

(48) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(49) "Employee" means the same as that term is defined in Section 59-10-401.

(50) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(51) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(53)(a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(54)(a) "Fundraising sales" means sales:

(i)(A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross [~~revenues~~]revenue from which [~~are~~]is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(61)(a) [~~Except as provided in Subsection (61)(b), "installation~~]"Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(63)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i)(A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American

Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71)(a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72)(a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59-12-602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g); or

(j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A-1-302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77)(a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78)(a) [~~Except as provided in Subsection (78)(c), "mobility~~]"Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81)(a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales [~~revenues~~]revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(88)(a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(89)(a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(92)(a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(136)(c)~~](137)(c).

(93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality,

district, or other local governmental entity of the state, or any group or combination acting as a unit.

(94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(95)(a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99)(a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii)(A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(100) "Prescription" means an order, formula, or recipe that is issued:

(a)(i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(101)(a) [~~Except as provided in Subsection (101)(b)(ii) or (iii), "prewritten~~]"Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(102)(a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59- 12- 215.

(103)(a) [~~Except as provided in Subsection (103)(b), "product~~]"Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(104)(a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(105)(a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(106)(a) For purposes of Subsection 59- 12- 104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(107)(a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A)(I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D)(I)(Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(110) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(111) "Rental" means the same as that term is defined in Subsection (63).

(112)(a) [~~Except as provided in Subsection (112)(b), "repairs~~]"Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal

property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(113) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(114)(a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(117)(a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(118)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(119) "Sale at retail" means the same as that term is defined in Subsection (116).

(120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(121) "Sales price" means the same as that term is defined in Subsection (107).

(122)(a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross [~~revenues~~]revenue generated by the sales [~~are~~]is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (122)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(123) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(124)(a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(125)(a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (125)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(130)(a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(131)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

[~~(131)~~](132) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(132)~~](133) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(133)~~](134)(a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(134)~~](135) "State" means the state of Utah, its departments, and agencies.

[~~(135)~~](136) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59- 12- 103(1), in this state for any purpose except sale in the regular course of business.

[~~(136)~~](137)(a) [~~Except as provided in Subsection (136)(d) or (e), "tangible~~]"Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(136)(c)(i)~~](137)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(137)~~](138)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(137)(b)~~](138)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(137)(a)~~](138)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~](138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(137)(c)~~](138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~](138)(b)(i) through (vi).

[~~(138)~~](139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(139)~~](140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(140)~~](141)(a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I)(Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value- added nonvoice data service; or

(xi) tangible personal property.

[~~(141)~~](142)(a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(141)(a)(i)~~](142)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(141)(a)~~](142)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(142)~~](143)(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(142)(b)~~](143)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(142)(a)~~](143)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(142)(b)(i)~~](143)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(142)(c)~~](143)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(142)(b)(i)~~](143)(b)(i) through (ix).

[~~(143)~~](144)(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(143)(b)~~](144)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(143)(a)~~](144)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [~~(143)(c)~~](144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (xxv).

[~~(144)~~](145)(a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(145)~~](146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(146)~~](147) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(147)~~](148)(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(148)~~](149) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(149)~~](150)(a) Subject to Subsection [~~(149)(b)~~](150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(149)(a)~~](150)(a); or

(ii)(A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(150)~~](151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(149)~~](150).

[~~(151)~~](152)(a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(152)~~](153)(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(153)~~](154)(a) [~~Except as provided in Subsection (153)(b), "waste"~~]"Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(154)~~](155) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(155)~~](156) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(156)~~](157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 3. Section 59-12-102 is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:

(a) allows a caller to dial a toll-free number without incurring a charge for the call; and

(b) is typically marketed:

(i) under the name 800 toll-free calling;

(ii) under the name 855 toll-free calling;

(iii) under the name 866 toll-free calling;

(iv) under the name 877 toll-free calling;

(v) under the name 888 toll-free calling; or

(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2)(a) "900 service" means an inbound toll telecommunications service that:

(i) a subscriber purchases;

(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:

(A) prerecorded announcement; or

(B) live service; and

(iii) is typically marketed:

(A) under the name 900 service; or

(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.

(b) "900 service" does not include a charge for:

(i) a collection service a seller of a telecommunications service provides to a subscriber; or

(ii) the following a subscriber sells to the subscriber's customer:

(A) a product; or

(B) a service.

(3)(a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include:

(i) annual membership dues to private organizations; or

(ii) a lesson, including a lesson that involves as part of the lesson equipment or a facility listed in Subsection 59-12-103(1)(f).

(4) "Affiliate" or "affiliated person" means a person that, with respect to another person:

(a) has an ownership interest of more than 5%, whether direct or indirect, in that other person; or

(b) is related to the other person because a third person, or a group of third persons who are affiliated persons with respect to each other, holds an ownership interest of more than 5%, whether direct or indirect, in the related persons.

(5) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(6) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (7); and

(b) that are imposed within a local taxing jurisdiction.

(7) "Agreement sales and use tax" means a tax imposed under:

(a) Subsection 59-12-103(2)(a)(i)(A);

(b) Subsection 59-12-103(2)(b)(i);

(c) Subsection 59-12-103(2)(d);

(d) Subsection 59-12-103(2)(e)(i)(A)(I);

(e) Section 59-12-204;

(f) Section 59-12-401;

(g) Section 59-12-402;

(h) Section 59-12-402.1;

(i) Section 59-12-703;

(j) Section 59-12-802;

(k) Section 59-12-804;

(l) Section 59-12-1102;

(m) Section 59-12-1302;

(n) Section 59-12-1402;

(o) Section 59-12-1802;

(p) Section 59-12-2003;

(q) Section 59-12-2103;

(r) Section 59-12-2213;

(s) Section 59-12-2214;

(t) Section 59-12-2215;

(u) Section 59-12-2216;

(v) Section 59-12-2217;

(w) Section 59-12-2218;

(x) Section 59-12-2219; or

(y) Section 59-12-2220.

(8) "Aircraft" means the same as that term is defined in Section 72-10-102.

(9) "Aircraft maintenance, repair, and overhaul provider" means a business entity:

(a) except for:

(i) an airline as defined in Section 59-2-102; or

(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and

(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:

(i) check, diagnose, overhaul, and repair:

(A) an onboard system of a fixed wing turbine powered aircraft; and

(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;

(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;

(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:

(A) an inspection;

(B) a repair, including a structural repair or modification;

(C) changing landing gear; and

(D) addressing issues related to an aging fixed wing turbine powered aircraft;

(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and

(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(10) "Alcoholic beverage" means a beverage that:

(a) is suitable for human consumption; and

(b) contains .5% or more alcohol by volume.

(11) "Alternative energy" means:

(a) biomass energy;

(b) geothermal energy;

(c) hydroelectric energy;

(d) solar energy;

(e) wind energy; or

(f) energy that is derived from:

(i) coal-to-liquids;

(ii) nuclear fuel;

(iii) oil-impregnated diatomaceous earth;

(iv) oil sands;

(v) oil shale;

(vi) petroleum coke; or

(vii) waste heat from:

(A) an industrial facility; or

(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(12)(a) Subject to Subsection (12)(b), "alternative energy electricity production facility" means a facility that:

(i) uses alternative energy to produce electricity; and

(ii) has a production capacity of two megawatts or greater.

(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:

(i) connected to an electric grid; or

(ii) located on the premises of an electricity consumer.

(13)(a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.

(b) "Ancillary service" includes:

(i) a conference bridging service;

(ii) a detailed communications billing service;

(iii) directory assistance;

(iv) a vertical service; or

(v) a voice mail service.

(14) "Area agency on aging" means the same as that term is defined in Section 26B-6-101.

(15) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:

(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and

(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(16) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:

(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and

(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(17) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;

(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(18)(a) [~~Except as provided in Subsection (18)(b), "biomass~~]"Biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(19)(a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:

(I) food and food ingredients;

(II) a drug;

(III) durable medical equipment;

(IV) mobility enhancing equipment;

(V) an over-the-counter drug;

(VI) a prosthetic device; or

(VII) a medical supply; and

(B) subject to Subsection (19)(f):

(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or

(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c)(i) For purposes of Subsection (19)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:

(A) packaging that:

(I) accompanies the sale of the tangible personal property, product, or service; and

(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;

(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or

(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."

(ii) For purposes of Subsection (19)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d)(i) For purposes of Subsection (19)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:

(A) a binding sales document; or

(B) another supporting sales-related document that is available to a purchaser.

(ii) For purposes of Subsection (19)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:

(A) a bill of sale;

(B) a contract;

(C) an invoice;

(D) a lease agreement;

(E) a periodic notice of rates and services;

(F) a price list;

(G) a rate card;

(H) a receipt; or

(I) a service agreement.

(e)(i) For purposes of Subsection (19)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:

(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or

(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.

(ii) For purposes of Subsection (19)(b)(vi), a seller:

(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.

(iii) For purposes of Subsection (19)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.

(f) For purposes of Subsection (19)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.

(20) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(21) "Car-sharing program" means the same as that term is defined in Section 13-48a-101.

(22) "Certified automated system" means software certified by the governing board of the agreement that:

(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:

(i) on a transaction; and

(ii) in the states that are members of the agreement;

(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and

(c) maintains a record of the transaction described in Subsection (22)(a)(i).

(23) "Certified service provider" means an agent certified:

(a) by the governing board of the agreement; and

(b) to perform a seller's sales and use tax functions for an agreement sales and use tax, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(24)(a) Subject to Subsection (24)(b), "clothing" means all human wearing apparel suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "clothing"; and

(ii) that are consistent with the list of items that constitute "clothing" under the agreement.

(25) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

(26) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (60) or residential use under Subsection (115).

(27)(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.

(b)(i) "Common carrier" does not include a person that, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.

(ii) For purposes of Subsection (27)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.

(28) "Component part" includes:

(a) poultry, dairy, and other livestock feed, and their components;

(b) baling ties and twine used in the baling of hay and straw;

(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and

(d) feed, seeds, and seedlings.

(29) "Computer" means an electronic device that accepts information:

(a)(i) in digital form; or

(ii) in a form similar to digital form; and

(b) manipulates that information for a result based on a sequence of instructions.

(30) "Computer software" means a set of coded instructions designed to cause:

(a) a computer to perform a task; or

(b) automatic data processing equipment to perform a task.

(31) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:

(a) future updates or upgrades to computer software;

(b) support services with respect to computer software; or

(c) a combination of Subsections (31)(a) and (b).

(32)(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.

(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (32)(a).

(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (32)(a).

(33) "Construction materials" means any tangible personal property that will be converted into real property.

(34) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.

(35)(a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property;

(B) a product transferred electronically; or

(C) a service; and

(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (35)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(36) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(37) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (37)(b)(i) through (v);

(c)(i) except as provided in Subsection (37)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

(C) powder form;

(D) softgel form;

(E) gelcap form; or

(F) liquid form; or

(ii) if the product is not intended for ingestion in a form described in Subsections (37)(c)(i)(A) through (F), is not represented:

(A) as conventional food; and

(B) for use as a sole item of:

(I) a meal; or

(II) the diet; and

(d) is required to be labeled as a dietary supplement:

(i) identifiable by the "Supplemental Facts" box found on the label; and

(ii) as required by 21 C.F.R. Sec. 101.36.

(38)(a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.

(b) "Digital audio work" includes a ringtone.

(39) "Digital audio- visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.

(40) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.

(41)(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:

(A) a mass audience; or

(B) addressees on a mailing list provided:

(I) by a purchaser of the mailing list; or

(II) at the discretion of the purchaser of the mailing list; and

(ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(42) "Directory assistance" means an ancillary service of providing:

(a) address information; or

(b) telephone number information.

(43)(a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:

(i) cannot withstand repeated use; and

(ii) are purchased by, for, or on behalf of a person other than:

(A) a health care facility as defined in Section 26B-2-201;

(B) a health care provider as defined in Section 78B-3-403;

(C) an office of a health care provider described in Subsection (43)(a)(ii)(B); or

(D) a person similar to a person described in Subsections (43)(a)(ii)(A) through (C).

(b) "Disposable home medical equipment or supplies" does not include:

(i) a drug;

(ii) durable medical equipment;

(iii) a hearing aid;

(iv) a hearing aid accessory;

(v) mobility enhancing equipment; or

(vi) tangible personal property used to correct impaired vision, including:

(A) eyeglasses; or

(B) contact lenses.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.

(44) "Drilling equipment manufacturer" means a facility:

(a) located in the state;

(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;

(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and

(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.

(45)(a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

(i) recognized in:

(A) the official United States Pharmacopoeia;

(B) the official Homeopathic Pharmacopoeia of the United States;

(C) the official National Formulary; or

(D) a supplement to a publication listed in Subsections (45)(a)(i)(A) through (C);

(ii) intended for use in the:

(A) diagnosis of disease;

(B) cure of disease;

(C) mitigation of disease;

(D) treatment of disease; or

(E) prevention of disease; or

(iii) intended to affect:

(A) the structure of the body; or

(B) any function of the body.

(b) "Drug" does not include:

(i) food and food ingredients;

(ii) a dietary supplement;

(iii) an alcoholic beverage; or

(iv) a prosthetic device.

(46)(a) [~~Except as provided in Subsection (46)(c), "durable~~]"Durable medical equipment" means equipment that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (46)(a).

(c) "Durable medical equipment" does not include mobility enhancing equipment.

(47) "Electronic" means:

(a) relating to technology; and

(b) having:

(i) electrical capabilities;

(ii) digital capabilities;

(iii) magnetic capabilities;

(iv) wireless capabilities;

(v) optical capabilities;

(vi) electromagnetic capabilities; or

(vii) capabilities similar to Subsections (47)(b)(i) through (vi).

(48) "Electronic financial payment service" means an establishment:

(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(b) that performs electronic financial payment services.

(49) "Employee" means the same as that term is defined in Section 59-10-401.

(50) "Fixed guideway" means a public transit facility that uses and occupies:

(a) rail for the use of public transit; or

(b) a separate right-of-way for the use of public transit.

(51) "Fixed wing turbine powered aircraft" means an aircraft that:

(a) is powered by turbine engines;

(b) operates on jet fuel; and

(c) has wings that are permanently attached to the fuselage of the aircraft.

(52) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(53)(a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

(A) liquid form;

(B) concentrated form;

(C) solid form;

(D) frozen form;

(E) dried form; or

(F) dehydrated form; and

(ii) that are:

(A) sold for:

(I) ingestion by humans; or

(II) chewing by humans; and

(B) consumed for the substance's:

(I) taste; or

(II) nutritional value.

(b) "Food and food ingredients" includes an item described in Subsection (99)(b)(iii).

(c) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

(54)(a) "Fundraising sales" means sales:

(i)(A) made by a school; or

(B) made by a school student;

(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and

(iii) that are part of an officially sanctioned school activity.

(b) For purposes of Subsection (54)(a)(iii), "officially sanctioned school activity" means a school activity:

(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;

(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and

(iii) the net or gross [~~revenues~~]revenue from which [~~are~~]is deposited in a dedicated account controlled by the school or school district.

(55) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.

(56) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

(57)(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:

(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;

(ii) the judicial branch of the state, including the courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;

(iv) the National Guard;

(v) an independent entity as defined in Section 63E-1-102; or

(vi) a political subdivision as defined in Section 17B-1-102.

(b) "Governmental entity" does not include the state systems of public and higher education, including:

(i) a school;

(ii) the State Board of Education;

(iii) the Utah Board of Higher Education; or

(iv) an institution of higher education described in Section 53B-1-102.

(58) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.

(59) "Individual-owned shared vehicle" means the same as that term is defined in Section 13-48a-101.

(60) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:

(a) in mining or extraction of minerals;

(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

(i) commercial greenhouses;

(ii) irrigation pumps;

(iii) farm machinery;

(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

(v) other farming activities;

(c) in manufacturing tangible personal property at an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(d) by a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (60)(d)(i) would otherwise be made with nonrecycled materials; or

(e) in producing a form of energy or steam described in Subsection 54-2-1(3)(a) by a cogeneration facility as defined in Section 54-2-1.

(61)(a) [~~Except as provided in Subsection (61)(b), "installation~~]"Installation charge" means a charge for installing:

(i) tangible personal property; or

(ii) a product transferred electronically.

(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:

(A) tangible personal property; or

(B) a product transferred electronically; or

(ii) attaching tangible personal property or a product transferred electronically:

(A) to other tangible personal property; and

(B) as part of a manufacturing or fabrication process.

(62) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.

(63)(a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:

(i)(A) a fixed term; or

(B) an indeterminate term; and

(ii) consideration.

(b) "Lease" or "rental" includes:

(i) an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code; and

(ii) car sharing.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:

(A) upon completion of required payments; and

(B) if the payment of an option price does not exceed the greater of:

(I) $100; or

(II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (63)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

(i) set-up of tangible personal property;

(ii) maintenance of tangible personal property; or

(iii) inspection of tangible personal property.

(64) "Lesson" means a fixed period of time for the duration of which a trained instructor:

(a) is present with a student in person or by video; and

(b) actively instructs the student, including by providing observation or feedback.

(65) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;

(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or

(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.

(66) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.

(67) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.

(68) "Local taxing jurisdiction" means a:

(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or

(c) town that is authorized to impose an agreement sales and use tax.

(69) "Manufactured home" means the same as that term is defined in Section 15A-1-302.

(70) "Manufacturing facility" means:

(a) an establishment described in:

(i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or

(ii) a NAICS code within NAICS Sector 31-33, Manufacturing, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) a scrap recycler if:

(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:

(A) iron;

(B) steel;

(C) nonferrous metal;

(D) paper;

(E) glass;

(F) plastic;

(G) textile; or

(H) rubber; and

(ii) the new products under Subsection (70)(b)(i) would otherwise be made with nonrecycled materials; or

(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.

(71)(a) "Marketplace" means a physical or electronic place, platform, or forum where tangible personal property, a product transferred electronically, or a service is offered for sale.

(b) "Marketplace" includes a store, a booth, an Internet website, a catalog, or a dedicated sales software application.

(72)(a) "Marketplace facilitator" means a person, including an affiliate of the person, that enters into a contract, an agreement, or otherwise with sellers, for consideration, to facilitate the sale of a seller's product through a marketplace that the person owns, operates, or controls and that directly or indirectly:

(i) does any of the following:

(A) lists, makes available, or advertises tangible personal property, a product transferred electronically, or a service for sale by a marketplace seller on a marketplace that the person owns, operates, or controls;

(B) facilitates the sale of a marketplace seller's tangible personal property, product transferred electronically, or service by transmitting or otherwise communicating an offer or acceptance of a retail sale between the marketplace seller and a purchaser using the marketplace;

(C) owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects a marketplace seller to a purchaser for the purpose of making a retail sale of tangible personal property, a product transferred electronically, or a service;

(D) provides a marketplace for making, or otherwise facilitates, a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(E) provides software development or research and development activities related to any activity described in this Subsection (72)(a)(i), if the software development or research and development activity is directly related to the person's marketplace;

(F) provides or offers fulfillment or storage services for a marketplace seller;

(G) sets prices for the sale of tangible personal property, a product transferred electronically, or a service by a marketplace seller;

(H) provides or offers customer service to a marketplace seller or a marketplace seller's purchaser or accepts or assists with taking orders, returns, or exchanges of tangible personal property, a product transferred electronically, or a service sold by a marketplace seller on the person's marketplace; or

(I) brands or otherwise identifies sales as those of the person; and

(ii) does any of the following:

(A) collects the sales price or purchase price of a retail sale of tangible personal property, a product transferred electronically, or a service;

(B) provides payment processing services for a retail sale of tangible personal property, a product transferred electronically, or a service;

(C) charges, collects, or otherwise receives a selling fee, listing fee, referral fee, closing fee, a fee for inserting or making available tangible personal property, a product transferred electronically, or a service on the person's marketplace, or other consideration for the facilitation of a retail sale of tangible personal property, a product transferred electronically, or a service, regardless of ownership or control of the tangible personal property, the product transferred electronically, or the service that is the subject of the retail sale;

(D) through terms and conditions, an agreement, or another arrangement with a third person, collects payment from a purchase for a retail sale of tangible personal property, a product transferred electronically, or a service and transmits that payment to the marketplace seller, regardless of whether the third person receives compensation or other consideration in exchange for the service; or

(E) provides a virtual currency for a purchaser to use to purchase tangible personal property, a product transferred electronically, or service offered for sale.

(b) "Marketplace facilitator" does not include:

(i) a person that only provides payment processing services; or

(ii) a person described in Subsection (72)(a) to the extent the person is facilitating a sale for a seller that is a restaurant as defined in Section 59- 12- 602.

(73) "Marketplace seller" means a seller that makes one or more retail sales through a marketplace that a marketplace facilitator owns, operates, or controls, regardless of whether the seller is required to be registered to collect and remit the tax under this part.

(74) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59- 12- 104(20)(a) as a:

(a) child or stepchild, regardless of whether the child or stepchild is:

(i) an adopted child or adopted stepchild; or

(ii) a foster child or foster stepchild;

(b) grandchild or stepgrandchild;

(c) grandparent or stepgrandparent;

(d) nephew or stepnephew;

(e) niece or stepniece;

(f) parent or stepparent;

(g) sibling or stepsibling;

(h) spouse;

(i) person who is the spouse of a person described in Subsections (74)(a) through (g); or

(j) person similar to a person described in Subsections (74)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(75) "Mobile home" means the same as that term is defined in Section 15A- 1- 302.

(76) "Mobile telecommunications service" means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(77)(a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:

(i) the origination point of the conveyance, routing, or transmission is not fixed;

(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (77)(a)(i) and the termination point described in Subsection (77)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(78)(a) [~~Except as provided in Subsection (78)(c), "mobility~~]"Mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (78)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(79) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform the seller's sales and use tax functions for agreement sales and use taxes, as outlined in the contract between the governing board of the agreement and the certified service provider, other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(80) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (80)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(81)(a) Subject to Subsection (81)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales [~~revenues~~]revenue of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (81)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(82) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(83) "Modular home" means a modular unit as defined in Section 15A-1-302.

(84) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(85) "Oil sands" means impregnated bituminous sands that:

(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;

(b) yield mixtures of liquid hydrocarbon; and

(c) require further processing other than mechanical blending before becoming finished petroleum products.

(86) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.

(87) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

(88)(a) "Other fuels" means products that burn independently to produce heat or energy.

(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.

(89)(a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.

(b) For purposes of Subsection (89)(a), the transmission of a coded radio signal includes a transmission by message or sound.

(90) "Pawn transaction" means the same as that term is defined in Section 13-32a-102.

(91) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

(92)(a) "Permanently attached to real property" means that for tangible personal property attached to real property:

(i) the attachment of the tangible personal property to the real property:

(A) is essential to the use of the tangible personal property; and

(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or

(ii) if the tangible personal property is detached from the real property, the detachment would:

(A) cause substantial damage to the tangible personal property; or

(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.

(b) "Permanently attached to real property" includes:

(i) the attachment of an accessory to the tangible personal property if the accessory is:

(A) essential to the operation of the tangible personal property; and

(B) attached only to facilitate the operation of the tangible personal property;

(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or

(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (92)(c)(iii) or (iv).

(c) "Permanently attached to real property" does not include:

(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:

(A) convenience;

(B) stability; or

(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (92)(b)(ii);

(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(A) a computer;

(B) a telephone;

(C) a television; or

(D) tangible personal property similar to Subsections (92)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iv) an item listed in Subsection [~~(136)(c)~~](137)(c).

(93) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(94) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, means the same as that term is defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(95)(a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:

(i) through the use of a:

(A) bank card;

(B) credit card;

(C) debit card; or

(D) travel card; or

(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.

(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.

(96) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).

(97) "Prepaid calling service" means a telecommunications service:

(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(98) "Prepaid wireless calling service" means a telecommunications service:

(a) that provides the right to utilize:

(i) mobile wireless service; and

(ii) other service that is not a telecommunications service, including:

(A) the download of a product transferred electronically;

(B) a content service; or

(C) an ancillary service;

(b) that:

(i) is paid for in advance; and

(ii) enables the origination of a call using an:

(A) access number; or

(B) authorization code;

(c) that is dialed:

(i) manually; or

(ii) electronically; and

(d) sold in predetermined units or dollars that decline:

(i) by a known amount; and

(ii) with use.

(99)(a) "Prepared food" means:

(i) food:

(A) sold in a heated state; or

(B) heated by a seller;

(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) except as provided in Subsection (99)(c), food sold with an eating utensil provided by the seller, including a:

(A) plate;

(B) knife;

(C) fork;

(D) spoon;

(E) glass;

(F) cup;

(G) napkin; or

(H) straw.

(b) "Prepared food" does not include:

(i) food that a seller only:

(A) cuts;

(B) repackages; or

(C) pasteurizes;

(ii)(A) the following:

(I) raw egg;

(II) raw fish;

(III) raw meat;

(IV) raw poultry; or

(V) a food containing an item described in Subsections (99)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (99)(b)(ii)(A) to prevent food borne illness; or

(iii) the following if sold without eating utensils provided by the seller:

(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

(B) food and food ingredients sold in an unheated state:

(I) by weight or volume; and

(II) as a single item; or

(C) a bakery item, including:

(I) a bagel;

(II) a bar;

(III) a biscuit;

(IV) bread;

(V) a bun;

(VI) a cake;

(VII) a cookie;

(VIII) a croissant;

(IX) a danish;

(X) a donut;

(XI) a muffin;

(XII) a pastry;

(XIII) a pie;

(XIV) a roll;

(XV) a tart;

(XVI) a torte; or

(XVII) a tortilla.

(c) An eating utensil provided by the seller does not include the following used to transport the food:

(i) a container; or

(ii) packaging.

(100) "Prescription" means an order, formula, or recipe that is issued:

(a)(i) orally;

(ii) in writing;

(iii) electronically; or

(iv) by any other manner of transmission; and

(b) by a licensed practitioner authorized by the laws of a state.

(101)(a) [~~Except as provided in Subsection (101)(b)(ii) or (iii), "prewritten~~]"Prewritten computer software" means computer software that is not designed and developed:

(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.

(b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

(A) by the author or other creator of the computer software; and

(B) to the specifications of a specific purchaser;

(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) except as provided in Subsection (101)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection (101)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (101)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) subject to Subsections 59-12-103(2)(f)(ii) and (2)(g)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:

(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;

(B) a preponderance of the facts and circumstances at the time of the transaction; and

(C) the understanding of all of the parties to the transaction.

(102)(a) "Private communications service" means a telecommunications service:

(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and

(ii) regardless of the manner in which the one or more communications channels are connected.

(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:

(i) an extension line;

(ii) a station;

(iii) switching capacity; or

(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.

(103)(a) [~~Except as provided in Subsection (103)(b), "product~~]"Product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.

(b) "Product transferred electronically" does not include:

(i) an ancillary service;

(ii) computer software; or

(iii) a telecommunications service.

(104)(a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct a physical deformity or physical malfunction; or

(iii) support a weak or deformed portion of the body.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device;

(ii) replacement parts for a prosthetic device;

(iii) a dental prosthesis; or

(iv) a hearing aid.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses; or

(ii) contact lenses.

(105)(a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

(106)(a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:

(i) regardless of:

(A) characteristics;

(B) copyright;

(C) form;

(D) format;

(E) method of reproduction; or

(F) source; and

(ii) made available in printed or electronic format.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."

(107)(a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property, a product transferred electronically, or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

(G) a tax imposed on the seller;

(iii) a charge by the seller for any service necessary to complete the sale; or

(iv) consideration a seller receives from a person other than the purchaser if:

(A)(I) the seller actually receives consideration from a person other than the purchaser; and

(II) the consideration described in Subsection (107)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and

(D)(I)(Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and

(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;

(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or

(III) the price reduction or discount is identified as a third party price reduction or discount on the:

(Aa) invoice the purchaser receives; or

(Bb) certificate, coupon, or other documentation the purchaser presents.

(c) "Purchase price" and "sales price" do not include:

(i) a discount:

(A) in a form including:

(I) cash;

(II) term; or

(III) coupon;

(B) that is allowed by a seller;

(C) taken by a purchaser on a sale; and

(D) that is not reimbursed by a third party; or

(ii) subject to Subsections 59- 12- 103(2)(f)(ii) and (2)(g)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:

(A) the following from credit extended on the sale of tangible personal property or services:

(I) a carrying charge;

(II) a financing charge; or

(III) an interest charge;

(B) a delivery charge;

(C) an installation charge;

(D) a manufacturer rebate on a motor vehicle; or

(E) a tax or fee legally imposed directly on the consumer.

(108) "Purchaser" means a person to whom:

(a) a sale of tangible personal property is made;

(b) a product is transferred electronically; or

(c) a service is furnished.

(109) "Qualifying data center" means a data center facility that:

(a) houses a group of networked server computers in one physical location in order to disseminate, manage, and store data and information;

(b) is located in the state;

(c) is a new operation constructed on or after July 1, 2016;

(d) consists of one or more buildings that total 150,000 or more square feet;

(e) is owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility; and

(f) is located on one or more parcels of land that are owned or leased by:

(i) the operator of the data center facility; or

(ii) a person under common ownership, as defined in Section 59-7-101, of the operator of the data center facility.

(110) "Regularly rented" means:

(a) rented to a guest for value three or more times during a calendar year; or

(b) advertised or held out to the public as a place that is regularly rented to guests for value.

(111) "Rental" means the same as that term is defined in Subsection (63).

(112)(a) [~~Except as provided in Subsection (112)(b), "repairs~~]"Repairs or renovations of tangible personal property" means:

(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or

(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:

(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and

(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(113) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(114)(a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (114)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(115) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(116) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(117)(a) "Retailer" means any person, unless prohibited by the Constitution of the United States or federal law, that is engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(118)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of

tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(119) "Sale at retail" means the same as that term is defined in Subsection (116).

(120) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:

(a) by a purchaser-lessee;

(b) to a lessor;

(c) for consideration; and

(d) if:

(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;

(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:

(A) for the tangible personal property or product transferred electronically; and

(B) to the purchaser-lessee; and

(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:

(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and

(B) account for the lease payments as payments made under a financing arrangement.

(121) "Sales price" means the same as that term is defined in Subsection (107).

(122)(a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

(i) sales that are directly related to the school's educational functions or activities including:

(A) the sale of:

(I) textbooks;

(II) textbook fees;

(III) laboratory fees;

(IV) laboratory supplies; or

(V) safety equipment;

(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and

(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;

(C) sales of the following if the net or gross [~~revenues~~]revenue generated by the sales [~~are~~]is deposited into a school district fund or school fund dedicated to school meals:

(I) food and food ingredients; or

(II) prepared food; or

(D) transportation charges for official school activities; or

(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.

(b) "Sales relating to schools" does not include:

(i) bookstore sales of items that are not educational materials or supplies;

(ii) except as provided in Subsection (122)(a)(i)(B):

(A) clothing;

(B) clothing accessories or equipment;

(C) protective equipment; or

(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:

(A) other than a:

(I) school;

(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or

(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and

(B) that is required to collect sales and use taxes under this chapter.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."

(123) For purposes of this section and Section 59-12-104, "school" means:

(a) an elementary school or a secondary school that:

(i) is a:

(A) public school; or

(B) private school; and

(ii) provides instruction for one or more grades kindergarten through 12; or

(b) a public school district.

(124)(a) "Seller" means a person that makes a sale, lease, or rental of:

(i) tangible personal property;

(ii) a product transferred electronically; or

(iii) a service.

(b) "Seller" includes a marketplace facilitator.

(125)(a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:

(i) used primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A)(I) manufacturing a semiconductor;

(II) fabricating a semiconductor; or

(III) research or development of a:

(Aa) semiconductor; or

(Bb) semiconductor manufacturing process; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating, processing, research, or development materials" includes:

(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (125)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

(B) remove impurities from a semiconductor; or

(C) improve the marketable condition of a semiconductor.

(126) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 26B-6-101.

(127) "Shared vehicle" means the same as that term is defined in Section 13-48a-101.

(128) "Shared vehicle driver" means the same as that term is defined in Section 13-48a-101.

(129) "Shared vehicle owner" means the same as that term is defined in Section 13-48a-101.

(130)(a) Subject to Subsections (130)(b) and (c), "short-term lodging consumable" means tangible personal property that:

(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;

(ii) is intended to be consumed by the purchaser; and

(iii) is:

(A) included in the purchase price of the accommodations and services; and

(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.

(b) "Short-term lodging consumable" includes:

(i) a beverage;

(ii) a brush or comb;

(iii) a cosmetic;

(iv) a hair care product;

(v) lotion;

(vi) a magazine;

(vii) makeup;

(viii) a meal;

(ix) mouthwash;

(x) nail polish remover;

(xi) a newspaper;

(xii) a notepad;

(xiii) a pen;

(xiv) a pencil;

(xv) a razor;

(xvi) saline solution;

(xvii) a sewing kit;

(xviii) shaving cream;

(xix) a shoe shine kit;

(xx) a shower cap;

(xxi) a snack item;

(xxii) soap;

(xxiii) toilet paper;

(xxiv) a toothbrush;

(xxv) toothpaste; or

(xxvi) an item similar to Subsections (130)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or

(ii) a product transferred electronically.

(131)(a) "Short-term rental" means a lease or rental for less than 30 consecutive days.

(b) "Short-term rental" does not include car sharing.

[~~(131)~~](132) "Simplified electronic return" means the electronic return:

(a) described in Section 318(C) of the agreement; and

(b) approved by the governing board of the agreement.

[~~(132)~~](133) "Solar energy" means the sun used as the sole source of energy for producing electricity.

[~~(133)~~](134)(a) "Sports or recreational equipment" means an item:

(i) designed for human use; and

(ii) that is:

(A) worn in conjunction with:

(I) an athletic activity; or

(II) a recreational activity; and

(B) not suitable for general use.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "sports or recreational equipment"; and

(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

[~~(134)~~](135) "State" means the state of Utah, its departments, and agencies.

[~~(135)~~](136) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

[~~(136)~~](137)(a) [~~Except as provided in Subsection (136)(d) or (e), "tangible"~~]"Tangible personal property" means personal property that:

(i) may be:

(A) seen;

(B) weighed;

(C) measured;

(D) felt; or

(E) touched; or

(ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

(i) electricity;

(ii) water;

(iii) gas;

(iv) steam; or

(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.

(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:

(i) a dishwasher;

(ii) a dryer;

(iii) a freezer;

(iv) a microwave;

(v) a refrigerator;

(vi) a stove;

(vii) a washer; or

(viii) an item similar to Subsections [~~(136)(c)(i)~~](137)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(d) "Tangible personal property" does not include a product that is transferred electronically.

(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) a hot water heater;

(ii) a water filtration system; or

(iii) a water softener system.

[~~(137)~~](138)(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection [~~(137)(b)~~](138)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:

(i) telecommunications switching or routing equipment, machinery, or software; or

(ii) telecommunications transmission equipment, machinery, or software.

(b) The following apply to Subsection [~~(137)(a)~~](138)(a):

(i) a pole;

(ii) software;

(iii) a supplementary power supply;

(iv) temperature or environmental equipment or machinery;

(v) test equipment;

(vi) a tower; or

(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~](138)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection [~~(137)(c)~~](138)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(137)(b)(i)~~](138)(b)(i) through (vi).

[~~(138)~~](139) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.

[~~(139)~~](140) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:

(a) telecommunications enabling or facilitating equipment, machinery, or software;

(b) telecommunications switching or routing equipment, machinery, or software; or

(c) telecommunications transmission equipment, machinery, or software.

[~~(140)~~](141)(a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.

(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:

(A) on the code, form, or protocol of the content;

(B) for the purpose of electronic conveyance, routing, or transmission; and

(C) regardless of whether the service:

(I) is referred to as voice over Internet protocol service; or

(II) is classified by the Federal Communications Commission as enhanced or value added;

(ii) an 800 service;

(iii) a 900 service;

(iv) a fixed wireless service;

(v) a mobile wireless service;

(vi) a postpaid calling service;

(vii) a prepaid calling service;

(viii) a prepaid wireless calling service; or

(ix) a private communications service.

(c) "Telecommunications service" does not include:

(i) advertising, including directory advertising;

(ii) an ancillary service;

(iii) a billing and collection service provided to a third party;

(iv) a data processing and information service if:

(A) the data processing and information service allows data to be:

(I)(Aa) acquired;

(Bb) generated;

(Cc) processed;

(Dd) retrieved; or

(Ee) stored; and

(II) delivered by an electronic transmission to a purchaser; and

(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;

(v) installation or maintenance of the following on a customer's premises:

(A) equipment; or

(B) wiring;

(vi) Internet access service;

(vii) a paging service;

(viii) a product transferred electronically, including:

(A) music;

(B) reading material;

(C) a ring tone;

(D) software; or

(E) video;

(ix) a radio and television audio and video programming service:

(A) regardless of the medium; and

(B) including:

(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;

(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value- added nonvoice data service; or

(xi) tangible personal property.

[~~(141)~~](142)(a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection [~~(141)(a)(i)~~](142)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection [~~(141)(a)~~](142)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

[~~(142)~~](143)(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection [~~(142)(b)~~](143)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(142)(a)~~](143)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(142)(b)(i)~~](143)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection [~~(142)(c)~~](143)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(142)(b)(i)~~](143)(b)(i) through (ix).

[~~(143)~~](144)(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection [~~(143)(b)~~](144)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection [~~(143)(a)~~](144)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;

(iv) a conduit;

(v) a controller;

(vi) a duplexer;

(vii) a filter;

(viii) an input device;

(ix) an input/output device;

(x) an insulator;

(xi) microwave machinery or equipment;

(xii) an oscillator;

(xiii) an output device;

(xiv) a pedestal;

(xv) a power converter;

(xvi) a power supply;

(xvii) a radio channel;

(xviii) a radio receiver;

(xix) a radio transmitter;

(xx) a repeater;

(xxi) software;

(xxii) a terminal;

(xxiii) a timing unit;

(xxiv) a transformer;

(xxv) a wire; or

(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection [~~(143)(c)~~](144)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections [~~(143)(b)(i)~~](144)(b)(i) through (xxv).

[~~(144)~~](145)(a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:

(i) offered by an institution of higher education; and

(ii) that the purchaser of the textbook or other printed material attends or will attend.

(b) "Textbook for a higher education course" includes a textbook in electronic format.

[~~(145)~~](146) "Tobacco" means:

(a) a cigarette;

(b) a cigar;

(c) chewing tobacco;

(d) pipe tobacco; or

(e) any other item that contains tobacco.

[~~(146)~~](147) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

[~~(147)~~](148)(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

[~~(148)~~](149) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

[~~(149)~~](150)(a) Subject to Subsection [~~(149)(b)~~](150)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection [~~(149)(a)~~](150)(a); or

(ii)(A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

[~~(150)~~](151) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection [~~(149)~~](150).

[~~(151)~~](152)(a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

[~~(152)~~](153)(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

[~~(153)~~](154)(a) [~~Except as provided in Subsection (153)(b), "waste"~~]"Waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;

(B) waste coal;

(C) oil shale; or

(D) municipal solid waste; and

(ii) in amounts greater than actually required for the operation of the facility.

(b) "Waste energy facility" does not include a facility that incinerates:

(i) hospital waste as defined in 40 C.F.R. 60.51c; or

(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

[~~(154)~~](155) "Watercraft" means a vessel as defined in Section 73-18-2.

[~~(155)~~](156) "Wind energy" means wind used as the sole source of energy to produce electricity.

[~~(156)~~](157) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.

Section 4. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services[~~ that are regularly rented for less than 30 consecutive days~~];

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water

Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized

by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) [~~revenues~~]revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the [~~revenues~~]revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the [~~revenues~~]revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 5. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenue.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for short-term rentals of tourist home, hotel, motel, or trailer court accommodations and services[~~ that are regularly rented for less than 30 consecutive days~~];

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined

under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer

software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the

effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater

Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) [~~revenues~~]revenue transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the [~~revenues~~]revenue collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the [~~revenues~~]revenue collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 6. Section 59-12-602 is amended to read:

59-12-602. Definitions.

As used in this part:

(1)(a) [~~Subject to Subsection (1)(b), "airport~~] "Airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) "Airport facility" includes:

(i) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

(ii) a control tower, including a radar system;

(iii) a public area of an airport; or

(iv) a terminal facility.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(5) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(6) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(7)(a) [~~Except as provided in Subsection (7)(b), "off-highway~~]"Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

(8) "Motorcycle" means the same as that term is defined in Section 41-22-2.

(9) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

(10)(a) [~~Except as provided in Subsection (10)(c), "recreational~~]"Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer; and

(iii) a fifth wheel trailer.

(c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

(11)(a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

[~~(12)(a) "Short-term rental" means a lease or rental that is 30 days or less.~~]

[~~(b) "Short-term rental" does not include car sharing as that term is defined in Section 13-48a-101.~~]

[~~(13)~~](12) "Snowmobile" means the same as that term is defined in Section 41-22-2.

[~~(14)~~](13) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

Section 7. Section 59-12-603 is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1)(a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i)(A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term rentals of motor vehicles, except for short-term rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

(A) alcoholic beverages;

(B) food and food ingredients; or

(C) prepared food;

(iv) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i); and

(v) [~~beginning on July 1, 2023,~~]if a county legislative body of any county imposes a tax under Subsection (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except for[~~:~~]

[~~(A)~~] car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement[~~; and~~].

[~~(B) car sharing for more than 30 days.~~]

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2)(a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility.

(b)(i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

(A) solid waste disposal;

(B) search and rescue activities;

(C) law enforcement activities;

(D) emergency medical services; or

(E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least $450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) within the county to fund a marketing and ticketing system designed to:

(i) promote tourism in ski areas within the county by persons that do not reside within the state; and

(ii) combine the sale of:

(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4)(a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6)(a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7)(a)(i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9)(a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b)(i) Except as provided in Subsection (9)(c), if a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c)(i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d)(i) Except as provided in Subsection (9)(e), if the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e)(i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 8. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,

collection, and enforcement of tax -- Administrative charge -- Deposits.

(1)(a) Except as provided in Subsections (3) and (4), there is imposed a tax of 2.5% on all short- term [~~leases and~~]rentals of motor vehicles[~~not exceeding 30 days~~].

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2)(a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b)(i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) [~~Beginning on July 1, 2023, a~~]A tax imposed under Subsection (1) applies at the same rate to car sharing of less than 30 days, except for[~~:~~]

[~~(a)~~] car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement[~~; and~~].

[~~(b) car sharing for more than 30 days.~~]

(4) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(5)(a)(i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (5)(a)(i), a tax under this part is not subject to Subsections 59- 12- 103(4) through (9) or Section 59- 12- 107.1 or 59- 12- 123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59- 1- 306 from the [~~revenues~~]revenue the commission collects from a tax under this part.

(c) Except as provided under Subsection (5)(b)[~~, all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72- 2- 117~~]:

(i) the commission shall deposit daily with the state treasurer all revenue received under this section; and

(ii) the state treasurer shall credit monthly all revenue received under this section to the Marda Dillree Corridor Preservation Fund under Section 72- 2- 117.

Section 9. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 275
H. B. 34
Passed February 7, 2024
Approved March 14, 2024
Effective May 1, 2024

TAX REFUND CLAIM AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill modifies the procedures for challenging a penalty or interest.

Highlighted Provisions:

This bill:

- allows a person to object to a penalty or interest by paying the penalty or interest and requesting a refund even if the person did not previously challenge the assessment of a penalty or interest; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-1-501, as last amended by Laws of Utah 2009, Chapter 212
59-1-1410, as last amended by Laws of Utah 2014, Chapter 24

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

Section 1. Section 59-1-501 is amended to read:

59-1-501. Procedure for obtaining redetermination of a deficiency -- Claim for refund.

(1) As used in this section:

(a) "Legal holiday" [~~is as~~]means the same as that term is defined in Section 59-10-518.

(b) "Tax, fee, or charge" [~~is as~~]means the same as that term is defined in Section 59-1-1402.

(2) A person may file a request for agency action, petitioning the commission for redetermination of a deficiency.

(3) Subject to Subsections (4) through (6), a person shall file the request for agency action described in Subsection (2):

(a) within a 30-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405; or

(b) within a 90-day period after the date the commission mails a notice of deficiency to the person in accordance with Section 59-1-1405 if the notice of deficiency is addressed to a person outside the United States or the District of Columbia.

(4) If the last day of a time period described in Subsection (3) is a Saturday, Sunday, or legal holiday, the last day for a person to file a request for agency action is the next day that is not a Saturday, Sunday, or legal holiday.

(5) A person that mails a request for agency action shall mail the request for agency action in accordance with Section 59-1-1404.

(6) For purposes of Subsection (3), a person is considered to have filed a request for agency action:

(a) if the person mails the request for agency action, on the date the person is considered to have mailed the request for agency action in accordance with Section 59-1-1404; or

(b) if the person delivers the request for agency action to the commission by a method other than mail, on the date the commission receives the request for agency action.

(7) A person [~~who~~]that has not previously filed a timely request for agency action in accordance with Subsection (3) may object to a final assessment issued by the commission by:

(a) paying the tax, fee, or charge, penalty accrued in accordance with Section 59-1-401, or interest accrued in accordance with Section 59-1-402; and

(b) filing a claim for a refund as provided in Section 59-1-1410.

Section 2. Section 59-1-1410 is amended to read:

59-1-1410. Action for collection of tax, fee, or charge -- Action for refund or credit of liability -- Denial of refund claim under appeal -- Appeal of denied refund claim.

(1)(a) Except as provided in Subsections (3) through (7) and Sections 59-5-114, 59-7-519, 59-10-536, and 59-11-113, the commission shall assess a tax, fee, or charge within three years after the day on which a person files a return.

(b) Except as provided in Subsections (3) through (7), if the commission does not assess a tax, fee, or charge within the three-year period provided in Subsection (1)(a), the commission may not commence a proceeding to collect the tax, fee, or charge.

(2)(a) Except as provided in Subsection (2)(b), for purposes of this part, a return filed before the last day prescribed by statute or rule for filing the return is considered to be filed on the last day for filing the return.

(b) A return of withholding tax under Chapter 10, Part 4, Withholding of Tax, is considered to be filed on April 15 of the succeeding calendar year if the return:

(i) is for a period ending with or within a calendar year; and

(ii) is filed before April 15 of the succeeding calendar year.

(3) The commission may assess a tax, fee, or charge or commence a proceeding for the collection of a tax, fee, or charge at any time if:

(a) a person:

(i) files a:

(A) false return with intent to evade; or

(B) fraudulent return with intent to evade; or

(ii) fails to file a return; or

(b) the commission estimates the amount of tax, fee, or charge due in accordance with Subsection 59-1-1406(2).

(4) The commission may extend the period to [~~make an assessment~~]assess a tax, fee, or charge or to commence a proceeding to collect a tax, fee, or charge if:

(a) the three-year period under Subsection (1) has not expired; and

(b) the commission and the person sign a written agreement:

(i) authorizing the extension; and

(ii) providing for the length of the extension.

(5) The commission may make an assessment as provided in Subsection (6) if:

(a) the commission delays an audit at the request of a person;

(b) the person subsequently refuses to agree to an extension request by the commission; and

(c) the three-year period under Subsection (1) expires before the commission completes the audit.

(6) An assessment under Subsection (5) shall be:

(a) for the time period for which the commission could not make the assessment because of the expiration of the three-year period; and

(b) in an amount equal to the difference between:

(i) the commission's estimate of the amount of tax, fee, or charge the person would have been assessed for the time period described in Subsection (6)(a); and

(ii) the amount of tax, fee, or charge the person actually paid for the time period described in Subsection (6)(a).

(7) If a person erroneously pays a liability, overpays a liability, pays a liability more than once, or the commission erroneously receives, collects, or computes a liability, the commission shall:

(a) credit the liability against any amount of liability the person owes; and

(b) refund any balance to:

(i) the person; or

(ii)(A) the person's assign;

(B) the person's personal representative;

(C) the person's successor; or

(D) a person similar to Subsections (7)(b)(ii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8)(a) Except as provided in Subsection (8)(b) or Section 19-12-203, 59-7-522, 59-10-529, or 59-12-110, the commission may not make a credit or refund unless a person files a claim with the commission within the later of:

(i) three years from the due date of the return, including the period of any extension of time provided in statute for filing the return; or

(ii) two years from the date the tax was paid.

(b) The commission shall extend the time period for a person to file a claim under Subsection (8)(a) if:

(i) the time period described in Subsection (8)(a) has not expired; and

(ii) the commission and the person sign a written agreement:

(A) authorizing the extension; and

(B) providing for the length of the extension.

(9) If the commission denies a claim for a credit or refund, a person may request a redetermination of the denial by filing a petition or request for agency action with the commission:

(a)(i) within a 30-day period after the day on which the commission mails a notice of denial for the claim for credit or refund; or

(ii) within a 90-day period after the day on which the commission mails a notice of denial for the claim for credit or refund, if the notice is addressed to a person outside the United States or the District of Columbia; and

(b) in accordance with:

(i) Section 59-1-501; and

(ii) Title 63G, Chapter 4, Administrative Procedures Act.

(10) The action of the commission on a person's petition for redetermination of a denial of a claim for credit or refund is final 30 days after the day on which the commission sends the commission's decision or order, unless the person seeks judicial review.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

Section 4. Retrospective operation.

This bill has retrospective operation to January 1, 2024.

CHAPTER 276
H. B. 38
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

PSYCHOTROPIC MEDICATION OVERSIGHT PILOT PROGRAM AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to the psychotropic medication oversight pilot program.

Highlighted Provisions:

This bill:

- removes a repeal date for the psychotropic medication oversight pilot program (program);
- amends provisions to make the program permanent;
- adds minors committed to the Division of Juvenile Justice and Youth Services to the program;
- moves operation of the program from the Division of Child and Family Services to the Division of Integrated Healthcare (division);
- addresses the membership of the program's oversight team;
- amends provisions regarding the duties of the oversight team, caseworkers, and case managers;
- adds certain reporting requirements for the division and the oversight team;
- requires the Department of Health and Human Services to pay standard Medicaid rates for outpatient behavioral health services for children in foster care and minors committed to the Division of Juvenile Justice and Youth Services; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-280, as enacted by Laws of Utah 2022, Chapter 335
80-2-503.5, as last amended by Laws of Utah 2023, Chapter 309

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

Section 1. Section 63I-1-280 is amended to read:

63I-1-280. Repeal dates: Title 80.

[~~Section 80-2-503.5 is repealed July 1, 2024.~~]

Section 2. Section 80-2-503.5 is amended to read:

80-2-503.5. Psychotropic medication oversight program -- Behavioral health service rates.

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

(a) "Advanced practice registered nurse" means an individual licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-1-204.

(c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.

(e) ["~~psychotropic~~]"Psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and Youth Services under Section 80-6-703.

(2) The division shall, through contract with the [~~Department of Health and Human Services~~]University of Utah or another qualified third party, [~~establish and~~]operate a psychotropic medication oversight[~~ pilot~~] program for children in foster care and qualifying minors to ensure that [~~foster children are being~~]each foster child and qualifying minor is prescribed psychotropic medication consistent with the foster [~~children's~~]child's or qualifying minor's needs and consistent with clinical best practices.

(3) The division shall [~~establish~~]operate an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) a physician assistant with pediatric mental health experience, or an advanced practice registered nurse[~~, as defined in Section 58-31b-102,~~] with pediatric mental health experience, contracted with the [~~Department of Health and Human Services~~]division; [~~and~~]

(b) a child psychiatrist[~~,~~] contracted with the division;

(c) a data analyst contracted with the division; and

(d) an individual with care coordination experience.

(4) The oversight team shall monitor foster children and qualifying minors:

(a) six years old or younger who are being prescribed one or more psychotropic medications; [~~and~~]

(b) seven years old or older who are being prescribed two or more psychotropic medications[.]; and

(c) who are prescribed one or more antipsychotic medications.

(5) The division shall establish a business associate agreement with the oversight team by which the oversight team shall, upon request, be given information or records related to the foster child's or qualifying minor's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the division's Medicaid pharmacy program;

(b) the department's written and electronic records and databases;

(c) the foster child's current or past caseworker, or the qualifying minor's current or past case manager;

[~~(b)~~](d) the foster child or qualifying minor; or

[~~(c)~~](e) the foster child's or qualifying minor's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child or qualifying minor:

(a) the foster child's or qualifying minor's history;

(b) the foster child's or qualifying minor's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's or qualifying minor's needs;

(d) the dosage or dosage range and appropriateness of the foster child's or qualifying minor's psychotropic medication;

(e) the short- term or long- term risks associated with the use of the foster child's or qualifying minor's psychotropic medication; or

(f) the reported benefits of the foster child's or qualifying minor's psychotropic medication.

(7)(a) [~~The~~]On at least a quarterly basis, the oversight team[~~may~~] shall:

(i) review the medical and mental or behavioral health history for each foster child and qualifying minor overseen by the program;

(ii) based on the review under Subsection (7)(a)(i), document the oversight team's findings and recommendations; and

(iii) make written recommendations[~~to the foster child's health care providers~~] concerning the foster child's or qualifying minor's psychotropic medication [~~or~~]and the foster child's or qualifying minor's mental or behavioral health, including any recommendation for psychotherapy treatment.

(b) The oversight [~~team shall provide the~~]team's recommendations [~~made~~]described in Subsection (7)(a) [~~to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers~~]shall be provided to the foster child's current caseworker or the qualifying minor's current case manager, the foster child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's current health care providers, in accordance with rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other relevant state and federal privacy laws.

(c) The member of the oversight team described in Subsection (3)(d) shall:

(i) provide the recommendations described in Subsection (7)(a) in writing and verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or qualifying minor's current health care providers; and

(ii) on at least a semiannual basis, follow up with the foster child's or qualifying minor's current health care providers to document whether recommendations made by the oversight team have been implemented.

(d) A foster child's caseworker or qualifying minor's case manager shall maintain a confidential record of recommendations provided under Subsection (7)(b).

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the rules described in Subsection (7)(b).

(9) The division shall report regarding the psychotropic medication oversight program:

(a) to the Child Welfare Legislative Oversight Panel[~~regarding the psychotropic medication oversight pilot program~~] by October 1 of each even numbered year[.]; and

(b) orally to the Health and Human Services Interim Committee, at least once every two years at or before the October interim meeting.

(10) The oversight team shall report:

(a) quarterly to the division regarding the number of foster children and qualifying minors reviewed and the number of recommendations made; and

(b) annually to the division regarding outcomes for foster children and qualifying minors overseen by the program.

(11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health services for children in foster care and qualifying minors at a rate no lower than the standard Medicaid fee schedule.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 277
H. B. 41
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH DATA AUTHORITY AMENDMENTS

Chief Sponsor: Rosemary T. Lesser
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Health and Human Services' health data authority.

Highlighted Provisions:

This bill:

- modifies the membership of the Health Data Committee;
- transfers duties from the Health Data Committee to the Department of Health and Human Services;
- modifies requirements related to obtaining health data;
- extends the sunset date related to the Department of Health and Human Services' health data authority; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-413, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-4-106, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-8-501, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-502, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-503, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-504, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-505, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-506, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-507, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-508, as renumbered and amended by Laws of Utah 2023, Chapter 306
53-2d-203, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
63A-13-301, as last amended by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332

ENACTS:

26B-8-501.1, Utah Code Annotated 1953

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

Section 1. Section 26B-1-413 is amended to read:

26B-1-413. Health Data Committee -- Purpose, powers, and duties of the committee -- Membership -- Terms -- Chair -- Compensation.

(1) The definitions in Section 26B-8-501 apply to this section.

(2)[~~(a)~~] There is created within the department the Health Data Committee.

[~~(b) The purpose of the committee is to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.~~]

(3) The committee shall advise and consult with the department related to the department's duties under Chapter 5, Part 8, Utah Health Data Authority.

[~~(3) The committee shall:~~]

[~~(a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:~~]

[~~(i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;~~]

[~~(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection (3)(a)(i);~~]

[~~(iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection (3)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection (3)(a)(ii);~~]

[~~(iv) detail the types of data needed for the committee's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as~~

~~well as to the department of acquiring these data in the proposed manner; the plan shall reasonably demonstrate that the committee has attempted to maximize cost-effectiveness in the data acquisition approaches selected;~~]

[~~(v) describe the types and methods of validation to be performed to assure data validity and reliability;~~]

[~~(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection (3)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:~~]

[~~(A) promoting quality health care;~~]

[~~(B) managing health care costs; or~~]

[~~(C) improving access to health care services;~~]

[~~(vii) describe the expected processes for interpretation and analysis of the data flowing to the committee; noting specifically the types of expertise and participation to be sought in those processes; and~~]

[~~(viii) describe the types of reports to be made available by the committee and the intended audiences and uses;~~]

[~~(b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of a control number as the health data identifier;~~]

[~~(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection (4), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this section and Chapter 8, Part 5, Utah Health Data Authority; and~~]

[~~(d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data identified by control number only in accordance with the plan.~~]

[~~(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee , with the concurrence of the department, may adopt rules to carry out the provisions of this section and Chapter 8, Part 5, Utah Health Data Authority.~~]

[~~(5)(a) Except for data collection, analysis, and validation functions described in this section, nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.~~]

[~~(b) The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.~~]

[~~(6)(a) Nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.~~]

[~~(7) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.~~]

[~~(8)(a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request.~~]

[~~(b) If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.~~]

[~~(9) After a plan is adopted as provided in Section 26B-8-504, the committee may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.~~]

[~~(10)(a) The committee may not publish any health data collected under Subsection (9) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.~~]

[~~(b) Nothing in Subsection (9) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.~~]

[~~(11)~~](4) The committee shall be composed of [~~15~~]19 members.

[~~(12)~~](5)(a) [~~One member~~]Five members shall be:

(i) the commissioner of the Utah Insurance Department[~~; or(ii)~~] or the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data[~~.~~];

(ii) two legislators jointly appointed by the speaker of the House of Representatives and the president of the Senate;

(iii) one advocate for data privacy jointly appointed by the speaker of the House of Representatives and the president of the Senate; and

(iv) one member of the public with knowledge regarding data privacy jointly appointed by the speaker of the House of Representatives and the president of the Senate.

(b)[~~(i)~~] Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection [~~(13)~~](6) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(ii) No more than seven members of the committee appointed by the governor may be members of the same political party.~~]

[~~(13)~~](6) The members of the committee appointed under Subsection [~~(12)(b)~~](5)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined in Section 26B-2-201, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to the business's employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that the entity has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in or experienced with the collection, use, and analysis of health care data.

[~~(14)~~](7)(a) Except as required by Subsection [~~(14)(b)~~](7)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection [~~(14)(a)~~](7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after the members' terms expire until replaced.

[~~(15)~~](8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

[~~(16)~~](9) Committee members shall annually elect a chair of the committee from among the committee's membership. The chair shall report to the executive director.

[~~(17)~~](10)(a) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days' notice to the other members, or upon written request by at least four committee members with at least 10 working days' notice to other committee members.

(b) [~~Eight~~]Ten committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(c) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

[~~(18)~~](11) A member:

(a) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107; and

(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 26B-4-106 is amended to read:

26B-4-106. Data collection.

(1) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (2).

(2)(a) The department shall establish an emergency medical services data system, which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system.

(b) The committee shall coordinate with the [~~Health Data Authority created in Chapter 8, Part 5, Utah Health Data Authority~~]department, to create a report of data collected by the [~~Health Data Committee~~]department under Section 26B-8-504 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (2)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (2)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The department may share, with the Department of Public Safety, information from the emergency medical services data system that:

(i) relates to traffic incidents;

(ii) is for the improvement of traffic safety;

(iii) may not be used for the prosecution of criminal matters; and

(iv) may not include any personally identifiable information.

(3)(a) On or before October 1, the department shall make the information in Subsection (2)(b) public and send the information in Subsection (2)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (2)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26B-8-506.

(4) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a);

(b) are not required to provide information to the department under Subsection (2)(b); and

(c) may provide information to the department under Subsection (2)(b) or (3)(b).

Section 3. Section 26B-8-501 is amended to read:

26B-8-501. Definitions.

As used in this part:

(1) "Committee" means the Health Data Committee created in Section 26B-1-413.

(2) "Control number" means [~~a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual~~]a number or other identifier that:

(a) is assigned by the department to an individual's health data;

(b) is consistent with the best practices of data privacy; and

(c) is used to ensure health data is not able to be readily associated with an individual when the health data is provided for research or statistical analysis.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this part.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the [~~committee~~]department, its staff, and contracting agencies.

(5)(a) "Health care facility" means a facility that is licensed by the department under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~committee, with the concurrence of the department~~]department, in consultation with the committee, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this part.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Health data" means information relating to the health status of individuals, health services

delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26B-8-101 shall be excluded.

(8) "Health maintenance organization" means the same as that term is defined in Section 31A-8-101.

(9) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

(10) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

(11) "Research and statistical analysis" means activities using health data analysis including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the noncompliance among the various characteristics of individuals or organizations;

(c) conducting statistical procedures or studies to improve the quality of health data;

(d) designing sample surveys and selecting samples of individuals or organizations; and

(e) preparing and publishing reports describing these matters.

(12) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

(13) "Plan" means the plan developed and adopted by the [~~Health Data Committee~~]department under [~~Section 26B-1-413~~]this part.

(14) "Third party payor" means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 3, Part 1, Health Care Assistance; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the [~~committee~~]department.

Section 4. Section 26B-8-501.1 is enacted to read:

26B-8-501.1. Health data authority duties.

(1) The department shall:

(a) in consultation with the committee and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:

(i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;

(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection (1)(a)(i);

(iii) describe and prioritize the actions suitable for the department to take in response to the needs identified in Subsection (1)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection (1)(a)(ii);

(iv) detail the types of data needed for the department's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as well as to the department of acquiring the data in the proposed manner and reasonably demonstrate that the department has attempted to maximize cost-effectiveness in the data acquisition approaches selected;

(v) describe the types and methods of validation to be performed to assure data validity and reliability;

(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection (1)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:

(A) promoting quality health care;

(B) managing health care costs; or

(C) improving access to health care services;

(vii) describe the expected processes for interpretation and analysis of the data flowing to the department, noting specifically the types of expertise and participation to be sought in those processes; and

(viii) describe the types of reports to be made available by the department and the intended audiences and uses;

(b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of the best practices of data privacy;

(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection (2), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care providers on health data they submit under this section and Chapter 8, Part 5, Utah Health Data Authority; and

(d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department, in consultation with the committee, may adopt rules to carry out the provisions of this section and Chapter 8, Part 5, Utah Health Data Authority.

(3)(a) Except for data collection, analysis, and validation functions described in this section, nothing in this part shall be construed to authorize or permit the department to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.

(b) The department may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.

(4) Nothing in this part, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.

(5) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.

(6)(a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the department to altering the request.

(b) If the request is not altered, the department shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.

(7) After a plan is adopted as provided in Section 26B-8-504, the department may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.

(8)(a) The department may not publish any health data collected under Subsection (7) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.

(b) Nothing in Subsection (7) shall prevent the department from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.

(9) Any data collected by the department shall be done in accordance with state and federal data privacy laws.

(10)(a) The department shall:

(i) create an opt-out system where an individual may choose to have an individual's identifiable health data suppressed or restricted from being accessible for department duties described under this part;

(ii) maintain a list of people who have opted out for use in accordance with Subsection (10)(b); and

(iii) provide instructions for the opt-out system described in Subsection (10)(a)(i) in a conspicuous location on the department's website.

(b) For an individual who opts out under Subsection (10)(a), the department may not share, analyze, or use any identifiable health data from the health data obtained under this part for the individual, including data previously obtained under this part.

(11)(a) For identifiable health data, the department shall:

(i) use the minimum necessary data to accomplish the duties described in this part; and

(ii) only use personally identifiable information for:

(A) quality assurance;

(B) referential integrity; or

(C) complying with breach notification requirements.

(b) If the department receives an individual's social security number with data obtained under this part, the department may not share any part of the social security number with any person.

(12) The department shall annually report to the Health and Human Services Interim Committee regarding privacy practices and efforts the department is undertaking to enhance data privacy.

(13)(a) Before October 1, 2024, the department shall review all state statutory mandates related to the collection of any form of health data and provide a written report to the Health and Human Services Interim Committee outlining the mandates that are older than 10 years old with:

(i) a description regarding how the data is used; and

(ii) a recommendation regarding whether the department should continue collecting the data.

(b) The department may request assistance from the Office of Legislative Research and General Counsel to determine when statutory mandates were enacted.

Section 5. Section 26B-8-502 is amended to read:

26B-8-502. Executive secretary -- Appointment -- Powers.

(1) An executive secretary shall be appointed by the executive director, [~~with the approval of the~~]in consultation with the committee, and shall serve under the administrative direction of the executive director.

(2) The executive secretary shall:

(a) employ full-time employees necessary to carry out this part;

(b) supervise the development of a draft health data plan for the [~~committee's~~]department's review, modification, and approval; and

(c) supervise and conduct the staff functions of the committee in order to assist the committee in meeting its responsibilities under this part.

Section 6. Section 26B-8-503 is amended to read:

26B-8-503. Limitations on use of health data.

The [~~committee~~]department may not use the health data provided to it by third-party payors, health care providers, or health care facilities to make recommendations with regard to a single health care provider or health care facility, or a group of health care providers or health care facilities.

Section 7. Section 26B-8-504 is amended to read:

26B-8-504. Health care cost and reimbursement data.

(1) The [~~committee~~]department shall, as funding is available:

(a) establish a plan for collecting data from data suppliers to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; and

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the [~~committee~~]department; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the [~~committee~~]department;

(d) provide on at least a monthly basis, enrollment data collected by the [~~committee~~]department to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26B-4-106;

(f) share data collected under this part with the state auditor for use in the health care price transparency tool described in Section 67-3-11; and

(g) publish annually a report on primary care spending within Utah.

(2) A data supplier is not liable for a breach of or unlawful disclosure of the data caused by an entity that obtains data in accordance with Subsection (1).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

Section 8. Section 26B-8-505 is amended to read:

26B-8-505. Comparative analyses.

(1) The [~~committee~~]department may publish compilations or reports that compare and identify health care providers or data suppliers from the data it collects under this part or from any other source.

(2)(a) Except as provided in Subsection (7)(c), the [~~committee~~]department shall publish compilations or reports from the data it collects under this part or from any other source which:

(i) contain the information described in Subsection (2)(b); and

(ii) compare and identify by name at least a majority of the health care facilities, health care plans, and institutions in the state.

(b) Except as provided in Subsection (7)(c), the report required by this Subsection (2) shall:

(i) be published at least annually;

(ii) list, as determined by the [~~committee~~]department, the median paid amount for at least the top 50 medical procedures performed in the state by volume;

(iii) describe the methodology approved by the [~~committee~~]department to determine the amounts described in Subsection (2)(b)(ii); and

(iv) contain comparisons based on at least the following factors:

(A) nationally or other generally recognized quality standards;

(B) charges; and

(C) nationally recognized patient safety standards.

(3)(a) The [~~committee~~]department may contract with a private, independent analyst to evaluate the standard comparative reports of the [~~committee~~]department that identify, compare, or rank the performance of data suppliers by name.

(b) The evaluation described in this Subsection (3) shall include a validation of statistical methodologies, limitations, appropriateness of use, and comparisons using standard health services research practice.

(c) The independent analyst described in Subsection (3)(a) shall be experienced in analyzing large databases from multiple data suppliers and in evaluating health care issues of cost, quality, and access.

(d) The results of the analyst's evaluation shall be released to the public before the standard comparative analysis upon which it is based may be published by the [~~committee~~]department.

(4) The [~~committee, with the concurrence of the department,~~]department, in consultation with the committee shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt a timetable for the collection and analysis of data from multiple types of data suppliers.

(5) The comparative analysis required under Subsection (2) shall be available free of charge and easily accessible to the public.

(6)(a) The department shall include in the report required by Subsection (2)(b), or include in a separate report, comparative information on commonly recognized or generally agreed upon measures of cost and quality identified in accordance with Subsection (7), for:

(i) routine and preventive care; and

(ii) the treatment of diabetes, heart disease, and other illnesses or conditions as determined by the [~~committee~~]department.

(b) The comparative information required by Subsection (6)(a) shall be based on data collected under Subsection (2) and clinical data that may be available to the [~~committee~~]department, and shall compare:

(i) results for health care facilities or institutions;

(ii) results for health care providers by geographic regions of the state;

(iii) a clinic's aggregate results for a physician who practices at a clinic with five or more physicians; and

(iv) a geographic region's aggregate results for a physician who practices at a clinic with less than five physicians, unless the physician requests physician-level data to be published on a clinic level.

(c) The department:

(i) may publish information required by this Subsection (6) directly or through one or more nonprofit, community-based health data organizations; and

(ii) may use a private, independent analyst under Subsection (3)(a) in preparing the report required by this section.

(d) A report published by the department under this Subsection (6):

(i) is subject to the requirements of Section 26B-8-506; and

(ii) shall, prior to being published by the department, be submitted to a neutral, non-biased entity with a broad base of support from health care payers and health care providers in accordance with Subsection (7) for the purpose of validating the report.

(7)(a) [~~The Health Data Committee shall, through the~~]The department shall, for purposes of Subsection (6)(a), use the quality measures that are developed and agreed upon by a neutral, non-biased entity with a broad base of support from health care payers and health care providers.

(b) If the entity described in Subsection (7)(a) does not submit the quality measures, the department may select the appropriate number of quality measures for purposes of the report required by Subsection (6).

(c)(i) For purposes of the reports published on or after July 1, 2014, the department may not compare individual facilities or clinics as described in Subsections (6)(b)(i) through (iv) if the department determines that the data available to the department can not be appropriately validated,

does not represent nationally recognized measures, does not reflect the mix of cases seen at a clinic or facility, or is not sufficient for the purposes of comparing providers.

(ii) The department shall report to the [~~Legislature's~~]Health and Human Services Interim Committee prior to making a determination not to publish a report under Subsection (7)(c)(i).

Section 9. Section 26B-8-506 is amended to read:

26B-8-506. Limitations on release of reports.

The [~~committee~~]department may not release a compilation or report that compares and identifies health care providers or data suppliers unless it:

(1) allows the data supplier and the health care provider to verify the accuracy of the information submitted to the [~~committee~~]department and submit to the [~~committee~~]department any corrections of errors with supporting evidence and comments within a reasonable period of time to be established by rule , with the concurrence of the department, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) corrects data found to be in error; and

(3) allows the data supplier a reasonable amount of time prior to publication to review the [~~committee's~~]department's interpretation of the data and prepare a response.

Section 10. Section 26B-8-507 is amended to read:

26B-8-507. Disclosure of identifiable health data prohibited.

(1)(a) All information, reports, statements, memoranda, or other data received by the [~~committee~~]department are strictly confidential.

(b) Any use, release, or publication of the information shall be done in such a way that no person is identifiable except as provided in Sections 26B-8-506 and 26B-8-508.

(2) No member of the [~~committee~~]department may be held civilly liable by reason of having released or published reports or compilations of data supplied to the [~~committee~~]department, so long as the publication or release is in accordance with the requirements of Subsection (1).

(3) No person, corporation, or entity may be held civilly liable for having provided data to the [~~committee~~]department in accordance with this part.

Section 11. Section 26B-8-508 is amended to read:

26B-8-508. Exceptions to prohibition on disclosure of identifiable health data.

(1) The [~~committee~~]department may not disclose any identifiable health data unless:

(a) the individual has authorized the disclosure;

(b) the disclosure is to the department or a public health authority in accordance with Subsection (2); or

(c) the disclosure complies with the provisions of:

(i) Subsection (3);

(ii) insurance enrollment and coordination of benefits under Subsection 26B-8-504(1)(d); or

(iii) risk adjusting under Subsection 26B-8-504(1)(b).

(2) The [~~committee~~]department may disclose identifiable health data to the department or a public health authority under Subsection (1)(b) if:

(a) the department or the public health authority has clear statutory authority to possess the identifiable health data; and

(b) the disclosure is solely for use:

(i) in the Utah Statewide Immunization Information System operated by the department;

(ii) in the Utah Cancer Registry operated by the University of Utah, in collaboration with the department; or

(iii) by the medical examiner, as defined in Section 26B-8-201, or the medical examiner's designee.

(3) The [~~committee~~]department shall consider the following when responding to a request for disclosure of information that may include identifiable health data:

(a) whether the request comes from a person after that person has received approval to do the specific research or statistical work from an institutional review board; and

(b) whether the requesting entity complies with the provisions of Subsection (4).

(4) A request for disclosure of information that may include identifiable health data shall:

(a) be for a specified period; or

(b) be solely for bona fide research or statistical purposes as determined in accordance with administrative rules adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act , which shall require:

(i) the requesting entity to demonstrate to the department that the data is required for the research or statistical purposes proposed by the requesting entity; and

(ii) the requesting entity to enter into a written agreement satisfactory to the department to protect the data in accordance with this part or other applicable law.

(5) A person accessing identifiable health data pursuant to Subsection (4) may not further disclose the identifiable health data:

(a) without prior approval of the department; and

(b) unless the identifiable health data is disclosed or identified by control number only.

(6) Identifiable health data that has been designated by a data supplier as being subject to regulation under 42 C.F.R. Part 2, Confidentiality of Substance Use Disorder Patient Records, may only be used or disclosed in accordance with applicable federal regulations.

Section 12. Section 53-2d-203 is amended to read:

53-2d-203. Data collection.

(1) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (2).

(2)(a) The bureau shall establish an emergency medical services data system, which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system.

(b) The committee shall coordinate with the [~~Health Data Authority created in Title 26B, Chapter 8, Part 5, Utah Health Data Authority~~]Department of Health and Human Services, to create a report of data collected by the [~~Health Data Committee~~]Department of Health and Human Services under Section 26B-8-504 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (2)(b)(ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (2)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The bureau may share, with the department, information from the emergency medical services data system that:

(i) relates to traffic incidents; and

(ii) is for the improvement of traffic safety.

(d) Information shared under Subsection (2)(c) may not:

(i) be used for the prosecution of criminal matters; or

(ii) include any personally identifiable information.

(3)(a) On or before October 1, the department shall make the information in Subsection (2)(b) public and send the information in Subsection (2)(b) to public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (2)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26B-8-506.

(4) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a);

(b) are not required to provide information to the department under Subsection (2)(b); and

(c) may provide information to the department under Subsection (2)(b) or (3)(b).

Section 13. Section 63A-13-301 is amended to read:

63A-13-301. Access to records -- Retention of designation under Government Records Access and Management Act.

(1) In order to fulfill the duties described in Section 63A-13-202, and in the manner provided in Subsection (4), the office shall have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating, directly or indirectly, to:

(a) the state Medicaid program;

(b) state or federal Medicaid funds;

(c) the provision of Medicaid related services;

(d) the regulation or management of any aspect of the state Medicaid program;

(e) the use or expenditure of state or federal Medicaid funds;

(f) suspected or proven fraud, waste, or abuse of state or federal Medicaid funds;

(g) Medicaid program policies, practices, and procedures;

(h) monitoring of Medicaid services or funds; or

(i) a fatality review of a person who received Medicaid funded services.

(2) The office shall have access to information in any database maintained by the state or a local government to verify identity, income, employment status, or other factors that affect eligibility for Medicaid services.

(3) The records described in Subsections (1) and (2) include records held or maintained by the department, the division, the Department of Health

and Human Services, the Department of Workforce Services, a local health department, a local mental health authority, or a school district. The records described in Subsection (1) include records held or maintained by a provider. When conducting an audit of a provider, the office shall, to the extent possible, limit the records accessed to the scope of the audit.

(4) A record, described in Subsection (1) or (2), that is accessed or copied by the office:

(a) may be reviewed or copied by the office during normal business hours, unless otherwise requested by the provider or health care professional under Subsection (4)(b);

(b) unless there is a credible allegation of fraud, shall be accessed, reviewed, and copied in a manner, on a day, and at a time that is minimally disruptive to the health care professional's or provider's care of patients, as requested by the health care professional or provider;

(c) may be submitted electronically;

(d) may be submitted together with other records for multiple claims; and

(e) if it is a government record, shall retain the classification made by the entity responsible for the record, under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) Except as provided in Subsection (7), notwithstanding any provision of state law to the contrary, the office shall have the same access to all records, information, and databases to which the department or the division has access.

(6) The office shall comply with the requirements of federal law, including the Health Insurance Portability and Accountability Act of 1996 and 42 C.F.R., Part 2, relating to the office's:

(a) access, review, retention, and use of records; and

(b) use of information included in, or derived from, records.

(7) The office's access to data held by the [~~Health Data Committee~~]Department of Health and Human Services under Title 26B, Chapter 8, Part 5, Utah Health Data Authority:

(a) is not subject to this section; and

(b) is subject to Title 26B, Chapter 8, Part 5, Utah Health Data Authority.

Section 14. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

(30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(32) Section 26B-5-112.5 is repealed December 31, 2026.

(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(35) Section 26B-5-120 is repealed December 31, 2026.

(36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(37) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(39) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, [~~2024~~]2026.

(43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 15. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

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(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(31) Section 26B-5-112.5 is repealed December 31, 2026.

(32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(34) Section 26B-5-120 is repealed December 31, 2026.

(35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, [~~2024~~]2026.

(42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 16. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-1-226 (Effective 07/01/24) and Section 53-2d-203 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 278
H. B. 128
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

TOBACCO CESSATION AMENDMENTS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill permits a minor to consent to and participate in tobacco and nicotine cessation services.

Highlighted Provisions:

This bill:

- permits a minor to consent to and participate in tobacco and nicotine cessation services that are delivered or contracted for by the Department of Health and Human Services or a local health department.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-406, as last amended by Laws of Utah 2021, Chapter 262

ENACTS:

26B-7-522, Utah Code Annotated 1953

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

Section 1. Section 26B-7-522 is enacted to read:

26B-7-522. Tobacco and nicotine cessation services for minors.

(1) As used in this section:

(a) "Minor" means an individual who is younger than 18 years old.

(b) "Tobacco and nicotine cessation services" means a program that:

(i) is specifically designed for minors who use tobacco products, electronic cigarette products, or nicotine products;

(ii) is operated by the department, a local health department, or a contractor that is approved by the department or a local health department;

(iii) provides general information about the services offered by the department, the local health department, or a contractor that is approved by the department or the local health department before the minor's registration and participation in the program;

(iv) provides the minor with access to any of the following:

(A) assessment;

(B) web-based resources; or

(C) coaching through technology-based communication tools; and

(v) does not provide:

(A) any form of nicotine replacement therapy; or

(B) any other service not described in Subsection (1)(b)(iii) or (iv).

(2) Consent to tobacco and nicotine cessation services executed by a minor who is or professes to be afflicted with nicotine dependence shall have the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by an individual of full legal age and capacity.

(3) A person providing tobacco and nicotine cessation services shall actively encourage a minor to inform the minor's parent or guardian for support.

(4) Nothing in this section authorizes a violation of Section 53E-9-203.

Section 2. Section 78B-3-406 is amended to read:

78B-3-406. Failure to obtain informed consent -- Proof required of patient -- Defenses -- Consent to health care.

(1)(a) When a person submits to health care rendered by a health care provider, it is presumed that actions taken by the health care provider are either expressly or impliedly authorized to be done.

(b) For a patient to recover damages from a health care provider in an action based upon the provider's failure to obtain informed consent, the patient must prove the following:

(i) that a provider-patient relationship existed between the patient and health care provider;

(ii) the health care provider rendered health care to the patient;

(iii) the patient suffered personal injuries arising out of the health care rendered;

(iv) the health care rendered carried with it a substantial and significant risk of causing the patient serious harm;

(v) the patient was not informed of the substantial and significant risk;

(vi) a reasonable, prudent person in the patient's position would not have consented to the health care rendered after having been fully informed as to all facts relevant to the decision to give consent; and

(vii) the unauthorized part of the health care rendered was the proximate cause of personal injuries suffered by the patient.

(2) In determining what a reasonable, prudent person in the patient's position would do under the circumstances, the finder of fact shall use the viewpoint of the patient before health care was provided and before the occurrence of any personal injuries alleged to have arisen from said health care.

(3) It shall be a defense to any malpractice action against a health care provider based upon alleged failure to obtain informed consent if:

(a) the risk of the serious harm which the patient actually suffered was relatively minor;

(b) the risk of serious harm to the patient from the health care provider was commonly known to the public;

(c) the patient stated, prior to receiving the health care complained of, that he would accept the health care involved regardless of the risk; or that he did not want to be informed of the matters to which he would be entitled to be informed;

(d) the health care provider, after considering all of the attendant facts and circumstances, used reasonable discretion as to the manner and extent to which risks were disclosed, if the health care provider reasonably believed that additional disclosures could be expected to have a substantial and adverse effect on the patient's condition; or

(e) the patient or the patient's representative executed a written consent which sets forth the nature and purpose of the intended health care and which contains a declaration that the patient accepts the risk of substantial and serious harm, if any, in hopes of obtaining desired beneficial results of health care and which acknowledges that health care providers involved have explained the patient's condition and the proposed health care in a satisfactory manner and that all questions asked about the health care and its attendant risks have been answered in a manner satisfactory to the patient or the patient's representative.

(4) The written consent shall be a defense to an action against a health care provider based upon failure to obtain informed consent unless the patient proves that the person giving the consent lacked capacity to consent or shows by clear and convincing evidence that the execution of the written consent was induced by the defendant's affirmative acts of fraudulent misrepresentation or fraudulent omission to state material facts.

(5) This act may not be construed to prevent any person 18 years old or over from refusing to consent to health care for the patient's own person upon personal or religious grounds.

(6) Except as provided in Section 76-7-304.5, the following persons are authorized and empowered to consent to any health care not prohibited by law:

(a) any parent, whether an adult or a minor, for the parent's minor child;

(b) any married person, for a spouse;

(c) any person temporarily standing in loco parentis, whether formally serving or not, for the minor under that person's care and any guardian for the guardian's ward;

(d) any person 18 years old or [~~over~~]older for that person's parent who is unable by reason of age, physical or mental condition, to provide such consent;

(e) any patient 18 years old or [~~over~~]older;

(f) any female regardless of age or marital status, when given in connection with her pregnancy or childbirth;

(g) in the absence of a parent, any adult for the adult's minor brother or sister;

(h) in the absence of a parent, any grandparent for the grandparent's minor grandchild;

(i) an emancipated minor as provided in Section 80-7-105;

(j) a minor who has contracted a lawful marriage; [~~and~~]

(k) an unaccompanied homeless minor, as that term is defined in the McKinney-Vento Homeless Assistance Act of 1987, Pub. L. 100-77, as amended, who is 15 years old or older[~~.~~]; and

(l) a minor receiving tobacco and nicotine cessation services under Section 26B-7-522.

(7) A person who in good faith consents or authorizes health care treatment or procedures for another as provided by this act may not be subject to civil liability.

(8) Notwithstanding any other provision of this section, if a health care provider fails to comply with the requirement in Section 58-1-509, the health care provider is presumed to have lacked informed consent with respect to the patient examination, as defined in Section 58-1-509.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 279
H. B. 66
Passed February 2, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY TAX RELIEF AMENDMENTS

Chief Sponsor: Phil Lyman
Senate Sponsor: Lincoln Fillmore

Cosponsor:
Sandra Hollins
Rex P. Shipp
Gay Lynn Bennion
Tim Jimenez
Andrew Stoddard
Joel K. Briscoe
Brian S. King
Keven J. Stratton
Jefferson S. Burton
Rosemary T. Lesser
R. Neil Walter
Kay J. Christofferson
Karianne Lisonbee
Christine F. Watkins
Tyler Clancy
Ashlee Matthews
Douglas R. Welton
Jennifer Dailey-Provost
Carol S. Moss
Mark A. Wheatley
Brett Garner
Jefferson Moss
Ryan D. Wilcox
Jon Hawkins
Doug Owens

Sahara Hayes
Karen M. Peterson

LONG TITLE

General Description:

This bill modifies provisions relating to the property tax relief commonly known as "circuit breaker."

Highlighted Provisions:

This bill:

- defines terms;
- modifies the income qualifications for circuit breaker tax relief;
- authorizes the State Tax Commission to make rules to establish the circumstances that would allow an extension of the application deadline for circuit breaker tax relief; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1202, as last amended by Laws of Utah 2021, Chapter 391

59-2-1220, as last amended by Laws of Utah 2021, Chapter 391

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

Section 1. Section 59-2-1202 is amended to read:

59-2-1202. Definitions.

As used in this part:

(1)(a) "Claimant" means a homeowner or renter who:

(i) files a claim under this part for a residence;

(ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and

(iii) on or before December 31 of the year for which a claim for relief is filed under this part, is:

(A) 66 years old or older if the individual was born on or before December 31, 1959; or

(B) 67 years old or older if the individual was born on or after January 1, 1960.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse:

(i) regardless of:

(A) the age of the surviving spouse; or

(B) the age of the deceased spouse at the time of death;

(ii) if the surviving spouse meets the requirements of this part except for the age requirement;

(iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and

(iv) if the surviving spouse is unmarried at the time the surviving spouse files the claim.

(c) If two or more individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be, but if they are unable to agree, the matter shall be referred to the county legislative body for a determination of the claimant of an owned residence and to the commission for a determination of the claimant of a rented residence.

(2) "Consumer price index housing" means the Consumer Price Index - All Urban Consumers, Housing United States Cities Average, published by the Bureau of Labor Statistics of the United States Department of Labor.

(3)(a) "Gross rent" means rent actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.

(b) If a claimant occupies two or more residences in the year, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.

(4)(a) "Homeowner" means:

(i) an individual whose name is listed on the deed of a residence; or

(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.

(b) "Homeowner" does not include:

(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or

(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

(5) "Homeowner's credit" means a credit against a claimant's property tax liability.

(6) "Household" means the association of individuals who live in the same dwelling, sharing the dwelling's furnishings, facilities, accommodations, and expenses.

(7)(a) Except as provided in Subsection (7)(b), "household income" means all income received by all members of a claimant's household in:

(i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or

(ii) for a claimant who rents a residence, the year for which a claim is filed.

(b) "Household income" does not include income received by a member of a claimant's household who is:

(i) under the age of 18; or

(ii) a parent or a grandparent, through blood, marriage, or adoption, of the claimant or the claimant's spouse.

(8)[~~(a)~~] "Income" means the sum of:

[~~(i)~~](a) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and

[~~(ii)~~](b) nontaxable income.

[~~(b) "Income" does not include:~~]

[~~(i) aid, assistance, or contributions from a tax-exempt nongovernmental source;~~]

[~~(ii) surplus foods;~~]

[~~(iii) relief in kind supplied by a public or private agency;~~]

[~~(iv) relief provided under this part or Part 18, Tax Deferral and Tax Abatement; or~~]

[~~(v) Social Security Disability Income payments received under the Social Security Act.~~]

(9)(a) "Nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

[~~(a)~~](i) capital gains;

[~~(b)~~](ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

[~~(c)~~](iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

[~~(d)~~](iv) support money received;

[~~(e)~~](v) nontaxable strike benefits;

[~~(f) cash public assistance or relief;~~]

[~~(g)~~](vi) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions;

[~~(h)~~](vii) except for payments described in Subsection [~~(8)(b)(v)~~](9)(b)(vi), payments received under the Social Security Act;

[~~(i)~~](viii) state unemployment insurance amounts;

[~~(j)~~](ix) nontaxable interest received from any source;

[~~(k)~~](x) workers' compensation;

[~~(l)~~](xi) the gross amount of "loss of time" insurance; and

[~~(m)~~](xii) voluntary contributions to a tax-deferred retirement plan.

(b) "Nontaxable income" does not include:

(i) public assistance;

(ii) aid, assistance, or contributions from a tax-exempt nongovernmental source;

(iii) surplus foods;

(iv) relief in kind supplied by a public or private agency;

(v) relief provided under this part or Part 18, Tax Deferral and Tax Abatement;

(vi) Social Security Disability Income payments received under the Social Security Act;

(vii) federal tax refunds;

(viii) federal child tax credits received under 26 U.S.C. Sec. 24;

(ix) federal earned income tax credits received under 26 U.S.C. Sec. 32;

(x) payments received under a reverse mortgage;

(xi) payments or reimbursements to senior program volunteers under 42 U.S.C. Sec. 5058; or

(xii) gifts or bequests.

(10)(a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.

(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.

(c) The relief described in Subsection (10)(a) constitutes:

(i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and

(ii) the residential exemption provided for in Section 59-2-103.

(d) For purposes of this Subsection (10), property taxes accrued are levied on the lien date.

(e) When a household owns and occupies two or more different residences in this state in the same calendar year, and neither residence is acquired or sold during the calendar year for which relief is claimed under this part, property taxes accrued shall relate only to the residence occupied on the lien date by the household as the household's principal place of residence.

(f)(i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be calculated on the percentage that the value of the residence is of the total value of the unit.

(ii) For purposes of this Subsection (10)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

(11) "Public assistance" means:

(a) medical assistance provided under Title 26B, Chapter 3, Health Care - Administration and Assistance;

(b) SNAP benefits as defined in Section 35A-1-102;

(c) services or benefits provided under Title 35A, Chapter 3, Employment Support Act; and

(d) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act.

[~~(11)~~](12) "Qualifying trust" means a trust holding title to real or tangible personal property for which an individual:

(a) makes a claim under this part;

(b) proves to the satisfaction of the county that title to the portion of the trust will revest in the individual upon the exercise of a power:

(i) by:

(A) the individual as grantor, trustor, settlor, or in another similar role of the trust;

(B) a nonadverse party; or

(C) both the individual and a nonadverse party; and

(ii) regardless of whether the power is a power:

(A) to revoke;

(B) to terminate;

(C) to alter;

(D) to amend; or

(E) to appoint; and

(c) is obligated to pay the taxes on that portion of the trust property beginning January 1 of the year the individual makes the claim.

[~~(12)~~](13)(a) "Rental assistance payment" means any payment that:

(i) is made by a:

(A) governmental entity;

(B) charitable organization; or

(C) religious organization; and

(ii) is specifically designated for the payment of rent of a claimant:

(A) for the calendar year for which the claimant seeks a renter's credit under this part; and

(B) regardless of whether the payment is made to the claimant or the landlord.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the terms:

(i) "governmental entity";

(ii) "charitable organization"; or

(iii) "religious organization."

[~~(13)~~](14)(a)(i) "Residence" means the dwelling in this state, whether owned or rented, and so much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home.

(ii) "Residence" includes a dwelling that is:

(A) a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built; and

(B) a mobile home or houseboat.

(b) "Residence" does not include personal property such as furniture, furnishings, or appliances.

(c) For purposes of this Subsection [~~(13)~~](14), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Section 2. Section 59-2-1220 is amended to read:

59-2-1220. Extension of time for filing application -- Rulemaking authority -- County authority to make refunds.

(1)(a) The commission or a county may extend the time for filing an application until December 31 of the year the application is required to be filed[,] if, subject to any rules made by the commission under Subsection (1)(b), the commission or county finds that good cause exists to extend the deadline.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to establish the circumstances under which the commission or a county may, for good cause, extend the deadline for filing an application under Subsection (1)(a).

(2)(a) For purposes of this Subsection (2):

(i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202(10).

(ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.

(iii) "Property taxes due" means the taxes due on a claimant's property:

(A) for which the county or the commission grants an abatement or a credit; and

(B) for the calendar year for which the abatement or credit is granted.

(iv) "Property taxes paid" is an amount equal to the sum of:

(A) the amount of the property taxes paid for the taxable year for which the claimant is applying for the abatement or credit; and

(B) the amount of the abatement or credit the county or the commission grants.

(b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is $1 or more.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 280
H. B. 171
Passed February 15, 2024
Approved March 14, 2024
Effective May 1, 2024

DEATH CERTIFICATE AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to death certificates.

Highlighted Provisions:

This bill:

- allows a health care professional to indicate on a death certificate that an immediate cause of death is unknown if the immediate cause of death is unknown;
- modifies the deadline for a health care professional to complete the medical section of a death certificate;
- requires the Department of Health and Human Services (department) to provide instructions related to when a health care professional can indicate an immediate cause of death is unknown on a death certificate; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-114, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-8-114 is amended to read:

26B-8-114. Certificate of death -- Execution and registration requirements -- Information provided to lieutenant governor.

(1)(a) A certificate of death for each death that occurs in this state shall be filed with the local registrar of the district in which the death occurs, or as otherwise directed by the state registrar, within five days after death and prior to the decedent's interment, any other disposal, or removal from the registration district where the death occurred.

(b) A certificate of death shall be registered if the certificate of death is completed and filed in accordance with this part.

(2)(a) If the place of death is unknown but the dead body is found in this state:

(i) the certificate of death shall be completed and filed in accordance with this section; and

(ii) the place where the dead body is found shall be shown as the place of death.

(b) If the date of death is unknown, the date shall be determined by approximation.

(3)(a) When death occurs in a moving conveyance in the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the place where the decedent is removed shall be considered the place of death.

(b) When a death occurs on a moving conveyance outside the United States and the decedent is first removed from the conveyance in this state:

(i) the certificate of death shall be filed with:

(A) the local registrar of the district where the decedent is removed; or

(B) a person designated by the state registrar; and

(ii) the certificate of death shall show the actual place of death to the extent it can be determined.

(4)(a) Subject to Subsections (4)(d) and (10), a custodial funeral service director or, if a funeral service director is not retained, a dispositioner shall sign the certificate of death.

(b) The custodial funeral service director, an agent of the custodial funeral service director, or, if a funeral service director is not retained, a dispositioner shall:

(i) file the certificate of death prior to any disposition of a dead body or fetus; and

(ii) obtain the decedent's personal data from the next of kin or the best qualified person or source available, including the decedent's social security number, if known.

(c) The certificate of death may not include the decedent's social security number.

(d) A dispositioner may not sign a certificate of death, unless the signature is witnessed by the state registrar or a local registrar.

(5)(a) [~~Except as provided in Section 26B-8-115, fetal death certificates, the medical section of the certificate of death shall be completed, signed, and returned to the funeral service director, or, if a funeral service director is not retained, a dispositioner, within 72 hours after death by the health care professional who was in charge of the decedent's care for the illness or condition which resulted in death, except when inquiry is required by Part 2, Utah Medical Examiner.~~]Except as provided in Section 26B-8-115 or when inquiry is required by Part 2, Utah Medical Examiner, a health care professional who was in charge of the decedent's care for the illness or condition which resulted in death shall complete, sign, and return the medical section of the certificate of death within

three business days from the day on which the death occurred to:

(i) the funeral service director; or

(ii) if a funeral service director is not retained, a dispositioner.

(b) In the absence of the health care professional or with the health care professional's approval, the certificate of death may be completed and signed by an associate physician, the chief medical officer of the institution in which death occurred, or a physician who performed an autopsy upon the decedent, if:

(i) the person has access to the medical history of the case;

(ii) the person views the decedent at or after death; and

(iii) the death is not due to causes required to be investigated by the medical examiner.

(c) When completing the immediate cause of death section of a certificate of death, a health care professional may indicate that the immediate cause of death is unknown if the immediate cause of death is unknown.

(d) The department shall create instructions for completing a certificate of death that inform a health care professional that the heath care professional may indicate that the immediate cause of death is unknown in accordance with Subsection (5)(c).

(6) When death occurs more than 365 days after the day on which the decedent was last treated by a health care professional, the case shall be referred to the medical examiner for investigation to determine and certify the cause, date, and place of death.

(7) When inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall make an investigation and complete and sign the medical section of the certificate of death within 72 hours after taking charge of the case.

(8) If the cause of death cannot be determined within 72 hours after death:

(a) the medical section of the certificate of death shall be completed as provided by department rule;

(b) the attending health care professional or medical examiner shall give the funeral service director, or, if a funeral service director is not retained, a dispositioner, notice of the reason for the delay; and

(c) final disposition of the decedent may not be made until authorized by the attending health care professional or medical examiner.

(9)(a) When a death is presumed to have occurred within this state but the dead body cannot be located, a certificate of death may be prepared by the state registrar upon receipt of an order of a Utah court.

(b) The order described in Subsection (9)(a) shall include a finding of fact stating the name of the decedent, the date of death, and the place of death.

(c) A certificate of death prepared under Subsection (9)(a) shall:

(i) show the date of registration; and

(ii) identify the court and the date of the order.

(10) It is unlawful for a dispositioner to charge for or accept any remuneration for:

(a) signing a certificate of death; or

(b) performing any other duty of a dispositioner, as described in this section.

(11) The state registrar shall, within five business days after the day on which the state registrar or local registrar registers a certificate of death for a Utah resident, inform the lieutenant governor of:

(a) the decedent's name, last known residential address, date of birth, and date of death; and

(b) any other information requested by the lieutenant governor to assist the county clerk in identifying the decedent for the purpose of removing the decedent from the official register of voters.

(12) The lieutenant governor shall, within one business day after the day on which the lieutenant governor receives the information described in Subsection (11), provide the information to the county clerks.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 281
H. B. 157
Passed February 23, 2024
Approved March 14, 2024
Effective May 1, 2024

CHILD CUSTODY FACTOR AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies factors used in determining custody for minor children in relation to a minor child's gender identity.

Highlighted Provisions:

This bill:

- provides that a parent's approval or disapproval, in itself, of a child's gender identity, is not a factor to be considered:
  - in a Division of Child and Family Services determination regarding removal of a child from parental custody; and
  - when determining child custody as part of a divorce or other family law proceeding.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10, as last amended by Laws of Utah 2023, Chapters 44, 327

80-2a-202, as last amended by Laws of Utah 2023, Chapter 330

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

Section 1. Section 30-3-10 is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature

of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4)(a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5)(a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b)(i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years old or older shall be given added weight, but is not the single controlling factor.

(c)(i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are service members and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

[~~(b)~~](ii) discriminate against a parent because of the parent's status as a:

[~~(i)~~](A) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

[~~(ii)~~](B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

[~~(iii)~~](C) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

[~~(iv)~~](D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis[~~.~~]; or

(b) discriminate against a parent based upon the parent's agreement or disagreement with a minor child of the couple's:

(i) assertion that the child's gender identity is different from the child's biological sex; or

(ii) practice of having or expressing a different gender identity than the child's biological sex.

Section 2. Section 80-2a-202 is amended to read:

80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

(2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

(i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a search warrant under Subsection (3);

(ii) the peace officer or child welfare caseworker obtains a search warrant under Subsection (3);

(iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

(iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

(b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school; [~~or~~]

(ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201[~~.~~]; or

(iii) a parent's agreement or disagreement with a minor child of the couple's:

(A) assertion that the child's gender identity is different from the child's biological sex; or

(B) practice of having or expressing a different gender identity than the child's biological sex.

(3)(a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

(4)(a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b)(i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5)(a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:

(i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

(ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:

(A) the child's immediate welfare requires the child remain in protective custody; or

(B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.

(b)(i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

(ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that

includes the child's information, on a form provided by the division, with the shelter facility.

(c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.

(6)(a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

(b) If the juvenile court issues a warrant under Subsection (6)(a):

(i) the division shall notify the child's parent or guardian who has a right to parent- time with the child in accordance with Subsection 80- 2a- 203(5)(a);

(ii) the court shall order:

(A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 282
H. B. 403
Passed February 23, 2024
Approved March 14, 2024
Effective May 1, 2024

BODY ART FACILITY AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill enacts provisions related to body art facilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health and Human Services to promulgate minimum rules of sanitation for body art facilities; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-7-401, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-402, as renumbered and amended by Laws of Utah 2023, Chapter 308

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

Section 1. Section 26B-7-401 is amended to read:

26B-7-401. Definitions.

As used in this part:

(1) "Agricultural tourism activity" means the same as that term is defined in Section 78B-4-512.

(2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

(3) "Agritourism food establishment" means a non-commercial kitchen facility where food is handled, stored, or prepared to be offered for sale on a farm in connection with an agricultural tourism activity.

(4) "Agritourism food establishment permit" means a permit issued by a local health department to the operator for the purpose of operating an agritourism food establishment.

(5) "Back country food service establishment" means a federal or state licensed back country guiding or outfitting business that:

(a) provides food services; and

(b) meets department recognized federal or state food service safety regulations for food handlers.

(6) "Body art facility" means a facility where an individual practices or instructs:

(a) body piercing;

(b) branding;

(c) permanent cosmetics;

(d) scarification; or

(e) tattooing.

(7)(a) "Body piercing" means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa.

(b) "Body piercing" does not include ear piercing.

(8) "Branding" means the process in which a mark is burned, with or without heated metal, into human tissue with the intention of leaving a permanent mark.

[~~(6)~~](9) "Certified food safety manager" means a manager of a food service establishment who:

(a) passes successfully a department-approved examination;

(b) successfully completes, every three years, renewal requirements established by department rule consistent with original certification requirements; and

(c) submits to the appropriate local health department the documentation required by Section 26B-7-412.

(10) "Ear piercing" means the puncturing of the lobe of the ear with piercing equipment to insert stud-and-clasp jewelry according to the directions provided by the piercing equipment's manufacturer.

[~~(7)~~](11) "Farm" means a working farm, ranch, or other commercial agricultural, aquacultural, horticultural, or forestry operation.

[~~(8)~~](12) "Food" means:

(a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

(b) chewing gum.

[~~(9)~~](13) "Food service establishment" means any place or area within a business or organization where potentially hazardous foods, as defined by the department under Section 26B-7-410, are prepared and intended for individual portion service and consumption by the general public, whether the consumption is on or off the premises, and whether or not a fee is charged for the food.

(14) "Microblading" means a procedure where a hand tool with a blade formed of tiny needles implants permanent or semi-permanent pigment, resembling hair, into the skin of the eyebrow area with fine and short strokes.

[~~(10)~~](15)(a) "Microenterprise home kitchen" means a non-commercial kitchen facility located in a private home and operated by a resident of the

home where ready-to-eat food is handled, stored, prepared, or offered for sale.

(b) "Microenterprise home kitchen" does not include:

(i) a catering operation;

(ii) a cottage food operation;

(iii) a food truck;

(iv) an agritourism food establishment;

(v) a bed and breakfast; or

(vi) a residence-based group care facility.

[~~(11)~~](16) "Microenterprise home kitchen permit" means a permit issued by a local health department to the operator for the purpose of operating a microenterprise home kitchen.

(17)(a) "Permanent cosmetics" means a permanent or semi-permanent tattoo:

(i) to the eyebrows, eyelids, lips, or other parts of the body for beauty marks, hair imitation, lash enhancement, or areola repigmentation; and

(ii) performed by an individual not licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) "Permanent cosmetics" includes permanent makeup, micropigmentation, micropigment implantation, microblading, dermagraphics, or cosmetic tattooing.

[~~(12)~~](18) "Ready-to-eat" means:

(a) raw animal food that is cooked;

(b) raw fruits and vegetables that are washed;

(c) fruits and vegetables that are cooked for hot holding;

(d) a time or temperature control food that is cooked to the temperature and time required for the specific food in accordance with rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(e) a bakery item for which further cooking is not required for food safety.

(19) "Scarification" means the process in which a mark is cut into human skin tissue with the intent of leaving a permanent mark.

[~~(13)~~](20) "Time or temperature control food" means food that requires time or temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

Section 2. Section 26B-7-402 is amended to read:

26B-7-402. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health[~~. Such rules shall include, but not be limited to,~~], including rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) [~~restaurants and all places~~]a restaurant or a place where food or drink is handled, sold, or served to the public;

(2) a public swimming [~~pools~~]pool;

(3) a public [~~baths including saunas, spas, massage parlors, and suntan parlors~~]bath, including a sauna, spa, or massage facility;

(4) a public bathing [~~beaches~~]beach;

(5) [~~schools which are publicly or privately owned or operated~~]a public or private school;

(6) a recreational [~~resorts, camps, and vehicle parks~~]resort, camp, or other vehicle park;

(7) an amusement [~~parks and all other centers and places~~]park or other center or place used for public gatherings;

(8) a mobile home [~~parks and~~]park and highway rest [~~stops~~]stop;

(9) a construction or labor [~~camps~~]camp;

(10) [~~jails, prisons and other places~~]a jail, prison, or other place of incarceration or confinement;

(11) [~~hotels and motels~~]a hotel or motel;

(12) [~~lodging houses and boarding houses~~]a lodging house or boarding house;

(13) [~~service stations~~]a service station;

(14) [~~barbershops and beauty shops~~]a barber shop or beauty shop, including a facility in which one or more individuals are engaged in:

(a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and Associated Professions Licensing Act; or

(b) styling hair in accordance with the exemption from licensure described in Section 58-11a-304(13);

(15) [~~physician and dentist offices~~]a physician or dentist office;

(16) [~~public buildings and grounds~~]a public building or ground;

(17) [~~public conveyances and terminals; and~~]a public conveyance or terminal;

(18) a commercial tanning [~~facilities.~~]facility; and

(19) a body art facility.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 283
H. B. 405
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

PUBLIC HEALTH AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Wayne A. Harper

Cosponsor:
Jon Hawkins
Trevor Lee
Cheryl K. Acton
Ken Ivory
Karianne Lisonbee
Bridger Bolinder
Colin W. Jack
Matt MacPherson
Kay J. Christofferson
Tim Jimenez
Candice B. Pierucci
Tyler Clancy
Dan N. Johnson
Rex P. Shipp
Joseph Elison
Michael L. Kohler
Keven J. Stratton
Stephanie Gricius
Jason B. Kyle

LONG TITLE

General Description:

This bill amends provisions related to public health.

Highlighted Provisions:

This bill:

- defines terms;
- modifies when the Department of Health and Human Services and a local health department may invoke an order of restriction; and
- repeals an exception for medical students related to vaccination and face covering requirements implemented by an institution of higher education.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327
26B-7-301, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-304, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-307, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-310, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-7-311, as renumbered and amended by Laws of Utah 2023, Chapter 308
53B-2-113, as last amended by Laws of Utah 2021, First Special Session, Chapter 7

REPEALS:

26B-7-204, as renumbered and amended by Laws of Utah 2023, Chapter 308

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

Section 1. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety , in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, [~~and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health~~]over an individual in accordance with an order of restriction issued under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) exercise physical control of property to abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c)(i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an

ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7)(a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c)(i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d)(i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8)(a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b)(i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d)(i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9)(a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b)(i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c)(i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10)(a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 2. Section 26B-7-301 is amended to read:

26B-7-301. Definitions.

As used in this part:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

(2) "Dangerous public health condition" means any of the following:

(a) cholera;

(b) pneumonic plague;

(c) severe acute respiratory syndrome;

(d) smallpox;

(e) tuberculosis;

(f) any viral hemorrhagic fever;

(g) measles; or

(h) any infection:

(i) that is new, drug resistant, or reemerging;

(ii) that evidence suggests is likely to cause either high mortality or morbidity; and

(iii) only if the relevant legislative body of the county where the infection is located approves as needing containment.

[~~(2)~~](3) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

[~~(3)~~](4) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the department which have the potential to cause serious illness or death.

[~~(4)~~](5) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the [~~threat~~]danger to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent [~~threat~~]danger to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

[~~(5)~~](6) "First responder" means:

(a) a law enforcement officer as defined in Section 53-13-103;

(b) emergency medical service personnel as defined in Section 26B-4-101;

(c) firefighters; and

(d) public health personnel having jurisdiction over the location where an individual subject to an order of restriction is found.

[~~(6)~~](7) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(7)~~](8) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

[~~(8)~~](9)(a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this part, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

[~~(9)~~](10) "Order of restriction" means an order issued by a department or a district court which requires an individual or group of individuals who are subject to restriction to submit to an examination, treatment, isolation, or quarantine.

[~~(10)~~](11)(a) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. [~~Such illness or health condition includes an~~]

(b) "Public health emergency" includes an illness or health condition resulting from a natural disaster.

[~~(11)~~](12) "Public health official" means:

(a) the executive director or the executive director's authorized representative; or

(b) the executive director of a local health department or the executive director's authorized representative.

[~~(12)~~](13) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the department.

[~~(13)~~](14) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(15) "Threat to public health" means a situation where a dangerous public health condition could spread to other individuals.

[~~(14)~~](16) "Subject to restriction" as applied to an individual, or a group of individuals, means the

individual or group of individuals could create a threat to public health.[~~is:~~]

[~~(a) infected or suspected to be infected with a communicable disease that poses a threat to the public health and who does not take action as required by the department to prevent spread of the disease;~~]

[~~(b) contaminated or suspected to be contaminated with an infectious agent that poses a threat to the public health, and that could be spread to others if remedial action is not taken;~~]

[~~(c) in a condition or suspected condition which, if the individual is exposed to others, poses a threat to public health, or is in a condition which if treatment is not completed the individual will pose a threat to public health; or~~]

[~~(d) contaminated or suspected to be contaminated with a chemical or biological agent that poses a threat to the public health and that could be spread to others if remedial action is not taken.~~]

Section 3. Section 26B-7-304 is amended to read:

26B-7-304. Order of restriction.

(1) Subject to Subsection (5), the department or a local health department having jurisdiction over the location where an individual or a group of individuals who are subject to restriction are found may:

(a) issue a written order of restriction for the individual or group of individuals pursuant to Section 26B-1-202 or Subsection 26A-1-114(1)(b) upon compliance with the requirements of Sections 26B-7-304 through 26B-7-314; and

(b) issue a verbal order of restriction for an individual or group of individuals pursuant to Subsection (2)(c).

(2)(a) A department or local health department's determination to issue an order of restriction shall be based upon the totality of circumstances reported to and known by the department or local health department, including:

(i) observation;

(ii) information that the department or local health department determines is credible and reliable information; and

(iii) knowledge of current public health risks based on medically accepted guidelines as may be established by the department by administrative rule.

(b) An order of restriction issued by the department or a local health department shall:

(i) in the opinion of the public health official, be for the shortest reasonable period of time necessary to protect the public health;

(ii) use the least intrusive method of restriction that, in the opinion of the department or local health department, is reasonable based on the totality of circumstances known to the department or local health department issuing the order of restriction;

(iii) be in writing unless the provisions of Subsection (2)(c) apply; and

(iv) contain notice of an individual's rights as required in Section 26B-7-307.

(c)(i) The department or a local health department may issue a verbal order of restriction, without prior notice to the individual or group of individuals if the delay in imposing a written order of restriction would significantly jeopardize the department or local health department's ability to prevent or limit a threat to public health.[~~:~~]

[~~(A) the transmission of a communicable or possibly communicable disease that poses a threat to public health;~~]

[~~(B) the transmission of an infectious agent or possibly infectious agent that poses a threat to public health;~~]

[~~(C) the exposure or possible exposure of a chemical or biological agent that poses a threat to public health; or~~]

[~~(D) the exposure or transmission of a condition that poses a threat to public health.~~]

(ii) A verbal order of restriction issued under Subsection (2)(c)(i):

(A) is valid for 24 hours from the time the order of restriction is issued;

(B) may be verbally communicated to the individuals or group of individuals subject to restriction by a first responder;

(C) may be enforced by the first responder until the department or local health department is able to establish and maintain the place of restriction; and

(D) may only be continued beyond the initial 24 hours if a written order of restriction is issued pursuant to the provisions of Section 26B-7-307.

(3) Pending issuance of a written order of restriction under Section 26B-7-307, or judicial review of an order of restriction under Section 26B-7-311, an individual who is subject to the order of restriction may be required to submit to involuntary examination, quarantine, isolation, or treatment in the individual's home, a hospital, or any other suitable facility under reasonable conditions prescribed by the department or local health department.

(4) The department or local health department that issued the order of restriction shall take reasonable measures, including the provision of medical care, as may be necessary to assure proper care related to the reason for the involuntary examination, treatment, isolation, or quarantine of an individual ordered to submit to an order of restriction.

(5)(a) The Legislature may at any time terminate by joint resolution an order of restriction issued by the department or local health department as

described in this section in response to a declared public health emergency.

(b) A county governing body may at any time terminate by majority vote an order of restriction issued by the relevant local health department under this section issued in response to a declared public health emergency.

Section 4. Section 26B-7-307 is amended to read:

26B-7-307. Contents of notice of order of restriction -- Rights of individuals.

(1) A written order of restriction issued by a department or local health department shall include the following information:

(a) the identity of the individual or a description of the group of individuals subject to the order of restriction;

(b) the identity or location of any premises that may be subject to restriction;

(c) the date and time for which the restriction begins and the expected duration of the restriction;

(d) the suspected [~~communicable disease, infectious, chemical or biological agent, or other condition~~]dangerous public health condition that poses a threat to public health;

(e) the requirements for termination of the order of restriction, such as necessary laboratory reports, the expiration of an incubation period, or the completion of treatment for the communicable disease;

(f) any conditions on the restriction, such as limitation of visitors or requirements for medical monitoring;

(g) the medical or scientific information upon which the restriction is based;

(h) a statement advising of the right to a judicial review of the order of restriction by the court; and

(i) pursuant to Subsection (2), the rights of each individual subject to restriction.

(2) An individual subject to restriction has the following rights:

(a) the right to be represented by legal counsel in any judicial review of the order of restriction in accordance with Subsection 26B-7-309(3);

(b) the right to be provided with prior notice of the date, time, and location of any hearing concerning the order of restriction;

(c) the right to participate in any hearing, in a manner established by the court based on precautions necessary to prevent additional exposure to communicable or possibly communicable diseases or to protect the public health;

(d) the right to respond and present evidence and arguments on the individual's own behalf in any hearing;

(e) the right to cross examine witnesses; and

(f) the right to review and copy all records in the possession of the department that issued the order of restriction which relate to the subject of the written order of restriction.

(3)(a) Notwithstanding the provisions of Subsection (1), if the department or a local health department issues an order of restriction for a group of individuals, the department or local health department may modify the method of providing notice to the group or modify the information contained in the notice, if the public health official determines the modification of the notice is necessary to:

(i) protect the privacy of medical information of individuals in the group; or

(ii) provide notice to the group in a manner that will efficiently and effectively notify the individuals in the group within the period of time necessary to protect the public health.

(b) When the department or a local health department modifies notice to a group of individuals under Subsection (3)(a), the department or local health department shall provide each individual in the group with notice that complies with the provisions of Subsection (1) as soon as reasonably practical.

(4)(a) In addition to the rights of an individual described in Subsections (1) and (2), an individual subject to an order of restriction may not be terminated from employment if the reason for termination is based solely on the fact that the individual is or was subject to an order of restriction.

(b) The department or local health department issuing the order of restriction shall give the individual subject to the order of restriction notice of the individual's employment rights under Subsection (4)(a).

(c) An employer in the state, including an employer who is the state or a political subdivision of the state, may not violate the provisions of Subsection (4)(a).

Section 5. Section 26B-7-310 is amended to read:

26B-7-310. Petition for judicial review of order of restriction -- Court-ordered examination period.

(1)(a) A department may petition for a judicial review of the department's order of restriction for an individual or group of individuals who are subject to restriction by filing a written petition with the court of the county in which the individual or group of individuals reside or are located.

(b)(i) The county attorney for the county where the individual or group of individuals reside or are located shall represent the local health department in any proceedings under Sections 26B-7-304 through 26B-7-314.

(ii) The Office of the Attorney General shall represent the department when the petitioner is

the department in any proceedings under Sections 26B-7-304 through 26B-7-314.

(2) The petition under Subsection (1) shall be accompanied by:

(a) written affidavit of the department stating:

(i) a belief the individual or group of individuals are subject to restriction;

(ii) a belief that the individual or group of individuals who are subject to restriction are likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately restrained;

(iii) this failure would pose a threat to the public health; and

(iv) the personal knowledge of the individual's or group of individuals' condition or the circumstances that lead to that belief; and

(b) a written statement by a licensed physician or physician assistant indicating the physician or physician assistant finds the individual or group of individuals are subject to restriction.

(3) The court shall issue an order of restriction requiring the individual or group of individuals to submit to involuntary restriction to protect the public health if the court finds:

(a) there is a reasonable basis to believe that the individual's or group of individuals' condition requires involuntary examination, quarantine, treatment, or isolation pending examination and hearing; or

(b) the individual or group of individuals have refused to submit to examination by a health professional as directed by the department or to voluntarily submit to examination, treatment, quarantine, or isolation.

(4) If the individual or group of individuals who are subject to restriction are not in custody, the court may make its determination and issue its order of restriction in an ex parte hearing.

(5) At least 24 hours prior to the hearing required by Section 26B-7-311, the department which is the petitioner, shall report to the court, in writing, the opinion of qualified health care providers:

(a) regarding whether the individual or group of individuals are infected by or contaminated with a dangerous public health condition;[~~:~~]

[~~(i) a communicable or possible communicable disease that poses a threat to public health;~~]

[~~(ii) an infectious agent or possibly infectious agent that poses a threat to public health;~~]

[~~(iii) a chemical or biological agent that poses a threat to public health; or~~]

[~~(iv) a condition that poses a threat to public health;~~]

(b) that despite the exercise of reasonable diligence, the diagnostic studies have not been completed;

(c) whether the individual or group of individuals have agreed to voluntarily comply with necessary examination, treatment, quarantine, or isolation; and

(d) whether the petitioner believes the individual or group of individuals will comply without court proceedings.

Section 6. Section 26B-7-311 is amended to read:

26B-7-311. Court determination for an order of restriction after examination period.

(1) The court shall set a hearing regarding the involuntary order of restriction of an individual or group of individuals, to be held within 10 business days of the issuance of its order of restriction issued pursuant to Section 26B-7-310, unless the petitioner informs the court prior to this hearing that the individual or group of individuals:

(a) are not subject to restriction; or

(b) have stipulated to the issuance of an order of restriction.

(2) If the individual or an individual in a group of individuals has stipulated to the issuance of an order of restriction, the court may issue an order as provided in Subsection (6) for those individuals without further hearing.

(3)(a) If the examination report required in Section 26B-7-310 proves the individual or group of individuals are not subject to restriction, the court may without further hearing terminate the proceedings and dismiss the petition.

(b) The court may, after a hearing at which the individual or group of individuals are present in person or by telephonic or other electronic means and have had the opportunity to be represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90 days, if the court has reason to believe the individual or group of individuals are infected by or contaminated with a dangerous public health condition.[~~:~~]

[~~(i) a communicable or possibly communicable disease that poses a threat to public health;~~]

[~~(ii) an infectious agent or possibly infectious agent that poses a threat to public health;~~]

[~~(iii) a chemical or biological agent that poses a threat to public health; or~~]

[~~(iv) a condition that poses a threat to public health, but, despite the exercise of reasonable diligence the diagnostic studies have not been completed.~~]

(4) The petitioner shall, at the time of the hearing, provide the court with the following items, to the extent that they have been issued or are otherwise available:

(a) the order of restriction issued by the petitioner;

(b) admission notes if any individual was hospitalized; and

(c) medical records pertaining to the current order of restriction.

(5) The information provided to the court under Subsection (4) shall also be provided to the individual's or group of individual's counsel at the time of the hearing, and at any time prior to the hearing upon request of counsel.

(6)(a) The court shall order the individual and each individual in a group of individuals to submit to the order of restriction if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that:

(i) the individual or group of individuals are infected with [~~a communicable disease or infectious agent, are contaminated with a chemical or biological agent, or are in a condition~~]a dangerous public health condition that poses a threat to public health;

(ii) there is no appropriate and less restrictive alternative to a court order of examination, quarantine, isolation, and treatment, or any of them;

(iii) the petitioner can provide the individual or group of individuals with treatment that is adequate and appropriate to the individual's or group of individuals' conditions and needs; and

(iv) it is in the public interest to order the individual or group of individuals to submit to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing the following factors:

(A) the personal or religious beliefs, if any, of the individual that are opposed to medical examination or treatment;

(B) the ability of the department to control the public health threat with treatment alternatives that are requested by the individual;

(C) the economic impact for the department if the individual is permitted to use an alternative to the treatment recommended by the department; and

(D) other relevant factors as determined by the court.

(b) If upon completion of the hearing the court does not find all of the conditions listed in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

(7) The order of restriction shall designate the period, subject to Subsection (8), for which the individual or group of individuals shall be examined, treated, isolated, or quarantined.

(8)(a) The order of restriction may not exceed six months without benefit of a court review hearing.

(b)(i) The court review hearing shall be held prior to the expiration of the order of restriction issued under Subsection (7).

(ii) At the review hearing the court may issue an order of restriction for up to an indeterminate period, if the court enters a written finding in the record determining by clear and convincing evidence that the required conditions in Subsection (6) will continue for an indeterminate period.

Section 7. Section 53B-2-113 is amended to read:

53B-2-113. Vaccination requirements -- Exemptions -- Face covering requirements.

(1) An institution of higher education described in Section 53B-2-101 may not require proof of vaccination as a condition for enrollment or attendance unless the institution allows for the following exemptions:

(a) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(b) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(2) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection (1) to participate in an in-person learning option based upon the student's vaccination status.

(3)(a) For purposes of this Subsection (3), "face covering" means the same as that term is defined in Section 53G-9-210.

(b) An institution of higher education described in Section 53B-2-101 may not require an individual to wear a face covering to attend or participate in in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(4) Subsections (1), (2), and (3) do not apply to a student studying in a medical setting at an institution of higher education if the institution of higher education provides the student the same rights under Title VII of the Civil Rights Act to seek an exemption from a vaccination mandate or face covering mandate as the institution of higher education provides to a health care professional employed by the institution of higher education.

(5) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

Section 8. Repealer.

This bill repeals:

Section 26B-7-204, Involuntary examination, treatment, isolation, and quarantine.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 284
H. B. 501
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

HEALTH AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill updates provisions related to health assistance.

Highlighted Provisions:

This bill:

- amends or repeals obsolete Medicaid provisions and makes conforming changes;
- requires the department to apply for a Medicaid waiver or amend an existing waiver application related to qualified inmates in prison or jail; and
- modifies provisions related to how a health insurance entity interacts with the Medicaid program.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Health and Human Services - Integrated Health Care Services - Medicaid Other Services as an ongoing appropriation:
  - from the General Fund, $701,500
- to Department of Health and Human Services - Integrated Health Care Services - Non-Medicaid Behavioral Health Treatment and Crisis Response as an ongoing appropriation:
  - from the General Fund, $4,127,900
- to Department of Health and Human Services - Integrated Health Care Services - Non-Medicaid Behavioral Health Treatment and Crisis Response as a one-time appropriation:
  - from the General Fund, One-time, $1,417,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-316, as last amended by Laws of Utah 2023, Chapter 495 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-332, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-108, as last amended by Laws of Utah 2023, Chapter 466 and renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-110, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-111, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-112, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-126, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-136, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-201, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-203, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-205, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-217, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-221, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-224, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-226, as enacted by Laws of Utah 2023, Chapter 336
26B-3-401, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-403, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-503, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-504, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-511, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-512, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-605, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-607, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-610, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-705, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-707, as last amended by Laws of Utah 2023, Chapter 495 and renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-803, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-1004, as renumbered and amended by Laws of Utah 2023, Chapter 306
63C-18-202, as last amended by Laws of Utah 2023, Chapters 270, 329

REPEALS:

26B-3-138, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-1-316 is amended to read:

26B-1-316. Hospital Provider Assessment Expendable Revenue Fund.

(1) There is created an expendable special revenue fund known as the "Hospital Provider Assessment Expendable Revenue Fund."

(2) The fund shall consist of:

(a) the assessments collected by the department under Chapter 3, Part 7, Hospital Provider Assessment;

(b) any interest and penalties levied with the administration of Chapter 3, Part 7, Hospital Provider Assessment; and

(c) any other funds received as donations for the fund and appropriations from other sources.

(3) Money in the fund shall be used:

(a) to support capitated rates consistent with Subsection 26B-3-705(1)(d) for accountable care organizations as defined in Section 26B-3-701;

(b) to implement the quality strategies described in Subsection 26B-3-707(2), except that the amount under this Subsection (3)(b) may not exceed $211,300 in each fiscal year; and

(c) to reimburse money collected by the division from a hospital, as defined in Section 26B-3-701, through a mistake made under Chapter 3, Part 7, Hospital Provider Assessment.

[~~(4)(a) Subject to Subsection (4)(b), for the fiscal year beginning July 1, 2019, and ending July 1, 2020, any fund balance in excess of the amount necessary to pay for the costs described in Subsection (3) shall be deposited into the General Fund.~~]

[~~(b) Subsection (4)(a) applies only to funds that were appropriated by the Legislature from the General Fund to the fund and the interest and penalties deposited into the fund under Subsection (2)(b).~~]

Section 2. Section 26B-1-332 is amended to read:

26B-1-332. Nursing Care Facilities Provider Assessment Fund -- Creation -- Administration -- Uses.

(1) There is created an expendable special revenue fund known as the "Nursing Care Facilities Provider Assessment Fund" consisting of:

(a) [~~the~~]assessments collected by the department under Chapter 3, Part 4, Nursing Care Facility Assessment;

(b) fines paid by nursing care facilities for excessive Medicare inpatient revenue under Section 26B-2-222;

(c) money appropriated or otherwise made available by the Legislature;

(d) any interest earned on the fund; and

(e) penalties levied with the administration of Chapter 3, Part 4, Nursing Care Facility Assessment.

(2) Money in the fund shall only be used by the Medicaid program:

(a) to the extent authorized by federal law, to obtain federal financial participation in the Medicaid program;

(b) to provide the increased level of hospice reimbursement resulting from the nursing care facilities assessment imposed under Section 26B-3-403;

(c) for the Medicaid program to make quality incentive payments to nursing care facilities[~~,~~], subject to CMS approval of a Medicaid state plan amendment[~~ to do so by the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services~~];

(d) to increase the rates paid before July 1, 2004, to nursing care facilities for providing services pursuant to the Medicaid program; and

(e) for administrative expenses, if the administrative expenses for the fiscal year do not exceed 3% of the money deposited into the fund during the fiscal year.

(3) The department may not spend the money in the fund to replace existing state expenditures paid to nursing care facilities for providing services under the Medicaid program, except for increased costs due to hospice reimbursement under Subsection (2)(b).

Section 3. Section 26B-3-108 is amended to read:

26B-3-108. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Optional dental services costs and delivery -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2)(a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) [~~beginning July 1, 2012, when~~]when the program sends enrollment or renewal information

to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3)(a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7)(a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited [~~in~~]into the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8)(a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Part 9, Utah Children's Health Insurance Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9)(a) As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

[~~(11)(a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.~~]

[~~(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.~~]

[~~(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.~~]

[~~(12)~~](11)(a)(i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection [~~(12)~~](11) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection [~~(12)(b)~~](11)(b) for eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection [~~(12)(a)(i)~~](11)(a)(i), the department shall:

(i) disregard resources held in an account in [~~the~~]a savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include [~~the~~]withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the [~~withdrawal was~~]withdrawals were not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

[~~(13)~~](12)(a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection [~~(13)(a)~~](12)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

[~~(14)~~](13) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under this chapter.

[~~(15)~~](14)(a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section 78B-6-103, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26B-3-126, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section 78B-6-103, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

Section 4. Section 26B-3-110 is amended to read:

26B-3-110. Copayments by recipients -- Employer sponsored plans.

(1) The department shall selectively provide for enrollment fees, premiums, deductions, cost sharing or other similar charges to be paid by recipients, their spouses, and parents, within the limitations of federal law and regulation.

(2) [~~Beginning May 1, 2006, within~~]Within appropriations by the Legislature and as a means to increase health care coverage among the uninsured, the department shall take steps to promote increased participation in employer sponsored health insurance, including:

(a) maximizing the health insurance premium subsidy provided under the state's 1115 demonstration waiver by:

(i) ensuring that state funds are matched by federal funds to the greatest extent allowable; and

(ii) as the department determines appropriate, seeking federal approval to do one or more of the following:

(A) eliminate or otherwise modify the annual enrollment fee;

(B) eliminate or otherwise modify the schedule used to determine the level of subsidy provided to an enrollee each year;

(C) reduce the maximum number of participants allowable under the subsidy program; or

(D) otherwise modify the program in a manner that promotes enrollment in employer sponsored health insurance; and

(b) exploring the use of other options, including the development of a waiver under the Medicaid Health Insurance Flexibility Demonstration Initiative or other federal authority.

Section 5. Section 26B-3-111 is amended to read:

26B-3-111. Income and resources from institutionalized spouses.

(1) As used in this section:

(a) "Community spouse" means the spouse of an institutionalized spouse.

(b)(i) "Community spouse monthly income allowance" means an amount by which the minimum monthly maintenance needs allowance for the spouse exceeds the amount of monthly income otherwise available to the community spouse, determined without regard to the allowance, except as provided in Subsection (1)(b)(ii).

(ii) If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse may not be less than the amount of the monthly income so ordered.

(c) "Community spouse resource allowance" is the amount of combined resources that are protected for a community spouse living in the community, which the division shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services.

(d) "Excess shelter allowance" for a community spouse means the amount by which the sum of the spouse's expense for rent or mortgage payment, taxes, and insurance, and in the case of condominium or cooperative, required maintenance charge, for the community spouse's principal residence and the spouse's actual expenses for electricity, natural gas, and water utilities or, at the discretion of the department, the federal standard utility allowance under SNAP as defined in Section 35A-1-102, exceeds 30% of the amount described in Subsection (9).

(e) "Family member" means a minor dependent child, dependent parents, or dependent sibling of the institutionalized spouse or community spouse who are residing with the community spouse.

(f)(i) "Institutionalized spouse" means a person who is residing in a nursing facility and is married to a spouse who is not in a nursing facility.

(ii) An "institutionalized spouse" does not include a person who is not likely to reside in a nursing facility for at least 30 consecutive days.

(g) "Nursing care facility" means the same as that term is defined in Section 26B-2-201.

(2) The division shall comply with this section when determining eligibility for medical assistance for an institutionalized spouse.

(3) [~~For services furnished during a calendar year beginning on or after January 1, 1999, the~~]The community spouse resource allowance shall be increased by the division by an amount as determined annually by CMS.

(4) The division shall compute, as of the beginning of the first continuous period of institutionalization of the institutionalized spouse:

(a) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest; and

(b) a spousal share, which is 1/2 of the resources described in Subsection (4)(a).

(5) At the request of an institutionalized spouse or a community spouse, at the beginning of the first continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the division shall promptly assess and document the total value described in Subsection (4)(a) and shall provide a copy of that assessment and documentation to each spouse and shall retain a copy of the assessment. When the division provides a copy of the assessment, it shall include a notice stating that the spouse may request a hearing under Subsection (11).

(6) When determining eligibility for medical assistance under this chapter:

(a) Except as provided in Subsection (6)(b), all resources held by either the institutionalized spouse, community spouse, or both, are considered to be available to the institutionalized spouse.

(b) Resources are considered to be available to the institutionalized spouse only to the extent that the amount of those resources exceeds the community spouse resource allowance at the time of application for medical assistance under this chapter.

(7)(a) The division may not find an institutionalized spouse to be ineligible for medical assistance by reason of resources determined under Subsection (5) to be available for the cost of care when:

(i) the institutionalized spouse has assigned to the state any rights to support from the community spouse;

(ii) except as provided in Subsection (7)(b), the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment; or

(iii) the division determines that denial of medical assistance would cause an undue burden.

(b) Subsection (7)(a)(ii) does not prevent the division from seeking a court order for an assignment of support.

(8) During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is eligible for medical assistance, the resources of the community spouse may not be considered to be available to the institutionalized spouse.

(9) When an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly for the cost of care in the nursing care facility, the division shall deduct from the spouse's monthly income the following amounts in the following order:

(a) a personal needs allowance, the amount of which is determined by the division;

(b) a community spouse monthly income allowance, but only to the extent that the income of the institutionalized spouse is made available to, or for the benefit of, the community spouse;

(c) a family allowance for each family member, equal to at least 1/3 of the amount that the amount described in Subsection (10)(a) exceeds the amount of the family member's monthly income; and

(d) amounts for incurred expenses for the medical or remedial care for the institutionalized spouse.

(10) The division shall establish a minimum monthly maintenance needs allowance for each community spouse that includes:

(a) an amount established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, based on the amounts established by the United States Department of Health and Human Services; and

(b) an excess shelter allowance.

(11)(a) An institutionalized spouse or a community spouse may request a hearing with respect to the determinations described in Subsections (11)(e)(i) through (v) if an application for medical assistance has been made on behalf of the institutionalized spouse.

(b) A hearing under this subsection regarding the community spouse resource allowance shall be held by the division within 90 days from the date of the request for the hearing.

(c) If either spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance provided under Subsection (10), an amount adequate to provide additional income as is necessary.

(d) If either spouse establishes that the community spouse resource allowance, in relation to the amount of income generated by the allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance, an amount adequate to provide a minimum monthly maintenance needs allowance.

(e) A hearing may be held under this subsection if either the institutionalized spouse or community spouse is dissatisfied with a determination of:

(i) the community spouse monthly income allowance;

(ii) the amount of monthly income otherwise available to the community spouse;

(iii) the computation of the spousal share of resources under Subsection (4);

(iv) the attribution of resources under Subsection (6); or

(v) the determination of the community spouse resource allocation.

(12)(a) An institutionalized spouse may transfer an amount equal to the community spouse resource allowance, but only to the extent the resources of the institutionalized spouse are transferred to or for the sole benefit of the community spouse.

(b) The transfer under Subsection (12)(a) shall be made as soon as practicable after the date of the initial determination of eligibility, taking into account the time necessary to obtain a court order under Subsection (12)(c).

(c) Part 10, Medical Benefits Recovery, does not apply if a court has entered an order against an institutionalized spouse for the support of the community spouse.

Section 6. Section 26B-3-112 is amended to read:

26B-3-112. Maximizing use of premium assistance programs -- Utah's Premium Partnership for Health Insurance.

(1)(a) The department shall seek to maximize the use of Medicaid and Children's Health Insurance Program funds for assistance in the purchase of private health insurance coverage for Medicaid-eligible and non-Medicaid-eligible individuals.

(b) The department's efforts to expand the use of premium assistance shall:

(i) include, as necessary, seeking federal approval under all Medicaid and Children's Health Insurance Program premium assistance provisions of federal law, including provisions of PPACA;

(ii) give priority to, but not be limited to, expanding the state's Utah Premium Partnership for Health Insurance [~~Program~~]program, including as required under Subsection (2); and

(iii) encourage the enrollment of all individuals within a household in the same plan, where possible, including enrollment in a plan that allows individuals within the household transitioning out of Medicaid to retain the same network and benefits they had while enrolled in Medicaid.

(2) The department shall seek federal approval of an amendment to the state's Utah Premium Partnership for Health Insurance program to adjust the eligibility determination for single adults and parents who have an offer of employer sponsored insurance. The amendment shall:

(a) be within existing appropriations for the Utah Premium Partnership for Health Insurance program; and

(b) provide that adults who are up to 200% of the federal poverty level are eligible for premium subsidies in the Utah Premium Partnership for Health Insurance program.

(3) For the fiscal year 2020-21, the department shall seek authority to increase the maximum premium subsidy per month for adults under the Utah Premium Partnership for Health Insurance program to $300.

(4) [~~Beginning with the fiscal year 2021-22, and in each subsequent~~]In each fiscal year, the department may increase premium subsidies for single adults and parents who have an offer of employer-sponsored insurance to keep pace with the increase in insurance premium costs, subject to appropriation of additional funding.

Section 7. Section 26B-3-126 is amended to read:

26B-3-126. Patient notice of health care provider privacy practices.

(1)(a) For purposes of this section:

(i) "Health care provider" means a health care provider as defined in Section 78B-3-403 who:

(A) receives payment for medical services from the Medicaid program established in this chapter, or the Children's Health Insurance Program established in Section 26B-3-902; and

(B) submits a patient's personally identifiable information to the Medicaid eligibility database or the Children's Health Insurance Program eligibility database.

(ii) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.

(b) [~~Beginning July 1, 2013, this~~]This section applies to the Medicaid program, the Children's Health Insurance Program created in Section 26B-3-902, and a health care provider.

(2) A health care provider shall, as part of the notice of privacy practices required by HIPAA, provide notice to the patient or the patient's personal representative that the health care provider either has, or may submit, personally identifiable information about the patient to the Medicaid eligibility database and the Children's Health Insurance Program eligibility database.

(3) The Medicaid program and the Children's Health Insurance Program may not give a health care provider access to the Medicaid eligibility database or the Children's Health Insurance Program eligibility database unless the health care provider's notice of privacy practices complies with Subsection (2).

(4) The department may adopt an administrative rule to establish uniform language for the state requirement regarding notice of privacy practices to patients required under Subsection (2).

Section 8. Section 26B-3-136 is amended to read:

26B-3-136. Children's Health Care Coverage Program.

(1) As used in this section:

(a) "CHIP" means the Children's Health Insurance Program created in Section 26B-3-902.

(b) "Program" means the Children's Health Care Coverage Program created in Subsection (2).

(2)(a) There is created the Children's Health Care Coverage Program within the department.

(b) The purpose of the program is to:

(i) promote health insurance coverage for children in accordance with Section 26B-3-124;

(ii) conduct research regarding families who are eligible for Medicaid and CHIP to determine awareness and understanding of available coverage;

(iii) analyze trends in disenrollment and identify reasons that families may not be renewing enrollment, including any barriers in the process of renewing enrollment;

(iv) administer surveys to recently enrolled CHIP members, as defined in Section 26B-3-901, and children's Medicaid enrollees to identify:

(A) how the enrollees learned about coverage; and

(B) any barriers during the application process;

(v) develop promotional material regarding CHIP and children's Medicaid eligibility, including outreach through social media, video production, and other media platforms;

(vi) identify ways that the eligibility website for enrollment in CHIP and children's Medicaid can be redesigned to increase accessibility and enhance the user experience;

(vii) identify outreach opportunities, including partnerships with community organizations including:

(A) schools;

(B) small businesses;

(C) unemployment centers;

(D) parent-teacher associations; and

(E) youth athlete clubs and associations; and

(viii) develop messaging to increase awareness of coverage options that are available through the department.

(3)(a) The department may not delegate implementation of the program to a private entity.

(b) Notwithstanding Subsection (3)(a), the department may contract with a media agency to conduct the activities described in Subsection (2)(b)(iv) and (vii).

Section 9. Section 26B-3-201 is amended to read:

26B-3-201. Independent foster care adolescents.

(1) As used in this section, an "independent foster care adolescent" includes any individual who reached 18 years old while in the custody of the department if the department was the primary case manager, or a federally recognized Indian tribe.

(2) An independent foster care adolescent is eligible, when funds are available, for Medicaid coverage until the individual reaches 21 years old.

[~~(3) Before July 1, 2006, the division shall submit a state Medicaid Plan amendment to CMS to provide medical coverage for independent foster care adolescents effective fiscal year 2006-07.~~]

Section 10. Section 26B-3-203 is amended to read:

26B-3-203. Base budget appropriations for Medicaid accountable care organizations and behavioral health plans -- Forecast of behavioral health services cost.

(1) As used in this section:

(a) "ACO" means [~~an~~]a Medicaid accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

(b) "Base budget" means the same as that term is defined in legislative rule.

(c) "Behavioral health plan" means a managed care or [~~fee for service~~]fee-for-service delivery system that contracts with or is operated by the department to provide behavioral health services to Medicaid eligible individuals.

(d) "Behavioral health services" means mental health or substance use treatment or services.

(e) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

(f) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations Committee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

(g) "Member" means an enrollee.

[~~(g)~~](h) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 100%.

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation to the department in an amount necessary to ensure that the next fiscal year PMPM for ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 102% and less than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor.

(5) The appropriations provided to the department for behavioral health plans under this section shall be reduced by the amount contributed by counties in the current fiscal year for behavioral health plans in accordance with Subsections 17-43-201(5)(k) and 17-43-301(6)(a)(x).

(6) In order for the department to estimate the impact of Subsections (2) through (4) before identification of the next fiscal year ongoing General Fund revenue estimate, the Governor's Office of Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide the estimate to the department no later than November 1 of each year.

(7) The Office of the Legislative Fiscal Analyst shall include an estimate of the cost of behavioral health services in any state Medicaid funding or savings forecast that is completed in coordination with the department and the Governor's Office of Planning and Budget.

Section 11. Section 26B-3-205 is amended to read:

26B-3-205. Long-term care insurance partnership.

(1) As used in this section:

(a) "Qualified long-term care insurance contract" is as defined in 26 U.S.C. Sec. 7702B(b).

(b) "Qualified long-term care insurance partnership" is as defined in 42 U.S.C. Sec. 1396p(b)(1)(C)(iii).

(c) "State plan amendment" means an amendment to the state Medicaid plan drafted by the department in compliance with this section.

(2) [~~No later than July 1, 2014, the~~]The department shall seek federal approval of a state plan amendment that creates a qualified long-term care insurance partnership.

(3) The department may make rules to comply with federal laws and regulations relating to

qualified long-term care insurance partnerships and qualified long-term care insurance contracts.

Section 12. Section 26B-3-217 is amended to read:

26B-3-217. Medicaid waiver for coverage of qualified inmates leaving prison or jail.

(1) As used in this section:

(a) "Correctional facility" means:

(i) a county jail;

[~~(ii) the Department of Corrections, created in Section 64-13-2; or~~]

[~~(iii)~~](ii) a prison, penitentiary, or other institution operated by or under contract with the Department of Corrections for the confinement of an offender, as defined in Section 64-13-1[~~.~~]; or

(iii) a facility for secure confinement of minors operated by the Division of Juvenile Justice and Youth Services.

(b) "Limited Medicaid benefit" means:

(i) reentry case management services;

(ii) physical and behavioral health clinical services;

(iii) medications and medication administration;

(iv) medication-assisted treatment, including all United States Food and Drug Administration approved medications, including coverage for counseling; and

(v) other services as determined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Qualified inmate" means an individual who:

(i) is incarcerated in a correctional facility; and

(ii) is ineligible for Medicaid as a result of incarceration but would otherwise qualify for Medicaid.

[~~(ii) has:~~]

[~~(A) a chronic physical or behavioral health condition;~~]

[~~(B) a mental illness, as defined in Section 26B-5-301; or~~]

[~~(C) an opioid use disorder.~~]

(2) [~~Before July 1, 2020~~]Subject to appropriation, before July 1, 2024, the division shall apply for a Medicaid waiver[~~ or a state plan amendment~~], or amend an existing Medicaid waiver application, with CMS to offer a program to provide a limited Medicaid [~~coverage~~]benefit to a qualified inmate for up to [~~30~~]90 days immediately before the day on which the qualified inmate is released from a correctional facility.

(3)(a) Savings to state and local funds that result from the use of federal funds provided under this section shall be used in accordance with a reinvestment plan as mandated by CMS.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for a participating county to establish a reinvestment plan described in Subsection (3)(a).

[~~(3)~~](4) If the waiver [~~or state plan amendment~~]or amended waiver described in Subsection (2) is approved, the department shall report to the Health and Human Services Interim Committee each year before November 30 while the waiver[~~ or state plan amendment~~] is in effect regarding:

(a) the number of qualified inmates served under the program;

(b) the cost of the program; and

(c) the effectiveness of the program, including:

(i) any reduction in the number of emergency room visits or hospitalizations by inmates after release from a correctional facility;

(ii) any reduction in the number of inmates undergoing inpatient treatment after release from a correctional facility;

(iii) any reduction in overdose rates and deaths of inmates after release from a correctional facility; and

(iv) any other costs or benefits as a result of the program.

(5) Before July 1, 2024, the department shall amend the Medicaid waiver related to housing support services to include an individual that was a qualified inmate within the previous 12 months.

(6) The department may elect to not apply for a Medicaid waiver or limit services described in this section based on appropriation.

[~~(4) If the waiver or state plan amendment described in Subsection (2) is approved, a county that is responsible for the cost of a qualified inmate's medical care shall provide the required matching funds to the state for:~~]

[~~(a) any costs to enroll the qualified inmate for the Medicaid coverage described in Subsection (2);~~]

[~~(b) any administrative fees for the Medicaid coverage described in Subsection (2); and~~]

[~~(c) the Medicaid coverage that is provided to the qualified inmate under Subsection (2).~~]

Section 13. Section 26B-3-221 is amended to read:

26B-3-221. Medicaid waiver for respite care facility that provides services to homeless individuals.

(1) As used in this section:

(a) "Adult in the expansion population" means an adult:

(i) described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Homeless" means the same as that term is defined in Section 26B-3-207.

(c) "Medical respite care" means short-term housing with supportive medical services.

(d) "Medical respite facility" means a residential facility that provides medical respite care to homeless individuals.

(2) Before January 1, [~~2022~~]2025, the department shall [~~apply for~~]amend a Medicaid waiver [~~or state plan amendment~~] with CMS to choose [~~a single~~]no more than two medical respite [~~facility~~]facilities to reimburse for services provided to an individual who is:

(a) homeless; and

(b) an adult in the expansion population.

(3) The department shall choose [~~a~~] medical respite [~~facility~~]facilities that are best able to serve homeless individuals who are adults in the expansion population.

(4) If the waiver or state plan amendment described in Subsection (2) is approved, while the waiver or state plan amendment is in effect, the department shall submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(a) the number of homeless individuals served [~~at the facility~~]under the waiver;

(b) the cost of the program; and

(c) the reduction of health care costs due to the program's implementation.

(5) Through administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall further define and limit the services, described in this section, provided to a homeless individual.

Section 14. Section 26B-3-224 is amended to read:

26B-3-224. Medicaid waiver for increased integrated health care reimbursement.

(1) As used in this section:

(a) "Integrated health care setting" means a health care or behavioral health care setting that provides integrated physical and behavioral health care services.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(2) The department shall develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for covered physical health care services provided in an integrated health care setting to Medicaid eligible individuals.

(3) [~~Before December 31, 2022, the~~]The department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the proposal described in Subsection (2).

(4) If the waiver or state plan amendment described in Subsection (3) is approved, the department shall:

(a) implement the proposal described in Subsection (2); and

(b) while the waiver or state plan amendment is in effect, submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(i) the number of patients served under the waiver or state plan amendment;

(ii) the cost of the waiver or state plan amendment; and

(iii) any benefits of the waiver or state plan amendment.

Section 15. Section 26B-3-226 is amended to read:

26B-3-226. Medicaid waiver for rural healthcare for chronic conditions.

(1) As used in this section:

(a) "Qualified condition" means:

(i) diabetes;

(ii) high blood pressure;

(iii) congestive heart failure;

(iv) asthma;

(v) obesity;

(vi) chronic obstructive pulmonary disease; or

(vii) chronic kidney disease.

(b) "Qualified enrollee" means an individual who:

(i) is enrolled in the Medicaid program;

(ii) has been diagnosed as having a qualified condition; and

(iii) is not enrolled in an accountable care organization.

(2) Before January 1, 2024, the department shall apply for a Medicaid waiver with [~~the Centers for Medicare and Medicaid Services~~]CMS to implement the coverage described in Subsection (3) for a three-year pilot program.

(3) If the waiver described in Subsection (2) is approved, the Medicaid program shall contract with a single entity to provide coordinated care for the following services to each qualified enrollee:

(a) a telemedicine platform for the qualified enrollee to use;

(b) an in-home initial visit to the qualified enrollee;

(c) daily remote monitoring of the qualified enrollee's qualified condition;

(d) all services in the qualified enrollee's language of choice;

(e) individual peer monitoring and coaching for the qualified enrollee;

(f) available access for the qualified enrollee to video-enabled consults and voice-enabled consults 24 hours a day, seven days a week;

(g) in-home biometric monitoring devices to monitor the qualified enrollee's qualified condition; and

(h) at-home medication delivery to the qualified enrollee.

(4) The Medicaid program may not provide the coverage described in Subsection (3) until the waiver is approved.

(5) Each year the waiver is active, the department shall submit a report to the Health and Human Services Interim Committee before November 30 detailing:

(a) the number of patients served under the waiver;

(b) the cost of the waiver; and

(c) any benefits of the waiver, including an estimate of:

(i) the reductions in emergency room visits or hospitalizations;

(ii) the reductions in 30-day hospital readmissions for the same diagnosis;

(iii) the reductions in complications related to qualified conditions; and

(iv) any improvements in health outcomes from baseline assessments.

Section 16. Section 26B-3-401 is amended to read:

26B-3-401. Definitions.

As used in this part:

(1)(a) "Nursing care facility" means:

(i) a nursing care facility as defined in Section 26B-2-201;

(ii) [~~beginning January 1, 2006, a~~]a designated swing bed in:

(A) a general acute hospital as defined in Section 26B-2-201; and

(B) a critical access hospital which meets the criteria of 42 U.S.C. Sec. 1395i-4(c)(2) (1998); and

(iii) an intermediate care facility for people with an intellectual disability that is licensed under Section 26B-2-212.

(b) "Nursing care facility" does not include:

(i) the Utah State Developmental Center;

(ii) the Utah State Hospital;

(iii) a general acute hospital, specialty hospital, or small health care facility as those terms are defined in Section 26B-2-201; or

(iv) a Utah State Veterans Home.

(2) "Patient day" means each calendar day in which an individual patient is admitted to the nursing care facility during a calendar month, even if on a temporary leave of absence from the facility.

Section 17. Section 26B-3-403 is amended to read:

26B-3-403. Collection, remittance, and payment of nursing care facilities assessment.

(1)(a) [~~Beginning July 1, 2004, an~~]An assessment is imposed upon each nursing care facility in the amount designated in Subsection (1)(c).

(b)(i) The department shall establish by rule, a uniform rate per non-Medicare patient day that may not exceed 6% of the total gross revenue for services provided to patients of all nursing care facilities licensed in this state.

(ii) For purposes of Subsection (1)(b)(i), total revenue does not include charitable contribution received by a nursing care facility.

(c) The department shall calculate the assessment imposed under Subsection (1)(a) by multiplying the total number of patient days of care provided to non-Medicare patients by the nursing care facility, as provided to the department pursuant to Subsection (3)(a), by the uniform rate established by the department pursuant to Subsection (1)(b).

(2)(a) The assessment imposed by this part is due and payable on a monthly basis on or before the last day of the month next succeeding each monthly period.

(b) The collecting agent for this assessment shall be the department which is vested with the administration and enforcement of this part, including the right to audit records of a nursing care facility related to patient days of care for the facility.

(c) The department shall forward proceeds from the assessment imposed by this part to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26B-1-332.

(3) Each nursing care facility shall, on or before the end of the month next succeeding each calendar monthly period, file with the department:

(a) a report which includes:

(i) the total number of patient days of care the facility provided to non-Medicare patients during the preceding month;

(ii) the total gross revenue the facility earned as compensation for services provided to patients during the preceding month; and

(iii) any other information required by the department; and

(b) a return for the monthly period, and shall remit with the return the assessment required by this part to be paid for the period covered by the return.

(4) Each return shall contain information and be in the form the department prescribes by rule.

(5) The assessment as computed in the return is an allowable cost for Medicaid reimbursement purposes.

(6) The department may by rule, extend the time for making returns and paying the assessment.

(7) Each nursing care facility that fails to pay any assessment required to be paid to the state, within the time required by this part, or that fails to file a return as required by this part, shall pay, in addition to the assessment, penalties and interest as provided in Section 26B-3-404.

Section 18. Section 26B-3-503 is amended to read:

26B-3-503. Assessment.

(1) An assessment is imposed on each private hospital:

[~~(a) beginning upon the later of CMS approval of:~~]

[~~(i) the health coverage improvement program waiver under Section 26B-3-207; and~~]

[~~(ii) the assessment under this part;~~]

[~~(b)~~](a) in the amount designated in Sections 26B-3-506 and 26B-3-507; and

[~~(c)~~](b) in accordance with Section 26B-3-504.

(2) Subject to Section 26B-3-505, the assessment imposed by this part is due and payable on a quarterly basis, after payment of the outpatient upper payment limit supplemental payments under Section 26B-3-511 have been paid.

[~~(3) The first quarterly payment is not due until at least three months after the earlier of the effective dates of the coverage provided through:~~]

[~~(a) the health coverage improvement program;~~]

[~~(b) the enhancement waiver program; or~~]

[~~(c) the Medicaid waiver expansion.~~]

Section 19. Section 26B-3-504 is amended to read:

26B-3-504. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section 26B-3-503 is the department.

(2) The department is vested with the administration and enforcement of this part, and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this part;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this part; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessment in Part 7, Hospital Provider Assessment; and

(b) deposit assessments collected under this part into the Medicaid Expansion Fund[~~, created by Section 26B-1-315~~].

Section 20. Section 26B-3-511 is amended to read:

26B-3-511. Outpatient upper payment limit supplemental payments.

(1) [~~Beginning on the effective date of the assessment imposed under this part, and for each subsequent fiscal year, the~~]The department shall [~~implement~~]administer an outpatient upper payment limit program for private hospitals that [~~shall supplement~~]supplements the reimbursement to private hospitals in accordance with Subsection (2).

(2) The division shall ensure that supplemental payment to Utah private hospitals under Subsection (1):

(a) does not exceed the positive upper payment limit gap; and

(b) is allocated based on the Medicaid state plan.

(3) The department shall use the same outpatient data to allocate the payments under Subsection (2) and to calculate the upper payment limit gap.

(4) The supplemental payments to private hospitals under Subsection (1) are payable for outpatient hospital services provided on or after the later of:

(a) July 1, 2016;

(b) the effective date of the Medicaid state plan amendment necessary to implement the payments under this section; or

(c) the effective date of the coverage provided through the health coverage improvement program waiver.

Section 21. Section 26B-3-512 is amended to read:

26B-3-512. Repeal of assessment.

(1) The assessment imposed by this part shall be repealed when:

(a) the executive director certifies that:

(i) action by Congress is in effect that disqualifies the assessment imposed by this part from counting toward state Medicaid funds available to be used to

determine the amount of federal financial participation;

(ii) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(A) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(B) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this part; or

(iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015; or

(b) this part is repealed in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this part;

(b) the department shall disburse money in the [~~special~~]Medicaid Expansion Fund in accordance with the requirements in Subsection 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) any money remaining in the Medicaid Expansion Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this part shall be refunded to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years; and

(d) any money remaining in the Medicaid Expansion Fund after the disbursements described in Subsections (2)(b) and (c) shall be deposited into the General Fund by the end of the fiscal year that the assessment is suspended.

Section 22. Section 26B-3-605 is amended to read:

26B-3-605. Hospital share.

(1) The hospital share is[~~:~~]

[~~(a) for the period from April 1, 2019, through June 30, 2020, $15,000,000; and~~]

[~~(b)~~](a) [~~beginning July 1, 2020,~~] 100% of the state's net cost of [~~the qualified~~]Medicaid expansion, after deducting appropriate offsets and savings [~~expected~~]as a result of implementing [~~the qualified~~]Medicaid expansion, including:

(i) savings from:

(A) the Medicaid program's former Primary Care Network program;

(B) the health coverage improvement program[~~, as defined in Section 26B-3-207~~];

(C) the state portion of inpatient prison medical coverage;

(D) behavioral health coverage; and

(E) county contributions to the non-federal share of Medicaid expenditures; and

(ii) any funds appropriated to the Medicaid Expansion Fund.

(2)(a) [~~Beginning July 1, 2020, the~~]The hospital share is capped at no more than $15,000,000 annually.

(b) [~~Beginning July 1, 2020, the~~]The division shall prorate the cap specified in Subsection (2)(a) in any year in which [~~the qualified~~]Medicaid expansion is not in effect for the full fiscal year.

Section 23. Section 26B-3-607 is amended to read:

26B-3-607. Calculation of assessment.

(1)(a) Except as provided in Subsection (1)(b), each private hospital shall pay an annual assessment due on the last day of each quarter in an amount calculated by the division at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) A private teaching hospital with more than 425 beds and more than 60 residents shall pay an assessment rate 2.5 times the uniform rate established under Subsection (1)(c).

(c) The division shall calculate the uniform assessment rate described in Subsection (1)(a) by dividing the hospital share for assessed private hospitals, as described in Subsection 26B-3-606(1), by the sum of:

(i) the total number of discharges for assessed private hospitals that are not a private teaching hospital; and

(ii) 2.5 times the number of discharges for a private teaching hospital, described in Subsection (1)(b).

(d) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the formula described in Subsection (1)(c) to address unforeseen circumstances in the administration of the assessment under this part.

(e) The division shall apply any quarterly changes to the uniform assessment rate uniformly to all assessed private hospitals.

(2) Except as provided in Subsection (3), for each state fiscal year, the division shall determine a hospital's discharges as [~~follows:~~]

[~~(a) for state fiscal year 2019, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2015, and June 30, 2016; and (b) for each subsequent state fiscal year,~~]the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years before the assessment fiscal year.

(3)(a) If a hospital's fiscal year Medicare cost report is not contained in the [~~Centers for Medicare~~

~~and Medicaid Services'~~]CMS Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare cost report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(b) If a hospital is not certified by the Medicare program and is not required to file a Medicare cost report:

(i) the hospital shall submit to the division the hospital's applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (3)(b)(i); and

(iii) if the hospital fails to submit discharge information, the division shall audit the hospital's records and may impose a penalty equal to 5% of the calculated assessment.

(4) Except as provided in Subsection (5), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the division shall calculate the assessment for each hospital separately; and

(b) each separate hospital shall pay the assessment imposed by this part.

(5) If multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 24. Section 26B-3-610 is amended to read:

26B-3-610. Hospital reimbursement.

(1) [~~If the qualified Medicaid expansion is implemented by contracting with a Medicaid accountable care organization, the department shall, to~~]To the extent allowed by law, the department shall in any contract with a Medicaid accountable care organization to implement Medicaid expansion include [~~in a contract to provide benefits under the qualified Medicaid expansion~~]a requirement that the Medicaid accountable care organization reimburse hospitals in the Medicaid accountable care organization's provider network at no less than the Medicaid fee-for-service rate.

(2) [~~If the qualified~~]Where the department implements Medicaid expansion [~~is implemented by the department~~]as a fee-for-service program, the department shall reimburse hospitals at no less than the Medicaid fee-for-service rate.

(3) Nothing in this section prohibits the department or a Medicaid accountable care organization from paying a rate that exceeds the Medicaid fee-for-service rate.

Section 25. Section 26B-3-705 is amended to read:

26B-3-705. Calculation of assessment.

(1)(a) An annual assessment is payable on a quarterly basis for each hospital in an amount calculated at a uniform assessment rate for each hospital discharge, in accordance with this section.

(b) The uniform assessment rate shall be determined using the total number of hospital discharges for assessed hospitals divided into the total non-federal portion in an amount consistent with Section 26B-3-707 that is needed to support capitated rates for Medicaid accountable care organizations for purposes of hospital services provided to Medicaid enrollees.

(c) Any quarterly changes to the uniform assessment rate shall be applied uniformly to all assessed hospitals.

(d) The annual uniform assessment rate may not generate more than:

(i) $1,000,000 to offset Medicaid mandatory expenditures; and

(ii) the non-federal share to seed amounts needed to support capitated rates for Medicaid accountable care organizations as provided for in Subsection (1)(b).

(2)(a) For each state fiscal year, discharges shall be determined using the data from each hospital's Medicare Cost Report contained in the [~~Centers for Medicare and Medicaid Services'~~]CMS Healthcare Cost Report Information System file. The hospital's discharge data [~~will be derived as follows:~~]

[~~(i) for state fiscal year 2013, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2009, and June 30, 2010;~~]

[~~(ii) for state fiscal year 2014, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2010, and June 30, 2011;~~]

[~~(iii) for state fiscal year 2015, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2011, and June 30, 2012;~~]

[~~(iv) for state fiscal year 2016, the hospital's cost report data for the hospital's fiscal year ending between July 1, 2012, and June 30, 2013; and~~ ~~(v) for each subsequent state fiscal year,~~]is the hospital's cost report data for the hospital's fiscal year that ended in the state fiscal year two years prior to the assessment fiscal year.

(b) If a hospital's fiscal year Medicare Cost Report is not contained in the [~~Centers for Medicare and Medicaid Services'~~]CMS Healthcare Cost Report Information System file:

(i) the hospital shall submit to the division a copy of the hospital's Medicare Cost Report applicable to the assessment year; and

(ii) the division shall determine the hospital's discharges.

(c) If a hospital is not certified by the Medicare program and is not required to file a Medicare Cost Report:

(i) the hospital shall submit to the division its applicable fiscal year discharges with supporting documentation;

(ii) the division shall determine the hospital's discharges from the information submitted under Subsection (2)(c)(i); and

(iii) the failure to submit discharge information shall result in an audit of the hospital's records and a penalty equal to 5% of the calculated assessment.

(3) Except as provided in Subsection (4), if a hospital is owned by an organization that owns more than one hospital in the state:

(a) the assessment for each hospital shall be separately calculated by the department; and

(b) each separate hospital shall pay the assessment imposed by this part.

(4) Notwithstanding the requirement of Subsection (3), if multiple hospitals use the same Medicaid provider number:

(a) the department shall calculate the assessment in the aggregate for the hospitals using the same Medicaid provider number; and

(b) the hospitals may pay the assessment in the aggregate.

Section 26. Section 26B-3-707 is amended to read:

26B-3-707. Medicaid hospital adjustment under Medicaid accountable care organization rates.

(1) To preserve and improve access to hospital services, the division shall incorporate into the Medicaid accountable care organization rate structure calculation consistent with the certified actuarial rate range:

(a) $154,000,000 to be allocated toward the hospital inpatient directed payments for the Medicaid eligibility categories covered in Utah before January 1, 2019; and

(b) an amount equal to the difference between payments made to hospitals by Medicaid accountable care organizations for the Medicaid eligibility categories covered in Utah, based on submitted encounter data, and the maximum amount that could be paid for those services, to be used for directed payments to hospitals for inpatient and outpatient services.

(2)(a) To preserve and improve the quality of inpatient and outpatient hospital services authorized under Subsection (1)(b), the division shall amend its quality strategies required by 42 C.F.R. Sec. 438.340 to include quality measures selected from the CMS hospital quality improvement programs.

(b) To better address the unique needs of rural and specialty hospitals, the division may adopt different quality standards for rural and specialty hospitals.

(c) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt the selected quality measures and prescribe penalties for not meeting the quality standards that are established by the division by rule.

(d) The division shall apply the same quality measures and penalties under this Subsection (2) to new directed payments made to the University of Utah Hospital and Clinics.

Section 27. Section 26B-3-803 is amended to read:

26B-3-803. Calculation of assessment.

(1) The division shall calculate a uniform assessment per transport as described in this section.

(2) The assessment due from a given ambulance service provider equals the non-federal portion divided by total transports, multiplied by the number of transports for the ambulance service provider.

(3) The division shall apply any quarterly changes to the assessment rate, calculated as described in Subsection (2), uniformly to all assessed ambulance service providers.

(4) The assessment may not generate more than the total of:

(a) an annual amount of $20,000 to offset Medicaid administration expenses; and

(b) the non-federal portion.

(5)(a) For each state fiscal year, the division shall calculate total transports using [~~data from the Emergency Medical System as follows:~~]

[~~(i) for state fiscal year 2016, the division shall use ambulance service provider transports during the 2014 calendar year; and (ii) for a fiscal year after 2016, the division shall use~~]ambulance service provider transports [~~during~~]data from the Emergency Medical System for the calendar year ending 18 months before the end of the fiscal year.

(b) If an ambulance service provider fails to submit transport information to the Emergency Medical System, the division may audit the ambulance service provider to determine the ambulance service provider's transports for a given fiscal year.

Section 28. Section 26B-3-1004 is amended to read:

26B-3-1004. Health insurance entity -- Duties related to state claims for Medicaid payment or recovery.

(1) As a condition of doing business in the state, a health insurance entity shall:

[~~(1)~~](a) with respect to an individual who is eligible for, or is provided, medical assistance under

the state plan, upon the request of the department, provide information to determine:

[~~(a)~~](i) during what period the individual, or the spouse or dependent of the individual, may be or may have been, covered by the health insurance entity; and

[~~(b)~~](ii) the nature of the coverage that is or was provided by the health insurance entity described in Subsection (1)(a), including the name, address, and identifying number of the plan;

[~~(2)~~](b) accept the state's right of recovery and the assignment to the state of any right of an individual to payment from a party for an item or service for which payment has been made under the state plan;

[~~(3)~~](c) respond within 60 days to any inquiry by the department regarding a claim for payment for any health care item or service that is submitted no later than three years after the day on which the health care item or service is provided; [~~and~~]

[~~(4)~~](d) not deny a claim submitted by the department solely on the basis of the date of submission of the claim, the type or format of the claim form, or failure to present proper documentation at the point-of-sale that is the basis for the claim, if:

[~~(a)~~](i) the claim is submitted no later than three years after the day on which the item or service is furnished; and

[~~(b)~~](ii) any action by the department to enforce the rights of the state with respect to the claim is commenced no later than six years after the day on which the claim is submitted[~~.~~]; and

(e) not deny a claim submitted by the department or the department's contractor for an item or service solely on the basis that such item or service did not receive prior authorization under the third-party payer's rules.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules that:

(a) construe and implement Subsection (1)(e); and

(b) encourage health care providers to seek prior authorization when necessary from a health insurance entity that is the primary payer before seeking third-party liability through Medicaid.

Section 29. Section 63C-18-202 is amended to read:

63C-18-202. Commission established -- Members.

(1) There is created the Behavioral Health Crisis Response Commission, composed of the following members:

(a) the executive director of the Huntsman Mental Health Institute;

(b) the governor or the governor's designee;

(c) the director of the Office of Substance Use and Mental Health;

(d) one representative of the Office of the Attorney General, appointed by the attorney general;

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

(f) one member of the public, appointed by the chair of the commission and approved by the commission;

(g) two individuals who are mental or behavioral health clinicians licensed to practice in the state, appointed by the chair of the commission and approved by the commission, at least one of whom is an individual who:

(i) is licensed as a physician under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists;

(h) one individual who represents a county of the first or second class, appointed by the Utah Association of Counties;

(i) one individual who represents a county of the third, fourth, or fifth class, appointed by the Utah Association of Counties;

(j) one individual who represents the Utah Hospital Association, appointed by the chair of the commission;

(k) one individual who represents law enforcement, appointed by the chair of the commission;

(l) one individual who has lived with a mental health disorder, appointed by the chair of the commission;

(m) one individual who represents an integrated health care system that:

(i) is not affiliated with the chair of the commission; and

(ii) provides inpatient behavioral health services and emergency room services to individuals in the state;

(n) one individual who represents [~~an~~]a Medicaid accountable care organization, as defined in Section 26B-3-219, with a statewide membership base;

(o) one individual who represents 911 call centers and public safety answering points, appointed by the chair of the commission;

(p) one individual who represents Emergency Medical Services, appointed by the chair of the commission;

(q) one individual who represents the mobile wireless service provider industry, appointed by the chair of the commission;

(r) one individual who represents rural telecommunications providers, appointed by the chair of the commission;

(s) one individual who represents voice over internet protocol and land line providers, appointed by the chair of the commission;

(t) one individual who represents the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns; and

(u) three or six legislative members, the number of which shall be decided jointly by the speaker of the House of Representatives and the president of the Senate, appointed as follows:

(i) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint three legislative members to the commission, the speaker shall appoint one member of the House of Representatives, the president shall appoint one member of the Senate, and the speaker and the president shall jointly appoint one legislator from the minority party; or

(ii) if the speaker of the House of Representatives and the president of the Senate jointly decide to appoint six legislative members to the commission:

(A) the speaker of the House of Representatives shall appoint three members of the House of Representatives, no more than two of whom may be from the same political party; and

(B) the president of the Senate shall appoint three members of the Senate, no more than two of whom may be from the same political party.

(2)(a) Except as provided in Subsection (2)(d), the executive director of the Huntsman Mental Health Institute is the chair of the commission.

(b) The chair of the commission shall appoint a member of the commission to serve as the vice chair of the commission, with the approval of the commission.

(c) The chair of the commission shall set the agenda for each commission meeting.

(d) If the executive director of the Huntsman Mental Health Institute is not available to serve as the chair of the commission, the commission shall elect a chair from among the commission's members.

(3)(a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(4)(a) Except as provided in Subsection (4)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the commission.

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

(5) The Office of the Attorney General shall provide staff support to the commission.

Section 30. Repealer.

This bill repeals:

Section 26B-3-138, Behavioral health delivery working group.

Section 31. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 31(a) Operating and Capital Budgets

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

ITEM 1

To Department of Health and Human Services - Integrated Health Care Services

From General Fund $701,500

Schedule of Programs:

Medicaid Other Services $701,500

The Legislature intends that the Department of Health and Human Services use the appropriation to increase primary care provider rates in Medicaid by 2.12%.

ITEM 2

To Department of Health and Human Services - Integrated Health Care Services

From General Fund, One-time $1,417,000

From General Fund $4,127,900

Schedule of Programs:

Non-Medicaid Behavioral Health Treatment and Crisis Response $5,544,900

The Legislature intends that the Office of Substance Use and Mental Health pass through the appropriation provided under this item to each local substance abuse and mental health authority to pay county contributions to the nonfederal share of Medicaid expenditures.

Section 32. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 285
H. B. 561
Passed February 28, 2024
Approved March 14, 2024
Effective July 1, 2024

COMMUNICATION AWARENESS PILOT PROGRAM

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill creates the Communication Habits to reduce Adolescent Threats, or CHAT, Pilot Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program;
- requires the Department of Health and Human Services to issue a request for proposals;
- requires the Department of Health and Human Services to report to the Health and Human Services Interim Committee; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Health and Human Services - Operations - Public Affairs, Education & Outreach as a one- time appropriation:
  - from the General Fund, One- time, $250,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I- 1- 226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332

63I- 1- 263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534

63J- 1- 602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 310, 330, 345, 354, and 534

ENACTS:

26B- 7- 122, Utah Code Annotated 1953

26B- 7- 123, Utah Code Annotated 1953

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

Section 1. Section 26B- 7- 122 is enacted to read:

26B- 7- 122. Communication Habits to reduce Adolescent Threats Pilot Program.

(1) As used in this section:

(a) "Campaign" means a multimedia marketing strategy.

(b) "CHAT" means the Communication Habits to reduce Adolescent Threats Pilot Program created in this section.

(2) There is created a Communication Habits to reduce Adolescent Threats, or CHAT, Pilot Program as described in this part.

(3) By no later than October 1, 2024, the department shall issue a request for proposals for the creation of a statewide CHAT campaign to:

(a) increase public awareness of:

(i) the benefits of strong communication skills, particularly between a minor and the minor's parent or guardian; and

(ii) the harms associated with poor communication or a lack of communication; and

(b) promote:

(i) the destigmatization of mental health issues;

(ii) the personal and community benefits of effective communication;

(iii) tips and advice on how to effectively communicate; and

(iv) resources to support minors if they are struggling with mental illness.

(4) The CHAT campaign shall include a branding strategy around the CHAT campaign to increase public awareness.

(5) The request for proposals described in Subsection (3) shall be open to an institution of higher education.

(6) Within available funds, the department shall enter into an agreement with the selected proposer to implement the CHAT campaign selected through the request for proposal process on a statewide basis through June 30, 2029.

(7) The department may accept donations and use those funds to support the implementation of the CHAT campaign.

Section 2. Section 26B- 7- 123 is enacted to read:

26B- 7- 123. Report on CHAT campaign.

(1) The department shall determine metrics to measure the success of the CHAT campaign and regularly reevaluate those metrics.

(2) No later than September 1, 2028, the department shall create a report on:

(a) the implementation of the CHAT campaign;

(b) the results of the CHAT campaign; and

(c) recommendations for the continuance or the suspension of the CHAT campaign.

(3) The department shall deliver the report described in Subsection (2) to the Health and Human Services Interim Committee, no later than October 1, 2028.

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(31) Section 26B-5-112.5 is repealed December 31, 2026.

(32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(34) Section 26B-5-120 is repealed December 31, 2026.

(35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(40) Sections 26B-7-122 and 26B-7-123 are repealed July 1, 2029.

[~~(40)~~](41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(41)~~](42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 4. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

[~~(18)~~](19) Subsection [~~63J-1-602.2(25)~~] 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](20) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](24) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](26) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](29) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](30) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](31) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](32) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](33) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program created in Section 26B-7-122.

[~~(16)~~](17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

[~~(17)~~](18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(18)~~](19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

[~~(19)~~](20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(20)~~](21) The Emergency Medical Services Grant Program in Section 53-2d-207.

[~~(21)~~](22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(22)~~](23) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(23)~~](24) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(24)~~](25) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(25)~~](26) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(26)~~](27) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(27)~~](28) The State Capitol Preservation Board created by Section 63C-9-201.

[~~(28)~~](29) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(29)~~](30) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(30)~~](31) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(31)~~](32) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(32)~~](33) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

[~~(33)~~](34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(34)~~](35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(35)~~](36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(36)~~](37) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(37)~~](38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(38)~~](39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(39)~~](40) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(40)~~](41) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(41)~~](42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(42)~~](43) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(43)~~](44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(44)~~](45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(45)~~](46) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

[~~(46)~~](47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 6. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 6(a) Operating and Capital Budgets

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

ITEM 1

To Department of Health and Human Services - Operations

From General Fund, One-time	$250,000
Schedule of Programs:	
Public Affairs, Education & Outreach	$250,000

Section 7. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 286
H. B. 59
Passed February 27, 2024
Approved March 14, 2024
Effective May 1, 2024

FEDERAL FUNDS CONTINGENCY PLANNING

Chief Sponsor: Ken Ivory
Senate Sponsor: Michael S. Kennedy

Cosponsor:
Kay J. Christofferson
Stephen L. Whyte
Carl R. Albrecht
Trevor Lee

Stewart E. Barlow
Keven J. Stratton

LONG TITLE

General Description:

This bill addresses contingency planning related to federal funds.

Highlighted Provisions:

This bill:

- defines terms;
- requires a state agency to provide a contingency disclosure and plan, and a state jurisdiction evaluation, when submitting a federal funds reauthorization or a new federal funds request above a certain threshold;
- requires a state agency that meets certain thresholds for federal funding to create a contingency plan related to that funding;
- repeals provisions regarding federal receipts reporting requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-130, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 306
63J-5-102, as last amended by Laws of Utah 2018, Chapter 467
63J-5-103, as last amended by Laws of Utah 2017, Chapter 247
63J-5-204, as last amended by Laws of Utah 2016, Chapter 272

ENACTS:

63J-5-301, Utah Code Annotated 1953
63J-5-302, Utah Code Annotated 1953

REPEALS:

63J-1-219, as last amended by Laws of Utah 2022, Chapter 447
63J-5-101, as enacted by Laws of Utah 2008, Chapter 382

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

Section 1. Section 26B-3-130 is amended to read:

26B-3-130. Medicaid intergovernmental transfer report -- Approval requirements.

(1) As used in this section:

(a)(i) "Intergovernmental transfer" means the transfer of public funds from:

(A) a local government entity to another nonfederal governmental entity; or

(B) from a nonfederal, government owned health care facility regulated under Chapter 2, Part 2, Health Care Facility Licensing and Inspection, to another nonfederal governmental entity.

(ii) "Intergovernmental transfer" does not include:

(A) the transfer of public funds from one state agency to another state agency; or

(B) a transfer of funds from the University of Utah Hospitals and Clinics.

(b)(i) "Intergovernmental transfer program" means a federally approved reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

(c) "Local government entity" means a county, city, town, special service district, special district, or local education agency as that term is defined in Section 63J-5-102.

(d) "Non-state government entity" means a hospital authority, hospital district, health care district, special service district, county, or city.

(2)(a) An entity that receives federal Medicaid dollars from the department as a result of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1 each year thereafter, provide the department with:

(i) information regarding the payments funded with the intergovernmental transfer as authorized by and consistent with state and federal law;

(ii) information regarding the entity's ability to repay federal funds, to the extent required by the department in the contract for the intergovernmental transfer; and

(iii) other information reasonably related to the intergovernmental transfer that may be required by the department in the contract for the intergovernmental transfer.

(b) On or before October 15, 2017, and on or before October 15 each subsequent year, the department shall prepare a report for the Executive Appropriations Committee that includes:

(i) the amount of each intergovernmental transfer under Subsection (2)(a);

(ii) a summary of changes to CMS regulations and practices that are known by the department regarding federal funds related to an intergovernmental transfer program; and

(iii) other information the department gathers about the intergovernmental transfer under Subsection (2)(a).

(3) The department shall not create a new intergovernmental transfer program after July 1, 2017, unless the department reports to the Executive Appropriations Committee, in accordance with Section 63J-5-206, before submitting the new intergovernmental transfer program for federal approval. The report shall include information required by Subsection ~~[63J-5-102(1)(d)]~~63J-5-102(1)(e) and the analysis required in Subsections (2)(a) and (b).

(4)(a) The department shall enter into new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contracts and contract amendments adding new nursing care facilities and new non-state government entity operators in accordance with this Subsection (4).

(b)(i) If the nursing care facility expects to receive less than $1,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility.

(ii) If the nursing care facility expects to receive between $1,000,000 and $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department shall enter into a Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract with the non-state government entity operator of the nursing care facility after receiving the approval of the Executive Appropriations Committee.

(iii) If the nursing care facility expects to receive more than $10,000,000 in federal funds each year from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program, excluding seed funding and administrative fees paid by the non-state government entity, the department may not approve the application without obtaining approval from the Legislature and the governor.

(c) A non-state government entity may not participate in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program unless the non-state government entity is a special service district, county, or city that operates a hospital or holds a license under Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(d) Each non-state government entity that participates in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program shall certify to the department that:

(i) the non-state government entity is a local government entity that is able to make an intergovernmental transfer under applicable state and federal law;

(ii) the non-state government entity has sufficient public funds or other permissible sources of seed funding that comply with the requirements in 42 C.F.R. Part 433, Subpart B;

(iii) the funds received from the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program are:

(A) for each nursing care facility, available for patient care until the end of the non-state government entity's fiscal year; and

(B) used exclusively for operating expenses for nursing care facility operations, patient care, capital expenses, rent, royalties, and other operating expenses; and

(iv) the non-state government entity has completed all licensing, enrollment, and other forms and documents required by federal and state law to register a change of ownership with the department and with CMS.

(5) The department shall add a nursing care facility to an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract if:

(a) the nursing care facility is managed by or affiliated with the same non-state government entity that also manages one or more nursing care facilities that are included in an existing Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract; and

(b) the non-state government entity makes the certification described in Subsection (4)(d)(ii).

(6) The department may not increase the percentage of the administrative fee paid by a non-state government entity to the department under the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program.

(7) The department may not condition participation in the Nursing Care Facility Non-State Government-Owned Upper Payment Limit program on:

(a) a requirement that the department be allowed to direct or determine the types of patients that a non-state government entity will treat or the course of treatment for a patient in a non-state government nursing care facility; or

(b) a requirement that a non-state government entity or nursing care facility post a bond, purchase insurance, or create a reserve account of any kind.

(8) The non-state government entity shall have the primary responsibility for ensuring compliance with Subsection (4)(d)(ii).

(9)(a) The department may not enter into a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract before January 1, 2019.

(b) Subsection (9)(a) does not apply to:

(i) a new Nursing Care Facility Non-State Government-Owned Upper Payment Limit program contract that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018; or

(ii) a nursing care facility that is operated or managed by the same company as a nursing care facility that was included in the federal funds request summary under Section 63J-5-201 for fiscal year 2018.

Section 2. Section 63J-5-102 is amended to read:

63J-5-102. Definitions.

(1) As used in this chapter:

(a)(i) "Agency" means a department, division, committee, commission, council, court, or other administrative subunit of the state.

(ii) "Agency" includes:

(A) executive branch entities;

(B) judicial branch entities; and

(C) the State Board of Education.

(iii) "Agency" does not mean higher education institutions or political subdivisions.

(b) "Contingency disclosure and plan" means, with respect to a federal funds reauthorization or new federal funds request, the submitting or requesting agency's:

(i) disclosure of:

(A) the likelihood that the amount or value of the federal funds will be reduced, and how that likelihood changes over time; and

(B) the likelihood that the federal funds will become unavailable, and how that likelihood changes over time;

(ii) explanation of:

(A) whether accepting the federal funds may create an expectation of ongoing funding by any beneficiary of the funds; and

(B) as applicable, how the agency will communicate to stakeholders that services funded by the federal funds may or will be temporary;

(iii) plan for how the agency will:

(A) proceed if the amount or value of the federal funds are unexpectedly reduced in any material degree or amount;

(B) proceed if the federal funds become unavailable unexpectedly;

(C) wind down the program or services funded by the federal funds when the federal funds are exhausted; and

(D) transition any beneficiaries of the funds to a different program or service provider if the agency is unable to continue providing the same program or services due to a decrease or loss of federal funds; and

(iv) designation of the federal funds and the program or purpose for which the funds will be used as either:

(A) mandatory under federal or state law;

(B) high priority; or

(C) low priority.

[~~(b)~~](c)(i) "Federal funds" means cash or other money received from the United States government or from other individuals or entities for or on behalf of the United States and deposited with the state treasurer or any agency of the state.

(ii) "Federal funds" includes federal assistance and federal assistance programs, however described.

[~~(iii) "Federal funds" does not include money received from the United States government to reimburse the state or local government entity for money expended by the state or local government entity.~~]

[~~(c)~~](d) "Federal funds reauthorization" means:

(i) the formal submission from an agency to the federal government applying for or seeking reauthorization of federal funds which the state is currently receiving;

(ii) the formal submission from an agency to the federal government applying for or seeking reauthorization to participate in a federal program in which the state is currently participating that will result in federal funds being transferred to an agency; or

(iii) that period after the first year of a previously authorized and awarded grant or funding award, during which federal funds are disbursed or are scheduled to be disbursed after the first year because the term of the grant or financial award extends for more than one year.

[~~(d)~~](e)(i) "Federal funds request summary" means a document detailing:

(A) the amount of money that is being requested or is available to be received by the state from the federal government for each federal funds reauthorization or new federal funds request;

(B) those federal funds reauthorizations and new federal funds requests that are included as part of

the agency's proposed budget for the fiscal year, and the amount of those requests;

(C) the amount of new state money, if any, that will be required to receive the federal funds or participate in the federal program;

(D) the number of additional permanent full-time employees, additional permanent part-time employees, or combination of additional permanent full-time employees and additional permanent part-time employees, if any, that the state estimates are needed in order to receive the federal funds or participate in the federal program; [~~and~~]

(E) any requirements that the state must meet as a condition for receiving the federal funds or participating in the federal program[~~.~~]; and

(F) for each federal funds reauthorization for qualifying federal funds and each new federal funds request for qualifying federal funds, a contingency disclosure and plan, and a state jurisdiction evaluation.

(ii) "Federal funds request summary" includes, if available:

(A) the letter awarding an agency a grant of federal funds or other official documentation awarding an agency a grant of federal funds; and

(B) a document detailing federal maintenance of effort requirements.

[~~(e)~~](f) "Federal maintenance of effort requirements" means any matching, level of effort, or earmarking requirements, as defined in Office of Management and Budget requirements, that are imposed on an agency as a condition of receiving federal funds.

[~~(f)~~](g)(i) "Intergovernmental transfer program" means an existing reimbursement program or category that is authorized by the Medicaid state plan or waiver authority for intergovernmental transfers.

(ii) "Intergovernmental transfer program" does not include the addition of a provider to an existing intergovernmental transfer program.

[~~(g)~~](h) "Local education agency" or "LEA" means:

(i) a school district;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

[~~(h)~~](i) "New federal funds" means:

(i) federal assistance or other federal funds that are available from the federal government that:

(A) the state is not currently receiving; or

(B) exceed the federal funds amount most recently approved by the Legislature by more than 25% for a federal grant or program in which the state is currently participating;

(ii) a federal assistance program or other federal program in which the state is not currently participating; or

(iii) a one-time TANF request.

[~~(i)~~](j) "New federal funds request" means:

(i) the formal submission from an agency to the federal government:

(A) applying for or otherwise seeking to obtain new federal funds; or

(B) applying for or seeking to participate in a new federal program that will result in federal funds being transferred to an agency; or

(ii) a one-time TANF request.

[~~(j)~~](k)(i) "New state money" means money, whether specifically appropriated by the Legislature or not, that the federal government requires Utah to expend as a condition for receiving the federal funds or participating in the federal program.

(ii) "New state money" includes money expended to meet federal maintenance of effort requirements.

[~~(k)~~](l) "One-time TANF request" means a proposed expenditure by the Department of Workforce Services from its reserves of federal Temporary Assistance for Needy Families funds:

(i) for a project or program that will last for a fixed amount of time and is not an ongoing project or program of the Department of Workforce Services; and

(ii) that is greater than $1,000,000 over the amount most recently approved by the Legislature.

[~~(l)(i) "Pass-through federal funds" means federal funds provided to an agency that are distributed to local governments or private entities without being used by the agency.~~]

[~~(ii) "Pass-through federal funds" does not include federal funds provided to the State Board of Education that are distributed to a local education agency or other subrecipient without being used by the State Board of Education.~~]

(m) "Qualifying federal funds" means federal funds that are:

(i) greater than 10% of the receiving entity's annual budget; or

(ii) greater than $2,000,000.

(n) "State" means the state of Utah and all of its agencies, and any administrative subunits of those agencies.

(o) "State jurisdiction evaluation" means:

(i) a disclosure of:

(A) whether accepting the federal funds or participating in the federal program will require the use of state funds or increase the administrative costs of the state or agency;

(B) the extent to which accepting the federal funds or participating in the federal program will

impair or impact the exclusive police power jurisdiction of the state to protect or provide for the health, safety, welfare, and morals of the state; and

(C) the extent to which accepting the federal funds or participating in the federal program will impair or impact the jurisdiction of the state over federal areas within the state; and

(ii) to the extent that accepting the federal funds or participating in the federal program will impair or impact the state's jurisdiction as described in Subsection (1)(o)(i)(B) or (C), an identification of the constitutional authority supporting federal assertion of jurisdiction or authority for the funding, program, or an associated regulation or restriction.

(2) When this chapter describes an employee as a "permanent full-time employee" or a "permanent part-time employee," it is not intended to, and may not be construed to, affect the employee's status as an at-will employee.

Section 3. Section 63J-5-103 is amended to read:

63J-5-103. Scope and applicability of chapter.

(1) Except as[~~provided in Subsection (2), and except as~~] otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each federal funds request.

[~~(2)(a) This chapter does not govern federal funds requests for:~~]

[~~(i) except as provided in Section 63J-5-206, the Medical Assistance Program, commonly known as Medicaid; and~~]

[~~(ii) except as provided in Section 63J-5-206, the Children's Health Insurance Program.~~]

[~~(b) Until Subsections (2)(c) and (d) apply, this chapter does not govern federal funds requests for:~~]

[~~(i) the Women, Infant, and Children program;~~]

[~~(ii) the Temporary Assistance for Needy Families program, except for a one-time TANF request as defined in Section 63J-5-102;~~]

[~~(iii) Social Security Act money;~~]

[~~(iv) the Substance Abuse Prevention and Treatment program;~~]

[~~(v) Child Care and Development Block Grant;~~]

[~~(vi) SNAP Administration and Training money;~~]

[~~(vii) Unemployment Insurance Operations money;~~]

[~~(viii) Federal Highway Administration money;~~]

[~~(ix) the Utah National Guard; or~~]

[~~(x) pass-through federal funds.~~]

[~~(c) Federal funds requests described in Subsection (2)(b) are subject to the provisions of this chapter:~~]

[~~(i) beginning on January 1, 2018, for each agency that receives more than $200,000,000 annually in federal funds; or~~]

[~~(ii) beginning on July 1, 2018, for each agency that receives $200,000,000 or less annually in federal funds.~~]

[~~(d) Maintenance of effort reporting requirements described in Subsection 63J-5-102(1)(d)(ii)(B) may not be required until:~~]

[~~(i) January 1, 2018, for each agency that receives more than $200,000,000 annually in federal funds; or~~]

[~~(ii) July 1, 2018, for each agency that receives $200,000,000 or less annually in federal funds.~~]

[~~(3)~~](2) The governor need not seek legislative review or approval of federal funds received by the state if:

(a) the governor has declared a state of emergency; and

(b) the federal funds are received to assist victims of the state of emergency under Section 53-2a-204.

Section 4. Section 63J-5-204 is amended to read:

63J-5-204. Legislative review and approval of certain federal funds requests.

(1) As used in this section:

(a) "High impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of $10,000,000 or more per year from the federal government;

(ii) require the state to add 11 or more permanent full-time employees, 11 or more permanent part-time employees, or combination of permanent full-time and permanent part-time employees equal to 11 or more in order to receive the new federal funds or participate in the new federal program; or

(iii) require the state to expend more than $1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(b) "Medium impact federal funds request" means a new federal funds request that will or could:

(i) result in the state receiving total payments of more than $1,000,000 but less than $10,000,000 per year from the federal government;

(ii) require the state to add more than zero but less than 11 permanent full-time employees, more than zero but less than 11 permanent part-time employees, or a combination of permanent full-time employees and permanent part-time employees equal to more than zero but less than 11 in order to receive or administer the new federal funds or participate in the new federal program; or

(iii) require the state to expend $1 to $1,000,000 of new state money in a fiscal year in order to receive or administer the new federal funds or participate in the new federal program.

(2)(a)(i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a medium impact federal funds request that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

(A) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and

(B) if the governor, the Judicial Council, or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislative Executive Appropriations Committee for its review and recommendations.

(ii) The procedures required under Subsection (2)(a)(i) shall be performed, if possible, before the date that the medium impact funds request is formally submitted, but not later than three months after the date of formal submission.

(b) The Legislative Executive Appropriations Committee shall review the federal funds request summary and may:

(i) recommend that the agency accept the new federal funds;

(ii) recommend that the agency not accept the new federal funds; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the acceptance of the new federal funds.

(3)(a)(i) Before obligating the state to accept or receive new federal funds or to participate in a new federal program under a high impact federal funds request that was not authorized during a legislative session as provided in Section 63J-5-201, an agency shall:

(A) submit the federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, for approval or rejection; and

(B) if the governor, the Judicial Council , or the State Board of Education approves the new federal funds request, submit the federal funds request summary to the Legislature for its approval or rejection in an annual general session or a special session.

(ii) [~~The~~]Except as provided in Subsection (3)(a)(iii), the procedures required under Subsection (3)(a)(i) shall be performed, if possible, before the date that the high impact funds request is formally submitted, but not later than three months after the date of formal submission.

(iii) For a high impact federal funds request for the Medical Assistance Program, commonly known as Medicaid, or the Children's Health Insurance Program, the procedures required under Subsection (3)(a)(i) shall be performed, if possible, before the date that the high impact funds request is formally submitted, but not later than the end of the earlier of the next annual general session or special session of the Legislature after the date of formal submission.

(b)(i) If the Legislature approves the new federal funds request, the agency may accept the new federal funds or participate in the new federal program.

(ii) If the Legislature fails to approve the new federal funds request, the agency may not accept the new federal funds or participate in the new federal program.

(4) If an agency fails to comply with the procedures of this section or fails to obtain the Legislature's approval:

(a) the governor, the Judicial Council, or the State Board of Education, as appropriate, may require the agency to withdraw the new federal funds request or refuse or return the new federal funds;

(b) the Legislature may, if federal law allows, opt out or decline to participate in the new federal program or decline to receive the new federal funds; or

(c) the Legislature may reduce the agency's General Fund appropriation in an amount less than, equal to, or greater than the amount of federal funds received by the agency.

(5) If a letter or other official documentation awarding an agency a grant of federal funds is not available to be included in the agency's federal funds request summary to the governor, the Judicial Council, or the State Board of Education, as appropriate, under this section, the agency shall submit to the governor, the Judicial Council, or the State Board of Education, as appropriate, the letter or other official documentation awarding the agency a grant of federal funds before expending the federal funds granted.

Section 5. Section 63J-5-301 is enacted to read:

63J-5-301. Definitions.

Part 3. Federal Funds Contingency Plan

As used in this part:

(1) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(2) "Qualifying agency" means an agency that, in a single fiscal year, has federal receipts composing more than 33% of the agency's total budget.

(3) "Single audit" means the same as that term is defined in 31 U.S.C. Sec. 7501.

Section 6. Section 63J-5-302 is enacted to read:

63J-5-302. Federal funds contingency plan.

(1) A qualifying agency shall prepare a federal funds contingency plan that meets the requirements described in Subsection (2).

(2) A federal funds contingency plan shall:

(a) identify short-term and long-term risks to the agency if there is a reduction in the amount or value of federal funds the agency receives;

(b) identify short-term and long-term strategies the agency may use to respond to the risks described in Subsection (2)(a); and

(c) designate agency personnel who are responsible for implementing the strategies described in Subsection (2)(b).

(3) A qualifying agency shall update the agency's federal funds contingency plan:

(a) at least every other year; and

(b) in any year in which the qualifying agency submits a new federal funds request that exceeds $10,000,000.

(4) On or before December 31 of each year that a qualifying agency prepares a federal funds contingency plan or an update to a federal funds contingency plan, the qualifying agency shall provide a copy of the contingency plan or update to:

(a) the Governor's Office of Planning and Budget;

(b) the Executive Appropriations Committee; and

(c) the Legislative Fiscal Analyst.

Section 7. Repealer.

This bill repeals:

Section 63J-1-219, Definitions -- Federal receipts reporting requirements.

Section 63J-5-101, Title.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 287
H. B. 94
Passed February 9, 2024
Approved March 14, 2024
Effective May 1, 2024

CIVIL COMMITMENT EXAMINER REQUIREMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to designated examiners.

Highlighted Provisions:

This bill:

- related to civil commitments, adds certain psychiatric mental health nurse practitioners and psychiatric mental health clinical nurse specialists to the use of the term "designated examiner"; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-5-332, as renumbered and amended by Laws of Utah 2023, Chapter 308

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

Section 1. Section 26B-5-332 is amended to read:

26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b)(i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4)(a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5)(a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the

local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7)(a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is[-]:

(i) a licensed physician; or

(ii) a psychiatric mental health nurse practitioner or a psychiatric mental health clinical nurse specialist who:

(A) is nationally certified;

(B) is doctorally trained; and

(C) has at least two years of inpatient mental health experience, regardless of the license the individual held at the time of that experience; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10)(a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

(b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 26B-5-360;

(c) has acceptable options for treatment programs that are available without court proceedings; or

(d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.

(14)(a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15)(a)(i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.

(e)(i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16)(a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i) the proposed patient has a mental illness;

(ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

(iii) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

(iv) there is no appropriate less-restrictive alternative to a court order of commitment; and

(v) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b)(i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

(17)(a)(i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b)(i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c)(i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six- month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18)(a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 288
H. B. 70
Passed February 5, 2024
Approved March 14, 2024
Effective May 1, 2024

FATALITY REVIEW AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions relating to fatality reviews.

Highlighted Provisions:

This bill:

- amends definitions;
- consolidates and streamlines certain notice requirements in the fatality review process;
- updates language to reflect the electronic storage of certain records;
- amends certain deadlines related to the fatality review process; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-1-501, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-502, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-505, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-506, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-507, as renumbered and amended by Laws of Utah 2023, Chapter 305
52-4-205, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
63G-2-202, as last amended by Laws of Utah 2023, Chapter 329

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

Section 1. Section 26B-1-501 is amended to read:

26B-1-501. Definitions.

As used in this part:

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2) "Child" means the same as that term is defined in Section 80-1-102.

(3) "Committee" means a fatality review committee that is formed under Section 26B-1-503 or 26B-1-504.

(4) "Dependency" means the same as that term is defined in Section 80-1-102.

(5) "Formal review" means a review of a death or a near fatality that is ordered under Subsection [~~26B-1-502(6)~~]26B-1-502(5).

(6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.

(7) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b)(i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies[~~, unless the individual:~~];

[~~(i) lived in the individual's home at the time of death; and~~]

[~~(ii) the director of the Division of Continuous Quality and Improvement determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;~~]

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

(i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 80-1-102.

(9) "Substitute care" means the same as that term is defined in Section 80-1-102.

Section 2. Section 26B-1-502 is amended to read:

26B-1-502. Initial review.

(1) Within seven days after the day on which the department knows that a qualified individual has died or is an individual described in Subsection 26B-1-501(7)(h), a person designated by the department shall:

(a)(i) for a death, complete a deceased client report form, created by the department; or

(ii) for an individual described in Subsection 26B-1-501(7)(h), complete a near fatality client report form, created by the department; and

(b) forward the completed client report form to[~~.~~]:

(i) the director of the office or division that has jurisdiction over the region or facility[~~.~~];

(ii) the executive director;

(iii) the director of the Division of Continuous Quality and Improvement; and

(iv) the fatality review coordinator, or the fatality review coordinator's designee.

[~~(2) The director of the office or division described in Subsection (1) shall, upon receipt of a near fatality client report form or a deceased client report form, immediately provide a copy of the form to:~~]

[~~(a) the executive director; and~~]

[~~(b) the fatality review coordinator or the fatality review coordinator's designee.~~]

[~~(3)~~](2) Within 10 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives a copy of the near fatality client report form or the deceased client report form, the fatality review coordinator or the fatality review coordinator's designee shall request a copy of all relevant department case records, or electronic access to all relevant department case records, regarding the individual who is the subject of the client report form.

[~~(4)~~](3) Each person who receives a request for a record described in Subsection [~~(3)~~](2) shall provide a copy of the record, or electronic access to the record, to the fatality review coordinator or the fatality review coordinator's designee, by a secure method, within seven days after the day on which the request is made.

[~~(5)~~](4) Within 30 days after the day on which the fatality review coordinator or the fatality review coordinator's designee receives the case records requested under Subsection [~~(3)~~](2), the fatality review coordinator, or the fatality review coordinator's designee, shall:

(a) review the client report form, the case files, and other relevant information received by the fatality review coordinator; and

(b) make a recommendation to the director of the Division of Continuous Quality and Improvement regarding whether a formal review of the death or near fatality should be conducted.

[~~(6)~~](5)(a) In accordance with Subsection [~~(6)(b)~~](5)(b), within [~~seven~~]14 days after the day on which the fatality review coordinator or the fatality review coordinator's designee makes the recommendation described in Subsection [~~(5)(b)~~](4)(b), the director of the Division of Continuous Quality and Improvement or the director's designee shall determine whether to order that a review of the death or near fatality be conducted.

(b) The director of the Division of Continuous Quality and Improvement or the director's designee shall order that a formal review of the death or near fatality be conducted if:

(i) at the time of the near fatality or the death, the qualified individual is:

(A) an individual described in [~~Subsection 26B-1-501(6)(a) or (b)~~]Subsections 26B-1-501(7)(a) through (h), unless:

(I) the near fatality or the death is due to a natural cause; or

(II) the director of the Division of Continuous Quality and Improvement or the director's designee determines that the near fatality or the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department; or

(B) a child in foster care or substitute care, unless the near fatality or the death is due to:

(I) a natural cause; or

(II) an accident;

(ii) it appears, based on the information provided to the director of the Division of Continuous Quality and Improvement or the director's designee, that:

(A) a provision of law, rule, policy, or procedure relating to the qualified individual or the individual's family may not have been complied with;

(B) the near fatality or the fatality was not responded to properly;

(C) a law, rule, policy, or procedure may need to be changed; or

(D) additional training is needed;

(iii)(A) the death is caused by suicide; or

(B) the near fatality is caused by attempted suicide; or

(iv) the director of the Division of Continuous Quality and Improvement or the director's designee determines that another reason exists to order that a review of the near fatality or the death be conducted.

Section 3. Section 26B-1-505 is amended to read:

26B-1-505. Fatality review committee proceedings.

(1) A majority vote of committee members present constitutes the action of the committee.

(2) The department shall give the committee access to all reports, records, and other documents that are relevant to the near fatality or the death under investigation, including:

(a) narrative reports;

(b) case files;

(c) autopsy reports; and

(d) police reports, unless the report is protected from disclosure under Subsection 63G-2-305(10) or (11).

(3) The Utah State Hospital and the Utah State Developmental Center shall provide protected health information to the committee if requested by a fatality review coordinator.

(4) A committee shall convene [~~its first meeting within 14 days after the day on which a formal review is ordered~~]monthly, unless this time is extended, for good cause, by the director of the Division of Continuous Quality and Improvement.

(5) A committee may interview a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the formal review.

(6) A committee shall render an advisory opinion regarding:

(a) whether the provisions of law, rule, policy, and procedure relating to the qualified individual and the individual's family were complied with;

(b) whether the near fatality or the death was responded to properly;

(c) whether to recommend that a law, rule, policy, or procedure be changed; and

(d) whether additional training is needed.

Section 4. Section 26B-1-506 is amended to read:

26B-1-506. Fatality review committee report -- Response to report.

(1) Within 20 days after the day on which the committee proceedings described in Section 26B-1-505 end, the committee shall submit:

(a) a written report to the executive director that includes:

(i) the advisory opinions made under Subsection 26B-1-505(6); and

(ii) any recommendations regarding action that should be taken in relation to an employee of the department or a person who contracts with the department; and

(b) a copy of the report described in Subsection (1)(a) to:

(i) the director, or the director's designee, of the office or division to which the near fatality or the death relates; and

(ii) the regional director, or the regional director's designee, of the region to which the near fatality or the death relates[~~; and~~].

[~~(c) a copy of the report described in Subsection (1)(a), with only identifying information redacted, to the Office of Legislative Research and General Counsel.~~]

(2) Within [~~20~~]60 days after the day on which the director described in Subsection (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the [~~director~~]department shall provide a written response[~~ to the director of the Division of Continuous Quality and Improvement and a copy of the response~~], with only identifying information redacted, to the Office of Legislative Research and General Counsel, if the report:

(a) indicates that a law, rule, policy, or procedure was not complied with;

(b) indicates that the near fatality or the death was not responded to properly;

(c) recommends that a law, rule, policy, or procedure be changed; or

(d) indicates that additional training is needed.

(3) The response described in Subsection (2) shall include[-]:

(a) a plan of action to implement any recommended improvements within the [~~office or division~~]department; and

(b) the approval of the executive director or the executive director's designee for the plan described in Subsection (3)(a).

[~~(4) Within 30 days after the day on which the executive director receives the response described in Subsection (2), the executive director, or the executive director's designee shall:~~]

[~~(a) review the plan of action described in Subsection (3);~~]

[~~(b) make any written response that the executive director or the executive director's designee determines is necessary;~~]

[~~(c) provide a copy of the written response described in Subsection (4)(b), with only identifying information redacted, to the Office of Legislative Research and General Counsel; and~~]

[~~(d) provide an unredacted copy of the response described in Subsection (4)(b) to the director of the Division of Continuous Quality and Improvement.~~]

[~~(5)~~](4) A report described in Subsection (1) and [~~each~~]the response described in [~~this section~~]Subsection (2) is a protected record.

[~~(6)~~](5)(a) As used in this Subsection [~~(6)~~](5), "fatality review document" means any document created in connection with, or as a result of, a formal review of a near fatality or a death, or a decision whether to conduct a formal review of a near fatality or a death, including:

(i) a report described in Subsection (1);

(ii) a response described in [~~this section~~]Subsection (2);

(iii) a recommendation regarding whether a formal review should be conducted;

(iv) a decision to conduct a formal review;

(v) notes of a person who participates in a formal review;

(vi) notes of a person who reviews a formal review report;

(vii) minutes of a formal review;

(viii) minutes of a meeting where a formal review report is reviewed; and

(ix) minutes of, documents received in relation to, and documents generated in relation to, the portion of a meeting of the Health and Human Services Interim Committee or the Child Welfare Legislative Oversight Panel that a formal review report or a document described in this Subsection [~~(6)(a)~~](5)(a) is reviewed or discussed.

(b) A fatality review document is not subject to discovery, subpoena, or similar compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual or organization with lawful access to the data be compelled to testify with regard to a report described in Subsection (1) or a response described in [~~this section~~]Subsection (2).

(c) The following are not admissible as evidence in a civil, judicial, or administrative proceeding:

(i) a fatality review document; and

(ii) an executive summary described in Subsection 26B-1-507(4).

Section 5. Section 26B-1-507 is amended to read:

26B-1-507. Reporting to, and review by, legislative committees.

(1) [~~The Office of Legislative Research and General Counsel~~]On or before September 1 of each year, the department shall provide, with only identifying information redacted, a copy of the report described in Subsection [~~26B-1-506(1)(c)~~]26B-1-506(1)(b), and the [~~responses~~]response described in [~~Subsections 26B-1-506(2) and (4)(c)~~]Subsection 26B-1-506(2) to the Office of Legislative Research and General Counsel and the chairs of:

(a) the Health and Human Services Interim Committee; or

(b) if the qualified individual who is the subject of the report is an individual described in Subsection 26B-1-501(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

(2)(a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection 26B-1-506(1)(b).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3)(a) The Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4)[~~(a)~~] On or before September 1 of each year, the department shall provide an executive summary of all formal review reports for the preceding state fiscal year to[~~ the Office of Legislative Research and General Counsel.~~]:

[~~(b)~~](a) [~~The~~]the Office of Legislative Research and General Counsel[~~ shall forward a copy of the executive summary described in Subsection (4)(a) to:~~];

[~~(i)~~](b) the Health and Human Services Interim Committee; and

[~~(ii)~~](c) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

(a) may not include any names or identifying information;

(b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection 26B-1-505(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a formal review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a formal review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number of qualified individuals and the type of deaths and near fatalities that are known to the department;

(B) the number of formal reviews conducted;

(C) the categories described in Subsection 26B-1-501(7) of qualified individuals;

(D) the gender, age, race, and other significant categories of qualified individuals; and

(E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and

(v) action taken by the Division of Licensing and Background Checks[~~ and the Bureau of Internal Review and Audits~~] in response to the near fatality or the death of a qualified individual; and

(c) is a public document.

(6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

Section 6. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and [~~the responses~~]a response to the report described in [~~Subsections 26B-1-506(2) and (4)~~]Subsection 26B-1-506(2);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and [~~the responses~~]a response to the report described in [~~Subsections 26B-1-506(2) and (4)~~]Subsection 26B-1-506(2); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26B-1-403, to review and discuss an individual case, as described in Subsection 26B-1-403(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 7. Section 63G-2-202 is amended to read:

63G-2-202. Access to private, controlled, and protected documents.

(1) Except as provided in Subsection (11)(a), a governmental entity:

(a) shall, upon request, disclose a private record to:

(i) the subject of the record;

(ii) the parent or legal guardian of an unemancipated minor who is the subject of the record;

(iii) the legal guardian of a legally incapacitated individual who is the subject of the record;

(iv) any other individual who:

(A) has a power of attorney from the subject of the record;

(B) submits a notarized release from the subject of the record or the individual's legal representative dated no more than 90 days before the date the request is made; or

(C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a health care provider, as defined in Section 26B-8-501, if releasing the record or information in the record is consistent with normal professional practice and medical ethics; or

(v) any person to whom the record must be provided pursuant to:

(A) court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; and

(b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m), without complying with Section 63G-2-206, to another governmental entity for a purpose related to:

(i) voter registration; or

(ii) the administration of an election.

(2)(a) Upon request, a governmental entity shall disclose a controlled record to:

(i) a physician, physician assistant, psychologist, certified social worker, insurance provider or producer, or a government public health agency upon submission of:

(A) a release from the subject of the record that is dated no more than 90 days prior to the date the request is made; and

(B) a signed acknowledgment of the terms of disclosure of controlled information as provided by Subsection (2)(b); and

(ii) any person to whom the record must be disclosed pursuant to:

(A) a court order as provided in Subsection (7); or

(B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers.

(b) A person who receives a record from a governmental entity in accordance with Subsection (2)(a)(i) may not disclose controlled information from that record to any person, including the subject of the record.

(3) If there is more than one subject of a private or controlled record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

(4) Upon request, and except as provided in Subsection (11)(b), a governmental entity shall disclose a protected record to:

(a) the person that submitted the record;

(b) any other individual who:

(i) has a power of attorney from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification; or

(ii) submits a notarized release from all persons, governmental entities, or political subdivisions whose interests were sought to be protected by the protected classification or from their legal representatives dated no more than 90 days prior to the date the request is made;

(c) any person to whom the record must be provided pursuant to:

(i) a court order as provided in Subsection (7); or

(ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena Powers; or

(d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116(5).

(5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private, controlled, or protected record to another governmental entity, political subdivision, state, the United States, or a foreign government only as provided by Section 63G-2-206.

(6) Before releasing a private, controlled, or protected record, the governmental entity shall obtain evidence of the requester's identity.

(7) A governmental entity shall disclose a record pursuant to the terms of a court order signed by a

judge from a court of competent jurisdiction, provided that:

(a) the record deals with a matter in controversy over which the court has jurisdiction;

(b) the court has considered the merits of the request for access to the record;

(c) the court has considered and, where appropriate, limited the requester's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of private or controlled records;

(ii) business confidentiality interests in the case of records protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records;

(d) to the extent the record is properly classified private, controlled, or protected, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and

(e) where access is restricted by a rule, statute, or regulation referred to in Subsection 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.

(8)(a) Except as provided in Subsection (8)(d), a governmental entity may disclose or authorize disclosure of private or controlled records for research purposes if the governmental entity:

(i) determines that the research purpose cannot reasonably be accomplished without use or disclosure of the information to the researcher in individually identifiable form;

(ii) determines that:

(A) the proposed research is bona fide; and

(B) the value of the research is greater than or equal to the infringement upon personal privacy;

(iii)(A) requires the researcher to assure the integrity, confidentiality, and security of the records; and

(B) requires the removal or destruction of the individual identifiers associated with the records as soon as the purpose of the research project has been accomplished;

(iv) prohibits the researcher from:

(A) disclosing the record in individually identifiable form, except as provided in Subsection (8)(b); or

(B) using the record for purposes other than the research approved by the governmental entity; and

(v) secures from the researcher a written statement of the researcher's understanding of and agreement to the conditions of this Subsection (8) and the researcher's understanding that violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution under Section 63G-2-801.

(b) A researcher may disclose a record in individually identifiable form if the record is disclosed for the purpose of auditing or evaluating the research program and no subsequent use or disclosure of the record in individually identifiable form will be made by the auditor or evaluator except as provided by this section.

(c) A governmental entity may require indemnification as a condition of permitting research under this Subsection (8).

(d) A governmental entity may not disclose or authorize disclosure of a private record for research purposes as described in this Subsection (8) if the private record is a record described in Subsection 63G-2-302(1)(w).

(9)(a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity may disclose to persons other than those specified in this section records that are:

(i) private under Section 63G-2-302; or

(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the disclosure to persons other than those specified in this section of records that are:

(i) private under Section 63G-2-302;

(ii) controlled under Section 63G-2-304; or

(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for business confidentiality has been made under Section 63G-2-309.

(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected under Section 63G-2-305 to persons other than those specified in this section.

(10)(a) A private record described in Subsection 63G-2-302(2)(f) may only be disclosed as provided in Subsection (1)(a)(v).

(b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as provided in Subsection (4)(c) or Section 26B-6-212.

(11)(a) A private, protected, or controlled record described in Section 26B-1-506 shall be disclosed as required under:

(i) Subsections 26B-1-506(1)(b)[~~,~~] and (2)[~~, and (4)(e)~~]; and

(ii) Subsections 26B-1-507(1) and (6).

(b) A record disclosed under Subsection (11)(a) shall retain its character as private, protected, or controlled.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 289
H. B. 73
Passed February 23, 2024
Approved March 14, 2024
Effective March 14, 2024

REHABILITATION SERVICES AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions regarding neurological and brain injury rehabilitation services funds and committees.

Highlighted Provisions:

This bill:

- combines the Pediatric Neuro-Rehabilitation Fund, the Neuro-Rehabilitation Fund (formerly the Spinal Cord & Brain Injury Rehab Fund), and the Brain Injury Fund into a single fund called the Brain and Spinal Cord Injury Fund (the fund);
- combines the Brain Injury Advisory Committee and the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee into a single advisory committee called the Brain and Spinal Cord Injury Advisory Committee (advisory committee);
- creates the membership and duties of the advisory committee; and
- creates a sunset date for the fund and the advisory committee.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Health and Human Services - Brain Injury Fund as a one-time appropriation:
  - from the Pediatric Neuro-Rehabilitation Fund, One-time, $39,900
  - from the Spinal Cord & Brain Injury Rehab Fund, One-time, $1,170,500

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-318, as last amended by Laws of Utah 2023, Chapter 335 and renumbered and amended by Laws of Utah 2023, Chapter 305
41-1a-1201, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, 335, and 372
41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
41-22-8, as last amended by Laws of Utah 2023, Chapters 328, 335
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
63I-1-241, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335

REPEALS AND REENACTS:

26B-1-417, as last amended by Laws of Utah 2023, Chapter 335 and renumbered and amended by Laws of Utah 2023, Chapter 305

REPEALS:

26B-1-319, as last amended by Laws of Utah 2023, Chapters 33, 212 and 335 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-320, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-418, as last amended by Laws of Utah 2023, Chapter 335 and renumbered and amended by Laws of Utah 2023, Chapter 305

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

Section 1. Section 26B-1-318 is amended to read:

26B-1-318. Brain and Spinal Cord Injury Fund.

(1) As used in this section:

(a) "Advisory committee" means the Brain and Spinal Cord Injury Advisory Committee created in Section 26B-1-418.

(b) "Qualified charitable clinic" means a professional medical clinic that:

(i) provides therapeutic services;

(ii) employs licensed therapy clinicians;

(iii) has at least five years experience operating a post-acute care rehabilitation clinic in the state; and

(iv) has obtained tax-exempt status under Internal Revenue Code, 26 U.S.C. Sec. 501(c)(3).

(c)(i) "Therapeutic services" means:

(A) rehabilitation services to individuals who have a spinal cord or brain injury that tends to be non-progressive or non-deteriorating and require post-acute care; or

(B) rehabilitation services for children with neurological conditions and who require post-acute care.

(ii) "Therapeutic services" include:

(A) physical, occupational, and speech therapy; and

(B) other services as determined by the department, in consultation with the advisory committee, through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) There is created an expendable special revenue fund known as the "[~~Brain Injury Fund~~]Brain and Spinal Cord Injury Fund."

[~~(2)~~](3) The fund shall consist of:

(a) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources; and

(b) additional amounts as appropriated by the Legislature[~~.~~];

(c) a portion of the impound fee as designated in Section 41-6a-1406; and

(d) the fees collected by the Motor Vehicle Division under Subsections 41-1a-1201(8) and 41-22-8(3).

[~~(3)~~](4) The fund shall be administered by the executive director, in consultation with the advisory committee.

[~~(4)~~](5) Fund money may be used to:

(a) educate the general public and professionals regarding understanding, treatment, and prevention of brain injury;

(b) provide access to evaluations and coordinate short-term care to assist an individual in identifying services or support needs, resources, and benefits for which the individual may be eligible;

(c) develop and support an information and referral system for persons with a brain injury and their families; [~~and~~]

(d) provide grants to persons or organizations to provide the services described in Subsections [~~(4)(a)~~](5)(a), (b), and (c)[~~.~~];

(e) assist one or more qualified charitable clinics to provide therapeutic services; and

(f) purchase equipment for use in the qualified charitable clinic.

[~~(5) Not less that 50% of the fund shall be used each fiscal year to directly assist individuals who meet the qualifications described in Subsection (6).~~]

(6) Each year, approximately no less than:

(a) 40% of the fund shall be used for programs and services described in Subsections (5)(a) through (d);

(b) 25% of the fund shall be used to assist adults with brain or spinal cord injuries under Subsections (5)(e) and (f); and

(c) 10 % of the fund shall be used to assist children with neurological conditions under Subsections (5)(e) and (f).

[~~(6)~~](7) An individual who receives services either paid for from the fund, or through an organization under contract with the fund, shall:

(a) be a resident of Utah;

(b) have been diagnosed by a qualified professional as having a brain injury or other neurological condition which results in impairment of cognitive or physical function; and

(c) have a need that can be met within the requirements of this section.

[~~(7)~~](8) The fund may not duplicate any services or support mechanisms being provided to an individual by any other government or private agency.

[~~(8)~~](9) All actual and necessary operating expenses for the [~~Brain Injury~~]Brain and Spinal Cord Injury Advisory Committee created in Section 26B-1-417 and staff shall be paid by the fund.

[~~(9) The fund may not be used for medical treatment, long-term care, or acute care.~~]

Section 2. Section 26B-1-417 is repealed and re-enacted to read:

26B-1-417. Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties.

(1) There is created the Brain and Spinal Cord Injury Advisory Committee within the department.

(2)(a) The advisory committee shall be composed of the following members:

(i) an individual employed with the Department of Health and Human Services;

(ii) an individual who has experienced a neurological condition;

(iii) an individual who has experienced a brain injury;

(iv) an individual who has experienced a spinal cord injury;

(v) a parent of a child who has a neurological condition;

(vi) a parent or caretaker of an individual who has experienced a brain or spinal cord injury;

(vii) a professional who:

(A) provides services to adults who have experienced brain or spinal cord injuries; and

(B) does not receive a financial benefit from the fund described in Section 26B-1-318;

(viii) a professional who:

(A) provides services to children who have a neurological condition; and

(B) does not receive a financial benefit from the fund described in Section 26B-1-318;

(ix) an individual licensed as a speech-language pathologist under Title 58, Chapter 41, Speech Language Pathology and Audiology Licensing Act, who works with individuals who have experienced a brain injury;

(x) a representative of an association that advocates for individuals with brain injuries;

(xi) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(xii) a member of the Senate appointed by the president of the Senate.

(b) Except for members described in Subsection (xi) and (xii), the executive director shall appoint members of the advisory committee.

(3)(a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management.

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

(i) Section 63A-3-106;

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

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

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

(6) The advisory committee shall:

(a) establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the Brain and Spinal Cord Injury Fund created in Section 26B-1-318;

(b) identify, evaluate, and review the quality of care:

(i) available to:

(A) individuals with spinal cord and brain injuries; or

(B) children with non-progressive neurological conditions; and

(ii) that is provided through qualified charitable clinics, as defined in Section 26B-1-318; and

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section.

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from the Brain and Spinal Cord Injury Fund created in Section 26B-1-318.

Section 3. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), (8), and (9) and Sections 41-1a-1205, 41-1a-1220, 41-1a-1221, 41-1a-1222, 41-1a-1223, and 41-1a-1603, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), (7), and (9), and Section 41-1a-1212 shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

(4)(a) Except as provided in Subsections (3) and (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(5)(a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(6)(a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(7)(a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the [~~Neuro-Rehabilitation~~]Brain and Spinal Cord Injury Fund created in Section [~~26B-1-319~~]26B-1-318.

(9)(a) Beginning on January 1, 2024, subject to Subsection (9)(b), $2 of each registration fee imposed under Section 41-1a-1206 shall be deposited into the Rural Transportation Infrastructure Fund created in Section 72-2-133.

(b) Beginning on January 1, 2025, and each January 1 thereafter, the amount described in Subsection (9)(a) shall be annually adjusted by taking the amount deposited the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the amount deposited by the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(c) The amounts calculated as described in Subsection (9)(b) shall be rounded up to the nearest 1 cent.

Section 4. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6)(a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the [~~Neuro-Rehabilitation~~]Brain and Spinal Cord Injury Fund created in Section [~~26B-1-319~~]26B-1-318; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7)(a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 5. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The division, after notifying the commission, shall establish the fees that shall be paid in accordance with this chapter, subject to the following:

(a)(i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3)(a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the [~~Neuro-Rehabilitation~~] Brain and Spinal Cord Injury Fund described in Section [~~26B-1-319~~]26B-1-318.

Section 6. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-318, which creates the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~]

[~~(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~]

[~~(5)~~](4) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

[~~(6)~~](5) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(7)~~](6) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

[~~(8)~~](7) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

[~~(9)~~](8) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(10)~~](9) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(11)~~](10) Section 26B-1-417, which creates the [~~Brain Injury~~]Brain and Spinal Cord Injury Advisory Committee, is repealed July 1, [~~2025~~]2029.

[~~(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.~~]

[~~(13)~~](11) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

[~~(14)~~](12) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](13) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](14) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](15) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](16) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](17) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](18) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](19) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](20) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](21) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](22) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](23) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](24) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](25) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](26) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](27) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

[~~(30)~~](28) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(31)~~](29) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(32)~~](30) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(33)~~](31) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(34)~~](32) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(35)~~](33) Section 26B-5-120 is repealed December 31, 2026.

[~~(36)~~](34) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(37)~~](35) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(38)~~](36) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(39)~~](37) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(40)~~](38) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(41)~~](39) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(42)~~](40) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(43)~~](41) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 7. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-318, which creates the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~]

[~~(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.~~]

[~~(5)~~](4) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

[~~(6)~~](5) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(7)~~](6) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

[~~(8)~~](7) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

[~~(9)~~](8) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(10)~~](9) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(11)~~](10) Section 26B-1-417, which creates the [~~Brain Injury~~]Brain and Spinal Cord Injury Advisory Committee, is repealed July 1, [~~2025~~]2029.

[~~(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.~~]

[~~(13)~~](11) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

[~~(14)~~](12) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](13) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](14) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](15) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](16) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](17) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](18) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](19) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](20) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](21) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](22) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](23) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](24) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](25) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](26) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](27) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(30)~~](28) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(31)~~](29) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(32)~~](30) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(33)~~](31) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(34)~~](32) Section 26B-5-120 is repealed December 31, 2026.

[~~(35)~~](33) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(36)~~](34) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(37)~~](35) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(38)~~](36) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(39)~~](37) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(40)~~](38) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(41)~~](39) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](40) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 8. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), related to the [~~Neuro-Rehabilitation~~]Brain and Spinal Cord Injury Fund, is repealed [~~January 1, 2025~~]July 1, 2029.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) the subsection in Section 41-6a-102 that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(b)(iii), related to the [~~Neuro-Rehabilitation~~]Brain and Spinal Cord Injury Fund, is repealed [~~January 1, 2025~~]July 1, 2029.

(5) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the [~~Neuro-Rehabilitation~~]Brain and Spinal Cord Injury Fund, is repealed [~~January 1, 2025~~]July 1, 2029.

Section 9. Repealer.

This bill repeals:

Section 26B-1-319, Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

Section 26B-1-320, Pediatric Neuro-Rehabilitation Fund -- Creation -- Administration -- Uses.

Section 26B-1-418, Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

Section 10. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 10(a) Expendable Funds and Accounts

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Health and Human Services - Brain Injury Fund

From Pediatric Neuro-Rehabilitation Fund, One-time $39,900

From Spinal Cord & Brain Injury Rehab Fund, One-time $1,170,500

Schedule of Programs:

Brain Injury Fund $1,210,400

The Legislature intends that if balances in the Neuro-Rehabilitation Fund (formerly the Spinal Cord and Brain Injury Rehab Fund) and Pediatric

Neuro-Rehabilitation Fund exceed amounts appropriated in this legislation, the State Division of Finance is authorized to transfer all balances in those funds to the Brain and Spinal Cord Injury Fund (formerly the Brain Injury Fund) in order to close the Neuro-Rehabiltiation Fund and Pediatric Neuro-Rehabilitation Fund as required by this legislation.

Section 11. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Section 63I-1-226 (Effective 07/01/24) takes effect on July 1, 2024.

CHAPTER 290
H. B. 89
Passed February 28, 2024
Approved March 14, 2024
Effective January 1, 2025

TAX REFUND AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions relating to tax refunds.

Highlighted Provisions:

This bill:

- limits the total amount of interest that may accrue each year on a tax overpayment, with certain exceptions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-1-402, as last amended by Laws of Utah 2020, Chapter 294

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

Section 1. Section 59-1-402 is amended to read:

59-1-402. Definitions -- Interest.

(1) As used in this section:

(a) "Final judicial decision" means a final ruling by a court of this state or the United States for which the time for any further review or proceeding has expired.

(b) "Retroactive application of a judicial decision" means the application of a final judicial decision that:

(i) invalidates a state or federal taxation statute; and

(ii) requires the state to provide a refund for an overpayment that was made:

(A) prior to the final judicial decision; or

(B) during the 180-day period after the final judicial decision.

(c)(i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to interest imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act;

(E) Chapter 4, Privilege Tax; or

(F) Chapter 13, Part 5, Interstate Agreements.

(2) Except as otherwise provided for by law, the interest rate for a calendar year for a tax, fee, or charge administered by the commission shall be calculated based on the federal short-term rate determined by the Secretary of the Treasury under Section 6621, Internal Revenue Code, in effect for the preceding fourth calendar quarter.

(3) The interest rate calculation shall be as follows:

(a) except as provided in Subsection (7), in the case of an overpayment or refund, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate; or

(b) in the case of an underpayment, deficiency, or delinquency, simple interest shall be calculated at the rate of two percentage points above the federal short-term rate.

(4) Notwithstanding Subsection (2) or (3), the interest rate applicable to certain installment sales for purposes of a tax under Chapter 7, Corporate Franchise and Income Taxes, shall be determined in accordance with Section 453A, Internal Revenue Code, as provided in Section 59-7-112.

(5)(a) Except as provided in Subsection (5)(c), interest may not be allowed on an overpayment of a tax, fee, or charge if the overpayment of the tax, fee, or charge is refunded within:

(i) 45 days after the last date prescribed for filing the return with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, if the return is filed electronically; or

(ii) 90 days after the last date prescribed for filing the return:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(b) Except as provided in Subsection (5)(c), if the return is filed after the last date prescribed for filing the return, interest may not be allowed on the overpayment if the overpayment is refunded within:

(i) 45 days after the date the return is filed:

(A) with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; and

(B) if the return is filed electronically; or

(ii) 90 days after the date the return is filed:

(A) with respect to a tax, fee, or charge, except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act; or

(B) if the return is not filed electronically.

(c)(i) [~~In the case of~~]Subject to Subsection (5)(d), for an amended return, interest on an overpayment [~~shall be~~]is allowed for a time period:

[~~(A) for a time period:~~]

[~~(I)~~](A) that begins on the later of:

[~~(Aa)~~](I) the date the original return was filed; or

[~~(Bb)~~](II) the due date for filing the original return not including any extensions for filing the original return; and

[~~(II)~~](B) that ends on the date the commission receives the amended return[~~; and~~].

[~~(B) if the commission does not make a refund of an overpayment under this Subsection (5)(c):~~]

[~~(I) if the amended return is~~]

(ii) For an amended return filed electronically with respect to a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, [~~and is filed electronically,~~]interest on an overpayment is allowed if the commission does not process a refund of the overpayment within a 45- day period after the date the commission receives the amended return, for a time period:

[~~(Aa)~~](A) that begins 46 days after the commission receives the amended return; and

[~~(Bb)~~](B) [~~subject to Subsection (5)(c)(ii), ~~]that ends on the date that the commission completes processing the refund of the overpayment[~~; or~~].

[~~(ii) For purposes of Subsection (5)(c)(i)(B)(I)(Bb) or (5)(c)(i)(B)(II)(Bb), interest shall be calculated forward from the preparation date of the refund document to allow for processing.~~]

[~~(II)~~](iii) [~~if the amended return is with respect to a tax, fee, or charge except for a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act, or is not filed electronically,~~]For an amended return not filed electronically or with respect to any tax, fee, or charge not described in Subsection (5)(c)(ii), interest on an overpayment is allowed if the commission does not process a refund of the overpayment within a 90- day period after the date the commission receives the amended return, for a time period:

[~~(Aa)~~](A) that begins 91 days after the commission receives the amended return; and

[~~(Bb)~~](B) [~~subject to Subsection (5)(c)(ii), ~~]that ends on the date that the commission completes processing the refund of the overpayment.

(d)(i) This Subsection (5)(d) applies to interest on an overpayment under Subsection (5)(c)(i) in which:

(A) the amount of interest accruing on the overpayment on or after January 1, 2025, exceeds $200 in any calendar year during the time period described in Subsection (5)(c)(i); and

(B) the amount of the overpayment exceeds 30% of the taxpayer's total tax liability as originally reported for the tax, fee, or charge to which the overpayment applies during the time period described in Subsection (5)(c)(i).

(ii) This Subsection (5)(d) does not apply to:

(A) an overpayment provided to a federally- recognized tribe; or

(B) an overpayment resulting from commission error.

(iii) The annual interest rate imposed on an overpayment described in Subsection (5)(d)(i) shall be calculated at the rate of two percentage points below the federal short- term rate.

(iv) Notwithstanding Subsection (5)(d)(iii), for an overpayment described in Subsection (5)(d)(i):

(A) the interest rate imposed on the overpayment shall be a rate of no less than 0% and no more than 3%; and

(B) the amount of interest accruing in a calendar year for an overpayment may not be less than $200, unless the amount of interest that would have accrued during the calendar year is less than $200 when calculated using the interest rate described in Subsection (3).

(6) Interest on any underpayment, deficiency, or delinquency of a tax, fee, or charge shall be computed from the time the original return is due, excluding any filing or payment extensions, to the date the payment is received.

(7) Interest on a refund relating to a tax, fee, or charge may not be paid on any overpayment that arises from a statute that is determined to be invalid under state or federal law or declared unconstitutional under the constitution of the United States or Utah if the basis for the refund is

the retroactive application of a judicial decision upholding the claim of unconstitutionality or the invalidation of a statute.

Section 2. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 291
H. B. 125
Passed February 23, 2024
Approved March 14, 2024
Effective May 1, 2024

PROCUREMENT CODE AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies provisions of the Utah Procurement Code.

Highlighted Provisions:

This bill:

- modifies definitions applicable to the Utah Procurement Code;
- exempts an interlocal entity from the procurement code if the interlocal entity adopts a set of procurement rules or policies that meet certain requirements;
- provides definitions relating to procurements by the Department of Health and Human Services;
- provides that the department is an independent procurement unit for certain human services procurements;
- exempts the department from the Utah Procurement Code for certain medical supply purchases;
- establishes requirements for a human services procurement by the department;
- authorizes the executive director of the department to appoint a procurement advisory council;
- provides a process for the department to issue invitations for a human services procurement item;
- grants the department administrative rulemaking authority with respect to certain department procurements; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
11-13-226, as enacted by Laws of Utah 2015, Chapter 265
63G-6a-103, as last amended by Laws of Utah 2023, Chapter 16
63G-6a-107.6, as last amended by Laws of Utah 2021, Chapter 179
63G-6a-107.7, as last amended by Laws of Utah 2023, Chapter 369
63G-6a-1702, as last amended by Laws of Utah 2017, Chapter 348

ENACTS:
63G-6a-2501, Utah Code Annotated 1953
63G-6a-2502, Utah Code Annotated 1953
63G-6a-2503, Utah Code Annotated 1953
63G-6a-2504, Utah Code Annotated 1953
63G-6a-2505, Utah Code Annotated 1953
63G-6a-2506, Utah Code Annotated 1953
63G-6a-2507, Utah Code Annotated 1953

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

Section 1. Section 11-13-226 is amended to read:

11-13-226. Competitive procurement -- Subject to state procurement code -- Exception.

(1) The governing board of each interlocal entity shall adopt rules or policies for the competitive public procurement of goods and services required for the operation of the interlocal entity.

(2) Subject to Section 11-13-316, an interlocal entity is subject to and shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the board rules or policies adopted under Subsection (1) include provisions to:

(a) establish a procurement officer of the interlocal entity and define the duties of the procurement officer;

(b) define the values of procurement thresholds used to determine the method of procurement the interlocal entity will use based on those thresholds;

(c) address small purchases and establish small purchase thresholds and methods applicable to small purchases;

(d) establish a procurement method that uses only objective criteria to award a contract to the lowest responsible bidder that submits a responsive bid;

(e) establish a procurement method that allows subjective criteria to award a contract to the vendor that submits the highest scoring proposal, including:

(i) a selection or evaluation committee of at least three individuals; and

(ii) documented independent scoring by the selection or evaluation committee to determine best value;

(f) establish a method to allow for the cancellation of a solicitation;

(g) establish a method for creating a list of approved, qualified vendors;

(h) establish a method to request information before initiating a procurement process;

(i) allow the purchase of a procurement item under a state cooperative contract, as defined in Section 63G-6a-103, or another government approved contract that results from a competitive process;

(j) establish a procurement appeals process;

(k) establish documentation requirements applicable to procurements;

(l) establish notice requirements relating to the interlocal entity's issuance of a solicitation;

(m) require that a procurement be awarded based on the criteria included in a solicitation;

(n) allow for a procurement from a single source under documented and properly noticed conditions;

(o) allow for an emergency procurement under documented conditions;

(p) prohibit a cost-plus-percentage-of-cost contract and a cost-reimbursement contract, with exceptions similar to exceptions under Subsections 63G-6a-1205(5) and (6);

(q) limit the length of a contract, allowing for documented exceptions;

(r) require that the total value of the contract over the entire contract period determines the procurement threshold;

(s) prohibit dividing a procurement into multiple procurements to avoid an applicable procurement threshold;

(t) prohibit the acceptance of bribes, gifts, or other favors from a vendor in exchange for favorable treatment on a procurement;

(u) describe bond requirements for a construction contract; and

(v) establish standard terms and conditions for a contract with the interlocal entity.

Section 2. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide

services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(15) "Contract" means an agreement for a procurement.

(16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(17) "Contractor" means a person who is awarded a contract with a procurement unit.

(18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(22) "Days" means calendar days, unless expressly provided otherwise.

(23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any

category of buyers or buyers constituting the general buying public for the supplies or services involved.

(31)(a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(36) "Human services procurement item" means a procurement item used to provide services or support to a child, youth, adult, or family.

[~~(36)~~](37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

[~~(37)~~](38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b)(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(38)~~](39) "Independent procurement unit" means:

(a)(i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; [~~or~~]

(e) the Department of Health and Human Services, but only for the procurement of a human services procurement item; or

[~~(e)~~](f) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40)(a) "Interlocal entity" means a separate political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(b) "Interlocal entity" does not include a project entity.

[~~(39)~~](41) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection [~~(39)(a)~~](41)(a).

[~~(40)~~](42) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

[~~(41)~~](43) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

[~~(42)~~](44) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[~~(43)~~](45) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii)(A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

[~~(44)~~](46) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[~~(45)~~](47) "Local government procurement unit" means:

(a) a county, municipality, [~~or~~]interlocal entity, or project entity, and each office of the county, municipality, interlocal entity, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; [~~or~~]

(ii) the interlocal entity adopts procurement rules or policies as provided in Subsection 11-13-226(2); or

[~~(ii)~~](iii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b)(i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

[~~(46)~~](48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(47)~~](49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(48)~~](50) "Municipality" means a city, town, or metro township.

[~~(49)~~](51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection [~~(49)(a)~~](51)(a).

[~~(50)~~](52) "Offeror" means a person who submits a proposal in response to a request for proposals.

[~~(51)~~](53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(52)~~](54) "Procure" means to acquire a procurement item through a procurement.

[~~(53)~~](55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

[~~(54)~~](56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

[~~(55)~~](57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p)(i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; [~~or~~]

(iv) for the Department of Health and Human Services, and only to the extent of the procurement activities of the Department of Health and Human Services as an independent procurement unit, the executive director of the Department of Health and Human Services or the executive director's designee; or

[~~(iv)~~](v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

[~~(56)~~](58) "Procurement unit"[~~:~~]

[~~(a)~~] means:

[~~(i)~~](a) a legislative procurement unit;

[~~(ii)~~](b) an executive branch procurement unit;

[~~(iii)~~](c) a judicial procurement unit;

[~~(iv)~~](d) an educational procurement unit;

[~~(v)~~](e) the Utah Communications Authority, established in Section 63H-7a-201;

[~~(vi)~~](f) a local government procurement unit;

[~~(vii)~~](g) a special district;

[~~(viii)~~](h) a special service district;

[~~(ix)~~](i) a local building authority;

[~~(x)~~](j) a conservation district; [~~and~~]or

[~~(xi)~~](k) a public corporation[~~; and~~].

[~~(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.~~]

[~~(57)~~](59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(58)~~](61) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

[~~(59)~~](62) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(60) "Project entity" means the same as that term is defined in Section 11-13-103.~~]

[~~(61)~~](63) "Public entity" means the state or any other government entity within the state that expends public funds.

[~~(62)~~](64) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(63)~~](65) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(64)~~](66) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(65)~~](67) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(66)~~](68) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(67)~~](69) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(68)~~](70) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(69)~~](71) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(70)~~](72) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(71)~~](73) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(72)~~](74) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(73)~~](75) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(74)~~](76) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(75)~~](77) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(76)~~](78) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c)(i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; [~~and~~]

(D) for the Department of Health and Human Services, the executive director of the Department of Health and Human Services; and

[~~(D)~~](E) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(77)~~](79) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(78)~~](80) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(79)~~](81) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(80)~~](82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(81)~~](83) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(82)~~](84) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

[~~(83)~~](85) "Special district" means the same as that term is defined in Section 17B-1-102.

[~~(84)~~](86) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(85)~~](87) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[~~(86)~~](88) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[~~(87)~~](89) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[~~(88)~~](90) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[~~(89)~~](91) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

[~~(90)~~](92) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

[~~(91)~~](93) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

[~~(92)~~](94) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

[~~(93)~~](95) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

[~~(94)~~](96) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 3. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital or the Department of Health and Human Services through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital or the executive director of the Department of Health and Human Services, as the case may be, makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and

State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public; or

(f) activities related to the management of investments by a public entity granted investment authority by law.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 4. Section 63G-6a-107.7 is amended to read:

63G-6a-107.7. Procurement rules.

(1)(a) Subject to Subsection (1)(b), the rulemaking authority for a procurement unit shall make rules relating to the management and control of procurements and procurement procedures by the procurement unit.

(b) Facilities division rules governing procurement of construction projects, design professional services, and leases apply to the procurement of construction projects, design professional services, and leases of real property, respectively, by the facilities division.

(2) A rulemaking authority may not adopt rules, policies, or regulations that are inconsistent with this chapter.

(3) An individual or body that makes rules as required or authorized in this chapter shall make the rules:

(a) in accordance with Chapter 3, Utah Administrative Rulemaking Act, if the individual or body is subject to Chapter 3, Utah Administrative Rulemaking Act; or

(b) in accordance with the established process for making rules or their equivalent, if the individual or body is not subject to Chapter 3, Utah Administrative Rulemaking Act.

(4) The rules of the rulemaking authority for the executive branch procurement unit shall require, for each contract and request for proposals, the inclusion of a clause that requires the issuing procurement unit, for the duration of the contract, to make available contact information of the winning contractor to the Department of Workforce Services in accordance with Section 35A-2-203. This requirement does not preclude a contractor from advertising job openings in other forums throughout the state.

(5) The Department of Transportation may make rules governing the procurement of a highway construction project or highway improvement project.

(6) The rulemaking authority for a public transit district may make rules governing the procurement of a transit construction project or a transit improvement project.

(7) The Department of Health and Human Services may make rules governing the procurement of a human services procurement item.

Section 5. Section 63G-6a-1702 is amended to read:

63G-6a-1702. Appeal to Utah State Procurement Policy Board -- Appointment of procurement appeals panel -- Proceedings.

(1) [~~This~~]Subject to Section 63G-6a-2507, this part applies to all procurement units other than:

(a) a legislative procurement unit;

(b) a judicial procurement unit;

(c) a nonadopting local government procurement unit; or

(d) a public transit district.

(2)(a) Subject to Section 63G-6a-1703, a protestor may appeal to the board a protest decision of a procurement unit that is subject to this part by filing a written notice of appeal with the chair of the board within seven days after:

(i) the day on which the written decision described in Section 63G-6a-1603 is:

(A) personally served on the party or the party's representative; or

(B) emailed or mailed to the address or email address provided by the party under Subsection 63G-6a-1602(4); or

(ii) the day on which the 30-day period described in Subsection 63G-6a-1603(9) ends, if a written decision is not issued before the end of the 30-day period.

(b) A notice of appeal under Subsection (2)(a) shall:

(i) include the address of record and email address of record of the party filing the notice of appeal; and

(ii) be accompanied by a copy of any written protest decision.

(c) The deadline for appealing a protest decision may not be modified.

(3) A person may not base an appeal of a protest under this section on:

(a) a ground not specified in the person's protest under Section 63G-6a-1602; or

(b) new or additional evidence not considered by the protest officer.

(4)(a) A person may not appeal from a protest described in Section 63G-6a-1602, unless:

(i) a decision on the protest has been issued; or

(ii) a decision is not issued and the 30-day period described in Subsection 63G-6a-1603(9), or a longer period agreed to by the parties, has passed.

(b) A procurement unit may not appeal a protest decision or other determination made by the procurement unit's protest officer.

(5)(a) Within seven days after the chair of the board receives a written notice of an appeal under this section, the chair shall submit a written request to the protest officer for the protest appeal record.

(b) Within seven days after the chair receives the protest appeal record from the protest officer, the appointing officer shall, in consultation with the attorney general's office:

(i) review the appeal to determine whether the appeal complies with the requirements of Subsections (2), (3), and (4) and Section 63G-6a-1703; and

(ii)(A) dismiss any claim asserted in the appeal, or dismiss the appeal, without holding a hearing if the appointing officer determines that the claim or appeal, respectively, fails to comply with any of the requirements listed in Subsection (5)(b)(i); or

(B) appoint a procurement appeals panel to conduct an administrative review of any claim in the appeal that has not been dismissed under Subsection (5)(b)(ii)(A), if the appointing officer determines that one or more claims asserted in the appeal comply with the requirements listed in Subsection (5)(b)(i).

(c) A procurement appeals panel appointed under Subsection (5)[~~(a)~~](b)(ii) shall consist of an odd number of at least three individuals, each of whom is:

(i) a member of the board; or

(ii) a designee of a member appointed under Subsection (5)(c)(i), if the designee is approved by the chair of the board.

(d) The appointing officer shall appoint one of the members of the procurement appeals panel to serve as the coordinator of the panel.

(e) The appointing officer may:

(i) appoint the same procurement appeals panel to hear more than one appeal; or

(ii) appoint a separate procurement appeals panel for each appeal.

(f) The appointing officer may not appoint a person to a procurement appeals panel if the person is employed by the procurement unit responsible for the solicitation, contract award, or other action that is the subject of the protestor's protest.

(g) The appointing officer shall, at the time the procurement appeals panel is appointed, provide appeals panel members with a copy of the notice of appeal filed under Subsection (2) and the protest decision record.

(6)(a) A procurement appeals panel described in Subsection (5):

(i) shall conduct an administrative review of the appeal within 30 days after the day on which the procurement appeals panel is appointed, or before a later date that all parties agree upon, unless the appeal is dismissed under Subsection (8)(a); and

(ii)(A) may, as part of the administrative review and at the sole discretion of the procurement appeals panel, conduct an informal hearing, if the procurement appeals panel considers a hearing to be necessary; and

(B) if the procurement appeals panel conducts an informal hearing, shall, at least seven days before the hearing, mail, email, or hand-deliver a written notice of the hearing to the parties to the appeal.

(b) A procurement appeals panel may, during an informal hearing, ask questions and receive responses regarding the appeal and the protest appeal record to assist the procurement appeals panel to understand the basis of the appeal and information contained in the protest appeal record, but may not otherwise take any additional evidence or consider any additional ground for the appeal.

(7) A procurement appeals panel shall consider and decide the appeal based solely on:

(a) the notice of appeal and the protest appeal record; and

(b) responses received during an informal hearing, if an informal hearing is held and to the extent allowed under Subsection (6)(b).

(8) A procurement appeals panel:

(a) may dismiss an appeal if the appeal does not comply with the requirements of this chapter; and

(b) shall uphold the protest decision unless the protest decision is arbitrary and capricious or clearly erroneous.

(9) The procurement appeals panel shall, within seven days after the day on which the procurement appeals panel concludes the administrative review:

(a) issue a written decision on the appeal; and

(b) mail, email, or hand-deliver the written decision on the appeal to the parties to the appeal and to the protest officer.

(10)(a) The deliberations of a procurement appeals panel may be held in private.

(b) If the procurement appeals panel is a public body, as defined in Section 52-4-103, the procurement appeals panel shall comply with Section 52-4-205 in closing a meeting for its deliberations.

(11) A procurement appeals panel may continue an administrative review under this section beyond the 30-day period described in Subsection (6)(a)(i) if the procurement appeals panel determines that the continuance is in the interests of justice.

(12) If a procurement appeals panel determines that the decision of the protest officer is arbitrary and capricious or clearly erroneous, the procurement appeals panel:

(a) shall remand the matter to the protest officer, to cure the problem or render a new decision;

(b) may recommend action that the protest officer should take; and

(c) may not order that:

(i) a contract be awarded to a certain person;

(ii) a contract or solicitation be cancelled; or

(iii) any other action be taken other than the action described in Subsection (12)(a).

(13) The board shall make rules relating to the conduct of an appeals proceeding, including rules that provide for:

(a) expedited proceedings; and

(b) electronic participation in the proceedings by panel members and participants.

(14) The Utah Rules of Evidence do not apply to a hearing held by a procurement appeals panel.

(15) Part 20, Records, applies to the records involved in the process described in this section, including the decision issued by a procurement appeals panel.

Section 6. Section 63G-6a-2501 is enacted to read:

63G-6a-2501. Definitions.

Part 25. Human Services Procurements

As used in this part:

(1) "Department" means the Department of Health and Human Services.

(2) "Executive director" means the executive director of the department.

Section 7. Section 63G-6a-2502 is enacted to read:

63G-6a-2502. Procurement advisory council -- Appointment.

The executive director may appoint an advisory council to advise and make recommendations to the department on the procurement of a human services procurement item, including recommendations regarding persons to be debarred or suspended under Section 63G-6a-2504.

Section 8. Section 63G-6a-2503 is enacted to read:

63G-6a-2503. Direct purchase procurement process requirements -- Payment information on website.

(1) The department may, without issuing a solicitation, directly purchase from, or contract with, another person for the following human services procurement items:

(a) medical, dental, behavioral, psychological, psychiatric, or substance use evaluation and treatment for an individual;

(b) assistance payments on behalf of an individual that are intended to keep the individual out of a higher level of care or prevent or reduce the need for additional department services;

(c) services for which the individual receiving the services has the right to choose the person who provides the services;

(d) services for which the department makes a written determination, made available to the public, that the individual's need to receive services from a particular provider outweigh the public interest in issuing a competitive procurement;

(e) adoption subsidy and maintenance payments;

(f) child placing services for an individual adoption;

(g) death investigation services; or

(h) residential treatment services for an individual after all providers under contract from a competitive procurement are exhausted.

(2) The department shall:

(a) maintain a written record of the name of all persons who provide services under this section; and

(b) annually publish on the department's website the total amount paid to each person under this section during the immediately preceding five-year period.

Section 9. Section 63G-6a-2504 is enacted to read:

63G-6a-2504. Process for an invitation to provide a human services procurement item -- Open-ended invitations.

(1) As used in this section:

(a) "Invitation" means a solicitation or other request seeking qualified providers to enter a contract to provide a human services procurement item.

(b) "Open-ended invitation" means an invitation that does not provide for a set closing date.

(c) "Qualified provider" means a provider of a human services procurement item that meets the qualifications described in the invitation.

(2) The department may contract with another person for a human services procurement item in accordance with the process described in this section.

(3)(a) The department may issue an invitation that includes:

(i) a description of the human services procurement item the department is seeking to obtain;

(ii)(A) the time period for which the invitation will remain open for applications; or

(B) if the invitation is an open-ended invitation, a statement that there is no set closing date for the invitation;

(iii) the requirements the department has established for the submission of an application;

(iv) the payment rate or a description of the process for determining the payment rate for the human services procurement item;

(v) the qualifications a provider is required to meet to be awarded a contract for the human services procurement item; and

(vi) the required terms and conditions of a contract if awarded.

(b) The department shall publish the invitation in accordance with the notice requirements for a solicitation described in Section 63G-6a-2506.

(c) The department may:

(i) provide for an indeterminate or specified time period for a provider to respond to the invitation;

(ii) close an invitation if the need for additional providers for a human services procurement item no longer exists; or

(iii) reissue an invitation after closing the invitation.

(d) The department may provide technical application assistance to a person applying in response to an invitation.

(4)(a) Upon receipt of an application submitted in response to an invitation, the department shall:

(i) review the application to determine:

(A) the application's compliance with the requirements referred to in Subsection (3)(a)(iii); and

(B) whether the person that submitted the application meets the qualifications referred to in Subsection (3)(a)(v);

(ii) award a contract to a person:

(A) whose application complies with the requirements referred to in Subsection (3)(a)(iii); and

(B) that meets the qualifications referred to in Subsection (3)(a)(v); and

(iii) reject an application if:

(A) the application does not comply with the requirements referred to in Subsection (3)(a)(iii); or

(B) the person that submitted the application does not meet the qualifications referred to in Subsection (3)(a)(v).

(b) If the department closes an invitation, the department may reject an application submitted before the invitation is closed.

(c) The department may allow a person to correct deficiencies in an application during the department's review of the application under Subsection (4)(a).

(5) If a person's application is rejected under Subsection (4):

(a) the department shall notify the person of the rejection in writing; and

(b) the person may not reapply to the same invitation for at least 12 months after the day on which the rejection is issued.

(6)(a) The department may award a perpetual contract under this section if the contract is awarded pursuant to an open-ended invitation.

(b) Subsection (6)(a) does not prevent the department from terminating a perpetual contract, under terms established in the contract, if the open-ended invitation terminates.

(7) The department may make rules to establish procedures to ensure the open enrollment invitation process described in this section is administered in an open and fair manner that provides any interested, qualified provider the ability to be awarded a contract.

Section 10. Section 63G-6a-2505 is enacted to read:

63G-6a-2505. Debarment or suspension from consideration for award of contracts.

(1) The executive director may:

(a) debar or suspend a person from consideration for an award of a contract for a human services procurement item for any amount of time in accordance with the process described in Subsection 63G-6a-904(1); and

(b) obtain the recommendation of the council before debarring or suspending the person.

(2) The council shall recommend that the executive director debar or suspend a person for an award of a contract for a human services procurement item if the person:

(a) is convicted of a criminal offense:

(i) for actions taken to obtain or perform under a public or private contract;

(ii) for embezzlement, fraud, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property; or

(iii) under Title 76, Chapter 10, Part 31, Utah Antitrust Act, or another antitrust law;

(b) fails, without good cause, to perform in accordance with the terms of a contract with the department;

(c) commits two or more violations of department rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) violates this chapter;

(e) poses a significant risk of harm to department clients or the department;

(f) is barred or suspended from providing services to another governmental agency; or

(g) takes another action that the council determines is fraudulent or substantially affects the person's ability to perform under a contract with

the department for a human services procurement item.

Section 11. Section 63G-6a-2506 is enacted to read:

63G-6a-2506. Public notice requirements.

(1) The department may post notice of a solicitation in accordance with Subsection 63G-6a-112(1) at least three days before the day of the deadline for submission of a solicitation response.

(2) The department may reduce the three-day period described in Subsection (1) in accordance with Subsection 63G-6a-112(2).

Section 12. Section 63G-6a-2507 is enacted to read:

63G-6a-2507. Human services procurement appeals process.

(1) A protester may appeal a protest decision to the department in the same manner a protest may be appealed to the board under Part 17, Procurement Appeals Board.

(2) In conducting an appeal under Subsection (1), the executive director has the same powers and authority as the chair of the board and the appointing officer in an appeal conducted under Part 17, Procurement Appeals Board, including the power to appoint a procurement appeals panel to conduct a review of a claim in the appeal.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 292
H. B. 193
Passed March 1, 2024
Approved March 14, 2024
Effective July 1, 2024

HOSPITAL ASSESSMENT REVISIONS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to hospital assessments.

Highlighted Provisions:

This bill:

- extends the inpatient hospital assessment repeal date; and
- extends the Medicaid expansion hospital assessment repeal date.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329

63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332

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

Section 1. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, [~~2024~~]2034.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, [~~2024~~]2034.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

(30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(32) Section 26B-5-112.5 is repealed December 31, 2026.

(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(35) Section 26B-5-120 is repealed December 31, 2026.

(36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(37) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(39) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

(43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

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(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

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(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(31) Section 26B-5-112.5 is repealed December 31, 2026.

(32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(34) Section 26B-5-120 is repealed December 31, 2026.

(35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

(42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-1-226 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 293
H. B. 198
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

CHILD WELFARE PLACEMENT REVIEW AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions of the Utah Juvenile Code related to the termination of parental rights.

Highlighted Provisions:

This bill:

- addresses the analysis a juvenile court undertakes when evaluating whether to terminate parental rights; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-4-104, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-301, as last amended by Laws of Utah 2022, Chapter 335

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

Section 1. Section 80-4-104 is amended to read:

80-4-104. Judicial process for termination -- Parent unfit or incompetent -- Best interest of child.

(1) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child. For this reason, the termination of family ties by the state may only be done for compelling reasons.

(2) The juvenile court shall provide a fundamentally fair process to a parent if a party moves to terminate the parent's parental rights.

(3) If the party moving to terminate parental rights is a governmental entity, the juvenile court shall find that any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child are supported by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests.

(4)(a) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because:

(i) a parent may fail to be a model parent; or

(ii) the parent's child is placed in the temporary custody of the state.

(b) The juvenile court should give serious consideration to the fundamental right of a parent to rear the parent's child, and concomitantly, of the right of the child to be reared by the child's natural parent.

(5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life.

(6) Before an adjudication of unfitness, government action in relation to a parent and a parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest.

(7) Until parental unfitness is established and the children suffer, or are substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the juvenile court may not presume that a child and the child's parents are adversaries.

(8) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. For these reasons, the juvenile court should only transfer custody of a child from the child's natural parent for compelling reasons and when there is a jurisdictional basis to do so.

(9) The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution of this state and of the United States, and is a fundamental public policy of this state.

(10)(a) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(b) It is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child.

(c) The interests of the state favor preservation and not severance of natural familial bonds in situations where a positive, nurturing parent-child relationship can exist, including extended family association and support.

(11) This chapter provides a judicial process for voluntary and involuntary severance of the parent-child relationship, designed to safeguard the rights and interests of all parties concerned and promote their welfare and that of the state.

(12)(a) Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the juvenile court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.

(b) In determining whether termination is in the best interest of the child, and in finding, based on the totality of the circumstances, that termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court shall consider, among other relevant factors, whether:

(i) sufficient efforts were dedicated to reunification in accordance with Section 80-4-301; and

(ii) pursuant to Section 80-3-302,the efforts to place the child with [~~kin who have, or are~~]a relative who has, or is willing to come forward to care for the child, were given due weight.

Section 2. Section 80-4-301 is amended to read:

80-4-301. Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.

(1) Subject to the protections and requirements of Section 80-4-104, and if, based on the totality of the circumstances, the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds any one of the following:

(a) that the parent has abandoned the child;

(b) that the parent has neglected or abused the child;

(c) that the parent is unfit or incompetent;

(d)(i) that the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;

(ii) that the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and

(iii) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

(e) failure of parental adjustment, as defined in this chapter;

(f) that only token efforts have been made by the parent:

(i) to support or communicate with the child;

(ii) to prevent neglect of the child;

(iii) to eliminate the risk of serious harm to the child; or

(iv) to avoid being an unfit parent;

(g)(i) that the parent has voluntarily relinquished the parent's parental rights to the child; and

(ii) that termination is in the child's best interest;

(h) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

(i) the terms and conditions of safe relinquishment of a newborn child have been complied with, in accordance with Part 5, Safe Relinquishment of a Newborn Child.

(2) When determining whether termination of parental rights is strictly necessary to promote the child's best interest, the court shall:

(a) undertake the analysis from the child's point of view;

(b) focus on finding the outcome that best secures the child's well-being;

(c) include, as applicable, the considerations described in Sections 80-4-303 and 80-4-304; and

(d) explore whether other feasible options exist that could address the specific problems or issues facing the family, short of imposing the ultimate remedy of terminating the parent's rights.

(3) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

[~~(3)~~](4)(a) Except as provided in Subsection [~~(3)(b)~~](4)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).

(b) Notwithstanding Subsection [~~(3)(a)~~](4)(a), the juvenile court is not required to make the finding under Subsection [~~(3)(a)~~](4)(a) before terminating a parent's rights:

(i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or

(ii) if reasonable efforts to provide the services described in Subsection [~~(3)(a)~~](4)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 294
H. B. 210
Passed February 20, 2024
Approved March 14, 2024
Effective July 1, 2024

DISABLED PARKING AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill allows certain individuals with a disability to obtain a permanent disability special group license plate or removable windshield placard.

Highlighted Provisions:

This bill:

- allows a person with a permanent disability to obtain a disability special group license plate or removable windshield placard on a permanent basis;
- allows a person to establish parking spaces for a veteran or service member, including those with a disability; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-414, as last amended by Laws of Utah 2017, Chapter 41
41-1a-420, as last amended by Laws of Utah 2023, Chapter 67

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

Section 1. Section 41-1a-414 is amended to read:

41-1a-414. Parking privileges for persons with disabilities.

(1) As used in this section:

(a) "Accessible parking space" means a parking space that is clearly identified as reserved for use by a person with a disability and includes:

(i) vertical signage, including the international symbol of accessibility, that is visible from a passing vehicle; and

(ii) a clearly marked access aisle, if provided, that is adjacent to and considered part of the parking space.

(b) "Temporary wheelchair user placard" means the same as that term is defined in Section 41-1a-420.

(c) "Van accessible parking space" means an accessible parking space that is marked for use by a qualifying person with a walking disability who has a temporary wheelchair user placard or a wheelchair user placard and includes:

(i) vertical signage with the international symbol of accessibility and the words "van accessible" that is visible from a passing vehicle; and

(ii) a clearly marked access aisle that is adjacent to and considered part of the parking space.

(d) "Walking disability" means a physical disability that requires the use of a walking-assistive device or wheelchair or similar low-powered motorized or mechanically propelled vehicle that is specifically designed to assist a person who has a limited or impaired ability to walk.

(e) "Wheelchair user placard" means the same as that term is defined in Section 41-1a-420.

(2) Except in parking areas designated for emergency use, a person with a disability, qualifying under rules made in accordance with Section 41-1a-420, may park an appropriately marked vehicle for reasonable periods without charge in metered parking zones and restricted parking areas, in a manner that allows proper access to the vehicle by the person with a disability.

(3)(a) Only those vehicles carrying a person with a disability special group license plate, temporary removable windshield placard, or removable windshield placard and transporting a qualifying person with a disability may park in an accessible parking space.

(b) A violation of Subsection (3)(a) is a class C misdemeanor.

(c) A person described in Subsection (3)(a) is encouraged to avoid parking in a van accessible parking space unless:

(i) the person has a walking disability and has a temporary wheelchair user placard;

(ii) the person has a wheelchair user placard; or

(iii) all other accessible parking spaces that are not van accessible parking spaces are occupied.

(4) This section applies to and may be enforced on public property and on private property that is used or intended for use by the public.

(5) The parking privileges granted by this section also apply to vehicles displaying a person with a disability special group license plate, temporary removable windshield placard, or removable windshield placard issued by another jurisdiction if displayed on a vehicle being used by a person with a disability.

(6) In addition to required accessible parking spaces, a person may provide and designate parking spaces for veterans and service members, including those with a disability.

Section 2. Section 41-1a-420 is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

(1) As used in this section:

(a) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice

registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner.

(c) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(d) "Physician assistant" means an individual licensed to practice as a physician assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

(e) "Temporary wheelchair user placard" means a temporary removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability that is not permanent.

(f) "Walking disability" means a physical disability that requires the use of a walking- assistive device or wheelchair or similar low- powered motorized or mechanically propelled vehicle that is designed to specifically assist a person who has a limited or impaired ability to walk.

(g) "Wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a permanent walking disability.

(2)(a) The division shall issue a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard to an applicant who is either:

(i) a qualifying person with a disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(b) The division shall issue a temporary wheelchair user placard or a wheelchair user placard to an applicant who is either:

(i) a qualifying person with a walking disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with walking disabilities.

(c) The division shall require that an applicant under Subsection (2)(b) certifies that the person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's walking- assistive device or wheelchair and requires a van accessible parking space.

(3)(a) The person with a disability shall ensure that the initial application contains the certification of a physician, physician assistant, or nurse practitioner that:

(i) the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

(ii) if the person is applying for a temporary wheelchair user placard or a wheelchair user placard, the applicant has a walking disability; and

(iii) specifies the period of time that the physician, physician assistant, or nurse practitioner determines the applicant will have the disability, not to exceed six months in the case of a temporary disability or a temporary walking disability.

(b) The division shall issue a disability special group license plate, a removable windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent disability.

(c) The issuance of a person with a disability special group license plate does not preclude the issuance to the same applicant of a removable windshield placard or wheelchair user placard.

(d)(i) [~~On~~]Upon request of an applicant with a disability special group license plate, and upon payment of any applicable fee, a temporary removable windshield placard, or a removable windshield placard, the division shall issue one additional placard.

(ii) [~~On~~]Upon request of a qualified applicant with a disability special group license plate, and upon payment of any applicable fee, the division shall issue up to two temporary wheelchair user placards or two wheelchair user placards.

(iii) [~~On~~]Upon request of a qualified applicant with a temporary wheelchair user placard or a wheelchair user placard, and upon payment of any applicable fee, the division shall issue one additional placard.

(e) The division shall ensure that a temporary wheelchair user placard and a wheelchair user placard have the following visible features:

(i) a large "W" next to the internationally recognized disabled persons symbol; and

(ii) the words "Wheelchair User" printed on a portion of the placard.

(f) The division shall ensure that the following statement is included on a removable windshield placard issued on or after January 1, 2024: "Under state law, a disability placard may only be used by, or for the transportation of, the person to whom the disability placard is issued. A person who misuses another person's disability placard for parking privileges is guilty of a class C misdemeanor."

(g) A disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space reserved for persons with a disability if:

(i) the person with a disability:

(A) is using a motorcycle; and

(B) displays on the motorcycle a disability special group license plate, temporary removable windshield placard, or a removable windshield placard;

(ii) the person who shares the parking space assists the person with a disability with the parking accommodation; and

(iii) the parking space is sufficient size to accommodate both motorcycles without interfering with other parking spaces or traffic movement.

(4)(a) When a vehicle is parked in a parking space reserved for persons with disabilities, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the placard is visible from the front of the vehicle.

(b) If a motorcycle is being used, the temporary removable windshield placard or removable windshield placard shall be displayed in plain sight on or near the handle bars of the motorcycle.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with this section;

(b) establish the maximum number of numerals or characters for a disability special group license plate;

(c) require all temporary removable windshield placards[~~, removable windshield placards,~~]and temporary wheelchair user placards[~~, and wheelchair user placards~~] to include:

(i) an identification number;

(ii) an expiration date not to exceed[~~:~~]

[~~(A)~~] six months for a temporary removable windshield placard; and

[~~(B) two years for a removable windshield placard; and~~]

(iii) the seal or other identifying mark of the division; [~~and~~]

(d) provide an individual who qualifies for a removable windshield placard or wheelchair user placard to:

(i) pay a nominal administrative fee, not to exceed $5, to obtain a removable windshield placard or wheelchair user placard that is made of a durable material; or

(ii) obtain a removable windshield placard or wheelchair user placard at no charge and that is subject to free replacement if the placard is faded or damaged, if the individual surrenders the damaged placard;

(e) establish the standards for each placard described in Subsection (5)(d), including the seal or other identifying mark of the division; and

[~~(d)~~](f) establish standards for the statement required in Subsection (3)(f).

(6) The commission shall insert the following on motor vehicle registration certificates:

"State law prohibits persons who do not lawfully possess a disability placard or disability special group license plate from parking in an accessible parking space designated for persons with disabilities. Persons who possess a disability placard or disability special group license plate are discouraged from parking in an accessible parking space designated as van accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 295
H. B. 212
Passed February 8, 2024
Approved March 14, 2024
Effective May 1, 2024

VITAL RECORDS AMENDMENTS

Chief Sponsor: Katy Hall
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts provisions related to the Office of Vital Records and Statistics.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies what type of information the Office of Vital Records and Statistics must delete;
- clarifies who must submit a birth registration;
- clarifies when a birth registration must be submitted;
- allows the Department of Health and Human Services to notify the Division of Professional Licensing when certain health care providers fail to complete a birth registration;
- clarifies who may complete a fetal death certificate; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-103, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-104, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-108, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-8-115, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-8-103 is amended to read:

26B-8-103. Content and form of certificates and reports.

(1) As used in this section:

(a) "Additional information" means information that is beyond the information necessary to comply with federal standards or state law for registering a birth.

(b) "Diacritical mark" means a mark on a letter from the ISO basic Latin alphabet used to indicate a special pronunciation.

(c) "Diacritical mark" includes accents, tildes, graves, umlauts, and cedillas.

(2) Except as provided in Subsection (8), to promote and maintain nationwide uniformity in the vital records system, the forms of certificates, certification, reports, and other documents and records required by this part or the rules implementing this part shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.

(3) Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this part shall be prepared in the format prescribed by department rule.

(4) All vital records shall include the date of filing.

(5) Certificates, certifications, forms, reports, other documents and records, and communications between persons required by this part may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

(6)(a) An individual may use a diacritical mark in an application for a vital record.

(b) The office shall record a diacritical mark on a vital record as indicated on the application for the vital record.

(7) The absence of a diacritical mark on a vital record does not render the document invalid or affect any constructive notice imparted by proper recordation of the document.

(8)(a) The state:

(i) may collect the Social Security number of a deceased individual; and

(ii) may not include the Social Security number of an individual on a certificate of death.

(b) For registering a birth, the department may not require an individual to provide additional information.

(c) The department may request additional information if the department provides a written statement that:

(i) discloses that providing the additional information is voluntary;

(ii) discloses how the additional information will be used and the duration of use;

(iii) describes how the department prevents the additional information from being used in a manner different from the disclosure given under Subsection (8)(c)(ii); and

(iv) includes a notice that the individual is consenting to the department's use of the additional information by providing the additional information.

(d)(i) Beginning July 1, 2022, an individual may submit a written request to the department to de-identify the individual's additional information contained in the department's databases.

(ii) Upon receiving the written request, the department shall[-]:

(A) de- identify the additional information[.]; and

(B) for additional information that is inherently identifying, delete the inherently identifying additional information.

(e) The department shall de- identify or delete additional information contained in the department's databases before the additional information is held by the department for longer than six years.

Section 2. Section 26B- 8- 104 is amended to read:

26B- 8- 104. Birth registrations - - Execution and registration requirements.

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

(a) "[~~birthing~~]Birthing facility" means a[-]:

(i) general acute hospital as defined in Section 26B- 2- 201; or

(ii) birthing center as defined in Section 26B- 2- 201.

(b) "Designated administrator" means an individual who has been designated by a birthing facility to submit a birth registration on behalf of the birthing facility.

[~~(2) For each live birth occurring in the state, a certificate shall be filed with the local registrar for the district in which the birth occurred within 10 days following the birth. The certificate shall be registered if it is completed and filed in accordance with this part.~~]

(2)(a) The office shall register a birth if a birth registration is completed and filed in accordance with this section.

(b) Once a birth is registered, the office shall provide a birth certificate upon request in accordance with all state laws.

(3)(a) For each live birth that occurs in a birthing facility, [~~the administrator of the birthing facility, or his designee, ~~]the designated administrator, attending physician, or nurse midwife shall:

(i) obtain and enter the information required under this part [~~on the certificate, securing the required signatures, and filing the certificate. ~~]in the electronic birth registration system no later than 10 days from the day on which the birth occurred;

(ii) provide the parent the opportunity to review the information to ensure accuracy; and

(iii) submit the birth registration.

(b)(i) The date, time, place of birth, and required medical information shall be certified by the [~~birthing facility ~~]designated administrator [~~or his designee~~].

(ii) The [~~attending physician or nurse midwife may sign the certificate, but if the attending physician or nurse midwife has not signed the certificate within seven days of the date of birth, the birthing facility ~~]designated administrator [~~or his designee~~] shall enter the attending physician's or nurse midwife's name and transmit the [~~certificate ~~]birth registration to the local registrar for each birth that occurs in a birth facility.

(iii) The information [~~on the certificate ~~]contained in the birth registration about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4)(a)(i) For [~~live births that occur ~~]a live birth that occurs outside a birthing facility, the birth [~~certificate ~~]registration shall be completed and filed by the physician, physician assistant, nurse, nurse practitioner, certified nurse midwife, or other person primarily responsible for providing assistance to the mother at the birth no later than 10 days from the day on which the birth occurred. If [~~there is no such person, either ~~]the birth occurred without assistance from an individual described in Subsection (4)(a)(i), the presumed or declarant father[~~,~~]or the mother of the child shall complete and file the [~~certificate . In his absence, the mother shall complete and file the certificate, and in the event of her death or disability, the owner or operator of the premises where the birth occurred shall do so.~~]birth registration.

(b) The [~~certificate ~~]birth registration shall be completed as fully as possible and shall include the date, time, and place of birth, and the mother's name[~~, and the signature of the person completing the certificate~~].

(5)(a) For each live birth to an unmarried mother that occurs in a birthing facility, [~~the administrator or director of that facility, or his designee, ~~]the designated administrator shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section 78B- 15- 302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity

form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under Title 78B, Chapter 15, Utah Uniform Parentage Act.

(6)(a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

(9) The department may notify the Division of Professional Licensing that an individual who is required to complete a birth registration under Subsection (4)(a)(i) has failed to register a birth if:

(a) the department has notified the individual that the individual is required by state law to complete the birth registration; and

(b) the individual is a physician, physician assistant, nurse, nurse practitioner, or certified nurse midwife.

Section 3. Section 26B-8-108 is amended to read:

26B-8-108. Birth registration -- Delayed registration.

(1) When [~~a certificate of birth of a person~~]a birth registration for an individual born in this state has not been filed [~~within~~]in accordance with the time provided in [~~Subsection 26B-8-104(2)~~]Section 26B-8-104, a [~~certificate of birth~~]birth registration may be filed in accordance with department rules and subject to this section.

(2)(a) The registrar shall mark a certificate of birth as "delayed" and show the date of registration if the certificate is registered one year or more after the date of birth.

(b) The registrar shall abstract a summary statement of the evidence submitted in support of delayed registration onto the certificate.

(3) When the minimum evidence required for delayed registration is not submitted or when the state registrar has reasonable cause to question the validity or adequacy of the evidence supporting the application, and the deficiencies are not corrected, the state registrar:

(a) may not register the certificate; and

(b) shall provide the applicant with a written statement indicating the reasons for denial of registration.

(4) The state registrar has no duty to take further action regarding an application which is not actively pursued.

Section 4. Section 26B-8-115 is amended to read:

26B-8-115. Fetal death certificate -- Filing and registration requirements.

(1)(a) A fetal death certificate shall be filed for each fetal death which occurs in this state.

(b) The certificate shall be filed within five days after delivery with the local registrar or as otherwise directed by the state registrar.

(c) The certificate shall be registered if it is completed and filed in accordance with this part.

(2)(a) When a dead fetus is delivered in an institution, the institution administrator or his designated representative shall prepare and file the fetal death certificate.

(b) The attending physician or certified nurse midwife shall state in the certificate the cause of death and sign the certificate.

(3) When a dead fetus is delivered outside an institution, the physician or certified nurse midwife in attendance at or immediately after delivery shall complete, sign, and file the fetal death certificate.

(4) When a fetal death occurs without medical attendance at or immediately after the delivery or when inquiry is required by Part 2, Utah Medical Examiner, the medical examiner shall investigate the cause of death and prepare and file the certificate of fetal death within five days after taking charge of the case.

(5)(a) When a fetal death occurs in a moving conveyance and the dead fetus is first removed from the conveyance in this state or when a dead fetus is found in this state and the place of death is unknown, the death shall be registered in this state.

(b) The place where the dead fetus was first removed from the conveyance or found shall be considered the place of death.

(6) Final disposition of the dead fetus may not be made until the fetal death certificate has been registered.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 296
H. B. 234
Passed February 15, 2024
Approved March 14, 2024
Effective May 1, 2024

VITAL RECORD INFORMATION MODIFICATIONS

Chief Sponsor: Sahara Hayes
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill modifies provisions related to name and sex designation changes.

Highlighted Provisions:

This bill:

- requires an individual when petitioning the court for a name or sex designation change to indicate on the petition whether the individual is registered with the Sex and Kidnap Offender Registry; and
- authorizes the court to obtain additional information from an individual that is registered with the Sex and Kidnap Offender Registry to determine whether to grant a name or sex designation change petition.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-111, as renumbered and amended by Laws of Utah 2023, Chapter 306 and repealed and reenacted by Laws of Utah 2023, Chapter 493 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 306

42-1-1, Utah Code Annotated 1953

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

Section 1. Section 26B-8-111 is amended to read:

26B-8-111. Birth certificate name or sex designation change -- Registration of court order and amendment of birth certificate.

(1) An individual may obtain a court order in accordance with Title 42, Names, to change the name on the individual's birth certificate.

(2)(a) A court may grant a petition ordering a sex designation change on a birth certificate if the court determines by clear and convincing evidence that the individual seeking the sex designation change:

(i) is not involved in any kind of lawsuit;

(ii) is not on probation or parole;

(iii) is not seeking the amendment:

(A) to commit a crime;

(B) to interfere with the rights of others;

(C) to avoid creditors;

(D) to influence the sentence, fine, or conditions of imprisonment in a criminal case;

(E) to commit fraud on the public; or

(F) for any other fraudulent purpose;

(iv) has transitioned from the sex designation of the biological sex at birth to the sex sought in the petition;

(v) has outwardly expressed as the sex sought in the petition in a consistent and uniform manner for at least six months; and

(vi) suffers from clinically significant distress or impairment due to the current sex designation on the birth certificate.

(b) The court shall consider the following when making the determination described in Subsection (2)(a)(iv):

(i) evidence of medical history, care, or treatment related to sex transitioning; and

(ii) evidence that the sex sought in the petition is sincerely held and part of the individual's core identity.

(c)(i) An individual petitioning for a sex designation change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(ii) Based on the disclosure described in Subsection (2)(c)(i), the court may request additional information from an individual who is registered with the state's Sex and Kidnap Offender Registry to determine whether to grant a petition under this section.

(3)(a)(i) When determining whether to grant a sex designation change for a child who is at least 15 years and six months old, unless the child is emancipated, the court shall appoint, notwithstanding Subsection 78A-2-703(1), a guardian ad litem for the child.

(ii) Notwithstanding Subsection 78A-2-703(7), the child's parent or guardian is responsible for the costs of the guardian ad litem's services unless the court determines the parent or guardian is indigent in accordance with Section 78A-2-302.

(b) The guardian ad litem shall provide the court relevant evidence, whether submitted by the child or other sources of evidence, regarding the following:

(i) whether the child is capable of making decisions with long-term consequences independently of the child's parent or guardian;

(ii) whether the child is mature and capable of appreciating the implications of the decision to change the sex designation on the child's birth certificate; and

(iii) whether the child meets the other requirements of this section.

(c) The guardian of a child described in Subsection (3)(a) shall:

(i) give notice of the proceeding to any known parent of the child; and

(ii) provide the court with a declaration of the status of any divorce or custody matter pertaining to the child, including the case name, case number, court, judge, and current status of the case.

(d) The court shall:

(i) consider any objection given by a parent;

(ii) close the hearing on a petition for a sex designation change;

(iii) receive all evidence; and

(iv) make a determination as to whether:

(A) all of the requirements of Subsection (2) have been met; and

(B) the evidence supports a finding by clear and convincing evidence that the sex designation change is in the best interest of the child and would not create a risk of harm to the minor.

(4)(a) A court may not grant a petition for a sex designation change if:

(i) the birth certificate is for a child who is younger than 15 years and six months old; or

(ii) the child's parent or guardian with legal custody has not given permission.

(b) An order granting a sex designation change under this section is not effective until the individual is at least 16 years old.

(5) A petition for a sex designation under this section may be combined with a petition under Title 42, Names.

(6)(a) Upon the receipt of a certified order granting a birth certificate amendment, any required application, and an appropriate fee, the department shall issue:

(i) a birth certificate that does not indicate which fields were amended unless requested by the individual; and

(ii) an amendment history of the birth certificate, including the fields of the birth certificate that have been amended and the date of the amendment.

(b) The department shall retain a record of all amendments to a birth certificate, including any amendment history issued by the department.

(7) The provisions of this section are severable.

(8) This section only applies to birth certificates issued by the state.

(9) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 2. Section 42-1-1 is amended to read:

42-1-1. By petition to district court -- Contents.

(1) Any natural person, desiring to change [~~his~~]the natural person's name, may file a petition[~~therefor~~] in the district court of the county where [~~he~~]the natural person resides, setting forth:

[~~(1)~~](a) [~~The~~]the cause for which the change of name is sought[~~.~~];

[~~(2)~~](b) [~~The~~]the name proposed[~~.~~]; and

[~~(3)~~](c) [~~That he~~]that the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.

(2)(a) A natural person petitioning for a name change under this section shall indicate on the petition whether the individual is registered with the state's Sex and Kidnap Offender Registry.

(b) The court may request additional information from a natural person who is registered with the state's Sex and Kidnap Offender Registry to make the determination described in Subsection 77-41-105(8).

(3) The provisions of Title 76, Chapter 8, Part 5, Falsification in Official Matters, apply to this section when applicable.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 297
H. B. 288
Passed February 28, 2024
Approved March 14, 2024
Effective January 1, 2025

ROLLBACK TAX AMENDMENTS

Chief Sponsor: Jason B. Kyle
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions related to the rollback tax associated with agricultural and urban farming property tax assessments.

Highlighted Provisions:

This bill:

- excludes land acquired by certain governmental entities from the rollback tax;
- requires governmental entities exempted from the rollback tax to make a one-time in lieu fee payment before selling the land within a certain period;
- extends the due date for paying the rollback tax and the deadline for filing an appeal to the county board of equalization;
- requires the State Tax Commission to make rules allowing for an extension of the deadline for filing an appeal; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-506, as last amended by Laws of Utah 2023, Chapters 180, 189
59-2-511, as last amended by Laws of Utah 2023, Chapters 16, 180
59-2-516, as enacted by Laws of Utah 2017, Chapter 319
59-2-1705, as last amended by Laws of Utah 2023, Chapters 180, 189
59-2-1710, as last amended by Laws of Utah 2023, Chapters 16, 180 and 471
59-2-1713, as enacted by Laws of Utah 2017, Chapter 319

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

Section 1. Section 59-2-506 is amended to read:

59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.

(2)(a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3)(a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(4)(a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5)(a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax [~~within 30 days after~~

~~the day on which the county assessor mails~~]on or before the due date listed on the notice described in this Subsection (5)(a).

(b)(i) The rollback tax is due and payable [~~on the day~~]within 60 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax [~~within 30 days after the day on which the county assessor mails~~]on or before the due date listed on the notice [~~required by~~]described in Subsection (5)(a).

(6)(a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:

(i) the rollback tax; and

(ii) interest imposed in accordance with Subsection (7).

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7)(a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8)(a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-503 to be assessed under this part.

(10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:

(a)(i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or

(ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and

(b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.

(11)(a) A portion of land withdrawn from this part is not subject to the rollback tax if the portion of land:

(i) qualifies for assessment under Part 17, Urban Farming Assessment Act; and

(ii) for the tax year immediately following withdrawal, the owner of the portion of land applies in accordance with Section 59-2-1707 for the land to be assessed under Part 17, Urban Farming Assessment Act.

(b) Any remaining portion of the withdrawn land that does not satisfy the requirements of Subsection (11)(a) is subject to the rollback tax.

Section 2. Section 59-2-511 is amended to read:

59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district;

(v) a special district; or

(vi) a special service district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2)(a) Except as provided in Subsections (3) [~~and (4)~~]through (5), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3)(a) Except as provided in [~~Subsection (4)~~]Subsections (4) and (5), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii)(A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b)(i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B)(I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the taxing entities in which the land is located.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b).

(5)(a) This Subsection (5) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (5)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (5)(b), a governmental entity described in Subsection (5)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

[~~(5)~~](6) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until the following are paid to the county treasurer:

(a) any tax due under this part;

(b) any one-time in lieu fee payment due under this part; and

(c) any interest due under this part.

Section 3. Section 59-2-516 is amended to read:

59-2-516. Appeal to the county board of equalization.

(1) Notwithstanding Section 59-2-1004 [~~or 63G-4-301~~]and except as provided in Subsection (2), the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within [~~45~~]60 days after the day on which:

[~~(1)~~](a) the county assessor makes a determination under this part; or

[~~(2)~~](b) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.

(2) Notwithstanding Subsection (1), the commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing circumstances under which an appeal may be filed with the county board of equalization no later than 60 days after the deadline for an appeal described in Subsection (1).

Section 4. Section 59-2-1705 is amended to read:

59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.

(1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.

(2)(a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.

(b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) $10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3)(a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) begins on the later of:

(A) except as provided in Subsection (3)(c), the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (5).

(c) For land that was previously assessed under Part 5, Farmland Assessment Act, the date described in Subsection (3)(b)(i)(A) is the date the land was first assessed under Part 5, Farmland Assessment Act, unless the land was subject to a rollback tax imposed under Section 59-2-506.

(4)(a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:

(A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and

(B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.

(b) The county treasurer shall pay the rollback tax collected under this section as follows:

(i) 20% to the county for use for land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(5)(a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax [~~within 30 days after the day on which the county assessor mails~~]on or before the due date listed on the notice described in this Subsection (5)(a).

(b)(i) The rollback tax is due and payable [~~on the day~~]within 60 days after the day on which the county assessor mails the notice required by Subsection (5)(a).

(ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax [~~within 30 days after the day on which the county assessor~~

~~mails~~]on or before the due date listed on the notice [~~required by~~]described in Subsection (5)(a).

(6)(a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.

(b) The lien described in Subsection (6)(a) shall:

(i) arise upon the imposition of the rollback tax under this section;

(ii) end on the day on which the rollback tax and interest imposed under Subsection (7) are paid in full; and

(iii) relate back to the first day of the rollback period described in Subsection (3)(b).

(7)(a) A delinquent rollback tax under this section shall accrue interest:

(i) from the date of delinquency until paid; and

(ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.

(b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on thaÂt delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.

(8)(a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.

Section 5. Section 59-2-1710 is amended to read:

59-2-1710. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including a county, city, town, school district, special district, or special service district; or

(d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(2)(a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:

(i) before the governmental entity acquires the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.

(3)(a) [~~Land~~]Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii)(A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b)(i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.

(ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:

(A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or

(B) if the land remaining after the acquisition by the governmental entity is less than one acre, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(c) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues collected from the payment as follows:

(i) 20% to the county for use for open land and working agricultural land as those terms are defined in Section 4-46-102; and

(ii) 80% to the taxing entities in which the land is located.

(4)(a) This Subsection (4) applies only to a governmental entity that is the state or a political subdivision of the state as described in Subsections (1)(b) and (c).

(b) Land acquired by a governmental entity described in Subsection (4)(a) is not subject to the rollback tax imposed by this part.

(c) Notwithstanding Subsection (4)(b), a governmental entity described in Subsection (4)(a) may not, within five years after the day on which the governmental entity acquires land, sell the land to a private entity unless the governmental entity makes a one-time in lieu fee payment:

(i) to the county treasurer of the county in which the land is located;

(ii) in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity at the time of acquisition; and

(iii) before selling the land to the private entity.

[~~(4)~~](5) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.

Section 6. Section 59-2-1713 is amended to read:

59-2-1713. Appeal to the county board of equalization.

(1) Notwithstanding Section 59-2-1004 [~~or 63G-4-301~~]and except as provided in Subsection (2), the owner of land may appeal the determination or denial of a county assessor to the county board of equalization within [~~45~~]60 days after the day on which:

[~~(1)~~](a) the county assessor makes a determination under this part; or

[~~(2)~~](b) the county assessor's failure to make a determination results in the owner's request being considered denied under this part.

(2) Notwithstanding Subsection (1), the commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing circumstances under which an appeal may be filed with the county board of equalization no later than 60 days after the deadline for an appeal described in Subsection (1).

Section 7. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 298
H. B. 260
Passed February 13, 2024
Approved March 14, 2024
Effective May 1, 2024

CONTROLLED SUBSTANCES AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill adds gabapentin to the list of controlled substances.

Highlighted Provisions:

This bill:

- adds gabapentin to Schedule V of the list of controlled substances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-4, as last amended by Laws of Utah 2022, Chapter 165

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

Section 1. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoxin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxeridine;

(II) Furanyl fentanyl (N- phenyl- N- [1- (2- phenylethyl)piperidin- 4- yl] furan- 2- carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenacylmorphan;

(OO) Methoxyacetyl fentanyl (2- Methoxy- N- (1- phenylethylpiperidinyl- 4- yl)- N- acetamide);

(PP) Morpheridine;

(QQ) MPPP (1- methyl- 4- phenyl- 4- propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para- fluorofentanyl (N- (4- fluorophenyl)- N- [1- (2- phenethyl)- 4- piperidinyl] propanamide);

(WW) Para- fluoroisobutyryl fentanyl (N- (4- Fluorophenyl)- N- (1- phenethylpiperidin- 4 - yl)isobutyramide);

(XX) PEPAP (1- (- 2- phenethyl)- 4- phenyl- 4- acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenomorphan;

(BBB) Phenoperidine;

(CCC) Piritramide;

(DDD) Proheptazine;

(EEE) Properidine;

(FFF) Propiram;

(GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N- (1- Phenethylpiperidin- 4- yl)- N- phenyltetrah ydrofuran- 2- carboxamide);

(III) Thiofentanyl (N- phenyl- N- [1- (2- thienyl)ethyl- 4- piperidinyl]- propanamide;

(JJJ) Tilidine;

(KKK) Trimeperidine;

(LLL) 3- methylfentanyl, including the optical and geometric isomers (N- [3- methyl- 1- (2- phenylethyl)- 4- piperidyl]- N- phenylpropanamide);

(MMM) 3- methylthiofentanyl (N- [(3- methyl- 1- (2- thienyl)ethyl- 4- piperidinyl] - N- phenylpropanamide);

(NNN) 3,4- dichloro- N- [2- (dimethylamino)cyclohexyl]- N - methylbenzamide also known as U- 47700; and

(OOO) 4- cyano CUMYL- BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine- N- Oxide;

(F) Cyprenorphine;

(G) Desomorphine;

(H) Dihydromorphine;

(I) Drotebanol;

(J) Etorphine (except hydrochloride salt);

(K) Heroin;

(L) Hydromorphinol;

(M) Methyldesorphine;

(N) Methylhydromorphine;

(O) Morphine methylbromide;

(P) Morphine methylsulfonate;

(Q) Morphine- N- Oxide;

(R) Myrophine;

(S) Nicocodeine;

(T) Nicomorphine;

(U) Normorphine;

(V) Pholcodine; and

(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha- ethyltryptamine, some trade or other names: etryptamine; Monase;

- ethyl- 1H- indole- 3- ethanamine;
3- (2- aminobutyl) indole; - ET; and AET;

(B) 4- bromo- 2,5- dimethoxy- amphetamine, some trade or other names: 4- bromo- 2,5- dimethoxy- - methylphenethylamine ; 4- bromo- 2,5- DMA;

(C) 4- bromo- 2,5- dimethoxyphenethylamine, some trade or other names: 2- (4- bromo- 2,5- dimethoxyphenyl)- 1- aminoetha ne; alpha- desmethyl DOB; 2C- B, Nexus;

(D) 2,5- dimethoxyamphetamine, some trade or other names: 2,5- dimethoxy- - methylphenethylamine; 2,5- DMA;

(E) 2,5- dimethoxy- 4- ethylamphetamine, some trade or other names: DOET;

(F) 4- methoxyamphetamine, some trade or other names: 4- methoxy- - methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5- methoxy- 3,4- methylenedioxyamphetamine;

(H) 4- methyl- 2,5- dimethoxy- amphetamine, some trade and other names: 4- methyl- 2,5- dimethoxy- - methylphenethylamin e; "DOM"; and "STP";

(I) 3,4- methylenedioxy amphetamine;

(J) 3,4- methylenedioxymethamphetamine (MDMA);

(K) 3,4- methylenedioxy- N- ethylamphetamine, also known as N- ethyl- alpha- methyl- 3,4(methylenedioxy)phenethylami ne, N- ethyl MDA, MDE, MDEA;

(L) N- hydroxy- 3,4- methylenedioxyamphetamine, also known as N- hydroxy- alpha- methyl- 3,4(methylenedioxy)ph enethylamine, and N- hydroxy MDA;

(M) 3,4,5- trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3- (- Dimethylaminoethyl)- 5- hydroxyindole; 3- (2- dimethylaminoethyl)- 5- indolol; N, N- dimethylserotonin; 5- hydroxy- N,N- dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N- Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7- Ethyl- 6,6,7,8,9,10,12,13- octahydro- 2- methoxy - 6,9- methano- 5H- pyrido [1', 2':1,2] azepino [5,4- b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3- Hexyl- 1- hydroxy- 7,8,9,10- tetrahydro- 6,6,9- tr imethyl- 6H- dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N- ethyl- 3- piperidyl benzilate;

(X) N- methyl- 3- piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), except for marijuana as defined in Subsection 58- 37- 2(1)(aa)(i)(E), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N- ethyl- 1- phenylcyclohexylamine, (1- phenylcyclohexyl)ethylamine, N- (1- phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1- (1- phenylcyclohexyl)- pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1- [1- (2- thienyl)- cyclohexyl]- piperidine, 2- thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1- [1- (2- thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the

following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2- amino- 5- phenyl- 2- oxazoline; or 4,5- dihydro- 5- phenyl- 2- oxazolamine;

(B) Cathinone, some trade or other names: 2- amino- 1- phenyl- 1- propanone, alpha- aminopropiophenone, 2- aminopropiophenone, and norephedrone;

(C) Fenethylline;

(D) Methcathinone, some other names: 2- (methylamino)- propiophenone; alpha- (methylamino)propiophenone; 2- (methylamino)- 1- phenylpropan- 1- one; alpha- N- methylaminopropiophenone; monomethylpropion; ephedrone; N- methylcathinone; methylcathinone; AL- 464; AL- 422; AL- 463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) ()cis- 4- methylaminorex (()cis- 4,5- dihydro- 4- methyl- 5- phenyl- 2- oxazolamine);

(F) N- ethylamphetamine; and

(G) N,N- dimethylamphetamine, also known as N,N- alpha- trimethyl- benzeneethanamine; N,N- alpha- trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N- [1- benzyl- 4- piperidyl]- N- phenylpropanamide (benzylfentanyl); and

(B) N- [1- (2- thienyl)methyl- 4- piperidyl]- N- phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo- alphacetylmethadol, some other names: levo- alpha- acetylmethadol, levomethadyl acetate, or LAAM;

(L) Levomethorphan;

(M) Levorphanol;

(N) Metazocine;

(O) Methadone;

(P) Methadone- Intermediate, 4- cyano- 2- dimethylamino- 4, 4- diphenyl butane;

(Q) Moramide- Intermediate, 2- methyl- 3- morpholino- 1, 1- diphenylpropane- carboxylic acid;

(R) Pethidine (meperidine);

(S) Pethidine- Intermediate- A, 4- cyano- 1- methyl- 4- phenylpiperidine;

(T) Pethidine- Intermediate- B, ethyl- 4- phenylpiperidine- 4- carboxylate;

(U) Pethidine- Intermediate- C, 1- methyl- 4- phenylpiperidine- 4- carboxylic acid;

(V) Phenazocine;

(W) Piminodine;

(X) Racemethorphan;

(Y) Racemorphan;

(Z) Remifentanil; and

(AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Methamphetamine, its salts, isomers, and salts of its isomers;

(C) Phenmetrazine and its salts; and

(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(B) Glutethimide;

(C) Pentobarbital;

(D) Phencyclidine;

(E) Phencyclidine immediate precursors: 1- phenylcyclohexylamine and 1- piperidinocyclohexanecarbonitrile (PCC); and

(F) Secobarbital.

(v)(A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl- 2- propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: ()- trans- 3- (1,1- dimethylheptyl)- 6,6a,7,8,10,10a- hexahydro- 1- hydroxy- 6, 6- dimethyl- 9H- dibenzo[b,d]pyran- 9- one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91- 513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebulone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Alprazolam;

(B) Barbital;

(C) Bromazepam;

(D) Butorphanol;

(E) Camazepam;

(F) Carisoprodol;

(G) Chloral betaine;

(H) Chloral hydrate;

(I) Chlordiazepoxide;

(J) Clobazam;

(K) Clonazepam;

(L) Clorazepate;

(M) Clotiazepam;

(N) Cloxazolam;

(O) Delorazepam;

(P) Diazepam;

(Q) Dichloralphenazone;

(R) Estazolam;

(S) Ethchlorvynol;

(T) Ethinamate;

(U) Ethyl loflazepate;

(V) Fludiazepam;

(W) Flunitrazepam;

(X) Flurazepam;

(Y) Halazepam;

(Z) Haloxazolam;

(AA) Ketazolam;

(BB) Loprazolam;

(CC) Lorazepam;

(DD) Lormetazepam;

(EE) Mebutamate;

(FF) Medazepam;

(GG) Meprobamate;

(HH) Methohexital;

(II) Methylphenobarbital (mephobarbital);

(JJ) Midazolam;

(KK) Nimetazepam;

(LL) Nitrazepam;

(MM) Nordiazepam;

(NN) Oxazepam;

(OO) Oxazolam;

(PP) Paraldehyde;

(QQ) Pentazocine;

(RR) Petrichloral;

(SS) Phenobarbital;

(TT) Pinazepam;

(UU) Prazepam;

(VV) Quazepam;

(WW) Temazepam;

(XX) Tetrazepam;

(YY) Tramadol;

(ZZ) Triazolam;

(AAA) Zaleplon; and

(BBB) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Cathine ((+)- norpseudoephedrine);

(B) Diethylpropion;

(C) Fencamfamine;

(D) Fenproprex;

(E) Mazindol;

(F) Mefenorex;

(G) Modafinil;

(H) Pemoline, including organometallic complexes and chelates thereof;

(I) Phentermine;

(J) Pipradrol;

(K) Sibutramine; and

(L) SPA ((-)- 1- dimethylamino- 1,2- diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha- (+)- 4- dimethylamino- 1, 2- diphenyl- 3- methyl- 2- propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91- 513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non- narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91- 513.

(iii) Gabapentin.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 299
H. B. 299
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

COURT-ORDERED TREATMENT MODIFICATIONS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses court-ordered treatment.

Highlighted Provisions:

This bill:

- requires the Utah Substance Use and Mental Health Advisory Council to study issues relating to civil commitment;
- provides a sunset date for the reporting requirement;
- requires a local mental health authority to notify a peace officer or mental health officer when certain individuals are released from temporary involuntary commitment;
- amends the amount of time an individual may be held under a temporary commitment;
- amends the criteria under which a court shall order the involuntary commitment of an individual with a mental illness;
- amends the criteria and procedure for court-ordered assisted outpatient treatment;
- amends the criteria under which a court may order the involuntary commitment of an individual with an intellectual disability;
- describes information that must be provided to an individual when the individual is discharged from involuntary commitment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

17-43-301, as last amended by Laws of Utah 2023, Chapters 15, 327
26B-5-331, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-331, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-332, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-351, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-607, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-608, as renumbered and amended by Laws of Utah 2023, Chapter 308
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329

ENACTS:

26B-5-302.5, Utah Code Annotated 1953

REPEALS:

26B-5-350, as renumbered and amended by Laws of Utah 2023, Chapter 308

Sections affected by Coordination Clause:

26B-5-332, as renumbered and amended by Laws of Utah 2023, Chapter 30813

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

Section 1. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 26B-5-301.

(b) "Crisis worker" means the same as that term is defined in Section 26B-5-610.

(c) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2)(a)(i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the division to promote integrated programs that address an individual's substance use, mental health, and

physical healthcare needs, as described in Section 26B-5-102.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the department to promote a system of care, as defined in Section 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section 26B-1-202.

(3)(a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance use treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i)(A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii)(A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5)(a) Each local mental health authority is accountable to the department and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6)(a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 26B-5-351;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in

accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 26B, Chapter 5, Health Care - Substance Use and Mental Health;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7)(a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 26B-5-610;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of Integrated Healthcare, in accordance with Section 26B-5-610; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii)(A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services[~~, as described in Section 26B-5-350,~~] to a resident of the county who has been ordered under Section 26B-5-351 to receive assisted outpatient treatment.

Section 2. Section 26B-5-302.5 is enacted to read:

26B-5-302.5. Study concerning civil commitment and the Utah State Hospital.

(1)(a) The Utah Substance Use and Mental Health Advisory Council shall study and make recommendations concerning the need for expanded civil commitment capacity in the state, including an analysis of the anticipated impact that any changes to civil commitment standards made during the 2024 General Session will have on the number of individuals subject to civil commitment.

(b) The study and recommendations described in Subsection (1)(a) shall also address the role of the Utah State Hospital in serving patients who are subject to court-ordered treatment, including civil commitment.

(c) The study and recommendations described in Subsection (1)(a) shall also address any additional resources or services needed to decrease the likelihood that individuals who are subject to court-ordered treatment, including civil commitment, will enter or reenter the Utah State Hospital or another inpatient facility.

(2) The Utah Substance Use and Mental Health Advisory Council shall provide a report on the study and recommendations described in Subsection (1) to the Judiciary Interim Committee at or before the committee's October 2024 interim meeting.

Section 3. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall[~~,~~]:

(a) document the change and release the patient[~~,~~]; and

(b) if the patient was admitted under Subsection (1)(b), notify the peace officer or mental health officer of the patient's release.

(3)[~~(a)~~] A patient committed under this section may be held for a maximum of [~~24~~]72 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

[~~(i)~~](a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

[~~(ii)~~](b) the patient makes a voluntary application for admission[~~; or~~].

[~~(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:~~]

[~~(A) the patient, due to mental illness, poses a substantial danger to self or others;~~]

[~~(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and~~]

[~~(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.~~]

[~~(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.~~]

[~~(c) Subsection (3)(a)(iii) applies to an adult patient.~~]

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 26B-4-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6)(a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7)(a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8)(a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (8)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 4. Section 26B-5-331 is amended to read:

26B-5-331. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding the certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall[~~.~~]:

(a) document the change and release the patient[~~.~~]; and

(b) if the patient was admitted under Subsection (1)(b), notify the peace officer or mental health officer of the patient's release.

(3)[~~(a)~~] A patient committed under this section may be held for a maximum of [~~24~~]72 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

[~~(i)~~](a) as described in Section 26B-5-332, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 26B-5-332(4); or

[~~(ii)~~](b) the patient makes a voluntary application for admission[~~; or~~].

[~~(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:~~]

[~~(A) the patient, due to mental illness, poses a substantial danger to self or others;~~]

[~~(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and~~]

[~~(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.~~]

[~~(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.~~]

[~~(c) Subsection (3)(a)(iii) applies to an adult patient.~~]

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26B-4-119;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the adult is present, if the adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 53-2d-101.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6)(a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

(7)(a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

(8)(a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of whether the individual is discharged by being released, taken into a peace officer's protective custody, transported to a medical facility or other facility, or other circumstances.

(b) Discharge instructions provided under Subsection (8)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (8)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (8)(b)(v), the local mental health authority shall

document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 5. Section 26B-5-332 is amended to read:

26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b)(i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4)(a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5)(a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7)(a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under

court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10)(a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

(b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 26B-5-360;

(c) has acceptable options for treatment programs that are available without court proceedings; or

(d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.

(14)(a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15)(a)(i) The court shall afford the proposed patient, the applicant, and any other person to whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.

(e)(i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16)(a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i) [~~the proposed patient has a mental illness~~]as a result of mental illness and based on recent actions, omissions, or behaviors, the proposed patient:[~~;~~]

(A) poses a substantial danger to self or others; or

(B) lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

[~~(ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;~~]

[~~(iii) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;~~]

[~~(iv)~~](ii) there is no appropriate less-restrictive alternative to a court order of commitment; and

[~~(v)~~](iii) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b)(i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

(c) The court shall maintain a list of patients proposed for civil commitment who qualify for civil commitment under Subsections (16)(a)(i) and (ii), but for whom the local mental health authority is unable to provide treatment as described in Subsection (16)(a)(iii).

(17)(a)(i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b)(i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c)(i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that

the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18)(a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

(20)(a) A local mental health authority shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the local mental health authority's custody, regardless of the circumstances under which the individual is discharged.

(b) Discharge instructions provided under Subsection (20)(a) shall include:

(i) a summary of why the individual was committed to the local mental health authority;

(ii) detailed information about why the individual is being discharged from the local mental health authority's custody;

(iii) a safety plan for the individual based on the individual's mental illness or mental or emotional state;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any psychiatric advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish a psychiatric advance directive if one was not presented to the local mental health authority;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the local mental health authority if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (20)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the local mental health authority shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (20)(b)(v), the local mental health authority shall document those referrals in the individual's medical record.

(f) The local mental health authority shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 6. Section 26B-5-351 is amended to read:

26B-5-351. Assisted outpatient treatment proceedings.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need for assisted outpatient treatment may file, in the court in the county where the proposed

patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number; and

(b)(i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based.

(2)(a) Subject to Subsection (2)(b), before issuing a judicial order, the court may require the applicant to consult with the appropriate local mental health authority, and the court may direct a mental health professional from that local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report them to the court.

(b) The consultation described in Subsection (2)(a):

(i) may take place at or before the hearing; and

(ii) is required if the local mental health authority appears at the hearing.

(3) If the proposed patient refuses to submit to an interview described in Subsection (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a mental health officer or peace officer, to immediately place the proposed patient into the custody of a local mental health authority or in a temporary emergency facility, as provided in Section 26B-5-334, to be detained for the purpose of examination.

(4) Notice of commencement of proceedings for assisted outpatient treatment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, shall:

(a) be provided by the court to a proposed patient before, or upon, placement into the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority;

(b) be maintained at the proposed patient's place of detention, if any;

(c) be provided by the court as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or its designee, and any other person whom the proposed patient or the court shall designate; and

(d) advise that a hearing may be held within the time provided by law.

(5) The court may, in its discretion, transfer the case to any other court within this state, provided that the transfer will not be adverse to the interest of the proposed patient.

(6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or its designee under court order for detention in order to complete an examination, the court shall appoint two designated examiners:

(a) who did not sign the assisted outpatient treatment application nor the certification described in Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(7) The court shall schedule a hearing to be held within 10 calendar days of the day on which the designated examiners are appointed.

(8) The designated examiners shall:

(a) conduct their examinations separately;

(b) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place that is not likely to have a harmful effect on the proposed patient's health;

(c) inform the proposed patient, if not represented by an attorney:

(i) that the proposed patient does not have to say anything;

(ii) of the nature and reasons for the examination;

(iii) that the examination was ordered by the court;

(iv) that any information volunteered could form part of the basis for the proposed patient to be ordered to receive assisted outpatient treatment; and

(v) that findings resulting from the examination will be made available to the court; and

(d) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill. If the designated examiner reports orally, the designated examiner shall immediately send a written report to the clerk of the court.

(9) If a designated examiner is unable to complete an examination on the first attempt because the

proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(10) If the local mental health authority, its designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to an assisted outpatient treatment hearing no longer exist, the local mental health authority, its designee, or the medical examiner shall immediately report that determination to the court.

(11) The court may terminate the proceedings and dismiss the application at any time, including prior to the hearing, if the designated examiners or the local mental health authority or its designee informs the court that the proposed patient does not meet the criteria in Subsection (14).

(12) Before the hearing, an opportunity to be represented by counsel shall be afforded to the proposed patient, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing. In the case of an indigent proposed patient, the payment of reasonable attorney fees for counsel, as determined by the court, shall be made by the county in which the proposed patient resides or is found.

(13)(a) All persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The court may, in its discretion, receive the testimony of any other individual. The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude all individuals not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiners.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient.

(d) The court shall consider all relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e)(i) A local mental health authority or its designee, or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order, if any;

(B) admission notes, if any;

(C) the diagnosis, if any;

(D) doctor's orders, if any;

(E) progress notes, if any;

(F) nursing notes, if any; and

(G) medication records, if any.

(ii) The information described in Subsection (13)(e)(i) shall also be provided to the proposed patient's counsel:

(A) at the time of the hearing; and

(B) at any time prior to the hearing, upon request.

(14) The court shall order a proposed patient to assisted outpatient treatment if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(a) [~~the proposed patient has~~]as a result of a mental illness and based on recent actions, omissions, or behaviors, the proposed patient:

(i) lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or

(ii) needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others; and

(b) there is no appropriate less-restrictive alternative to a court order for assisted outpatient treatment[~~; and~~].

[~~(c)(i) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental health treatment, as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or~~]

[~~(ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse or deterioration that is likely to result in the proposed patient posing a substantial danger to self or others.~~]

(15) A court order for assisted outpatient treatment does not create an independent authority to forcibly medicate a patient.

(16) The court may order the applicant or a close relative of the patient to be the patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the patient's mental health treatment.

[~~(16)~~](17) In the absence of the findings described in Subsection (14), the court, after the hearing, shall dismiss the proceedings.

[~~(17)~~](18)(a) The assisted outpatient treatment order shall designate the period for which the patient shall be treated, which may not exceed 12 months without a review hearing.

(b) At a review hearing, the court may extend the duration of an assisted outpatient treatment order by up to 12 months, if:

(i) the court finds by clear and convincing evidence that the patient meets the conditions described in Subsection (14); or

(ii)(A) the patient does not appear at the review hearing;

(B) notice of the review hearing was provided to the patient's last known address by the applicant described in Subsection (1) or by a local mental health authority; and

(C) the patient has appeared in court or signed an informed waiver within the previous 18 months.

(c) The court shall maintain a current list of all patients under its order of assisted outpatient treatment.

(d) At least two weeks prior to the expiration of the designated period of any assisted outpatient treatment order still in effect, the court that entered the original order shall inform the appropriate local mental health authority or its designee.

[~~(18)~~](19) Costs of all proceedings under this section shall be paid by the county in which the proposed patient resides or is found.

[~~(19)~~](20) A court may not hold an individual in contempt for failure to comply with an assisted outpatient treatment order.

[~~(20)~~](21) As provided in Section 31A-22-651, a health insurance provider may not deny an insured the benefits of the insured's policy solely because the health care that the insured receives is provided under a court order for assisted outpatient treatment.

Section 7. Section 26B-6-607 is amended to read:

26B-6-607. Temporary emergency commitment -- Observation and evaluation.

(1) The director of the division or his designee may temporarily commit an individual to the division and therefore, as a matter of course, to an intermediate care facility for people with an intellectual disability for observation and evaluation upon:

(a) written application by a responsible person who has reason to know that the individual is in need of commitment, stating:

(i) a belief that the individual has an intellectual disability and is likely to cause serious injury to self or others if not immediately committed;

(ii) personal knowledge of the individual's condition; and

(iii) the circumstances supporting that belief; or

(b) certification by a licensed physician or designated intellectual disability professional stating that the physician or designated intellectual disability professional:

(i) has examined the individual within a three-day period immediately preceding the certification; and

(ii) is of the opinion that the individual has an intellectual disability, and that because of the individual's intellectual disability is likely to injure self or others if not immediately committed.

(2) If the individual in need of commitment is not placed in the custody of the director or the director's designee by the person submitting the application, the director's or the director's designee may certify, either in writing or orally that the individual is in need of immediate commitment to prevent injury to self or others.

(3) Upon receipt of the application required by Subsection (1)(a) and the certifications required by Subsections (1)(b) and (2), a peace officer may take the individual named in the application and certificates into custody, and may transport the individual to a designated intermediate care facility for people with an intellectual disability.

(4)(a) An individual committed under this section may be held for a maximum of [24]72 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the individual shall be released unless proceedings for involuntary commitment have been commenced under Section 26B-6-608.

(b) After proceedings for involuntary commitment have been commenced the individual shall be released unless an order of detention is issued in accordance with Section 26B-6-608.

(5) If an individual is committed to the division under this section on the application of any person other than the individual's legal guardian, spouse, parent, or next of kin, the director or his designee shall immediately give notice of the commitment to the individual's legal guardian, spouse, parent, or next of kin, if known.

(6)(a) The division or an intermediate care facility shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division or intermediate care facility, regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (6)(a) shall include:

(i) a summary of why the individual was committed;

(ii) detailed information about why the individual is being discharged;

(iii) a safety plan for the individual based on the individual's intellectual disability and condition;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish an advance directive if one was not presented to the division or intermediate care facility;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the division or intermediate care facility if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (6)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the division or intermediate care facility shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (6)(b)(v), the division or intermediate care facility shall document those referrals in the individual's medical record.

(f) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 8. Section 26B-6-608 is amended to read:

26B-6-608. Involuntary commitment -- Procedures -- Necessary findings -- Periodic review.

(1) Any responsible person who has reason to know that an individual is in need of commitment, who has a belief that the individual has an intellectual disability, and who has personal knowledge of the conditions and circumstances supporting that belief, may commence proceedings for involuntary commitment by filing a written petition with the district court, or if the subject of the petition is less than 18 years old with the juvenile court, of the county in which the individual to be committed is physically located at the time the petition is filed. The application shall be accompanied by:

(a) a certificate of a licensed physician or a designated intellectual disability professional, stating that within a seven-day period immediately preceding the certification, the physician or designated intellectual disability professional examined the individual and believes that the individual has an intellectual disability and is in need of involuntary commitment; or

(b) a written statement by the petitioner that:

(i) states that the individual was requested to, but refused to, submit to an examination for an intellectual disability by a licensed physician or designated intellectual disability professional, and that the individual refuses to voluntarily go to the division or an intermediate care facility for people with an intellectual disability recommended by the division for treatment;

(ii) is under oath; and

(iii) sets forth the facts on which the statement is based.

(2) Before issuing a detention order, the court may require the petitioner to consult with personnel at the division or at an intermediate care facility for people with an intellectual disability and may direct a designated intellectual disability professional to interview the petitioner and the individual to be committed, to determine the existing facts, and to report them to the court.

(3) The court may issue a detention order and may direct a peace officer to immediately take the individual to an intermediate care facility for people with an intellectual disability to be detained for purposes of an examination if the court finds from the petition, from other statements under oath, or from reports of physicians or designated intellectual disability professionals that there is a reasonable basis to believe that the individual to be committed:

(a) poses an immediate danger of physical injury to self or others;

(b) requires involuntary commitment pending examination and hearing;

(c) the individual was requested but refused to submit to an examination by a licensed physician or designated intellectual disability professional; or

(d) the individual refused to voluntarily go to the division or to an intermediate care facility for people with an intellectual disability recommended by the division.

(4)(a) If the court issues a detention order based on an application that did not include a certification by a designated intellectual disability professional or physician in accordance with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual, report the results of the examination to the court and inform the court:

(i) whether the director or his designee believes that the individual has an intellectual disability; and

(ii) whether appropriate treatment programs are available and will be used by the individual without court proceedings.

(b) If the report of the director or his designee is based on an oral report of the examiner, the examiner shall immediately send the results of the examination in writing to the clerk of the court.

(5) Immediately after an individual is involuntarily committed under a detention order or under Section 26B-6-607, the director or his designee shall inform the individual, orally and in writing, of his right to communicate with an attorney. If an individual desires to communicate with an attorney, the director or his designee shall take immediate steps to assist the individual in contacting and communicating with an attorney.

(6)(a) Immediately after commencement of proceedings for involuntary commitment, the court shall give notice of commencement of the proceedings to:

(i) the individual to be committed;

(ii) the applicant;

(iii) any legal guardian of the individual;

(iv) adult members of the individual's immediate family;

(v) legal counsel of the individual to be committed, if any;

(vi) the division; and

(vii) any other person to whom the individual requests, or the court designates, notice to be given.

(b) If an individual cannot or refuses to disclose the identity of persons to be notified, the extent of notice shall be determined by the court.

(7) That notice shall:

(a) set forth the allegations of the petition and all supporting facts;

(b) be accompanied by a copy of any detention order issued under Subsection (3); and

(c) state that a hearing will be held within the time provided by law, and give the time and place for that hearing.

(8) The court may transfer the case and the custody of the individual to be committed to any other district court within the state, if:

(a) there are no appropriate facilities for persons with an intellectual disability within the judicial district; and

(b) the transfer will not be adverse to the interests of the individual.

(9)(a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any order or commitment under a detention order, the court shall appoint two designated intellectual disability professionals to examine the individual. If requested by the individual's counsel, the court shall appoint a reasonably available, qualified person designated by counsel to be one of the examining designated intellectual disability professionals. The examinations shall be conducted:

(i) separately;

(ii) at the home of the individual to be committed, a hospital, an intermediate care facility for people with an intellectual disability, or any other suitable place not likely to have a harmful effect on the individual; and

(iii) within a reasonable period of time after appointment of the examiners by the court.

(b) The court shall set a time for a hearing to be held within 10 court days of the appointment of the examiners. However, the court may immediately terminate the proceedings and dismiss the application if, prior to the hearing date, the examiners, the director, or his designee informs the court that:

(i) the individual does not have an intellectual disability; or

(ii) treatment programs are available and will be used by the individual without court proceedings.

(10)(a) Each individual has the right to be represented by counsel at the commitment hearing and in all preliminary proceedings. If neither the individual nor others provide counsel, the court shall appoint counsel and allow sufficient time for counsel to consult with the individual prior to any hearing.

(b) If the individual is indigent, the county in which the individual was physically located when taken into custody shall pay reasonable attorney fees as determined by the court.

(11) The division or a designated intellectual disability professional in charge of the individual's care shall provide all documented information on the individual to be committed and to the court at the time of the hearing. The individual's attorney shall have access to all documented information on the individual at the time of and prior to the hearing.

(12)(a) The court shall provide an opportunity to the individual, the petitioner, and all other persons to whom notice is required to be given to appear at the hearing, to testify, and to present and cross-examine witnesses.

(b) The court may, in its discretion:

(i) receive the testimony of any other person;

(ii) allow a waiver of the right to appear only for good cause shown;

(iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

(iv) upon motion of counsel, require the testimony of each examiner to be given out of the presence of any other examiner.

(c) The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the individual.

The Utah Rules of Evidence apply, and the hearing shall be a matter of court record. A verbatim record of the proceedings shall be maintained.

(13) The court may order commitment if, upon completion of the hearing and consideration of the record, it finds by clear and convincing evidence that all of the following conditions are met:

(a) the individual to be committed has an intellectual disability;

(b) because of the individual's intellectual disability one or more of the following conditions exist:

(i) the individual poses an immediate danger of physical injury to self or others;

(ii) the individual lacks the capacity to provide the basic necessities of life, such as food, clothing, or shelter; or

(iii) the individual is in immediate need of habilitation, rehabilitation, care, or treatment to minimize the effects of the condition which poses a threat of serious physical or psychological injury to the individual, and the individual lacks the capacity to engage in a rational decision-making process concerning the need for habilitation, rehabilitation, care, or treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or treatment and the alternatives to it;

(c) there is no appropriate, less restrictive alternative reasonably available; and

(d) the division or the intermediate care facility for people with an intellectual disability recommended by the division in which the individual is to be committed can provide the individual with treatment, care, habilitation, or rehabilitation that is adequate and appropriate to the individual's condition and needs.

(14) In the absence of any of the required findings by the court, described in Subsection (13), the court shall dismiss the proceedings.

(15)(a) The order of commitment shall designate the period for which the individual will be committed. An initial commitment may not exceed six months. Before the end of the initial commitment period, the administrator of the intermediate care facility for people with an intellectual disability shall commence a review hearing on behalf of the individual.

(b) At the conclusion of the review hearing, the court may issue an order of commitment for up to a one-year period.

(16) An individual committed under this part has the right to a rehearing, upon filing a petition with the court within 30 days after entry of the court's order. If the petition for rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial licensed physician and two impartial designated intellectual disability professionals who have not previously been involved in the case to examine the individual. The rehearing shall, in all other respects, be conducted in accordance with this part.

(17)(a) The court shall maintain a current list of all individuals under its orders of commitment. That list shall be reviewed in order to determine those patients who have been under an order of commitment for the designated period.

(b) At least two weeks prior to the expiration of the designated period of any commitment order still in effect, the court that entered the original order shall inform the director of the division of the impending expiration of the designated commitment period.

(c) The staff of the division shall immediately:

(i) reexamine the reasons upon which the order of commitment was based and report the results of the examination to the court;

(ii) discharge the resident from involuntary commitment if the conditions justifying commitment no longer exist; and

(iii) immediately inform the court of any discharge.

(d) If the director of the division reports to the court that the conditions justifying commitment no longer exist, and the administrator of the intermediate care facility for people with an intellectual disability does not discharge the individual at the end of the designated period, the court shall order the immediate discharge of the individual, unless involuntary commitment proceedings are again commenced in accordance with this section.

(e) If the director of the division, or the director's designee reports to the court that the conditions designated in Subsection (13) still exist, the court may extend the commitment order for up to one year. At the end of any extension, the individual must be reexamined in accordance with this section, or discharged.

(18) When a resident is discharged under this subsection, the division shall provide any further support services available and required to meet the resident's needs.

(19)(a) The division or an intermediate care facility shall provide discharge instructions to each individual committed under this section at or before the time the individual is discharged from the custody of the division or intermediate care facility, regardless of whether the individual is discharged by being released or under other circumstances.

(b) Discharge instructions provided under Subsection (19)(a) shall include:

(i) a summary of why the individual was committed;

(ii) detailed information about why the individual is being discharged;

(iii) a safety plan for the individual based on the individual's intellectual disability and condition;

(iv) notification to the individual's primary care provider, if applicable;

(v) if the individual is discharged without food, housing, or economic security, a referral to appropriate services, if such services exist in the individual's community;

(vi) the phone number to call or text for a crisis services hotline, and information about the availability of peer support services;

(vii) a copy of any advance directive presented to the local mental health authority, if applicable;

(viii) information about how to establish an advance directive if one was not presented to the division or intermediate care facility;

(ix) as applicable, information about medications that were changed or discontinued during the commitment;

(x) a list of any screening or diagnostic tests conducted during the commitment;

(xi) a summary of therapeutic treatments provided during the commitment;

(xii) any laboratory work, including blood samples or imaging, that was completed or attempted during the commitment; and

(xiii) information about how to contact the division or intermediate care facility if needed.

(c) If an individual's medications were changed, or if an individual was prescribed new medications while committed under this section, discharge instructions provided under Subsection (19)(a) shall include a clinically appropriate supply of medications, as determined by a licensed health care provider, to allow the individual time to access another health care provider or follow-up appointment.

(d) If an individual refuses to accept discharge instructions, the division or intermediate care facility shall document the refusal in the individual's medical record.

(e) If an individual's discharge instructions include referrals to services under Subsection (19)(b)(v), the division or intermediate care facility shall document those referrals in the individual's medical record.

(f) The division shall attempt to follow up with a discharged individual at least 48 hours after discharge, and may use peer support professionals when performing follow-up care or developing a continuing care plan.

Section 9. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(10) Section 26B-3-142 is repealed July 1, 2024.

(11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(13) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(14) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

(15) Section 26B-5-302.5, related to a study concerning court-ordered treatment, is repealed July 1, 2025.

[~~(15)~~](16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(16)~~](17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 10. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(8) Section 26B-3-142 is repealed July 1, 2024.

(9) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(10) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(11) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

(12) Section 26B-5-302.5, related to a study concerning court-ordered treatment, is repealed July 1, 2025.

[~~(12)~~](13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 11. Repealer.

This bill repeals:

Section 26B-5-350, Assisted outpatient treatment services.

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 26B-5-331 (Effective 07/01/24) take effect on July 1, 2024.

Section 13. Coordinating H.B. 299 with H.B. 203.

If H.B. 299, Court-ordered Treatment Modifications, and H.B. 203, Involuntary Commitment Amendments, both pass and become law, the Legislature intends that on May 1, 2024, Subsection 26B-5-332(16)(a) be amended to read:

"(16)(a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that there is no appropriate, less-restrictive alternative to a court order of commitment and the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs, and:

(i) [~~the proposed patient has a mental illness;~~]as a result of mental illness and based on recent actions, omissions, or behaviors, the proposed patient:

(A) poses a substantial danger to self or others; or

(B) lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment; or

(ii)(A) the proposed patient has been charged with a criminal offense;

(B) with respect to the charged offense, the proposed patient is found incompetent to proceed as a result of a mental illness;

(C) the proposed patient has a mental illness; and

(D) the proposed patient has a persistent unawareness of their mental illness and the negative consequences of that illness, or within the preceding six months has been requested or ordered to undergo mental health treatment but has unreasonably refused to undergo that treatment.

[~~(ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;~~

~~(iii) the proposed patient lacks the ability to engage in a rational decisino-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;~~

~~(iv) there is no appropriate less-restrictive alternative to a court order of commitment; and~~

~~(v) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.~~]".

CHAPTER 300
H. B. 335
Passed February 28, 2024
Approved March 14, 2024
Effective July 1, 2024

STATE GRANT PROCESS AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill enacts provisions governing the administration of state grants.

Highlighted Provisions:

This bill:

- defines terms;
- requires that a grant recipient provide a proposed budget and agree to deliverables, reporting, audit, and clawback requirements before receiving any grant funds;
- addresses the disbursement schedule for grant funds;
- provides for review after a specified time of a grant funded by an ongoing appropriation;
- provides requirements specific to direct award grants and competitive grants; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-41-102, as last amended by Laws of Utah 2023, Chapters 16, 34
63J-1-201, as last amended by Laws of Utah 2021, Chapters 382, 421
63N-1a-307, as enacted by Laws of Utah 2022, Chapter 362
65A-16-201, as enacted by Laws of Utah 2022, Chapter 78 and further amended by Revisor Instructions, Laws of Utah 2022, Chapter 78
65A-16-203, as enacted by Laws of Utah 2022, Chapter 78
65A-16-301, as last amended by Laws of Utah 2023, Chapter 205
72-2-121, as last amended by Laws of Utah 2023, Chapter 529

ENACTS:

63G-6b-101, Utah Code Annotated 1953
63G-6b-102, Utah Code Annotated 1953
63G-6b-201, Utah Code Annotated 1953
63G-6b-301, Utah Code Annotated 1953
63G-6b-401, Utah Code Annotated 1953

REPEALS:

63J-1-220, as last amended by Laws of Utah 2023, Chapter 16

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

Section 1. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23A-6-101.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

[~~(b) a state agency as defined in Section 63J-1-220;~~]

(b) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the executive branch of the state;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15)(a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17)(a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 2. Section 63G-6b-101 is enacted to read:

63G-6b-101. Definitions.

CHAPTER 6B. STATE GRANTS

Part 1. General Provisions

As use in this chapter:

(1) "Administering agency" means a state agency that administers a grant.

(2) "Competitive grant" means a grant that is not a direct award grant.

(3) "Direct award grant" means a grant that is funded by money that the Legislature intends the state agency to pass through to one or more recipients without a competitive process.

(4)(a) "Grant" means a state agency's expenditure of state money, or agreement to expend state money, that is:

(i) authorized by law;

(ii) made for a particular purpose; and

(iii) made without acquiring, or the promise of acquiring, a procurement item in exchange for the expenditure.

(b) "Grant" does not include:

(i) a tax credit;

(ii) an expenditure of federal money;

(iii) public assistance, as defined in Section 26B-9-101;

(iv) a loan;

(v) a rebate;

(vi) an incentive; or

(vii) a claim payment.

(5) "Grant appropriation" means an appropriation the Legislature makes to an administering agency to be used for one or more grants.

(6) "Grant period" means the time frame during which a grant recipient receives funds from a single grant.

(7) "Multi-year grant" means a grant for which the grant period exceeds one year.

(8) "Nonprofit entity" means an entity that:

(a) operates in the state;

(b) is not a government entity; and

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(9) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

(10)(a) "State agency" means a department, division, or other agency or instrumentality of the state.

(b) "State agency" does not include the legislative department.

(11) "State money" means money that is derived from state fees or state tax revenue.

Section 3. Section 63G-6b-102 is enacted to read:

63G-6b-102. Applicability.

This chapter does not apply to a grant that is authorized in statute, unless the statute provides that the grant is subject to this chapter.

Section 4. Section 63G-6b-201 is enacted to read:

63G-6b-201. Requirements for all grants.

Part 2. Provisions Applicable to All Grants

(1)(a) An administering agency shall disburse grant funds in accordance with this Subsection (1).

(b) Before an administering agency disburses a grant's grant funds, the administering agency shall ensure that the grant recipient provides a detailed budget demonstrating how the grant recipient will use the grant funds.

(c) An administering agency shall establish a distribution schedule that ensures accountability and responsible oversight of the use of the grant funds.

(d) An administering agency may not:

(i) disburse all grant funds in a single payment, unless the administering agency makes the single payment after the grant recipient satisfies the grant recipient's performance obligations under the agreement described in Subsection (4); or

(ii) make a grant recipient's final disbursement before the grant recipient delivers the report described in Subsection (3).

(2) For a multi-year grant:

(a) the grant period may not exceed five years; and

(b) in the final quarter of each year of the grant period, excluding the final year, the grant recipient shall deliver to the administering agency a report that details the grant recipient's progress towards fulfilling the grant's purpose, including the annual deliverables and performance metrics described in the agreement made in accordance with Subsection (4).

(3) An administering agency may not make the final grant funds disbursement until:

(a) the grant recipient delivers to the administering agency a final report that details the extent to which the grant recipient fulfilled the grant's purpose, including the deliverables and performance metrics described in the agreement made in accordance with Subsection (4); and

(b) the administering agency determines that the grant recipient satisfactorily produced each deliverable provided in the agreement described in Subsection (4).

(4) Except as otherwise provided in the grant appropriation and consistent with the other provisions of this section, an administering agency may not disburse grant funds to a grant recipient before the administering agency and the grant recipient execute an agreement that contains:

(a) the disbursement schedule for the grant funds;

(b) the deliverables, reporting, and performance metrics the grant recipient will produce and use to demonstrate that the grant recipient used the grant funds to fulfill the grant's purpose;

(c) if the grant is a multi-year grant, annual deliverables and performance metrics the grant recipient will produce and use to demonstrate sufficient progress towards fulfilling the grant's purpose;

(d) a provision informing the grant recipient that disbursement of grant funds is subject to legislative appropriation; and

(e) the grant recipient's consent to follow-up audit and clawback of the grant funds if an audit shows that the grant funds were inappropriately used.

(5) In accordance with Utah Constitution, Article VI, Section 33, the legislative auditor general may audit the use of any grant funds.

Section 5. Section 63G-6b-301 is enacted to read:

63G-6b-301. Direct award grant requirements.

Part 3. Direct Award Grants

(1)(a) A direct award grant is valid only if the direct award grant's grant appropriation identifies the recipient or class of recipients in the grant appropriation's intent language.

(b) For a grant appropriation that is an ongoing appropriation to fund a multi-year grant, the requirement to identify the recipient or class of recipients applies each fiscal year.

(2) If the intent language for a direct award grant's grant appropriation provides a disbursement schedule that is inconsistent with the

schedule described in Section 63G-6b-202, for the fiscal year in which the grant appropriation is made, the schedule in the intent language controls.

Section 6. Section 63G-6b-401 is enacted to read:

63G-6b-401. Competitive grant requirements.

Part 4. Competitive Grants

(1)(a) For a competitive grant, the administering agency shall:

(i) establish a competitive application and selection process; and

(ii) award each competitive grant in accordance with the established process.

(b) As part of the competitive application process, the administering agency shall require that each applicant disclose all other state funding the applicant receives.

(2) Except as otherwise provided in the grant appropriation's intent language, an administering agency may not award a competitive grant to a recipient who has received a direct award grant if:

(a) the direct award grant is for substantially the same purpose as the competitive grant; and

(b) the direct award grant's grant period and the competitive grant's grant period overlap.

(3) After an administering agency completes a competitive application process for a competitive grant but before the administering agency awards the grant, the administering agency shall report each grant recipient to the legislative fiscal analyst and the Governor's Office of Planning and Budget.

Section 7. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2)(a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of:

(A) estimated revenues by major tax type;

(B) 15-year trends for each major tax type;

(C) estimated receipts of federal funds;

(D) 15-year trends for federal fund receipts; and

(E) appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) changes to debt service;

(iv) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates and considers projected changes in federal grants or assistance programs included in the budget;

(v) an itemized estimate of the proposed changes to appropriations for:

(A) the legislative department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the executive department;

(C) the judicial department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(vi) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vii) deficits or anticipated deficits;

(viii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the director of the Division of Facilities Construction and Management as required by Subsection 63A-5b-501(3);

[~~(ix) a written description and itemized report submitted by a state agency to the Governor's Office of Planning and Budget under Section 63J-1-220, including:~~]

[~~(A) a written description and an itemized report provided at least annually detailing the expenditure of the state money, or the intended expenditure of any state money that has not been spent; and~~]

[~~(B) a final written itemized report when all the state money is spent;~~]

[~~(x)~~](ix) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the

reduction of expenditures or increase of the state's revenue; and

[~~(xi)~~](x) information detailing certain fee increases as required by Section 63J-1-504.

(3)(a) Except as provided in Subsection (3)(b), for the purpose of preparing and reporting the proposed budget, the governor:

(i) shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations;

(ii) may require the persons and entities subject to Subsection (3)(a)(i) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators; and

(iii) may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(b) Subsections (3)(a)(ii) and (iii) do not apply to the judicial department or the legislative department.

(4)(a) The Governor's Office of Planning and Budget shall provide to the Office of the Legislative Fiscal Analyst, as soon as practicable, but no later than 30 days before the day on which the Legislature convenes in the annual general session, data, analysis, or requests used in preparing the governor's budget recommendations, notwithstanding the restrictions imposed on such recommendations by available revenue.

(b) The information under Subsection (4)(a) shall include:

(i) actual revenues and expenditures for the fiscal year ending the previous June 30;

(ii) estimated or authorized revenues and expenditures for the current fiscal year;

(iii) requested revenues and expenditures for the next fiscal year;

(iv) detailed explanations of any differences between the amounts appropriated by the Legislature in the current fiscal year and the amounts reported under Subsections (4)(b)(ii) and (iii); and

(v) other budgetary information required by the Legislature in statute.

(c) The budget information under Subsection (4)(a) shall cover:

(i) all items of appropriation, funds, and accounts included in appropriations acts for the current and previous fiscal years; and

(ii) any new appropriation, fund, or account items requested for the next fiscal year.

(d) The information provided under Subsection (4)(a) may be provided as a shared record under Section 63G-2-206 as considered necessary by the Governor's Office of Planning and Budget.

(5)(a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6)(a) The governor may revise all estimates, except those relating to the legislative department, the judicial department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the judicial department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(7) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(8) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in the budget.

Section 8. Section 63N-1a-307 is amended to read:

63N-1a-307. Restrictions on direct award grants.

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

[~~(a) "Pass through funding" means the same as that term is defined in Section 63J-1-220.~~]

[~~(b) "Recipient entity" means the same as that term is defined in Section 63J-1-220.~~]

(1) As used in this section, "direct award grant" means the same as that term is defined in Section 63G-6b-101.

(2) In addition to the requirements of [~~Section 63J-1-220~~]Title 63G, Chapter 6b, State Grants, the office may not distribute [~~pass through funding~~]grant funds from a direct award grant to a

recipient entity unless the office follows the standards or criteria established by the Legislature to distribute the pass through funding, as described in the applicable item of appropriation.

(3) If an item of appropriation to the office for [~~pass through funding~~]a direct award grant does not include any standards or criteria for distributing the [~~pass through funding~~]grant funds, the funds shall lapse to the source fund at the end of the fiscal year, regardless of whether those funds are designated by law as nonlapsing.

Section 9. Section 65A-16-201 is amended to read:

65A-16-201. Great Salt Lake Watershed Enhancement Program established.

(1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue grant money to establish a water trust to implement projects, programs, or voluntary arrangements that:

(a) retain or enhance water flows to:

(i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and

(ii) improve water quality and quantity for the Great Salt Lake within the Great Salt Lake watershed;

(b) conserve and restore upstream habitats that are key to protecting the hydrology and health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;

(c) attract or leverage other public or private funding to enhance and preserve the Great Salt Lake watershed;

(d) engage agricultural producers, local landowners, local planning authorities, and others to support the Great Salt Lake;

(e) support or benefit the Great Salt Lake's natural infrastructure;

(f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed that benefit hydrologic or ecosystem functions of the Great Salt Lake;

(g) support efforts to integrate water planning and management efforts that benefit the Great Salt Lake watershed;

(h) undertake assessments or studies as necessary, consistent with the goals of this Subsection (1);

(i) support projects or programs to respond to low water levels and rising salinity in the Great Salt Lake;

(j) require the creation and operation of one or more endowments to sustain the water trust and fulfill the purposes of this chapter; or

(k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect the Great Salt Lake.

(2)(a) Subject to legislative appropriations, the division shall award a one-time grant to one eligible applicant to establish a water trust authorized under this section.

(b) The amount of the one-time grant under this Subsection (2) shall be equal to the entire appropriation made to the division to implement this chapter.

(c) Notwithstanding the requirements for the division issuing a one-time grant under this section, after the grant is issued, the division may receive additional appropriations to be used for the purposes of this chapter, including providing money to the water trust created under this chapter.

(3) To be considered for the one-time grant under Subsection (2), an eligible applicant shall submit a written application to the division within 60 days of March 21, 2022, that:

(a) demonstrates that the eligible applicant meets the following criteria that are necessary to submit a written application, that the eligible applicant:

(i) has offices and staff located in Utah; and

(ii) individually or collectively possesses:

(A) a history and ability to attract private funding to implement water and land conservation projects;

(B) knowledge and experience with the Great Salt Lake and the Great Salt Lake watershed;

(C) knowledge and experience managing wetlands in the vicinity of the Great Salt Lake;

(D) knowledge and experience in the creation of three or more water trusts or water funds;

(E) knowledge and experience in securing approval from the Division of Water Rights for water right applications that support the beneficial use of water in the Great Salt Lake;

(F) knowledge and experience with Utah water laws; and

(G) participation in the development of studies and reports on the Great Salt Lake and Utah water policy;

(b) how the applicant will accomplish the objectives of Subsection (1);

(c) how the applicant will satisfy Part 3, Water Trust; and

(d) a description of the types of money, in-kind contributions, and other resources the applicant could contribute or attract to support the creation, operation, and administration of a water trust.

(4) The division, in consultation with the council and the director of the Division of Water Quality, shall evaluate and rank the applications received under Subsection (3) according to each eligible applicant's experience and demonstrated ability to:

(a) attract and secure public and private funding to implement water and land conservation projects;

(b) address water quality and hydrology issues of the Great Salt Lake and within the Great Salt Lake watershed;

(c) create and operate water trusts;

(d) secure approval from the Division of Water Rights for water right applications that support beneficial use of water in the Great Salt Lake;

(e) understand, use, and work to improve Utah water laws in a manner that benefits the Great Salt Lake watershed while protecting other beneficial uses of water; and

(f) participate in collaborative efforts to develop strategies and recommendations to ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.

(5)(a) Within 90 days of March 21, 2022, the division shall select the highest ranking eligible applicant as the grantee.

(b) The division shall distribute the appropriated money to the grantee as soon as reasonably practicable following the execution of an agreement or agreements that satisfy the requirements of [~~Subsections~~]Subsection 51-2a-201.5(4) and [~~63J-1-220(2)~~]Title 63G, Chapter 6b, State Grants.

(c) The division shall issue the grant within the time period required under this Subsection (5) notwithstanding whether the division has adopted rules to administer the program under Section 65A-16-102.

(6) If the division does not receive an application from an eligible applicant that satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for proposals under a competitive award process and shall select the most qualified applicant to receive the grant.

Section 10. Section 65A-16-203 is amended to read:

65A-16-203. Grantee requirements.

A grantee that receives grant money under this chapter shall:

(1) comply with Section 51-2a-201.5, [~~Subsection 63J-1-220(2)~~]Title 63G, Chapter 6b, State Grants, and other applicable laws, regulations, ordinances, or rules; and

(2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to operate the water trust in a manner required by Section 65A-16-301, provided that this chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

Section 11. Section 65A-16-301 is amended to read:

65A-16-301. Water trust -- Powers and duties -- Advisory councils.

(1) The grantee under this chapter shall establish a water trust that:

(a) is organized:

(i) as a private nonprofit organization; or

(ii) as an agreement between two or more conservation organizations; and

(b) complies with this section.

(2) A water trust created under this section shall:

(a) use a fiduciary to hold and administer grant money appropriated under this chapter;

(b) subject to Subsection (6):

(i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;

(ii) file with the state auditor on or before June 30 of each year the accounting report that:

(A) satisfies Subsection 51-2a-201.5(2);

(B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and

(C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

(iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

(A) the division;

(B) the commissioner;

(C) the Division of Water Quality;

(D) the council; and

(E) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;

(iv) file with the division on or before January 31 of each year a report that satisfies the requirements of [~~Subsections~~]Subsection 51-2a-201.5(4)[~~, and 63J-1-220(2)~~]; and

(v) provide a copy of the report described in Subsection (2)(b)(iv) to:

(A) the Division of Water Quality;

(B) the council; and

(C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and

(c) comply with applicable laws, regulations, ordinances, and rules.

(3) A water trust established by a grantee under this section:

(a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;

(b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and

(c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:

(i) invest and account for grant money and private money separately; and

(ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

(4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).

(5)(a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.

(b) At least one of the advisory councils shall consist of nine members with a representative from the following:

(i) agriculture;

(ii) a private land owner adjacent to the Great Salt Lake;

(iii) a conservation organization dedicated to the preservation of migratory waterfowl;

(iv) a conservation organization dedicated to the protection of non-game avian species;

(v) another conservation organization working on Great Salt Lake issues;

(vi) aquaculture;

(vii) mineral extraction;

(viii) a water conservancy district; and

(ix) wastewater treatment facilities.

(6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Section 12. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (9), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,000,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay.

(5)(a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(k), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(k).

[~~(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(k).~~]

[~~(e)~~](b) A local government may not use revenue described in Subsection (4)(k) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

[~~(d)~~](c)(i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) Subject to Subsection (9), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(9) Any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

Section 13. Repealer.

This bill repeals:

Section 63J-1-220, Reporting related to pass through money distributed by state agencies.

Section 14. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 301
H. B. 362
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

JUVENILE JUSTICE REVISIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the requirements for the juvenile gang and other violent crime prevention and intervention program;
- amends the definition of an evidence-based program for purposes of responses to school-based behavior;
- modifies the requirements for referring an offense that occurs when school is in session or during a school-sponsored activity;
- provides the requirements for referring a minor who is alleged of being a habitual truant;
- modifies provisions regarding reintegration plans for students who have committed a serious offense;
- requires a school employee to report an offense that is committed by a minor on school grounds when school is in session or at a school-sponsored activity;
- makes it a crime to solicit a minor to commit a felony or a class A misdemeanor offense;
- clarifies the crime of criminal solicitation in regard to adults;
- modifies the crime for contributing to the delinquency of a minor;
- modifies the crime for the possession of a dangerous weapon on or about school grounds;
- modifies the crime for the possession of a dangerous weapon by a minor;
- amends the jurisdiction of the juvenile court;
- addresses the referral of a minor who is a habitual truant to the juvenile court;
- modifies the requirements for the notification by a juvenile court to a school;
- repeals statutes related to criminal solicitation and possession of a dangerous weapon by a minor; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-3-516, as last amended by Laws of Utah 2023, Chapters 115, 161
53F-2-410, as repealed and reenacted by Laws of Utah 2023, Chapter 161 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 98
53G-8-211, as last amended by Laws of Utah 2023, Chapter 161
53G-8-213, as enacted by Laws of Utah 2023, Chapter 161
53G-8-510, as last amended by Laws of Utah 2023, Chapter 115
76-4-203, as last amended by Laws of Utah 2013, Chapter 278
76-10-505.5, as last amended by Laws of Utah 2021, Chapter 141
76-10-509.4, as last amended by Laws of Utah 2023, Chapter 161
76-10-509.7, as last amended by Laws of Utah 2014, Chapter 428
76-10-512, as last amended by Laws of Utah 2014, Chapter 428
77-23a-8, as last amended by Laws of Utah 2023, Chapter 111
78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
78A-6-104, as last amended by Laws of Utah 2022, Chapter 335
78A-6-450, as last amended by Laws of Utah 2022, Chapter 335
80-6-102, as last amended by Laws of Utah 2022, Chapter 155
80-6-103, as last amended by Laws of Utah 2023, Chapter 161
80-6-201, as last amended by Laws of Utah 2022, Chapter 335
80-6-202, as last amended by Laws of Utah 2022, Chapter 335
80-6-301, as enacted by Laws of Utah 2021, Chapter 261
80-6-303.5, as enacted by Laws of Utah 2023, Chapter 161
80-6-304.5, as enacted by Laws of Utah 2023, Chapter 161
80-6-1004.5, as enacted by Laws of Utah 2023, Chapter 115

ENACTS:

76-4-205, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

76-10-2301, (Renumbered from 76-10-2301, as last amended by Laws of Utah 2000, Chapter 105)

REPEALS:

76-4-204, as last amended by Laws of Utah 2008, Chapter 179
76-10-509, as last amended by Laws of Utah 1993, Second Special Session, Chapter 10

Sections affected by Coordination Clause:

53G-8-201, as as enacted by Laws of Utah 2018, Chapter 328
53G-8-203, as as last amended by Laws of Utah 2020, Chapter 161
53G-8-213, as as enacted by Laws of Utah 2023, Chapter 16128

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

Section 1. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Dangerous weapon" means [~~the same as that term is defined in Section 53G-8-510~~]a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.

(b) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(c) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(d) "Minor" means the same as that term is defined in Section 80-1-102.

(e) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by an SRO;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(f) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(g)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(h) "School resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities;

(c) disciplinary actions; and

(d) minors found in possession of a dangerous weapon.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action;

(d) the number of SROs employed;

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation; and

(f) the number of minors found in possession of a dangerous weapon on school grounds while school is in session or during a school-sponsored activity.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2):

(a) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year; and

(b) to the State Commission on Criminal and Juvenile Justice before July 1 of each year for incidents that occurred during the previous school year.

Section 2. Section 53F-2-410 is amended to read:

53F-2-410. Juvenile gang and other violent crime prevention and intervention program -- Funding.

(1) As used in this section:

(a) "State agency" means a department, division, office, entity, agency, or other unit of the state.

(b) "State agency" includes the State Commission on Criminal and Juvenile Justice, the Administrative Office of the Courts, the Department of Corrections, and the Division of Juvenile Justice Services.

[~~(1)~~](2) Subject to appropriations by the Legislature, the state board shall:

(a) create a juvenile gang and other violent crime prevention and intervention program that is designed to help students at risk for violent criminal involvement stay in school; and

(b) distribute money under the program to school districts and charter schools through the distribution formula described in Subsection [~~(2)~~](3).

[~~(2)~~](3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall coordinate with state agencies to make rules that:

(a) establish a formula to [~~distribute~~]allocate program funding to schools in select school districts and charter schools that:

(i) uses the data reported to the state board[~~ under Section 80-6-104~~], the State Commission on Criminal and Juvenile Justice, the Administrative Office of the Courts, the Department of Corrections, and the Division of Juvenile Justice Services; [~~and~~]

(ii) prioritizes the schools in school districts and charter schools based on the prevalence of crimes committed by minors within the boundaries of each municipality where a school is located; and

(iii) prioritizes school districts and charter schools that demonstrate collaborative efforts with local law enforcement agencies and community prevention.

(b) annually adjust the distribution of program funding using the data reported to the state board under Section 80-6-104; and

(c) establish baseline performance standards that school districts or charter schools are required to meet in order to receive funding under the program.

[~~(3)~~](4)(a) A school district or a charter school seeking program funding shall submit a proposal to the state board that:

(i) describes how the school district or charter school intends to use the funds; and

(ii) provides data related to the prevalence of crimes committed by minors within the school district as described in Subsection [~~(2)(a)(ii)~~](3)(a)(ii).

(b) The state board shall allocate funding on a per student basis to prioritized school districts and charter schools that submit a successful proposal under Subsection [~~(3)(a)~~](4)(a).

[~~(4)~~](5) The state board may not distribute funds to a school district or a charter school that fails to meet performance standards described in Subsection [~~(2)(c)~~](3)(c).

[~~(5)~~](6) A school district or a charter school that is awarded funds under this section shall submit a report to the state board that includes details on:

(a) how the school district or the charter school used the funds; and

(b) the school district's, or the charter school's, compliance with the performance standards described in Subsection [~~(2)(c)~~](3)(c).

Section 3. Section 53G-8-211 is amended to read:

53G-8-211. Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that[~~ has~~]:

(i) has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;

(ii) has been rated as effective by a standardized program evaluation tool; or

(iii) is created and developed by a school or school district and has been approved by the state board.

(b) "Habitual truant" means a school-age child who:

(i) is in grade 7 or above, unless the school-age child is under 12 years old;

(ii) is subject to the requirements of Section 53G-6-202; and

(iii)(A) is truant at least [~~10 times~~]20 days during one school year; or

(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(d) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(e) "Prosecuting attorney" means the same as that term is defined in Subsections 80-1-102(65)(b) and (c).

(f) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

(i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and

(ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(g) "School administrator" means a principal of a school.

(h) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(i) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(j) "School-age child" means the same as that term is defined in Section 53G-6-201.

(k)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(l)(i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to:

(a) a minor who is alleged to be a habitual truant; and

(b) a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

[~~(a)~~](i) when school is in session; or

[~~(b)~~](ii) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual truant, the school administrator, the school administrator's designee, or a school resource officer [~~may~~]shall refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

(v) an evidence-based alternative intervention that is jointly created and developed by a local education agency, the state board, the juvenile court, local counties and municipalities, the Department of Health and Human Services; [~~or~~]

(vi) a tobacco cessation or education program if the offense is a violation of Section 76-10-105; or

(vii) truancy mediation; or

(b) for prevention and early intervention youth services, as described in Section 80-5-201, by the Division of Juvenile Justice Services if the minor refuses to participate in an evidence-based alternative intervention described in Subsection (3)(a).

(4) Except as provided in Subsection [~~(5)~~](6), if a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, a school administrator, the school administrator's designee, or a school resource officer may refer a minor to a law enforcement officer or agency or a court only if:

(a) the minor allegedly committed [~~the same offense~~]an offense on school property on [~~two previous occasions~~]a previous occasion; and

(b) the minor was referred to an evidence-based alternative intervention, or to prevention or early intervention youth services, as described in Subsection (3) for [~~both of the two previous offenses~~]the previous offense.

(5) If a minor is alleged to be a habitual truant, a school administrator, the school administrator's designee, or a school resource officer may only refer the minor to a law enforcement officer or agency or a court if:

(a) the minor was previously alleged of being a habitual truant at least twice during the same school year; and

(b) the minor was referred to an evidence-based alternative intervention, or for prevention and early intervention youth services, as described in Subsection (3) for at least two of the previous habitual truancies.

[~~(5)~~](6) If a minor is alleged to have committed a traffic offense that is an infraction, a school administrator, the school administrator's designee, or a school resource officer may refer the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for the traffic offense.

[~~(6)~~](7) Notwithstanding [~~Subsection (4)~~] Subsections (4) and (5), a school resource officer may:

(a) investigate possible criminal offenses and conduct, including conducting probable cause searches;

(b) consult with school administration about the conduct of a minor enrolled in a school;

(c) transport a minor enrolled in a school to a location if the location is permitted by law;

(d) take temporary custody of a minor in accordance with Section 80-6-201; or

(e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

[~~(7)~~](8)(a) If a minor is referred to a court or a law enforcement officer or agency under Subsection (4) or (5), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection [~~(7)(a)~~](8)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353[~~,~~]:

(i) when the underlying offense is a status offense or infraction[~~.~~]; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when available, the resources of the Division of Juvenile Justice Services or the Division of Substance Abuse and Mental Health to address the minor.

[~~(8)~~](9) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

Section 4. Section 53G-8-213 is amended to read:

53G-8-213. Reintegration plan for student alleged to have committed a serious offense.

(1) As used in this section:

(a) "Multidisciplinary team" means the local education agency, the juvenile court, the Division of Juvenile Justice Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

[~~(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~]

(b) "Serious offense" means the same as that term is defined in Section 80-6-103.

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a [~~violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons,~~]serious offense, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five school days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; and

(c) an academic intervention for the student.

(5) A reintegration plan under this section is classified as a protected record under Section 63G-2-305.

(6) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 5. Section 53G-8-510 is amended to read:

53G-8-510. Notification of an offense committed by a minor on school grounds -- Immunity from civil and criminal liability.

(1) As used in this section:

[~~(a) "Dangerous weapon" means a firearm or an object that in the manner of the object's use or intended use is capable of causing death or serious bodily injury to an individual.~~]

[~~(b)~~](a) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(c)~~](b) "School employee" means an individual working in the individual's capacity as:

(i) a school teacher;

(ii) a school staff member;

(iii) a school administrator; or

(iv) an individual:

(A) who is employed, directly or indirectly, by a school, an LEA governing board, or a school district; and

(B) who works on a school campus.

[~~(d)~~](c) "School is in session" means the same as that term is defined in Section 53E-3-516.

[~~(e)~~](d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.

(2) If a minor [~~is found~~]commits an offense on school grounds when school is in session or at a school-sponsored activity[~~ in possession of a dangerous weapon~~] and that information is reported to, or known by, a school employee, the school employee shall notify the principal.

(3) After receiving a notification under Subsection (2), the principal shall notify:

(a) a law enforcement officer or agency if the principal may refer the offense to a law enforcement officer or agency as described in Section 53G-8-211; and

(b) school or district personnel if the principal determines that school or district personnel should be informed.

(4) A person who in good faith reports information under Subsection (2) or (3) and any person who receives the information is immune from any liability, civil or criminal, that might otherwise result from the reporting or receipt of the information.

Section 6. Section 76-4-203 is amended to read:

76-4-203. Criminal solicitation of an adult.

Part 2. Conspiracy, Solicitation, and Contributing to Delinquency

[~~(1) An actor commits criminal solicitation if, with intent that a felony be committed, he solicits, requests, commands, offers to hire, or importunes another person to engage in specific conduct that under the circumstances as the actor believes them to be would be a felony or would cause the other person to be a party to the commission of a felony.~~]

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

(i) "Adult" means an individual who is 18 years old or older.

(ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits criminal solicitation of an adult if, with the intent that a felony offense be committed, the actor solicits an adult to engage in specific conduct that, under the circumstances as the actor believes the circumstances to be, would be a felony offense or would cause the adult to be a party to the commission of a felony offense.

(3) A violation of Subsection (2) where the actor solicits the adult to commit:

(a) a capital felony, or a felony punishable by imprisonment for life without parole, is a first degree felony;

(b) except as provided in Subsection (3)(c) or (d), a first degree felony is a second degree felony;

(c) any of the following felony offenses is a first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life:

(i) murder, as described in Subsection 76-5-203(2)(a);

(ii) child kidnapping, as described in Section 76-5-301.1; or

(iii) except as provided in Subsection (3)(d), an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, that is a first degree felony;

(d) except as provided in Subsection (4), any of the following felony offenses is a first degree felony punishable by a term of imprisonment of not less than 15 years and which may be for life:

(i) rape of a child, Section 76-5-402.1;

(ii) object rape of a child, Section 76-5-402.3; or

(iii) sodomy on a child, Section 76-5-403.1;

(e) a second degree felony is a third degree felony; and

(f) a third degree felony is a class A misdemeanor.

(4) If a court finds that a lesser term than the term described in Subsection (3)(d) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life;

(b) six years and which may be for life; or

(c) three years and which may be for life.

[~~(2)~~](5) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.

[~~(3)~~](6) It is not a defense [~~under this section that the person~~]to a violation of this section that:

(a) the adult solicited by the actor:

[~~(a)~~](i) does not agree to act upon the solicitation;

[~~(b)~~](ii) does not commit an overt act;

[~~(c)~~](iii) does not engage in conduct constituting a substantial step toward the commission of any offense;

[~~(d)~~](iv) is not criminally responsible for the felony offense solicited;

[~~(e)~~](v) was acquitted, was not prosecuted or convicted, or was convicted of a different offense or of a different type or degree of offense; or

[~~(f)~~](vi) is immune from prosecution[~~.~~]; or

[~~(4)~~](b) [~~It is not a defense under this section that~~]the actor:

[~~(a)~~](i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

[~~(b)~~](ii) fails to communicate with the [~~person he~~]adult that the actor solicits to commit an offense[~~,~~] if the intent of the actor's conduct was to effect the communication.

[~~(5)~~](7) Nothing in this section prevents an actor who otherwise solicits[~~, requests, commands, encourages, or intentionally aids another person to engage in conduct which~~] an adult to engage, or intentionally aids an adult in engaging, in conduct that constitutes an offense from being prosecuted and convicted as a party to the offense under Section 76-2-202 if the [~~person solicited~~]adult actually commits the offense.

Section 7. Section 76-4-205 is enacted to read:

76-4-205. Criminal solicitation of a minor.

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

(i) "Minor" means an individual who is younger than 18 years old.

(ii) "Solicit" means to ask, command, encourage, importune, offer to hire, or request.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits criminal solicitation of a minor if, with the intent that a felony or class A misdemeanor offense be committed, the actor solicits a minor to engage in specific conduct that, under the circumstances as the actor believes the circumstances to be, would be a felony or class A misdemeanor offense or would cause the minor to be a party to the commission of a felony or class A misdemeanor offense.

(3) A violation of Subsection (2) is:

(a) a first degree felony if the actor solicits conduct that is a first degree felony;

(b) a second degree felony if the actor solicits conduct that is a second degree felony;

(c) a third degree felony if the actor solicits conduct that is a third degree felony; and

(d) a class A misdemeanor if the actor solicits conduct that is a class A misdemeanor.

(4) An actor may be convicted under this section only if the solicitation is made under circumstances strongly corroborative of the actor's intent that the offense be committed.

(5) It is not a defense to a violation of this section that:

(a) the minor:

(i) does not agree to act upon the solicitation;

(ii) does not commit an overt act;

(iii) does not engage in conduct constituting a substantial step toward the commission of any offense;

(iv) is not criminally responsible for the offense solicited;

(v) was acquitted or the allegations about the minor in a delinquency petition were found to not be true;

(vi) was not prosecuted, adjudicated, or convicted, or was convicted or adjudicated of a different offense or of a different type or degree of offense; or

(vii) is immune from prosecution; or

(b) the actor:

(i) belongs to a class of persons that by definition is legally incapable of committing the offense in an individual capacity; or

(ii) fails to communicate with the minor that the actor solicits to commit an offense if the intent of the actor's conduct was to effect the communication.

(6) Nothing in this section prevents an actor who otherwise solicits a minor to engage, or intentionally aids in a minor in engaging, in conduct that constitutes an offense from being prosecuted and convicted as a party to the offense under

Section 76-2-202 if the minor actually commits the offense.

Section 8. Section 76-4-206, which is renumbered from Section 76-10-2301 is renumbered and amended to read:

~~76-10-2301~~. 76-4-206. Contributing to the delinquency of a minor.

(1) [~~For purposes of this part~~]

(a) As used in this section:

[~~(a)~~](i) "Adult" means [~~a person~~]an individual who is 18 years [~~of age~~]old or older.

[~~(b)~~](ii) "Minor" means [~~a person~~]an individual who is younger than 18 years [~~of age~~]old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any adult who~~] An actor commits contributing to the delinquency of a minor if the actor:

(a) is an adult; and

(b) commits any act or engages in any conduct [~~which he~~]that the actor knows or should know would have the effect of causing or encouraging a minor to commit an act [~~which~~]that would be a [~~misdemeanor or infraction criminal violation of any federal or state statute or any county or municipal ordinance if committed by an adult is guilty of a class B misdemeanor~~]class B misdemeanor, a class C misdemeanor, or an infraction under a federal or state statute or a county or municipal ordinance.

(3) A violation of Subsection (2) is a class B misdemeanor.

[~~(3)~~](4) A violation of Subsection (2) does not require that the minor be found to be delinquent or to have committed a delinquent act.

[~~(4)~~](5) An offense committed under Subsection (2) is in addition to any completed or inchoate offense which the actor may have committed personally or as a party.

Section 9. Section 76-10-505.5 is amended to read:

76-10-505.5. Possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises -- Penalties.

(1) As used in this section, "on or about school premises" means:

(a)(i) in a public or private elementary or secondary school; or

(ii) on the grounds of any of those schools;

(b)(i) in a public or private institution of higher education; or

(ii) on the grounds of a public or private institution of higher education; and

(iii)(A) inside the building where a preschool or child care is being held, if the entire building is being used for the operation of the preschool or child care; or

(B) if only a portion of a building is being used to operate a preschool or child care, in that room or rooms where the preschool or child care operation is being held.

(2) [~~A person~~]An actor who is 18 years old or older may not possess [~~any~~]a dangerous weapon, firearm, or short barreled shotgun[~~, as those terms are defined in Section 76-10-501,~~] at a place that the [~~person~~]actor knows, or has reasonable cause to believe, is on or about school premises[~~ as defined in this section~~].

(3)(a) Possession of a dangerous weapon on or about school premises is a class B misdemeanor.

(b) Possession of a firearm or short barreled shotgun on or about school premises is a class A misdemeanor.

(4) This section does not apply if:

(a) the [~~person~~]actor is authorized to possess a firearm as provided under Section 53-5-704, 53-5-705, 76-10-511, or 76-10-523, or as otherwise authorized by law;

(b) the [~~person~~]actor is authorized to possess a firearm as provided under Section 53-5-704.5, unless the [~~person~~]actor is in a location where the [~~person~~]actor is prohibited from carrying a firearm under Subsection 53-5-710(2);

(c) the possession is approved by the responsible school administrator;

(d) the item is present or to be used in connection with a lawful, approved activity and is in the possession or under the control of the [~~person~~]actor responsible for [~~its~~]the item's possession or use; or

(e) the possession is:

(i) at the [~~person's~~]actor's place of residence or on the [~~person's~~]actor's property; or

(ii) in any vehicle lawfully under the [~~person's~~]actor's control, other than a vehicle owned by the school or used by the school to transport students.

(5) This section does not prohibit prosecution of:

(a) a more serious weapons offense that may occur on or about school premises[~~.~~]; or

(b) possession of a dangerous weapon by a minor, as described in Section 76-10-509.4, that occurs on or about school premises.

Section 10. Section 76-10-509.4 is amended to read:

76-10-509.4. Possession of a dangerous weapon by a minor -- Penalties.

[~~(1) An individual who is under 18 years old may not possess a handgun.~~]

[~~(2) Except as provided by federal law, an individual who is under 18 years old may not possess the following:~~]

(1) As used in this section, "responsible adult" means an individual:

(a) who is 18 years old or older; and

(b) who may lawfully possess a dangerous weapon.

(2) An actor who is under 18 years old may not possess a dangerous weapon.

(3)(a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is:

(i) a class B misdemeanor for a first offense; and

(ii) a class A misdemeanor for each subsequent offense.

(b) A violation of Subsection (2) is a third degree felony if the dangerous weapon is:

(i) a handgun;

[~~(a)~~](ii) a short barreled rifle;

[~~(b)~~](iii) a short barreled shotgun;

[~~(c)~~](iv) a fully automatic weapon; or

[~~(d)~~](v) a machinegun firearm attachment.

[~~(3) An individual who violates Subsection (1) is guilty of:~~]

[~~(a) a class B misdemeanor upon the first offense; and~~]

[~~(b) a class A misdemeanor for each subsequent offense.~~]

[~~(4) An individual who violates Subsection (2) is guilty of a third degree felony.~~]

(4) For an actor who is younger than 14 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon;

(c) is accompanied by the actor's parent or guardian, or a responsible adult, while the actor has the dangerous weapon in the actor's possession; and

(d) does not use the dangerous weapon in the commission of a crime.

(5) For an actor who is 14 years old or older but younger than 18 years old, this section does not apply if the actor:

(a) possesses a dangerous weapon;

(b) has permission from the actor's parent or guardian to possess the dangerous weapon; and

(c) does not use the dangerous weapon in the commission of a crime.

Section 11. Section 76-10-509.7 is amended to read:

76-10-509.7. Parent or guardian knowing of minor's possession of dangerous weapon.

Any parent or guardian of a minor who knows that the minor is in possession of a dangerous weapon in violation of Section[~~ 76-10-509 or a firearm in violation of Section~~] 76-10-509.4 and fails to make reasonable efforts to remove the dangerous weapon[~~ or firearm~~] from the minor's possession is guilty of a class B misdemeanor.

Section 12. Section 76-10-512 is amended to read:

76-10-512. Target concessions, shooting ranges, competitions, and hunting excepted from prohibitions.

(1) The provisions of Section [~~76-10-509 and Subsection 76-10-509.4(1)~~]76-10-509.4 regarding possession of handguns by minors do not apply to any of the following:

(a) patrons firing at lawfully operated target concessions at amusement parks, piers, and similar locations provided that the firearms to be used are firmly chained or affixed to the counters;

(b) any person in attendance at a hunter's safety course or a firearms safety course;

(c) any person engaging in practice or any other lawful use of a firearm at an established range or any other area where the discharge of a firearm is not prohibited by state or local law;

(d) any person engaging in an organized competition involving the use of a firearm, or participating in or practicing for such competition;

(e) any minor under 18 years [~~of age~~]old who is on real property with the permission of the owner, licensee, or lessee of the property and who has the permission of a parent or legal guardian or the owner, licensee, or lessee to possess a firearm not otherwise in violation of law;

(f) any resident or nonresident hunters with a valid hunting license or other persons who are lawfully engaged in hunting; or

(g) any person traveling to or from any activity described in Subsection (1)(b), (c), (d), (e), or (f) with an unloaded firearm in the person's possession.

(2) It is not a violation of Subsection 76-10-503(2) or (3) for a restricted person defined in Subsection 76-10-503(1) to own, possess, or have under the person's custody or control, archery equipment, including crossbows, for the purpose of lawful hunting and lawful target shooting.

(3) Notwithstanding Subsection (2), the possession of archery equipment, including crossbows, by a restricted person defined in Subsection 76-10-503(1) may be prohibited by:

(a) a court, as a condition of pre-trial release or probation; or

(b) the Board of Pardons and Parole, as a condition of parole.

Section 13. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt, Section 76-4-101;

(B) conspiracy, Section 76-4-201;

(C) [~~solicitation, Section 76-4-203~~]criminal solicitation of an adult, Section 76-4-203; or

(D) criminal solicitation of a minor, Section 76-4-205; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76-5-107.3;

(e)(i) aggravated murder, Section 76-5-202;

(ii) murder, Section 76-5-203; or

(iii) manslaughter, Section 76-5-205;

(f)(i) kidnapping, Section 76-5-301;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302;

(iv) human trafficking, Section 76-5-308, 76-5-308.1, or 76-5-308.5, or human smuggling, Section 76-5-308.3; or

(v) aggravated human trafficking, Section 76-5-310, or aggravated human smuggling, Section 76-5-310.1;

(g)(i) arson, Section 76-6-102; or

(ii) aggravated arson, Section 76-6-103;

(h)(i) burglary, Section 76-6-202; or

(ii) aggravated burglary, Section 76-6-203;

(i)(i) robbery, Section 76-6-301; or

(ii) aggravated robbery, Section 76-6-302;

(j) an offense:

(i) of:

(A) theft, Section 76-6-404;

(B) theft by deception, Section 76-6-405; or

(C) theft by extortion, Section 76-6-406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year, Section 76-6-408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-506.2, 76-6-506.3, or 76-6-506.6;

(m) bribery of a labor official, Section 76-6-509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76-6-514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76-6-518;

(p) criminal usury, Section 76-6-520;

(q) insurance fraud punishable by a maximum term of imprisonment of more than one year, Section 76-6-521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76-6-703;

(s) bribery to influence official or political actions, Section 76-8-103;

(t) misusing public money or public property, Section 76-8-402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(v) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(w) tampering with a juror, retaliation against a juror, Section 76-8-508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(y) obstruction of justice, Section 76-8-306;

(z) destruction of property to interfere with preparation for defense or war, Section 76-8-802;

(aa) an attempt to commit crimes of sabotage, Section 76-8-804;

(bb) conspiracy to commit crimes of sabotage, Section 76-8-805;

(cc) advocating criminal syndicalism or sabotage, Section 76-8-902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76-9-101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76-9-301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76-10-306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76-10-307;

(ii) exploiting prostitution, Section 76-10-1305;

(jj) aggravated exploitation of prostitution, Section 76-10-1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76-10-1504;

(ll) discharging firearms and hurling missiles, Section 76-10-1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

Section 14. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in [~~Subsection~~]Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; [~~and~~]

(c) the extension of a nonjudicial adjustment under Section 80-6-304[~~.~~]; and

(d) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 15. Section 78A-6-104 is amended to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1)(a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a paternity action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the paternity action until paternity of the child is adjudicated; or

(ii) transfer jurisdiction over the paternity action to the district court.

(2)(a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section 80-2-609, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

(v) an offense under Section [~~76-10-2301~~]76-4-206, contributing to the delinquency of a minor; or

(vi) an offense under Section 80-5-601, harboring a runaway.

(b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

(3)(a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case

involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b)(i) The juvenile court may, by order, change the custody subject to Subsection 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

(ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

(c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(4) This section does not deprive the district court of jurisdiction to:

(a) appoint a guardian for a child;

(b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

(c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

(5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

(a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(b) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 16. Section 78A-6-450 is amended to read:

78A-6-450. Criminal information for an adult in juvenile court.

A county attorney or district attorney may file a criminal information in the juvenile court charging an adult for:

(1) unlawful sale or furnishing of an alcoholic product to minors in violation of Section 32B-4-403;

(2) failure to report abuse or neglect in violation of Section 80-2-609;

(3) harboring a runaway in violation of Section 80-5-601;

(4) misdemeanor custodial interference in violation of Section 76-5-303;

(5) contributing to the delinquency of a minor in violation of Section [~~76-10-2301~~]76-4-206;

(6) failure to comply with compulsory education requirements in violation of Section 53G-6-202; or

(7) a willful failure to perform a promise to appear under Subsection 78A-6-352(4)(b).

Section 17. Section 80-6-102 is amended to read:

80-6-102. Definitions.

As used in this chapter:

(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.

(11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

(12) "Habitual truant" means the same as that term is defined in Section 53G-8-211.

[~~(12)~~](13) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

[~~(13)~~](14) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

[~~(14)~~](15) "Rescission" means a written order of the authority that rescinds a date for parole.

[~~(15)~~](16) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

[~~(16)~~](17) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

(a) terminates supervision of a juvenile offender's parole; and

(b) directs a juvenile offender to return to secure care.

[~~(17)~~](18) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

[~~(18)~~](19) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

[~~(19)~~](20)(a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

(ii) the Utah Office for Victims of Crime.

[~~(20)~~](21) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

[~~(21)~~](22) "Work program" means the same as that term is defined in Section 80-5-102.

[~~(22)~~](23) "Youth services" means the same as that term is defined in Section 80-5-102.

Section 18. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

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

(c) "School official" means:

(i) the school superintendent, or the school superintendent's designee, of the district in which the minor resides or attends school; or

(ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends.

(d) "Serious offense" means:

(i) a violent felony as defined in Section 76-3-203.5;

(ii) an offense that is a violation of Title 76, Chapter 6, Part 4, Theft, and the property stolen is a firearm; or

(iii) an offense that is a violation of Title 76, Chapter 10, Part 5, Weapons.

[~~(d)~~](e) "Transferee school official" means:

(i) the school superintendent, or the superintendent's designee, of the district in which the minor resides or attends school if the minor is admitted to home detention; or

(ii) if there is no school superintendent for the school, the principal, or the principal's designee, of the school where the minor attends if the minor is admitted to home detention.

(2) A notification under this section is provided for a minor's supervision and student safety.

(3)(a) If a minor is taken into temporary custody under Section 80-6-201 for [~~a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons~~]a serious offense, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed [~~a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons~~]a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6)(a) If the juvenile court adjudicates a minor for [~~an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons~~]a serious offense, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders formal probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for formal probation.

(8)(a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9)(a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 19. Section 80-6-201 is amended to read:

80-6-201. Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.

(1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:

(a) the minor has committed an offense under municipal, state, or federal law;

(b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;

(c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(d) the minor is:

(i) subject to the state's compulsory education law; and

(ii) subject to [~~Section~~]Sections 53G-6-208 and 53G-8-211, absent from school without legitimate or valid excuse.

(2) A private citizen may take a minor into temporary custody if under the circumstances the private citizen could make a citizen's arrest under Section 77-7-3 if the minor was an adult.

(3) A juvenile probation officer may take a minor into temporary custody:

(a) under the same circumstances as a peace officer in Subsection (1); or

(b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.

(4)(a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 80-2a-202 or 80-3-204.

(b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings shall govern.

Section 20. Section 80-6-202 is amended to read:

80-6-202. Warrants for minors.

(1)(a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:

(i) there is probable cause to believe that:

(A) the minor has committed an offense that would be a felony if committed by an adult;

(B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;

(C) there is a substantial likelihood the minor will not respond to a summons;

(D) a summons cannot be served and the minor's present whereabouts are unknown;

(E) serving a summons for the minor will be ineffectual;

(F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or

(G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or

(ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:

(A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or

(B) has violated a court order.

(b) A warrant issued under this Subsection (1) shall be:

(i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and

(ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.

(2) A juvenile court may not issue a warrant for a minor to be taken into temporary custody for:

(a) a status offense; [~~or~~]

(b) an infraction[~~.~~]; or

(c) being a habitual truant.

(3)(a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility.

(b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.

(4) Subsection (2) does not apply to a minor who is under Chapter 6, Part 11, Interstate Compact for Juveniles.

Section 21. Section 80-6-301 is amended to read:

80-6-301. Referral to juvenile court.

(1) Except as provided in Subsections (2) and (3), a peace officer, or a public official of the state, a county, a city, or a town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the juvenile court within 10 days after the day on which a minor is taken into temporary custody under Section 80-6-201.

(2) If a minor is taken to a detention facility, a peace officer or a public official of the state, a county, a city, or a town charged with the enforcement of laws of the state or local jurisdiction shall file the formal referral with the juvenile court within 24 hours after the time in which the minor is taken into temporary custody under Section 80-6-201.

(3) A peace officer, public official, school district, or school may only refer a minor to the juvenile court under Section 53G-8-211 for an offense [~~that is~~], or for being a habitual truant, if the offense or habitual truancy is subject to referral [~~under~~]as described in Section 53G-8-211.

Section 22. Section 80-6-303.5 is amended to read:

80-6-303.5. Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, or for the minor being a habitual truant, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3)(a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:

(a) the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than two prior unsuccessful nonjudicial adjustment attempts; [~~or~~]

(b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old[~~.~~]; or

(c) the minor is referred for being a habitual truant.

(5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).

(8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:

(a) an offense alleged to have occurred when the minor was 12 years old or older that is:

(i) a felony offense; or

(ii) a misdemeanor violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-107, threat of violence;

(C) Section 76-5-107.1, threats against schools;

(D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(E) Section 76-5-206, negligent homicide;

(F) Section 76-9-702.1, sexual battery;

(G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;

(H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;

(I) Section 76-10-507, possession of a deadly weapon with criminal intent; or

(J) Section 76-10-509.4, possession of a dangerous weapon by a minor; or

[~~(J) Section 76-10-509, possession of a dangerous weapon by a minor; or~~]

[~~(K) Section 76-10-509.4, prohibition of possession of certain weapons by minors; or~~]

(b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:

(a) the referral involves an offense described in Subsection (8); or

(b) the minor has a current suspended order for custody under Section 80-6-711.

Section 23. Section 80-6-304.5 is amended to read:

80-6-304.5. Prosecutorial review of referral to juvenile court -- Filing a petition.

(1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:

(a) the prosecuting attorney is requested to review the referral under Section 80-6-303.5;

(b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or

(c) the minor is not offered or declines a nonjudicial adjustment.

(2)(a) Upon review of a referral of an offense under Subsection (1), the prosecuting attorney shall:

[~~(a)~~](i) dismiss the referral;

[~~(b)~~](ii) send the referral back to the juvenile probation officer for a new attempt at a nonjudicial adjustment if the minor's case is eligible for a nonjudicial adjustment under Section 80-6-303.5; or

[~~(c)~~](iii) except as provided in Subsection (5), file a petition with the juvenile court.

(b) Upon review of a referral for habitual truancy under Subsection (1), the prosecuting attorney shall dismiss the referral.

(3) A prosecuting attorney may only file a petition under Subsection [~~(2)(c)~~](2)(a)(iii) upon reasonable belief that:

(a) the charges are supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.

(5) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and

(b)(i) the minor is not eligible for a nonjudicial adjustment under Section 80-6-303.5;

(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or

(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.

(6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section 80-6-303.5.

Section 24. Section 80-6-1004.5 is amended to read:

80-6-1004.5. Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.

(1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:

(a) the individual has reached 18 years old;

(b) the individual's juvenile record consists solely of nonjudicial adjustments;

(c) the individual has successfully completed each nonjudicial adjustment; and

(d) all nonjudicial adjustments were completed on or after October 1, 2023.

(2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:

(a) Section 41-6a-502, driving under the influence;

(b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(c) Section 76-5-206, negligent homicide;

(d) Section 76-9-702.1, sexual battery;

(e) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(f) Section [~~76-10-509~~]76-10-509.4, possession of a dangerous weapon by a minor.

(3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:

(a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:

(i) the individual has reached 18 years old;

(ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and

(iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and

(b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Section 25. Repealer.

This bill repeals:

Section 76-4-204, Criminal solicitation -- Penalties.

Section 76-10-509, Possession of dangerous weapon by minor.

Section 26. Effective date.

This bill takes effect on May 1, 2024.

Section 27. Coordinating H.B. 362 with H.B. 418.

If H.B. 362, Juvenile Justice Revisions, and H.B. 418, Student Offender Reintegration Amendments, both pass and become law, the Legislature intends that, on July 1, 2024:

(1) Section 53G-8-201 in H.B. 418 be amended to read:

"53G-8-201. Definitions.

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

(1) "Sexual crime" or "sexual misconduct" means any conduct described in:

(a) Title 76, Chapter 5, Part 4, Sexual Offenses;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Section 76-7-102, incest;

(d) Section 76-9-702, lewdness; and

(e) Section 76-9-702.1, sexual battery.

(2) "Serious offense" means the same as that term is defined in Section 80-6-103.";

(2) Subsection 53G-8-203(4) in H.B. 418 be amended to read:

"(4)(a) Each LEA shall adopt a policy for responding to when a student has committed a serious offense or sexual crime.

(b) The policy described in Subsection (4)(a) shall:

(i) address a serious offense or sexual misconduct related to hazing;

(ii) distinguish procedures for when the crime occurs on school property and off of school property;

(iii) if a student has committed a serious offense or sexual crime, provide a process for a school resource officer to provide input for the LEA to consider regarding the safety risks a student may pose upon reintegration;

(iv) establish a process to inform a school resource officer of any student who is on probation;

(v) create procedures for determining an alternative placement for a student if the student attends the same school as:

(A) the victim of the student's crime; and

(B) an individual who has a protective order against the student; and

(vi) be compliant with state and federal law."; and

(3) Section 53G-8-213 be amended to read:

"53G-8-213. Reintegration plan for student alleged to have committed a serious offense.

(1) As used in this section[~~: (a) "Multidisciplinary~~], "multidisciplinary team" means the local education agency, the juvenile court, the Division of Juvenile Justice Services, a school resource officer if applicable, and any other relevant party that should be involved in a reintegration plan.

[~~(b) "Violent felony" means the same as that term is defined in Section 76-3-203.5.~~]

(2) If a school district receives a notification from the juvenile court or a law enforcement agency that a student was arrested for, charged with, or adjudicated in the juvenile court for a [~~violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons,~~]serious offense, the school shall develop a reintegration plan for the student with a multidisciplinary team, the student, and the student's parent or guardian, within five school days after the day on which the school receives a notification.

(3) The school may deny admission to the student until the school completes the reintegration plan under Subsection (2).

(4) The reintegration plan under Subsection (2) shall address:

(a) a behavioral intervention for the student;

(b) a short-term mental health or counseling service for the student; [~~and~~]

(c) an academic intervention for the student[~~.~~]; and

(d) if the serious offense was directed at a school employee or another student within the school, notification of the reintegration plan to that school employee or student and the student's parent.

(5) A school district may not reintegrate a student into a school where:

(a) a student or staff member has a protective order against the student being reintegrated; or

(b) a student or staff member is the victim of a sexual crime committed by the student being reintegrated.

(6) A reintegration plan under this section is classified as a protected record under Section 63G-2-305.

(7) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.".

CHAPTER 302
H. B. 383
Passed February 16, 2024
Approved March 14, 2024
Effective May 1, 2024

VEHICLE REGISTRATION MODIFICATIONS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies notification requirements related to motor vehicle registration.

Highlighted Provisions:

This bill:

- creates an exception for notification of vehicle registration expiration when registration fees are past due.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-203, as last amended by Laws of Utah 2021, Chapter 59

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

Section 1. Section 41-1a-203 is amended to read:

41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.

(1)(a)(i) Except as provided in [~~Subsection (1)(b)~~]Subsections (1)(b) and (1)(c), the division shall mail a notification to the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(ii) The division shall ensure that mailing of notifications described in Section (1)(a)(i) begins as soon as practicable.

(b)(i) The division shall provide a process for a vehicle owner to choose to receive electronic notification of the pending expiration of a vehicle's registration.

(ii) If a vehicle owner chooses electronic notification, the division shall notify by email the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(c) If at the time the owner renews the vehicle registration, the previous registration period has been expired at least 270 days, the division is not required to comply with the notification requirement described in Subsection (1) for the next registration period.

(2) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223; and

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

(3) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

(4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(5) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(6) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request for the motor vehicle for which a registration renewal has been requested as described in:

(a) Section 72-1-213.1; or

(b) Section 72-6-118.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 303
H. B. 387
Passed February 13, 2024
Approved March 14, 2024
Effective May 1, 2024

PHYSICIAN WORKFORCE AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Evan J. Vickers

Cosponsor:
Jennifer Dailey- Provost

LONG TITLE

General Description:

This bill makes changes to physician workforce programs.

Highlighted Provisions:

This bill:

- allows an entity that has previously been awarded a residency grant to submit information to be able to renew the grant; and
- modifies provisions related to the forensic psychiatric fellowship grant program.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B- 4- 711, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B- 4- 712, as renumbered and amended by Laws of Utah 2023, Chapter 307

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

Section 1. Section 26B- 4- 711 is amended to read:

26B- 4- 711. Residency grant program.

(1) As used in this section:

(a) "D.O. program" means an osteopathic medical program that prepares a graduate to obtain licensure as a doctor of osteopathic medicine upon completing a state's licensing requirements.

(b) "M.D. program" means a medical education program that prepares a graduate to obtain licensure as a doctor of medicine upon completing a state's licensing requirements.

(c) "Residency program" means a program that provides training for graduates of a D.O. program or an M.D. program.

(2) UMEC shall develop a grant program where a sponsoring institution in Utah may apply for a grant to establish a new residency program or expand a current residency program.

(3) An applicant for a grant shall:

(a) provide the proposed specialty area for each grant funded residency position;

(b) identify where the grant funded residency position will provide care;

(c)(i) provide proof that the residency program is accredited by the Accreditation Council for Graduate Medical Education; or

(ii) identify what actions need to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(d) identify how a grant funded residency position will be funded once the residency program exhausts the grant money;

(e) agree to implement selection processes for a residency position that treat applicants from D.O. programs and applicants from M.D. programs equally;

(f) agree to provide information identified by UMEC that relates to post- residency employment outcomes for individuals who work in grant funded residency positions; and

(g) provide any other information related to the grant application UMEC deems necessary.

(4) UMEC shall prioritize awarding grants to new or existing residency programs that will:

(a) address a workforce shortage, occurring in Utah, for a specialty; or

(b) serve an underserved population, including a rural population.

(5)(a) An applicant that receives a grant under this section may apply, every two years, to renew the grant for two years.

(b) An applicant to renew a grant under Subsection (5)(a) shall provide a statement that:

(i) the applicant applied for federal funding and was not awarded federal funding in an amount that fully funds each grant funded residency position; or

(ii) the funding the applicant described in Subsection (3)(d) is unavailable to the applicant.

[~~(5)~~](6) [~~Before November 1, 2023, and each November 1 thereafter,~~]On or before November 1 of each year, UMEC shall provide a written report to the Higher Education Appropriations Subcommittee describing:

(a) which sponsoring institutions received a grant;

(b) the number of residency positions created; and

(c) for each residency position created:

(i) the type of specialty;

(ii) where the residency position provides care; and

(iii) an estimated date of when a grant funded residency position will no longer need grant funding.

Section 2. Section 26B-4-712 is amended to read:

26B-4-712. Forensic psychiatrist fellowship grant.

(1) As used in this section, "forensic psychiatry" means the provision of services by an individual who:

(a) is a licensed physician;

(b) is board certified or board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists; and

(c) uses scientific and clinical expertise in legal contexts involving the mental health of individuals.

(2) UMEC shall establish a grant program that will facilitate the creation of a single forensic psychiatrist fellowship program.

(3) An applicant for the grant shall:

(a) demonstrate how the applicant is best suited for developing a forensic psychiatry fellowship program, including:

(i) a description of resources that would be available to the program; and

(ii) any resources or staff that need to be acquired for the program;

(b) identify what needs to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(c) provide an estimate of how many individuals would be trained in the program at any one time;

(d) provide any information related to the grant application UMEC deems necessary for awarding the grant; and

(e) if awarded the grant, agree to:

(i) enter into a contract with the Department of Corrections that the applicant will provide for the provision of forensic psychiatry services to an individual:

(A) who needs psychiatric services; and

(B) is under the Department of Corrections' jurisdiction; and

(ii) ensure that any individual hired to provide forensic psychiatry services will comply with all relevant:

(A) national licensing requirements; and

(B) state licensing requirements under Title 58, Occupations and Professions.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 304
H. B. 392
Passed February 23, 2024
Approved March 14, 2024
Effective May 1, 2024

NURSING CARE FACILITY MODIFICATIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to nursing care facilities.

Highlighted Provisions:

This bill:

- removes statutorily prescribed penalties and interest imposed on nursing care facilities for failure to pay an assessment;
- grants to the Division of Integrated Healthcare rulemaking authority to require nursing care facilities to pay a penalty for failure to timely pay an assessment; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-403, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-404, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-3-403 is amended to read:

26B-3-403. Collection, remittance, and payment of nursing care facilities assessment.

(1)(a) Beginning July 1, 2004, an assessment is imposed upon each nursing care facility in the amount designated in Subsection (1)(c).

(b)(i) The department shall establish by rule, a uniform rate per non-Medicare patient day that may not exceed 6% of the total gross revenue for services provided to patients of all nursing care facilities licensed in this state.

(ii) For purposes of Subsection (1)(b)(i), total revenue does not include charitable contribution received by a nursing care facility.

(c) The department shall calculate the assessment imposed under Subsection (1)(a) by multiplying the total number of patient days of care provided to non-Medicare patients by the nursing care facility, as provided to the department pursuant to Subsection (3)(a), by the uniform rate established by the department pursuant to Subsection (1)(b).

(2)(a) The assessment imposed by this part is due and payable on a monthly basis on or before the last day of the month next succeeding each monthly period.

(b) The collecting agent for this assessment shall be the department which is vested with the administration and enforcement of this part, including the right to audit records of a nursing care facility related to patient days of care for the facility.

(c) The department shall forward proceeds from the assessment imposed by this part to the state treasurer for deposit in the expendable special revenue fund as specified in Section 26B-1-332.

(3) Each nursing care facility shall, on or before the end of the month next succeeding each calendar monthly period, file with the department:

(a) a report which includes:

(i) the total number of patient days of care the facility provided to non-Medicare patients during the preceding month;

(ii) the total gross revenue the facility earned as compensation for services provided to patients during the preceding month; and

(iii) any other information required by the department; and

(b) a return for the monthly period, and shall remit with the return the assessment required by this part to be paid for the period covered by the return.

(4) Each return shall contain information and be in the form the department prescribes by rule.

(5) The assessment as computed in the return is an allowable cost for Medicaid reimbursement purposes.

(6) The department may by rule, extend the time for making returns and paying the assessment.

(7) Each nursing care facility that fails to pay any assessment required to be paid to the state, within the time required by this part, or that fails to file a return as required by this part, shall pay, in addition to the assessment[~~,~~] and penalties[~~ and interest~~] as provided in Section 26B-3-404.

Section 2. Section 26B-3-404 is amended to read:

26B-3-404. Penalties .

[~~(1) The penalty for failure to file a return or pay the assessment due within the time prescribed by this part is the greater of $50, or 1% of the assessment due on the return.~~]

[~~(2) For failure to pay within 30 days of a notice of deficiency of assessment required to be paid, the penalty is the greater of $50 or 5% of the assessment due.~~]

[~~(3) The penalty for underpayment of the assessment is as follows:~~]

[~~(a) If any underpayment of assessment is due to negligence, the penalty is 25% of the underpayment.~~]

[~~(b) If the underpayment of the assessment is due to intentional disregard of law or rule, the penalty is 50% of the underpayment.~~]

[~~(4) For intent to evade the assessment, the penalty is 100% of the underpayment.~~]

[~~(5) The rate of interest applicable to an underpayment of an assessment under this part or an unpaid penalty under this part is 12% annually.~~]

(1) The division shall require a nursing care facility that fails to pay an assessment due under this part to pay to the division, in addition to the assessment, a penalty determined by the division.

[~~(6)~~](2) The department may waive the imposition of a penalty for good cause.

(3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements for this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 305
H. B. 422
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

PUBLIC HEALTH ORDERS AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to prescriptions issued within the public health system.

Highlighted Provisions:

This bill:

- removes the requirement that the physician who writes and signs a prescription for a prescription drug, other than a controlled substance, approve a written health department protocol governing prescriptions issued within the public health system; and
- grants authority to the medical director of a local health department to approve a written health department protocol under which prescriptions may be issued within the public health system, which is in addition to the same existing authority granted to the medical director of the Department of Health and Human Services.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

58-17b-620, as last amended by Laws of Utah 2023, Chapter 328

Sections affected by Coordination Clause:

58-17b-620, as last amended by Laws of Utah 2023, Chapter 3283

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

Section 1. Section 58-17b-620 is amended to read:

58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health and Human Services" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26B-7-201, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with[~~-~~] :

(i) the physician's standing written orders; and

(ii) a written health department protocol approved by [~~the physician and~~] the medical director of the local health department or the [~~state~~]medical director of the Department of Health and Human Services.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6)(a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

(7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a health department and licensed under Chapter 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection if the drug is:

(a) a prepackaged drug as defined in Section 58-17b-802;

(b) dispensed under a prescription authorized by this section;

(c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the health department;

(d) provided in accordance with a dispensing standard that is issued by a physician who is employed by the health department; and

(e) if applicable, in accordance with requirements established by the division in collaboration with the board under Subsection (8).

(8) The division may make rules in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific requirements regarding the dispensing of a drug under Subsection (7).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Coordinating H.B. 422 with S.B. 46.

If H.B. 422, Public Health Orders Amendments, and S.B. 46, Health and Human Services Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, the amendments to Section 58-17b-620 in H.B. 422 supersede the amendments to Section 58-17b-620 in S.B. 46.

CHAPTER 306
H. B. 427
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

ACCESS TO PROTECTED HEALTH INFORMATION

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses third-party access to medical records.

Highlighted Provisions:

This bill:

- defines "payment and balance information";
- clarifies the rights and obligations of persons involved in a third-party request for medical records or payment and balance information; and
- establishes a penalty for failure to fulfill a request for payment and balance information.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-618, as last amended by Laws of Utah 2023, Chapters 287, 330

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

Section 1. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third-party access to medical records -- Medical records services -- Fees -- Standard form.

(1) As used in this section:

(a) "Force majeure event" means an event or circumstance beyond the control of the health care provider or the health care provider's third-party service, including fires, floods, earthquakes, acts of God, lockouts, ransomware, or strikes.

(b) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(c) "History of poor payment" means three or more invoices where payment is more than 30 days late within a 12-month period.

(d) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26B-3-113.

(e) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

(f) "Payment and balance information" means:

(i) all payments the health care provider has received for providing health care to the patient; and

(ii) the total balance owed to the health care provider for providing the health care to the patient.

[~~(f)~~](g) "Qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

[~~(g)~~](h) "Third-party service" means a service that has entered into a contract with a health care provider to provide patient records on behalf of a health care provider.

(2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

(3) When a health care provider is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

(4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.

(5)(a) Except for records provided under Section 26B-8-411, a health care provider or a health care provider's third-party service that provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(i) shall provide the copy within 30 days after receipt of notice;

(ii) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(A) $30 per request for locating a patient's records;

(B) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(C) the cost of postage when the requester has requested the copy be mailed;

(D) if requested, the person fulfilling the request will certify the record as a duplicate of the original for a fee of $20; and

(E) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act; and

(iii) may charge an expedition fee of $20 if:

(A) the requester's notice explicitly requests an expedited response; and

(B) the person fulfilling the request postmarks or otherwise makes the record available electronically within 15 days from the day the person fulfilling the request receives notice of the request.

(b) Notwithstanding the provisions of Subsection (5)(a)(ii) and subject to Subsection (5)(c), in the event the requested records are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall waive 50% of the fee; or

(ii) within 60 days after the day on which notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(c) Performance under Subsection (5)(b) shall be extended in accordance with Subsection (5)(d) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(d) In accordance with Subsection (5)(c), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 60 days of the day the force majeure event ends, waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 90 days of the day the force majeure event ends, waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request shall, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, waive 50% of the fee for providing the records; and

(B) 120 days of the day the force majeure event ends, waive the entire fee for providing the records.

(e)(i) A third-party service may require prepayment before sending records for a request under this Subsection (5) if the third-party service:

(A) determines the requester has a history of poor payment; and

(B) notifies the requester, within the time periods described in [~~Subsection~~]Subsections (5)(b)(i) and (ii), that the records will be sent as soon as the request has been prepaid.

(ii) The fee reductions described in Subsection (5)(d) do not apply if a third-party service complies with Subsection (5)(e)(i).

(f) If a third-party service does not possess or have access to the data necessary to fulfill a request, the third-party service shall notify:

(i) the requester that the request cannot be fulfilled; and

(ii) state the reasons for the third-party service's inability to fulfill the request within 30 days from the day on which the request is received by the third-party service.

(g) A patient's attorney, legal representative, or other third party authorized to receive records may request patient records directly from a third-party service.

(6)(a) A separate notice of request for payment and balance information shall:

(i) clearly indicate that the request is only for payment and balance information; and

(ii) indicate the name, telephone number, email address, and address of the requester.

(b) A health care provider or third-party service fulfilling a request for payment and balance information from a patient's attorney, legal representative, or other third-party representative, shall fulfill the request within 30 days after the day on which notice is received by the health care provider or by the third-party service, whichever is fulfilling the request, by:

(i) mailing a postmarked copy of the information to the requester; or

(ii) providing the information electronically or telephonically.

(c) A health care provider or third-party service that is responsible for fulfilling a request for payment and balance information but fails to:

(i) fulfill the request within 30 days, in accordance with Subsection (6)(b), shall pay, as a penalty, $50; and

(ii) fulfill the request within 60 days shall pay, as a penalty, an additional $150.

(d) A health care provider or third-party service obligated to pay a penalty under Subsection (6)(c) shall pay the amount owed:

(i) to reduce any amount the patient owes to the health care provider for the provision of health care, after any third-party obligations to pay, if the amount owed is more than the penalty;

(ii) directly to the patient, if the requested payment and balance information reflects that the patient owes no amount to the health care provider for the provision of health care services; or

(iii) allocated between:

(A) a payment to satisfy the amount the patient owes to the health care provider for the provision of health care, as indicated on the payment and balance information; and

(B) a payment in the amount of any remaining penalty obligation to the patient.

(e) A third-party service may satisfy any obligation to pay a penalty under Subsection (6)(c) by remitting the penalty amount to the health care provider to be allocated in accordance with Subsection (6)(d).

(7) A health care provider or third-party service shall, if the health care provider or the third-party service responding to a request for payment and balance information is unable to comply with Subsection (6)(b), provide a written response that includes:

(a) contact information, if known, for the individual who the requester may contact to fulfill the request; and

(b) the reason for not complying with Subsection (6)(b).

[~~(6)~~](8)(a) [~~A~~]Subject to Subsection (8)(b), a health care provider that contracts with a third-party service to fulfill the health care provider's medical record requests shall file a statement with the Division of Professional Licensing containing:

(i) the name of the third-party service;

(ii) the phone number of the third-party service; [~~and~~]

(iii) the fax number, email address, website portal address, if applicable, and mailing address for the third-party service where medical record requests can be sent for fulfillment[~~.~~]; and

(iv) beginning January 1, 2025, whether the third-party service is authorized to fulfill requests for patient medical records for patient payment and balance information.

(b) If an individual health care provider is an employee or contractor of an organization that is a health care provider and that contracts with a third-party service to fulfill the medical record requests for the individual health care provider, the organization may file the statement under Subsection (8)(a) on behalf of the organization's employees and contractors.

[~~(b)~~](c) A health care provider described in Subsection [~~(6)(a)~~](8)(a) shall update the filing described in Subsection [~~(6)(a)~~](8)(a) as necessary to ensure that the information is accurate.

[~~(c)~~](d) The Division of Professional Licensing shall develop a form for a health care provider to complete that provides the information required by Subsection [~~(6)(a)~~](8)(a).

[~~(d)~~](e) The Division of Professional Licensing shall:

(i) maintain an index of statements described in Subsection [~~(6)(a)~~](8)(a) arranged alphabetically by entity; and

(ii) make the index available to the public electronically on the Division of Professional Licensing's website.

[~~(7)~~](9) A health care provider or the health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the person fulfilling the request or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

[~~(8)~~](10)(a) Except as provided in Subsections [~~(8)(b)~~](10)(b) through (d), the per page fee in Subsections (4) and (5) applies to medical records reproduced electronically or on paper.

(b) The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c)(i) A health care provider or a health care provider's third-party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's third-party service or in a universally readable image, such as portable document format, if the patient, patient's personal representative, patient's attorney, legal representative, or a third party authorized to

receive the records, requests the records be delivered in an electronic medium.

(ii) A person fulfilling the request under Subsection [~~(8)(c)(i)~~](10)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

(d) Subject to Subsection [~~(8)(e)~~](10)(e), in the event the requested records under Subsection [~~(8)(c)(i)~~](10)(c)(i) are not postmarked or otherwise made available electronically by the person fulfilling the request:

(i) within 30 days after the day notice is received by the person fulfilling the request, the person fulfilling the request may not charge a fee for the electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; or

(ii) within 60 days after the day notice is received by the person fulfilling the request, the person fulfilling the request shall provide the requested records free of charge to the requester.

(e) Performance under Subsection [~~(8)(d)~~](10)(d) shall be extended in accordance with Subsection [~~(8)(f)~~](10)(f) if the person fulfilling the request notifies the requester of:

(i) the occurrence of a force majeure event within 10 days from the day:

(A) the force majeure event occurs; or

(B) the person fulfilling the request receives notice of the request; and

(ii) the termination of the force majeure event within 10 days from the day the force majeure event terminates.

(f) In accordance with Subsection [~~(8)(e)~~](10)(e), for a force majeure event:

(i) that lasts less than eight days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 30 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 60 days of the day the force majeure event ends, shall waive the entire fee for providing the records;

(ii) that lasts at least eight days but less than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 60 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 90 days of the day the force majeure event ends, shall waive the entire fee for providing the records; and

(iii) that lasts more than 30 days, the person fulfilling the request, if the records are not postmarked or otherwise made available electronically within:

(A) 90 days of the day the force majeure event ends, may not charge a fee for an electronic copy that exceeds $75 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format; and

(B) 120 days of the day the force majeure event ends, shall waive the entire fee for providing the records.

[~~(9)~~](11)(a) On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient's records under Subsections [~~(5)(a)(ii)(A)~~](5)(a)(iii)(A) and (B); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection [~~(8)(c)(ii)(B)~~](10)(c)(ii)(B).

(b) On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation-adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection [~~(9)(b)(i)~~](11)(b)(i) for posting on the court's website.

[~~(10)~~](12) Notwithstanding Subsections (4) through [~~(6)~~](8), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider's third-party service:

(a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

(b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

(i) exceed 60 cents per page for paper photocopies;

(ii) exceed a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes;

(iii) include an administrative fee or additional service fee related to the production of the medical record; or

(iv) exceed the fee provisions for an electronic copy under Subsection [~~(8)(e)~~](10)(c); and

(c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

[~~(11)~~](13)(a) Except as otherwise provided in Subsections (4) through [~~(6)~~](8), a health care provider or the health care provider's third-party service shall waive all fees under this section for an indigent individual.

(b) A health care provider or the health care provider's third-party service may require the indigent individual or the indigent individual's authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

(c)(i) An indigent individual that receives copies of a medical record at no charge under this Subsection [~~(11)~~](13) is limited to one copy for each date of service for each health care provider, or the health care provider's third-party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection [~~(11)(c)~~](13)(c) is subject to the fee provisions described in Subsection [~~(10)~~](12).

[~~(12)~~](14) By January 1, 2023, a health care provider and all of the health care provider's contracted third party health related services shall accept a properly executed form described in Section 26B-8-514.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 307
H. B. 451
Passed February 28, 2024
Approved March 14, 2024
Effective May 1, 2024

FOSTER CARE AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses licensing related to foster care.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a short-term relief care provider who meets certain requirements is not required to be licensed as a human services program;
- requires the Office of Licensing and the Division of Child and Family Services (division) within the Department of Health and Human Services to cooperate in taking action on a foster home license when a caseworker from the division identifies a safety concern in the home;
- amends provisions concerning administrative inspections of foster homes;
- provides that certain foster home licenses are good for three years, with certain conditions;
- requires that a foster license include the name of all foster parents in the home;
- amends the administrative inspection requirements for a licensed foster home; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-101, as last amended by Laws of Utah 2023, Chapter 305
26B-2-104, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-105, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-107, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-120, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and amended by Laws of Utah 2023, Chapter 305
80-2-301, as last amended by Laws of Utah 2023, Chapter 280

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

Section 1. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4)(a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5)(a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv)(A) does not provide the treatment or services described in Subsection (38)(a); or

(B) provides the treatment or services described in Subsection (38)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b)(i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (38)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (38)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10)(a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the office.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(20) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

(21) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(23)(a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; [~~or~~]

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102[~~.~~]; or

(iii) a short-term relief care provider.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(28) "Licensee" means an individual or a human services program licensed by the office.

(29) "Local government" means a city, town, metro township, or county.

(30) "Minor" means child.

(31) "Office" means the Office of Licensing within the department.

(32) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c)(i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(33) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(34) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(35) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(36)(a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v)(A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(38)(a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(39)(a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(40) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(42) "Short-term relief care provider" means an individual who:

(a) provides short-term and temporary relief care to a foster parent:

(i) for less than six consecutive nights; and

(ii) in the short-term relief care provider's home;

(b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(c) is direct access qualified, as that term is defined in Section 26B-2-120;

(d) has been approved to provide short-term relief care by the department;

(e) is not reimbursed by the department for the temporary relief care provided; and

(f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.

[~~(42)~~](43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(43)~~](44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

[~~(44)~~](45) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(44)(a)~~](45)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(45)~~](46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(46)~~](47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(47)~~](48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(48)~~](49)(a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4- H, and other such organizations.

[~~(49)~~](50)(a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 2. Section 26B-2-104 is amended to read:

26B-2-104. Office responsibilities.

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:

(A) fire safety;

(B) food safety;

(C) sanitation;

(D) infectious disease control;

(E) safety of the:

(I) physical facility and grounds; and

(II) area and community surrounding the physical facility;

(F) transportation safety;

(G) emergency preparedness and response;

(H) the administration of medical standards and procedures, consistent with the related provisions of this title;

(I) staff and client safety and protection;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(ii) basic health and safety standards for therapeutic schools, that shall be limited to:

(A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(B) food safety;

(C) sanitation;

(D) infectious disease control, except that the standards are limited to:

(I) those required by law or rule under this title, or Title 26A, Local Health Authorities; and

(II) requiring a separate room for clients who are sick;

(E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

(F) transportation safety;

(G) emergency preparedness and response;

(H) access to appropriate medical care, including:

(I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and

(II) storing, tracking, and securing medication;

(I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;

(J) the administration and maintenance of client and service records;

(K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

(L) staff to client ratios;

(M) access to firearms; and

(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

(iii) procedures and standards for permitting a licensee to:

(A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:

(I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;

(II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);

(III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and

(IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or

(B)(I) provide residential treatment services to a child who is:

(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and

(Bb) under the custody of the department, or one of its divisions; and

(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:

(Aa) at least 18 years old, but younger than 21 years old; and

(Bb) under the custody of the department, or one of its divisions;

(iv) minimum administration and financial requirements for licensees;

(v) guidelines for variances from rules established under this Subsection (1);

(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;

(vii) what constitutes an "outpatient treatment program" for purposes of this part;

(viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;

(ix) a protocol for the office to investigate and process complaints about licensees;

(x) a procedure for a licensee to:

(A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and

(B) report a critical incident within one business day after the day on which the incident occurs;

(xi) guidelines for the policies and procedures described in Sections 26B-2-109 and 26B-2-123;

(xii) a procedure for the office to review and approve the policies and procedures described in Sections 26B-2-109 and 26B-2-123; and

(xiii) a requirement that each human services program publicly post information that informs an individual how to submit a complaint about a human services program to the office;

(b) enforce rules relating to the office;

(c) issue licenses in accordance with this part;

(d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:

(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;

(e) make rules to implement the provisions of Subsection (1)(d);

(f) conduct surveys and inspections of licensees and facilities in accordance with Section 26B-2-107;

(g) collect licensure fees;

(h) notify licensees of the name of a person within the department to contact when filing a complaint;

(i) investigate complaints regarding any licensee or human services program;

(j) have access to all records, correspondence, and financial data required to be maintained by a licensee;

(k) have authority to interview any client, family member of a client, employee, or officer of a licensee;

(l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this part by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;

(m) cooperate with the Division of Child and Family Services to condition, revoke, or suspend the license of a foster home when a child welfare caseworker from the Division of Child and Family Services identifies a safety concern with the foster home;

[~~(m)~~](n) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

[~~(n)~~](o) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 3. Section 26B-2-105 is amended to read:

26B-2-105. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation, association, or governmental unit acting severally or jointly with any other individual, agency, firm, corporation, association, or governmental unit may not establish, conduct, or maintain a human services program in this state without a valid and current license issued by and under the authority of the office as provided by this part and the rules under the authority of this part.

(2)(a) For purposes of this Subsection (2), "member" means a person or entity that is associated with another person or entity:

(i) as a member;

(ii) as a partner;

(iii) as a shareholder; or

(iv) as a person or entity involved in the ownership or management of a human services program owned or managed by the other person or entity.

(b) A license issued under this part may not be assigned or transferred.

(c) An application for a license under this part shall be treated as an application for reinstatement of a revoked license if:

(i)(A) the person or entity applying for the license had a license revoked under this part; and

(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the application described in this Subsection (2)(c) is made; or

(ii) a member of an entity applying for the license:

(A)(I) had a license revoked under this part; and

(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before the application described in this Subsection (2)(c) is made; or

(B)(I) was a member of an entity that had a license revoked under this part at any time before the license was revoked; and

(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before the application described in this Subsection (2)(c) is made.

(3) A current license shall at all times be posted in the facility where each human services program is operated, in a place that is visible and readily accessible to the public.

(4)(a) Except as provided in [~~Subsection~~]Subsections (4)(c) and (d), each license issued under this part expires at midnight on the last day of the same month the license was issued, one year following the date of issuance unless the license has been:

(i) previously revoked by the office;

(ii) voluntarily returned to the office by the licensee; or

(iii) extended by the office.

(b) A license shall be renewed upon application and payment of the applicable fee, unless the office finds that the licensee:

(i) is not in compliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(ii) has engaged in a pattern of noncompliance with the:

(A) provisions of this part; or

(B) rules made under this part;

(iii) has engaged in conduct that is grounds for denying a license under Section 26B-2-112; or

(iv) has engaged in conduct that poses a substantial risk of harm to any person.

(c) The office may issue a renewal license that expires at midnight on the last day of the same month the license was issued, two years following the date of issuance, if:

(i) the licensee has maintained a human services license for at least 24 months before the day on which the licensee applies for the renewal; and

(ii) the licensee has not violated this part or a rule made under this part.

(d)(i) For a foster home that has been licensed for fewer than two years, a foster home license issued on or after May 1, 2023, expires at midnight on the last day of the same month the license was issued, one year following the date of issuance.

(ii) For a foster home that has been licensed for two or more years, a foster home license issued on or after May 1, 2023, expires at midnight on the last day of the same month the license was issued, three years following the date of issuance:

(A) unless the license is placed on conditions, suspended, or revoked by the office, or voluntarily returned to the office by the licensee; and

(B) if the licensee has not violated this part or a rule made under this part.

(iii) A foster home licensee shall complete an annual background screening in compliance with the requirements of Section 26B-2-120.

(5) Any licensee that is in operation at the time rules are made in accordance with this part shall be given a reasonable time for compliance as determined by the rule.

(6)(a) A license for a human services program issued under this section shall apply to a specific human services program site.

(b) A human services program shall obtain a separate license for each site where the human services program is operated.

(c) If there is more than one foster parent in a licensed foster home, the foster home license shall include the names of all foster parents in the home.

Section 4. Section 26B-2-107 is amended to read:

26B-2-107. Administrative inspections.

(1) As used in this section:

(a) "Foster home" does not include a residence that is licensed or certified for proctor care or care by a professional parent.

(b) "Material change" means a significant change in circumstances that may include:

(i) a loss or gain of employment;

(ii) a change in marital status;

(iii) a change of individuals living in the home; or

(iv) other changes that may affect a foster child's well-being.

[~~(1)~~](2)(a) Subject to [~~Subsection (1)(b)~~]Subsections (2)(b) and (3), the office may, for the purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee.

(b)(i) The office shall enter and inspect a congregate care program at least once each calendar quarter.

(ii) At least two of the inspections described in Subsection [~~(1)(b)(i)~~](2)(b)(i) shall be unannounced.

(c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection [~~(1)(b)~~](2)(b).

(3)(a) Except as provided in Subsection (3)(b):

(i) for the first two years of a foster home's license, the office shall enter and inspect the facility once each year;

(ii) after a foster home has been licensed for two years, the office shall enter and inspect the facility once every three years; and

(iii) for a foster home licensed for two or more years as of May 1, 2023, and that was inspected by the office on or after May 1, 2023, the office may not enter and inspect the facility until three years after the date of the last inspection.

(b)(i) If a foster home has not had a placement for more than 12 months after the date of the office's last inspection, the office shall enter and inspect the facility within 30 days after the date on which the foster home receives a new placement.

(ii) If the license for a foster home is placed on conditions, suspended, or revoked by the office, or voluntarily returned to the office by the licensee, the office may enter and inspect the facility on a routine basis.

(iii) If there is a material change to a foster home:

(A) the foster parent shall immediately notify the office of the material change; and

(B) the office shall inspect the foster home as soon as practicable after receiving notice of or otherwise becoming aware of the material change.

(iv) If a health and safety concern is reported to the office, the office may conduct an unannounced inspection of the foster home during regular business hours.

(c) Except as provided in Subsection (3)(b)(iv), an inspection of a foster home shall be announced.

[~~(2)~~](4) Before conducting an inspection under [~~Subsection (1)~~]Subsection (2) or (3), the office shall, after identifying the person in charge:

(a) give proper identification;

(b) request to see the applicable license;

(c) describe the nature and purpose of the inspection; and

(d) if necessary, explain the authority of the office to conduct the inspection and the penalty for refusing to permit the inspection as provided in Section 26B-2-113.

[~~(3)~~](5) In conducting an inspection under [~~Subsection (1)~~]Subsection (2) or (3), the office may, after meeting the requirements of Subsection [~~(2)~~](4):

(a) inspect the physical facilities;

(b) inspect and copy records and documents;

(c) interview officers, employees, clients, family members of clients, and others; and

(d) observe the licensee in operation.

[~~(4)~~](6) An inspection conducted under Subsection [~~(1)~~](2) shall be during regular business hours and may be announced or unannounced.

[~~(5)~~](7) The licensee shall make copies of inspection reports available to the public upon request.

[~~(6)~~](8) The provisions of this section apply to on-site inspections and do not restrict the office from contacting family members, neighbors, or other individuals, or from seeking information from other sources to determine compliance with this part.

Section 5. Section 26B-2-120 is amended to read:

26B-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a)(i) "Applicant" means, notwithstanding Section 26B-2-101:

(A) an individual who applies for an initial license or certification or a license or certification renewal under this part;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office; [~~or~~]

(G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)[~~.~~];

(H) a foster home licensee that submits an application for an annual background screening as required by Subsection 26B-2-105(4)(d)(iii); or

(I) a short-term relief care provider.

(ii) "Applicant" does not include:

(A) an individual who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services; or

(B) an individual who applies for employment with, or is employed by, the Department of Health and Human Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Certified peer support specialist" means the same as that term is defined in Section 26B-5-610.

(e) "Criminal finding" means a record of:

(i) an arrest or a warrant for an arrest;

(ii) charges for a criminal offense; or

(iii) a criminal conviction.

(f) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(g) "Mental health professional" means an individual who:

(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and

(ii) engaged in the practice of mental health therapy.

(h) "Non-criminal finding" means a record maintained in:

(i) the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(ii) the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry; or

(v) a state child abuse or neglect registry.

(i)(i) "Peer support specialist" means an individual who:

(A) has a disability or a family member with a disability, or is in recovery from a mental illness or a substance use disorder; and

(B) uses personal experience to provide support, guidance, or services to promote resiliency and recovery.

(ii) "Peer support specialist" includes a certified peer support specialist.

(iii) "Peer support specialist" does not include a mental health professional.

(j) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to the office:

(a) personal identifying information;

(b) a fee established by the office under Section 63J-1-504; and

(c) a disclosure form, specified by the office, for consent for:

(i) an initial background check upon submission of the information described in this Subsection (2);

(ii) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(iii) a background check when the office determines that reasonable cause exists; and

(iv) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4); and

(d) if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsections (2)(a) through (c) is submitted to the office, documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(iv) if the applicant is applying to become a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001 for:

(A) the applicant; and

(B) any adult living in the applicant's home;

(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;

(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described in Subsection (2);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by

the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Division of Child and Family Services' Licensing Information System described in Section 80- 2- 1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4)(a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice that an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5)(a) Except as provided in Subsection (5)(b), after conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of:

(i) a felony or misdemeanor involving conduct that constitutes any of the following:

(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(C) sexual solicitation;

(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title 76, Chapter

5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or Title 76, Chapter 7, Offenses Against the Family;

(E) aggravated arson, as described in Section 76-6-103;

(F) aggravated burglary, as described in Section 76-6-203;

(G) aggravated robbery, as described in Section 76-6-302;

(H) identity fraud crime, as described in Section 76-6-1102;

(I) sexual battery, as described in Section 76-9-702.1; or

(J) a violent offense committed in the presence of a child, as described in Section 76-3-203.10; or

(ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).

(b)(i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider, a mental health professional, or in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder.

(ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in accordance with Subsection (6).

(6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(a) has a felony or class A misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years before the date on which the applicant submits the information described in Subsection (2);

(b) has a felony charge or conviction for an offense not described in Subsection (5) with a date of charge or conviction that is no more than 10 years before the date on which the applicant submits the application under Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(c) has a class B misdemeanor or class C misdemeanor conviction for an offense described in Subsection (5) with a date of conviction that is more than three years after, and no more than 10 years before, the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(d) has a misdemeanor conviction for an offense not described in Subsection (5) with a date of conviction that is no more than three years before the date on which the applicant submits information described in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

(e) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5);

(f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry, or a national sex offender registry;

(g) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(i) under 28 years old; or

(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5);

(h) has a pending charge for an offense described in Subsection (5);

(i) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the listing;

(k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits the information described in Subsection (2) and no criminal findings or non-criminal findings dated after the date of the finding;

(l)(i) is seeking a position:

(A) as a peer support provider;

(B) as a mental health professional; or

(C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and

(ii) within three years before the day on which the applicant submits the information described in Subsection (2):

(A) has a felony or misdemeanor charge or conviction;

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210; or

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504;

(m)(i)(A) is seeking a position in a congregate care program;

(B) is seeking to become a prospective foster or adoptive parent; or

(C) is an applicant described in Subsection (1)(a)(i)(F); and

(ii)(A) has an infraction conviction for conduct that constitutes an offense or violation described in Subsection (5)(a)(i)(A) or (B);

(B) has a listing in the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;

(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or

(E) has a listing on the registry check described in Subsection (13)(a) as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102; or

(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult living with the applicant who has, a conviction, finding, or listing described in Subsection (6)(m)(ii).

(7)(a) The comprehensive review shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed; and

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying.

(b) At the conclusion of the comprehensive review, the office shall deny an application to an applicant if the office finds:

(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or

(ii) an individual is prohibited from having direct access to a child or vulnerable adult by court order.

(8) The office shall approve an application to an applicant who is not denied under this section.

(9)(a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under this section.

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (11), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under this section.

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with this section.

(10)(a) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:

(i) the individual is associated with the licensee or department contractor and the department conducts a background screening in accordance with this section;

(ii) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(iii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(iv) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(v) the individual only provides incidental care for a foster child on behalf of a foster parent who has

used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(b) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(11)(a) Within 30 days after the day on which the applicant submits the information described in Subsection (2), the office shall notify the applicant of any potentially disqualifying criminal findings or non-criminal findings.

(b) If the notice under Subsection (11)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this part:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (11)(b); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(12)(a) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.

(b) The exemption described in Subsection (12)(a) does not extend to a program director or a member, as defined by Section 26B-2-105, of the program.

(13)(a) Except as provided in Subsection (13)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program or an applicant seeking to become a prospective foster or adoptive parent, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (13)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (13)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to an applicant seeking a position in a congregate care program or an applicant to become a prospective foster or adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

(Q) aggravated arson, as described in Section 76-6-103;

(R) aggravated burglary, as described in Section 76-6-203;

(S) aggravated robbery, as described in Section 76-6-302;

(T) lewdness involving a child, as described in Section 76-9-702.5;

(U) incest, as described in Section 76-7-102; or

(V) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (13)(c)(i).

(d) Notwithstanding Subsections (5) through (10), the office shall deny a license or license renewal to an individual seeking a position in a congregate care program or a prospective foster or adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the individual was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6), the office shall conduct the comprehensive review of an applicant's background check under this section if the registry check described in Subsection (13)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 80-1-102.

(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this part, to:

(a) establish procedures for, and information to be examined in, the comprehensive review described in Subsections (6) and (7); and

(b) determine whether to consider an offense or incident that occurred while an individual was in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services for purposes of approval or denial of an application for a prospective foster or adoptive parent.

Section 6. Section 80-2-301 is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by

the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; [~~and~~]

(ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and

(iii) approve an individual to provide short-term relief care to a foster parent if the individual:

(A) provides the relief care for less than six consecutive nights;

(B) provides the relief care in the short-term relief care provider's home;

(C) is direct access qualified, as that term is defined in Section 26B-2-120; and

(D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

(g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(h) compile relevant information, statistics, and reports on child and family service matters in the state;

(i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;

(j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

(m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

(n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i); [~~and~~]

(p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and

[~~(p)~~](q) perform other duties and functions required by law.

(3)(a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to

ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4)(a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7)(a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 308
H. B. 461
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

CHILD CARE GRANT AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions related to child care subsidy.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the Office of Child Care to award a full child care subsidy or grant to a child with at least one parent or legal guardian working full-time at a child care provider; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-3-209, as enacted by Laws of Utah 2021, Chapter 168

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

Section 1. Section 35A-3-209 is amended to read:

35A-3-209. Award of child care subsidy services.

(1) As used in this section, "child care provider" means an entity that holds a license or certificate from the Department of Health and Human Services in accordance with Title 26B, Chapter 2, Part 4, Child Care Licensing.

(2)(a) On or before June 30, 2023, the office shall award a full child care subsidy or grant for an income-eligible child.

(b) The office shall make the award described in Subsection [~~(1)(a)~~](2)(a):

(i) in accordance with applicable federal law and regulation; and

(ii) subject to available funds.

[~~(2)~~](3)(a) Beginning on July 1, 2023 and subject to Subsection (3)(b), the office may award:

[~~(a)~~](i) a full child care subsidy or grant for:

(A) an income-eligible child whose family income is equal to or below 75% of state median income; or

(B) a child who has at least one parent or legal guardian working as a full-time employee of a child care provider; and

[~~(b)~~](ii) a progressively lower child care subsidy or grant for each tenth of a percentage point by which the income-eligible child's family income exceeds 75% of state median income up to 85% of state median income.

(b) The office shall make the award described in Subsection (3)(a):

(i) in accordance with applicable federal law and regulation; and

(ii) subject to available federal funds.

[~~(3)~~](4)(a) On or before June 30, 2023, and subject to Subsection [~~(3)(b)~~](4)(b), the office shall determine the amount of a child care subsidy or grant based on the income-eligible child's enrollment in child care.

(b) To qualify for a child care subsidy or grant under Subsection [~~(3)(a)~~](4)(a), an income-eligible child shall be enrolled in child care for a minimum of eight hours per month.

(c) On or after July 1, 2023, and subject to Subsection [~~(3)(d)~~](4)(d), the office shall determine the amount of a child care subsidy or grant based on the income-eligible child's attendance in child care.

(d) To qualify for a child care subsidy or grant under Subsection [~~(3)(c)~~](4)(c), an income-eligible child shall attend child care for a minimum of eight hours per month.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 309
H. B. 468
Passed February 29, 2024
Approved March 14, 2024
Effective July 1, 2024

STUDENT HEALTH AMENDMENTS

Chief Sponsor: Rosemary T. Lesser
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill allows employees of a local education agency to volunteer to administer certain adrenal insufficiency medication within a public school.

Highlighted Provisions:

This bill:

- defines terms;
- allows employees of a local education agency to volunteer to administer certain adrenal insufficiency medication within a public school under certain circumstances;
- requires the Department of Health and Human Services, with input from the State Board of Education and a children's hospital, to develop a certain training program in the administration of adrenal insufficiency medication;
- enacts provisions regarding the authorization and administration of adrenal insufficiency medication;
- provides protections for the training of volunteers and emergency administration of adrenal insufficiency medication within a public school; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-9-502, as last amended by Laws of Utah 2023, Chapter 328

53G-9-505, as last amended by Laws of Utah 2019, Chapters 293, 349

ENACTS:

53G-9-507, Utah Code Annotated 1953

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

Section 1. Section 53G-9-502 is amended to read:

53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability.

(1) A public or private school that holds any classes in grades kindergarten through 12 may provide for the administration of medication to any student during periods when the student is under the control of the school, subject to the following conditions:

(a) the local school board, charter school governing board, or the private equivalent, after consultation with the Department of Health and Human Services and school nurses shall adopt policies that provide for:

(i) the designation of volunteer employees who may administer medication;

(ii) proper identification and safekeeping of medication;

(iii) the training of designated volunteer employees by the school nurse;

(iv) maintenance of records of administration; and

(v) notification to the school nurse of medication that will be administered to students; and

(b) medication may only be administered to a student if:

(i) the student's parent has provided a current written and signed request that medication be administered during regular school hours to the student; and

(ii) the student's licensed health care provider has prescribed the medication and provides documentation as to the method, amount, and time schedule for administration, and a statement that administration of medication by school employees during periods when the student is under the control of the school is medically necessary.

(2) Authorization for administration of medication by school personnel may be withdrawn by the school at any time following actual notice to the student's parent.

(3) School personnel who provide assistance under Subsection (1) in substantial compliance with the licensed health care provider's written prescription and the employers of these school personnel are not liable, civilly or criminally, for:

(a) any adverse reaction suffered by the student as a result of taking the medication; and

(b) discontinuing the administration of the medication under Subsection (2).

(4) Subsections (1) through (3) do not apply to:

(a) the administration of glucagon in accordance with Section 53G-9-504;

(b) the administration of a seizure rescue medication in accordance with Section 53G-9-505; [~~or~~]

(c) the administration of an opiate antagonist in accordance with Title 26B, Chapter 4, Part 5, Treatment Access[~~.~~]; or

(d) the administration of an adrenal insufficiency medication in accordance with Section 53G-9-507.

Section 2. Section 53G-9-505 is amended to read:

53G-9-505. Trained school employee volunteers -- Administration of seizure rescue medication -- Exemptions from liability.

(1) As used in this section:

(a) "Prescribing health care professional" means:

(i) a physician and surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) "Seizure rescue authorization" means a student's [~~Section 504 accommodation~~] individualized healthcare plan that:

(i) certifies that:

(A) a prescribing health care professional has prescribed a seizure rescue medication for the student;

(B) the student's parent has previously administered the student's seizure rescue medication in a nonmedically-supervised setting without a complication; and

(C) the student has previously ceased having full body prolonged or convulsive seizure activity as a result of receiving the seizure rescue medication;

(ii) describes the specific seizure rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer a seizure rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer a seizure rescue medication in accordance with this section.

(c)(i) "Seizure rescue medication" means a medication, prescribed by a prescribing health care professional, to be administered as described in a student's seizure rescue authorization, while the student experiences seizure activity.

(ii) A seizure rescue medication does not include a medication administered intravenously or intramuscularly.

(d) "Trained school employee volunteer" means an individual who:

(i) is an employee of a public school where at least one student has a seizure rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of a seizure rescue medication;

(B) completes a training program described in this section;

(C) demonstrates competency on an assessment; and

(D) completes annual refresher training each year that the individual intends to remain a trained school employee volunteer.

(2)(a) The Department of Health and Human Services shall, with input from the state board and a children's hospital, develop a training program for trained school employee volunteers in the administration of seizure rescue medications that includes:

(i) techniques to recognize symptoms that warrant the administration of a seizure rescue medication;

(ii) standards and procedures for the storage of a seizure rescue medication;

(iii) procedures, in addition to administering a seizure rescue medication, in the event that a student requires administration of the seizure rescue medication, including:

(A) calling 911; and

(B) contacting the student's parent;

(iv) an assessment to determine if an individual is competent to administer a seizure rescue medication;

(v) an annual refresher training component; and

(vi) written materials describing the information required under this Subsection (2)(a).

(b) A public school shall retain for reference the written materials described in Subsection (2)(a)(vi).

(c) The following individuals may provide the training described in Subsection (2)(a):

(i) a school nurse; or

(ii) a licensed heath care professional.

(3)(a) A public school shall, after receiving a seizure rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training, to each school employee who volunteers, using the training program described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may possess or store a prescribed rescue seizure medication, in accordance with this section.

(5) A trained school employee volunteer may administer a seizure rescue medication to a student with a seizure rescue authorization if:

(a) the student is exhibiting a symptom, described on the student's seizure rescue authorization, that warrants the administration of a seizure rescue medication; and

(b) a licensed health care professional is not immediately available to administer the seizure rescue medication.

(6) A trained school employee volunteer who administers a seizure rescue medication shall direct an individual to call 911 and take other appropriate actions in accordance with the training described in Subsection (2).

(7) A trained school employee volunteer who administers a seizure rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(8) Section 53G-9-502 does not apply to the administration of a seizure rescue medication.

(9) Section 53G-8-205 does not apply to the possession of a seizure rescue medication in accordance with this section.

(10)(a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to a person licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist for, in good faith, training a nonlicensed school employee who volunteers to administer a seizure rescue medication in accordance with this section.

(b) Allowing a trained school employee volunteer to administer a seizure rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 3. Section 53G-9-507 is enacted to read:

53G-9-507. Administration of adrenal insufficiency medication -- Training of school personnel -- Authority to use adrenal insufficiency medication -- Immunity from liability.

(1) As used in this section:

(a) "Adrenal crisis" means a sudden, severe worsening of symptoms associated with adrenal insufficiency, including vomiting, diarrhea, dehydration, low blood pressure, or loss of consciousness, or severe pain in the lower back, abdomen or legs.

(b) "Adrenal crisis rescue authorization" means a student's individualized healthcare plan that:

(i) certifies that a prescribing health care professional has prescribed an adrenal crisis rescue medication for the student;

(ii) describes the specific adrenal crisis rescue medication authorized for the student, including the indicated dose, and instructions for administration;

(iii) requests that the student's public school identify and train school employees who are willing to volunteer to receive training to administer an adrenal crisis rescue medication in accordance with this section; and

(iv) authorizes a trained school employee volunteer to administer an adrenal crisis rescue medication in accordance with this section.

(c) "Adrenal crisis rescue medication" means a medication that a prescribing health care professional prescribes for administration to a student during an adrenal crisis activity as described in a student's adrenal crisis rescue authorization.

(d) "Adrenal insufficiency" means an endocrine disorder that occurs when the adrenal glands do not adequately produce adrenal hormones.

(e) "Prescribing health care professional" means:

(i) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(f) "Trained school employee volunteer" means an individual who:

(i) is an employee of an LEA in which at least one student is enrolled who has an adrenal crisis rescue authorization;

(ii) is at least 18 years old; and

(iii) as described in this section:

(A) volunteers to receive training in the administration of an adrenal crisis medication;

(B) completes a training program described in this section;

(C) demonstrates competency to administer an adrenal crisis rescue medication through an assessment; and

(D) completes annual training during each year in which the individual intends to act as a trained school employee volunteer.

(2)(a) The Department of Health and Human Services shall, with input from the state board and a children's hospital, develop a training program for trained school employee volunteers in the administration of adrenal crisis rescue medication.

(b) A public school shall retain for reference the written materials created for the training program described in Subsection (2)(a).

(3)(a) A public school shall, after receiving an adrenal crisis rescue authorization:

(i) inform school employees of the opportunity to be a school employee volunteer; and

(ii) subject to Subsection (3)(b)(ii), provide training to each school employee who volunteers, using the training described in Subsection (2)(a).

(b) A public school may not:

(i) obstruct the identification or training of a trained school employee volunteer; or

(ii) compel a school employee to become a trained school employee volunteer.

(4) A trained school employee volunteer may:

(a) possess or store a prescribed adrenal crisis rescue medication, in accordance with this section; and

(b) administer an adrenal crisis rescue medication to a student with an adrenal crisis rescue authorization if:

(i) the student exhibits a symptom, described on the student's adrenal crisis rescue authorization, that warrants the administration of an adrenal crisis rescue medication; and

(ii) a licensed health care professional is not immediately available to administer the adrenal crisis rescue medication.

(5) A trained school employee volunteer who administers an adrenal crisis rescue medication shall take appropriate action in accordance with the training described in Subsection (2).

(6) A trained school employee volunteer who administers an adrenal crisis rescue medication in accordance with this section in good faith is not liable in a civil or criminal action for an act taken or not taken under this section.

(7) Section 53G-9-502 does not apply to the administration of an adrenal crisis rescue medication.

(8) Section 53G-8-205 does not apply to the possession of an adrenal crisis rescue medication in accordance with this section.

(9)(a) The unlawful or unprofessional conduct provisions of Title 58, Occupations and Professions, do not apply to an individual who is licensed as a health care professional under Title 58, Occupations and Professions, including a nurse, physician, physician assistant, or pharmacist, for training, in good faith, a school employee who:

(i) volunteers to administer an adrenal crisis rescue medication in accordance with this section; and

(ii) is not licensed under Title 58, Occupations and Professions.

(b) Allowing a trained school employee volunteer to administer an adrenal crisis rescue medication in accordance with this section does not constitute unlawful or inappropriate delegation under Title 58, Occupations and Professions.

Section 4. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 310
H. B. 495
Passed March 1, 2024
Approved March 14, 2024
Effective July 1, 2024

VULNERABLE POPULATION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill concerns protections for vulnerable populations.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions relating to a monitoring device in the room of a resident of an assisted living facility and includes certain other facilities;
- requires fingerprint background checks for certain individuals who will have direct access to patients in certain health care facilities;
- requires certain facilities to report certain incidents of abuse, neglect, or exploitation to the Department of Health and Human Services (department), the Division of Child and Family Services, Adult Protective Services, or a law enforcement agency;
- requires, with an automatic repeal provision, the department to collect and compile all reported incidents of abuse, neglect, or exploitation at certain facilities and annually report the information to the Health and Human Services Interim Committee;
- prohibits inmates from receiving certain training while incarcerated; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26B-2-236, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-238, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-240, as renumbered and amended by Laws of Utah 2023, Chapter 305
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
64-13-48, as enacted by Laws of Utah 2022, Chapter 144

ENACTS:

26B-2-243, Utah Code Annotated 1953

Sections affected by Coordination Clause:

26B-2-240, as renumbered and amended by Laws of Utah 2023, Chapter 3058

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

Section 1. Section 26B-2-236 is amended to read:

26B-2-236. Monitoring device -- Installation, notice, and consent -- Admission and discharge -- Liability.

(1) As used in this section:

(a) "Facility" means:

(i) an assisted living facility; or

(ii) a secure memory care unit inside of:

(A) a nursing care facility; or

(B) any other medical or mental health facility.

(b) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

[~~(b)~~](c)(i) "Monitoring device" means:

(A) a video surveillance camera; or

(B) a microphone or other device that captures audio.

(ii) "Monitoring device" does not include:

(A) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

(B) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

[~~(c)~~](d) "Resident" means an individual who receives health care from a facility.

[~~(d)~~](e) "Room" means a resident's private or shared primary living space.

[~~(e)~~](f) "Roommate" means an individual sharing a room with a resident.

(2) A resident or the resident's legal representative may operate or install a monitoring device in the resident's room if the resident and the resident's legal representative, if any, unless the resident is incapable of informed consent:

(a) notifies the resident's [~~assisted living~~] facility in writing that the resident or the resident's legal representative, if any:

(i) intends to operate or install a monitoring device in the resident's room; and

(ii) consents to a waiver agreement, if required by [~~an assisted living~~]a facility;

(b) obtains written consent from each of the resident's roommates, and their legal

representative, if any, that specifically states the hours when each roommate consents to the resident or the resident's legal representative operating the monitoring device; and

(c) assumes all responsibility for any cost related to installing or operating the monitoring device.

(3) [~~An assisted living~~]A facility shall not be civilly or criminally liable to:

(a) a resident or resident's roommate for the operation of a monitoring device consistent with this part; and

(b) any person other than the resident or resident's roommate for any claims related to the use or operation of a monitoring device consistent with this part, unless the claim is caused by the acts or omissions of an employee or agent of the [~~assisted living~~] facility.

(4)(a) [~~An assisted living~~]A facility may not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room.

(b) [~~An assisted living~~]A facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room.

(c) A facility shall prohibit all employees of a facility from deactivating, repositioning, or otherwise interfering with the operation of a monitoring device in an individual's room.

[~~(c)~~](d) [~~An assisted living~~]A facility may require the resident or the resident's legal representative to place a sign near the entrance of the resident's room that states that the room contains a monitoring device.

(5) Notwithstanding any other provision of this part, an individual may not, under this part, operate a monitoring device in [~~an assisted living~~]a facility without a court order:

(a) in secret; or

(b) with an intent to intercept a wire, electronic, or oral communication without notice to or the consent of a party to the communication.

Section 2. Section 26B-2-238 is amended to read:

26B-2-238. Definitions for Sections 26B-2-238 through 26B-2-241.

As used in this section and Sections 26B-2-239, 26B-2-240, and 26B-2-241:

(1) "Clearance" means approval by the department under Section 26B-2-239 for an individual to have direct patient access.

(2) "Covered body" means a covered provider, covered contractor, or covered employer.

(3) "Covered contractor" means a person that supplies covered individuals, by contract, to a covered employer or covered provider.

(4) "Covered employer" means an individual who:

(a) engages a covered individual to provide services in a private residence to:

(i) an aged individual, as defined by department rule; or

(ii) a disabled individual, as defined by department rule;

(b) is not a covered provider; and

(c) is not a licensed health care facility within the state.

(5) "Covered individual":

(a) means an individual:

(i) whom a covered body engages; and

(ii) who may have direct patient access;

(b) includes:

(i) a nursing assistant, as defined by department rule;

(ii) a personal care aide, as defined by department rule;

(iii) an individual licensed to engage in the practice of nursing under Title 58, Chapter 31b, Nurse Practice Act;

(iv) a provider of medical, therapeutic, or social services, including a provider of laboratory and radiology services;

(v) an executive;

(vi) administrative staff, including a manager or other administrator;

(vii) dietary and food service staff;

(viii) housekeeping and maintenance staff; and

(ix) any other individual, as defined by department rule, who has direct patient access; and

(c) does not include a student, as defined by department rule, directly supervised by a member of the staff of the covered body or the student's instructor.

(6) "Covered provider" means:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a nursing care facility;

(d) a small health care facility;

(e) an assisted living facility;

(f) a hospice;

(g) a home health agency; or

(h) a personal care agency.

(7) "Direct patient access" means for an individual to be in a position where the individual could, in

relation to a patient or resident of the covered body who engages the individual:

(a) cause physical or mental harm;

(b) commit theft; or

(c) view medical or financial records.

(8) "Engage" means to obtain one's services:

(a) by employment;

(b) by contract;

(c) as a volunteer; or

(d) by other arrangement.

(9) "Long-term care hospital":

(a) means a hospital that is certified to provide long-term care services under the provisions of 42 U.S.C. Sec. 1395tt; and

(b) does not include a critical access hospital, designated under 42 U.S.C. Sec. 1395i-4(c)(2).

(10) "Patient" means an individual who receives health care services from one of the following covered providers:

(a) an end stage renal disease facility;

(b) a long-term care hospital;

(c) a hospice;

(d) a home health agency; or

(e) a personal care agency.

(11) "Personal care agency" means a health care facility defined by department rule.

(12) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals who are registered in the system.

[~~(12)~~](13) "Resident" means an individual who receives health care services from one of the following covered providers:

(a) a nursing care facility;

(b) a small health care facility;

(c) an assisted living facility; or

(d) a hospice that provides living quarters as part of its services.

[~~(13)~~](14) "Residential setting" means a place provided by a covered provider:

(a) for residents to live as part of the services provided by the covered provider; and

(b) where an individual who is not a resident also lives.

[~~(14)~~](15) "Volunteer" means an individual, as defined by department rule, who provides services without pay or other compensation.

Section 3. Section 26B-2-240 is amended to read:

26B-2-240. Department authorized to grant, deny, or revoke clearance -- Department may limit direct patient access -- Clearance.

(1) The definitions in Section 26B-2-238 apply to this section.

(2)(a) As provided in this section, the department may grant, deny, or revoke clearance for an individual, including a covered individual.

(b) The department may limit the circumstances under which a covered individual granted clearance may have direct patient access, based on the relationship factors under Subsection (4) and other mitigating factors related to patient and resident protection.

(c) The department shall determine whether to grant clearance for each applicant for whom it receives:

(i) the personal identification information specified by the department under Subsection (4)(b); and

(ii) any fees established by the department under Subsection (9).

(d) The department shall[~~.~~]:

(i) establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files[~~.~~]; and

(ii) require that a finding of clearance include a fingerprint-based criminal history background check in the databases described under Subsection (3)(a), including the inclusion of the individual's fingerprints in a rap back system.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Division of Child and Family Services Licensing Information System described in Section 80-2-1002;

(e) child abuse or neglect findings described in Section 80-3-404;

(f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Division of Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26B-2-241; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section 4. Section 26B-2-243 is enacted to read:

26B-2-243. Data collection and reporting requirements concerning incidents of abuse, neglect, or exploitation.

(1) As used in this section, "facility" means the same as that term is defined in Section 26B-2-236.

(2) In addition to the requirements in Section 26B-6-205 or 80-2-602, the department shall require a facility to report any incident of abuse, neglect, or exploitation of a resident:

(a) to the department; and

(b) to the Division of Child and Family Services or Adult Protective Services, if appropriate, or a law enforcement agency with jurisdiction over the covered provider in which the alleged incident occurred.

(3) The department shall collect and compile all reported incidents described in Subsection (2)(a) and annually on or before June 30 report the data to the Health and Human Services Interim Committee.

Section 5. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(8) Section 26B-2-243 is repealed July 1, 2027.

[~~(8)~~](9) Section 26B-3-142 is repealed July 1, 2024.

[~~(9)~~](10) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~](11) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(11)~~](12) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(12)~~](13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 6. Section 64-13-48 is amended to read:

64-13-48. Educational and career-readiness programs.

(1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that appropriate evidence-based and evidence-informed educational or career-readiness programs are made available to an inmate as soon as practicable after the creation of the inmate's case action plan.

(2) The department shall provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men.

(3) Before an inmate begins an educational or career-readiness program, the department shall provide reasonable access to resources necessary for an inmate to apply for grants or other available financial aid that may be available to pay for the inmate's program.

(4)(a) The department shall consider an inmate's current participation in an educational or career-readiness program when the department makes a decision with regard to an inmate's:

(i) transfer to another area or facility; or

(ii) appropriate disciplinary sanction.

(b) When possible, the department shall use best efforts to allow an inmate to continue the inmate's participation in an educational or career-readiness program while the facility is under lockdown, quarantine, or a similar status.

(5)(a) The department shall maintain records on an inmate's educational progress, including completed life skills, certifications, and credit- and non-credit-bearing courses, made while the inmate is incarcerated.

(b) The department shall facilitate the transfer of information related to the inmate's educational process upon the inmate's release, including the inmate's post-release contact information and the records described in Subsection (5)(a), to:

(i) the inmate; or

(ii) an entity that the inmate has authorized to receive the inmate's records or post-release contact information, including an institution:

(A) from which the inmate received educational instruction while the inmate was incarcerated; or

(B) at which the inmate plans to continue the inmate's post-incarceration education.

(6) Beginning May 1, 2023, the department shall provide an annual report to the Higher Education Appropriations Subcommittee regarding educational and career-readiness programs for inmates, which shall include:

(a) the number of inmates who are participating in an educational or career-readiness program, including an accredited postsecondary education program;

(b) the percentage of inmates who are participating in an educational or career-readiness program as compared to the total inmate population;

(c) inmate program completion and graduation data, including the number of completions and graduations in each educational or career-readiness program;

(d) the potential effect of educational or career-readiness programs on recidivism, as determined by a comparison of:

(i) the total number of inmates who return to incarceration after a previous incarceration; and

(ii) the number of inmates who return to incarceration after a previous incarceration who participated in or completed an educational or career-readiness program;

(e) the number of inmates who were transferred to a different facility while currently participating in an educational or career-readiness program, including the number of inmates who were unable to continue a program after a transfer to a different facility; and

(f) the department's:

(i) recommendation for resources that may increase inmates' access to and participation in an educational or career-readiness program; and

(ii) estimate of how many additional inmates would participate in an educational or career-readiness program if the resources were provided.

(7) The department may not offer training for an inmate to become a certified nursing assistant certified by the Department of Health and Human Services.

[~~(7)~~](8) The department may make rules in accordance with Section 64-13-10 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

Section 7. Effective date.

This bill takes effect on July 1, 2024.

Section 8. Coordinating H.B. 495 with S.B. 46.

If H.B. 495, Vulnerable Population Amendments, and S.B. 46, Health and Human Services Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, Subsection 26B-2-240(2)(d) be amended to read:

"(d)[-] The department shall:

(i) [–]establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files[.]; and

(ii) require that a certification for direct patient access include a fingerprint-based criminal history background check in the databases described under Subsection (3)(a), including the inclusion of the individual's fingerprints in a rap back system.".

CHAPTER 311
H. B. 475
Passed February 28, 2024
Approved March 14, 2024
Effective August 1, 2024

SCHOOL PRESCRIPTION AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill modifies provisions related to certain prescription drugs and schools.

Highlighted Provisions:

This bill:

- defines terms;
- allows certain health care providers to provide a prescription upon request to certain school employees or a school nurse for epinephrine and albuterol;
- requires the Department of Health and Human Services to issue standing prescription drug orders for epinephrine and albuterol;
- waives liability for certain persons; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-4-401, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-409, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-410, as renumbered and amended by Laws of Utah 2023, Chapter 307
58-17b-1005, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section 26B-4-401 is amended to read:

26B-4-401. Definitions.

As used in this part:

(1) "Agent" means a coach, teacher, employee, representative, or volunteer.

(2)(a) "Amateur sports organization" means, except as provided in Subsection (2)(b):

(i) a sports team;

(ii) a public or private school;

(iii) a public or private sports league;

(iv) a public or private sports camp; or

(v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.

(b) "Amateur sports organization" does not include a professional:

(i) team;

(ii) league; or

(iii) sporting event.

(3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

(a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

(b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.

(4) "Asthma action plan" means a written plan:

(a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and

(b) signed by the student's:

(i) parent or guardian; and

(ii) health care provider.

(5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.

(6) "Child" means an individual who is under the age of 18.

(7) "Department health care provider" means a health care provider who is acting in the capacity of a health care provider during employment for the department.

[~~(7)~~](8) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

[~~(8)~~](9) "Health care provider" means an individual who is licensed as:

(a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;

(b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(c) an advanced practice registered nurse under Section 58-31b-302; or

(d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(9)~~](10) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

[~~(10)~~](11) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

[~~(11)~~](12) "Physician" means the same as that term is defined in Section 58-67-102.

(13) "Public school" means a district school or a charter school.

[~~(12)~~](14) "Qualified adult" means a person who:

(a) is [~~18 years of age or older~~]at least 18 years old; and

(b)(i) for purposes of administering an epinephrine auto-injector, has successfully completed the training program established in Section 26B-4-407; and

(ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26B-4-408.

[~~(13)~~](15) "Qualified epinephrine auto-injector entity":

(a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and

(b) includes:

(i) recreation camps;

(ii) an education facility, school, or university;

(iii) a day care facility;

(iv) youth sports leagues;

(v) amusement parks;

(vi) food establishments;

(vii) places of employment; and

(viii) recreation areas.

[~~(14)~~](16) "Qualified health care provider" means a health care provider who:

(a) is licensed under Title 58, Occupations and Professions; and

(b) may evaluate and manage a concussion within the health care provider's scope of practice.

[~~(15)~~](17) "Qualified stock albuterol entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.

[~~(16)~~](18)(a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:

(i) a game;

(ii) a practice;

(iii) a sports camp;

(iv) a physical education class;

(v) a competition; or

(vi) a tryout.

(b) "Sporting event" does not include:

(i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;

(ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or

(iii) free play or recess taking place during school hours.

[~~(17)~~](19) "Stock albuterol" means a prescription inhaled medication:

(a) used to treat asthma; and

(b) that may be delivered through a device, including:

(i) an inhaler; or

(ii) a nebulizer with a mouthpiece or mask.

[~~(18)~~](20) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one of the following observed or self-reported conditions attributable to the injury:

(a) transient confusion, disorientation, or impaired consciousness;

(b) dysfunction of memory;

(c) loss of consciousness; or

(d) signs of other neurological or neuropsychological dysfunction, including:

(i) seizures;

(ii) irritability;

(iii) lethargy;

(iv) vomiting;

(v) headache;

(vi) dizziness; or

(vii) fatigue.

Section 2. Section 26B-4-409 is amended to read:

26B-4-409. Authority to obtain and use an epinephrine auto-injector or stock albuterol.

[~~(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:~~]

[~~(a) epinephrine auto-injectors for use in accordance with this part; or~~]

[~~(b) stock albuterol for use in accordance with this part.~~]

(1) The school district physician, a department health care provider, the medical director of the

local health department, or the local emergency medical services director may provide a prescription for the following if requested by a qualified adult, who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse:

(a) epinephrine auto-injectors for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2)(a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.

(5)(a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Section 3. Section 26B-4-410 is amended to read:

26B-4-410. Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411 with respect to an anaphylactic reaction, or asthma emergency:

(a) a qualified adult;

(b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;

(c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;

(d) a qualified epinephrine auto-injector entity; [~~and~~]

(e) a qualified stock albuterol entity[~~.~~];

(f) the department;

(g) a local health department;

(h) a local education agency; and

(i) a local emergency medical services entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 4. Section 58-17b-1005 is amended to read:

58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.

[~~(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:~~]

[~~(a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;~~]

[~~(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;~~]

[~~(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:~~]

[~~(i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;~~]

[~~(ii) a description of the epinephrine auto-injector dispensed; and~~]

[~~(iii) other relevant information; and~~]

[~~(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the Board of Pharmacy.~~]

(1) As used in this section:

(a) "Epinephrine protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the epinephrine auto-injector;

(iii) requires those authorized by a physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(B) a description of the epinephrine auto-injector dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

(b) "Stock albuterol protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the stock albuterol;

(iii) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(B) a description of the stock albuterol dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

[~~(2) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in accordance with a protocol that:~~]

[~~(a) requires the physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;~~]

[~~(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the stock albuterol;~~]

[~~(c) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:~~]

[~~(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;~~]

[~~(ii) a description of the stock albuterol dispensed; and~~]

[~~(iii) other relevant information; and~~]

[~~(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.~~]

(2) Under Section 58-17b-1004, the Department of Health and Human Services shall have a physician acting in the physician's capacity as an employee of the Department of Health and Human Services issue a standing prescription drug order authorizing the dispensing of:

(a) an epinephrine auto-injector in accordance with an epinephrine protocol; and

(b) stock albuterol in accordance with a stock albuterol protocol.

(3) Under Section 58-17b-1004, a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of:

(a) an epinephrine auto-injector in accordance with an epinephrine protocol; or

(b) stock albuterol in accordance with a stock albuterol protocol.

Section 5. Effective date.

This bill takes effect on August 1, 2024.

CHAPTER 312
H. B. 503
Passed March 1, 2024
Approved March 14, 2024
Effective May 1, 2024

NURSING CARE FACILITY AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends Medicaid provisions impacting nursing care facilities.

Highlighted Provisions:

This bill:

- allows a state-owned veterans nursing care facility to obtain a one-time approval for up to five total Medicaid certified beds, without the facility first proving bed capacity insufficiency or financial viability; and
- limits the transfer or sale of Medicaid certified beds in certain conditions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-3-311, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-313, as renumbered and amended by Laws of Utah 2023, Chapter 306

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

Section 1. Section 26B-3-311 is amended to read:

26B-3-311. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1)(a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26B-3-313, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) except as provided in Subsection 26B-3-310(4), the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26B-3-312(3).

(2)(a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years, unless:

(i) an emergency is declared by the president of the United States or the governor, affecting the building or renovation of the physical facility;

(ii) the director approves an exception to the three-year requirement for any nursing care

facility program within the three-year requirement;

(iii) the provider submits documentation supporting a request for an extension to the director that demonstrates a need for an extension; and

(iv) the exception does not extend for more than two years beyond the three-year requirement;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4)(a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5)(a) The director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) [~~The~~]Except as provided under Subsection (5)(e), a nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients;[~~and~~]

(v)(A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9)[~~.~~]; and

(vi) subject to Subsection (5)(e), for a state-owned veterans nursing care facility, whether the facility has previously been approved for a Medicaid certified bed increase under this Subsection (5).

(e) For a state-owned veterans nursing care facility that has not previously been approved for a Medicaid certified bed increase under this Subsection (5):

(i) the facility is exempt from the requirements under Subsection (5)(b); and

(ii) the director may approve, for that facility location only, up to five total Medicaid certified beds.

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii)(A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7)(a) Except as provided in Subsection 26B-3-310(3), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall, notwithstanding Subsections 26B-3-312(3)(a) and (b), grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8)(a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9)(a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

Section 2. Section 26B-3-313 is amended to read:

26B-3-313. Authorization to sell or transfer licensed Medicaid beds -- Duties of transferor -- Duties of transferee -- Duties of division.

(1) This section provides a method to transfer or sell the license for a Medicaid bed from a nursing care facility program to another entity that is in addition to the authorization to transfer under Section 26B-3-311.

(2)(a) A nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds in accordance with Subsection (2)(b) if:

(i) at the time of the transfer, and with respect to the license for the Medicaid bed that will be transferred, the nursing care facility program that will transfer the Medicaid license meets all applicable regulations for Medicaid certification;

(ii) the nursing care facility program gives a written assurance, which is postmarked or has proof of delivery 30 days before the transfer, to the director and to the transferee in accordance with Subsection 26B-3-311(4);

(iii) the nursing care facility program that will transfer the license for a Medicaid bed notifies the division in writing, which is postmarked or has proof of delivery 30 days before the transfer, of:

(A) the number of bed licenses that will be transferred;

(B) the date of the transfer; and

(C) the identity and location of the entity receiving the transferred licenses; and

(iv) if the nursing care facility program for which the license will be transferred or purchased is located in an urban county with a nursing care facility average annual occupancy rate over the

previous two years less than or equal to 75%, the nursing care facility program transferring or selling the license demonstrates to the satisfaction of the director that the sale or transfer:

(A) will not result in an excessive number of Medicaid certified beds within the county or group of counties that would be impacted by the transfer or sale; and

(B) best meets the needs of Medicaid recipients.

(b) Except as provided in Subsection (2)(c), a nursing care facility program may transfer or sell one or more of its licenses for Medicaid beds to:

(i) a nursing care facility program that has the same owner or successor in interest of the same owner;

(ii) a nursing care facility program that has a different owner; or

(iii) a related-party nonnursing-care-facility entity that wants to hold one or more of the licenses for a nursing care facility program not yet identified, as long as:

(A) the licenses are subsequently transferred or sold to a nursing care facility program within three years; and

(B) the nursing care facility program notifies the director of the transfer or sale in accordance with Subsection (2)(a)(iii).

[~~(c) A~~]

(c)(i) Subject to Subsection (2)(c)(ii), a nursing care facility program may not transfer or sell one or more of its licenses for Medicaid beds to an entity under Subsection (2)(b)(i), (ii), or (iii) that is located in a rural county unless the entity requests, and the director issues, Medicaid certification for the beds under Subsection 26B-3-311(5).

(ii) A veterans nursing care facility that has been approved for a Medicaid certified bed increase under Subsection 26B-3-311(5) may not transfer or sell any of the veterans nursing care facility's Medicaid certified beds.

(3) A nursing care facility program or entity under Subsection (2)(b)(i), (ii), or (iii) that receives or purchases a license for a Medicaid bed under Subsection (2)(b):

(a) may receive a license for a Medicaid bed from more than one nursing care facility program;

(b) shall give the division notice, which is postmarked or has proof of delivery within 14 days of the nursing care facility program or entity seeking Medicaid certification of beds in the nursing care facility program or entity, of the total number of licenses for Medicaid beds that the entity received and who it received the licenses from;

(c) may only seek Medicaid certification for the number of licensed beds in the nursing care facility program equal to the total number of licenses for Medicaid beds received by the entity;

(d) does not have to demonstrate need or seek approval for the Medicaid licensed bed under Subsection 26B-3-311(5), except as provided in Subsections (2)(a)(iv) and (2)(c) ;

(e) shall meet the standards for Medicaid certification other than those in Subsection 26B-3-311(5), including personnel, services, contracts, and licensing of facilities under Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(f) shall obtain Medicaid certification for the licensed Medicaid beds within three years of the date of transfer as documented under Subsection (2)(a)(iii)(B).

(4)(a) When the division receives notice of a transfer of a license for a Medicaid bed under Subsection (2)(a)(iii)(A), the department shall reduce the number of licenses for Medicaid beds at the transferring nursing care facility:

(i) equal to the number of licenses transferred; and

(ii) effective on the date of the transfer as reported under Subsection (2)(a)(iii)(B).

(b) For purposes of Section 26B-3-310, the division shall approve Medicaid certification for the receiving nursing care facility program or entity:

(i) in accordance with the formula established in Subsection (3)(c); and

(ii) if:

(A) the nursing care facility seeks Medicaid certification for the transferred licenses within the time limit required by Subsection (3)(f); and

(B) the nursing care facility program meets other requirements for Medicaid certification under Subsection (3)(e).

(c) A license for a Medicaid bed may not be approved for Medicaid certification without meeting the requirements of Sections 26B-3-310 and 26B-3-311 if:

(i) the license for a Medicaid bed is transferred under this section but the receiving entity does not obtain Medicaid certification for the licensed bed within the time required by Subsection (3)(f); or

(ii) the license for a Medicaid bed is transferred under this section but the license is no longer eligible for Medicaid certification.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 313
H. B. 560
Passed March 1, 2024
Approved March 14, 2024
Effective March 14, 2024

LICENSING MODIFICATIONS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies licensing provisions related to abortion.

Highlighted Provisions:

This bill:

- modifies definitions;
- allows the licensing of abortion clinics;
- allows abortions to be performed in licensed abortion clinics; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-2-201, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-204, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-205, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-206, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-2-224, as last amended by Laws of Utah 2023, Chapter 301 and renumbered and amended by Laws of Utah 2023, Chapter 305
76-7-301, as last amended by Laws of Utah 2023, Chapters 301, 330
76-7-302, as last amended by Laws of Utah 2023, Chapters 158, 301
76-7-305, as last amended by Laws of Utah 2023, Chapters 301, 330
76-7a-101, as last amended by Laws of Utah 2023, Chapters 158, 301
76-7a-201, as last amended by Laws of Utah 2023, Chapters 158, 301

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

Section 1. Section 26B-2-201 is amended to read:

26B-2-201. Definitions.

As used in this part:

(1)[~~(a)~~] "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

[~~(b) "Abortion clinic" does not mean a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-71-101.~~]

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5)(a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self-sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b)(i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26B-2-228(7).

(7) "Committee" means the Health Facility Committee created in Section 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13)(a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics,[~~ a clinic that meets the definition of hospital under Section 76-7-301 or 76-71-201,~~] facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b)(i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15)(a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 2. Section 26B-2-204 is amended to read:

26B-2-204. Licensing of an abortion clinic -- Rulemaking authority -- Fee.

[~~(1)(a) No abortion clinic may operate in the state on or after January 1, 2024, or the last valid date of an abortion clinic license issued under the requirements of this section, whichever date is later.~~]

[~~(b) Notwithstanding Subsection (1)(a), a licensed abortion clinic may not perform an abortion in violation of any provision of state law.~~]

[~~(2) The state may not issue a license for an abortion clinic after May 2, 2023.~~]

[~~(3) For any license for an abortion clinic that is issued under this section:~~]

[~~(a)~~](1) A type I abortion clinic may not operate in the state without a license issued by the department to operate a type I abortion clinic.

[~~(b)~~](2) A type II abortion clinic may not operate in the state without a license issued by the department to operate a type II abortion clinic.

[~~(c)~~](3) The department shall make rules establishing minimum health, safety, sanitary, and recordkeeping requirements for:

[~~(i)~~](a) a type I abortion clinic; and

[~~(ii)~~](b) a type II abortion clinic.

[~~(d)~~](4) To receive and maintain a license described in this section, an abortion clinic shall:

[~~(i)~~](a) apply for a license on a form prescribed by the department;

[~~(ii)~~](b) satisfy and maintain the minimum health, safety, sanitary, and recordkeeping requirements established [~~unde7r~~]under Subsection (3) that relate to the type of abortion clinic licensed;

[~~(iii)~~](c) comply with the recordkeeping and reporting requirements of Section 76-7-313;

[~~(iv)~~](d) comply with the requirements of Title 76, Chapter 7, Part 3, Abortion, and Title 76, Chapter 7a, Abortion Prohibition;

[~~(v)~~](e) pay the annual licensing fee; and

[~~(vi)~~](f) cooperate with inspections conducted by the department.

[~~(e)~~](5) The department shall, at least twice per year, inspect each abortion clinic in the state to ensure that the abortion clinic is complying with all statutory and licensing requirements relating to the abortion clinic. At least one of the inspections shall be made without providing notice to the abortion clinic.

[~~(f)~~](6) The department shall charge an annual license fee, set by the department in accordance with the procedures described in Section 63J-1-504, to an abortion clinic in an amount that will pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

[~~(g)~~](7) The department shall deposit the licensing fees described in this section in the General Fund as a dedicated credit to be used solely to pay for the cost of the licensing requirements described in this section and the cost of inspecting abortion clinics.

[~~(4)(a) Notwithstanding any other provision of this section, the department may license a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101.~~]

[~~(b) A clinic described in Subsection (4)(a) is not defined as an abortion clinic.~~]

Section 3. Section 26B-2-205 is amended to read:

26B-2-205. Exempt facilities.

This part does not apply to:

(1) a dispensary or first aid facility maintained by any commercial or industrial plant, educational institution, or convent;

(2) a health care facility owned or operated by an agency of the United States;

(3) the office of a physician, physician assistant, or dentist whether it is an individual or group practice, except that it does apply to an abortion clinic;

(4) a health care facility established or operated by any recognized church or denomination for the practice of religious tenets administered by mental or spiritual means without the use of drugs, whether gratuitously or for compensation, if it complies with statutes and rules on environmental protection and life safety;

(5) any health care facility owned or operated by the Department of Corrections, created in Section 64-13-2; and

(6) a residential facility providing 24-hour care:

(a) that does not employ direct care staff;

(b) in which the residents of the facility contract with a licensed hospice agency to receive end-of-life medical care; and

(c) that meets other requirements for an exemption as designated by administrative rule.

Section 4. Section 26B-2-206 is amended to read:

26B-2-206. License required -- Not assignable or transferable -- Posting -- Expiration and renewal -- Time for compliance by operating facilities.

(1)(a) A person or governmental unit acting severally or jointly with any other person or governmental unit, may not establish, conduct, or maintain a health care facility in this state without receiving a license from the department as provided by this part and the rules adopted pursuant to this part .

(b) This Subsection (1) does not apply to facilities that are exempt under Section 26B-2-205.

(2) A license issued under this part is not assignable or transferable.

(3) The current license shall at all times be posted in each health care facility in a place readily visible and accessible to the public.

(4)(a) The department may issue a license for a period of time not to exceed 12 months from the date of issuance for an abortion clinic and not to exceed 24 months from the date of issuance for other health care facilities that meet the provisions of this part and department rules adopted pursuant to this part.

(b) Each license expires at midnight on the day designated on the license as the expiration date, unless previously revoked by the department.

(c) The license shall be renewed upon completion of the application requirements, unless the department finds the health care facility has not complied with the provisions of this part or the rules adopted pursuant to this part.

(5) A license may be issued under this section only for the operation of a specific facility at a specific site by a specific person.

(6) Any health care facility in operation at the time of adoption of any applicable rules as provided under this part shall be given a reasonable time for compliance as determined by the committee.

Section 5. Section 26B-2-224 is amended to read:

26B-2-224. Patient identity protection.

(1) As used in this section:

(a) "EMTALA" means the federal Emergency Medical Treatment and Active Labor Act.

(b) "Health professional office" means:

(i) a physician's office; or

(ii) a dental office.

(c) "Medical facility" means:

(i) a general acute hospital;

(ii) a specialty hospital;

(iii) a home health agency;

(iv) a hospice;

(v) a nursing care facility;

(vi) a residential-assisted living facility;

(vii) a birthing center;

(viii) an ambulatory surgical facility;

(ix) a small health care facility;

(x) an abortion clinic;

[~~(xi) a clinic that meets the definition of hospital under Section 76-7-301 or Section 76-7a-101;~~]

[~~(xii)~~](xi) a facility owned or operated by a health maintenance organization;

[~~(xiii)~~](xii) an end stage renal disease facility;

[~~(xiv)~~](xiii) a health care clinic; or

[~~(xv)~~](xiv) any other health care facility that the committee designates by rule.

(2)(a) In order to discourage identity theft and health insurance fraud, and to reduce the risk of medical errors caused by incorrect medical records, a medical facility or a health professional office shall request identification from an individual prior to providing in-patient or out-patient services to the individual.

(b) If the individual who will receive services from the medical facility or a health professional office lacks the legal capacity to consent to treatment, the medical facility or a health professional office shall request identification:

(i) for the individual who lacks the legal capacity to consent to treatment; and

(ii) from the individual who consents to treatment on behalf of the individual described in Subsection (2)(b)(i).

(3) A medical facility or a health professional office:

(a) that is subject to EMTALA:

(i) may not refuse services to an individual on the basis that the individual did not provide identification when requested; and

(ii) shall post notice in its emergency department that informs a patient of the patient's right to treatment for an emergency medical condition under EMTALA;

(b) may not be penalized for failing to ask for identification;

(c) is not subject to a private right of action for failing to ask for identification; and

(d) may document or confirm patient identity by:

(i) photograph;

(ii) fingerprinting;

(iii) palm scan; or

(iv) other reasonable means.

(4) The identification described in this section:

(a) is intended to be used for medical records purposes only; and

(b) shall be kept in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996.

Section 6. Section 76-7-301 is amended to read:

76-7-301. Definitions.

As used in this part:

(1)(a) "Abortion" means the act, by a physician, of using an instrument, or prescribing a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant, except as permitted under this part.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means the same as that term is defined in Section 26B-2-201.

[~~(2)~~](3) "Abuse" means the same as that term is defined in Section 80-1-102.

[~~(3)~~](4) "Department" means the Department of Health and Human Services.

[~~(4)~~](5) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

[~~(5)~~](6) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman.

[~~(6)~~](7) "Hospital" means:

(a) a general hospital licensed by the department according to Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) a clinic or other medical facility [~~that meets the following criteria:~~]to the extent that such clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to the pregnant woman and the unborn child as would be provided for the particular medical procedures undertaken by a general hospital licensed by the department.

[~~(i) a clinician who performs procedures at the clinic is required to be credentialed to perform the same procedures at a general hospital licensed by the department; and~~]

[~~(ii) any procedures performed at the clinic are done with the same level of safety for the pregnant woman and unborn child as would be available in a general hospital licensed by the department.~~]

[~~(7)~~](8) "Information module" means the pregnancy termination information module prepared by the department.

[~~(8)~~](9) "Medical emergency" means a life threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of a major bodily function, unless the abortion is performed or induced.

[~~(9)~~](10) "Minor" means an individual who is:

(a) under 18 years old;

(b) unmarried; and

(c) not emancipated.

[~~(10)~~](11)(a) "Partial birth abortion" means an abortion in which the person performing the abortion:

(i) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(ii) performs the overt act, other than completion of delivery, that kills the partially living fetus.

(b) "Partial birth abortion" does not include the dilation and evacuation procedure involving dismemberment prior to removal, the suction

curettage procedure, or the suction aspiration procedure for abortion.

[~~(11)~~](12) "Perinatal hospice" means comprehensive support to the mother and her family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth, and through the postpartum period, that:

(a) focuses on alleviating fear and ensuring that the woman and her family experience the life and death of a child in a comfortable and supportive environment; and

(b) may include counseling or medical care by:

(i) maternal-fetal medical specialists;

(ii) obstetricians;

(iii) neonatologists;

(iv) anesthesia specialists;

(v) psychiatrists, psychologists, or other mental health providers;

(vi) clergy;

(vii) social workers; or

(viii) specialty nurses.

[~~(12)~~](13) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act;

(b) an osteopathic physician licensed to practice osteopathic medicine under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection [~~(12)(a)~~](13)(a) or (b).

[~~(13)~~](14)(a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 7. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) An abortion may be performed in this state only by a physician.

(2) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child has not reached 18 weeks gestational age;

(b) the unborn child has reached 18 weeks gestational age, and:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious physical risk of substantial impairment of a major bodily function of the woman on whom the abortion is performed; or

(ii) subject to Subsection (4), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or

(c) the unborn child has not reached 18 weeks gestational age and:

(i)(A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or

(B) the pregnant child is under the age of 14; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) for an abortion authorized under Subsection (2)(c)(i)(A), verifies that the incident described in Subsection (2)(c)(i)(A) has been reported to law enforcement; and

(B) if applicable, complies with the requirements of Section 80-2-602.

(3) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(4) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice and perinatal palliative care services are available and are an alternative to abortion.

(5) A physician who performs an abortion under Subsection (2)(c) shall:

(a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (2)(c)(ii)(A); and

(b) report the information described in Subsection (5)(a) to the department in accordance with Section 76-7-313.

Section 8. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or a hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the department's website, which contains the information described in Section 26B-7-106, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website;

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection 26B-2-232(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b)(i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);

(ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

(iii) ensure that:

(A) the woman has received the information described in Subsections 26B-2-232(3) and (4); and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(2)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a risk described in Subsection 76-7-302(2)(b)(i)(B); or

(b) Subsection 76-7-302(2)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a risk described in Subsection 76-7-302(2)(b)(i)(B);

(c) the pregnancy was the result of rape or rape of a child, as described in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant child was 14 years old or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10)(a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 9. Section 76-7a-101 is amended to read:

76-7a-101. Definitions.

As used in this chapter:

(1)(a) "Abortion" means the act, by a physician, of using an instrument, or prescribing a drug, with the intent to cause the death of an unborn child of a woman known to be pregnant, except as permitted under this chapter.

(b) "Abortion" does not include:

(i) removal of a dead unborn child;

(ii) removal of an ectopic pregnancy; or

(iii) the killing or attempted killing of an unborn child without the consent of the pregnant woman, unless:

(A) the killing or attempted killing is done through a medical procedure carried out by a physician or through a substance used under the direction of a physician; and

(B) the physician is unable to obtain the consent due to a medical emergency.

(2) "Abortion clinic" means a type I abortion clinic licensed by the state or a type II abortion clinic licensed by the state.

(3) "Department" means the Department of Health and Human Services.

[~~(3)~~](4) "Down syndrome" means a genetic condition associated with an extra chromosome 21, in whole or in part, or an effective trisomy for chromosome 21.

[~~(4)~~](5) "Hospital" means:

(a) a general hospital licensed by the department; [~~and~~]or

(b) a clinic or other medical facility [~~that meets the following criteria:~~]to the extent the clinic or other medical facility is certified by the department as providing equipment and personnel sufficient in quantity and quality to provide the same degree of safety to a pregnant woman and an unborn child as would be provided for the particular medical procedure undertaken by a general hospital licensed by the department.

[~~(i) a clinician who performs procedures at the clinic is required to be credentialed to perform the same procedures at a general hospital licensed by the department; and~~]

[~~(ii) any procedures performed at the clinic are done with the same level of safety for the pregnant woman and unborn child as would be available in a general hospital licensed by the department.~~]

[~~(5)~~](6) "Medical emergency" means a life threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the pregnant woman at risk of death, or poses a serious risk of substantial impairment of a major bodily function, unless the abortion is performed or induced.

[~~(6)~~](7) "Perinatal hospice" means comprehensive support to the mother and her family from the time of the diagnosis of a lethal fetal anomaly, through the time of the child's birth, and through the postpartum period, that:

(a) focuses on alleviating fear and ensuring that the woman and her family experience the life and death of a child in a comfortable and supportive environment; and

(b) may include counseling or medical care by:

(i) maternal-fetal medical specialists;

(ii) obstetricians;

(iii) neonatologists;

(iv) anesthesia specialists;

(v) psychiatrists, psychologists, or other mental health providers;

(vi) clergy;

(vii) social workers; or

(viii) specialty nurses.

[~~(7)~~](8) "Physician" means:

(a) a medical doctor licensed to practice medicine and surgery in the state;

(b) an osteopathic physician licensed to practice osteopathic medicine in the state; or

(c) a physician employed by the federal government who has qualifications similar to an individual described in Subsection (7)(a) or (b).

[~~(8)~~](9)(a) "Severe brain abnormality" means a malformation or defect that causes an individual to live in a mentally vegetative state.

(b) "Severe brain abnormality" does not include:

(i) Down syndrome;

(ii) spina bifida;

(iii) cerebral palsy; or

(iv) any other malformation, defect, or condition that does not cause an individual to live in a mentally vegetative state.

Section 10. Section 76-7a-201 is amended to read:

76-7a-201. Abortion prohibition -- Exceptions -- Penalties.

(1) An abortion may be performed in this state only under the following circumstances:

(a) the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious physical risk of substantial impairment of a major bodily function of the woman on whom the abortion is performed;

(b) subject to Subsection (3), two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus has a fetal abnormality that in the physicians' reasonable medical judgment is incompatible with life; or

(c) the unborn child has not reached 18 weeks gestational age and:

(i)(A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; or

(B) the pregnant child is under the age of 14; and

(ii) before the abortion is performed, the physician who performs the abortion:

(A) for an abortion authorized under Subsection (1)(c)(i)(A), verifies that the incident described in Subsection (1)(c)(i)(A) has been reported to law enforcement; and

(B) if applicable, complies with requirements related to reporting suspicions of or known child abuse.

(2) An abortion may be performed only:

(a) by a physician; and

(b) in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

(3) If the unborn child has been diagnosed with a fetal abnormality that is incompatible with life, at the time of the diagnosis, the physician shall inform the woman, both verbally and in writing, that perinatal hospice services and perinatal palliative care are available and are an alternative to abortion.

(4) A person who performs an abortion in violation of this section is guilty of a second degree felony.

(5) In addition to the penalty described in Subsection (4), the department may take appropriate corrective action against a health care facility, including revoking the health care facility's license, if a violation of this chapter occurs at the health care facility.

(6) The department shall report a physician's violation of any provision of this section to the state entity that regulates the licensing of a physician.

(7) A physician who performs an abortion under Subsection (1)(c) shall:

(a) maintain an accurate record as to the manner in which the physician conducted the verification under Subsection (1)(c)(ii)(A); and

(b) report the information described in Subsection (7)(a) to the department in accordance with Section 76- 7- 313.

Section 11. Effective date.

(1) Except as provided in Subsection (2), if approved by two- thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two- thirds of all members elected to each house, this bill takes effect May 1, 2024.

CHAPTER 314
H. B. 203
Passed February 29, 2024
Approved March 14, 2024
Effective May 1, 2024

INVOLUNTARY COMMITMENT AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the criteria for involuntary civil commitment.

Highlighted Provisions:

This bill:

- in certain circumstances, provides for the court-ordered civil commitment of an individual who:
  - has been charged with a crime;
  - is incompetent to proceed;
  - has a mental illness; and
  - has a persistent unawareness of their mental illness or unreasonably refused to undergo mental health treatment;
- provides a severability clause; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26B-5-332, as renumbered and amended by Laws of Utah 2023, Chapter 308

Sections affected by Coordination Clause:

26B-5-332, as renumbered and amended by Laws of Utah 2023, Chapter 3083

26B-5-351, as renumbered and amended by Laws of Utah 2023, Chapter 3083

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

Section 1. Section 26B-5-332 is amended to read:

26B-5-332. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs -- Severability.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b)(i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) Before issuing a judicial order, the court:

(a) shall require the applicant to consult with the appropriate local mental health authority at or before the hearing; and

(b) may direct a mental health professional from the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report the existing facts to the court.

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as described in Section 26B-5-334, to be detained for the purpose of examination if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4)(a) The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) The place of detention shall maintain a copy of the order of detention.

(5)(a) The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or the local mental health authority's designee, and any other persons whom the proposed patient or the court designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice.

(6) Proceedings for commitment of an individual under 18 years old to a local mental health authority may be commenced in accordance with Part 4, Commitment of Persons Under Age 18.

(7)(a) The court may, in the court's discretion, transfer the case to any other district court within this state, if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days after the day on which the designated examiners are appointed.

(10)(a) The designated examiners shall:

(i) conduct the examinations separately;

(ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

(iii) inform the proposed patient, if not represented by an attorney:

(A) that the proposed patient does not have to say anything;

(B) of the nature and reasons for the examination;

(C) that the examination was ordered by the court;

(D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

(E) that findings resulting from the examination will be made available to the court; and

(F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

(iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 26B-5-360, or has acceptable programs available to the proposed patient without court proceedings.

(b) If a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, the local mental health authority's designee, or a medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, the local mental health authority's designee, or the medical examiner shall immediately report the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including before the hearing, if the designated examiners or the local mental health authority or the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 26B-5-360;

(c) has acceptable options for treatment programs that are available without court proceedings; or

(d) meets the criteria for assisted outpatient treatment described in Section 26B-5-351.

(14)(a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel, and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court.

(15)(a)(i) The court shall afford the proposed patient, the applicant, and any other person to

whom notice is required to be given an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Utah Rules of Evidence, Rule 1102.

(e)(i) A local mental health authority or the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16)(a) The court shall order commitment of an adult proposed patient to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

(i)(A) the proposed patient has a mental illness;

[~~(ii)~~](B) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

[~~(iii)~~](C) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

[~~(iv)~~](D) there is no appropriate less-restrictive alternative to a court order of commitment; and

[~~(v)~~](E) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs[~~.~~]; or

(ii)(A) the proposed patient has been charged with a criminal offense;

(B) with respect to the charged offense, the proposed patient is found incompetent to proceed as a result of a mental illness;

(C) the proposed patient has a mental illness;

(D) the proposed patient has a persistent unawareness of their mental illness and the negative consequences of that illness, or within the preceding six months has been requested or ordered to undergo mental health treatment but has unreasonably refused to undergo that treatment;

(E) there is no appropriate less-restrictive alternative to a court order of commitment; and

(F) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs.

(b)(i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 26B-5-351 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 26B-5-351.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

(17)(a)(i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) If the patient is not under an order of commitment at the time of the hearing, the patient's treatment period may not exceed six months without a review hearing.

(iii) Upon a review hearing, to be commenced before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the criteria described in Subsection (16) will last for an indeterminate period.

(b)(i) The court shall maintain a current list of all patients under the court's order of commitment and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or the local mental health authority's designee of the expiration.

(iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c)(i) The local mental health authority or the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six- month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment no longer exist, the local mental health authority or the local mental health authority's designee shall discharge the patient from the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the local mental health authority or the local mental health authority's designee shall send a written report of the findings to the court.

(iv) A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18)(a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days after the day on which the court order is entered.

(b) The petition shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing in the manner otherwise permitted.

(19) The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section.

(20) If any provision of Subsection (16)(a)(ii) or the application of any provision of Subsection (16)(a)(ii) to any person or circumstance is held invalid by a court with jurisdiction, the remainder of Subsection (16)(a)(ii) shall be given effect without the invalid provision or application. The provisions of Subsection (16)(a)(ii) are severable.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Coordinating H.B. 203 with H.B. 299.

If H.B. 203, Involuntary Commitment Amendments, and H.B. 299, Court- ordered Treatment Modifications, both pass and become law, the Legislature intends that, on May 1, 2024:

(1) this coordination clause supersedes the coordination clause in H.B. 299, which coordinates H.B. 299 with H.B. 203;

(2) the changes to Subsection 26B- 5- 332(16) in H.B. 299 not be made; and

(3) the changes to Section 26B- 5- 351 in H.B. 299 not be made.

CHAPTER 315
H. B. 53
Passed February 5, 2024
Approved March 14, 2024
Effective May 1, 2024

PROPERTY VALUATION AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to property tax valuation.

Highlighted Provisions:

This bill:

- modifies the valuation process for property of a telecommunications provider;
- authorizes the use of Multicounty Appraisal Trust funds for hiring professional appraisers to provide property valuation services within rural counties;
- establishes qualifications for professional appraisers hired by the Multicounty Appraisal Trust for property valuation services; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59- 2- 306, as last amended by Laws of Utah 2022, Chapters 239, 293
59- 2- 306.5, as enacted by Laws of Utah 2022, Chapter 239
59- 2- 1005, as last amended by Laws of Utah 2022, Chapter 239
59- 2- 1606, as last amended by Laws of Utah 2020, Chapter 447

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

Section 1. Section 59- 2- 306 is amended to read:

59- 2- 306. Statements by taxpayers -- Power of assessors respecting statements -- Reporting information to other counties.

(1)(a) Except as provided in Subsection (1)(c), the county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor that the person owns, possesses, manages, or has under the person's control at 12 noon on January 1.

(b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59- 2- 1005 for appealing the value of the personal property.

(c) A telecommunications service provider shall file a signed statement setting forth the telecommunications service provider's[~~:~~]

[~~(i) real property in accordance with this section; and~~]

[~~(ii)~~] personal property in accordance with Section 59- 2- 306.5.

(d) A telecommunications service provider shall claim an exemption for personal property in accordance with Section 59- 2- 1115.

(2)(a) Except as provided in Subsection (2)(b) or (c), a person shall file a signed statement described in Subsection (1) on or before May 15 of the year the county assessor requests the statement described in Subsection (1).

(b) For a county of the first class, a person shall file the signed statement described in Subsection (1) on or before the later of:

(i) 60 days after the day on which the county assessor requests the statement; or

(ii) May 15 of the year the county assessor requests the statement described in Subsection (1) if, by resolution, the county legislative body of that county adopts the deadline described in Subsection (2)(a).

(c) If a county assessor requests a signed statement described in Subsection (1) on or after March 16, the person shall file the signed statement within 60 days after the day on which the county assessor requests the signed statement.

(3) The signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which the property is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which the property is located or taxable;

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres that have been sectionized by the United States government, and the improvements on those lands; and

(d) for a person who owns taxable tangible personal property as defined in Section 59- 2- 1115, the person's NAICS code, as classified under the current North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

(4) Every county assessor may subpoena and examine any person in any county in relation to any signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

(5)(a) Except as provided in Subsection (5)(b), if the signed statement discloses property in any other county, the county assessor shall file the

signed statement and send a copy to the county assessor of each county in which the property is located.

(b) If the signed statement discloses personal property of a telecommunications service provider, the county assessor shall notify the telecommunications service provider of the requirement to file a signed statement in accordance with Section 59-2-306.5.

Section 2. Section 59-2-306.5 is amended to read:

59-2-306.5. Valuation of personal property of telecommunications service provider -- Reporting information to counties.

(1) As used in this section, "Multicounty Appraisal Trust" means the same as that term is defined in Section 59-2-1601.

(2) A telecommunications service provider shall provide to the Multicounty Appraisal Trust a signed statement setting forth all of the personal property that the telecommunications service provider owns, possesses, manages, or has under the telecommunications service provider's control in the state.

(3) The signed statement[~~shall~~]:

(a) may be requested by the Multicounty Appraisal Trust:

(i) each year; and

(ii) if requested, on or before January 31;

[~~(a)~~](b) shall itemize each item of personal property that the telecommunications service provider owns, possesses, manages, or has under the telecommunications service provider's control:

(i) by county and by tax area; and

(ii) for the tax year that began on January 1; and

[~~(b)~~](c) shall be submitted:

(i) annually on or before [~~May 15~~]March 31; and

(ii) electronically in a form approved by the commission.

(4)(a) [~~The~~]Except where an estimate is made in accordance with Subsection 59-2-307(3)(b)(i)(C), the Multicounty Appraisal Trust shall value each item of personal property of a telecommunications service provider according to the personal property valuation guides and schedules established by the commission.

(b)(i) Between March 31 and May 31 of each year:

(A) the Multicounty Appraisal Trust may communicate with a telecommunications service provider to address any inconsistency or error in the filed signed statement; and

(B) the telecommunications service provider may file an amended signed statement with the Multicounty Appraisal Trust regarding the items agreed to by the Multicounty Appraisal Trust and the telecommunications service provider.

(ii) The communication described in this Subsection (4)(b) is in addition to the audit authority provided by this chapter.

(c) On or before May 31 of each year, the Multicounty Appraisal Trust shall:

(i) forward to each county information about the total value of personal property of each telecommunications service provider within the county, by tax area, including a listing of personal property that is exempt; and

(ii) issue a tax notice to each telecommunications service provider listing the tax due to each county, by tax area.

(d) On or before June 30 of each year, a telecommunications service provider shall pay to the county the tax due on the tax notice.

[~~(b)~~](e) A telecommunications service provider may appeal the valuation of personal property [~~in accordance with Section 59-2-1005~~]to the county on or before the later of:

(i) July 30 of the year the Multicounty Appraisal Trust requests a statement described in Subsection (3)(a); or

(ii) 60 days after mailing of a tax notice.

(5) The Multicounty Appraisal Trust shall forward to each county information about the total value of personal property of each telecommunications service provider within the county.

(6) If a signed statement filed in accordance with this section discloses real property, the Multicounty Appraisal Trust shall send a copy of the signed statement to the county in which the property is located.

Section 3. Section 59-2-1005 is amended to read:

59-2-1005. Procedures for appeal of personal property valuation -- Time for appeal -- Hearing -- Decision -- Appeal to commission.

(1)(a) [~~A~~]Except as provided in Section 59-2-306.5, a taxpayer owning personal property assessed by a county assessor under Section 59-2-301 may make an appeal relating to the value of the personal property by filing an application with the county legislative body no later than:

(i) the expiration of the time allowed under Section 59-2-306 for filing a signed statement, if the county assessor requests a signed statement under Section 59-2-306[~~or the expiration of the time allowed under Section 59-2-306.5 if the taxpayer is a telecommunications service provider~~]; or

(ii) 60 days after the mailing of the tax notice, for each other taxpayer.

(b) A county legislative body shall:

(i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and

(ii) render a written decision on the appeal within 60 days after receiving the appeal.

(c) If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59- 2- 1006.

(2) A taxpayer owning personal property subject to a fee in lieu of tax or a uniform tax under Article XIII, Section 2 of the Utah Constitution that is based on the value of the property may appeal the basis of the value by filing an appeal with the commission within 30 days after the mailing of the tax notice.

Section 4. Section 59-2-1606 is amended to read:

59-2-1606. Statewide property tax system funding for counties -- Disbursements to the Multicounty Appraisal Trust -- Use of funds.

(1) The funds deposited into the Multicounty Appraisal Trust in accordance with Section 59- 2- 1602 shall be used to provide funding for a statewide property tax system that will promote:

(a) the accurate valuation of property;

(b) the establishment and maintenance of uniform assessment levels among counties within the state;

(c) efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes; and

(d) the uniform filing of a signed statement a county assessor requests under Section 59- 2- 306, including implementation of a statewide electronic filing system.

(2) The trustee of the Multicounty Appraisal Trust shall:

(a) determine which projects to fund; and

(b) oversee the administration of a statewide property tax system.

(3)(a) Subject to Subsection (3)(b), the trustee of the Multicounty Appraisal Trust may, in order to promote the objectives described in Subsection (1), use funds deposited into the Multicounty Appraisal Trust to hire one or more professional appraisers to provide property valuation services within a county of the third, fourth, fifth, or sixth class.

(b) A professional appraiser hired to provide property valuation services under this Subsection (3) shall:

(i) hold an appraiser's certificate or license from the Division of Real Estate in accordance with Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act; and

(ii) be approved by:

(A) the commission; and

(B) an association representing two or more counties in the state.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

Section 6. Retrospective operation.

(1) The following sections have retrospective operation to January 1, 2024:

(a) Section 59- 2- 306;

(b) Section 59- 2- 306.5; and

(c) Section 59- 2- 1005.

CHAPTER 316
H. B. 12
Passed February 5, 2024
Approved March 18, 2024
Effective May 1, 2024

TAX INCENTIVE REVISIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to tax incentives for new development projects.

Highlighted Provisions:

This bill:

- authorizes a community reinvestment agency to enter into a participation agreement and moves the language relating to a participation agreement from the definition of participation agreement to the provision authorizing the agency to enter into a participation agreement;
- modifies a provision relating to information that an agency is required to provide to the Governor's Office of Economic Opportunity for inclusion in a database maintained by the Office;
- requires an agency with no active project area to submit a report to the Office;
- requires the Office to refer an agency to the state auditor and post a notice on the Office's website or report the agency to the county auditor and treasurer if an agency fails to comply with applicable reporting requirements;
- requires an agency with unexpended project area funds more than five years after the expiration of the project area funds collection period to use those funds for housing;
- requires an analysis of whether project development would be likely to occur without the use of tax incentives; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-102, as last amended by Laws of Utah 2023, Chapter 15
17C-1-202, as last amended by Laws of Utah 2021, Chapter 214
17C-1-603, as last amended by Laws of Utah 2023, Chapter 499
17C-1-702, as enacted by Laws of Utah 2016, Chapter 350
17C-5-105, as last amended by Laws of Utah 2023, Chapter 160
63N-2-104.2, as enacted by Laws of Utah 2022, Chapter 200

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

Section 1. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development,

24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30)(a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A)(I) that is no longer in operation as an airport; or

(II)(Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31)(a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35)(a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency [~~that:~~]under Subsection 17C-1-202(5).

[~~(a) includes a description of:~~]

[~~(i) the project area development that the person will undertake;~~]

[~~(ii) the amount of project area funds the person may receive; and~~]

[~~(iii) the terms and conditions under which the person may receive project area funds; and~~]

[~~(b) is approved by resolution of the board.~~]

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(52)(a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and

improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 2. Section 17C-1-202 is amended to read:

17C-1-202. Agency powers.

(1) An agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, acquire by gift, or otherwise acquire any interest in real or personal property;

(d) hold, sell, convey, grant, gift, or otherwise dispose of any interest in real or personal property;

(e) own, hold, maintain, utilize, manage, or operate real or personal property, which may include the use of agency funds or the collection of revenue;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor;

(g) provide for project area development as provided in this title;

(h) receive and use agency funds as provided in this title;

(i) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(j) accept financial or other assistance from any public or private source for the agency's activities,

powers, and duties, and expend any funds the agency receives for any purpose described in this title;

(k) borrow money or accept financial or other assistance from a public entity or any other source for any of the purposes of this title and comply with any conditions of any loan or assistance;

(l) issue bonds to finance the undertaking of any project area development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with project area development;

(m) pay an impact fee, exaction, or other fee imposed by a community in connection with land development;

(n) subject to Part 10, Agency Taxing Authority, levy a property tax; or

(o) transact other business and exercise all other powers described in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(i) is a public purpose.

(3) An agency may acquire real property under Subsection (1)(c) that is outside a project area only if the board determines that the property will benefit a project area.

(4) An agency is not subject to Section 10-8-2 or 17-50-312.

(5)(a) An agency may, subject to Subsection (5)(c), enter into an agreement with a person to govern the development the person will undertake within a project area.

(b) An agreement under Subsection (5)(a) shall include a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the agency agrees to pay to the person to facilitate the development; and

(iii) the terms and conditions under which the agency agrees to pay project area funds to the person.

(c)(i) An agreement under Subsection (5)(a) is subject to board approval by resolution of the board.

(ii) A resolution under Subsection (5)(c)(i) shall include a finding by the board describing how the project area development described in the agreement will contribute to achieving the goals, policies, and purposes of the project area plan.

Section 3. Section 17C-1-603 is amended to read:

17C-1-603. Reporting requirements -- Governor's Office of Economic Opportunity to maintain a database.

(1) As used in this section:

(a) "Database" means the collection of electronic data described in Subsection (2)(a).

(b) "Office" means the Governor's Office of Economic Opportunity.

(c) "Office website" means a public website maintained by the office.

[~~(1)~~](2) [~~On or before June 1, 2022, the Governor's Office of Economic Opportunity~~]The office shall:

(a) create [~~a database~~]and maintain electronic data to track information for each agency located within the state; and

(b) make the database publicly accessible from the [~~office's~~]office website.

[~~(2)~~](3)(a) The [~~Governor's Office of Economic Opportunity~~]office may:

(i) contract with a third party to create and maintain the database [~~described in Subsection (1)~~]; and

(ii) charge a fee for a county, city, or agency to provide information to the database[~~ described in Subsection (1)~~].

(b) The [~~Governor's Office of Economic Opportunity~~]office shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a fee schedule for the fee described in Subsection [~~(2)(a)(ii)~~](3)(a)(ii).

[~~(3)~~](4) [~~Beginning in 2022, on~~]On or before June 30 of each[~~ calendar~~] year, an agency shall, for each active project area for which the project area funds collection period has not expired, [~~provide to~~]submit to the office for inclusion in the database[~~ described in Subsection (1)~~] the following information:

(a) an assessment of the change in marginal value, including:

(i) the base year;

(ii) the base taxable value;

(iii) the prior year's assessed value;

(iv) the estimated current assessed value;

(v) the percentage change in marginal value; and

(vi) a narrative description of the relative growth in assessed value;

(b) the amount of project area funds the agency received and the amount of project area funds the agency spent for each year of the project area funds collection period, broken down by the applicable budget or funds analysis category described in Subsection (4)(d), including:

(i) a comparison of the actual project area funds received and spent for each year to the amount of

project area funds forecasted for each year when the project area was created, if available;

(ii)(A) the agency's historical receipts and expenditures of project area funds, including the tax year for which the agency first received project area funds from the project area; or

(B) if the agency has not yet received project area funds from the project area, the year in which the agency expects each project area funds collection period to begin;

(iii) a list of each taxing entity that levies or imposes a tax within the project area and a description of the benefits that each taxing entity receives from the project area; and

(iv) the amount paid to other taxing entities under Section 17C-1-410, if applicable;

(c) a description of current and anticipated project area development, including:

(i) a narrative of any significant project area development, including infrastructure development, site development, participation agreements, or vertical construction; and

(ii) other details of development within the project area, including:

(A) the total developed acreage;

(B) the total undeveloped acreage;

(C) the percentage of residential development; and

(D) the total number of housing units authorized, if applicable;

(d) the project area budget, if applicable, or other project area funds analyses, with receipts and expenditures categorized by the type of receipt and expenditure related to the development performed or to be performed under the project area plan, including:

(i) each project area funds collection period, including:

(A) the start and end date of the project area funds collection period; and

(B) the number of years remaining in each project area funds collection period;

(ii) the amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity, including:

(A) the total dollar amount; and

(B) the percentage of the total amount of project area funds generated within the project area;

(iii) the remaining amount of project area funds the agency is authorized to receive from the project area cumulatively and from each taxing entity; and

(iv) the amount of project area funds the agency is authorized to use to pay for the agency's administrative costs, as described in Subsection 17C-1-409(1), including:

(A) the total dollar amount; and

(B) the percentage of the total amount of all project area funds;

(e) the estimated amount of project area funds that the agency is authorized to receive from the project area for the current calendar year;

(f) the estimated amount of project area funds to be paid to the agency for the next calendar year;

(g) a map of the project area; [~~and~~]

(h) a description of how the goals, policies, and purposes of the project area plan have been furthered during the preceding year; and

[~~(h)~~](i) any other relevant information the agency elects to provide.

(5) An agency with no active project area shall, no later than June 30 of each year until the agency is dissolved under Section 17C-1-701.5, submit a report to the office stating that the agency has no active project area.

[~~(4)~~](6) Any information an agency submits in accordance with this section:

(a) is for informational purposes only; and

(b) does not alter the amount of project area funds that an agency is authorized to receive from a project area.

[~~(5)~~](7) The provisions of this section apply regardless of when the agency or project area is created.

[~~(6)~~](8) On or before September 1 of each year, the [~~Governor's Office of Economic Opportunity~~]office shall prepare and submit an annual written report to the Political Subdivisions Interim Committee that identifies[~~:~~]

[~~(a)~~] the agencies that complied and the agencies that failed to comply with the reporting requirements of this section during the preceding reporting period[~~; and~~].

[~~(b) any agencies that failed to comply with the reporting requirements of this section during the preceding reporting period.~~]

(9)(a) If, by September 30 of the year the information is due, the office does not receive the information that an agency is required to submit under Subsection (4), the office shall:

(i) refer the noncompliant agency to the state auditor for review; and

(ii) post a notice on the office website identifying the noncompliant agency and describing the agency's noncompliance.

(b) If the office does not receive a report an agency is required to submit under Subsection (5), the office shall refer the noncompliant agency to the state auditor for review.

(c) If, for two consecutive years, the office does not receive information an agency is required to submit under Subsection (4):

(i) the office shall, no later than July 31 of the second consecutive year, notify the auditor and treasurer of the county in which the noncompliant agency is located of the agency's noncompliance; and

(ii) upon receiving the notice described in Subsection (9)(c)(i), the county treasurer shall withhold from the agency 20% of the amount of tax increment the agency is otherwise entitled to receive until the office notifies the county auditor and treasurer that the agency has complied with the requirement of Subsection (4).

Section 4. Section 17C-1-702 is amended to read:

17C-1-702. Project area dissolution -- Use of unexpended funds for housing.

(1) Regardless of when a project area funds collection period ends, the project area remains in existence until:

(a) the agency adopts a resolution dissolving the project area; and

(b) the community legislative body adopts an ordinance dissolving the project area.

(2) The ordinance described in Subsection (1)(b) shall include:

(a) the name of the project area; and

(b) a project area map or boundary description.

(3) Within 30 days after the day on which the community legislative body adopts an ordinance described in Subsection (1)(b), the community legislative body shall:

(a) submit a copy of the ordinance to the county recorder of the county in which the dissolved project area is located; and

(b) mail or electronically submit a copy of the ordinance to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies or imposes a tax on property within the dissolved project area.

(4)(a) As used in this Subsection (4), "dormancy period" means a period that ends the later of:

(i) five years after the project area funds collection period ends; and

(ii) five years after the effective date of this section.

(b) An agency with project area funds remaining at the end of the dormancy period shall use the unexpended funds as provided in Subsection 17C-1-412(1)(b).

Section 5. Section 17C-5-105 is amended to read:

17C-5-105. Community reinvestment project area plan requirements.

An agency shall ensure that each community reinvestment project area plan and proposed community reinvestment project area plan:

(1) subject to Section 17C-1-414, if applicable, includes a boundary description and a map of the community reinvestment project area;

(2) contains a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by project area development;

(3) states the standards that will guide project area development;

(4) shows how project area development will further purposes of this title;

(5) is consistent with the general plan of the community in which the community reinvestment project area is located and shows that project area development will conform to the community's general plan;

(6) if applicable, describes how project area development will eliminate or reduce a development impediment in the community reinvestment project area;

(7) describes any specific project area development that is the object of the community reinvestment project area plan;

(8) if applicable, explains how the agency plans to select a participant;

(9) states each reason the agency selected the community reinvestment project area;

(10) describes the physical, social, and economic conditions that exist in the community reinvestment project area;

(11) describes each type of financial assistance that the agency anticipates offering a participant;

(12) includes an analysis or description of the anticipated public benefit resulting from project area development, including benefits to the community's economic activity and tax base;

(13) includes the rationale for the use of tax increment, including an analysis of whether the proposed project area development might reasonably be expected to occur in the foreseeable future without the use of tax increment;

[~~(13)~~](14) if applicable, states that the agency shall comply with Section 9-8a-404 as required under Section 17C-5-106;

[~~(14)~~](15) for a community reinvestment project area plan that an agency adopted before May 14, 2019, states whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

[~~(15)~~](16) includes other information that the agency determines to be necessary or advisable.

Section 6. Section 63N-2-104.2 is amended to read:

63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or termination.

(1) If the office determines that a business entity is eligible for a tax credit under Section

63N-2-104.1, the office may enter into a written agreement with the business entity that:

(a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;

(b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;

(c) establishes the length of time the business entity may claim a tax credit;

(d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;

(e) requires the business entity to submit to audits for verification of any tax credit claimed; and

(f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.

(2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:

(a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;

(b) consider the following factors:

(i) whether the new commercial project provides vital or specialized support to supply chains;

(ii) whether the new commercial project provides an innovative product, technology, or service;

(iii) the number and wages of new incremental jobs associated with the new commercial project;

(iv) the amount of financial support provided by local government entities for the new commercial project;

(v) the amount of capital expenditures associated with the new commercial project;

(vi) whether the new commercial project returns jobs transferred overseas;

(vii) the rate of unemployment in the county in which the new commercial project is located;

(viii) whether the new commercial project creates a remote work opportunity;

(ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);

(x) whether the business entity commits to hiring Utah workers for the new commercial project;

(xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;

(xii) whether the business entity's headquarters are located within the state;

(xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;

(xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; [~~and~~]

(xv) whether the proposed new commercial project might reasonably be expected to occur in the foreseeable future without the tax credit; and

[~~(xv)~~](xvi) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and

(c) consult with the GO Utah board.

(3)(a) In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:

(i) authorize a higher or optimized amount of tax credit for a new commercial project located within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and

(ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

(b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.

(4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:

(a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;

(b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or

(c) an increase in the business entity's operations that:

(i) is outside the scope of the written agreement or outside the boundaries of a development zone; and

(ii) results in new state revenue not subject to the incentive.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 317
H. B. 23
Passed February 1, 2024
Approved March 18, 2024
Effective May 1, 2024

DIVISION OF OUTDOOR RECREATION ADVISORY COUNCIL SUNSET EXTENSION

Chief Sponsor: Walt Brooks
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses the sunset date of the advisory council that advises the Division of Outdoor Recreation on boating policies.

Highlighted Provisions:

This bill:

- extends the sunset date of the advisory council that advises the Division of Outdoor Recreation on boating policies from 2024 to 2029.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-273, as last amended by Laws of Utah 2023, Chapters 205, 261
63I-1-279, as last amended by Laws of Utah 2023, Chapter 211

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

(3) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, [~~2024~~]2029.

(4) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

(5) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section 2. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

(1) Subsection 79-2-201(2)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)(q), related to the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)(r)(i), related to an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, [~~2024~~]2029.

(4) Subsection 79-2-201(2)(s), related to the Wildlife Board Nominating Committee, is repealed July 1, 2028.

(5) Subsection 79-2-201(2)(t), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

(6) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 318
H. B. 29
Passed February 21, 2024
Approved March 18, 2024
Effective July 1, 2024

SENSITIVE MATERIAL REVIEW AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Todd D. Weiler

Cosponsor:
Katy Hall
Thomas W. Peterson
Cheryl K. Acton
Colin W. Jack
Candice B. Pierucci
Carl R. Albrecht
Tim Jimenez
Judy Weeks Rohner
Stewart E. Barlow
Dan N. Johnson
Rex P. Shipp
Kera Birkeland
Michael L. Kohler
Keven J. Stratton
Bridger Bolinder
Trevor Lee
Mark A. Strong
Walt Brooks
Karianne Lisonbee
Jordan D. Teuscher
Jefferson S. Burton
Steven J. Lund
R. Neil Walter
Kay J. Christofferson
Phil Lyman
Raymond P. Ward
Tyler Clancy
A. Cory Maloy
Christine F. Watkins
Joseph Elison
Jefferson Moss
Stephen L. Whyte
Stephanie Gricius
Michael J. Petersen
Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions regarding the evaluation of instructional material to identify and remove pornographic or indecent material.

Highlighted Provisions:

This bill:

- defines terms;
- requires the prioritization of protecting children from illicit pornography over other considerations in evaluating instructional material;
- specifies individuals who may trigger a formal sensitive material review;
- establishes certain required processes for the evaluation and review of sensitive material allegations, including distinct requirements for objective sensitive material and subjective sensitive material;
- requires certain actions statewide if a certain threshold of local education agencies determine that the instructional material constitutes objective sensitive material, subject to a vote of the state board to overturn the statewide action in certain circumstances;
- provides indemnification for claims arising from sensitive materials requirements;
- requires the Office of the Legislative Auditor General to audit school district compliance with sensitive materials requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-10-103, as enacted by Laws of Utah 2022, Chapter 377

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

Section 1. Section 53G-10-103 is amended to read:

53G-10-103. Sensitive instructional materials.

(1) As used in this section:

(a)(i) "Instructional material" means a material, regardless of format, used:

(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

(B) to support a student's learning in [~~the~~]any school setting.

(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

(iii) "Instructional material" does not mean exclusively library materials.

(b) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the state board.

(c) "Material" means the same as that term is defined in Section 76-10-1201.

(d) "Minor" means any person less than 18 years old.

(e) "Objective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-10-1235, under the non-discretionary standards described in Subsection 76-10-1227(1)(a)(i), (ii), or (iii).

[~~(e)~~](f) "Public school" means:

(i) a district school;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

[~~(f)~~](g)(i) "School setting" means, for a public school:

(A) in a classroom;

(B) in a school library; or

(C) on school property.

(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

(A) an assembly;

(B) a guest lecture;

(C) a live presentation; or

(D) an event.

[~~(g)~~](h)(i) "Sensitive material" means an instructional material that [~~is pornographic or indecent material as that term is defined in Section 76-10-1235~~]constitutes objective sensitive material or subjective sensitive material.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

(B) for a concurrent enrollment course that contains sensitive material and for which a parent receives notice from the course provider of the material before enrollment of the parent's child and gives the parent's consent by enrolling the parent's child;

[~~(B)~~](C) for medical courses;

[~~(C)~~](D) for family and consumer science courses; or

[~~(D)~~](E) for another course the state board exempts in state board rule.

(iii) "Subjective sensitive material" means an instructional material that constitutes pornographic or indecent material, as that term is defined in Section 76-10-1235, under the following factor-balancing standards:

(A) material that is harmful to minors under Section 76-10-1201;

(B) material that is pornographic under Section 76-10-1203; or

(C) material that includes certain fondling or other erotic touching under Subsection 76-10-1227(1)(a)(iv).

(2)(a) Sensitive materials are prohibited in the school setting.

(b) A public school or an LEA may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.

(c) In evaluating, selecting, or otherwise considering action related to a given instructional material under this section, each public school and each LEA shall prioritize protecting children from the harmful effects of illicit pornography over other considerations in evaluating instructional material.

(d) If an instructional material constitutes objective sensitive material:

(i) a public school or an LEA is not required to engage in a review under a subjective sensitive material standard; and

(ii) the outcome of a subjective sensitive material evaluation has no bearing on the non-discretionary objective sensitive material conclusion.

(3)(a) Except as provided in Subsection (3)(b), the following individuals may initiate a sensitive material review under this section:

(i) an employee of the relevant LEA;

(ii) a student who is enrolled in the relevant LEA;

(iii) a parent of a child who is enrolled in the relevant LEA; or

(iv) a member of the relevant LEA governing board.

(b)(i) As used in this Subsection (3)(b), "unsuccessful challenge" means an allegation that a given instructional material constitutes sensitive material that the LEA concludes to be erroneous, either on direct review or on appeal to the LEA governing board, resulting in the retention of the given instructional material.

(ii) Notwithstanding Subsection (3)(a), after an individual makes three unsuccessful challenges during a given academic year, the individual may not trigger a sensitive material review under this section during the remainder of the given academic year.

[~~(3) An LEA shall include~~]

(4) Upon receipt of an allegation from an individual described in Subsection (3)(a), an LEA shall:

(a)(i) make an initial determination as to whether the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material, including whether the allegation includes excerpts and other evidence to support the allegation; and

(ii) if the LEA determines that the allegation presents a plausible claim that the challenged instructional material constitutes sensitive material under Subsection (4)(a)(i), immediately remove the challenged material from any school

setting that provides student access to the challenged material until the LEA completes the LEA's full review of the challenged material under this section;

(b)(i) engage in a review of the allegations and the challenged instructional material using the objective sensitive material standards; and

(ii) if the LEA makes a determination that the challenged instructional material constitutes objective sensitive material, ensure that the material remains inaccessible to students in any school setting;

(c) only if the LEA makes a determination that the challenged instructional material does not constitute objective sensitive material:

(i) review the allegations and the challenged instructional material under the subjective material standards, ensuring that the review includes parents who are reflective of the members of the school's community when determining if an instructional material is subjective sensitive material[.];

(ii) allow student access to the challenged instructional material during the LEA's subjective sensitive material review if the student's parent gives consent regarding the specific challenged instructional material; and

(iii) if the LEA makes a determination that the challenged instructional material constitutes subjective sensitive material, ensure that the material is inaccessible to students in any school setting, including the termination of the parent consent option described in Subsection (4)(c)(ii); and

(d) communicate to the state board the allegation and the LEA's final determination regarding the allegation and the challenged instructional material.

(5)(a) An individual described in Subsection (3)(a) may appeal an LEA's decision regarding a sensitive material review, regardless of whether the LEA removed or retained the challenged instructional material, to the LEA governing board.

(b) An LEA governing board shall vote in a public board meeting to decide the outcome of a sensitive material review appeal, clearly identifying:

(i) the board's rationale for the decision; and

(ii) the board's determination on each component of the statutory and any additional policy standards the board uses to reach the board's conclusions.

(6) An LEA governing board may not enact rules or policies that prevent the LEA governing board from:

(a) revisiting a previous decision;

(b) reviewing a recommendation of LEA personnel or a parent- related committee regarding a challenged instructional material; or

(c) reconsidering a challenged instructional material if the LEA governing board receives additional information regarding the material.

(7)(a) Except as provided in Subsection (7)(d), if the threshold described in Subsection (7)(b) is met, each LEA statewide shall remove the relevant instructional material from student access.

(b) The requirement described in Subsection (7)(a) to remove a given material from student access applies if the following number of LEAs makes a determination that a given instructional material constitutes objective sensitive material:

(i) at least three school districts; or

(ii) at least two school districts and five charter schools.

(c) The state board shall:

(i) aggregate allegations and LEA determinations described in Subsection (4)(d); and

(ii) no later than 10 school days after the day on which the condition described in Subsection (7)(b) occurs, communicate to all LEAs the application of the requirement described in Subsection (7)(a) to remove the material from student access.

(d)(i) When the threshold described in Subsection (7)(b) is met for a given instructional material, in addition to making the communication described in Subsection (7)(c), the state board may:

(A) place the material on the agenda of a public board meeting within 60 days after the day on which the state board makes the communication to LEAs under Subsection (7)(c); and

(B) at the specified state board meeting, vote to overturn the application of the requirement described in Subsection (7)(a) to remove a given material from student access statewide.

(ii) If the state board votes to overturn the application of the statewide removal requirement described in Subsection (7)(a) under Subsection (7)(d)(i):

(A) the statewide removal requirement described in Subsection (7)(a) no longer applies;

(B) an LEA may choose to return the given material to student access; and

(C) nothing affects the findings of an LEA governing board regarding removal of the given material within the board's LEA.

(e) This Subsection (7) applies to sensitive materials that LEAs remove from student access, regardless of whether:

(i) the sensitive material determinations occur in the same academic year; or

(ii) a sensitive material determination occurred before July 1, 2024.

[~~(4)~~](8) The state board shall:

(a) in consultation with the Office of the Attorney General, provide guidance and training to support

public schools in identifying instructional materials that meet the definition of sensitive materials under this section;[~~and~~]

(b) establish a process through which an individual described in Subsection (3)(a) may report to the state board an allegation that an LEA is out of compliance with this section; and

[~~(b)~~](c) annually report to the Education Interim Committee[~~and the Government Operations Interim Committee~~], at or before the November[~~2022~~] interim meeting, on implementation and compliance with this section, including:

(i) any policy the state board or an LEA adopts to implement or comply with this section;

(ii) any rule the state board makes to implement or comply with this section; and

(iii) any complaints an LEA or the state board receives regarding a violation of this section, including:

(A) action taken in response to a complaint described in this Subsection [~~(4)(b)(iii)~~](8)(c)(iii);[~~and~~]

(B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material[~~.~~]; and

(C) compliance failures that the state board identifies through the reporting process described in Subsection (8)(b) and other investigations or research.

(9) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this section for any claims or damages, including court costs and attorney fees, that:

(a) a person brings or incurs as a result of this section; and

(b) is not covered by the person's insurance policies or any coverage agreement that the State Risk Management Fund issues.

(10) Subject to prioritization of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General shall:

(a) conduct an audit of each school district's compliance with this section, ensuring the completion of all school district audits before November 2028; and

(b) annually report to the Education Interim Committee regarding completed sensitive material audits under this Subsection (10).

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 319
H. B. 30
Passed February 28, 2024
Approved March 18, 2024
Effective July 1, 2024

ROAD RAGE AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Todd D. Weiler

Cosponsor:
Candice B. Pierucci
Cheryl K. Acton
Andrew Stoddard

LONG TITLE

General Description:

This bill addresses road rage events.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the seizure and possession of a vehicle for a road rage event;
- allows for an administrative impound fee when a vehicle involved in a road rage event is seized and impounded;
- creates the Road Rage Awareness and Prevention Restricted Account to pay for an education and media campaign on road rage awareness and prevention;
- includes a sunset date for the Road Rage Awareness and Prevention Restricted Account;
- allows for the suspension or revocation of an individual's driver license when the individual is convicted of an offense that is enhanced for road rage;
- creates an enhancement of an offense for road rage;
- modifies the elements of aggravated assault to address the use of a motor vehicle;
- requires the Administrative Office of the Courts to collect data regarding road rage enhancements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Public Safety - Programs & Operations - Highway Patrol - Administration as an ongoing appropriation:
  - from the Road Rage Awareness and Prevention Restricted Account, $50,000
- to Department of Public Safety - Road Rage Awareness and Prevention Account as an ongoing appropriation:
  - from the General Fund, $50,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2023, Chapters 33, 532
41-1a-1101, as last amended by Laws of Utah 2019, Chapter 373
41-1a-1103, as last amended by Laws of Utah 2022, Chapter 92
41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
41-12a-806, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
53-3-220, as last amended by Laws of Utah 2023, Chapter 415
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
76-5-103, as last amended by Laws of Utah 2022, Chapter 181
78A-2-109.5, as last amended by Laws of Utah 2023, Chapter 441

ENACTS:

53-1-122, Utah Code Annotated 1953
76-3-203.17, Utah Code Annotated 1953

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

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental

two- way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53- 3- 102.

(9) "Automated driving system" means the same as that term is defined in Section 41- 26- 102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59- 13- 102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59- 13- 102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41- 1a- 106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41- 26- 102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24)(a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30)(a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an

agricultural operation and only incidentally operated or moved upon the highways.

(32)(a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41)(a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section 73-18-2.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45)(a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49)(a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Original issue license plate" means a license plate that is of a format and type issued by the state in the same year as the model year of a vehicle that is a model year 1973 or older.

(51) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(52)(a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of

possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(53) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(54) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(55)(a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(56) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(57) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

(58) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(59) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(60) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(61) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(62) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(63) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(64) "Registration decal" means the decal issued by the division that is evidence of compliance with the division's registration requirements.

(65)(a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(66) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(67) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(68) "Restored-modified vehicle" means a motor vehicle that has been restored and modified with modern parts and technology, including emission control technology and an on-board diagnostic system.

(69) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(70) "Sailboat" means the same as that term is defined in Section 73-18-2.

(71) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(72) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(73) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418 or Part 16, Sponsored Special Group License Plates.

(74)(a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (74)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(75)(a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(76) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(77)(a) "Standard license plate" means a license plate for general issue described in Subsection 41-1a-402(1).

(b) "Standard license plate" includes a license plate for general issue that the division issues before January 1, 2024.

(78) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission [~~pursuant to Subsection 41-1a-1101(5)~~]as described in Subsection 41-1a-1101(7).

(79) "Symbol decal" means the decal that is designed to represent a special group and displayed on a special group license plate.

(80) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(81)(a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

(82) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

(83) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

(84) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(85) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

(86) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

(87) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

(88) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(89) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

(90) "Vessel" means the same as that term is defined in Section 73-18-2.

(91) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

(92) "Waters of this state" means the same as that term is defined in Section 73-18-2.

(93) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-1101 is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) As used in this section:

(a)(i) "Criminal offense" means a class B misdemeanor offense, a class A misdemeanor offense, or a felony offense.

(ii) "Criminal offense" includes:

(A) a class B misdemeanor offense, a class A misdemeanor offense, or a felony offense described in Chapter 6a, Traffic Code, Title 53, Chapter 3, Part 2, Driver Licensing Act, Title 73, Chapter 18, State Boating Act, or Title 76, Utah Criminal Code; and

(B) a local ordinance that is a class B misdemeanor and is substantially similar to an offense listed in Subsection (1)(a)(ii)(A).

(b) "Operator" means the same as that term is defined in Section 41-6a-102.

(c) "Road rage event" means the commission of a criminal offense:

(i) by an operator of a vehicle;

(ii) in response to an incident that occurs or escalates upon a roadway; and

(iii) with the intent to endanger or intimidate an individual in another vehicle.

(d) "Roadway" means:

(i) a highway; or

(ii) a private road or driveway as defined in Section 41-6a-102.

[~~(1)~~](2) The division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:

(a) that the division or the peace officer has [~~reason~~]probable cause to believe has been stolen;

(b) on which any identification number has been defaced, altered, or obliterated;

(c) that has been abandoned in accordance with Section 41-6a-1408;

(d) for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

(e) that is placed on the water with improper registration;

(f) that is being operated on a highway:

(i) with registration that has been expired for more than three months;

(ii) having never been properly registered by the current owner; or

(iii) with registration that is suspended or revoked; or

(g)(i) that the division or the peace officer has [~~reason~~]probable cause to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

(ii) whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.

(3)(a) The division or a peace officer shall seize and take possession of a vehicle, without a warrant, when:

(i) the division or the peace officer has probable cause to believe that an operator of the vehicle engaged in a road rage event; and

(ii) the operator of the vehicle has been arrested in conjunction with the road rage event.

(b) A peace officer may release a vehicle seized and possessed under Subsection (3)(a) to the registered owner of the vehicle if the registered owner is not the individual subject to arrest under Subsection (3)(a) and is immediately available, at the location of the arrest, to take possession of the vehicle.

[~~(2)~~](4)(a) Subject to the restriction in Subsection [~~(2)(b)~~](4)(b), the division or any peace officer, without a warrant:

(i) shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 and the vehicle was involved in an accident; or

(ii) may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 after the division or any peace officer makes a reasonable determination whether the vehicle would:

(A) present a public safety concern to the operator or any of the occupants in the vehicle; or

(B) prevent the division or the peace officer from addressing other public safety considerations.

(b) The division or any peace officer may not seize and take possession of a vehicle under Subsection [~~(2)(a)~~](4)(a):

(i) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803; or

(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.

[~~(3)~~](5) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

[~~(4)~~](6) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

[~~(5)~~](7)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

(c) A crusher, dismantler, or salvage dealer may not operate as a state impound yard unless the crusher, dismantler, or salvage dealer meets all of the requirements for a state impound yard set forth in this section and rules made in accordance with Subsection [~~(5)(a)~~](7)(a).

(d)(i) Rules made by the commission shall include a requirement that a state impound yard have opaque fencing on any side of the state impound yard that has frontage with a highway.

(ii) The opaque fencing described in Subsection [~~(5)(d)(i)~~](7)(d)(i) may be opaque chain link fencing.

[~~(6)~~](8)(a) Except as provided under Subsection [~~(6)(b)~~](8)(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection [~~(6)(a)~~](8)(a).

[~~(7)~~](9) A person who violates the provisions of Subsection [~~(6)~~](8) is guilty of a class C misdemeanor.

[~~(8)~~](10) The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

(a) the vehicle is equipped with an odometer; and

(b) the odometer reading is accessible to the division or the peace officer.

Section 3. Section 41-1a-1103 is amended to read:

41-1a-1103. Sale.

(1)(a) To determine the model year of a vehicle, vessel, or outboard motor as described in this section, the division shall use the model year assigned to a vehicle, vessel, or outboard motor based on:

(i) the vehicle identification number assigned by the division; or

(ii) if the division has not assigned a vehicle identification number, the vehicle identification number assigned by the manufacturer.

(b) To determine the age of a vehicle, vessel, or outboard motor as described in this section, the division shall use the date of the impoundment of the vehicle, vessel, or outboard motor.

(2)(a) For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall issue a certificate of sale for the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier.

(i) For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall, 30 days from the date of the original notice described in Section 41-6a-1406, issue a certificate of sale for the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier, in accordance with this section.

(ii) For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 20 days from the original notice described in Section 41-6a-1406, the tow truck motor carrier shall notify the division, and the division shall renotify the owner or lienholder.

(3) For a vehicle, vessel, or outboard motor with a model year seven years old or newer, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 60 days from the date of the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall sell the vehicle, vessel, or outboard motor as described in Subsection (4).

(4) The sale of a vehicle, vessel, or outboard motor described in Subsection (3) shall:

(a) be held in the form of a public auction at the place of storage; and

(b) at the discretion of the division, be conducted by:

(i) an authorized representative of the division; or

(ii) a public garage, impound lot, or impound yard that:

(A) is authorized by the division;

(B) meets the standards under Subsection [~~41-1a-1101(5)~~]41-1a-1101(7); and

(C) complies with the requirements of Section 72-9-603.

(5) At least five days prior to the date set for sale described in Subsection (4), the division shall publish a notice of sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or outboard motor to be sold:

(a) on the division's website; and

(b) as required in Section 45-1-101.

(6) At the time of sale described in Subsection (4) the division or other person authorized to conduct the sale shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.

(7) The proceeds from the sale of a vehicle, vessel, or outboard motor under Subsection (4) shall be distributed as provided under Section 41-1a-1104.

(8) For a vehicle, vessel, or outboard motor with a model year seven years old or newer, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 60 days from the date of release, the division shall, 60 days from the date of the original notice described in Section 41-6a-1406, sell the vehicle, vessel, or outboard motor as described in Subsection (4).

(9) For a vehicle, vessel, or outboard motor with a model year of seven years old or newer, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor within 45 days of the original notice described in Section 41-6a-1406, the tow truck motor carrier shall notify the division, and the division shall renotify the owner or lienholder.

Section 4. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6)(a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527 or Subsection 41-1a-1101(3), pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) [~~Twenty-nine dollars~~]$29 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7)(a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees

and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 5. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220, the registration reinstatement fee; and

(c) appropriations made to the account by the Legislature.

(3)(a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The Legislature shall appropriate money from the account to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part;

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii); and

(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:

(i) the person's vehicle was impounded in accordance with Subsection [~~41-1a-1101(2)~~] 41-1a-1101(4);

(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;

(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and

(iv) the department determines that the person's vehicle was wrongfully impounded.

(5) The Legislature may appropriate not more than $1,500,000 annually from the account to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use in law enforcement training, including training on the use of the Uninsured Motorist Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured Motorist Identification Database Program.

(6)(a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection [~~41-1a-1101(2)~~] 41-1a-1101(4).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d).

(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded.

Section 6. Section 53-1-122 is enacted to read:

53-1-122. Road Rage Awareness and Prevention Restricted Account.

(1) There is created a restricted account within the General Fund known as the Road Rage Awareness and Prevention Restricted Account.

(2) The account is funded by money appropriated by the Legislature.

(3) Upon appropriation, the department shall expend funds from the restricted account to pay for an education and media campaign on road rage awareness and prevention.

Section 7. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1)(a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for

denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, negligently operating a vehicle resulting in death under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; [~~or~~]

(xvii) refusal of a chemical test under Subsection 41-6a-520.1(1)[~~.~~]; or

(xviii) two or more offenses that:

(A) are committed within a period of one year;

(B) are enhanced under Section 76-3-203.17; and

(C) arose from separate incidents.

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c)(i) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of violating any one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(F) any criminal offense that prohibits possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E), or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsections (1)(c)(i)(A) through (E).

(ii) Notwithstanding the provisions in Subsection (1)(c)(i), the division shall reinstate a person's

driving privilege before completion of the suspension period imposed under Subsection (1)(c)(i) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iii) If a person's driving privilege is reinstated under Subsection (1)(c)(ii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(iv) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(v) Upon receiving the notification described in Subsection (1)(c)(iv), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under Subsection (1)(c)(i).

(d)(i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e)(i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A)(I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B)(I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(f) The division shall immediately suspend a person's driver license for the conviction of an offense that is enhanced under Section 76-3-203.17 if the division receives:

(i) an order from the sentencing court requiring the person's driver license to be suspended; and

(ii) a record of the conviction.

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of

denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4)(a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

(i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c)(i); and

(ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 41-6a-520.1, 76-5-102.1, or 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b)(i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)(ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 8. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, which creates the Road Rage Awareness and Prevention Restricted Account, is repealed on July 1, 2028.

[~~(1)~~](2) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

[~~(2)~~](3) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

[~~(3)~~](4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

[~~(5)~~](6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](7) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](8) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](9) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](10) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](11) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](12) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](13) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](15) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](22) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(23)~~](24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](26) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 9. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, which creates the Road Rage Awareness and Prevention Restricted Account, is repealed on July 1, 2028.

[~~(1)~~](2) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

[~~(2)~~](3) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

[~~(3)~~](4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

[~~(5)~~](6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](7) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](8) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](9) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](10) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](11) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](12) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](13) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](15) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](22) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](23)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(24)~~](25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](26) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](27) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 10. Section 76-3-203.17 is enacted to read:

76-3-203.17. Enhancement of an offense for road rage.

(1) As used in this section:

(a) "Roadway" means the same as that term is defined in Section 41-1a-1101.

(b) "Operator" means the same as that term is defined in Section 41-6a-102.

(c) "Vehicle" means the same as that term is defined in Section 41-1a-102.

(2) If the trier of fact finds that an actor was an operator or passenger of a vehicle and the actor committed an offense in response to an incident that occurred or escalated upon a roadway and with the intent to endanger or intimidate an individual in another vehicle, the actor is guilty of:

(a) a class A misdemeanor if the actor is charged with an offense that is designated by law as a class B misdemeanor;

(b) a third degree felony if the actor is charged with an offense that is designated by law as a class A misdemeanor;

(c) a third degree felony if the actor is charged with an offense that is designated by law as a third degree felony; or

(d) a second degree felony if the actor is charged with an offense that is designated by law as a second degree felony.

(3)(a) If an actor is guilty of a class A misdemeanor as described in Subsection (2)(a), the court shall impose a mandatory fine of no less than $750 in addition to any other penalty the court may impose for a class A misdemeanor.

(b) If an actor is guilty of a third degree felony as described in Subsection (2)(b), the court shall impose a mandatory fine of no less than $1,000 in addition to any other penalty the court may impose for a third degree felony.

(c) If an actor is guilty of a third degree felony as described in Subsection (2)(c), the court shall impose:

(i) a mandatory fine of no less than $1,000; and

(ii) an indeterminate term of imprisonment for no less than one year and no more than five years in addition to any other penalty the court may impose for a third degree felony.

(d) If an actor is guilty of a second degree felony as described in Subsection (2)(d), the court shall impose:

(i) a mandatory fine of no less than $1,000; and

(ii) an indeterminate term of imprisonment for no less than two years and no more than 15 years in addition to any other penalty the court may impose for a second degree felony.

(4) Except as otherwise provided by another provision of the Utah Code, the court may suspend the execution of an indeterminate term of imprisonment described in Subsection (3)(c)(ii) or (3)(d)(ii) in accordance with Section 77-18-105.

(5) The prosecuting attorney, or the grand jury if an indictment is returned, shall include notice in the information or indictment that the offense is subject to an enhancement under this section.

(6)(a) If an actor is convicted of an offense and the offense is enhanced under this section, the court may order the suspension of the actor's driver license for a period of no longer than one year, except that the court may not order a suspension of an actor's driver license if the actor's driver license is required to be revoked under Subsection 53-3-220(1).

(b) If the court orders the suspension of the actor's driver license, the court shall:

(i) specify the length of the suspension in the order as described in Section 53-3-225; and

(ii) forward the order of suspension to the Driver License Division.

(7) If an offense is enhanced under this section, the court shall forward a record of conviction for the offense to the Driver License Division.

(8) This section does not affect or limit any individual's constitutional right to lawful expression of free speech or other recognized rights secured by the laws or Constitution of Utah or by the laws or Constitution of the United States.

Section 11. Section 76-5-103 is amended to read:

76-5-103. Aggravated assault -- Penalties.

(1)(a) As used in this section, "targeting a law enforcement officer" means the same as that term is defined in Section 76-5-202.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated assault if[~~the actor~~]:

(a)(i) the actor attempts, with unlawful force or violence, to do bodily injury to another;

(ii) the actor makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(iii) the actor commits an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) [~~includes in~~]the actor's conduct [~~under~~]described in Subsection (2)(a) includes:

(i) the use of:

[~~(i)~~](A) a dangerous weapon; or

(B) a motor vehicle;

(ii) any act that impedes the breathing or the circulation of blood of another individual by the actor's use of unlawful force or violence that is likely to produce a loss of consciousness by:

(A) applying pressure to the neck or throat of an individual; or

(B) obstructing the nose, mouth, or airway of an individual; or

(iii) other means or force likely to produce death or serious bodily injury.

(3)(a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

(i) the act results in serious bodily injury; or

(ii) an act under Subsection (2)(b)(ii) produces a loss of consciousness.

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if the conduct constitutes targeting a law enforcement officer and results in serious bodily injury.

Section 12. Section 78A-2-109.5 is amended to read:

78A-2-109.5. Court data collection and reporting.

(1) As used in this section, "commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) The Administrative Office of the Courts shall submit the following information to the commission for each criminal case filed with the court:

(a) case number;

(b) the defendant's:

(i) full name;

(ii) offense tracking number; and

(iii) date of birth;

(c) charges filed;

(d) initial appearance date;

(e) bail amount set by the court, if any;

(f) whether the defendant was represented by a public defender, private counsel, or pro se; and

(g) final disposition of the charges.

(3)(a) The Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the 15th day of July and January of each year for the previous six-month period ending the last day of June and December of each year in the form and manner selected by the commission.

(b) If the last day of the month is a Saturday, Sunday, or state holiday, the Administrative Office of the Courts shall submit the information described in Subsection (2) to the commission on the next working day.

(4) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data on cases involving individuals charged with class A misdemeanors and felonies, broken down by judicial district, to the commission for each preceding calendar year:

(a) the number of cases in which a preliminary hearing is set and placed on the court calendar;

(b) the median and range of the number of times that a preliminary hearing is continued in cases in which a preliminary hearing is set and placed on the court calendar;

(c) the number of cases, and the average time to disposition for those cases, in which only written statements from witnesses are submitted as probable cause at the preliminary hearing;

(d) the number of cases, and the average time to disposition for those cases, in which written statements and witness testimony are submitted as probable cause at the preliminary hearing;

(e) the number of cases, and the average time to disposition for those cases, in which only witness testimony is submitted as probable cause at the preliminary hearing; and

(f) the number of cases in which a preliminary hearing is held and the defendant is bound over for trial.

(5) The commission shall include the data collected under Subsection (4) in the commission's annual report described in Section 63M-7-205.

(6) No later than November 1, 2027, the Administrative Office of the Courts shall provide the Law Enforcement and Criminal Justice Interim Committee with a written report on, for each fiscal year that begins on and after July 1, 2024:

(a) the total number of offenses, including the level of each offense, for which an enhancement was sought under Section 76-3-203.17;

(b) the total number of offenses, including the level of each offense, that were enhanced under Section 76-3-203.17; and

(c) the total amount of fines that were imposed under Section 76-3-203.17.

Section 13. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 13(a) Operating and Capital Budgets

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

ITEM 1

To Department of Public Safety - Programs & Operations

From Road Rage Awareness and Prevention Restricted Account $50,000

Schedule of Programs:

Highway Patrol - Administration $50,000

Subsection 13(b) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 2

To Road Rage Awareness and Prevention Account

From General Fund $50,000

Schedule of Programs:

Road Rage Awareness and Prevention Account $50,000

Section 14. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 320
H. B. 46
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

VETERANS AND MILITARY AFFAIRS COMMISSION AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the Veterans and Military Affairs Commission.

Highlighted Provisions:

This bill:

- extends the sunset date of the Veterans and Military Affairs Commission; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-28-102, as last amended by Laws of Utah 2021, Chapter 78
63I-1-236, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475

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

Section 1. Section 36-28-102 is amended to read:

36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the Veterans and Military Affairs Commission.

(2) The commission membership is composed of [~~19~~]18 permanent members, but may not exceed [~~24~~]23 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, appointed by the president of the Senate, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

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

[~~(f) the executive director of the Department of Human Services or the director's designee;~~]

[~~(g)~~](f) the adjutant general of the Utah National Guard or the adjutant general's designee;

[~~(h)~~](g) the Guard and Reserve Transition Assistance Advisor;

[~~(i)~~](h) a member of the Utah Board of Higher Education or that member's designee;

[~~(j)~~](i) three representatives of veteran service organizations recommended by the Veterans Advisory Council and confirmed by the commission;

[~~(k)~~](j) one member of the Executive Committee of the Utah Defense Alliance;

[~~(l)~~](k) one military affairs representative from a chamber of commerce member, appointed by the Utah State Chamber of Commerce; and

[~~(m)~~](l) a representative from the Veterans Health Administration.

(3) The commission may appoint by majority vote of the entire commission up to five pro tempore members, representing:

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under Subsection (6) serves the remaining unexpired term of the member being replaced. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) Salaries and expenses of the members of the commission who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, [~~2025~~]2030.

(3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2028.

(4) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 321
H. B. 95
Passed February 15, 2024
Approved March 18, 2024
Effective May 1, 2024

LIABILITY OF RELATIVE AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill repeals a statutory provision regarding the liability of a relative.

Highlighted Provisions:

This bill:

- repeals a statutory provision regarding the liability of a relative.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS:

17-14-2, as last amended by Laws of Utah 1977, Chapter 140

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

Section 1. Repealer.

This bill repeals:

Section 17-14-2, Order in which relatives are liable.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 322
H. B. 105
Passed February 28, 2024
Approved March 18, 2024
Effective July 1, 2024

EDUCATOR EXPENSE MODIFICATIONS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill provides for distribution of an appropriation for teaching supplies and materials.

Highlighted Provisions:

This bill:

- defines terms;
- provides for the distribution of teaching supplies and materials money among teachers;
- provides for the use of the Public Education Economic Stabilization Restricted Account to fund teaching supplies and materials; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - Minimum School Program - Related to Basic School Programs - Teacher Supplies and Materials as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $8,400,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-7-203, as last amended by Laws of Utah 2023, Chapter 348
53F-9-204, as last amended by Laws of Utah 2022, Chapters 386, 456

ENACTS:

53F-2-526, Utah Code Annotated 1953

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

Section 1. Section 53F-2-526 is enacted to read:

53F-2-526. Appropriations for teaching supplies and materials.

(1) As used in this section:

(a) "Classroom teacher" means a teacher who:

(i) is assigned by an LEA in a permanent teacher position filled by one teacher or two or more job-sharing teachers employed by an LEA;

(ii) is licensed and paid on an LEA's salary schedule;

(iii) is employed for an entire contract period; and

(iv) is primarily responsible to provide instruction or a combination of instructional and counseling services to students in public schools.

(b) "Teaching supplies and materials" means consumable and non-consumable items that are used for educational purposes by teachers in classroom activities that are approved by the LEA.

(2) For the fiscal year that begins July 1, 2024, the state board shall distribute money appropriated for teaching supplies and materials as follows:

(a) $500 to each classroom teacher position for pre-kindergarten special education and kindergarten through grade 6; and

(b) $250 to each classroom teacher position for grades 7 through 12.

Section 2. Section 53F-7-203 is amended to read:

53F-7-203. Paid professional hours for educators.

(1) Subject to legislative appropriations, the state board shall provide funding to each LEA to provide additional paid professional hours to the following educators in accordance with this section:

(a) general education and special education teachers;

(b) counselors;

(c) school administration;

(d) school specialists;

(e) student support;

(f) school psychologists;

(g) speech language pathologists; and

(h) audiologists.

(2) The state board shall distribute funds appropriated to the state board under Subsection 53F-9-204(6)(a) to each LEA in proportion to the number of educators described in Subsection (1) within the LEA.

(3) An LEA shall use funding under this section to provide paid professional hours that:

(a) provide educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and

(b) may include activities that:

(i) improve and increase an educator's:

(A) knowledge of the academic subjects the educator teaches;

(B) time to plan and prepare daily lessons based on student needs;

(C) understanding of how students learn; and

(D) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on the analysis;

(ii) are an integral part of broad school-wide and LEA-wide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) advance educator understanding of:

(A) effective and evidence-based instructional strategies; and

(B) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of educators;

(v) are aligned with, and directly related to, academic goals of the school or LEA; and

(vi) include instruction in the use of data and assessments to inform and instruct classroom practice.

(4)(a) An educator shall:

(i) on or before the fifth day of instruction in a given school year, create a plan, in consultation with the educator's principal, on how the educator plans to use paid professional hours provided under this section during the school year; and

(ii) before the end of a given school year, provide a written statement to the educator's principal of how the educator used paid professional hours provided under this section during the school year.

(b)(i) Subsection (4)(a)(i) does not limit an educator who begins employment after the fifth day of instruction in a given year from receiving paid professional hours under this section.

(ii) An LEA may prorate the paid professional hours of an educator who begins employment after the fifth day of instruction in a given year according to the portion of the school year for which the LEA employs the educator.

Section 3. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2)(a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4)(a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations; or

(a) the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-203[.]; and

(b) the amount to make the distribution required under Section 53F-2-526.

Section 4. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 4(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of

money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

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

From Public Education Economic Stabilization Restricted Account, One-time $8,400,00

Schedule of Programs:

Teacher Supplies and Materials $8,400,000

The Legislature intends that the State Board use the appropriations provided under this section in accordance with Section 53F-2-526.

Section 5. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 323
H. B. 115
Passed February 16, 2024
Approved March 18, 2024
Effective May 1, 2024

CULTURAL AND COMMUNITY ENGAGEMENT AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to cultural and community engagement.

Highlighted Provisions:

This bill:

- revises definitions;
- modifies the Utah Arts and Museums Advisory Board and its duties;
- modifies the Utah Historical Society's duties;
- modifies the State Historic Preservation Office's duties;
- modifies the Utah Commission on Service and Volunteerism and its duties; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-6-102, as last amended by Laws of Utah 2020, Chapter 419
9-6-201, as last amended by Laws of Utah 2020, Chapters 154, 419
9-6-202, as last amended by Laws of Utah 2020, Chapters 154, 419
9-6-301, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-302, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-303, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-502, as last amended by Laws of Utah 2020, Chapter 419
9-6-504, as last amended by Laws of Utah 2020, Chapter 419
9-6-505, as last amended by Laws of Utah 2020, Chapter 419
9-7-101, as last amended by Laws of Utah 2023, Chapters 160, 291
9-7-101, as last amended by Laws of Utah 2023, Chapters 157, 160 and 291 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 291
9-7-201, as last amended by Laws of Utah 2023, Chapters 160, 291 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 291
9-7-205, as last amended by Laws of Utah 2023, Chapters 160, 291 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 291
9-8-203, as last amended by Laws of Utah 2023, Chapter 160
9-8a-203, as renumbered and amended by Laws of Utah 2023, Chapter 160
9-20-201, as last amended by Laws of Utah 2021, Chapter 184
9-20-202, as renumbered and amended by Laws of Utah 2019, Chapter 221
9-20-204, as renumbered and amended by Laws of Utah 2019, Chapter 221
9-20-205, as renumbered and amended by Laws of Utah 2019, Chapter 221
9-20-206, as renumbered and amended by Laws of Utah 2019, Chapter 221
63I-1-209, as last amended by Laws of Utah 2020, Chapters 154, 232 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154

RENUMBERS AND AMENDS:

9-8-906, (Renumbered from 9-8-906, as enacted by Laws of Utah 2023, Chapter 202)

REPEALS:

9-6-305, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-306, as repealed and reenacted by Laws of Utah 2020, Chapter 419

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

Section 1. Section 9-6-102 is amended to read:

9-6-102. Definitions.

As used in this chapter:

(1)(a) "Arts" means the various branches of creative human activity, including visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.

(b) "Arts" includes traditional, folk, classical, ethnic, contemporary, and other art forms.

(2) "Arts and museums board" means the Utah Arts and Museums Advisory Board created in Section 9-6-301.

(3) "Development" includes:

(a) constructing, expanding, or repairing a museum or other facility that houses arts or cultural presentations;

(b) providing for public information, preservation, and access to museums, the arts, and the cultural heritage of the state; and

(c) supporting the professional development of artists, cultural administrators, and cultural leaders within the state.

(4) "Director" means the director of the Division of Arts and Museums.

(5) "Division" means the Division of Arts and Museums.

(6) "Museum" means an organized and permanent institution that:

(a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

(d) exhibits the collection to the public on a regular schedule.

[~~(7) "Museums board" means the Utah Museums Advisory Board created in Section 9-6-305.~~]

Section 2. Section 9-6-201 is amended to read:

9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.

(1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall:

(a) advance the interests of arts and museums in the state in all stages of development;

(b) promote and encourage the development of arts, museums, and culture in the state;

(c) support the efforts of state and local government and nonprofit arts, museums, and cultural organizations to encourage the development of arts, museums, and culture in the state;

(d) provide assistance to museums in the state to improve museums' ability to:

(i) care for and manage collections;

(ii) develop quality educational resources such as exhibitions, collections, and publications;

(iii) provide access to collections for research; and

(iv) provide other services as needed;

(e) assist arts and museum organizations in the state in cultural development as needed;

(f) cooperate with federal agencies and locally sponsor federal projects directed to the development of arts, museums, and culture in the state;

(g) develop the influence of arts and museums in education and life-long learning;

(h) cooperate with the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and cultural endeavors;

(i) disseminate information related to arts, museums, and culture by utilizing broadcast media and print media;

(j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the arts, museums, and culture in the state;

(k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of the works of indigenous artists in the state;

(l) advise state and local government agencies and employees regarding arts and museums related issues, including arts and museums capital development projects;

(m) provide technical advice and information about sources of technical assistance to arts, museums, and cultural organizations in the state;

(n) develop, coordinate, and support programs, workshops, seminars, and similar activities that provide training for staff members of arts, museums, and cultural organizations in the state;

(o) undertake research to understand the training needs of the arts, museums, and cultural organizations community and assess how those needs can be met;

(p) administer grant programs to assist eligible arts, museums, and cultural organizations in the state; and

(q) create strategic partnerships to advance the development of arts, museums, and cultural organizations in the state.

Section 3. Section 9-6-202 is amended to read:

9-6-202. Division director.

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the arts [~~board and the~~]and museums board.

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for[~~:~~]

[~~(a)~~] the Utah Arts and Museums Advisory Board created in Section 9-6-301[~~; and~~].

[~~(b) the Utah Museums Advisory Board created in Section 9-6-305.~~]

Section 4. Section 9-6-301 is amended to read:

9-6-301. Utah Arts and Museums Advisory Board.

(1) There is created within the division the Utah Arts and Museums Advisory Board.

(2)(a) Except as provided in Subsections (2)(b) and [~~(2)(f)~~](2)(g), the arts and museums board shall consist of [~~13~~]up to 17 members appointed by the governor to four-year terms with the consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts and museums board members are staggered so that approximately half of the arts and museums board is appointed every two years.

(c) The governor shall appoint [~~eight~~]up to seven members who are working artists or administrators, one from each of the following areas:

(i) visual arts, architecture, or design;

[~~(ii) architecture or design;~~]

[~~(iii)~~](ii) literature;

[~~(iv)~~](iii) music;

[~~(v)~~](iv) folk, traditional, or native arts;

[~~(vi)~~](v) theater;

[~~(vii)~~](vi) dance; and

[~~(viii)~~](vii) media arts.

(d) The governor shall appoint six members who are qualified, trained, and experienced museum professionals, including three members, who each have a minimum of five years continuous paid work experience at a museum.

[~~(d)~~](e) The governor shall appoint [~~three~~]up to two members who are knowledgeable in or appreciative of the arts or museums.

[~~(e)~~](f) The governor shall appoint up to two members who have expertise in technology, marketing, business, or finance.

[~~(f)~~](g) Before January 1, [~~2026~~]2027, the governor may appoint up to [~~three~~]seven additional members who are knowledgeable in or appreciative of the arts or museums:

(i) for terms that shall end before [~~January 1, 2026~~]June 30, 2027; and

(ii) in which case the arts and museums board may consist of up to [~~16~~]24 members until [~~January 1, 2026~~]June 30, 2027.

(3) The governor shall appoint members from the state[~~, at large~~] with due consideration for organizational size and geographical representation.

(4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.

(5) A simple majority of the voting members of the arts and museums board constitutes a quorum for the transaction of business.

(6)(a) The arts and museums board members shall elect a chair and a vice chair from among the arts and museums board's members.

(b) The chair and the vice chair shall serve a term of up to two years.

(7) The arts and museums board shall meet at least [~~once~~]twice each year.

(8) A member of the arts and museums board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) Except as provided in Subsection (8), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

Section 5. Section 9-6-302 is amended to read:

9-6-302. Arts and museums board powers and duties.

(1) The arts and museums board may:

(a) with the concurrence of the director, make rules governing the conduct of the arts and museums board's business in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) receive gifts, bequests, and property.

(2) The arts and museums board shall:

(a) act in an advisory capacity for the division;

(b) appoint an arts acquisition collection committee as described in Section 9-6-303 to advise the division and the arts and museums board regarding the works of art acquired and maintained under this part; and

(c) with the concurrence of the director, approve the allocation of arts and museums grant money and State of Utah Alice Merrill Horne Art Collection acquisition funding.

Section 6. Section 9-6-303 is amended to read:

9-6-303. Art collection committee.

(1)(a) The arts and museums board with the concurrence of the director shall appoint an arts acquisition collection committee composed of any combination of artists, art historians, museum professionals, gallery owners, knowledgeable art collectors, art appraisers, [~~and~~]or judges of art.

(b) The arts collection committee shall make recommendations to the division and the arts and museums board regarding the works of art acquired and maintained as part of the State of Utah Alice Merrill Horne Art Collection created in Section 9-6-304.

(2)(a) Except as provided in Subsection (2)(b), the arts and museums board with the concurrence of the director shall appoint each member of the arts collection committee to a four-year term.

(b) The arts and museums board shall, at the time of appointment or reappointment, adjust the length of the initial terms of arts collection committee members to ensure that the terms are staggered so that approximately half of the arts collection committee is appointed every two years.

(3) When a vacancy occurs in the membership of the arts acquisition collection committee, the replacement shall be recommended by the remaining members of the art collection committee

and then appointed by the arts and museums board with the concurrence of the director for the unexpired term.

(4) A member of the arts collection committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 7. Section 9-6-502 is amended to read:

9-6-502. Utah Arts and Museums Endowment Fund.

(1) There is created an expendable special revenue fund known as the "Utah Arts and Museums Endowment Fund."

(2) The state fund shall be administered by the division in accordance with applicable law.

(3) Any administrative costs incurred by the division shall be reviewed by the appropriate appropriations committee of the Legislature.

(4) The state fund shall contain all money appropriated to the state fund by the Legislature, all federal funds received for purposes of this part, plus interest and other income earned on money in the state fund.

(5) The division shall distribute money in the state fund to qualifying arts and museum organizations to assist those organizations in creating their own arts and museums endowment funds.

(6) The division may use money in the state fund for expenses related to administering the state fund.

Section 8. Section 9-6-504 is amended to read:

9-6-504. Duties of the division.

The division, in accordance with the provisions of this part, shall:

(1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-6-503;

(2) determine the eligibility of each qualifying organization to receive money from the state fund;

(3) determine the matching amount each qualifying organization shall raise in order to qualify to receive money from the state fund;

(4) establish a date by which each qualifying organization shall provide its matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6)(a) in accordance with the provisions of this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish criteria by rule for determining the eligibility of qualifying organizations to receive money from the state fund; and

(b) in making rules under this Subsection (6), the division may consider the recommendations of the arts [~~board and the~~]and museums board.

Section 9. Section 9-6-505 is amended to read:

9-6-505. Eligibility requirements of qualifying arts and museum organizations -- Allocation limitations -- Matching requirements.

(1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund the organization has created under Section 9-6-503:

(a) if the qualifying organization has received a grant from the division during one of the three years immediately before making application for state fund money under this Subsection (1); or

(b) upon recommendation of the arts and museums board[~~ or the museums board~~] if the qualifying organization has not received a grant from the board within the past three years.

(2)(a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the division by calculating the average cash income of the qualifying organization during the past three fiscal years as contained in the qualifying organization's final reports on file with the division.

(b) The division shall notify each qualifying organization of the maximum amount of money from the state fund for which the qualifying organization qualifies.

(c) The minimum amount that may be allocated to each qualifying organization from the state fund is $2,500.

(d) If the maximum amount for which the organization qualifies under the calculation described in Subsection (2)(a) is less than $2,500, the organization may still apply for $2,500.

(3)(a) After the division determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the state fund, the qualifying organization shall match the amount qualified for with money raised and designated exclusively for that purpose.

(b) State money, in-kind contributions, and preexisting endowment gifts may not be used to match money from the state fund.

(4) The amount of match money described in Subsection (3) that a qualifying organization is required to provide shall be based on a sliding scale as follows:

(a) any amount requested not exceeding $100,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed $100,000 but not exceed $500,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed $500,000 shall be matched three-to-one.

(5)(a) Qualifying organizations shall raise the matching amount within three years after applying for money from the state fund by a date determined by the division.

(b) Money from the state fund shall be released to the qualifying organization only upon verification by the board that the matching money has been received on or before the date determined under Subsection (5)(a).

(c) Verification of matching funds shall be made by a certified public accountant.

(d) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than $20,000 as audited confirmation of matching funds is received by the division.

(e) Money from the state fund shall be granted to each qualifying organization on the basis of the matching funds a qualifying organization has raised by the date determined under Subsection (5)(a).

Section 10. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Digital library" means the web-accessible digital library of state publications created under Section 9-7-208.

(3) "Division" means the State Library Division.

(4) "Legislative staff office" means the Office of Legislative Research and General Counsel.

(5) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.

(6) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

(7) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

(8) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

(9) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

(10)(a) "State agency" means:

(i) the state; or

(ii) an office, department, division or other agency or instrumentality of the state.

(b) "State agency" does not include:

(i) the Office of Legislative Research and General Counsel;

(ii) a political subdivision; or

(iii) a state institution of higher education.

(11) "State institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.

(12)(a) "State publication" means any information issued or published by a state agency for distribution.

(b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, video recording, and electronic publication.

(c) "State publication" does not include public information, as that term is defined in Section 63A-16-601.

Section 11. Section 9-7-101 is amended to read:

9-7-101. Definitions.

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Digital library" means the web-accessible digital library of state publications created under Section 9-7-208.

(3) "Division" means the State Library Division.

(4) "Internet policy" means the public library online access policy required in Section 9-7-215.

(5) "Legislative staff office" means the Office of Legislative Research and General Counsel.

(6) "Legislative publication" means:

(a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;

(b) the Laws of Utah; and

(c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.

(7) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

(8) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

(9) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

(10)(a) "State agency" means:

(i) the state; or

(ii) an office, department, division or other agency or instrumentality of the state.

(b) "State agency" does not include:

(i) the Office of Legislative Research and General Counsel;

(ii) a political subdivision; or

(iii) a state institution of higher education.

(11) "State institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.

(12)(a) "State publication" means any information issued or published by a state agency for distribution.

(b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, video recording, and electronic publication.

(c) "State publication" does not include public information, as that term is defined in Section 63A-16-601.

Section 12. Section 9-7-201 is amended to read:

9-7-201. State Library Division -- Creation -- Purpose.

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3)(a) The division shall function as the library authority for:

(i) general library services;

(ii) mobile library services;

(iii) providing for permanent public access to state publications; and

(iv) other services considered proper for a state library.

(b) The division is responsible for [~~publishing~~]providing access to legislative publications, as provided in this part, that the legislative staff office deposits with the division.

Section 13. Section 9-7-205 is amended to read:

9-7-205. Duties of board and director.

(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for the state library's housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a state publications and legislative publications library program by collecting state publications and legislative publications, providing access to state publications and legislative publications through the digital library, and providing a bibliographic [~~information~~]control system;

(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 14. Section 9-8-203 is amended to read:

9-8-203. Society duties.

(1) The society shall:

(a) stimulate research, study, and activity in the field of Utah history and related history;

(b) maintain a specialized history library;

(c) collect, preserve, and administer historical records relating to the history of Utah;

(d) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;

(e) edit and publish historical records;

(f) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;

(g) promote, coordinate, and administer:

(i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

(h) subject to legislative appropriations, provide grants and technical assistance as necessary and appropriate;

(i) administer educational programs in partnership with public and private entities in the state; and

(j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in adjudicative proceedings.

(2)(a) The society may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(b) The society may only deaccession an item described in Subsection (2)(a) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An item that is to be deaccessioned in accordance with society rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the society is not subject to the surplus property program described in Section 63A-2-401 for that item.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the society shall:

(a)[~~(i)~~] create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

[~~(ii)~~](b) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory described in Subsection (3)(a);

[~~(iii)~~](c) encourage the use of volunteers to help collect the information and to maintain the inventory described in Subsection (3)(a);

[~~(iv)~~](d) publicize the information in the inventory described in Subsection (3)(a) in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;

[~~(v)~~](e) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and

[~~(vi)~~](f) make the inventory described in Subsection (3)(a) available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others[~~;~~].

[~~(b)(i) create and maintain an inventory of all active and inactive cemeteries throughout the state;~~]

[~~(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;~~]

[~~(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;~~]

[~~(iv) encourage cemetery owners to create and maintain geographic information systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;~~]

[~~(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;~~]

[~~(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and~~

~~volunteer groups to help maintain, repair, and landscape cemeteries, grave sites, and tombstones; and~~]

[~~(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and~~]

[~~(c)(i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;~~]

[~~(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) and help maintain, repair, and landscape cemeteries, grave sites, and tombstones as described in Subsection (3)(b)(vi) by providing matching grants, upon approval by the board, to:~~]

[~~(A) municipal cemeteries;~~]

[~~(B) cemetery maintenance districts;~~]

[~~(C) endowment care cemeteries;~~]

[~~(D) private nonprofit cemeteries;~~]

[~~(E) genealogical associations; and~~]

[~~(F) other nonprofit groups with an interest in cemeteries; and~~]

[~~(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:~~]

[~~(A) professional standards are met; and~~]

[~~(B) projects are cost effective.~~]

(4) This chapter may not be construed to authorize the society to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Section 15. Section 9-8a-203 is amended to read:

9-8a-203. Office duties.

The office shall:

(1) secure, for the present and future benefit of the state, the protection of archaeological resources and sites which are on state lands;

(2) foster increased cooperation and exchange of information between state authorities, the professional archaeological community, and private individuals;

(3) in cooperation with federal and state agencies, local governments, private organizations, and private individuals, direct and conduct a comprehensive statewide survey of historic properties;

(4) maintain an inventory of the properties described in Subsection (3);

(5) identify and nominate eligible property to the National Register of Historic Places;

(6) administer applications for listing historic property on the National Register of Historic Places;

(7) prepare and implement a comprehensive statewide historic preservation plan;

(8) administer the state program of federal assistance for historic preservation within the state;

(9) advise and assist, as appropriate, state agencies, federal agencies, and local governments in carrying out their historic preservation responsibilities;

(10) cooperate with federal agencies, state agencies, local agencies, private organizations, and individuals to ensure that historic property is taken into consideration at all levels of planning and development;

(11) provide, with respect to historic preservation:

(a) public information;

(b) education;

(c) training; and

(d) technical assistance;

(12) cooperate with local governments in the development of local historic preservation programs;

(13) consult with appropriate federal agencies with respect to:

(a) federal undertakings that may affect historic properties; and

(b) advising and assisting in the evaluation of proposals for rehabilitation projects that may qualify for federal assistance;

(14)(a) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(b) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory described in Subsection (14)(a);

(c) encourage the use of volunteers to help collect the information and to maintain the inventory described in Subsection (14)(a);

(d) encourage cemetery owners, or in the case of inactive or small historic cemeteries, volunteers, to create and maintain geographic information systems to record burial sites;

(e) publicize the information in the inventory described in Subsection (14)(a) in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(f) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and

landscape cemeteries, grave sites, and tombstones; and

(g) make the inventory described in Subsection (14)(a) available to any person upon request;

(15)(a) create and maintain a public electronic record of each cemetery location and each burial location;

(b) help maintain, repair, and landscape cemeteries, grave sites, and tombstones by providing matching grants to:

(i) municipal cemeteries;

(ii) cemetery maintenance districts;

(iii) endowment care cemeteries;

(iv) private nonprofit cemeteries;

(v) genealogical associations; or

(vi) other nonprofit groups with an interest in cemeteries; and

(c) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for awarding grants under Subsection (15)(b), including rules that ensure recipients use grant money for projects that are cost effective and completed in accordance with applicable professional standards;

[~~(14)~~](16) perform other duties as designated under 54 U.S.C. Sec. 302303; and

[~~(15)~~](17) perform other duties as designated by the department and by statute.

Section 16. Section 9-8a-206, which is renumbered from Section 9-8-906 is renumbered and amended to read:

~~9-8-906~~. 9-8a-206. Utah Archaeological and Historic Sites Grant Program.

(1) The office shall:

(a) administer the money contained in the grant program; and

(b) select qualified recipients in accordance with Subsection (2).

(2) The office may distribute the money from the grant program to or on behalf of a private landowner:

(a) that applies to the office, in a manner prescribed by the office, to receive [~~all or part of the money contained in~~]funding or technical assistance through the grant program; and

(b) by direct payment to the landowner or a third party for work related to identifying and protecting archaeological resources on the landowner's property, if the private landowner or third party contributes an amount of money or in-kind work equal to or greater than the amount of money [~~the landowner receives~~]received from the grant program.

Section 17. Section 9-20-201 is amended to read:

9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

(1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.

(2) The 19 voting members of the commission are:

(a) the lieutenant governor;

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

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

(d) the executive director of the Department of Cultural and Community Engagement or the executive director's designee;

(e) nine members appointed by the governor as follows:

(i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;

(ii) an individual with experience in promoting the involvement of older adults in volunteer service;

(iii) a representative of a community-based agency or organization within the state;

(iv) a representative of local government;

(v) a representative of a local labor organization in the state;

(vi) a representative of business;

(vii) an individual between the ages of 16 and 25 who participates in a volunteer or service program;

(viii) a representative of a national service program; and

(ix) a representative of the volunteer sector; and

(f) six members appointed by the governor from among the following groups:

(i) local educators;

(ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;

(iii) representatives of Native American tribes;

(iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or

(v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.

(3) The nonvoting member of the commission is the [~~state~~]regional representative of the corporation.

(4)(a) In appointing persons to serve on the commission, the governor shall ensure that:

(i) no more than 10 voting members of the commission are members of the same political party; and

(ii) no more than five voting members of the commission are state government employees.

(b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, [~~and~~] disability characteristics, and geography.

(5)(a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a three-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately one-third of the commission is appointed every year.

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

(7) A member appointed by the governor may not serve more than two consecutive terms.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 18. Section 9-20-202 is amended to read:

9-20-202. Election of commission chair and vice chair.

(1) The chair as of May 1, 2024, remains the chair until the completion of the chair's current term.

[~~(1)~~](2) Subject to Subsection [~~(2)~~](3), the voting members of the commission shall elect a[~~-chair and a~~] vice chair from among the voting members of the commission.

[~~(2)~~](3) The voting members of the commission may not elect the lieutenant governor as[~~-chair or~~] vice chair of the commission.

[~~(3)~~](4) The chair and vice chair shall serve for a term of one year.

(5) The chair becomes the past chair after the chair completes the one-year term.

(6) The vice chair becomes the chair after the vice chair completes the one-year term.

(7)(a) Subject to Subsection (7)(b), if for any reason the chair does not complete a one-year term, the voting members of the commission shall elect a chair from among the voting members of the commission to complete the unexpired term.

(b) The voting members of the commission may not elect the lieutenant governor as the chair of the commission.

Section 19. Section 9-20-204 is amended to read:

9-20-204. Meetings -- Quorum.

(1) The commission shall meet [~~at least quarterly~~]at least four times each year at the call of the chair.

[~~(2) A voting member of the commission who fails to attend at least 75% of called meetings in a calendar year is automatically removed from the commission.~~]

[~~(3)~~](2) A commission quorum is a simple majority of the voting members.

Section 20. Section 9-20-205 is amended to read:

9-20-205. Commission duties.

(1) The commission shall:

(a) administer the selection, development, and oversight of programs funded and established by the act;

(b) pursue opportunities for sustainable and high-impact community service;

(c) develop and annually update a three-year [~~community~~]state service plan[~~ for the state~~], including the establishment of state priorities; and

(d) stimulate increased community awareness of the impact of volunteer service in the state.

(2)(a) The commission may, subject to Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept private gifts, donations, or funds from any source.

(b) Money received under this Subsection (2) shall be deposited with the state and shall be available to the commission to carry out the purposes of this part.

Section 21. Section 9-20-206 is amended to read:

9-20-206. Reporting and administration.

(1) The executive director of the department, in consultation with the commission, shall appoint a director of the commission who is:

(a) experienced in administration; and

(b) qualified by education or training in the field of public administration.

(2) The director of the commission shall report to the executive director.

(3) The commission shall:

(a) report to the office of the lieutenant governor; and

(b) by January 1, provide an annual written report to the lieutenant governor on service and volunteerism in the state.

(4) The department shall provide administrative and staff support services to the commission.

Section 22. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.

[~~(2) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.~~]

[~~(3)~~](2) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

[~~(4)~~](3) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2026.

Section 23. Repealer.

This bill repeals:

Section 9-6-305, Utah Museums Advisory Board.

Section 9-6-306, Museums board power and duties.

Section 24. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 324
H. B. 118
Passed February 16, 2024
Approved March 18, 2024
Effective May 1, 2024

PROHIBITION OF PRODUCTION OF PRIVATE KEYS

Chief Sponsor: Trevor Lee
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill provides protection for private personal digital data.

Highlighted Provisions:

This bill:

- defines terms; and
- provides protection to a person from being compelled to produce the person's private electronic key that provides access to the person's digital assets, identity, or other interest.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-62-101, as enacted by Laws of Utah 2022, Chapter 448

ENACTS:

13-62-103, Utah Code Annotated 1953

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

Section 1. Section 13-62-101 is amended to read:

13-62-101. Definitions.

As used in this chapter:

(1) "Agent" means a person who is authorized to act on behalf of an owner with respect to a digital asset.

(2) "Control" means:

(a) an owner or an agent has the exclusive legal authority to conduct a transaction relating to the digital asset, including by means of a private key or the use of a multi-signature arrangement the owner or agent authorizes; or

(b) a secured party has created a smart contract [~~which~~]that gives the secured party exclusive legal authority to conduct a transaction relating to a digital security.

(3)(a) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.

(b) "Digital asset" includes:

(i) a digital user asset; or

(ii) a digital security.

(4) "Digital security" means a digital asset [~~which~~]that constitutes a security, as that term is defined in Section 70A-8-101.

(5)(a) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.

(b) "Digital user asset" includes an open blockchain token.

(c) "Digital user asset" does not include a digital security.

(6) "Multi-signature arrangement" means a system of access control relating to a digital asset for the purposes of preventing unauthorized transactions relating to the digital asset, in which two or more private keys are required to conduct a transaction.

(7) "Private key" means a unique element of cryptographic data[~~, which~~]that is:

(a) held by a person;

(b) paired with a [~~unique, publicly available element of cryptographic data~~]public key; and

(c) [~~associated with an algorithm that is necessary to carry out an encryption or decryption required to execute a transaction.~~]used to digitally sign a transaction.

(8) "Public key" means a unique element of cryptographic data that:

(a) is publicly available;

(b) is paired with a private key that is held by the owner of the public key; and

(c) allows viewing, but not digitally signing, electronic transactions.

[~~(8)~~](9) "Smart contract" means a transaction [~~which~~]that is comprised of code, script, or programming language that executes the terms of an agreement, and which may include taking custody of and transferring a digital asset, or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

Section 2. Section 13-62-103 is enacted to read:

13-62-103. Protection of private keys.

(1)(a) Except as provided in Subsection (1)(b), a person may not be compelled to produce a private key, or any components that allow the derivation of a private key, or make a private key known to any other person in any civil, criminal, administrative, legislative, or other proceeding in the state that relates to a digital asset, digital identity, or other interest or right to which the private key provides access.

(b) A person may be compelled in a civil, criminal, administrative, legislative, or other lawful proceeding in the state to produce a private key if a public key is unavailable or unable to disclose the information requested to be obtained.

(2) A person may be compelled by court order to:

(a) produce, sell, transfer, convey, or disclose a digital asset, digital identity, or other interest or right to which a private key provides access; or

(b) disclose information about the digital asset, digital identity, or other interest or right.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 325
H. B. 134
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

MARRIAGE MODIFICATIONS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Karen Kwan

LONG TITLE

General Description:

This bill addresses marriage.

Highlighted Provisions:

This bill:

- addresses the validation and recognition of a marriage regardless of the race, ethnicity, or national origin of the parties to the marriage;
- addresses the issuance of a marriage license and the solemnization of a marriage;
- repeals a provision on interracial marriage; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
30-1-2.4, Utah Code Annotated 1953

REPEALS:
30-1-2.2, as last amended by Laws of Utah 1995, Chapter 20

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

Section 1. Section 30-1-2.4 is enacted to read:

30-1-2.4. Recognition and validation of a marriage regardless of the race, ethnicity, or national origin of the parties.

(1) As used in this section:

(a) "Eligible couple" means two individuals that may legally marry each other in this state.

(b) "Specified characteristic" means the race, ethnicity, or national origin of a party to the marriage.

(2) Regardless of the date of the marriage, a marriage between two individuals may not be deemed invalid or prohibited because of a specified characteristic.

(3) The office of a county clerk may not refuse to issue a marriage license to an eligible couple because of a specified characteristic.

(4)(a) The office of a county clerk may not refuse to solemnize the marriage of an eligible couple because of a specified characteristic.

(b) Subsection (4)(a) does not prevent a county clerk from delegating or deputizing another individual to solemnize a marriage in accordance with Subsections 17-20-4(2) and 30-1-6(2)(l).

Section 2. Repealer.

This bill repeals:

Section 30-1-2.2, Validation of interracial marriages.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 326
H. B. 156
Passed February 23, 2024
Approved March 18, 2024
Effective May 1, 2024

BURGLARY AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill creates the criminal offense of interruption of a connected service in the commission of a burglary.

Highlighted Provisions:

This bill:

- defines terms;
- creates the criminal offense of interruption of a connected service in the commission of a burglary; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-6-202.2, Utah Code Annotated 1953

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

Section 1. Section 76-6-202.2 is enacted to read:

76-6-202.2. Interruption of a connected service in the commission of a burglary.

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

(i) "Burglary" means an offense under Section 76-6-202.

(ii) "Connected service" means electrical, Internet, or telephone service.

(b) Terms defined in Sections 76-1-101.5 and 76-6-201 apply to this section.

(2) An actor commits interruption of a connected service in the commission of a burglary if, in attempting, committing, or fleeing from a burglary, the actor knowingly damages, disables, or interrupts a connected service.

(3) A violation of Subsection (2) is a third degree felony.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 327
H. B. 158
Passed February 22, 2024
Approved March 18, 2024
Effective May 1, 2024

CRIMINAL DEFAMATION AMENDMENTS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill repeals the offense of criminal defamation.

Highlighted Provisions:

This bill:

- repeals the offense of criminal defamation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS:

76-9-404, as enacted by Laws of Utah 1973, Chapter 196

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

Section 1. Repealer.

This bill repeals:

Section 76-9-404, Criminal defamation.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 328
H. B. 159
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

BEARS EARS VISITOR CENTER ADVISORY COMMITTEE REPEAL AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the Bears Ears Visitor Center Advisory Committee.

Highlighted Provisions:

This bill:

- enacts a sunset date for the Bears Ears Visitor Center Advisory Committee;
- deletes the repeal date for the Bears Ears Visitor Center Advisory Committee; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-209, as last amended by Laws of Utah 2020, Chapters 154, 232 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154

63I-2-209, as last amended by Laws of Utah 2023, Chapter 33

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

Section 1. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.

(2) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.

(3) Section 9-9-112, which creates the Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2026.

[~~(3)~~](4) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

[~~(4)~~](5) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2026.

Section 2. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

[~~(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.~~]

[~~(2)~~](1) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

[~~(3)~~](2) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

[~~(4)~~](3) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

[~~(5)~~](4) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 329
H. B. 188
Passed February 26, 2024
Approved March 18, 2024
Effective May 1, 2024

MODIFICATIONS RELATING TO THE USE OF LAND

Chief Sponsor: R. Neil Walter
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to uses of land within a county or municipality.

Highlighted Provisions:

This bill:

- prohibits a county or municipality from changing or adding to building permit requirements after issuance of the building permit, except in certain circumstances;
- prohibits a county or municipality from revoking a building permit, or taking action that has the effect of revoking a building permit, after issuance of the building permit;
- enacts provisions limiting the ability of a county or municipality to impose requirements on the operation of a tower crane as a condition of approving a building permit or authorizing a development activity; and
- enacts a provision relating to the operation of a tower crane.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2023, Chapter 478
17-27a-508, as last amended by Laws of Utah 2023, Chapter 478

ENACTS:

10-9a-538, Utah Code Annotated 1953
15A-6-301, Utah Code Annotated 1953
17-27a-534, Utah Code Annotated 1953

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

Section 1. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or

development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6)(a) After issuance of a building permit, a municipality may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a municipality from issuing a building permit that contains an expiration date defined in the building permit.

Section 2. Section 10-9a-538 is enacted to read:

10-9a-538. Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means a parcel of land over which a part of a tower crane travels, other than the parcel on which the tower crane is located.

(b) "Airspace approval" means a license, easement, permission of the owner of affected land, or other approval for a part of a tower crane to travel within the air space over affected land.

(c)(i) "Live load" means material being suspended from or lifted by a tower crane.

(ii) "Live load" does not include the components of a tower crane.

(d) "Permit period" means the period during which a land use permit is in effect.

(e)(i) "Tower crane" means a crane that is attached to and supported by a building or foundation.

(ii) "Tower crane" does not include a crane supported by tracks or tires.

(2) Except as provided in Subsection (3), a municipality may not require airspace approval as a condition for the municipality's:

(a) approval of a building permit; or

(b) authorization of a development activity.

(3) A municipality may require airspace approval relating to affected land as a condition for the municipality's approval of a building permit or for the municipality's authorization of a development activity if:

(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or

(b) the affected land is within:

(i) an airport overlay zone; or

(ii) another zone designated to protect the airspace around an airport.

Section 3. Section 15A-6-301 is enacted to read:

15A-6-301. Tower crane operation.

Part 3. Tower Cranes

(1) As used in this section:

(a) "Affected land" means the same as that term is defined in Section 10-9a-538.

(b) "Airspace approval" means the same as that term is defined in Section 10-9a-538.

(c) "Jib" means the part of a tower crane that:

(i) extends horizontally or almost horizontally from the main vertical component of the tower crane; and

(ii) carries the live load.

(d) "Live load" means the same as that term is defined in Section 10-9a-538.

(e) "Minimum hook height" means the distance that, measured from the lowest point of a hook suspended from a jib, is:

(i) 50 feet above the ground level of affected land; or

(ii) 20 feet above a building on affected land.

(f) "Tower crane" means the same as that term is defined in Section 10-9a-538.

(2) An operator of a tower crane shall operate the tower crane in accordance with the requirements of the manufacturer of the tower crane.

(3)(a) A live load may travel over affected land at the minimum hook height with airspace approval.

(b) A jib, but not a live load, may travel over the affected land at the minimum hook height without airspace approval.

(4) The functioning of a tower crane in accordance with Subsection (3) does not constitute a trespass on affected land.

Section 4. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 17-27a-508(1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection [~~20A-7-607(5)~~]20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

(6)(a) After issuance of a building permit, a county may not:

(i) change or add to the requirements expressed in the building permit, unless the change or addition is:

(A) requested by the building permit holder; or

(B) necessary to comply with an applicable state building code; or

(ii) revoke the building permit or take action that has the effect of revoking the building permit.

(b) Subsection (6)(a) does not prevent a county from issuing a building permit that contains an expiration date defined in the building permit.

Section 5. Section 17-27a-534 is enacted to read:

17-27a-534. Operation of a tower crane.

(1) As used in this section:

(a) "Affected land" means the same as that term is defined in Section 10-9a-538.

(b) "Airspace approval" means the same as that term is defined in Section 10-9a-538.

(c) "Live load" means the same as that term is defined in Section 10-9a-538.

(d) "Permit period" means the same as that term is defined in Section 10-9a-538.

(e) "Tower crane" means the same as that term is defined in Section 10-9a-538.

(2) Except as provided in Subsection (3), a county may not require airspace approval as a condition for the county's:

(a) approval of a building permit; or

(b) authorization of a development activity.

(3) A county may require airspace approval relating to affected land as a condition for the county's approval of a building permit or for the county's authorization of a development activity if:

(a) the tower crane will, during the permit period or development activity, carry a live load over the affected land; or

(b) the affected land is within:

(i) an airport overlay zone; or

(ii) another zone designated to protect the airspace around an airport.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 330
H. B. 218
Passed February 26, 2024
Approved March 18, 2024
Effective May 1, 2024

RESTITUTION REVISIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to restitution.

Highlighted Provisions:

This bill:

- defines terms;
- addresses restitution owed by a defendant to an individual for financial support that a deceased victim, or a permanently impaired victim, had a legal obligation to provide to the individual at the time of the defendant's criminal conduct;
- addresses restitution payments with regard to a civil action for the defendant's criminal conduct; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-503, as last amended by Laws of Utah 2021, Chapter 260
77-18-114, as last amended by Laws of Utah 2023, Chapter 113
77-18-118, as last amended by Laws of Utah 2022, Chapter 359
77-27-6.1, as enacted by Laws of Utah 2021, Chapter 260
77-32b-103, as last amended by Laws of Utah 2023, Chapter 330
77-38b-102, as last amended by Laws of Utah 2023, Chapters 113, 184
77-38b-202, as enacted by Laws of Utah 2021, Chapter 260
77-38b-205, as last amended by Laws of Utah 2023, Chapter 113
77-38b-303, as last amended by Laws of Utah 2023, Chapter 113

ENACTS:

77-38b-206, Utah Code Annotated 1953

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

Section 1. Section 63M-7-503 is amended to read:

63M-7-503. Restitution -- Reparations not to supplant restitution -- Assignment of claim for restitution judgment to Reparations Office.

(1) A reparations award may not supplant an order for restitution under Title 77, Chapter 38b, Crime Victims Restitution Act, or under any other provision of law.

(2) The court may not reduce an order for restitution based on a reparations award.

(3)(a)(i) If a victim receives a reparations award and the office is assigned the victim's claim for restitution, or a portion of the victim's claim for restitution, under Section 63M-7-519, the office may file with the sentencing court a notice of restitution listing the amounts or estimated future amounts of payments made or anticipated to be made to or on behalf of the victim.

(ii) The office may provide a notice of restitution to the victim or victim's representative before or at sentencing.

(iii) The office's failure to provide notice under Subsection (3)(a)(i) or (ii) does not invalidate the imposition of the judgment or an order for restitution if the defendant is given the opportunity to object and be heard as provided in this part.

(b)(i) Any objection by the defendant to the imposition or amount of restitution under Subsection (3)(a)(i) shall be:

(A) made at the time of sentencing; or

(B) made in writing within 20 days after the day on which the defendant receives the notice described in Subsection (3)(a) and filed with the court and a copy mailed to the office.

(ii) Upon an objection, the court shall allow the defendant a hearing on the issue.

(iii) After a hearing under Subsection (3)(b)(ii), the court shall:

(A) enter an order for restitution in accordance with Section 77-38b-205; and

(B) identify the office as an assignee for the order for restitution.

(iv) Subject to the right of the defendant to object, the amount of restitution sought by the office may be updated and the office identified as an assignee of an order for restitution in accordance with the time periods established under [~~Subsection 77-38b-205(5)~~]Section 77-38b-205.

(4) If no objection is made or filed by the defendant under Subsection (3), the court shall upon conviction and sentencing:

(a) enter an order for restitution in accordance with Section 77-38b-205; and

(b) identify the office as an assignee for the order for restitution.

(5)(a) If the notice of restitution is filed after sentencing but during the term of probation or parole, the court shall:

(i) modify any order for restitution to include expenses paid by the office on behalf of the victim in accordance with [~~Subsection 77-38b-205(5)~~] Section 77-38b-205; and

(ii) identify the office as an assignee of the order for restitution.

(b) If an order for restitution has not been entered, the court shall:

(i) enter an order for restitution in accordance with Section 77-38b-205; and

(ii) identify the office as an assignee of the order for restitution.

Section 2. Section 77-18-114 is amended to read:

77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) except as provided in Subsection 77-18-118(1)(g), within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection; and

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period [~~in Subsection 77-38b-205(5) has passed~~]for entering an order for restitution has expired under Section 77-38b-205 and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8)(a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit towards the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 3. Section 77-18-118 is amended to read:

77-18-118. Continuing jurisdiction of a sentencing court.

(1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

(a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);

(b) if the defendant is on probation and the probation period has terminated under Subsection 77-18-105(7), to require the defendant to continue to make payments towards a criminal accounts receivable until the defendant's sentence expires;

(c) within the time periods described in [~~Subsection 77-38b-205(5)~~]Section 77-38b-205, to enter or modify an order for a criminal accounts receivable in accordance with Section 77-32b-103;

(d) within the time periods described in [~~Subsection 77-38b-205(5)~~]Section 77-38b-205, to

enter or modify an order for restitution in accordance with Section 77-38b-205;

(e) until a defendant's sentence is terminated, to correct an error for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(a);

(f) until a defendant's sentence is terminated, to modify a payment schedule for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);

(g) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within 90 days from the day on which the defendant's sentence is terminated, to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable; and

(h) to enter an order for a civil accounts receivable and a civil judgment of restitution in accordance with Section 77-18-114.

(2) This section does not prevent a court from exercising jurisdiction over:

(a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3, Contempt; or

(b) enforcement of a civil accounts receivable or a civil judgment of restitution.

Section 4. Section 77-27-6.1 is amended to read:

77-27-6.1. Payment of a criminal accounts receivable -- Failure to enter an order for restitution or create a criminal accounts receivable -- Modification of a criminal accounts receivable -- Order for recovery of costs or pecuniary damages.

(1) When an offender is committed to prison, the board may require the offender to pay the offender's criminal accounts receivable ordered by the court during the period of incarceration or parole supervision.

(2) If the board orders the release of an offender on parole and there is an unpaid balance on the offender's criminal accounts receivable, the board may modify the payment schedule entered by the court for the offender's criminal accounts receivable in accordance with Section 77-32b-105.

(3)(a) If the sentencing court has not entered an order of restitution for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in [~~Subsection 77-38b-205(5),~~]Section 77-38b-205, to enter an order for restitution for the offender in accordance with Section 77-38b-205.

(b) If the sentencing court has not entered an order to establish a criminal accounts receivable for an offender who is under the jurisdiction of the board, the board shall refer the offender's case to the sentencing court, within the time periods described in [~~Subsection 77-38b-205(5),~~]Section 77-38b-205, to enter an order to establish a criminal accounts receivable for the offender in accordance with Section 77-32b-103.

(4)(a) If there is a challenge to an offender's criminal accounts receivable, the board shall refer the offender's case to the sentencing court, within the time periods described in [~~Subsection 77-38b-205(5),~~]Section 77-38b-205, to resolve the challenge to the criminal accounts receivable.

(b) If a sentencing court modifies a criminal accounts receivable after the offender is committed to prison, the sentencing court shall provide notice to the board of the modification.

(5) The board may enter an order to recover any cost incurred by the department, or the state or any other agency, arising out of the offender's needs or conduct.

Section 5. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1)(a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) [~~Subject to Subsection 77-38b-205(5), if~~]If the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and

distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a financial institution for the use of a credit or debit card to make payments towards the criminal accounts receivable.

(3)(a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6)(a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 26B-5-332:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 6. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3)(a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental condition; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental condition.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the court with or without an admission of committing the criminal behavior.

(6) "Deceased victim" means an individual whose death is proximately caused by the criminal conduct of the defendant.

[~~(6)~~](7)(a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

[~~(7)~~](8) "Department" means the Department of Corrections.

(9)(a) "Dependent" means an individual for whom a deceased victim, or a permanently impaired victim, had a legal obligation to provide dependent support at the time of the criminal conduct by the defendant.

(b) "Dependent" includes:

(i) a child:

(A) who is younger than 18 years old; and

(B) for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or legal guardian;

(ii) an unborn child who has a parent-child relationship with a deceased victim, or a permanently impaired victim, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act; or

(iii) an incapacitated individual for whom a deceased victim, or a permanently impaired victim, is the adoptive or biological parent or the legal guardian.

(10) "Dependent support" means the financial obligation of an individual to provide for the routine needs of a dependent, including food, clothing, health care, safety, or shelter.

[~~(8)~~](11) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

(12) "Incapacitated" or "incapacitation" means the individual is:

(a) mentally or physically impaired to the extent that the individual is permanently unable to gain employment and provide basic necessities, including food, clothing, health care, safety, or shelter; and

(b) reliant on a parent, legal guardian, or other relative or person to provide basic necessities for the individual.

(13) "Incapacitated individual" means an individual who is incapacitated.

(14) "Legal guardian" means an individual appointed by a court to make decisions regarding a child or an incapacitated individual.

(15) "Life expectancy" means the number of months an individual is or was expected to live considering medical records and experiential data for the individual.

[~~(9)~~](16) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

[~~(10)~~](17) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(11)~~](18)(a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

(19) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.

[~~(12)~~](20) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(13)~~](21) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(14)~~](22) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(15)~~](23) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(16)~~](24) "Restitution" means the payment of pecuniary damages to a victim.

(25) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.

[~~(17)~~](26)(a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;

(ii) the estate of a deceased victim; [~~and~~]

(iii) a dependent; or

[~~(iii)~~](iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 7. Section 77-38b-202 is amended to read:

77-38b-202. Prosecuting attorney responsibility for collecting restitution information -- Depositing restitution on behalf of victim.

(1) If a prosecuting attorney files a criminal charge against a defendant, the prosecuting attorney shall:

(a) contact any known victim of the offense for which the criminal charge is filed, or person

asserting a claim for restitution on behalf of the victim; and

(b) gather the following information from the victim or person:

(i) the name of the victim or person; and

(ii) the actual or estimated amount of restitution.

(2)(a) When a conviction, a diversion agreement, or a plea in abeyance is entered by the court, the prosecuting attorney shall provide the court with the information gathered by the prosecuting attorney under Subsection (1)(b).

(b) If, at the time of the plea disposition or conviction, the prosecuting attorney does not have all the information under Subsection (1)(b), the prosecuting attorney shall provide the defendant with:

(i) at the time of plea disposition or conviction, all information under Subsection (1)(b) that is reasonably available to the prosecuting attorney; and

(ii) any information under Subsection (1)(b) as the information becomes available to the prosecuting attorney.

(c) Nothing in this section shall be construed to prevent a prosecuting attorney, a victim, or a person asserting a claim for restitution on behalf of a victim from:

(i) submitting information on, or a request for, restitution to the court within the time periods described in [~~Subsection 77-38b-205(5)~~]Section 77-38b-205; or

(ii) submitting information on, or a request for, restitution for additional or substituted victims within the time periods described in [~~Subsection 77-38b-205(5)~~]Section 77-38b-205.

(3)(a) The prosecuting attorney may be authorized by the appropriate public treasurer to deposit restitution collected on behalf of a victim into an interest-bearing account in accordance with Title 51, Chapter 7, State Money Management Act, pending the distribution of the funds to the victim.

(b) If restitution is deposited into an interest-bearing account under Subsection (3)(a), the prosecuting attorney shall:

(i) distribute any interest that accrues in the account to each victim on a pro rata basis; and

(ii) if all victims have been made whole and funds remain in the account, distribute any remaining funds to the Division of Finance, created in Section 63A-3-101, to deposit to the Utah Office for Victims of Crime.

(c) Nothing in this section prevents an independent judicial authority from collecting, holding, and distributing restitution.

Section 8. Section 77-38b-205 is amended to read:

77-38b-205. Order for restitution.

(1)(a) If a defendant is convicted, as defined in Section 76-3-201, the court shall order a defendant, as part of the sentence imposed under Section 76-3-201, to pay restitution to all victims:

(i) in accordance with the terms of any plea agreement in the case; or

(ii) for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.

(b) If a court enters a plea in abeyance or a diversion agreement for a defendant that includes an agreement to pay restitution, the court shall order the defendant to pay restitution to all victims:

(i) in accordance with the terms of the plea in abeyance or the diversion agreement; or

(ii) if the terms of the plea in abeyance include an agreement between the parties that restitution will be determined by the court as described in Section 77-2a-3, for the entire amount of pecuniary damages that are proximately caused to each victim by the criminal conduct of the defendant.

[~~(c)~~](2)(a) [~~In~~]Except as provided in Subsection (2)(b), in determining the amount of pecuniary damages under Subsection (1)(a)(ii) or (b)(ii), the court shall consider all relevant facts to establish an amount that fully compensates a victim for all pecuniary damages proximately caused by the criminal conduct of the defendant.

(b) If the court determines that the defendant owes pecuniary damages to a dependent for dependent support, the court shall establish the amount of dependent support owed to the dependent as described in Section 77-38b-206.

(c) Subsection (2)(b) does not prohibit the court from also ordering restitution for a victim under Subsection (2)(a) that is not dependent support.

[~~(d)~~](3) The court shall enter the determination of the amount of restitution under Subsection (1)(a)(ii) or (b)(ii) as a finding on the record.

[~~(2)~~](4) Upon an order for a defendant to pay restitution under Subsection (1), the court shall:

(a) enter an order to establish a criminal accounts receivable as described in Section 77-32b-103; and

(b) establish a payment schedule for the criminal accounts receivable as described in Section 77-32b-103.

[~~(3)~~](5) If the defendant objects to a request for restitution, the court shall allow the defendant to have a hearing on the issue, unless the issue is addressed at the sentencing hearing for the defendant.

[~~(4)~~](6) If a court does not enter an order for restitution at sentencing, the court shall schedule a hearing to enter an order for restitution, unless:

(a) the court finds as a matter of law that there is no victim in the case; or

(b) the prosecuting attorney certifies to the court, on the record, that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) all victims, including the Utah Office for Victims of Crime, are not seeking restitution.

[~~(5)~~](7)(a) A court shall enter an order for restitution in a defendant's case no later than the earlier of:

(i) the termination of the defendant's sentence, including early termination of the defendant's sentence; or

(ii)(A) if the defendant is convicted and imprisoned for a first degree felony, within seven years after the day on which the court sentences the defendant for the first degree felony conviction; or

(B) except as provided in Subsection [~~(5)(a)(ii)(A)~~](7)(a)(ii)(A), and if the defendant is convicted of a felony, within three years after the day on which the court sentences the defendant for the felony conviction.

(b) A request for restitution that is made within the time period described in Subsection [~~(5)(a)~~](7)(a) tolls the time for which the court must enter an order for restitution under Subsection [~~(5)(a)~~](7)(a) but does not extend the term of the defendant's probation or period of incarceration.

[~~(6)~~](8)(a) If a court does not order restitution at sentencing or at a hearing described in Subsection [~~(4)~~](6), the prosecuting attorney or the victim may file a motion for restitution within the time periods described in Subsection [~~(5)~~](7).

(b) If the defendant receives notice and does not object to a motion for restitution, the court may order restitution without a hearing.

(c) If the defendant receives notice and objects to a motion for restitution, the court may schedule a hearing to determine whether restitution should be ordered if the prosecuting attorney or victim shows good cause.

[~~(7)~~](9) Upon a motion from the prosecuting attorney or the victim within the time periods described in Subsection [~~(5)~~](7), the court may modify an existing order of restitution, including the amount of pecuniary damages owed by the defendant in the order for restitution, if the prosecuting attorney or the victim shows good cause for modifying the order.

Section 9. Section 77-38b-206 is enacted to read:

77-38b-206. Calculating the amount of restitution owed for dependent support.

(1) As used in this section:

(a) "Base combined child support obligation table" means the child support table located in Section 78B-12-303.

(b) "Gross income" means the amount of income that would be calculated for a parent for child support purposes as described in Section 78B-12-203.

(c) "Monthly income" means the amount of monthly income established for a deceased victim, or a permanently impaired victim, under Subsection (3).

(2) If a defendant owes pecuniary damages to a dependent under Section 77-38b-205, the court shall determine the entire amount of dependent support that the defendant owes a dependent in accordance with this section.

(3)(a) For purposes of determining a defendant's monthly obligation under Subsection (4), the court shall establish the monthly income of the deceased victim, or the permanently impaired victim, by:

(i) calculating the deceased or permanently impaired victim's monthly gross income before the victim's death or incapacitation; and

(ii) dividing the deceased or permanently impaired victim's monthly gross income in half.

(b) If the amount calculated under Subsection (3)(a)(ii) is $3,000 or less, the court shall impute a monthly income of $3,001 to the deceased or permanently impaired victim.

(c) If the amount calculated under Subsection (3)(a)(ii) is greater than $3,000, the deceased or permanently impaired victim's monthly income is the amount calculated under Subsection (3)(a)(ii).

(4) To calculate the amount of pecuniary damages that a defendant owes a dependent of a deceased victim for dependent support, the court shall:

(a) locate the monthly dependent support obligation in the base income child support table using:

(i) the deceased victim's monthly income established under Subsection (3)(b) or (c); and

(ii) the total number of dependents for which the defendant owes dependent support; and

(b) multiply the monthly amount established under Subsection (4)(a) for the dependent by:

(i) the number of months until the dependent is 18 years old and is graduated from high school if the dependent is a child; or

(ii) the life expectancy of the dependent if the dependent is an incapacitated individual who is 18 years old or older.

(5) To calculate the amount of pecuniary damages that a defendant owes a dependent of a permanently impaired victim for dependent support, the court shall:

(a) locate the monthly dependent support obligation in the base income child support table using:

(i) the permanently impaired victim's monthly income established under Subsection (3)(b) or (c); and

(ii) the total number of dependents for which the defendant owes dependent support;

(b) multiply the monthly amount established under Subsection (5)(a) by the permanently

impaired victim's whole person impairment rating as determined by the most recent edition of the American Medical Association's Guides to the Evaluation of Permanent Impairment; and

(c) multiply the amount established under Subsection (5)(b) for the dependent by:

(i) the number of months until the dependent is 18 years old and is graduated from high school if the dependent is a child who is younger than 18 years old; or

(ii) the life expectancy of the dependent if the dependent is an incapacitated individual who is 18 years old or older.

(6) The deceased or permanently impaired victim's monthly income calculated under Subsection (3) is the only income that may be used when locating the monthly dependent support obligation in the base combined child support obligation table.

Section 10. Section 77-38b-303 is amended to read:

77-38b-303. Effect of civil action or settlement for criminal conduct -- Issue preclusion -- Crediting payments.

(1) As used in this section:

(a) "Civil settlement" or "settlement" means an agreement entered into between a victim and a defendant that settles all the claims that a victim may bring in a civil action against the defendant for the defendant's criminal conduct.

(b) "Civil settlement" or "settlement" does not include an agreement that settles a civil judgment of restitution or a civil accounts receivable for a defendant.

(2) Nothing in this chapter shall be construed to limit or impair the right of a victim to sue and recover damages from the defendant in a civil action.

(3)(a) A court's finding on the amount of restitution owed by a defendant under Subsection [~~77-38b-205(1)(d)~~]77-38b-205(3) may be used in a civil action pertaining to the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.

(b) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability for pecuniary damages is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.

(c)(i) Except as provided in Subsection (3)(c)(ii), if a defendant is convicted of a misdemeanor or felony offense, the defendant is precluded from subsequently denying the essential allegations of the offense in a subsequent civil action brought against the defendant for the criminal conduct underlying the offense.

(ii) Subsection (3)(c)(i) does not apply if the offense is a class C misdemeanor under Title 41, Chapter 6a, Traffic Code, or the defendant entered a plea of no contest for the offense.

(4) If a civil action brought by a victim against a defendant results in a civil judgment for the defendant's criminal conduct or there is a civil settlement entered into between a victim and defendant for the defendant's criminal conduct, the civil judgment or settlement does not limit or preclude:

(a) the sentencing court from entering an order of restitution against the defendant in accordance with this chapter; or

(b) the civil enforcement of a civil judgment of restitution by the office or the victim.

(5)(a) The sentencing court shall credit any payment made to a victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.

(b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim against any judgment that is in favor of the victim for the civil action.

(c) If a victim receives payment from the defendant for the civil action, the victim shall provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.

(6)(a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.

(b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.

(7)(a) The sentencing court shall credit any payment made to a victim as part of a civil settlement toward the amount of restitution owed by the defendant to the victim if the sentencing court determines that the payment compensates the victim for pecuniary damages proximately caused by the defendant's criminal conduct.

(b) If a victim receives a payment from the defendant as part of a civil settlement, the victim shall provide notice to the sentencing court within 30 days after the day on which the victim receives the payment.

(8) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.

(9) Notwithstanding Subsections (5) and (6), if a defendant owes dependent support to a victim in an order for restitution:

(a) the defendant may not use any payment from a motor vehicle insurance policy to satisfy any

amount of dependent support owed by the defendant until all persons entitled to recover in a civil action for the defendant's criminal conduct are made whole; and

(b) a court may not credit any payment from the defendant towards the amount of dependent support owed by the defendant against any judgment that is in favor of the victim for a civil action until all persons entitled to recover in a civil action for the defendant's criminal conduct are made whole.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 331
H. B. 209
Passed March 1, 2024
Approved March 18, 2024
Effective July 1, 2024

AMENDMENTS TO CIVIL AND CRIMINAL ACTIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill addresses civil and criminal actions.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the requirements for bringing a civil action for human trafficking;
- allows for the dissolution of a nonprofit organization in certain civil actions;
- amends the requirements for transferring a criminal action from the justice court to the district court; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

16-6a-1414, as enacted by Laws of Utah 2000, Chapter 300
16-6a-1414, as last amended by Laws of Utah 2023, Chapter 401
16-6a-1416, as last amended by Laws of Utah 2023, Chapter 401
16-6a-1417, as last amended by Laws of Utah 2023, Chapter 401
78A-7-106, as last amended by Laws of Utah 2023, Chapter 34

RENUMBERS AND AMENDS:

77-38-15, (Renumbered from 77-38-15, as last amended by Laws of Utah 2022, Chapter 430)

Sections affected by Coordination Clause:

78A-7-106, as last amended by Laws of Utah 2023, Chapter 348

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

Section 1. Section 16-6a-1414 is amended to read:

16-6a-1414. Grounds for judicial dissolution.

(1) A nonprofit corporation may be dissolved in a proceeding by the attorney general or the division director if it is established that:

(a) the nonprofit corporation obtained its articles of incorporation through fraud; or

(b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon it by law.

(2) A nonprofit corporation may be dissolved in a proceeding by a member or director if it is established that:

(a)(i) the directors are deadlocked in the management of the corporate affairs;

(ii) the members, if any, are unable to break the deadlock; and

(iii) irreparable injury to the nonprofit corporation is threatened or being suffered;

(b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) A nonprofit corporation may be dissolved in a proceeding by a creditor if it is established that:

(a)(i) the creditor's claim has been reduced to judgment;

(ii) the execution on the judgment has been returned unsatisfied; and

(iii) the nonprofit corporation is insolvent; or

(b)(i) the nonprofit corporation is insolvent; and

(ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.

(4)(a) As used in this Subsection (4):

(i) "Misconduct claim" means:

(A) a claim for wrongful death, fraud, breach of public trust, or an intentional tort; or

(B) a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is a felony offense or an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76, Chapter 5b, Sexual Exploitation Act, Section 76-7-102, Section 76-9-702, or Section 76-9-702.1.

(ii) "Nonprofit corporation" does not include a bona fide church or religious organization.

(b) If a person brings a misconduct claim in an action against a nonprofit corporation, the person may also bring an action to dissolve the nonprofit corporation.

(c) If a person brings a dissolution action under Subsection (4)(b), the court may only dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable for the misconduct claim.

(d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b), the court may:

(i) issue an injunction preventing the nonprofit corporation from selling or disposing of any assets held by the nonprofit corporation; and

(ii) require the nonprofit corporation to deposit funds, or post a bond, with the court for the amount of damages pleaded in the complaint.

(e) The court may void a transaction that is made by the nonprofit corporation within 12 months before the day on which the action was filed with the court if the court finds that the transaction is voidable under Section 25-6-202.

[~~(4)~~](5)(a) If a nonprofit corporation has been dissolved by voluntary or [~~administrative~~]another action taken under this part:

(i) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and

(ii) the attorney general, a director, a member, [~~or~~]a creditor, or a plaintiff under Subsection (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through [~~(3)~~](4).

(b) As used in Sections 16-6a-1415 through 16-6a-1417:

(i) a "judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under this Subsection [~~(4)~~](5); and

(ii) a "decree of dissolution" includes an order of a court entered in a proceeding under this Subsection [~~(4)~~](5) that directs that the affairs of a nonprofit corporation shall be wound up and liquidated under judicial supervision.

Section 2. Section 16-6a-1414 is amended to read:

16-6a-1414. Grounds and procedure for judicial dissolution.

(1) The attorney general or the division director may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a) the nonprofit corporation obtained the nonprofit corporation's articles of incorporation through fraud; or

(b) the nonprofit corporation has continued to exceed or abuse the authority conferred upon the nonprofit corporation by law.

(2) A member or director of a nonprofit corporation may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve the nonprofit corporation if it is established that:

(a)(i) the directors are deadlocked in the management of the corporate affairs;

(ii) the members, if any, are unable to break the deadlock; and

(iii) irreparable injury to the nonprofit corporation is threatened or being suffered;

(b) the directors or those in control of the nonprofit corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(c) the members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors; or

(d) the corporate assets are being misapplied or wasted.

(3) A creditor may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to dissolve a nonprofit corporation if it is established that:

(a)(i) the creditor's claim has been reduced to judgment;

(ii) the execution on the judgment has been returned unsatisfied; and

(iii) the nonprofit corporation is insolvent; or

(b)(i) the nonprofit corporation is insolvent; and

(ii) the nonprofit corporation has admitted in writing that the creditor's claim is due and owing.

(4)(a) As used in this Subsection (4):

(i) "Misconduct claim" means:

(A) a claim for wrongful death, fraud, breach of public trust, or an intentional tort; or

(B) a claim regarding criminal conduct by a director, member, or employee of the nonprofit corporation that is a felony offense or an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, Title 76, Chapter 5b, Sexual Exploitation Act, Section 76-7-102, Section 76-9-702, or Section 76-9-702.1.

(ii) "Nonprofit corporation" does not include a bona fide church or religious organization.

(b) If a person brings a misconduct claim in an action against a nonprofit corporation, the person may also bring an action to dissolve the nonprofit corporation.

(c) If a person brings a dissolution action under Subsection (4)(b), the court may only dissolve the nonprofit corporation if the court finds the nonprofit corporation is liable for the misconduct claim.

(d) Upon a motion by the plaintiff in a dissolution action described in Subsection (4)(b), the court may:

(i) issue an injunction preventing the nonprofit corporation from selling or disposing of any assets held by the nonprofit corporation; and

(ii) require the nonprofit corporation to deposit funds, or post a bond, with the court for the amount of damages pleaded in the complaint.

(e) The court may void a transaction that is made by the nonprofit corporation within 12 months before the day on which the action was filed with the court if the court finds that the transaction is voidable under Section 25-6-202.

[~~(4)~~](5) If an action is brought under this section, it is not necessary to make directors or members parties to the action to dissolve the nonprofit corporation unless relief is sought against the members individually.

[~~(5)~~](6) In an action under this section, the court may:

(a) issue injunctions;

(b) appoint a receiver or a custodian pendente lite with all powers and duties the court directs; or

(c) take other action required to preserve the nonprofit corporation's assets wherever located and carry on the business of the nonprofit corporation until a full hearing can be held.

[~~(6)~~](7) If a nonprofit corporation has been dissolved by voluntary or [~~administrative~~]another action taken under this part:

(a) the nonprofit corporation may bring a proceeding to wind up and liquidate its business and affairs under judicial supervision in accordance with Section 16-6a-1405; and

(b) the attorney general, a director, a member, [~~or~~]a creditor, or a plaintiff under Subsection (4) may bring a proceeding to wind up and liquidate the affairs of the nonprofit corporation under judicial supervision in accordance with Section 16-6a-1405, upon establishing the grounds set forth in Subsections (1) through [~~(3)~~](4).

Section 3. Section 16-6a-1416 is amended to read:

16-6a-1416. Receivership or custodianship.

(1) As used in this section:

(a) "Decree of dissolution" includes an order of a court entered in a proceeding under [~~Subsection 16-6a-1414(4)~~]Section 16-6a-1414 that directs that the affairs of a nonprofit corporation be wound up and liquidated under judicial supervision.

(b) "Judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under [~~Subsection 16-6a-1414(4)~~]Section 16-6a-1414.

(2)(a) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint:

(i) one or more receivers to wind up and liquidate the affairs of the nonprofit corporation; or

(ii) one or more custodians to manage the affairs of the nonprofit corporation.

(b) Before appointing a receiver or custodian, the court shall hold a hearing, after giving notice to:

(i) all parties to the proceeding; and

(ii) any interested persons designated by the court.

(c) The court appointing a receiver or custodian has exclusive jurisdiction over the nonprofit corporation and all of its property, wherever located.

(d) The court may appoint as a receiver or custodian:

(i) an individual;

(ii) a domestic or foreign corporation authorized to conduct affairs in this state; or

(iii) a domestic or foreign nonprofit corporation authorized to conduct affairs in this state.

(e) The court may require the receiver or custodian to post bond, with or without sureties, in an amount specified by the court.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order that may be amended from time to time. Among other powers the receiver shall have the power to:

(a) dispose of all or any part of the property of the nonprofit corporation, wherever located:

(i) at a public or private sale; and

(ii) if authorized by the court; and

(b) sue and defend in the receiver's own name as receiver of the nonprofit corporation in all courts.

(4) The custodian may exercise all of the powers of the nonprofit corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the nonprofit corporation in the best interests of its members and creditors.

(5) If doing so is in the best interests of the nonprofit corporation and its members and creditors, the court may:

(a) during a receivership, redesignate the receiver as a custodian; and

(b) during a custodianship, redesignate the custodian as a receiver.

(6) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made from the assets of the nonprofit corporation or proceeds from the sale of the assets to:

(a) the receiver;

(b) the custodian; or

(c) the receiver's or custodian's attorney.

Section 4. Section 16-6a-1417 is amended to read:

16-6a-1417. Decree of dissolution.

(1) As used in this section:

(a) "Decree of dissolution" includes an order of a court entered in a proceeding under [~~Subsection~~

~~16-6a-1414(4)~~]Section 16-6a-1414 that directs that the affairs of a nonprofit corporation be wound up and liquidated under judicial supervision.

(b) "Judicial proceeding to dissolve the nonprofit corporation" includes a proceeding brought under [~~Subsection 16-6a-1414(4)~~]Section 16-6a-1414.

(2) If after a hearing the court determines that one or more grounds for judicial dissolution described in Section 16-6a-1414 exist:

(a) the court may enter a decree:

(i) dissolving the nonprofit corporation; and

(ii) specifying the effective date of the dissolution; and

(b) the clerk of the court shall deliver a certified copy of the decree to the division which shall file it accordingly.

(3) After entering the decree of dissolution, the court shall direct:

(a) the winding up and liquidation of the nonprofit corporation's affairs in accordance with Section 16-6a-1405; and

(b) the giving of notice to:

(i)(A) the nonprofit corporation's registered agent; or

(B) the division if it has no registered agent; and

(ii) to claimants in accordance with Sections 16-6a-1406 and 16-6a-1407.

(4) The court's order or decision may be appealed as in other civil proceedings.

Section 5. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1)(a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3)(a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6)(a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a prosecuting attorney files a notice of transfer, the prosecuting attorney shall certify in the notice of transfer that the prosecuting attorney, or a representative from the prosecuting attorney's office, has consulted with, or notified, all of the alleged victims about transferring the criminal action to the district court.

(d) The justice court shall transfer a criminal action to the district court if the justice court receives a notice of transfer from:

(i) the defendant as described in Subsection (6)(b); or

(ii) the prosecuting attorney as described in Subsection (6)(b) and the prosecuting attorney's notice of intent complies with Subsection (6)(c).

[~~(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.~~]

Section 6. Section 78B-3-113, which is renumbered from Section 77-38-15 is renumbered and amended to read:

~~77-38-15.~~ 78B-3-113. Right of action for a victim of a human trafficking offense.

(1) [~~A victim of a person that commits any of the following offenses may bring a civil action against that person:~~]As used in this section:

(a) "Human trafficking offense" means an offense for:

[~~(a)~~](i) human trafficking for labor under Section 76-5-308;

[~~(b)~~](ii) human trafficking for sexual exploitation under Section 76-5-308.1;

[~~(c)~~](iii) human smuggling under Section 76-5-308.3;

[~~(d)~~](iv) human trafficking of a child under Section 76-5-308.5;

[~~(e)~~](v) aggravated human trafficking under Section 76-5-310;

[~~(f)~~](vi) aggravated human smuggling under Section 76-5-310.1; or

[~~(g)~~](vii) benefitting from human trafficking under Section 76-5-309.

(b) "Victim" means an individual against whom a human trafficking offense has been committed.

(2) A victim has a right of action against a person that committed a human trafficking offense against the victim to recover:

(a) [~~The court may award~~]actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief[~~.~~] for the human trafficking offense; and

(b) [~~The court may award~~]treble damages on proof of actual damages for the human trafficking offense if the court finds that the person's acts were willful and malicious.

[~~(3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.~~]

[~~(4) An action under this section shall be commenced no later than 10 years after the later of:~~]

(3) Notwithstanding any other statute of limitation or repose that may be applicable to an action described in this section, a victim may only bring an action described in this section within 10 years after the later of:

(a) the day on which the victim was freed from the human trafficking or human smuggling situation;

(b) the day on which the victim [~~attains~~]reaches 18 years old; or

(c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.

[~~(5)~~](4) The time period described in Subsection [~~(4)~~](3) is tolled during a period of time when the victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

[~~(6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter 38b, Crime Victims Restitution Act.~~]

(5) The court shall credit any restitution paid by the person to the victim as described in Subsection 77-38b-303(5)(b).

(6) The court shall award reasonable attorney fees and costs as described in Subsection 77-38b-303(7) in an action brought under this section.

[~~(7) A victim may bring an action described in this section in any court of competent jurisdiction where:~~]

(7)(a) Notwithstanding Chapter 3a, Venue for Civil Actions, a victim shall bring an action under this section in the county in which:

[~~(a) a violation described in Subsection (1)~~]

(i) the human trafficking offense occurred;

[~~(b)~~](ii) the victim resides; or

[~~(c) the person that commits the offense resides or has a place of business~~]

(iii) the defendant resides at the commencement of the action.

(b) If the defendant is a business organization as defined in Section 78B-3a-101, the residence of the business organization is as described in Section 78B-3a-104.

(8) If the victim is deceased or otherwise unable to represent the victim's own interests [~~in court~~]in the action, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

Section 7. Effective date.

(1)(a) Except as provided in Subsections (1)(b) and (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect on May 1, 2024.

(2) The actions affecting Section 16-6a-1414 (Effective 07/01/24), Section 16-6a-1416 (Effective 07/01/24), and Section 16-6a-1417 (Effective 07/01/24) take effect on July 1, 2024.

Section 8. Coordinating H.B. 209 with H.B. 308.

If H.B. 209, Amendments to Civil and Criminal Actions, and H.B. 308, Crime Victim Amendments, both pass and become law, the Legislature intends, on May 1, 2024, the changes in H.B. 308 to Subsection 78A-7-106(6) not be made.

CHAPTER 332
H. B. 223
Passed February 22, 2024
Approved March 18, 2024
Effective May 1, 2024

AIRPORT WEAPON POSSESSION AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns weapon possession at an airport.

Highlighted Provisions:

This bill:

- establishes, with a sunset date, law enforcement reporting requirements concerning the possession of certain types of dangerous weapons in a secure area of an airport;
- requires the State Commission on Criminal and Juvenile Justice to receive, compile, and publish data concerning offenses involving:
  - possession of a dangerous weapon in a secure area of an airport;
- adds criminal negligence as a culpable mental state for the possession of a dangerous weapon in a secure area of an airport;
- provides limitations on the punishment for certain violations resulting from the possession of a dangerous weapon in a secure area of an airport;
- provides, under certain circumstances, that an actor in possession of a dangerous weapon in a secure area of the airport may return to a non-secure area of the airport with the dangerous weapon or may temporarily surrender the dangerous weapon into the custody of the law enforcement agency to be retrieved at a later date;
- requires a law enforcement agency to take certain actions regarding the retrieval of a dangerous weapon;
- provides limitations on certain local entities regarding criminal prosecution, civil remedies, or other actions resulting from the possession of certain items at an airport;
- provides procedures for the disposal of a firearm or other dangerous weapon by a law enforcement agency; and
- provides technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467
63I-2-276, as last amended by Laws of Utah 2023, Chapter 301
76-10-529, as last amended by Laws of Utah 2023, Chapter 422
77-11a-402, as last amended by Laws of Utah 2023, Chapters 397, 422 and renumbered and amended by Laws of Utah 2023, Chapter 448
77-11d-101, as renumbered and amended by Laws of Utah 2023, Chapter 448
77-11d-105, as renumbered and amended by Laws of Utah 2023, Chapter 448

ENACTS:

53-25-102, Utah Code Annotated 1953

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

Section 1. Section 53-25-102 is enacted to read:

53-25-102. Airport dangerous weapon possession reporting requirements.

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning on January 1, 2026, a law enforcement agency having law enforcement jurisdiction over an airport shall annually, on or before April 30, submit a report to the commission detailing:

(a) for an offense described in Subsection 76-10-529(2)(a)(i):

(i) the number of issued written warnings;

(ii) the number of issued citations;

(iii) the number of referrals to a detective; and

(iv) the number of referrals to a prosecutor; and

(b) for an offense described in Subsection 76-10-529(2)(a)(ii):

(i) the number of issued written warnings; and

(ii) if applicable, the number of issued citations, including the number of individuals who have received more than one citation for the offense.

(3) The commission shall:

(a) develop a standardized format for reporting the data described in Subsection (2);

(b) compile the data submitted under Subsection (2); and

(c) annually on or before August 1, publish a report of the data described in Subsection (2) on the commission's website.

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

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53-25-102 is repealed on December 31, 2031.

[~~(5)~~](6) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~](7) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(7)~~](8) Section 53B-8-114 is repealed July 1, 2024.

[~~(8)~~](9) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(9)~~](10) Section 53B-10-101 is repealed on July 1, 2027.

[~~(10)~~](11) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(11)~~](12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(12)~~](13) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~](14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(14)~~](15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(15)~~](16) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(16)~~](17) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](18) Section 53F-9-403 is repealed on July 1, 2024.

[~~(18)~~](19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53-25-102 is repealed on December 31, 2031.

[~~(8)~~](9) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](10) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](11) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](12) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](13) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](14) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](15) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](17) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](18) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](20) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](21) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](22) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 4. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an owner, employee, or contractor of a health facility, is repealed January 1, 2027.

(2) Section 76-7-305.7 is repealed January 1, 2023.

(3) Subsection 76-10-529(9), regarding data collection requirements, is repealed on December 31, 2031.

Section 5. Section 76-10-529 is amended to read:

76-10-529. Possession of firearms, other dangerous weapons, or explosives in airport secure areas prohibited -- Punishment limitations -- Reporting requirement.

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

(i) "Airport authority" has the same meaning as defined in Section 72-10-102.

(ii) "Explosive" is the same as defined for "explosive, chemical, or incendiary device" in Section 76-10-306.

(iii) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(b) Terms defined in Sections 76-1-101.5 and 76-10-501 apply to this section.

(2)(a) Within a secure area of an airport established pursuant to this section, [~~a person~~]an actor, including [~~a person~~]an actor licensed to carry a concealed firearm under Title 53, Chapter 5, Part 7, Concealed Firearm Act, is guilty of:

(i) a class A misdemeanor if the [~~person~~]actor knowingly or intentionally possesses [~~any dangerous weapon or~~]a firearm or other dangerous weapon;

(ii) subject to Subsection (5), an infraction if the [~~person~~]actor recklessly or with criminal negligence possesses [~~any dangerous weapon or~~]a firearm or other dangerous weapon; or

(iii) a violation of Section 76-10-306 if the [~~person~~]actor transports, possesses, distributes, or sells [~~any~~]an explosive, chemical, or incendiary device.

(b) Subsection (2)(a) does not apply to:

(i) [~~persons~~]individuals exempted under Section 76-10-523; and

(ii) [~~members~~]a member of the state or federal military forces while engaged in the performance of [~~their~~]the member's official duties.

(3) An airport authority, county, [~~or~~] municipality, or other entity regulating [~~the~~]an airport may:

(a) establish [~~any~~]a secure area located beyond the main area where the public generally buys tickets, checks and retrieves luggage; and

(b) use reasonable means, including mechanical, electronic, x-ray, or [~~any other~~]another device, to detect [~~dangerous weapons, ~~]firearms, other dangerous weapons, or explosives concealed in baggage or upon the person of [~~any~~]an individual attempting to enter the secure area.

(4) At least one notice shall be prominently displayed at each entrance to a secure area in which a [~~dangerous weapon, ~~]firearm, other dangerous weapon, or explosive is restricted.

[~~(5) Upon the discovery of any dangerous weapon, firearm, or explosive, the airport authority, county, or municipality, the employees, or other personnel administering the secure area may:~~]

[~~(a) require the individual to deliver the item to the air freight office or airline ticket counter;~~]

[~~(b) require the individual to exit the secure area; or~~]

[~~(c) obtain possession or retain custody of the item until it is transferred to law enforcement officers.~~]

(5)(a) An actor who violates Subsection (2)(a)(ii) on a first offense may receive a written warning for the offense and may not receive a citation or any other form of punishment.

(b) An actor who violates Subsection (2)(a)(ii) on a second or subsequent offense may receive a written warning or a citation.

(6)(a) Except as provided in Subsection (6)(d), if a law enforcement officer issues a citation to an actor for an infraction as a result of the actor's conduct described in Subsection (2)(a)(ii), or provides an oral or written warning for that conduct, the law enforcement officer shall:

(i) if the law enforcement officer is able to confirm that the actor may lawfully possess the firearm or other dangerous weapon, allow the actor, at the actor's option, to:

(A) temporarily surrender custody of the firearm or other dangerous weapon into the custody of the law enforcement agency so that the firearm or other dangerous weapon may be retrieved by the actor at a later date; or

(B) exit the secure area of the airport with the firearm or other dangerous weapon; or

(ii) if the law enforcement officer is unable to confirm that the actor may lawfully possess the firearm or other dangerous weapon, or the airport authority under Subsection (6)(d) prohibits the procedure described in Subsection (6)(a)(i), take temporary custody of the firearm or other dangerous weapon so that the firearm or other dangerous weapon may be retrieved by the actor at a later date if legally permitted to do so.

(b) If a law enforcement officer takes temporary custody of a firearm or other dangerous weapon under Subsection (6)(a):

(i) at the time the firearm or other dangerous weapon is obtained from the actor, the law enforcement officer, or another law enforcement officer, or an employee who works in the secure area of the airport, shall provide the actor with written instructions on how, when, and where the actor may retrieve the actor's firearm or other dangerous weapon; and

(ii) within three business days from the time when the law enforcement officer receives the firearm or other dangerous weapon, the law enforcement agency shall determine whether the actor is legally permitted to possess the firearm or other dangerous weapon, and if so, ensure that the firearm or other dangerous weapon is available for the actor to retrieve.

(c) An unclaimed firearm or other dangerous weapon that is surrendered into the custody of a law enforcement agency under this Subsection (6) may be disposed of pursuant to Section 77-11d-105, disposition of unclaimed property.

(d) An airport authority may implement a policy that prohibits the law enforcement agency with jurisdiction over the airport from utilizing the procedure described in Subsection (6)(a)(i).

[~~(6)~~](7)(a) [~~An individual who is prosecuted for a violation of this section based on the possession of a firearm shall have the individual's firearm returned to the individual~~]An actor's firearm that is confiscated based on a violation of Subsection (2)(a)(i) shall be returned to the actor in accordance with Subsection 77-11a-402(1)(b) [~~if the individual may lawfully possess the firearm~~].

(b) In accordance with Subsection 77-11b-102(5), a firearm seized under [~~this section~~]Subsection (2)(a)(i) is not subject to forfeiture if the [~~charged individual~~]actor may lawfully possess the firearm.

(c) In a prosecution brought under this section, a prosecutor may not condition a plea on the forfeiture of a firearm.

(8) An airport authority, county, municipality, or other entity regulating an airport or with local jurisdiction over an airport may not:

(a) charge, cite, or prosecute an actor with a different offense under the Utah Code, local ordinance, or another state or local law or regulation for conduct described in Subsection (2)(a)(ii);

(b) assess a civil penalty for conduct described in Subsection (2)(a)(i) or (ii); or

(c) enact a regulation, ordinance, or law covering conduct described in Subsection (2).

(9) A law enforcement agency that issues a written warning, citation, or referral for prosecution under this section shall record and report the information as required under Section 53-25-102.

Section 6. Section 77-11a-402 is amended to read:

77-11a-402. Disposition of seized property and contraband -- Return of seized property.

(1)(a) Except as provided in Subsection (1)(b), if a prosecuting attorney determines that seized property no longer needs to be retained as evidence under Chapter 11c, Retention of Evidence, the prosecuting attorney may:

(i) petition the court to apply the property that is money towards restitution, fines, fees, or monetary judgments owed by the owner of the property;

(ii) petition the court for an order transferring ownership of weapons to the agency with custody for the agency's use and disposal in accordance with Section 77-11a-403 if the owner:

(A) is the individual who committed the offense for which the weapon was seized; or

(B) may not lawfully possess the weapon; or

(iii) notify the agency with custody of the property or contraband that:

(A) the property may be returned to the owner in accordance with Section 77-11a-301 if the owner may lawfully possess the property; or

(B) the contraband may be disposed of or destroyed.

(b) If a prosecuting attorney determines that a firearm seized from an individual as a result of an offense committed under [~~Section 76-10-529~~]Subsection 76-10-529(2)(a)(i) no longer needs to be retained for court proceedings, the prosecuting attorney shall notify the agency with custody of the firearm that the property shall be returned to the individual if the individual may lawfully possess the firearm.

(2) Before returning a firearm to an individual, the agency returning the firearm shall confirm, through the Bureau of Criminal Identification, that the individual is eligible to lawfully possess and receive firearms.

(3)(a) Except as provided in Subsection (3)(b), if the agency is unable to locate the owner of the property or the owner is not entitled to lawfully possess the property, the agency may:

(i) apply the property to a public interest use;

(ii) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(iii) destroy the property if the property is unfit for a public interest use or for sale.

(b) If the property described in Subsection (3)(a) is a firearm, the agency shall dispose of the firearm in accordance with Section 77-11a-403.

(4) Before applying the property or the proceeds from the sale of the property to a public interest use, the agency shall obtain from the legislative body of the agency's jurisdiction:

(a) permission to apply the property or the proceeds to public interest use; and

(b) the designation and approval of the public interest use of the property or the proceeds.

(5) If a peace officer seizes property that at the time of seizure is held by a pawn or secondhand business in the course of the pawn or secondhand business's business, the provisions of Section 13-32a-116 shall apply to the disposition of the property.

Section 7. Section 77-11d-101 is amended to read:

77-11d-101. Definitions.

As used in this chapter:

(1) "Interest holder" means the same as that term is defined in Section 77-11a-101.

(2)(a) "Lost or mislaid property":

[~~(a)~~](i) means any property that comes into the possession of a peace officer or law enforcement agency:

[~~(i)~~](A) that is not claimed by anyone who is identified as the owner of the property; or

[~~(ii)~~](B) for which no owner or interest holder can be found after a reasonable and diligent search;

[~~(b)~~](ii) includes any property received by a peace officer or law enforcement agency from a person claiming to have found the property; and

[~~(c)~~](iii) does not include property seized by a peace officer in accordance with Chapter 11a, Seizure of Property and Contraband.

(b) "Lost or mislaid property" includes a firearm or other dangerous weapon received by a law enforcement agency at an airport under Subsection 76-10-529(6).

(3) "Owner" means the same as that term is defined in Section 77-11a-101.

(4) "Public interest use" means:

(a) use by a governmental agency as determined by the agency's legislative body; or

(b) donation to a nonprofit charity registered with the state.

Section 8. Section 77-11d-105 is amended to read:

77-11d-105. Disposition of unclaimed property.

[~~(1)(a) If~~]

(1)(a) Except as provided in Subsection (6), if the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2)(a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

(a) permission to apply the property to a public interest use; and

(b) the designation and approval of the public interest use of the property.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

(6)(a) If the lost or mislaid property is a firearm or other dangerous weapon received by a law enforcement agency under Subsection 76-10-529(6), the law enforcement agency may dispose of the firearm or other dangerous weapon three months after the property's receipt by the law enforcement agency if the owner of the firearm or other dangerous weapon, or the owner's agent:

(i) fails to retrieve the firearm or other dangerous weapon; or

(ii) is legally prohibited from possessing the firearm or other dangerous weapon.

(b) A law enforcement agency may dispose of a firearm under Subsection (6)(a) by following the procedures described in Section 77-11a-403, disposition of firearms no longer needed as evidence.

Section 9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-2-253 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 333
H. B. 236
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

SALES AND USE TAX MODIFICATIONS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies the uses of the county option Funding for Health Care sales and use tax.

Highlighted Provisions:

This bill:

- authorizes a rural county to use revenue generated from the imposition of the rural county health care tax to mitigate the impacts of visitors within the county and to forecast for avalanches; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-802, as last amended by Laws of Utah 2023, Chapters 92, 471

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

Section 1. Section 59-12-802 is amended to read:

59-12-802. Imposition of rural county health care tax -- Expenditure of tax revenue -- Base -- Rate -- Administration, collection, and enforcement of tax -- Administrative charge.

(1)(a) A county legislative body of the following counties may impose a sales and use tax of up to 1% on the transactions described in Subsection 59-12-103(1) located within the county:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a county of the second class that has:

(A) a national park within or partially within the county's boundaries; and

(B) two or more state parks within or partially within the county's boundaries.

[~~(b) Subject to Subsection (3), the money collected from a tax under this section may be used to fund:~~]

[~~(i) for a county described in Subsection (1)(a)(i):~~]

[~~(A) rural emergency medical services in that county;~~]

[~~(B) federally qualified health centers in that county;~~]

[~~(C) freestanding urgent care centers in that county;~~]

[~~(D) rural county health care facilities in that county;~~]

[~~(E) rural health clinics in that county; or~~]

[~~(F) a combination of Subsections (1)(b)(i)(A) through (E); and~~]

[~~(ii) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection (4)(c).~~]

[~~(c)~~](b) Notwithstanding Subsection (1)(a), a county legislative body may not impose a tax under this section on:

(i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104;

(ii) a transaction to the extent a rural city hospital tax is imposed on that transaction in a city that imposes a tax under Section 59-12-804; and

(iii) except as provided in Subsection [~~(1)(e)~~](1)(d), amounts paid or charged for food and food ingredients.

[~~(d)~~](c) For purposes of this Subsection (1), the location of a transaction [~~shall be~~]is determined in accordance with Sections 59-12-211 through 59-12-215.

[~~(e)~~](d) A county legislative body imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2)(a) Except as provided in Subsection [~~(4)(b)~~](5)(b), before imposing a tax under Subsection (1), a county legislative body shall obtain approval to impose the tax from a majority of the:

(i) members of the county's legislative body; and

(ii) county's registered voters voting on the imposition of the tax.

(b) The county legislative body shall conduct the election according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act.

(3) [~~The~~]Subject to Subsection (4), a county legislative body may use money collected from a tax imposed under Subsection (1) [~~may only be used to fund:~~]to fund:

(a) for a county described in Subsection (1)(a)(i):

(i) the following costs associated with a federally qualified health center within the county, a freestanding urgent care center within the county, a rural county health care facility within the county, or a rural health clinic within the county:

(A) ongoing operating expenses of [~~a~~]the center, clinic, or facility [~~described in Subsection (1)(b)(i) within that county~~];

[~~(ii)~~](B) the acquisition of land for [~~a~~]the center, clinic, or facility [~~described in Subsection (1)(b)(i) within that county;~~]; or

[~~(iii)~~](C) the design, construction, equipping, or furnishing of [~~a~~]the center, clinic, or facility [~~described in Subsection (1)(b)(i) within that county; or~~];

[~~(iv)~~](ii) rural emergency medical services within [~~that~~]the county; [~~and~~]or

(iii) a combination of the activities described in this Subsection (3)(a); and

(b) for a county described in Subsection (1)(a)(ii), emergency medical services that are provided by a political subdivision within that county, subject to Subsection [~~(4)(c)~~](5)(c).

(4)(a) For a tax enacted on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use money collected from a tax imposed under Subsection (1) to fund:

(i) the costs described in Subsection (3)(a)(i);

(ii) the following activities to mitigate the impacts of visitors within the county:

(A) emergency medical services;

(B) solid waste disposal;

(C) search and rescue activities;

(D) law enforcement activities; or

(E) fire protection services;

(iii) avalanche forecasting within the county; or

(iv) a combination of the activities described in this Subsection (4)(a).

(b) For a tax increased on or after July 1, 2024, by a county described in Subsection (1)(a)(i), a county legislative body may use the money collected from the increased tax rate to fund the activities described in Subsections (4)(a)(i) through (iv).

[~~(4)~~](5)(a) A county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county if the affected area includes:

(i) the entire unincorporated area of the county; and

(ii) the entire boundaries of any municipality located within the affected area.

(b) Before a county described in Subsection (1)(a)(ii) may impose a tax under this section within a portion of the county, the county legislative body shall obtain approval to impose the tax from a majority of:

(i) the members of the county's legislative body;

(ii) the county's registered voters within the affected area voting on the imposition of the tax, in an election conducted according to the procedures and requirements of Title 11, Chapter 14, Local Government Bonding Act; and

(iii)(A) the members of the legislative body of each municipality located within the affected area; or

(B) the members of the governing body of a special service district established under Title 17D, Chapter 1, Special Service District Act, to provide emergency medical services within the affected area.

(c) A county described in Subsection (1)(a)(ii) that imposes a tax under this section within a portion of the county in accordance with this Subsection [~~(4)~~](5) may use the money collected from the tax to fund emergency medical services that are provided by a political subdivision within the affected area.

[~~(5)~~](6)(a) A tax under this section shall be:

(i) except as provided in Subsection [~~(5)(b)~~](6)(b), administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies; and

(ii) levied for a period of 10 years and may be reauthorized at the end of the [~~ten-year~~]10-year period by the county legislative body as provided in Subsection (1).

(b) A tax under this section is not subject to Subsections 59-12-205(2) through (5).

(c) A county legislative body shall distribute money collected from a tax under this section quarterly.

[~~(6)~~](7) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 334
H. B. 245
Passed February 28, 2024
Approved March 18, 2024
Effective March 18, 2024

UTAH NATIONAL GUARD AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill modifies provisions related to the Utah National Guard.

Highlighted Provisions:

This bill:

- allows for reenlistment bonus assistance to a member of the Utah National Guard;
- modifies the constitution of the Utah State Defense Force;
- adds a provision for the acceptance of gifts to the Utah National Guard;
- amends provisions related to benefits for the executive director of the Department of Veterans and Military Affairs;
- requires the deputy director for veterans services to be a veteran;
- clarifies a definition related to veteran preference eligibility to include the words "service member";
- reenacts provisions related to a leave of absence from employment for reserve members of the armed forces; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

39A-1-201, as renumbered and amended by Laws of Utah 2022, Chapter 373
39A-1-203, as enacted by Laws of Utah 2022, Chapter 373
39A-3-105, as enacted by Laws of Utah 2022, Chapter 373
39A-3-202, as last amended by Laws of Utah 2023, Chapter 44
39A-3-204, as renumbered and amended by Laws of Utah 2022, Chapter 373
39A-4-101, as renumbered and amended by Laws of Utah 2022, Chapter 373
67-22-2, as last amended by Laws of Utah 2023, Chapter 205
71A-1-202, as enacted by Laws of Utah 2023, Chapter 44
71A-2-101, as last amended by Laws of Utah 2023, Chapter 16 and renumbered and amended by Laws of Utah 2023, Chapter 44

ENACTS:

39A-3-205, Utah Code Annotated 1953
39A-9-101, Utah Code Annotated 1953
71A-8-105, Utah Code Annotated 1953

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

Section 1. Section 39A-1-201 is amended to read:

39A-1-201. Adjutant general -- Appointment -- Term -- Qualifications.

(1) There shall be one adjutant general of the Utah National Guard appointed by the governor.

(2) The adjutant general is the commanding general of the Utah National Guard and the Utah State Defense Force and [~~holds office for a term of six years, unless terminated by resignation, disability, age, in accordance with Subsection (6), or for cause~~]serves at the pleasure of the governor.

(3) The individual appointed to the office shall:

(a) be a citizen of Utah and meet the requirements provided in Title 32, United States Code;

(b) be a federally recognized commissioned officer, with the rank of colonel or higher, of the Army National Guard [~~of the United States~~]or the Air National Guard with no fewer than five years commissioned service in the Utah National Guard; and

(c) as determined by the governor, have sufficient knowledge and experience to command the Utah National Guard.

(4) Active service in the armed forces of the United States may be included in the requirement in Subsection (3)(b), if the officer was a member of the Utah National Guard when the officer entered that service.

(5) The adjutant general shall establish a succession plan consistent with Section 53-2a-804 to ensure the continuity of command.

(6) An officer is no longer eligible to hold the office of adjutant general after attaining the age of 64 years.

(7) The adjutant general shall ensure the readiness, training, discipline, and operations of the Utah National Guard.

Section 2. Section 39A-1-203 is amended to read:

39A-1-203. Director of joint staff -- Assistant adjutants general -- Chief of staff for the Air Force.

(1) There is authorized an assistant adjutant general for the Army, an assistant adjutant general for the Air Force, a chief of staff for the Air Force, a land component commander, and a director of joint staff.

(2) The adjutant general, with the approval of the governor, may appoint assistant adjutant generals, a chief of staff for the Air Force, a land component commander, and a director of joint staff with pay from the state.

(3) The assistant adjutants general, the chief of staff for the Air Force, the land component commander, and the director of joint staff shall be at least a federally recognized field grade commissioned officer of the Utah National Guard with not less than five years military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the Utah National Guard. The officers shall hold office at the pleasure of the adjutant general.

(4) The adjutant general may detail an officer without the required commissioned service in the Utah National Guard to a position in this section only with the written approval of the governor.

Section 3. Section 39A-3-105 is amended to read:

39A-3-105. General officer salary and benefits.

(1) Full-time, state employed general officers or officers appointed to a general officer position shall receive a salary that makes the total federal and state compensation at least commensurate with the pay and allowances for their military grade or assigned position, time in grade, and time in service as established in the United States Department of Defense Finance and Accounting Services annual pay and allowances chart.

(2) General officers or other officers appointed to a general officer position and appointed to state employment shall receive the benefits and protections in Section [~~39-1-36~~]71A-8-105 for the term of the appointment.

Section 4. Section 39A-3-202 is amended to read:

39A-3-202. Pay and care of soldiers and airmen disabled while on state active duty.

(1)(a) Before a service member may be considered disabled in accordance with this section, the Adjutant General shall determine whether the service member's illness, injury, or disease was contracted or occurred through the fault or gross negligence of the service member. If the service member is determined to be at fault for an injury or developed a disability through his or her own grossly negligent actions, the service member is not entitled to any care, pension, or benefit in accordance with this section.

(b) Notwithstanding Subsection (1)(a) the service member may be eligible for benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(2) A member of the Utah National Guard or Utah State Defense Force who is disabled through illness, injury, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from duty is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act.

(3)(a) If the disability temporarily incapacitates the service member from pursuing the service member's usual business or occupation, the service member is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(b) For the duration of the service member's inability to pursue a business or occupation, the adjutant general shall provide compensation so that the total compensation, including the disability compensation received under Subsection (3)(a) is commensurate with the injured service member's lost pay. The adjutant general shall consider lost civilian and military pay in the compensation.

(4) A service member who is permanently disabled, shall receive pensions and benefits from the state that individuals under like circumstances in the Armed Forces of the United States receive from the United States.

(5) If a service member dies as a result of an injury, illness, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from active duty, the surviving spouse, minor children, or dependent parents of the service member shall receive compensation as directed in Section 39A-3-203.

(6) Costs incurred by reason of this section shall be paid out of the funds available to the Utah National Guard.

(7) The adjutant general, with the approval of the governor, shall make and publish regulations to implement this section.

(8) Nothing in this section shall in any way limit or condition any other payment to a service member that the law allows.

Section 5. Section 39A-3-204 is amended to read:

39A-3-204. National Guard Death Benefit Account.

(1) There is created within the General Fund a restricted account known as "National Guard Death Benefit Account."

(2)(a) The restricted account shall be funded from funds appropriated by the Legislature.

(b) Funds in the restricted account may only be used to pay the death benefit authorized in Section [~~39A-3-204~~]39A-3-203.

(c) The restricted account may accrue interest which shall be deposited into the restricted account.

(d) At the close of any fiscal year, any balance in the fund in excess of $2,000,000 shall be transferred to the General Fund.

Section 6. Section 39A-3-205 is enacted to read:

39A-3-205. Recruitment and retention bonus assistance for Utah National Guard members -- Use and allocation -- Appropriation.

(1) The Utah National Guard may provide recruitment and retention bonus assistance to a member of the Utah National Guard for the purpose of recruitment and retention, if, at the time the individual receives the assistance, the individual is an active member in good standing with the Utah National Guard.

(2) The adjutant general may award recruitment and retention bonus assistance as the adjutant general considers necessary to meet recruitment and retention needs.

(3) The adjutant general of the state shall pay recruitment and retention bonus assistance directly to the individual.

(4) The adjutant general may recoup recruitment and retention bonus assistance funds from a recipient if a recipient fails to meet the requirements of the program.

(5) The adjutant general shall establish regulations, procedures, forms, and reports necessary to administer the allocation of assistance and payment of funds under this section.

(6) The adjutant general may use no more than 10% of the funds for administration of the program as the adjutant general considers necessary.

Section 7. Section 39A-4-101 is amended to read:

39A-4-101. Utah State Defense Force -- How constituted.

(1) Unless exempt under Subsection [~~(2)~~](3), in accordance with the Utah Constitution, Article XV, Section 1, all able-bodied [~~citizens, and all able-bodied individuals of foreign birth who have declared their intention to become citizens, are 18 years old or older and younger than 64 years old, and are residents of this state~~]male inhabitants of the state, between the ages of 18 and 45 years old, except such as are exempted by law, constitute the Utah State Defense Force.

(2) Individuals 18 years old or older, who are residents of the state, may volunteer for consideration by the adjutant general to be members of the Utah State Defense Force.

[~~(2)~~](3) Individuals exempt from Subsection (1) include:

(a) individuals exempted from military service by laws of the United States;

(b) individuals exempted from military service by the laws of this state;

(c) all individuals who have been honorably discharged from the armed forces, or volunteer forces of the United States;

(d) active members of any regularly organized fire or police department in any city or town, but a member of the active defense force may not be relieved from duty because the individual joined any volunteer fire company or department;

(e) judges and clerks of courts of record;

(f) state and county civil officers holding office by election;

(g) state officers appointed by the governor for a specified term of office;

(h) ministers of the gospel; and

(i) practicing physicians and hospital officers and assistants.

[~~(3)~~](4) All individuals described in Subsection (1) are liable to military duty in case of war, insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, or after voluntarily enlisting in the National Guard of this state.

Section 8. Section 39A-9-101 is enacted to read:

39A-9-101. Acceptance of gifts.

CHAPTER 9. GIFTS TO THE UTAH NATIONAL GUARD

(1) The Utah National Guard is authorized to receive gifts, contributions, and donations of all kinds, including tangible objects and real property made on the condition that the Utah National Guard uses the gifts, contributions, and donations for the benefit of, or in connection with, the Utah National Guard and Utah National Guard members, employees, or members' or employees' dependents.

(2) The adjutant general is the acceptance authority for gifts described in Subsection (1).

(3) The adjutant general may also accept gifts donated to benefit a state military museum or to create a memorial within the state honoring the activities of the Utah National Guard.

(4) A gift, grant, or donation described in this section will not revert to the General Fund and shall be considered non-lapsing funds.

(5) Acceptance authorities will ensure compliance with the restrictions and limitations contained in Section 63G-6a-2404.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the acceptance of gifts, including establishing:

(a) delegation of gift acceptance authority;

(b) the method and criteria for accepting gifts;

(c) identification of existing accounts for gift proceeds to be deposited into;

(d) use and purpose of gifts;

(e) prohibitions; and

(f) exceptions to the policy.

Section 9. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health and Human Services, Nonphysician;

[~~(xix) executive director, Department of Human Services;~~]

[~~(xx)~~](xix) executive director, Department of Transportation;

[~~(xxi)~~](xx) executive director, Department of Veterans and Military Affairs;

[~~(xxii)~~](xxi) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201; and

[~~(xxiii)~~](xxii) Great Salt Lake commissioner, appointed under Section 73-32-201.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2)(a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b)(i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c)(i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3)(a)(i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health and Human Services is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5)(a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; [~~and~~]

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use[~~.~~]; and

(h) for the executive director of the Department of Veterans and Military Affairs a vehicle for commute and official use.

Section 10. Section 71A-1-202 is amended to read:

71A-1-202. Department of Veterans and Military Affairs -- Executive director -- Responsibilities.

(1) The executive director is the chief administrative officer of the department.

(2) The executive director is responsible for:

(a) the administration and supervision of the department;

(b) the coordination of policies and program activities conducted through the department;

(c) the development and approval of the proposed budget of the department;

(d) preparing an annual report for presentation not later than November 30 of each year to the Government Operations Interim Committee which covers:

(i) services provided to veterans, service members, and their families;

(ii) services provided by third parties through the Veterans Assistance Registry;

(iii) coordination of veterans services by government entities with the department; and

(iv) the status of military missions within the state;

(e) advising the governor on matters pertaining to veterans and military affairs throughout the state, including active duty service members, reserve duty service members, veterans, and their families;

(f) developing, coordinating, and maintaining relationships with Utah's congressional delegation and appropriate federal agencies; and

(g) entering into grants, contracts, agreements, and interagency transfers necessary to support the department's programs.

(3) The executive director may appoint deputy directors to assist the executive director in carrying out the department's responsibilities.

(4) A deputy director, described in Subsection (3), of veterans' services shall be a veteran.

Section 11. Section 71A-2-101 is amended to read:

71A-2-101. Veterans' preference -- Definitions.

(1) As used in this chapter:

(a) "Government entity" means the state, any county, municipality, special district, special service district, or any other political subdivision or administrative unit of the state, including state institutions of education.

(b) "Individual with a disability" means a veteran or service member who has established the existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a public statute administered by the VA or a military department.

(c) "Preference eligible" means:

(i) any individual who is a veteran or service member;

(ii) an individual with a disability, regardless of the percentage of disability;

(iii) the spouse or surviving spouse of a veteran or service member;

(iv) a purple heart recipient; or

(v) a retired member of the armed forces.

(2) Terms defined in Section 71A-1-101 apply to this chapter.

Section 12. Section 71A-8-105 is enacted to read:

71A-8-105. Reserve member of armed forces -- Leave of absence from employment -- Liability of employers.

(1) Any member of a reserve component of the armed forces of the United States who, pursuant to military orders, enters active duty, active duty for training, inactive duty training, or state active duty shall, upon request, be granted a leave of absence from employment, but for no more than five years.

(2) Members of the Utah National Guard or the State Defense Force, when ordered to state military service by the governor, have the same rights and protections as provided by federal law for activation to federal military service for the duration of their state service not to exceed five years.

(3) General officers of the Utah National Guard or the State Defense Force or other officers appointed to a general officer position, when appointed to state employment by the governor or the adjutant general, have the same rights and protections as provided by federal law for activation to federal military service for the duration of their state appointment, even if the state appointment exceeds five years.

(4) Upon satisfactory release from state or federal orders, or from hospitalization incidental to the orders, the member shall be permitted to return to the prior employment and have the same rights and protections as provided by federal law for activation to federal military service as it pertains to seniority, status, pay, and vacation the member would have had as an employee if the member had not been absent for military purposes.

(5) Any employer who willfully deprives an employee who is absent as a member under this chapter of any of the benefits under this chapter or discriminates in hiring for any employment position, public or private, based on membership in any reserve component of the armed forces, is guilty of a class B misdemeanor.

Section 13. Effective date.

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

CHAPTER 335
H. B. 280
Passed February 28, 2024
Approved March 18, 2024
Effective May 1, 2024

WATER RELATED CHANGES

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses issues related to water.

Highlighted Provisions:

This bill:

- modifies provisions related to the formulation of a state water plan;
- requires a study of the financing of water infrastructure projects and provides a sunset date for the study;
- modifies provisions related to the Water Development Coordinating Council;
- defines terms;
- creates the Water Infrastructure Fund;
- modifies provisions of the Watershed Councils Act;
- provides for rulemaking;
- enacts planning and prioritization provisions, including:
  - defining terms;
  - requiring a unified water infrastructure plan;
  - providing for ranking and prioritizing of water infrastructure projects;
  - addressing duties; and
  - requiring reserve studies and capital asset management; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Natural Resources - Water Infrastructure Fund as a one-time appropriation:
  - from the General Fund, One-time, $2,500,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-273, as last amended by Laws of Utah 2023, Chapters 205, 261
73-10c-3, as last amended by Laws of Utah 2023, Chapter 238
73-10g-102, as enacted by Laws of Utah 2015, Chapter 458
73-10g-301, as enacted by Laws of Utah 2020, Chapter 309
73-10g-302, as enacted by Laws of Utah 2020, Chapter 309
73-10g-304, as last amended by Laws of Utah 2022, Chapter 65
73-10g-305, as enacted by Laws of Utah 2020, Chapter 309
73-10g-306, as enacted by Laws of Utah 2020, Chapter 309

ENACTS:

73-10-39, Utah Code Annotated 1953
73-10g-107, Utah Code Annotated 1953
73-10g-601, Utah Code Annotated 1953
73-10g-602, Utah Code Annotated 1953
73-10g-603, Utah Code Annotated 1953
73-10g-604, Utah Code Annotated 1953
73-10g-605, Utah Code Annotated 1953

REPEALS AND REENACTS:

73-10-15, as last amended by Laws of Utah 1967, Chapter 176

REPEALS:

73-10-17, as enacted by Laws of Utah 1963, Chapter 178

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

Section 1. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Section 73-10-39, which requires a study related to financing water infrastructure, is repealed July 1, 2027.

[~~(2)~~](3) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

[~~(3)~~](4) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

[~~(4)~~](5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

[~~(5)~~](6) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section 2. Section 73-10-15 is repealed and re-enacted to read:

73-10-15. State water plan -- Entities to cooperate in formulation of plan.

(1) As used in this section:

(a) "Division" means the Division of Water Resources created under Section 73-10-18.

(b) "State water plan" means a comprehensive framework that identifies available water resources, recommends strategies for water resource optimization, and guides efforts to manage available water supplies.

(2)(a) Beginning on or before December 31, 2026, the division shall publish a state water plan that:

(i) is consistent with the state water policy established in Section 73-1-21;

(ii) references the state unified water infrastructure plan created by the Water Development Coordinating Council under Section 73-10g-602;

(iii) fosters communities and businesses;

(iv) facilitates local agriculture;

(v) addresses outdoor recreation; and

(vi) provides for a healthy environment.

(b) The state water plan may include recommendations for policy, fiscal support, implementation of findings by governmental and private institutions, and public engagement.

(c) In formulating the state water plan, the division shall seek input from a wide range of stakeholders, including representatives from agriculture and other water dependent businesses, conservationists, recreation interests, government entities, academia, and Utah residents in general.

(d) The division shall update the state water plan no less frequently than every ten years.

(3) The following shall cooperate with the division in the formulation of the state water plan:

(a) the following state entities:

(i) the Governor's Office of Planning and Budget;

(ii) the Department of Agriculture and Food;

(iii) within the Department of Natural Resources:

(A) the Division of Water Rights;

(B) the Utah Geological Survey;

(C) the Division of Wildlife Resources;

(D) the Division of Forestry, Fire, and State Lands; and

(E) the Public Lands Policy Coordinating Office;

(iv) within the Department of Environmental Quality:

(A) the Division of Drinking Water; and

(B) the Division of Water Quality;

(v) the Office of the Great Salt Lake Commissioner; and

(vi) the Colorado River Authority of Utah;

(b) the following local entities:

(i) a water conservancy district created under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; and

(ii) a local watershed council created under Chapter 10g, Part 3, Watershed Councils Act; and

(c) any other state or local entity that the division considers necessary.

(4) A state entity identified in Subsection (3)(a) shall designate an individual to assist and advise the division in the formulation of a state water plan.

(5) The division shall use information, including water resources data, that has been or will be assembled by state entities, the United States government, various colleges and universities of the state, or any other source that can profitably contribute to the development of the state water plan.

(6) In accordance with this section, an entity described in Subsection (3) shall cooperate with the division unless the cooperation would directly impair the authority granted to the entity by statute.

(7) The Utah Watersheds Council shall advise the division concerning state water planning activities.

Section 3. Section 73-10-39 is enacted to read:

73-10-39. Study and recommendations related to the financing of water infrastructure.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "Water infrastructure projects" means the same as that term is defined in Section 73-10g-102.

(2)(a) The division shall study and make recommendations, to be completed by October 31, 2024, concerning:

(i) which funds or accounts used to finance water infrastructure projects should be tied to the planning and prioritization process in Chapter 10g, Part 6, Planning and Prioritization;

(ii) whether any funds or accounts should be consolidated; and

(iii) whether changes to the membership of the Water Development Coordinating Council, created by Sections 79-2-201 and 73-10c-3, are needed to fulfill the purposes of Chapter 10g, Part 6, Planning and Prioritization.

(b) The division shall study and make recommendations, to be completed by October 31, 2025, concerning whether to impose a new fee to fund water infrastructure projects identified in the unified water infrastructure plan adopted under Section 73-10g-602 and consistent with the planning and prioritization process in Chapter 10g,

Part 6, Planning and Prioritization. The study shall consider:

(i) who is assessed the fee;

(ii) how to calculate the fee amount, including any adjustments to the fee amount over time;

(iii) the process for collecting the fee;

(iv) where the money collected should be deposited;

(v) whether the revenue stream should be configured as a tax rather than a fee;

(vi) how the money collected should be spent;

(vii) the affordability of the fee for end users; and

(viii) how to assure that the revenue is distributed equitably statewide.

(3) In conducting a study described in Subsection (2), the division shall:

(a) work cooperatively with the Water Development Coordinating Council; and

(b) consult with a wide range of stakeholders with diverse interests, including those with expertise in water development and delivery, tax policy, and water funding.

(4) The division shall report the division's findings and recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by no later than:

(a) for the study described in Subsection (2)(a), the November 2024 interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee; and

(b) for the study described in Subsection (2)(b), the November 2025 interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Section 4. Section 73-10c-3 is amended to read:

73-10c-3. Water Development Coordinating Council created -- Purpose -- Members.

(1)(a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council is comprised of:

(i) the director of the Division of Water Resources;

(ii) the executive secretary of the Water Quality Board;

(iii) the executive secretary of the Drinking Water Board;

(iv) the director of the Housing and Community Development Division or the director's designee;

(v) the state treasurer or the state treasurer's designee; [~~and~~]

(vi) the commissioner of the Department of Agriculture and Food, or the commissioner's designee[~~.~~]; and

(vii) an individual appointed by the governor with the advice and consent of the Senate who is:

(A) familiar with water infrastructure projects, including planning, financing, construction, or operation; and

(B) employed by a water conservancy district that is subject to the asset management criteria of Section 17B-2a-1010.

(b) The council shall choose a chair and vice chair from among the council's own members, except the chair and vice chair may not be from the same department.

(c) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(2) The purposes of the council are to:

(a) coordinate the use and application of the [~~funds~~]money available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;

(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;

(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state;

(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs; [~~and~~]

(e) conduct reviews and reports on water-related infrastructure issues as directed by statute[~~.~~];

(f) engage in planning and prioritization of water infrastructure projects in accordance with Chapter 10g, Part 6, Planning and Prioritization; and

(g) expend money from the Water Infrastructure Fund in accordance with Section 73-10g-107.

Section 5. Section 73-10g-102 is amended to read:

73-10g-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Water Resources[~~;~~].

(2) "Division" means the Division of Water Resources[~~; and~~].

(3) "Restricted account" means the Water Infrastructure Restricted Account created in Section 73-10g-103.

(4) "Water Infrastructure Fund" means the enterprise fund created in Section 73-10g-107.

(5) "Water infrastructure project" means:

(a) the following for the supply, control, measurement, treatment, distribution, storage, or transport of water:

(i) planning;

(ii) design;

(iii) construction;

(iv) reconstruction;

(v) improvement;

(vi) renovation;

(vii) acquisition; or

(viii) seismic upgrade; or

(b) a project to engage in planning consistent with Part 6, Planning and Prioritization.

Section 6. Section 73-10g-107 is enacted to read:

73-10g-107. Water Infrastructure Fund.

(1) There is created an enterprise fund known as the "Water Infrastructure Fund," which is referred to in this section as the "fund."

(2) The fund shall consist of:

(a) appropriations from the Legislature;

(b) money from the federal government;

(c) grants or donations from a person;

(d) money made available to the state for purposes of water infrastructure projects from any source;

(e) money received for the repayment of loans made from the fund; and

(f) interest and earnings on the fund.

(3) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(4)(a) The Water Development Coordinating Council may use money in the fund to pay for the costs of administering Part 6, Planning and Prioritization, including staff directly related to the activities of the Water Development Coordinating Council under Part 6, Planning and Prioritization.

(b) The division may use money in the fund to pay for the costs of the study required by Section 73-10-39.

(c) Fund money may be used to issue loans or grants prioritized in accordance with Section 73-10g-603.

Section 7. Section 73-10g-301 is amended to read:

73-10g-301. Implementation of part.

Part 3. Watershed Councils Act

[~~(1) This part is known as the "Watershed Councils Act."~~ ~~(2)~~] This part shall be liberally construed to:

[~~(a)~~](1) provide input to the Water Development Coordinating Council regarding infrastructure planning on a watershed and state level in accordance with Part 6, Planning and Prioritization;

[~~(b)~~](2) use local expertise and resources found in universities and other research institutions or in regional, state, and federal agencies.

(3) develop diverse and balanced stakeholder forums for discussion of water policy and resource issues at watershed and state levels that are not vested with regulatory, infrastructure financing, or enforcement powers or responsibilities; and

Section 8. Section 73-10g-302 is amended to read:

73-10g-302. Definitions.

As used in this part:

(1) "Council" means the state council or a local council created under this part.

(2) "Local council" means a local [~~watershed~~]council created in accordance with Section 73-10g-306.

(3) "State council" means the Utah Watersheds Council created in Section 73-10g-304.

(4) "Utah Water Task Force" means a task force created by the Department of Natural Resources to review and make recommendations regarding water issues.

Section 9. Section 73-10g-304 is amended to read:

73-10g-304. Utah Watersheds Council -- Creation and governance.

(1) Within the Department of Natural Resources, there is created the "Utah Watersheds Council" consisting of the following members who are residents of the state:

(a) the executive director of the Department of Natural Resources;

(b) the executive director of the Department of Environmental Quality;

(c) the commissioner of the Department of Agriculture and Food;

(d) the director of the Utah Division of Indian Affairs;

(e) the Utah State University Extension vice president;

(f) the director of the Division of Emergency Management within the Department of Public Safety;

(g) a representative designated by the Utah Association of Counties;

(h) a representative designated by the Utah League of Cities and Towns;

(i) a representative designated by the Utah Association of Special Districts;

(j) a representative of reclamation projects located in the state selected by the governor from a list of three persons nominated jointly by the local sponsors of reclamation projects located in the state and the executive director of the Department of Natural Resources;

(k) a representative of agricultural interests selected by the governor from a list of three persons nominated jointly by the commissioner of the Department of Agriculture and Food, the president of the Utah Farm Bureau, and the Utah State University Extension vice president;

(l) a representative of environmental conservation interests selected by the governor from a list of three persons nominated jointly by the executive directors of the Department of Environmental Quality and Department of Natural Resources;

(m) a representative of business and industry water interests selected by the governor from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah Mining Association, and Utah Petroleum Association;

(n) an attorney who is authorized to practice law in the state, who has recognized expertise in water law, and is selected by the governor from a list of three individuals nominated jointly by the executive director of the Department of Natural Resources, the executive director of the Department of Environmental Quality, and the commissioner of the Department of Agriculture and Food; [~~and~~]

(o) the state engineer, as a nonvoting member;

(p) the director of the division, as a nonvoting member; and

[~~(o)~~](q) the designated individual selected by a local [~~watershed~~]council certified under Section 73-10g-306.

(2)(a) The state council shall:

(i) organize the state council as provided in this part;

(ii) select a chair and at least one vice-chair from among the members of the state council to have powers and duties provided in the organizing documents adopted by the state council; and

(iii) adopt policies to govern the state council's activities, including policies for the creation of subcommittees that may be less than a quorum of the state council and may include persons of suitable expertise who are not state council members.

(b) The state council shall make the organizing documents and policies created under Subsection (2)(a) available:

(i) to the public;

(ii) at each meeting of the state council; and

(iii) on a public website maintained by the division for council business.

(3) The state council may invite federal agencies to name representatives as liaisons to the state council.

(4) The state council shall stagger the initial terms of the state council members listed in Subsections (1)(g) through (n), after which members will be replaced according to policies adopted by the state council.

(5) After the state council's initial organization, the state council may hold regular and special meetings at such locations within the state and on a schedule as the state council determines, provided that the state council shall meet at least semi-annually.

(6) A majority of the voting members of the state council constitutes a quorum.

(7) The action of the majority of the voting members of the state council constitutes the action of the state council.

(8)(a) The state council policies may allow that a properly authorized representative of a voting member of the state council may act in the place of that voting member if the voting member is absent or unable to act.

(b) The state council shall enter in the record of a meeting proper documentation of a representative's authority to act on behalf of the voting member under this Subsection (8).

(c) Authorization to act on behalf of a voting member may be given for more than one meeting.

(d) Authorization to act on behalf of a voting member shall comply with the policies adopted by the state council.

(9)(a) The division shall staff the state council.

(b) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the creation and operation of the state council.

Section 10. Section 73-10g-305 is amended to read:

73-10g-305. Role of the state council -- Reporting.

(1) The state council [~~is directed to~~]shall:

(a) serve as a forum to encourage and facilitate discussion and collaboration by and among the stakeholders relative to the water-related interests of the state and the state's people and institutions;

(b) facilitate communication and coordination between the Department of Natural Resources, the Department of Agriculture and Food, the

Department of Environmental Quality, and other state and federal agencies in the administration and implementation of water-related activities;

(c) facilitate the establishment of local [~~watershed~~]councils by certifying a local council:

(i) for the watersheds defined in Section 73-10g-303; and

(ii) after reviewing the proceedings and documents submitted by proposed local councils, to ensure that the local council meets the certification requirements in Section 73-10g-306;

(d) provide resources and support for the administration of local councils;

(e) consult and seek guidance from local councils; [~~and~~]

(f) advise the Water Development Coordinating Council regarding a unified water infrastructure plan in accordance with Section 73-10g-602; and

[~~(f)~~](g) provide advice to the governor and Legislature on water issues.

(2) The state council shall provide updates on the state council's activities annually, or as invited, to:

(a) the Natural Resources, Agriculture, and Environment Interim Committee;

(b) the Legislative Water Development Commission; and

(c) the Utah Water Task Force.

Section 11. Section 73-10g-306 is amended to read:

73-10g-306. Local councils -- Creation.

(1) A proposed local [~~watershed~~]council may be certified by the Utah Watersheds Council under Subsection 73-10g-305(1)(c) if:

(a) the organizing documents and policies of the proposed local[~~watershed~~] council:

(i) provide for an open and equitable system of governance;

(ii) encourage participation by a water user or group of water users, other watershed groups, mutual irrigation companies, distribution system committees, and other stakeholders within the watershed; and

(iii) require that:

(A) a majority of the members of the local council constitutes a quorum; and

(B) an action of the local council be approved by no less than a majority of the members of the local council;

(b) in a balance appropriate for the watershed, the proposed local council membership includes watershed stakeholders who reside or work within the watershed or own or control the right to divert or use water within the watershed and is representative, where feasible, of at least these interests:

(i) agriculture;

(ii) industry;

(iii) Indian tribes;

(iv) public water suppliers, as defined in Section 73-1-4;

(v) water planning and research institutions;

(vi) water quality;

(vii) fish and wildlife;

(viii) water dependent habitat and environments;

(ix) watershed management, such as distribution system committees functioning within the watershed;

(x) mutual irrigation companies;

(xi) land use planning agencies; and

[~~(xi)~~](xii) local sponsors of [~~reclamation~~]Bureau of Reclamation projects;

(c) for each of the five watersheds that drain into Great Salt Lake, the proposed local council includes a person designated by the Great Salt Lake local watershed council, if the Great Salt Lake local [~~watershed~~]council is certified; and

(d) for the Great Salt Lake watershed, the proposed local council includes a person designated by each of the five watersheds that drain into Great Salt Lake that has a certified local watershed council.

(2) A local council may invite state and federal agencies to name representatives as liaisons to the local council.

Section 12. Section 73-10g-601 is enacted to read:

73-10g-601. Definitions.

Part 6. Planning and Prioritization

As used in this part:

(1) "Agency plan" means a water infrastructure plan adopted by a relevant agency.

(2) "Executive director" means the executive director of the Department of Natural Resources.

(3) "Relevant agency" means:

(a) the Division of Water Resources;

(b) the Division of Drinking Water;

(c) the Division of Water Quality;

(d) the Housing and Community Development Division; and

(e) the Department of Agriculture and Food.

(4) "State council" means the Water Development Coordinating Council created in Sections 73-10c-3 and 79-2-201.

(5) "Utah Watersheds Council" means the Utah Watersheds Council created in Section 73-10g-304.

(6) "Water infrastructure fund money" means money in the Water Infrastructure Fund created by Section 73-10g-107.

Section 13. Section 73-10g-602 is enacted to read:

73-10g-602. Unified water infrastructure plan -- Annual reporting.

(1)(a) The state council shall adopt a unified water infrastructure plan in accordance with this section by no later than March 1, 2026.

(b) The state council shall update the unified water infrastructure plan as needed, but at least every four years.

(c) A relevant agency may request that the state council amend the unified water infrastructure plan.

(2) A unified water infrastructure plan shall:

(a) describe water infrastructure projects:

(i) needed to maintain the reliable supply of safe and clean water within the state; and

(ii) organized in 10-year phases up to at least a 20-year plan;

(b) be consistent with the policies, goals, and recommendations of the state water plan; and

(c) be based primarily on agency plans submitted by the relevant agencies.

(3) Beginning on June 30, 2025, a relevant agency shall:

(a) annually adopt a water infrastructure agency plan that describes and ranks needed water infrastructure projects under the jurisdiction of the relevant agency;

(b) include in the agency plan ranking justifications and descriptions of whether a water infrastructure project is:

(i) ready for construction;

(ii) planning for construction; or

(iii) a future project;

(c) organize an agency plan under this section in 10-year phases up to at least a 20-year plan; and

(d) annually submit the agency plan to the state council by no later than June 30.

(4) Before adopting or amending a unified water infrastructure plan, the state council shall provide a draft of the proposed unified water infrastructure plan to the Utah Watersheds Council and the Utah Watersheds Council may advise the state council concerning the unified water infrastructure plan.

(5)(a) Beginning September 1, 2024, a relevant agency shall annually prepare a report and submit it to the state council concerning the funds or accounts that the relevant agency administers.

(b) The report required by this Subsection (5) shall provide for the fund or account:

(i) the balance at the beginning of the fiscal year of the report;

(ii) revenues received from any source during the fiscal year;

(iii) the ending balance after the close of the fiscal year; and

(iv) projected revenues and disbursements for the coming fiscal year.

(c) The state council shall compile the reports submitted pursuant to this Subsection (5) by no later than October 1 and distribute the compiled report to:

(i) the governor;

(ii) the Legislative Management Committee;

(iii) the Natural Resources, Agriculture, and Environment Interim Committee; and

(iv) the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee.

Section 14. Section 73-10g-603 is enacted to read:

73-10g-603. Ranking and prioritizing water infrastructure projects.

(1) The state council, in consultation with the relevant agencies, shall develop a written prioritization process for ranking and prioritizing water infrastructure projects that are or will be funded by water infrastructure fund money beginning with fiscal year 2027. The written prioritization process shall:

(a) identify water infrastructure projects listed in the unified water infrastructure plan described in Section 73-10g-602; and

(b) rank the water infrastructure projects identified under Subsection (1)(a).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) subject to Subsection (3), categories of the types of water infrastructure projects against which other water infrastructure projects are prioritized;

(b) exclusion of the following types of water infrastructure projects:

(i) an emergency water infrastructure project; or

(ii) a small water infrastructure project that receives less than an amount of water infrastructure fund money established by rule made by the state council in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) hardship criteria that at a minimum refer to the hardship criteria of the Division of Drinking Water and the Division of Water Quality;

(d) criteria related to the public interest, including conservation and the protection of public health and safety;

(e) criteria to ensure that the project is adequately designed based on sound engineering and geologic considerations;

(f) criteria for ranking or prioritizing a local water infrastructure project based on:

(i) a local water infrastructure plan that is consistent with this section; and

(ii) consultation with local entities about local water infrastructure projects;

(g) criteria for ranking or prioritizing a water infrastructure project when water infrastructure fund money will be used to match federal funding;

(h) a requirement that a person who receives water infrastructure fund money for a water infrastructure project:

(i) engage in long-term planning consistent with Section 73-10g-602; and

(ii) comply with Section 73-10g-605; and

(i) any other provision the state council considers appropriate.

(3) When including categories of types of water infrastructure projects used in the written prioritization process, the state council shall consider:

(a) whether to apply percentages of water infrastructure fund money assigned to each category;

(b) the size and resources of recipients; and

(c) the potential purposes of the different types of water infrastructure projects, such as agricultural, municipal, or industrial uses.

(4) In developing the written prioritization process, the state council shall seek and consider public comment related to developing the written prioritization process by holding public meetings at locations throughout the state in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

(5)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state council shall make rules establishing the written prioritization process under Subsection (1).

(b) The state council shall submit a proposed rule to a committee or commission designated by the Legislative Management Committee for review before taking final action on the proposed rule or a proposed amendment to the rule described in this Subsection (5).

(6) In determining priorities and funding levels of water infrastructure projects, the state council shall use the ranked list of water infrastructure projects based on the criteria adopted in the written prioritization process under Subsection (1).

(7) A relevant agency shall annually report to the state council on the status of new water infrastructure projects, including water infrastructure projects that are funded by the Legislature in an appropriation act.

(8) For a fiscal year before fiscal year 2027, a relevant agency shall prioritize water infrastructure projects within the jurisdiction of the relevant agency and not the state council.

Section 15. Section 73-10g-604 is enacted to read:

73-10g-604. State council's general duties related to prioritizing -- Reporting -- Relevant agency actions.

(1) The state council shall:

(a) beginning with fiscal year 2027, determine priorities and funding levels of water infrastructure projects for each fiscal year based on ranked water infrastructure projects;

(b) hold public meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act, and otherwise provide for public input on funding of water infrastructure projects; and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the state council's duties related to:

(i) adopting the unified water infrastructure plan;

(ii) adopting a written prioritization plan; and

(iii) prioritizing and setting funding levels for water infrastructure projects.

(2)(a) For water infrastructure projects prioritized with funding provided under this title, the state council shall annually report, by no later than the October interim meeting of the Legislature, to a committee or commission designated by the Legislative Management Committee:

(i) a prioritized list of the water infrastructure projects and the funding levels available for those water infrastructure projects; and

(ii) the unfunded water infrastructure projects and maintenance needs within the state.

(b) The committee or commission designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the state council; and

(ii) recommend to the Legislature:

(A) the amount of additional funding to allocate to water infrastructure projects; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) A relevant agency shall administer money prioritized under this part in a manner consistent with this part.

Section 16. Section 73-10g-605 is enacted to read:

73-10g-605. Capital asset management and reserve analysis -- Assistance for person seeking state funds.

(1) As a condition of receiving water infrastructure fund money for a water

infrastructure project by a loan or grant, a recipient shall:

(a) conduct a reserve study showing how the recipient shall:

(i) repay the loan if the recipient receives a loan; and

(ii) collect money for repair and replacement of the water infrastructure project;

(b) if the recipient receives a loan, update the reserve study described in Subsection (1)(a) every five years or until the loan is repaid; and

(c) comply with the relevant capital asset management requirements under:

(i) Section 19-5-202 for a water infrastructure project related to wastewater or sewage infrastructure; or

(ii) Section 73-10g-502 for a water provider's, as defined in Section 73-10g-501, water infrastructure project that is not described in Subsection (1)(c)(i).

(2) A reserve study required under this section shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and

(e) a reserve funding plan that recommends how the system may fund the annual contribution described in Subsection (2)(d).

(3) If a person seeking water infrastructure fund money under this part establishes a need to the satisfaction of a relevant agency, the relevant agency may provide the person:

(a) water infrastructure fund money to assist the recipient in complying with the planning, reserve analysis, and capital asset management requirements of this part; or

(b) technical assistance with the planning, reserve analysis, or capital asset management requirements of this part.

Section 17. Repealer.

This bill repeals:

Section 73-10-17, State water plan -- Authority of other agencies not impaired.

Section 18. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 18(a) Business-like Activities

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

ITEM 1

To Department of Natural Resources - Water Infrastructure Fund

From General Fund, One-time $2,500,000

Schedule of Programs:

Water Infrastructure Fund $2,500,000

Section 19. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 336
H. B. 256
Passed February 9, 2024
Approved March 18, 2024
Effective May 1, 2024

MILITARY COMPATIBLE LAND USE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill addresses land use compatibility with military use.

Highlighted Provisions:

This bill:

- modifies provisions regarding when notice is required related to applications or permits near military land;
- provides that a municipality or county should deny a land use application if the Department of Veterans and Military Affairs determines that a proposed land use is incompatible with military operations; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-537, as enacted by Laws of Utah 2023, Chapter 154
17-27a-533, as enacted by Laws of Utah 2023, Chapter 154

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

Section 1. Section 10-9a-537 is amended to read:

10-9a-537. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2)(a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a municipality within 5,000 feet of a boundary of military land, a municipality shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A municipality that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a municipality receives a land use application[~~, other than an individual building permit,~~] related to land within 5,000 feet of a boundary of military land, before the municipality may approve the land use application, the municipality shall notify the department in writing.

(4)(a) If the department receives the notice described in Subsection (3), the executive director of the department shall:

[~~(a)~~](i) determine whether the proposed land use is compatible with the military use of the relevant military land; and

[~~(b)~~](ii) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the municipality regarding the determination of compatibility described in Subsection (4)(a)(i).

(b)(i) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, except as provided in Subsection (4)(b)(ii), the municipality shall consider the compatible use plan in processing the land use application.

(ii) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, if the applicant has a vested right, the municipality is not required to consider the compatible land use plan in consideration of the land use application.

(5) If the department receives the notice described in Subsection (3) before the municipality has completed the compatible use plan as described in this section, the department shall consult with the municipality and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 2. Section 17-27a-533 is amended to read:

17-27a-533. Land use compatibility with military use.

(1) As used in this section:

(a) "Department" means the Department of Veterans and Military Affairs.

(b) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(c) "Military land" means the following land or facilities:

(i) Camp Williams;

(ii) Hill Air Force Base;

(iii) Dugway Proving Ground;

(iv) Tooele Army Depot;

(v) Utah Test and Training Range;

(vi) Nephi Readiness Center;

(vii) Cedar City Alternate Flight Facility; or

(viii) Little Mountain Test Facility.

(2)(a) Except as provided in Subsection (2)(b), on or before July 1, 2025, for any area in a county within 5,000 feet of a boundary of military land, a county shall, in consultation with the department, develop and maintain a compatible use plan to ensure permitted uses and conditional uses relevant to the military land are compatible with the military operations on military land.

(b) A county that has a compatible use plan as of January 1, 2023, is not required to develop a new compatible use plan.

(3) If a county receives a land use application[~~, other than an individual building permit,~~] related to land within 5,000 feet of a boundary of military land, before the county may approve the land use application, the county shall notify the department in writing.

(4)(a) If the department receives the notice described in Subsection (3), the executive director of the department shall:

[~~(a)~~](i) determine whether the proposed land use is compatible with the military use of the relevant military land; and

[~~(b)~~](ii) within 90 days after the receipt of the notice described in Subsection (3), respond in writing to the county regarding the determination of compatibility described in Subsection (4)(a)(i).

(b)(i) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, except as provided in Subsection (4)(b)(ii), the county shall consider the compatible use plan in processing the land use application.

(ii) For a land use application pertaining to a parcel within 5,000 feet of military land that may have an adverse effect on the operations of the military installation, if the applicant has a vested right, the county is not required to consider the compatible land use plan in consideration of the land use application.

(5) If the department receives the notice described in Subsection (3) before the county has completed the compatible use plan as described in this section, the department shall consult with the county and representatives of the relevant military land to determine whether the use proposed in the land use application is a compatible use.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 337
H. B. 289
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

PROPERTY RIGHTS OMBUDSMAN AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the Property Rights Ombudsman Act.

Highlighted Provisions:

This bill:

- provides that a party who prevails in court on an issue that the Office of the Property Rights Ombudsman previously decided in the party's favor may be entitled to an award of attorney fees;
- provides that the party described above may be entitled to collect a civil penalty and consequential damages in certain circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-43-206, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section 13-43-206 is amended to read:

13-43-206. Advisory opinion -- Process.

(1) A request for an advisory opinion under Section 13-43-205 shall be:

(a) filed with the Office of the Property Rights Ombudsman; and

(b) accompanied by a filing fee of $150.

(2) The Office of the Property Rights Ombudsman may establish policies providing for partial fee waivers for a person who is financially unable to pay the entire fee.

(3) A person requesting an advisory opinion need not exhaust administrative remedies, including remedies described under Section 10-9a-801 or 17-27a-801, before requesting an advisory opinion.

(4) The Office of the Property Rights Ombudsman shall:

(a) deliver notice of the request to opposing parties indicated in the request;

(b) inquire of all parties if there are other necessary parties to the dispute; and

(c) deliver notice to all necessary parties.

(5) If a governmental entity is an opposing party, the Office of the Property Rights Ombudsman shall deliver the request in the manner provided for in Section 63G-7-401.

(6)(a) The Office of the Property Rights Ombudsman shall promptly determine if the parties can agree to a neutral third party to issue an advisory opinion.

(b) If no agreement can be reached within four business days after notice is delivered pursuant to Subsections (4) and (5), the Office of the Property Rights Ombudsman shall appoint a neutral third party to issue an advisory opinion.

(7) All parties that are the subject of the request for advisory opinion shall:

(a) share equally in the cost of the advisory opinion; and

(b) provide financial assurance for payment that the neutral third party requires.

(8) The neutral third party shall comply with the provisions of Section 78B-11-109, and shall promptly:

(a) seek a response from all necessary parties to the issues raised in the request for advisory opinion;

(b) investigate and consider all responses; and

(c) issue a written advisory opinion within 15 business days after the appointment of the neutral third party under Subsection (6)(b), unless:

(i) the parties agree to extend the deadline; or

(ii) the neutral third party determines that the matter is complex and requires additional time to render an opinion, which may not exceed 30 calendar days.

(9) An advisory opinion shall include a statement of the facts and law supporting the opinion's conclusions.

(10)(a) Copies of any advisory opinion issued by the Office of the Property Rights Ombudsman shall be delivered as soon as practicable to all necessary parties.

(b) A copy of the advisory opinion shall be delivered to the government entity in the manner provided for in Section 63G-7-401.

(11) An advisory opinion issued by the Office of the Property Rights Ombudsman is not binding on any party to, nor admissible as evidence in, a dispute involving land use law except as provided in Subsection (12).

(12) Subject to Subsection (13), if the Office of the Property Rights Ombudsman issues an advisory opinion described in this section, and if the same issue that is the subject of the advisory opinion is subsequently litigated in court on a cause of action alleging the same facts and circumstances that are

at issue in the advisory opinion, and if the court resolves the issue consistent with the advisory opinion, the court may award the substantially prevailing party:

(a) reasonable attorney fees and court costs pertaining to the development of the cause of action from the date the Office of the Property Rights Ombudsman delivers the advisory opinion to the date of the court's resolution; and

(b) if the court finds that the opposing party knowingly and intentionally violated the law governing the cause of action:

(i) a civil penalty of $250 per day; and

(ii) consequential damages;

[~~(12) Subject to Subsection (13), if a dispute involving land use law results in the issuance of an advisory opinion described in this section, if the same issue that is the subject of the advisory opinion is subsequently litigated on the same facts and circumstances at issue in the advisory opinion, and if the relevant issue is resolved consistent with the advisory opinion, the substantially prevailing party on that cause of action may collect:~~]

[~~(a) reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and~~]

[~~(b) subject to Subsection (13), if the court finds that the opposing party knowingly and intentionally violated the law governing that cause of action, a civil penalty of $250 per day:~~]

[~~(i) beginning on the later of:~~]

[~~(A) 30 days after the day on which the advisory opinion was delivered; or~~]

[~~(B) the day on which the action was filed; and~~]

[~~(ii) ending the day on which the court enters a final judgment.~~]

(13)(a) Subsection (12) does not apply unless the resolution described in Subsection [~~(12)~~](12)(a) is final.

(b) [~~A court may not impose a civil penalty under Subsection (12)(b) against or in favor of a party other than the land use applicant or a government entity.~~]The civil penalty described in Subsection (12)(b)(i):

(i) begins to accrue on the later of:

(A) 30 days after the day on which the Office of the Property Rights Ombudsman delivers the advisory opinion; or

(B) the day on which the substantially prevailing party or opposing party filed the action in court; and

(ii) ends the day on which the court enters a final judgment.

(c) A court may not impose a civil penalty against a party under Subsection (12)(b)(i) unless the party is the land use applicant or a government entity.

(14) In addition to any amounts awarded under Subsection (12), if the dispute described in Subsection (12) in whole or in part concerns an impact fee, and if the result of the litigation requires that the political subdivision or private entity refund the impact fee in accordance with Section 11-36a-603, the political subdivision or private entity shall refund the impact fee in an amount that is based on the difference between the impact fee paid and what the impact fee should have been if the political subdivision or private entity had correctly calculated the impact fee.

(15) Nothing in this section is intended to create [~~any~~]a new cause of action under land use law.

(16) Unless filed by the local government, a request for an advisory opinion under Section 13-43-205 does not stay the progress of a land use application, the effect of a land use decision, or the condemning entity's occupancy of a property.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 338
H. B. 298
Passed February 28, 2024
Approved March 18, 2024
Effective May 1, 2024

HOMELESSNESS SERVICES AMENDMENTS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Kirk A. Cullimore

Cosponsor:
Paul A. Cutler
Trevor Lee
Cheryl K. Acton
Colin W. Jack

LONG TITLE

General Description:

This bill modifies provisions related to the provision of homeless services.

Highlighted Provisions:

This bill:

- defines terms;
- renames the Utah Homelessness Council to the Utah Homeless Services Board (the board);
- changes the size and membership of the board;
- changes the size, membership, and duties of the executive committee of the board;
- exempts the executive committee from the Open and Public Meetings Act;
- expands the board's duties;
- establishes additional data that the Office of Homeless Services shall report to the public and the Legislature;
- requires the state and local homeless councils to establish goals for making progress towards exiting individuals from homelessness;
- establishes the Shelter Cities Advisory Board and provides the advisory board's responsibilities;
- modifies provisions related to the winter response plan for a county of the first or second class;
- changes the limitations in effect during a code blue event; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-16-102, as last amended by Laws of Utah 2022, Chapter 403
35A-16-202, as enacted by Laws of Utah 2021, Chapter 281
35A-16-203, as last amended by Laws of Utah 2023, Chapter 302
35A-16-205, as last amended by Laws of Utah 2022, Chapter 403
35A-16-301, as renumbered and amended by Laws of Utah 2021, Chapter 281
35A-16-302, as last amended by Laws of Utah 2023, Chapter 302
35A-16-401, as last amended by Laws of Utah 2023, Chapter 302
35A-16-402, as last amended by Laws of Utah 2023, Chapter 302
35A-16-403, as last amended by Laws of Utah 2023, Chapter 302
35A-16-501.5, as enacted by Laws of Utah 2023, Chapter 302
35A-16-502, as repealed and reenacted by Laws of Utah 2023, Chapter 302
35A-16-602, as last amended by Laws of Utah 2023, Chapter 302
35A-16-703, as enacted by Laws of Utah 2023, Chapter 302

ENACTS:

35A-16-208, Utah Code Annotated 1953
35A-16-209, Utah Code Annotated 1953
35A-16-210, Utah Code Annotated 1953

REPEALS AND REENACTS:

35A-16-204, as last amended by Laws of Utah 2022, Chapter 403

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

Section 1. Section 35A-16-102 is amended to read:

35A-16-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Homeless Services Board created in Section 35A-16-204.

(2) "Client" means an individual who is experiencing homelessness or an individual at risk of becoming homeless.

(3) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

(4) "Collaborative applicant" means the entity designated by a continuum of care to collect and submit data and apply for funds on behalf of the continuum of care, as required by the United States Department of Housing and Urban Development.

[~~(2)~~](5) "Continuum of care" means a regional or local planning body designated by the United States Department of Housing and Urban Development to coordinate services for individuals experiencing homelessness within an area of the state.

[~~(3)~~](6) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

[~~(4)~~](7) "Executive committee" means the executive committee of the [~~homelessness council described in Section 35A-16-204~~]board.

(8) "Exit destination" means:

(a) a homeless situation;

(b) an institutional situation;

(c) a temporary housing situation;

(d) a permanent housing situation; or

(e) other.

(9) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

[~~(5)~~](10) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

[~~(6)~~](11) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

[~~(7) "Homelessness council" means the Utah Homelessness Council created in Section 35A-16-204.~~]

[~~(8)~~](12) "Local homeless council" means a local planning body designated by the steering committee to coordinate services for individuals experiencing homelessness within an area of the state.

[~~(9)~~](13) "Office" means the Office of Homeless Services.

(14) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

[~~(10)~~](15)(a) "Service provider" means a state agency, a local government, or a private organization that provides services to clients.

(b) "Service provider" includes a correctional facility and the Administrative Office of the Courts.

(16) "Steering committee" means the Utah Homeless Network Steering Committee created in Section 35A-16-206.

[~~(11)~~](17) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

(18) "Type of homelessness" means:

(a) chronic homelessness;

(b) episodic homelessness;

(c) situational homelessness; or

(d) family homelessness.

Section 2. Section 35A-16-202 is amended to read:

35A-16-202. Powers and duties of the office.

(1) The office shall, under the direction of the coordinator:

(a) assist in providing homeless services in the state;

(b) coordinate the provision of homeless services in the state; [~~and~~]

(c) manage, with the concurrence of [~~Continuum of Care~~]continuum of care organizations approved by the United States Department of Housing and Urban Development, a Homeless Management Information System for the state that:

(i) shares client-level data between [~~state agencies, local governments, and private organizations that provide services to homeless individuals and families and individuals at risk of homelessness~~]service providers in the state;

(ii) is effective as a case management system;

(iii) except for individuals receiving services who are victims of domestic violence, includes an effective authorization protocol for encouraging individuals who are provided with any homeless services in the state to provide accurate information to providers for inclusion in the HMIS; and

(iv) meets the requirements of the United States Department of Housing and Urban Development and other federal requirements[~~.~~]; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules defining "successful exit," "unsuccessful exit," and "neutral exit."

(2) The office may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures

Act, seek federal grants, loans, or participation in federal programs; and

(b) for any federal program that requires the expenditure of state funds as a condition for participation by the state in a fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the office.

Section 3. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the [~~homelessness council~~]board, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the [~~homelessness council~~]board;

(c) in cooperation with the [~~homelessness council~~]board, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the [~~homelessness council~~]board;

(d) in cooperation with the [~~homelessness council~~]board, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the [~~homelessness council~~]board, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(e) provide administrative support to and serve as a member of the [~~homelessness council~~]board;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the [~~homelessness council~~]board, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, [~~Continuum of Care~~]continuum of care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the [~~homelessness council~~]board and taking into account the metrics established and data reported in accordance with Section 35A-16-208, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the [~~homelessness council~~]board, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6)(a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan;

(iii) recommendations regarding improvements to coordinating and providing services to

individuals experiencing homelessness in the state; [~~and~~]

(iv) in coordination with the [~~homelessness council~~]board, a complete accounting of the office's disbursement of funds during the previous fiscal year from:

(A) the Pamela Atkinson Homeless Account created in Section 35A-16-301;

(B) the Homeless to Housing Reform Restricted Account created in Section 35A-16-303;

(C) the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(D) the COVID-19 Homeless Housing and Services Grant Program created in Section 35A-16-602; and

(E) any other grant program created in statute that is administered by the office[~~.~~]; and

(v) the data described in Section 35A-16-208.

Section 4. Section 35A-16-204 is repealed and re-enacted to read:

35A-16-204. Utah Homeless Services Board.

(1) There is created within the office the Utah Homeless Services Board.

(2)(a) The board shall consist of the following members:

(i) a representative, appointed by the speaker of the House of Representatives;

(ii) a representative, appointed by the president of the Senate;

(iii) a private sector representative, appointed by the governor;

(iv) a representative, appointed by the governor;

(v) a statewide philanthropic leader, appointed by the Utah Impact Partnership or the partnership's successor organization;

(vi) the mayor of Salt Lake City;

(vii) the chief executive officer appointed by the Shelter Cities Advisory Council in accordance with Section 35A-16-210;

(viii) an elected official appointed by the Utah Association of Counties or the association's successor organization;

(ix) a county employee who oversees behavioral health, appointed by the Utah Association of Counties or the association's successor organization;

(x) an individual who represents the Utah Homeless Network; and

(xi) the coordinator.

(b) The governor shall select a board member to serve as chair of the board.

(3) The following four members of the board shall serve as the executive committee:

(a) the coordinator; and

(b) three board members chosen by the board chair, which shall include one of the members described in Subsection (2)(a)(vi) or (2)(a)(vii).

(4)(a) The board shall meet at least once per calendar quarter.

(b) The chair, the coordinator, or three of the board members may call a board meeting.

(c) The individual calling the meeting shall provide notice of the meeting to the board members at least three calendar days in advance of the meeting.

(5) A majority of the voting members of the board constitutes a quorum of the board at any meeting, and the action of the majority of voting members present constitutes the action of the board.

(6)(a) A majority of members of the executive committee constitutes a quorum of the executive committee at any meeting, and the action of the majority of members present constitutes the action of the executive committee.

(b) The executive committee is exempt from the requirements described in Title 52, Chapter 4, Open and Public Meetings Act.

(7)(a) Except as required by Subsection (7)(c):

(i) each appointed member of the board, other than a board member described in Subsection (2)(a)(vii), shall serve a four-year term; and

(ii) the board member appointed in accordance with Subsection (2)(a)(vii) shall serve a two-year term.

(b) A board member may serve more than one term.

(c) The appointing authority, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the appointed board members are appointed every two years.

(8) When a vacancy occurs in the appointed membership for any reason, the replacement is appointed for the unexpired term.

(9)(a) Except as described in Subsection (9)(b), a member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

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

(10) The office shall provide staff and administrative support to the board.

Section 5. Section 35A-16-205 is amended to read:

35A-16-205. Duties of the board.

(1) The [~~homelessness council~~]board:

[~~(1)~~](a) shall provide final approval for:

[~~(a)~~](i) the homeless services budget;

[~~(b)~~](ii) the strategic plan; and

[~~(c)~~](iii) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

[~~(2)~~](b) in cooperation with the coordinator, shall:

[~~(a)~~](i) develop and maintain the homeless services budget;

[~~(b)~~](ii) develop and maintain the strategic plan; and

[~~(c)~~](iii) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

[~~(3)~~](c) shall review local and regional plans for providing services to individuals experiencing homelessness;

[~~(4)~~](d) shall cooperate with local homeless councils to:

[~~(a)~~](i) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

[~~(b)~~](ii) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

[~~(c)~~](iii) align local funding to projects that improve outcomes and target specific needs in each community;

[~~(5)~~](e) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

[~~(6)~~](f) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data; [~~and~~]

[~~(7)~~](g) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

[~~(a)~~](i) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

[~~(b)~~](ii) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award[~~.~~];

(h) shall regularly update the state strategic plan on homelessness to reflect proven strategies to reduce homelessness among:

(i) the unsheltered;

(ii) the chronically or episodically homeless; and

(iii) the situationally homeless;

(i) shall develop annual state and local goals for reducing homelessness among the target subpopulations identified by the board;

(j) shall work with the local homeless councils to carry out the requirements of Subsection 35A-16-208(3);

(k) shall develop metrics for measuring the effectiveness of providers in assisting clients to successfully progress through the services coordinated by a continuum of care;

(l) shall create best practices for a service provider to administer services to an individual experiencing homelessness, including promotion of:

(i) a recognition of the human dignity of clients served;

(ii) a need to develop self-reliance;

(iii) the value of work;

(iv) personal accountability; and

(v) personal progress toward greater personal independence;

(m) shall make recommendations for uniform standards for enforcing pedestrian safety and camping laws and ordinances;

(n) shall identify best practices for responding to unsheltered individuals experiencing mental health disorder and substance use disorder;

(o) shall make recommendations for strategies to reduce illegal drug use within homeless shelters, transitional housing, and permanent supportive housing;

(p) shall facilitate client connection to alternative support systems, including behavioral health services, addiction recovery, and residential services;

(q) shall facilitate participation in HMIS, where appropriate and in alignment with established HMIS policies, and data sharing agreements among all participants in a client support network, including homeless services, physical health systems, mental health systems, and the criminal justice system;

(r) shall make recommendations to the office for defining "successful exit," "unsuccessful exit," and "neutral exit";

(s) shall evaluate additional opportunities for the office to become a collaborative applicant;

(t) shall coordinate with the continuums of care to provide for cooperative distribution of available funding; and

(u) shall work in conjunction with the executive directors of the Department of Workforce Services,

the Department of Health and Human Services, and the Department of Corrections to create best practices for helping individuals exiting from incarceration or an institution to avoid homelessness.

(2)(a) The executive committee shall act in an advisory capacity for the board and make recommendations regarding the board's duties under Subsection (1).

(b) The executive committee does not have authority to make decisions independent of the board.

Section 6. Section 35A-16-208 is enacted to read:

35A-16-208. Reporting requirements -- Outcome measures.

(1)(a) The office shall report, for the state and for each local homeless council:

(i) the state's year-to-date progress toward reaching a functional zero level of homelessness for each type of homelessness and subpopulation, including:

(A) the number of individuals who are homeless for the first time;

(B) the number of individuals who returned to homelessness after having exited homelessness within the two previous years;

(C) the number of individuals who remained homeless since the last report;

(D) the number of individuals experiencing homelessness since the last report by household type;

(E) the number of individuals who exited by exit destination; and

(F) the number of individuals who are experiencing homelessness for the first time plus the number of individuals who are returning to homelessness minus the number of individuals who are exiting homelessness;

(ii) the percentage of individuals experiencing homelessness who:

(A) have a mental health disorder;

(B) have a substance use disorder;

(C) have a chronic health condition;

(D) have a physical disability;

(E) have a developmental disability;

(F) have HIV/AIDS;

(G) are survivors of domestic violence;

(H) are veterans; and

(I) are unaccompanied youth 24 years old or younger;

(iii) the number of individuals who exited homeless services since the last report by:

(A) type of homelessness;

(B) subpopulation; and

(C) exit destination; and

(iv) progress, by project type, on each goal established in accordance with Subsection (3).

(b) The reports described in this Subsection (1) shall contain aggregated, de-identified information.

(2) The office shall report the data described in Subsection (1):

(a) in the annual report required by Section 35A-16-203;

(b) on or before October 1 of each year, through an oral presentation to the Economic Development and Workforce Services Interim Committee; and

(c) on a data dashboard for the public with specific additional data points recommended by the board.

(3) The board and the local homeless councils shall jointly establish quarterly goals for each project type.

(4) The board and the local homeless councils shall jointly make annual progress reports identifying:

(a) the percentage of clients screened for social needs;

(b) the percentage of clients subsequently referred to community-based providers who can:

(i) address the client's needs;

(ii) follow-up on status of addressing the client's needs; and

(iii) report back to the referring entity;

(c) the number of youth receiving parent or guardian bereavement support services; and

(d) the number of clients with:

(i) a successful exit;

(ii) an unsuccessful exit;

(iii) a neutral exit; and

(iv) continued enrollment in the project.

Section 7. Section 35A-16-209 is enacted to read:

35A-16-209. Cost measures.

The office shall report annually for each local homeless council the following:

(1) the cost of construction per bed for each new shelter, transitional housing, or permanent supportive housing compared to the average cost of a similar facility during the past three years; and

(2) annual operating cost per bed of a homeless resource center or emergency shelter, including utilities, staff, and maintenance.

Section 8. Section 35A-16-210 is enacted to read:

35A-16-210. Shelter Cities Advisory Board.

(1) There is established the Shelter Cities Advisory Board.

(2) The Shelter Cities Advisory Board shall consist of the following members:

(a) the chief executive officer of each first-tier eligible municipality, or the chief executive officer's designee; and

(b) the chief executive officer of each second-tier eligible municipality, or the chief executive officer's designee.

(3)(a) The Shelter Cities Advisory Board shall appoint, in accordance with this section, one chief executive officer representing a municipality as a member to the board.

(b) The members of the Shelter Cities Advisory Board shall make an appointment, or fill a vacancy, by a majority vote of all members of the Shelter Cities Advisory Board who are present at the meeting during which an appointment is made.

(c) The Shelter Cities Advisory Board may not appoint the chief executive officer described in Subsection 35A-16-204(2)(a)(vi).

(d) Section 35A-16-204 governs other terms of appointment.

(4) The Shelter Cities Advisory Board may make recommendations to the board regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state.

(5) The office and an association representing at least two municipalities in the state shall jointly provide staff and administrative support to the Shelter Cities Advisory Board.

Section 9. Section 35A-16-301 is amended to read:

35A-16-301. Creation of Pamela Atkinson Homeless Account.

(1) There is created a restricted account within the General Fund known as the "Pamela Atkinson Homeless Account."

(2) Private contributions received under this section and Section 59-10-1306 shall be deposited into the restricted account to be used only for programs described in this chapter.

(3) Money shall be appropriated from the restricted account to the [~~homelessness council~~]board in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) The [~~homelessness council~~]board may accept transfers, grants, gifts, bequests, or money made available from any source to implement this part.

Section 10. Section 35A-16-302 is amended to read:

35A-16-302. Uses of Homeless to Housing Reform Restricted Account.

(1) The [~~homelessness council~~]board may award ongoing or one-time grants or contracts funded from the Homeless to Housing Reform Restricted Account created in Section 35A-16-303.

(2) As a condition of receiving money, including any ongoing money, from the restricted account, an entity awarded a grant or contract under this section shall provide detailed and accurate reporting on at least an annual basis to the [~~homelessness council~~]board and the coordinator that describes:

(a) how money provided from the restricted account has been spent by the entity; and

(b) the progress towards measurable outcome-based benchmarks agreed to between the entity and the [~~homelessness council~~]board before the awarding of the grant or contract.

(3) In determining the awarding of a grant or contract under this section, the [~~homelessness council~~]board and the coordinator shall:

(a) ensure that the services to be provided through the grant or contract will be provided in a cost-effective manner;

(b) give priority to a project or contract that will include significant additional or matching funds from a private organization, nonprofit organization, or local government entity;

(c) ensure that the project or contract will target the distinct housing needs of one or more at-risk or homeless subpopulations, which may include:

(i) families with children;

(ii) transitional-aged youth;

(iii) single men or single women;

(iv) veterans;

(v) victims of domestic violence;

(vi) individuals with behavioral health disorders, including mental health or substance use disorders;

(vii) individuals who are medically frail or terminally ill;

(viii) individuals exiting prison or jail; or

(ix) individuals who are homeless without shelter;

(d) consider whether the project will address one or more of the following goals:

(i) diverting homeless or imminently homeless individuals and families from emergency shelters by providing better housing-based solutions;

(ii) meeting the basic needs of homeless individuals and families in crisis;

(iii) providing homeless individuals and families with needed stabilization services;

(iv) decreasing the state's homeless rate;

(v) implementing a coordinated entry system with consistent assessment tools to provide appropriate and timely access to services for homeless individuals and families;

(vi) providing access to caseworkers or other individualized support for homeless individuals and families;

(vii) encouraging employment and increased financial stability for individuals and families being diverted from or exiting homelessness;

(viii) creating additional affordable housing for state residents;

(ix) providing services and support to prevent homelessness among at-risk individuals and adults;

(x) providing services and support to prevent homelessness among at-risk children, adolescents, and young adults;

(xi) preventing the reoccurrence of homelessness among individuals and families exiting homelessness; and

(xii) providing medical respite care for homeless individuals where the homeless individuals can access medical care and other supportive services; and

(e) address the needs identified in the strategic plan described in Section 35A-16-203 for inclusion in the annual written report described in Section 35A-1-109.

(4) In addition to the other provisions of this section, in determining the awarding of a grant or contract under this section to design, build, create, or renovate a facility that will provide shelter or other resources for the homeless, [~~of~~] the [~~homelessness council~~]board, with the concurrence of the coordinator, may consider whether the facility will be:

(a) located near mass transit services;

(b) located in an area that meets or will meet all zoning regulations before a final dispersal of funds;

(c) safe and welcoming both for individuals using the facility and for members of the surrounding community; and

(d) located in an area with access to employment, job training, and positive activities.

(5) In accordance with Subsection (4), and subject to the approval of the [~~homelessness council~~]board, with the concurrence of the coordinator, the following may recommend a site location, acquire a site location, and hold title to real property, buildings, fixtures, and appurtenances of a facility that provides or will provide shelter or other resources for the homeless:

(a) the county executive of a county of the first class on behalf of the county of the first class, if the facility is or will be located in the county of the first class in a location other than Salt Lake City;

(b) the state;

(c) a nonprofit entity approved by the [~~homelessness council~~]board, with the concurrence of the coordinator; and

(d) a mayor of a municipality on behalf of the municipality where a facility is or will be located.

(6)(a) If a homeless shelter commits to provide matching funds under this Subsection (6), the [~~homelessness council~~]board, with the concurrence of the coordinator, may award a grant for the ongoing operations of the homeless shelter.

(b) In awarding a grant under this Subsection (6), the [~~homelessness council~~]board, with the concurrence of the coordinator, shall consider the number of beds available at the homeless shelter and the number and quality of the homeless services provided by the homeless shelter.

(7) The office may expend money from the restricted account to offset actual office and [~~homelessness council~~]board expenses related to administering this section.

Section 11. Section 35A-16-401 is amended to read:

35A-16-401. Definitions.

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Authorized provider" means a nonprofit provider of homeless services that is authorized by a third-tier eligible municipality to operate a temporary winter response shelter within the municipality in accordance with Part 5, Winter Response Plan Requirements.

(3) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

(4) "Eligible services" means any activities or services that mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i)(A) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office; and

(B) operates for no less than three months during the period beginning October 1 and ending April 30 of the following year; or

(ii)(A) meets the definition of a homeless shelter under Section 35A-16-501; and

(B) increases capacity during a winter response period, as defined in Section 35A-16-501, in accordance with Subsection 35A-16-502(6)(a).

[~~(6) "First-tier eligible municipality" means a municipality that:~~]

[~~(a) is located within a county of the first or second class;~~]

[~~(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;~~]

[~~(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and~~]

[~~(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.~~]

[~~(7)~~](6) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

[~~(8)~~](7) "Municipality" means a city, town, or metro township.

[~~(9)~~](8) "Public safety services" means law enforcement, emergency medical services, or fire protection.

[~~(10) "Second-tier eligible municipality" means a municipality that:~~]

[~~(a) is located within a county of the third, fourth, fifth, or sixth class;~~]

[~~(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;~~]

[~~(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and~~]

[~~(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.~~]

[~~(11)~~](9) "Third-tier eligible municipality" means a municipality that:

(a) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year; and

(b) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services.

Section 12. Section 35A-16-402 is amended to read:

35A-16-402. Homeless Shelter Cities Mitigation Restricted Account -- Formula for disbursing account funds to eligible municipalities.

(1) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(2) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205;

(b) interest earned on the account; and

(c) appropriations made to the account by the Legislature.

(3) The office shall administer the account.

(4)(a) Subject to appropriations, the office shall annually disburse funds from the account as follows:

(i) 87.5% shall be disbursed to first-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office;

(ii) 2.5% shall be disbursed to second-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by

eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office; and

(iii) 10% shall be disbursed to third-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, in accordance with a formula established by the office and approved by the [~~homelessness council~~]board.

(b) In disbursing funds to second-tier municipalities under Subsection (4)(a)(ii), the maximum amount of funds that the office may disburse each year to a single second-tier municipality may not exceed 50% of the total amount of funds disbursed under Subsection (4)(a)(ii).

(c) The office may disburse funds under Subsection (4)(a)(iii) to an authorized provider of a third-tier eligible municipality.

(d) The office may disburse funds to a third-tier municipality or an authorized provider under Subsection (4)(a)(iii) regardless of whether the municipality receives funds under Subsection (4)(a)(i) as a first-tier municipality or funds under Subsection (4)(a)(ii) as a second-tier municipality.

(e) If any account funds are available to the office for disbursement under this section after making the disbursements required in Subsection (4)(a), the office may disburse the available account funds to third-tier municipalities that have been approved to receive account funds under Section 35A-16-403.

(5) The office may use up to 2.75% of any appropriations made to the account by the Legislature to offset the office's administrative expenses under this part.

Section 13. Section 35A-16-403 is amended to read:

35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of eligible services within the eligible municipality's boundaries.

(2)(a) The [~~homelessness council~~]board shall set aside time on the agenda of a [~~homelessness council~~]board meeting that occurs before the beginning of the next fiscal year to allow an eligible municipality to present a request for account funds for that next fiscal year.

(b) An eligible municipality may present a request for account funds by:

(i) sending an electronic copy of the request to the [~~homelessness council~~]board before the meeting; and

(ii) appearing at the meeting to present the request.

(c) The request described in Subsection (2)(b)(ii) shall contain:

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes; and

(iv) the amount of account funds requested.

(d)(i) On or before September 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the [~~homelessness council~~]board a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's needs due to the location of an eligible shelter;

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

(D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The [~~homelessness council~~]board may request additional information as needed to make the evaluation described in Subsection (2)(e).

(e) The [~~homelessness council~~]board shall evaluate a request made in accordance with this Subsection (2) and may take the following factors into consideration in determining whether to approve or deny the request:

(i) the strength of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4);

(iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's needs due to the location of an eligible shelter; and

(v) any other considerations identified by the [~~homelessness council~~]board.

(f) After making the evaluation described in Subsection (2)(e), and subject to Subsection (2)(g), the [~~homelessness council~~]board shall vote to either approve or deny an eligible municipality's request for account funds.

(g)(i) Except as provided in Subsection (2)(g)(ii), an eligible municipality may not receive account funds under this section unless the eligible municipality enforces an ordinance that prohibits camping.

(ii) Subsection (2)(g)(i) does not apply if each homeless shelter located within the county in which the eligible municipality is located is at full capacity, as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) If the [~~homelessness council~~]board approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 14. Section 35A-16-501.5 is amended to read:

35A-16-501.5. County winter response task force.

(1) Subject to the requirements of Section 35A-16-502, the council of governments of each applicable county shall annually convene a county winter response task force.

(2)(a) The task force for Salt Lake County shall consist of the following 14 voting members:

(i) the chief executive officer of Salt Lake County, or the chief executive officer's designee;

(ii) the chief executive officer, or the chief executive officer's designee, of each of the following 11 municipalities:

(A) Draper;

(B) Midvale;

(C) Millcreek;

(D) Murray;

(E) Salt Lake City;

(F) Sandy;

(G) South Jordan;

(H) South Salt Lake;

(I) Taylorsville;

(J) West Jordan; and

(K) West Valley City; and

(iii) the chief executive officer, or the chief executive officer's designee, of any two municipalities located in Salt Lake County that are not described in Subsection (2)(a)(ii), appointed by the conference of mayors of Salt Lake County.

(b) A task force for an applicable county not described in Subsection (2)(a) shall consist of the following voting members:

(i) the chief executive officer of the applicable county, or the chief executive officer's designee; and

(ii) the chief executive officer, or the chief executive officer's designee, of a number of municipalities located in the applicable county that the conference of mayors of the applicable county considers to be appropriate, appointed by the conference of mayors of the applicable county.

(3) In addition to the voting members required in Subsection (2), a task force shall include the following nonvoting members:

(a) the coordinator, or the coordinator's designee;

(b) one representative of the Utah League of Cities and Towns, appointed by the Utah League of Cities and Towns, or the representative's designee;

(c) one representative of the Utah Association of Counties, appointed by the Utah Association of Counties, or the representative's designee;

(d) two individuals experiencing homelessness or having previously experienced homelessness, appointed by the applicable local [~~homelessness~~]homeless council;

(e) three representatives of the applicable local homeless council, appointed by the applicable local homeless council, or the representative's designee; and

(f) any other individual appointed by the council of governments of the applicable county.

(4)(a) Any vacancy on a task force shall be filled in the same manner as the appointment of the member whose vacancy is being filled.

(b) Each member of a task force shall serve until a successor is appointed.

(5) A majority of the voting members of a task force constitutes a quorum and may act on behalf of the task force.

(6) A task force shall:

(a) select officers from the task force's members as the task force finds necessary; and

(b) meet as necessary to effectively conduct the task force's business and duties as prescribed by statute.

(7) A task force may establish one or more working groups as is deemed appropriate to assist on specific issues related to the task force's duties, including a working group for site selection of temporary winter response shelters.

(8)(a) A task force member may not receive compensation or benefits for the task force member's service.

(b) A task force member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The applicable county for which a task force is convened shall provide administrative support to the task force.

(10) Meetings of the task force are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 15. Section 35A-16-502 is amended to read:

35A-16-502. Winter response plan required -- Contents -- Review -- Consequences after determination of noncompliance.

(1)(a) The task force for an applicable county that is a county of the first class shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2023, 2024, and 2025.

(b) The task force for an applicable county not described in Subsection (1)(a) shall annually prepare and submit to the office a winter response plan on or before August 1 in calendar years 2024 and 2025.

(2) The winter response plan shall:

(a) provide assurances to the office that the applicable county will meet the applicable county's targeted winter response [~~bed count~~]plan or other accommodations during the subsequent winter response period by establishing plans for the requisite need during the subsequent winter response period;

(b) ensure that any temporary winter response shelter planned for operation within the applicable county will meet all local zoning requirements;

(c) include a detailed transportation plan, budget, revenue sources, including in-kind sources, and any other component specified by the office under Subsection (3) as a requirement for the applicable county to achieve compliance with this section;

(d) include a detailed county plan for a code blue event as defined in Section 35A-16-701, including the number and location of available beds for individuals experiencing homelessness for the duration of the code blue event; and

(e) be approved by the chief executive officer of:

(i) any municipality located within the applicable county in which a temporary winter response shelter is planned for operation during the subsequent winter response period; and

(ii) the applicable county, if a temporary winter response shelter is planned for operation within an unincorporated area of the county.

(3) To assist a task force in preparing a winter response plan, by no later than March 30 of the year in which the winter response plan is due, the applicable local homeless council, in coordination with the office, shall provide the following information to the task force:

(a) the targeted winter response bed count;

(b) the requirements for the plan described in Subsection (2)(d);

(c) the availability of funds that can be used to mitigate the winter response plan; and

(d) any component required for the winter response plan to achieve compliance that is not described in Subsection (2).

(4) In preparing the winter response plan, the task force shall coordinate with:

(a) the office;

(b) the applicable local homeless council;

(c) for Salt Lake County, the conference of mayors for Salt Lake County; and

(d) for an applicable county not described in Subsection (4)(c), the council of governments for the applicable county.

(5) In conducting site selection for a temporary winter response shelter under a winter response plan, the task force shall prioritize:

(a) a site located more than one mile from any homeless shelter;

(b) a site located more than one mile from any permanent supportive housing, as verified by the office; and

(c) a site located in a municipality or unincorporated area of the applicable county that does not have a homeless shelter.

(6)(a) On or before August 15 of the year in which a winter response plan is submitted, the office shall:

(i) conduct a review of the winter response plan for compliance with this section; and

(ii) send a written notice of the office's determination regarding compliance to:

(A) the task force for the applicable county;

(B) the council of governments for the applicable county;

(C) the applicable local homeless council; and

(D) the legislative body of each municipality located within the applicable county.

(b) For purposes of Section 35A-16-502.5, an applicable county is in noncompliance with this section if:

(i) the applicable county's task force fails to submit a timely winter response plan under this section; or

(ii) the office determines that the winter response plan prepared for the applicable county does not comply with this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing requirements for an applicable county's compliance with this section.

Section 16. Section 35A-16-602 is amended to read:

35A-16-602. COVID-19 Homeless Housing and Services Grant Program.

(1) There is established the COVID-19 Homeless Housing and Services Grant Program, a competitive grant program administered by the office and funded in accordance with 42 U.S.C. Sec. 802.

(2) The office shall distribute money to fund one or more projects that:

(a) include affordable housing units for households:

(i) whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located;

(ii) at rental rates no greater than 30% of the income described in Subsection (2)(a)(i) for a household of:

(A) one person if the unit is an efficiency unit;

(B) two people if the unit is a one-bedroom unit;

(C) four people if the unit is a two-bedroom unit;

(D) five people if the unit is a three-bedroom unit;

(E) six people if the unit is a four-bedroom unit; or

(F) eight people if the unit is a five-bedroom or larger unit; and

(iii) that have been impacted by the COVID-19 emergency in accordance with 42 U.S.C. Sec. 802; and

(b) have been approved by the [~~homelessness council~~]board.

(3) The office shall:

(a) administer the grant program, including:

(i) reviewing grant applications and making recommendations to the [~~homelessness council~~]board; and

(ii) distributing grant money to approved grant recipients; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) grant application requirements;

(ii) procedures to approve a grant; and

(iii) procedures for distributing money to grant recipients.

(4) When reviewing an application for approval, the [~~homelessness council~~]board shall consider:

(a) an applicant's rental income plan;

(b) proposed case management and service plans for households;

(c) any matching funds proposed by an applicant;

(d) proposed restrictions, including deed restrictions, and the duration of restrictions on housing units to facilitate long-term assistance to households;

(e) whether use of funds for the proposed project complies with 42 U.S.C. Sec. 802; and

(f) any other considerations as adopted by the [~~council~~]board.

(5) A grant award under this section shall comply with the requirements of 42 U.S.C. Sec. 802.

Section 17. Section 35A-16-703 is amended to read:

35A-16-703. Provisions in effect for duration of code blue alert.

Subject to rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), the following provisions take effect within an affected county for the duration of a code blue alert:

(1) a homeless shelter may expand the homeless shelter's capacity limit by up to 35% to provide temporary shelter to any number of individuals experiencing homelessness, so long as the homeless shelter is in compliance with the applicable building code and fire code;

(2) a homeless shelter, in coordination with the applicable local homeless council, shall implement expedited intake procedures for individuals experiencing homelessness who request access to the homeless shelter;

(3) a homeless shelter may not deny temporary shelter to any individual experiencing homelessness who requests access to the homeless shelter for temporary shelter unless the homeless shelter is at the capacity limit described in Subsection (1) or if a reasonable individual would conclude that the individual presents a danger to [~~the homeless shelter's staff or guests~~]public safety;

(4) any indoor facility owned by a private organization, nonprofit organization, state government entity, or local government entity may be used to provide temporary shelter to individuals experiencing homelessness and is exempt from the licensure requirements of [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~]Title 26B, Chapter 2, Licensing and Certifications, for the duration of the code blue alert and seven days following the day on which the code blue alert ends, so long as the facility is in compliance with the applicable building code and fire code and the governing body of the organization or the legislative body of the government entity that owns the facility approves the use;

(5) homeless shelters, state and local government entities, and other organizations that provide

services to individuals experiencing homelessness shall coordinate street outreach efforts to distribute to individuals experiencing homelessness any available resources for survival in cold weather, including clothing items and blankets;

[~~(6) if no beds or other accommodations are available at any homeless shelters located within the affected county, a municipality may not enforce an ordinance that prohibits or abates camping for the duration of the code blue alert and the two days following the day on which the code blue alert ends;~~]

[~~(7)~~](6) a state or local government entity, including a municipality, law enforcement agency, and local health department, may enforce a camping ordinance but may not [~~enforce an ordinance or policy to~~] seize from individuals experiencing homelessness any personal items for survival in cold weather, including clothing, blankets, tents, and sleeping bags[~~, heaters, stoves, and generators~~]; and

[~~(8)~~](7) a municipality or other local government entity may not enforce any ordinance or policy that limits or restricts the ability for the provisions described in Subsections (1) through [~~(7)~~](5) to take effect, including local zoning ordinances.

Section 18. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 339
H. B. 293
Passed February 23, 2024
Approved March 18, 2024
Effective May 1, 2024

ACCESSIBLE PARKING AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends who may certify an individual as qualifying for a disability placard or license plate.

Highlighted Provisions:

This bill:

- allows a physical therapist to certify that an individual has a disability that qualifies the individual for a disability parking placard or license plate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-420, as last amended by Laws of Utah 2023, Chapter 67

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

Section 1. Section 41-1a-420 is amended to read:

41-1a-420. Disability special group license plates -- Application and qualifications -- Rulemaking.

(1) As used in this section:

(a) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

(b) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner.

(c) "Physical therapist" means a person licensed to practice as a physical therapist in this state under Title 58, Chapter 24b, Physical Therapy Practice Act.

[~~(c)~~](d) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(d)~~](e) "Physician assistant" means an individual licensed to practice as a physician assistant in the state under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(e)~~](f) "Temporary wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability that is not permanent.

[~~(f)~~](g) "Walking disability" means a physical disability that requires the use of a walking-assistive device or wheelchair or similar low-powered motorized or mechanically propelled vehicle that is designed to specifically assist a person who has a limited or impaired ability to walk.

[~~(g)~~](h) "Wheelchair user placard" means a removable windshield placard that is issued to a qualifying person, as provided in this section, who has a walking disability.

(2)(a) The division shall issue a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard to an applicant who is either:

(i) a qualifying person with a disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with disabilities that limit or impair the ability to walk.

(b) The division shall issue a temporary wheelchair user placard or a wheelchair user placard to an applicant who is either:

(i) a qualifying person with a walking disability; or

(ii) the registered owner of a vehicle that an organization uses primarily for the transportation of persons with walking disabilities.

(c) The division shall require that an applicant under Subsection (2)(b) certifies that the person travels in a vehicle equipped with a wheelchair lift or a vehicle carrying the person's walking-assistive device or wheelchair and requires a van accessible parking space.

(3)(a) The person with a disability shall ensure that the initial application contains the certification of a physician, physician assistant, physical therapist, or nurse practitioner that:

(i) the applicant meets the definition of a person with a disability that limits or impairs the ability to walk as defined in the federal Uniform System for Parking for Persons with Disabilities, 23 C.F.R. Ch. II, Subch. B, Pt. 1235.2 (1991);

(ii) if the person is applying for a temporary wheelchair user placard or a wheelchair user placard, the applicant has a walking disability; and

(iii) specifies the period of time that the physician, physician assistant, physical therapist, or nurse practitioner determines the applicant will have the disability, not to exceed six months in the case of a temporary disability or a temporary walking disability.

(b) The division shall issue a disability special group license plate, a removable windshield placard, or a wheelchair user placard, as applicable, to a person with a permanent disability.

(c) The issuance of a person with a disability special group license plate does not preclude the

issuance to the same applicant of a removable windshield placard or wheelchair user placard.

(d)(i) On request of an applicant with a disability special group license plate, a temporary removable windshield placard, or a removable windshield placard, the division shall issue one additional placard.

(ii) On request of a qualified applicant with a disability special group license plate, the division shall issue up to two temporary wheelchair user placards or two wheelchair user placards.

(iii) On request of a qualified applicant with a temporary wheelchair user placard or a wheelchair user placard, the division shall issue one additional placard.

(e) The division shall ensure that a temporary wheelchair user placard and a wheelchair user placard have the following visible features:

(i) a large "W" next to the internationally recognized disabled persons symbol; and

(ii) the words "Wheelchair User" printed on a portion of the placard.

(f) The division shall ensure that the following statement is included on a removable windshield placard issued on or after January 1, 2024: "Under state law, a disability placard may only be used by, or for the transportation of, the person to whom the disability placard is issued. A person who misuses another person's disability placard for parking privileges is guilty of a class C misdemeanor."

(g) A disability special group license plate, temporary removable windshield placard, or removable windshield placard may be used to allow one motorcycle to share a parking space reserved for persons with a disability if:

(i) the person with a disability:

(A) is using a motorcycle; and

(B) displays on the motorcycle a disability special group license plate, temporary removable windshield placard, or a removable windshield placard;

(ii) the person who shares the parking space assists the person with a disability with the parking accommodation; and

(iii) the parking space is sufficient size to accommodate both motorcycles without interfering with other parking spaces or traffic movement.

(4)(a) When a vehicle is parked in a parking space reserved for persons with disabilities, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard shall be displayed so that the placard is visible from the front of the vehicle.

(b) If a motorcycle is being used, the temporary removable windshield placard or removable windshield placard shall be displayed in plain sight on or near the handle bars of the motorcycle.

(5) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender a disability special group license plate, a temporary removable windshield placard, a removable windshield placard, a temporary wheelchair user placard, or a wheelchair user placard in accordance with this section;

(b) establish the maximum number of numerals or characters for a disability special group license plate;

(c) require all temporary removable windshield placards, removable windshield placards, temporary wheelchair user placards, and wheelchair user placards to include:

(i) an identification number;

(ii) an expiration date not to exceed:

(A) six months for a temporary removable windshield placard; and

(B) two years for a removable windshield placard; and

(iii) the seal or other identifying mark of the division; and

(d) establish standards for the statement required in Subsection (3)(f).

(6) The commission shall insert the following on motor vehicle registration certificates:

"State law prohibits persons who do not lawfully possess a disability placard or disability special group license plate from parking in an accessible parking space designated for persons with disabilities. Persons who possess a disability placard or disability special group license plate are discouraged from parking in an accessible parking space designated as van accessible unless they have a temporary wheelchair user placard or a wheelchair user placard."

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 340
H. B. 302
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

PALEONTOLOGICAL LANDMARK AMENDMENTS

Chief Sponsor: Joseph Elison
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to paleontological landmarks.

Highlighted Provisions:

This bill:

- modifies the process to designate a state paleontological landmark;
- addresses ownership and control of a state paleontological landmark;
- amends the permitting requirements to excavate on a privately owned paleontological landmark; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-3-505, as last amended by Laws of Utah 2023, Chapter 188

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

Section 1. Section 79-3-505 is amended to read:

79-3-505. Paleontological landmarks.

(1)(a) [~~Sites~~]A site of significance or [~~sites~~]a site with exceptional fossils may be designated as a state paleontological landmark by:

(i) [~~recommended to and approved by the board as state paleontological landmarks~~]recommendation to and approval of the board; or

(ii) approval of the Legislature and the governor through concurrent resolution.

(b)(i) The director shall notify the board if a concurrent resolution described in Subsection (1)(a)(ii) is introduced by the Legislature.

(ii) If the board receives a recommendation described in Subsection (1)(a)(i) or notice described in Subsection (1)(b)(i), the survey may prepare a report on the impacts of the proposed state paleontological landmark and submit the report to the Legislature and the governor.

[~~(b)~~](c) No privately owned site, a site on school or institutional trust lands, or a site on lands owned or controlled by a city that has a paleontology museum may be so designated without the written consent of the owner or the trust.

(d) The ownership or control of a site or the site's fossils does not change upon designation as a state paleontological landmark.

(2) A person may not excavate on a privately owned [~~designated~~]state paleontological landmark without a permit from the survey unless the landmark is located in a city with a paleontological museum that employs a paleontologist.

(3) Before an alteration is commenced on a [~~designated~~]state paleontological landmark, three months notice of intent to alter the site shall be given the survey.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 341
H. B. 316
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

INMATE ASSIGNMENT AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill addresses inmate housing assignments.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits, with limited exceptions, the Department of Corrections or a county jail from assigning inmates of the opposite biological sex in the same housing area; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-5, as last amended by Laws of Utah 2004, Chapter 301
64-13-7, as last amended by Laws of Utah 2016, Chapter 243
64-13-45, as last amended by Laws of Utah 2019, Chapters 311, 385

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

Section 1. Section 17-22-5 is amended to read:

17-22-5. Sheriff's classification of jail inmates -- Classification criteria -- Alternative incarceration programs -- Limitation.

(1) As used in this section, "living area" means the same as that term is defined in Section 64-13-7.

[~~(1)~~](2)(a) Except as provided in [~~Subsection (4)~~]Subsections (5) and (6), the sheriff shall adopt and implement written policies for admission of [~~prisoners~~]inmates to the county jail and the classification of [~~persons~~]individuals incarcerated in the jail which shall provide for the separation of prisoners by gender and by such other factors as may reasonably provide for the safety and well-being of inmates and the community.

(b) To the extent authorized by law, any written admission policies adopted and implemented under this Subsection (2) shall be applied equally to all entities using the county correctional facilities.

[~~(2)~~](3) Except as provided in [~~Subsection (4)~~]Subsections (5) and (6), each county sheriff shall assign [~~prisoners~~]inmates to a facility or section of a facility based on classification criteria that the sheriff develops and maintains.

[~~(3)~~](4)(a) Except as provided in Subsection [~~(4)~~](6), a county sheriff may develop and implement alternative incarceration programs that may [~~or may not~~]involve housing [~~a prisoner~~]an inmate in a jail facility.

(b) [~~A prisoner~~]An inmate housed under an alternative incarceration program under Subsection [~~(3)(a)~~](4)(a) shall be considered to be in the full custody and control of the sheriff for purposes of Section 76-8-309.

(c) [~~A prisoner~~]An inmate may not be placed in an alternative incarceration program under Subsection [~~(3)(a)~~](4)(a) unless:

(i) the jail facility is at maximum operating capacity, as established under [~~Subsection 17-22-5.5(2)~~]Section 17-22-5.5; or

(ii) ordered by the court.

(5) A jail facility shall comply with the same requirements as the Department of Corrections described in Subsections 64-13-7(4), (5), and (6) when assigning an inmate to a living area, including the reporting requirements in Subsections 64-13-45(2)(d) and (e).

[~~(4)~~](6) This section [~~may not be construed to~~]does not authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail [~~persons~~]inmates sentenced to the Department of Corrections.

Section 2. Section 64-13-7 is amended to read:

64-13-7. Individuals in custody.

(1) As used in this section:

(a) "Biological sex at birth" means the same as that term is defined in Section 26B-8-101.

(b) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(c) "Criminogenic factor" means a personal trait, condition, outside influence, or societal factor that tends to increase an inmate's likelihood of committing a criminal offense.

(d)(i) "Living area" means a location within a correctional facility where an inmate is assigned to sleep, recreate, study, or interact with other inmates.

(ii) "Living area" does not include a location within a correctional facility where an inmate is temporarily placed by staff of the correctional facility to facilitate transfers, visitation, medical care, or other needs of the correctional facility or inmate.

(e) "Transgender inmate" means an inmate whose gender identity or expression does not correspond with the inmate's biological sex at birth.

(2) [~~All offenders~~]An offender committed for incarceration in a state correctional facility or for supervision on probation or parole, shall be placed in the custody of the department.

(3) The department shall establish procedures and is responsible for the appropriate assignment or transfer of [~~public offenders to facilities or programs.~~]an offender to a facility or program.

(4) Subject to Subsection (5), the department or a county jail may not:

(a) assign an inmate whose biological sex at birth is male to a living area where an inmate whose biological sex at birth is female is assigned; or

(b) assign an inmate whose biological sex at birth is female to a living area where an inmate whose biological sex at birth is male is assigned.

(5)(a) Upon a request from a transgender inmate to be assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, or if the department or a county jail seeks to assign a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, the department or a county jail shall undertake an individualized security analysis considering criminogenic and other factors including:

(i) the transgender inmate's anatomy which may be verified through a conversation with the transgender inmate, reviewing the transgender inmate's medical records, routine protocols applicable to all inmates, or as part of a broader medical examination of the transgender inmate conducted in private by a medical professional if necessary;

(ii) the physical characteristics of the transgender inmate;

(iii) the transgender inmate's criminal history, including whether the transgender inmate has displayed predatory behavior against individuals whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth;

(iv) the history of the transgender inmate's behavior while in the department's or a county jail's custody;

(v) the likelihood of the transgender inmate causing physical or psychological harm to, or committing offenses against, inmates in the requested living area whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth;

(vi) the safety of correctional facility staff if the transgender inmate were to be assigned to the requested living area;

(vii) an analysis of whether the transgender inmate has a history or pattern of:

(A) anti-social attitudes or behaviors;

(B) interacting with peers who display anti-social attitudes or behaviors;

(C) negative family issues or influence;

(D) a lack of achievement in education and employment;

(E) not participating in pro-social leisure activities; or

(F) substance abuse;

(viii) whether the requested living area assignment would:

(A) ensure the transgender inmate's health and safety; and

(B) assist the transgender inmate in successfully reentering the community; and

(ix) any other factor determined to be relevant by the executive director or a county sheriff.

(b) The department or a county jail may assign a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth only if:

(i) the department or a county jail determines, after undertaking the individualized security analysis described in Subsection (5)(a), that the assignment presents a low risk of causing:

(A) any physical or psychological harm to an inmate who resides in or will reside in the living area, the correctional facility staff that manage the living area, or the transgender inmate;

(B) disruption to correctional facility management; and

(C) overall security issues; and

(ii) there is no evidence that the transgender inmate is claiming a gender identity or expression that does not correspond with the inmate's biological sex at birth solely for the purpose of altering the inmate's living area assignment.

(6) If the department or a county jail, after complying with Subsection (5), assigns a transgender inmate to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth, the department or a county jail shall:

(a)(i) undertake the security analysis described in Subsection (5)(a) after a security incident involving the transgender inmate and at regular intervals determined by the executive director or a county sheriff to ensure that the assignment continues to meet the conditions described in Subsection (5)(b); and

(ii) if the analysis conducted in Subsection (6)(a) demonstrates that the assignment no longer meets the conditions described in Subsection (5)(b), assign the transgender inmate to a living area with inmates whose biological sex at birth corresponds with the transgender inmate's biological sex at birth; and

(b) comply with the reporting requirements described in Subsections 64-13-45(2)(d) and (e).

Section 3. Section 64-13-45 is amended to read:

64-13-45. Department reporting requirements.

(1) As used in this section:

(a)[~~(i)~~] "Biological sex at birth" means the same as that term is defined in Section 26B-8-101.

(b)(i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of the department.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a correctional facility, other than a county jail.

[~~(b)~~](c) "Inmate" means an individual who is processed or booked into custody or housed in the department or a correctional facility other than a county jail.

[~~(c)~~](d) "Opiate" means the same as that term is defined in Section 58-37-2.

(e) "Transgender inmate" means the same as that term is defined in Section 64-13-7.

(2) The department shall submit a report to the Commission on Criminal and Juvenile Justice[~~,~~] created in Section 63M-7-201[~~,~~] before June 15 of each year that includes:

(a) the number of in-custody deaths that occurred during the preceding calendar year, including:

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(a); and

(ii) the department's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(b) the department policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the department's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use disorder or mental health disorder;

(c) the number of inmates who gave birth and were restrained in accordance with Section 64-13-46, including:

(i) the types of restraints used; and

(ii) whether the use of restraints was to prevent escape or to ensure the safety of the inmate, medical or corrections staff, or the public;[~~ and~~]

(d) the number of transgender inmates that are assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth in accordance with Section 64-13-7, including:

(i) the results of the individualized security analysis conducted for each transgender inmate in accordance with Subsection 64-13-7(5)(a); and

(ii) a detailed explanation regarding how the security conditions described in Subsection 64-13-7(5)(b) are met for each transgender inmate;

(e) the number of transgender inmates that were:

(i) assigned to a living area with inmates whose biological sex at birth do not correspond with the transgender inmate's biological sex at birth; and

(ii) removed and assigned to a living area with inmates whose biological sex at birth corresponds with the transgender inmate's biological sex at birth in accordance with Subsection 64-13-7(6); and

[~~(d)~~](f) any report the department provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) The Commission on Criminal and Juvenile Justice shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law ; and

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year.

(4) The Commission on Criminal and Juvenile Justice may not provide access to or use the department's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 342
H. B. 330
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

UNINCORPORATED AREAS AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions relating to unincorporated areas of a county of the first class.

Highlighted Provisions:

This bill:

- provides for unincorporated islands within a county of the first class to be automatically annexed to an adjoining municipality;
- allows unincorporated islands within a community council area in a county of the first class to incorporate as a municipality;
- modifies provisions relating to a feasibility study for a proposed incorporation;
- enacts language relating to a feasibility consultant and feasibility study for a proposed incorporation of a community council area;
- enacts language regarding the effects of an incorporation of a community council area;
- modifies a provision relating to the membership of a board of trustees of a municipal services district;
- provides for provisions relating to a community council incorporation to be repealed; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-2-403, as last amended by Laws of Utah 2023, Chapters 16, 34 and 478
10-2-425, as last amended by Laws of Utah 2023, Chapters 16, 327
10-2-425, as last amended by Laws of Utah 2023, Chapters 16, 310 and 327
10-2a-102, as last amended by Laws of Utah 2023, Chapter 224
10-2a-103, as last amended by Laws of Utah 2023, Chapter 224
10-2a-201.5, as last amended by Laws of Utah 2023, Chapter 224
10-2a-202, as last amended by Laws of Utah 2023, Chapter 224
10-2a-204.5, as renumbered and amended by Laws of Utah 2023, Chapter 224
10-2a-205, as last amended by Laws of Utah 2023, Chapters 16, 224
10-2a-210, as last amended by Laws of Utah 2023, Chapters 16, 224 and 435
10-2a-403, as enacted by Laws of Utah 2015, Chapter 352 and further amended by Revisor Instructions, Laws of Utah 2015, Chapter 352
17B-1-414, as last amended by Laws of Utah 2023, Chapter 15
17B-1-512, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1106, as last amended by Laws of Utah 2023, Chapter 15
63I-2-210, as last amended by Laws of Utah 2023, Chapter 501

ENACTS:

10-2-429, Utah Code Annotated 1953
10-2a-107, Utah Code Annotated 1953
10-2a-205.5, Utah Code Annotated 1953

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

Section 1. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418 and except for an automatic annexation under Section 10-2-429, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2)(a)(i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b)(i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c)(i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii)(A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of all of the rural real property within the area proposed for annexation; and

(C) covers 100% of all of the private land area within the area proposed for annexation or a migratory bird production area created under Title 23A, Chapter 13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be

designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 2. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

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

(a) "Annexation action" means:

(i) the enactment of an ordinance annexing an unincorporated area;

(ii) an election approving an annexation under Section 10-2a-404;

(iii) the enactment of an ordinance approving a boundary adjustment by each of the municipalities involved in the boundary adjustment; or

(iv) an automatic annexation that occurs on July 1, 2027 under Subsection 10-2-429(2)(a).

(b) "Applicable legislative body" means:

(i) the legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary[~~, or~~];

(ii) the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404[~~,~~]; or

(iii) the legislative body of a municipality to which an unincorporated island is automatically annexed under Section 10-2-429.

(2) An applicable legislative body shall:

(a) within 60 days after [~~enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance~~]an annexation action, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); [~~and~~]

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(iii) if applicable, a copy of an agreement under Subsection 10-2-429(2)(a)(ii);

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection [~~(1)(b)(ii)(A)~~](2)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections [~~(1)(b)(ii)(A)~~](2)(b)(ii)(A) and (B); and

(c) concurrently with Subsection [~~(1)(b)~~](2)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 26B-4-168, file with the Department of Health and Human Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary, if applicable; and

(B) a copy of the approved final local entity plat.

[~~(2)~~](3) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a special district under Section 17B-1-416 or an automatic withdrawal from a special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

[~~(3)~~](4) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection [~~(4)~~](5).

[~~(4)~~](5) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection [~~(1)~~](2) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection [~~(1)~~](2) are met before that January 1; and

(b) subject to Subsection [~~(5)~~](6), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

[~~(5)~~](6) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection [~~(5)(a)~~](6)(a).

[~~(6)~~](7)(a) As used in this Subsection [~~(6)~~](7):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area or the municipality to which an unincorporated island is automatically annexed under Section 10-2-429; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection [~~(1)(b)(i)~~](2)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 3. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

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

(a) "Annexation action" means:

(i) the enactment of an ordinance annexing an unincorporated area;

(ii) an election approving an annexation under Section 10-2a-404;

(iii) the enactment of an ordinance approving a boundary adjustment by each of the municipalities involved in the boundary adjustment; or

(iv) an automatic annexation that occurs on July 1, 2027 under Subsection 10-2-429(2)(b).

(b) "Applicable legislative body" means:

(i) the legislative body of each municipality that enacts an ordinance under this part approving the

annexation of an unincorporated area or the adjustment of a boundary[~~, or~~];

(ii) the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404[~~,~~]; or

(iii) the legislative body of a municipality to which an unincorporated island is automatically annexed under Section 10-2-429.

(2) An applicable legislative body shall:

(a) within 60 days after [~~enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance~~]an annexation action, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); [~~and~~]

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(iii) if applicable, a copy of an agreement under Subsection 10-2-429(2)(a)(ii);

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection [~~(1)(b)(ii)(A)~~](2)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections [~~(1)(b)(ii)(A)~~](2)(b)(ii)(A) and (B); and

(c) concurrently with Subsection [~~(1)(b)~~](2)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 53-2d-514, file with the Bureau of Emergency Medical Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary, if applicable; and

(B) a copy of the approved final local entity plat.

[~~(2)~~](3) If an annexation or boundary adjustment under this part or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, also causes an automatic annexation to a special district under Section 17B-1-416 or an automatic withdrawal from a special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

[~~(3)~~](4) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection [~~(4)~~](5).

[~~(4)~~](5) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection [~~(1)~~](2) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection [~~(1)~~](2) are met before that January 1; and

(b) subject to Subsection [~~(5)~~](6), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

[~~(5)~~](6) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:

(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and

(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection [~~(5)(a)~~](6)(a).

[~~(6)~~](7)(a) As used in this Subsection [~~(6)~~](7):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area or the municipality to which an unincorporated island is automatically annexed under Section 10-2-429; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection [~~(1)(b)(i)~~](2)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 4. Section 10-2-429 is enacted to read:

10-2-429. Automatic annexations in county of the first class.

(1) As used in this section:

(a) "Most populous bordering municipality" means the municipality with the highest population of any municipality that shares a common border with an unincorporated island.

(b) "Unincorporated island" means an area that is:

(i) within a county of the first class;

(ii) not within a municipality; and

(iii) completely surrounded by land that is within one or more municipalities within the county of the first class.

(2)(a) Notwithstanding any other provision of this part, on July 1, 2027 an unincorporated island is automatically annexed to:

(i) the most populous bordering municipality, except as provided in Subsection (2)(a)(ii); or

(ii) a municipality other than the most populous bordering municipality if:

(A) the other municipality shares a common border with the unincorporated island; and

(B) the other municipality and the most populous bordering municipality each adopt a resolution agreeing that the unincorporated island should be annexed to the other municipality.

(b) The effective date of an annexation under Subsection (2)(a) is governed by Section 10-2-425.

Section 5. Section 10-2a-102 is amended to read:

10-2a-102. Definitions.

(1) As used in this [~~part and Part 2, Incorporation of a Municipality~~]chapter:

(a) "Community council area" means the cumulative areas within the geographic boundary of a community council that is formally recognized by a county of the first class pursuant to county ordinance.

(b) "Community council municipality" means a municipality that results from the incorporation of unincorporated islands within a community council area.

[~~(a)~~](c) "Contact sponsor" means the person designated in the feasibility request as the contact sponsor under Subsection 10-2a-202(2)(d).

[~~(b)~~](d)(i) "Contiguous" means, except as provided in Subsection [~~(1)(b)(ii)~~](1)(d)(ii), the same as that term is defined in Section 10-1-104.

(ii) "Contiguous" does not include a circumstance where:

(A) two areas of land are only connected by a strip of land between geographically separate areas; and

(B) the distance between the geographically separate areas described in Subsection [~~(1)(b)(ii)(A)~~](1)(d)(ii)(A) is greater than the average width of the strip of land connecting the geographically separate areas.

[~~(c)~~](e) "Feasibility consultant" means a person or firm[~~,~~] with the qualifications and expertise described in Subsection 10-2a-205(2)(b).

[~~(i) with expertise in the processes and economics of local government; and~~]

[~~(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.~~]

[~~(d)~~](f) "Feasibility request" means a request, described in Section 10-2a-202, for a feasibility study for the proposed incorporation of a municipality.

[~~(e)~~](g)(i) "Municipal service" means any of the following that are publicly provided:

(A) culinary water;

(B) secondary water;

(C) sewer service;

(D) storm drainage or flood control;

(E) recreational facilities or parks;

(F) electrical power generation or distribution;

(G) construction or maintenance of local streets and roads;

(H) street lighting;

(I) curb, gutter, and sidewalk maintenance;

(J) law or code enforcement service;

(K) fire protection service;

(L) animal services;

(M) planning and zoning;

(N) building permits and inspections;

(O) refuse collection; or

(P) weed control.

(ii) "Municipal service" includes the physical facilities required to provide a service described in Subsection [~~(1)(e)(i)~~](1)(f)(i).

(h) "Municipal services district" means a special district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.

[~~(f)~~](i) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the feasibility request or petition for incorporation; and

(b) the assessed fair market value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the feasibility request or petition for incorporation.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a feasibility request or a petition for incorporation:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the feasibility request or petition for incorporation is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a feasibility request or a petition for incorporation in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the feasibility request or petition for incorporation with the person's signature; and

(ii) the person provides documentation accompanying the feasibility request or petition for incorporation that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a feasibility request or a petition for incorporation on behalf of a deceased owner.

Section 6. Section 10-2a-103 is amended to read:

10-2a-103. Incorporation of a contiguous area -- Incorporation of a community council area -- Incorporation involving more than one county.

(1)(a) [~~A~~]An unincorporated contiguous area of a county not within a municipality may incorporate as a municipality as provided in this chapter.

(b) Two or more unincorporated islands, as defined in Section 10-2-429, that are not contiguous with each other may incorporate as a municipality, as provided in this chapter, if:

(i) those unincorporated islands are part of a community council area; and

(ii) a feasibility request for the proposed incorporation of the community council area is submitted under Section 10-2a-202 no later than May 1, 2025.

(2) If a proposed incorporation relates to an area in more than one county:

(a) the individual who files the feasibility request shall file the request with each county containing a portion of the area proposed for incorporation; and

(b) the counties shall work together, in accordance with direction given by the lieutenant governor, to complete the actions required by this chapter.

Section 7. Section 10-2a-107 is enacted to read:

10-2a-107. Effect of incorporation of community council area.

(1) As used in this section:

(a) "Service area" means the area for which a service provider provided municipal services to an unincorporated island immediately before the incorporation of a community council municipality that includes the previously unincorporated island.

(b) "Service provider" means a special district or other provider of municipal services that, before the incorporation of a community council municipality, provided service to the service area.

(c) "Unincorporated island" means the same as that term is defined in Section 10-2-429.

(2) An incorporation of a community council municipality does not affect the boundary of any service provider, subject to any future change in the boundary as provided by applicable law.

(3) All roads and other utilities that before incorporation of a community council municipality

were under the jurisdiction of the county in which the community council municipality is located become, upon incorporation, under the jurisdiction of the community council municipality.

Section 8. Section 10-2a-201.5 is amended to read:

10-2a-201.5. Qualifications for incorporation.

(1)(a) An area may incorporate as a town in accordance with this part if the area:

(i)(A) is contiguous; or

(B) is a community council area;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) An area may incorporate as a city in accordance with this part if the area:

(i)(A) is contiguous; or

(B) is a community council area;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(2)(a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and

(ii) the area is contiguous.

(3) An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b)(i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4)(a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1) through (4) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5)(a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 9. Section 10-2a-202 is amended to read:

10-2a-202. Feasibility request -- Requirements -- Limitations.

(1) The process to incorporate [~~a contiguous area of a county~~]an unincorporated area as a municipality is initiated by an individual filing a feasibility request, with the county clerk of the county where the area proposed to be incorporated is located, that includes:

(a) the signatures of the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is, as of January 1 of the current year, equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the area; and

(b) the typed or printed name and current residence address of each owner signing the request.

(2) The feasibility request shall include:

(a) a description of the [~~contiguous~~] unincorporated area proposed to be incorporated as a municipality;

(b) a designation of up to five signers of the request as sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(c) an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundaries of the proposed municipality; and

(d) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a municipality.

(3) The individual described in Subsection (1) shall, on the day on which the individual files the feasibility request with the county clerk, provide to the lieutenant governor:

(a) written notice that the individual filed the feasibility request that indicates the day on which the individual filed the feasibility request; and

(b) a complete copy of the feasibility request.

(4) A feasibility request may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.

(5) Sponsors may not file a feasibility request relating to the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Section 10. Section 10-2a-204.5 is amended to read:

10-2a-204.5. Notice to owner of property -- Exclusion or inclusion of property from or in proposed municipality.

(1) As used in this section:

(a) "Owner" means a person having an interest in real property, including an affiliate, subsidiary, or parent company.

(b) "Specified landowner" means a record owner of real property:

(i) who owns more than:

(A) 1% of the assessed fair market value, as of January 1 of the current year, of all property within the boundaries of a proposed incorporation; or

(B) 10% of the total private land area within the boundaries of a proposed incorporation; or

(ii) located in a mining protection area as defined in Section 17-41-101.

(2) Within 30 calendar days after the day of the first public hearing described in Section 10-2a-204.3:

(a) a specified landowner may request that the county clerk exclude all or part of the land owned by the specified landowner from the area proposed for incorporation by filing a request for exclusion with the county clerk that describes the land for which the specified landowner requests exclusion; or

(b) any owner of land located within the county where the area proposed for incorporation is located may file a request that all or part of that land be included in the area proposed for incorporation by filing a request for inclusion with the county clerk that describes the land that the landowner desires to include.

(3) The county clerk shall exclude the land identified by a specified landowner under Subsection (2)(a) from the proposed incorporation boundaries unless the county clerk finds by clear and convincing evidence that:

(a) except for a proposed incorporation of a community council area, the exclusion will leave an unincorporated island within the proposed municipality; and

(b) the land receives from the county a majority of currently provided municipal services.

(4) The county clerk shall include land identified by a landowner under Subsection (2)(b) in the area proposed for incorporation unless the county clerk finds by clear and convincing evidence that:

(a) except for a proposed incorporation of a community council area, the land will not be contiguous with the area of the proposed municipality, taking into account other requests for inclusion or requests for exclusion received before the deadline described in Subsection (2); or

(b) the inclusion will cause the area proposed for incorporation to violate a requirement for incorporation described in this part.

(5) The county clerk shall:

(a) no earlier than 30 days after, but no later than 44 days after, the day of the first public hearing described in Section 10-2a-204.3, make a determination on all timely requests for exclusion or inclusion;

(b) forward to the lieutenant governor for review:

(i) all timely requests for exclusion or inclusion;

(ii) the county clerk's determination on each of the requests described in Subsection (5)(b)(i); and

(iii) the reasons, including the supporting data, for each determination described in Subsection (5)(b)(ii); and

(c) within five days after the day on which the lieutenant governor makes a final determination on whether to include or exclude land under Subsection (7), the county clerk shall mail or transmit written notice of whether the land is included or excluded from the proposed incorporation boundaries to:

(i) for a request for exclusion, the specified landowner that requested the exclusion;

(ii) for a request for inclusion, the owner of land that requested the inclusion; and

(iii) the contact sponsor.

(6) For a request for exclusion or inclusion that is denied, the county clerk shall include, in the written notice described in Subsection (5)(c), a detailed explanation of the reason for the denial and the facts supporting the denial.

(7) Within 14 days after the day on which the lieutenant governor receives the information described in Subsection (5)(b) the lieutenant governor shall:

(a) review each determination;

(b) uphold or reverse each determination; and

(c) forward to the county clerk:

(i) the lieutenant governor's final determinations; and

(ii) if the lieutenant governor reverses a determination of the county clerk, the reason for the reversal and the supporting facts.

Section 11. Section 10-2a-205 is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204(7)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a), in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

(2) The lieutenant governor shall:

(a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) ensure that the feasibility consultant:

(i) has expertise in the processes and economics of local government; [~~and~~]

(ii) is independent of and not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and

(iii) for a feasibility study for the proposed incorporation of a community council area, has expertise in the processes and economics of a municipal services district providing municipal services to an unincorporated island, as defined in Section 10-2-429; and

(c) require the feasibility consultant to:

(i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;

(iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:

(A) the lieutenant governor;

(B) the county legislative body of the county in which the incorporation is proposed;

(C) the contact sponsor; and

(D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and

(iv) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

(3)(a) The feasibility study shall include:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (3)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and

(ix) if the county clerk excludes property from, or includes property in, the proposed municipality under Section 10-2a-204.5, an update to the map and legal description described in Subsection 10-2a-202(2)(c).

(b)(i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii), the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (2)(c)(i):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) each other special service district that provides services to a portion of the proposed municipality.

(4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(5)(a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual cost calculated under Subsection (3)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (5)(a).

(6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (5).

(7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Section 12. Section 10-2a-205.5 is enacted to read:

10-2a-205.5. Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements.

(1) As used in this section:

(a) "Applicable community council" means the community council that represents the community council area that is proposed to be incorporated.

(b) "Request sponsors" means the sponsors of a feasibility request relating to the proposed incorporation of a community council area.

(2) Subsections 10-2a-205(3)(a) and (b) do not apply to a feasibility study for a proposed incorporation of a community council area.

(3) A feasibility consultant conducting a feasibility study for a proposed incorporation of a community council area shall consider:

(a) population and population density within the community council area;

(b) current and five-year projections of demographics and economic base in the community council area, including household size and income, commercial and industrial development, and public facilities;

(c) projected population growth in the community council area during the next five years;

(d) subject to Subsection (4)(a), the present and five-year projections of the cost, including overhead, of providing the same or a similar service in the community council area as is provided by the municipal services district, including a comparison of:

(i) the estimated cost if the municipal services district continues to provide service;

(ii) the estimated cost if the community council municipality provides service directly or through a contract with another service provider; and

(iii) the estimated cost if an unincorporated island within the community council area is annexed under Section 10-2-429 and the annexing municipality provides service;

(e) subject to Subsection (4)(a), evaluating the present and five-year projections of the cost, including overhead, of a municipal services district providing municipal services to the community council area, comparing those costs assuming that the community council area is included in the service area of the municipal services district with those costs assuming that the community council area is excluded from the service area of the municipal services district;

(f) a projection of any new taxes per household that may be levied within the community council municipality within five years after incorporation;

(g) the fiscal impact that the community council area's incorporation will have on other municipalities and unincorporated areas served by the municipal services district, including any rate increase that may become necessary to maintain required coverage ratios for the municipal services district's debt if, after incorporation:

(i) the municipal services district continues to provide service to the community council area; or

(ii) the community council area provides service directly or through contract with another service provider;

(h) the physical and other assets that will be required by the municipal services district to provide, without interruption or diminution of service, the same or a similar service to the community council municipality upon incorporation;

(i) the physical and other assets that will no longer be required by the municipal services district to continue to provide the current level of service to the remainder of the service area without the community council area if the community council area incorporates and provides services directly or through contract with another service provider;

(j) the number and classification of municipal services district employees who will no longer be required to serve the remaining portions of the service area if a community council area provides service directly or through contract with another service provider upon incorporation, including the dollar amount of the wages, salaries, and benefits attributable to the employees and the estimated cost associated with termination of the employees if the community council municipality does not employ the employees;

(k) if the community council municipality will provide service directly or through another service provider, the effects of maintaining as a base, for a period of three years, the existing schedule of pay and benefits for municipal services district employees who may be transferred to the employment of the community council municipality or to another service provider with which the community council municipality contracts for service; and

(l) any other factor that the feasibility consultant considers relevant to the cost of providing municipal services as a result of a community council area's incorporation or the annexation of one or more unincorporated islands under Section 10-2-429.

(4)(a) For purposes of Subsections (3)(d) and (e):

(i) the feasibility consultant shall assume a level and quality of service to be provided in the future to the community council municipality that fairly and reasonably approximates the level and quality of service that the municipal services district provides to the community council area at the time of the feasibility study;

(ii) in determining the present-value cost of a service that the municipal services district provides, the feasibility consultant shall consider:

(A) the cost to the community council municipality of providing the service for the first five years after incorporation;

(B) the municipal services district's present and five-year projected cost of providing the same service to the community council area;

(C) the present and five-year projected cost of providing the same or a similar service to the community council area if service is provided by a municipality to which one or more unincorporated islands are annexed under Section 10-2-429;

(D) evaluate and detail the expected cost savings and qualitative benefits that result from a service provider other than the proposed municipality providing some municipal services;

(E) incorporate into the overall cost projection for the proposed municipality the potential for municipal services to be provided by a service provider other than the proposed municipality; and

(F) evaluate and detail projected costs for municipal services based on the proposed municipality providing municipal services as compared to service providers other than the proposed municipality providing municipal services funded by those other service providers; and

(iii) the feasibility consultant shall consider inflation and anticipated population growth in calculating the cost of providing service.

(b) A feasibility consultant may not consider an allocation of municipal services district assets or a transfer of municipal services district employees to the extent that the allocation or transfer would impair the municipal services district's ability to continue to provide the current level of service to the remainder of the municipal services district's service area without the community council area, unless the municipal services district consents to the allocation or transfer.

(5)(a) A feasibility consultant shall prepare a written report of the results of the feasibility study.

(b) A report under Subsection (5)(a) shall:

(i) contain a recommendation as to whether the proposed incorporation of the community council area is functionally and financially feasible for the community council area;

(ii) include any conditions the feasibility consultant determines are required to be satisfied to make the incorporation functionally and financially feasible; and

(iii) compare the costs of incorporation to the costs of the unincorporated islands within the community council area being annexed under Section 10-2-429.

(c)(i) Before finalizing a written report under this Subsection (5), the feasibility consultant shall provide a copy of a draft feasibility study report to the request sponsors and the county for their review and comments.

(ii) Based on comments provided under Subsection (5)(c)(i), a feasibility consultant may adjust the draft feasibility study report before finalizing the report.

(6) Upon completion of the feasibility study and preparation of a written report, the feasibility consultant shall deliver a copy of the report to:

(a) the applicable community council;

(b) the request sponsors;

(c) the municipal services district that provides service to the community council area;

(d) the county in which the community council area is located; and

(e) each municipality that borders any part of the community council area.

(7)(a)(i) If the request sponsors or the county in which the community council area is located disagrees with any aspect of a feasibility study report or, if applicable, a feasibility study report modified under Subsection (7)(c), the request sponsors or county may, within 20 business days after receiving a copy of the report under Subsection (6) or a copy of a modified feasibility study report under Subsection (7)(c)(ii), submit to the feasibility consultant a written objection detailing the disagreement.

(ii) Request sponsors who submit a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the county.

(iii) A county that submits a written objection under Subsection (7)(a)(i) shall simultaneously deliver a copy of the objection to the request sponsors.

(b)(i) The request sponsors or a county may, within 10 business days after receiving an objection under Subsection (7)(a)(i), submit to the feasibility consultant a written response to the objection.

(ii) The request sponsors who submit a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the county.

(iii) A county that submits a response under Subsection (7)(b)(i) shall simultaneously deliver a copy of the response to the request sponsors.

(c) If an objection is filed under Subsection (7)(a)(i), the feasibility consultant shall, within 20 business days after the expiration of the deadline under Subsection (7)(b)(i) for submitting a response to an objection:

(i)(A) modify the feasibility study report; or

(B) explain in writing why the feasibility consultant is not modifying the feasibility study report; and

(ii) deliver the modified feasibility study report or written explanation to:

(A) the request sponsors;

(B) the municipal services district that provides service to the community council area;

(C) the county in which the community council area is located; and

(D) each municipality that borders any part of the community council area.

(d) Within seven days after the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection or, if an objection is submitted, within seven days after receiving a modified feasibility study report or written explanation under Subsection (7)(c), but at least 30 days before a public hearing under Subsection (9), the applicable community council shall:

(i) make a copy of the report available to the public at the primary office of the applicable community council; and

(ii) post a copy of the report on the website of the applicable community council, if the applicable community council has a website.

(8)(a) A feasibility study report or, if a feasibility study report is modified under Subsection (7), a modified feasibility study report may not be challenged unless the basis of the challenge is that the report results from collusion or fraud.

(b) Subsection (8)(a) does not apply to an objection to a feasibility study report or a modified feasibility study report under Subsection (7).

(9)(a) Following the expiration of the deadline under Subsection (7)(a)(i) for submitting an objection, or, if an objection is submitted under Subsection (7)(a)(i), following the applicable community council's receipt of the modified feasibility study report or written explanation under Subsection (7)(c), the applicable community council shall, at the applicable community council's next regular meeting, schedule at least one public hearing to be held:

(i) within the following 60 days; and

(ii) for the purpose of allowing:

(A) the feasibility consultant to present the results of the feasibility study; and

(B) the public to become informed about the feasibility study results, to ask the feasibility consultant questions about the feasibility study, and to express the public's views about the proposed incorporation of the community council area.

(b) At a public hearing under Subsection (9)(a), the applicable community council shall:

(i) provide a copy of the feasibility study for public review; and

(ii) allow the public to:

(A) ask the feasibility consultant questions about the feasibility study; and

(B) express the public's views about the advantages and disadvantages of the proposed incorporation as compared to a potential annexation under Section 10-2-429.

(c)(i) The applicable community council shall publish notice of a hearing under Subsection (9)(a), as a class A notice under Section 63G-30-102, for three consecutive weeks immediately before the public hearing.

(ii) A notice under Subsection (9)(c)(i) shall state:

(A) the date, time, and location of the public hearing; and

(B) that a copy of the feasibility study report may be obtained, free of charge, at the office of the applicable community council or, if applicable, on the applicable community council's website.

(10) A community council area may not incorporate if the feasibility study concludes that incorporation of the community council area is not functionally and financially feasible.

(11) Notwithstanding any other provision of this part:

(a) the lieutenant governor shall pay the fees and costs of a feasibility consultant using funds from the Municipal Incorporation Expendable Special Revenue Fund under Section 10-2a-220; and

(b) if the community council area incorporates as a municipality, the newly incorporated municipality shall pay incorporation costs to the lieutenant governor and county as provided in Section 10-2a-220.

(12) Unless the request sponsors and county agree otherwise, conditions that a feasibility study report indicates are necessary to be met for the incorporation of the community council area to be functionally and financially feasible for the proposed community council municipality are binding on the community council municipality and county if the incorporation occurs.

Section 13. Section 10-2a-210 is amended to read:

10-2a-210. Incorporation election -- Notice of election -- Voter information pamphlet.

(1)(a) If the county clerk certifies a petition for incorporation under Subsection 10-2a-209(1)(b), the lieutenant governor shall schedule an incorporation election for the proposed municipality described in the petition for incorporation to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the county clerk certifies the petition for incorporation.

(b)(i) The lieutenant governor shall direct the county legislative body of the county in which the proposed municipality is located to hold the election on the date that the lieutenant governor schedules under Subsection (1)(a).

(ii) The county legislative body shall hold the election as directed by the lieutenant governor under Subsection (1)(b)(i).

(2) The county clerk shall provide notice of the election for the area proposed to be incorporated, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the election.

(3)(a) The notice described in Subsection (2) shall include:

(i) a statement of the contents of the petition for incorporation;

(ii) a description of the area proposed to be incorporated as a municipality;

(iii) a statement of the date and time of the election and the location of polling places; and

(iv) except as provided in Subsection (3)(b), the feasibility study summary described in Subsection 10-2a-205(2)(c)(iii) and a statement that a full copy of the study is available on the county's website and for inspection at the county offices.

(b) Instead of including the feasibility summary under Subsection (3)(a)(iv), the notice may include a statement that specifies the following sources where a registered voter in the area proposed to be incorporated may view or obtain a copy of the feasibility study:

(i) the county's website;

(ii) the physical address of the county clerk office; and

(iii) a mailing address and telephone number.

(4)(a) In addition to the notice described in Subsection (2), the county clerk shall publish and distribute, before the incorporation election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate, subject to Subsections (4)(a)(i) and (ii).

(b) The voter information pamphlet described in Subsection (4)(a):

(i) shall inform the public of the proposed incorporation; and

(ii) may include written statements, printed in the same font style and point size, from proponents and opponents of the proposed incorporation.

(5) An individual may not vote in an incorporation election under this section unless the individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the boundaries of the proposed municipality.

(6)(a) [~~If~~]Subject to Subsection (6)(b), if a majority of those who vote in an incorporation election held under this section cast votes in favor of incorporation, the area shall incorporate.

(b)(i) As used in this Subsection (6)(b):

(A) "Approving separate area" means a separate area in which a majority of those voting in an incorporation election for the incorporation of a community council area vote in favor of incorporation.

(B) "Separate area" means an unincorporated island, as defined in Section 10-2-429, that is within a community council area.

(ii) If a majority of those within a separate area voting in an incorporation election for the incorporation of a community council area vote against incorporation, that separate area is excluded from the incorporation.

(iii) Approving separate areas are incorporated as a municipality if the combined total population within all approving separate areas is at least 80% of the population within the community council area.

Section 14. Section 10-2a-403 is amended to read:

10-2a-403. Definitions.

As used in this section:

(1) "Ballot proposition" means the same as that term is defined in Section 20A-1-102.

(2) "Eligible city" means a city whose legislative body adopts a resolution agreeing to annex an unincorporated island.

(3) "Local special election" means the same as that term is defined in Section 20A-1-102.

[~~(4) "Municipal services district" means a district created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act.~~]

[~~(5)~~](4)(a) "Metro township" means, except as provided in Subsection [~~(5)(b)~~](4)(b), a planning township that is incorporated in accordance with this part.

(b) "Metro township" does not include a township as that term is used in the context of identifying a geographic area in common surveyor practice.

[~~(6)~~](5)(a) "Planning township" means an area located in a county of the first class that is established before January 1, 2015, as a township as defined in and established in accordance with law before the enactment of Laws of Utah 2015, Chapter 352.

(b) "Planning township" does not include rural real property unless the owner of the rural real property provides written consent in accordance with Section 10-2a-405.

[~~(7)~~](6)(a) "Unincorporated island" means an unincorporated area that is completely surrounded by one or more municipalities.

(b) "Unincorporated island" does not include a planning township.

Section 15. Section 17B-1-414 is amended to read:

17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.

(1)(a) Subject to Subsection (1)(b), the special district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 90 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing.

(b) If the special district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2)(a)(i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection [~~10-2-425(2)~~]10-2-425(3) of a municipal annexation that causes an automatic annexation to a special district under Section 17B-1-416.

(b) For an automatic annexation to a special district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the special district is being automatically annexed to the special district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3)(a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a special district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i)(A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c)(i) The effective date of a special district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a special district may not:

(A) levy or collect a property tax on property within the annexed area;

(B) levy or collect an assessment on property within the annexed area; or

(C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

(A) may not be construed to limit a special district's ability before annexation to charge and collect a fee for service provided to property that is outside the special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the special district's annexation, with respect to a fee that the special district was charging for service provided to property within the annexed area immediately before the area was annexed to the special district.

Section 16. Section 17B-1-512 is amended to read:

17B-1-512. Filing of notice and plat -- Recording requirements -- Contest period -- Judicial review.

(1)(a) Within the time specified in Subsection (1)(b), the board of trustees shall file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The board of trustees shall file the documents listed in Subsection (1)(a):

(i) within 10 days after adopting a resolution approving a withdrawal under Section 17B-1-510;

(ii) on or before January 31 of the year following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between July 1 and December 31; or

(iii) on or before the July 31 following the board of trustees' receipt of a notice or copy described in Subsection (1)(c), if the board of trustees receives the notice or copy between January 1 and June 30.

(c) The board of trustees shall comply with the requirements described in Subsection (1)(b)(ii) or (iii) after:

(i) receiving:

(A) a notice under Subsection [~~10-2-425(2)~~]10-2-425(3) of an automatic withdrawal under Subsection 17B-1-502(2);

(B) a copy of the municipal legislative body's resolution approving an automatic withdrawal under Subsection 17B-1-502(3)(a); or

(C) notice of a withdrawal of a municipality from a special district under Section 17B-1-502; or

(ii) entering into an agreement with a municipality under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b).

(d) Upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5, the board shall:

(i) if the withdrawn area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of withdrawal; and

(III) approved final local entity plat; and

(B) if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b); or

(ii) if the withdrawn area is located within the boundaries of more than a single county, submit:

(A) the original of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and, if applicable, a certified copy of the resolution or notice referred to in Subsection (1)(b) to one of those counties; and

(B) a certified copy of the documents listed in Subsections (1)(d)(i)(A)(I), (II), and (III) and a certified copy of the resolution or notice referred to in Subsection (1)(b) to each other county.

(2)(a) Upon the lieutenant governor's issuance of the certificate of withdrawal under Section 67-1a-6.5 for a withdrawal under Section 17B-1-510, for an automatic withdrawal under Subsection 17B-1-502(3), or for the withdrawal of a municipality from a special district under Section 17B-1-505, the withdrawal shall be effective, subject to the conditions of the withdrawal resolution, if applicable.

(b) An automatic withdrawal under Subsection 17B-1-502(3) shall be effective upon the lieutenant governor's issuance of a certificate of withdrawal under Section 67-1a-6.5.

(3)(a) The special district may provide for the publication of any resolution approving or denying the withdrawal of an area:

(i) in a newspaper of general circulation in the area proposed for withdrawal; and

(ii) as required in Section 45-1-101.

(b) In lieu of publishing the entire resolution, the special district may publish a notice of withdrawal or denial of withdrawal, containing:

(i) the name of the special district;

(ii) a description of the area proposed for withdrawal;

(iii) a brief explanation of the grounds on which the board of trustees determined to approve or deny the withdrawal; and

(iv) the times and place where a copy of the resolution may be examined, which shall be at the place of business of the special district, identified in the notice, during regular business hours of the special district as described in the notice and for a period of at least 30 days after the publication of the notice.

(4) Any sponsor of the petition or receiving entity may contest the board's decision to deny a withdrawal of an area from the special district by submitting a request, within 60 days after the resolution is adopted under Section 17B-1-510, to the board of trustees, suggesting terms or conditions to mitigate or eliminate the conditions upon which the board of trustees based its decision to deny the withdrawal.

(5) Within 60 days after the request under Subsection (4) is submitted to the board of trustees, the board may consider the suggestions for mitigation and adopt a resolution approving or denying the request in the same manner as provided in Section 17B-1-510 with respect to the original resolution denying the withdrawal and file a notice of the action as provided in Subsection (1).

(6)(a) Any person in interest may seek judicial review of:

(i) the board of trustees' decision to withdraw an area from the special district;

(ii) the terms and conditions of a withdrawal; or

(iii) the board's decision to deny a withdrawal.

(b) Judicial review under this Subsection (6) shall be initiated by filing an action in the district court in the county in which a majority of the area proposed to be withdrawn is located:

(i) if the resolution approving or denying the withdrawal is published under Subsection (3), within 60 days after the publication or after the board of trustees' denial of the request under Subsection (5);

(ii) if the resolution is not published pursuant to Subsection (3), within 60 days after the resolution approving or denying the withdrawal is adopted; or

(iii) if a request is submitted to the board of trustees of a special district under Subsection (4),

and the board adopts a resolution under Subsection (5), within 60 days after the board adopts a resolution under Subsection (5) unless the resolution is published under Subsection (3), in which event the action shall be filed within 60 days after the publication.

(c) A court in which an action is filed under this Subsection (6) may not overturn, in whole or in part, the board of trustees' decision to approve or reject the withdrawal unless:

(i) the court finds the board of trustees' decision to be arbitrary or capricious; or

(ii) the court finds that the board materially failed to follow the procedures set forth in this part.

(d) A court may award costs and expenses of an action under this section, including reasonable attorney fees, to the prevailing party.

(7) After the applicable contest period under Subsection (4) or (6), no person may contest the board of trustees' approval or denial of withdrawal for any cause.

Section 17. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Notwithstanding any other provision of law regarding the membership of a special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2)(a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (2)(b), a member of that municipality's governing body;

(ii) one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members is not required to be an odd number.

(b) A member described in Subsection (2)(a)(i) shall be:

(i) for a municipality other than a metro township, designated by the municipal legislative body; and

(ii) for a metro township, the mayor of the metro township or, during any period of time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro township council elects in accordance with Subsection 10-3b-503(4).

(3)(a) As used in this Subsection (3):

(i) "District participant" means:

(A) the county that created a municipal services district under Section 17B-2a-1105; or

(B) a municipality that is part of the municipal services district.

(ii) "Proportionate amount" means, for each district participant, the amount that is attributable to the district participant in proportion to the total amount attributable to all district participants.

(iii) "Trigger date" means the earliest of:

(A) the effective date of an annexation of an unincorporated island, as defined in Section 10-2-429, that occurs under Title 10, Chapter 2, Part 4, Annexation, excluding an automatic annexation under Section 10-2-429;

(B) the effective date of an incorporation of a community council area, as defined in Section 10-2a-102; and

(C) the effective date of an automatic annexation under Section 10-2-429.

(b) For a board of trustees described in Subsection (2), each board member's vote is weighted:

(i) until the trigger date, using the proportion of the municipal services district population that resides:

[~~(a)~~](A) for each member described in Subsection (2)(a)(i), within that member's municipality; and

[~~(b)~~](B) for the member described in Subsection (2)(a)(ii), within the unincorporated county[~~.~~]; and

(ii) beginning the trigger date:

(A) 60% according to the proportionate amount of the combined total of sales tax revenue and revenue for B and C roads under Section 72-2-108;

(B) 30% according to the proportionate amount of weighted mileage, as defined in Section 72-2-108; and

(C) 10% according to the proportionate amount of population.

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 18. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates: Title 10.

(1) On January 1, 2025, Section 10-9a-604.9 is repealed.

(2) On July 1, 2028:

(a) Subsection 10-2a-205(2)(b)(iii) is repealed; and

(b) Section 10-2a-205.5 is repealed.

Section 19. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 10-2-425 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 343
H. B. 333
Passed February 7, 2024
Approved March 18, 2024
Effective May 1, 2024

FIREWORKS MODIFICATIONS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to fireworks.

Highlighted Provisions:

This bill:

- modifies the classification of explosives;
- provides that fire districts may issue permits to discharge fireworks; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-3-3.5, as last amended by Laws of Utah 2010, Chapter 61
15A-5-303, as enacted by Laws of Utah 2011, Chapter 14
53-7-202, as last amended by Laws of Utah 2015, Chapter 448
53-7-221, as last amended by Laws of Utah 2023, Chapter 34
53-7-222, as last amended by Laws of Utah 2011, Chapter 13 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 13
53-7-226, as last amended by Laws of Utah 2007, Chapter 322
76-10-306, as last amended by Laws of Utah 2010, Chapter 61

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

Section 1. Section 11-3-3.5 is amended to read:

11-3-3.5. Licensing of retail sellers of fireworks -- Permit required -- Fee, insurance, or bond.

(1)(a) A municipality or county may require a retail seller to obtain a license and pay a reasonable fee before selling [~~class C~~]a division 1.4G common state-approved [~~explosives~~]explosive, as defined in Section 53-7-202, within the jurisdiction of that municipality or county.

(b) A municipality or county may not restrict the number of licenses to be issued under this section.

(2)(a) A municipality[~~-or~~], county, or fire district shall require:

(i) a permit to discharge all display fireworks, special effects, and flame effects performances; and

(ii) evidence that the display operator, special effects operator, or flame effects operator who will set up and discharge the display has received a license from the State Fire Marshal Division, Department of Public Safety.

(b) A municipality[~~-or~~], county, or fire district may require a fee, insurance, or a bond before issuing a permit under this Subsection (2).

Section 2. Section 15A-5-303 is amended to read:

15A-5-303. Amendments and additions to NFPA related to manufacture, transportation, storage, and retail sales of fireworks.

(1) For purposes of this section and subject to Subsection (2), the Utah Fire Prevention Board shall adopt standards by rule for the retail sales of consumer fireworks, and in doing so, shall consider the applicable provisions of the 2013 edition of NFPA 1124, Chapter 7, Retail Sales of Consumer Fireworks.

(2) NFPA 1124 Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles:

(a) In NFPA 1124, Chapter 7, Section 7.2, Special Limits for Retail Sales of Consumer Fireworks, Subsection 7.2.8 is added as follows: "Display of [~~Class C~~]division 1.4G common state approved explosives inside of buildings protected throughout with an automatic fire sprinkler system shall not exceed 25% of the area of the retail sales floor or exceed 600 square feet, whichever is less."

(b) In NFPA 1124, Chapter 7, Section 7.2, Special Limits for Retail Sales of Consumer Fireworks, Subsection 7.2.9 is added as follows: "Rack storage of [~~Class C~~]division 1.4G common state approved explosives inside of buildings is prohibited."

(c) NFPA 1124, Chapter 7, Section 7.3.1, Exempt Amounts, Subsection 7.3.1.1, is deleted and rewritten as follows: "Display of [~~Class C~~]division 1.4G common state approved explosives inside of buildings not protected with an automatic fire sprinkler system shall not exceed 125 pounds of pyrotechnic composition."

(d) NFPA 1124, Chapter 7, Section 7.3.15.2, Height of Sales Displays, Subsection 7.3.15.2.2, is amended as follows: On line three delete "12 ft. (3.66m)" and replace it with "6 ft.".

Section 3. Section 53-7-202 is amended to read:

53-7-202. Definitions.

As used in this part:

(1) "Agricultural and wildlife fireworks" means a [~~class C~~]division 1.4G dangerous explosive that:

(a) uses sound or light when deployed; and

(b) is designated to prevent crop damage or unwanted animals from entering a specified area.

[~~(2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.~~]

[~~(3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.~~]

[~~(4) "Class C explosive" means a division 1.4G explosive as defined by the United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.~~]

[~~(5) "Class C common state approved explosive" means a firework that:~~]

[~~(a) is purchased at retail for use by a consumer; and~~]

[~~(b) is not a Class C dangerous explosive.~~]

[~~(6)(a) "Class C dangerous explosive" means a class C explosive that is:~~]

[~~(i) a firecracker, cannon cracker, ground salute, M- 80, cherry bomb, or other similar explosive;~~]

[~~(ii)(A) a skyrocket;~~]

[~~(B) a missile type rocket;~~]

[~~(C) a single shot, or reloadable aerial shell; or~~]

[~~(D) a rocket similar to one described in Subsections (6)(a)(ii)(A) through (C), including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or~~]

[~~(iii)(A) a bottle rocket;~~]

[~~(B) a roman candle;~~]

[~~(C) a rocket mounted on a wire or stick; or~~]

[~~(D) a device containing a rocket described in this Subsection (6)(a)(iii).~~]

[~~(b) A "class C dangerous explosive" does not mean exempt explosives.~~]

[~~(7)~~](2) "Commercial cooking appliance fire suppression system":

(a) means an automatic or manual fire protection system designed for commercial cooking appliances, exhaust hoods, and ducts; and

(b) includes a commercial kitchen exhaust system attached to a fire suppression system that is designed to remove smoke, soot, toxic gases, and grease- laden vapor resulting from cooking operations.

[~~(8)~~](3)(a) "Display fireworks" means large firework devices that consist of explosive materials that are intended for use in outdoor aerial fireworks displays to produce visible or audible effects by combustion, deflagration, or detonation.

(b) "Display fireworks" includes aerial shells, salutes, roman candles, flash shells, comets, mines, and other similar explosives.

[~~(9)~~](4)(a) "Display operator" means a person licensed under Section 53- 7- 223 and who is responsible for site selection, setting up, permits, overseeing assistants and support personnel, and discharging display fireworks outdoors in situations where the audience maintains a specific distance separating it from the display fireworks being discharged.

(b) "Display operator" does not mean a fire department.

(5) "Division 1.4G common state approved explosive" means a firework that:

(a) is purchased at retail for use by a consumer; and

(b) is not a division 1.4G dangerous explosive.

(6)(a) "Division 1.4G dangerous explosive" means a division 1.4G explosive that is:

(i) a firecracker, cannon cracker, ground salute, M- 80, cherry bomb, or other similar explosive;

(ii)(A) a skyrocket;

(B) a missile type rocket;

(C) a single shot or reloadable aerial shell; or

(D) a rocket similar to an item described in Subsection (6)(a)(ii)(A), (B), or (C), including an aerial salute, a flash shell, a comet, a mine, or a cake containing more than 500 grams of pyrotechnic composition; or

(iii)(A) a bottle rocket;

(B) a roman candle;

(C) a rocket mounted on a wire or stick; or

(D) a device containing a rocket described in this Subsection (6)(a)(iii).

(b) "Division 1.4G dangerous explosive" does not mean an exempt explosive.

(7) "Division 1.1G explosive" means an explosive described in 49 C.F.R. Sec. 173.50 (b)(1).

(8) "Division 1.2G explosive" means an explosive described in 49 C.F.R. Sec. 173.50 (b)(2).

(9) "Division 1.3G explosive" means an explosive described in 49 C.F.R. Sec. 173.50(b)(3).

(10) "Division 1.4G explosive" means an explosive described in 49 C.F.R. Sec. 173.50 (b)(4).

[~~(10)~~](11) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12 inches in length.

[~~(11)~~](12) "Fire executive" means a fire chief, deputy fire chief, or other active member of a fire department or fire district who has been appointed by the elected officials of a municipality or county, by a fire district board, or by an established procedure within a volunteer fire service organization, to officially represent a fire department.

[~~(12)~~](13) "Fire extinguisher" means a portable or stationary device that discharges water, foam, gas, or other material to extinguish a fire.

[~~(13)~~](14) "Fire suppression system" means an automatic fire protection system that automatically detects fire and discharges a fire extinguishing agent onto or in the area of the fire.

[~~(14)~~](15)(a) "Fireworks" means:

(i) [~~class C explosives~~]a division 1.4G explosive;

(ii) [~~class C dangerous explosives~~]a division 1.4G dangerous explosive; and

(iii) [~~class C~~]a division 1.4G common state approved [~~explosives~~]explosive.

(b) "Fireworks" does not mean:

(i) an exempt [~~explosives~~]explosive; or[~~;~~]

(ii) [~~class A explosives; or~~]a division 1.1G explosive, a division 1.12 explosive, or a division 1.3G explosive.

[~~(iii) class B explosives.~~]

[~~(15)~~](16) "Flame effects" means the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience.

[~~(16)~~](17)(a) "Flame effects operator" means a person licensed under Section 53-7-223 who, regarding flame effects, is responsible for:

(i) storage, setup, operations, teardown, devices, equipment, overseeing assistants and support personnel, and preventing accidental discharge; and

(ii) completion of the sequence of control system functions that release the fuel for ignition to cause combustion and create the flame effects.

(b)(i) "Flame effects operator" does not include a person who participates in a meeting, as limited under Subsection (16)(b)(ii), with other persons solely to receive training, to practice, or provide instruction regarding flame effects performance.

(ii) A meeting under Subsection (16)(b)(i) may include a nonpaying and unsolicited audience of not more than 25 persons.

[~~(17)~~](18) "Importer" means a person who brings [~~class B or class C~~]division 1.2G explosives, division 1.3G explosives, or division 1.4G explosives into [~~Utah~~]the state for the general purpose of:

(a) resale or use within the state; or

(b) exportation to other states.

[~~(18)~~](19)(a) "Pyrotechnic" means any composition or device manufactured or used to produce a visible or audible effect by combustion, deflagration, or detonation.

(b) "Pyrotechnic" does not mean exempt explosives.

[~~(19)~~](20) "Retail seller" means a person who sells [~~class C~~]division 1.4G common state approved explosives to the public during the period authorized under Section 53-7-225.

[~~(20)~~](21) "Service" means the inspection, maintenance, repair, modification, testing, or cleaning of an automatic fire suppression system.

[~~(21)~~](22) "Special effects" means a visual or audible effect caused by chemical mixtures that produce a controlled, self-sustaining, and self-controlled exothermic chemical reaction that results in heat, gas, sound, or light and may also create an illusion.

[~~(22)~~](23) "Special effects operator" means a person licensed under Section 53-7-223 who is responsible for setting up, permits, overseeing assistants and support personnel, analyzing potential hazards, setting clearances, and discharging pyrotechnic devices, either indoor or outdoor, where the audience is allowed to be in closer proximity to the pyrotechnic devices than the audience separation distance generally required for display fireworks.

[~~(23)~~](24) "Trick noisemaker" includes a:

(a) tube or sphere containing pyrotechnic composition that produces a white or colored smoke as its primary effect when ignited; and

(b) device that produces a small report intended to surprise the user, including a:

(i) "booby trap," which is a small tube with a string protruding from both ends that ignites the friction sensitive composition in the tube when the string is pulled;

(ii) "snapper," which is a small paper-wrapped device containing a minute quantity of explosive composition coated on bits of sand that explodes producing a small report;

(iii) "trick match," which is a kitchen or book match coated with a small quantity of explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

(iv) "cigarette load," which is a small wooden peg coated with a small quantity of explosive composition that produces a small report when ignited; and

(v) "auto burglar alarm," which is a tube that:

(A) contains pyrotechnic composition that produces a loud whistle and smoke when ignited;

(B) may contain a small quantity of explosive to produce a small explosive noise; and

(C) is ignited by a squib.

[~~(24)~~](25) "Unclassified fireworks" means:

(a) a pyrotechnic device that is used, given away, or offered for sale, that has not been tested, approved, and classified by the United States Department of Transportation;

(b) an approved device that has been altered or redesigned since obtaining approval by the United States Department of Transportation; and

(c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler before

receiving approval by the United States Department of Transportation.

[~~(25)~~](26) "Wholesaler" means:

(a) a person who sells [~~class C~~]division 1.4G common state approved explosives to a retailer; or

(b) a person who sells [~~class B explosives or class C dangerous~~]division 1.2G explosives, division 1.3G explosives, or division 1.4G explosives for display use.

Section 4. Section 53-7-221 is amended to read:

53-7-221. Exceptions from Utah Fireworks Act.

(1) Sections 53-7-220 through 53-7-225 do not apply to [~~class A, class B, and class C explosives that are~~]a division 1.1G explosive, a division 1.2G explosive, a division 1.3G explosive, or a division 1.4G explosive that is not for use in [~~Utah~~]the state, but [~~are~~]is manufactured, stored, warehoused, or in transit for destinations outside of [~~Utah~~]the state.

(2) Sections 53-7-220 through 53-7-225 do not supersede Section 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Section 53-7-225 does not supersede Section 65A-8-212 regarding the authority of the state forester to close hazardous areas.

Section 5. Section 53-7-222 is amended to read:

53-7-222. Restrictions on the sale or use of fireworks.

(1)(a) Except as provided in Subsection (1)(b), [~~class C dangerous explosives~~]a division 1.4G dangerous explosive may not be possessed, discharged, sold, or offered for retail sale.

(b)(i) The following persons may purchase, possess, or discharge [~~class C dangerous explosives~~]a division 1.4G dangerous explosive:

(A) display operators and special effects operators who receive a license from the division in accordance with Section 53-7-223 and approval from their local licensing authority in accordance with Section 11-3-3.5; and

(B) operators approved by the Division of Wildlife Resources or Department of Agriculture and Food to discharge agricultural and wildlife fireworks.

(ii) Importers and wholesalers licensed under Section 53-7-224 may possess, sell, and offer to sell [~~class C~~]division 1.4G dangerous explosives.

(2) Unclassified fireworks may not be sold, or offered for sale.

Section 6. Section 53-7-226 is amended to read:

53-7-226. Violations -- Misdemeanor.

A person is guilty of a class B misdemeanor if he:

(1) violates this part;

(2) violates any order made under this part;

(3) produces, reproduces, or uses the official seal of registration of the division in any manner or for any purpose inconsistent with the designated purpose of the seal;

(4) removes, uses, or damages service tags or other labels or markings in a manner inconsistent with the designated use of the service tag;

(5) engages in the sale, storage, or handling of [~~class C fireworks~~]division 1.4G common state approved explosives without a permit where a local government requires a permit;

(6) sells at retail, transports, possesses, or discharges [~~class C~~]division 1.4G dangerous explosives[~~ as defined in Section 53-7-202~~];

(7) performs or intends to perform services or induces the public to enter into any obligation relating to the performance of those services that are untrue, misleading, or reasonably known to be untrue or misleading; or

(8) builds in violation of the division's plan review or written instructions conducted on building specifications, building plans, or amendments of those specifications or plans as required under this part.

Section 7. Section 76-10-306 is amended to read:

76-10-306. Explosive, chemical, or incendiary device and parts -- Definitions -- Persons exempted -- Penalties.

(1) As used in this section:

(a) "Explosive, chemical, or incendiary device" means:

(i) dynamite and all other forms of high explosives, including water gel, slurry, military C-4 (plastic explosives), blasting agents to include nitro-carbon-nitrate, ammonium nitrate, fuel oil mixtures, cast primers and boosters, R.D.X., P.E.T.N., electric and nonelectric blasting caps, exploding cords commonly called detonating cord, detcord, or primacord, picric acid explosives, T.N.T. and T.N.T. mixtures, nitroglycerin and nitroglycerin mixtures, or any other chemical mixture intended to explode with fire or force;

(ii) any explosive bomb, grenade, missile, or similar device; and

(iii) any incendiary bomb, grenade, fire bomb, chemical bomb, or similar device, including any device, except kerosene lamps, if criminal intent has not been established, which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting the flammable liquid or compound or any breakable container which consists of, or includes a chemical mixture that explodes with fire or force and can be carried, thrown, or placed.

(b) "Explosive, chemical, or incendiary device" does not include rifle, pistol, or shotgun ammunition, reloading components, or muzzleloading equipment.

(c) "Explosive, chemical, or incendiary parts" means any substances or materials or combinations which have been prepared or altered for use in the creation of an explosive, chemical, or incendiary device. These substances or materials include:

(i) timing device, clock, or watch which has been altered in such a manner as to be used as the arming device in an explosive;

(ii) pipe, end caps, or metal tubing which has been prepared for a pipe bomb; and

(iii) mechanical timers, mechanical triggers, chemical time delays, electronic time delays, or commercially made or improvised items which, when used singly or in combination, may be used in the construction of a timing delay mechanism, booby trap, or activating mechanism for any explosive, chemical, or incendiary device.

(d) "Explosive, chemical, or incendiary parts" does not include rifle, pistol, or shotgun ammunition, or any signaling device customarily used in operation of railroad equipment.

(2) The provisions in Subsections (3) and (6) do not apply to:

(a) any public safety officer while acting in an official capacity transporting or otherwise handling explosives, chemical, or incendiary devices;

(b) any member of the armed forces of the United States or Utah National Guard while acting in an official capacity;

(c) any person possessing a valid permit issued under the provisions of [~~Uniform Fire Code, Article 77~~]the International Fire Code, Section 105 and Chapter 56, or any employee of the permittee acting within the scope of employment;

(d) any person possessing a valid license as an importer, wholesaler, display operator, special effects operator, or flame effects operator under the provisions of Sections 11-3-3.5 and 53-7-223; and

(e) any person or entity possessing or controlling an explosive, chemical, or incendiary device as part of its lawful business operations.

(3) Any person is guilty of a second degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses or controls an explosive, chemical, or incendiary device.

(4) Any person is guilty of a first degree felony who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly or intentionally:

(a) uses or causes to be used an explosive, chemical, or incendiary device in the commission of or an attempt to commit a felony;

(b) injures another or attempts to injure another person or another person's property through the use of an explosive, chemical, or incendiary device; or

(c) transports, possesses, distributes, or sells any explosive, chemical, or incendiary device in a secure area established pursuant to Section 76-8-311.1, 76-8-311.3, 76-10-529, or 78A-2-203.

(5) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly removes or causes to be removed or carries away any explosive, chemical, or incendiary device from the premises where the explosive, chemical, or incendiary device is kept by the lawful user, vendor, transporter, or manufacturer without the consent or direction of the lawful possessor is guilty of a second degree felony.

(6) Any person who, under circumstances not amounting to a violation of Part 4, Weapons of Mass Destruction, knowingly, intentionally, or recklessly possesses any explosive, chemical, or incendiary parts is guilty of a third degree felony.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 344
H. B. 376
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

JAIL PHOTO AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions relating to the disclosure of an image taken during the process of booking an individual into jail.

Highlighted Provisions:

This bill:

- permits an alleged victim of a crime, or their representative in certain cases, to view a booking photo of a person who has been charged with a crime in relation to that victim; and
- modifies relevant provisions in the Government Records Management and Access Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-30, as last amended by Laws of Utah 2022, Chapter 415
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329

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

Section 1. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Victim access -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2)(a) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

[~~(a)~~](i) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website; or

[~~(b)~~](ii) the booking photograph is a protected record under Subsection 63G-2-305(81).

(b)(i) A sheriff shall display a copy of a booking photograph to a person requesting to view the booking photograph if the person making the request:

(A)(I) is an alleged victim of a crime that resulted in the creation of the booking photograph; and

(II) subject to Utah Rules of Evidence, Rule 617, the prosecuting agency with jurisdiction consents; or

(B) if an alleged victim is deceased or incapacitated, is an immediate family member, guardian, or conservator of an alleged victim of the crime that resulted in the creation of the booking photograph.

(ii) A person entitled to view a booking photograph under Subsection (2)(b)(i) is not permitted to:

(A) retain the booking photograph;

(B) make a copy, take a picture of, or otherwise reproduce the booking photograph; or

(C) disseminate or distribute the booking photograph.

(3)(a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4)(a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5)(a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 2. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under

consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or

any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human

service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;[~~or~~]

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; and

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 345
H. B. 378
Passed February 28, 2024
Approved March 18, 2024
Effective July 1, 2024

FIRST RESPONDER MENTAL HEALTH SERVICES AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill concerns mental health services for first responders.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- requires the Department of Public Safety (department) to take certain actions regarding critical incident stress management services for employees or volunteers of a first responder agency, including providing an annual training for volunteers;
- broadens the scope of individuals who are considered to be eligible for certain mental health resources;
- clarifies that certain individuals remain eligible for mental health resources despite subsequent employment as a non-first responder;
- requires first responder agencies to:
  - provide certain information concerning mental health resources to employed first responders; and
  - designate a mental health resources liaison and inform the department of the identity of the liaison;
- allows the department to:
  - assist a first responder agency in drafting a grant application seeking mental health resources; and
  - provide certain mental health resources to certain first responder agencies;
- requires the department to:
  - inform first responder agencies of certain mental health resources information;
  - post on the department's website certain information concerning mental health resources for first responders;
  - receive complaints and investigate a denial of mental health resources to an individual by a first responder agency; and
  - report an uncured denial of mental health resources to an eligible individual to specified individuals;
- requires the State Commission on Criminal and Juvenile Justice (commission) to receive and evaluate a referral from the department involving a denial of mental health resources to an eligible individual;
- allows the commission to, in the commission's discretion, refuse to award a grant of state funds to an entity for a specified period of time due to the entity's improper denial of mental health resources to an eligible individual; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-2d-206, as last amended by Laws of Utah 2023, Chapters 19, 327 and renumbered and amended by Laws of Utah 2023, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 307, 327
53-21-101, as last amended by Laws of Utah 2023, Chapters 16, 19, 310, and 328
53-21-102, as last amended by Laws of Utah 2023, Chapter 19
53-21-103, as last amended by Laws of Utah 2023, Chapter 19
63M-7-204, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500
63M-7-218, as last amended by Laws of Utah 2023, Chapters 158, 161 and 382

ENACTS:

53-21-104.1, Utah Code Annotated 1953
53-21-104.3, Utah Code Annotated 1953

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

Section 1. Section 53-2d-206 is amended to read:

53-2d-206. Personnel critical incident stress management program.

(1) The bureau shall [~~develop and implement~~]facilitate a statewide program to provide support and counseling for personnel who have been exposed to one or more stressful incidents in the course of providing emergency services.

(2) [~~This~~]The critical incident stress management program shall include:

(a) ongoing training for agencies providing emergency services and counseling program volunteers;

(b) critical incident stress debriefing for personnel at no cost to the emergency provider; and

(c) advising the department on training requirements for licensure as a behavioral emergency services technician.

(3)(a) The department shall annually provide informational resources to first responder agencies about the critical incident stress management program in a format that will ensure that the first responder agency receives the information.

(b) The informational resources described in Subsection (3)(a) shall include educational resources about the critical incident stress management program directed to:

(i) the first responder agency administration; and

(ii) the employees or volunteers of the first responder agency.

[~~(3)~~](4)(a) The department shall receive, process, and reimburse reasonable actual expenses,

including mileage, incurred by a volunteer during the course of [~~the~~]a volunteer's provision of critical incident stress management services under this section.

(b) The department shall, on the department's website, provide information concerning:

(i) the expenses that are eligible for reimbursement for a critical incident stress management program volunteer under Subsection (4)(a); and

(ii) instructions on how a critical incident stress management volunteer may submit a request for reimbursement under Subsection (4)(a).

(5)(a) The department shall, in collaboration with current critical incident stress management program volunteers, organize and provide an annual training for critical incident stress management program volunteers.

(b) For the training described in Subsection (5)(a), the department shall:

(i) pay for or reimburse reasonable actual expenses for a critical incident stress management program volunteer who attends the training;

(ii) collaborate with existing critical incident stress management program volunteers to determine a location for the training; and

(iii) provide information on the department's website about the training.

Section 2. Section 53-21-101 is amended to read:

53-21-101. Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

[~~(2) "Department" means the Department of Public Safety.~~]

(2) "Designated mental health resources liaison" means a non-leadership human resources or other administrative employee designated by a first responder agency who receives and processes a request for mental health resources on behalf of the first responder agency under this chapter.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 53-2e-101;

(c) an advanced emergency medical technician, as defined in Section 53-2e-101;

(d) a paramedic, as defined in Section 53-2e-101;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a forensic interviewer or victim advocate employed by a children's justice center established in accordance with Section 67-5b-102;

(k) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(l) a crime scene investigator technician;

(m) a wildland firefighter[~~.~~];[~~ or~~]

(n) an investigator or prosecutor of cases involving sexual crimes against children[~~.~~]; or

(o) a civilian employee of a first responder agency who has been authorized to view or otherwise access information concerning crimes, accidents, or other traumatic events.

(4) "First responder agency" means:

(a) a special district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services[~~.~~]; or

(b) a certified private law enforcement agency as defined in Section 53-19-102.

(5)(a) "Mental health resources" means:

[~~(a)~~](i) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

[~~(b)~~](ii) outpatient mental health treatment provided by a mental health therapist; or

[~~(c)~~](iii) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 26B-5-102(2)(h).

(b) "Mental health resources" includes, at a minimum, the following services:

(i) regular periodic screenings for all employees within the first responder agency;

(ii) assessments and availability to mental health services for personnel directly involved in a critical incident within 48 hours of the incident; and

(iii) regular and continuing access to the mental health program for:

(A) spouses and children of first responders;

(B) first responders who have retired or separated from the agency; and

(C) spouses of first responders who have retired or separated from the agency.

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

(8) "Retired" means the status of an individual who has become eligible, applies for, and may receive an allowance under Title 49, Utah State Retirement and Insurance Benefit Act.

(9) "Separated" means the status of an individual who has separated from employment as a first responder from a first responder agency as a result of a critical incident involving the first responder.

(10) "Small first responder agency" means a first responder agency that:

(a) has 10 or fewer employees;

(b) is primarily staffed by volunteers; or

(c) is located in:

(i) a county of the third, fourth, fifth, or sixth class;

(ii) a city of the third, fourth, fifth, or sixth class; or

(iii) a town.

Section 3. Section 53-21-102 is amended to read:

53-21-102. Mental health services -- Requirement to provide -- Eligibility -- Confidentiality -- Requests -- Reporting noncompliance -- Designation.

(1) Every first responder agency within the state shall provide or make available mental health resources to:

(a) all first responders;

(b) the spouse and children of first responders;

(c) surviving spouses of first responders whose death is classified as a line-of-duty death under Title 49, Utah State Retirement and Insurance Benefit Act;

(d) retired or separated first responders for at least three years from the date that the retired or separated first responder requests mental health resources, regardless of any subsequent employment as a non-first responder; and

(e) spouses of retired or separated first responders for [~~a~~]at least three years from the date that the spouse of the retired or separated first responder requests mental health resources, regardless of any subsequent employment as a non-first responder.

(2) All access by first responders and their families to mental health resources shall be kept confidential.

(3) A first responder agency shall:

(a) annually provide information to all employed first responders regarding:

(i) the availability of mental health resources under this section, including:

(A) for individuals in addition to the first responders as described in Subsection (1); and

(B) subsequent to a separation or retirement;

(ii) how to access the mental health resources under this section; and

(iii) directions on how to appeal a denial of mental health resources under this section to the department, as provided under Section 53-21-104.3; and

(b)(i) assign a designated mental health resources liaison;

(ii) inform the department of the identity of the designated mental health resources liaison; and

(iii) update the department as to the identity of the designated mental health resources liaison when a new individual is assigned.

Section 4. Section 53-21-103 is amended to read:

53-21-103. Grants to first responder agencies -- Rulemaking.

(1) The department may award grants to first responder agencies to provide mental health resources in response to a:

(a) request for proposal;

(b) request for qualifications; or

(c) program description that meets the criteria in Subsection (2).

(2) The request for proposal, request for qualifications, or program description received by the department shall require mental health providers contracted or employed by the first responder agency to have training and experience in working with first responders and provide[~~, at a minimum, the following services:~~] mental health resources.

[~~(a) regular periodic screenings for all employees within the first responder agency;~~]

[~~(b) assessments and availability to mental health services for personnel directly involved in a critical incident within 12 hours of the incident; and~~]

[~~(c) regular and continuing access to the mental health program for:~~]

[~~(i) spouses and children of first responders;~~]

[~~(ii) first responders who have retired or separated from the agency; and~~]

[~~(iii) spouses of first responders who have retired or separated from the agency.~~]

(3) An application from a first responder agency for a grant under this chapter shall provide the following details:

(a) a proposed plan to provide mental health resources to first responders in the first responder agency;

(b) the number of first responders to be served by the proposed plan;

(c) how the proposed plan will ensure timely and effective provision of mental health resources to first responders in the first responder agency;

(d) the cost of the proposed plan; and

(e) the sustainability of the proposed plan.

(4) In evaluating a project proposal for a grant under this section, the department shall consider:

(a) the extent to which the first responders that will be served by the proposed plan are likely to benefit from the proposed plan;

(b) the cost of the proposed plan; and

(c) the viability of the proposed plan.

(5) A first responder agency may not apply for a grant to fund a program already in place. However, a request for proposal to fund an expansion of an already existing program shall, in addition to the requirements of Subsection (4), provide:

(a) the scope and cost of the agency's current program;

(b) the number of additional first responders the expansion will serve; and

(c) whether the expansion will provide [~~services under Subsection (2)~~]mental health resources that the current program does not provide.

(6) The department shall prioritize grant funding for[~~:~~] small first responder agencies, and may also take into account whether the small first responder agency is or will participate in the department-provided services described in Section 53-21-104.1.

[~~(a) counties of the 3rd, 4th, 5th, and 6th class;~~]

[~~(b) cities of the 3rd, 4th, and 5th class; and~~]

[~~(c) towns.~~]

(7) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer this chapter.

(8) The department shall:

(a) notify entities that may be eligible for a grant under this section about the grant program; and

(b) on or before October 1, [~~2023~~]2024, and October 1, 2025, provide a report to the Law Enforcement and Criminal Justice Interim Committee that describes:

(i) the number of entities that have been notified by the department about the grant program under this section; and

(ii) the number of grant applications that the department has received.

(9) The department may assist a first responder agency in drafting a grant application under this section.

(10) The department may use up to 25% of the remaining grant funds under this section to provide the mental health resources described in Section 53-21-104.1.

Section 5. Section 53-21-104.1 is enacted to read:

53-21-104.1. Department may provide certain mental health resources -- Requirements.

(1)(a) In accordance with Subsection (4), the department may, at the department's discretion, provide certain mental health resources to a small first responder agency.

(b) The mental health resources described in Subsection (1)(a) may include an assessment and availability to mental health services for personnel directly involved in a critical incident within 48 hours of the incident.

(2) The department may use a contracted provider to provide the services described in Subsection (1).

(3) If a small first responder agency elects to receive mental health services as provided under this section, the small first responder agency shall designate a representative of the small first responder agency who is responsible for providing a timely notification to the department or the department's designee if a critical incident occurs as described in Subsection (1)(b).

(4) As provided in Subsection 53-21-103(10), the department may use up to 25% of the remaining grant funds for the mental health resources described in this section, and may discontinue the mental health resources once the available grant funding is depleted.

Section 6. Section 53-21-104.3 is enacted to read:

53-21-104.3. Education -- Complaints -- Investigations.

(1) On or before September 1, 2024, the department shall inform all first responder agencies in the state of the requirements described in Section 53-21-102.

(2) In addition to the notification required under Subsection (1), the department shall, on the department's website, provide information describing:

(a) an individual's eligibility for mental health resources under Section 53-21-102;

(b) the statutory definition for mental health resources provided in Section 53-21-101;

(c) the designated mental health resources liaison for each first responder agency as described in Subsection 53-21-102(3)(b); and

(d) how to appeal a denial of mental health resources to the department.

(3)(a) The department shall investigate a denial of mental health resources that is received under Subsection (2)(d) to determine whether the denial was in violation of this chapter.

(b) If, after an investigation, the department determines that a first responder agency

improperly denied mental health resources in violation of this chapter, the department shall notify the first responder agency and provide 60 days for the first responder agency to correct the improper denial.

(c) The department shall determine whether a first responder agency has cured the violation within the time described in Subsection (3)(b) and, if the first responder agency has not, the department shall send a letter within a reasonable time identifying the first responder agency and the relevant details of the department's investigation to:

(i) the commissioner;

(ii) the chairs of the Law Enforcement and Criminal Justice Interim Committee; and

(iii) the director of the State Commission on Criminal and Juvenile Justice, who shall refer the matter for investigation under Section 63M-7-204 and may restrict state grant money under Section 63M-7-218.

Section 7. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency

Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees[.]; [~~and~~]

(z) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-23-101;

(ii) Section 53-24-102; and

(iii) Section 53-26-101; and

(aa) receive and evaluate a referral from the Department of Public Safety received under Section 53-21-104.3 involving a denial of mental health resources to an eligible individual, including, if appropriate in the commission's discretion, deny the relevant entity from receiving any grant of state funds under Section 63M-7-218 for a specified period of time.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 8. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

(1) Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through (r).

(2) Beginning July 1, 2025, the commission may not award any grant of state funds to an entity subject to the requirements under Sections 53-21-102 and 53-21-104.3, if the commission has determined under Subsection 63M-7-204(1)(aa) that the entity is currently not eligible to receive state grant funds under this section.

Section 9. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 346
H. B. 345
Passed February 28, 2024
Approved March 18, 2024
Effective May 1, 2024

DRIVING PENALTY AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill increases fines and penalties for speeding in a school zone and failure to obey school bus signals.

Highlighted Provisions:

This bill:

- increases fines for speeding in a school zone;
- increases fines for failure to obey school bus signals; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-604, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-6a-1302, as last amended by Laws of Utah 2020, Chapter 55

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

Section 1. Section 41-6a-604 is amended to read:

41-6a-604. Maximum speed in a school zone -- Penalty -- Minimum fines -- Compensatory service -- Waiver -- Recordkeeping.

(1) A person may not operate a vehicle at a speed greater than 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303.

(2)(a) A violation of Subsection (1) is a class C misdemeanor and the minimum fine:

(i) for a first offense shall be calculated according to the following schedule:

Vehicle Speed	Minimum Fine
21 - 29 MPH	$ 50
30 - 39 MPH	$ 125
40 MPH and greater	$ 275

(ii) for a second and subsequent offense within three years of a previous conviction or bail forfeiture shall be calculated according to the following schedule:

Vehicle Speed	Minimum Fine
21 - 29 MPH	$ 50
30 - 39 MPH	$ 225
40 MPH and greater	$ 525

(b)(i) Except as provided under Subsection (2)(a)(ii), the court may order the person to perform compensatory service in lieu of the fine or any portion of the fine.

(ii) The court shall order the person to perform compensatory service observing a crossing guard if the conviction is for a:

(A) first offense with a vehicle speed of 30 miles per hour or more; or

(B) second and subsequent offense within three years of a previous conviction or bail forfeiture.

(iii) The court may waive the compensatory service required under Subsection (2)(b)(ii) if the court makes the reasons for the waiver part of the record.

(3) The Driver License Division shall develop and implement a record system to distinguish:

(a) a conviction or bail forfeiture under this section from other convictions; and

(b) between a first and subsequent conviction or bail forfeiture under this section.

(4) The provisions of this section take precedence over the provisions of Sections 41-6a-601, 41-6a-602, 41-6a-603, and 76-3-301.

Section 2. Section 41-6a-1302 is amended to read:

41-6a-1302. School bus -- Signs and light signals -- Flashing amber lights -- Flashing red lights -- Passing school bus -- Duty to stop -- Travel in opposite direction -- Penalties.

(1) A school bus, when operated for the transportation of school children, shall:

(a) bear on the front and rear of the bus a plainly visible sign containing the words “school bus” in letters not less than eight inches in height, which shall be removed or covered when the vehicle is not in use for the transportation of school children; and

(b) be equipped with alternating flashing amber and red light signals visible from the front and rear, of a type approved and mounted as required under Section 41-6a-1301 and prescribed by the department under Section 41-6a-1601.

(2) The operator of a vehicle on a highway, upon meeting or overtaking a school bus equipped with signals required under this section which is displaying alternating flashing:

(a) amber warning light signals, shall slow the vehicle, but may proceed past the school bus using due care and caution at a speed not greater than specified in Subsection 41-6a-601(2) for school zones for the safety of the school children that may be in the vicinity; or

(b) red light signals visible from the front or rear, shall stop immediately before reaching the bus and

may not proceed until the flashing red light signals cease operation.

(3) The operator of a vehicle need not stop upon meeting or passing a school bus displaying alternating flashing red light signals if the school bus is traveling in the opposite direction when:

(a) traveling on a divided highway;

(b) the bus is stopped at an intersection or other place controlled by a traffic-control signal or by a peace officer; or

(c) on a highway of five or more lanes, which may include a left-turn lane or two-way left turn lane.

(4)(a) The operator of a school bus shall operate alternating flashing red light signals at all times when:

(i) children are unloading from a school bus to cross a highway;

(ii) a school bus is stopped for the purpose of loading children who must cross a highway to board the bus; or

(iii) it would be hazardous for vehicles to proceed past the stopped school bus.

(b) The alternating flashing red light signals may not be operated except:

(i) when the school bus is stopped for loading or unloading school children; or

(ii) for an emergency purpose.

(5) The operator of a school bus being operated on a highway shall have the headlights of the school bus lighted.

(6)[~~(a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum penalty is:~~]

[~~(i) $250 and 10 hours of compensatory service for a first offense;~~]

[~~(ii) $500 and 20 hours of compensatory service for a second offense within three years of a previous conviction or bail forfeiture; and~~]

[~~(iii) $1,000 and 40 hours of compensatory service for a third or subsequent offense within three years of a previous conviction or bail forfeiture.~~]

(a) A violation of Subsection (2) or (3) is a class C misdemeanor and the minimum penalty is:

(i) for a first offense:

(A) $1,000; and

(B) 10 hours of compensatory service;

(ii) for a second offense within five years of a previous conviction or bail forfeiture:

(A) $2,000; and

(B) 20 hours of compensatory service; and

(iii) for a third or subsequent offense within five years of a previous conviction or bail forfeiture:

(A) $3,000; and

(B) 40 hours of compensatory service.

(b) A violation of Subsection (5) is an infraction and the fine is $50.

(c) The court may order the person to perform compensatory service in lieu of the fine or any portion of the fine if the court makes the reasons for the waiver part of the record.

(d) In accordance with Section 78A-5-110, 78A-6-210, or 78A-7-120, as applicable, if a photograph or video image obtained from an automated traffic enforcement safety device described in Section 41-6a-1310 was used as evidence of a violation of Subsection (2) or (3), 20% of the fine collected under Subsection (6)(a) shall be deposited with the school district or private school that owns or contracts for the operation of the bus to offset the costs of the automated traffic enforcement safety device.

(7) A violation of Subsection (1) or (4) is an infraction.

(8) The Driver License Division shall develop and implement a record system to distinguish:

(a) a conviction or bail forfeiture under this section from other convictions; and

(b) between a first and subsequent conviction or bail forfeiture under this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 347
H. B. 382
Passed March 1, 2024
Approved March 18, 2024
Effective July 1, 2024

WILDLIFE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses wildlife.

Highlighted Provisions:

This bill:

- modifies definition provisions;
- adjusts domicile and residency requirements;
- modifies provisions related to donating protected wildlife;
- addresses treatment of new development;
- provides when political subdivisions are required to respond to wildlife incidents;
- repeals an account related to wildlife regulation;
- modifies provisions related to accounts;
- enacts a fee to cover costs of electronic payments;
- makes invalid an original license, permit, tag, or certificate of registration when a duplicate one is issued;
- clarifies tagging requirements;
- addresses hunting species and invalid and forfeited permit or tag;
- clarifies who has powers of law enforcement;
- addresses transaction records for a butcher, locker, storage plant, or taxidermist;
- addresses obstruction or interference with wildlife management activities;
- modifies provisions under wanton destruction of protected wildlife;
- changes to a point system certain criminal penalties;
- adjusts the restitution values;
- provides for enhanced penalties under certain conditions applicable to waste of wildlife;
- clarifies what constitutes permission;
- authorizes the Division of Wildlife Resources to close a portion of a highway under certain circumstances;
- addresses the taking of antlers or horns;
- requires the use of certain names related to birds in the management of birds and habitat for birds;
- directs the division to engage in advocacy regarding bird names;
- modifies when the Wildlife Board is required to hold public hearings regarding rules; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Natural Resources - General Fund Restricted - Wildlife Habitat Account as a one-time appropriation:
  - from the General Fund Restricted - Wildlife Resources Trust Account, One-time, $1,325,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

23A-1-101, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-1-103, as enacted by Laws of Utah 2023, Chapter 103
23A-1-202, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-1-205, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-2-201, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-201, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-3-208, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-4-208, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-4-709, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-202, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-204, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-301, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-307, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-311, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-312, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-314, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-5-317, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-6-402, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-11-101, as renumbered and amended by Laws of Utah 2023, Chapter 103
63G-3-302, as renumbered and amended by Laws of Utah 2008, Chapter 382

ENACTS:

23A-1-206, Utah Code Annotated 1953
23A-3-214, Utah Code Annotated 1953
23A-4-1110, Utah Code Annotated 1953
23A-11-206, Utah Code Annotated 1953
23A-12-102, Utah Code Annotated 1953

REPEALS:

23A-3-213, as renumbered and amended by Laws of Utah 2023, Chapter 103
23A-11-201, as renumbered and amended by Laws of Utah 2023, Chapter 103

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

Section 1. Section 23A-1-101 is amended to read:

23A-1-101. Definitions.

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity prohibited or regulated under this title or the rules and proclamations promulgated under this title pertaining to protected wildlife including:

(a) fishing;

(b) hunting;

(c) trapping;

(d) taking;

(e) permitting a dog, falcon, or other domesticated animal to take;

(f) transporting;

(g) possessing;

(h) selling;

(i) wasting;

(j) importing;

(k) exporting;

(l) rearing;

(m) keeping;

(n) using as a commercial venture; and

(o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hoofed protected wildlife.

(7) "Carcass" means the dead body of an animal or the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

(10) "Conservation officer" means a full-time, permanent employee of the division who is POST certified as a peace or a special function officer.

(11) "Dedicated hunter program" means a program that provides:

(a) expanded hunting opportunities;

(b) opportunities to participate in projects that are beneficial to wildlife; and

(c) education in hunter ethics and wildlife management principles.

(12) "Department" means the Department of Natural Resources.

(13) "Director" means the director of the division appointed under Section 23A-2-202.

(14) "Division" means the Division of Wildlife Resources.

(15) Subject to Section 23A-1-103, "domicile" means the place:

(a) where an individual has a fixed permanent home and principal establishment;

(b) to which the individual if absent, intends to return and has an actual plan, method, and means to return to the individual's domicile within six months; [~~and~~]

(c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home[~~.~~]; and

(d) is a place where the individual resides for the majority of the individual's time.

(16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

(18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

(19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(20) "Fishing" means to take fish or crayfish by any means.

(21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.

(25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(26)(a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

(27)(a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

(28) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

(29) "Nonresident" means a person who does not qualify as a resident.

(30) "Open season" means the period of time during which protected wildlife may be legally taken.

(31) "Outfitter" means the same as that term is defined in Section 58-79-102.

(32) "Pecuniary gain" means the acquisition of money or something of monetary value.

(33) "Permit" means a paper-based or electronic document that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

(34) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the individual, association, partnership, government agency, or corporation.

(35) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

(a) exceeds state water quality standards; or

(b) could harm protected wildlife.

(36) "Possession" means actual or constructive possession.

(37) "Possession limit" means the number of bag limits one individual may legally possess.

(38)(a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

(i) are propagated or kept for a private noncommercial purpose; and

(ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

(i) an aquaculture facility;

(ii) a fee fishing facility;

(iii) a short-term fishing event; or

(iv) private stocking.

(39) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

(a) a private fish pond under Section 23A-9-203; or

(b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

(40) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

(a) commingling with wild birds or furbearers; and

(b) escaping into the wild.

(41) "Proclamation" means the publication that is:

(a) used to convey a statute, rule, policy, or pertinent information related to wildlife; and

(b) issued in accordance with a rule made by the Wildlife Board under this title.

(42)(a) "Protected aquatic wildlife" means aquatic wildlife except as provided in Subsection (42)(b).

(b) "Protected aquatic wildlife" does not include aquatic insects.

(43)(a) "Protected wildlife" means wildlife, except as provided in Subsection (43)(b).

(b) "Protected wildlife" does not include:

(i) coyote;

(ii) field mouse;

(iii) gopher;

(iv) ground squirrel;

(v) jack rabbit;

(vi) muskrat; or

(vii) raccoon.

(44) "Regional advisory council" means a council created under Section 23A-2-303.

(45) "Released to the wild" means to be turned loose from confinement.

(46)(a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

(47) Subject to Section 23A-1-103, "resident" means a person who:

(a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(b) does not claim residency for hunting, fishing, or trapping in another state or country.

(48) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

(49) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and

(b) no fee is charged as a requirement to fish.

(50) "Small game" means species of protected wildlife:

(a) commonly pursued for sporting purposes;

(b) not classified as big game, aquatic wildlife, or furbearers; and

(c) excluding turkey, cougar, and bear.

(51) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

(52) "Spotlighting" means throwing or casting the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

(53) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

(54) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, gather, angle, seine, trap, or kill protected wildlife; or

(b) attempt an action referred to in Subsection (54)(a).

(55) "Threatened" means wildlife designated as threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

(56) "Trapping" means taking protected wildlife with a trapping device.

(57) "Trophy animal" means an animal described as follows:

(a) deer - a buck with an outside antler measurement of 24 inches or greater;

(b) elk - a bull with six points on at least one side;

(c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

(d) moose - a bull with at least one antler exceeding five inches in length;

(e) mountain goat - a male or female;

(f) pronghorn antelope - a buck with horns exceeding 14 inches; or

(g) bison - a bull.

(58) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

(59) "Waste" means to:

(a) abandon protected wildlife; or

(b) allow protected wildlife to spoil or to be used in a manner not normally associated with the protected wildlife's beneficial use.

(60) "Wild" means the natural environment, including a private pond or private property.

[~~(60)~~](61) "Wildlife" means:

(a) crustaceans, including brine shrimp and crayfish;

(b) mollusks; and

(c) vertebrate animals living in nature, except feral animals.

[~~(61)~~](62) "Wildlife Board" means the board created in Section 23A-2-301.

(63) "Wildlife parts" means biological material derived from the body or anatomy of wildlife, including:

(a) an antler or horn;

(b) a hide;

(c) a bone; or

(d) meat.

Section 2. Section 23A-1-103 is amended to read:

23A-1-103. Domicile or residency.

(1)(a) Subject to Subsections 23A-1-101(15) and 23A-1-101(47), an individual is considered a resident who:

(i) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license or application of a license, permit, or tag; and

(ii) does not claim residency for hunting, fishing, or trapping in another state or country.

(b) To create a new domicile an individual shall:

[~~(a)~~](i) abandon the old domicile; and

[~~(b)~~](ii) be able to prove that a new domicile has been established.

(2) A Utah resident retains Utah residency if that [~~person~~]individual leaves this state:

(a) to serve in the armed forces of the United States or for religious or educational purposes; and

(b) the [~~person~~]individual complies with Subsection 23A-1-101(47)(b).

(3)(a) A member of the armed forces of the United States and dependents are residents for the purposes of this title as of the date the member reports for duty under assigned orders in the state if the member:

(i) is not on temporary duty in this state; and

(ii) complies with Subsection 23A-1-101(47)(b).

(b) A member shall present a copy of the assignment orders to a division office to verify the member's qualification as a resident.

(4) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this title if the student:

(a) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and

(b) complies with Subsection 23A-1-101(47)(b).

(5) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in another state or country.

(6) An absentee landowner paying property tax on land in Utah does not qualify as a resident.

Section 3. Section 23A-1-202 is amended to read:

23A-1-202. Agreement with a tribe.

(1) As used in this section, "tribe" means a federally recognized:

(a) Indian tribe; or

(b) Indian band.

(2)(a) Subject to the requirements of this section, the governor may enter into an agreement with a tribe to settle a dispute between the state and the tribe concerning a hunting, fishing, or trapping right claim that is:

(i) based on:

(A) a treaty;

(B) an aboriginal right; or

(C) other recognized federal right; and

(ii) on lands located within the state.

(b) Except as provided in Subsection (2)(c), an agreement permitted under Subsection (2)(a) may not exempt a person from the requirements of this title.

(c) An agreement permitted under Subsection (2)(a) may exempt or partially exempt a tribe that is a party to the agreement or a member of that tribe from:

(i) Section [~~23A-11-201~~]23A-4-1110, placing a limit of one of any species [~~of big game~~]during a license year;

(ii) Section 23A-11-202, commencement date of the general deer season;

(iii) a hunter or furharvester education requirement under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(iv) an age restriction under Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(v) paying a fee required under this title to obtain a hunting, fishing, or trapping license or permit;

(vi) obtaining a license or permit required under this title to hunt, trap, or fish; or

(vii) complying with a rule or proclamation of the Wildlife Board if the exemption is not inconsistent with this title.

(d) An agreement permitted under Subsection (2)(a) shall:

(i) be in writing;

(ii) be signed by:

(A) the governor; and

(B) the governing body of the tribe that:

(I) is designated by the tribe; and

(II) may bind the tribe to the terms of the agreement;

(iii) be conditioned on obtaining any approval required by federal law;

(iv) state the effective date of the agreement;

(v) provide that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute for which an exemption is not authorized under this section; and

(vi) include any accommodation made by the tribe that:

(A) is agreed to by the tribe;

(B) is reasonably related to the agreement; and

(C) concerns the management and use of wildlife resources or habitat.

(e) Before executing an agreement under this Subsection (2), the governor shall consult with:

(i) the division; and

(ii) the chair of the Wildlife Board.

(f) At least 30 days before the agreement under this Subsection (2) is executed, the governor or the governor's designee shall provide a copy of the agreement in the form that the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section 4. Section 23A-1-205 is amended to read:

23A-1-205. Donating protected wildlife.

(1) A person may only donate protected wildlife or wildlife parts to another person [~~at:~~]in accordance with this section.

[~~(a) the residence of the donor;~~]

[~~(b) the residence of the person receiving protected wildlife or the wildlife parts;~~]

[~~(c) a meat locker;~~]

[~~(d) a storage plant;~~]

[~~(e) a meat processing facility; or~~]

[~~(f) a location authorized by the Wildlife Board in rule, proclamation, or order.~~]

(2) [~~A written statement~~]Documentation of donation shall be kept with the protected wildlife or wildlife parts showing:

(a) the number and species of protected wildlife or wildlife parts donated;

(b) the date of donation;

(c) the license or permit number of the donor; and

(d) [~~the signature of the donor.~~]an image or picture of the wildlife or wildlife parts donated.

(3) Notwithstanding Subsections (1) and (2), a person may donate the hide of a big game animal to another person [~~or organization~~] at any place without a donation slip.

Section 5. Section 23A-1-206 is enacted to read:

23A-1-206. New development.

(1) As used in this section:

(a) "Mitigate" means an activity intended to lessen known negative impacts caused by wildlife, including relocating or distracting wildlife.

(b) "New development" means the conversion in use of previously undeveloped land into a developed state that occurs on or after May 1, 2024.

(c) "Wildlife damage or nuisance claim" means:

(i) a depredation claim;

(ii) a wildlife damage claim; or

(iii) a nuisance complaint involving wildlife.

(2) On and after May 1, 2024, new development in the state is considered infringing on existing wildlife habitat and a person who makes a wildlife damage or nuisance claim related to the new development may not qualify for a wildlife damage or nuisance claim against the state or a political subdivision.

(3) Notwithstanding Subsection (2), the division may mitigate wildlife damage or nuisances impacting a new development.

Section 6. Section 23A-2-201 is amended to read:

23A-2-201. Division of Wildlife Resources -- Limits on authority of political subdivisions -- Adjudicative proceedings -- Official seal.

(1)(a) There is created the Division of Wildlife Resources within the Department of Natural Resources under the administration and general supervision of the executive director.

(b) The division is the wildlife authority for Utah and is vested with the functions, powers, duties, rights, and responsibilities provided in this title and other law.

(2)(a) Subject to the broad policymaking authority of the Wildlife Board, the division shall protect, propagate, manage, conserve, and distribute protected wildlife throughout the state.

(b) The division is the trustee and custodian of protected wildlife and may initiate civil proceedings, in addition to criminal proceedings provided for in this title, to:

(i) recover damages;

(ii) compel performance;

(iii) compel substitution;

(iv) restrain or enjoin;

(v) initiate any other appropriate action; and

(vi) seek appropriate remedies in the division's capacity as trustee and custodian.

(3)(a) If a political subdivision of the state adopts an ordinance or regulation concerning hunting, fishing, or trapping that conflicts with this title or rules made pursuant to this title, state law prevails.

(b) A community may close areas to hunting for safety reasons after confirmation by the Wildlife Board.

(4)(a) As used in this Subsection (4), "claim involving wildlife" means:

(i) a depredation claim;

(ii) a wildlife damage claim; or

(iii) a nuisance complaint involving wildlife.

(b) Subject to Subsection (4)(c), a political subdivision of the state shall respond to and pay for a claim involving wildlife within the boundaries of the political subdivision, if the political subdivision:

(i) owns or purchases an aggregate amount of more than 500 contiguous acres of land in fee simple on which the political subdivision restricts the division's ability to manage wildlife populations; or

(ii) enacts an ordinance or takes other action that restricts the division's ability to manage wildlife populations within any portion of the political subdivision's boundary.

(c) A political subdivision of the state may not be required to respond to or pay for a claim involving wildlife under Subsection (4)(b) because the political subdivision has enacted a law, rule, or ordinance or taken an action to prohibit the use of firing a firearm within the boundaries of the political subdivision.

(d) The division may not expend state money for a claim listed in Subsection (4)(b) when a political subdivision limits the division's ability to manage wildlife populations on more than 500 contiguous acres of land.

[~~(4)~~](5) The division shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in the division's adjudicative proceedings.

[~~(5)~~](6) The division shall adopt an official seal and file an impression and a description of the official seal with the Division of Archives.

Section 7. Section 23A-3-201 is amended to read:

23A-3-201. Wildlife Resources Account -- Unexpended fund balances .

(1) There is created a restricted account within the General Fund known as the "Wildlife Resources Account."

(2) The following money shall be deposited into the Wildlife Resources Account:

(a) revenue from the sale of licenses, permits, tags, and certificates of registration issued under this title or a rule or proclamation of the Wildlife Board, except as otherwise provided by this title;

(b) revenue from the sale, lease, rental, or other granting of rights of real or personal property acquired with revenue specified in Subsection (2)(a);

(c) revenue from fines and forfeitures for violations of this title or a rule, proclamation, or order of the Wildlife Board, minus court costs not to exceed the schedule adopted by the Judicial Council;

(d) money appropriated from the General Fund by the Legislature pursuant to Section 23A-4-306;

(e) other money received by the division under this title, except as otherwise provided by this title; and

(f) interest, dividends, or other income earned on account money.

(3) Money in the Wildlife Resources Account shall be used for the administration of this title.

(4) At the close of a fiscal year, the unexpended balance in the Wildlife Resources Account shall convert back into the Wildlife Resources Account for the following fiscal year, except for money:

(a) legally obligated by contract;

(b) designated for capital outlay projects; or

(c) required for a program extending beyond the close of the fiscal year.

[~~(4) The state auditor and director of the Division of Finance shall, at the close of the fiscal year, convert into the Wildlife Resources Account the unexpended balances of the Wildlife Resources Account not legally obligated by contract or appropriated by the Wildlife Board for capital outlay projects or other programs that may extend beyond the close of the fiscal year.~~]

Section 8. Section 23A-3-208 is amended to read:

23A-3-208. Portion of revenue from license, permit, and certificate of registration fees deposited into Wildlife Habitat Account.

(1) Fifty cents of the fee charged for a one-day fishing license shall be deposited in the Wildlife Habitat Account created in Section 23A-3-207.

(2) Three dollars and fifty cents of the fee charged for any of the following licenses or permits shall be deposited in the Wildlife Habitat Account created in Section 23A-3-207:

(a) a fishing license, except any one-day fishing license;

(b) a hunting license;

(c) a combination license;

(d) a furbearer license; or

(e) a fishing permit.

(3) Four dollars and seventy-five cents of the fee charged for any of the following certificates of registration or permits shall be deposited in the Wildlife Habitat Account created in Section 23A-3-207:

(a) a certificate of registration for the dedicated hunter program[~~, except a certificate of registration issued to a lifetime licensee~~];

(b) a big game permit;

(c) a bear permit;

(d) a turkey permit; or

(e) a muskrat permit.

Section 9. Section 23A-3-214 is enacted to read:

23A-3-214. Fee to cover cost of electronic payments.

(1) As used in this section:

(a) "Electronic payment" means use of a form of payment processed through electronic means, including use of a credit card, debit card, or automatic clearinghouse transaction.

(b) "Electronic payment fee" means the fee assessed to defray:

(i) a charge, discount fee, or process fee charged by a processing agent to process an electronic payment, including a credit card company; or

(ii) costs associated with the purchase of equipment necessary for processing an electronic payment.

(2)(a) The division may impose and collect an electronic payment fee on an electronic payment related to a license, permit, or certificate of registration, including a license, permit, or certification of registration under:

(i) Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(ii) Section 23A-6-404;

(iii) Section 23A-7-202;

(iv) Subsection 23A-9-305(3);

(v) Subsection 23A-11-203(3); and

(vi) Subsection 23A-12-202(1)(b).

(b) The division may charge an electronic payment fee under this section in an amount not to exceed 3% of the electronic payment.

(c) With regard to the electronic payment fee, the division is not required to separately identify the electronic payment fee from a fee imposed for a license, permit, or certificate of registration listed in Subsection (2)(a).

(3) The division shall deposit the fee into the Wildlife Resources Account created in Section 23A-3-201.

Section 10. Section 23A-4-208 is amended to read:

23A-4-208. Duplicate license, permit, tag, or certificate of registration.

(1) If an unexpired license, permit, tag, or certificate of registration issued under this title is destroyed, lost, or stolen, the division, a person designated by the director, or the division's authorized license agents may issue a duplicate license, permit, tag, or certificate of registration in accordance with the rules set and fees determined by the Wildlife Board.

(2) Upon issuance of a duplicate license, permit, tag, or certificate of registration, the original license, permit, tag, or certificate of registration is invalid.

Section 11. Section 23A-4-709 is amended to read:

23A-4-709. Tagging requirements.

(1) The Wildlife Board may make rules that require the carcass of certain species of protected wildlife to be tagged.

(2) Except as provided by the Wildlife Board by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a hunter who lawfully killed the animal shall tag the carcass of a species of protected wildlife required to be tagged before the carcass is moved from or the hunter leaves the site of kill.

(3) To tag a carcass, a person shall:

(a)(i) completely detach the tag from the license or permit;

(ii) completely remove the appropriate notches to correspond with:

(A) the date the animal was taken; and

(B) the sex of the animal; and

(iii) attach the tag to the carcass so that the tag remains securely fastened and visible; or

(b) complete an electronic tagging certification according to standards approved by the Wildlife Board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A person may not:

(a) remove more than one notch indicating date or sex; or

(b) tag more than one carcass using the same tag.

Section 12. Section 23A-4-1110 is enacted to read:

23A-4-1110. Invalid and forfeited permit or tag.

(1) With each issued permit or tag, a person may take only one of a species of protected wildlife during a license year, regardless of how many licenses or permits the person obtains, except as otherwise provided by this title or a proclamation of the Wildlife Board.

(2)(a) If a person kills an animal in violation of this title, while attempting to exercise the benefits of an issued permit or tag, the permit or tag is invalid and the person shall forfeit the permit or tag to the division.

(b) This Subsection (2) does not apply if:

(i) a citation is issued for a rule violation described in Subsection (2)(a); or

(ii) a warning citation for a violation described in Subsection (2)(a) is issued.

(3) The division may grant a season extension to a valid, unfilled permit opportunity that was invalidated and forfeited under Subsection (2) if:

(a) the criminal charges associated with the permit forfeiture are dismissed, with prejudice, by action of the prosecutor or court, or acquittal of the charges at trial;

(b) the person issued the permit that is forfeited requests the division in writing within 60 days of a final action dismissing or acquitting that person of the criminal charges that led to the permit forfeiture;

(c) the season extension is granted for the same species and sex, hunt unit, and season dates associated with the forfeited permit, as established by the Wildlife Board in the hunt year of the extension; and

(d) the extension occurs in the first season immediately following dismissal of or acquittal on the criminal charges described in Subsection (3)(a).

Section 13. Section 23A-5-202 is amended to read:

23A-5-202. Powers of law enforcement section.

(1) The chief and assistant chief of the law enforcement section[~~, an enforcement agent,~~] or conservation officer of the law enforcement section within the division are vested with the powers of law enforcement officers throughout the counties of the state with exception of the power to serve civil process and:

(a) may serve criminal process, arrest, and prosecute a violator of a law of this state; and

(b) has the same right as other law enforcement officers to require aid in executing the duties.

(2) The powers and duties conferred by this section upon employees of the law enforcement section of the division shall be supplementary to and in no way a limitation on the powers and duties of other law enforcement officers in the state.

Section 14. Section 23A-5-204 is amended to read:

23A-5-204. Butcher, locker, or storage plant to require proper tag or donation slip -- Taxidermist.

(1) A butcher or owner or employee of a locker plant or storage plant may not receive for processing or storage the carcass of protected wildlife that by law or regulation is required to be tagged, unless there is a transaction record for the carcass which is that the carcass is:

(a) properly tagged; or [~~is~~]

(b) accompanied with a valid donation slip.

(2) A taxidermist shall retain the transaction records for wildlife received, to include:

(a) the date and time the wildlife is received; and

(b) the license or permit number associated with the wildlife.

(3) A person required to retain a transaction record under this section shall:

(a) produce the transaction record on the demand of a peace officer; and

(b) keep the transaction record for three years from the day on which the person receives or creates the transaction record.

Section 15. Section 23A-5-301 is amended to read:

23A-5-301. Violations in general -- Criminal penalty -- Aiding or assisting violation -- Obstruct or interfere.

(1) Except as otherwise provided in this title:

(a) a violation of this title is a class B misdemeanor; and

(b) a violation of a rule of the Wildlife Board, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or proclamation of the Wildlife Board is an infraction.

(2)(a) A person may not aid or assist another person to violate this title or a rule made by the Wildlife Board under this title and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The penalty for violating this Subsection (2) is the same as for the provision or rule for which aid or assistance is given.

(3) A person may not obstruct or interfere with the division's wildlife management activities performed under this title, except that the division is subject to Section 23A-2-207 when engaged in the taking of wildlife on private property.

Section 16. Section 23A-5-307 is amended to read:

23A-5-307. Use of a computer or other device to remotely hunt wildlife prohibited -- Trail cameras -- Criminal penalty.

(1) As used in this section, "trail camera" means a device that is not held or manually operated by a person and is capable of capturing images, video, or location data of wildlife using heat or motion to trigger the device.

(2) A person may not use a computer or other device to remotely control the aiming and discharge of a firearm or other weapon for hunting an animal.

(3) A person who violates Subsection [~~(1)~~](2) is guilty of a class A misdemeanor.

(4)(a) A trail camera using internal data storage and not capable of transmitting data is permitted for use on private lands for the purposes of taking protected wildlife.

(b) A trail camera may not be used to take wildlife on public land during the period beginning on July 31 and ending on December 31.

(c) A trail camera is prohibited on public land during the period beginning on July 31 and ending on December 31, except for use by:

(i) the division for monitoring or research;

(ii) a land management agency in the course of the land management agency's regular duties;

(iii) any of the following conducting research in conjunction with the division:

(A) a non-governmental organization;

(B) an educational institution; or

(C) other person;

(iv) monitoring active agricultural operations including the take of a bear or cougar that is causing livestock depredation; or

(v) a municipality participating in a program addressing urban deer.

(5)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules regulating the use of trail cameras.

(b) A person who violates rules made by the Wildlife Board under this Subsection (5) is subject to the penalty provided in Section 23A-5-301.

Section 17. Section 23A-5-311 is amended to read:

23A-5-311. Wanton destruction of protected wildlife -- Criminal penalty -- Point values.

(1) A person is guilty of wanton destruction of protected wildlife if that person:

(a) commits an act in violation of:

(i) Section 23A-4-1110;

(ii) Section 23A-5-302;

[~~(ii)~~](iii) Section 23A-5-304;

(iv) Section 23A-5-308;

[~~(iii)~~](v) Sections 23A-9-302 through 23A-9-305; or

[~~(iv) Section 23A-11-201; or~~]

[~~(v)~~](vi) Subsection 23A-5-309(1);

(b) captures, injures, or destroys protected wildlife; and

(c)(i) does so with intentional, knowing, or reckless conduct as defined in Section 76-2-103;

(ii) intentionally abandons protected wildlife or a carcass;

(iii) commits the offense at night with the use of a weapon;

(iv) is under a court or division revocation of a license, tag, permit, or certificate of registration; or

(v) acts for pecuniary gain.

(2) A person who commits wanton destruction of wildlife is guilty of:

(a) a third degree felony if:

(i) the aggregate point value of the protected wildlife determined by the point values in Subsection (3) is more than [~~$500~~]500 points; or

(ii) a trophy animal was captured, injured, or destroyed;

(b) a class A misdemeanor if the aggregate point value of the protected wildlife, determined by the point values established in Subsection (3) is more than [~~$250~~]250 points, but does not exceed [~~$500~~]500 points; and

(c) a class B misdemeanor if the aggregate point value of the protected wildlife determined by the point values established in Subsection (3) is [~~$250~~]250 points or less.

(3) Regardless of the restitution amounts imposed under Subsection 23A-5-312(2), the following point values are assigned to protected wildlife for the purpose of determining the offense for wanton destruction of wildlife:

(a) [~~$1,000~~]1,000 points per animal for:

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;

(v) bear;

(vi) peregrine falcon;

(vii) bald eagle; or

(viii) endangered species;

(b) [~~$750~~]750 points per animal for:

(i) elk; or

(ii) threatened species;

(c) [~~$500~~]500 points per animal for:

(i) cougar;

(ii) golden eagle;

(iii) river otter; or

(iv) gila monster;

(d) [~~$400~~]400 points per animal for:

(i) pronghorn antelope; or

(ii) deer;

(e) [~~$350~~]350 points per animal for bobcat;

(f) [~~$100~~]100 points per animal for:

(i) swan;

(ii) sandhill crane;

(iii) turkey;

(iv) pelican;

(v) loon;

(vi) egrets;

(vii) herons;

(viii) raptors, except those that are threatened or endangered;

(ix) Utah milk snake; or

(x) Utah mountain king snake;

(g) [~~$35~~]35 points per animal for furbearers, except:

(i) bobcat;

(ii) river otter; and

(iii) threatened or endangered species;

(h) [~~$25~~]25 points per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;

(i) [~~$15~~]15 points per animal for game birds, except:

(i) turkey;

(ii) swan; and

(iii) sandhill crane;

(j) [~~$10~~]10 points per animal for game fish not listed in Subsection (3)(h);

(k) [~~$8~~]8 points per pound dry weight of processed brine shrimp including eggs; and

(l) [~~$5~~]5 points per animal for protected wildlife not listed.

(4) For purposes of sentencing for a violation under this section, a person who has been convicted

of a third degree felony under Subsection (2)(a) is not subject to the mandatory sentencing requirements prescribed in Subsection 76-3-203.8(4).

(5) As part of a sentence imposed, the court shall impose a sentence of incarceration of not less than 20 consecutive days for a person convicted of a third degree felony under Subsection (2)(a)(ii) who captured, injured, or destroyed a trophy animal for pecuniary gain.

(6) If a person has already been convicted of a third degree felony under Subsection (2)(a)(ii) once, each separate additional offense under Subsection (2)(a)(ii) is punishable by, as part of a sentence imposed, a sentence of incarceration of not less than 20 consecutive days.

(7) The court may not sentence a person subject to Subsection (5) or (6) to less than 20 consecutive days of incarceration or suspend the imposition of the sentence unless the court finds mitigating circumstances justifying lesser punishment and makes that finding a part of the court record.

(8) Subsection (1) does not apply to actions taken in accordance with:

(a) Title 4, Chapter 14, Utah Pesticide Control Act;

(b) Title 4, Chapter 23, Agricultural and Wildlife Damage Prevention Act; or

(c) Section 23A-8-403.

Section 18. Section 23A-5-312 is amended to read:

23A-5-312. Restitution -- Disposition of money.

(1) When a person is adjudged guilty of illegal taking, illegal possession, or wanton destruction of protected wildlife, other than a trophy animal, the court may order the defendant to pay restitution:

(a) as set forth in Subsection (2); or

(b) in a greater or lesser amount than the amount established in Subsection (2).

(2) Suggested minimum restitution values for protected wildlife are as follows:

(a) [~~$1,000~~]$1,500 per animal for:

(i) bison;

(ii) bighorn sheep;

(iii) rocky mountain goat;

(iv) moose;

(v) bear;

(vi) peregrine falcon;

(vii) bald eagle; or

(viii) endangered species;

(b) [~~$750~~]$1,250 per animal for:

(i) elk; or

(ii) threatened species;

(c) [~~$500~~]$750 per animal for:

(i) golden eagle;

(ii) river otter; or

(iii) gila monster;

(d) [~~$400~~]$600 per animal for:

(i) pronghorn antelope; or

(ii) deer;

(e) [~~$350~~]$525 per animal for:

(i) cougar; or

(ii) bobcat;

(f) [~~$100~~]$150 per animal for:

(i) swan;

(ii) sandhill crane;

(iii) turkey;

(iv) pelican;

(v) loon;

(vi) egrets;

(vii) herons;

(viii) raptors, except those that are threatened or endangered;

(ix) Utah milk snake; or

(x) Utah mountain king snake;

(g) $150 per horn;

[~~(g)~~](h) [~~$35~~]$53 per animal for furbearers, except:

(i) bobcat;

(ii) river otter; and

(iii) threatened or endangered species;

[~~(h)~~](i) [~~$25~~]$38 per animal for trout, char, salmon, grayling, tiger muskellunge, walleye, largemouth bass, smallmouth bass, and wiper;

(j) $30 per pound of antler or shed antler;

[~~(i)~~](k) [~~$15~~]$23 per animal for game birds, except:

(i) turkey;

(ii) swan; and

(iii) sandhill crane;

[~~(j)~~](l) [~~$10~~]$15 per animal for game fish not listed in Subsection [~~(2)(h)~~](2)(i);

[~~(k)~~](m) [~~$8~~]$12 per pound dry weight of processed brine shrimp including eggs; and

[~~(l)~~](n) [~~$5~~]$8 per animal for protected wildlife not listed.

(3) If the court finds that restitution is inappropriate or if the value imposed is less than the suggested minimum value as provided in Subsection (2), the court shall make the reasons for the decision part of the court record.

(4)(a) The court shall order a person convicted of a third degree felony under Subsection 23A-5-311(2)(a)(ii) to pay restitution in accordance with Subsection (4)(b).

(b) The minimum restitution value for a trophy animal is as follows:

(i) [~~$30,000~~]$45,000 per animal for bighorn, desert, or rocky mountain sheep;

(ii) [~~$8,000~~]$12,000 per animal for deer;

(iii) [~~$8,000~~]$12,000 per animal for elk;

(iv) [~~$6,000~~]$9,000 per animal for moose or mountain goat;

(v) [~~$6,000~~]$9,000 per animal for bison; and

(vi) [~~$2,000~~]$3,000 per animal for pronghorn antelope.

(5) Restitution paid under Subsection (4) shall be remitted to the division and deposited in the Wildlife Resources Account.

(6) The division shall use restitution money for activities and programs to help stop poaching, including:

(a) educational programs on wildlife crime prevention;

(b) acquisition and development of wildlife crime detection equipment;

(c) operation and maintenance of anti-poaching projects; and

(d) wildlife law enforcement training.

(7) If restitution is required, restitution shall be in addition to:

(a) a fine or penalty imposed for a violation of this title; and

(b) a remedial action taken to revoke or suspend a person's license, permit, tag, or certificate of registration.

(8) A judgment imposed under this section constitutes a lien when recorded in the judgment docket and shall have the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 19. Section 23A-5-314 is amended to read:

23A-5-314. Waste of wildlife unlawful -- Criminal penalty.

(1) A person may not waste or permit to be wasted protected wildlife or a part of protected wildlife except as otherwise provided:

(a) in this title;

(b) by rule made by the Wildlife Board under this title and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(c) by an order or proclamation.

(2) A person who violates this section is subject to the penalty provided in Section 23A-5-301 except as provided in Subsection (3).

(3)(a) A licensed hunter who legally kills a big game animal, but abandons the big game animal is subject to a class A misdemeanor.

(b) A big game animal is considered abandoned if the licensed hunter acts knowingly, intentionally, or recklessly, and:

(i) the big game animal is not tagged as required by Section 23A-4-709;

(ii) the big game animal is wasted;

(iii) the licensed hunter continues to hunt the same species while exercising the benefits of the issued tag; or

(iv) no attempt or minimal attempt is made to salvage the big game animal.

Section 20. Section 23A-5-317 is amended to read:

23A-5-317. Posted property -- Hunting by permission -- Entry on private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable to officers.

(1) As used in this section:

(a) "Cultivated land" means land that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage which is artificially irrigated.

(b) "Permission" means [~~written~~]documented authorization from the owner or person in charge to enter upon private land that is either cultivated or properly posted, and shall include:

(i) the signature of the owner or person in charge;

(ii) the name of the person being given permission;

(iii) the appropriate dates; and

(iv) a general description of the property.

(c) "Properly posted" means that signs prohibiting trespass or bright yellow, bright orange, or fluorescent paint are clearly displayed:

(i) at the corners, fishing streams crossing property lines, roads, gates, and rights-of-way entering the land; or

(ii) in a manner that would reasonably be expected to be seen by a person in the area.

(2)(a) While taking wildlife or engaging in wildlife related activities, a person may not:

(i) without permission, enter upon privately owned land that is cultivated or properly posted;

(ii) enter or remain on privately owned land if the person has notice to not enter or remain on the privately owned land; or

(iii) obstruct an entrance or exit to private property.

(b) A person has notice to not enter or remain on privately owned land if:

(i) the person is directed to not enter or remain on the land by:

(A) the owner of the land;

(B) the owner's employee; or

(C) a person with apparent authority to act for the owner; or

(ii) the land is fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders.

(c) The division shall provide "hunting by permission cards" to a landowner upon the landowner's request.

(d) A person may not post:

(i) private property the person does not own or legally control; or

(ii) land that is open to the public as provided by Section 23A-6-402.

(3) A person who violates Subsection (2)(a) or (d) is subject to the penalty provided in Section 23A-5-301 and liable for the civil damages described in Subsection (7).

(4)(a) A person convicted of violating Subsection (2)(a) may have the person's license, tag, certificate of registration, or permit, relating to the activity engaged in at the time of the violation, revoked by a hearing officer.

(b) A hearing officer may construe a subsequent conviction that occurs within a five-year period as a flagrant violation and may prohibit the person from obtaining a new license, tag, certificate of registration, or permit for a period of up to five years.

(5) Subsection (2)(a) does not apply to peace or conservation officers in the performance of their duties.

(6)(a) The division shall provide information regarding owners' rights and duties:

(i) to anyone holding a license, certificate of registration, tag, or permit to take wildlife; and

(ii) by using the public media and other sources.

(b) The Wildlife Board shall state restrictions in this section relating to trespassing in the hunting and fishing proclamations issued by the Wildlife Board.

(7) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2)(a) or (d) may also be liable for:

(a) the greater of:

(i) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2)(a) or (d); or

(ii) $500; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(8) Civil damages under Subsection (7) may be collected in a separate action by the property owner or the property owner's assignee.

Section 21. Section 23A-6-402 is amended to read:

23A-6-402. Right of access to lands for hunting, trapping, or fishing reserved to public -- Exception.

(1) Except as provided in Section 65A-2-5, there is reserved to the public the right of access to lands owned by the state, including those lands lying below the official government meander line or high water line of navigable waters, for the purpose of hunting, trapping, or fishing.

(2) When a department or agency of the state leases or sells land belonging to the state lying below the official government meander line or the high water line of the navigable waters within the state, the lease, contract of sale, or deed shall contain a provision that:

(a) the lands shall be open to the public for the purpose of hunting, trapping, or fishing during the lawful season, except as provided by Section 65A-2-5; and

(b) the lessee, contractee, or grantee may not charge a person who desires to go upon the land for the purpose of hunting, trapping, or fishing.

(3) Lands referred to in this section shall be regulated or closed to hunting, trapping, or fishing as provided in this title for other lands and waters.

(4) The division may temporarily close that portion of a highway, as defined in Section 72-1-102, that enters into or crosses land owned by the division if closure is needed for the benefit of wildlife.

Section 22. Section 23A-11-101 is amended to read:

23A-11-101. Definitions.

As used in this chapter:

(1) "Big game" includes deer, elk, big horn sheep, moose, mountain goats, pronghorn, and bison.

(2) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land;

(b) perennial orchard trees on cleared and planted land;

(c) crop residues that have forage value for livestock; and

(d) pastures.

(3) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

(4) "Predator" means a cougar, bear, or coyote.

(5) "Shed antler" means any portion of an antler that:

(a) has been dropped naturally from a big game animal as part of the big game animal's annual life cycle; and

(b) has a rounded base commonly known as the antler button or burr attached which signifies a natural life cycle process.

(6) "Shed horn" means:

(a) the sheath from a pronghorn that has been dropped naturally as part of the animal's annual life cycle; or

(b) a bighorn sheep, mountain goat, or bison horn naturally detached from the horn core.

Section 23. Section 23A-11-206 is enacted to read:

23A-11-206. Limitations on taking an antler or horn.

(1) A person may not take an antler or horn, including a shed antler or shed horn, except as provided by this title or rules of the Wildlife Board made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) During season dates if established under Subsection (3) and after complying with rules made under Subsection (3), an individual may take an antler or horn, including a shed antler or shed horn.

(3)(a) The Wildlife Board may establish recreational antler or horn gathering season dates and rules for both residents and nonresidents, including for a shed antler or shed horn, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The Wildlife Board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules for commercial gathering and selling of an antler or horn, including a shed antler or shed horn, to establish:

(i) rules in general concerning commercial gathering and selling;

(ii) license or permit requirements; and

(iii) fees.

(4) A suspension for a violation of this section or rules by the Wildlife Board under Section 23A-4-1106, may include all privileges related to big game, including privileges under a shed antler or horn gathering permit.

(5) Notwithstanding whether the Wildlife Board establishes season dates under this section, a private landowner or a guest of a private landowner may take an antler or horn on the private land, including a shed antler or shed horn, year round for the use of the landowner or guest.

Section 24. Section 23A-12-102 is enacted to read:

23A-12-102. Naming conventions for birds.

(1) As used in this section:

(a) "English-language name" means the name:

(i) assigned to a bird by a naming entity for use by the English-speaking public; and

(ii) that may differ from the scientific name of the bird.

(b) "Naming entity" means a nationally recognized entity that maintains a list of official English-language names for birds in North America and South America.

(2)(a) The division shall use the English-language name assigned to a bird by a naming entity that was in effect on January 1, 2020, when using an English-language name while engaging in the management of the bird or habitat for the bird.

(b) Notwithstanding Subsection (2)(a), the division may use an English-language name assigned by a naming entity after January 1, 2020, if before January 1, 2020, there was no English-language name.

(3) The division shall:

(a) advocate against the changing of eponymous English-language names for birds; and

(b) seek the support of national organizations with which the division affiliates to advocate against the changing of eponymous English-language names for birds.

Section 25. Section 63G-3-302 is amended to read:

63G-3-302. Public hearings.

(1) [~~Each~~]An agency may hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule during the public comment period.

(2) [~~Each~~]Except as provided in Subsection (4), an agency shall hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule if:

(a) a public hearing is required by state or federal mandate;

(b)(i) another state agency, 10 interested persons, or an interested association having not fewer than 10 members request a public hearing; and

(ii) the agency receives the request in writing not more than 15 days after the publication date of the proposed rule.

(3) The agency shall hold the hearing:

(a) before the rule becomes effective; and

(b) no less than seven days nor more than 30 days after receipt of the request for hearing.

(4) The Wildlife Board is not required to hold a public hearing on a proposed rule, amendment to a rule, or repeal of a rule unless required to hold a public hearing under Title 23A, Chapter 2, Part 3, Wildlife Board and Regional Councils.

Section 26. Repealer.

This bill repeals:

Section 23A-3-213, Wildlife Resources Trust Account.

Section 23A-11-201, Limit of one of species of big game during license year -- Invalid and forfeited permit or tag.

Section 27. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 27(a) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted - Wildlife Habitat Account

From General Fund Restricted - Wildlife Resources Trust Account,

One-time	$1,325,000

Schedule of Programs:

Wildlife Habitat Account	$1,325,000

The Legislature intends that the Division of Finance, after completing the appropriation in this section, transfer any remaining balances in the General Fund Restricted - Wildlife Resources Trust Account to the General Fund Restricted - Wildlife Habitat Account.

Section 28. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 348
H. B. 380
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

ATTORNEY GENERAL AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses the duties of the attorney general.

Highlighted Provisions:

This bill:

- prohibits the attorney general from engaging in the private practice of law.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-5-1, as last amended by Laws of Utah 2023, Chapter 330

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

Section 1. Section 67-5-1 is amended to read:

67-5-1. General duties and restrictions.

(1) The attorney general shall:

(a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

(b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

(c) after judgment on any cause referred to in Subsection (1)(b), direct the issuance of process as necessary to execute the judgment;

(d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

(e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

(i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

(ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

(iii) deliver this information to the attorney general's successor in office;

(f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority described in Subsection (2);

(g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

(i) in accordance with Section 67-5-1.1, to the Legislature or either house;

(ii) to any state officer, board, or commission; and

(iii) to any county attorney or district attorney;

(h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

(i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

(j) when the property of a judgment debtor in any judgment mentioned in Subsection (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

(k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

(l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

(m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper

cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

(n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

(o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

(p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

(r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26B, Chapter 3, Part 11, Utah False Claims Act;

(s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

(i) in health care facilities that receive payments under the state Medicaid program;

(ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

(iii) who are receiving medical assistance under the Medicaid program as defined in Section 26B-3-101 in a noninstitutional or other setting;

(t)(i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

(A) cost the state more than $500,000; or

(B) require the state to take legally binding action that would cost more than $500,000 to implement; and

(ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

(u)(i) submit a written report to the committees described in Subsection (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection (1)(u), including any:

(A) settlements reached;

(B) consent decrees entered;

(C) judgments issued;

(D) preliminary injunctions issued;

(E) temporary restraining orders issued; or

(F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

(ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection (1)(u)(i) to:

(A) the Legislative Management Committee;

(B) the Judiciary Interim Committee; and

(C) the Law Enforcement and Criminal Justice Interim Committee;

(v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

(i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

(ii) any other information or analysis requested by the rate committee;

(w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

(x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature; and

(z)(i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

(A) establish outreach to the tribes and affected counties and communities; and

(B) foster better relations and a cooperative framework; and

(ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) the status of the work of the special advisor described in Subsection (1)(z)(i); and

(B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection (1)(z)(i).

(2)(a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

(3) The attorney general:

(a) is a full- time employee of the state; and

(b) may not engage in the private practice of law.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 349
H. B. 394
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

HOMELESS SERVICES FUNDING AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill authorizes the Utah Homeless Network Steering Committee to develop a funding formula.

Highlighted Provisions:

This bill:

- requires the Utah Homeless Network Steering Committee to develop a funding formula for the provision of homeless services;
- describes the criteria the Utah Homeless Network Steering Committee shall use in developing a funding formula for the provision of homeless services;
- requires the Utah Homelessness Council to approve any funding formula developed by the Utah Homeless Network Steering Committee by a two-thirds vote;
- requires the state homelessness coordinator to utilize an approved funding formula in disbursing funds for the provision of homeless services; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-16-202, as enacted by Laws of Utah 2021, Chapter 281
35A-16-203, as last amended by Laws of Utah 2023, Chapter 302
35A-16-205, as last amended by Laws of Utah 2022, Chapter 403
35A-16-207, as enacted by Laws of Utah 2022, Chapter 403

ENACTS:

35A-16-208, Utah Code Annotated 1953

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

Section 1. Section 35A-16-202 is amended to read:

35A-16-202. Powers and duties of the office.

(1) The office shall, under the direction of the coordinator:

(a) assist in providing homeless services in the state;

(b) coordinate the provision of homeless services in the state; [~~and~~]

(c) manage, with the concurrence of Continuum of Care organizations approved by the United States Department of Housing and Urban Development, a Homeless Management Information System for the state that:

(i) shares client-level data between state agencies, local governments, and private organizations that provide services to homeless individuals and families and individuals at risk of homelessness in the state;

(ii) is effective as a case management system;

(iii) except for individuals receiving services who are victims of domestic violence, includes an effective authorization protocol for encouraging individuals who are provided with any homeless services in the state to provide accurate information to providers for inclusion in the HMIS; and

(iv) meets the requirements of the United States Department of Housing and Urban Development and other federal requirements[~~.~~]; and

(d) provide support to the steering committee in developing the formula described in Section 35A-16-208.

(2) The office may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs; and

(b) for any federal program that requires the expenditure of state funds as a condition for participation by the state in a fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the office.

Section 2. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(e) provide administrative support to and serve as a member of the homelessness council;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, Continuum of Care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; [~~and~~]

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations[~~.~~]; and

(c) if the homelessness council has approved a funding formula developed by the steering committee, as described in Section 35A-16-205:

(i) except as provided in Subsection (4)(c)(ii), shall utilize that funding formula in disbursing funds for the provision of homeless services; and

(ii) shall ensure that any federal funds not subject to the funding formula are disbursed in accordance with any applicable federal requirements.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6)(a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan;

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state; and

(iv) in coordination with the homelessness council, a complete accounting of the office's disbursement of funds during the previous fiscal year from:

(A) the Pamela Atkinson Homeless Account created in Section 35A-16-301;

(B) the Homeless to Housing Reform Restricted Account created in Section 35A-16-303;

(C) the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402;

(D) the COVID-19 Homeless Housing and Services Grant Program created in Section 35A-16-602; and

(E) any other grant program created in statute that is administered by the office.

Section 3. Section 35A-16-205 is amended to read:

35A-16-205. Duties of the homelessness council.

(1) The homelessness council:

[~~(1)~~](a) shall provide final approval for:

[~~(a)~~](i) a funding formula developed by the steering committee under Section 35A-16-208;

(ii) the homeless services budget;

[~~(b)~~](iii) the strategic plan; and

[~~(c)~~](iv) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

[~~(2)~~](b) in cooperation with the coordinator, shall:

[~~(a)~~](i) develop and maintain the homeless services budget;

[~~(b)~~](ii) develop and maintain the strategic plan; and

[~~(c)~~](iii) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

[~~(3)~~](c) shall review local and regional plans for providing services to individuals experiencing homelessness;

[~~(4)~~](d) shall cooperate with local homeless councils to:

[~~(a)~~](i) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

[~~(b)~~](ii) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

[~~(c)~~](iii) align local funding to projects that improve outcomes and target specific needs in each community;

[~~(5)~~](e) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

[~~(6)~~](f) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data; and

[~~(7)~~](g) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

[~~(a)~~](i) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

[~~(b)~~](ii) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award.

(2)(a) In approving a funding formula, as described in Subsection (1)(a)(i), the homelessness council shall take action on a proposed funding formula by a two-thirds vote.

(b) If the homelessness council cannot approve a proposed funding formula, the homelessness council shall refer the proposed funding formula back to the steering committee for further consideration.

Section 4. Section 35A-16-207 is amended to read:

35A-16-207. Duties of the steering committee.

(1) The steering committee shall:

[~~(1)~~](a) support connections across continuums of care, local homeless councils, and state and local governments;

[~~(2)~~](b) coordinate statewide emergency and crisis response in relation to services for individuals experiencing homelessness;

[~~(3)~~](c) provide training to providers of services for individuals experiencing homelessness, stakeholders, and policymakers;

[~~(4)~~](d) educate the general public and other interested persons regarding the needs, challenges, and opportunities for individuals experiencing homelessness; and

[~~(5)~~](e) make recommendations to the homelessness council regarding the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d).

(2) The steering committee shall, in consultation with members of the homelessness council, the office, members of local homelessness councils, and the coordinator, develop a funding formula as described in Section 35A-16-208.

Section 5. Section 35A-16-208 is enacted to read:

35A-16-208. Funding formula.

(1) The steering committee shall develop a formula for the distribution of funds for the provision of homeless services.

(2) A formula for the distribution of funds for the provision of homeless services shall:

(a) take into consideration:

(i) the various needs of regions of the state;

(ii) metrics and evidence of success;

(iii) the goals outlined in the strategic plan; and

(iv) any other factor the steering committee considers necessary; and

(b) utilize objective metrics to ensure, as much as possible, an impartial result.

(3) A funding formula described in this section applies to federal funds received by the office for the provision of homeless services only insofar as any federal regulations governing those federal funds allow.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 350
H. B. 407
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

EMINENT DOMAIN MODIFICATIONS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses eminent domain.

Highlighted Provisions:

This bill:

- defines terms;
- addresses when eminent domain related to mining is prohibited; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-501, as last amended by Laws of Utah 2023, Chapter 34
78B-6-502, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-503, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised -- Limitations on eminent domain.

(1) As used in this section[~~, "century~~]:

(a) "Century farm" means real property that is:

[~~(a)~~](i) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

[~~(b)~~](ii) owned or held by the same family for a continuous period of 100 years or more.

(b)(i) "Mining use" means:

(A) the full range of permitted or active activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(B) the use of the surface, subsurface, groundwater, and surface water of an area in connection with the activities described in Subsection (1)(b)(i)(A) that have been, are being, or will be conducted.

(ii) "Mining use" includes, whether conducted on-site or off-site:

(A) sampling, staking, surveying, exploration, or development activity;

(B) drilling, blasting, excavating, or tunneling;

(C) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(D) the recovery of sand and gravel;

(E) removal, transportation, extraction, beneficiation, or processing of ore;

(F) use of solar evaporation ponds and other facilities for the recovery of minerals in solution;

(G) smelting, refining, autoclaving, or other primary or secondary processing operation;

(H) the recovery of any mineral left in residue from a previous extraction or processing operation;

(I) a mining activity that is identified in a work plan or permitting document;

(J) the use, operation, maintenance, repair, replacement, construction, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(K) an accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(L) the construction of a storage, factory, processing, or maintenance facility; and

(M) an activity described in Subsection 40-8-4(17)(a).

(2) Except as provided in Subsections (3)[~~and~~], (4), and (5) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

(a) all public uses authorized by the federal government;

(b) public buildings and grounds for the use of the state, and all other public uses authorized by the Legislature;

(c)(i) public buildings and grounds for the use of any county, city, town, or board of education;

(ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

(f)(i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b)(i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4)(a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead

transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

(5) If the intended public purpose is for a mining use, a private person may not exercise the power of eminent domain over property, or an interest in property, that is already used for a mining use within the boundary of:

(a) a permit area, as defined in Section 40-8-4;

(b) an area for which a permit has been issued by the Division of Water Quality, as part of the underground injection control program, under rules made by the Water Quality Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) private property; or

(d) an area under a state or federal lease.

Section 2. Section 78B-6-502 is amended to read:

78B-6-502. Estates and rights that may be taken.

[~~The~~]Except as provided in Subsection 78B-6-501(3), (4), or (5), the following estates and rights in lands are subject to being taken for public use:

(1) a fee simple, when taken for:

(a) public buildings or grounds;

(b) permanent buildings;

(c) reservoirs and dams, and permanent flooding occasioned by them;

(d) any permanent flood control structure affixed to the land;

(e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill, smelter, or other place for the reduction of ores; and

(f) solar evaporation ponds and other facilities for the recovery of minerals in solution, except when the surface ground is underlaid with minerals, coal, or other deposits sufficiently valuable to justify extraction, only a perpetual easement may be taken over the surface ground over the deposits;

(2) an easement, when taken for any other use; and

(3) the right of entry upon and occupation of lands, with the right to take from those lands earth, gravel, stones, trees, and timber as necessary for a public use.

Section 3. Section 78B-6-503 is amended to read:

78B-6-503. Private property which may be taken.

[~~Private property which~~]Except as provided in Subsection 78B-6-501(3), (4), or (5), private property that may be taken under this part includes:

(1) all real property belonging to any person;

(2) lands belonging to the state, or to any county, city or incorporated town, not appropriated to some public use;

(3) property appropriated to public use[~~; provided~~], except that the property may not be taken unless for a more necessary public use than that to which [~~it~~]the property has already been appropriated;

(4) franchises for toll roads, toll bridges, ferries, and all other franchises[~~; provided~~], except that the franchises may not be taken unless for free highways, railroads, or other more necessary public use;

(5) all rights of way for any and all purposes mentioned in Section 78B-6-501 [~~hereof~~], and any and all structures and improvements on the property, and the lands held or used in connection with the property, [~~shall be~~]except that:

(a) the property is subject to be connected with, crossed, or intersected by any other right of way or improvement or structure; [~~they shall also be~~]

(b) the property is subject to a limited use in common with the owners, when necessary; [~~but~~]and

(c) uses of crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury; and

(6) all classes of private property not enumerated if the taking is authorized by law.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 351
H. B. 408
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

RIDE-SHARE AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Transportation Network Company Registration Act.

Highlighted Provisions:

This bill:

- requires a transportation network company to allow a passenger to notify the driver of oversize luggage or child restraint device; and
- provides that an adult passenger of a transportation network company or a taxicab is responsible for the use of a restraint device or a seatbelt for certain minors under the adult passenger's supervision.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-51-105, as enacted by Laws of Utah 2015, Chapter 461
41-6a-1803, as last amended by Laws of Utah 2017, Chapter 406

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

Section 1. Section 13-51-105 is amended to read:

13-51-105. Operating requirements.

(1) A transportation network company shall maintain an agent for service of process in the state and shall notify the division of the name and address of the agent.

(2) A transportation network company may collect, on behalf of a transportation network driver, a fare for a prearranged ride if the transportation network company:

(a) posts the method for calculating the fare on the transportation network company's software application;

(b) provides a passenger the rate used to calculate the fare for a prearranged ride; and

(c) allows a passenger the option to obtain an estimated fare for a prearranged ride before the passenger enters a transportation network driver's vehicle.

(3) For each prearranged ride, a transportation network company shall:

(a) before a passenger enters a transportation network driver's vehicle, display on the transportation network company's software application a picture of the transportation network driver; [~~and~~]

(b) shortly after the prearranged ride is complete, transmit an electronic receipt to the passenger that lists:

(i) the prearranged ride's origin and destination;

(ii) the prearranged ride's total time and distance; and

(iii) an itemization of the total fare the passenger paid, if any[~~.~~]; and

(c) allow a passenger to notify a transportation network driver if a passenger has skis, a snowboard, other oversize luggage, or child restraint device.

(4) A transportation network driver may not, while providing transportation network services:

(a) provide a ride to an individual who requests the ride by a means other than a transportation network company's software application;

(b) solicit or accept cash payments from a passenger; or

(c) accept any means of payment other than payment through a transportation network company's software application.

(5) A transportation network company shall maintain a record of:

(a) all trips, for a minimum of five years after the day on which the trip occurred; and

(b) all information in a transportation network company's possession regarding a transportation network driver, for a minimum of five years after the day on which the transportation network driver last provided transportation network services using the transportation network company's software application.

(6) A transportation network company shall adopt a policy that prohibits unlawful discrimination with respect to a passenger and shall:

(a) provide a copy of the policy to each transportation network driver; or

(b) post the policy on the transportation network company's website.

(7)(a) A transportation network driver shall accommodate:

(i) a service animal; or

(ii) an individual with a physical disability.

(b) A transportation network driver or transportation network company may not impose an additional charge to provide the accommodations described in Subsections (7)(a) and (8).

(8) A transportation network company shall:

(a) allow a passenger to request a prearranged ride in a wheelchair-accessible vehicle; and

(b) if a wheelchair-accessible vehicle is not available to a passenger who requests a wheelchair-accessible vehicle under Subsection (8)(a), direct the passenger to a transportation service that provides wheelchair-accessible service, if available.

(9) A transportation network company shall disclose to a transportation network driver:

(a) a description of the insurance coverage the transportation network company provides the transportation network driver while the transportation network driver is providing transportation network services, including the insurance coverage's liability limit;

(b) that the transportation network company's personal automobile insurance policy may not provide coverage to the transportation network driver during a waiting period or a prearranged ride;

(c) that if the vehicle the transportation network driver uses to provide transportation network services has a lien against the vehicle, the transportation network driver is required to notify the lienholder that the transportation network driver is using the vehicle to provide transportation network services; and

(d) that using a vehicle with a lien against the vehicle to provide transportation network services may violate the transportation network driver's contract with the lienholder.

(10) A transportation network company and the transportation network company's insurer shall, for an incident that occurs while a transportation network driver is providing transportation network services:

(a) cooperate with a liability insurer that insures the vehicle the transportation network driver uses to provide the transportation network services;

(b) provide, to the liability insurer, the precise date and time that an incident occurred, including the precise time when a driver logged in or out of the transportation network company's software application; and

(c) provide the information described in Subsection (10)(b) to a liability insurer no later than 10 business days after the day on which the liability insurer requests the information from the transportation network company.

(11) If a transportation network company's insurer insures a vehicle with a lien against the vehicle, and the transportation network company's insurer covers a claim regarding the vehicle under comprehensive or collision coverage, the transportation network company shall direct the transportation network company's insurer to issue the payment for the claim:

(a) directly to the person that is repairing the vehicle; or

(b) jointly to the owner of the vehicle and the primary lienholder.

Section 2. Section 41-6a-1803 is amended to read:

41-6a-1803. Driver and passengers -- Seat belt or child restraint device required.

(1)(a) [~~The~~]Except as provided in Subsection (1)(c), the operator of a motor vehicle operated on a highway shall:

(i) wear a properly adjusted and fastened safety belt;

(ii) provide for the protection of each person younger than eight years [~~of age~~]old by using a child restraint device to restrain each person in the manner prescribed by the manufacturer of the device; and

(iii) provide for the protection of each person that is at least eight years [~~of age up to~~]old and no less than 16 years [~~of age~~]old by securing, or causing to be secured, a properly adjusted and fastened safety belt on each person.

(b) Notwithstanding the requirement under Subsection (1)(a)(ii), a child under eight years [~~of age~~]old who is 57 inches tall or taller:

(i) is exempt from the requirement in Subsection (1)(a)(ii) to be in a child restraint device; and

(ii) shall use a properly adjusted and fastened safety belt as required in Subsection (1)(a)(iii).

(c) An adult passenger who is utilizing transportation network services described in Section 13-51-102 or a taxicab described in Section 53-3-102 shall:

(i) provide for the protection of each person younger than eight years old who is under the adult's supervision by using a child restraint device to restrain the person in the manner prescribed by the manufacturer of the device; and

(ii) provide for the protection of each person who is under the adult's supervision and is at least eight years old and no less than 16 years old by securing, or causing to be secured, a properly adjusted and fastened safety belt on the person.

(2) A person 16 years [~~of age~~]old or older who is a passenger in a motor vehicle operated on a highway shall wear a properly adjusted and fastened safety belt.

(3) If more than one person is not using a child restraint device or wearing a safety belt in violation of Subsection (1), it is considered only one offense, and the driver may receive only one citation for that offense.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 352
H. B. 411
Passed February 21, 2024
Approved March 18, 2024
Effective May 1, 2024

LOCAL GOVERNMENTAL ENTITY DRUG-FREE WORKPLACE POLICIES AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to local government entity drug-free workplace policies.

Highlighted Provisions:

This bill:

- defines terms;
- amends the requirements for a written policy or ordinance of certain local government entities for drug testing of employees, volunteers, potential employees, and potential volunteers;
- permits oral drug testing in addition to urine testing; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34-41-101, as last amended by Laws of Utah 2023, Chapter 16
34-41-104, as last amended by Laws of Utah 1998, Chapter 13
34A-2-302, as last amended by Laws of Utah 2020, Chapter 18

REPEALS AND REENACTS:

34-41-103, as last amended by Laws of Utah 2008, Chapter 382

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

Section 1. Section 34-41-101 is amended to read:

34-41-101. Definitions.

As used in this chapter:

(1) "Donor" means an employee, a volunteer, a prospective employee, or a prospective volunteer of a local government entity or a state institution of higher education.

[~~(1)~~](2) "Drug" means any substance recognized as a drug in the United States Pharmacopeia, the National Formulary, the Homeopathic Pharmacopeia, or other drug compendia, including Title 58, Chapter 37, Utah Controlled Substances Act, or supplement to any of those compendia.

[~~(2)~~](3) "Drug testing" means the scientific analysis for the presence of drugs or their metabolites in the human body in accordance with the definitions and terms of this chapter.

[~~(3)~~](4) "Local governmental employee" means any person or officer in the service of a local governmental entity or state institution of higher education for compensation.

[~~(4)~~](5)(a) "Local governmental entity" means any political subdivision of Utah including any county, municipality, local school district, special district, special service district, or any administrative subdivision of those entities.

(b) "Local governmental entity" does not mean Utah state government or its administrative subdivisions provided for in Sections 63A-17-1001 through 63A-17-1006.

[~~(5)~~](6) "Periodic testing" means preselected and preannounced drug testing of employees or volunteers conducted on a regular schedule.

[~~(6)~~](7) "Prospective employee" means any person who has made a written or oral application to become an employee of a local governmental entity or a state institution of higher education.

[~~(7)~~](8) "Random testing" means the unannounced drug testing of an employee or volunteer who was selected for testing by using a method uninfluenced by any personal characteristics other than job category.

[~~(8)~~](9) "Reasonable suspicion for drug testing" means an articulated belief based on the recorded specific facts and reasonable inferences drawn from those facts that a local government employee or volunteer is in violation of the drug-free workplace policy.

[~~(9)~~](10) "Rehabilitation testing" means unannounced but preselected drug testing done as part of a program of counseling, education, and treatment of an employee or volunteer in conjunction with the drug-free workplace policy.

[~~(10)~~](11) "Safety sensitive position" means any local governmental or state institution of higher education position involving duties which directly affects the safety of governmental employees, the general public, or positions where there is access to controlled substances, as defined in Title 58, Chapter 37, Utah Controlled Substances Act, during the course of performing job duties.

[~~(11)~~](12) "Sample" means urine, blood, breath, saliva, or hair.

[~~(12)~~](13) "State institution of higher education" means the institution as defined in Section 53B-3-102.

[~~(13)~~](14) "Volunteer" means any person who donates services as authorized by the local governmental entity or state institution of higher education without pay or other compensation except expenses actually and reasonably incurred.

Section 2. Section 34-41-103 is repealed and re-enacted to read:

34-41-103. Policy requirements.

(1)(a) A local governmental entity or a state institution of higher education may not test a donor

for the presence of drugs, unless the local government entity or state institution of higher education:

(i) adopts a written policy or ordinance for the testing;

(ii) distributes the policy or ordinance to employees and volunteers; and

(iii) makes the policy or ordinance available for review by prospective employees and prospective volunteers.

(b) The local governmental entity or state institution of higher education may only test or retest for the presence of drugs in accordance with the policy or ordinance described in Subsection (1)(a).

(2) The local government entity or state institution of higher education:

(a) shall collect and test samples in accordance with Section 34-41-104; and

(b) if otherwise permitted by law, is not limited only to collecting or testing in circumstances where there are indications of job-related impairment of an employee or volunteer.

(3) The use and disposition of all drug test results are subject to the limitations of Title 63G, Chapter 2, Government Records Access and Management Act, and the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213.

(4) A donor who is subject to testing under a policy or ordinance described in Subsection (1)(a) shall:

(a) submit an oral sample for testing; or

(b) submit a split urine sample for testing or retesting.

(5) Unless the policy or ordinance described in Subsection (1)(a) provides otherwise, the local governmental entity or state institution of higher education may specify the type of sample, described in Subsection (4), that the donor is required to submit.

(6) A split urine sample shall consist of at least 45 milliliters of urine, divided into two specimen bottles with:

(a) at least 30 milliliters of urine in one bottle, for the initial test; and

(b) at least 15 milliliters of urine in the other bottle for retesting, if requested under Subsection (7).

(7) If the test results of a urine or oral test indicate the presence of drugs, the local governmental entity or state institution of higher education shall:

(a) give notice to the donor:

(i) of the test results; and

(ii) for a urine test, that the donor may, within 72 hours after the local government entity or state institution of higher education provides the notice, request testing of the second sample; and

(b) test the second sample if the donor timely requests testing of the second sample.

(8) The expense of testing the second urine sample will be equally divided between the donor and the local governmental entity or state institution of higher education.

(9) The test results of the samples shall be considered at any subsequent disciplinary hearing if the requirements of this section and Section 34-41-104 are complied with in the collection, handling, and testing of the samples.

Section 3. Section 34-41-104 is amended to read:

34-41-104. Requirements for identification, collection, and testing of samples.

(1) The local governmental entity or state institution of higher education shall ensure that:

(a) all sample collection under this chapter is performed by an entity independent of the local government or state institution of higher education;

(b) all testing for drugs under this chapter is performed by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology;

(c) the instructions, chain of custody forms, and collection kits, including [~~bottles~~]containers and seals, used for sample collection are prepared by an independent laboratory certified for employment drug testing by either the Substance Abuse and Mental Health Services Administration or the College of American Pathology; and

(d) sample collection and testing for drugs under this chapter is in accordance with the [~~conditions established in~~]requirements of this section.

(2) The local governmental entity or state institution of higher education may:

(a) in accordance with a policy or ordinance described in Subsection 34-41-103(1)(a), require samples from [~~its employees, volunteers, prospective employees, or prospective volunteers~~]a donor;

(b) require presentation of reliable identification to the person collecting the samples; and

(c) in order to dependably test for the presence of drugs, designate the type of sample to be used for testing.

(3) The local governmental entity or state institution of higher education shall ensure that [~~its~~]the local governmental entity's or state institution of higher education's ordinance or policy requires that:

(a) the collection of samples is performed under reasonable and sanitary conditions;

(b) samples are collected and tested:

(i) to ensure the privacy of the individual being tested; and

(ii) in a manner reasonably calculated to prevent substitutions or interference with the collection or testing of reliable samples;

(c) sample collection is appropriately documented to ensure that:

(i) samples are labeled and sealed [~~so as~~]to reasonably [~~to~~] preclude the probability of erroneous identification of test results; and

(ii) [~~employees, volunteers, prospective employees, or prospective volunteers have~~]a donor has the opportunity to provide notification of any information:

(A) that [~~any person named in Subsection (3)(c)(ii)~~]a donor considers relevant to the test, including identification of currently or recently used prescription or nonprescription drugs or other relevant medical information; and

(B) in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 through 12213;

(d) sample collection, storage, and transportation to the place of testing are performed in a manner that reasonably precludes the probability of sample misidentification, contamination, or adulteration; and

(e) sample testing conforms to scientifically accepted analytical methods and procedures.

(4) Before the result of any test may be used as a basis for any action by a local governmental entity or state institution of higher education under Section 34-41-105, the local governmental entity or state institution of higher education shall :

(a) verify or confirm any positive initial screening test by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical methods; and [~~shall provide that the employee, prospective employee, volunteer, or prospective volunteer be notified as soon as possible by telephone or in writing at the last-known address or telephone number of the result of the initial test, if it is positive, and told of his option to have the 15 ml urine sample tested, at an expense equally divided between the donor and the employer. In addition to the initial test results, the test results of the 15 ml urine sample shall be considered at any subsequent disciplinary hearing if the requirements of this section and Section 34-41-104 have been complied with in the collection, handling, and testing of these samples.~~]

(b) provide the notice described in Subsection 34-41-103(7), as soon as possible after a positive test result, at the last known address or telephone number of the donor.

(5) Any drug testing by a local governmental entity or state institution of higher education shall occur during or immediately after the regular work period of the employee or volunteer and shall be considered as work time for purposes of compensation and benefits.

(6) The local governmental entity or state institution of higher education shall pay all costs of sample collection and initial testing for drugs required under [~~its ordinance or~~]the policy or ordinance described in Subsection 34-41-103(1)(a), including the costs of transportation if the testing of [~~a current~~]an employee or volunteer is conducted at a place other than the workplace.

Section 4. Section 34A-2-302 is amended to read:

34A-2-302. Employee's willful misconduct -- Penalty.

(1) For purposes of this section:

(a) "Controlled substance" is as defined in Section 58-37-2.

(b) "Local government employee" is as defined in Section 34-41-101.

(c) "Local governmental entity" is as defined in Section 34-41-101.

(d) "State institution of higher education" is as defined in Section 34-41-101.

(e) "Valid prescription" is a prescription, as defined in Section 58-37-2, that:

(i) is prescribed for a controlled substance for use by the employee for whom it was prescribed; and

(ii) has not been altered or forged.

(2) An employee may not:

(a) remove, displace, damage, destroy, or carry away any safety device or safeguard provided for use in any employment or place of employment;

(b) interfere in any way with the use of a safety device or safeguard described in Subsection (2)(a) by any other person;

(c) interfere with the use of any method or process adopted for the protection of any employee in the employer's employment or place of employment; or

(d) fail or neglect to follow and obey orders and to do every other thing reasonably necessary to protect the life, health, and safety of employees.

(3) Except in case of injury resulting in death:

(a) compensation provided for by this chapter shall be reduced 15% when injury is caused by the willful failure of the employee:

(i) to use safety devices when provided by the employer; or

(ii) to obey any order or reasonable rule adopted by the employer for the safety of the employee; and

(b) except when the employer permitted, encouraged, or had actual knowledge of the conduct described in Subsection (4):

(i) disability compensation may not be awarded under this chapter or Chapter 3, Utah Occupational

Disease Act, to an employee when the major contributing cause of the employee's injury is the employee's conduct described in Subsection (4); or

(ii) disability compensation to an employee under this chapter or Chapter 3, Utah Occupational Disease Act, shall be reduced by 15% when the employee's conduct is a contributing cause of the employee's injury but not the major contributing cause.

(4) The conduct described in Subsection (3)(b) is the employee's:

(a) knowing use of a controlled substance that the employee did not obtain under a valid prescription;

(b) intentional abuse of a controlled substance that the employee obtained under a valid prescription if the employee uses the controlled substance intentionally:

(i) in excess of prescribed therapeutic amounts; or

(ii) in an otherwise abusive manner; or

(c) intoxication from alcohol with a blood or breath alcohol concentration of .05 grams or greater as shown by a chemical test.

(5)(a) For purposes of Subsections (3) and (4), as shown by a chemical test that conforms to scientifically accepted analytical methods and procedures and includes verification or confirmation of any positive test result by gas chromatography, gas chromatography-mass spectroscopy, or other comparably reliable analytical method, before the result of the test may be used as a basis for the presumption, it is presumed that the major contributing cause of the employee's injury is the employee's conduct described in Subsection (4) if at the time of the injury:

(i) the employee has in the employee's system:

(A) any amount of a controlled substance or its metabolites if the employee did not obtain the controlled substance under a valid prescription; or

(B) a controlled substance the employee obtained under a valid prescription or the metabolites of the controlled substance if the amount in the employee's system is consistent with the employee using the controlled substance intentionally:

(I) in excess of prescribed therapeutic amounts; or

(II) in an otherwise abusive manner; or

(ii) the employee has a blood or breath alcohol concentration of .05 grams or greater.

(b) The presumption created under Subsection (5)(a) may be rebutted by a preponderance of the evidence showing that:

(i) the chemical test creating the presumption is inaccurate because the employer failed to comply with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104[~~—and~~], Subsection [~~34-41-103(5)~~] 34-41-103(7), or, if applicable, Subsection 34-41-103(6);

(ii) the employee did not engage in the conduct described in Subsection (4);

(iii) the test results do not exclude the possibility of passive inhalation of marijuana because the concentration of total urinary cannabinoids is less than 50 nanograms/ml as determined by a test conducted in accordance with:

(A) Sections 34-38-4 through 34-38-6; or

(B) if the employer is a local governmental entity or state institution of higher education, Section 34-41-104[~~—and~~], Subsection [~~34-41-103(5)~~] 34-41-103(7), or, if applicable, Subsection 34-41-103(6);

(iv) a competent medical opinion from a physician verifies that the amount of controlled substances, metabolites, or alcohol in the employee's system does not support a finding that the conduct described in Subsection (4) was the major contributing cause of the employee's injury or a contributing cause of the employee's injury; or

(v)(A) the conduct described in Subsection (4) was not a contributing cause of the employee's injury; or

(B) the employee's mental and physical condition were not impaired at the time of the injury.

(c)(i) Except as provided in Subsections (5)(c)(ii) and (iii), if a chemical test that creates the presumption under Subsection (5)(a) is taken at the request of the employer, the employer shall comply with:

(A) Title 34, Chapter 38, Drug and Alcohol Testing; or

(B) if the employee is a local governmental employee or an employee of a state institution of higher education, Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies.

(ii) Notwithstanding Section 34-38-13, the results of a test taken under Title 34, Chapter 38, Drug and Alcohol Testing, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection (5)(a).

(iii) Notwithstanding Section 34-41-103, the results of a test taken under Title 34, Chapter 41, Local Governmental Entity Drug-Free Workplace Policies, may be disclosed to the extent necessary to establish or rebut the presumption created under Subsection (5)(a).

(6)(a) A test sample taken pursuant to this section shall be taken as a split sample.

(b) One part of the sample is to be used by the employer for testing pursuant to Subsection (5)(a):

(i) at a testing facility selected by the employer; and

(ii) at the employer's or the employer's workers' compensation carrier's expense.

(c) The testing facility selected under Subsection (6)(b) shall hold the part of the sample not used under Subsection (6)(b) until the sooner of:

(i) six months from the date of the original test; or

(ii) when the employee requests that the sample be tested.

(d) The employee has only six months from the date of the original test to have the remaining sample tested:

(i) at the employee's expense; and

(ii) at the testing facility selected by the employee, except that the test shall meet the requirements of Subsection (5)(a).

(7) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the remainder of this section shall be given effect without the invalid provision or application.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 353
H. B. 423
Passed February 28, 2024
Approved March 18, 2024
Effective May 1, 2024

RESIDENTIAL VALUATION APPEAL PROCEDURES AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to appeals involving the valuation or equalization of residential property.

Highlighted Provisions:

This bill:

- defines terms;
- describes the types of evidence that a county board of equalization or hearing officer may consider in weighing the accuracy of certain sales price information involving residential property;
- requires a county board of equalization, in certain appeals involving residential property, to only consider evidence submitted by the parties; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

59- 2- 1004, as last amended by Laws of Utah 2022, Chapter 168

Sections affected by Coordination Clause:

59- 2- 1004, as last amended by Laws of Utah 2022, Chapter 16845

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

Section 1. Section 59- 2- 1004 is amended to read:

59- 2- 1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Applicable lien date" means January 1 of the year in which the valuation or equalization of real property is appealed to the county board of equalization.

[~~(a)~~](b) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59- 2- 1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59- 1- 602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

[~~(b)~~](c) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by changing the final assessed value for the previous taxable year for the real property by the median property value change.

[~~(c)~~](d) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

[~~(d)~~](e) "Property value change" means the percentage change in the fair market value of real property on or after January 1 of the previous year and before January 1 of the current year.

[~~(e)~~](f) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59- 2- 1006;

(B) the appeal described in Subsection [~~(1)(e)(i)(A)~~](1)(f)(i)(A), resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

[~~(f)~~](g) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of

the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(h) "Qualifying contract" means a contract for the completed sale of residential property that:

(i) involves residential property for which a taxpayer appealed the valuation or equalization to the county board of equalization;

(ii) identifies the final sales price for the residential property described in Subsection (1)(h)(i); and

(iii) is executed within six months before or after the applicable lien date.

(2)(a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection [~~(9)~~](10) authorizing a taxpayer to make an application by telephone or other electronic means.

(b)(i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c)(i)(A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(ii)(A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(3)(a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4)(a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b)(i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

(5) [~~In~~]Subject to Subsection (6), in reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6)(a) This Subsection (6) applies only to an appeal to a county board of equalization involving the valuation or equalization of residential property that is not qualified real property.

(b) There is no presumption of correctness for evidence submitted in an appeal described in Subsection (6)(a), including the original assessed value of the residential property.

(c) If a qualifying contract is submitted as evidence in an appeal described in Subsection (6)(a), the only evidence that the county board of equalization or hearing officer may consider to determine that the final sales price identified in the qualifying contract does not provide an accurate or reliable indication of the fair market value of the residential property is evidence of the following, if submitted:

(i) evidence disputing the nature of the qualifying contract as an arms- length transaction;

(ii) evidence demonstrating that changes in market conditions have occurred in the time period between the day on which the qualifying contract was executed and the applicable lien date; or

(iii) evidence demonstrating that a qualifying change to the residential property has occurred in the time period between the day on which the qualifying contract was executed and the applicable lien date.

(d) In determining the fair market value of residential property in an appeal described in Subsection (6)(a), the county board of equalization may not consider any evidence or information other than the evidence submitted to the county board of equalization by the parties in the appeal.

[~~(6)~~](7)(a) Except as provided in Subsection [~~(6)(c)~~](7)(c), at least five days before the day on which the county board of equalization holds a public hearing on an appeal:

(i) the county assessor shall provide the taxpayer any evidence the county assessor relies upon in support of the county assessor's valuation; and

(ii) the taxpayer shall provide the county assessor any evidence not previously provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

(b)(i) The deadline described in Subsection [~~(6)(a)~~](7)(a) does not apply to evidence that is commercial information as defined in Section 59- 1- 404, if:

(A) for the purpose of complying with Section 59- 1- 404, the county assessor requires that the taxpayer execute a nondisclosure agreement before the county assessor discloses the evidence; and

(B) the taxpayer fails to execute the nondisclosure agreement before the deadline described in Subsection [~~(6)(a)~~](7)(a).

(ii) The county assessor shall disclose evidence described in Subsection [~~(6)(b)(i)~~](7)(b)(i) as soon as practicable after the county assessor receives the executed nondisclosure agreement.

(iii) The county assessor shall provide the taxpayer a copy of the nondisclosure agreement with reasonable time for the taxpayer to review and execute the agreement before the deadline described in Subsection [~~(6)(a)~~](7)(a) expires.

(c) If at the public hearing, a party presents evidence not previously provided to the other party, the county board of equalization shall allow the other party to respond to the evidence in writing within 10 days after the day on which the public hearing occurs.

(d)(i) A county board of equalization may adopt rules governing the deadlines described in this Subsection [~~(6)~~](7), if the rules are no less stringent than the provisions of this Subsection [~~(6)~~](7).

(ii) A county board of equalization's rule that complies with Subsection [~~(6)(d)(i)~~](7)(d)(i) controls over the provisions of this subsection.

[~~(7)~~](8)(a) The county board of equalization shall meet and hold public hearings as described in Section 59- 2- 1001.

(b)(i) For purposes of this Subsection [~~(7)(b)~~](8)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection [~~(7)(b)(ii)(A)~~](8)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection [~~(7)(c)~~](8)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection [~~(7)(d)~~](8)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection [~~(7)(c)~~](8)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection [~~(7)(c)~~](8)(c); and

(ii) hear the appeal at the meeting described in Subsection [~~(7)(e)(i)~~](8)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h)(i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection [~~(7)(h)(i)~~](8)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

[~~(8)~~](9) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

[~~(9)~~](10) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2024.

Section 5. Coordinating H.B. 423 with S.B. 182.

(1) If H.B. 423, Residential Valuation Appeal Procedures Amendments, and S.B. 182, Property Tax Assessment Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 59-2-1004(6)(b), enacted in H.B. 423, be deleted.

(2) Subsection (1) has retrospective operation for a taxable year beginning on or after January 1, 2024.

CHAPTER 354
H. B. 517
Passed February 29, 2024
Approved March 18, 2024
Effective July 1, 2024

HALF-DAY KINDERGARTEN AMENDMENTS

Chief Sponsor: Trevor Lee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions regarding half-day kindergarten to ensure that a student attending half-day kindergarten receives instruction in all of the kindergarten core competencies.

Highlighted Provisions:

This bill:

- amends provisions regarding half-day kindergarten to ensure that a student attending half-day kindergarten receives instruction that meets minimum standards for half-day kindergarten that the State Board of Education sets;
- requires a local education agency governing board to:
  - inform parents of the availability of the half-day kindergarten option; and
  - provide a designated half-day kindergarten class when half-day enrollment reaches a certain threshold; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-7-203, as last amended by Laws of Utah 2023, Chapters 347, 467

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

Section 1. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2)(a) Each LEA governing board shall provide kindergarten classes free of charge for kindergarten children residing within the district or attending the charter school.

(b) Each LEA governing board shall[~~.~~]:

(i) provide a half-day kindergarten option for a student that comprises the minimum standards for half-day kindergarten that the state board establishes, in accordance with Subsection (4)(a)(iii), if the student's parent requests a half-day option[~~,~~]; and

(ii)(A) inform parents of the availability of the option to register for a designated full-curriculum half-day kindergarten option at the time of all kindergarten registration, by email, posters, or other announcements when a parent requests kindergarten registration; and

(B) provide the option to register for a designated half-day kindergarten option at the time of registration;

(iii) provide a dedicated kindergarten class specifically designated as a half-day kindergarten class when enrollment of half-day kindergarten students at an individual school or a regional school exceeds a minimum of 18 students;

(iv) when enrollment of half-day kindergarten students at an individual school exceeds a minimum of 18 students, designate the school as a half-day kindergarten provider for the improvement of recruiting teachers that prefer half-day teaching;

(v) inform parents regarding the additional educational resources and opportunities available to parents who select the half-day kindergarten option; and

(vi) ensure that a half-day kindergarten student who is registered in a class that includes full-day kindergarten students receives instruction that at least meets the minimum standards for half-day kindergarten that the state board establishes, in accordance with Subsection (4)(a)(iii).

(c) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4)(a) The state board shall:

(i) develop and collect data from a kindergarten assessment that the board selects by rule;[~~ and~~]

(ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the administration of and reporting regarding the assessment described in Subsection (4)(a)(i)[~~.~~]; and

(iii) establish minimum standards for half-day kindergarten.

(b) An LEA shall:

(i) administer the assessment described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the assessment described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) Beginning with the 2022-2023 school year, the state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 355
S. B. 15
Passed January 31, 2024
Approved March 18, 2024
Effective May 1, 2024

CONCEALED FIREARM REVIEW BOARD AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill extends the repeal date of the Concealed Firearm Review Board.

Highlighted Provisions:

This bill:

- amends the repeal date of the Concealed Firearm Review Board from July 1, 2024, to July 1, 2029.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, [~~2024~~]2029.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(17) Section 53F-5-213 is repealed July 1, 2023.

(18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, [~~2024~~]2029.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(23) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(24) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(25) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 3. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, [~~2024~~]2029.

(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(6) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(7) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(11) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(14) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(18) Section 53F-5-213 is repealed July 1, 2023.

(19) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(20) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(21) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(22)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

(23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(25) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(26) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 4. Effective date.

This bill takes effect May 1, 2024.

CHAPTER 356
S. B. 17
Passed January 31, 2024
Approved March 18, 2024
Effective May 1, 2024

SAFE DRINKING WATER ACT SUNSET EXTENSION

Chief Sponsor: Scott D. Sandall
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill addresses safe drinking water.

Highlighted Provisions:

This bill:

- extends the sunset date for the Safe Drinking Water Act; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-219, as last amended by Laws of Utah 2022, Chapter 194

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

Section 1. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2a-102 is repealed July 1, 2026.

[~~(3) Section 19-2a-104 is repealed July 1, 2022.~~]

[~~(4)~~](3)(a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, [~~2024~~]2029.

(b) Notwithstanding Subsection (4)(a), Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

[~~(5)~~](4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

[~~(6)~~](5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

[~~(7)~~](6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

[~~(8)~~](7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[~~(9)~~](8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(10)~~](9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(11)~~](10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(12)~~](11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 357
S. B. 19
Passed January 31, 2024
Approved March 18, 2024
Effective May 1, 2024

UTAH COMMUNICATIONS AUTHORITY MODIFICATIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill amends provisions related to the Utah Communications Authority.

Highlighted Provisions:

This bill:

- combines into a single section various provisions concerning which statutes the Utah Communications Authority (authority) is subject to and exempt from;
- removes the advice and consent requirement for appointment of a member of the authority's board as chair of the board;
- combines reporting requirements related to the authority into a single section and consolidates certain reporting requirements;
- requires the authority to provide annual reports to the Retirement and Independent Entities Interim Committee;
- repeals outdated and obsolete provisions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63H-7a-103, as last amended by Laws of Utah 2020, Chapter 368
63H-7a-104, as last amended by Laws of Utah 2022, Chapter 435
63H-7a-201, as last amended by Laws of Utah 2017, Chapter 430
63H-7a-203, as last amended by Laws of Utah 2019, Chapters 246, 509
63H-7a-205, as last amended by Laws of Utah 2020, Chapter 294
63H-7a-206, as last amended by Laws of Utah 2020, Chapter 368
63H-7a-301, as renumbered and amended by Laws of Utah 2015, Chapter 411
63H-7a-303, as last amended by Laws of Utah 2020, Chapter 368
63H-7a-304.5, as last amended by Laws of Utah 2023, Chapter 507
63H-7a-401, as renumbered and amended by Laws of Utah 2015, Chapter 411
63H-7a-501, as renumbered and amended by Laws of Utah 2015, Chapter 411
63H-7a-601, as last amended by Laws of Utah 2017, Chapter 430
63H-7a-804, as renumbered and amended by Laws of Utah 2015, Chapter 411
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
69-2-204, as last amended by Laws of Utah 2023, Chapter 507

REPEALS:

63H-7a-101, as renumbered and amended by Laws of Utah 2015, Chapter 411
63H-7a-206.5, as enacted by Laws of Utah 2020, Chapter 368
63H-7a-800, as enacted by Laws of Utah 2015, Chapter 411
63H-7a-803, as last amended by Laws of Utah 2022, Chapter 435

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

Section 1. Section 63H-7a-103 is amended to read:

63H-7a-103. Definitions.

As used in this chapter:

(1) "911 account" means the Unified Statewide 911 Emergency Service Account, created in Subsection 63H-7a-304(1).

(2) "911 call transfer" means the redirection of a 911 call from the person who initially receives the call to another person within the state.

[~~(3) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.~~]

[~~(4)~~](3) "Authority" means the Utah Communications Authority created in Section 63H-7a-201.

[~~(5)~~](4) "Backhaul network" means the portion of a public safety communications network that

consists primarily of microwave paths, fiber lines, or ethernet circuits.

[~~(6)~~](5) "Board" means the Utah Communications Authority Board created in Section 63H-7a-203.

[~~(7)~~](6) "CAD" means a computer-based system that aids PSAP dispatchers by automating selected dispatching and record-keeping activities.

[~~(8)~~](7) "CAD-to-CAD" means standardized connectivity between PSAPs or between a PSAP and a dispatch center for the transmission of data between CADs.

[~~(9)~~](8) "Dispatch center" means an entity that receives and responds to an emergency or nonemergency communication transferred to the entity from a public safety answering point.

[~~(10)~~](9) "FirstNet" means the federal First Responder Network Authority established in 47 U.S.C. Sec. 1424.

[~~(11)~~](10) "Lease" means any lease, lease purchase, sublease, operating, management, or similar agreement.

[~~(12)~~](11) "Public agency" means any political subdivision of the state dispatched by a public safety answering point.

[~~(13)~~](12) "Public safety agency" means the same as that term defined in Section 69-2-102.

[~~(14)~~](13) "Public safety answering point" or "PSAP" means an entity in this state that:

(a) receives, as a first point of contact, direct 911 emergency communications from the 911 emergency service network requesting a public safety service;

(b) has a facility with the equipment and staff necessary to receive the communication;

(c) assesses, classifies, and prioritizes the communication; and

(d) dispatches the communication to the proper responding agency.

[~~(15)~~](14) "Public safety communications network" means:

(a) a regional or statewide public safety governmental communications network and related facilities, including real property, improvements, and equipment necessary for the acquisition, construction, and operation of the services and facilities; and

(b) 911 emergency services, including radio communications, connectivity, and 911 call processing equipment.

Section 2. Section 63H-7a-104 is amended to read:

63H-7a-104. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) except as provided in Subsection (5), Title 63A, Utah Government Operations Code; and

[~~(c) Title 63A, Chapter 17, Utah State Personnel Management Act.~~]

(c) Title 63G, Chapter 4, Administrative Procedures Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

[~~(b) Section 67-3-12;~~]

[~~(c)~~](b) Title 63G, Chapter 2, Government Records Access and Management Act; [~~and~~]

[~~(d)~~](c) Title 63G, Chapter 6a, Utah Procurement Code[~~.~~];

(d) Title 63J, Chapter 1, Budgetary Procedures Act; and

(e) Section 67-3-12.

(3) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(4) The board shall adopt procedures, accounting, and personnel and human resource policies substantially similar to those from which the authority is exempted under Subsection (1).

(5) Subject to the requirements of Subsection 63E-1-304(2), the authority may participate in coverage under the Risk Management Fund created in Section 63A-4-201.

Section 3. Section 63H-7a-201 is amended to read:

63H-7a-201. Utah Communications Authority established.

[~~(1) This part is known as "Utah Communications Authority Governance."~~]

(1) As used in this section, "independent state agency" means the same as that term is defined in Section 63E-1-102.

(2) There is established the Utah Communications Authority as an independent state agency and not a division within any other department of the state.

[~~(3)(a) The authority shall maintain an office in Salt Lake County.~~]

[~~(b) The authority may establish additional branch offices outside of Salt Lake County with the approval of the board.~~]

Section 4. Section 63H-7a-203 is amended to read:

63H-7a-203. Board established -- Terms -- Vacancies.

(1) There is created the Utah Communications Authority Board.

(2) The board shall consist of nine voting board members and two nonvoting board members as follows:

(a) as voting members:

(i) three individuals appointed by the governor with the advice and consent of the Senate;

(ii) one individual who is not a legislator appointed by the speaker of the House of Representatives;

(iii) one individual who is not a legislator appointed by the president of the Senate;

(iv) two individuals nominated by an association that represents cities and towns in the state and appointed by the governor with the advice and consent of the Senate; and

(v) two individuals nominated by an association that represents counties in the state and appointed by the governor with the advice and consent of the Senate; and

(b) as nonvoting members, the chairs of the public safety advisory committee created in Section

63H-7a-207 and the PSAP advisory committee created in Section 63H-7a-208.

(3) Subject to this section, an individual is eligible for appointment under Subsection (2) if the individual has knowledge of at least one of the following:

(a) law enforcement;

(b) public safety;

(c) fire service;

(d) telecommunications;

(e) finance;

(f) management; and

(g) government.

(4) An individual may not serve as a voting board member if the individual is a current public safety communications network:

(a) user; or

(b) vendor.

(5)(a)(i) Five of the board members appointed under Subsection (2)(a) shall serve an initial term of two years and four of the board members appointed under Subsection (2)(a) shall serve an initial term of four years.

(ii) Successor board members shall each serve a term of four years.

(b)(i) The governor may remove a board member with cause.

(ii) If the governor removes a board member the entity that appointed the board member under Subsection (2)(a) shall appoint a replacement board member in the same manner as described in Subsection (2)(a).

(6)(a) The governor shall, after consultation with the board, appoint a voting board member as chair of the board [~~with the advice and consent of the Senate~~].

(b) The chair shall serve a two-year term.

(7) The board shall meet on an as-needed basis and as provided in the bylaws.

(8)(a) The board shall elect one of the board members to serve as vice chair.

(b)(i) The board may elect a secretary and treasurer who are not members of the board.

(ii) If the board elects a secretary or treasurer who is not a member of the board, the secretary or treasurer does not have voting power.

(c) A separate individual shall hold the offices of chair, vice chair, secretary, and treasurer.

(9) Except for the nonvoting members described in Subsection (2)(b), each board member, including the chair, has one vote.

(10) A vote of a majority of the board members is necessary to take action on behalf of the board.

(11) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) a per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

Section 5. Section 63H-7a-205 is amended to read:

63H-7a-205. Executive director -- Appointment -- Powers and duties.

The executive director shall:

(1)(a) serve at the pleasure of the board; and

(b) act as the executive officer of the authority;

(2) administer the duties, programs, and functions assigned to the authority;

(3) recommend administrative rules and policies to the board;

(4) execute contracts on behalf of the authority;

(5) recommend to the board any changes in statutes affecting the authority;

(6) recommend to the board an annual administrative budget covering administration, management, and operations of the authority;

(7) with board approval, direct and control authority expenditures; and

(8) within the limitations of the budget, employ personnel, consultants, a financial officer, and legal counsel to provide professional services and advice regarding the administration of the authority[~~; and~~].

[~~(9) submit and make available to the public a report before December of each year to the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, and the Legislative Management Committee that includes:~~]

[~~(a) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;~~]

[~~(b) the amount of each disbursement from the restricted accounts described in:~~]

[~~(i) Section 63H-7a-303;~~]

[~~(ii) Section 63H-7a-304; and~~]

[~~(iii) Section 63H-7a-403;~~]

[~~(c) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;~~]

[~~(d) any conditions placed by the authority on the disbursements from a restricted account;~~]

[~~(e) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;~~]

[~~(f) the amount of any unexpended funds carried forward;~~]

[~~(g) the goals for implementation of the authority strategic plan and the progress report of accomplishments and updates to the plan; and~~]

[~~(h) other relevant justification for ongoing support from the restricted accounts created by Sections 63H-7a-303, 63H-7a-304, and 63H-7a-403.~~]

Section 6. Section 63H-7a-206 is amended to read:

63H-7a-206. Required annual reporting and strategic plan.

(1) The authority shall create, maintain, and review annually a statewide, comprehensive multiyear strategic plan, in consultation with state and local stakeholders, the PSAP advisory committee, and the public safety advisory committee, that:

(a) coordinates the authority's activities and duties in the:

(i) 911 Division;

(ii) Radio Network Division;

(iii) Interoperability Division; and

(iv) Administrative Services Division; and

(b) includes:

(i) a plan for maintaining, upgrading, and expanding the public safety communications network, including microwave and fiber optics based systems;

(ii) a plan for statewide interoperability;

(iii) a plan for statewide coordination;

(iv) radio network coverage maps; and

(v) FirstNet standards.

(2) The executive director shall update the strategic plan described in Subsection (1) before July 1 of each year.

(3) The executive director shall, before December 1 of each year, report on the strategic plan described in Subsection (1) to:

(a) the board;

(b) the Executive Offices and Criminal Justice Appropriations Subcommittee; [~~and~~]

(c) the Legislative Management Committee[~~.~~]; and

(d) the Retirement and Independent Entities Interim Committee.

(4) Each report described in Subsection (3) shall include a description of the authority's goals for implementation of the strategic plan and a progress report of accomplishments and updates to the strategic plan.

[~~(4)~~](5) The authority shall consider the strategic plan described in Subsection (1) before spending funds in the restricted accounts created by this chapter.

(6)(a) Following the close of each fiscal year, the executive director shall submit and make available to the public an annual report of the authority's activities for the preceding year to the governor, the board, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Retirement and Independent Entities Interim Committee.

(b) Each report described in Subsection (6)(a) shall include:

(i) the agency's complete operating and financial statement for the preceding fiscal year;

(ii) the total aggregate surcharge collected by the state in the last fiscal year under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

(iii) the amount of each disbursement from the restricted accounts described in:

(A) Section 63H-7a-303;

(B) Section 63H-7a-304; and

(C) Section 63H-7a-403;

(iv) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(v) any conditions the authority placed on the disbursements from a restricted account;

(vi) the anticipated expenditures from the restricted accounts described in this chapter for the next fiscal year;

(vii) the amount of any unexpended funds carried forward; and

(viii) other relevant justification for ongoing support from the restricted accounts created by:

(A) Section 63H-7a-303;

(B) Section 63H-7a-304; and

(C) Section 63H-7a-403.

Section 7. Section 63H-7a-301 is amended to read:

63H-7a-301. 911 Division.

[~~(1) This part is known as the "911 Division."~~]

[~~(2)~~](1) There is created within the authority the 911 Division.

[~~(3)~~](2) The 911 Division [~~shall have~~]has the duties and powers described in this chapter.

Section 8. Section 63H-7a-303 is amended to read:

63H-7a-303. Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Computer Aided Dispatch Restricted Account," consisting of money appropriated or otherwise made available by the Legislature.

(2) Subject to this Subsection (2) and appropriations by the Legislature, the authority may expend funds in the Computer Aided Dispatch Restricted Account for the following purposes:

(a) enhancing public safety as provided in this chapter; and

(b) creating a shared computer aided dispatch system including:

(i) an interoperable computer aided dispatch platform that will be selected, shared, or hosted on a statewide or regional basis;

(ii) an interoperable computer aided dispatch platform selected by a county of the first class, when:

(A) authorized through an interlocal agreement between the county's two primary public safety answering points; and

(B) the county's computer aided dispatch platform is capable of interfacing with the platform described in Subsection (2)(b)(i); and

(iii) a statewide computer aided dispatch system data sharing platform to provide interoperability of systems.

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may expend funds from the Computer Aided Dispatch Restricted Account to cover the Administrative Services Division's administrative costs related to the Computer Aided Dispatch Restricted Account.

(4) [~~On July 1, 2024,~~]At the close of fiscal year 2024, the Division of Finance shall transfer all funds in the Computer Aided Dispatch Restricted Account[~~ shall automatically transfer~~] to the 911 account.

Section 9. Section 63H-7a-304.5 is amended to read:

63H-7a-304.5. Distributions from 911 account to qualifying PSAPs.

(1) As used in this section:

(a) "Certified statement" means a statement signed by a PSAP's director or other authorized administrator certifying the PSAP's compliance with the requirements of Subsection (2)(a).

(b) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.

(c) "Proportionate share" means a percentage derived by dividing a PSAP's average 911 call volume, as reported to the State Tax Commission under Section 69-2-302, for the preceding three years by the total of the average 911 call volume for the same three-year period for all PSAPs that have submitted a certified statement seeking a distribution of the applicable remaining funds.

(d) "Qualifying PSAP" means a PSAP that:

(i) meets the requirements of Subsection (2)(a) for the period for which remaining funds are sought; and

(ii) submits a timely certified statement to the authority.

(e) "Remaining funds" means the money remaining in the 911 account after deducting:

(i) disbursements under Subsections 63H-7a-304(2)(a), (3), and (4);

(ii) authority expenditures or disbursements in accordance with the authority's strategic plan, including expenditures or disbursements to pay for:

(A) implementing, maintaining, or upgrading the public safety communications network or statewide 911 phone system; and

(B) authority overhead for managing the 911 portion of the public safety communications network; and

(iii) money that the board determines should remain in the 911 account for future use.

(f) "Required transfer rate" means[~~:~~]

[~~(i)~~] a transfer rate of no more than 2%[~~; or~~].

[~~(ii) for a PSAP with a transfer rate for the fiscal year ending June 30, 2020, that is greater than 2%, and until June 30, 2023, the transfer rate that meets the requirement for the applicable period under Subsection 69-2-204(3)(a), (b), or (c).~~]

(g) "Transfer rate" means the same as that term is defined in Section 69-2-204.

(2)(a) To qualify for a proportionate share of remaining funds, a PSAP shall, for the period for which remaining funds are sought:

(i) have answered:

(A) 90% of all 911 calls arriving at the PSAP within 15 seconds; and

(B) 95% of all 911 calls arriving at the PSAP within 20 seconds;

(ii) have adopted and be using the statewide CAD-to-CAD call handling and 911 call transfer protocol adopted by the board under Subsection 63H-7a-204(17);

(iii) have participated in the authority's annual interoperability exercise;

(iv) have complied with the required transfer rate; and

(v) be designated as an emergency medical service dispatch center according to Section 26B-4-117.

(b) A PSAP that seeks a proportionate share of remaining funds shall submit a certified statement to the authority no later than July 31 following the end of the fiscal year for which remaining funds are sought.

(c) Notwithstanding Subsection (2)(a):

(i) a qualifying PSAP in a county with multiple PSAPs does not qualify for a proportionate share of remaining funds for a period beginning after June 30, 2023, unless every PSAP in that county is a qualifying PSAP; and

(ii) a PSAP described in Subsection 69-2-203(5) does not qualify for remaining funds.

(3)(a) Subject to Subsection (3)(b), for PSAPs that have become qualifying PSAPs for the previous fiscal year the authority shall distribute to each qualifying PSAP that PSAP's proportionate share of the remaining funds.

(b) The authority may not distribute more than 20% of remaining funds to any single PSAP.

(4) All money that a PSAP receives under this section is subject to Section 69-2-301.

Section 10. Section 63H-7a-401 is amended to read:

63H-7a-401. Radio Network Division.

[~~(1) This part is known as the "Radio Network Division." (2)~~] There is created within the authority the Radio Network Division.

Section 11. Section 63H-7a-501 is amended to read:

63H-7a-501. Interoperability Division.

[~~(1) This part is known as the "Interoperability Division."~~]

[~~(2)~~](1) There is created within the authority the Interoperability Division, which [~~shall be~~]is responsible for the duties of the authority as specified in this chapter.

[~~(3)~~](2) The executive director shall appoint a statewide interoperability coordinator with the approval of the board.

(3) The statewide interoperability coordinator shall be funded by the Department of Public Safety within appropriations to the Department of Public Safety for this purpose.

Section 12. Section 63H-7a-601 is amended to read:

63H-7a-601. Administrative Services Division -- Creation -- Legal services.

[~~(1) This part is known as "Administrative Services Division."~~]

[~~(2)~~](1) There is created within the authority the Administrative Services Division.

[~~(3)~~](2) The Administrative Services Division shall provide financial and human resources assistance to the authority under the direction of the board and the executive director.

[~~(4)~~](3) At the board's request and with the board's approval, the Administrative Services Division may establish or contract for legal services for the authority.

Section 13. Section 63H-7a-804 is amended to read:

63H-7a-804. Audit by state auditor -- Reimbursement for costs.

[~~(1) The authority shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the Legislature. Each report shall set forth a complete operating and financial statement of the agency during the fiscal year it covers.~~]

[~~(2)~~](1) The state auditor shall at least once in each year audit the books and accounts of the authority or shall contract with an independent certified public accountant for this audit.

(2) The audit described in Subsection (1) shall include a review of the procedures adopted under the requirements of Subsection [~~63H-7a-803(2)~~] 63H-7a-104(4) and a determination as to whether the board has complied with the requirements of [~~Subsection 63H-7a-803(2)~~]Subsections 63H-7a-104(2) and (3).

(3) The authority shall reimburse the state auditor from available money of the authority for the actual and necessary costs of [~~that~~]an audit described in Subsection (1).

Section 14. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

[~~(2) Section 63A-17-303 is repealed July 1, 2023.~~]

[~~(3)~~](2) Section 63A-17-806 is repealed June 30, 2026.

[~~(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.~~]

[~~(5)~~](3) Section 63H-7a-303 is repealed July 1, 2024.

(4) The following provisions related to the Computer Aided Dispatch Restricted Account are repealed July 1, 2024:

(a) Subsection 63H-7a-206(6)(b)(iii)(A);

(b) Subsection 63H-7a-206(6)(b)(viii)(A);

(c) Subsection 63H-7a-302(1)(f)(ii);

(d) Subsection 63H-7a-302(1)(h);

(e) in Subsection 63H-7a-302(2), the language that states, "the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or";

(f) Subsection 63H-7a-302(3);

(g) Subsection 63H-7a-302(5);

(h) Subsection 63H-7a-602(1); and

(i) Subsection 63J-1-602.1(51).

(5) In relation to the Computer Aided Dispatch Restricted Account, on July 1, 2024, Subsection 63H-7a-302(2) is amended to read: "The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the 911 account, the proceeds of which shall return to the 911 account."

(6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(7) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

(8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 15. Section 69-2-204 is amended to read:

69-2-204. Public safety answering point 911 call transfer rate requirements.

(1) As used in this section:

[~~(a) "Fiscal year" means the period from July 1 of one year to June 30 of the following year.~~]

[~~(b)(i)~~](a) "Transfer rate" means the percentage of 911 calls that are:

[~~(A)~~](i) received by a public safety answering point during a fiscal year; and

[~~(B)~~](ii) transferred to another location in the state.

[~~(ii)~~](b) "Transfer rate" does not include transfers from a public safety answering point to 988 services or poison control.

(2) [~~Subject to Subsection (3), a~~]A public safety answering point shall maintain a transfer rate that is no more than 2%.

[~~(3) A public safety answering point with a transfer rate for the fiscal year ending June 30, 2020, that is greater than 2% shall:~~]

[~~(a) for the fiscal year ending June 30, 2021, reduce the public safety answering point's transfer rate to at least 5% less than the transfer rate for the fiscal year ending June 30, 2020;~~]

[~~(b) for the fiscal year ending June 30, 2022, reduce the public safety answering point's transfer rate:~~]

[~~(i) to at least 15% less than the transfer rate for the fiscal year ending June 30, 2020; or~~]

[~~(ii) to at least 10% less than the transfer rate for the fiscal year ending June 30, 2021; and~~]

[~~(c) for the fiscal year ending June 30, 2023, reduce the public safety answering point's transfer rate to no more than 5%.~~]

Section 16. Repealer.

This bill repeals:

Section 63H-7a-101, Title.

Section 63H-7a-206.5, Report on implementing audit recommendations.

Section 63H-7a-800, Title.

Section 63H-7a-803, Relation to certain acts -- Participation in Risk Management Fund.

Section 17. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 358
S. B. 20
Passed January 31, 2024
Approved March 18, 2024
Effective May 1, 2024

AGRICULTURAL AND WILDLIFE DAMAGE PREVENTION BOARD AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill addresses the sunset date of the Agricultural and Wildlife Damage Prevention Board.

Highlighted Provisions:

This bill:

- extends the sunset date of the Agricultural and Wildlife Damage Prevention Board from 2024 to 2034.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-204, as last amended by Laws of Utah 2023, Chapters 79, 210

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

Section 1. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, [~~2024~~]2034.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(9) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 359
S. B. 28
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

SCENIC BYWAY PROGRAM AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill extends the sunset of the Utah State Scenic Byway Program.

Highlighted Provisions:

This bill:

- extends the sunset of the Utah State Scenic Byway Program for 5 years;
- requires a designation of a National Scenic Byway or All-American Road be approved by concurrent resolution;
- amends provisions to require designations for state scenic byways be:
  - considered by a legislative interim committee; and
  - approved by concurrent resolution; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-272, as last amended by Laws of Utah 2022, Chapter 259
72-4-301.5, as last amended by Laws of Utah 2010, Chapter 195
72-4-303, as last amended by Laws of Utah 2016, Chapter 152

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

Section 1. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

(1) Subsection 72-2-121(9), which creates transportation advisory committees, is repealed July 1, 2022.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, [~~2025~~]2030.

Section 2. Section 72-4-301.5 is amended to read:

72-4-301.5. Designation of highways as a National Scenic Byway or All-American Road -- Legislative approval.

(1) Except as provided in Section 72-4-304, a highway or state scenic byway may not be nominated for designation as a National Scenic Byway or All-American Road unless the corridor management plan that will be submitted with the application for the highway or state scenic byway to be nominated for designation as a National Scenic Byway or All-American Road is approved by the Legislature by concurrent resolution.

(2)(a) In accordance with Subsection (1), the Legislature may, by concurrent resolution:

(i) approve the corridor management plan;

(ii) approve the corridor management plan with conditions specified by the Legislature; or

(iii) deny the corridor management plan.

(b) Upon a decision by the Legislature under Subsection (2)(a), the nominating entity is not required to move forward with the nomination for the National Scenic Byway or All-American Road designation.

Section 3. Section 72-4-303 is amended to read:

72-4-303. Powers and duties of the Utah State Scenic Byway Committee -- Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on state maps -- Outdoor advertising.

(1) The committee shall have the responsibility to:

(a) administer a coordinated scenic byway program within the state that:

(i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique to scenic byways;

(ii) enhances recreation; and

(iii) promotes economic development through tourism and education;

(b) ensure that a highway nominated for a scenic byway designation possesses at least one of the following six intrinsic qualities:

(i) scenic quality;

(ii) natural quality;

(iii) historic quality;

(iv) cultural quality;

(v) archaeological quality; or

(vi) recreational quality;

(c) subject to legislative approval, designate highways as state scenic byways from nominated highways within the state if the committee determines that the highway possesses the criteria for a state scenic byway; [~~and~~]

(d) subject to legislative approval, remove the designation of a highway as a scenic byway if the committee determines that the highway no longer meets the criteria under which it was designated[~~.~~]; and

(e) submit proposed designations or removals to the Legislature as provided in Subsection (7).

(2)(a) A highway located within a county, city, or town within this state may not be included as part of a designation or nomination as a state scenic

byway, National Scenic Byway, or All-American Road unless the nomination or designation is sanctioned in writing by an official action of the legislative body of each county, city, or town through which the proposed state scenic byway, National Scenic Byway, or All-American Road passes.

(b) If a county, city, or town does not give approval as required under Subsection (2)(a), then the portion of the highway located within the boundaries of the county, city, or town may not be included as part of any state scenic byway designation or nomination as a National Scenic Byway or All-American Road.

(3)(a) Except as provided in Subsection (3)(d), a non-scenic segment of a state scenic byway, National Scenic Byway, or All-American Road shall be segmented from the byway or road:

(i) by the legislative body of the county, city, or town where the segmentation is to occur if:

(A) a person or another entity, with the consent of any landowners affected by the segmentation, has requested the segmentation of a portion of a road or highway; and

(B) the legislative body of the county, city, or town reviews the segmentation proposed under this Subsection (3)(a)(i); or

(ii) by the committee at the written request of the owner of real property that is a non-scenic area adjacent to a state scenic byway, National Scenic Byway, or All-American Road.

(b) The legislative body of a county, city, or town shall render a decision on a segmentation request under Subsection (3)(a)(i) within 60 days and may grant segmentation to the person or entity if the property is a non-scenic area.

(c)(i) If the legislative body of a county, city, or town denies the request to segment the state scenic byway, National Scenic Byway, or All-American Road under Subsection (3)(a)(i) upon the request of a person or another entity, with the consent of any landowners affected by the segmentation, that person or entity may appeal the denial of the request to the committee.

(ii) The committee shall hear and answer an appeal of the denial of a segmentation request within 60 days of a request submitted in accordance with Subsection (3)(c)(i).

(iii) If the committee does not render a decision on an appeal in accordance with Subsection (3)(c)(ii), the segmentation request shall be granted if the property is a non-scenic area.

(d) A state scenic byway, National Scenic Byway, or All-American Road is not required to be segmented under Subsection (3)(a)(ii) if, within 60 days after the day on which the request is received, the committee demonstrates to an administrative law judge selected by agreement of the owner of real property and the committee where the non-scenic area is located, that the property to be segmented is not a non-scenic area.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules in consultation with the committee:

(a) for the administration of a scenic byway program;

(b) establishing the criteria that a highway shall possess to be designated as a scenic byway, including the criteria described in Subsection (1)(b);

(c) establishing the process for nominating a highway to be designated as a state scenic byway;

(d) specifying the process for hearings to be conducted in the area of proposed designation prior to the highway being designated as a scenic byway;

(e) identifying the highways within the state designated as scenic byways; and

(f) establishing the process and criteria for removing the designation of a highway as a scenic byway.

(5) The department shall designate scenic byway routes on future state highway maps.

(6) A highway within the state designated as a scenic byway is subject to federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

(7)(a) Any nomination for designation of a highway as a state scenic byway is subject to approval by the Legislature by concurrent resolution.

(b) If the committee supports a designation or removal of a highway as a state scenic byway, the committee shall:

(i) notify the Transportation Interim Committee on or before October 1 of the year in which the committee takes action to support the designation or removal; and

(ii) provide a report regarding the committee's findings and reasoning for supporting the designation or removal.

(c) If the Transportation Interim Committee receives a notification and report as described in Subsection (7)(b), the Transportation Interim Committee shall:

(i) consider the proposal and the committee's position; and

(ii) determine whether to propose a concurrent resolution to approve or deny the designation or removal.

(d) In accordance with Subsections (7)(a) and (c), the Legislature may, by concurrent resolution:

(i) approve the scenic byway designation;

(ii) approve the scenic byway designation with conditions specified by the Legislature; or

(iii) deny the scenic byway designation.

(e) Upon a decision by the Legislature under Subsection (7)(d), the nominating entity is not required to move forward with the nomination for the state scenic byway designation.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 360
S. B. 40
Passed February 5, 2024
Approved March 18, 2024
Effective May 1, 2024

STATE REHABILITATION ADVISORY COUNCIL AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill addresses the State Rehabilitation Advisory Council within the Department of Workforce Services.

Highlighted Provisions:

This bill:

- extends the sunset date of the State Rehabilitation Advisory Council for 10 years.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-235, as last amended by Laws of Utah 2023, Chapters 27, 52

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

Section 1. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2028.

(6) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, [~~2024~~]2034.

(7) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 361
S. B. 36
Passed February 5, 2024
Approved March 18, 2024
Effective May 1, 2024

HEBER VALLEY HISTORIC RAILROAD AUTHORITY SUNSET AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill addresses the sunset provision for the Heber Valley Historic Railroad Authority.

Highlighted Provisions:

This bill:

- extends the sunset date for the Heber Valley Historic Railroad Authority for five years.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, [~~2024~~]2029.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 362
S. B. 41
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

WOMEN IN THE ECONOMY SUBCOMMITTEE AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses the Women in the Economy Subcommittee within the Unified Economic Opportunity Commission.

Highlighted Provisions:

This bill:

- extends the sunset date of the Women in the Economy Subcommittee for five years; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534

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

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

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

[~~(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.~~]

[~~(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.~~]

[~~(4)~~](2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(5)~~](3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(6)~~](4) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.~~]

[~~(8)~~](5) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(9)~~](6) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(10)~~](7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11)~~](8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12)~~](9) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~](10) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](11) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](15) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](16) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](18) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](19) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](20) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](21) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](22) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, [~~2025~~]2030.

[~~(26)~~](23) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](24) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](27) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](28) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](29) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 363
S. B. 64
Passed February 15, 2024
Approved March 18, 2024
Effective July 1, 2024

EFFECTIVE TEACHERS IN HIGH POVERTY SCHOOLS INCENTIVE PROGRAM AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Matt MacPherson

LONG TITLE

General Description:

This bill requires the state board of education to notify each qualifying teacher of potential eligibility in the program.

Highlighted Provisions:

This bill:

- requires the State Board of Education to provide notice of the program to a teacher who meets certain criteria; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-513, as last amended by Laws of Utah 2023, Chapter 376

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

Section 1. Section 53F-2-513 is amended to read:

53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

(a) "Benchmark assessment" means the assessment described in Sections 53E-4-307 and 53E-4-307.5.

[~~(b) "Cohort" means a group of students, defined by the year in which the group enters kindergarten.~~]

[~~(c)~~](b) "Eligible teacher" means a general education or special education teacher who is employed as a teacher in kindergarten through grade 8 in a high poverty school[~~,~~]:

(i) at the time the teacher is considered by the state board for a salary bonus[~~,~~]; and[~~:~~]

[~~(i)~~](ii) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching kindergarten or grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered[~~; and~~].

[~~(ii) for a salary bonus awarded to a grade 4 teacher in the 2022-2023 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, teaches grade 4 and achieves the criteria under the method that the state board creates as described in Subsection (2)(b)(iv).~~]

[~~(d)~~](c) "High poverty school" means a public school:

(i) in which, during the previous school year, based on October 1 enrollment as of the year-end data submission:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch; or

(ii)(A) that has previously met the criteria described in Subsection [~~(1)(d)(i)(A)~~](1)(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection [~~(1)(d)(i)(A)~~](1)(c)(i)(A) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch.

[~~(e)~~](d) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

[~~(f)~~](e) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs for each standards assessment [~~or benchmark assessment~~].

[~~(g)~~](f) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

[~~(h)~~](g) "Standards assessment" means the assessments described in Section 53E-4-303.

[~~(i)~~](h) "Student growth percentile" is a number that describes where a student ranks in comparison to [~~the student's cohort~~]students with similar achievement on standards assessments in previous years.

(2)(a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(i) the administration of the program;

(ii) payment of a salary bonus; and

(iii) application requirements[~~; and~~].

[~~(iv) a method for:~~]

[~~(A) norm-referencing available reading assessment data for grade 4; and~~]

[~~(B) for using the data described in Subsection (2)(b)(iv)(A) to set criteria for the purpose of determining teacher eligibility for salary bonuses awarded in the 2022-2023 school year for teachers in grade 4.~~]

(c) The state board shall make an annual salary bonus payment in [~~a fiscal year that begins on July 1, 2017, and~~] each fiscal year [~~thereafter~~] in which money is appropriated for the program.

(d) The state board shall make a partial payment of the annual salary bonus described in Subsection (2)(c), to an eligible teacher who has a part-time assignment in a regular or special education classroom at an eligible school, based on the number of hours the eligible teacher works in the classroom assignment.

(3)(a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

(i) social security; and

(ii) Medicare.

(4)(a)(i) An LEA shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is $7,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher;

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators; [~~and~~]

(c) publish a list of high poverty schools[~~.~~]; and

(d) within 30 days of the data being available, provide notice to each teacher in the state who, for the current school year, achieved the criteria described in Subsection (1)(b) and include:

(i) a summary of the program, including:

(A) the amount of the annual salary bonus; and

(B) the remaining requirements to qualify for the annual salary bonus; and

(ii) the list of schools described in Subsection (5)(c).

(6) The state board shall:

(a) distribute money from the program to an LEA in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by an LEA to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8)(a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

(a) of the teacher's median growth percentile; and

(b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 364
S. B. 79
Passed February 29, 2024
Approved March 18, 2024
Effective September 1, 2024

ESTATE PLANNING RECODIFICATION

Chief Sponsor: Todd D. Weiler
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill recodifies estate planning statutes.

Highlighted Provisions:

This bill:

- clarifies statutes regarding payments and deposits by fiduciaries;
- clarifies definitions related to probate, fiduciaries, and trusts;
- recodifies Title 22, Fiduciaries and Trusts, to Title 75A, Fiduciaries, and Title 75B, Trusts;
- recodifies statutes on asset protection trusts to Title 75B, Trusts;
- recodifies chapters in Title 75, Utah Uniform Probate Code, to Title 75A, Fiduciaries;
- includes transition clauses; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-6-201, as renumbered and amended by Laws of Utah 2023, Chapter 308
58-9-602, as last amended by Laws of Utah 2016, Chapter 256
75-1-201, as last amended by Laws of Utah 2013, Chapter 364
75-2-205, as last amended by Laws of Utah 2017, Chapter 204
75-7-105, as last amended by Laws of Utah 2019, Chapter 153
75-7-107, as last amended by Laws of Utah 2017, Chapter 204
75-7-301, as last amended by Laws of Utah 2017, Chapter 204
75-7-501, as last amended by Laws of Utah 2017, Chapter 204
75-7-505, as last amended by Laws of Utah 2023, Chapter 421
75-7-814, as last amended by Laws of Utah 2010, Chapter 93
75-7-816, as last amended by Laws of Utah 2017, Chapter 204
76-5-111, as last amended by Laws of Utah 2022, Chapter 181
76-5-205, as last amended by Laws of Utah 2022, Chapter 181
76-6-513, as last amended by Laws of Utah 2023, Chapter 111

ENACTS:

75A-1-101, Utah Code Annotated 1953
75A-1-102, Utah Code Annotated 1953
75A-2-101, Utah Code Annotated 1953
75A-4-101, Utah Code Annotated 1953
75A-5-101, Utah Code Annotated 1953
75A-6-101, Utah Code Annotated 1953
75A-7-101, Utah Code Annotated 1953
75A-8-101, Utah Code Annotated 1953
75B-1-101, Utah Code Annotated 1953
75B-1-102, Utah Code Annotated 1953
75B-1-201, Utah Code Annotated 1953
75B-1-301, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

22-1-1, (Renumbered from 22-1-1, Utah Code Annotated 1953)
22-1-11, (Renumbered from 22-1-11, as last amended by Laws of Utah 2011, Chapter 297)
22-1-2, (Renumbered from 22-1-2, Utah Code Annotated 1953)
22-1-4, (Renumbered from 22-1-4, Utah Code Annotated 1953)
22-1-5, (Renumbered from 22-1-5, Utah Code Annotated 1953)
22-1-6, (Renumbered from 22-1-6, Utah Code Annotated 1953)
22-1-7, (Renumbered from 22-1-7, Utah Code Annotated 1953)
22-1-8, (Renumbered from 22-1-8, Utah Code Annotated 1953)
22-1-9, (Renumbered from 22-1-9, Utah Code Annotated 1953)
22-1-10, (Renumbered from 22-1-10, Utah Code Annotated 1953)
75-9-102, (Renumbered from 75-9-102, as enacted by Laws of Utah 2016, Chapter 256)
75-9-103, (Renumbered from 75-9-103, as enacted by Laws of Utah 2016, Chapter 256)
75-9-104, (Renumbered from 75-9-104, as enacted by Laws of Utah 2016, Chapter 256)
75-9-105, (Renumbered from 75-9-105, as last amended by Laws of Utah 2022, Chapter 430)
75-9-106, (Renumbered from 75-9-106, as enacted by Laws of Utah 2016, Chapter 256)
75-9-107, (Renumbered from 75-9-107, as enacted by Laws of Utah 2016, Chapter 256)
75-9-108, (Renumbered from 75-9-108, as last amended by Laws of Utah 2022, Chapter 138)
75-9-109, (Renumbered from 75-9-109, as enacted by Laws of Utah 2016, Chapter 256)
75-9-110, (Renumbered from 75-9-110, as enacted by Laws of Utah 2016, Chapter 256)
75-9-111, (Renumbered from 75-9-111, as enacted by Laws of Utah 2016, Chapter 256)
75-9-112, (Renumbered from 75-9-112, as enacted by Laws of Utah 2016, Chapter 256)
75-9-113, (Renumbered from 75-9-113, as enacted by Laws of Utah 2016, Chapter 256)
75-9-114, (Renumbered from 75-9-114, as enacted by Laws of Utah 2016, Chapter 256)

75-9-115, (Renumbered from 75-9-115, as enacted by Laws of Utah 2016, Chapter 256)
75-9-116, (Renumbered from 75-9-116, as enacted by Laws of Utah 2016, Chapter 256)
75-9-117, (Renumbered from 75-9-117, as enacted by Laws of Utah 2016, Chapter 256)
75-9-118, (Renumbered from 75-9-118, as enacted by Laws of Utah 2016, Chapter 256)
75-9-119, (Renumbered from 75-9-119, as enacted by Laws of Utah 2016, Chapter 256)
75-9-120, (Renumbered from 75-9-120, as enacted by Laws of Utah 2016, Chapter 256)
75-9-121, (Renumbered from 75-9-121, as enacted by Laws of Utah 2016, Chapter 256)
75-9-122, (Renumbered from 75-9-122, as enacted by Laws of Utah 2016, Chapter 256)
75-9-123, (Renumbered from 75-9-123, as enacted by Laws of Utah 2016, Chapter 256)
75-9-201, (Renumbered from 75-9-201, as enacted by Laws of Utah 2016, Chapter 256)
75-9-202, (Renumbered from 75-9-202, as enacted by Laws of Utah 2016, Chapter 256)
75-9-203, (Renumbered from 75-9-203, as enacted by Laws of Utah 2016, Chapter 256)
75-9-204, (Renumbered from 75-9-204, as enacted by Laws of Utah 2016, Chapter 256)
75-9-205, (Renumbered from 75-9-205, as enacted by Laws of Utah 2016, Chapter 256)
75-9-206, (Renumbered from 75-9-206, as enacted by Laws of Utah 2016, Chapter 256)
75-9-207, (Renumbered from 75-9-207, as enacted by Laws of Utah 2016, Chapter 256)
75-9-208, (Renumbered from 75-9-208, as enacted by Laws of Utah 2016, Chapter 256)
75-9-209, (Renumbered from 75-9-209, as enacted by Laws of Utah 2016, Chapter 256)
75-9-210, (Renumbered from 75-9-210, as enacted by Laws of Utah 2016, Chapter 256)
75-9-211, (Renumbered from 75-9-211, as enacted by Laws of Utah 2016, Chapter 256)
75-9-212, (Renumbered from 75-9-212, as enacted by Laws of Utah 2016, Chapter 256)
75-9-213, (Renumbered from 75-9-213, as enacted by Laws of Utah 2016, Chapter 256)
75-9-214, (Renumbered from 75-9-214, as enacted by Laws of Utah 2016, Chapter 256)
75-9-215, (Renumbered from 75-9-215, as enacted by Laws of Utah 2016, Chapter 256)
75-9-216, (Renumbered from 75-9-216, as enacted by Laws of Utah 2016, Chapter 256)
75-9-217, (Renumbered from 75-9-217, as enacted by Laws of Utah 2016, Chapter 256)
75-9-301, (Renumbered from 75-9-301, as enacted by Laws of Utah 2016, Chapter 256)
75-9-302, (Renumbered from 75-9-302, as enacted by Laws of Utah 2016, Chapter 256)
75-9-401, (Renumbered from 75-9-401, as enacted by Laws of Utah 2016, Chapter 256)
75-9-402, (Renumbered from 75-9-402, as enacted by Laws of Utah 2016, Chapter 256)
75-9-403, (Renumbered from 75-9-403, as enacted by Laws of Utah 2016, Chapter 256)
75-2a-103, (Renumbered from 75-2a-103, as last amended by Laws of Utah 2023, Chapters 139, 330)
75-2a-102, (Renumbered from 75-2a-102, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-122, (Renumbered from 75-2a-122, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-124, (Renumbered from 75-2a-124, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-125, (Renumbered from 75-2a-125, as enacted by Laws of Utah 2008, Chapter 107)
75-2a-106, (Renumbered from 75-2a-106, as last amended by Laws of Utah 2023, Chapter 330)
75-2a-120, (Renumbered from 75-2a-120, as enacted by Laws of Utah 2007, Chapter 31)
75-2a-104, (Renumbered from 75-2a-104, as last amended by Laws of Utah 2009, Chapter 99)
75-2a-109, (Renumbered from 75-2a-109, as last amended by Laws of Utah 2009, Chapter 99)
75-2a-108, (Renumbered from 75-2a-108, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-110, (Renumbered from 75-2a-110, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-112, (Renumbered from 75-2a-112, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-111, (Renumbered from 75-2a-111, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-115, (Renumbered from 75-2a-115, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-113, (Renumbered from 75-2a-113, as last amended by Laws of Utah 2008, Chapter 107)

75-2a-107, (Renumbered from 75-2a-107, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-105, (Renumbered from 75-2a-105, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-117, (Renumbered from 75-2a-117, as last amended by Laws of Utah 2009, Chapter 99)
75-2a-116, (Renumbered from 75-2a-116, as enacted by Laws of Utah 2007, Chapter 31)
75-2a-119, (Renumbered from 75-2a-119, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-123, (Renumbered from 75-2a-123, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-114, (Renumbered from 75-2a-114, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-118, (Renumbered from 75-2a-118, as last amended by Laws of Utah 2008, Chapter 107)
75-2a-121, (Renumbered from 75-2a-121, as last amended by Laws of Utah 2008, Chapter 107)
75-10-102, (Renumbered from 75-10-102, as enacted by Laws of Utah 2017, Chapter 125)
75-10-103, (Renumbered from 75-10-103, as enacted by Laws of Utah 2017, Chapter 125)
75-10-104, (Renumbered from 75-10-104, as enacted by Laws of Utah 2017, Chapter 125)
75-10-201, (Renumbered from 75-10-201, as last amended by Laws of Utah 2018, Chapter 244)
75-10-202, (Renumbered from 75-10-202, as enacted by Laws of Utah 2017, Chapter 125)
75-10-203, (Renumbered from 75-10-203, as enacted by Laws of Utah 2017, Chapter 125)
75-10-204, (Renumbered from 75-10-204, as enacted by Laws of Utah 2017, Chapter 125)
75-10-205, (Renumbered from 75-10-205, as enacted by Laws of Utah 2017, Chapter 125)
75-10-206, (Renumbered from 75-10-206, as enacted by Laws of Utah 2017, Chapter 125)
75-10-301, (Renumbered from 75-10-301, as enacted by Laws of Utah 2017, Chapter 125)
75-10-302, (Renumbered from 75-10-302, as enacted by Laws of Utah 2017, Chapter 125)
75-10-303, (Renumbered from 75-10-303, as enacted by Laws of Utah 2017, Chapter 125)
75-10-304, (Renumbered from 75-10-304, as enacted by Laws of Utah 2017, Chapter 125)
75-10-305, (Renumbered from 75-10-305, as last amended by Laws of Utah 2019, Chapter 153)
75-10-306, (Renumbered from 75-10-306, as enacted by Laws of Utah 2017, Chapter 125)
75-10-307, (Renumbered from 75-10-307, as enacted by Laws of Utah 2017, Chapter 125)
75-10-308, (Renumbered from 75-10-308, as enacted by Laws of Utah 2017, Chapter 125)
75-10-309, (Renumbered from 75-10-309, as enacted by Laws of Utah 2017, Chapter 125)
75-10-310, (Renumbered from 75-10-310, as enacted by Laws of Utah 2017, Chapter 125)
75-10-311, (Renumbered from 75-10-311, as enacted by Laws of Utah 2017, Chapter 125)
75-10-312, (Renumbered from 75-10-312, as enacted by Laws of Utah 2017, Chapter 125)
75-10-313, (Renumbered from 75-10-313, as enacted by Laws of Utah 2017, Chapter 125)
75-10-314, (Renumbered from 75-10-314, as enacted by Laws of Utah 2017, Chapter 125)
75-10-401, (Renumbered from 75-10-401, as enacted by Laws of Utah 2017, Chapter 125)
75-10-402, (Renumbered from 75-10-402, as enacted by Laws of Utah 2017, Chapter 125)
75-10-403, (Renumbered from 75-10-403, as enacted by Laws of Utah 2017, Chapter 125)
75-10-404, (Renumbered from 75-10-404, as enacted by Laws of Utah 2017, Chapter 125)
75-10-405, (Renumbered from 75-10-405, as enacted by Laws of Utah 2017, Chapter 125)
75-10-406, (Renumbered from 75-10-406, as enacted by Laws of Utah 2017, Chapter 125)
75-10-407, (Renumbered from 75-10-407, as enacted by Laws of Utah 2017, Chapter 125)
75-10-501, (Renumbered from 75-10-501, as enacted by Laws of Utah 2017, Chapter 125)
75-10-502, (Renumbered from 75-10-502, as enacted by Laws of Utah 2017, Chapter 125)
75-10-503, (Renumbered from 75-10-503, as enacted by Laws of Utah 2017, Chapter 125)
75-10-601, (Renumbered from 75-10-601, as enacted by Laws of Utah 2017, Chapter 125)
75-10-602, (Renumbered from 75-10-602, as enacted by Laws of Utah 2017, Chapter 125)

75-10-603, (Renumbered from 75-10-603, as enacted by Laws of Utah 2017, Chapter 125)
22-3-102, (Renumbered from 22-3-102, as last amended by Laws of Utah 2020, Chapter 348)
22-3-103, (Renumbered from 22-3-103, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-104, (Renumbered from 22-3-104, as last amended by Laws of Utah 2020, Chapter 348)
22-3-201, (Renumbered from 22-3-201, as last amended by Laws of Utah 2020, Chapter 348)
22-3-202, (Renumbered from 22-3-202, as last amended by Laws of Utah 2020, Chapter 348)
22-3-203, (Renumbered from 22-3-203, as last amended by Laws of Utah 2020, Chapter 348)
22-3-301, (Renumbered from 22-3-301, as last amended by Laws of Utah 2020, Chapter 348)
22-3-302, (Renumbered from 22-3-302, as last amended by Laws of Utah 2020, Chapter 348)
22-3-303, (Renumbered from 22-3-303, as last amended by Laws of Utah 2020, Chapter 348)
22-3-304, (Renumbered from 22-3-304, as last amended by Laws of Utah 2020, Chapter 348)
22-3-305, (Renumbered from 22-3-305, as last amended by Laws of Utah 2020, Chapter 348)
22-3-306, (Renumbered from 22-3-306, as enacted by Laws of Utah 2019, Chapter 495)
22-3-307, (Renumbered from 22-3-307, as last amended by Laws of Utah 2020, Chapter 348)
22-3-308, (Renumbered from 22-3-308, as last amended by Laws of Utah 2020, Chapter 348)
22-3-309, (Renumbered from 22-3-309, as last amended by Laws of Utah 2020, Chapter 348)
22-3-401, (Renumbered from 22-3-401, as last amended by Laws of Utah 2020, Chapter 348)
22-3-402, (Renumbered from 22-3-402, as last amended by Laws of Utah 2020, Chapter 348)
22-3-403, (Renumbered from 22-3-403, as last amended by Laws of Utah 2020, Chapter 348)
22-3-404, (Renumbered from 22-3-404, as last amended by Laws of Utah 2020, Chapter 348)
22-3-405, (Renumbered from 22-3-405, as last amended by Laws of Utah 2020, Chapter 348)
22-3-406, (Renumbered from 22-3-406, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-407, (Renumbered from 22-3-407, as last amended by Laws of Utah 2020, Chapter 348)
22-3-408, (Renumbered from 22-3-408, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-409, (Renumbered from 22-3-409, as last amended by Laws of Utah 2020, Chapter 348)
22-3-410, (Renumbered from 22-3-410, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-411, (Renumbered from 22-3-411, as last amended by Laws of Utah 2020, Chapter 348)
22-3-412, (Renumbered from 22-3-412, as last amended by Laws of Utah 2020, Chapter 348)
22-3-413, (Renumbered from 22-3-413, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-414, (Renumbered from 22-3-414, as last amended by Laws of Utah 2020, Chapter 348)
22-3-415, (Renumbered from 22-3-415, as last amended by Laws of Utah 2020, Chapter 348)
22-3-416, (Renumbered from 22-3-416, as enacted by Laws of Utah 2019, Chapter 495)
22-3-501, (Renumbered from 22-3-501, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-502, (Renumbered from 22-3-502, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-503, (Renumbered from 22-3-503, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-504, (Renumbered from 22-3-504, as repealed and reenacted by Laws of Utah 2019, Chapter 495)
22-3-505, (Renumbered from 22-3-505, as last amended by Laws of Utah 2020, Chapter 348)
22-3-506, (Renumbered from 22-3-506, as last amended by Laws of Utah 2020, Chapter 348)
22-3-507, (Renumbered from 22-3-507, as last amended by Laws of Utah 2020, Chapter 348)
22-3-601, (Renumbered from 22-3-601, as last amended by Laws of Utah 2020, Chapter 348)
22-3-602, (Renumbered from 22-3-602, as last amended by Laws of Utah 2020, Chapter 348)
22-3-701, (Renumbered from 22-3-701, as last amended by Laws of Utah 2020, Chapter 348)
22-3-702, (Renumbered from 22-3-702, as last amended by Laws of Utah 2020, Chapter 348)
22-3-703, (Renumbered from 22-3-703, as last amended by Laws of Utah 2020, Chapter 348)

22-3-801, (Renumbered from 22-3-801, as last amended by Laws of Utah 2020, Chapter 348)
22-3-802, (Renumbered from 22-3-802, as enacted by Laws of Utah 2019, Chapter 495)
22-3-803, (Renumbered from 22-3-803, as last amended by Laws of Utah 2020, Chapter 348)
22-3-804, (Renumbered from 22-3-804, as last amended by Laws of Utah 2020, Chapter 348)
75-11-102, (Renumbered from 75-11-102, as enacted by Laws of Utah 2017, Chapter 16)
75-11-103, (Renumbered from 75-11-103, as enacted by Laws of Utah 2017, Chapter 16)
75-11-104, (Renumbered from 75-11-104, as enacted by Laws of Utah 2017, Chapter 16)
75-11-105, (Renumbered from 75-11-105, as enacted by Laws of Utah 2017, Chapter 16)
75-11-106, (Renumbered from 75-11-106, as enacted by Laws of Utah 2017, Chapter 16)
75-11-107, (Renumbered from 75-11-107, as enacted by Laws of Utah 2017, Chapter 16)
75-11-108, (Renumbered from 75-11-108, as enacted by Laws of Utah 2017, Chapter 16)
75-11-109, (Renumbered from 75-11-109, as enacted by Laws of Utah 2017, Chapter 16)
75-11-110, (Renumbered from 75-11-110, as enacted by Laws of Utah 2017, Chapter 16)
75-11-111, (Renumbered from 75-11-111, as enacted by Laws of Utah 2017, Chapter 16)
75-11-112, (Renumbered from 75-11-112, as enacted by Laws of Utah 2017, Chapter 16)
75-11-113, (Renumbered from 75-11-113, as enacted by Laws of Utah 2017, Chapter 16)
75-11-114, (Renumbered from 75-11-114, as last amended by Laws of Utah 2018, Chapter 27)
75-11-115, (Renumbered from 75-11-115, as enacted by Laws of Utah 2017, Chapter 16)
75-11-116, (Renumbered from 75-11-116, as enacted by Laws of Utah 2017, Chapter 16)
75-11-117, (Renumbered from 75-11-117, as enacted by Laws of Utah 2017, Chapter 16)
75-11-118, (Renumbered from 75-11-118, as enacted by Laws of Utah 2017, Chapter 16)
22-5-2, (Renumbered from 22-5-2, as last amended by Laws of Utah 1995, Chapter 20)
22-5-3, (Renumbered from 22-5-3, as enacted by Laws of Utah 1961, Chapter 46)
22-5-4, (Renumbered from 22-5-4, as last amended by Laws of Utah 1995, Chapter 20)
22-5-5, (Renumbered from 22-5-5, as last amended by Laws of Utah 1995, Chapter 20)
22-5-6, (Renumbered from 22-5-6, as last amended by Laws of Utah 1995, Chapter 20)
22-5-7, (Renumbered from 22-5-7, as enacted by Laws of Utah 1961, Chapter 46)
22-5-8, (Renumbered from 22-5-8, as last amended by Laws of Utah 1995, Chapter 20)
22-5-9, (Renumbered from 22-5-9, as last amended by Laws of Utah 1995, Chapter 20)
22-5-10, (Renumbered from 22-5-10, as enacted by Laws of Utah 1961, Chapter 46)
22-5-11, (Renumbered from 22-5-11, as enacted by Laws of Utah 1961, Chapter 46)
75-5a-102, (Renumbered from 75-5a-102, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-103, (Renumbered from 75-5a-103, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-104, (Renumbered from 75-5a-104, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-105, (Renumbered from 75-5a-105, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-106, (Renumbered from 75-5a-106, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-107, (Renumbered from 75-5a-107, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-108, (Renumbered from 75-5a-108, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-109, (Renumbered from 75-5a-109, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-110, (Renumbered from 75-5a-110, as last amended by Laws of Utah 2016, Chapter 15)
75-5a-111, (Renumbered from 75-5a-111, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-112, (Renumbered from 75-5a-112, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-113, (Renumbered from 75-5a-113, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-114, (Renumbered from 75-5a-114, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-115, (Renumbered from 75-5a-115, as enacted by Laws of Utah 1990, Chapter 272)

75-5a-116, (Renumbered from 75-5a-116, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-117, (Renumbered from 75-5a-117, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-118, (Renumbered from 75-5a-118, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-119, (Renumbered from 75-5a-119, as last amended by Laws of Utah 2005, Chapter 71)
75-5a-120, (Renumbered from 75-5a-120, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-121, (Renumbered from 75-5a-121, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-122, (Renumbered from 75-5a-122, as enacted by Laws of Utah 1990, Chapter 272)
75-5a-123, (Renumbered from 75-5a-123, as enacted by Laws of Utah 1990, Chapter 272)
22-2-1, (Renumbered from 22-2-1, Utah Code Annotated 1953)
22-6-1, (Renumbered from 22-6-1, as enacted by Laws of Utah 1961, Chapter 174)
22-6-2, (Renumbered from 22-6-2, as enacted by Laws of Utah 1961, Chapter 174)
25-6-502, (Renumbered from 25-6-502, as last amended by Laws of Utah 2019, Chapter 95)

REPEALS:
22-3-101, as repealed and reenacted by Laws of Utah 2019, Chapter 495
22-5-1, as last amended by Laws of Utah 1995, Chapter 20
25-6-501, as enacted by Laws of Utah 2017, Chapter 204
75-2a-101, as enacted by Laws of Utah 2007, Chapter 31
75-5a-101, as enacted by Laws of Utah 1990, Chapter 272
75-9-101, as enacted by Laws of Utah 2016, Chapter 256
75-10-101, as enacted by Laws of Utah 2017, Chapter 125
75-11-101, as enacted by Laws of Utah 2017, Chapter 16

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

Section 1. Section 26B-6-201 is amended to read:

26B-6-201. Definitions.

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in [~~Title 75, Chapter 2a, Advance Health Care Directive Act~~]Title 75A, Chapter 3, Health Care Decisions; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means an individual who is 18 years old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section 26B-6-210.

(10)(a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

(14) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

(15)(a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(16) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.

(18) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(19) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

(20)(a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" is as defined in Section 76-5-111.4.

(22)(a) "Neglect" means:

(i)(A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under [~~Title 75, Chapter 2a, Advance Health Care Directive Act~~]Title 75A, Chapter 3, Health Care Decisions.

(23) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(24) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

(25) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

(26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(27) "Serious physical injury" is as defined in Section 76-5-111.

(28) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(29) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 2. Section 58-9-602 is amended to read:

58-9-602. Determination of control of disposition.

The right and duty to control the disposition of a deceased person, which may include cremation as well as the location, manner and conditions of the disposition, and arrangements for funeral goods and services to be provided, vests in the following degrees of relationship in the order named, provided the person is at least 18 years old and is mentally competent:

(1) the person designated:

(a) in a written instrument, excluding a power of attorney that terminates at death under Section [~~75-9-110~~]75A-2-110, if the written instrument is acknowledged before a Notary Public or executed with the same formalities required of a will under Section 75-2-502; or

(b) by a service member while serving in a branch of the United States Armed Forces as defined in 10 U.S.C. Sec. 1481 in a federal Record of Emergency Data, DD Form 93 or subsequent form;

(2) the surviving, legally recognized spouse of the decedent, unless a personal representative was nominated by the decedent subsequent to the marriage, in which case the personal representative shall take priority over the spouse;

(3) the person nominated to serve as the personal representative of the decedent's estate in a will executed with the formalities required in Section 75-2-502;

(4)(a) the sole surviving child of the decedent, or if there is more than one child of the decedent, the majority of the surviving children; and

(b) less than one-half of the surviving children are vested with the rights of this section if they have used reasonable efforts to notify all other surviving children of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving children;

(5) the surviving parent or parents of the decedent, however:

(a) if one of the surviving parents is absent, the remaining parent is vested with the rights and duties of this section after reasonable efforts have been unsuccessful in locating the absent surviving parent; or

(b) if the parents are divorced or separated and the decedent was an incapacitated adult, the parent who was designated as the guardian of the decedent is vested with the rights and duties of this section;

(6)(a) the surviving brother or sister of the decedent, or if there is more than one sibling of the decedent, the majority of the surviving siblings; and

(b) less than the majority of surviving siblings, if they have used reasonable efforts to notify all other surviving siblings of their instructions and are not aware of any opposition to those instructions on the part of more than one-half of all surviving siblings;

(7) the person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent, and if there is more than one person of the same degree, any person of that degree may exercise the right of disposition;

(8) in the absence of any person under Subsections (1) through (7), the person who was the decedent's guardian at the time of death;

(9) any public official charged with arranging the disposition of deceased persons; and

(10) in the absence of any person under Subsections (1) through (9), any other person willing to assume the responsibilities to act and arrange the final disposition of the decedent's remains, including the personal representative of

the decedent's estate or the funeral service director with custody of the body, after attesting in writing that a good faith effort has been made to no avail to contact the individuals referred to in Subsections (1) through (9).

Section 3. Section 75-1-201 is amended to read:

75-1-201. Title definitions.

[~~Subject to additional definitions contained in the subsequent chapters that are applicable to specific chapters, parts, or sections, and unless the context otherwise requires, in this code~~]As used in this title:

(1) "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care, and an individual authorized to make decisions for another under a natural death act.

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under [~~Title 75, Chapter 3, Part 3, Informal Probate and Appointment Proceedings~~] Chapter 3, Part 3, Informal Probate and Appointment Proceedings.

(3)(a) "Beneficiary," as it relates to trust beneficiaries, includes:

(i) a person who has any present or future interest, vested or contingent[~~, and also includes~~]; and

(ii) the owner of an interest by assignment or other transfer[~~;~~].

(b) "Beneficiary," as it relates to a charitable trust, includes any person entitled to enforce the trust[~~;~~].

(c) "Beneficiary," as it relates to a [~~"beneficiary of a beneficiary designation," refers to~~]beneficiary of a beneficiary designation, means a beneficiary of:

(i) an insurance or annuity policy[~~, of~~];

(ii) an account with POD designation[~~, of~~];

(iii) a security registered in beneficiary form (TOD)[~~, or of~~];

(iv) a pension, profit-sharing, retirement, or similar benefit plan[~~,~~]; or

(v) other nonprobate transfer at death[~~; and,~~].

(d) "Beneficiary," as it relates to a [~~"~~]beneficiary designated in a governing instrument,[~~"~~] includes:

(i) a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee, or taker in default of a power of appointment[~~, and~~]; and

(ii) a person in whose favor a power of attorney or a power held in any individual, fiduciary, or representative capacity is exercised.

(4) "Beneficiary designation" [~~refers to~~]means a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), or of a pension, profit-sharing, retirement, or similar benefit plan, or other nonprobate transfer at death.

(5)(a) "Child" includes any individual entitled to take as a child under this [~~code~~]title by intestate succession from the parent whose relationship is involved[~~ and excludes any person~~].

(b) "Child" does not include an individual who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(6)(a) "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person, whether arising in contract, in tort, or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration.

(b) "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(7) "Community property with a right of survivorship" means joint tenants with the right of survivorship.

[~~(7)~~](8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

[~~(8)~~](9) "Court" means any of the courts of record in this state having jurisdiction in matters relating to the affairs of decedents.

[~~(9)~~](10) "Descendant" [~~of an individual~~]means all of [~~his~~]an individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this title.

[~~(10)~~](11) "Devise," when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

[~~(11)~~](12) "Devisee" means any person designated in a will to receive a devise. For the purposes of [~~Title 75, Chapter 3, Probate of Wills and Administration~~]Chapter 3, Probate of Wills and Administration, in the case of a devise to an existing trust or trustee, or to a trustee in trust described by will, the trust or trustee is the devisee, and the beneficiaries are not devisees.

[~~(12)~~](13) "Disability" means cause for a protective order as described by Section 75-5-401.

[~~(13)~~](14) "Distributee" means any person who has received property of a decedent from his personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom

assets are transferred by will, to the extent of the devised assets.

[~~(14)~~](15) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this title as originally constituted and as it exists from time to time during administration.

[~~(15)~~](16) "Exempt property" means that property of a decedent's estate which is described in Section 75-2-403.

[~~(16)~~](17) "Fiduciary" includes a personal representative, guardian, conservator, and trustee.

[~~(17)~~](18) "Foreign personal representative" means a personal representative of another jurisdiction.

[~~(18)~~](19) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(20) "General personal representative" does not include a special administrator.

[~~(19)~~](21) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with POD designation, security registered in beneficiary form (TOD), pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

[~~(20)~~](22)(a) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, or by written instrument as provided in Section 75-5-202.5[~~, but excludes one~~].

(b) "Guardian" does not include a person who is merely a guardian ad litem.

[~~(21)~~](23) "Heirs," except as controlled by Section 75-2-711, means persons, including the surviving spouse and state, who are entitled under the statutes of intestate succession to the property of a decedent.

[~~(22)~~](24) "Incapacitated" [~~or "incapacity" is measured by functional limitations and~~]means a judicial determination after proof by clear and convincing evidence that an adult's ability to do the following is impaired to the extent that the individual lacks the ability, even with appropriate technological assistance, to meet the essential requirements for financial protection or physical health, safety, or self-care:

(a) receive and evaluate information;

(b) make and communicate decisions; or

(c) provide for necessities such as food, shelter, clothing, health care, or safety.

(25) "Incapacity" means incapacitated.

[~~(23)~~](26) "Informal proceedings" mean [~~those~~]a proceeding conducted without notice to interested persons by an officer of the court acting as a registrar for probate of a will or appointment of a personal representative.

[~~(24)~~](27)(a) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person. [~~It also~~]The meaning of interested person as it relates to particular persons may vary from time to time and is determined according to the particular purposes of, and matter involved in, any proceeding.

(b) "Interested person" includes persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living, or the settlor's legal representative, if any, if the settlor is living but incapacitated. [~~The meaning as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.~~]

[~~(25)~~](28) "Issue" [~~of a person~~]means a descendant [~~as defined in Subsection (9)~~]of an individual.

[~~(26)~~](29)(a) "Joint tenants with the right of survivorship" [~~and "community property with the right of survivorship"~~]includes coowners of property held under circumstances that entitle one or more to the whole of the property on the death of the other[~~ or others, but excludes~~].

(b) "Joint tenants with the right of survivorship" does not include forms of coownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

[~~(27)~~](30) "Lease" includes an oil, gas, or other mineral lease.

[~~(28)~~](31) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

[~~(29)~~](32) "Minor" means a person who is under 18 years [~~of age~~]old.

(33) "Minor protected person" means a minor for whom a conservator has been appointed because of minority.

(34) "Minor ward" means a minor for whom a guardian has been appointed solely because of minority.

[~~(30)~~](35) "Mortgage" means any conveyance, agreement, or arrangement in which property is used as security.

[~~(31)~~](36) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of [~~his~~]the decedent's death.

[~~(32)~~](37) "Organization" includes a corporation, limited liability company, business trust, estate, trust, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity.

[~~(33)~~](38)(a) "Parent" includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under this [~~code~~]title by intestate succession from the child whose relationship is in question[~~ and excludes~~].

(b) "Parent" does not include any person who is only a stepparent, foster parent, or grandparent.

[~~(34)~~](39) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision, or any other person authorized or obligated by law or a governing instrument to make payments.

[~~(35)~~](40) "Person" means an individual or an organization.

[~~(36)~~](41)[~~(a)~~] "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

[~~(b) "General personal representative" excludes special administrator.~~]

[~~(37)~~](42) "Petition" means a written request to the court for an order after notice.

[~~(38)~~](43) "Proceeding" includes action at law and suit in equity.

[~~(39)~~](44) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

[~~(40)~~](45) "Protected person" means a person for whom a conservator has been appointed. [~~A "minor protected person" means a minor for whom a conservator has been appointed because of minority~~].

[~~(41)~~](46) "Protective proceeding" means a proceeding described in Section 75-5-401.

[~~(42)~~](47) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(43)~~](48) "Registrar" [~~refers to~~]means the official of the court designated to perform the functions of registrar as provided in Section 75-1-307.

[~~(44)~~](49) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest, or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, and, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

[~~(45)~~](50) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

[~~(46)~~](51) "Sign" means, with present intent to authenticate or adopt a record other than a will:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

[~~(47)~~](52) "Special administrator" means a personal representative as described in Sections 75-3-614 through 75-3-618.

[~~(48)~~](53) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or insular possession subject to the jurisdiction of the United States, or a Native American tribe or band recognized by federal law or formally acknowledged by a state.

[~~(49)~~](54) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

[~~(50)~~](55) "Successors" means persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this title.

[~~(51)~~](56) Supervised administration" [~~refers to~~]means the proceedings described in [~~Title 75, Chapter 3, Part 5, Supervised Administration~~]Chapter 3, Part 5, Supervised Administration.

[~~(52)~~](57)(a) [~~"Survive," except for purposes of Part 3 of Article VI, Uniform TOD Security Registration Act, means~~]"Survive" means, except for Chapter 6, Part 3, Uniform Transfer on Death Security Registration Act, that an individual has neither predeceased an event, including the death of another individual, nor is considered to have predeceased an event under Section 75-2-104 or 75-2-702. [~~The term~~]

(b) "Survive" includes its derivatives, such as "survives," "survived," "survivor," and "surviving."

[~~(53)~~](58) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

[~~(54)~~](59) "Testator" includes an individual of either sex.

[~~(55)~~](60)(a) "Trust" includes:

(i) a health savings account, as defined in Section 223[~~,~~] of the Internal Revenue Code[~~, any~~];

(ii) an express trust, private or charitable, with additions thereto, wherever and however created[~~. The term also includes~~]; or

(iii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. [~~The term excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts~~]

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust;

(iii) a conservatorship;

(iv) a personal representative;

(v) a trust account as defined in [~~Title 75, Chapter 6, Nonprobate Transfers, custodial arrangements pursuant to any~~]Chapter 6, Nonprobate Transfers;

(vi) a custodial arrangement under Title 75A, Chapter 8, Uniform Transfers To Minors Act[~~, business trusts~~];

(vii) a business trust providing for certificates to be issued to beneficiaries[~~,~~];

(viii) a common trust [~~funds, ~~]fund;

(ix) a voting [~~trusts, ~~]trust;

(x) a preneed funeral [~~plans ~~]plan under Title 58, Chapter 9, Funeral Services Licensing Act[~~, security arrangements, liquidation trusts, and trusts~~];

(xi) a security arrangement;

(xii) a liquidation trust;

(xiii) a trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind[~~, and~~]; or

(xiv) any arrangement under which a person is nominee or escrowee for another.

[~~(56)~~](61) "Trustee" includes an original, additional, and successor trustee, and cotrustee, whether or not appointed or confirmed by the court.

[~~(57)~~](62) "Ward" means a person for whom a guardian has been appointed. [~~A "minor ward" is a minor for whom a guardian has been appointed solely because of minority.~~]

[~~(58)~~](63) "Will" includes codicil and any testamentary instrument which merely appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

Section 4. Section 75-2-205 is amended to read:

75-2-205. Decedent's nonprobate transfers to others.

Unless excluded under Section 75-2-208, the value of the augmented estate includes the value of the decedent's nonprobate transfers to others, not included under Section 75-2-204, of any of the types described in this section, in the amount provided respectively for each type of transfer:

(1) Property owned or owned in substance by the decedent immediately before death that passed outside probate at the decedent's death. Property included under this category consists of the property described in this Subsection (1).

(a)(i) Property over which the decedent alone, immediately before death, held a presently exercisable general power of appointment.

(ii) The amount included is the value of the property subject to the power, to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b)(i) The decedent's fractional interest in property held by the decedent in joint tenancy with the right of survivorship.

(ii) The amount included is the value of the decedent's fractional interest, to the extent the fractional interest passed by right of survivorship at the decedent's death to a surviving joint tenant other than the decedent's surviving spouse.

(c)(i) The decedent's ownership interest in property or accounts held in POD, TOD, or co-ownership registration with the right of survivorship.

(ii) The amount included is the value of the decedent's ownership interest, to the extent the decedent's ownership interest passed at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse.

(d)(i) Proceeds of insurance, including accidental death benefits, on the life of the decedent, if the decedent owned the insurance policy immediately before death or if and to the extent the decedent alone and immediately before death held a presently exercisable general power of appointment over the policy or its proceeds.

(ii) The amount included:

(A) is the value of the proceeds, to the extent they were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse; and

(B) may not exceed the greater of the cash surrender value of the policy immediately prior to the death of the decedent or the amount of premiums paid on the policy during the decedent's life.

(2) Property transferred in any of the forms described in this Subsection (2) by the decedent during marriage:

(a)(i) Any irrevocable transfer in which the decedent retained the right to the possession or enjoyment of, or to the income from, the property if and to the extent the decedent's right terminated at or continued beyond the decedent's death.

(ii) An irrevocable transfer in trust which includes a restriction on transfer of the decedent's interest as settlor and beneficiary as described in Section [~~25-6-502~~]75B-1-302.

(iii) The amount included is the value of the fraction of the property to which the right or restriction related, to the extent the fraction of the property passed outside probate to or for the benefit of any person other than the decedent's estate or surviving spouse.

(b)(i) Any transfer in which the decedent created a power over income or property, exercisable by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party, to or for the benefit of the decedent, creditors of the

decedent, the decedent's estate, or creditors of the decedent's estate.

(ii) The amount included with respect to a power over property is the value of the property subject to the power, and the amount included with respect to a power over income is the value of the property that produces or produced the income, to the extent the power in either case was exercisable at the decedent's death to or for the benefit of any person other than the decedent's surviving spouse or to the extent the property passed at the decedent's death, by exercise, release, lapse, in default, or otherwise, to or for the benefit of any person other than the decedent's estate or surviving spouse.

(iii) If the power is a power over both income and property and Subsection (2)(b)(ii) produces different amounts, the amount included is the greater amount.

(3) Property that passed during marriage and during the two-year period next preceding the decedent's death as a result of a transfer by the decedent if the transfer was of any of the types described in this Subsection (3).

(a)(i) Any property that passed as a result of the termination of a right or interest in, or power over, property that would have been included in the augmented estate under Subsection (1)(a), (b), or (c), or under Subsection (2), if the right, interest, or power had not terminated until the decedent's death.

(ii) The amount included is the value of the property that would have been included under Subsection (1)(a), (b), (c), or Subsection (2) if the property were valued at the time the right, interest, or power terminated, and is included only to the extent the property passed upon termination to or for the benefit of any person other than the decedent or the decedent's estate, spouse, or surviving spouse.

(iii)(A) As used in this Subsection (3)(a), "termination," with respect to a right or interest in property, occurs when the right or interest terminated by the terms of the governing instrument or the decedent transferred or relinquished the right or interest, and, with respect to a power over property, occurs when the power terminated by exercise, release, lapse, default, or otherwise.

(B) With respect to a power described in Subsection (1)(a), "termination" occurs when the power terminated by exercise or release, but not otherwise.

(b)(i) Any transfer of or relating to an insurance policy on the life of the decedent if the proceeds would have been included in the augmented estate under Subsection (1)(d) had the transfer not occurred.

(ii) The amount included:

(A) is the value of the insurance proceeds to the extent the proceeds were payable at the decedent's death to or for the benefit of any person other than the decedent's estate or surviving spouse; and

(B) may not exceed the greater of the cash surrender value of the policy immediately prior to the death of the decedent or the amount of premiums paid on the policy during the decedent's life.

(c)(i) Any transfer of property, to the extent not otherwise included in the augmented estate, made to or for the benefit of a person other than the decedent's surviving spouse.

(ii) The amount included is the value of the transferred property to the extent the aggregate transfers to any one donee in either of the two years exceeded $10,000.

Section 5. Section 75-7-105 is amended to read:

75-7-105. Default and mandatory rules.

(1) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(2) Except as specifically provided in this chapter, the terms of a trust prevail over any provision of this chapter except:

(a) the requirements for creating a trust;

(b) subject to Sections 75-12-109, 75-12-111, and 75-12-112, the duty of a trustee to act in good faith and in accordance with the purposes of the trust;

(c) the requirement that a trust and the terms of the trust be for the benefit of the trust's beneficiaries;

(d) the power of the court to modify or terminate a trust under Sections 75-7-410 through 75-7-416;

(e) the effect of a spendthrift provision, Section [~~25-6-502~~]75B-1-302, and the rights of certain creditors and assignees to reach a trust as provided in Part 5, Creditor's Claims - Spendthrift and Discretionary Trusts;

(f) the power of the court under Section 75-7-702 to require, dispense with, or modify or terminate a bond;

(g) the effect of an exculpatory term under Section 75-7-1008;

(h) the rights under Sections 75-7-1010 through 75-7-1013 of a person other than a trustee or beneficiary;

(i) periods of limitation for commencing a judicial proceeding; and

(j) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in Sections 75-7-203 and 75-7-205.

Section 6. Section 75-7-107 is amended to read:

75-7-107. Governing law.

(1) [~~For purposes of~~]As used in this section:

(a) "Foreign trust" means a trust that is created in another state or country and valid in the state or country in which the trust is created.

(b) "State law provision" means a provision that the laws of a named state govern the validity, construction, and administration of a trust.

(2) If a trust has a state law provision specifying this state, the validity, construction, and administration of the trust are to be governed by the laws of this state if any administration of the trust is done in this state.

(3) For all trusts created on or after December 31, 2003, if a trust does not have a state law provision, the validity, construction, and administration of the trust are to be governed by the laws of this state if the trust is administered in this state.

(4) A trust shall be considered to be administered in this state if:

(a) the trust states that this state is the place of administration, and any administration of the trust is done in this state; or

(b) the place of business where the fiduciary transacts a major portion of its administration of the trust is in this state.

(5) If a foreign trust is administered in this state as provided in this section, the following provisions are effective and enforceable under the laws of this state:

(a) a provision in the trust that restricts the transfer of trust assets in a manner similar to Section [~~25-6-502~~]75B-1-302;

(b) a provision that allows the trust to be perpetual; or

(c) a provision that is not expressly prohibited by the law of this state.

(6) A foreign trust that moves its administration to this state is valid whether or not the trust complied with the laws of this state at the time of the trust's creation or after the trust's creation.

(7) Unless otherwise designated in the trust instrument, a trust is administered in this state if it meets the requirements of Subsection (4).

Section 7. Section 75-7-301 is amended to read:

75-7-301. Basic effect.

(1) Notice to a person who may represent and bind another person under this part has the same effect as if notice were given directly to the other person.

(2) The consent of a person who may represent and bind another person under this part is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(3) Except as otherwise provided in Sections 75-7-411 and [~~25-6-502~~]75B-1-302, a person who under this part may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

Section 8. Section 75-7-501 is amended to read:

75-7-501. Rights of beneficiary's creditor or assignee.

To the extent a beneficiary's interest is not protected by a spendthrift provision or Section [~~25-6-502~~]75B-1-302, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to relief as is appropriate under the circumstances.

Section 9. Section 75-7-505 is amended to read:

75-7-505. Creditor's claim against settlor.

Regardless of whether the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to the claims of the settlor's creditors. If a revocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(2)(a) With respect to an irrevocable trust other than an irrevocable trust that meets the requirements of Section [~~25-6-502~~]75B-1-302, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit.

(b) With respect to an irrevocable trust that has more than one settlor, other than an irrevocable trust that meets the requirements of Section [~~25-6-502~~]75B-1-302, the amount a creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) Notwithstanding Subsections (2)(a) and (b), a creditor of a settlor may not satisfy the creditor's claim from an irrevocable trust solely because the trustee may make a discretionary distribution reimbursing the settlor for income tax liability of the settlor attributable to the income of the irrevocable trust, when the distribution is:

(i) subject to the discretion of a trustee who is not the settlor;

(ii) subject to the consent of an advisor who is not the settlor; or

(iii) at the direction of an advisor who is not the settlor.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death, but not property received by the trust as a result of the death of the settlor which is otherwise exempt from the claims of the settlor's creditors, is subject to

claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.

Section 10. Section 75-7-814 is amended to read:

75-7-814. Specific powers of trustee.

(1) Without limiting the authority conferred by Section 75-7-813, a trustee may:

(a) collect trust property and accept or reject additions to the trust property from a settlor or any other person;

(b) acquire or sell property, for cash or on credit, at public or private sale;

(c) exchange, partition, or otherwise change the character of trust property;

(d) deposit trust money in an account in a regulated financial service institution;

(e) borrow money, with or without security from any financial institution, including a financial institution that is serving as a trustee or one of its affiliates, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(f) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;

(g) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

(i) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(ii) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(iii) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(iv) deposit the securities with a depositary or other regulated financial service institution;

(h) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

(i) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

(j) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;

(k) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;

(l) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

(m) with respect to possible liability for violation of environmental law:

(i) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(ii) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(iii) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(iv) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

(v) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

(n) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(o) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

(p) exercise elections with respect to federal, state, and local taxes;

(q) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(r) make loans out of trust property, including loans to a beneficiary on terms and conditions the

trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(s) pledge trust property to guarantee loans made by others to the beneficiary;

(t) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(u) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(i) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;

(ii) paying it to the beneficiary's custodian under [~~Title 75, Chapter 5a, Uniform Transfers to Minors Act~~]Title 75A, Chapter 8, Uniform Transfers to Minors Act;

(iii) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(iv) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(v) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(w) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(x) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(y) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and

(z) on termination of the trust, exercise the powers appropriate to finalize the administration of the trust and distribute the trust property to the persons entitled to it.

(2) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances.

(a) The trustee shall exercise reasonable care, skill, and caution in:

(i) selecting the agent;

(ii) establishing the scope and terms of the delegation consistent with the purposes of the trust; and

(iii) periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent has a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of this Subsection (2) is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(3) The trustee may exercise the powers set forth in this section and in the trust either in the name of the trust or in the name of the trustee as trustee, specifically including the right to take title, to encumber or convey assets, including real property, in the name of the trust. This Subsection (3) applies to a trustee's exercise of trust powers. After May 11, 2010, for recording purposes, the name of the trustee, the address of the trustee, and the name and date of the trust, shall be included on all recorded documents affecting real property to which the trust is a party in interest.

Section 11. Section 75-7-816 is amended to read:

75-7-816. Recitals when title to real property is in trust -- Failure.

(1) When title to real property is granted to a person as trustee, the terms of the trust may be given either:

(a) in the deed of transfer; or

(b) in an instrument signed by the grantor and recorded in the same office as the grant to the trustee.

(2) If the terms of the trust are not made public as required in Subsection (1), a conveyance from the trustee is absolute in favor of purchasers for value who take the property without notice of the terms of the trust.

(3) The terms of the trust recited in the deed of transfer or the instrument recorded under Subsection (1)(b) shall include:

(a) the name of the trustee;

(b) the address of the trustee; and

(c) the name and date of the trust.

(4) Any real property titled in a trust which has a restriction on transfer described in Section [~~25-6-502~~]75B-1-302 shall include in the title the words "asset protection trust."

Section 12. Section 75A-1-101 is enacted to read:

75A-1-101. Reserved for title definitions.

TITLE 75A. FIDUCIARIES

CHAPTER 1. FIDUCIARIES

Part 1. General Provisions

Reserved.

Section 13. Section 75A-1-102 is enacted to read:

75A-1-102. Transition clause.

If, at the time a power of attorney, a power of appointment, an advanced health care directive, or another legal document was executed, the document contained a correct citation to a provision in Title 22, Fiduciaries and Trusts, and Title 75, Utah Uniform Probate Code, that, after the execution of the document, was renumbered and amended for inclusion in this title, that citation is a valid citation to the same provision in this title.

Section 14. Section 75A-1-201, which is renumbered from Section 22-1-1 is renumbered and amended to read:

~~**22-1-1.** **75A-1-201. Definitions for part.**~~

Part 2. Payments and Deposits by Fiduciaries

[~~In this chapter unless the context or subject matter otherwise requires: ~~]As used in this part:

(1) "Fiduciary" [~~includes~~]means:

(a) a trustee under any trust, expressed, implied, resulting or constructive[~~,~~];

(b) an executor[~~,~~];

(c) an administrator[~~,~~];

(d) a guardian[~~,~~];

(e) a conservator[~~,~~];

(f) a curator[~~,~~];

(g) a receiver[~~,~~];

(h) a trustee in bankruptcy[~~,~~];

(i) an assignee for the benefit of creditors[~~,~~];

(j) a partner[~~,~~];

(k) an agent[~~,~~];

(l) an officer of a corporation, public or private[~~,~~];

(m) a public officer[~~, and~~]; or

(n) any other person acting in a fiduciary capacity for any person, trust, or estate.

[~~"Principal" includes any person to whom a fiduciary as such owes an obligation.~~

~~A thing is done "in good faith" when it is in fact done honestly, whether it is done negligently or not.~~]

(2) "Good faith" means something is in fact done honestly regardless of whether it is done negligently or not.

(3) "Principal" means a person to whom a fiduciary owes an obligation.

Section 15. Section 75A-1-202, which is renumbered from Section 22-1-11 is renumbered and amended to read:

~~**22-1-11.** **75A-1-202. Transactions prior to May 12, 1925.**~~

The provisions of this [~~chapter~~]part do not apply to transactions taking place prior to May 12, 1925.

Section 16. Section 75A-1-203, which is renumbered from Section 22-1-2 is renumbered and amended to read:

~~**22-1-2.** **75A-1-203. Payments or transfers made to a fiduciary.**~~

(1) A person who in good faith pays or transfers to a fiduciary any money or other property [~~which~~]that the fiduciary [~~as such~~]is authorized to receive is not responsible for the proper application [~~thereof~~]of the money or property by the fiduciary[~~; and no~~].

(2) A right or title acquired from the fiduciary in consideration of [~~such~~]a payment or transfer described in Subsection (1) is not invalid [~~in~~]as a consequence of a misapplication by the fiduciary.

Section 17. Section 75A-1-204, which is renumbered from Section 22-1-4 is renumbered and amended to read:

~~**22-1-4.** **75A-1-204. Transfer of negotiable instruments by a fiduciary.**~~

[~~If any negotiable instrument payable or indorsed to a fiduciary as such is endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to his principal is endorsed by a fiduciary empowered to endorse such instrument on behalf of his principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in endorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary, unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in payment of, or as security for, a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal, if the fiduciary in fact commits a breach of his obligation as fiduciary in transferring the instrument~~].

(1) If a fiduciary endorses a negotiable instrument that is payable or endorsed to the fiduciary or the fiduciary's principal, and the fiduciary has authority to endorse the negotiable instrument on behalf of the principal, the person that receives the negotiable instrument through the endorsement:

(a) is not bound to inquire as to whether the fiduciary is committing a breach of the fiduciary's obligation in endorsing or delivering the negotiable instrument; and

(b) is not required to provide notice that the fiduciary is committing a breach of the fiduciary's obligation, unless the person:

(i) takes the negotiable instrument with actual knowledge that the fiduciary is committing a breach of the fiduciary's obligation; or

(ii) knows that taking the negotiable instrument amounts to bad faith.

(2) Notwithstanding Subsection (1), a person is liable to a principal if:

(a) the fiduciary transfers a negotiable instrument to the person and the person knows that the fiduciary is transferring the negotiable instrument:

(i) as payment of, or as a security for, a personal debt of the fiduciary; or

(ii) for the personal benefit of the fiduciary; and

(b) the fiduciary commits a breach of the fiduciary's obligation in transferring the negotiable instrument to the person.

Section 18. Section 75A-1-205, which is renumbered from Section 22-1-5 is renumbered and amended to read:

~~22-1-5.~~ 75A-1-205. Checks -- Drawn by a fiduciary and payable to a third person.

[~~If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of his principal by a fiduciary empowered to draw such instrument in the name of his principal, the payee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary, unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of, or as security for, a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal, if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the instrument.~~]

(1) If a fiduciary draws a check or other bill of exchange in the name of the fiduciary's principal and the fiduciary has authority to draw the check or other bill of exchange in the name of the principal, the person to which the check or other bill of exchange is paid:

(a) is not bound to inquire as to whether the fiduciary is committing a breach of the fiduciary's obligation in drawing the check or other bill of exchange; and

(b) is not required to provide notice that the fiduciary is committing a breach of the fiduciary's obligation, unless the person:

(i) takes the check or other bill of exchange with actual knowledge that the fiduciary is committing a breach of the fiduciary's obligation; or

(ii) knows that taking the check or other bill of exchange amounts to bad faith.

(2) Notwithstanding Subsection (1), a person is liable to a principal if:

(a) the fiduciary writes and delivers the check or other bill of exchange to the person;

(b) the person knows that the fiduciary is drawing and delivering the check or other bill of exchange for:

(i) payment of, or as a security for, a personal debt of the fiduciary; or

(ii) the personal benefit of the fiduciary; and

(c) the fiduciary commits a breach of the fiduciary's obligation in drawing or delivering the check or other bill of exchange to the person.

Section 19. Section 75A-1-206, which is renumbered from Section 22-1-6 is renumbered and amended to read:

~~22-1-6.~~ 75A-1-206. Checks drawn by or payable to a fiduciary.

[~~If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of his principal by a fiduciary empowered to draw such instrument in the name of his principal, payable to the fiduciary personally, or payable to a third person and by him transferred to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of his obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of his obligation as fiduciary, unless he takes the instrument with actual knowledge of such breach or with knowledge of such facts that his action in taking the instrument amounts to bad faith.~~]If a fiduciary draws a check or other bill of exchange in the name of the fiduciary's principal and the fiduciary has authority to draw the check or other bill of exchange that is payable to the fiduciary or a person that transfers the payment to the fiduciary, the person to which the check or other bill of exchange is paid:

(1) is not bound to inquire as to whether the fiduciary is committing a breach of the fiduciary's obligation in transferring the check or other bill of exchange to the fiduciary; and

(2) is not required to provide notice that the fiduciary is committing a breach of the fiduciary's obligation, unless the person:

(a) takes the check or other bill of exchange with actual knowledge that the fiduciary is committing a breach of the fiduciary's obligation; or

(b) knows that taking the check or other bill of exchange amounts to bad faith.

Section 20. Section 75A-1-207, which is renumbered from Section 22-1-7 is renumbered and amended to read:

~~22-1-7.~~ 75A-1-207. Bank deposits in the name of a fiduciary.

[~~If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which such deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing the check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of, or as security for, a personal debt of the fiduciary to it, the bank is liable to the principal, if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.~~]

(1) If a fiduciary deposits a check in a bank in the name of the fiduciary's principal and to the credit of the fiduciary and the bank is authorized to pay the amount of the deposit or any part of the deposit, the bank is not liable to the principal unless:

(a) the bank pays the check with actual knowledge that the fiduciary is committing a breach of the fiduciary's obligation in drawing the check; or

(b) the bank knows that paying the check amounts to bad faith.

(2) Notwithstanding Subsection (1), a bank is liable to a principal if:

(a) the fiduciary deposits a check in the name of the principal as payment to the bank for payment of, or as security for, a personal debt of the fiduciary; and

(b) the fiduciary commits a breach of the fiduciary's obligation in drawing or delivering the check to the bank.

Section 21. Section 75A-1-208, which is renumbered from Section 22-1-8 is renumbered and amended to read:

~~22-1-8.~~ 75A-1-208. Checks drawn in name of a principal.

[~~If a check is drawn upon the account of his principal in a bank by a fiduciary who is empowered to draw checks upon his principal's account, the bank is authorized to pay such check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in drawing such check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of, or as security for, a personal debt of the fiduciary to it, the bank is liable to the principal, if the fiduciary in fact commits a breach of his obligation as fiduciary in drawing or delivering the check.~~]

(1) If a fiduciary draws a check upon the account of the fiduciary's principal in a bank that is authorized to draw checks upon the principal's account and the bank is authorized to pay the check, the bank is not liable to the principal unless:

(a) the bank pays the check with actual knowledge that the fiduciary is committing a breach of the fiduciary's obligation in drawing the check; or

(b) the bank knows that paying the check amounts to bad faith.

(2) Notwithstanding Subsection (1), the bank is liable to a principal if:

(a) the principal's fiduciary deposits a check in the name of the principal as payment to the bank for payment of, or as security for, a personal debt of the fiduciary; and

(b) the fiduciary commits a breach of the fiduciary's obligation in drawing or delivering the check to the bank.

Section 22. Section 75A-1-209, which is renumbered from Section 22-1-9 is renumbered and amended to read:

~~22-1-9.~~ 75A-1-209. Deposits in a fiduciary's personal account.

[~~If a fiduciary makes a deposit in a bank to his personal credit of checks drawn by him upon an account in his own name as fiduciary, or of checks payable to him as fiduciary, or of checks drawn by him upon an account in the name of his principal, if he is empowered to draw checks thereon, or of checks payable to his principal and indorsed by him, if he is empowered to indorse such checks, or if he otherwise makes a deposit of funds held by him as fiduciary, the bank receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a breach of his obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of his obligation as fiduciary in making such deposit or in drawing such check, or with knowledge of such facts that its action in receiving the deposit or paying the check amounts to bad faith.~~]If a principal authorizes a fiduciary to write or endorse a check for the principal, and the fiduciary writes a check payable to the fiduciary and deposits the check in a bank into the fiduciary's personal account:

(1) the bank is not bound to inquire whether a fiduciary is committing a breach of the fiduciary's obligation to a principal; and

(2) the bank is authorized to pay the amount of the deposit or any part of a personal check of the fiduciary without being liable to the principal unless:

(a) the bank deposits the check for a fiduciary with actual knowledge that the fiduciary is

committing a breach of the fiduciary's obligation in depositing the check; or

(b) the bank knows that depositing the check for the fiduciary amounts to bad faith.

Section 23. Section 75A-1-210, which is renumbered from Section 22-1-10 is renumbered and amended to read:

~~22-1-10~~. 75A-1-210. Deposits in name of several trustees.

When a deposit is made in a bank in the name of two or more persons as trustees and a check is drawn upon the trust account by [~~any trustee or trustees~~]a trustee authorized by [~~the other trustee or trustees~~]another trustee to draw checks upon the trust account[~~, neither the payee nor other holder nor the bank is~~]:

(1) the payee or bank is not bound to inquire whether [~~it~~]the deposit is a breach of trust to authorize [~~such trustee or trustees~~]a trustee to draw checks upon the trust account[~~, and~~]; and

(2) the payee or bank is not liable[~~,~~] unless the circumstances are such that the action of the [~~payee or other holder or the bank~~]payee or bank amounts to bad faith.

Section 24. Section 75A-2-101 is enacted to read:

75A-2-101. Reserved.

CHAPTER 2. UNIFORM POWER OF ATTORNEY ACT

Part 1. General Provisions

Reserved.

Section 25. Section 75A-2-102, which is renumbered from Section 75-9-102 is renumbered and amended to read:

~~75-9-102~~. 75A-2-102. Definitions for chapter.

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

(1)(a) "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. [~~The term~~]

(b) "Agent" includes an original agent, coagent, successor agent, and person to which an agent's authority is delegated.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

(3) "Beneficiary designation" means the same as that term is defined in Section 75-1-201.

(4) "Child" means the same as that term is defined in Section 75-1-201.

(5) "Claims" means the same as that term is defined in Section 75-1-201.

(6) "Conservator" means the same as that term is defined in Section 75-1-201.

(7) "Descendant" means the same as that term is defined in Section 75-1-201.

[~~(2)~~](8) "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

[~~(3)~~](9) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(10) "Estate" means the same as that term is defined in Section 75-1-201.

(11) "Fiduciary" means the same as that term is defined in Section 75-1-201.

[~~(4)~~](12) "Good faith" means honesty in fact.

(13) "Guardian" means the same as that term is defined in Section 75-1-201.

[~~(5)~~](14) "Incapacity" means the inability of an individual to manage property or business affairs because the individual:

(a) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance; or

(b) is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(15) "Lease" means the same as that term is defined in Section 75-1-201.

(16) "Mortgage" means the same as that term is defined in Section 75-1-201.

(17) "Organization" means the same as that term is defined in Section 75-1-201.

[~~(6)~~](18) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(19) "Personal representative" means the same as that term is defined in Section 75-1-201.

[~~(7)~~](20) "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

[~~(8)~~](21)(a) "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. [~~The term~~]

(b) "Presently exercisable general power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the

passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. [~~The term~~]

(c) "Presently exercisable general power of appointment" does not include a power exercisable in a fiduciary capacity or only by will.

[~~(9)~~](22) "Principal" means an individual who grants authority to an agent in a power of attorney.

[~~(10)~~](23) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

[~~(11)~~](24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(25) "Security" means the same as that term is defined in Section 75-1-201.

[~~(12)~~](26) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic sound, symbol, or process.

[~~(13)~~](27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

[~~(14)~~](28)(a) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. [~~The term~~]

(b) "Stocks and bonds" does not include commodity futures contracts and call or put options on stocks or stock indexes.

(29) "Trust" means the same as that term is defined in Section 75-1-201.

(30) "Trustee" means the same as that term is defined in Section 75-1-201.

(31) "Will" means the same as that term is defined in Section 75-1-201.

Section 26. Section 75A-2-103, which is renumbered from Section 75-9-103 is renumbered and amended to read:

~~75-9-103~~. 75A-2-103. Applicability.

This chapter applies to all powers of attorney except:

(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) a power to make health care decisions;

(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity; and

(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.

Section 27. Section 75A-2-104, which is renumbered from Section 75-9-104 is renumbered and amended to read:

~~75-9-104~~. 75A-2-104. Power of attorney is durable.

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

Section 28. Section 75A-2-105, which is renumbered from Section 75-9-105 is renumbered and amended to read:

~~75-9-105~~. 75A-2-105. Execution of power of attorney.

(1)(a) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments.

(b) A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(2) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless:

(a) the agent is the spouse, legal guardian, or next of kin of the principal[~~, or unless~~]; or

(b) the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.

(3) A violation of Subsection (2) is a violation of Section 76-5-111.4.

Section 29. Section 75A-2-106, which is renumbered from Section 75-9-106 is renumbered and amended to read:

~~75-9-106~~. 75A-2-106. Validity of power of attorney.

(1) A power of attorney executed in this state on or after May 10, 2016, is valid if its execution complies with Section [~~75-9-105~~]75A-2-105.

(2) A power of attorney executed in this state before May 10, 2016, is valid if its execution complied with the law of this state as it existed at the time of execution.

(3) A power of attorney executed other than in this state is valid in this state if, when the power of

attorney was executed, the execution complied with:

(a) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to Section [~~75-9-107~~]75A-2-107; or

(b) the requirements for a military power of attorney pursuant to 10 U.S.C. Sec. 1044b.

(4) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original. For transactions involving real property, the copy of the power of attorney may be recorded in the county where the transaction lies when attached to an affidavit of the person accepting the power of attorney.

Section 30. Section 75A-2-107, which is renumbered from Section 75-9-107 is renumbered and amended to read:

~~75-9-107~~. 75A-2-107. Meaning and effect of power of attorney.

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

Section 31. Section 75A-2-108, which is renumbered from Section 75-9-108 is renumbered and amended to read:

~~75-9-108~~. 75A-2-108. Nomination of conservator or guardian -- Adequacy of power of attorney -- Relation of agent to conservator or other fiduciary.

(1) In a power of attorney, a principal may nominate a conservator of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings, as defined in Section 75-1-201, for the principal's estate or person are begun after the principal executes the power of attorney.

(2) If a principal executes a power of attorney and a petition is filed to appoint a conservator of the principal's estate, the court shall consider whether:

(a) the provisions in the power of attorney are adequate to manage and protect the principal's estate without appointing a conservator; or

(b) the appointment of a conservator is necessary to manage and protect the principal's estate.

(3) If the court appoints a conservator of the principal's estate or a guardian of the principal's person, the court shall appoint a conservator or a guardian in accordance with the principal's most recent nomination unless there is good cause shown or disqualification.

(4) If, after a principal executes a power of attorney, the court determines that an appointment of a conservator or other fiduciary is necessary to manage and protect some or all of the principal's estate:

(a) the agent named in the principal's power of attorney is accountable to the conservator or other fiduciary as well as the principal; and

(b) the power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.

Section 32. Section 75A-2-109, which is renumbered from Section 75-9-109 is renumbered and amended to read:

~~75-9-109~~. 75A-2-109. When power of attorney is effective.

(1) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(2) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(3) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(a) a physician that the principal is incapacitated within the meaning of Subsection [~~75-9-102(5)(a)~~] 75A-2-102(14)(a); or

(b) an attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of Subsection [~~75-9-102(5)(b)~~]75A-2-102(14)(b).

(4) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Sec. 1320d, and applicable regulations, to obtain access to the principal's health care information and communicate with the principal's health care provider.

Section 33. Section 75A-2-110, which is renumbered from Section 75-9-110 is renumbered and amended to read:

~~75-9-110~~. 75A-2-110. Termination of power of attorney or agent's authority.

(1) A power of attorney terminates when:

(a) the principal dies;

(b) the principal becomes incapacitated, if the power of attorney is not durable;

(c) the principal revokes the power of attorney;

(d) the power of attorney provides that it terminates;

(e) the purpose of the power of attorney is accomplished; or

(f) the principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(2) An agent's authority terminates when:

(a) the principal revokes the authority;

(b) the agent dies, becomes incapacitated, or resigns;

(c) an action is filed for the dissolution or annulment of the agent's marriage to the principal or their legal separation, unless the power of attorney otherwise provides; or

(d) the power of attorney terminates.

(3) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under Subsection (2), notwithstanding a lapse of time since the execution of the power of attorney.

(4)(a) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney.

(b) An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(5)(a) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney.

(b) An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(6) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

(7) The principal may revoke or amend a power of attorney:

(a) by substantial compliance with a method provided in the terms of the power of attorney that expressly excludes all other methods for amending or revoking the power of attorney; or

(b) if the terms of the power of attorney do not provide a method or the method provided in the terms is not expressly made exclusive, by any other method manifesting clear and convincing evidence of the principal's intent.

Section 34. Section 75A-2-111, which is renumbered from Section 75-9-111 is renumbered and amended to read:

~~75-9-111~~. 75A-2-111. Coagents and successor agents.

(1)(a) A principal may designate two or more persons to act as coagents.

(b) Unless the power of attorney otherwise provides, each coagent may exercise its authority independently.

(2)(a) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve.

(b) A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function.

(c) Unless the power of attorney otherwise provides, a successor agent:

[~~(a)~~](i) has the same authority as that granted to the original agent; and

[~~(b)~~](ii) may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(3) Except as otherwise provided in the power of attorney and Subsection (4), an agent that does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(4)(a) An agent that has accepted appointment and that has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest.

(b) An agent that fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken action.

Section 35. Section 75A-2-112, which is renumbered from Section 75-9-112 is renumbered and amended to read:

~~75-9-112~~. 75A-2-112. Reimbursement and compensation of agent.

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

Section 36. Section 75A-2-113, which is renumbered from Section 75-9-113 is renumbered and amended to read:

~~75-9-113~~. 75A-2-113. Agent's acceptance.

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent

under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

Section 37. Section 75A-2-114, which is renumbered from Section 75-9-114 is renumbered and amended to read:

~~75-9-114.~~ 75A-2-114. Agent's duties.

(1) Notwithstanding provisions in the power of attorney, an agent that has accepted appointment shall:

(a) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest;

(b) act in good faith;

(c) act only within the scope of authority granted in the power of attorney; and

(d) comply with the terms of the power of attorney.

(2)(a) Except as otherwise provided in the power of attorney or other provision of this chapter, an agent that has accepted appointment shall have no further obligation to act under the power of attorney.

(b) However, with respect to any action taken by the agent under the power of attorney, the agent shall:

[~~(a)~~](i) act loyally for the principal's benefit;

[~~(b)~~](ii) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interest;

[~~(c)~~](iii) act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

[~~(d)~~](iv) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

[~~(e)~~](v) cooperate with a person that has authority to make health care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and, otherwise, act in the principal's best interest; and

[~~(f)~~](vi) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

[~~(i)~~](A) the value and nature of the principal's property;

[~~(ii)~~](B) the principal's foreseeable obligations and need for maintenance;

[~~(iii)~~](C) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

[~~(iv)~~](D) eligibility for a benefit, a program, or assistance under a statute, rule, or regulation.

(3) An agent that acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(4) An agent that acts with care, competence, and diligence for the best interest of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(5) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise shall be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(6) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(7) An agent that exercises authority to delegate to another person the authority granted by the principal or that engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(8)(a) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, an interested person, as defined in [~~Subsection 75-1-201(24)~~]Section 75-1-201, after the principal's incapacity, or upon the death of the principal, by the personal representative or successor in interest of the principal's estate.

(b) If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

Section 38. Section 75A-2-115, which is renumbered from Section 75-9-115 is renumbered and amended to read:

~~75-9-115.~~ 75A-2-115. Exoneration of agent.

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) relieves the agent of liability for breach of duty committed dishonestly, with an improper motive, or with reckless indifference to the purposes of the power of attorney or the best interest of the principal; or

(2) was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

Section 39. Section 75A-2-116, which is renumbered from Section 75-9-116 is renumbered and amended to read:

~~75-9-116~~. 75A-2-116. Judicial relief.

(1) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(a) the principal or the agent;

(b) a guardian, conservator, or other fiduciary acting for the principal;

(c) a person authorized to make health care decisions for the principal;

(d) the principal's spouse, parent as defined in Section 75-1-201, or descendant;

(e) an individual who would qualify as a presumptive heir of the principal;

(f) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal that has a financial interest in the principal's estate;

(g) a governmental agency having regulatory authority to protect the welfare of the principal;

(h) the principal's caregiver or another person that demonstrates sufficient interest in the principal's welfare; and

(i) a person asked to accept the power of attorney.

(2) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

Section 40. Section 75A-2-117, which is renumbered from Section 75-9-117 is renumbered and amended to read:

~~75-9-117~~. 75A-2-117. Agent's liability.

An agent that violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(1) restore the value of the principal's property to what it would have been had the violation not occurred; and

(2) reimburse the principal or the principal's successors in interest for the attorney fees and costs paid on the agent's behalf.

Section 41. Section 75A-2-118, which is renumbered from Section 75-9-118 is renumbered and amended to read:

~~75-9-118~~. 75A-2-118. Agent's resignation -- Notice.

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving notice to the principal and, if the principal is incapacitated:

(1) to the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in Subsection (1), to:

(a) the principal's caregiver;

(b) another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(c) a governmental agency having authority to protect the welfare of the principal.

Section 42. Section 75A-2-119, which is renumbered from Section 75-9-119 is renumbered and amended to read:

~~75-9-119~~. 75A-2-119. Acceptance of and reliance upon acknowledged power of attorney.

(1) [~~For purposes of this section and Section 75-9-120~~]As used in this section, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(2) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under Section [~~75-9-105~~]75A-2-105 that the signature is genuine.

(3) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect, the agent's authority were genuine, valid, and still in effect, and the agent had not exceeded and had properly exercised the authority.

(4) A person that is asked to accept an acknowledged power of attorney may request, and rely upon, without further investigation:

(a) an agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney;

(b) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(c) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(5) An English translation or an opinion of counsel requested under this section shall be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(6) For purposes of this section and Section [~~75-9-120~~]75A-2-120, a person that conducts

activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

Section 43. Section 75A-2-120, which is renumbered from Section 75-9-120 is renumbered and amended to read:

~~75-9-120~~. 75A-2-120. Liability for refusal to accept acknowledged power of attorney.

(1) As used in this section, "acknowledged" means the same as that term is defined in Section 75A-2-119.

(2) Except as otherwise provided in Subsection [~~(2)~~](3):

(a) a person shall either accept an acknowledged power of attorney or request a certification, a translation, or an opinion of counsel under Subsection [~~75-9-119(4)~~]75A-2-119(4) no later than seven business days after presentation of the power of attorney for acceptance;

(b) if a person requests a certification, a translation, or an opinion of counsel under Subsection [~~75-9-119(4)~~]75A-2-119(4), the person shall accept the power of attorney no later than five business days after receipt of the certification, translation, or opinion of counsel; and

(c) a person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

[~~(2)~~](3) A person is not required to accept an acknowledged power of attorney if:

(a) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal law;

(c) the person has actual knowledge of the termination of the agent's authority or of the power of attorney before exercise of the power;

(d) a request for a certification, a translation, or an opinion of counsel under Subsection [~~75-9-119(4)~~]75A-2-119(4) is refused;

(e) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under Subsection [~~75-9-119(4)~~]75A-2-119(4) has been requested or provided; or

(f) the person makes, or has actual knowledge that another person has made, a report to the Division of Aging and Adult Services stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

[~~(3)~~](4) A person that refuses in violation of this section to accept an acknowledged power of attorney is subject to:

(a) a court order mandating acceptance of the power of attorney; and

(b) liability for reasonable [~~attorney's~~]attorney fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

[~~(4)~~](5) Court proceedings under this section shall be conducted pursuant to the terms in the Uniform Probate Code governing venue and procedures.

Section 44. Section 75A-2-121, which is renumbered from Section 75-9-121 is renumbered and amended to read:

~~75-9-121~~. 75A-2-121. Principles of law and equity.

Unless displaced by a provision of this chapter, the principles of law and equity supplement this act.

Section 45. Section 75A-2-122, which is renumbered from Section 75-9-122 is renumbered and amended to read:

~~75-9-122~~. 75A-2-122. Laws applicable to financial institutions and entities.

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

Section 46. Section 75A-2-123, which is renumbered from Section 75-9-123 is renumbered and amended to read:

~~75-9-123~~. 75A-2-123. Remedies under other law.

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this state other than this chapter.

Section 47. Section 75A-2-201, which is renumbered from Section 75-9-201 is renumbered and amended to read:

~~75-9-201~~. 75A-2-201. Authority that requires specific grant -- Grant of general authority.

Part 2. Authority

(1) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority, and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(a) create, amend, revoke, or terminate an inter vivos trust;

(b) make a gift;

(c) create or change rights of survivorship;

(d) create or change a beneficiary designation;

(e) delegate authority granted under the power of attorney;

(f) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(g) exercise fiduciary powers that the principal has authority to delegate; or

(h) disclaim property or otherwise exercise a power of appointment.

(2) Notwithstanding a grant of authority to do an act described in Subsection (1), unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(3) Subject to Subsections (1), (2), (4), and (5), if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in Sections [~~75-9-204 through 75-9-216~~]75A-2-204 through 75A-2-216.

(4) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to Section [~~75-9-217~~]75A-2-217.

(5) Subject to Subsections (1), (2), and (4), if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(6) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this state and whether or not the authority is exercised or the power of attorney is executed in this state.

(7) An act performed by an agent pursuant to a power of attorney has the same effect, inures to the benefit of, and binds the principal and the principal's successors in interest as if the principal had performed the act.

Section 48. Section 75A-2-202, which is renumbered from Section 75-9-202 is renumbered and amended to read:

~~75-9-202~~. 75A-2-202. Incorporation of authority.

(1) An agent has authority described in this part if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in Sections [~~75-9-204 through 75-9-217~~] 75A-2-204 through 75A-2-217 or cites the section in which the authority is described.

(2) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in Sections [~~75-9-204 through 75-9-217~~] 75A-2-204 through 75A-2-217 or a citation to a section of Sections [~~75-9-204 through 75-9-217~~] 75A-2-204 through 75A-2-217 incorporates the entire section as if it were set out in full in the power of attorney.

(3) A principal may modify authority incorporated by reference.

Section 49. Section 75A-2-203, which is renumbered from Section 75-9-203 is renumbered and amended to read:

~~75-9-203~~. 75A-2-203. Construction of authority generally.

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in Sections [~~75-9-204 through 75-9-217~~]75A-2-204 through 75A-2-217 or that grants to an agent authority to do all acts that a principal could do pursuant to Subsection [~~75-9-201(3)~~] 75A-2-201(3), a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain, by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality on behalf of the principal;

(9) access communications intended for, and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.

Section 50. Section 75A-2-204, which is renumbered from Section 75-9-204 is renumbered and amended to read:

~~75-9-204~~. 75A-2-204. Real property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2)(a) sell;

(b) exchange;

(c) convey with or without covenants, representations, or warranties;

(d) quitclaim;

(e) release;

(f) surrender;

(g) retain title for security;

(h) encumber;

(i) partition;

(j) consent to partitioning;

(k) subject to an easement or covenant;

(l) subdivide;

(m) apply for zoning or other governmental permits;

(n) plat or consent to platting;

(o) develop;

(p) grant an option concerning;

(q) lease;

(r) sublease;

(s) contribute to an entity in exchange for an interest in that entity; or

(t) otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(a) insuring against liability or casualty or other loss;

(b) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(c) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments; and

(d) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(a) selling or otherwise disposing of stocks and bonds;

(b) exercising or selling an option, right of conversion, or similar right with respect to stocks and bonds; and

(c) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property; and

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest.

Section 51. Section 75A-2-205, which is renumbered from Section 75-9-205 is renumbered and amended to read:

~~75-9-205~~. 75A-2-205. Tangible personal property.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) sell; exchange; convey with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise, a security interest, lien, or other claim on behalf of the principal, with respect to tangible personal property or an interest in tangible personal property;

(5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(a) insuring against liability, casualty, or other loss;

(b) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(c) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(d) moving the property from place to place;

(e) storing the property for hire or on a gratuitous bailment; and

(f) using and making repairs, alterations, or improvements to the property; and

(6) change the form of title of an interest in tangible personal property.

Section 52. Section 75A-2-206, which is renumbered from Section 75-9-206 is renumbered and amended to read:

~~75-9-206~~. 75A-2-206. Stocks and bonds.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

Section 53. Section 75A-2-207, which is renumbered from Section 75-9-207 is renumbered and amended to read:

~~75-9-207~~. 75A-2-207. Commodities and options.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

Section 54. Section 75A-2-208, which is renumbered from Section 75-9-208 is renumbered and amended to read:

~~75-9-208~~. 75A-2-208. Banks and other financial institutions.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting or closing a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) enter a safe deposit box or vault and withdraw or add to the contents;

(7) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order, transfer money, receive the cash or other proceeds of those transactions, and accept a draft drawn by a person upon the principal and pay it when due;

(9) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

Section 55. Section 75A-2-209, which is renumbered from Section 75-9-209 is renumbered and amended to read:

~~75-9-209~~. 75A-2-209. Operation of entity or business.

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) enforce the terms of an ownership agreement;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) with respect to an entity or business owned solely by the principal:

(a) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(b) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(c) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(d) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

Section 56. Section 75A-2-210, which is renumbered from Section 75-9-210 is renumbered and amended to read:

~~75-9-210~~. 75A-2-210. Insurance and annuities.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, [~~children~~] child, and other dependents, and select the amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay

premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

Section 57. Section 75A-2-211, which is renumbered from Section 75-9-211 is renumbered and amended to read:

~~75-9-211~~. 75A-2-211. Estates, trusts, and other beneficial interests.

(1) [~~In this section~~]As used in this section, "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, custodianship, or fund from which the principal is, may become, or claims to be entitled to a share or payment.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(a) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(b) demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(c) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(d) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(e) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(f) conserve, invest, disburse, or use anything received for an authorized purpose;

(g) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor; and

(h) reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust, or other beneficial interest.

Section 58. Section 75A-2-212, which is renumbered from Section 75-9-212 is renumbered and amended to read:

~~75-9-212~~. 75A-2-212. Claims and litigation.

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts, submit a controversy on an agreed statement of facts, consent to examination, and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept a compromise;

(6) waive the issuance and service of process upon the principal, accept service of process, appear for the principal, designate persons upon which process directed to the principal may be served, execute and file or deliver stipulations on the principal's behalf, verify pleadings, seek appellate review, procure and give surety and indemnity bonds, contract and pay for the preparation and printing of records and briefs, receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

Section 59. Section 75A-2-213, which is renumbered from Section 75-9-213 is renumbered and amended to read:

~~75-9-213~~. 75A-2-213. Personal and family maintenance.

(1) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(a) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(i) [~~the principal's children~~]a child of the principal;

(ii) other individuals legally entitled to be supported by the principal; and

(iii) the individuals whom the principal has customarily supported or indicated the intent to support;

(b) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(c) provide living quarters for the individuals described in Subsection (1)(a) by:

(i) purchase, lease, or other contract; or

(ii) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(d) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in Subsection (1)(a);

(e) pay expenses for necessary health care and custodial care on behalf of the individuals described in Subsection (1)(a);

(f) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act, Sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Sec. 1320d, and applicable regulations, in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this state to consent to health care on behalf of the principal;

(g) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in Subsection (1)(a);

(h) maintain credit and debit accounts and open new accounts for the convenience of the individuals described in Subsection (1)(a); and

(i) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(2) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

Section 60. Section 75A-2-214, which is renumbered from Section 75-9-214 is renumbered and amended to read:

~~75-9-214~~. 75A-2-214. Benefits from governmental programs or civil or military service.

(1) [~~In this section~~]As used in this section, "benefits from governmental programs or civil or military service" means any benefit, program, or assistance provided under a statute or regulation, including social security, Medicare, and Medicaid.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(a) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in Subsection [~~75-9-213(1)(a)~~]75A-2-213(1)(a), and for shipment of their household effects;

(b) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(c) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(d) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(e) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(f) receive the financial proceeds of a claim described in Subsection (2)(d) and conserve, invest, disburse, or use for a lawful purpose anything received.

Section 61. Section 75A-2-215, which is renumbered from Section 75-9-215 is renumbered and amended to read:

~~**75-9-215.**~~ **75A-2-215. Retirement plans.**

(1) [~~In this section~~]As used in this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(a) an individual retirement account under Section 408, Internal Revenue Code;

(b) a Roth individual retirement account under Section 408A, Internal Revenue Code;

(c) a deemed individual retirement account under Section 408(q), Internal Revenue Code;

(d) an annuity or mutual fund custodial account under Section 403(b), Internal Revenue Code;

(e) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Section 401(a), Internal Revenue Code;

(f) a plan under Section 457(b), Internal Revenue Code; and

(g) a nonqualified deferred compensation plan under Section 409A, Internal Revenue Code.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(a) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(b) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(c) establish a retirement plan in the principal's name;

(d) make contributions to a retirement plan;

(e) exercise investment powers available under a retirement plan; and

(f) borrow from, sell assets to, or purchase assets from a retirement plan.

Section 62. Section 75A-2-216, which is renumbered from Section 75-9-216 is renumbered and amended to read:

~~**75-9-216.**~~ **75A-2-216. Taxes.**

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns, claims for refunds, requests for extension of time, petitions regarding tax matters, and any other tax-related documents, including receipts, offers, waivers, consents, including consents and agreements under Section 2032A, Internal Revenue Code, closing agreements, and any power of attorney required by the Internal Revenue Service or other taxing authority with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service or other taxing authority.

Section 63. Section 75A-2-217, which is renumbered from Section 75-9-217 is renumbered and amended to read:

~~**75-9-217.**~~ **75A-2-217. Gifts.**

(1) [~~In this section, a gift "for the benefit of" a person~~]As used in this section, "for the benefit of" includes a gift to a trust, an account under [~~the Uniform Transfers to Minors Act (1983/1986)~~] Chapter 8, Uniform Transfers to Minors Act, and a tuition savings account or prepaid tuition plan as defined under Section 529, Internal Revenue Code.

(2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:

(a) make outright to, or for the benefit of, a person a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Section 2503(b), Internal Revenue Code, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Section 2513, Internal Revenue Code, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and

(b) consent, pursuant to Section 2513, Internal Revenue Code, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.

(3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:

(a) the value and nature of the principal's property;

(b) the principal's foreseeable obligations and need for maintenance;

(c) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

(d) eligibility for a benefit, program, or assistance under a statute or regulation; and

(e) the principal's personal history of making or joining in making gifts.

Section 64. Section 75A-2-301, which is renumbered from Section 75-9-301 is renumbered and amended to read:

~~75-9-301~~. 75A-2-301. Statutory form power of attorney.

Part 3. Statutory Forms

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.STATUTORY FORM POWER OF ATTORNEYIMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in [~~Title 75, Chapter 9, Uniform Power of Attorney Act~~]Title 75A, Chapter 2, Uniform Power of Attorney Act.

This power of attorney does not authorize the agent to make health care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney, or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form provides for designation of one agent. If you wish to name more than one agent you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form. DESIGNATION OF AGENT

I_____ name the following

(Name of Principal)

person as my agent:

Name of Agent:_____

Agent's Address:_____

Agent's Telephone Number:_____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent:_____

Successor Agent's Address: _____

Successor Agent's Telephone Number:_____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in [~~Title 75, Chapter 9, Uniform Power of Attorney Act~~]Title 75A, Chapter 2, Uniform Power of Attorney Act:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

(___) Real Property

(___) Tangible Personal Property

(___) Stocks and Bonds

(___) Commodities and Options

(___) Banks and Other Financial Institutions

(___) Operation of Entity or Business

(___) Insurance and Annuities

(___) Estates, Trusts, and Other Beneficial Interests

(___) Claims and Litigation

(___) Personal and Family Maintenance

(___) Benefits from Governmental Programs or Civil or Military Service

(___) Retirement Plans

(___) Taxes

(___) All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change

how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

(___) Create, amend, revoke, or terminate an inter vivos trust

(___) Make a gift, subject to the limitations of Section [~~75-9-217~~]75A-2-217, and any special instructions in this power of attorney

(___) Create or change rights of survivorship

(___) Create or change a beneficiary designation

(___) Authorize another person to exercise the authority granted under this power of attorney

(___) Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

(___) Exercise fiduciary powers that the principal has authority to delegate

(___) Disclaim or refuse an interest in property, including a power of appointment

LIMITATION ON AGENT'S AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

_____
_____
_____
_____
_____
_____
_____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF CONSERVATOR OR GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a conservator of my estate or guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for conservator of my estate: _____

Nominee's Address:_____

Nominee's Telephone Number:_____

Name of Nominee for guardian of my person: _____

Nominee's Address: _____

Nominee's Telephone Number:_____

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid.

SIGNATURE AND ACKNOWLEDGMENT

_____ _____
Your Signature Date

_____
Your Name Printed

_____
_____
Your Address

_____
Your Telephone Number

State of _____

County of_____

This document was acknowledged before me on _____,(Date)
by_____.

(Name of Principal)

_____
(Seal, if any)

Signature of Notary

My commission expires: _____

[This document prepared by: _____
_____]

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You shall:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interest;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney; and

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner:

(Principal's Name) by (Your Signature) as Agent

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) act loyally for the principal's benefit;

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

(3) act with care, competence, and diligence;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with any person that has authority to make health care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interest; and

(6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interest.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) death of the principal;

(2) the principal's revocation of the power of attorney or your authority;

(3) the occurrence of a termination event stated in the power of attorney;

(4) the purpose of the power of attorney is fully accomplished; or

(5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in [~~Title 75, Chapter 9, Uniform Power of Attorney Act~~]Title 75A, Chapter 2, Uniform Power of Attorney Act. If you violate [~~Title 75, Chapter 9, Uniform Power of Attorney Act~~]Title 75A, Chapter 2, Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

Section 65. Section 75A-2-302, which is renumbered from Section 75-9-302 is renumbered and amended to read:

~~75-9-302~~. 75A-2-302. Agent's certification.

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWEROF ATTORNEY AND AGENT'S AUTHORITY

State of _____

[County] of_____

I, _____ (Name of Agent), certify under penalty of perjury that _____(Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) the principal is alive and has not revoked the power of attorney or my authority to act under the power of attorney and the power of attorney and my authority to act under the power of attorney have not terminated;

(2) if the power of attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4)

_____

_____

_____

_____

_____

(Insert other relevant statements)

SIGNATURE AND ACKNOWLEDGMENT

_____ _____

Agent's Signature Date

_____

Agent's Name Printed

_____

_____

Agent's Address

_____

Agent's Telephone Number

This document was acknowledged before me on _____, (Date) by _____. (Name of Agent)

_____

(Seal, if any)

Signature of Notary My commission expires: _____

This document prepared by:_____

Section 66. Section 75A-2-401, which is renumbered from Section 75-9-401 is renumbered and amended to read:

~~75-9-401~~. 75A-2-401. Uniformity of application and construction.

Part 4. Applicability Provisions

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact [~~it~~]this uniform act.

Section 67. Section 75A-2-402, which is renumbered from Section 75-9-402 is renumbered and amended to read:

~~75-9-402~~. 75A-2-402. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 68. Section 75A-2-403, which is renumbered from Section 75-9-403 is renumbered and amended to read:

~~75-9-403~~. 75A-2-403. Effect on existing powers of attorney.

Except as otherwise provided:

(1) this chapter applies to a power of attorney created before, on, or after May 10, 2016;

(2) this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after May 10, 2016;

(3) this chapter applies to a judicial proceeding concerning a power of attorney commenced before May 10, 2016, unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) an act done before May 10, 2016, is not affected by this chapter.

Section 69. Section 75A-3-101, which is renumbered from Section 75-2a-103 is renumbered and amended to read:

~~75-2a-103~~. 75A-3-101. Definitions for chapter.

CHAPTER 3. HEALTH CARE DECISIONS

Part 1. General Provisions

As used in this chapter:

(1) "Adult" means an individual who is:

(a) at least 18 years old; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a POLST order.

(3) "Agent" means an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)(e);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that individual, as provided by law, rule, and specialized certification and training in that individual's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Child" means the same as that term is defined in Section 75-1-201.

[~~(7)~~](8) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

[~~(8)~~](9) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

[~~(9)~~](10) "Emergency medical services provider" means a person that is licensed, designated, or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(11) "Estate" means the same as that term is defined in Section 75-1-201.

[~~(10)~~](12) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section [~~75-2a-117~~] 75A-3-303; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of an individual;

(ii) will not prevent the impending death of an individual; or

(iii) will impose more burden on the individual than any expected benefit to the individual.

(13) "Guardian" means the same as that term is defined in Section 75-1-201.

[~~(11)~~](14) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

[~~(12)~~](15) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

[~~(13)~~](16) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

[~~(14)~~](17) "Health care facility" means:

(a) a health care facility as defined in Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

[~~(15)~~](18) "Health care provider" means the same as that term is defined in Section 78B-3-403, except that "health care provider" does not include an emergency medical services provider.

[~~(16)~~](19)(a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping an individual comfortable.

(20) "Incapacitated" means the same as that term is defined in Section 75-1-201.

(21) "Incapacity" means the same as that term is defined in Section 75-1-201.

[~~(17)~~](22) "Minor" means an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

(23) "Parent" means the same as that term is defined in Section 75-1-201.

(24) "Personal representative" means the same as that term is defined in Section 75-1-201.

[~~(18)~~](25) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(19)~~](26) "Physician assistant" means an individual licensed as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(20)~~](27) "POLST order" means an order, on a form designated by the Department of Health and Human Services under Section [~~75-2a-106~~] 75A-3-106, that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the individual to whom the order relates.

[~~(21)~~](28) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(29) "State" means the same as that term is defined in Section 75-1-201.

[~~(22)~~](30) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in [~~Subsections (22)(a) through (c)~~]Subsections (30)(a) through (c) are unknown, the best interest of the adult.

[~~(23)~~](31) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section [~~75-2a-108~~]75A-3-203; or

(c) a guardian.

(32) "Trust" means the same as that term is defined in Section 75-1-201.

(33) "Will" means the same as that term is defined in Section 75-1-201.

Section 70. Section 75A-3-102, which is renumbered from Section 75-2a-102 is renumbered and amended to read:

~~75-2a-102~~. 75A-3-102. Intent statement.

(1) The Legislature finds:

(a) developments in health care technology make possible many alternatives for treating medical conditions and make possible the unnatural prolongation of life;

(b) an adult should have the clear legal choice to:

(i) accept or reject health care, even if rejecting health care will result in death sooner than death would be expected to occur if rejected health care were started or continued;

(ii) be spared unwanted procedures; and

(iii) be permitted to die with a maximum of dignity and function and a minimum of pain;

(c) Utah law should:

(i) provide an adult with a legal tool to designate a health care agent and express preferences about health care options to go into effect only after the adult loses the ability to make or communicate health care decisions, including decisions about end-of-life care; and

(ii) promote an advance health care directive system that can be administered effectively within the health care system;

(d) surrogate decisions made on behalf of an adult who previously had capacity to make health care decisions, but who has lost health care decision making capacity should be based on:

(i) input from the incapacitated adult, to the extent possible under the circumstances;

(ii) specific preferences expressed by the adult prior to the loss of health care decision making capacity;

(iii) the surrogate's understanding of the adult's health care preferences; and

(iv) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(e) surrogate decisions made on behalf of an adult who has never had health care decision making capacity should be made on the basis of the adult's best interest.

(2) In recognition of the dignity and privacy that each adult is entitled to expect, and to protect the right of an adult to refuse to be treated without the adult's consent, the Legislature declares that this state recognizes the right to make binding advance health care directives directing health care providers to:

(a) provide life sustaining medically indicated health care;

(b) withhold or withdraw health care; or

(c) provide health care only to the extent set forth in an advance health care directive.

Section 71. Section 75A-3-103, which is renumbered from Section 75-2a-122 is renumbered and amended to read:

~~75-2a-122~~. 75A-3-103. Effect of chapter.

[~~The Advance Health Care Directive Act created in this~~]This chapter does not:

(1) create a presumption concerning the intention of an adult who has not made or who has revoked an advance health care directive;

(2) authorize mercy killing, assisted suicide, or euthanasia; or

(3) authorize the provision, withholding, or withdrawal of health care, to the extent prohibited by the laws of this state.

Section 72. Section 75A-3-104, which is renumbered from Section 75-2a-124 is renumbered and amended to read:

~~75-2a-124~~. 75A-3-104. Provisions cumulative with existing law.

The provisions of this chapter are cumulative with existing law regarding a person's right to consent or refuse to consent to medical treatment and do not impair any existing rights or responsibilities that a health care provider, a person, including a minor or incapacitated person, or a person's family or surrogate may have in regard to the provision, withholding or withdrawal of life sustaining procedures under the common law or statutes of the state.

Section 73. Section 75A-3-105, which is renumbered from Section 75-2a-125 is renumbered and amended to read:

~~75-2a-125~~. 75A-3-105. Severability.

(1) If any one or more provision, section, subsection, sentence, clause, phrase, or word of this chapter, or the application of this chapter to any person or circumstance, is found to be unconstitutional, the same is hereby declared to be severable and the balance of this chapter shall remain effective notwithstanding such unconstitutionality.

(2) The Legislature hereby declares that it would have passed this chapter, and each provision, section, subsection, sentence, clause, phrase, or word of this chapter, irrespective of the fact that any one or more provision, section, subsection, sentence, clause, phrase, or word be declared unconstitutional.

Section 74. Section 75A-3-106, which is renumbered from Section 75-2a-106 is renumbered and amended to read:

~~75-2a-106~~. 75A-3-106. Emergency medical services -- POLST order.

(1) A POLST order may be created by or on behalf of a person as described in this section.

(2) A POLST order shall, in consultation with the person authorized to consent to the order pursuant to this section, be prepared by:

(a) the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; or

(b) a health care provider who:

(i) is acting under the supervision of a person described in Subsection (2)(a); and

(ii) is:

(A) a nurse, licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician assistant, licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(C) a mental health professional, licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; or

(D) another health care provider, designated by rule as described in Subsection (10).

(3) A POLST order shall be signed:

(a) personally, by the physician, APRN, or, subject to Subsection (11), physician assistant of the person to whom the POLST order relates; and

(b)(i) if the person to whom the POLST order relates is an adult with health care decision making capacity, by:

(A) the person; or

(B) an adult who is directed by the person to sign the POLST order on behalf of the person;

(ii) if the person to whom the POLST order relates is an adult who lacks health care decision making capacity, by:

(A) the surrogate with the highest priority under Section [~~75-2a-111~~]75A-3-206;

(B) the majority of the class of surrogates with the highest priority under Section [~~75-2a-111~~] 75A-3-206; or

(C) a person directed to sign the POLST order by, and on behalf of, the persons described in Subsection (3)(b)(ii)(A) or (B); or

(iii) if the person to whom the POLST order relates is a minor, by a parent or guardian of the minor.

(4) If a POLST order relates to a minor and directs that life sustaining treatment be withheld or withdrawn from the minor, the order shall include a certification by two physicians that, in their clinical judgment, an order to withhold or withdraw life sustaining treatment is in the best interest of the minor.

(5) A POLST order:

(a) shall be in writing, on a form designated by the Department of Health and Human Services;

(b) shall state the date on which the POLST order was made;

(c) may specify the level of life sustaining care to be provided to the person to whom the order relates; and

(d) may direct that life sustaining care be withheld or withdrawn from the person to whom the order relates.

(6) A health care provider or emergency medical service provider, licensed or certified under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System, is immune from civil or criminal liability, and is not subject to discipline for unprofessional conduct, for:

(a) complying with a POLST order in good faith; or

(b) providing life sustaining treatment to a person when a POLST order directs that the life sustaining treatment be withheld or withdrawn.

(7) To the extent that the provisions of a POLST order described in this section conflict with the provisions of an advance health care directive made under Section [~~75-2a-107~~]75A-3-301, the provisions of the POLST order take precedence.

(8) An adult, or a parent or guardian of a minor, may revoke a POLST order by:

(a) orally informing emergency service personnel;

(b) writing "void" across the POLST order form;

(c) burning, tearing, or otherwise destroying or defacing:

(i) the POLST order form; or

(ii) a bracelet or other evidence of the POLST order;

(d) asking another adult to take the action described in this Subsection (8) on the person's behalf;

(e) signing or directing another adult to sign a written revocation on the person's behalf;

(f) stating, in the presence of an adult witness, that the person wishes to revoke the order; or

(g) completing a new POLST order.

(9)(a) Except as provided in Subsection (9)(c), a surrogate for an adult who lacks health care decision making capacity may only revoke a POLST order if the revocation is consistent with the substituted judgment standard.

(b) Except as provided in Subsection (9)(c), a surrogate who has authority under this section to sign a POLST order may revoke a POLST order, in accordance with Subsection (9)(a), by:

(i) signing a written revocation of the POLST order; or

(ii) completing and signing a new POLST order.

(c) A surrogate may not revoke a POLST order during the period of time beginning when an emergency service provider is contacted for assistance, and ending when the emergency ends.

(10)(a) The Department of Health and Human Services shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) create the forms and systems described in this section; and

(ii) develop uniform instructions for the form established in Section [~~75-2a-117~~]75A-3-303.

(b) The Department of Health and Human Services may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to designate health care professionals, in addition to those described in Subsection (2)(b)(ii), who may prepare a POLST order.

(c) The Department of Health and Human Services may assist others with training of health care professionals regarding this chapter.

(11) A physician assistant may not prepare or sign a POLST order, unless the physician assistant is permitted to prepare or sign the POLST order under the physician assistant's delegation of services agreement[~~, as defined in Section 58-70a-102~~].

(12)(a) Notwithstanding any other provision of this section:

(i) the provisions of Title 46, Chapter 4, Uniform Electronic Transactions Act, apply to any signature required on the POLST order; and

(ii) a verbal confirmation satisfies the requirement for a signature from an individual under Subsection (3)(b)(ii) or (iii), if:

(A) requiring the individual described in Subsection (3)(b)(i)(B), (ii), or (iii) to sign the POLST order in person or electronically would require significant difficulty or expense; and

(B) a licensed health care provider witnesses the verbal confirmation and signs the POLST order attesting that the health care provider witnessed the verbal confirmation.

(b) The health care provider described in Subsection (12)(a)(ii)(B):

(i) may not be the same individual who signs the POLST order under Subsection (3)(a); and

(ii) shall verify, in accordance with HIPAA as defined in Section 26B-3-126, the identity of the individual who is providing the verbal confirmation.

Section 75. Section 75A-3-107, which is renumbered from Section 75-2a-120 is renumbered and amended to read:

~~75-2a-120~~. 75A-3-107. Judicial relief.

A district court may enjoin or direct a health care decision, or order other equitable relief based on a petition filed by:

(1) a patient;

(2) an agent of a patient;

(3) a guardian of a patient;

(4) a default surrogate of a patient;

(5) a health care provider of a patient;

(6) a health care facility providing care for a patient; or

(7) an individual who meets the requirements of Section [~~75-2a-108~~]75A-3-203.

Section 76. Section 75A-3-201, which is renumbered from Section 75-2a-104 is renumbered and amended to read:

~~75-2a-104~~. 75A-3-201. Capacity to make health care decisions -- Presumption -- Overcoming presumption.

Part 2. Health Care Decisions for Adult

(1) An adult is presumed to have:

(a) health care decision making capacity; and

(b) capacity to make or revoke an advance health care directive.

(2) To overcome the presumption of capacity described in Subsection (1)(a), a physician, an

APRN, or, subject to Subsection (6), a physician assistant who has personally examined the adult and assessed the adult's health care decision making capacity must:

(a) find that the adult lacks health care decision making capacity;

(b) record the finding in the adult's medical chart including an indication of whether the adult is likely to regain health care decision making capacity; and

(c) make a reasonable effort to communicate the determination to:

(i) the adult;

(ii) other health care providers or health care facilities that the person who makes the finding would routinely inform of such a finding; and

(iii) if the adult has a surrogate, any known surrogate.

(3)(a) An adult who is found to lack health care decision making capacity in accordance with Subsection (2) may, at any time, challenge the finding by:

(i) submitting to a health care provider a written notice stating that the adult disagrees with the physician's finding; or

(ii) orally informing the health care provider that the adult disagrees with the finding.

(b) A health care provider who is informed of a challenge under Subsection (3)(a), shall, if the adult has a surrogate, promptly inform the surrogate of the adult's challenge.

(c) A surrogate informed of a challenge to a finding under this section, or the adult if no surrogate is acting on the adult's behalf, shall inform the following of the adult's challenge:

(i) any other health care providers involved in the adult's care; and

(ii) the health care facility, if any, in which the adult is receiving care.

(d) Unless otherwise ordered by a court, a finding, under Subsection (2), that the adult lacks health care decision making capacity, is not in effect if the adult challenges the finding under Subsection (3)(a).

(e) If an adult does not challenge the finding described in Subsection (2), the health care provider and health care facility may rely on a surrogate, pursuant to the provisions of this chapter, to make health care decisions for the adult.

(4) A health care provider or health care facility that relies on a surrogate to make decisions on behalf of an adult has an ongoing obligation to consider whether the adult continues to lack health care decision making capacity.

(5) If at any time a health care provider finds, based on an examination and assessment, that the adult has regained health care decision making capacity, the health care provider shall record the results of the assessment in the adult's medical record, and the adult can direct the adult's own health care.

(6) A physician assistant may not make a finding described in Subsection (2), unless the physician assistant is permitted to make the finding under the physician assistant's delegation of services agreement[~~, as defined in Section 58-70a-102~~].

Section 77. Section 75A-3-202, which is renumbered from Section 75-2a-109 is renumbered and amended to read:

~~75-2a-109~~. 75A-3-202. Effect of current health care preferences -- Health care decision making.

(1)(a) An adult with health care decision making capacity retains the right to make health care decisions as long as the adult has health care decision making capacity[~~, as defined in Section 75-2a-103~~].

(b) For purposes of this chapter, the inability to communicate through speech does not mean that the adult lacks health care decision making capacity.

(2) An adult's current health care decisions, however expressed or indicated, always supersede an adult's prior decisions or health care directives.

(3) Unless otherwise directed in an advance health care directive, an advance health care directive or the authority of a surrogate to make health care decisions on behalf of an adult:

(a) is effective only after a physician, physician assistant, or APRN makes a determination of incapacity as provided in Section [~~75-2a-104~~] 75A-3-201;

(b) remains in effect during any period of time in which the declarant lacks capacity to make health care decisions; and

(c) ceases to be effective when:

(i) a declarant disqualifies a surrogate or revokes the advance health care directive;

(ii) a health care provider finds that the declarant has health care decision making capacity;

(iii) a court issues an order invalidating a health care directive; or

(iv) the declarant has challenged the finding of incapacity under the provisions of Subsection [~~75-2a-104(3)~~]75A-3-201(3).

Section 78. Section 75A-3-203, which is renumbered from Section 75-2a-108 is renumbered and amended to read:

~~75-2a-108~~. 75A-3-203. Default surrogates.

(1)(a) Any member of the class described in Subsection (1)(b) may act as an adult's surrogate if:

(i)(A) the adult has not appointed an agent;

(B) an appointed agent is not reasonably available; or

(C) a guardian has not been appointed; and

(ii) the member of the class described in Subsection (1)(b) is:

(A) over 18 years [~~of age~~]old;

(B) has health care decision making capacity;

(C) is reasonably available; and

(D) has not been disqualified by the adult or a court.

(b) Except as provided in Subsection (1)(a), and subject to Subsection (1)(c), the following classes of the adult's family, in descending order of priority, may act as the adult's surrogate:

(i) the adult's spouse, unless the adult is divorced or legally separated; or

(ii) the following family members:

(A) a child;

(B) a parent;

(C) a sibling;

(D) a grandchild; or

(E) a grandparent.

(c) A person described in Subsection (1)(b), may not direct an adult's care if a person of a higher priority class is able and willing to act as a surrogate for the adult.

(d) A court may disqualify a person described in Subsection (1)(b) from acting as a surrogate if the court finds that the person has acted in a manner that is inconsistent with the position of trust in which a surrogate is placed.

(2) If the family members designated in Subsection (1)(b) are not reasonably available to act as a surrogate, a person who is 18 years [~~of age~~]old or older, other than those designated in Subsection (1) may act as a surrogate if the person:

(a) has health care decision making capacity;

(b) has exhibited special care and concern for the patient;

(c) knows the patient and the patient's personal values; and

(d) is reasonably available to act as a surrogate.

(3) The surrogate shall communicate the surrogate's assumption of authority as promptly as practicable to the members of a class who:

(a) have an equal or higher priority and are not acting as surrogate; and

(b) can be readily contacted.

(4) A health care provider shall comply with the decision of a majority of the members of the highest priority class who have communicated their views to the provider if:

(a) more than one member of the highest priority class assumes authority to act as default surrogate;

(b) the members of the class do not agree on a health care decision; and

(c) the health care provider is informed of the disagreement among the members of the class.

(5)(a) An adult may at any time disqualify a default surrogate, including a member of the adult's family, from acting as the adult's surrogate by:

(i) a signed writing;

(ii) personally informing a witness of the disqualification; or

(iii) informing the surrogate of the disqualification.

(b) Disqualification of a surrogate is effective even if the adult has been found to lack health care decision making capacity.

(6) If reasonable doubt exists regarding the status of an adult claiming the right to act as a default surrogate, the health care provider may:

(a) require the person to provide a sworn statement giving facts and circumstances reasonably sufficient to establish the claimed authority; or

(b) seek a ruling from the court under Section [~~75-2a-120~~]75A-3-107.

(7) A health care provider may seek a ruling from a court pursuant to Section [~~75-2a-120~~]75A-3-107 if the health care provider has evidence that a surrogate is making decisions that are inconsistent with an adult patient's wishes or preferences.

Section 79. Section 75A-3-204, which is renumbered from Section 75-2a-110 is renumbered and amended to read:

~~75-2a-110~~. 75A-3-204. Surrogate decision making -- Scope of authority.

(1) A surrogate acting under the authority of [~~either Section 75-2a-107 or 75-2a-108~~]Section 75A-3-203 or 75A-3-301 shall make health care decisions in accordance with:

(a) the adult's current preferences, to the extent possible;

(b) the adult's written or oral health care directions, if any; or

(c) the substituted judgment standard.

(2) A surrogate acting under the authority of [~~Sections 75-2a-107 and 75-2a-108~~]Section 75A-3-203 or 75A-3-301:

(a) may not admit the adult to a licensed health care facility for long-term custodial placement other than for assessment, rehabilitative, or respite care over the objection of the adult; and

(b) may make health care decisions, including decisions to terminate life sustaining treatment for the adult patient in accordance with Subsection (1).

(3) A surrogate acting under authority of this section is not subject to civil or criminal liability or claims of unprofessional conduct for surrogate health care decisions made:

(a) in accordance with this section; and

(b) in good faith.

Section 80. Section 75A-3-205, which is renumbered from Section 75-2a-112 is renumbered and amended to read:

~~75-2a-112~~. 75A-3-205. Health care decisions by guardian.

(1) A court-appointed guardian shall comply with an adult's advance health care directive and may not revoke the adult's advance health care directive unless the court, for cause, expressly revokes the adult's directive.

(2) A health care decision of an agent takes precedence over that of a guardian, in the absence of a court order to the contrary.

(3) Except as provided in Subsections (1) and (2), a health care decision made by a guardian for the adult patient is effective without judicial approval.

(4) A guardian is not subject to civil or criminal liability or to claims of unprofessional conduct for a surrogate health care decision made:

(a) in good faith; and

(b) in accordance with Section [~~75-2a-110~~] 75A-3-204.

Section 81. Section 75A-3-206, which is renumbered from Section 75-2a-111 is renumbered and amended to read:

~~75-2a-111~~. 75A-3-206. Priority of decision makers.

(1) The following is the order of priority of those authorized to make health care decisions on behalf of an adult who has been found to lack health care decision making capacity under Section [~~75-2a-104~~]75A-3-201:

(a) a health care agent appointed by an adult under the provisions of Section [~~75-2a-107~~] 75A-3-301 unless the agent has been disqualified by:

(i) the adult; or

(ii) a court of law;

(b) a court-appointed guardian; or

(c) the highest priority default surrogate acting under authority of Section [~~75-2a-108~~]75A-3-203.

(2) A health care provider or health care facility obtaining consent for health care from a surrogate shall make a reasonable effort to identify and obtain consent from the surrogate with the highest priority.

Section 82. Section 75A-3-207, which is renumbered from Section 75-2a-115 is renumbered and amended to read:

~~75-2a-115~~. 75A-3-207. Notification to health care provider -- Obligations of health care providers -- Liability.

(1) It is the responsibility of the declarant or surrogate, to the extent that the responsibility is not assigned to a health care provider or health care facility by state or federal law, to notify or provide for notification to a health care provider and a health care facility of:

(a) the existence of a health care directive;

(b) the revocation of a health care directive;

(c) the existence or revocation of appointment of an agent or default surrogate;

(d) the disqualification of a default surrogate; or

(e) the appointment or revocation of appointment of a guardian.

(2)(a) A health care provider or health care facility is not subject to civil or criminal liability or to claims of unprofessional conduct for failing to act upon a health care directive, a revocation of a health care directive, or a disqualification of a surrogate until the health care provider or health care facility has received an oral directive from an adult or a copy of a written directive or revocation of the health care directive, or the disqualification of the surrogate.

(b) A health care provider and health care facility that is notified under Subsection (1) shall include in the adult patient's medical record:

(i) the health care directive or a copy of it, a revocation of a health care directive, or a disqualification of a surrogate; and

(ii) the date, time, and place in which any written or oral notice of the document described in this Subsection (2)(b) is received.

(3) A health care provider or health care facility acting in good faith and in accordance with generally accepted health care standards is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(a) complying with a health care decision made by an adult with health care decision making capacity;

(b) complying with a health care decision made by a surrogate apparently having authority to make a health care decision for a person, including a decision to withhold or withdraw health care;

(c) declining to comply with a health care decision of a surrogate based on a belief that the surrogate then lacked authority;

(d) declining to comply with a health care decision of an adult who lacks decision making capacity;

(e) seeking a judicial determination, or requiring a surrogate to obtain a judicial determination, under Section [~~75-2a-120~~]75A-3-107 of:

(i) the validity of a health care directive;

(ii) the validity of directions from a surrogate or guardian;

(iii) the decision making capacity of an adult who challenges a physician's finding of incapacity; or

(iv) the authority of a guardian or surrogate; or

(f) complying with an advance health care directive and assuming that the directive was valid when made, and has not been revoked or terminated.

(4)(a) Health care providers and health care facilities shall:

(i) cooperate with a person authorized under this chapter to make written directives concerning health care;

(ii) unless the provisions of Subsection (4)(b) apply, comply with:

(A) a health care decision of an adult; and

(B) a health care decision made by the highest ranking surrogate then authorized to make health care decisions for an adult, to the same extent as if the decision had been made by the adult;

(iii) before implementing a health care decision made by a surrogate, make a reasonable attempt to communicate to the adult on whose behalf the decision is made:

(A) the decision made; and

(B) the identity of the surrogate making the decision.

(b) A health care provider or health care facility may decline to comply with a health care decision if:

(i) in the opinion of the health care provider:

(A) the adult who made the decision lacks health care decision making capacity;

(B) the surrogate who made the decision lacks health care decision making capacity;

(C) the health care provider has evidence that the surrogate's instructions are inconsistent with the adult's health care instructions, or, for a person who has always lacked health care decision making capacity, that the surrogate's instructions are inconsistent with the best interest of the adult; or

(D) there is reasonable doubt regarding the status of a person claiming the right to act as a default surrogate, in which case the health care provider shall comply with Subsection [~~75-2a-108(6)~~] 75A-3-203(6); or

(ii) the health care provider declines to comply for reasons of conscience.

(c) A health care provider or health care facility that declines to comply with a health care decision in accordance with Subsection (4)(b) must:

(i) promptly inform the adult and any acting surrogate of the reason for refusing to comply with the health care decision;

(ii) make a good faith attempt to resolve the conflict; and

(iii) provide continuing care to the patient until the issue is resolved or until a transfer can be made to a health care provider or health care facility that will implement the requested instruction or decision.

(d) A health care provider or health care facility that declines to comply with a health care instruction, after meeting the obligations set forth in Subsection (4)(c) may transfer the adult to a health care provider or health care facility that will carry out the requested health care decisions.

(e) A health care facility may decline to follow a health care decision for reasons of conscience under Subsection (4)(b)(ii) if:

(i) the health care decision is contrary to a policy of the facility that is expressly based on reasons of conscience;

(ii) the policy was timely communicated to the adult and an adult's surrogate;

(iii) the facility promptly informs the adult, if possible, and any surrogate then authorized to make decisions for the adult;

(iv) the facility provides continuing care to the adult until a transfer can be made to a health care facility that will implement the requested instruction or decision; and

(v) unless an adult or surrogate then authorized to make health care decisions for the adult refuses assistance, immediately make all reasonable efforts to assist in the transfer of the adult to another health care facility that will carry out the instructions or decisions.

(5) A health care provider and health care facility:

(a) may not require or prohibit the creation or revocation of an advance health care directive as a condition for providing health care; and

(b) shall comply with all state and federal laws and regulations governing advance health care directives.

Section 83. Section 75A-3-208, which is renumbered from Section 75-2a-113 is renumbered and amended to read:

~~75-2a-113~~. 75A-3-208. Personal representative status.

A surrogate becomes a personal representative for an adult under the Health Insurance Portability and Accountability Act of 1996 when:

(1) the adult has been found to lack health care decision making capacity under Section [~~75-2a-104~~]75A-3-201;

(2) the adult grants current authority to the surrogate either:

(a) in writing; or

(b) by other expression before a witness who is not the surrogate or agent; or

(3) the court appoints a guardian authorized to make health care decisions on behalf of the adult.

Section 84. Section 75A-3-301, which is renumbered from Section 75-2a-107 is renumbered and amended to read:

~~75-2a-107~~. 75A-3-301. Advance health care directive -- Appointment of agent -- Powers of agent.

Part 3. Advance Health Care Directive for Adult

(1)(a) An adult may make an advance health care directive in which the adult may:

(i) appoint a health care agent or choose not to appoint a health care agent;

(ii) give directions for the care of the adult after the adult loses health care decision making capacity;

(iii) choose not to give directions;

(iv) state conditions that must be met before life sustaining treatment may be withheld or withdrawn;

(v) authorize an agent to consent to the adult's participation in medical research;

(vi) nominate a guardian;

(vii) authorize an agent to consent to organ donation;

(viii) expand or limit the powers of a health care agent; and

(ix) designate the agent's access to the adult's medical records.

(b) An advance health care directive may be oral or written.

(c) An advance health care directive shall be witnessed by a disinterested adult. The witness may not be:

(i) the person who signed the directive on behalf of the declarant;

(ii) related to the declarant by blood or marriage;

(iii) entitled to any portion of the declarant's estate according to the laws of intestate succession of this state or under any will or codicil of the declarant;

(iv) the beneficiary of any of the following that are held, owned, made, or established by, or on behalf of, the declarant:

(A) a life insurance policy;

(B) a trust;

(C) a qualified plan;

(D) a pay on death account; or

(E) a transfer on death deed;

(v) entitled to benefit financially upon the death of the declarant;

(vi) entitled to a right to, or interest in, real or personal property upon the death of the declarant;

(vii) directly financially responsible for the declarant's medical care;

(viii) a health care provider who is:

(A) providing care to the declarant; or

(B) an administrator at a health care facility in which the declarant is receiving care; or

(ix) the appointed agent.

(d) The witness to an oral advance health care directive shall state the circumstances under which the directive was made.

(2) An agent appointed under the provisions of this section may not be a health care provider for the declarant, or an owner, operator, or employee of the health care facility at which the declarant is receiving care unless the agent is related to the declarant by blood, marriage, or adoption.

Section 85. Section 75A-3-302, which is renumbered from Section 75-2a-105 is renumbered and amended to read:

~~75-2a-105~~. 75A-3-302. Capacity to complete an advance health care directive.

(1) An adult is presumed to have the capacity to complete an advance health care directive.

(2) An adult who is found to lack health care decision making capacity under the provisions of Section [~~75-2a-104~~]75A-3-201:

(a) lacks the capacity to give an advance health care directive, including Part II of the form created in Section [~~75-2a-117~~]75A-3-303, or any other substantially similar form expressing a health care preference; and

(b) may retain the capacity to appoint an agent and complete Part I of the form created in Section [~~75-2a-117~~]75A-3-303.

(3) The following factors shall be considered by a health care provider, attorney, or court when determining whether an adult described in Subsection (2)(b) has retained the capacity to appoint an agent:

(a) whether the adult has expressed over time an intent to appoint the same person as agent;

(b) whether the choice of agent is consistent with past relationships and patterns of behavior between the adult and the prospective agent, or, if inconsistent, whether there is a reasonable justification for the change; and

(c) whether the adult's expression of the intent to appoint the agent occurs at times when, or in settings where, the adult has the greatest ability to make and communicate decisions.

Section 86. Section 75A-3-303, which is renumbered from Section 75-2a-117 is renumbered and amended to read:

~~75-2a-117~~. 75A-3-303. Optional form for advance health care directive.

(1) The form created in Subsection (2), or a substantially similar form, is presumed valid under this chapter.

(2) The following form is presumed valid under Subsection (1):

Utah Advance Health Care Directive

(Pursuant to Utah Code Section [~~75-2a-117~~] 75A-3-303)

Part I: Allows you to name another person to make health care decisions for you when you cannot make decisions or speak for yourself.

Part II: Allows you to record your wishes about health care in writing.

Part III: Tells you how to revoke or change this directive.

Part IV: Makes your directive legal.

_____

My Personal Information

Name:_____

Street Address: _____

City, State, Zip Code: _____

Telephone: _____

Cell Phone: _____

Birth date: _____

_____

Part I: My Agent (Health Care Power of Attorney)

A. No Agent

If you do not want to name an agent: initial the box below, then go to Part II; do not name an agent in B or C below. No one can force you to name an agent.

_____ I do not want to choose an agent.

B. My Agent

Agent's Name:_____

Street Address:_____

City, State, Zip Code:_____

Home Phone: ( ) _____

Cell Phone: ( ) _____

Work Phone: ( ) _____

C. My Alternate Agent

This person will serve as your agent if your agent, named above, is unable or unwilling to serve.

Alternate Agent's Name:_____

Street Address:_____

City, State, Zip Code:_____

Home Phone: ( ) _____

Cell Phone: ( ) _____

Work Phone: ( ) _____

D. Agent's Authority

If I cannot make decisions or speak for myself (in other words, after my physician or another authorized provider finds that I lack health care decision making capacity under Section [~~75-2a-104~~]75A-3-201 of the Advance Health Care Directive Act), my agent has the power to make any health care decision I could have made such as, but not limited to:

• Consent to, refuse, or withdraw any health care. This may include care to prolong my life such as food and fluids by tube, use of antibiotics, CPR (cardiopulmonary resuscitation), and dialysis, and mental health care, such as convulsive therapy and psychoactive medications. This authority is subject to any limits in paragraph F of Part I or in Part II of this directive.

• Hire and fire health care providers.

• Ask questions and get answers from health care providers.

• Consent to admission or transfer to a health care provider or health care facility, including a mental health facility, subject to any limits in paragraphs E and F of Part I.

• Get copies of my medical records.

• Ask for consultations or second opinions.

My agent cannot force health care against my will, even if a physician has found that I lack health care decision making capacity.

E. Other Authority

My agent has the powers below ONLY IF I initial the "yes" option that precedes the statement.

I authorize my agent to:

YES _____ NO _____ Get copies of my medical records at any time, even when I can speak for myself.

YES _____ NO _____ Admit me to a licensed health care facility, such as a hospital, nursing home, assisted living, or other facility for long-term placement other than convalescent or recuperative care.

F. Limits/Expansion of Authority

I wish to limit or expand the powers of my health care agent as follows:

_____

_____

_____

G. Nomination of Guardian

Even though appointing an agent should help you avoid a guardianship, a guardianship may still be necessary. Initial the "YES" option if you want the court to appoint your agent or, if your agent is unable or unwilling to serve, your alternate agent, to serve as your guardian, if a guardianship is ever necessary.

YES _____ NO _____ I, being of sound mind and not acting under duress, fraud, or other undue influence, do hereby nominate my agent, or if

my agent is unable or unwilling to serve, I hereby nominate my alternate agent, to serve as my guardian in the event that, after the date of this instrument, I become incapacitated.

H. Consent to Participate in Medical Research

YES _____ NO _____ I authorize my agent to consent to my participation in medical research or clinical trials, even if I may not benefit from the results.

I. Organ Donation

YES _____ NO _____ If I have not otherwise agreed to organ donation, my agent may consent to the donation of my organs for the purpose of organ transplantation.

_____

Part II: My Health Care Wishes (Living Will)

I want my health care providers to follow the instructions I give them when I am being treated, even if my instructions conflict with these or other advance directives. My health care providers should always provide health care to keep me as comfortable and functional as possible.

Choose only one of the following options, numbered Option 1 through Option 4, by placing your initials before the numbered statement. Do not initial more than one option. If you do not wish to document end-of-life wishes, initial Option 4. You may choose to draw a line through the options that you are not choosing.

Option 1

_____ Initial

I choose to let my agent decide. I have chosen my agent carefully. I have talked with my agent about my health care wishes. I trust my agent to make the health care decisions for me that I would make under the circumstances.

Additional Comments:_____

Option 2

_____ Initial

I choose to prolong life. Regardless of my condition or prognosis, I want my health care team to try to prolong my life as long as possible within the limits of generally accepted health care standards.

Other:_____

Option 3

_____ Initial

I choose not to receive care for the purpose of prolonging life, including food and fluids by tube, antibiotics, CPR, or dialysis being used to prolong my life. I always want comfort care and routine medical care that will keep me as comfortable and functional as possible, even if that care may prolong my life.

If you choose this option, you must also choose either (a) or (b), below.

_____ Initial

(a) I put no limit on the ability of my health care provider or agent to withhold or withdraw life-sustaining care.

If you selected (a), above, do not choose any options under (b).

_____ Initial

(b) My health care provider should withhold or withdraw life-sustaining care if at least one of the following initialed conditions is met:

_____ I have a progressive illness that will cause death.

_____ I am close to death and am unlikely to recover.

_____ I cannot communicate and it is unlikely that my condition will improve.

_____ I do not recognize my friends or family and it is unlikely that my condition will improve.

_____ I am in a persistent vegetative state.

Other:_____

Option 4

_____ Initial

I do not wish to express preferences about health care wishes in this directive.

Other:_____

Additional instructions about your health care wishes:

_____

_____

If you do not want emergency medical service providers to provide CPR or other life sustaining measures, you must work with a physician or APRN to complete an order that reflects your wishes on a form approved by the Utah Department of Health.

Part III: Revoking or Changing a Directive

I may revoke or change this directive by:

1. Writing "void" across the form, or burning, tearing, or otherwise destroying or defacing this document or directing another person to do the same on my behalf;

2. Signing a written revocation of the directive, or directing another person to sign a revocation on my behalf;

3. Stating that I wish to revoke the directive in the presence of a witness who: is 18 years of age or older; will not be appointed as my agent in a substitute directive; will not become a default surrogate if the directive is revoked; and signs and dates a written document confirming my statement; or

4. Signing a new directive. (If you sign more than one Advance Health Care Directive, the most recent one applies.)

Part IV: Making My Directive Legal

I sign this directive voluntarily. I understand the choices I have made and declare that I am emotionally and mentally competent to make this directive. My signature on this form revokes any living will or power of attorney form, naming a health care agent, that I have completed in the past.

_____

Date

_____

Signature

_____

City, County, and State of Residence

I have witnessed the signing of this directive, I am 18 years of age or older, and I am not:

1. related to the declarant by blood or marriage;

2. entitled to any portion of the declarant's estate according to the laws of intestate succession of any state or jurisdiction or under any will or codicil of the declarant;

3. a beneficiary of a life insurance policy, trust, qualified plan, pay on death account, or transfer on death deed that is held, owned, made, or established by, or on behalf of, the declarant;

4. entitled to benefit financially upon the death of the declarant;

5. entitled to a right to, or interest in, real or personal property upon the death of the declarant;

6. directly financially responsible for the declarant's medical care;

7. a health care provider who is providing care to the declarant or an administrator at a health care facility in which the declarant is receiving care; or

8. the appointed agent or alternate agent.

_____

Signature of Witness

_____

Printed Name of Witness

_____

Street Address

_____ _____ _____

City State Zip Code

If the witness is signing to confirm an oral directive, describe below the circumstances under which the directive was made.

_____

_____

Section 87. Section 75A-3-304, which is renumbered from Section 75-2a-116 is renumbered and amended to read:

~~75-2a-116~~. 75A-3-304. Presumption of validity of advance health care directive.

(1) [~~A~~]An advance health care directive executed under this chapter is presumed valid and binding.

(2) [~~Health care providers and health care facilities~~]A health care provider and a health care facility, in the absence of notice to the contrary, shall presume that a declarant who executed [~~a~~]an advance health care directive, whether or not in the presence of a health care provider, had the required decision making capacity at the time the declarant signed the directive.

(3) The fact that a declarant executed [~~a~~]an advance health care directive shall not be construed as an indication that the declarant was suffering from mental illness or lacked decision making capacity.

Section 88. Section 75A-3-305, which is renumbered from Section 75-2a-119 is renumbered and amended to read:

~~75-2a-119~~. 75A-3-305. Advance health care directive effect on insurance policies.

(1) If an adult makes [~~a~~]an advance health care directive under this chapter, the advance health care directive does not affect in any manner:

(a) the obligation of any life or medical insurance company regarding any policy of life or medical insurance;

(b) the sale, procurement, or issuance of any policy of life or health insurance; or

(c) the terms of any existing policy.

(2)(a) Notwithstanding any terms of an insurance policy to the contrary, an insurance policy is not legally impaired or invalidated in any manner by:

(i) withholding or withdrawing life sustaining procedures; or

(ii) following directions in [~~a~~]an advance health care directive executed as provided in this chapter.

(b) Following health care instructions in [~~a~~]an advance health care directive does not constitute legal cause for failing to pay life or health insurance benefits.

(c) Death that occurs after following the instructions of an advance health care directive or a surrogate's instructions does not for any purpose constitute a suicide or homicide or legally impair or invalidate a policy of insurance or an annuity providing a death benefit.

(3)(a) The following may not require an adult to execute [~~a directive~~]an advance health care directive or to make any particular choices or entries in [~~a directive~~]an advance health care directive under this chapter as a condition for being insured for or receiving health care or life insurance contract services:

(i) a health care provider;

(ii) a health care facility;

(iii) a health maintenance organization;

(iv) an insurer issuing disability, health, or life insurance;

(v) a self-insured employee welfare or benefit plan;

(vi) a nonprofit medical service corporation or mutual nonprofit hospital service corporation; or

(vii) any other person, firm, or entity.

(b) Nothing in this chapter:

(i) may be construed to require an insurer to insure risks otherwise considered by the insurer as not a covered risk;

(ii) is intended to impair or supersede any other legal right or legal responsibility which an adult may have to effect the withholding or withdrawal of life sustaining procedures in any lawful manner; or

(iii) creates any presumption concerning the intention of an adult who has not executed [~~a~~]an advance health care directive.

Section 89. Section 75A-3-306, which is renumbered from Section 75-2a-123 is renumbered and amended to read:

~~75-2a-123~~. 75A-3-306. Advance health care directive effect during pregnancy.

(1) [~~A~~]An advance health care directive that provides for the withholding or withdrawal of life sustaining procedures has no force during the course of a declarant's pregnancy.

(2) Subsection (1) does not negate the appointment of a health care agent during the course of a declarant's pregnancy.

Section 90. Section 75A-3-307, which is renumbered from Section 75-2a-114 is renumbered and amended to read:

~~75-2a-114~~. 75A-3-307. Revocation of advance health care directive.

(1) An advance health care directive may be revoked at any time by the declarant by:

(a) writing "void" across the document;

(b) obliterating, burning, tearing, or otherwise destroying or defacing the document in any manner indicating an intent to revoke;

(c) instructing another to do one of the acts described in Subsection (1)(a) or (b);

(d) a written revocation of the directive signed and dated by:

(i) the declarant; or

(ii) an adult:

(A) signing on behalf of the declarant; and

(B) acting at the direction of the declarant; or

(e) an oral expression of an intent to revoke the directive in the presence of a witness who is age 18 years old or older and who is not:

(i) related to the declarant by blood or marriage;

(ii) entitled to any portion of the declarant's estate according to the laws of intestate succession of this state or under any will or codicil of the declarant;

(iii) the beneficiary of any of the following that are held, owned, made, or established by, or on behalf of, the declarant:

(A) a life insurance policy;

(B) a trust;

(C) a qualified plan;

(D) a pay on death account; or

(E) a transfer on death deed;

(iv) entitled to benefit financially upon the death of the declarant;

(v) entitled to a right to, or interest in, real or personal property upon the death of the declarant;

(vi) directly financially responsible for the declarant's medical care;

(vii) a health care provider who is:

(A) providing care to the declarant; or

(B) an administrator at a health care facility in which the declarant is receiving care; or

(viii) the adult who will become agent or default surrogate after the revocation.

(2) A decree of annulment, divorce, dissolution of marriage, or legal separation revokes the designation of a spouse as an agent, unless:

(a) otherwise specified in the decree; or

(b) the declarant has affirmed the intent to retain the agent subsequent to the annulment, divorce, or legal separation.

(3) An advance health care directive that conflicts with an earlier advance health care directive revokes the earlier directive to the extent of the conflict.

Section 91. Section 75A-3-308, which is renumbered from Section 75-2a-118 is renumbered and amended to read:

~~75-2a-118~~. 75A-3-308. Illegal destruction or falsification of advance health care directive.

(1) A person is guilty of a class B misdemeanor if the person:

(a) willfully conceals, cancels, defaces, obliterates, or damages [~~a~~]an advance health care directive of another without the declarant's consent; or

(b) falsifies, forges, or alters a health care directive or a revocation of the advance health care directive of another person.

(2) A person is guilty of criminal homicide if:

(a) the person:

(i) falsifies or forges the advance health care directive of an adult; or

(ii) willfully conceals or withholds personal knowledge of:

(A) the existence of [~~a~~]an advance health care directive;

(B) the revocation of [~~a~~]an advance health care directive; or

(C) the disqualification of a surrogate; and

(b) the actions described in Subsection (2)(a) cause a withholding or withdrawal of life sustaining procedures contrary to the wishes of a declarant resulting in the death of the declarant.

Section 92. Section 75A-3-309, which is renumbered from Section 75-2a-121 is renumbered and amended to read:

~~75-2a-121~~. 75A-3-309. Reciprocity of advance health care directive -- Application of former provisions of law.

Unless otherwise provided in the advance health care directive:

(1) a health care provider or health care facility may, in good faith, rely on any advance health care directive, power of attorney, or similar instrument:

(a) executed in another state; or

(b) executed prior to January 1, 2008, in this state[~~ under the provisions of Chapter 2, Part 11, Personal Choice and Living Will Act~~];

(2) [~~a~~]an advance health care directive executed under the provisions of this chapter shall be governed pursuant to the provisions of this chapter that were in effect at that time, unless it appears from the directive that the declarant intended the current provisions of this chapter to apply; and

(3) the advance health care directive described in Subsection (1) is presumed to comply with the requirements of this chapter.

Section 93. Section 75A-4-101 is enacted to read:

75A-4-101. Reserved.

CHAPTER 4. UNIFORM POWERS OF APPOINTMENT ACT

Reserved.

Section 94. Section 75A-4-102, which is renumbered from Section 75-10-102 is renumbered and amended to read:

~~75-10-102~~. 75A-4-102. Definitions for chapter.

As used in this chapter:

(1) "Appointee" means a person to which a powerholder makes an appointment of appointive property.

(2) "Appointive property" means the property or property interest subject to a power of appointment.

(3)(a) "Blanket-exercise clause" means a clause in an instrument that exercises a power of appointment and is not a specific-exercise clause. [~~The term~~]

(b) "Blanket-exercise clause" includes a clause that:

[~~(a)~~](i) expressly uses the words "any power" in exercising any power of appointment the powerholder has;

[~~(b)~~](ii) expressly uses the words "any property" in appointing any property over which the powerholder has a power of appointment; or

[~~(c)~~](iii) disposes of all property subject to disposition by the powerholder.

(4) "Descendant" means the same as that term is defined in Section 75-1-201.

[~~(4)~~](5) "Donor" means a person that creates a power of appointment.

(6) "Estate" means the same as that term is defined in Section 75-1-201.

[~~(5)~~](7) "Exclusionary power of appointment" means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees.

[~~(6)~~](8) "General power of appointment" means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

[~~(7)~~](9) "Gift-in-default clause" means a clause identifying a taker in default of appointment.

[~~(8)~~](10) "Impermissible appointee" means a person that is not a permissible appointee.

[~~(9)~~](11) "Instrument" means a record.

[~~(10)~~](12)(a) "Nongeneral power of appointment" means a power of appointment that is not a general power of appointment. [~~The terms "special power of appointment," "limited power of appointment,"~~]

(b) "Nongeneral power of appointment" includes a special power of appointment, a limited power of appointment, or similar terminology that is used in an instrument creating a power that does not grant powers making it a general power of appointment[~~ as defined in this chapter mean the same as and may be used interchangeably with the term nongeneral power of appointment~~].

[~~(11)~~](13) "Permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment.

[~~(12)~~](14) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

[~~(13)~~](15) "Powerholder" means a person in whom a donor creates a power of appointment.

[~~(14)~~](16)(a) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an interest in, or another power of appointment over, the appointive property. [~~The term~~]

(b) "Power of appointment" does not include a power of attorney.

[~~(15)~~](17)(a) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at a relevant time. [~~The term:~~]

[~~(a)~~](b) "Presently exercisable power of appointment" includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

(i) the occurrence of the specified event;

(ii) the satisfaction of the ascertainable standard; or

(iii) the passage of the specified time[~~; and~~].

[~~(b)~~](c) "Presently exercisable power of appointment" does not include a power exercisable only at the powerholder's death.

(18) "Property" means the same as that term is defined in Section 75-1-201.

[~~(16)~~](19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(17)~~](20) "Specific-exercise clause" means a clause in an instrument that specifically refers to and exercises a particular power of appointment.

[~~(18)~~](21) "Taker in default of appointment" means a person that takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

[~~(19)~~](22) "Terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

(23) "Trust" means the same as that term is defined in Section 75-1-201.

(24) "Will" means the same as that term is defined in Section 75-1-201.

Section 95. Section 75A-4-103, which is renumbered from Section 75-10-103 is renumbered and amended to read:

~~75-10-103~~. 75A-4-103. Governing law.

(1) Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

(a) the creation, revocation, amendment, interpretation and definition of terms, or the determination of the rights of the appointee of the power is governed by the law of the donor's domicile at the relevant time; and

(b) the formalities for the exercise, release, or disclaimer of the power, or the revocation or amendment of the exercise, release, or disclaimer of the power is governed by the law of the powerholder's state of domicile at the relevant time.

(2) The law of the powerholder's state of domicile may not govern the interpretation and definition of terms, or the determination of the rights of the appointee of the power, which shall be governed by the law of the donor's domicile at the relevant time.

(3) Claims of creditors, including creditor claims regarding a power not created by a powerholder as set forth in Section [~~75-10-502~~]75A-4-502, and other parties claiming an interest in property or rights subject to a power will be governed by the laws of the donor's domicile at the time of the creation of the power and not the powerholder's state of domicile either at the time of the creation of the power or at the time of exercise of the power.

Section 96. Section 75A-4-104, which is renumbered from Section 75-10-104 is renumbered and amended to read:

~~75-10-104~~. 75A-4-104. Common law and principles of equity.

The common law and principles of equity supplement this chapter, except to the extent modified by this chapter or laws of this state other than this chapter.

Section 97. Section 75A-4-201, which is renumbered from Section 75-10-201 is renumbered and amended to read:

~~75-10-201~~. 75A-4-201. Creation of power of appointment.

Part 2. Creation, Revocation, and Amendment of Power of Appointment

(1) A power of appointment is created only if:

(a) the instrument creating the power is valid under applicable law; and

(b) the terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

(2) A power of appointment may be created by the exercise of a power of appointment.

(3) A power of appointment may not be created in a deceased individual.

(4) Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

Section 98. Section 75A-4-202, which is renumbered from Section 75-10-202 is renumbered and amended to read:

~~75-10-202~~. 75A-4-202. Nontransferability.

(1) A powerholder may not transfer a power of appointment.

(2) If a powerholder dies without exercising or releasing a power, the power lapses.

Section 99. Section 75A-4-203, which is renumbered from Section 75-10-203 is renumbered and amended to read:

~~75-10-203~~. 75A-4-203. Presumption of unlimited authority.

Subject to Section [~~75-10-205~~]75A-4-205, and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:

(1) presently exercisable;

(2) exclusionary; and

(3) except as otherwise provided in Section [~~75-10-204~~]75A-4-204, general.

Section 100. Section 75A-4-204, which is renumbered from Section 75-10-204 is renumbered and amended to read:

~~75-10-204~~. 75A-4-204. Exception to presumption of unlimited authority.

Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

(1) the power is exercisable only at the powerholder's death; and

(2) the permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors, or the creditors of the powerholder's estate.

Section 101. Section 75A-4-205, which is renumbered from Section 75-10-205 is renumbered and amended to read:

~~75-10-205~~. 75A-4-205. Rules of classification.

(1) [~~In this section~~]As used in this section, "adverse party" means a person with a substantial beneficial interest in property that would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(2) If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

(3) If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

Section 102. Section 75A-4-206, which is renumbered from Section 75-10-206 is renumbered and amended to read:

~~75-10-206~~. 75A-4-206. Donor's power to revoke or amend.

A donor may revoke or amend a power of appointment unless or to the extent the instrument creating the power is made irrevocable by the donor or the exercise of a presently exercisable power has been irrevocably made or effected.

Section 103. Section 75A-4-301, which is renumbered from Section 75-10-301 is renumbered and amended to read:

~~75-10-301~~. 75A-4-301. Requisites for exercise of power of appointment.

Part 3. Exercise of Power of Appointment

A power of appointment is exercised only:

(1) if the instrument exercising the power is valid under applicable law;

(2) if the terms of the instrument exercising the power:

(a) manifest the powerholder's intent to exercise the power; and

(b) satisfy the requirements of exercise, if any, imposed by the donor; and

(3) to the extent the appointment is a permissible exercise of the power.

Section 104. Section 75A-4-302, which is renumbered from Section 75-10-302 is renumbered and amended to read:

~~75-10-302~~. 75A-4-302. Intent to exercise -- Determining intent from residuary clause.

(1) As used in this section:

(a) "Residuary clause" does not include a residuary clause containing a blanket-exercise clause or a specific-exercise clause.

(b) "Will" includes a codicil and a testamentary instrument that revises another will.

(2) A residuary clause in a powerholder's will, or a comparable clause in the powerholder's revocable trust, manifests the powerholder's intent to exercise a power of appointment only if:

(a) the terms of the instrument containing the residuary clause do not manifest a contrary intent;

(b) the power is a general power exercisable in favor of the powerholder's estate;

(c) there is no gift-in-default clause or the clause is ineffective; and

(d) the powerholder did not release the power.

Section 105. Section 75A-4-303, which is renumbered from Section 75-10-303 is renumbered and amended to read:

~~75-10-303~~. 75A-4-303. Intent to exercise -- After-acquired power.

Unless the terms of the instrument exercising a power of appointment manifest a contrary intent:

(1) except as otherwise provided in Subsection (2), a blanket-exercise clause extends to a power acquired by the powerholder after executing the instrument containing the clause; and

(2) if the powerholder is also the donor of the power, the clause does not extend to the power unless there is no gift-in-default clause or the gift-in-default clause is ineffective.

Section 106. Section 75A-4-304, which is renumbered from Section 75-10-304 is renumbered and amended to read:

~~75-10-304~~. 75A-4-304. Compliance with donor-imposed formal requirements.

(1)(a) A powerholder's compliance with formal requirements of appointment imposed by the donor is sufficient only if the powerholder substantially complies with the conditions, requirements, and formalities set forth in the power of appointment, including complying with all the requirements for making specific reference to the power, that the power shall be exercised in a specific document such as a will, or that the document exercising the power shall be witnessed or notarized.

(b) If the donor limited the powerholder's exercise to a validly executed will, substantial compliance may not include the exercise of the power by a trust or another document not meeting the requirements of a properly executed will.

(2) Unless required by the instrument creating the power, the probate of a properly executed will is not required for the exercise of a power to be valid and complete.

Section 107. Section 75A-4-305, which is renumbered from Section 75-10-305 is renumbered and amended to read:

~~75-10-305~~. 75A-4-305. Permissible appointment.

(1) A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

(2) A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

(3) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(a) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(b) create a general power in a permissible appointee;

(c) create a nongeneral power in any person to appoint one or more of the permissible appointees of the original nongeneral power; or

(d) create a nongeneral power in a permissible appointee to appoint one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power.

Section 108. Section 75A-4-306, which is renumbered from Section 75-10-306 is renumbered and amended to read:

~~75-10-306~~. 75A-4-306. Appointment to deceased appointee or permissible appointee's descendant.

(1) Subject to Sections 75-2-603 and 75-2-604, an appointment to a deceased appointee is ineffective.

(2) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, a powerholder of a nongeneral power may exercise the power in favor of, or create a new power of appointment in, a descendant of a deceased permissible appointee whether or not the descendant is described by the donor as a permissible appointee.

Section 109. Section 75A-4-307, which is renumbered from Section 75-10-307 is renumbered and amended to read:

~~75-10-307~~. 75A-4-307. Impermissible appointment.

(1) Except as otherwise provided in Section [~~75-10-306~~]75A-4-306, an exercise of a power of appointment in favor of an impermissible appointee is ineffective.

(2) An exercise of a power of appointment in favor of a permissible appointee is ineffective to the extent the appointment is a fraud on the power.

Section 110. Section 75A-4-308, which is renumbered from Section 75-10-308 is renumbered and amended to read:

~~75-10-308~~. 75A-4-308. Elective allocation doctrine.

If a powerholder exercises a power of appointment in a disposition that also disposes of property the powerholder owns, the owned property and the appointive property shall be allocated in the permissible manner that best carries out the powerholder's intent.

Section 111. Section 75A-4-309, which is renumbered from Section 75-10-309 is renumbered and amended to read:

~~75-10-309~~. 75A-4-309. Capture doctrine -- Disposition of ineffectively appointed property under general power.

To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust, makes an ineffective appointment:

(1) the gift-in-default clause controls the disposition of the ineffectively appointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective, the ineffectively appointed property:

(a) passes to:

(i) the powerholder if the powerholder is a permissible appointee and is living; or

(ii) if the powerholder is an impermissible appointee or is deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) if there is no taker under Subsection (2)(a), passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 112. Section 75A-4-310, which is renumbered from Section 75-10-310 is renumbered and amended to read:

~~75-10-310~~. 75A-4-310. Disposition of unappointed property under released or unexercised general power.

To the extent a powerholder releases or fails to exercise a general power of appointment other than a power to withdraw property from, revoke, or amend a trust:

(1) the gift-in-default clause controls the disposition of the unappointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective:

(a) except as otherwise provided in Subsection (2)(b), the unappointed property passes to:

(i) the powerholder if the powerholder is a permissible appointee and is living; or

(ii) if the powerholder is an impermissible appointee or is deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) to the extent the powerholder released the power, or if there is no taker under Subsection (2)(a), the unappointed property passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 113. Section 75A-4-311, which is renumbered from Section 75-10-311 is renumbered and amended to read:

~~75-10-311~~. 75A-4-311. Disposition of unappointed property under released or unexercised nongeneral power.

To the extent a powerholder releases, ineffectively exercises, or fails to exercise a nongeneral power of appointment:

(1) the gift-in-default clause controls the disposition of the unappointed property; or

(2) if there is no gift-in-default clause or to the extent the clause is ineffective, the unappointed property:

(a) passes to the permissible appointees if:

(i) the permissible appointees are defined and limited; and

(ii) the terms of the instrument creating the power do not manifest a contrary intent; or

(b) if there is no taker under Subsection (2)(a), passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

Section 114. Section 75A-4-312, which is renumbered from Section 75-10-312 is renumbered and amended to read:

~~75-10-312~~. 75A-4-312. Disposition of unappointed property if partial appointment to taker in default.

Unless the terms of the instrument creating or exercising a power of appointment manifest a contrary intent, if the powerholder makes a valid partial appointment to a taker in default of appointment, the taker in default of appointment may share fully in unappointed property.

Section 115. Section 75A-4-313, which is renumbered from Section 75-10-313 is renumbered and amended to read:

~~75-10-313~~. 75A-4-313. Appointment to taker in default.

If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property under a gift-in-default clause had the property not been appointed, the power of appointment is considered not to have been exercised and the appointee takes under the clause.

Section 116. Section 75A-4-314, which is renumbered from Section 75-10-314 is renumbered and amended to read:

~~75-10-314~~. 75A-4-314. Powerholder's authority to revoke or amend exercise.

Unless the terms of the instrument creating the power of appointment or the instrument exercising the power of appointment provide that the exercise is irrevocable or unamendable, a powerholder may revoke or amend an exercise of a power of appointment made by an instrument effective during the life of the powerholder where the exercise is to become effective at some future time or contingency and where that future time and contingency has not yet occurred, as long as the revocation or amendment is done with the same formality as the original exercise of the power of appointment.

Section 117. Section 75A-4-401, which is renumbered from Section 75-10-401 is renumbered and amended to read:

~~75-10-401~~. 75A-4-401. Disclaimer.

Part 4. Disclaimer or Release - Contract to Appoint or Not to Appoint

As provided by Section 75-2-801:

(1) A powerholder may disclaim all or part of a power of appointment.

(2) A permissible appointee, an appointee, or a taker in default of appointment may disclaim all or part of an interest in appointive property.

Section 118. Section 75A-4-402, which is renumbered from Section 75-10-402 is renumbered and amended to read:

~~75-10-402~~. 75A-4-402. Authority to release.

A powerholder may release a power of appointment, in whole or in part, except to the extent the terms of the instrument creating the power prevent the release.

Section 119. Section 75A-4-403, which is renumbered from Section 75-10-403 is renumbered and amended to read:

~~75-10-403~~. 75A-4-403. Method of release.

A powerholder of a releasable power of appointment may release the power in whole or in part:

(1) by substantial compliance with a method provided in the terms of the instrument creating the power; or

(2) if the terms of the instrument creating the power do not provide a method or the method provided in the terms of the instrument is not expressly made exclusive, by a record manifesting the powerholder's intent by clear and convincing evidence.

Section 120. Section 75A-4-404, which is renumbered from Section 75-10-404 is renumbered and amended to read:

~~75-10-404~~. 75A-4-404. Revocation or amendment of release.

A powerholder may revoke or amend a release of a power of appointment only to the extent that:

(1) the instrument of release is revocable by the powerholder; or

(2) the powerholder reserves a power of revocation or amendment in the instrument of release.

Section 121. Section 75A-4-405, which is renumbered from Section 75-10-405 is renumbered and amended to read:

~~75-10-405~~. 75A-4-405. Power to contract -- Presently exercisable power of appointment.

A powerholder of a presently exercisable power of appointment may contract:

(1) not to exercise the power; or

(2) to exercise the power if the contract when made does not confer a benefit on an impermissible appointee.

Section 122. Section 75A-4-406, which is renumbered from Section 75-10-406 is renumbered and amended to read:

~~75-10-406~~. 75A-4-406. Power to contract -- Power of appointment not presently exercisable.

A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

(1) is also the donor of the power; and

(2) has reserved the power in a revocable trust.

Section 123. Section 75A-4-407, which is renumbered from Section 75-10-407 is renumbered and amended to read:

~~75-10-407~~. 75A-4-407. Remedy for breach of contract to appoint or not to appoint.

The remedy for a powerholder's breach of a contract to appoint or not to appoint appointive property is limited to damages payable out of the appointive property or, if appropriate, specific performance of the contract.

Section 124. Section 75A-4-501, which is renumbered from Section 75-10-501 is renumbered and amended to read:

~~75-10-501~~. 75A-4-501. Creditor claim -- General power created by powerholder. Part 5. Rights of Powerholder's Creditors in Appointive Property

(1) [~~In this section~~]As used in this section, "power of appointment created by the powerholder" includes a power of appointment created in a transfer by another person to the extent the powerholder contributed value to the transfer.

(2) Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in Title 25, Chapter 6, Uniform Voidable Transactions Act.

(3) Subject to Subsection (2), appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.

(4) Subject to Subsections (2) and (3), and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:

(a) the powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and

(b) the powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

Section 125. Section 75A-4-502, which is renumbered from Section 75-10-502 is renumbered and amended to read:

~~75-10-502~~. 75A-4-502. Creditor claim -- Power not created by powerholder.

(1)(a) The property subject to a general or a nongeneral power of appointment not created by the powerholder, including a presently exercisable general or nongeneral power of appointment, is exempt from a claim of a creditor of the powerholder or the powerholder's estate.

(b) The powerholder of such a power may not be compelled to exercise the power and the powerholder's creditors may not acquire the power, any rights thereto, or reach the trust property or beneficial interests by any other means.

(c) A court may not exercise or require the powerholder to exercise the power of appointment.

(2) As set forth in Section [~~75-10-103~~]75A-4-103, the law of the donor's domicile at the

time of creation shall govern claims of creditors and other parties claiming an interest in property or rights subject to a power of appointment.

Section 126. Section 75A-4-503, which is renumbered from Section 75-10-503 is renumbered and amended to read:

~~75-10-503~~. 75A-4-503. Power to withdraw.

(1) For purposes of this part, and except as otherwise provided in Subsection (2), a power to withdraw property from a trust is treated, during the time the power may be exercised, as a presently exercisable general power of appointment to the extent of the property subject to the power to withdraw.

(2) On the lapse, release, or waiver of a power to withdraw property from a trust, the power is treated as a presently exercisable general power of appointment only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in 26 U.S.C. Sec. 2041(b)(2) and 26 U.S.C. Sec. 2514(e) or the amount specified in 26 U.S.C. Sec. 2503(b).

Section 127. Section 75A-4-601, which is renumbered from Section 75-10-601 is renumbered and amended to read:

~~75-10-601~~. 75A-4-601. Uniformity of application and construction.

Part 6. Applicability Provisions

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact [~~it~~]this uniform law.

Section 128. Section 75A-4-602, which is renumbered from Section 75-10-602 is renumbered and amended to read:

~~75-10-602~~. 75A-4-602. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 129. Section 75A-4-603, which is renumbered from Section 75-10-603 is renumbered and amended to read:

~~75-10-603~~. 75A-4-603. Application to existing relationships.

(1) Except as otherwise provided in this chapter, on and after May 9, 2017:

(a) this chapter applies to a power of appointment created before, on, or after May 9, 2017;

(b) this chapter applies to a judicial proceeding concerning a power of appointment commenced on or after May 9, 2017;

(c) this chapter applies to a judicial proceeding concerning a power of appointment commenced before May 9, 2017, unless the court finds that application of a particular provision of this chapter would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of this chapter does not apply and the superseded law applies; and

(d) a rule of construction or presumption provided in this chapter applies to an instrument executed before May 9, 2017, unless there is a clear indication of a contrary intent in the terms of the instrument.

(2) Except as otherwise provided in Subsections (1)(a) through (d), an action done before May 9, 2017, is not affected by this chapter.

(3) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that commenced under law of this state other than this chapter before May 9, 2017, the law continues to apply to the right.

Section 130. Section 75A-5-101 is enacted to read:

75A-5-101. Reserved.

CHAPTER 5. UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT

Part 1. General Provisions

Reserved.

Section 131. Section 75A-5-102, which is renumbered from Section 22-3-102 is renumbered and amended to read:

~~22-3-102~~. 75A-5-102. Definitions for chapter.

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

(1)(a) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months.

(b) "Accounting period" includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months that begins when an income interest begins or ends when an income interest ends.

(2)(a) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by the financial assets' terms convert into cash within a finite time.

(b) "Asset-backed security" includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security.

(c) "Asset-backed security" does not include an asset to which Section [~~22-3-401, 22-3-409, or 22-3-414~~]75A-5-401, 75A-5-409, or 75A-5-414 applies.

(3) "Beneficiary" includes:

(a) for a trust:

(i) a current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) a remainder beneficiary; and

(iii) any other successor beneficiary;

(b) for an estate, an heir and devisee; and

(c) for a life estate or term interest, a person that holds a life estate, term interest, or remainder, or other interest following a life estate or term interest.

(4) "Court" means a court in this state with jurisdiction over a trust or estate, or a life estate or other term interest described in Subsection [~~22-3-103(2)~~]75A-5-103(2).

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, even if the fiduciary also may distribute principal to the beneficiary.

(6)(a) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust.

(b) "Distribute," "distributed," and "distributee" have corresponding meanings.

(7)(a) "Estate" means a decedent's estate.

(b) "Estate" includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes:

(a) a trustee, trust director as defined in Section 75-12-102, personal representative, life tenant, holder of a term interest, and person acting under a delegation from a fiduciary;

(b) a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal; and

(c) if there are two or more co-fiduciaries, all co-fiduciaries acting under the terms of the trust and applicable law.

(9)(a) "Income" means money or other property a fiduciary receives as current return from principal.

(b) "Income" includes a part of receipts from a sale, exchange, or liquidation of a principal asset to the extent provided in Part 4, Allocation of Receipts.

(10)(a) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion.

(b) "Income interest" includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(a) for a trust:

(i) a qualified beneficiary as determined under Section 75-7-103;

(ii) a settlor of the trust; or

(iii) an individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) for an estate, a beneficiary;

(c) a spouse, parent, brother, sister, or issue of an individual described in Subsection (11)(a) or (b);

(d) a corporation, partnership, limited liability company, or other entity in which persons described in Subsections (11)(a) through (c), in the aggregate, have voting control; or

(e) an employee of a person described in Subsection (11)(a), (b), (c), or (d).

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13)(a) "Net income" means:

(i) the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the accounting period, other than distributions, allocated to income under the terms of the trust and this chapter; and

(ii) to the extent the trust is a unitrust under Part 3, Unitrust, the unitrust amount determined under Part 3, Unitrust.

(b) "Net income" includes an adjustment from principal to income under Section [~~22-3-203~~]75A-5-203.

(c) "Net income" does not include an adjustment from income to principal under Section [~~22-3-203~~]75A-5-203.

(14) "Person" means:

(a) an individual;

(b) an estate;

(c) a trust;

(d) a business or nonprofit entity;

(e) a public corporation, government or governmental subdivision, agency, or instrumentality; or

(f) any other legal entity.

(15) "Personal representative" means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person's status.

(16) "Principal" means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Settlor" means the same as that term is defined in Section 75-7-103.

(19) "Special tax benefit" means:

(a) exclusion of a transfer to a trust from gifts described in Section 2503(b) of the Internal Revenue Code because of the qualification of an income interest in the trust as a present interest in property;

(b) status as a qualified subchapter S trust described in Section 1361(d)(3) of the Internal Revenue Code at a time the trust holds stock of an S corporation described in Section 1361(a)(1) of the Internal Revenue Code;

(c) an estate or gift tax marital deduction for a transfer to a trust under Section 2056 or 2523 of the Internal Revenue Code that depends or depended in whole or in part on the right of the settlor's spouse to receive the net income of the trust;

(d) exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by Section 2601 of the Internal Revenue Code because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust; or

(e) an inclusion ratio, as defined in Section 2642(a) of the Internal Revenue Code, of the trust which is less than one, if there is any possibility that:

(i) a taxable distribution, as defined in Section 2612(b) of the Internal Revenue Code, could be made from the trust; or

(ii) a taxable termination, as defined in Section 2612(a) of the Internal Revenue Code, could occur with respect to the trust.

(20) "Successive interest" means the interest of a successor beneficiary.

(21) "Successor beneficiary" means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) "Terms of a trust" means:

(a) except as otherwise provided in Subsection (22)(b), the manifestation of the settlor's intent regarding a trust's provisions as:

(i) expressed in the trust instrument; or

(ii) established by other evidence that would be admissible in a judicial proceeding;

(b) the trust's provisions as established, determined, or amended by:

(i) a trustee or trust director in accordance with applicable law;

(ii) a court order; or

(iii) a nonjudicial settlement agreement under Section 75-7-110;

(c) for an estate, a will; or

(d) for a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries.

(23)(a) "Trust" includes:

(i) an express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust.

(b) "Trust" does not include:

(i) a constructive trust;

(ii) a resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

(iii) an arrangement under which a person is a nominee, escrowee, or agent for another.

(24)(a) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary.

(b) "Trustee" includes an original, additional, or successor trustee, whether appointed or confirmed by a court.

(25)(a) "Will" means any testamentary instrument recognized by applicable law that makes a legally effective disposition of an individual's property effective at the individual's death.

(b) "Will" includes a codicil or other amendment to a testamentary instrument.

Section 132. Section 75A-5-103, which is renumbered from Section 22-3-103 is renumbered and amended to read:

~~22-3-103.~~ 75A-5-103. Scope.

Except as otherwise provided in the terms of a trust or this chapter, this chapter applies to:

(1) a trust or estate; and

(2) a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons.

Section 133. Section 75A-5-104, which is renumbered from Section 22-3-104 is renumbered and amended to read:

~~22-3-104.~~ 75A-5-104. Governing law.

(1) Except as otherwise provided in the terms of a trust or this chapter, this chapter applies when this state is:

(a) the principal place of administration of a trust or estate; or

(b) the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest described in Subsection [~~22-3-103(2)~~] 75A-5-103(2).

(2) By accepting the trusteeship of a trust having the trust's principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of this chapter to any matter within the scope of this chapter involving the trust.

Section 134. Section 75A-5-201, which is renumbered from Section 22-3-201 is renumbered and amended to read:

~~22-3-201~~. 75A-5-201. Fiduciary duties -- General principles.

Part 2. Fiduciary Duties and Judicial Review

(1) In making an allocation or determination or exercising discretion under this chapter, a fiduciary shall:

(a) act in good faith, based on what is fair and reasonable to all beneficiaries;

(b) administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(c) administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this chapter; and

(d) administer the trust or estate in accordance with this chapter, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(2)(a) A fiduciary's allocation, determination, or exercise of discretion under this chapter is presumed to be fair and reasonable to all beneficiaries.

(b) A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power that produces a result different from a result required or permitted by this chapter does not create an inference that the fiduciary abused the fiduciary's discretion.

(3) A fiduciary shall:

(a) add a receipt to principal, to the extent neither the terms of the trust nor this chapter allocates the receipt between income and principal; and

(b) charge a disbursement to principal, to the extent neither the terms of the trust nor this chapter allocates the disbursement between income and principal.

(4) If a fiduciary determines an exercise of discretionary power will assist the fiduciary to administer the trust or estate impartially, the fiduciary may:

(a) exercise the power to adjust under Section [~~22-3-203~~]75A-5-203;

(b) convert an income trust to a unitrust under Subsection [~~22-3-303(1)(a)~~]75A-5-303(1)(a);

(c) change the percentage or method used to calculate a unitrust amount under Subsection [~~22-3-303(1)(b)~~]75A-5-303(1)(b); or

(d) convert a unitrust to an income trust under Subsection [~~22-3-303(1)(c)~~]75A-5-303(1)(c).

(5) In making the determination under Subsection (4), the fiduciary shall consider the following factors:

(a) the terms of the trust;

(b) the nature, distribution standards, and expected duration of the trust;

(c) the effect of the allocation rules, including specific adjustments between income and principal, under Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, Part 6, Death of Individual or Termination of Income Interest, and Part 7, Apportionment at Beginning and End of Income Interest;

(d) the desirability of liquidity and regularity of income;

(e) the desirability of the preservation and appreciation of principal;

(f) the extent to which an asset is used or may be used by a beneficiary;

(g) the increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(h) whether and to what extent the terms of the trust:

(i) give the fiduciary power to accumulate income or invade principal; or

(ii) prohibit the fiduciary from accumulating income or invading principal;

(i) the extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(j) the effect of current and reasonably expected economic conditions; and

(k) the reasonably expected tax consequences of the exercise of the power.

Section 135. Section 75A-5-202, which is renumbered from Section 22-3-202 is renumbered and amended to read:

~~22-3-202~~. 75A-5-202. Judicial review of exercise of discretionary power -- Request for instruction.

(1) In this section, "fiduciary decision" means:

(a) a fiduciary's allocation between income and principal or other determination regarding income

and principal required or authorized by the terms of the trust or this chapter;

(b) the fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this chapter, including the power to:

(i) adjust under Section [~~22-3-203~~]75A-5-203;

(ii) convert an income trust to a unitrust under Subsection [~~22-3-303(1)(a)~~]75A-5-303(1)(a);

(iii) change the percentage or method used to calculate a unitrust amount under Subsection [~~22-3-303(1)(b)~~]75A-5-303(1)(b); or

(iv) convert a unitrust to an income trust under Subsection [~~22-3-303(1)(c)~~]75A-5-303(1)(c); or

(c) the fiduciary's implementation of a decision described in Subsection (1)(a) or (b).

(2) The court may not order a fiduciary to change a fiduciary decision, unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

(3)(a) If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law, including a remedy authorized in Section 75-7-1001.

(b) To place the beneficiaries in the positions that the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(i) the fiduciary to exercise or refrain from exercising the power to adjust under Section [~~22-3-203~~]75A-5-203;

(ii) the fiduciary to exercise or refrain from exercising the power to:

(A) convert an income trust to a unitrust under Subsection [~~22-3-303(1)(a)~~]75A-5-303(1)(a);

(B) change the percentage or method used to calculate a unitrust amount under Subsection [~~22-3-303(1)(b)~~]75A-5-303(1)(b); or

(C) convert a unitrust to an income trust under Subsection [~~22-3-303(1)(c)~~]75A-5-303(1)(c);

(iii) the fiduciary to distribute an amount to a beneficiary;

(iv) a beneficiary to return some or all of a distribution; or

(v) the fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(4)(a) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion.

(b) A beneficiary that opposes the proposed decision has the burden to establish that the proposed decision will result in an abuse of the fiduciary's discretion if the petition:

(i) describes the proposed decision;

(ii) contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies; and

(iii) explains how the beneficiary will be affected by the proposed decision.

Section 136. Section 75A-5-203, which is renumbered from Section 22-3-203 is renumbered and amended to read:

~~22-3-203~~. 75A-5-203. Fiduciary's power to adjust.

(1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

(2) This section does not create a duty to exercise or consider the power to adjust under Subsection (1) or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under Subsection (1) is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under Subsection (1), a fiduciary shall consider all factors the fiduciary considers relevant, including the relevant factors in Subsection [~~22-3-201(5)~~]75A-5-201(5) and the application of Subsection [~~22-3-401(9)~~] 75A-5-401(9), Section [~~22-3-408~~]75A-5-408, and Section [~~22-3-413~~] 75A-5-413.

(5) A fiduciary may not exercise the power to make an adjustment under Subsection (1) or the power to make a determination that an allocation is insubstantial under Section [~~22-3-408~~]75A-5-408 if:

(a) the adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) the adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) the adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) possessing or exercising the power would cause all or part of the value of the trust assets to be

included in the gross estate of an individual for federal estate tax purposes;

(f) possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) the fiduciary is not an independent person;

(h) the trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public-benefit program; or

(i) the trust is a unitrust under Part 3, Unitrust.

(6) If Subsection (5)(d), (e), (f), or (g) applies to a fiduciary:

(a) a co-fiduciary to which Subsections (5)(d) through (g) do not apply may exercise the power to adjust, unless the exercise of the power to adjust by the remaining co-fiduciary or co-fiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b)(i) if there is no co-fiduciary to which Subsections (5)(d) through (g) do not apply:

(A) except as otherwise provided in Subsection (6)(b)(ii)(A), the fiduciary may appoint a co-fiduciary to which Subsections (5)(d) through (g) do not apply;

(B) except as otherwise provided in Subsection (6)(b)(ii)(B), the appointed co-fiduciary may exercise the power to adjust under Subsection (1); and

(C) the appointed co-fiduciary may be a special fiduciary with limited powers.

(ii)(A) If the appointment of a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, a fiduciary may not appoint a co-fiduciary.

(B) If the exercise of the power to adjust by a co-fiduciary is not permitted by the terms of the trust or by a provision of law outside this chapter, the co-fiduciary may not exercise the power to adjust under Subsection (1).

(7) A fiduciary may release or delegate to a co-fiduciary the power to adjust under Subsection (1) if the fiduciary determines that the fiduciary's possession or exercise of the power to adjust will or may:

(a) cause a result described in Subsections (5)(a) through (f) or (h); or

(b) deprive the trust of a tax benefit or impose a tax burden not described in Subsections (5)(a) through (f).

(8) A fiduciary's release or delegation to a co-fiduciary under Subsection (7) of the power to adjust under Subsection (1):

(a) must be in a record;

(b) applies to the entire power to adjust, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) from income to principal;

(ii) from principal to income;

(iii) for specified property; or

(iv) in specified circumstances;

(c) for a delegation, may be modified by a redelegation under this subsection by the co-fiduciary to which the delegation is made; and

(d) subject to Subsection (8)(c), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust that deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under Subsection (1).

(10) The exercise of the power to adjust under Subsection (1) in any accounting period may apply to the current accounting period, the immediately preceding accounting period, and one or more subsequent accounting periods.

(11) A description of the exercise of the power to adjust under Subsection (1) shall be:

(a) included in a report, if any, sent to beneficiaries under Subsection 75-7-811(3); or

(b) communicated at least annually to the qualified beneficiaries determined under Subsection 75-7-103(1)(h).

Section 137. Section 75A-5-301, which is renumbered from Section 22-3-301 is renumbered and amended to read:

~~22-3-301.~~ 75A-5-301. Definitions for part. Part 3. Unitrust

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

(1) "Applicable value" means the amount of the net fair market value of a trust taken into account under Section [~~22-3-307~~]75A-5-307.

(2) "Express unitrust" means a trust for which, under the terms of the trust without regard to this part, income or net income is permitted or required to be calculated as a unitrust amount.

(3) "Income trust" means a trust that is not a unitrust.

(4) "Net fair market value of a trust" means the fair market value of the assets of the trust minus the noncontingent liabilities of the trust.

(5)(a) "Unitrust" means a trust for which net income is a unitrust amount.

(b) "Unitrust" includes an express unitrust.

(6) "Unitrust amount" means:

(a) an amount computed by multiplying a determined value of a trust by a determined percentage; and

(b) for a unitrust administered under a unitrust policy, the applicable value multiplied by the unitrust rate.

(7) "Unitrust policy" means a policy described in Sections [~~22-3-305~~]75A-5-305 through [~~22-3-309~~]75A-5-309 and adopted under Section [~~22-3-303~~]75A-5-303.

(8) "Unitrust rate" means the rate used to compute the unitrust amount under Subsection (6) for a unitrust administered under a unitrust policy.

Section 138. Section 75A-5-302, which is renumbered from Section 22-3-302 is renumbered and amended to read:

~~22-3-302~~. 75A-5-302. Application -- Duties and remedies.

(1) Except as otherwise provided in Subsection (2), this part applies to:

(a) an income trust, unless the terms of the trust expressly prohibit use of this part by:

(i) a specific reference to this part; or

(ii) an explicit expression of intent that net income not be calculated as a unitrust amount; and

(b) an express unitrust, except to the extent the terms of the trust explicitly:

(i) prohibit use of this part by a specific reference to this part;

(ii) prohibit conversion to an income trust; or

(iii) limit changes to the method of calculating the unitrust amount.

(2) This part does not apply to a trust described in Section 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b) of the Internal Revenue Code.

(3)(a) An income trust to which this part applies under Subsection (1)(a) may be converted to a unitrust under this part regardless of the terms of the trust concerning distributions.

(b) Conversion to a unitrust under this part does not affect other terms of the trust concerning distributions of income or principal.

(4)(a) This part applies to an estate only to the extent a trust is a beneficiary of the estate.

(b) To the extent of the trust's interest in the estate, and in the same manner as for a trust under this part:

(i) the estate may be administered as a unitrust;

(ii) the administration of the estate as a unitrust may be discontinued; or

(iii) the percentage or method used to calculate the unitrust amount may be changed.

(5) This part does not create a duty to take or consider action under this part or to inform a beneficiary about the applicability of this part.

(6) A fiduciary that in good faith takes or fails to take an action under this part is not liable to a person affected by the action or inaction of the fiduciary.

Section 139. Section 75A-5-303, which is renumbered from Section 22-3-303 is renumbered and amended to read:

~~22-3-303~~. 75A-5-303. Authority of fiduciary.

(1) A fiduciary, without court approval, by complying with Subsections (2) and (6), may:

(a) convert an income trust to a unitrust if the fiduciary adopts, in a record, a unitrust policy for the trust providing:

(i) that, in administering the trust, the net income of the trust will be a unitrust amount rather than net income determined without regard to this part; and

(ii) the percentage and method used to calculate the unitrust amount;

(b) change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) convert a unitrust to an income trust if the fiduciary adopts, in a record, a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this part rather than a unitrust amount.

(2) A fiduciary may take an action under Subsection (1) if:

(a) the fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) the fiduciary sends a notice in a record, in the manner required by Section [~~22-3-304~~]75A-5-304, describing and proposing to take the action;

(c) the fiduciary sends a copy of the notice under Subsection (2)(b) to each settlor of the trust which is:

(i) if an individual, living; or

(ii) if not an individual, in existence;

(d) at least one member of each class of the qualified beneficiaries determined under Subsection 75-7-103(1)(h) receiving the notice under Subsection (2)(b) is:

(i) if an individual, legally competent;

(ii) if not an individual, in existence; or

(iii) represented in the manner provided in Subsection [~~22-3-304(2)~~]75A-5-304(2); and

(e) the fiduciary does not receive, by the date specified in the notice under Subsection [~~22-3-304(4)(e)~~]75A-5-304(4)(e), an objection in a record to the action proposed under Subsection (2)(b) from a person to which the notice under Subsection (2)(b) is sent.

(3)(a) If a fiduciary receives, not later than the date stated in the notice under Subsection [~~22-3-304(4)(e)~~]75A-5-304(4)(e), an objection in a record described in Subsection [~~22-3-304(4)(d)~~] 75A-5-304(4)(d) to a proposed action, the fiduciary or a beneficiary may request that the court:

(i) require the fiduciary to take the proposed action;

(ii) require the fiduciary to take the proposed action with modifications; or

(iii) prevent the proposed action.

(b) A person described in Subsection [~~22-3-304(1)~~]75A-5-304(1) may oppose the proposed action in the proceeding under Subsection (3)(a), regardless of whether the person:

(i) consented under Subsection [~~22-3-304(3)~~] 75A-5-304(3); or

(ii) objected under Subsection [~~22-3-304(4)(d)~~] 75A-5-304(4)(d).

(4) If, after sending a notice under Subsection (2)(b), a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify each person described in Subsection [~~22-3-304(1)~~] 75A-5-304(1) in a record of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in Subsection (1) and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by Subsection (1), or whether and how to respond to a request by a beneficiary under Subsection (5), a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including the relevant factors in Subsection [~~22-3-201(5)~~]75A-5-201(5).

(7) For a reason described in Subsection [~~22-3-203(7)~~]75A-5-203(7), and in the manner described in Subsection [~~22-3-203(8)~~] 75A-5-203(8), a fiduciary may:

(a) release or delegate the power to convert an income trust to a unitrust under Subsection (1)(a);

(b) change the percentage or method used to calculate a unitrust amount under Subsection (1)(b); or

(c) convert a unitrust to an income trust under Subsection (1)(c).

Section 140. Section 75A-5-304, which is renumbered from Section 22-3-304 is renumbered and amended to read:

~~22-3-304~~. 75A-5-304. Notice.

(1) A fiduciary shall send a notice required by Subsection [~~22-3-303(2)(b)~~]75A-5-303(2)(b) in a manner authorized under Section 75-7-109 to:

(a) the qualified beneficiaries determined under Subsection 75-7-103(1)(h);

(b) each person acting, in accordance with Title 75, Chapter 12, Uniform Directed Trust Act, as trust director of the trust; and

(c) each person that is granted a power by the terms of the trust to appoint or remove a trustee or person described in Subsection (1)(b), to the extent the power is exercisable when the person that exercises the power is not then serving as trustee or is a person described in Subsection (1)(b).

(2) The representation provisions of Sections 75-7-301 through 75-7-305 apply to notice under this section.

(3)(a) A person may consent in a record at any time to action proposed under Subsection [~~22-3-303(2)(b)~~]75A-5-303(2)(b).

(b) If a person required to receive a notice under Subsection (1) consents under Subsection (3)(a) to not receive the notice, the fiduciary is not required to send the person the notice.

(4) A notice required by Subsection [~~22-3-303(2)(b)~~]75A-5-303(2)(b) shall include:

(a) the action proposed under Subsection [~~22-3-303(2)(b)~~]75A-5-303(2)(b);

(b) for a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under Subsection [~~22-3-303(1)(a)~~]75A-5-303(1)(a);

(c) for a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under Subsection [~~22-3-303(1)(b)~~]75A-5-303(1)(b);

(d) a statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) the date by which the fiduciary shall receive an objection under Subsection (4)(d), which shall be at least 30 days after the date the notice is sent;

(f) the date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) the name and contact information of the fiduciary; and

(h) the name and contact information of a person that may be contacted for additional information.

Section 141. Section 75A-5-305, which is renumbered from Section 22-3-305 is renumbered and amended to read:

~~22-3-305~~. 75A-5-305. Unitrust policy.

(1) In administering a unitrust under this part, a fiduciary shall follow a unitrust policy:

(a) adopted under Subsection [~~22-3-303(1)(a)~~] 75A-5-303(1)(a) or (b); or

(b) amended or replaced under Subsection [~~22-3-303(1)(b)~~]75A-5-303(1)(b).

(2) A unitrust policy shall provide:

(a) the unitrust rate or the method for determining the unitrust rate under Section [~~22-3-306~~]75A-5-306;

(b) the method for determining the applicable value under Section [~~22-3-307~~]75A-5-307; and

(c) the rules described in Sections [~~22-3-306~~] 75A-5-306 through [~~22-3-309~~] 75A-5-309 that apply in the administration of the unitrust, regardless of whether the rules are:

(i) mandatory, as provided in Subsections [~~22-3-307(1)~~]75A-5-307(1) and [~~22-3-308(1)~~] 75A-5-308(1); or

(ii) optional, as provided in Section [~~22-3-306~~] 75A-5-306 and Subsections [~~22-3-307(2), 22-3-308(2), and 22-3-309(1)~~] 75A-5-307(2), 75A-5-308(2), and 75A-5-309(1), to the extent the fiduciary elects to adopt those rules.

Section 142. Section 75A-5-306, which is renumbered from Section 22-3-306 is renumbered and amended to read:

~~22-3-306~~. 75A-5-306. Unitrust rate.

(1) Except as otherwise provided in Subsection [~~22-3-309(2)(a)~~]75A-5-309(2)(a), a unitrust rate may be:

(a) a fixed unitrust rate; or

(b) a unitrust rate that is determined for each period using:

(i) a market index or other published data; or

(ii) a mathematical blend of market indices or other published data over a stated number of preceding periods.

(2) Except as otherwise provided in Subsection [~~22-3-309(2)(a)~~]75A-5-309(2)(a), a unitrust policy may provide:

(a) a limit on how high the unitrust rate determined under Subsection (1)(b) may rise;

(b) a limit on how low the unitrust rate determined under Subsection (1)(b) may fall;

(c) a limit on how much the unitrust rate determined under Subsection (1)(b) may increase over the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods;

(d) a limit on how much the unitrust rate determined under Subsection (1)(b) may decrease below the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods; or

(e) a mathematical blend of any of the unitrust rates determined under Subsection (1)(b) and Subsections (2)(a) through (d).

Section 143. Section 75A-5-307, which is renumbered from Section 22-3-307 is renumbered and amended to read:

~~22-3-307~~. 75A-5-307. Applicable value.

(1) A unitrust policy shall provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(a) the frequency of valuing the asset, which need not require a valuation in every period; and

(b) the date for valuing the asset in each period that the asset is valued.

(2) Except as otherwise provided in Subsection [~~22-3-309(2)(b)~~]75A-5-309(2)(b), a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(a) obtaining an appraisal of an asset for which fair market value is not readily available;

(b) exclusion of specific assets or groups or types of assets;

(c) other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(d) identification and treatment of cash or property held for distribution;

(e) use of:

(i) an average of fair market values over a stated number of preceding periods; or

(ii) another mathematical blend of fair market values over a stated number of preceding periods;

(f) a limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding time periods;

(g) a limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(i) the corresponding applicable value for the preceding period; or

(ii) a mathematical blend of applicable values over a stated number of preceding periods;

(h) the treatment of accrued income and other features of an asset that affect value; and

(i) determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under Subsections (2)(a) through (h).

Section 144. Section 75A-5-308, which is renumbered from Section 22-3-308 is renumbered and amended to read:

~~22-3-308~~. 75A-5-308. Period.

(1)(a) A unitrust policy shall provide the period used under Sections [~~22-3-306 and 22-3-307~~] 75A-5-306 and 75A-5-307.

(b) Except as otherwise provided in Subsection 22-3-309(2)(c), the period may be:

(i) a calendar year;

(ii) a 12-month period other than a calendar year;

(iii) a calendar quarter;

(iv) a three-month period other than a calendar quarter; or

(v) another period.

(2) Except as otherwise provided in Subsection [~~22-3-309(2)~~]75A-5-309(2), a unitrust policy may provide standards for:

(a) using fewer preceding periods under Subsection [~~22-3-306(1)(b)(ii)~~]75A-5-306(1)(b)(ii), (2)(c), or (2)(d) if:

(i) the trust was not in existence in a preceding period; or

(ii) market indices or other published data are not available for a preceding period;

(b) using fewer preceding periods under Subsection [~~22-3-307(2)(e)(i) or (ii)~~] 75A-5-307(2)(e)(i), (e)(ii), (f)(ii), or (g)(ii) if:

(i) the trust was not in existence in a preceding period; or

(ii) fair market values are not available for a preceding period; and

(c) prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

Section 145. Section 75A-5-309, which is renumbered from Section 22-3-309 is renumbered and amended to read:

~~22-3-309~~. 75A-5-309. Special tax benefits -- Other rules.

(1) A unitrust policy may:

(a) provide methods and standards for:

(i) determining the timing of distributions;

(ii) making distributions in cash or in kind or partly in cash and partly in kind; or

(iii) correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(b) specify sources and the order of sources, including categories of income for federal income tax purposes, from which distributions of a unitrust amount are paid; or

(c) provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

(2) If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(a) the unitrust rate established under Section [~~22-3-306~~]75A-5-306 may not be less than 3% or more than 5%;

(b) the only provisions of Section [~~22-3-307~~]75A-5-307 that apply are Subsections [~~22-3-307(1)~~]75A-5-307(1) and (2)(a), (d), (e)(i), and (i);

(c) the only period that may be used under Section [~~22-3-308~~]75A-5-308 is a calendar year under Subsection [~~22-3-308(1)~~]75A-5-308(1); and

(d) the only other provisions of Section [~~22-3-308~~]75A-5-308 that apply are [~~Subsection 22-3-308(2)(b)(i)~~]Subsections 75A-5-308(2)(b)(i) and (c).

Section 146. Section 75A-5-401, which is renumbered from Section 22-3-401 is renumbered and amended to read:

~~22-3-401~~. 75A-5-401. Receipts from entity -- Character of receipts from entity.

Part 4. Allocation of Receipts

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

(a) "Capital distribution" means an entity distribution of money that is a:

(i) return of capital; or

(ii) distribution in total or partial liquidation of the entity.

(b)(i) "Entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization or arrangement in which a fiduciary owns or holds an interest, regardless of whether the entity is a taxpayer for federal income tax purposes.

(ii) "Entity" does not include:

(A) a trust or estate to which Section [~~22-3-402~~]75A-5-402 applies;

(B) a business or other activity to which Section [~~22-3-403~~]75A-5-403 applies that is not conducted by an entity described in Subsection (1)(b)(i);

(C) an asset-backed security; or

(D) an instrument or arrangement to which Section [~~22-3-416~~]75A-5-416 applies.

(c) "Entity distribution" means a payment or transfer by an entity made to a person in the person's capacity as an owner or holder of an interest in the entity.

(2) In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.

(3) Except as otherwise provided in Subsections (4)(b) through (d), a fiduciary shall allocate to income:

(a) money received in an entity distribution; and

(b) tangible personal property of nominal value received from the entity.

(4) A fiduciary shall allocate to principal:

(a) property received in an entity distribution that is not:

(i) money; or

(ii) tangible personal property of nominal value;

(b) money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(c) money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(d) money received in an entity distribution from an entity that is:

(i) a regulated investment company or real estate investment trust if the money received is a capital gain dividend for federal income tax purposes; or

(ii) treated for federal income tax purposes in a comparable manner to the treatment described in Subsection (4)(d)(i).

(5) A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(a) by relying without inquiry or investigation on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(i) determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(ii) owns or holds more than 50% of the voting interest in the entity;

(b) by determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in the entity distribution or a series of related entity distributions is or will be greater than 20% of the fair market value of the fiduciary's interest in the entity; or

(c) if neither Subsection (5)(a) nor (b) applies, by considering the factors in Subsection (6) and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

(6) In making a determination or estimate under Subsection (5)(c), a fiduciary may consider:

(a) a characterization of an entity distribution provided by or on behalf of the entity;

(b) the amount of money or property received in:

(i) the entity distribution; or

(ii) what the fiduciary determines is or will be a series of related entity distributions;

(c) the amount described in Subsection (6)(b) compared to the amount that the fiduciary determines or estimates is, during the current or preceding accounting periods:

(i) the entity's operating income;

(ii) the proceeds of the entity's sale or other disposition of:

(A) all or part of the business or other activity conducted by the entity;

(B) one or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

(C) one or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(iii) if the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(iv) the entity's regular, periodic entity distributions;

(v) the amount of money that the entity has accumulated;

(vi) the amount of money that the entity has borrowed;

(vii) the amount of money that the entity has received from the sources described in Sections ~~[22-3-407, 22-3-410, 22-3-411, and 22-3-412]~~ 75A-5-407, 75A-5-410, 75A-5-411, and 75A-5-412; and

(viii) the amount of money that the entity has received from a source not otherwise described in this subsection; and

(d) any other factor the fiduciary determines is relevant.

(7) If, after applying Subsections (3) through (6), a fiduciary determines that a part of an entity distribution is a capital distribution but the fiduciary is in doubt about the amount of the entity distribution that is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution that is in doubt.

(8) If a fiduciary receives additional information about the application of this section to an entity distribution before the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

(9) If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is not required to change or recover the payment to the beneficiary but may consider that information

in determining whether to exercise the power to adjust under Section [~~22-3-203~~]75A-5-203.

Section 147. Section 75A-5-402, which is renumbered from Section 22-3-402 is renumbered and amended to read:

~~22-3-402~~. 75A-5-402. Receipts from entity -- Distribution from trust or estate.

(1) A fiduciary shall allocate:

(a) to income an amount received as a distribution of income, including a unitrust distribution under Part 3, Unitrust, from a trust or estate in which the fiduciary has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity; and

(b) to principal an amount received as a distribution of principal from the trust or estate.

(2) If a fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, Section [~~22-3-401, 22-3-415, or 22-3-416~~] 75A-5-401, 75A-5-415, or 75A-5-416 applies to a receipt from the trust.

Section 148. Section 75A-5-403, which is renumbered from Section 22-3-403 is renumbered and amended to read:

~~22-3-403~~. 75A-5-403. Receipts from entity -- Business or other activity conducted by fiduciary.

(1) This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately for the business or other activity instead of:

(a) accounting for the business or other activity as part of the fiduciary's general accounting records; or

(b) conducting the business or other activity through an entity described in Subsection [~~22-3-401(1)(b)(i)~~]75A-5-401(1)(b)(i).

(2) A fiduciary may account separately under this section for the transactions of a business or other activity, whether or not assets of the business or other activity are segregated from other assets held by the fiduciary.

(3) A fiduciary that accounts separately under this section for a business or other activity:

(a) may determine:

(i) the extent to which the net cash receipts of the business or other activity shall be retained for:

(A) working capital;

(B) the acquisition or replacement of fixed assets; and

(C) other reasonably foreseeable needs of the business or other activity; and

(ii) the extent that the remaining net cash receipts are accounted for as principal or income in the fiduciary's general accounting records for the trust;

(b) may make a determination under Subsection (3)(a) separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(c) shall account for the net amount received from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity, as principal in the fiduciary's general accounting records for the trust, to the extent the fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

(4) A fiduciary may account separately under this section for activities that include:

(a) retail, manufacturing, service, and other traditional business activities;

(b) farming;

(c) raising and selling livestock and other animals;

(d) managing rental properties;

(e) extracting minerals, water, and other natural resources;

(f) growing and cutting timber;

(g) an activity to which [~~Section 22-3-414, 22-3-415, or 22-3-416~~]Section 75A-5-414, 75A-5-415, or 75A-5-416 applies; and

(h) any other business conducted by the fiduciary.

Section 149. Section 75A-5-404, which is renumbered from Section 22-3-404 is renumbered and amended to read:

~~22-3-404~~. 75A-5-404. Receipts not normally apportioned -- Principal receipts.

A fiduciary shall allocate to principal:

(1) to the extent not allocated to income under this chapter, an asset received from:

(a) an individual during the individual's lifetime;

(b) an estate;

(c) a trust on termination of an income interest; or

(d) a payor under a contract naming the fiduciary as beneficiary;

(2) except as otherwise provided in this part, money or other property received from the sale, exchange, liquidation, or change in form of a principal asset;

(3) an amount recovered from a third party to reimburse the fiduciary because of a disbursement described in Subsection [~~22-3-502(1)~~] 75A-5-502(1) or for another reason to the extent not based on loss of income;

(4) proceeds of property taken by eminent domain, except that proceeds awarded for loss of income in an accounting period are income if a current income beneficiary had a mandatory income interest during the accounting period;

(5) net income received in an accounting period during which there is no beneficiary to which a fiduciary is permitted or required to distribute income; and

(6) other receipts as provided in Part 3, Unitrust.

Section 150. Section 75A-5-405, which is renumbered from Section 22-3-405 is renumbered and amended to read:

~~22-3-405~~. 75A-5-405. Receipts not normally apportioned -- Rental property.

(1) To the extent a fiduciary does not account for the management of rental property as a business under Section [~~22-3-403~~]75A-5-403, the fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease.

(2) An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods:

(a) shall be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than this chapter; and

(b) is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

Section 151. Section 75A-5-406, which is renumbered from Section 22-3-406 is renumbered and amended to read:

~~22-3-406~~. 75A-5-406. Receipts not normally apportioned -- Receipt on obligation to be paid in money.

(1) This section does not apply to an obligation to which Section [~~22-3-409, 22-3-410, 22-3-411, 22-3-412, 22-3-414, 22-3-415, or 22-3-416~~] 75A-5-409, 75A-5-410, 75A-5-411, 75A-5-412, 75A-5-414, 75A-5-415, or 75A-5-416 applies.

(2) A fiduciary shall allocate to income, without provision for amortization of premium, an amount received as interest on an obligation to pay money to the fiduciary, including an amount received as consideration for prepaying principal.

(3)(a) A fiduciary shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the fiduciary.

(b) A fiduciary shall allocate to income the increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.

Section 152. Section 75A-5-407, which is renumbered from Section 22-3-407 is renumbered and amended to read:

~~22-3-407~~. 75A-5-407. Receipts not normally apportioned -- Insurance policy or contract.

(1) This section does not apply to a contract to which Section [~~22-3-409~~]75A-5-409 applies.

(2)(a) Except as otherwise provided in Subsection (3), a fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary, including a contract that insures against damage to, destruction of, or loss of title to an asset.

(b) The fiduciary shall allocate dividends on an insurance policy:

(i) to income, to the extent premiums on the policy are paid from income; and

(ii) to principal, to the extent premiums on the policy are paid from principal.

(3) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary against loss of:

(a) occupancy or other use by a current income beneficiary;

(b) income; or

(c) subject to Section [~~22-3-403~~]75A-5-403, profits from a business.

Section 153. Section 75A-5-408, which is renumbered from Section 22-3-408 is renumbered and amended to read:

~~22-3-408~~. 75A-5-408. Receipts normally apportioned -- Insubstantial allocation not required.

(1) If a fiduciary determines that an allocation between income and principal required by Section [~~22-3-409, 22-3-410, 22-3-411, 22-3-412, or 22-3-415~~]75A-5-409, 75A-5-410, 75A-5-411, 75A-5-412, or 75A-5-415 is insubstantial, the fiduciary may allocate the entire amount to principal, unless Subsection [~~22-3-203(5)~~] 75A-5-203(5) applies to the allocation.

(2) A fiduciary may presume an allocation is insubstantial under Subsection (1) if:

(a) the amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10%; and

(b) the asset producing the receipt to be allocated has a fair market value less than 10% of the total fair market value of the assets owned or held by the fiduciary at the beginning of the accounting period.

(3) The power to make a determination under Subsection (1) may be:

(a) exercised by a co-fiduciary in the manner described in Subsection [~~22-3-203(6)~~] 75A-5-203(6); or

(b) released or delegated for a reason described in Subsection [~~22-3-203(7)~~]75A-5-203(7) and in the manner described in Subsection [~~22-3-203(8)~~]75A-5-203(8).

Section 154. Section 75A-5-409, which is renumbered from Section 22-3-409 is renumbered and amended to read:

~~22-3-409~~. 75A-5-409. Receipts normally apportioned -- Deferred compensation, annuity, or similar payment.

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

(a) "Internal income of a separate fund" means the amount determined under Subsection (2).

(b) "Marital trust" means a trust:

(i) of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(ii) that qualifies for a marital deduction with respect to the settlor's estate under Section 2056 of the Internal Revenue Code because:

(A) an election to qualify for a marital deduction under Section 2056(b)(7) of the Internal Revenue Code has been made; or

(B) the trust qualifies for a marital deduction under Section 2056(b)(5) of the Internal Revenue Code.

(c)(i) "Payment" means an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future amounts the fiduciary may receive.

(ii) "Payment" includes an amount received in money or property from the payor's general assets or from a separate fund created by the payor.

(d) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(2) For each accounting period, and for each separate fund:

(a) the fiduciary shall determine the internal income of the separate fund as if the separate fund were a trust subject to this chapter;

(b) if the fiduciary cannot determine the internal income of the separate fund under Subsection (2)(a), the internal income of the separate fund is deemed to equal 3% of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period; and

(c) if the fiduciary cannot determine the value of the separate fund under Subsection (2)(b), the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under Section 7520 of the Internal Revenue Code, for the month preceding the beginning of the accounting period for which the computation is made.

(3) A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the accounting period, and the balance to principal.

(4) The fiduciary of a marital trust shall:

(a) withdraw from a separate fund the amount the current income beneficiary of the trust requests the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the accounting period;

(b) transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the accounting period after the application of Subsection (4)(a); and

(c) distribute to the current income beneficiary as income:

(i) the amount of the internal income of the separate fund received or withdrawn during the accounting period; and

(ii) the amount transferred from principal to income under Subsection (4)(b).

(5) For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the accounting period.

Section 155. Section 75A-5-410, which is renumbered from Section 22-3-410 is renumbered and amended to read:

~~22-3-410~~. 75A-5-410. Receipts normally apportioned -- Liquidating asset.

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

(a) "Liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a limited time.

(b) "Liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance.

(2) This section does not apply to a receipt subject to Section [~~22-3-401, 22-3-409, 22-3-411, 22-3-412, 22-3-414, 22-3-415, 22-3-416, or 22-3-503~~]75A-5-401, 75A-5-409, 75A-5-411, 75A-5-412, 75A-5-414, 75A-5-415, 75A-5-416, or 75A-5-503.

(3) A fiduciary shall allocate:

(a) to income:

(i) a receipt produced by a liquidating asset, to the extent the receipt does not exceed 3% of the value of the asset; or

(ii) if the fiduciary cannot determine the value of the asset, 10% of the receipt; and

(b) to principal, the balance of the receipt.

Section 156. Section 75A-5-411, which is renumbered from Section 22-3-411 is renumbered and amended to read:

~~22-3-411~~. 75A-5-411. Receipts normally apportioned -- Minerals, water, and other natural resources.

(1) To the extent that a fiduciary does not account for a receipt from an interest in minerals, water, or other natural resources as a business under Section [~~22-3-403~~]75A-5-403, the fiduciary shall allocate the receipt:

(a) to income, to the extent received:

(i) as delay rental or annual rent on a lease;

(ii) as a factor for interest or the equivalent of interest under an agreement creating a production payment; or

(iii) on account of an interest in renewable water;

(b) to principal, if received from a production payment, to the extent that Subsection (1)(a)(ii) does not apply; or

(c) between income and principal equitably, to the extent received:

(i) on account of an interest in nonrenewable water;

(ii) as a royalty, shut-in-well payment, take-or-pay payment, or bonus; or

(iii) from a working interest or any other interest not provided for in Subsection (1)(a) or (b) or Subsection (1)(c)(i) or (ii).

(2) This section applies to an interest owned or held by a fiduciary regardless of whether a settlor was extracting minerals, water, or other natural resources before the fiduciary owned or held the interest.

(3) An allocation of a receipt under Subsection (1)(c) is presumed to be equitable if the amount allocated to principal is equal to the amount allowed by the Internal Revenue Code as a deduction for depletion of the interest.

(4)(a) If a fiduciary owns or holds an interest in minerals, water, or other natural resources before July 1, 2020, the fiduciary may allocate receipts from the interest as provided in this section or in the manner used by the fiduciary before July 1, 2020.

(b) If the fiduciary acquires an interest in minerals, water, or other natural resources on or after July 1, 2020, the fiduciary shall allocate receipts from the interest as provided in this section.

Section 157. Section 75A-5-412, which is renumbered from Section 22-3-412 is renumbered and amended to read:

~~22-3-412~~. 75A-5-412. Receipts normally apportioned -- Timber.

(1) To the extent that a fiduciary does not account for receipts from the sale of timber and related products as a business under Section [~~22-3-403~~]75A-5-403, the fiduciary shall allocate the net receipts:

(a) to income, to the extent that the amount of timber cut from the land does not exceed the rate of growth of the timber;

(b) to principal, to the extent that the amount of timber cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(c) between income and principal if the net receipts are from the lease of land used for growing and cutting timber or from a contract to cut timber from land, by determining the amount of timber cut from the land under the lease or contract and applying the rules in Subsections (1)(a) and (b); or

(d) to principal, to the extent that advance payments, bonuses, and other payments are not allocated under Subsection (1)(a), (b), or (c).

(2) In determining net receipts to be allocated under Subsection (1), a fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

(3) This section applies to land owned or held by a fiduciary regardless of whether a settlor was cutting timber from the land before the fiduciary owned or held the property.

(4)(a) If a fiduciary owns or holds an interest in land used for growing and cutting timber before July 1, 2020, the fiduciary may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the fiduciary before July 1, 2020.

(b) If the fiduciary acquires an interest in land used for growing and cutting timber on or after July 1, 2020, the fiduciary shall allocate net receipts from the sale of timber and related products as provided in this section.

Section 158. Section 75A-5-413, which is renumbered from Section 22-3-413 is renumbered and amended to read:

~~22-3-413~~. 75A-5-413. Receipts normally apportioned -- Marital deduction property not productive of income.

(1) If a trust received property for which a gift or estate tax marital deduction was allowed and the settlor's spouse holds a mandatory income interest in the trust, the spouse may require the trustee, to the extent the trust assets otherwise do not provide the spouse with sufficient income from or use of the trust assets to qualify for the deduction, to:

(a) make property productive of income;

(b) convert property to property productive of income within a reasonable time; or

(c) exercise the power to adjust under Section [~~22-3-203~~]75A-5-203.

(2) The trustee may decide which action or combination of actions in Subsection (1) to take.

Section 159. Section 75A-5-414, which is renumbered from Section 22-3-414 is renumbered and amended to read:

~~22-3-414~~. 75A-5-414. Receipts normally apportioned -- Derivative or option.

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

(a) "Derivative" means a contract, instrument, other arrangement, or combination of contracts, instruments, or other arrangements, for which the value, rights, and obligations are, in whole or in part, dependent on or derived from an underlying tangible or intangible asset, group of tangible or intangible assets, index, or occurrence of an event.

(b) "Derivative" includes stocks, fixed income securities, and financial instruments and arrangements based on indices, commodities, interest rates, weather-related events, and credit-default events.

(2) To the extent that a fiduciary does not account for a transaction in derivatives as a business under Section [~~22-3-403~~]75A-5-403, the fiduciary shall allocate:

(a) 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction to income; and

(b) the balance to principal.

(3) Subsection (4) applies if:

(a) a fiduciary:

(i) grants an option to buy property from a trust, regardless of whether the trust owns the property when the option is granted;

(ii) grants an option that permits another person to sell property to the trust; or

(iii) acquires an option to buy property for the trust or an option to sell an asset owned by the trust; and

(b) the fiduciary or other owner of the asset is required to deliver the asset if the option is exercised.

(4) If this subsection applies, the fiduciary shall allocate 10% to income and the balance to principal of the following amounts:

(a) an amount received for granting the option;

(b) an amount paid to acquire the option; and

(c) gain or loss realized on the exercise, exchange, settlement, offset, closing, or expiration of the option.

Section 160. Section 75A-5-415, which is renumbered from Section 22-3-415 is renumbered and amended to read:

~~22-3-415~~. 75A-5-415. Receipts normally apportioned -- Asset-backed security.

(1) Except as otherwise provided in Subsection (2), a fiduciary shall allocate:

(a) to income, a receipt from or related to an asset-backed security, to the extent that the payor identifies the payment as being from interest or other current return; and

(b) to principal, the balance of the receipt.

(2) If a fiduciary receives one or more payments in exchange for part or all of the fiduciary's interest in an asset-backed security, including a liquidation or redemption of the fiduciary's interest in the security, the fiduciary shall allocate:

(a) to income, 10% of receipts from the transaction and 10% of disbursements made in connection with the transaction; and

(b) to principal, the balance of the receipts and disbursements.

Section 161. Section 75A-5-416, which is renumbered from Section 22-3-416 is renumbered and amended to read:

~~22-3-416~~. 75A-5-416. Receipts normally apportioned -- Other financial instrument or arrangement.

(1) A fiduciary shall allocate receipts from or related to a financial instrument or arrangement not otherwise addressed by this chapter.

(2) The allocation must be consistent with Sections [~~22-3-414 and 22-3-415~~]75A-5-414 and 75A-5-415.

Section 162. Section 75A-5-501, which is renumbered from Section 22-3-501 is renumbered and amended to read:

~~22-3-501~~. 75A-5-501. Disbursement from income.

Part 5. Allocation of Disbursements

Subject to Section [~~22-3-504~~]75A-5-504, and except as otherwise provided in Subsection [~~22-3-601(3)(b)~~]75A-5-601(3)(b) or (c), a fiduciary shall disburse from income:

(1) one-half of:

(a) the regular compensation of the fiduciary and any person providing investment advisory, custodial, or other services to the fiduciary, to the extent income is sufficient; and

(b) an expense for an accounting, judicial or nonjudicial proceeding, or other matter that involves both income and successive interests, to the extent income is sufficient;

(2) the balance of the disbursements described in Subsection (1), to the extent a fiduciary that is an independent person determines that making those disbursements from income would be in the interests of the beneficiaries;

(3) another ordinary expense incurred in connection with administration, management, or preservation of property and distribution of income, including interest, an ordinary repair, regularly recurring tax assessed against principal, and an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily an income interest, to the extent income is sufficient; and

(4) a premium on insurance covering loss of a principal asset or income from or use of the asset.

Section 163. Section 75A-5-502, which is renumbered from Section 22-3-502 is renumbered and amended to read:

~~22-3-502~~. 75A-5-502. Disbursement from principal.

(1) Subject to Section [~~22-3-505~~]75A-5-505, and except as otherwise provided in Subsection [~~22-3-601(3)(b)~~]75A-5-601(3)(b) or (c), a fiduciary shall disburse from principal:

(a) the balance of the disbursements described in Subsections [~~22-3-501(1)~~]75A-5-501(1) and (3), after application of Subsection [~~22-3-501(2)~~]75A-5-501(2);

(b) the fiduciary's compensation calculated on principal as a fee for acceptance, distribution, or termination;

(c) a payment of an expense to prepare for or execute a sale or other disposition of property;

(d) a payment on the principal of a trust debt;

(e) a payment of an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily principal, including a proceeding to construe the terms of the trust or protect property;

(f) a payment of a premium for insurance, including title insurance, not described in Subsection [~~22-3-501(4)~~]75A-5-501(4), of which the fiduciary is the owner and beneficiary;

(g) a payment of an estate or inheritance tax or other tax imposed because of the death of a decedent, including penalties, apportioned to the trust; and

(h) a payment:

(i) related to environmental matters, including:

(A) reclamation;

(B) assessing environmental conditions;

(C) remedying and removing environmental contamination;

(D) monitoring remedial activities and the release of substances;

(E) preventing future releases of substances;

(F) collecting amounts from persons liable or potentially liable for the costs of activities described in Subsections (1)(h)(i)(A) through (E);

(G) penalties imposed under environmental laws or regulations;

(H) other actions to comply with environmental laws or regulations;

(I) statutory or common law claims by third parties; and

(J) defending claims based on environmental matters; and

(ii) for a premium for insurance for matters described in Subsection (1)(h)(i).

(2) If a principal asset is encumbered with an obligation that requires income from the asset to be paid directly to a creditor, the fiduciary shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Section 164. Section 75A-5-503, which is renumbered from Section 22-3-503 is renumbered and amended to read:

~~22-3-503~~. 75A-5-503. Transfer from income to principal for depreciation.

(1) [~~In~~]As used in this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a tangible asset having a useful life of more than one year.

(2) A fiduciary may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(a) of the part of real property used or available for use by a beneficiary as a residence;

(b) of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(c) under this section, to the extent the fiduciary accounts:

(i) under Section [~~22-3-410~~]75A-5-410 for the asset; or

(ii) under Section [~~22-3-403~~]75A-5-403 for the business or other activity in which the asset is used.

(3) An amount transferred to principal under this section need not be separately held.

Section 165. Section 75A-5-504, which is renumbered from Section 22-3-504 is renumbered and amended to read:

~~22-3-504~~. 75A-5-504. Reimbursement of income from principal.

(1) If a fiduciary makes or expects to make an income disbursement described in Subsection (2), the fiduciary may transfer an appropriate amount from principal to income in one or more accounting periods to reimburse income.

(2) To the extent the fiduciary has not been and does not expect to be reimbursed by a third party, income disbursements to which Subsection (1) applies include:

(a) an amount chargeable to principal but paid from income because principal is illiquid;

(b) a disbursement made to prepare property for sale, including improvements and commissions; and

(c) a disbursement described in Subsection [~~22-3-502(1)~~]75A-5-502(1).

(3) If an asset whose ownership gives rise to an income disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under Subsection (1).

Section 166. Section 75A-5-505, which is renumbered from Section 22-3-505 is renumbered and amended to read:

~~22-3-505~~. 75A-5-505. Reimbursement of principal from income.

(1) If a fiduciary makes or expects to make a principal disbursement described in Subsection (2), the fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or provide a reserve for future principal disbursements.

(2) To the extent that a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which Subsection (1) applies include:

(a) an amount chargeable to income but paid from principal because income is not sufficient;

(b) the cost of an improvement to principal, regardless of whether the improvement is a change to an existing asset or the construction of a new asset, including a special assessment;

(c) a disbursement made to prepare property for rental, including tenant allowances, leasehold improvements, and commissions;

(d) a periodic payment on an obligation secured by a principal asset, to the extent that the amount transferred from income to principal for depreciation is less than the periodic payment; and

(e) a disbursement described in Subsection [~~22-3-502(1)~~]75A-5-502(1).

(3) If an asset whose ownership gives rise to a principal disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under Subsection (1).

Section 167. Section 75A-5-506, which is renumbered from Section 22-3-506 is renumbered and amended to read:

~~22-3-506~~. 75A-5-506. Income taxes.

(1) A tax required to be paid by a fiduciary that is based on receipts allocated to income shall be paid from income.

(2) A tax required to be paid by a fiduciary that is based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(3) Subject to Subsection (4) and Sections [~~22-3-504, 22-3-505, and 22-3-507~~]75A-5-504, 75A-5-505, and 75A-5-507, a tax required to be paid by a fiduciary on a share of an entity's taxable income in an accounting period shall be paid from:

(a) income and principal proportionately to the allocation between income and principal of receipts from the entity in the period; and

(b) principal, to the extent that the tax exceeds the receipts from the entity in the accounting period.

(4) After applying Subsections (1) through (3), a fiduciary shall adjust income or principal receipts, to the extent that the taxes the fiduciary pays are reduced because of a deduction for a payment made to a beneficiary.

Section 168. Section 75A-5-507, which is renumbered from Section 22-3-507 is renumbered and amended to read:

~~22-3-507~~. 75A-5-507. Adjustment between income and principal because of taxes.

(1) A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries that arises from:

(a) an election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction to which Subsection (2) applies;

(b) an income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or

(c) ownership by the fiduciary of an interest in an entity, a part of whose taxable income, regardless of whether the taxable income is distributed, is includable in the taxable income of the fiduciary or a beneficiary.

(2)(a) If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting the amount for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which the increase in estate tax is paid.

(b) The total reimbursement must equal the increase in the estate tax, to the extent that the principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment.

(c) The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced shall be the same as the fiduciary's or beneficiary's share of the total decrease in income tax.

(3) A fiduciary that charges a beneficiary under Subsection (2) may offset the charge by obtaining

payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

Section 169. Section 75A-5-601, which is renumbered from Section 22-3-601 is renumbered and amended to read:

~~22-3-601~~. 75A-5-601. Determination and distribution of net income.

Part 6. Death of Individual or Termination of Income Interest

(1) This section applies when:

(a) the death of an individual results in the creation of an estate or trust; or

(b) an income interest in a trust terminates, regardless of whether the trust continues or is distributed.

(2) A fiduciary of an estate or trust with an income interest that terminates shall:

(a) determine, in accordance with Subsection (8) and Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, the amount of net income and net principal receipts received from property specifically given to a beneficiary; and

(b) distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(3) Subject to Subsection (4), a fiduciary shall determine the income and net income of an estate or income interest in a trust that terminates, other than the amount of net income determined in accordance with Subsection (2), and in accordance with Part 4, Allocation of Receipts, Part 5, Allocation of Disbursements, and Part 7, Apportionment at Beginning and End of Income Interest, and by:

(a) including in net income all income from property used or sold to discharge liabilities;

(b) paying from income or principal, in the fiduciary's discretion:

(i) fees of attorneys, accountants, and fiduciaries;

(ii) court costs and other expenses of administration;

(iii) interest on estate taxes, inheritance taxes, and other taxes imposed because of the decedent's death; and

(c) paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(i) to the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family allowances, estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(ii) related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or income interest that terminates.

(4) A fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(a) the payment of the expenses from income will not cause the reduction or loss of the deduction; or

(b) the fiduciary makes an adjustment under Subsection [~~22-3-507(2)~~]75A-5-507(2).

(5) If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under Subsection (3) or from principal to the extent that net income is insufficient.

(6) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(7) A fiduciary shall distribute net income remaining after payments required by Subsections (5) and (6) in the manner described in Section [~~22-3-602~~]75A-5-602 to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(8)(a) A fiduciary may not reduce principal or income receipts from property described in Subsection (2) because of a payment described in Section [~~22-3-501 or 22-3-502~~]75A-5-501 or 75A-5-502, to the extent the decedent's will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent the fiduciary recovers or expects to recover the payment from a third party.

(b) The net income and principal receipts from the property shall be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on, or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

Section 170. Section 75A-5-602, which is renumbered from Section 22-3-602 is renumbered and amended to read:

~~22-3-602~~. 75A-5-602. Distribution to successor beneficiary.

(1)(a) Except to the extent Part 3, Unitrust, applies for a beneficiary that is a trust, each beneficiary described in Subsection [~~22-3-601(6)~~] 75A-5-601(6) is entitled to receive a share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values of the undistributed principal assets as of the distribution date.

(b) If a fiduciary makes more than one distribution of assets to beneficiaries to which this section applies, each beneficiary, including a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary received after the decedent's death, an income interest's other terminating event, or the preceding distribution by the fiduciary.

(2) In determining a beneficiary's share of net income under Subsection (1):

(a) the beneficiary is entitled to receive a share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date;

(b) the beneficiary's fractional interest under Subsection (2)(a) shall be calculated:

(i) on the aggregate value of the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(ii) without regard to:

(A) property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

(B) property required to pay pecuniary amounts not in trust; and

(c) the distribution date under Subsection (2)(a) may be the date on which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are distributed.

(3) To the extent that a fiduciary does not distribute under this section all the collected but undistributed net income to each beneficiary on or before a distribution date, the fiduciary shall maintain records showing the interest of each beneficiary in the net income.

(4) If this section applies to income from an asset, a fiduciary may apply Subsection (2) to net gain or loss realized from the disposition of the asset after the decedent's death, an income interest's terminating event, or the preceding distribution by the fiduciary.

Section 171. Section 75A-5-701, which is renumbered from Section 22-3-701 is renumbered and amended to read:

~~22-3-701~~. 75A-5-701. When right to income begins and ends.

Part 7. Apportionment at Beginning and End of Income Interest

(1)(a) An income beneficiary is entitled to net income in accordance with the terms of the trust from the date on which an income interest begins.

(b) The income interest begins on the date that is specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to:

(i) the trust for the current income beneficiary; or

(ii) a successive interest for a successor beneficiary.

(2) An asset becomes subject to a trust under Subsection (1)(b)(i):

(a) for an asset that is transferred to the trust during the settlor's life, on the date the asset is transferred;

(b) for an asset that becomes subject to the trust because of a decedent's death, on the date of the decedent's death, even if there is an intervening period of administration of the decedent's estate; or

(c) for an asset that is transferred to a fiduciary by a third party because of a decedent's death, on the date of the decedent's death.

(3) An asset becomes subject to a successive interest under Subsection (1)(b)(ii) on the day after the preceding income interest ends, as determined under Subsection (4), even if there is an intervening period of administration to wind up the preceding income interest.

(4) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to which a fiduciary is permitted or required to distribute income.

Section 172. Section 75A-5-702, which is renumbered from Section 22-3-702 is renumbered and amended to read:

~~22-3-702~~. 75A-5-702. Apportionment of receipts and disbursements when decedent dies or income interest begins.

(1) A fiduciary shall allocate an income receipt or disbursement, other than a receipt to which Subsection [~~22-3-601(2)~~]75A-5-601(2) applies, to principal if the due date of the income receipt or disbursement occurs before the date on which:

(a) for an estate, the decedent died; or

(b) for a trust or successive interest, an income interest begins.

(2) If the due date of a periodic income receipt or disbursement occurs on or after the date on which a decedent died or an income interest begins, a fiduciary shall allocate the receipt or disbursement to income.

(3) If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall:

(a) treat the receipt or disbursement under this section as accruing from day to day; and

(b) allocate:

(i) to principal, the portion of the receipt or disbursement accruing before the date on which a decedent died or an income interest begins; and

(ii) to income, the balance.

(4) A receipt or disbursement is periodic under Subsections (2) and (3) if:

(a) the receipt or disbursement shall be paid at regular intervals under an obligation to make payments; or

(b) the payor customarily makes payments at regular intervals.

(5)(a) An item of income or obligation is due under this section on the date on which the payor is required to make a payment.

(b) If a payment date is not stated, there is no due date.

(6) Distributions to shareholders or other owners from an entity to which Section [~~22-3-401~~] 75A-5-401 applies are due:

(a) on the date fixed by or on behalf of the entity for determining the persons entitled to receive the distribution;

(b) if no date is fixed, on the date of the decision by or on behalf of the entity to make the distribution; or

(c) if no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

Section 173. Section 75A-5-703, which is renumbered from Section 22-3-703 is renumbered and amended to read:

~~22-3-703~~. 75A-5-703. Apportionment when income interest ends.

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

(a) "Undistributed income" means net income received on or before the date on which an income interest ends.

(b) "Undistributed income" does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added, to principal under the terms of the trust.

(2) Except as otherwise provided in Subsection (3), when a mandatory income interest of a beneficiary ends, the fiduciary shall pay the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust to the beneficiary or, if the beneficiary does not survive the date that the interest ends, to the beneficiary's estate.

(3) If a beneficiary has an unqualified power to withdraw more than 5% of the value of a trust immediately before an income interest ends:

(a) the fiduciary shall allocate to principal the undistributed income from the portion of the trust that may be withdrawn; and

(b) Subsection (2) applies only to the balance of the undistributed income.

(4) When a fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of assets ends, the fiduciary shall prorate the final payment as required to preserve an income tax, gift tax, estate tax, or other tax benefit.

Section 174. Section 75A-5-801, which is renumbered from Section 22-3-801 is renumbered and amended to read:

~~22-3-801~~. 75A-5-801. Uniformity of application and construction.

Part 8. Applicability Provisions

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to the uniform act's subject matter among states that enact [~~it~~]this uniform law.

Section 175. Section 75A-5-802, which is renumbered from Section 22-3-802 is renumbered and amended to read:

~~22-3-802~~. 75A-5-802. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 176. Section 75A-5-803, which is renumbered from Section 22-3-803 is renumbered and amended to read:

~~22-3-803~~. 75A-5-803. Application to trust or estate.

This chapter applies to a trust or estate existing or created on or after July 1, 2020, except as otherwise expressly provided in the terms of the trust or this chapter.

Section 177. Section 75A-5-804, which is renumbered from Section 22-3-804 is renumbered and amended to read:

~~22-3-804~~. 75A-5-804. Severability.

If any provision of this chapter or the application of this chapter to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section 178. Section 75A-6-101 is enacted to read:

75A-6-101. Reserved.

CHAPTER 6. UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

Reserved.

Section 179. Section 75A-6-102, which is renumbered from Section 75-11-102 is renumbered and amended to read:

~~75-11-102~~. 75A-6-102. Definitions for chapter.

As used in this chapter:

(1) "Account" means an arrangement under a terms of service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

(2) "Agent" means an attorney in fact granted authority under a durable or nondurable power of attorney.

(3) "Carries" means engages in the transmission of an electronic communication.

(4) "Catalogue of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

(5)(a) "Conservator" means a person appointed by a court to manage the estate of a living individual.

(b) "Conservator" includes a limited conservator.

(6) "Content of an electronic communication" means information concerning the substance or meaning of the communication that:

(a) has been sent or received by a user;

(b) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(c) is not readily accessible to the public.

(7) "Court" means the district court.

(8) "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

(9) "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

(10)(a) "Digital asset" means an electronic record in which an individual has a right or interest.

(b) "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

(11) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) "Electronic communication" has the same meaning as the definition in 18 U.S.C. Sec. 2510(12).

(13) "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

(14) "Estate" means the same as that term is defined in Section 75-1-201.

[~~(14)~~](15) "Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

[~~(15)~~](16)(a) "Guardian" means a person appointed by a court to manage the affairs of a living individual.

(b) "Guardian" includes a limited guardian.

[~~(16)~~](17) "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or the like.

[~~(17)~~](18) "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms of service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

[~~(18)~~](19) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity.

[~~(19)~~](20) "Personal representative" means an executor, administrator, special administrator as defined in Section 75-1-201, or person that performs substantially the same function under the law of this state other than this chapter.

[~~(20)~~](21) "Power of attorney" means a record that grants an agent authority to act in the place of a principal.

[~~(21)~~](22) "Principal" means an individual who grants authority to an agent in a power of attorney.

[~~(22)~~](23)(a) "Protected person" means an individual for whom a conservator or guardian has been appointed.

(b) "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

[~~(23)~~](24) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[~~(24)~~](25) "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. Sec. 2510(14).

(26) "Successor personal representative" means the same as that term is defined in Section 75-1-201.

[~~(25)~~](27) "Terms of service agreement" means an agreement that controls the relationship between a user and a custodian.

(28) "Trust" means the same as that term is defined in Section 75-1-201.

[~~(26)~~](29)(a) "Trustee" means a fiduciary with legal title to property pursuant to an agreement or declaration that creates a beneficial interest in another.

(b) "Trustee" includes a successor trustee.

[~~(27)~~](30) "User" means a person that has an account with a custodian.

[~~(28)~~](31) "Will" includes a codicil, a testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

Section 180. Section 75A-6-103, which is renumbered from Section 75-11-103 is renumbered and amended to read:

~~75-11-103~~. 75A-6-103. Applicability.

(1) This chapter applies to:

(a) a fiduciary or agent acting under a will or power of attorney executed before, on, or after May 9, 2017;

(b) a personal representative acting for a decedent who died before, on, or after May 9, 2017;

(c) a conservatorship or guardianship proceeding commenced before, on, or after May 9, 2017; and

(d) a trustee acting under a trust created before, on, or after May 9, 2017.

(2) This chapter applies to a custodian if the user resides in this state or resided in this state at the time of the user's death.

(3) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

Section 181. Section 75A-6-104, which is renumbered from Section 75-11-104 is renumbered and amended to read:

~~75-11-104~~. 75A-6-104. User direction for disclosure of digital assets.

(1) A user may use an online tool to direct the custodian to disclose or not to disclose to a designated recipient some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(2) If a user has not used an online tool to give direction under Subsection (1) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(3) A user's direction under Subsection (1) or (2) overrides a contrary provision in a terms of service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

Section 182. Section 75A-6-105, which is renumbered from Section 75-11-105 is renumbered and amended to read:

~~75-11-105~~. 75A-6-105. Terms of service agreement.

(1) This chapter does not change or impair a right of a custodian or a user under a terms of service agreement to access and use digital assets of the user.

(2) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(3) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms of service agreement if the user has not provided direction under Section [~~75-11-104~~]75A-6-104.

Section 183. Section 75A-6-106, which is renumbered from Section 75-11-106 is renumbered and amended to read:

~~75-11-106~~. 75A-6-106. Procedure for disclosing digital assets.

(1) When disclosing digital assets of a user under this chapter, the custodian may at the custodian's sole discretion:

(a) grant a fiduciary or designated recipient full access to the user's account;

(b) grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(c) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(2) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(3) A custodian need not disclose under this chapter a digital asset deleted by a user.

(4) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

(a) a subset limited by date of the user's digital assets;

(b) all of the user's digital assets to the fiduciary or designated recipient;

(c) none of the user's digital assets; or

(d) all of the user's digital assets to the court for review in camera.

Section 184. Section 75A-6-107, which is renumbered from Section 75-11-107 is renumbered and amended to read:

~~75-11-107~~. 75A-6-107. Disclosure of content of electronic communications of deceased user.

If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the death certificate of the user;

(3) a certified copy of the letter of appointment of the representative or a small estate affidavit or court order;

(4) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) evidence linking the account to the user; or

(c) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in Subsection (5)(a);

(ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Sec. 2701 et seq., 47 U.S.C. Sec. 222, or other applicable law;

(iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

Section 185. Section 75A-6-108, which is renumbered from Section 75-11-108 is renumbered and amended to read:

~~75-11-108~~. 75A-6-108. Disclosure of other digital assets of deceased user.

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalogue of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the death certificate of the user;

(3) a certified copy of the letter of appointment of the representative, a small estate affidavit, or court order; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(b) evidence linking the account to the user;

(c) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(d) a finding by the court that:

(i) the user had a specific account with the custodian, identifiable by the information specified in Subsection (4)(a); or

(ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

Section 186. Section 75A-6-109, which is renumbered from Section 75-11-109 is renumbered and amended to read:

~~75-11-109~~. 75A-6-109. Disclosure of content of electronic communications of principal.

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) evidence linking the account to the principal.

Section 187. Section 75A-6-110, which is renumbered from Section 75-11-110 is renumbered and amended to read:

~~75-11-110~~. 75A-6-110. Disclosure of other digital assets of principal.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets, or general authority to act on behalf of a principal, a catalogue of electronic

communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(b) evidence linking the account to the principal.

Section 188. Section 75A-6-111, which is renumbered from Section 75-11-111 is renumbered and amended to read:

~~75-11-111~~. 75A-6-111. Disclosure of digital assets held in trust when trustee is original user.

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalogue of electronic communications of the trustee and the content of electronic communications.

Section 189. Section 75A-6-112, which is renumbered from Section 75-11-112 is renumbered and amended to read:

~~75-11-112~~. 75A-6-112. Disclosure of contents of electronic communications held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under Section 75-7-1013 that includes consent to disclosure of the content of electronic communications to the trustee;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) evidence linking the account to the trust.

Section 190. Section 75A-6-113, which is renumbered from Section 75-11-113 is renumbered and amended to read:

~~75-11-113~~. 75A-6-113. Disclosure of other digital assets held in trust when trustee not original user.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalogue of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under Section 75-7-1013;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(a) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(b) evidence linking the account to the trust.

Section 191. Section 75A-6-114, which is renumbered from Section 75-11-114 is renumbered and amended to read:

~~75-11-114~~. 75A-6-114. Disclosure of digital assets to conservator or guardian of protected person.

(1) After an opportunity for a hearing under Chapter 5, Protection of Persons Under Disability and Their Property, the court may grant a conservator or guardian access to the digital assets of a protected person.

(2) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator or guardian the catalogue of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator or guardian gives the custodian:

(a) a written request for disclosure in physical or electronic form;

(b) a certified copy of the court order that gives the conservator or guardian authority over the digital assets of the protected person; and

(c) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(ii) evidence linking the account to the protected person.

(3) A conservator or guardian with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator or guardian authority over the protected person's property.

Section 192. Section 75A-6-115, which is renumbered from Section 75-11-115 is renumbered and amended to read:

~~75-11-115.~~ 75A-6-115. Fiduciary duty and authority.

(1) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

(a) the duty of care;

(b) the duty of loyalty; and

(c) the duty of confidentiality.

(2) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

(a) except as otherwise provided in Section [~~75-11-104~~]75A-6-104, is subject to the applicable terms of service;

(b) is subject to other applicable law, including copyright law;

(c) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

(d) may not be used to impersonate the user.

(3) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms of service agreement.

(4) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws.

(5) A fiduciary with authority over the tangible, personal property of a decedent, protected person, principal, or settlor:

(a) has the right to access the property and any digital asset stored in it; and

(b) is an authorized user for the purpose of computer fraud and unauthorized computer access laws.

(6) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(7) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination shall be in writing, in either physical or electronic form, and accompanied by:

(a) if the user is deceased, a certified copy of the death certificate of the user;

(b) a certified copy of the letter of appointment of the representative, a small estate affidavit, or court order, power of attorney, or trust giving the fiduciary authority over the account; and

(c) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) evidence linking the account to the user; or

(iii) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in Subsection (7)(c)(i).

Section 193. Section 75A-6-116, which is renumbered from Section 75-11-116 is renumbered and amended to read:

~~75-11-116.~~ 75A-6-116. Custodian compliance and immunity.

(1) Not later than 60 days after receipt of the information required under Sections [~~75-11-107 through 75-11-115~~]75A-6-107 through 75A-6-115, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(2) An order under Subsection (1) directing compliance shall contain a finding that compliance is not in violation of 18 U.S.C. Sec. 2702.

(3) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(4) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(5) This chapter does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order that:

(a) specifies that an account belongs to the protected person or principal;

(b) specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

(c) contains a finding required by law other than this chapter.

(6) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

Section 194. Section 75A-6-117, which is renumbered from Section 75-11-117 is renumbered and amended to read:

~~75-11-117~~. 75A-6-117. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact [~~it~~]this uniform law.

Section 195. Section 75A-6-118, which is renumbered from Section 75-11-118 is renumbered and amended to read:

~~75-11-118~~. 75A-6-118. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act or 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act or 15 U.S.C. Sec. 7003(b).

Section 196. Section 75A-7-101 is enacted to read:

75A-7-101. Reserved.

CHAPTER 7. UNIFORM ACT FOR SIMPLIFICATION OF FIDUCIARY SECURITY TRANSFERS

Reserved.

Section 197. Section 75A-7-102, which is renumbered from Section 22-5-2 is renumbered and amended to read:

~~22-5-2~~. 75A-7-102. Definitions for chapter.

[~~In~~]As used in this chapter[~~, unless the context otherwise requires~~]:

(1) "Assignment" includes any written stock power, bond power, bill of sale, deed, declaration of trust or other instrument of transfer.

(2) "Claim of beneficial interest" includes:

(a) a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of any similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person in his behalf[~~, and includes~~]; and

(b) a claim that the transfer would be in breach of fiduciary duties.

(3) "Corporation" means a private or public corporation, association or trust issuing a security.

(4) "Fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian or nominee.

(5) "Person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(6) "Security" includes any share of stock, bond, debenture, note or other security issued by a corporation which is registered as to ownership on the books of the corporation.

(7) "Transfer" means a change on the books of a corporation in the registered ownership of a security.

(8) "Transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

Section 198. Section 75A-7-103, which is renumbered from Section 22-5-3 is renumbered and amended to read:

~~22-5-3~~. 75A-7-103. Registration of security in the name of a fiduciary.

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer agent receives written notice that the fiduciary is no longer acting as such with respect to the particular security.

Section 199. Section 75A-7-104, which is renumbered from Section 22-5-4 is renumbered and amended to read:

~~22-5-4~~. 75A-7-104. Assignment of security by a fiduciary.

Except as otherwise provided in this chapter, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

(1) may assume without inquiry that the assignment, even though to the fiduciary himself or to his nominee, is within his authority and capacity and is not in breach of his fiduciary duties;

(2) may assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(3) is not charged with notice of and is not bound to obtain or examine any court record or any recorded or unrecorded document relating to the fiduciary relationship or the assignment, even though the record or document is in its possession.

Section 200. Section 75A-7-105, which is renumbered from Section 22-5-5 is renumbered and amended to read:

~~22-5-5~~. 75A-7-105. Assignment of security by a fiduciary -- Evidence of appointment or incumbency.

(1) A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall obtain the following evidence of appointment or incumbency:

[~~(1)~~](a) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of that court or an officer thereof and dated within 60 days before the transfer; or

[~~(2)~~](b) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate.

(2) Corporations and transfer agents may adopt standards with respect to evidence of appointment or incumbency under this subsection provided such standards are not manifestly unreasonable.

(3) Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to this subsection except to the extent that the contents relate directly to the appointment or incumbency.

Section 201. Section 75A-7-106, which is renumbered from Section 22-5-6 is renumbered and amended to read:

~~22-5-6.~~ 75A-7-106. Adverse claims to transfer of security by a fiduciary -- Notice.

(1)(a) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may give the corporation or transfer agent written notice of the claim.

(b) The corporation or transfer agent is not put on notice unless the written notice identifies the claimant, the registered owner and the issue of which the security is a part, provides an address for communications directed to the claimant and is received before the transfer.

(c) Nothing in this [~~act~~]chapter relieves the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized in Subsection (2).

(2)(a) As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by him.

(b) If the corporation or transfer agent so mails such a notice it shall withhold the transfer for 30 days after the mailing and shall then make the transfer unless restrained by a court order.

Section 202. Section 75A-7-107, which is renumbered from Section 22-5-7 is renumbered and amended to read:

~~22-5-7.~~ 75A-7-107. Nonliability of corporation or transfer agent.

A corporation or transfer agent incurs no liability to any person by making a transfer or otherwise acting in a manner authorized by this [~~act~~]chapter.

Section 203. Section 75A-7-108, which is renumbered from Section 22-5-8 is renumbered and amended to read:

~~22-5-8.~~ 75A-7-108. Nonliability of third persons.

(1) [~~No~~]A person who participates in the acquisition, disposition, assignment or transfer of a security by or to a fiduciary, including a person who guarantees the signature of the fiduciary, is not liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that [~~he~~]the person acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

(2) If a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent by reason of this [~~act~~]chapter incurs no liability.

(3) This section does not impose any liability upon the corporation or [~~its~~]the corporation's transfer agent.

Section 204. Section 75A-7-109, which is renumbered from Section 22-5-9 is renumbered and amended to read:

~~22-5-9.~~ 75A-7-109. Territorial application of law to rights and duties of corporation or third persons.

(1) The rights and duties of a corporation and [~~its~~]the corporation's transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

(2) This chapter applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in this state in connection with the acquisition, disposition, assignment, or transfer of a security by or to a fiduciary and of a person who guarantees in this state the signature of a fiduciary in connection with such a transaction.

Section 205. Section 75A-7-110, which is renumbered from Section 22-5-10 is renumbered and amended to read:

~~22-5-10.~~ 75A-7-110. Tax obligations not affected .

This [~~act~~]chapter does not affect any obligation of a corporation or transfer agent with respect to

estate, inheritance, succession or other taxes imposed by the laws of this state.

Section 206. Section 75A-7-111, which is renumbered from Section 22-5-11 is renumbered and amended to read:

~~22-5-11~~. 75A-7-111. Construction.

This [~~act~~]uniform act shall be so construed as to effectuate [~~its~~]the act's general purpose to make uniform the law of those states which enact [~~it~~]this uniform act.

Section 207. Section 75A-8-101 is enacted to read:

75A-8-101. Reserved.

CHAPTER 8. UNIFORM TRANSFERS TO MINORS ACT

Reserved.

Section 208. Section 75A-8-102, which is renumbered from Section 75-5a-102 is renumbered and amended to read:

~~75-5a-102~~. 75A-8-102. Definitions for chapter.

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

(1) "Adult" means an individual who is 21 years [~~of age~~]old or older.

(2) "Beneficiary" means the same as that term is defined in Section 75-1-201.

[~~(2)~~](3) "Benefit plan" means an employer's plan for the benefit of an employee or partner.

[~~(3)~~](4) "Broker" means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the accounts of others.

[~~(4)~~](5) "Conservator" means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions.

[~~(5)~~](6) "Court" means the [~~probate division of the district court for the~~]court in the county in which the custodian resides.

[~~(6)~~](7) "Custodial property" means:

(a) any interest in property transferred to a custodian under this [~~part~~]chapter; and

(b) the income from and proceeds of that interest in property.

[~~(7)~~](8) "Custodian" means a person so designated under Section [~~75-5a-110~~]75A-8-110 or a successor or substitute custodian designated under Section [~~75-5a-119~~]75A-8-119.

(9) "Estate" means the same as that term is defined in Section 75-1-201.

(10) "Fiduciary" means the same as that term is defined in Section 75-1-201.

[~~(8)~~](11) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(12) "Guardian" means the same as that term is defined in Section 75-1-201.

(13) "Incapacitated" means the same as that term is defined in Section 75-1-201.

(14) "Incapacity" means the same as that term is defined in Section 75-1-201.

(15) "Interested person" means the same as that term is defined in Section 75-1-201.

[~~(9)~~](16) "Legal representative" means an individual's personal representative or conservator.

[~~(10)~~](17) "Member of the minor's family" means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption.

[~~(11)~~](18) "Minor" means an individual who is [~~not yet 21 years of age~~]under 21 years old.

(19) "Parent" means the same as that term is defined in Section 75-1-201.

(20) "Payor" means the same as that term is defined in Section 75-1-201.

[~~(12)~~](21) "Person" means an individual, corporation, organization as defined in Section 75-1-201, or other legal entity.

[~~(13)~~](22) "Personal representative" means an executor, administrator, successor personal representative as defined in Section 75-1-201, or special administrator as defined in Section 75-1-201, of a decedent's estate or a person legally authorized to perform substantially the same functions.

(23) "Petition" means the same as that term is defined in Section 75-1-201.

(24) "Property" means the same as that term is defined in Section 75-1-201.

(25) "Record" means the same as that term is defined in Section 75-1-201.

(26) "Security" means the same as that term is defined in Section 75-1-201.

[~~(14)~~](27) "State" includes any state of the United States, the district of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(28) "Testator" means the same as that term is defined in Section 75-1-201.

[~~(15)~~](29) "Transfer" means a transaction that creates custodial property under Section [~~75-5a-110~~]75A-8-109.

[~~(16)~~](30) "Transferor" means a person who makes a transfer under this [~~part~~]chapter.

(31) "Trust" means the same as that term is defined in Section 75-1-201.

[~~(17)~~](32) "Trust company" means a financial institution, corporation, or other legal entity, authorized to exercise general trust powers.

(33) "Trustee" means the same as that term is defined in Section 75-1-201.

(34) "Will" means the same as that term is defined in Section 75-1-201.

Section 209. Section 75A-8-103, which is renumbered from Section 75-5a-103 is renumbered and amended to read:

~~75-5a-103~~. 75A-8-103. Scope and jurisdiction.

(1)(a) This [~~part~~]chapter applies to a transfer that refers to this [~~part~~]chapter in the designation under Subsection [~~75-5a-110(1)~~]75A-8-110(1) by which the transfer is made if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state, or the custodial property is located in this state.

(b) The custodianship created remains subject to this [~~part~~]chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this [~~part~~]chapter is subject to personal jurisdiction in this state regarding any matter relating to the custodianship.

(3) A transfer that purports to be made and is valid under the Uniform Transfers to Minors Act, the Uniform Gifts to Minors Act, or a substantially similar act of another state is governed by the laws of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state, or the custodial property is located in the designated state.

Section 210. Section 75A-8-104, which is renumbered from Section 75-5a-104 is renumbered and amended to read:

~~75-5a-104~~. 75A-8-104. Nomination of custodian.

(1)(a) A person having the right to designate the recipient of property transferable upon the occurrence of a future event may revocably nominate a custodian to receive the property for a minor beneficiary upon the occurrence of the event by naming the custodian followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act."

(b) The nomination may name one or more persons as substitute custodians to whom the property must be transferred, in the order named, if the first nominated custodian dies before the transfer or is unable, declines, or is ineligible to serve.

(c) The nomination may be made in a will, a trust, a deed, an instrument exercising a power of appointment, or in a writing designating a beneficiary of contractual rights which is registered with or delivered to the payor, issuer, or other obligor of the contractual rights.

(2) A custodian nominated under this section must be a person to whom a transfer of property of that kind may be made under Subsection [~~75-5a-110(1)~~]75A-8-110(1).

(3)(a) The nomination of a custodian under this section does not create custodial property until the nominating instrument becomes irrevocable or a transfer to the nominated custodian is completed under Section [~~75-5a-110~~]75A-8-110.

(b) Unless the nomination of a custodian has been revoked, upon the occurrence of the future event the custodianship becomes effective and the custodian shall enforce a transfer of the custodial property under Section [~~75-5a-110~~]75A-8-110.

Section 211. Section 75A-8-105, which is renumbered from Section 75-5a-105 is renumbered and amended to read:

~~75-5a-105~~. 75A-8-105. Transfer by gift or exercise of power of appointment.

A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor under Section [~~75-5a-110~~]75A-8-110.

Section 212. Section 75A-8-106, which is renumbered from Section 75-5a-106 is renumbered and amended to read:

~~75-5a-106~~. 75A-8-106. Transfer authorized by will or trust.

(1) A personal representative or trustee may make an irrevocable transfer under Section [~~75-5a-110~~]75A-8-110 to a custodian for the benefit of a minor as authorized in the governing will or trust.

(2) If the testator or settlor has nominated a custodian under Section [~~75-5a-104~~]75A-8-104 to receive the custodial property, the transfer must be made to that person.

(3) If the testator or settlor has not nominated a custodian under Section [~~75-5a-104~~]75A-8-104, or all persons nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, the personal representative or the trustee, as the case may be, shall designate the custodian from among those eligible to serve as custodian for property of that kind under Subsection [~~75-5a-110(1)~~]75A-8-110(1).

Section 213. Section 75A-8-107, which is renumbered from Section 75-5a-107 is renumbered and amended to read:

~~75-5a-107~~. 75A-8-107. Other transfer by fiduciary.

(1) Subject to Subsection (3), a personal representative or trustee may make an irrevocable transfer to another adult or trust company as custodian for the benefit of a minor under Section [~~75-5a-110~~]75A-8-110, in the absence of a will or under a will or trust that does not contain an authorization to do so.

(2) Subject to Subsection (3), a conservator may make an irrevocable transfer to another adult or trust company as custodian for the benefit of the minor pursuant to Section [~~75-5a-110~~]75A-8-110.

(3) A transfer under Subsection [~~75-5a-110(1)~~]75A-8-110(1) or (2) may be made only if:

(a) the personal representative, trustee, or conservator considers the transfer to be in the best interest of the minor;

(b) the transfer is not prohibited by or inconsistent with provisions of the applicable will, trust agreement, or other governing instrument, as defined in Section 75-1-201; and

(c) the transfer is authorized by the court, if it exceeds $10,000 in value.

Section 214. Section 75A-8-108, which is renumbered from Section 75-5a-108 is renumbered and amended to read:

~~75-5a-108~~. 75A-8-108. Transfer by obligor.

(1) Subject to Subsections (2) and (3), a person not subject to Section [~~75-5a-106 or 75-5a-107~~]75A-8-106 or 75A-8-107 who holds property of or owes a liquidated debt to a minor not having a conservator, may make an irrevocable transfer to a custodian for the benefit of the minor under Section [~~75-5a-110~~]75A-8-110.

(2) If a person having the right under Section [~~75-5a-104~~]75A-8-104 has nominated a custodian under that section to receive the custodial property, the transfer must be made to that person.

(3) If no custodian has been nominated under Section [~~75-5a-104~~]75A-8-104, or all persons nominated as custodian die before the transfer or are unable, decline, or are ineligible to serve, a transfer under this section may be made to an adult member of the minor's family or to a trust company unless the property exceeds $10,000 in value.

Section 215. Section 75A-8-109, which is renumbered from Section 75-5a-109 is renumbered and amended to read:

~~75-5a-109~~. 75A-8-109. Receipt for custodial property.

A written acknowledgment of delivery by a custodian is sufficient receipt and discharge for custodial property transferred to the custodian under this [~~part~~]chapter.

Section 216. Section 75A-8-110, which is renumbered from Section 75-5a-110 is renumbered and amended to read:

~~75-5a-110~~. 75A-8-110. Manner of creating custodial property and effecting transfer -- Designation of initial custodian -- Control.

(1) Custodial property is created and a transfer is made when:

(a) an uncertificated security or a certificated security in registered form is either:

(i) registered in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered if in certificated form, or any document necessary for the transfer of an uncertificated security is delivered, together with any necessary endorsement, to an adult other than the transferor or to a trust company as custodian, accompanied by an instrument in substantially the form in Subsection (2);

(b) money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred to a broker, or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(c) the ownership of a life or endowment insurance policy or annuity contract is either:

(i) registered with the issuer in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) assigned in a writing delivered to an adult other than the transferor or to a trust company whose name in the assignment is followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(d) an irrevocable exercise of a power of appointment or an irrevocable present right to future payment under a contract is the subject of a written notification delivered to the payor, issuer, or other obligor that the right is transferred to the transferor, an adult other than the transferor, or a trust company, whose name in the notification is followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(e) an interest in real property is recorded in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act";

(f) a certificate of title issued by a department or agency of a state or of the United States which evidences title to tangible personal property is either:

(i) issued in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act"; or

(ii) delivered to an adult other than the transferor or to a trust company, endorsed to that person followed in substance by the words: "as custodian

for ..... (name of minor) under the Uniform Transfers to Minors Act";

(g) an interest in any property not described in Subsections (1)(a) through (f) is transferred to an adult other than the transferor or to a trust company by a written instrument in substantially the form set forth in Subsection (2); or

(h) contributions are made into a custodial account at the Utah Educational Savings Plan in accordance with Title 53B, Chapter 8a, Utah Educational Savings Plan.

(2) An instrument in the following form satisfies the requirements of Subsections (1)(a)(ii) and (1)(g): "Transfer Under the Uniform Transfers to Minors Act

I, ... (name of transferor or name and representative capacity if a fiduciary) hereby transfer to ..... (name of custodian), as custodian for ..... (name of minor) under the Uniform Transfers to Minors Act, the following: (insert a description of the custodial property sufficient to identify it).

Dated:.....

.....

(Signature)

..... (name of custodian) acknowledges receipt of the property described above as custodian for the minor named above under the Uniform Transfers to Minors Act.

Dated: .....

.....

(Signature of Custodian)"

(3) A transferor shall place the custodian in control of the custodial property as soon as practicable.

Section 217. Section 75A-8-111, which is renumbered from Section 75-5a-111 is renumbered and amended to read:

~~75-5a-111~~. 75A-8-111. Single custodianship.

(1) A transfer may be made only for one minor, and only one person may be the custodian.

(2) All custodial property held under this [~~part~~]chapter by the same custodian for the benefit of the same minor constitutes a single custodianship.

Section 218. Section 75A-8-112, which is renumbered from Section 75-5a-112 is renumbered and amended to read:

~~75-5a-112~~. 75A-8-112. Validity and effect of transfer.

(1) The validity of a transfer made in a manner prescribed in this [~~part~~]chapter is not affected by:

(a) failure of the transferor to comply with Subsection [~~75-5a-110(3)~~]75A-8-110(3) concerning possession and control;

(b) designation of an ineligible custodian, except designation of the transferor in the case of property for which the transferor is ineligible to serve as custodian under Subsection [~~75-5a-110(1)~~]75A-8-110(1); or

(c) death or incapacity of a person nominated under Section [~~75-5a-104~~]75A-8-104 or designated under Section [~~75-5a-110~~]75A-8-110 as custodian or the disclaimer of the office by that person.

(2)(a) A transfer made under Section [~~75-5a-110~~]75A-8-110 is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this [~~part~~]chapter.

(b) [~~Neither the minor nor the minor's legal representative has~~]A minor, or a minor's representative, does not have any right, power, duty, or authority regarding the custodial property except as provided in this [~~part~~]chapter.

(3) By making a transfer, the transferor incorporates in the disposition all the provisions of this [~~part~~]chapter and grants to the custodian, and to any third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this [~~part~~]chapter.

Section 219. Section 75A-8-113, which is renumbered from Section 75-5a-113 is renumbered and amended to read:

~~75-5a-113~~. 75A-8-113. Care of custodial property.

(1) A custodian shall:

(a) take control of custodial property;

(b) register or record title to custodial property if appropriate; and

(c) collect, hold, manage, invest, and reinvest custodial property.

(2)(a) In dealing with custodial property, a custodian shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other statute restricting investments by fiduciaries.

(b) If a custodian has a special skill or expertise or is named custodian on the basis of representations of a special skill or expertise, the custodian shall use the skill or expertise.

(c) However, a custodian may, in [~~his~~]the custodian's discretion and without liability to the minor or the minor's estate, retain any custodial property received from a transferor.

(3) A custodian may invest in or pay premiums on life insurance or endowment policies on:

(a) the life of the minor only if the minor or the minor's estate is the sole beneficiary; or

(b) the life of another person in whom the minor has an insurable interest only to the extent the minor, the minor's estate, or the custodian in the capacity of custodian, is the irrevocable beneficiary.

(4)(a) A custodian shall at all times keep custodial property separate and distinct from all other

property in a manner sufficient to identify it clearly as custodial property of the minor.

(b)(i) Custodial property consisting of an undivided interest is so identified if the minor's interest is held as a tenant in common and is fixed.

(ii) Custodial property subject to recordation is so identified if it is recorded, and custodial property subject to registration is so identified if it is either registered, or held in an account designated, in the name of the custodian, followed in substance by the words: "as a custodian for ..... (name of minor) under the Uniform Transfers to Minors Act."

(5) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor if the minor is 14 years [~~of age~~]old or older.

Section 220. Section 75A-8-114, which is renumbered from Section 75-5a-114 is renumbered and amended to read:

~~75-5a-114~~. 75A-8-114. Powers of custodian.

(1) A custodian, acting in a custodial capacity, has all the rights, powers, and authority over custodial property that unmarried adult owners have over their own property, but a custodian may exercise those rights, powers, and authority in that capacity only.

(2) This section does not relieve a custodian from liability for breach of Section [~~75-5a-113~~] 75A-8-113.

Section 221. Section 75A-8-115, which is renumbered from Section 75-5a-115 is renumbered and amended to read:

~~75-5a-115~~. 75A-8-115. Use of custodial property.

(1) A custodian may deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the custodian considers advisable for the use and benefit of the minor, without court order and without regard to:

(a) the duty or ability of the custodian personally or of any other person to support the minor; or

(b) any other income or property of the minor which may be applicable or available for that purpose.

(2) On petition of an interested person, or the minor if the minor is 14 years [~~of age~~]old or older, the court may order the custodian to deliver or pay to the minor or expend for the minor's benefit so much of the custodial property as the court considers advisable for the use and benefit of the minor.

(3) A delivery, payment, or expenditure under this section is in addition to, not in substitution for, and does not affect any obligation of a person to support the minor.

Section 222. Section 75A-8-116, which is renumbered from Section 75-5a-116 is renumbered and amended to read:

~~75-5a-116~~. 75A-8-116. Custodian's expenses, compensation, and bond.

(1) A custodian is entitled to reimbursement from custodial property for reasonable expenses incurred in the performance of the custodian's duties.

(2) Except for one who is a transferor under Section [~~75-5a-105~~]75A-8-105, a custodian has a noncumulative election during each calendar year to charge reasonable compensation for services performed during that year.

(3) Except as provided in Subsection [~~75-5a-119(6)~~]75A-8-119(6), a custodian need not give a bond.

Section 223. Section 75A-8-117, which is renumbered from Section 75-5a-117 is renumbered and amended to read:

~~75-5a-117~~. 75A-8-117. Exemption of third person from liability.

A third person in good faith and without court order may act on the instructions of or otherwise deal with any person purporting to make a transfer or purporting to act in the capacity of a custodian and, in the absence of knowledge, is not responsible for determining:

(1) the validity of the purported custodian's designation;

(2) the propriety of, or the authority under this [~~part~~]chapter for, any act of the purported custodian;

(3) the validity or propriety under this [~~part~~]chapter of any instrument or instructions executed or given either by the person purporting to make transfer or by the purported custodian; or

(4) the propriety of the application of any property of the minor delivered to the purported custodian.

Section 224. Section 75A-8-118, which is renumbered from Section 75-5a-118 is renumbered and amended to read:

~~75-5a-118~~. 75A-8-118. Liability to third persons.

(1) A claim may be asserted against the custodial property by proceeding against the custodian in the custodial capacity, whether or not the custodian or the minor is personally liable, if the claim is based on:

(a) a contract entered into by a custodian acting in a custodial capacity;

(b) an obligation arising from the ownership or control of custodial property; or

(c) a tort committed during the custodianship.

(2) A custodian is not personally liable:

(a) on a contract properly entered into in the custodial capacity unless the custodian fails to

reveal that capacity and to identify the custodianship in the contract; or

(b) for an obligation arising from control of custodial property or for a tort committed during the custodianship unless the custodian is personally at fault.

(3) A minor is not personally liable for an obligation arising from ownership of custodial property or for a tort committed during the custodianship unless the minor is personally at fault.

Section 225. Section 75A-8-119, which is renumbered from Section 75-5a-119 is renumbered and amended to read:

~~75-5a-119~~. 75A-8-119. Renunciation, resignation, death, or removal of custodian -- Designation of successor custodian.

(1)(a) A person nominated under Section [~~75-5a-104~~]75A-8-104 or designated under Section [~~75-5a-110~~]75A-8-110 as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative.

(b) If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under Section [~~75-5a-104~~]75A-8-104, the person who made the nomination may nominate a substitute custodian under Section [~~75-5a-104~~]75A-8-104; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under Subsection [~~75-5a-110(1)~~]75A-8-110(1).

(c) The custodian designated has the rights of a successor custodian.

(2)(a) A custodian at any time may designate a trust company or an adult other than a transferor under Section [~~75-5a-105~~]75A-8-105 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor.

(b) If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(3) A custodian may resign at any time by delivering written notice to the minor if the minor is 14 years [~~of age~~]old or older and to the successor custodian and by delivering the custodial property to the successor custodian.

(4)(a)(i) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor is 14 years [~~of age~~]old or older, the minor may designate as successor custodian, in the manner prescribed in Subsection (2), an adult member of the minor's family, a conservator of the minor, or a trust company.

(ii) If the minor is not yet 14 years [~~of age~~]old or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian.

(b) If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(5)(a) A custodian who declines to serve under Subsection (1) or resigns under Subsection (3), or the legal representative of a deceased or incapacitated custodian shall as soon as practicable place the custodial property and records in the possession and control of the successor custodian.

(b) The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(6) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if [~~he is 14 years of age~~]the minor is 14 years old or older, may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under Section [~~75-5a-105~~]75A-8-105 or to require the custodian to give appropriate bond.

Section 226. Section 75A-8-120, which is renumbered from Section 75-5a-120 is renumbered and amended to read:

~~75-5a-120~~. 75A-8-120. Accounting by and determination of liability of custodian.

(1) A minor who is 14 years [~~of age~~]old or older, the minor's guardian of the person or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court:

(a) for an accounting by the custodian or the custodian's legal representative; or

(b) for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under Section [~~75-5a-118~~]75A-8-118 to which the minor or the minor's legal representative was a party.

(2) A successor custodian may petition the court for an accounting by the predecessor custodian.

(3) The court, in a proceeding under this [~~part~~]chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(4) If a custodian is removed under Subsection [~~75-5a-119(6)~~]75A-8-119(6), the court shall require an accounting and order delivery of the custodial property and records to the successor

custodian and the execution of all instruments required for transfer of the custodial property.

Section 227. Section 75A-8-121, which is renumbered from Section 75-5a-121 is renumbered and amended to read:

~~75-5a-121~~. 75A-8-121. Termination of custodianship.

The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor's estate upon the earlier of:

(1) the minor's becoming 21 years [~~of age~~]old with respect to custodial property transferred under Section [~~75-5a-105 or 75-5a-106~~]75A-8-105 or 75A-8-106;

(2) the minor's attainment of majority under the laws of this state with respect to the custodial property transferred under Section [~~75-5a-107 or 75-5a-108~~]75A-8-107 or 75A-8-108; or

(3) the minor's death.

Section 228. Section 75A-8-122, which is renumbered from Section 75-5a-122 is renumbered and amended to read:

~~75-5a-122~~. 75A-8-122. Applicability.

This [~~part~~]chapter applies to a transfer within the scope of Section [~~75-5a-103~~]75A-8-103 made after its effective date if:

(1) the transfer purports to have been made under the Uniform Gifts to Minors Act; or

(2) the instrument by which the transfer purports to have been made uses in substance the designation "as custodian under the Uniform Gifts to Minors Act" or "as custodian under the Uniform Transfers to Minors Act" of any other state, and the application of this part is necessary to validate the transfer.

Section 229. Section 75A-8-123, which is renumbered from Section 75-5a-123 is renumbered and amended to read:

~~75-5a-123~~. 75A-8-123. Effect on existing custodianships.

(1) Any transfer of custodial property as now defined in this [~~part~~]chapter made before July 1, 1990, is validated notwithstanding that there was no specific authority in the Uniform Gifts to Minors Act for the coverage of custodial property of that kind or for a transfer from that source at the time the transfer was made.

(2) This [~~part~~]chapter applies to all transfers made before July 1, 1990, in a manner and form prescribed in the Uniform Gifts to Minors Act, except as the application impairs constitutionally vested rights or extends the duration of custodianships in existence on July 1, 1990.

(3) Sections [~~75-5a-102 and 75-5a-121~~]75A-8-102 and 75A-8-121 regarding the age of a minor for whom custodial property is held under this [~~part~~]chapter do not apply to custodial property held in a custodianship that terminated because of the minor's attainment of the age of majority and before July 1, 1990.

Section 230. Section 75B-1-101 is enacted to read:

75B-1-101. Reserved for title definitions.

TITLE 75B. TRUSTS

CHAPTER 1. GENERAL PROVISIONS

Part 1. General Provisions

Reserved.

Section 231. Section 75B-1-102 is enacted to read:

75B-1-102. Transition clause.

If, at the time a trust or another legal document was executed, the document contained a correct citation to a provision in Title 22, Fiduciaries and Trusts, and Title 75, Utah Uniform Probate Code, that, after the execution of the document, was renumbered and amended for inclusion in this title, that citation is a valid citation to the same provision in this title.

Section 232. Section 75B-1-103, which is renumbered from Section 22-2-1 is renumbered and amended to read:

~~22-2-1~~. 75B-1-103. Death of trustee -- Trust estate vests in successor.

Upon the death of a sole or surviving trustee of an express trust:

(1) the trust estate does not descend to [~~his~~]the trustee's heirs or pass to [~~his~~]the trustee's personal representatives[~~, but shall by virtue hereof, upon the appointment and qualification of a successor to such trustee, become immediately vested in such successor in trust.~~]; and

(2) the trust estate immediately vests in the successor trustee upon the appointment and qualification of a successor trustee.

Section 233. Section 75B-1-201 is enacted to read:

75B-1-201. Definitions for part.

Part 2. Retirement Trust

As used in this part:

(1) "Income" means the same as that term is defined in Section 75A-5-101.

(2) "Principal" means the same as that term is defined in Section 75A-5-101.

(3) "Retirement trust" means a trust:

(a) created by an employer as part of a pension, stock bonus, disability, death benefit, profit sharing, retirement, or similar plan primarily for the benefit of an employee or the employee's family, appointee, or beneficiary;

(b) to which contributions are made by the employer or employee; and

(c) that is created for the purpose of distributing principal or income to the employee or the employee's family, appointee, or beneficiary.

Section 234. Section 75B-1-202, which is renumbered from Section 22-6-1 is renumbered and amended to read:

~~22-6-1.~~ 75B-1-202. Retirement trusts exempted from rules against perpetuities, accumulations, or suspension of power of alienation.

[~~No trust heretofore or hereafter created by an employer as part of a pension, stock bonus, disability, death benefit, profit sharing, retirement or similar plan, primarily for the benefit of some or all of such employers' employees, their families, appointees or beneficiaries, to which contributions are made by such employer or employees, or by both employer and employees, which trust is for the purpose of distributing to such employees or their families, beneficiaries, or appointees, the earnings or principal, or both, shall be deemed to be invalid by reason of any rule against perpetuities, or against accumulations, or concerning the suspension of the power of alienation of title to property, or any other law restricting or limiting the duration of trusts; and such a trust may continue in perpetuity or for such time as may be necessary to accomplish the purposes for which it was created.~~]

(1) A retirement trust is not invalid as violating a rule against perpetuities, a rule against accumulations, a rule concerning the suspension of the power of alienation of title to property, or any other law restricting or limiting the duration of trusts.

(2) A retirement trust may continue in perpetuity or for the time that is necessary to accomplish the purposes for which the retirement trust was created.

Section 235. Section 75B-1-203, which is renumbered from Section 22-6-2 is renumbered and amended to read:

~~22-6-2.~~ 75B-1-203. Income permitted to accumulate.

The income arising from or earned by the property held in [~~such trust within the classifications mentioned, may be~~]a retirement trust is permitted to accumulate, in accordance with the terms of [~~such trust, for so long a time as may be~~]the trust:

(1) for the time period permitted by the instrument creating the trust[~~, or if no time is so specified, for such time as the trustee or trustees may deem necessary~~]; or

(2) if the instrument creating the trust does not specify a time period, for the time period that is necessary for a trustee of the trust to accomplish the purposes for which the trust was created.

Section 236. Section 75B-1-301 is enacted to read:

75B-1-301. Definitions for part.

Part 3. Asset Protection Trust

As used in this part:

(1) "Creditor" means:

(a) a creditor or other claimant of the settlor existing when the trust is created; or

(b) a person who subsequently becomes a creditor, including whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured:

(i) holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority; or

(ii) with a right to payment.

(2) "Domestic support obligation" means:

(a) a child support judgment or order;

(b) a spousal support judgment or order; or

(c) an unsatisfied claim arising from a property division in a divorce proceeding.

(3) "Insolvent" means:

(a) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;

(b) being unable to pay debts as they become due; or

(c) being insolvent within the meaning of federal bankruptcy law.

(4) "Paid and delivered" does not include the settlor's use or occupancy of real property or personal property owned by the trust if the use or occupancy is in accordance with the trustee's discretionary authority under the trust instrument.

(5) "Personal property" includes intangible and tangible personal property.

(6) "Property" means real property, personal property, and interests in real or personal property.

(7) "Settlor" means a person who transfers property in trust.

(8) "Transfer" means any form of transfer of property, including gratuitous transfers, whether by deed, conveyance, or assignment.

(9) "Trust" means the same as that term is defined in Section 75-1-201.

Section 237. Section 75B-1-302, which is renumbered from Section 25-6-502 is renumbered and amended to read:

~~25-6-502.~~ 75B-1-302. Asset protection trust.

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

[~~(a) "Creditor" means:~~]

[~~(i) a creditor or other claimant of the settlor existing when the trust is created; or~~]

[~~(ii) a person who subsequently becomes a creditor, including, whether or not reduced to~~

~~judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured:~~]

[~~(A) one holding or seeking to enforce a judgment entered by a court or other body having adjudicative authority; or~~]

[~~(B) one with a right to payment.~~]

[~~(b) "Domestic support obligation" means:~~]

[~~(i) a child support judgment or order;~~]

[~~(ii) a spousal support judgment or order; or~~]

[~~(iii) an unsatisfied claim arising from a property division in a divorce proceeding.~~]

[~~(c) "Insolvent" means:~~]

[~~(i) having generally ceased to pay debts in the ordinary course of business other than as a result of a bona fide dispute;~~]

[~~(ii) being unable to pay debts as they become due; or~~]

[~~(iii) being insolvent within the meaning of federal bankruptcy law.~~]

[~~(d)(i) "Property" means real property, personal property, and interests in real or personal property.~~]

[~~(ii) "Personal property" includes intangible and tangible personal property.~~]

[~~(e) "Settlor" means a person who transfers property in trust.~~]

[~~(f) "Transfer" means any form of transfer of property, including gratuitous transfers, whether by deed, conveyance, or assignment.~~]

[~~(g) "Trust" has the same meaning as in Section 75-1-201.~~]

[~~(2) "Paid and delivered" to the settlor, as beneficiary, does not include the settlor's use or occupancy of real property or personal property owned by the trust if the use or occupancy is in accordance with the trustee's discretionary authority under the trust instrument.~~]

[~~(3)~~](1) If the settlor of an irrevocable trust is also a beneficiary of the trust, and if the requirements of Subsection [~~(5)~~](3) are satisfied, a creditor of the settlor may not:

(a) satisfy a claim or liability of the settlor in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust;

(b) force or require the trustee to make a distribution to the settlor, as beneficiary; or

(c) require the trustee to pay any distribution directly to the creditor, or otherwise attach the distribution before it has been paid or delivered by the trustee to the settlor, as beneficiary.

[~~(4)~~](2) Notwithstanding Subsection [~~(3)~~](1), nothing in this section:

(a) prohibits a creditor from satisfying a claim or liability from the distribution once it has been paid or delivered by the trustee to the settlor, as beneficiary; or

(b) nullifies or impairs a security interest that was granted by a settlor or a trustee with respect to property that is transferred to the trust.

[~~(5)~~](3)(a) In order for Subsection [~~(3)~~](1) to apply, the conditions in this Subsection [~~(5)~~](3) shall be satisfied.

(b) Where this Subsection [~~(5)~~](3) requires that a provision be included in the trust instrument, no particular language need be used in the trust instrument if the meaning of the trust provision otherwise complies with this Subsection [~~(5)~~](3).

[~~(a)~~](c) An agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention by the settlor of greater rights or authority than is stated in the trust instrument is void.

[~~(b)~~](d) The trust instrument shall provide that the trust is governed by Utah law and is established pursuant to this section.

[~~(c)~~](e) The trust instrument shall require that at all times at least one trustee shall be a Utah resident or Utah trust company, as the term "trust company" is defined in Section 7-5-1.

[~~(d)~~](f)(i) The trust instrument shall provide that neither the interest of the settlor, as beneficiary, nor the income or principal of the trust may be voluntarily or involuntarily transferred by the settlor, as beneficiary.

(ii) The provision shall be considered to be a restriction on the transfer of the settlor's beneficial interest in the trust that is enforceable under applicable nonbankruptcy law within the meaning of 11 U.S.C. Sec. 541(c)(2).

[~~(e)~~](g) The settlor may not have the ability under the trust instrument, without the consent of a person who has a substantial beneficial interest in the trust, which interest would be adversely affected by the exercise of the power held by the settlor:

(i) to revoke, amend, or terminate all or any part of the trust; or

(ii) to withdraw any property from the trust, except that the settlor, without the approval or consent of any person, may be given the power, under the trust agreement, to substitute assets of substantially equivalent value.

[~~(f)~~](h) The trust instrument may not provide for any mandatory distributions of either income or principal to the settlor, as beneficiary, except as provided in Subsection [~~(7)(g)~~](5)(g).

[~~(g)~~](i)(i) The trust instrument shall require that, at least 30 days before paying and delivering any distribution to the settlor, as beneficiary, the trustee notify in writing every person who has a domestic support obligation against the settlor.

(ii) The trust instrument shall require that the notice state the date the distribution will be paid and delivered and the amount of the distribution.

[~~(h)~~](j) At the time that the settlor transfers any assets to the trust, the settlor may not be in default of making a payment due under a domestic support obligation.

[~~(i)~~](k) A transfer of assets to the trust may not render the settlor insolvent.

[~~(j)~~](l) At the time the settlor transfers any assets to the trust, the settlor may not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust. A settlor's expressed intention to protect trust assets from the settlor's potential future creditors is not evidence of an intent to hinder, delay, or defraud a known creditor.

[~~(k)~~](m) Assets transferred to the trust may not be derived from unlawful activities.

[~~(l)~~](n) With respect to each transfer of assets to the trust, the settlor shall sign a sworn affidavit stating that at the time of the transfer of the assets to the trust:

(i) the settlor has full right, title, and authority to transfer the assets to the trust;

(ii) the transfer of the assets to the trust will not render the settlor insolvent;

(iii) the settlor does not intend to hinder, delay, or defraud a known creditor by transferring the assets to the trust;

(iv) there is no pending or threatened court action against the settlor, except for a court action identified by the settlor on an attachment to the affidavit;

(v) the settlor is not involved in an administrative proceeding that is reasonably expected to have a material adverse effect on the financial condition of the settlor, except an administrative proceeding identified on an attachment to the affidavit;

(vi) at the time of the transfer of the assets to the trust, the settlor is not in default of a domestic support obligation;

(vii) the settlor does not contemplate filing for relief under the provisions of United States Code, Title 11, Bankruptcy; and

(viii) the assets being transferred to the trust were not derived from unlawful activities.

[~~(6)~~](4) Failure to satisfy the requirements of Subsection [~~(5)~~](3) shall result in the consequences described in this Subsection [~~(6)~~](4).

(a) If any requirement of Subsections [~~(5)(b)~~](3)(b) through (g) is not satisfied, none of the property held in the trust will at any time have the benefit of the protections described in Subsection [~~(3)~~](1).

(b) If the trustee does not send the notice required under Subsection [~~(5)(g)~~](3)(g), the court may authorize any person with a domestic support obligation against the settlor to whom notice was not sent to attach the distribution or future distributions, but the person may not:

(i) satisfy a claim or liability in either law or equity out of the settlor's transfer to the trust or the settlor's beneficial interest in the trust; or

(ii) force or require the trustee to make a distribution to the settlor, as beneficiary.

(c) If any requirement described in Subsections [~~(5)(i)~~](3)(i) through (l) is not satisfied, the property transferred to the trust that does not satisfy the requirement may not have the benefit of the protections described in Subsection [~~(3)~~](1).

(d) If the requirement described in Subsection [~~(5)(h)~~](3)(h) is not satisfied, the property transferred to the trust that does not satisfy the requirement does not have the benefit of the protections described in Subsection [~~(3)~~](1) with respect to any person with a domestic support obligation.

(e) A creditor of the settlor has the burden of proving that the requirement in Subsection [~~(5)(i)~~](3)(i) or (j) is not satisfied by clear and convincing evidence.

[~~(7)~~](5) The provisions of Subsection [~~(3)~~](1) may apply to a trust even if:

(a) the settlor serves as a cotrustee or as an advisor to the trustee, except that the settlor may not determine whether a discretionary distribution will be made;

(b) the settlor participates in a determination regarding whether a discretionary distribution is made to the settlor by:

(i) requesting a distribution from the trust;

(ii) consulting with the trustees regarding whether a discretionary distribution will be made;

(iii) exercising a right to consent to or veto the distribution under a power described in Subsection [~~(7)(e)~~](5)(e);

(iv) signing documentation in the settlor's capacity as a cotrustee that implements a distribution when the other trustees use discretionary power to independently authorize a distribution; or

(v) participating in an action authorizing a distribution if the other trustees can authorize the distribution without the settlor's participation.

(c) the settlor has the authority under the terms of the trust instrument to appoint a nonsubordinate advisor or a trust protector who can remove and appoint trustees and who can direct, consent to, or disapprove distributions;

(d) the settlor has the power under the terms of the trust instrument to serve as an investment director or to appoint an investment director under Section 75-7-906;

(e) the trust instrument gives the settlor the power to consent to or veto a distribution from the trust;

(f) the trust instrument gives the settlor an inter vivos or a testamentary nongeneral power of appointment or similar power;

(g) the trust instrument gives the settlor the right to receive the following types of distributions:

(i) income, principal, or both in the discretion of a person, including a trustee, other than the settlor;

(ii) principal, subject to an ascertainable standard set forth in the trust;

(iii) income or principal from a charitable remainder annuity trust or charitable remainder unitrust, as defined in 26 U.S.C. Sec. 664;

(iv) a percentage of the value of the trust each year as determined under the trust instrument, but not exceeding the amount that may be defined as income under 26 U.S.C. Sec. 643(b);

(v) the transferor's potential or actual use of real property held under a qualified personal residence trust, or potential or actual possession of a qualified annuity interest, within the meaning of 26 U.S.C. Sec. 2702 and the accompanying regulations;

(vi) income or principal from a grantor retained annuity trust or grantor retained unitrust that is allowed under 26 U.S.C. Sec. 2702; and

(vii) income from a trust intended to qualify for the federal estate tax or gift tax marital deduction under 26 U.S.C. Sec. 2056(b)(7) or 2523(f);

(h) the trust instrument authorizes the settlor to use real or personal property owned by the trust; or

(i) with respect to the property held in the trust, the settlor may:

(i) give a personal guarantee on a debt or obligation secured by the property;

(ii) make payments, directly or indirectly, on a debt or obligation secured by the property;

(iii) pay property taxes, casualty and liability insurance premiums, homeowner association dues, maintenance expenses, or other similar expenses on the property; or

(iv) pay income tax on income attributable to the portion of property held in the trust, of which the settlor is considered to be the owner under 26 U.S.C. Secs. 671 through 678, which payments will not be considered additional transfers to the trust for purposes of this section.

[~~(8)~~](6)(a) If a trust instrument contains the provisions described in Subsections [~~(5)(b)~~](3)(b) through (g), the transfer restrictions prevent a creditor or other person from asserting any cause of action or claim for relief against a trustee of the trust or against others involved in the counseling, drafting, preparation, execution, or funding of the trust for conspiracy to commit fraudulent conveyance or another voidable transfer, aiding and abetting a fraudulent conveyance or another voidable transfer, participation in the trust transaction, or similar cause of action or claim for relief.

(b) For purposes of this [~~subsection~~]Subsection (6), counseling, drafting, preparation, execution, or funding of the trust includes the preparation and funding of a limited partnership, a limited liability company, or other entity if interests in the entity are subsequently transferred to the trust.

(c) The creditor and other person prevented from asserting a cause of action or claim for relief may assert a cause of action against, and are limited to recourse against, only:

[~~(a)~~](i) the trust and the trust assets; and

[~~(b)~~](ii) the settlor, to the extent otherwise allowed in this section.

[~~(9)~~](7)(a) A cause of action or claim for relief under Subsection [~~(5)(i)~~](3)(i) or (j) is a cause of action or claim for relief under Section 25-6-202 or 25-6-203.

(b) Except as provided in Subsection [~~(9)(a)~~](7)(a), a cause of action or claim for relief under this section is not a cause of action or claim for relief under Sections 25-6-101 through 25-6-407.

(c) Notwithstanding Section 25-6-305, a cause of action or claim for relief regarding a fraudulent conveyance or other voidable transfer of a settlor's assets under this section is extinguished unless the action is brought by a creditor of the settlor who was a creditor of the settlor before the assets in question were transferred to the trust and the action is brought within the earlier of:

(i) the later of two years after the transfer is made, or one year after the transfer is or reasonably could have been discovered by the creditor if the creditor:

(A) can demonstrate, by clear and convincing evidence, that the creditor asserted a specific claim against the settlor before the transfer; or

(B) files another action, other than an action alleging a fraudulent conveyance or other voidable transfer against the settlor that asserts a claim based on an act or omission of the settlor that occurred before the transfer, and the action described in Subsection [~~(9)(c)~~](7)(c) is filed within two years after the transfer; or

(ii)(A) with respect to a creditor known to the settlor, 120 days after the date on which notice of the transfer is mailed to the creditor, which notice shall state the name and address of the settlor or the settlor's representative, the name and address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets if the assets are other than cash, and which shall inform the creditor that the creditor is required to bring the creditor's cause of action or claim for relief against the settlor and the trustee within 120 days from the mailing of the notice or be forever barred; or

(B) with respect to a creditor not known to the settlor, 120 days after the date on which notice of the transfer is first published in a newspaper of general circulation in the county in which the settlor then resides, or is published on a public legal notice website as defined in Section 45-1-101, which notice shall state the name of the settlor or

the settlor's representative, the address of the settlor or the settlor's representative, the name of the trustee or the trustee's representative, the address of the trustee or the trustee's representative, and also describe the assets that were transferred, but does not need to state the value of those assets.

[~~(10)~~](8)(a) The notice required in Subsection [~~(9)(c)(ii)(B)~~](7)(c)(ii)(B) shall be published in accordance with the provisions of Section 45-1-101 for three consecutive weeks and inform creditors that they are required to bring a cause of action or claim for relief within 120 days from the first publication of the notice or be forever barred.

(b) Failure to give the notice required in Subsection [~~(9)(c)(ii)~~](7)(c)(ii) to a creditor does not prevent the shortening of the limitations period under Subsection [~~(9)(c)(ii)~~](7)(c)(ii) with respect to another creditor who properly received notice by mail or publication.

[~~(11)~~](9)(a) A trust is subject to this section if it is governed by Utah law, as provided in Section 75-7-107, and if it otherwise meets the requirements of this section.

(b) A court of this state has exclusive jurisdiction over an action or claim for relief that is based on a transfer of property to a trust that is the subject of this section.

[~~(12)~~](10)(a) With respect to a trust that is subject to this section, a claim brought by a creditor of a beneficiary who is not the settlor is subject to Section 75-7-501 et. seq.

(b) With respect to an irrevocable trust that is not subject to this section, a claim brought by a creditor of a beneficiary who is the settlor is subject to the provisions of Subsection 75-7-505(2).

[~~(13)~~](11) If a provision in this section conflicts with a provision in Sections 25-6-101 through 25-6-407, the provision of this section shall supersede the conflicting provision in Sections 25-6-101 through 25-6-407.

[~~(14)~~](12) Nothing in this section alters rights vested or created under this section before May 14, 2019.

Section 238. Section 76-5-111 is amended to read:

76-5-111. Abuse of a vulnerable adult -- Penalties.

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

(i) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(ii) "Abuse" means:

(A) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;

(B) causing physical injury by knowing or intentional acts or omissions;

(C) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the vulnerable adult; or

(D) deprivation of life-sustaining treatment, except:

(I) as provided in [~~Title 75, Chapter 2a, Advance Health Care Directive Act~~]Title 75A, Chapter 3, Health Care Decisions; or

(II) when informed consent, as defined in this section, has been obtained.

(iii) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities for pecuniary gain, by contract, or as a result of friendship, or in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(iv)(A) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(B) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(v) "Elder adult" means an individual 65 years old or older.

(vi) "Exploitation" means an offense described in Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.

(viii) "Informed consent" means:

(A) a written expression by the individual or authorized by the individual, stating that the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the individual desires that the services be withdrawn, except that a written expression is valid only if the individual is of sound mind when the consent is given, and the consent is witnessed by at least two

individuals who do not benefit from the withdrawal of services; or

(B) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

(ix)(A) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(I) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(II) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(III) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(B) "Isolation" does not include an act:

(I) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(II) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(x) "Neglect" means:

(A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;

(B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(C) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(D) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

(E) abandonment by a caretaker.

(xi)(A) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

(B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

(xii) "Position of trust and confidence" means the position of a person who:

(A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

(B) is a joint tenant or tenant in common with a vulnerable adult;

(C) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

(D) is a caretaker of a vulnerable adult.

(xiii) "Serious physical injury" means any physical injury or set of physical injuries that:

(A) seriously impairs a vulnerable adult's health;

(B) was caused by use of a dangerous weapon;

(C) involves physical torture or causes serious emotional harm to a vulnerable adult; or

(D) creates a reasonable risk of death.

(xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that individual's ability to:

(A) provide personal protection;

(B) provide necessities such as food, shelter, clothing, or medical or other health care;

(C) obtain services necessary for health, safety, or welfare;

(D) carry out the activities of daily living;

(E) manage the adult's own resources; or

(F) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under circumstances other than those likely to produce death or serious physical injury:

(a) causes a vulnerable adult to suffer harm, abuse, or neglect;

(b) having the care or custody of a vulnerable adult, causes or permits that vulnerable adult's person or health to be injured, abused, or neglected; or

(c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.

(3)(a) A violation of Subsection (2):

(i) is a class A misdemeanor if done intentionally or knowingly;

(ii) is a class B misdemeanor if done recklessly; or

(iii) is a class C misdemeanor if done with criminal negligence.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) that is based on isolation of a vulnerable adult is a third degree felony.

(4)(a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

(b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

(5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:

(a) undergo appropriate counseling as a condition of the sentence; and

(b) pay for the costs of the ordered counseling.

Section 239. Section 76-5-205 is amended to read:

76-5-205. Manslaughter -- Penalties.

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

(i)(A) "Aid" means the act of providing the physical means.

(B) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under [~~Title 75, Chapter 2a, Advance Health Care Directive Act~~]Title 75A, Chapter 3, Health Care Decisions, or any other laws of this state.

(ii) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.

(iii) "Provides" means to administer, prescribe, distribute, or dispense.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Except as provided in Subsection (5), an actor commits manslaughter if the actor:

(a) recklessly causes the death of another individual;

(b) intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the individual to commit suicide; or

(c) commits a homicide which would be murder, but the offense is reduced in accordance with Subsection 76-5-203(4).

(3) A violation of Subsection (2) is a felony of the second degree.

(4)(a) In addition to the penalty described under this section or any other section, a defendant who is convicted of violating this section shall have the defendant's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.

(b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.

(5)(a) A practitioner does not violate Subsection (2)(b) if the practitioner provides medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure.

(b) Notwithstanding Subsection (5)(a), a practitioner violates Subsection (2)(b) if the practitioner intentionally and knowingly provides the medication or procedure to aid the individual to commit suicide or attempt to commit suicide.

Section 240. Section 76-6-513 is amended to read:

76-6-513. Unlawful dealing of property by a fiduciary.

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

(i) "Fiduciary" means the same as that term is defined in Section [~~22-1-1~~]75A-1-201.

(ii) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(iii) "Governmental entity" is as defined in Section 63G-7-102.

(iv) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(v) "Property" means the same as that term is defined in Section 76-6-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits unlawfully dealing with property by a fiduciary if the actor:

(a) deals with property:

(i) that has been entrusted to the actor as a fiduciary, or property of a governmental entity, public money, or of a financial institution; and

(ii) in a manner which:

(A) the actor knows is a violation of the actor's duty; and

(B) involves substantial risk of loss or detriment to the property owner or to a person for whose benefit the property was entrusted; or

(b) acting as a fiduciary pledges:

(i) as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary; and

(ii) without permission of the owner of the property or some other authorized person.

(3)(a) A violation of Subsection (2)(a) is:

(i) a second degree felony if the:

(A) value of the property is or exceeds $5,000; or

(B) property is stolen from the person of another;

(ii) a third degree felony if:

(A) the value of the property is or exceeds $1,500 but is less than $5,000;

(B) the value of the property is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(I) any theft, any robbery, or any burglary with intent to commit theft;

(II) any offense under Part 5, Fraud; or

(III) any attempt to commit any offense under Subsection (3)(a)(ii)(B)(I) or (II);

(C) the value of property is or exceeds $500 but is less than $1,500; or

(D) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(iii) a class A misdemeanor if:

(A) the value of the property stolen is or exceeds $500 but is less than $1,500; or

(B) the actor has been twice before convicted of any of the offenses listed in Subsections (3)(a)(ii)(B)(I) through (3)(a)(ii)(B)(III), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(iv) a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (3)(a)(iii)(B).

(b) A violation of Subsection (2)(b) is:

(i) a second degree felony if the value of the property wrongfully pledged is or exceeds $5,000;

(ii) a third degree felony if the value of the property wrongfully pledged is or exceeds $1,500 but is less than $5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds $500, but is less than $1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than $500.

(4) This section may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(5) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, through Chapter 11c, Retention of Evidence.

Section 241. Repealer.

This bill repeals:

Section 22-3-101, Title.

Section 22-5-1, Title.

Section 25-6-501, Title.

Section 75-2a-101, Title.

Section 75-5a-101, Short title.

Section 75-9-101, Title.

Section 75-10-101, Title.

Section 75-11-101, Title.

Section 242. Effective date.

This bill takes effect on September 1, 2024.

CHAPTER 365
S. B. 90
Passed February 15, 2024
Approved March 18, 2024
Effective May 1, 2024

TECHNICAL CODE AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill amends provisions to modify gender-specific language.

Highlighted Provisions:

This bill:

- amends provisions to modify gender-specific language;
- enacts changes to conform with legislative drafting standards; and
- makes other technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

6-1-2, enacted in Utah Code Annotated 1953
6-1-4, enacted in Utah Code Annotated 1953
6-1-10, enacted in Utah Code Annotated 1953
6-1-11, enacted in Utah Code Annotated 1953
6-1-13, enacted in Utah Code Annotated 1953
6-1-14, enacted in Utah Code Annotated 1953
6-1-16, enacted in Utah Code Annotated 1953
6-1-17, enacted in Utah Code Annotated 1953
6-1-18, enacted in Utah Code Annotated 1953
10-8-42, enacted in Utah Code Annotated 1953
10-8-78, enacted in Utah Code Annotated 1953
10-8-85, enacted in Utah Code Annotated 1953
11-1-1, enacted in Utah Code Annotated 1953
11-6-1, enacted in Utah Code Annotated 1953
11-7-4, as enacted by Laws of Utah 1957, Chapter 19
15-2-2, enacted in Utah Code Annotated 1953
15-2-3, enacted in Utah Code Annotated 1953
15-2-4, enacted in Utah Code Annotated 1953
15-3-1, enacted in Utah Code Annotated 1953
15-4-5, enacted in Utah Code Annotated 1953
15-4-6, enacted in Utah Code Annotated 1953
16-7-6, enacted in Utah Code Annotated 1953
17-3-9, enacted in Utah Code Annotated 1953
17-16-12, enacted in Utah Code Annotated 1953
17-22-10, enacted in Utah Code Annotated 1953
17-22-11, enacted in Utah Code Annotated 1953
17-22-13, enacted in Utah Code Annotated 1953
17-22-14, enacted in Utah Code Annotated 1953
17-22-15, enacted in Utah Code Annotated 1953
17-22-16, enacted in Utah Code Annotated 1953
17-22-17, enacted in Utah Code Annotated 1953
17-22-18, enacted in Utah Code Annotated 1953
17-22-19, enacted in Utah Code Annotated 1953
17-22-20, enacted in Utah Code Annotated 1953
17-22-24, enacted in Utah Code Annotated 1953
17-22-25, enacted in Utah Code Annotated 1953
17-30-10, as enacted by Initiative Measure, 1960
17-30-16, as enacted by Initiative Measure, 1960
17-30-17, as enacted by Initiative Measure, 1960
17-30-20, as enacted by Initiative Measure, 1960
22-1-4, enacted in Utah Code Annotated 1953
22-1-5, enacted in Utah Code Annotated 1953
22-1-6, enacted in Utah Code Annotated 1953
22-1-7, enacted in Utah Code Annotated 1953
22-1-8, enacted in Utah Code Annotated 1953
22-1-9, enacted in Utah Code Annotated 1953
22-2-1, enacted in Utah Code Annotated 1953
25-5-1, enacted in Utah Code Annotated 1953
25-5-3, enacted in Utah Code Annotated 1953
25-5-6, enacted in Utah Code Annotated 1953
25-5-7, enacted in Utah Code Annotated 1953
29-1-1, enacted in Utah Code Annotated 1953
34-19-8, as enacted by Laws of Utah 1969, Chapter 85
34-19-11, as enacted by Laws of Utah 1969, Chapter 85
34-20-1, as enacted by Laws of Utah 1969, Chapter 85
34-26-2, as enacted by Laws of Utah 1969, Chapter 85
34-26-3, as enacted by Laws of Utah 1969, Chapter 85
34-27-1, as enacted by Laws of Utah 1969, Chapter 85
34-29-9, as enacted by Laws of Utah 1969, Chapter 85
34-29-19, as enacted by Laws of Utah 1969, Chapter 85
34-30-8, as enacted by Laws of Utah 1969, Chapter 85
34-33-1, as enacted by Laws of Utah 1969, Chapter 85
34-34-13, as enacted by Laws of Utah 1969, Chapter 85
38-2-1, enacted in Utah Code Annotated 1953
38-2-2, as last amended by Laws of Utah 1953, Chapter 61
38-2-3.1, as enacted by Laws of Utah 1953, Chapter 62
38-2-5, enacted in Utah Code Annotated 1953
38-3-3, enacted in Utah Code Annotated 1953
38-7-3, as enacted by Laws of Utah 1965, Chapter 75
40-1-2, enacted in Utah Code Annotated 1953
40-1-12, enacted in Utah Code Annotated 1953
41-4-2, enacted in Utah Code Annotated 1953
41-4-3, enacted in Utah Code Annotated 1953
41-4-12, enacted in Utah Code Annotated 1953
41-19-1, as enacted by Laws of Utah 1967, Chapter 53
42-1-1, enacted in Utah Code Annotated 1953
43-1-2, enacted in Utah Code Annotated 1953
47-1-2, enacted in Utah Code Annotated 1953
47-1-3, enacted in Utah Code Annotated 1953
47-1-7, enacted in Utah Code Annotated 1953
52-1-8, enacted in Utah Code Annotated 1953
52-1-11, enacted in Utah Code Annotated 1953
54-4-20, enacted in Utah Code Annotated 1953
54-7-7, enacted in Utah Code Annotated 1953
54-8-12, as enacted by Laws of Utah 1969, Chapter 157
56-1-19, enacted in Utah Code Annotated 1953
56-1-20, enacted in Utah Code Annotated 1953
57-1-4, enacted in Utah Code Annotated 1953

57-1-11, enacted in Utah Code Annotated 1953
57-2-12, enacted in Utah Code Annotated 1953
57-2-15, enacted in Utah Code Annotated 1953
57-2-16, enacted in Utah Code Annotated 1953
57-2-17, enacted in Utah Code Annotated 1953
57-6-2, enacted in Utah Code Annotated 1953
57-6-3, enacted in Utah Code Annotated 1953
57-6-7, enacted in Utah Code Annotated 1953
57-6-8, enacted in Utah Code Annotated 1953
57-8-19, as enacted by Laws of Utah 1963, Chapter 111
57-8-25, as enacted by Laws of Utah 1963, Chapter 111
57-8-26, as enacted by Laws of Utah 1963, Chapter 111
57-9-4, as enacted by Laws of Utah 1963, Chapter 109
57-9-8, as enacted by Laws of Utah 1963, Chapter 109
67-1-4, enacted in Utah Code Annotated 1953
67-1-6, enacted in Utah Code Annotated 1953
67-3-2, enacted in Utah Code Annotated 1953
67-4-15, enacted in Utah Code Annotated 1953
67-9-2, enacted in Utah Code Annotated 1953
67-16-9, as enacted by Laws of Utah 1969, Chapter 128
69-1-4, enacted in Utah Code Annotated 1953
73-1-9, enacted in Utah Code Annotated 1953
73-1-12, enacted in Utah Code Annotated 1953
73-2-1.2, as enacted by Laws of Utah 1967, Chapter 176
73-2-1.3, as enacted by Laws of Utah 1967, Chapter 176
73-2-11, enacted in Utah Code Annotated 1953
73-3-11, enacted in Utah Code Annotated 1953
73-3-19, enacted in Utah Code Annotated 1953
73-4-2, as last amended by Laws of Utah 1969, Chapter 198
73-4-23, enacted in Utah Code Annotated 1953

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

Section 1. Section 6-1-2 is amended to read:

6-1-2. When assignment void.

An assignment for the benefit of creditors is void against any creditor of the assignor not assenting thereto in the following cases:

(1) if it gives a preference dependent upon any condition or contingency, or with any power of revocation reserved;

(2) if it tends to coerce any creditor to release or compromise [~~his~~]the creditor's demand;

(3) if it provides for the payment of any claim known by the assignor to be false or fraudulent, or for the payment of more upon any claim than is known to be justly due from the assignor;

(4) if it reserves any interest in the assigned property or in any part thereof to the assignor or for [~~his~~]the assignor's benefit before all [~~his~~]the assignor's existing debts are paid; and

(5) if it confers upon the assignee any power which, if exercised, might prevent or delay the immediate conversion of the assigned property to the purposes of the trust; provided, that the assignment may provide reasonable terms and manner of sale to be carried out only so far as practicable and not prejudicial to the interest of the estate in the discretion of the court.

Section 2. Section 6-1-4 is amended to read:

6-1-4. Inventory -- Bond.

The assignee shall forthwith file with the clerk of the district court of the county where the property assigned is located a true and full inventory and valuation of said estate, under oath, so far as the same has come to [~~his~~]the assignee's knowledge, and shall then enter into bonds to the state for the use of the creditors in double the amount of the inventory and valuation, with one or more sureties to be approved by said clerk, for the faithful performance of said trust; and the assignee may thereupon proceed to perform any duty necessary to carry into effect the purpose of said assignment.

Section 3. Section 6-1-10 is amended to read:

6-1-10. Dividends to creditors.

If no exception is made and filed to the claim of any creditor, or if the same has been adjudicated, the court shall order the assignee to make from time to time fair and equal dividends among the creditors of the assets in [~~his~~]the assignee's hands in proportion to [~~their~~]the creditors' claims and according to the preferences or classes, if any, named in the assignment, and as soon as may be to render a final account of [~~his~~]the assignee's trust to the court. If upon making the final dividend to creditors the assignee shall be unable after reasonable efforts to ascertain the place of residence of any creditor or the person who is authorized to receive the dividend due any creditor, [~~he~~]the assignee shall report the same to the court, with evidence showing diligent attempts to find such creditor or person authorized to receive the dividend; whereupon the court may in its discretion order the distribution of the unclaimed dividend among the other creditors.

Section 4. Section 6-1-11 is amended to read:

6-1-11. Court to supervise administration.

The assignee shall at all times be subject to the order and supervision of the court or judge and from time to time may be compelled, by citation or attachment, to file reports of [~~his~~]the assignee's proceedings and of the situation and condition of the trust, and to proceed in the execution of the duties required by this title.

Section 5. Section 6-1-13 is amended to read:

6-1-13. Failure to file inventory -- Examination of debtor.

No assignment shall be declared fraudulent or void for want of any list or inventory as provided in this title. The court or judge may, upon application of the assignee or any creditor, compel the appearance in person of the debtor before such court or judge, forthwith or at the next term, to answer under oath such matters as may be inquired of [~~him~~]the debtor, and such debtor may be fully examined under oath as to the amount and situation of [~~his~~]the debtor's estate, and the names

of the creditors and amounts due to each with their places of residence, and may be compelled to deliver to the assignee any property or estate embraced in the assignment.

Section 6. Section 6-1-14 is amended to read:

6-1-14. Subsequent inventory -- Additional bond.

The assignee shall from time to time file with the clerk of the court an inventory and valuation of any additional property which may come into [~~his~~]the assignee's hands under the assignment after the filing of the first inventory, and the clerk or the judge of the court may thereupon require [~~him~~]the assignee to give additional security.

Section 7. Section 6-1-16 is amended to read:

6-1-16. Sales -- Confirmation.

The assignee may dispose of and sell all the estate assigned, real and personal, which the debtor had at the time of the assignment, may sue for and recover in [~~his~~]the assignee's own name everything belonging or appertaining to said estate, and generally do whatever the debtor might have done in the premises; but no sale of real estate belonging to said trust shall be made without notice published as in case of sales of real estate on execution, unless the court or judge shall otherwise order, and no such sales shall be valid until approved by the court or judge.

Section 8. Section 6-1-17 is amended to read:

6-1-17. Removal of assignee.

Upon a written application of a majority of the creditors in amount the court shall remove the assignee and appoint in [~~his~~]the assignee's stead a person approved by the creditors in the same number and amount, and the person so removed shall immediately turn over to the clerk of the court, or any person appointed by the court, all money and property of the estate in [~~his~~]the removed assignee's hands.

Section 9. Section 6-1-18 is amended to read:

6-1-18. Death or neglect of assignee.

If an assignee dies before the closing of [~~his~~]the assignee's trust, or shall fail or neglect for the period of 20 days after making of any assignment to file an inventory and valuation and give bond as required in this title, the district court or any judge thereof of the county where such assignment may be recorded, on the application of any person interested, shall appoint some person to execute the trust, who shall on giving bond have all the powers of the assignee first appointed and be subject to all the duties hereby imposed. If it is shown to the court at any time that an assignee is guilty of wasting or misapplying the trust fund, [~~he~~]that assignee may be removed, and a successor appointed in the same manner.

Section 10. Section 10-8-42 is amended to read:

10-8-42. Intoxicating liquors -- Prohibitions on manufacture, sale, possession, etc.

They may prohibit, except as provided by law, any person from knowingly having in [~~his~~]the person's possession any intoxicating liquor, and the manufacture, sale, keeping or storing for sale, offering or exposing for sale, importing, carrying, transporting, advertising, distributing, giving away, exchanging, dispensing or serving of intoxicating liquors.

Section 11. Section 10-8-78 is amended to read:

10-8-78. Official bonds and reports.

They may require all municipal officers and agents, elected or appointed, to give bond and security for the faithful performance of their duties, and require from every officer of the city at any time a report in detail of all transactions in [~~his~~]the officer of the city's office or any matters connected therewith.

Section 12. Section 10-8-85 is amended to read:

10-8-85. Prison labor and fines.

They may provide by ordinance that any person committed to the county or municipal jail or other place of incarceration as a punishment or in default of the payment of a fine, or fine and costs, shall be required to work for the city at such labor as [~~his~~]the person's strength will permit not exceeding eight hours in each working day; and that a judgment that the defendant pay a fine or a fine and costs may also direct that [~~he~~]the defendant be imprisoned until the amount thereof is satisfied, specifying the extent of imprisonment which cannot exceed one day for each $2 of such amount.

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

11-1-1. Auditor's certificate to show obligation within debt limit.

The county auditor of each county, the auditor of each city, and the clerk of each board of education in this state shall endorse a certificate upon every bond, warrant or other evidence of debt, issued pursuant to law by any such officer, that the same is within the lawful debt limit of such county, city or school district, respectively, and is issued according to law. [~~He~~]The officer shall sign such certificate in [~~his~~]the officer's official character.

Section 14. Section 11-6-1 is amended to read:

11-6-1. Records to be kept -- Availability to peace officers.

Pawnbrokers and dealers in secondhand goods shall keep records containing a description of all articles received by them, the amounts paid therefor or advanced thereon, a general description of the person from whom received, together with [~~his~~]the person's name and address and the date of the transaction. Such records shall at all reasonable times be accessible to any peace officer who demands an inspection thereof, and any further information regarding such transaction that [~~he~~]the peace officer may require shall be given by pawnbrokers and secondhand dealers to the best of

their ability. In cities of the first and the second class at the close of each day's business pawnbrokers shall mail a copy of such records to the sheriff of the county in which they are located.

Section 15. Section 11-7-4 is amended to read:

11-7-4. Death or injury of firefighter while fighting fire outside territorial limits.

The effect of the death or injury of any [~~fireman~~]firefighter who is killed or injured outside the territorial limits of the county or municipality where [~~he~~]the firefighter is a member of the fire-fighting force or fire department and while that force or department is functioning pursuant to any contract made under Section 11-7-1 shall be the same as if [~~he~~]the firefighter were killed or injured while that force or department was functioning within its own territorial limits, and [~~his~~]the firefighter's death shall be considered in the line of duty.

Section 16. Section 15-2-2 is amended to read:

15-2-2. Liability for necessaries and on contracts -- Disaffirmance.

A minor is bound not only for reasonable value of necessaries but also by [~~his~~]the minor's contracts, unless [~~he~~]the minor disaffirms them before or within a reasonable time after [~~he~~]the minor attains [~~his~~] majority and restores to the other party all money or property received by [~~him~~]the minor by virtue of said contracts and remaining within [~~his~~]the minor's control at any time after attaining [~~his~~] majority.

Section 17. Section 15-2-3 is amended to read:

15-2-3. Limitation on right to disaffirm.

No contract can be thus disaffirmed in cases where, on account of the minor's own misrepresentations as to [~~his~~]the minor's majority or from [~~his~~]the minor having engaged in business as adult, the other party had good reason to believe the minor capable of contracting.

Section 18. Section 15-2-4 is amended to read:

15-2-4. Payment for personal services.

When a contract for the personal services of a minor has been made with [~~him~~]the minor alone, and those services are afterward performed, payment made therefor to such minor in accordance with the terms of the contract is a full satisfaction for those services, and the parent or guardian cannot recover therefor a second time.

Section 19. Section 15-3-1 is amended to read:

15-3-1. Conveyances, releases, sales by persons acting jointly.

A conveyance, release or sale may be made to or by two or more persons acting jointly and one or more, but less than all, of these persons acting either [~~by himself or themselves~~]alone or with other persons; and a contract may be made between such parties.

Section 20. Section 15-4-5 is amended to read:

15-4-5. Release of co-obligor -- Effect of knowledge of obligee.

(1) If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor then knows or has reason to know that the obligor released or discharged did not pay as much of the claim as [~~he~~]that obligor was bound by [~~his~~]that obligor's contract or relation with that co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-obligor to pay.

(2) If an obligee so releasing or discharging an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of two amounts, namely:

(a) the amount of the fractional share of the obligor released or discharged; or

(b) the amount that such obligor was bound by [~~his~~]that obligor's contract or relation with the co-obligor to pay.

Section 21. Section 15-4-6 is amended to read:

15-4-6. Death of joint obligor -- Survivorship.

On the death of a joint obligor in contract [~~his~~]the joint obligor's executor or administrator shall be bound as such jointly and severally with the surviving obligor or obligors.

Section 22. Section 16-7-6 is amended to read:

16-7-6. Powers of corporations sole.

Upon making and filing articles of incorporation as herein provided the person subscribing the same and [~~his~~]the person's successor in office, by the name or title specified in the articles, shall thereafter be deemed and is hereby created a body politic and a corporation sole, with perpetual succession, and shall have power:

(1) To acquire and possess, by donation, gift, bequest, devise or purchase, and to hold and maintain, property, real, personal and mixed; and to grant, sell, convey, rent or otherwise dispose of the same as may be necessary to carry on or promote the objects of the corporation.

(2) To borrow money and to give written obligations therefor, and to secure the payment thereof by mortgage or other lien upon real or personal property, when necessary to promote such objects.

(3) To contract and be contracted with.

(4) To sue and be sued.

(5) To plead and be impleaded in all courts of justice.

(6) To have and use a common seal by which all deeds and acts of such corporation may be authenticated.

Section 23. Section 17-3-9 is amended to read:

17-3-9. Division of taxes.

Whenever a new county shall be created under the provisions of this chapter and the officers thereof shall have duly qualified the county treasurer of the county from which territory has been taken to create such new county shall furnish to the county treasurer of such new county a certified list of all taxes collected by [~~him~~]the county treasurer of the county from which territory has been taken for the preceding year upon the property located within such portion of [~~his~~]that county as has become a part of such new county, together with the entire amount of such county, district school or other special taxes [~~by him collected~~]collected by the county treasurer of the county from which territory has been taken for such preceding year, less the pro rata cost of assessing and collecting the same and the entire cost of making said certified lists.

Section 24. Section 17-16-12 is amended to read:

17-16-12. Business to be finished before expiration of term.

It shall be the duty of all officers in this title named to complete the business of their respective offices to the time of the expiration of their respective terms, and in case an officer at the close of [~~his~~]the officer's term shall leave to [~~his~~]the officer's successor official labor to be performed for which [~~he~~]the officer has received compensation or which it was [~~his~~]the officer's duty to perform, [~~he~~]the officer shall be liable to pay [~~his~~]the officer's successor the full value of such service.

Section 25. Section 17-22-10 is amended to read:

17-22-10. Prisoners under civil process.

Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party thereto, the sheriff is not bound to receive such person unless security is given on the part of the party at whose instance the process is issued, by deposit of money, to meet the expenses of necessary food, clothing and bedding for [~~him~~]the committed person, or to detain such person any longer than the expenses are provided for. This section does not apply to cases where a party is committed as a punishment for disobedience to the mandates, process, writs or orders of court.

Section 26. Section 17-22-11 is amended to read:

17-22-11. Return of process.

When process or notice is returnable [~~he~~], the sheriff may enclose such process or notice in an envelope addressed to the officer or person from whom the same emanated, and deposit it in the post office, prepaying the postage.

Section 27. Section 17-22-13 is amended to read:

17-22-13. Failure or delay in making return on process -- Penalty.

If a sheriff does not return without delay a process or notice in [~~his~~]the sheriff's possession with the necessary endorsement thereon, [~~he~~]the sheriff is liable to the party aggrieved for all damages sustained by [~~him~~]the aggrieved party.

Section 28. Section 17-22-14 is amended to read:

17-22-14. Failure to levy execution -- Penalty.

If the sheriff to whom a writ of execution is delivered neglects or refuses, after being required by the creditor or [~~his~~]the creditor's attorney, the fees having first been paid or tendered, to levy upon or sell any property of the party charged in the writ which is liable to be levied upon and sold, [~~he~~]the sheriff shall be liable to the creditor for the value of such property.

Section 29. Section 17-22-15 is amended to read:

17-22-15. Neglect or refusal to pay over money -- Penalty.

If [~~he~~]the sheriff neglects or refuses to pay over on demand to the person entitled thereto any money which may come into [~~his~~]the sheriff's hands by virtue of [~~his~~]the sheriff's office, after deducting all legal fees, the amount thereof with 25% damages and interest at the rate of 1% per month from the time of demand may be recovered by such person; provided, that such sheriff may pay such money into the court or to the clerk thereof issuing the writ or process upon which such money is collected or received and from the time of such payment the sheriff shall be relieved of all liability therefor, unless the detention is shown to have been wrongful.

Section 30. Section 17-22-16 is amended to read:

17-22-16. Declaring office vacant.

When the sheriff is committed for not paying over money received by [~~him~~]the sheriff by virtue of [~~his~~]the sheriff's office and remains committed for 60 days [~~his~~]the sheriff's office is vacant.

Section 31. Section 17-22-17 is amended to read:

17-22-17. Escapes -- Sheriff's liability.

A sheriff who suffers the escape of a person arrested in a civil action, without the consent or connivance of the party in whose behalf the arrest or imprisonment is made, is liable as follows:

(1) When the arrest is upon an order to hold to bail or upon a surrender in exoneration of bail before judgment [~~he~~]the sheriff is liable to the plaintiff as bail.

(2) When the arrest is on an execution or commitment to enforce the payment of money [~~he~~]the sheriff is liable for the amount expressed in the execution or commitment.

(3) When the arrest is on an execution or commitment other than to enforce the payment of money [~~he~~]the sheriff is liable for the actual damages sustained.

(4) Upon being sued for damages for an escape or rescue [~~he~~]the sheriff may introduce evidence in mitigation and exculpation.

Section 32. Section 17-22-18 is amended to read:

17-22-18. Rescues -- Sheriff's liability.

[~~He~~]The sheriff is liable for the rescue of a person arrested in a civil action equally as for an escape.

Section 33. Section 17-22-19 is amended to read:

17-22-19. Action for escape or rescue -- Defenses.

An action cannot be maintained against the sheriff for a rescue or for an escape of a person arrested upon an execution or commitment, if after [~~his~~]that person's rescue or escape and before the commencement of the action the prisoner returns to the jail or is retaken by the sheriff or by any other person.

Section 34. Section 17-22-20 is amended to read:

17-22-20. Only written directions to sheriff binding.

No direction or authority by a party or [~~his~~]the party's attorney to the sheriff in respect to the execution of process or the return thereof or to any act or omission relating thereto is available to discharge or excuse the sheriff from liability for neglect or misconduct, unless it is contained in a writing, signed by the attorney of the party or by the party, if [~~he~~]the party has no attorney.

Section 35. Section 17-22-24 is amended to read:

17-22-24. Service of papers, other than process, on sheriff -- Powers of successor.

Service upon the sheriff of a paper other than process may be made by delivering it or a copy thereof to [~~him~~]the sheriff or to one of [~~his~~]the sheriff's deputies or to a person in charge of [~~his~~]the sheriff's office during office hours, or, if no such person is there, by leaving it in a conspicuous place in the office. When any process remains with the sheriff unexecuted, in whole or in part, at the time of [~~his~~]the sheriff's death, resignation of office or at the expiration of [~~his~~]the sheriff's office such process shall be executed by [~~his~~]the sheriff's successor in office; and when the sheriff sells real estate under and by virtue of an execution or order of court [~~he~~]the sheriff or [~~his~~]the sheriff's successor in office shall execute and deliver to the purchaser all such deeds and conveyances as are required by law and necessary for that purpose, and such deeds and conveyances shall be as valid in law as if they had been executed by the sheriff who made the sale.

Section 36. Section 17-22-25 is amended to read:

17-22-25. Service of process on sheriff -- When constable to act.

In cases where it appears in any court of record that the sheriff is a party, or where an affidavit is filed with the clerk of the court stating partiality, prejudice, consanguinity or interest on the part of the sheriff, the clerk of the court shall direct process to any constable of the county, whose duty it shall be to execute it in the same manner as if [~~he~~]the constable were sheriff.

Section 37. Section 17-30-10 is amended to read:

17-30-10. Appointments from eligible register -- Failure to accept appointment.

(1) When a peace officer is to be appointed, the appointing authority shall request the merit system commission to certify three eligible applicants for the position. The commission shall thereupon certify to the appointing authority the names of the three applicants standing highest on the eligible register. The appointing authority shall select and appoint one of the persons so certified.

(2) In the event a certified person fails to accept a proffered appointment, [~~he~~]the certified person may, at [~~his~~]the certified person's request, retain [~~his~~]the certified person's place on the eligible register if [~~he~~]the certified person submits in writing reasons sufficient in the judgment of the commission to justify such failure.

Section 38. Section 17-30-16 is amended to read:

17-30-16. Temporary layoffs -- Re-employment register.

When necessary because of lack of funds or work an officer may, with the approval of the commission, be temporarily laid off. Such layoff shall be made according to the lowest rating of the officers of the class of position affected, calculated upon seniority under a method prescribed by the commission. A person serving under temporary or emergency appointment shall be laid off before any merit system officer. A merit system officer who is laid off shall be placed upon a re- employment register to be re- employed in the inverse order in which [~~he~~]the merit system officer is laid off, which register shall take precedence over all eligible registers.

Section 39. Section 17-30-17 is amended to read:

17-30-17. Leave of absence -- Sick leaves and vacations.

(1) The appointing authority, with the approval of the commission, may grant an officer a leave of absence without pay for a period not to exceed one year. In the event an officer on leave takes a higher position in police work which does not come under the merit system provisions of this act, the leave may, with the consent of the commission, be

renewed. In the event an officer is elected sheriff, or is appointed chief deputy, [~~he~~]the officer shall automatically be placed on leave for the period of time [~~he~~]the officer remains sheriff or chief deputy. Upon the termination of a leave of absence, the officer shall be returned to [~~his~~]the officer's former position.

(2) Sick leaves and vacations with pay shall be as provided by law or ordinance.

Section 40. Section 17-30-20 is amended to read:

17-30-20. Appeal to district court -- Scope of review.

A person aggrieved by an act or failure to act of any merit system commission under this act may appeal to the district court, if [~~he~~]the aggrieved person has exhausted [~~his~~]the remedies of appeal to the commission. The courts may review questions of law and fact and may affirm, set aside, or modify the ruling complained of.

Section 41. Section 22-1-4 is amended to read:

22-1-4. Transfer of negotiable instruments by fiduciaries.

If any negotiable instrument payable or indorsed to a fiduciary as such is endorsed by the fiduciary, or if any negotiable instrument payable or endorsed to [~~his~~]the fiduciary's principal is endorsed by a fiduciary empowered to endorse such instrument on behalf of [~~his~~]the principal, the indorsee is not bound to inquire whether the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in endorsing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary, unless [~~he~~]the fiduciary takes the instrument with actual knowledge of such breach or with knowledge of such facts that [~~his~~]the fiduciary's action in taking the instrument amounts to bad faith. If, however, such instrument is transferred by the fiduciary in payment of, or as security for, a personal debt of the fiduciary to the actual knowledge of the creditor, or is transferred in any transaction known by the transferee to be for the personal benefit of the fiduciary, the creditor or other transferee is liable to the principal, if the fiduciary in fact commits a breach of [~~his~~]the fiduciary's obligation as fiduciary in transferring the instrument.

Section 42. Section 22-1-5 is amended to read:

22-1-5. Checks -- Drawn by fiduciaries, payable to third persons.

If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of [~~his~~]the fiduciary's principal by a fiduciary empowered to draw such instrument in the name of [~~his~~]the fiduciary's principal, the payee is not bound to inquire whether the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing or delivering the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary, unless [~~he~~]the fiduciary takes the instrument with actual knowledge of such breach or with knowledge of such facts that [~~his~~]the fiduciary's action in taking the instrument amounts to bad faith. If, however, such instrument is payable to a personal creditor of the fiduciary and delivered to the creditor in payment of, or as security for, a personal debt of the fiduciary to the actual knowledge of the creditor, or is drawn and delivered in any transaction known by the payee to be for the personal benefit of the fiduciary, the creditor or other payee is liable to the principal, if the fiduciary in fact commits a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing or delivering the instrument.

Section 43. Section 22-1-6 is amended to read:

22-1-6. Checks drawn by or payable to fiduciary.

If a check or other bill of exchange is drawn by a fiduciary as such, or in the name of [~~his~~]the fiduciary's principal by a fiduciary empowered to draw such instrument in the name of [~~his~~]the principal, payable to the fiduciary personally, or payable to a third person and [~~by him transferred~~]transferred by the third person to the fiduciary, and is thereafter transferred by the fiduciary, whether in payment of a personal debt of the fiduciary or otherwise, the transferee is not bound to inquire whether the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in transferring the instrument, and is not chargeable with notice that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary, unless [~~he~~]the transferee takes the instrument with actual knowledge of such breach or with knowledge of such facts that [~~his~~]the transferee action in taking the instrument amounts to bad faith.

Section 44. Section 22-1-7 is amended to read:

22-1-7. Bank deposits in name of fiduciary.

If a deposit is made in a bank to the credit of a fiduciary as such, the bank is authorized to pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which such deposit is entered, without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing the check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of, or as security for, a personal debt of the fiduciary to it, the bank is liable to the principal, if the fiduciary in fact commits a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing or delivering the check.

Section 45. Section 22-1-8 is amended to read:

22-1-8. Checks drawn in name of principal.

If a check is drawn upon the account of [~~his~~]a fiduciary's principal in a bank by a fiduciary who is

empowered to draw checks upon [~~his~~]the fiduciary's principal's account, the bank is authorized to pay such check without being liable to the principal, unless the bank pays the check with actual knowledge that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing such check, or with knowledge of such facts that its action in paying the check amounts to bad faith. If, however, such a check is payable to the drawee bank and is delivered to it in payment of, or as security for, a personal debt of the fiduciary to it, the bank is liable to the principal, if the fiduciary in fact commits a breach of [~~his~~]the fiduciary's obligation as fiduciary in drawing or delivering the check.

Section 46. Section 22-1-9 is amended to read:

22-1-9. Deposits in fiduciary's personal account.

If a fiduciary makes a deposit in a bank to [~~his~~]the fiduciary's personal credit of checks drawn by [~~him~~]the fiduciary upon an account in [~~his~~]the fiduciary's own name as fiduciary, or of checks payable to [~~him~~]the fiduciary as fiduciary, or of checks drawn by [~~him~~]the fiduciary upon an account in the name of [~~his~~]the fiduciary's principal, if [~~he~~]the fiduciary is empowered to draw checks thereon, or of checks payable to [~~his~~]the fiduciary's principal and indorsed by [~~him~~]the fiduciary, if [~~he~~]the fiduciary is empowered to indorse such checks, or if [~~he~~]the fiduciary otherwise makes a deposit of funds held by [~~him~~]the fiduciary as fiduciary, the bank receiving such deposit is not bound to inquire whether the fiduciary is committing thereby a breach of [~~his~~]the fiduciary's obligation as fiduciary; and the bank is authorized to pay the amount of the deposit or any part thereof upon the personal check of the fiduciary without being liable to the principal, unless the bank receives the deposit or pays the check with actual knowledge that the fiduciary is committing a breach of [~~his~~]the fiduciary's obligation as fiduciary in making such deposit or in drawing such check, or with knowledge of such facts that its action in receiving the deposit or paying the check amounts to bad faith.

Section 47. Section 22-2-1 is amended to read:

22-2-1. Death of trustee -- Trust estate vests in successor.

Upon the death of a sole or surviving trustee of an express trust the trust estate does not descend to [~~his~~]the trustee's heirs or pass to [~~his~~]the trustee's personal representatives, but shall by virtue hereof, upon the appointment and qualification of a successor to such trustee, become immediately vested in such successor in trust.

Section 48. Section 25-5-1 is amended to read:

25-5-1. Estate or interest in real property.

No estate or interest in real property, other than leases for a term not exceeding one year, nor any trust or power over or concerning real property or in any manner relating thereto, shall be created, granted, assigned, surrendered or declared otherwise than by act or operation of law, or by deed or conveyance in writing subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by [~~his~~]that party's lawful agent thereunto authorized by writing.

Section 49. Section 25-5-3 is amended to read:

25-5-3. Leases and contracts for interest in lands.

Every contract for the leasing for a longer period than one year, or for the sale, of any lands, or any interest in lands, shall be void unless the contract, or some note or memorandum thereof, is in writing subscribed by the party by whom the lease or sale is to be made, or by [~~his~~]that party's lawful agent thereunto authorized in writing.

Section 50. Section 25-5-6 is amended to read:

25-5-6. Promise to answer for obligation of another -- When not required to be in writing.

A promise to answer for the obligation of another in any of the following cases is deemed an original obligation of the promisor and need not be in writing:

(1) Where the promise is made by one who has received property of another upon an undertaking to apply it pursuant to such promise, or by one who has received a discharge from an obligation in whole or in part in consideration of such promise.

(2) Where the creditor parts with value or enters into an obligation in consideration of the obligation in respect to which the promise is made in terms or under circumstances such as to render the party making the promise the principal debtor and the person in whose behalf it is made [~~his~~]the principal debtor's surety.

(3) Where the promise, being for an antecedent obligation of another, is made upon the consideration that the party receiving it cancel the antecedent obligation, accepting the new promise as a substitute therefor; or upon the consideration that the party receiving it releases the property of another from a levy or [~~his~~]the other's person from imprisonment under an execution on a judgment obtained upon the antecedent obligation; or upon a consideration beneficial to the promisor, whether moving from either party to the antecedent obligation or from another person.

(4) Where a factor undertakes for a commission to sell merchandise and to guarantee the sale.

(5) When the holder of an instrument for the payment of money upon which a third person is or may become liable to [~~him~~]the holder transfers it in payment of a precedent debt of [~~his~~]the holder's own, or for a new consideration, and in connection with such transfer enters into a promise respecting such instrument.

Section 51. Section 25-5-7 is amended to read:

25-5-7. Contracts by telegraph deemed written.

Contracts made by telegraph shall be deemed to be contracts in writing, and all communications sent by telegraph and signed by the person sending the same, or by [~~his~~]that person's authority, shall be deemed to be communications in writing.

Section 52. Section 29-1-1 is amended to read:

29-1-1. Fireproof safe for use of guests -- Limitation of liability.

If an innkeeper, hotel keeper, boarding house keeper, or lodging house keeper keeps on [~~his~~]the premises a fireproof safe or vault, and gives notice to [~~his~~] guests, boarders or lodgers, by posting a copy of this section in a prominent or conspicuous place in the office of the inn, hotel, boarding house or lodging house and in the rooms occupied by the guests, boarders or lodgers, that [~~he~~]the keeper keeps for their use a fireproof safe or vault and will not be liable for money, jewelry, documents or other articles of unusual value and small compass, unless placed therein, [~~he~~]the keeper is not liable, except so far as [~~his~~]the keeper's acts or the acts of [~~his~~]the keeper's employees shall contribute thereto, for any loss of or injury to such articles, if not deposited with [~~him~~]the keeper to be placed in such safe or vault, or in any case for more than the sum of $250 for any such property, unless [~~he~~]the keeper shall have given a receipt in writing therefor to the guest, boarder or lodger, and the value of the article so placed with [~~him~~]the keeper for safekeeping shall have been declared by such guest, boarder or lodger.

Section 53. Section 34-19-8 is amended to read:

34-19-8. Injunctive relief -- Appeals.

Whenever any court, or judge or judges of it, shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings, and on [~~his~~]the party's filing the usual bond for costs, forthwith certify the entire record of the case, including a transcript of the evidence taken, to the appropriate appellate court for its review. Upon the filing of such record in the appropriate appellate court the appeal shall be heard with the greatest possible expedition, giving the proceeding precedence over all other matters except older matters of the same character.

Section 54. Section 34-19-11 is amended to read:

34-19-11. "Labor dispute" defined.

(1) The words "labor dispute" as used in this chapter include any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, or concerning employment relations, or any other controversy arising out of the respective interests of employer and employee, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(2) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against [~~him or it~~]the person or association and if [~~he or it~~]the person or association is engaged in the industry, trade, craft, or occupation in which such dispute occurs, or is a member, officer, or agent of any association of employers or employees engaged in such industry, trade, craft, or occupation.

(3) A case shall be held to involve or grow out of a labor dispute when the case involves persons who are engaged in a single industry, trade, craft, or occupation; or who are employees of one employer; or who are members of the same or an affiliated organization of employers or employees whether such dispute is:

(a) between one or more employers or associations of employers and one or more employees or associations of employees;

(b) between one or more employers or associations of employers and one or more employers or associations of employers; or

(c) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a labor dispute of persons participating or interested in it.

Section 55. Section 34-20-1 is amended to read:

34-20-1. Declaration of policy.

The public policy of the state as to employment relations and collective bargaining in the furtherance of which this chapter is enacted, is declared to be as follows:

(1) It recognizes that there are three major interests involved, namely: that of the public, the employee, and the employer. These three interests are to a considerable extent interrelated. It is the policy of the state to protect and promote each of these interests with due regard to the situation and to the rights of the others.

(2) Industrial peace, regular and adequate income for the employee, and uninterrupted production of goods and services are promotive of all of these interests. They are largely dependent upon the maintenance of fair, friendly, and mutually satisfactory employment relations and the availability of suitable machinery for the peaceful adjustment of whatever controversies may arise. It is recognized that certain employers, including farmers and farmer cooperatives, in addition to their general employer problems, face special problems arising from perishable commodities and seasonal production which require adequate consideration. It is also recognized that whatever may be the rights of disputants with respect to each other in any controversy regarding employment relations, they should not be permitted in the conduct of their controversy to intrude directly into

the primary rights of third parties to earn a livelihood, transact business, and engage in the ordinary affairs of life by any lawful means and free from molestation, interference, restraint, or coercion.

(3) Negotiation of terms and conditions of work should result from voluntary agreement between employer and employee. For the purpose of such negotiation an employee has the right, if [~~he~~]the employee desires, to associate with others in organizing and bargaining collectively through representatives of [~~his~~]the employee's own choosing, without intimidation or coercion from any source.

(4) It is the policy of the state, in order to preserve and promote the interests of the public, the employee, and the employer alike, to establish standards of fair conduct in employment relations and to provide a convenient, expeditious and impartial tribunal by which these interests may have their respective rights and obligations adjudicated.

Section 56. Section 34-26-2 is amended to read:

34-26-2. Claim -- Notice.

Any such employee, laborer or servant desiring to enforce [~~his~~]a claim for wages under this chapter shall present a statement under oath to the officer, person or court charged with such property within 10 days after the seizure of it on any process, or within 30 days after the same may have been placed in the hands of any receiver, assignee or trustee, showing the amount due after allowing all just credits and setoffs, the kind of work for which such wages are due and when performed. Any person with whom any such claim shall have been filed shall give immediate notice thereof by mail to all persons interested, and, if the claim is not contested as provided in Section 34-26-3, it shall be the duty of the person or the court receiving such statement to pay the amount of such claim or claims to the person or persons entitled thereto, after first paying all costs occasioned by the seizure of such property, out of the proceeds of the sale of the property seized.

Section 57. Section 34-26-3 is amended to read:

34-26-3. Claim -- Exceptions -- Contest.

Any person interested may within 10 days after the notice of presentment of said statement contest such claims, or any part of them, by filing exceptions to them supported by affidavit with the officer or court having the custody of such property, and thereupon the claimant shall be required to reduce [~~his~~]the claimant's claim to judgment in some court having jurisdiction before any part thereof shall be paid. The person contesting shall be made a party defendant in any such action and shall have the right to contest such claim, and the prevailing party shall recover proper costs.

Section 58. Section 34-27-1 is amended to read:

34-27-1. Reasonable amount -- Taxed as costs.

Whenever a mechanic, artisan, miner, laborer, servant, or other employee shall have cause to bring suit for wages earned and due according to the terms of [~~his~~]that individual's employment and shall establish by the decision of the court that the amount for which [~~he~~]the plaintiff has brought suit is justly due, and that a demand has been made in writing at least 15 days before suit was brought for a sum not to exceed the amount so found due, then it shall be the duty of the court before which the case shall be tried to allow to the plaintiff a reasonable attorneys' fee in addition to the amount found due for wages, to be taxed as costs of suit.

Section 59. Section 34-29-9 is amended to read:

34-29-9. Commission to be returned if employment not secured.

It shall be unlawful for an employment agent to retain, directly or indirectly, any money or other valuable consideration received for any information or assistance described in Section 34-29-1, if the person for whom such information or assistance is furnished fails through no neglect or fault of [~~his~~]the person's own to secure the employment regarding which such information or assistance is furnished; and the money or consideration shall be by the agent forthwith returned to the payer of the same upon demand.

Section 60. Section 34-29-19 is amended to read:

34-29-19. Deceptive or duplicate orders for employees -- Liability to applicants.

Any person who places with an employment agent an order for more employees than [~~he~~]the person placing the order actually desires, or who places with employment agents duplicate orders for employees, or who permits a standing order for employees to remain uncanceled at a time when [~~he~~]the person placing the order does not need such employees, shall be liable to persons who, in good faith, accept and act upon information furnished in good faith by employment agents under such excess, duplicate or standing order for the amount actually expended in traveling from the location of such employment agency to the place of such proposed employment and return.

Section 61. Section 34-30-8 is amended to read:

34-30-8. Forty-hour work week -- Overtime at one and one-half regular rate.

Forty hours shall constitute a working week on all works and undertakings carried on by the state, county, or municipal governments, or by any officer of the state or of any county or municipal government. Any persons, corporation, firm, contractor, agent, manager, or foreman, who shall require or contract with any person to work upon such works or undertakings longer than 40 hours in

one week shall pay such employees at a rate not less than one and one-half times the regular rate at which [~~he~~]the employee is employed.

Section 62. Section 34-33-1 is amended to read:

34-33-1. Unlawful for employer to charge employee medical examination fee.

It shall be unlawful for any person, firm, corporation or partnership to charge any person a medical fee for the physical examination of any applicant for employment with such person, firm, corporation or partnership, or to deduct the cost of such physical examination from the money earned by such employee or to make any charge for or to deduct from the earnings of such employee any medical fee for any physical examination upon the re-employment of any employee who may have discontinued such employment, or who may have been discharged or [~~his~~]whose employment has otherwise been terminated; nor shall any employer, as a condition of pre-employment, employment, or continued employment, require any employee or person applying for employment to submit to or obtain a physical examination, unless such employer shall pay all costs of such physical examination.

Section 63. Section 34-34-13 is amended to read:

34-34-13. Damages for denial or deprivation of continuation of employment.

Any person who may be denied employment or be deprived of continuation of [~~his~~] employment in violation of this chapter shall be entitled to recover from such employer and from any other person, firm, corporation or association acting in concert with [~~him~~]the employer by appropriate action in the courts of this state such damages as [~~he~~]the person may have sustained by reason of such denial or deprivation of employment.

Section 64. Section 38-2-1 is amended to read:

38-2-1. Lien on livestock -- For feed and care.

Every [~~ranchman~~]rancher, farmer, agistor, herder of cattle, tavern keeper or livery stable keeper to whom any domestic animals shall be entrusted for the purpose of feeding, herding or pasturing shall have a lien upon such animals for the amount that may be due [~~him~~] for such feeding, herding or pasturing, and is authorized to retain possession of such animals until such amount is paid.

Section 65. Section 38-2-2 is amended to read:

38-2-2. Liens of hotels and boardinghouse keepers.

Every innkeeper, hotel keeper, boardinghouse keeper, or lodginghouse keeper shall have a lien on the baggage and other property in and about such inn belonging to or under control of [~~his~~] guests or boarders for the proper charges due [~~him~~] for their accommodation, board and lodging, for money paid for or advanced to them, and for such other extras as are furnished at their request. The innkeeper, hotel keeper, boardinghouse keeper, or lodginghouse keeper may detain such baggage and other property until the amount of such charge is paid, and the baggage and other property shall not be exempt from attachment or execution until the hotel or boardinghouse keeper's lien and the costs of enforcing it are satisfied.

Section 66. Section 38-2-3.1 is amended to read:

38-2-3.1. Special lien on personal property for services rendered -- General lien of dry cleaning establishments, laundries, and shoe repair shops.

Every person who, while lawfully in possession of an article of personal property, renders any service to the owner or owners thereof, by labor or skill performed upon said personal property at the request or order of said owner, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to [~~him~~]the person from the owner or owners for such service; and every laundry proprietor, person conducting a laundry business, dry cleaning establishment, proprietor and person conducting a dry cleaning establishment, shoe repair establishment proprietor and person conducting a shoe repair establishment has a general lien, dependent on possession, upon all personal property in [~~his~~]their hands belonging to a customer, for the balance due [~~him~~] from such customer for laundry work, and for the balance due [~~him~~] for dry cleaning work, and for the balance due [~~him~~] for shoe repair work; but nothing in this section shall be construed to confer a lien in favor of a wholesale dry cleaner on materials received from a dry cleaning establishment proprietor or a person conducting a dry cleaning establishment. The terms "person" and "proprietor" as used in this section shall include an individual, firm, partnership, association, corporation and company.

Section 67. Section 38-2-5 is amended to read:

38-2-5. Action for deficiency.

Nothing in this chapter shall take away the right of action of the party to whom such lien is given for [~~his~~]that party's charges, or for any residue thereof, after such sale of the property.

Section 68. Section 38-3-3 is amended to read:

38-3-3. Attachment in aid of lien.

Whenever any rent shall be due and unpaid under a lease, or the lessee shall be about to remove [~~his~~]the lessee's property from the leased premises, the lessor may have the personal property of the lessee which is upon the leased premises and subject to such lien attached without other ground for such attachment.

Section 69. Section 38-7-3 is amended to read:

38-7-3. Parties or insurance carrier making payment liable for satisfaction of lien -- Enforcement of lien.

(1) Any person, firm or corporation, including an insurance carrier, making any payment to a patient or to [~~his~~]the patient's attorney, heirs or legal representative as compensation for the injuries and/or damages sustained, after the filing and, if applicable, receipt of written notice of the lien, as aforesaid, and without paying the hospital asserting the lien the amount of its lien or that portion of the lien which can be satisfied out of the money due under any final judgment or contract of compromise or settlement, less payment of the amount of any prior liens, shall be liable to the hospital for the amount that the hospital was entitled to receive.

(2) Liability of the person, firm or corporation for the satisfaction of the hospital lien shall continue for a period of one year from and after the date of any payment of any money to the patient, [~~his~~]the patient's heirs or legal representatives as damages or under a contract of compromise or settlement. Any hospital may enforce its lien by a suit at law against the person, firm or corporation making the payment. In the event of a suit to enforce a lien the hospital may recover a reasonable attorney's fee and the costs of filing and recording the lien.

Section 70. Section 40-1-2 is amended to read:

40-1-2. Discovery monument -- Notice of location -- Contents.

The locator at the time of making the discovery of such vein or lode must erect a monument at the place of discovery, and post thereon [~~his~~]the locator's notice of location which shall contain:

(1) The name of the claim.

(2) The name of the locator or locators.

(3) The date of the location.

(4) If a lode claim, the number of linear feet claimed in length along the course of the vein each way from the point of discovery, with the width claimed on each side of the center of the vein, and the general course of the vein or lode as near as may be, and such a description of the claim, located by reference to some natural object or permanent monument, as will identify the claim.

(5) If a placer or mill site claim, the number of acres or superficial feet claimed, and such a description of the claim or mill site, located by reference to some natural object or permanent monument, as will identify the claim or mill site.

Section 71. Section 40-1-12 is amended to read:

40-1-12. Damages for wrongful removal of ores.

When damages are claimed for the extraction or selling of ore from any mine or mining claim and the defendant, or those under whom [~~he~~]the defendant claims, holds, under color of title adverse to the claims of the plaintiff, in good faith, then the reasonable value of all labor bestowed or expenses incurred in necessary developing, mining, transporting, concentrating, selling or preparing said ore, or its mineral content, for market, must be allowed as an offset against such damages; provided, however, that any person who, wrongfully entering upon any mine or mining claim and carrying away ores therefrom, or wrongfully extracting and selling ores from any mine, having knowledge of the existence of adverse claimants in any mine or mining claim, and without notice to them, knowingly and willfully trespasses in or upon such mine or mining claim and extracts or sells ore therefrom shall be liable to the owners of such ore for three times the value thereof without any deductions either for labor bestowed or expenses incurred in removing, transporting, selling or preparing said ore, or its mineral content for market.

Section 72. Section 41-4-2 is amended to read:

41-4-2. Threat to discontinue sales to retail seller prima facie evidence of violation.

Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, that such person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to such person who is so engaged in the business of selling motor vehicles at retail, unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from [~~his~~]the retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in Section 41-4-1.

Section 73. Section 41-4-3 is amended to read:

41-4-3. Threat to discontinue sales to person engaged in business of financing who is affiliated with manufacturer or distributor.

Any threat, expressed or implied, made directly or indirectly, to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person so engaged in such

manufacture or distribution shall terminate [~~his~~]a contract with or cease to sell motor vehicles to such person engaged in the sale of motor vehicles at retail in this state unless such person finances the purchase or sale of any one or number of motor vehicles only or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from [~~his~~]the retail sale of motor vehicles or any one or any number thereof only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such person so engaged in such manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in Section 41-4-1.

Section 74. Section 41-4-12 is amended to read:

41-4-12. Actions for damages.

In addition to the criminal and civil penalties herein provided, any person who is injured in [~~his~~]the person's business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages [~~by him~~] sustained, and the costs of suit. Whenever it shall appear to the court before which any proceeding under this act is pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

Section 75. Section 41-19-1 is amended to read:

41-19-1. Powers and duties of governor.

The governor, in addition to other duties and responsibilities conferred upon [~~him~~]the governor by the Constitution and laws of the state of Utah is hereby empowered to contract and to do all other things necessary in behalf of the state to secure the full benefits available to this state under the federal Highway Safety Act of 1966, and any amendments thereto, and in so doing, to cooperate with the federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. The governor shall be the official having the ultimate responsibility for dealing with the United States Government with respect to programs and activities pursuant to the federal Highway Safety Act of 1966, and any amendments thereto. To that end [~~he~~]the governor shall be responsible for activities of any and all departments and agencies of this state and its subdivisions, relating thereto. [~~He~~]The governor may designate an appropriate person, commission or board to assist [~~him~~]the governor in coordinating the activities and programs contemplated under this section.

Section 76. Section 42-1-1 is amended to read:

42-1-1. By petition to district court -- Contents.

Any natural person, desiring to change [~~his~~]the natural person's name, may file a petition therefor in the district court of the county where [~~he~~]the natural person resides, setting forth:

(1) The cause for which the change of name is sought.

(2) The name proposed.

(3) That [~~he~~]the natural person has been a bona fide resident of the county for the year immediately prior to the filing of the petition.

Section 77. Section 43-1-2 is amended to read:

43-1-2. Transfer -- By delivery -- By endorsement -- Rights of transferee.

Title to any security receipt, or equipment trust certificate, which by its terms entitles the bearer to the benefits thereof, may be transferred by delivery by any person in possession of the same, howsoever such possession may have been acquired.

Title to any security receipt, or equipment trust certificate, which by its terms entitles the person named therein to the benefits thereof, and which provides in substance that title thereto is transferable with the same effect as in the case of a negotiable instrument, may be transferred by delivery by any person in possession of the same, howsoever such possession may have been acquired, if endorsed in blank or, if it is endorsed to a specified person, by delivery by such other person.

A person to whom title is so transferred, who takes any such instrument for present or antecedent value, without notice of prior defenses, equities or claims of ownership enforceable against the transferor, shall have absolute title thereto free of any defenses enforceable against, or claims of ownership of, the signer or any prior holder. The holder of any such security receipt, or equipment trust certificate, unless the same has been endorsed in blank by such specified person, shall be deemed prima facie to have title thereto as aforesaid; but when it is shown that the title of any person who has negotiated such instrument is defective, the burden is on the holder to prove that [~~he~~]the holder, or some person under whom [~~he~~]the holder claims, acquired title as a holder for value and without notice as aforesaid.

The provisions of this section shall not be applicable to the transfer of any security receipt, or equipment trust certificate, when it is shown that such transfer was made after the date fixed therein for performance by the signer of [~~his~~]the signer's

obligations thereunder, or, if no date is so fixed, after the expiration of a reasonable time after the happening of the contingency upon which the signer became obligated to perform.

Section 78. Section 47-1-2 is amended to read:

47-1-2. Injunction -- Notice to owner of premises.

Whenever a nuisance as defined in this chapter is kept or maintained, or exists, the county attorney or any citizen of the county may maintain an action in equity in the name of the state of Utah, upon the relation of such county attorney or citizen, to perpetually enjoin such nuisance, the person or persons conducting or maintaining the same and the owner or agent of the building or ground upon which it exists; provided, that when the owner or agent is not in the actual possession of the premises [~~he~~]the owner or agent shall have, before an action is brought under this chapter against [~~him~~]the owner or agent or affecting [~~his~~]the owner's or agent's real estate, notice in writing of the existence and nature of the nuisance, and [~~he~~]the owner or agent shall have a reasonable time after service of such notice in which to abate the nuisance. In such action the court, or a judge thereof, shall upon the presentation of a complaint therefor alleging that the nuisance complained of exists, allow a temporary writ of injunction without bond, if it shall be made to appear to the satisfaction of the court or judge that such nuisance exists, by evidence in the form of affidavits, depositions, oral testimony or otherwise, as the complainant may elect, unless the court or judge, by previous order, shall have directed the form and manner in which it shall be presented. Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at [~~his~~]the defendant's instance, the writ as prayed for shall be granted as a matter of course. When an injunction has been granted it shall be binding on the defendant throughout the judicial district in which it was issued, and any violation of the provisions of the injunction herein provided for shall be a contempt as hereinafter provided.

Section 79. Section 47-1-3 is amended to read:

47-1-3. Evidence -- Dismissal of action -- Costs.

In such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance. If the complaint is filed by a citizen, it shall not be dismissed except upon a sworn statement made by the relator and [~~his~~]the relator's attorney setting forth the reasons why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. If the court is of the opinion that the action ought not to be dismissed, it may direct the county attorney to prosecute the action to judgment, and, if the action is continued for more than one term of court, any citizen of the county or the county attorney may be substituted for the relator and prosecute the action to judgment. If the action is brought by a citizen and the court finds there was no reasonable ground or cause therefor, the costs may be taxed to such citizen.

Section 80. Section 47-1-7 is amended to read:

47-1-7. Bond to secure abatement -- Procedure.

If the owner appears and pays all costs of the proceeding and files a bond, with sureties to be approved by the clerk, in the full value of the property, to be ascertained by the court, or in vacation by the clerk, auditor and treasurer of the county, conditioned that [~~he~~]the owner will immediately abate the nuisance and prevent the same from being established or kept therein within a period of one year thereafter, the court or the judge may, if satisfied of [~~his~~]the owner's good faith, order the premises that have been closed under the order of abatement to be delivered to the owner, and the order of abatement may be canceled so far as the same may relate to said property; and, if the proceeding is an action in equity and such bond is given and costs therein paid before judgment and order of abatement, the action shall be thereby abated as to the building only. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

Section 81. Section 52-1-8 is amended to read:

52-1-8. Official bonds -- Actions on -- Parties.

When a public officer by official misconduct or neglect of duty shall forfeit [~~his~~]the officer's official bond or render [~~his~~]the officer's sureties liable thereon, any person injured by such misconduct or neglect, or who is by law entitled to the benefit of the security, may maintain an action thereon in [~~his~~]the injured party's own name against the officer and [~~his~~]the officer's sureties to recover the amount to which [~~he~~]the injured party may by reason thereof be entitled.

Section 82. Section 52-1-11 is amended to read:

52-1-11. Bonds to cover special penalties and liabilities.

Whenever, except in criminal prosecutions, any special penalty, forfeiture or liability is imposed upon any officer for nonperformance or malperformance of [~~his~~]the officer's official duties, the liability therefor attaches to the official bond of such officer.

Section 83. Section 54-4-20 is amended to read:

54-4-20. Consumer may have meter tested upon paying fee.

Any consumer or user of any product, commodity or service of a public utility may have any appliance used in the measurement thereof tested, upon paying the fees fixed by the commission. The commission shall establish and fix reasonable fees

to be paid for testing such appliances on the request of the consumer or user; the fee to be paid by the consumer or user at the time of [~~his~~]the consumer's or user's request, but to be paid by the public utility and repaid to the consumer or user under such rules and regulations as may be prescribed by the commission, if the appliance is found defective or incorrect to the disadvantage of the consumer or user.

Section 84. Section 54-7-7 is amended to read:

54-7-7. Books and records of utilities subject to inspection.

The commission, each commissioner and each officer and person employed by the commission shall have the right at any and all times to inspect the accounts, books, papers and documents of any public utility, and the commission, each commissioner and any officer of the commission or any employee authorized to administer oaths shall have power to examine under oath any officer, agent or employee of any public utility in relation to the business and affairs of said public utility; provided, that any person other than a commissioner or an officer of the commission demanding such inspection shall produce under the hand and seal of the commission [~~his~~]that person's authority to make such inspection; and provided further, that written record of the testimony or statement so given under oath shall be made and filed with the commission.

Section 85. Section 54-8-12 is amended to read:

54-8-12. Property owners failing to appear at hearings -- Waiver of rights.

Every person who has real property within the boundaries of the district and who fails to appear before the governing body at the hearing and make any objection [~~he~~]the property owner may have to the creation of the district, the making of the improvements and the inclusion of [~~his~~]the owner's real property in the district, shall be deemed to have waived every such objection. Such waiver shall not, however, preclude [~~his~~]the property owner's right to object to the amount of the assessment at the hearing for which provision is made in Section 54-8-17.

Section 86. Section 56-1-19 is amended to read:

56-1-19. Right to eject passenger.

If any passenger refuses to pay [~~his~~]the fare or exhibit or surrender [~~his~~]a ticket when requested so to do, or if [~~he~~]the passenger behaves in a disorderly manner, the conductor and employees of a railroad company may, on stopping the train, put [~~him~~]the passenger and [~~his~~]the passenger's baggage out of the cars, using no unnecessary force, at any usual stopping place or in sight of a dwelling.

Section 87. Section 56-1-20 is amended to read:

56-1-20. Operating employees to wear insignia.

Every conductor, baggage master, engineer, brakeman or other employee of a railroad company, employed in a passenger train or at the stations for passengers, shall wear upon [~~his~~]the employee's hat or cap or in some conspicuous place on the breast of [~~his~~]the employee's coat a badge indicating [~~his~~]the employee's office or station, and, by its initial letters, the name of the company by which [~~he~~]the employee is employed; and no collector or conductor without such badge shall demand or be entitled to receive from any passenger any fare or ticket or exercise any of the powers of [~~his~~]the collector's or conductor's office or station or interfere with any passenger or [~~his~~]the passenger's property.

Section 88. Section 57-1-4 is amended to read:

57-1-4. Attempted conveyance of more than grantor owns -- Effect.

A conveyance made by an owner of an estate for life or years, purporting to convey a greater estate than [~~he~~]the owner could lawfully transfer, does not work a forfeiture of [~~his~~]the estate, but passes to the grantee all the estate which the grantor could lawfully transfer.

Section 89. Section 57-1-11 is amended to read:

57-1-11. Claimant out of possession may convey.

Any person claiming title to any real estate may, notwithstanding there may be an adverse possession thereof, sell and convey [~~his~~]the claimant's interest therein in the same manner and with the same effect as if [~~he~~]the claimant were in the actual possession thereof.

Section 90. Section 57-2-12 is amended to read:

57-2-12. Certificate of proof by subscribing witness.

No certificate of such proof shall be made unless such subscribing witness shall prove that the person whose name is subscribed thereto as a party is the person described in, and who executed, the same; that such person executed the conveyance, and that such person [~~subscribed his name~~]signed thereto as a witness thereof at the request of the maker of such instrument.

Section 91. Section 57-2-15 is amended to read:

57-2-15. Evidence required for certificate of proof.

No certificate of any such proof shall be made unless a competent and credible witness shall state on oath or affirmation that [~~he~~]the competent and credible witness personally knew the person whose name is subscribed thereto as a party, well knows [~~his~~]the subscribing party's signature, stating [~~his~~]the competent and credible witness's means of

knowledge, and believes the name of the party subscribed thereto as a party was subscribed by such person; nor unless a competent and credible witness shall in like manner state that [~~he~~]the competent and credible witness personally knew the person whose name is subscribed to such conveyance as a witness, well knows [~~his~~]the subscribing witness's signature, stating [~~his~~]the competent and credible witness's means of knowledge, and believes the name subscribed thereto as a witness was thereto subscribed by such person.

Section 92. Section 57-2-16 is amended to read:

57-2-16. Subpoena to subscribing witness.

Upon the application of any grantee in any conveyance required by law to be recorded, or of any person claiming under such grantee, verified under the oath of the applicant, that any witness to such conveyance residing in the county where such application is made refuses to appear and testify touching the execution thereof, and that such conveyance cannot be proved without [~~his~~]the subscribing witness's evidence, any officer authorized to take the acknowledgment or proof of such conveyance may issue a subpoena requiring such witness to appear before such officer and testify touching the execution thereof.

Section 93. Section 57-2-17 is amended to read:

57-2-17. Disobedience of subpoenaed witness -- Contempt -- Proof aliunde.

Every person who, being served with a subpoena, shall without reasonable cause refuse or neglect to appear, or, appearing, shall refuse to answer upon oath touching the matters aforesaid, shall be liable to the party injured for such damages as may be sustained by [~~him~~]the injured party on account of such neglect or refusal, and may also be dealt with for contempt as provided by law; but no person shall be required to attend who resides out of the county in which the proof is to be taken, nor unless [~~his~~]the subscribing witness's reasonable expenses shall have first been tendered to [~~him~~]the subscribing witness; provided, that if it shall appear to the satisfaction of the officer so authorized to take such acknowledgment that such subscribing witness purposely [~~conceals himself~~]hides, or keeps out of the way, so that [~~he~~]the subscribing witness cannot be served with a subpoena or taken on attachment after the use of due diligence to that end, or in case of [~~his~~]the subscribing witness's continued failure or refusal to testify for the space of one hour after [~~his~~]the subscribing witness's appearance shall have been compelled by process, then said conveyance or other instrument may be proved and admitted to record in the same manner as if such subscribing witness thereto were dead.

Section 94. Section 57-6-2 is amended to read:

57-6-2. Claimant to commence action -- Complaint -- Trial of issues.

Such complaint must set forth the grounds on which the defendant seeks relief, stating as accurately as practicable the value of the real estate, exclusive of the improvements thereon made by the claimant or [~~his~~]the claimant's grantors, and the value of such improvements. The issues joined thereon must be tried as in law actions, and the value of the real estate and of such improvements must be separately ascertained on the trial.

Section 95. Section 57-6-3 is amended to read:

57-6-3. Rights of parties -- Acquiring other's interest or holding as tenants in common.

The plaintiff in the main action may thereupon pay the appraised value of the improvements and take the property, but should [~~he~~]the plaintiff fail to do so after a reasonable time, to be fixed by the court, the defendant may take the property upon paying its value, exclusive of the improvements. If this is not done within a reasonable time, to be fixed by the court, the parties will be held to be tenants in common of all the real estate, including the improvements, each holding an interest proportionate to the values ascertained on the trial.

Section 96. Section 57-6-7 is amended to read:

57-6-7. When execution on judgment of possession may issue.

The plaintiff in the main action is entitled to an execution to put [~~him~~]the plaintiff in possession of [~~his~~]the plaintiff's property in accordance with the provisions of this chapter, but not otherwise.

Section 97. Section 57-6-8 is amended to read:

57-6-8. Improvements made by occupants of land granted to state.

Any person having improvements on any real estate granted to the state in aid of any work of internal improvement, whose title thereto is questioned by another, may remove such improvements without injury otherwise to such real estate, at any time before [~~he~~]the person is evicted therefrom, or [~~he~~]the person may claim and have the benefit of this chapter by proceeding as herein directed.

Section 98. Section 57-8-19 is amended to read:

57-8-19. Liens against units -- Removal from lien -- Effect of part payment.

(1) Subsequent to recording the declaration as provided in this act, and while the property remains subject to this act, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided that no

labor performed or materials furnished with the consent or at the request of a unit owner or [~~his~~]the unit owner's agent or [~~his~~]the unit owner's contractor or subcontractor shall be the basis for the filing of a lien pursuant to the lien law against the unit of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs. Labor performed or materials furnished for the common areas and facilities, if authorized by the unit owners, the manager or management committee in accordance with this act, the declaration or bylaws or the house rules, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the units.

(2) In the event a lien against two or more units becomes effective, the unit owners of the separate units may remove their units and the percentage of undivided interest in the common areas and facilities appurtenant to such units from the lien by payment of the fractional or proportional amount attributable to each of the units affected. Such individual payment shall be computed by reference to the percentages appearing in the declaration. Subsequent to any payment, discharge or other satisfaction, the unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall be free and clear of the lien so paid, satisfied or discharged. Partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce [~~his~~]the lienor's rights against any unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

Section 99. Section 57-8-25 is amended to read:

57-8-25. Joint and several liability of grantor and grantee for unpaid common expenses.

In a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for [~~his~~]the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the manager or management committee setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount set forth.

Section 100. Section 57-8-26 is amended to read:

57-8-26. Waiver of use of common areas and facilities -- Abandonment of unit.

No unit owner may be exempt [~~himself~~] from liability for [~~his~~]the unit owner's contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of [~~his~~]the owner's unit.

Section 101. Section 57-9-4 is amended to read:

57-9-4. Filing of notice of claim of interest authorized -- Effect of possession of land by record owner of possessory interest.

(1) Any person claiming an interest in land may preserve and keep effective such interest by filing for record during the forty-year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a notice in writing, duly verified by oath, setting forth the nature of the claim. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of the forty-year period. The notice may be filed for record by the claimant or by any other person acting in behalf of any claimant who is:

(a) under a disability[~~,~~];

(b) unable to assert a claim on [~~his own~~]the claimant's own behalf[~~,~~]; or

(c) one of a class, but whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

(2) If the same record owner of any possessory interest in land has been in possession of such land continuously for a period of 40 years or more, during which period no title transaction with respect to such interest appears of record in [~~his~~]the record owner's chain of title, and no notice has been filed by [~~him~~]the record owner or on [~~his~~]the record owner's behalf as provided in Subsection (1), and such possession continues to the time when marketability is being determined, such period of possession shall be deemed equivalent to the filing of the notice immediately preceding the termination of the forty-year period described in Subsection (1).

Section 102. Section 57-9-8 is amended to read:

57-9-8. Definitions.

As used in this act:

(1) The words "marketable record title" mean a title of record as indicated in Section 57-9-1, which operates to extinguish such interests and claims, existing prior to the effective date of the root of title, as are stated in Section 57-9-3.

(2) The word "records" includes probate and other official public records, as well as records in the registry of deeds.

(3) The word "recording," when applied to the official public records of a probate or other court, includes filing.

(4) The words "person dealing with land" include a purchaser of any estate or interest therein, a mortgagee, a levying or attaching creditor, a land contract vendee, or any other person seeking to

acquire an estate or interest therein, or impose a lien thereon.

(5) The words "root of title" mean that conveyance or other title transaction in the chain of title of a person, purporting to create the interest claimed by such person, upon which [~~he~~]such person relies as a basis for the marketability of [~~his~~]that person's title, and which was the most recent to be recorded as of a date 40 years prior to the time when marketability is being determined. The effective date of the "root of title" is the date on which it is recorded.

(6) The words "title transaction" mean any transaction affecting title to any interest in land, including title by will or descent, title by tax deed, or by trustee's, referee's, guardian's, executor's, administrator's, master in chancery's, or sheriff's deed, or decree of any court, as well as warranty deed, quitclaim deed, or mortgage.

Section 103. Section 67-1-4 is amended to read:

67-1-4. Records to be kept.

The governor must cause to be kept the following records:

(1) An account of all [~~his~~]the governor's official expenses and disbursements, including the incidental expenses of [~~his~~]the governor's department, and an account of all rewards offered by [~~him~~]the governor for the apprehension of criminals and persons charged with crime.

(2) A register of all appointments made by [~~him~~]the governor, with dates of commissions and names of appointees and predecessors.

Section 104. Section 67-1-6 is amended to read:

67-1-6. Acting governor -- Powers and duties.

Every provision of law relating to the powers and duties of the governor, and relating to acts and duties to be performed by others toward [~~him~~]the governor, extends to the person performing, for the time being, the duties of governor.

Section 105. Section 67-3-2 is amended to read:

67-3-2. Right to compel accounting by, and state accounts with, all collectors of state money -- Escheats.

Whenever any person has received money, or has money or other personal property which belongs to the state by escheat or otherwise, or has been entrusted with the collection, management or disbursement of any money, bonds, or interest accruing thereon, belonging to or held in trust by the state, and fails to render an account thereof to and make settlement with the state auditor within the time prescribed by law, or, when no particular time is specified, fails to render such account and make settlement, or who fails to pay into the state treasury any money belonging to the state, upon being required so to do by the state auditor, within 20 days after such requisition, the state auditor must state an account with such person, charging 25% damages, and interest at the rate of 10% per annum from the time of failure; a copy of such account in any suit thereon shall be prima facie evidence of the things therein stated. In case the state auditor cannot, for want of information, state such an account, [~~he~~]the state auditor may in any action brought by [~~him~~]the state auditor aver the fact, and allege generally the amount of money or other property which is due to or which belongs to the state.

Section 106. Section 67-4-15 is amended to read:

67-4-15. Insurance protection for funds, warrants and securities.

The state treasurer shall procure such insurance protecting the funds, warrants and securities in [~~his~~]the state treasurer's custody against loss from such causes and in such amounts as the Commission of Finance may from time to time determine. The cost of such insurance shall be paid out of the fund for the protection of which it is carried.

Section 107. Section 67-9-2 is amended to read:

67-9-2. Official bonds.

Where a deputy of any state officer is required to give a bond to the state [~~he~~], the deputy shall give a surety-company bond, and the premium therefor shall be paid by the state.

Section 108. Section 67-16-9 is amended to read:

67-16-9. Conflict of interests prohibited.

No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between [~~his~~]the public officer's or public employee's private interests and [~~his~~]the public officer's or public employee's public duties.

Section 109. Section 69-1-4 is amended to read:

69-1-4. Transmitting certified instruments -- Burden of proof.

Except as hereinbefore otherwise provided, any instrument in writing[~~,~~]that is duly certified under [~~his hand and official seal by a notary public,~~]the hand of the commissioner of deeds or clerk of a court of record to be genuine to the personal knowledge of such officer and that is certified under official seal by a notary public, may, together with such certificate, be sent by telegraph or telephone. The telegraphic or telephonic copy thereof shall, prima facie only, have the same force, effect and validity in all respects as the original, and the burden of proof shall be on the party denying the genuineness or due execution of the original.

Section 110. Section 73-1-9 is amended to read:

73-1-9. Contribution between joint owners of ditch or reservoir.

When two or more persons are associated in the use of any dam, canal, reservoir, ditch, lateral, flume or other means for conserving or conveying water for the irrigation of land or for other purposes, each of them shall be liable to the other for the reasonable expenses of maintaining, operating and controlling the same, in proportion to the share in the use or ownership of the water to which [~~he~~]the person is entitled.

Section 111. Section 73-1-12 is amended to read:

73-1-12. Failure to record -- Effect.

Every deed of a water right which shall not be recorded as provided in this title shall be void as against any subsequent purchaser, in good faith and for a valuable consideration, of the same water right, or any portion thereof, where [~~his own~~]the subsequent purchaser's deed shall be first duly recorded.

Section 112. Section 73-2-1.2 is amended to read:

73-2-1.2. Director of Division of Water Rights -- Appointment of state engineer.

The Division of Water Rights shall be administered by the state engineer who shall act as the director of the Division of Water Rights and who shall be appointed as provided by Section 73-2-1. Nothing contained in this act shall modify, repeal or impair the powers or duties of the state engineer relating to the administration, appropriation, adjudication and distribution of the waters of the state of Utah as are conferred upon [~~him~~]the state engineer pursuant to Title 73, Water and Irrigation, or the provisions of any other laws.

Section 113. Section 73-2-1.3 is amended to read:

73-2-1.3. Report to executive director of natural resources.

The state engineer shall report to the executive director of natural resources at such times and on such administrative matters concerning [~~his~~]the state engineer's office as the executive director may require.

Section 114. Section 73-2-11 is amended to read:

73-2-11. Records -- Certified copies -- Evidence.

[~~He~~]The state engineer shall keep on file in [~~his~~]the state engineer's office full and proper records of [~~his~~]the state engineer's work, including all field notes, computations and facts made or collected by [~~him~~]the state engineer, all of which shall be part of the records of [~~his~~]the state engineer's office and the property of the state. All records, maps and papers recorded or filed in the office of the state engineer shall be open to the public during business hours. The office of the state engineer is hereby declared to be an office of public record, and none of the files, records or documents shall be removed therefrom, except in the custody of the state engineer or one of [~~his~~]the state engineer's deputies. Certified copies of any record or document shall be furnished by the state engineer on demand, upon payment of the reasonable cost of making the same, together with the legal fee for certification. Such copies shall be competent evidence, and shall have the same force and effect as the originals.

Section 115. Section 73-3-11 is amended to read:

73-3-11. Statement of financial ability of applicants.

Before either approving or rejecting an application the state engineer may require such additional information as will enable [~~him~~]the state engineer properly to guard the public interests, and may require a statement of the following facts: In case of an incorporated company, [~~he~~]the state engineer may require the submission of the articles of incorporation, the names and places of residence of its directors and officers, and the amount of its authorized and its paid-up capital. If the applicant is not a corporation, [~~he~~]the state engineer may require a showing as to the names of the persons proposing to make the appropriation and a showing of facts necessary to enable [~~him~~]the state engineer to determine whether or not they are qualified appropriators and have the financial ability to carry out the proposed work, and whether or not the application has been made in good faith.

Section 116. Section 73-3-19 is amended to read:

73-3-19. Right of entry on private property -- By applicant -- Bond -- Priority.

Whenever any applicant for the use of water from any stream or water source must necessarily enter upon private property in order to make a survey to secure the required information for making a water filing and is refused by the owner or possessor of such property such right of entry, [~~he~~]the applicant may petition the district court for an order granting such right, and after notice and hearing, such court may grant such permission, on security being given to pay all damage caused thereby to the owner of such property. In such case the priority of such application shall date from the filing of such petition with the district court as aforesaid.

Section 117. Section 73-4-2 is amended to read:

73-4-2. Interstate streams.

For the purpose of co-operating with the state engineers of adjoining states in the determination and administration of rights to interstate waters and for such other purposes as [~~he~~]the state engineer may deem expedient, the state engineer, with the approval of the executive director and the governor, is authorized to initiate and to join in suits for the adjudication of such rights in the federal courts and in the courts of other states without requiring a petition of water users as provided by

Section 73-4-1. The state engineer, with the approval of the executive director and the governor, may also commence, prosecute and defend suits to adjudicate interstate waters on behalf of this state or its citizens in the courts of other states, in federal courts, and in the Supreme Court of the United States.

Section 118. Section 73-4-23 is amended to read:

73-4-23. Effective date of amendatory act -- Application to pending suits -- State engineer's certificate.

This act shall be effective 60 days from its enactment and shall apply to all suits now pending under Title 73, Chapter 4, Determination of Water Rights, Utah Code Annotated 1953, except those proceedings under which the state engineer has by the effective date hereof completed [~~his~~]the state engineer's survey, and it is expressly provided that those actions where the state engineer has by the effective date of this act completed [~~his~~]the state engineer's survey may proceed to completion under the procedure prescribed by the statutes heretofore existing. The state engineer shall within 10 days after the effective date of this act file with the clerk of the court in each action then pending under Title 73, Chapter 4, Determination of Water Rights, Utah Code Annotated 1953, a certificate under the seal of [~~his~~]the state engineer's office stating whether or not [~~he~~]the state engineer has completed the survey so that all persons will have notice and can know whether or not this act is applicable to such existing suit.

Section 119. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 366
S. B. 95
Passed March 1, 2024
Approved March 18, 2024
Effective September 1, 2024

DOMESTIC RELATIONS RECODIFICATION

Chief Sponsor: Todd D. Weiler
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill recodifies and amends statutes related to domestic relations.

Highlighted Provisions:

This bill:

- recodifies Title 30, Husband and Wife, to Title 81, Utah Domestic Relations Code;
- recodifies Title 78B, Chapter 12, Utah Child Support Act, to Title 81, Chapter 6, Child Support;
- defines terms;
- clarifies provisions related to a claim of a creditor when the joint debtors divorce or are living separately under an order of separate maintenance;
- clarifies the validation of a marriage to an individual subject to chronic epileptic fits who had not been sterilized;
- clarifies the validation of an interracial marriage;
- clarifies the validation of a marriage to an individual with acquired immune deficiency syndrome or other sexually transmitted disease;
- clarifies provisions regarding the rights and obligations during a marriage;
- clarifies provisions regarding the dissolution of a marriage, including:
  - an order for separate maintenance;
  - an annulment; and
  - a divorce;
- provides that a provision regarding a party's retirement being a substantial material change in circumstances for purposes of modifying alimony applies to a divorce decree regardless of the date which the divorce decree was entered;
- clarifies provisions regarding child support, including:
  - the requirements for a child support order;
  - the general requirements for calculating child support; and
  - the requirements for calculating child support for a sole physical custody case, a joint physical custody case, and a split physical custody case;
- clarifies provisions regarding custody, parent-time, and visitation;
- repeals statutes related to domestic relations, including a statute on the appointment of counsel for a child; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

15-4-1, as last amended by Laws of Utah 2023, Chapter 327
15-4-6.5, as last amended by Laws of Utah 2000, Chapter 252
15-4-6.7, as last amended by Laws of Utah 2023, Chapter 327
17-16-21, as last amended by Laws of Utah 2022, Chapter 335
23A-4-1102, as last amended by Laws of Utah 2023, Chapter 327 and renumbered and amended by Laws of Utah 2023, Chapter 103
26B-1-202, as last amended by Laws of Utah 2023, Chapter 302
26B-5-316, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-6-411, as renumbered and amended by Laws of Utah 2023, Chapter 308
26B-8-101, as last amended by Laws of Utah 2023, Chapter 306 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 306
26B-9-101, as last amended by Laws of Utah 2023, Chapter 305
26B-9-104, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-201, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-202, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-210, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-211, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-212, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-213, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-214, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-217, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-220, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-221, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-224, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-225, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-226, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-230, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-301, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-303, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-304, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-403, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-9-405, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-9-501, as renumbered and amended by Laws of Utah 2023, Chapter 305
31A-22-610.5, as last amended by Laws of Utah 2023, Chapter 327
35A-3-307, as last amended by Laws of Utah 2015, Chapter 221
51-9-408, as last amended by Laws of Utah 2021, Chapter 262
58-60-112, as last amended by Laws of Utah 2023, Chapter 139
63G-20-201, as enacted by Laws of Utah 2015, Chapter 46
63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
63I-2-278, as last amended by Laws of Utah 2023, Chapters 33 and 250
63M-15-204, as enacted by Laws of Utah 2021, Chapter 91
76-8-1201, as last amended by Laws of Utah 2015, Chapter 221
77-36-1, as last amended by Laws of Utah 2022, Chapters 185 and 430
77-38-615, as last amended by Laws of Utah 2023, Chapter 237
78A-2-301, as last amended by Laws of Utah 2023, Chapter 330
78A-5a-103, as enacted by Laws of Utah 2023, Chapter 394
78A-6-103, as last amended by Laws of Utah 2023, Chapters 115, 161, 264, and 330
78A-6-104, as last amended by Laws of Utah 2022, Chapter 335
78A-6-356, as last amended by Laws of Utah 2023, Chapter 330
78B-3-416, as last amended by Laws of Utah 2023, Chapter 139
78B-3-426, as last amended by Laws of Utah 2018, Chapter 440
78B-6-316, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-7-204, as last amended by Laws of Utah 2021, Chapter 262
78B-15-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-113, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-603, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-610, as last amended by Laws of Utah 2019, Chapter 188
78B-15-623, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-20-403, as last amended by Laws of Utah 2017, Chapter 224
78B-20-404, as last amended by Laws of Utah 2017, Chapter 224
80-2-906, as renumbered and amended by Laws of Utah 2022, Chapter 334

ENACTS:
63I-1-281, Utah Code Annotated 1953
63I-2-281, Utah Code Annotated 1953
81-1-101, Utah Code Annotated 1953
81-1-201, Utah Code Annotated 1953
81-1-202, Utah Code Annotated 1953
81-1-204, Utah Code Annotated 1953
81-2-101, Utah Code Annotated 1953
81-2-301, Utah Code Annotated 1953
81-2-401, Utah Code Annotated 1953
81-3-101, Utah Code Annotated 1953
81-4-101, Utah Code Annotated 1953
81-4-201, Utah Code Annotated 1953
81-4-301, Utah Code Annotated 1953
81-4-401, Utah Code Annotated 1953
81-4-402, Utah Code Annotated 1953
81-4-406, Utah Code Annotated 1953
81-4-501, Utah Code Annotated 1953
81-4-502, Utah Code Annotated 1953
81-4-503, Utah Code Annotated 1953
81-4-504, Utah Code Annotated 1953
81-5-101, Utah Code Annotated 1953
81-6-102, Utah Code Annotated 1953
81-6-201, Utah Code Annotated 1953
81-6-204, Utah Code Annotated 1953
81-6-205, Utah Code Annotated 1953
81-6-206, Utah Code Annotated 1953
81-6-207, Utah Code Annotated 1953
81-6-212, Utah Code Annotated 1953
81-6-213, Utah Code Annotated 1953
81-6-301, Utah Code Annotated 1953
81-6-401, Utah Code Annotated 1953
81-7-101, Utah Code Annotated 1953
81-8-101, Utah Code Annotated 1953
81-9-201, Utah Code Annotated 1953
81-9-301, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
30-3-3, (Renumbered from 30-3-3, as last amended by Laws of Utah 2020, Chapter 142)
30-1-4.1, (Renumbered from 30-1-4.1, as enacted by Laws of Utah 2004, Chapter 261)
30-1-36, (Renumbered from 30-1-36, as last amended by Laws of Utah 2018, Chapter 347)
30-1-30, (Renumbered from 30-1-30, as last amended by Laws of Utah 2018, Chapter 347)
30-1-31, (Renumbered from 30-1-31, as enacted by Laws of Utah 1971, Chapter 64)
30-1-32, (Renumbered from 30-1-32, as last amended by Laws of Utah 2011, Chapter 297)
30-1-33, (Renumbered from 30-1-33, as last amended by Laws of Utah 2011, Chapter 297)
30-1-34, (Renumbered from 30-1-34, as last amended by Laws of Utah 2021, Chapter 91)
30-1-35, (Renumbered from 30-1-35, as last amended by Laws of Utah 2011, Chapter 297)
30-1-37, (Renumbered from 30-1-37, as last amended by Laws of Utah 2011, Chapter 297)
30-1-38, (Renumbered from 30-1-38, as enacted by Laws of Utah 1971, Chapter 64)
30-1-7, (Renumbered from 30-1-7, as last amended by Laws of Utah 2021, Chapter 305)
30-1-8, (Renumbered from 30-1-8, as last amended by Laws of Utah 2021, Chapter 305)
30-1-9, (Renumbered from 30-1-9, as last amended by Laws of Utah 2021, Chapter 305)

30-1-6, (Renumbered from 30-1-6, as last amended by Laws of Utah 2022, Chapter 444)
30-1-12, (Renumbered from 30-1-12, as last amended by Laws of Utah 2023, Chapter 327)
30-1-1, (Renumbered from 30-1-1, as last amended by Laws of Utah 2022, Chapter 217)
30-1-2, (Renumbered from 30-1-2, as last amended by Laws of Utah 2019, Chapters 300 and 317)
30-1-2.1, (Renumbered from 30-1-2.1, as enacted by Laws of Utah 1963, Chapter 41)
30-1-2.2, (Renumbered from 30-1-2.2, as last amended by Laws of Utah 1995, Chapter 20)
30-1-2.3, (Renumbered from 30-1-2.3, as last amended by Laws of Utah 1995, Chapter 20)
30-1-4, (Renumbered from 30-1-4, as last amended by Laws of Utah 2019, Chapter 300)
30-1-4.5, (Renumbered from 30-1-4.5, as last amended by Laws of Utah 2021, Chapter 186)
30-1-3, (Renumbered from 30-1-3, as repealed and reenacted by Laws of Utah 2022, Chapter 217)
30-2-2, (Renumbered from 30-2-2, Utah Code Annotated 1953)
30-2-3, (Renumbered from 30-2-3, Utah Code Annotated 1953)
30-2-4, (Renumbered from 30-2-4, Utah Code Annotated 1953)
30-2-5, (Renumbered from 30-2-5, as last amended by Laws of Utah 2023, Chapter 327)
30-2-6, (Renumbered from 30-2-6, Utah Code Annotated 1953)
30-2-7, (Renumbered from 30-2-7, as last amended by Laws of Utah 2011, Chapter 297)
30-2-8, (Renumbered from 30-2-8, Utah Code Annotated 1953)
30-2-9, (Renumbered from 30-2-9, as last amended by Laws of Utah 2015, Chapter 457)
30-2-10, (Renumbered from 30-2-10, as last amended by Laws of Utah 1977, Chapter 122)
30-2-11, (Renumbered from 30-2-11, as last amended by Laws of Utah 2008, Chapters 3 and 382)
30-8-2, (Renumbered from 30-8-2, as enacted by Laws of Utah 1994, Chapter 105)
30-8-3, (Renumbered from 30-8-3, as last amended by Laws of Utah 2011, Chapter 297)
30-8-4, (Renumbered from 30-8-4, as enacted by Laws of Utah 1994, Chapter 105)
30-8-5, (Renumbered from 30-8-5, as enacted by Laws of Utah 1994, Chapter 105)
30-8-6, (Renumbered from 30-8-6, as enacted by Laws of Utah 1994, Chapter 105)
30-8-7, (Renumbered from 30-8-7, as enacted by Laws of Utah 1994, Chapter 105)
30-8-8, (Renumbered from 30-8-8, as enacted by Laws of Utah 1994, Chapter 105)
30-8-9, (Renumbered from 30-8-9, as enacted by Laws of Utah 1994, Chapter 105)
30-1-17.4, (Renumbered from 30-1-17.4, as enacted by Laws of Utah 1971, Chapter 65)
30-4a-1, (Renumbered from 30-4a-1, as enacted by Laws of Utah 1983, Chapter 118)
30-3-4.5, (Renumbered from 30-3-4.5, as last amended by Laws of Utah 2010, Chapter 34)
30-3-11.4, (Renumbered from 30-3-11.4, as last amended by Laws of Utah 2022, Chapter 272)
30-3-11.3, (Renumbered from 30-3-11.3, as last amended by Laws of Utah 2022, Chapter 272)
30-4-1, (Renumbered from 30-4-1, as last amended by Laws of Utah 1993, Chapter 137)
30-4-2, (Renumbered from 30-4-2, as last amended by Laws of Utah 1977, Chapter 122)
30-4-3, (Renumbered from 30-4-3, as last amended by Laws of Utah 1991, Chapter 257)
30-4-4, (Renumbered from 30-4-4, Utah Code Annotated 1953)
30-4-5, (Renumbered from 30-4-5, as last amended by Laws of Utah 1977, Chapter 122)
30-1-17.1, (Renumbered from 30-1-17.1, as enacted by Laws of Utah 1971, Chapter 65)
30-1-17, (Renumbered from 30-1-17, as last amended by Laws of Utah 2019, Chapter 300)
30-3-39, (Renumbered from 30-3-39, as last amended by Laws of Utah 2008, Chapter 3)
30-3-5.2, (Renumbered from 30-3-5.2, as last amended by Laws of Utah 2022, Chapter 335)
30-3-1, (Renumbered from 30-3-1, as last amended by Laws of Utah 1997, Chapter 47)
78B-12-102, (Renumbered from 78B-12-102, as last amended by Laws of Utah 2023, Chapters 330 and 333)
78B-12-103, (Renumbered from 78B-12-103, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-105, (Renumbered from 78B-12-105, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-105.1, (Renumbered from 78B-12-105.1, as enacted by Laws of Utah 2021, Chapters 111 and 111)
78B-12-113, (Renumbered from 78B-12-113, as last amended by Laws of Utah 2023, Chapter 330)
78B-12-201, (Renumbered from 78B-12-201, as renumbered and amended by Laws of Utah 2008, Chapter 3)

78B-12-109, (Renumbered from 78B-12-109, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-115, (Renumbered from 78B-12-115, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-114, (Renumbered from 78B-12-114, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-210, (Renumbered from 78B-12-210, as last amended by Laws of Utah 2022, Chapter 470)
78B-12-203, (Renumbered from 78B-12-203, as last amended by Laws of Utah 2017, Chapter 368)
78B-12-212, (Renumbered from 78B-12-212, as last amended by Laws of Utah 2023, Chapter 333)
78B-12-214, (Renumbered from 78B-12-214, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-217, (Renumbered from 78B-12-217, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-216, (Renumbered from 78B-12-216, as last amended by Laws of Utah 2023, Chapter 330)
78B-12-218, (Renumbered from 78B-12-218, as renumbered and amended by Laws of Utah 2008, Chapter 3)
78B-12-301, (Renumbered from 78B-12-301, as last amended by Laws of Utah 2022, Chapter 470)
78B-12-302, (Renumbered from 78B-12-302, as last amended by Laws of Utah 2022, Chapter 470)
78B-12-303, (Renumbered from 78B-12-303, as enacted by Laws of Utah 2022, Chapter 470)
78B-12-304, (Renumbered from 78B-12-304, as enacted by Laws of Utah 2022, Chapter 470)
78B-12-401, (Renumbered from 78B-12-401, as last amended by Laws of Utah 2018, Chapter 21)
78B-12-402, (Renumbered from 78B-12-402, as last amended by Laws of Utah 2023, Chapter 330)
78B-12-403, (Renumbered from 78B-12-403, as repealed and reenacted by Laws of Utah 2010, Chapter 286)
78B-12-112, (Renumbered from 78B-12-112, as last amended by Laws of Utah 2023, Chapter 330)
30-3-3.5, (Renumbered from 30-3-3.5, as enacted by Laws of Utah 2020, Chapter 182)
30-3-10.1, (Renumbered from 30-3-10.1, as last amended by Laws of Utah 2023, Chapter 44)
30-3-38, (Renumbered from 30-3-38, as last amended by Laws of Utah 2023, Chapter 327)
30-3-33, (Renumbered from 30-3-33, as last amended by Laws of Utah 2017, Chapter 224)
30-3-10.9, (Renumbered from 30-3-10.9, as last amended by Laws of Utah 2018, Chapter 37)
30-3-10, (Renumbered from 30-3-10, as last amended by Laws of Utah 2023, Chapters 44 and 327)
30-3-10.2, (Renumbered from 30-3-10.2, as last amended by Laws of Utah 2019, Chapter 188)
30-3-34, (Renumbered from 30-3-34, as last amended by Laws of Utah 2021, Chapter 399)
30-3-34.5, (Renumbered from 30-3-34.5, as last amended by Laws of Utah 2022, Chapter 430)
30-3-10.4, as last amended by Laws of Utah 2023, Chapter 44
30-3-37, (Renumbered from 30-3-37, as last amended by Laws of Utah 2020, Chapter 354)
30-3-35, (Renumbered from 30-3-35, as last amended by Laws of Utah 2023, Chapter 437)
30-3-35.1, (Renumbered from 30-3-35.1, as last amended by Laws of Utah 2023, Chapter 437)
30-3-35.5, (Renumbered from 30-3-35.5, as last amended by Laws of Utah 2023, Chapter 437)
30-3-35.2, (Renumbered from 30-3-35.2, as enacted by Laws of Utah 2021, Chapter 399)
30-5-1, (Renumbered from 30-5-1, as last amended by Laws of Utah 2020, Chapter 48)
30-5a-103, (Renumbered from 30-5a-103, as last amended by Laws of Utah 2022, Chapters 185, 335, and 430)
30-5-2, (Renumbered from 30-5-2, as last amended by Laws of Utah 2022, Chapter 335)
30-5a-104, (Renumbered from 30-5a-104, as enacted by Laws of Utah 2009, Chapter 108)

REPEALS:
26B-9-227, as renumbered and amended by Laws of Utah 2023, Chapter 305
30-1-5, as last amended by Laws of Utah 2011, Chapter 297
30-1-9.1, as enacted by Laws of Utah 2001, Chapter 129
30-1-10, as last amended by Laws of Utah 2019, Chapter 317
30-1-11, as last amended by Laws of Utah 2019, Chapter 420
30-1-13, as last amended by Laws of Utah 2019, Chapter 300
30-1-14, as last amended by Laws of Utah 2019, Chapter 300
30-1-15, as last amended by Laws of Utah 2001, Chapter 129
30-1-16, as last amended by Laws of Utah 2013, Chapter 108

30-1-17.2, as last amended by Laws of Utah 2008, Chapter 3
30-1-17.3, as last amended by Laws of Utah 2019, Chapter 300
30-3-2, Utah Code Annotated 1953
30-3-4, as last amended by Laws of Utah 2018, Chapter 470
30-3-5, as last amended by Laws of Utah 2023, Chapters 327 and 418
30-3-5.1, as last amended by Laws of Utah 2023, Chapter 327
30-3-5.4, as last amended by Laws of Utah 2023, Chapters 327 and 333
30-3-7, as last amended by Laws of Utah 2012, Chapter 404
30-3-8, as last amended by Laws of Utah 1988, Chapter 154
30-3-10.3, as last amended by Laws of Utah 2012, Chapter 271
30-3-10.5, as last amended by Laws of Utah 2023, Chapter 327
30-3-10.7, as last amended by Laws of Utah 2006, Chapter 287
30-3-10.8, as last amended by Laws of Utah 2023, Chapter 44
30-3-10.10, as enacted by Laws of Utah 2006, Chapter 287
30-3-10.17, as enacted by Laws of Utah 1997, Chapter 232
30-3-11.1, as enacted by Laws of Utah 1969, Chapter 72
30-3-11.2, as enacted by Laws of Utah 1969, Chapter 72
30-3-18, as last amended by Laws of Utah 2018, Chapter 470
30-3-32, as last amended by Laws of Utah 2022, Chapter 471
30-3-36, as last amended by Laws of Utah 2001, Chapter 255
30-5a-101, as last amended by Laws of Utah 2020, Chapter 48
30-5a-102, as last amended by Laws of Utah 2020, Chapter 48
30-8-1, as enacted by Laws of Utah 1994, Chapter 105
63I-1-230, as last amended by Laws of Utah 2021, Chapter 91
75-2b-101, as enacted by Laws of Utah 2012, Chapter 132
78B-12-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-104, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-107, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-108, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-110, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-111, as last amended by Laws of Utah 2023, Chapter 330
78B-12-116, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-117, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-202, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-204, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-205, as last amended by Laws of Utah 2022, Chapter 470
78B-12-206, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-207, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-208, as last amended by Laws of Utah 2021, Chapter 399
78B-12-209, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-211, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-212.1, as enacted by Laws of Utah 2021, Chapters 111 and 111
78B-12-213, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-215, as last amended by Laws of Utah 2013, Chapter 467
78B-12-219, as last amended by Laws of Utah 2021, Chapter 262

Sections affected by Coordination Clause:
30-1-2.2, as last amended by Laws of Utah 1995, Chapter 20251
30-1-2.4, Utah Code Annotated 1953251
30-1-4.5, as last amended by Laws of Utah 2021, Chapter 186
30-1-6, as last amended by Laws of Utah 2022, Chapter 444
30-1-8, as last amended by Laws of Utah 2021, Chapter 305
30-3-4.5, as last amended by Laws of Utah 2010, Chapter 34257258259
30-3-10, as last amended by Laws of Utah 2023, Chapters 44 and 327253254
30-3-10.4, as last amended by Laws of Utah 2023, Chapter 44255
30-3-11.3, as last amended by Laws of Utah 2022, Chapter 272255
30-3-11.4, as last amended by Laws of Utah 2022, Chapter 272255
30-3-33, as last amended by Laws of Utah 2017, Chapter 224
51-9-408, as last amended by Laws of Utah 2021, Chapter 262255
78B-15-610, as last amended by Laws of Utah 2019, Chapter 188255
81-4-401, Utah Code Annotated 1953255
81-4-402, Utah Code Annotated 1953257258259

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

Section 1. Section 15-4-1 is amended to read:

15-4-1. Definitions.

As used in this chapter:

(1) "Administrative agency" means the same as that term is defined in Section 81-6-101.

(2) "Child" means the same as that term is defined in Section 81-6-101.

[~~(1)~~](3) "Obligation" includes a liability in tort and contractual obligations.

[~~(2)~~](4) "Obligee" includes a creditor and a person having a right based on a tort.

[~~(3)~~](5) "Obligor" includes a debtor and a person liable for a tort.

[~~(4)~~](6)(a) "School fee" means a charge, deposit, rent, or other mandatory payment imposed by:

(i) a public school as defined in Section 26B-2-401; or

(ii) a private school that provides education to students in any grade from kindergarten through grade 12.

(b) "School fee" includes:

(i) an admission fee;

(ii) a transportation charge; or

(iii) a charge, deposit, rent, or other mandatory payment imposed by a third party in connection with an activity or function sponsored by a school described in Subsection [~~(4)(a).~~](6)(a).

[~~(5)~~](7) "Several obligors" means obligors severally bound for the same performance.

[~~(6)~~](8) "Waiver" means the act of not requiring an individual to pay an amount that the individual otherwise owes.

Section 2. Section 15-4-6.5 is amended to read:

15-4-6.5. Divorce or separate maintenance of co-obligors.

(1) On the entering of a decree of divorce or separate maintenance of joint debtors in contract, the claim of a creditor remains unchanged unless otherwise provided by the contract or until a new contract is entered into between the creditor and the debtors individually.

(2) In addition to the creditor's duties as a secured party under Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions, and the creditor's duties as a trustee or beneficiary of a trust deed under Title 57, Chapter 1, Conveyances, a creditor[~~, who has been notified by service of a copy of a court order under Section 30-3-5 or 30-4-3 that the debtors are divorced or living separately under an order for separate maintenance, and who has been expressly advised of the separate, current addresses of the debtors either by the court order or by other written notice,~~] shall provide to the debtors individually all statements, notices, and other similar correspondence required by law or by the contract if:

(a) the creditor has been notified by service of a copy of a court order under Section 81-4-204 or 81-4-406 that the debtors are divorced or living separately under an order for separate maintenance; and

(b) the creditor has been expressly advised of the separate and current addresses of the debtors by the court order or by other written notice.

(3)(a) Except as provided in Subsection (3)(b), a creditor may:

(b) continue to make negative credit reports of joint debtors under Section 70C-7-107 [~~and may~~]; and

(c) report the repayment practices or credit history of joint debtors under Title 7, Chapter 14, Credit Information Exchange.

[~~(b)~~](d) [~~With respect to a debtor~~]If a debtor who is not ordered by the court under [~~Sections 30-3-5 or 30-4-3~~]Section 81-4-204 or 81-4-406 to make payments on a joint obligation, [~~no~~]the creditor may not make a negative credit report under Section 70C-7-107, [~~and no~~]or a report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, [~~may be made~~]regarding the joint obligation after the creditor is served notice of the court's order as required under Subsection (2), unless the creditor has made a demand on the debtor for payment because of the failure to make payments by the other debtor[~~,~~] who is ordered by the court to make the payments.

Section 3. Section 15-4-6.7 is amended to read:

15-4-6.7. Medical and miscellaneous expenses of a child -- Collection and billing pursuant to court or administrative order of child support.

(1) When a court or an administrative agency enters an order that provides for the payment of medical and dental expenses of a [~~minor child under Section 30-3-5, 30-4-3, or 78B-12-111, or an administrative order under Section 26B-9-224~~] child as described in Section 26B-9-224 or 81-6-202, a provider who receives a copy of the order:

(a) at or before the time the provider renders medical or dental services to the [~~minor~~]child[~~shall~~], and upon request from [~~either~~]a parent, shall separately bill each parent for the share of the medical and dental expenses that the parent is required to pay under the order; or

(b) within 30 days after the day on which the provider renders the medical or dental service to the child, may not:

(i) make a claim for unpaid medical and dental expenses against a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order; or

(ii) make a negative credit report under Section 70C-7-107, or a report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the medical and dental expenses that the parent is required to pay under the order.

(2)(a) When a court enters an order that provides for the payment of school fees of a [~~minor child under Section 30-3-5 or 30-4-3~~]child in a separate maintenance action under Section 81-4-204 or in a divorce action under Section 81-4-406:

(i) a provider, who receives a copy of the order before the day on which the provider first issues a bill for a school fee [~~shall,~~]and upon request from [~~either~~]a parent, shall separately bill each parent for the share of the school fee that the parent is required to pay under the order;

(ii) a provider, who receives a copy of the order, regardless of whether the provider receives the copy before, on, or after the day on which the provider first issues a bill for the school fee, may not make a negative credit report under Section 70C-7-107, or report of the debtor's repayment practices or credit history under Title 7, Chapter 14, Credit Information Exchange, regarding a parent who has paid in full the share of the school fee that the parent is required to pay under the order; and

(iii) each parent is liable only for the share of the school fee that the parent is required to pay under the order.

(b) A provider may bill a parent for the parent's share of a [~~minor~~]child's school fee under an order described in Subsection (2)(a) regardless of whether the provider grants the other parent a waiver for all or a portion of the other parent's share of the [~~minor~~]child's school fee.

Section 4. Section 17-16-21 is amended to read:

17-16-21. Fees of county officers.

(1) As used in this section, "county officer" means a county officer enumerated in Section 17-53-101 except a county recorder, a county constable, or a county sheriff.

(2)(a) A county officer shall collect, in advance, for exclusive county use and benefit:

(i) a fee established by the county legislative body under Section 17-53-211; and

(ii) any other fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess $10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit $10 from each marriage license fee to the Division of Finance for deposit [~~in~~]into the Children's Legal Defense Account.

(c)(i) As long as the Division of Child and Family Services, created in Section 80-2-201, has the responsibility under Section 80-2-301 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect $10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional $10; and

(B) to the extent actually paid, transmit $10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii)(A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional $10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional $10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess $20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit $20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first $400,000 shall accrue to the Utah Marriage Commission, created in Title 63M, Chapter 15, Utah Marriage Commission, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of $400,000 shall be deposited into the General Fund; and

(iii) may not transmit $20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section [~~30-1-34~~]81-2-206.

(3) This section does not apply to a fee currently being assessed by the state but collected by a county officer.

Section 5. Section 23A-4-1102 is amended to read:

23A-4-1102. Issuance of license, permit, or tag prohibited for failure to pay child support.

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section [~~26B-9-301~~]26B-9-101.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least $2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section 26B-9-214.

(c) "Office" means the Office of Recovery Services created in Section 26B-9-103.

(d) "Wildlife license agent" means a person authorized under Section 23A-4-501 to sell a

license, permit, or tag in accordance with this chapter.

(2)(a) An individual who is delinquent on a child support obligation may not apply for, obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation.

(b)(i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section 23A-4-1101.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section 23A-5-309.

(3)(a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section 26B-9-219 towards the child support arrears.

(c) Except as provided in Subsection (3)(d), if an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(d) If an individual fails to comply with the payment schedule described in Subsection (3)(b) for one month of the 12-month period because of a transition to new employment, the individual may obtain a license, permit, or tag and is considered in compliance with this Subsection (3) if the individual:

(i) provides the office with information regarding the individual's new employer within 30 days from the day on which the missed payment was due;

(ii) pays the missed payment within 30 days from the day on which the missed payment was due; and

(iii) complies with the payment schedule for all other payments owed for child support within the 12-month period.

(4)(a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section 23A-4-1106;

(b) Subsection 23A-5-311(1); and

(c) Section 23A-2-505.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections 26B-9-108 and 78B-6-315.

Section 6. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section [~~62A-5a-105~~]26B-1-430 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section [~~62A-15-102~~]26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as

those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code, or [~~Title 62A, Utah Human Services Code~~]Title 26B, Utah Health and Human Services Code;

(47) oversee public education vision screening as described in Section 53G-9-404; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

Section 7. Section 26B-5-316 is amended to read:

26B-5-316. Responsibility for cost of care.

(1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital [~~pursuant to Title 78B, Chapter 12, Utah Child Support Act, and~~]in accordance with Title 26B, Chapter 9, Recovery Services and Administration of Child Support, and Title 81, Chapter 6, Child Support.

Section 8. Section 26B-6-411 is amended to read:

26B-6-411. Parent liable for cost and support of minor -- Guardian liable for costs.

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, and Chapter 9, Part 1, Office of Recovery Services, until the person reaches 18 years old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

(3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 9. Section 26B-8-101 is amended to read:

26B-8-101. Definitions.

As used in this part:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.

(3) "Certified nurse midwife" means an individual who:

(a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

(5) "Dead body" means a human body or parts of a human body from the condition of which it reasonably may be concluded that death occurred.

(6) "Decedent" means the same as a dead body.

(7) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

(8) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

(9) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i)(A) a person has not been designated as described in Subsection (9)(a); or

(B) the person described in Subsection (9)(a) is unable or unwilling to exercise the right and duty described in Subsection (9)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

(10) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26B-2-232; or

(b) a miscarried fetus as that term is defined in Section 26B-2-233.

(11) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this part for registration by the state registrar or a local registrar.

(12) "Funeral service director" means the same as that term is defined in Section 58-9-102.

(13) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(14) "Health care professional" means a physician, physician assistant, nurse practitioner, or certified nurse midwife.

(15) "Intersex individual" means an individual who:

(a) is born with external biological sex characteristics that are irresolvably ambiguous;

(b) is born with 46, XX chromosomes with virilization;

(c) is born with 46, XY chromosomes with undervirilization;

(d) has both ovarian and testicular tissue; or

(e) has been diagnosed by a physician, based on genetic or biochemical testing, with

abnormal:

(i) sex chromosome structure;

(ii) sex steroid hormone production; or

(iii) sex steroid hormone action for a male or female.

(16) "Licensed funeral establishment" means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

(17) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

(18) "Local registrar" means a person appointed under Subsection 26B-8-102(3)(b).

(19) "Nurse practitioner" means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) "Office" means the Office of Vital Records and Statistics within the department.

(21) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(22) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(23) "Presumed father" means the same as that term is defined in Section 78B-15-102.

[~~(23) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.~~]

(24) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

(25) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.

(26) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection (26)(a);

(c) an adoption document; and

(d) other similar documents.

(27) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 10. Section 26B-9-101 is amended to read:

26B-9-101. Definitions.

As used in this part:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Assistance" means public assistance.

[~~(3) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.~~]

[~~(4) "Child support" means the same as that term is defined in Section 26B-9-301.~~]

(3) "Child" means the same as that term is defined in Section 81-6-101.

(4)(a) "Child support" means a base child support award as defined in Section 81-6-101, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(b) "Child support" includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.

(5) "Child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

(6) "Director" means the director of the Office of Recovery Services.

[~~(7) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.~~]

[~~(8)~~](7) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

[~~(9)~~](8) "Financial record" means the same as that term is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

[~~(10)~~](9)(a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract payment, or denominated as advances on future wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

[~~(11)~~](10) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

[~~(12)~~](11) "IV-D child support services" means [~~the same as~~]child support services.

[~~(13)~~](12) "New hire registry" means the centralized new hire registry created in Section 35A-7-103.

[~~(14)~~](13) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or public assistance.

[~~(15)~~](14) "Obligor" means a person, firm, corporation, or the estate of a decedent owing money to this state, to an individual, to another state, or other comparable jurisdiction in whose behalf this state is acting.

[~~(16)~~](15) "Office" means the Office of Recovery Services.

[~~(17) "Provider" means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.~~]

[~~(18)~~](16) "Public assistance" means:

(a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

(b) medical assistance provided under Chapter 3, Part 1, Health Care Assistance;

(c) foster care maintenance payments under Part E of Title IV of the Social Security Act, 42 U.S.C. Sec. 670, et seq.;

(d) SNAP benefits as defined in Section 35A-1-102; or

(e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.

[~~(19)~~](17) "State case registry" means the central, automated record system maintained by the office and the central, automated district court record system maintained by the Administrative Office of the Courts, that contains records which use standardized data elements, such as names, Social Security numbers and other uniform identification numbers, dates of birth, and case identification numbers, with respect to:

(a) each case in which services are being provided by the office under the state IV-D child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Section 11. Section 26B-9-104 is amended to read:

26B-9-104. Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter;

[~~(ii) Title 78B, Chapter 12, Utah Child Support Act;~~]

[~~(iii)~~](ii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act; [~~and~~]

[~~(iv)~~](iii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(iv) Title 81, Chapter 6, Child Support;

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part 3, Income Withholding in IV-D Cases;

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under the order;

(ii) any amount described in Subsection (1)(h)(i) that has been collected;

(iii) the distribution of collected amounts;

(iv) the birth date of any child for whom the order requires the provision of support; and

(v) the amount of any lien imposed with respect to the order pursuant to this part;

(i) to contract with the Department of Workforce Services to establish and maintain the new hire registry created under Section 35A-7-103;

(j) to determine whether an individual who has applied for or is receiving cash assistance or Medicaid is cooperating in good faith with the office as required by Section 26B-9-213;

(k) to finance any costs incurred from collections, fees, General Fund appropriation, contracts, and federal financial participation; and

(l) to provide notice to a noncustodial parent in accordance with Section 26B-9-207 of the opportunity to contest the accuracy of allegations by a custodial parent of nonpayment of past-due child support, prior to taking action against a noncustodial parent to collect the alleged past-due support.

(2) The office may not provide child support services to the Division of Child and Family Services for a calendar month when the child to whom the child support services relate is:

(a) in the custody of the Division of Child and Family Services; and

(b) lives in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether:

(i) the greater than seven consecutive day period starts during one month and ends in the next month; and

(ii) the child is living in the home on a trial basis.

(3) The Division of Child and Family Services is not entitled to child support, for a child to whom the child support relates, for a calendar month when child support services may not be provided under Subsection (2).

Section 12. Section 26B-9-201 is amended to read:

26B-9-201. Definitions.

As used in this part:

(1) "Adjudicative proceeding" means an action or proceeding of the office conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Administrative order" means an order that has been issued by the office, the department, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(3) "Arrears" means [~~the same as~~]support debt.

(4) "Assistance" means public assistance as defined in Section 26B-9-101.

[~~(5) "Business day" means a day on which state offices are open for regular business.~~]

[~~(6) "Child" means:~~]

[~~(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;~~]

[~~(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or~~]

[~~(c) a son or daughter of any age who is incapacitated from earning a living and is without sufficient means~~].

(5) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

(6) "Child" means the same as that term is defined in Section 81-6-101.

(7) "Child support" means the same as that term is defined in Section [~~26B-9-301~~]26B-9-101.

(8) "Child support guidelines" means [~~guidelines as defined in Section 78B-12-102~~]the same as that term is defined in Section 81-6-101.

(9) "Child support order" means [~~the same as that term is defined in Section 26B-9-301.~~]a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief.

(10) "Child support services" means the same as that term is defined in Section 26B-9-101.

(11) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction of this state, another state, Native American tribe, the federal government, or any other comparable jurisdiction.

(12) "Director" means the director of the Office of Recovery Services.

(13) "Disposable earnings" means [~~the same as that term is defined in Section 26B-9-101.~~]that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.

[~~(14) "Guidelines" means the same as that term is defined in Section 78B-12-102.~~]

[~~(15)~~](14) "High-volume automated administrative enforcement" in interstate cases means, on the request of another state, the identification by the office, through automatic data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in the requesting state, and the seizure of the assets by the office, through levy or other appropriate processes.

[~~(16)~~](15) "Income" means the same as that term is defined in Section 26B-9-101.

[~~(17) "IV-D child support services" means the same as child support services.~~]

(16) "IV-D services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

[~~(18)~~](17) "Notice of agency action" means the notice required to commence an adjudicative proceeding in accordance with Section 63G-4-201.

[~~(19)~~](18) "Obligee" means an individual, this state, another state, or other comparable jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of child support or public assistance.

[~~(20)~~](19) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in whose behalf this state is acting.

[~~(21)~~](20) "Office" means the Office of Recovery Services.

[~~(22)~~](21) "Parent" means [~~a natural parent or an adoptive parent of a dependent child~~]the same as that term is defined in Section 81-1-101.

[~~(23)~~](22) "Past-due support" means [~~the same as~~]support debt.

[~~(24)~~](23) "Person" includes an individual, firm, corporation, association, political subdivision, department, or office.

[~~(25)~~](24) "Public assistance" means the same as that term is defined in Section 26B-9-101.

[~~(26)~~](25) "Presiding officer" means a presiding officer described in Section 63G-4-103.

[~~(27)~~](26) "Support" includes past-due, present, and future obligations established by:

(a) a tribunal or imposed by law for the financial support, maintenance, medical, or dental care of a [~~dependent~~]child; and

(b) a tribunal for the financial support of a spouse or former spouse with whom the obligor's [~~dependent~~]child resides if the obligor also owes a child support obligation that is being enforced by the state.

[~~(28)~~](27) "Support debt" means the debt created by nonpayment of support.

[~~(29)~~](28) "Support order" means [~~the same as~~]a child support order.

[~~(30)~~](29) "Tribunal" means the district court, the department, the Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

Section 13. Section 26B-9-202 is amended to read:

26B-9-202. Common-law and statutory remedies augmented by act -- Public policy.

(1) The state of Utah, exercising its police and sovereign power, declares that the common-law and statutory remedies pertaining to family desertion and nonsupport of [~~minor dependent~~]children shall be augmented by this part, which is directed to the real and personal property resources of the responsible parents.

(2) In order to render resources more immediately available to meet the needs of [~~minor~~]children, it is the legislative intent that the remedies provided in this part are in addition to, and not in lieu of, existing law.

(3) It is declared to be the public policy of this state that this part be liberally construed and administered to the end that children shall be maintained from the resources of responsible parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs.

Section 14. Section 26B-9-210 is amended to read:

26B-9-210. Issuance or modification of an order to collect support for persons not receiving public assistance.

The office may proceed to issue or modify an order under Section 26B-9-206 and collect under this part even though public assistance is not being provided on behalf of a [~~dependent~~]child if the office provides support collection services in accordance with:

(1) an application for services provided under Title IV-D of the federal Social Security Act;

(2) the continued service provisions of Subsection 26B-9-213(5); or

(3) the interstate provisions of Section 26B-9-209.

Section 15. Section 26B-9-211 is amended to read:

26B-9-211. Mandatory review and adjustment of child support orders for TANF recipients.

If a child support order has not been issued, adjusted, or modified within the previous three years and the children who are the subject of the order currently receive TANF funds, the office shall review the order, and if appropriate, move the tribunal to adjust the amount of the order if there is a difference of 10% or more between the payor's ordered support amount and the payor's support amount required under the child support guidelines.

Section 16. Section 26B-9-212 is amended to read:

26B-9-212. Collection directly from responsible parent.

(1)(a) The office may issue or modify an order under Section 26B-9-206 and collect under this part directly from a responsible parent if the procedural requirements of applicable law have been met and if public assistance is provided on behalf of that parent's [~~dependent~~]child.

(b) The direct right to issue an order under this Subsection (1) is independent of and in addition to the right derived from that assigned under Section 35A-3-108.

(2) An order issuing or modifying a support obligation under Subsection (1), issued while public assistance was being provided for a [~~dependent~~]child, remains in effect and may be enforced by the office under Section 26B-9-210 after provision of public assistance ceases.

(3)(a) The office may issue or modify an administrative order, subject to the procedural requirements of applicable law, that requires that obligee to pay to the office assigned support that an obligee receives and retains in violation of Subsection 26B-9-213(4) and may reduce to judgment any unpaid balance due.

(b) The office may collect the judgment debt in the same manner as it collects any judgment for past-due support owed by an obligor.

(4) Notwithstanding any other provision of law, the Office of Recovery Services shall have full standing and authority to establish and enforce child support obligations against an alleged parent currently or formerly in a same-sex marriage on the same terms as the Office of Recovery Services' authority against other mothers and fathers.

Section 17. Section 26B-9-213 is amended to read:

26B-9-213. Duties of obligee after assignment of support rights.

(1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

(a) Unless a good cause or other exception applies, the obligee shall, at the request of the office:

(i) cooperate in good faith with the office by providing the name and other identifying information of the other parent of the obligee's child for the purpose of:

(A) establishing paternity; or

(B) establishing, modifying, or enforcing a child support order;

(ii) supply additional necessary information and appear at interviews, hearings, and legal proceedings; and

(iii) submit the obligee's child and himself to judicially or administratively ordered genetic testing.

(b) The obligee may not commence an action against an obligor or file a pleading to collect or modify support without the office's written consent.

(c) The obligee may not do anything to prejudice the rights of the office to establish paternity, enforce provisions requiring health insurance, or to establish and collect support.

(d) The obligee may not agree to allow the obligor to change the court or administratively ordered manner or amount of payment of past, present, or future support without the office's written consent.

(2)(a) The office shall determine and redetermine, when appropriate, whether an obligee has cooperated with the office as required by Subsection (1)(a).

(b) If the office determines that an obligee has not cooperated as required by Subsection (1)(a), the office shall:

(i) forward the determination and the basis for it to the Department of Workforce Services, which shall inform the department of the determination, for a determination of whether compliance by the obligee should be excused on the basis of good cause or other exception; and

(ii) send to the obligee:

(A) a copy of the notice; and

(B) information that the obligee may, within 15 days of notice being sent:

(I) contest the office's determination of noncooperation by filing a written request for an adjudicative proceeding with the office; or

(II) assert that compliance should be excused on the basis of good cause or other exception by filing a written request for a good cause exception with the Department of Workforce Services.

(3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a [~~dependent~~]child.

(4)(a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.

(b)(i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.

(ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.

(5)(a) If public assistance furnished on behalf of a [~~dependent~~]child is terminated, the office may continue to provide paternity establishment and support collection services.

(b) Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.

Section 18. Section 26B-9-214 is amended to read:

26B-9-214. Liens by operation of law and writs of garnishment.

(1) Each payment or installment of child support is, on and after the date it is due, a judgment with the same attributes and effect of any judgment of a district court in accordance with Section [~~78B-12-112~~]81-7-102 and for purposes of Section 78B-5-202.

(2)(a) A judgment under Subsection (1) or final administrative order shall constitute a lien against the real property of the obligor upon the filing of a notice of judgment-lien in the district court where the obligor's real property is located if the notice:

(i) specifies the amount of past-due support; and

(ii) complies with the procedural requirements of Section 78B-5-202.

(b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to execute a judgment or final administrative order under this section against real or personal property in the obligor's possession.

(3)(a) The office may issue a writ of garnishment against the obligor's personal property in the possession of a third party for a judgment under Subsection (1) or a final administrative order in the same manner and with the same effect as if the writ were issued on a judgment of a district court if:

(i) the judgment or final administrative order is recorded on the office's automated case registry; and

(ii) the writ is signed by the director or the director's designee and served by certified mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.

(b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 26B-9-217.

Section 19. Section 26B-9-217 is amended to read:

26B-9-217. Requirement to honor voluntary assignment of earnings -- Discharge of employee prohibited -- Liability for discharge -- Earnings subject to support lien or garnishment.

(1)(a) Every person, firm, corporation, association, political subdivision, or department of the state shall honor, according to its terms, a duly executed voluntary assignment of earnings which is presented by the office as a plan to satisfy or retire a support debt or obligation.

(b) The requirement to honor an assignment of earnings, and the assignment of earnings itself, are applicable whether the earnings are to be paid presently or in the future, and continue in effect until released in writing by the office.

(c) Payment of money pursuant to an assignment of earnings presented by the office shall serve as full acquittance under any contract of employment, and the state shall defend the employer and hold the employer harmless for any action taken pursuant to the assignment of earnings.

(d) The office shall be released from liability for improper receipt of money under an assignment of earnings upon return of any money so received.

(2) An employer may not discharge or prejudice any employee because the employee's earnings have been subjected to support lien, wage assignment, or garnishment for any indebtedness under this part.

(3) If an employer discharges an employee in violation of Subsection (2), the employer is liable to the employee for the damages the employee may suffer, and, additionally, to the office in an amount equal to the debt which is the basis of the assignment or garnishment, plus costs, interest, and attorney fees, or a maximum of $1,000, whichever is less.

(4) The maximum part of the aggregate disposable earnings of an individual for any work pay period which may be subjected to a garnishment to enforce payment of a judicial or administrative judgment arising out of failure to support [~~dependent~~]children may not exceed 50% of the individual's disposable earnings for the work pay period.

(5) The support lien or garnishment shall continue to operate and require the employer to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released in writing by the court or office.

Section 20. Section 26B-9-220 is amended to read:

26B-9-220. Review and adjustment of child support order in three-year cycle -- Substantial change in circumstances not required.

(1) If a child support order has not been issued, modified, or reviewed within the previous three years, the office shall review a child support order, taking into account the best interests of the child involved, if:

(a) requested by a parent or legal guardian involved in a case receiving IV-D services; or

(b) there has been an assignment under Section 35A-3-108 and the office determines that a review is appropriate.

(2)(a) If the office conducts a review under Subsection (1), the office shall determine if there is a difference of 10% or more between the amount ordered and the amount that would be required under the child support guidelines.

(b) If there is such a difference and the difference is not of a temporary nature, the office shall:

[~~(a)~~](i) with respect to a child support order issued or modified by the office, adjust the amount to that which is provided for in the child support guidelines; or

[~~(b)~~](ii) with respect to a child support order issued or modified by a court, file [~~a petition~~]the appropriate pleading with the court to adjust the amount to that which is provided for in the child support guidelines.

(3) The office may use automated methods to:

(a) collect information and conduct reviews under Subsection (2); and

(b) identify child support orders in which there is a difference of 10% or more between the amount of child support ordered and the amount that would be required under the child support guidelines for review under Subsection (1)(b).

(4)(a) A parent or legal guardian who requests a review under Subsection (1)(a) shall provide notice of the request to the other parent within five days and in accordance with Section 26B-9-207.

(b) If the office conducts a review under Subsections (1)(b) and (3)(b), the office shall provide notice to the parties of:

(i) a proposed adjustment under Subsection [~~(2)(a)~~](2)(b)(i); or

(ii) a proposed [~~petition~~]pleading to be filed in court under Subsection [~~(2)(b)~~](2)(b)(ii).

(5)(a) Within 30 days of notice being sent under Subsection (4)(a), a parent or legal guardian may respond to a request for review filed with the office.

(b) Within 30 days of notice being sent under Subsection (4)(b), a parent or legal guardian may contest a proposed adjustment or petition by requesting a review under Subsection (1)(a) and providing documentation that refutes the adjustment or petition.

(6) A showing of a substantial change in circumstances is not necessary for an adjustment under this section.

Section 21. Section 26B-9-221 is amended to read:

26B-9-221. Review and adjustment of support order for substantial change in circumstances outside three-year cycle.

(1)(a) A parent or legal guardian involved in a case receiving IV-D services or the office, if there has been an assignment under Section 35A-3-108, may at any time request the office to review a child support order if there has been a substantial change in circumstances.

(b) For purposes of Subsection (1)(a), a substantial change in circumstances may include:

(i) material changes in custody;

(ii) material changes in the relative wealth or assets of the parties;

(iii) material changes of 30% or more in the income of a parent;

(iv) material changes in the ability of a parent to earn;

(v) material changes in the medical needs of the child; and

(vi) material changes in the legal responsibilities of either parent for the support of others.

(2)(a) Upon receiving a request under Subsection (1), the office shall review the order, taking into account the best interests of the child involved, to determine whether the substantial change in circumstance has occurred, and if so, whether the change resulted in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the child support guidelines.

(b) If there is such a difference and the difference is not of a temporary nature, the office shall:

[~~(a)~~](i) with respect to a support order issued or modified by the office, adjust the amount in accordance with the child support guidelines; or

[~~(b)~~](ii) with respect to a support order issued or modified by a court, file a petition with the court to adjust the amount in accordance with the child support guidelines.

(3) The office may use automated methods to collect information for a review conducted under Subsection (2).

(4)(a) A parent or legal guardian who requests a review under Subsection (1) shall provide notice of the request to the other parent within five days and in accordance with Section 26B-9-207.

(b) If the office initiates and conducts a review under Subsection (1), the office shall provide notice of the request to any parent or legal guardian within five days and in accordance with Section 26B-9-207.

(5) Within 30 days of notice being sent under Subsection (4), a parent or legal guardian may file a response to a request for review with the office.

Section 22. Section 26B-9-224 is amended to read:

26B-9-224. Medical and dental expenses of a child -- Health insurance for a child.

(1) As used in this section, "health insurance" means the same as that term is defined in Section 31A-1-301.

(2) In any action under this part, the office and the department in their orders shall include:

[~~(1)~~](a) [~~include~~]a provision assigning responsibility for cash medical support;

[~~(2)~~](b) [~~include~~]a provision requiring the purchase and maintenance of appropriate [~~medical, hospital, and dental care~~]health insurance for [~~those children~~]the child, if:

[~~(a)~~](i) insurance coverage is or becomes available at a reasonable cost; and

[~~(b)~~](ii) the insurance coverage is accessible to the [~~children~~]child; and

[~~(3)~~](c) [~~include~~]a designation of which [~~health, dental or hospital~~]health insurance plan[~~,~~] is primary and which is secondary in accordance with the provisions of Section [~~30-3-5.4~~]81-6-208, which will take effect if at any time the [~~dependent children are~~]child is covered by both parents' [~~health, hospital, or dental~~]health insurance plans.

Section 23. Section 26B-9-225 is amended to read:

26B-9-225. Enrollment of child in accident and health insurance plan -- Order -- Notice.

(1) The office may issue a notice to existing and future employers or unions to enroll a [~~dependent~~]child in an accident and health insurance plan that is available through the [~~dependent~~]child's parent or legal guardian's employer or union, when the following conditions are satisfied:

(a) the parent or legal guardian is already required to obtain insurance coverage for the child by a prior court or administrative order; and

(b) the parent or legal guardian has failed to provide written proof to the office that:

(i) the child has been enrolled in an accident and health insurance plan in accordance with the court or administrative order; or

(ii) the coverage required by the order was not available at group rates through the employer or union 30 or more days prior to the date of the mailing of the notice to enroll.

(2) The office shall provide concurrent notice to the parent or legal guardian in accordance with Section 26B-9-207 of:

(a) the notice to enroll sent to the employer or union; and

(b) the opportunity to contest the enrollment due to a mistake of fact by filing a written request for an adjudicative proceeding with the office within 15 days of the notice being sent.

(3) A notice to enroll shall result in the enrollment of the child in the parent's accident and health insurance plan, unless the parent successfully contests the notice based on a mistake of fact.

(4) A notice to enroll issued under this section may be considered a "qualified medical support order" for the purposes of enrolling a [~~dependent~~]child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

Section 24. Section 26B-9-226 is amended to read:

26B-9-226. Compliance with order -- Enrollment of child for insurance.

(1) An employer or union shall comply with a notice to enroll issued by the office under Section 26B-9-225 by enrolling the [~~dependent~~]child that is the subject of the notice in the:

(a) accident and health insurance plan in which the parent or legal guardian is enrolled, if the plan satisfies the prior court or administrative order; or

(b) least expensive plan, assuming equivalent benefits, offered by the employer or union that complies with the prior court or administrative order which provides coverage that is reasonably accessible to the [~~dependent~~]child.

(2) The employer, union, or insurer may not refuse to enroll a [~~dependent~~]child pursuant to a notice to enroll because a parent or legal guardian has not signed an enrollment application.

(3) Upon enrollment of the [~~dependent~~]child, the employer shall deduct the appropriate premiums from the parent or legal guardian's wages and remit [~~them~~]the premiums directly to the insurer.

(4) The insurer shall provide proof of insurance to the office upon request.

(5) The signature of the custodial parent of the insured [~~dependent~~]child is a valid authorization to the insurer for purposes of processing any insurance reimbursement claim.

Section 25. Section 26B-9-230 is amended to read:

26B-9-230. Right to judicial review.

(1)(a) Within 30 days of notice of any administrative action on the part of the office to establish paternity or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.

(b) For purposes of Subsection (1)(a), notice includes:

(i) notice actually received by the obligor in accordance with Section 26B-9-207;

(ii) participation by the obligor in the proceedings related to the establishment of the paternity or the modification or enforcement of child support; or

(iii) receiving a paycheck in which a reduction has been made for child support.

(2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.

(3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.

(4)(a) If the petition is regarding the amount of the child support obligation established in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5)(a) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated [~~U.R. Civ. P.~~]Rule 11 of the Utah Rules of Civil Procedure by filing the action.

(b) If the court determines that [~~U.R. Civ. P.~~]Rule 11 of the Utah Rules of Civil Procedure was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Section 26. Section 26B-9-301 is amended to read:

26B-9-301. Definitions.

As used in this part and Part 4, Income Withholding in Non IV-D Cases:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child" means the same as that term is defined in Section [~~26B-9-201~~]81-6-101.

[~~(3)(a) "Child support" means a base child support award as defined in Section 78B-12-102, or a financial award for uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.~~]

[~~(b) "Child support" includes obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child resides if the spousal support is collected with the child support.~~]

(3) "Child support" means the same as that term is defined in Section 26B-9-101.

(4) "Child support order" means [~~a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for child support and related costs and fees, interest and penalties, income withholding, attorney fees, and other relief~~]the same as that term is defined in Section 26B-9-201.

(5) "Child support services" means the same as that term is defined in Section 26B-9-101.

(6) [~~"Delinquent" or "delinquency"~~]"Delinquency" means that child support in an amount at least equal to current child support payable for one month is overdue.

(7) "Delinquent" means delinquency.

[~~(7)~~](8) "Immediate income withholding" means income withholding without regard to whether a delinquency has occurred.

[~~(8)~~](9) "Income" means the same as that term is defined in Section 26B-9-101.

(10) "IV-D services" means the same as that term is defined in Section 26B-9-201.

[~~(9)~~](11) "Jurisdiction" means a state or political subdivision of the United States, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, an Indian tribe or tribal organization, or any comparable foreign nation or political subdivision.

[~~(10)~~](12) "Obligee" means the same as that term is defined in Section 26B-9-201.

[~~(11)~~](13) "Obligor" means the same as that term is defined in Section 26B-9-201.

[~~(12)~~](14) "Office" means the Office of Recovery Services.

[~~(13)~~](15) "Payor" means an employer or any person who is a source of income to an obligor.

[~~(14) "Support order" means the same as child support order.~~]

Section 27. Section 26B-9-303 is amended to read:

26B-9-303. Provision for income withholding in child support order -- Immediate income withholding.

(1) Whenever a child support order is issued or modified in this state the obligor's income is subject to immediate income withholding for the child support described in the order in accordance with the provisions of this chapter, unless:

(a) the court or administrative body which entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2)(a) In every child support order issued or modified on or after January 1, 1994, the court or administrative body shall include a provision that the income of an obligor is subject to immediate income withholding in accordance with this chapter.

(b) If for any reason other than the provisions of Subsection (1) that provision is not included in the child support order the obligor's income is nevertheless subject to immediate income withholding.

(3) In determining [~~"good cause,"~~]good cause, the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(a) obtained a bond, deposited money in trust for the benefit of the [~~dependent children~~]children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(b) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(c) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

Section 28. Section 26B-9-304 is amended to read:

26B-9-304. Office procedures for income withholding for orders issued or modified on or after October 13, 1990.

(1) With regard to obligees or obligors who are receiving IV-D services, each child support order issued or modified on or after October 13, 1990, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause not to require immediate income withholding; or

(b) a written agreement that provides an alternative arrangement is executed by the obligor and obligee, and by the office, if there is an assignment under Section 35A-3-108, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) [~~"good cause"~~]good cause shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support; and

(b) in determining [~~"good cause,"~~]good cause, the court or administrative body may, in addition to any

other requirement that it determines appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the [~~dependent children~~]children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months; and

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained.

(3) An exception from immediate income withholding shall be:

(a) included in the court or administrative agency's child support order; and

(b) negated without further administrative or judicial action:

(i) upon a delinquency;

(ii) upon the obligor's request; or

(iii) if the office, based on internal procedures and standards, or a party requests immediate income withholding for a case in which the parties have entered into an alternative arrangement to immediate income withholding pursuant to Subsection (1)(b).

(4) If an exception to immediate income withholding has been ordered on the basis of good cause under Subsection (1)(a), the office may commence income withholding under this part:

(a) in accordance with Subsection (3)(b); or

(b) if the administrative or judicial body that found good cause determines that circumstances no longer support that finding.

(5)(a) A party may contest income withholding due to a mistake of fact by filing a written objection with the office within 15 days of the commencement of income withholding under Subsection (4).

(b) If a party contests income withholding under Subsection (5)(a), the office shall proceed with the objection as it would an objection filed under Section 26B-9-305.

(6) Income withholding implemented under this section is subject to termination under Section 26B-9-308.

(7)(a) Income withholding under the order may be effective until the obligor no longer owes child support to the obligee.

(b) Appropriate income withholding procedures apply to existing and future payors and all withheld income shall be submitted to the office.

Section 29. Section 26B-9-403 is amended to read:

26B-9-403. Child support orders issued or modified on or after January 1, 1994 -- Immediate income withholding.

(1) With regard to obligees or obligors who are not receiving IV-D services, each child support order issued or modified on or after January 1, 1994, subjects the income of an obligor to immediate income withholding as of the effective date of the order, regardless of whether a delinquency occurs unless:

(a) the court or administrative body that entered the order finds that one of the parties has demonstrated good cause so as not to require immediate income withholding; or

(b) a written agreement which provides an alternative payment arrangement is executed by the obligor and obligee, and reviewed and entered in the record by the court or administrative body.

(2) For purposes of this section:

(a) an action on or after January 1, 1994, to reduce child support arrears to judgment, without a corresponding establishment of or modification to a base child support amount, is not sufficient to trigger immediate income withholding;

(b) [~~"good cause"~~]good cause shall be based on, at a minimum:

(i) a determination and explanation on the record by the court or administrative body that implementation of income withholding would not be in the best interest of the child; and

(ii) proof of timely payment of any previously ordered support; and

(c) in determining [~~"good cause,"~~]good cause, the court or administrative body may, in addition to any other requirement it considers appropriate, consider whether the obligor has:

(i) obtained a bond, deposited money in trust for the benefit of the [~~dependent children~~]children, or otherwise made arrangements sufficient to guarantee child support payments for at least two months;

(ii) arranged to deposit all child support payments into a checking account belonging to the obligee, or made arrangements insuring that a reliable and independent record of the date and place of child support payments will be maintained; or

(iii) arranged for electronic transfer of funds on a regular basis to meet court-ordered child support obligations.

(3) In cases where the court or administrative body that entered the order finds a demonstration of good cause or enters a written agreement that immediate income withholding is not required, in accordance with this section, any party may subsequently pursue income withholding on the earliest of the following dates:

(a) the date payment of child support becomes delinquent;

(b) the date the obligor requests;

(c) the date the obligee requests if a written agreement under Subsection (1)(b) exists; or

(d) the date the court or administrative body so modifies that order.

(4) The court shall include in every child support order issued or modified on or after January 1, 1994, a provision that the income of an obligor is subject to income withholding in accordance with this chapter; however, if for any reason that provision is not included in the child support order, the obligor's income is nevertheless subject to income withholding.

(5)(a) In any action to establish or modify a child support order after July 1, 1997, the court, upon request by the obligee or obligor, shall commence immediate income withholding by ordering the clerk of the court or the requesting party to:

(i) mail written notice to the payor at the payor's last-known address that contains the information required by Section 26B-9-407; and

(ii) mail a copy of the written notice sent to the payor under Subsection (5)(a)(i) and a copy of the support order to the office.

(b) If neither the obligee nor obligor requests commencement of income withholding under Subsection (5)(a), the court shall include in the order to establish or modify child support a provision that the obligor or obligee may commence income withholding by:

(i) applying for IV-D services with the office; or

(ii) filing an ex parte motion with a district court of competent jurisdiction pursuant to Section 26B-9-405.

(c) A payor who receives written notice under Subsection (5)(a)(i) shall comply with the requirements of Section 26B-9-408.

Section 30. Section 26B-9-405 is amended to read:

26B-9-405. Procedures for commencing income withholding.

(1) If income withholding has not been commenced in connection with a child support order, an obligee or obligor may commence income withholding by:

(a) applying for IV-D services from the office; or

(b) filing an ex parte motion for income withholding with a district court of competent jurisdiction.

(2) The office shall commence income withholding in accordance with Part 3, Income Withholding in IV-D Cases, upon receipt of an application for IV-D services under Subsection (1)(a).

(3) A court shall grant an ex parte motion to commence income withholding filed under Subsection (1)(b) regardless of whether the child support order provided for income withholding, if the obligee provides competent evidence showing:

(a) the child support order was issued or modified after January 1, 1994, and the obligee or obligor expresses a desire to commence income withholding;

(b) the child support order was issued or modified after January 1, 1994, and the order contains a good cause exception to income withholding as provided for in Section 26B-9-403, and a delinquency has occurred; or

(c) the child support order was issued or modified before January 1, 1994, and a delinquency has occurred.

(4) If a court grants an ex parte motion under Subsection (3), the court shall order the clerk of the court or the requesting party to:

(a) mail written notice to the payor at the payor's last-known address that contains the information required by Section 26B-9-407;

(b) mail a copy of the written notice sent to the payor under Subsection (4)(a) to the nonrequesting party's address and a copy of the child support order and the notice to the payor to the office; and

(c) if the obligee is the requesting party, send notice to the obligor under Section 26B-9-207 that includes:

(i) a copy of the notice sent to the payor; and

(ii) information regarding:

(A) the commencement of income withholding; and

(B) the opportunity to contest the withholding or the amount withheld due to mistake of fact by filing an objection with the court within 20 days.

(5) A payor who receives written notice under Subsection (4)(a) shall comply with the requirements of Section 26B-9-408.

(6) If an obligor contests withholding, the court shall:

(a) provide an opportunity for the obligor to present evidence supporting his claim of a mistake of fact;

(b) decide whether income withholding should continue;

(c) notify the parties of the decision; and

(d) at the obligor's option, return or credit toward the most current and future support payments of the obligor any amount mistakenly withheld plus interest at the legal rate.

Section 31. Section 26B-9-501 is amended to read:

26B-9-501. Definitions.

As used in this part:

(1) "Business day" means the same as that term is defined in Section 26B-9-301.

[~~(1)~~](2) "Child support" [~~is as defined in Section 26B-9-301~~]means the same as that term is defined in Section 26B-9-101.

[~~(2)~~](3) "Delinquent on a child support obligation" means that a person:

(a)(i) made no payment for 60 days on a current child support obligation as set forth in an administrative or court order;

(ii) after the 60-day period described in Subsection [~~(2)(a)(i)~~](3)(a)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears; or

(b)(i) made no payment for 60 days on an arrearage obligation of child support as set forth in:

(A) a payment schedule;

(B) a written agreement with the office; or

(C) an administrative or judicial order;

(ii) after the 60-day period described in Subsection [~~(2)(b)(i)~~](3)(b)(i), failed to make a good faith effort under the circumstances to make payment on the child support obligation in accordance with the payment schedule, agreement, or order; and

(iii) has not obtained a judicial order staying enforcement of the person's child support obligation, or the amount in arrears.

[~~(3)~~](4) "Driver license" means a license, as defined in Section 53-3-102.

[~~(4)~~](5) "Driver License Division" means the Driver License Division of the Department of Public Safety created in Section 53-3-103.

[~~(5)~~](6) "Office" means the Office of Recovery Services.

Section 32. Section 31A-22-610.5 is amended to read:

31A-22-610.5. Dependent coverage.

(1) As used in this section, "child" [~~has the same meaning as defined in Section 78B-12-102~~]means the same as that term is defined in Section 81-6-101.

(2)(a) Any individual or group accident and health insurance policy or managed care organization contract that provides coverage for a policyholder's or certificate holder's dependent:

(i) may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday; and

(ii) shall, upon application, provide coverage for all unmarried dependents up to age 26.

(b) The cost of coverage for unmarried dependents 19 to 26 years old shall be included in the premium on the same basis as other dependent coverage.

(c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.

(d) An individual or group health insurance policy or managed care organization shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:

(i) if premiums are paid; and

(ii) notwithstanding Sections 31A-22-618.6 and 31A-22-618.7.

(3)(a) When a parent is required by a court or administrative order to provide health insurance coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

(i) was born out of wedlock and is entitled to coverage under Subsection (4);

(ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;

(iii) is not claimed as a dependent on the parent's federal tax return;

(iv) does not reside with the parent; or

(v) does not reside in the insurer's service area.

(b) A child enrolled as required under Subsection (3)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area.

(4) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (4)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (4)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(5) When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state

agency administering 42 U.S.C. [~~Sec.~~]Secs. 651 through 669, the child support enforcement program; and

(c)(i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (8)(c)(i), (ii), or (iii) has happened.

(6) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(7) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(8) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. Sec. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(9) An order issued under Section 26B-9-225 may be considered a "qualified medical support order" for the purpose of enrolling a [~~dependent~~]child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(10) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(11) This section applies to employee welfare benefit plans as defined in Section 26B-3-1001.

(12)(a) A policy that provides coverage to a child of a group member may not deny eligibility for coverage to a child solely because:

(i) the child does not reside with the insured; or

(ii) the child is solely dependent on a former spouse of the insured rather than on the insured.

(b) A child who does not reside with the insured may be excluded on the same basis as a child who resides with the insured.

Section 33. Section 35A-3-307 is amended to read:

35A-3-307. Cash assistance to a single minor parent.

(1) The department may provide cash assistance to a single minor parent in accordance with this section.

(2) A single minor parent who receives cash assistance under this part shall:

(a) except as provided under Subsection (3), reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the single minor parent;

(b) participate in education for parenting and life skills;

(c) participate in infant and child wellness programs approved by the department; and

(d) for at least 20 hours per week:

(i) if the single minor parent does not have a high school diploma, attend high school or an alternative to high school;

(ii) participate in education or training; or

(iii) participate in a combination of employment and education or training.

(3)(a) If the department determines that the requirements of Subsection (2)(a) are not appropriate for a single minor parent, the department may assist the single minor parent to obtain suitable living arrangements, including an adult-supervised living arrangement.

(b) The department may only provide cash assistance to a single minor parent who is exempt

from the requirements of Subsection (2)(a) if the single minor parent resides in a living arrangement that is approved by the department.

(c) The approval by the department of a living arrangement under Subsection (3)(b):

(i) is a means of safeguarding the use of state and federal funds; and

(ii) is not a certification or guarantee of the safety, quality, or condition of the living arrangements of the single minor parent.

(4)(a) If a single minor parent resides with a parent, the department shall include the income of the parent of the single minor parent in determining the single minor parent's eligibility for services under this part.

(b) If a single minor parent receives services under this chapter but does not reside with a parent, the department shall seek an order under [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, requiring the parent of the single minor parent to financially support the single minor parent.

(5) The requirements of this section shall be included in a single minor parent's employment plan under Section 35A-3-304.

Section 34. Section 51-9-408 is amended to read:

51-9-408. Children's Legal Defense Account.

(1) There is created a restricted account within the General Fund known as the Children's Legal Defense Account.

(2) The purpose of the Children's Legal Defense Account is to provide for programs that protect and defend the rights, safety, and quality of life of children.

(3)(a) The Legislature shall appropriate money from the account for the administrative and related costs of the following programs:

(i) implementing the [~~Mandatory Educational Course on Children's Needs for Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4, 30-3-10.3, 30-3-11.3, and the Mediation Program - Child Custody or Parent-time~~]mandatory educational course described in Section 81-4-106 and the mediation program for child custody and parent-time;

(ii) implementing the use of guardians ad litem in accordance with Sections 78A-2-703, 78A-2-705, 78A-2-803, and 78B-3-102;

(iii) the training of attorney guardians ad litem and volunteers as provided in Section 78A-2-803;

(iv) implementing and administering the Expedited Parent-time Enforcement Program as provided in Section [~~30-3-38~~]81-9-102; and

(v) implementing and administering the Divorce Education for Children Program.

(b) The Children's Legal Defense Account may not be used to supplant funding for the guardian ad litem program under Section 78A-2-803.

(4) The following withheld fees shall be allocated only to the Children's Legal Defense Account and used only for the purposes provided in Subsections (3)(a)(i) through (v):

(a) the additional $10 fee withheld on every marriage license issued in the state of Utah as provided in Section 17-16-21; and

(b) a fee of $4 shall be withheld from the existing civil filing fee collected on any complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

(5) The Division of Finance shall allocate the money described in Subsection (4) from the General Fund to the Children's Legal Defense Account.

(6) Any funds in excess of $200,000 remaining in the restricted account as of June 30 of any fiscal year shall lapse into the General Fund.

Section 35. Section 58-60-112 is amended to read:

58-60-112. Reporting of unprofessional or unlawful conduct -- Immunity from liability -- Reporting conduct of court-appointed therapist.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:

(a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;

(b) an individual licensed under this chapter; and

(c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.

(2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

(3)(a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

[~~(A) Title 30, Chapter 3, Divorce;~~]

[~~(B) Title 30, Chapter 4, Separate Maintenance;~~]

[~~(C) Title 30, Chapter 5, Grandparents;~~]

[~~(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;~~]

[~~(E)~~](A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(F)~~](B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; [~~or~~]

[~~(G)~~](C) Title 78B, Chapter 15, Utah Uniform Parentage Act[~~.~~];

(D) Title 81, Chapter 4, Dissolution of Marriage; or

(E) Title 81, Chapter 9, Custody, Parent-time, and Visitation.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a report against the court-appointed therapist for unlawful or unprofessional conduct during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

Section 36. Section 63G-20-201 is amended to read:

63G-20-201. Provisions governing solemnizing or recognizing a marriage -- Prohibition against employment actions.

Notwithstanding any other provision of law, a state or local government or a state or local government official may not:

(1) require a religious official, when acting as such, or religious organization to solemnize or recognize for ecclesiastical purposes a marriage that is contrary to that religious official's or religious organization's religious beliefs;

(2) if the religious official or religious organization is authorized to solemnize a marriage by Section [30-1-6]81-2-305, deny a religious official, when acting as such, or religious organization the authority to legally solemnize a legal marriage based on the religious official's or religious organization's refusal to solemnize any legal marriage that is contrary to the religious official's or religious organization's religious beliefs;

(3) require a religious official, when acting as such, or religious organization to provide goods, accommodations, advantages, privileges, services, facilities, or grounds for activities connected with the solemnization or celebration of a marriage that is contrary to that religious official's or religious organization's religious beliefs; or

(4) require a religious official, when acting as such, or religious organization to promote marriage through religious programs, counseling, courses, or retreats in a way that is contrary to that religious official's or religious organization's religious beliefs.

Section 37. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

[~~(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.~~]

[~~(3)~~](2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.

(3) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(4) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

(5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.~~]

[~~(7)~~](6) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2024.

Section 38. Section 63I-1-281 is enacted to read:

63I-1-281. Repeal dates: Title 81.

Title 81, Chapter 6, Part 4, Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

Section 39. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Title 78A and Title 78B.

(1) Section 78A-2-804 is repealed on July 1, 2024.

(2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.

(3) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

[~~(4) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.~~]

Section 40. Section 63I-2-281 is enacted to read:

63I-2-281. Repeal dates: Title 81.

Sections 81-6-302 and 81-6-303 are repealed on January 1, 2025.

Section 41. Section 63M-15-204 is amended to read:

63M-15-204. Commission duties.

The commission shall:

(1) promote coalitions and collaborative efforts to uphold and encourage a strong and healthy culture of strong and lasting marriages and stable families;

(2) contribute to greater awareness of the importance of marriage in an effort to reduce divorce and unwed parenthood in the state;

(3) promote public policies that support marriage;

(4) promote programs and activities that educate individuals and couples on how to achieve strong, successful, and lasting marriages, including promoting and assisting in the offering of:

(a) events;

(b) classes and services, including those designed to promote strong, healthy, and lasting marriages and prevent domestic violence;

(c) marriage and relationship education conferences for the public and professionals; and

(d) enrichment seminars;

(5) actively promote measures designed to maintain and strengthen marriage, family, and the relationships between spouses and parents and children;

(6) support volunteerism and private financial contributions and grants in partnership with the commission and in support of the commission's purposes and activities for the benefit of the state as provided in this section;

(7) regularly publicize information on premarital counseling and education services available in the state that comply with Section [~~30-1-34~~]81-2-206;

(8) approve an online course meeting the requirements of Section [~~30-1-34~~]81-2-206; and

(9) for purposes of Section [~~30-1-34~~]81-2-206, recognize one or more national organizations that certify family life educators.

Section 42. Section 76-8-1201 is amended to read:

76-8-1201. Definitions.

As used in this part:

(1) "Client" means a person who receives or has received public assistance.

(2) "Overpayment" has the same meaning as defined in Section 35A-3-102.

(3) "Provider" [~~has the same meaning as defined in Section 26B-9-101~~]means a person or entity that receives compensation from any public assistance program for goods or services provided to a public assistance recipient.

(4) "Public assistance" has the same meaning as defined in Section 35A-1-102.

Section 43. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under [~~Title 30, Chapter 3, Divorce~~]Title 81, Chapter 4, Part 4, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-114;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section [~~30-1-4 or 30-1-6~~]81-2-305 or 81-2-407 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section [~~30-1-4 or 30-1-6~~]81-2-305 or 81-2-407 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 44. Section 77-38-615 is amended to read:

77-38-615. Participation in the program -- Orders in relation to allocation of custody or parent-time.

(1) A court may not consider a parent's participation in the program for the purpose of making an order allocating custody [~~under Section 30-3-10 or parent-time under Section 30-3-32~~]or parent-time under Title 81, Chapter 9, Custody, Parent-time, and Visitation.

(2) A court shall take practical measures to keep a program participant's actual address confidential when making an order allocating custody or parent-time.

(3) Nothing in this part affects an order relating to the allocation of custody or parent-time in effect prior to or during a program participant's participation in the program.

Section 45. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1)(a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) except as provided in Subsection (1)(b)(v), $325 if the petition is filed [~~under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;~~]for an action described in Title 81, Chapter 4, Dissolution of Marriage;

(v) $35 for a [~~motion~~]petition for temporary separation [~~order filed under Section 30-3-4.5~~] described in Section 81-4-104;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed [~~under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance~~]for an action described in Title 81, Chapter 4, Dissolution of Marriage.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j)(i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n)(i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x)(i) The fee for a petition for authorization for a minor to marry required by Section [~~30-1-9~~] 81-2-304 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26B-8-128 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2)(a)(i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii)(A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d)(i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3)(a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 46. Section 78A-5a-103 is amended to read:

78A-5a-103. Concurrent jurisdiction of the Business and Chancery Court -- Exceptions.

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least $300,000 or seeking solely equitable relief; and

(b)(i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization; or

(iii) that is a shareholder derivative action.

(2) The Business and Chancery Court may exercise supplemental jurisdiction over all claims in an action that the Business and Chancery Court has jurisdiction under Subsection (1), except that the Business and Chancery Court may not exercise jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including any personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a wrongful termination of employment or a prohibited or discriminatory employment practice;

(iv) a violation of Title 13, Chapter 7, Civil Rights;

[~~(v) Title 30, Husband and Wife;~~]

[~~(vi)~~](v) Title 63G, Chapter 4, Administrative Procedures Act;

[~~(vii)~~](vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;

[~~(viii)~~](vii) Title 78B, Chapter 6, Part 5, Eminent Domain;

[~~(ix)~~](viii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer;

[~~(x)~~](ix) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(xi) Title 78B, Chapter 12, Utah Child Support Act;~~]

[~~(xii)~~](x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;

[~~(xiii)~~](xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;

[~~(xiv)~~](xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;

[~~(xv)~~](xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act; [~~or~~]

[~~(xvi)~~](xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act; or

(xv) Title 81, Utah Domestic Relations Code; or

(b) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

Section 47. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection Section 53G-8-211.

(2) The juvenile court has original jurisdiction over:

(a) any proceeding concerning:

(i) a child who is an abused child, neglected child, or dependent child;

(ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(vi) the treatment or commitment of a minor who has an intellectual disability;

(vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section [~~30-1-9~~]81-2-304;

(viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(x) the treatment or commitment of a child with a mental illness;

(xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;

(xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:

(A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(B) has run away from home; and

(xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;

(b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement; and

(c) the extension of a nonjudicial adjustment under Section 80-6-304.

(3) The juvenile court has original jurisdiction over a petition for special findings under Section 80-3-505.

(4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

(5) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 48. Section 78A-6-104 is amended to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1)(a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a paternity action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the paternity action until paternity of the child is adjudicated; or

(ii) transfer jurisdiction over the paternity action to the district court.

(2)(a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section 80-2-609, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

(v) an offense under Section 76-10-2301, contributing to the delinquency of a minor; or

(vi) an offense under Section 80-5-601, harboring a runaway.

(b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

(3)(a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b)(i) The juvenile court may, by order, change the custody subject to Subsection [~~30-3-10(6)~~] 81-9-204(5), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

(ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

(c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(4) This section does not deprive the district court of jurisdiction to:

(a) appoint a guardian for a child;

(b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

(c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

(5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

(a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(b) the district court has a petition pending or an order related to custody or parent-time entered under [~~Title 30, Chapter 3, Divorce,~~]Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, [~~or~~]Title 78B, Chapter 15, Utah Uniform Parentage Act, or Title 81, Chapter 4, Part 4, Divorce, in which the petitioner and the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 49. Section 78A-6-356 is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6)(a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 26B-9-219 in setting a payment schedule or demanding payment in full.

(8)(a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the department as provided in Section 26B-9-111.

(10)(a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b)(i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12)(a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

(13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established [~~under the low income table in Section 78B-12-302 or 78B-12-304~~]in accordance with a low income table described in Title 81, Chapter 6, Part 3, Child Support Tables; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 50. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1)(a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists or dental care providers.

(b)(i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2)(a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be

mailed to all health care providers named in the notice and request.

(3)(a) As used in this Subsection (3):

(i) "Court- appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

[~~(A) Title 30, Chapter 3, Divorce;~~]

[~~(B) Title 30, Chapter 4, Separate Maintenance;~~]

[~~(C) Title 30, Chapter 5, Grandparents;~~]

[~~(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;~~]

[~~(E)~~](A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

[~~(F)~~](B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; [~~or~~]

[~~(G)~~](C) Title 78B, Chapter 15, Utah Uniform Parentage Act[~~.~~];

(D) Title 81, Chapter 4, Dissolution of Marriage; or

(E) Title 81, Chapter 9, Custody, Parent- time, and Visitation.

(iii) "Mental health therapist" means the same as that term is defined in Section 58- 60- 102.

(b) If a court appoints a court- appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court- appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court- appointed therapist from appointment; and

(ii) the court finds good cause to release the court- appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a prelitigation panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:

(i) the court releasing the court- appointed therapist from appointment as described in Subsection (3)(b); or

(ii) the court entering a final order in the domestic case.

(4)(a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B- 3- 418; or

(ii) the expiration of the time for holding a hearing under Subsection (4)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (4)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B- 3- 423; or

(ii) file an affidavit with the division within 180 days of the request for pre- litigation review, in accordance with Subsection (4)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (4)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (4)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre- litigation hearing; and

(ii)(A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B- 3- 418; or

(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B- 3- 423, within 30 days of the determination of the division under this Subsection (4).

(e)(i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B- 3- 418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(5) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel,

who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b)(i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(6)(a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(7) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(8) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9)(a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 51. Section 78B-3-426 is amended to read:

78B-3-426. Nonpatient plaintiffs.

(1) For purposes of this section, a nonpatient plaintiff does not include a patient, as defined in [~~Subsection 78B-3-403(23)~~]Section 78B-3-403.

(2) This section does not apply to a health care malpractice action brought or seeking recovery under Section [~~30-2-11,~~]78B-3-106, 78B-3-107, [~~or~~]78B-3-502, or 81-3-111.

(3) To establish a malpractice action against a health care provider, a nonpatient plaintiff shall be required to show that:

(a) the health care provider owes a duty to the nonpatient plaintiff;

(b) the nonpatient plaintiff suffered a foreseeable injury;

(c) the nonpatient plaintiff's injury was proximately caused by an act or omission of the health care provider; and

(d) the health care provider's act or omission was conduct that manifests a knowing and reckless indifference toward, and a disregard of, the injury suffered by the nonpatient plaintiff.

Section 52. Section 78B-6-316 is amended to read:

78B-6-316. Compensatory service for violation of parent-time order or failure to pay child support.

(1) As used in this section, "obligor" means the same as that term is defined in Section 81-6-101.

[~~(1)~~](2) If a court finds by a preponderance of the evidence that a parent has refused to comply with the minimum amount of parent-time ordered in a decree of divorce, the court shall order the parent to:

(a) perform a minimum of 10 hours of compensatory service; and

(b) participate in workshops, classes, or individual counseling to educate the parent about the importance of complying with the court order and providing a child a continuing relationship with both parents.

[~~(2)~~](3) If a custodial parent is ordered to perform compensatory service or undergo court-ordered education, there is a rebuttable presumption that the noncustodial parent be granted parent-time by the court to provide child care during the time the custodial parent is complying with compensatory service or education in order to recompense him for parent-time wrongfully denied by the custodial parent under the divorce decree.

[~~(3)~~](4) If a noncustodial parent is ordered to perform compensatory service or undergo court-ordered education, the court shall attempt to schedule the compensatory service or education at times that will not interfere with the noncustodial parent's parent-time with the child.

[~~(4)~~](5) The person ordered to participate in court-ordered education is responsible for expenses of workshops, classes, and individual counseling.

[~~(5)~~](6) If a court finds by a preponderance of the evidence that an obligor[~~, as defined in Section 78B-12-102,~~] has refused to pay child support as ordered by a court in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, the court shall order the obligor to:

(a) perform a minimum of 10 hours of compensatory service; and

(b) participate in workshops, classes, or individual counseling to educate the obligor about the importance of complying with the court order and providing the children with a regular and stable source of support.

[~~(6)~~](7) The obligor is responsible for the expenses of workshops, classes, and individual counseling ordered by the court.

[~~(7)~~](8) If a court orders an obligor to perform compensatory service or undergo court-ordered education, the court shall attempt to schedule the compensatory service or education at times that will not interfere with the obligor's parent-time with the child.

[~~(8)~~](9) The sanctions that the court shall impose under this section do not prevent the court from imposing other sanctions or prevent any person from bringing a cause of action allowed under state or federal law.

[~~(9)~~](10) The Legislature shall allocate the money from the Children's Legal Defense Account to the judiciary to defray the cost of enforcing and administering this section.

Section 53. Section 78B-7-204 is amended to read:

78B-7-204. Content of orders -- Modification of orders -- Penalties.

(1) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is a class A misdemeanor under Section 76-5-108:

(a) enjoin the respondent from threatening to commit or committing abuse of the child;

(b) prohibit the respondent from harassing, telephoning, contacting, or otherwise communicating with the child, directly or indirectly;

(c) prohibit the respondent from entering or remaining upon the residence, school, or place of employment of the child and the premises of any of these or any specified place frequented by the child;

(d) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the child, prohibit the respondent from purchasing, using, or possessing a firearm or other specified weapon; and

(e) determine ownership and possession of personal property and direct the appropriate law enforcement officer to attend and supervise the petitioner's or respondent's removal of personal property.

(2) A child protective order or an ex parte child protective order may contain the following provisions the violation of which is contempt of court:

(a) determine temporary custody of the child who is the subject of the petition;

(b) determine parent-time with the child who is the subject of the petition, including denial of parent-time if necessary to protect the safety of the child, and require supervision of parent-time by a third party;

(c) determine child support in accordance with [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support; and

(d) order any further relief the court considers necessary to provide for the safety and welfare of the child.

(3)(a) If the child who is the subject of the child protective order attends the same school or place of worship as the respondent, or is employed at the same place of employment as the respondent, the court:

(i) may not enter an order under Subsection (1)(c) that excludes the respondent from the respondent's school, place of worship, or place of employment; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of worship, or place of employment.

(b) A violation of an order under Subsection (3)(a) is contempt of court.

(4)(a) A respondent may petition the court to modify or vacate a child protective order after notice and a hearing.

(b) At the hearing described in Subsection (4)(a):

(i) the respondent shall have the burden of proving by clear and convincing evidence that modification or vacation of the child protective order is in the best interest of the child; and

(ii) the court shall consider:

(A) the nature and duration of the abuse;

(B) the pain and trauma inflicted on the child as a result of the abuse;

(C) if the respondent is a parent of the child, any reunification services provided in accordance with Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; and

(D) any other evidence the court finds relevant to the determination of the child's best interests, including recommendations by the other parent or a guardian of the child, or a mental health professional.

(c) The child is not required to attend the hearing described in Subsection (4)(a).

Section 54. Section 78B-15-102 is amended to read:

78B-15-102. Definitions.

As used in this chapter:

(1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.

(2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.

(3)(a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. [~~The term includes:~~]

(b) "Assisted reproduction" includes:

[~~(a)~~](i) intrauterine insemination;

[~~(b)~~](ii) donation of eggs;

[~~(c)~~](iii) donation of embryos;

[~~(d)~~](iv) in vitro fertilization and transfer of embryos; and

[~~(e)~~](v) intracytoplasmic sperm injection.

(4) "Birth expenses" means all medical costs associated with the birth of a child, including the related expenses for the biological mother during her pregnancy and delivery.

(5) "Birth mother" means the biological mother of a child.

(6) "Child" means an individual of any age whose parentage may be determined under this chapter.

(7) "Commence" means to file the initial pleading seeking an adjudication of parentage in the appropriate tribunal of this state.

(8) "Declarant father" means a male who, along with the biological mother claims to be the genetic father of a child, and signs a voluntary declaration of paternity to establish the man's paternity.

(9) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid declaration of paternity under Part 3, Voluntary Declaration of Paternity Act, or adjudication by a tribunal.

(10)(a) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. [~~The term does not include:~~]

(b) "Donor" does not include:

[~~(a)~~](i) a husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife;

[~~(b)~~](ii) a woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in Part 8, Gestational Agreement; or

[~~(c)~~](iii) a parent under Part 7, Assisted Reproduction, or an intended parent under Part 8, Gestational Agreement.

(11) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of the individual's ancestry or that is so identified by other information.

(12) "Financial support" means a base child support award as defined in Section [~~78B-12-102~~] 81-6-101, all past-due support which accrues under an order for current periodic payments, and sum certain judgments for past-due support.

(13)(a) "Genetic testing" means an analysis of genetic markers to exclude or identify a man as the father or a woman as the mother of a child. [~~The term~~]

(b) "Genetic testing" includes an analysis of one or a combination of the following:

[~~(a)~~](i) deoxyribonucleic acid; or

[~~(b)~~](ii) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(14) "Gestational mother" means an adult woman who gives birth to a child under a gestational agreement.

(15) [~~"Man," as defined in this chapter,~~]"Man" means a male individual of any age.

(16) "Medical support" means a provision in a support order that requires the purchase and

maintenance of appropriate insurance for health and dental expenses of dependent children, and assigns responsibility for uninsured medical expenses.

(17) "Parent" means an individual who has established a parent-child relationship under Section 78B-15-201.

(18)(a) "Parent-child relationship" means the legal relationship between a child and a parent of the child. [~~The term~~]

(b) "Parent-child relationship" includes the mother-child relationship and the father-child relationship.

(19) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

(a) the likelihood that the tested man is the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is the father of the child; and

(b) the likelihood that the tested man is not the father, based on the genetic markers of the tested man and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is of the same ethnic or racial group as the tested man.

(20) "Presumed father" means a man who, by operation of law under Section 78B-15-204, is recognized as the father of a child until that status is rebutted or confirmed as set forth in this chapter.

(21) "Probability of paternity" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the man in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(22) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(23) "Signatory" means an individual who authenticates a record and is bound by its terms.

(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory, Native American Tribe, or insular possession subject to the jurisdiction of the United States.

(25) "Support-enforcement agency" means a public official or agency authorized under Title IV-D of the Social Security Act which has the authority to seek:

(a) enforcement of support orders or laws relating to the duty of support;

(b) establishment or modification of child support;

(c) determination of parentage; or

(d) location of child-support obligors and their income and assets.

(26) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 55. Section 78B-15-113 is amended to read:

78B-15-113. Parent-time rights of father.

(1) If the tribunal determines that the alleged father is the father, [~~it~~]the tribunal may upon [~~its~~]the tribunal's own motion or upon motion of the father, order parent-time rights in accordance with [~~Sections 30-3-32 through 30-3-37~~]Title 81, Chapter 9, Custody, Parent-time, and Visitation, as [~~it~~]the tribunal considers appropriate under the circumstances.

(2) Parent-time rights may not be granted to a father if the child has been subsequently adopted.

Section 56. Section 78B-15-603 is amended to read:

78B-15-603. Parties to proceeding.

The following individuals shall be joined as parties in a proceeding to adjudicate parentage:

(1) the mother of the child;

(2) a man whose paternity of the child is to be adjudicated; and

(3) the state [~~pursuant to Section 78B-12-113~~]in accordance with Section 81-6-106.

Section 57. Section 78B-15-610 is amended to read:

78B-15-610. Joinder of judicial proceedings -- Court reliance of custody and parent-time standards.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(3) A court [~~may rely on Title 30, Chapter 3, Divorce, in determining issues related to custody or parent-time~~]may determine issues of custody, parent-time, visitation, and child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 9, Custody, Parent-time, and Visitation.

Section 58. Section 78B-15-623 is amended to read:

78B-15-623. Binding effect of determination of parentage.

(1) Except as otherwise provided in Subsection (2), a determination of parentage is binding on:

(a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary Declaration of Paternity Act; and

(b) all parties to an adjudication by a tribunal acting under circumstances that satisfy the jurisdictional requirements of Section 78B-14-201.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing;

(b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of paternity is raised and the tribunal adjudicates according to Part 6, Adjudication of Parentage, and the final order:

(a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or

(b) provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(4) The tribunal is not considered to have made an adjudication of the parentage of a child if the child was born at the time of entry of the order and other children are named as children of the marriage, but that child is specifically not named.

(5) Once the paternity of a child has been adjudicated, an individual who was not a party to the paternity proceeding may not challenge the paternity, unless:

(a) the party seeking to challenge can demonstrate a fraud upon the tribunal;

(b) the challenger can demonstrate by clear and convincing evidence that the challenger did not know about the adjudicatory proceeding or did not have a reasonable opportunity to know of the proceeding; and

(c) there would be harm to the child to leave the order in place.

(6) A party to an adjudication of paternity may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, or other judicial review.

(7) A party to an adjudication may not bring a challenge under Subsection (6) if the party committed the fraud.

Section 59. Section 78B-20-403 is amended to read:

78B-20-403. Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under Part 2, Agreement Addressing Custodial Responsibility During Deployment, or a provision of a court order specifying temporary custodial responsibility during deployment issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or [~~Section 30-3-10~~]Title 81, Chapter 9, Custody, Parent-time, and Visitation, is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child before deployment.

Section 60. Section 78B-20-404 is amended to read:

78B-20-404. Termination by operation of law of temporary grant of custodial responsibility established by court order.

(1) If an agreement between the parties to terminate a court order for temporary custodial responsibility during deployment under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or to terminate a provision of an order for temporary custodial responsibility during deployment entered under [~~Section 30-3-10~~]Title 81, Chapter 9, Custody, Parent-time, and Visitation, has not been filed, the temporary order terminates 30 days after the day on which the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

Section 61. Section 80-2-906 is amended to read:

80-2-906. Financial responsibility for child placed under Interstate Compact.

(1) Financial responsibility for a child placed under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact.

(2) In the event of partial or complete default of performance under the compact, the provisions of [~~Title 78B, Chapter 12, Utah Child Support Act~~]Title 81, Chapter 6, Child Support, may also be invoked.

Section 62. Section 81-1-101 is enacted to read:

81-1-101. Definitions for title.

TITLE 81. UTAH DOMESTIC RELATIONS CODE

CHAPTER 1. GENERAL PROVISIONS

Part 1. General Provisions

As used in this title:

(1) "Child" means, except as provided in Section 81-6-101, a biological or adopted child of any age.

(2) "Court" means:

(a) a judge; or

(b) a court commissioner if the court commissioner has authority to hear the matter under Section 78A-5-107 or the Utah Rules of Judicial Administration.

(3) "Custodial parent" means:

(a) a parent awarded primary physical custody of a minor child by a court order;

(b) if both parents have joint physical custody:

(i) the parent awarded more overnights each year by a court order; or

(ii) the parent designated as the custodial parent by a court order; or

(c) if there is no court order, the parent with whom the minor child resides more than one-half of the calendar year without regard to any temporary parent-time.

(4) "Minor child" means, except as provided in Section 81-6-101, a child who is younger than 18 years old and is not emancipated.

(5) "Noncustodial parent" means the parent who is not the custodial parent regardless of any designation of joint legal custody.

(6) "Parent" means a parent with an established parent-child relationship as described in Section 78B-15-201.

Section 63. Section 81-1-201 is enacted to read:

81-1-201. Definitions for part.

Part 2. Domestic Relations Proceedings

As used in this part:

(1) "Alimony" means the same as that term is defined in Section 81-4-101.

(2) "Child support" means the same as that term is defined in Section 81-6-101.

Section 64. Section 81-1-202 is enacted to read:

81-1-202. Court records in a domestic relations action.

(1)(a) In an action under this title, Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act, a party may file a motion to have the records of the action other than the final judgment, order, or decree, classified as private.

(b) If the court finds that there are substantial interests favoring restricting access that clearly outweigh the interests favoring access, the court may classify the records of the action, or any part of the records of the action, other than the final order, judgment, or decree, as private.

(c) An order classifying part of the records of the action as private does not apply to subsequent filings.

(d) The record of an action is private until the court determines it is possible to release the record without prejudice to the interests that justified the closure.

(2)(a) Any interested person may petition the court to permit access to a record classified as private as described in Subsection (1).

(b) The interested person described in Subsection (2)(a) shall serve the petition on the parties to the closure order.

(3) A party shall place the social security number of any individual, who is the subject of an action under this title, in the records relating to the matter.

Section 65. Section 81-1-203, which is renumbered from Section 30-3-3 is renumbered and amended to read:

~~30-3-3.~~ 81-1-203. Award of costs and attorney and witness fees -- Temporary support and maintenance.

[~~(1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case~~]

(1)(a) In an action filed under Chapter 4, Dissolution of Marriage, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or in an action to establish an order of custody, parent-time, child support, alimony, or the division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action.

(b) The order under Subsection (1)(a) may include a provision for costs of the action.

(2) In [~~any~~]an action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense.

(3) The court, in [~~its~~]the court's discretion, may award no fees or limited fees against a party if the court finds the party is [~~impecunious~~]indigent or

enters in the record the reason for not awarding fees.

[~~(3)~~](4) In [~~any action listed in~~]an action described in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of [~~any children~~]a minor child in the custody of the other party.

(5) The court may amend an order entered in accordance with this section before the entry of the final order or judgment or in the final order or judgment.

[~~(4) Orders entered under this section prior to entry of the final order or judgment may be amended during the course of the action or in the final order or judgment.~~]

Section 66. Section 81-1-204 is enacted to read:

81-1-204. Continuing jurisdiction of a court in a domestic relations action.

In an action under this title, the court has continuing jurisdiction after a decree or final order is entered to make subsequent changes to the order, or to enter a new order, including an order regarding:

(1) the distribution of the property and obligations for debts, as is reasonable and necessary, for an action described in Chapter 4, Dissolution of Marriage;

(2) alimony in accordance with Section 81-4-503;

(3) child support and medical expenses in accordance with Sections 81-6-208 and 81-6-212; and

(4) custody and parent-time in accordance with Section 81-9-208.

Section 67. Section 81-2-101 is enacted to read:

81-2-101. Definitions for chapter.

CHAPTER 2. MARRIAGE

Part 1. General Provisions

Reserved.

Section 68. Section 81-2-102, which is renumbered from Section 30-1-4.1 is renumbered and amended to read:

~~30-1-4.1.~~ 81-2-102. Marriage recognition policy.

(1)(a) It is the policy of this state to recognize as marriage only the legal union of a man and a woman as provided in this chapter.

(b) Except for the relationship of marriage between a man and a woman recognized pursuant to this chapter, this state will not recognize, enforce, or give legal effect to any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married.

(2) Nothing in Subsection (1) impairs any contract or other rights, benefits, or duties that are enforceable independently of this section.

Section 69. Section 81-2-201, which is renumbered from Section 30-1-36 is renumbered and amended to read:

~~30-1-36.~~ 81-2-201. Definitions for part. Part 2. Premarital Counseling

As used in this part:

(1) [~~Premarital counseling may include~~] "Premarital counseling" includes group counseling, individual counseling, and couple counseling.

(2) [~~Premarital education may include~~] "Premarital education" includes:

(a) a lecture, class, seminar, or workshop provided by a person that meets the requirements of Subsection [~~30-1-34(2)(b)(i)~~]81-2-206(2)(b)(i); or

(b) an online course approved by the Utah Marriage Commission as provided in Subsection [~~30-1-34(2)(b)(i)(F)~~]81-2-206(2)(b)(i)(F).

Section 70. Section 81-2-202, which is renumbered from Section 30-1-30 is renumbered and amended to read:

~~30-1-30.~~ 81-2-202. Premarital counseling or education -- State policy -- Applicability.

It is the policy of the state to enhance the possibility of couples to achieve more stable, satisfying, and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling or education before securing a marriage license.

Section 71. Section 81-2-203, which is renumbered from Section 30-1-31 is renumbered and amended to read:

~~30-1-31.~~ 81-2-203. Premarital counseling board in county -- Appointment, terms, compensation, offices -- Common counseling board with adjacent county.

[~~The boards of commissioners of the respective counties in this state are~~]

(1) A county is authorized to:

(a) provide for premarital counseling; and[~~ to~~]

(b) require the use of premarital counseling as a condition precedent to the issuance of a marriage license under the provisions of this [~~act~~]part.

(2) [~~ They~~]The county may appoint a premarital counseling board consisting of seven members, four of whom shall be lay persons and three of whom shall be chosen from the professions of psychiatry, psychology, social work, marriage counseling, the clergy, law or medicine.

(3) [~~They~~]The county may designate the terms of office and the procedures to be followed by the premarital counseling board and provide for payment of compensation and expenses for members.

(4) [~~They~~]The county may pay the salaries and expenses of a counseling staff under the supervision of the premarital counseling board and provide office space, furnishings, equipment and supplies for [~~their~~]the board's use.

(5) A county may join with an adjacent county or counties in forming a common premarital counseling board and in establishing a common master plan for premarital counseling.

Section 72. Section 81-2-204, which is renumbered from Section 30-1-32 is renumbered and amended to read:

~~30-1-32~~. 81-2-204. Master plan for counseling.

(1) It shall be the function and duty of the premarital counseling board, after holding public hearings, to make, adopt, and certify to the county legislative body a master plan for premarital counseling of marriage license applicants within the purposes and objectives of this [~~act~~]part.

(2) The master plan described in Subsection (1) shall include:

(a) counseling procedures that:

(i) will make applicants aware of problem areas in their proposed marriage;

(ii) suggest ways of meeting problems; and

(iii) will induce reconsideration or postponement when:

(A) the applicants are not sufficiently matured or are not financially capable of meeting the responsibilities of marriage; or

(B) are marrying for reasons not conducive to a sound lasting marriage; and

(b) standards for evaluating premarital counseling received by the applicants, prior to their application for a marriage license, which would justify issuance of certificate without further counseling being given or required.

(3) The premarital counseling board may, from time to time, amend or extend the plan described in Subsection (1).

(4) The premarital counseling board may, subject to Subsection (5):

(a) appoint a staff and employees as may be necessary for its work; and

(b) contract with social service agencies or other consultants within the county or counties for services it requires.

(5) Expenditures for the appointments and contracts described in Subsection (4) may not exceed the sums appropriated by the county legislative body plus sums placed at its disposal through gift or otherwise.

Section 73. Section 81-2-205, which is renumbered from Section 30-1-33 is renumbered and amended to read:

~~30-1-33~~. 81-2-205. Conformity to master plan for counseling as prerequisite to marriage license -- Exceptions.

Whenever [~~the board of commissioners of~~]a county has adopted a master plan for premarital counseling no resident of the county may obtain a marriage license without conforming to the plan, except that:

(1) [~~Any person~~]an individual who applies for a marriage license shall have the right to secure the license and to marry notwithstanding [~~their~~]the individual's failure to conform to the required premarital counseling or [~~their~~]the individual's failure to obtain a certificate of authorization from the premarital counseling board if [~~they wait~~]the individual waits six months from the date of application for issuance of the license[~~.~~];

(2) [~~This chapter~~]this part does not apply to any application for a marriage license where both parties are at least 19 years [~~of age~~]old and neither has been previously divorced[~~.~~];

(3) [~~This chapter~~]this part does not apply to any application for a marriage license unless both applicants have physically resided in Utah for 60 days immediately preceding their application[~~.~~]; or

(4) [~~Premarital counseling required by this act shall be~~]premarital counseling required by this part is considered fulfilled if the applicants present a certificate verified by a clergyman that the applicants have completed a course of premarital counseling approved by a church and given by or under the supervision of the clergyman.

Section 74. Section 81-2-206, which is renumbered from Section 30-1-34 is renumbered and amended to read:

~~30-1-34~~. 81-2-206. Completion of counseling or education.

(1) The county clerk of a county that operates an online marriage application system and issues a marriage license to applicants who certify completion of premarital counseling or education in accordance with Subsection (2) shall reduce the marriage license fee by $20.

(2)(a) To qualify for the reduced fee under Subsection (1), the applicants shall certify completion of premarital counseling or education in accordance with this Subsection (2).

(b) To complete premarital counseling or education, the applicants:

(i) shall obtain the premarital counseling or education from:

(A) a licensed or ordained minister or the minister's designee who is trained by the minister or denomination to conduct premarital counseling or education;

(B) an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(C) an individual certified by a national organization recognized by the Utah Marriage Commission, created in Title 63M, Chapter 15, Utah Marriage Commission, as a family life educator;

(D) a family and consumer sciences educator;

(E) an individual who is an instructor approved by a premarital education curriculum that meets the requirements of Subsection (2)(b)(ii); or

(F) an online course approved by the Utah Marriage Commission;

(ii) shall receive premarital counseling or education that includes information on important factors associated with strong and healthy marriages, including:

(A) commitment in marriage; and

(B) effective communication and problem- solving skills, including avoiding violence and abuse in the relationship;

(iii) shall complete at least three hours of premarital counseling or six hours of premarital education meeting the requirements of this Subsection (2); and

(iv) shall complete the premarital counseling or education meeting the requirements of this Subsection (2) not more than one year before but at least 14 days before the day on which the marriage license is issued.

(c) Although applicants are encouraged to take the premarital counseling or education together, each applicant may comply with the requirements of this Subsection (2) separately.

(3) A provider of premarital counseling or education under this section is encouraged to use research- based relationship inventories.

Section 75. Section 81-2-207, which is renumbered from Section 30-1-35 is renumbered and amended to read:

~~30-1-35.~~ 81-2-207. Persons performing counseling services designated by board -- Exemption from license requirements.

For the purposes of this [~~chapter~~]part, the premarital counseling board of each county or combination of counties may determine those persons who are to perform any services under this [~~chapter~~]part and any person so acting is not subject to prosecution or other sanctions for the person's failure to hold any license for these services as may be required by the laws of the state.

Section 76. Section 81-2-208, which is renumbered from Section 30-1-37 is renumbered and amended to read:

~~30-1-37.~~ 81-2-208. Confidentiality of information obtained under counseling provisions.

(1) Except for the information required or to be required on the marriage license application form, any information given by a marriage license applicant in compliance with this [~~chapter~~]part:

(a) shall be confidential information [~~and~~]; and

(b) may not be released by any person, board, commission, or other entity.[~~However,~~]

(2) Notwithstanding Subsection (1), the premarital counseling board or board of commissioners may use the information given by a marriage license applicant, without identification of individuals, to compile and release statistical data.

Section 77. Section 81-2-209, which is renumbered from Section 30-1-38 is renumbered and amended to read:

~~30-1-38.~~ 81-2-209. Fee for counseling.

Any county adopting a master plan under this act is authorized to charge, in addition to [~~its~~]the county's ordinary marriage license application fees, not more than $10 for premarital counseling, to be paid by the applicants at the time [~~they~~]the applicants make application.

Section 78. Section 81-2-301 is enacted to read:

81-2-301. Definitions for part.

Part 3. Marriage License and Solemnization

As used in this part:

(1) "County clerk" means:

(a) the county clerk of the county; or

(b) an employee or designee of the county clerk who is authorized to issue marriage licenses or solemnize marriages.

(2) "Judge or magistrate of the United States" means:

(a) a justice of the United States Supreme Court;

(b) a judge of a court of appeals;

(c) a judge of a district court;

(d) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;

(e) a judge of a bankruptcy court;

(f) a judge of a tax court; or

(g) a United States magistrate.

(3) "Minor" means an individual who is 16 or 17 years old.

(4)(a) "Native American spiritual advisor" means an individual who:

(i) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and

(ii) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(b) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

Section 79. Section 81-2-302, which is renumbered from Section 30-1-7 is renumbered and amended to read:

~~30-1-7.~~ 81-2-302. Marriage licenses -- Use within state -- Expiration.

(1) [~~No marriage may be~~]A marriage may not be solemnized in this state without a license issued by the county clerk of any county of this state.

(2) A license issued within this state by a county clerk may only be used within this state.

(3) A license that is not used within 32 days after the day on which the licensed is issued is void.

Section 80. Section 81-2-303, which is renumbered from Section 30-1-8 is renumbered and amended to read:

~~30-1-8.~~ 81-2-303. Application for marriage license -- Contents.

[~~(1) As used in this section, "minor" means the same as that term is defined in Section 30-1-9.~~]

[~~(2)~~](1) A county clerk may issue a marriage license only after an application is filed with the county clerk's office, requiring the following information:

(a) the full names of the applicants, including the maiden or bachelor name of each applicant;

(b) the social security numbers of the applicants, unless an applicant has not been assigned a number;

(c) the current address of each applicant;

(d) the date and place of birth, including the town or city, county, state or country, if possible;

(e) the names of the applicants' respective parents, including the maiden name of a mother; and

(f) the birthplaces of the applicants' respective parents, including the town or city, county, state or country, if possible.

[~~(3)~~](2)(a) If one or both of the applicants is a minor, the county clerk shall provide each minor with a standard petition on a form provided by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section [~~30-1-9~~]81-2-304.

(b) The form described in Subsection [~~(3)(a)~~](2)(a) shall include:

(i) all information described in Subsection [~~(2)~~](1);

(ii) [~~in accordance with Subsection 30-1-9(2)(a),~~]a place for the parent or legal guardian to indicate the parent or legal guardian's relationship to the minor in accordance with Subsection 81-2-304(1)(a);

(iii) an affidavit for the parent or legal guardian to acknowledge the penalty described in Section [~~30-1-9.1~~]81-2-304 signed under penalty of perjury;

(iv) an affidavit for each applicant regarding the accuracy of the information contained in the marriage application signed under penalty of perjury; and

(v) a place for the clerk to sign that indicates that the following have provided documentation to support the information contained in the form:

(A) each applicant; and

(B) the minor's parent or legal guardian.

[~~(4)~~](3)(a) The social security numbers obtained under the authority of this section may not be recorded on the marriage license[~~,~~] and are not open to inspection as a part of the vital statistics files.

(b) The [~~Department of Health, ~~]Bureau of Vital Records and Health Statistics shall, upon request, supply the social security numbers to the Office of Recovery Services[~~ within the Department of Human Services~~].

(c) The Office of Recovery Services may not use a social security number obtained under the authority of this section for any reason other than the administration of child support services.

(4)(a) A county clerk may not issue a marriage license until an affidavit is made before the clerk by a party applying for the marriage license that shows there is no lawful reason in the way of the marriage.

(b) The county clerk shall file and preserve the affidavit under Subsection (4)(a).

(c) A party who makes an affidavit described in Subsection (4)(a), or a subscribing witness to the affidavit who falsely swears in the affidavit, is guilty of perjury.

(5) A county clerk who knowingly issues a marriage license for any prohibited marriage is guilty of a class A misdemeanor.

Section 81. Section 81-2-304, which is renumbered from Section 30-1-9 is renumbered and amended to read:

~~30-1-9.~~ 81-2-304. Marriage of a minor -- Consent of parent or guardian -- Juvenile court authorization.

[~~(1) For purposes of this section, "minor" means an individual that is 16 or 17 years old.~~]

[~~(2)~~](1)(a) If [~~at the time of applying for a license the applicant is a minor, and not before the minor is married, a license may not be issued~~]an applicant is a minor at the time of applying for a license, a county clerk may not issue a marriage license without the signed consent of the minor's parent or legal guardian given in person to the clerk, except that:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical

custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) Each applicant, and [~~if an applicant is a minor,~~]the minor's consenting parent or legal guardian if an applicant is a minor, shall appear in person before the county clerk and provide legal documentation to establish the following information:

(i) the legal relationship between the minor and the minor's parent or legal guardian;

(ii) the legal name and identity of the minor; and

(iii) the birth date of each applicant.

(c) An individual may present the following documents to satisfy a requirement described in Subsection [~~(2)(b)~~](1)(b):

(i) for verifying the legal relationship between the minor and the minor's parent or legal guardian, one of the following:

(A) the minor's certified birth certificate with the name of the parent, and an official translation if the birth certificate is in a language other than English;

(B) a report of a birth abroad with the name of the minor and the parent;

(C) a certified adoption decree with the name of the minor and the parent; or

(D) a certified court order establishing custody or guardianship between the minor and the parent or legal guardian;

(ii) for verifying the legal name and identity of the minor, one of the following:

(A) an expired or current passport;

(B) a driver's license;

(C) a certificate of naturalization;

(D) a military identification; or

(E) a government employee identification card from a federal, state, or municipal government; and

(iii) for verifying the birth date of each applicant, one of the following for each applicant:

(A) a certified birth certificate;

(B) a report of a birth abroad;

(C) a certificate of naturalization;

(D) a certificate of citizenship;

(E) a passport;

(F) a driver's license; or

(G) a state identification card.

(d) An individual may not use a temporary or altered document to satisfy a requirement described in Subsection [~~(2)(b)~~](1)(b).

[~~(3)~~](2)(a) The minor and the parent or legal guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(b) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best [~~interests~~]interest of the minor under the circumstances.

(c) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.

(d) The judge or court commissioner may require:

(i) that the minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(e) The judge or court commissioner may not issue a written authorization to the minor if the age difference between both parties to the marriage is more than seven years.

[~~(4)~~](3)(a) The determination required in Subsection [~~(3)~~](2) shall be made on the record.

(b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

(4)(a) A parent or legal guardian who knowingly consents or allows a minor to enter into a marriage prohibited by law is guilty of a third degree felony.

(b) An individual is guilty of a third degree felony if the individual:

(i) knowingly, with or without a license, solemnizes the marriage of an individual who is younger than 18 years old and the marriage is prohibited by law;

(ii) without a written authorization from the juvenile court, solemnizes a marriage to which a party is a minor;

(iii) impersonates a parent or legal guardian of a minor to obtain a license for the minor to marry; or

(iv) forges the name of a parent or legal guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Section 82. Section 81-2-305, which is renumbered from Section 30-1-6 is renumbered and amended to read:

~~30-1-6.~~ 81-2-305. Who may solemnize marriages -- Certificate.

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

[~~(a) "Judge or magistrate of the United States" means:~~]

[~~(i) a justice of the United States Supreme Court;~~]

[~~(ii) a judge of a court of appeals;~~]

[~~(iii) a judge of a district court;~~]

[~~(iv) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;~~]

[~~(v) a judge of a bankruptcy court;~~]

[~~(vi) a judge of a tax court; or~~]

[~~(vii) a United States magistrate.~~]

[~~(b)(i) "Native American spiritual advisor" means an individual who:~~]

[~~(A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and~~]

[~~(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.~~]

[~~(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.~~]

[~~(2)~~](1) The following individuals may solemnize a marriage:

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) a Native American spiritual advisor;

(c) the governor;

(d) the lieutenant governor;

(e) the state attorney general;

(f) the state treasurer;

(g) the state auditor;

(h) a mayor of a municipality or county executive;

(i) a justice, judge, or commissioner of a court of record;

(j) a judge of a court not of record of the state;

(k) a judge or magistrate of the United States;

(l) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;

(m) a senator or representative of the Utah Legislature;

(n) a member of the state's congressional delegation; or

(o) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

[~~(3)~~](2) An individual authorized under Subsection [~~(2)~~](1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

[~~(4)~~](3) Except for an individual described in Subsection [~~(2)(l)~~](1)(l), an individual described in Subsection [~~(2)~~](1) has discretion to solemnize a marriage.

[~~(5)~~](4) Except as provided in Section 17-20-4 and Subsection [~~(2)(l)~~](1)(l), and notwithstanding any other provision in law, no individual authorized under Subsection [~~(2)~~](1) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

(5)(a) Within 30 days after the day on which a marriage is solemnized, the individual solemnizing the marriage shall return the marriage license to the county clerk that issued the marriage license with a certificate of the marriage over the individual's signature stating the date and place of solemnization and the names of two or more witnesses present at the marriage.

(b) An individual described in Subsection (5)(a) who fails to return the license is guilty of an infraction.

(6)(a) An individual is guilty of a third degree felony if the individual knowingly:

(i) solemnizes a marriage without a valid marriage license; or

(ii) solemnizes a marriage in violation of this section.

(b) An individual is guilty of a class A misdemeanor if the individual knowingly, with or without a marriage license, solemnizes a marriage between two individuals who are 18 years old or older that is prohibited by law.

Section 83. Section 81-2-306, which is renumbered from Section 30-1-12 is renumbered and amended to read:

~~30-1-12~~. 81-2-306. County clerk to file license and certificate -- Designation as vital record.

[~~(1)(a) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk~~]

(1)(a) The county clerk shall:

(i) file and preserve the marriage license returned by an individual under Subsection 81-2-305(5) with the certificate of the marriage; and

(ii) record the marriage license and certificate in a book kept for that purpose[~~,~~] or by electronic means.

(b) The record shall be properly indexed in the names of the parties so married.

(2) An individual may use a diacritical mark, as defined in Section 26B-8-103, on a marriage license.

(3) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

(4) The marriage license and the certificate of the individual officiating at the marriage are:

(a) vital records as defined in Section 26B-8-101; and [~~are~~]

(b) subject to the inspection requirements described in Section 26B-8-125.

Section 84. Section 81-2-401 is enacted to read:

81-2-401. Definitions for part.

Part 4. Validity of Marriage

Reserved.

Section 85. Section 81-2-402, which is renumbered from Section 30-1-1 is renumbered and amended to read:

~~30-1-1.~~ 81-2-402. Incestuous marriages void.

(1) The following marriages are incestuous and void from the beginning, regardless of whether the relationship is legally recognized:

(a) [~~marriages between parents and children~~]a marriage between a parent and a child;

(b) [~~marriages between ancestors and descendants of every degree~~]a marriage between an ancestor and a descendant of any degree;

(c) [~~marriages between siblings of the half as well as the whole blood~~]a marriage between siblings of the half or whole blood;

[~~(d) marriages between:~~]

[~~(i) uncles and nieces or nephews; or~~]

[~~(ii) aunts and nieces or nephews;~~]

(d) a marriage between an uncle and a niece or nephew;

(e) a marriage between an aunt and a niece or nephew;

[~~(e)~~](f) [~~marriages between first cousins,~~] except as provided in Subsection (2), a marriage between first cousins; or

[~~(f)~~](g) [~~marriages between any~~]except as provided in Subsection (2), a marriage between individuals related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law[~~, except as provided in Subsection (2)~~].

(2) First cousins may marry under the following circumstances:

(a) both parties are 65 years [~~of age~~]old or older; or

(b) if both parties are 55 years [~~of age~~]old or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Section 86. Section 81-2-403, which is renumbered from Section 30-1-2 is renumbered and amended to read:

~~30-1-2.~~ 81-2-403. Marriages prohibited and void.

(1) The following marriages are prohibited and declared void:

(a) when there is a spouse living[~~,~~] from whom the individual marrying has not been divorced;

(b) except as provided in Subsection (2), [~~when an applicant is~~]the individual marrying is under 18 years old; [~~and~~]or

(c) between a divorced individual and any individual other than the one from whom the divorce was secured until:

(i) the divorce decree becomes absolute[~~, and,~~]; and

(ii) if an appeal is taken, until after the affirmance of the divorce decree.

(2) A marriage of an individual under 18 years old is not void if the individual:

(a) is 16 or 17 years old and obtains consent from a parent or guardian and juvenile court authorization in accordance with Section [~~30-1-9~~]81-2-304; or

(b) lawfully marries before May 14, 2019.

Section 87. Section 81-2-404, which is renumbered from Section 30-1-2.1 is renumbered and amended to read:

~~30-1-2.1.~~ 81-2-404. Validation of a marriage to an individual subject to chronic epileptic fits who had not been sterilized.

[~~All marriages, otherwise valid and legal, contracted prior to the effective date of this act, to which either party was subject to chronic epileptic fits and who had not been sterilized, as provided by law, are hereby validated and legalized in all respects as though such marriages had been duly and legally contracted in the first instance.~~]A marriage between two individuals that was not valid or legal before May 14, 1963, on the basis that a party was subject to chronic epileptic fits and had not been sterilized is considered valid and legal in this state.

Section 88. Section 81-2-405, which is renumbered from Section 30-1-2.2 is renumbered and amended to read:

~~30-1-2.2.~~ 81-2-405. Validation of a marriage on the basis of the race, ethnicity, or national origin of the parties.

[~~All interracial marriages, otherwise valid and legal, contracted prior to July 1, 1965, to which one of the parties of the marriage was subject to disability to marry on account of Subsection 30-1-2(5) or (6), as those subsections existed prior to May 14, 1963, are hereby valid and made lawful in all respects as though such marriages had been duly and legally contracted in the first instance.~~]A marriage between two individuals that was not

valid or legal before July 1, 1965, on the basis of the race, ethnicity, or national origin of those individuals is considered valid and legal in this state.

Section 89. Section 81-2-406, which is renumbered from Section 30-1-2.3 is renumbered and amended to read:

~~30-1-2.3.~~ 81-2-406. Validation of a marriage to an individual with acquired immune deficiency syndrome or other sexually transmitted disease.

[~~Each marriage contracted prior to October 21, 1993, is valid and legal but for the prohibition described in Laws of Utah 1991, Chapter 117, Section 1, Subsection 30-1-2(1) regarding persons afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is hereby valid and made lawful in all respects as though that marriage had been legally contracted in the first instance.~~]A marriage between two individuals that was not valid or legal before October 21, 1993, on the basis that a party was afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is considered valid and legal in this state.

Section 90. Section 81-2-407, which is renumbered from Section 30-1-4 is renumbered and amended to read:

~~30-1-4.~~ 81-2-407. Validity of a foreign marriage -- Exceptions.

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid in this state, unless[~~ it is a marriage~~]:

(1) [~~that~~]the marriage would be prohibited and declared void in this state[~~,~~] under Subsection [~~30-1-2(1)(a)~~]81-2-403(1)(a); or

(2) the marriage is between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection [~~30-1-1(2)~~]81-2-402(2).

Section 91. Section 81-2-408, which is renumbered from Section 30-1-4.5 is renumbered and amended to read:

~~30-1-4.5.~~ 81-2-408. Validity of marriage not solemnized or solemnized before an unauthorized individual.

(1) A marriage [~~which~~]that is not solemnized according to this chapter [~~shall be~~]is legal and valid if a court or administrative order establishes that the marriage arises out of a contract between [~~a man and a woman~~]two individuals who:

(a) are of legal age and capable of giving consent;

(b) are legally capable of entering a solemnized marriage under the provisions of this chapter;

(c) have cohabited;

(d) mutually assume marital rights, duties, and obligations; and

(e) who hold themselves out as and have acquired a uniform and general reputation as [~~husband and wife~~]spouses.

(2)(a) A petition for an unsolemnized marriage shall be filed during the relationship described in Subsection (1), or within one year following the termination of that relationship.

(b) Evidence of a marriage recognizable under this section may be:

(i) manifested in any form[~~, and may be~~]; and

(ii) proved under the same general rules of evidence as facts in other cases.

(3)(a) A marriage solemnized before an individual professing to have authority to perform marriages may not be invalidated for lack of authority if consummated in the belief of the parties or either party that the person had authority and that the parties have been lawfully married.

(b) Subsection (3)(a) may not be construed to validate a marriage that is prohibited or void under Section 81-2-403.

Section 92. Section 81-2-409, which is renumbered from Section 30-1-3 is renumbered and amended to read:

~~30-1-3.~~ 81-2-409. Legal recognition of a child when marriage is void.

When a marriage is void under Subsection [~~30-1-2(1)(a)~~]81-2-403(1)(a) and the parties entered into the marriage in good faith, a child of the marriage, who is born or conceived before the parties had actual knowledge that the marriage was void, shall be legally recognized as the child of the parties.

Section 93. Section 81-3-101 is enacted to read:

81-3-101. Definitions for part.

CHAPTER 3. RIGHTS AND OBLIGATIONS DURING MARRIAGE

Part 1. Property Rights

Reserved.

Section 94. Section 81-3-102, which is renumbered from Section 30-2-2 is renumbered and amended to read:

~~30-2-2.~~ 81-3-102. Married individual's right to contract, sue, and be sued.

[~~Contracts may be made by a wife, and liabilities incurred and enforced by or against her, to the same extent and in the same manner as if she were unmarried.~~]A married individual may contract, sue, or be sued, to the same extent and in the same manner as if the individual was unmarried.

Section 95. Section 81-3-103, which is renumbered from Section 30-2-3 is renumbered and amended to read:

~~30-2-3.~~ 81-3-103. Conveyances between spouses.

A conveyance, transfer, or lien executed by [~~either husband or wife~~]an individual, to or in favor of the

[~~other shall be~~]individual's spouse is valid to the same extent as between other persons.

Section 96. Section 81-3-104, which is renumbered from Section 30-2-4 is renumbered and amended to read:

~~30-2-4.~~ 81-3-104. Married individual's right to wages -- Actions for personal injury.

(1) A [~~wife~~]married individual may:

(a) receive the wages for [~~her~~]the individual's personal labor[~~,~~] as if unmarried;

(b) maintain an action [~~therefor in her~~]in the individual's own name and hold the same in [~~her~~]the individual's own right[~~, and may~~] as if unmarried; and

(c) prosecute and defend all actions for the preservation and protection of [~~her~~]the individual's rights and property as if unmarried.

(2) [~~There shall be no right of recovery by the husband~~]A husband does not have a right of recovery:

(a) on account of personal injury or wrong to [~~his wife, or~~]the husband's wife; or

(b) for expenses connected [~~therewith, but the wife~~]with the personal injury or wrong to the husband's wife.

(3)(a) A wife may recover against a third person for [~~such injury or wrong~~]a personal injury or wrong to the wife as if unmarried[~~, and such~~].

(b) A recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband.

Section 97. Section 81-3-105, which is renumbered from Section 30-2-5 is renumbered and amended to read:

~~30-2-5.~~ 81-3-105. Separate debts.

(1) [~~Neither spouse is~~]A married individual is not personally liable for the separate debts, obligations, or liabilities of the [~~other~~]individual's spouse that are:

(a) contracted or incurred before marriage;

(b) contracted or incurred during marriage, except family expenses as provided in Section [~~30-2-9~~]81-3-109;

(c) contracted or incurred after divorce or an order for separate maintenance under [~~this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section 26B-9-224~~]Chapter 4, Dissolution of Marriage, except that the individual is personally liable for any support ordered by a court as described in Chapter 6, Child Support, or an administrative agency as described in Title 26B, Chapter 9, Recovery Services and Administration of Child Support; or

(d) ordered by the court to be paid by the [~~other~~]individual's spouse under [~~Section 30-3-5 or 30-4-3~~]Chapter 4, Dissolution of Marriage, and not in conflict with Section 15-4-6.5 or 15-4-6.7.

(2) [~~The~~]A creditor of a married individual may not reach the wages, earnings, property, rents, or other income of [~~one spouse may not be reached by a creditor of the other spouse~~]the individual's spouse to satisfy a debt, obligation, or liability [~~of the other spouse, as described~~]of the individual under Subsection (1).

Section 98. Section 81-3-106, which is renumbered from Section 30-2-6 is renumbered and amended to read:

~~30-2-6.~~ 81-3-106. Actions based on property rights.

[~~Should the husband or wife obtain~~]If a married individual obtains possession or control of property belonging to the [~~other~~]individual's spouse before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if [~~they were~~]the individual was unmarried.

Section 99. Section 81-3-107, which is renumbered from Section 30-2-7 is renumbered and amended to read:

~~30-2-7.~~ 81-3-107. Liability for spouse's torts.

[~~For civil injuries committed by a married woman damages may be recovered from her alone, and her husband~~]

(1) If a married individual is held liable in a civil action, the plaintiff may recover damages from the individual alone.

(2) The spouse of the individual described in Subsection (1) may not be held liable [~~for those civil injuries~~]in the civil action, except in [~~cases where he would be jointly liable with her~~]an action where the spouse would be jointly liable with the individual if the marriage did not exist.

Section 100. Section 81-3-108, which is renumbered from Section 30-2-8 is renumbered and amended to read:

~~30-2-8.~~ 81-3-108. Agency between spouses.

A [~~husband or wife~~]married individual may:

(1) constitute the [~~other his or her~~]attorney in fact to control and dispose of [~~his or her property for their mutual benefit~~]the property of the individual's spouse for the mutual benefit of the individual and the individual's spouse or otherwise[~~, and may~~]; and

(2) revoke the appointment the same as other persons.

Section 101. Section 81-3-109, which is renumbered from Section 30-2-9 is renumbered and amended to read:

~~30-2-9.~~ 81-3-109. Family expenses -- Joint and several liability.

[~~(1) The expenses of the family and the education of the children are chargeable upon the property of~~

~~both spouses or of either of them separately, for which expenses they may be sued jointly or separately.~~]

(1) As used in this section:

(a) "Family expenses" means expenses incurred that benefit and promote the family unit.

(b) "Family expenses" do not include items purchased in accordance with a written contract or agreement during the marriage that do not relate to the expenses described in Subsection (1)(a).

(2)(a) A married individual, and the married individual's property, is chargeable for family expenses and expenses for the education of a minor child.

(b) A married individual may be sued separately or jointly with the individual's spouse for the expenses described in Subsection (2)(a).

[~~(2)~~](3) For the expenses described in Subsection [~~(1),~~](2), where there is a written agreement signed by [~~either~~]a spouse that allows for the recovery of agreed upon amounts, a creditor or an assignee or successor in interest of the creditor is entitled to recover the contractually allowed amounts against both spouses, jointly and severally.

[~~(3)~~](4) Subsection [~~(2)~~](3) applies to all contracts and agreements under this section entered into by [~~either~~]a spouse during the time the parties are married and living together.

[~~(4) For the purposes of this section, family expenses are considered expenses incurred that benefit and promote the family unit. Items purchased pursuant to a written contract or agreement during the marriage that do not relate to family expenses are not covered by this section.~~]

(5) The provisions of Subsections [~~(2) and (3)~~](3) and (4) do not create a right to attorney's fees or collection fees as to the nonsigning spouse for purchases of:

(a) food or clothing; or

(b) home improvements or repairs over $5,000.

Section 102. Section 81-3-110, which is renumbered from Section 30-2-10 is renumbered and amended to read:

~~30-2-10~~. 81-3-110. Homestead rights -- Custody of a minor child.

[~~Neither the husband nor wife can remove the other or their children~~]

(1) A married individual may not remove the individual's spouse or minor child from the homestead without the consent of the [~~other~~]individual's spouse, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family[~~; and if a husband or wife abandons his or her spouse, that spouse~~].

(2) If a married individual abandons the individual's spouse, the individual's spouse is entitled to the custody of [~~the minor children~~]a minor child, unless a court [~~of competent jurisdiction shall otherwise direct~~]with jurisdiction orders otherwise.

Section 103. Section 81-3-111, which is renumbered from Section 30-2-11 is renumbered and amended to read:

~~30-2-11~~. 81-3-111. Action for consortium due to personal injury.

(1) [~~For purposes of~~]As used in this section:

(a) [~~"injury"~~]"Injury" or "injured" means a significant permanent injury to [~~a person~~]an individual that substantially changes that [~~person's~~]individual's lifestyle [~~and includes the following~~], including:

(i) a partial or complete paralysis of one or more of the extremities;

(ii) significant disfigurement; or

(iii) incapability of the [~~person~~]individual of performing the types of jobs the [~~person~~]individual performed before the injury[~~; and~~].

(b) [~~"spouse"~~]"Spouse" means the legal relationship:

(i) established between [~~a man and a woman~~]two individuals as recognized by the laws of this state; and

(ii) existing at the time of the person's injury.

(2) The spouse of [~~a person~~]an individual injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.

(3) A claim for loss of consortium begins on the date of injury to the spouse.

(4) The statute of limitations applicable to the injured [~~person~~]individual shall also apply to the spouse's claim of loss of consortium.

[~~(4)~~](5) A claim for the spouse's loss of consortium shall be:

(a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and

(b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured [~~person~~]individual.

[~~(5)~~](6) The spouse's action for loss of consortium:

(a) shall be derivative from the cause of action existing [~~in~~]on behalf of the injured [~~person~~]individual; and

(b) may not exist in cases where the injured [~~person~~]individual would not have a cause of action.

[~~(6)~~](7) Fault of the spouse of the injured [~~person~~]individual, as well as fault of the injured [~~person~~]individual, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.

[~~(7)~~](8) Damages awarded for loss of consortium, when combined with any award to the injured [~~person~~]individual for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.

[~~(8)~~](9) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured [~~person~~]individual which a governmental entity is required to pay, may not exceed the liability limit for one [~~person~~]individual in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Section 104. Section 81-3-201, which is renumbered from Section 30-8-2 is renumbered and amended to read:

~~30-8-2.~~ 81-3-201. Definitions for part.

Part 2. Uniform Premarital Agreement Act

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

(1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Section 105. Section 81-3-202, which is renumbered from Section 30-8-3 is renumbered and amended to read:

~~30-8-3.~~ 81-3-202. Writing -- Signature required.

(1) A premarital agreement shall be in writing and signed by both parties.

(2) [~~It~~] A premarital agreement is enforceable without consideration.

Section 106. Section 81-3-203, which is renumbered from Section 30-8-4 is renumbered and amended to read:

~~30-8-4.~~ 81-3-203. Content.

(1) Parties to a premarital agreement may contract with respect to:

(a) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(b) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(c) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(d) the modification or elimination of spousal support;

(e) the ownership rights in and disposition of the death benefit from a life insurance policy;

(f) the choice of law governing the construction of the agreement, except that a court [~~of competent jurisdiction~~]with jurisdiction may apply the law of the legal domicile of either party, if it is fair and equitable; and

(g) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(2) The right of a child, as defined in Section 81-6-101, to support, health and medical provider expenses, medical insurance, and child care coverage may not be affected by a premarital agreement.

Section 107. Section 81-3-204, which is renumbered from Section 30-8-5 is renumbered and amended to read:

~~30-8-5.~~ 81-3-204. Effect of marriage -- Amendment -- Revocation.

(1) A premarital agreement becomes effective upon marriage.

(2)(a) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties.

(b) The amended agreement or the revocation is enforceable without consideration.

Section 108. Section 81-3-205, which is renumbered from Section 30-8-6 is renumbered and amended to read:

~~30-8-6.~~ 81-3-205. Enforcement.

(1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(a) that party did not execute the agreement voluntarily; or

(b) the agreement was fraudulent when [~~it~~]the agreement was executed and, before execution of the agreement, that party:

(i) was not provided a reasonable disclosure of the property or financial obligations of the other party insofar as was possible;

(ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(3) An issue of fraud of a premarital agreement shall be decided by the court as a matter of law.

Section 109. Section 81-3-206, which is renumbered from Section 30-8-7 is renumbered and amended to read:

~~30-8-7.~~ 81-3-206. Enforcement -- Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Section 110. Section 81-3-207, which is renumbered from Section 30-8-8 is renumbered and amended to read:

~~30-8-8.~~ 81-3-207. Limitations of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement.

Section 111. Section 81-3-208, which is renumbered from Section 30-8-9 is renumbered and amended to read:

~~30-8-9.~~ 81-3-208. Application and construction.

This [~~act~~]part shall be applied and construed to effectuate [~~its~~]the part's general purpose to make uniform the law with respect to the subject of this [~~act~~]part among states enacting [~~it~~]this uniform law.

Section 112. Section 81-4-101 is enacted to read:

81-4-101. Definitions for chapter.

CHAPTER 4. DISSOLUTION OF MARRIAGE

Part 1. General Provisions

As used in this chapter:

(1) "Alimony" means financial support made to a spouse or former spouse for the support and maintenance of that spouse.

(2) "Child support" means the same as that term is defined in Section 81-6-101.

Section 113. Section 81-4-102, which is renumbered from Section 30-1-17.4 is renumbered and amended to read:

~~30-1-17.4.~~ 81-4-102. Action for annulment or divorce as alternative relief.

Nothing [~~herein~~]in this chapter shall be construed to prevent the filing of an action requesting an annulment or a divorce as alternative relief.

Section 114. Section 81-4-103, which is renumbered from Section 30-4a-1 is renumbered and amended to read:

~~30-4a-1.~~ 81-4-103. Nunc pro tunc order by court.

[~~A court having jurisdiction may, upon its~~]Upon a court's finding of good cause and giving of such notice as may be ordered, the court may enter an order nunc pro tunc in a matter relating to marriage, divorce, legal separation, or annulment of marriage.

Section 115. Section 81-4-104, which is renumbered from Section 30-3-4.5 is renumbered and amended to read:

~~30-3-4.5.~~ 81-4-104. Temporary separation order.

(1) [~~A petitioner~~]An individual may file an action for a temporary separation order, without filing a petition for divorce, by filing a petition for temporary separation and motion for temporary orders if:

(a) the [~~petitioner~~]individual is lawfully married to the [~~respondent~~]individual from whom the separation is sought; and

(b) both parties are residents of the state for at least 90 days [~~prior to the date of filing~~]before the day on which the action is filed.

(2) The temporary orders are valid for one year [~~from the date of the hearing,~~]after the day on which the hearing for the order is held or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

(4)(a) [~~Both~~]If the parties have a minor child, the parties shall attend the divorce orientation course described in Section [~~30-3-11.4~~]81-4-105 within:

(i) 60 days of the filing of the petition, for the petitioner[~~, and within~~];and

(ii) 45 days of being served, for the respondent.

(b) The clerk of the court shall provide notice to the petitioner of the requirement for the divorce orientation course.

(c) The petition shall include information regarding the divorce orientation course when the petition is served on the respondent.

(d) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the petition for temporary separation, until the moving party completes the divorce orientation course.

(e) The court may waive the requirement for the parties to attend the mandatory courses under this Subsection (4), on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(5) The petitioner shall serve the petition for a temporary separation order in accordance with the Utah Rules of Civil Procedure.

(6) If a party files for divorce within one year after the day on which the petition for temporary separation is filed, the filing fee for a petition for temporary separation shall be credited towards the filing fee for a divorce.

[~~(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.~~]

[~~(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.~~]

Section 116. Section 81-4-105, which is renumbered from Section 30-3-11.4 is renumbered and amended to read:

~~30-3-11.4.~~ 81-4-105. Mandatory orientation course for divorcing parties.

(1)(a) There is established a mandatory divorce orientation course for all parties with [~~minor children~~]a minor child who file a petition for temporary separation or for a divorce. [~~A couple with no minor children is not required, but may choose to attend the course.~~]

(b) The purpose of the course is to educate parties about the divorce process and reasonable alternatives.

[~~(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.~~]

[~~(3)(a) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce or petition for temporary separation, until the moving party completes the divorce orientation course.~~]

[~~(b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court under Section 30-3-4.~~]

[~~(4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.~~]

[~~(5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included with the petition or motion, when served on the respondent.~~]

[~~(6)~~](2) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:

(a) options available as alternatives to divorce;

(b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;

(c) resources available to improve or strengthen the marriage;

(d) a discussion of the positive and negative consequences of divorce;

(e) a discussion of the process of divorce;

(f) options available for proceeding with a divorce, including:

(i) mediation;

(ii) collaborative law; and

(iii) litigation; and

(g) a discussion of post-divorce resources.

[~~(7)~~](3) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section [~~30-3-11.3~~]81-4-106.

[~~(8)~~](4)(a) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

(b) The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties as described in Subsection (6).

[~~(9)~~](5) The course may be through live instruction, video instruction, or through an online provider.

[~~(10)~~](6)(a) A participant shall pay the costs of the course, which may not exceed $30, to the independent contractor providing the course at the time and place of the course.

(b) A petitioner who attends a live instruction course within 30 days of filing may not be charged more than $15 for the course.

(c) A respondent who attends a live instruction course within 30 days of being served with a petition for divorce or temporary separation order may not be charged more than $15 for the course.

(d) A fee of $5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

(e) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. [~~The independent contractor shall be reimbursed for the independent contractor's costs by the Administrative Office of the Courts.~~]

(f) A petitioner who is later determined not to meet the qualifications for indigency may be ordered to pay the costs of the course.

[~~(11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used~~]

(7)(a) The Administrative Office of the Courts shall reimburse an independent contractor that administers the mandatory orientation courts for the independent contractor's costs.

(b) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to pay the costs of an indigent [~~petitioner who is determined to be indigent as provided in Subsection (10)(e)~~]individual who makes a showing as described in Subsection (6) to attend the mandatory orientation course under this section.

[~~(12)~~](8) The Online Court Assistance Program shall include instructions with the forms for divorce that inform the petitioner of the requirement of this section.

[~~(13)~~](9) A certificate of completion constitutes evidence to the court of course completion by the parties.

[~~(14)~~](10) It [~~shall be~~]is an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with[~~,~~] and the action may not continue until a party has complied.

[~~(15)~~](11) The Administrative Office of the Courts shall :

(a) adopt a program to evaluate the effectiveness of the mandatory educational course[~~. Progress reports shall be provided if requested by the Judiciary Interim Committee.~~]; and

(b) provide progress reports to the Judiciary Interim Committee if requested.

Section 117. Section 81-4-106, which is renumbered from Section 30-3-11.3 is renumbered and amended to read:

~~30-3-11.3.~~ 81-4-106. Mandatory educational course for divorcing parents.

(1)(a) The Judicial Council shall approve and implement a mandatory educational course for divorcing parents in all judicial districts.

(b) The mandatory educational course is designed to educate and sensitize divorcing parties to their [~~children's~~] minor child's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

[~~(3)(a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.~~]

[~~(b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.~~]

[~~(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.~~]

[~~(5)~~](3) The mandatory educational course shall instruct both parties:

(a) about divorce and its impacts on:

(i) their [~~child or children~~] minor child;

(ii) their family relationship; and

(iii) their financial responsibilities for [~~their child or children~~] their minor child; and

(b) that domestic violence has a harmful effect on [~~children~~] a minor child and family relationships.

[~~(6)~~](4)(a) The course may be provided through live instruction, video instruction, or an online provider.

(b) The online and video options must be formatted as interactive presentations that ensure active participation and learning by the parent.

[~~(7)~~](5)(a) The Administrative Office of the Courts shall administer the course [~~pursuant to~~] in accordance with Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts.

(b) The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties[~~, pursuant to Subsection (9)~~] as described in Subsection (7).

[~~(8)~~](6) A certificate of completion constitutes evidence to the court of course completion by the parties.

[~~(9)~~](7)(a) Each party shall pay the costs of the course to the independent contractor providing the course at the time and place of the course.

(b) A fee of $8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account[~~,~~] described in Section 51-9-408.

[~~(b)~~](c) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. [~~In those situations, the independent contractor shall be reimbursed for the independent contractor's costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program."~~]

(d) Before a decree of divorce may be entered, the court shall make a final review and determination of indigency and may order the payment of the costs if so determined.

[~~(10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used~~]

(8)(a) The Administrative Office of the Courts shall reimburse an independent contractor that administers the mandatory educational course for the independent contractor's costs.

(b) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to pay the costs of an indigent parent who makes a showing as [~~provided in Subsection (9)(b)~~] described in Subsection (7) to attend the mandatory educational course under this section.

[~~(11)~~](9) The Administrative Office of the Courts shall:

(a) adopt a program to evaluate the effectiveness of the mandatory educational course[~~. Progress reports shall be provided if requested by the Judiciary Interim Committee.~~]; and

(b) provide progress reports to the Judiciary Interim Committee if requested.

Section 118. Section 81-4-201 is enacted to read:

81-4-201. Definitions for part.

Part 2. Separate Maintenance

As used in this part:

(1) "Petitioner" means an individual who brings a petition for separate maintenance.

(2) "Respondent" means the individual against whom a petition for separate maintenance is brought.

Section 119. Section 81-4-202, which is renumbered from Section 30-4-1 is renumbered and amended to read:

~~30-4-1.~~ 81-4-202. Petition for separate maintenance -- Grounds.

[~~Whenever a resident of this state:~~]

(1) A married individual may bring a petition seeking separate maintenance from the married individual's spouse if:

(a) the married individual, or the married individual's spouse, is a resident of this state; and

(b) the married individual's spouse:

[~~(1)~~](i) deserts [~~a spouse~~]the married individual without good and sufficient cause;

[~~(2)~~](ii) being of sufficient ability to provide support, neglects or refuses to properly provide for and suitably maintain [~~that spouse~~]the married individual;

[~~(3)~~](iii) [~~having property within this state and the spouse being a resident of this state, so deserts or neglects or refuses to provide such support~~]has property within this state and deserts, neglects, or refuses to provide support to the married individual; or

[~~(4)~~](iv) [~~where a married person without that person's fault lives separate and apart from that spouse, the district court shall, on the filing of a complaint, allot, assign, set apart and decree as alimony the use of the real and personal estate or earnings of the deserting spouse as the court may determine appropriate~~]lives separate and apart from the married individual without any fault to the married individual.

(2) If a petition is filed under Subsection (1), the court shall allot, assign, set apart, and decree as alimony the use of the real and personal estate or earnings of the respondent as the court may determine is appropriate.

(3) During the pendency of the action, the court may require the [~~deserting spouse~~]respondent to pay a sum as provided in Section [~~30-3-3~~]81-1-203.

Section 120. Section 81-4-203, which is renumbered from Section 30-4-2 is renumbered and amended to read:

~~30-4-2.~~ 81-4-203. Venue -- Procedure.

[~~In all actions brought hereunder the proceedings and practice shall be the same as near as may be as in actions for divorce; but the action may be brought in any county where the wife or the husband may be found.~~]

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a petitioner shall bring an action under this part in any county in which the petitioner or respondent is found.

(2) An action under this part shall proceed in accordance with the Utah Rules of Civil Procedure.

Section 121. Section 81-4-204, which is renumbered from Section 30-4-3 is renumbered and amended to read:

~~30-4-3.~~ 81-4-204. Custody and maintenance of children -- Property and debt division -- Support payments.

(1) [~~In all actions brought under this chapter~~]In an action under this part, the court may by order or decree:

(a) provide for the care, custody, and maintenance of [~~the minor children~~]a minor child of the parties [~~and may determine with which of the parties the children or any of them shall remain~~];

(b)(i) provide for support of [~~either~~]a spouse and the support of [~~the minor children~~]a minor child remaining with that spouse;

(ii) provide how and when support payments [~~shall be~~]are made; and

(iii) provide that [~~either~~]a spouse have a lien upon the property of the other spouse to secure payment of the support or maintenance obligation;

(c) award to [~~either~~]a spouse the possession of any real or personal property of the other spouse or acquired by the spouses during the marriage; [~~or~~]

(d) specify which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage in accordance with Section 15-4-6.5;

(e) require the parties to notify respective creditors or obligees regarding the court's division

of debts, obligations, or liabilities and regarding the parties' separate and current addresses in accordance with Section 15-4-6.5; or

(f) provide for the enforcement of the orders described in Subsections (1)(a) and (e).

[~~(d) pursuant to Section 15-4-6.5:~~]

[~~(i) specify which party is responsible for the payment of joint debts, obligations, or liabilities contracted or incurred by the parties during the marriage;~~]

[~~(ii) require the parties to notify respective creditors or obligees regarding the court's division of debts, obligations, and liabilities and regarding the parties' separate, current addresses; and~~]

[~~(iii) provide for the enforcement of these orders.~~]

(2) [~~The orders and decrees~~]A court may enforce an order or decree under this section[~~ may be enforced~~]:

(a) by sale of any property of the spouse[~~ or by~~];

(b) by contempt proceedings[~~ or otherwise as may be necessary.~~]; or

(c) as is otherwise necessary.

(3) The court may:

(a) change the support or maintenance of a party from time to time according to circumstances[~~, and may~~]; or

(b) terminate altogether any obligation upon satisfactory proof of voluntary and permanent reconciliation.

(4) An order or decree of support or maintenance [~~shall in every case be~~]described in this part is valid only during the joint lives of [~~the husband and wife~~]the parties.

Section 122. Section 81-4-205, which is renumbered from Section 30-4-4 is renumbered and amended to read:

~~30-4-4.~~ 81-4-205. Restraining disposal of property.

[~~At the time of filing the complaint mentioned in Section 30-4-1~~]

(1) At the time of the filing of a petition described in Section 81-4-202, or at any time subsequent [~~thereto, the plaintiff~~]to the filing of the petition, a party may procure from the court, and file with the county recorder of any county in the state in which the [~~defendant~~]other party may own real estate, an order enjoining and restraining the [~~defendant~~] other party from disposing of or encumbering the [~~same~~]real estate or any portion [~~thereof, describing such~~]of the real estate.

(2) The party shall describe the real estate with reasonable certainty[~~, and from the time of filing such order the property described therein shall be charged with a lien in favor of the plaintiff to the extent of any judgment which may be rendered in the action.~~] in a filing described in Subsection (1).

(3) From the time in which a party receives a court order described in Subsection (1), the party has a lien in favor of the party to the extent of any judgment that is rendered in an action under this part.

Section 123. Section 81-4-206, which is renumbered from Section 30-4-5 is renumbered and amended to read:

~~30-4-5.~~ 81-4-206. Rights and remedies -- Imprisonment of spouse.

[~~Like rights and remedies shall be extended to either husband or wife on the imprisonment of the other in the state prison under a sentence of one year or more when suitable provision has not been made for the support of the one not so imprisoned.~~]If a party to an action for separate maintenance is imprisoned in the state prison for a sentence of one year or more and a suitable provision of support has not been made for the other party, the rights and remedies of this part shall be extended to the party that is not imprisoned.

Section 124. Section 81-4-301 is enacted to read:

81-4-301. Definitions for part.

Part 3. Annulment

As used in this part:

(1) "Petitioner" means an individual who brings a petition for an annulment.

(2) "Respondent" means the individual against whom a petition for an annulment is brought.

Section 125. Section 81-4-302, which is renumbered from Section 30-1-17.1 is renumbered and amended to read:

~~30-1-17.1.~~ 81-4-302. Annulment -- Grounds.

[~~A marriage may be annulled~~]A court may annul a marriage for any of the following causes existing at the time of the marriage:

[~~(1) When the marriage is prohibited or void under Title 30, Chapter 1, Marriage.~~]

(1) when the marriage is prohibited or void under Title 81, Chapter 2, Part 4, Validity of Marriage; or

(2) [~~Upon~~]upon grounds existing at common law.

Section 126. Section 81-4-303, which is renumbered from Section 30-1-17 is renumbered and amended to read:

~~30-1-17.~~ 81-4-303. Petition for annulment -- Venue -- Judgment on validity of marriage.

(1)(a) When there is doubt as to the validity of a marriage, [~~either party may, in a court of equity in a county where either party is domiciled,~~]a party to the marriage may bring a petition for annulment to demand avoidance or affirmance of the marriage[~~, but when~~].

(b) If one of the parties was under 18 years old at the time of the marriage, the other party, being of proper age at the time of the marriage, [~~does not have a proceeding for that cause~~]may not bring a

petition for annulment against the party who was under 18 years old.

(2) A petitioner may bring a petition for annulment in any county where the petitioner or respondent is domiciled.

(3)(a) If a petition for annulment is filed upon the ground that one or both of the parties were prohibited from marriage because of the age of the parties, the court may refuse to grant the annulment if the court finds that it is in the best interest of the parties, or a child of the parties, to refuse the annulment.

(b) The refusal to annul under Subsection (3)(a) makes the marriage valid and subsisting for all purposes.

(4) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there is a child born or expected, the court may make temporary and final orders, and subsequently modify the orders, as may be equitable, in regards to:

(a) the property and obligations of the parties;

(b) the support and maintenance of the parties and a child, as defined in Section 81-6-101, of the parties; and

(c) the custody and parent-time for a minor child of the parties.

(5) [~~The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive~~]A judgment in an action under this part:

(a) shall declare the marriage valid or annulled; and

(b) is conclusive upon all persons concerned with the marriage.

Section 127. Section 81-4-401 is enacted to read:

81-4-401. Definitions for part.

Part 4. Divorce

As used in this part:

(1) "Cohabitation" means the same as the term, "cohabit," is defined in Section 81-4-501.

(2) "Mandatory courses" means:

(a) the mandatory divorce orientation course described in Section 81-4-105; and

(b) the mandatory educational course for divorcing parents described in Section 81-4-106.

(3) "Petitioner" means the individual who brings a petition for divorce.

(4) "Respondent" means the individual against whom a petition for divorce is brought.

Section 128. Section 81-4-402 is enacted to read:

81-4-402. Petition for divorce -- Divorce proceedings -- Temporary orders.

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed; or

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed.

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3)(a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4)(a) Except as provided in Subsection (5), if the parties to the divorce action have a minor child, the parties shall attend the mandatory courses described in Sections 81-4-105 and 81-4-106 within:

(i) for the petitioner, 60 days after the day on which the petition is filed; and

(ii) for the respondent, 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the mandatory divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(e) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(5)(a) The court may waive the requirement for the parties to attend the mandatory courses under Subsection (4), on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

(6) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.

Section 129. Section 81-4-403, which is renumbered from Section 30-3-39 is renumbered and amended to read:

~~30-3-39.~~ 81-4-403. Mediation requirement.

(1) There is established a mandatory domestic mediation program to help reduce the time and tensions associated with obtaining a divorce.

(2)(a) If[~~, after the filing of an answer to a complaint of divorce,~~] there are any remaining contested issues after the filing of a response to a petition for divorce, the parties shall participate in good faith in at least one session of mediation.

(b) [~~This requirement~~]The requirement described in Subsection (2)(a) does not preclude the entry of pretrial orders before mediation takes place.

(3) The parties shall use a mediator qualified to mediate domestic disputes under criteria established by the Judicial Council in accordance with Section 78B-6-205.

(4) Unless otherwise ordered by the court or the parties agree upon a different payment arrangement, the cost of mediation shall be divided equally between the parties.

(5) The director of dispute resolution programs for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(6) [~~Mediation~~]A mediation described in this section shall be conducted in accordance with the Utah Rules of Court-Annexed Alternative Dispute Resolution.

Section 130. Section 81-4-404, which is renumbered from Section 30-3-5.2 is renumbered and amended to read:

~~30-3-5.2.~~ 81-4-404. Allegations of child abuse or child sexual abuse in a divorce proceeding -- Investigation.

(1) When[~~, in any divorce proceeding or upon a request for modification of a divorce decree,~~] an allegation of child abuse or child sexual abuse is made[~~, implicating either~~] in a divorce proceeding, or a request for modification of a divorce decree, that implicates a party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services [~~within the Department of Human Services~~]in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

(2) A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court.

(3) [~~That investigation shall be conducted by the~~]The Division of Child and Family Services shall conduct an investigation described in Subsection (1) within 30 days of the court's notice and request for an investigation.

(4) In reviewing [~~this report~~]a report described in Subsection (2), the court shall comply with Sections 78A-2-703, 78A-2-705, and 78B-15-612.

Section 131. Section 81-4-405, which is renumbered from Section 30-3-1 is renumbered and amended to read:

~~30-3-1.~~ 81-4-405. Grounds for divorce.

[~~(1) Proceedings in divorce are commenced and conducted as provided by law for proceedings in civil causes, except as provided in this chapter.~~]

[~~(2) The court may decree a dissolution of the marriage contract between the petitioner and respondent on the grounds specified in Subsection (3) in all cases where the petitioner or respondent has been an actual and bona fide resident of this state and of the county where the action is brought, or if members of the armed forces of the United States who are not legal residents of this state, where the petitioner has been stationed in this state under military orders, for three months next prior to the commencement of the action.~~]

[~~(3)~~](1) [~~Grounds for divorce~~]A court may order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of:

(a) impotency of the respondent at the time of marriage;

(b) adultery committed by the respondent subsequent to marriage;

(c) willful desertion of the petitioner by the respondent for more than one year;

(d) willful neglect of the respondent to provide for the petitioner the common necessaries of life;

(e) habitual drunkenness of the respondent;

(f) conviction of the respondent for a felony;

(g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;

(h) irreconcilable differences of the marriage;

(i) incurable insanity; or

(j) when the [~~husband and wife~~]petitioner and respondent have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

[~~(4)~~](2) A decree of divorce granted under Subsection [~~(3)(j)~~](1)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.

[~~(5)~~](3)(a) A [~~divorce may not be granted on the~~]court may not order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of insanity unless:

(i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and

(ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.

(b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent.

(c) A copy of the summons and [~~complaint~~]petition shall be served on:

(i) the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon [~~his~~]the respondent's guardian ad litem[~~, and upon~~]; and

(ii) the county attorney for the county where the action is prosecuted.

[~~(c)~~](d) The county attorney shall:

(i) investigate the merits of the case[~~ and~~];

(ii) if the respondent resides out of this state, take depositions as necessary[~~,~~];

(iii) attend the proceedings[~~,~~]; and

(iv) make a defense as is just to protect the rights of the respondent and the interests of the state.

[~~(d) In all actions the court and judge have jurisdiction over the payment of alimony, the distribution of property, and the custody and maintenance of minor children, as the courts and judges possess in other actions for divorce.~~]

(e) The petitioner or respondent may[~~,~~]:

(i) if the respondent resides in this state, upon notice, have the respondent brought into the court at trial[~~, or~~]; or

(ii) have an examination of the respondent by two or more competent physicians[~~,~~] to determine the mental condition of the respondent.

(f) For [~~this purpose either~~]the purpose described in Subsection (3)(e), a party may have leave from the court to enter any asylum or institution where the respondent may be confined.

(g) The court shall apportion the costs of court in this action[~~ shall be apportioned by the court~~].

Section 132. Section 81-4-406 is enacted to read:

81-4-406. Decree of divorce -- When decree becomes absolute -- Remarriage -- Jurisdiction to modify a decree for a child born after the decree.

(1)(a) The court shall enter a decree of divorce upon the evidence or the petitioner's affidavit in the case of default as described in Subsection (1)(b).

(b) A court may not grant a divorce upon default, unless there is evidence to support a decree of divorce upon an affidavit by the petitioner as provided by Rule 104 of the Utah Rules of Civil Procedure.

(2) Unless the requirement is waived by the court under Subsection 81-4-402(5), a court may not grant a decree of divorce for parties with a minor child until:

(a) both parties have attended the mandatory courses described in Sections 81-4-105 and 81-4-106; and

(b) both parties have presented a certificate of course completion for each course to the court.

(3) In a decree of divorce, the court shall:

(a) specify which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage in accordance with Section 15-4-6.5;

(b) require the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate and current addresses in accordance with Section 15-4-6.5;

(c) provide for the enforcement of the orders described in Subsections (1)(a) and (b);

(d) if a party owns a life insurance policy or an annuity contract, include an acknowledgment by the court that the party:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that, if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract; and

(e) if the parties have a child as defined in Section 81-6-101, include an order for child support and medical expenses as described in Chapter 6, Child Support.

(4) The court may include in the divorce decree any equitable orders relating to:

(a) the parties, including any alimony to be awarded to a party in accordance with Part 5, Spousal Support;

(b) a child of the parties; and

(c) any property, debts, or obligations.

(5) A decree of divorce becomes absolute:

(a) on the date it is signed by the court and entered by the clerk in the register of actions;

(b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending;

(c) if an appeal is taken, when the decree is affirmed; or

(d) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.

(6) The court, upon application or on the court's own motion for good cause shown, may waive, alter, or extend a designated period of time before the

decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

(7) A party to a divorce proceeding may not marry another individual other than the other party for whom the divorce was granted until the party's divorce becomes absolute.

(8) The court has jurisdiction to modify a decree of divorce to address child support, parent-time, and other matters related to a minor child born to the parties after the decree of divorce is entered.

Section 133. Section 81-4-501 is enacted to read:

81-4-501. Definitions for part.

Part 5. Spousal Support

As used in this part:

(1) "Child support guidelines" means the same as that term is defined in Section 81-6-101.

(2) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(3) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:

(a) engaging in sexual relations with an individual other than the party's spouse;

(b) knowingly and intentionally causing or attempting to cause physical harm to the other party or a minor child;

(c) knowingly and intentionally causing the other party or a minor child to reasonably fear life-threatening harm; or

(d) substantially undermining the financial stability of the other party or the minor child.

(4) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(5) "Payee" means the party who is or would receive alimony from the other party.

(6) "Payor" means the party who is paying, or would pay, alimony to the other party.

(7) "Temporary alimony" means money that the court orders a party to pay during the pendency of an action under this chapter for the support and maintenance of a party as described in Subsection 81-1-203(4).

Section 134. Section 81-4-502 is enacted to read:

81-4-502. Determination of alimony.

(1) For a proceeding under Chapter 4, Dissolution of Marriage, or in a proceeding to modify alimony, the court shall consider at least the following factors in determining alimony:

(a) the financial condition and needs of the payee;

(b) the payee's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a minor child of the payor;

(c) the ability of the payor to provide support;

(d) the length of the marriage;

(e) whether the payee has custody of a minor child requiring support;

(f) whether the payee worked in a business owned or operated by the payor; and

(g) whether the payee directly contributed to any increase in the payor's skill by paying for education received by the payor or enabling the payor to attend school during the marriage.

(2)(a) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

(b) The court may, when fault is at issue, close the proceedings and seal the court records.

(3)(a) Except as otherwise provided by this section, the court shall consider the standard of living, existing at the time of separation, in determining alimony in accordance with this section.

(b) In considering all relevant facts and equitable principles, the court may, in the court's discretion, base alimony on the standard of living that existed at the time of trial.

(4) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

(5)(a) If the marriage is short in duration and a minor child has not been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

(b) In determining alimony when a marriage of short duration dissolves and a minor child has not been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

(6)(a) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the parties due to the collective efforts of both parties, the court shall consider the change when dividing the marital property and in determining the amount of alimony.

(b) If a party's earning capacity has been greatly enhanced through the efforts of both parties during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

(7)(a) Except as provided in Subsection (7)(c), the court may not order alimony for a period of time longer than the length of the marriage.

(b) If a party is ordered to pay temporary alimony during the pendency of a divorce action, the court shall count the period of time that the party pays temporary alimony towards the period of time for which the party is ordered to pay alimony.

(c) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

Section 135. Section 81-4-503 is enacted to read:

81-4-503. Modification of alimony after divorce decree.

(1) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(2)(a) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(b) Subsection (2)(a) applies to a divorce decree regardless of the date on which the divorce decree was entered.

(3) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(4) In modifying the amount of alimony, the court may not consider the income of any subsequent spouse of the payor, except that the court may consider:

(a) the subsequent spouse's financial ability to share living expenses; or

(b) the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

Section 136. Section 81-4-504 is enacted to read:

81-4-504. Termination of alimony.

(1)(a) Except as provided in Subsection (1)(b), or unless a decree of divorce specifically provides otherwise, any order of the court that a payor pay alimony to a payee automatically terminates upon the remarriage or death of that payee.

(b) If the remarriage of the payee is annulled and found to be void ab initio, the payment of alimony shall resume if the payor is made a party to the action of annulment and the payor's rights are determined.

(2) If a payor establishes that a payee cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the payor to pay temporary alimony to the payee; and

(b) shall terminate any order that the payor pay temporary alimony to the payee.

(3)(a) Subject to Subsection (3)(b), the court shall terminate an order that a payor pay alimony to a payee if the payor establishes that, after the order for alimony is issued, the payee cohabits with another individual even if the payee is not cohabiting with the individual when the payor files the motion to terminate alimony.

(b) A payor may not seek termination of alimony under Subsection (3)(a) later than one year after the day on which the payor knew or should have known that the payee has cohabited with another individual.

Section 137. Section 81-5-101 is enacted to read:

81-5-101. Reserved.

CHAPTER 5. UNIFORM PARENTAGE ACT

Reserved.

Section 138. Section 81-6-101, which is renumbered from Section 78B-12-102 is renumbered and amended to read:

~~78B-12-102~~. 81-6-101. Definitions for chapter.

CHAPTER 6. CHILD SUPPORT

Part 1. General Provisions

As used in this chapter:

[~~(1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).~~]

[~~(2)~~](1) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.

[~~(3)~~](2) "Administrative order" means [~~an order that has been issued by the Office of Recovery Services, the Department of Health and Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.~~]the same as that term is defined in Section 26B-9-201.

(3) "Alimony" means the same as that term is defined in Section 81-4-101.

(4) "Base child support award" means the award that may be ordered and is calculated using the child support guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation" means the presumed amount of child support that the parents should provide for their child as described in Subsection 81-6-204(1).

(6) "Base combined child support obligation table" means the appropriate table described in Sections 81-6-302 and 81-6-304.

[~~(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.~~]

[~~(6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.~~]

(7) "Child" means:

(a) a son or daughter [~~under the age of 18 years~~]who is under 18 years old and who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter [~~over the age of 18 years,~~]who is 18 years old or older while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8)(a) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child[~~, including~~].

(b) "Child support" includes current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support guidelines" means the calculation and application of child support as described in Part 2, Calculation and Adjustment of Child Support.

[~~(9)~~](10) "Child support order" [~~or "support order"~~]means a judgment, decree, or order [~~of~~]issued by a tribunal [~~whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise~~]whether temporary, final, or subject to modification, that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under [~~Chapter 14, Utah Uniform Interstate Family Support Act~~]Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(11) "Child support tables" means the tables described in Part 3, Child Support Tables.

[~~(10) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.~~]

[~~(11) "Court" means the district court or juvenile court.~~]

[~~(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.~~]

(12) "Child support services" means the same as that term is defined in Section 26B-9-101.

(13) "Gross income" means the amount of income calculated for a parent as described in Section 81-6-203.

[~~(13)~~](14) "Health care coverage" means coverage under which medical services are provided to a child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

[~~(14)~~](15)(a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

[~~(15)~~](16) "Joint physical custody" means the [~~child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support~~]same as that term is defined in Section 81-9-101.

(17) "Low income table" means the appropriate table under Section 81-6-303 or 81-6-305.

[~~(16)~~](18) "Medical expenses" means health and dental expenses and related insurance costs.

(19) "Minor child" means a child who is younger than 18 years old.

[~~(17)~~](20) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

[~~(18)~~](21) "Obligor" means a person owing a duty of support.

[~~(19)~~](22) "Office" means the Office of Recovery Services within the Department of Health and Human Services.

[~~(20) "Parent" includes a natural parent, or an adoptive parent.~~]

[~~(21)~~](23) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant that are not paid by an employer or government program; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; [~~minus~~]and

(b) minus any portion of the amount described in Subsection [~~(21)(a)~~](23)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.

[~~(22)~~](24) "Split custody" means that each parent has physical custody of at least one of the children.

[~~(23)~~](25) "State" [~~includes~~]means a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American [~~Tribe~~]tribe, or other comparable domestic or foreign jurisdiction.

(26) "Support" means past-due, present, and future obligations to provide for the financial support, maintenance, or medical expenses of a child.

(27) "Support order" means:

(a) a child support order; or

(b) a judgment, decree, or order by a tribunal, whether temporary, final, or subject to modification, for alimony.

[~~(24)~~](28) "Temporary" means a period of time that is projected to be less than 12 months in duration.

[~~(25)~~](29) "Third party" means an agency or a person other than [~~the biological or adoptive parent~~]a parent or a child who provides care, maintenance, and support to a child.

[~~(26)~~](30) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American [~~Tribe~~]tribe, or other comparable domestic or foreign jurisdiction.

[~~(27)~~](31) "Work-related child care [~~costs~~] expenses" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent[~~-under Section 78B-12-215~~].

[~~(28)~~](32) [~~"Worksheets" means the forms~~] "Worksheet" means a form used to aid in calculating the base child support award.

Section 139. Section 81-6-102 is enacted to read:

81-6-102. Application of chapter.

This chapter applies to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.

Section 140. Section 81-6-103, which is renumbered from Section 78B-12-103 is renumbered and amended to read:

~~78B-12-103~~. 81-6-103. Jurisdiction over a child support proceeding -- Appeals.

[~~The district court shall have jurisdiction of all proceedings brought under this chapter.~~]

(1) A court has jurisdiction over a proceeding brought under this chapter in accordance with Title 78A, Judiciary and Judicial Administration.

(2) An appeal may be taken from an order or judgment under this part as in other civil actions.

Section 141. Section 81-6-104, which is renumbered from Section 78B-12-105 is renumbered and amended to read:

~~78B-12-105~~. 81-6-104. Duty of parents to provide support for a child -- Support follows the child.

(1)(a) Every child is presumed to be in need of the support of the [~~child's mother and father. Every mother and father shall support their children.~~]child's parents.

(b) Every parent shall support their child.

(c) Nothing in this chapter relieves a parent of the primary obligation of support for the parent's child.

(2) Except as limited in a [~~court order under Section 30-3-5, 30-4-3, or 78B-12-212~~]court order under Section 81-6-208:

(a) [~~The~~]the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses[~~,~~] and other necessities are chargeable upon the property of both parents, regardless of the marital status of the parents[~~.~~]; and

(b) [~~Either or both parents may be sued by a creditor~~]a creditor may sue a parent for the expenses described in Subsection (2)(a) incurred on behalf of [~~minor children~~]a minor child.

(3)(a) A parent whose minor child has become a ward of this or any other state is not relieved of the primary obligation to support that child until the minor child is 18 years old or is legally married, regardless of any agreements or legal defenses that exist between the parents or other care providers.

(b) Any state that provides support for a child shall have the right to reimbursement.

(c) A third party has a right to recover support from a parent.

(4) An obligation ordered for child support and medical expenses:

(a) are for the use and benefit of the child; and

(b) shall follow the child in a case in which a parent, or another person, is awarded sole physical custody of the child as described in Subsection 81-6-205(8).

(5) The rights created in this chapter are in addition to and not in substitution to any other rights.

Section 142. Section 81-6-105, which is renumbered from Section 78B-12-105.1 is renumbered and amended to read:

~~78B-12-105.1~~. 81-6-105. Duty of biological father to share pregnancy expenses.

(1) Except as otherwise provided in this section, a biological father of a child has a duty to pay 50% of the mother's pregnancy expenses.

(2)(a) If paternity is disputed, a biological father owes no duty under this section until the biological father's paternity is established.

(b) Once paternity is established, the biological father is subject to Subsection (1).

(3)(a) Any portion of a mother's pregnancy expenses paid by the mother or the biological father reduces that parent's 50% share under Subsection (1), not the total amount of pregnancy expenses.

(b) Subsection (3)(a) applies regardless of when the mother or biological father pays the pregnancy expense.

(4) If a mother receives an abortion, as defined in Section 76-7-301, without the biological father's consent, the biological father owes no duty under this section, unless:

(a) the abortion is necessary to avert the death of the mother; or

(b) the mother was pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102.

(5) Subsection (1) does not apply if a court apportions pregnancy expenses [~~under Section 30-3-5~~]in a divorce decree under Section 81-4-406.

[~~(6) A person may seek payment under Subsection (1) in accordance with Section 78B-12-113.~~]

(6)(a) A person who seeks payment under this section for pregnancy expenses shall provide documentation of payments, medical expenses, and insurance premiums to the court.

(b) The court shall order the payment of the expenses after a review of the documentation described in Subsection (6)(a).

(7) Nothing in this section [~~or Section 78B-12-212.1~~]requires a person to separately bill a biological father for pregnancy expenses.

Section 143. Section 81-6-106, which is renumbered from Section 78B-12-113 is renumbered and amended to read:

~~78B-12-113~~. 81-6-106. Duty of obligor -- Enforcement of right of support.

(1)(a) An obligor who is present in, or a resident of, this state has the duty to provide support to the child regardless of the presence or residence of the obligee.

[~~(1)(a)~~](b) The obligee may enforce [~~his~~]the obligee's right of support against the obligor.

(2)(a) The office may proceed pursuant to this [~~chapter~~]part or any other applicable statute on behalf of:

(i) the Department of Health and Human Services;

(ii) any other department or agency of this state that provides public assistance, as defined by [~~Subsection 26B-9-201(4)~~]Section 26B-9-101, to enforce the right to recover public assistance; or

(iii) the obligee, to enforce the obligee's right of support against the obligor.

(b) Whenever any court action is commenced by the office to enforce payment of the obligor's support obligation, the attorney general or the county attorney of the county of residence of the obligee shall represent the office.

(c) The attorney general or the county attorney does not represent or have an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.

[~~(2)~~](3)(a) A person may not commence an action, file a pleading, or submit a written stipulation to the court, without complying with Subsection [~~(2)(b)~~](3)(b), if the purpose or effect of the action, pleading, or stipulation is to:

(i) establish paternity;

(ii) establish or modify a support obligation;

(iii) change the court-ordered manner of payment of support;

(iv) recover support due or owing; or

(v) appeal issues regarding child support laws.

(b)(i) When taking an action described in Subsection [~~(2)(a)~~](3)(a), a person must file an affidavit with the court at the time the action is commenced, the pleading is filed, or the stipulation is submitted stating whether child support services have been or are being provided under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child who is a subject of the action, pleading, or stipulation.

(ii) If child support services have been or are being provided, under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit and a copy of the pleading or stipulation to the child and family support division of the Office of the Attorney General[~~, Child Support Division~~].

(iii)(A) If notice is not given in accordance with this Subsection [~~(2)~~](3), the office is not bound by any decision, judgment, agreement, or compromise rendered in the action.

(B) For purposes of appeals, service must be made on the Office of the Director for the Office of Recovery Services.

(c) If [~~IV-D services~~]child support services have been or are being provided, that person shall join the office as a party to the action, or mail or deliver a written request to the child and family support division of the Office of the Attorney General, [~~Child Support Division~~]asking the office to join as a party to the action.

(d) A copy of [~~that request~~]the request described in Subsection (3)(c), along with proof of service, shall be filed with the court.

(e) The office shall be represented as provided in Subsection [~~(1)(b)~~](2)(b).

[~~(3) Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.~~]

Section 144. Section 81-6-107, which is renumbered from Section 78B-12-201 is renumbered and amended to read:

~~78B-12-201~~. 81-6-107. Procedure for child support proceeding -- Documentation.

(1) In any matter in which child support is ordered, the moving party shall submit:

(a) a completed [~~child support~~]worksheet;

(b) the financial verification required by [~~Subsection 78B-12-203(5)~~]Section 81-6-203;

(c) a written statement indicating whether or not the amount of child support requested is consistent with the child support guidelines; and

(d) the information required under Subsection (3).

(2)(a) If the documentation of income required under Subsection (1) is not available, the moving party may submit a verified representation of the other party's income [~~by the moving party,~~] based on the best evidence available[~~, may be submitted~~].

(b) [~~The evidence shall be in affidavit form and may only be offered after a copy has been provided~~]The moving party shall provide the evidence described in Subsection (2)(a) in affidavit form.

(c) The moving party may only offer the evidence described in Subsection (2)(a) after a copy is provided to the other party in accordance with Utah Rules of Civil Procedure or Title 63G, Chapter 4, Administrative Procedures Act, in an administrative proceeding.

(3)(a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a child support order, each party shall:

(i) file identifying information[~~ and shall~~]; and

(ii) update that information as changes occur with the court that conducted the proceeding.

[~~(a)~~](b) The required identifying information shall include the person's social security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.

[~~(b)~~](c) [~~Attorneys~~]An attorney representing the office in child support services cases [~~are~~]is not required to file the identifying information required by Subsection [~~(3)(a).~~](3)(b).

[~~(4) A stipulated amount for child support or combined child support and alimony is adequate under the guidelines if the stipulated child support amount or combined amount equals or exceeds the base child support award required by the guidelines.~~]

Section 145. Section 81-6-108, which is renumbered from Section 78B-12-109 is renumbered and amended to read:

~~78B-12-109~~. 81-6-108. Waiver and estoppel.

(1) Waiver and estoppel shall apply only to the [~~custodial parent~~]obligee when there is no order already established by a tribunal if the [~~custodial parent~~]obligee freely and voluntarily waives support specifically and in writing.

(2) Waiver and estoppel may not be applied against any third party or public entity that may provide support for the child.

(3) [~~A noncustodial parent~~]An obligor, or alleged biological father in a paternity action, may not rely on statements made by the [~~custodial parent of the child~~]obligee concerning child support unless the statements are reduced to writing and signed by both parties.

Section 146. Section 81-6-109, which is renumbered from Section 78B-12-115 is renumbered and amended to read:

~~78B-12-115~~. 81-6-109. Spousal privilege -- Competency of spouses.

[~~Laws~~]

(1) A law attaching a privilege against the disclosure of communications between [~~husband and wife~~]spouses is are inapplicable under this chapter.

(2) Spouses are competent witnesses to testify to any relevant matter, including marriage and parentage.

Section 147. Section 81-6-110, which is renumbered from Section 78B-12-114 is renumbered and amended to read:

~~78B-12-114~~. 81-6-110. County attorney to assist obligee.

(1) The county attorney's office shall provide assistance to an obligee desiring to proceed under this [~~chapter~~]part in the following manner:

(a) provide forms, approved by the Judicial Council[~~ of Utah~~], for an order of wage assignment if the obligee is not represented by legal counsel;

(b) inform the obligee of the right to file [~~impecuniously~~]indigently if the obligee is unable to bear the expenses of the action and assist the obligee with such filing;

(c) advise the obligee of the available methods for service of process; and

(d) assist the obligee in expeditiously scheduling a hearing before the court.

(2) The county attorney's office may charge a fee not to exceed $25 for providing assistance to an obligee under Subsection (1).

Section 148. Section 81-6-201 is enacted to read:

81-6-201. Definitions for part.

Part 2. Calculation and Adjustment of Child Support

Reserved.

Section 149. Section 81-6-202, which is renumbered from Section 78B-12-210 is renumbered and amended to read:

~~78B-12-210~~. 81-6-202. Determination of amount of child support -- Application of child support guidelines -- Requirements for child support order.

[~~(1) The guidelines in this chapter apply to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.~~]

(1)(a) If a prior child support order does not exist, a substantial change in circumstances has occurred, or a petition to modify a child support order as described in Section 81-6-212 is filed, the court determining the amount of prospective child support shall require each party to file a proposed award of child support using the child support guidelines before the court enters or modifies a child support order.

(b) When no prior child support order exists, the court or administrative agency shall determine and assess all arrearages based upon the child support guidelines.

(2)(a) The court or administrative agency shall apply the child support guidelines [~~shall be applied~~]as a rebuttable presumption in establishing or modifying the amount of temporary or permanent child support.

(b) The rebuttable presumption means the provisions and considerations required by the child support guidelines, the award amounts resulting from the application of the child support guidelines, and the use of worksheets consistent with [~~these~~]the child support guidelines are presumed to be correct, unless [~~rebutted under the provisions of~~]the child support guidelines are rebutted in accordance with this section.

(3)(a) A written finding or specific finding on the record supporting the conclusion that complying with a provision of the child support guidelines or ordering an award amount resulting from use of the child support guidelines would be unjust, inappropriate, or not in the best interest of a child in a particular case is sufficient to rebut the presumption in that case.

(b) If an order rebuts the presumption through findings, [~~it~~]the order is considered a deviated order.

(4) The following [~~shall be~~]are considered deviations from the child support guidelines, if:

(a) the order includes a written finding that [~~it~~]the order is a deviation from the child support guidelines;

(b) the [~~guidelines~~]worksheet has:

(i) the box checked for a deviation; and

(ii) an explanation as to the reason; or

(c) the deviation is made because there were more children than provided for in the [~~guidelines table~~]child support tables.

(5) If the amount in the order and the amount on the [~~guidelines~~]worksheet differ by $10 or more:

(a) the order is considered deviated; and

(b) the incomes listed on the worksheet may not be used in adjusting support for emancipation as described in Section 81-6-213.

(6) If the court finds sufficient evidence to rebut the guidelines as described in Subsection (3), the court shall establish child support after considering all relevant factors, including:

(a) the standard of living and situation of the parties;

(b) the relative wealth and income of the parties;

(c) the ability of the obligor to earn;

(d) the ability of the obligee to earn;

(e) the ability of an incapacitated adult child to earn, or other benefits received by the adult child or on the adult child's behalf including Supplemental Security Income;

(f) the needs of the obligee, the obligor, and the child;

(g) the ages of the parties; and

(h) the responsibilities of the obligor and the obligee for the support of others.

[~~(6)~~](7)(a) [~~Natural or adoptive children of either~~]If there are children of either parent who live in the home of that parent and are not children in common to both parties[~~ may at the option of either party be taken into account~~], the court or administrative agency, at the option of either party, may take into account the children under the child support guidelines in setting a base child support award[~~, as provided~~]as described in Subsection [~~(7)~~](8).

(b) Additional worksheets shall be prepared that [~~compute~~]calculate the base child support award of the respective parents for the additional children.

(c) [~~The base child support award shall then be subtracted~~]The court or administrative agency shall subtract the base child support award calculated under Subsection (7)(b) from the appropriate parent's income before determining the award in the [~~instant case~~]case described in Subsection (7)(a).

[~~(7)~~](8) In a proceeding to adjust or modify [~~an existing award, consideration of natural or adoptive children born after entry of the order and who are not in common to both parties may be applied~~]a child support order, the court or administrative agency may consider children, who are born after the entry of the child support order and are not in common to both parties, to mitigate an increase in the award, but [~~may not be applied~~]the court or administrative agency may not consider the children:

(a) for the benefit of the obligee if the credit would increase the support obligation of the obligor from the most recent child support order; or

(b) for the benefit of the obligor if the amount of support received by the obligee would be decreased from the most recent child support order.

(9) A stipulated amount for child support or combined child support and alimony is adequate under the child support guidelines if the stipulated child support amount or combined amount equals or exceeds the base child support award required by the child support guidelines.

(10) The court shall include the following provisions in a child support order:

(a) a provision establishing the monthly amount of child support obligation for each parent in accordance with the child support guidelines;

(b) a provision assigning responsibility for the payment of reasonable and necessary medical expenses for the child as described in Section 81-6-208;

(c) a provision requiring the purchase and maintenance of appropriate health care insurance for the medical expenses of the child as described in Section 81-6-208 if health care insurance is or becomes available at a reasonable cost;

(d) a provision regarding the child care expenses and costs as described in Section 81-6-209;

(e) a provision regarding each parent's right to claim a child as a tax exemption for federal and state income tax purposes in accordance with Section 81-6-210;

(f) provisions for income withholding as a means of collecting child support, in accordance with Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases; and

(g) a provision regarding a parent's opportunity to adjust a child support order as described in Section 81-6-212.

(11) The office shall include the provisions described in Section 26B-9-224 in a child support order.

[~~(8)(a) If a child support order has not been issued or modified within the previous three years, a parent, legal guardian, or the office may move the court to adjust the amount of a child support order.~~]

[~~(b) Upon receiving a motion under Subsection (8)(a), the court shall, taking into account the best interests of the child:~~]

[~~(i) determine whether there is a difference between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and~~]

[~~(ii) if there is a difference as described in Subsection (8)(b)(i), adjust the payor's ordered support amount to the payor's support amount provided in the guidelines if:~~]

[~~(A) the difference is 10% or more;~~]

[~~(B) the difference is not of a temporary nature; and~~]

[~~(C) the order adjusting the payor's ordered support amount does not deviate from the guidelines.~~]

[~~(c) A showing of a substantial change in circumstances is not necessary for an adjustment under this Subsection (8).~~]

[~~(9)(a) A parent, legal guardian, or the office may at any time petition the court to adjust the amount of a child support order if there has been a substantial change in circumstances. A change in the base combined child support obligation table is not a substantial change in circumstances for the purposes of this Subsection (9).~~]

[~~(b) For purposes of this Subsection (9), a substantial change in circumstances may include:~~]

[~~(i) material changes in custody;~~]

[~~(ii) material changes in the relative wealth or assets of the parties;~~]

[~~(iii) material changes of 30% or more in the income of a parent;~~]

[~~(iv) material changes in the employment potential and ability of a parent to earn;~~]

[~~(v) material changes in the medical needs of the child; or~~]

[~~(vi) material changes in the legal responsibilities of either parent for the support of others.~~]

[~~(c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into account the best interests of the child:~~]

[~~(i) determine whether a substantial change has occurred;~~]

[~~(ii) if a substantial change has occurred, determine whether the change results in a difference of 15% or more between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and~~]

[~~(iii) adjust the payor's ordered support amount to that which is provided for in the guidelines if:~~]

[~~(A) there is a difference of 15% or more; and~~]

[~~(B) the difference is not of a temporary nature.~~]

[~~(10) Notice of the opportunity to adjust a support order under Subsections (8) and (9) shall be included in each child support order.~~]

Section 150. Section 81-6-203, which is renumbered from Section 78B-12-203 is renumbered and amended to read:

~~78B-12-203~~. 81-6-203. Determination of gross income for child support -- Imputing income to a parent.

[~~(1) As used in the guidelines, "gross income" includes prospective income from any source, including earned and nonearned income sources which may include salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment compensation, income replacement disability insurance benefits, and payments from "nonmeans-tested" government programs.~~]

(1)(a) Each parent shall provide verification of current income to the court or administrative agency.

(b) Each parent shall provide year-to-date pay stubs or employer statements and complete copies of tax returns from at least the most recent year, unless the court finds the verification is not reasonably available.

(c) Verification of income from records maintained by the Department of Workforce Services may be substituted for pay stubs, employer statements, and income tax returns.

(2)(a) To calculate gross income of a parent, the court or administrative agency may include:

(i) prospective income of the parent, including income from earned and nonearned sources, such as salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, Social Security benefits, worker compensation benefits, unemployment compensation, income replacement disability insurance benefits, and payments from nonmeans-tested government programs; and

(ii) income imputed to the parent as described in Subsection (6).

[~~(2)~~](b) Income from earned income sources is limited to the equivalent of one full-time 40-hour job.

(c) If and only if during the time before the original support order, the parent normally and consistently worked more than 40 hours at the parent's job, the court may consider this extra time as a pattern in calculating the parent's ability to provide child support.

(3)(a) The court or administrative agency shall use historical and current earnings to determine whether an underemployment or overemployment situation exists.

(b) The office may not treat incarceration of at least six months as voluntary unemployment in establishing or modifying a support order.

[~~(3) Notwithstanding Subsection (1), specifically excluded from gross income are:~~]

[~~(a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program;~~]

[~~(b) benefits received under a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, SNAP benefits, or General Assistance; and~~]

[~~(c) other similar means-tested welfare benefits received by a parent.~~]

(4)[~~(a) Gross income from self-employment or operation of a business shall be calculated~~]

(a) To calculate income from self-employment or operation of a business, the court or administrative agency:

(i) shall calculate gross income from self-employment or operation of a business by subtracting necessary expenses required for self-employment or business operation from gross receipts[~~.~~];

(ii) [~~The~~]shall review income and expenses from self-employment or operation of a business [~~shall be reviewed~~]to determine an appropriate level of gross income available to the parent to satisfy a child support award[~~.~~]; and

(iii) [~~Only~~]may only deduct those expenses necessary to allow the business to operate at a reasonable level [~~may be deducted~~]from gross receipts.

(b) Gross income determined under this Subsection (4) may differ from the amount of business income determined for tax purposes.

[~~(5)(a) When possible, gross income should first be computed on an annual basis and then recalculated to determine the average gross monthly income.~~]

[~~(b) Each parent shall provide verification of current income. Each parent shall provide year-to-date pay stubs or employer statements and complete copies of tax returns from at least the most recent year unless the court finds the verification is not reasonably available. Verification of income from records maintained by the Department of Workforce Services may be substituted for pay stubs, employer statements, and income tax returns.~~]

[~~(c) Historical and current earnings shall be used to determine whether an underemployment or overemployment situation exists.~~]

[~~(6) Incarceration of at least six months may not be treated as voluntary unemployment by the office in establishing or modifying a support order.~~]

[~~(7) Gross income includes income imputed to the parent under Subsection (8).~~]

[~~(8)(a) Income may not be imputed~~]

(5) When possible, the court or administrative agency shall determine the average monthly gross income for each parent by:

(a) calculating the gross income of each parent on an annual basis; and

(b) dividing the annual gross income for each parent by 12.

(6)(a) The court or administrative agency may not impute income to a parent unless the parent stipulates to the amount imputed, the parent defaults, or, in contested cases, a hearing is held and [~~the judge in a judicial proceeding or the presiding officer in an administrative proceeding~~]the court or administrative agency enters findings of fact as to the evidentiary basis for the imputation.

(b) If income is imputed to a parent, [~~the income shall be based~~]the court or administrative agency shall base income upon employment potential and probable earnings considering, to the extent known:

(i) employment opportunities;

(ii) work history;

(iii) occupation qualifications;

(iv) educational attainment;

(v) literacy;

(vi) age;

(vii) health;

(viii) criminal record;

(ix) other employment barriers and background factors; and

(x) prevailing earnings and job availability for persons of similar backgrounds in the community.

(c) If a parent has no recent work history or a parent's occupation is unknown, [~~that parent may be imputed~~]the court or administrative agency may impute an income to that parent at the federal minimum wage for a 40-hour work week.

(d) To impute a greater or lesser income, the [~~judge in a judicial proceeding or the presiding officer in an administrative proceeding~~]court or administrative agency shall enter specific findings of fact as to the evidentiary basis for the imputation.

[~~(d)~~](e) [~~Income may not be imputed~~]The court or administrative agency may not impute income to a parent if any of the following conditions exist and the condition is not of a temporary nature:

(i) the reasonable costs of child care for the parents' minor [~~children~~]child approach or equal the amount of income the custodial parent can earn;

(ii) a parent is physically or mentally unable to earn minimum wage;

(iii) a parent is engaged in career or occupational training to establish basic job skills; or

(iv) unusual emotional or physical needs of a child require the custodial parent's presence in the home.

(7) Notwithstanding Subsection (2), the court or administrative agency may not include the following sources of income when calculating the gross income of a parent:

(a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program;

(b) benefits received under a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, SNAP benefits, or General Assistance;

(c) other similar means-tested welfare benefits received by a parent;

(d) the earned income of a child who is the subject of a child support award; or

(e) except as otherwise provided in Subsection (8), the benefits to a child in the child's own right, such as Supplemental Security Income.

(8)(a) The court or administrative agency shall credit, as child support, the amount of social security benefits received by a child due to the earnings of the parent on whose earning record the social security benefits are based by crediting the amount against the potential obligation of that parent.

(b) The court or administrative agency may consider other unearned income of a child as income of a parent depending upon the circumstances of each case.

[~~(9)(a) Gross income may not include the earnings of a minor child who is the subject of a child support award nor benefits to a minor child in the child's own right such as Supplemental Security Income.~~]

[~~(b) Social security benefits received by a child due to the earnings of a parent shall be credited as child support to the parent upon whose earning record it is based, by crediting the amount against the potential obligation of that parent. Other unearned income of a child may be considered as income to a parent depending upon the circumstances of each case.~~]

Section 151. Section 81-6-204 is enacted to read:

81-6-204. General provisions for calculating child support -- Determination of base combined child support obligation.

(1) To calculate child support, the court or administrative agency shall determine the base combined child support obligation for the parents by:

(a) except as provided in Subsection (3), adjusting the average monthly gross income for each parent by subtracting any alimony previously ordered and paid and any child support previously ordered for that parent;

(b) adjusting the average monthly gross income for each parent by subtracting any credits deemed appropriate under Subsections 81-6-202(7) and (8);

(c) combining the adjusted average monthly gross incomes for both parents; and

(d) locating the base combined child support obligation in the base combined child support obligation table by finding:

(i) the combined adjusted average monthly gross incomes of the parents in the table; and

(ii) the total number of children in common to the parents.

(2) The court or administrative agency may only use the income of the parents of the child to determine the base child support award.

(3) The court or administrative agency may not subtract any alimony ordered in the pending proceeding from the gross incomes of the parents as described in Subsection (1)(a).

(4) If there is no amount listed for the base combined child support obligation in the base combined child support obligation table, the base combined support obligation for the parents is $0.

(5) Upon determining the base combined child support obligation, the court or administrative agency shall make additional calculations as described in Section 81-6-205, 81-6-206, or 81-6-207 to determine the base child support award.

(6)(a) Except as provided in Subsection (6)(b), the court may consider any amount that an incapacitated adult child can contribute to the child's support and use the amount to justify a reduction in the amount of support ordered.

(b) If the case described in Subsection (6)(a) involves more than one child, the reduction may not be greater than the effect of reducing the total number of children by one.

(7)(a) The base combined child support obligation table provides combined child support obligations for up to six children.

(b) If a case involves more than six children, the court may add additional amounts to the base child support obligation shown in the base combined child support obligation table.

(c) Unless rebutted by Subsection 81-6-202(3), the court or administrative agency may not order an amount less than the amount that would be ordered for up to six children.

(8)(a) If the combined adjusted gross income exceeds the highest level specified in the base combined child support obligation table, the court shall order an appropriate and just amount of child support on a case-by-case basis, except that the court may not order an amount that is less than the highest level specified in the table for the number of children due child support.

(b) There is no maximum limit on the base child support award that a court may order using the child support tables.

(9) The amount shown in a child support table is the child support amount for the total number of children not an amount per child.

(10) For all worksheets, income and child support award figures are rounded to the nearest dollar.

Section 152. Section 81-6-205 is enacted to read:

81-6-205. Sole physical custody -- Obligation calculations -- Change in physical custody.

(1) This section applies to a case in which a parent, or another person, is awarded sole physical custody of the children.

(2) Except as provided in Subsections (3) and (4), the court or administrative agency shall determine the base child support award for each parent by:

(a) dividing each parent's monthly adjusted gross income by the combined monthly adjusted gross income to determine each parent's percentage; and

(b) multiplying each parent's percentage by the base combined child support obligation that is calculated as described in Subsection 81-6-204(1).

(3)(a) If the base combined child support obligation is $0, the court or administrative agency shall establish the base child support award for each parent by:

(i) determining the individual monthly adjusted gross income for the parent;

(ii) locating the amount of the base child support award in the low income table by finding:

(A) the monthly adjusted gross income for the parent in the low income table; and

(B) the number of children in common with the parents.

(b) The corresponding amount in the low income table is the base child support award for that parent.

(4)(a) If a parent's individual monthly adjusted gross income is less than the highest amount of monthly adjusted gross income shown in the low income table, the court or administrative agency shall determine that the base child support award is the lesser of:

(i) the amount calculated using the base combined child support obligation table as described in Subsection (2); and

(ii) the amount calculated using the low income table as described in Subsection (3).

(b) If the monthly adjusted gross income of a parent is found in an area of the low income table in which no amount is shown, the court or administrative agency shall determine the base child support award by using the amount listed in the base combined child support obligation table and calculated as described in Subsection (2).

(5) A base child support award in a sole physical custody case may not be less than $30.

(6) The amounts calculated under this section are rebuttable as described in Section 81-6-202.

(7) A parent without sole physical custody of the children is an obligor and is required to pay the amount of child support calculated under this section.

(8)(a) When physical custody of a child changes after the original child support order, the parent without physical custody of the child is required to pay the amount of child support calculated under this section, without the need to modify the order, to:

(i) the parent who has physical custody of the child;

(ii) a relative to whom physical custody of the child has been voluntarily given; or

(iii) the state when the child is residing outside of the home in the protective custody, temporary custody, or care of the state or a state-licensed facility for at least 30 days.

(b) When physical custody of a child changes from the physical custody that is assumed in the original child support order calculated under this section, the modification of the child support order is not necessary even if only one parent is specifically ordered to pay in the child support order.

Section 153. Section 81-6-206 is enacted to read:

81-6-206. Joint physical custody -- Obligation calculations.

(1) This section applies to a case in which the parents are awarded joint physical custody of the children.

(2) If the base combined child support obligation that is calculated as described in Subsection 81-6-204(1) is $0, the base child support award for each parent is $0.

(3) If the base combined child support obligation that is calculated as described in Subsection 81-6-204(1) is greater than $0, the court or administrative agency shall determine each parent's share of the base combined child support obligation by:

(a) dividing each parent's monthly adjusted gross income by the combined monthly adjusted gross income to determine each parent's percentage; and

(b) multiplying each parent's percentage by the base combined child support obligation.

(4) The court or administrative agency shall determine the base child support award for the parent with the lesser number of overnights by:

(a) multiplying the number of overnights over 110 and under 131 for that parent by .0027;

(b) multiplying the number calculated under Subsection (4)(a) by the base combined child support obligation;

(c) multiplying the number of overnights over 130 for that parent by .0084;

(d) multiplying the number calculated under Subsection (4)(c) by the base combined child support obligation; and

(e) subtracting the numbers calculated in Subsections (4)(b) and (4)(d) from that parent's share of the base combined child support obligation calculated under Subsection (3).

(5) If the base child support award calculated under Subsection (4) is greater than $0, the parent with the lesser number of overnights is the obligor and is required to pay child support.

(6) If the base child support award calculated under Subsection (4) is less than $0:

(a) the parent with the lesser number of overnights is the obligee; and

(b) the parent with the greater number of overnights is the obligor and is required to pay child support.

(7) If the parents have an equal parent-time schedule under Section 81-9-305, the amount of time to be spent with the parent who has the lower monthly adjusted gross income is considered 183 overnights, regardless of whether the parent receives 182 overnights or 183 overnights under the equal parent-time schedule.

Section 154. Section 81-6-207 is enacted to read:

81-6-207. Split physical custody -- Obligation calculations.

(1) This section applies to a case in which the parents are awarded split physical custody of the children.

(2) If the base combined child support obligation that is calculated as described in Subsection 81-6-204(1) is $0, the base child support award for each parent is $0.

(3) If the base combined child support obligation that is calculated as described in Subsection 81-6-204(1) is greater than $0, the court shall determine the base child support award by:

(a) dividing the number of children with each parent by the combined number of children to calculate each parent's percentage of children;

(b) dividing each parent's monthly adjusted gross income by the combined monthly adjusted gross income to calculate each parent's percentage of the combined monthly adjusted gross income;

(c) multiplying each parent's percentage of the combined monthly adjusted gross income by the base combined child support obligation to calculate each parent's share of the base combined child support obligation;

(d) multiplying each parent's share of the base combined child support obligation by the other

parent's percentage of children to determine the individual child support obligations for each parent; and

(e) subtracting the lesser individual child support obligation from the higher individual child support obligation to reach the base child support award.

(4) The parent with the higher individual child support obligation is the parent required to pay the base child support award calculated under Subsection (3).

Section 155. Section 81-6-208, which is renumbered from Section 78B-12-212 is renumbered and amended to read:

~~78B-12-212~~. 81-6-208. Requirements for a child support order regarding medical expenses -- Determination of parental liability for medical expenses.

(1) As used in this section, "health insurance" means the same as that term is defined in Section 31A-1-301.

[~~(1)~~](2) Except as provided in Subsection [~~(3)~~](4), a child support order issued or modified in this state on or after May 3, 2023, shall require compliance with the requirements described in Subsection [~~(2)~~](3) as of the effective date of the child support order.

[~~(2)~~](3) A child support order shall:

(a) [~~order that~~]require the parents provide health care coverage for the medical expenses of a child;

(b) [~~order that~~]require the parents provide health insurance for the medical expenses of a child if health insurance is available to the parents at a reasonable cost;

(c) [~~in accordance with Subsection 30-3-5(3)(b)(ii) and Section 30-3-5.4,~~] designate which health[~~, hospital, or dental~~] insurance plan is primary and which health[~~, hospital, or dental~~] insurance plan is secondary if, at any time, a child is covered by both parents' health[~~, hospital, or dental~~] insurance plans as described in Subsection (7);

(d) [~~require~~]require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of health insurance; and

(e) [~~in accordance with Subsection 30-3-5(3)(a),~~]include a provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a child, including co-payments, co-insurance, and deductibles.

[~~(3)~~](4) [~~A court~~]The court may deviate from the requirements described in Subsection [~~(2)~~](3) if:

(a) the court makes specific findings establishing good cause for the deviation; or

(b) subject to the court's approval, the parents agree which parent shall provide health insurance for the child.

[~~(4)~~](5) In determining whether to take the action described in Subsection [~~(3)~~](4), the court may consider:

(a) the reasonableness of the cost;

(b) the availability of a group insurance policy;

(c) the coverage of the policy; or

(d) the preference of the custodial parent.

[~~(5)~~](6) Subject to Subsection [~~(3)~~](4), if a child support order does not contain the requirements described in Subsection [~~(2)~~](3):

(a) the parents are nonetheless subject to the requirements described in Subsection [~~(2)~~](3), as applicable; and

(b) for purposes of Subsection [~~(2)(c)~~](3)(c), the health insurance plan of the parent whose birthday falls first in the calendar year is primary, and the health insurance plan of the parent whose birthday falls second in the calendar year is secondary.

(7)(a) The provisions of an order under Subsection (3)(c) shall:

(i) take effect if at any time a child is covered by both parents' health insurance plans; and

(ii) include the following language: "If, at any point in time, a child is covered by the health insurance plans of both parents, the health insurance plan of (Parent's Name) shall be primary coverage for the child and the health insurance plan of (Other Parent's Name) shall be secondary coverage for the child. If a parent remarries and the child is not covered by that parent's health insurance plan but is covered by a step-parent's plan, the health insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the child."

(b) A court or administrative agency may not modify the language required by Subsection (7)(a)(ii).

(c) Notwithstanding Subsection (7)(b), the court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents.

(d) In designating primary coverage pursuant to Subsection (3)(c), the court may take into account:

(i) the birth dates of the parents;

(ii) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a child;

(iii) the parent with physical custody of the child; or

(iv) any other factor the court considers relevant.

[~~(6)~~](8)(a) The parent who provides health insurance may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

(b) If the parent does not have health insurance but another member of the parent's household

provides health insurance for the child, the parent may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

[~~(7)~~](9)(a) The child's portion of the premium is a per capita share of the premium actually paid.

(b) The premium expense for a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

[~~(8)~~](10)(a) The parent maintaining health care coverage or insurance shall provide verification of coverage to the other parent, or to the [~~Office of Recovery Services~~]office under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the child, and after initial enrollment on or before January 2 of each calendar year.

(b) The parent shall notify the other parent, or the [~~Office of Recovery Services~~]office under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

[~~(9)~~](c) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

[~~(10)~~](d) [~~In addition to any other sanctions provided by the court, a~~]The court may deny a parent incurring medical expenses [~~may be denied~~]the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with [~~Subsections (8) and (9)~~]this Subsection (10).

(11)(a) The court or administrative agency may issue an order determining the amount of a parent's liability for medical expenses of a child when the parent:

(i) is required by a prior court or administrative order to:

(A) share those expenses with the other parent of the child; or

(B) obtain insurance for medical expenses but fails to do so; or

(ii) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.

(b) If the prior court or administrative order does not specify what proportions of the expenses are to be shared:

(i) the court may determine the amount of liability as may be reasonable and necessary; and

(ii) the administrative agency may determine the amount of liability in accordance with established rules.

(c) This Subsection (11) applies to an order without regard to when the order was issued.

Section 156. Section 81-6-209, which is renumbered from Section 78B-12-214 is renumbered and amended to read:

~~78B-12-214~~. 81-6-209. Requirements for a child support order regarding child care costs and expenses -- Actual expenses for child care.

[~~(1) The child support order shall require that each parent share equally the reasonable work-related child care expenses of the parents.~~]

(1) The court or administrative agency shall require in a child support order that each parent share equally the reasonable work-related child care expenses of the parents.

(2)(a) If an actual expense for child care is incurred, a parent shall begin paying [~~his~~]the parent's share on a monthly basis immediately upon presentation of proof of the child care expense[~~, but if~~].

(b) If the child care expense ceases to be incurred, [~~that~~]the parent may suspend making monthly payment of that expense, while [~~it~~]the expense is not being incurred, without obtaining a modification of the child support order.

[~~(b)~~](c)(i) In the absence of a court order to the contrary, a parent who incurs child care expense shall provide written verification of the cost and identity of a child care provider to the other parent upon initial engagement of a provider and thereafter on the request of the other parent.

(ii) In the absence of a court order to the contrary, the parent shall notify the other parent of any change of child care provider or the monthly expense of child care within 30 calendar days [~~of the date of the change~~]after the day on which the change occurred.

(3) [~~In addition to any other sanctions provided by the court, a~~]The court may deny a parent incurring child care expenses [~~may be denied~~]the right to receive credit for the expenses or to recover the other parent's share of the expenses if the parent incurring the expenses fails to comply with Subsection [~~(2)(b)~~](2)(c).

(4)(a) The court or administrative agency shall presume that child care costs should be included in a child support order if a parent, during extended parent-time, is working and actually incurring the child care costs.

(b) The presumption under Subsection (4)(a) is rebutted if:

(i) the obligor's base child support award, in combination with the award of medical expenses, exceeds 50% of the obligor's adjusted gross income; or

(ii) by adding the child care costs, the obligor's child support obligation would exceed 50% of the obligor's adjusted gross income.

(5)(a) The court or administrative agency may award child care costs on a case-by-case basis if the

child care costs are related to the career and occupational training of the custodial parent or the child care costs would be in the interest of justice.

(b) The court or administrative agency may assign financial responsibility in a child support order for all or a portion of child care expenses incurred on behalf of a child due to the employment or training of the custodial parent.

(6)(a) The court or administrative agency may impute a monthly obligation for child care costs when the court imputes income to a parent who is providing child care for the child so that the parties are not incurring child care costs for the child.

(b) The court shall apply any monthly obligation imputed under Subsection (6)(a) towards any actual child care costs incurred within the same month for the child.

Section 157. Section 81-6-210, which is renumbered from Section 78B-12-217 is renumbered and amended to read:

~~78B-12-217~~. 81-6-210. Award of tax exemption for a child.

(1) [~~No presumption exists~~]There is no presumption as to which parent should be awarded the right to claim a child [~~or children as exemptions~~]as an exemption for federal and state income tax purposes.

(2) Unless the parties otherwise stipulate in writing, the court [~~or administrative agency~~]shall award in any final order the exemption on a case-by-case basis.

[~~(2)~~](3) In awarding the exemption, the court [~~or administrative agency~~]shall consider:

(a) as the primary factor, the relative contribution of each parent to the cost of raising the child; and

(b) among other factors, the relative tax benefit to each parent.

[~~(3)~~](4)(a) Notwithstanding Subsection [~~(2)~~](3), the court [~~or administrative agency~~]may not award any exemption to [~~the noncustodial parent if that parent is not current in his~~]a parent if the parent is not current in the parent's child support obligation[~~, in which case~~].

(b) If a parent is not current in the parent's child support obligation under Subsection (4)(a), the court [~~or administrative agency~~]may award an exemption to the [~~custodial parent~~]other parent.

[~~(4)~~](5) An exemption may not be awarded to a parent unless the award will result in a tax benefit to that parent.

Section 158. Section 81-6-211, which is renumbered from Section 78B-12-216 is renumbered and amended to read:

~~78B-12-216~~. 81-6-211. Reduction for extended parent-time.

(1) The base child support award [~~shall be~~]is:

(a) reduced by 50% for each child for time periods during which the child is with the noncustodial parent by order of the court or by written agreement of the parties for at least 25 of any 30 consecutive days of extended parent-time; or

(b) reduced by 25% for each child for time periods during which the child is with the noncustodial parent by order of the court[~~,~~] or by written agreement of the parties for at least 12 of any 30 consecutive days of extended parent-time.

(2) If the [~~dependent~~]child is a client of cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, the administrative agency shall approve any agreement by the parties for reduction of child support during extended parent-time[~~ shall be approved by the administrative agency~~].

(3) [~~Normal~~]For purposes of this section, normal parent-time and holiday visits to the custodial parent [~~shall not be~~]are not considered extended parent-time.

(4) For cases receiving [~~IV-D~~]child support services in accordance with [~~Title 26B, Chapter 9, Part 1, Office of Recovery Services, Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, to receive the adjustment~~]Title 26B, Chapter 9, Recovery Services and Administration of Child Support, the noncustodial parent shall provide written documentation to the office of the extended parent-time schedule to receive the adjustment under Subsection (1), including the beginning and ending dates, [~~to the Office of Recovery Services~~]in the form of [~~either~~]a court order or a voluntary written agreement between the parties.

(5) If the noncustodial parent complies with Subsection (4), owes no past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time and the following month, the [~~Office of Recovery Services~~]office shall refund the difference from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the adjusted amount of current child support due:

(a) from current child support received in the month following the month of scheduled extended parent-time; or

(b) from current child support received in the month following the month written documentation of the scheduled extended parent-time is provided to the office, whichever occurs later.

(6) If the noncustodial parent complies with Subsection (4), owes past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time, the [~~Office of Recovery Services~~]office shall apply the difference, from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the

adjusted amount of current child support due, to the past- due support obligation in the case.

(7) For cases not receiving [~~IV- D~~]child support services in accordance with [~~Title 26B, Chapter 9, Part 1, Office of Recovery Services, Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV- D Cases, any potential adjustment of the support payment during the month of extended visitation or any refund that may be due to the noncustodial parent from the custodial parent, shall be resolved between the parents or through the court without involvement by the Office of Recovery Services~~]Title 26B, Chapter 9, Recovery Services and Administration of Child Support, the court or the parents shall resolve, without involvement by the office, any potential adjustment of the child support payment during the month of extended visitation or any refund that is due to the noncustodial parent from the custodial parent.

(8) For purposes of this section, the per child amount to which the abatement applies [~~shall be~~]is calculated by dividing the base child support award by the number of children included in the award.

(9) The reduction in this section does not apply to parents with joint physical custody obligations calculated in accordance with Section [~~78B- 12- 208~~]81- 6- 206.

Section 159. Section 81- 6- 212 is enacted to read:

81- 6- 212. Modification of child support order -- Adjustment of child support.

(1) The amount of prospective child support is equal to the amount granted by a prior child support order unless:

(a) there is a substantial change of circumstances on the part of the obligor or obligee as described in this section; or

(b) an adjustment is made as described in this section or Section 81- 6- 213.

(2) If the prior child support order contains a stipulated provision for the automatic adjustment for prospective child support, the prospective child support is the amount as stated in the order, without a showing of a substantial change of circumstances, if the stipulated provision:

(a) is clear and unambiguous;

(b) is self- executing;

(c) provides for child support that equals or exceeds the base child support award required by the child support guidelines; and

(d) does not allow a decrease in child support as a result of the obligor's voluntary reduction of income.

(3)(a) A parent, legal guardian, or the office may, at any time, petition the court to adjust the amount of a child support order if there has been a substantial change in circumstances.

(b) A change in the child support tables is not a substantial change in circumstances for the purposes of Subsection (3)(a).

(c) For purposes of this Subsection (3)(a), a substantial change in circumstances may include:

(i) material changes in custody;

(ii) material changes in the relative wealth or assets of the parties;

(iii) material changes of 30% or more in the income of a parent;

(iv) material changes in the employment potential and ability of a parent to earn;

(v) material changes in the medical needs of the child; or

(vi) material changes in the legal responsibilities of either parent for the support of others.

(4) Upon receiving a petition under Subsection (3)(a), the court shall, taking into account the best interests of the child:

(a) determine whether a substantial change has occurred;

(b) if a substantial change has occurred, determine whether the change results in a difference of 15% or more between the obligor's ordered support amount and the obligor's support amount that would be required under the child support guidelines; and

(c) adjust the obligor's ordered support amount to that which is provided for in the child support guidelines if:

(i) there is a difference of 15% or more; and

(ii) the difference is not of a temporary nature.

(5)(a) If a child support order has not been issued or modified within the previous three years, a parent, legal guardian, or the office may move the court to adjust the amount of a child support order.

(b) Upon receiving a motion under Subsection (5)(a), the court shall, taking into account the best interests of the child:

(i) determine whether there is a difference between the obligor's ordered support amount and the obligor's support amount that would be required under the child support guidelines; and

(ii) if there is a difference as described in Subsection (5)(b)(i), adjust the obligor's ordered support amount to the obligor's support amount provided in the child support guidelines if:

(A) the difference is 10% or more;

(B) the difference is not of a temporary nature; and

(C) the order adjusting the obligor's ordered support amount does not deviate from the child support guidelines.

(c) A showing of a substantial change in circumstances is not necessary for an adjustment under this Subsection (5).

Section 160. Section 81-6-213 is enacted to read:

81-6-213. Adjustment to child support when child becomes emancipated.

(1) Except as otherwise provided in the child support order, the base child support award is automatically adjusted to the base child support award for the remaining number of children due child support, without the need to modify the most recent child support order by a court, when a child:

(a) becomes 18 years old or graduates from high school during the child's normal and expected year of graduation, whichever occurs later;

(b) dies, marries, becomes a member of the armed forces of the United States; or

(c) is emancipated in accordance with Title 80, Chapter 7, Emancipation.

(2) The base child support award is adjusted as described in Subsection (1) by using the child support table that was used to establish the most recent child support order and by using the income of the parties as specified in the most recent child support order or the worksheets.

(3) The base child support award may not be reduced by a per child amount derived from the base child support award originally ordered.

(4) If the incomes of the parties are not specified in the most recent child support order or the worksheets, the information regarding the incomes is not consistent, or the order deviates from the child support guidelines, the base child support award is not automatically adjusted under Subsection (1) and the child support order will continue until modified by the issuing tribunal.

(5) If the child support order is deviated and the parties subsequently obtain a court order that adjusts the amount of child support back to the date of the emancipation of the child, the office may not be required to repay any difference in the child support collected during the interim.

Section 161. Section 81-6-214, which is renumbered from Section 78B-12-218 is renumbered and amended to read:

~~78B-12-218~~. 81-6-214. Accountability of support provided to benefit child -- Accounting.

(1) The court or administrative agency [~~which~~]that issues the initial or modified order for child support may, upon the petition of the obligor, order prospectively the obligee to furnish an accounting of amounts provided for the child's benefit to the obligor, including an accounting or receipts.

(2) The court or administrative agency may prescribe the frequency and the form of the accounting [~~which shall include~~], including receipts[~~ and an accounting~~].

(3) The obligor may petition for the accounting only if current on all child support that has been ordered.

Section 162. Section 81-6-301 is enacted to read:

81-6-301. Definitions for part.

Part 3. Child Support Tables

Reserved.

Section 163. Section 81-6-302, which is renumbered from Section 78B-12-301 is renumbered and amended to read:

~~78B-12-301~~. 81-6-302. Base combined child support obligation table -- Both parents -- Child support orders entered before January 1, 2023.

The table in this section [~~shall be~~]is used to:

(1) establish a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2007, if the new order is entered on or after January 1, 2008, but before January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010, but before January 1, 2025.

Combined Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
726 -	750	138	245	286	319	351	382
751 -	775	141	252	294	328	360	392
776 -	800	146	259	301	336	370	402
801 -	825	151	265	309	345	379	412
826 -	850	155	272	317	353	389	423
851 -	875	160	279	324	362	398	433
876 -	900	165	285	332	370	407	443
901 -	925	169	292	340	379	417	453
926 -	950	174	299	348	387	426	464
951 -	975	179	305	355	396	436	474
976 -	1,000	183	312	363	405	445	484
1,001 -	1,050	193	322	374	417	459	500
1,051 -	1,100	201	335	390	435	478	520
1,101 -	1,150	210	348	405	452	497	541
1,151 -	1,200	220	362	420	469	516	561
1,201 -	1,250	229	375	436	486	535	582
1,251 -	1,300	238	388	451	503	553	602
1,301 -	1,350	248	401	467	520	572	623
1,351 -	1,400	256	414	481	536	590	642
1,401 -	1,450	265	426	495	552	607	661
1,451 -	1,500	275	438	510	568	625	680
1,501 -	1,550	284	451	524	584	643	699
1,551 -	1,600	293	463	538	600	660	718
1,601 -	1,650	303	476	553	616	678	737
1,651 -	1,700	311	488	567	632	695	757
1,701 -	1,750	320	500	581	648	713	776
1,751 -	1,800	330	513	596	664	731	795
1,801 -	1,850	339	525	610	680	748	814
1,851 -	1,900	348	538	624	696	766	833
1,901 -	1,950	358	550	638	712	783	852
1,951 -	2,000	366	562	652	727	800	870
2,001 -	2,100	385	580	673	750	825	898
2,101 -	2,200	399	604	701	781	859	935
2,201 -	2,300	410	628	728	812	893	972
2,301 -	2,400	420	652	756	843	927	1,009
2,401 -	2,500	431	676	784	874	961	1,046
2,501 -	2,600	443	700	811	904	995	1,082
2,601 -	2,700	453	723	838	934	1,028	1,118
2,701 -	2,800	464	747	865	964	1,060	1,154
2,801 -	2,900	475	770	891	994	1,093	1,189
2,901 -	3,000	485	794	918	1,024	,1,126	1,225
3,001 -	3,100	496	817	945	1,054	1,159	1,261
3,101 -	3,200	508	838	970	1,081	1,189	1,294
3,201 -	3,300	518	859	994	1,108	1,219	1,326
3,301 -	3,400	529	881	1,018	1,135	1,248	1,358
3,401 -	3,500	539	902	1,042	1,162	1,278	1,391
3,501 -	3,600	548	923	1,066	1,189	1,308	1,423
3,601 -	3,700	555	944	1,090	1,216	1,337	1,455
3,701 -	3,800	564	965	1,115	1,243	1,367	1,487
3,801 -	3,900	573	985	1,138	1,269	1,396	1,519
3,901 -	4,000	581	1,004	1,160	1,294	1,423	1,548
4,001 -	4,100	590	1,024	1,182	1,318	1,450	1,577
4,101 -	4,200	599	1,043	1,204	1,342	1,477	1,607
4,201 -	4,300	608	1,062	1,226	1,367	1,503	1,636
4,301 -	4,400	616	1,081	1,248	1,391	1,530	1,665
4,401 -	4,500	624	1,101	1,270	1,416	1,557	1,694
4,501 -	4,600	633	1,119	1,291	1,439	1,583	1,722
4,601 -	4,700	641	1,133	1,306	1,456	1,601	1,742
4,701 -	4,800	650	1,147	1,321	1,473	1,620	1,762
4,801 -	4,900	659	1,161	1,336	1,489	1,638	1,783
4,901 -	5,000	668	1,175	1,351	1,506	1,657	1,803

4,701 - 4,800	650	1,147	1,321	1,473	1,620	1,762
4,801 - 4,900	659	1,161	1,336	1,489	1,638	1,783
4,901 - 5,000	668	1,175	1,351	1,506	1,657	1,803
5,001 - 5,100	676	1,189	1,366	1,523	1,675	1,823
5,101 - 5,200	684	1,203	1,381	1,540	1,694	1,843
5,201 - 5,300	693	1,217	1,396	1,557	1,712	1,863
5,301 - 5,400	701	1,227	1,408	1,570	1,726	1,878
5,401 - 5,500	710	1,238	1,419	1,582	1,741	1,894
5,501 - 5,600	719	1,248	1,431	1,595	1,755	1,909
5,601 - 5,700	728	1,259	1,442	1,608	1,769	1,925
5,701 - 5,800	733	1,269	1,454	1,621	1,783	1,940
5,801 - 5,900	739	1,280	1,465	1,634	1,797	1,956
5,901 - 6,000	745	1,290	1,477	1,647	1,812	1,971
6,001 - 6,100	751	1,302	1,490	1,661	1,827	1,988
6,101 - 6,200	756	1,313	1,503	1,676	1,843	2,005
6,201 - 6,300	763	1,325	1,516	1,690	1,859	2,023
6,301 - 6,400	769	1,336	1,528	1,704	1,874	2,039
6,401 - 6,500	775	1,347	1,540	1,717	1,889	2,055
6,501 - 6,600	780	1,358	1,553	1,731	1,904	2,072
6,601 - 6,700	786	1,369	1,565	1,745	1,919	2,088
6,701 - 6,800	786	1,380	1,577	1,759	1,934	2,105
6,801 - 6,900	841	1,391	1,590	1,772	1,950	2,121
6,901 - 7,000	850	1,402	1,602	1,786	1,965	2,138
7,001 - 7,100	859	1,413	1,614	1,800	1,980	2,154
7,101 - 7,200	868	1,417	1,618	1,804	1,985	2,159
7,201 - 7,300	876	1,420	1,621	1,807	1,988	2,163
7,301 - 7,400	883	1,423	1,624	1,811	1,992	2,167
7,401 - 7,500	888	1,426	1,627	1,814	1,996	2,171
7,501 - 7,600	894	1,429	1,630	1,818	1,999	2,175
7,601 - 7,700	899	1,432	1,633	1,821	2,003	2,179
7,701 - 7,800	904	1,436	1,636	1,824	2,007	2,184
7,801 - 7,900	910	1,439	1,639	1,828	2,011	2,188
7,901 - 8,000	915	1,442	1,642	1,831	2,014	2,192
8,001 - 8,100	921	1,445	1,646	1,835	2,018	2,196
8,101 - 8,200	926	1,448	1,649	1,838	2,022	2,200
8,201 - 8,300	933	1,451	1,652	1,842	2,026	2,204
8,301 - 8,400	938	1,454	1,655	1,845	2,029	2,208
8,401 - 8,500	944	1,460	1,661	1,852	2,037	2,216
8,501 - 8,600	949	1,475	1,678	1,871	2,058	2,240
8,601 - 8,700	954	1,491	1,696	1,891	2,080	2,263
8,701 - 8,800	960	1,506	1,714	1,911	2,102	2,287
8,801 - 8,900	965	1,522	1,732	1,931	2,124	2,311
8,901 - 9,000	971	1,537	1,749	1,951	2,146	2,334
9,001 - 9,100	976	1,553	1,767	1,970	2,167	2,358
9,101 - 9,200	983	1,568	1,785	1,990	2,189	2,382
9,201 - 9,300	988	1,584	1,803	2,010	2,211	2,405
9,301 - 9,400	994	1,599	1,820	2,030	2,233	2,429
9,401 - 9,500	999	1,614	1,838	2,049	2,254	2,453
9,501 - 9,600	1,004	1,630	1,856	2,069	2,276	2,477
9,601 - 9,700	1,010	1,645	1,874	2,089	2,298	2,500
9,701 - 9,800	1,015	1,661	1,891	2,109	2,320	2,524
9,801 - 9,900	1,021	1,673	1,905	2,124	2,336	2,542
9,901 - 10,000	1,026	1,683	1,917	2,137	2,351	2,557
10,001 - 10,100	1,033	1,694	1,928	2,150	2,365	2,573
10,101 - 10,200	1,039	1,704	1,940	2,163	2,379	2,589
10,201 - 10,300	1,045	1,715	1,951	2,176	2,394	2,604
10,301 - 10,400	1,051	1,725	1,963	2,189	2,408	2,620
10,401 - 10,500	1,058	1,736	1,975	2,202	2,422	2,635
10,501 - 10,600	1,064	1,746	1,986	2,215	2,436	2,651
10,601 - 10,700	1,070	1,757	1,998	2,228	2,451	2,666
10,701 - 10,800	1,077	1,767	2,010	2,241	2,465	2,682
10,801 - 10,900	1,083	1,778	2,021	2,254	2,479	2,697
10,901 - 11,000	1,090	1,788	2,033	2,267	2,494	2,713
11,001 - 11,100	1,096	1,799	2,045	2,280	2,508	2,729

11,101 - 11,200	1,103	1,809	2,056	2,293	2,522	2,744
11,201 - 11,300	1,109	1,820	2,068	2,306	2,537	2,760
11,301 - 11,400	1,116	1,830	2,080	2,319	2,551	2,775
11,401 - 11,500	1,123	1,841	2,091	2,332	2,565	2,791
11,501 - 11,600	1,129	1,851	2,103	2,345	2,579	2,806
11,601 - 11,700	1,136	1,862	2,115	2,358	2,594	2,822
11,701 - 11,800	1,143	1,872	2,126	2,371	2,608	2,838
11,801 - 11,900	1,150	1,882	2,138	2,383	2,622	2,852
11,901 - 12,000	1,157	1,892	2,148	2,395	2,635	2,867
12,001 - 12,100	1,164	1,901	2,159	2,407	2,648	2,881
12,101 - 12,200	1,171	1,910	2,170	2,419	2,661	2,895
12,201 - 12,300	1,178	1,919	2,180	2,431	2,674	2,910
12,301 - 12,400	1,185	1,929	2,191	2,443	2,687	2,924
12,401 - 12,500	1,192	1,938	2,202	2,455	2,700	2,938
12,501 - 12,600	1,199	1,947	2,212	2,467	2,714	2,952
12,601 - 12,700	1,206	1,956	2,223	2,479	2,727	2,967
12,701 - 12,800	1,213	1,966	2,234	2,491	2,740	2,981
12,801 - 12,900	1,220	1,975	2,245	2,503	2,753	2,995
12,901 - 13,000	1,227	1,984	2,255	2,514	2,766	3,009
13,001 - 13,100	1,233	1,993	2,265	2,525	2,778	3,022
13,101 - 13,200	1,239	2,001	2,275	2,536	2,790	3,035
13,201 - 13,300	1,245	2,010	2,285	2,547	2,802	3,049
13,301 - 13,400	1,250	2,018	2,294	2,558	2,814	3,062
13,401 - 13,500	1,256	2,027	2,304	2,569	2,826	3,075
13,501 - 13,600	1,262	2,035	2,314	2,580	2,838	3,088
13,601 - 13,700	1,267	2,044	2,324	2,591	2,850	3,101
13,701 - 13,800	1,273	2,052	2,334	2,602	2,862	3,114
13,801 - 13,900	1,279	2,061	2,344	2,613	2,875	3,127
13,901 - 14,000	1,284	2,069	2,354	2,624	2,887	3,141
14,001 - 14,100	1,290	2,078	2,363	2,635	2,899	3,154
14,101 - 14,200	1,296	2,087	2,373	2,646	2,911	3,167
14,201 - 14,300	1,301	2,095	2,383	2,657	2,923	3,180
14,301 - 14,400	1,306	2,104	2,393	2,668	2,935	3,193
14,401 - 14,500	1,312	2,112	2,403	2,679	2,947	3,206
14,501 - 14,600	1,317	2,121	2,413	2,690	2,959	3,220
14,601 - 14,700	1,323	2,129	2,423	2,701	2,971	3,233
14,701 - 14,800	1,329	2,138	2,432	2,712	2,983	3,246
14,801 - 14,900	1,334	2,146	2,442	2,723	2,995	3,259
14,901 - 15,000	1,340	2,155	2,452	2,734	3,008	3,272
15,001 - 15,100	1,345	2,163	2,461	2,744	3,018	3,284
15,101 - 15,200	1,351	2,170	2,469	2,752	3,028	3,294
15,201 - 15,300	1,357	2,177	2,476	2,761	3,037	3,304
15,301 - 15,400	1,362	2,184	2,484	2,769	3,046	3,314
15,401 - 15,500	1,368	2,191	2,491	2,778	3,056	3,325
15,501 - 15,600	1,373	2,198	2,499	2,786	3,065	3,335
15,601 - 15,700	1,379	2,205	2,507	2,795	3,074	3,345
15,701 - 15,800	1,384	2,211	2,514	2,803	3,084	3,355
15,801 - 15,900	1,390	2,218	2,522	2,812	3,093	3,365
15,901 - 16,000	1,395	2,225	2,529	2,820	3,102	3,375
16,001 - 16,100	1,401	2,232	2,537	2,829	3,112	3,385
16,101 - 16,200	1,407	2,239	2,545	2,837	3,121	3,396
16,201 - 16,300	1,412	2,246	2,552	2,846	3,130	3,406
16,301 - 16,400	1,418	2,253	2,560	2,854	3,140	3,416
16,401 - 16,500	1,423	2,260	2,567	2,863	3,149	3,426
16,501 - 16,600	1,429	2,267	2,575	2,871	3,158	3,436
16,601 - 16,700	1,434	2,274	2,583	2,880	3,168	3,446
16,701 - 16,800	1,440	2,281	2,590	2,888	3,177	3,457
16,801 - 16,900	1,445	2,288	2,598	2,897	3,186	3,467
16,901 - 17,000	1,451	2,295	2,605	2,905	3,196	3,477
17,001 - 17,100	1,456	2,302	2,613	2,914	3,205	3,487
17,101 - 17,200	1,462	2,309	2,621	2,922	3,214	3,497
17,201 - 17,300	1,467	2,316	2,628	2,931	3,224	3,507
17,301 - 17,400	1,473	2,323	2,636	2,939	3,233	3,517
17,401 - 17,500	1,478	2,330	2,643	2,947	3,242	3,528

17,501 - 17,600	1,483	2,337	2,651	2,956	3,252	3,538
17,601 - 17,700	1,489	2,344	2,659	2,964	3,261	3,548
17,701 - 17,800	1,494	2,351	2,666	2,973	3,270	3,558
17,801 - 17,900	1,499	2,358	2,674	2,981	3,280	3,568
17,901 - 18,000	1,505	2,365	2,682	2,990	3,289	3,578
18,001 - 18,100	1,510	2,372	2,689	2,998	3,298	3,588
18,101 - 18,200	1,516	2,379	2,697	3,007	3,308	3,599
18,201 - 18,300	1,520	2,386	2,704	3,015	3,317	3,609
18,301 - 18,400	1,525	2,392	2,712	3,024	3,326	3,619
18,401 - 18,500	1,530	2,399	2,720	3,032	3,336	3,629
18,501 - 18,600	1,535	2,406	2,727	3,041	3,345	3,639
18,601 - 18,700	1,540	2,413	2,735	3,049	3,354	3,649
18,701 - 18,800	1,545	2,420	2,742	3,058	3,364	3,659
18,801 - 18,900	1,550	2,427	2,750	3,066	3,373	3,670
18,901 - 19,000	1,555	2,434	2,758	3,075	3,382	3,680
19,001 - 19,100	1,560	2,441	2,765	3,083	3,391	3,690
19,101 - 19,200	1,565	2,448	2,773	3,092	3,401	3,700
19,201 - 19,300	1,570	2,455	2,780	3,100	3,410	3,710
19,301 - 19,400	1,575	2,462	2,788	3,109	3,419	3,720
19,401 - 19,500	1,580	2,469	2,796	3,117	3,429	3,731
19,501 - 19,600	1,585	2,476	2,803	3,126	3,438	3,741
19,601 - 19,700	1,590	2,483	2,811	3,134	3,447	3,751
19,701 - 19,800	1,595	2,490	2,818	3,143	3,457	3,761
19,801 - 19,900	1,600	2,497	2,826	3,151	3,466	3,771
19,901 - 20,000	1,605	2,504	2,834	3,159	3,475	3,781
20,001 - 22,000	1,766	2,754	3,117	3,475	3,822	4,159
22,001 - 24,000	1,926	3,005	3,401	3,791	4,170	4,537
24,001 - 26,000	2,087	3,255	3,684	4,107	4,518	4,915
26,001 - 28,000	2,247	3,506	3,968	4,423	4,865	5,293
28,001 - 30,000	2,408	3,756	4,251	4,739	5,213	5,672
30,001 - 32,000	2,508	3,916	4,451	4,979	5,473	5,952
32,001 - 34,000	2,608	4,076	4,651	5,219	5,733	6,232
34,001 - 36,000	2,708	4,236	4,851	5,459	5,993	6,512
36,001 - 38,000	2,808	4,396	5,051	5,699	6,253	6,792
38,001 - 40,000	2,908	4,556	5,251	5,939	6,513	7,072
40,001 - 42,000	3,008	4,716	5,451	6,179	6,773	7,352
42,001 - 44,000	3,108	4,876	5,651	6,419	7,033	7,632
44,001 - 46,000	3,208	5,036	5,851	6,659	7,293	7,912
46,001 - 48,000	3,308	5,196	6,051	6,899	7,553	8,192
48,001 - 50,000	3,408	5,356	6,251	7,139	7,813	8,472
50,001 - 52,000	3,508	5,476	6,391	7,299	7,993	8,672
52,001 - 54,000	3,608	5,596	6,531	7,459	8,173	8,872
54,001 - 56,000	3,708	5,716	6,671	7,619	8,353	9,072
56,001 - 58,000	3,808	5,836	6,811	7,779	8,533	9,272
58,001 - 60,000	3,908	5,956	6,951	7,939	8,713	9,472
60,001 - 62,000	4,008	6,076	7,091	8,099	8,893	9,672
62,001 - 64,000	4,108	6,196	7,231	8,259	9,073	9,872
64,001 - 66,000	4,208	6,316	7,371	8,419	9,253	10,072
66,001 - 68,000	4,308	6,436	7,511	8,579	9,433	10,272
68,001 - 70,000	4,408	6,556	7,651	8,739	9,613	10,472
70,001 - 72,000	4,508	6,676	7,791	8,899	9,793	10,672
72,001 - 74,000	4,608	6,796	7,931	9,059	9,973	10,872
74,001 - 76,000	4,708	6,916	8,071	9,219	10,153	11,072
76,001 - 78,000	4,808	7,036	8,211	9,379	10,333	11,272
78,001 - 80,000	4,908	7,156	8,351	9,539	10,513	11,472
80,001 - 82,000	5,008	7,276	8,491	9,699	10,693	11,672
82,001 - 84,000	5,108	7,396	8,631	9,859	10,873	11,872
84,001 - 86,000	5,208	7,516	8,771	10,019	11,053	12,072
86,001 - 88,000	5,308	7,636	8,911	10,179	11,233	12,272
88,001 - 90,000	5,408	7,756	9,051	10,339	11,413	12,472
90,001 - 92,000	5,508	7,876	9,191	10,499	11,593	12,672
92,001 - 94,000	5,608	7,996	9,331	10,659	11,773	12,872
94,001 - 96,000	5,708	8,116	9,471	10,819	11,953	13,072
96,001 - 98,000	5,808	8,236	9,611	10,979	12,133	13,272

98,001 - 100,000	5,908	8,356	9,751	11,139	12,313	13,472

Section 164. Section 81-6-303, which is renumbered from Section 78B-12-302 is renumbered and amended to read:

~~78B-12-302.~~ 81-6-303. Low income table -- Obligor parent only -- Child support orders entered before January 1, 2023.

The table in this section [~~shall be~~]is used to:

(1) establish a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2007, if the new order is entered on or after January 1, 2008, but before January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010, but before January 1, 2025.

Individual Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
0 -	649	30	30	30	30	30	30
650 -	675	30	30	30	30	31	31
676 -	700	58	60	60	61	61	62
701 -	725	88	88	90	91	92	92
726 -	750	117	118	119	120	122	123
751 -	775		148	149	151	153	155
776 -	800		178	179	182	183	186
801 -	825		207	209	212	214	216
826 -	850		236	239	242	244	247
851 -	875		266	269	272	275	278
876 -	900			299	303	305	309
901 -	925			329	333	337	339
926 -	950				363	366	370
951 -	975				393	398	402
976 -	1,000					428	433
1,001 -	1,050						494

Section 165. Section 81-6-304, which is renumbered from Section 78B-12-303 is renumbered and amended to read:

~~78B-12-303.~~ 81-6-304. Based combined child support obligation table -- Both parents -- Child support orders entered on or after January 1, 2023.

The following table [~~shall be~~]is used to:

(1) establish a child support order entered for the first time on or after January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2022, if the new order is entered on or after January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2022, if the modification is made on or after January 1, 2025.

Combined Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
1,951 -	2,000	366					
2,001 -	2,100	385					
2,101 -	2,200	399					
2,201 -	2,300	410	628	728			
2,301 -	2,400	420	652	756	848	927	

2,501 -	2,600	443	700	811	904	995	1,082
2,601 -	2,700	453	723	838	934	1,028	1,118
2,701 -	2,800	464	747	865	964	1,060	1,154
2,801 -	2,900	475	770	891	994	1,093	1,189
2,901 -	3,000	485	794	918	1,024	1,126	1,225
3,001 -	3,100	496	817	945	1,054	1,159	1,261
3,101 -	3,200	508	838	970	1,081	1,189	1,294
3,201 -	3,300	518	859	994	1,108	1,219	1,326
3,301 -	3,400	529	881	1,018	1,135	1,248	1,358
3,401 -	3,500	539	902	1,042	1,162	1,278	1,391
3,501 -	3,600	548	923	1,066	1,189	1,308	1,423
3,601 -	3,700	555	944	1,090	1,216	1,337	1,455
3,701 -	3,800	564	965	1,115	1,243	1,367	1,487
3,801 -	3,900	573	985	1,138	1,269	1,396	1,519
3,901 -	4,000	581	1,004	1,160	1,294	1,423	1,548
4,001 -	4,100	590	1,024	1,182	1,318	1,450	1,577
4,101 -	4,200	599	1,043	1,204	1,342	1,477	1,607
4,201 -	4,300	608	1,062	1,226	1,367	1,503	1,636
4,301 -	4,400	616	1,081	1,248	1,391	1,530	1,665
4,401 -	4,500	624	1,101	1,270	1,416	1,557	1,694
4,501 -	4,600	633	1,119	1,291	1,439	1,583	1,722
4,601 -	4,700	641	1,133	1,306	1,456	1,601	1,742
4,701 -	4,800	650	1,147	1,321	1,473	1,620	1,762
4,801 -	4,900	659	1,161	1,336	1,489	1,638	1,783
4,901 -	5,000	668	1,175	1,351	1,506	1,657	1,803
5,001 -	5,100	676	1,189	1,366	1,523	1,675	1,823
5,101 -	5,200	684	1,203	1,381	1,540	1,694	1,843
5,201 -	5,300	693	1,217	1,396	1,557	1,712	1,863
5,301 -	5,400	701	1,227	1,408	1,570	1,726	1,878
5,401 -	5,500	710	1,238	1,419	1,582	1,741	1,894
5,501 -	5,600	719	1,248	1,431	1,595	1,755	1,909
5,601 -	5,700	728	1,259	1,442	1,608	1,769	1,925
5,701 -	5,800	733	1,269	1,454	1,621	1,783	1,940
5,801 -	5,900	739	1,280	1,465	1,634	1,797	1,956
5,901 -	6,000	745	1,290	1,477	1,647	1,812	1,971
6,001 -	6,100	751	1,302	1,490	1,661	1,827	1,988
6,101 -	6,200	756	1,313	1,503	1,676	1,843	2,005
6,201 -	6,300	763	1,325	1,516	1,690	1,859	2,023
6,301 -	6,400	769	1,336	1,528	1,704	1,874	2,039
6,401 -	6,500	775	1,347	1,540	1,717	1,889	2,055
6,501 -	6,600	780	1,358	1,553	1,731	1,904	2,072
6,601 -	6,700	786	1,369	1,565	1,745	1,919	2,088
6,701 -	6,800	786	1,380	1,577	1,759	1,934	2,105
6,801 -	6,900	841	1,391	1,590	1,772	1,950	2,121
6,901 -	7,000	850	1,402	1,602	1,786	1,965	2,138
7,001 -	7,100	859	1,413	1,614	1,800	1,980	2,154
7,101 -	7,200	868	1,417	1,618	1,804	1,985	2,159
7,201 -	7,300	876	1,420	1,621	1,807	1,988	2,163
7,301 -	7,400	883	1,423	1,624	1,811	1,992	2,167
7,401 -	7,500	888	1,426	1,627	1,814	1,996	2,171
7,501 -	7,600	894	1,429	1,630	1,818	1,999	2,175
7,601 -	7,700	899	1,432	1,633	1,821	2,003	2,179
7,701 -	7,800	904	1,436	1,636	1,824	2,007	2,184
7,801 -	7,900	910	1,439	1,639	1,828	2,011	2,188
7,901 -	8,000	915	1,442	1,642	1,831	2,014	2,192
8,001 -	8,100	921	1,445	1,646	1,835	2,018	2,196
8,101 -	8,200	926	1,448	1,649	1,838	2,022	2,200
8,201 -	8,300	933	1,451	1,652	1,842	2,026	2,204
8,301 -	8,400	938	1,454	1,655	1,845	2,029	2,208
8,401 -	8,500	944	1,460	1,661	1,852	2,037	2,216
8,501 -	8,600	949	1,475	1,678	1,871	2,058	2,240
8,601 -	8,700	954	1,491	1,696	1,891	2,080	2,263
8,701 -	8,800	960	1,506	1,714	1,911	2,102	2,287
8,801 -	8,900	965	1,522	1,732	1,931	2,124	2,311
8,901 -	9,000	971	1,537	1,749	1,951	2,146	2,334
9,001 -	9,100	976	1,553	1,767	1,970	2,167	2,358
9,101 -	9,200	983	1,568	1,785	1,990	2,189	2,382
9,201 -	9,300	988	1,584	1,803	2,010	2,211	2,405
9,301 -	9,400	994	1,599	1,820	2,030	2,233	2,429

9,401 - 9,500	999	1,614	1,838	2,049	2,254	2,453
9,501 - 9,600	1,004	1,630	1,856	2,069	2,276	2,477
9,601 - 9,700	1,010	1,645	1,874	2,089	2,298	2,500
9,701 - 9,800	1,015	1,661	1,891	2,109	2,320	2,524
9,801 - 9,900	1,021	1,673	1,905	2,124	2,336	2,542
9,901 - 10,000	1,026	1,683	1,917	2,137	2,351	2,557
10,001 - 10,100	1,033	1,694	1,928	2,150	2,365	2,573
10,101 - 10,200	1,039	1,704	1,940	2,163	2,379	2,589
10,201 - 10,300	1,045	1,715	1,951	2,176	2,394	2,604
10,301 - 10,400	1,051	1,725	1,963	2,189	2,408	2,620
10,401 - 10,500	1,058	1,736	1,975	2,202	2,422	2,635
10,501 - 10,600	1,064	1,746	1,986	2,215	2,436	2,651
10,601 - 10,700	1,070	1,757	1,998	2,228	2,451	2,666
10,701 - 10,800	1,077	1,767	2,010	2,241	2,465	2,682
10,801 - 10,900	1,083	1,778	2,021	2,254	2,479	2,697
10,901 - 11,000	1,090	1,788	2,033	2,267	2,494	2,713
11,001 - 11,100	1,096	1,799	2,045	2,280	2,508	2,729
11,101 - 11,200	1,103	1,809	2,056	2,293	2,522	2,744
11,201 - 11,300	1,109	1,820	2,068	2,306	2,537	2,760
11,301 - 11,400	1,116	1,830	2,080	2,319	2,551	2,775
11,401 - 11,500	1,123	1,841	2,091	2,332	2,565	2,791
11,501 - 11,600	1,129	1,851	2,103	2,345	2,579	2,806
11,601 - 11,700	1,136	1,862	2,115	2,358	2,594	2,822
11,701 - 11,800	1,143	1,872	2,126	2,371	2,608	2,838
11,801 - 11,900	1,150	1,882	2,138	2,383	2,622	2,852
11,901 - 12,000	1,157	1,892	2,148	2,395	2,635	2,867
12,001 - 12,100	1,164	1,901	2,159	2,407	2,648	2,881
12,101 - 12,200	1,171	1,910	2,170	2,419	2,661	2,895
12,201 - 12,300	1,178	1,919	2,180	2,431	2,674	2,910
12,301 - 12,400	1,185	1,929	2,191	2,443	2,687	2,924
12,401 - 12,500	1,192	1,938	2,202	2,455	2,700	2,938
12,501 - 12,600	1,199	1,947	2,212	2,467	2,714	2,952
12,601 - 12,700	1,206	1,956	2,223	2,479	2,727	2,967
12,701 - 12,800	1,213	1,966	2,234	2,491	2,740	2,981
12,801 - 12,900	1,220	1,975	2,245	2,503	2,753	2,995
12,901 - 13,000	1,227	1,984	2,255	2,514	2,766	3,009
13,001 - 13,100	1,233	1,993	2,265	2,525	2,778	3,022
13,101 - 13,200	1,239	2,001	2,275	2,536	2,790	3,035
13,201 - 13,300	1,245	2,010	2,285	2,547	2,802	3,049
13,301 - 13,400	1,250	2,018	2,294	2,558	2,814	3,062
13,401 - 13,500	1,256	2,027	2,304	2,569	2,826	3,075
13,501 - 13,600	1,262	2,035	2,314	2,580	2,838	3,088
13,601 - 13,700	1,267	2,044	2,324	2,591	2,850	3,101
13,701 - 13,800	1,273	2,052	2,334	2,602	2,862	3,114
13,801 - 13,900	1,279	2,061	2,344	2,613	2,875	3,127
13,901 - 14,000	1,284	2,069	2,354	2,624	2,887	3,141
14,001 - 14,100	1,290	2,078	2,363	2,635	2,899	3,154
14,101 - 14,200	1,296	2,087	2,373	2,646	2,911	3,167
14,201 - 14,300	1,301	2,095	2,383	2,657	2,923	3,180
14,301 - 14,400	1,306	2,104	2,393	2,668	2,935	3,193
14,401 - 14,500	1,312	2,112	2,403	2,679	2,947	3,206
14,501 - 14,600	1,317	2,121	2,413	2,690	2,959	3,220
14,601 - 14,700	1,323	2,129	2,423	2,701	2,971	3,233
14,701 - 14,800	1,329	2,138	2,432	2,712	2,983	3,246
14,801 - 14,900	1,334	2,146	2,442	2,723	2,995	3,259
14,901 - 15,000	1,340	2,155	2,452	2,734	3,008	3,272
15,001 - 15,100	1,345	2,163	2,461	2,744	3,018	3,284
15,101 - 15,200	1,351	2,170	2,469	2,752	3,028	3,294
15,201 - 15,300	1,357	2,177	2,476	2,761	3,037	3,304
15,301 - 15,400	1,362	2,184	2,484	2,769	3,046	3,314
15,401 - 15,500	1,368	2,191	2,491	2,778	3,056	3,325
15,501 - 15,600	1,373	2,198	2,499	2,786	3,065	3,335
15,601 - 15,700	1,379	2,205	2,507	2,795	3,074	3,345
15,701 - 15,800	1,384	2,211	2,514	2,803	3,084	3,355
15,801 - 15,900	1,390	2,218	2,522	2,812	3,093	3,365
15,901 - 16,000	1,395	2,225	2,529	2,820	3,102	3,375
16,001 - 16,100	1,401	2,232	2,537	2,829	3,112	3,385
16,101 - 16,200	1,407	2,239	2,545	2,837	3,121	3,396
16,201 - 16,300	1,412	2,246	2,552	2,846	3,130	3,406

16,301 - 16,400	1,418	2,253	2,560	2,854	3,140	3,416
16,401 - 16,500	1,423	2,260	2,567	2,863	3,149	3,426
16,501 - 16,600	1,429	2,267	2,575	2,871	3,158	3,436
16,601 - 16,700	1,434	2,274	2,583	2,880	3,168	3,446
16,701 - 16,800	1,440	2,281	2,590	2,888	3,177	3,457
16,801 - 16,900	1,445	2,288	2,598	2,897	3,186	3,467
16,901 - 17,000	1,451	2,295	2,605	2,905	3,196	3,477
17,001 - 17,100	1,456	2,302	2,613	2,914	3,205	3,487
17,101 - 17,200	1,462	2,309	2,621	2,922	3,214	3,497
17,201 - 17,300	1,467	2,316	2,628	2,931	3,224	3,507
17,301 - 17,400	1,473	2,323	2,636	2,939	3,233	3,517
17,401 - 17,500	1,478	2,330	2,643	2,947	3,242	3,528
17,501 - 17,600	1,483	2,337	2,651	2,956	3,252	3,538
17,601 - 17,700	1,489	2,344	2,659	2,964	3,261	3,548
17,701 - 17,800	1,494	2,351	2,666	2,973	3,270	3,558
17,801 - 17,900	1,499	2,358	2,674	2,981	3,280	3,568
17,901 - 18,000	1,505	2,365	2,682	2,990	3,289	3,578
18,001 - 18,100	1,510	2,372	2,689	2,998	3,298	3,588
18,101 - 18,200	1,516	2,379	2,697	3,007	3,308	3,599
18,201 - 18,300	1,520	2,386	2,704	3,015	3,317	3,609
18,301 - 18,400	1,525	2,392	2,712	3,024	3,326	3,619
18,401 - 18,500	1,530	2,399	2,720	3,032	3,336	3,629
18,501 - 18,600	1,535	2,406	2,727	3,041	3,345	3,639
18,601 - 18,700	1,540	2,413	2,735	3,049	3,354	3,649
18,701 - 18,800	1,545	2,420	2,742	3,058	3,364	3,659
18,801 - 18,900	1,550	2,427	2,750	3,066	3,373	3,670
18,901 - 19,000	1,555	2,434	2,758	3,075	3,382	3,680
19,001 - 19,100	1,560	2,441	2,765	3,083	3,391	3,690
19,101 - 19,200	1,565	2,448	2,773	3,092	3,401	3,700
19,201 - 19,300	1,570	2,455	2,780	3,100	3,410	3,710
19,301 - 19,400	1,575	2,462	2,788	3,109	3,419	3,720
19,401 - 19,500	1,580	2,469	2,796	3,117	3,429	3,731
19,501 - 19,600	1,585	2,476	2,803	3,126	3,438	3,741
19,601 - 19,700	1,590	2,483	2,811	3,134	3,447	3,751
19,701 - 19,800	1,595	2,490	2,818	3,143	3,457	3,761
19,801 - 19,900	1,600	2,497	2,826	3,151	3,466	3,771
19,901 - 20,000	1,605	2,504	2,834	3,159	3,475	3,781
20,001 - 22,000	1,766	2,754	3,117	3,475	3,822	4,159
22,001 - 24,000	1,926	3,005	3,401	3,791	4,170	4,537
24,001 - 26,000	2,087	3,255	3,684	4,107	4,518	4,915
26,001 - 28,000	2,247	3,506	3,968	4,423	4,865	5,293
28,001 - 30,000	2,408	3,756	4,251	4,739	5,213	5,672
30,001 - 32,000	2,508	3,916	4,451	4,979	5,473	5,952
32,001 - 34,000	2,608	4,076	4,651	5,219	5,733	6,232
34,001 - 36,000	2,708	4,236	4,851	5,459	5,993	6,512
36,001 - 38,000	2,808	4,396	5,051	5,699	6,253	6,792
38,001 - 40,000	2,908	4,556	5,251	5,939	6,513	7,072
40,001 - 42,000	3,008	4,716	5,451	6,179	6,773	7,352
42,001 - 44,000	3,108	4,876	5,651	6,419	7,033	7,632
44,001 - 46,000	3,208	5,036	5,851	6,659	7,293	7,912
46,001 - 48,000	3,308	5,196	6,051	6,899	7,553	8,192
48,001 - 50,000	3,408	5,356	6,251	7,139	7,813	8,472
50,001 - 52,000	3,508	5,476	6,391	7,299	7,993	8,672
52,001 - 54,000	3,608	5,596	6,531	7,459	8,173	8,872
54,001 - 56,000	3,708	5,716	6,671	7,619	8,353	9,072
56,001 - 58,000	3,808	5,836	6,811	7,779	8,533	9,272
58,001 - 60,000	3,908	5,956	6,951	7,939	8,713	9,472
60,001 - 62,000	4,008	6,076	7,091	8,099	8,893	9,672
62,001 - 64,000	4,108	6,196	7,231	8,259	9,073	9,872
64,001 - 66,000	4,208	6,316	7,371	8,419	9,253	10,072
66,001 - 68,000	4,308	6,436	7,511	8,579	9,433	10,272
68,001 - 70,000	4,408	6,556	7,651	8,739	9,613	10,472
70,001 - 72,000	4,508	6,676	7,791	8,899	9,793	10,672
72,001 - 74,000	4,608	6,796	7,931	9,059	9,973	10,872
74,001 - 76,000	4,708	6,916	8,071	9,219	10,153	11,072
76,001 - 78,000	4,808	7,036	8,211	9,379	10,333	11,272
78,001 - 80,000	4,908	7,156	8,351	9,539	10,513	11,472
80,001 - 82,000	5,008	7,276	8,491	9,699	10,693	11,672
82,001 - 84,000	5,108	7,396	8,631	9,859	10,873	11,872

84,001 - 86,000	5,208	7,516	8,771	10,019	11,053	12,072
86,001 - 88,000	5,308	7,636	8,911	10,179	11,233	12,272
88,001 - 90,000	5,408	7,756	9,051	10,339	11,413	12,472
90,001 - 92,000	5,508	7,876	9,191	10,499	11,593	12,672
92,001 - 94,000	5,608	7,996	9,331	10,659	11,773	12,872
94,001 - 96,000	5,708	8,116	9,471	10,819	11,953	13,072
96,001 - 98,000	5,808	8,236	9,611	10,979	12,133	13,272
98,001 - 100,000	5,908	8,356	9,751	11,139	12,313	13,472

Section 166. Section 81-6-305, which is renumbered from Section 78B-12-304 is renumbered and amended to read:

~~78B-12-304~~. 81-6-305. Low income table -- Obligor parent only -- Child support orders entered on or after January 1, 2023.

The following table [~~shall be~~]is used to:

(1) establish a child support order entered for the first time on or after January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2022, if the new order is entered on or after January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2022, if the modification is made on or after January 1, 2025.

Individual Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
0 -	50	30	30	30	30	30	30
51 -	100	30	40	50	50	50	50
101 -	150	30	50	75	75	75	75
151 -	750	30	55	75	90	100	105
751 -	1,256	60	111	151	181	201	211
1,257 -	1,270	75	138	189	226	251	264
1,271 -	1,280	76	140	191	229	254	267
1,281 -	1,290	77	141	192	231	256	269
1,291 -	1,300	77	142	194	232	258	271
1,301 -	1,310	78	143	195	234	260	273
1,311 -	1,320	79	144	197	236	262	275
1,321 -	1,330	79	145	198	238	264	277
1,331 -	1,340	80	146	200	240	266	280
1,341 -	1,350	80	148	201	241	268	282
1,351 -	1,360	95	162	216	257	284	297
1,361 -	1,370	95	163	218	259	286	299
1,371 -	1,380	96	165	219	260	288	302
1,381 -	1,390	97	166	221	262	290	304
1,391 -	1,400	97	167	223	264	292	306
1,401 -	1,410	98	168	224	266	294	308
1,411 -	1,420	113	183	240	282	310	325
1,421 -	1,430	114	185	242	284	313	327
1,431 -	1,440	114	186	243	286	315	329
1,441 -	1,450	115	187	245	288	317	331
1,451 -	1,460	116	189	247	290	319	334
1,461 -	1,470	131	205	263	307	336	351
1,471 -	1,480	132	206	265	309	338	353
1,481 -	1,490	133	207	267	311	341	355
1,491 -	1,500	134	209	268	313	343	358
1,501 -	1,510	135	210	270	315	345	360
1,511 -	1,520	151	227	287	332	363	378
1,521 -	1,530	152	228	289	335	365	380
1,531 -	1,540	153	230	291	337	367	383
1,541 -	1,550	154	231	293	339	370	385
1,551 -	1,560	155	233	295	341	372	388
1,561 -	1,570	172	250	312	359	390	406

1,571 -	1,580	173	251	314	361	393	408
1,581 -	1,590	174	253	316	364	395	411
1,591 -	1,600	175	255	318	366	398	414
1,601 -	1,610	176	256	320	368	400	416
1,611 -	1,620	193	274	338	387	419	435
1,621 -	1,630	195	276	340	389	421	438
1,631 -	1,640	196	277	343	391	424	440
1,641 -	1,650	197	279	345	394	427	443
1,651 -	1,660	198	281	347	396	429	446
1,661 -	1,670	216	299	365	415	448	465
1,671 -	1,680	217	301	368	418	451	468
1,681 -	1,690	219	303	370	420	454	471
1,691 -	1,700	220	304	372	423	457	473
1,701 -	1,710	221	306	374	425	459	476
1,711 -	1,720	240	325	394	445	479	496
1,721 -	1,730	241	327	396	447	482	499
1,731 -	1,740	242	329	398	450	485	502
1,741 -	1,750	244	331	400	453	487	505
1,751 -	1,760	245	333	403	455	490	508
1,761 -	1,770	264	352	423	475	511	528
1,771 -	1,780	266	354	425	478	514	531
1,781 -	1,790	267	356	427	481	516	534
1,791 -	1,800	269	358	430	484	519	537
1,801 -	1,810	270	360	432	486	522	540
1,811 -	1,820	290	380	453	507	543	561
1,821 -	1,830	291	382	455	510	546	565
1,831 -	1,840	293	385	458	513	549	568
1,841 -	1,850	295	387	460	515	552	571
1,851 -	1,860	296	389	463	518	555	574
1,861 -	1,870	316	409	484	540	577	596
1,871 -	1,880	318	412	486	543	580	599
1,881 -	1,890	320	414	489	545	583	602
1,891 -	1,900	321	416	492	548	586	605
1,901 -	1,910	323	418	494	551	589	608
1,911 -	1,920	344	440	516	573	612	631
1,921 -	1,930	346	442	519	576	615	634
1,931 -	1,940	348	444	521	579	618	637
1,941 -	1,950	349	446	524	582	621	641
1,951 -	1,960	351	449	527	585	624	644
1,961 -	1,970		471	549	608	647	667
1,971 -	1,980		473	552	611	650	670
1,981 -	1,990		475	555	614	654	674
1,991 -	2,000		478	557	617	657	677
2,001 -	2,050		480	560	620	660	680
2,051 -	2,100		513	595	656	697	718
2,101 -	2,150		546	630	693	735	756
2,151 -	2,200		581	667	731	774	796
2,201 -	2,250		616	704	770	814	836
2,251 -	2,300				810	855	878
2,301 -	2,350					897	920
2,351 -	2,400						964
2,401 -	2,450						1,008

Section 167. Section 81-6-401 is enacted to read:

81-6-401. Definitions for part.

Part 4. Child Support Guidelines Advisory Committee

As used in this part, "advisory committee" means the Child Support Guidelines Advisory Committee.

Section 168. Section 81-6-402, which is renumbered from Section 78B-12-401 is renumbered and amended to read:

~~78B-12-401~~. 81-6-402. Creation of advisory committee.

(1)(a) There is created the advisory committee known as the "Child Support Guidelines Advisory Committee."

[~~(b) As used in this part, "advisory committee" means the Child Support Guidelines Advisory Committee.~~]

[~~(c)~~](b) The governor shall appoint the 11 members of the advisory committee as follows:

(i) one representative recommended by the Office of Recovery Services;

(ii) one representative recommended by the Judicial Council;

(iii) two representatives recommended by the Utah State Bar Association;

(iv) two representatives of noncustodial parents;

(v) two representatives of custodial parents;

(vi) one representative with expertise in economics; and

(vii) two representatives from diverse interests related to child support issues and who are not members of the Utah State Bar Association, as the governor may consider appropriate.

(2)(a) The term of a member of the advisory committee is four years.

(b) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term of the member.

(c) The governor may appoint a member of the advisory committee to more than one term.

(3)(a) Six members of the advisory committee constitute a quorum.

(b) The vote of a majority of a quorum present is an action of the advisory committee.

(4) The advisory committee shall elect two members to serve as cochairs of the advisory committee for a term of one year.

(5) The advisory committee shall meet at the time and place designated by the cochairs.

Section 169. Section 81-6-403, which is renumbered from Section 78B-12-402 is renumbered and amended to read:

~~78B-12-402~~. 81-6-403. Duties -- Report -- Staff.

(1) The advisory committee shall review the child support guidelines to ensure the application of the guidelines results in the determination of appropriate child support award amounts.

(2) The advisory committee shall submit, in accordance with Section 68-3-14, a written report to the [~~legislative~~]Judiciary Interim Committee on or before October 1, 2021, and then on or before October 1 of every fourth year subsequently.

(3) The advisory committee's report shall include recommendations of the majority of the advisory committee, as well as specific recommendations of individual members of the advisory committee.

(4) Staff for the advisory committee shall be provided from the existing budget of the Department of Health and Human Services.

Section 170. Section 81-6-404, which is renumbered from Section 78B-12-403 is renumbered and amended to read:

~~78B-12-403~~. 81-6-404. Expenses for per diem and travel.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

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

(3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 171. Section 81-7-101 is enacted to read:

81-7-101. Definitions for chapter.

CHAPTER 7. PAYMENT AND ENFORCEMENT OF SPOUSAL AND CHILD SUPPORT

As used in this chapter:

(1) "Alimony" means the same as that term is defined in Section 81-4-101.

(2) "Child support" means the same as that term is defined in Section 81-6-101.

(3) "Child support services" means the same as that term is defined in Section 26B-9-101.

(4) "Obligee" means the same as that term is defined in Section 81-6-101.

(5) "Obligor" means the same as that term is defined in Section 81-6-101.

(6) "Support order" means the same as that term is defined in Section 81-6-101.

(7) "Tribunal" means the same as that term is defined in Section 81-6-101.

Section 172. Section 81-7-102, which is renumbered from Section 78B-12-112 is renumbered and amended to read:

~~78B-12-112~~. 81-7-102. Payment under child support or alimony order -- Judgment.

(1) All monthly payments of child support [~~shall be~~]and alimony are due on the 1st day of each month [~~pursuant to Title 26B, Chapter 9, Part 2, Child Support Services, Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases~~]in accordance with Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

(2) For purposes of child support services and income withholding [~~pursuant to~~]described in Title 26B, Chapter 9, Part 2, Child Support Services, and Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, child support is not considered past due until the 1st day of the following month.

(3) For purposes other than those specified in Subsection (1), [~~support shall be~~]child support is payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

[~~(3)~~](4) Each payment or installment of [~~child or spousal support~~]child support or alimony under any support order[~~, as defined by Section 78B-12-102,~~] is, on and after the date [~~it~~]the payment or installment is due:

(a) a judgment with the same attributes and effect of any judgment of a district court, except as provided in Subsection [~~(4)~~](5);

(b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction; and

(c) not subject to retroactive modification by this or any other jurisdiction, except as provided in Subsection [~~(4)~~](5).

[~~(4)~~](5)(a) A [~~child or spousal support~~]child support or alimony payment under a support order may be modified with respect to any period during which a modification is pending, but only from the date of service of the pleading on:

(i) the obligee[~~,~~] if the obligor is the petitioner[~~, or on~~]; or

(ii) the obligor[~~,~~] if the obligee is the petitioner.

(b) If the tribunal orders that the support order should be modified, the effective date of the modification shall be the month following service on the [~~parent~~]party whose support is affected.

(c) Once the tribunal determines that a modification is appropriate, the tribunal shall order a judgment to be entered for any difference in the original order and the modified amount for the period from the service of the pleading until the final order of modification is entered.

[~~(5)~~](6) The judgment provided for in Subsection [~~(3)(a)~~](4)(a), to be effective and enforceable as a lien against the real property interest of any third party relying on the public record, shall be docketed in the district court in accordance with Sections 78B-5-202 and 26B-9-214.

Section 173. Section 81-7-103, which is renumbered from Section 30-3-3.5 is renumbered and amended to read:

~~30-3-3.5~~. 81-7-103. Collection fee for past due child support or alimony.

(1) As used in this section:

(a) "Debtor" means a person obligated or allegedly obligated to pay a domestic relations debt.

(b) "Domestic relations debt" means an obligation or alleged obligation to pay past due child support or alimony.

(2)(a) A court shall order the amounts described in Subsection (2)(b) be paid, if:

(i) the court issues a judgment requiring the payment of a domestic relations debt by the debtor;

(ii) imposing a collection fee on the debtor or in relation to the domestic relations debt is not prohibited or otherwise restricted by another federal or state law; and

(iii) the person owed the domestic relations debt has a contingency arrangement with an attorney to collect the domestic relations debt.

(b) If the conditions of Subsection (2)(a) are met, a court shall order payment of:

(i) the principal amount due;

(ii) applicable interest;

(iii) a collection fee equal to the amount provided in the contingency agreement, except that the collection fee may not exceed the lesser of:

(A) the actual amount the person owed the domestic relations debt is required to pay for collection costs, regardless of whether that amount is a specific dollar amount or a percentage of the principal amount owed for the domestic relations debt; or

(B) 40% of the principal amount owed to the person for the domestic relations debt;

(iv) reasonable attorney fees; and

(v) costs, if any, related to obtaining the judgment described in Subsection (2)(a)(i).

(3) The obligation to pay a collection fee described in Subsection (2)(b)(iii) is incurred at the time the person owed a domestic relations debt enters into an agreement with an attorney to collect the domestic relations debt.

(4) An obligation to pay a collection fee imposed under this section is in addition to any obligation to pay reasonable attorney fees that may exist.

(5) The Office of Recovery Services may not collect an order issued pursuant to Subsection (2).

Section 174. Section 81-8-101 is enacted to read:

81-8-101. Reserved.

CHAPTER 8. UNIFORM INTERSTATE FAMILY SUPPORT ACT

Reserved.

Section 175. Section 81-9-101, which is renumbered from Section 30-3-10.1 is renumbered and amended to read:

~~30-3-10.1.~~ 81-9-101. Definitions for chapter.

CHAPTER 9. CUSTODY, PARENT-TIME, AND VISITATION

Part 1. General Provisions

As used in this chapter:

(1)(a) "Custodial responsibility" [~~includes~~]means all powers and duties relating to caretaking authority and decision-making authority for a minor child.

(b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, visitation, and authority to grant limited contact with a minor child.

(2) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(2) "Joint legal custody":~~]

[~~(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;~~]

[~~(b) may include an award of exclusive authority by the court to one parent to make specific decisions;~~]

[~~(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;~~]

[~~(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and~~]

[~~(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.~~]

[~~(3) "Joint physical custody":~~]

[~~(a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;~~]

[~~(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;~~]

[~~(c) may require that a primary physical residence for the child be designated; and~~]

[~~(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.~~]

(3) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified.

(4) "Joint physical custody" means the minor child stays with each parent overnight for more than 30% of the year and both parents contribute to the expenses of the minor child in addition to paying child support.

(5)(a) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the minor child.

(b) "Parenting functions" include:

(i) maintaining a loving, stable, consistent, and nurturing relationship with the minor child;

(ii) attending to the daily needs of the minor child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the minor child and that are within the social and economic circumstances of the particular family;

(iii) attending to adequate education for the minor child, including remedial or other education essential to the best interest of the minor child;

(iv) assisting the minor child in developing and maintaining appropriate interpersonal relationships;

(v) exercising appropriate judgment regarding the minor child's welfare, consistent with the minor child's developmental level and family social and economic circumstances; and

(vi) providing for the financial support of the minor child.

(6)(a) "Parenting plan" means a plan for parenting a minor child.

(b) "Parenting plan" includes the allocation of parenting functions that are incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

[~~(4)~~](7) "Service member" means a member of a uniformed service.

(8) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

(9) "Surrogate care" means care by any individual other than the parent of the minor child.

[~~(5)~~](10) "Uniformed service" means:

(a) active and reserve components of the United States Armed Forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the National Guard of a state.

(11) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

(12) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media, to supplement in-person visits between a noncustodial parent and a minor child or between a minor child and the custodial parent when the minor child is staying with the noncustodial parent.

Section 176. Section 81-9-102, which is renumbered from Section 30-3-38 is renumbered and amended to read:

~~30-3-38~~. 81-9-102. Expedited Parent-time Enforcement Program.

[~~(1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.~~]

[~~(2)~~](1) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(2) The Administrative Office of the Courts shall administer an Expedited Parent-time Enforcement Program in the third judicial district.

(3)(a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable.

(b) Unless the court rules otherwise, a parent residing outside of the state is not unavailable.

(c) The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

[~~(b)~~](d) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection [~~(3)(c)~~](3)(e) is warranted.

[~~(c)~~](e) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Health and Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii)(A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

[~~(d)~~](f) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the [~~judge or court commissioner~~]court to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

[~~(e)~~](g) Upon receiving a case from the administrator of the program, a [~~judge or court commissioner~~]court may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4)(a) If a parent makes a particularized allegation of physical or sexual abuse of a minor child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the [~~judge assigned to the case who~~]court, which may immediately issue orders and take other appropriate action to resolve the allegation and protect the minor child; and

(ii) the Division of Child and Family Services within the Department of Health and Human Services in the manner required by Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5)(a) The Department of Health and Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Health and Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Health and Human Services and this section.

(6)(a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A [~~judge~~]court may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a minor child.

(c)(i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7)(a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.

(b) The Department of Health and Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.

(8)(a)(i) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program.

(ii) [~~Progress reports shall be provided~~]The Administrative Office of the Courts shall provide progress reports to the Judiciary Interim Committee as requested by the committee.

(b)(i) The Department of Health and Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program.

(ii) [~~Progress reports shall be provided~~]The Department of Health and Human Services shall provide progress reports to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Health and Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections [~~(7)(a)~~](8)(a) and (b).

(9) The Department of Health and Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Section 177. Section 81-9-201 is enacted to read:

81-9-201. Definitions for part.

Part 2. Custody and Parent-time Between Parents

Reserved.

Section 178. Section 81-9-202, which is renumbered from Section 30-3-33 is renumbered and amended to read:

~~30-3-33.~~ 81-9-202. Advisory guidelines for a custody and parent-time arrangement.

(1) In addition to the parent-time schedules provided in Sections [~~30-3-35 and 30-3-35.5~~] 81-9-302 and 81-9-304, the following advisory guidelines are suggested to govern [~~all parent-time arrangements~~]a custody and parent-time arrangement between parents.

[~~(1)~~](2) [~~Parent-time schedules~~]A parent-time schedule mutually agreed upon by both parents [~~are~~]is preferable to a court-imposed solution.

[~~(2)~~](3) [~~The~~]A parent-time schedule shall be used to maximize the continuity and stability of the minor child's life.

[~~(3)~~](4) [~~Special consideration shall be given by each parent~~]Each parent shall give special consideration to make the minor child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the minor child or in the life of either parent which may inadvertently conflict with the parent-time schedule.

[~~(4)~~](5)(a) The court shall determine the responsibility for the pick up, delivery, and return of the [~~child shall be determined by the court~~]minor child when the parent-time order is entered[~~, and may be changed~~].

(b) The court may change the responsibility described in Subsection (5)(a) at any time a subsequent modification is made to the parent-time order.

[~~(5)~~](c) If the noncustodial parent will be providing transportation, the custodial parent shall:

(i) have the minor child ready for parent-time at the time the minor child is to be picked up [~~and shall~~]; and

(ii) be present at the custodial home or [~~shall~~]make reasonable alternate arrangements to receive the minor child at the time the minor child is returned.

[~~(6)~~](d) If the custodial parent will be transporting the minor child, the noncustodial parent shall:

(i) be at the appointed place at the time the noncustodial parent is to receive the minor child[~~, and~~]; and

(ii) have the minor child ready to be picked up at the appointed time and place[~~,~~] or have made reasonable alternate arrangements for the custodial parent to pick up the minor child.

[~~(7)~~](6) [~~Regular~~]A parent may not interrupt regular school hours [~~may not be interrupted~~]for a school-age minor child for the exercise of parent-time[~~ by either parent~~].

[~~(8)~~](7) The court may:

(a) make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents[~~ and may~~]; and

(b) increase the parent-time allowed to the noncustodial parent but may not diminish the standardized parent-time provided in Sections [~~30-3-35 and 30-3-35.5~~]81-9-302 and 81-9-304.

[~~(9)~~](8) The court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time.

[~~(10)~~](9) [~~Neither parent-time nor child support is to be withheld due to either~~]A parent may not withhold parent-time or child support due to the other parent's failure to comply with a court-ordered parent-time schedule.

[~~(11)~~](10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the minor child is participating or being honored[~~, and the~~].

(b) The noncustodial parent [~~shall be~~]is entitled to attend and participate fully in the functions described in Subsection (10)(a).

[~~(12)~~](c) The noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records[~~and shall be notified immediately by the custodial parent~~].

(d) A parent shall immediately notify the other parent in the event of a medical emergency.

[~~(13)~~](11) Each parent shall provide the other with the parent's current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change.

[~~(14)~~](12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the minor child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available[~~, provided that if the parties~~].

(b) If the parents cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available[~~,~~]by taking into consideration:

[~~(a)~~](i) the best interests of the minor child;

[~~(b)~~](ii) each parent's ability to handle any additional expenses for virtual parent-time; and

[~~(c)~~](iii) any other factors the court considers material.

[~~(15)~~](13)(a) Parental care [~~shall be~~]is presumed to be better care for the minor child than surrogate care[~~ and the~~].

(b) The court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able to transport the [~~children~~]minor child, to provide the child care.

(c) Child care arrangements existing during the marriage are preferred as are child care arrangements with nominal or no charge.

[~~(16)~~](14) Each parent shall:

(a) provide all surrogate care providers with the name, current address, and telephone number of the other parent[~~ and shall~~]; and

(b) provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise.

[~~(17)~~](15)(a) Each parent [~~shall be~~]is entitled to an equal division of major religious holidays celebrated by the parents[~~, and the~~].

(b) The parent who celebrates a religious holiday that the other parent does not celebrate shall have

the right to be together with the minor child on the religious holiday.

[~~(18)~~](16) If the minor child is on a different parent-time schedule than a sibling, based on Sections [~~30-3-35 and 30-3-35.5~~]81-9-302 and 81-9-304, the parents should consider if an upward deviation for parent-time with all the minor children so that parent-time is uniform between school aged and nonschool aged children, is appropriate.

[~~(19)~~](17)(a) When one or both parents are servicemembers or contemplating joining a uniformed service, the parents should resolve issues of custodial responsibility in the event of deployment as soon as practicable through reaching a voluntary agreement pursuant to Section 78B-20-201 or through court order obtained pursuant to [~~Section 30-3-10~~]this part.

(b) Servicemembers shall ensure their family care plan reflects orders and agreements entered and filed pursuant to Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act.

(18)(a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 179. Section 81-9-203, which is renumbered from Section 30-3-10.9 is renumbered and amended to read:

~~30-3-10.9~~. 81-9-203. Custody and parent-time proceedings -- Requirements for parenting plan.

(1) In a custody or parent-time proceeding that is not a divorce action, the court may require the parents to attend the mandatory educational course described in Section 81-4-106.

(2)(a) In a proceeding between parents regarding the custody or parent-time for a minor child, the parent shall file and serve a proposed parenting plan at the time of the filing of the parent's original petition or at the time of filing the parent's answer or counterclaim.

(b) In a proceeding in which a parent seeks to modify custody provisions or a parenting plan, the parent shall file the proposed parenting plan with the petition to modify or the answer or counterclaim to the petition to modify.

(c) A parent who desires joint legal custody shall file a proposed parenting plan in accordance with this section.

(3) If a parent files a proposed parenting plan in compliance with this section, the parent may move the court for an order of default to adopt the plan if the other parent fails to file a proposed parenting plan as required by this section.

(4) A parent may file and serve an amended proposed parenting plan according to the Utah Rules of Civil Procedure.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6)(a) Both parents may submit a parenting plan which has been agreed upon.

(b) The parents shall attach a verified statement to the parenting plan that is signed by both parents.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the minor child, who may, if necessary, file a separate parenting plan reflecting the best interests of the minor child.

(8)(a) If a parent is a service member, the parenting plan shall be consistent with Subsection (16).

(b) If a parent becomes a service member after a parenting plan is adopted, the parents shall amend the existing parenting plan as soon as practical to comply with Subsection (16).

[~~(1)~~](9) The objectives of a parenting plan are to:

(a) provide for the minor child's physical care;

(b) maintain the minor child's emotional stability;

(c) provide for the minor child's changing needs as the minor child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the minor child consistent with the definitions outlined in this chapter;

(e) minimize the minor child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their [~~minor children~~]minor child through agreements in the parenting plan rather than relying on judicial intervention; and

(g) protect the best interests of the minor child.

[~~(2)~~](10)(a) The parenting plan shall contain:

(i) provisions for resolution of future disputes between the parents, allocation of decision-making authority, and residential provisions for the minor child[~~, and provisions~~];

(ii) provisions addressing notice and parent-time responsibilities in the event of the relocation of [~~either party. It may contain other provisions~~

~~comparable to those in Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.~~]a party; and

(iii) a process for resolving disputes, unless precluded or limited by statute.

(b) A dispute resolution process under Subsection (10)(a)(iii) may include:

[~~(a)~~](i) counseling;

[~~(b)~~](ii) mediation or arbitration by a specified individual or agency; or

[~~(c)~~](iii) court action.

[~~(4)~~](c) In the dispute resolution process under Subsection (10)(b):

[~~(a)~~](i) preference shall be given to the provisions in the parenting plan;

[~~(b)~~](ii) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;

[~~(c)~~](iii) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;

[~~(d)~~](iv) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;

[~~(e)~~](v) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney fees and financial sanctions to the prevailing parent;

[~~(f)~~](vi) the district court has the right of review from the dispute resolution process; and

[~~(g)~~](vii) the provisions of this Subsection [~~(4)~~](10)(c) shall be set forth in any final decree or order.

[~~(3) A process for resolving disputes shall be provided unless precluded or limited by statute.~~]

[~~(5)~~](11)(a) Subject to the other provisions of this Subsection [~~(5)~~](11), the parenting plan shall allocate decision-making authority to one or both parties regarding the minor child's education, healthcare, and religious upbringing.

(b) The parties may incorporate an agreement related to the care and growth of the minor child in these specified areas or in other areas into the plan[~~, consistent with~~] that are consistent with parenting functions and the criteria outlined in Subsection [~~30-3-10.7(2) and Subsection (1)~~](9).

(c) Regardless of the allocation of decision-making in the parenting plan, [~~either~~]a parent may make emergency decisions affecting the health or safety of the minor child.

[~~(b)~~](d) A minor child's education plan shall designate the following:

(i) the home residence for purposes of identifying the appropriate school or another specific plan that provides for where the minor child will attend school;

(ii) which parent has authority to make education decisions for the minor child if the parents cannot agree; and

(iii) whether one or both parents have access to the minor child during school and authority to check the minor child out of school.

[~~(c)~~](e) [~~If no education provision is included in the parent plan~~]If an education provision is not included in the parenting plan:

(i) a parent with sole physical custody shall make the decisions listed in Subsection [~~(5)(b)~~](11)(d);

(ii) in the event of joint physical custody when one parent has custody a majority of the time[~~, pursuant to Subsection 30-3-10.3(4).~~]as described in Subsection 81-9-205(10):

(A) the parent having the minor child the majority of the time shall make the decisions listed in Subsections [~~(5)(b)(i)~~](11)(d)(i) and (ii); and

(B) both parents with joint physical custody shall have access to the minor child during school and authority to check the child out of school; or

(iii) in the event of joint physical custody when the parents have custody an equal amount of time:

(A) the court shall determine how the decisions listed in Subsections [~~(5)(b)(i)~~](11)(d)(i) and (ii) are made; and

(B) both parents with joint physical custody shall have access to the minor child during school and authority to check the minor child out of school.

[~~(6)~~](12) Each parent may make decisions regarding the day-to-day care and control of the minor child while the minor child is residing with that parent.

[~~(7)~~](13) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.

[~~(8)~~](14) The parenting plan shall include a residential schedule that designates in which parent's home [~~each~~]a minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.

[~~(9)~~](15)(a) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected.

(b) Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

[~~(10)~~](16)(a) [~~When one or both parents are servicemembers~~]If a parent is a service member, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including

long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.

(b) The provisions in the parenting plan described in Subsection [~~(10)(a)~~](16)(a) shall comport substantially with the requirements of an agreement made pursuant to Section 78B-20-201.

Section 180. Section 81-9-204, which is renumbered from Section 30-3-10 is renumbered and amended to read:

~~30-3-10~~. 81-9-204. Custody and parent-time of a minor child -- Custody factors -- Preferences.

[~~(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.~~]

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

[~~(2)~~](3) [~~In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following~~]In determining the form of custody or parent-time that is in the best interests of the minor child, the court may consider the following factors for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the minor child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) [~~in accordance with Subsection (10),~~]the past conduct and demonstrated moral character of the parent as described in Subsection (8);

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the minor child to pornography or [~~material harmful to minors, as "material" and "harmful to minors" are~~]material that is harmful to minors, as those terms are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the minor child;

(k) the parent's financial responsibility;

(l) the minor child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

(m) who has been the primary caretaker of the minor child;

(n) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

(q) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

(r) any other factor the court finds relevant.

[~~(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:~~]

[~~(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;~~]

[~~(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;~~]

[~~(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or~~]

[~~(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.~~]

[~~(4)(a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.~~]

[~~(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.~~]

[~~(5)~~](4)(a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.

(b)(i) The court may inquire [~~of the child's~~] and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.

(ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.

(c)(i) If an interview with a minor child is conducted by the court [~~pursuant to~~]in accordance with Subsection [~~(5)(b)~~](4)(b), the interview shall be conducted by the [~~judge~~]court in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.

[~~(6)~~](5)(a) Except as provided in Subsection [~~(6)(b)~~](5)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

[~~(7)~~](6) This section does not establish:

(a) a preference for either parent solely because of the gender of the parent[.]; or

[~~(8)~~](b) [~~This section establishes neither a preference nor a presumption~~]a preference for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the minor child.

[~~(9)~~](7) When an issue before the court involves custodial responsibility in the event of a deployment of [~~one or both parents who are service members~~]a parent who is a service member and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

[~~(10)~~](8) In considering the past conduct and demonstrated moral standards of each party under Subsection [~~(2)(d)~~](3)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(iii) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(iv) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(9)(a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.

(b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.

(c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.

(d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.

(10) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:

(a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and

(c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.

Section 181. Section 81-9-205, which is renumbered from Section 30-3-10.2 is renumbered and amended to read:

~~30-3-10.2.~~ 81-9-205. Presumption of joint legal custody -- Joint custody factors -- Order for joint custody.

[~~(1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and the court determines that joint legal custody or joint physical custody or both is in the best interest of the child.~~]

[~~(2) In determining whether the best interest of a child will be served by ordering joint legal custody or joint physical custody or both, the court shall consider the custody factors in Section 30-3-10 and the following factors:~~]

(1) The court may order joint legal custody or joint physical custody or both joint legal custody and joint physical custody if:

(a) one or both parents have filed a parenting plan as described in Section 81-9-203; and

(b) the court determines that, by a preponderance of the evidence, joint legal custody or joint physical custody or both joint legal custody and joint physical custody is in the best interest of the minor child in accordance with Subsection (5) and Section 81-9-204.

(2)(a) There is a rebuttable presumption that joint legal custody is in the best interest of the minor child, except in cases when there is:

(i) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the minor child, a parent, or a household member of the parent;

(ii) special physical or mental needs of a parent or minor child, making joint legal custody unreasonable;

(iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(iv) any other factor the court considers relevant, including the factors described in Subsection (5) and Section 81-9-204.

(b) A presumption for joint legal custody may be rebutted by showing by a preponderance of the evidence that it is not in the best interest of the minor child.

(3)(a) Joint legal custody does not affect the physical custody of the minor child except as specified in the order of joint legal custody.

(b) Joint legal custody is not based on awarding equal or nearly equal periods of physical custody of and access to the minor child to each of the parents because the best interest of the minor child often requires that a primary physical residence for the minor child be designated.

(c) In ordering joint legal custody, the court:

(i) may include an award of exclusive authority by the court to one parent to make specific decisions regarding the minor child; and

(ii) is not prohibited from specifying one parent as the primary caretaker and one home as the primary residence of the minor child.

(4)(a) Joint physical custody may result in equal or nearly equal periods of physical custody of and access to the minor child by each of the parents to meet the best interest of the minor child.

(b) Joint physical custody may require that a physical residence for the minor child be designated.

(c) In ordering joint physical custody, the court is not prohibited from specifying one parent as the primary caretaker and one home as the primary residence of the minor child.

(5) In addition to the factors described in Section 81-9-204, the court shall consider the following factors in determining whether joint legal custody, joint physical custody, or both joint legal custody and joint physical custody, is in the best interest of the minor child:

(a) whether the physical, psychological, and emotional needs and development of the minor child will benefit from joint legal custody or joint physical custody or both joint legal custody and joint physical custody;

(b) the ability of the parents to give first priority to the welfare of the minor child and reach shared decisions in the minor child's best interest;

(c) co-parenting skills, including:

(i) ability to appropriately communicate with the other parent;

(ii) ability to encourage the sharing of love and affection; and

(iii) willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; [~~and~~]

(d) whether both parents participated in raising the minor child before the divorce;

(e) the geographical proximity of the homes of the parents;

(f) the preference of the minor child if the minor child is of sufficient age and capacity to reason so as

to form an intelligent preference as to joint legal custody or joint physical custody or both joint legal custody and joint physical custody;

(g) the maturity of the parents and their willingness and ability to protect the minor child from conflict that may arise between the parents;

(h) the past and present ability of the parents to cooperate with each other and make decisions jointly; and

(i) any other factor the court finds relevant.

[~~(3) The determination of the best interest of the child shall be by a preponderance of the evidence.~~]

[~~(4)~~](6) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.

(7) An order of joint legal custody or joint physical custody shall provide terms the court determines appropriate, which may include specifying:

(a) the county of residence of the minor child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the minor child;

(b) that the parents shall exchange information concerning the health, education, and welfare of the minor child, and where possible, confer before making decisions concerning any of these areas;

(c) the rights and duties of each parent regarding the minor child's present and future physical care, support, and education;

(d) provisions to minimize disruption of the minor child's attendance at school and other activities, the minor child's daily routine, and the minor child's association with friends; and

(e) as necessary, the remaining parental rights, privileges, duties, and powers to be exercised by the parents solely, concurrently, or jointly.

(8) An order of joint legal custody or joint physical custody shall require the parenting plan contain a dispute resolution procedure that the parties agree to use:

(a) in accordance with Subsection 81-9-203(10); and

(b) before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the minor child.

(9) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 81-9-203.

(10) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the minor child the majority of the time.

(11) The appointment of joint legal or physical custodians does not impair or limit the authority of the court to order support of the child, as defined in Section 81-6-101, including payments by one custodian to the other.

(12) An order of joint legal custody, in itself, is not grounds for modifying a support order.

[~~(5)~~](13) The court may order that when possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the minor child.

Section 182. Section 81-9-206, which is renumbered from Section 30-3-34 is renumbered and amended to read:

~~30-3-34~~. 81-9-206. Determination of parent-time schedule -- Parent-time factors.

(1) If the parties are unable to agree on a parent-time schedule, the court may:

(a) establish a parent-time schedule; or

(b) order a parent-time schedule described in [~~Section 30-3-35, 30-3-35.1, 30-3-35.2, or 30-3-35.5~~]Part 3, Parent-time Schedules.

(2) [~~The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be considered~~]There is a presumption that the advisory guidelines described in Section 81-9-202 and the parent-time schedules described in Part 3, Parent-time Schedules, are the minimum parent-time to which the noncustodial parent and the minor child [~~shall be~~]are entitled.

(3) A court may consider the following when ordering a parent-time schedule:

(a) whether parent-time would endanger the minor child's physical health or mental health, or significantly impair the minor child's emotional development;

(b) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the minor child, a parent, or a household member of the parent as described in Subsection (4) and Section 81-9-204;

(c) the distance between the residency of the minor child and the noncustodial parent;

(d) a credible allegation of child abuse has been made;

(e) the lack of demonstrated parenting skills without safeguards to ensure the minor child's well-being during parent-time;

(f) the financial inability of the noncustodial parent to provide adequate food and shelter for the minor child during periods of parent-time;

(g) the preference of the minor child if the court determines the minor child is of sufficient maturity;

(h) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

(i) shared interests between the minor child and the noncustodial parent;

(j) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the minor child;

(k) the availability of the noncustodial parent to care for the minor child when the custodial parent is unavailable to do so because of work or other circumstances;

(l) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

(m) the minimal duration of and lack of significant bonding in the parents' relationship before the conception of the minor child;

(n) the parent-time schedule of siblings;

(o) the lack of reasonable alternatives to the needs of a nursing minor child; and

(p) any other criteria the court determines relevant to the best interests of the minor child.

(4) The court shall enter the reasons underlying the court's order for parent-time that:

(a) incorporates a parent-time schedule [~~provided in Section 30-3-35 or 30-3-35.5~~]described in Section 81-9-302 or 81-9-304; or

(b) provides more or less parent-time than a parent-time schedule [~~provided in Section 30-3-35 or 30-3-35.5~~]described in Section 81-9-302 or 81-9-304.

(5) A court may not order a parent-time schedule unless the court determines by a preponderance of the evidence that the parent-time schedule is in the best interest of the minor child.

(6) Once the parent-time schedule has been established, the parties may not alter the parent-time schedule except by mutual consent of the parties or a court order.

(7)(a) If the court orders parent-time and a protective order or stalking injunction is still in place, the court shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party.

(b) The parent who is the stated victim in the protective order or stalking injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.

(c) If the court orders the parents to conduct parent-time through a third party, the parenting plan shall specify the time, day, place, manner, and the third party to be used to implement the exchange.

(8) If there is a protective order, stalking injunction, or the court finds that a parent has committed domestic violence, the court shall:

(a) consider the impact of domestic violence in awarding parent-time; and

(b) make specific findings regarding the award of parent-time.

(9) Upon a specific finding by the court of the need for peace officer enforcement, the court may include a provision in an order for parent-time that authorizes a peace officer to enforce the order for parent-time.

(10) When parent-time has not taken place for an extended period of time and the minor child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the minor child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.

Section 183. Section 81-9-207, which is renumbered from Section 30-3-34.5 is renumbered and amended to read:

~~30-3-34.5.~~ 81-9-207. Supervised parent-time.

[~~(1) Considering the fundamental liberty interests of parents and children, it is the policy of this state that divorcing parents have unrestricted and unsupervised access to their children. When necessary to protect a child and no less restrictive means is reasonably available however, a court may order supervised parent-time if the court finds evidence that the child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114, from the noncustodial parent if left unsupervised with the noncustodial parent.~~]

(1) If it is necessary to protect a minor child and there is no less restrictive means reasonably available, a court may order supervised parent-time if the court finds evidence that the minor child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114, from the noncustodial parent if left unsupervised with the noncustodial parent.

(2)(a) A court that orders supervised parent-time shall give preference to persons suggested by the parties to supervise, including relatives.

(b) If the court finds that the persons suggested by the parties are willing to supervise, and are capable of protecting the [~~children~~]minor child from physical or emotional harm, or child abuse, the court shall authorize the persons to supervise parent-time.

[~~(3)~~](c) If the court is unable to authorize any persons to supervise parent-time[~~ pursuant to Subsection (2)~~], the court may require that the noncustodial parent seek the services of a professional individual or agency to exercise their supervised parent-time.

[~~(4)~~](3) At the time supervised parent-time is imposed, the court shall consider:

(a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and

(b) whether the requirement for supervised parent-time should expire after a set period of time.

[~~(5)~~](4)(a) The court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted.

(b) The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.

[~~(6)~~](5) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court [~~in Subsection (5)~~]as described in Subsection (4) have been accomplished.

Section 184. Section 81-9-208, which is renumbered from Section 30-3-10.4 is renumbered and amended to read:

~~30-3-10.4~~. 81-9-208. Modification or termination of a custody or parent-time order -- Noncompliance with a parent-time order.

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

[~~(1)~~](2) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that there has been a substantial and material change in the circumstances of the minor child or one or both parents or joint legal or physical custodians [~~have materially and substantially changed~~]since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child; and

(c)(i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection [~~30-3-10.3(7)~~]81-9-205(8); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection [~~30-3-10.2(5)~~]81-9-205(13) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

[~~(2)~~](3)(a) In determining whether the best interest of a minor child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors [~~outlined in Section 30-3-10 and Subsection 30-3-10.2(2)~~]described in Sections 81-9-204 and 81-9-205.

(b) A court order modifying or terminating an existing joint legal custody or joint physical custody order shall contain written findings that:

(i) a [~~material and substantial~~]substantial and material change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the minor child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the minor child is thriving, happy, and well-adjusted.

[~~(3)~~](4) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with [~~Subsection 30-3-10(3)~~]Section 81-9-204.

(5) The court may modify the terms and conditions of the existing order in accordance with [~~Subsection 30-3-10(8)~~]this chapter and may order the parents to file a parenting plan in accordance with [~~this chapter~~]Section 81-9-203.

[~~(4)~~](6) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section [~~30-3-10.8~~]81-9-203.

[~~(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.~~]

[~~(6)~~](7) If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are service members, and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

(8) If the court finds that an action to modify custody or parent-time is filed or answered frivolously and, in a manner, designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(9) If a petition to modify custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the

prevailing party in that action if the court determines that the petition was without merit and not asserted or defended against in good faith.

(10) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 185. Section 81-9-209, which is renumbered from Section 30-3-37 is renumbered and amended to read:

~~30-3-37~~. 81-9-209. Notice of relocation -- Effect of relocation on parent-time schedule.

(1) [~~For purposes of this section~~]As used in this section, "relocation" means moving 150 miles or more from the residence of the other parent.

(2) The relocating parent shall provide [~~60 days advance~~]written notice [~~of the intended relocation~~]to the other parent at least 60 days before the day on which the relocating parent intends to relocate.

(3) The written notice of relocation under Subsection (2) shall contain statements affirming [~~the following~~]:

(a) the parent-time provisions in Subsection [~~(6)~~](9) or a parent-time schedule approved by both parties will be followed; and

(b) [~~neither parent will~~]that a parent will not interfere with the other's parental rights pursuant to court ordered parent-time arrangements[~~,~~] or the parent-time schedule approved by both parties.

[~~(3)~~](4) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to:

(a) review the notice of relocation and [~~parent-time schedule as provided in Section 30-3-35~~]the relevant parent-time schedule under Section 81-8-302 or 81-8-304; and

(b) make appropriate orders regarding the parent-time schedule and costs for parent-time transportation.

[~~(4)~~](5) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the minor child, consider any other factors that the court considers relevant to the determination.

(6) If the court determines that relocation is not in the best interest of the minor child, and the custodial parent relocates, the court may order a change of custody.

[~~(5)~~](7)(a) If the court finds that the relocation is in the best interest of the minor child, the court shall determine the parent-time schedule and allocate the transportation costs that will be incurred for the minor child to visit the noncustodial parent.

(b) In making [~~its determination~~]a determination under Subsection (7)(a), the court shall consider:

[~~(a)~~](i) the reason for the parent's relocation;

[~~(b)~~](ii) the additional costs or difficulty to both parents in exercising parent-time;

[~~(c)~~](iii) the economic resources of both parents; and

[~~(d)~~](iv) other factors the court considers necessary and relevant.

(8) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regard to the application of this section.

[~~(6)~~](9) Unless otherwise ordered by the court, upon the relocation[~~, as defined in Subsection (1),~~] of one of the parties, the following schedule [~~shall be the minimum requirements for parent-time for children 5 to 18 years of age~~]is the minimum parent-time the noncustodial parent is entitled to a minor child who is five to 18 years old:

(a) in years ending in an odd number, the minor child shall spend the following holidays with the noncustodial parent:

(i) Thanksgiving holiday beginning Wednesday until Sunday; and

(ii) Spring break, if applicable, beginning the last day of school before the holiday until the day before school resumes;

(b) in years ending in an even number, the minor child shall spend the following holidays with the noncustodial parent:

(i) the entire winter school break period; and

(ii) the Fall school break beginning the last day of school before the holiday until the day before school resumes;

(c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks[~~. The children should be returned to the custodial home no later than seven days before school begins;~~

~~however, this week shall be counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period~~]; and

(d) one weekend per month, at the option and expense of the noncustodial parent.

(10) For extended parent-time under Subsection (9)(c), the minor child should be returned to the custodial home no later than seven days before school begins, except that this week is counted when determining the amount of parent-time to be divided between the parents for the summer or off-track period.

[~~(7)~~](11)(a) The court may also set a parent-time schedule for [~~children under the age of five~~]a minor child who is younger than five years old.

(b) The schedule shall take into consideration the following:

[~~(a)~~](i) the age of the minor child;

[~~(b)~~](ii) the developmental needs of the minor child;

[~~(c)~~](iii) the distance between the parents' homes;

[~~(d)~~](iv) the travel arrangements and cost;

[~~(e)~~](v) the level of attachment between the minor child and the noncustodial parent; and

[~~(f)~~](vi) any other factors relevant to the best interest of the minor child.

[~~(8)~~](12) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a)(i) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend.

(ii) If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent [~~shall be~~]is entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a minor child is out of school for teacher development days or snow days after the [~~children begin~~]minor child begins the school year, or other days not included in the list of holidays in Subsection [~~(6)~~](9) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

[~~(9)~~](13) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

[~~(10)~~](14) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the [~~children~~]the minor child.

[~~(11)~~](15)(a) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best [~~interests~~]interest of the minor child.

(b) If the court orders uninterrupted parent-time during a period not covered by this section, [~~it~~] the court shall specify in its order which parent is responsible for the minor child's travel expenses.

[~~(12)~~](16)(a) Unless otherwise ordered by the court the relocating party shall be responsible for all the minor child's travel expenses relating to Subsections [~~(6)(a)~~](9)(a) and (b) and 1/2 of the minor child's travel expenses relating to Subsection [~~(6)(c)~~](9)(c), provided the noncustodial parent is current on all support obligations.

(b) If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent [~~shall be~~]is responsible for all of the minor child's travel expenses under Subsection [~~(6)~~] (9), unless the court rules otherwise.

(c) [~~Reimbursement by either~~]A responsible party shall make a reimbursement to the other for the minor child's travel expenses [~~shall be made~~]within 30 days of receipt of documents detailing those expenses.

[~~(13)~~](17) The court may apply this provision to any preexisting decree of divorce.

[~~(14)~~](18) Any action under this section may be set for an expedited hearing.

[~~(15)~~](19) A parent who fails to comply with the notice of relocation in Subsection (2) [~~shall be~~]is in contempt of the court's order.

Section 186. Section 81-9-301 is enacted to read:

81-9-301. Definitions for part.

Part 3. Parent-time Schedules

As used in this part:

(1) "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.

(2) "Weekends" include, for a parent-time schedule under Sections 81-9-302 and 81-9-303, any snow days, teacher development days, or other

days when school is not scheduled and that are contiguous to the weekend period.

Section 187. Section 81-9-302, which is renumbered from Section 30-3-35 is renumbered and amended to read:

~~30-3-35.~~ 81-9-302. Minimum schedule for parent-time for a minor child five to 18 years old.

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

[~~(a) "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.~~]

[~~(b) "Weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.~~]

[~~(2)~~](1) The parent-time schedule in this section applies to a minor child who is five to 18 years old.

[~~(3)~~](2) If the parties do not agree to a parent-time schedule for a minor child described in Subsection [~~(2)~~](1), the following schedule is considered the minimum parent-time to which the noncustodial parent is entitled to the minor child:

(a)(i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:

(A) beginning at the time that the minor child's school is regularly dismissed and ending at 8:30 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;

(b)(i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or

(ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time that the minor child's school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(13)~~](12); and

(d) extended parent-time with the minor child when school is not in session for summer break in accordance with Subsection [~~(4)~~](3).

[~~(4)~~](3)(a) For extended parent-time with the minor child under Subsection [~~(3)(d)~~](2)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the minor child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection [~~(4)(a)~~](3)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the minor child for two weeks, which may be consecutive, when school is not in session for summer break.

[~~(5)~~](4)(a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of extended parent-time for summer break under Subsection [~~(4)~~](3).

(b) For the notification requirement under Subsection [~~(5)(a)~~](4)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c)(i) If a parent fails to provide a notification within the time periods described in Subsection [~~(5)(b)~~](4)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection [~~(5)(b)~~](4)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection [~~(4)(b)(ii)~~](3)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

[~~(6)~~](5)(a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the minor child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

[~~(7)~~](6)(a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection [~~(13)~~](12);

(ii) the holiday schedule for the minor child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection [~~(4)~~](3) and takes the minor child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection [~~(13)~~](12) that is not Father's Day, Mother's Day, or the minor child's birthday;

(iv) extended parent-time under Subsection [~~(4)~~](3); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the minor child's birthday may bring other siblings along for the minor child's birthday.

[~~(8)~~](7) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the minor child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the minor child by 7 p.m.

[~~(9)~~](8) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the minor child's attendance at school for that school day.

[~~(10)~~](9) If there is more than one minor child and the minor children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the minor children may remain together for the holiday period beginning the first evening that all minor children's schools are dismissed for the holiday and ending the evening before any minor child returns to school.

[~~(11)~~](10)(a) Telephone contact shall be at reasonable hours and for a reasonable duration.

(b)(i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the minor child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

[~~(12)~~](11) If there is a minor child five to 18 years old and a minor child under five years old and both minor children are the [~~natural or adopted~~]children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule under this section.

[~~(13)~~](12) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Dr. Martin Luther King Jr. Day.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial Parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or other parent granted the holiday in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day. (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. On Labor Day.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Day of Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Minor Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 188. Section 81-9-303, which is renumbered from Section 30-3-35.1 is renumbered and amended to read:

~~30-3-35.1~~. 81-9-303. Optional schedule for parent-time for a minor child five to 18 years old.

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

[~~(a) "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.~~]

[~~(b) "Weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.~~]

[~~(2)~~](1)(a) The optional parent-time schedule in this section applies to a minor child who is five to 18 years old.

(b) For purposes of calculating child support, the optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody[~~, as defined in Section 78B-12-102~~].

[~~(3)~~](2) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the minor child's life;

(b) the parties can communicate effectively regarding the minor child or the noncustodial parent has a plan to accomplish effective communications regarding the minor child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the minor child; and

(e) any other factor the court considers relevant.

[~~(4)~~](3) In determining whether a noncustodial parent has been actively involved in the minor child's life, the court shall consider:

(a) demonstrated responsibility in caring for the minor child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the minor child's school and at extracurricular activities;

(d) assistance with the minor child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the minor child;

(f) bonding with the minor child; and

(g) any other factor the court considers relevant.

[~~(5)~~](4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the minor child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the minor child and the noncustodial parent in accordance with Subsection [~~30-3-10(6)~~]81-9-204(5);

(d) flexibility of employment or another schedule of the noncustodial parent;

(e) ability to provide appropriate playtime with the minor child;

(f) history and ability of the noncustodial parent to implement a flexible schedule for the minor child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

[~~(6)~~](5) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with [~~Sections 30-3-10.7 through 30-3-10.10~~]Section 81-9-203 shall be filed with any order incorporating the optional parent-time schedule described in Subsection [~~(7)~~](6).

[~~(7)~~](6) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the minor child:

(a)(i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the minor child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:

(A) beginning at the time the minor child's school is regularly dismissed until the following day upon delivering the minor child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the minor child to school or at 8 a.m. if there is no school;

(b)(i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the minor child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time the minor child's school is regularly dismissed on Friday and ending on

Monday upon delivering the minor child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the minor child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the minor child to school or at 8 a.m. if there is no school;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(16)~~](15); and

(d) extended parent-time with the minor child when school is not in session for summer break in accordance with Subsection [~~(8)~~](7).

[~~(8)~~](7)(a) For extended parent-time with the minor child under Subsection [~~(7)(d)~~](6)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the minor child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection [~~(8)(a)~~](7)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the minor child for two weeks, which may be consecutive, when school is not in session for summer break.

[~~(9)~~](8)(a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection [~~(8)~~](7).

(b) For the notification requirement under Subsection [~~(9)(a)~~](8)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c)(i) If a parent fails to provide a notification within the time periods described in Subsection [~~(9)(b)~~](8)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection [~~(9)(b)~~](8)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection [~~(8)(b)(ii)~~](7)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

[~~(10)~~](9)(a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the minor child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

[~~(11)~~](10)(a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection [~~(16)~~](15);

(ii) the holiday schedule for the minor child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection [~~(8)~~](7) and takes the minor child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection [~~(16)~~](15) that is not Father's Day, Mother's Day, or the minor child's birthday;

(iv) extended parent-time under Subsection [~~(8)~~](7); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the minor child's birthday may bring other siblings along for the minor child's birthday.

[~~(12)~~](11) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the minor child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the minor child by 7 p.m.

[~~(13)~~](12) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the minor child's attendance at school for that school day.

[~~(14)~~](13) If there is more than one minor child and the minor children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the

holiday, the minor children may remain together for the holiday period beginning the first evening that all minor children's schools are dismissed for the holiday and ending the evening before any minor child returns to school.

[~~(15)~~](14) If there is a minor child five to 18 years old and a minor child under five years old and both minor children are the [~~natural or adopted~~]children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule under this section.

[~~(16)~~](15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends (a) upon delivery of the minor child to school on the day following Dr. Martin Luther King Jr. Day; or (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends: (a) upon delivering the minor child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the day following Memorial Day; or (b) at 8 a.m. on the day following Memorial Day if there is no school.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in in the order.
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day . (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends (a) upon delivering the child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends (a) upon delivering the minor child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the minor child to school on the day that school resumes after winter break.	Even years	Odd years
Day of Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 189. Section 81-9-304, which is renumbered from Section 30-3-35.5 is renumbered and amended to read:

~~30-3-35.5.~~ 81-9-304. Minimum schedule for parent-time for a minor child under five years old.

[~~(1) As used in this section, "Juneteenth National Freedom Day" means the day on which the Juneteenth National Freedom Day holiday is celebrated in this state in accordance with Section 63G-1-301.~~]

[~~(2)~~](1) The parent-time schedule in this section applies to a minor child who is younger than five years old.

[~~(3)~~](2) If the parties do not agree to a parent-time schedule, the schedules in Subsections [~~(4) through (9)~~](3) through (8) are considered the minimum parent-time to which the noncustodial parent is entitled to the minor child.

[~~(4)~~](3) For a minor child who is younger than five months old, the noncustodial parent is entitled to:

(a) three two-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(16)~~](15).

[~~(5)~~](4) For a minor child who is at least five months old but younger than nine months old, the noncustodial parent is entitled to:

(a) three three-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(16)~~](15).

[~~(6)~~](5) For a minor child who is at least nine months old but younger than 12 months old, the noncustodial parent is entitled to[~~the child~~]:

(a) one eight-hour visit every week;

(b) one three-hour visit every week; and

(c) eight hours for each holiday granted to the noncustodial parent in accordance with the holiday schedule under Subsection [~~(16)~~](15).

[~~(7)~~](6) For a minor child who is at least 12 months old but younger than 18 months old, the noncustodial parent is entitled to:

(a) one three-hour visit every week;

(b) one eight-hour visit on alternating weekends to be specified by the noncustodial parent or court;

(c) an overnight visit on opposite weekends from Subsection [~~(7)(b)~~](6)(b) beginning at 6 p.m. on Friday and ending at noon on Saturday; and

(d) eight hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection [~~(16)~~](15).

[~~(8)~~](7) For a minor child who is at least 18 months old but younger than three years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the minor child is being cared for during the day outside the minor child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the minor child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(16)~~](15); and

(d) extended parent-time for two one-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) one week of uninterrupted parent-time for the noncustodial parent; and

(ii) one week of interrupted parent-time where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection [~~(8)(a)~~](7)(a).

[~~(9)~~](8) For a minor child who is at least three years old but younger than five years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the minor child is being cared for during the day outside the minor child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the minor child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection [~~(16)~~](15); and

(d) extended parent-time for two two-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) two weeks of uninterrupted parent-time, which may be consecutive, for the noncustodial parent; and

(ii) two weeks of interrupted parent-time, which may be consecutive, where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection [~~(9)(a)~~](8)(a).

[~~(10)~~](9) For a minor child who is at least 18 months old but younger than five years old, the custodial parent is entitled to one week of uninterrupted extended parent-time.

[~~(11)~~](10)(a) For a minor child who is nine months old or older, the noncustodial parent shall have at least two times a week:

(i) brief telephone contact at reasonable hours and for a reasonable duration; and

(ii) virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, at reasonable hours and for reasonable duration.

(b) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the minor child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

[~~(12)~~](11) For a minor child who is younger than nine months old, unless the parents agree otherwise, parent-time should take place in the home of the custodial parent, an established child-care setting, or other environment familiar to the minor child.

[~~(13)~~](12)(a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection [~~(16)~~](15);

(ii) the holiday schedule for the minor child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection [~~(8)(d), (9)(d), or (10)~~](7)(d), (8)(d), or (9) and takes the minor child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection [~~(16)~~](15) that is not Father's Day, Mother's Day, or the minor child's birthday;

(iv) extended parent-time under Subsection [~~(8)(d), (9)(d), or (10)~~](7)(d), (8)(d), or (9); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the minor child's birthday may bring other siblings along for the minor child's birthday.

[~~(14)~~](13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the minor child's attendance at school for that school day.

[~~(15)~~](14) A parent shall notify the other parent at least 30 days in advance of the parent's plans for the exercise of extended parent-time under Subsection [~~(8)(d), (9)(d), or (10)~~](7)(d), (8)(d), or (9).

[~~(16)~~](15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if parent is not available to be with the minor child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Dr. Martin Luther King Jr. Day.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the minor child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on President's Day.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the minor child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day. at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in in the order.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Juneteenth National Freedom Day	(1) Holiday begins at: (a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or (b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day. (2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.	Even years	Odd years
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. the parent is available to be with the minor child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Labor Day.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins at: 6 p.m.; on the day school dismisses for Thanksgiving. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at 6 p.m. on the day that school dismisses for winter break. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Day of Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 190. Section 81-9-305, which is renumbered from Section 30-3-35.2 is renumbered and amended to read:

~~30-3-35.2.~~ 81-9-305. Equal parent-time schedule.

(1)(a) A court may order the equal parent-time schedule described in this section if the court determines that:

(i) the equal parent-time schedule is in the minor child's best interest;

(ii) each parent has been actively involved in the minor child's life; and

(iii) each parent can effectively facilitate the equal parent-time schedule.

(b) To determine whether each parent has been actively involved in the minor child's life, the court shall consider:

(i) each parent's demonstrated responsibility in caring for the minor child;

(ii) each parent's involvement in child care;

(iii) each parent's presence or volunteer efforts in the minor child's school and at extracurricular activities;

(iv) each parent's assistance with the minor child's homework;

(v) each parent's involvement in preparation of meals, bath time, and bedtime for the minor child;

(vi) each parent's bond with the minor child; and

(vii) any other factor the court considers relevant.

(c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:

(i) the geographic distance between the residence of each parent and the distance between each residence and the minor child's school;

(ii) each parent's ability to assist with the minor child's after school care;

(iii) the health of the minor child and each parent, consistent with Subsection [~~30-3-10(6)~~] 81-9-204(5);

(iv) the flexibility of each parent's employment or other schedule;

(v) each parent's ability to provide appropriate playtime with the minor child;

(vi) each parent's history and ability to implement a flexible schedule for the minor child;

(vii) physical facilities of each parent's residence; and

(viii) any other factor the court considers relevant.

(2)(a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with [~~Sections 30-3-10.7 through 30-3-10.10~~]Section 81-9-203 shall be filed with an order incorporating the equal parent-time schedule.

(b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

(c) Under the equal parent-time schedule, [~~neither parent is~~]a parent is not considered to have the minor child the majority of the time for the purposes of Subsection [~~30-3-10.3(4) or 30-3-10.9(5)(c)(ii)~~]81-9-203(11)(e)(ii) or 81-9-205(10).

(d) Child support for the equal parent-time schedule shall be consistent with Section [~~78B-12-208~~]81-6-206.

(e)[~~(i)~~] A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.

[~~(ii) For the purpose of calculating child support under Section 78B-12-208, the amount of time to be spent with the parent who has the lower gross monthly income is considered 183 overnights, regardless of whether the parent receives 182 overnights or 183 overnights under Subsection (2)(e)(i).~~]

(3)(a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:

(i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;

(ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and

(iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.

(b) The child exchange shall take place:

(i) at the time the minor child's school begins; or

(ii) if school is not in session, at 9 a.m.

(4)(a) The parents may create a holiday schedule.

(b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:

(i) order the holiday schedule described in Section [~~30-3-35~~]81-9-302 or 81-9-304; and

(ii) designate which parent shall exercise parent-time for each holiday described in Section [~~30-3-35~~]81-9-302 or 81-9-304.

(5)(a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.

(b)(i) One parent may make a designation at any time and the other parent may make a designation after May 1.

(ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.

(c) The court shall designate which parent may make the earlier designation described in

Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.

(d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Section 191. Section 81-9-401, which is renumbered from Section 30-5-1 is renumbered and amended to read:

~~30-5-1.~~ 81-9-401. Definitions for part.

Part 4. Custody and Visitation by Individual Other than a Parent

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

(1) "District court" means the district court with proper jurisdiction over the [~~grandchild~~]minor child.

(2) "Grandchild" means the minor child with respect to whom a grandparent is seeking visitation rights under this [~~chapter~~]part.

(3) "Grandparent" means an individual whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

(4) "Individual other than a parent" means an individual who is not a parent and is related to the minor child by marriage or blood, including:

(a) siblings;

(b) aunts;

(c) uncles;

(d) grandparents;

(e) current or former step-parents; or

(f) any of the individuals described in Subsections (4)(a) through (d) in a step relationship to the minor child.

Section 192. Section 81-9-402, which is renumbered from Section 30-5a-103 is renumbered and amended to read:

~~30-5a-103.~~ 81-9-402. Custody and visitation for individuals other than a parent -- Venue.

(1)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of [~~the parent's children~~]a minor child of the parent.

(b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the minor child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;

(f) the loss or cessation of the relationship between the individual and the minor child would substantially harm the minor child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the minor child.

(3) [~~A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit,~~]Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) [~~A proceeding under this chapter may be filed~~]An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information [~~as set forth~~]described in Section 78B-13-209.

(6) [~~A proceeding under this chapter may not be filed~~]An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the [~~rules of civil procedure~~]Utah Rules of Civil Procedure on all of the following:

(a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the minor child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any [~~action brought under this chapter~~]proceeding brought under this section.

(9) The court may enter temporary orders in [~~an action brought under this chapter~~]a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child under this section to an individual:

(a) who is not the parent of the [~~child and~~]minor child; and

(b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

[~~(a)~~](i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

[~~(b)~~](ii) child abuse homicide, as described in Section 76-5-208;

[~~(c)~~](iii) child kidnapping, as described in Section 76-5-301.1;

[~~(d)~~](iv) human trafficking of a child, as described in Section 76-5-308.5;

[~~(e)~~](v) sexual abuse of a minor, as described in Section 76-5-401.1;

[~~(f)~~](vi) rape of a child, as described in Section 76-5-402.1;

[~~(g)~~](vii) object rape of a child, as described in Section 76-5-402.3;

[~~(h)~~](viii) sodomy on a child, as described in Section 76-5-403.1;

[~~(i)~~](ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

[~~(j)~~](x) sexual exploitation of a minor, as described in Section 76-5b-201;

[~~(k)~~](xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

[~~(l)~~](xii) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11)(a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the minor child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:

(A) the minor child's age;

(B) the minor child's gender;

(C) the minor child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a minor child who is 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the minor child is of long duration;

(B) that an emotional bond exists with the minor child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met;

(vii)(A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the minor child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the minor child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the minor child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 193. Section 81-9-403, which is renumbered from Section 30-5-2 is renumbered and amended to read:

~~30-5-2~~. 81-9-403. Visitation rights of grandparents.

(1) In accordance with the provisions and requirements of this section:

(a) a grandparent has standing to bring an action requesting visitation in district court by petition; and

(b) a grandparent may file a petition for visitation rights in the juvenile court or district court where a divorce proceeding or other proceeding involving custody and visitation issues is pending.

(2)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of [~~the parent's children~~]a minor child of the parent.

(b) A court shall presume that a parent's decision in regard to grandparent visitation is in the best interest of the parent's minor child.

(3) A court may find the presumption in Subsection (2)(b) rebutted if the grandparent, by clear and convincing evidence, establishes that:

(a) the grandparent has filled the role of custodian or caregiver to the grandchild that:

(i) is in a manner akin to a parent; and

(ii) the loss of the relationship between the grandparent and the grandchild would cause substantial harm to the grandchild; or

(b) both parents are unfit or incompetent in a manner that causes potential harm to the grandchild.

(4)(a) If the court finds the presumption in Subsection (2)(b) is rebutted, the court may consider whether grandparent visitation is in the best interest of the grandchild.

(b) If the court considers whether grandparent visitation is in the best interest of the child, the court shall take into account the totality of the circumstances, including:

(i) the reasonableness of the parent's decision to deny grandparent visitation;

(ii) the age of the grandchild;

(iii) the death or unavailability of a parent; and

(iv) if the grandchild is 14 years old or older, the grandchild's desires regarding visitation after the court inquires of the grandchild.

(5) If the court finds the presumption in Subsection (2)(b) is rebutted and grandparent visitation is in the best interest of the grandchild, the court may issue an order for grandparent visitation.

(6) [~~The~~]Notwithstanding Section 81-9-404, the adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.

(7) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsections (3) and (4).

(8) A grandparent may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

Section 194. Section 81-9-404, which is renumbered from Section 30-5a-104 is renumbered and amended to read:

~~30-5a-104~~. 81-9-404. Exceptions to visitation by nonparent.

This [~~chapter~~]part may not be used to seek, obtain, maintain or continue custody of, or visitation with, a minor child who has been relinquished for adoption, or adopted [~~pursuant to an order of a court of competent jurisdiction~~]in accordance with a court order.

Section 195. Repealer.

This bill repeals:

Section 26B-9-227, Determination of parental liability.

Section 30-1-5, Marriage solemnization -- Before unauthorized person -- Validity.

Section 30-1-9.1, Parental consent to prohibited marriage of minor -- Penalty.

Section 30-1-10, Affidavit before the clerk -- Penalty.

Section 30-1-11, Return of license after ceremony -- Failure -- Penalty.

Section 30-1-13, Solemnization without license -- Penalty.

Section 30-1-14, Acting without authority -- Penalty.

Section 30-1-15, Solemnization of prohibited marriage -- Penalty.

Section 30-1-16, Misconduct of county clerk -- Penalty.

Section 30-1-17.2, Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.

Section 30-1-17.3, Age as basis of action to determine validity of marriage -- Refusal to grant annulment.

Section 30-3-2, Right of husband to divorce.

Section 30-3-4, Pleadings -- Decree -- Use of affidavit -- Private records.

Section 30-3-5, Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

Section 30-3-5.1, Provision for income withholding in child support order.

Section 30-3-5.4, Designation of primary and secondary health, dental, or hospital insurance coverage.

Section 30-3-7, When decree becomes absolute.

Section 30-3-8, Remarriage -- When unlawful.

Section 30-3-10.3, Terms of joint legal or physical custody order.

Section 30-3-10.5, Payments of support, maintenance, and alimony.

Section 30-3-10.7, Parenting plan -- Definitions.

Section 30-3-10.8, Parenting plan -- Filing -- Modifications.

Section 30-3-10.10, Parenting plan -- Domestic violence.

Section 30-3-10.17, Social security number in court records.

Section 30-3-11.1, Family Court Act -- Purpose.

Section 30-3-11.2, Appointment of counsel for child.

Section 30-3-18, Waiting period for hearing after filing for divorce -- Exemption -- Use of counseling and education services not to be construed as condonation or promotion.

Section 30-3-32, Parent-time -- Definitions -- Considerations for parent-time -- Relocation.

Section 30-3-36, Special circumstances.

Section 30-5a-101, Title.

Section 30-5a-102, Definitions.

Section 30-8-1, Title.

Section 63I-1-230, Repeal dates: Title 30.

Section 75-2b-101, Title.

Section 78B-12-101, Title.

Section 78B-12-104, Continuing jurisdiction.

Section 78B-12-106, Ward of state -- Natural or adoptive parent has primary obligation to support -- Right of third party to recover support.

Section 78B-12-107, Duty of obligor regardless of presence or residence of obligee.

Section 78B-12-108, Support follows the child.

Section 78B-12-110, Appeals.

Section 78B-12-111, Court order -- Medical expenses of dependent children -- Assigning responsibility for payment -- Insurance coverage -- Income withholding.

Section 78B-12-116, Social Security number in court records.

Section 78B-12-117, Rights are in addition to those presently existing.

Section 78B-12-202, Determination of amount of support -- Rebuttable guidelines.

Section 78B-12-204, Adjusted gross income.

Section 78B-12-205, Calculation of obligations.

Section 78B-12-206, Income in excess of tables.

Section 78B-12-207, Obligation -- Adjusted gross income used.

Section 78B-12-208, Joint physical custody -- Obligation calculations.

Section 78B-12-209, Split custody -- Obligation calculations.

Section 78B-12-211, Limitation on amount of support ordered.

Section 78B-12-212.1, Pregnancy expenses.

Section 78B-12-213, Determination of parental liability.

Section 78B-12-215, Child care costs.

Section 78B-12-219, Adjustment when child becomes emancipated.

Section 196. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on September 1, 2024.

(2) The actions affecting Section 78A-5a-103 (Effective 10/01/24) take effect on October 1, 2024.

Section 197. Coordinating S.B. 95 with H.B. 134.

If S.B. 95, Domestic Relations Recodification, and H.B. 134, Marriage Modifications, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) Section 30-1-2.2 be repealed; and

(2) Section 30-1-2.4 enacted in H.B.134 be renumbered to Section 81-2-405.

Section 198. Coordinating S.B. 95 with H.B. 140.

If S.B. 95, Domestic Relations Recodification, and H.B. 140, Amendments to Custody and Parent-time, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) all references to the term "child" in Subsection 30-3-33(18) in H.B. 140 change to "minor child"; and

(2) Subsections 30-3-10.4(1) and (2) in H.B. 140 be amended to read:

"(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child; and

(b) knows that the individual:

(i) is required to register as a sex offender or a kidnap offender for an offense against a minor child under Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or

(iii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections (2)(b)(iii)(A) through (D).".

Section 199. Coordinating S.B. 95 with H.B. 157.

If S.B. 95, Domestic Relations Recodification, and H.B. 157, Child Custody Factor Amendments, both pass and become law, the Legislature intends that, on September 1, 2024, all references to "child" in Subsection 30-3-10(10)(b) in H.B. 157 change to "minor child."

Section 200. Coordinating S.B. 95 with H.B. 328.

If S.B. 95, Domestic Relations Recodification, and H.B. 328, Victims of Sexual Offenses Amendments, both pass and become law, the Legislature intends that, on September 1, 2024, all references to "child" in Subsections 30-3-10(11) and 30-3-10(12) in H.B. 328 change to "minor child."

Section 201. Coordinating S.B. 95 with H.B. 337.

If S.B. 95, Domestic Relations Recodification, and H.B. 337, Amendments to Mandatory Courses for Family Law Actions, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) the changes to Subsection 81-9-208(2)(c)(i) in S.B. 95 supersede the changes to Subsection 30-3-10.4(1)(c)(i) in H.B. 337;

(2) Section 30-3-11.3 be renumbered to Section 81-9-103 and be amended to read:

"**[30-3-11.3.] 81-9-103. Mandatory parenting course for parties in a divorce or parentage action.**

(1) The Judicial Council shall approve and implement:

(a) a mandatory parenting course [~~for divorcing parents~~] in all judicial districts[~~. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.~~] for married parties in a divorce action determining issues of child custody and parent-time; and

(b) a mandatory parenting course in all judicial districts for unmarried parties in a parentage action determining issues of child custody and parent-time.

(2) The Judicial Council shall adopt rules to implement and administer [~~this program.~~]the mandatory parenting courses described in Subsection (1).

[~~(3) (a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.~~

~~(b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.~~

~~(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.~~

~~(5)~~] (3) [~~The mandatory course shall instruct both parties:~~] The mandatory parenting courses shall educate and sensitize parties to the needs of the parties' minor child during and after the court process, including instructing the parties:

(a) about [~~divorce and its impacts~~] the impact of the court process, and its outcome, on:

(i) [~~their child or children~~] the minor child;

(ii) [~~their~~] the family relationship; and

(iii) [~~their financial responsibilities for their child or children~~] the financial responsibilities of the parties to the minor child; and

(b) that domestic violence has a harmful effect on [~~children~~] a minor child and family relationships.

[~~(6)~~] (4) (a) [~~The course~~] The mandatory parenting course may be provided through live instruction, video instruction, or an online provider.

(b) The online and video options under Subsection (4)(a) must be formatted as interactive presentations that ensure active participation and learning by the [~~parent~~] party.

[~~(7)~~] (5) (a) The Administrative Office of the Courts shall administer [~~the course pursuant to~~] the mandatory parenting courses, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts.

(b) The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties[~~, pursuant to Subsection (9)~~] as described in Subsection (7).

[~~(8)~~] (6) A certificate of completion constitutes evidence to the court of [~~course~~] completion of a parenting course under this section by the parties.

[~~(9)~~] (7) (a) Each party shall pay the [~~costs of the~~] cost of the parenting course to the independent contractor providing the course at the time and place of the course.

(b) A fee of $8 shall be collected, as part of [~~the course~~] a parenting course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

[~~(b)~~] (c) Each party who is unable to pay the [~~costs of the~~] cost of a parenting course may attend the parenting course, without payment, upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the [~~district~~] court in accordance with Section 78A-2-302. [~~In those situations, the independent contractor shall be reimbursed for the independent contractor's costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of indigency and may order the payment of the costs if so determined.~~]

(d) The Administrative Office of the Courts shall use appropriations from the Children's Legal Defense Account to reimburse an independent contractor for the costs of a party who is unable to pay for a parenting course under Subsection (7)(c).

[~~(10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).~~

~~(11)~~] (8) The Administrative Office of the Courts shall:

(a) adopt a program to evaluate the effectiveness of [~~the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.~~] the mandatory parenting courses; and

(b) provide progress reports to the Judiciary Interim Committee if requested.";

(3) Section 30-3-11.4 be renumbered to Section 81-4-105, except the changes within Section 30-3-11.4 in H.B. 337 supersede the changes within Section 30-3-11.4 in S.B. 95;

(4) Subsection 81-4-401(2) enacted in S.B. 95 be amended to read:

"(2) "Mandatory courses" means:

(a) the mandatory divorce orientation course described in Section 81-4-105; and

(b) the mandatory parenting course described in Section 81-9-103.";

(5) Subsection 51-9-408(3)(a)(i) be amended to read:

"(i) implementing the mandatory courses described in Sections 81-4-105 and 81-9-103 and the mediation program for child custody or parent-time;"; and

(6) the reference in Subsection 78B-15-610(4)(a) in H.B. 337 to "Subsection 30-3-11.3(1)(b)" be changed to "Subsection 81-9-103(1)(b)."

Section 202. Coordinating S.B. 95 with S.B. 81.

If S.B. 95, Domestic Relations Recodification, and S.B. 81, County Clerk Amendments, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) Subsection 81-2-303(3)(b) in S.B. 95 be amended to read:

"(b) The Department of Health[~~, Bureau of Vital Records and Health~~] and Human Services, Office of

Vital Records and Statistics shall, upon request, supply the social security numbers to the Department of Health and Human Services, Office of Recovery Services [~~within the Department of Human Services~~].";

(2) Subsection 81-2-303(4) in S.B. 95 be amended to read:

"(4) (a) A county clerk may not issue a marriage license until the county clerk receives:

(i) an affidavit from each party applying for the marriage license, stating that there is no lawful reason preventing the marriage; and

(ii) if one of the parties will not be physically present in the state at the time of solemnization of the marriage, an affidavit from each party applying for the marriage license, stating that the party consents to personal jurisdiction of the state, and of the county issuing the marriage license, for the purposes of filing a divorce or annulment of the marriage.

(b) A county clerk shall file and preserve each affidavit provided under this section.

(c) A party who makes an affidavit described in Subsection (4)(a), or a subscribing witness to the affidavit, who falsely swears in the affidavit is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.";

(3) Subsection 81-2-305(5) in S.B. 95 be amended to read:

"(5) (a) Within 30 days after the day on which a marriage is solemnized, the individual solemnizing the marriage shall return the marriage license to the county clerk that issued the marriage license with a certificate of the marriage over the individual's signature stating the date and place of solemnization and the names of two or more witnesses present at the marriage.

(b) An individual described in Subsection (5)(a) who fails to return the license is guilty of an infraction.

(c) An individual described in Subsection (5)(a) who knowingly or intentionally makes a false statement on a certificate of marriage is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.";

(4) Subsection 81-2-408(3)(b) in S.B. 95 be amended to read:

"(b) Except as otherwise explicitly provided by law, Subsection (3)(a) may not be construed to validate a marriage that:

(i) is prohibited or void under Section 81-2-403; or

(ii) fails to meet the requirements of Section 81-2-302, as validated by a court with jurisdiction."; and

(5) the reference in Section 30-1-7 in S.B. 81 to "Subsection 30-1-10(1)" be changed to "Subsection 81-2-303(4)(a)."

Section 203. Coordinating S.B. 95 with S.B. 81 and H.B. 337 if all pass and become law.

If S.B. 95, Domestic Relations Recodification, S.B. 81, County Clerk Amendments, and H.B. 337, Amendments to Mandatory Courses for Family Law Actions, all pass and become law, the Legislature intends that, on September 1, 2024:

(1) Section 81-4-104 (renumbered from Section 30-3-4.5) in S.B. 95 be amended to read:

"**[30-3-4.5] 81-4-104. Temporary separation order.**

[~~(1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:~~

~~(a) the petitioner is lawfully married to the respondent; and~~

~~(b) both parties are residents of the state for at least 90 days prior to the date of filing.~~]

(1) An individual may file an action for a temporary separation order, without filing a petition for divorce, by filing a petition for temporary separation and motion for temporary orders if:

(a) the individual is lawfully married to the individual from whom the separation is sought; and

(b) (i) both parties are residents of the state for at least 90 days before the day on which the action is filed; or

(ii) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(4)(a)(ii).

(2) The temporary orders are valid for one year [~~from the date of the hearing,~~] after the day on which the hearing for the order is held or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

[~~(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.~~

~~(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.~~

~~(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the~~

~~separation filing fee shall be credited towards the filing fee for the divorce.~~]

(4) (a) If the parties to the temporary separation action have a minor child, the parties shall attend the divorce orientation course described in Section 81-4-105:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to the temporary separation action do not have a minor child, the parties may choose to attend the divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the divorce orientation course requirement.

(d) A petition shall include information regarding the divorce orientation course requirement when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the divorce orientation course, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the divorce orientation course if the court determines the party is not indigent.

(6) (a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the temporary separation petition until the moving party completes the divorce orientation course.

(b) It is an affirmative defense in a temporary separation action that a party has not completed the divorce orientation course and the action may not continue until a party has complied with the divorce orientation course.

(7) (a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the divorce orientation course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the temporary separation action to proceed.

(8) The petitioner shall serve the petition for a temporary separation order in accordance with the Utah Rules of Civil Procedure.

(9) If a party files for divorce within one year after the day on which the petition for temporary separation is filed, the filing fee for a petition for temporary separation shall be credited towards the filing fee for a divorce."; and

(2) Section 81-4-402 enacted in S.B. 95 be amended to read:

"**81-4-402. Petition for divorce -- Divorce proceeding -- Temporary orders.**

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed;

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed; or

(c) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(4)(a)(ii).

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3) (a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4) (a) If the parties to the divorce action have a minor child, the parties shall attend the mandatory courses:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the mandatory courses, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the mandatory courses if the court determines the party is not indigent.

(6) (a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(b) It is an affirmative defense in a divorce action that a party has not completed the mandatory

courses and the action may not continue until a party has complied with the mandatory courses.

(7) (a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the mandatory courses, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

(8) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.".

Section 204. Coordinating S.B. 95 with S.B. 81 if H.B. 337 does not pass and become law.

If S.B. 95, Domestic Relations Recodification, and S.B. 81, County Clerk Amendments, both pass and become law, and H.B. 337, Amendments to Mandatory Courses for Family Law Actions, does not pass and become law, the Legislature intends that, on September 1, 2024:

(1) Section 81-4-104 (renumbered from Section 30-3-4.5) in S.B. 95 be amended to read:

"**[30-3-4.5.] 81-4-104. Temporary separation order.**

[~~(1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:~~

~~(a) the petitioner is lawfully married to the respondent; and~~

~~(b) both parties are residents of the state for at least 90 days prior to the date of filing.~~]

(1) An individual may file an action for a temporary separation order, without filing a petition for divorce, by filing a petition for temporary separation and motion for temporary orders if:

(a) the individual is lawfully married to the individual from whom the separation is sought; and

(b) (i) both parties are residents of the state for at least 90 days before the day on which the action is filed; or

(ii) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(4)(a)(ii).

(2) The temporary orders are valid for one year [~~from the date of the hearing~~] after the day on which the hearing for the order is held, or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

(4) (a) [~~Both~~] If the parties have a minor child, the parties shall attend the divorce orientation course described in Section [~~30-3-11.4~~] 81-4-105 within:

(i) 60 days of the filing of the petition, for the petitioner[~~, and within~~]; and

(ii) 45 days of being served, for the respondent.

(b) The clerk of the court shall provide notice to the petitioner of the requirement for the divorce orientation course.

(c) The petition shall include information regarding the divorce orientation course when the petition is served on the respondent.

(d) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the petition for temporary separation, until the moving party completes the divorce orientation course.

(e) The court may waive the requirement for the parties to attend the mandatory courses under this Subsection (4), on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(5) The petitioner shall serve the petition for a temporary separation order in accordance with the Utah Rules of Civil Procedure.

(6) If a party files for divorce within one year after the day on which the petition fortemporary separation is filed, the filing fee for a petition for temporary separation shall be credited towards the filing fee for a divorce.

[~~(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.~~

~~(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.~~] "; and

(2) Section 81-4-402 enacted in S.B. 95 be amended to read:

"**81-4-402. Petition for Divorce -- Divorce proceedings -- Temporary orders.**

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed;

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed; or

(c) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(4)(a)(ii).

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3) (a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4) (a) Except as provided in Subsection (5), if the parties to the divorce action have a minor child, the parties shall attend the mandatory courses described in Sections 81-4-105 and 81-4-106 within:

(i) for the petitioner, 60 days after the day on which the petition is filed; and

(ii) for the respondent, 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the mandatory divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(e) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(5) (a) The court may waive the requirement for the parties to attend the mandatory courses under Subsection (4), on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

(6) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.".

Section 205. Coordinating S.B. 95 with H.B. 337 if S.B. 81 does not pass and become law.

If S.B. 95, Domestic Relations Recodification, and H.B. 337, Amendments to Mandatory Courses for Family Law Actions, both pass and become law, and S.B. 81, County Clerk Amendments, does not pass and become law, the Legislature intends that, on September 1, 2024:

(1) Section 81-4-104 (renumbered from Section 30-3-4.5) in S.B. 95 be amended to read:

"[**30-3-4.5**]. **81-4-104. Temporary separation order.**

(1) [~~A petitioner~~] An individual may file an action for a temporary separation order, without filing a petition for divorce, by filing a petition for temporary separation and motion for temporary orders if:

(a) the [~~petitioner~~] individual is lawfully married to the [~~respondent~~] individual from whom the separation is sought; and

(b) both parties are residents of the state for at least 90 days [~~prior to the date of filing~~] before the day on which the action is filed.

(2) The temporary orders are valid for one year [~~from the date of the hearing,~~] after the day on which the hearing for the order is held or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

[~~(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.~~

~~(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.~~

~~(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.~~]

(4) (a) If the parties to the temporary separation action have a minor child, the parties shall attend the divorce orientation course described in Section 81-4-105:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to the temporary separation action do not have a minor child, the parties may choose to attend the divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the divorce orientation course requirement.

(d) A petition shall include information regarding the divorce orientation course requirement when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the divorce orientation course, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the divorce orientation course if the court determines the party is not indigent.

(6) (a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the temporary separation petition until the moving party completes the divorce orientation course.

(b) It is an affirmative defense in a temporary separation action that a party has not completed the divorce orientation course and the action may not continue until a party has complied with the divorce orientation course.

(7) (a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the divorce orientation course, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the temporary separation action to proceed.

(8) The petitioner shall serve the petition for a temporary separation order in accordance with the Utah Rules of Civil Procedure.

(9) If a party files for divorce within one year after the day on which the petition for temporary separation is filed, the filing fee for a petition for temporary separation shall be credited towards the filing fee for a divorce."; and

(2) Section 81-4-402 enacted in S.B. 95 be amended to read:

"81-4-402. Petition for divorce -- Divorce proceeding -- Temporary orders.

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed; or

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed.

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3) (a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4) (a) If the parties to the divorce action have a minor child, the parties shall attend the mandatory courses:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the mandatory courses, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the mandatory courses if the court determines the party is not indigent.

(6) (a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.

(b) It is an affirmative defense in a divorce action that a party has not completed the mandatory courses and the action may not continue until a party has complied with the mandatory courses.

(7) (a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the mandatory courses, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.

(b) If the requirement is waived, the court may permit the divorce action to proceed.

(8) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.".

CHAPTER 367
S. B. 126
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

GESTATIONAL AGREEMENT REQUIREMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill amends provisions relating to gestational agreements.

Highlighted Provisions:

This bill:

- amends requirements regarding a prospective gestational mother's spouse; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-15-801, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-802, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-803, as last amended by Laws of Utah 2020, Chapter 101
78B-15-806, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-15-808, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section 78B-15-801 is amended to read:

78B-15-801. Gestational agreement authorized.

(1) A prospective gestational mother, [~~her husband~~]the prospective gestational mother's spouse if [~~she~~]the prospective gestational mother is married, a donor or the donors, and the intended parents may enter into a written agreement providing that:

(a) the prospective gestational mother agrees to pregnancy by means of assisted reproduction;

(b) the prospective gestational mother, [~~her husband~~]the prospective gestational mother's spouse if [~~she~~]the prospective gestational mother is married, and the donors relinquish all rights and duties as the parents of a child conceived through assisted reproduction; and

(c) the intended parents become the parents of the child.

(2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance.

(3)(a) The intended parents shall be married[~~, and both spouses~~].

(b) Both intended parents must be parties to the gestational agreement.

(4) A gestational agreement is enforceable only if validated as provided in Section 78B-15-803.

(5) A gestational agreement does not apply:

(a) to the birth of a child conceived by means of sexual intercourse; or

(b) if neither intended parent is a donor.

(6) The parties to a gestational agreement shall be 21 years [~~of age~~]old or older.

(7) The gestational mother's eggs may not be used in the assisted reproduction procedure.

(8) If the gestational mother is married, [~~her husband's~~]the gestational mother's spouse's sperm or eggs may not be used in the assisted reproduction procedure.

Section 2. Section 78B-15-802 is amended to read:

78B-15-802. Requirements of petition.

(1) The intended parents and the prospective gestational mother may file a petition in the district tribunal to validate a gestational agreement.

(2) A petition to validate a gestational agreement may not be maintained unless either the mother or intended parents have been residents of this state for at least 90 days.

(3) The prospective gestational mother's [~~husband~~]spouse, if [~~she~~]the prospective gestational mother is married, must join in the petition.

(4) A copy of the gestational agreement must be attached to the petition.

Section 3. Section 78B-15-803 is amended to read:

78B-15-803. Hearing to validate gestational agreement.

(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.

(2) The tribunal may issue an order under Subsection (1) only on finding that:

(a) the residence requirements of Section 78B-15-802 have been satisfied and the parties have submitted to the jurisdiction of the tribunal under the jurisdictional standards of this part;

(b) unless waived by the tribunal, a home study of the intended parents has been conducted in accordance with Sections 78B-6-128 through 78B-6-131, and the intended parents meet the standards of fitness applicable to adoptive parents;

(c) all parties have participated in counseling with a licensed mental health professional as evidenced by a certificate:

(i) signed by the licensed mental health professional that affirms that all parties have discussed options and consequences of the agreement; and

(ii) presented to the tribunal;

(d) all parties have voluntarily entered into the agreement and understand the agreement's terms;

(e) the prospective gestational mother has had at least one pregnancy and delivery and [~~her~~]the prospective gestational mother's bearing another child will not pose an unreasonable health risk to the unborn child or to the physical or mental health of the prospective gestational mother;

(f) adequate provision has been made for all reasonable health-care expense associated with the gestational agreement until the birth of the child, including responsibility for all reasonable health-care expense if the agreement is terminated;

(g) the consideration, if any, paid to the prospective gestational mother is reasonable;

(h) all the parties to the agreement are 21 years old or older;

(i) the gestational mother's eggs are not being used in the assisted reproduction procedure; and

(j) if the gestational mother is married, [~~her husband's sperm is~~]the gestational mother's spouse's sperm or eggs are not being used in the assisted reproduction procedure.

(3) Whether to validate a gestational agreement is within the discretion of the tribunal, subject only to review for abuse of discretion.

Section 4. Section 78B-15-806 is amended to read:

78B-15-806. Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, [~~her husband~~]the prospective gestational mother's spouse, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.

(2) The tribunal for good cause shown also may terminate the gestational agreement.

(3) An individual who terminates an agreement shall file notice of the termination with the tribunal. On receipt of the notice, the tribunal shall vacate the order issued under this part. An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.

(4) [~~Neither a prospective gestational mother nor her husband, if any, is liable~~]A prospective gestational mother, or the prospective gestational mother's spouse if married, is not liable to the intended parents for terminating an agreement pursuant to this section.

Section 5. Section 78B-15-808 is amended to read:

78B-15-808. Gestational agreement -- Miscellaneous provisions.

(1) A gestational agreement may provide for payment of consideration.

(2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard [~~her~~]the gestational mother's health or that of the embryo or fetus.

(3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and [~~her husband's~~]the gestational mother's spouse's consent to the agreement is not required, nor is [~~her husband~~]the gestational mother's spouse a presumed [~~father~~]parent of the resulting child.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 368
S. B. 144
Passed February 27, 2024
Approved March 18, 2024
Effective May 1, 2024

PUBLIC ART FUNDING AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill creates a state matching program for local installation of public art.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the purposes of the Utah Percent-for-Art Act;
- creates the Public Art Installation Initiative;
- authorizes the Division of Arts and Museums to offer a qualifying county of the first class, a municipality in a county of the first class, or a metro township in a county of the first class a dollar-for-dollar state match on local funding for the purchase or commission of a public art installation;
- authorizes the Division of Arts and Museums to make rules; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-6-402, as renumbered and amended by Laws of Utah 1992, Chapter 241
9-6-403, as last amended by Laws of Utah 1993, Chapter 4
9-6-404, as renumbered and amended by Laws of Utah 1992, Chapter 241
63A-5b-609, as last amended by Laws of Utah 2020, Chapter 261 and renumbered and amended by Laws of Utah 2020, Chapter 152
63I-2-209, as last amended by Laws of Utah 2023, Chapter 33

ENACTS:

9-6-410, Utah Code Annotated 1953

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

Section 1. Section 9-6-402 is amended to read:

9-6-402. Purpose.

This part is designed to:

(1) establish a program which administers that portion of appropriations for capital expenditures which is set aside[-]:

(a) for the acquisition of works of art used for public buildings; and

(b) to facilitate public art installations as described in Section 9-6-410;

(2) enhance the quality of life in the state by placing art of the highest quality in public spaces where it is seen by the general public;

(3) promote and preserve appreciation for and exposure to the arts; and

(4) foster cultural development in the state and encourage the creativity and talents of its artists and craftspeople.

Section 2. Section 9-6-403 is amended to read:

9-6-403. Definitions.

As used in this part:

(1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the artist's peers as a professional who is committed to producing high quality work on a regular basis, and who is not the project architect or a member of the project's architectural firm.

(2) "Acquired or constructed" means acquired, constructed, reconstructed, restored, enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part with state funds.

(3) "Contracting agency" means the state agency which is responsible for supervising the principal user of a state building or facility.

(4) "Public art installation" means a work of art:

(a) owned by a:

(i) county of the first class; or

(ii) municipality or metro township in a county of the first class;

(b) created by an artist, with a preference for a Utah artist;

(c) located in a public place where the county of the first class, municipality in a county of the first class, or metro township in a county of the first class has jurisdiction; and

(d) that is intended to be a permanent fixture in the public place.

[~~(4)~~](5) "Principal user" means the department, board, commission, institution, or agency of the state for the principal use of which a state building or facility is acquired or constructed.

[~~(5)~~](6)(a) "Program" means the Percent-for-Art Program created in this part.

(b) "Program" does not mean the Public Art Installation Initiative created in Section 9-6-410.

[~~(6)~~](7) "Project" means the project whereby state buildings or facilities are acquired or constructed.

[~~(7)~~](8)(a) "State building or facility" means a state building, permanent structure, facility, park, or appurtenant structure thereof, wholly or partially enclosed, which includes, but is not restricted to a space or facility used or to be used for carrying out the functions of a department, board,

commission, institution, or agency of the state, including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms, classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest areas.

(b) "State building or facility" does not include motor pools, heating plants, sheds, sewers, parking lots, bridges, highways, or buildings used solely for storage or warehousing.

(9) "Utah artist" means:

(a) an individual who produces paintings, drawings, photos, sculptures, or similar works; and

(b) who has:

(i) lived in Utah a minimum of ten years; or

(ii) a primary residence in the state.

[~~(8)~~](10) "Work of art" or "works of art" means any form of original creation of visual art including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain, painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic, supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

Section 3. Section 9-6-404 is amended to read:

9-6-404. Creation of program -- Use of appropriations.

(1) A Percent-for-Art Program shall be administered by the division.

(2)(a) [~~Any~~]An appropriation received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is not located in a county of the first class shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.

(b) For appropriations annually received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is located in a county of the first class:

(i) eighty percent shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division; and

(ii) twenty percent shall be used to support the Public Art Installation Initiative described in Section 9-6-410.

(c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Section 4. Section 9-6-410 is enacted to read:

9-6-410. Public Art Installation Initiative.

(1) As used in this section:

(a) "Applicant" means:

(i) a county of the first class;

(ii) a municipality in a county of the first class; or

(iii) a metro township in a county of the first class.

(b)(i) "Local funds" means money in the possession of a county, municipality, or metro township through local revenue generation, private donation, or federal or philanthropic grant.

(ii) "Local funds" does not mean money from a state grant.

(2) There is created a Public Art Installation Initiative to be administered by the division.

(3) Within available funds, the division may award an applicant a dollar-for-dollar match on the purchase or commission of a public art installation as described in this section.

(4) Before the division may offer a dollar-for-dollar match as described in Subsection (3), an applicant shall provide the division with:

(a) documentation of the local funds dedicated to the proposed public art installation;

(b) a description or rendering of the proposed public art installation;

(c) a copy of any contractual agreement the applicant has with the proposed artist, or a template contractual agreement to be offered to an artist; and

(d) any other information requested by the division.

(5) The division shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) an application process;

(b) a process to approve or deny an application, in accordance with the purposes described in Section 9-6-402; and

(c) a process to prioritize applications in the event of limited funding.

(6) The division:

(a) may solicit and receive a donation to further the objectives of this section; and

(b) shall deposit any donation received to further the objectives of this section and reserve the use of that donation for the Public Art Installation Initiative.

(7) A donation under Subsection (6) may not supplant appropriations for the Public Art Installation Initiative as described in Subsection 9-6-404(2)(b).

Section 5. Section 63A-5b-609 is amended to read:

63A-5b-609. Expenditure of appropriated funds supervised by director -- Contingencies -- Disposition of project reserve funds -- Set aside for Utah Percent-for-Art Program.

(1) The director shall:

(a)(i) supervise the expenditure of funds in providing plans, engineering specifications, sites,

and construction of the buildings for which legislative appropriations are made; and

(ii) specifically allocate money appropriated if more than one project is included in any single appropriation without legislative directive;

(b)(i) expend the amount necessary from appropriations for planning, engineering, and architectural work; and

(ii)(A) allocate amounts from appropriations necessary to cover expenditures previously made from the planning fund under Section 63A-5b-503 in the preparation of plans, engineering, and specifications; and

(B) return the amounts described in Subsection (1)(b)(ii)(A) to the planning fund; and

(c) hold in a statewide contingency reserve the amount budgeted for contingencies:

(i) in appropriations for the construction or remodeling of facilities; and

(ii) that are over and above all amounts obligated by contract for planning, engineering, architectural work, sites, and construction contracts.

(2)(a) The director shall base the amount budgeted for contingencies on a sliding scale percentage of the construction cost ranging from:

(i) [~~4-1/2~~]4.5% to [~~6-1/2~~]6.5% for new construction; and

(ii) 6% to [~~9-1/2~~]9.5% for remodeling projects.

(b) The director shall hold the statewide contingency funds to cover:

(i) costs of change orders; and

(ii) unforeseen, necessary costs beyond those specifically budgeted for the project.

(c)(i) The Legislature shall annually review the percentage and the amount held in the statewide contingency reserve.

(ii) The Legislature may reappropriate to other building needs, including the cost of administering building projects, any amount from the statewide contingency reserve that is in excess of the reserve required to meet future contingency needs.

(3)(a) The director shall hold in a separate project reserve state appropriated funds accrued through bid savings and project residual.

(b) The director shall account for the funds accrued under Subsection (3)(a) in separate accounts as follows:

(i) bid savings and project residual from a capital improvement project, as defined in Section 63A-5b-401; and

(ii) bid savings and project residual from a capital development project, as defined in Section 63A-5b-401.

(c) The director may use project reserve funds in the account described in Subsection (3)(b)(i) for a capital improvement project:

(i) approved under Section 63A-5b-405; and

(ii) for which funds are not allocated.

(d) The director may:

(i) authorize the use of project reserve funds in the accounts described in Subsection (3)(b) for the award of contracts in excess of a project's construction budget if the use is required to meet the intent of the project;

(ii) transfer money from the account described in Subsection (3)(b)(i) to the account described in Subsection (3)(b)(ii) if a capital development project has exceeded its construction budget; and

(iii) use project reserve funds for any emergency capital improvement project, whether or not the emergency capital improvement project is related to a project that has exceeded its construction budget.

(e) The director shall report to the Office of the Legislative Fiscal Analyst within 30 days:

(i) an expenditure under Subsection (3)(c); or

(ii) a transfer under Subsection (3)(d).

(f) The Legislature shall annually review the amount held in the project reserve for possible reallocation by the Legislature to other building needs, including the cost of administering building projects.

(4) If any part of the appropriation for a building project, other than the part set aside for the Utah Percent-for-Art Program under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act, remains unencumbered after the award of construction and professional service contracts and establishing a reserve for fixed and moveable equipment, the balance of the appropriation is dedicated to the project reserve and does not revert to the General Fund.

(5)(a)(i) One percent of the amount appropriated for the construction of any new state building or facility may be appropriated and set aside for the Utah Percent-for-Art Program administered by the Division of Fine Arts under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(ii) The total amount appropriated and set aside under Subsection (5)(a)(i) may not exceed[~~-~~]:

(A) $200,000[~~-~~], if the new state building or facility is not located in a county of the first class; and

(B) $250,000, if the new state building or facility is located in a county of the first class.

(b) The director shall release to the Division of Fine Arts any funds included in an appropriation to the division that are designated by the Legislature for the Utah Percent-for-Art Program.

(c) Funds from appropriations for a state building or facility may not be set aside:

(i) if any part of the funds is derived from the issuance of bonds; and

(ii) to the extent the set aside of funds would jeopardize the federal income tax exemption otherwise allowed for interest paid on bonds.

Section 6. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Subsection 9-6-402(1)(b) is repealed January 1, 2035.

(2) Subsections 9-6-403(4) and (6)(b) are repealed January 1, 2035.

(3) Subsection 9-6-404(2)(a) is amended to read, "Any appropriation received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division." on January 1, 2035.

(4) Subsection 9-4-404(2)(b) is repealed January 1, 2035.

(5) Section 9-6-410 is repealed January 1, 2035.

(6) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

[~~(2)~~](7) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

[~~(3)~~](8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

[~~(4)~~](9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

[~~(5)~~](10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 369
S. B. 145
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

UTILITY EASEMENTS AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions related to the marking of utilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires utility operators to create a statewide association to manage requests to utility operators to mark utility facilities before excavation;
- requires excavators to provide notice to the association before beginning excavation; and
- describes the process for an excavator to notify others of contact or damage to a utility facility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-3-29, as last amended by Laws of Utah 2012, Chapter 347
54-8a-2, as last amended by Laws of Utah 2011, Chapter 426
54-8a-4, as last amended by Laws of Utah 2011, Chapter 426
54-8a-5, as last amended by Laws of Utah 2011, Chapter 426
54-8a-5.5, as last amended by Laws of Utah 2011, Chapter 426
54-8a-6, as last amended by Laws of Utah 2011, Chapter 426
54-8a-7, as last amended by Laws of Utah 2008, Chapter 344
54-8a-7.5, as enacted by Laws of Utah 2011, Chapter 426
54-8a-8, as last amended by Laws of Utah 2011, Chapter 426
54-8a-9, as last amended by Laws of Utah 2010, Chapter 272
54-8a-11, as last amended by Laws of Utah 2011, Chapter 340
54-8a-13, as last amended by Laws of Utah 2010, Chapter 286

REPEALS:

54-8a-3, as last amended by Laws of Utah 2008, Chapter 344

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

Section 1. Section 54-3-29 is amended to read:

54-3-29. Removal, relocation, or alteration of utility facility in public highway construction or reconstruction -- Notice -- Cooperation.

(1) As used in this section:

(a) "Design-build" means a design-build transportation project for which a design-build transportation project contract is issued, within the meaning of Section 63G-6a-1402.

(b) "Municipality" [~~is as~~]means the same as that term is defined in Section 10-1-104.

(c) "Political subdivision" means a:

(i) county; [~~or~~]

(ii) municipality; or

(iii) special service district.

(d) "Public agency" means an entity of state government or a political subdivision.

(e) "Public highway" means a highway, street, road, or alley constructed for public use in the state.

(f) "Utility company" means a privately, cooperatively, or publicly owned utility, including a utility owned by a political subdivision, that provides service using a utility facility.

(g) "Utility facility" means:

(i) a telecommunications, gas, electricity, cable television, water, sewer, or data facility;

(ii) a video transmission line;

(iii) a drainage and irrigation system; or

(iv) a facility similar to those listed in Subsections (1)(g)(i) through (iii) located in, on, along, across, over, through, or under any public highway.

(2) If a public agency engages in or proposes to engage in a construction or reconstruction project on a public highway that may require the removal, relocation, or alteration of a utility facility, the public agency shall:

(a) contact [~~an association, established under Title 54, Chapter 8a, Damage to Underground Utility Facilities,~~]the association described in Section 54-8a-9, to identify each utility company that may have a utility facility in the area of the construction or reconstruction project;

(b) identify a utility company that has an above-ground utility facility in the area of the proposed construction or reconstruction project; and

(c) electronically notify each utility company identified in accordance with Subsections (2)(a) and (b).

(3) The notice required by Subsection (2)(c) shall:

(a) be made as early as practicable and at least 30 days:

(i) before the date of the preliminary design or project development meeting;

(ii) before the date of an issuance of a request for proposal for a design-build project; or

(iii) after a change in scope of a design-build project;

(b) include:

(i) information concerning the proposed project design;

(ii) the proposed date of a required removal, relocation, or alteration of a utility facility;

(iii) the federal identifying project number, if applicable; and

(c) advise the utility company if the proposed project may qualify for aid for the utility company's expense in removing, relocating, or altering a utility facility.

(4) A public agency shall permit a utility company notified under Subsection (2) to participate in the preliminary design or project development meeting[~~,~~] or similar meeting at which the project design is addressed.

(5)(a) A public agency shall, not less than 30 days after providing notice under Subsection (2) to each utility company, provide the utility company an opportunity to meet with the public agency to allow the utility company to:

(i) review project plans;

(ii) understand the objectives and funding sources for the proposed project;

(iii) provide and discuss recommendations to the public agency that may reasonably eliminate or minimize utility removal, relocation, or alteration costs, limit the disruption of utility company services, or eliminate or reduce the need for present or future utility facility removal, relocation, or alteration; and

(iv) provide reasonable schedules to enable coordination of the construction project and removal, relocation, or alteration of a utility facility.

(b) If a public agency provides a utility company with reasonable opportunities to meet in accordance with Subsection (5)(a), the utility company's failure to meet does not affect the public agency's ability to proceed with the project.

(6) While recognizing the essential goals and objectives of the public highway agency in proceeding with and completing a project, the parties shall use their best efforts to find ways to:

(a) eliminate the cost to the utility of relocation of the utility facilities; or

(b) if elimination of the costs is not feasible, minimize the relocation costs to the extent reasonably possible.

(7) A utility company notified under Subsection (2) shall coordinate with the public agency concerning the utility facility removal, relocation, or alteration, including the scheduling of the utility facility removal, relocation, or alteration.

(8) A public agency and a utility company may address the removal, relocation, or alteration of a utility facility in relation to a construction or reconstruction project on a public highway in a franchise agreement in lieu of this section, if the public agency is otherwise permitted to enter into the franchise agreement.

(9) This chapter does not affect a public agency's authority over a public right-of-way, including any rule, ordinance, order to relocate a utility as provided in Section 72-6-116, or other valid provision governing the use of the public right-of-way.

Section 2. Section 54-8a-2 is amended to read:

54-8a-2. Definitions.

As used in this chapter:

(1) "Association" means two or more operators organized to receive notification of excavation activities [~~in a specified area~~]in the state, as provided by Section 54-8a-9.

(2) "Backfill" means soil or material that is approved for the soil or material's intended use and meets a project's plans and specifications.

(3) "Business hours" means the hours between 8:00 a.m. and 4:00 p.m. Monday through Friday, excluding holidays.

[~~(2)~~](4) "Board" means the Underground Facilities Damage Dispute Board created in Section 54-8a-13.

(5) "Electronic positive response system" means an automated information system, operated by the association, that allows excavators, locators, operators, and others to communicate the status of an excavation notice.

[~~(3)~~](6) "Emergency" means an occurrence or suspected natural gas leak necessitating immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

[~~(4)~~](7) "Excavate" or "excavation" means an operation in which earth, rock, or other material on or below the ground is moved or displaced by tools, equipment, [~~or~~] explosives, or demolition.

(8) "Excavation notice" means a communication that:

(a) has a location request assignment;

(b) provides notice of a person's intent to excavate in a specified location in the state; and

(c) meets the requirements of Section 54-8a-4.

[~~(5)~~](9) "Excavator" means any person [~~or entity~~] that excavates or conducts excavation activities.

[~~(6)~~](10) "48 hours" means a 48-hour period, occurring during business days [~~which~~]that includes any day except Saturday, Sunday, or a [~~legal~~] holiday, that begins at 8:00 a.m. on the first business day after notice has been submitted.

[~~(7)~~](11) "Hand tool" means an implement:

(a) powered by hand; or

(b) designed to avoid damaging an underground facility, including a vacuum excavation tool and air knife.

(12) "Holiday" means all legal holidays as defined in Section 63G-1-301, the Friday after Thanksgiving Day, December 24th, and any other association observed holiday as posted in the association's excavator's guide.

[~~(8)~~](13) "Location" means the site of a proposed area of excavation described:

(a)(i) by street address, if available;

(ii) by the area at that street address to be excavated; and

(iii) as specified in Subsection 54-8a-4(3) or 54-8a-5(2)(b)(ii); or

(b) if there is no street address available, by the area of excavation using any available designations, including a nearby street or road, an intersection, GPS coordinates, or other generally accepted methods.

[~~(9)~~](14) "Location request assignment" means a number assigned to a proposed excavation by [~~an~~]the association [~~or operator~~]upon receiving an excavation notice[~~ of the proposed excavation from the excavator~~].

(15) "Mark" means to locate and indicate the existence of a line or facility according to the guidelines published by the association in the association's current version of the excavator's guide.

(16) "Municipality" means the same as that term is defined in Section 10-1-104.

(17) "No response notice" means notice given by an excavator to the association that:

(a) describes indications of specific facilities or facility types;

(b) indicates that the facilities or facility types were not marked by the operator at the site of the proposed excavation; and

(c) is submitted after the excavator previously submitted an excavation notice regarding the site.

[~~(10)~~](18)(a) "Operator" means a person [~~who~~]that owns, operates, or maintains an underground facility.

(b) "Operator" does not include an owner of real property where underground facilities are:

(i) located within:

(A) the owner's property; or

(B) a public street adjacent to the owner's property, a right-of-way adjacent to the owner's property, or a public utility easement adjacent to the owner's property;

(ii) used exclusively to furnish services to the owner's property; and

(iii) maintained under the operation and control of that owner.

[~~(11)~~](19) "Person" includes:

(a) an individual, government entity, corporation, partnership, association, or company; and

(b) the trustee, receiver, assignee, and personal representative of a person listed in Subsection [~~(11)(a).~~](19)(a).

[~~(12)~~](20) "Sewer lateral cleanout" means a point of access where a sewer lateral can be serviced.

(21) "Tolerance zone" means the area surrounding a facility that:

(a) for an underground facility that has the diameter of the facility marked, is the distance of one half of the marked diameter plus 24 inches on either side of the designated center;

(b) for an underground facility that does not have the diameter of the facility marked, is 24 inches on either side of the outside edge of the mark indicating a facility; or

(c) for an above ground facility, is 24 inches in each direction of the outside edge of the physically present facility.

[~~(13)~~](22) "24 hours" means a 24-hour period, excluding hours occurring during a Saturday, Sunday, or a [~~legal~~]holiday.

[~~(14)~~](23) "Underground facility" means personal property that is buried or placed below ground level for use in the storage or conveyance of any of the following:

(a) water;

(b) sewage, including sewer laterals;

(c) communications, including electronic, photonic, telephonic, or telegraphic communications;

(d) television, cable television, or other telecommunication signals, including transmission to subscribers of video or other programming;

(e) electric power;

(f) oil, gas, or other fluid and gaseous substances;

(g) steam;

(h) slurry; or

(i) dangerous materials or products.

Section 3. Section 54-8a-4 is amended to read:

54-8a-4. Notice of excavation.

(1)(a) Before excavating, an excavator shall notify each operator with an underground facility in the area of the proposed excavation.

(b) The requirements of Subsection (1)(a) do not apply:

(i) if there is an emergency;

(ii) while gardening; or

(iii) while tilling private ground.

(2) The notice required by Subsection (1) shall:

(a) be given:

(i) by telephone;

[~~(ii) in person~~]

(ii) by electronic communication; or

(iii) by other means acceptable to [~~each operator~~]the association;

(b) be given not:

(i) less than 48 hours before excavation begins; or

(ii) more than 14 days before excavation begins; and

(c) include the proposed excavation's anticipated:

(i) location, with reasonable specificity;

(ii) dimensions; and

(iii) type[~~; and~~].

[~~(iv) duration.~~]

(3) If the proposed excavation's anticipated location and dimensions cannot be described as required under Subsection (2)(c) or as requested in accordance with Subsection 54-8a-5(2)(b), an excavator shall outline the proposed excavation site using as a guideline the then-existing Uniform Color Code and Marking Guidelines, Appendix B, published by the Common Ground Alliance, as amended in the current version of the excavators' guide published by the statewide association established in Section 54-8a-9.

(4) If more than one excavator will operate at the same excavation site, each excavator shall provide the notice required by this section.

(5) [~~If there is an association in the county, notice to that association~~]Notice provided to the association constitutes notice to each operator that has facilities within the proposed excavation site.

(6)(a) Notice given under this section is valid for [~~14~~]21 days from the day on which the notice is given.

(b) If an excavation will continue beyond the [~~14-day~~]21-day period under Subsection (6)(a), the excavator shall provide notice of that fact at least 48 hours, but no sooner than [~~six~~]seven calendar days, before expiration of the [~~14-day~~]21-day period.

(c) A notice under Subsection (6)(b) is valid for [~~14~~]21 days from the day on which the previous notice expires.

(d) An excavator shall give notice as provided in this Subsection (6) for the duration of the excavation.

(7)(a) An excavator shall confirm before excavation that:

(i) operators that utilize electronic positive response have responded through the association's electronic positive response system; and

(ii)(A) all facilities that may be affected by the proposed excavation have been marked;

(B) the operators have indicated that there are no underground facilities within the proposed excavation site; or

(C) the operators have not requested a meeting under Subsection 54-8a-5(2).

(b) If an operator has not marked a facility or responded within 48 hours of the initial excavation notice:

(i) the excavator may not begin excavation if the excavator is aware of or observes indications of a facility that was not marked at the proposed excavation area until:

(A) the excavator has given a no response notice; and

(B) the operator makes arrangements for the facility to be marked by the operator; or

(ii) the excavator may begin excavation if there are no visible indications of a facility within the proposed excavation area.

(c) Within four business hours of the association receiving a no response notice, an operator shall mark the facilities or make arrangements for the facilities to be marked.

[~~(7)~~](8) If markings made by the operator have been disturbed so that the markings no longer identify the underground facility:

(a) before excavating the site an excavator shall notify:

(i) the association; or

(ii) each operator; and

(b) the operator shall mark the area again within 48 hours of the [~~renotification~~]notification provided by the excavator under Subsection (8)(a).

[~~(8) An excavator may begin excavation if:~~]

[~~(a)(i) all underground facilities have been:~~]

[~~(A) located; and~~]

[~~(B) marked; or~~]

[~~(ii) the operators have indicated that there are no underground facilities within the proposed excavation site;~~]

[~~(b)(i) 48 hours have elapsed from the time of initial notice; and~~]

[~~(ii) the excavator has not:~~]

[~~(A) been notified by the operator; or~~]

[~~(B) received a request for a meeting under Subsection 54-8a-5(2); or~~]

[~~(c) 48 hours have elapsed from the time of renotification under Subsection (6).~~]

(9) Unless an operator remarks an area pursuant to Subsection [~~(7),~~](8), the excavator shall be responsible for the costs incurred by an operator to remark its underground facilities following the second or subsequent notice given by an excavator for a proposed excavation.

Section 4. Section 54-8a-5 is amended to read:

54-8a-5. Marking of underground facilities.

(1)[~~(a)~~] Within 48 hours of the receipt of the notice required by Section 54-8a-4, the operator shall:

[~~(i)~~](a)(i) mark the location of [~~its~~]the operator's underground facilities in the area of the proposed excavation; or

(ii) notify the excavator, by telephonic or electronic message or indication at the excavation site, that the operator does not have any underground facility in the area of the proposed excavation[~~.~~]; and

(b) if the operator utilizes the association's electronic positive response system, provide a response to the association's electronic positive response system to indicate whether the operator can provide the information described in Subsection (1)(a)(i).

[~~(b) The underground facility shall be marked using as a guideline the then-existing Uniform Color Code and Marking Guidelines, Appendix B, published by the Common Ground Alliance, as amended in the current version of the excavators' guide published by the statewide association established in Section 54-8a-9.~~]

(2)(a) The operator is not required to mark the underground facilities within 48 hours if:

(i) the proposed excavation:

(A) is not identified in accordance with Subsection 54-8a-4(2) or is not marked as provided in Subsection 54-8a-4(3);

(B) is located in a remote area;

(C) is an extensive excavation; or

(D) presents other constraints that make it unreasonably difficult for the operator to comply with the marking requirements of this section; or

(ii) the operator is not able to readily locate the underground facilities from the surface with standard underground detection devices.

(b) If the operator cannot proceed with the marking because of a situation described in Subsection (2)(a), the operator shall contact the excavator within 48 hours after the [~~excavator's notice of excavation or request for a location request assignment made in accordance with Section 54-8a-4~~]excavation notice and:

(i) request a meeting at the proposed excavation site or some other mutually agreed upon location; or

(ii) at the operator's discretion, contact the excavator and request the proposed excavation site be outlined in accordance with Subsection 54-8a-4(3).

(c) For a situation described under Subsection (2)(a)(i), the meeting or completed outlining of the proposed excavation site constitutes the beginning of a new 48-hour period within which the operator [~~must~~]shall begin marking the underground facilities.

(d)(i) For the situation described under Subsection (2)(a)(ii), the excavator and operator shall agree on a plan of excavation designed to prevent damage to the operator's underground facility.

(ii) Notwithstanding the agreement, the excavator shall proceed in a manner that is reasonably calculated to avoid damage to the underground facility.

(e)(i) An operator need not mark [~~or locate~~]an underground facility the operator does not own.

(ii) An underground facility under Subsection (2)(e)(i) includes a water or sewer lateral or a facility running from a house to a garage or outbuilding.

(f)(i) An operator may mark the location of a known facility connected to the operator's facilities that is not owned or operated by the operator.

(ii) Marking a known facility under Subsection (2)(f)(i) imposes no liability on the operator for the accuracy of the marking.

(3) Each marking is valid for not more than [~~14~~]21 calendar days from the date notice is given.

(4) If multiple lines exist:

(a) the markings must indicate the number of lines; or

(b) all lines must be marked.

Section 5. Section 54-8a-5.5 is amended to read:

54-8a-5.5. Determining the precise location of marked underground facilities.

(1) An excavator may not use any power-operated or power-driven excavating or boring equipment within [~~24 inches of the markings made in accordance with Section 54-8a-5~~]the tolerance zone unless:

(a) the excavator determines the exact location of the underground facility by excavating with hand tools to confirm that the excavation will not damage the underground facilities; or

(b) the operator provides an excavator with written or electronic notice waiving the requirement that the excavator determine the exact location of the underground facilities by excavating with hand tools.

(2) Power-operated or power-driven excavating or boring equipment may be used for the removal of any existing pavement if there is no underground facility contained in the pavement, as marked by the operator.

Section 6. Section 54-8a-6 is amended to read:

54-8a-6. Duties and liabilities of an excavator.

(1) Damage to an underground facility by an excavator who excavates but fails to comply with Section 54-8a-4, is prima facie evidence that the excavator is liable for any damage caused by the negligence of that excavator.

(2)(a) An excavator is not liable for a civil penalty under this chapter if the excavator has:

(i) given proper notice of the proposed excavation as required in this chapter;

(ii) marked the area of the proposed excavation as required in Section 54-8a-4;

(iii) complied with Section 54-8a-5.5; and

(iv) complied with Section 54-8a-7.

(b) An excavator is liable for damage incurred by an operator if:

(i) the operator complies with Section 54-8a-5; and

(ii) the damage occurs within [~~24 inches of the operator's markings or the physical presence of an above ground facility, including a manhole, meter, or junction box~~]the tolerance zone.

Section 7. Section 54-8a-7 is amended to read:

54-8a-7. Notice of contact or damage -- Repairs.

[~~(1) If an excavator contacts or damages an underground facility, the excavator shall:~~]

[~~(a) immediately notify the appropriate operator and then proceed in a manner that is reasonably calculated to avoid further damage to the underground facility; and~~]

[~~(b) immediately call 911 if the excavation may result in an immediate risk to human life.~~]

(1) An excavator performing an excavation that results in contact or damage to a facility shall:

(a) provide notice of the contact or damage including the location and nature of any damage immediately to the operator;

(b) allow the operator reasonable time when considering the safety of the area, and the availability of materials, labor, or equipment, to make or coordinate necessary repairs before completing the excavation in the immediate area of the facility; and

(c) delay any backfilling in the immediate area of the contacted or damaged facility until the operator authorizes the excavator to resume backfilling.

(2) After receiving notification of contact or damage to a facility, the operator, or qualified personnel authorized by the operator, shall:

(a) expedite a response to examine the contacted or damaged facility; and

(b) make or coordinate necessary repairs to the contacted or damaged facility within eight business hours or notify the excavator that the repairs will take longer than eight business hours due to safety or availability of materials, labor, or equipment.

(3)(a) An excavator that is responsible for an excavation where any contact or damage to a facility results in the discharge of electricity or escape of any flammable, toxic, or corrosive gas or liquid, or that endangers life, health, or property shall:

(i) immediately notify:

(A) emergency responders, including 911 services; and

(B) the facility operator; and

(ii) take reasonable measures to protect the excavator, other persons, property, and the environment until the operator or emergency responders arrive.

[~~(2) Upon receipt of notice, the operator shall immediately examine the underground facility, and, if necessary, make repairs.~~]

Section 8. Section 54-8a-7.5 is amended to read:

54-8a-7.5. Third-party damages caused by failure to mark a facility.

(1) If an operator fails to [~~locate~~]mark a facility as required by this chapter and an excavator damages another operator's facility of a similar size and appearance that fits surface markings[~~ as required by Subsection 54-8a-5(1)(b)~~], the operator who failed to [~~locate its~~]mark the operator's own facility is liable for the costs of damage to the facility caused by the excavator if:

(a) the excavator complies with Sections 54-8a-4, 54-8a-5.5, and 54-8a-6; and

(b) the excavator demonstrates that the damage is the direct result of the operator's failure to [~~locate its~~]mark the operator's own facility.

(2) An excavator who damages a third-party operator's facility as described in Subsection (1):

(a) shall pay for the costs of repairing the damaged facility; and

(b) may seek recovery of the costs of damage from the operator [~~who~~]that failed to mark [~~its~~]the operator's own facility.

(3) Resolution of a dispute under this section may be in accordance with Section 54-8a-13.

Section 9. Section 54-8a-8 is amended to read:

54-8a-8. Civil penalty -- Exceptions -- Other remedies.

(1) A civil penalty may be imposed for a violation of this chapter as provided in this section.

(2) A civil penalty under this section may be imposed on:

(a) any person [~~who~~]that violates this chapter in an amount no greater than $5,000 for each violation with a maximum civil penalty of $100,000 per excavation; or

(b) an excavator [~~who~~]that fails to provide notice of an excavation in accordance with Section 54-8a-4 in an amount no greater than $500 in addition to the amount under Subsection (2)(a), regardless of whether the excavation resulted in damage to a facility.

(3) Notwithstanding Subsection (2)(a), a penalty under this chapter may not be imposed on an excavator or operator unless the excavator or operator fails to comply with this chapter and damages an underground facility.

(4) The amount of a civil penalty under this section shall be made taking into consideration the following:

(a) the excavator's or operator's history of any prior violation or penalty;

(b) the seriousness of the violation;

(c) any discharge or pollution resulting from the damage;

(d) the hazard to the health or safety of the public;

(e) the degree of culpability and willfulness of the violation;

(f) any good faith of the excavator or operator; and

(g) any other factor considered relevant, including the number of past excavations conducted by the excavator, the number of location requests made by the excavator and the number of location markings made for the excavator or by the operator.

(5) "Good faith," as used in Subsection (4)(f), includes actions taken before the filing of an action for civil penalty under this section to:

(a) remedy, in whole or in part, a violation of this chapter; or

(b) mitigate the consequences and damages resulting from a violation of this chapter.

(6)(a) A civil penalty may not be imposed on an excavator if the damage to an underground facility results from an operator's:

(i) failure to mark; [~~or~~]

(ii) inaccurate marking or locating of the operator's underground facilities[~~.~~]; or

(iii) failure to comply with Section 54-8a-5.

(b) In addition to or in lieu of part of or all of a civil penalty, the excavator or operator may be required to undertake actions that are designed to prevent future violations of this chapter, including attending safety and compliance training, improving internal monitoring and compliance processes and procedures, or any other action that may result in compliance with this chapter.

(7) Subsection (1) does not apply to an excavation made:

(a) during an emergency, if reasonable precautions are taken to protect any underground facility;

(b) in agricultural operations;

(c) for the purpose of finding or extracting natural resources; or

(d) with hand tools on property owned or occupied by the excavator.

(8)(a) A civil penalty under this section is in addition to any damages that an operator or an excavator may seek to recover.

(b) In an action brought under this section, the prevailing party shall be awarded its costs and attorney fees as determined by the court.

Section 10. Section 54-8a-9 is amended to read:

54-8a-9. Association for mutual receipt of excavation notices.

(1)(a)(i) Two or more operators may form and operate a statewide association providing for mutual receipt of notice of excavation activities.

(ii) [~~If~~]When an association is operational, notice to the association shall be given pursuant to Section 54-8a-4.

(b)(i) [~~If~~]When an association is formed, each operator with an underground facility in the [~~area~~]state shall become a member of the association and participate in it to:

(A) receive [~~a notice of a proposed excavation~~]an excavation notice submitted to the association;

(B) receive the services furnished by it; [~~and~~]

(C) pay its share of the cost for the service furnished[~~.~~]; and

(D) provide electronic positive response information to the association's electronic positive response system, if the system is utilized by the operator.

(ii) If an operator does not comply with Subsection (1)(b)(i) and Section 54-8a-5, the operator is liable for damages incurred by an excavator who complies with this chapter's requirements.

[~~(c) An association whose members or participants have underground facilities within a county shall:~~]

[~~(i) file a description of the geographical area served by the association; and~~]

[~~(ii) file the name and address of every member and participating operator with the county clerk.~~]

(2) [~~An association receiving notice as provided in Subsection 54-8a-4(1)~~]The association's notification center shall:

(a) notify members and participants in the relevant geographic area within 24 hours after receiving an excavation notice [~~from the person who proposes to excavate; and~~];

(b) maintain a record of any notice received for a period of five years to document compliance with the requirements of this chapter[.]; and

(c) implement and operate a statewide electronic positive response system.

(3) The association and its notification center shall not be responsible for:

(a) resolving reports of alleged violations of this chapter; or

(b) a failure on the part of an excavator or operator to perform an excavator's or operator's responsibilities under this chapter.

[~~(3)~~](4) An association contacted by a public agency to identify a utility company, in accordance with Section 54-3-29, shall provide the public agency with a list, including contact information to the extent available, of each utility company of which the association is aware that has a utility facility within the area identified by the public agency.

Section 11. Section 54-8a-11 is amended to read:

54-8a-11. Applicability of federal law.

The following persons[~~, or entities~~] are subject to the provisions of Title 49, Code of Federal Regulations, Part 198, Regulations for Grants to Aid State Pipeline Safety Programs, including those provisions relating to damage to underground facilities:

(1) an operator, to the extent subject to the Pipeline Safety Improvement Act of 2002, 49 U.S.C. 60101 et seq.;

(2) an excavator; and

[~~(3) a person who operates an association.~~]

(3) the association.

Section 12. Section 54-8a-13 is amended to read:

54-8a-13. Underground Facilities Damage Dispute Board -- Arbitration -- Relationship with Public Service Commission.

(1) There is created within the commission the Underground Facilities Damage Dispute Board to arbitrate, or parties may mutually agree to mediate, a dispute arising from:

(a) an operator's or excavator's violation of this chapter; and

(b) damage caused by excavation during an emergency.

(2) The board consists of five members appointed by the governor as follows:

(a) one member from a list of names provided to the governor by a group representing operators;

(b) one member from a list of names provided to the governor by the Associated General Contractors;

(c) one member from a list of names provided to the governor by Blue Stakes of Utah;

(d) one member from a list of names provided to the governor by the Utah Home Builders Association; and

(e) one member from the Division of Public Utilities.

(3)(a) A member of the board:

(i) shall be appointed for a three-year term; and

(ii) may continue to serve until the member's successor takes office.

(b) At the time of appointment, the governor shall stagger the terms of the members to ensure that approximately 1/3 of the members of the board are reappointed each year.

(c) A vacancy in the board shall be filled:

(i) for the unexpired term; and

(ii) in the same manner as the board member is initially appointed.

(d) The board shall select an alternate for a specific board member to serve on a specific case if it becomes necessary to replace a member who has a conflict of interest because a dispute involves that member or that member's employer.

(4) Three members of the board constitute a quorum.

(5) The board may, upon agreement of the disputing parties, arbitrate or mediate a dispute regarding damages, not including personal injury damages, arising between:

(a) an operator;

(b) an excavator;

(c) a property owner; or

(d) any other interested party.

(6) At least four members of the board shall be present and vote on an arbitration decision.

(7) An arbitration before the board shall be consistent with Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(8) The prevailing party in an arbitration conducted under this section shall be awarded its costs and attorney fees in an amount determined by the board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) The commission shall provide administrative support to the board.

Section 13. Repealer.

This bill repeals:

Section 54-8a-3, Information filed with county clerk.

Section 14. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 370
S. B. 154
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

INDEPENDENT ENTITIES AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill addresses independent entities.

Highlighted Provisions:

This bill:

- defines terms;
- upon designation by the Legislative Management Committee, requires independent entities to utilize best practices tools provided by the Office of the Legislative Auditor General, and provide the results to the governor and a consensus group comprising the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
- requires the consensus group to provide reports on independent entities' assessments to the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee;
- allows the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee to each take action based on reports from the consensus group; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63H-9-101, Utah Code Annotated 1953
63H-9-102, Utah Code Annotated 1953
63H-9-103, Utah Code Annotated 1953

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

Section 1. Section 63H-9-101 is enacted to read:

63H-9-101. Definitions.

CHAPTER 9. OVERSIGHT OF INDEPENDENT ENTITIES

As used in this chapter:

(1) "Best practices toolbox" means the collection of resources for governmental entities provided on the website of the Office of the Legislative Auditor General that includes a best practice self-assessment and other resources, tools, surveys, and reports designed to help government organizations better serve the citizens of the state.

(2) "Consensus group" means the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst.

(3)(a) "Independent entity" means an entity that:

(i) has a public purpose relating to the state or its citizens;

(ii) is individually created by the state;

(iii) is separate from the judicial and legislative branches of state government; and

(iv) is not under the direct supervisory control of the governor.

(b) "Independent entity" does not include an entity that is:

(i) a county;

(ii) a municipality as defined in Section 10-1-104;

(iii) an institution of higher education as defined in Section 53B-2-102;

(iv) a public school as defined in Section 53G-8-701;

(v) a special district as defined in Section 17B-1-102;

(vi) a special service district as defined in Section 17D-1-102;

(vii) created by an interlocal agreement as described in Section 11-13-203; or

(viii) an elective constitutional office, including the state auditor, the state treasurer, and the attorney general.

(c) Independent entities that are subject to the provisions of this chapter include the:

(i) Career Service Review Office created in Section 67-19a-201;

(ii) Capitol Preservation Board created in Section 63C-9-201;

(iii) Colorado River Authority created in Section 63M-14-201;

(iv) Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(v) Military Installation Development Authority created in Section 63H-1-201;

(vi) Office of the Great Salt Lake Commissioner created in Section 73-32-301;

(vii) Office of Inspector General of Medicaid Services created in Section 63A-13-201;

(viii) Point of the Mountain State Land Authority created in Section 11-59-201;

(ix) Public Service Commission created in Section 54-1-1;

(x) School and Institutional Trust Fund Office created in Section 53C-1-201;

(xi) School and Institutional Trust Lands Administration created in Section 53D-1-201;

(xii) Utah Beef Council created in Section 4-21-103;

(xiii) Utah Capital Investment Corporation created in Section 63N-6-301;

(xiv) Utah Communications Authority created in Section 63H-7a-201;

(xv) Utah Dairy Commission created in Section 4-22-103;

(xvi) Utah Education and Telehealth Network created in Section 53B-17-105;

(xvii) Utah Housing Corporation created in Section 63H-8-201;

(xviii) Utah Inland Port Authority created in Section 11-58-201;

(xix) Utah Innovation Lab created in Section 63N-20-201;

(xx) Utah Lake Authority created in Section 11-65-201;

(xxi) Utah Retirement Systems created in Section 49-11-201; and

(xxii) Utah State Fair Park Authority created in Section 11-68-201.

Section 2. Section 63H-9-102 is enacted to read:

63H-9-102. Independent entity best practices.

(1) By May 1 of each year, the Legislative Management Committee may designate one or more of the independent entities listed in Subsection 63H-9-101(4)(c) for legislative study.

(2) An independent entity designated for legislative study under Subsection (1) shall:

(a) use all designated material in the best practices toolbox to conduct a self-assessment of the independent entity;

(b) report the results of the assessment described in Subsection (2)(a) to the consensus group and the governor by June 30; and

(c) cooperate with the consensus group and, upon request from the consensus group, provide information and material pertaining to an assessment described in Section 63H-9-103.

(3) An independent entity may request best practice training from the Office of the Legislative Auditor General.

Section 3. Section 63H-9-103 is enacted to read:

63H-9-103. Consensus group -- Duties.

(1)(a) By September 1 of each year, the consensus group shall provide a report on each of the assessment results provided under Subsection 63H-9-102(2)(b) to the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee.

(b) For each report described in Subsection (1)(a), the consensus group may consider the independent entity's:

(i) public purpose;

(ii) relative proximity to or independence from the state;

(iii) governance structure;

(iv) financial risks and controls, so far as they pertain to state funds;

(v) oversight structure; and

(vi) exemptions from state policies, procedures, and use of resources.

(2) To facilitate the work of the consensus group, and pursuant to Section 36-12-18, the consensus group may request, and shall be provided upon request, any document, reports, or information available to a department, division, commission, agency, or other instrumentality of state government.

(3) After receiving a report from the consensus group, the Legislative Management Committee, the Legislative Audit Subcommittee, and the Executive Appropriations Committee may each take any action in accordance with their respective duties, authority, and powers, which may include:

(a) requiring an audit;

(b) requiring review by an interim committee for potential legislative action; or

(c) requesting review by an appropriations subcommittee for potential fiscal action.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 371
S. B. 158
Passed February 15, 2024
Approved March 18, 2024
Effective May 1, 2025

YOUTH SERVICE ORGANIZATIONS

Chief Sponsor: Keith Grover
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses requirements for certain organizations that hire individuals or use volunteers to care for or supervise children.

Highlighted Provisions:

This bill:

- defines terms;
- requires youth service organizations to:
  - conduct a search of the Utah and national sex offender registries before employing or using as a volunteer an individual who would be responsible to care for or supervise children; and
  - provide training and have policies and procedures concerning the identification and reporting of sexual abuse;
- provides that for certain purposes, a youth service organization is considered negligent if it fails to conduct a sex offender registry search, or employs or uses as a volunteer an individual who was on the Utah or national sex offender registry;
- allows an insurer to request information from a youth service organization concerning compliance with the requirements of this bill; and
- states that the provisions of the bill do not abrogate any existing cause of action or create a new private right of action.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

80-8-101, Utah Code Annotated 1953
80-8-201, Utah Code Annotated 1953
80-8-202, Utah Code Annotated 1953
80-8-203, Utah Code Annotated 1953
80-8-204, Utah Code Annotated 1953
80-8-205, Utah Code Annotated 1953

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

Section 1. Section 80-8-101 is enacted to read:

80-8-101. Definitions.

CHAPTER 8. YOUTH SERVICE ORGANIZATIONS

Part 1. General Provisions

As used in this chapter:

(1) "Child" means an individual under 18 years old.

(2) "Registered sex offender check" means a search of:

(a) the state's Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(b) the National Sex Offender Public Website administered by the United States Department of Justice.

(3) "Sexual abuse" means the same as that term is defined in Section 78B-2-308.

(4)(a) "Youth services organization" means a sports league, athletic association, church or religious organization, scouting organization, or similar formally organized association, league, or organization, that provides recreational, educational, cultural, or social programs or activities to 25 or more children.

(b) "Youth services organization" does not include any person that is required to conduct a background check on employees or volunteers under any other provision of state or federal law.

(5) "Youth worker" means an individual:

(a) who is 18 years old or older;

(b) who is employed by or volunteers with a youth services organization; and

(c) whose responsibilities as an employee or volunteer with the youth services organization give the individual regular and repeated care, supervision, guidance, or control of a child or children.

Section 2. Section 80-8-201 is enacted to read:

80-8-201. Youth protection requirements.

Part 2. Requirements and Penalties

(1) A youth service organization may not employ a youth worker or allow an individual to volunteer as a youth worker unless the youth service organization has completed a registered sex offender check for the individual.

(2) A youth services organization shall require a potential youth worker to provide the individual's full name and a current, government-issued identification to facilitate the registered sex offender check required by Subsection (1).

(3) If an individual is registered on the state's Sex and Kidnap Offender Registry or the National Sex Offender Public Website, a youth service organization may not employ the individual as a youth worker or allow the individual to volunteer as a youth worker.

Section 3. Section 80-8-202 is enacted to read:

80-8-202. Training -- Policies.

(1) A youth service organization shall provide and a youth worker shall complete reasonable training in sexual abuse identification and reporting.

(2) A youth service organization shall implement reasonable child abuse prevention policies and procedures that include:

(a) policies to ensure that a registered sex offender check is conducted for each youth worker before the youth worker is employed or allowed to volunteer; and

(b) policies to ensure the reporting of suspected sexual abuse in compliance with Section 80-2-602.

Section 4. Section 80-8-203 is enacted to read:

80-8-203. Penalty.

(1) Beginning May 1, 2025, in any lawsuit against a youth service organization arising out of the molestation or sexual abuse of a child committed by a youth worker against a child who was in the custody or care of the youth service organization, the youth service organization shall be considered negligent if:

(a)(i) the youth service organization failed to conduct a registered sex offender check for the youth worker who committed the molestation or sexual abuse; and

(ii) a registered sex offender check for the youth worker would have revealed that the youth worker was registered on the state's Sex and Kidnap Offender Registry or the National Sex Offender Public Website; or

(b)(i) the youth service organization conducted a registered sex offender check for the youth worker who committed the molestation or sexual abuse;

(ii) the registered sex offender check revealed that the youth worker was registered on the state's Sex and Kidnap Offender Registry or the National Sex Offender Public Website; and

(iii) the youth service organization nevertheless employed the youth worker or allowed the youth worker to volunteer.

(2) Nothing in this section excuses the plaintiff in a lawsuit described in Subsection (1) from proving all other elements of any pleaded claim, including, as applicable, duty, proximate cause, or damages.

Section 5. Section 80-8-204 is enacted to read:

80-8-204. Insurance.

(1) Before writing liability insurance for a youth service organization in the state, an insurer may do one or more of the following:

(a) request information from the youth service organization demonstrating compliance with this chapter as part of the insurer's loss control program; or

(b) require, as a condition of providing insurance, proof that the youth service organization is in compliance with this chapter.

(2) Nothing in this chapter shall be construed to alter or amend existing obligations under any policy of insurance.

Section 6. Section 80-8-205 is enacted to read:

80-8-205. No effect on cause of action -- No duty created.

(1) Nothing in this chapter abrogates any existing cause of action.

(2) Nothing in this chapter creates a private right of action or establishes a duty of reasonable care where one would not otherwise exist.

Section 7. Effective date.

This bill takes effect on May 1, 2025.

CHAPTER 372
S. B. 159
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

PUBLIC SCHOOL DISCIPLINE AND CONDUCT PLANS AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Douglas R. Welton

LONG TITLE

General Description:

This bill creates within the Teacher and Student Success Program, the Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program (pilot program) to address school discipline and conduct issues.

Highlighted Provisions:

This bill:

- creates a pilot program to support schools within a local education agency (LEA) in implementing conduct and behavior strategies;
- allows the pilot program to be part of an LEA governing board's teacher and student success program framework;
- defines terms; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - State Board and Administrative Operations - Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $150,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-7-1301, as enacted by Laws of Utah 2019, Chapter 505
53G-7-1304, as last amended by Laws of Utah 2020, Chapter 408
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

ENACTS:

53G-7-1307, Utah Code Annotated 1953

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

Section 1. Section 53G-7-1301 is amended to read:

53G-7-1301. Definitions.

As used in this part:

(1) "LEA distribution" means the money distributed by the state board to an LEA as described in Section 53G-7-1303.

(2) "LEA governing board student success framework" means an LEA governing board student success framework described in Section 53G-7-1304.

(3) "Principal" means the chief administrator at a school, including:

(a) a school principal;

(b) a charter school director; or

(c) the superintendent of the Utah Schools for the Deaf and the Blind.

(4) "School allocation" means the amount of money allocated to a school or the Utah Schools for the Deaf and the Blind by an LEA governing board, as described in Section 53G-7-1304.

(5) "School personnel" means an individual who:

(a) is employed by an LEA; and

(b) in an academic role, works directly with and supports students in a school.

(6) "Statewide accountability system" means the statewide school accountability system described in Title 53E, Chapter 5, Part 2, School Accountability System.

(7) "Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program" or "pilot program" means the pilot program created in Section 53G-7-1307.

[~~(7)~~](8) "Teacher and student success plan" or "success plan" means a school performance and student academic achievement improvement plan described in Section 53G-7-1305.

[~~(8)~~](9) "Teacher and Student Success Program" or "program" means the Teacher and Student Success Program described in this part.

Section 2. Section 53G-7-1304 is amended to read:

53G-7-1304. Program requirements -- LEA governing board student success framework -- LEA distribution -- School allocation -- Reporting.

(1)(a) To receive an LEA distribution, an LEA governing board shall:

(i) adopt an LEA governing board student success framework to provide guidelines and processes for a school within the LEA governing board's LEA to follow in developing a teacher and student success plan; and

(ii) submit the adopted LEA governing board student success framework to the state board.

(b) An LEA governing board may include in the LEA governing board's student success framework any means reasonably designed to improve school performance or student academic achievement, including:

(i) school personnel stipends for taking on additional responsibility outside of a typical work assignment;

(ii) professional learning;

(iii) additional school employees, including counselors, social workers, mental health workers, tutors, media specialists, information technology specialists, or other specialists;

(iv) technology;

(v) before- or after-school programs;

(vi) summer school programs;

(vii) community support programs or partnerships;

(viii) early childhood education;

(ix) class size reduction strategies;

(x) augmentation of existing programs;

(xi) the pilot program described in Section 53G-7-1307; or

[~~(xi)~~](xii) other means.

(c) An LEA governing board student success framework may not support the use of program money:

(i) to supplant funding for existing public education programs;

(ii) for district administration costs; or

(iii) for capital expenditures.

(2)(a) An LEA governing board shall use an LEA distribution as follows:

(i) for increases to base salary and salary driven benefits for school personnel that, except as provided in Subsection (2)(c)(i), total 25% or less of the LEA distribution; and

(ii) except as provided in Subsection (2)(b)(ii) and in accordance with Subsection (3), for each school within the LEA governing board's LEA, an allocation that is equal to the product of:

(A) the percentage of the school's prior year average daily membership compared to the total prior year average daily membership for all schools in the LEA; and

(B) the remaining amount of the LEA governing board's LEA distribution after subtracting the amounts described in Subsections (2)(a)(i) and (2)(b)(ii).

(b)(i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board to calculate and distribute a school allocation for a school in the school's first year of operation.

(ii) In accordance with Subsection (3) and the rules described in Subsection (2)(b)(i), an LEA governing board shall distribute a school allocation for a school in the school's first year of operation.

(c) Except as provided in Subsection (2)(d), the LEA governing board of a school district may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if:

(i) the LEA governing board has:

(A) approved a board local levy for the maximum amount allowed under Section 53F-8-302; or

(B) after the LEA governing board has submitted an LEA governing board student success framework to the state board, increased the board local levy described in Section 53F-8-302 by at least .0001 per dollar of taxable value; and

(ii) the school district's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(d) The LEA governing board of a school district in a county of the fourth, fifth, or sixth class or the LEA governing board of a charter school may use up to 40% of an LEA distribution for the purposes described in Subsection (2)(a)(i), if the LEA's average teacher salary is below the state average teacher salary described in Subsection (2)(f).

(e) An LEA governing board shall annually report information as requested by the state board for the state board to calculate a state average teacher salary.

(f) The state board shall use the information described in Subsection (2)(c)(ii) to calculate a state average teacher salary amount and a state average teacher benefit amount.

(3) An LEA governing board shall allocate a school allocation to a school with a teacher and student success plan that is approved as described in Section 53G-7-1305.

(4)(a) Except as provided in Subsection (4)(b), a school shall use a school allocation to implement the school's success plan.

(b) A school may use up to 5% of the school's school allocation to fund school personnel retention at the principal's discretion, not including uniform salary increases.

(c) A school may not use a school allocation for:

(i) capital expenditures; or

(ii) a purpose that is not supported by the LEA governing board student success framework for the school's LEA.

(5) A school that receives a school allocation shall annually:

(a) submit to the school's LEA governing board a description of:

(i) the budgeted and actual expenditures of the school's school allocation;

(ii) how the expenditures relate to the school's success plan; and

(iii) how the school measures the success of the school's participation in the program; and

(b) post on the school's website:

(i) the school's approved success plan;

(ii) a description of the school's school allocation budgeted and actual expenditures and how the expenditures help the school accomplish the school's success plan; and

(iii) the school's current level of performance, as described in Section 53G-7-1306, according to the indicators described in Section 53E-5-205 or 53E-5-206.

Section 3. Section 53G-7-1307 is enacted to read:

53G-7-1307. Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program.

(1) Beginning May 1, 2025, there is created within the Teacher and Student Success Program, a three-year pilot program known as the Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program to:

(a) train school faculty and students in personal self-government communication and problem solving practices;

(b) improve:

(i) classroom discipline;

(ii) teacher and student mental health; and

(iii) classroom management.

(2) The state board shall create a training course that an LEA or school shall use if the LEA or school chooses to participate in the pilot program.

(3)(a) The state board shall ensure the training course described in Subsection (2) contains the following:

(i) effective classroom management;

(ii) appropriate approaches to student behavior and discipline consistent with federal and state law; and

(iii) effective tools to de-escalate behavior.

(b) The state board shall ensure the training described in Subsection (3)(a) is consistent with the following principles:

(i) personal self-government;

(ii) accepting consequences;

(iii) respecting boundaries;

(iv) accepting criticism;

(v) disagreeing appropriately; and

(vi) following instructions.

(4) An LEA with a participating school:

(a) shall ensure that each teacher in the participating school annually receives the materials of the course described in Subsection (3); and

(b) may not provide the training course outside of the LEA or the participating school.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) how an LEA provides to a teacher at a participating school the following stipends upon completion of different modules consistent with Subsection (3):

(i) $100 for completion and implementation of one module;

(ii) $300 for completion and implementation of two modules;

(iii) $300 for completion and implementation of three modules; and

(iv) $1,000 for completion of an action plan project that requires a teacher to:

(A) create a school or classroom plan that follows the pilot program's training course; and

(B) submit research, evidence, and a reflection paper regarding the results of the project; and

(b) a reporting requirement for a participating LEA including:

(i) metrics of success for the pilot program; and

(ii) other information the state board determines.

(6) The state board may designate at least one staff position to provide oversight and technical support for the pilot program and the pilot program's implementation.

(7) Upon request of the Education Interim Committee, an LEA with schools implementing the pilot program shall report to the Education Interim Committee on the pilot program's progress and outcomes.

Section 4. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(14) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(15) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(16) Section 53F-9-401 is repealed on July 1, 2024.

(17) Section 53F-9-403 is repealed on July 1, 2024.

(18) Section 53F-5-222 is repealed July 1, 2028.

[~~(18)~~](19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 5. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53B-6-105.7 is repealed July 1, 2024.

(9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(10) Section 53B-8-114 is repealed July 1, 2024.

(11) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(12) Section 53B-10-101 is repealed on July 1, 2027.

(13) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(14) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(17) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(18) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(19) Section 53F-9-401 is repealed on July 1, 2024.

(20) Section 53F-9-403 is repealed on July 1, 2024.

(21) Section 53F-5-222 is repealed July 1, 2028.

[~~(21)~~](22) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 6. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 6(a) Operating and Capital Budgets

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

ITEM 1

To State Board of Education - State Board and Administrative Operations

From Public Education Economic Stabilization Restricted Account, One-time $150,000

Schedule of Programs:

Teaching Self-Government Skills for Success, Classroom Communication, and Discipline Framework Pilot Program $150,000

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 373
S. B. 164
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

FAMILY OUTREACH AMENDMENTS

Chief Sponsor: John D. Johnson
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill establishes the Family Outreach Program.

Highlighted Provisions:

This bill:

- defines terms;
- allows a school to apply to create a Family Outreach Program (program);
- establishes a process for submitting an application and receiving LEA governing board approval for a program;
- provides for the features of the program;
- provides for oversight of the program by the LEA governing board;
- allows the LEA governing board to appoint and oversee a family outreach liaison; and
- provides for annual evaluation of the performance of a program liaison.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-10-701, Utah Code Annotated 1953
53G-10-702, Utah Code Annotated 1953
53G-10-703, Utah Code Annotated 1953
53G-10-704, Utah Code Annotated 1953
53G-10-705, Utah Code Annotated 1953

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

Section 1. Section 53G-10-701 is enacted to read:

53G-10-701. Definitions.

Part 7. Family Outreach Program

As used in this section:

(1) "Family outreach liaison" means a family outreach liaison appointed in accordance with Section 53G-10-703.

(2) "School" means a public elementary or secondary school, including a charter school.

Section 2. Section 53G-10-702 is enacted to read:

53G-10-702. Establishment of family outreach program -- LEA governing board approval -- Renewal of program.

(1) A school may establish a family outreach program for a K-12 school as provided in this part if the family outreach program is approved by the LEA governing board for the LEA in which the proposed family outreach program is to be implemented.

(2) A school may submit a family outreach program application to the LEA governing board for the school.

(3) A school shall submit a family outreach program application no less than 90 days before the beginning of student registration for the school year for which the family outreach program is proposed.

(4)(a) An LEA governing board shall approve or deny a family outreach program application within 60 days after the application is submitted.

(b) An LEA governing board may approve a family outreach program application subject to modifications or additional terms that the LEA governing board determines appropriate.

(5) A family outreach program may be renewed for another school year if:

(a) the school requests renewal; and

(b) the LEA governing board approves the renewal.

Section 3. Section 53G-10-703 is enacted to read:

53G-10-703. LEA governing board to supervise.

(1) The LEA governing board of a school that has implemented a family outreach program may appoint a family outreach liaison.

(2) The general control, supervision, and direct management of a family outreach liaison is vested in the LEA governing board for the school in which the program is implemented.

(3) The LEA governing may:

(a) make and enforce rules to organize, conduct, and supervise a family outreach liaison;

(b) establish the family outreach liaison duties, and fix the family outreach liaison's compensation;

(c) determine the qualifications of a person employed as a family outreach liaison;

(d) determine the basis of apportionment and distribute funds made available for the employment of a family outreach liaison; and

(e) evaluate the family outreach liaison's performance annually.

Section 4. Section 53G-10-704 is enacted to read:

53G-10-704. Family outreach liaison responsibilities.

The family outreach liaison shall:

(1) communicate to families about:

(a) school events;

(b) school priorities;

(c) school-based resources and community-based resources that are available to children or families; and

(d) opportunities to volunteer in the classroom and outside of the classroom at the school and school related events; and

(2) communicate to families about how to:

(a) read and interpret their children's report card and other data generated by the school;

(b) navigate school web-based platforms;

(c) reach out to teachers and other school staff to advocate for their child; and

(d) support the child's learning at home.

Section 5. Section 53G-10-705 is enacted to read:

53G-10-705. Provisions applicable to students, staff in a family outreach program.

A family outreach program shall comply with all applicable federal, state, and local laws prohibiting discrimination or governing the safety of students and teachers.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 374
S. B. 173
Passed February 28, 2024
Approved March 18, 2024
Effective July 1, 2024

MARKET INFORMED COMPENSATION FOR TEACHERS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends and creates programs to enhance teacher salary supplement opportunities.

Highlighted Provisions:

This bill:

- repeals and reenacts the Teacher Salary Supplement Program as the Salary Supplement for Highly Needed Educators Program;
- amends the qualifying teaching areas for the Salary Supplement for Highly Needed Educators program to be a high-needs area;
- establishes the Excellence in Education and Leadership Supplement (the program);
- describes the eligibility requirements for the program;
- requires a local education agency (LEA) to create an assessment process to identify eligible teachers;
- requires the Center for the School of the Future to validate an LEA's determinations of teacher eligibility;
- requires the State Board of Education to disburse funds for the program; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - State Board and Administrative Operations - Excellence in Education and Leadership Supplement as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $150,000,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
53F-2-526, Utah Code Annotated 1953

REPEALS AND REENACTS:
53F-2-504, as last amended by Laws of Utah 2023, Chapter 373

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

Section 1. Section 53F-2-504 is repealed and re-enacted to read:

53F-2-504. Salary Supplement for Highly Needed Educators.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying assignment;

(ii) qualifies for the teacher's assignment in accordance with an LEA's policy described in Subsection (2); and

(iii)(A) is a new employee; or

(B) has not received an unsatisfactory rating on the teacher's three most recent evaluations.

(b) "High-needs area" means at least two and up to five teaching assignments that an LEA designates in a policy as challenging to fill or retain.

(c) "Program" means the Salary Supplement for Highly Needed Educators program.

(d) "Qualifying assignment" means a teacher who is assigned to a high-needs area.

(2)(a) An LEA shall create a policy describing the administration of the Salary Supplement for Highly Needed Educators program within the LEA, including:

(i) identifying the LEA's high-needs areas;

(ii) the amount of the salary supplement;

(iii) establishing an appeals process for a teacher to follow if the teacher does not receive a salary supplement, including:

(A) allowing a teacher to appeal eligibility as an eligible teacher with a qualifying assignment on the basis that the teacher has a teaching assignment that is substantially equivalent to a high-needs area; and

(B) requiring a teacher to provide transcripts and other documentation to the LEA governing board in order for the LEA governing board to determine if the teacher is an eligible teacher with a qualifying teaching background;

(iv) a process for determining if a teacher is an eligible teacher, including a verification process; and

(v) a process for certifying a list of eligible teachers to be awarded a salary supplement under this section.

(b) An LEA shall update the policy described in Subsection (2)(a) annually and provide notice of any changes to teachers within the LEA.

(3) Subject to legislative appropriations and an LEA having the policy described in Subsection (2), the state board shall allocate funding appropriated for the Salary Supplements for Highly Needed Educators program in accordance with this section by:

(a) for charter schools:

(i) distributing an amount that is equal to the product of:

(A) charter school enrollment on October 1 in the prior year, or, for a new charter school, projected enrollment for a charter school in the charter school's first year of operations, divided by enrollment on October 1 in public schools statewide in the prior year; and

(B) the total amount available for distribution; and

(ii) allocating to each charter school:

(A) an equally divided portion of 20% of the amount described in Subsection (3)(a)(i); and

(B) 80% of the amount described in Subsection (3)(a)(i) on a per-student basis; and

(b) for school districts:

(i) distributing the remainder of funds available for distribution after the distribution to charter schools under Subsection (3)(a)(i) by allocating to each school district:

(A) an equally divided portion of 20% of the amount described in Subsection (3)(b)(i); and

(B) 80% of the amount described in Subsection (3)(b)(i) on a per-student basis.

(c) An LEA shall use funds described in Subsections (3)(a) and (3)(b) to pay the LEA's proportional part of an eligible teacher's salary supplement if:

(i) the eligible teacher is an employee of a regional education service agency, as defined in Section 53G-4-410; and

(ii) the LEA is a member of the regional education service agency that employs the eligible teacher.

(4)(a) An LEA shall include employer-paid benefits in the amount of each salary supplement.

(b) Employer-paid benefits are an addition to the salary supplement amount established by an LEA under Subsection (2).

(5) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or quarter.

(6) The state board shall annually report to the Education Interim Committee:

(a) which teaching assignments LEAs have designated as high-needs; and

(b) the number of eligible teachers.

Section 2. Section 53F-2-526 is enacted to read:

53F-2-526. Excellence in Education and Leadership Supplement.

(1) As used in this section:

(a) "Center" means the Center for the School of the Future at Utah State University established in Section 53B-18-801.

(b) "Eligible teacher" means a teacher who is a top-performing teacher that the center determines using an LEA's assessment methods, including:

(i) student growth or achievement measures;

(ii) professional evaluations;

(iii) parent surveys; and

(iv) other data-driven criteria the LEA establishes and the center verifies for validity.

(c) "Eligible teacher" includes an individual whom an LEA participating in the program employs and who holds:

(i) a license the state board issues; and

(ii) a position that includes a current classroom teaching assignment.

(d) "High poverty school" means the same as the term is defined in Section 53F-2-513.

(e) "LEA" means:

(i) a school district;

(ii) charter school; and

(iii) a regional education service agency.

(f) "Program" means the Excellence in Education and Leadership Supplement created in Subsection (2).

(g) "Tier performance level" means the following levels of performance for a teacher in comparison to all teachers the center determines in accordance with Subsection (7):

(i) the top 5% of teachers;

(ii) the next 6%-10% of teachers; and

(iii) the next 11%-25% of teachers.

(h) "Top-performing" means the top 25% of teachers in comparison to all teachers the center determines using the methods described in Subsection (1)(b).

(2) Beginning July 1, 2024, there is created a five-year pilot program known as the Excellence in Education and Leadership Supplement to provide a salary supplement to an eligible teacher in recognition for outstanding instructional talent.

(3)(a) No later than December 31, 2024, an LEA shall declare the LEA's intent to participate in the program to the center.

(b) If an LEA declares an intent to participate in the program, the LEA shall:

(i) develop a process for a school principal or the principal's designee to assess a teacher's performance consistent with this section to determine if a teacher is an eligible teacher, including the corresponding tier performance level; and

(ii) create an appeals process for an employee who is not nominated to be an eligible teacher.

(4) No later than April 1, 2025, an LEA shall:

(a) attend a training that the center creates regarding the guidelines for developing a process described in Subsection (3); and

(b) develop and submit for approval the LEA's process described in Subsection (3) to the center.

(5)(a) The center shall review the LEA's process described in Subsection (3) and approve the process

or request that the LEA make changes to the submitted process.

(b) If the center requests changes to the LEA's submitted process, the LEA shall work with the center to make necessary changes to receive final approval from the center.

(c) No later than June 30, 2025, the center shall provide final approval or denial of an LEA's process.

(6) Before the start of the 2025- 2026 school year, an LEA with an approved process as described in Subsection (5) shall:

(a) ensure each school principal or the principal's designee attends a training that the center creates regarding:

(i) how to effectively use the LEA's approved process to select and submit to the center nominations for eligible teachers, including the corresponding tier performance level; and

(ii) how to protect student and educator data privacy when submitting nominations and applications, as described in Subsection (9)(b)(ii).

(b) provide information to teachers within the LEA regarding the program and how the school's principal or principal's designee will use the approved LEA process to make nominations of eligible teachers;

(c) ensure each school principal or the principal's designee uses the LEA's approved process to evaluate and select which teachers within the school to nominate as eligible teachers, including the corresponding tier performance level; and

(d) as provided in Subsection (9), submit to the center a list of the nominated eligible teachers for the center to consider.

(7) In assessing if a nominated teacher is an eligible teacher, the center shall create an assessment process that:

(a) uses the methods described in Subsection (1)(b);

(b) calibrates the submissions an LEA submits to determine, for all nominated teachers statewide, which teachers are eligible teachers, including the corresponding tier performance level;

(c) may use additional criteria as determined by the center in consultation with participating LEAs; and

(d) establishes a scoring rubric including the scores required for a designation in each tier performance level.

(8)(a) The center shall collaborate with LEAs to create:

(i) selection and submission guidelines for:

(A) the approval of the LEA's process as described in Subsection (5); and

(B) the list of nominated eligible teachers described in Subsection (6);

(ii) methods to determine student growth and achievement measures for subject areas that do not have standardized assessment data;

(iii) the weightings for each element of the assessment process described in Subsection (7); and

(iv) the trainings described in this section.

(b) The center may provide program related technical assistance to an LEA.

(9)(a) An LEA shall:

(i) apply to the center on behalf of the nominated eligible teachers within the LEA through a process and format that the center determines; and

(ii) ensure a school principal or the principal's designee reevaluates an eligible teacher's designation under this section every three years.

(b) The center shall:

(i) create an application process for an LEA to submit the list of nominated eligible teachers described in Subsection (9)(a);

(ii) coordinate with the state board in the creation of the application process described in Subsection (9)(b)(i) to ensure that any sharing of student and educator data during the application process:

(A) complies with the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99;

(B) complies with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(C) uses disclosure avoidance techniques, including aggregating and otherwise de- identifying data;

(iii) no later than October 1, 2026, determine if a nominated teacher is an eligible teacher through the process described in Subsection (7);

(iv) verify:

(A) the validity of the LEA's process and assessment of an eligible teacher as described in Subsections (4) and (5); and

(B) the nominations described in Subsection (7) with the LEA and school administrators;

(v) certify a list of eligible teachers, including the total amount of funding the LEA receives for the LEA's eligible teachers; and

(vi) provide the list described in Subsection (9)(b)(iv) to the state board.

(10)(a) Subject to legislative appropriations, the state board shall:

(i) disburse funding to an LEA in the amount the center verifies that an LEA qualifies to receive for salary supplements under this section; and

(ii)(A) except as provided in Subsection (10)(a)(ii)(B), allocate 1% of the funds appropriated under this section to the center; and

(B) provide no more than $500,000 to the center each fiscal year from the funds described in Subsection (10)(a)(ii)(A).

(b) The annual salary supplement for an eligible teacher is:

(i) $10,000 for a teacher in the top 5% of teachers;

(ii) $5,000 for a teacher in the next 6%-10% of teachers; and

(iii) $2,000 for a teacher in the next 11%-25% of teachers.

(c) If the eligible teacher is employed at a high poverty school, the eligible teacher shall receive an additional salary supplement that is equal in amount to the eligible teacher's salary supplement described in Subsection (10)(b).

(11)(a) An LEA shall:

(i) use the program funds to provide a salary supplement equal to the amount specified in Subsection (10) for each eligible teacher in each tier performance level; and

(ii) provide the salary supplement in an eligible teacher's regularly occurring compensation in equal amounts through the contracted school years related to the salary supplement award.

(b) An LEA:

(i) may use up to 4% of the money appropriated to the LEA for salary supplements to cover administrative costs associated with implementing the program;

(ii) may use money appropriated to the LEA for the salary supplement for employer-paid benefits; and

(iii) may not include a salary supplement received under this section:

(A) in a retirement calculation; or

(B) as part of retirement contributions.

(c) The salary supplement is not part of an eligible teacher's base pay, and is subject to the eligible teacher's designation as an eligible teacher.

(12) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, an LEA may distribute the funds to each eligible teacher of the same tier of performance level on a pro rata basis.

(13) The center and the state board shall collaborate regarding data sharing and other relevant interactions to facilitate the successful administration of the program.

(14)(a) An eligible teacher that receives a salary supplement under the program has no vested property right in the salary supplement or the designation as an eligible teacher.

(b) An eligible teacher's salary supplement and designation under this section are void if the school principal or principal's designee, LEA, or the center made or certified the designation improperly.

(15)(a) Subject to prioritization of the Audit Subcommittee, unless the state board contracts a private auditor in accordance with Subsection (15)(b), the Office of the Legislative Auditor General established under Section 36-12-15 shall, in any fiscal year:

(i) conduct an audit of the program including:

(A) an evaluation of the implementation of the program; and

(B) the efficacy of the program, including program outcomes; and

(ii) prepare and submit a written report for an audit described in this section in accordance with Subsection 36-12-15(4)(b)(ii).

(b) Subject to legislative appropriations, the state board may contract with an external auditor to perform the audit described in this Subsection (15).

(16)(a) The center shall report to the Education Interim Committee no later than the 2024 October meeting the following:

(i) the methodology and process the center develops to achieve the requirements of Subsection (7);

(ii) relevant data and updates resulting from the collaborations described in Subsection (8);

(iii) any recommendations for future legislation; and

(iv) data regarding salary supplement programs, including:

(A) different approaches used to reward teacher performance, including different evaluation methods;

(B) research outlining the effectiveness and impact of different salary supplement amounts on teacher retention; and

(C) other considerations for impactful salary supplement programs in relation to teacher retention.

(b) Beginning November 1, 2026, the center shall provide an annual report to the Education Interim Committee regarding:

(i) the statewide metrics used in accordance with Subsection (7);

(ii) de-identified and aggregated data showing the number of:

(A) salary supplements per school, including total number of eligible teachers in each school;

(B) eligible teachers in high poverty schools;

(C) eligible teachers in each tier performance level;

(D) eligible teachers in subject areas that do not have standardized assessments; and

(E) salary supplement denials per school, including the reasons for a denial;

(iii) proportion of eligible teachers in:

(A) school districts; and

(B) charter schools; and

(iv) teacher retention data for a school where an eligible teacher is employed.

Section 3. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 3(a) Operating and Capital Budgets

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

ITEM 1

To State Board of Education - State Board and Administrative Operations

From Public Education Economic Stabilization Restricted Account, One- time $150,000,000

Schedule of Programs:

Excellence in Education and Leadership Supplement $150,000,000

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The actions affecting Section 53F- 2- 504 take effect on July 1, 2025.

CHAPTER 375
S. B. 185
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

RESIDENTIAL BUILDING INSPECTION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill amends provisions relating to third-party inspection firms.

Highlighted Provisions:

This bill:

- provides that, if a city does not provide a building inspection within three days, an applicant may engage a third-party inspection firm;
- authorizes a person seeking a building permit to hire a third-party inspection firm to perform an inspection of the person's property at the local regulator's expense;
- establishes a process and standards that govern a local regulator's payment of third-party inspection firm costs;
- requires that a local regulator issue a certificate of occupancy to a building permit applicant after certain requirements have been met;
- exempts a local regulator from liability for any inspection performed by a third-party inspection firm;
- amends provisions relating to disciplinary proceedings for a licensed inspector; and
- defines terms.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-6-160, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
15A-1-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
17-36-55, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
58-56-9, as last amended by Laws of Utah 2018, Chapter 229

ENACTS:

15A-1-105, Utah Code Annotated 1953

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

Section 1. Section 10-6-160 is amended to read:

10-6-160. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

(b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(d) "Planning review" means a review to verify that a city has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(e)(i) "Plan review" means all of the reviews and approvals of a plan that a city requires to obtain a building permit from the city with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re- submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(f) "State Construction Code" means the same as that term is defined in Section 15A- 1- 102.

(g) "State Fire Code" means the same as that term is defined in Section 15A- 1- 102.

(h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(h)(i), a review that a licensed engineer conducts.

(i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2)(a) If a city collects a fee for the inspection of a construction project, the city shall ensure that the construction project receives a prompt inspection as described in Subsection (2)(b).

(b) If a city cannot provide a building inspection within three business days after the day on which the city receives the request for the inspection, [~~the city shall promptly engage an independent inspector with fees collected from the applicant~~]the building permit applicant may engage a third- party inspection firm from the third- party inspection firm list described in Section 15A- 1- 105.

(c) Notwithstanding Subsection (2)(b), if an applicant requests that an inspection take place on a date that is more than three days from the day on which the applicant requests the inspection, the city shall conduct the inspection on the date requested.

[~~(c)~~](d) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3)(a) A city shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the applicant submits a complete building permit application to the city.

(b) A city shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the applicant submits a complete building permit application to the city.

(c)(i) Subject to Subsection (3)(c)(ii), if a city does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the city complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the city shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the city's consent, establish an alternative plan review time requirement.

(4) A city may not enforce a requirement to have a plan review if:

(a) the city does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(5)(a) A city may attach to a reviewed plan a list that includes:

(i) items with which the city is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A city may not require an applicant to redraft a plan if the city requests minor changes to the plan that the list described in Subsection (5)(a) identifies.

(c) A city may only require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a city charges a fee for a building permit, the city may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A city may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the city; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 2. Section 15A-1-105 is enacted to read:

15A-1-105. Third-party inspection firms.

(1) As used in this section:

(a) "Building permit applicant" means a person who applies to a local regulator for a building permit.

(b) "Inspection" means a physical examination of all aspects of a structure to ensure compliance with the State Construction Code.

(c) "Local regulator" means the same as that terms is defined in Section 15A-1-102.

(d) "Third-party inspection firm" means an entity that is:

(i) licensed under Title 58, Chapter 56, Building Inspector and Factory Built Housing Licensing;

(ii) independent, but may include a building inspector for an adjacent city or county; and

(iii) included on the local regulator's third-party inspection firm list.

(e) "Third-party inspection firm list" means a list of:

(i) for a first, second, third, or fourth class county, or a municipality located within a first, second, third, or fourth class county, three or more third-party inspection firms approved by the local regulator; or

(ii) for a fifth or sixth class county, or a municipality located within a fifth or sixth class county, one or more third-party inspection firms approved by the local regulator.

(2)(a) Subject to the provisions of this section and Subsections 10-6-160(2) and 17-36-55(2), after submitting a request for inspection, a building permit applicant may engage a third-party inspection firm from the local regulator's third-party inspection firm list to conduct or complete an inspection for the scope of work identified under the original request for inspection.

(b) If a building permit applicant wishes to engage a third-party inspection firm in accordance with Subsection (2)(a), the building permit applicant shall first notify the local regulator of the

third-party inspection firm the building permit applicant intends to engage.

(c) Upon completing the inspection, the third-party inspection firm shall submit the inspection report to the local regulator.

(d)(i) The local regulator shall pay the cost of the inspection to the third-party inspection firm after the local regulator receives the third-party inspection report indicating the third-party inspection firm completed the inspection.

(ii) This section does not require a local regulator to pay for an inspection that exceeds the scope of work identified under the original request for inspection.

(3)(a) The local regulator shall issue a certificate of occupancy to the building permit applicant if the third-party inspection firm:

(i) completes the inspection; and

(ii) submits the inspection report to the local regulator.

(b) The local regulator shall promptly issue the certificate of occupancy or letter of completion after the third-party inspection firm submits the final inspection report to the local regulator as described in Subsection (3)(a)(ii).

(4) A local regulator is not liable for any inspection performed by a third-party inspection firm.

Section 3. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2)(a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Building permit applicant" means the same as that term is defined in Section 15A-1-105.

[~~(4)~~](5) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

[~~(5)~~](6) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

[~~(6)~~](7) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes;[~~or~~]

(c) a third-party inspection firm as defined in Section 15A-1-105; or

[~~(c)~~](d) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

[~~(7)~~](8) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code;

(h) a swimming pool and spa code; and

(i) a manufactured housing installation standard code.

[~~(8)~~](9) "Construction project" means the same as that term is defined in Section 38-1a-102.

[~~(9)~~](10) "Executive director" means the executive director of the Department of Commerce.

[~~(10)~~](11) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

[~~(11)~~](12) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes.

[~~(12)~~](13) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

[~~(13)~~](14) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance and repair; and

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

[~~(14)~~](15) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

[~~(15)~~](16) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

[~~(16)~~](17) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 4. Section 17-36-55 is amended to read:

17-36-55. Fees collected for construction approval -- Approval of plans.

(1) As used in this section:

(a) "Business day" means a day other than Saturday, Sunday, or a legal holiday.

(b) "Construction project" means the same as that term is defined in Section 38-1a-102.

(c) "Lodging establishment" means a place providing temporary sleeping accommodations to the public, including any of the following:

(i) a bed and breakfast establishment;

(ii) a boarding house;

(iii) a dormitory;

(iv) a hotel;

(v) an inn;

(vi) a lodging house;

(vii) a motel;

(viii) a resort; or

(ix) a rooming house.

(d) "Planning review" means a review to verify that a county has approved the following elements of a construction project:

(i) zoning;

(ii) lot sizes;

(iii) setbacks;

(iv) easements;

(v) curb and gutter elevations;

(vi) grades and slopes;

(vii) utilities;

(viii) street names;

(ix) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(x) subdivision.

(e)(i) "Plan review" means all of the reviews and approvals of a plan that a county requires to obtain a building permit from the county with a scope that may not exceed a review to verify:

(A) that the construction project complies with the provisions of the State Construction Code under Title 15A, State Construction and Fire Codes Act;

(B) that the construction project complies with the energy code adopted under Section 15A-2-103;

(C) that the construction project received a planning review;

(D) that the applicant paid any required fees;

(E) that the applicant obtained final approvals from any other required reviewing agencies;

(F) that the construction project complies with federal, state, and local storm water protection laws;

(G) that the construction project received a structural review;

(H) the total square footage for each building level of finished, garage, and unfinished space; and

(I) that the plans include a printed statement indicating that the actual construction will comply with applicable local ordinances and the state construction codes.

(ii) "Plan review" does not mean a review of a document:

(A) required to be re-submitted for a construction project other than a construction project for a one to two family dwelling or townhome if additional modifications or substantive changes are identified by the plan review;

(B) submitted as part of a deferred submittal when requested by the applicant and approved by the building official; or

(C) that, due to the document's technical nature or on the request of the applicant, is reviewed by a third party.

(f) "State Construction Code" means the same as that term is defined in Section 15A-1-102.

(g) "State Fire Code" means the same as that term is defined in Section 15A-1-102.

(h) "Structural review" means:

(i) a review that verifies that a construction project complies with the following:

(A) footing size and bar placement;

(B) foundation thickness and bar placement;

(C) beam and header sizes;

(D) nailing patterns;

(E) bearing points;

(F) structural member size and span; and

(G) sheathing; or

(ii) if the review exceeds the scope of the review described in Subsection (1)(h)(i), a review that a licensed engineer conducts.

(i) "Technical nature" means a characteristic that places an item outside the training and expertise of an individual who regularly performs plan reviews.

(2)(a) If a county collects a fee for the inspection of a construction project, the county shall ensure that the construction project receives a prompt inspection.

(b) If a county cannot provide a building inspection within three business days after the day on which the county receives the request for the inspection, [~~the county shall promptly engage an independent inspector with fees collected from the applicant~~]the applicant may engage an inspection with a third-party inspection firm from the third-party inspection firm list, as described in Section 15A-1-105.

(c) If an inspector identifies one or more violations of the State Construction Code or State Fire Code during an inspection, the inspector shall give the permit holder written notification that:

(i) identifies each violation;

(ii) upon request by the permit holder, includes a reference to each applicable provision of the State Construction Code or State Fire Code; and

(iii) is delivered:

(A) in hardcopy or by electronic means; and

(B) the day on which the inspection occurs.

(3)(a) A county shall complete a plan review of a construction project for a one to two family dwelling or townhome by no later than 14 business days after the day on which the applicant submits a complete building permit application to the county.

(b) A county shall complete a plan review of a construction project for a residential structure built under the International Building Code, not including a lodging establishment, by no later than 21 business days after the day on which the applicant submits a complete building permit application to the county.

(c)(i) Subject to Subsection (3)(c)(ii), if a county does not complete a plan review before the time period described in Subsection (3)(a) or (b) expires, an applicant may request that the county complete the plan review.

(ii) If an applicant makes a request under Subsection (3)(c)(i), the county shall perform the plan review no later than:

(A) for a plan review described in Subsection (3)(a), 14 days from the day on which the applicant makes the request; or

(B) for a plan review described in Subsection (3)(b), 21 days from the day on which the applicant makes the request.

(d) An applicant may:

(i) waive the plan review time requirements described in this Subsection (3); or

(ii) with the county's consent, establish an alternative plan review time requirement.

(4) A county may not enforce a requirement to have a plan review if:

(a) the county does not complete the plan review within the time period described in Subsection (3)(a) or (b); and

(b) a licensed architect or structural engineer, or both when required by law, stamps the plan.

(5)(a) A county may attach to a reviewed plan a list that includes:

(i) items with which the county is concerned and may enforce during construction; and

(ii) building code violations found in the plan.

(b) A county may not require an applicant to redraft a plan if the county requests minor changes to the plan that the list described in Subsection (5)(a) identifies.

(c) A county may require a single resubmittal of plans for a one or two family dwelling or townhome if the resubmission is required to address deficiencies identified by a third-party review of a geotechnical report or geological report.

(6) If a county charges a fee for a building permit, the county may not refuse payment of the fee at the time the applicant submits a building permit application under Subsection (3).

(7) A county may not limit the number of building permit applications submitted under Subsection (3).

(8) For purposes of Subsection (3), a building permit application is complete if the application contains:

(a) the name, address, and contact information of:

(i) the applicant; and

(ii) the construction manager/general contractor, as defined in Section 63G-6a-103, for the construction project;

(b) a site plan for the construction project that:

(i) is drawn to scale;

(ii) includes a north arrow and legend; and

(iii) provides specifications for the following:

(A) lot size and dimensions;

(B) setbacks and overhangs for setbacks;

(C) easements;

(D) property lines;

(E) topographical details, if the slope of the lot is greater than 10%;

(F) retaining walls;

(G) hard surface areas;

(H) curb and gutter elevations as indicated in the subdivision documents;

(I) utilities, including water meter and sewer lateral location;

(J) street names;

(K) driveway locations;

(L) defensible space provisions and elevations, if required by the Utah Wildland Urban Interface Code adopted under Section 15A-2-103; and

(M) the location of the nearest hydrant;

(c) construction plans and drawings, including:

(i) elevations, only if the construction project is new construction;

(ii) floor plans for each level, including the location and size of doors and windows;

(iii) foundation, structural, and framing detail; and

(iv) electrical, mechanical, and plumbing design;

(d) documentation of energy code compliance;

(e) structural calculations, except for trusses;

(f) a geotechnical report, including a slope stability evaluation and retaining wall design, if:

(i) the slope of the lot is greater than 15%; and

(ii) required by the county; and

(g) a statement indicating that actual construction will comply with applicable local ordinances and building codes.

Section 5. Section 58-56-9 is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

(1) An inspector employed by a local regulator, state regulator, or compliance agency to enforce the codes shall:

(a)(i) meet minimum qualifications as established by the division in collaboration with the commission;

(ii) be certified by a nationally recognized organization which promulgates construction codes; or

(iii) pass an examination developed by the division in collaboration with the commission;

(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to [~~revocation or suspension of the inspector's license or being placed on probation if found guilty of~~]disciplinary or other action if the licensee engages in unlawful or unprofessional conduct.

(2) A local regulator, state regulator, or compliance agency may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) In accordance with Section 58-1-401, the division may:

(a) refuse to issue a license to an applicant;

(b) refuse to renew the license of a licensee;

(c) revoke, suspend, restrict, or place on probation the license of a licensee;

(d) issue a public or private reprimand;

(e) issue a citation to a licensee; and

(f) issue a cease and desist order.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 376
S. B. 108
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

VETERAN ACCESS TO STATE PARKS

Chief Sponsor: Karen Kwan
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill expands veteran access to state parks.

Highlighted Provisions:

This bill:

- renumbers a provision that expands the State Parks Honor Pass Program to all veterans with any percentage of disability rating from the Veterans Administration; and
- creates a one-year pilot program that expands free access to state parks on a limited basis to veterans who have an Interagency Military-Lifetime Pass for national parks and are a resident of the state.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Veterans and Military Affairs - DVMA Pass Through - DVMA Pass Through as a one-time appropriation:
  - from the General Fund, One-time, $200,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-279, as last amended by Laws of Utah 2023, Chapters 33, 139 and 221

ENACTS:

79-4-1002, Utah Code Annotated 1953

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

Section 1. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Section 79-2-407, which directs the Department of Natural Resources to study funding for water infrastructure costs, is repealed July 1, 2025.

(3) Subsection 79-4-1002(2), which creates a pilot program for veteran free admission to state parks, is repealed July 1, 2025.

[~~(3)~~](4) Section 79-7-303 is repealed on July 1, 2024.

Section 2. Section 79-4-1002 is enacted to read:

79-4-1002. Veteran access to state parks.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to grant free admission to state parks to an honorably discharged veteran who:

(a) is a resident of the state; and

(b) has a current service-connected disability rating issued by the United States Veterans Benefits Administration.

(2)(a) Beginning on July 1, 2024, and ending on June 30, 2025, the division shall offer a pilot program that grants free admission to state parks to a veteran who:

(i) is a resident of the state; and

(ii) has an Interagency Military-Lifetime Pass for national parks and federal recreational lands.

(b) The division may make rules to establish the pilot program described in Subsection (2)(a).

Section 3. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 3(a) Operating and Capital Budgets

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

ITEM 1

To Department of Veterans and Military Affairs - DVMA Pass Through

From General Fund, One-time $200,000

Schedule of Programs:

DVMA Pass Through $200,000

The Legislature intends that the Department of Veterans and Military Affairs pass through the appropriation under this section to the Division of State Parks to pay for free veteran admission to state parks in accordance with Subsection 79-4-1002(2).

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 377
S. B. 186
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

STATE COMMEMORATIVE PERIOD AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends provisions related to commemorative periods.

Highlighted Provisions:

This bill:

- modifies annual commemorations to include a day of remembrance for the first responders and persons killed and injured in the terrorist attacks on September 11, 2001.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-401, as last amended by Laws of Utah 2023, Chapters 57, 351 and 472

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

Section 1. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) As used in this section, "commemorative period" means a special observance declared by the governor that annually recognizes and honors a culturally or historically significant day, week, month, or other time period in the state.

(2)(a) The governor may declare a commemorative period by issuing a declaration.

(b) The governor shall maintain a list of all commemorative periods declared by the governor.

(3)(a) The governor's declaration of a commemorative period expires the year immediately following the day on which the governor issues the declaration.

(b) Subsection (3)(a) does not prevent the governor from redeclaring a commemorative period before or after the commemorative period expires.

(4) Notwithstanding Subsections (2) and (3), the following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

(c) Utah State Flag Day, on March 9;

(d) Vietnam Veterans Recognition Day, on March 29;

(e) Utah Railroad Workers Day, on May 10;

(f) Dandy-Walker Syndrome Awareness Day, on May 11;

(g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

(h) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

(i) Navajo Code Talker Day, on August 14;

(j) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

(k) September 11th Day of Remembrance, on September 11, in honor and remembrance of the first responders and persons killed and injured in the terrorist attacks on September 11, 2001;

[~~(k)~~](l) Constitution Day, on September 17, to invite all Utah adults and Utah school children to read directly from the United States Constitution and other primary sources, and for students to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses;

[~~(l)~~](m) POW/MIA Recognition Day, on the third Friday in September;

[~~(m)~~](n) Diwali, on the fifteenth day of the Hindu lunisolar month of Kartik, known as Lakshmi puja, or the Hindu festival of lights;

[~~(n)~~](o) Victims of Communism Memorial Day, on November 7;

[~~(o)~~](p) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

[~~(p)~~](q) Bill of Rights Day, on December 15.

(5) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections (4)(g) and [~~(l)~~](m).

(6) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over- the- counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(7) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the services that animal care and control professionals provide.

(8) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(9) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(10) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(11) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(12) The month of September shall be commemorated annually as American Founders and Constitution Month to:

(a) encourage all civic, fraternal, and religious organizations, and public and private educational institutions, to recognize and observe this occasion through appropriate programs, teaching, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate; and

(b) invite all Utah school children to read directly from the United States Constitution and other primary sources, and to be taught principles from the United States Constitution that include federalism, checks and balances, separation of powers, popular sovereignty, limited government, and the necessary and proper, commerce, and supremacy clauses.

(13) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(14) The month of October shall be commemorated annually as Italian- American Heritage Month.

(15) The month of November shall be commemorated annually as American Indian Heritage Month.

(16) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 378
S. B. 192
Passed February 28, 2024
Approved March 18, 2024
Effective May 1, 2024

HIGHER EDUCATION AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends higher education funding metrics, requirements and governance, and updates general code language.

Highlighted Provisions:

This bill:

- amends provisions related to the selection of Utah Board of Higher Education (board) designees on certain boards and commissions;
- moves certain duties and responsibilities between boards of institutions and the board;
- combines related provisions of presidential powers between technical colleges and degree granting institutions;
- amends the statutes governing performance metrics and performance funding for institutions of higher education;
- allows Talent Ready Utah to create talent advisory councils for talent initiatives;
- amends requirements related to operations and maintenance funding requests; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Utah Board of Higher Education - Performance Funding Restricted Account as an ongoing appropriation:
  - from the Income Tax Fund, $20,000,000
- to Bridgerland Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $336,000
- to Davis Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $234,600
- to Dixie Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $255,800
- to Mountainland Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $198,100
- to University of Utah - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $3,404,600
- to Utah Valley University - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $829,100
- to Weber State University - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $834,300
- to Southern Utah University - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $699,600
- to Tooele Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $53,400
- to Uintah Basin Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $137,200
- to Utah State University - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $989,200
- to Utah State University - USU - Eastern Career and Technical Education - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $59,600
- to Utah Tech University - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $279,500
- to Ogden- Weber Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $402,100
- to Salt Lake Community College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $471,300
- to Salt Lake Community College - Career and Technical Education - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $68,200
- to Snow College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $303,000
- to Snow College - Career and Technical Education - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $93,600
- to Southwest Technical College - Education and General - Instruction as an ongoing appropriation:
  - from the Income Tax Fund Restricted - Performance Funding Rest. Acct., $61,200

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
35A-13-603, as last amended by Laws of Utah 2020, Chapter 365
36-28-102, as last amended by Laws of Utah 2021, Chapter 78
49-12-204, as last amended by Laws of Utah 2020, Chapters 24, 365
49-13-204, as last amended by Laws of Utah 2020, Chapters 24, 365
49-22-204, as last amended by Laws of Utah 2022, Chapter 171
51-8-303, as last amended by Laws of Utah 2020, Chapter 365
53B-1-110, as enacted by Laws of Utah 2007, Chapter 248
53B-1-112, as last amended by Laws of Utah 2021, Chapter 187
53B-1-401, as last amended by Laws of Utah 2023, Chapter 254
53B-1-402, as last amended by Laws of Utah 2023, Chapter 254
53B-1-408, as last amended by Laws of Utah 2023, Chapter 254
53B-2a-107, as last amended by Laws of Utah 2021, Chapter 187
53B-2a-117, as last amended by Laws of Utah 2022, Chapter 421
53B-3-103, as last amended by Laws of Utah 2021, First Special Session, Chapter 7
53B-3-104, as enacted by Laws of Utah 1987, Chapter 167
53B-3-105, as enacted by Laws of Utah 1987, Chapter 167
53B-6-105, as last amended by Laws of Utah 2021, Chapter 187
53B-6-105.9, as last amended by Laws of Utah 2020, Chapter 365
53B-7-702, as last amended by Laws of Utah 2021, Chapters 282, 351 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 187
53B-7-705, as last amended by Laws of Utah 2023, Chapter 254
53B-7-706, as last amended by Laws of Utah 2023, Chapter 254
53B-8-102, as last amended by Laws of Utah 2023, Chapters 44, 50
53B-8-201, as last amended by Laws of Utah 2022, Chapter 370
53B-8a-105, as last amended by Laws of Utah 2023, Chapter 374
53B-13-103, as enacted by Laws of Utah 1987, Chapter 167
53B-16-102, as last amended by Laws of Utah 2023, Chapter 254
53B-17-1203, as last amended by Laws of Utah 2023, Chapter 328
53B-22-102, as last amended by Laws of Utah 1995, Chapter 332
53B-22-103, as enacted by Laws of Utah 1991, Chapter 32
53B-22-104, as last amended by Laws of Utah 1992, Chapter 177
53B-22-105, as enacted by Laws of Utah 1991, Chapter 32
53B-22-106, as last amended by Laws of Utah 2000, Chapter 143
53B-22-107, as enacted by Laws of Utah 1991, Chapter 32
53B-22-109, as last amended by Laws of Utah 1994, Chapter 209
53B-22-111, as enacted by Laws of Utah 1994, Chapter 209
53B-22-112, as enacted by Laws of Utah 1995, Chapter 332
53B-22-113, as enacted by Laws of Utah 1995, Chapter 332
53B-22-114, as enacted by Laws of Utah 1995, Chapter 332
53B-22-204, as last amended by Laws of Utah 2022, Chapter 421
53B-23-106, as last amended by Laws of Utah 2020, Chapter 365
53B-27-405, as enacted by Laws of Utah 2021, Chapter 364
53B-28-401, as last amended by Laws of Utah 2021, Chapter 332
53B-28-502, as enacted by Laws of Utah 2022, Chapter 461
53B-33-202, as last amended by Laws of Utah 2023, Chapter 84
53E-3-505, as last amended by Laws of Utah 2020, Chapters 365, 408
63G-6a-202, as last amended by Laws of Utah 2023, Chapter 16

ENACTS:
53B-1-116, Utah Code Annotated 1953
53B-1-117, Utah Code Annotated 1953
53B-2-114, Utah Code Annotated 1953
53B-34-110, Utah Code Annotated 1953

REPEALS AND REENACTS:
53B-2-106, as last amended by Laws of Utah 2021, Chapter 187
53B-7-703, as last amended by Laws of Utah 2022, Chapter 456
53B-7-704, as last amended by Laws of Utah 2021, Chapter 282

REPEALS:
53B-6-105.7, as last amended by Laws of Utah 2019, Chapter 444
53B-26-201, as enacted by Laws of Utah 2018, Chapter 354
53B-26-202, as last amended by Laws of Utah 2023, Chapter 328
53B-26-301, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53B-26-302, as enacted by Laws of Utah 2020, Chapter 361
53B-26-303, as last amended by Laws of Utah 2021, Chapter 282

Sections affected by Coordination Clause:
53B-2-106, as last amended by Laws of Utah 2021, Chapter 18762

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

Section 1. Section 35A-13-603 is amended to read:

35A-13-603. Board.

(1) There is created to assist the director of the office the Interpreter Certification Board consisting of the following 11 members:

(a) a designee of the assistant director;

(b) a designee of the Utah Board of Higher Education, whom the commissioner of higher education selects under the direction of the Utah Board of Higher Education;

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

(d) four professional interpreters, [~~recommended by~~]the assistant director recommends; and

(e) four individuals who are deaf or hard of hearing, [~~recommended by~~]the assistant director recommends.

(2)(a) The director shall make all appointments to the board.

(b) In making appointments under Subsections (1)(d) and (e), the director shall give consideration to recommendations by certified interpreters and members of the deaf and hard of hearing community.

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

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

(c) If a vacancy occurs on the board for a reason other than the expiration of a term, the director shall appoint a replacement for the remainder of the term in accordance with Subsections (1) and (2).

(4) The director may remove a board member for cause, which may include misconduct, incompetence, or neglect of duty.

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

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

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

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

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

Section 2. Section 36-28-102 is amended to read:

36-28-102. Veterans and Military Affairs Commission -- Creation -- Membership -- Chairs -- Terms -- Per diem and expenses.

(1) There is created the Veterans and Military Affairs Commission.

(2) The commission membership is composed of 19 permanent members, but may not exceed 24 members, and is as follows:

(a) five legislative members to be appointed as follows:

(i) three members from the House of Representatives, [~~appointed by~~]whom the speaker of the House of Representatives appoints, no more than two of whom may be from the same political party; and

(ii) two members from the Senate, [~~appointed by~~]whom the president of the Senate appoints, no more than one of whom may be from the same political party;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) the chair of the Utah Veterans Advisory Council;

(d) the executive director of the Department of Workforce Services or the director's designee;

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

[~~(f) the executive director of the Department of Human Services or the director's designee;~~]

[~~(g)~~](f) the adjutant general of the Utah National Guard or the adjutant general's designee;

[~~(h)~~](g) the Guard and Reserve Transition Assistance Advisor;

[~~(i)~~](h) a [~~member~~]designee of the Utah Board of Higher Education[~~ or that member's designee~~], whom the commissioner of higher education selects, under the direction of the board;

[~~(j)~~](i) three representatives of veteran service organizations [~~recommended by~~]whom the Veterans Advisory Council recommends and[~~confirmed by~~] the commission confirms;

[~~(k)~~](j) one member of the Executive Committee of the Utah Defense Alliance;

[~~(l)~~](k) one military affairs representative from a chamber of commerce member,[~~ appointed by~~] the Utah State Chamber of Commerce appoints; and

[~~(m)~~](l) a representative from the Veterans Health Administration.

(3) The commission may appoint by majority vote of the entire commission up to five pro tempore members, representing:

(a) state or local government agencies;

(b) interest groups concerned with veterans issues; or

(c) the general public.

(4)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the commission.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the commission.

(5) A majority of the members of the commission shall constitute a quorum. The action of a majority

of a quorum constitutes the action of the commission.

(6) The term for each pro tempore member appointed in accordance with Subsection (3) shall be two years from July 1 of the year of appointment. A pro tempore member may not serve more than three terms.

(7) If a member leaves office or is unable to serve, the vacancy shall be filled as it was originally appointed. A person appointed to fill a vacancy under Subsection (6) serves the remaining unexpired term of the member being replaced. If the remaining unexpired term is less than six months, the newly appointed member shall be reappointed on July 1. The time served until July 1 is not counted in the restriction set forth in Subsection (6).

(8) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) Salaries and expenses of the members of the commission who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 3. Section 49-12-204 is amended to read:

49-12-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.

(1)(a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or a public or private retirement system, organization, or company, designated as described in Subsection (1)(c)[~~ or (d)~~], shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) [~~Except as provided in Subsection (1)(d), the~~]The Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

[~~(d) The technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).~~]

(2)(a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Utah Board of Higher Education, [~~or the technical college board of trustees of each technical college, ~~]so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by[~~:~~]

[~~(A) except as provided in Subsection (2)(b)(ii)(B),~~]the Utah Board of Higher Education[~~; or~~].

[~~(B) the technical college board of trustees of each technical college for regular full-time employees of each technical college.~~]

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5)(a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education shall have a one-time irrevocable election to participate in this system if the employee:

(i) was hired after January 1, 1979;

(ii) whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system; and

(iii) has service credit in a system under this title.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment while covered under another retirement program sponsored by the institution of higher education by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

(8) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 4. Section 49-13-204 is amended to read:

49-13-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.

(1)(a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement system with a public or private retirement system, organization, or company, designated as described in Subsection (1)(c)[~~ or (d)~~], shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(c) [~~Except as provided in Subsection (1)(d), the~~]The Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

[~~(d) The technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).~~]

(2)(a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Utah Board of Higher Education, [~~or the technical college board of trustees of each technical college for regular full-time employees of each technical college,~~] so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by[~~:~~]

[~~(A)~~] except as provided in Subsection (2)(b)(ii)(B), the Utah Board of Higher Education[~~; or~~].

[~~(B) the technical college board of trustees of each technical college for regular full-time employees of each technical college.~~]

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5)(a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment while covered under another retirement program by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

(8) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 5. Section 49-22-204 is amended to read:

49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.

(1)(a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement annuity contract with a public or private system, organization, or company, designated as described in Subsection (1)(c) [~~or (d)~~], shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) [~~Except as provided in Subsection (1)(d), the~~]The Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

[~~(d) The technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).~~]

(2)(a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan designated for the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Utah Board of Higher Education, [~~or the technical college board of trustees of each technical college for each technical college, ~~]so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by[~~:~~]

[~~(A) except as provided under Subsection (2)(b)(ii)(B), ~~]the Utah Board of Higher Education[~~; or~~].

[~~(B) the technical college board of trustees of each technical college for regular full-time employees of each technical college.~~]

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education has a one-time irrevocable election to continue participation in this system if the employee:

(i) has service credit in this system before the date of employment with the institution of higher education; and

(ii) makes the election before participating in the system described in Subsection (2)(b)(ii).

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification that requires participation in a public or private system, organization, or company designated by:

(a) except as provided in Subsection (3)(b), the Utah Board of Higher Education; or

(b) the technical college board of trustees of each technical college for regular full-time employees of each technical college.

(4) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system shall participate in this system.

(5) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 6. Section 51-8-303 is amended to read:

51-8-303. Requirements of member institutions of the state system of higher education.

(1) The Utah Board of Higher Education shall:

(a) establish asset allocations for the institutional funds;

(b) in consultation with the commissioner of higher education, establish guidelines for investing the funds; and

(c) establish a written policy governing conflicts of interest.

(2)(a) A higher education institution may not invest its institutional funds in violation of the Utah Board of Higher Education's guidelines unless the Utah Board of Higher Education approves an investment policy that has been adopted by the higher education institution's board of trustees.

(b) A higher education institution [~~and its employees shall comply with the Utah Board of Higher Education's conflict of interest requirements unless the Utah Board of Higher Education approves the conflict~~]shall establish a written policy governing conflicts of interest [~~policy that has been adopted by the higher education~~

~~institution's board of trustees~~]that complies with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(3)(a) The board of trustees of a higher education institution may adopt:

(i) an investment policy to govern the investment of the higher education institution's institutional funds; and

(ii) a conflict of interest policy.

(b) The investment policy shall:

(i) define the groups, and the responsibilities of those groups, that must be involved with investing the institutional funds;

(ii) ensure that the groups defined under Subsection (3)(b)(i) at least include the board of trustees, an investment committee, institutional staff, and a custodian bank;

(iii) create an investment committee that includes not more than two members of the board of trustees and no less than two independent investment management professionals;

(iv) determine an appropriate risk level for the institutional funds;

(v) establish allocation ranges for asset classes considered suitable for the institutional funds;

(vi) determine prudent diversification of the institutional funds; and

(vii) establish performance objectives and a regular review process.

[~~(c) Each higher education institution that adopts an investment policy, a conflict of interest policy, or both, shall submit the policy, and any subsequent amendments, to the Utah Board of Higher Education for approval.~~]

(4) Each higher education institution shall make monthly reports detailing the deposit and investment of funds in the institution's custody or control to:

(a) the institution of higher education board of trustees; and

(b) the Utah Board of Higher Education.

(5) The state auditor may conduct or cause to be conducted an annual audit of the investment program of each higher education institution.

(6) The Utah Board of Higher Education shall submit an annual report to the governor and the Legislature summarizing all investments by higher education institutions under its jurisdiction.

Section 7. Section 53B-1-110 is amended to read:

53B-1-110. Criminal background checks of prospective and existing employees of higher education institutions -- Institutions to adopt policy.

(1) As used in this section:

(a) "Institution" means an institution listed in Section 53B-1-102.

(b) "Minor" means a person younger than 21 years [~~of age~~]old.

(2) [~~The board~~]An institution shall adopt a policy providing for criminal background checks of:

(a) prospective employees of institutions; and

(b) existing employees of institutions, where reasonable cause exists.

(3)(a) The policy shall require that:

(i) an applicant for any position that involves significant contact with minors or any position considered to be security sensitive by [~~the board~~]an institution or its designee shall submit to a criminal background check as a condition of employment; and

(ii) an existing employee submit to a criminal background check, where reasonable cause exists.

(b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.

(c) The policy may allow or require applicants for positions other than those described in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.

(d) The policy may allow criminal background checks for new employees to be phased in over a two-year period.

(4) The applicant or employee shall receive written notice that the background check has been requested.

(5) Each applicant or employee subject to a criminal background check under this section shall, if required by the institution:

(a) be fingerprinted; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(6)(a) Institutions may request the Utah Bureau of Criminal Identification to conduct criminal background checks of prospective employees and, where reasonable cause exists, existing employees pursuant to [~~board~~]an institution's policy.

(b) At the request of an institution, the Utah Bureau of Criminal Identification shall:

(i) release the individual's full record of criminal convictions to the administrator requesting the information; and

(ii) seek additional information from regional or national criminal data files in responding to inquiries under this section.

(c) Information received by the Utah Bureau of Criminal Identification from entities other than agencies or political subdivisions of the state may not be released to a private entity unless the release is permissible under applicable laws or regulations of the entity providing the information.

(d) Except as provided in Subsection (7), the institution shall pay the cost of background checks conducted by the Utah Bureau of Criminal Identification, and the money collected shall be credited to the Utah Bureau of Criminal Identification to offset its expenses.

(7) [~~The board~~]An institution may by policy require an applicant to pay the costs of a criminal background check as a condition of employment.

(8) The applicant or employee shall have an opportunity to respond to any information received as a result of the criminal background check.

(9) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons under procedures established by [~~the board~~]an institution in policy.

Section 8. Section 53B-1-112 is amended to read:

53B-1-112. Disclosure requirements for institution programs.

(1) As used in this section:

(a) "Department" means the Department of Workforce Services.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Job placement data" means information collected by the board, and based on information from the department, that reflects the job placement rate and industry employment information for a student who graduates from a program.

(d)(i) "Program" means a program of organized instruction or study at an institution that leads to:

(A) an academic degree;

(B) a professional degree;

(C) a vocational degree;

(D) a certificate of one year or greater or the direct assessment equivalent; or

(E) another recognized educational credential.

(ii) "Program" includes instruction or study that, in lieu of time as a measurement for student learning, utilizes direct assessment of student learning, or recognizes the direct assessment of student learning by others, if the assessment is consistent with the accreditation of the institution or program utilizing the results of the assessment.

(e) "Student loan information" means the percentage of students at an institution who:

(i) received a Title IV loan authorized under:

(A) the Federal Perkins Loan Program;

(B) the Federal Family Education Loan Program; or

(C) the William D. Ford Direct Loan Program; and

(ii) fail to pay a loan described in Subsection (1)(e)(i)(A), (B), or (C).

(f) "Total costs" means:

(i) the estimated costs a student would incur while completing a program, including:

(A) tuition and fees; and

(B) books, supplies, and equipment; and

(ii) calculated based on a student's degree, the institution's average costs that would be incurred while a student completes a program and are subsidized by taxpayer contribution, including:

(A) tuition and fees; and

(B) other applicable expenses subsidized by taxpayer contribution for program completion.

(g) "Wage data" means information collected by the board, and based on information from the department, that reflects a student's wage the first year and fifth year after a student has successfully completed a program.

(2)(a) Except as provided in Subsection (4), for each program listed in an institution's course catalog or each program otherwise offered by the institution, the institution shall provide a conspicuous and direct link on the institution's website, subject to Subsection (2)(b), to the following information maintained by the board in accordance with Subsection (3):

(i) job placement data;

(ii) to the extent supporting data is available, student loan information;

(iii) total costs; and

(iv) wage data.

(b) An institution shall include the information described in Subsection (2)(a) on each institutional website that includes academic, cost, financial aid, or admissions information for a program.

(3) [~~The board or the board's designee~~]The commissioner, under the board's direction, shall:

(a) collect the information described in Subsection (2)(a);

(b) develop through user testing a format for the display of information described in Subsection (2)(a) that is easily accessible and informative; and

(c) maintain the information described in Subsection (2)(a) so that it is current.

(4) An institution is not subject to Subsection (2) for a program that the institution is required to report on under 34 C.F.R. Sec. 668.412.

(5) The board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the implementation and administration of this section.

Section 9. Section 53B-1-116 is enacted to read:

53B-1-116. Bereavement leave for miscarriage and stillbirth.

(1) As used in this section "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) An institution shall adopt policies providing at least three work days of paid bereavement leave for an employee following the end of the employee's pregnancy by way of miscarriage or stillbirth or following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(a) the employee is the individual's spouse or partner;

(b) the employee is the individual's former spouse or partner and the employee would have been a biological parent of a child born as a result of the pregnancy;

(c) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(d) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 10. Section 53B-1-117 is enacted to read:

53B-1-117. Oaths of office.

Notwithstanding Section 52-1-2, except as otherwise provided in this title, an individual whom one of the following appoints or employs is not required to take an official oath of office:

(1) the board;

(2) the commissioner;

(3) a degree-granting institution or a technical college;

(4) an institution board of trustees; or

(5) the president of a degree-granting institution or a technical college.

Section 11. Section 53B-1-401 is amended to read:

53B-1-401. Definitions.

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

[~~(3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.~~]

Section 12. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1)(a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education;

(ii) controls, oversees, and regulates the Utah [~~system of higher education~~]System of Higher Education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board[~~; and~~].

(b)(i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) govern data quality and collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform the following duties related to an institution of higher education president, including:

(i) [~~appointing~~]hiring an institution of higher education president in accordance with Section 53B-2-102;

(ii) through the commissioner and the board's executive committee:

(A) providing support and guidance to an institution of higher education president; and

(B) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities;

(iii) setting the terms of employment for an institution of higher education president, including performance-based compensation, through an employment contract or another method of establishing employment; and

(iv) establishing, through a public process, a statewide succession plan to develop potential institution presidents from within the system;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create and annually report to the Higher Education Appropriations Subcommittee on a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs;

(vii) coordinating work-based learning; and

(viii) emphasizing the system priorities and metrics described in Subsections (2)(a) and (c);

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah [~~system of higher education~~]System of Higher Education by identifying and establishing shared administrative services, beginning with:

(i) commercialization;

(ii) services for compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(iii) information technology services; and

(iv) human resources, payroll, and benefits administration;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives, beginning with common applications and direct admissions;

(s) provide ongoing quality review of programs ; and

(t) before each annual legislative general session, provide to the Higher Education Appropriations Subcommittee a prioritization of all projects and proposals for which the board or an institution of higher education seeks an appropriation.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:

(a) how institutions of higher education are meeting the career and technical education needs of secondary students;

(b) how the system emphasized high demand, high wage, and high skill jobs in business and industry;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall demonstrate compliance with Subsection (2)(p) by providing to the Higher Education Appropriations Subcommittee:

(a) on or before October 1, 2024, evidence of implementation of at least one shared administrative service;

(b) on or before October 1, 2025, evidence of implementation of at least two shared administrative services; and

(c) on or before October 1, 2026, evidence of implementation of at least three shared administrative services.

(10) If the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

[~~(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:~~]

[~~(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or~~]

[~~(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:~~]

[~~(i) the employee is the individual's spouse or partner;~~]

[~~(ii)(A) the employee is the individual's former spouse or partner; and~~]

[~~(B) the employee would have been a biological parent of a child born as a result of the pregnancy;~~]

[~~(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or~~]

[~~(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.~~]

Section 13. Section 53B-1-408 is amended to read:

53B-1-408. Appointment of commissioner of higher education -- Qualifications -- Associate commissioners -- Duties -- Office.

(1)(a) The board, upon approval from the governor and with the advice and consent of the Senate, shall appoint a commissioner of higher education to serve at the board's pleasure as the board's chief executive officer.

(b) The following may terminate the commissioner:

(i) the board; or

(ii) the governor, after consultation with the board.

(c) The board shall:

(i) set the salary of the commissioner;

(ii) subject to Subsection (3), prescribe the duties and functions of the commissioner; and

(iii) select a commissioner on the basis of outstanding professional qualifications.

(2)(a) The commissioner may appoint associate commissioners.

(b) An associate commissioner described in Subsection (2)(a) is not subject to the approval of the board.

(3) The commissioner is responsible to the board to:

(a) ensure the proper execution of the policies, programs, and strategic plan of the board;

(b) furnish information about the Utah [~~system of higher education~~]System of Higher Education and make recommendations regarding that information to the board;

(c) provide state-level leadership in any activity affecting an institution of higher education;

(d) in consultation with the board's executive committee and in accordance with Subsection 53B-1-402(2), evaluate and provide support and guidance to an institution of higher education president; and

(e) perform other duties the board assigns in carrying out the board's duties and responsibilities.

(4) The commissioner is responsible to the governor to:

(a) inform the governor about the board's strategic plan and progress on accomplishing the strategic plan;

(b) inform the governor of significant issues impacting the Utah System of Higher Education; and

(c) provide other information and updates as requested by the governor.

Section 14. Section 53B-2-106 is repealed and re-enacted to read:

53B-2-106. Duties and responsibilities of the president of an institution of higher education -- Approval by board of trustees.

(1) As used in this section:

(a) "Institution" means:

(i) a degree-granting institution; or

(ii) a technical college.

(b) "President" means the president of an institution.

(2) The president of each institution may exercise grants of power and authority as the board delegates, as well as the necessary and proper exercise of powers and authority not denied to the institution or the institution's administration, faculty, or students by the board or by law, to ensure the effective and efficient administration and operation of the institution consistent with the statewide strategic plan for higher education.

(3) A president may:

(a) appoint or employ administrative officers, deans, faculty members, professional personnel, and support personnel;

(b) prescribe duties for a position described in Subsection (3)(a); and

(c) determine the salary for an employed position described in Subsection (3)(a), in accordance with the institution's human resources policies.

(4)(a) A president may, after consultation with the institution's board of trustees, exercise powers related to the institution's employees, including faculty and persons under contract with the institution, by implementing:

(i) policies governing personnel;

(ii) furloughs;

(iii) reductions in force;

(iv) program reductions or discontinuance;

(v) early retirement incentives that provide cost savings to the institution; or

(vi) other measures that provide cost savings, facilitate efficiencies, or otherwise enable the institution to meet the institution's mission and role.

(5) A president shall:

(a) control and manage the budget and finances of the institution, including by, as determined by the president:

(i) establishing the institution's budget; and

(ii) establishing or adjusting administrative or academic unit budgets; and

(b) subject to Section 53B-7-101, establish:

(i) tuition for the institution, including both resident and nonresident tuition if the institution is a degree-granting institution, subject to the approval of the board as described in Section 53B-1-402; and

(ii) fees and other charges for the institution; and

(c) establish the organization and structure of the institution, including by, as determined by the president, creating, merging, or eliminating a college, department, or other administrative or academic unit of the institution;

(6) Subject to the approval of the institution's board of trustees, a president:

(a) shall establish a budgetary policy, such as policy regarding benefits and endowment investments;

(b) shall provide for the constitution, government, and organization of the faculty and administration, including:

(i) enacting and implementing rules;

(ii) ensuring that the faculty may only have jurisdiction over:

(A) academic requirements for admission, degrees, and certificates; and

(B) course curriculum and instructions;

(iii) permitting faculty to have jurisdiction over a matter other than a matter described in Subsection (6)(b)(ii) only if the following entities expressly authorize or delegate such power:

(A) the Legislature;

(B) the board;

(C) the institution's board of trustees; or

(D) the institution's president; and

(iv) if the institution is a degree-granting institution, the establishment of a prescribed system of tenure; and

(c) may authorize the faculty to determine the general initiation and direction of instruction and of the examination, admission, and classification of students.

(7) A president may establish policies for the administration and operation of the institution that:

(a) are consistent with the institution's role that the board establishes, rules which the board enacts, and the laws of the state; and

(b) may provide for:

(i) administrative, faculty, student, and joint committees with jurisdiction over specified institutional matters;

(ii) student government and student affairs organizations;

(iii) the establishment of institutional standards in furtherance of the ideals of higher education to which the institution and the institution's administration, faculty, and students subscribe and foster; and

(iv) the holding of classes on legal holidays, other than Sunday.

(8) A president shall manage the president's institution as a part of the Utah System of Higher Education.

(9) In performing any of the acts described in this section, a president may, in the president's sole discretion, seek input from the institution's faculty, staff, or students.

(10) The board shall establish guidelines relating to the roles and relationships between presidents and boards of trustees, including those matters for which law requires the approval of a board of trustees before implementation by the president.

(11)(a) A president is subject to regular review and evaluation that the board administers, in consultation with the institution's board of trustees, through a process the board approves.

(b) Only the board may formally assess a president's performance, formally declare a president's standing, or take other formal action to evaluate a president.

Section 15. Section 53B-2-114 is enacted to read:

53B-2-114. Degree-granting institution attorneys -- Appointment -- Duties.

(1) Recognizing the status of institutions within the Utah System of Higher Education as bodies politic and corporate, the president of a degree-granting institution may appoint attorneys to:

(a) provide legal advice to the degree-granting institution's administration; and

(b) coordinate legal affairs within the degree-granting institution.

(2) An institution shall fund compensation costs and related office expenses for an attorney described in Subsection (1) within existing budgets.

(3) The board shall coordinate the activities of attorneys described in Subsection (1).

(4) An attorney described in Subsection (1):

(a) may not:

(i) conduct litigation;

(ii) settle a claim covered by the State Risk Management Fund; or

(iii) issue a formal legal opinion; and

(b) shall cooperate with the Office of the Attorney General in providing legal representation to a degree-granting institution.

Section 16. Section 53B-2a-107 is amended to read:

53B-2a-107. Technical college presidents.

(1) The board shall appoint a president for each technical college in accordance with Section 53B-2-102.

(2)[~~(a)~~] A technical college president is the chief executive officer of the technical college.

[~~(b)~~](3) A technical college president:

[~~(i)~~](a) does not need to have a doctorate degree; and

[~~(ii)~~](b) shall have extensive experience in career and technical education.

[~~(3)~~](4) [A]In addition to the duties described in Section 53B-2-106, a technical college president shall:

[~~(a) exercise grants of power and authority as delegated by the board, as well as the necessary and proper exercise of powers and authority not specifically denied to the technical college's administration, faculty, or students, by the board or by law, to ensure the effective and efficient administration and operation of the technical college consistent with the statewide strategic plan for higher education;~~]

[~~(b) administer the day-to-day operations of the technical college;~~]

[~~(c) consult with the technical college board of trustees;~~]

[~~(d) administer human resource policies and employee compensation plans in accordance with the requirements of the board;~~]

[~~(e) prepare a budget request for the technical college's annual operations to the board;~~]

[~~(f)~~](a) after consulting with the board, other institutions of higher education, school districts, and charter schools within the technical college's region, prepare a comprehensive strategic plan for delivering technical education within the region;

[~~(g)~~](b) consult with business, industry, the Department of Workforce Services, the Governor's Office of Economic Opportunity, and the Governor's Office of Planning and Budget on an ongoing basis to determine what workers and skills are needed for employment in Utah businesses and industries;

[~~(h)~~](c) coordinate with local school boards, school districts, and charter schools to meet the technical education needs of secondary students; and

[~~(i)~~](d) develop policies and procedures for the admission, classification, instruction, and examination of students in accordance with the policies and accreditation guidelines of the board and the State Board of Education[~~; and~~]

[~~(j) manage the technical college president's institution as part of the Utah system of higher education~~].

Section 17. Section 53B-2a-117 is amended to read:

53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(6)(a) Subject to Subsection (7), the board shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) The board shall establish:

(i) how the board will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7)(a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $7,000,000 but less than $14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8)(a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) A technical college shall make the request described in Subsection (8)(a) at the same time the technical college submits the proposal described in Subsection (3).

(c) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 18. Section 53B-3-103 is amended to read:

53B-3-103. Power of board and institutions to adopt rules and enact regulations.

(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.

[~~(1)~~](2)(a) The board may enact regulations governing the conduct of university and college students, faculty, and employees.

(b) A president in consultation with the board of trustees, may enact policies governing the conduct of university and college students, faculty, and employees.

[~~(2)~~](3)(a) [~~The board~~]An institution may[~~:~~]

[~~(i) enact and authorize higher education institutions to~~] enact traffic, parking, and related [~~regulations~~]policies governing all individuals on [~~campuses~~]campus and [~~other~~]facilities owned or controlled by the [~~institutions or the board; and~~]institution.

[~~(ii) acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions:~~]

[~~(A) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room as prescribed in Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and~~]

[~~(B) authorize a higher education institution to make a rule that allows a resident of a dormitory located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.~~]

[~~(b) In addition to the requirements and penalty prescribed in Subsections 76-8-311.1(3), (4), (5), and (6), the board shall make rules to ensure that:~~]

[~~(i) reasonable means such as mechanical, electronic, x-ray, or similar devices are used to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;~~]

[~~(ii) an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secured area hearing room under this Subsection (2)(b) and Section 76-8-311.1;~~]

[~~(iii) the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after its use; and~~]

[~~(iv) reasonable space limitations are applied to the secure area hearing room as warranted by the number of individuals involved in a typical hearing.~~]

[~~(c)~~](b)(i) The board and an institution may not require proof of vaccination as a condition for enrollment or attendance within the system of higher education unless the board or an institution allows for the following exemptions:

(A) a medical exemption if the student provides to the institution a statement that the claimed exemption is for a medical reason; and

(B) a personal exemption if the student provides to the institution a statement that the claimed exemption is for a personal or religious belief.

(ii) An institution that offers both remote and in-person learning options may not deny a student who is exempt from a requirement to receive a vaccine under Subsection [~~(2)(c)(i)~~](2)(b)(i) to participate in an in-person learning option based upon the student's vaccination status.

(iii) Subsections [~~(2)(c)(i)~~](2)(b)(i) and (ii) do not apply to a student studying in a medical setting at an institution of higher education.

(iv) Nothing in this section restricts a state or local health department from acting under applicable law to contain the spread of an infectious disease.

[~~(d)~~](c)(i) For purposes of this Subsection [~~(2)(d)~~](2)(c), "face covering" means the same as that term is defined in Section 53G-9-210.

(ii) The board or an institution may not require an individual to wear a face covering as a condition of attendance for in-person instruction, institution-sponsored athletics, institution-sponsored extracurricular activities, in dormitories, or in any other place on a campus of an institution within the system of higher education at any time after the end of the spring semester in 2021.

(iii) Subsection [~~(2)(d)(ii)~~](2)(c)(ii) does not apply to an individual in a medical setting at an institution of higher education.

[~~(3)~~](4) The board shall enact regulations that require all testimony be given under oath during an employee grievance hearing for a non-faculty employee of an institution of higher education if the grievance hearing relates to the non-faculty employee's:

(a) demotion; or

(b) termination.

(5) Acknowledging that the Legislature has the authority to regulate, by law, firearms at higher education institutions, the board may:

(a) authorize higher education institutions to establish no more than one secure area at each institution as a hearing room in accordance with Section 76-8-311.1, but not otherwise restrict the lawful possession or carrying of firearms; and

(b) authorize a higher education institution to make a policy that allows a resident of a dormitory

located at the institution to request only roommates who are not licensed to carry a concealed firearm under Section 53-5-704 or 53-5-705.

(6) In addition to the requirements and penalty prescribed in Subsections 76-8-311.1(3) through (6), the board shall make rules to ensure:

(a) the use of reasonable means such as mechanical, electronic, x-ray, or similar devices, to detect firearms, ammunition, or dangerous weapons contained in the personal property of or on the person of any individual attempting to enter a secure area hearing room;

(b) that an individual required or requested to attend a hearing in a secure area hearing room is notified in writing of the requirements related to entering a secure area hearing room under this Subsection (6)(b) and Section 76-8-311.1;

(c) that the restriction of firearms, ammunition, or dangerous weapons in the secure area hearing room is in effect only during the time the secure area hearing room is in use for hearings and for a reasonable time before and after the hearing; and

(d) the application of reasonable space limitations to the secure area hearing room as the number of individuals involved in a typical hearing warrants.

[~~(4)~~](7) The board and institutions may enforce [~~these rules and~~]the rules, regulations, and policies described in this section in any reasonable manner, including the assessment of fees, fines, and forfeitures, [~~the collection of which may be by~~]through:

(a) withholding from money owed the violator[~~,~~];

(b) the imposition of probation, suspension, or expulsion from the institution[~~,~~];

(c) the revocation of privileges[~~,~~];

(d) the refusal to issue certificates, degrees, and diplomas[~~,~~];

(e) [~~through~~]judicial process; or

(f) any reasonable combination of [~~these~~]the alternatives described in this Subsection (7).

Section 19. Section 53B-3-104 is amended to read:

53B-3-104. Establishment of police or security departments.

(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.

(2) [~~The board~~]An institution's president may establish and maintain police or security departments for the purpose of enforcing the regulations of each institution of higher education and the laws of the state.

Section 20. Section 53B-3-105 is amended to read:

53B-3-105. Appointment of police or security personnel -- Powers.

(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.

(2) [~~Members~~]An institution shall appoint members of the police or security department of [~~any college or university are appointed by the board~~]the institution.

[~~(2)~~](3) Upon appointment, [~~they~~]members described in Subsection (2) are peace officers and have all the powers [~~possessed by policemen~~]of police in cities and [~~by~~]of sheriffs, including the power to make arrests on view or on warrant of violation of state statutes and city or county ordinances.

[~~(3)~~](4) Members of the police or security department of any [~~college or university~~]institution also have the power to enforce all rules and regulations [~~promulgated by~~]that the institution or the board promulgates as related to the institution.

Section 21. Section 53B-6-105 is amended to read:

53B-6-105. Engineering and Computer Technology Initiative.

(1)(a)(i) The commissioner of higher education, under the direction of the board shall develop, establish, and maintain an Engineering and Computer Science Initiative within the state system of higher education to increase the number of graduates in engineering, computer science, and related technology.

(ii) The commissioner of higher education, under the direction of the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing the criteria for those fields of study that qualify as "related technology" under this section and Section 53B-6-105.9.

(b) The initiative shall include components that:

(i) improve the quality of instructional programs in engineering, computer science, and related technology by providing supplemental money for equipment purchases; and

(ii) provide incentives to institutions to hire and retain faculty under Section 53B-6-105.9.

(2) The increase in program capacity under Subsection (1)(a) shall include funding for new and renovated capital facilities and funding for new engineering and computer science programs.

(3) The Legislature shall provide an annual appropriation to the board to fund the initiative.

Section 22. Section 53B-6-105.9 is amended to read:

53B-6-105.9. Incentive program for engineering, computer science, and related technology faculty.

(1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in engineering, computer science, and related technology fields under guidelines established by the commissioner of higher education, under the direction of the board.

(3)(a) State institutions of higher education shall match the appropriation on a one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b)(i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The [~~board~~]commissioner of higher education shall make a summary report of the institutional matches.

(iii) The annual report of the Technology Initiative Advisory Board required by Section 53B-6-105.5 shall include the summary report of the institutional matches.

(4) The commissioner of higher education, under the direction of the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and distribute the state appropriation to qualifying institutions.

Section 23. Section 53B-7-702 is amended to read:

53B-7-702. Definitions.

As used in this part:

(1) "Account" means the Performance Funding Restricted Account created in Section 53B-7-703.

(2) "Estimated revenue growth from targeted jobs" means the estimated increase in individual income tax revenue generated by individuals employed in targeted jobs, determined [~~by the Department of Workforce Services~~]in accordance with [~~Section~~]Sections 53B-7-703 and 53B-7-704.

(3) "Full new performance funding amount" means the maximum amount of new performance funding that a degree-granting institution or technical college may qualify for in a fiscal year, determined by the Legislature in accordance with Section 53B-7-705.

(4) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student.

[~~(5) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.~~]

[~~(6) "Job" means an occupation determined by the Department of Workforce Services.~~]

[~~(7) "Membership hour" means 60 minutes of scheduled instruction provided by a technical college to a student enrolled in the technical college.~~]

[~~(8)~~](5) "New performance funding" means the difference between the total amount of money in the account and the amount of money appropriated from the account for performance funding in the current fiscal year.

[~~(9)~~](6) "Performance" means total performance across the metrics described in Sections 53B-7-706 and 53B-7-707.

[~~(10) "Research university" means the University of Utah or Utah State University.~~]

[~~(11)~~](7) "Targeted job" means a four- and five-star job that requires postsecondary training as designated by the Department of Workforce Services [~~or the GO Utah office in accordance with Section 53B-7-704~~].

[~~(12)~~](8) "Technical college" means:

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

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

[~~(13) "Technical college graduate" means an individual who:~~]

[~~(a) has earned a certificate from an accredited program at a technical college; and~~]

[~~(b) is no longer enrolled in the technical college.~~]

Section 24. Section 53B-7-703 is repealed and re-enacted to read:

53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.

(1) As used in this section:

(a) "Account" means the Performance Funding Restricted Account created in Subsection (2).

(b) "Baseline amount" means the simple five-year average amount of personal income tax withholding over fiscal years 2019-2023.

(c) "Personal income tax withholding means" means income tax withholding required under Title 59, Chapter 10, Part 4, Withholding of Tax.

(2) There is created within the Income Tax Fund a restricted account known as the Performance Funding Restricted Account.

(3) The Legislature may appropriate money to the account.

(4) Money in the account shall be:

(a) used for performance funding for:

(i) degree-granting institutions; and

(ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section 53B-7-705.

(5)(a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(6)(a) Except as provided in Subsection (6)(b) or (6)(c) and beginning December 1, 2025, before the

end of each calendar year, the Executive Appropriations Committee shall appropriate to the account an amount equal to 6% of the difference between the five-year average amount from the most recent five years of personal income tax withholdings and the baseline amount.

(b)(i) As used in this Subsection (6)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the board;

(B) degree-granting institutions; and

(C) technical colleges.

(ii) If an appropriation described in Subsection (6)(a) would exceed 10% of total higher education appropriations, the Executive Appropriations Committee shall appropriate to the account an amount equal to 10% of total higher education appropriations.

(c) If, after appropriating to the Public Education Economic Stabilization Restricted Account as defined in Section 53F-9-204, the remaining available revenue from the personal income tax withholdings is less than the lesser of the amounts in Subsection (6)(a) or Subsection (6)(b)(ii), the Executive Appropriations Committee shall appropriate to the account the remaining available revenue from the personal income tax withholdings.

Section 25. Section 53B-7-704 is repealed and re-enacted to read:

53B-7-704. Reporting of estimated revenue growth from targeted jobs.

(1) On or before October 1, 2030 and each subsequent fifth year, the Department of Workforce Services shall report to the Higher Education Appropriations Subcommittee on:

(a) the total wages in Utah according to the Quarterly Census of Employment and Wages program over the previous five years;

(b) total wages in Utah attributable to four- and five-star jobs that require postsecondary training according to the Occupational Employment and Wage Statistics program over the previous five years;

(c) total wages in Utah for all occupations according to the Occupational Employment and Wage Statistics program over the previous five years;

(d) the quotient of total wages in Subsection (1)(a) and total wages in Subsection (1)(b); and

(e) the quotient of total wages in Subsection (1)(c) and total wages in Subsection (1)(b).

(2) On or before October 1, 2030 and each subsequent fifth year, the commissioner shall report to the Higher Education Appropriations Subcommittee on:

(a) all institutions' high yield awards over the previous five years;

(b) the estimated revenue growth from targeted jobs associated with high yield awards over the previous five years;

(c) the connection between the data described in Subsections (2)(a) and (2)(b); and

(d) the estimated median effective income tax rate.

Section 26. Section 53B-7-705 is amended to read:

53B-7-705. Determination of full new performance funding amount -- Role of appropriations subcommittee -- Program review.

(1) In accordance with this section, and based on money deposited into the account, the Legislature shall, as part of the higher education appropriations budget process, annually determine the full new performance funding amount for each:

(a) degree-granting institution; and

(b) technical college.

[~~(2)(a) Before January 1, 2024, the Legislature shall annually allocate:~~]

[~~(i) 90% of the money in the account to degree-granting institutions; and~~]

[~~(ii) 10% of the money in the account to technical colleges.~~]

[~~(b) After January 1, 2024, the~~]

(2) The Legislature shall annually allocate:

[~~(i)~~](a) 80% of the money in the account to degree-granting institutions; and

[~~(ii)~~](b) 20% of the money in the account to technical colleges.

(3)(a) The Legislature shall determine a degree-granting institution's full new performance funding amount based on the degree-granting institution's prior year share of:

(i) full-time equivalent enrollment in all degree-granting institutions; and

(ii) the total state-funded appropriated budget for all degree-granting institutions.

(b) In determining a degree-granting institution's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (3)(a)(i) and (ii).

(4)(a) The Legislature shall determine a technical college's full new performance funding amount based on the technical college's prior year share of:

[~~(i)(A) before January 1, 2024, membership hours for all technical colleges; and~~]

[~~(B) after January 1, 2024,~~]

(i) full-time equivalent enrollment for all technical colleges; and

(ii) the total state-funded appropriated budget for all technical colleges.

(b) In determining a technical college's full new performance funding amount, the Legislature shall give equal weight to the factors described in Subsections (4)(a)(i) and (ii).

(5) Annually, at least 30 days before the first day of the legislative general session the board shall submit a report to the Higher Education Appropriations Subcommittee on each degree-granting institution's and each technical college's performance.

(6)(a) In accordance with this Subsection (6), and based on the report described in Subsection (5), the Legislature shall determine for each degree-granting institution and each technical college:

(i) the portion of the full new performance funding amount earned; and

(ii) the amount of new performance funding to recommend that the Legislature appropriate, from the account, to the degree-granting institution or technical college.

[~~(b)(i) This Subsection (6)(b) applies before January 1, 2024.~~]

[~~(ii) A degree-granting institution earns the full new performance funding amount if the degree-granting institution has a positive change in performance of at least 1% compared to the degree-granting institution's average performance over the previous five years.~~]

[~~(iii) A technical college earns the full new performance funding amount if the technical college has a positive change in the technical college's performance of at least 5% compared to the technical college's average performance over the previous five years.~~]

[~~(c)~~](b) [~~After January 1, 2024, a~~]A degree-granting institution or technical college earns the full new performance funding amount if the degree-granting institution or technical college meets the annual performance goals the board sets under Subsection 53B-7-706(1)(a)(ii).

[~~(d) Before January 1, 2024, a degree-granting institution or technical college that has a positive change in performance that is less than a change described in Subsection (6)(b) is eligible to receive a prorated amount of the full new performance funding amount.~~]

[~~(e) Before January 1, 2024, a degree-granting or technical college that has a negative change, or no change, in performance over a time period described in Subsection (6)(b) is not eligible to receive new performance funding.~~]

[~~(f)~~](c) [~~After January 1, 2024, a~~]A degree-granting institution or technical college that does not meet the goals the board sets under Subsection 53B-7-706(1)(a)(ii):

(i) is not eligible to receive the full new performance funding amount; and

(ii) is eligible to receive a prorated amount of the full new performance funding amount for performance that is greater than zero as measured by the model the board establishes under Subsection 53B-7-706(1)(a)(i)(B).

[~~(g)~~](d) [~~After January 1, 2024, if~~]If a degree-granting institution or technical college does not earn the full new performance funding amount as described in Subsection [~~(6)(c)~~](6)(b), the [~~board~~]Legislature:

(i) shall set aside the unearned new performance funding; and

(ii) may, at the end of an annual performance goal period within a five-year period for which the board sets goals under Subsection 53B-7-706(1)(a)(ii), reallocate the funds set aside under Subsection [~~(6)(g)(i)~~](6)(d)(i) to a degree-granting institution or technical college that meets or exceeds the degree-granting institution's or technical college's:

(A) previous year's annual performance goal; and

(B) performance goal that the institution previously failed to meet which caused the funding to be set aside.

(7) An appropriation described in this section is ongoing.

(8) Notwithstanding Section 53B-7-703 and Subsections (6) and (7), the Legislature may, by majority vote, appropriate or refrain from appropriating money for performance funding as circumstances require in a particular year.

Section 27. Section 53B-7-706 is amended to read:

53B-7-706. Performance metrics for institutions -- Determination of performance.

(1)(a)(i)[~~(A) The board shall establish a model for determining a degree-granting institution's performance.~~]

[~~(B) Beginning in March 2021, the~~]The board shall establish a model for determining a degree-granting institution's or technical college's performance.

(ii) [~~Beginning in May 2021, the~~]The board shall:

(A) set a five-year goal for the Utah System of Higher Education for each metric described in Subsection [~~(2)(a)(ii)~~](2)(a);

(B) adopt five-year goals for each degree-granting institution and technical college that align with each goal described in Subsection (1)(a)(ii)(A)[~~, and~~];

(C) ensure the goals the board adopts for each degree-granting institution and technical college described in Subsection (1)(a)(ii)(B) are sufficiently rigorous to meet the goals described in Subsection (1)(a)(ii)(A); and

(b)(i) The board shall submit a draft of the model described in this section to the Higher Education Appropriations Subcommittee and the governor for comments and recommendations.

(ii) [~~Beginning in 2021, and every~~]Every five years[~~ thereafter~~], the board shall:

(A) submit the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii) to the Higher Education Appropriations Subcommittee and to the governor for comments and recommendations; and

(B) consider the comments and recommendations described in Subsection (1)(b)(ii)(A), and make any necessary changes to the model described in Subsection (1)(a)(i) and the goals described in Subsection (1)(a)(ii).

(c) [~~Beginning in 2021, and every~~]Every five years[~~ thereafter~~], the Executive Appropriations Committee, the Higher Education Appropriations Subcommittee, and the Education Interim Committee shall prepare and jointly meet to consider legislation for introduction at the following general legislative session to adopt the goals described in Subsection (1)(a)(ii).

(2)(a)[~~(i) The model described in Subsection (1)(a)(i)(A) shall include metrics, including:~~]

[~~(A) completion, measured by degrees and certificates awarded;~~]

[~~(B) completion by underserved students, measured by degrees and certificates awarded to underserved students;~~]

[~~(C) responsiveness to workforce needs, measured by degrees and certificates awarded in high market demand fields;~~]

[~~(D) institutional efficiency, measured by degrees and certificates awarded per full-time equivalent student; and~~]

[~~(E) for a research university, research, measured by total research expenditures.~~ ~~(ii) Beginning in 2021, the~~]The board shall set the goals and establish the performance model described in Subsection [~~(1)(a)(i)(B)~~](1)(a)(i) for the following metrics:

[~~(A)~~](i) access;

[~~(B)~~](ii) timely completion; and

[~~(C)~~](iii) high-yield awards.

(b)[~~(i) Subject to Subsection (2)(b)(ii), the~~]The board shall determine the relative weights of the metrics described in Subsection [~~(2)(a)(i)~~](2)(a).

[~~(ii) The board shall assign the responsiveness to workforce needs metric described in Subsection (2)(a)(i)(C) a weight of at least 25% when determining a degree-granting institution's performance.~~]

(c) [~~Beginning in 2021, the~~]The board shall determine and establish in board policy, the definitions, measures, and relative weights of the metrics described in Subsection [~~(2)(a)(ii)~~](2)(a) based on each degree-granting institution's and each technical college's mission.

(3)(a) For each degree-granting institution, the board shall annually determine the degree-granting institution's:

(i) performance; and

(ii) change in performance compared to the degree-granting institution's average performance over the previous five years.

(b) For each degree-granting institution and technical college, the board shall annually:

(i) adopt annual performance goals for each metric described in Subsection (2)(a)(ii) that will advance the degree-granting institution or technical college toward achievement of the five-year goals described in Subsection (1)(a)(ii);

(ii) evaluate performance in meeting the goals described in Subsection (3)(b)(i); and

(iii) include a degree-granting institution's or technical college's performance under this section in the evaluation described in Subsection 53B-1-402(2)(i).

(4)[~~(a) The board shall use the model described in Subsection (1)(a)(i)(A) to make the report described in Section 53B-7-705 for determining a degree-granting institution's performance funding for a fiscal year beginning on or after July 1, 2018, but before July 1, 2024. (b) For a fiscal year beginning on or after July 1, 2024, the~~]The board shall use the model described in Subsection [~~(1)(a)(i)(B)~~](1)(a)(i) to make the report described in Section 53B-7-705 for determining a degree-granting institution's or technical college's performance funding.

(5) At the end of each five-year period for which the board sets goals under Subsection (1)(a)(ii):

(a) the board shall:

(i) review the Utah System of Higher Education's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(A);

(ii) review each degree-granting institution's and each technical college's performance in meeting the goals the board sets under Subsection (1)(a)(ii)(B); and

(iii) allocate any funds not allocated under Subsection 53B-7-705(6)(g) to each degree-granting institution and each technical college that meets or exceeds the goals the board sets under Subsection (1)(a)(ii)(B); and

(b) the Legislature may appropriate additional funds for the board to allocate to each degree-granting institution and each technical college that meets or exceeds goals as described in Subsection (5)(a)(iii).

(6) In year two or three of each five-year period for which the board sets goals under Subsection (1)(a)(ii), the following committees and the governor shall hold a joint open meeting to review the goals the board sets under Subsection (1)(a)(ii):

(a) the Executive Appropriations Committee;

(b) the Higher Education Appropriations Subcommittee; and

(c) the Education Interim Committee.

Section 28. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(e) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3)(a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i)(A) the military service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii);[~~or~~]

(e) a foreign service member as defined in the Foreign Service Family Act of 2021 who is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

(f) a foreign service member's immediate family member if the foreign service member is either:

(i) domiciled in Utah, recognizing the individual may not be physically present in the state due to an assignment; or

(ii) assigned to a duty station in Utah if the foreign service member provides:

(A) evidence of the foreign service member's status;

(B) a statement from the foreign service member's current commander, or equivalent, stating that the foreign service member is assigned in Utah; or

(C) evidence that the foreign service member is domiciled in Utah;

[~~(e)~~](g) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the [~~G.I. Bill benefits~~]Veteran Benefits under Title 38 U.S.C.; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii)[~~,~~]; or

[~~(f)~~](h) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law.

(9)(a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59- 10- 502; or

(v) proof that the military service member or military service member's spouse owns a home in Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection [~~(8)(f)~~](8)(h) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14)(a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15)(a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16)(a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) A foreign service member or the foreign service member's immediate family member deemed eligible for resident student status under Subsection (8)(e) or (f) shall retain the eligibility for resident student status if the foreign service member or immediate family member maintains continuous enrollment even in the case of a change in domicile or duty station.

[~~(17)~~](18) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

[~~(18)~~](19) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 29. Section 53B-8-201 is amended to read:

53B-8-201. Opportunity Scholarship Program.

Part 2. Opportunity Scholarship Program

(1) As used in this section:

(a) "Eligible institution" means:

(i) a degree-granting institution of higher education within the state system of higher education; or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (5);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (5).

(c) "Fee" means:

(i) for an eligible institution that is a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Opportunity Scholarship Program described in this section.

(2)(a) Subject to legislative appropriations, the board shall annually distribute money for the Opportunity Scholarship Program described in this section to each eligible institution to award as Opportunity scholarships to eligible students.

(b) The board shall annually determine the amount of an Opportunity scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board may not use more than 3% of the money appropriated to the program for administrative costs and overhead.

(3)(a) Except as provided in this Subsection (3), an eligible institution shall provide to an eligible student an Opportunity scholarship in the amount determined by the board described in Subsection (2)(b).

(b) For an Opportunity scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Opportunity scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For an Opportunity scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Opportunity scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Opportunity scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Opportunity scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award an Opportunity scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection (2)(b) to each eligible student, the eligible institution may reduce the amount of an Opportunity scholarship.

(4) The board may:

(a) audit an eligible institution's administration of Opportunity scholarships;

(b) require an eligible institution to repay to the board money distributed to the eligible institution

under this section that is not provided to an eligible student as an Opportunity scholarship; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements related to an eligible institution's administration of Opportunity scholarships;

(b) a process for a student to apply to the board to determine the student's eligibility for an Opportunity scholarship;

(c) criteria to determine a student's eligibility for an Opportunity scholarship, including:

(i) minimum secondary education academic performance standards; and

(ii) the completion of a Free Application for Federal Student Aid or a process approved by the board in lieu of the Free Application for Federal Student Aid;

(d) a requirement for each eligible institution to annually report to the board on all Opportunity scholarships awarded by the eligible institution; and

(e) a process for a student to apply to the board for an Opportunity scholarship who would have likely received the scholarship but for an irreconcilable error in the application process described in Subsection (5)(b).

(6) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(7) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

Section 30. Section 53B-8a-105 is amended to read:

53B-8a-105. Powers and duties of board.

(1) There is created the Utah Education Savings Board of Trustees.

(2) The Utah Board of Higher Education shall:

(a) appoint the members of the board as follows:

(i) not more than three members from the Utah Board of Higher Education; and

(ii) at least four public members, each of whom possesses skills in one or more of the following:

(A) investments;

(B) accounting;

(C) finance;

(D) banking;

(E) education;

(F) technology; or

(G) financial operations; and

(b) designate a member appointed under Subsection (2)(a) as chair.

(3) Each board member serves at the pleasure of the Utah Board of Higher Education.

(4) The board has all powers necessary to carry out and effectuate the purposes, objectives, and provisions of this chapter pertaining to the plan.

(5) The board shall act as a fiduciary of the plan with:

(a) a duty of care to act solely in the best interest of the plan's account owners and beneficiaries;

(b) a duty of loyalty putting the plan's interest ahead of other interests; and

(c) a duty to invest with care, skill, prudence, and diligence.

(6) The duties, responsibilities, funds, liabilities, and expenses of the board in oversight and governance of the plan shall be maintained separate and apart from the Utah Board of Higher Education's other duties, responsibilities, funds, liabilities, and expenses.

(7) The board shall:

(a) make policies governing the administration of the plan; and

(b) amend policies related to board governance.

(8)(a) The board may appoint advisory committees to aid the board in fulfilling its duties and responsibilities.

(b) An advisory committee member may receive compensation and be reimbursed for reasonable expenses incurred in the performance of the member's official duties as determined by the board.

[~~(9) The board may appoint a board of directors known as the Board of Directors of the Utah Education Savings Plan to carry out the obligation of separation of functions required under Subsection (6).~~]

[~~(10) If the board creates a board of directors under Subsection (9):~~]

[~~(a) the board of directors shall consist of at least five members; and~~]

[~~(b) no more than two-thirds of the members of the board of directors may simultaneously serve as a member of the board.~~]

Section 31. Section 53B-13-103 is amended to read:

53B-13-103. Powers of Utah Board of Higher Education.

The [~~board~~]Utah Board of Higher Education has the powers necessary to carry out the purposes of this chapter, including the following:

(1) to accept gifts, grants, loans, and other aids or amounts from a person, corporation, or governmental agency;

(2) to loan money to eligible borrowers to assist them in obtaining a post-high school education by attending an eligible institution, including refinancing or consolidating obligations previously incurred by eligible borrowers with other lending sources for this purpose and participating in loans to eligible borrowers for this purpose with other lending sources;

(3) to acquire, purchase, or make commitments to purchase, and take assignments from lenders of obligations. No obligation is eligible for acquisition, purchase, or commitment to purchase by the board unless at or before the time of transfer to the board the lender certifies either: (a) that, under and to the extent required by rules and regulations of the board, the proceeds of sale or its equivalent shall be reinvested in other obligations under the student loan program; or (b) that the obligation was made in anticipation of its sale to the board under rules and regulations of the board promulgated under this chapter;

(4) to enforce its rights under a contract or agreement including the commencement of court action;

(5) to acquire, hold, and dispose of real and personal property necessary for the accomplishment of the purposes of this chapter;

(6) to obtain insurance against losses which may be incurred in connection with its property, assets, activities, or the exercise of the powers granted under this chapter;

(7) to borrow money and to issue its bonds and provide for the rights of bondholders and to secure the bonds by assignment, pledge, or granting a security interest in its property including all or a part of an obligation. The state is not liable for the repayment of bonds issued by the board. The bonds issued by the board are not a debt of the state, and each bond shall contain on its face a statement to this effect;

(8) to invest funds not required for immediate use or disbursement as provided in the State Money Management Act;

(9) subject to a contract with the holders of its bonds, an applicable bond resolution, or a contract with the recipient of a loan, to consent to the modification, with respect to security, rate of interest, time of payment of interest or principal, or other term of a bond contract or agreement between the board and a recipient of a loan, bondholder, or agency or institution guaranteeing the repayment of an obligation;

(10) to engage and [~~appoint~~]employ officers, agents, employees, and other private consultants to render and perform professional and technical duties, assistance, and advice in carrying out the purposes of this chapter, to describe their duties, and to fix the amount and source of their compensation;

(11) to make rules and regulations governing the activities authorized under this chapter;

(12) to solicit grants and contributions from the public or from any government or governmental agency and to arrange for the guaranteeing of the repayment of obligations by other agencies of this state or the United States;

(13) to collect fees and charges in connection with its loans, commitments, and servicing, including reimbursement of the costs of financing, service charges, and insurance premiums which are determined as reasonable and are approved by the board;

(14) to sell obligations held by the board at such prices and at such times as it may determine, when that sale would not impair the rights or interests of holders of bonds issued by the board; and

(15) to participate in federal programs supporting loans to eligible borrowers and to agree to, and comply with, the conditions of those programs.

Section 32. Section 53B-16-102 is amended to read:

53B-16-102. Changes in curriculum -- Substantial alterations in institutional operations -- Program approval -- Periodic review of programs -- Career and technical education curriculum changes.

(1) As used in this section:

(a) "Institution of higher education" means an institution described in Section 53B-1-102.

(b) "Program of instruction" means a program of curriculum that leads to the completion of a degree, diploma, certificate, or other credential.

(2)(a) Under procedures and policies approved by the board and developed in consultation with each institution of higher education, each institution of higher education may make such changes in the institution of higher education's curriculum as necessary to better effectuate the institution of higher education's primary role[.]; and

(b) subject to Subsection (2)(a), an institution of higher education's faculty shall establish and have primary responsibility for the curriculum of a course within a program of instruction at the institution.

(3) The board shall establish criteria for whether an institution of higher education may approve a new program of instruction, including criteria related to whether:

(a) the program of instruction meets identified workforce needs;

(b) the institution of higher education is maximizing collaboration with other institutions of higher education to provide for efficiency in offering the program of instruction;

(c) the new program of instruction is within the institution of higher education's mission and role; and

(d) the new program of instruction meets other criteria determined by the board.

(4)(a) Except as [~~provided in Subsection (4)(b), without the approval of the board~~]board policy permits, an institution of higher education may not[~~:~~]

[~~(i)~~] establish a branch, extension center, college, or professional school[~~; or~~].

[~~(ii) establish a new program of instruction.~~]

(b) [~~An~~]The president of an institution of higher education may, with the approval of the institution of higher education's board of trustees, establish a new program of instruction that meets the criteria described in Subsection (3), subject to board review for pathway articulation.

(5)(a) An institution of higher education shall notify the board of a proposed new program of instruction, including how the proposed new program of instruction meets the criteria described in Subsection (3).

(b) The board shall establish procedures and guidelines for institutional boards of trustees to consider an institutional proposal for a new program of instruction described in Subsection (4)(b).

(6) The president of an institution of higher education may discontinue a program of instruction in accordance with criteria that the president and the institution of higher education's board of trustees establish.

[~~(6)~~](7)(a) The board shall conduct a periodic review of all new programs of instruction, including those funded by gifts, grants, and contracts, no later than two years after the first cohort to begin the program of instruction completes the program of instruction.

(b) The board may conduct a periodic review of any program of instruction at an institution of higher education, including a program of instruction funded by a gift, grant, or contract.

(c) The board shall conduct:

(i) at least once every seven years, at least one review described in Subsection [~~(6)(b)~~](7)(b) of each program of instruction at each institution; and

(ii) annually, a qualitative and quantitative review of academic disciplines across the system, including enrollment, graduation rates, and workforce placement, ensuring that the board conducts a review of all disciplines within the system at least once every seven years.

(d) Following a review described in this Subsection [~~(6)~~](7) and after providing the relevant institution of higher education an opportunity to respond to the board's review of a given program of instruction, the board may modify, consolidate, or terminate the program of instruction.

[~~(7)~~](8) In making decisions related to career and technical education curriculum changes, the board shall coordinate on behalf of the boards of trustees of higher education institutions a review of the proposed changes by the State Board of Education to ensure an orderly and systematic career and technical education curriculum that eliminates overlap and duplication of course work with high schools and technical colleges.

(9) The board shall demonstrate compliance with Subsection (7) by:

(a) creating a list of programs and corresponding review schedules;

(b) upon request of the Higher Education Appropriations Subcommittee, providing the list described in Subsection (9)(a); and

(c) providing a written report on or before October 1 to the Higher Education Appropriations Subcommittee of each year regarding relevant findings from the reviews conducted under Subsection (7).

(10) On or before October 1, 2026, if the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 33. Section 53B-17-1203 is amended to read:

53B-17-1203. SafeUT and School Safety Commission established -- Members.

(1) There is created the SafeUT and School Safety Commission composed of the following members:

(a) one member who represents the Office of the Attorney General, [~~appointed by~~]whom the attorney general appoints;

(b) one member who represents the Utah public education system, [~~appointed by~~]whom the State Board of Education appoints;

(c) [~~one member who represents the Utah system of higher education, appointed by~~]a designee of the Utah Board of Higher Education, whom the commissioner selects under direction of the board;

(d) one member who represents the Department of Health and Human Services, [~~appointed by~~]whom the executive director of the Department of Health and Human Services appoints;

(e) one member of the House of Representatives, [~~appointed by~~]whom the speaker of the House of Representatives appoints;

(f) one member of the Senate, [~~appointed by~~]whom the president of the Senate appoints;

(g) one member who represents the University Neuropsychiatric Institute, [~~appointed by~~]whom the chair of the commission appoints;

(h) one member who represents law enforcement who has extensive experience in emergency response, [~~appointed by~~]whom the chair of the commission appoints;

(i) one member who represents the Department of Health and Human Services who has experience in youth services or treatment services, [~~appointed by~~]whom the executive director of the Department of Health and Human Services appoints; and

(j) two members of the public, [~~appointed by~~]whom the chair of the commission appoints.

(2)(a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.

(b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.

(3)(a) The attorney general's designee shall serve as chair of the commission.

(b) The chair shall set the agenda for commission meetings.

(4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.

(5) Formal action by the commission requires a majority vote of a quorum.

(6)(a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.

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

(7) The Office of the Attorney General shall provide staff support to the commission.

Section 34. Section 53B-22-102 is amended to read:

53B-22-102. Utah State University revenue bonds -- Student family housing and Human Resource Research Center.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit of the income and revenues of Utah State University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a student family housing project and a Human Resource Research Center.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $6,600,000 for the student family housing project and $6,000,000 for the Human Resource Research Center, and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.

Section 35. Section 53B-22-103 is amended to read:

53B-22-103. Weber State University revenue bonds -- Student services building.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Weber State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit of the income and revenues of Weber State University, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a student services building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $5,800,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.

Section 36. Section 53B-22-104 is amended to read:

53B-22-104. Southern Utah University revenue bonds -- Student housing and student center addition.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit of the income and revenues of Southern Utah University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a student housing project and a student center addition.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $6,000,000 for the student housing project and $5,500,000 for the student center addition and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 37. Section 53B-22-105 is amended to read:

53B-22-105. Utah Tech University revenue bonds -- Student center building.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of [~~Dixie College~~]Utah Tech University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of [~~Dixie College~~]Utah Tech University to borrow money on the credit of the income and revenues of [~~Dixie College~~]Utah Tech University, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a student center building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $3,100,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.

Section 38. Section 53B-22-106 is amended to read:

53B-22-106. Utah Valley University revenue bonds -- Student center addition.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Utah Valley [~~State College~~]University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah Valley [~~State College~~]Univeristy to borrow money on the credit of the income and revenues of Utah Valley [~~State College~~]University, other than appropriations of the Legislature, to finance the cost of constructing, furnishing, and equipping a student center addition.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $13,500,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.

Section 39. Section 53B-22-107 is amended to read:

53B-22-107. Salt Lake Community College revenue bonds -- Classroom/physical education facility.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Salt Lake Community College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit of the income and revenues of Salt Lake Community College, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a classroom/physical education facility.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $5,500,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under such terms and conditions and in such amounts as the board, by resolution, determines are reasonable and necessary.

Section 40. Section 53B-22-109 is amended to read:

53B-22-109. Salt Lake Community College revenue bonds -- Science/major industry building.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Salt Lake Community College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit of the income and revenues of Salt Lake Community College, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a science/major industry building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $5,150,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 41. Section 53B-22-111 is amended to read:

53B-22-111. Southern Utah University revenue bonds -- Stadium expansion.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit of the income and revenues of Southern Utah University, other than appropriations of the Legislature, to finance the phased expansion of the stadium at the university.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $5,500,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 42. Section 53B-22-112 is amended to read:

53B-22-112. University of Utah revenue bonds -- Biology research building.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit of the income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a biology research building.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $21,050,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 43. Section 53B-22-113 is amended to read:

53B-22-113. University of Utah revenue bonds -- Robert L. Rice Stadium renovation and expansion.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of

the University of Utah to borrow money on the credit of the income and revenues of the University of Utah, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a renovation and expansion of the Robert L. Rice Stadium.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $12,000,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 44. Section 53B-22-114 is amended to read:

53B-22-114. Utah State University Eastern revenue bonds -- Student center.

(1) The [~~State~~]Utah Board of Higher Education, formerly the Board of Regents, on behalf of[~~the College of Eastern~~] Utah State University Eastern, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of[~~the College of Eastern~~] Utah State University Eastern to borrow money on the credit of the income and revenues of[~~the College of Eastern~~] Utah State University Eastern, other than appropriations of the Legislature, to finance the partial cost of constructing, furnishing, and equipping a student center.

(2) The bonds or other evidences of indebtedness authorized by this section may not exceed $3,300,000 and shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary.

Section 45. Section 53B-22-204 is amended to read:

53B-22-204. Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) An institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(5)(a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6)(a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $50,000,000 but less than $100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $100,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7)(a) An institution may request operations and maintenance funds for a capital development project approved under this section.

(b) An institution shall make the request described in Subsection (7)(a) at the same time the institution submits the proposal described in Subsection (2).

[~~(b)~~](c) The Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

Section 46. Section 53B-23-106 is amended to read:

53B-23-106. Institution to make policy.

(1) As used in this section, "institution" means an institution listed in Section 53B-1-102.

(2) [~~In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board~~]An institution shall make [~~rules~~]policy consistent with this section for [~~its~~]the implementation and administration of the institution, including [~~rules~~]policy addressing:

[~~(1)~~](a) the designation of materials considered "required or essential to student success";

[~~(2)~~](b) the determination of the availability of technology for the conversion of nonprinted materials pursuant to Section 53B-23-103 and the conversion of mathematics and science materials pursuant to Section 53B-23-102; and

[~~(3)~~](c) the procedures and standards relating to distribution of files and materials pursuant to Section 53B-23-103.

Section 47. Section 53B-27-405 is amended to read:

53B-27-405. Student religious accommodations.

(1) An institution shall:

(a) reasonably accommodate a student's absence from an examination or other academic requirement under the circumstances described in Subsection (2) for reasons of:

(i) the student's faith or conscience; or

(ii) the student's participation in an organized activity conducted under the auspices of the student's religious tradition or religious organization; and

(b) ensure that an accommodation described in Subsection (1)(a) does not adversely impact the student's academic opportunities.

(2) An institution shall make an accommodation described in Subsection (1) if:

(a) the time at which an examination or academic requirement is scheduled to occur creates an undue hardship for a student due to the student's sincerely held religious belief; and

(b) the student provides a written notice to the instructor of the course for which the student seeks the accommodation regarding the date of the examination or academic requirement for which the student seeks the accommodation.

(3) [~~The board~~]An institution shall establish policies related to the accommodation described in Subsection (1) that:

(a) require [~~an~~]the institution to provide the accommodation with respect to when the student participates in examinations and other academic requirements;

(b) allow an instructor who receives a notice described in Subsection (2)(b) to:

(i) schedule an alternative examination time before or after the regularly scheduled examination; or

(ii) make accommodations for other academic requirements related to the accommodation; and

(c) require an instructor who receives a notice described in Subsection (2)(b) to keep confidential a student's request for the accommodation.

(4)(a) The [~~board~~]commissioner shall annually:

(i) create a list of the dates of religious holidays for the following two years; and

(ii) distribute the list described in Subsection (4)(a) to an institution.

(b) The creation and distribution of the list described in Subsection (4)(a) does not prohibit a student from seeking, or an institution from granting, an accommodation for a date of a religious holiday that is not included on that list.

(5) An institution shall:

(a) designate a point of contact for information about an accommodation described in Subsection (1);

(b) establish a process by which a student may submit a grievance with regards to implementation of this section; and

(c) publish the following information on the institution's website and update the information annually:

(i) the [~~board's~~]institution's religious accommodation policies described in Subsection (3);

(ii) the point of contact described in Subsection (5)(a);

(iii) the list described in Subsection (4);

(iv) a description of the general procedure to request an accommodation described in Subsection (1); and

(v) the grievance process described in Subsection (5)(b).

Section 48. Section 53B-28-401 is amended to read:

53B-28-401. Campus safety plans and training -- Institution duties -- Governing board duties.

(1) As used in this section:

(a) "Covered offense" means:

(i) sexual assault;

(ii) domestic violence;

(iii) dating violence; or

(iv) stalking.

(b) "Institution" means an institution of higher education described in Section 53B-1-102.

(c) "Student organization" means a club, group, sports team, fraternity or sorority, or other organization:

(i) of which the majority of members is composed of students enrolled in an institution; and

(ii)(A) that is officially recognized by the institution; or

(B) seeks to be officially recognized by the institution.

(2) An institution shall develop a campus safety plan that addresses:

(a) where an individual can locate the institution's policies and publications related to a covered offense;

(b) institution and community resources for a victim of a covered offense;

(c) the rights of a victim of a covered offense, including the measures the institution takes to ensure, unless otherwise provided by law, victim confidentiality throughout all steps in the reporting and response to a covered offense;

(d) how the institution informs the campus community of a crime that presents a threat to the campus community;

(e) availability, locations, and methods for requesting assistance of security personnel on the institution's campus;

(f) guidance on how a student may contact law enforcement for incidents that occur off campus;

(g) institution efforts related to increasing campus safety, including efforts related to the institution's increased response in providing services to victims of a covered offense, that:

(i) the institution made in the preceding 18 months; and

(ii) the institution expects to make in the upcoming 24 months;

(h) coordination and communication between institution resources and organizations, including campus law enforcement;

(i) institution coordination with local law enforcement or community resources, including coordination related to a student's safety at an off-campus location; and

(j) how the institution requires a student organization to provide the campus safety training as described in Subsection (5).

(3) An institution shall:

(a) prominently post the institution's campus safety plan on the institution's website and each of the institution's campuses; and

(b) annually update the institution's campus safety plan.

(4) An institution shall develop a campus safety training curriculum that addresses:

(a) awareness and prevention of covered offenses, including information on institution and community resources for a victim of a covered offense;

(b) bystander intervention; and

(c) sexual consent.

(5) An institution shall require a student organization, in order for the student organization to receive or maintain official recognition by the institution, to annually provide campus safety training, using the curriculum described in Subsection (4), to the student organization's members.

(6) [~~The board shall:~~]

[~~(a) on or before July 1, 2019, establish minimum requirements for an institution's campus safety plan described in Subsection (2);~~]

[~~(b) identify resources an institution may use to develop a campus safety training curriculum as described in Subsection (4); and (c)~~] An institution shall report annually to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee, at or before the committees' November meetings[~~, on:~~]

[~~(i) the implementation of the requirements described in this section; and~~]

[~~(ii) crime statistics aggregated by housing facility as described in Subsection 53B-28-403(2)~~].

Section 49. Section 53B-28-502 is amended to read:

53B-28-502. State student data protection governance.

(1) The state privacy officer shall establish a higher education privacy advisory group to advise institutions and institution boards of trustees on student data protection.

(2) The advisory group shall consist of:

(a) the state privacy officer;

(b) the higher education privacy officer; and

(c) the following members, appointed by the commissioner[~~of higher education~~]:

(i) at least one Utah [~~system of higher education~~]System of Higher Education employee; and

(ii) at least one representative of the Utah Board of Higher Education.

(3) The advisory group shall:

(a) discuss and make recommendations to the board and institutions regarding:

(i) existing and proposed:

(A) board rules; or

(B) board policies of the Utah Board of Higher Education or institutions; and

(ii) training on protecting student data privacy; and

(b) perform other tasks related to student data protection as designated by the Utah Board of Higher Education.

(4) The higher education privacy officer shall:

(a) provide training and support to institution boards and employees; and

(b) produce:

(i) resource materials;

(ii) model data governance plans;

(iii) model forms for institution student data protection governance; and

(iv) a model data collection notice.

(5) The board shall:

(a)(i) create and maintain a data governance plan; and

(ii) annually publish the data governance plan on the Utah System of Higher Education website; and

(b) establish standards for:

(i) institution policies to protect student data;

(ii) institution data governance plans; and

(iii) a third-party contractor's use of student data.

Section 50. Section 53B-33-202 is amended to read:

53B-33-202. Utah Data Research Advisory Board -- Composition -- Appointment.

(1) There is created the Utah Data Research Advisory Board.

(2) The advisory board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state superintendent's designee;

(b) the commissioner or the commissioner's designee;

(c) the executive director of the Department of Workforce Services or the executive director's designee;

(d) the executive director of the Department of Health and Human Services or the executive director's designee; and

(e) the executive director of the Department of Commerce or the executive director's designee.

(3) The commissioner or the commissioner's designee shall serve as chair.

(4) A member of the advisory board:

(a) except to the extent a member's service on the advisory board is related to the member's duties outside of the advisory board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 51. Section 53B-34-110 is enacted to read:

53B-34-110. Talent advisory councils.

(1) As used in this section:

(a) "Advisory council" means an advisory council the talent board creates under Subsection (10).

(b) "Institution of higher education" means the same as the term is defined in Section 53B-1-102.

(c) "Talent initiative" means an initiative the board creates under Subsection (2).

(2)(a) Subject to legislative appropriations and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee one or more talent initiatives that include providing funding for expanded programs at an institution of higher education related to the talent initiative.

(b) The board shall ensure that a talent initiative the board creates:

(i) uses a name for the talent initiative that reflects the area the initiative is targeting;

(ii) contains an outline of the disciplines, industries, degrees, certifications, credentials, and types of skills the talent initiative will target; and

(iii) uses a corresponding advisory council created in Subsection (10).

(3) In creating a talent initiative, the board shall facilitate collaborations between an institution of higher education and participating employers that:

(a) create expanded, multidisciplinary programs or stackable credential programs offered at a technical college, undergraduate, or graduate level of study; and

(b) prepare students to be workforce participants in jobs requiring skills related to a talent initiative.

(4)(a) An institution of higher education seeking to partner with one or more participating employers to create a program related to a talent initiative shall submit a proposal to the talent board through a process the talent board creates.

(b) An institution of higher education shall submit a proposal that contains:

(i) a description of the proposed program, including:

(A) implementation timelines for the program;

(B) a demonstration of how the program will be responsive to the talent needs related to the talent initiative;

(C) an outline of relevant industry involvement that includes at least one participating employer that partners with the institution of higher education; and

(D) an explanation of how the program addresses an unmet regional workforce need related to a talent initiative;

(ii) an estimate of:

(A) projected student enrollment and completion rates for a program;

(B) the academic credit or credentials that a program will provide; and

(C) occupations for which a graduate will qualify;

(iii) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of:

(A) instruction;

(B) curriculum review;

(C) feedback regarding effectiveness of program graduates as employees;

(D) work-based learning opportunities; or

(E) mentoring;

(iv) a description of any resources a participating employer will provide within the program; and

(v) the amount of funding requested for the program, including:

(A) the justification for the funding; and

(B) the cost per student served as estimated under Subsection (4)(b)(ii).

(5) In reviewing a proposal, the talent board shall provide a proposal to the relevant advisory council described in Subsections (10) and (11).

(6) The relevant advisory council shall:

(a) review and prioritize each proposal the advisory council receives; and

(b) recommend to the talent board whether the proposal should be funded and the funding amount based on:

(i) the quality and completeness of the elements of the proposal described in Subsection (4)(b);

(ii) to what extent the proposed program:

(A) would expand the capacity to meet state or regional workforce needs related to the talent initiative;

(B) would integrate industry-relevant competencies with disciplinary expertise;

(C) would incorporate internships or significant project experiences, including team-based experiences;

(D) identifies how industry professionals would participate in elements described in Subsection (4)(b)(iii); and

(E) would be cost effective; and

(iii) other relevant criteria as the relevant advisory council and the talent board determines.

(7) The board shall review the recommendations of an advisory council and may provide funding for a program related to a talent initiative using the criteria described in Subsection (6)(b).

(8) In a form that the board approves, each institution of higher education that receives funding shall annually provide written information to the board regarding the activities, successes, and challenges related to administering the program related to the talent initiative, including:

(a) specific entities that received funding under this section;

(b) the amount of funding provided to each entity;

(c) the number of participating students in each program;

(d) the number of graduates of the program;

(e) the number of graduates of the program employed in jobs requiring skills related to the talent initiative; and

(f) progress and achievements relevant to the implementation timeline submitted under Subsection (4)(b)(i)(A).

(9) On or before October 1 of each year, the board shall provide an annual written report containing the information described in Subsection (8) to the:

(a) Education Interim Committee; and

(b) Higher Education Appropriations Subcommittee.

(10) The talent board shall create a talent advisory council for each talent initiative created under Subsection (2) to make recommendations to the board regarding the administration of a talent initiative including:

(a) a deep technology initiative;

(b) a life sciences workforce initiative; and

(c) health professions initiatives including a nursing initiative.

(11) An advisory council shall consist of the following members:

(a) four members who have extensive experience in the talent initiative's subject matter from the private sector whom the chair of the talent board appoints and the board approves;

(b) a representative of the board described in Section 53B-1-402 whom the chair of the board appoints;

(c) a representative of the Governor's Office of Economic Opportunity whom the executive director of the Governor's Office of Economic Opportunity appoints;

(d) a representative from Talent Ready Utah;

(e) one member of the Senate whom the president of the Senate appoints;

(f) one member of the House of Representatives whom the speaker of the House of Representatives appoints; and

(g) any other specialized industry experts whom a majority of the advisory council may invite to participate as needed as nonvoting members.

(12) Talent Ready Utah shall provide staff support for an advisory council.

(13)(a) Two advisory council members appointed under Subsection (11)(a) shall serve an initial term of two years.

(b) Except as described in Subsection (13)(a), all other advisory council members shall serve an initial term of four years.

(c) Successor advisory council members upon appointment or reappointment shall each serve a term of four years.

(d) When a vacancy occurs in the membership for any reason, the initial appointing authority shall appoint a replacement for the unexpired term.

(e) An advisory council member may not serve more than two consecutive terms.

(14) A vote of a majority of the advisory council members constitutes an action of the advisory council.

(15) The duties of the advisory council include reviewing, prioritizing, and making recommendations to the board regarding proposals for funding under the talent initiative created in accordance with Subsection (2) for which the council was created.

(16) An advisory council member may not receive compensation or benefits for the member's service, but an advisory council member who is not a legislator may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(17) The board may discontinue a talent initiative and the related talent advisory council by majority vote.

Section 52. Section 53E-3-505 is amended to read:

53E-3-505. Financial and economic literacy education.

(1) As used in this section:

(a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).

(b) "Financial and economic literacy concepts" include concepts related to the following topics:

(i) basic budgeting;

(ii) saving and financial investments;

(iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;

(iv) career management, including earning an income;

(v) rights and responsibilities of renting or buying a home;

(vi) retirement planning;

(vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;

(viii) insurance;

(ix) federal, state, and local taxes;

(x) charitable giving;

(xi) identity fraud and theft;

(xii) negative financial consequences of gambling;

(xiii) bankruptcy;

(xiv) economic systems, including a description of:

(A) a command system such as socialism or communism, a market system such as capitalism, and a mixed system; and

(B) historic and current examples of the effects of each economic system on economic growth;

(xv) supply and demand;

(xvi) monetary and fiscal policy;

(xvii) effective business plan creation, including using economic analysis in creating a plan;

(xviii) scarcity and choices;

(xix) opportunity cost and tradeoffs;

(xx) productivity;

(xxi) entrepreneurism; and

(xxii) economic reasoning.

(c) "General financial literacy course" means the course of instruction administered by the state board under Subsection (3).

(2) The state board shall:

(a) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:

(i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;

(ii) using curriculum mapping;

(iii) creating training materials and staff development programs that:

(A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and

(B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and

(iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;

(b) work with interested public, private, and nonprofit entities to:

(i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;

(ii) coordinate school use of existing financial and economic literacy education resources;

(iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;

(iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and

(v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses; and

(d) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy concepts to teachers, including:

(i) a statewide learning community for financial and economic literacy;

(ii) summer workshops; and

(iii) online videos of experts in the field of financial and economic literacy education.

(3) The state board shall:

(a) administer a general financial literacy course in the same manner that the state board administers other core standards for Utah public school courses for grades 9 through 12;

(b) adopt standards and objectives for the general financial literacy course that address:

(i) financial and economic literacy concepts;

(ii) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid;

(iii) financial benefits of pursuing concurrent enrollment as defined in Section 53E-10-301; and

(iv) technology that relates to banking, savings, and financial products; and

(c)(i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

(ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and

(iii) develop a plan, through the state superintendent, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:

(A) an analysis of assessment results by standard; and

(B) average scores statewide and by school district and school.

(4)(a) The state board shall establish a task force to study and make recommendations to the state board on how to improve financial and economic literacy education in the public school system.

(b) The task force membership shall include representatives of:

(i) the state board;

(ii) school districts and charter schools;

(iii) the Utah [~~Board~~]System of Higher Education; and

(iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.

(c) The state board shall convene the task force at least once every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

Section 53. Section 63G-6a-202 is amended to read:

63G-6a-202. Creation of Utah State Procurement Policy Board.

(1) There is created the Utah State Procurement Policy Board.

(2) The board consists of up to 15 members as follows:

(a) two representatives of state institutions of higher education, [~~appointed by~~]whom the commissioner of higher education, under the direction of the Utah Board of Higher Education, appoints;

(b) a representative of the Department of Human Services, [~~appointed by~~]whom the executive director of that department appoints;

(c) a representative of the Department of Transportation, [~~appointed by~~]whom the executive director of that department appoints;

(d) two representatives of school districts, [~~appointed by~~]whom the State Board of Education appoints;

(e) a representative of the Division of Facilities Construction and Management, [~~appointed by~~]whom the director of that division appoints;

(f) one representative of a county, [~~appointed by~~]whom the Utah Association of Counties appoints;

(g) one representative of a city or town, [~~appointed by~~]whom the Utah League of Cities and Towns appoints;

(h) two representatives of special districts or special service districts, [~~appointed by~~]whom the Utah Association of Special Districts appoints;

(i) the director of the Division of Technology Services or the executive director's designee;

(j) the chief procurement officer or the chief procurement officer's designee; and

(k) two representatives of state agencies, other than a state agency already represented on the board, [~~appointed by~~]whom the executive director of the Department of Government Operations, with the approval of the executive director of the state agency that employs the employee, appoints.

(3) Members of the board shall be knowledgeable and experienced in, and have supervisory responsibility for, procurement in their official positions.

(4) A board member may serve as long as the member meets the description in Subsection (2) unless removed by the person or entity with the authority to appoint the board member.

(5)(a) The board shall:

(i) adopt rules of procedure for conducting its business; and

(ii) elect a chair to serve for one year.

(b) The chair of the board shall be selected by a majority of the members of the board and may be elected to succeeding terms.

(c) The chief procurement officer shall designate an employee of the division to serve as the nonvoting secretary to the policy board.

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

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 54. Repealer.

This bill repeals:

Section 53B-6-105.7, Initiative student scholarship program.

Section 53B-26-201, Definitions.

Section 53B-26-202, Nursing initiative -- Reporting requirements -- Proposals -- Funding.

Section 53B-26-301, Definitions.

Section 53B-26-302, Deep technology initiative.

Section 53B-26-303, Deep Technology Talent Advisory Council.

Section 55. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 55(a) Operating and Capital Budgets

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

ITEM 1

To University of Utah - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $3,404,600

Schedule of Programs:

Instruction $3,404,600

ITEM 2

To Utah State University - USU - Eastern Career and Technical Education

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $59,600

Schedule of Programs:

Instruction $59,600

ITEM 3

To Utah State University - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $989,200

Schedule of Programs:

Instruction $989,200

ITEM 4

To Weber State University - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $834,300

Schedule of Programs:

Instruction $834,300

ITEM 5

To Southern Utah University - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $699,600

Schedule of Programs:

Instruction $699,600

ITEM 6

To Utah Valley University - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $829,100

Schedule of Programs:

Instruction $829,100

ITEM 7

To Snow College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $303,000

Schedule of Programs:

Instruction $303,000

ITEM 8

To Snow College - Career and Technical Education

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $93,600

Schedule of Programs:

Instruction $93,600

ITEM 9

To Utah Tech University - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $279,500

Schedule of Programs:

Instruction $279,500

ITEM 10

To Salt Lake Community College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $471,300

Schedule of Programs:

Instruction $471,300

ITEM 11

To Salt Lake Community College - Career and Technical Education

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $68,200

Schedule of Programs:

Instruction $68,200

ITEM 12

To Bridgerland Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $336,000

Schedule of Programs:

Instruction $336,000

ITEM 13

To Davis Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $234,600

Schedule of Programs:

Instruction $234,600

ITEM 14

To Dixie Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $255,800

Schedule of Programs:

Instruction $255,800

ITEM 15

To Mountainland Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $198,100

Schedule of Programs:

Instruction $198,100

ITEM 16

To Ogden-Weber Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $402,100

Schedule of Programs:

Instruction $402,100

ITEM 17

To Southwest Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $61,200

Schedule of Programs:

Instruction $61,200

ITEM 18

To Tooele Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $53,400

Schedule of Programs:

Instruction $53,400

ITEM 19

To Uintah Basin Technical College - Education and General

From Income Tax Fund Restricted - Performance Funding Rest. Acct. $137,200

Schedule of Programs:

Instruction $137,200

Subsection 55(b) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 20

To Performance Funding Restricted Account

From Income Tax Fund $20,000,000

Schedule of Programs:

Performance Funding Restricted Account $20,000,000

Section 56. Effective date.

This bill takes effect on May 1, 2024.

Section 57. Coordinating S.B. 192 with H.B. 438

If S.B. 192, Higher Education Amendments, and H.B. 438, Higher Education Revisions, both pass and become law, the Legislature intends that, on May 1, 2024, Subsection 53B-2-106(6)(b) in S.B. 192 be amended to read:

"(b) subject to Section 53B-2-106.1, shall provide for the constitution, government, and organization of the faculty and administration, including:

(i) enacting and implementing rules;

(ii) ensuring that the faculty may only have jurisdiction over:

(A) academic requirements for admission, degrees, and certificates; and

(B) course curriculum and instruction;

(iii) permitting faculty to have jurisdiction over a matter other than a matter described in Subsection (6)(b)(ii) only if the following entities expressly authorize or delegate such power:

(A) the Legislature;

(B) the board;

(C) the institution's board of trustees; or

(D) the institution's president; and

(iv) if the institution is a degree-granting institution, the establishment of a prescribed system of tenure;".

CHAPTER 379
S. B. 206
Passed February 29, 2024
Approved March 18, 2024
Effective May 1, 2024

YOUNG ADULT SERVICE FELLOWSHIP

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill creates the One Utah Service Fellowship Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the One Utah Service Fellowship Program;
- directs the Utah Commission on Service and Volunteerism to provide oversight and policy guidance to the One Utah Service Fellowship Program;
- authorizes the Department of Cultural and Community Engagement to enter into an agreement with a third-party administrator;
- requires a written report to the Education Interim Committee;
- provides a sunset date; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Cultural and Community Engagement - Commission on Service and Volunteerism - One Utah Service Fellowship Program as a one-time appropriation:
  - from the General Fund, One-time, $2,000,000
- to Department of Cultural and Community Engagement - Commission on Service and Volunteerism - One Utah Service Fellowship Program as an ongoing appropriation:
  - from the General Fund, $1,300,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-1-208, as enacted by Laws of Utah 2014, Chapter 371
9-20-205, as renumbered and amended by Laws of Utah 2019, Chapter 221
63I-1-209, as last amended by Laws of Utah 2020, Chapters 154, 232 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154

ENACTS:

9-20-301, Utah Code Annotated 1953

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

Section 1. Section 9-1-208 is amended to read:

9-1-208. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data selected and used by the department to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website.

(5) Beginning in 2025, in addition to the annual report required by Subsection (1), the department shall provide a written report to the Education Interim Committee about the progress of the One Utah Service Fellowship Program, including the

progress of the Utah Commission on Service and Volunteerism created in Section 9-20-201 on the duties described in Subsection 9-20-301(3), by October 1 of each year.

Section 2. Section 9-20-205 is amended to read:

9-20-205. Commission duties.

(1) The commission shall:

(a) administer the selection, development, and oversight of programs funded and established by the act;

(b) pursue opportunities for sustainable and high-impact community service;

(c) develop and annually update a three-year community service plan for the state, including the establishment of state priorities; [~~and~~]

(d) provide policy guidance to the One Utah Service Fellowship Program described in Section 9-20-301; and

[~~(d)~~](e) stimulate increased community awareness of the impact of volunteer service in the state.

(2)(a) The commission may, subject to Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept private gifts, donations, or funds from any source.

(b) Money received under this Subsection (2) shall be deposited with the state and shall be available to the commission to carry out the purposes of this part.

Section 3. Section 9-20-301 is enacted to read:

9-20-301. One Utah Service Fellowship Program.

Part 3. One Utah Service Fellowship Program

(1) As used in this section:

(a) "Education expense" means:

(i) tuition or student fees at an institution of higher education that participates in the federal student assistance programs under the Higher Education Act of 1965, Title IV, 20 U.S.C. Sec. 1070 et seq.;

(ii) repayment of a student loan; or

(iii) other costs of attending an institution of higher education described in Subsection (1)(a)(i), as determined by the institution of higher education, for a degree or certificate program, including:

(A) books;

(B) supplies;

(C) transportation; and

(D) room and board.

(b) "Eligible recipient" means an individual who:

(i) is a resident of the state;

(ii) successfully completes a fellowship under the program created in this section; and

(iii) is a citizen of the United States, a United States national, or a lawful permanent resident of the United States.

(c) "Federal requirements for the AmeriCorps program" means:

(i) relevant provisions of:

(A) the National and Community Service Act of 1990, as amended, 42 U.S.C. 12501 et seq. and corresponding federal regulations;

(B) the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4950 et seq. and corresponding federal regulations;

(C) the Federal Grant and Cooperative Agreement Act, as amended, 31 U.S.C. Secs. 6301 through 6308, and corresponding federal regulations; and

(D) AmeriCorps' C.F.R. Chapters XII and XXV; and

(ii) any terms and conditions associated with AmeriCorps federal grant funding.

(d) "Institution of higher education" means an entity described in Section 53B-2-101.

(e) "Participant" means an individual who:

(i) is at least 17 years old;

(ii) has received a high school diploma or its equivalent; and

(iii) the program matches with a qualified partner organization to participate in a program fellowship.

(f) "Program" means the One Utah Service Fellowship Program created in Subsection (2).

(g) "Qualified partner organization" means a nonprofit organization or government entity that:

(i) agrees to supervise a participant for the total number of hours outlined in an agreement with the commission;

(ii) except as provided in Subsection (4)(d), agrees to provide the commission with a matching stipend amount, as described in Subsection (5); and

(iii) provides a valuable service to the community, as determined by the commission or commission rule.

(h) "Supervise" means the act of overseeing the work of an eligible recipient, including some component of in-person interaction.

(i) "Third-party administrator" means an entity that:

(i) enters into an agreement with the department, as described in Subsection (7);

(ii) is a nonprofit organization or subsidiary or affiliate of an institution of higher education;

(iii) has experience managing programs and funds; and

(iv) operates under the direction of the commission.

(j) "Tuition award" means an amount of money to be used for an education expense, as described in Subsection (6).

(2) There is created a One Utah Service Fellowship Program to provide meaningful service opportunities to young adults in the state to:

(a) prepare young adults for additional educational, training, and career opportunities;

(b) address high-priority needs within the state; and

(c) provide a stipend to a participant and a tuition award to an eligible recipient in accordance with this section.

(3)(a) Subject to appropriations from the Legislature, the commission shall administer the program as described in this section.

(b) Except as otherwise provided in an agreement authorized by Subsection (7)(b), the commission:

(i) shall create and maintain a list of high-priority policy needs in the state where program service opportunities can provide the most value to the state;

(ii) shall receive an application from a potential participant;

(iii) shall match a participant to a qualified partner organization for participation in the program;

(iv) shall approve a potential qualified partner organization to participate in the program;

(v) shall prioritize the placement of participants with qualified partner organizations that address the high-priority policy needs identified under Subsection (3)(b)(i);

(vi) shall create and maintain, or contract with a third-party to create and maintain, an online portal that:

(A) provides information about the program, including required qualifications for participation, tuition awards, and stipends;

(B) lists all service opportunities with qualified partner organizations that are available through the program; and

(C) allows a potential participant to apply for placement with a qualified partner organization;

(vii) shall determine the metrics of success of the program, including metrics regarding whether an eligible recipient:

(A) matriculates at an institution of higher education after completing a One Utah Service Fellowship; and

(B) graduates from, or otherwise completes a program at, an institution of higher education;

(viii) shall measure the success of the program according to the metrics determined under this Subsection (3);

(ix) shall coordinate with institutions of higher education to:

(A) connect an eligible recipient with additional educational, training, certification, and apprenticeship opportunities; and

(B) explore options to award an eligible recipient with academic credit for the completion of a One Utah Service Fellowship, in addition to the stipend and tuition award;

(x) may solicit private donations to supplement the program, including to offset a matching amount required of a qualified partner organization as described in Subsection (4)(d);

(xi) shall market and provide outreach for the program; and

(xii) shall ensure the program complies with federal requirements for the AmeriCorps program administered by the commission.

(c) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(4)(a) Before a participant begins providing service through the program, the commission or third-party administrator shall enter into an agreement with the participant that outlines the mutual expectations of the program and the participant.

(b) The agreement described in Subsection (4)(a) shall detail the requirements of the participant, including:

(i) the total number of hours of service required under the agreement;

(ii) the exact stipend amount promised to the participant in consideration of service, as described in Subsection (5);

(iii) the exact tuition award amount promised to the participant upon successful completion of a fellowship, as described in Subsection (6);

(iv) qualifications for and acceptable uses of the tuition award, as described in Subsection (6); and

(v) the circumstances under which the agreement may be amended, including for participant hardship or compelling personal circumstance.

(c)(i) Subject to Subsection (4)(c)(ii), before a qualified partner organization accepts service from a participant, the commission or third-party administrator shall enter into an agreement with the qualified partner organization that outlines the mutual expectations of the program and qualified partner organization, including the exact amount of matching funds the qualified partner organization shall provide to the commission to contribute to a participant's stipend.

(ii) A qualified partner organization shall agree to contribute no less than $5 per hour to a participant's stipend.

(d) The agreement described in Subsection (4)(c) may include a provision that the program is reducing the qualified partner organization's matching fund requirement due to the receipt of private donations, as described in Subsection (5)(c)(ii)(B).

(5)(a) The commission may issue, and a participant may receive, a stipend for participating in the program.

(b) The commission or third-party administrator shall establish the exact stipend for a participant on a case-by-case basis in an agreement described in Subsection (4)(a) based on:

(i) available program funds; and

(ii) any matching funds provided by:

(A) the qualified partner organization with which the participant is paired; or

(B) private donations to the program.

(c)(i) The commission or third-party administrator shall contribute $5 per hour of the stipend described in this Subsection (5), up to $8,500 for the term of the agreement, from state funds.

(ii) The commission or third-party administrator shall supplement the remaining balance of a participant's exact stipend from non-state funds, including:

(A) matching funds provided to the commission by a qualified partner organization; or

(B) private donations to the program.

(iii) The commission or third-party administrator shall prioritize a participant's placement with a qualified partner organization based on the amount of matching funds the qualified partner organization proposes to provide to the commission under Subsection (5)(c)(ii)(A), with preference going to qualified partner organizations that offer to provide a larger stipend.

(iv) The commission or third-party administrator shall disburse the stipend to a participant in installments, no less frequently than every three months.

(6)(a) The commission shall provide a tuition award to an eligible recipient, according to the terms of the agreement described in Subsection (4), upon the successful completion of a fellowship.

(b) The commission or third-party administrator shall establish the exact tuition award for an eligible recipient on a case-by-case basis in an agreement described in Subsection (4)(a) based on:

(i) federal requirements for the AmeriCorps program, including:

(A) a maximum tuition award for 1,700 hours of service during a one-year period; and

(B) a reduced tuition award for a reduced number of hours of service during a one-year period.

(c) An eligible recipient may use a tuition award:

(i) for an eligible education expense;

(ii) over a seven-year period beginning the day on which the eligible recipient receives the tuition award; and

(iii) subject to the requirements of Subsection (6)(d).

(d) If the program uses state funds to supplement a tuition award:

(i) the commission or third-party administrator shall detail that information in an agreement described in Subsection (4)(a); and

(ii) an eligible recipient may only use the state funded portion of the tuition award after the eligible recipient has exhausted any scholarship, education grant, or financial aid.

(7) The department:

(a) shall provide staff support to the commission to implement the program; and

(b) may enter into an agreement with one or more third-party administrators to administer and implement the program under the direction of the commission, including by fulfilling one or more of the responsibilities described in Subsection (3).

Section 4. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Subsection 9-1-208(5), which creates a reporting requirement on the One Utah Service Fellowship Program, is repealed July 1, 2027.

(2) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.

[~~(2)~~](3) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.

[~~(3)~~](4) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

[~~(4)~~](5) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, [~~2026~~]2027.

Section 5. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 5(a) Operating and Capital Budgets

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

ITEM 1

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

From General Fund, One-time	$2,000,000
From General Fund	$1,300,000

Schedule of Programs:

One Utah Service Fellowship Program	$3,300,000

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 380
S. B. 237
Passed March 1, 2024
Approved March 18, 2024
Effective July 1, 2024

TOWING MODIFICATIONS

Chief Sponsor: Michael K. McKell
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill makes changes regarding what information can be shared when a vehicle is towed and makes changes related to the Uninsured Motorist Identification Restricted Account.

Highlighted Provisions:

This bill:

- allows information to be shared with a designated agent;
- amends provisions related to the Uninsured Motorist Identification Restricted Account; and
- allows a designated agent to share information with a towed vehicle's insurance company in certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335
41-12a-805, as last amended by Laws of Utah 2012, Chapter 243

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

Section 1. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4)(a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

(b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

(c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).

(e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5)(a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(f)(i) The Motor Vehicle Division shall disclose the information in the report described in Subsection (4) and Subsection 72-9-603(1)(a)(i) to a designated agent as defined in Section 41-12a-802 regarding a tow that was initiated:

(A) by law enforcement; or

(B) without the vehicle owner's consent.

(ii) The Motor Vehicle Division may rely on the information provided by the tow truck operator or tow truck motor carrier to determine if a tow meets the criteria described in Subsections (5)(f)(i)(A) and (B).

(iii) The designated agent may disclose information received regarding a tow described in Subsections (5)(f)(i)(A) and (B) to the vehicle owner and to the vehicle owner's verified insurance company.

(iv) The designated agent may not disclose information to a vehicle owner's insurance company if the tow does not meet the criteria described in Subsections (5)(f)(i)(A) and (B).

(6)(a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b)(i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7)(a) For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11)(a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b)(i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 2. Section 41-12a-805 is amended to read:

41-12a-805. Disclosure of insurance information -- Penalty.

(1) Information in the database established under Section 41-12a-803 provided by a person to the designated agent is considered to be the property of the person providing the information.

(2) The information may not be disclosed from the database under Title 63G, Chapter 2, Government Records Access and Management Act, or otherwise, except as follows:

(a) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall verify insurance information through the state computer network for a state or local government agency or court;

(b) for the purpose of investigating, litigating, or enforcing the owner's or operator's security requirement under Section 41-12a-301, the designated agent shall, upon request, issue to any state or local government agency or court a certificate documenting the insurance information, according to the database, of a specific individual or motor vehicle for the time period designated by the government agency;

(c) upon request, the department or its designated agent shall disclose whether or not a person is an insured individual and the insurance company name to:

(i) that individual or, if that individual is deceased, any interested person of that individual, as defined in Section 75-1-201;

(ii) the parent or legal guardian of that individual if the individual is an unemancipated minor;

(iii) the legal guardian of that individual if the individual is legally incapacitated;

(iv) a person who has power of attorney from the insured individual;

(v) a person who submits a notarized release from the insured individual dated no more than 90 days before the date the request is made; or

(vi) a person suffering loss or injury in a motor vehicle accident in which the insured individual is involved, but only as part of an accident report as authorized in Section 41-12a-202;

(d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations by state or local law enforcement agencies related to the:

(i) registration and renewal of registration of a motor vehicle under Title 41, Chapter 1a, Motor Vehicle Act;

(ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

(iii) owner's or operator's security requirements under Section 41-12a-301;

(e) upon request of a peace officer acting in an official capacity under the provisions of Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement, or prosecution;

(f) for the purpose of the state auditor, the legislative auditor general, or other auditor of the state conducting audits of the program;

(g) upon request of a financial institution as defined under Section 7-1-103 for the purpose of protecting the financial institution's Nona fide security interest in a motor vehicle; [~~and~~]

(h) upon the request of a state or local law enforcement agency for the purpose of investigating

and prosecuting identity theft and other crimes[.]; and

(i) the designated agent shall provide information from the database regarding a towed vehicle to the vehicle owner's insurance company of record at the time the vehicle was towed, including, if available, the name, address, and contact information of the tow yard where the vehicle is stored.

(3)(a) The department may allow the designated agent to prepare and deliver upon request, a report on the insurance information of a person or motor vehicle in accordance with this section.

(b) The report may be in the form of:

(i) a certified copy that is considered admissible in any court proceeding in the same manner as the original; or

(ii) information accessible through the Internet or through other electronic medium if the department determines that sufficient security is provided to ensure compliance with this section.

(c) The department may allow the designated agent to charge a fee established by the department under Section 63J-1-504 for each:

(i) document authenticated, including each certified copy;

(ii) record accessed by the Internet or by other electronic medium; and

(iii) record provided to a financial institution under Subsection (2)(g).

(4) A person who knowingly releases or discloses information from the database for a purpose other than those authorized in this section or to a person who is not entitled to it is guilty of a third degree felony.

(5) An insurer is not liable to any person for complying with Sections 31A-22-315 and 31A-22-315.5 by providing information to the designated agent.

(6) Neither the state nor the department's designated agent is liable to any person for gathering, managing, or using the information in the database as provided in Sections 31A-22-315 and 31A-22-315.5 and this part.

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 381
S. B. 247
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Evan J. Vickers
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill makes technical changes to provisions of the Utah Code.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including:
  - eliminating or correcting references involving repealed provisions;
  - eliminating redundant or obsolete language;
  - making minor wording changes;
  - updating cross-references; and
  - correcting numbering and other errors.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-61-102, as enacted by Laws of Utah 2022, Chapter 462
15A-5-203, as last amended by Laws of Utah 2023, Chapters 95, 327
17-27a-403, as last amended by Laws of Utah 2023, Chapters 88, 238
17-27a-408, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 88
23A-4-704, as last amended by Laws of Utah 2023, Chapter 345 and renumbered and amended by Laws of Utah 2023, Chapter 103
26B-4-123, as renumbered and amended by Laws of Utah 2023, Chapter 307
32B-6-205.4, as enacted by Laws of Utah 2018, Chapter 249
32B-6-305.4, as enacted by Laws of Utah 2018, Chapter 249
32B-6-905.3, as enacted by Laws of Utah 2018, Chapter 249
34A-2-424, as enacted by Laws of Utah 2017, Chapter 53
35A-8-509, as last amended by Laws of Utah 2022, Chapter 406
35A-16-503, as enacted by Laws of Utah 2022, Chapter 403
35A-16-703, as enacted by Laws of Utah 2023, Chapter 302
41-1a-419, as last amended by Laws of Utah 2023, Chapter 33
49-20-415, as enacted by Laws of Utah 2017, Chapter 53
52-4-204, as last amended by Laws of Utah 2022, Chapters 169, 422
52-4-207, as last amended by Laws of Utah 2023, Chapter 100
53-2a-206, as last amended by Laws of Utah 2021, Chapter 437
53G-5-405, as last amended by Laws of Utah 2023, Chapter 343
53G-6-603, as last amended by Laws of Utah 2022, Chapter 329
58-37-7, as last amended by Laws of Utah 2023, Chapters 285, 329
58-37-19, as last amended by Laws of Utah 2023, Chapters 285, 329
58-67-305, as last amended by Laws of Utah 2022, Chapter 233
58-68-305, as last amended by Laws of Utah 2022, Chapter 233
58-71-305, as last amended by Laws of Utah 2018, Chapter 35
63A-17-808, as enacted by Laws of Utah 2023, Chapter 279
63G-2-107, as last amended by Laws of Utah 2023, Chapter 173
63I-1-219, as last amended by Laws of Utah 2022, Chapter 194
63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63I-2-272, as last amended by Laws of Utah 2023, Chapter 33
71A-8-103, as last amended by Laws of Utah 2023, Chapter 328 and renumbered and amended by Laws of Utah 2023, Chapter 44
73-2-1, as last amended by Laws of Utah 2023, Chapter 16
76-3-203.3, as last amended by Laws of Utah 2023, Chapter 111
76-3-402, as last amended by Laws of Utah 2023, Chapter 132
76-5-207, as last amended by Laws of Utah 2023, Chapter 415
78B-14-102, as last amended by Laws of Utah 2015, Chapter 45
78B-25-114, as enacted by Laws of Utah 2023, Chapter 488

REPEALS:

11-26-101, as enacted by Laws of Utah 2018, Chapter 283
63A-18-101, as enacted by Laws of Utah 2021, Chapter 84

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

Section 1. Section 13-61-102 is amended to read:

13-61-102. Applicability.

(1) This chapter applies to any controller or processor who:

(a)(i) conducts business in the state; or

(ii) produces a product or service that is targeted to consumers who are residents of the state;

(b) has annual revenue of $25,000,000 or more; and

(c) satisfies one or more of the following thresholds:

(i) during a calendar year, controls or processes personal data of 100,000 or more consumers; or

(ii) derives over 50% of the entity's gross revenue from the sale of personal data and controls or processes personal data of 25,000 or more consumers.

(2) This chapter does not apply to:

(a) a governmental entity or a third party under contract with a governmental entity when the third party is acting on behalf of the governmental entity;

(b) a tribe;

(c) an institution of higher education;

(d) a nonprofit corporation;

(e) a covered entity;

(f) a business associate;

(g) information that meets the definition of:

(i) protected health information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., and related regulations;

(ii) patient identifying information for purposes of 42 C.F.R. Part 2;

(iii) identifiable private information for purposes of the Federal Policy for the Protection of Human Subjects, 45 C.F.R. Part 46;

(iv) identifiable private information or personal data collected as part of human subjects research pursuant to or under the same standards as:

(A) the good clinical practice guidelines issued by the International Council for Harmonisation; or

(B) the Protection of Human Subjects under 21 C.F.R. Part 50 and Institutional Review Boards under 21 C.F.R. Part 56;

(v) personal data used or shared in research conducted in accordance with one or more of the requirements described in Subsection (2)(g)(iv);

(vi) information and documents created specifically for, and collected and maintained by, a committee but not a board or council listed in [~~Section 26-1-7~~]Section 26B-1-204;

(vii) information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. Sec. 11101 et seq., and related regulations;

(viii) patient safety work product for purposes of 42 C.F.R. Part 3; or

(ix) information that is:

(A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164; and

(B) derived from any of the health care-related information listed in this Subsection (2)(g);

(h) information originating from, and intermingled to be indistinguishable with, information under Subsection (2)(g) that is maintained by:

(i) a health care facility or health care provider; or

(ii) a program or a qualified service organization as defined in 42 C.F.R. Sec. 2.11;

(i) information used only for public health activities and purposes as described in 45 C.F.R. Sec. 164.512;

(j)(i) an activity by:

(A) a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;

(B) a furnisher of information, as set forth in 15 U.S.C. Sec. 1681s-2, who provides information for use in a consumer report, as defined in 15 U.S.C. Sec. 1681a; or

(C) a user of a consumer report, as set forth in 15 U.S.C. Sec. 1681b;

(ii) subject to regulation under the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; and

(iii) involving the collection, maintenance, disclosure, sale, communication, or use of any personal data bearing on a consumer's:

(A) credit worthiness;

(B) credit standing;

(C) credit capacity;

(D) character;

(E) general reputation;

(F) personal characteristics; or

(G) mode of living;

(k) a financial institution or an affiliate of a financial institution governed by, or personal data collected, processed, sold, or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq., and related regulations;

(l) personal data collected, processed, sold, or disclosed in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Sec. 2721 et seq.;

(m) personal data regulated by the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations;

(n) personal data collected, processed, sold, or disclosed in accordance with the federal Farm Credit Act of 1971, 12 U.S.C. Sec. 2001 et seq.;

(o) data that are processed or maintained:

(i) in the course of an individual applying to, being employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent the collection and use of the data are related to the individual's role;

(ii) as the emergency contact information of an individual described in Subsection (2)(o)(i) and used for emergency contact purposes; or

(iii) to administer benefits for another individual relating to an individual described in Subsection (2)(o)(i) and used for the purpose of administering the benefits;

(p) an individual's processing of personal data for purely personal or household purposes; or

(q) an air carrier.

(3) A controller is in compliance with any obligation to obtain parental consent under this chapter if the controller complies with the verifiable parental consent mechanisms under the Children's Online Privacy Protection Act, 15 U.S.C. Sec. 6501 et seq., and the act's implementing regulations and exemptions.

(4) This chapter does not require a person to take any action in conflict with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., or related regulations.

Section 2. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 507.5.1, here required, a new exception is added: "3. One interior and one detached accessory dwelling unit on a single residential lot."

(f) IFC, Chapter 5, Section 510.1, Emergency responder communication coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) IFC, Chapter 6, Section 604.6.1, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The

elevator key box shall be accessed using a 6049 numbered key."

(b) IFC, Chapter 6, Section 606.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26B-7-401, for which the operator obtains a permit in accordance with [~~Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act~~]Section 26B-7-416."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

Section 3. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1)(a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c)(i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(e);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

(W) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

[~~(iii)~~](c) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

[~~(iv)~~](d) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

[~~(e)~~](e) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(d)~~](f) In drafting the transportation and traffic circulation element, the planning commission shall:

(i)(A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

[~~(e)~~](g)(i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection [~~(2)(e)(i)~~](2)(g)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

[~~(f)~~](h) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii)(A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 4. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection [~~17-27a-403(2)(e)~~]17-27a-403(2)(g).

(c) "Initial report" means the one-time moderate income housing report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Report" means an initial report or a subsequent report.

(f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).

(2)(a) The legislative body of a specified county shall annually submit an initial report to the division.

(b)(i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

(ii) include an implementation plan.

(3)(a) After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified county in the previous 12-month period in implementing the moderate income housing strategies;

(iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(v) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vi) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the specified county may include an ongoing action taken by the specified county prior to the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified county's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5)(a) An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection (2)(c);

(ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) A subsequent progress report does not comply with this section unless the report:

(i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to

implement three or more moderate income housing strategies;

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified county's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

(c)(i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a specified county described in Subsection (5)(c)(i) does not comply with this section unless the report demonstrates to the division that the specified county:

(A) made plans to implement the moderate income housing strategy described in Subsection 17-27a-403(2)(b)(ii)(Q); and

(B) is in compliance with Subsection 63N-3-603(8).

(6)(a) A specified county qualifies for priority consideration under this Subsection (6) if the specified county's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).

(7)(a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds and fees owed under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e)(i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance

within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under Subsection (9).

(8)(a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9)(a) A specified county is ineligible for funds and owes a fee under this Subsection (9) if:

(i) the specified county fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6);

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection (9)(b), if applicable; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

(f) The division may not determine that a specified county that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 5. Section 23A-4-704 is amended to read:

23A-4-704. Bear hunting permit.

(1) A person 12 years old or older may apply for or obtain a permit to take bear as provided by a rule or proclamation of the Wildlife Board upon:

(a) paying the [~~cougar or~~] bear hunting permit fee established by the Wildlife Board; and

(b) possessing a valid hunting or combination license.

(2) A person 11 years old may apply for or obtain a bear hunting permit consistent with the requirements of Subsection (1) if that person's 12th birthday falls within the calendar year in which the permit is issued.

(3) The division shall use one dollar of a bear permit fee collected from a resident for the hunter education program.

Section 6. Section 26B-4-123 is amended to read:

26B-4-123. Out-of-state vehicles.

(1) An ambulance or emergency response vehicle from another state may not pick up a patient in Utah to transport that patient to another location in Utah or to another state without a permit issued under Section [~~26B-2-318~~]26B-4-118 and, in the case of an ambulance, a license issued under this part for ambulance and paramedic providers.

(2) Notwithstanding Subsection (1), an ambulance or emergency response vehicle from another state may, without a permit or license:

(a) transport a patient into Utah; and

(b) provide assistance in time of disaster.

(3) The department may enter into agreements with ambulance and paramedic providers and their respective licensing agencies from other states to assure the expeditious delivery of emergency medical services beyond what may be reasonably provided by licensed ambulance and paramedic providers, including the transportation of patients between states.

Section 7. Section 32B-6-205.4 is amended to read:

32B-6-205.4. Small full-service restaurant licensee -- Exemption.

(1) Notwithstanding the provisions of Section [~~32B-6-205 or~~] 32B-6-205.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small full-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years [~~of age~~]old or older; and

(c) the small full-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small full-service restaurant licensee demonstrates that the small full-service restaurant licensee meets the requirements described in Subsection 32B-6-202(3); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 8. Section 32B-6-305.4 is amended to read:

32B-6-305.4. Small limited-service restaurant licensee -- Exemption.

(1) Notwithstanding the provisions of Section [~~32B-6-305 or~~] 32B-6-305.2 and subject to Subsection (2), a minor may sit, remain, or consume food or beverages in the dispensing area of a small limited-service restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small limited-service restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small limited-service restaurant

licensee demonstrates that the small limited-service restaurant licensee meets the requirements described in Subsection [~~32B-6-302(5)~~]32B-6-302(3); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 9. Section 32B-6-905.3 is amended to read:

32B-6-905.3. Small beer-only restaurant licensee -- Exemption.

(1) [~~Notwithstanding the provisions of Section 32B-6-905 or 32B-6-905.2 and subject to Subsection (2), a~~]A minor may sit, remain, or consume food or beverages in the dispensing area of a small beer-only restaurant licensee if:

(a) seating in the dispensing area is the only seating available for patrons on the licensed premises;

(b) the minor is accompanied by an individual who is 21 years of age or older; and

(c) the small beer-only restaurant licensee applies for and obtains approval from the department to seat minors in the dispensing area in accordance with this section.

(2) A minor may not sit, remain, or consume food or beverages at a dispensing structure.

(3) The department shall:

(a) grant an approval described in Subsection (1)(c) if the small beer-only restaurant licensee demonstrates that the small beer-only restaurant licensee meets the requirements described in Subsection [~~32B-6-902(1)(e)~~]32B-6-902(1)(c); and

(b) for each application described in Subsection (1)(c) that the department receives on or before May 8, 2018, act on the application on or before July 1, 2018.

Section 10. Section 34A-2-424 is amended to read:

34A-2-424. Prescribing policies for certain opioid prescriptions.

(1) This section applies to a person regulated by this chapter or Chapter 3, Utah Occupational Disease Act.

(2) A self-insured employer, as that term is defined in Section 34A-2-201.5, an insurance carrier, and a managed health care program under Section 34A-2-111 may implement a prescribing policy for certain opioid prescriptions [~~in accordance with Section 31A-22-615.5~~].

Section 11. Section 35A-8-509 is amended to read:

35A-8-509. Economic Revitalization and Investment Fund.

(1) There is created an enterprise fund known as the "Economic Revitalization and Investment Fund."

(2) The Economic Revitalization and Investment Fund consists of money from the following:

(a) money appropriated to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) money returned to the department under Subsection 35A-8-512(3)(a).

(3) The Economic Revitalization and Investment Fund shall earn interest, which shall be deposited into the Economic Revitalization and Investment Fund.

(4) The executive director may distribute money from the Economic Revitalization and Investment Fund to one or more projects that:

(a) include affordable housing units for households whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; and

(b) have been approved by the board in accordance with Section 35A-8-510.

(5)(a) A housing sponsor may apply to the department to receive a distribution in accordance with Subsection (4).

(b) The application shall include:

(i) the location of the project;

(ii) the number, size, and tenant income requirements of affordable housing units described in Subsection (4)(a) that will be included in the project; and

(iii) a written commitment to enter into a deed restriction that reserves for a period of 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

(c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit is:

[~~(i)(A)~~](i) occupied or reserved for occupancy by a household whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; or

[~~(B)~~](ii) occupied by a household whose income is no more than 60% of the area median income for households of the same size in the county or municipality where the project is located if that household met the income requirement described in Subsection (4)(a) when the household originally entered into the lease agreement for the housing unit[~~; and~~].

[~~(ii) rented at a rate no greater than the rate described in Subsection 35A-8-511(2)(b).~~]

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make additional rules providing procedures for a person to apply to the department to receive a distribution described in Subsection (4).

(6) The executive director may expend up to 3% of the revenues of the Economic Revitalization and Investment Fund, including any appropriation to the Economic Revitalization and Investment Fund, to offset department or board administrative expenses.

Section 12. Section 35A-16-503 is amended to read:

35A-16-503. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing:

(1) the submission of [~~an overflow~~]a winter response plan under Subsection 35A-16-502(1);

(2) the review of [~~an overflow~~]a winter response plan for purposes of determining compliance under Subsection 35A-16-502(4);

(3) the process of sending a notice of noncompliance under Subsection [~~35A-16-502(5)~~] 35A-16-502(6); and

(4) the location, establishment, and operation of a temporary [~~overflow~~]winter response shelter under [~~Subsections 35A-16-502(6)(b)(ii) and (c)~~]Section 35A-16-502.

Section 13. Section 35A-16-703 is amended to read:

35A-16-703. Provisions in effect for duration of code blue alert.

Subject to rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), the following provisions take effect within an affected county for the duration of a code blue alert:

(1) a homeless shelter may expand the homeless shelter's capacity limit by up to 35% to provide temporary shelter to any number of individuals experiencing homelessness, so long as the homeless shelter is in compliance with the applicable building code and fire code;

(2) a homeless shelter, in coordination with the applicable local homeless council, shall implement expedited intake procedures for individuals experiencing homelessness who request access to the homeless shelter;

(3) a homeless shelter may not deny temporary shelter to any individual experiencing homelessness who requests access to the homeless shelter for temporary shelter unless the homeless shelter is at the capacity limit described in Subsection (1) or if the individual presents a danger to the homeless shelter's staff or guests;

(4) any indoor facility owned by a private organization, nonprofit organization, state government entity, or local government entity may be used to provide temporary shelter to individuals experiencing homelessness and is exempt from the licensure requirements of [~~Title 62A, Chapter 2, Licensure of Programs and Facilities~~]Title 26B, Chapter 2, Licensing and Certifications, for the duration of the code blue alert and seven days following the day on which the code blue alert ends, so long as the facility is in compliance with the applicable building code and fire code;

(5) homeless shelters, state and local government entities, and other organizations that provide services to individuals experiencing homelessness shall coordinate street outreach efforts to distribute to individuals experiencing homelessness any available resources for survival in cold weather, including clothing items and blankets;

(6) if no beds or other accommodations are available at any homeless shelters located within the affected county, a municipality may not enforce an ordinance that prohibits or abates camping for the duration of the code blue alert and the two days following the day on which the code blue alert ends;

(7) a state or local government entity, including a municipality, law enforcement agency, and local health department may not enforce an ordinance or policy to seize from individuals experiencing homelessness any personal items for survival in cold weather, including clothing, blankets, tents, sleeping bags, heaters, stoves, and generators; and

(8) a municipality or other local government entity may not enforce any ordinance or policy that limits or restricts the ability for the provisions described in Subsections (1) through (7) to take effect, including local zoning ordinances.

Section 14. Section 41-1a-419 is amended to read:

41-1a-419. Plate design -- Vintage vehicle certification and registration -- Personalized special group license plates -- Rulemaking.

(1)(a) In accordance with Subsection (1)(b), the division shall determine the design and number of numerals or characters on a special group license plate.

(b)(i) Except as provided in Subsection (1)(b)(ii), each special group license plate shall display:

(A) the word Utah;

(B) the name or identifying slogan of the special group;

(C) a symbol decal not exceeding two positions in size representing the special group; and

(D) the combination of letters, numbers, or both uniquely identifying the registered vehicle.

(ii) The division, in consultation with the Utah State Historical Society, shall design the historical support special group license plate, which shall:

(A) have a black background;

(B) have white characters; and

(C) display the word Utah.

(2)(a) The division shall, after consultation with a representative designated by the sponsoring organization as defined in Section 41-1a-1601, specify the word or words comprising the special group name and the symbol decal to be displayed upon the special group license plate.

(b) A special group license plate symbol decal may not be redesigned:

(i) unless the division receives a redesign fee established by the division under Section 63J-1-504; and

(ii) more frequently than every five years.

(c) A special group license plate symbol decal may not be reordered unless the division receives a symbol decal reorder fee established by the division in accordance with Section 63J-1-504.

(3) The license plates issued for horseless carriages prior to July 1, 1992, are valid without renewal as long as the vehicle is owned by the registered owner and the license plates may not be recalled by the division.

(4) [~~Subject to Subsection 41-1a-411(4)(a), a~~]A person who meets the requirements described in this part or Part 16, Sponsored Special Group License Plates, for a special group license plate may, apply for a personalized special group license plate in accordance with Sections 41-1a-410 and 41-1a-411.

(5) Subject to this chapter, the commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish qualifying criteria for persons to receive, renew, or surrender special group license plates; and

(b) establish the number of numerals or characters for special group license plates.

Section 15. Section 49-20-415 is amended to read:

49-20-415. Prescribing policies for certain opioid prescriptions.

A plan offered to state employees under this chapter may implement a prescribing policy for certain opioid prescriptions [~~in accordance with Section 31A-22-615.5~~].

Section 16. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a)(i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii)(A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;

(E) for a project entity that is conducting an open meeting for the purposes of determining the value of an asset, developing a strategy related to the sale or use of that asset;

(F) for a project entity that is conducting an open meeting for purposes of discussing a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(G) for a project entity that is conducting an open meeting for purposes of discussing a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential competitor of, the project entity; or

(b)(i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."[~~; or~~]

[~~(iv) for the Data Security Management Council created in Section 63A-16-701, the closed meeting is convened in accordance with Subsection 63A-16-701(7), if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to information technology security."~~]

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3)(a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b)(i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

(ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Section 17. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2)(a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting shall establish the conditions under which a remote member is included in calculating a quorum.

(c) A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy; or

(vi) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes and conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52-4-202;

(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and

(c) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting.

(4)(a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a)(i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means;

(b)(i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means;

(c)(i) the public body is a special district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;

(ii) the board of trustees' membership consists of:

(A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B-1-302(2)(b); or

(B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17B-1-302(3)(a)(ii);

(iii) the public notice required under Subsection [~~52-4-202(3)(a)(i)(B)~~]52-4-202(3)(a) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the board of trustees allows members of the public attending the meeting by remote electronic means to participate in the meeting; or

(d)(i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;

(ii) the administrative control board's membership consists of:

(A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D-1-304(1)(a)(iii)(A) or (B), as applicable; or

(B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D-1-304(1)(b)(i);

(iii) the public notice required under Subsection [~~52-4-202(3)(a)(i)(B)~~]52-4-202(3)(a) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the administrative control board allows members of the public attending the meeting by remote electronic means to participate in the meeting.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.

Section 18. Section 53-2a-206 is amended to read:

53-2a-206. State of emergency -- Declaration -- Termination -- Commander in chief of military forces.

(1) A state of emergency may be declared by executive order of the governor if the governor finds a disaster has occurred or the occurrence or threat of a disaster is imminent in any area of the state in which state government assistance is required to supplement the response and recovery efforts of the affected political subdivision or political subdivisions.

(2)(a) Except as provided in Subsection (2)(b), a state of emergency described in Subsection (1) expires at the earlier of:

(i) the day on which the governor finds that the threat or danger has passed or the disaster reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the governor declared the state of emergency; or

(iii) the day on which the Legislature terminates the state of emergency by joint resolution.

(b)(i) The Legislature may, by joint resolution, extend a state of emergency for a time period designated in the joint resolution.

(ii) If the Legislature extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated in the joint resolution.

(c) Except as provided in Subsection (3), if a state of emergency expires as described in Subsection (2), the governor may not declare a new state of emergency for the same disaster or occurrence as the expired state of emergency.

(3)(a) After a state of emergency expires in accordance with Subsection (2), and subject to Subsection (4), the governor may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the governor finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (3)(a) expires in accordance with Subsections (2)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (3)(a) expires, the governor may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

(4)(a)(i) If the Legislature finds that emergency conditions warrant the extension of a state of emergency beyond 30 days as described in Subsection (2)(b), the Legislature may extend the state of emergency and specify which emergency powers described in this part are necessary to respond to the emergency conditions present at the time of the extension of the state of emergency.

(ii) Circumstances that may warrant the extension of a state of emergency with limited emergency powers include:

(A) the imminent threat of the emergency has passed, but continued fiscal response remains necessary; or

(B) emergency conditions warrant certain executive actions, but certain emergency powers such as suspension of enforcement of statute are not necessary.

(b) For any state of emergency extended by the Legislature beyond 30 days as described in Subsection (2)(b), the Legislature may, by joint resolution:

(i) extend the state of emergency and maintain all of the emergency powers described in this part; or

(ii) limit or restrict certain emergency powers of:

(A) the division as described in Section 53-2a-104;

(B) the governor as described in Section 53-2a-204;

(C) a chief executive officer of a political subdivision as described in Section 53-2a-205; or

(D) other executive emergency powers described in this chapter.

(c) If the Legislature limits emergency powers as described in Subsection (4)(b), the Legislature shall:

(i) include in the joint resolution findings describing the nature and current conditions of the emergency that warrant the continuation or limitation of certain emergency powers; and

(ii) clearly enumerate and describe in the joint resolution which powers:

(A) are being limited or restricted; or

(B) shall remain in force.

(5) If the Legislature terminates a state of emergency by joint resolution, the governor shall issue an executive order ending the state of emergency on receipt of the Legislature's resolution.

(6) An executive order described in this section to declare a state of emergency shall state:

(a) the nature of the state of emergency;

(b) the area or areas threatened; and

(c) the conditions creating such an emergency or those conditions allowing termination of the state of emergency.

(7) During the continuance of any state of emergency the governor is commander in chief of the military forces of the state in accordance with Utah Constitution Article VII, Section 4, and [~~Title 39, Chapter 1, State Militia~~]Title 39A, National Guard and Militia Act.

Section 19. Section 53G-5-405 is amended to read:

53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2)(a) Except as provided in Subsections (2)(b) and (2)(c), state board rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(c) If a charter school provides access to a school library, the charter school governing board shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the charter school uses or through a separate platform; and

(ii)(A) for a charter school with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a charter school with fewer than 1,000 enrolled students, no later than August 1, 2026.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

(a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;

[~~(d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;~~]

[~~(e)~~](d) Section 53G-7-1202, requiring the establishment of a school community council; and

[~~(f)~~](e) Section 53G-10-404, requiring annual presentations on adoption.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6)(a) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations.

(b) A charter school is subject to the requirements of Section 53G-5-404.

(7)(a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b)(i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.

(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 20. Section 53G-6-603 is amended to read:

53G-6-603. Requirement of birth certificate for enrollment of students -- Procedures.

(1) As used in this section:

(a) "Child trafficking" means human trafficking of a child in violation of Section 76-5-308.5.

(b) "Enroller" means an individual who enrolls a student in a public school.

(c) "Review team" means a team described in Subsection (4), assigned to determine a student's biological age as described in this section.

(d) "Social service provider" means the same as that term is defined in Section 53E-3-524.

(2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a particular school, that school shall notify the enroller in writing that within 30 days the enroller shall provide to the school either:

(a) a certified copy of the student's birth certificate; or

(b)(i) other reliable proof of the student's:

(A) identity;

(B) biological age; and

(C) relationship to the student's legally responsible individual; and

(ii) an affidavit explaining the enroller's inability to produce a copy of the student's birth certificate.

(3)(a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately reflects the student's biological age, the enroller shall provide to the school:

(i) an affidavit explaining the reasons for the inaccuracy described in Subsection (3)(a); and

(ii) except as provided in Subsection (4), supporting documentation that establishes the student's biological age.

(b) The supporting documentation described in Subsection (3)(a)(ii) may include:

(i) a religious, hospital, or physician certificate showing the student's date of birth;

(ii) an entry in a family religious text;

(iii) an adoption record;

(iv) previously verified school records;

(v) previously verified immunization records;

(vi) documentation from a social service provider; or

(vii) other legal documentation, including from a consulate, that reflects the student's biological age.

(4)(a) If the supporting documentation described in Subsection (3)(b) is not available, the school shall assign a review team to work with the enroller to determine the student's biological age for an LEA to use for a student's enrollment and appropriate placement in a public school.

(b) The review team described in Subsection (4)(a):

(i) may include:

(A) an appropriate district administrator;

(B) the student's teacher or teachers;

(C) the school principal;

(D) a school counselor;

(E) a school social worker;

(F) a school psychologist;

(G) a culturally competent and trauma-informed community representative;

(H) a school nurse or other school health specialist;

(I) an interpreter, if necessary; or

(J) a relevant educational equity administrator; and

(ii) shall include at least three members, at least one of which has completed the instruction described in Subsection 53G-9-207(3)(a), no more than two years prior to the member's appointment to the review team.

(c) In addition to any duty to comply with the mandatory reporting requirements described in [~~Sections~~]Section 53E-6-701 [~~and 62A-4a-403~~], a school shall report to local law enforcement and to the division any sign of child trafficking that the review team identifies in carrying out the review team's duties described in Subsection (4)(a).

Section 21. Section 58-37-7 is amended to read:

58-37-7. Labeling and packaging controlled substance -- Informational pamphlet for opiates -- Naloxone education and offer to dispense.

(1) A person licensed pursuant to this act may not distribute a controlled substance unless it is packaged and labeled in compliance with the requirements of Section 305 of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(2) No person except a pharmacist for the purpose of filling a prescription shall alter, deface, or remove any label affixed by the manufacturer.

(3) Whenever a pharmacy sells or dispenses any controlled substance on a prescription issued by a practitioner, the pharmacy shall affix to the container in which the substance is sold or dispensed:

(a) a label showing the:

(i) pharmacy name and address;

(ii) serial number; and

(iii) date of initial filling;

(b) the prescription number, the name of the patient, or if the patient is an animal, the name of the owner of the animal and the species of the animal;

(c) the name of the practitioner by whom the prescription was written;

(d) any directions stated on the prescription; and

(e) any directions required by rules and regulations promulgated by the department.

(4) Whenever a pharmacy sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate, the pharmacy shall:

(a) affix a warning to the container or the lid for the container in which the substance is sold or dispensed that contains the following text:

(i) "Caution: Opioid. Risk of overdose and addiction"; or

(ii) any other language that is approved by the Department of Health and Human Services;

(b) beginning January 1, 2024:

(i) offer to counsel the patient or the patient's representative on the use and availability of an [~~opioid~~]opiate antagonist as defined in Section 26B-4-501; and

(ii) offer to dispense an [~~opioid~~]opiate antagonist as defined in Section 26B-4-501 to the patient or the patient's representative, under a prescription from a practitioner or under Section 26B-4-510, if the patient:

(A) receives a single prescription for 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention;

(B) is being dispensed an opioid and the pharmacy dispensed a benzodiazepine to the patient in the previous 30 day period; or

(C) is being dispensed a benzodiazepine and the pharmacy dispensed an opioid to the patient in the previous 30 day period.

(5)(a) A pharmacy who sells or dispenses a Schedule II or Schedule III controlled substance that is an opiate shall, if available from the Department of Health and Human Services, prominently display at the point of sale the informational pamphlet developed by the Department of Health and Human Services under Section 26B-4-514.

(b) The board and the Department of Health and Human Services shall encourage pharmacies to use the informational pamphlet to engage in patient counseling regarding the risks associated with taking opiates.

(c) The requirement in Subsection (5)(a) does not apply to a pharmacy if the pharmacy is unable to obtain the informational pamphlet from the Department of Health and Human Services for any reason.

(6) A person may not alter the face or remove any label so long as any of the original contents remain.

(7)(a) An individual to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner and the owner of any animal for which any controlled substance has been prescribed, sold, or dispensed by a veterinarian may lawfully possess it only in the container in which it was delivered to the individual by the person selling or dispensing it.

(b) It is a defense to a prosecution under this subsection that the person being prosecuted produces in court a valid prescription for the controlled substance or the original container with the label attached.

Section 22. Section 58-37-19 is amended to read:

58-37-19. Opiate prescription consultation -- Prescription for opiate antagonist required.

(1) As used in this section:

(a) "Initial opiate prescription" means a prescription for an opiate to a patient who:

(i) has never previously been issued a prescription for an opiate; or

(ii) was previously issued a prescription for an opiate, but the date on which the current prescription is being issued is more than one year after the date on which an opiate was previously prescribed or administered to the patient.

(b) "[~~Opioid~~]Opiate antagonist" means the same as that term is defined in Section 26B-4-501.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under this chapter.

(2) Except as provided in Subsection (3), a prescriber may not issue an initial opiate prescription without discussing with the patient, or the patient's parent or guardian if the patient is under 18 years old and is not an emancipated minor:

(a) the risks of addiction and overdose associated with opiate drugs;

(b) the dangers of taking opiates with alcohol, benzodiazepines, and other central nervous system depressants;

(c) the reasons why the prescription is necessary;

(d) alternative treatments that may be available; and

(e) other risks associated with the use of the drugs being prescribed.

(3) Subsection (2) does not apply to a prescription for:

(a) a patient who is currently in active treatment for cancer;

(b) a patient who is receiving hospice care from a licensed hospice as defined in Section 26B-2-201; or

(c) a medication that is being prescribed to a patient for the treatment of the patient's substance abuse or opiate dependence.

(4)(a) Beginning January 1, 2024, a prescriber shall offer to prescribe or dispense an [~~opioid~~]opiate antagonist to a patient if the patient receives an initial opiate prescription for:

(i) 50 morphine milligram equivalents or more per day, calculated in accordance with guidelines developed by the United States Centers for Disease Control and Prevention; or

(ii) any opiate if the practitioner is also prescribing a benzodiazepine to the patient.

(b) Subsection (4)(a) does not apply if the initial opiate prescription:

(i) is administered directly to an ultimate user by a licensed practitioner; or

(ii) is for a three-day supply or less.

(c) This Subsection (4) does not require a patient to purchase or obtain an [~~opioid~~]opiate antagonist as a condition of receiving the patient's initial opiate prescription.

Section 23. Section 58-67-305 is amended to read:

58-67-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3)(a)(i) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) an individual authorized by the Department of Health and Human Services under Section [~~26-1-30~~]26B-1-202, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than for a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of medicine when:

(a) the individual is licensed in good standing as a physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 24. Section 58-68-305 is amended to read:

58-68-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3)(a)(i) a person engaged in the lawful sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) permit a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief without the use of prescription drugs;

(5) an individual authorized by the Department of Health and Human Services under Section ~~[26-1-30]~~26B-1-202, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of osteopathic medicine when:

(a) the individual is licensed in good standing as an osteopathic physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the

division in collaboration with the board to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 25. Section 58-71-305 is amended to read:

58-71-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited under state or federal law, but this subsection does not:

(a) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(b) prohibit providing truthful and nonmisleading information regarding any of the products under this subsection;

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) a person acting in good faith for religious reasons as a matter of conscience or based on a personal belief when obtaining or providing information regarding health care and the use of any product under Subsection (3);

(6) an individual authorized by the Department of Health and Human Services under Section [~~26-1-30~~]26B-1-202, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

(7) a naturopathic medical assistant while working under the direct and immediate supervision of a licensed naturopathic physician to the extent the medical assistant is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of naturopathic medicine; and

(8) an individual who has completed all requirements for licensure under this chapter except the clinical experience required under Section 58-71-302, for a period of one year while that individual is completing that clinical experience requirement and who is working under the provisions of a temporary license issued by the division.

Section 26. Section 63A-17-808 is amended to read:

63A-17-808. On-site child care for state employees.

(1) As used in this section:

(a) "Child care" means the same as that term is defined in Section 35A-3-201.

(b) "Licensed child care provider" means a person who holds a license from the Department of Health and Human Services to provide center based child care in accordance with [~~Title 26, Chapter 39, Utah Child Care Licensing Act~~]Title 26B, Chapter 2, Part 4, Child Care Licensing.

(c) "On-site child care center" means a child care center established in a facility that is owned or operated by an agency.

(2) An agency may enter into a contract with a licensed child care provider to operate an on-site child care center for the benefit of the agency's employees.

(3) A licensed child care provider that operates an on-site child care center for an agency shall maintain professional liability insurance.

(4)(a) An agency may charge a licensed child care provider a reasonable fee for operating an on-site child care center so that the agency incurs no expense.

(b) The fee in Subsection (4)(a) shall include costs for utility, building maintenance, and administrative services supplied by the agency that are related to the operation of the on-site child care center.

(5) An agency may consult with the Office of Child Care within the Department of Workforce Services, the Department of Health and Human Services, and the Division of Facilities Construction and Management for assistance in establishing an on-site child care center.

(6) The state is not liable for any civil damages for acts or omissions resulting from the operation of an on-site child care center.

Section 27. Section 63G-2-107 is amended to read:

63G-2-107. Disclosure of records subject to federal law or other provisions of state law.

(1)(a) The disclosure of a record to which access is governed or limited pursuant to court rule, another

state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) Except as provided in [~~Subsection (2)~~]Subsections (2) and (3), this chapter applies to records described in Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or regulation.

(2) Except as provided in Subsection [~~(3)~~](4), this chapter does not apply to a record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, if the record is:

(a) controlled or maintained by a governmental entity; and

(b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.

[~~(c)~~](3) The disclosure of an education record as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity shall be governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.

[~~(3)~~](4) This section does not exempt any record or record series from the provisions of Subsection 63G-2-601(1).

Section 28. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2a-102 is repealed July 1, 2026.

[~~(3) Section 19-2a-104 is repealed July 1, 2022.~~]

[~~(4)~~](3)(a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

(b) Notwithstanding Subsection [~~(4)(a)~~](3)(a), Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

[~~(5)~~](4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

[~~(6)~~](5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

[~~(7)~~](6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

[~~(8)~~](7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[~~(9)~~](8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(10)~~](9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(11)~~](10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(12)~~](11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 29. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A through 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

[~~(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.~~]

[~~(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.~~]

[~~(4)~~](2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(5)~~](3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(6)~~](4) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.~~]

[~~(8)~~](5) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(9)~~](6) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(10)~~](7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11)~~](8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12)~~](9) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~](10) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](11) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](15) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](16) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](18) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](19) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](20) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](21) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](22) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](23) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](24) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](27) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](28) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](29) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 30. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates: Title 72.

(1) Subsections 72-1-213.1(13)(a) and (b), related to the road usage charge rate and road usage charge cap, are repealed January 1, 2033.

[~~(2) Section 72-1-216.1 is repealed January 1, 2023.~~]

[~~(3)~~](2) Section 72-2-127 is repealed on July 1, 2024.

[~~(4)~~](3) Section 72-2-130 is repealed on July 1, 2024.

[~~(5) Section 72-4-105.1 is repealed on January 1, 2024.~~]

Section 31. Section 71A-8-103 is amended to read:

71A-8-103. Employees in military service -- Extension of licenses for members of National Guard and reservists ordered to active duty.

(1) As used in this section, "license" means: [~~any license issued under:~~]

(a) any license issued under Title 58, Occupations and Professions; and

(b) [~~Section 26B-4-116~~]a license for emergency medical personnel.

(2) Any license held by a member of the National Guard or reserve component of the armed forces that expires while the member is on state or federal active duty shall be extended until 90 days after the member is discharged from active duty status.

(3) The licensing agency shall renew a license extended under Subsection (2) until the next date that the license expires or for the period that the license is normally issued, at no cost to the member of the National Guard or reserve component of the armed forces if all of the following conditions are met:

(a) the National Guard member or reservist requests renewal of the license within 90 days after being discharged;

(b) the National Guard member or reservist provides the licensing agency with a copy of the member's or reservist's official orders calling the member or reservist to active duty, and official orders discharging the member or reservist from active duty; and

(c) the National Guard member or reservist meets all the requirements necessary for the renewal of the license, except the member or reservist need not meet the requirements, if any, that relate to continuing education or training.

(4) The provisions of this section do not apply to:

(a) regularly scheduled annual training;

(b) in-state active National Guard and reserve orders; or

(c) orders that do not require the service member to relocate outside of this state.

Section 32. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3)(a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

[~~(h) preferences of water rights under Section 73-3-21.5; or~~]

[~~(i)~~](h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8)(a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

(10) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

Section 33. Section 76-3-203.3 is amended to read:

76-3-203.3. Penalty for hate crimes -- Civil rights violation.

As used in this section:

(1) "Primary offense" means those offenses provided in Subsection (4).

(2)(a) A person who commits any primary offense with the intent to intimidate or terrorize another person or with reason to believe that his action would intimidate or terrorize that person is subject to Subsection (2)(b).

(b)(i) A class C misdemeanor primary offense is a class B misdemeanor; and

(ii) a class B misdemeanor primary offense is a class A misdemeanor.

(3) "Intimidate or terrorize" means an act which causes the person to fear for his physical safety or damages the property of that person or another. The act must be accompanied with the intent to cause or has the effect of causing a person to reasonably fear to freely exercise or enjoy any right secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

(4) Primary offenses referred to in Subsection (1) are the misdemeanor offenses for:

(a) assault and related offenses under Sections 76-5-102, 76-5-102.4, 76-5-106, 76-5-107, and 76-5-108;

(b) any misdemeanor property destruction offense under Sections 76-6-102 and 76-6-104, and Subsection 76-6-106(2)(a);

(c) any criminal trespass offense under Sections 76-6-204 and 76-6-206;

(d) any misdemeanor theft offense under [~~Section 76-6-412~~]Chapter 6, Offenses Against Property;

(e) any offense of obstructing government operations under Sections 76-8-301, 76-8-302, 76-8-305, 76-8-306, 76-8-307, 76-8-308, and 76-8-313;

(f) any offense of interfering or intending to interfere with activities of colleges and universities under Title 76, Chapter 8, Part 7, Colleges and Universities;

(g) any misdemeanor offense against public order and decency as defined in Title 76, Chapter 9, Part 1, Breaches of the Peace and Related Offenses;

(h) any telephone abuse offense under Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(i) any cruelty to animals offense under Section 76-9-301;

(j) any weapons offense under Section 76-10-506; or

(k) a violation of Section 76-9-102, if the violation occurs at an official meeting.

(5) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech or other recognized rights secured by the Constitution or laws of the state or by the Constitution or laws of the United States.

Section 34. Section 76-3-402 is amended to read:

76-3-402. Conviction of lower degree of offense -- Procedure and limitations.

(1) As used in this section:

(a) "Lower degree of offense" includes an offense for which:

(i) a statutory enhancement is charged in the information or indictment that would increase either the maximum or the minimum sentence; and

(ii) the court removes the statutory enhancement in accordance with this section.

(b) "Minor regulatory offense" means the same as that term is defined in Section 77-40a-101.

(c)(i) "Rehabilitation program" means a program designed to reduce criminogenic and recidivism risks.

(ii) "Rehabilitation program" includes:

(A) a domestic violence treatment program, as that term is defined in Section [~~62A-2-101~~]26B-2-101;

(B) a residential, vocational, and life skills program, as that term is defined in Section 13-53-102;

(C) a substance abuse treatment program, as that term is defined in Section [~~62A-2-101~~]26B-2-101;

(D) a substance use disorder treatment program, as that term is defined in Section [~~62A-2-101~~]26B-2-101;

(E) a youth program, as that term is defined in Section [~~62A-2-101~~]26B-2-101;

(F) a program that meets the standards established by the Department of Corrections under Section 64-13-25;

(G) a drug court, a veterans court, or a mental health court certified by the Judicial Council; or

(H) a program that is substantially similar to a program described in Subsections (1)(c)(ii)(A) through (G).

(d) "Serious offense" means a felony or misdemeanor offense that is not a minor regulatory offense or a traffic offense.

(e) "Traffic offense" means the same as that term is defined in Section 77-40a-101.

(f)(i) Except as provided in Subsection (1)(f)(ii), "violent felony" means the same as that term is defined in Section 76-3-203.5.

(ii) "Violent felony" does not include an offense, or any attempt, solicitation, or conspiracy to commit an offense, for:

(A) the possession, use, or removal of explosive, chemical, or incendiary devices under Subsection 76-10-306(3), (5), or (6); or

(B) the purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503.

(2) The court may enter a judgment of conviction for a lower degree of offense than established by statute and impose a sentence at the time of sentencing for the lower degree of offense if the court:

(a) takes into account:

(i) the nature and circumstances of the offense of which the defendant was found guilty; and

(ii) the history and character of the defendant;

(b) gives any victim present at the sentencing and the prosecuting attorney an opportunity to be heard; and

(c) concludes that the degree of offense established by statute would be unduly harsh to record as a conviction on the record for the defendant.

(3) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute:

(a) after the defendant is successfully discharged from probation or parole for the conviction; and

(b) if the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(4) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from probation or parole for a subsequent conviction of an offense;

(b)(i) at least five years have passed after the day on which the defendant is sentenced for the subsequent conviction; or

(ii) at least three years have passed after the day on which the defendant is sentenced for the subsequent conviction and the prosecuting attorney consents to the reduction;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (4)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(5) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) the defendant's probation or parole for the conviction did not result in a successful discharge but the defendant is successfully discharged from a rehabilitation program;

(b) at least three years have passed after the day on which the defendant is successfully discharged from the rehabilitation program;

(c) the defendant is not convicted of a serious offense during the time period described in Subsection (5)(b);

(d) there are no criminal proceedings pending against the defendant;

(e) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(f) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(g) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(6) Upon a motion from the prosecuting attorney or the defendant, the court may enter a judgment of conviction for a lower degree of offense than established by statute if:

(a) at least five years have passed after the day on which the defendant's probation or parole for the conviction did not result in a successful discharge;

(b) the defendant is not convicted of a serious offense during the time period described in Subsection (6)(a);

(c) there are no criminal proceedings pending against the defendant;

(d) the defendant is not on probation, on parole, or currently incarcerated for any other offense;

(e) if the offense for which the reduction is sought is a violent felony, the prosecuting attorney consents to the reduction; and

(f) the court finds that entering a judgment of conviction for a lower degree of offense is in the interest of justice in accordance with Subsection (7).

(7) In determining whether entering a judgment of a conviction for a lower degree of offense is in the interest of justice under Subsection (3), (4), (5), or (6):

(a) the court shall consider:

(i) the nature, circumstances, and severity of the offense for which a reduction is sought;

(ii) the physical, emotional, or other harm that the defendant caused any victim of the offense for which the reduction is sought; and

(iii) any input from a victim of the offense; and

(b) the court may consider:

(i) any special characteristics or circumstances of the defendant, including the defendant's criminogenic risks and needs;

(ii) the defendant's criminal history;

(iii) the defendant's employment and community service history;

(iv) whether the defendant participated in a rehabilitative program and successfully completed the program;

(v) any effect that a reduction would have on the defendant's ability to obtain or reapply for a professional license from the Department of Commerce;

(vi) whether the level of the offense has been reduced by law after the defendant's conviction;

(vii) any potential impact that the reduction would have on public safety; or

(viii) any other circumstances that are reasonably related to the defendant or the offense for which the reduction is sought.

(8)(a) A court may only enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) after:

(i) notice is provided to the other party;

(ii) reasonable efforts have been made by the prosecuting attorney to provide notice to any victims; and

(iii) a hearing is held if a hearing is requested by either party.

(b) A prosecuting attorney is entitled to a hearing on a motion seeking to reduce a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6).

(c) In a motion under Subsection (3), (4), (5), or (6) and at a requested hearing on the motion, the moving party has the burden to provide evidence sufficient to demonstrate that the requirements under Subsection (3), (4), (5), or (6) are met.

(9) A court has jurisdiction to consider and enter a judgment of conviction for a lower degree of offense under Subsection (3), (4), (5), or (6) regardless of whether the defendant is committed to jail as a condition of probation or is sentenced to prison.

(10)(a) An offense may be reduced only one degree under this section, unless the prosecuting attorney specifically agrees in writing or on the court record that the offense may be reduced two degrees.

(b) An offense may not be reduced under this section by more than two degrees.

(11) This section does not preclude an individual from obtaining or being granted an expungement of the individual's record in accordance with Title 77, Chapter 40a, Expungement.

(12) The court may not enter a judgment for a conviction for a lower degree of offense under this section if:

(a) the reduction is specifically precluded by law; or

(b) any unpaid balance remains on court-ordered restitution for the offense for which the reduction is sought.

(13) When the court enters a judgment for a lower degree of offense under this section, the actual title of the offense for which the reduction is made may not be altered.

(14)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a sex offender until the registration requirements under Title 77, Chapter 41, Sex and Kidnap Offender Registry, have expired.

(b) An individual required to register as a sex offender for the individual's lifetime under Subsection 77-41-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a sex offender.

(15)(a) An individual may not obtain a reduction under this section of a conviction that requires the individual to register as a child abuse offender until the registration requirements under Title 77, Chapter 43, Child Abuse Offender Registry, have expired.

(b) An individual required to register as a child abuse offender for the individual's lifetime under Subsection 77-43-105(3)(c) may not be granted a reduction of the conviction for the offense or offenses that require the individual to register as a child abuse offender.

Section 35. Section 76-5-207 is amended to read:

76-5-207. Negligently operating a vehicle resulting in death -- Penalties -- Evidence.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

(iii) "Drug" means:

(A) a controlled substance;

(B) a drug as defined in Section 58-37-2; or

(C) a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of an individual to safely operate a vehicle.

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in death if the actor:

(a)(i) operates a vehicle in a negligent or criminally negligent manner causing the death of another individual; and

(ii)(A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b)(i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5)(a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(3).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 36. Section 78B-14-102 is amended to read:

78B-14-102. Definitions.

As used in this chapter:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) "Convention" means the convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this state as provided in Section 78B-14-308;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) in which the convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the convention.

(8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(10) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other source of income as defined in Section [~~62A-11-103~~]26B-9-101, to withhold support from the income of the obligor.

(11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

(13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

(14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child.

(15) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(16) "Obligee" means:

(a) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;

(b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

(c) an individual seeking a judgment determining parentage of the individual's child; or

(d) a person who is a creditor in a proceeding under Part 7, Support Proceedings Under Convention.

(17) "Obligor" means an individual who, or the estate of a decedent that:

(a) owes or is alleged to owe a duty of support;

(b) is alleged but has not been adjudicated to be a parent of a child;

(c) is liable under a support order; or

(d) is a debtor in a proceeding under Part 7, Support Proceedings Under Convention.

(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country.

(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(21) "Register" means to file in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country.

(22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered.

(23) "Responding state" means a state in which a petition or comparable pleading for support or to

determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or a foreign country.

(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian nation or tribe.

(27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:

(a) seek enforcement of support orders or laws relating to the duty of support;

(b) seek establishment or modification of child support;

(c) request determination of parentage of a child;

(d) attempt to locate obligors or their assets; or

(e) request determination of the controlling child support order.

(28) "Support order" means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney fees, and other relief.

(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

Section 37. Section 78B-25-114 is amended to read:

78B-25-114. Savings clause.

This chapter does not affect a cause of action asserted before May 3, 2023, in a civil action or a motion under [~~Chapter 6, Part 14, Citizen Participation in Government Act~~]Laws of Utah 2008, Chapter 3, Sections 1087 and 1088, regarding the cause of action.

Section 38. Repealer.

This bill repeals:

Section 11-26-101, Title.

Section 63A-18-101, Title.

Section 39. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 382
S. B. 259
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

REQUIREMENTS FOR DISTRICTS PROVIDING SERVICES

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies provisions relating to local government districts that provide services.

Highlighted Provisions:

This bill:

- amends the election procedures for a special district board;
- modifies a provision relating to dividing a special district into divisions;
- modifies the process for special district boundary changes;
- modifies provisions relating to the board of trustees of certain improvement districts;
- modifies the fee collection and payment process for special districts;
- modifies a provision related to the amount a special service district may be invoiced to pay for a service that the district receives from the creating entity;
- provides that an annexed area for a special service district is subject to the user fees imposed and property taxes levied for the benefit of the special service district once the required documents are recorded; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-306, as last amended by Laws of Utah 2023, Chapters 15, 435
17B-1-306.5, as last amended by Laws of Utah 2023, Chapter 15
17B-1-417, as last amended by Laws of Utah 2023, Chapters 15, 435
17B-1-635, as last amended by Laws of Utah 2023, Chapter 15
17B-1-643, as last amended by Laws of Utah 2023, Chapters 15, 435
17B-2a-404, as last amended by Laws of Utah 2018, Chapter 112
17D-1-103, as last amended by Laws of Utah 2023, Chapter 15
17D-1-403, as last amended by Laws of Utah 2009, Chapter 350

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

Section 1. Section 17B-1-306 is amended to read:

17B-1-306. Special district board -- Election procedures -- Notice.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2)(a) Each election of a special district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the special district board in consultation with the county clerk for each county in which the special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The special district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c)(i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3)(a) The clerk of each special district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

[~~(a)~~](i) each elective position of the special district to be filled at the next municipal general election or regular general election, as applicable;

[~~(b)~~](ii) the constitutional and statutory qualifications for each position; and

[~~(c)~~](iii) the dates and times for filing a declaration of candidacy.

(b) If the election is to be held at the same time as the municipal general election, a declaration of candidacy shall be filed on the days specified in Subsection 20A-9-203(3)(a)(i).

(c) If the election is to be held at the same time as the regular general election, a declaration of candidacy shall be filed by the deadline stated in Subsection 20A-9-201.5(2).

(4) The clerk of the special district shall publish the notice described in Subsection [~~(3)~~](3)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 10 days before the first day for filing a declaration of candidacy.

(5)(a) Except as provided in Subsection (5)(c), to become a candidate for an elective special district

board position, an individual shall file a declaration of candidacy in person with an official designated by the special district within the candidate filing period for the applicable election year in which the election for the special district board is held and:

(i) during the special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a special district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the special district during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the special district if:

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

(ii) the designated agent appears in person before the official designated by the special district; and

(iii) the individual communicates with the official designated by the special district using an electronic device that allows the individual and official to see and hear each other.

(d)(i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

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

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the special district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective special district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6)(a) A primary election may be held if:

(i) the election is authorized by the special district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7)(a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the special district clerk shall certify the candidate names to the clerk of each county in which the special district is located.

(b)(i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the special district is located and the special district clerk shall coordinate the placement of the name of each candidate for special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the special district board of trustees, in consultation with the county clerk, shall provide for a separate special district election ballot to be

administered by poll workers at polling places designated under Subsection (2).

(c)(i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii)(A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8)(a) Each voter at an election for a board of trustees member of a special district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic special district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of special district board members is governed by Title 20A, Election Code.

(10)(a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a special district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11)(a) Except as provided in Subsection (11)(b), each special district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that special district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14)(a) As used in this Subsection (14), "board" means:

(i) a special district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15)(a) This Subsection (15) applies to a special district if:

(i) the special district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the special district was created before January 1, 2020.

(b) The board of a special district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the special district board, subject to Subsection (15)(d).

(d)(i) The special district board shall provide to property owners eligible to vote at the special district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii)(A) The special district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii)(A) After the deadline for submitting nomination forms, the special district board shall provide a ballot to all property owners eligible to vote at the special district election.

(B) A special district board shall allow at least five days for ballots to be returned.

(iv) A special district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 2. Section 17B-1-306.5 is amended to read:

17B-1-306.5. Dividing a special district into divisions.

(1) Subject to Subsection (3), the board of trustees of a special district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the special district, or the portion of the special district represented by elected board of trustees members, into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

(2)(a) As used in this Subsection (2):

(i) "Appointed board division" means the dividing of a special district with appointed board members, or the dividing of the portion of the special district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.

(ii) "Appointing body" means an appointing authority that is a body.

(iii) "Appointing individual" means an appointing authority that is an individual.

(b) Subject to Subsection (3), an appointing body may, by a vote of two-thirds of the members of the appointing body, approve an appointed board division.

(c)(i) Subject to Subsection (3), the board of trustees of a special district with appointed members may recommend an appointed board division to the appointing individual.

(ii) [~~Subject to Subsection (3), the appointing authority of a special district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the special district, or the portion of the special district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.~~]After receiving a recommendation under Subsection (2)(c)(i), an appointing individual may approve an appointed board division.

(3) Before [~~dividing a special district into divisions~~]approving or recommending an appointed board division or before changing the boundaries of divisions already established, the board of trustees, under Subsection (1) or (2)(c)(i), or the appointing authority, under Subsection [~~(2)~~](2)(b), shall:

(a) prepare a proposal that describes the boundaries of the proposed divisions; and

(b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

(4)(a) The board of trustees under Subsection (1) or (2)(c)(i) or the appointing authority under Subsection (2)(b) shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the special district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or [~~(2)~~](2)(b).

Section 3. Section 17B-1-417 is amended to read:

17B-1-417. Boundary adjustment -- Notice and hearing -- Protest -- Resolution adjusting boundaries -- Filing of notice and plat with the lieutenant governor -- Recording requirements -- Effective date.

(1) As used in this section, "affected area" means the area located within the boundaries of one special district that will be removed from that special district and included within the boundaries of another special district because of a boundary adjustment under this section.

(2) The boards of trustees of two or more special districts having a common boundary and providing the same service on the same wholesale or retail basis may adjust their common boundary as provided in this section.

(3)(a) The board of trustees of each special district intending to adjust a boundary that is common with another special district shall:

(i) adopt a resolution indicating the board's intent to adjust a common boundary;

(ii) hold a public hearing on the proposed boundary adjustment no less than 60 days after the adoption of the resolution under Subsection (3)(a)(i); and

(iii) provide notice for the affected area, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the public hearing.

(b) The notice required under Subsection (3)(a)(iii) shall:

(i) state that the board of trustees of the special district has adopted a resolution indicating the

board's intent to adjust a boundary that the special district has in common with another special district that provides the same service as the special district;

(ii) describe the affected area;

(iii) state the date, time, and location of the public hearing required under Subsection (3)(a)(ii);

(iv) provide a special district telephone number where additional information about the proposed boundary adjustment may be obtained;

(v) explain the financial and service impacts of the boundary adjustment on property owners or residents within the affected area; and

(vi) state in conspicuous and plain terms that the board of trustees may approve the adjustment of the boundaries unless, at or before the public hearing under Subsection (3)(a)(ii), written protests to the adjustment are filed with the board by:

(A) the owners of private real property that:

(I) is located within the affected area;

(II) covers at least 50% of the total private land area within the affected area; and

(III) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(B) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(c) The boards of trustees of the special districts whose boundaries are being adjusted may jointly:

(i) provide the notice required under Subsection (3)(a)(iii); and

(ii) hold the public hearing required under Subsection (3)(a)(ii).

(d) Subsections (3)(a)(ii) and (iii), (3)(b), and (3)(c) do not apply if signed, written consents to the boundary adjustment have been filed with the board from:

(i) the owners of 100% of the private real property located within the affected area; and

(ii) registered voters residing within the affected area equal in number to at least the number of votes cast in the affected area for the office of governor at the last regular general election.

(4) After the public hearing required under Subsection (3)(a)(ii) or if a hearing is not required under Subsection (3)(d), the board of trustees may adopt a resolution approving the adjustment of the common boundary unless, at or before the public hearing, written protests to the boundary adjustment have been filed with the board by:

(a) the owners of private real property that:

(i) is located within the affected area;

(ii) covers at least 50% of the total private land area within the affected area; and

(iii) is equal in assessed value to at least 50% of the assessed value of all private real property within the affected area; or

(b) registered voters residing within the affected area equal in number to at least 50% of the votes cast in the affected area for the office of governor at the last regular general election before the filing of the protests.

(5) A resolution adopted under Subsection (4) does not take effect until the board of each special district whose boundaries are being adjusted has adopted a resolution under Subsection (4).

(6) The board of the special district whose boundaries are being adjusted to include the affected area shall:

(a) within 30 days after the resolutions take effect under Subsection (5), file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5:

(i) if the affected area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of boundary adjustment; and

(III) approved final local entity plat; and

(B) a certified copy of each resolution adopted under Subsection (4); or

(ii) if the affected area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4); and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections (6)(b)(i)(A)(I), (II), and (III); and

(II) a certified copy of each resolution adopted under Subsection (4).

(7)(a) Upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, the affected area is annexed to the special district whose boundaries are being adjusted to include the affected area, and the affected area is withdrawn from the special district

whose boundaries are being adjusted to exclude the affected area.

(b)(i) The effective date of a boundary adjustment under this section for purposes of assessing property within the affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (6)(b) are recorded in the office of the recorder of the county in which the property is located, a special district in whose boundary an affected area is included because of a boundary adjustment under this section may not:

(A) levy or collect a property tax on property within the affected area;

(B) levy or collect an assessment on property within the affected area; or

(C) charge or collect a fee for service provided to property within the affected area.

(iii) Subsection (7)(b)(ii)(C):

(A) may not be construed to limit a special district's ability before a boundary adjustment to charge and collect a fee for service provided to property that is outside the special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (7)(a), of the special district's boundary adjustment, with respect to a fee that the special district was charging for service provided to property within the area affected by the boundary adjustment immediately before the boundary adjustment.

Section 4. Section 17B-1-635 is amended to read:

17B-1-635. Duties with respect to checks and other payment mechanisms.

(1) The district clerk or other designated person not performing treasurer duties shall prepare the necessary checks or make the necessary arrangements for direct deposit, wire transfer, or other electronic payment mechanism after having determined that:

(a) the claim was authorized by:

(i) the board of trustees; or

(ii) the special district financial officer, if the financial officer is not the clerk, in accordance with Section 17B-1-642;

(b) the claim does not overexpend the appropriate departmental budget established by the board of trustees; and

(c) the expenditure was approved in advance by the board of trustees or its designee.

(2)(a)(i) The treasurer or any other person appointed by the board of trustees shall sign all checks or review and authorize all direct deposits, wire transfers, or other electronic payments.

(ii) The person maintaining the financial records may not sign any single signature check or unilaterally authorize any direct deposit, wire transfer, or other electronic payment.

(b) In a special district with an expenditure budget of less than $50,000 per year, a member of the board of trustees shall also sign all checks and review and authorize all direct deposits, wire transfers, or other electronic payments.

(c) Before affixing a signature or other authorization, the treasurer or other designated person shall determine that a sufficient amount is on deposit in the appropriate bank account of the district to honor the check.

Section 5. Section 17B-1-643 is amended to read:

17B-1-643. Imposing or increasing a fee for service provided by special district.

(1)(a) Before imposing a new fee or increasing an existing fee for a service provided by a special district, each special district board of trustees shall first hold a public hearing at which:

(i) the special district shall demonstrate its need to impose or increase the fee; and

(ii) any interested person may speak for or against the proposal to impose a fee or to increase an existing fee.

(b) Each public hearing under Subsection (1)(a) shall be held in the evening beginning no earlier than 6 p.m.

(c) A public hearing required under this Subsection (1) may be combined with a public hearing on a tentative budget required under Section 17B-1-610.

(d) Except to the extent that this section imposes more stringent notice requirements, the special district board shall comply with Title 52, Chapter 4, Open and Public Meetings Act, in holding the public hearing under Subsection (1)(a).

(2)(a) Each special district board shall give notice of a hearing under Subsection (1) as provided in Subsections (2)(b) and (c) or Subsection (2)(d).

(b) The special district board shall publish the notice described in Subsection (2)(a) for the special district, as a class A notice under Section 63G-30-102, for at least 30 days.

(c) The notice described in Subsection (2)(b) shall state that the special district board intends to impose or increase a fee for a service provided by the special district and will hold a public hearing on a certain day, time, and place fixed in the notice, which shall be not less than seven days after the day the[~~first~~] notice is [~~published,~~]first posted as provided in Subsection (2)(b) for the purpose of hearing comments regarding the proposed imposition or increase of a fee and to explain the reasons for the proposed imposition or increase.

(d)(i) In lieu of providing notice under Subsection (2)(b), the special district board of trustees may give the notice required under Subsection (2)(a) by mailing the notice to those within the district who:

(A) will be charged the fee for a district service, if the fee is being imposed for the first time; or

(B) are being charged a fee, if the fee is proposed to be increased.

(ii) Each notice under Subsection (2)(d)(i) shall comply with Subsection (2)(c).

(iii) A notice under Subsection (2)(d)(i) may accompany a district bill for an existing fee.

(e) If the hearing required under this section is combined with the public hearing required under Section 17B-1-610, the notice required under this Subsection (2):

(i) may be combined with the notice required under Section 17B-1-609; and

(ii) shall be posted or mailed in accordance with the notice provisions of this section.

(f) Proof that notice was given as provided in Subsection (2)(b) or (d) is prima facie evidence that notice was properly given.

(g) If no challenge is made to the notice given of a hearing required by Subsection (1) within 30 days after the date of the hearing, the notice is considered adequate and proper.

(h) After holding a public hearing under Subsection (1), a special district board may:

(i) impose the new fee or increase the existing fee as proposed;

(ii) adjust the amount of the proposed new fee or the increase of the existing fee and then impose the new fee or increase the existing fee as adjusted; or

(iii) decline to impose the new fee or increase the existing fee.

(i) This section applies to each new fee imposed and each increase of an existing fee that occurs on or after July 1, 1998.

(j)(i) This section does not apply to an impact fee.

(ii) The imposition or increase of an impact fee is governed by Title 11, Chapter 36a, Impact Fees Act.

Section 6. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Populous regular district" means a regular district with a population exceeding 250,000.

(g) "Qualified municipality" means a municipality:

(i) whose boundary includes an area that is within a populous regular district and an area that is outside the populous regular district;

(ii) a portion of which receives one or more services from a populous regular district; and

(iii) whose population receiving service from the populous regular district is greater than the population of an included municipality within the populous regular district.

[~~(f)~~](h) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

[~~(g)~~](i) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality or a qualified municipality; and

(ii) includes the area of an included municipality or qualified municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

[~~(h)~~](j) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3)(a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1);

(ii) adopt at any time a resolution providing for:

(A) the election of board of trustees members, as provided in Section 17B-1-306; or

(B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and

(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the

county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsections 17B-1-302(1), (2), and (3), except that a member of the legislative body of the county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

(5)(a)(i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included municipality and, if applicable, the legislative body of each qualified municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality and the legislative body of a qualified municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).

(b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

(d)(i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district plus the number of qualified municipalities partially within the district, if:

(i) the number of included municipalities and qualified municipalities is greater than nine or is an odd number that is not greater than nine; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities and qualified municipalities plus one, if the number of included municipalities within the district plus the number of qualified municipalities partially within the district is an even number that is less than nine; and

(c) the number of included municipalities and qualified municipalities plus two, if:

(i) the number of included municipalities and qualified municipalities is an odd number that is less than nine; and

(ii) the district includes a remaining area.

(8)(a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii)(A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(10)(a)(i) This Subsection (10) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (9) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 7. Section 17D-1-103 is amended to read:

17D-1-103. Special service district status, powers, and duties -- Registration as a limited purpose entity -- Limitation on districts providing jail service.

(1) A special service district:

(a) is:

(i) a body corporate and politic with perpetual succession, separate and distinct from the county or municipality that creates it;

(ii) a quasi-municipal corporation; and

(iii) a political subdivision of the state; and

(b) may sue and be sued.

(2) A special service district may:

(a) exercise the power of eminent domain possessed by the county or municipality that creates the special service district;

(b) enter into a contract that the governing authority considers desirable to carry out special service district functions, including a contract:

(i) with the United States or an agency of the United States, the state, an institution of higher education, a county, a municipality, a school district, a special district, another special service district, or any other political subdivision of the state; or

(ii) that includes provisions concerning the use, operation, and maintenance of special service district facilities and the collection of fees or charges with respect to commodities, services, or facilities that the district provides;

(c) acquire or construct facilities;

(d) acquire real or personal property, or an interest in real or personal property, including water and water rights, whether by purchase, lease, gift, devise, bequest, or otherwise, and whether the property is located inside or outside the special service district, and own, hold, improve, use, finance, or otherwise deal in and with the property or property right;

(e) sell, convey, lease, exchange, transfer, or otherwise dispose of all or any part of the special service district's property or assets, including water and water rights;

(f) mortgage, pledge, or otherwise encumber all or any part of the special service district's property or assets, including water and water rights;

(g) enter into a contract with respect to the use, operation, or maintenance of all or any part of the special service district's property or assets, including water and water rights;

(h) accept a government grant or loan and comply with the conditions of the grant or loan;

(i) use an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district, subject to reimbursement as provided in Subsection (4);

(j) employ one or more officers, employees, or agents, including one or more engineers, accountants, attorneys, or financial consultants, and establish their compensation;

(k) designate an assessment area and levy an assessment as provided in Title 11, Chapter 42, Assessment Area Act;

(l) contract with a franchised, certificated public utility for the construction and operation of an electrical service distribution system within the special service district;

(m) borrow money and incur indebtedness;

(n) as provided in Part 5, Special Service District Bonds, issue bonds for the purpose of acquiring, constructing, and equipping any of the facilities required for the services the special service district is authorized to provide, including:

(i) bonds payable in whole or in part from taxes levied on the taxable property in the special service district;

(ii) bonds payable from revenues derived from the operation of revenue-producing facilities of the special service district;

(iii) bonds payable from both taxes and revenues;

(iv) guaranteed bonds, payable in whole or in part from taxes levied on the taxable property in the special service district;

(v) tax anticipation notes;

(vi) bond anticipation notes;

(vii) refunding bonds;

(viii) special assessment bonds; and

(ix) bonds payable in whole or in part from mineral lease payments as provided in Section 11-14-308;

(o) except as provided in Subsection (5), impose fees or charges or both for commodities, services, or facilities that the special service district provides;

(p) provide to an area outside the special service district's boundary, whether inside or outside the state, a service that the special service district is authorized to provide within its boundary, if the governing body makes a finding that there is a public benefit to providing the service to the area outside the special service district's boundary;

(q) provide other services that the governing body determines will more effectively carry out the purposes of the special service district; and

(r) adopt an official seal for the special service district.

(3)(a) Each special service district shall register and maintain the special service district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special service district that fails to comply with Subsection (3)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(4)(a) Each special service district that uses an officer, employee, property, equipment, office, or facility of the county or municipality that created the special service district shall reimburse the county or municipality a reasonable amount for what the special service district uses.

(b) The amount invoiced for what the special service district uses under Subsection (4)(a) may not exceed the actual documented cost incurred, without markup, by the county or municipality.

(5)(a) A special service district that provides jail service as provided in Subsection 17D-1-201(10) may not impose a fee or charge for the service it provides.

(b) Subsection (5)(a) may not be construed to limit a special service district that provides jail service from:

(i) entering into a contract with the federal government, the state, or a political subdivision of the state to provide jail service for compensation; or

(ii) receiving compensation for jail service it provides under a contract described in Subsection (5)(b)(i).

Section 8. Section 17D-1-403 is amended to read:

17D-1-403. Notice and plat to lieutenant governor -- Lieutenant governor certification -- Recording requirements -- Effective date.

(1) If a county or municipal legislative body adopts a resolution approving the annexation of an area to an existing special service district, the legislative body shall:

(a) within 30 days after adopting the resolution, file with the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, submit to the recorder of the county in which the special service district is located:

(i) the original notice of an impending boundary action;

(ii) the original certificate of annexation;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the resolution approving the annexation.

(2)(a) Upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, the additional area that is the subject of the legislative body's resolution is annexed to the special service district.

(b)(i) The effective date of an annexation under this section for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of the county in which the property is located:

(A) the county, city, or town that created the special service district may not levy or collect a property tax for special service district purposes on property within the annexed area; and

(B) the special service district may not:

(I) levy or collect an assessment on property within the annexed area; or

(II) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (2)(b)(ii)(B)(II):

(A) may not be construed to limit a special service district's ability before annexation to charge and collect a fee for service provided to property that is outside the special service district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection [~~(2)(a)~~](2)(b), of the special service district's annexation, with respect to a fee that the special service district was charging for service provided to property within the annexed area immediately before the area was annexed to the special service district.

(3) After the documents listed in Subsection (1)(b) are recorded in the office of the county recorder in which the property is located, the annexed area is subject to user fees imposed by, and property taxes levied for the benefit of, the special service district.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 383
S. B. 265
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

SELF-SERVICE STORAGE AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies requirements for self-service storage facilities.

Highlighted Provisions:

This bill:

- adds additional requirements for the written notice to the occupant before the disposal of personal property; and
- enacts standards for the renewal of a rental agreement with a self-service storage facility.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-8-2, as last amended by Laws of Utah 2013, Chapter 163
38-8-3, as last amended by Laws of Utah 2021, Chapter 355

ENACTS:

38-8-6, Utah Code Annotated 1953

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

Section 1. Section 38-8-2 is amended to read:

38-8-2. Lien against stored property -- Attachment and duration -- Search for financing statement prerequisite to enforcement of lien.

(1) When an owner and an occupant enter into a rental agreement, the owner and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property located at the self-service storage facility for rent, labor, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale under this chapter.

(2) The lien described in Subsection (1) attaches on the date the personal property is brought to the self-service storage facility and continues so long as the owner retains possession and until any default is corrected or a sale pursuant to a default is conducted to satisfy the lien.

(3)(a) A rental agreement shall state that:

[~~(a)~~](i) an owner is entitled to sell, donate, or dispose of all personal property stored at the self-service storage facility pursuant to the rental agreement if the occupant is in default for a continuous 30-day period; and

[~~(b)~~](ii) the occupant shall disclose to the owner any lienholders that have an interest in the property that will be stored at the self-service storage facility.

(b)(i) An owner may impose and collect a reasonable late fee for each period described in the rental agreement that an occupant does not timely pay rent, fees, or other charges due under the rental agreement if the fee and the conditions for imposing the fee are stated in the rental agreement.

(ii) A late fee of the greater of $20 or 20% of the monthly rent, for each period described in the rental agreement, is a reasonable fee and is not considered a penalty.

(4) If a rental agreement states a maximum, aggregate value of the personal property that may be stored at the occupant's storage space, the occupant may not assert that the value of the personal property actually stored at the occupant's storage space exceeds the maximum amount stated in the rental agreement.

(5)(a) Before an owner takes enforcement action under Section 38-8-3, the owner shall determine if a financing statement filed in accordance with Title 70A, Chapter 9a, Part 5, Filing, has been filed with the Division of Corporations and Commercial Code concerning the property to be sold.

(b) A security interest evidenced by a financing statement filed in accordance with Title 70A, Chapter 9a, Part 5, Filing, has priority over the lien provided by this section.

Section 2. Section 38-8-3 is amended to read:

38-8-3. Enforcement of lien -- Notice requirements -- Sale procedure and effect.

(1) An owner may enforce a lien described in Section 38-8-2 against an occupant [~~if:~~]and sell, donate, or dispose of stored property under Subsection 38-8-3, without liability if:

(a) the occupant is in default for a continuous 30-day period; and

(b) the owner provides written notice of the owner's intent to enforce the lien, in accordance with the requirements of this section, to:

(i) the occupant;

(ii) each lienholder disclosed by the occupant under Subsection 38-8-2(3)(b);

(iii) each person that has filed a valid financing statement with the Division of Corporations and Commercial Code; and

(iv) each person identified as a lienholder in the records of the Motor Vehicle Division.

(2) The owner may sell, donate, or dispose of any property remaining at the self-service storage facility at the end of a rental agreement without liability if:

(a) the owner has provided written notice to the occupant by first-class mail to the occupant's last

known address or by email to the occupant's last known email address;

(b) the written notice states that the owner will sell, donate, or dispose of the property following a specified date at least 15 days after the date of the notice, unless the occupant removes the property before the specified date; and

(c) any proceeds remaining after the owner deducts rent, labor or other charges, and expenses reasonably incurred in the sale or disposal of the personal property are delivered to the Utah state treasurer as unclaimed property.

[~~(2)~~](3) An owner shall provide the written notice described in Subsection (1)(b):

(a) in person;

(b) by certified mail, to the person's last known address; or

(c) subject to Subsection [~~(3)~~](4), by email, to the person's last know email address.

[~~(3)~~](4) If an owner sends a notice described in Subsection [~~(2)~~](3) by email and does not receive a response, return receipt, or delivery confirmation from the email address to which the notice was sent within three business days after the day on which the notice was sent, the owner shall deliver the notice in person or by certified mail to the person's last known address.

[~~(4)~~](5) A written notice described in Subsection (1)(b) shall include:

(a) an itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

(b) a brief description of the personal property subject to the lien that permits the person to identify the property, unless the property is locked, fastened, sealed, tied, or otherwise stored in a manner that prevents immediate identification of the property;

(c) if permitted by the terms of the rental agreement, a notice that the occupant may not access the occupant's personal property until the occupant complies with the requirements described in Subsection [~~(9)~~](10);

(d) the name, street address, and telephone number of the owner or the individual the occupant may contact to respond to the notification;

(e) a demand for payment within a specified time not less than 15 days after the day on which the notice is delivered; and

(f) a conspicuous statement that, unless the claim is paid within the time stated in the notice, the owner will:

(i) sell, donate, or dispose of the personal property[-]; or

(ii) [~~will be advertised for sale and will~~]advertise the personal property to be sold at a specified time and place.

[~~(5)~~](6) A notice under this section shall be presumed delivered when it is deposited with the United States Postal Service and properly addressed with postage prepaid.

[~~(6)~~](7)(a)(i) After the expiration of the time given in the notice, the owner shall publish an advertisement of the sale of the personal property subject to the lien once in a newspaper of general circulation in the county where the self-service storage facility is located.

(ii) An advertisement described in Subsection [~~(6)(a)(i)~~](7)(a)(i) shall include:

(A) the address of the self-service storage facility and the number, if any, of the space where the personal property is located;

(B) the name of the occupant; and

(C) the time, place, and manner of the sale, which shall take place not sooner than 15 days after the day on which the sale is advertised under Subsection [~~(6)(a)(i)~~](7)(a)(i).

(b) Subsection [~~(6)(a)~~](7)(a) does not apply if:

(i) the owner:

(A) provided the notice described in Subsection (1)(b) by email; and

(B) received a response or return receipt from the email address to which the notice was sent; or

(ii) the owner:

(A) provided the notice described in Subsection (1)(b) by certified mail; and

(B) has evidence of providing the notice by certified mail.

[~~(7)~~](8) A sale of the personal property shall conform to the terms of the notice provided for in this section.

[~~(8)~~](9) A sale of the personal property shall be held at the self-service storage facility, at the nearest suitable place to where the personal property is held or stored, or online.

[~~(9)~~](10) Before a sale of personal property under this section, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property; upon receipt of this payment, the owner shall return the personal property, and thereafter the owner shall have no liability to any person with respect to that personal property.

[~~(10)~~](11) A purchaser in good faith of the personal property sold to satisfy a lien as provided for in this chapter takes the property free of any rights of persons against whom the lien was valid and free of any rights of a secured creditor, despite noncompliance by the owner with the requirements of this section.

[~~(11)~~](12) In the event of a sale under this section, the owner may satisfy the lien for the proceeds of the sale, subject to the rights of any prior lienholder; the lien rights of the prior lienholder are

automatically transferred to the proceeds of the sale; if the sale is made in good faith and is conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for delivery to the occupant, lienholder, or other person in interest; if the occupant, lienholder, or other person in interest does not claim the balance of the proceeds within one year of the date of sale, it shall become the property of the Utah state treasurer as unclaimed property with no further claim against the owner.

[~~(12)~~](13) If the requirements of this chapter are not satisfied, if the sale of the personal property is not in conformity with the notice of sale, or if there is a willful violation of this chapter, nothing in this section affects the rights and liabilities of the owner, occupant, or any other person.

Section 3. Section 38-8-6 is enacted to read:

38-8-6. Renewal.

(1) An owner may modify the terms of a rental agreement upon giving notice in writing to the occupant:

(a) by first-class mail to the occupant's last known address; or

(b) by email to the occupant's last known email address.

(2) An owner shall send written notice to modify the terms of the rental agreement at least 30 days before the day on which the modified terms take effect.

(3) The occupant is bound by the terms of the modified rental agreement if the occupant continues to store personal property at the self-service storage facility beginning on the date the modified rental agreement takes effect if the owner complies with Subsection (1)(a) or (b).

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 384
S. B. 270
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

UTAH LAKE AND GREAT SALT LAKE STUDY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses the study of Utah Lake.

Highlighted Provisions:

This bill:

- requires the Division of Forestry, Fire, and State Lands (division) to conduct a study meeting certain requirements;
- requires reporting;
- provides a sunset date; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Natural Resources - Forestry, Fire, and State Lands - Project Management as a one-time appropriation:
  - from the General Fund, One-time, $1,500,000
- to Transfers to Unrestricted Funds - General Fund as a one-time appropriation:
  - from Nonlapsing Balances, $1,500,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-265, as enacted by Laws of Utah 2020, Chapter 154

ENACTS:

65A-10-5, Utah Code Annotated 1953

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

Section 1. Section 63I-1-265 is amended to read:

63I-1-265. Repeal dates: Title 65A.

(1) Section 65A-8-306, which creates the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Section 65A-10-5, related to a Utah Lake study, is repealed July 1, 2027.

Section 2. Section 65A-10-5 is enacted to read:

65A-10-5. Utah Lake study.

(1) The division shall conduct a study to determine how to enhance the following benefits associated with Utah Lake in a manner consistent with the division's management authority over sovereign lands under Section 65A-10-1:

(a) improving the clarity and quality of the water in Utah Lake;

(b) conserving water resources in and around Utah Lake;

(c) removing invasive plant and animal species, including phragmites and carp, from Utah Lake;

(d) restoring and improving littoral zone and other plant communities in and around Utah Lake;

(e) restoring and conserving native fish and other aquatic species in Utah Lake, including Bonneville cutthroat trout and June Sucker;

(f) increasing the suitability of Utah Lake and its surrounding areas for shore birds, waterfowl, and other avian species;

(g) maximizing, enhancing, and ensuring recreational access and opportunities on Utah Lake;

(h) otherwise improving the use of Utah Lake for residents and visitors;

(i) substantially accommodating an existing use on land in or around Utah Lake; and

(j) providing any other benefits identified by the division.

(2) To begin the study, the division shall review available information, literature, and data concerning improving Utah Lake, and assess the scientific, technical, measurement, and other informational needs for determining methods to enhance Utah Lake.

(3)(a) After complying with Subsection (2), the division shall study the needs identified under Subsection (2) that help to inform and improve discussions about Utah Lake and the enhancement of Utah Lake.

(b) As part of the study under this Subsection (3), the division shall:

(i) respect the need to preserve water rights and interests related to water collection, storage, or delivery and projects for water collection, storage, or delivery associated with Utah Lake; and

(ii) consult with the state engineer to identify conditions associated with Utah Lake that may affect the state's ability to deliver water from Utah Lake to the Great Salt Lake under an approved instream flow change application described in Subsection 73-3-30(2).

(4) The division shall consult with other state agencies and a wide range of stakeholders with diverse interests to assist the division in conducting the study under this section.

(5) The division shall complete the study under this section by no later than November 1, 2025.

(6) The division shall report the findings of the study and a proposed plan to implement the findings to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2025 interim meeting of that committee.

(7) This section may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Section 3. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 3(a) Operating and Capital Budgets

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

ITEM 1

To Department of Natural Resources - Forestry, Fire, and State Lands

From General Fund, One-time $1,500,000

Schedule of Programs:

Project Management $1,500,000

Under the terms of Section 63J-1-603, the Legislature intends that the $1,500,000 one-time General Fund appropriation provided by this item for the studying of Utah Lake does not lapse at the close of FY 2024.

Subsection 3(b) Transfers to Unrestricted Funds

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

ITEM 2

To General Fund

From Nonlapsing Balances - Department of Natural Resources - DNR Pass Through $1,500,000

Schedule of Programs:

General Fund, One-time $1,500,000

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 385
S. B. 276
Passed March 1, 2024
Approved March 18, 2024
Effective May 1, 2024

SUNSET AND REPEAL DATE CODE CORRECTIONS

Chief Sponsor: Evan J. Vickers
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill non-substantively amends codified sunset and repeal date provisions to introduce a standardized format.

Highlighted Provisions:

This bill:

- non-substantively amends provisions in the following titles to introduce a standardized format:
  - Title 63I, Chapter 1, Part 2, Repeal Dates Requiring Committee Review by Title; and
  - Title 63I, Chapter 2, Part 2, Repeal Dates by Title;
- amends provisions to accommodate the standardized format for codified sunset and repeal date provisions;
- grants certain revisor authority to the Office of Legislative Research and General Counsel to modify the format of repeal dates in enrolled legislation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-306, as last amended by Laws of Utah 2021, Chapter 291
32B-2-404, as last amended by Laws of Utah 2014, Chapter 119
32B-2-405, as last amended by Laws of Utah 2016, Chapter 144
63I-1-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
63I-1-204, as last amended by Laws of Utah 2023, Chapters 79, 210
63I-1-207, as last amended by Laws of Utah 2023, Chapter 29
63I-1-213, as last amended by Laws of Utah 2022, Chapters 244, 413
63I-1-217, as last amended by Laws of Utah 2023, Chapter 96
63I-1-223, as last amended by Laws of Utah 2023, Chapters 34, 211
63I-1-232, as last amended by Laws of Utah 2022, Chapter 34
63I-1-234, as last amended by Laws of Utah 2020, Chapters 154, 332
63I-1-240, as enacted by Laws of Utah 2020, Chapter 154
63I-1-249, as last amended by Laws of Utah 2021, Chapter 195
63I-1-254, as last amended by Laws of Utah 2020, Chapter 154
63I-1-261, as last amended by Laws of Utah 2021, Chapter 73
63I-1-265, as enacted by Laws of Utah 2020, Chapter 154
63I-1-267, as last amended by Laws of Utah 2023, Chapter 139
63I-1-272, as last amended by Laws of Utah 2022, Chapter 259
63I-1-276, as last amended by Laws of Utah 2023, Chapter 398
63I-1-277, as last amended by Laws of Utah 2022, Chapter 384 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 384
63I-1-280, as enacted by Laws of Utah 2022, Chapter 335
63I-2-204, as last amended by Laws of Utah 2023, Chapters 33, 273
63I-2-210, as last amended by Laws of Utah 2023, Chapter 501
63I-2-211, as last amended by Laws of Utah 2023, Chapters 7, 181
63I-2-213, as last amended by Laws of Utah 2023, Chapter 33
63I-2-217, as last amended by Laws of Utah 2023, Chapters 139, 181 and 501
63I-2-219, as last amended by Laws of Utah 2023, Chapters 33, 505
63I-2-220, as last amended by Laws of Utah 2023, Second Special Session, Chapter 1
63I-2-223, as last amended by Laws of Utah 2023, Chapters 33, 34
63I-2-234, as last amended by Laws of Utah 2023, Chapter 364
63I-2-235, as last amended by Laws of Utah 2022, Chapter 21
63I-2-249, as last amended by Laws of Utah 2023, Chapter 292
63I-2-251, as enacted by Laws of Utah 2018, Chapter 38
63I-2-259, as last amended by Laws of Utah 2023, Chapters 7, 505
63I-2-261, as last amended by Laws of Utah 2023, Chapter 33
63I-2-264, as last amended by Laws of Utah 2021, Chapter 366
63I-2-272, as last amended by Laws of Utah 2023, Chapter 33
63I-2-273, as enacted by Laws of Utah 2020, Chapter 418
63I-2-275, as last amended by Laws of Utah 2018, Chapter 455
63I-2-276, as last amended by Laws of Utah 2023, Chapter 301
63I-2-277, as last amended by Laws of Utah 2023, Chapter 382
63I-2-279, as last amended by Laws of Utah 2023, Chapters 33, 139 and 221

63I-2-280, as enacted by Laws of Utah 2023, Chapter 33

ENACTS:
63I-1-107, Utah Code Annotated 1953
63I-2-102, Utah Code Annotated 1953

REPEALS:
63I-2-101, as enacted by Laws of Utah 2008, Chapter 382

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

Section 1. Section 32B-2-306 is amended to read:

32B-2-306. Underage drinking prevention media and education campaign.

(1) As used in this section:

(a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Restricted account" means the Underage Drinking Prevention Media and Education Campaign Restricted Account created in this section.

(2)(a) There is created a restricted account within the General Fund known as the "Underage Drinking Prevention Media and Education Campaign Restricted Account."

(b) The restricted account consists of:

(i) deposits made under Subsection (3); and

(ii) interest earned on the restricted account.

(3) The department shall deposit 0.6% of the total gross revenue from sales of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the restricted account and to be used by the department as provided in Subsection (5).

(4)(a) [~~The~~]Before January 1, 2033, the advisory council shall:

[~~(a)~~](i) provide ongoing oversight of a media and education campaign funded under this section;

[~~(b)~~](ii) create an underage drinking prevention workgroup consistent with guidelines proposed by the advisory council related to the membership and duties of the underage drinking prevention workgroup;

[~~(c)~~](iii) create guidelines for how money appropriated for a media and education campaign can be used;

[~~(d)~~](iv) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups; and

[~~(e)~~](v) approve plans submitted by the department in accordance with Subsection (5).

(b) On or after January 1, 2033, the department shall:

(i) provide ongoing oversight of a media and education campaign funded under this section;

(ii) create guidelines for how money appropriated for a media and education campaign can be used; and

(iii) include in the guidelines established pursuant to this Subsection (4) that a media and education campaign funded under this section is carefully researched and developed, and appropriate for target groups.

(5)(a) Subject to appropriation from the Legislature, the department shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce underage drinking in cooperation with the advisory council, subject to the advisory council being in effect under Section 63I-1-232.

(b)(i) [~~The~~]Before January 1, 2033, the department shall:

[~~(i)~~](A) in cooperation with the underage drinking prevention workgroup created under Subsection (4), prepare and submit a plan to the advisory council detailing the intended use of the money appropriated under this section;

[~~(ii)~~](B) upon approval of the plan by the advisory council, conduct the media and education campaign in accordance with the guidelines made by the advisory council; and

[~~(iii)~~](C) submit to the advisory council annually by no later than October 1, a written report detailing the use of the money for the media and education campaigns conducted under this Subsection (5) and the impact and results of the use of the money during the prior fiscal year ending June 30.

(ii) On or after January 1, 2033, the department shall:

(A) prepare a plan detailing the intended use of the money appropriated under this section; and

(B) conduct the media and education campaign in accordance with the guidelines created by the department under Subsection (4)(b).

Section 2. Section 32B-2-404 is amended to read:

32B-2-404. Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account distribution.

(1)(a) The money deposited into the account under Section 32B-2-403 shall be distributed to municipalities and counties:

(i) to the extent appropriated by the Legislature, except that the Legislature shall appropriate each fiscal year an amount equal to at least the amount deposited in the account in accordance with Section 59-15-109; and

(ii) as provided in this Subsection (1).

(b) The amount appropriated from the account shall be distributed as follows:

(i) 25% to municipalities and counties on the basis of the percentage of the state population residing in each municipality and county;

(ii) 30% to municipalities and counties on the basis of each municipality's and county's percentage of the statewide convictions for all alcohol-related offenses;

(iii) 20% to municipalities and counties on the basis of the percentage of the following in the state that are located in each municipality and county:

(A) state stores;

(B) package agencies;

(C) retail licensees; and

(D) off-premise beer retailers; and

(iv) 25% to the counties for confinement and treatment purposes authorized by this part on the basis of the percentage of the state population located in each county.

(c)(i) Except as provided in Subsection (1)(c)(ii), if a municipality does not have a law enforcement agency:

(A) the municipality may not receive money under this part; and

(B) the State Tax Commission:

(I) may not distribute the money the municipality would receive but for the municipality not having a law enforcement agency to that municipality; and

(II) shall distribute the money that the municipality would have received but for it not having a law enforcement agency to the county in which the municipality is located for use by the county in accordance with this part.

(ii) If the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, finds that a municipality described in Subsection (1)(c)(i) demonstrates that the municipality can use the money that the municipality is otherwise eligible to receive in accordance with this part, the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, may direct the State Tax Commission to distribute the money to the municipality.

(2) To determine the distribution required by Subsection (1)(b)(ii), the State Tax Commission shall annually:

(a) for an annual conviction time period:

(i) multiply by two the total number of convictions in the state obtained during the annual conviction time period for violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of Subsection 41-6a-510(1) or Section 76-5-207; and

(ii) add to the number calculated under Subsection (2)(a)(i) the number of convictions obtained during the annual conviction time period for the alcohol-related offenses other than the alcohol-related offenses described in Subsection (2)(a)(i);

(b) divide an amount equal to 30% of the appropriation for that fiscal year by the sum obtained in Subsection (2)(a); and

(c) multiply the amount calculated under Subsection (2)(b), by the number of convictions obtained in each municipality and county during the annual conviction time period for alcohol-related offenses.

(3) By not later than September 1 each year:

(a) the state court administrator shall certify to the State Tax Commission the number of convictions obtained for alcohol-related offenses in each municipality or county in the state during the annual conviction time period; and

(b) the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission of any municipality that does not have a law enforcement agency.

(4) By not later than December 1 of each year, the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission for the fiscal year of appropriation of:

(a) a municipality that may receive a distribution under Subsection (1)(c)(ii);

(b) a county that may receive a distribution allocated to a municipality described in Subsection (1)(c)(i);

(c) a municipality or county that may not receive a distribution because the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, has suspended the payment under Subsection 32B-2-405(2)(a); and

(d) a municipality or county that receives a distribution because the suspension of payment has been cancelled under Subsection 32B-2-405(2).

(5)(a) By not later than January 1 of the fiscal year of appropriation, the State Tax Commission shall annually distribute to each municipality and county the portion of the appropriation that the municipality or county is eligible to receive under this part, except for any municipality or county that the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, notifies the State Tax Commission in accordance with Subsection (4) may not receive a distribution in that fiscal year.

(b)(i) The advisory council, before January 1, 2033, or the department, on or after January 1, 2033, shall prepare forms for use by a municipality or county in applying for a distribution under this part.

(ii) A form described in this Subsection (5) may require the submission of information the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, considers necessary to

enable the State Tax Commission to comply with this part.

Section 3. Section 32B-2-405 is amended to read:

32B-2-405. Reporting by municipalities and counties -- Grants.

(1) A municipality or county that receives money under this part during a fiscal year shall by no later than October 1 following the fiscal year:

(a) report to the advisory council, before January 1, 2033, or the department, on or after January 1, 2033:

(i) the programs or projects of the municipality or county that receive money under this part;

(ii) if the money for programs or projects were exclusively used as required by Subsection 32B-2-403(2);

(iii) indicators of whether the programs or projects that receive money under this part are effective; and

(iv) if money received under this part was not expended by the municipality or county; and

(b) provide the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, a statement signed by the chief executive officer of the county or municipality attesting that the money received under this part was used in addition to money appropriated or otherwise available for the county's or municipality's law enforcement and was not used to supplant that money.

(2) The advisory council, before January 1, 2033, may, by a majority vote, or the department, on or after January 1, 2033, may:

(a) suspend future payments under Subsection 32B-2-404(4) to a municipality or county that:

(i) does not file a report that meets the requirements of Subsection (1); or

(ii) the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, finds does not use the money as required by Subsection 32B-2-403(2) on the basis of the report filed by the municipality or county under Subsection (1); and

(b) cancel a suspension under Subsection (2)(a).

(3) The State Tax Commission shall notify the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, of the balance of any undistributed money after the annual distribution under Subsection 32B-2-404(5).

(4)(a) Subject to the requirements of this Subsection (4), the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, shall award the balance of undistributed money under Subsection (3):

(i) as prioritized by majority vote of the advisory council, before January 1, 2033, or by the department, on or after January 1, 2033; and

(ii) as grants to:

(A) a county;

(B) a municipality;

(C) the department;

(D) the Department of Human Services;

(E) the Department of Public Safety; or

(F) the State Board of Education.

(b) By not later than May 30 of the fiscal year of the appropriation, the advisory council, before January 1, 2033, or the department, on or after January 1, 2033, shall notify the State Tax Commission of grants awarded under this Subsection (4).

(c) The State Tax Commission shall make payments of a grant:

(i) upon receiving notice as provided under Subsection (4)(b); and

(ii) by not later than June 30 of the fiscal year of the appropriation.

(d) An entity that receives a grant under this Subsection (4) shall use the grant money exclusively for programs or projects described in Subsection 32B-2-403(2).

Section 4. Section 63I-1-101 is amended to read:

63I-1-101. Title.

[~~(1)~~] This title is known as "Oversight."

[~~(2) This chapter is known as the "Legislative Oversight and Sunset Act."~~]

Section 5. Section 63I-1-107 is enacted to read:

63I-1-107. Format of repeal dates -- Revisor authority.

The Office of Legislative Research and General Counsel:

(1) shall use a standard for codified repeal dates in this chapter, including:

(a) "Title [#], [title heading], is repealed on [date].";

(b) "Title [#], Chapter [#], [chapter heading], is repealed on [date].";

(c) "Title [#], Chapter [#], Part [#], [part heading], is repealed on [date].";

(d) "Section [#-#-#], [section heading], is repealed on [date].";

(e) "Subsection [#-#-#(#)], regarding [short description of the provision], is repealed on [date]."; or

(f) "The following provisions, regarding [short description of the provisions], are repealed on [date]:"; and

(2) in addition to the revisor authority described in Section 36-12-12 regarding enrolling legislation, may:

(a) correct discrepancies in the format of repeal dates that enrolled legislation adds to this chapter; and

(b) remove expired repeal dates from this chapter.

Section 6. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, [~~which creates the~~]Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, [~~which creates the~~]Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, [~~which creates the~~]Utah Grazing Improvement Program Advisory Board -- Duties, is repealed July 1, 2032.

(6) [~~Sections~~]Section 4-23-104[~~ and 4-23-105, which create the~~], Agricultural and Wildlife Damage Prevention Board[~~, are~~] created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation, is repealed July 1, 2024.

(7) Section 4-23-105, Board responsibilities -- Damage prevention policy -- Rules -- Methods to control predators and depredating birds and animals, is repealed July 1, 2024.

[~~(7)~~](8) Section 4-24-104,[~~ which creates the~~] Livestock Brand Board created -- Composition -- Terms -- Removal -- Quorum for transaction of business -- Compensation -- Duties, is repealed July 1, 2025.

[~~(8)~~](9) Section 4-35-103,[~~ which creates the~~] Decision and Action Committee created -- Members -- How appointed -- Duties of committee -- Per diem and expenses allowed, is repealed July 1, 2026.

[~~(9)~~](10) Section 4-39-104,[~~ which creates the~~] Domesticated Elk Act [~~Advisory Council~~]advisory council, is repealed July 1, 2027.

Section 7. Section 63I-1-207 is amended to read:

63I-1-207. Repeal dates: Title 7.

(1) Section 7-1-203,[~~ which creates the~~] Board of Financial Institutions, is repealed July 1, 2031.

(2) Section 7-3-40,[~~ which creates the~~] Board of Bank Advisors, is repealed July 1, 2032.

(3) Section 7-9-43,[~~ which creates the~~] Board of Credit Union Advisors, is repealed July 1, 2033.

Section 8. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates: Title 13.

(1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

(2) Section 13-32a-112, [~~which creates the Pawnshop and~~]Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board, is repealed July 1, 2027.

(3) Section 13-35-103, [~~which creates the~~]Utah Powersport[~~ Motor~~] Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed July 1, 2032.

(4) Section 13-43-202,[~~ which creates the~~] Land Use and Eminent Domain Advisory Board -- Appointment -- Compensation -- Duties, is repealed July 1, 2026.

Section 9. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Title 17.

[~~(1) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.~~]

[~~(2) In relation to Section 17-31-2, on July 1, 2023:~~]

[~~(a) Subsection 17-31-2(1)(g), which defines "economic diversification activity," is repealed;~~]

[~~(b) Subsection 17-31-2(2)(a)(iii), relating to establishing and promoting an economic diversification activity, is repealed;~~ (c) Subsection ~~17-31-2(7)(b)(i) is amended to read:~~

~~"(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:"; and~~]

[~~(d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue for an economic diversification activity, is repealed.~~]

[~~(3) Subsection 17-31-5.5(2)(a)(i)(E), relating to economic diversification activity, is repealed July 1, 2023.~~]

Section 10. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates: Title 23A.

(1) Section 23A-2-302,[~~ which creates the~~] Wildlife Board Nominating Committee created, is repealed July 1, 2028.

(2) Section 23A-2-303, [~~which creates regional~~]Regional advisory councils [~~for the Wildlife Board~~]created, is repealed July 1, 2028.

Section 11. Section 63I-1-232 is amended to read:

63I-1-232. Repeal dates: Title 32A through 32B.

[~~In relation to the~~]The following provisions, regarding the Utah Substance Use and Mental Health Advisory Council, are repealed on January 1, 2033:

(1) Subsection 32B-2-306(1)(a)[~~ is repealed~~];

[~~(2) Subsection 32B-2-306(4), the language that states "advisory council" is repealed and replaced with "department";~~]

[~~(3) Subsections 32B-2-306(4)(b) and (c) are repealed;~~]

(2) Subsection 32B-2-306(4)(a);

[~~(4) Subsection 32B-2-306(5)(a), the language that states "in cooperation with the advisory council" is repealed;~~]

[~~(5) Subsection 32B-2-306(5)(b) is amended to read:~~

~~"(b) The department shall:~~

~~(i) prepare a plan detailing the intended use of the money appropriated under this section; and~~

~~(ii) conduct the media and education campaign in accordance with the guidelines created by the department under Subsection (4)(c).";~~]

(3) Subsection 32B-2-306(5)(b); and

[~~(6)~~](4) Subsection 32B-2-402(1)(b).[~~ is repealed;~~]

[~~(7) Sections 32B-2-404 and 32B-2-405, the language that states "advisory council" is repealed and replaced with "department";~~]

[~~(8) Subsection 32B-2-405(2), the language that states "by a majority vote" is repealed; and~~]

[~~(9) Subsection 32B-2-405(4)(a)(i), the language that states "majority vote of" is repealed.~~]

Section 12. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection 34A-1-202(2)(c)(i), related to the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection 34A-1-202(2)(c)(iii), related to the Coal Miner Certification Panel, is repealed July 1, 2024.

(3) Section 34A-2-107, [~~which creates the Workers' Compensation Advisory Council~~] Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation, is repealed July 1, 2027.

(4) Section 34A-2-202.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

Section 13. Section 63I-1-240 is amended to read:

63I-1-240. Repeal dates: Title 40.

Section 40-2-204,[~~ which creates the~~] Coal Miner Certification Panel created -- Duties, is repealed July 1, 2024.

Section 14. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates: Title 49.

(1) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.

(2) Section 49-20-418, Expanded infertility treatment coverage pilot program, is repealed January 1, 2025.

Section 15. Section 63I-1-254 is amended to read:

63I-1-254. Repeal dates: Title 54.

(1) Section 54-10a-202,[~~ which creates the~~] Committee of Consumer Services, is repealed July 1, 2025.

(2) Title 54, Chapter 15, Net Metering of Electricity, is repealed January 1, 2036.

Section 16. Section 63I-1-261 is amended to read:

63I-1-261. Repeal dates: Title 61.

Section 61-2c-104,[~~ which creates the~~] Residential Mortgage Regulatory Commission, is repealed July 1, 2031.

Section 17. Section 63I-1-265 is amended to read:

63I-1-265. Repeal dates: Title 65A.

Section 65A-8-306,[~~ which creates the~~] Heritage Trees Advisory Committee -- Members -- Officers -- Expenses -- Functions, is repealed July 1, 2026.

Section 18. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates: Title 67.

(1) Section 67-1-8.1,[~~ which creates the~~] Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence, is repealed July 1, 2027.

(2) Section 67-1-15, Approval of international trade agreement -- Consultation with Utah International Relations and Trade Commission, is repealed December 31, 2027.

(3) Section 67-3-11, Health care price transparency tool -- Transparency tool requirements, is repealed July 1, 2024.

(4) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

Section 19. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

[~~(1) Subsection 72-2-121(9), which creates transportation advisory committees, is repealed July 1, 2022.~~ ~~(2)~~] Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

Section 20. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

Section 76-10-526.1, [~~relating to an information~~]Information check before[~~the~~] private sale of[~~a~~] firearm, is repealed July 1, 2025.

Section 21. Section 63I-1-277 is amended to read:

63I-1-277. Repeal dates: Title 77.

[~~Subsection 77-40a-304(5), regarding the suspension of issuance fees for certificates of eligibility, is repealed on July 1, 2023.~~]

Section 22. Section 63I-1-280 is amended to read:

63I-1-280. Repeal dates: Title 80.

Section 80-2-503.5, Psychotropic medication oversight pilot program, is repealed July 1, 2024.

Section 23. Section 63I-2-102 is enacted to read:

63I-2-102. Format of repeal dates -- Revisor authority.

The Office of Legislative Research and General Counsel:

(1) shall use a standard for codified repeal dates in this chapter, including:

(a) "Title [#], [title heading], is repealed on [date].";

(b) "Title [#], Chapter [#], [chapter heading], is repealed on [date].";

(c) "Title [#], Chapter [#], Part [#], [part heading], is repealed on [date].";

(d) "Section [#-#-#], [section heading], is repealed on [date].";

(e) "Subsection [#-#-#(#)], regarding [short description of the provision], is repealed on [date].";
or

(f) "The following provisions, regarding [short description of the provisions], are repealed on [date]:"; and

(2) in addition to the revisor authority described in Section 36-12-12 regarding enrolling legislation, may:

(a) correct discrepancies in the format of repeal dates that enrolled legislation adds to this chapter; and

(b) remove expired repeal dates in this chapter.

Section 24. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.

[~~(2) Section 4-41a-102.1 is repealed January 1, 2024.~~]

[~~(3) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership, is repealed on July 1, 2024.~~]

[~~(4)~~](2) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 25. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates: Title 10.

[~~On January 1, 2025, ~~]Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is repealed on January 1, 2025.

Section 26. Section 63I-2-211 is amended to read:

63I-2-211. Repeal dates: Title 11.

Subsection 11-13-202(4), [~~requiring that counties and municipalities include certain contractual provisions in~~]regarding an interlocal agreement for law enforcement services between a county and one or more municipalities, is repealed July 1, 2025.

Section 27. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16, Latino Community Support Restricted Account, is repealed on July 1, 2024.

(2) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

Section 28. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Title 17.

[~~(1) on July 1, 2025:~~]

[~~(a)~~](1) Subsection 17-22-2(1)(o), [~~stating that a sheriff shall perform the~~]regarding sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed[~~; and~~] on July 1, 2025.

[~~(b)~~](2) Subsection 17-22-2(3), [~~establishing~~] regarding the role of a sheriff in a police interlocal entity or police local district, is repealed on July 1, 2025.

[~~(2) On January 1, 2022, Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed.~~]

(3) [~~On January 1, 2025, ~~]Section 17-27a-604.9, Effective dates of Sections 17-27a-604.1 and 17-27a-604.2, is repealed on January 1, 2025.

(4) [~~On January 1, 2028, ~~]Subsection 17-52a-103(3), [~~requiring certain counties to initiate~~]regarding a change of form of county government process[~~ by July 1, 2018~~], is repealed on January 1, 2028.

Section 29. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates: Title 19.

(1) Section 19-1-109, Clean Air Support Restricted Account, is repealed on July 1, 2024.

[~~(2) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2023.~~]

[~~(3)~~](2) Section 19-2a-102.5, [~~addressing a~~]Emissions reduction plan study and recommendations[~~ for a diesel emission reduction program~~], is repealed July 1, 2024.

[~~(4) Section 19-3-114 is repealed December 31, 2023.~~]

Section 30. Section 63I-2-220 is amended to read:

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

(1) [~~Sections 20A-1-207 and 20A-1-208 are~~]Section 20A-1-207, Provisions relating to the 2023 municipal election, is repealed May 1, 2024.

(2) Section 20A-1-208, Provisions relating to the 2023 special congressional election and the 2023 municipal election, is repealed on May 1, 2024.

[~~(2)~~](3) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

[~~(3) Subsection 20A-5-803(8) is repealed July 1, 2023.~~]

[~~(4) Section 20A-5-804 is repealed July 1, 2023.~~]

Section 31. Section 63I-2-223 is amended to read:

63I-2-223. Repeal dates: Title 23A.

Section 23A-3-203, Support for State-Owned Shooting Ranges Restricted Account, is repealed on July 1, 2024.

Section 32. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates: Title 34A.

(1) Section 34A-2-107.3, Mental Health Protections for First Responders Workgroup, is repealed May 15, 2025.

(2) Subsection 34A-3-113(7)[~~relating to~~], regarding a study related to cancer in firefighters, is repealed on January 1, 2025.

Section 33. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates: Title 35A.

[~~(1) Section 35A-1-104.6 is repealed June 30, 2022. (2)~~] Section 35A-3-212, Use of COVID-19 relief funds -- Grants to child care providers -- Reporting requirements, is repealed June 30, 2025.

Section 34. Section 63I-2-249 is amended to read:

63I-2-249. Repeal dates: Title 49.

(1) Subsection 49-20-420(3), regarding a requirement to report to the Legislature, is repealed January 1, 2030.

(2) Section 49-20-422, [~~regarding coverage for pregnancy and childbirth services~~]Coverage of pregnancy and childbirth services, including doula, direct- entry midwife, and birthing center services, is repealed July 1, 2027.

Section 35. Section 63I-2-251 is amended to read:

63I-2-251. Repeal dates: Title 51.

[~~Subsection 51-9-203(3) is repealed January 1, 2023.~~]

Section 36. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

[~~(1) Subsection 59-2-1317(7)(b), relating to including information described in Section 19-3-114 with the property tax notice, is repealed December 31, 2023.~~]

[~~(2)~~](1) Subsection 59-7-610(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(3)~~](2) Subsection 59-7-614.10(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(4)~~](3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

[~~(5)~~](4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

[~~(6)~~](5) Subsection 59-10-1007(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(7)~~](6) Subsection 59-10-1037(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(8)~~](7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

Section 37. Section 63I-2-261 is amended to read:

63I-2-261. Repeal dates: Title 61.

Section 61-2-204, Utah Housing Opportunity Restricted Account, is repealed on July 1, 2024.

Section 38. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates: Title 64.

[~~(1)~~] Section 64-13e-103.2, State daily incarceration rate -- Limits -- Payments to county correctional facilities for state probationary and state parole inmates, is repealed June 30, 2024.

Section 39. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates: Title 72.

(1) Subsections 72-1-213.1(13)(a) and (b), related to the road usage charge rate and road usage charge cap, are repealed January 1, 2033.

[~~(2) Section 72-1-216.1 is repealed January 1, 2023.~~]

[~~(3)~~](2) Section 72-2-127, Share the Road Bicycle Support Restricted Account, is repealed on July 1, 2024.

[~~(4) Section 72-2-130 is repealed on July 1, 2024.~~]

[~~(5) Section 72-4-105.1 is repealed on January 1, 2024.~~]

Section 40. Section 63I-2-273 is amended to read:

63I-2-273. Repeal dates: Title 73.

[~~Section 73-1-20 is repealed on July 1, 2021.~~]

Section 41. Section 63I-2-275 is amended to read:

63I-2-275. Repeal dates: Title 75.

Subsection 75-5-303(5)(d), regarding counsel for a person alleged to be incapacitated, is repealed on July 1, 2028.

Section 42. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

[~~(1)~~] Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an[~~, owner,~~] employee[~~, or contractor~~] of a health facility, is repealed January 1, 2027.

[~~(2) Section 76-7-305.7 is repealed January 1, 2023.~~]

Section 43. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates: Title 77.

[~~Subsections 77-23f-102(2)(a)(ii) and 77-23f-103(2)(a)(ii), which require~~]The following provisions, regarding a notice for certain reverse-location search warrant applications, are repealed January 1, 2033[~~.~~]:

(1) Subsection 77-23f-102(2)(a)(ii); and

(2) Subsection 77-23f-103(2)(a)(ii).

Section 44. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Section 79-2-407, [~~which directs the Department of Natural Resources to study~~]Study of funding for water infrastructure costs, is repealed July 1, 2025.

(3) Section 79-7-303, Zion National Park Support Programs Restricted Account, is repealed on July 1, 2024.

Section 45. Section 63I-2-280 is amended to read:

63I-2-280. Repeal dates: Title 80.

[~~Section 80-2-502 is repealed on July 1, 2024.~~]

Section 46. Repealer.

This bill repeals:

Section 63I-2-101, Title.

Section 47. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 386
S. B. 56
Passed February 16, 2024
Approved March 19, 2024
Effective May 1, 2024

HOME SCHOOL AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill removes the notary requirement on a home school affidavit.

Highlighted Provisions:

This bill:

- removes the notary requirement on a home school affidavit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-204, as last amended by Laws of Utah 2023, Chapter 162

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

Section 1. Section 53G-6-204 is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1)(a) A local school board or charter school governing board may excuse a school-age child from attendance for any of the following reasons:

(i) a school-age child over [~~age~~]16 years old may receive a partial release from school to enter employment, or attend a trade school, if the school-age child has completed grade 8; or

(ii) on an annual basis, a school-age child may receive a full release from attending a public, regularly established private, or part-time school or class if:

(A) the school-age child has already completed the work required for graduation from high school;

(B) the school-age child is in a physical or mental condition, certified by a competent physician if required by the local school board or charter school governing board, which renders attendance inexpedient and impracticable;

(C) proper influences and adequate opportunities for education are provided in connection with the school-age child's employment; or

(D) the district superintendent or charter school governing board has determined that a school-age child over [~~the age of~~]16 years old is unable to profit from attendance at school because of inability or a continuing negative attitude toward school regulations and discipline.

(b) A school-age child receiving a partial release from school under Subsection (1)(a)(i) is required to attend:

(i) school part time as prescribed by the local school board or charter school governing board; or

(ii) a home school part time.

(c) In each case, evidence of reasons for granting an exemption under Subsection (1) must be sufficient to satisfy the local school board or charter school governing board.

(d) A local school board or charter school governing board that excuses a school-age child from attendance as provided by this Subsection (1) shall issue a certificate that the child is excused from attendance during the time specified on the certificate.

(2)(a)(i) As used in this Subsection (2)(a), "child abuse" means a criminal felony or attempted felony offense of which an individual is convicted, or to which an individual pleads guilty or no contest, for conduct that constitutes any of the following:

(A) child abuse under Section 76-5-109;

(B) aggravated child abuse under Section 76-5-109.2;

(C) child abandonment under Section 76-5-109.3;

(D) commission of domestic violence in the presence of a child under Section 76-5-114;

(E) child abuse homicide under Section 76-5-208;

(F) child kidnapping under Section 76-5-301.1;

(G) human trafficking of a child under Section 76-5-308.5;

(H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76, Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

(I) sexual exploitation of a minor under Section 76-5b-201;

(J) aggravated sexual exploitation of a minor under Section 76-5b-201.1; or

(K) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (2)(a)(i).

(ii) Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a school-age child from attendance, if the school-age child's parent or legal guardian files a signed [~~and notarized~~] affidavit with the school-age child's school district of residence, as defined in Section 53G-6-302, that:

(A) the school-age child will attend a home school; and

(B) the parent or legal guardian assumes sole responsibility for the education of the school-age child, except to the extent the school-age child is

dual enrolled in a public school as provided in Section 53G-6-702.

(iii) If a parent or legal guardian has been convicted of child abuse or if a court of competent jurisdiction has made a substantiated finding of child abuse against the parent or legal guardian:

(A) the parent or legal guardian may not assume responsibility for the education of a school-age child under Subsection (2)(a)(ii); and

(B) the local school board may not accept the affidavit described in Subsection (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to home school the child.

(iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit described in Subsection (2)(a)(ii).

(b) A signed [~~and notarized~~]affidavit filed in accordance with Subsection (2)(a) shall remain in effect as long as:

(i) the school-age child attends a home school;

(ii) the school district where the affidavit was filed remains the school-age child's district of residence; and

(iii) the parent or legal guardian who filed the signed [~~and notarized~~]affidavit has not been convicted of child abuse or been the subject of a substantiated finding of child abuse by a court of competent jurisdiction.

(c) A parent or legal guardian of a school-age child who attends a home school is solely responsible for:

(i) the selection of instructional materials and textbooks;

(ii) the time, place, and method of instruction; and

(iii) the evaluation of the home school instruction.

(d) A local school board may not:

(i) require a parent or legal guardian of a school-age child who attends a home school to maintain records of instruction or attendance;

(ii) require credentials for individuals providing home school instruction;

(iii) inspect home school facilities; or

(iv) require standardized or other testing of home school students.

(e) Upon the request of a parent or legal guardian, a local school board shall identify the knowledge, skills, and competencies a student is recommended to attain by grade level and subject area to assist the parent or legal guardian in achieving college and career readiness through home schooling.

(f) A local school board that excuses a school-age child from attendance under this Subsection (2) shall annually issue a certificate stating that the school-age child is excused from attendance for the specified school year.

(g) A local school board shall issue a certificate excusing a school-age child from attendance:

(i) within 30 days after receipt of a signed [~~and notarized~~]affidavit filed by the school-age child's parent or legal guardian under this Subsection (2); and

(ii) on or before August 1 each year thereafter unless:

(A) the school-age child enrolls in a school within the school district;

(B) the school-age child's parent or legal guardian notifies the school district that the school-age child no longer attends a home school; or

(C) the school-age child's parent or legal guardian notifies the school district that the school-age child's school district of residence has changed.

(3) A parent or legal guardian who is eligible to file and files a signed [~~and notarized~~]affidavit under Subsection (2)(a) is exempt from the application of Subsections 53G-6-202(2), (5), and (6).

(4)(a) Nothing in this section may be construed to prohibit or discourage voluntary cooperation, resource sharing, or testing opportunities between a school or school district and a parent or legal guardian of a child attending a home school.

(b) The exemptions in this section apply regardless of whether:

(i) a parent or legal guardian provides education instruction to the parent's or legal guardian's child alone or in cooperation with other parents or legal guardians similarly exempted under this section; or

(ii) the parent or legal guardian makes payment for educational services the parent's or legal guardian's child receives.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 387
H. B. 10
Passed February 1, 2024
Approved March 19, 2024
Effective May 1, 2024

PUBLIC FUND AMENDMENTS

Chief Sponsor: R. Neil Walter
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill addresses reporting requirements for the Public Treasurers' Investment Fund.

Highlighted Provisions:

This bill:

- defines terms;
- requires the state treasurer to annually report the current balance in the Public Treasurers' Investment Fund for each entity that has transferred money to that fund; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-5-120, as last amended by Laws of Utah 2014, Chapter 253
10-6-132, as last amended by Laws of Utah 2014, Chapter 253
11-13-523, as enacted by Laws of Utah 2015, Chapter 265
17-36-30, as last amended by Laws of Utah 2014, Chapter 253
17-36-52, as last amended by Laws of Utah 2014, Chapter 176
17B-1-626, as last amended by Laws of Utah 2023, Chapter 15
51-7-3, as last amended by Laws of Utah 2023, Chapter 16
51-7-5, as last amended by Laws of Utah 1984, Chapter 44
51-7-6, as last amended by Laws of Utah 1989, Chapter 66
53-2a-605, as last amended by Laws of Utah 2023, Chapter 16
59-2-1330, as last amended by Laws of Utah 2015, Chapter 201

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

Section 1. Section 10-5-120 is amended to read:

10-5-120. Loans between funds -- Bonds purchased by funds.

(1) Subject to this section, restrictions imposed by bond ordinance, or other controlling regulations, the town council may:

(a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the town or of any fund of the town.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the town council determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4)(a) In determining the interest rate of the loan specified under Subsection (2)(f), the town council shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~] as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~]as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5)(a) For an interfund loan under Subsection (1)(a), the town council shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed

terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Subsection 10-5-108(2) as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the town council for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the town general fund to any other fund of the town; or

(b) a short-term advance from the town's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 2. Section 10-6-132 is amended to read:

10-6-132. Loans by one fund to another -- Acquiring bonds for investment.

(1) Subject to this section, restrictions imposed by bond ordinance, or other controlling regulations, the governing body of a city may:

(a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the city or of any fund of the city.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing body determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4)(a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~] as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~]as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5)(a) For an interfund loan under Subsection (1)(a), the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 10-6-113 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the city general fund to any other fund of the city; or

(b) a short-term advance from the city's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 3. Section 11-13-523 is amended to read:

11-13-523. Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, restrictions in Section 53-2a-605, or other controlling regulations, the governing board of an interlocal entity may authorize an interfund loan from one fund to another.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing board determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4)(a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing board shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~] as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~]as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5)(a) For an interfund loan under Subsection (1), the governing board shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 11-13-509 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing board for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the interlocal entity general fund to any other fund of the interlocal entity; or

(b) a short-term advance from the interlocal entity's cash and investment pool to an individual fund that is repaid by the end of the fiscal year.

Section 4. Section 17-36-30 is amended to read:

17-36-30. Interfund loans -- Acquisition of issued unmatured bonds.

(1) Subject to this section, restrictions imposed by bond covenants, or other controlling regulations, the governing body may:

(a) subject to the restrictions in Section 53-2a-605, authorize an interfund loan from one fund to another; and

(b) with available cash in any fund, purchase or otherwise acquire for investment an unmatured bond of the county or of any county fund.

(2) An interfund loan under Subsection (1)(a) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the governing body determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4)(a) In determining the interest rate of the loan specified under Subsection (2)(f), the governing body shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~] as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~]as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5)(a) For an interfund loan under Subsection (1)(a), the governing body shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 17-36-12 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by ordinance or resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the county general fund to any other fund of the county; or

(b) a short-term advance from the county's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 5. Section 17-36-52 is amended to read:

17-36-52. Tax stability and trust fund -- Deposit or investment of funds -- Use of interest or other income.

(1)(a) All amounts in the tax stability and trust fund established by a county under Section 17-36-51 may be deposited or invested as provided in Section 51-7-11.

(b) The amounts described in Subsection (1)(a) may also be transferred by the county treasurer to the [~~state treasurer under Section 51-7-5~~]Public Treasurers' Investment Fund, as defined in Section 51-7-3, for the treasurer's management and control under Title 51, Chapter 7, State Money Management Act.

(2)(a) The interest or other income realized from amounts in the tax stability and trust fund shall be returned to the county general fund during the fiscal year in which the income or interest is paid to the extent the interest or income is required by the county to provide for its purposes during that fiscal year.

(b) An amount returned in accordance with Subsection (2)(a) may be used for all purposes as other amounts in the county general fund.

(c) Any interest or income that is not returned to the county general fund in accordance with Subsection (2)(a) shall be added to the principal of that county's tax stability and trust fund.

Section 6. Section 17B-1-626 is amended to read:

17B-1-626. Loans by one fund to another.

(1) Subject to this section, restrictions imposed by bond covenants, restrictions in Section 53-2a-605, or other controlling regulations, the board of trustees of a special district may authorize an interfund loan from one fund to another.

(2) An interfund loan under Subsection (1) shall be in writing and specify the terms and conditions of the loan, including the:

(a) effective date of the loan;

(b) name of the fund loaning the money;

(c) name of the fund receiving the money;

(d) amount of the loan;

(e) subject to Subsection (3), term of and repayment schedule for the loan;

(f) subject to Subsection (4), interest rate of the loan;

(g) method of calculating interest applicable to the loan;

(h) procedures for:

(i) applying interest to the loan; and

(ii) paying interest on the loan; and

(i) other terms and conditions the board of trustees determines applicable.

(3) The term and repayment schedule specified under Subsection (2)(e) may not exceed 10 years.

(4)(a) In determining the interest rate of the loan specified under Subsection (2)(f), the board of trustees shall apply an interest rate that reflects the rate of potential gain had the funds been deposited or invested in a comparable investment.

(b) Notwithstanding Subsection (4)(a), the interest rate of the loan specified under Subsection (2)(f):

(i) if the term of the loan under Subsection (2)(e) is one year or less, may not be less than the rate offered by the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~] as defined in Section 51-7-3; or

(ii) if the term of the loan under Subsection (2)(e) is more than one year, may not be less than the greater of the rate offered by:

(A) the Public Treasurers' Investment Fund [~~that was created for public funds transferred to the state treasurer in accordance with Section 51-7-5~~]as defined in Section 51-7-3; or

(B) a United States Treasury note of a comparable term.

(5)(a) For an interfund loan under Subsection (1), the board of trustees shall:

(i) hold a public hearing;

(ii) prepare a written notice of the date, time, place, and purpose of the hearing, and the proposed terms and conditions of the interfund loan under Subsection (2);

(iii) provide notice of the public hearing in the same manner as required under Section 17B-1-609 as if the hearing were a budget hearing; and

(iv) authorize the interfund loan by resolution in a public meeting.

(b) The notice and hearing requirements in Subsection (5)(a) are satisfied if the interfund loan is included in an original budget or in a subsequent budget amendment previously approved by the board of trustees for the current fiscal year.

(6) Subsections (2) through (5) do not apply to an interfund loan if the interfund loan is:

(a) a loan from the special district general fund to any other fund of the special district; or

(b) a short-term advance from the special district's cash and investment pool to individual funds that are repaid by the end of the fiscal year.

Section 7. Section 51-7-3 is amended to read:

51-7-3. Definitions.

As used in this chapter:

(1) "Agent" means [~~"agent" as~~]the same as that term is defined in Section 61-1-13.

(2) "Certified dealer" means:

(a) a primary reporting dealer recognized by the Federal Reserve Bank of New York who is certified by the director as having met the applicable criteria of council rule; or

(b) a broker dealer who:

(i) has and maintains an office and a resident registered principal in the state;

(ii) meets the capital requirements established by council rules;

(iii) meets the requirements for good standing established by council rule; and

(iv) is certified by the director as meeting quality criteria established by council rule.

(3) "Certified investment adviser" means a federal covered adviser, as defined in Section 61-1-13, or an investment adviser, as defined in Section 61-1-13, who is certified by the director as having met the applicable criteria of council rule.

(4) "Commissioner" means the commissioner of financial institutions.

(5) "Council" means the State Money Management Council created by Section 51-7-16.

(6) "Covered bond" means a publicly placed debt security issued by a bank, other regulated financial institution, or a subsidiary of either that is secured by a pool of loans that remain on the balance sheet of the issuer or its subsidiary.

(7) "Director" means the director of the Utah State Division of Securities of the Department of Commerce.

(8)(a) "Endowment funds" means gifts, devises, or bequests of property of any kind donated to a higher education institution from any source.

(b) "Endowment funds" does not mean money used for the general operation of a higher education institution that is received by the higher education institution from:

(i) state appropriations;

(ii) federal contracts;

(iii) federal grants;

(iv) private research grants; and

(v) tuition and fees collected from students.

(9) "First tier commercial paper" means commercial paper rated by at least two nationally recognized statistical rating organizations in the highest short-term rating category.

(10) "Funds functioning as endowments" means funds, regardless of source, whose corpus is intended to be held in perpetuity by formal institutional designation according to the institution's policy for designating those funds.

(11) "GASB" or "Governmental Accounting Standards Board" means the Governmental Accounting Standards Board that is responsible for accounting standards used by public entities.

(12) "Hard put" means an unconditional sell-back provision or a redemption provision applicable at issue to a note or bond, allowing holders to sell their holdings back to the issuer or to an equal or higher-rated third party provider at specific intervals and specific prices determined at the time of issuance.

(13) "Higher education institution" means the institutions specified in Section 53B-1-102.

(14) "Investment adviser representative" [~~is as defined~~]means the same as that term is defined in Section 61-1-13.

(15)(a) "Investment agreement" means any written agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate.

(b) "Investment agreement" includes any agreement to supply investments on one or more future dates.

(16) "Local government" means a county, municipality, school district, special district under

Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, or any other political subdivision of the state.

(17) "Market value" means market value as defined in the Master Repurchase Agreement.

(18) "Master Repurchase Agreement" means the current standard Master Repurchase Agreement approved by the Public Securities Association or by any successor organization.

(19) "Maximum amount" means, with respect to qualified depositories, the total amount of:

(a) deposits in excess of the federal deposit insurance limit; and

(b) nonqualifying repurchase agreements.

(20) "Money market mutual fund" means an open-end managed investment fund:

(a) that complies with the diversification, quality, and maturity requirements of Rule 2a-7 or any successor rule of the Securities and Exchange Commission applicable to money market mutual funds; and

(b) that assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated.

(21) "Nationally recognized statistical rating organization" means an organization that has been designated as a nationally recognized statistical rating organization by the Securities and Exchange Commission's Division of Market Regulation.

(22) "Nonqualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a qualified depository arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers that is:

(a) evidenced by a safekeeping receipt issued by the qualified depository;

(b) included in the depository's maximum amount of public funds; and

(c) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

(23) "Operating funds" means current balances and other funds that are to be disbursed for operation of the state government or any of its boards, commissions, institutions, departments, divisions, agencies, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(24) "Permanent funds" means funds whose principal may not be expended, the earnings from which are to be used for purposes designated by law.

(25) "Permitted depository" means any out-of-state financial institution that meets quality criteria established by rule of the council.

(26) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities, or any county, city, school district, political subdivision, or other public body.

(27)(a) "Public money" means "public funds."

(b) "Public money," as used in Article VII, Sec. 15, Utah Constitution, means the same as "state funds."

(28) "Public treasurer" includes the state treasurer and the official of any state board, commission, institution, department, division, agency, or other similar instrumentality, or of any county, city, school district, charter school, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds.

(29) "Public Treasurers' Investment Fund" means the public fund created for any public funds transferred by a public treasurer to the state treasurer in accordance with Section 51-7-5.

[~~(29)~~](30) "Qualified depository" means a Utah depository institution or an out-of-state depository institution, as those terms are defined in Section 7-1-103, that is authorized to conduct business in this state under Section 7-1-702 or Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, whose deposits are insured by an agency of the federal government and that has been certified by the commissioner of financial institutions as having met the requirements established under this chapter and the rules of the council to be eligible to receive deposits of public funds.

[~~(30)~~](31) "Qualifying repurchase agreement" means a repurchase agreement evidencing indebtedness of a financial institution or government securities dealer acting as principal arising from the transfer of obligations of the United States Treasury or other authorized investments to public treasurers only if purchased securities are:

(a) delivered to the public treasurer's safekeeping agent or custodian as contemplated by Section 7 of the Master Repurchase Agreement; and

(b) valued and maintained at market value plus an appropriate margin collateral requirement based upon the term of the agreement and the type of securities acquired.

[~~(31)~~](32) "Reciprocal deposits" means deposits that are initially deposited into a qualified depository and are then redeposited through a deposit account registry service:

(a) in one or more FDIC-insured depository institutions in amounts up to the relevant FDIC-insured deposit limit for a depositor in each depository institution; and

(b) in exchange for reciprocal FDIC-insured deposits made through the deposit account registry service to the qualified depository.

[~~(32)~~](33) "Securities division" means Utah's Division of Securities created within the Department of Commerce by Section 13-1-2.

[~~(33)~~](34) "State funds" means:

(a) public money raised by operation of law for the support and operation of the state government; and

(b) all other money, funds, and accounts, regardless of the source from which the money, funds, or accounts are derived, that are owned, held, or administered by the state or any of its boards, commissions, institutions, departments, divisions, agencies, bureaus, laboratories, or other similar instrumentalities.

Section 8. Section 51-7-5 is amended to read:

51-7-5. Public Treasurers' Investment Fund -- Transfer of public funds not otherwise required to be transferred to state treasurer -- Duties of public treasurers -- Withdrawals of transferred funds -- Reporting.

(1) Any public funds as to which the deposit, investment, or reinvestment is not transferred to the state treasurer by Section 51-7-4, may be transferred to the [~~state treasurer~~]Public Treasurers' Investment Fund by the public treasurer having responsibility for the control or management of these public funds.

(2) Notwithstanding the transfer, the public treasurer shall retain sufficient funds to cover the cash requirements of the body owning or having control or management of these funds and shall continue to be responsible for the proper collection, deposit, and disbursement of these funds in the manner provided by law.

(3) The public funds transferred or placed under the control or supervision of the state treasurer under this section are subject to all applicable provisions of this chapter and are under the jurisdiction of the state treasurer until the public treasurer withdraws these public funds from the state treasurer.

(4) Withdrawals may be made from time to time on such reasonable notice as the state treasurer may prescribe.

(5) The public treasurer may withdraw all or any part of the public funds originally transferred to the state treasurer, subject to any rules as to the maximum amounts which may be withdrawn at any one time as the state treasurer may reasonably prescribe.

(6) On or before October 31 of each calendar year, the state treasurer shall report to the Political Subdivisions Interim Committee the current balance as of June 30 for each entity that has transferred money to the Public Treasurers' Investment Fund.

Section 9. Section 51-7-6 is amended to read:

51-7-6. Public Treasurers' Investment Fund -- Calculation of shares of participating funds -- Allocations of income to participating funds.

(1) The share of public funds of each participating public treasurer who has transferred public funds to the [~~state treasurer for investment under Section 51-7-5~~]Public Treasurers' Investment Fund, including trust funds invested by the state treasurer under this chapter, shall be calculated not less than quarterly.

(2) Income from investment of these public funds by the state treasurer, including gains or losses from the sale or exchange of investments or other properties, and net of investment fees and other charges assessed according to the schedule established by the state treasurer, shall be allocated to each participating fund on the ratio of each fund's share to the total public funds in the custody of the state treasurer determined on the basis of the average daily balance of each fund.

Section 10. Section 53-2a-605 is amended to read:

53-2a-605. Local government disaster funds.

(1)(a) Subject to this section and notwithstanding anything to the contrary contained in Title 10, Utah Municipal Code, or Title 17, Counties, Title 17B, Limited Purpose Local Government Entities - Special Districts, or Title 17D, Chapter 1, Special Service District Act, the governing body of a local government may create and maintain by ordinance a special fund known as a local government disaster fund.

(b) The local fund shall consist of:

(i) subject to the limitations of this section, money transferred to it in accordance with Subsection (2);

(ii) any other public or private money received by the local government that is:

(A) given to the local government for purposes consistent with this section; and

(B) deposited into the local fund at the request of:

(I) the governing body of the local government; or

(II) the person giving the money; and

(iii) interest or income realized from the local fund.

(c) Interest or income realized from the local fund shall be deposited into the local fund.

(d) Money in a local fund may be:

(i) deposited or invested as provided in Section 51-7-11; or

(ii) transferred by the local government treasurer to the [~~state treasurer under Section 51-7-5 for the state treasurer's management and control under Title 51, Chapter 7, State Money Management Act~~]Public Treasurers' Investment Fund as defined in Section 51-7-3.

(e)(i) The money in a local fund may accumulate from year to year until the local government governing body determines to spend any money in

the local fund for one or more of the purposes specified in Subsection (3).

(ii) Money in a local fund at the end of a fiscal year:

(A) shall remain in the local fund for future use; and

(B) may not be transferred to any other fund or used for any other purpose.

(2) The amounts transferred to a local fund may not exceed 10% of the total estimated revenues of the local government for the current fiscal period that are not restricted or otherwise obligated.

(3) Money in the fund may only be used to fund the services and activities of the local government creating the local fund in response to:

(a) a declared disaster within the boundaries of the local government;

(b) the aftermath of the disaster that gave rise to a declared disaster within the boundaries of the local government; and

(c) subject to Subsection (5), emergency preparedness.

(4)(a) A local fund is subject to this part and:

(i) in the case of a town, Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, except that:

(A) in addition to the funds listed in Section 10-5-106, the mayor shall prepare a budget for the local fund;

(B) Section 10-5-119 addressing termination of special funds does not apply to a local fund; and

(C) the council of the town may not authorize an interfund loan under Section 10-5-120 from the local fund;

(ii) in the case of a city, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, except that:

(A) in addition to the funds listed in Section 10-6-109, the mayor shall prepare a budget for the local fund;

(B) Section 10-6-131 addressing termination of special funds does not apply to a local fund; and

(C) the governing body of the city may not authorize an interfund loan under Section 10-6-132 from the local fund; [~~and~~]

(iii) in the case of a county, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, except that:

(A) Section 17-36-29 addressing termination of special funds does not apply to a local fund; and

(B) the governing body of the county may not authorize an interfund loan under Section 17-36-30 from the local fund;

(iv) in the case of a special district or special service district, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Special Districts, except that:

(A) Section 17B-1-625, addressing termination of a special fund, does not apply to a local fund; and

(B) the governing body of the special district or special service district may not authorize an interfund loan under Section 17B-1-626 from the local fund; and

(v) in the case of an interlocal entity, Title 11, Chapter 13, Part 5, Fiscal Procedures for Interlocal Entities, except for the following provisions:

(A) Section 11-13-522 addressing termination of a special fund does not apply to a local fund; and

(B) the governing board of the interlocal entity may not authorize an interfund loan under Section 11-13-523 from the local fund.

(b) Notwithstanding Subsection (4)(a), transfers of money to a local fund or the accumulation of money in a local fund do not affect any limits on fund balances, net assets, or the accumulation of retained earnings in any of the following of a local government:

(i) a general fund;

(ii) an enterprise fund;

(iii) an internal service fund; or

(iv) any other fund.

(5)(a) A local government may not expend during a fiscal year more than 10% of the money budgeted to be deposited into a local fund during that fiscal year for emergency preparedness.

(b) The amount described in Subsection (5)(a) shall be determined before the adoption of the tentative budget.

Section 11. Section 59-2-1330 is amended to read:

59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer -- Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the commission -- Time periods for making payments to taxpayer.

(1) Unless otherwise specifically provided by statute, property taxes shall be paid directly to the county assessor or the county treasurer:

(a) on the date that the property taxes are due; and

(b) as provided in this chapter.

(2) A taxpayer shall receive payment as provided in this section if a reduction in the amount of any tax levied against any property for which the taxpayer paid a tax or any portion of a tax under this chapter for a calendar year is required by a final and unappealable judgment or order described in Subsection (3) issued by:

(a) a county board of equalization;

(b) the commission; or

(c) a court of competent jurisdiction.

(3)(a) For purposes of Subsection (2), the state or any taxing entity that has received property taxes or any portion of property taxes from a taxpayer described in Subsection (2) shall pay the taxpayer if:

(i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an authorized officer of the:

(A) county; or

(B) state; and

(ii) the taxpayer obtains a final and unappealable judgment or order:

(A) from:

(I) a county board of equalization;

(II) the commission; or

(III) a court of competent jurisdiction;

(B) against:

(I) the taxing entity or an authorized officer of the taxing entity; or

(II) the state or an authorized officer of the state; and

(C) ordering a reduction in the amount of any tax levied against any property for which a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

(b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined in accordance with Subsections (4) through (7).

(4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (4)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the state after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (4)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (4)(a);

(ii) Subsection (4)(b); and

(iii) Subsection (4)(c).

(5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a taxpayer is equal to the sum of:

(a) if the difference described in this Subsection (5)(a) is greater than $0, the difference between:

(i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

(ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(b) if the difference described in this Subsection (5)(b) is greater than $0, the difference between:

(i) any penalties the taxpayer paid to the taxing entity in accordance with Section 59-2-1331; and

(ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the property in accordance with the final and unappealable judgment or order described in Subsection (3);

(c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

(d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

(i) Subsection (5)(a);

(ii) Subsection (5)(b); and

(iii) Subsection (5)(c).

(6) Except as provided in Subsection (7):

(a) interest shall be refunded to a taxpayer on the amount described in Subsection (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance with Section 59-2-1331; and

(b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or (5)(d):

(i) beginning on the later of:

(A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

(B) January 1 of the calendar year immediately following the calendar year for which the tax was due;

(ii) ending on the day on which the state or a taxing entity pays to the taxpayer the amount required by Subsection (4) or (5); and

(iii) at the interest rate earned by the state treasurer on public funds transferred to the [~~state~~

~~treasurer in accordance with Section 51-7-5~~]Public Treasurers' Investment Fund as defined in Section 51-7-3.

(7) Notwithstanding Subsection (6):

(a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

(b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied by the taxing entity for that calendar year as stated on the notice required by Section 59-2-1317.

(8)(a) Each taxing entity may levy a tax to pay its share of the final and unappealable judgment or order described in Subsection (3) if:

(i) the final and unappealable judgment or order is issued no later than 15 days prior to the date the certified tax rate is set under Section 59-2-924;

(ii) the amount of the judgment levy is included on the notice under Section 59-2-919.1; and

(iii) the final and unappealable judgment or order is an eligible judgment, as defined in Section 59-2-102.

(b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum levy established for the taxing entity.

(9)(a) A taxpayer that objects to the assessment of property assessed by the commission shall pay, on or before the property tax due date established under Subsection 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by Section 59-2-1317 if:

(i) the taxpayer has applied to the commission for a hearing in accordance with Section 59-2-1007 on the objection to the assessment; and

(ii) the commission has not issued a written decision on the objection to the assessment in accordance with Section 59-2-1007.

(b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

(i) a final and unappealable judgment or order establishing that the property described in Subsection (9)(a) has a value greater than the value stated on the notice required by Section 59-2-1317 is issued by:

(A) the commission; or

(B) a court of competent jurisdiction; and

(ii) the taxpayer fails to pay the additional tax liability resulting from the final and unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after the county bills the taxpayer for the additional tax liability.

(10)(a) Except as provided in Subsection (10)(b), a payment that is required by this section shall be paid to a taxpayer:

(i) within 60 days after the day on which the final and unappealable judgment or order is issued in accordance with Subsection (3); or

(ii) if a judgment levy is imposed in accordance with Subsection (8):

(A) if the payment to the taxpayer required by this section is $5,000 or more, no later than December 31 of the year in which the judgment levy is imposed; and

(B) if the payment to the taxpayer required by this section is less than $5,000, within 60 days after the date the final and unappealable judgment or order is issued in accordance with Subsection (3).

(b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

(i) that establishes a time period other than a time period described in Subsection (10)(a) for making a payment to the taxpayer that is required by this section; and

(ii) with:

(A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

(B) an authorized officer of the state for a tax imposed by the state.

Section 12. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 388
H. B. 13
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

INFRASTRUCTURE FINANCING DISTRICTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill enacts and modifies provisions related to infrastructure financing districts.

Highlighted Provisions:

This bill:

- authorizes the creation of a type of special district for the purpose of financing infrastructure;
- provides a process for the creation of an infrastructure financing district;
- provides for the powers and governance of an infrastructure financing district;
- authorizes an infrastructure financing district to impose an assessment on property within the district and to issue assessment bonds to finance infrastructure within the district;
- authorizes specified local entities to provide for a longer installment payment period for assessments imposed in an assessment area;
- provides for the district to have bonding authority, with limitations;
- authorizes the district to levy a property tax;
- requires a district to provide proof to a county or municipality that an assessment bond has been paid in full on residential property before the county or municipality may conduct a final inspection before issuing a certificate of occupancy;
- provides for the annexation of an area to an infrastructure financing district, the withdrawal of an area from a district, and for dissolution of a district;
- authorizes sponsors of a petition to create an infrastructure financing district to create a governing document with provisions that govern the district, including providing for board membership and the transition from appointed board positions to elected board positions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2023, Chapter 478
11-42-102, as last amended by Laws of Utah 2023, Chapter 16
11-42-106, as last amended by Laws of Utah 2021, Chapters 314, 415
11-42-201, as last amended by Laws of Utah 2021, Chapter 314
11-42-202, as last amended by Laws of Utah 2023, Chapter 435
11-42-411, as last amended by Laws of Utah 2021, Chapters 314, 415
17-27a-508, as last amended by Laws of Utah 2023, Chapter 478
17B-1-102, as last amended by Laws of Utah 2023, Chapter 15
17B-1-103, as last amended by Laws of Utah 2023, Chapter 15
17B-1-105, as last amended by Laws of Utah 2023, Chapter 15
17B-1-201, as last amended by Laws of Utah 2023, Chapter 15
17B-1-202, as last amended by Laws of Utah 2023, Chapter 15
17B-1-203, as last amended by Laws of Utah 2023, Chapter 15
17B-1-204, as last amended by Laws of Utah 2023, Chapter 15
17B-1-205, as last amended by Laws of Utah 2023, Chapters 15, 116
17B-1-208, as last amended by Laws of Utah 2023, Chapter 15
17B-1-209, as last amended by Laws of Utah 2023, Chapters 15, 116
17B-1-210, as last amended by Laws of Utah 2023, Chapter 15
17B-1-211, as last amended by Laws of Utah 2023, Chapters 15, 435
17B-1-213, as last amended by Laws of Utah 2023, Chapter 15
17B-1-214, as last amended by Laws of Utah 2023, Chapter 15
17B-1-215, as last amended by Laws of Utah 2023, Chapter 15
17B-1-216, as last amended by Laws of Utah 2023, Chapter 15
17B-1-302, as last amended by Laws of Utah 2023, Chapters 15, 100
17B-1-303, as last amended by Laws of Utah 2023, Chapter 15
17B-1-306.5, as last amended by Laws of Utah 2023, Chapter 15
17B-1-403, as last amended by Laws of Utah 2023, Chapter 15
17B-1-404, as last amended by Laws of Utah 2023, Chapter 15
17B-1-405, as last amended by Laws of Utah 2023, Chapter 15
17B-1-406, as last amended by Laws of Utah 2023, Chapter 15
17B-1-407, as last amended by Laws of Utah 2023, Chapter 15
17B-1-408, as last amended by Laws of Utah 2023, Chapter 15
17B-1-409, as last amended by Laws of Utah 2023, Chapter 15
17B-1-411, as last amended by Laws of Utah 2023, Chapter 15
17B-1-413, as last amended by Laws of Utah 2023, Chapters 15, 435
17B-1-414, as last amended by Laws of Utah 2023, Chapter 15
17B-1-504, as last amended by Laws of Utah 2023, Chapter 15

17B-1-506, as last amended by Laws of Utah 2023, Chapters 15, 116
17B-1-511, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1001, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1002, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1302, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1303, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1310, as last amended by Laws of Utah 2023, Chapter 15
17B-1-1402, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-404, as last amended by Laws of Utah 2018, Chapter 112
17B-2a-405, as last amended by Laws of Utah 2017, Chapter 112
17B-2a-407, as enacted by Laws of Utah 2023, Chapter 15 and further amended by Revisor Instructions, Laws of Utah 2023, Chapter 16
17B-2a-604, as last amended by Laws of Utah 2018, Chapter 112
17B-2a-704, as last amended by Laws of Utah 2019, Chapter 40
17B-2a-905, as last amended by Laws of Utah 2019, Chapter 108
20A-1-512, as last amended by Laws of Utah 2023, Chapters 15, 435
52-4-207, as last amended by Laws of Utah 2023, Chapter 100
67-1a-6.5, as last amended by Laws of Utah 2023, Chapter 16

ENACTS:
17B-1-219, Utah Code Annotated 1953
17B-1-405.5, Utah Code Annotated 1953
17B-2a-1301, Utah Code Annotated 1953
17B-2a-1302, Utah Code Annotated 1953
17B-2a-1303, Utah Code Annotated 1953
17B-2a-1304, Utah Code Annotated 1953
17B-2a-1305, Utah Code Annotated 1953
17B-2a-1306, Utah Code Annotated 1953
17B-2a-1307, Utah Code Annotated 1953

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

Section 1. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

(h) Except as provided in Subsection (1)(i) or (j), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(j) A municipality may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the municipality that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 2. Section 11-42-102 is amended to read:

11-42-102. Definitions.

(1) As used in this chapter:

(a) "Adequate protests" means, for all proposed assessment areas except sewer assessment areas, timely filed, written protests under Section 11-42-203 that represent at least 40% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating:

(i) protests relating to:

(A) property that has been deleted from a proposed assessment area; or

(B) an improvement that has been deleted from the proposed improvements to be provided to property within the proposed assessment area; and

(ii) protests that have been withdrawn under Subsection 11-42-203(3).

(b) "Adequate protests" means, for a proposed sewer assessment area, timely filed, written protests under Section 11-42-203 that represent at least 70% of the frontage, area, taxable value, fair market value, lots, number of connections, or equivalent residential units of the property proposed to be assessed, according to the same assessment method by which the assessment is proposed to be levied, after eliminating adequate protests under Subsection (1)(a).

(2) "Assessment area" means an area, or, if more than one area is designated, the aggregate of all

areas within a local entity's jurisdictional boundaries that is designated by a local entity under Part 2, Designating an Assessment Area, for the purpose of financing the costs of improvements, operation and maintenance, or economic promotion activities that benefit property within the area.

(3) "Assessment bonds" means bonds that are:

(a) issued under Section 11-42-605; and

(b) payable in part or in whole from assessments levied in an assessment area, improvement revenues, and a guaranty fund or reserve fund.

(4) "Assessment fund" means a special fund that a local entity establishes under Section 11-42-412.

(5) "Assessment lien" means a lien on property within an assessment area that arises from the levy of an assessment, as provided in Section 11-42-501.

(6) "Assessment method" means the method:

(a) by which an assessment is levied against benefitted property, whether by frontage, area, taxable value, fair market value, lot, parcel, number of connections, equivalent residential unit, any combination of these methods, or any other method; and

(b) that, when applied to a benefitted property, accounts for an assessment that meets the requirements of Section 11-42-409.

(7) "Assessment ordinance" means an ordinance adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(8) "Assessment resolution" means a resolution adopted by a local entity under Section 11-42-404 that levies an assessment on benefitted property within an assessment area.

(9) "Benefitted property" means property within an assessment area that directly or indirectly benefits from improvements, operation and maintenance, or economic promotion activities.

(10) "Bond anticipation notes" means notes issued under Section 11-42-602 in anticipation of the issuance of assessment bonds.

(11) "Bonds" means assessment bonds and refunding assessment bonds.

(12) "Commercial area" means an area in which at least 75% of the property is devoted to the interchange of goods or commodities.

(13)(a) "Commercial or industrial real property" means real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) industrial;

(iv) manufacturing;

(v) governmental;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes real property that:

(i) is used as or held for dwelling purposes; and

(ii) contains more than four rental units.

(14) "Connection fee" means a fee charged by a local entity to pay for the costs of connecting property to a publicly owned sewer, storm drainage, water, gas, communications, or electrical system, whether or not improvements are installed on the property.

(15) "Contract price" means:

(a) the cost of acquiring an improvement, if the improvement is acquired; or

(b) the amount payable to one or more contractors for the design, engineering, inspection, and construction of an improvement.

(16) "Designation ordinance" means an ordinance adopted by a local entity under Section 11-42-206 designating an assessment area.

(17) "Designation resolution" means a resolution adopted by a local entity under Section 11-42-206 designating an assessment area.

(18) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

(19) "Economic promotion activities" means activities that promote economic growth in a commercial area of a local entity, including:

(a) sponsoring festivals and markets;

(b) promoting business investment or activities;

(c) helping to coordinate public and private actions; and

(d) developing and issuing publications designed to improve the economic well-being of the commercial area.

(20) "Environmental remediation activity" means a surface or subsurface enhancement, effort, cost, initial or ongoing maintenance expense, facility, installation, system, earth movement, or change to grade or elevation that improves the use, function, aesthetics, or environmental condition of publicly owned property.

(21) "Equivalent residential unit" means a dwelling, unit, or development that is equal to a single-family residence in terms of the nature of its use or impact on an improvement to be provided in the assessment area.

(22) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301;

(d) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102; and

(f) for a public infrastructure district, the board of the public infrastructure district as defined in Section 17D-4-102.

(23) "Guaranty fund" means the fund established by a local entity under Section 11-42-701.

(24) "Improved property" means property upon which a residential, commercial, or other building has been built.

(25) "Improvement":

(a)(i) means a publicly owned infrastructure, facility, system, or environmental remediation activity that:

(A) a local entity is authorized to provide or finance;

(B) the governing body of a local entity determines is necessary or convenient to enable the local entity to provide a service that the local entity is authorized to provide; or

(C) a local entity is requested to provide through an interlocal agreement in accordance with Chapter 13, Interlocal Cooperation Act; and

(ii) includes facilities in an assessment area, including a private driveway, an irrigation ditch, and a water turnout, that:

(A) can be conveniently installed at the same time as an infrastructure, system, or other facility described in Subsection (25)(a)(i); and

(B) are requested by a property owner on whose property or for whose benefit the infrastructure, system, or other facility is being installed; or

(b) for a special district created to assess groundwater rights in accordance with Section 17B-1-202, means a system or plan to regulate groundwater withdrawals within a specific groundwater basin in accordance with Sections 17B-1-202 and 73-5-15.

(26) "Improvement revenues":

(a) means charges, fees, impact fees, or other revenues that a local entity receives from improvements; and

(b) does not include revenue from assessments.

(27) "Incidental refunding costs" means any costs of issuing refunding assessment bonds and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bonds and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of refunding assessment bonds; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bonds.

(28) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(29) "Interim warrant" means a warrant issued by a local entity under Section 11-42-601.

(30) "Jurisdictional boundaries" means:

(a) for a county, the boundaries of the unincorporated area of the county; and

(b) for each other local entity, the boundaries of the local entity.

(31) "Local entity" means:

(a) a county, city, town, special service district, or special district;

(b) an interlocal entity as defined in Section 11-13-103;

(c) the military installation development authority, created in Section 63H-1-201;

(d) a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, including a public infrastructure district created by a development authority;

(e) the Utah Inland Port Authority, created in Section 11-58-201; or

(f) any other political subdivision of the state.

(32) "Local entity obligations" means assessment bonds, refunding assessment bonds, interim warrants, and bond anticipation notes issued by a local entity.

(33) "Mailing address" means:

(a) a property owner's last-known address using the name and address appearing on the last completed real property assessment roll of the county in which the property is located; and

(b) if the property is improved property:

(i) the property's street number; or

(ii) the post office box, rural route number, or other mailing address of the property, if a street number has not been assigned.

(34) "Net improvement revenues" means all improvement revenues that a local entity has received since the last installment payment date, less all amounts payable by the local entity from those improvement revenues for operation and maintenance costs.

(35) "Operation and maintenance costs":

(a) means the costs that a local entity incurs in operating and maintaining improvements in an assessment area, whether or not those improvements have been financed under this chapter; and

(b) includes service charges, administrative costs, ongoing maintenance charges, and tariffs or other charges for electrical, water, gas, or other utility usage.

(36) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred by a local entity in connection with an assessment area for appraisals, legal fees, filing fees, financial advisory charges, underwriting fees, placement fees, escrow, trustee, and paying agent fees, publishing and mailing costs, costs of levying an assessment, recording costs, and all other incidental costs.

(37) "Prior assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(38) "Prior assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(39) "Prior bonds" means the assessment bonds that are refunded in part or in whole by refunding assessment bonds.

(40) "Project engineer" means the surveyor or engineer employed by or the private consulting engineer engaged by a local entity to perform the necessary engineering services for and to supervise the construction or installation of the improvements.

(41) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(42) "Property price" means the price at which a local entity purchases or acquires by eminent domain property to make improvements in an assessment area.

(43) "Provide" or "providing," with reference to an improvement, includes the acquisition, construction, reconstruction, renovation, maintenance, repair, operation, and expansion of an improvement.

(44) "Public agency" means:

(a) the state or any agency, department, or division of the state; and

(b) a political subdivision of the state.

(45) "Reduced payment obligation" means the full obligation of an owner of property within an assessment area to pay an assessment levied on the property after the assessment has been reduced because of the issuance of refunding assessment bonds, as provided in Section 11-42-608.

(46) "Refunding assessment bonds" means assessment bonds that a local entity issues under Section 11-42-607 to refund, in part or in whole, assessment bonds.

(47) "Reserve fund" means a fund established by a local entity under Section 11-42-702.

(48) "Service" means:

(a) water, sewer, storm drainage, garbage collection, library, recreation, communications, or electric service;

(b) economic promotion activities; or

(c) any other service that a local entity is required or authorized to provide.

(49)(a) "Sewer assessment area" means an assessment area that has as the assessment area's primary purpose the financing and funding of public improvements to provide sewer service where there is, in the opinion of the local board of health, substantial evidence of septic system failure in the defined area due to inadequate soils, high water table, or other factors proven to cause failure.

(b) "Sewer assessment area" does not include property otherwise located within the assessment area:

(i) on which an approved conventional or advanced wastewater system has been installed during the previous five calendar years;

(ii) for which the local health department has inspected the system described in Subsection (49)(b)(i) to ensure that the system is functioning properly; and

(iii) for which the property owner opts out of the proposed assessment area for the earlier of a period of 10 calendar years or until failure of the system described in Subsection (49)(b)(i).

(50) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(51) "Special service district" means the same as that term is defined in Section 17D-1-102.

(52) "Unassessed benefitted government property" means property that a local entity may not assess in accordance with Section 11-42-408 but is benefitted by an improvement, operation and maintenance, or economic promotion activities.

(53) "Unimproved property" means property upon which no residential, commercial, or other building has been built.

(54) "Voluntary assessment area" means an assessment area that contains only property whose owners have voluntarily consented to an assessment.

Section 3. Section 11-42-106 is amended to read:

11-42-106. Action to contest assessment or proceeding -- Requirements -- Exclusive remedy -- Bonds and assessment incontestable.

(1) A person who contests an assessment or any proceeding to designate an assessment area or levy an assessment may commence a civil action against the local entity to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2)(a) Each action under Subsection (1) shall be commenced in the district court with jurisdiction in the county in which the assessment area is located.

(b)(i) Except as provided in Subsection (2)(b)(ii), an action under Subsection (1) may not be commenced against and a summons relating to the action may not be served on the local entity more than 60 days after the effective date of the:

(A) designation resolution or designation ordinance, if the challenge is to the designation of an assessment area;

(B) assessment resolution or ordinance, if the challenge is to an assessment; or

(C) amended resolution or ordinance, if the challenge is to an amendment.

(ii) The period for commencing an action and serving a summons under Subsection (2)(b)(i) is 30 days if[~~ the designation resolution, assessment resolution, or amended resolution was~~]:

(A) the designation resolution, assessment resolution, or amended resolution was adopted by a development authority[~~, or~~], an infrastructure financing district under Title 17B, Chapter 2a, Part 13, Infrastructure Financing Districts, or a public infrastructure district created by a development authority under Title 17D, Chapter 4, Public Infrastructure District Act; and

(B) all owners of property within the assessment area or proposed assessment area consent in writing to the designation resolution, assessment resolution, or amended resolution.

(3)(a) An action under Subsection (1) is the exclusive remedy of a person who:

(i) claims an error or irregularity in an assessment or in any proceeding to designate an assessment area or levy an assessment; or

(ii) challenges a bondholder's right to repayment.

(b) A court may not hear any complaint under Subsection (1) that a person was authorized to make but did not make in a protest under Section 11-42-203 or at a hearing under Section 11-42-204.

(c)(i) If a person has not brought a claim for which the person was previously authorized to bring but is otherwise barred from making under Subsection (2)(b), the claim may not be brought later because of an amendment to the resolution or ordinance unless the claim arises from the amendment itself.

(ii) In an action brought pursuant to Subsection (1), a person may not contest a previous decision, proceeding, or determination for which the service deadline described in Subsection (2)(b) has expired by challenging a subsequent decision, proceeding, or determination.

(4) An assessment or a proceeding to designate an assessment area or to levy an assessment may not be declared invalid or set aside in part or in whole because of an error or irregularity that does not go to the equity or justice of the proceeding or the assessment meeting the requirements of Section 11-42-409.

(5) After the expiration of the period referred to in Subsection (2)(b):

(a) assessment bonds and refunding assessment bonds issued or to be issued with respect to an assessment area and assessments levied on property in the assessment area become at that time incontestable against all persons who have not commenced an action and served a summons as provided in this section; and

(b) a suit to enjoin the issuance or payment of assessment bonds or refunding assessment bonds, the levy, collection, or enforcement of an assessment, or to attack or question in any way the legality of assessment bonds, refunding assessment bonds, or an assessment may not be commenced, and a court may not inquire into those matters.

(6)(a) This section may not be interpreted to insulate a local entity from a claim of misuse of assessment funds after the expiration of the period described in Subsection (2)(b).

(b)(i) Except as provided in Subsection (6)(b)(ii), an action in the nature of mandamus is the sole form of relief available to a party challenging the misuse of assessment funds.

(ii) The limitation in Subsection (6)(b)(i) does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 4. Section 11-42-201 is amended to read:

11-42-201. Resolution or ordinance designating an assessment area --

Classifications within an assessment area -- Preconditions to adoption of a resolution or ordinance.

(1)(a) Subject to the requirements of this part, a governing body of a local entity intending to levy an assessment on property to pay some or all of the cost of providing or financing improvements benefitting the property, performing operation and maintenance benefitting the property, or conducting economic promotion activities benefitting the property shall adopt a resolution or ordinance designating an assessment area.

(b) A designation resolution or designation ordinance described in Subsection (1)(a) may divide the assessment area into multiple classifications to allow the governing body to:

(i) levy a different level of assessment; or

(ii) use a different assessment method in each classification to reflect more fairly the benefits that property within the different classifications is expected to receive because of the proposed improvement, operation and maintenance, or economic promotion activities.

(c) The boundaries of a proposed assessment area:

(i) may include property that is not intended to be assessed; and

(ii) except for an assessment area within a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act, or within an infrastructure financing district as defined in Section 17B-1-102, may not be coextensive or substantially coterminous with the boundaries of the local entity.

(d) The boundary of an assessment area proposed to be designated in an ordinance or resolution of an infrastructure financing district may not include an area that is, at the time of adoption of the ordinance or resolution, part of an assessment area designated under an ordinance or resolution previously adopted by the infrastructure financing district.

(2) Before adopting a designation resolution or designation ordinance described in Subsection (1)(a), the governing body of the local entity shall:

(a) give notice as provided in Section 11-42-202;

(b) receive and consider all protests filed under Section 11-42-203; and

(c) hold a public hearing as provided in Section 11-42-204.

Section 5. Section 11-42-202 is amended to read:

11-42-202. Requirements applicable to a notice of a proposed assessment area designation -- Notice.

(1) Each notice required under Subsection 11-42-201(2)(a) shall:

(a) state that the local entity proposes to:

(i) designate one or more areas within the local entity's jurisdictional boundaries as an assessment area; and

(ii)(A) provide an improvement to property within the proposed assessment area[~~;~~] and

[~~(iii)~~] finance some or all of the cost of improvements by an assessment on benefitted property within the assessment area; or

(B) finance improvements to property through an assessment on benefitted property within the assessment area;

(b) describe the proposed assessment area by any reasonable method that allows an owner of property in the proposed assessment area to determine that the owner's property is within the proposed assessment area;

(c) describe, in a general and reasonably accurate way, the improvements to be provided to the assessment area, including:

(i) the nature of the improvements; and

(ii) the location of the improvements, by reference to streets or portions or extensions of streets or by any other means that the governing body chooses that reasonably describes the general location of the improvements;

(d) state the estimated cost of the improvements as determined by a project engineer;

(e) for the notice mailed under Subsection (4), state the estimated total assessment specific to the benefitted property for which the notice is mailed;

(f) state that the local entity proposes to levy an assessment on benefitted property within the assessment area to pay some or all of the cost of the improvements according to the estimated benefits to the property from the improvements;

(g) if applicable, state that an unassessed benefitted government property will receive improvements for which the cost will be allocated proportionately to the remaining benefitted properties within the proposed assessment area and that a description of each unassessed benefitted government property is available for public review at the location or website described in Subsection (6);

(h) state the assessment method by which the governing body proposes to calculate the proposed assessment, including, if the local entity is a municipality or county, whether the assessment will be collected:

(i) by directly billing a property owner; or

(ii) by inclusion on a property tax notice issued in accordance with Section 59-2-1317 and in compliance with Section 11-42-401;

(i) state:

(i) the date described in Section 11-42-203 and the location at which protests against designation of the proposed assessment area or of the proposed improvements are required to be filed;

(ii) the method by which the governing body will determine the number of protests required to defeat the designation of the proposed assessment area or acquisition or construction of the proposed improvements; and

(iii) in large, boldface, and conspicuous type that a property owner must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed improvements, operation and maintenance costs, or economic promotion activities;

(j) state the date, time, and place of the public hearing required in Section 11-42-204;

(k) if the governing body elects to create and fund a reserve fund under Section 11-42-702, include a description of:

(i) how the reserve fund will be funded and replenished; and

(ii) how remaining money in the reserve fund is to be disbursed upon full payment of the bonds;

(l) if the governing body intends to designate a voluntary assessment area, include a property owner consent form that:

(i) estimates the total assessment to be levied against the particular parcel of property;

(ii) describes any additional benefits that the governing body expects the assessed property to receive from the improvements;

(iii) designates the date and time by which the fully executed consent form is required to be submitted to the governing body; and

(iv) if the governing body intends to enforce an assessment lien on the property in accordance with Subsection 11-42-502.1(2)(a)(ii)(C):

(A) appoints a trustee that satisfies the requirements described in Section 57-1-21;

(B) gives the trustee the power of sale;

(C) is binding on the property owner and all successors; and

(D) explains that if an assessment or an installment of an assessment is not paid when due, the local entity may sell the property owner's property to satisfy the amount due plus interest, penalties, and costs, in the manner described in Title 57, Chapter 1, Conveyances;

(m) if the local entity intends to levy an assessment to pay operation and maintenance costs or for economic promotion activities, include:

(i) a description of the operation and maintenance costs or economic promotion activities to be paid by assessments and the initial estimated annual assessment to be levied;

(ii) a description of how the estimated assessment will be determined;

(iii) a description of how and when the governing body will adjust the assessment to reflect the costs of:

(A) in accordance with Section 11-42-406, current economic promotion activities; or

(B) current operation and maintenance costs;

(iv) a description of the method of assessment if different from the method of assessment to be used for financing any improvement; and

(v) a statement of the maximum number of years over which the assessment will be levied for:

(A) operation and maintenance costs; or

(B) economic promotion activities;

(n) if the governing body intends to divide the proposed assessment area into classifications under Subsection 11-42-201(1)(b), include a description of the proposed classifications;

(o) if applicable, state the portion and value of the improvement that will be increased in size or capacity to serve property outside of the assessment area and how the increases will be financed; and

(p) state whether the improvements will be financed with a bond and, if so, the currently estimated interest rate and term of financing, subject to Subsection (2), for which the benefitted properties within the assessment area may be obligated.

(2) The estimated interest rate and term of financing in Subsection (1)(p) may not be interpreted as a limitation to the actual interest rate incurred or the actual term of financing as subject to the market rate at the time of the issuance of the bond.

(3) A notice required under Subsection 11-42-201(2)(a) may contain other information that the governing body considers to be appropriate, including:

(a) the amount or proportion of the cost of the improvement to be paid by the local entity or from sources other than an assessment;

(b) the estimated total amount of each type of assessment for the various improvements to be financed according to the method of assessment that the governing body chooses; and

(c) provisions for any improvements described in Subsection 11-42-102(25)(a)(ii).

(4) Each notice required under Subsection 11-42-201(2)(a) shall be published for the governing body's jurisdiction, as a class B notice under Section 63G-30-102, for at least 20 days, but not more than 35 days, before the day of the hearing required in Section 11-42-204.

(5)(a) The local entity may record the version of the notice that is published or posted in accordance with Subsection (4) with the office of the county recorder, by legal description and tax identification number as identified in county records, against the property proposed to be assessed.

(b) The notice recorded under Subsection (5)(a) expires and is no longer valid one year after the day on which the local entity records the notice if the local entity has failed to adopt the designation ordinance or resolution under Section 11-42-201 designating the assessment area for which the notice was recorded.

(6) A local entity shall make available on the local entity's website, or, if no website is available, at the local entity's place of business, the address and type of use of each unassessed benefitted government property described in Subsection (1)(g).

(7) If a governing body fails to provide actual or constructive notice under this section, the local entity may not assess a levy against a benefitted property omitted from the notice unless:

(a) the property owner gives written consent;

(b) the property owner received notice under Subsection 11-42-401(2)(a)(iii) and did not object to the levy of the assessment before the final hearing of the board of equalization; or

(c) the benefitted property is conveyed to a subsequent purchaser and, before the date of conveyance, the requirements of Subsections 11-42-206(3)(a)(i) and (ii), or, if applicable, Subsection 11-42-207(1)(d)(i) are met.

Section 6. Section 11-42-411 is amended to read:

11-42-411. Installment payment of assessments.

(1)(a) In an assessment resolution or ordinance, the governing body may, subject to Subsection (1)(b), provide that some or all of the assessment be paid in installments over a period:

(i) not to exceed 20 years from the effective date of the resolution or ordinance, except as provided in Subsection (1)(a)(ii); or

(ii) not to exceed 30 years from the effective date of the resolution, for a resolution adopted by:

(A) a development authority; [~~or~~]

(B) an infrastructure financing district under Title 17B, Chapter 2a, Part 13, Infrastructure Financing Districts;

[~~(B)~~](C) a public infrastructure district created by a development authority under Title 17D, Chapter 4, Public Infrastructure District Act[~~.~~]; or

(D) any other local entity, if the resolution is adopted with the consent of all owners of surface property within the assessment area.

(b) If an assessment resolution or ordinance provides that some or all of the assessment be paid in installments for a period exceeding 10 years from the effective date of the resolution or ordinance, the governing body:

(i) shall make a determination that:

(A) the improvement for which the assessment is made has a reasonable useful life for the full period during which installments are to be paid; or

(B) it would be in the best interests of the local entity and the property owners for installments to be paid for more than 10 years; and

(ii) may provide in the resolution or ordinance that no assessment is payable during some or all of the period ending three years after the effective date of the resolution or ordinance.

(2) An assessment resolution or ordinance that provides for the assessment to be paid in installments may provide that the unpaid balance be paid over the period of time that installments are payable:

(a) in substantially equal installments of principal; or

(b) in substantially equal installments of principal and interest.

(3)(a) Each assessment resolution or ordinance that provides for the assessment to be paid in installments shall, subject to Subsections (3)(b) and (c), provide that the unpaid balance of the assessment bear interest at a fixed rate, variable rate, or a combination of fixed and variable rates, as determined by the governing body, from the effective date of the resolution or ordinance or another date specified in the resolution or ordinance.

(b) If the assessment is for operation and maintenance costs or for the costs of economic promotion activities:

(i) a local entity may charge interest only from the date each installment is due; and

(ii) the first installment of an assessment shall be due 15 days after the effective date of the assessment resolution or ordinance.

(c) If an assessment resolution or ordinance provides for the unpaid balance of the assessment to bear interest at a variable rate, the assessment resolution or ordinance shall specify:

(i) the basis upon which the rate is to be determined from time to time;

(ii) the manner in which and schedule upon which the rate is to be adjusted; and

(iii) a maximum rate that the assessment may bear.

(4) Interest payable on assessments may include:

(a) interest on assessment bonds;

(b) ongoing local entity costs incurred for administration of the assessment area; and

(c) any costs incurred with respect to:

(i) securing a letter of credit or other instrument to secure payment or repurchase of bonds; or

(ii) retaining a marketing agent or an indexing agent.

(5) Interest imposed in an assessment resolution or ordinance shall be paid in addition to the amount

of each installment annually or at more frequent intervals as provided in the assessment resolution or ordinance.

(6)(a) Except for an assessment for operation and maintenance costs or for the costs of economic promotion activities, a property owner may pay some or all of the entire assessment without interest if paid within 25 days after the assessment resolution or ordinance takes effect.

(b) After the 25-day period stated in Subsection (6)(a), a property owner may at any time prepay some or all of the assessment levied against the owner's property.

(c) A local entity may require a prepayment of an installment to include:

(i) an amount equal to the interest that would accrue on the assessment to the next date on which interest is payable on bonds issued in anticipation of the collection of the assessment; and

(ii) the amount necessary, in the governing body's opinion or the opinion of the officer designated by the governing body, to assure the availability of money to pay:

(A) interest that becomes due and payable on those bonds; and

(B) any premiums that become payable on bonds that are called in order to use the money from the prepaid assessment installment.

Section 7. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection [~~17-27a-508(1)(a)(ii)~~] (1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

(g) Except as provided in Subsection (1)(h) or (i), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(i) A county may not conduct a final inspection required before issuing a certificate of occupancy for a residential unit that is within the boundary of an infrastructure financing district, as defined in Section 17B-1-102, until the applicant for the certificate of occupancy provides adequate proof to the county that any lien on the unit arising from the infrastructure financing district's assessment against the unit under Title 11, Chapter 42, Assessment Area Act, has been released after payment in full of the infrastructure financing district's assessment against that unit.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 8. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic special district":

(a) means a special district that is not a specialized special district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a special district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility,

landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short- term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a special district may provide a service requested by a service applicant; and

(c) that is offered to a special district to induce the special district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a special district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Infrastructure financing district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 13, Infrastructure Financing Districts.

[~~(12)~~](13) "Irrigation district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

[~~(13)~~](14) "Metropolitan water district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

[~~(14)~~](15) "Mosquito abatement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

[~~(15)~~](16) "Municipal" means of or relating to a municipality.

[~~(16)~~](17) "Municipality" means a city, town, or metro township.

[~~(17)~~](18) "Municipal services district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

[~~(18)~~](19) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

[~~(19)~~](20) "Political subdivision" means a county, city, town, metro township, special district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

[~~(20)~~](21) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

[~~(21)~~](22) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

[~~(22)~~](23) "Public transit district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

[~~(23)~~](24) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the special district's ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

[~~(24)~~](25) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(25)~~](26) "Service applicant" means a person who requests that a special district provide a service that the special district is authorized to provide.

[~~(26)~~](27) "Service area" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

[~~(27)~~](28) "Short- term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

[~~(28)~~](29) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

[~~(29)~~](30) "Special assessment bond" means a bond payable from special assessments.

[~~(30)~~](31) "Special district" means a limited purpose local government entity, as described in Section 17B- 1- 103, that operates under, is subject to, and has the powers described in:

(a) this chapter; or

(b)(i) this chapter; and

(ii)(A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; [~~or~~]

(K) Chapter 2a, Part 11, Municipal Services District Act[~~.~~]; or

(L) Chapter 2a, Part 13, Infrastructure Financing Districts.

[~~(31)~~](32) "Specialized special district" means a special district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district[~~, or a public infrastructure district~~], or an infrastructure financing district.

[~~(32)~~](33) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

[~~(33)~~](34) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

[~~(34)~~](35) "Unincorporated" means not included within a municipality.

[~~(35)~~](36) "Water conservancy district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

[~~(36)~~](37) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a special district.

Section 9. Section 17B- 1- 103 is amended to read:

17B- 1- 103. Special district status and powers -- Registration as a limited purpose entity.

(1) A special district:

(a) is:

(i) a body corporate and politic with perpetual succession;

(ii) a quasi- municipal corporation; [~~and~~]

(iii) a political subdivision of the state; and

(iv) separate and distinct from and independent of any other political subdivision of the state; and

(b) may sue and be sued.

(2) A special district may:

(a) acquire, by any lawful means, or lease any real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(b) acquire, by any lawful means, any interest in real property, personal property, or a groundwater right necessary or convenient to the full exercise of the district's powers;

(c) transfer an interest in or dispose of any property or interest described in Subsections (2)(a) and (b);

(d) acquire or construct works, facilities, and improvements necessary or convenient to the full exercise of the district's powers, and operate, control, maintain, and use those works, facilities, and improvements;

(e) borrow money and incur indebtedness for any lawful district purpose;

(f) issue bonds, including refunding bonds:

(i) for any lawful district purpose; and

(ii) as provided in and subject to Part 11, Special District Bonds;

(g) levy and collect property taxes:

(i) for any lawful district purpose or expenditure, including to cover a deficit resulting from tax delinquencies in a preceding year; and

(ii) as provided in and subject to Part 10, Special District Property Tax Levy;

(h) as provided in Title 78B, Chapter 6, Part 5, Eminent Domain, acquire by eminent domain property necessary to the exercise of the district's powers;

(i) invest money as provided in Title 51, Chapter 7, State Money Management Act;

(j)(i) impose fees or other charges for commodities, services, or facilities provided by the district, to pay some or all of the district's costs of providing the commodities, services, and facilities, including the costs of:

(A) maintaining and operating the district;

(B) acquiring, purchasing, constructing, improving, or enlarging district facilities;

(C) issuing bonds and paying debt service on district bonds; and

(D) providing a reserve established by the board of trustees; and

(ii) take action the board of trustees considers appropriate and adopt regulations to assure the collection of all fees and charges that the district imposes;

(k) if applicable, charge and collect a fee to pay for the cost of connecting a customer's property to district facilities in order for the district to provide service to the property;

(l) enter into a contract that the special district board of trustees considers necessary, convenient, or desirable to carry out the district's purposes, including a contract:

(i) with the United States or any department or agency of the United States;

(ii) to indemnify and save harmless; or

(iii) to do any act to exercise district powers;

(m) purchase supplies, equipment, and materials;

(n) encumber district property upon terms and conditions that the board of trustees considers appropriate;

(o) exercise other powers and perform other functions that are provided by law;

(p) construct and maintain works and establish and maintain facilities, including works or facilities:

(i) across or along any public street or highway, subject to Subsection (3) and if the district:

(A) promptly restores the street or highway, as much as practicable, to its former state of usefulness; and

(B) does not use the street or highway in a manner that completely or unnecessarily impairs the usefulness of it;

(ii) in, upon, or over any vacant public lands that are or become the property of the state, including school and institutional trust lands, as defined in Section 53C-1-103, if the director of the School and Institutional Trust Lands Administration, acting under Sections 53C-1-102 and 53C-1-303, consents; or

(iii) across any stream of water or watercourse, subject to Section 73-3-29;

(q) perform any act or exercise any power reasonably necessary for the efficient operation of the special district in carrying out its purposes;

(r)(i) except for a special district described in Subsection (2)(r)(ii), designate an assessment area and levy an assessment on land within the assessment area, as provided in Title 11, Chapter 42, Assessment Area Act; or

(ii) for a special district created to assess a groundwater right in a critical management area described in Subsection 17B-1-202(1), designate an assessment area and levy an assessment, as provided in Title 11, Chapter 42, Assessment Area Act, on a groundwater right to facilitate a groundwater management plan;

(s) contract with another political subdivision of the state to allow the other political subdivision to use the district's surplus water or capacity or have an ownership interest in the district's works or facilities, upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public;

(t) upon the terms and for the consideration, whether monetary or nonmonetary consideration or no consideration, that the district's board of trustees considers to be in the best interests of the district and the public, agree:

(i)(A) with another political subdivision of the state; or

(B) with a public or private owner of property on which the district has a right-of-way or adjacent to which the district owns fee title to property; and

(ii) to allow the use of property:

(A) owned by the district; or

(B) on which the district has a right-of-way; and

(u) if the special district receives, as determined by the special district board of trustees, adequate monetary or nonmonetary consideration in return:

(i) provide services or nonmonetary assistance to a nonprofit entity;

(ii) waive fees required to be paid by a nonprofit entity; or

(iii) provide monetary assistance to a nonprofit entity, whether from the special district's own funds or from funds the special district receives from the state or any other source.

(3) With respect to a special district's use of a street or highway, as provided in Subsection (2)(p)(i):

(a) the district shall comply with the reasonable rules and regulations of the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway, concerning:

(i) an excavation and the refilling of an excavation;

(ii) the relaying of pavement; and

(iii) the protection of the public during a construction period; and

(b) the governmental entity, whether state, county, or municipal, with jurisdiction over the street or highway:

(i) may not require the district to pay a license or permit fee or file a bond; and

(ii) may require the district to pay a reasonable inspection fee.

(4)(a) A special district may:

(i) acquire, lease, or construct and operate electrical generation, transmission, and distribution facilities, if:

(A) the purpose of the facilities is to harness energy that results inherently from the district's operation of a project or facilities that the district is authorized to operate or from the district providing a service that the district is authorized to provide;

(B) the generation of electricity from the facilities is incidental to the primary operations of the district; and

(C) operation of the facilities will not hinder or interfere with the primary operations of the district;

(ii)(A) use electricity generated by the facilities; or

(B) subject to Subsection (4)(b), sell electricity generated by the facilities to an electric utility or municipality with an existing system for distributing electricity.

(b) A district may not act as a retail distributor or seller of electricity.

(c) Revenue that a district receives from the sale of electricity from electrical generation facilities it owns or operates under this section may be used for any lawful district purpose, including the payment of bonds issued to pay some or all of the cost of acquiring or constructing the facilities.

(5) A special district may adopt and, after adoption, alter a corporate seal.

(6)(a) Each special district shall register and maintain the special district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A special district that fails to comply with Subsection (6)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

(7)(a) As used in this Subsection (7), "knife" means a cutting instrument that includes a sharpened or pointed blade.

(b) The authority to regulate a knife is reserved to the state except where the Legislature specifically delegates responsibility to a special district.

(c) Unless specifically authorized by the Legislature by statute, a special district may not adopt or enforce a regulation or rule pertaining to a knife.

Section 10. Section 17B-1-105 is amended to read:

17B-1-105. Name of special district -- Name change.

(1)(a) The name of each special district created on or after May 1, 2000 shall comply with Subsection 17-50-103(2)(a).

(b) The board of each special district affected by Subsection 17-50-103(2)(b) shall ensure that after January 1, 2005 the special district name complies with the requirements of Subsection 17-50-103(2)(b).

(2) The name of a special district created after April 30, 2007 may not include the name of a county or municipality.

(3) The name of a special district may include words descriptive of the type of service that the district provides.

(4) The name of an infrastructure financing district shall comply with Subsection 17B-1-208(1)(b)(ii).

[~~(4)~~](5)(a) A special district board may change the name of that special district as provided in this Subsection [~~(4)~~](5).

(b) To initiate a name change, the special district board shall:

(i) hold a public hearing on the proposed name change;

(ii) adopt a resolution approving the name change; and

(iii) file with the lieutenant governor a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(c) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the special district board shall:

(i) if the special district is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending name change; and

(II) certificate of name change; and

(B) a certified copy of the resolution approving the name change; or

(ii) if the special district is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections [~~(4)(c)(i)(A)(I)~~](5)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsections [~~(4)(c)(i)(A)(I)~~](5)(c)(i)(A)(I) and (II); and

(II) a certified copy of the resolution approving the name change.

(d)(i) A name change under this Subsection [~~(4)~~](5) becomes effective upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7.

(ii) Notwithstanding Subsection [~~(4)(d)(i)~~](5)(d)(i), the special district may not operate under the new name until the documents listed in Subsection [~~(4)(c)~~](5)(c) are recorded in the office of the recorder of each county in which the special district is located.

Section 11. Section 17B-1-201 is amended to read:

17B-1-201. Definitions.

As used in this part:

(1) "Applicable area" means:

(a) for a county, the unincorporated area of the county that is included within the proposed special district; or

(b) for a municipality, the area of the municipality that is included within the proposed special district.

(2) "Governing body" means:

(a) for a county or municipality, the legislative body of the county or municipality; and

(b) for a special district, the board of trustees of the special district.

(3) "Groundwater right owner petition" means a petition under Subsection 17B-1-203(1)(c).

(4) "Groundwater right owner request" means a request under Section 17B-1-204 that is signed by owners of water rights as provided in Subsection 17B-1-204(2)(b)(ii).

(5) "Initiating special district" means a special district that adopts a resolution proposing the creation of a special district under Subsection [~~17B-1-203(1)(e)~~]17B-1-203(1)(f).

(6) "Petition" means a petition under Subsection 17B-1-203(1)(a), (b),[~~or~~] (c), or (d).

(7) "Property owner petition" means a petition under Subsection 17B-1-203(1)(a).

(8) "Property owner request" means a request under Section 17B-1-204 that is signed by owners of real property as provided in Subsection 17B-1-204(2)(b)(i).

(9) "Registered voter request" means a request under Section 17B-1-204 that is signed by registered voters as provided in Subsection 17B-1-204(2)(b)(iii).

(10) "Registered voter petition" means a petition under Subsection 17B-1-203(1)(b).

(11) "Request" means a request as described in Section 17B-1-204.

(12) "Responsible body" means the governing body of:

(a) the municipality in which the proposed special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single municipality;

(b) the county in which the proposed special district is located, if the petition or resolution proposes the creation of a special district located entirely within a single county and all or part of the proposed special district is located within:

(i) the unincorporated part of the county; or

(ii) more than one municipality within the county;

(c) if the petition or resolution proposes the creation of a special district located within more than one county, the county whose boundaries include more of the area of the proposed special district than is included within the boundaries of any other county; or

(d) the initiating special district, if a resolution proposing the creation of a special district is adopted under Subsection [~~17B-1-203(1)(e)~~] 17B-1-203(1)(f).

(13) "Responsible clerk" means:

(a) except as provided in Subsection (13)(b), the clerk of the county or the clerk or recorder of the municipality whose legislative body is the responsible body; or

(b) for the proposed creation of an infrastructure financing district, the clerk of the county in which the majority of the acreage within the boundary of the proposed infrastructure financing district is located.

Section 12. Section 17B-1-202 is amended to read:

17B-1-202. Special district may be created -- Services that may be provided -- Limitations.

(1)(a) A special district may be created as provided in this part to provide within its boundaries service consisting of:

(i) the operation of an airport;

(ii) the operation of a cemetery;

(iii) fire protection, paramedic, and emergency services, including consolidated 911 and emergency dispatch services;

(iv) garbage collection and disposal;

(v) health care, including health department or hospital service;

(vi) the operation of a library;

(vii) abatement or control of mosquitos and other insects;

(viii) the operation of parks or recreation facilities or services;

(ix) the operation of a sewage system;

(x) the construction and maintenance of a right-of-way, including:

(A) a curb;

(B) a gutter;

(C) a sidewalk;

(D) a street;

(E) a road;

(F) a water line;

(G) a sewage line;

(H) a storm drain;

(I) an electricity line;

(J) a communications line;

(K) a natural gas line; or

(L) street lighting;

(xi) transportation, including public transit and providing streets and roads;

(xii) the operation of a system, or one or more components of a system, for the collection, storage, retention, control, conservation, treatment, supplying, distribution, or reclamation of water, including storm, flood, sewage, irrigation, and culinary water, whether the system is operated on a wholesale or retail level or both;

(xiii) in accordance with Subsection (1)(c), the acquisition or assessment of a groundwater right for the development and execution of a groundwater management plan in cooperation with and approved by the state engineer in accordance with Section 73-5-15;

(xiv) law enforcement service;

(xv) subject to Subsection (1)(b), the underground installation of an electric utility line or the conversion to underground of an existing electric utility line;

(xvi) the control or abatement of earth movement or a landslide;

(xvii) the operation of animal control services and facilities; [~~or~~]

(xviii) an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act; or

(xix) the financing of infrastructure, as provided in Chapter 2a, Part 13, Infrastructure Financing Districts.

(b) Each special district that provides the service of the underground installation of an electric utility line or the conversion to underground of an existing electric utility line shall, in installing or converting the line, provide advance notice to and coordinate with the utility that owns the line.

(c) A groundwater management plan described in Subsection (1)(a)(xiii) may include the banking of groundwater rights by a special district in a critical management area as defined in Section 73-5-15 following the adoption of a groundwater management plan by the state engineer under Section 73-5-15.

(i) A special district may manage the groundwater rights it acquires under Subsection 17B-1-103(2)(a) or (b) consistent with the provisions of a groundwater management plan described in this Subsection (1)(c).

(ii) A groundwater right held by a special district to satisfy the provisions of a groundwater management plan is not subject to the forfeiture provisions of Section 73-1-4.

(iii)(A) A special district may divest itself of a groundwater right subject to a determination that the groundwater right is not required to facilitate the groundwater management plan described in this Subsection (1)(c).

(B) The groundwater right described in Subsection (1)(c)(iii)(A) is subject to Section 73-1-4 beginning on the date of divestiture.

(iv) Upon a determination by the state engineer that an area is no longer a critical management area as defined in Section 73-5-15, a groundwater right held by the special district is subject to Section 73-1-4.

(v) A special district created in accordance with Subsection (1)(a)(xiii) to develop and execute a groundwater management plan may hold or acquire a right to surface waters that are naturally tributary to the groundwater basin subject to the groundwater management plan if the surface waters are appropriated in accordance with Title 73, Water and Irrigation, and used in accordance with Title 73, Chapter 3b, Groundwater Recharge and Recovery Act.

(2) As used in this section:

(a) "Operation" means all activities involved in providing the indicated service including acquisition and ownership of property reasonably necessary to provide the indicated service and acquisition, construction, and maintenance of facilities and equipment reasonably necessary to provide the indicated service.

(b) "System" means the aggregate of interrelated components that combine together to provide the indicated service including, for a sewage system, collection and treatment.

(3)(a) A special district may not be created to provide and may not after its creation provide more than four of the services listed in Subsection (1).

(b) Subsection (3)(a) may not be construed to prohibit a special district from providing more than four services if, before April 30, 2007, the special district was authorized to provide those services.

(4)(a) Except as provided in Subsection (4)(b), a special district may not be created to provide and may not after its creation provide to an area the same service that may already be provided to that area by another political subdivision, unless the other political subdivision gives its written consent.

(b) For purposes of Subsection (4)(a), a special district does not provide the same service as another political subdivision if it operates a component of a system that is different from a component operated by another political subdivision but within the same:

(i) sewage system; or

(ii) water system.

(5)(a) Except for a special district in the creation of which an election is not required under Subsection 17B-1-214(3)(d), the area of a special district may include all or part of the unincorporated area of one or more counties and all or part of one or more municipalities.

(b) The area of a special district need not be contiguous.

(6) For a special district created before May 5, 2008, the authority to provide fire protection service also includes the authority to provide:

(a) paramedic service; and

(b) emergency service, including hazardous materials response service.

(7) A special district created before May 11, 2010, authorized to provide the construction and maintenance of curb, gutter, or sidewalk may provide a service described in Subsection (1)(a)(x) on or after May 11, 2010.

(8) A special district created before May 10, 2011, authorized to provide culinary, irrigation, sewage, or storm water services may provide a service described in Subsection (1)(a)(xii) on or after May 10, 2011.

(9) A special district may not be created under this chapter for two years after the date on which a special district is dissolved as provided in Section 17B-1-217 if the special district proposed for creation:

(a) provides the same or a substantially similar service as the dissolved special district; and

(b) is located in substantially the same area as the dissolved special district.

(10) An infrastructure financing district may not be created unless the estimated cost of the public infrastructure and improvements to be constructed within the boundary of the proposed infrastructure financing district exceeds $1,000,000, as certified under Subsection 17B-1-208(1)(c).

(11)(a) Except as provided in Subsection (11)(b), the inclusion of an area within an infrastructure financing district does not affect whether the area may be included within another special district.

(b) An infrastructure financing district may not include an area included within another infrastructure financing district.

Section 13. Section 17B-1-203 is amended to read:

17B-1-203. Process to initiate the creation of a special district -- Petition or resolution.

(1) The process to create a special district may be initiated by:

(a) unless the proposed special district is a special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of private real property that:

(i) is located within the proposed special district;

(ii) covers at least 33% of the total private land area within the proposed special district as a whole and within each applicable area;

(iii) is equal in value to at least 25% of the value of all private real property within the proposed special district as a whole and within each applicable area; and

(iv) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(b) subject to Section 17B-1-204, a petition that:

(i) is signed by registered voters residing within the proposed special district as a whole and within each applicable area, equal in number to at least 33% of the number of votes cast in the proposed

special district as a whole and in each applicable area, respectively, for the office of governor at the last regular general election prior to the filing of the petition; and

(ii) complies with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(c) if the proposed special district is a special district to acquire or assess a groundwater right under Section 17B-1-202, and subject to Section 17B-1-204, a petition signed by the owners of groundwater rights that:

(i) are diverted within the proposed special district;

(ii) cover at least 33% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special district as a whole and within each applicable area; and

(iii) comply with the requirements of Subsection 17B-1-205(1) and Section 17B-1-208;

(d) for the creation of an infrastructure financing district, a petition signed by 100% of the owners of surface property within the applicable area;

[~~(d)~~](e) a resolution proposing the creation of a special district, adopted by the legislative body of each county whose unincorporated area, whether in whole or in part, includes and each municipality whose boundaries include any of the proposed special district; or

[~~(e)~~](f) a resolution proposing the creation of a special district, adopted by the board of trustees of an existing special district whose boundaries completely encompass the proposed special district, if:

(i) the proposed special district is being created to provide one or more components of the same service that the initiating special district is authorized to provide; and

(ii) the initiating special district is not providing to the area of the proposed special district any of the components that the proposed special district is being created to provide.

(2)(a) Each resolution under Subsection [~~(1)(d) or (e)~~](1)(e) or (f) shall:

(i) describe the area proposed to be included in the proposed special district;

(ii) be accompanied by a map that shows the boundaries of the proposed special district;

(iii) describe the service proposed to be provided by the proposed special district;

(iv) if the resolution proposes the creation of a specialized special district, specify the type of specialized special district proposed to be created;

(v) explain the anticipated method of paying the costs of providing the proposed service;

(vi) state the estimated average financial impact on a household within the proposed special district;

(vii) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection [~~17B-1-302(4)~~]17B-1-302(8);

(viii) for a proposed basic special district:

(A) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(B) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(C) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(ix) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; and

(x) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(A) the county legislative body;

(B) appointed as provided in Section 17B-1-304; or

(C) elected as provided in Section 17B-1-306.

(b) Each county or municipal legislative body adopting a resolution under Subsection [~~(1)(d)~~](1)(e) shall, on or before the first public hearing under Section 17B-1-210, mail or deliver a copy of the resolution to the responsible body if the county or municipal legislative body's resolution is one of multiple resolutions adopted by multiple county or municipal legislative bodies proposing the creation of the same special district.

Section 14. Section 17B-1-204 is amended to read:

17B-1-204. Request for service required before filing of petition -- Request requirements.

(1) [~~A~~]Except for a petition for the creation of an infrastructure financing district, a petition may not be filed until after:

(a) a request has been filed with:

(i) the clerk of each county in whose unincorporated area any part of the proposed special district is located; and

(ii) the clerk or recorder of each municipality in which any part of the proposed special district is located; and

(b) each county and municipality with which a request under Subsection (1)(a) is filed:

(i) has adopted a resolution under Subsection 17B-1-212(1) indicating whether it will provide the requested service; or

(ii) is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

(2) Each request under Subsection (1)(a) shall:

(a) ask the county or municipality to provide the service proposed to be provided by the proposed special district within the applicable area; and

(b) be signed by:

(i) unless the request is a request to create a special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of private real property that:

(A) is located within the proposed special district;

(B) covers at least 10% of the total private land area within the applicable area; and

(C) is equal in value to at least 7% of the value of all private real property within the applicable area;

(ii) if the request is a request to create a special district to acquire or assess a groundwater right under Section 17B-1-202, the owners of groundwater rights that:

(A) are diverted within the proposed special district; and

(B) cover at least 10% of the amount of groundwater diverted in accordance with groundwater rights within the applicable area; or

(iii) registered voters residing within the applicable area equal in number to at least 10% of the number of votes cast in the applicable area for the office of governor at the last general election prior to the filing of the request.

(3) For purposes of Subsections (1) and (2), an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of filing of a petition shall be considered to be part of that municipality.

Section 15. Section 17B-1-205 is amended to read:

17B-1-205. Petition and request requirements -- Withdrawal of signature.

(1) Each petition and request shall:

(a) indicate the typed or printed name and current residence address of each property owner, groundwater right owner, or registered voter signing the petition;

(b)(i) if it is a property owner request or petition, indicate the address of the property as to which the owner is signing the request or petition; or

(ii) if it is a groundwater right owner request or petition, indicate the location of the diversion of the groundwater as to which the owner is signing the groundwater right owner request or petition;

(c) describe the entire area of the proposed special district;

(d) be accompanied by a map showing the boundaries of the entire proposed special district;

(e) specify the service proposed to be provided by the proposed special district;

(f) if the petition or request proposes the creation of a specialized special district, specify the type of specialized special district proposed to be created;

(g) for a proposed basic special district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed, as provided in Section 17B-1-1402;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected; and

(iii) if applicable, explain how the election or appointment of board members will transition from one method to another based on stated milestones or events, as provided in Section 17B-1-1402;

(h) for a proposed improvement district whose remaining area members or county members, as those terms are defined in Section 17B-2a-404, are to be elected, state that those members will be elected; [~~and~~]

(i) for a proposed service area that is entirely within the unincorporated area of a single county, state whether the initial board of trustees will be:

(i) the county legislative body;

(ii) appointed as provided in Section 17B-1-304; or

(iii) elected as provided in Section 17B-1-306;

(j) designate up to five signers of the petition or request as sponsors, one of whom shall be designated as the contact sponsor, with the mailing address and telephone number of each;

(k) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to acquire a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of paying for the groundwater right acquisition; and

(ii) of addressing blowing dust created by the reduced use of water; [~~and~~]

(l) if the petition or request is a groundwater right owner petition or request proposing the creation of a special district to assess a groundwater right under Section 17B-1-202, explain the anticipated method:

(i) of assessing the groundwater right and securing payment of the assessment; and

(ii) of addressing blowing dust created by the reduced use of water[~~.~~]; and

(m) for a proposed infrastructure financing district:

(i) state whether the members of the board of trustees will be elected or appointed or whether some members will be elected and some appointed;

(ii) if one or more members will be elected, state the basis upon which each elected member will be elected;

(iii) explain how appointed board member positions will transition to elected board member positions based on stated milestones or events, as provided in Section 17B-2a-1303;

(iv) state whether divisions will be established within the boundary of the infrastructure financing district so that some or all board members represent a division rather than the district at large and, if so, describe the boundary of each division; and

(v) if applicable, be accompanied by the governing document prepared according to Section 17B-2a-1303.

(2)(a) [~~A~~]Subject to Subsection (2)(b), a signer of a request or petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the filing of the request or petition by filing a written withdrawal or reinstatement with:

[~~(a)~~](i) in the case of a request:

[~~(i)~~](A) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's property is located, if the request is a property owner request;

[~~(ii)~~](B) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer's groundwater diversion point is located, if the request is a groundwater right owner request; or

[~~(iii)~~](C) the clerk of the county or the clerk or recorder of the municipality in whose applicable area the signer resides, if the request is a registered voter request; or

[~~(b)~~](ii) in the case of a petition, the responsible clerk.

(b) The time for a signer of a petition for the creation of an infrastructure financing district to withdraw or reinstate the signer's signature is any time before the petition is certified under Section 17B-1-209.

(3)(a) A clerk of the county who receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate the individual's signature.

(b) If a municipal clerk or recorder receives a timely, valid written withdrawal or reinstatement from a signer of a registered voter request or registered voter petition, the clerk of the municipality's county shall assist the municipal clerk or recorder with determining whether to remove or reinstate the individual's signature using the procedures described in Subsection 20A-1-1003(3).

Section 16. Section 17B-1-208 is amended to read:

17B-1-208. Additional petition requirements and limitations.

(1)(a) Each petition shall:

[~~(a)~~](i) be filed with the responsible clerk;

[~~(b)~~](ii) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the proposed special district are grouped separately; and

[~~(c)~~](iii)(A) state the number of members that the board of trustees of the proposed special district will have, consistent with the requirements of Subsection [~~17B-1-302(4).~~] 17B-1-302(8); and

(B) for a petition proposing the creation of an infrastructure financing district, include the name and address of each of the proposed board members.

(b)(i) A petition for the creation of an infrastructure financing district shall state the name of the proposed infrastructure financing district.

(ii) The name of an infrastructure financing district shall include the phrase "infrastructure financing district."

(c) A petition for the creation of an infrastructure financing district shall be accompanied by a written statement, signed by an engineer licensed under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, certifying that the estimated cost of the public infrastructure and improvements to be constructed in the proposed infrastructure financing district exceeds $1,000,000.

(2)(a) A petition may not propose the creation of a special district that includes an area located within the unincorporated part of a county or within a municipality if the legislative body of that county or municipality has adopted a resolution under Subsection 17B-1-212(1) indicating that the county or municipality will provide to that area the service proposed to be provided by the proposed special district.

(b) Subsection (2)(a) does not apply if the county or municipal legislative body is considered to have declined to provide the requested service under Subsection 17B-1-212(3).

(c) Subsection (2)(a) may not be construed to prevent the filing of a petition that proposes the creation of a special district whose area excludes that part of the unincorporated area of a county or that part of a municipality to which the county or municipality has indicated, in a resolution adopted under Section 17B-1-212, it will provide the requested service.

(3) A petition may not propose the creation of a special district whose area includes:

(a) some or all of an area described in a previously filed petition that, subject to Subsection 17B-1-202(4)(b):

(i) proposes the creation of a special district to provide the same service as proposed by the later filed petition; and

(ii) is still pending at the time the later petition is filed; or

(b) some or all of an area within a political subdivision that provides in that area the same service proposed to be provided by the proposed special district.

(4) A petition may not be filed more than 12 months after a county or municipal legislative body declines to provide the requested service under Subsection 17B-1-212(1) or is considered to have declined to provide the requested service under Subsection 17B-1-212(2) or (3).

Section 17. Section 17B-1-209 is amended to read:

17B-1-209. Petition certification - - Amended petition.

(1) No later than five days after the day on which a petition is filed, the responsible clerk shall mail a copy of the petition to the clerk of each other county and the clerk or recorder of each municipality in which any part of the proposed special district is located.

(2)(a) No later than 35 days after the day on which a petition is filed, the clerk of each county whose unincorporated area includes and the clerk or recorder of each municipality whose boundaries include part of the proposed special district shall:

(i) with the assistance of other county or municipal officers from whom the county clerk or municipal clerk or recorder requests assistance, determine, for the clerk or recorder's respective county or municipality, whether the petition complies with the requirements of Subsection 17B-1-203(1)(a), (b),[~~or~~] (c), or (d), as the case may be, and Subsections 17B-1-208(2), (3), and (4); and

(ii) notify the responsible clerk in writing of the clerk or recorder's determination under Subsection (2)(a)(i).

(b) The responsible clerk may rely on the determinations of other county clerks or municipal clerks or recorders under Subsection (2)(a) in making the responsible clerk's determinations and certification or rejection under Subsection (3).

(3)(a) Within 45 days after the filing of a petition, the responsible clerk shall[~~:~~]

[~~(i)~~] determine whether the petition complies with Subsection 17B-1-203(1)(a), (b),[~~or~~] (c), or (d), as the case may be, Subsection 17B-1-205(1), and Section 17B-1-208[~~; and~~].

[~~(ii)~~](b)[~~(A)~~](i) [~~if~~]If the responsible clerk determines that the petition complies with the applicable requirements, the responsible clerk shall, within the time specified in Subsection (3)(a):

[~~(I)~~](A)[~~(Aa)~~] certify the petition[~~— and~~] as complying with all applicable requirements;

(B) deliver the certified petition [~~to the responsible body~~]as provided in Subsection (3)(b)(iii); and

[~~(Bb)~~](C) mail or deliver written notification of the certification and a copy of the certified petition to the contact sponsor[~~; or~~].

[~~(II)~~](ii) [~~for~~]For each petition described in Subsection [~~(3)(b)(i),~~](3)(d)(i), the responsible clerk shall, within the time specified in Subsection (3)(a), deliver a copy of the petition to the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed basic special district, with a notice indicating that the clerk has determined that the petition complies with all applicable requirements[~~; or~~].

(iii)(A) Except as provided in Subsection (3)(b)(iii)(B), the responsible clerk shall deliver the certified petition to the responsible body.

(B) For a petition proposing the creation of an infrastructure financing district, the responsible clerk shall deliver the certified petition to the lieutenant governor.

(iv) If the responsible clerk certifies a petition proposing the creation of an infrastructure financing district, the responsible clerk shall, within the time specified in Subsection (3)(a), file with the lieutenant governor, in addition to the certified petition:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

[~~(B)~~](c) [~~if~~]If the responsible clerk determines that the petition fails to comply with any of the applicable requirements, the responsible clerk shall reject the petition and notify the contact sponsor in writing of the rejection and the reasons for the rejection.

[~~(b)~~](d)(i) A petition for which an election is not required under Subsection 17B-1-214(3) and that proposes the creation of a basic special district that has within its boundaries fewer than one residential dwelling unit per 10 acres of land may not be certified without the approval, by resolution, of the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the proposed special district.

(ii) Before adopting a resolution giving its approval under Subsection [~~(3)(b)(i)~~](3)(d)(i), a county or municipal legislative body may hold one or more public hearings on the petition.

(iii) If a petition described in Subsection [~~(3)(b)(i)~~](3)(d)(i) is approved as provided in that subsection, the responsible clerk shall, within 10 days after its approval:

(A) certify the petition and deliver the certified petition to the responsible body; and

(B) mail or deliver written notification of the certification to the contact sponsor.

(4) Except for a petition described in Subsection [~~(3)(b)(i)~~](3)(d)(i), if the responsible clerk fails to certify or reject a petition within 45 days after [~~its filing~~]the petition is filed, the petition [~~shall be~~]is considered to be certified.

(5)(a) If a petition for the creation of an infrastructure financing district is considered to be certified under Subsection (4) and the responsible clerk has failed to comply with the requirements of Subsection (3)(b)(iv), the petition sponsors may notify the lieutenant governor in writing that the petition is considered to be certified.

(b) The petition sponsors notification to the lieutenant governor under Subsection (5)(a) shall be accompanied by:

(i) the petition proposing the creation of an infrastructure financing district;

(ii) a statement indicating the date that the petition was filed and certifying that the responsible clerk failed to certify the petition within the time specified in Subsection (3)(a);

(iii) a copy of the engineer's written statement described in Subsection 17B-1-208(1)(c);

(iv) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(v) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

[~~(5)~~](6) The responsible clerk shall certify or reject petitions in the order in which they are filed.

[~~(6)~~](7)(a) If the responsible clerk rejects a petition under Subsection [~~(3)(a)(ii)(B)~~](3)(c), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection [~~(3)(a)(ii)(B)~~](3)(c) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (6)(a).

(c) If a petition is amended and refiled under Subsection (6)(a) after having been rejected by the responsible clerk under Subsection [~~(3)(a)(ii)(B)~~](3)(c), the amended petition shall be considered as newly filed, and its processing priority shall be determined by the date on which it is refiled.

[~~(7)~~](8) The responsible clerk and each county clerk and municipal clerk or recorder shall:

(a) act in good faith in making the determinations under this section; and

(b) with the assistance of the county clerk if necessary, and as applicable, use the procedures described in Section 20A-1-1002 to determine whether a signer is a registered voter.

Section 18. Section 17B-1-210 is amended to read:

17B-1-210. Public hearing.

(1) The legislative body of each county and municipality with which a request is filed or that adopts a resolution under Subsection [~~17B-1-203(1)(d)~~]17B-1-203(1)(e) and the board of trustees of each special district that adopts a resolution under Subsection [~~17B-1-203(1)(e)~~]17B-1-203(1)(f) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the proposed special district need travel an unreasonable distance to attend a public hearing.

(2) Each public hearing under Subsection (1) shall be held:

(a) no later than 45 days after:

(i) for a public hearing on a request, certification of a request under Subsection 17B-1-206(1)(b)(i); or

(ii) for a public hearing on a resolution, adoption of a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f);

(b) within the proposed special district;

(c) except as provided in Subsections (6) and (7), within the applicable area; and

(d) for the purpose of:

(i) for a public hearing on a request, allowing public input on:

(A) whether the requested service is needed in the area of the proposed special district;

(B) whether the service should be provided by the county or municipality or the proposed special district; and

(C) all other matters relating to the request or the proposed special district; or

(ii) for a public hearing on a resolution, allowing the public to ask questions of and obtain further information from the governing body holding the hearing regarding the issues contained in or raised by the resolution.

(3) A quorum of each governing body holding a public hearing under this section shall be present throughout each hearing held by that governing body.

(4) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(5) At the beginning and end of each hearing concerning a resolution, the governing body shall announce the deadline for filing protests and generally explain the protest procedure and requirements.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (2)(c), are met as to each hearing.

(7) Notwithstanding Subsection (2)(c), a governing body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

Section 19. Section 17B-1-211 is amended to read:

17B-1-211. Notice of public hearings -- Publication of resolution.

(1) Before holding a public hearing or set of public hearings under Section 17B-1-210, the legislative body of each county or municipality with which a request is filed or that adopts a resolution under Subsection [~~17B-1-203(1)(d)~~]17B-1-203(1)(e) and the board of trustees of each special district that adopts a resolution under Subsection [~~17B-1-203(1)(e)~~]17B-1-203(1)(f) shall publish notice for the proposed special district, as a class B notice under Section 63G-30-102, for at least two weeks before the day of the hearing or the day of the first of the set of hearings.

(2) Each notice required under Subsection (1) shall:

(a) if the hearing or set of hearings is concerning a resolution:

(i) contain the entire text or an accurate summary of the resolution; and

(ii) state the deadline for filing a protest against the creation of the proposed special district;

(b) clearly identify each governing body involved in the hearing or set of hearings;

(c) state the date, time, and place for the hearing or set of hearings and the purposes for the hearing or set of hearings; and

(d) describe or include a map of the entire proposed special district.

(3) County or municipal legislative bodies may jointly provide the notice required under this section if all the requirements of this section are met as to each notice.

Section 20. Section 17B-1-213 is amended to read:

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk, municipal clerk or recorder, or special district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed special district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a special district or include the applicable area in a special district; or

(iii) for a period of two years, adopt a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~] 17B-1-203(1)(e) or (f) proposing the creation of a special district including substantially the same area as the applicable area and providing the same service as the proposed special district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed special district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5)(a) If adequate protests are not filed with respect to a resolution proposing the creation of a special district for which an election is not required under Subsection 17B-1-214(3)(d), (e), (f), or (g), a resolution approving the creation of the special district shall be adopted by:

(i)(A) the legislative body of a county whose unincorporated area is included within the proposed special district; and

(B) the legislative body of a municipality whose area is included within the proposed special district; or

(ii) the board of trustees of the initiating special district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the special district;

(ii) be accompanied by a map that shows the boundaries of the special district;

(iii) describe the service to be provided by the special district;

(iv) state the name of the special district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Section 21. Section 17B-1-214 is amended to read:

17B-1-214. Election -- Exceptions.

(1)(a) Except as provided in Subsection (3) and in Subsection 17B-1-213(3)(a), an election on the question of whether the special district should be created shall be held by:

(i) if the proposed special district is located entirely within a single county, the responsible clerk; or

(ii) except as provided under Subsection (1)(b), if the proposed special district is located within more than one county, the clerk of each county in which part of the proposed special district is located, in cooperation with the responsible clerk.

(b) Notwithstanding Subsection (1)(a)(ii), if the proposed special district is located within more than one county and the only area of a county that is included within the proposed special district is located within a single municipality, the election for that area shall be held by the municipal clerk or recorder, in cooperation with the responsible clerk.

(2) Each election under Subsection (1) shall be held at the next special or regular general election date that is:

(a) for an election pursuant to a property owner or registered voter petition, more than 45 days after certification of the petition under [~~Subsection 17B-1-209(3)(a)~~]Subsections 17B-1-209(3)(a), (b), and (c); or

(b) for an election pursuant to a resolution, more than 60 days after the latest hearing required under Section 17B-1-210.

(3) The election requirement of Subsection (1) does not apply to:

(a) a petition filed under Subsection 17B-1-203(1)(a) if it contains the signatures of the owners of private real property that:

(i) is located within the proposed special district;

(ii) covers at least 67% of the total private land area within the proposed special district as a whole and within each applicable area; and

(iii) is equal in value to at least 50% of the value of all private real property within the proposed special district as a whole and within each applicable area;

(b) a petition filed under Subsection 17B-1-203(1)(b) if it contains the signatures of registered voters residing within the proposed special district as a whole and within each applicable area, equal in number to at least 67% of the number of votes cast in the proposed special district as a whole and in each applicable area, respectively, for the office of governor at the last general election prior to the filing of the petition;

(c) a groundwater right owner petition filed under Subsection 17B-1-203(1)(c) if the petition contains the signatures of the owners of groundwater rights that:

(i) are diverted within the proposed special district; and

(ii) cover at least 67% of the total amount of groundwater diverted in accordance with groundwater rights within the proposed special district as a whole and within each applicable area;

(d) a resolution adopted under Subsection [~~17B-1-203(1)(d)~~]17B-1-203(1)(e) on or after May 5, 2003, that proposes the creation of a special district to provide fire protection, paramedic, and emergency services or law enforcement service, if the proposed special district:

(i) includes the unincorporated area, whether in whole or in part, of one or more counties; or

(ii) consists of an area that:

(A) has a boundary that is the same as the boundary of the municipality whose legislative body adopts the resolution proposing the creation of the special district;

(B) previously received fire protection, paramedic, and emergency services or law enforcement service from another special district; and

(C) may be withdrawn from the other special district under Section 17B-1-505 without an election because the withdrawal is pursuant to an agreement under Subsection 17B-1-505(5)(a)(ii)(A) or (5)(b);

(e) a resolution adopted under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f) if the resolution proposes the creation of a special district that has no registered voters within its boundaries;

(f) a resolution adopted under Subsection [~~17B-1-203(1)(d)~~]17B-1-203(1)(e) on or after May 11, 2010, that proposes the creation of a special district described in Subsection 17B-1-202(1)(a)(xiii); [~~or~~]

(g) a resolution adopted under Section 17B-2a-1105 to create a municipal services district; or

(h) a petition for the creation of an infrastructure financing district.

(4)(a) If the proposed special district is located in more than one county, the responsible clerk shall coordinate with the clerk of each other county and the clerk or recorder of each municipality involved in an election under Subsection (1) so that the election is held on the same date and in a consistent manner in each jurisdiction.

(b) The clerk of each county and the clerk or recorder of each municipality involved in an

election under Subsection (1) shall cooperate with the responsible clerk in holding the election.

(c) Except as otherwise provided in this part, each election under Subsection (1) shall be governed by Title 20A, Election Code.

Section 22. Section 17B-1-215 is amended to read:

17B-1-215. Notice and plat to lieutenant governor -- Recording requirements -- Certificate of incorporation -- Special district incorporated as specialized special district or basic special district -- Effective date.

(1)(a) Within the time specified in Subsection (1)(b) and except as provided in Section 17B-1-209 for a petition proposing the creation of an infrastructure financing district, the responsible body shall file with the lieutenant governor:

(i) if applicable, a copy of the petition certified, under Section 17B-1-209, as complying with all applicable requirements;

[~~(i)~~](ii) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

[~~(ii)~~](iii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(b) The responsible body shall file the documents listed in Subsection (1)(a) with the lieutenant governor within 10 days after:

(i) the canvass of an election under Section 17B-1-214, if a majority of those voting at the election within the proposed special district as a whole vote in favor of the creation of a special district;

(ii) certification of a petition as to which the election requirement of Subsection 17B-1-214(1) does not apply because of Subsection 17B-1-214(3)(a), (b),[~~or~~] (c), or (h); or

(iii) adoption of a resolution, under Subsection 17B-1-213(5) approving the creation of a special district for which an election was not required under Subsection 17B-1-214(3)(d), (e), (f), or (g) by the legislative body of each county whose unincorporated area is included within and the legislative body of each municipality whose area is included within the proposed special district, or by the board of trustees of the initiating special district.

(2) Upon the lieutenant governor's issuance of a certificate of incorporation under Section 67-1a-6.5, the responsible body shall:

(a) if the special district is located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action;

(B) certificate of incorporation; and

(C) approved final local entity plat; and

(ii) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); or

(b) if the special district is located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original of the documents listed in Subsections (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the documents listed in Subsection (2)(a)(i)(A), (B), and (C); and

(B) if applicable, a certified copy of each resolution adopted under Subsection 17B-1-213(5).

(3) The area of each special district consists of:

(a) if an election was held under Section 17B-1-214, the area of the new special district as approved at the election;

(b) if an election was not required because of Subsection 17B-1-214(3)(a), (b),[~~or~~] (c),or (h), the area of the proposed special district as described in the petition; or

(c) if an election was not required because of Subsection 17B-1-214(3)(d), (e), (f), or (g), the area of the new special district as described in the resolution adopted under Subsection 17B-1-213(5).

(4)(a) Upon the lieutenant governor's issuance of the certificate of incorporation under Section 67-1a-6.5, the special district is created and incorporated as:

(i) the type of specialized special district that was specified in the petition under Subsection 17B-1-203(1)(a), (b),[~~or~~] (c), or (d) or resolution under Subsection [~~17B-1-203(1)(d) or (e)~~] 17B-1-203(1)(e) or (f), if the petition or resolution proposed the creation of a specialized special district; or

(ii) a basic special district, if the petition or resolution did not propose the creation of a specialized special district.

(b)(i) The effective date of a special district's incorporation for purposes of assessing property within the special district is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2) are recorded in the office of the recorder of each county in which the property is located, a newly incorporated special district may not:

(A) levy or collect a property tax on property within the special district;

(B) levy or collect an assessment on property within the special district; [~~or~~]

(C) charge or collect a fee for service provided to property within the special district[.]; or

(D) issue bonds.

Section 23. Section 17B-1-216 is amended to read:

17B-1-216. Costs and expenses of creating a special district.

(1)(a) Except as provided in Subsection (2) and subject to Subsection (1)(b), each county whose unincorporated area includes and each municipality whose boundaries include some or all of the proposed special district shall bear their respective costs and expenses associated with the procedure under this part for creating a special district.

[~~(2)~~](b) Within a year after its creation, each special district shall reimburse the costs and expenses associated with the preparation, certification, and recording of the approved final local entity plat of the special district and accompanying documents under Section 17B-1-215.

(2)(a) Subject to Subsection (2)(b), the sponsors of a petition for the creation of an infrastructure financing district shall bear the costs and expenses associated with the procedure under this part for creating the infrastructure financing district.

(b) An infrastructure financing district may reimburse petition sponsors the costs and expenses the petition sponsors paid under Subsection (2)(a).

Section 24. Section 17B-1-219 is enacted to read:

17B-1-219. Provisions not applicable to the creation of an infrastructure financing district.

Sections 17B-1-210, 17B-1-211, 17B-1-212 and, 17B-1-213 do not apply to the proposed creation of an infrastructure financing district.

Section 25. Section 17B-1-302 is amended to read:

17B-1-302. Board member qualifications -- Number of board members.

(1) Except as provided in Section 17B-2a-905, each member of a special district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) [~~or~~], (3), or (4), a resident within:

(i) the boundaries of the special district; and

(ii) if applicable, the boundaries of the division of the special district from which the member is elected or appointed.

(2)(a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the special district;

(B) that receives service from the special district; and

(C) whose owner occupies the residence on a temporary or seasonal basis, rather than as the principal place of residence as defined in Section 20A-2-105.

(b) If over 50% of the residences within a special district that receive service from the special district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land:

(i) that receives, or intends to receive, service from the district; and

(ii) that is located within the special district and, if applicable, the division from which the member is elected.

(3)(a) [~~For~~]Subsection (3)(b) applies to a board of trustees member in[~~:~~]:

(i) a basic special district[~~, or in~~];

(ii) any other type of special district that is located solely within a county of the fourth, fifth, or sixth class, that has within the district's boundaries fewer than one residential dwelling unit per 10 acres of land[~~,~~]; or

(iii) an infrastructure financing district.

(b) For a board of trustees member in a special district listed in Subsection (3)(a), the board of trustees may replace the requirement under Subsection (1)(b) [~~may be replaced by~~]with the requirement that the member be:

(i) a resident within the boundaries of the special district; or

(ii) an owner of land, or an agent or officer of the owner of land, that:

(A) is located within the special district [~~that~~]; and

(B) receives, or [~~intends~~]is expected to receive, service from the district.

(4) A board member of an infrastructure financing district is not required to be a resident within the boundary of the infrastructure financing district if:

(a) all owners of surface property within the district waive the residency requirement;

(b) the district boundary does not include any residents; or

(c)(i) in the case of an appointed board position, no qualified individual timely files to be considered for appointment to the board; or

(ii) in the case of an elected board position, no qualified individual files a declaration of candidacy for the board position under Subsection 17B-1-306(5).

[~~(b)~~](5) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

[~~(c)~~](6) Notwithstanding Subsection (1)(b) and except as provided in Subsection [~~(3)(d)~~](7), the county legislative body may appoint to the special district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

[~~(i)~~](a) the county legislative body satisfies the procedures to fill a vacancy described in:

[~~(A)~~](i) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

[~~(B)~~](ii) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);

[~~(ii)~~](b) fewer qualified candidates timely file to be considered for appointment to the special district board than are necessary to fill the board;

[~~(iii)~~](c) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

[~~(iv)~~](d) the county legislative body appoints a member of the body to the special district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

[~~(A)~~](i) elected at large by the voters of the county;

[~~(B)~~](ii) elected from a division of the county that includes more than 50% of the geographic area of the special district; or

[~~(C)~~](iii) if the special district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the special district in which there is a board vacancy.

[~~(d)~~](7) If it is necessary to reconstitute the board of trustees of a special district located solely within a county of the fourth, fifth, or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the special district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

[~~(4)~~](8)(a) Except as otherwise provided by statute, the number of members of each board of trustees of a special district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a special district has more than nine members, the number of members may be odd or even.

[~~(5)~~](9) For a newly created special district, the number of members of the initial board of trustees shall be the number specified:

(a) for a special district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b),[~~or~~] (c), or (d), in the petition; or

(b) for a special district whose creation was initiated by a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f), in the resolution.

[~~(6)~~](10)(a) For an existing special district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection [~~(6)(a)~~](10)(a) may:

(i) violate Subsection [~~(4)~~](8); or

(ii) serve to shorten the term of any member of the board.

Section 26. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1)(a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created special district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2)(a)(i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that:

(A) approximately half the members of the initial board of trustees of an infrastructure financing district, as designated in the governing document, shall serve a six-year term so that the term of approximately half the board members expires every two years; and

(B) for any other special district, approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created special district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2),[~~or~~] (3), (4), (5), (6), or (7), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3)(a)(i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the special district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the special district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5)(a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection [~~17B-1-302(6)~~]17B-1-302(10), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6)(a) As used in this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a special district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7)(a) A member of a board of trustees shall obtain a fidelity bond or obtain theft or crime insurance for the faithful performance of the member's duties, in the amount and with the sureties or with an insurance company that the board of trustees prescribes.

(b) The special district:

(i) may assist the board of trustees in obtaining a fidelity bond or obtaining theft or crime insurance as a group or for members individually; and

(ii) shall pay the cost of each fidelity bond or insurance coverage required under this Subsection (7).

(8)(a) The lieutenant governor may extend the term of an elected district board member by one

year in order to compensate for a change in the election year under Subsection 17B-1-306(14).

(b) When the number of members of a board of trustees increases in accordance with Subsection [~~17B-1-302(6)~~]17B-1-302(10), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9)(a) A special district shall:

(i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the special district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the special district.

Section 27. Section 17B-1-306.5 is amended to read:

17B-1-306.5. Dividing a special district into divisions.

(1) Subject to Subsection (3), the board of trustees of a special district that has elected board members may, upon a vote of two-thirds of the members of the board, divide the special district, or the portion of the special district represented by elected board of trustees members, into divisions so that some or all of the elected members of the board of trustees may be elected by division rather than at large.

(2) Subject to Subsection (3), the appointing authority of a special district that has appointed board members may, upon a vote of two-thirds of the members of the appointing authority, divide the special district, or the portion of the special district represented by appointed board members, into divisions so that some or all of the appointed members of the board of trustees may be appointed by division rather than at large.

(3) Before dividing a special district into divisions or before changing the boundaries of divisions already established, the board of trustees under Subsection (1), or the appointing authority, under Subsection (2), shall:

(a) prepare a proposal that describes the boundaries of the proposed divisions; and

(b) hold a public hearing at which any interested person may appear and speak for or against the proposal.

(4)(a) The board of trustees or the appointing authority shall review the division boundaries at least every 10 years.

(b) Except for changes in the divisions necessitated by annexations to or withdrawals from the special district, the boundaries of divisions established under Subsection (1) or (2) may not be changed more often than every five years.

(c) Changes to the boundaries of divisions already established under Subsection (1) or (2) are not subject to the two-thirds vote requirement of Subsection (1) or (2).

(5)(a) Notwithstanding Subsections (1) through (4), after the creation of an infrastructure financing district the board of trustees may divide the infrastructure financing district into divisions, as provided in the petition to create the infrastructure financing district under Subsection 17B-1-205(1)(m), so that some or all board members represent a division rather than the district at large.

(b) No more frequently than every four years, the board of an infrastructure financing district may modify division boundaries to ensure that each division has as nearly as possible the same number of registered voters.

(c) In dividing an infrastructure financing district into divisions or in modifying division boundaries, the board shall consider the anticipated future number of registered voters within divisions based on proposed development within the divisions.

Section 28. Section 17B-1-403 is amended to read:

17B-1-403. Initiation of annexation process -- Petition and resolution.

(1) Except as provided in Sections 17B-1-415, 17B-1-416, and 17B-1-417, the process to annex an area to a special district may be initiated by[~~:~~] a petition, as provided in Subsection (2), or a resolution, as provided in Subsection (3).

(2)(a)[~~(i) for~~]For a district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector and subject to Subsection [~~(2)~~](4), the process to annex an area to the special district is initiated by a petition signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation[~~; or~~].

(b) For an infrastructure financing district, the process to annex an area to the infrastructure financing district is initiated by a petition signed by 100% of the owners of all surface property within the area proposed for annexation that is within the designated expansion area, as defined in Section 17B-2a-1301.

[~~(ii)~~](c) [~~for~~]For all other districts, the process to annex an area to the special district may be initiated by[~~:~~]

[~~(A)~~] a petition signed by:

[~~(I)~~](i) the owners of private real property that:

[~~(Aa)~~](A) is located within the area proposed to be annexed;

[~~(Bb)~~](B) covers at least 10% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

[~~(Cc)~~](C) is equal in assessed value to at least 10% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; [~~or~~]

[~~(II)~~](ii) the owner of all the publicly owned real property, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government; or

[~~(B)~~](iii) [~~a petition signed by~~]registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 10% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition[~~;~~].

[~~(b)~~](3) The process to annex an area to a special district may be initiated by:

(a) a resolution adopted by the legislative body of each county whose unincorporated area includes and each municipality whose boundaries include any of the area proposed to be annexed; or

[~~(c)~~](b) a resolution adopted by the board of trustees of the proposed annexing special district if, for at least 12 consecutive months immediately preceding adoption of the resolution, the special district has provided:

(i) retail service to the area; or

(ii) a wholesale service to a provider of the same service that has provided that service on a retail basis to the area.

[~~(2)~~](4) If an association representing all acre-feet of water allotted to the land that is proposed to be annexed to a special district signs a petition under Subsection [~~(1)(a)(i)~~](2)(a), pursuant to a proper exercise of authority as provided in the bylaws or other rules governing the association, the petition shall be considered to have been signed by the owners of all of the acre-feet of water allotted to the land proposed for annexation, even though less than all of the owners within the association consented to the association signing the petition.

[~~(3)~~](5) Each petition under Subsection (2) and resolution under Subsection [~~(1)~~](3) shall:

(a) describe the area proposed to be annexed; and

(b) be accompanied by a map of the boundaries of the area proposed to be annexed.

[~~(4)~~](6) The legislative body of each county and municipality that adopts a resolution under Subsection [~~(1)(b)~~](3) shall, within five days after adopting the resolution, mail or deliver a copy of the resolution to the board of trustees of the proposed annexing special district.

Section 29. Section 17B-1-404 is amended to read:

17B-1-404. Petition requirements.

(1) Each petition under Subsection [~~17B-1-403(1)(a)~~]17B-1-403(2) shall:

(a) indicate the typed or printed name and current residence address of each person signing the petition;

(b) separately group signatures by county and municipality, so that all signatures of the owners of real property located within or of registered voters residing within each county whose unincorporated area includes and each municipality whose boundaries include part of the area proposed for annexation are grouped separately;

(c) if it is a petition under Subsection [~~17B-1-403(1)(a)~~]

[~~(i) or~~]

[~~(ii) (A)~~] 17B-1-403(2)(a) or (2)(c)(i) or (ii), indicate the address of the property as to which the owner is signing the petition;

(d) designate up to three signers of the petition as sponsors, one of whom shall be designated the contact sponsor, with the mailing address and telephone number of each;

(e) be filed with the board of trustees of the proposed annexing special district; and

(f) for a petition under Subsection [~~17B-1-403(1)(a)(i)~~]17B-1-403(2)(a), state the proposed method of supplying water to the area proposed to be annexed.

(2) By submitting a written withdrawal or reinstatement with the board of trustees of the proposed annexing special district, a signer of a petition may withdraw, or once withdrawn, reinstate the signer's signature at any time:

(a)(i) before the public hearing under Section 17B-1-409 is held; or

[~~(b)~~](ii) if a hearing is not held because of Subsection 17B-1-413(1) or because no hearing is requested under Subsection 17B-1-413(2)(a)(ii)(B), until 20 days after the special district provides notice under Subsection 17B-1-413(2)(a)(i)[~~,~~]; or

(b) for an infrastructure financing district, before the board of trustees adopts a resolution approving the annexation.

Section 30. Section 17B-1-405 is amended to read:

17B-1-405. Petition certification.

(1) Within 30 days after the filing of a petition under Subsection [~~17B-1-403(1)(a)(i) or (ii)~~]17B-1-403(2) or within the time that the special district and each petition sponsor designate by

written agreement, the board of trustees of the proposed annexing special district shall:

(a) with the assistance of officers of the county in which the area proposed to be annexed is located from whom the board requests assistance, determine whether the petition meets the requirements of Subsection [~~17B-1-403(1)(a)~~]

[~~(i) or~~]

[~~(ii)~~](i) 17B-1-403(2)(a), (b), or (c), as the case may be, Subsection [~~17B-1-403(3)~~]17B-1-403(5), and Subsection 17B-1-404(1); and

(b)(i) if the board determines that the petition complies with the requirements, certify the petition and mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the board determines that the petition fails to comply with any of the requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the contact sponsor.

(2)(a) If the board rejects a petition under Subsection (1)(b)(ii), the petition may be amended to correct the deficiencies for which it was rejected and then refiled.

(b) A valid signature on a petition that was rejected under Subsection (1)(b)(ii) may be used toward fulfilling the applicable signature requirement of the petition as amended under Subsection (2)(a).

(3) The board shall process an amended petition filed under Subsection (2)(a) in the same manner as an original petition under Subsection (1).

Section 31. Section 17B-1-405.5 is enacted to read:

17B-1-405.5. Provisions not applicable to infrastructure financing district annexation.

Sections 17B-1-406, 17B-1-407, 17B-1-408, 17B-1-409, 17B-1-410, 17B-1-411, 17B-1-412, and 17B-1-413 do not apply to a proposed annexation to an infrastructure financing district.

Section 32. Section 17B-1-406 is amended to read:

17B-1-406. Notice to county and municipality -- Exception.

(1) Except as provided in Subsection (2), within 10 days after certifying a petition under Subsection 17B-1-405(1)(b) the board of trustees of the proposed annexing special district shall mail or deliver a written notice of the proposed annexation, with a copy of the certification and a copy of the petition, to the legislative body of each:

(a) county in whose unincorporated area any part of the area proposed for annexation is located; and

(b) municipality in which any part of the area proposed for annexation is located.

(2) The board is not required to send a notice under Subsection (1) to:

(a) a county or municipality that does not provide the service proposed to be provided by the special district; or

(b) a county or municipality whose legislative body has adopted an ordinance or resolution waiving the notice requirement as to:

(i) the proposed annexing special district; or

(ii) the service that the proposed annexing special district provides.

(3) For purposes of this section, an area proposed to be annexed to a municipality in a petition under Section 10-2-403 filed before and still pending at the time of the filing of a petition under Subsection [~~17B-1-403(1)(a)~~]17B-1-403(2)(a) or (c) and an area included within a municipality's annexation policy plan under Section 10-2-401.5 shall be considered to be part of that municipality.

Section 33. Section 17B-1-407 is amended to read:

17B-1-407. Notice of intent to consider providing service -- Public hearing requirements.

(1)(a) If the legislative body of a county or municipality whose applicable area is proposed to be annexed to a special district in a petition under Subsection [~~17B-1-403(1)(a)~~]17B-1-403(2)(a) or (c) intends to consider having the county or municipality, respectively, provide to the applicable area the service that the proposed annexing special district provides, the legislative body shall, within 30 days after receiving the notice under Subsection 17B-1-406(1), mail or deliver a written notice to the board of trustees of the proposed annexing special district indicating that intent.

(b)(i) A notice of intent under Subsection (1)(a) suspends the special district's annexation proceeding as to the applicable area of the county or municipality that submits the notice of intent until the county or municipality:

(A) adopts a resolution under Subsection 17B-1-408(1) declining to provide the service proposed to be provided by the proposed annexing special district; or

(B) is considered under Subsection 17B-1-408(2) or (3) to have declined to provide the service.

(ii) The suspension of an annexation proceeding under Subsection (1)(b)(i) as to an applicable area does not prevent the special district from continuing to pursue the annexation proceeding with respect to other applicable areas for which no notice of intent was submitted.

(c) If a legislative body does not mail or deliver a notice of intent within the time required under Subsection (1)(a), the legislative body shall be considered to have declined to provide the service.

(2) Each legislative body that mails or delivers a notice under Subsection (1)(a) shall hold a public hearing or a set of public hearings, sufficient in number and location to ensure that no substantial group of residents of the area proposed for annexation need travel an unreasonable distance to attend a public hearing.

(3) Each public hearing under Subsection (2) shall be held:

(a) no later than 45 days after the legislative body sends notice under Subsection (1);

(b) except as provided in Subsections (6) and (7), within the applicable area; and

(c) for the purpose of allowing public input on:

(i) whether the service is needed in the area proposed for annexation;

(ii) whether the service should be provided by the county or municipality or the proposed annexing special district; and

(iii) all other matters relating to the issue of providing the service or the proposed annexation.

(4) A quorum of the legislative body of each county or municipal legislative body holding a public hearing under this section shall be present throughout each hearing held by that county or municipal legislative body.

(5) Each hearing under this section shall be held on a weekday evening other than a holiday beginning no earlier than 6 p.m.

(6) Two or more county or municipal legislative bodies may jointly hold a hearing or set of hearings required under this section if all the requirements of this section, other than the requirements of Subsection (3)(b), are met as to each hearing.

(7) Notwithstanding Subsection (3)(b), a county or municipal legislative body may hold a public hearing or set of public hearings outside the applicable area if:

(a) there is no reasonable place to hold a public hearing within the applicable area; and

(b) the public hearing or set of public hearings is held as close to the applicable area as reasonably possible.

(8) Before holding a public hearing or set of public hearings under this section, the legislative body of each county or municipality that receives a request for service shall provide notice of the hearing or set of hearings as provided in Section 17B-1-211.

Section 34. Section 17B-1-408 is amended to read:

17B-1-408. Resolution indicating whether the requested service will be provided.

(1) Within 30 days after the last hearing required under Section 17B-1-407 is held, the legislative body of each county and municipality that sent a notice of intent under Subsection 17B-1-407(1) shall adopt a resolution indicating whether the county or municipality will provide to the area proposed for annexation within its boundaries the service proposed to be provided by the proposed annexing special district.

(2) If the county or municipal legislative body fails to adopt a resolution within the time provided under Subsection (1), the county or municipality shall be considered to have declined to provide the service.

(3) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service but the county or municipality does not, within 120 days after the adoption of that resolution, take substantial measures to provide the service, the county or municipality shall be considered to have declined to provide the service.

(4) Each county or municipality whose legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service shall diligently proceed to take all measures necessary to provide the service.

(5) If a county or municipal legislative body adopts a resolution under Subsection (1) indicating that the county or municipality will provide the service and the county or municipality takes substantial measures within the time provided in Subsection (3) to provide the service, the special district's annexation proceeding as to the applicable area of that county or municipality is terminated and that applicable area is considered deleted from the area proposed to be annexed in a petition under Subsection [~~17B-1-403(1)(a)~~]17B-1-403(2)(a) or (c).

Section 35. Section 17B-1-409 is amended to read:

17B-1-409. Public hearing on proposed annexation.

(1) Except as provided in Sections 17B-1-413 and 17B-1-415, the board of trustees of each special district that certifies a petition that was filed under Subsection [~~17B-1-403(1)(a)(ii)(A) or (B)~~]17B-1-403(2)(c), receives a resolution adopted under Subsection [~~17B-1-403(1)(b)~~]17B-1-403(3)(a), or adopts a resolution under Subsection [~~17B-1-403(1)(c)~~]17B-1-403(3)(b) shall hold a public hearing on the proposed annexation and provide notice of the hearing as provided in Section 17B-1-410.

(2) Each public hearing under Subsection (1) shall be held:

(a) within 45 days after:

(i) if no notice to a county or municipal legislative body is required under Section 17B-1-406, petition certification under Section 17B-1-405; or

(ii) if notice is required under Section 17B-1-406, but no notice of intent is submitted by the deadline:

(A) expiration of the deadline under Subsection 17B-1-407(1) to submit a notice of intent; or

(B) termination of a suspension of the annexation proceeding under Subsection 17B-1-407(1)(b);

(b)(i) for a special district located entirely within a single county:

(A) within or as close as practicable to the area proposed to be annexed; or

(B) at the special district office; or

(ii) for a special district located in more than one county:

(A)(I) within the county in which the area proposed to be annexed is located; and

(II) within or as close as practicable to the area proposed to be annexed; or

(B) if the special district office is reasonably accessible to all residents within the area proposed to be annexed, at the special district office;

(c) on a weekday evening other than a holiday beginning no earlier than 6 p.m.; and

(d) for the purpose of allowing:

(i) the public to ask questions and obtain further information about the proposed annexation and issues raised by it; and

(ii) any interested person to address the board regarding the proposed annexation.

(3) A quorum of the board of trustees of the proposed annexing special district shall be present throughout each public hearing held under this section.

(4)(a) After holding a public hearing under this section or, if no hearing is held because of application of Subsection 17B-1-413(2)(a)(ii), after expiration of the time under Subsection 17B-1-413(2)(a)(ii)(B) for requesting a hearing, the board of trustees may by resolution deny the annexation and terminate the annexation procedure if:

(i) for a proposed annexation initiated by a petition under Subsection [~~17B-1-403(1)(a)(i) or (ii)~~]17B-1-403(2)(a) or (c), the board determines that:

(A) it is not feasible for the special district to provide service to the area proposed to be annexed; or

(B) annexing the area proposed to be annexed would be inequitable to the owners of real property or residents already within the special district; or

(ii) for a proposed annexation initiated by resolution under Subsection [~~17B-1-403(1)(b) or (c)~~]17B-1-403(3)(a) or (b), the board determines not to pursue annexation.

(b) In each resolution adopted under Subsection (4)(a), the board shall set forth its reasons for denying the annexation.

Section 36. Section 17B-1-411 is amended to read:

17B-1-411. Modifications to area proposed for annexation -- Limitations.

(1)(a) Subject to Subsections (2), (3), (4), and (5), a board of trustees may, within 30 days after the public hearing under Section 17B-1-409, or, if no public hearing is held, within 30 days after the board provides notice under Subsection 17B-1-413(2)(a)(i), modify the area proposed for annexation to include land not previously included in that area or to exclude land from that area if the modification enhances the feasibility of the proposed annexation.

(b) A modification under Subsection (1)(a) may consist of the exclusion of all the land within an applicable area if:

(i) the entire area proposed to be annexed consists of more than that applicable area;

(ii) sufficient protests under Section 17B-1-412 are filed with respect to that applicable area that an election would have been required under Subsection 17B-1-412(3) if that applicable area were the entire area proposed to be annexed; and

(iii) the other requirements of Subsection (1)(a) are met.

(2) A board of trustees may not add property under Subsection (1) to the area proposed for annexation without the consent of the owner of that property.

(3) Except as provided in Subsection (1)(b), a modification under Subsection (1) may not avoid the requirement for an election under Subsection 17B-1-412(3) if, before the modification, the election was required because of protests filed under Section 17B-1-412.

(4) If the annexation is proposed by a petition under Subsection [~~17B-1-403(1)(a)(ii)(A) or (B)~~]17B-1-403(2)(c), a modification may not be made unless the requirements of Subsection [~~17B-1-403(1)(a)(ii)(A) or (B)~~]17B-1-403(2)(c) are met after the modification as to the area proposed to be annexed.

(5) If the petition meets the requirements of Subsection 17B-1-413(1) before a modification under this section but fails to meet those requirements after modification:

(a) the special district board shall give notice as provided in Section 17B-1-410 and hold a public hearing as provided in Section 17B-1-409 on the proposed annexation; and

(b) the petition shall be considered in all respects as one that does not meet the requirements of Subsection 17B-1-413(1).

Section 37. Section 17B-1-413 is amended to read:

17B-1-413. Hearing, notice, and protest provisions do not apply for certain petitions.

(1) Section 17B-1-412 does not apply, and, except as provided in Subsection (2)(a), Sections 17B-1-409 and 17B-1-410 do not apply:

(a) if the process to annex an area to a special district was initiated by:

(i) a petition under Subsection [~~17B-1-403(1)(a)(i)~~]17B-1-403(2)(a);

(ii) a petition under Subsection [~~17B-1-403(1)(a)(ii)(A)~~]17B-1-403(2)(c)(i) or (ii) that was signed by the owners of private real property that:

(A) is located within the area proposed to be annexed;

(B) covers at least 75% of the total private land area within the entire area proposed to be annexed and within each applicable area; and

(C) is equal in assessed value to at least 75% of the assessed value of all private real property within the entire area proposed to be annexed and within each applicable area; or

(iii) a petition under Subsection [~~17B-1-403(1)(a)(ii)(B)~~]17B-1-403(2)(c)(iii) that was signed by registered voters residing within the entire area proposed to be annexed and within each applicable area equal in number to at least 75% of the number of votes cast within the entire area proposed to be annexed and within each applicable area, respectively, for the office of governor at the last regular general election before the filing of the petition;

(b) to an annexation under Section 17B-1-415; or

(c) to a boundary adjustment under Section 17B-1-417.

(2)(a) If a petition that meets the requirements of Subsection (1)(a) is certified under Section 17B-1-405, the special district board:

(i) shall provide notice of the proposed annexation as provided in Subsection (2)(b); and

(ii)(A) may, in the board's discretion, hold a public hearing as provided in Section 17B-1-409 after giving notice of the public hearing as provided in Subsection (2)(b); and

(B) shall, after giving notice of the public hearing as provided in Subsection (2)(b), hold a public hearing as provided in Section 17B-1-409 if a written request to do so is submitted, within 20 days after the special district provides notice under Subsection (2)(a)(i), to the special district board by an owner of property that is located within or a registered voter residing within the area proposed to be annexed who did not sign the annexation petition.

(b) The notice required under Subsections (2)(a)(i) and (ii) shall:

(i) be given:

(A)(I) for a notice under Subsection (2)(a)(i), within 30 days after petition certification; or

(II) for a notice of a public hearing under Subsection (2)(a)(ii), at least 10 but not more than 30 days before the public hearing; and

(B) by providing notice, as a class A notice under Section 63G-30-102, for the area proposed to be annexed, through the day of the public hearing; and

(ii) contain a brief explanation of the proposed annexation and include the name of the special district, the service provided by the special district, a description or map of the area proposed to be annexed, a special district telephone number where additional information about the proposed annexation may be obtained, and, for a notice under Subsection (2)(a)(i), an explanation of the right of a property owner or registered voter to request a public hearing as provided in Subsection (2)(a)(ii)(B).

(c) A notice under Subsection (2)(a)(i) may be combined with the notice that is required for a public hearing under Subsection (2)(a)(ii)(A).

Section 38. Section 17B-1-414 is amended to read:

17B-1-414. Resolution approving an annexation -- Filing of notice and plat with lieutenant governor -- Recording requirements -- Effective date.

(1)(a) Subject to Subsection (1)(b), the special district board shall adopt a resolution approving the annexation of the area proposed to be annexed or rejecting the proposed annexation within 90 days after:

(i) expiration of the protest period under Subsection 17B-1-412(2), if sufficient protests to require an election are not filed;

(ii) for a petition that meets the requirements of Subsection 17B-1-413(1):

(A) a public hearing under Section 17B-1-409 is held, if the board chooses or is required to hold a public hearing under Subsection 17B-1-413(2)(a)(ii); or

(B) expiration of the time for submitting a request for public hearing under Subsection 17B-1-413(2)(a)(ii)(B), if no request is submitted and the board chooses not to hold a public hearing[~~.~~]; or

(iii) for a proposed annexation to an infrastructure financing district, the board's certification of the annexation petition under Section 17B-1-405.

(b) If the special district has entered into an agreement with the United States that requires the consent of the United States for an annexation of territory to the district, a resolution approving annexation under this part may not be adopted until the written consent of the United States is obtained and filed with the board of trustees.

(2)(a)(i) Within the time specified under Subsection (2)(a)(ii), the board shall file with the lieutenant governor:

(A) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3) and, if applicable, Subsection (2)(b); and

(B) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5.

(ii) The board shall file the documents listed in Subsection (2)(a)(i) with the lieutenant governor:

(A) within 30 days after adoption of a resolution under Subsection (1), Subsection 17B-1-412(3)(c)(i), or Section 17B-1-415; and

(B) as soon as practicable after receiving the notice under Subsection 10-2-425(2) of a municipal annexation that causes an automatic annexation to a special district under Section 17B-1-416.

(b) For an automatic annexation to a special district under Section 17B-1-416, the notice of an impending boundary action required under Subsection (2)(a) shall state that an area outside the boundaries of the special district is being automatically annexed to the special district under Section 17B-1-416 because of a municipal annexation under Title 10, Chapter 2, Part 4, Annexation.

(c) Upon the lieutenant governor's issuance of a certificate of annexation under Section 67-1a-6.5, the board shall:

(i) if the annexed area is located within the boundary of a single county, submit to the recorder of that county:

(A) the original:

(I) notice of an impending boundary action;

(II) certificate of annexation; and

(III) approved final local entity plat; and

(B) a certified copy of the annexation resolution; or

(ii) if the annexed area is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties:

(I) the original of the documents listed in Subsections (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution; and

(B) submit to the recorder of each other county:

(I) a certified copy of the documents listed in Subsection (2)(c)(i)(A)(I), (II), and (III); and

(II) a certified copy of the annexation resolution.

(3)(a) As used in this Subsection (3), "fire district annexation" means an annexation under this part of an area located in a county of the first class to a special district:

(i) created to provide fire protection, paramedic, and emergency services; and

(ii) in the creation of which an election was not required because of Subsection 17B-1-214(3)(d).

(b) An annexation under this part is complete and becomes effective:

(i)(A) on July 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from January 1 through June 30; or

(B) on January 1 for a fire district annexation, if the lieutenant governor issues the certificate of annexation under Section 67-1a-6.5 from July 1 through December 31; or

(ii) upon the lieutenant governor's issuance of the certificate of annexation under Section 67-1a-6.5, for any other annexation.

(c)(i) The effective date of a special district annexation for purposes of assessing property within the annexed area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (2)(c) are recorded in the office of the recorder of each county in which the property is located, a special district may not:

(A) levy or collect a property tax on property within the annexed area;

(B) levy or collect an assessment on property within the annexed area; or

(C) charge or collect a fee for service provided to property within the annexed area.

(iii) Subsection (3)(c)(ii)(C):

(A) may not be construed to limit a special district's ability before annexation to charge and collect a fee for service provided to property that is outside the special district's boundary; and

(B) does not apply until 60 days after the effective date, under Subsection (3)(b), of the special district's annexation, with respect to a fee that the special district was charging for service provided to property within the annexed area immediately before the area was annexed to the special district.

Section 39. Section 17B-1-504 is amended to read:

17B-1-504. Initiation of withdrawal process -- Notice of petition.

(1) Except as provided in Section 17B-1-505, the process to withdraw an area from a special district may be initiated:

(a) for a special district funded predominantly by revenues from property taxes or service charges other than those based upon acre-feet of water:

(i) by a petition signed by the owners of private real property that:

(A) is located within the area proposed to be withdrawn;

(B) covers at least 51% of the total private land within the area proposed to be withdrawn; and

(C) is equal in taxable value to at least 51% of the taxable value of all private real property within the area proposed to be withdrawn;

(ii) by a petition signed by registered voters residing within the area proposed to be withdrawn equal in number to at least 67% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(iii) by a resolution adopted by the board of trustees of the special district in which the area proposed to be withdrawn is located, which:

(A) states the reasons for withdrawal; and

(B) is accompanied by a general description of the area proposed to be withdrawn; or

(iv) by a resolution to file a petition with the special district to withdraw from the special district all or a specified portion of the area within a municipality or county, adopted by the governing body of a municipality that has within its boundaries an area located within the boundaries of a special district, or by the governing body of a county that has within its boundaries an area located within the boundaries of a special district that is located in more than one county, which petition of the governing body shall be filed with the board of trustees only if a written request to petition the board of trustees to withdraw an area from the special district has been filed with the governing body of the municipality, or county, and the request has been signed by registered voters residing within the boundaries of the area proposed for withdrawal equal in number to at least 51% of the number of votes cast in the same area for the office of governor at the last regular general election before the filing of the petition;

(b) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the owners of at least 67% of the acre-feet of water allotted to the land proposed to be withdrawn; [~~or~~]

(c) for a special district funded predominantly by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water:

(i) in the same manner as provided in Subsection (1)(a)(iii) or Subsection (1)(a)(iv); or

(ii) by a petition signed by the registered voters residing within the entire area proposed to be withdrawn, which area shall be comprised of an entire unincorporated area within the special district or an entire municipality within a special district, or a combination thereof, equal in number to at least 67% of the number of votes cast within the entire area proposed to be withdrawn for the office of governor at the last regular general election before the filing of the petition[~~.~~]; or

(d) for an infrastructure financing district, by a petition signed by 100% of the owners of all surface property within the area proposed to be withdrawn.

(2)(a) Prior to soliciting any signatures on a petition under Subsection (1), the sponsors of the petition shall:

[~~(a)~~](i) notify the special district board with which the petition is intended to be filed that the sponsors will be soliciting signatures for a petition; and

[~~(b)~~](ii) mail a copy of the petition to the special district board.

(b) Subsection (2)(a) does not apply to a petition to withdraw an area from an infrastructure financing district.

Section 40. Section 17B-1-506 is amended to read:

17B-1-506. Withdrawal petition requirements.

(1) Each petition under Section 17B-1-504 shall:

(a) indicate the typed or printed name and current address of each owner of acre-feet of water, property owner, registered voter, or authorized representative of the governing body signing the petition;

(b) separately group signatures by municipality and, in the case of unincorporated areas, by county;

(c) if it is a petition signed by the owners of land, the assessment of which is based on acre-feet of water, indicate the address of the property and the property tax identification parcel number of the property as to which the owner is signing the request;

(d) designate up to three signers of the petition as sponsors, or in the case of a petition filed under Subsection 17B-1-504(1)(a)(iv), designate a governmental representative as a sponsor, and in each case, designate one sponsor as the contact sponsor with the mailing address and telephone number of each;

(e) state the reasons for withdrawal; and

(f) when the petition is filed with the special district board of trustees, be accompanied by a map generally depicting the boundaries of the area proposed to be withdrawn and a legal description of the area proposed to be withdrawn.

(2)(a) The special district may prepare an itemized list of expenses, other than attorney expenses, that will necessarily be incurred by the special district in the withdrawal proceeding. The itemized list of expenses may be submitted to the contact sponsor. If the list of expenses is submitted to the contact sponsor within 21 days after receipt of the petition, the contact sponsor on behalf of the petitioners shall be required to pay the expenses to the special district within 90 days of receipt. Until funds to cover the expenses are delivered to the special district, the district will have no obligation to proceed with the withdrawal and the time limits on the district stated in this part will be tolled. If the expenses are not paid within the 90 days, or within 90 days from the conclusion of any arbitration under Subsection (2)(b), the petition requesting the withdrawal shall be considered to have been withdrawn.

(b) If there is no agreement between the board of trustees of the special district and the contact sponsor on the amount of expenses that will necessarily be incurred by the special district in the withdrawal proceeding, either the board of trustees or the contact sponsor may submit the matter to binding arbitration in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act; provided that, if the parties cannot agree upon

an arbitrator and the rules and procedures that will control the arbitration, either party may pursue arbitration under Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(3)(a) A signer of a petition may withdraw or, once withdrawn, reinstate the signer's signature at any time before the public hearing under Section 17B-1-508 by submitting a written statement requesting withdrawal or reinstatement with the board of trustees of the special district in which the area proposed to be withdrawn is located.

(b) A statement described in Subsection (3)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) As applicable and using the procedures described in Subsection 20A-1-1003(3), the county clerk shall assist the board of trustees to determine whether to remove or reinstate a registered voter's signature after the voter submits a timely, valid statement described in Subsection (3)(a).

(4) If it reasonably appears that, if the withdrawal which is the subject of a petition filed under Subsection 17B-1-504(1)(a)(i) or (ii) is granted, it will be necessary for a municipality to provide to the withdrawn area the service previously supplied by the special district, the board of trustees of the special district may, within 21 days after receiving the petition, notify the contact sponsor in writing that, before it will be considered by the board of trustees, the petition shall be presented to and approved by the governing body of the municipality as provided in Subsection 17B-1-504(1)(a)(iv) before it will be considered by the special district board of trustees. If the notice is timely given to the contact sponsor, the petition shall be considered to have been withdrawn until the municipality files a petition with the special district under Subsection 17B-1-504(1)(a)(iv).

(5)(a) After receiving the notice required by Subsection 17B-1-504(2), unless specifically allowed by law, a public entity may not make expenditures from public funds to support or oppose the gathering of signatures on a petition for withdrawal.

(b) Nothing in this section prohibits a public entity from providing factual information and analysis regarding a withdrawal petition to the public, so long as the information grants equal access to both the opponents and proponents of the petition for withdrawal.

(c) Nothing in this section prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's constitutional rights.

(6) Subsections (2), (3), (4), and (5) do not apply to a petition seeking the withdrawal of an area from an infrastructure financing district.

Section 41. Section 17B-1-511 is amended to read:

17B-1-511. Continuation of tax levy or assessment after withdrawal to pay for proportionate share of district bonds.

(1) Other than as provided in Subsection (2), and unless an escrow trust fund is established and funded pursuant to Subsection 17B-1-510(5)(j), property within the withdrawn area shall continue after withdrawal to be taxable by the special district:

(a) for the purpose of paying the withdrawn area's just proportion of the special district's general obligation bonds or lease obligations payable from property taxes with respect to lease revenue bonds issued by a local building authority on behalf of the special district, other than those bonds treated as revenue bonds under Subsection 17B-1-510(5)(i), until the bonded indebtedness has been satisfied; and

(b) to the extent and for the years necessary to generate sufficient revenue that, when combined with the revenues from the district remaining after withdrawal, is sufficient to provide for the payment of principal and interest on the district's general obligation bonds that are treated as revenue bonds under Subsection 17B-1-510(5)(i).

(2) For a special district funded predominately by revenues other than property taxes, service charges, or assessments based upon an allotment of acre-feet of water, property within the withdrawn area shall continue to be taxable by the special district for purposes of paying the withdrawn area's proportionate share of bonded indebtedness or judgments against the special district incurred prior to the date the petition was filed.

(3) An area withdrawn from an infrastructure financing district remains subject to any taxes, fees, and assessments imposed by the infrastructure financing district until obligations allocable to the withdrawn area are paid.

[~~(3)~~](4) Except as provided in Subsections (1)[~~and~~], (2), and (3), upon withdrawal, the withdrawing area is relieved of all other taxes, assessments, and charges levied by the district, including taxes and charges for the payment of revenue bonds and maintenance and operation cost of the special district.

Section 42. Section 17B-1-1001 is amended to read:

17B-1-1001. Provisions applicable to property tax levy.

(1) Each special district that levies and collects property taxes shall levy and collect them according to the provisions of Title 59, Chapter 2, Property Tax Act.

(2) As used in this section:

(a) "Appointed board of trustees" means a board of trustees of a special district that includes a member who is appointed to the board of trustees in accordance with Section 17B-1-304, Subsection 17B-1-303(5), Subsection 17B-1-306(5)(h), or any

of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(b) "Elected board of trustees" means a board of trustees of a special district that consists entirely of members who are elected to the board of trustees in accordance with Subsection (4), Section 17B-1-306, or any of the applicable provisions in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts.

(3)(a) For a taxable year beginning on or after January 1, 2018, a special district may not levy or collect property tax revenue that exceeds the certified tax rate unless:

(i) to the extent that the revenue from the property tax was pledged before January 1, 2018, the special district pledges the property tax revenue to pay for bonds or other obligations of the special district; or

(ii) the proposed tax or increase in the property tax rate has been approved by:

(A) an elected board of trustees;

(B) subject to Subsection (3)(b), an appointed board of trustees;

(C) a majority of the registered voters within the special district who vote in an election held for that purpose on a date specified in Section 20A-1-204;

(D) the legislative body of the appointing authority; or

(E) the legislative body of:

(I) a majority of the municipalities partially or completely included within the boundary of the specified special district; or

(II) the county in which the specified special district is located, if the county has some or all of its unincorporated area included within the boundary of the specified special district.

(b) For a special district with an appointed board of trustees, each appointed member of the board of trustees shall comply with the trustee reporting requirements described in Section 17B-1-1003 before the special district may impose a property tax levy that exceeds the certified tax rate.

(4)(a) Notwithstanding provisions to the contrary in Title 17B, Chapter 2a, Provisions Applicable to Different Types of Special Districts, and subject to Subsection (4)(b), members of the board of trustees of a special district shall be elected, if:

(i) two-thirds of all members of the board of trustees of the special district vote in favor of changing to an elected board of trustees; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board of trustees.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) Subsections (2), (3), and (4) do not apply to:

(a) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

(b) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act; or

(c) a special district in which:

(i) the board of trustees consists solely of:

(A) land owners or the land owners' agents; or

(B) as described in Subsection [~~17B-1-302(3)~~] 17B-1-302(3), (5), (6), or (7), land owners or the land owners' agents or officers; and

(ii) there are no residents within the special district at the time a property tax is levied.

(6) An infrastructure financing district may not pledge or otherwise use any property tax revenue for the payment of bonds.

Section 43. Section 17B-1-1002 is amended to read:

17B-1-1002. Limit on special district property tax levy -- Exclusions.

(1) The rate at which a special district levies a property tax for district operation and maintenance expenses on the taxable value of taxable property within the district may not exceed:

(a) .0008, for a basic special district;

(b) .0004, for a cemetery maintenance district;

(c) .0004, for a drainage district;

(d) .0008, for a fire protection district;

(e) .0008, for an improvement district;

(f) .0005, for a metropolitan water district;

(g) .0004, for a mosquito abatement district;

(h) .0004, for a public transit district;

(i)(i) .0023, for a service area that:

(A) is located in a county of the first or second class; and

(B)(I) provides fire protection, paramedic, and emergency services; or

(II) subject to Subsection (3), provides law enforcement services; or

(ii) .0014, for each other service area;

(j) the rates provided in Section 17B-2a-1006, for a water conservancy district; [~~or~~]

(k) .0008 for a municipal services district[~~.~~]; or

(l) .0004 for an infrastructure financing district.

(2) Property taxes levied by a special district are excluded from the limit applicable to that district under Subsection (1) if the taxes are:

(a) levied under Section 17B-1-1103 by a special district, other than a water conservancy district, to

pay principal of and interest on general obligation bonds issued by the district;

(b) levied to pay debt and interest owed to the United States; or

(c) levied to pay assessments or other amounts due to a water users association or other public cooperative or private entity from which the district procures water.

(3) A service area described in Subsection (1)(i)(i)(B)(II) may not collect a tax described in Subsection (1)(i)(i) if a municipality or a county having a right to appoint a member to the board of trustees of the service area under Subsection 17B-2a-905(2) assesses on or after November 30 in the year in which the tax is first collected and each subsequent year that the tax is collected:

(a) a generally assessed fee imposed under Section 17B-1-643 for law enforcement services; or

(b) any other generally assessed fee for law enforcement services.

Section 44. Section 17B-1-1302 is amended to read:

17B-1-1302. Special district dissolution.

(1) A special district may be dissolved as provided in this part.

(2) No later than 180 days after the payment of all debt of an infrastructure financing district, the board of trustees of the infrastructure financing district shall adopt a resolution to dissolve the infrastructure financing district.

Section 45. Section 17B-1-1303 is amended to read:

17B-1-1303. Initiation of dissolution process.

The process to dissolve a special district may be initiated by:

(1) for an inactive special district:

(a)(i) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, a petition signed by the owners of 25% of the acre-feet of water allotted to the land within the special district; or

(ii) for all other districts:

(A) a petition signed by the owners of private real property that:

(I) is located within the special district proposed to be dissolved;

(II) covers at least 25% of the private land area within the special district; and

(III) is equal in assessed value to at least 25% of the assessed value of all private real property within the special district; or

(B) a petition signed by registered voters residing within the special district proposed to be dissolved equal in number to at least 25% of the number of votes cast in the district for the office of governor at the last regular general election before the filing of the petition; or

(b) a resolution adopted by the administrative body; [~~and~~]

(2) for an active special district, a petition signed by:

(a) for a special district whose board of trustees is elected by electors based on the acre-feet of water allotted to the land owned by the elector, the owners of 33% of the acre-feet of water allotted to the land within the special district;

(b) for a special district created to acquire or assess a groundwater right for the development and execution of a groundwater management plan in coordination with the state engineer in accordance with Section 73-5-15, the owners of groundwater rights that:

(i) are diverted within the district; and

(ii) cover at least 33% of the total amount of groundwater diverted in accordance with the groundwater rights within the district as a whole; or

(c) for all other districts:

(i) the owners of private real property that:

(A) is located within the special district proposed to be dissolved;

(B) covers at least 33% of the private land area within the special district; and

(C) is equal in assessed value to at least 25% of the assessed value of all private real property within the special district; or

(ii) 33% of registered voters residing within the special district proposed to be dissolved[~~.~~]; or

(3) for an infrastructure financing district, a resolution adopted by the board of trustees.

Section 46. Section 17B-1-1310 is amended to read:

17B-1-1310. Notice to lieutenant governor -- Recording requirements -- Distribution of remaining assets.

(1)(a) [~~The~~]Within the time specified in Subsection (1)(b), an administrative body[~~,~~] shall file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3)[~~:~~].

[~~(a)~~](b) The administrative body shall file a notice of an impending boundary action under Subsection (1)(a) within 30 days after the day on which[~~,~~], as applicable:

(i) the administrative body adopts a resolution approving the dissolution of an inactive special district; [~~or~~]

[~~(b)~~](ii) [~~within 30 days after the day on which~~]a majority of the voters within an active special district approve the dissolution of the special district in an election described in Subsection 17B-1-1309(2)[~~.~~]; or

(iii) for an infrastructure financing district, the administrative body adopts a resolution to dissolve the infrastructure financing district.

(2) Upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, the administrative body shall:

(a) if the special district was located within the boundary of a single county, submit to the recorder of that county:

(i) the original:

(A) notice of an impending boundary action; and

(B) certificate of dissolution; and

(ii) a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); or

(b) if the special district was located within the boundaries of more than a single county:

(i) submit to the recorder of one of those counties:

(A) the original notice of an impending boundary action and certificate of dissolution; and

(B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1); and

(ii) submit to the recorder of each other county:

(A) a certified copy of the notice of an impending boundary action and certificate of dissolution; and

(B) if applicable, a certified copy of the resolution that the administrative body adopts under Subsection 17B-1-1308(1).

(3) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the special district is dissolved.

(4)(a) After the dissolution of a special district under this part, the administrative body shall use any assets of the special district remaining after paying all debts and other obligations of the special district to pay costs associated with the dissolution process.

(b) If the administrative body is not the board of trustees of the dissolved special district, the administrative body shall pay any costs of the dissolution process remaining after exhausting the remaining assets of the special district as described in Subsection (4)(a).

(c) If the administrative body is the board of trustees of the dissolved special district, each entity that has committed to provide a service that the dissolved special district previously provided, as described in Subsection 17B-1-1308(2)(b), shall pay, in the same proportion that the services the entity commits to provide bear to all of the services the special district provided, any costs of the dissolution process remaining after exhausting the remaining assets of the dissolved special district described in Subsection (4)(a).

(5)[~~(a)~~] The administrative body shall distribute any assets of the special district that remain after the payment of debts, obligations, and costs under Subsection (4) in the following order of priority:

[~~(i)~~](a) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the real property owners in the dissolved special district, proportionately to those real property owners;

[~~(ii)~~](b) if there is a readily identifiable connection between the remaining assets and a financial burden borne by the recipients of a service that the dissolved special district provided, proportionately to those recipients; and

[~~(iii)~~](c) subject to Subsection (6), to each entity that has committed to provide a service that the dissolved special district previously provided, as described in Subsection [~~17B-1-1309(1) (b) (ii)~~] 17B-1-1308(2)(b)(i), in the same proportion that the services the entity commits to provide bear to all of the services the special district provided.

(6) An entity that receives cash reserves of the dissolved special district under Subsection (5)(a)(iii) may not use the cash reserves:

(a) in any way other than for the purpose the special district originally intended; or

(b) in any area other than within the area that the dissolved special district previously served.

Section 47. Section 17B-1-1402 is amended to read:

17B-1-1402. Board of trustees of a basic special district.

(1) As specified in a petition under Subsection 17B-1-203(1)(a) or (b) or a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~] 17B-1-203(1)(e) or (f), and except as provided in Subsection (2), the members of a board of trustees of a basic special district may be:

(a)(i) elected by registered voters; or

(ii) appointed by the responsible body, as defined in Section 17B-1-201; or

(b) if the area of the special district contains less than one residential dwelling unit per 50 acres of land at the time the resolution is adopted or the petition is filed, elected by the owners of real property within the special district based on:

(i) the amount of acreage owned by property owners;

(ii) the assessed value of property owned by property owners; or

(iii) water rights:

(A) relating to the real property within the special district;

(B) that the real property owner:

(I) owns; or

(II) has transferred to the special district.

(2) As specified in a groundwater right owner petition under Subsection 17B-1-203(1)(c) or a

resolution under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f), the members of a board of trustees of a basic special district created to manage groundwater rights the district acquires or assesses under Section 17B-1-202 shall be:

(a) subject to Section 17B-1-104.5, elected by the owners of groundwater rights that are diverted within the special district;

(b) appointed by the responsible body, as defined in Section 17B-1-201; or

(c) elected or appointed as provided in Subsection (3).

(3) A petition under Subsection 17B-1-203(1)(a) or (b) and a resolution under Subsection [~~17B-1-203(1)(d) or (e)~~]17B-1-203(1)(e) or (f) may provide for a transition from one or more methods of election or appointment under Subsection (1) or (2) to one or more other methods of election or appointment based upon milestones or events that the petition or resolution identifies.

Section 48. Section 17B-2a-404 is amended to read:

17B-2a-404. Improvement district board of trustees.

(1) As used in this section:

(a) "County district" means an improvement district that does not include within its boundaries any territory of a municipality.

(b) "County member" means a member of a board of trustees of a county district.

(c) "Electric district" means an improvement district that was created for the purpose of providing electric service.

(d) "Included municipality" means a municipality whose boundaries are entirely contained within but do not coincide with the boundaries of an improvement district.

(e) "Municipal district" means an improvement district whose boundaries coincide with the boundaries of a single municipality.

(f) "Regular district" means an improvement district that is not a county district, electric district, or municipal district.

(g) "Remaining area" means the area of a regular district that:

(i) is outside the boundaries of an included municipality; and

(ii) includes the area of an included municipality whose legislative body elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees of the regular district.

(h) "Remaining area member" means a member of a board of trustees of a regular district who is appointed, or, if applicable, elected to represent the remaining area of the district.

(2) The legislative body of the municipality included within a municipal district may:

(a) elect, at the time of the creation of the district, to be the board of trustees of the district; and

(b) adopt at any time a resolution providing for:

(i) the election of board of trustees members, as provided in Section 17B-1-306; or

(ii) the appointment of board of trustees members, as provided in Section 17B-1-304.

(3)(a) The legislative body of a county whose unincorporated area is partly or completely within a county district may:

(i) elect, at the time of the creation of the district, to be the board of trustees of the district, even though a member of the legislative body of the county may not meet the requirements of Subsection 17B-1-302(1);

(ii) adopt at any time a resolution providing for:

(A) the election of board of trustees members, as provided in Section 17B-1-306; or

(B) except as provided in Subsection (4), the appointment of board of trustees members, as provided in Section 17B-1-304; and

(iii) if the conditions of Subsection (3)(b) are met, appoint a member of the legislative body of the county to the board of trustees, except that the legislative body of the county may not appoint more than three members of the legislative body of the county to the board of trustees.

(b) A legislative body of a county whose unincorporated area is partly or completely within a county district may take an action under Subsection (3)(a)(iii) if:

(i) more than 35% of the residences within a county district that receive service from the district are seasonally occupied homes, as defined in Subsection 17B-1-302(2)(a)(ii);

(ii) the board of trustees are appointed by the legislative body of the county; and

(iii) there are at least two appointed board members who meet the requirements of Subsections 17B-1-302(1), (2),[~~ and~~] (3), (5), (6), and (7), except that a member of the legislative body of the county need not satisfy the requirements of Subsections 17B-1-302(1), (2), and (3).

(4) Subject to Subsection (6)(d), the legislative body of a county may not adopt a resolution providing for the appointment of board of trustees members as provided in Subsection (3)(a)(ii)(B) at any time after the county district is governed by an elected board of trustees unless:

(a) the elected board has ceased to function;

(b) the terms of all of the elected board members have expired without the board having called an election; or

(c) the elected board of trustees unanimously adopts a resolution approving the change from an elected to an appointed board.

(5)(a)(i) Except as provided in Subsection (5)(a)(ii), the legislative body of each included

municipality shall each appoint one member to the board of trustees of a regular district.

(ii) The legislative body of an included municipality may elect not to appoint a member to the board under Subsection (5)(a)(i).

(b) Except as provided in Subsection (6), the legislative body of each county whose boundaries include a remaining area shall appoint all other members to the board of trustees of a regular district.

(6) Notwithstanding Subsection (3), each remaining area member of a regular district and each county member of a county district shall be elected, as provided in Section 17B-1-306, if:

(a) the petition or resolution initiating the creation of the district provides for remaining area or county members to be elected;

(b) the district holds an election to approve the district's issuance of bonds;

(c) for a regular district, an included municipality elects, under Subsection (5)(a)(ii), not to appoint a member to the board of trustees; or

(d)(i) at least 90 days before the municipal general election or regular general election, as applicable, a petition is filed with the district's board of trustees requesting remaining area members or county members, as the case may be, to be elected; and

(ii) the petition is signed by registered voters within the remaining area or county district, as the case may be, equal in number to at least 10% of the number of registered voters within the remaining area or county district, respectively, who voted in the last gubernatorial election.

(7) Subject to Section 17B-1-302, the number of members of a board of trustees of a regular district shall be:

(a) the number of included municipalities within the district, if:

(i) the number of included municipalities is greater than nine or is an odd number that is not greater than nine; and

(ii) the district does not include a remaining area;

(b) the number of included municipalities plus one, if the number of included municipalities within the district is an even number that is less than nine; and

(c) the number of included municipalities plus two, if:

(i) the number of included municipalities is an odd number that is less than nine; and

(ii) the district includes a remaining area.

(8)(a) Except as provided in Subsection (8)(b), each remaining area member of the board of trustees of a regular district shall reside within the remaining area.

(b) Notwithstanding Subsection (8)(a) and subject to Subsection (8)(c), each remaining area member shall be chosen from the district at large if:

(i) the population of the remaining area is less than 5% of the total district population; or

(ii)(A) the population of the remaining area is less than 50% of the total district population; and

(B) the majority of the members of the board of trustees are remaining area members.

(c) Application of Subsection (8)(b) may not prematurely shorten the term of any remaining area member serving the remaining area member's elected or appointed term on May 11, 2010.

(9) If the election of remaining area or county members of the board of trustees is required because of a bond election, as provided in Subsection (6)(b):

(a) a person may file a declaration of candidacy if:

(i) the person resides within:

(A) the remaining area, for a regular district; or

(B) the county district, for a county district; and

(ii) otherwise qualifies as a candidate;

(b) the board of trustees shall, if required, provide a ballot separate from the bond election ballot, containing the names of candidates and blanks in which a voter may write additional names; and

(c) the election shall otherwise be governed by Title 20A, Election Code.

(10)(a)(i) This Subsection (10) applies to the board of trustees members of an electric district.

(ii) Subsections (2) through (9) do not apply to an electric district.

(b) The legislative body of the county in which an electric district is located may appoint the initial board of trustees of the electric district as provided in Section 17B-1-304.

(c) After the initial board of trustees is appointed as provided in Subsection (10)(b), each member of the board of trustees of an electric district shall be elected by persons using electricity from and within the district.

(d) Each member of the board of trustees of an electric district shall be a user of electricity from the district and, if applicable, the division of the district from which elected.

(e) The board of trustees of an electric district may be elected from geographic divisions within the district.

(f) A municipality within an electric district is not entitled to automatic representation on the board of trustees.

Section 49. Section 17B-2a-405 is amended to read:

17B-2a-405. Board of trustees of certain sewer improvement districts.

(1) As used in this section:

(a) "Jurisdictional boundaries" means:

(i) for a qualified county, the boundaries that include:

(A) the area of the unincorporated part of the county that is included within a sewer improvement district; and

(B) the area of each nonappointing municipality that is included within the sewer improvement district; and

(ii) for a qualified municipality, the boundaries that include the area of the municipality that is included within a sewer improvement district.

(b) "Nonappointing municipality" means a municipality that:

(i) is partly included within a sewer improvement district; and

(ii) is not a qualified municipality.

(c) "Qualified county" means a county:

(i) some or all of whose unincorporated area is included within a sewer improvement district; or

(ii) which includes within its boundaries a nonappointing municipality.

(d) "Qualified county member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(ii).

(e) "Qualified municipality" means a municipality that is partly or entirely included within a sewer improvement district that includes:

(i) all of the municipality that is capable of receiving sewage treatment service from the sewer improvement district; and

(ii) more than half of:

(A) the municipality's land area; or

(B) the assessed value of all private real property within the municipality.

(f) "Qualified municipality member" means a member of a board of trustees of a sewer improvement district appointed under Subsection (3)(a)(i).

(g) "Sewer improvement district" means an improvement district that:

(i) provides sewage collection, treatment, and disposal service; and

(ii) made an election before 1954 under Laws of Utah 1953, Chapter 29, to enable it to continue to appoint its board of trustees members as provided in this section.

(2)(a) Notwithstanding Section 17B-2a-404, the board of trustees members of a sewer improvement district shall be appointed as provided in this section.

(b) The board of trustees of a sewer improvement district may revoke the election under Subsection (1)(d) and become subject to the provisions of Section 17B-2a-404 only by the unanimous vote of all members of the sewer improvement district's board of trustees at a time when there is no vacancy on the board.

(3)(a) The board of trustees of each sewer improvement district shall consist of:

(i) at least one person but not more than three persons appointed by the mayor of each qualified municipality, with the consent of the legislative body of that municipality; and

(ii) at least one person but not more than three persons appointed by:

(A) the county executive, with the consent of the county legislative body, for a qualified county operating under a county executive-council form of county government; or

(B) the county legislative body, for each other qualified county.

(b) Each qualified county member appointed under Subsection (3)(a)(ii) shall represent the area within the jurisdictional boundaries of the qualified county.

(4) Notwithstanding Subsection [~~17B-1-302(4)~~] 17B-1-302(8), the number of board of trustees members of a sewer improvement district shall be the number that results from application of Subsection (3)(a).

(5) Except as provided in this section, an appointment to the board of trustees of a sewer improvement district is governed by Section 17B-1-304.

(6) A quorum of a board of trustees of a sewer improvement district consists of members representing more than 50% of the total number of qualified county and qualified municipality votes under Subsection (7).

(7)(a) Subject to Subsection (7)(b), each qualified county and each qualified municipality is entitled to one vote on the board of trustees of a sewer improvement district for each $10,000,000, or fractional part larger than 1/2 of that amount, of assessed valuation of private real property taxable for district purposes within the respective jurisdictional boundaries, as shown by the assessment records of the county and evidenced by a certificate of the county auditor.

(b) Notwithstanding Subsection (7)(a), each qualified county and each qualified municipality shall have at least one vote.

(8) If a qualified county or qualified municipality appoints more than one board member, all the votes to which the qualified county or qualified municipality is entitled under Subsection (7) for an item of board business shall collectively be cast by a majority of the qualified county members or qualified municipal members, respectively, present at a meeting of the board of trustees.

Section 50. Section 17B-2a-407 is amended to read:

17B-2a-407. Nonfunctioning improvement district -- Replacing board of trustees.

(1) As used in this section:

(a) "Applicable certificate" means the same as that term is defined in Subsection 67-1a-6.5(1)(a).

(b)(i) "Non-functioning improvement district" means an improvement district:

(A) for which the lieutenant governor issues an applicable certificate on or after July 1, 2022, but before October 15, 2023;

(B) for which the legislative body of a county elected to be the board of trustees of the district under Subsection 17B-2a-404(3)(a); and

(C)(I) for which the responsible body has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, complied with the recording requirements described in Subsection 17B-1-215(2); or

(II) whose board of trustees has not, within 100 days after the day on which the lieutenant governor issued the applicable certificate, held a meeting as the board of trustees of the improvement district, that was noticed and held in accordance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(ii) "Non-functioning improvement district" does not include an improvement district that has emerged from non-functioning status under Subsection (6)(c)(ii).

(2)(a) The board of trustees of a non-functioning improvement district may not, after the 100-day period described in Subsection (1)(b)(i)(C)(I), take any action as the board of trustees or on behalf of the non-functioning improvement district.

(b) Any action taken in violation of Subsection (2)(a) is void.

(3)(a) An owner of land located within the boundaries of a non-functioning improvement district may file with the lieutenant governor a request to replace the board of trustees with a new board of trustees.

(b) A new board of trustees described in Subsection (3)(a) shall comprise three individuals who are:

(i) owners of land located within the boundaries of the improvement district; or

(ii) agents of owners of land located within the boundaries of the improvement district.

(4) A request described in Subsection (3) shall include:

(a) the name and mailing address of the land owner who files the request;

(b) the name of the improvement district;

(c) a copy of the applicable certificate for the improvement district;

(d) written consent to the request from each owner of land located within the boundaries of the improvement district; and

(e) the names and mailing addresses of three individuals who will serve as the board of trustees of the improvement district until a new board of trustees is organized under Subsection (9).

(5) Within 14 days after the day on which the lieutenant governor receives a request described in Subsections (3) and (4), the lieutenant governor shall:

(a) determine whether:

(i) the district is a non-functioning improvement district;

(ii) the request complies with Subsection (4); and

(b) if the lieutenant governor determines that the requirements described in Subsection (5)(a) are met, grant the request by issuing a certificate of replacement described in Subsection (6).

(6) A certificate of replacement shall:

(a) state the name of the improvement district;

(b) reference the applicable certificate for the improvement district;

(c) declare that, upon issuance of the certificate:

(i) the existing board of trustees for the improvement district is dissolved and replaced by an interim board of trustees consisting of the three individuals described in Subsection (4)(e); and

(ii) the improvement district is removed from nonfunctioning status and is, beginning at that point in time, a functioning improvement district.

(7) The interim board of trustees described in Subsection (6)(c)(i) shall record, in the recorder's office for a county in which all or a portion of the improvement district exists:

(a) the original of the certificate of replacement; and

(b) the original or a copy of:

(i) the items described in Subsections 17B-1-215(2)(a)(i)(A), (B), and (C); and

(ii) if applicable, a copy of each resolution adopted under Subsection 17B-1-213(5).

(8) Until a new board of trustees is organized under Subsection (9):

(a) the interim board of trustees has the full authority of a board of trustees of an improvement district; and

(b) a majority of the owners of land in the improvement district:

(i) may appoint an individual described in Subsection (3)(b) to fill a vacancy on the interim board of trustees; and

(ii) shall file written notification of the appointment of an individual described in Subsection (8)(b)(i) with the lieutenant governor.

(9) Within 90 days after the day on which at least 20 persons own land within the improvement district, the interim board of trustees described in Subsection (6)(c)(i) shall dissolve and be replaced by a board of trustees described in Subsections 17B-1-302(1) through [~~(3)(a)~~](3), except that:

(a) the board of trustees shall comprise three members, appointed by the lieutenant governor, who are owners of property in the district, agents of an owner of property in the district, or residents of the district;

(b) Subsections [~~17B-1-302(3)(c) through (6)~~]17B-1-302(6) through (10) and Section 17B-2a-404 do not apply to the improvement district; and

(c) a member of the legislative body of the county may not serve as a member of the board of trustees.

Section 51. Section 17B-2a-604 is amended to read:

17B-2a-604. Metropolitan water district board of trustees.

(1) Members of the board of trustees of a metropolitan water district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the metropolitan water district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (3)(a).

(2)(a) This Subsection (2) shall apply to an appointed board of trustees of a metropolitan water district.

(b) If a district contains the area of a single municipality:

(i) the legislative body of that municipality shall appoint each member of the board of trustees; and

(ii) one member shall be the officer with responsibility over the municipality's water supply and distribution system, if the system is municipally owned.

(c) If a district contains some or all of the retail water service area of more than one municipality:

(i) the legislative body of each municipality shall appoint the number of members for that municipality as determined under Subsection (2)(c)(ii);

(ii) subject to Subsection (2)(c)(iii), the number of members appointed by each municipality shall be determined:

(A) by agreement between the metropolitan water district and the municipalities, subject to Subsection [~~17B-1-302(4)~~]17B-1-302(8); or

(B) as provided in Chapter 1, Part 3, Board of Trustees; and

(iii) at least one member shall be appointed by each municipality.

(d) Each trustee shall be appointed without regard to partisan political affiliations from among citizens of the highest integrity, attainment, competence, and standing in the community.

(3)(a) Members of the board of trustees of a metropolitan water district shall be elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

(i) three-fourths of all members of the board of trustees of the metropolitan water district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (3)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(4) A member of the board of trustees of a metropolitan water district shall be:

(a) a registered voter;

(b) a property taxpayer; and

(c) a resident of:

(i) the metropolitan water district; and

(ii) the retail water service area of the municipality that:

(A) elects the member; or

(B) the member is appointed to represent.

(5)(a) Except as provided in Subsection (7), a member shall immediately forfeit the member's seat on the board of trustees if the member becomes elected or appointed to office in or becomes an employee of the municipality whose legislative body appointed the member under Subsection (2).

(b) The position of the member described in Subsection (5)(a) is vacant until filled as provided in Section 17B-1-304.

(6) Except as provided in Subsection (7), the term of office of each member of the board of trustees is as provided in Section 17B-1-303.

(7) Subsections (4), (5)(a), and (6) do not apply to a member who is a member under Subsection (2)(b)(ii).

Section 52. Section 17B-2a-704 is amended to read:

17B-2a-704. Mosquito abatement district board of trustees.

(1)(a) Notwithstanding Subsection [~~17B-1-302(4)~~]17B-1-302(8):

(i) the board of trustees of a mosquito abatement district consists of no less than five members appointed in accordance with this section; and

(ii) subject to Subsection (1)(b), the legislative body of each municipality that is entirely or partly included within a mosquito abatement district shall appoint one member to the board of trustees.

(b) If 75% or more of the area of a mosquito abatement district is within the boundaries of a single municipality:

(i) the board of trustees consists of five members; and

(ii) the legislative body of that municipality shall appoint all five members of the board.

(2) Except as provided in Subsection (1), the legislative body of each county in which a mosquito abatement district is located shall appoint at least one member but no more than three members to the district's board of trustees as follows:

(a) the county may appoint one member if:

(i)(A) some or all of the county's unincorporated area is included within the boundaries of the mosquito abatement district; and

(B) Subsection (2)(b) does not apply; or

(ii)(A) the number of municipalities that are entirely or partly included within the district is an even number less than nine; and

(B) Subsection (1)(b) does not apply; or

(b) subject to Subsection (3), the county may appoint up to and including three members if:

(i) more than 25% of the population of the mosquito abatement district resides outside the boundaries of all municipalities that may appoint members to the board of trustees; and

(ii) a municipality appoints at least four members of the board of trustees.

(3) A county may not appoint a member in accordance with Subsection (2)(b) who resides within a municipality that may appoint a member to the board of trustees.

(4) If the number of board members appointed by application of Subsections (1) and (2)(a) is an even number less than nine, the legislative body of the county in which the district is located shall appoint an additional member.

(5) Notwithstanding Subsection (2), and subject to Subsection (1)(b):

(a) if the mosquito abatement district is located entirely within one county and, in accordance with this section, only one municipality may appoint a member of the board of trustees, the county legislative body shall appoint at least four members to the district's board of trustees; and

(b) if the mosquito abatement district is located entirely within one county and no municipality may appoint a member of the board of trustees, the county legislative body shall appoint all of the members of the board.

(6) Each board of trustees member is appointed in accordance with Section 17B-1-304.

(7) The applicable appointing authority shall fill each vacancy on a mosquito abatement district board of trustees in accordance with Section 17B-1-304, or if the vacancy is a midterm vacancy, in accordance with Section 20A-1-512.

Section 53. Section 17B-2a-905 is amended to read:

17B-2a-905. Service area board of trustees.

(1)(a) Except as provided in Subsection (2), (3), or (4):

(i) the initial board of trustees of a service area located entirely within the unincorporated area of a single county may, as stated in the petition or resolution that initiated the process of creating the service area:

(A) consist of the county legislative body;

(B) be appointed, as provided in Section 17B-1-304; or

(C) be elected, as provided in Section 17B-1-306;

(ii) if the board of trustees of a service area consists of the county legislative body, the board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306; and

(iii) members of the board of trustees of a service area shall be elected, as provided in Section 17B-1-306, if:

(A) the service area is not entirely within the unincorporated area of a single county;

(B) a petition is filed with the board of trustees requesting that board members be elected, and the petition is signed by registered voters within the service area equal in number to at least 10% of the number of registered voters within the service area who voted at the last gubernatorial election; or

(C) an election is held to authorize the service area's issuance of bonds.

(b) If members of the board of trustees of a service area are required to be elected under Subsection (1)(a)(iii)(C) because of a bond election:

(i) board members shall be elected in conjunction with the bond election;

(ii) the board of trustees shall:

(A) establish a process to enable potential candidates to file a declaration of candidacy sufficiently in advance of the election; and

(B) provide a ballot for the election of board members separate from the bond ballot; and

(iii) except as provided in this Subsection (1)(b), the election shall be held as provided in Section 17B-1-306.

(2)(a) This Subsection (2) applies to a service area created on or after May 5, 2003, if:

(i) the service area was created to provide:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) the service area is not a service area described in Subsection (3).

(b)(i) Each county with unincorporated area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint up to three members to the board of trustees.

(ii) Each municipality with an area that is included within a service area described in Subsection (2)(a), whether in conjunction with the creation of the service area or by later service area annexation or municipal incorporation or annexation, shall appoint one member to the board of trustees, unless the area of the municipality is withdrawn from the service area.

(iii) Each member that a county or municipality appoints under Subsection (2)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(c) Notwithstanding Subsection [~~17B-1-302(4)~~] 17B-1-302(8), the number of members of a board of trustees of a service area described in Subsection (2)(a) shall be the number resulting from application of Subsection (2)(b).

(3)(a) This Subsection (3) applies to a service area created on or after May 14, 2013, if:

(i) the service area was created to provide fire protection, paramedic, and emergency services;

(ii) in the creation of the service area, an election was not required under Subsection 17B-1-214(3)(d); and

(iii) each municipality with an area that is included within the service area or county with unincorporated area, whether in whole or in part, that is included within a service area is a party to an agreement:

(A) entered into in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with all the other municipalities or counties with an area that is included in the service area;

(B) to provide the services described in Subsection (3)(a)(i); and

(C) at the time a resolution proposing the creation of the service area is adopted by each applicable municipal or county legislative body in accordance with Subsection [~~17B-1-203(1)(d)~~] 17B-1-203(1)(e).

(b)(i) Each county with unincorporated area, whether in whole or in part, that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(ii) Each municipality with an area that is included within a service area described in Subsection (3)(a), whether in conjunction with the creation of the service area or by later annexation, shall appoint one member to the board of trustees.

(iii) Each member that a county or municipality appoints under Subsection (3)(b)(i) or (ii) shall be an elected official of the appointing county or municipality, respectively.

(iv) A vote by a member of the board of trustees may be weighted or proportional.

(c) Notwithstanding Subsection [~~17B-1-302(4)~~] 17B-1-302(8), the number of members of a board of trustees of a service area described in Subsection (3)(a) is the number resulting from the application of Subsection (3)(b).

(4)(a) This Subsection (4) applies to a service area if:

(i) the service area provides a service to a municipality in accordance with an agreement between the service area and the municipality in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) the municipality is not included within the service area's boundary;

(iii) the governing body of the municipality petitions the service area to request authority to appoint one member of the board of trustees of the service area; and

(iv) the service area board of trustees approves the petition.

(b) The governing body of a municipality described in Subsection (4)(a) may appoint a member of a service area board of trustees as follows:

(i) the governing body shall make the appointment in accordance with:

(A) Section 17B-1-304; or

(B) to fill a mid-term vacancy, Subsection 20A-1-512(1);

(ii) the governing body may not appoint an individual who is not a registered voter residing within the municipality;

(iii) the district boundary requirement in Subsection 17B-1-302(1) does not apply to the governing body's appointee;

(iv) the governing body and the service area board of trustees may not shorten the term of office of any member of the board due to the governing body's appointment;

(v) notwithstanding Subsection [~~17B-1-302(4)~~] 17B-1-302(8), the number of members of the board of trustees of a service area described in Subsection (4)(a) may be odd or even; and

(vi) if the number of members of a service area board of trustees is odd before the governing body's appointment, the member that the governing body appoints may replace a member whose term is

expiring or who otherwise leaves a vacancy on the board or, if no expiring term or vacancy exists:

(A) the number of board members may temporarily be even, including the member that the governing body appoints, until an expiring term or vacancy exists that restores the board membership to an odd number; and

(B) no appointing authority may fill the expiring term or vacancy that restores the board membership to an odd number.

(c)(i) The service area board of trustees may rescind the approval described in Subsection (4)(a) at any time.

(ii) If the service area board of trustees rescinds the approval described in Subsection (4)(a) during the term of a board member that the governing body appointed, the appointee shall remain on the board for the remainder of the appointee's term.

Section 54. Section 17B-2a-1301 is enacted to read:

17B-2a-1301. Definitions.

Part 13. Infrastructure Financing District

As used in this part:

(1) "Assessment bond" means the same as that term is defined in Section 11-42-102.

(2) "Board" means the board of trustees of an infrastructure financing district.

(3) "Designated expansion area" means an area that is:

(a) outside and contiguous to the original district boundary; and

(b) designated and described in a governing document as an area that may be subject to future annexation to the infrastructure financing district.

(4) "Governing document" means a document described in Section 17B-2a-1303.

(5) "Original district boundary" means the boundary of an infrastructure financing district as described in the approved final local entity plat, as defined in Section 67-1a-6.5.

(6)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are or will be owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity.

(b) "Public infrastructure and improvements" includes facilities, lines, or systems that provide:

(i) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, solid waste facilities, parking facilities, or public transportation facilities; and

(iii) green space, parks, trails, recreational amenities, or other similar facilities.

(c) "Public infrastructure and improvements" does not include any infrastructure, improvements, facilities, or buildings owned or to be owned by a private person, including a homeowner association.

(7) "Residential district" means an infrastructure financing district that contains or is projected to contain owner-occupied residential units within the boundary of the infrastructure financing district.

Section 55. Section 17B-2a-1302 is enacted to read:

17B-2a-1302. Provisions applicable to infrastructure financing district -- Exceptions -- Conflicting provisions -- Contract for administrative services.

(1) An infrastructure financing district is governed by and has the powers stated in:

(a) this part; and

(b) Chapter 1, Provisions Applicable to All Special Districts, except as provided in Subsection (1)(b).

(2)(a) Notwithstanding Subsection 17B-1-103(2)(f), an infrastructure financing district may issue bonds only as provided in Title 11, Chapter 42, Assessment Area Act, subject to Subsection (2)(b), and Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

(b) To the extent that the provisions of Title 11, Chapter 42, Assessment Area Act, apply to the use of funds from an assessment or an assessment bond for infrastructure operation and maintenance costs or for the cost of conducting economic promotion activities, those provisions do not apply to an infrastructure financing district.

(c) Before a county or municipality's final inspection required for the issuance of a certificate of occupancy for a residential unit that is subject to an assessment levied by an infrastructure financing district under Title 11, Chapter 42, Assessment Area Act, the infrastructure financing district shall ensure that the assessment allocable to that unit is paid in full and that any assessment lien on that unit is satisfied and released.

(3) Notwithstanding Subsection 17B-1-103(2)(h), an infrastructure financing district may not exercise the power of eminent domain.

(4) This part applies only to an infrastructure financing district.

(5) If there is a conflict between a provision in Chapter 1, Provisions Applicable to All Special Districts, and a provision in this part, the provision in this part governs.

(6) An infrastructure financing district may contract with another governmental entity for the

other governmental entity to provide administrative services to the infrastructure financing district.

Section 56. Section 17B-2a-1303 is enacted to read:

17B-2a-1303. Governing document.

(1) The sponsors of a petition filed under Subsection 17B-1-203(1)(d) to create an infrastructure financing district may include with the petition a governing document.

(2) A governing document may contain provisions for the governance of the infrastructure financing district, consistent with this part, including:

(a) for a residential district, milestones or events that will guide the board in considering modifications to division boundaries to ensure that each division has as nearly as possible the same number of registered voters;

(b) a provision allowing a property owner within the infrastructure financing district to make recommendations, in proportion to the amount of the owner's property in relation to all property within the infrastructure financing district, for individuals to serve as appointed board members; and

(c) any other provisions or information that petition sponsors or the board considers necessary or advisable for the governance of the infrastructure financing district.

(3) A governing document shall:

(a) include a description of infrastructure that the infrastructure financing district will provide funding for;

(b) include, for a residential district, a provision for a transition from an appointed board position, whether at large or for a division, to an elected board position, based upon milestones or events that the governing document identifies;

(c) if applicable, include a copy of a development agreement that has been executed relating to infrastructure to be developed within the boundary of the infrastructure financing district and for which the infrastructure financing district anticipates providing funding; and

(d) if applicable, describe a designated expansion area.

(4)(a) An area may not be designated as a designated expansion area unless the area is contiguous to the original district boundary.

(b) An area may not be annexed to an infrastructure financing district unless the area is within the designated expansion area that is described in a governing document that is included and submitted with the petition to create the infrastructure financing district.

Section 57. Section 17B-2a-1304 is enacted to read:

17B-2a-1304. Board of trustees -- Conflict of interest -- Compensation.

(1) A board member with a personal investment described in Section 67-16-9 is not in violation of Section 67-16-9 if:

(a) before beginning service as a board member, the board member complies with the disclosure requirements of Section 67-16-7, as though that section applied to the board member's ownership of a personal investment described in Section 67-16-9; and

(b) during the board member's service, the board member complies with:

(i) the disclosure requirements of Section 67-16-7, as provided in Subsection (1)(a), upon any significant change in the board member's personal investment; and

(ii) applicable requirements of this part and the governing document.

(2) An infrastructure financing district may not compensate a board member for the member's service on the board unless the board member is a resident within the boundary of the infrastructure financing district.

Section 58. Section 17B-2a-1305 is enacted to read:

17B-2a-1305. Relationship with other local entities.

(1) The applicability of local land use regulations under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, is not affected by:

(a) the creation or operation of an infrastructure financing district; or

(b) the infrastructure financing district's provision of funding for the development of infrastructure within the infrastructure financing district boundary.

(2) The boundary of an infrastructure financing district is not affected by:

(a) a municipality's annexation of an unincorporated area of a county; or

(b) the adjustment of a boundary shared by more than one municipality.

(3) A debt, obligation, or other financial burden of an infrastructure financing district, including any liability of or claim or judgment against an infrastructure financing district:

(a) is borne solely by the infrastructure financing district; and

(b) is not the debt, obligation, or other financial burden of any other political subdivision of the state or of the state.

(4)(a) Nothing in this part affects the requirement for infrastructure for which an infrastructure

financing district provides funding to comply with all applicable standards and design, inspection, and other requirements of the county, municipality, special district, or special service district that will own and operate the infrastructure after the infrastructure is completed.

(b) Upon the completion of infrastructure for which an infrastructure financing district has provided funding, the infrastructure shall be conveyed:

(i) to the county, municipality, special district, or special service district that will operate the infrastructure; and

(ii) at no cost to the county, municipality, special district, or special service district.

Section 59. Section 17B-2a-1306 is enacted to read:

17B-2a-1306. Contesting an infrastructure financing district action.

(1) As used in this section:

(a) "Contestable action" means:

(i) the creation of an infrastructure financing district or any part of the process to create an infrastructure financing district;

(ii) a property tax levied by an infrastructure financing district or any part of the process to levy the tax; or

(iii) a fee imposed by an infrastructure financing district or any part of the process to impose the fee.

(b) "Effective date" means:

(i) with respect to the creation of an infrastructure financing district, the date of the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5;

(ii) with respect to a property tax levied by an infrastructure financing district, the date of the board's adoption of a resolution levying the tax; and

(iii) for a fee imposed by an infrastructure financing district, the date of the board's adoption of a resolution imposing the fee.

(2)(a) A person may file a court action to contest the legality or validity of a contestable action.

(b) A court action under Subsection (2)(a) is the exclusive remedy for a person to contest the legality or validity of a contestable action.

(3) A person may not bring an action under Subsection (2) or serve a summons relating to the action more than 30 days after the effective date of the contestable action.

(4) After the expiration of the 30-day period stated in Subsection (3):

(a) a contestable action becomes incontestable against any person who has not brought an action and served a summons within the time specified in Subsection (3); and

(b) a person may not bring an action to:

(i) enjoin an infrastructure financing district from levying and collecting a property tax or imposing and collecting a fee that the infrastructure financing district levies or imposes; or

(ii) attack or question in any way the legality or validity of a contestable action.

(5)(a) This section does not affect a claim for a misuse of funds against the infrastructure financing district or an officer or employee of the infrastructure financing district.

(b) A person may not seek relief for a claimed misuse of funds described in Subsection (5)(a) except for conjunctive relief.

(c) The limitation under Subsection (5)(b) does not affect the filing or prosecution of criminal charges for the misuse of infrastructure financing district funds.

Section 60. Section 17B-2a-1307 is enacted to read:

17B-2a-1307. Reporting requirements.

(1) An infrastructure financing district shall submit an annual report, as provided in this section, to:

(a) the state auditor;

(b) the clerk or recorder of each municipality in which the infrastructure financing district is located; and

(c) the clerk of the county in which the infrastructure financing district is located, if all or part of the infrastructure financing district is located in an unincorporated area of the county.

(2) A report required under Subsection (1) shall:

(a) be filed no later than May 31 of each year; and

(b) report, for the preceding calendar year:

(i) if applicable, the amount of property tax revenue the infrastructure financing district received;

(ii) the amount of money the infrastructure financing district received from assessments levied in an assessment area designated under Title 11, Chapter 42, Assessment Area Act;

(iii) the outstanding principal of any assessment bonds issued or other debt incurred by the infrastructure financing district;

(iv) the amount spent for site improvement or site preparation costs, the installation of public infrastructure and improvements, and administrative costs;

(v) any boundary change of the infrastructure financing district; and

(vi) the number of residential housing units constructed within the infrastructure financing district.

Section 61. Section 20A-1-512 is amended to read:

20A-1-512. Midterm vacancies on local district boards -- Notice.

(1)(a) When a vacancy occurs on any special district board for any reason, the following shall appoint a replacement to serve out the unexpired term in accordance with this section:

(i) the special district board, if the person vacating the position was elected; or

(ii) the appointing authority, as that term is defined in Section 17B-1-102, if the appointing authority appointed the person vacating the position.

(b) Except as provided in Subsection (1)(c) or (d), before acting to fill the vacancy, the special district board or appointing authority shall:

(i) give public notice of the vacancy for at least two weeks before the special district board or appointing authority meets to fill the vacancy by publishing the notice, as a class A notice under Section 63G-30-102, for the special district; and

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the individual to whom an individual who is interested in an appointment to fill the vacancy may submit the individual's name for consideration; and

(C) any submission deadline.

(c) An appointing authority is not subject to Subsection (1)(b) if:

(i)(A) the appointing authority appoints one of the appointing authority's own members; and

[~~(ii)~~](B) that member meets all applicable statutory board member qualifications[~~.~~]; or

(ii) the vacancy is on the board of trustees of an infrastructure financing district with no residents within the district's boundary.

(d) When a vacancy occurs on the board of a water conservancy district located in more than one county:

(i) the board shall give notice of the vacancy to the county legislative bodies that nominated the vacating trustee as provided in Section 17B-2a-1005;

(ii) the county legislative bodies described in Subsection (1)(d)(i) shall collectively compile a list of three nominees to fill the vacancy; and

(iii) the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy from nominees submitted as provided in Subsection 17B-2a-1005(2)(c).

(2) If, 90 days after a vacancy occurs, the special district board [~~fails~~]has failed to appoint an individual to complete an elected board member's term[~~ within 90 days, the legislative body of the county or municipality that created the special district shall fill~~], the vacancy shall be filled:

(a) in accordance with the procedure for a special district described in Subsection (1)(b)[~~.~~]; and

(b) by, as applicable:

(i) the legislative body of the county or municipality that created the special district; or

(ii) for a vacancy on a board of trustees of an infrastructure financing district, the legislative body of the county whose unincorporated area contains or the municipality whose boundary contains more of the area within the infrastructure financing district than is contained within the unincorporated area of any other county or within the boundary of any other municipality.

Section 62. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2)(a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting shall establish the conditions under which a remote member is included in calculating a quorum.

(c) A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy; or

(vi) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes and conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52-4-202;

(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and

(c) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting.

(4)(a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a)(i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means;

(b)(i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means;

(c)(i) the public body is a special district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;

(ii) the board of trustees' membership consists of:

(A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B-1-302(2)(b); or

(B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection [~~17B-1-302(3)(a)(ii)~~]17B-1-302(3)(b)(ii);

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the board of trustees allows members of the public attending the meeting by remote electronic means to participate in the meeting; or

(d)(i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;

(ii) the administrative control board's membership consists of:

(A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D-1-304(1)(a)(iii)(A) or (B), as applicable; or

(B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D-1-304(1)(b)(i);

(iii) the public notice required under Subsection 52-4-202(3)(a)(i)(B) for the electronic meeting includes information on how a member of the public may attend the meeting remotely by electronic means; and

(iv) the administrative control board allows members of the public attending the meeting by remote electronic means to participate in the meeting.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.

Section 63. Section 67-1a-6.5 is amended to read:

67-1a-6.5. Certification of local entity boundary actions -- Definitions -- Notice requirements -- Electronic copies -- Filing.

(1) As used in this section:

(a) "Applicable certificate" means:

(i) for the impending incorporation of a city, town, special district, conservation district, or incorporation of a special district from a reorganized special service district, a certificate of incorporation;

(ii) for the impending creation of a county, school district, special service district, community reinvestment agency, or interlocal entity, a certificate of creation;

(iii) for the impending annexation of territory to an existing local entity, a certificate of annexation;

(iv) for the impending withdrawal or disconnection of territory from an existing local entity, a certificate of withdrawal or disconnection, respectively;

(v) for the impending consolidation of multiple local entities, a certificate of consolidation;

(vi) for the impending division of a local entity into multiple local entities, a certificate of division;

(vii) for the impending adjustment of a common boundary between local entities, a certificate of boundary adjustment; and

(viii) for the impending dissolution of a local entity, a certificate of dissolution.

(b) "Approved final local entity plat" means a final local entity plat, as defined in Section 17-23-20, that has been approved under Section 17-23-20 as a final local entity plat by the county surveyor.

(c) "Approving authority" has the same meaning as defined in Section 17-23-20.

(d) "Boundary action" has the same meaning as defined in Section 17-23-20.

(e) "Center" means the Utah Geospatial Resource Center created under Section 63A-16-505.

(f) "Community reinvestment agency" has the same meaning as defined in Section 17C-1-102.

(g) "Conservation district" has the same meaning as defined in Section 17D-3-102.

(h) "Interlocal entity" has the same meaning as defined in Section 11-13-103.

(i) "Local entity" means a county, city, town, school district, special district, community reinvestment agency, special service district, conservation district, or interlocal entity.

(j) "Notice of an impending boundary action" means a written notice, as described in Subsection (3), that provides notice of an impending boundary action.

(k) "Special district" means the same as that term is defined in Section 17B-1-102.

(l) "Special service district" means the same as that term is defined in Section 17D-1-102.

(2) Within 10 days after receiving a notice of an impending boundary action, the lieutenant governor shall:

(a)(i) issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action meets the requirements of Subsection (3); and

(B) except in the case of an impending local entity dissolution, the notice of an impending boundary action is accompanied by an approved final local entity plat;

(ii) send the applicable certificate to the local entity's approving authority;

(iii) return the original of the approved final local entity plat to the local entity's approving authority;

(iv) send a copy of the applicable certificate and approved final local entity plat to:

(A) the State Tax Commission;

(B) the center; and

(C) the county assessor, county surveyor, county auditor, and county attorney of each county in which the property depicted on the approved final local entity plat is located; and

(v) send a copy of the applicable certificate to the state auditor, if the boundary action that is the subject of the applicable certificate is:

(A) the incorporation or creation of a new local entity;

(B) the consolidation of multiple local entities;

(C) the division of a local entity into multiple local entities; or

(D) the dissolution of a local entity; or

(b)(i) send written notification to the approving authority that the lieutenant governor is unable to issue the applicable certificate, if:

(A) the lieutenant governor determines that the notice of an impending boundary action does not meet the requirements of Subsection (3); or

(B) the notice of an impending boundary action is:

(I) not accompanied by an approved final local entity plat; or

(II) accompanied by a plat or final local entity plat that has not been approved as a final local entity plat by the county surveyor under Section 17-23-20; and

(ii) explain in the notification under Subsection (2)(b)(i) why the lieutenant governor is unable to issue the applicable certificate.

(3) Each notice of an impending boundary action shall:

(a) be directed to the lieutenant governor;

(b) contain the name of the local entity or, in the case of an incorporation or creation, future local entity, whose boundary is affected or established by the boundary action;

(c) describe the type of boundary action for which an applicable certificate is sought;

(d) be accompanied by a letter from the Utah State Retirement Office, created under Section 49-11-201, to the approving authority that identifies the potential provisions under Title 49, Utah State Retirement and Insurance Benefit Act, that the local entity shall comply with, related to the boundary action, if the boundary action is an impending incorporation or creation of a local entity that may result in the employment of personnel; and

(e)(i) contain a statement, signed and verified by the approving authority, certifying that all requirements applicable to the boundary action have been met; or

(ii) in the case of the dissolution of a municipality, be accompanied by a certified copy of the court order approving the dissolution of the municipality.

(4) The lieutenant governor may require the approving authority to submit a paper or electronic copy of a notice of an impending boundary action and approved final local entity plat in conjunction with the filing of the original of those documents.

(5)(a) The lieutenant governor shall:

(i) keep, index, maintain, and make available to the public each notice of an impending boundary action, approved final local entity plat, applicable certificate, and other document that the lieutenant governor receives or generates under this section;

(ii) make a copy of each document listed in Subsection (5)(a)(i) available on the Internet for 12 months after the lieutenant governor receives or generates the document;

(iii) furnish a paper copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a paper copy; and

(iv) furnish a certified copy of any of the documents listed in Subsection (5)(a)(i) to any person who requests a certified copy.

(b) The lieutenant governor may charge a reasonable fee for a paper copy or certified copy of a document that the lieutenant governor provides under this Subsection (5).

(6) The lieutenant governor's issuance of a certificate of creation for an infrastructure financing district constitutes the state's approval of the creation of the infrastructure financing district.

Section 64. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 389
H. B. 21
Passed February 28, 2024
Approved March 19, 2024
Effective July 1, 2024

CRIMINAL ACCOUNTS RECEIVABLE AMENDMENTS

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions related to a criminal accounts receivable.

Highlighted Provisions:

This bill:

- defines terms;
- creates a process to allow certain individuals to request a credit towards debt owed as part of a criminal judgment upon a payment of restitution;
- requires the Office of State Debt Collection to provide notice and written confirmation to certain individuals who are eligible for the credit;
- grants the Office of State Debt Collection the authority to make rules regarding the administration of the credit;
- requires the Office of State Debt Collection to report to the Judiciary Interim Committee before November 30, 2025;
- clarifies the term, "criminal accounts receivable";
- provides that a defendant is required to pay $50 per month toward a criminal accounts receivable when a court is unable to determine, or does not provide, an amount for the payment schedule; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-32b-102, as renumbered and amended by Laws of Utah 2021, Chapter 260
77-32b-103, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

63A-3-508, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-508 is enacted to read:

63A-3-508. Written request to receive a credit for a restitution payment -- Eligibility requirements.

(1) As used in this section:

(a) "Debt" means any amount that:

(i) an individual owes as part of a criminal judgment; and

(ii) is collected and managed by the office.

(b) "Eligible individual" means an individual who meets the requirements of Subsection (2).

(c) "Qualifying debt" means a debt that is a fine, a fee, a surcharge, or any other money, that is deposited into the General Fund by the state treasurer.

(d) "Voluntary payment" means a payment on a debt that is made before, or in the absence of, a legal proceeding or administrative action to collect or enforce the collection of the debt.

(2) An individual is eligible for a credit described in Subsection (3) if:

(a) the individual submits a written request, on or after May 1, 2024, and before May 1, 2026, to the office requesting the credit;

(b) the individual owes a debt of $3,000 or greater at the time of the written request; and

(c) the individual was sentenced before July 1, 2021, for a criminal judgment for which the individual owes a debt.

(3)(a) If an eligible individual makes a voluntary payment toward any restitution owed by the individual, the office shall issue a credit against any qualifying debt owed by the individual in the amount of 75% of the amount applied to restitution.

(b) The office may issue the credit described in Subsection (3) to any voluntary payment made toward restitution before the written request was submitted as described in Subsection (2).

(4) The office shall provide:

(a) reasonable notice of eligibility before May 1, 2026, to any individual that may be eligible for the credit as described in Subsection (2)(b) and (c); and

(b) if an individual submits a written request as described in Subsection (2)(a), a written confirmation as to whether the individual is an eligible individual and will receive a credit as described in Subsection (3).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules regarding the administration of this section.

(6) By no later than November 30, 2025, the office shall report to the Judiciary Interim Committee on the outcomes of this section and whether the eligibility period described in Subsection (2) should be extended beyond May 1, 2026.

(7) Nothing in this section authorizes the office to reimburse or refund an individual for any payment on a debt.

Section 2. Section 77-32b-102 is amended to read:

77-32b-102. Definitions.

As used in this chapter:

(1) "Board" means the Board of Pardons and Parole.

(2)(a) "Civil accounts receivable" means any amount of the criminal accounts receivable that is owed by the defendant that has not been paid on or before the day on which:

(i) the defendant's sentence is terminated; or

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2).

(b) "Civil accounts receivable" does not include any amount of the criminal accounts receivable that is owed by the defendant for restitution.

(3) "Civil judgment of restitution" means any amount of the criminal accounts receivable that is owed by the defendant for restitution that has not been paid on or before the day on which the defendant's sentence is terminated.

(4)(a) "Criminal accounts receivable" means any amount owed by a defendant that arises from a criminal judgment until:

(i) the defendant's sentence terminates;

(ii) the court enters an order for a civil accounts receivable under Subsection 77-18-114(1) or (2); or

(iii) if the court requires the defendant, upon termination of the probation period for the defendant, to continue to make payments on the criminal accounts as described in Subsection 77-18-105(8), the defendant's sentence expires.

(b) "Criminal accounts receivable" includes any unpaid:

(i) fee, including the monthly supervision fee described in Subsection 64-13-21(6);

(ii) forfeiture;

(iii) surcharge;

(iv) cost;

(v) interest;

(vi) penalty;

(vii) restitution;

(viii) third party claim;

(ix) reimbursement of a reward; and

(x) damages.

[~~(b) "Criminal accounts receivable" includes unpaid fees, forfeitures, surcharges, costs, interest, penalties, restitution, third party claims, claims, reimbursement of a reward, and damages.~~]

(5) "Default" means a civil accounts receivable, a civil judgment of restitution, or a criminal accounts receivable that is overdue by at least 90 days.

(6) "Delinquent" means a civil accounts receivable, a civil judgment of restitution, or a criminal account receivable that is overdue by more than 28 days but less than 90 days.

(7) "Payment schedule" means the amount that is be paid by a defendant in installments, or by a certain date, to satisfy a criminal accounts receivable for the defendant.

(8) "Remit" or "remission" means to forgive or to excuse, in whole or in part, any unpaid amount of a criminal accounts receivable.

(9) "Restitution" means the same as that term is defined in Section 77-38b-102.

Section 3. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1)(a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a

financial institution for the use of a credit or debit card to make payments towards the criminal accounts receivable.

(3)(a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(c) If the court is unable to determine the appropriate amount for the payment schedule or does not set an amount for the payment schedule, the defendant is required to pay $50 per month toward the criminal accounts receivable.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6)(a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 26B-5-332:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 4. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 390
H. B. 24
Passed February 15, 2024
Approved March 19, 2024
Effective May 1, 2024

UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill amends provisions of the Uniform Real Property Transfer on Death Act.

Highlighted Provisions:

This bill:

- amends the optional forms regarding a transfer on death deed under the Uniform Real Property Transfer on Death Act; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS AND REENACTS:

75-6-416, as last amended by Laws of Utah 2019, Chapter 136
75-6-417, as last amended by Laws of Utah 2019, Chapter 136

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-6-416 is repealed and re-enacted to read:

75-6-416. Optional form of transfer on death deed.

(1) An individual may use the following form to create a transfer on death deed under this part: REVOCABLE TRANSFER ON DEATH DEEDNOTICE TO OWNER You should carefully read all information on the other side of this form. You may want to consult a lawyer before using this form. This form must be recorded before your death or it will not be effective. The beneficiary must be a named person.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed Name Mailing Address

Printed Name Mailing Address

Legal Description of Property (Pursuant to Utah Code Section 57-3-105):

Tax Identification Number for Property:

PRIMARY BENEFICIARY

I designate the following beneficiary if the beneficiary survives me:

Printed Name Mailing Address

ALTERNATE BENEFICIARY (Optional)If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me:

Printed Name Mailing Address

TRANSFER ON DEATH

At my death, I transfer my interest in the described property to the beneficiaries as designated above.

Before my death, I have the right to revoke this deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

Signature Date

Printed Name

Signature Date

Printed Name

ACKNOWLEDGMENT

(Attach an affidavit of acknowledgment pursuant to Utah Code Section 46-1-6.5 to the form.)

(2) The other sections of this part govern the effect of the form described in Subsection (1) or any other instrument used to create a transfer on death deed.

Section 2. Section 75-6-417 is repealed and re-enacted to read:

75-6-417. Optional form of revocation.

(1) An individual may use the following form to create an instrument of revocation under this part:

FULL REVOCATION OF TRANSFER ON DEATH DEED

NOTICE TO OWNER

This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

IDENTIFYING INFORMATION

Owner or Owners Making This Deed:

Printed Name Mailing Address

Printed Name Mailing Address

Legal Description of Property (Pursuant to Utah Code Section 57-3-105):

Tax Identification Number for Property:

REVOCATION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

Signature Date

Printed Name

Signature Date

Printed Name

ACKNOWLEDGMENT

(Attach an affidavit of acknowledgment pursuant to Utah Code Section 46-1-6.5 to the form.)

(2) The other sections of this part govern the effect of the form described in Subsection (1) or any other instrument used to revoke a transfer on death deed.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 391
H. B. 25
Passed February 15, 2024
Approved March 19, 2024
Effective May 1, 2024

ELECTRONIC NOTARIZATION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to electronic notarizations.

Highlighted Provisions:

This bill:

- provides for the electronic notarization of documents allowed to be recorded electronically in a county recorder's office;
- modifies definitions applicable to those electronic notarizations; and
- modifies a provision authorizing the Office of the Lieutenant Governor to adopt rules to address electronic notarizations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

46-1-2, as last amended by Laws of Utah 2022, Chapter 158
46-1-3.6, as enacted by Laws of Utah 2019, Chapter 192
46-1-3.7, as enacted by Laws of Utah 2019, Chapter 192
46-1-14, as last amended by Laws of Utah 2019, Chapter 192
46-1-17, as last amended by Laws of Utah 2019, Chapter 192

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 46-1-2 is amended to read:

46-1-2. Definitions.

As used in this chapter:

(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.

(2) "Before me" means that an individual appears in the presence of the notary.

(3) "Commission" means:

(a) to empower to perform notarial acts; or

(b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.

(4) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(5) "Electronic notarization" means:

(a) a remote notarization; or

(b) a notarization:

(i) in an electronic format;

(ii) of a document that may be recorded electronically under Subsection 17-21-18.5(5); and

(iii) that conforms with rules made under Section 46-1-3.7.

[~~(5)~~](6) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.

[~~(6)~~](7) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a[~~remote~~] notary may attach to a notarial certificate to complete [~~a remote~~]an electronic notarization.

[~~(7)~~](8) "Electronic signature" means the same as that term is defined in Section 46-4-102.

[~~(8)~~](9) "In the presence of the notary" means that an individual:

(a) is physically present with the notary in close enough proximity to see and hear the notary; or

(b) communicates with a remote notary by means of an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7.

[~~(9)~~](10) "Jurat" means a notarial act in which a notary certifies:

(a) the identity of a signer who:

(i) is personally known to the notary; or

(ii) provides the notary satisfactory evidence of the signer's identity;

(b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and

(c) that the signer voluntarily signs the document in the presence of the notary.

[~~(10)~~](11) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.

[~~(11)~~](12) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:

(a) a part of or attached to a notarized document; and

(b) completed by the notary and bears the notary's signature and official seal.

[~~(12)~~](13)(a) "Notary" means an individual commissioned to perform notarial acts under this chapter.

(b) "Notary" includes a remote notary.

[~~(13)~~](14) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

[~~(14)~~](15) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

[~~(15)~~](16)(a) "Official seal" means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.

(b) "Official seal" includes an electronic seal.

[~~(16)~~](17) "Personally known" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

[~~(17)~~](18) "Remote notarization" means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.

[~~(18)~~](19) "Remote notary" means a notary that holds an active remote notary certification under Section 46-1-3.5.

[~~(19)~~](20)(a) "Satisfactory evidence of identity" means:

(i) for both an in-person and remote notarization, identification of an individual based on:

(A) subject to Subsection [~~(19)(b)~~](20)(b), valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

(B) subject to Subsection [~~(19)(b)~~](20)(b), a valid passport that any nation issues; or

(C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual; and

(ii) for a remote notarization only, a third party's affirmation of an individual's identity in accordance with rules made under Section 46-1-3.7 by means of:

(A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual's personal information obtained from public or proprietary data sources; or

(B) analysis of the individual's biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.

(b) "Satisfactory evidence of identity," for a remote notarization, requires the identification described in Subsection [~~(19)(a)(i)(A)~~](20)(a)(i)(A) or passport described in Subsection [~~(19)(a)(i)(B)~~](20)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.

(c) "Satisfactory evidence of identity" does not include:

(i) a driving privilege card under Subsection 53-3-207(12); or

(ii) another document that is not considered valid for identification.

[~~(20)~~](21) "Signature witnessing" means a notarial act in which an individual:

(a) appears in the presence of the notary and presents a document;

(b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and

(c) signs the document in the presence of the notary.

Section 2. Section 46-1-3.6 is amended to read:

46-1-3.6. Remote notarization procedures.

(1) A remote notary who receives a remote notary certification under Section 46-1-3.5 may perform a remote notarization if the remote notary is physically located in this state.

(2) A remote notary that performs a remote notarization for an individual that is not personally known to the remote notary shall, at the time the remote notary performs the remote notarization, establish satisfactory evidence of identity for the individual by:

(a) communicating with the individual using an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7; and

(b) requiring the individual to transmit to the remote notary an image of a form of identification described in Subsection [~~46-1-2(19)(a)(i)(A)~~]46-1-2(20)(a)(i)(A) or passport described in Subsection [~~46-1-2(19)(a)(i)(B)~~]46-1-2(20)(a)(i)(B) that is of sufficient quality for the remote notary to establish satisfactory evidence of identity.

(3)(a) A remote notary shall create an audio and video recording of the performance of each remote notarization and store the recording in accordance with Sections 46-1-14 and 46-1-15.

(b) A remote notary shall take reasonable steps, consistent with industry standards, to ensure that

any non-public data transmitted or stored in connection with a remote notarization performed by the remote notary is secure from unauthorized interception or disclosure.

(4) Notwithstanding any other provision of law, a remote notarization lawfully performed under this chapter satisfies any provision of state law that requires an individual to personally appear before, or be in the presence of, a notary at the time the notary performs a notarial act.

Section 3. Section 46-1-3.7 is amended to read:

46-1-3.7. Rulemaking authority for electronic notarization.

(1) The director of elections in the Office of the Lieutenant Governor may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding standards for and types of:

(a) electronic software and hardware that[~~a remote notary may use to~~]:

(i) a notary may use to perform [~~a remote~~]an electronic notarization; and

(ii) a remote notary may use to keep an electronic journal under Section 46-1-13;

(b) public and proprietary data sources that a remote notary may use to establish satisfactory evidence of identity under Subsection [~~46-1-2(19)(b)~~]46-1-2(20)(b);

(c) dynamic knowledge-based authentication or biometric data analysis that a remote notary may use to establish satisfactory evidence of identity under Subsection [~~46-1-2(19)(a)(ii)~~] 46-1-2(20)(a)(ii); and

(d) electronic seals a[~~remote~~] notary may use to complete an electronic notarial certificate.

(2) When making a rule under this section, the director of elections in the Office of the Lieutenant Governor shall review and consider standards recommended by one or more national organizations that address the governance or operation of notaries.

Section 4. Section 46-1-14 is amended to read:

46-1-14. Entries in journal -- Required information.

(1) A notary may, for each notarial act the notary performs, and a remote notary shall, for each notarial act the remote notary performs remotely, record the following information in the journal described in Section 46-1-13 at the time of notarization:

(a) the date and time of day of the notarial act;

(b) the type of notarial act;

(c) the type title, or a description of the document, electronic record, or proceeding that is the subject of the notarial act;

(d) the signature and printed name and address of each individual for whom a notarial act is performed;

(e) the evidence of identity of each individual for whom a notarial act is performed, in the form of:

(i) a statement that the person is personally known to the notary;

(ii) a description of the identification document and the identification document's issuing agency, serial or identification number, and date of issuance or expiration;

(iii) the signature and printed name and address of a credible witness swearing or affirming to the person's identity; or

(iv) if used for a remote notarization, a description of the dynamic knowledge-based authentication or biometric data analysis that was used to provide satisfactory evidence of identity under Subsection [~~46-1-2(19)(a)(ii)~~]46-1-2(20)(a)(ii); and

(f) the fee, if any, the notary charged for the notarial act.

(2) A notary may record in the journal a description of the circumstances under which the notary refused to perform or complete a notarial act.

(3)(a) A remote notary shall include with the journal a copy of the electronic recording of the remote notarization.

(b) The electronic recording is not a public record and is not a part of the notary's journal.

(4) A remote notary shall maintain, or ensure that a person that the notary designates as a custodian under Subsection 46-1-15(2)(b)(i) maintains, for a period of five years, the information described in Subsections (1) and (3) for each remote notarization the notary performs.

Section 5. Section 46-1-17 is amended to read:

46-1-17. Obtaining official seal.

(1) A person may not provide an official seal to an individual claiming to be a notary, unless the individual presents a copy of the individual's notarial commission, attached to a notarized declaration substantially as follows:

Application for Notary's Official Seal

I, _____ (name of individual requesting seal), declare that I am a notary public duly commissioned by the state of Utah with a commission starting date of _____, a commission expiration date of_____, and a commission number of _____. As evidence, I attach to this statement a copy of my commission.

(2)(a) Except as provided in Subsection (2)(b), an individual may not create, obtain, or possess an electronic seal unless[.]:

(i) the individual is a[~~remote~~] notary[.]; and

(ii) the electronic seal complies with the standards established by rule under Subsection 46-1-3.7(1)(d).

(b) A person is not guilty of a violation of Subsection (2)(a) if the person is a business that creates, obtains, or possesses an electronic seal for the sole purpose of providing the electronic seal to a certified[~~remote~~] notary.

(3) A person who provides, creates, obtains, or possesses an official seal in violation of this section is guilty of a class B misdemeanor.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 392
H. B. 36
Passed February 23, 2024
Approved March 19, 2024
Effective May 1, 2024

OPEN AND PUBLIC MEETINGS ACT AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- modifies definitions applicable to the Open and Public Meetings Act, including:
  - deleting the definitions of "convening," "monitor," and "transmit";
  - modifying the definitions of "anchor location," "meeting," and "quorum"; and
  - enacting a definition for "relevant matter";
- modifies a provision relating to the transmission of electronic messages;
- repeals language relating to posting a written notice of an electronic meeting;
- modifies a provision relating to an anchor location for an electronic meeting;
- modifies language relating to the recording of a vote at an electronic meeting;
- repeals language relating to chance or social meetings and replaces it with language prohibiting individuals constituting a quorum of a public body from taking certain action; and
- repeals obsolete language and makes conforming and technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2023, Chapters 139, 374 and 457
52-4-204, as last amended by Laws of Utah 2022, Chapters 169, 422
52-4-207, as last amended by Laws of Utah 2023, Chapter 100
52-4-209, as last amended by Laws of Utah 2018, Chapter 415
52-4-210, as enacted by Laws of Utah 2011, Chapter 25
52-4-302, as last amended by Laws of Utah 2023, Chapter 435

REPEALS AND REENACTS:

52-4-208, as enacted by Laws of Utah 2006, Chapter 14

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means[~~the physical location from which~~]:

[~~(a) an electronic meeting originates; or~~]

[~~(b) the participants are connected.~~]

(a) the physical location where the public body conducting an electronic meeting under Section 52-4-207 normally conducts meetings of the public body; or

(b) a location other than the location described in Subsection (1)(a) that is reasonably as accessible to the public as the location described in Subsection (1)(a).

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

[~~(3)(a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.~~]

[~~(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.~~]

[~~(4)~~](3) "Electronic meeting" means a[~~public~~] meeting [~~convened or conducted by means of a conference using electronic communications~~]that some or all public body members attend through an electronic video, audio, or both video and audio connection, as provided in Section 52-4-207.

[~~(5) "Electronic message" means a communication transmitted electronically, including:~~]

[~~(a) electronic mail;~~]

[~~(b) instant messaging;~~]

[~~(c) electronic chat;~~]

[~~(d) text messaging, which means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number; or~~]

[~~(e) any other method that conveys a message or facilitates communication electronically.~~]

[~~(6)~~](4) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits excluding the final report required under Section 53B-8a-111.

[~~(7)~~](5)[~~(a)~~] "Meeting" means [~~the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specified body has jurisdiction or advisory power.~~]a gathering:

(a) of a public body or specified body;

(b) with a quorum present; and

(c) that is convened:

(i) by an individual:

(A) with authority to convene the public body or specified body; and

(B) following the process provided by law for convening the public body or specified body; and

(ii) for the express purpose of acting as a public body or specified body to:

(A) receive public comment about a relevant matter;

(B) deliberate about a relevant matter; or

(C) take action upon a relevant matter.

[~~(b) "Meeting" does not mean:~~]

[~~(i) a chance gathering or social gathering;~~]

[~~(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or~~]

[~~(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:~~]

[~~(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or~~]

[~~(B) the conversation pertains only to day-to-day management and operation of the public transit district.~~]

[~~(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:~~]

[~~(i) no public funds are appropriated for expenditure during the time the public body is convened; and~~]

[~~(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:~~]

[~~(A) for which no formal action by the public body is required; or~~]

[~~(B) that would not come before the public body for discussion or action.~~]

[~~(8) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.~~]

[~~(9)~~](6) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

[~~(10)~~](7)(a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more [~~persons~~]individuals;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more [~~persons~~]individuals;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee,[~~or~~] a sifting committee, or an administrative staff committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

[~~(11)~~](8) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

[~~(12)~~](9)[~~(a)~~] "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

[~~(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.~~]

[~~(13)~~](10) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(11)(a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.

(b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.

[~~(14)~~](12) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection [~~(10)(c)(ii) or (10)(c)(v)~~](7)(c)(ii) or (7)(c)(v).

[~~(15) "Transmit" means to send, convey, or communicate an electronic message by electronic means.~~]

Section 2. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a)(i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii)(A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;

(E) for a project entity that is conducting an open meeting for the purposes of determining the value of an asset, developing a strategy related to the sale or use of that asset;

(F) for a project entity that is conducting an open meeting for purposes of discussing a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(G) for a project entity that is conducting an open meeting for purposes of discussing a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential competitor of, the project entity; or

(b)(i) for the Independent Legislative Ethics Commission, the closed meeting is [~~convened~~]held for the purpose of conducting business relating to the receipt or review of an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is [~~convened~~]held for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is [~~convened~~]held for the purpose of conducting business relating to an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint"[~~; or~~].

[~~(iv) for the Data Security Management Council created in Section 63A-16-701, the closed meeting is convened in accordance with Subsection 63A-16-701(7), if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to information technology security."~~]

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3)(a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b)(i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

(ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Section 3. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may[~~convene and~~] conduct [~~an electronic~~]a meeting that some or all members of the public body attend through an electronic video, audio, or both video and audio connection, in accordance with this section.

(2)(a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting shall establish the conditions under which a remote member is included in calculating a quorum.

(c) A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic video, audio, or both video and audio connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability;

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy;[~~or~~]

(vi) provide a procedure for recording votes of members, including defining circumstances under which a roll call vote is required; or

[~~(vi)~~](vii) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that[~~convenes and~~] conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52- 4- 202; and

[~~(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and~~]

[~~(c)~~](b) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to[~~electronically~~] connect to the meeting.

(4)(a) Except as provided in Subsection (5), a public body that[~~convenes and~~] conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that[~~convenes and~~] conducts an electronic meeting may provide means by which members of the public may [~~attend the meeting~~]participate remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a)(i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may [~~attend~~]participate in the meeting remotely by electronic means;

(b)(i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in [~~convening~~]conducting the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may [~~attend~~]participate in the electronic meeting remotely by electronic means;

(c)(i) the public body is a special district board of trustees established under Title 17B, Chapter 1, Part 3, Board of Trustees;

(ii) the board of trustees' membership consists of:

(A) at least two members who are elected or appointed to the board as owners of land, or as an agent or officer of the owners of land, under the criteria described in Subsection 17B- 1- 302(2)(b); or

(B) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17B- 1- 302(3)(a)(ii);

(iii) the public notice required under Subsection [~~52- 4- 202(3)(a)(i)(B)~~]52- 4- 202(3)(a) for the electronic meeting includes information on how a member of the public may [~~attend~~]participate in the meeting remotely by electronic means; and

(iv) the board of trustees allows members of the public [~~attending~~]to participate in the meeting [~~by remote~~]remotely by electronic means[~~to participate in the meeting; or~~];

(d)(i) the public body is a special service district administrative control board established under Title 17D, Chapter 1, Part 3, Administrative Control Board;

(ii) the administrative control board's membership consists of:

(A) at least one member who is elected or appointed to the board as an owner of land, or as an agent or officer of the owner of land, under the criteria described in Subsection 17D- 1- 304(1)(a)(iii)(A) or (B), as applicable; or

(B) members that qualify for election or appointment to the board because the owners of real property in the special service district meet or exceed the threshold percentage described in Subsection 17D- 1- 304(1)(b)(i);

(iii) the public notice required under Subsection [~~52- 4- 202(3)(a)(i)(B)~~]52- 4- 202(3)(a) for the electronic meeting includes information on how a member of the public may [~~attend~~]participate in the meeting remotely by electronic means; and

(iv) the administrative control board allows members of the public[~~attending the meeting by remote electronic means~~] to participate in the meeting[~~.~~] remotely by electronic means; or

(e) all public body members attend the meeting remotely through an electronic video, audio, or both video and audio connection, unless the public body receives a written request, at least 12 hours before the scheduled meeting time, to provide for an anchor location for members of the public to attend in person the open portions of the meeting.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete

compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

[~~(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.~~]

Section 4. Section 52-4-208 is repealed and re-enacted to read:

52-4-208. Predetermining public body action prohibited -- Exception.

(1) Individuals constituting a quorum of a public body may not act together outside a meeting in a concerted and deliberate way to predetermine an action to be taken by the public body at a meeting on a relevant matter.

(2) Subsection (1) does not apply to an individual acting as a member of a body that is not a public body under Subsection 52-4-103(8)(c).

Section 5. Section 52-4-209 is amended to read:

52-4-209. Electronic meetings for charter school board.

(1) Notwithstanding the definitions provided in Section 52-4-103 for this chapter, as used in this section:

(a) "Anchor location" means a physical location where:

(i) the charter school board would normally meet if the charter school board were not holding an electronic meeting; and

(ii) space, a facility, and technology are provided to the public to monitor and, if public comment is allowed, to participate in an electronic meeting during regular business hours.

(b) "Charter school board" means the governing board of a school created under Title 53G, Chapter 5, Charter Schools.

(c) "Meeting" means the convening of a charter school board:

(i) with a quorum who:

(A) monitors a website at least once during the electronic meeting; and

(B) casts a vote on a website, if a vote is taken; and

(ii) for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the charter school board has jurisdiction or advisory power.

(d) "Monitor" means to:

(i) read all the content added to a website by the public or a charter school board member; and

(ii) view a vote cast by a charter school board member on a website.

(e) "Participate" means to add content to a website.

(2)(a) A charter school board may[~~, convene and~~] conduct an electronic meeting in accordance with Section 52-4-207.

(b) A charter school board may[~~, convene and~~] conduct an electronic meeting in accordance with this section that is in writing on a website if:

(i) the chair verifies that a quorum monitors the website;

(ii) the content of the website is available to the public;

(iii) the chair controls the times in which a charter school board member or the public participates; and

(iv) the chair requires a person to identify himself or herself if the person:

(A) participates; or

(B) casts a vote as a charter school board member.

(3) A charter school that conducts an electronic meeting under this section shall:

(a) give public notice of the electronic meeting:

(i) in accordance with Section 52-4-202; and

(ii) by posting written notice at the anchor location as required under Section 52-4-207;

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the charter school board at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present;

(ii) a description of how the members and the public may be connected to the electronic meeting;

(iii) a start and end time for the meeting, which shall be no longer than 5 days; and

(iv) a start and end time for when a vote will be taken in an electronic meeting, which shall be no longer than four hours; and

(c) provide an anchor location.

(4) The chair shall:

(a) not allow anyone to participate from the time the notice described in Subsection (3)(b)(iv) is given until the end time for when a vote will be taken; and

(b) allow a charter school board member to change a vote until the end time for when a vote will be taken.

(5) During the time in which a vote may be taken, a charter school board member may not communicate in any way with any person regarding an issue over which the charter school board has jurisdiction.

(6) A charter school conducting an electronic meeting under this section may not close a meeting as otherwise allowed under this part.

(7)(a) Written minutes shall be kept of an electronic meeting conducted as required in Section 52-4-203.

(b)(i) Notwithstanding Section 52-4-203, a recording is not required of an electronic meeting described in Subsection (2)(b).

(ii) All of the content of the website shall be kept for an electronic meeting conducted under this section.

(c) Written minutes are the official record of action taken at an electronic meeting as required in Section 52-4-203.

(8)(a) A charter school board shall ensure that the website used to conduct an electronic meeting:

(i) is secure; and

(ii) provides with reasonably certainty the identity of a charter school board member who logs on, adds content, or casts a vote on the website.

(b) A person is guilty of a class B misdemeanor if the person falsely identifies himself or herself as required by Subsection (2)(b)(iv).

(9) Compliance with the provisions of this section by a charter school constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

Section 6. Section 52-4-210 is amended to read:

52-4-210. Electronic message transmissions.

Nothing in this chapter [~~shall~~]may be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in [~~an open~~]a meeting.

Section 7. Section 52-4-302 is amended to read:

52-4-302. Suit to void final action -- Limitation -- Exceptions.

(1)(a) Any final action taken in violation of Section 52-4-201, 52-4-202, 52-4-207, 52-4-208, or 52-4-209 is voidable by a court of competent jurisdiction.

(b) A court may not void a final action taken by a public body for failure to comply with the posting written notice requirements under Subsection 52-4-202(3)(a) if:

(i) the posting is made for a meeting that is held before April 1, 2009; or

(ii)(A) the public body otherwise complies with the provisions of Section 52-4-202; and

(B) the failure was a result of unforeseen Internet hosting or communication technology failure.

(2) Except as provided under Subsection (3), a suit to void final action shall be commenced within 90 days after the date of the action.

(3) A suit to void final action concerning the issuance of bonds, notes, or other evidences of indebtedness shall be commenced within 30 days after the date of the action.

(4) In a suit under this section to void a final action in violation of Section 52-4-208, a court may award a prevailing plaintiff a reasonable attorney fee and costs.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 393
H. B. 39
Passed January 25, 2024
Approved March 19, 2024
Effective May 1, 2024

MASSAGE THERAPY PRACTICE ACT AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill extends the sunset date for the Massage Therapy Practice Act.

Highlighted Provisions:

This bill:

- extends the sunset date for the Massage Therapy Practice Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2023, Chapter 303

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(5) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

(10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, [~~2024~~]2034.

(11) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(12) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.

(13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 394
H. B. 60
Passed January 30, 2024
Approved March 19, 2024
Effective May 1, 2024

PHASED RETIREMENT EXTENSION

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to phased retirement.

Highlighted Provisions:

This bill:

- repeals the scheduled expiration of phased retirement as a benefit under the Utah State Retirement and Insurance Benefit Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-249, as last amended by Laws of Utah 2021, Chapter 195

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates: Title 49.

[~~(1) Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.~~ ~~(2)~~] Section 49-20-418 is repealed January 1, 2025.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 395
H. B. 72
Passed February 15, 2024
Approved March 19, 2024
Effective May 1, 2024

STATE BOARDS AND COMMISSIONS AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses boards and commissions.

Highlighted Provisions:

This bill:

- adds a sunset date to the following entities and provisions related to the following entities:
  - Capital Projects Evaluation Panel;
  - Domestic Violence Offender Treatment Board;
  - Food Security Council;
  - Grid Resilience Committee;
  - Higher Education and Corrections Council;
  - Land Conservation Board;
  - National Register Review Committee;
  - Project Entity Oversight Committee;
  - Rural Opportunity Advisory Committee;
  - State Finance Review Commission;
  - Utah Health Workforce Advisory Council; and
  - Utah Homeless Network Steering Committee;
- repeals the Behavioral Health Delivery Working Group; and
- makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-3-223, as renumbered and amended by Laws of Utah 2023, Chapter 306
63I-1-204, as last amended by Laws of Utah 2023, Chapters 79, 210
63I-1-209, as last amended by Laws of Utah 2020, Chapters 154, 232 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154
63I-1-211, as last amended by Laws of Utah 2020, Chapter 334
63I-1-223, as last amended by Laws of Utah 2023, Chapters 34, 211
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
63I-1-235, as last amended by Laws of Utah 2023, Chapters 27, 52
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534

REPEALS:

26B-3-138, as renumbered and amended by Laws of Utah 2023, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-3-223 is amended to read:

26B-3-223. Delivery system adjustments for the targeted adult Medicaid program.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section 26B-3-207.

(2) The department may implement the delivery system adjustments authorized under Subsection (3) only on the later of:

(a) July 1, 2023; and

(b) the department determining that the Medicaid program, including providers and managed care organizations, are satisfying the metrics established in collaboration with the [~~working group convened under Subsection 26B-3-138(2)~~]Behavioral Health Delivery Working Group.

(3) The department may, for individuals who are enrolled in the targeted adult Medicaid program:

(a) integrate the delivery of behavioral and physical health in certain counties; and

(b) deliver behavioral health services through an accountable care organization where implemented.

(4) Before implementing the delivery system adjustments described in Subsection (3) in a county, the department shall, at a minimum, seek input from:

(a) individuals who qualify for the targeted adult Medicaid program who reside in the county;

(b) the county's executive officer, legislative body, and other county officials who are involved in the delivery of behavioral health services;

(c) the local mental health authority and local substance abuse authority that serves the county;

(d) Medicaid managed care organizations operating in the state, including Medicaid accountable care organizations;

(e) providers of physical or behavioral health services in the county who provide services to

enrollees in the targeted adult Medicaid program in the county; and

(f) other individuals that the department deems necessary.

(5) If the department provides Medicaid coverage through a managed care delivery system under this section, the department shall include language in the department's managed care contracts that require the managed care plan to:

(a) be in compliance with federal Medicaid managed care requirements;

(b) timely and accurately process authorizations and claims in accordance with Medicaid policy and contract requirements;

(c) adequately reimburse providers to maintain adequacy of access to care;

(d) provide care management services sufficient to meet the needs of Medicaid eligible individuals enrolled in the managed care plan's plan; and

(e) timely resolve any disputes between a provider or enrollee with the managed care plan.

(6) The department may take corrective action if the managed care organization fails to comply with the terms of the managed care organization's contract.

Section 2. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(9) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

(10) Title 4, Chapter 46, Part 2, Land Conservation Board, is repealed July 1, 2027.

(11) Subsection 4-46-304(2)(d), related to the Land Conservation Board, is repealed July 1, 2027.

(12) Subsection 4-46-401(3)(a), related to the Land Conservation Board, is repealed July 1, 2027.

Section 3. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.

(2) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.

(3) Subsection 9-8a-101(2), related to the National Register Review Committee, is repealed July 1, 2027.

(4) Section 9-8a-204, which creates the National Register Review Committee, is repealed July 1, 2027.

[~~(3)~~](5) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

[~~(4)~~](6) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2026.

Section 4. Section 63I-1-211 is amended to read:

63I-1-211. Repeal dates: Title 11.

(1) Section 11-13-317, related to the Project Entity Oversight Committee, is repealed July 1, 2027.

(2) Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed January 1, 2029.

Section 5. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates: Title 23A.

(1) Section 23A-2-302, which creates the Wildlife Board Nominating Committee, is repealed July 1, 2028.

(2) Section 23A-2-303, which creates regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

(3) Subsection 23A-3-204(2)(c), related to the Land Conservation Board, is repealed July 1, 2027.

Section 6. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-425, which creates the Utah Health Workforce Advisory Council, is repealed July 1, 2027.

[~~(14)~~](15) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](16) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](17) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](18) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](19) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](20) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](21) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](22) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](23) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](24) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](25) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](26) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](27) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](28) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](29) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](30) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

[~~(30)~~](31) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(31)~~](32) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(32)~~](33) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(33)~~](34) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(34)~~](35) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(35)~~](36) Section 26B-5-120 is repealed December 31, 2026.

[~~(36)~~](37) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(37)~~](38) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(38)~~](39) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(39)~~](40) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(40)~~](41) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(41)~~](42) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(42)~~](43) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(43)~~](44) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 7. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid Expansion Fund, is repealed July 1, 2024.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-425, which creates the Utah Health Workforce Advisory Council, is repealed July 1, 2027.

[~~(14)~~](15) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

[~~(15)~~](16) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

[~~(16)~~](17) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(17)~~](18) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(18)~~](19) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

[~~(19)~~](20) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

[~~(20)~~](21) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(21)~~](22) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(22)~~](23) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

[~~(23)~~](24) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

[~~(24)~~](25) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

[~~(25)~~](26) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

[~~(26)~~](27) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

[~~(27)~~](28) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(28)~~](29) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

[~~(29)~~](30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

[~~(30)~~](31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

[~~(31)~~](32) Section 26B-5-112.5 is repealed December 31, 2026.

[~~(32)~~](33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(33)~~](34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

[~~(34)~~](35) Section 26B-5-120 is repealed December 31, 2026.

[~~(35)~~](36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

[~~(36)~~](37) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

[~~(37)~~](38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

[~~(38)~~](39) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(39)~~](40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(40)~~](41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

[~~(41)~~](42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

[~~(42)~~](43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 8. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2028.

(6) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

(7) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

(9) Section 35A-16-206, which creates the Utah Homeless Network Steering Committee, is repealed July 1, 2027.

(10) Section 35A-16-207, related to the Utah Homeless Network Steering Committee, is repealed July 1, 2027.

Section 9. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(3)~~](4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(5) Subsection 53B-1-301(1)(j), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(4)~~](6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(5)~~](7) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(6)~~](8) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(7)~~](9) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(8)~~](10) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(9)~~](11) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(12) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(10)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(14) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(11)~~](15) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(16) Subsection 53E-1-201(1)(q), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(12)~~](17) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(13)~~](18) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14)~~](19) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(15)~~](20) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(16)~~](21) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(17)~~](22) Section 53F-5-213 is repealed July 1, 2023.

[~~(18)~~](23) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(19)~~](24) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(20)~~](25) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(21)~~](26) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(27) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(22)~~](28) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(23)~~](29) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~](30) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 10. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(3)~~](4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(6) Subsection 53B-1-301(1)(j), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(13) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(11)~~](14) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(15) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(12)~~](16) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(17) Subsection 53E-1-201(1)(q), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](18) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](19) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](20) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](21) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](22) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](23) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](24) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](25) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](26) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](27) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(28) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(23)~~](29) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](30) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](31) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 11. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(3)~~](4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(6) Subsection 53B-1-301(1)(j), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(13) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(11)~~](14) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(15) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(12)~~](16) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the

Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(17) Subsection 53E-1-201(1)(q), related to the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(13)~~](18) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](19) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](20) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](21) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](22) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](23) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](24) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](25) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](26) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](27)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](28) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(29) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(24)~~](30) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](31) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](32) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 12. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(11) Title 63C, Chapter 26, Project Entity Oversight Committee, is repealed July 1, 2027.

[~~(10)~~](12) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11)~~](13) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12)~~](14) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~](15) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](16) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](17) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](18) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](19) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](20) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](21) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](22) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

[~~(23)~~](26) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](27) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](28) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](29) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](30) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](31) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](32) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](33) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(34) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

[~~(31)~~](35) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](36) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 13. Repealer.

This bill repeals:

Section 26B-3-138, Behavioral health delivery working group.

Section 14. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 63I-1-226 (Effective 07/01/24); and

(b) Section 63I-1-253 (Eff 07/01/24) (Cont Sup 01/01/25).

(3) The actions affecting Section 63I-1-253 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

CHAPTER 396
H. B. 75
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

PAID LEAVE MODIFICATIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses paid leave for certain state employees.

Highlighted Provisions:

This bill:

- defines terms;
- provides that a state employee may use parental leave in order to bond with a child or an incapacitated adult with whom the employee is assuming a parental role;
- makes parental leave available to a state employee who fosters a child;
- provides that a state employee may use postpartum recovery leave to recover from a childbirth that occurs at 20 weeks or greater gestation;
- authorizes the director of the Division of Human Resource Management to waive or modify the requirement that a state employee use postpartum recovery leave in a single continuous period; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-17-511, as last amended by Laws of Utah 2022, Chapter 425

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-511 is amended to read:

63A-17-511. Parental leave -- Postpartum recovery leave.

(1) As used in this section:

(a) "Child" means an individual who is younger than 18 years old.

(b) "Parental leave" means leave hours a state employer provides to a parental leave eligible employee to bond with a child or, in the case of a guardianship appointment, an incapacitated adult.

[~~(b)~~](c) "Parental leave eligible employee" means an employee who, on the date an event described in Subsections (2)(a)(i)(A) through (D) occurs:

(i) is an employee of a state employer;

(ii) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

[~~(ii)~~](iii) accrues paid leave benefits that can be used in the current and future calendar years;

[~~(iii)~~](iv) is not reemployed as defined in Section 49-11-1202; [~~and~~]

[~~(iv)~~](v)[~~(A) is a birth parent as defined in Section 78B-6-103~~]is assuming a parental role with respect to the child or the incapacitated adult for which parental leave is requested; and

[~~(B)~~](vi)(A) [~~legally adopts a minor child, unless the individual is the spouse of the pre-existing parent~~]is the child's biological parent;

[~~(C)~~](B) [~~is the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement~~]is the spouse of the person who gave birth to the child; [~~or~~]

[~~(D)~~](C) [~~is appointed the legal guardian of a minor child or incapacitated adult.~~]is the adoptive parent of the child, unless the employee is the spouse of the pre-existing parent;

(D) is the intended parent of the child and the child is born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement;

(E) is appointed the legal guardian of the child or the incapacitated adult; or

(F) is the foster parent of the child.

[~~(c)~~](d) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth that occurs at 20 weeks or greater gestation.

[~~(d)~~](e) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections [~~(1)(d)(i)~~](1)(e)(i) through (iv).

[~~(e)~~](f) "Postpartum recovery leave eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

[~~(f)~~](g)(i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Utah Board of Higher Education;

[~~(C) the State Board of Education;~~]

[~~(D)~~](C) an independent entity as defined in Section 63E-1-102;

[~~(E)~~](D) the Attorney General's Office;

[~~(F)~~](E) the State Auditor's Office; or

[~~(G)~~](F) the State Treasurer's Office.

[~~(g)~~](h) "Qualified employee" means:

(i) a parental leave eligible employee; or

(ii) a postpartum leave eligible employee.

(2)(a) Except as provided in Subsections (4) and (5), a state employer shall:

(i) allow a parental leave eligible employee to use up to three work weeks of paid parental leave for:

(A) the birth of the parental leave eligible employee's child;

(B) the adoption of a [~~minor~~]child; [~~or~~]

(C) the appointment of legal guardianship of a [~~minor~~]child or incapacitated adult; [~~and~~]or

(D) the placement of a foster child in the parental leave eligible employee's care; and

(ii) allow a postpartum recovery leave eligible employee to use up to three work weeks of paid postpartum recovery leave for recovery from childbirth.

(b) A state employer shall allow a qualified employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of parental leave or postpartum recovery leave available to the qualified employee under this section on a pro rata basis as adopted by rule by the division under Subsection (12).

(3)(a) Parental leave described in Subsection (2)(a)(i):

(i) may not be used before the day on which:

(A) the parental leave eligible employee's child is born;

(B) the parental leave eligible employee adopts a [~~minor~~]child; [~~or~~]

(C) the parental leave eligible employee is appointed legal guardian of a [~~minor~~]child or incapacitated adult; or

(D) a foster child is placed in the parental leave eligible employee's care.

(ii) may not be used more than six months after the date described in Subsection (3)(a)(i);

(iii) may not be used intermittently, unless:

(A) by mutual written agreement between the state employer and the parental leave eligible employee; or

(B) a health care provider certifies that intermittent leave is medically necessary due to a serious health condition of the child;

(iv) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

(v) runs consecutively to postpartum recovery leave.

(b) The amount of parental leave authorized under Subsection (2)(a)(i) does not increase if a parental leave eligible employee:

(i) has more than one child born from the same pregnancy;

(ii) adopts more than one [~~minor~~]child; [~~or~~]

(iii) has more than one foster child placed in the parental leave eligible employee's care; or

[~~(iii)~~](iv) is appointed legal guardian of more than one [~~minor~~]child or incapacitated adult.

(c) A parental leave eligible employee may not use more than three work weeks of paid parental leave within a single 12-month period, regardless of whether during that 12-month period the parental leave eligible employee:

(i) becomes the parent of more than one child;

(ii) adopts more than one [~~minor~~]child; [~~or~~]

(iii) has more than one foster child placed in the parental leave eligible employee's care; or

[~~(iii)~~](iv) is appointed legal guardian of more than one [~~minor~~]child or incapacitated adult.

(4)(a) Postpartum recovery leave described in Subsection (2)(a)(ii):

(i) shall be used starting on the day on which the postpartum recovery leave eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period, unless otherwise authorized in writing by the director of the division;

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

(iv) runs consecutively to parental leave.

(b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii) does not increase if a postpartum recovery leave eligible employee has more than one child born from the same pregnancy.

(5)(a) Except as provided in Subsection (5)(b), a qualified employee shall give the state employer notice at least 30 days before the day on which the qualified employee plans to:

(i) begin using parental leave or postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the qualified employee's control prevent the qualified employee from giving notice in accordance with Subsection (5)(a), the qualified employee shall give each notice described in Subsection (5)(a) as soon as reasonably practicable.

(6) Except as provided in Subsections (3)(a)(iv) and (4)(a)(iii), a state employer may not charge parental leave or postpartum recovery leave under this section against sick, annual, compensatory, excess, or other leave a qualified employee is entitled to.

(7) A state employer may not compensate a qualified employee for any unused parental leave or postpartum recovery leave upon termination of employment.

(8)(a) Following the expiration of a qualified employee's parental leave or postpartum recovery leave under this section, the state employer shall ensure that the qualified employee may return to:

(i) the position that the qualified employee held before using parental leave or postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the qualified employee held before using parental leave or postpartum recovery leave.

(b) If during the time a qualified employee uses parental leave or postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the qualified employee would have been separated had the qualified employee not been using the parental leave or postpartum recovery leave, the state employer may separate the qualified employee in accordance with any applicable process or procedure as if the qualified employee were not using the parental leave or postpartum recovery leave.

(9) During the time a qualified employee uses parental leave or postpartum recovery leave under this section, the qualified employee shall continue to receive all employment related benefits and payments at the same level that the qualified employee received immediately before beginning the parental leave or postpartum leave, provided that the qualified employee pays any required employee contributions.

(10) A state employer may not:

(a) interfere with or otherwise restrain a qualified employee from using parental leave or postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.

(11) A state employer shall provide each employee written information regarding a qualified employee's right to use parental leave or postpartum recovery leave under this section.

(12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall, on or before July 1, 2022, make rules for the use and administration of parental leave and postpartum recovery leave under this section, including a schedule that provides paid parental leave or postpartum recovery leave for a qualified employee who is part- time or who works in excess of a 40- hour work week on a pro rata basis.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 397
H. B. 77
Passed February 9, 2024
Approved March 19, 2024
Effective May 1, 2024

DIVISION OF HUMAN RESOURCE MANAGEMENT AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Heidi Balderree

LONG TITLE

General Description:

This bill modifies provisions of the Utah State Personnel Management Act.

Highlighted Provisions:

This bill:

- provides that the director of the Division of Human Resource Management (DHRM) is the chief human resources officer for the state executive branch;
- eliminates the requirement that the director of DHRM provide charter schools and political subdivisions with training and advice on human resource management;
- for purposes of the state's pay for performance policy, provides that an employee does not include an individual who is ineligible to receive a state retirement benefit or who is in a time-limited position lasting less than 12 months;
- clarifies the purpose of the state's pay for performance policy;
- permits an agency to file a request with DHRM:
  - to keep a competitive career service position scheduled as a competitive career service position; or
  - to reschedule a non-competitive career service position as a competitive career service position;
- clarifies the process for an agency's demotion or dismissal of a career service employee;
- clarifies language regarding compensation for overtime and an employee's regular hourly wage; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-17-102, as last amended by Laws of Utah 2022, Chapter 209
63A-17-105, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-106, as last amended by Laws of Utah 2022, Chapters 166, 169, 177, and 209
63A-17-112, as enacted by Laws of Utah 2022, Chapter 209
63A-17-301, as last amended by Laws of Utah 2022, Chapter 209
63A-17-304, as last amended by Laws of Utah 2022, Chapter 169
63A-17-306, as last amended by Laws of Utah 2022, Chapter 169
63A-17-502, as last amended by Laws of Utah 2022, Chapter 447

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-102 is amended to read:

63A-17-102. Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section 63A-17-301.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section 63A-17-307.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

(7)(a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection 63A-17-307(3) and rules made by the department.

(8) "Director" means the director of the division.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

(11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

(12) "Examining instruments" means written or other types of proficiency tests.

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section 63A-17-106;

(b) under rules of the division; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

(18) "Structure adjustment" means a division modification of salary ranges.

(19) "Temporary employee" means a career service exempt [~~employees~~]employee described in Subsection 63A-17-301(1)(r).

(20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Section 2. Section 63A-17-105 is amended to read:

63A-17-105. Division of Human Resource Management created -- Director -- Chief Human Resources Officer -- Staff.

(1) There is created within the department, the Division of Human Resource Management.

(2)[~~(a)~~] The division shall be administered by a director appointed by the executive director, with the approval of the governor.

[~~(b)~~](3) The director shall:

(a) be a person with experience in human resource management [~~and shall be~~];

(b) be accountable to the executive director for the director's performance in office[~~.~~];

(c) serve as the chief human resource officer for the state executive branch; and

[~~(3)~~](d) [~~The director shall~~] advise the governor on human resource matters and policies.

Section 3. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(6) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) make rules for human resource management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

[~~(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;~~]

[~~(o)~~](n) establish compensation policies and procedures for early voluntary retirement;

[~~(p)~~](o) confer with the heads of other agencies about human resource policies and procedures;

[~~(q)~~](p) submit an annual report to the executive director, the governor, and the Legislature; and

[~~(r)~~](q) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(7)(a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including training described in Subsection (7)(e).

(b) The programs developed under this Subsection (7) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(e)(i) As used in this Subsection (7)(e):

(A) "Employee" means the same as that term is defined in Section 63A-17-112.

(B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

(ii) A supervisor shall attend the training:

(A) within six months of being promoted or hired to the position of supervisor; and

(B) at least annually.

(iii) [~~Training attendance and the~~]A supervisor's completion of training and effective use of training information and principles shall be considered in an evaluation of [~~a~~]the supervisor's job performance.

(iv) The training shall include:

(A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;

(B) instruction to improve supervisor and employee communications;

(C) best practices for recognizing and retaining high-performing employees;

(D) best practices for addressing poor-performing employees; and

(E) any other information and principles identified by the division to improve management or organizational effectiveness.

(8)(a)(i) The division may collect fees for training as authorized by this Subsection (8).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b)(i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii)(A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have

been a parent of a child born as a result of the pregnancy.

Section 4. Section 63A-17-112 is amended to read:

63A-17-112. Pay for performance management system -- Employees paid for performance.

(1) As used in this section:

(a)(i) "Agency" means, except as provided in Subsection (1)(a)(ii), the same as that term is defined in Section 63A-17-102.

(ii) "Agency" does not include the State Board of Education, the Office of the State Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of Higher Education, the Legislature, the judiciary, or, as defined in Section 63E-1-102, an independent entity.

(b)(i) "Employee" means an employee of an agency.

(ii) "Employee" does not include [~~an individual in a schedule AB, as described in Section 63A-17-301, position.~~]:

(A) an individual in a schedule AB position, as described in Section 63A-17-301;

(B) an individual in a position that is not eligible to receive a retirement benefit under Title 49, Utah State Retirement and Insurance Benefit Act; or

(C) an individual that an agency hires for a time-limited position that will last fewer than 12 consecutive months.

(c) "Pay for performance" means a plan for incentivizing an employee [~~for meeting or exceeding~~]to meet or exceed production or performance goals, in which the plan is well-defined before work begins, [~~eligible work groups are defined,~~] specific goals and targets for the employee are determined, and measurement procedures are in place[~~, and specific incentives are provided when goals and targets are met~~].

(d) "Pay for performance management system" means the system described in Subsection (2).

(2) The division shall establish and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of a pay for performance management system.

(3) The pay for performance management system shall include:

(a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based on an employee's performance in furtherance of the agency's mission;

(b) employee performance ratings;

(c) requirements for written employee performance standards and expectations;

(d) supervisor verbal and written feedback based on the standards of performance and behavior outlined in an employee's performance plan; and

(e) quarterly written evaluation of an employee's performance.

(4) In consultation with the division, no later than July 1, 2023, each agency shall:

(a) adopt pay for performance policies based on the performance management system; and

(b) subject to available funds and as necessary, adjust an employee's wage to reflect:

(i) subject to Subsection (5), for a classified service employee, the salary range of the position classified plan for the employee's position; and

(ii) an increase, decrease, or no change in the employee's wage:

(A) commensurate to an employee's performance as reflected by the employee's evaluation conducted in accordance with the pay for performance management system; and

(B) in an amount that is in accordance with the guidelines and criteria established for a wage change in the pay for performance management system.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules authorizing a classified service employee to receive a wage that exceeds the salary range of the classified service employee's position classified plan if warranted based on the classified employee's performance rating.

Section 5. Section 63A-17-301 is amended to read:

63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Office;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division;

(q) subject to Subsection (6), schedule AX includes employees in positions that:

(i) require the regular supervision and performance evaluation of one or more other employees; and

(ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and

(r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a)(i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the director; or

(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71A, Chapter 2, Veterans Preference.

(3)(a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(d)(i) An agency may file [~~with the division a request~~]a request with the division.

(A) to keep a position scheduled as a schedule B position as a schedule B position; or

(B) to reschedule a position that [~~would otherwise be~~]is scheduled as a schedule A position as a schedule B position.

(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4)(a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6)(a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.

(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.

(c)(i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:

(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and

(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.

(ii) An employee described in Subsection (6)(c)(i):

(A) is not a probationary employee on or after July 1, 2022; and

(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.

(d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.

(e) An agency, as defined in Section 63A-17-112, may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Section 6. Section 63A-17-304 is amended to read:

63A-17-304. Promotion -- Reclassification -- Market adjustment.

(1)(a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the [~~employee~~]employee's salary within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; or

(ii) lower than the minimum in the new salary range of the position.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 63A-17-307(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 7. Section 63A-17-306 is amended to read:

63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:

(a) to advance the good of the public service; or

(b) for just [~~causes~~]cause, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

(2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall make rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.

(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).

(5)[~~(a) A~~]An agency head may not demote or dismiss a career service employee [~~may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.~~]unless:

[~~(b)~~](a) [~~The department~~]the agency head or the designated representative of the agency head notifies the employee in writing of the [~~reasons~~]reason for the dismissal or demotion[~~.~~];

[~~(c)~~](b) [~~The~~]the employee [~~has no less than~~]is given five working days to submit a written reply to the agency head and to have the reply considered by the [~~department~~]agency head[~~.~~];

[~~(d)~~](c) [~~The~~]the employee [~~has an~~]is given an opportunity to be heard by the [~~department~~]agency head or the designated representative[~~.~~]of the agency head; and

[~~(e)~~](d) [~~Following the hearing, the employee may be dismissed or demoted if the department~~]after completing the procedural requirements described in Subsections (5)(a) through (c), the agency head finds adequate cause or reason[~~.~~]to demote or dismiss the employee.

(6)(a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the director.

(b) Under those circumstances:

(i) The agency head shall designate the category of work to be eliminated, subject to review by the director.

(ii) Temporary and probationary employees shall be separated before any career service employee.

(iii)(A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(B) Retention points for each career service employee shall be computed according to rules established by the director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c)(i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

(ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.

(iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d)(i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.

(ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.

(iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance Procedures.

Section 8. Section 63A-17-502 is amended to read:

63A-17-502. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage Services, the Insurance Department, the Public

Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3)(a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one- half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one- half times [~~the rate per hour that the state employee receives for nonovertime work~~]the employee's regular hourly wage.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the division.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4)(a)(i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The director of the division may grant limited exceptions to [~~this requirement~~]the compensation requirement described in Subsection (4)(a)(i), where work circumstances dictate, by authorizing a department to pay [~~employees~~]an exempt employee for overtime worked at the [~~rate per hour that the employee receives for nonovertime work,~~] employee's regular hourly wage if that department has funds available.

(b)(i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c)(i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

(5) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6)(a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.

(c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 398
H. B. 87
Passed February 9, 2024
Approved March 19, 2024
Effective May 1, 2024

DEPARTMENT OF GOVERNMENT OPERATIONS REVISIONS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill amends provisions related to the Division of Finance and the Division of Purchasing and General Services.

Highlighted Provisions:

This bill:

- defines terms;
- removes the requirement that a state agency submit a purchase request for a copy machine to the director of the Division of Purchasing and General Services;
- modifies provisions on tax refund liens and release of liens;
- modifies provisions related to the collection of interest and fees by the Office of State Debt Collection;
- modifies how funds from the Office of State Debt Collection may be used; and
- amends provisions related to wage garnishments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-2-105, as last amended by Laws of Utah 2015, Chapter 98
63A-3-203, as last amended by Laws of Utah 2022, Chapter 169
63A-3-301, as last amended by Laws of Utah 2020, Chapter 297
63A-3-303, as last amended by Laws of Utah 2019, Chapter 84
63A-3-304, as last amended by Laws of Utah 2019, Chapter 84
63A-3-305, as last amended by Laws of Utah 2019, Chapter 84
63A-3-306, as last amended by Laws of Utah 2019, Chapter 84
63A-3-307, as last amended by Laws of Utah 2020, Chapter 297
63A-3-308, as last amended by Laws of Utah 2019, Chapter 84
63A-3-502, as last amended by Laws of Utah 2023, Chapter 113
63A-3-505, as last amended by Laws of Utah 2021, Chapter 260
63A-3-507, as last amended by Laws of Utah 2021, Chapters 145, 260
78A-2-214, as last amended by Laws of Utah 2021, Chapter 260

ENACTS:

63A-3-202.1, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-3-202, (Renumbered from 63A-3-202, as renumbered and amended by Laws of Utah 1993, Chapter 212)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-2-105 is amended to read:

63A-2-105. Director to approve certain purchases.

(1) A state agency that intends to purchase any mail-related equipment [~~or copy machine~~]shall submit a purchase request to the purchasing director.

(2) The purchasing director shall review a request under Subsection (1) to ensure that:

(a) the authority to perform those functions has been appropriately delegated to the state agency under this part;

(b) the equipment meets proper specifications; and

(c) the benefits from the state agency's purchase of the equipment outweigh the benefits of having the same functions performed by the division.

Section 2. Section 63A-3-202.1 is enacted to read:

63A-3-202.1. Definitions.

As used in this part, "accounting system" means:

(1) a system that integrates into the state's general ledger accounting system;

(2) a system used to summarize information that is manually entered into the state's general ledger accounting system;

(3) a system used to collect and maintain:

(a) detailed financial information on each individual transaction or event; or

(b) information used to present the funds and activities of the state;

(4) a system used to determine and demonstrate financial compliance with legal, federal, audit, and contractual provisions; or

(5) a system similar to a system described in Subsections (1) through (4).

Section 3. Section 63A-3-202.5, which is renumbered from Section 63A-3-202 is renumbered and amended to read:

~~63A-3-202~~. 63A-3-202.5. Comprehensive state accounting system -- Approval of agency accounting systems -- Cost accounting systems required.

(1) The director of the Division of Finance shall establish a comprehensive state accounting system.

(2) Officers, departments, agencies, and institutions of Utah may create and maintain accounting systems only with the approval of the director.

(3) The director may, with the approval of the executive director, require any department or institution to install and maintain a cost accounting system that will disclose the unit cost of material or service produced or performed by a department.

Section 4. Section 63A-3-203 is amended to read:

63A-3-203. Accounting control over state departments and agencies -- Prescription and approval of financial forms and accounting systems.

(1) The director of the Division of Finance shall:

(a) exercise accounting control over all state departments and agencies except institutions of higher education; and

(b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

(2) The director shall audit all claims against the state for which an appropriation is made.

(3)(a) The director shall prescribe:

(i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies; and

(ii) all forms to be used by the division.

(b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

(4) Before implementation by any state agency, the director of the Division of Finance shall review and approve any accounting system developed by a state agency.

(5) If a state agency does not obtain the approval described in Subsection (4), the director may:

(a) require the state agency to cease all development activity related to the accounting system; and

(b)(i) establish conditions of future development of the accounting system; or

(ii) deny implementation of the accounting system.

Section 5. Section 63A-3-301 is amended to read:

63A-3-301. Definitions.

As used in this part:

(1) "Account receivable" or "receivable" means any amount due the state or any other governmental entity within the state as a result of a judgment, citation, tax, or administrative order, or for which materials or services have been provided but for which payment has not been received by the servicing unit.

(2) "Debtor" means a party that owes, or is alleged to owe, an account receivable.

(3) "Division" means the Division of Finance, created in Section 63A-3-101.

(4) "Lien" means the lien described in Section 63A-3-307.

[~~(4)~~](5) "Local agency" means a nonprofit entity organized by participating political subdivisions to act on behalf of the participating political subdivisions with respect to the office's efforts to collect accounts receivable of participating political subdivisions through administrative offsets.

[~~(5)~~](6) "Mail" means United States Postal Service first class mail to the intended recipient's last known address.

[~~(6)~~](7) "Participating political subdivision" means a political subdivision that has entered into an agreement with a local agency authorizing the local agency to act on behalf of the political subdivision with respect to the office's efforts to collect accounts receivable of the political subdivision through administrative offsets.

[~~(7)~~](8) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

Section 6. Section 63A-3-303 is amended to read:

63A-3-303. Notice to debtor -- Contents -- Joint filers.

(1) [~~When~~]For each instance when the state or any other governmental entity executes, or intends to execute, on a lien created by Section 63A-3-307, the state or entity to which the receivable is owed shall send a notice by mail to the debtor at the debtor's last-known address.

(2) The notice required by Subsection (1) shall contain:

(a) the date and amount of the receivable;

(b) a demand for immediate payment of the amount;

(c) a statement of the right of the debtor to file a written response to the notice, to request a hearing within 21 days of the date of the notice, to be represented at the hearing, and to appeal any decision of the hearing examiner;

(d) the time within which a written response must be received from the debtor;

(e) a statement notifying the debtor that the state may obtain an order and execute upon income tax overpayments or refunds of the debtor if:

(i) the debtor fails to timely respond to the notice; or

(ii) a hearing is held and the hearing officer decides against the debtor; [~~and~~]

(f) the address to which the debtor may send a written request for a hearing[~~.~~]; and

(g) the amount of the tax overpayment, refund, or other funds subject to a lien under this part, on which the state or governmental entity executes or intends to execute the lien.

(3) Notwithstanding Subsection (1), if the Office of State Debt Collection has agreed to collect a receivable, the Office of State Debt Collection may send the notice required by Subsection (1) instead of the entity to which the receivable is owed.

(4) Unless otherwise prohibited by law, the state or other governmental entity shall also send the notice required [~~by~~]under this section [~~shall also be sent to any individuals that are joint filers~~]to each individual who is a joint filer with a debtor of an affected tax filing, if the state [~~agency~~]or other governmental entity attempting to levy a debtor's tax overpayment[~~or~~], refund, or other funds subject to a lien under this part is aware of the joint filer.

Section 7. Section 63A-3-304 is amended to read:

63A-3-304. Effect of nonpayment or failure to respond.

(1) If a written request for a hearing[~~, or payment of delinquent receivable,~~] is not received by the state or other governmental entity within 21 days [~~from~~]after the date of the notice required by Section 63A-3-303, the debtor is in default and the state or other governmental entity [~~may~~]:

[~~(1)~~](a) may levy the debtor's income tax overpayment[~~or~~], refund, or other funds subject to a lien under this part, that is specified in the notice, up to the amount of the receivable, plus interest, penalties, and collection costs allowed by law, to apply to the receivable specified in the notice; and

[~~(2)~~](b) [~~collect the balance, including as provided in Section 63A-3-307~~]is not required to return to the debtor the income tax overpayment, refund, or other funds subject to a lien under which the state or other governmental entity levies.

(2) If a debtor pays a delinquent receivable in full before the state or other governmental entity applies to the delinquent receivable an amount levied under this part, the state or other governmental entity shall release the levied amount to the debtor, if the levied amount is being held due to a lien created under Section 63A-3-307.

Section 8. Section 63A-3-305 is amended to read:

63A-3-305. Hearing requested -- Notice to debtor.

(1) If a written response is received by the state or other governmental entity within 21 days from the date of the notice required by Section 63A-3-303 and a hearing is requested in the written response, the state or other governmental entity shall:

(a) set a hearing date within 28 days of the receipt of the response; and

(b) mail written notice of the hearing to the debtor at least 14 days before the date of the hearing.

(2)(a) Notwithstanding Subsection (1), the state or other governmental entity is not required to set a hearing if the state or governmental entity releases its lien.

(b) The state or other governmental entity may release a lien on a specific tax overpayment, a specific refund, or a specific amount of funds, without the release affecting subsequent or previous levies or liens under this part.

(c) Each instance the state or other governmental entity, in response to a written request for a hearing from a debtor, releases a lien under this section, the state or other governmental entity releasing the lien shall, within a reasonable amount of time, send written notice to the debtor indicating that the lien has been released and to which year or years the release applies.

(3) A written request for hearing received under this part is a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act.

(4) This part does not prevent a debtor from challenging a debt through other lawful means that may be available to a debtor.

(5) A written request under this part is the sole manner to dispute a levy under this part.

Section 9. Section 63A-3-306 is amended to read:

63A-3-306. Hearing examiner -- Procedures -- Adjudicative proceedings.

(1)(a) A hearing requested under this part shall be held before a hearing examiner designated by the state or other governmental entity setting the hearing.

(b) The hearing examiner may not be an officer or employee of the entity in state government responsible for collecting or administering the account.

(2) The state or other governmental entity shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

(3) If a hearing examiner determines a receivable is owed, in whole or in part:

(a) the state or other governmental entity may levy the debtor's income tax overpayment[~~or~~], refund, or other funds subject to a lien under this part, as specified in the notice to the debtor, up to the amount of the receivable determined to be owed, plus interest, penalties, and collection costs allowed by law and collect the balance, including as provided in Section 63A-3-307; and

(b) the state or other governmental entity may charge the debtor reasonable, actual collection costs for amounts charged by the hearing examiner for the debtor's hearing.

Section 10. Section 63A-3-307 is amended to read:

63A-3-307. Liens.

(1) The following shall constitute a lien in the amount of the receivable plus interest, penalties, and collection costs allowed by law against any state income tax overpayment[~~, or~~], refund, or other funds in possession of the state or other governmental entity, that are due or to become due the debtor:

(a) a judgment, citation, tax, or administrative order issued by any agency, court, or other authority of the state, or by any political subdivision; [~~or~~]

(b) an amount, that has at any point been unpaid for 90 days or more, due the state or other governmental entity for which materials or services have been provided but for which payment has not been received by the servicing unit[~~.~~]; or

(c) an amount, that:

(i) the debtor is statutorily required to pay to the state or other governmental entity; and

(ii) has, at any point, been unpaid for at least 90 days.

(2) The lien created by this section shall, for the purposes of Section 59- 10- 529 only, be considered a judgment.

(3) Nothing under Title 63G, Chapter 7, Part 6, Legal Actions Under this Chapter - Procedures, Requirements, Damages, and Limitations on Judgments, prohibits the state or other governmental entity from executing on a lien under this section.

Section 11. Section 63A-3-308 is amended to read:

63A-3-308. Judicial review -- Effect on lien.

(1) Agency and judicial review of decisions from hearings conducted under this part are subject to review in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) The state or other governmental entity may retain in its possession a debtor's tax overpayment[~~, or~~], refund, or other funds subject to a lien under this part, while a decision from a hearing conducted under this part is being reviewed by an agency, court, or other authority of the state pursuant to Title 63G, Chapter 4, Administrative Procedures Act.

Section 12. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection- related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past- due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

(p) allocate money collected for a judgment entered on the civil judgment docket under Section 77- 18- 114 in accordance with Sections 51- 9- 402, 63A- 3- 506, and 78A- 5- 110;

(q) if a criminal accounts receivable is transferred to the office under Subsection 77- 32b- 103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable;

(r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

(s) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including any amount of restitution owed to a victim in a civil judgment of restitution if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

(t) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

(u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

(g) at rates authorized by the Legislature or set in statute, assess and collect the following interest and fees[~~ related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504~~]:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and

(n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6)(a) The office shall collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 13. Section 63A-3-505 is amended to read:

63A-3-505. State Debt Collection Fund.

(1) There is created an expendable special revenue fund entitled the "State Debt Collection Fund."

(2) The fund consists of:

(a) all amounts appropriated to the fund under this chapter;

(b) fees and interest [~~established by the office under~~]described in Subsection 63A-3-502(4)(g); and

(c) except as otherwise provided by law, all postjudgment interest collected by the office or the state, except postjudgment interest on a civil judgment of restitution.

(3) Money in this fund shall be overseen by the office and may be used to pay for:

(a) the costs of the office in the performance of the office's duties[~~under this chapter~~];

(b) a civil judgment of restitution for which debt is owed;

(c) interest accrued that is associated with the debt;

(d) principal on the debt to the state agencies or other entities that placed the receivable for collection; [~~and~~]

(e) other legal obligations including those ordered by a court[~~.~~]; and

(f) deputy court clerks who work exclusively on debt collection activities.

(4)(a) The fund may collect interest.

(b) All interest earned from the fund shall be deposited [~~in~~]into the General Fund.

(5) The office shall ensure that money remaining in the fund at the end of the fiscal year that is not committed under the priorities established under Subsection (3) is deposited into the General Fund.

Section 14. Section 63A-3-507 is amended to read:

63A-3-507. Administrative garnishment order.

(1) Subject to Subsection (2), if a judgment is entered against a debtor, the office may issue an administrative garnishment order against the debtor's personal property, including wages, in the possession of a party other than the debtor in the same manner and with the same effect as if the order was a writ of garnishment issued by a court with jurisdiction.

(2) The office may issue the administrative garnishment order if:

(a) the order is signed by the director or the director's designee; and

(b) the underlying debt is for:

(i) nonpayment of a civil accounts receivable or a civil judgment of restitution; or

(ii) nonpayment of a judgment, or abstract of judgment or award filed with a court, based on an administrative order for payment issued by an agency of the state.

(3) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as provided by Section 70C-7-103.

(4) An administrative garnishment order issued by the office shall:

(a) contain a statement that includes:

(i) if known:

(A) the nature, location, account number, and estimated value of the property; and

(B) the name, address, and phone number of the person holding the property;

(ii) whether any of the property consists of earnings;

(iii) the amount of the judgment and the amount due on the judgment; and

(iv) the name, address, and phone number of any person known to the plaintiff to claim an interest in the property;

(b) identify the defendant, including the defendant's name and last known address;

(c) notify the defendant of the defendant's right to reply to answers and request a hearing as provided by Rule 64D, Utah Rules of Civil Procedure; and

(d) state where the garnishee may deliver property.

(5) The office may, in the office's discretion, include in an administrative garnishment order:

(a) the last four digits of the defendant's Social Security number;

(b) the last four digits of the defendant's driver license number;

(c) the state in which the defendant's driver license was issued;

(d) one or more interrogatories inquiring:

(i) whether the garnishee is indebted to the defendant and, if so, the nature of the indebtedness;

(ii) whether the garnishee possesses or controls any property of the defendant and, if so, the nature, location, and estimated value of the property;

(iii) whether the garnishee knows of any property of the defendant in the possession or under the control of another and, if so:

(A) the nature, location, and estimated value of the property; and

(B) the name, address, and telephone number of the person who has possession or control of the property;

(iv) whether the garnishee is deducting a liquidated amount in satisfaction of a claim against the plaintiff or the defendant, whether the claim is against the plaintiff or the defendant, and the amount deducted;

(v) the date and manner of the garnishee's service of papers upon the defendant and any third party;

(vi) the dates on which any previously served writs of continuing garnishment were served; and

(vii) any other relevant information, including the defendant's position, rate of pay, method of compensation, pay period, and computation of the amount of the defendant's disposable earnings.

(6)(a) A garnishee who acts in accordance with this section and the administrative garnishment issued by the office is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (6)(c), if the garnishee fails to comply with an administrative garnishment issued by the office without a court or final administrative order directing otherwise, the garnishee is liable to the office for an amount determined by the court.

(c) The amount for which a garnishee is liable under Subsection (6)(b) includes:

(i)(A) the value of the judgment; or

(B) the value of the property, if the garnishee shows that the value of the property is less than the value of the judgment;

(ii) reasonable costs; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(d) If the garnishee shows that the steps taken to secure the property were reasonable, the court may excuse the garnishee's liability in whole or in part.

(7)(a) If the office has reason to believe that a garnishee has failed to comply with the requirements of this section in the garnishee's response to a garnishment order issued under this section, the office may submit a motion to the court requesting the court to issue an order against the garnishee requiring the garnishee to appear and show cause why the garnishee should not be held liable under this section.

(b) The office shall attach to a motion under Subsection (7)(a) a statement that the office has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(8) A person is not liable as a garnishee for drawing, accepting, making, or endorsing a negotiable instrument if the instrument is not in the possession or control of the garnishee at the time of service of the administrative garnishment order.

(9)(a) A person indebted to the defendant may pay to the office the amount of the debt or an amount to satisfy the administrative garnishment.

(b) The office's receipt of an amount described in Subsection (9)(a) discharges the debtor for the amount paid.

(10) A garnishee may deduct from the property any liquidated claim against the defendant.

(11)(a) If a debt to the garnishee is secured by property, the office:

(i) is not required to apply the property to the debt when the office issues the administrative garnishment order; and

(ii) may obtain a court order authorizing the office to buy the debt and requiring the garnishee to deliver the property.

(b) Notwithstanding Subsection (11)(a)(i):

(i) the administrative garnishment order remains in effect; and

(ii) the office may apply the property to the debt.

(c) The office or a third party may perform an obligation of the defendant and require the garnishee to deliver the property upon completion of performance or, if performance is refused, upon tender of performance if:

(i) the obligation is secured by property; and

(ii)(A) the obligation does not require the personal performance of the defendant; and

(B) a third party may perform the obligation.

(12)(a) The office may issue a continuing garnishment order against a nonexempt periodic payment.

(b) This section is subject to the Utah Exemptions Act.

(c) A continuing garnishment order issued in accordance with this section applies to payments to, or for the benefit of, the defendant from the date of service upon the garnishee until the earliest of the following:

(i) the last periodic payment;

(ii) the judgment upon which the administrative garnishment order is issued is stayed, vacated, or satisfied in full; or

(iii) the office releases the order.

(d) No later than seven days after the last day of each payment period, the garnishee shall with respect to that period:

(i) answer each interrogatory;

(ii) serve an answer to each interrogatory on the office, the defendant, and any other person who has a recorded interest in the property; and

(iii) deliver the property to the office.

(e) If the office issues a continuing garnishment order during the term of a writ of continuing garnishment issued by the district court, the order issued by the office:

(i) is tolled when a writ of garnishment or other income withholding is already in effect and is withholding greater than or equal to the maximum portion of disposable earnings described in Subsection (13);

(ii) is collected in the amount of the difference between the maximum portion of disposable earnings described in Subsection (13) and the amount being garnished by an existing writ of continuing garnishment if the maximum portion of disposable earnings exceed the existing writ of garnishment or other income withholding; and

(iii) shall take priority upon the termination of the current term of existing writs.

(13) The maximum portion of disposable earnings of an individual subject to seizure in accordance with this section is the lesser of:

(a) 25% of the defendant's disposable earnings for any other judgment; or

(b) the amount by which the defendant's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(14)(a) In accordance with the requirements of this Subsection (14), the office may, at its discretion, determine a dollar amount that a garnishee is to withhold from earnings and deliver to the office in a continuing administrative garnishment order issued under this section.

(b) The office may determine the dollar amount that a garnishee is to withhold from earnings under Subsection (14)(a) if the dollar amount determined by the office:

(i) does not exceed the maximum amount allowed under Subsection (13); and

(ii) is based on:

(A) earnings information received by the office directly from the Utah Department of Workforce Services; or

(B) previous garnishments issued to the garnishee by the office where payments were received at a consistent dollar amount.

(c) The earnings information or previous garnishments relied on by the office under Subsection (14)(b)(ii) to calculate a dollar amount under this Subsection (14) shall be:

(i) for one debtor;

(ii) from the same employer;

(iii) for two or more consecutive quarters; and

(iv) received within the last six months.

(15)(a) A garnishee who provides the calculation for withholdings on a defendant's wages in the garnishee's initial response to an interrogatory in an administrative garnishment order under this section is not required to provide the calculation for withholdings after the garnishee's initial response if:

(i) the garnishee's accounting system automates the amount of defendant's wages to be paid under the garnishment; and

(ii) the defendant's wages do not vary by more than five percent from the amount disclosed in the garnishee's initial response.

(b) Notwithstanding Subsection (15)(a), upon request by the office or the defendant, a garnishee shall provide, for the last pay period or other pay period specified by the office or defendant, a calculation of the defendant's wages and withholdings and the amount garnished.

(16)(a) A garnishee under an administrative garnishment order under this section is entitled to receive a garnishee fee, as provided in this Subsection (16), in the amount of:

(i) $10 per garnishment order, for a noncontinuing garnishment order; and

(ii) $25, as a one-time fee, for a continuing garnishment order.

(b) A garnishee may deduct the amount of the garnishee fee from the amount to be remitted to the office under the administrative garnishment order, if the amount to be remitted exceeds the amount of the fee.

(c) If the amount to be remitted to the office under an administrative garnishment order does not exceed the amount of the garnishee fee:

(i) the garnishee shall notify the office that the amount to be remitted does not exceed the amount of the garnishee fee; and

(ii)(A) the garnishee under a noncontinuing garnishment order shall return the administrative garnishment order to the office, and the office shall pay the garnishee the garnishee fee; or

(B) the garnishee under a continuing garnishment order shall delay remitting to the office until the amount to be remitted exceeds the garnishee fee.

(d) If, upon receiving the administrative garnishment order, the garnishee does not possess or control any property, including money or wages, in which the defendant has an interest:

(i) the garnishee under a continuing or noncontinuing garnishment order shall, except as provided in Subsection (16)(d)(ii), return the administrative garnishment order to the office, and the office shall pay the garnishee the applicable garnishee fee; or

(ii) if the garnishee under a continuing garnishment order believes that the garnishee will, within 90 days after issuance of the continuing garnishment order, come into possession or control of property in which the defendant owns an interest, the garnishee may retain the garnishment order and deduct the garnishee fee for a continuing garnishment once the amount to be remitted exceeds the garnishee fee.

(17) Section 78A-2-216 does not apply to an administrative garnishment order issued under this section.

(18) An administrative garnishment instituted in accordance with this section shall continue to operate and require that a person withhold the nonexempt portion of earnings at each succeeding earning disbursement interval until the total amount due in the garnishment is withheld or the garnishment is released in writing by the court or office.

(19) If the office issues an administrative garnishment order under this section to collect an amount owed on a civil accounts receivable or a civil judgment of restitution, the administrative garnishment order shall be construed as a continuation of the criminal action for which the civil accounts receivable or civil judgment of restitution arises if the amount owed is from a fine, fee, or restitution for the criminal action.

Section 15. Section 78A-2-214 is amended to read:

78A-2-214. Collection of accounts receivable.

(1) As used in this section:

(a) "Accounts receivable" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.

(b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third party claims, sale of goods, sale of services, claims, and damages.

(2) If a defendant is sentenced before July 1, 2021, and the Department of Corrections, or the Office of State Debt Collection, is not responsible for collecting an accounts receivable for the defendant, the district court shall collect the accounts receivable for the defendant.

(3)(a) In the juvenile court, money collected by the court from past-due accounts receivable may be used to offset system, administrative, legal, and other costs of collection.

(b) The juvenile court shall allocate money collected above the cost of collection on a pro rata basis to the various revenue types that generated the accounts receivable.

(4) The interest charge [~~established by the Office of State Debt Collection under~~]described in Subsection 63A-3-502(4)(g)(iii) may not be assessed on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.

Section 16. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 399
H. B. 88
Passed February 2, 2024
Approved March 19, 2024
Effective May 1, 2024

LANDOWNER LIABILITY AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends the definition of "recreational purpose" in Title 57, Chapter 14, Limitations on Landowner Liability.

Highlighted Provisions:

This bill:

- amends the definition of "recreational purpose" for Title 57, Chapter 14, Limitations on Landowner Liability, to include rock climbing; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-14-102, as last amended by Laws of Utah 2022, Chapter 430

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-14-102 is amended to read:

57-14-102. Definitions.

As used in this chapter:

(1) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.

(2) "Child" means an individual who is 16 years old or younger.

(3)(a) "Land" means any land within the state boundaries.

(b) "Land" includes roads, railway corridors, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(4) "Owner" means the possessor of any interest in the land, whether public or private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.

(5) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

(6) "Recreational purpose" includes[~~, but is not limited to,~~] any of the following or any combination [~~thereof~~]of the following:

(a) hunting;

(b) fishing;

(c) swimming;

(d) skiing;

(e) snowshoeing;

(f) camping;

(g) picnicking;

(h) hiking;

(i) studying nature;

(j) waterskiing;

(k) engaging in water sports;

(l) engaging in equestrian activities;

(m) using boats;

(n) mountain biking;

(o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge;

(p) using off-highway vehicles or recreational vehicles;

(q) viewing or enjoying historical, archaeological, scenic, or scientific sites;

(r) aircraft operations; [~~and~~]

(s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller skating, ice skating, walking, running, jogging, bike riding, or in-line skating[~~.~~];

(t) rock climbing; or

(u) any other similar activity or combination of similar activities.

(7) "Serious physical injury" means any physical injury or set of physical injuries that:

(a) seriously impairs a person's health;

(b) was caused by use of a dangerous weapon as defined in Section 76-1-101.5;

(c) involves physical torture or causes serious emotional harm to a person; or

(d) creates a reasonable risk of death.

(8) "Trespasser" means a person who enters on the land of another without:

(a) express or implied permission; or

(b) invitation.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 400
H. B. 91
Passed February 5, 2024
Approved March 19, 2024
Effective May 1, 2024

UTAH OFFICE OF REGULATORY RELIEF REVISIONS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah Office of Regulatory Relief and the General Regulatory Sandbox Program (regulatory sandbox).

Highlighted Provisions:

This bill:

- defines terms;
- clarifies responsibilities of the Utah Office of Regulatory Relief;
- reduces the membership of the General Regulatory Sandbox Program Advisory Committee (advisory committee);
- under certain circumstances, permits the director to temporarily appoint additional advisory committee members;
- requires the advisory committee to:
  - approve or reject an application into the regulatory sandbox; and
  - annually select a chair of the advisory committee;
- amends the application requirements of the regulatory sandbox;
- modifies a regulatory government agency's reporting requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-16-102, as last amended by Laws of Utah 2022, Chapter 332
63N-16-103, as last amended by Laws of Utah 2022, Chapter 332
63N-16-104, as last amended by Laws of Utah 2022, Chapter 332
63N-16-201, as last amended by Laws of Utah 2022, Chapter 332
63N-16-205, as enacted by Laws of Utah 2021, Chapter 373
63N-16-206, as last amended by Laws of Utah 2022, Chapter 332

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-16-102 is amended to read:

63N-16-102. Definitions.

As used in this chapter:

(1) "Advisory committee" means the General Regulatory Sandbox Program Advisory Committee created in Section 63N-16-104.

(2) "Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant.

(3) "Applicant" means a person that applies to participate in the regulatory sandbox.

(4) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

(5) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant.

(6) "Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox program described in this chapter.

(7) "Director" means the director of the Utah Office of Regulatory Relief created in Section 63N-16-103.

(8) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(9) "Financial product or service" means:

(a) a financial product or financial service that requires state licensure or registration; or

(b) a financial product, financial service, or banking business that includes a business model, delivery mechanism, offering of deposit accounts, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related provisions.

(10) "Health, safety, and financial well-being" includes protecting against physical injury, property damage, or financial harm.

(11) "Innovation" means the use or incorporation of a new or existing idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, production method, or service.

[~~(11)~~](12) "Insurance product or service" means an insurance product or insurance service that requires state licensure, registration, or other authorization as regulated by Title 31A, Insurance Code, including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do an

insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by Title 31A, Insurance Code.

[~~(12)~~](13)(a) "Offering" means a product, production method, or service, including a financial product or service or an insurance product or service, that includes an innovation.

(b) "Offering" does not include a product, production method, or service that is governed by Title 61, Chapter 1, Utah Uniform Securities Act.

[~~(13)~~](14) "Product" means a commercially distributed good that is:

(a) tangible personal property;

(b) the result of a production process; and

(c) passed through the distribution channel before consumption.

[~~(14)~~](15) "Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

[~~(15)~~](16) "Regulatory relief office" means the Utah Office of Regulatory Relief created in Section 63N-16-103.

[~~(16)~~](17) "Regulatory sandbox" means the General Regulatory Sandbox Program created in Section 63N-16-201, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.

[~~(17)~~](18) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.

[~~(18)~~](19) "Service" means any commercial activity, duty, or labor performed for another person.

Section 2. Section 63N-16-103 is amended to read:

63N-16-103. Creation of regulatory relief office and appointment of director - - Responsibilities of regulatory relief office.

(1) There is created within the Governor's Office of Economic Opportunity the Utah Office of Regulatory Relief.

(2)(a) The regulatory relief office shall be administered by a director.

(b) The director shall report to the executive director or the executive director's designee and may appoint staff subject to the approval of the executive director.

(3) The regulatory relief office shall:

(a) administer the provisions of this chapter;

(b) administer the regulatory sandbox program; and

(c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program, or amended.

(4) The regulatory relief office may:

(a) review state laws and regulations that may unnecessarily inhibit the creation and success of[~~new~~] companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;

(b) create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;

(c) propose potential reciprocity agreements between states that use or are proposing to use similar regulatory sandbox programs as described in this chapter; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:

(i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and

(ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Section 3. Section 63N-16-104 is amended to read:

63N-16-104. Creation and duties of advisory committee.

(1) There is created the General Regulatory Sandbox Program Advisory Committee.

(2) The advisory committee shall have [~~11~~]9 members as follows:

(a) [~~six~~]four members appointed by the director who represent [~~businesses~~]business interests and are selected from a variety of industry clusters;

(b) three members appointed by the director who represent state agencies that regulate businesses;

(c) one member of the Senate, appointed by the president of the Senate; and

(d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(3)(a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.

[~~(4) The director shall select a chair of the advisory committee on an annual basis.~~]

(4) Notwithstanding the requirements in Subsection (2), the director may temporarily appoint up to three additional members to the advisory committee who represent business interests, industry, or regulatory or compliance interests to which an application for participation in the regulatory sandbox relates.

(5) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.

(6) The advisory committee shall:

(a) advise and make recommendations to the regulatory relief office as described in this chapter[~~.~~]; and

(b) annually select a chair of the advisory committee.

(7) The regulatory relief office shall provide administrative staff support for the advisory committee.

(8)(a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 4. Section 63N-16-201 is amended to read:

63N-16-201. General Regulatory Sandbox Program -- Application requirements.

(1) There is created in the regulatory relief office the General Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the regulatory relief office:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an offering without obtaining a license or other authorization that might otherwise be required;

(c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and

(d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.

(3)(a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.

(b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program.

(c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.

(4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:

(a) confirms the applicant is subject to the jurisdiction of the state;

(b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an offering will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) contains a description of the offering to be demonstrated, including statements regarding:

(i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;

(ii) each law or regulation, accompanied by their statutory reference or citation, that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;

(iii) how the offering would benefit consumers;

(iv) how the offering is different from other offerings available in the state;

(v) any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that each law or regulation described in Subsection (4)(e)(ii) protects against;

[~~(v)~~](vi) what risks might exist for consumers who use or purchase the offering;

[~~(vi)~~](vii) how participating in the regulatory sandbox would enable a successful demonstration of the offering;

[~~(vii)~~](viii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;

[~~(viii)~~](ix) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and

[~~(ix)~~](x) how the applicant will end the demonstration and protect consumers if the demonstration fails;

(f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and

(g) provides any other required information as determined by the regulatory relief office.

(5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(6) An applicant shall file a separate application for each offering that the applicant wishes to demonstrate.

(7) After an application is filed, the regulatory relief office shall:

(a) classify, as a protected record, any part of the application that the office determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant in accordance with Subsection 63G-2-305(83);

(b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and

(c) seek additional information from the applicant that the regulatory relief office determines is necessary.

(8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:

(a) review the application and refer the application to each applicable government agency that regulates the applicant's business;

(b) provide to the applicant:

(i) an acknowledgment of receipt of the application; and

(ii) the identity and contact information of each regulatory agency to which the application has been referred for review; and

(c) provide public notice, on the office's website and through other appropriate means, of each law or regulation that the office is considering to suspend or waive under the application.

(9)(a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.

(b) The report shall:

(i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and

(ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.

(c)(i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.

(ii) The applicable agency may only request one extension per application.

(d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.

(e) If the agency determines that the consumer's or public's health, safety, [~~or~~]and financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.

(f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.

(g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:

(i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's [~~sole~~]discretion, that the applicant's offering fails to comply with standards or specifications:

(A) required by federal law or regulation; or

(B) previously approved for use by a federal agency; or

(ii) reject an application that is preliminarily approved by the regulatory relief office, if the applicable agency:

(A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and

(B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the [~~health or safety~~]health, safety, or financial well-being of the public, or create unreasonable expenses for taxpayers in the state.

(h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(i) If the applicable agency rejects an application under Subsection (9)(g), the applicable agency shall provide the rejection on a form created by the agency and signed by the director of the applicable agency.

(ii) The form shall document the reason for the rejection and show every reasonable effort was made to meet with the applicant.

(10)(a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.

(b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.

(c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.

(d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11)(a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency [~~and the advisory committee~~]before admitting an applicant into the regulatory sandbox.

(b) The consultation with each applicable agency [~~and the consultation with the advisory committee~~]may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant; and

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

(a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

(b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and

(c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14)(a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and the regulatory relief office enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.

(b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant and related parties that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15)(a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

(b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.

(c) The denial of an application submitted under this section is not subject to:

(i) agency or judicial review; or

(ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) The director shall deny an application for participation in the regulatory sandbox described by this section if the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.

(17)(a) When an applicant is approved for participation in the regulatory sandbox, the director shall provide public notice of the approval on the office's website and through other appropriate means.

(b) The public notice described in Subsection (17)(a) shall state:

(i) the name of the sandbox participant;

(ii) the industries the sandbox participant represents; and

(iii) each law or regulation that is suspended or waived for the sandbox participant as allowed by the regulatory sandbox.

(18) In addition to the information described in Subsection (17), the office shall make the following information available on the office's website and through other appropriate means:

(a) documentation regarding the office's determination and grounds for approving each sandbox participant; and

(b) public notice regarding any sandbox participant's revocation to participate in the regulatory sandbox.

Section 5. Section 63N-16-205 is amended to read:

63N-16-205. Extensions.

(1) Not later than 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant may request an extension of the regulatory sandbox demonstration period.

(2) The regulatory relief office shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 12-month regulatory sandbox testing period.

(3) The regulatory relief office may grant an extension in accordance with this section for not more than 12 months after the end of the initial regulatory sandbox demonstration period.

Section 6. Section 63N-16-206 is amended to read:

63N-16-206. Record keeping and reporting requirements.

(1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an offering demonstrated in the regulatory sandbox.

(2) If a sandbox participant ceases to provide an offering before the end of a demonstration period, the sandbox participant shall notify the regulatory relief office and each applicable agency and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result.

(3)(a) The regulatory relief office shall establish quarterly reporting requirements for a sandbox participant, including information about any consumer complaints.

(b) No later than 14 days after the day on which a sandbox participant submits the sandbox participant's second quarterly report to the regulatory relief office, the regulatory relief office shall provide the sandbox participant's first and second quarterly reports to each applicable agency.

(c) No later than 30 days after the day on which an applicable agency receives the reports as described in Subsection (3)(b), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.

(4) The regulatory relief office may request records, documents, and data from a sandbox participant and, upon the regulatory relief office's request, the sandbox participant shall make such records, documents, and data available for inspection by the regulatory relief office.

(5)(a) The sandbox participant shall notify the regulatory relief office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

(b) If a sandbox participant fails to notify the regulatory relief office and each applicable agency of any incidents as described in Subsection (5)(a), or the regulatory relief office or an applicable agency has evidence that significant harm to a consumer has occurred, the regulatory relief office may immediately remove the sandbox participant from the regulatory sandbox.

(6)(a) No later than 30 days after the day on which a sandbox participant exits the regulatory sandbox, the sandbox participant shall submit a written report to the regulatory relief office and each applicable agency describing an overview of the sandbox participant's demonstration, including any:

(i) incidents of harm to consumers;

(ii) legal action filed against the participant as a result of the participant's demonstration; and

(iii) complaints filed with an applicable agency as a result of the participant's demonstration.

(b) No later than 30 days after the day on which an applicable agency receives [~~the quarterly reporting described in Subsection (3) or~~]a written report from a sandbox participant as described in Subsection (6)(a), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.

(7) The regulatory relief office may remove a sandbox participant from the regulatory sandbox at any time if the regulatory relief office determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a law or regulation for which suspension or waiver has not been granted.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 401
H. B. 114
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

RAPE CRISIS AND SERVICES CENTER AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill concerns standards of care and eligibility standards for a rape crisis and services center.

Highlighted Provisions:

This bill:

- defines terms;
- specifies rulemaking authority to the State Commission on Criminal and Juvenile Justice (commission), in consultation with the Utah Office for Victims of Crime (office) to create:
  - standards of care for a rape crisis and services center;
  - eligibility standards for a rape crisis and services center to be eligible for a grant, other funds, or services;
  - standards and procedures for the commission to monitor or audit the compliance of a rape crisis and services center with eligibility standards;
- requires the state auditor to audit the commission's compliance with monitoring and auditing requirements and the provision of certain grant funds; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-502, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430

ENACTS:

63M-7-527, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(6) "Child" means an unemancipated individual who is under 18 years old.

(7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

(9)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(10)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(13) "Director" means the director of the office.

(14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(15)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

(17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

(20) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(21)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(22) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(23) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(25) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

(26) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(27) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(28) "Offense" means a violation of Title 76, Utah Criminal Code.

(29) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(30) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(31)(a) "Rape crisis and services center" means a nonprofit entity that assists victims of sexual assault and victims' families by offering sexual assault crisis intervention and counseling through a sexual assault counselor.

(b) "Rape crisis and services center" does not include a qualified institutional victim services provider as defined in Section 53B-28-201.

[~~(31)~~](32) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(32)~~](33) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(33)~~](34)(a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(34)~~](35) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(35)~~](36)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(36)~~](37) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(37)~~](38) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~](39) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(39)~~](40) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(40)~~](41) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(42) "Sexual assault counselor" means an individual who:

(a) is employed by or volunteers at a rape crisis and services center;

(b) has a minimum of 40 hours of training in counseling and assisting victims of sexual assault; and

(c) is under the supervision of the director of a rape crisis and services center or the director's designee.

[~~(41)~~](43) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(42)~~](44) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(43)~~](45)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(44)~~](46) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 2. Section 63M-7-527 is enacted to read:

63M-7-527. Rape crisis and services center standards, eligibility, and monitoring -- Administrative rulemaking authority.

(1) With regard to eligibility for a grant, other funds, or services provided under this part for a rape crisis and services center, the commission, in consultation with the office, shall create rules to:

(a) create standards of care for a rape crisis and services center to provide safe, effective, and appropriate services for a victim of sexual assault:

(i) that are based on best practices; and

(ii) with input from the Utah Victim Services Commission's subcommittee on rape and sexual assault established under Subsection 63M-7-903(5)(b);

(b) create and enforce eligibility standards for a rape crisis and services center that:

(i) incorporate the standards of care described in Subsection (1)(a); and

(ii) may be used to determine whether a rape crisis and services center is eligible for a grant, other funds, or services under this part; and

(c) create standards and procedures for the commission to monitor and audit a rape crisis and services center for compliance with the eligibility standards described in Subsection (1)(b).

(2) Rules made by the commission under this section shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The state auditor shall audit the commission's compliance with the commission's monitoring and

auditing requirements described in Subsection (1)(c) and the provision of grant funds under this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 402
H. B. 228
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

PUBLIC EMPLOYEE LEAVE AMENDMENTS

Chief Sponsor: Norman K Thurston
Senate Sponsor: Stephanie Pitcher

Cosponsor:
Sahara Hayes
Ashlee Matthews
Gay Lynn Bennion
Sandra Hollins
Carol S. Moss
Joel K. Briscoe
Dan N. Johnson
Doug Owens
Tyler Clancy
Marsha Judkins
Angela Romero
Jennifer Dailey-Provost
Brian S. King
Andrew Stoddard
Brett Garner
Rosemary T. Lesser
Douglas R. Welton
Matthew H. Gwynn
Anthony E. Loubet
Mark A. Wheatley

LONG TITLE

General Description:

This bill requires certain government employers to, at a minimum, provide unpaid leave to an employee who is a state legislator on an authorized legislative day.

Highlighted Provisions:

This bill:

- defines terms;
- unless the requirement would impose an undue hardship on a particular employer, requires certain government employers to, at a minimum, provide unpaid leave to an employee who is a state legislator on an authorized legislative day; and
- prohibits interference with, or retaliating against an employee for, taking the leave described in the preceding paragraph.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-3-1111, Utah Code Annotated 1953
11-13-104, Utah Code Annotated 1953
17-15-33, Utah Code Annotated 1953
53B-2-114, Utah Code Annotated 1953
53B-2a-119, Utah Code Annotated 1953
53G-11-208, Utah Code Annotated 1953
63A-17-513, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-1111 is enacted to read:

10-3-1111. Municipality required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), a municipality that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the municipality and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) A municipality is not required to comply with Subsection (2) if the legislative body of the municipality determines that complying with the requirement would cause the municipality significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the municipality's operations.

Section 2. Section 11-13-104 is enacted to read:

11-13-104. Interlocal entity required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), an interlocal entity that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the interlocal entity and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) An interlocal entity is not required to comply with Subsection (2) if the governing authority of the interlocal entity determines that complying with the requirement would cause the interlocal entity significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the interlocal entity's operations.

Section 3. Section 17-15-33 is enacted to read:

17-15-33. County required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), a county that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the county and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) A county is not required to comply with Subsection (2) if the legislative body of the county determines that complying with the requirement would cause the county significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the county's operations.

Section 4. Section 53B-2-114 is enacted to read:

53B-2-114. Institution of higher education required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), an institution of higher education that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the institution of higher education and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) An institution of higher education is not required to comply with Subsection (2) if the institution board of trustees of the institution of higher education determines that complying with the requirement would cause the institution of higher education significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the institution of higher education's operations.

Section 5. Section 53B-2a-119 is enacted to read:

53B-2a-119. Technical college required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), a technical college that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the technical college and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) A technical college is not required to comply with Subsection (2) if the institution board of trustees of the technical college determines that complying with the requirement would cause the technical college significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the technical college's operations.

Section 6. Section 53G-11-208 is enacted to read:

53G-11-208. Local education agency required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(2) Except as provided in Subsection (4), a local education agency that employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the local education agency and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

(4) A local education agency is not required to comply with Subsection (2) if the local school district board of the local education agency determines that complying with the requirement would cause the local education agency significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the local education agency's operations.

Section 7. Section 63A-17-513 is enacted to read:

63A-17-513. State employer required to provide leave to a legislator on an authorized legislative day.

(1) As used in this section:

(a) "Authorized legislative day" means:

(i) the day on which the Legislature convenes in annual general session, and each day after that day, until midnight of the 45th day of the annual general session;

(ii) a special session day;

(iii) a veto override session day;

(iv) an interim day designated by the Legislative Management Committee;

(v) an authorized legislative training day; or

(vi) any other day on which a meeting of a committee, subcommittee, commission, task force, or other entity is held, if:

(A) the committee, subcommittee, commission, task force, or other entity is created by statute or joint resolution;

(B) the legislator's attendance at the meeting is approved by the Legislative Management Committee; and

(C) service and payment for service by the legislator is not in violation of the Utah Constitution, including Article V and Article VI, Sections 6 and 7.

(b) "Authorized legislative training day" means a day that a Legislative Expenses Oversight Committee designates as an authorized legislative day for training or informational purposes, including:

(i) chair training;

(ii) an issue briefing;

(iii) legislative leadership instruction;

(iv) legislative process training;

(v) legislative rules training;

(vi) new legislator orientation; or

(vii) another meeting to brief, instruct, orient, or train a legislator in relation to the legislator's official duties.

(c) "Legislator" means:

(i) a member of the Utah Senate;

(ii) a member of the Utah House of Representatives; or

(iii) an individual who has been elected as a member described in Subsection (1)(c)(i) or (ii), but has not yet been sworn in or begun the individual's term of office.

(d) "Retaliatory action" means to:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(d)(i) through (iv).

(e) "State employer" means any employer in the state executive branch.

(2) A state employer who employs an individual who is a legislator:

(a) shall grant leave to the individual on an authorized legislative day for the number of hours requested by the individual;

(b) may not interfere with, or otherwise restrain the individual from, using the leave described in Subsection (2)(a); and

(c) may not take retaliatory action against the individual for using the leave described in Subsection (2)(a).

(3) The leave described in Subsection (2) is leave without pay unless the state employer and the individual described in Subsection (2) agree to terms that are more favorable to the individual.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 403
H. B. 244
Passed February 23, 2024
Approved March 19, 2024
Effective May 1, 2024

OFFICE OF LEGISLATIVE AUDITOR GENERAL REQUIREMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill establishes requirements related to the Office of the Legislative Auditor General.

Highlighted Provisions:

This bill:

- defines terms;
- requires the chief officer of an entity that the Office of the Legislative Auditor General (OLAG) audits to prepare a written audit response plan addressing each recommendation in OLAG's audit report;
- requires OLAG to attach the audit response plan described above to the audit report;
- vests the legislator auditor general with discretion to prepare a written reply to an audit response plan;
- in certain circumstances, instructs the chief officer described above to update the audit response plan on a semi-annual basis and to submit the update to:
  - the legislative committee designated by the Audit Subcommittee; and
  - the legislative auditor general;
- provides that the chief officer's obligation to update an audit response plan terminates when OLAG reports to the Audit Subcommittee that the chief officer has fully implemented each recommendation in the audit report;
- clarifies the Audit Subcommittee's and OLAG's responsibilities in relation to an entity that fails to implement a recommendation included in a previous audit report;
- grants OLAG the authority to annually perform a systemic performance audit of one or more institutions of higher education or independent entities;
- requires OLAG to evaluate an institution of higher education's admissions practices in conducting an audit described above;
- clarifies that OLAG's request for data and materials from the Utah Data Research Center (UDRC) in connection with an audit of an entity is not a data research request or request for a data set;
- in connection with OLAG's audit of an entity:
  - requires the UDRC to provide OLAG with data and materials that is not de-identified; and
  - prohibits the UDRC from charging OLAG a fee for completing a request for data and materials; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-8, as last amended by Laws of Utah 2016, Chapter 403
36-12-15, as last amended by Laws of Utah 2023, Chapter 21
36-12-15.1, as last amended by Laws of Utah 2023, Chapter 21
53B-33-101, as last amended by Laws of Utah 2023, Chapter 84
53B-33-301, as last amended by Laws of Utah 2023, Chapter 21

ENACTS:

36-12-15.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-8 is amended to read:

36-12-8. Legislative Management Committee -- Research and General Counsel Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members -- Meetings.

(1) There are created within the Legislative Management Committee:

(a) the Research and General Counsel Subcommittee;

(b) the Budget Subcommittee; and

(c) the Audit Subcommittee.

(2)(a) The Research and General Counsel Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.

(b) The Budget Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.

(c) The Audit Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(d) The Audit Subcommittee shall:

(i) recommend to the Legislative Management Committee a person to hold the position of legislative auditor general; and

(ii)(A) review all requests for audits;

(B) prioritize those requests;

(C) hear all audit reports and refer those reports to other legislative committees for their further review and action as appropriate; and

(D) when notified by the legislative auditor general[~~or state auditor~~] that a subsequent audit has found that an entity has not implemented a previous audit recommendation, refer the audit report to an appropriate legislative committee and also ensure that an appropriate legislative committee conducts a review of the entity that has not implemented the previous audit recommendation.

(3) The members of each subcommittee of the Legislative Management Committee, other than the Audit Subcommittee, shall have equal representation from each major political party and shall be appointed from the membership of the Legislative Management Committee by an appointments committee comprised of the speaker and the minority leader of the House of Representatives and the president and the minority leader of the Senate.

(4) Each subcommittee of the Legislative Management Committee:

(a) shall meet as often as necessary to perform its duties; and

(b) may meet during and between legislative sessions.

Section 2. Section 36-12-15 is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Audit action" means an audit, examination, investigation, or review of an entity conducted by the office.

[~~(a)~~](b) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

[~~(b)~~](c) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(d) "Office" means the Office of the Legislative Auditor General.

[~~(c)~~](e) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(4) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(5) The [~~Office of the Legislative Auditor General~~]office shall exercise the constitutional authority provided in Utah Constitution, Article VI, Section 33.

(6) Under the direction of the legislative auditor general, the [~~Office of the Legislative Auditor General~~]office shall:

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each [~~audit, examination, investigation, or review~~]audit action to the Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the [~~audit, examination, investigation, or review~~]audit action is completed;

(c) monitor, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

(7) In conducting an [~~audit, examination, investigation, or review~~]audit action of an entity, the [~~Office of the Legislative Auditor General~~]office may include a determination of any or all of the following:

(a) the honesty and integrity of any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard the entity's acquisition, custody, use, and accounting of public funds;

(d) whether the entity's administrators have complied with legislative intent;

(e) whether the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether the entity's programs have been effective in accomplishing intended objectives; and

(g) whether the entity's management control and information systems are adequate and effective.

(8)(a) If requested by the [~~Office of the Legislative Auditor General~~]office, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, or this section shall, notwithstanding any other provision of law except as provided in Subsection (8)(b), provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.

(9)(a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

(10) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

(11)(a) The following records in the custody or control of the legislative auditor general are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records and audit work papers that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report;

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

(B) waste of public funds, property, or personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of an entity for review, response, or information;

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

(C) other procedural documents necessary to fulfill the duties of the office; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsection (11)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the [~~Office of the Legislative Auditor~~

~~General~~]office in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(12) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

(13) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit report, the legislative auditor general shall[~~, upon release of the audit:~~] report to the Audit Subcommittee that the entity has not implemented the recommendation.

[~~(a) report immediately to the Audit Subcommittee that the entity has not implemented that recommendation; and~~]

[~~(b) shall report, as soon as possible, that the entity has not implemented that recommendation to an appropriate legislative committee designated by the Audit Subcommittee.~~]

(14) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

(15)(a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the [~~Office of the Legislative Auditor General~~]office;

(ii) the attorney general, county attorney, or district attorney; and

(iii)(A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(16)(a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative [~~audit, examination, investigation, or review of an entity conducted by the Office of the Legislative Auditor General~~]audit action; or

(ii) the [~~Office of the Legislative Auditor General's~~]office's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (16)(a) is a class B misdemeanor.

(17)(a) [~~Beginning July 1, 2020, the Office of the Legislative Auditor General~~]The office may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The [~~Office of the Legislative Auditor General~~]office shall require that an individual required to submit to a background check under this Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

Section 3. Section 36-12-15.1 is amended to read:

36-12-15.1. Systemic performance audits.

(1) As used in this section, "entity" means:

(a) an entity in the executive branch that receives an ongoing line item appropriation in an appropriations act; and

(b) any local education agency, as defined in Section 53E-1-102, that receives public funds.

(2)(a) Each year, subject to the availability of work capacity and the discretion of the Audit Subcommittee created in Section 36-12-8, the Office of the Legislative Auditor General may, in addition to other audits performed by the office, perform[~~:~~] a systemic performance audit of:

(i) [~~a systemic performance audit of~~]one or more executive branch entities; [~~and~~]

(ii) [~~a systemic performance audit of~~]one or more local education agencies[~~.~~];

(iii) one or more institutions of higher education; and

(iv) one or more independent entities.

(b) An audit performed under Subsection (2)(a) shall, as is appropriate for each individual audit:

(i) evaluate the extent to which the entity has efficiently and effectively used the appropriation by identifying:

(A) the entity's appropriation history;

(B) the entity's spending and efficiency history; and

(C) historic trends in the entity's operational performance effectiveness;

(ii) evaluate whether the entity's size and operation are commensurate with the entity's spending history;

(iii) evaluate whether the entity is diligent in its stewardship of resources;

(iv) provide a systemic performance audit of the entity's operations performance improvements;

(v) if possible, incorporate the audit methodology of other audits performed by the Office of the Legislative Auditor General; and

(vi) be conducted according to the process established for the Audit Subcommittee.

(c) In conducting an audit of an institution of higher education under Subsection (2)(a)(iii), the Office of the Legislator Auditor General shall, in addition to the subjects of evaluation described in Subsection (2)(b), review the institution's admissions practices for:

(i) compliance with applicable laws, rules, and policies;

(ii) best practices; and

(iii) efficiency and effectiveness.

[~~(c)~~](d) After releasing an audit report under Subsection (2)(a), the Audit Subcommittee shall make the audit report available to:

(i) each member of the Senate and the House of Representatives; and

(ii) the governor or the governor's designee.

[~~(d)~~](e) The Office of the Legislative Auditor General shall:

(i) summarize the findings of an audit described in Subsection (2)(a); and

(ii) provide a copy of each audit report and the annual report to the legislative fiscal analyst and director of the Office of Legislative Research and General Counsel as soon as each report is completed.

(3) The Office of the Legislative Auditor General may consult with the Office of the Legislative Fiscal Analyst or the Office of Legislative Research and General Counsel in preparing the summary required by Subsection (2)(d).

(4) The Legislature, in evaluating an entity's request for an increase in its base budget, shall:

(a) review the audit report required by this section and any relevant audits; and

(b) consider the entity's request for an increase in its base budget in light of the entity's prior history of savings and efficiencies as evidenced by the audit report required by this section.

Section 4. Section 36-12-15.3 is enacted to read:

36-12-15.3. Response to audit -- Chief officer -- Entity reporting requirements -- Audit response plan -- Semi-annual update.

(1) As used in this section:

(a) "Alternative action" means a process, practice, or procedure that an entity implements in response to an audit report that is different from the process, practice, or procedure described in a recommendation.

(b) "Audit report" means a written report that the office issues that contains the office's findings and recommendations with respect to an audit of an entity.

(c) "Audit response plan" means a written document that an entity issues that contains the entity's response to an audit report of the entity.

(d) "Audit Subcommittee" means the subcommittee created in Subsection 36-12-8(1)(c).

(e) "Chief officer" means the individual who holds ultimate authority over the management or governance of an entity.

(f) "Entity" means:

(i) the same as that term is defined in Subsection 36-12-15(1); or

(ii) any other person that the office is authorized to audit under any other provision of law.

(g) "Legislative committee" means the committee to which the Audit Subcommittee refers an audit report under Subsection 36-12-8(2)(d)(ii)(C).

(h) "Office" means the Office of the Legislative Auditor General.

(i) "Recommendation" means a process, practice, or procedure described in an audit report that the office proposes an entity implement.

(j) "Reply" means a written document that the office issues that contains the office's response to an entity's audit response plan.

(2) In addition to any other information that the office is required to include or attach to an audit report, the office shall, for each audit report the office issues:

(a) include in the audit report:

(i) the identity of the chief officer; and

(ii) a notice to the chief officer that the chief officer must comply with the reporting requirements described in this section; and

(b) attach to the audit report:

(i) the audit response plan of the entity that is the subject of the audit report; and

(ii) at the discretion of the legislative auditor general, a reply to the entity's audit response plan.

(3) The chief officer of an entity that is the subject of an audit report shall:

(a) prepare an audit response plan that:

(i) is in writing;

(ii) responds to the findings in the audit report; and

(iii) subject to Subsection (4), for each recommendation in the audit report:

(A) describes how the entity will implement the recommendation;

(B) identifies the individual employed by or otherwise affiliated with the entity who is responsible for implementing the recommendation;

(C) establishes a timetable that identifies benchmarks for the entity to implement the recommendation; and

(D) specifies an anticipated deadline by which the entity will fully implement the recommendation; and

(b) submit the audit response plan to the office before the office submits the audit report to the Audit Subcommittee under Subsection 36-12-15(6)(b).

(4) If the chief officer described in Subsection (3) objects to implementing a recommendation in an audit report, the chief officer shall:

(a) prepare an audit response plan in accordance with Subsections (3)(a)(i) and (ii) that:

(i) explains the basis for the objection; and

(ii)(A) identifies an alternative action that the entity will implement; or

(B) specifies that the entity will not implement the recommendation or an alternative action; and

(b) comply with submission requirements described in Subsection (3)(b).

(5) A chief officer implementing an alternative action under Subsection (4)(a)(ii)(A) shall, as it relates to the alternative action, include in the audit response plan the information described in Subsection (3)(a)(iii).

(6) Subject to Subsection (8), if the chief officer of an entity that is the subject of an audit report implements a recommendation under Subsection (3)(a)(iii), or an alternative action under Subsections (4)(a)(ii)(A) and (5), the chief officer shall, no later than 180 days after the day on which the Audit Subcommittee refers the audit report to a legislative committee:

(a) prepare an update to the entity's audit response plan that:

(i) is in writing; and

(ii) describes the entity's progress towards fully implementing:

(A) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(B) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5); and

(b) submit the update to the legislative committee and the legislative auditor general.

(7) Subject to Subsection (8), after the chief officer described in Subsection (6) complies with the submission requirements described in Subsection (6)(b), the chief officer shall:

(a) continue to update the audit response plan in accordance with Subsection (6)(a); and

(b) submit the update to the legislative committee and the legislative auditor general at least semi-annually.

(8) A chief officer's obligation to update an audit response plan under this section terminates when the legislative auditor general reports to the Audit Subcommittee that the entity which is the subject of the audit report has fully implemented:

(a) each recommendation addressed in the entity's audit response plan under Subsection (3)(a)(iii); or

(b) each alternative action addressed in the entity's audit response plan under Subsections (4)(a)(ii)(A) and (5).

Section 5. Section 53B-33-101 is amended to read:

53B-33-101. Definitions.

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section 53B-33-202.

(2) "Center" means the Utah Data Research Center created in Section 53B-33-201.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section 53B-33-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the Utah Data Research Center created in Section 53B-33-201.

(7) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.

(8) "Office" means the Office of the Legislative Auditor General created in Section 36-12-15.

[~~(8)~~](9) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the board;

(c) the Department of Workforce Services;

(d) the Department of Health and Human Services; and

(e) the Department of Commerce.

[~~(9)~~](10) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

Section 6. Section 53B-33-301 is amended to read:

53B-33-301. Data research program.

(1) The center shall establish a data research program for the purpose of analyzing data that is:

(a) collected over time;

(b) aggregated from multiple sources; and

(c) connected and de-identified.

(2) The center may, in order to establish the data research program described in Subsection (1):

(a) acquire property or equipment in order to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(b) contract with a private entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or with a state government entity to:

(i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

(3) A participating entity shall contribute data to the data research program described in Subsection (1) within guidelines established by the center.

(4) The center may only release data maintained by the center in accordance with the procedures described in this chapter.

(5) The center shall:

(a) as directed by the board, serve as a repository in the state of data from institutions of higher education;

(b) collaborate with the board and the State Board of Education to coordinate access to the unique student identifier of a public education student who later attends an institution of higher education in accordance with Sections 53B-1-109 and 53E-4-308;

(c) develop, establish, and maintain programs that promote access to data from institutions of higher education;

(d) identify initiatives that leverage education data that will improve a state citizen's ability to:

(i) access services at an institution of higher education; or

(ii) graduate with a postsecondary certificate or degree; and

(e) perform all other duties provided in this chapter.

(6) The director shall identify the resources necessary to successfully implement initiatives described in Subsection (5)(d), in accordance with Section 53B-7-101.

(7) The center may:

(a) employ staff necessary to carry out the center's duties;

(b) purchase, own, create, or maintain equipment necessary to:

(i) collect data from the participating entities;

(ii) connect and de-identify data collected by the center;

(iii) store connected and de-identified data; or

(iv) conduct research on data stored or obtained by the center; or

(c) contract with a private entity, another state or federal entity, or a political subdivision of the state to carry out the center's duties as provided in this chapter.

(8) The data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(9)(a) The center:

[~~(a)~~](i) [~~shall, upon request by the Office of the Legislative Auditor General, provide~~]shall, in connection with the office's audit of an entity, provide the office, at the office's request, with access to all records, data, and other materials in possession of the center; and

[~~(b)~~](ii) is otherwise subject to the authority of the legislative auditor general in accordance with Utah Constitution, Article VI, Section 33, and Section 36-12-15.

(b) The office's request for access to records, data, and other materials under Subsection (9)(a)(i) is not:

(i) a data research request under Subsection 53B-33-302(3)(a) or (4); or

(ii) a request for a data set under Subsection 53B-33-302(10).

(c) The center, in complying with Subsection (9)(a)(i):

(i) shall, upon the office's request, provide the office with records, data, and other materials that are not de-identified; and

(ii) may not charge the office a fee for completing the request.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 404
H. B. 246
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

OFFICE OF FAMILIES

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill creates the Office of Families within the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Office of Families within the Department of Health and Human Services;
- establishes the powers and duties of the Office of Families;
- requires the Department of Health and Human Services to share certain data with the Office of Families;
- allows the Office of Families to request data from governmental entities; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-1-202, as last amended by Laws of Utah 2023, Chapter 302
26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305
26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305 and 310

ENACTS:

26B-1-243, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 62A-15-102;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this [~~title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code~~]Title 26B, Utah Health and Human Services Code;

(47) oversee public education vision screening as described in Section 53G-9-404; [~~and~~]

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert[~~.~~]; and

(49) as allowed by state and federal law, share data with the Office of Families that is relevant to the duties described in Subsection 26B-1-243(4), which may include, to the extent available:

(a) demographic data concerning family structures in the state; and

(b) data regarding the family structure associated with:

(i) suicide, depression, or anxiety; and

(ii) various health outcomes.

Section 2. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) State Emergency Medical Services Committee;

(e) Air Ambulance Committee;

(f) Health Data Committee;

(g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(h) Child Care Provider Licensing Committee;

(i) Primary Care Grant Committee;

(j) Adult Autism Treatment Program Advisory Committee;

(k) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(l) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions and offices are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well- being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; [~~and~~]

(v) the Office of Families; and

(vi) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 3. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) Health Data Committee;

(e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(f) Child Care Provider Licensing Committee;

(g) Primary Care Grant Committee;

(h) Adult Autism Treatment Program Advisory Committee;

(i) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(j) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions and offices are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well- being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; [~~and~~]

(v) the Office of Families; and

(vi) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 4. Section 26B-1-243 is enacted to read:

26B-1-243. Office of Families -- Definitions -- Director -- Purpose and duties.

(1) As used in this section:

(a) "Director" means the director of the office appointed under Subsection (2).

(b) "Office" means the Office of Families.

(2)(a) The governor shall appoint a director of the office.

(b) The director serves at the pleasure of the governor.

(c) The governor shall establish the director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) The director is the administrative head of the office and shall serve as an advisor to the governor on family issues.

(4) The office shall:

(a) promote policies and develop initiatives which support the needs of families and children;

(b) analyze the impact of laws, government policies, boards, commissions, rules and regulations, and policy proposals on families, parents, and children;

(c) evaluate the impact of tax policies on families and children; and

(d) advocate for policies that strengthen the ability to create and form families.

(5) As necessary, the director may request staff and administrative support from the department.

(6) The office may:

(a) coordinate with other governmental entities in fulfilling the office's duties; and

(b) as allowed by state and federal law, request data or information from other governmental entities that is relevant to the office's duties.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 26B-1-204 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 405
H. B. 251
Passed February 20, 2024
Approved March 19, 2024
Effective July 1, 2025

POSTRETIREMENT REEMPLOYMENT RESTRICTIONS AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Wayne A. Harper

Cosponsor:
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Joseph Elison
Matt MacPherson
Douglas R. Welton
Katy Hall
Ashlee Matthews
Mark A. Wheatley
Jon Hawkins
Carol S. Moss
Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions governing postretirement reemployment.

Highlighted Provisions:

This bill:

- defines terms;
- creates an alternative method for a retiree within the Utah Retirement Systems (URS) to be eligible to return to work with a URS participating employer and receive a retirement allowance;
- establishes reporting requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-1202, as last amended by Laws of Utah 2020, Chapter 449
49-11-1204, as last amended by Laws of Utah 2020, Chapter 24
49-11-1205, as last amended by Laws of Utah 2021, Chapter 193
49-11-1206, as enacted by Laws of Utah 2016, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 310
49-11-1207, as last amended by Laws of Utah 2022, Chapter 171

ENACTS:

49-11-1209, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-1202 is amended to read:

49-11-1202. Definitions.

As used in this part:

(1)(a) "Affiliated emergency services worker" means [~~a person~~]an individual who:

(i) is employed by a participating employer;

(ii) performs emergency services for another participating employer that is a different agency;

(iii) is trained in techniques and skills required for the emergency service;

(iv) continues to receive regular training required for the service;

(v) is on the rolls as a trained affiliated emergency services worker of the participating employer; and

(vi) provides ongoing service for a participating employer, which service may include service as a volunteer firefighter, reserve law enforcement officer, search and rescue worker, emergency medical technician, ambulance worker, park ranger, or public utilities worker.

(b) "Affiliated emergency services worker" does not include [~~a person~~]an individual who performs work or service but does not meet the requirements of Subsection (1)(a).

(2) "Amortization rate" means the amortization rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

(3) "Bona fide termination of employment" means:

(a) permanent separation from employment or a fee-for-service relationship with any participating employer; and

(b) separation from employment without a prearrangement that anticipates postretirement reemployment or a postretirement fee-for-service relationship with a participating employer.

(4) "Normal cost rate" means the normal cost rate, as defined in Section 49-11-102, to be applied to the system that would have covered the retiree if the retiree's reemployed position were deemed to be an eligible, full-time position within that system.

[~~(3)~~](5) "Part-time appointed or elected board member" means an individual who:

(a) serves in a position:

(i) as a member of a board, commission, council, committee, panel, or other body of a participating employer; and

(ii) that is designated in the participating employer's governing statute, charter, creation document, or similar document;

(b) is appointed or elected to the position for a definite and fixed term of office by official and duly recorded action of the participating employer;

(c) except for the service in the position, does not perform other work or service for compensation for the participating employer, whether as an employee or under a contract; and

(d) retires from a participating employer that is different than the participating employer with the position in which the person serves.

(6) "Public employee retiree" means a retiree who retires under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act; or

(c) Chapter 22, Part 3, Tier II Hybrid Retirement System.

(7) "Public safety or firefighter retiree" means a retiree who retires under:

(a) Chapter 14, Public Safety Contributory Retirement Act;

(b) Chapter 15, Public Safety Noncontributory Retirement Act;

(c) Chapter 16, Firefighters' Retirement Act; or

(d) Chapter 23, Part 3, Tier II Hybrid Retirement System.

[~~(4)~~](8)(a) "Reemployed," "reemploy," or "reemployment" means work or service performed for a participating employer after retirement, in exchange for compensation.

(b) [~~Reemployment~~]"Reemployed," "reemploy," or "reemployment" includes work or service performed on a contract for a participating employer if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or principal of the contractor.

[~~(5)~~](9)(a) "Retiree"[~~:~~]

[~~(a)~~] means [~~a person~~]an individual who:

(i) retired from a participating employer; and

(ii) begins reemployment on or after July 1, 2010, with a participating employer[~~; and~~].

(b) "Retiree" does not include [~~a person~~]an individual:

(i)(A) who was reemployed by a participating employer before July 1, 2010; and

(B) whose participating employer that reemployed the [~~person~~]individual under Subsection [~~(5)(b)(i)(A)~~](9)(b)(i)(A) was dissolved, consolidated, merged, or structurally changed in accordance with Section 49-11-621 on or after July 1, 2010; or

(ii) who is working under a phased retirement agreement in accordance with [~~Title 49, Chapter 11, Part 13, Phased Retirement~~]Chapter 11, Part 13, Phased Retirement.

Section 2. Section 49-11-1204 is amended to read:

49-11-1204. General restrictions -- Election following one-year separation -- Amortization rate.

(1) A retiree may not for the same period of reemployment:

(a)(i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(2)(a) Except as provided under Section 49-11-1205, the office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the retiree may be eligible to earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

(3) If a reemployed retiree, in accordance with Subsection (2)(a), is exempt from having the allowance cancelled, including for completing the one-year separation from employment with a participating employer, the retiree may elect to:

(a) cancel the retiree's retirement allowance and instead earn additional service credit in the reemployed position and receive an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title; or

(b) continue to receive the retiree's retirement allowance, [~~forfeit earning~~]not earn additional service credit, and [~~forfeit~~]not receive any retirement-related contribution from the participating employer that reemployed the retiree.

(4)(a) If a retiree's retirement allowance is cancelled and the retiree is eligible for retirement coverage in a reemployed position, the office shall reinstate the retiree to active member status on the first day of the month following the date of the employee's eligible reemployment.

(b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible for retirement coverage in the reemployed position, the participating employer that reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

(c) A participating employer that reemploys a retiree in accordance with Subsection 49-11-1205(1) is not required to contribute the amortization rate to the office.

(5)(a) For a retiree reinstated to active member status under Subsection (4)(a) who retires within two years from the date of reemployment, the office:

(i) may not recalculate a retirement benefit for the retiree; and

(ii) shall resume the allowance that was being paid to the retiree at the time of the cancellation.

(b) Subject to Subsection (1), for a retiree who is reinstated to active membership under Subsection (4)(a) and retires two or more years after the date of reinstatement to active membership, the office shall:

(i) resume the allowance that was being paid at the time of cancellation; and

(ii) calculate an additional allowance for the retiree based on the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

Section 3. Section 49-11-1205 is amended to read:

49-11-1205. Postretirement reemployment restriction exceptions.

(1)(a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree is not reemployed by a participating employer for a period of at least 60 days from the retiree's retirement date;

(ii) the retiree has a bona fide termination of employment on the retiree's retirement date;

[~~(ii)~~](iii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree does not receive any employer paid benefits, including:

(A) retirement service credit or retirement-related contributions;

(B) medical benefits;

(C) dental benefits;

(D) other insurance benefits except for workers' compensation as provided under Title 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease Act, and withholdings required by federal or state law for social security, Medicare, and unemployment insurance; or

(E) paid time off, including sick, annual, or other type of leave; and

[~~(iii)~~](iv)(A) the retiree does not earn in any calendar year of reemployment an amount in excess of the lesser of $15,000 or one-half of the retiree's final average salary upon which the retiree's retirement allowance is based; or

(B) the retiree is reemployed as a judge as defined under Section 78A-11-102.

(b) The board shall adjust the amounts under Subsection [~~(1)(a)(iii)~~](1)(a)(iv) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(2) A retiree shall be considered as having completed the one-year separation from employment with a participating employer [~~required under~~]described in Section 49-11-1204, if the retiree:

(a) before retiring:

(i) was employed with a participating employer as a public safety service employee as defined in Section 49-14-102, 49-15-102, or 49-23-102;

(ii) during the employment under Subsection (2)(a)(i), suffered a physical injury resulting from external force or violence while performing the duties of the employment, for which injury the retiree would have been approved for total disability in accordance with the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of service are not considered;

(iii) had less than 30 years of service credit but had sufficient service credit to retire, with an unreduced allowance making the public safety service employee ineligible for long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program;

(iv) does not receive any long-term disability benefits from any participating employer; and

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

(3)(a) The office may not cancel the retirement allowance of a retiree who is employed as an affiliated emergency services worker within one

year of the retiree's retirement date if the affiliated emergency services worker does not receive any compensation, except for:

(i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or cash equivalent payment not tied to productivity and paid periodically for services;

(ii) a length-of-service award;

(iii) insurance policy premiums paid by the participating employer in the event of death of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

(iv) reimbursement of expenses incurred in the performance of duties.

(b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax credits, vouchers, and payments to an affiliated emergency services worker may not exceed $500 per month.

(c) The board shall adjust the amount under Subsection (3)(b) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

(d) A retiree is eligible for an exemption from the requirement to cease service without cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time of retirement, is at least:

(i) 50 years old, if the retiree is retiring from a public safety system or a firefighter system; or

(ii) 55 years old.

(4)(a) The office may not cancel the retirement allowance of a retiree who is employed as a part-time appointed or elected board member within one year after the retiree's retirement date if the part-time appointed or elected board member does not receive any compensation exceeding the amount described in this Subsection (4).

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than $5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(d) The board shall adjust the amount under Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index average, as determined by the board.

(5)(a) The office may not cancel the retirement allowance of a retiree who is reemployed with a participating employer within one year of the retiree's retirement date if:

(i) the retiree has a bona fide termination of employment on the retiree's retirement date;

(ii) the retiree is not employed, including by a fee-for-service relationship, with any participating employer for a period of:

(A) at least 90 days if the retiree is a public employee retiree; or

(B) at least 90 days if the retiree is a public safety or firefighter retiree;

(iii) the retiree agrees to a modified retirement allowance as described in Subsections (5)(b), (c), and (d); and

(iv) the participating employer that reemploys the retiree agrees to pay to the office the normal cost rate in addition to the amortization rate.

(b) During a period of reemployment, the retiree:

(i) receives a retirement allowance that is 20% less than the retirement allowance the retiree is entitled to receive in accordance with:

(A) for a retiree who retired under Chapter 12, Public Employees' Contributory Retirement Act, Section 49-12-402;

(B) for a retiree who retired under Chapter 13, Public Employees' Noncontributory Retirement Act, Section 49-13-402; or

(C) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement System, Section 49-22-305; or

(ii) a retirement allowance that is 15% less than the retirement allowance the retiree is entitled to receive in accordance with:

(A) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement Act, Section 49-14-402;

(B) for a retiree who retired under Chapter 15, Public Safety Noncontributory Retirement Act, Section 49-15-402;

(C) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section 49-16-402; or

(D) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement System, Section 49-23-304.

(c) During the period of reemployment, the retiree does not receive the annual cost-of-living adjustment described in:

(i) for a retiree who retired under Chapter 12, Public Employees' Contributory Retirement Act, Section 49-12-407;

(ii) for a retiree who retired under Chapter 13, Public Employees' Noncontributory Retirement Act, Section 49-13-407;

(iii) for a retiree who retired under Chapter 14, Public Safety Contributory Retirement Act, Section 49-14-403;

(iv) for a retiree who retired under Chapter 15, Public Safety Noncontributory Retirement Act, Section 49-15-403;

(v) for a retiree who retired under Chapter 16, Firefighters' Retirement Act, Section 49-16-403;

(vi) for a retiree who retired under Chapter 22, Part 3, Tier II Hybrid Retirement System, Section 49-22-308; or

(vii) for a retiree who retired under Chapter 23, Part 3, Tier II Hybrid Retirement System, Section 49-23-307.

(d)(i) The office shall begin paying the retiree's full retirement allowance on the first day of the month following the month in which the office receives written notification that the reemployed retiree has a subsequent retirement date based on a termination of the reemployment.

(ii)(A) For purposes of Subsection (5)(d)(i), the full retirement allowance includes the elimination of the allowance reduction described in Subsection (5)(b)(i) or (5)(b)(ii) and the annual cost-of-living adjustment that was prohibited under Subsection (5)(c) during the period of reemployment.

(B) A retiree may not receive the difference between the full retirement allowance and the reduced retirement allowance described in Subsection (5)(b)(i) or (5)(b)(ii) or the annual cost-of-living adjustment that the retiree would have received if the retiree had not been reemployed.

[~~(5)~~](6)(a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the termination date of the reemployment, as confirmed in writing by the participating employer, is considered the retiree's retirement date for the purpose of calculating the separation requirement [~~under~~]described in Section 49-11-1204.

(b) The office shall cancel the retirement allowance of a retiree for the remainder of the calendar year if the reemployment with a participating employer exceeds the limitation under Subsection [~~(1)(a)(iii)~~](1)(a)(iv), (3)(b), or (4)(b).

(7) A retiree who is reemployed under the provisions of Subsection (5) may not subsequently be reemployed under Section 49-11-1204 unless the office cancels the retirement allowance during the subsequent reemployment.

Section 4. Section 49-11-1206 is amended to read:

49-11-1206. Notice of postretirement reemployment.

(1) A participating employer shall immediately notify the office:

(a) if the participating employer reemploys a retiree;

(b) whether the reemployment is subject to Section 49-11-1204 or Subsection 49-11-1205(1), (2), [~~or~~] (3), or (5); and

(c) of any election by the retiree under Section 49-11-1204.

(2) A participating employer shall certify to the office whether the position of an elected official is or is not full time.

(3) A retiree subject to this part shall report to the office the status of the reemployment under Section 49-11-1204 or 49-11-1205.

Section 5. Section 49-11-1207 is amended to read:

49-11-1207. Postretirement reemployment -- Violations -- Penalties.

(1)(a) If the office receives notice or learns of the reemployment of a retiree in violation of Section 49-11-1204 or 49-11-1205, the office shall:

(i) immediately cancel the retiree's retirement allowance;

(ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar year if the reemployment with a participating employer exceeded the limitation under Subsection [~~49-11-1205(1)(a)(iii)(A)~~]49-11-1205(1)(a)(iv), (3)(b), or (4)(b); and

(iii) recover any overpayment resulting from the violation in accordance with the provisions of Section 49-11-607 before the allowance may be reinstated.

(b) Reinstatement of an allowance following cancellation for a violation under this section is subject to the procedures and provisions under Section 49-11-1204.

(2) If a retiree or participating employer failed to report reemployment in violation of Section 49-11-1206, the retiree, participating employer, or

both, who are found to be responsible for the failure to report, are liable to the office for the amount of any overpayment resulting from the violation.

(3) A participating employer is liable to the office for a payment or failure to make a payment in violation of this part.

(4) If a participating employer fails to notify the office in accordance with Section 49-11-1206, the participating employer is immediately subject to a compliance audit by the office.

Section 6. Section 49-11-1209 is enacted to read:

49-11-1209. Reporting requirement.

(1) On or before October 1, 2027, and every other interim thereafter, the office shall report to the Retirement and Independent Entities Committee:

(a) the number of retirees who are reemployed and receiving a retirement allowance;

(b) the number of retirees described in Subsection (1)(a) who are public employee retirees and the number who are public safety or firefighter retirees;

(c) the average number of years of service credit before retirement for each type of retiree; and

(d) the number of retirees who reemployed on or after July 1, 2025, and have subsequently retired.

(2) The office shall report the information described in Subsection (1) separately for retirees who reemploy under Section 49-11-1204 and Subsection 49-11-1205(5).

Section 7. Effective date.

This bill takes effect on July 1, 2025.

CHAPTER 406
H. B. 254
Passed February 15, 2024
Approved March 19, 2024
Effective May 1, 2024

STATE OLYMPIC COORDINATION AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to the Olympic and Paralympic Winter Games Coordination Committee and the Olympic and Paralympic Venues Grant Fund.

Highlighted Provisions:

This bill:

- amends provisions related to the duties of the Division of Facilities Construction and Management;
- modifies definitions;
- permits the Division of Facilities Construction and Management to seek non-binding recommendations from the Olympic and Paralympic Winter Games Coordination Committee regarding the Olympic and Paralympic Venues Grant Fund and grants from the fund; and
- requires the division to provide reports to the committee regarding the fund and its activities.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-5b-303, as last amended by Laws of Utah 2023, Chapter 329
63A-5b-303, as last amended by Laws of Utah 2023, Chapters 329, 394
63G-28-101, as enacted by Laws of Utah 2023, Chapter 14
63G-28-202, as enacted by Laws of Utah 2023, Chapter 14
63G-28-302, as renumbered and amended by Laws of Utah 2023, Chapter 14

ENACTS:

63G-28-204, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) administer grants from the Olympic and Paralympic Venues Grant Fund created in Section 63G-28-302 and provide reports to the Olympic and Paralympic Winter Games Coordination Committee as provided in Section 63G-28-202 and Section 63G-28-204;

[~~(viii)~~](ix) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

[~~(ix)~~](x) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d)(i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e)(i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 2. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) administer grants from the Olympic and Paralympic Venues Grant Fund created in Section 63G-28-302 and provide reports to the Olympic and Paralympic Winter Games Coordination Committee as provided in Section 63G-28-202 and Section 63G-28-204;

[~~(viii)~~](ix) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

[~~(ix)~~](x) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d)(i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e)(i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 3. Section 63G-28-101 is amended to read:

63G-28-101. Definitions.

As used in this chapter:

(1) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

(2) "Fund" means the Olympic and Paralympic Venues Grant Fund.

(3) "Games" means the 2030 or 2034 Olympic and Paralympic Winter Games.

[~~(2)~~](4) "Games committee" means the Olympic and Paralympic Winter Games Coordination Committee created in Section 63G-28-201.

[~~(3)~~](5) "Host agreement" means an agreement with a site selection committee that is made in connection with the selection of the state for the location of the games.

[~~(4)~~](6) "Host assurance" means a written assurance to a site selection committee that is made in connection with the selection of the state for the location of the games.

[~~(5)~~](7) "Host committee" means a nonprofit corporation, including a successor in interest, that may:

(a) provide an application and bid to a site selection committee for selection of the state as the location of the games; and

(b) execute an agreement with the United States Olympic and Paralympic Committee regarding a bid and the bid process to host the games.

[~~(6)~~](8) "Site selection committee" means the International Olympic Committee or the International Paralympic Committee.

[~~(7)~~](9) "State security" means a financial obligation undertaken by the state under a host agreement.

Section 4. Section 63G-28-202 is amended to read:

63G-28-202. Games committee duties.

(1) The games committee shall:

[~~(1)~~](a) review issues related to:

[~~(a)~~](i) the state's bid to host or hosting of the games;

[~~(b)~~](ii) the impact of hosting the games on the state; and

[~~(c)~~](iii) any state security;

[~~(2)~~](b) review a report provided to the games committee under Section 63G-28-203;

[~~(3)~~](c) review a host agreement or host assurance provided to the games committee under Section 63G-28-401; and

[~~(4)~~](d) make recommendations to the Legislature regarding a host agreement, a host assurance, and the state's role in hosting the games.

(2) The games committee may, during a regular meeting of the games committee, or a meeting scheduled by the games committee at the request of the division, provide recommendations regarding the fund and grants from the fund.

Section 5. Section 63G-28-204 is enacted to read:

63G-28-204. Olympic and Paralympic Venues Grant Fund reports to games committee.

(1) At least once a year and at the request of the games committee, the division shall provide a report to the games committee that:

(a) provides an update on the balances and condition of the fund;

(b) provides a summary of all grants being considered and grants awarded from the fund since the last report;

(c) lists in detail, for each grant awarded since the last report, the grant recipient, the amount of the grant, the purpose of the grant, and the terms of the grant; and

(d) discusses other matters related to the fund.

(2) At the request of the division, the games committee may meet to review or provide recommendations to the division in relation to a potential grantee or other matters relating to the fund.

Section 6. Section 63G-28-302 is amended to read:

63G-28-302. Olympic and Paralympic Venues Grant Fund.

[~~(1)(a)~~]

[~~(i)~~](1)(a) There is created an expendable special revenue fund known as the "Olympic and Paralympic Venues Grant Fund."

[~~(ii)~~](b) The fund shall consist of:

[~~(A)~~](i) money appropriated to the fund by the Legislature;

[~~(B)~~](ii) money donated to the fund from public or private individuals or entities; and

[~~(C)~~](iii) interest on fund money.

(2)(a) The division shall award grants from the fund to a venue operator to provide funding for construction, improvements, and repairs to a venue.

(b) The division may request or consider recommendations from the games committee when considering a grant as provided in Section 63G-28-202 and Section 63G-28-204.

(3) A venue operator's application for a grant award under this section shall include:

(a) the number of venues the venue operator plans to construct, improve, or repair;

(b) the venue operator's proposed improvements, repairs, or construction plans for a venue;

(c) the estimated cost of the venue operator's proposed improvements, repairs, or construction plans for a venue;

(d) any plan to use funding sources in addition to a grant award under this section to construct, improve, or repair a venue;

(e) the amount of the requested grant award to fund the construction, improvements, or repairs for each venue; and

(f) existing or planned contracts or partnerships between the venue operator and other individuals or entities to complete venue construction, improvements, or repairs.

(4) The division may only award and distribute a grant award to a venue operator that submits an application in accordance with Subsection (3).

(5)(a) As a condition of an award of a grant, the venue operator shall sign an agreement with the division governing:

(i) the venue operator's responsibilities for expending the grant award; and

(ii) the division's and the state's right to review and audit the venue operator's use of the grant award and the venue operator's performance under the grant award.

(b) The division shall ensure that the agreement contains:

(i) a requirement for an annual report and the required contents of the report in accordance with Subsection (6)(b);

(ii) a right for the division or the division's designee to visit and inspect the venue as often as needed before, during, and after construction or improvements, or repairs begin or are complete; and

(iii) an absolute right for the division, the state auditor, and the legislative auditor to access and audit the financial records relevant to the grant award.

(6)(a) A venue operator that receives a grant award under this section may only use the grant award to construct, improve, or repair a venue.

(b) A venue operator that receives a grant award under this section shall annually file a report with the division that details for the immediately preceding calendar year:

(i) the construction, improvements, and repairs, in process or completed, that were wholly or partially funded by a grant award under this section;

(ii) the total dollar amount expended from the grant award;

(iii) an itemized accounting that describes how the venue operator expended the grant award;

(iv) the intended use for a grant award that has not been expended; and

(v) the results of any evaluations of venue construction, improvements, or repairs.

Section 7. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63A-5b-303 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 407
H. B. 266
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

GOVERNMENT RECORDS OMBUDSMAN AMENDMENTS

Chief Sponsor: Anthony E. Loubet
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to government records.

Highlighted Provisions:

This bill:

- modifies a provision relating to government records ombudsman mediation of disputes between requesters and responders;
- provides for an appeal of a fee waiver denial;
- repeals language making the State Records Committee a necessary party to a petition seeking judicial review of a decision of the State Records Committee;
- requires the government records ombudsman to certify the conclusion of certain mediations or to the lack of consent to mediation;
- requires a notice of a decision on appeal affirming an access denial or a fee waiver denial to include a statement relating to the requester's right to request mediation; and
- suspends a requester's time to file a notice of appeal for a specified time if the requester has requested mediation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-12-111, as last amended by Laws of Utah 2019, Chapter 254
63G-2-401, as last amended by Laws of Utah 2019, Chapters 254, 334
63G-2-402, as last amended by Laws of Utah 2019, Chapter 254
63G-2-403, as last amended by Laws of Utah 2019, Chapter 254
63G-2-404, as last amended by Laws of Utah 2023, Chapter 516

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-12-111 is amended to read:

63A-12-111. Government records ombudsman.

(1)(a) The director of the division shall appoint a government records ombudsman.

(b) The government records ombudsman may not be a member of the State Records Committee created in Section 63G-2-501.

(2)(a) The government records ombudsman shall:

[~~(a)~~](i) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;

[~~(b)~~](ii) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request;

[~~(c) upon request, attempt to mediate disputes between requestors and responders; and~~]

(iii) upon a request from a requester or responder, and with the consent of both the requester and responder, mediate a dispute between a requester and responder, including a dispute between a requester and a governmental entity regarding the governmental entity's access denial, as defined in Section 63G-2-400.5; and

[~~(d)~~](iv) on an annual basis, electronically transmit a written report to the Government Operations Interim Committee on the work performed by the government records ombudsman during the previous year.

(b)(i) Before the conclusion of a mediation under Subsection (2)(a)(iii), a requester or responder may withdraw consent for the mediation.

(ii) If a requester or responder withdraws consent under Subsection (2)(b)(i), the government records ombudsman shall certify, as provided in Subsection (4)(a)(ii), that the mediation was not concluded because of a lack of the required consent.

(3) The government records ombudsman may not testify, or be compelled to testify, before the State Records Committee created in Section 63G-2-501, another administrative body, or a court regarding a matter that the government records ombudsman provided services in relation to under this section.

(4) Upon the conclusion of a mediation under Subsection (2)(a)(iii) or upon the government records ombudsman's determination that the required consent for the mediation is lacking, the government records ombudsman shall:

(a) certify in writing that the mediation:

(i) is concluded; or

(ii) did not take place or was not concluded because of a lack of the required consent; and

(b) provide a copy of the written certification to the requester and the responder.

Section 2. Section 63G-2-401 is amended to read:

63G-2-401. Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1)(a) A requester or interested party may appeal an access denial or the denial of a fee waiver under Subsection 63G-2-203(4) to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) for an access denial:

(A) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205(1); or

[~~(ii)~~](B) the record request is considered denied under Subsection 63G-2-204(9), if that subsection applies[~~.~~]; or

(ii) for a denial of a fee waiver, the date the governmental entity notifies the requester that the fee waiver is denied.

(b) If a governmental entity claims extraordinary circumstances and specifies the date when the records will be available under Subsection 63G-2-204(4), and, if the requester believes the extraordinary circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of extraordinary circumstances or date for compliance to the chief administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of extraordinary circumstances by the governmental entity, despite the lack of a "determination" or its equivalent under Subsection 63G-2-204(9).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4)(a) If the appeal involves a record that is the subject of a business confidentiality claim under Section 63G-2-309, the chief administrative officer shall:

(i) send notice of the appeal to the business confidentiality claimant within three business days after receiving notice, except that if notice under this section must be given to more than 35 persons, it shall be given as soon as reasonably possible; and

(ii) send notice of the business confidentiality claim and the schedule for the chief administrative officer's determination to the requester or interested party within three business days after receiving notice of the appeal.

(b) The business confidentiality claimant shall have seven business days after notice is sent by the administrative officer to submit further support for the claim of business confidentiality.

(5)(a) The chief administrative officer shall make a decision on the appeal within:

(i)(A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b)(i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of extraordinary circumstances or the reasonableness of the date specified when the records will be available.

(c) The provisions of this section notwithstanding, the parties participating in the proceeding may, by agreement, extend the time periods specified in this section.

(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 if the interests favoring access are greater than or equal to the interests favoring restriction of access.

(7)(a) The governmental entity shall send written notice of the chief administrative officer's decision to all participants.

(b) If the chief administrative officer's decision is to affirm the access denial in whole or in part or to affirm the fee waiver denial, the notice under Subsection (7)(a) shall include:

(i) a statement that the requester has a right under Section 63A-12-111 to request the government records ombudsman to mediate the dispute between the requester and the governmental entity concerning the access denial or the fee waiver denial;

[~~(i)~~](ii) a statement that the requester or interested party has the right to appeal the decision, as provided in Section 63G-2-402, to:

(A) the State Records Committee or district court; or

(B) the local appeals board, if the governmental entity is a political subdivision and the governmental entity has established a local appeals board;

[~~(ii)~~](iii) the time limits for filing an appeal described in Subsection (7)(b)(ii), including an explanation of a suspension of the time limits, as provided in Subsections 63G-2-403(1)(c) and 63G-2-404(1)(b), for a requester if the requester seeks mediation under Section 63A-12-111; and

[~~(iii)~~](iv) the name and business address of:

(A) the executive secretary of the State Records Committee; [~~and~~]

(B) the individual designated as the contact individual for the appeals board, if the governmental entity is a political subdivision that has established an appeals board under Subsection 63G-2-701(5)(c)[~~.~~]; and

(C) the government records ombudsman.

(8) A person aggrieved by a governmental entity's classification or designation determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

Section 3. Section 63G-2-402 is amended to read:

63G-2-402. Appealing a decision of a chief administrative officer.

(1) If the decision of the chief administrative officer of a governmental entity under Section 63G-2-401 is to affirm the denial of a record request or to affirm the denial of a fee waiver, the requester may:

(a)(i) appeal the decision to the State Records Committee, as provided in Section 63G-2-403; or

(ii) petition for judicial review of the decision in district court, as provided in Section 63G-2-404; [~~or~~]

(b) seek mediation of the access denial or fee waiver denial under Subsection 63A-12-111(2)(c); or

[~~(b)~~](c) appeal the decision to the local appeals board if:

(i) the decision is of a chief administrative officer of a governmental entity that is a political subdivision; and

(ii) the political subdivision has established a local appeals board.

(2) A requester who appeals a chief administrative officer's decision to the State Records Committee or a local appeals board does not lose or waive the right to seek judicial review of the decision of the State Records Committee or local appeals board.

(3) As provided in Section 63G-2-403, an interested party may appeal to the State Records Committee a chief administrative officer's decision under Section 63G-2-401 affirming an access denial.

Section 4. Section 63G-2-403 is amended to read:

63G-2-403. Appeals to the State Records Committee.

(1)(a) A records committee appellant appeals to the State Records Committee by filing a notice of appeal with the executive secretary of the State Records Committee no later than 30 days after the date of issuance of the decision being appealed.

(b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the State Records Committee no later than 45 days after the day on which the record request is made if:

(i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

(ii) the chief administrative officer fails to make a decision under Section 63G-2-401.

(c) The time for a requester to file a notice of appeal under Subsection (1)(a) or (b) is suspended for the period of time that:

(i) begins the date the requester submits a request under Section 63A-12-111 for the government records ombudsman to mediate the dispute between the requester and the governmental entity; and

(ii) ends the earlier of the following dates:

(A) the date that the government records ombudsman certifies in writing that the mediation is concluded; or

(B) the date that the government records ombudsman certifies in writing that the mediation did not occur or was not concluded because of a lack of the required consent.

(2) The notice of appeal shall:

(a) contain the name, mailing address, and daytime telephone number of the records committee appellant;

(b) be accompanied by a copy of the decision being appealed; and

(c) state the relief sought.

(3) The records committee appellant:

(a) shall, on the day on which the notice of appeal is filed with the State Records Committee, serve a copy of the notice of appeal on:

(i) the governmental entity whose access denial or fee waiver denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or

(ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the committee, if the records committee appellant is a political subdivision; and

(b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4)(a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after receiving a notice of appeal, the executive secretary of the State Records Committee shall:

(i) schedule a hearing for the State Records Committee to discuss the appeal at the next regularly scheduled committee meeting falling at least 16 days after the date the notice of appeal is filed but no longer than 64 calendar days after the date the notice of appeal was filed except that the committee may schedule an expedited hearing upon application of the records committee appellant and good cause shown;

(ii) send a copy of the notice of hearing to the records committee appellant; and

(iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:

(A) each member of the State Records Committee;

(B) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records committee appellant is a requester or interested party;

(C) any person who made a business confidentiality claim under Section 63G-2-309 for a record that is the subject of the appeal; and

(D) all persons who participated in the proceedings before the governmental entity's chief administrative officer, if the appeal is of the chief administrative officer's decision affirming an access denial.

(b)(i) The executive secretary of the State Records Committee may decline to schedule a hearing if the record series that is the subject of the appeal has been found by the committee in a previous hearing involving the same governmental entity to be appropriately classified as private, controlled, or protected.

(ii)(A) If the executive secretary of the State Records Committee declines to schedule a hearing, the executive secretary shall send a notice to the records committee appellant indicating that the request for hearing has been denied and the reason for the denial.

(B) The State Records Committee shall make rules to implement this section as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) The executive secretary of the State Records Committee may schedule a hearing on an appeal to the State Records Committee at a regularly scheduled State Records Committee meeting that is later than the period described in Subsection (4)(a)(i) if that committee meeting is the first regularly scheduled State Records Committee meeting at which there are fewer than 10 appeals scheduled to be heard.

(5)(a) No later than five business days before the hearing, a governmental entity shall submit to the executive secretary of the State Records Committee a written statement of facts, reasons, and legal authority in support of the governmental entity's position.

(b) The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested party involved in the appeal. The executive secretary shall forward a copy of the written statement to each member of the State Records Committee.

(6)(a) No later than 10 business days after the day on which the executive secretary sends the notice of appeal, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the State Records Committee.

(b) Any written statement of facts, reasons, and legal authority in support of the intervener's position shall be filed with the request for intervention.

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the State Records Committee.

(7) The State Records Committee shall hold a hearing within the period of time described in Subsection (4).

(8) At the hearing, the State Records Committee shall allow the parties to testify, present evidence, and comment on the issues. The committee may allow other interested persons to comment on the issues.

(9)(a)(i) The State Records Committee:

(A) may review the disputed records; and

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the State Records Committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized by this chapter.

(10)(a) Discovery is prohibited, but the State Records Committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a State Records Committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion for an order to compel obedience to the subpoena with the district court.

(c)(i) The State Records Committee's review shall be de novo, if the appeal is an appeal from a decision of a chief administrative officer:

(A) issued under Section 63G-2-401; or

(B) issued by a chief administrative officer of a political subdivision that has not established a local appeals board.

(ii) For an appeal from a decision of a local appeals board, the State Records Committee shall review and consider the decision of the local appeals board.

(11)(a) No later than seven business days after the hearing, the State Records Committee shall issue a signed order:

(i) granting the relief sought, in whole or in part; or

(ii) upholding the governmental entity's access denial, in whole or in part.

(b) Except as provided in Section 63G-2-406, the State Records Committee may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the public interest favoring access is greater than or equal to the interest favoring restriction of access.

(c) In making a determination under Subsection (11)(b), the State Records Committee shall consider and, where appropriate, limit the requester's or interested party's use and further disclosure of the record in order to protect:

(i) privacy interests in the case of a private or controlled record;

(ii) business confidentiality interests in the case of a record protected under Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

(iii) privacy interests or the public interest in the case of other protected records.

(12) The order of the State Records Committee shall include:

(a) a statement of reasons for the decision, including citations to this chapter, court rule or order, another state statute, federal statute, or federal regulation that governs disclosure of the record, if the citations do not disclose private, controlled, or protected information;

(b) a description of the record or portions of the record to which access was ordered or denied, if the description does not disclose private, controlled, or protected information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

(c) a statement that any party to the proceeding before the State Records Committee may appeal the committee's decision to district court; and

(d) a brief summary of the appeals process, the time limits for filing an appeal, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney.

(13) If the State Records Committee fails to issue a decision within 73 calendar days of the filing of the notice of appeal, that failure is the equivalent of an order denying the appeal. A records committee appellant shall notify the State Records Committee in writing if the records committee appellant considers the appeal denied.

(14) A party to a proceeding before the State Records Committee may seek judicial review in district court of a State Records Committee order by filing a petition for review of the order as provided in Section 63G-2-404.

(15)(a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to the proceeding shall comply with the order of the State Records Committee.

(b) If a party disagrees with the order of the State Records Committee, that party may file a notice of intent to appeal the order.

(c) If the State Records Committee orders the governmental entity to produce a record and no appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a record, the governmental entity shall:

(i) produce the record; and

(ii) file a notice of compliance with the committee.

(d)(i) If the governmental entity that is ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the State Records Committee may do either or both of the following:

(A) impose a civil penalty of up to $500 for each day of continuing noncompliance; or

(B) send written notice of the governmental entity's noncompliance to the governor.

(ii) In imposing a civil penalty, the State Records Committee shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional.

Section 5. Section 63G-2-404 is amended to read:

63G-2-404. Judicial review.

(1)(a) A petition for judicial review of an order or decision, as allowed under this part, in Section 63G-2-209, or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than 30 days after the date of the order or decision, subject to Subsection (1)(b).

(b) The time for a requester to file a petition for judicial review under Subsection (1)(a) is suspended for the period of time that:

(i) begins the date the requester submits a request under Section 63A-12-111 for the government records ombudsman to mediate the dispute between the requester and the governmental entity; and

(ii) ends the earlier of the following dates:

(A) the date that the government records ombudsman certifies in writing that the mediation is concluded; or

(B) the date that the government records ombudsman certifies in writing that the mediation did not occur or was not concluded because of a lack of the required consent.

[~~(b) The State Records Committee is a necessary party to a petition for judicial review of a State Records Committee order.~~]

[~~(c) The executive secretary of the State Records Committee shall be served with notice of a petition for judicial review of a State Records Committee order, in accordance with the Utah Rules of Civil Procedure.~~]

(2)(a) A petition for judicial review is a complaint governed by the Utah Rules of Civil Procedure and shall contain:

(i) the petitioner's name and mailing address;

(ii) a copy of the State Records Committee order from which the appeal is taken, if the petitioner is seeking judicial review of an order of the State Records Committee;

(iii) the name and mailing address of the governmental entity that issued the initial determination with a copy of that determination;

(iv) a request for relief specifying the type and extent of relief requested; and

(v) a statement of the reasons why the petitioner is entitled to relief.

(b) Except in exceptional circumstances, a petition for judicial review may not raise an issue that was not raised in the underlying appeal and order.

(3) If the appeal is based on the denial of access to a protected record based on a claim of business confidentiality, the court shall allow the claimant of business confidentiality to provide to the court the reasons for the claim of business confidentiality.

(4) All additional pleadings and proceedings in the district court are governed by the Utah Rules of Civil Procedure.

(5) The district court may review the disputed records. The review shall be in camera.

(6)(a) The court shall:

(i) make the court's decision de novo, but, for a petition seeking judicial review of a State Records Committee order, allow introduction of evidence presented to the State Records Committee;

(ii) determine all questions of fact and law without a jury; and

(iii) decide the issue at the earliest practical opportunity.

(b) A court may remand a petition for judicial review to the State Records Committee if:

(i) the remand is to allow the State Records Committee to decide an issue that:

(A) involves access to a record; and

(B) the State Records Committee has not previously addressed in the proceeding that led to the petition for judicial review; and

(ii) the court determines that remanding to the State Records Committee is in the best interests of justice.

(7)(a) Except as provided in Section 63G-2-406, the court may, upon consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure, order the disclosure of information properly classified as private, controlled, or protected if the interest favoring access is greater than or equal to the interest favoring restriction of access.

(b) The court shall consider and, where appropriate, limit the requester's use and further disclosure of the record in order to protect privacy interests in the case of private or controlled records, business confidentiality interests in the case of records protected under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of other protected records.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 408
H. B. 343
Passed February 15, 2024
Approved March 19, 2024
Effective May 1, 2024

DESIGN PROFESSIONAL SERVICES PROCUREMENT AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions of the Utah Procurement Code.

Highlighted Provisions:

This bill:

- modifies the definition of design professional, for purposes of the Utah Procurement Code, to include landscape architects.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-6a-103, as last amended by Laws of Utah 2023, Chapter 16

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide

services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(15) "Contract" means an agreement for a procurement.

(16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(17) "Contractor" means a person who is awarded a contract with a procurement unit.

(18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(22) "Days" means calendar days, unless expressly provided otherwise.

(23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(c) an individual licensed under Title 58, Chapter 53, Landscape Architects Licensing Act, to engage in the practice of landscape architecture, as defined in Section 58-53-102; or

[~~(c)~~](d) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services;

(d) professional services within the scope of the practice of landscape architecture, as defined in Section 58-53-102; or

[~~(d)~~](e) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(31)(a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(36) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(37) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b)(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(38) "Independent procurement unit" means:

(a)(i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(39) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (39)(a).

(40) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(41) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(42) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(43) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii)(A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(44) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(45) "Local government procurement unit" means:

(a) a county, municipality, or project entity, and each office of the county, municipality, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; or

(ii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b)(i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

(46) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(47) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(48) "Municipality" means a city, town, or metro township.

(49) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (49)(a).

(50) "Offeror" means a person who submits a proposal in response to a request for proposals.

(51) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(52) "Procure" means to acquire a procurement item through a procurement.

(53) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(54) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(55) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designer;

(f) for a special service district, the governing body of the special service district or the governing body's designer;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designer;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designer;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designer;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designer;

(k) for a charter school, the individual or body with executive authority over the charter school or the designer of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designer;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designer;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designer of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designer; or

(p)(i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designer;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designer;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designer; or

(iv) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designer.

(56) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a special district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district; and

(xi) a public corporation; and

(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(57) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(58) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designer who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designer who is an employee of the division.

(59) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(60) "Project entity" means the same as that term is defined in Section 11-13-103.

(61) "Public entity" means the state or any other government entity within the state that expends public funds.

(62) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(63) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(64) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(65) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(66) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

(67) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(68) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(69) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(70) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(71) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(72) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(73) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(74) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(76) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c)(i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(77) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(78) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(79) "Sole source contract" means a contract resulting from a sole source procurement.

(80) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(81) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(82) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(83) "Special district" means the same as that term is defined in Section 17B-1-102.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G- 6a- 712.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 409
H. B. 372
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

LEGISLATIVE COMMITTEE STAFF REQUIREMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses staffing of legislative committees.

Highlighted Provisions:

This bill:

- provides the circumstances under which an entity that is not a professional legislative staff office may staff a legislative committee; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-23, as enacted by Laws of Utah 2023, Chapter 429

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-23 is amended to read:

36-12-23. Legislative committees -- Staffing.

(1) As used in this section:

[~~(1)~~](a) "Chair" means a presiding officer or a co-presiding officer of a[~~legislative~~] committee.

[~~(2)~~](b) "Committee" means a standing committee, interim committee, subcommittee, special committee, authority, commission, council, task force, panel, or board in which legislative participation is required by [~~law~~]statute or legislative rule.

[~~(3)~~](c) "Legislative committee" means a committee:

[~~(a)~~](i) formed by the Legislature to study or oversee subjects of legislative concern; and

[~~(b)~~](ii) that is required by [~~law~~]statute or legislative rule to have a chair who is a legislator.

[~~(4)~~](d) "Legislator" means a member of either [~~house~~]chamber of the Legislature.

[~~(5)~~](e) "Professional legislative office" means the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, [~~or~~] the Office of the Legislative Auditor General, or similar office of the Legislature.

[~~(6)~~](2)(a) Except as provided in [~~Subsection (7)~~]Subsections (3) and (4), a professional legislative office shall provide [~~staff support to a legislative committee~~]each legislative committee's staff support, regardless of whether statute or legislative rule directs another entity to provide the staff support.

[~~(b) If a law or legislative rule does not designate which particular professional legislative office shall provide staff support to a legislative committee, that office shall be the Office of Legislative Research and General Counsel.~~]

(b) Unless a legislative committee's enacting statute or legislative rule names a particular professional legislative office to provide the legislative committee's staff support, the professional legislative offices shall select, based on subject matter expertise, which professional legislative office will staff the legislative committee.

(3)(a) Subject to Subsection (3)(b), the provisions of this section control over any conflicting provision of statute or legislative rule.

(b)(i) If another provision of statute or legislative rule directs an entity other than a professional legislative office to provide a legislative committee's staff support, notwithstanding Subsection (2), a legislator who is a chair of the legislative committee may elect to have the other entity provide the legislative committee's staff support.

(ii) If the legislative committee has more than one chair who is a legislator, the chairs who are legislators shall collectively make the election under Subsection (3)(b)(i).

(iii) A chair or chairs who make an election under Subsection (3)(b)(i) may change the chair's or chairs' election no more than once each calendar year.

[~~(7)~~](4) This section does not apply to:

(a) the Point of the Mountain State Land Authority created in Section 11-59-201;

(b) the Utah Broadband Center Advisory Commission created in Section 36-29-109;

(c) the Blockchain and Digital Innovation Task Force created in Section 36-29-110;

(d) the Criminal Justice Data Management Task Force created in Section 36-29-111;

(e) the Constitutional Defense Council created in Section 63C-4a-202;

(f) the Women in the Economy Subcommittee created in Section 63N-1b-402;

(g) the House Ethics Committee established under Legislative Joint Rule JR6-2-101; or

(h) the Senate Ethics Committee established under Legislative Joint Rule JR6-2-101.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 410
H. B. 379
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

FEDERALISM COMMISSION AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Ronald M. Winterton

Cosponsor:
Kay J. Christofferson
Karianne Lisonbee
Carl R. Albrecht
Ken Ivory
Steven J. Lund
Stewart E. Barlow
Colin W. Jack
A. Cory Maloy
Kera Birkeland
Tim Jimenez
Rex P. Shipp
Walt Brooks
Michael L. Kohler

LONG TITLE

General Description:

This bill modifies provisions related to the Federalism Commission.

Highlighted Provisions:

This bill:

- authorizes the Legislative Management Committee to appoint nonvoting members to the Federalism Commission;
- authorizes the Federalism Commission to provide assistance on committee bill files that relate to the commission's duties; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-302, as last amended by Laws of Utah 2019, Chapter 246

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-302 is amended to read:

63C-4a-302. Creation of Federalism Commission -- Membership -- Meetings -- Staff -- Expenses.

(1)(a) There is created the Federalism Commission, comprised of the following nine voting members:

[~~(a)~~](i) the president of the Senate or the president of the Senate's designee who shall serve as cochair of the commission;

[~~(b)~~](ii) two other members of the Senate, appointed by the president of the Senate;

[~~(c)~~](iii) the speaker of the House or the speaker of the House's designee who shall serve as cochair of the commission;

[~~(d)~~](iv) three other members of the House, appointed by the speaker of the House;

[~~(e)~~](v) the minority leader of the Senate or the minority leader of the Senate's designee; and

[~~(f)~~](vi) the minority leader of the House or the minority leader of the House's designee.

(b)(i) Subject to the provisions of this Subsection (1)(b), the Legislative Management Committee may appoint nonvoting members to the commission from a list of individuals recommended by the cochairs of the commission.

(ii) If the Legislative Management Committee chooses to not appoint an individual on the list described in Subsection (1)(b)(i), the Legislative Management Committee may ask the cochairs of the commission to submit an additional list of recommendations.

(iii) The Legislative Management Committee may not appoint an individual who is not recommended by the cochairs of the commission.

(iv) The nonvoting members appointed by the Legislative Management Committee under this Subsection (1)(b) shall be appointed or reappointed for a two-year term.

(v) When a vacancy of a nonvoting member occurs for any reason, the Legislative Management Committee, in consultation with the cochairs of the commission, shall appoint a replacement for the unexpired term.

(2)(a) A majority of the voting members of the commission constitute a quorum of the commission.

(b) Action by a majority of the members of a quorum constitutes action by the commission.

(3) The commission may meet up to nine times each year, unless additional meetings are approved by the Legislative Management Committee.

(4) The Office of Legislative Research and General Counsel shall provide staff support to the commission.

(5) Compensation and expenses of a member of the commission who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) Nothing in this section prohibits the commission from closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from complying with Title 63G, Chapter 2, Government Records Access and Management Act.

(7) The commission may, in the commission's discretion, elect to succeed to the position of any of the following under a contract that any of the following are party to, subject to applicable contractual provisions:

(a) the Commission on Federalism;

(b) the Commission for the Stewardship of Public Lands; and

(c) the Federal Funds Commission.

(8) The commission may provide assistance to an interim committee regarding a committee bill file opened by the interim committee that relates to the commission's duties.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 411
H. B. 396
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

WORKPLACE DISCRIMINATION AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses religious expression in the workplace.

Highlighted Provisions:

This bill:

- prohibits an employer from compelling an employee to communicate or otherwise act in a manner that the employee believes would burden or offend the employee's sincerely held religious beliefs; and
- provides a process for an employer to accommodate an employee's religious liberties.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-5-112, as enacted by Laws of Utah 2015, Chapter 13

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-5-112 is amended to read:

34A-5-112. Religious liberty protections -- Expressing beliefs and commitments in workplace -- Prohibition on employment actions against certain employee speech.

(1) As used in this section, "religiously objectionable expression" means expression, action, or inaction that burdens or offends a sincerely held religious belief, including dress and grooming requirements, speech, scheduling, prayer, and abstention, including abstentions relating to healthcare.

[~~(1)~~](2) An employee may express the employee's religious or moral beliefs and commitments in the workplace in a reasonable, non-disruptive, and non-harassing way on equal terms with similar types of expression of beliefs or commitments allowed by the employer in the workplace, unless the expression is in direct conflict with the essential business-related interests of the employer.

[~~(2)~~](3) An employer may not discharge, demote, terminate, or refuse to hire any person, or retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified, for lawful expression or expressive activity outside of the workplace regarding the person's religious, political, or personal convictions, including convictions about marriage, family, or sexuality, unless the expression or expressive activity is in direct conflict with the essential business-related interests of the employer.

(4) An employer may not compel an employee to engage in religiously objectionable expression that the employee reasonably believes would burden or offend the employee's sincerely held religious beliefs, unless accommodating the employee would cause an undue burden to the employer by substantially interfering with the employer's:

(a) core mission or the employer's ability to conduct business in an effective or financially reasonable manner; or

(b) ability to provide training and safety instruction for the job.

(5) To receive an accommodation under this section, an employee shall:

(a) request that the employer comply with the provisions of this section by granting the employee an accommodation; and

(b) after making a request as described in Subsection (5)(a), provide an employer with a reasonable opportunity to accommodate the employee.

(6) This section does not require an employer to grant an employee a scheduling accommodation if the employer has fewer than 15 employees.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 412
H. B. 431
Passed February 28, 2024
Approved March 19, 2024
Effective July 1, 2024

TEACHER RETENTION

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Ann Millner

Cosponsor:
Tim Jimenez
Robert M. Spendlove
Cheryl K. Acton
Dan N. Johnson
Jordan D. Teuscher
Kera Birkeland
Jason B. Kyle
Raymond P. Ward
Tyler Clancy
Karianne Lisonbee
Christine F. Watkins
Paul A. Cutler
Anthony E. Loubet
Douglas R. Welton
Stephanie Gricius
Thomas W. Peterson
Katy Hall
Val L. Peterson

LONG TITLE

General Description:

This bill creates multiple programs to support teacher retention efforts.

Highlighted Provisions:

This bill:

- creates the Mentoring and Supporting Teacher Excellence and Refinement Program (the program);
- establishes the required criteria for a local education agency (LEA) or regional education service agency to apply for a grant under the program; and
- requires an LEA to provide paid postpartum recovery leave.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - State Board and Administrative Operations - Mentoring and Supporting Teacher Excellence and Refinement Pilot Program as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $4,800,000

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

ENACTS:
53F-5-222, Utah Code Annotated 1953
53G-11-208, Utah Code Annotated 1953

Sections affected by Coordination Clause:
53G-11-208, Utah Code Annotated 19535

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-222 is enacted to read:

53F-5-222. Mentoring and Supporting Teacher Excellence and Refinement Pilot Program.

(1) As used in this section:

(a) "Master teacher" means a classroom teacher who has been approved by the teacher's administrator for an eligible initiative described in Subsection (6).

(b) "Mentoring and Supporting Teacher Excellence and Refinement Pilot Program" or "program" means the program created in Subsection (2).

(c) "Regional education service agency" or "RESA" means the same as the term is defined in Section 53G-4-410.

(d) "Teacher leader work" means nonadministrative leadership tasks that occur in conjunction with a teacher's main duties to provide instruction while avoiding formal administrative roles, other than those relating directly to teacher leadership or development, for the teacher engaging in the tasks, including:

(i) leading teachers;

(ii) mentoring teachers; and

(iii) providing observations or feedback to teachers.

(2) There is created a two-year pilot program known as the Mentoring and Supporting Teacher Excellence and Refinement Pilot Program to provide funding to an LEA to improve retention of strong educators who remain in the classroom and have access to growth opportunities in the form of innovative teacher leadership tracks outside of contractual educator steps and lanes to:

(a) foster development of leadership skills in participating teachers; and

(b) provide the opportunity for a master teacher to impact and provide guidance for fellow teachers seeking to refine instructional skills.

(3) The state board shall:

(a) solicit proposals from LEAs and RESAs to receive a grant under this section; and

(b) award grants to LEAs or RESAs on a competitive basis based on the LEA's or RESA's application described in Subsection (4)(a).

(4) To receive a grant under this section, an LEA or RESA shall:

(a) submit an application to the state board that:

(i) describes the program tier for which the LEA or RESA is applying;

(ii) describes the eligible initiatives for which the LEA or RESA will use the grant amount;

(iii) provides evidence of the required matching funds described in Subsection (4)(b);

(iv) describes how the proposal will further the purposes of the program described in Subsection (2); and

(v) outlines the metrics the LEA or RESA will use to measure success of the program; and

(b) provide matching funds for a grant from a program tier as follows:

(i) a 10% match by the LEA or RESA for a tier 1 level grant amount;

(ii) a 15% match by the LEA or RESA for a tier 2 level grant amount; and

(iii) a 20% match by the LEA or RESA for a tier 3 level grant amount.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) subject to legislative appropriations, outlining the grant amount for each program tier described in Subsection (4)(b);

(b) describing the application requirements, including:

(i) the required format for submission; and

(ii) relevant deadlines;

(c) establishing a scoring rubric; and

(d) describing any required reporting and performance measures.

(6) An LEA or RESA that receives a grant under this section shall use the grant award for an eligible initiative to achieve the purposes described in Subsection (2), including:

(a) allowing a teacher to add to or be released from all or part of an existing teacher contract to engage in teacher leader work, which may involve a new or amended contract for a master teacher, for a period determined by the LEA and the teacher, while maintaining the master teacher's status as a teacher;

(b) providing extended contracts outside of steps and lanes, resulting in increased pay for increased work or for new roles involving teacher leader work on a schedule outside of steps and lanes as determined by the LEA or RESA and the teacher; and

(c) building or expanding LEA or RESA leadership tracks, including incentives for differentiated teacher leader work pay scales for classroom teachers.

(7) The state board may use up to 6.25% of the money appropriated for the purposes described in this section to pay for administrative costs the state board, an LEA, or a RESA incurs in implementing the program.

(8) Upon request of the Education Interim Committee, an LEA that receives a grant and the state board shall report to the Education Interim Committee on the program's progress and outcomes.

Section 2. Section 53G-11-208 is enacted to read:

53G-11-208. Paid leave -- Postpartum recovery leave -- Leave sharing.

(1) As used in this section:

(a)(i) "Paid leave hours" means leave hours an LEA provides to an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies.

(ii) "Paid leave hours" includes annual, vacation, sick, paid time off, or any other type of leave an employee may take while still receiving compensation.

(iii) "Paid leave hours" is not limited to postpartum recovery leave.

(b) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.

(c) "Postpartum recovery leave eligible employee" means an employee of an LEA who:

(i) accrues paid leave benefits in accordance with the LEA's leave policies; and

(ii) gives birth to a child.

(2) Beginning July 1, 2027, each LEA shall:

(a) provide postpartum recovery leave in an amount that is at least equivalent to the postpartum recovery leave available to state employees under Section 63A-17-511; and

(b) allow a postpartum recovery leave eligible employee who is part-time or who works in excess of a 40-hour work week or the equivalent of a 40-hour work week to use the amount of postpartum recovery leave available under this section on a pro rata basis.

(3) An LEA shall provide for the use and administration of postpartum recovery leave under this section in a manner that is not more restrictive than the postpartum recovery leave available to state employees under Section 63A-17-511.

(4) An LEA may not charge postpartum recovery leave against paid leave hours to which a qualified employee is entitled as described in Subsection 63A-17-511(6).

(5) An LEA may provide leave that exceeds the benefits of the state leave policies described in this section.

Section 3. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 3(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of

money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - State Board and Administrative Operations

From Public Education Economic Stabilization Restricted Account, One- time $4,800,000

Schedule of Programs:

Mentoring and Supporting Teacher Excellence and Refinement Pilot Program $4,800,000

Section 4. Effective date.

This bill takes effect on July 1, 2024.

Section 5. Coordinating H.B. 431 with H.B. 192.

If H.B. 431, Teacher Retention, and H.B. 192, Local Education Agency Employee Paid Leave, both pass and become law, the Legislature intends that, on July 1, 2024, Section 53G- 11- 208 in H.B. 192 shall supersede amendments to Section 53G- 11- 208 in H.B. 431 and be amended to read:

"53G- 11- 208. Paid leave - - Parental leave - - Postpartum recovery leave - - Leave sharing.

(1) As used in this section:

(a) (i) "Paid leave hours" means leave hours an LEA provides to an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies.

(ii) "Paid leave hours" includes annual, vacation, sick, paid time off, or any other type of leave an employee may take while still receiving compensation.

(iii) "Paid leave hours" is not limited to parental leave or postpartum recovery leave.

(b) "Parental leave" means leave hours an LEA provides to a parental leave eligible employee.

(c) "Parental leave eligible employee" means an LEA employee who accrues paid leave benefits in accordance with the LEA's leave policies and is:

(i) a birth parent as defined in Section 78B- 6- 103;

(ii) legally adopting a minor child, unless the individual is the spouse of the pre- existing parent;

(iii) the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or

(iv) appointed the legal guardian of a minor child or incapacitated adult.

(d) "Postpartum recovery leave" means leave hours a state employer provides to a postpartum recovery leave eligible employee to recover from childbirth.

(e) "Postpartum recovery leave eligible employee" means an employee:

(i) who accrues paid leave benefits in accordance with the LEA's leave policies; and

(ii) who gives birth to a child.

(f) "Qualified employee" means:

(i) a parental leave eligible employee; or

(ii) a postpartum recovery leave eligible employee.

(g) "Retaliatory action" means to do any of the following regarding an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount to which the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)(f)(i) through (iv).

(2) Beginning July 1, 2025, an LEA:

(a) shall develop leave policies that provide for the use and administration of parental leave and postpartum recovery leave by a qualified employee under this section in a manner that is not more restrictive than the parental and postpartum recovery leave available to state employees under Section 63A- 17- 511; and

(b) may develop leave policies that provide a mechanism for leave sharing between employees of the same LEA or school for all types of leave, including, sick leave, annual leave, parental leave, and postpartum recovery leave;

(c) shall allow a parental leave eligible employee and a postpartum recovery leave eligible employee who is part- time or who works in excess of a 40- hour work week or the equivalent of a 40- hour work week to use the amount of postpartum recovery leave available under this section on a pro rata basis; and

(d) shall provide each employee written information regarding:

(i) a qualified employee's right to use parental leave or postpartum recovery leave under this section; and

(ii) the availability of and process for using or contributing to the leave sharing mechanism described in Subsection (2)(b).

(3) An LEA may not take retaliatory action against a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.

(4) An LEA may not charge parental leave or postpartum recovery leave against paid leave hours to which a qualified employee is entitled as described in Subsection 63A- 17- 511(6).

(5) An LEA or school may use leave bank sharing and other efforts to mitigate incurred costs of compliance with this section, including coordinating with other LEAs or schools to share approaches or policies designed to fulfill the requirements of this section in a cost effective manner.

(6) An LEA may provide leave that exceeds the benefits of the state leave policies described in this section."

CHAPTER 413
H. B. 465
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

HOUSING AFFORDABILITY REVISIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill addresses funding issues related to housing affordability.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- modifies the requirements for a moderate income housing report;
- authorizes redevelopment agencies and community development agencies to use funding to pay for or contribute to the acquisition, construction, or rehabilitation of income targeted housing, under certain circumstances;
- authorizes up to 6% of the Olene Walker Housing Loan Fund to be used to offset administrative expenses;
- requires the Department of Workforce Services to create pass-through funding agreements;
- describes the minimum requirements of a pass-through funding agreement, including requirements that state funds be spent on certain affordable housing investments;
- modifies the Utah low-income housing tax credit;
- encourages the Point of the Mountain State Land Authority to, if appropriate, utilize land use authority to increase the supply of housing in the state;
- modifies reporting requirements; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-408, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 88
11-59-203, as last amended by Laws of Utah 2022, Chapter 406
17-27a-408, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 88
17C-1-102, as last amended by Laws of Utah 2023, Chapter 15
17C-1-412, as last amended by Laws of Utah 2023, Chapters 471, 492
35A-8-504, as last amended by Laws of Utah 2022, Chapter 406
35A-8-2401, as enacted by Laws of Utah 2023, Chapter 88
59-7-538, as enacted by Laws of Utah 2022, Chapter 258
59-7-607, as last amended by Laws of Utah 2023, Chapter 88
59-10-552, as last amended by Laws of Utah 2023, Chapter 471
59-10-1010, as last amended by Laws of Utah 2023, Chapter 88
59-12-352, as last amended by Laws of Utah 2023, Chapter 263

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Report" means an initial report or a subsequent progress report.

(f) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(g) "Subsequent progress report" means the annual report described in Subsection (3).

(2)(a) The legislative body of a specified municipality shall submit an initial report to the division.

(b)(i) This Subsection (2)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on

January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and

(ii) include an implementation plan.

(3)(a) After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified municipality during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified municipality in the previous 12-month period in implementing the moderate income housing strategies;

(iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(v) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(vi) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

[~~(v)~~](vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

[~~(vi)~~](viii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified municipality under Subsection (3)(b)(i), the specified municipality may include an ongoing action taken by the specified municipality prior to the 12-month reporting period applicable to the subsequent progress report if the specified municipality:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.

(d) A specified municipality's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified municipality's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5)(a) An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) A subsequent progress report does not comply with this section unless the report:

(i) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

(6)(a) A specified municipality qualifies for priority consideration under this Subsection (6) if the specified municipality's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified municipality and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the specified municipality no longer qualifies for priority consideration under this Subsection (6).

(7)(a) If the division, after reviewing a specified municipality's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) A specified municipality that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may cure the deficiency by making that legislative change within the 90-day cure period.

(e)(i) If a specified municipality submits to the division a corrected report in accordance with Subsection (7)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

(ii) A specified municipality that receives a second notice of noncompliance may submit to the division

a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified municipality has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified municipality's ineligibility for funds under Subsection (9).

(8)(a) A specified municipality that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah League of Cities and Towns;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9)(a) A specified municipality is ineligible for funds under this Subsection (9) if:

(i) the specified municipality fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a [~~previously- submitted~~]previously submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified municipality described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72- 2- 124(5);

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified municipality, in a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection [~~(6)~~](7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) describe the fee the specified municipality is required to pay under Subsection (9)(b), if applicable[~~,~~]; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified municipality.

(f) The division may not determine that a specified municipality that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 2. Section 11-59-203 is amended to read:

11-59-203. Authority duties and responsibilities.

(1) As the authority plans, manages, and implements the development of the point of the mountain state land, the authority shall pursue development strategies and objectives designed to:

(a) maximize the creation of high-quality jobs and encourage and facilitate a highly trained workforce;

(b) ensure strategic residential and commercial growth;

(c) promote a high quality of life for residents on and surrounding the point of the mountain state land, including strategic planning to facilitate:

(i) jobs close to where people live;

(ii) vibrant urban centers;

(iii) housing types that incorporate affordability factors and match workforce needs;

(iv) parks, connected trails, and open space, including the preservation of natural lands to the extent practicable and consistent with the overall development plan; and

(v) preserving and enhancing recreational opportunities;

(d) complement the development on land in the vicinity of the point of the mountain state land;

(e) improve air quality and minimize resource use; [~~and~~]

(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including:

(i) the acquisition of rights-of-way and property necessary to ensure transit access to the point of the mountain state land; and

(ii) a world class mass transit infrastructure, to service the point of the mountain state land and to enhance mobility and protect the environment[~~.~~]; and

(g) if appropriate, exercise its land use authority to increase the supply of housing in the state.

(2) In planning the development of the point of the mountain state land, the authority shall:

(a) consult with applicable governmental planning agencies, including:

(i) relevant metropolitan planning organizations;

(ii) Draper City and Salt Lake County planning and governing bodies; and

(iii) in regards to the factors described in Subsections (1)(c)(i) and (iii), the Unified Economic Opportunity Commission created in Section 63N-1a-201;

(b) research and explore the feasibility of attracting a nationally recognized research center; and

(c) research and explore the appropriateness of including labor training centers and a higher education presence on the point of the mountain state land.

Section 3. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 17-27a-403(2)(e).

(c) "Initial report" means the one-time moderate income housing report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Report" means an initial report or a subsequent report.

(f) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(g) "Subsequent progress report" means the annual moderate income housing report described in Subsection (3).

(2)(a) The legislative body of a specified county shall annually submit an initial report to the division.

(b)(i) This Subsection (2)(b) applies to a county that is not a specified county as of January 1, 2023.

(ii) As of January 1, if a county described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified county, the county shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the county qualifies as a specified county.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified county for continued, ongoing, or one-time implementation, using the exact language used to describe the moderate income housing strategy in Subsection 17-27a-403(2)(b)(ii); and

(ii) include an implementation plan.

(3)(a) After the division approves a specified county's initial report under this section, the specified county shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified county is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified county during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified county during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified county in the previous 12-month period in implementing the moderate income housing strategies;

(iv) the number of residential dwelling units that have been entitled that have not received a building permit as of the submission date of the progress report;

(v) shapefiles, or website links if shapefiles are not available, to current maps and tables related to zoning;

[~~(iv)~~](vi) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

[~~(v)~~](vii) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

[~~(vi)~~](viii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified county under Subsection (3)(b)(i), the specified county may include an ongoing action taken by the specified county prior to the 12-month reporting period applicable to the subsequent progress report if the specified county:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified county's implementation plan.

(d) A specified county's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified county's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5)(a) An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection (2)(c);

(ii) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) A subsequent progress report does not comply with this section unless the report:

(i) subject to Subsection (5)(c), demonstrates to the division that the specified county made plans to

implement three or more moderate income housing strategies;

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified county's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified county in implementing the selected moderate income housing strategies.

(c)(i) This Subsection (5)(c) applies to a specified county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(ii) In addition to the requirements of Subsections (5)(a) and (b), a report for a specified county described in Subsection (5)(c)(i) does not comply with this section unless the report demonstrates to the division that the specified county:

(A) made plans to implement the moderate income housing strategy described in Subsection 17-27a-403(2)(b)(ii)(Q); and

(B) is in compliance with Subsection 63N-3-603(8).

(6)(a) A specified county qualifies for priority consideration under this Subsection (6) if the specified county's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the unincorporated areas of a specified county described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified county and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified county qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the specified county no longer qualifies for priority consideration under this Subsection (6).

(7)(a) If the division, after reviewing a specified county's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) A specified county that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified county's ineligibility for funds and fees owed under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified county to make a legislative change, the specified county may cure the deficiency by making that legislative change within the 90-day cure period.

(e)(i) If a specified county submits to the division a corrected report in accordance with Subsection (7)(b)(i), and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified county.

(ii) A specified county that receives a second notice of noncompliance may request an appeal of the division's determination of noncompliance

within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified county has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified county's ineligibility for funds under Subsection (9).

(8)(a) A specified county that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah Association of Counties;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified county is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9)(a) A specified county is ineligible for funds and owes a fee under this Subsection (9) if:

(i) the specified county fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified county fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a [~~previously- submitted~~]previously submitted report, the division determines that the corrected report does not comply with this section and the specified county fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified county described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72- 2- 124(6);

(ii) beginning with the report submitted in 2024, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified county:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified county shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified county, for a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (9), and is required to pay a fee under Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, the State Tax Commission, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) describe the fee the specified county is required to pay under Subsection (9)(b), if applicable; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

(e) The division shall notify the legislative body of a specified county and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified county.

(f) The division may not determine that a specified county that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified county pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 4. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan

that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30)(a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A)(I) that is no longer in operation as an airport; or

(II)(Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31)(a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is[-]:

(a) owned and occupied by a family whose annual income is at or below 120% of the median annual income for a family within the county in which the housing is located; or

(b) occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35)(a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city, town, or metro township as defined in Section 10-2a-403.

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C- 5- 302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(52)(a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59- 12- 204 and 59- 12- 205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59,

Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 5. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1)(a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community;

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located; [~~or~~]

(vi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if there is an interlocal agreement between the agency and the receiving community; or

[~~(vi)~~](vii) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2)(a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing-related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5)(a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6)(a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in Subsection 59-12-205(4).

(8) An agency shall spend, encumber, or allot the money contributed to the housing fund under Subsection (5)(a) within six years from the day on which the agency first receives the money.

Section 6. Section 35A-8-504 is amended to read:

35A-8-504. Distribution of fund money.

(1) As used in this section:

(a) "Community" means the same as that term is defined in Section 17C-1-102.

(b) "Income targeted housing" means the same as that term is defined in Section 17C-1-102.

(2) The executive director shall:

(a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;

(b) establish the criteria with the approval of the board by which loans and grants will be made; and

(c) determine with the approval of the board the order in which projects will be funded.

(3) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions,

and restrictions placed upon the use of the money by the federal government.

(4) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

(5) Except for federal money, money received under Section 17C-1-412, and money appropriated for use in accordance with Section 35A-8-2105, the executive director shall distribute, as directed by the board, money in the fund according to the following requirements:

(a) the executive director shall distribute at least 70% of the money in the fund to benefit persons whose annual income is at or below 50% of the median family income for the state;

(b) the executive director may use up to [~~3~~]6% of the revenues of the fund, including any appropriation to the fund, to offset department or board administrative expenses;

(c) the executive director shall distribute any remaining money in the fund to benefit persons whose annual income is at or below 80% of the median family income for the state; and

(d) if the executive director or the executive director's designee makes a loan in accordance with this section, the interest rate of the loan shall be based on the borrower's ability to pay.

(6) The executive director may, with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 7. Section 35A-8-2401 is amended to read:

35A-8-2401. Pass-through funding agreements -- Accounting for expenditures of a housing organization.

(1) As used in this section:

(a) "Housing organization" means an entity that:

(i) manages a portfolio of investments;

(ii) is dedicated to the preservation, enhancement, improvement, and rehabilitation of affordable housing through property investment; and

(iii) is controlled by a registered nonprofit.

(b) "Pass-through funding" means state money appropriated by the Legislature to the department with the intent that the department grant or otherwise disburse the state money to a third party.

(c) "Rural" means the same as that term is defined in Section 35A-8-501.

(2)(a) This section applies to funds appropriated by the Legislature to the department for pass-through to [~~the Utah Housing Preservation Fund~~]a housing organization.

(b) The department shall ensure that pass-through funding granted or distributed before May 1, 2024 to a housing organization is subject to an agreement as described in this section, either through amending existing agreements or canceling existing agreements and issuing new agreements.

(3)(a) The department shall create agreements governing the use of pass-through funding as described in this section.

(b) Before a housing organization may accept pass-through funding pursuant to this section, the entity shall enter into an agreement with the department governing the use of pass-through funding.

(4) An agreement for pass-through funding shall require, at a minimum:

(a) the housing organization match pass-through funding with private funding at no less than a 70% private, 30% state split;

(b) all pass-through funding be used by the housing organization to invest in housing units that are rented at rates affordable to households with an annual income at or below 80% of the area median income for a family within the county in which the housing is located;

(c) that 50% of pass-through funding be used by the housing organization to invest in housing units that are rented at rates affordable to households with an annual income at or below 50% of the area median income for a family within the county in which the housing is located;

(d) that at least 30% of pass-through funding be used by the housing organization to invest in housing units that are located in a rural county;

(e) that any property purchased with pass-through funding be subject to a deed restriction for a minimum of 40 years to ensure the property remains a rental property affordable to households as described in Subsection (4)(b);

(f) that returns on investment generated by pass-through funding shall be reinvested by the housing organization the same as if the returns on investment are pass-through funding; and

(g) that the housing organization shall provide the division with the following information at the end of each fiscal year:

(i) the housing organization's annual audit, including:

(A) a third-party independent auditor's findings on the housing organization's compliance with this

section and the terms of the housing organization's agreement for pass-through funding; and

(B) the audited financial statements for a legal entity used by the housing organization to carry out activities authorized by this section;

(ii) allocation of pass-through funds by county and housing type;

(iii) progress and status of funded projects; and

(iv) impact of pass-through funds on the availability of affordable housing across the state and by region.

[~~(2)~~](5) The department shall include in the annual written report described in Section 35A-1-109 a report accounting for the expenditures authorized by [~~the Utah Housing Preservation Fund~~]a housing organization pursuant to an agreement with the department.

Section 8. Section 59-7-538 is amended to read:

59-7-538. Carry forward of expired or repealed tax credit.

(1) [~~When~~]Except as provided in Subsection (2), when a nonrefundable corporate income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the taxpayer first claimed the tax credit.

(2) Subsection (1) does not apply to a tax credit described in Subsection 59-7-607(2)(c)(iv).

Section 9. Section 59-7-607 is amended to read:

59-7-607. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

(d) Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.

(e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the commission regarding the allocation of tax credits under this section.

(f) "Federal low-income housing tax credit" means the federal tax credit described in Section 42, Internal Revenue Code.

(g) "Housing sponsor" means an entity that owns a qualified development.

(h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(i)(i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.

(j) "Qualified allocation plan" means a qualified allocation plan adopted by the corporation in accordance with Section 42(m), Internal Revenue Code.

(k) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(l)(i) "Qualified taxpayer" means a person that:

(A) owns a direct interest or an indirect interest, through one or more pass-through entities, in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

(2)(a) A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Chapter 9, Taxation of Admitted Insurers.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the allocation certificate that the corporation issues to a housing sponsor under this section.

(c)(i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is $10,000,000.

(iv) For a calendar year beginning on or after January 1, 2024, in addition to the amount of annual tax credits available for allocation as described in Subsections (2)(c)(i) through (2)(c)(iii), the corporation shall have the following tax credit amounts available for allocation:

(A) any tax credits allocated in a calendar year that are subsequently returned to the corporation or recaptured by the corporation may be allocated in the following year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028; and

(B) if the actual amount of tax credits allocated in a calendar year to qualified developments is less than the total amount of credits available to be allocated to qualified developments, the balance of the credits but no more than 15% of the total amount of credits available for allocation to qualified developments may be allocated by the corporation to qualified developments in the following calendar year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028.

[~~(iv)~~](v) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-10-1010 is the amount described in Subsection (2)(c)(ii).

[~~(v)~~](vi) For purposes of this Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(d)(i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:

(A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;

(B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or

(C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.

(ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:

(A) acquired on or before December 31 of the tax year to which the tax credit relates; and

(B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:

(i) acquired on or before December 31 of the tax year to which the tax credit relates; and

(ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(3)(a) The corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-10-1010 and incorporate the criteria and procedures into the corporation's qualified allocation plan.

(b) The corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the corporation for a tax credit allocation under this section.

(5)(a)(i) The corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan.

(ii)(A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.

(B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary

determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.

(iii) Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as evidence of the allocation.

(iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing tax credit awarded to a qualified development.

(b)(i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

(ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.

(c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

(d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.

(6)(a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.

(b) For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

(i) a list of each qualified taxpayer that has been allocated a portion of the tax credit awarded in the allocation certificate for that tax year;

(ii) the amount of tax credit that has been allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and

(iii) any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

(7)(a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b)(i) If a qualified development is required to recapture a portion of any federal low-income housing tax credit, then each qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of the tax credit under this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing tax credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credit as described in this Subsection (7)(b).

(8)(a) Any tax credits returned to the corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the corporation in any year may be carried over for allocation in subsequent years.

(9)(a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(10) Any tax credit taken in this section may be subject to an annual audit by the commission.

(11) The corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee that includes:

(a) the purpose and effectiveness of the tax credits;

(b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and

(c) the benefits of the tax credits to the state.

(12) The commission may, in consultation with the corporation, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

(13)(a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

(b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:

(i) study any recommendations provided by the corporation under Subsection (11)(b); and

(ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 10. Section 59-10-552 is amended to read:

59-10-552. Carry forward of expired or repealed tax credit.

(1) [~~When~~]Except as provided in Subsection (2), when a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the claimant, estate, or trust first claimed the tax credit.

(2) Subsection (1) does not apply to a tax credit described in Subsection 59-10-1010(2)(c)(iv).

Section 11. Section 59-10-1010 is amended to read:

59-10-1010. Utah low-income housing tax credit.

(1) As used in this section:

(a) "Allocation certificate" means a certificate in a form prescribed by the commission and issued by the corporation to a housing sponsor that specifies the aggregate amount of the tax credit awarded under this section to a qualified development and includes:

(i) the aggregate annual amount of the tax credit awarded that may be claimed by one or more qualified taxpayers; and

(ii) the credit period over which the tax credit may be claimed by one or more qualified taxpayers.

(b) "Building" means a qualified low-income building as defined in Section 42(c), Internal Revenue Code.

(c) "Corporation" means the Utah Housing Corporation created in Section 63H-8-201.

(d) Except as provided in Subsection (5)(c), "credit period" means the same as that term is defined in Section 42(f)(1), Internal Revenue Code.

(e) "Designated reporter" means, as selected by a housing sponsor, the housing sponsor or one of the housing sponsor's direct or indirect partners, members, or shareholders that will provide information to the commission regarding the allocation of tax credits under this section.

(f) "Federal low-income housing credit" means the federal low-income housing credit described in Section 42, Internal Revenue Code.

(g) "Housing sponsor" means an entity that owns a qualified development.

(h) "Pass-through entity" means the same as that term is defined in Section 59-10-1402.

(i)(i) Subject to Subsection (1)(i)(ii), "pass-through entity taxpayer" means the same as that term is defined in Section 59-10-1402.

(ii) The determination of whether a pass-through entity taxpayer is considered a partner, member, or shareholder of a pass-through entity shall be made in accordance with applicable state law governing the pass-through entity.

(j) "Qualified allocation plan" means a qualified allocation plan adopted by the corporation in accordance with Section 42(m), Internal Revenue Code.

(k) "Qualified development" means a "qualified low-income housing project":

(i) as defined in Section 42(g)(1), Internal Revenue Code; and

(ii) that is located in the state.

(l)(i) "Qualified taxpayer" means a claimant, estate, or trust that:

(A) owns a direct or indirect interest, through one or more pass-through entities, in a qualified development; and

(B) meets the requirements to claim a tax credit under this section.

(ii) "Qualified taxpayer" includes a pass-through entity taxpayer to which a tax credit under this section is passed through by a pass-through entity.

(2)(a) A qualified taxpayer may claim a nonrefundable tax credit under this section against taxes otherwise due under this chapter.

(b) The tax credit shall be in an amount equal to the tax credit amount specified on the allocation certificate that the corporation issues to a housing sponsor under this section.

(c)(i) For a calendar year beginning on or before December 31, 2016, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 12.5 cents; and

(B) the population of Utah.

(ii) For a calendar year beginning on or after January 1, 2017, but beginning on or before December 31, 2022, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is an amount equal to the product of:

(A) 34.5 cents; and

(B) the population of Utah.

(iii) For a calendar year beginning on or after January 1, 2023, but beginning on or before December 31, 2028, the aggregate annual tax credit that the corporation may allocate for each year of

the credit period pursuant to this section and Section 59-7-607 is $10,000,000.

(iv) For a calendar year beginning on or after January 1, 2024, in addition to the amount of annual tax credits available for allocation as described in Subsections (2)(c)(i) through (2)(c)(iii), the corporation shall have the following tax credit amounts available for allocation:

(A) any tax credits allocated in a calendar year that are subsequently returned to the corporation or recaptured by the corporation may be allocated in the following calendar year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028; and

(B) if the actual amount of tax credits allocated in a calendar year to qualified developments is less than the total amount of credits available to be allocated to qualified developments, the balance of the credits but no more than 15% of the total amount of credits available for allocation to qualified developments may be allocated by the corporation to qualified developments in the following calendar year, except no tax credits under this Subsection (2)(c)(iv) shall be allocated after December 31, 2028.

[~~(iv)~~](v) For a calendar year beginning on or after January 1, 2029, the aggregate annual tax credit that the corporation may allocate for each year of the credit period pursuant to this section and Section 59-7-607 is the amount described in Subsection (2)(c)(ii).

[~~(v)~~](vi) For purposes of this Subsection (2)(c), the population of Utah shall be determined in accordance with Section 146(j), Internal Revenue Code.

(d)(i) Subject to Subsection (2)(d)(ii), a qualified taxpayer that is a pass-through entity may allocate a tax credit under this section to one or more of the pass-through entity's pass-through entity taxpayers in any manner agreed upon, regardless of whether:

(A) the pass-through entity taxpayer is eligible to claim any portion of a federal low-income housing tax credit for the qualified development;

(B) the allocation of the tax credit has substantial economic effect within the meaning of Section 704(b), Internal Revenue Code; or

(C) the pass-through entity taxpayer is considered a partner for federal income tax purposes.

(ii) With respect to a tax year, a qualified taxpayer that is a pass-through entity taxpayer may claim a tax credit allocated to the qualified taxpayer by a pass-through entity under Subsection (2)(d)(i) so long as the qualified taxpayer's ownership interest in the pass-through entity is:

(A) acquired on or before December 31 of the tax year to which the tax credit relates; and

(B) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(e) If a qualified taxpayer that is a pass-through entity taxpayer assigns to another taxpayer the pass-through entity taxpayer's ownership interest in a pass-through entity, including the pass-through entity taxpayer's interest in the tax credit associated with the ownership interest, the assignee shall be considered a qualified taxpayer and may claim the tax credit so long as the assignee's ownership interest in the pass-through entity is:

(i) acquired on or before December 31 of the tax year to which the tax credit relates; and

(ii) reflected in the report required in Subsection (6)(b) for the tax year to which the tax credit relates.

(3)(a) The corporation shall determine criteria and procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate the criteria and procedures into the corporation's qualified allocation plan.

(b) The corporation shall create the criteria under Subsection (3)(a) based on:

(i) the number of affordable housing units to be created in Utah for low and moderate income persons in a qualified development;

(ii) the level of area median income being served by a qualified development;

(iii) the need for the tax credit for the economic feasibility of a qualified development; and

(iv) the extended period for which a qualified development commits to remain as affordable housing.

(4) Any housing sponsor may apply to the corporation for a tax credit allocation under this section.

(5)(a)(i) The corporation shall determine the amount of the tax credit to allocate to a qualified development in accordance with the qualified allocation plan.

(ii)(A) Before the allocation certificate is issued to the housing sponsor, the corporation shall send to the housing sponsor written notice of the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development.

(B) The notice described in Subsection (5)(a)(ii)(A) shall specify the corporation's preliminary determination of the tax credit amount to be allocated to the qualified development for each year of the credit period and state that allocation of the tax credit is contingent upon the issuance of an allocation certificate.

(iii) Upon approving a final cost certification in accordance with the qualified allocation plan, the corporation shall issue an allocation certificate to the housing sponsor as evidence of the allocation.

(iv) The amount of the tax credit specified in an allocation certificate may not exceed 100% of the federal low-income housing credit awarded to a qualified development.

(b)(i) Notwithstanding Subsection (5)(a), if a housing sponsor applies to the corporation for a tax

credit under this section and an allocation certificate is not yet issued, a qualified taxpayer may claim a tax credit based upon the corporation's preliminary determination of the tax credit amount as stated in the notice under Subsection (5)(a)(ii).

(ii) Upon issuance of the allocation certificate to the housing sponsor, a qualified taxpayer that claims a tax credit under this Subsection (5)(b) shall file an amended tax return to adjust the tax credit amount if the amount previously claimed by the qualified taxpayer is different than the amount specified in the allocation certificate.

(c) The amount of tax credit that may be claimed in the first year of the credit period may not be reduced as a result of the calculation in Section 42(f)(2), Internal Revenue Code.

(d) On or before January 31 of each year, the corporation shall provide to the commission in a form prescribed by the commission a report that describes each allocation certificate that the corporation issued during the previous calendar year.

(6)(a) A housing sponsor shall provide to the commission identification of the housing sponsor's designated reporter.

(b) For each tax year in which a tax credit is claimed under this section, the designated reporter shall provide to the commission in a form prescribed by the commission:

(i) a list of each qualified taxpayer that has been allocated a portion of the tax credit awarded in the allocation certificate for that tax year;

(ii) the amount of tax credit that has been allocated to each qualified taxpayer described in Subsection (6)(b)(i) for that tax year; and

(iii) any other information, as prescribed by the commission, to demonstrate that the aggregate annual amount of tax credits allocated to all qualified taxpayers for that tax year does not exceed the aggregate annual tax credit amount specified in the allocation certificate.

(7)(a) All elections made by a housing sponsor pursuant to Section 42, Internal Revenue Code, shall apply to this section.

(b)(i) If a qualified taxpayer is required to recapture a portion of any federal low-income housing credit, the qualified taxpayer that has been allocated a portion of a tax credit under this section shall also be required to recapture a portion of the tax credit under this section.

(ii) The state recapture amount shall be equal to the percentage of the state tax credit that equals the proportion the federal recapture amount bears to the original federal low-income housing credit amount subject to recapture.

(iii) The designated reporter shall identify each qualified taxpayer that is required to recapture a portion of any state tax credits as described in this Subsection (7)(b).

(8)(a) Any tax credits returned to the corporation in any year may be reallocated within the same time period as provided in Section 42, Internal Revenue Code.

(b) Tax credits that are unallocated by the corporation in any year may be carried over for allocation in subsequent years.

(9)(a) If a tax credit is not claimed by a qualified taxpayer in the year in which it is earned because the tax credit is more than the tax owed by the qualified taxpayer, the tax credit may be carried back three years or may be carried forward five years as a credit against the tax.

(b) Carryover tax credits under Subsection (9)(a) shall be applied against the tax:

(i) before the application of the tax credits earned in the current year; and

(ii) on a first-earned first-used basis.

(10) Any tax credit taken in this section may be subject to an annual audit by the commission.

(11) The corporation shall annually provide an electronic report to the Revenue and Taxation Interim Committee that includes:

(a) the purpose and effectiveness of the tax credits;

(b) any recommendations for legislative changes to the aggregate tax credit amount that the corporation is authorized to allocate each year under Subsection (2)(c); and

(c) the benefits of the tax credits to the state.

(12) The commission may, in consultation with the corporation, promulgate rules to implement this section.

(13)(a) Beginning in 2026, and every three years thereafter, the Revenue and Taxation Interim Committee shall conduct a review of the aggregate tax credit amount that the corporation is authorized to allocate and has allocated each year under Subsection (2)(c).

(b) In a review under this Subsection (13), the Revenue and Taxation Interim Committee shall:

(i) study any recommendations provided by the corporation under Subsection (11)(b); and

(ii) if the Revenue and Taxation Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 12. Section 59-12-352 is amended to read:

59-12-352. Transient room tax authority for municipalities, military installation development authority, and Point of the Mountain State Land Authority - - Purposes for which revenues may be used.

(1)(a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the

accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5)(a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

(6)(a) As used in this Subsection (6):

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(ii) "Authority board" means the board referred to in Section 11-59-301.

(b) The authority may, by a resolution adopted by the authority board, impose a tax of not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in Section 11-59-102.

(c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

(d) The authority shall use all revenue from a tax imposed under this Subsection (6) to provide affordable housing, consistent with the manner that a community reinvestment agency uses funds for [~~affordable housing~~]income targeted housing under Section 17C-1-412.

(e) A tax under this Subsection (6) is in addition to any other tax that may be imposed under this part.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 414
H. B. 470
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

FEDERAL AGENCY REGULATORY REVIEW AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses state agency review of federal regulations.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain state agencies to identify federal regulations impacted by the judicial doctrine of Chevron deference;
- requires certain state agencies to report all federal regulations impacted by Chevron deference to the Office of the Attorney General; and
- addresses a potential United States Supreme Court decision overturning the judicial doctrine of Chevron deference and the bringing of litigation by the attorney general in regard to federal regulations impacted by Chevron deference.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63C-4a-406, Utah Code Annotated 1953

REPEALS:
63C-4a-401, as enacted by Laws of Utah 2013, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-406 is enacted to read:

63C-4a-406. Challenges to federal regulations -- Chevron deference.

Part 4. Constitutional Defense Litigation

(1) As used in this part:

(a) "Chevron deference" means deference given to a federal agency's interpretation of a federal statute by a court because the court determined that:

(i) the federal statute is ambiguous; and

(ii) the federal agency's interpretation is based on a reasonable interpretation of the statute.

(b) "Federal agency" means an agency, bureau, board, commission, council, department, office, or other instrumentality of the executive branch of the United States government.

(c) "Federal regulation" means a regulation adopted by a federal agency and published in the Code of Federal Regulations or the Federal Register.

(d) "State agency" means:

(i) the Department of Environmental Quality;

(ii) the Department of Agriculture and Food; and

(iii) the Department of Natural Resources.

(2) On or before January 1, 2025, each state agency shall:

(a) identify any federal regulation impacting that state agency for which:

(i) a federal agency issued the federal regulation to implement a federal statute; and

(ii) the federal agency received Chevron deference in the agency's interpretation of the federal statute; and

(b) report any federal regulation identified under Subsection (2)(a) to the Office of the Attorney General.

(3) The attorney general may file suit on behalf of the state challenging any federal regulation impacted by Chevron deference if:

(a) before July 1, 2025, the United States Supreme Court:

(i) holds that a court may not give Chevron deference to a federal agency's interpretation of a federal statute; or

(ii) limits the deference that a court may give a federal agency's interpretation of a federal statute; and

(b) the attorney general determines that the state can successfully challenge the federal regulation.

(4) On or before July 1, 2025, the attorney general shall report to the Federalism Commission regarding any suit that the attorney general files, or intends to file, on behalf of the state under Subsection (3).

Section 2. Repealer.

This bill repeals:

Section 63C-4a-401, Title.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 415
H. B. 476
Passed February 29, 2024
Approved March 19, 2024
Effective November 1, 2024

MUNICIPAL LAND USE REGULATION MODIFICATIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to local governments.

Highlighted Provisions:

This bill:

- modifies the signature requirements for a petition proposing to annex an area to a municipality;
- modifies county and municipal land use provisions;
- requires a county or municipality to accept and process a complete land use application under specified conditions;
- modifies provisions relating to development agreements;
- modifies the limitation of a provision on building design elements;
- authorizes a county or municipality to require a seller to notify a buyer of water wise landscaping requirements;
- enacts language relating to residential rear setback limitations;
- modifies provisions relating to the review of subdivision applications and subdivision improvement plans;
- modifies a provision relating to the landscaping of residential lots or open space;
- modifies a provision relating to a completion assurance bond;
- modifies provisions relating to the enforcement of county and municipal land use regulations; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:
AMENDS:
10-2-403, as last amended by Laws of Utah 2023, Chapters 16, 34 and 478
10-9a-509, as last amended by Laws of Utah 2023, Chapter 478
10-9a-532, as last amended by Laws of Utah 2023, Chapter 478
10-9a-534, as last amended by Laws of Utah 2023, Chapters 160, 478
10-9a-536, as last amended by Laws of Utah 2023, Chapters 139, 247
10-9a-604.2, as enacted by Laws of Utah 2023, Chapter 501
10-9a-604.5, as last amended by Laws of Utah 2023, Chapter 478
10-9a-802, as last amended by Laws of Utah 2020, Chapter 434
17-27a-508, as last amended by Laws of Utah 2023, Chapter 478
17-27a-528, as last amended by Laws of Utah 2023, Chapter 478
17-27a-530, as last amended by Laws of Utah 2023, Chapters 160, 478
17-27a-532, as last amended by Laws of Utah 2023, Chapters 139, 247
17-27a-604.2, as enacted by Laws of Utah 2023, Chapter 501
17-27a-604.5, as last amended by Laws of Utah 2023, Chapter 478
17-27a-802, as last amended by Laws of Utah 2020, Chapter 434
38-9-102, as last amended by Laws of Utah 2023, Chapter 16
ENACTS:
10-9a-538, Utah Code Annotated 1953
17-27a-534, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-403 is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2)(a)(i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b)(i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality).."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c)(i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii)(A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of all of the rural real property within the area proposed for annexation; and

(C) covers 100% of all of the private land area within the area proposed for annexation [~~or~~]if the area is within a migratory bird production area created under Title 23A, Chapter 13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing special districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 2. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the municipality processing the application, or multiple applications of the same type, are impaired or prohibited under the terms of a temporary land use regulation adopted under Section 10-9a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) Unless a phasing sequence is required in an executed development agreement, a municipality

shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

[~~(e)~~](f) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

[~~(f)~~](g) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 10-9a-509(1)(a)(ii); or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

[~~(g)~~](h) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a municipal ordinance; or

(vii) in a municipal specification for residential roadways in effect at the time a residential subdivision was approved.

[~~(h)~~](i) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

[~~(i)~~](j) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 3. Section 10-9a-532 is amended to read:

10-9a-532. Development agreements.

(1) Subject to Subsection (2), a municipality may enter into a development agreement containing any term that the municipality considers necessary or appropriate to accomplish the purposes of this chapter, including a term relating to:

(a) a master planned development;

(b) a planned unit development;

(c) an annexation;

(d) affordable or moderate income housing with development incentives;

(e) a public-private partnership; or

(f) a density transfer or bonus within a development project or between development projects.

(2)(a) A development agreement may not:

(i) limit a municipality's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 10-8-84;

(ii) require a municipality to change the zoning designation of an area of land within the municipality in the future; or

(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 10-9a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 10-9a-502.

[~~(c)(i) If a development agreement restricts an applicant's rights under clearly established state law, the municipality shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.~~]

[~~(ii) A municipality's failure to disclose in accordance with Subsection (2)(c)(i) voids any provision in the development agreement pertaining to the undisclosed rights.~~]

[~~(d) A municipality may not require a development agreement as a condition for developing land if the municipality's land use regulations establish all applicable standards for development on the land.~~]

(c) Subject to Subsection (2)(d), a municipality may require a development agreement for developing land within the municipality if the applicant has applied for a legislative or discretionary approval, including an approval relating to:

(i) the height of a structure;

(ii) a parking or setback exception;

(iii) a density transfer or bonus;

(iv) a development incentive;

(v) a zone change; or

(vi) an amendment to a prior development agreement.

(d) A municipality may not require a development agreement as a condition for developing land within the municipality if:

(i) the development otherwise complies with applicable statute and municipal ordinances;

(ii) the development is an allowed or permitted use; or

(iii) the municipality's land use regulations otherwise establish all applicable standards for development on the land.

(e) A municipality may submit to a county recorder's office for recording:

(i) a fully executed agreement; or

(ii) a document related to:

(A) code enforcement;

(B) a special assessment area;

(C) a local historic district boundary; or

(D) the memorializing or enforcement of an agreed upon restriction, incentive, or covenant.

(f) Subject to Subsection (2)(e), a municipality may not cause to be recorded against private real property a document that imposes development requirements, development regulations, or development controls on the property.

[~~(e)~~](g) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 4. Section 10-9a-534 is amended to read:

10-9a-534. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one- or two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; [~~or~~]

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the municipality to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district[~~.~~]; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

Section 5. Section 10-9a-536 is amended to read:

10-9a-536. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d)(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A municipality may require a seller of a newly constructed residence to inform the first buyer of

the newly constructed residence of a municipal ordinance requiring water wise landscaping.

[~~(4)~~](5) A municipality shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Section 6. Section 10-9a-538 is enacted to read:

10-9a-538. Residential rear setback limitations.

(1) As used in this section:

(a) "Allowable feature" means:

(i) a landing or walkout porch that:

(A) is no more than 32 square feet in size; and

(B) is used for ingress to and egress from the rear of the residential dwelling; or

(ii) a window well.

(b) "Landing" means an uncovered, above-ground platform, with or without stairs, connected to the rear of a residential dwelling.

(c) "Setback" means the required distance between the property line of a lot or parcel and the location where a structure is allowed to be placed under an adopted land use regulation.

(d) "Walkout porch" means an uncovered platform that is on the ground and connected to the rear of a residential dwelling.

(e) "Window well" means a recess in the ground around a residential dwelling to allow for ingress and egress through a window installed in a basement that is fully or partially below ground.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits or has the effect of prohibiting an allowable feature within the rear setback of a residential building lot or parcel.

(3) Subsection (2) does not apply to a historic district within the municipality.

Section 7. Section 10-9a-604.2 is amended to read:

10-9a-604.2. Review of subdivision applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision[~~land use~~] application;

(ii) the municipality's review of that subdivision[~~land use~~] application;

(iii) the municipality's response to that subdivision[~~land use~~] application, in accordance with this section; and

(iv) the applicant's reply to the municipality's response that addresses each of the municipality's required modifications or requests for additional information.

(b) "Subdivision application" means a land use application for the subdivision of land.

[~~(b)~~](c) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure improvements and municipally controlled utilities required for a subdivision.

[~~(c)~~](d) "Subdivision ordinance review" means review by a municipality to verify that a subdivision[~~land use~~] application meets the criteria of the municipality's[~~subdivision~~] ordinances.

[~~(d)~~](e) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision[~~land use~~] application to verify that the application complies with municipal ordinances and applicable installation standards and inspection specifications for infrastructure improvements.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3)(a) A municipality may require a subdivision improvement plan to be submitted with a subdivision application.

(b) A municipality may not require a subdivision improvement plan to be submitted with both a preliminary subdivision application and a final subdivision application.

(4)(a) The review cycle requirements of this section apply:

(i) to the review of a preliminary subdivision application, if the municipality requires a subdivision improvement plan to be submitted with a preliminary subdivision application; or

(ii) to the review of a final subdivision application, if the municipality requires a subdivision improvement plan to be submitted with a final subdivision application.

(b) A municipality may not, outside the review cycle, engage in a substantive review of required infrastructure improvements or a municipally controlled utility.

[~~(3)(a) No later than 15 business days after the day on which an applicant submits a complete preliminary subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, the municipality shall complete the initial review of the application, including subdivision improvement plans.~~]

[~~(b)~~](5)(a) A municipality shall complete the initial review of a complete subdivision application submitted for ordinance review for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(i) no later than 15 business days after the complete subdivision application is submitted, if the municipality has a population over 5,000; or

(ii) no later than 30 business days after the complete subdivision application is submitted, if the municipality has a population of 5,000 or less.

(b) A municipality shall maintain and publish a list of the items comprising the complete[~~preliminary~~] subdivision[~~land use~~] application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

[~~(4)~~](6)[~~(a)~~] A municipality shall publish a list of the items that comprise a complete[~~final~~] subdivision land use application.

[~~(b) No later than 20 business days after the day on which an applicant submits a plat, the municipality shall complete a review of the applicant's final subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, including all subdivision plan reviews.~~]

(7) A municipality shall complete a subdivision plan review of a subdivision improvement plan that is submitted with a complete subdivision application for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(a) within 20 business days after the complete subdivision application is submitted, if the municipality has a population over 5,000; or

(b) within 40 business days after the complete subdivision application is submitted, if the municipality has a population of 5,000 or less.

[~~(5)~~](8)(a) In reviewing a subdivision[~~land use~~] application, a municipality may require:

(i) additional information relating to an applicant's plans to ensure compliance with municipal ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards or specifications, or do not contain complete information.

(b) A municipality's request for additional information or modifications to plans under Subsection [~~(5)(a)(i)~~](8)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to subdivision improvement plans, and shall be logged in an index of requested modifications or additions.

(c) A municipality may not require more than four review cycles for a subdivision improvement plan review.

(d)(i) Subject to Subsection [~~(5)(d)(ii)~~](8)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a subdivision improvement plan[~~set~~] or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a municipality's subdivision improvement plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a subdivision improvement plan[~~set~~], the municipality has the discretion to restart the review process at the first review of the [~~final application~~]subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan[~~set~~] that the material change substantively [~~effects~~]affects.

(e)(i) [~~If~~]This Subsection (8)(e) applies if an applicant does not submit a revised subdivision improvement plan within[-] :

(A) 20 business days after the municipality requires a modification or correction, [~~the municipality shall have an additional 20 business days to respond to the plans~~]if the municipality has a population over 5,000; or

(B) 40 business days after the municipality requires a modification or correction, if the municipality has a population of 5,000 or less.

(ii) If an applicant does not submit a revised subdivision improvement plan within the time specified in Subsection (8)(e)(i), a municipality has an additional 20 business days after the time specified in Subsection (7) to respond to a revised subdivision improvement plan.

[~~(6)~~](9) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the municipality's previous review cycle, the municipality may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

[~~(7)~~](10)(a) In addition to revised plans, an applicant shall provide a written explanation in response to the municipality's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

[~~(8)~~](11)(a) If, on the fourth or final review, a municipality fails to respond within 20 business days, the municipality shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 10-9a-508(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 8. Section 10-9a-604.5 is amended to read:

10-9a-604.5. Subdivision plat recording or development activity before required landscaping or infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section, "public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(a) will be dedicated to and maintained by the municipality; or

(b) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a public landscaping improvement or infrastructure improvement that the land use authority requires.

(3)(a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the municipality has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A municipality shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 10-9a-802 based on the installation of public landscaping improvements or infrastructure improvements.

(d) A municipality may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or an infrastructure improvement that the municipality has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;

(iii) in a municipality where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the municipality requires to be private; or

(iv) landscaping improvements that are not public landscaping improvements[~~, as defined in Section 10-9a-103~~], unless the landscaping improvements and completion assurance are required under the terms of a development agreement.

(4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a municipality may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the municipality shall be memorialized in a development agreement.

(c) A municipality may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the municipality to complete the improvements, if necessary.

(6) At any time before a municipality accepts a public landscaping improvement or infrastructure improvement, and for the duration of each improvement warranty period, the municipality may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the municipality, in the amount of up to 10% of the lesser of the:

(i) municipal engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(7) When a municipality accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii), the municipality may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 9. Section 10-9a-802 is amended to read:

10-9a-802. Enforcement.

(1)(a) A municipality or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A municipality need only establish the violation to obtain the injunction.

(2)(a) [A]Except as provided in Subsections (3) and (4), a municipality may enforce the municipality's ordinance by withholding a building permit.

(b) It is an infraction to erect, construct, reconstruct, alter, or change the use of any building or other structure within a municipality without approval of a building permit.

(c) A municipality may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A municipality may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the municipality has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section 10-9a-604.5, or an infrastructure [~~improvements~~] improvement for the development.

(3) A municipality may not deny an applicant a building permit or certificate of occupancy based on the lack of completion of a landscaping improvement that is not a public landscaping improvement, as defined in Section 10-9a-604.5.

(4) A municipality may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

(5) A municipality may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section 10-9a-604.5, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

(6) A municipality may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

(7) A municipality shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section 10-9a-604.5.

(8) A municipality may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the municipality.

Section 10. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1)(a)(i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii)(A) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted; or

(B) during the 12 months prior to the county processing the application or multiple applications of the same type, the application is impaired or prohibited under the terms of a temporary land use regulation adopted under Section 17-27a-504.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) Unless a phasing sequence is required in an executed development agreement, a county shall, without regard to any other separate and distinct land use application, accept and process a complete land use application.

[~~(d)~~](e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

[~~(e)~~](f) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a county ordinance in effect on the date that the applicant submits a complete application, subject to Subsection 17-27a-508(1)(a)(ii); or

(iii) a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

[~~(f)~~](g) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter;

(vi) in a county ordinance; or

(vii) in a county specification for residential roadways in effect at the time a residential subdivision was approved.

[~~(g)~~](h) Except as provided in Subsection [~~(1)(h)~~](1)(i), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

[~~(h)~~](i) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted public landscaping improvements or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to

serve the development proposed in the land use application.

(4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(5)(a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection(5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 11. Section 17-27a-528 is amended to read:

17-27a-528. Development agreements.

(1) Subject to Subsection (2), a county may enter into a development agreement containing any term that the county considers necessary or appropriate to accomplish the purposes of this chapter[.], including a term relating to:

(a) a master planned development;

(b) a planned unit development;

(c) an annexation;

(d) affordable or moderate income housing with development incentives;

(e) a public-private partnership; or

(f) a density transfer or bonus within a development project or between development projects.

(2)(a) A development agreement may not:

(i) limit a county's authority in the future to:

(A) enact a land use regulation; or

(B) take any action allowed under Section 17-53-223;

(ii) require a county to change the zoning designation of an area of land within the county in the future; or

(iii) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit, unless the legislative body approves the development agreement in accordance with the same procedures for enacting a land use regulation under Section 17-27a-502, including a review and recommendation from the planning commission and a public hearing.

(b) A development agreement that requires the implementation of an existing land use regulation as an administrative act does not require a legislative body's approval under Section 17-27a-502.

[~~(c)(i) If a development agreement restricts an applicant's rights under clearly established state law, the county shall disclose in writing to the applicant the rights of the applicant the development agreement restricts.~~]

[~~(ii) A county's failure to disclose in accordance with Subsection (2)(c)(i) voids any provision in the development agreement pertaining to the undisclosed rights.~~]

[~~(d) A county may not require a development agreement as a condition for developing land if the county's land use regulations establish all applicable standards for development on the land.~~]

[~~(e)~~](c) Subject to Subsection (2)(d), a county may require a development agreement for developing land within the unincorporated area of the county if the applicant has applied for a legislative or discretionary approval, including an approval relating to:

(i) the height of a structure;

(ii) a parking or setback exception;

(iii) a density transfer or bonus;

(iv) a development incentive;

(v) a zone change; or

(vi) an amendment to a prior development agreement.

(d) A county may not require a development agreement as a condition for developing land within the unincorporated area of the county if:

(i) the development otherwise complies with applicable statute and county ordinances;

(ii) the development is an allowed or permitted use; or

(iii) the county's land use regulations otherwise establish all applicable standards for development on the land.

(e) A county may submit to a county recorder's office for recording:

(i) a fully executed agreement; or

(ii) a document related to:

(A) code enforcement;

(B) a special assessment area;

(C) a local historic district boundary; or

(D) the memorializing or enforcement of an agreed upon restriction, incentive, or covenant.

(f) Subject to Subsection (2)(e), a county may not cause to be recorded against private real property a document that imposes development requirements, development regulations, or development controls on the property.

(g) To the extent that a development agreement does not specifically address a matter or concern related to land use or development, the matter or concern is governed by:

(i) this chapter; and

(ii) any applicable land use regulations.

Section 12. Section 17-27a-530 is amended to read:

17-27a-530. Regulation of building design elements prohibited -- Exceptions.

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one- or [~~two-family~~]two-family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

(i) the National Register of Historic Places;

(ii) the state register as defined in Section 9-8a-402; or

(iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021, except as provided under Subsection (3)(b);

(b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;

(c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;

(d) building design elements agreed to under a development agreement;

(e) a dwelling located within an area that:

(i) is zoned primarily for residential use; and

(ii) was substantially developed before calendar year 1950;

(f) an ordinance enacted to implement water efficient landscaping in a rear yard;

(g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:

(i) defects in the material of existing cladding; or

(ii) consistent defects in the installation of existing cladding; [~~or~~]

(h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:

(i) the county to apply to the owner's property; and

(ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district[~~.~~]; or

(i) an ordinance enacted to mitigate the impacts of an accidental explosion:

(i) in excess of 20,000 pounds of trinitrotoluene equivalent;

(ii) that would create overpressure waves greater than .2 pounds per square inch; and

(iii) that would pose a risk of damage to a window, garage door, or carport of a facility located within the vicinity of the regulated area.

Section 13. Section 17-27a-532 is amended to read:

17-27a-532. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d)(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

(4) A county may require a seller of a newly constructed residence within the unincorporated area of the county to inform the first buyer of the newly constructed residence of a county ordinance requiring water wise landscaping.

[~~(4)~~](5) A county shall report to the Division of Water Resources the existence, enactment, or modification of an ordinance, resolution, or policy that implements regional-based water use efficiency standards established by the Division of Water Resources by rule under Section 73-10-37.

Section 14. Section 17-27a-534 is enacted to read:

17-27a-534. Residential rear setback limitations.

(1) As used in this section:

(a) "Allowable feature" means:

(i) a landing or walkout porch that:

(A) is no more than 32 square feet in size; and

(B) is used for ingress to and egress from the rear of the residential dwelling; or

(ii) a window well.

(b) "Landing" means an uncovered, above-ground platform, with or without stairs, connected to the rear of a residential dwelling.

(c) "Setback" means the required distance between the property line of a lot or parcel and the location where a structure is allowed to be placed under an adopted land use regulation.

(d) "Walkout porch" means an uncovered platform that is on the ground and connected to the rear of a residential dwelling.

(e) "Window well" means a recess in the ground around a residential dwelling to allow for ingress and egress through a window installed in a basement that is fully or partially below ground.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits or has the effect of prohibiting an allowable feature within the rear setback of a residential building lot or parcel.

(3) Subsection (2) does not apply to a historic district located within the unincorporated area of a county.

Section 15. Section 17-27a-604.2 is amended to read:

17-27a-604.2. Review of subdivision applications and subdivision improvement plans.

(1) As used in this section:

(a) "Review cycle" means the occurrence of:

(i) the applicant's submittal of a complete subdivision[~~land use~~] application;

(ii) the county's review of that subdivision[~~land use~~] application;

(iii) the county's response to that subdivision[~~land use~~] application, in accordance with this section; and

(iv) the applicant's reply to the county's response that addresses each of the county's required modifications or requests for additional information.

(b) "Subdivision application" means a land use application for the subdivision of land located within the unincorporated area of a county.

[~~(b)~~](c) "Subdivision improvement plans" means the civil engineering plans associated with required infrastructure improvements and county-controlled utilities required for a subdivision.

[~~(c)~~](d) "Subdivision ordinance review" means review by a county to verify that a subdivision[~~land use~~] application meets the criteria of the county's[~~subdivision~~] ordinances.

[~~(d)~~](e) "Subdivision plan review" means a review of the applicant's subdivision improvement plans and other aspects of the subdivision[~~land use~~] application to verify that the application complies with county ordinances and applicable installation standards and inspection specifications for infrastructure improvements.

(2) The review cycle restrictions and requirements of this section do not apply to the review of subdivision applications affecting property within identified geological hazard areas.

(3)(a) A county may require a subdivision improvement plan to be submitted with a subdivision application.

(b) A county may not require a subdivision improvement plan to be submitted with both a preliminary subdivision application and a final subdivision application.

(4)(a) The review cycle requirements of this section apply:

(i) to the review of a preliminary subdivision application, if the county requires a subdivision improvement plan to be submitted with a preliminary subdivision application; or

(ii) to the review of a final subdivision application, if the county requires a subdivision improvement plan to be submitted with a final subdivision application.

(b) A county may not, outside the review cycle, engage in a substantive review of required infrastructure improvements or a county controlled utility.

[~~(3)(a) No later than 15 business days after the day on which an applicant submits a complete preliminary subdivision land use application for a residential subdivision for single-family dwellings, two-family dwellings, or townhomes, the county shall complete the initial review of the application, including subdivision improvement plans.~~]

[~~(b)~~](5)(a) A county shall complete the initial review of a complete subdivision application submitted for ordinance review for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(i) no later than 15 business days after the complete subdivision application is submitted, if the county has a population over 5,000; or

(ii) no later than 30 business days after the complete subdivision application is submitted, if the county has a population of 5,000 or less.

(b) A county shall maintain and publish a list of the items comprising the complete[~~preliminary~~] subdivision[~~land use~~] application, including:

(i) the application;

(ii) the owner's affidavit;

(iii) an electronic copy of all plans in PDF format;

(iv) the preliminary subdivision plat drawings; and

(v) a breakdown of fees due upon approval of the application.

[~~(4)~~](6)[~~(a)~~] A county shall publish a list of the items that comprise a complete[~~final~~] subdivision land use application.

[~~(b) No later than 20 business days after the day on which an applicant submits a plat, the county shall complete a review of the applicant's final subdivision land use application for single-family dwellings, two-family dwellings, or townhomes, including all subdivision plan reviews.~~]

(7) A county shall complete a subdivision plan review of a subdivision improvement plan that is submitted with a complete subdivision application for a residential subdivision for single-family dwellings, two-family dwellings, or town homes:

(a) within 20 business days after the complete subdivision application is submitted, if the county has a population over 5,000; or

(b) within 40 business days after the complete subdivision application is submitted, if the county has a population of 5,000 or less.

[~~(5)~~](8)(a) In reviewing a subdivision[~~land use~~] application, a county may require:

(i) additional information relating to an applicant's plans to ensure compliance with county ordinances and approved standards and specifications for construction of public improvements; and

(ii) modifications to plans that do not meet current ordinances, applicable standards, or specifications or do not contain complete information.

(b) A county's request for additional information or modifications to plans under [~~Subsections (5)(a)(i)~~]Subsection (8)(a)(i) or (ii) shall be specific and include citations to ordinances, standards, or specifications that require the modifications to subdivision improvement plans, and shall be logged in an index of requested modifications or additions.

(c) A county may not require more than four review cycles for a subdivision improvement plan review.

(d)(i) Subject to Subsection [~~(5)(d)(ii)~~](8)(d)(ii), unless the change or correction is necessitated by the applicant's adjustment to a subdivision improvement plan[~~set~~] or an update to a phasing plan that adjusts the infrastructure needed for the specific development, a change or correction not addressed or referenced in a county's subdivision improvement plan review is waived.

(ii) A modification or correction necessary to protect public health and safety or to enforce state or federal law may not be waived.

(iii) If an applicant makes a material change to a subdivision improvement plan[~~, set~~], the county has the discretion to restart the review process at the first review of the [~~final application~~]subdivision improvement plan review, but only with respect to the portion of the subdivision improvement plan[~~, set~~] that the material change substantively [~~effects~~]affects.

(e)(i) [~~If~~]This Subsection (8) applies if an applicant does not submit a revised subdivision improvement plan within[~~,~~] :

(A) 20 business days after the county requires a modification or correction, [~~the county shall have an additional 20 business days to respond to the plans~~]if the county has a population over 5,000; or

(B) 40 business days after the county requires a modification or correction, if the county has a population of 5,000 or less.

(ii) If an applicant does not submit a revised subdivision improvement plan within the time specified in Subsection (8)(e)(i), a county has an additional 20 business days after the time specified in Subsection (7) to respond to a revised subdivision improvement plan.

[~~(6)~~](9) After the applicant has responded to the final review cycle, and the applicant has complied with each modification requested in the county's previous review cycle, the county may not require additional revisions if the applicant has not materially changed the plan, other than changes that were in response to requested modifications or corrections.

[~~(7)~~](10)(a) In addition to revised plans, an applicant shall provide a written explanation in response to the county's review comments, identifying and explaining the applicant's revisions and reasons for declining to make revisions, if any.

(b) The applicant's written explanation shall be comprehensive and specific, including citations to applicable standards and ordinances for the design and an index of requested revisions or additions for each required correction.

(c) If an applicant fails to address a review comment in the response, the review cycle is not complete and the subsequent review cycle may not begin until all comments are addressed.

[~~(8)~~](11)(a) If, on the fourth or final review, a county fails to respond within 20 business days, the county shall, upon request of the property owner, and within 10 business days after the day on which the request is received:

(i) for a dispute arising from the subdivision improvement plans, assemble an appeal panel in accordance with Subsection 17-27a-507(5)(d) to review and approve or deny the final revised set of plans; or

(ii) for a dispute arising from the subdivision ordinance review, advise the applicant, in writing, of the deficiency in the application and of the right to appeal the determination to a designated appeal authority.

Section 16. Section 17-27a-604.5 is amended to read:

17-27a-604.5. Subdivision plat recording or development activity before required infrastructure is completed -- Improvement completion assurance -- Improvement warranty.

(1) As used in this section, "public landscaping improvement" means landscaping that an applicant is required to install to comply with published installation and inspection specifications for public improvements that:

(a) will be dedicated to and maintained by the county; or

(b) are associated with and proximate to trail improvements that connect to planned or existing public infrastructure.

(2) A land use authority shall establish objective inspection standards for acceptance of a required public landscaping improvement or infrastructure improvement.

(3)(a) Before an applicant conducts any development activity or records a plat, the applicant shall:

(i) complete any required public landscaping improvements or infrastructure improvements; or

(ii) post an improvement completion assurance for any required public landscaping improvements or infrastructure improvements.

(b) If an applicant elects to post an improvement completion assurance, the applicant shall provide completion assurance for:

(i) completion of 100% of the required public landscaping improvements or infrastructure improvements; or

(ii) if the county has inspected and accepted a portion of the public landscaping improvements or infrastructure improvements, 100% of the incomplete or unaccepted public landscaping improvements or infrastructure improvements.

(c) A county shall:

(i) establish a minimum of two acceptable forms of completion assurance;

(ii) if an applicant elects to post an improvement completion assurance, allow the applicant to post an assurance that meets the conditions of this title, and any local ordinances;

(iii) establish a system for the partial release of an improvement completion assurance as portions of required public landscaping improvements or infrastructure improvements are completed and accepted in accordance with local ordinance; and

(iv) issue or deny a building permit in accordance with Section 17-27a-802 based on the installation

of public landscaping improvements or infrastructure improvements.

(d) A county may not require an applicant to post an improvement completion assurance for:

(i) public landscaping improvements or infrastructure improvements that the county has previously inspected and accepted;

(ii) infrastructure improvements that are private and not essential or required to meet the building code, fire code, flood or storm water management provisions, street and access requirements, or other essential necessary public safety improvements adopted in a land use regulation;[~~or~~]

(iii) in a county where ordinances require all infrastructure improvements within the area to be private, infrastructure improvements within a development that the county requires to be private; or

(iv) landscaping improvements that are not public landscaping improvements[~~, as defined in Section 17-27a-103~~], unless the landscaping improvements and completion assurance are required under the terms of a development agreement.

(4)(a) Except as provided in Subsection (4)(c), as a condition for increased density or other entitlement benefit not currently available under the existing zone, a county may require a completion assurance bond for landscaped amenities and common area that are dedicated to and maintained by a homeowners association.

(b) Any agreement regarding a completion assurance bond under Subsection (4)(a) between the applicant and the county shall be memorialized in a development agreement.

(c) A county may not require a completion assurance bond for or dictate who installs or is responsible for the cost of the landscaping of residential lots or the equivalent open space surrounding single-family attached homes, whether platted as lots or common area.

(5) The sum of the improvement completion assurance required under Subsections (3) and (4) may not exceed the sum of:

(a) 100% of the estimated cost of the public landscaping improvements or infrastructure improvements, as evidenced by an engineer's estimate or licensed contractor's bid; and

(b) 10% of the amount of the bond to cover administrative costs incurred by the county to complete the improvements, if necessary.

(6) At any time before a county accepts a public landscaping improvement or infrastructure improvement, and for the duration of each improvement warranty period, the land use authority may require the applicant to:

(a) execute an improvement warranty for the improvement warranty period; and

(b) post a cash deposit, surety bond, letter of credit, or other similar security, as required by the county, in the amount of up to 10% of the lesser of the:

(i) county engineer's original estimated cost of completion; or

(ii) applicant's reasonable proven cost of completion.

(7) When a county accepts an improvement completion assurance for public landscaping improvements or infrastructure improvements for a development in accordance with Subsection (3)(c)(ii), the county may not deny an applicant a building permit if the development meets the requirements for the issuance of a building permit under the building code and fire code.

(8) The provisions of this section do not supersede the terms of a valid development agreement, an adopted phasing plan, or the state construction code.

Section 17. Section 17-27a-802 is amended to read:

17-27a-802. Enforcement.

(1)(a) A county or an adversely affected party may, in addition to other remedies provided by law, institute:

(i) injunctions, mandamus, abatement, or any other appropriate actions; or

(ii) proceedings to prevent, enjoin, abate, or remove the unlawful building, use, or act.

(b) A county need only establish the violation to obtain the injunction.

(2)(a) [~~A~~]Except as provided in Subsections (3) and (4), a county may enforce the county's ordinance by withholding a building permit.

(b) It is unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure within a county without approval of a building permit.

(c) The county may not issue a building permit unless the plans of and for the proposed erection, construction, reconstruction, alteration, or use fully conform to all regulations then in effect.

(d) A county may not deny an applicant a building permit or certificate of occupancy because the applicant has not completed an infrastructure improvement:

(i) that is not essential to meet the requirements for the issuance of a building permit or certificate of occupancy under the building code and fire code; and

(ii) for which the county has accepted an improvement completion assurance for a public landscaping improvement, as defined in Section 17-27a-604.5, or an infrastructure [~~improvements~~] improvement for the development.

(3) A county may not deny an applicant a building permit or certificate of occupancy based on the lack

of completion of a landscaping improvement that is not a public landscaping improvement, as defined in Section 17-27a-604.5.

(4) A county may not withhold a building permit based on the lack of completion of a portion of a public sidewalk to be constructed within a public right-of-way serving a lot where a single-family or two-family residence or town home is proposed in a building permit application if an improvement completion assurance has been posted for the incomplete portion of the public sidewalk.

(5) A county may not prohibit the construction of a single-family or two-family residence or town home, withhold recording a plat, or withhold acceptance of a public landscaping improvement, as defined in Section 17-27a-604.5, or an infrastructure improvement based on the lack of installation of a public sidewalk if an improvement completion assurance has been posted for the public sidewalk.

(6) A county may not redeem an improvement completion assurance securing the installation of a public sidewalk sooner than 18 months after the date the improvement completion assurance is posted.

(7) A county shall allow an applicant to post an improvement completion assurance for a public sidewalk separate from an improvement completion assurance for:

(a) another infrastructure improvement; or

(b) a public landscaping improvement, as defined in Section 17-27a-604.5.

(8) A county may withhold a certificate of occupancy for a single-family or two-family residence or town home until the portion of the public sidewalk to be constructed within a public right-of-way and located immediately adjacent to the single-family or two-family residence or town home is completed and accepted by the county.

Section 18. Section 38-9-102 is amended to read:

38-9-102. Definitions.

As used in this chapter:

(1) "Affected person" means:

(a) a person who is a record interest holder of the real property that is the subject of a recorded nonconsensual common law document; or

(b) the person against whom a recorded nonconsensual common law document purports to reflect or establish a claim or obligation.

(2) "Document sponsor" means a person who, personally or through a designee, signs or submits for recording a document that is, or is alleged to be, a nonconsensual common law document.

(3) "Interest holder" means a person who holds or possesses a present, lawful property interest in certain real property, including an owner, title holder, mortgagee, trustee, or beneficial owner.

(4) "Lien claimant" means a person claiming an interest in real property who offers a document for recording or filing with any county recorder in the state asserting a lien, or notice of interest, or other claim of interest in certain real property.

(5) "Nonconsensual common law document" means a document that is submitted to a county recorder's office for recording against public official property that:

(a) purports to create a lien or encumbrance on or a notice of interest in the real property;

(b) at the time the document is recorded, is not:

(i) expressly authorized by this chapter or a state or federal statute;

(ii) authorized by or contained in an order or judgment of a court of competent jurisdiction; or

(iii) signed by or expressly authorized by a document signed by the owner of the real property; and

(c) is submitted in relation to the public official's status or capacity as a public official.

(6) "Owner" means a person who has a vested ownership interest in real property.

(7) "Political subdivision" means a county, city, town, school district, special improvement or taxing district, special district, special service district, or other governmental subdivision or public corporation.

(8) "Public official" means:

(a) a current or former:

(i) member of the Legislature;

(ii) member of Congress;

(iii) judge;

(iv) member of law enforcement;

(v) corrections officer;

(vi) active member of the Utah State Bar; or

(vii) member of the Board of Pardons and Parole;

(b) an individual currently or previously appointed or elected to an elected position in:

(i) the executive branch of state or federal government; or

(ii) a political subdivision;

(c) an individual currently or previously appointed to or employed in a position in a political subdivision, or state or federal government that:

(i) is a policymaking position; or

(ii) involves:

(A) purchasing or contracting decisions;

(B) drafting legislation or making rules;

(C) determining rates or fees; or

(D) making adjudicative decisions; or

(d) an immediate family member of a person described in Subsections (8)(a) through (c).

(9) "Public official property" means real property that has at least one record interest holder who is a public official.

(10)(a) "Record interest holder" means a person who holds or possesses a present, lawful property interest in real property, including an owner, titleholder, mortgagee, trustee, or beneficial owner, and whose name and interest in that real property appears in the county recorder's records for the county in which the property is located.

(b) "Record interest holder" includes any grantor in the chain of the title in real property.

(11) "Record owner" means an owner whose name and ownership interest in certain real property is recorded or filed in the county recorder's records for the county in which the property is located.

(12)(a) "Wrongful lien" means any document that purports to create a lien, notice of interest, or encumbrance on an owner's interest in certain real property and at the time it is recorded is not:

[~~(a)~~](i) expressly authorized by this chapter or another state or federal statute;

[~~(b)~~](ii) authorized by or contained in an order or judgment of a court of competent jurisdiction in the state; or

[~~(c)~~](iii) signed by or authorized pursuant to a document signed by the owner of the real property.

(b) "Wrongful lien" includes a document recorded in violation of Subsection 10-9a-532(2)(d).

Section 19. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on November 1, 2024.

(2)(a) Except as provided in Subsection (2)(b), the actions affecting Sections 10-9a-532 and 38-9-102 take effect on May 1, 2024.

(b) If this bill is approved by two-thirds of all the members elected to each house, the actions affecting Sections 10-9a-532 and 38-9-102 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 416
H. B. 484
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

NONPROFIT ENTITY AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to disclosure of nonprofit entity related personal information by public agencies.

Highlighted Provisions:

This bill:

- modifies definitions;
- clarifies the individuals about whom personal information may not be disclosed;
- amends the exemptions from the prohibition of disclosing personal information;
- addresses damages; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-26-102, as last amended by Laws of Utah 2023, Chapter 16
63G-26-103, as last amended by Laws of Utah 2023, Chapter 33
63G-26-104, as enacted by Laws of Utah 2020, Chapter 393

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-26-102 is amended to read:

63G-26-102. Definitions.

As used in this chapter:

(1) "Nonprofit entity" means an entity exempt from federal income tax under Section 501(c), Internal Revenue Code, or that has submitted an application with the Internal Revenue Service for recognition of an exemption under Section 501(c), Internal Revenue Code.

(2) "Personal information" means a record or other compilation of data that identifies a person as a donor to [~~an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code~~]a nonprofit entity.

[~~(2)~~](3) "Public agency" means a state or local government entity, including:

(a) a department, division, agency, office, commission, board, or other government organization;

(b) a political subdivision, including a county, city, town, metro township, special district, or special service district;

(c) a public school, school district, charter school, or public higher education institution; or

(d) a judicial or quasi-judicial body.

Section 2. Section 63G-26-103 is amended to read:

63G-26-103. Protection of personal information.

(1) Except as provided in Subsections (2), (3), and [~~(5)~~](4), a public agency may not:

(a) require an individual who is a donor to a nonprofit entity to provide the public agency with personal information or otherwise compel the release of personal information;

(b) require [~~an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code~~]a nonprofit entity to provide the public agency with personal information or compel the nonprofit entity to release personal information;

(c) release, publicize, or otherwise publicly disclose personal information in possession of a public agency; or

(d) request or require a current or prospective contractor or grantee of the public agency to provide the public agency with a list of [~~entities exempt from federal income tax under Section 501(c) of the Internal Revenue Code~~]nonprofit entities to which the current or prospective contractor or grantee has provided financial or nonfinancial support.

(2) Subsection (1) does not apply to:

(a) a disclosure of personal information required under Title 20A, Election Code, or Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act[~~, or any other legal requirement relating to reporting campaign contributions, campaign expenditures, lobbying disclosures, or lobbying expenditures~~];

[~~(b) a disclosure of personal information expressly required by law;~~]

[~~(c)~~](b) [~~a disclosure of personal information voluntarily made~~]the release of personal information by a public agency if the information is voluntarily released to the public by the individual or nonprofit entity to which the personal information relates, including:

(i) as part of public comment or in a public meeting; or

(ii) in another manner that is publicly accessible;

[~~(d)~~](c) a disclosure of personal information pursuant to a lawful warrant or court order issued by a court [~~of competent~~]with jurisdiction;

[~~(e)~~](d) a lawful request for discovery of personal information in litigation or a criminal proceeding if the court with jurisdiction:

(i) finds that the requestor demonstrates a compelling need for the personal information by clear and convincing evidence; and

(ii) issues a protective order barring disclosure of personal information to a person not named in the litigation;

(e) admission of personal information as relevant evidence before a court with jurisdiction, except that a court may not publicly reveal personal information absent a specific finding of good cause;

[~~(f) the use of personal information in a legal proceeding;~~]

[~~(g) a public agency sharing personal information with another public agency in accordance with the requirements of law; or~~]

[~~(h)~~](f) a nonprofit created under Title 11, Chapter 13a, Governmental Nonprofit Corporations Act[~~.~~];

(g) disclosure of personal information to the Department of Financial Institutions to conduct regulatory oversight of federally insured depositories to comply with the requirements of statute, rule, or regulation;

(h) disclosure of personal information to the Insurance Department to conduct regulatory oversight of persons licensed under Title 31A, Insurance Code, to comply with the requirements of statute, rule, or regulation; or

(i) disclosure of personal information that is required, requested, or released by the following divisions of the Department of Commerce, provided that each division may only use personal information in connection with the specific request to which the personal information relates and for a related proceeding:

(i) by the Division of Consumer Protection in accordance with the Division of Consumer Protection's administration and enforcement of a chapter described in Section 13-2-1;

(ii) by the Division of Corporations and Commercial Code in accordance with the Division of Corporations and Commercial Code's authority under Title 13, Chapter 1a, Division of Corporations and Commercial Code, and in the course of the Division of Corporations and Commercial Code's administration of:

(A) Title 3, Uniform Agricultural Cooperative Association Act;

(B) Title 16, Corporations;

(C) Title 42, Chapter 2, Conducting Business Under Assumed Name;

(D) Title 48, Unincorporated Business Entity Act;

(E) Title 70, Chapter 3a, Registration and Protection of Trademarks and Service Marks Act; and

(F) Title 70A, Chapter 9a, Uniform Commercial Code - Secured Transactions; and

(iii) by the Division of Securities to conduct regulatory oversight of persons regulated under Title 61, Chapter 1, Utah Uniform Securities Act, to comply with the requirements of statute, rule, or regulation.

(3) Subsections (1)(a), (b), and (d) do not apply to:

[~~(a) administration or enforcement of Title 13, Chapter 11, Utah Consumer Sales Practices Act, or Title 13, Chapter 22, Charitable Solicitations Act;~~]

[~~(b)~~](a) the request or use of personal information necessary to the State Tax Commission's administration of tax or motor vehicle laws, except that the State Tax Commission may only use personal information in connection with the administration of tax or motor vehicle laws or for a related proceeding; or

[~~(c)~~](b) access to personal information by the Office of the Legislative Auditor General to conduct an audit authorized under Utah Constitution, Article VI, Section 33, and Section 36-12-15, or the state auditor's office to conduct an audit authorized under Title 67, Chapter 3, Auditor, except the legislative auditor general or state auditor may only use the personal information in connection with the specific audit to which the request relates.

[~~(4) A court shall consider whether to:~~]

[~~(a) limit a request for discovery of personal information; or~~]

[~~(b) issue a protective order in relation to the disclosure of personal information obtained or used in relation to a legal proceeding.~~]

[~~(5)~~](4) Subsection (1) does not apply to disclosure of a contributor to a sponsoring organization, as those terms are defined in Section 41-1a-1601.

Section 3. Section 63G-26-104 is amended to read:

63G-26-104. Enforcement -- Penalty.

(1)(a) A person whose personal information is recklessly provided or disclosed by a public agency in violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both.

(b) When a court awards damages under this section, the court shall order:

(i) an amount of not less than $2,500 to compensate for injury or loss caused by each violation of this chapter; or

(ii) for an intentional violation of this chapter, an amount not to exceed three times the amount described in Subsection (1)(b)(i).

(2) A court may award court costs and attorney fees to a person that brings an action described in Subsection (1) if the person prevails in that action.

(3) A person that knowingly violates a provision of Section 63G-26-103 is guilty of a class C misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $1,000, or both.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 417
H. B. 491
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

DATA PRIVACY AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Kirk A. Cullimore

Cosponsor:
Candice B. Pierucci
Kera Birkeland
Judy Weeks Rohner

LONG TITLE

General Description:

This bill enacts the Government Data Privacy Act.

Highlighted Provisions:

This bill:

- defines terms;
- describes governmental entity duties related to personal data privacy, including:
  - breach notification;
  - limits on data collection and use; and
  - the ability to correct and access personal data;
- creates the state data privacy policy that outlines the broad data privacy goals for the state;
- creates the Utah Privacy Governing Board to recommend changes in the state data privacy policy;
- establishes the Office of Data Privacy to coordinate implementation of privacy protections; and
- renames the Personal Privacy Oversight Commission to the Utah Privacy Commission (commission) and amends the commission's duties.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
63A-12-115, as enacted by Laws of Utah 2023, Chapter 173
63C-24-101, as enacted by Laws of Utah 2021, Chapter 155
63C-24-102, as last amended by Laws of Utah 2023, Chapter 16
63C-24-201, as enacted by Laws of Utah 2021, Chapter 155
63C-24-202, as last amended by Laws of Utah 2023, Chapter 173
67-3-13, as last amended by Laws of Utah 2023, Chapters 16, 173 and 435

ENACTS:
63A-19-101, Utah Code Annotated 1953
63A-19-102, Utah Code Annotated 1953
63A-19-201, Utah Code Annotated 1953
63A-19-202, Utah Code Annotated 1953
63A-19-301, Utah Code Annotated 1953
63A-19-302, Utah Code Annotated 1953
63A-19-401, Utah Code Annotated 1953
63A-19-402, Utah Code Annotated 1953
63A-19-403, Utah Code Annotated 1953
63A-19-404, Utah Code Annotated 1953
63A-19-405, Utah Code Annotated 1953
63A-19-406, Utah Code Annotated 1953
63A-19-501, Utah Code Annotated 1953
63A-19-601, Utah Code Annotated 1953

REPEALS:
67-1-17, as last amended by Laws of Utah 2023, Chapter 173

Sections affected by Coordination Clause:
63A-19-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-12-115 is amended to read:

63A-12-115. Privacy annotation for records series -- Requirements -- Content.

(1)(a) Before January 1, [~~2026~~]2027, an executive branch agency shall, for each record series that the executive branch agency collects, maintains, or uses, evaluate the record series and make a privacy annotation that completely and accurately complies with Subsection (2) and the rules described in Subsection 63A-12-104(2)(e).

(b) Beginning on January 1, [~~2026~~]2027, an executive branch agency may not collect, maintain, or use personal identifying information unless the record series for which the personal identifying information is collected, maintained, or used includes a privacy annotation that completely and accurately complies with Subsection (2) and the rules described in Subsection 63A-12-104(2)(e).

(2) A privacy annotation shall include the following:

(a) if the record series does not include personal identifying information, a statement indicating that the record series does not include personal identifying information; or

(b) if the record series includes personal identifying information:

(i) an inventory of the personal identifying information included in the record series; and

(ii) for the personal identifying information described in Subsection (2)(b)(i):

(A) the purpose for which the executive branch agency collects, keeps, or uses the personal identifying information;

(B) a citation to the executive branch agency's legal authority for collecting, keeping, or using the personal identifying information; and

(C) any other information required by state archives by rule under Subsection 63A-12-104(2)(e).

Section 2. Section 63A-19-101 is enacted to read:

63A-19-101. Definitions.

CHAPTER 19. GOVERNMENT DATA PRIVACY ACT

Part 1. General Provisions -- State Data Privacy Policy

As used in this chapter:

(1) "Chief privacy officer" means the individual appointed under Section 63A-19-302.

(2) "Commission" means the Utah Privacy Commission established in Section 63C-24-102.

(3) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-510.

(4) "Data breach" means the unauthorized access, acquisition, disclosure, loss of access, or destruction of personal data held by a governmental entity, unless the governmental entity concludes, according to standards established by the Cyber Center, that there is a low probability that personal data has been compromised.

(5) "Designated governmental entity" means the same as that term is defined in Section 67-3-13.

(6) "Governing board" means the Utah Privacy Governing Board established in Section 63A-19-201.

(7) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(8) "High risk processing activities" means a governmental entity's processing of personal data that may result in a significant compromise to an individual's privacy interests, based on factors that include:

(a) the sensitivity of the personal data processed;

(b) the amount of personal data being processed;

(c) the individual's ability to consent to the processing of personal data; and

(d) risks of unauthorized access or use.

(9) "Individual" means the same as that term is defined in Section 63G-2-103.

(10) "Legal guardian" means:

(a) the parent of a minor; or

(b) an individual appointed by a court to be the guardian of a minor or incapacitated person and given legal authority to make decisions regarding the person or property of the minor or incapacitated person.

(11) "Office" means the Office of Data Privacy created in Section 63A-19-301.

(12) "Ombudsperson" means the data privacy ombudsperson appointed under Section 63A-19-501.

(13) "Personal data" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

(14) "Process" or "processing" means any operation or set of operations performed on personal data, including collection, recording, organization, structuring, storage, adaptation, alteration, access, retrieval, consultation, use, disclosure by transmission, transfer, dissemination, alignment, combination, restriction, erasure, or destruction.

(15) "Record" means the same as that term is defined in Section 63G-2-103.

(16) "Record series" means the same as that term is defined in Section 63G-2-103.

(17) "Retention schedule" means a governmental entity's schedule for the retention or disposal of records that has been approved by the Records Management Committee pursuant to Section 63A-12-113.

(18)(a) "Sell" means an exchange of personal data for monetary consideration by a governmental entity to a third party.

(b) "Sell" does not include a fee:

(i) charged by a governmental entity for access to a record; or

(ii) assessed in accordance with an approved fee schedule.

(19)(a) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(i) a department;

(ii) a commission;

(iii) a board;

(iv) a council;

(v) an institution;

(vi) an officer;

(vii) a corporation;

(viii) a fund;

(ix) a division;

(x) an office;

(xi) a committee;

(xii) an authority;

(xiii) a laboratory;

(xiv) a library;

(xv) a bureau;

(xvi) a panel;

(xvii) another administrative unit of the state; or

(xviii) an agent of an entity described in Subsections (19)(a)(i) through (xvii).

(b) "State agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(iv) an independent entity.

(20) "State privacy officer" means the individual described in Section 67-3-13.

Section 3. Section 63A-19-102 is enacted to read:

63A-19-102. State data privacy policy.

It is the policy of Utah that:

(1) an individual has a fundamental interest in and inherent expectation of privacy regarding the personal data that the individual provides to a governmental entity;

(2) a governmental entity shall act in a manner respecting personal data provided to the governmental entity that is consistent with the interests and expectations described in Subsection (1);

(3) the state shall encourage innovation to enhance the ability of a governmental entity to:

(a) protect the privacy of an individual's personal data;

(b) provide clear notice to an individual regarding the governmental entity's processing of the individual's personal data;

(c) process personal data only for specified, lawful purposes and only process the minimum amount of an individual's personal data necessary to achieve those purposes;

(d) implement appropriate consent mechanisms regarding the uses of an individual's personal data;

(e) provide an individual with the ability to access, control, and request corrections to the individual's personal data held by a governmental entity;

(f) maintain appropriate safeguards to protect the confidentiality, integrity, and availability of personal data;

(g) account for compliance with privacy related laws, rules, and regulations that are specific to a particular governmental entity, program, or personal data; and

(h) meet a governmental entity's and an individual's business and service needs;

(4) the state shall promote training and education programs for employees of governmental entities focused on:

(a) data privacy best practices, obligations, and responsibilities; and

(b) the overlapping relationship with privacy, records management, and security; and

(5) the state shall promote consistent terminology in data privacy requirements across governmental entities.

Section 4. Section 63A-19-201 is enacted to read:

63A-19-201. Utah Privacy Governing Board.

Part 2. Utah Privacy Governing Board

(1) There is created the Utah Privacy Governing Board.

(2) The governing board shall be composed of five members as follows:

(a) the governor, or the governor's designee;

(b) the president of the Senate, or the president's designee;

(c) the speaker of the House of Representatives, or the speaker's designee;

(d) the attorney general, or the attorney general's designee; and

(e) the state auditor, or the state auditor's designee.

(3)(a) A majority of the members of the governing board is a quorum.

(b) The action of a majority of a quorum constitutes an action of the governing board.

(4) The governor, or the governor's designee is chair of the governing board.

(5) The governing board shall meet at least two times a year.

(6) The governing board may recommend specific matters to the state auditor under Section 63A-19-601.

(7) The office shall provide staff and support to the governing board.

Section 5. Section 63A-19-202 is enacted to read:

63A-19-202. Governing board duties.

(1) The governing board shall:

(a) recommend changes to the state data privacy policy;

(b) by July 1 of each year, approve the data privacy agenda items for the commission and make recommendations for additional items for the data privacy agenda;

(c) hear issues raised by the ombudsperson regarding existing governmental entity privacy practices;

(d) evaluate and recommend the appropriate:

(i) structure and placement for the office within state government; and

(ii) authority to be granted to the office, including any authority to make rules; and

(e) recommend funding mechanisms and strategies for governmental entities to enable

compliance with data privacy responsibilities, including:

(i) appropriations;

(ii) rates;

(iii) grants; and

(iv) internal service funds.

(2) In fulfilling the duties under this part, the governing board may receive and request input from:

(a) governmental entities;

(b) elected officials;

(c) subject matter experts; and

(d) other stakeholders.

Section 6. Section 63A-19-301 is enacted to read:

63A-19-301. Office of Data Privacy.

Part 3. Office of Data Privacy

(1) There is created within the department the Office of Data Privacy.

(2) The office shall coordinate with the governing board and the commission to perform the duties in this section.

(3) The office shall:

(a) create and maintain a strategic data privacy plan to:

(i) assist state agencies to implement effective and efficient privacy practices, tools, and systems that:

(A) protect the privacy of personal data;

(B) comply with laws and regulations specific to the entity, program, or data;

(C) empower individuals to protect and control their personal data; and

(D) enable information sharing among entities, as allowed by law; and

(ii) account for differences in state agency resources, capabilities, populations served, data types, and maturity levels regarding privacy practices;

(b) review statutory provisions related to governmental data privacy and records management to:

(i) identify conflicts and gaps in data privacy law;

(ii) standardize language; and

(iii) consult impacted agencies and the attorney general regarding findings and proposed amendments;

(c) work with state agencies to study, research, and identify:

(i) additional privacy requirements that are feasible for state agencies;

(ii) potential remedies and accountability mechanisms for non-compliance of a state agency;

(iii) ways to expand individual control and rights with respect to personal data held by state agencies; and

(iv) resources needed to develop, implement, and improve privacy programs;

(d) monitor high-risk data processing activities within state agencies;

(e) receive information from state agencies regarding the sale, sharing, and processing personal data;

(f) coordinate with the Cyber Center to develop an incident response plan for data breaches affecting governmental entities;

(g) coordinate with the state archivist to incorporate data privacy practices into records management;

(h) coordinate with the state archivist to incorporate data privacy training into the trainings described in Section 63A-12-110; and

(i) create a data privacy training program for employees of governmental entities.

(4) The data privacy training program described in Subsection (3)(i) shall be made available to all governmental entities, and shall be designed to provide instruction regarding:

(a) data privacy best practices, obligations, and responsibilities; and

(b) the relationship between privacy, records management, and security.

(5)(a) Except as provided in Subsection (5)(b), an employee of a state agency shall complete the data privacy training program described in Subsection (3)(i):

(i) within 30 days of beginning employment; and

(ii) at least once in each calendar year.

(b) An employee of a state agency that does not have access to personal data as part of the employee's work duties is not required to complete the data privacy training program described in Subsection (3)(i).

(c) Each state agency is responsible for monitoring completion of data privacy training by the state agency's employees.

(6) To the extent that resources permit, the office may provide expertise and assistance to governmental entities for high risk data processing activities.

Section 7. Section 63A-19-302 is enacted to read:

63A-19-302. Chief privacy officer -- Appointment -- Powers -- Reporting.

(1) The governor shall, with the advice and consent of the Senate, appoint a chief privacy officer.

(2) The chief privacy officer is the director of the office.

(3) The chief privacy officer:

(a) shall exercise all powers given to and perform all duties imposed on the office;

(b) has administrative authority over the office;

(c) may make changes in office personnel and service functions under the chief privacy officer's administrative authority;

(d) may authorize a designee to assist with the chief privacy officer's responsibilities; and

(e) shall report annually, on or before October 1, to the Judiciary Interim Committee regarding:

(i) recommendations for legislation to address data privacy concerns; and

(ii) reports received from state agencies regarding the sale or sharing of personal data provided under Subsection 63A-19-401(2)(f)(ii).

Section 8. Section 63A-19-401 is enacted to read:

63A-19-401. Duties of governmental entities.

Part 4. Duties of Governmental Entities

(1)(a) Except as provided in Subsections (1)(b) and (c), a governmental entity shall comply with the requirements of this part.

(b)(i) If a governmental entity or a contractor described in Subsection (4)(a) is subject to a more restrictive or a more specific provision of law than found in this part, the governmental entity or contractor shall comply with the more restrictive or more specific provision of law.

(ii) For purposes of Subsection (1)(b)(i), Title 63G, Chapter 2, Government Records Access and Management Act, is a more specific provision of law and shall control over the provisions of this part.

(c) A governmental entity that is exempt under Section 63G-2-702, 63G-2-703, or 63G-2-704 from complying with the requirements in Title 63G, Chapter 2, Part 6, Collection of Information and Accuracy of Records, is exempt from complying with the requirements in Sections 63A-19-402, 63A-19-403, and 63A-19-404.

(2) A governmental entity:

(a) shall implement and maintain a privacy program before May 1, 2025, that includes the governmental entity's policies, practices, and procedures for the process of personal data;

(b) shall provide notice to an individual or the legal guardian of an individual, if the individual's personal data is affected by a data breach, in accordance with Section 63A-19-406;

(c) shall obtain and process only the minimum amount of personal data reasonably necessary to efficiently achieve a specified purpose;

(d) shall meet the requirements of this part for all processing activities implemented by a governmental entity after May 1, 2024;

(e) shall for any processing activity implemented before May 1, 2024, as soon as is reasonably practicable, but no later than January 1, 2027:

(i) identify any non-compliant processing activity;

(ii) document the non-compliant processing activity; and

(iii) prepare a strategy for bringing the non-compliant processing activity into compliance with this part;

(f) may not establish, maintain, or use undisclosed or covert surveillance of individuals unless permitted by law;

(g) may not sell personal data unless expressly required by law;

(h) may not share personal data unless permitted by law;

(i)(i) that is a designated governmental entity, shall annually report to the state privacy officer:

(A) the types of personal data the designated governmental entity currently shares or sells;

(B) the basis for sharing or selling the personal data; and

(C) the classes of persons and the governmental entities that receive the personal data from the designated governmental entity; and

(ii) that is a state agency, shall annually report to the chief privacy officer:

(A) the types of personal data the state agency currently shares or sells;

(B) the basis for sharing or selling the personal data; and

(C) the classes of persons and the governmental entities that receive the personal data from the state agency; and

(j)(i) except as provided in Subsection (3), an employee of a governmental entity shall complete a data privacy training program:

(A) within 30 days after beginning employment; and

(B) at least once in each calendar year; and

(k) is responsible for monitoring completion of data privacy training by the governmental entity's employees.

(3) An employee of a governmental entity that does not have access to personal data of individuals as part of the employee's work duties is not required to complete a data privacy training program described in Subsection (2)(j)(i).

(4)(a) A contractor that enters into or renews an agreement with a governmental entity after May 1, 2024, and processes or has access to personal data as a part of the contractor's duties under the

agreement, is subject to the requirements of this chapter with regard to the personal data processed or accessed by the contractor to the same extent as required of the governmental entity.

(b) An agreement under Subsection (4)(a) shall require the contractor to comply with the requirements of this chapter with regard to the personal data processed or accessed by the contractor as a part of the contractor's duties under the agreement to the same extent as required of the governmental entity.

(c) The requirements under Subsections (4)(a) and (b) are in addition to and do not replace any other requirements or liability that may be imposed for the contractor's violation of other laws protecting privacy rights or government records.

Section 9. Section 63A-19-402 is enacted to read:

63A-19-402. General governmental privacy requirements -- Personal data request notice.

(1) A governmental entity shall provide a personal data request notice to an individual, or the legal guardian of an individual, from whom the governmental entity requests or collects personal data.

(2) The personal data request notice described in Subsection (1) shall include:

(a) the reasons the individual is asked to provide the personal data;

(b) the intended purposes and uses of the personal data;

(c) the consequences for refusing to provide the personal data;

(d) the classes of persons and entities that:

(i) share the personal data with the governmental entity; or

(ii) receive the personal data from the governmental entity on a regular or contractual basis; and

(e) the record series in which the personal data is or will be included, if applicable.

(3) The governmental entity shall provide the personal data request notice by:

(a) posting the personal data request notice in a prominent place where the governmental entity collects the personal data;

(b) including the personal data request notice as part of any document or form used by the governmental entity to collect the personal data; or

(c) conspicuously linking to or displaying a QR code linked to an electronic version of the personal data request notice as part of any document or form used by the governmental entity to collect the personal data.

(4) The personal data request notice required by this section is in addition to, and does not supersede, any other notice requirement otherwise applicable to the governmental entity.

(5) The governmental entity shall, upon request, provide the personal data request notice to an individual, or the legal guardian of an individual, regarding personal data previously furnished by that individual.

(6) The governmental entity may only use personal data furnished by an individual for the purposes identified in the personal data request notice provided to that individual.

Section 10. Section 63A-19-403 is enacted to read:

63A-19-403. Procedure to request amendment or correction of personal data.

(1) A governmental entity that collects personal data shall provide a procedure by which an individual or legal guardian of an individual may request an amendment or correction of personal data that has been furnished to the governmental entity.

(2) The procedure by which an individual or legal guardian of an individual may request an amendment or correction shall comply with all applicable laws and regulations to which the personal data at issue and to which the governmental entity is subject.

(3) The procedure to request an amendment or correction described in this section does not obligate the governmental entity to make the requested amendment or correction.

Section 11. Section 63A-19-404 is enacted to read:

63A-19-404. Retention and disposition of personal data.

(1) A governmental entity that collects personal data shall retain and dispose of the personal data in accordance with a documented record retention schedule.

(2) Compliance with Subsection (1) does not exempt a governmental entity from complying with other applicable laws or regulations related to retention or disposition of specific personal data held by that governmental entity.

Section 12. Section 63A-19-405 is enacted to read:

63A-19-405. Data breach notification to the Cyber Center and the Office of the Attorney General.

(1)(a) A governmental entity that identifies a data breach affecting 500 or more individuals shall notify the Cyber Center and the attorney general of the data breach.

(b) In addition to the notification required by Subsection (1)(a), a governmental entity that identifies the unauthorized access, acquisition, disclosure, loss of access, or destruction of data that compromises the security, confidentiality, availability, or integrity of the computer systems used or information maintained by the governmental entity shall notify the Cyber Center.

(2) The notification under Subsection (1) shall:

(a) be made without unreasonable delay, but no later than five days from the discovery of the data breach; and

(b) include the following information:

(i) the date and time the data breach occurred;

(ii) the date the data breach was discovered;

(iii) a short description of the data breach that occurred;

(iv) the means by which access was gained to the system, computer, or network;

(v) the individual or entity who perpetrated the data breach;

(vi) steps the governmental entity is or has taken to mitigate the impact of the data breach; and

(vii) any other details requested by the Cyber Center.

(3) For a data breach under Subsection (1)(a), the governmental entity shall provide the following information to the Cyber Center and the attorney general in addition to the information required under Subsection (2)(b):

(a) the total number of people affected by the data breach, including the total number of Utah residents affected; and

(b) the type of personal data involved in the data breach.

(4) If the information required by Subsection (2)(b) is not available within five days of discovering the breach, the governmental entity shall provide as much of the information required under Subsection (2)(b) as is available and supplement the notification with additional information as soon as the information becomes available.

(5)(a) A governmental entity that experiences a data breach affecting fewer than 500 individuals shall create an internal incident report containing the information in Subsection (2)(b) as soon as practicable and shall provide additional information as the information becomes available.

(b) A governmental entity shall provide to the Cyber Center:

(i) an internal incident report described in Subsection (5)(a) upon request of the Cyber Center; and

(ii) an annual report logging all of the governmental entity's data breach incidents affecting fewer than 500 individuals.

Section 13. Section 63A-19-406 is enacted to read:

63A-19-406. Data breach notice to individuals affected by data breach.

(1) A governmental entity shall provide a data breach notice to an individual or legal guardian of an individual affected by the data breach:

(a) after determining the scope of the data breach;

(b) after restoring the reasonable integrity of the affected system, if necessary; and

(c) without unreasonable delay except as provided in Subsection (1)(b).

(2) A governmental entity shall delay providing notification under Subsection (1) at the request of a law enforcement agency that determines that notification may impede a criminal investigation, until such time as the law enforcement agency informs the governmental entity that notification will no longer impede the criminal investigation.

(3) The data breach notice to an affected individual shall include:

(a) a description of the data breach;

(b) the individual's personal data that was accessed or may have been accessed;

(c) steps the governmental entity is taking or has taken to mitigate the impact of the data breach;

(d) recommendations to the individual on how to protect themselves from identity theft and other financial losses; and

(e) any other language required by the Cyber Center.

(4) Unless the governmental entity reasonably believes that providing notification would pose a threat to the safety of an individual, or unless an individual has designated to the governmental entity a preferred method of communication, a governmental entity shall provide notice by:

(a)(i) email, if reasonably available and allowed by law; or

(ii) mail; and

(b) one of the following methods, if the individual's contact information is reasonably available and the method is allowed by law:

(i) text message with a summary of the data breach notice and instructions for accessing the full notice; or

(ii) telephone message with a summary of the data breach notice and instructions for accessing the full data breach notice.

(5) A governmental entity shall also provide a data breach notice in a manner that is reasonably calculated to have the best chance of being received by the affected individual or the legal guardian of an individual, such as through a press release, posting on appropriate social media accounts, or publishing notice in a newspaper of general circulation when:

(a) a data breach affects more than 500 individuals; and

(b) a governmental entity is unable to obtain an individual's contact information to provide notice for any method listed in Subsection (4).

Section 14. Section 63A-19-501 is enacted to read:

63A-19-501. Data privacy ombudsperson.

Part 5. Data Privacy Ombudsperson

(1) The governor shall appoint a data privacy ombudsperson with the advice of the governing board.

(2) The ombudsperson shall:

(a) be familiar with the provisions of:

(i) this chapter;

(ii) Chapter 12, Division of Archives and Records Service and Management of Government Records; and

(iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) serve as a resource for an individual who is making or responding to a complaint about a governmental entity's data privacy practice.

(3) The ombudsperson may, upon request by a governmental entity or individual, mediate data privacy disputes between individuals and governmental entities.

(4) After consultation with the chief privacy officer or the state privacy officer, the ombudsperson may raise issues and questions before the governing board regarding serious and repeated violations of data privacy from:

(a) a specific governmental entity; or

(b) widespread governmental entity data privacy practices.

Section 15. Section 63A-19-601 is enacted to read:

63A-19-601. Enforcement.

Part 6. Remedies

(1) Upon instruction by the board, the state auditor shall:

(a) investigate alleged violations of this chapter by a governmental entity;

(b) provide notice to the relevant governmental entity of an alleged violation of this chapter; and

(c) for a violation that the state auditor substantiates, provide an opportunity for the governmental entity to cure the violation within 30 days.

(2) If a governmental entity fails to cure a violation as provided in Subsection (1)(c), the state auditor shall report the governmental entity's failure:

(a) for a designated governmental entity, to the attorney general for enforcement under Subsection (3); and

(b) for a state agency, to the Legislative Management Committee.

(3) After referral by the state auditor under Subsection (2)(a), the attorney general may file an action in district court to:

(a) enjoin a designated governmental entity from violating this chapter; or

(b) require a designated governmental entity to comply with this chapter.

Section 16. Section 63C-24-101 is amended to read:

63C-24-101. Title.

CHAPTER 24. UTAH PRIVACY COMMISSION

Part 1. General Provisions

This chapter is known as the [~~"Personal Privacy Oversight~~]"Utah Privacy Commission."

Section 17. Section 63C-24-102 is amended to read:

63C-24-102. Definitions.

As used in this chapter:

(1) "Commission" means the [~~Personal Privacy Oversight~~]Utah Privacy Commission created in Section 63C-24-201.

(2) "Governing board" means the Utah Privacy Governing Board created in Section 63A-9-201.

(3) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

[~~(2)(a) "Government entity" means the state, a county, a municipality, a higher education institution, a special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.~~]

[~~(b) "Government entity" includes an agent of an entity described in Subsection (2)(a).~~]

[~~(3)~~](4) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(5) "Office" means the Office of Data Privacy created in Section 63A-19-301.

[~~(4)~~](6)[~~(a)~~] "Personal data" means [~~any information relating to an identified or identifiable individual~~]the same as that term is defined in Section 63A-19-101.

[~~(b) "Personal data" includes personally identifying information.~~]

[~~(5)~~](7)(a) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(b) "Privacy practice" includes:

(i) a technology use related to personal data; and

(ii) policies related to the protection, storage, sharing, and retention of personal data.

Section 18. Section 63C-24-201 is amended to read:

63C-24-201. Utah Privacy Commission created.

Part 2. Utah Privacy Commission

(1) There is created the [~~Personal Privacy Oversight~~]Utah Privacy Commission.

(2)(a) The commission shall be composed of 12 members.

(b) The governor shall appoint:

(i) one member who, at the time of appointment provides internet technology services for a county or a municipality;

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member representing law enforcement; and

(v) one member with experience in data privacy law.

(c) The state auditor shall appoint:

(i) one member with experience in internet technology services;

(ii) one member with experience in cybersecurity;

(iii) one member representing private industry in technology;

(iv) one member with experience in data privacy law; and

(v) one member with experience in civil liberties law or policy and with specific experience in identifying the disparate impacts of the use of a technology or a policy on different populations.

(d) The attorney general shall appoint:

(i) one member with experience as a prosecutor or appellate attorney and with experience in data privacy or civil liberties law; and

(ii) one member representing law enforcement.

(3)(a) Except as provided in Subsection (3)(b), a member is appointed for a term of four years.

(b) The initial appointments of members described in Subsections (2)(b)(i) through (b)(iii), (2)(c)(iv) through (c)(v), and (2)(d)(ii) shall be for two-year terms.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (2).

(4)(a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (2) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(5) The commission shall select officers from the commission's members as the commission finds necessary.

(6)(a) A majority of the members of the commission is a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) A member shall refrain from participating in a review of:

(a) an entity of which the member is an employee; or

(b) a technology in which the member has a financial interest.

(9) The state auditor shall provide staff and support to the commission.

(10) The commission shall meet up to [~~seven~~]12 times a year to accomplish the duties described in Section 63C-24-202.

Section 19. Section 63C-24-202 is amended to read:

63C-24-202. Commission duties.

(1) The commission shall:

(a) annually develop a data privacy agenda that identifies for the upcoming year:

(i) governmental entity privacy practices to be reviewed by the commission;

(ii) educational and training materials that the commission intends to develop;

(iii) any other items related to data privacy the commission intends to study; and

(iv) best practices and guiding principles that the commission plans to develop related to government privacy practices;

(b) develop guiding standards and best practices with respect to government privacy practices;

[~~(b)~~](c) develop educational and training materials that include information about:

(i) the privacy implications and civil liberties concerns of the privacy practices of government entities;

(ii) best practices for government collection and retention policies regarding personal data; and

(iii) best practices for government personal data security standards; [~~and~~]

[~~(c)~~](d) review the privacy implications and civil liberties concerns of government privacy practices[~~.~~]; and

(e) provide the data privacy agenda to the governing board by May 1 of each year.

(2) The commission may, in addition to the approved items in the data privacy agenda prepared under Subsection (1)(a):

(a) review specific government privacy practices as referred to the commission by the chief privacy officer described in Section [~~67-1-17~~]63A-19-302 or the state privacy officer described in Section 67-3-13; [~~and~~]

(b) review a privacy practice not accounted for in the data privacy agenda only upon referral by the chief privacy officer or the state privacy officer in accordance with Subsection 63C-24-202(2)(a);

(c) review and provide recommendations regarding consent mechanisms used by governmental entities to collect personal information;

(d) develop and provide recommendations to the Legislature on how to balance transparency and public access of public records against an individual's reasonable expectations of privacy and data protection; and

[~~(b)~~](e) develop recommendations for legislation regarding the guiding standards and best practices the commission has developed in accordance with Subsection (1)(a).

(3) [~~Annually~~]At least annually, on or before October 1, the commission shall report to the Judiciary Interim Committee:

(a) the results of any reviews the commission has conducted;

(b) the guiding standards and best practices described in Subsection [~~(1)(a)~~](1)(b); and

(c) any recommendations for legislation the commission has developed in accordance with Subsection [~~(2)(b)~~](2)(e).

(4) At least annually, on or before June 1, the commission shall report to the governing board regarding:

(a) governmental entity privacy practices the commission plans to review in the next year;

(b) any educational and training programs the commission intends to develop in relation to government data privacy best practices;

(c) results of the commission's data privacy practice reviews from the previous year; and

(d) recommendations from the commission related to data privacy legislation, standards, or best practices.

(5) The data privacy agenda detailed in Subsection (1)(a) does not add to or expand the authority of the commission.

Section 20. Section 67-3-13 is amended to read:

67-3-13. State privacy officer.

(1) As used in this section:

(a) "Designated [~~government~~]governmental entity" means a [~~government~~]governmental entity that is not a state agency.

(b) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(c) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

[~~(c)(i) "Government entity" means the state, a county, a municipality, a higher education institution, a special district, a special service district, a school district, an independent entity, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity.~~]

[~~(ii) "Government entity" includes an agent of an entity described in Subsection (1)(c)(i).~~]

(d)[~~(i)~~] "Personal data" means [~~any information relating to an identified or identifiable individual.~~]the same as that term is defined in Section 63A-19-101.

[~~(ii) "Personal data" includes personally identifying information.~~]

(e)(i) "Privacy practice" means the acquisition, use, storage, or disposal of personal data.

(ii) "Privacy practice" includes:

(A) a technology use related to personal data; and

(B) policies related to the protection, storage, sharing, and retention of personal data.

(f)(i) "State agency" means the following entities that are under the direct supervision and control of the governor or the lieutenant governor:

(A) a department;

(B) a commission;

(C) a board;

(D) a council;

(E) an institution;

(F) an officer;

(G) a corporation;

(H) a fund;

(I) a division;

(J) an office;

(K) a committee;

(L) an authority;

(M) a laboratory;

(N) a library;

(O) a bureau;

(P) a panel;

(Q) another administrative unit of the state; or

(R) an agent of an entity described in Subsections (A) through (Q).

(ii) "State agency" does not include:

(A) the legislative branch;

(B) the judicial branch;

(C) an executive branch agency within the Office of the Attorney General, the state auditor, the state treasurer, or the State Board of Education; or

(D) an independent entity.

(2) The state privacy officer shall:

(a) when completing the duties of this Subsection (2), focus on the privacy practices of designated [~~government~~]governmental entities;

(b) compile information about government privacy practices of designated [~~government~~] governmental entities;

(c) make public and maintain information about government privacy practices on the state auditor's website;

(d) provide designated [~~government~~] governmental entities with educational and training materials developed by the [~~Personal Privacy Oversight~~]Utah Privacy Commission established in Section 63C-24-201 that include the information described in Subsection 63C-24-202(1)(b);

(e) implement a process to analyze and respond to requests from individuals for the state privacy officer to review a designated [~~government~~] governmental entity's privacy practice;

(f) identify annually which designated [~~government~~]governmental entities' privacy practices pose the greatest risk to individual privacy and prioritize those privacy practices for review;

(g) review each year, in as timely a manner as possible, the privacy practices that the privacy officer identifies under Subsection (2)(e) or (2)(f) as posing the greatest risk to individuals' privacy;

(h) when reviewing a designated [~~government~~] governmental entity's privacy practice under Subsection (2)(g), analyze:

(i) details about the technology or the policy and the technology's or the policy's application;

(ii) information about the type of data being used;

(iii) information about how the data is obtained, stored, shared, secured, and disposed;

(iv) information about with which persons the designated [~~government~~]governmental entity shares the information;

(v) information about whether an individual can or should be able to opt out of the retention and sharing of the individual's data;

(vi) information about how the designated [~~government~~]governmental entity de-identifies or anonymizes data;

(vii) a determination about the existence of alternative technology or improved practices to protect privacy; and

(viii) a finding of whether the designated [~~government~~]governmental entity's current privacy practice adequately protects individual privacy; and

(i) after completing a review described in Subsections (2)(g) and (h), determine:

(i) each designated [~~government~~]governmental entity's use of personal data, including the designated [~~government~~]governmental entity's practices regarding data:

(A) acquisition;

(B) storage;

(C) disposal;

(D) protection; and

(E) sharing;

(ii) the adequacy of the designated [~~government~~]governmental entity's practices in each of the areas described in Subsection (2)(i)(i); and

(iii) for each of the areas described in Subsection (2)(i)(i) that the state privacy officer determines to require reform, provide recommendations for reform to the designated [~~government~~] governmental entity and the legislative body charged with regulating the designated [~~government~~]governmental entity.

(3)(a) The legislative body charged with regulating a designated [~~government~~] governmental entity that receives a recommendation described in Subsection (2)(i)(iii) shall hold a public hearing on the proposed reforms:

(i) with a quorum of the legislative body present; and

(ii) within 90 days after the day on which the legislative body receives the recommendation.

(b)(i) The legislative body shall provide notice of the hearing described in Subsection (3)(a).

(ii) Notice of the public hearing and the recommendations to be discussed shall be posted for the jurisdiction of the designated [~~government~~] governmental entity, as a class A notice under Section 63G-30-102, for at least 30 days before the day on which the legislative body will hold the public hearing.

(iii) Each notice required under Subsection (3)(b)(i) shall:

(A) identify the recommendations to be discussed; and

(B) state the date, time, and location of the public hearing.

(c) During the hearing described in Subsection (3)(a), the legislative body shall:

(i) provide the public the opportunity to ask questions and obtain further information about the recommendations; and

(ii) provide any interested person an opportunity to address the legislative body with concerns about the recommendations.

(d) At the conclusion of the hearing, the legislative body shall determine whether the legislative body shall adopt reforms to address the recommendations and any concerns raised during the public hearing.

(4)(a) Except as provided in Subsection (4)(b), if the chief privacy officer described in Section [~~67-1-17~~]63A-19-302 is not conducting reviews of the privacy practices of state agencies, the state privacy officer may review the privacy practices of a state agency in accordance with the processes described in this section.

(b) Subsection (3) does not apply to a state agency.

(5) The state privacy officer shall:

(a) quarterly report, to the [~~Personal Privacy Oversight Commission~~]Utah Privacy Commission:

(i) recommendations for privacy practices for the commission to review; and

(ii) the information provided in Subsection (2)(i); and

(b) annually, on or before October 1, report to the Judiciary Interim Committee:

(i) the results of any reviews described in Subsection (2)(g), if any reviews have been completed;

(ii) reforms, to the extent that the state privacy officer is aware of any reforms, that the designated [~~government~~]governmental entity made in response to any reviews described in Subsection (2)(g);

(iii) the information described in Subsection (2)(i);

(iv) reports received from designated governmental entities regarding the sale or sharing of personal data provided under Subsection 63A-19-401(2)(f)(i); and

[~~(iv)~~](v) recommendations for legislation based on any results of a review described in Subsection (2)(g).

Section 21. Repealer.

This bill repeals:

Section 67-1-17, Chief privacy officer.

Section 22. Effective date.

This bill takes effect on May 1, 2024.

Section 23. Coordinating H.B. 491 with S.B. 98.

If H.B. 491, Data Privacy Amendments, and S.B. 98, Online Data Security and Privacy Amendments, both pass and become law, the Legislature intends that, on May 1, 2024:

(1) in Subsection 63A-16-1102(4) in S.B. 98, "Section 63A-16-1103" be changed to "Section 63A-19-405"; and

(2) Section 63A-16-1103 (renumbered from Section 63A-16-511) in S.B. 98 be amended to read as follows:

"[~~63A-16-511~~]

63A-16-1103. [~~Reporting to the Utah Cyber Center - -~~] Assistance to governmental entities - - Records.

[~~(1) As used in this section:~~

~~(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.~~

~~(b) "Utah Cyber Center" means the Utah Cyber Center created in Section 63A-16-510.~~

~~(2) A governmental entity shall contact the Utah Cyber Center as soon as practicable when the governmental entity becomes aware of a breach of system security.(3)~~]

(1) The [~~Utah~~] Cyber Center shall provide [~~the~~] a governmental entity with assistance in responding to [~~the~~] a data breach [~~of system security~~] reported under Section 63A-19-405, which may include:

(a) conducting all or part of [~~the~~] an internal investigation [~~required under Subsection 13-44-202(1)(a)~~] into the data breach;

(b) assisting law enforcement with the law enforcement investigation if needed;

(c) determining the scope of the data breach [~~of system security~~];

(d) assisting the governmental entity in restoring the reasonable integrity of the system; or

(e) providing any other assistance in response to the reported data breach [~~of system security~~].

[~~(4) (a) A person providing information to the Utah Cyber Center may submit the information required in Section 63G-2-309 to request that the information submitted by the person and information produced by the Utah Cyber Center in the course of the Utah Cyber Center's investigation be classified as a confidential protected record.~~

~~(b) Information submitted to the Utah Cyber Center under Subsection 13-44-202(1)(c) regarding a breach of system security may include information regarding the type of breach, the attack vector, attacker, indicators of compromise, and other details of the breach that are requested by the Utah Cyber Center.~~

~~(c)~~] (2) (a) A governmental entity that is required to submit information under Section [~~63A-16-511~~] 63A-19-405 shall provide records to the [~~Utah~~] Cyber Center as a shared record in accordance with Section 63G-2-206.

(b) The following information may be deemed confidential and may only be shared as provided in Section 63G-2-206:

(i) the information provided to the Cyber Center by a governmental entity under Section 63A-19-405; and

(ii) information produced by the Cyber Center in response to a report of a data breach under Subsection (1).".

CHAPTER 418
H. B. 494
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

FUNDS ADMINISTRATION MODIFICATIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies a provision of the State Money Management Act.

Highlighted Provisions:

This bill:

- provides that a public body that administers certain funds may hold a closed meeting to discuss certain matters; and
- excludes certain information from the Government Records Access and Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201; and

(o) the Utah fund of funds created in Section 63N-6-401.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

(3) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, a public body that administers a fund described in Subsection (1) may hold a closed meeting to discuss the sale or purchase of identifiable securities, investment funds, or investment contracts.

(4) A paper, electronic, or other depiction or record of information relating to investment activities of a fund described in Subsection (1) is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 419
H. B. 562
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

UTAH FAIRPARK AREA INVESTMENT AND RESTORATION DISTRICT

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Lincoln Fillmore

Cosponsor:
Matthew H. Gwynn
Jefferson Moss
Carl R. Albrecht
Sahara Hayes
Val L. Peterson
Melissa G. Ballard
Sandra Hollins
Judy Weeks Rohner
Stewart E. Barlow
Rosemary T. Lesser
Angela Romero
Jefferson S. Burton
Karianne Lisonbee
Andrew Stoddard
Tyler Clancy
Steven J. Lund

LONG TITLE

General Description:

This bill enacts and modifies provisions relating to the Utah Fairpark Area Investment and Restoration District.

Highlighted Provisions:

This bill:

- creates the Utah Fairpark Area Investment and Restoration District;
- provides for the district's powers and duties;
- defines the district boundary;
- creates a board to govern the district and provides for board membership;
- authorizes the district to levy:
  - an energy sales and use tax;
  - a telecommunications license tax;
  - a transient room tax;
  - a resort communities sales and use tax;
  - an additional resort communities sales and use tax; and
  - an accommodations and services tax;
- provides for an increase in a car rental tax and provides for how the additional revenue is to be spent;
- provides for state-owned land within the district boundary to be subject to a privilege tax;
- expands a prohibition on the imposition of certain impact fees;
- provides for enhanced property tax revenue to be paid to the district and to the host municipality;
- specifies the use of district funds;
- authorizes the district to adopt one or more project area plans, including a project area, with the consent of the property owner, for the development and construction of a qualified stadium;
- provides for the district to own the land on which a qualified stadium is built and to own the qualified stadium;
- provides a maximum for district contributions for the development and construction of a qualified stadium;
- provides for the district to receive certain state sales tax revenues generated from transactions within the district sales tax area;
- provides a sales tax exemption for construction materials used for the construction of a qualified stadium;
- modifies provisions relating to the State Fair Park Authority;
- authorizes the district board to approve loans from an infrastructure loan fund;
- makes technical and conforming changes; and
- encourages the use of a jail facility.

Utah Fairpark Area Investment and Restoration District Boundary Information:

The boundary information for the Utah Fairpark Area Investment and Restoration District boundary:

- is delineated in a shapefile that:
  - is enacted as part of this bill in electronic form;
  - may be found at: https://le.utah.gov/~2024/documents/HB0562_shapefile.zip; and
  - has the following electronic file security code: cf4d4953297c3ea4c936028b7c89e3c0; and
- is also depicted in a format that:
  - is intended to be more accessible to the general public and is provided for informational purposes only;
  - shows the boundary as delineated in the shapefile, but is not enacted as part of this bill; and
  - may be found at: https://www.google.com/maps/d/edit?mid=140hCtPp_tbgfo4lm2PFBCipH5bJmFTs.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2022, Chapter 306
10-1-303, as last amended by Laws of Utah 2021, Chapter 210
10-1-304, as last amended by Laws of Utah 2022, Chapter 237
10-1-310, as enacted by Laws of Utah 1996, Chapter 280
10-1-403, as last amended by Laws of Utah 2021, Chapter 414
11-36a-202, as last amended by Laws of Utah 2023, Chapter 502

11-68-201, as renumbered and amended by Laws of Utah 2023, Chapter 502
11-68-202, as renumbered and amended by Laws of Utah 2023, Chapter 502
11-68-403, as renumbered and amended by Laws of Utah 2023, Chapter 502
11-68-502, as enacted by Laws of Utah 2023, Chapter 502
17-22-5.5, as last amended by Laws of Utah 2022, Chapter 115
17D-4-102, as last amended by Laws of Utah 2023, Chapter 15
59-2-924, as last amended by Laws of Utah 2023, Chapter 502
59-4-101, as last amended by Laws of Utah 2023, Chapter 502
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471
59-12-104, as last amended by Laws of Utah 2023, Chapters 213, 518
59-12-352, as last amended by Laws of Utah 2023, Chapter 263
59-12-354, as last amended by Laws of Utah 2023, Chapters 263, 471
59-12-401, as last amended by Laws of Utah 2021, Chapter 414
59-12-402, as last amended by Laws of Utah 2023, Chapter 435
59-12-1201, as last amended by Laws of Utah 2023, Chapters 361, 471
63A-3-401.5, as last amended by Laws of Utah 2023, Chapter 259
63A-3-402, as last amended by Laws of Utah 2023, Chapter 259
63A-5b-902, as last amended by Laws of Utah 2023, Chapter 263
63C-25-101, as last amended by Laws of Utah 2023, Chapters 91, 139 and 502
63C-25-202, as last amended by Laws of Utah 2023, Chapter 91

ENACTS:
11-70-101, Utah Code Annotated 1953
11-70-102, Utah Code Annotated 1953
11-70-103, Utah Code Annotated 1953
11-70-104, Utah Code Annotated 1953
11-70-201, Utah Code Annotated 1953
11-70-202, Utah Code Annotated 1953
11-70-203, Utah Code Annotated 1953
11-70-204, Utah Code Annotated 1953
11-70-205, Utah Code Annotated 1953
11-70-206, Utah Code Annotated 1953
11-70-207, Utah Code Annotated 1953
11-70-301, Utah Code Annotated 1953
11-70-302, Utah Code Annotated 1953
11-70-303, Utah Code Annotated 1953
11-70-304, Utah Code Annotated 1953
11-70-305, Utah Code Annotated 1953
11-70-401, Utah Code Annotated 1953
11-70-402, Utah Code Annotated 1953
11-70-403, Utah Code Annotated 1953
11-70-501, Utah Code Annotated 1953
11-70-502, Utah Code Annotated 1953
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11-70-603, Utah Code Annotated 1953
11-70-604, Utah Code Annotated 1953
11-70-605, Utah Code Annotated 1953
11-70-701, Utah Code Annotated 1953
11-70-702, Utah Code Annotated 1953
11-70-703, Utah Code Annotated 1953
11-70-704, Utah Code Annotated 1953
11-70-801, Utah Code Annotated 1953

REPEALS:
11-68-401, as enacted by Laws of Utah 2023, Chapter 502
11-68-402, as renumbered and amended by Laws of Utah 2023, Chapter 502
59-12-2301, as enacted by Laws of Utah 2023, Chapter 502
59-12-2302, as enacted by Laws of Utah 2023, Chapter 502
59-12-2303, as enacted by Laws of Utah 2023, Chapter 502
59-12-2304, as enacted by Laws of Utah 2023, Chapter 502
59-12-2305, as enacted by Laws of Utah 2023, Chapter 502

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-203 is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" means the same as that term is defined in Section 10-1-402.

(c) "Telecommunications tax or fee" means the same as that term is defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5) and Subsection (7), the legislative body of a municipality may license for the purpose of regulation any business within the limits of the municipality, may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

(3)(a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b)(i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection [~~10-1-303(6)~~]10-1-303(7), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection [~~10-1-303(6)~~]10-1-303(7) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection [~~10-1-303(6)~~]10-1-303(7) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d)(i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection [~~10-1-303(6)~~]10-1-303(7) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4)(a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5)(a)(i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c)(i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d)(i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) A municipality may not:

(a) require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 18 years old;

(b) charge any fee for a resident of the municipality to operate a home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone;

(c) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information, except as specifically authorized under state or federal law.

(8)(a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection (7)(b) but who requests a license from the municipality.

(b) A municipality shall notify the owner of each home-based business of the exemption described in Subsection (7)(b) in any communication with the owner.

(9) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(10) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 2. Section 10-1-303 is amended to read:

10-1-303. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) "Contractual franchise fee" means:

(a) a fee:

(i) provided for in a franchise agreement; and

(ii) that is consideration for the franchise agreement; or

(b)(i) a fee similar to Subsection (2)(a); or

(ii) any combination of Subsections (2)(a) and (b).

(3)(a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

(i) the value of the energy itself; and

(ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

(b) "Delivered value" does not include the amount of a tax paid under:

(i) Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) this part.

(4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:

(a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or

(b) $10,000.

(5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.

(6) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

[~~(6)~~](7) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

[~~(7)~~](8) "Franchise tax" means:

(a) a franchise tax;

(b) a tax similar to a franchise tax; or

(c) any combination of Subsections [~~(7)(a)~~](8)(a) and (b).

(9) "Military authority" means the Military Installation Development Authority, created in Section 63H-1-201.

[~~(8)~~](10) "Municipality" means a city, town, or metro township.

[~~(9)~~](11) "Person" is as defined in Section 59-12-102.

(12) "Point of the mountain authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

[~~(10)~~](13) "Taxable energy" means gas and electricity.

Section 3. Section 10-1-304 is amended to read:

10-1-304. Energy sales and use tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

(1)(a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

(i) by ordinance as provided in Section 10-1-305; and

(ii) of up to 6% of the delivered value of the taxable energy.

(b) Subject to Section 63H-1-203, the military [~~installation development~~] authority[~~created in Section 63H-1-201~~] may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the military authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the military authority were a municipality.

(c)(i) Beginning July 1, 2022, the [~~Point of the Mountain State Land Authority, created in Section 11-59-201,~~]point of the mountain authority may by resolution levy a municipal energy sales and use tax under this part within the area that constitutes the point of the mountain state land, as defined in Section 11-59-102, as though the [~~Point of the Mountain State Land Authority~~]point of the mountain authority were a municipality.

(ii) The [~~Point of the Mountain State Land Authority's~~]point of the mountain authority's adoption of a resolution under Subsection (1)(c)(i) that otherwise complies with the requirements under this part applicable to an ordinance is considered the equivalent of adopting an ordinance under this part.

(d)(i) Beginning October 1, 2024, the fairpark district may by resolution levy a municipal energy sales and use tax under this part within the district sales tax area, as defined in Section 11-70-101, as though the fairpark district were a municipality.

(ii) The fairpark district's adoption of a resolution under Subsection (1)(d)(i) that otherwise complies with the requirements under this part applicable to an ordinance is considered the equivalent of adopting an ordinance under this part.

(2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.

(3)(a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b)(i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c)(i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4)(a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.

(b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

(5)(a) A municipality may not levy a municipal energy sales and use tax:

(i) within any portion of the municipality that is within a project area described in a project area plan adopted by the military[~~, installation development~~] authority under Title 63H, Chapter 1, Military Installation Development Authority Act; [~~or~~]

(ii) on or after July 1, 2022, within the point of the mountain state land, as defined in Section 11-59-102[~~.~~]; or

(iii) on or after October 1, 2024, within the district sales tax area, as defined in Section 11-70-101.

(b) Subsection (5)(a) does not apply to:

(i) the military[~~, installation development~~] authority's levy of a municipal energy sales and use tax; [~~or~~]

(ii) the [~~Point of the Mountain State Land Authority's~~]point of the mountain authority's levy of a municipal energy sales and use tax[~~.~~]; or

(iii) the fairpark district's levy of a municipal energy sales and use tax.

(6) A tax levied under this part by the military authority, point of the mountain authority, or fairpark district shall be administered and collected on behalf of and paid to the military authority, point of the mountain authority, or fairpark district, respectively, in the same way that a tax levied under this part by a municipality is administered and collected on behalf of and paid to the municipality.

Section 4. Section 10-1-310 is amended to read:

10-1-310. Existing energy franchise taxes or contractual franchise fees.

(1) Except as authorized in Subsection (2), Section 59-12-203, or Section 10-1-304, a municipality may not:

(a) impose on, charge, or collect a franchise tax or contractual a franchise fee from an energy supplier; or

(b) collect a franchise tax or contractual franchise fee pursuant to a franchise agreement in effect on July 1, 1997.

(2) A municipality that collects a contractual franchise fee from an energy supplier pursuant to a franchise agreement in effect on July 1, 1997, may continue to collect that fee at the same rate for the remaining term of the franchise agreement, except the municipality shall provide a credit against the municipal energy sales and use tax in the amount of the contractual franchise fee paid by the energy supplier pursuant to Subsection 10-1-305(5).

(3)(a) Subject to the requirements of Subsection (3)(b), a franchise agreement as defined in Subsection [~~10-1-303(6)~~]10-1-303(7) between a municipality and an energy supplier may contain a provision that:

(i) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act; and

(ii) imposes the contractual franchise fee on or after the day on which Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act is:

(A) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-304 is reduced; and

(B) is not superseded by a law imposing a substantially equivalent tax.

(b) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(a) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) This section may not affect the validity of any existing or future franchise agreement and any franchise agreement effective on July 1, 1997, shall remain in full force and effect, unless otherwise terminated or altered by agreement or applicable law.

Section 5. Section 10-1-403 is amended to read:

10-1-403. Levy of telecommunications license tax -- Recovery from customers -- Enactment, repeal, or change in rate of tax -- Annexation.

(1)(a)(i) Subject to the provisions of this section, beginning July 1, 2004, a municipality may levy on and provide that there is collected from a telecommunications provider a municipal telecommunications license tax on the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(ii) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(iii) Beginning October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may levy and collect a municipal telecommunications license tax under this part for telecommunications service provided within the district sales tax area, as defined in Section 11-70-101, to the same extent and in the same manner that a municipality is authorized to levy and collect a municipal telecommunications license tax under this part.

(b) To levy and provide for the collection of a municipal telecommunications license tax under this part, the municipality shall adopt an ordinance that complies with the requirements of Section 10-1-404.

(c) Beginning on July 1, 2007, a municipal telecommunications license tax imposed under this part shall be at a rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications service that are attributed to the municipality in accordance with Section 10-1-407.

(2) A telecommunications provider may recover the amounts paid in municipal telecommunications license taxes from the customers of the telecommunications provider within the municipality imposing the municipal telecommunications license tax through a charge that is separately identified in the statement of the transaction with the customer as the recovery of a tax.

(3)(a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Title 10, Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b)(i) If, on or after July 1, 2004, a municipality enacts or repeals a tax or changes the rate of the tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the municipality will enact or repeal a tax under this part or change the rate of the tax;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the municipality enacts the municipal telecommunications license tax or changes the rate of the tax, the new rate of the tax.

(c)(i) If, for an annexation that occurs on or after July 1, 2004, the annexation will result in a change in the rate of the tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, a municipality is not subject to the notice requirements of Subsection (3)(b) if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate of 3.5%.

(5) Notwithstanding Subsection (3)(b), for purposes of a change in a municipal telecommunications license tax rate that takes effect on July 1, 2007, the 90-day period described in Subsection (3)(b)(i)(B) is considered to be a 30-day period if:

(a) on June 30, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that exceeds 3.5%; and

(b) on July 1, 2007, the municipality has in effect an ordinance that levies a municipal telecommunications license tax at a rate that is less than 3.5%.

(6)(a)(i) A municipality may not levy or collect a municipal telecommunications license tax for telecommunications service provided within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act.

(ii) Beginning October 1, 2024, a municipality may not levy or collect a municipal telecommunications license fee for telecommunications service provided within any portion of the municipality that is within the district sales tax area, as defined in Section 11-70-101.

(b) Subsection (6)(a) does not apply to:

(i) the military installation development authority's levy of a municipal telecommunications license tax[.]; or

(ii) the levy of a municipal telecommunications license tax by the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(7)(a) The State Tax Commission shall provide to the military installation development authority the collection data necessary to verify that revenue collected by the State Tax Commission is distributed to the military installation development authority in accordance with this part.

(b) The data described in Subsection (7)(a) shall include the State Tax Commission's breakdown of military installation development authority revenue, including reports of collections and distributions.

Section 6. Section 11-36a-202 is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2)(a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force;

(v) on development activity on [~~fair park~~]state-owned land, as defined in Section [~~11-68-101~~]11-70-101; or

(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.

(b)(i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 7. Section 11-68-201 is amended to read:

11-68-201. State Fair Park Authority -- Legal status -- Powers.

(1) There is created the State Fair Park Authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3)(a) The fair corporation is dissolved and ceases to exist, subject to any winding down and other actions necessary for a transition to the authority.

(b) The authority:

(i) replaces and is the successor to the fair corporation;

(ii) succeeds to all rights, obligations, privileges, immunities, and assets of the fair corporation; and

(iii) shall fulfill and perform all contractual and other obligations of the fair corporation.

(c) The board shall take all actions necessary and appropriate to wind down the affairs of the fair corporation as quickly as practicable and to make a transition from the fair corporation to the authority.

(4) The authority shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events held [~~at the state~~]on fair park land:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the authority's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities on fair park land;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Office of Tourism, and other entities to develop and promote expositions and the use of fair park land;

(g) develop and maintain a marketing program to promote expositions and the use of fair park land;

(h) in accordance with provisions of this chapter, operate and maintain state-owned buildings and facilities on fair park land, including the physical appearance and structural integrity of those buildings and facilities;

(i) prepare an economic development plan for the fair park land;

(j) hold an annual exhibition on fair park land that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the board's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the authority may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the [~~corporation's~~]authority's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of the state.

(6) The authority may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b)(i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the authority's property and other assets;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the authority, subject to the conditions, if any, upon which the aid and contributions are made;

(e) enter into management agreements with any person or entity for the performance of the authority's functions or powers;

(f) establish accounts and procedures that are necessary to budget, receive, disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8) and subject to the powers and responsibilities of the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, lease any of the state-owned buildings or facilities located on fair park land;

(h) sponsor events as approved by the board;

(i) subject to Subsection (11), acquire any interest in real property that the board considers necessary or advisable to further a purpose of the authority or facilitate the authority's fulfillment of a duty under this chapter; and

(j) in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure, as those terms are defined in Section 11-42a-102; and

(k) enter into one or more agreements [~~to develop the fair park land~~]with the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(7) The authority shall comply with:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 52, Chapter 4, Open and Public Meetings Act;

(d) Title 63G, Chapter 2, Government Records Access and Management Act;

(e) the provisions of Section 67-3-12;

(f) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(i) entertainment provided at the state fair park;

(ii) judges for competitive exhibits; or

(iii) sponsorship of an event on fair park land; and

(g) the legislative approval requirements for capital development projects established in Section 63A-5b-404.

(8)(a)(i) Before the authority executes a lease described in Subsection (6)(g) with a term of 10 or more years and subject to the powers and responsibilities of the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the authority shall:

[~~(i)~~](A) submit the proposed lease to the division for the division's approval or rejection; and

[~~(ii)~~](B) if the division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(ii) The authority may not execute a lease under Subsection (6)(g) for any part of fair park land on or after May 1, 2024 unless the lease relates to the agricultural and related exhibit facilities on fair park land.

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the authority that the authority:

(i) execute the proposed lease, either as proposed or with changes recommended by the Executive Appropriations Committee; or

(ii) reject the proposed lease.

(9)(a) Subject to Subsection (9)(b), a department, division, or other instrumentality of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) The division shall provide assistance and resources to the authority as the division director determines is appropriate.

(10) The authority may share authority revenue with a municipality in which the fair park land is located, as provided in an agreement between the authority and the municipality, to pay for municipal services provided by the municipality.

(11)(a) As used in this Subsection (11), "new land" means land that, if acquired by the authority, would result in the authority having acquired over three acres of land more than the land described in Subsection 11-68-101(9)(a).

(b) In conjunction with the authority's acquisition of new land, the authority shall enter an agreement with the municipality in which the new land is located.

(c) To provide funds for the cost of increased municipal services that the municipality will provide to the new land, an agreement under Subsection (11)(b) shall:

(i) provide for:

(A) the payment of impact fees to the municipality for development activity on the new land; and

(B) the authority's sharing with the municipality tax revenue generated from the new land; and

(ii) be structured in a way that recognizes the needs of the authority and furthers mutual goals of the authority and the municipality.

Section 8. Section 11-68-202 is amended to read:

11-68-202. Operation of the state-owned buildings and facilities on fair park land --

New construction and modification of existing facilities -- Liability insurance -- Obligations of the authority.

(1) The authority shall:

(a) operate and maintain state-owned buildings and facilities on fair park land in accordance with the facility maintenance standards approved by the division;

(b) pay for all costs associated with operating and maintaining state-owned buildings and facilities on fair park land;

(c) obtain approval from the division before making any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system of a state-owned building or facility on fair park land;

(d) keep the fair park land and all state-owned buildings and facilities on fair park land fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;

(e) in accordance with Subsection (3), at the authority's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least $1,000,000 through one or more companies that are:

(i) licensed to do business in the state;

(ii) selected by the authority; and

(iii) approved by the division and the Division of Risk Management;

(f) ensure that the division is an additional insured with primary coverage on each insurance policy that the authority obtains in accordance with this section;

(g) give the division notice at least 30 days before the day on which the authority cancels any insurance policy that the authority obtains in accordance with this section; and

(h) if any lien that is not invalid under Section 38-1a-103 is recorded or filed against the state fair park as a result of an act or omission of the authority, cause the lien to be satisfied or released within 10 days after the day on which the authority receives notice of the lien.

(2)(a) As used in this Subsection (2):

(i) "Existing facility modification" means an alteration, repair, or improvement to an existing state-owned building or facility on fair park land.

(ii) "Major project" means new construction or an existing facility modification that costs, regardless of the funding source, over $100,000.

(iii) "Minor project" means new construction or an existing facility modification that costs, regardless of the funding source, $100,000 or less.

(iv) "New construction" means the design and construction of a new state-owned or privately owned building or facility on fair park land.

(b)(i) The director of the division shall exercise direct supervision over a major project.

(ii) Notwithstanding Subsection (2)(b)(i), the director of the division may delegate control over a major project to the authority on a project-by-project basis.

(iii) With respect to a delegation of control under Subsection (2)(b)(ii), the director of the division may:

(A) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(B) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.

(iv) If a major project over which the division exercises direct supervision includes the demolition of a building or other facility on fair park land, the division shall, at least 90 days before demolition work begins, notify the State Historic Preservation Office of the division's demolition plan.

(c) Subject to Subsection (2)(d), the authority may exercise direct supervision over a minor project.

(d) With respect to a minor project over which the authority exercises direct supervision, the authority shall:

(i) obtain the division's approval before commencing the new construction or existing facility modification;

(ii) obtain a building permit from the division before commencing the new construction or existing facility modification, if a building permit is required;

(iii) comply with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards;

(iv) notify the division before commencing the new construction or existing facility modification;

(v) coordinate with the division regarding the review of design plans and management of the new construction or existing facility modification project; and

(vi) at least 90 days before the beginning of any demolition of a building or facility on the fair park land, notify the division and the State Historic Preservation Office of the proposed demolition.

(3) The general public liability insurance described in Subsection (1)(e) shall:

(a) insure against any claim for personal injury, death, or property damage that occurs on fair park land; and

(b) be a blanket policy that covers all activities of the authority.

(4) Upon 24 hours notice to the board, the division may enter the fair park land to inspect any facility

on fair park land and make any repairs that the division determines necessary.

(5)(a) A debt or obligation contracted by the authority is a debt or obligation of the authority and not of the state.

(b) The state is not liable and assumes no responsibility for any debt or obligation of the authority.

(6) The powers and responsibilities of the authority under this section with regard to the issuance of bonds for capital development projects on fair park land are subject to the powers and responsibilities of the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

Section 9. Section 11-68-403 is amended to read:

11-68-403. Enterprise fund -- Creation -- Revenue -- Uses.

(1)(a) There is created an enterprise fund entitled the Utah State Fair Fund.

(b) The executive director shall administer the fund under the direction of the board.

(2) The fund consists of money generated from the following revenue sources:

(a) [~~lease payments from person or entities leasing any part of the fair park land or any other facilities owned by the authority~~]money the authority receives under Section 11-70-203;

(b) money the authority receives under a lease agreement for the lease of any part of fair park land;

[~~(b)~~](c) revenue received from any expositions or other events wholly or partially sponsored by the authority;

[~~(c)~~](d) aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or the state;

[~~(d)~~](e) appropriations made to the fund by the Legislature; and

[~~(e) revenue received under a privilege tax or a tax on personal property; and~~]

(f) any other income obtained by the authority.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to operate, maintain, and support the Utah State Fair, the fair park land, and other expositions sponsored by the authority.

Section 10. Section 11-68-502 is amended to read:

11-68-502. Sources from which bonds may be made payable -- Authority powers regarding bonds.

(1) The principal and interest on bonds issued by the authority may be made payable from:

(a) the income and revenues of the development projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated development projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, revenues, proceeds, and funds the authority derives from or holds in connection with the authority undertaking and carrying out development;

[~~(d) privilege tax and property tax revenue under Section 11-68-402;~~]

[~~(e)~~](d) revenue from a special event tax under Title 59, Chapter 12, Part 23, Fair Park Special Event Tax;

[~~(f)~~](e) authority revenues generally;

[~~(g)~~](f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the development; or

[~~(h)~~](g) funds derived from any combination of the sources listed in Subsections (1)(a) through (g).

(2)(a) In connection with the issuance of authority bonds, the authority may:

(i) pledge all or any part of the authority's gross or net rents, fees, or revenues to which the authority's right then exists or may thereafter come into existence; and

(ii) make the covenants and take the action that may be necessary, convenient, or desirable to secure the authority's bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

(b) The authority may not use all or any portion of the fair park land as collateral for any bonds or encumber the fair park land by mortgage, deed of trust, or otherwise as collateral for any bonds.

Section 11. Section 11-70-101 is enacted to read:

11-70-101. Definitions.

CHAPTER 70. UTAH FAIRPARK AREA INVESTMENT AND RESTORATION DISTRICT

Part 1. General Provisions

As used in this chapter:

(1) "Base taxable value" means the taxable value of land within the fairpark district boundary as of January 1, 2024, as determined under Subsection 11-70-206(9).

(2) "Board" means the fairpark district's governing body, created in Section 11-70-301.

(3) "Designated parcel" means a parcel of land specified in a designation resolution.

(4) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

(5) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (5)(a).

(6) "Development project" means a project for the development of land within a project area.

(7) "District sales tax area" means an area described in and established as provided in Subsection 11-70-206(10).

(8) "Enhanced property tax revenue":

(a) means the amount of money that is equal to the difference between:

(i) the amount of property tax revenues generated in a tax year by all taxing entities from privately owned land, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated in the same tax year by all taxing entities from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(9) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(10) "Fair park authority" means the State Fair Park Authority created in Section 11-68-201.

(11) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(12) "Fairpark district boundary" means a line or set of lines that:

(a) defines the geographic boundary of the fairpark district, consisting of the interior space within each polygon described by the line or set of lines; and

(b) is delineated in the electronic shapefile that is the electronic component of H.B. 562, Utah Fairpark Area Investment and Restoration District, 2024 General Session.

(13) "Fairpark district funds" means money the fairpark district receives from any source, including money the fairpark district receives under:

(a) Sections 10-1-304 and 11-70-205;

(b) Section 10-1-403;

(c) Section 11-70-203;

(d) Section 11-70-204;

(e) Sections 59-12-352 and 59-12-354;

(f) Section 59-12-401;

(g) Section 59-12-402; and

(h) Section 59-12-1201.

(14) "Fair park land" means the same as that term is defined in Section 11-68-101.

(15) "Franchise agreement" means a legally binding and valid agreement under which:

(a) a franchise is confirmed for a major league sports team that before January 1, 2024 had not been located in the state; and

(b) the major league sports team agrees to play home games in a stadium to be constructed within the fairpark district boundary.

(16) "Franchise agreement date" means the date that a franchise agreement is fully executed and in effect.

(17) "Host municipality" means the municipality whose boundary includes the land within the fairpark district boundary.

(18) "Major league sports team" means a team:

(a) consisting of professional athletes;

(b) that is part of a professional sports league; and

(c) that is engaged in the business of presenting live sporting events before primarily a paying audience.

(19) "Other state land" means:

(a) land within the fairpark district boundary, other than fair park land, that is owned by the state on January 1, 2024; and

(b) land acquired by the fairpark district or the state on or after May 1, 2024. within the fairpark district boundary.

(20) "Payment period" means a period of up to 35 years, as specified in a designation resolution, beginning on the transition date, during which enhanced property tax revenue under Section 11-70-401 is to be paid.

(21) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

(22) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(23) "Professional sports league" means a group of major league sports teams that have formed a league:

(a) for the major league sports teams to compete against one another; and

(b) in which the combined average annual payroll for the major league sports teams in the league on the franchise agreement date is not less than $100,000,000.

(24) "Project area" means land described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(25) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(26) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(27) "Property tax" includes each levy on an ad valorem basis on tangible or intangible personal or real property.

(28) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the fairpark district.

(29)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i)(A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii)(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) a qualified stadium;

(iv) public trails and pathways associated with and rehabilitation of and improvements to the Jordan River; and

(v) agricultural and related exhibit facilities on fair park land.

(30) "Qualified owner" means an owner of at least 65 contiguous acres of privately owned land within the fairpark district boundary, or the owner's affiliate.

(31)(a) "Qualified stadium" means a stadium:

(i) within the fairpark district boundary;

(ii) with a minimum capacity of 30,000 spectators; and

(iii) that will primarily be used as the home of a major league sports team.

(b) "Qualified stadium" includes parking structures or facilities, lighting facilities, plazas, and open space associated with a stadium described in Subsection (31)(a).

(32) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(33) "Stadium contribution" means the principal amount of bonds that the district issues to pay for the development and construction of a qualified stadium, plus any other amount the district pays toward the development and construction of a qualified stadium.

(34) "State fair purposes" means the purposes for the use of fair park land related to the fair park authority's management, supervision, and control over a state fair and related events and activities.

(35) "State-owned land" means:

(a) fair park land; and

(b) other state land.

(36) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(37) "Taxing entity" means the same as that term is defined in Section 59-2-102, excluding a public infrastructure district that the fairpark district creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(38) "Transition date" means the date indicated in a designation resolution after which the parcel that is the subject of the designation resolution becomes a post-designation parcel.

Section 12. Section 11-70-102 is enacted to read:

11-70-102. Severability.

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Section 13. Section 11-70-103 is enacted to read:

11-70-103. Nonlapsing funds.

Money the fairpark district receives from legislative appropriations is nonlapsing.

Section 14. Section 11-70-104 is enacted to read:

11-70-104. Loan approval committee -- Approval of infrastructure loans

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Fairpark district development fund" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(d) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee established under Subsection (2).

(2)(a) The fairpark district shall establish a loan committee consisting of:

(i) two individuals with expertise in public finance or infrastructure development, appointed by the governor;

(ii) one individual with expertise in public finance or infrastructure development, appointed by the president of the Senate;

(iii) one individual with expertise in public finance or infrastructure development, appointed by the speaker of the House of Representatives; and

(iv) one individual with expertise in public finance or infrastructure development, appointed jointly by the president of the Senate and the speaker of the House of Representatives.

(b) A board member may not be appointed to or serve as a member of the loan committee.

(3)(a) The loan committee may recommend for board approval an infrastructure loan from the fairpark district development fund to a borrower for an infrastructure project undertaken by the borrower.

(b) An infrastructure loan from the fairpark district development fund may not be made unless:

(i) the infrastructure loan is recommended by the loan committee; and

(ii) the board approves the infrastructure loan.

(4)(a) If the loan committee recommends an infrastructure loan, the loan committee shall recommend the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The board shall require the terms of an infrastructure loan secured by enhanced property tax revenue to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the enhanced property tax revenue.

(5) The board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(6) Within 60 days after the execution of an infrastructure loan, the board shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

(7)(a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 15. Section 11-70-201 is enacted to read:

11-70-201. Creation of Utah Fairpark Area Investment and Restoration District -- Status and purposes.

Part 2. Creation and Powers of Utah Fairpark Area Investment and Restoration District

(1) Under the authority of Utah Constitution, Article XI, Section 8, there is created the Utah Fairpark Area Investment and Restoration District.

(2) The fairpark district is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3)(a) The purpose of the fairpark district is to fulfill the statewide public purpose of encouraging and facilitating development within the fairpark district boundary to provide economic and other benefits to the area within the fairpark district boundary, surrounding areas, the region, and the state, including:

(i) the development and construction of a qualified stadium and related facilities for a major league sports team;

(ii) the development and construction of infrastructure to support a qualified stadium, associated uses, and recreational uses on land within the fairpark district boundary;

(iii) the improvement and restoration of areas along the Jordan River within the fairpark district boundary for aesthetic and recreational purposes;

(iv) coordinating with and supporting the fair park authority in the fair park authority's use of fair park land; and

(v) other development on land within the fairpark district boundary.

(b) The duties and responsibilities of the fairpark district under this chapter are matters of regional and statewide concern, importance, interest, and impact.

(c) The fairpark district is the mechanism the state chooses to focus resources and efforts on behalf of the state, to oversee and manage development activities within the fairpark district boundary, and to ensure that the regional and statewide interests, concerns, and purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any municipality can provide.

Section 16. Section 11-70-202 is enacted to read:

11-70-202. Fairpark district powers and duties.

(1) The fairpark district may:

(a) facilitate and bring about the development of land within the fairpark district boundary, including the development of a qualified stadium to house a major league sports team;

(b) enter into a lease agreement with a major league sports team to lease a qualified stadium to a major league sports team and receive lease payments on behalf of the state;

(c) facilitate and provide funding for the development of land in a project area, including the development of public infrastructure and improvements and other infrastructure and improvements on or related to land in a project area;

(d) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of land within the fairpark district boundary;

(e) as the fairpark district considers necessary or advisable to carry out any of the fairpark district's duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) receive and spend enhanced property tax revenue, as provided in this chapter;

(j) accept financial or other assistance from any public or private source for the fairpark district's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) issue bonds to finance the undertaking of any development objectives of the fairpark district, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(m) hire employees, including independent contractors;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) engage one or more consultants to advise or assist the fairpark district in the performance of the fairpark district's duties and responsibilities;

(p) enter into an agreement with a private contractor to provide a municipal service within a project area that is not being provided by a municipality or other governmental service provider;

(q) provide public safety services in the area within the fairpark district boundary, including under a contract, approved by the board, with an existing governmental provider of public safety services;

(r) finance, develop, own, lease, operate, or otherwise control public infrastructure and improvements in a project area; and

(s) exercise powers and perform functions that the fairpark district is authorized by statute to exercise or perform.

(2)(a) The fairpark district is responsible for and has jurisdiction over any development that occurs on fair park land, including the funding of that development.

(b) The fairpark district shall consult and coordinate with the fair park authority with respect to any development activities anticipated for or that occur on fair park land.

(c) Any development of fair park land shall be:

(i) subject to and compatible with the use of fair park land for state fair purposes and related and other activities under the jurisdiction of the fair park authority; and

(ii) as far as practicable, consistent with the master plan for fair park land approved by the fair park authority.

(3) With respect to state land other than fair park land, the fairpark district and the facilities division shall consult with each other and with agencies occupying the land with respect to any potential change of use or development of the land.

(4) The total amount of the fairpark district's stadium contribution may not exceed $900,000,000.

(5) Beginning April 1, 2025, the fairpark district shall:

(a) be the repository of the official delineation of the fairpark district boundary, identical to the fairpark district boundary as delineated in the shapefile that is the electronic component of H.B. 562, Utah Fairpark Area Investment and Restoration District, 2024 General Session, subject to:

(i) any later changes to the boundary enacted by the Legislature; and

(ii) any additions of land to the fairpark district boundary under Subsection (6); and

(b) maintain an accurate digital file of the boundary that is easily accessible by the public.

(6) The fairpark district boundary may be expanded to include land outside the fairpark district boundary if:

(a) the land is owned by a qualified owner;

(b) the qualified owner consents to including the land within the fairpark district boundary; and

(c) the land is:

(i) contiguous to the fairpark district boundary; or

(ii) within 200 feet of the fairpark district boundary.

Section 17. Section 11-70-203 is enacted to read:

11-70-203. Privilege tax on state-owned land.

(1)(a) Subject to Subsection (1)(b), the possession or beneficial use of property on state-owned land is subject to Title 59, Chapter 4, Privilege Tax.

(b) Subsection (1)(a) does not apply to a qualified stadium during the construction of the qualified stadium and before title to the stadium is conveyed to the fairpark district as required in an agreement under Subsection 11-70-502(3).

(2)(a) As provided in Subsection (2)(b):

(i) for revenue from a privilege tax under Subsection (1) on a designated parcel that is part of the fair park land:

(A) 75% of the revenue shall be paid to the fairpark district; and

(B) 25% of the revenue shall be paid to the fair park authority; and

(ii) for revenue from a privilege tax under Subsection (1) on a designated parcel that is part of other state land, 100% of the revenue shall be paid to the fairpark district.

(b) The treasurer of the county in which the fair park land is located shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the fairpark district and the fair park authority, as applicable, the revenue described in Subsection (2)(a).

(3)(a) The fairpark district shall use 20% of the money the fairpark district is paid under Subsection (2)(a)(ii) for moderate income housing, as defined in Section 10-9a-103, within the host municipality.

(b) The fairpark district and host municipality shall coordinate and work together to identify how, when, and where the money described in Subsection (3)(a) is spent.

Section 18. Section 11-70-204 is enacted to read:

11-70-204. Fairpark district accommodations tax.

(1) As used in this section:

(a)(i) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(ii) "Accommodations and services" does not include an accommodation or service for which amounts paid or charged are not part of a rental room rate.

(b) "Accommodations tax" means a tax imposed as provided in this section.

(2) By resolution, the fairpark district board may impose an accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within the district sales tax area.

(3) The maximum rate of an accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the fairpark district imposes an accommodations tax, a public entity, including the fairpark district, may not impose, on the amounts paid or charged for accommodations and services within the district sales tax area, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), an accommodations tax shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8)(a) An accommodations tax is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to an accommodations tax.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from an accommodations tax to the fairpark district; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from an accommodations tax.

(10)(a) If the fairpark district imposes, repeals, or changes the rate of an accommodations tax, the implementation, repeal, or change takes effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the fairpark district.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the fairpark district will impose, repeal, or change the rate of an accommodations tax;

(ii) the effective date of the implementation, repeal, or change of the accommodations tax; and

(iii) the rate of the accommodations tax.

(11) In addition to the uses permitted under Section 11-70-207, the fairpark district may allocate revenue from an accommodations tax to a county in which a place of accommodation that is subject to the accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the fairpark district board imposed an accommodations tax; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 19. Section 11-70-205 is enacted to read:

11-70-205. Energy sales and use tax.

(1) As provided in Subsection 10-1-304(1)(d), the fairpark district may by resolution levy an energy sales and use tax, under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, on an energy supplier, as defined in Section 10-1-303, that supplies energy to a facility on land within the district sales tax area.

(2) An energy sales and use tax under this section is subject to the maximum rate under Subsection 10-1-304(1)(a)(ii), except that delivered value does not include the amount of a tax paid under this section.

(3)(a) An energy supplier may recover from the energy supplier's customers an amount equal to the energy sales and use tax, if the energy supplier includes the amount as a separate billing line item.

(b) An energy sales and use tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.

(4)(a) An energy sales and use tax under this section is payable by the energy supplier to the fairpark district on a monthly basis as described by the resolution levying the tax.

(b) A resolution levying an energy sales and use tax shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

(5) Beginning October 1, 2024, a municipality may not levy an energy sales and use tax on an energy supplier for energy that the energy supplier supplies to a facility located on land within the district sales tax area.

Section 20. Section 11-70-206 is enacted to read:

11-70-206. Applicability of other law -- Cooperation of state and local governments -- Municipal services -- Services from state agencies -- Procurement policy.

(1) With respect to the use or development of state-owned land, the fairpark district is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(b) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, except to the extent that:

(i) some or all of the state land is, on January 1, 2024, included within the boundary of a special district or special service district; and

(ii) the fairpark district elects to receive service from the special district or special service district for the state land that is included within the boundary of the special district or special service district, respectively.

(2) The fairpark district has and may exercise all powers relating to the regulation of land uses on state-owned land.

(3)(a) Subject to Subsection (3)(b), the fairpark district has and may exercise all powers relating to the regulation of land uses on privately owned land within the fairpark district boundary.

(b)(i) Land owned by a qualified owner is subject to a host municipality's land use authority under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, if the qualified owner and the host municipality enter into an agreement, as provided in Subsection (3)(b)(ii), no later than December 31, 2024.

(ii)(A) An agreement under Subsection (3)(b)(i) shall require the host municipality to provide an expedited process for the review and approval of a qualified owner's completed land use application that complies with adopted land use regulations.

(B) In an agreement under Subsection (3)(b)(i), the host municipality shall agree to vest the qualified owner in any approved land use for a qualified stadium and related uses.

(c) A host municipality may not prohibit or condition the use of a qualified owner's land for a qualified stadium.

(d) In making land use decisions affecting land within the fairpark district boundary that is subject to a host municipality's land use authority under this Subsection (3), the legislative body of the host municipality shall consider input from the board.

(4) No later than December 31, 2024, the host municipality and the host municipality's community reinvestment agency shall take all necessary actions to withdraw from the fairpark district boundary any area that is within a project area of the community reinvestment agency.

(5) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the fairpark district to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the fairpark district fulfill its duties and responsibilities under this chapter.

(6)(a) A host municipality shall provide the same municipal services to the area of the municipality that is within the fairpark district boundary as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a host municipality provides within the fairpark district boundary shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(c) No later than December 31, 2024, the fairpark district and host municipality shall enter into an agreement providing for the fairpark district to reimburse the host municipality for services the host municipality provides to a project area.

(7)(a) The fairpark district may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (6)(a) may be construed to relieve the fairpark district of the obligation to pay the applicable fee for the service provided.

(8)(a) To govern fairpark district procurements, the board shall adopt a procurement policy that the board reasonably determines to substantially fulfill the purposes described in Section 63G-6a-102.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (7)(a) is final and conclusive.

(9) No later than December 31, 2024, the board and the assessor of the county in which the fairpark district is located shall together determine the base taxable value of privately owned property within the fairpark district boundary.

(10)(a) As used in this Subsection (10):

(i) "District ZIP area" means a ZIP area a majority of which includes land within the fairpark district boundary.

(ii) "ZIP area" means an area defined by the ZIP Code, as defined in Section 59-12-102, plus the four-digit deliver route extension.

(b) No later than June 1, 2024, the State Tax Commission shall:

(i) define the area that consists of all district zip areas; and

(ii) provide a description of the area under Subsection (9)(b)(i) to the host municipality and the board.

(c) The State Tax Commission shall annually:

(i) update the definition of the area under Subsection (10)(b)(i); and

(ii) provide the updated description to the host municipality and the board.

Section 21. Section 11-70-207 is enacted to read:

11-70-207. Use of fairpark district funds.

(1)(a) Subject to Subsection (2), the fairpark district may use fairpark district funds for any purpose authorized under this chapter, including to pay for:

(i) the development and construction of a qualified stadium;

(ii) administrative, overhead, legal, consulting, and other operating expenses of the fairpark district;

(iii) all or part of the development of land within a project area, including:

(A) financing or refinancing; and

(B) assisting the ongoing operation of a development or facility within the project area;

(iv) the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(v) the principal and interest on bonds issued by the fairpark district;

(vi) the payment of an infrastructure loan, as defined in Section 11-70-104, according to the terms of the infrastructure loan; and

(vii) the costs of promoting, facilitating, and implementing other development of land within the fairpark district boundary.

(b) The determination of the board under Subsection (1)(a)(iv) regarding benefit to the project area is final.

(2)(a) The fairpark district may use money it receives under Subsection 59-12-1201(2)(a)(ii) and Subsection 59-12-103(16) only for the development and construction of a qualified stadium, including paying for bonds issued to pay for the development and construction of a qualified stadium.

(b) If the amount of money the fairpark district receives under Subsection (2)(a) exceeds the amount required to pay the annual debt service on bonds issued to pay for the development and construction of a qualified stadium, the fairpark district shall use the excess amount received to pay down the principal on those bonds.

(3) The fairpark district may share enhanced property tax revenue with a taxing entity that levies a property tax on land within the project area from which the enhanced property tax revenue is generated.

Section 22. Section 11-70-301 is enacted to read:

11-70-301. Fairpark district board

Part 3. Fairpark District Board and Executive Director

(1) The fairpark district shall be governed by a board.

(2)(a) The board shall manage and conduct the business and affairs of the fairpark district and shall determine all questions of fairpark district policy.

(3) All powers of the fairpark district are exercised through the board or, as provided in Section 11-70-305, the executive director.

(4) The board may by resolution delegate powers to the executive director or other fairpark district staff.

Section 23. Section 11-70-302 is enacted to read:

11-70-302. Number of board members -- Appointment -- Terms -- Vacancies -- Nonvoting members.

(1) The fairpark district's board consists of five voting members, as provided in Subsection (2).

(2)(a) The governor shall appoint two individuals as board members:

(i) one of whom shall be a member of the fair park authority board; and

(ii) one of whom shall be a representative from the West Side Coalition in Salt Lake City.

(b) The president of the Senate shall appoint as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint as a board member one individual with relevant business expertise.

(d) The host municipality shall appoint one individual as a board member.

(3) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, 2024.

(4) The term of a board member appointed under Subsection (2) is six years, except that the initial term of the members appointed under Subsection (2)(a) is three years.

(5) Each board member serves until a successor is duly appointed and qualified.

(6) An appointed board member may serve multiple terms if duly appointed under Subsection (2) to serve each term.

(7)(a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(8) A member of the board appointed under Subsection (2)(a), (b), or (c) serves at the pleasure of

and may be removed and replaced at any time, with or without cause, by the individual who appointed the member.

(9) A majority of the voting members of the board may appoint as many as two individuals to serve as nonvoting advisory board members, to serve as the board determines.

Section 24. Section 11-70-303 is enacted to read:

11-70-303. Board quorum -- Chair and officers -- Compensation.

(1) A majority of voting members constitutes a quorum, and the action of a majority of voting members constitutes action of the board.

(2) Upon a vote of a majority of all voting board members, the board may appoint a board chair and any other officer of the board.

(3)(a) A board member who is not a legislator may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member as allowed in:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 25. Section 11-70-304 is enacted to read:

11-70-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, within the fairpark district boundary, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within the fairpark district boundary; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of land within the fairpark district boundary; or

(ii) acquire an interest in or locate a facility within the fairpark district boundary.

(3) Before taking office as a board member or accepting employment as executive director, an individual shall submit to the fairpark district a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4)(a) An individual may not, at any time during the individual's service as a board member or employment with the fairpark district, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within the fairpark district boundary, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of land within the fairpark district boundary.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5)(a) A board member or an employee of the fairpark district may not receive a direct financial benefit from development within the fairpark district boundary.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the fairpark district.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 26. Section 11-70-305 is enacted to read:

11-70-305. Executive director.

(1)(a) The board may hire an executive director to be the chief executive officer of the fairpark district.

(b) The board shall oversee an executive director hired by the board.

(2) The role of an executive director hired by the board is to:

(a) manage and oversee the day-to-day operations of the fairpark district;

(b) fulfill the executive and administrative duties and responsibilities of the fairpark district; and

(c) perform other functions or duties, as directed by the board.

(3) An executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for the fairpark district to successfully fulfill the fairpark district's duties and responsibilities under this chapter.

(4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(5) The board shall establish the compensation and benefits of an executive director.

Section 27. Section 11-70-401 is enacted to read:

11-70-401. Enhanced property tax revenue to be paid to fairpark district.

Part 4. Enhanced Property Tax Revenue

(1) Subject to Subsection (5), the fairpark district shall be paid 90% of enhanced property tax revenue generated from each parcel of privately owned land within the fairpark district boundary:

(a) beginning the tax year that begins on January 1, 2025; and

(b) until the transition date for that parcel.

(2) Subject to Subsection (5), during the payment period the fairpark district shall be paid up to 100% of enhanced property tax revenue:

(a) generated from designated parcels of privately owned land within a project area; and

(b) as the board specifies in a designation resolution adopted in consultation with a qualified owner.

(3) For purposes of the payment of enhanced property tax revenue under this section, a payment period shall begin, as specified in the designation resolution, on January 1 of a year that begins after the designation resolution is adopted.

(4)(a) For purposes of this section, the fairpark district may designate an improved portion of a parcel in a project area as a separate parcel.

(b) A fairpark district designation of an improved portion of a parcel as a separate parcel under Subsection (4)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the fairpark district as a separate parcel under Subsection (4)(a).

(5) A host municipality shall be paid 25% of the enhanced property tax revenue generated by a property tax imposed by the host municipality.

Section 28. Section 11-70-402 is enacted to read:

11-70-402. Distribution of enhanced property tax revenue.

A county that collects property tax on property within the county in which the fairpark district is located shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the fairpark district and the host municipality the amount of enhanced property tax revenue that the fairpark district and the host municipality, respectively, is entitled to collect under this chapter.

Section 29. Section 11-70-403 is enacted to read:

11-70-403. Use of enhanced property tax revenue.

The fairpark district may use enhanced property tax revenue collected from a project area for a development project outside the fairpark district boundary if approved by the board.

Section 30. Section 11-70-501 is enacted to read:

11-70-501. Preparation of project area plan -- Required contents of project area plan.

Part 5. Project Area Plan and Budget

(1) As provided in this section, the fairpark district may adopt a project area plan for the development of some or all of the land within the fairpark district boundary.

(2) In consultation with the fair park authority board, the fairpark district may adopt a project area plan for the development of some or all of the fair park land.

(3) With the consent of a qualified owner, the fairpark district may adopt a project area plan for the development of the qualified owner's land, including the development and construction of a qualified stadium.

(4)(a) To adopt a project area plan, the board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-70-503(2);

(iii) hold at least one public meeting, as required under Subsection 11-70-503(1); and

(iv) after holding at least one public meeting and subject to Subsection (4)(b), adopt the draft project area plan as the project area plan.

(b) Before adopting a draft project area plan as the project area plan, the board may make modifications to the draft project area plan that the board considers necessary or appropriate.

(5) A project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area;

(b) the fairpark district's purposes and intent with respect to the project area; and

(c) the board's findings and determination that:

(i) there is a need for the proposed development project to effectuate a public purpose;

(ii) there is a public benefit that will result from the proposed development project; and

(iii) it is economically sound and feasible to adopt and carry out the project area plan.

Section 31. Section 11-70-502 is enacted to read:

11-70-502. Qualified stadium under project area plan.

(1) A project area plan may provide for the development and construction of a qualified stadium on land that, until conveyed to the fairpark district as provided in Subsection (3)(b), is owned by a qualified owner.

(2) A project area plan under Subsection (1) shall include a requirement that the qualified owner and fairpark district enter an agreement relating to:

(a) the development, construction, operation, and ownership of a qualified stadium; and

(b) the development of other land owned by the qualified owner within the fairpark district boundary.

(3)(a) An agreement under Subsection (2) shall:

(i) limit the stadium contribution to the lesser of:

(A) half the actual cost of developing and constructing the qualified stadium; or

(B) $900,000,000;

(ii) require the qualified owner to convey to the fairpark district, as soon as practicable after the franchise agreement date, title to the property on which the qualified stadium will be constructed;

(iii) require the qualified owner, if the major league sports team leaves the qualified stadium before 30 years after the franchise agreement date, to;

(A) pay the remaining outstanding balance of bonds issued by the fairpark district for the development and construction of the qualified stadium; and

(B) pay to the fairpark district the difference between the stadium contribution and the amount paid under Subsection (3)(a)(iii)(A);

(iv) provide for the fairpark district to possess full ownership rights to the qualified stadium;

(v) provide for the qualified owner to sell and control sponsorship rights relating to the qualified stadium;

(vi) provide for the fairpark district to lease the qualified stadium to the major league sports team for lease payments of $150,000 per month for 360 months;

(vii) require the qualified owner to operate and maintain the qualified stadium and to pay for all operation and maintenance costs;

(viii) require the qualified owner to cooperate and coordinate with the fairpark district to allow events other than events of the major league sports team to occur at the qualified stadium if those other events do not interfere with the use of the qualified stadium for events of the major league sports team;

(ix) include negotiated terms that are fair and reasonable;

(x) establish the timing and process for the development of the qualified owner's property within the fairpark district boundary, based on the qualified owner's development plan;

(xi) establish the timing and process for assisting the fair park authority to complete the fair park authority's master plan; and

(xii) require the major league sports team to be given a name that includes "Utah."

(b) Before approving an agreement under Subsection (3)(a), the board shall:

(i) hold at least one public meeting to consider and discuss the draft agreement; and

(ii) provide notice of the public meeting as provided in Subsection 11-70-503(2).

(c) A legal action or other challenge to an agreement under Subsection (3)(a) by a person other than a party to the agreement is barred unless brought within 30 days after the execution of the agreement.

(4) The fairpark district shall pay to the Division of Finance, for deposit into the General Fund, all lease payments the fairpark district receives under a lease agreement for the qualified stadium.

Section 32. Section 11-70-503 is enacted to read:

11-70-503. Public meeting to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The board shall hold at least one public meeting to consider and discuss a draft project area plan.

(2) Before holding a public meeting under Subsection (1), the board shall give notice of the public meeting:

(a) to each taxing entity, at least 10 days before the public meeting; and

(b) for the project area, as a class A notice under Section 63G-30-102, for at least 10 days before the public meeting.

(3) Following consideration and discussion at a public meeting under Subsection (1), and any modification of the project area plan under Subsection 11-70-501(4)(b), the board may adopt the draft project area plan or modified draft project area plan as the project area plan.

Section 33. Section 11-70-504 is enacted to read:

11-70-504. Notice of project area plan adoption -- Effective date of plan -- Time

for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice:

(a) for the project area, as a class A notice under Section 63G-30-102, for at least 30 days; and

(b) as required by Section 45-1-101.

(2)(a) A notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan becomes effective on the date designated in the board resolution.

(4) The fairpark district shall make the adopted project area plan available to the general public at the fairpark district's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the fairpark district shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor, auditor, and recorder of each county where the project area is located.

(6) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

Section 34. Section 11-70-505 is enacted to read:

11-70-505. Amendment to a project area plan.

(1) The fairpark district may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the fairpark district's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

Section 35. Section 11-70-506 is enacted to read:

11-70-506. Project area budget.

(1) Before the fairpark district may use the enhanced property tax revenue from a project area, the board shall prepare and adopt a project area budget.

(2) A project area budget shall include:

(a) the base taxable value of property in the project area;

(b) the projected enhanced property tax revenue expected to be generated within the project area;

(c) the amount of the enhanced property tax revenue expected to be used to implement the project area plan, including the estimated amount of the enhanced property tax revenue to be used for:

(i) land acquisition;

(ii) public infrastructure and improvements; and

(iii) loans, grants, or other incentives to private and public entities;

(d) the enhanced property tax revenue expected to be used to cover the cost of administering the project area plan;

(e) the amount of enhanced property tax revenue expected to be shared with other taxing entities; and

(f) for property that the fairpark district owns or leases and expects to sell or sublease, the expected total cost of the property to the fairpark district and the expected selling price or lease payments.

(3) The board may amend an adopted project area budget as and when the board considers it appropriate.

Section 36. Section 11-70-601 is enacted to read:

11-70-601. Resolution authorizing issuance of fairpark district bonds -- Characteristics of bonds -- Notice.

Part 6. Fairpark District Bonds

(1) In issuing bonds under this part, the fairpark district shall comply with applicable requirements and provisions of Title 63C, Chapter 25, State Finance Review Commission.

(2)(a) As provided in the fairpark district resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of

payment and at the place, and have other characteristics as provided in the fairpark district resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) for the area within the fairpark district boundary, as a class A notice under Section 63G-30-102, for at least 30 days; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6)(a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the fairpark district shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 37. Section 11-70-602 is enacted to read:

11-70-602. Sources from which bonds may be made payable -- Fairpark district powers regarding bonds.

(1) Subject to Subsection 11-70-207(2), the principal and interest on bonds issued by the fairpark district may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the fairpark district derives from or holds in connection with its undertaking and carrying out development of land within the fairpark district boundary;

(d) enhanced property tax revenue;

(e) fairpark district revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the fairpark district; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of fairpark district bonds, the fairpark district may:

(a) as the board determines in the board's reasonable discretion, pledge all or any part of the fairpark district's gross or net rents, fees, or revenues to which the fairpark district's right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of the fairpark district's real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 38. Section 11-70-603 is enacted to read:

11-70-603. Purchase of fairpark district bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by the fairpark district under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section relieves a purchaser of fairpark district bonds of any duty to exercise reasonable care in selecting securities.

Section 39. Section 11-70-604 is enacted to read:

11-70-604. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of the board or other person executing a fairpark district bond is not liable personally on the bond.

(2)(a) A bond issued by the fairpark district is not a general obligation or liability of the state or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by the fairpark district is not payable out of any funds or properties other than those of the fairpark district.

(c) The state and its political subdivisions are not and may not be held liable on a bond issued by the fairpark district.

(d) A bond issued by the fairpark district does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the fairpark district under this part is fully negotiable.

Section 40. Section 11-70-605 is enacted to read:

11-70-605. Bonds exempt from taxes -- Fairpark district may purchase its own bonds.

(1) A bond issued by the fairpark district under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) The fairpark district may purchase its own bonds at a price that its board determines.

(3) Nothing in this section limits the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the fairpark district on its rents, fees, grants, properties, or revenues.

Section 41. Section 11-70-701 is enacted to read:

11-70-701. Annual fairpark district budget -- Fiscal year -- Public hearing and notice required -- Auditor forms.

Part 7. Fairpark District Budget and Other Financial Matters

(1) The fairpark district shall prepare and the board adopt an annual budget of revenues and expenditures for the fairpark district for each fiscal year.

(2) Each annual fairpark district budget shall be adopted before June 22.

(3) The fairpark district's fiscal year shall be the period from July 1 to the following June 30.

(4)(a) Before adopting an annual budget, the fairpark district board shall hold a public hearing on the annual budget.

(b) The fairpark district shall provide notice of the public hearing on the annual budget by publishing notice as a class A notice under Section 63G-30-102 for at least one week before the public hearing.

(c) The fairpark district shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each fairpark district budget, including:

(a) revenues and expenditures for the budget year; and

(b) administrative costs, including legal fees, rent, supplies, and other materials, and salaries of fairpark district personnel.

Section 42. Section 11-70-702 is enacted to read:

11-70-702. Amending the fairpark district annual budget.

(1) The board may by resolution amend an annual fairpark district budget.

(2) An amendment of the annual fairpark district budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) The fairpark district may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Section 43. Section 11-70-703 is enacted to read:

11-70-703. Audit requirements.

The fairpark district shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 44. Section 11-70-704 is enacted to read:

11-70-704. Fairpark district chief financial officer is a public treasurer -- Certain fairpark district funds are public funds.

(1) The fairpark district's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the fairpark district funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the fairpark district receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 45. Section 11-70-801 is enacted to read:

11-70-801. Dissolution of fairpark district -- Restrictions -- Notice of dissolution -- Disposition of fairpark district property -- Fairpark district records -- Dissolution expenses.

Part 8. Fairpark District Dissolution

(1) The fairpark district may not be dissolved unless the fairpark district has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the fairpark district:

(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution:

(i) for the county in which the dissolved fairpark district is located, as a class A notice under Section 63G-30-102, for at least seven days; and

(ii) as required in Section 45-1-101; and

(b) all title to property owned by the fairpark district vests in the state.

(3) The books, documents, records, papers, and seal of each dissolved fairpark district shall be deposited for safekeeping and reference with the state auditor.

(4) The fairpark district shall pay all expenses of the deactivation and dissolution.

Section 46. Section 17-22-5.5 is amended to read:

17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1)(a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3)(a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 77-20-203 or 77-20-204.

(6)(a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony as defined in Section 76-3-203.5; or

(B) a qualifying domestic violence offense as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.

(b) The jail facility shall notify the entity supervising the individual's probation or parole that the individual is being detained.

(c)(i) The jail facility shall release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.

(7) The sheriff of a county of the first class is encouraged to open and operate all sections of a jail facility within the county that is not being used to full capacity.

Section 47. Section 17D-4-102 is amended to read:

17D-4-102. Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; [~~or~~]

(c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or

[~~(c)~~](d) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Special Districts, and this chapter.

(7)(a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; [~~and~~]

(b) the same as that term is defined in Section 11-70-101, for a public infrastructure district created by the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; and

[~~(b)~~](c) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 48. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a)(i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c)(i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

[~~(iii)~~](iv) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

[~~(iv)~~](v) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

[~~(v)~~](vi) for a host local government, the same as that term is defined in Section 63N-2-502; or

[~~(vi)~~](vii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f)(i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the amount calculated by multiplying:

(A) the difference between the taxable value for the current year and the base taxable value of the property that is located within a project area; and

(B) the number that represents the percentage of enhanced property tax revenue, as defined in Section 11-70-101;

[~~(iii)~~](iv) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

[~~(iv)~~](v) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

[~~(v)~~](vi) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone; or

[~~(vi)~~](vii) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government[~~; or~~].

[~~(vii) for the State Fair Park Authority created in Section 11-68-201, the taxable value of:~~]

[~~(A) fair park land, as defined in Section 11-68-101, that is subject to a privilege tax under Section 11-68-402; or~~]

[~~(B) personal property located on property that is subject to the privilege tax described in Subsection (1)(n)(vii)(A).~~]

(o)(i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, the same as that term is defined in Section 11-70-101;

[~~(ii)~~](iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

[~~(iii)~~](iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201, an amount equal to the incremental value that is no longer provided to the Utah Fairpark Area Investment and Restoration District;

[~~(iii)~~](iv) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

[~~(iv)~~](v) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation; or

[~~(v)~~](vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

[~~(i)~~](A) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

[~~(ii)~~](B) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4)(a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6)(a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7)(a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8)(a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9)(a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 49. Section 59-4-101 is amended to read:

59-4-101. Tax basis -- Exceptions -- Assessment and collection -- Designation of person to receive notice.

(1)(a) Except as provided in Subsections (1)(b), (1)(c), and (3), a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property that is exempt for any reason from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection (1)(a) does not apply to property exempt from taxation under Section 59-2-1114.

(2)(a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

(3) A tax is not imposed under this chapter on the following:

(a) the use of property that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property that is available as a matter of right to the use of the general public;

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates;

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

(4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

(5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and, subject to [~~Subsection 11-68-402(2)~~]Section 11-70-203, distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property that is subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

(6)(a)(i) Except as provided in Subsection (6)(a)(ii), if a governmental entity is required under this chapter to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable provision of this chapter; and

(B) each person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(i)(A).

(ii) If a governmental entity is required under Section 59-2-919.1 or 59-2-1317 to send information or notice to a person, the governmental entity shall send the information or notice to:

(A) the person required under the applicable section; or

(B) one person designated in accordance with Subsection (6)(b) by the person described in Subsection (6)(a)(ii)(A).

(b)(i) A person to whom a governmental entity is required under this chapter to send information or notice may designate a person to receive the information or notice in accordance with Subsection (6)(a).

(ii) To make a designation described in Subsection (6)(b)(i), the person shall submit a written request to the governmental entity on a form prescribed by the commission.

(c) A person who makes a designation described in Subsection (6)(b) may revoke the designation by submitting a written request to the governmental entity on a form prescribed by the commission.

(7) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

Section 50. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)(A) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to

17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the

deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

Section 51. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)(A) A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the

hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current

fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the

commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

(16) Notwithstanding Subsection (3)(a), beginning October 1, 2024 the commission shall transfer to the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, the revenue from the sales and use tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate, on transactions occurring within the district sales tax area, as defined in Section 11-70-101.

Section 52. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3)(a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4)(a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7)(a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if:

(a) the sale is not from the vehicle's lessor to the vehicle's lessee;

(b) the vehicle is not registered in this state; and

(c)(i) the vehicle is not used in this state; or

(ii) the vehicle is used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10)(a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii)(A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b)(i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12)(a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13)(a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale, lease agreement, or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale, lease agreement, or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15)(a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17)(a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18)(a)(i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i)(A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii)(A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal

property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24)(a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59- 12- 103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b)(i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34)(a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37)(a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40)(a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41)(a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43)(a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47)(a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51)(a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b)(i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54)(a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56)(a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57)(a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C)(I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58)(a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61)(a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62)(a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63)(a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41- 1a- 202 or 73- 18- 9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70)(a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76)(a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and

Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or

diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment;

(89) amounts paid or charged for an item exempt under Section 59-12-104.10;

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement;

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback;

(92) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1;

(93) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (93)(a); and

(c) will be consumed in the performance of the service described in Subsection (93)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose;

(94) sales of rail rolling stock manufactured in Utah; [~~and~~]

(95) amounts paid or charged for sales of sand, gravel, rock aggregate, cement products, or construction materials between establishments, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if:

(a) the establishments are related directly or indirectly through 100% common ownership or control; and

(b) each establishment is described in one of the following subsectors of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Subsector 237, Heavy and Civil Engineering Construction; or

(ii) NAICS Subsector 327, Nonmetallic Mineral Product Manufacturing[~~.~~]; and

(96) sales of construction materials used for the construction of a qualified stadium, as defined in Section 11-70-101.

Section 53. Section 59-12-352 is amended to read:

59-12-352. Authority to impose a transient room tax -- Purposes for which revenues may be used.

(1)(a) Except as provided in Subsection (5), the governing body of a municipality may impose a tax of not to exceed 1% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(c) Beginning October 1, 2024, the Utah Fairpark Area Investment and Restoration District, created

in Section 11-70-201, may impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within the district sales tax area, as defined in Section 11-70-101, to the same extent and in the same manner as a municipality may impose a tax under this section.

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may, by ordinance, increase or decrease the tax under this part.

(3) A governing body of a municipality shall regulate the tax under this part by ordinance.

(4) A municipality may use revenues generated by the tax under this part for general fund purposes.

(5)(a) A municipality may not impose a tax under this section for accommodations and services described in Subsection 59-12-103(1)(i) within a project area described in a project area plan adopted by:

(i) the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act[.]; or

(ii) the Utah Fairpark Area Investment and Restoration District under Title 11, Chapter 70, Utah Fairpark Area Investment and Restoration District.

(b) Subsection (5)(a) does not apply to the military installation development authority's imposition of a tax under this section.

(6)(a) As used in this Subsection (6):

(i) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(ii) Authority board" means the board referred to in Section 11-59-301.

(b) The authority may, by a resolution adopted by the authority board, impose a tax of not to exceed 5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) for transactions that occur on point of the mountain state land, as defined in Section 11-59-102.

(c) The authority board, by resolution, shall regulate the tax under this Subsection (6).

(d) The authority shall use all revenue from a tax imposed under this Subsection (6) to provide affordable housing, consistent with the manner that a community reinvestment agency uses funds for affordable housing under Section 17C-1-412.

(e) A tax under this Subsection (6) is in addition to any other tax that may be imposed under this part.

Section 54. Section 59-12-354 is amended to read:

59-12-354. Collection of tax -- Administrative charge.

(1) Except as provided in Subsections (2) and (3), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Part 1, Tax Collection; or

(ii) Part 2, Local Sales and Use Tax Act; and

(b) Chapter 1, General Taxation Policies.

(2)(a) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(b) [~~The~~]Except as provided in Subsection (2)(c), the commission[:]

[~~(i) except as provided in Subsection (2)(b)(ii),~~] shall distribute the revenue collected from the tax to:

[~~(A)~~](i)(A) the municipality within which the revenue was collected, for a tax imposed under this part by a municipality; [~~and~~]or

(B) the Utah Fairpark Area Investment and Restoration District, for a tax imposed under this part by the Utah Fairpark Area Investment and Restoration District; and

[~~(B)~~](ii) the Point of the Mountain State Land Authority, for a tax imposed under Subsection 59-12-352(6)[~~; and~~].

[~~(ii)~~](c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

Section 55. Section 59-12-401 is amended to read:

59-12-401. Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

(1)(a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.

(b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:

(i)(A) the sale of [:]a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

[~~(A) a motor vehicle;~~]

[~~(B) an aircraft;~~]

[~~(C) a watercraft;~~]

[~~(D) a modular home;~~]

[~~(E) a manufactured home; or~~]

[~~(F) a mobile home;~~]

[~~(ii)~~](B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

[~~(iii)~~](C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients[~~.~~]; or

(ii) transactions that occur in the district sales tax area, as defined in Subsection (4), if the fairpark district, as defined in Subsection (4), has imposed a tax under Subsection (4).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A city or town imposing a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2)(a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3)(a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

(b) For purposes of calculating the permanent census population within a project area, the board, as defined in Section 63H-1-102, shall:

(i) use the actual number of permanent residents within the project area as determined by the board;

(ii) include in the calculation of transient room capacity the number, as determined by the board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

(4)(a) As used in this Subsection (4):

(i) "District sales tax area" means the same as that term is defined in Section 11-70-101.

(ii) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(iii) "Fairpark district board" means the board of the fairpark district.

(b) The fairpark district, by resolution of the fairpark district board, may impose a tax under this section, as though the fairpark district were a city or town, on transactions described in Subsection 59-12-103(1):

(i) located within the district sales tax area; and

(ii) that occur on or after October 1, 2024.

(c) For purposes of calculating the permanent census population within the district sales tax area, the fairpark district board shall:

(i) use the actual number of permanent residents within the district sales tax area as determined by the fairpark district board;

(ii) include in the calculation of transient room capacity the number, as determined by the fairpark district board, of approved high-occupancy lodging units, recreational lodging units, special lodging units, and standard lodging units, even if the units are not constructed;

(iii) adopt a resolution verifying the population number; and

(iv) provide the commission any information required in Section 59-12-405.

(d) Notwithstanding Subsection (1)(a), the fairpark district may impose the sales and use tax under this section if there are no permanent residents within the district sales tax area.

Section 56. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority imposition of tax.

(1)(a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i)(A) the sale of [:]a motor vehicle, an aircraft, a watercraft, a modular home, a manufactured home, or a mobile home;

[~~(A) a motor vehicle;~~]

[~~(B) an aircraft;~~]

[~~(C) a watercraft;~~]

[~~(D) a modular home;~~]

[~~(E) a manufactured home; or~~]

[~~(F) a mobile home;~~]

[~~(ii)~~](B) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

[~~(iii)~~](C) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients[~~.~~]; or

(ii) transactions that occur in the district sales tax area, as defined in Subsection 59-12-401(4), if the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, has imposed a tax under Subsection (8).

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2)(a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election for the municipality, as a class A notice under Section 63G-30-102, for at least 15 days before the day on which the election is held.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6)(a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

(8) The Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201, may impose an additional resort communities tax under this section on transactions that occur:

(a) within the district sales tax area, as defined in Subsection 59-12-401(4); and

(b) that occur on or after October 1, 2024.

Section 57. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) As used in this section:

(a) "Fairpark district board" means the board of the fairpark district.

(b) "Fairpark district" means the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(c) "Franchise agreement date" means the same as that term is defined in Section 11-70-101.

(d) "Stadium contribution" means the same as that term is defined in Section 11-70-101.

(e) "Transition date" means the first day of the calendar quarter that begins at least 90 days after

the fairpark district board delivers to the commission the certificate described in Subsection (2)(a)(ii)(B).

[~~(1)~~](2)(a)(i) Except as provided in Subsections [~~(3) and (4)~~](4) and (5), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(ii)(A) In addition to the tax imposed under Subsection (2)(a)(i) and except as provided in Subsections (4) and (5), beginning on the transition date there is imposed a tax of 1.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(B) After the franchise agreement date, the fairpark district board shall deliver to the commission a certificate verifying the execution of a franchise agreement, as defined in Section 11-70-101, and providing the franchise agreement date.

(C) A tax under this Subsection (2)(a)(ii) is imposed only if the franchise agreement date is on or before June 30, 2032.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

[~~(2)~~](3)(a) Subject to Subsection [~~(2)(b)~~](3)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection [~~(1)~~](2) shall take effect on the first day of a calendar quarter.

(b)(i) For a transaction subject to a tax under Subsection [~~(1)~~](2), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection [~~(1)~~](2).

(ii) For a transaction subject to a tax under Subsection [~~(1)~~](2), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection [~~(1)~~](2).

[~~(3)~~](4) Beginning on July 1, 2023, a tax imposed under [~~Subsection (1)~~]this section applies at the same rate to car sharing, except for:

(a) car sharing for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(b) car sharing for more than 30 days.

[~~(4)~~](5) A motor vehicle is exempt from the tax imposed under [~~Subsection (1)~~]this section if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

[~~(5)~~](6)(a)(i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (5)(a)(i), a tax under this part is not subject to 59-12-103(4) through (9) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under [~~Subsection~~] [~~(5)(b)~~]Subsections (6)(b) and (d), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

(d)(i) Subject to Subsection (6)(d)(iii), all revenue received by the commission under Subsection (2)(a)(ii) shall be paid to the fairpark district.

(ii) Within 10 days after the fairpark district completes payment of the stadium contribution, the fairpark district board shall deliver to the commission a written statement verifying that the fairpark district has completed payment of the stadium contribution.

(iii) Upon receipt of the written statement under Subsection (6)(d)(ii), the commission shall:

(A) discontinue collecting revenue under Subsection (2)(a)(ii), beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement;

(B) discontinue distributing revenue under Subsection (2)(a)(ii) to the fairpark district, beginning the first day of the calendar quarter that is at least 90 days after the commission's receipt of the written statement; and

(C) notify the Executive Appropriations Committee of the Legislature that the commission is discontinuing collecting and distributing revenue under Subsection (2)(a)(ii).

Section 58. Section 63A-3-401.5 is amended to read:

63A-3-401.5. Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Fairpark district development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

[~~(2)~~](3) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; [~~or~~]

(c) the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201; or

[~~(c)~~](d) the Military Installation Development Authority created in Section 63H-1-201.

[~~(3)~~](4) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

[~~(4)~~](5) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

[~~(5)~~](6) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval body determines by resolution that the public infrastructure and improvements are of benefit to the project area.

[~~(6)~~](7) "Inland port" means the same as that term is defined in Section 11-58-102.

[~~(7)~~](8) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

[~~(8)~~](9) "Military development fund" means the infrastructure fund created in Subsection [~~63A-3-402(1)(c)~~]63A-3-402(1)(d).

[~~(9)~~](10) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

[~~(10)~~](11) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; [~~and~~]

(c) the same as that term is defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or

[~~(c)~~](d) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

[~~(11)~~](12) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; [~~or~~]

(b) enhanced property tax revenue, as defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or

[~~(b)~~](c) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

[~~(12)~~](13) "Public infrastructure and improvements" means:

(a) [~~means~~]the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) [~~means~~]publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; [~~and~~]

(c) the same as that term is defined in Section 11-70-101, for purposes of an infrastructure loan from the fairpark district development fund; or

[~~(c)~~](d) [~~means~~]the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

[~~(13)~~](14) "Respective loan approval body" means:

(a) the board created in Section 11-58-301, for purposes of an infrastructure loan from the inland port fund;

(b) the board created in Section 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund; [~~and~~]

(c) the board created in Section 11-70-301, for purposes of an infrastructure loan from the fairpark area development fund; or

[~~(c)~~](d) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section 59. Section 63A-3-402 is amended to read:

63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; [~~and~~]

(c) the fairpark area development revolving loan fund; and

[~~(c)~~](d) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3)(a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of:

(i) the respective loan approval body; and

(ii) the Executive Appropriations Committee of the Legislature, for a loan from the inland port fund[~~, or~~], the point of the mountain fund, or the fairpark area development fund.

Section 60. Section 63A-5b-902 is amended to read:

63A-5b-902. Application of part.

(1) The provisions of this part, other than this section, do not apply to:

(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);

(b) the division's disposal or lease of division-owned property with a value under $500,000, as estimated by the division;

(c) a conveyance, lease, or disposal of division-owned property in connection with:

(i) the establishment of a state store, as defined in Section 32B-1-102; or

(ii) the construction of student housing; [~~or~~]

(d) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201[~~.~~]; or

(e) a conveyance, lease, or disposal of any state-owned land, as defined in Section 11-70-101, by the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(2) Nothing in Subsection (1)(b) or (c) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Section 61. Section 63C-25-101 is amended to read:

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3)(a) "Bonding government entity" means the state or any entity that is authorized to issue bonds under any provision of state law.

(b) "Bonding government entity" includes:

(i) a bonding political subdivision; and

(ii) a public infrastructure district that is authorized to issue bonds either directly, or through the authority of a bonding political subdivision or other governmental entity.

(4) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201;

(d) the Utah Lake Authority, created in Section 11-65-201[~~.~~]; [~~or~~]

(e) the State Fair Park Authority, created in Section 11-68-201[~~.~~]; or

(f) the Utah Fairpark Area Investment and Restoration District, created in Section 11-70-201.

(5) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

(6) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding government entity.

(7) "Concessionaire contract" means a contract:

(a) between a bonding government entity and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding government entity.

(8) "Creating entity" means the same as that term is defined in Section 17D-4-102.

(9) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

(10) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(11) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

(12) "Obligation" means the same as that term is defined in Section 63B-1-303.

(13) "Parameters resolution" means a resolution of a bonding government entity that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

(14) "Public infrastructure district" means a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act.

(15) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Emission Reduction Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) [~~the following~~]any of the enterprise revolving loan funds created in Section 63A-3-402: and

[~~(i) the inland port infrastructure revolving loan fund;~~]

[~~(ii) the point of the mountain infrastructure revolving loan fund; or~~]

[~~(iii) the military development infrastructure revolving loan fund; and~~]

(q) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

(16)(a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 62. Section 63C-25-202 is amended to read:

63C-25-202. Powers and duties.

(1) The commission shall annually review a report provided in accordance with Section 63B-1-305 or 63B-1a-102.

(2)(a) A loan entity other than a loan entity described in Subsection (2)(b) shall no later than January 1 of each year submit information on each revolving loan fund from which the loan entity made a loan in the previous fiscal year, including information identifying new and ongoing loan recipients, the terms of each loan, loan repayment, and any other information regarding a revolving loan fund requested by the commission.

(b) If a loan entity is:

(i) the Utah Inland Port Authority, the loan entity shall submit the information in accordance with Section 11-58-106 and any other information regarding a revolving loan fund requested by the commission;

(ii) the Point of the Mountain State Land Authority, the loan entity shall submit the information in accordance with Section 11-59-104 and any other information regarding a revolving loan fund requested by the commission; [~~or~~]

(iii) the Utah Fairpark Area Investment and Restoration District, the loan entity shall submit the information in accordance with Section 11-70-104 and any other information regarding a revolving loan fund requested by the commission; or

[~~(iii)~~](iv) the Military Installation Development Authority, the loan entity shall submit the information in accordance with Section 63H-1-104 and any other information regarding a revolving loan fund requested by the commission.

(c) The commission may annually review and provide feedback for the following:

(i) each loan entity for compliance with state law authorizing and regulating the revolving loan fund, including, as applicable, Title 11, Chapter 14, Local Government Bonding Act;

(ii) each loan entity's revolving loan fund policies and practices, including policies and practices for approving and setting the terms of a loan; and

(iii) each borrower of funds from a revolving loan fund for accurate and timely reporting by the borrower to the appropriate debt repository.

(3)(a) The commission shall review and may approve a bond before a large public transit district may issue a bond.

(b) The commission may not approve issuance of a bond described in Subsection (3)(a) unless the execution and terms of the bond comply with state law.

(c) If, after review, the commission approves a bond described in Subsection (3)(a), the large public transit district:

(i) may not change before issuing the bond the terms of the bond that were reviewed by the commission if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to issue the bond.

(d) A member of the commission who approves a bond under Subsection (3)(a) or reviews a parameters resolution under Subsection (4)(a) is not liable personally on the bond.

(e) The approval of a bond under Subsection (3)(a) or review under Subsection (4)(a) of a parameters resolution by the commission:

(i) is not an obligation of the state; and

(ii) is not an act that:

(A) lends the state's credit; or

(B) constitutes indebtedness within the meaning of any constitutional or statutory debt limitation.

(4)(a) The commission shall review and, at the commission's discretion, may make recommendations regarding a parameters resolution before:

(i) a bonding political subdivision may issue a bond; or

(ii) a public infrastructure district may issue a bond, if the creating entity of the public infrastructure district is a bonding political subdivision.

(b) The commission shall conduct the review under Subsection (4)(a) and forward any recommendations to the bonding political subdivision or public infrastructure district no later than 45 days after the day on which the commission receives the bonding political subdivision's or public infrastructure district's parameters resolution.

(c) Notwithstanding Subsection (4)(a), if the commission fails to review a parameters resolution or forward recommendations, if any, in the timeframe described in Subsection (4)(b), the bonding political subdivision or public infrastructure district, respectively, may proceed with the bond without review by the commission.

(d) After review by the commission under Subsection (4)(a), the bonding political subdivision or public infrastructure district:

(i) shall consider recommendations by the commission; and

(ii) may proceed with the bond but is under no obligation to issue the bond.

(5) The commission shall provide training and other information on debt management, lending and borrowing best practices, and compliance with state law to the authority, a bonding political subdivision, a large public transit district, and a loan entity.

(6)(a) Before a bonding government entity may enter into a concessionaire contract, the commission shall review and approve the concessionaire contract.

(b) If, after review, the commission approves the concessionaire contract, the bonding government entity:

(i) may not change the terms of the concessionaire contract if the change is outside of:

(A) any applicable approved parameters of the concessionaire contract; or

(B) the intended purposes of the concessionaire contract; and

(ii) is under no obligation to enter into the concessionaire contract.

Section 63. Repealer.

This bill repeals:

Section 11-68-401, Distribution of sales tax revenue to authority.

Section 11-68-402, Privilege tax -- Personal property tax revenue -- Deposit into Utah State Fair Fund.

Section 59-12-2301, Definitions.

Section 59-12-2302, Fair park authority may impose special event tax.

Section 59-12-2303, Seller or certified service provider reliance on commission information.

Section 59-12-2304, Certified service provider or model 2 seller reliance on commission certified software.

Section 59-12-2305, Purchaser relief from liability.

Section 64. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions to Section 59-12-103 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

CHAPTER 420
S. B. 26
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

BEHAVIORAL HEALTH LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends behavioral health licensing provisions.

Highlighted Provisions:

This bill:

- requires the Division of Integrated Healthcare to consider interstate portability and make recommendations regarding Utah's membership in any interstate licensing compacts;
- expands the types of licensees who may participate in the Utah Professionals Health Program, and removes the absolute requirement for formal proceedings to terminate a Utah Professionals Health Program contract and requires the division to make rules for probation after termination of a Utah Professionals Health Program contract;
- creates the Behavioral Health Board, a multi-professional board to replace certain individual licensing boards;
- establishes training and certification requirements for clinical supervisors;
- changes supervision requirements for mental health therapists to include direct observation;
- defines direct client care, direct clinical supervision, and direct observation of mental health therapists;
- defines unlawful conduct to include failure to provide or disclose certain information to patients in a mental health therapy setting;
- requires a criminal background check for mental health therapists and authorizes the division to use the FBI Rap Back System;
- creates an alternative pathway to certain licensures through increased direct client care hours and supervised clinical hours, in lieu of examination requirements;
- creates the licenses of master addiction counselor and associate master addiction counselor;
- creates the license of behavioral health coach and certification of behavioral health technician;
- expands the scope of practice of social service workers and advanced substance use disorder counselors to include drafting treatment plans and updates and providing manualized therapeutic interventions in limited circumstances and under supervision;
- repeals the Vocational Rehabilitation Counselors Licensing Act; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

26B-5-101, as last amended by Laws of Utah 2023, Chapter 308
26B-5-102, as last amended by Laws of Utah 2023, Chapter 177 and renumbered and amended by Laws of Utah 2023, Chapter 308
58-1-106, as last amended by Laws of Utah 2018, Chapter 318
58-1-201, as last amended by Laws of Utah 2023, Chapter 223
58-1-301.5, as last amended by Laws of Utah 2023, Chapters 222, 223 and 225
58-1-501, as last amended by Laws of Utah 2023, Chapters 223, 321 and 463
58-4a-102, as last amended by Laws of Utah 2023, Chapter 328
58-4a-107, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-40-302, as last amended by Laws of Utah 2020, Chapter 339
58-60-102, as last amended by Laws of Utah 2021, Chapter 313
58-60-103.1, as enacted by Laws of Utah 2022, Chapter 466
58-60-106, as enacted by Laws of Utah 1994, Chapter 32
58-60-109, as last amended by Laws of Utah 2020, Chapter 339
58-60-110, as last amended by Laws of Utah 2019, Chapter 419
58-60-202, as last amended by Laws of Utah 2010, Chapters 78, 214
58-60-205, as last amended by Laws of Utah 2023, Chapters 283, 339
58-60-207, as last amended by Laws of Utah 2023, Chapter 339
58-60-302, as enacted by Laws of Utah 1994, Chapter 32
58-60-305, as last amended by Laws of Utah 2023, Chapter 339
58-60-402, as last amended by Laws of Utah 2012, Chapter 179
58-60-405, as last amended by Laws of Utah 2023, Chapter 339
58-60-407, as last amended by Laws of Utah 2020, Chapter 339
58-60-502, as last amended by Laws of Utah 2019, Chapter 393
58-60-504, as last amended by Laws of Utah 2012, Chapter 179
58-60-506, as last amended by Laws of Utah 2020, Chapter 339
58-61-102, as last amended by Laws of Utah 2013, Chapters 16, 123

58-61-301, as last amended by Laws of Utah 2001, Chapter 281
58-61-304, as last amended by Laws of Utah 2020, Chapter 339
58-61-304.1, as enacted by Laws of Utah 2020, Chapter 339
58-61-308, as enacted by Laws of Utah 2001, Chapter 281
58-61-502, as last amended by Laws of Utah 2001, Chapter 281
58-61-705, as last amended by Laws of Utah 2020, Chapter 339
58-84-102, as enacted by Laws of Utah 2014, Chapter 340
58-84-201, as last amended by Laws of Utah 2020, Chapter 339

ENACTS:
58-60-102.5, Utah Code Annotated 1953
58-60-512, Utah Code Annotated 1953
58-60-601, Utah Code Annotated 1953
58-60-602, Utah Code Annotated 1953
58-60-603, Utah Code Annotated 1953
58-60-604, Utah Code Annotated 1953

REPEALS:
58-60-203, as last amended by Laws of Utah 2010, Chapter 214
58-60-303, as last amended by Laws of Utah 2000, Chapter 159
58-60-307, as last amended by Laws of Utah 2019, Chapter 393
58-60-403, as last amended by Laws of Utah 2012, Chapter 179
58-60-503, as last amended by Laws of Utah 2012, Chapter 179
58-61-201, as last amended by Laws of Utah 2015, Chapter 367
58-78-101, as enacted by Laws of Utah 2009, Chapter 122
58-78-102, as enacted by Laws of Utah 2009, Chapter 122
58-78-201, as enacted by Laws of Utah 2009, Chapter 122
58-78-301, as enacted by Laws of Utah 2009, Chapter 122
58-78-302, as last amended by Laws of Utah 2020, Chapter 339
58-78-303, as last amended by Laws of Utah 2011, Chapter 367
58-78-304, as enacted by Laws of Utah 2009, Chapter 122
58-78-401, as enacted by Laws of Utah 2009, Chapter 122
58-78-501, as enacted by Laws of Utah 2009, Chapter 122
58-78-502, as enacted by Laws of Utah 2009, Chapter 122

Sections affected by Coordination Clause:
58-60-205, as last amended by Laws of Utah 2023, Chapters 283, 33958

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-5-101 is amended to read:

26B-5-101. Chapter definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director appointed under Section 26B-5-103.

(3) "Division" means the Division of Integrated Healthcare created in Section 26B-1-202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) "Office" means the Office of Substance Use and Mental Health created in Section 26B-5-102.

(12)(a) "Public funds" means federal money received from the department, and state money appropriated by the Legislature to the department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance use or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services under substance use or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(13) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(14) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(15) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(16) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

(17) "Targeted case management" means a service that assists Medicaid recipients in a target group to gain access to needed medical, social, educational, and other services.

Section 2. Section 26B-5-102 is amended to read:

26B-5-102. Division of Integrated Healthcare -- Office of Substance Use and Mental Health -- Creation -- Responsibilities.

(1)(a) The Division of Integrated Healthcare shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(c) There is created the Office of Substance Use and Mental Health within the division.

(d) The office shall exercise the responsibilities, powers, rights, duties, and responsibilities assigned to the office by the executive director.

(2) The division shall:

(a)(i) educate the general public regarding the nature and consequences of substance use by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance use;

(iii) promote or establish programs for the prevention of substance use within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance use disorder, by identifying and disseminating information about effective practices and programs;

(v) promote integrated programs that address an individual's substance use, mental health, and physical health;

(vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder or mental illness;

(vii) evaluate the effectiveness of programs described in this Subsection (2);

(viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b)(i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; [~~and~~]

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 26B-5-313; and

(v) to the extent authorized and in accordance with statute, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) create a certification for targeted case management;

(B) establish training and certification requirements;

(C) specify the types of services each certificate holder is qualified to provide;

(D) specify the type of supervision under which a certificate holder is required to operate; and

(E) specify continuing education and other requirements for maintaining or renewing certification;

(c)(i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance use and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance use and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance use and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance use services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance use or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection [~~(2)(j)~~](2)(h); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance use programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h)(i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Part 1, Human Services Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment

is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism in accordance with the metrics and requirements described in Section 63M-7-102;

(m) at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

(p) consult and coordinate with the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance use during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance use during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance use disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance use treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4)(a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance use or mental health programs or services fails to comply with state and federal law or policy.

(5)(a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 3. Section 58-1-106 is amended to read:

58-1-106. Division -- Duties, functions, and responsibilities.

(1) The duties, functions, and responsibilities of the division include the following:

(a) prescribing, adopting, and enforcing rules to administer this title;

(b) investigating the activities of any person whose occupation or profession is regulated or governed by the laws and rules administered and enforced by the division;

(c) subpoenaing witnesses, taking evidence, and requiring by subpoena duces tecum the production of any books, papers, documents, records, contracts, recordings, tapes, correspondence, or information relevant to an investigation upon a finding of sufficient need by the director or by the director's designee;

(d) taking administrative and judicial action against persons in violation of the laws and rules administered and enforced by the division, including the issuance of cease and desist orders;

(e) seeking injunctions and temporary restraining orders to restrain unauthorized activity;

(f) complying with Title 52, Chapter 4, Open and Public Meetings Act;

(g) issuing, refusing to issue, revoking, suspending, renewing, refusing to renew, or otherwise acting upon any license;

(h) preparing and submitting to the governor and the Legislature an annual report of the division's operations, activities, and goals;

(i) preparing and submitting to the executive director a budget of the expenses for the division;

(j) establishing the time and place for the administration of examinations; [~~and~~]

(k) preparing lists of licensees and making these lists available to the public at cost upon request unless otherwise prohibited by state or federal law[~~.~~]; and

(l) considering interstate portability and the preservation of licensing pathways that are specific to Utah when making recommendations regarding membership in interstate licensing compacts.

(2) The division may not include home telephone numbers or home addresses of licensees on the lists prepared under Subsection (1)(k), except as otherwise provided by rules of the division made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3)(a) The division may provide the home address or home telephone number of a licensee on a list prepared under Subsection (1) upon the request of an individual who provides proper identification and the reason for the request, in writing, to the division.

(b) A request under Subsection (3)(a) is limited to providing information on only one licensee per request.

(c) The division shall provide, by rule, what constitutes proper identification under Subsection (3)(a).

(4)(a) Notwithstanding any contrary provisions in Title 63G, Chapter 2, Government Records Access and Management Act, the division may share licensee information with:

(i) the division's contracted agents when sharing the information in compliance with state or federal law; and

(ii) a person who is evaluating the progress or monitoring the compliance of an individual who has been disciplined by the division under this title.

(b) The division may make rules to implement the provisions of this Subsection (4).

(5) All rules made by the division under this title shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-1-201 is amended to read:

58-1-201. Boards -- Appointment -- Membership -- Terms -- Vacancies -- Quorum -- Per diem and expenses -- Chair -- Financial interest or faculty position in professional school that teaches continuing education prohibited.

(1)(a)(i) The executive director shall appoint the members of the boards established under this title.

(ii) In appointing the board members the executive director shall give consideration to recommendations by members of the respective professions and the professions' organizations.

(b) Each board shall be composed of five members, four of whom are licensed or certified practitioners in good standing of the profession the board represents, and one of whom is a member of the general public, unless otherwise provided under the specific licensing chapter.

(c)(i) The name of each individual appointed to a board shall be submitted to the governor for confirmation or rejection.

(ii) If an appointee is rejected by the governor, the executive director shall appoint another individual in the same manner as set forth in Subsection (1)(a).

(2)(a)(i) Except as required by Subsection (2)(b), as terms of current board members expire, the executive director shall appoint each new board member or reappointed board member to a four-year term.

(ii) Upon the expiration of the term of a board member, the board member shall continue to serve until a successor is appointed, but for a period not to exceed six months from the expiration date of the board member's term.

(b) Notwithstanding the requirements of Subsection (2)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A board member may not serve more than two consecutive terms, and a board member who ceases to serve on a board may not serve again on that board until after the expiration of a two-year period beginning from that cessation of service.

(d)(i) When a vacancy occurs in the board membership for any reason, the replacement shall be appointed for the unexpired term.

(ii) After filling that term, the replacement board member may be appointed for only one additional full term.

(e) The director, with the approval of the executive director, may remove a board member and replace the board member in accordance with this section for the following reasons:

(i) the board member fails or refuses to fulfill the responsibilities and duties of a board member, including attendance at board meetings;

(ii) the board member engages in unlawful or unprofessional conduct; or

(iii) if appointed to the board position as a licensed member of the board, the board member fails to maintain a license that is active and in good standing.

(3)(a) A majority of the board members constitutes a quorum.

(b) Except as provided in Subsection 58-1-109(3), a quorum is sufficient authority for the board to act.

(4) A board member may not receive compensation or benefits for the[~~board~~] member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(5) Each board shall annually designate one of the board's members to serve as chair for a one-year period.

(6) A board member may not be a member of the faculty of, or have a financial interest in, a vocational or professional college or school that provides continuing education to any licensee if that continuing education is required by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 5. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure[~~, licensure~~] or certification, or with respect to a license or certification, renewal, [~~licensure~~]reinstatement, or relicensure or recertification, as required in:

(a) Sections 58-17b-306 and 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) Sections 58-47b-302 and 58-47b-302.1;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents, and Section 58-55-302.1;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305,[~~ and~~] 58-60-405, and 58-60-506 of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) Sections 58-63-302 and 58-63-302.1;

(k) Sections 58-64-302 and 58-64-302.1;

(l) Sections 58-67-302 and 58-67-302.1;

(m) Sections 58-68-302 and 58-68-302.1; and

(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 6. Section 58-1-501 is amended to read:

58-1-501. Unlawful and unprofessional conduct.

(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(a) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in any profession requiring licensure under this title, except the behavioral health technician under Chapter 60, Part 6, Behavioral Health Coach and Technician Licensing Act, if the person is:

(i) not licensed to do so or not exempted from licensure under this title; or

(ii) restricted from doing so by a suspended, revoked, restricted, temporary, probationary, or inactive license;

(b)(i) impersonating another licensee or practicing a profession under a false or assumed name, except as permitted by law; or

(ii) for a licensee who has had a license under this title reinstated following disciplinary action, practicing the same profession using a different name than the name used before the disciplinary action, except as permitted by law and after notice to, and approval by, the division;

(c) knowingly employing any other person to practice or engage in or attempt to practice or engage in any profession licensed under this title if the employee is not licensed to do so under this title;

(d) knowingly permitting the person's authority to practice or engage in any profession licensed under this title to be used by another, except as permitted by law;

(e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;

(f)(i) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device to a person located in this state:

(A) without prescriptive authority conferred by a license issued under this title, or by an exemption to licensure under this title; or

(B) with prescriptive authority conferred by an exception issued under this title or a multistate practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis,

to identify underlying conditions, and to identify contraindications to the proposed treatment; and

(ii) Subsection (1)(f)(i) does not apply to treatment rendered in an emergency, on-call or cross coverage situation, provided that the person who issues the prescription has prescriptive authority conferred by a license under this title, or is exempt from licensure under this title; or

(g) aiding or abetting any other person to violate any statute, rule, or order regulating a profession under this title.

(2)(a) "Unprofessional conduct" means conduct, by a licensee or applicant, that is defined as unprofessional conduct under this title or under any rule adopted under this title and includes:

(i) violating any statute, rule, or order regulating an a profession under this title;

(ii) violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title;

(iii) subject to the provisions of Subsection (4), engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation with respect to a crime that, when considered with the functions and duties of the profession for which the license was issued or is to be issued, bears a substantial relationship to the licensee's or applicant's ability to safely or competently practice the profession;

(iv) engaging in conduct that results in disciplinary action, including reprimand, censure, diversion, probation, suspension, or revocation, by any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same profession if the conduct would, in this state, constitute grounds for denial of licensure or disciplinary proceedings under Section 58-1-401;

(v) engaging in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct does, or might reasonably be considered to, impair the ability of the licensee or applicant to safely engage in the profession;

(vi) practicing or attempting to practice a profession regulated under this title despite being physically or mentally unfit to do so;

(vii) practicing or attempting to practice a or profession regulated under this title through gross incompetence, gross negligence, or a pattern of incompetency or negligence;

(viii) practicing or attempting to practice a profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent;

(ix) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's competency, abilities, or education;

(x) practicing or attempting to practice a profession regulated under this title beyond the scope of the licensee's license;

(xi) verbally, physically, mentally, or sexually abusing or exploiting any person through conduct connected with the licensee's practice under this title or otherwise facilitated by the licensee's license;

(xii) acting as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule;

(xiii) issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(A) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(B) with prescriptive authority conferred by an exception issued under this title, or a multi-state practice privilege recognized under this title, if the prescription was issued without first obtaining information, in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify underlying conditions, and to identify contraindications to the proposed treatment;

(xiv) violating a provision of Section 58-1-501.5;

(xv) violating the terms of an order governing a license; or

(xvi) violating Section 58-1-511.

(b) "Unprofessional conduct" does not include:

(i) a health care provider, as defined in Section 78B-3-403 and who is licensed under this title, deviating from medical norms or established practices if the conditions described in Subsection (5) are met; and

(ii) notwithstanding Section 58-1-501.6, a health care provider advertising that the health care provider deviates from medical norms or established practices, including the maladies the health care provider treats, if the health care provider:

(A) does not guarantee any results regarding any health care service;

(B) fully discloses on the health care provider's website that the health care provider deviates from medical norms or established practices with a conspicuous statement; and

(C) includes the health care provider's contact information on the website.

(3) Unless otherwise specified by statute or administrative rule, in a civil or administrative proceeding commenced by the division under this title, a person subject to any of the unlawful and unprofessional conduct provisions of this title is strictly liable for each violation.

(4) The following are not evidence of engaging in unprofessional conduct under Subsection (2)(a)(iii):

(a) an arrest not followed by a conviction; or

(b) a conviction for which an individual's incarceration has ended more than seven years before the date of the division's consideration, unless:

(i) after the incarceration the individual has engaged in additional conduct that results in another conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation; or

(ii) the conviction was for:

(A) a violent felony as defined in Section 76-3-203.5;

(B) a felony related to a criminal sexual act under Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Sexual Exploitation Act; or

(C) a felony related to criminal fraud or embezzlement, including a felony under Title 76, Chapter 6, Part 5, Fraud, or Title 76, Chapter 6, Part 4, Theft.

(5) In accordance with Subsection (2)(b)(i), a health care provider may deviate from medical norms or established practices if:

(a) the health care provider does not deviate outside of the health care provider's scope of practice and possesses the education, training, and experience to competently and safely administer the alternative health care service;

(b) the health care provider does not provide an alternative health care service that is otherwise contrary to any state or federal law;

(c) the alternative health care service has reasonable potential to be of benefit to the patient to whom the alternative health care service is to be given;

(d) the potential benefit of the alternative health care service outweighs the known harms or side effects of the alternative health care service;

(e) the alternative health care service is reasonably justified under the totality of the circumstances;

(f) after diagnosis but before providing the alternative health care service:

(i) the health care provider educates the patient on the health care services that are within the medical norms and established practices;

(ii) the health care provider discloses to the patient that the health care provider is recommending an alternative health care service that deviates from medical norms and established practices;

(iii) the health care provider discusses the rationale for deviating from medical norms and established practices with the patient;

(iv) the health care provider discloses any potential risks associated with deviation from medical norms and established practices; and

(v) the patient signs and acknowledges a notice of deviation; and

(g) before providing an alternative health care service, the health care provider discloses to the patient that the patient may enter into an agreement describing what would constitute the health care provider's negligence related to deviation.

(6) As used in this section, "notice of deviation" means a written notice provided by a health care provider to a patient that:

(a) is specific to the patient;

(b) indicates that the health care provider is deviating from medical norms or established practices in the health care provider's recommendation for the patient's treatment;

(c) describes how the alternative health care service deviates from medical norms or established practices;

(d) describes the potential risks and benefits associated with the alternative health care service;

(e) describes the health care provider's reasonably justified rationale regarding the reason for the deviation; and

(f) provides clear and unequivocal notice to the patient that the patient is agreeing to receive the alternative health care service which is outside medical norms and established practices.

Section 7. Section 58-4a-102 is amended to read:

58-4a-102. Definitions.

As used in this chapter:

(1) "Diversion agreement" means a written agreement entered into by a licensee and the division that describes the requirements of the licensee's monitoring regimen and that was entered into before May 12, 2020.

(2) "Licensee" means an individual licensed to practice[~~ under~~]:

(a) under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) under Title 58, Chapter 17b, Pharmacy Practice Act;

(c) under Title 58, Chapter 28, Veterinary Practice Act;

(d) under Title 58, Chapter 31b, Nurse Practice Act;

(e) mental health therapy under Title 58, Chapter 60, Mental Health Professional Practice Act;

(f) mental health therapy under Title 58, Chapter 61, Psychologist Licensing Act;

[~~(e)~~](g) under Title 58, Chapter 67, Utah Medical Practice Act;

[~~(f)~~](h) under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

[~~(g)~~](i) under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; or

[~~(h)~~](j) under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) "Program" means the Utah Professionals Health Program.

(4) "Program contract" means a written agreement entered into by a licensee and the division that allows the licensee to participate in the program.

(5) "Substance use disorder" means the same as that term is defined in Section 26B-5-501.

Section 8. Section 58-4a-107 is amended to read:

58-4a-107. Violation of a program contract -- Adjudicative proceedings -- Penalties.

(1) The division [~~shall~~]may serve an order to show cause on the licensee if the licensee:

(a) violates any term or condition of the program contract or diversion agreement;

(b) makes an intentional, material misrepresentation of fact in the program contract or diversion agreement; or

(c) violates any rule or law governing the licensee's profession.

(2) The order to show cause described in Subsection (1) shall:

(a) describe the alleged misconduct;

(b) set a time and place for a hearing[~~ before an administrative law judge~~] to determine whether the licensee's program contract should be terminated; and

(c) contain all of the information required by a notice of agency action in Subsection 63G-4-201(2).

(3) Proceedings to terminate a program contract shall comply with[~~ the rules for a formal proceeding described in~~] Title 63G, Chapter 4, Administrative Procedures Act, except the notice of agency action shall be in the form of the order to show cause described in Subsection (2).

[~~(4) In accordance with Subsection 63G-4-205(1), the division shall make rules for discovery adequate to permit all parties to obtain all relevant information necessary to support their claims or defenses.~~]

[~~(5)~~](4) During a proceeding to terminate a program contract, the licensee, the licensee's legal representative, and the division shall have access to information contained in the division's program file as permitted by law.

[~~(6)~~](5) The director shall terminate the program contract and place the licensee on probation [~~for a period of five years, with probationary terms matching the terms of the program contract,~~]in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act if, during the administrative proceedings described in Subsection (3), the [~~administrative law judge~~]presiding officer finds that the licensee has:

(a) violated the program contract;

(b) made an intentional material misrepresentation of fact in the program contract; or

(c) violated a law or rule governing the licensee's profession.

[~~(7)~~](6) If, during the proceedings described in Subsection (3), the [~~administrative law judge~~] presiding officer finds that the licensee has engaged in especially egregious misconduct, the director may revoke the licensee's license or take other appropriate disciplinary action.

[~~(8)~~](7) A licensee who is terminated from the program may have disciplinary action taken under Title 58, Chapter 1, Part 4, License Denial, for misconduct committed before, during, or after the licensee's participation in the program.

Section 9. Section 58-40-302 is amended to read:

58-40-302. Qualifications for licensure.

(1) An applicant for licensure under this chapter shall:

(a) submit an application in a form prescribed by the division; and

(b) pay a fee determined by the department under Section 63J-1-504.

(2) In addition to the requirements of Subsection (1), an applicant for licensure as a master therapeutic recreation specialist under this chapter shall as defined by division rule:

(a) complete an approved graduate degree;

(b) complete 4,000 qualifying hours of paid experience as:

(i) a licensed therapeutic recreation specialist if completed in the state; or

(ii) a certified therapeutic recreation specialist certified in good standing by the National Council for Therapeutic Recreation Certification if completed outside of the state; and

(c) pass an approved examination.

(3) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation specialist under this chapter shall, as defined by division rule:

(a)(i) complete an approved:

[~~(i)~~](A) bachelor's degree in therapeutic recreation or recreational therapy;

[~~(ii)~~](B) bachelor's degree with an approved emphasis, option, or concentration in therapeutic recreation or recreational therapy; or

[~~(iii)~~](C) graduate degree;

[~~(b)~~](ii) complete an approved practicum; and

[~~(c)~~](iii) pass an approved examination[~~.~~]; or

(b) document proof of current certification in good standing as a Certified Therapeutic Recreation Specialist by the National Council for Therapeutic Recreation Certification, or an equivalence of that certification, as determined by division rule made in consultation with the board.

(4) In addition to the requirements of Subsection (1), an applicant for licensure as a therapeutic recreation technician under this chapter shall, as defined by division rule:

[~~(a) have a high school diploma or GED equivalent;~~]

[~~(b)~~](a) complete an approved:

(i) educational course in therapeutic recreation taught by a licensed master therapeutic recreation specialist; or

(ii) six semester hours or nine quarter hours in therapeutic recreation or recreational therapy from an accredited college or university;

[~~(c)~~](b) complete an approved practicum under the supervision of:

(i) a licensed master therapeutic recreation specialist; or

(ii) an on-site, full-time, employed therapeutic recreation specialist; and

[~~(d) pass an approved examination; and~~]

[~~(e)~~](c) complete a minimum of two hours of training in suicide prevention via a course that the division designates as approved.

Section 10. Section 58-60-102 is amended to read:

58-60-102. Definitions.

[~~In addition to the definitions in Section 58-1-102, as~~]As used in this chapter, unless a different meaning is established by definition under a specific section or part:

(1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

(2) "Client" or "patient" means an individual who consults or is examined or interviewed by an individual licensed under this chapter who is acting in the individual's professional capacity.

(3) "Clinical supervision" means work experience conducted under the supervision of a clinical supervisor, including:

(a) the practice of mental health therapy, direct client care, direct clinical supervision, direct observation, and other duties and activities completed in the course of the day-to-day job functions and work of a:

(i) certified social worker;

(ii) associate marriage and family therapist;

(iii) associate clinical mental health counselor; or

(iv) associate master addiction counselor, wherein the supervisor is available for consultation with the supervisee by personal face-to-face contact, or direct voice contact by telephone, radio, or other means within a reasonable time consistent with the acts and practices in which the supervisee is engaged.

(4) "Clinical supervisor" means an individual who oversees and mentors one or more mental health therapists licensed under this chapter, and who:

(a)(i) is licensed, in good standing, as a mental health therapist;

(ii) is approved or certified in good standing as a supervisor by a national professional organization for social work, mental health counseling, addiction counseling, marriage and family therapy, psychology, medicine, or nursing, or other organization as approved by the division;

(iii)(A) has completed eight or more hours of supervision instruction that meets minimum standards established by the division in rule; or

(B) has completed a graduate course on clinical supervision from an accredited program;

(iv) completes continuing education in clinical supervision, as established by the division in rule; and

(v) provides supervision to no more than the number of individuals to whom the supervisor can reasonably provide clinical supervision by performing the duties and responsibilities of a supervisor, including:

(A) being available to the supervisee for consultation by personal face-to-face contact, or by direct voice contact by telephone, video conference, or other means within a reasonable time frame;

(B) providing instruction, direction, oversight, observation, evaluation, and feedback, to enable the supervisee to acquire the knowledge, skills, techniques, and abilities necessary to engage in the practice of behavioral health care ethically, safely, and competently; and

(C) maintaining routine personal contact with the supervisee; and

(b)(i) is qualified and acting as a valid supervisor, in accordance with applicable law and division rules, as of April 30, 2024; and

(ii) has satisfied the requirements of Subsection (4)(a), as of January 1, 2027.

[~~(2)~~](5) "Confidential communication" means information obtained by an individual licensed under this chapter, including information obtained by the individual's examination of the client or patient, which is:

(a)(i) transmitted between the client or patient and an individual licensed under this chapter in the course of that relationship; or

(ii) transmitted among the client or patient, an individual licensed under this chapter, and individuals who are participating in the diagnosis or treatment under the direction of an individual licensed under this chapter, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the individual licensed under this chapter, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the mental health therapist.

(6) "Designated examiner" means the same as that term is defined in Section 26B-5-301.

[~~(3)~~](7)(a) "Direct client care" means the practice of mental health therapy performed as an applicant for licensure.

(b) "Direct client care" includes:

(i) the practice of mental health therapy;

(ii) the utilization of patient-reported progress and outcomes to inform care; and

(iii) direct observation.

(8)(a) "Direct clinical supervision" means an applicant for licensure and the applicant's direct clinical supervisor meeting in real time and in accordance with the applicant for licensure's supervision contract as defined by division rule.

(b) "Direct clinical supervision" includes group supervision.

(9) "Direct clinical supervisor" means the clinical supervisor who has signed the supervision contract with the applicant for licensure.

(10) "Direct observation" means observation of an applicant for licensure's live or recorded direct client care:

(a)(i) by the applicant for licensure's clinical supervisor; or

(ii) by a licensee under Subsection (4)(a) who the applicant for licensure's direct clinical supervisor approves; and

(b) after which the applicant for licensure and the observer under Subsection (10)(a) meet, in-person or electronically, to discuss the direct client care for the purpose of developing the applicant for licensure's clinical knowledge and skill.

(11) "FBI Rap Back System" means the same as that term is defined in Section 53-10-108.

(12) "Group supervision" means an applicant for licensure meeting with the applicant's direct clinical supervisor and at least one of the direct clinical supervisor's other supervised applicants for licensure:

(a) while the clinical supervisor and the applicants:

(i) can see and openly communicate with each other; and

(ii) are present in the same room or via electronic video; and

(b) for the purpose of developing the applicants' clinical knowledge and skill.

(13) "Hypnosis" means, when referring to individuals exempted from licensure under this chapter, a process by which an individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

[~~(4)~~](14) "Individual" means a natural person.

[~~(5)~~](15) "Mental health therapist" means an individual who is practicing within the scope of practice defined in the individual's respective licensing act and is licensed under this title as:

(a) a physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) a psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) a physician assistant specializing in mental health care under Section 58-70a-501.1;

(g) a clinical social worker;

(h) a certified social worker;

(i) a marriage and family therapist;

(j) an associate marriage and family therapist;

(k) a clinical mental health counselor; [~~or~~]

(l) an associate clinical mental health counselor[~~.~~];

(m) a master addiction counselor; or

(n) an associate master addiction counselor.

[~~(6)~~](16) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection [~~(5)~~](15).

[~~(7)~~](17) "Practice of mental health therapy" means treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder consistent with standards generally recognized in the professions of mental health therapy listed under Subsection [~~(5)~~](15);

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection [~~(5)~~](15);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection [~~(5)~~](15).

[~~(8)~~](18) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

[~~(9)~~](19) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-60-109.

[~~(10)~~](20) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-60-110, and may be further defined by division rule.

Section 11. Section 58-60-102.5 is enacted to read:

58-60-102.5. Behavioral Health Board -- Advisory committees.

(1) There is created the Behavioral Health Board consisting of:

(a) no less than six behavioral health care providers licensed in Utah to practice as a:

(i) clinical social worker;

(ii) marriage and family therapist;

(iii) clinical mental health counselor;

(iv) master addiction counselor;

(v) psychologist under Chapter 61, Psychologist Licensing Act; or

(vi) behavior analyst or specialist;

(b) no less than two other behavioral health care providers licensed in Utah to practice as:

(i) a certified social worker;

(ii) a social service worker;

(iii) an associate marriage and family therapist;

(iv) an associate clinical mental health counselor;

(v) an associate master addiction counselor;

(vi) an advanced substance use disorder counselor;

(vii) a substance use disorder counselor;

(viii) a certified psychology resident; or

(ix) an assistant behavior analyst or specialist;

(c) no less than four public members:

(i) who comprise no less than 1/3 of the total membership of the board;

(ii) who are not licensed to practice under:

(A) this chapter; or

(B) Chapter 61, Psychologist Licensing Act;

(iii) two of whom shall, at the time of appointment to the board, hold a leadership position with:

(A) a behavioral health consumer advocacy organization;

(B) a behavioral health employer;

(C) a behavioral health payor;

(D) an academic institution conducting research related to the behavioral health licenses under Subsection (3)(b), including public health, epidemiology, economics, and the health care workforce;

(E) a training institution providing education credentials required for a license under Subsection (3)(b);

(F) a licensed health care facility as defined in Section 26B-2-201; or

(G) a licensed human services program as defined in Section 26B-2-101;

(iv) one of whom the executive director of the Department of Health and Human Services appoints; and

(v) one of whom is licensed in Utah to practice as a:

(A) physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(B) physician assistant under Chapter 70a, Utah Physician Assistant Act; or

(C) nurse under Chapter 31b, Nurse Practice Act, or Chapter 31e, Nurse Licensure Compact - Revised.

(2) Board members shall be appointed, serve terms, and be compensated in accordance with Section 58-1-201.

(3) The board shall:

(a) operate in accordance with Section 58-1-202, unless otherwise provided in this section;

(b) oversee licenses under:

(i) this chapter; and

(ii) Chapter 61, Pyschologist Licensing Act;

(c) recommend to the appropriate legislative committee statutory changes to:

(i) ensure that regulation supports an adequate workforce to meet consumer demand for behavioral health services; and

(ii) prevent harm to the health, safety, and financial welfare of the public;

(d) recommend to the appropriate legislative committee statutory changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce; and

(e) disqualify any member from acting as a presiding officer in any administrative procedure in which that member has previously reviewed the complaint or advised the division.

(4)(a) There are created the following advisory committees to the board:

(i) the Qualifications and Professional Development Advisory Committee;

(ii) the Background and Investigations Advisory Committee; and

(iii) the Probation and Compliance Advisory Committee.

(b) Each advisory committee shall consist of:

(i) a committee chair who is a member of the Behavioral Health Board;

(ii) a member of each profession regulated under this chapter;

(iii) Chapter 61, Psychologist Licensing Act; and

(iv) as determined by the division in rule, additional members from the professions licensed under this chapter or Chapter 61, Psychologist Licensing Act.

(c) In addition to the requirements of Subsection (4)(b):

(i) the Qualifications and Professional Development Advisory Committee shall also consist of an educator for each profession regulated under this chapter and Chapter 61, Psychologist Licensing Act; and

(ii) the Background and Investigations Advisory Committee shall also consist of a criminal justice professional.

(d) The Qualifications and Professional Development Advisory Committee shall:

(i) advise the division regarding qualifications for licensure, including passing scores for applicant examinations and standards of supervision for students or persons in training to become licensed;

(ii) recommend evidence-based ongoing professional development requirements for licensure that:

(A) ensure an adequate workforce to meet consumer demand; and

(B) prevent harm to the health, safety, and financial welfare of the public;

(iii) advise the division on the licensing, renewal, reinstatement, and relicensure of:

(A) internationally trained applicants;

(B) applicants applying via licensure by endorsement; and

(C) applicants applying using an alternate pathway to licensure including a non-exam or equivalent field degree path;

(iv) draw on additional profession-specific advisors as needed;

(v) make policy recommendations to the board regarding qualifications for licensure or renewal for a specific profession, including the committee chair assigning at least one committee member licensed under that profession to serve as a subject matter expert; and

(vi) make recommendations to the board related to an individual applicant for a specific license, including the committee chair assigning at least one committee member licensed under the same profession as the applicant to serve as a subject matter expert.

(e) The Background and Investigations Advisory Committee shall:

(i) advise the division on establishing criteria for licensure for those with a criminal conviction according to Section 58-1-401;

(ii) advise the division on establishing criteria for referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program;

(iii) screen applicants with a criminal history for licensing, renewal, reinstatement, and relicensure and recommending licensing, renewal, reinstatement, and relicensure actions to the division;

(iv) advise the division on investigative practices and procedures and administrative sanctions for consistency and fairness across relevant occupations;

(v) make recommendations to the board for sanctions against individual licensees and certificate holders and referral to the Utah Professionals Health Program under Chapter 4a, Utah Professionals Health Program;

(vi) draw on additional profession-specific advisors as needed; and

(vii) make recommendations to the board related to the disposition for any specific applicant or licensee, including the committee chair assigning at least one committee member licensed under the same profession as the applicant or licensee to serve as a subject matter expert.

(f) The Probation and Compliance Advisory Committee shall:

(i) review compliance with probationary orders;

(ii) review early termination and make any recommendations as requested by the board;

(iii) advise the board regarding the screening of applicants previously sanctioned for licensing, renewal, reinstatement, and relicensure, including recommending licensing, renewal, reinstatement, and relicensure actions to the board;

(iv) establish procedures for monitoring sanctioned licensees or certificate holders;

(v) draw on additional profession-specific advisors as needed; and

(vi) make recommendations to the board related to the disposition for any specific licensee or certification holder, including the committee chair assigning a committee member licensed under the same profession as the licensee or certification holder to serve as a subject-matter expert related to that disposition.

(5) The division, in consultation with the board, may establish one or more standing or ad hoc subcommittees to consider and advise the board regarding any aspect of licensing, including:

(a) client or patient access to qualified licensees;

(b) education, examination, and supervision of applicants for licensure;

(c) verification of applicant for licensure qualifications;

(d) continuing education requirements;

(e) alternate pathways to licensure; and

(f) probation and recovery assistance.

(6) The division may consult with licensed psychologists on matters specific to the oversight of doctoral-level licensed psychologists.

(7) Members of the board and any subcommittees created under this section may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The division shall consult with the Physicians Licensing Board created in Section 58-67-201 on any matters relating to:

(a) the licensing of individual certified prescribing psychologists and provisional prescribing psychologists; and

(b) rulemaking related to the occupation of prescribing psychology.

Section 12. Section 58-60-103.1 is amended to read:

58-60-103.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation, including the use of the FBI Rap Back System, regarding the application and the applicant's future status as a license holder.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the Counseling Compact under Chapter 60a, Counseling Compact, until the criminal background check described in this section is completed.

Section 13. Section 58-60-106 is amended to read:

58-60-106. Status of licenses held on the effective date of this chapter -- Grandfather provisions.

(1) An individual holding a valid Utah license as a clinical social worker, certified social worker, social service worker, or marriage and family therapist under any licensing or practice acts in this title in effect immediately prior to July 1, 1994, is on and after July 1, 1994, considered to hold a current license under this chapter in the comparable classification as a clinical social worker, certified social worker, social service worker, or marriage and family therapist.

(2)(a) An individual who, prior to May 1, 2024, began accruing supervised hours toward licensure or certification under supervision hours that change, may continue to qualify for licensure under the unchanged supervision hours requirements until January 1, 2027.

(b) An individual who is acting as a supervisor, or working toward qualification to act as a supervisor, under qualification requirements that change, may continue to qualify to act as a supervisor under the unchanged qualification requirements until January 1, 2027.

Section 14. Section 58-60-109 is amended to read:

58-60-109. Unlawful conduct.

(1) As used in this chapter, "unlawful conduct" includes:

[~~(1)~~](a) practice of the following unless licensed in the appropriate classification or exempted from licensure under this title:

[~~(a)~~](i) mental health therapy;

[~~(b)~~](ii) clinical social work;

[~~(c)~~](iii) certified social work;

[~~(d)~~](iv) marriage and family therapy;

[~~(e)~~](v) clinical mental health [~~counselor~~] counseling;

[~~(f)~~](vi) [~~practice as a social service worker; or~~] social service work;

(vii) master addiction counseling;

[~~(g)~~](viii) substance use disorder [~~counselor~~]counseling;

(ix) advanced substance use disorder counseling; or

(x) behavioral health coach work;

[~~(2)~~](b) practice of mental health therapy by a licensed psychologist who has not acceptably documented to the division the licensed psychologist's completion of the supervised training in mental health therapy required under Subsection 58-61-304(1)(e); or

[~~(3)~~](c) representing oneself as, or using the title of, the following:

[~~(a)~~](i) unless currently licensed in a license classification under this title:

[~~(i)~~](A) psychiatrist;

[~~(ii)~~](B) psychologist;

[~~(iii)~~](C) registered psychiatric mental health nurse specialist;

[~~(iv)~~](D) mental health therapist;

[~~(v)~~](E) clinical social worker;

(F) master addiction counselor;

[~~(vi)~~](G) certified social worker;

[~~(vii)~~](H) marriage and family therapist;

[~~(viii)~~](I) clinical mental health counselor;

[~~(ix)~~](J) social service worker;

[~~(x)~~](K) substance use disorder counselor;

[~~(xi)~~](L) associate clinical mental health counselor;[~~ or~~]

[~~(xii)~~](M) associate marriage and family therapist;

(N) associate master addiction counselor;

(O) behavioral health coach; or

(P) behavioral health technician; or

[~~(b)~~](ii) unless currently in possession of the credentials described in Subsection [~~(4)~~](2), social worker.

[~~(4)~~](2) An individual may represent oneself as a, or use the title of, social worker if the individual possesses certified transcripts from an accredited institution of higher education, recognized by the division in collaboration with the [~~Social Work Licensing Board~~]board, verifying satisfactory completion of an education and an earned degree as follows:

(a) a bachelor's or master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(b) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203.

Section 15. Section 58-60-110 is amended to read:

58-60-110. Unprofessional conduct.

(1) As used in this chapter, "unprofessional conduct" includes:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;

(b) failure to confine practice conduct to those acts or practices:

(i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and

(ii) which are within applicable scope of practice laws of this chapter;

(c) disclosing or refusing to disclose any confidential communication under Section 58-60-114 or 58-60-509; [~~and~~]

(d) a pattern of failing to offer a patient the opportunity to waive the patient's privacy rights under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164[~~.~~];

(e) a pattern of failing to provide to patients in a mental health therapy setting:

(i) information regarding the license holder, including the name under which the license holder is licensed, the type of license held, the license number, and the license holder's contact information;

(ii) if the individual's license requires the license holder to be supervised by another licensed provider, information regarding the supervisor, including the name under which the supervisor is licensed, the type of license held, the license number, and the supervisor's contact information;

(iii) information regarding standards of appropriate care and ethical boundaries, including a plain language statement that in a professional relationship with a mental health practitioner, a dual relationship between a client and a provider, or one that is romantic, financially motivated, sexual, or otherwise risks impacting the provider's judgment or the quality of the services provided, is never appropriate and should be reported to the Division of Professional Licensing;

(iv) unless the individual is under an order of temporary commitment or involuntary commitment, information regarding the client's rights, including that the client has the right to seek a second opinion, to ask for additional information, and to terminate treatment at any time; or

(v) the contact information for the Division of Professional Licensing, including how to file a complaint; and

(f) a pattern of failing to provide to patients, upon request, in a mental health setting:

(i) information about the license holder's qualifications and experience, including a listing of any degrees, credentials, certifications, registrations, and licenses held or completed by the license holder, the name of the granting school or institution, and the continuing education that the licensee is required to complete in order to retain the license;

(ii) information regarding standards of appropriate care and ethical boundaries, including a copy of the statutory and administrative rule definitions of unprofessional conduct, or a copy of the generally recognized professional or ethical standards;

(iii) for any course of treatment, the method of treatment recommended, the reasoning supporting the method of treatment, the techniques used, the expected duration of the treatment, if known, and the fee structure; or

(iv) information regarding the individuals who have or have had access to confidential data related to the care of the patient, including evaluations, assessments, diagnoses, prevention or treatment plans, reports, progress notes, discharge summaries, treatment or documentation of treatment, including video recording, live stream, or in-person observations of psychotherapy or other treatment methods.

(2) "Unprofessional conduct" under this chapter may be further defined by division rule.

(3) Notwithstanding Section 58-1-401, the division may not act upon the license of a licensee for unprofessional conduct under Subsection (1)(d).

Section 16. Section 58-60-202 is amended to read:

58-60-202. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

[~~(1) "Board" means the Social Worker Licensing Board created in Section 58-60-203.~~]

[~~(2)~~](1)(a) "Practice as a social service worker" means performance of general entry level services under general supervision of a mental health therapist through the application of social work theory, methods, and ethics in order to enhance the social or psychosocial functioning of an individual, a couple, a family, a group, or a community, including:

(i) conducting:

(A) a non-clinical psychosocial assessment; or

(B) a home study;

(ii) collaborative planning and goal setting[~~;~~], including drafting initial treatment plans, if:

(A) the treatment plan is for a client with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist;

(B) before treatment begins, the mental health therapist has reviewed and approved the treatment plan, and the client has been given an opportunity to consult with the mental health therapist; and

(C) the social service worker is authorized in writing by a licensed health facility, as defined in Section 26B-2-201, or a licensed human service program, as defined in Section 26B-2-101;

(iii) ongoing case management;

(iv) progress monitoring, including drafting treatment plan reviews and updates, if the requirements of Subsections (1)(a)(ii)(A) through (C) have been met;

(v) supportive counseling and psychosocial education, including:

(A) providing individual and group support and psychosocial education related to behavioral health literacy, wellness education and promotion, goal setting, life skills, and coping skills;

(B) providing evidence-based, manualized therapeutic interventions according to a treatment plan approved by a mental health therapist, while under the supervision of a mental health therapist, in the treatment of mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by the mental health therapist; and

(C) co-facilitating group therapy with a mental health therapist;

(vi) information gathering;

(vii) making referrals, including crisis referrals; [~~and~~]

(viii) engaging in advocacy[~~.~~];

(ix) care navigation; and

(x) the supervision and training of social work students of an accredited institution who are seeking bachelor's degrees in social work, if the social service worker has two years of post-licensure work experience.

(b) Except for the acts described in Subsection (1)(a)(v)(B), "[~~Practice~~]practice as a social service worker" does not include:

(i) diagnosing or treating mental illness; or

(ii) providing psychotherapeutic services to an individual, couple, family, group, or community.

[~~(3)~~](2) "Practice of clinical social work" includes:

(a) the practice of mental health therapy by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(b) the application of generally recognized psychotherapeutic and social work principles and practices requiring the education, training, and clinical experience of a clinical social worker; and

(c) supervision of the practice of a certified social worker or social service worker as the supervision is required under this chapter and as further defined by division rule.

[~~(4)~~](3) "Practice of certified social work" includes:

(a) the supervised practice of mental health therapy by a clinical social worker by observation, description, evaluation, interpretation, intervention, and treatment to effect modification of behavior by the application of generally recognized professional social work principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunctions, the symptoms of any of these, or maladaptive behavior;

(b) the supervised or independent and unsupervised application of generally recognized professional social work principles and practices requiring the education, training, and experience of a certified social worker; and

(c) supervision of the practice of a social service worker as the supervision is required under this chapter and as further defined by division rule.

[~~(5)~~](4) "Program accredited by the Council on Social Work Education" means a program that:

(a) was accredited by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program; or

(b) was in candidacy for accreditation by the Council on Social Work Education on the day on which the applicant for licensure satisfactorily completed the program.

[~~(6)~~](5) "Supervision of a social service worker" means supervision conducted by an individual licensed as a mental health therapist under this title in accordance with division rules made in collaboration with the board.

Section 17. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

[~~(d) have completed a minimum of 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:~~]

[~~(i) under the supervision of a supervisor approved by the division in collaboration with the board who is a:~~]

[~~(A) clinical mental health counselor;~~]

[~~(B) psychiatrist;~~]

[~~(C) psychologist;~~]

[~~(D) registered psychiatric mental health nurse practitioner;~~]

[~~(E) marriage and family therapist; or~~]

[~~(F) clinical social worker; and~~]

[~~(ii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;~~]

(d) if required under federal law for any licensee as a clinical social worker to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours accrued concurrently with more than one other applicant for licensure;

[~~(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(i);~~]

(f) document successful completion of not less than two hours of training in suicide prevention, obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

[~~(f)~~](g) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203;

[~~(g)~~](h)(i) pass the examination requirement established by rule under Section 58-1-203; [~~and~~]or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, at least 25 of which are direct clinical supervision hours, and at least five of which are direct observation hours;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(h)~~](i) [~~if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, ~~]consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;[~~ and~~]

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203[~~.~~]; and

(d) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection [~~(4)~~](3); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum.

(4) The division shall ensure that the rules for an examination described under Subsection [~~(1)(g)~~](1)(h)(i) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 18. Section 58-60-207 is amended to read:

58-60-207. Scope of practice -- Limitations.

(1)[~~(a)~~] A clinical social worker may engage in all acts and practices defined as the practice of clinical social work without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

[~~(b) A clinical social worker may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.~~]

(2) To the extent an individual is professionally prepared by the education and training track completed while earning a master's or doctor of social work degree, a licensed certified social worker may engage in all acts and practices defined as the practice of certified social work consistent with the licensee's education, clinical training, experience, and competence:

(a) under supervision of an individual described in Subsection [~~58-60-205(1)(d)(i)~~] 58-60-205(2)(d)(ii) and as an employee of another person when engaged in the practice of mental health therapy;

(b) without supervision and in private and independent practice or as an employee of another person, if not engaged in the practice of mental health therapy;

(c) including engaging in the private, independent, unsupervised practice of social work as a self-employed individual, in partnership with other mental health therapists, as a professional corporation, or in any other capacity or business entity, so long as he does not practice unsupervised psychotherapy; and

(d) supervising social service workers as provided by division rule.

Section 19. Section 58-60-302 is amended to read:

58-60-302. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

(1) "Assess" means the use of diagnostic procedures, tests, and interview techniques generally accepted as standard in mental health therapy to diagnose any condition related to mental, emotional, behavioral, and social disorders or dysfunctions.

[~~(2) "Board" means the Marriage and Family Therapist Licensing Board created in Section 58-60-303.~~]

[~~(3)~~](2) "Practice of marriage and family therapy" includes:

(a) the process of providing professional mental health therapy including psychotherapy to individuals, couples, families, or groups;

(b) utilizing established principles that recognize the interrelated nature of individual problems and dysfunctions in family members to assess, diagnose, and treat mental, emotional, and behavioral disorders;

(c) individual, premarital, relationship, marital, divorce, and family therapy;

(d) specialized modes of treatment for the purpose of diagnosing and treating mental, emotional, and behavioral disorders, modifying interpersonal and intrapersonal dysfunction, and promoting mental health; and

(e) assessment utilized to develop, recommend, and implement appropriate plans of treatment, dispositions, and placement related to the functioning of the individual, couple, family, or group.

Section 20. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

[~~(d) have completed a minimum of 3,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203.~~]

[~~(i) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;~~]

[~~(ii) obtained after completion of the education requirement in Subsection (1)(c); and~~]

(d) if required under federal law for any licensee as a marriage and family therapist to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (2)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

(ii) subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor obtained after completion of the education requirements under Subsection (1)(c);

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

[~~(iii)~~](f) [~~including a minimum of~~]document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

[~~(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(c), which training may be included as part of the 3,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307;~~]

[~~(f)~~](g)(i) pass the examination requirement established by division rule under Section 58-1-203; [~~and~~]or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a mental health therapist or supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(g)~~](h) [~~if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, ~~]consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)[~~(a)~~] All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a) through (c)[~~.~~] and (h).

[~~(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two years from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed four years past the date the minimum supervised clinical training requirement has been completed.~~]

Section 21. Section 58-60-402 is amended to read:

58-60-402. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part[~~:~~],

[~~(1) "Board" means the Clinical Mental Health Counselor Licensing Board created in Section 58-60-403.~~]

[~~(2)~~] "[~~Practice~~]practice of clinical mental health counseling" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized clinical

mental health counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior.

Section 22. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i);

[~~(d) have completed a minimum of 3,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:~~]

(d) if required under federal law for any licensee as a clinical mental health counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(e); or

(ii) not less than two years of clinical supervision;

(e) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(c);

[~~(i)~~](ii) [~~under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;~~]subject to Subsection (1)(e)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

[~~(ii) obtained after completion of the education requirement in Subsection (1)(c); and~~]

[~~(iii)~~](f) [~~including a minimum of~~]document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(c) via a course that the division designates as approved;

[~~(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 75 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule;~~]

[~~(f)~~](g)(i) pass the examination requirement established by division rule under Section 58-1-203; [~~and~~]or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

[~~(g)~~](h) [~~if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, ~~]consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)[~~(a)~~] An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a) through (c) and (h).

[~~(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than two year from the date the minimum requirement for training is completed.~~]

[~~(c) The time period under Subsection (2)(b) may be extended to a maximum of four years past the~~

~~date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:~~]

[~~(i) making reasonable progress toward passing of the qualifying examination for that profession; or~~]

[~~(ii) otherwise on a course reasonably expected to lead to licensure.~~]

(3) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(c) that the applicant received a passing score that is valid and in good standing on:

(i) the National Counselor Examination; and

(ii) the National Clinical Mental Health Counseling Examination.

Section 23. Section 58-60-407 is amended to read:

58-60-407. Scope of practice -- Limitations.

(1)[~~(a)~~] A licensed clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

[~~(b) A licensed clinical mental health counselor may not supervise more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the division in collaboration with the board.~~]

(2)(a) To the extent an individual has completed the educational requirements of Subsection 58-60-305(1)(c), a licensed associate clinical mental health counselor may engage in all acts and practices defined as the practice of clinical mental health counseling if the practice is:

(i) within the scope of employment as a licensed clinical mental health counselor with a public agency or private clinic as defined by division rule; and

(ii) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(b) A licensed associate clinical mental health counselor may not engage in the independent practice of clinical mental health counseling.

Section 24. Section 58-60-502 is amended to read:

58-60-502. Definitions.

In addition to the definitions in Sections 58-1-102 and 58-60-102, as used in this part:

[~~(1) "Board" means the Substance Use Disorder Counselor Licensing Board created in Section 58-60-503.~~]

[~~(2)~~](1)(a) "Counseling" means a collaborative process that facilitates the client's progress toward mutually determined treatment goals and objectives.

(b) "Counseling" includes:

(i) methods that are sensitive to an individual client's characteristics, to the influence of significant others, and to the client's cultural and social context; and

(ii) an understanding, appreciation, and ability to appropriately use the contributions of various addiction counseling models as the counseling models apply to modalities of care for individuals, groups, families, couples, and significant others.

[~~(3)~~](2) "Direct supervision" means:

(a) a minimum of one hour of supervision by a supervisor of the substance use disorder counselor for every 40 hours of client care provided by the substance use disorder counselor, which supervision may include group supervision;

(b) the supervision is conducted in a face-to-face manner, unless otherwise approved on a case-by-case basis by the division in collaboration with the board; and

(c) a supervisor is available for consultation with the counselor at all times.

[~~(4)~~](3) "General supervision" shall be defined by division rule.

[~~(5)~~](4) "Group supervision" means more than one counselor licensed under this part meets with the supervisor at the same time.

[~~(6)~~](5) "Individual supervision" means only one counselor licensed under this part meets with the supervisor at a given time.

[~~(7) "Practice as a certified advanced substance use disorder counselor" and "practice as a certified advanced substance use disorder counselor intern" means providing services described in Subsection (9) under the direct supervision of a mental health therapist or licensed advanced substance use disorder counselor.~~]

[~~(8) "Practice as a certified substance use disorder counselor" and "practice as a certified substance use disorder counselor intern" means providing the services described in Subsections (10)(a) and (b) under the direct supervision of a mental health~~

~~therapist or licensed advanced substance use disorder counselor.~~]

[~~(9)~~](6) "Practice as [~~a licensed~~]an advanced substance use disorder counselor" means:

(a) providing the services described in Subsections [~~(10)(a)~~](9)(a) and (b);

(b) screening and assessing of individuals, including identifying substance use disorder symptoms and behaviors and co-occurring mental health issues;

(c) treatment planning for substance use disorders, including initial planning, reviewing and updating treatment plans for substance use disorders, ongoing intervention, continuity of care, discharge planning, planning for relapse prevention, and long term recovery support; [~~and~~]

(d) supervising a [~~certified substance use disorder counselor, certified substance use disorder counselor intern, certified advanced substance use disorder counselor, certified advanced substance use disorder counselor intern, or licensed~~]substance use disorder counselor in accordance with Subsection 58-60-508(2)[~~.~~]; and

(e) conducting supportive counseling and psychosocial education for substance use disorders and co-occurring mental health disorders, including:

(i) providing individual and group support;

(ii) providing individual and group psychosocial education; and

(iii) providing manualized therapeutic interventions if:

(A) conducted under the supervision of a mental health therapist;

(B) for the treatment of mild to moderate behavioral health symptoms or disorders, as diagnosed by a mental health therapist; and

(C) consistent with the client's treatment plan approved by a mental health therapist.

(7) "Practice as a master addiction counselor" means the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by:

(a) the application of generally recognized substance use disorder counseling and addiction counseling principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, symptoms of any of these, or maladaptive behavior; and

(b) the supervision of an advanced substance use disorder counselor or a substance use disorder counselor.

(8) "Practice as an associate master addiction counselor" means the same as the practice as a master addiction counselor, except while under the supervision of a clinical supervisor.

[~~(10)~~](9)(a) "Practice as a substance use disorder counselor" means providing services as an employee of a substance use disorder agency under the general supervision of a licensed mental health therapist to individuals or groups of persons, whether in person or remotely, for conditions of substance use disorders consistent with the education and training of a substance use disorder counselor required under this part, and the standards and ethics of the profession as approved by the division in collaboration with the board.

(b) "Practice as a substance use disorder counselor" includes:

(i) administering the screening process by which a client is determined to need substance use disorder services, which may include screening, brief intervention, and treatment referral;

(ii) conducting the administrative intake procedures for admission to a program;

(iii) conducting orientation of a client, including:

(A) describing the general nature and goals of the program;

(B) explaining rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program;

(C) explaining hours during which services are available in a nonresidential program;

(D) treatment costs to be borne by the client, if any; and

(E) describing the client's rights as a program participant;

(iv) conducting assessment procedures by which a substance use disorder counselor gathers information related to an individual's strengths, weaknesses, needs, and substance use disorder symptoms for the development of the treatment plan;

(v) participating in the process of treatment planning, including recommending specific interventions to support existing treatment goals and objectives developed by the substance use disorder counselor, the mental health therapist, and the client to:

(A) identify and rank problems needing resolution;

(B) establish agreed upon immediate and long term goals; and

(C) decide on a treatment process and the resources to be utilized;

(vi) monitoring compliance with treatment plan progress;

(vii) providing substance use disorder counseling services to alcohol and drug use disorder clients and significant people in the client's life as part of a comprehensive treatment plan, including:

(A) leading specific task-oriented groups, didactic groups, and group discussions;

(B) cofacilitating group therapy with a licensed mental health therapist; and

(C) engaging in one-on-one interventions and interactions coordinated by a mental health therapist;

(viii) performing case management activities that bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals, including, when appropriate, liaison activities and collateral contacts;

(ix) providing substance use disorder crisis intervention services;

(x) providing client education to individuals and groups concerning alcohol and other substance use disorders, including identification and description of available treatment services and resources;

(xi) identifying the needs of the client that cannot be met by the substance use disorder counselor or substance use disorder agency and referring the client to appropriate services and community resources;

(xii) developing and providing effective reporting and recordkeeping procedures and services, which include charting the results of the assessment and treatment plan, writing reports, progress notes, discharge summaries, and other client-related data; and

(xiii) consulting with other professionals in regard to client treatment and services to assure comprehensive quality care for the client.

(c) "Practice as a substance use disorder counselor" does not include:

(i) the diagnosing of mental illness, including substance use disorders, as defined in Section 58-60-102;

(ii) engaging in the practice of mental health therapy as defined in Section 58-60-102; or

(iii) the performance of a substance use disorder diagnosis, other mental illness diagnosis, or psychological testing.

[~~(11)~~](10) "Program" means a substance use disorder agency that provides substance use disorder services, including recovery support services.

[~~(12)~~](11) "Recovery support services" means services provided to an individual who is identified as having need of substance use disorder preventive or treatment services, either before, during, or after an episode of care that meets the level of care standards established by division rule.

[~~(13)~~](12) "Substance use disorder agency" means a public or private agency, health care facility, or health care practice that:

(a) provides substance use disorder services, recovery support services, primary health care services, or substance use disorder preventive services; and

(b) employs qualified mental health therapists in sufficient number to:

(i) evaluate the condition of clients being treated by each counselor licensed under this part and employed by the substance use disorder agency; and

(ii) ensure that appropriate substance use disorder services are being given.

[~~(14)~~](13) "Substance use disorder education program" means a formal program of substance use disorder education offered by an accredited institution of higher education that meets standards established by division rule.

Section 25. Section 58-60-504 is amended to read:

58-60-504. License classification.

The division shall issue substance use disorder counselor licenses to individuals qualified under this part in the classification of:

(1) master addiction counselor;

(2) associate master addiction counselor;

[~~(1)~~](3) licensed advanced substance use disorder counselor; and

[~~(2) certified advanced substance use disorder counselor;~~]

[~~(3) certified advanced substance use disorder counselor intern;~~]

(4) licensed substance use disorder counselor[~~;~~].

[~~(5) certified substance use disorder counselor; and~~]

[~~(6) certified substance use disorder counselor intern.~~]

Section 26. Section 58-60-506 is amended to read:

58-60-506. Qualifications for licensure.

[~~(1) An applicant for licensure under this part on and after July 1, 2012, must meet the following qualifications:~~]

[~~(a) submit an application in a form prescribed by the division;~~]

[~~(b) pay a fee determined by the department under Section 63J-1-504;~~]

[~~(c) satisfy the requirements of Subsection (2), (3), (4), (5), (6), or (7) respectively; and~~]

[~~(d) except for licensure as a certified substance use disorder counselor intern and a certified advanced substance use disorder counselor intern, satisfy the examination requirement established by division rule under Section 58-1-203.~~]

(1) Subject to Subsection (2), an applicant for licensure as master addiction counselor based on education, training, and experience shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) document successful completion of not less than two hours of training in suicide prevention obtained after completion of the education requirements under Subsection (1)(d) via a course that the division designates as approved;

(d) produce a certified transcript from an accredited institution of higher education that meets standards established by division rule under Section 58-1-203, verifying the satisfactory completion of:

(i) a doctoral or master's degree in:

(A) substance use disorders or addiction counseling and treatment; or

(B) a counseling subject approved by the division in collaboration with the board, which may include social work, mental health counseling, marriage and family therapy, psychology, or medicine;

(ii) an associate's degree or higher, or 18 credit hours, in substance use disorder or addiction counseling and treatment from a regionally accredited institution of higher education;

(e) if required under federal law for any licensee as a master addiction counselor to qualify as an eligible professional under CMS rules for Medicare payment, document completion of:

(i) not less than 3,000 hours of clinical supervision, which includes hours accrued under Subsection (1)(g); or

(ii) not less than two years of clinical supervision;

(f) document successful completion of not less than 1,200 direct client care hours:

(i) obtained after completion of the education requirements under Subsection (1)(d)(ii);

(ii) subject to Subsection (1)(f)(iii), not less than 100 of which are direct clinical supervision hours under the supervision of a clinical supervisor;

(iii) not less than 25 of which are direct observation hours; and

(iv) not more than 25 of which are group supervision hours concurrently with more than one other applicant for licensure;

(g) if the applicant for licensure produces a transcript described in Subsection (1)(d)(ii), evidence completion of an additional 200 hours of direct client care hours in substance use disorder or addiction treatment;

(h)(i) pass the examination requirement established by division rule under Section 58-1-203; or

(ii) satisfy the following requirements:

(A) document at least one examination attempt that did not result in a passing score;

(B) document successful completion of not less than 500 additional direct client care hours, not less than 25 of which are direct clinical supervision hours, and not less than five of which are direct observation hours by a clinical supervisor;

(C) submit to the division a recommendation letter from the applicant's direct clinical supervisor; and

(D) submit to the division a recommendation letter from another licensed mental health therapist who has directly observed the applicant's direct client care hours and who is not the applicant's direct clinical supervisor; and

(i) consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) In lieu of the requirements under Subsections (1)(d) through (i), an applicant for licensure as master addiction counselor may document current certification in good standing as:

(a) a master addiction counselor by the National Certification Commission for Addiction Professionals;

(b) a master addiction counselor by the National Board for Certified Counselors; or

(c) an equivalent certification as under Subsections (2)(a) and (b), as determined in rule made by the division in collaboration with the board.

(3) An applicant for licensure as an associate master addiction counselor shall satisfy the requirements under Subsections (1)(a) through (c) and (i).

(4) Subject to Subsection (5), an applicant for licensure as an advanced substance use disorder counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c)(i) produce certified transcripts verifying satisfactory completion of:

(A) a bachelor's degree or higher, from a regionally accredited institution of higher learning, in substance use disorders, addiction, or related counseling subjects, including social work, mental health counseling, marriage and family counseling, or psychology; or

(B) two academic years of study in a master's of addiction counseling curriculum and practicum approved by the National Addictions Studies Accreditation Commission;

(ii) document completion of at least 500 hours of supervised experience while licensed as a substance use disorder counselor under this section, which the applicant may complete while completing the education requirements under Subsection (1)(c)(i); and

(iii) satisfy examination requirements established by the division in rule.

(5) The requirements of Subsection (4)(c) may be satisfied by providing official verification of current certification in good standing:

(a)(i) as a National Certified Addiction Counselor Level II (NCAC II) from the National Certification Commission for Addiction Professionals (NCC AP); or

(ii) as an Advanced Alcohol & Drug Counselor (AADC), from the International Certification and Reciprocity Consortium; or

(b) of substantive equivalence to the certifications under Subsection (5)(a), as determined by division rule made in consultation with the board.

[~~(2) In accordance with division rules, an applicant for licensure as an advanced substance use disorder counselor shall produce:~~]

[~~(a) certified transcripts from an accredited institution of higher education that:~~]

[~~(i) meet division standards;~~]

[~~(ii) verify the satisfactory completion of a baccalaureate or graduate degree; and~~]

[~~(iii) verify the completion of prerequisite courses established by division rules;~~]

[~~(b) documentation of the applicant's completion of a substance use disorder education program that includes:~~]

[~~(i) at least 300 hours of substance use disorder related education, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and~~]

[~~(ii) a supervised practicum of at least 350 hours, of which 200 hours may have been obtained while qualifying for a substance use disorder counselor license; and~~]

[~~(c) documentation of the applicant's completion of at least 4,000 hours of supervised experience in substance use disorder treatment, of which 2,000 hours may have been obtained while qualifying for a substance use disorder counselor license, that:~~]

[~~(i) meets division standards; and~~]

[~~(ii) is performed within a four-year period after the applicant's completion of the substance use disorder education program described in Subsection (2)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.~~]

[~~(3) An applicant for licensure as a certified advanced substance use disorder counselor shall meet the requirements in Subsections (2)(a) and (b).~~]

[~~(4)(a) An applicant for licensure as a certified advanced substance use disorder counselor intern shall meet the requirements in Subsections (2)(a) and (b).~~]

[~~(b) A certified advanced substance use disorder counselor intern license expires at the earlier of:~~]

[~~(i) the licensee passing the examination required for licensure as a certified advanced substance use disorder counselor; or~~]

[~~(ii) six months after the certified advanced substance use disorder counselor intern license is issued.~~]

[~~(5)~~](6) In accordance with division rules, an applicant for licensure as a substance use disorder counselor shall produce:

(a) certified transcripts from an accredited institution that:

(i) meet division standards;

(ii) verify satisfactory completion of an associate's degree or equivalent as defined by the division in rule; and

(iii) verify the completion of prerequisite courses established by division rules;

(b) documentation of the applicant's completion of a substance use disorder education program that includes:

(i) completion of at least 200 hours of substance use disorder related education;

(ii) included in the 200 hours described in Subsection [~~(5)(b)(i)~~](6)(b)(i), a minimum of two hours of training in suicide prevention via a course that the division designates as approved; and

(iii) completion of a supervised practicum of at least 200 hours; and

(c) documentation of the applicant's completion of at least 2,000 hours of supervised experience in substance use disorder treatment that:

(i) meets division standards; and

(ii) is performed within a two-year period after the applicant's completion of the substance use disorder education program described in Subsection [~~(5)(b)~~](6)(b), unless, as determined by the division after consultation with the board, the time for performance is extended due to an extenuating circumstance.

[~~(6) An applicant for licensure as a certified substance use disorder counselor shall meet the requirements of Subsections (5)(a) and (b).~~]

[~~(7)(a) An applicant for licensure as a certified substance use disorder counselor intern shall meet the requirements of Subsections (5)(a) and (b).~~]

[~~(b) A certified substance use disorder counselor intern license expires at the earlier of:~~]

[~~(i) the licensee passing the examination required for licensure as a certified substance use disorder counselor; or~~]

[~~(ii) six months after the certified substance use disorder counselor intern license is issued.~~]

Section 27. Section 58-60-512 is enacted to read:

58-60-512. Scope of practice -- Limitations.

(1) An individual who is licensed as a master addiction counselor:

(a) may engage in practice as a licensed master addiction counselor without supervision, in private and independent practice or as an employee of another person, limited only by the licensee's education, training, and competence; and

(b) may engage in the practice of mental health therapy.

(2) To the extent an individual has completed the educational requirements of Section 58-60-506, a licensed associate master addiction counselor may engage in the practice as a licensed master addiction counselor and licensed advanced substance use disorder counselor if the practice is:

(a) within the scope of employment as a licensed master addiction counselor or a licensed advanced substance use disorder counselor with, as defined by the division in rule, a public agency or private clinic; and

(b) under supervision of a qualified licensed mental health therapist as defined in Section 58-60-102.

(3) A licensed associate master addiction counselor may not engage in the unsupervised practice of master addiction counseling.

Section 28. Section 58-60-601 is enacted to read:

58-60-601. Definitions.

Part 6. Behavioral Health Coach and Technician Licensing Act

As used in this part:

(1) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(2) "Human services program" means the same as that term is defined in Section 26B-2-101.

(3) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(4) "Practice as a behavioral health coach" means, subject to Subsection (5), providing services as an employee of a substance use disorder or mental health agency, and working under the general supervision of a mental health therapist and includes:

(a) providing services under the definition of practice as a behavioral health technician in Subsection (6);

(b) conducting administrative and care coordination activities, including:

(i) providing targeted case management;

(ii) providing care navigation services, including:

(A) connecting individuals to behavioral health resources and social services; and

(B) facilitating communication with other behavioral health providers;

(iii) providing referrals and crisis referrals, including:

(A) engaging in warm handoffs with other behavioral health providers; and

(B) adhering to a standardized protocol in responding to a crisis or risk of crisis within a behavioral health facility, program, or other entity;

(iv) providing additional support to other behavioral health providers, facilities, programs, and entities, including:

(A) conducting administrative activities; and

(B) extending non-clinical behavioral health support; and

(v) providing discharge, post-treatment referral, and non-clinical after-care services;

(c) conducting patient assessment, monitoring, and planning activities, including:

(i) conducting non-clinical psychosocial assessments and screenings;

(ii) conducting collaborative planning, care planning, and goal setting;

(iii) gathering information to inform a mental health therapist's:

(A) diagnostic evaluations;

(B) initial treatment plans; and

(C) treatment plan reviews and updates;

(iv) monitoring client progress and tracking outcomes to inform a mental health therapist's:

(A) diagnostic evaluations; and

(B) treatment plan reviews and updates;

(v) assisting in drafting initial treatment plans by gathering information on a client's history and demographics, only:

(A) in the treatment of clients with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist, and as defined by the division in rule;

(B) with completion of the treatment plan by a mental health therapist after assessing the client before treatment begins; and

(C) at the discretion of and with prior documented authorization from a licensed health care facility, or from a licensed human services program; and

(vi) assisting in the information gathering process of reviewing and updating treatment goals, only:

(A) in the treatment of clients with mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist;

(B) with completion of the treatment plan from a mental health therapist after assessing the client before subsequent treatment begins; and

(C) at the discretion of and with prior documented authorization from a licensed health facility or a licensed human service program; and

(d) conducting intervention and treatment activities, including:

(i) providing psychosocial education groups related to behavioral health literacy, wellness education and promotion, goal setting, life skills, and coping skills;

(ii) providing other interventions to enhance client social skills, emotional well-being, and overall functioning, including:

(A) supportive consultations;

(B) habilitation services; and

(C) activity-based programs;

(iii) providing evidence-based, manualized interventions, only:

(A) under the supervision of a mental health therapist;

(B) in the treatment of mild to moderate behavioral health symptoms or disorders, as assessed or diagnosed by a mental health therapist; and

(C) according to a treatment plan reviewed and signed by a mental health therapist; and

(iv) co-facilitating group therapy with a mental health therapist.

(5) "Practice as a behavioral health coach" does not include engaging in the practice of mental health therapy.

(6)(a) "Practice as a behavioral health technician" means working under the general supervision of a mental health therapist and includes:

(i) supporting administrative and care coordination activities, including:

(A) maintaining accurate and confidential client records, progress notes, and incident reports, in compliance with applicable legal and ethical standards; and

(B) assisting in discharge, referral, and after-care documentation, coordination, and administration;

(ii) supporting patient non-clinical assessment, monitoring, and care planning activities, including:

(A) collecting intake and non-clinical psychosocial assessment information;

(B) gathering information to support diagnostic and treatment planning activities conducted by a mental health therapist; and

(C) observing, documenting, and reporting on client behaviors, treatment interventions, progress, and outcomes to a mental health therapist;

(iii) supporting intervention and treatment activities, including:

(A) supporting licensed professionals in implementing interventions designed to address behavioral health issues;

(B) facilitating psychoeducational groups or activities, development skills or activities, or social support groups or activities to enhance client social skills, emotional well-being, and overall functioning;

(C) providing education and support to clients and their families on behavioral health issues, treatment options, and community resources;

(D) implementing behavioral management strategies including de-escalation techniques and crisis intervention as needed; and

(E) implementing crisis intervention strategies in accordance with established protocols, and ensuring the safety and well-being of clients during emergencies.

(b) "Practice as a behavioral health technician" does not include:

(i) engaging in the practice of mental health therapy; or

(ii) serving as a designated examiner.

(7) Notwithstanding any other provision of this part, no behavioral health coach is authorized to practice outside of or beyond his or her area of training, experience, or competence.

(8) Notwithstanding any other provision of this part, no behavioral health technician is authorized to practice outside of or beyond his or her area of training, experience, or competence.

Section 29. Section 58-60-602 is enacted to read:

58-60-602. Limitation on state licensure and certification.

Nothing in this title shall be construed to prevent a person from lawfully engaging in practice as a behavioral health technician without certification.

Section 30. Section 58-60-603 is enacted to read:

58-60-603. Qualification for licensure -- Ongoing development requirements.

(1) The division shall grant licensure to a person who qualifies under this chapter to practice as a behavioral health coach.

(2) The division shall grant state certification to a person who qualifies under this chapter to practice as a behavioral health technician.

(3) An applicant for state certification as a behavioral health technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide certified transcripts verifying satisfactory completion of:

(i) a one-year academic certificate relevant to practice as a behavioral health technician from a regionally accredited institution of higher learning, or an equivalence of that certification as determined by the division in rule; or

(ii) an associate's degree or higher in a field determined by the division to be relevant to practice as a behavioral health technician, from a regionally accredited institution of higher learning, including:

(A) human and social services;

(B) counseling;

(C) psychology;

(D) social, behavioral, and health sciences; and

(E) education and human development.

(4) An applicant for licensure as a behavioral health coach by:

(a) the higher education pathway shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department under Section 63J-1-504; and

(iii) provide certified transcripts verifying satisfactory completion of a bachelor's degree or higher in a field determined by the division to be relevant to practice as a behavioral health coach, from a regionally accredited institution of higher learning, or an equivalence of that degree or higher, as determined by the division in rule, including:

(A) human and social services;

(B) counseling;

(C) psychology;

(D) social, behavioral, and health sciences; and

(E) education and human development;

(iv) provide certified transcripts verifying satisfactory completion of no less than nine credit hours in applied skills relevant to practice as a behavioral health coach, including:

(A) ethical, legal, and professional issues in behavioral health;

(B) therapeutic, counseling, or direct practice skills and methods;

(C) clinical documentation;

(D) case management; and

(E) supervised internship or practicum experience; and

(v) provide a letter of recommendation from an individual with direct knowledge of the applicant's competency to the practice as a behavioral health coach, who is qualified to evaluate the applicant's competency, including:

(A) a supervisor from a current or past work experience, internship, or practicum relevant to the practice as a behavioral health coach; or

(B) an instructor of an applied skills course relevant to the practice as a behavioral health coach; and

(b) the stacked credentials and experience pathway shall:

(i) submit an application in a form prescribed by the division;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) provide certified transcripts verifying satisfactory completion of an associate's degree or higher in a field determined by the division to be relevant to the practice as a behavioral health coach from a regionally accredited institution of higher learning, including:

(A) human and social services;

(B) counseling;

(C) psychology;

(D) social, behavioral, and health sciences; and

(E) education and human development;

(iv) provide certified transcripts verifying satisfactory completion of no less than nine credit hours in applied skills relevant to the practice as a behavioral health coach, including:

(A) ethical, legal, and professional issues in behavioral health;

(B) therapeutic, counseling, or direct practice skills and methods;

(C) clinical documentation;

(D) case management; and

(E) supervised internship or practicum experience;

(v) provide documentation of two years full-time work experience, or equivalent, in a context or role determined by the division to be relevant to the practice as a behavioral health coach, including as a:

(A) certified behavioral health technician;

(B) certified peer support specialist;

(C) certified case manager;

(D) certified crisis worker; or

(E) substance use disorder counselor; and

(vi) provide a letter of recommendation from an individual with direct knowledge of the applicant's competency to the practice as a behavioral health coach, who is qualified to evaluate the applicant's competency, including:

(A) a supervisor from a current or past work experience, internship, or practicum relevant to the practice as a behavioral health coach; or

(B) an instructor of an applied skills course relevant to the practice as a behavioral health coach.

(5)(a) Subject to Subsection (5)(b), Section 58-60-104 governs the term, expiration, and renewal of licenses and certifications the division grants under this part.

(b) At the time of renewal, an applicant for renewal shall provide satisfactory documentation that the applicant has completed any ongoing professional development requirements, as established by the division in rule made in consultation with the board.

Section 31. Section 58-60-604 is enacted to read:

58-60-604. Unlawful conduct.

It is unlawful for a person who is not licensed or certified under this chapter to:

(1) use the titles:

(a) state certified behavioral health technician; or

(b) licensed behavioral health coach; or

(2) represent that the person is, in connection with the person's name or business:

(a) a state certified behavioral health technician; or

(b) licensed behavioral health coach.

Section 32. Section 58-61-102 is amended to read:

58-61-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Psychologist Licensing Board created in Section 58-61-201~~]Behavioral Health Board created in Section 58-60-102.5.

(2) "Client" or "patient" means an individual who consults or is examined or interviewed by a psychologist acting in his professional capacity.

(3) "Confidential communication" means information, including information obtained by the psychologist's examination of the client or patient, which is:

(a)(i) transmitted between the client or patient and a psychologist in the course of that relationship; or

(ii) transmitted among the client or patient, the psychologist, and individuals who are participating in the diagnosis or treatment under the direction of the psychologist, including members of the client's or patient's family; and

(b) made in confidence, for the diagnosis or treatment of the client or patient by the psychologist, and by a means not intended to be disclosed to third persons other than those individuals:

(i) present to further the interest of the client or patient in the consultation, examination, or interview;

(ii) reasonably necessary for the transmission of the communications; or

(iii) participating in the diagnosis and treatment of the client or patient under the direction of the psychologist.

(4) "Hypnosis" means, regarding individuals exempted from licensure under this chapter, a process by which one individual induces or assists another individual into a hypnotic state without the use of drugs or other substances and for the purpose of increasing motivation or to assist the individual to alter lifestyles or habits.

(5) "Individual" means a natural person.

(6) "Mental health therapist" means an individual licensed under this title as a:

(a) physician and surgeon, or osteopathic physician engaged in the practice of mental health therapy;

(b) an advanced practice registered nurse, specializing in psychiatric mental health nursing;

(c) an advanced practice registered nurse intern, specializing in psychiatric mental health nursing;

(d) psychologist qualified to engage in the practice of mental health therapy;

(e) a certified psychology resident qualifying to engage in the practice of mental health therapy;

(f) clinical social worker;

(g) certified social worker;

(h) marriage and family therapist;

(i) an associate marriage and family therapist;

(j) a clinical mental health counselor; or

(k) an associate clinical mental health counselor.

(7) "Mental illness" means a mental or emotional condition defined in an approved diagnostic and statistical manual for mental disorders generally recognized in the professions of mental health therapy listed under Subsection (6).

(8) "Practice of mental health therapy" means the treatment or prevention of mental illness, whether in person or remotely, including:

(a) conducting a professional evaluation of an individual's condition of mental health, mental illness, or emotional disorder;

(b) establishing a diagnosis in accordance with established written standards generally recognized in the professions of mental health therapy listed under Subsection (6);

(c) prescribing a plan for the prevention or treatment of a condition of mental illness or emotional disorder; and

(d) engaging in the conduct of professional intervention, including psychotherapy by the application of established methods and procedures generally recognized in the professions of mental health therapy listed under Subsection (6).

(9)(a) "Practice of psychology" includes:

(i) the practice of mental health therapy by means of observation, description, evaluation, interpretation, intervention, and treatment to effect modification of human behavior by the application of generally recognized professional

psychological principles, methods, and procedures for the purpose of preventing, treating, or eliminating mental or emotional illness or dysfunction, the symptoms of any of these, or maladaptive behavior;

(ii) the observation, description, evaluation, interpretation, or modification of human behavior by the application of generally recognized professional principles, methods, or procedures requiring the education, training, and clinical experience of a psychologist, for the purpose of assessing, diagnosing, preventing, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, and mental health;

(iii) psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning;

(iv) counseling, marriage and family therapy, psychoanalysis, psychotherapy, hypnosis, and behavior analysis and therapy;

(v) diagnosis and treatment of mental and emotional disorders of disability, alcoholism and substance abuse, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability; and

(vi) psychoeducational evaluation, therapy, remediation, and consultation.

(b) An individual practicing psychology may provide services to individuals, couples, families, groups of individuals, members of the public, and individuals or groups within organizations or institutions.

(10) "Remotely" means communicating via Internet, telephone, or other electronic means that facilitate real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

(11) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-61-501.

(12) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-61-502, and may be further defined by division rule.

Section 33. Section 58-61-301 is amended to read:

58-61-301. Licensure required -- Certifications.

(1)(a) A license is required to engage in the practice of psychology, except as specifically provided in Section 58-1-307.

(b) Notwithstanding the provisions of Subsection 58-1-307(1)(c) an individual shall be certified under this chapter as a psychology resident in order to engage in a residency program of supervised clinical training necessary to meet licensing requirements as a psychologist under this chapter.

(2) The division shall issue to [~~a person~~]an individual who qualifies under this chapter[~~.~~]:

(a) a license in the classification of:

[~~(a)~~](i) psychologist; [~~or~~]and

[~~(b)~~](ii) certified psychology resident[~~.~~]; and

(b) a certification in the classification of:

(i) certified prescribing psychologist; and

(ii) provisional prescribing psychologist.

Section 34. Section 58-61-304 is amended to read:

58-61-304. Qualifications for licensure by examination or endorsement.

(1) An applicant for licensure as a psychologist based upon education, clinical training, and examination shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts of credit verifying satisfactory completion of a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(d) have completed a minimum of 4,000 hours of psychology training as defined by division rule under Section 58-1-203 in not less than two years and under the supervision of a psychologist supervisor approved by the division in collaboration with the board;

(e) to be qualified to engage in mental health therapy, document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of a master's level of education in psychology, which training may be included as part of the 4,000 hours of training required in Subsection (1)(d), and for which documented evidence demonstrates not less than one hour of supervision for each 40 hours of supervised training was obtained under the direct supervision of a psychologist, as defined by rule;

(f) pass the examination requirement established by division rule under Section 58-1-203;

(g) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(2) An applicant for licensure as a psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence the applicant is currently licensed in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence the applicant has actively practiced psychology in that jurisdiction for not less than 2,000 hours or one year, whichever is greater;

(g) provide satisfactory evidence that:

(i) the education, supervised experience, examination, and all other requirements for licensure in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction; or

(ii) the applicant is:

(A) a current holder of Board Certified Specialist status in good standing from the American Board of Professional Psychology;

(B) currently credentialed as a health service provider in psychology by the National Register of Health Service Providers in Psychology; or

(C) currently holds a Certificate of Professional Qualification (CPQ) granted by the Association of State and Provincial Psychology Boards;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(i) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(3)(a) An applicant for certification as a psychology resident shall comply with the provisions of Subsections (1)(a), (b), (c), (g), and (h).

(b)(i) An individual's certification as a psychology resident is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the [~~Psychologist Licensing Board~~]board that the individual is making reasonable progress toward passing the qualifying examination or is otherwise on a course reasonably expected to lead to licensure as a psychologist.

(ii) The period of time under Subsection (3)(b)(i) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

(4) An applicant for certification as a certified prescribing psychologist based upon education, clinical training, and examination shall:

(a) have authority to engage in the practice of psychology under Subsection 58-61-301;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board;

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, included at least 30 credit hours of didactics coursework over no less than four semesters, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or prior to enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule; and

(iii) has completed postdoctoral supervised training, as defined by division rule made in consultation with the board, in prescribing psychology under the direction of a licensed physician, including:

(A) not less than 4,000 hours of supervised clinical training throughout a period of at least two years; and

(B) for an applicant for a prescription certificate who specializes in the psychological care of children 17 years old or younger, persons 65 years old or older, or persons with comorbid medical conditions,

at least one year prescribing psychotropic medications to those populations, as certified by the applicant's supervising licensed physician;

(d) have passed:

(i) the Psychopharmacology Examination for Psychologists developed by the Association of State and Provincial Psychology Boards, or its successor organization; or

(ii) an equivalent examination as defined by the division in rule;

(e) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(f) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist; and

(h) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(5) An applicant for certification as a certified prescribing psychologist by endorsement based upon licensure in another jurisdiction shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) not have any disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(d) have passed the Utah Psychologist Law and Ethics Examination established by division rule;

(e) provide satisfactory evidence that the applicant is currently licensed as a prescribing psychologist in another state, district, or territory of the United States, or in any other jurisdiction approved by the division in collaboration with the board;

(f) provide satisfactory evidence that the applicant has actively practiced as a prescribing psychologist in that jurisdiction for not less than 4,000 hours or two years, whichever is greater;

(g) provide satisfactory evidence that the applicant has satisfied the education, supervised experience, examination, and all other requirements for licensure as a prescribing psychologist in that jurisdiction at the time the applicant obtained licensure were substantially equivalent to the licensure requirements for a certified prescribing psychologist in Utah at the time the applicant obtained licensure in the other jurisdiction;

(h) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) commit to maintaining professional liability insurance while acting as a certified prescribing psychologist; and

(j) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure.

(6) An applicant for certification as a provisional prescribing psychologist shall:

(a) have authority to engage in the practice of psychology under Section 58-61-301;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate by official transcript, or other official evidence satisfactory to the division, that the applicant:

(i) has completed a doctoral degree in psychology that includes specific core course work established by division rule under Section 58-1-203, from an institution of higher education whose doctoral program, at the time the applicant received the doctoral degree, met approval criteria established by division rule made in consultation with the board; and

(ii) has completed a master's degree in clinical psychopharmacology from an institution of higher learning whose master's program, at the time the applicant received the master's degree, met approval criteria established by division rule made in consultation with the board and includes the following core areas of instruction:

(A) neuroscience, pharmacology, psychopharmacology, physiology, and pathophysiology;

(B) appropriate and relevant physical and laboratory assessment;

(C) basic sciences, including general biology, microbiology, cell and molecular biology, human anatomy, human physiology, biochemistry, and genetics, as part of or prior to enrollment in a master's degree in clinical psychopharmacology; and

(D) any other areas of instruction determined necessary by the division, in collaboration with the board, as established by division rule;

(d) have no disciplinary action pending or in effect against the applicant's psychologist license or other professional license authorizing the applicant to prescribe in any jurisdiction;

(e) consent to a criminal background check in accordance with Section 58-61-304.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) commit to maintaining professional liability insurance while acting as a provisional prescribing psychologist;

(g) meet with the board, upon request for good cause, for the purpose of evaluating the applicant's qualifications for licensure; and

(h) satisfy any further requirements, as established by the division in rule.

Section 35. Section 58-61-304.1 is amended to read:

58-61-304.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation, including the use of the FBI Rap Back System, regarding the application and the applicant's future status as a license holder.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 36. Section 58-61-308 is amended to read:

58-61-308. Scope of practice -- Limitations.

(1)(a) ~~A~~Subject to Subsections (1)(b) through (f), a psychologist may engage in all acts and practices defined as the practice of psychology without supervision, in private and independent practice, or as an employee of another person, limited only by the licensee's education, training, and competence.

(b) Only a certified prescribing psychologist or provisional prescribing psychologist may prescribe, administer, and discontinue selective serotonin reuptake inhibitors, and other medications approved under Subsection (1)(c), recognized in or customarily used in the diagnosis, treatment, and management of individuals with psychiatric, mental, cognitive, nervous, emotional, developmental, or behavioral disorders, including:

(i) laboratory tests;

(ii) diagnostic examinations; and

(iii) procedures that are:

(A) necessary to obtain laboratory tests or diagnostic examinations;

(B) relevant to the practice of psychology; and

(C) in accordance with division rule made in consultation with the board.

(c)(i) The division may, by rule made in consultation with the Physicians Licensing Board created in Section 58-67-201, approve medications other than selective serotonin reuptake inhibitors for prescribing by certified prescribing psychologists or provisional prescribing psychologists.

(ii) If the division approves a medication under Subsection (1)(c)(i), the division shall notify the Health and Human Services Interim Committee of the approval within 14 days after the day on which the medication is approved.

(d)(i) A certified prescribing psychologist may only prescribe psychotropic medication for a patient if the certified prescribing psychologist:

(A) identifies a health care practitioner currently overseeing the patient's general medical care; and

(B) establishes and maintains a collaborative relationship with that health care practitioner.

(ii) When prescribing a psychotropic medication for a patient, a certified prescribing psychologist shall establish and maintain a collaborative relationship with a health care practitioner who oversees the patient's general medical care to ensure that:

(A) necessary medical examinations are conducted;

(B) the psychotropic medication is appropriate for the patient's medical condition; and

(C) significant changes in the patient's medical or psychological conditions are discussed.

(iii) A health care practitioner under Subsections (1)(c)(i) and (ii) shall be:

(A) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; or

(B) a psychiatric mental health nurse practitioner, as defined in Section 58-1-111.

(e) A certified prescribing psychologist and provisional prescribing psychologist may not prescribe or administer:

(i) narcotics; or

(ii) controlled substances.

(f) The division, in consultation with the board and the Physicians Licensing Board created in Section 58-67-201, may make rules further defining this section's limitations relating to prescribing psychology, allowable medications, and collaborative relationship requirements.

(2) An individual certified as a psychology resident may engage in all acts and practices defined as the practice of psychology only under conditions of employment as a psychology resident and under the supervision of a licensed psychologist who is an approved psychology training supervisor as defined by division rule. A certified psychology resident shall not engage in the independent practice of psychology.

Section 37. Section 58-61-502 is amended to read:

58-61-502. Unprofessional conduct.

(1) As used in this chapter, "unprofessional conduct" includes:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession for which the individual is licensed, or the laws of the state;

(b) failure to confine practice conduct to those acts or practices:

(i) in which the individual is competent by education, training, and experience within limits of education, training, and experience; and

(ii) which are within applicable scope of practice laws of this chapter;[~~and~~]

(c) disclosing or refusing to disclose any confidential communication under Section 58-61-602[~~.~~];

(d) a pattern of failing to provide to patients in a mental health therapy setting:

(i) information regarding the license holder, including the name under which the license holder is licensed, the type of license held, the license number, and the license holder's contact information;

(ii) if an individual's license requires the license holder to be supervised by another licensed provider, information regarding the supervisor, including the name under which the supervisor is licensed, the type of license held, the license number, and the supervisor's contact information;

(iii) information regarding standards of appropriate care and ethical boundaries, including a plain language statement that in a professional relationship with a mental health practitioner, a dual relationship between a client and a provider, or one that is romantic, financially motivated, sexual, or otherwise risks impacting the provider's judgment or the quality of the services provided, is never appropriate and should be reported to the Division of Professional Licensing;

(iv) unless the individual is under an order of temporary commitment or involuntary commitment, information regarding the client's rights, including that the client has the right to seek a second opinion, to ask for additional information, and to terminate treatment at any time; or

(v) the contact information for the Division of Professional Licensing, including how to file a complaint; and

(e) a pattern of failing to provide to patients, upon request:

(i) information about the license holder's qualifications and experience, including a listing of any degrees, credentials, certifications, registrations, and licenses held or completed by the license holder, the name of the granting school or institution, and the continuing education that the licensee is required to complete in order to retain the license;

(ii) information regarding standards of appropriate care and ethical boundaries, including a copy of the statutory and administrative rule definitions of unprofessional conduct, and a copy of generally recognized professional or ethical standards;

(iii) for any course of treatment, the method of treatment recommended, the reasoning supporting the method of treatment, the techniques used, the expected duration of the treatment, if known, and the fee structure; or

(iv) information regarding the individuals who have or have had access to confidential data related to the care of the patient, including evaluations, assessments, diagnoses, prevention or treatment plans, reports, progress notes, discharge summaries, treatment, or the documentation of treatment, including video recording, live stream, or in-person observations of psychotherapy or other treatment methods.

(2) "Unprofessional conduct" under this chapter may be further defined by division rule.

Section 38. Section 58-61-705 is amended to read:

58-61-705. Qualifications for licensure -- By examination -- By certification.

(1) An applicant for licensure as a behavior analyst based upon education, supervised experience, and national examination shall:

(a)(i) submit an application on a form provided by the division;

[~~(b)~~](ii) pay a fee determined by the department under Section 63J-1-504;

[~~(c)~~](iii) produce certified transcripts of credit verifying satisfactory completion of a master's or doctoral degree in applied behavior analysis from an accredited institution of higher education or an equivalent master or doctorate degree as determined by the division by administrative rule;

[~~(d)~~](iv) as defined by the division by administrative rule, have completed at least 1,500 hours of experiential behavior analysis training within a five year period of time with a qualified supervisor; and

[~~(e)~~](v) pass the examination requirement established by division rule under Section 58-1-203[~~.~~]; or

(b) document proof of current certification in good standing as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, or an equivalence of that certification, as determined by division rule made in consultation with the board.

[~~(2) An applicant for licensure as a behavior analyst based upon certification shall:~~]

[~~(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;~~]

[~~(b) pay a fee determined by the department under Section 63J-1-504; and~~]

[~~(c) provide official verification of current certification as a board certified behavior analyst from the Behavior Analyst Certification Board.~~]

[~~(3)~~](2) An applicant for licensure as an assistant behavior analyst based upon education, supervised experience, and national examination shall:

(a)(i) submit an application on a form provided by the division;

[~~(b)~~](ii) pay a fee determined by the department under Section 63J-1-504;

[~~(c)~~](iii) produce certified transcripts of credit verifying satisfactory completion of a bachelor's degree from an accredited institution of higher education and satisfactory completion of specific core course work in behavior analysis established under Section 58-1-203 from an accredited institution of higher education;

[~~(d)~~](iv) as defined by the division by administrative rule, have completed at least 1,000 hours of experiential behavior analysis training within a five-year period of time with a qualified supervisor; and

[~~(e)~~](v) pass the examination requirement established by division rule under Section 58-1-203[~~.~~]; or

(b) document proof of current certification in good standing as a Board Certified Assistant Behavior Analyst by the Behavior Analyst Certification Board, or an equivalence of that certification, as determined by division rule made in consultation with the board.

[~~(4) An applicant for licensure as an assistant behavior analyst based upon certification shall:~~]

[~~(a) without exception, on or before November 15, 2015, submit to the division an application on a form provided by the division;~~]

[~~(b) pay a fee determined by the department under Section 63J-1-504; and~~]

[~~(c) provide official verification of current certification as a board certified assistant behavior analyst from the Behavior Analyst Certification Board.~~]

[~~(5)~~](3) An applicant for registration as a behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have at least five years of experience as a professional engaged in the practice of behavior analysis on or before May 15, 2015; and

(d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

[~~(6)~~](4) An applicant for registration as an assistant behavior specialist based upon professional experience in behavior analysis shall:

(a) without exception, on or before November 15, 2015, submit to the division, an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have at least one year of experience as a professional engaging in the practice of behavior analysis prior to July 1, 2015; and

(d) be employed as a professional engaging in the practice of behavior analysis within an organization contracted with a division of the Utah Department of Human Services to provide behavior analysis on or before July 1, 2015.

Section 39. Section 58-84-102 is amended to read:

58-84-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Behavioral Health Board created in Section 58-60-102.5.

[~~(1)~~](2) "Practice of music therapy" means the clinical and evidence-based use of music interventions to accomplish individualized goals within a therapeutic relationship.

[~~(2)~~](3) "State certification" means a designation granted by the division in collaboration with the board on behalf of the state to an individual who has

met the requirements for state certification related to an occupation or profession described in this chapter.

[~~(3)~~](4) "State certified" means, when used in conjunction with an occupation or profession described in this chapter, a title that:

(a) may be used by a person who has met the state certification requirements related to that occupation or profession described in this chapter; and

(b) may not be used by a person who has not met the state certification requirements related to that occupation or profession described in this chapter.

Section 40. Section 58-84-201 is amended to read:

58-84-201. Qualifications for state certification.

(1) The division shall grant state certification to a person who qualifies under this chapter to engage in the practice of music therapy as a state certified music therapist.

(2) Each applicant for state certification as a state certified music therapist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation that the applicant is board certified by, and in good standing with, the Certification Board for Music Therapists, or an equivalent board as determined by division rule in collaboration with the board.

Section 41. Repealer.

This bill repeals:

Section 58-60-203, Board.

Section 58-60-303, Board -- Powers.

Section 58-60-307, Supervisors of marriage and family therapists -- Qualifications.

Section 58-60-403, Board.

Section 58-60-503, Board.

Section 58-61-201, Board.

Section 58-78-101, Title.

Section 58-78-102, Definitions.

Section 58-78-201, Board.

Section 58-78-301, License required.

Section 58-78-302, Qualifications for licensure -- Licensure by credential.

Section 58-78-303, Term of license -- Expiration -- Renewal.

Section 58-78-304, Exemption from licensure.

Section 58-78-401, Grounds for denial of license -- Disciplinary proceedings.

Section 58-78-501, Unlawful conduct.

Section 58-78-502, Unprofessional conduct.

Section 42. Effective date.

This bill takes effect on May 1, 2024.

Section 43. Coordinating S.B. 26 with H.B. 44.

If S.B. 26, Behavioral Health Licensing Amendments, and H.B. 44, Social Work Licensure Compact, both pass and become law, the Legislature intends that on May 1, 2024, the changes to Section 58-60-205 in S.B. 26 supersede the changes to Section 58-60-205 in H.B. 44.

CHAPTER 421
S. B. 34
Passed January 31, 2024
Approved March 19, 2024
Effective May 1, 2024

UTAH STATE RETIREMENT SYSTEMS REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- modifies a defined term referencing the Utah State Retirement Investment Fund to reflect the fund name;
- requires a participating employer to maintain records supporting certifications and reports regarding employee service credit;
- provides a participating employer's liability for failing to comply with contribution, record keeping, reporting, and certification requirements;
- provides a participating employer's maximum penalty for failing to make contributions, retain records, or correctly report or certify eligibility;
- requires, in an appeal, that the Utah State Retirement Board review a hearing officer's final judgment or decision;
- clarifies that a career retirement benefit awarded to a surviving spouse is in addition to a death benefit; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-11-306, as last amended by Laws of Utah 2011, Chapter 352
49-11-602, as last amended by Laws of Utah 2017, Chapter 141
49-11-604, as last amended by Laws of Utah 2018, Chapter 10
49-11-613, as last amended by Laws of Utah 2023, Chapter 37
49-12-405, as last amended by Laws of Utah 2016, Chapter 84
49-13-405, as last amended by Laws of Utah 2016, Chapter 84
49-22-502, as last amended by Laws of Utah 2016, Chapter 84
49-23-502, as last amended by Laws of Utah 2016, Chapter 84

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-306 is amended to read:

49-11-306. Definitions -- Scrutinized companies investment report -- Content -- Reporting -- Exceptions.

(1) As used in this section:

(a) "Active business operations" means all business operations that are not inactive business operations.

(b)(i) "Business operations" means investing, with actual knowledge on or after August 5, 1996, in Iran's petroleum sector which investment directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

(ii) "Business operations" does not include the retail sale of gasoline and related consumer products.

(c) "Company" means any foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or any other foreign entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of these entities or business associations, that exists for the purpose of making a profit.

(d)(i) "Direct holdings" means all publicly traded equity securities of a company that are held directly by the [~~public~~]investment fund or in an account or fund in which the [~~public~~]investment fund owns all shares or interests.

(ii) "Direct holdings" does not include publicly traded equity securities of a company held as part of a passive indexing investment strategy.

(e) "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.

(f) "Investment fund" means the Utah State Retirement Investment Fund created in Section 49-11-301.

[~~(f)~~](g) "Iran" means the Islamic Republic of Iran.

[~~(g)~~](h) "Petroleum resources" means petroleum or natural gas.

[~~(h) "Public fund" means the Utah State Retirement Investment Fund created under Section 49-11-301.~~]

(i) "Scrutinized business operations" means any active business operations that:

(i) are subject to or liable for sanctions under Public Law 104-172, the Iran Sanctions Act of 1996, as amended; and

(ii) involve the maintenance of:

(A) the company's existing assets or investments in Iran; or

(B) the deployment of new investments to Iran that meet or exceed the threshold referred to in Public Law 104-172, the Iran Sanctions Act of 1996, as amended.

(j) "Scrutinized company" means any company engaging in scrutinized business operations.

(2)(a)(i) The Utah State Retirement Office shall identify [~~those~~]the scrutinized companies in which the [~~public~~]investment fund has direct holdings.

(ii) In making the determination, the board shall review and rely on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations, and government entities.

(b) The office shall assemble a list of all identified scrutinized companies.

(c) The office shall update the list, on an annual basis, with information provided and received from those entities listed in Subsection (2)(a).

(3) The office shall prepare an annual report of [~~public~~]investment fund investments in scrutinized companies.

(4) The report shall include amounts and other data and statistics designed to explain the past and current extent to which public fund investments in scrutinized companies:

(a) are present; and

(b) are being prevented under Subsection (6).

(5) The report shall be provided to the governor, the board, the president of the Senate, the speaker of the House of Representatives, and to each member and staff of the Retirement and Independent Entities Committee created under Section 63E-1-201.

(6) [~~Beginning July 1, 2011, using~~]Using the most current list assembled under Subsection (2), the office shall prevent the investment of [~~public funds~~]investment fund's direct holdings in a scrutinized company:

(a) for[~~public~~] funds managed within the office, by not investing in direct holdings in a scrutinized company; and

(b) for[~~public~~] funds managed by contract by a professional investment manager:

(i) for existing contracts, by requesting that no more direct holdings be acquired in a scrutinized company; and

(ii) for future contracts, by stipulating in the contract that no new direct holdings be acquired in a scrutinized company.

(7) The provisions of this section do not apply to:

(a) money invested in a defined contribution plan as defined under Section 49-11-102; or

(b) investments in a company that is primarily engaged in:

(i) supplying goods or services intended to relieve human suffering in Iran; or

(ii) promoting health, education, religious, welfare, or journalistic activities in Iran.

Section 2. Section 49-11-602 is amended to read:

49-11-602. Participating employer to maintain records -- Time limit -- Penalties for failure to comply.

(1) A participating employer shall:

(a) maintain records necessary to calculate benefits under this title and other records necessary for proper administration of this title as required by the office; and

(b) maintain records that indicate whether an employee is receiving:

(i) a benefit under state or federal law that, under Subsection 49-12-102(1)(b)(vi) or (vii), is excluded from the definition of benefits normally provided for purposes of Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, or Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(ii) a benefit under a benefit package generally offered to similarly situated employees.

(2) A participating employer shall maintain all records necessary to support the participating employer's reports and certifications required by Section 49-11-603.

[~~(2)~~](3) A participating employer shall maintain the records required under [~~Subsection (1)~~] Subsections (1) and (2) until the earliest of:

(a) three years after the date of retirement of the employee from a system or plan;

(b) three years after the date of death of the employee; or

(c) 65 years from the date of employment with the participating employer.

[~~(3)~~](4) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to members, resulting from the participating employer's failure to maintain records under this section; and

(b) a penalty equal to 1% of the participating employer's last month's contributions.

[~~(4)~~](5) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

[~~(5)~~](6) The office may estimate the length of service, compensation, or age of any member, if that information is not contained in the records.

[~~(6)~~](7)(a) A participating employer shall enroll an employee, make reports, submit contributions, and provide other requested information electronically in a manner approved by the office.

(b) A participating employer shall treat any information provided electronically or otherwise by the office as subject to the confidentiality provisions of this title.

Section 3. Section 49-11-604 is amended to read:

49-11-604. Office audits of participating employers -- Penalties for failure to comply.

(1)(a) The office may perform an on-site compliance audit of a participating employer to determine compliance with reporting, contribution, and certification requirements under this title.

(b) The office or its independent auditor may perform an on-site compliance audit of a participating employer or request records to be provided by the participating employer, including records required to complete:

(i) audited financial statements;

(ii) schedules of employer allocations and pension reporting in accordance with Governmental Accounting Standards Board statements; and

(iii) service organizational controls reports.

(c) The office may request records to be provided by the participating employer at the time of the audit.

(d) Audits shall be conducted at the sole discretion of the office after reasonable notice to the participating employer of at least five working days.

(e) The participating employer shall extract and provide records as requested by the office in an appropriate, organized, and usable format.

(f) Failure of a participating employer to allow access, provide records, or comply in any way with an office audit shall result in the participating employer being liable to the office for:

(i) any liabilities and expenses, including administrative expenses and travel expenses, resulting from the participating employer's failure to comply with the audit; and

(ii) a penalty equal to 1% of the participating employer's last month's contributions.

(2) If the audit reveals a participating employer's failure to make contributions as required under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a failure to correctly report or certify eligibility as required under Section 49-11-603, the participating employer shall [~~reimburse~~]be liable to the office for [~~the cost of the audit.~~]:

(a) any liability or expense, including an administrative expense or the cost of increased benefits to members, resulting from the participating employer's failure to fully comply with the participating employer's reporting, contribution, certification, or record keeping requirements under this title; and

(b) a penalty, not to exceed 50% of the participating employer's total contributions for the time period of the error.

(3) If the audit reveals that an incorrect benefit has been paid by the office to a member, participant, alternate payee, or beneficiary due to a participating employer's failure to comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities contained in Subsection (2), the participating employer shall be liable to the office for the following:

(a) the actuarial cost of correcting the incorrect benefit; and

(b) administrative expenses.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

Section 4. Section 49-11-613 is amended to read:

49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board reconsideration -- Judicial review -- Docketing abstract of final administrative order.

(1)(a) A member, retiree, participant, alternative payee, covered individual, employer, participating employer, and covered employer shall inform themselves of their benefits, rights, obligations, and employment rights under this title.

(b) Subject to Subsection (8), any dispute regarding a benefit, right, obligation, or employment right under this title is subject to the procedures provided under this section.

(c)(i) A person who disputes a benefit, right, obligation, or employment right under this title shall request a ruling by the executive director who may delegate the decision to the deputy director.

(ii) A request for a ruling to the executive director under this section shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any benefit, right, obligation, or employment right under this title may request a review of that claim by a hearing officer within the time period described in Section 49-11-613.5.

(e)(i) The executive director, on behalf of the board, may request that the hearing officer review a dispute regarding any benefit, right, obligation, or employment right under this title by filing a notice of board action and providing notice to all affected parties in accordance with rules adopted by the board.

(ii) The filing of a notice of board action shall constitute the initiation of an action for purposes of the limitations periods described in Section 49-11-613.5.

(2) The hearing officer shall:

(a) be hired by the executive director after consultation with the board;

(b) follow and enforce the procedures and requirements of:

(i) this title;

(ii) the rules adopted by the board in accordance with Subsection (10); and

(iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (10);

(c) hear and determine all facts relevant to a decision, including facts pertaining to applications for benefits under any system, plan, or program under this title and all matters pertaining to the administration of the office; and

(d) make conclusions of law in determining the person's rights under any system, plan, or program under this title and matters pertaining to the administration of the office.

(3) The board shall review and approve or deny all [~~decisions~~]final orders and judgments of the hearing officer in accordance with rules adopted by the board in accordance with Subsection (10).

(4) The moving party in any proceeding brought under this section shall bear the burden of proof.

(5) A party may file an application for reconsideration by the board upon any of the following grounds:

(a) that the board acted in excess of the board's powers;

(b) that the order or the award was procured by fraud;

(c) that the evidence does not justify the determination of the hearing officer; or

(d) that the party has discovered new material evidence that could not, with reasonable diligence, have been discovered or procured prior to the hearing.

(6) The board shall affirm, reverse, or modify the [~~decision~~]final order or judgment of the hearing officer, or remand the application to the hearing officer for further consideration.

(7) A party aggrieved by the board's final decision under Subsection (6) may obtain judicial review by complying with the procedures and requirements of:

(a) this title;

(b) rules adopted by the board in accordance with Subsection (10); and

(c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically modified under this title or the rules adopted by the board in accordance with Subsection (10).

(8) The program shall provide an appeals process for medical claims that complies with federal law.

(9)(a)(i) Any interested party may file, in a district court of any county in the state, an abstract of a final administrative order approved by the board in accordance with this section.

(ii) Upon receiving the filing of an abstract, the clerk of the district court shall:

(A) docket the abstract; and

(B) note the date of the abstract's receipt on the abstract and in the docket.

(b)(i) From the day on which an interested party files the abstract with a district court, the final administrative order approved by the board is a lien upon the real property of the obligor situated in that county.

(ii) Unless satisfied, the lien is for a period of eight years after the day on which the board approves the final administrative order.

(c) The final administrative order approved by the board fixing the liability of the obligor has the same effect as any other money judgment entered by a district court.

(d)(i) Except as provided in Subsection (9)(d)(ii), an attachment, a garnishment, or an execution on a judgment included in or accruing under a final administrative order approved by the board and filed and docketed in accordance with Subsection (9)(a) has the same manner and same effect as an attachment, a garnishment, or an execution on a judgment of a district court.

(ii) A writ of garnishment on earnings continues to operate, and to require the garnishee to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval, until the office or a court releases the writ of garnishment in writing.

(e) The lien and enforcement remedies provided by this section are in addition to any other lien or remedy provided by law.

(f) A party may bring an action upon a final administrative order approved by the board within eight years after the day on which the board approves the final administrative order.

(g) A final administrative order may be renewed administratively by complying with the procedures and requirements provided in rule adopted by the board in accordance with Subsection (10).

(10)(a) The board shall make rules to implement this section and to establish procedures and requirements for adjudicative proceedings.

(b) The rules shall be substantially similar to or incorporate provisions of the Utah Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4, Administrative Procedures Act.

Section 5. Section 49-12-405 is amended to read:

49-12-405. Death of married member -- Service retirement benefits to surviving spouse.

(1) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 25 or more years of service credit;

(ii) attained age 60 with 20 or more years of service credit;

(iii) attained age 62 with 10 or more years of service credit; or

(iv) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(2) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(3) The Option Three benefit calculation, when there are 25 or more years of service credit, shall be calculated without a reduction in allowance under Section 49-12-402.

(4) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(5)(a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any payments made under Section 49-12-501 [~~and constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing claim for benefits under Section 49-12-501~~].

(b) Payments made under this section and Section 49-12-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(6) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 6. Section 49-13-405 is amended to read:

49-13-405. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-13-402 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6)(a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-13-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-13-501~~].

(b) Payments made under this section and Section 49-13-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 7. Section 49-22-502 is amended to read:

49-22-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-22-305 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6)(a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-22-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-22-501~~].

(b) Payments made under this section and Section 49-22-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 8. Section 49-23-502 is amended to read:

49-23-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.

(2) Upon the request of a deceased member's surviving spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month

following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 15 or more years of service credit;

(ii) attained age 62 with 10 or more years of service credit; or

(iii) attained age 65 with four or more years of service credit; and

(b) the member dies leaving a surviving spouse.

(3) The surviving spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:

(a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or

(b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the member's death.

(4) The allowance payable to a surviving spouse under Subsection (2) is:

(a) if the member has 25 or more years of service credit at the time of death, the surviving spouse shall receive the member's full allowance;

(b) if the member has between 20-24 years of service credit and is not age 60 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full allowance;

(c) if the member has between 15-19 years of service credit and is not age 62 or older at the time of death, the surviving spouse shall receive one-third of the member's full allowance; or

(d) if the member is age 60 or older with 20 or more years of service credit, age 62 or older with 10 or more years of service credit, or age 65 or older with four or more years of service credit at the time of death, the surviving spouse shall receive an Option Three benefit with actuarial reductions.

(5) The benefit calculation for a surviving spouse with a valid domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612 is calculated according to the manner in which the court order specified benefits to be partitioned, whether as a fixed amount or as a percentage of the benefit.

(6)(a) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 [~~and shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary filing a claim for benefits under Section 49-23-501~~].

(b) Payments made under this section and Section 49-23-501 shall constitute a full and final settlement of the claim of the surviving spouse or any other beneficiary.

(7) If the death benefits under this section or Section 49-23-503 are partitioned among more than one surviving spouse due to domestic relations order benefits on file with the office before the member's death date in accordance with Section 49-11-612, the total amount received by the surviving spouses may not exceed the death benefits normally provided to one surviving spouse under this section.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

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CHAPTER 422
S. B. 35
Passed February 7, 2024
Approved March 19, 2024
Effective July 1, 2024

INFERTILITY TREATMENT COVERAGE AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill modifies provisions related to the expanded infertility treatment coverage health benefit.

Highlighted Provisions:

This bill:

- eliminates the scheduled repeal of the expanded infertility treatment coverage pilot program;
- makes permanent the benefit for assisted reproductive technology for individuals within the state health insurance risk pool; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-20-418, as last amended by Laws of Utah 2021, Chapters 64, 195

63I-1-249, as last amended by Laws of Utah 2021, Chapter 195

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-20-418 is amended to read:

49-20-418. Expanded infertility treatment benefit.

(1) As used in this section:

(a) "Assisted reproductive technology" means the same as the term is defined in 42 U.S.C. Sec. 263a-7.

(b) "Physician" means the same as the term is defined in Section 58-67-102.

[~~(c) "Pilot program" means the expanded infertility treatment coverage pilot program described in Subsection (2).~~]

[~~(d)~~](c) "Qualified assisted reproductive technology cycle" means the use of assisted reproductive technology to transfer a single embryo for implantation.

[~~(e)~~](d) "Qualified individual" means [~~a covered~~]an individual [~~who is~~]:

(i) covered within the state risk pool; and

(ii) eligible for maternity benefits under the program.

[~~(2)(a) Beginning plan year 2018-19, and ending plan year 2023-24, the program shall offer a pilot program within the state risk pool that provides coverage to a qualified individual for the use of an assisted reproductive technology.~~]

[~~(b)(i) For plan year 2018-19, 2019-20, or 2020-21, the pilot program shall offer a one-time benefit of $4,000 toward the costs of using an assisted reproductive technology for each qualified individual.~~]

[~~(ii)~~](2)(a) [~~For plan year 2021-22, 2022-23, or 2023-24, the pilot~~]The program shall offer a benefit of $4,000 to a qualified individual toward the costs of each qualified assisted reproductive technology cycle.

[~~(c)~~](b) [~~The benefits described in Subsection (2)(b) are~~]The benefit is subject to the same cost sharing requirements as the [~~covered~~]qualified individual's plan.

(3) [~~Coverage offered under the pilot program applies if:~~]A qualified individual shall receive the benefit described in Subsection (2) if:

(a) the qualified individual is the patient who will use the assisted reproductive technology [~~is a qualified individual~~];

(b)(i) the patient's physician verifies that the patient or the patient's spouse has a demonstrated condition recognized by a physician as a cause of infertility; or

(ii) the patient attests that the patient is unable to conceive a pregnancy or carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception;

(c) the patient attests that the patient has been unable to attain a successful pregnancy through any less-costly, potentially effective infertility treatments for which coverage is available under the health benefit plan; and

(d) the use of the assisted reproductive technology procedure complies with the program's clinical policies and is performed at a medical facility that conforms to the minimal standards for programs of assisted reproductive technology procedures adopted by the American Society for Reproductive Medicine.

[~~(4) Coverage offered under the pilot program:~~]

(4)(a) The provision of a benefit in accordance with this section shall satisfy, in accordance with Subsection 31A-22-610.1(1)(c)(ii), the requirement to provide an adoption indemnity benefit to a qualified individual under Section 31A-22-610.1[~~;~~].

(b) [~~does not apply to a qualified individual if the~~]If a qualified individual has received the adoption indemnity benefit required under Section 31A-22-610.1[~~; and~~], the qualified individual may not receive a benefit in accordance with this section.

[~~(c) for plan year 2021-22, 2022-23, or 2023-24, shall apply to a qualified individual, even if the qualified individual received the benefit described in Subsection (2)(b)(i).~~]

[~~(5)(a) The purpose of the pilot program is to study the efficacy of providing coverage for the use of an assisted reproductive technology and is not a mandate for coverage of an assisted reproductive technology within all health plans offered by the program.~~]

[~~(b) The program shall report to the Retirement and Independent Entities Interim Committee regarding the costs and benefits of the pilot program:~~]

[~~(i) on or before October 1; and~~]

[~~(ii) during calendar years 2022 and 2023.~~]

[~~(6) Under Section 63J-1-603, the Legislature intends that the cost of the pilot program will be paid from money above the minimum recommended level in the public employees' state risk pool reserve.~~]

Section 2. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates: Title 49.

[~~(1)~~] Title 49, Chapter 11, Part 13, Phased Retirement, is repealed January 1, 2025.

[~~(2) Section 49-20-418 is repealed January 1, 2025.~~]

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 423
S. B. 47
Passed February 13, 2024
Approved March 19, 2024
Effective May 1, 2024

LOCAL GOVERNMENT BUSINESS LICENSE AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill modifies provisions relating to business licenses issued by a county or municipality.

Highlighted Provisions:

This bill:

- modifies a prohibition against a county or municipality requiring a license or permit for an occasionally operated business; and
- provides a limitation on the requirements that may be imposed on a participant at a county or municipal event.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2022, Chapter 306
17-53-216, as last amended by Laws of Utah 2022, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-203 is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" means the same as that term is defined in Section 10-1-402.

(c) "Telecommunications tax or fee" means the same as that term is defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5) and Subsection (7), the legislative body of a municipality may license for the purpose of regulation any business within the limits of the municipality, may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

(3)(a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b)(i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d)(i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4)(a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5)(a)(i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c)(i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d)(i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7)(a) As used in this Subsection (7):

(i)(A) "Event requirement" means a requirement a municipality imposes on individuals who participate in a municipal event.

(B) "Event requirement" does not include a requirement that is inconsistent with Subsection (7)(b).

(ii) "Exempt individual" means an individual who, under Subsection (7)(b), may not be required to have a business license or permit.

(iii) "Municipal event" means an event hosted or sponsored by a municipality.

(b) A municipality may not[~~:~~]

[~~(a)~~] require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under [~~18~~]19 years old[~~;~~].

(c) Subsection (7)(b) does not prevent a municipality from imposing an event requirement on an exempt individual who participates in a municipal event.

(8) A municipality may not:

[~~(b)~~](a) charge any fee for a resident of the municipality to operate a home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone;

[~~(c)~~](b) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information, except as specifically authorized under state or federal law.

[~~(8)~~](9)(a) Notwithstanding Subsection [~~(7)(b)~~](8)(a), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection [~~(7)(b)~~](8)(a) but who requests a license from the municipality.

(b) A municipality shall notify the owner of each home-based business of the exemption described in Subsection [~~(7)(b)~~](8)(a) in any communication with the owner.

[~~(9)~~](10) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

[~~(10)~~](11) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 2. Section 17-53-216 is amended to read:

17-53-216. Business license fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) Except as provided in Subsection (4), the legislative body of a county may by ordinance provide for the licensing of businesses within the unincorporated areas of the county for the purpose of regulation, and may impose fees on businesses to recover the county's costs of regulation.

(3) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(4)(a) As used in this Subsection (4):

(i)(A) "Event requirement" means a requirement a county imposes on individuals who participate in a county event.

(B) "Event requirement" does not include a requirement that is inconsistent with Subsection (4)(b).

(ii) "Exempt individual" means an individual who, under Subsection (4)(b), may not be required to have a business license or permit.

(iii) "County event" means an event hosted or sponsored by a county.

(b) A county may not[~~:~~]

[~~(a)~~] require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under [~~18~~]19 years old[~~;~~].

(c) Subsection (4)(b) does not prevent a county from imposing an event requirement on an exempt individual who participates in a county event.

[~~(b)~~](5) A county may not:

(a) charge a license fee for a home based business unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone; or

[~~(c)~~](b) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information except as specifically authorized under state or federal law.

[~~(5)~~](6) The county business licensing agency shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

[~~(6)~~](7) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter 144.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 424
S. B. 81
Passed February 16, 2024
Approved March 19, 2024
Effective May 1, 2024

COUNTY CLERK AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies provisions related to the solemnization of marriages.

Highlighted Provisions:

This bill:

- establishes requirements for solemnization of marriage when one or both participants are not physically present in the state;
- prohibits the use of a power of attorney to secure a marriage license for another individual;
- permits the use of a state identification card to be used to verify the age of a minor seeking a marriage license;
- requires parties to the marriage to consent to personal jurisdiction of the state and county for purposes of divorce or annulment if neither party is physically present in the state at the time of solemnization of the marriage;
- creates a criminal penalty for an officiant who knowingly or intentionally makes a false statement on a marriage certificate; and
- updates language for clarity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-5, as last amended by Laws of Utah 2011, Chapter 297
30-1-7, as last amended by Laws of Utah 2021, Chapter 305
30-1-8, as last amended by Laws of Utah 2021, Chapter 305
30-1-9, as last amended by Laws of Utah 2021, Chapter 305
30-1-10, as last amended by Laws of Utah 2019, Chapter 317
30-1-11, as last amended by Laws of Utah 2019, Chapter 420
30-3-1, as last amended by Laws of Utah 1997, Chapter 47
30-3-4.5, as last amended by Laws of Utah 2010, Chapter 34

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-5 is amended to read:

30-1-5. Marriage solemnization -- Before unauthorized person -- Validity.

(1) A marriage solemnized before a person professing to have authority to perform marriages may not be invalidated for lack of authority, if consummated in the belief of the parties or either of them that the person had authority and that they have been lawfully married.

(2) [~~This~~]Except as otherwise explicitly provided by law, this section may not be construed to validate a marriage that[~~.~~]:

(a) is prohibited or void under Section 30-1-2[~~.~~]; or

(b) fails to meet the requirements of Section 30-1-7, as validated by a court with jurisdiction.

Section 2. Section 30-1-7 is amended to read:

30-1-7. Marriage licenses -- Use within state -- Solemnization requirements -- Expiration.

(1) [~~No marriage may be~~]A marriage may not be solemnized in this state without a license issued by the county clerk of any county of this state.

(2)(a) A license issued within this state by a county clerk may only be used within this state.

(b) A license is considered used within this state if the officiant is physically present in the state at the time of solemnization of the marriage.

(3) A marriage is considered solemnized if:

(a) the parties to the marriage have a valid marriage license;

(b) each party to the marriage willingly, and without duress, declares their intent to enter into the marriage;

(c) each party to the marriage has filed all required affidavits with the county clerk that issued the marriage license as required under Subsection 30-1-10(1);

(d) an officiant pronounces the parties as married; and

(e) at least two individuals 18 years old or older witness the declarations of intent and the pronouncement.

[~~(3)~~](4) A license that is not used within 32 days after the day on which the [~~licensed~~]license is issued is [~~void~~]invalid.

Section 3. Section 30-1-8 is amended to read:

30-1-8. Application for license -- Contents -- Power of attorney not permitted.

(1) As used in this section, "minor" means the same as that term is defined in Section 30-1-9.

(2) A county clerk may issue a marriage license only after[~~.~~]:

(a) an application is filed with the county clerk's office, requiring the following information:

[~~(a)~~](i) the full names of the applicants, including the maiden or bachelor name of each applicant;

[~~(b)~~](ii) the social security numbers of the applicants, unless an applicant has not been assigned a number;

[~~(c)~~](iii) the current address of each applicant;

[~~(d)~~](iv) the date and place of birth, including the town or city, county, state or country, if possible;

[~~(e)~~](v) the names of the applicants' respective parents, including the maiden name of a mother;[~~and~~]

[~~(f)~~](vi) the birthplaces of the applicants' respective parents, including the town or city, county, state or country, if possible[~~.~~]; and

(vii) the age, legal name, and identity of each applicant is verified.

(3) A power of attorney may not be used to secure a marriage license on behalf of a party to a marriage.

[~~(3)~~](4)(a) If one or both of the applicants is a minor, the county clerk shall provide each minor with a standard petition on a form provided by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.

(b) The form described in Subsection [~~(3)(a)~~](4)(a) shall include:

(i) all information described in Subsection [~~(2)~~](2)(b);

(ii) in accordance with Subsection 30-1-9(2)(a), a place for the parent or legal guardian to indicate the parent or legal guardian's relationship to the minor;

(iii) an affidavit for the parent or legal guardian to acknowledge the penalty described in Section 30-1-9.1 signed under penalty of perjury;

(iv) an affidavit for each applicant regarding the accuracy of the information contained in the marriage application signed under penalty of perjury; and

(v) a place for the clerk to sign that indicates that the following have provided documentation to support the information contained in the form:

(A) each applicant; and

(B) the minor's parent or legal guardian.

[~~(4)~~](5)(a) The social security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

(b) The Department of Health[~~, Bureau of Vital Records and Health~~] and Human Services, Office of Vital Records and Statistics shall, upon request, supply the social security numbers to the Office of Recovery Services within the Department of Health and Human Services.

(c) The Office of Recovery Services may not use a social security number obtained under the authority of this section for any reason other than the administration of child support services.

Section 4. Section 30-1-9 is amended to read:

30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

(1) For purposes of this section, "minor" means an individual that is 16 or 17 years old.

(2)(a) If at the time of applying for a license the applicant is a minor, and not before the minor is married, a license may not be issued without the signed consent of the minor's parent or legal guardian given in person to the clerk, except that:

(i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;

(ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or

(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.

(b) Each applicant and if an applicant is a minor, the minor's consenting parent or legal guardian, shall appear in person before the clerk and provide legal documentation to establish the following information:

(i) the legal relationship between the minor and the minor's parent or legal guardian;

(ii) the legal name and identity of the minor; and

(iii) the birth date of each applicant.

(c) An individual may present the following documents to satisfy a requirement described in Subsection (2)(b):

(i) for verifying the legal relationship between the minor and the minor's parent or legal guardian, one of the following:

(A) the minor's certified birth certificate with the name of the parent, and an official translation if the birth certificate is in a language other than English;

(B) a report of a birth abroad with the name of the minor and the parent;

(C) a certified adoption decree with the name of the minor and the parent; or

(D) a certified court order establishing custody or guardianship between the minor and the parent or legal guardian;

(ii) for verifying the legal name and identity of the minor, one of the following:

(A) an expired or current passport;

(B) a driver's license;

(C) a certificate of naturalization;

(D) a military identification;

(E) a state identification card; or

[~~(E)~~](F) a government employee identification card from a federal, state, or municipal government; and

(iii) for verifying the birth date of each applicant, one of the following for each applicant:

(A) a certified birth certificate;

(B) a report of a birth abroad;

(C) a certificate of naturalization;

(D) a certificate of citizenship;

(E) a passport;

(F) a driver's license; or

(G) a state identification card.

(d) An individual may not use a temporary or altered document to satisfy a requirement described in Subsection (2)(b).

(3)(a) The minor and the parent or legal guardian of the minor shall obtain a written authorization to marry from:

(i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or

(ii) a court commissioner as permitted by rule of the Judicial Council.

(b) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:

(i) that the minor is entering into the marriage voluntarily; and

(ii) the marriage is in the best interests of the minor under the circumstances.

(c) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling, except the requirement for premarital counseling may be waived if premarital counseling is not reasonably available.

(d) The judge or court commissioner may require:

(i) that the minor continue to attend school, unless excused under Section 53G-6-204; and

(ii) any other conditions that the court deems reasonable under the circumstances.

(e) The judge or court commissioner may not issue a written authorization to the minor if the age difference between both parties to the marriage is more than seven years.

(4)(a) The determination required in Subsection (3) shall be made on the record.

(b) Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Section 5. Section 30-1-10 is amended to read:

30-1-10. Affidavit before the clerk -- Criminal penalty.

(1) A county clerk may not issue a license until the county clerk receives:

(a) an affidavit [~~is made before the clerk, which shall be filed and preserved by the clerk, by a party~~]from each party applying for the [~~license, showing~~]marriage license, stating that there is no lawful reason [~~in the way of~~]preventing the marriage[~~.~~]; and

(b) if one of the parties to the marriage will not be physically present in the state at the time of solemnization of the marriage, an affidavit from each party applying for the marriage license, stating that that party consents to personal jurisdiction of the state, and the county issuing the marriage license, for the purposes of filing a divorce or annulment of the marriage.

(2) A county clerk shall file and preserve each affidavit provided under this section.

[~~(2)~~](3) A party who makes an affidavit described in Subsection (1), or a subscribing witness to the affidavit, who falsely swears in the affidavit is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.

Section 6. Section 30-1-11 is amended to read:

30-1-11. Return of license after ceremony -- Penalty for failure to return -- Criminal penalty for false statement.

(1) The individual solemnizing the marriage shall within 30 days after solemnizing the marriage return the license to the clerk of the county that issues the license, with a certificate of the marriage over the individual's signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage.

(2) An individual described in Subsection (1) who fails to return the license is guilty of an infraction.

(3) An individual described in Subsection (1) who knowingly or intentionally makes a false statement on a certificate of marriage is guilty of perjury and may be prosecuted and punished as provided in Title 76, Chapter 8, Part 5, Falsification in Official Matters.

Section 7. Section 30-3-1 is amended to read:

30-3-1. Divorce proceedings -- Procedure -- Residence -- Grounds.

(1) Proceedings in divorce are commenced and conducted as provided by law for proceedings in civil causes, except as provided in this chapter.

(2) The court may decree a dissolution of the marriage contract between the petitioner and respondent on the grounds specified in Subsection (3) in all cases where[~~,~~]:

(a) the petitioner or respondent has been an actual and bona fide resident of this state and of the county where the action is brought[~~, or if members~~];

(b) the petitioner is a member of the armed forces of the United States[~~ who are not legal residents of this state, where the petitioner~~], is not a legal resident of this state, but has been stationed in this

state under military orders[~~,~~] for three months [~~next prior to the~~]immediately before commencement of the action[~~.~~]; or

(c) both parties have consented to personal jurisdiction for divorce or annulment under Subsection 30-1-10(1)(b).

(3) Grounds for divorce:

(a) impotency of the respondent at the time of marriage;

(b) adultery committed by the respondent subsequent to marriage;

(c) willful desertion of the petitioner by the respondent for more than one year;

(d) willful neglect of the respondent to provide for the petitioner the common necessaries of life;

(e) habitual drunkenness of the respondent;

(f) conviction of the respondent for a felony;

(g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;

(h) irreconcilable differences of the marriage;

(i) incurable insanity; or

(j) when the husband and wife have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

(4) A decree of divorce granted under Subsection (3)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.

(5)(a) A divorce may not be granted on the grounds of insanity unless:

(i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and

(ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.

(b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent. A copy of the summons and complaint shall be served on the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon his guardian ad litem, and upon the county attorney for the county where the action is prosecuted.

(c) The county attorney shall investigate the merits of the case and if the respondent resides out of this state, take depositions as necessary, attend the proceedings, and make a defense as is just to protect the rights of the respondent and the interests of the state.

(d) In all actions the court and judge have jurisdiction over the payment of alimony, the distribution of property, and the custody and maintenance of minor children, as the courts and judges possess in other actions for divorce.

(e) The petitioner or respondent may, if the respondent resides in this state, upon notice, have the respondent brought into the court at trial, or have an examination of the respondent by two or more competent physicians, to determine the mental condition of the respondent. For this purpose either party may have leave from the court to enter any asylum or institution where the respondent may be confined. The costs of court in this action shall be apportioned by the court.

Section 8. Section 30-3-4.5 is amended to read:

30-3-4.5. Motion for temporary separation order.

(1) A petitioner may file an action for a temporary separation order without filing a petition for divorce by filing a petition for temporary separation and motion for temporary orders if:

(a) the petitioner is lawfully married to the respondent; and

(b)(i) both parties are residents of the state for at least 90 days prior to the date of filing[~~.~~]; or

(ii) both parties have consented to personal jurisdiction for divorce or annulment under Subsection 30-1-10(1)(b).

(2) The temporary orders are valid for one year from the date of the hearing, or until one of the following occurs:

(a) a petition for divorce is filed and consolidated with the petition for temporary separation; or

(b) the case is dismissed.

(3) If a petition for divorce is filed and consolidated with the petition for temporary separation, orders entered in the temporary separation shall continue in the consolidated case.

(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being served, for respondent.

(5) Service shall be made upon respondent, together with a 20-day summons, in accordance with the rules of civil procedure.

(6) The fee for filing the petition for temporary separation orders is $35. If either party files a petition for divorce within one year from the date of filing the petition for temporary separation, the separation filing fee shall be credited towards the filing fee for the divorce.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 425
S. B. 97
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

OPERATIONS OF STATE GOVERNMENT

Chief Sponsor: Lincoln Fillmore
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies and repeals provisions related to government operations.

Highlighted Provisions:

This bill:

- modifies or repeals provisions related to legislative process that are intended for incorporation into legislative rules;
- gives the Legislative Management Committee the authority to reappoint an individual as the legislative auditor general, the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, or the legislative general counsel;
- changes the membership of the Research and General Counsel Subcommittee, and the Budget Subcommittee;
- modifies the duties of the Subcommittee on Oversight;
- repeals the statewide elected official summit;
- addresses the State Capitol Preservation Board's, the governor's, and the Legislature's authority over areas on capitol hill; and
- updates inconsistent terminology.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-818.5, as last amended by Laws of Utah 2023, Chapter 327
19-1-206, as last amended by Laws of Utah 2023, Chapter 327
26A-1-108, as last amended by Laws of Utah 2022, Chapter 39
26A-1-114, as last amended by Laws of Utah 2023, Chapters 90, 327
26B-1-309, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-909, as renumbered and amended by Laws of Utah 2023, Chapter 306
32B-4-102, as last amended by Laws of Utah 2016, Chapter 245
32B-4-415, as last amended by Laws of Utah 2022, Chapter 447
36-2-2, as last amended by Laws of Utah 2010, Chapter 133
36-11-102, as last amended by Laws of Utah 2023, Chapter 16
36-12-1, as last amended by Laws of Utah 2000, Chapter 104
36-12-6, as last amended by Laws of Utah 2016, Chapter 403
36-12-7, as last amended by Laws of Utah 2022, Chapter 222
36-12-8, as last amended by Laws of Utah 2016, Chapter 403
36-12-8.1, as last amended by Laws of Utah 2018, Chapter 254
36-12-9.5, as enacted by Laws of Utah 2014, Chapter 167
36-12-19, as last amended by Laws of Utah 1989, Chapter 174
41-6a-1401, as last amended by Laws of Utah 2016, Chapter 245
49-11-406, as last amended by Laws of Utah 2021, Chapters 64, 282, 344, and 382
53-1-102, as last amended by Laws of Utah 2021, Chapters 349, 360
53-1-109, as last amended by Laws of Utah 2005, Chapter 2
53-8-105, as last amended by Laws of Utah 2023, Chapter 432
53D-2-203, as enacted by Laws of Utah 2018, Chapter 448
55-5-6, as last amended by Laws of Utah 2001, Chapter 9
63A-5b-102, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-303, as last amended by Laws of Utah 2023, Chapter 329
63A-5b-303, as last amended by Laws of Utah 2023, Chapters 329, 394
63A-5b-607, as last amended by Laws of Utah 2023, Chapter 329
63G-1-503, as enacted by Laws of Utah 2023, Chapter 451
63G-1-702, as enacted by Laws of Utah 2013, Chapter 90
63J-1-602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 330, 345, 354, and 534
63J-1-602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 310, 330, 345, 354, and 534
72-6-107.5, as last amended by Laws of Utah 2023, Chapter 330
79-2-404, as last amended by Laws of Utah 2023, Chapter 330

ENACTS:

63O-1-101, Utah Code Annotated 1953
63O-1-201, Utah Code Annotated 1953
63O-1-202, Utah Code Annotated 1953
63O-1-203, Utah Code Annotated 1953
63O-1-204, Utah Code Annotated 1953
63O-1-205, Utah Code Annotated 1953
63O-1-206, Utah Code Annotated 1953
63O-1-301, Utah Code Annotated 1953
63O-1-302, Utah Code Annotated 1953
63O-1-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63C-9-102, (Renumbered from 63C-9-102, as last amended by Laws of Utah 2006, Chapter 256)

63C-9-201, (Renumbered from 63C-9-201, as last amended by Laws of Utah 2006, Chapter 256)

63C-9-202, (Renumbered from 63C-9-202, as last amended by Laws of Utah 2014, Chapter 387)

63C-9-301, (Renumbered from 63C-9-301, as last amended by Laws of Utah 2023, Chapter 160)

63C-9-401, (Renumbered from 63C-9-401, as last amended by Laws of Utah 2006, Chapter 256)

63C-9-402, (Renumbered from 63C-9-402, as last amended by Laws of Utah 2015, Chapter 314)

63C-9-403, (Renumbered from 63C-9-403, as last amended by Laws of Utah 2023, Chapter 329)

63C-9-501, (Renumbered from 63C-9-501, as last amended by Laws of Utah 2023, Chapter 534)

63C-9-601, (Renumbered from 63C-9-601, as last amended by Laws of Utah 2023, Chapter 160)

63C-9-602, (Renumbered from 63C-9-602, as enacted by Laws of Utah 1998, Chapter 285)

REPEALS:

36-2-1, as last amended by Laws of Utah 2015, Chapter 71

36-5-1, as last amended by Laws of Utah 2015, Chapter 314

36-12-2, as last amended by Laws of Utah 1998, Chapter 226

36-12-3, as last amended by Laws of Utah 2002, Chapter 39

36-12-4, as last amended by Laws of Utah 1988, Chapter 6

36-12-5, as last amended by Laws of Utah 2013, Chapter 177

36-21-1, as last amended by Laws of Utah 2020, Chapter 365

36-34-101, as enacted by Laws of Utah 2023, Chapter 207

63C-9-101, as enacted by Laws of Utah 1998, Chapter 285

67-1-16, as enacted by Laws of Utah 2008, Chapter 10

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the public transit

district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]63O-2-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts

with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage

described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 3. Section 26A-1-108 is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1)(a) Except as provided in Subsection (1)(b), a local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

(b) Notwithstanding Subsection (1)(a), a local health department's jurisdiction or authority to issue an order of constraint pursuant to a declared public health emergency does not apply to any facility, property, or area owned or leased by the state, including [~~the capitol hill complex, as that term is defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101.

(2)(a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 4. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7), (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26B, Chapter 7, Part 4, General Sanitation and Food Safety , in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on the local health department's own initiative or in cooperation with the Department of Health and Human Services or the Department of Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative

Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26B-7-321; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26B-7-301, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c)(i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7)(a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c)(i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d)(i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8)(a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b)(i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d)(i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9)(a) During a public health emergency declared under this chapter or under Title 26B, Chapter 7, Part 3, Treatment, Isolation, and Quarantine Procedures for Communicable Diseases:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b)(i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c)(i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10)(a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious

gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including [~~the capitol hill complex, as that term is defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101.

(12) A local health department may not:

(a) require a person to obtain an inspection, license, or permit from the local health department to engage in a practice described in Subsection 58-11a-304(5); or

(b) prevent or limit a person's ability to engage in a practice described in Subsection 58-11a-304(5) by:

(i) requiring the person to engage in the practice at a specific location or at a particular type of facility or location; or

(ii) enforcing a regulation applicable to a facility or location where the person chooses to engage in the practice.

Section 5. Section 26B-1-309 is amended to read:

26B-1-309. Medicaid Restricted Account.

(1) There is created a restricted account in the General Fund known as the "Medicaid Restricted Account."

(2)(a) Except as provided in Subsection (3), the following shall be deposited into the Medicaid Restricted Account:

(i) any general funds appropriated to the department for the state plan for medical assistance or for the Division of Health Care Financing that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Restricted Account;

(ii) any unused state funds that are associated with the Medicaid program, as defined in Section 26B-3-101, from the Department of Workforce Services; and

(iii) any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section [~~63C-9-403~~]63O-2-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404.

(b) The account shall earn interest and all interest earned shall be deposited into the account.

(c) The Legislature may appropriate money in the restricted account to fund programs that expand medical assistance coverage and private health insurance plans to low income persons who have not traditionally been served by Medicaid, including the Utah Children's Health Insurance Program created in Section 26B-3-902.

(3)(a) For fiscal years 2008-09, 2009-10, 2010-11, 2011-12, and 2012-13 the following funds are nonlapsing:

(i) any general funds appropriated to the department for the state plan for medical assistance, or for the Division of Health Care Financing that are not expended by the department in the fiscal year in which the general funds were appropriated; and

(ii) funds described in Subsection (2)(a)(ii).

(b) For fiscal years 2019-20, 2020-21, 2021-22, and 2022-23, the funds described in Subsections (2)(a)(ii) and (3)(a)(i) are nonlapsing.

Section 6. Section 26B-3-909 is amended to read:

26B-3-909. State contractor -- Employee and dependent health benefit plan coverage.

(1) For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5b-607, [~~63C-9-403~~]63O-2-403, 72-6-107.5, and 79-2-404, "qualified health coverage" means, at the time the contract is entered into or renewed:

(a) a health benefit plan and employer contribution level with a combined actuarial value

at least actuarially equivalent to the combined actuarial value of:

(i) the benchmark plan determined by the program under Subsection 26B-3-904(1)(a); and

(ii) a contribution level at which the employer pays at least 50% of the premium or contribution amounts for the employee and the dependents of the employee who reside or work in the state; or

(b) a federally qualified high deductible health plan that, at a minimum:

(i) has a deductible that is:

(A) the lowest deductible permitted for a federally qualified high deductible health plan; or

(B) a deductible that is higher than the lowest deductible permitted for a federally qualified high deductible health plan, but includes an employer contribution to a health savings account in a dollar amount at least equal to the dollar amount difference between the lowest deductible permitted for a federally qualified high deductible plan and the deductible for the employer offered federally qualified high deductible plan;

(ii) has an out-of-pocket maximum that does not exceed three times the amount of the annual deductible; and

(iii) provides that the employer pays 60% of the premium or contribution amounts for the employee and the dependents of the employee who work or reside in the state.

(2) The department shall:

(a) on or before July 1, 2016:

(i) determine the commercial equivalent of the benchmark plan described in Subsection (1)(a); and

(ii) post the commercially equivalent benchmark plan described in Subsection (2)(a)(i) on the department's website, noting the date posted; and

(b) update the posted commercially equivalent benchmark plan annually and at the time of any change in the benchmark.

Section 7. Section 32B-4-102 is amended to read:

32B-4-102. Definitions.

As used in this chapter, "capitol hill complex" means [~~the same as that term is defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101.

Section 8. Section 32B-4-415 is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4) and Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and Section 32B-5-307, the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public;

(e) the State Capitol Preservation Board created in Section [~~63C-9-201~~]63O-2-201; or

(f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

(a) a location from which the passenger departs in a private vehicle; or

(b) the capitol hill complex.

(4)(a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a bar establishment licensee; or

(iv) a person operating under a spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger;

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and

(iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

(i)(A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger;

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or

(b) except as provided in Subsection (4), sublicensed premises.

Section 9. Section 36-2-2 is amended to read:

36-2-2. Salaries and expenses of members -- Compensation of in-session employees.

(1)(a) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, members of the Legislature shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(b) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, members of the Legislature shall receive a salary for attendance at a veto-override, special session, and other authorized legislative meetings equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(2)(a) Unless rejected or lowered as provided in Section 36-2-3, beginning in 2001 and in each odd-numbered year after that year, the president of the Senate and the speaker of the House of Representatives shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(b) Beginning in 2001 and in each odd-numbered year after that year, the majority and minority leadership of each [~~house~~]chamber shall receive a salary equal to the amount recommended by the Legislative Compensation Commission in the last report issued by the commission in the previous even-numbered year.

(3) The Legislature shall:

(a) establish, by joint rule of the Legislature, the expenses of its members; and

(b) ensure that the rules governing expenses are based upon:

(i) payment of necessary expenses for attendance during legislative sessions;

(ii) a mileage allowance; and

(iii) reimbursement for other expenses involved in the performance of legislative duties.

[~~(4)(a) The Legislature shall establish the compensation of in-session employees by joint resolution at each session of the Legislature.~~]

[~~(b) For necessary work done by in-session employees of the Legislature after the adjournment of a session, the presiding officer of the house employing that work shall approve payment for the work.~~]

Section 10. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a)(i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b)(i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means [~~the same as that term is defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101.

(5)(a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11)(a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13)(a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15)(a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19)(a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, town, or metro township;

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a)(i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a)(i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 11. Section 36-12-1 is amended to read:

36-12-1. Definitions.

As used in this chapter:

[~~(1)(a) "Interim committees" means legislative committees that are formed from the membership of each house to function between sessions of the Legislature in order to study subjects of legislative concern.~~]

[~~(b) "Interim committees" includes a commission, committee, council, task force, board, or panel, in which legislative participation is required by law, which committee functions between sessions of the Legislature.~~]

(1) "Interim committee" means the same as that term is defined in legislative rule.

(2) "Legislative director" means the director of the Office of Legislative Research and General Counsel, the legislative fiscal analyst, or the legislative auditor general.

(3) "Major political party" means either of the two political parties having the greatest number of members elected to the two [~~houses~~]chambers of the Legislature.

(4) "Professional legislative staff" means the legislative directors and the members of their staffs.

[~~(5) "Standing committees" means legislative committees organized under the rules of each house of the Legislature for the duration of the legislative biennial term to consider proposed legislation. As used in this chapter, "standing committees" excludes appropriations committees, appropriations subcommittees, and rules committees.~~]

(5) "Standing committee" means a Senate or House committee established under Senate or House rule for the purpose of considering proposed legislation.

Section 12. Section 36-12-6 is amended to read:

36-12-6. Permanent committees -- House and Senate management -- Members -- Chair -- Legislative Management Committee -- Membership -- Chair and vice-chair -- Meetings -- Quorum.

(1) There are hereby established as permanent committees of the Legislature a House Management Committee and a Senate Management Committee. The House Management Committee shall consist of eight members of the House of Representatives, four from each major political party. The membership shall include the elected leadership of the House of Representatives and additional members chosen at the beginning of each annual general session by the minority party caucus as needed to complete the full membership. The chair of the committee shall be the speaker of the House of Representatives or the speaker's designee. The Senate Management Committee shall consist of eight members of the Senate, four from each major political party. The membership shall include the elected leadership of the Senate and additional members chosen at the beginning of each annual general session by the appropriate party caucus as needed to complete the full membership. The chair of the committee shall be the president of the Senate or the president's designee.

(2)(a) There is established a permanent committee of the Legislature known as the Legislative Management Committee.

(b) The committee shall consist of:

(i) the members of the House Management Committee; and

(ii) the members of the Senate Management Committee.

(c)(i) The president of the Senate or the president's designee shall be chair during 1987, and the speaker of the House of Representatives or the speaker's designee shall be vice-chair of the committee during that year.

(ii) The positions of chair and vice-chair of the Legislative Management Committee shall rotate annually between these two officers in succeeding years.

(d) The committee shall meet as often as is necessary to perform its duties, but not less than once each quarter.

(e) If any vote of the committee results in a tie, the president of the Senate and speaker of the House of Representatives may together cast an additional vote to break the tie.

(3) If a legislator declines membership on the committees established by this section, or if a vacancy occurs, a replacement shall be chosen by the leadership of the appropriate party of the [~~house~~]chamber in which the vacancy occurs.

(4) The committees established by this section shall meet not later than 60 days after the

adjournment sine die of the annual general session held in even-numbered years and not later than 30 days after the adjournment sine die of the annual general session held in odd-numbered years for the purpose of effecting their organization and prescribing rules and policies pertaining to their respective powers and duties. A majority of the members of each committee constitutes a quorum, and a majority of a quorum has authority to act in any matter falling within the jurisdiction of the committee.

Section 13. Section 36-12-7 is amended to read:

36-12-7. Legislative Management Committee -- Duties -- Litigation.

(1) The Senate or House Management Committee shall:

(a) receive legislative resolutions directing studies on legislative matters and may assign these studies to the appropriate interim committee of its [~~house~~]chamber;

(b) assign to interim committees of the same [~~house~~]chamber, matters of legislative study not specifically contained in a legislative resolution but considered significant to the welfare of the state;

(c) receive requests from interim committees of its [~~house~~]chamber for matters to be included on the study agenda of the requesting committee. Appropriate bases for denying a study include inadequate funding to properly complete the study or duplication of the work;

(d) establish a budget account for interim committee day as designated by Legislative Management Committee and for all other legislative committees of its [~~house~~]chamber and allocate to that account sufficient funds to adequately provide for the work of the committee; and

(e) designate the time and place for periodic meetings of the interim committees.

(2) To maximize the use of legislators' available time, the Senate and House Management Committees should attempt to schedule the committee meetings of their respective [~~houses~~]chambers during the same one or two-day period each month. This does not preclude an interim committee from meeting at any time it determines necessary to complete its business.

(3)(a) The Legislative Management Committee shall:

[~~(a) employ~~]

(i) appoint, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a majority vote of both [~~houses, persons~~]chambers, individuals qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general[~~. Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices before the expiration of the person's term only by a majority vote of both houses of the Legislature or by a two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature~~];

[~~(b)~~](ii) develop policies for personnel management, compensation, and training of all professional legislative staff;

[~~(c)~~](iii) develop a policy within the limits of legislative appropriation for the authorization and payment to legislators of compensation and travel expenses, including out-of-state travel;

[~~(d)~~](iv) approve special study budget requests of the legislative directors; and

[~~(e)~~](v) assist the speaker-elect of the House of Representatives and the president-elect of the Senate, upon selection by their majority party caucus, to organize their respective [~~houses~~]chambers of the Legislature and assume the direction of the operation of the Legislature in the forthcoming annual general session.

(b)(i)(A) An appointment under Subsection (3)(a)(i) is for a six-year term, subject to renewal by a majority vote of the Legislative Management Committee.

(B) Each renewal is for an additional six-year term and is not subject to approval by the Legislature.

(ii) The Legislature by a majority vote of both chambers or the Legislative Management Committee by a two-thirds vote may remove an individual appointed under this Subsection (3) before the expiration of the individual's term for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office.

(c) If a vacancy occurs in a position appointed under this Subsection (3), the Legislative Management Committee shall appoint an individual to fill the vacancy until the Legislature approves or rejects the individual's appointment by a majority vote of both chambers.

(4)(a) The Legislature delegates to the Legislative Management Committee the authority, by means of a majority vote of the committee, to direct the legislative general counsel in matters involving the Legislature's participation in litigation.

(b) The Legislature has an unconditional right to intervene in a state court action and may provide

evidence or argument, written or oral, if a party to that court action challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature.

(c) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to file an amicus brief, or to present argument in accordance with federal rules of procedure.

(d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit the duty of the attorney general to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided by law.

(e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.

(f) The attorney general shall notify the legislative general counsel of a claim in accordance with Subsection 67-5-1(1)(y).

Section 14. Section 36-12-8 is amended to read:

36-12-8. Legislative Management Committee -- Research and General Counsel Subcommittee -- Budget Subcommittee -- Audit Subcommittee -- Duties -- Members -- Meetings.

(1) There are created within the Legislative Management Committee:

(a) the Research and General Counsel Subcommittee;

(b) the Budget Subcommittee; and

(c) the Audit Subcommittee.

[~~(2)(a) The Research and General Counsel Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.~~]

[~~(b) The Budget Subcommittee, comprising six members, shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.~~]

(2)(a) The Research and General Counsel Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(b) The Research and General Counsel Subcommittee shall recommend to the Legislative Management Committee a person or persons to hold the positions of director of the Office of Legislative Research and General Counsel and legislative general counsel.

(3)(a) The Budget Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

(b) The Budget Subcommittee shall recommend to the Legislative Management Committee a person to hold the position of legislative fiscal analyst.

[~~(c)~~](4)(a) The Audit Subcommittee shall comprise:

(i) the president, majority leader, and minority leader of the Senate; and

(ii) the speaker, majority leader, and minority leader of the House of Representatives.

[~~(d)~~](b) The Audit Subcommittee shall:

(i) recommend to the Legislative Management Committee a person to hold the position of legislative auditor general; and

(ii)(A) review all requests for audits;

(B) prioritize those requests;

(C) hear all audit reports and refer those reports to other legislative committees for their further review and action as appropriate; and

(D) when notified by the legislative auditor general or state auditor that a subsequent audit has found that an entity has not implemented a previous audit recommendation, refer the audit report to an appropriate legislative committee and also ensure that an appropriate legislative committee conducts a review of the entity that has not implemented the previous audit recommendation.

[~~(3) The members of each subcommittee of the Legislative Management Committee, other than the Audit Subcommittee, shall have equal representation from each major political party and shall be appointed from the membership of the Legislative Management Committee by an appointments committee comprised of the speaker and the minority leader of the House of Representatives and the president and the minority leader of the Senate.~~]

[~~(4)~~](5) Each subcommittee of the Legislative Management Committee:

(a) shall meet as often as necessary to perform its duties; and

(b) may meet during and between legislative sessions.

Section 15. Section 36-12-8.1 is amended to read:

36-12-8.1. Legislative Management Committee -- Subcommittee on Oversight -- Members -- Duties -- Meetings.

(1) There is created within the Legislative Management Committee a Subcommittee on Oversight comprised of the following members:

(a) from the Senate:

(i) the president;

(ii) the majority leader;

(iii) the minority leader; and

(iv) the minority whip;

(b) from the House of Representatives:

(i) the speaker;

(ii) the majority leader;

(iii) the minority leader; and

(iv) the minority whip.

(2) The Subcommittee on Oversight shall[~~:~~]

[~~(a)~~] meet no later than November 1 of each year to review and approve the budget for the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of the Legislative Auditor General[~~; and~~].

[~~(b) provide an annual performance review for the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, the legislative general counsel, and the legislative auditor general.~~]

[~~(3)(a) This subcommittee shall meet no later than:~~]

[~~(i) June 1st of each year to receive and evaluate the results of the annual performance reviews; and~~]

[~~(ii) November 1st of each year to review and approve the budgets of the Office of the Legislative Fiscal Analyst, the Office of Legislative Research and General Counsel, and the Office of the Legislative Auditor General.~~]

[~~(b) This subcommittee may meet at other times as often as necessary to perform its duties.~~]

Section 16. Section 36-12-9.5 is amended to read:

36-12-9.5. Obstructing a legislative proceeding.

(1) As used in this section, "legislative proceeding" means an investigation or audit conducted by:

(a) the Legislature, or a [~~house~~]chamber, committee, subcommittee, or task force of the Legislature; or

(b) an employee or independent contractor of an entity described in Subsection (1)(a), at or under the direction of an entity described in Subsection (1)(a).

(2) Except as described in Subsection (3), a person is guilty of a class A misdemeanor if the person, with intent to hinder, delay, or prevent a legislative proceeding:

(a) provides a person with a weapon;

(b) prevents a person, by force, intimidation, or deception, from performing any act that might aid the legislative proceeding;

(c) alters, destroys, conceals, or removes any item or other thing;

(d) makes, presents, or uses an item, document, or thing known by the person to be false;

(e) makes a false material statement, not under oath, to:

(i) the Legislature, or a [~~house~~]chamber, committee, subcommittee, or task force of the Legislature; or

(ii) an employee or independent contractor of an entity described in Subsection (2)(e)(i);

(f) harbors or conceals a person;

(g) provides a person with transportation, disguise, or other means of avoiding discovery or service of process;

(h) warns any person of impending discovery or service of process;

(i) conceals an item, information, document, or thing that is not privileged after a legislative subpoena is issued for the item, information, document, or thing; or

(j) provides false information regarding a witness or a material aspect of the legislative proceeding.

(3) Subsection (2) does not include:

(a) false or inconsistent material statements, as described in Section 76-8-502;

(b) tampering with a witness or soliciting or receiving a bribe, as described in Section 76-8-508;

(c) retaliation against a witness, victim, or informant, as described in Section 76-8-508.3; or

(d) extortion or bribery to dismiss a criminal proceeding, as described in Section 76-8-509.

Section 17. Section 36-12-19 is amended to read:

36-12-19. Investigatory powers of the Legislature.

In the discharge of its legislative investigatory powers, the Legislature, or either [~~house~~]chamber or any committee thereof, may:

(1) administer oaths; and

(2) issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, other tangible things, and testimony, by following the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

Section 18. Section 41-6a-1401 is amended to read:

41-6a-1401. Standing or parking vehicles -- Restrictions and exceptions.

(1) Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a peace officer, or a traffic-control device, a person may not:

(a) stop, stand, or park a vehicle:

(i) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) on a sidewalk;

(iii) within an intersection;

(iv) on a crosswalk;

(v) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(vi) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) on any bridge or other elevated structure, on a highway, or within a highway tunnel;

(viii) on any railroad tracks;

(ix) on any controlled-access highway;

(x) in the area between roadways of a divided highway, including crossovers; or

(xi) any place where a traffic-control device prohibits stopping, standing, or parking;

(b) stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) in front of a public or private driveway;

(ii) within 15 feet of a fire hydrant;

(iii) within 20 feet of a crosswalk;

(iv) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(v) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;

(vi) at any place where a traffic-control device prohibits standing; or

(vii) at [~~the capitol hill complex as defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101, in a parking space identified as reserved for specific users, without:

(A) approval by the executive director of the State Capitol Preservation Board created in Section [~~63C-9-201~~]63O-2-201; and

(B) a properly displayed placard or other identifying marker approved by the executive director of the State Capitol Preservation Board to indicate this approval; or

(c) park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

(i) within 50 feet of the nearest rail of a railroad crossing; or

(ii) at any place where traffic-control devices prohibit parking.

(2) A person may not move a vehicle that is not lawfully under the person's control into any prohibited area or into an unlawful distance from the curb.

(3) This section does not apply to a tow truck motor carrier responding to a customer service call if the tow truck motor carrier has already received authorization from the local law enforcement agency in the jurisdiction where the vehicle to be towed is located.

Section 19. Section 49-11-406 is amended to read:

49-11-406. Governor's appointed executives and senior staff -- Appointed legislative employees -- Transfer of value of accrued defined benefit -- Procedures.

(1) As used in this section:

(a) "Defined benefit balance" means the total amount of the contributions made on behalf of a member to a defined benefit system plus refund interest.

(b) "Senior staff" means an at-will employee who reports directly to an elected official, executive director, or director and includes a deputy director and other similar, at-will employee positions designated by the governor, the speaker of the House, or the president of the Senate and filed with the Division of Human Resource Management and the Utah State Retirement Office.

(2) In accordance with this section and subject to requirements under federal law and rules made by the board, a member who has service credit from a system may elect to be exempt from coverage under a defined benefit system and to have the member's defined benefit balance transferred from the defined benefit system or plan to a defined contribution plan in the member's own name if the member is:

(a) the state auditor;

(b) the state treasurer;

(c) an appointed executive under Subsection 67-22-2(1)(a);

(d) an employee in the Governor's Office;

(e) senior staff in the Governor's Office of Planning and Budget;

(f) senior staff in the Governor's Office of Economic Opportunity;

(g) senior staff in the State Commission on Criminal and Juvenile Justice;

(h) senior staff in the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(i) a legislative employee appointed under Subsection [~~36-12-7(3)(a)~~]36-12-7(3); or

(j) a legislative employee appointed by the speaker of the House of Representatives, the House

of Representatives minority leader, the president of the Senate, or the Senate minority leader.

(3) An election made under Subsection (2):

(a) is final, and no right exists to make any further election;

(b) is considered a request to be exempt from coverage under a defined benefits system; and

(c) shall be made on forms provided by the office.

(4) The board shall adopt rules to implement and administer this section.

Section 20. Section 53-1-102 is amended to read:

53-1-102. Definitions.

(1) As used in this title:

(a) "Capitol hill complex" means [~~the same as that term is defined in Section 63C-9-102~~]capitol hill, as defined in Section 63O-1-101.

(b) "Commissioner" means the commissioner of public safety appointed under Section 53-1-107.

(c) "Department" means the Department of Public Safety created in Section 53-1-103.

(d) "Governor-elect" means an individual whom the board of canvassers determines to be the successful candidate for governor after a general election for the office of governor.

(e) "Law enforcement agency" means an entity or division of:

(i)(A) the federal government, a state, or a political subdivision of a state;

(B) a state institution of higher education; or

(C) a private institution of higher education, if the entity or division is certified by the commissioner under Title 53, Chapter 19, Certification of Private Law Enforcement Agency; and

(ii) that exists primarily to prevent and detect crime and enforce criminal laws, statutes, and ordinances.

(f) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(g) "Motor vehicle" means every self-propelled vehicle and every vehicle propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except motorized wheel chairs and vehicles moved solely by human power.

(h) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(i) "Public official" means the same as that term is defined in Section 36-11-102.

(j) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(k) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(2) The definitions provided in Subsection (1) are to be applied throughout this title in addition to definitions that are applicable to specific chapters or parts.

Section 21. Section 53-1-109 is amended to read:

53-1-109. Security for capitol complex -- Traffic and parking rules enforcement for division -- Security personnel as law enforcement officers.

[~~(1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the same meaning as provided in Section 63C-9-102.~~]

[~~(2)~~](1)(a) The commissioner, under the direction of the State Capitol Preservation Board, shall:

(i) provide for the security of capitol hill[~~facilities and capitol hill grounds~~]; and

(ii) enforce traffic provisions under Title 41, Chapter 6a, Traffic Code, and parking rules, as adopted by the State Capitol Preservation Board, for capitol hill [~~facilities and capitol hill grounds~~].

(b) The commissioner, in cooperation with the director of the Division of Facilities Construction and Management shall provide for the security of all grounds and buildings under the jurisdiction of the Division of Facilities Construction and Management.

[~~(3)~~](2) Security personnel required in Subsection [~~(2)~~](1) shall be law enforcement officers as defined in Section 53-13-103.

[~~(4)~~](3) Security personnel who were actively employed and had five or more years of active service with Protective Services within the Utah Highway Patrol Division as special function officers, as defined in Section 53-13-105, on June 29, 1996, shall become law enforcement officers:

(a) without a requirement of any additional training or examinations, if they have completed the entire law enforcement officer training of the Peace Officers Standards and Training Division; or

(b) upon completing only the academic portion of the law enforcement officer training of the Peace Officers Standards and Training Division.

[~~(5)~~](4) An officer in a supervisory position with Protective Services within the Utah Highway Patrol Division shall be allowed to transfer the job title that the officer held on April 28, 1996, into a comparable supervisory position of employment as a peace officer for as long as the officer remains with Protective Services within the Utah Highway Patrol Division.

Section 22. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

(1) In addition to the duties in this chapter, the Highway Patrol shall:

(a) enforce the state laws and rules governing use of the state highways;

(b) regulate traffic on all highways and roads of the state;

(c) assist the governor in an emergency or at other times at his discretion;

(d) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(e) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(f) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(g) assist the Alcoholic Beverage Services Commission in an emergency to enforce the state liquor laws;

(h) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

(i) enforce the state laws and rules governing use of[~~ the~~] capitol hill[~~ complex as defined in Section 63C-9-102~~]; and

(j) carry out the following for the Supreme Court and the Court of Appeals:

(i) provide security and protection to those courts when in session in the capital city of the state;

(ii) execute orders issued by the courts; and

(iii) carry out duties as directed by the courts.

(2)(a) The division and the department shall annually:

(i) evaluate the inventory of new and existing state highways, in coordination with relevant local law enforcement agencies, to determine which law enforcement agency is best suited to patrol and enforce state laws and regulate traffic on each state highway; and

(ii) before October 1 of each year, report to the Transportation Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(A) significant changes to the patrol and enforcement responsibilities resulting from the evaluation described in Subsection (2)(a)(i); and

(B) any budget request necessary to accommodate additional patrol and enforcement responsibilities.

(b) The division and the department shall, before July 1 of each year, coordinate with the Department of Transportation created in Section 72-1-201 regarding patrol and enforcement responsibilities described in Subsection (2)(a) and incident management services on state highways.

Section 23. Section 53D-2-203 is amended to read:

53D-2-203. Land Trusts Protection and Advocacy Office director -- Appointment -- Removal -- Power and duties.

(1)(a) The advocacy committee shall:

(i) discuss candidates who may qualify for appointment as the advocacy director, as described in Subsection (1)(b);

(ii) determine the two most qualified candidates; and

(iii) submit the names of those two candidates to the state treasurer as potential appointees for the advocacy director.

(b) A potential appointee for advocacy director shall have significant expertise and qualifications relating to generating revenue to the school and institutional trust and the duties of the advocacy office and the advocacy director, which may include expertise in:

(i) business;

(ii) finance;

(iii) economics;

(iv) natural resources; or

(v) advocacy.

(c) From the individuals described in Subsection (1)(a), the state treasurer shall appoint one as the advocacy director.

(2)(a) An advocacy director shall serve a four-year term.

(b) If a vacancy occurs in the advocacy director's position, the advocacy committee and state treasurer shall, in accordance with Subsection (1), appoint a replacement director for a four-year term.

(3) The advocacy committee may remove the advocacy director during a meeting that is not closed as described in Section 52-4-204, if:

(a) removal of the advocacy director is scheduled on the agenda for the meeting; and

(b) a majority of a committee quorum votes to remove the advocacy director.

(4) In accordance with state and federal law, the advocacy director may attend a presentation, discussion, meeting, or other gathering related to the school and institutional trust.

(5) In order to fulfill the duties of the advocacy office described in Section 53D-2-201, the advocacy director shall:

(a) maintain a direct relationship with each individual who is key to fulfilling the state's trustee obligations and duties related to the trust;

(b) facilitate open communication among key individuals described in Subsection (5)(a);

(c) actively seek necessary and accurate information;

(d) review and, if necessary, recommend the state auditor audit, activities involved in:

(i) generating trust revenue;

(ii) protecting trust assets; or

(iii) distributing funds for the exclusive use of trust beneficiaries;

(e) promote accurate record keeping of all records relevant to the trust and distribution to trust beneficiaries;

(f) report at least quarterly to the advocacy committee and the state treasurer on the current activities of the advocacy office;

(g) annually submit a proposed advocacy office budget to the state treasurer;

(h) regarding the trust's compliance with law, and among the School and Institutional Trust Lands System as a whole, report annually to:

(i) the advocacy committee;

(ii) the state treasurer;

(iii) the State Board of Education; and

(iv) the Executive Appropriations Committee;

(i) annually send a financial report regarding the relevant individual trust, and, upon request, report in person to:

(i) Utah State University, on behalf of the agricultural college trust;

(ii) the University of Utah;

(iii) the Utah State Hospital, on behalf of the mental hospital trust;

(iv) the Utah Schools for the Deaf and the Blind, on behalf of the institution for the blind trust and the deaf and dumb asylum trust;

(v) the youth in custody program at the State Board of Education, on behalf of the reform school trust;

(vi) the Division of Water Resources, created in Section 73-10-18, on behalf of the reservoir trust;

(vii) the College of Mines and Earth Sciences created in Section 53B-17-401;

(viii) each state teachers' college, based on the college's annual number of teacher graduates, on behalf of the normal school trust;

(ix) the Miners' Hospital described in Section 53B-17-201; and

(x) the State Capitol Preservation Board, created in Section [~~63C-9-201~~]63O-2-201, on behalf of the public buildings trust;

(j) as requested by the state treasurer, draft proposed rules and submit the proposed rules to the advocacy committee for review;

(k) in accordance with state and federal law, respond to external requests for information about the School and Institutional Trust Lands System;

(l) in accordance with state and federal law, speak on behalf of trust beneficiaries:

(i) at School and Institutional Trust Lands Administration meetings;

(ii) at School and Institutional Trust Fund Office meetings; and

(iii) with the media;

(m) review proposed legislation that affects the school and institutional trust and trust beneficiaries and advocate for legislative change that best serves the interests of the trust beneficiaries; and

(n) educate the public regarding the School and Institutional Trust Lands System.

(6) With regard to reviewing the activities described in Subsection (5)(d), the advocacy director may have access to the financial reports and other data required for a review.

Section 24. Section 55-5-6 is amended to read:

55-5-6. Definitions.

As used in this chapter:

(1) "Food service" includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with them.

(2)(a) "Public office building" means all county courthouses, all city or town halls, and all buildings used primarily for governmental offices of the state or any county, city, or town.

(b) "Public office building" does not include a building or other facility on capitol hill[~~facilities as defined in Section 63C-9-102~~],as defined in Section 63O-1-101, public schools, state colleges, or state universities.

Section 25. Section 63A-5b-102 is amended to read:

63A-5b-102. Definitions.

As used in this chapter:

[~~(1) "Capitol hill facilities" means the same as that term is defined in Section 63C-9-102.~~]

[~~(2) "Capitol hill grounds" means the same as that term is defined in Section 63C-9-102.~~]

(1) "Capitol hill" means the same as that term is defined in Section 63O-1-101.

[~~(3)~~](2) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

[~~(4)~~](3) "Director" means the division director, appointed under Section 63A-5b-302.

[~~(5)~~](4) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

[~~(6)~~](5) "Institution of higher education" means an institution listed in Subsection 53B-2-101(1).

[~~(7)~~](6) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

[~~(8)~~](7) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section 53B-1-402.

Section 26. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

[~~(b) The supervision and control of the legislative area is reserved to the Legislature.~~]

[~~(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.~~]

(b) The division may not supervise or control capitol hill or any part of capitol hill.

[~~(d)~~](c)(i) Subject to Subsection [~~(3)(d)(ii)~~](3)(c)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

[~~(e)~~](d)(i) Subject to Subsection [~~(3)(e)(ii)~~](3)(d)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 27. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

[~~(b) The supervision and control of the legislative area is reserved to the Legislature.~~]

[~~(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.~~]

(b) The division may not supervise or control capitol hill or any part of capitol hill.

[~~(d)~~](c)(i) Subject to Subsection [~~(3)(d)(ii)~~](3)(c)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

[~~(e)~~](d)(i) Subject to Subsection [~~(3)(e)(ii)~~](3)(d)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 28. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6)(a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7)(a)(i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b)(i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10)(a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11)(a)(i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26B-1-309.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 29. Section 63G-1-503 is amended to read:

63G-1-503. Historic state flag -- Description -- Image -- Display.

(1) The historic state flag shall be a flag of blue field, with the following device worked in natural colors on the center of the blue field:

(a) in the center a shield;

(b) above the shield and thereon an American eagle with outstretched wings;

(c) the top of the shield pierced with six arrows arranged crosswise;

(d) upon the shield under the arrows the word "Industry," and below the word "Industry" on the center of the shield, a beehive;

(e) on each side of the beehive, growing sego lilies;

(f) below the beehive and near the bottom of the shield, the word "Utah";

(g) below the word "Utah" and on the bottom of the shield, the figures "1847";

(h) behind the shield, there shall be two American flags on flagstaffs placed crosswise with the flags so draped to project beyond each side of the shield, the heads of the flagstaffs appearing in front of the eagle's wings and the bottom of each staff appearing over the face of the draped flag below the shield;

(i) below the shield and flags and upon the blue field, the figures "1896"; and

(j) around the entire design, a narrow circle in gold.

(2) The historic state flag shall appear consistent with any of the following three images:

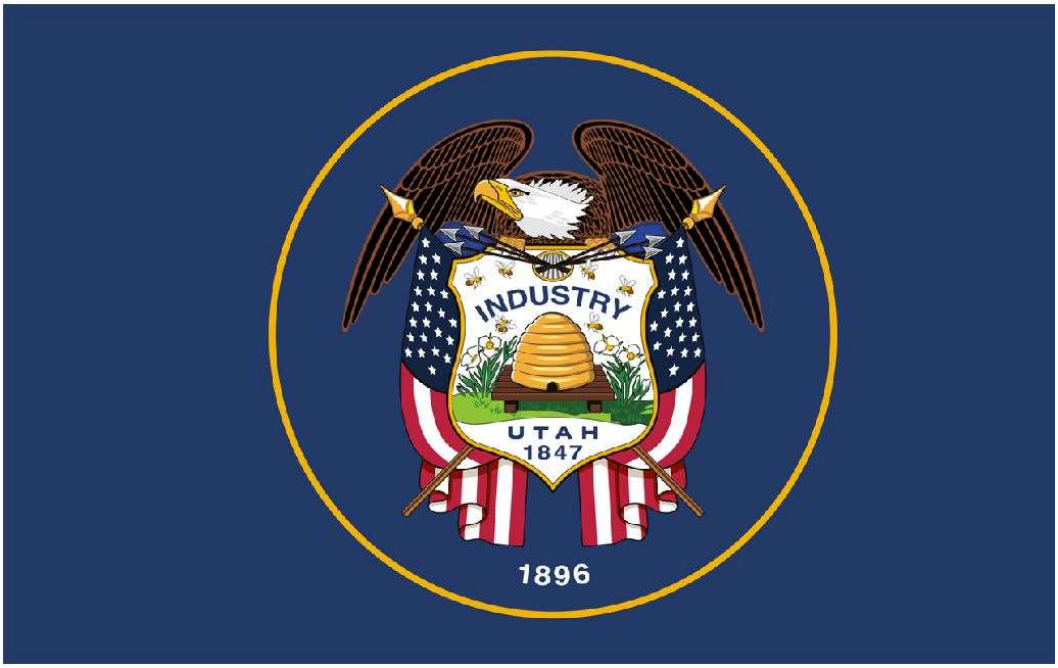
INDUSTRY
UTAH
1847
1896


INDUSTRY
UTAH
1847
1896


INDUSTRY
UTAH
1847
1896

(3) All citizens maintain the right to use the historic state flag upon any occasion deemed fitting and appropriate.

(4) The lieutenant governor shall establish standards and specifications for the manufacture and display of the historic state flag.

(5) The historic state flag shall be displayed:

(a) on state property during legal holidays described in Section 63G-1-301, as deemed appropriate by the governor; and

(b) [~~on the capitol hill complex, as defined in Section 63C-9-102~~] at capitol hill, as defined in Section 63O-1-101, during the annual general session of the Legislature.

(6)(a) The historic state flag may be displayed on state property for ceremonial purposes, so long as the flag is serviceable.

(b) The historic state flag shall be replaced by the state flag of Utah, as described in Section 63G-1-501, when the historic state flag is not displayed for ceremonial purposes.

(c) When displaying the historic state flag on public grounds in any location where the state flag of Utah, as described in Section 63G-1-501, is also displayed, the governmental entity responsible for the display of the flags shall ensure that the historic state flag is displayed beneath the state flag of Utah.

Section 30. Section 63G-1-702 is amended to read:

63G-1-702. Definitions.

As used in this part:

(1) "Capitol hill complex" [~~is as defined in Section 63C-9-102~~]means capitol hill, as defined in Section 63O-1-101.

(2)(a) "Flag" means a depiction or emblem made from fabric or cloth.

(b) "Flag" does not include a depiction or emblem made from:

(i) lights;

(ii) paint;

(iii) roofing;

(iv) siding;

(v) paving materials;

(vi) flora;

(vii) balloons; or

(viii) any other building, landscaping, or decorative component other than fabric or cloth.

(3) "Flag of the United States" is the flag described in United States Code Title 4, Chapter 1, The Flag.

(4) "POW/MIA flag" means the POW/MIA flag of the National League of Families of American Prisoners and Missing in Southeast Asia.

Section 31. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The Emergency Medical Services Grant Program in Section 26B-4-107.

(11) The primary care grant program created in Section 26B-4-310.

(12) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(13) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(14) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(15) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(16) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(17) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(18) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(20) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section [~~63C-9-201~~]63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 32. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(18) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Emergency Medical Services Grant Program in Section 53-2d-207.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section [~~63C-9-201~~]63O-2-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(34) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(35) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(36) The Traffic Noise Abatement Program created in Section 72-6-112.

(37) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(38) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(39) A state rehabilitative employment program, as provided in Section 78A-6-210.

(40) The Utah Geological Survey, as provided in Section 79-3-401.

(41) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(42) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(43) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(44) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(45) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

(46) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 33. Section 63O-1-101 is enacted to read:

63O-1-101. Definitions.

TITLE 63O. CAPITOL HILL

CHAPTER 1. CONTROL AND MAINTENANCE OF CAPITOL HILL

Part 1. General Provisions

As used in this title:

(1) "Architectural integrity" means the architectural elements, materials, color, and quality of the original building construction.

(2) "Area of joint control" means all areas that are specified under this chapter as being under the direction and control of both the Legislature and the governor.

(3) "Board" means the State Capitol Preservation Board created in Section 63C-9-201.

(4) "Capitol hill" means the following, in Salt Lake City:

(a) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard;

(b) the White Community Memorial Chapel, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;

(c) the Council Hall Travel Information Center, including the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property;

(d) the Daughters of the Utah Pioneers Building and the Carriage House, including:

(i) the grounds, monuments, parking areas, buildings, structures, and other man-made and natural objects on the property; and

(ii) the other state-owned property within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;

(e) the Central Plant, located to the southeast of the intersection of 500 North and Columbus Street;

(f) the state-owned property within the area bounded by Columbus Street, Wall Street, and 400 North Street; and

(g) the state-owned property within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.

(5) "Governor's area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the governor.

(6) "House Building" means the west building on capitol hill that is located northwest of the State Capitol, southwest of the North Building, and west of the Senate Building.

(7) "Legislative area" means all areas, other than an area of joint control, that are specified under this chapter as being under the direction and control of the Legislature.

(8) "Legislative day" means:

(a) a day during the annual general session of the Legislature;

(b) a day during a special session of the Legislature;

(c) a day during which the House of Representatives is convened under Utah Constitution, Article VI, Section 17;

(d) a day during which the Senate is convened under Utah Constitution, Article VI, Section 18;

(e) a day during a veto override session; or

(f) a day designated by the Legislative Management Committee as a legislative day for meetings of the House of Representatives, the Senate, or a committee, task force, caucus, or other group of the legislative branch.

(9) "North Building" means the building on capitol hill that is located north of the State Capitol, northeast of the House Building, and northwest of the Senate Building.

(10) "Senate Building" means the building on capitol hill that is located northeast of the State Capitol, southeast of the North Building, and east of the House Building.

(11) "State Capitol" means the building dedicated as the Utah State Capitol in 1916.

(12)(a) "Tunnels" means all utility and security tunnels, corridors, and hallways on the basement level of capitol hill.

(b) "Tunnels" does not include the underground parking.

Section 34. Section 63O-1-201 is enacted to read:

63O-1-201. Capitol building -- Direction and control.

Part 2. Buildings, Structures, and Grounds

(1) In the basement of the State Capitol:

(a) except as provided in Subsections (1)(b) and (c), the entire basement is under the direction and control of the board, which shall allocate space, as needed, for security offices, the Supreme Court, and others;

(b) the following areas are under the direction and control of the Legislature:

(i) the Legislative Printing office and Bill Room;

(ii) the Sergeant Lounge; and

(iii) the press room; and

(c) the following areas in the southwest corner are under the direction and control of the governor:

(i) the governor's parking area;

(ii) the operations center;

(iii) the executive suite; and

(iv) the executive detail area.

(2) On the first floor of the State Capitol:

(a) the following are under the direction and control of the governor:

(i) the office suites located on the northwest and southwest sides; and

(ii) the dignitary holding area and elevator, which the Legislature may schedule through the Utah Highway Patrol Dignitary Protection Bureau;

(b) suite 180, in the southeast corner, is under the direction and control of the board and assigned for the use of the state treasurer; and

(c) the following are under the direction and control of the board:

(i) the board offices, located in suite 120, immediately to the east of the State Capitol's north entrance;

(ii) the Visitor Services Office, located in suite 130, immediately to the west of the State Capitol's north entrance;

(iii) the vending room to the south of the Visitor Services Office;

(iv) all vestibules, and the room on the east of the south vestibule;

(v) the public area beneath the rotunda and the adjacent public areas;

(vi) all conference rooms and storage rooms accessed from the areas described in Subsection (2)(c)(v);

(vii) suite 110, to the south of the board offices;

(viii) the Visitors Center; and

(ix) the Presentation Room.

(3) On the second floor of the State Capitol:

(a) suite 250, in the northeast corner, is under the direction and control of the Legislature;

(b) before January 1, 2025, suite 260, to the west of suite 250, is under the direction and control of the board and assigned for the use of the state auditor;

(c) beginning on January 1, 2025, suite 260, to the west of suite 250, is under the direction and control of the board and assigned for the use of the state auditor, until a substantially similar space in the State Capitol is assigned to the state auditor, after which suite 260, to the west of suite 250, is under the direction and control of the Legislature;

(d) suite 230, in the southeast corner, is under the direction and control of the board and assigned for the use of the attorney general;

(e) the following are under the direction and control of the governor:

(i) suite 200, at the west end of the floor;

(ii) suite 220, to the west of suite 230; and

(iii) suite 270, in the central north area;

(f) the Gold Room, including the adjacent pantry:

(i) is under the direction and control of the governor and the Legislature; and

(ii) is scheduled through the governor, with the governor having scheduling priority;

(g) the Capitol Board Room:

(i) is under the direction and control of the governor and the Legislature; and

(ii) is scheduled through the board, as follows:

(A) on a day other than a legislative day:

(I) the governor and lieutenant governor have first scheduling priority, regardless of whether the Legislature or any other party has already scheduled the room; and

(II) the Legislature has second scheduling priority, regardless of whether a party, other than the governor or lieutenant governor, has already scheduled the room;

(B) on a legislative day:

(I) the Legislature has first scheduling priority, regardless of whether the governor, the lieutenant governor, or any other party has already scheduled the room; and

(II) the governor and lieutenant governor have second scheduling priority, regardless of whether a party, other than the Legislature, has already scheduled the room;

(C) if the reservation of a person who schedules the room is canceled under Subsection (3)(g)(ii)(A) or (B), the board shall give the person as much notice as possible to schedule another site;

(D) subject to Subsection (3)(g)(ii)(A) or (B), other executive branch or judicial branch entities may schedule the room on a first come, first- served, basis; and

(E) subject to Subsection (3)(g)(ii)(A) or (B), and the board's rules for use of capitol hill facilities, other persons may schedule the room on a first come, first- served, basis;

(h) the following areas are under the direction and control of the board:

(i) the grand staircases;

(ii) the rotunda;

(iii) the kitchen adjacent to the Gold Room; and

(iv) the open areas that are:

(A) east of the rotunda to the doors of the Capitol Board Room;

(B) west of the rotunda to the entrance to the governor's office;

(C) south of the rotunda to the south entrance to the State Capitol; and

(D) north of the rotunda to the north wall.

(4)(a) On the third floor of the State Capitol, the entire floor is under the direction and control of the Legislature, except the areas described in Subsections (6)(a) and (b).

(b) The Supreme Court Chambers will be scheduled by:

(i) the Legislature on a legislative day; and

(ii) the Senate on a day other than a legislative day.

(5) On the fourth floor of the State Capitol, the entire floor is under the direction and control of the Legislature, except that the following areas are under the direction and control of the board:

(a) the areas described in Subsections (6)(a) and (b);

(b) the four art galleries outside of the storage rooms described in Subsection (6)(b); and

(c) the storage room to the north of the northeast art gallery.

(6) In addition to the areas specified under Subsections (1) through (5) as being under the direction and control of the board, the following areas in the State Capitol are under the direction and control of the board:

(a) the staircases, elevators, public restrooms, and the access areas adjacent to them;

(b) the interior of the pillars that begin in the open area on the first floor and rise to the fourth floor, including the storage closets;

(c) all areas of the State Capitol above the fourth floor, including the dome and roof; and

(d) the other areas of the State Capitol not specified under this section as being under the direction or control of the governor or the Legislature.

(7)(a) Before October 1, 2024, the governor, the state auditor, the attorney general, the state treasurer, the president of the Senate, and the speaker of the House of Representatives shall assess the use of space in the State Capitol to determine the best use of the space, including the space currently used by:

(i) the governor;

(ii) the lieutenant governor;

(iii) the Elections Office;

(iv) the Senate;

(v) the House of Representatives;

(vi) the attorney general;

(vii) the state auditor; and

(viii) the state treasurer.

(b) In making the assessment described in Subsection (7)(a), priority for space in the capitol is given to the Legislature, the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer.

Section 35. Section 63O-1-202 is enacted to read:

63O-1-202. House building -- Direction and control.

The entire House Building is under the direction and control of the Legislature, which may assign certain areas to be used by the executive branch.

Section 36. Section 63O-1-203 is enacted to read:

63O-1-203. Senate building -- Direction and control.

The entire Senate Building is under the direction and control of the Legislature, which may assign certain areas to be used by the executive branch.

Section 37. Section 63O-1-204 is enacted to read:

63O-1-204. North Building -- Direction and control.

(1) As used in this section, "department" means the Department of Cultural and Community Engagement, created in Section 9-1-201.

(2) The basement of the North Building is under the direction and control of the board, the majority of which the board will assign for the use of the state museum.

(3) The first floor of the North Building is under the direction and control of the board, part of which the board will assign for the use of the state museum.

(4) On the second floor of the North Building:

(a) except as provided under Subsection (4)(b), the entire floor is under the direction and control of the board, part of which the board will assign for the use of the state museum; and

(b) the conference room on the south side of the floor, to the west of the lounge, is under the direction and control of the Legislature.

(5) The entire third floor of the North Building is under the direction and control of the Legislature.

(6) The entire fourth floor of the North Building is under the direction and control of the Legislature.

(7) All portions of the North Building above the fourth floor are under the direction and control of the board.

(8) The entire atrium in the North Building, from the first floor to the ceiling of the fourth floor, is under the direction and control of the board, including:

(a) the architectural integrity of all areas of the atrium, including:

(i) architectural or design features;

(ii) historic color schemes, decorative finishes, and stenciling;

(iii) decorative light fixtures; and

(iv) flooring; and

(b) the appearance of the atrium, including interior alterations or furnishings that impact the appearance of the atrium.

(9) All stairs, elevators, and restrooms in the North Building are under the direction and control of the board.

Section 38. Section 63O-1-205 is enacted to read:

63O-1-205. Parking.

(1) All surface parking on capitol hill is under the direction and control of the board.

(2) All underground parking on capitol hill is under the direction and control of the Legislature, except that the following are under the direction and control of the governor:

(a) 46 of the parking stalls in the underground parking facility known as Lot C located directly east of the State Capitol;

(b) 52 of the parking stalls in the underground parking facility known as Lot E located directly east of the Senate Building; and

(c) any other area designated by the board.

(3) Under the direction of the Legislature, the board shall:

(a) maintain and control the use of the first level of the covered parking under the plaza to the north of the North Building, giving a preference for public parking on that level;

(b) except as provided in Subsection (3)(a), maintain and control the use of the covered parking under the plaza to the north of the North Building for use by the legislative branch; and

(c) designate portions of parking used by the Legislature on legislative days for use by the executive branch on days other than legislative days.

Section 39. Section 63O-1-206 is enacted to read:

63O-1-206. Grounds, buildings, and other structures.

The following are under the direction and control of the board:

(1) the White Memorial Chapel, including the areas and objects described in Subsection 63O-1-101(4)(b);

(2) the Council Hall Travel Information Center, including the areas and objects described in Subsection 63O-1-101(4)(c);

(3) the Daughters of the Utah Pioneers Building, including the Carriage House and the areas and objects described in Subsection 63O-1-101(4)(d);

(4) the Central Plant;

(5) the belvedere to the north of the North Plaza;

(6) the stair towers;

(7) the tunnels; and

(8) except as expressly provided otherwise in this chapter, all grounds, buildings, structures, monuments, plants, and other natural or man-made features on capitol hill.

Section 40. Section 63O-1-301 is enacted to read:

63O-1-301. Board responsibility -- Shared responsibility.

(1) The following are the responsibility of the board:

(a) the architectural integrity of all areas of capitol hill, including:

(i) restored historic architectural or design features;

(ii) historic color schemes, decorative finishes, and stenciling;

(iii) decorative light fixtures; and

(iv) flooring;

(b) the exterior appearance of all buildings and structures on capitol hill, including interior alterations or furnishings that impact the exterior appearance;

(c) for the State Capitol, House Building, Senate Building, and North Building:

(i) control of the central mechanical and electrical core on all floors;

(ii) control of the enclosure of the building, from the exterior of the building to the interior of the exterior wall;

(iii) public restrooms;

(iv) the roof; and

(v) public elevators and stairways;

(d) in relation to the legislative area, the functions that the Legislative Management Committee delegates in writing to be performed by the board; and

(e) in relation to the governor's area, the functions that the governor delegates in writing to be performed by the board.

(2) The data and communications centers in the buildings and structures on capitol hill:

(a) that are associated with the Legislature are maintained by the board under the direction of the Legislature;

(b) that are associated with the executive branch are maintained by the board under the direction of the governor; and

(c) that are associated with both the Legislature and the executive branch are maintained by the board under the direction of the Legislature and the governor.

(3) The board shall maintain:

(a) all areas under the direction and control of the board;

(b) as directed by the Legislature, all areas under the direction and control of the Legislature;

(c) as directed by the governor, all areas under the direction and control of the governor; and

(d) as directed by the state treasurer, state auditor, or attorney general, all areas under the respective control of those elected officials.

(4) Any alteration that involves interior or exterior construction on capitol hill shall be done in coordination with the executive director of the board.

Section 41. Section 63O-1-302 is enacted to read:

63O-1-302. Jurisdiction and use of areas under the direction and control of the Legislature.

(1) The legislative area is reserved for the use and occupancy of the Legislature for legislative functions.

(2) Except as provided in Section 63O-1-301, the Legislative Management Committee shall exercise jurisdiction over the legislative area.

Section 42. Section 63O-1-303 is enacted to read:

63O-1-303. Jurisdiction and use of areas under the direction and control of the governor.

(1) The governor's area is reserved for the use and occupancy of the executive branch for executive functions.

(2) Except as provided in Section 63O-1-301, the governor shall exercise jurisdiction over the governor's area.

Section 43. Section 63O-2-101, which is renumbered from Section 63C-9-102 is renumbered and amended to read:

~~63C-9-102.~~ **63O-2-101. Definitions.**

CHAPTER 2. STATE CAPITOL PRESERVATION BOARD

Part 1. General Provisions

[~~(1) "Board" means the State Capitol Preservation Board created by Section 63C-9-201.~~]

[~~(2) "Capitol hill complex" means the grounds, monuments, parking areas, buildings, including the capitol, and other man-made and natural objects within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard, and includes:~~]

[~~(a) the White Community Memorial Chapel and its grounds and parking areas, and the Council Hall Travel Information Center building and its grounds and parking areas;~~]

[~~(b) the Daughters of the Utah Pioneers building and its grounds and parking areas and other state-owned property included within the area bounded by Columbus Street, North Main Street, and Apricot Avenue;~~]

[~~(c) the state-owned property included within the area bounded by Columbus Street, Wall Street, and 400 North Street; and~~]

[~~(d) the state-owned property included within the area bounded by Columbus Street, West Capitol Street, and 500 North Street.~~]

[~~(3) "Capitol hill facilities" means all of the buildings on the capitol hill complex, including the capitol, and the exterior steps, entrances, streets, parking areas, and other paved areas of capitol hill.~~]

[~~(4) "Capitol hill grounds" means the unpaved areas of the capitol hill complex.~~ ~~(5) "Executive director"~~]As used in this chapter, "executive director" means the executive director appointed by the board under Section [~~63C-9-401~~]63O-2-401.

Section 44. Section 63O-2-201, which is renumbered from Section 63C-9-201 is renumbered and amended to read:

~~63C-9-201.~~ **63O-2-201. State Capitol Preservation Board -- Creation -- Membership.**

Part 2. State Capitol Preservation Board - Creation, Membership, and Terms

(1) There is created the State Capitol Preservation Board.

(2) The board shall consist of the following 11 members:

(a) the governor, or the lieutenant governor acting as the governor's designee;

(b) the president of the Senate or the president's designee, who shall be a member of the Senate;

(c) the speaker of the House of Representatives or the speaker's designee, who shall be a member of the House of Representatives;

(d) the state treasurer;

(e) the state attorney general;

(f) two members of the Senate appointed by the president of the Senate, one from the majority party and one from the minority party;

(g) two members of the House of Representatives appointed by the speaker of the House of Representatives, one from the majority party and one from the minority party;

(h) the chief justice of the Supreme Court or the chief justice's designee, who shall be a member of the Supreme Court; and

(i) the state historic preservation officer.

Section 45. Section 63O-2-202, which is renumbered from Section 63C-9-202 is renumbered and amended to read:

~~63C-9-202.~~ **63O-2-202. Terms -- Vacancies -- Chair -- Vice chair -- Meetings -- Compensation.**

(1)(a) The governor, president of the Senate, speaker of the House, chief justice, state treasurer, state attorney general, and state historic preservation officer shall serve terms coterminous with their office.

(b) The other members shall serve two-year terms.

(2) Vacancies in the appointed positions shall be filled by the original appointing authority for the unexpired term.

(3)(a) Except as provided in Subsection (3)(b), the governor is chair of the board.

(b) When the governor is absent from meetings of the board, the vice chair is chair of the board.

(c) The governor shall appoint a member of the board to serve as vice chair with the approval of a majority of the members of the board.

(4) The board shall meet at least quarterly and at other times at the call of the governor or at the request of four members of the board.

(5)(a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 46. Section 63O-2-301, which is renumbered from Section 63C-9-301 is renumbered and amended to read:

~~63C-9-301~~. 63O-2-301. Board powers -- Subcommittees.

Part 3. State Capitol Preservation Board - Powers and Duties

(1) The board shall:

(a) except as [~~provided in Subsection (2)~~]otherwise provided in Chapter 1, Control and Maintenance of Capitol Hill, exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) [~~by~~]on or before October 1 of each year, prepare and submit a recommended budget request for the upcoming fiscal year for the capitol hill complex to:

(i) the governor, through the Governor's Office of Planning and Budget; and

(ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities, through the Office of the Legislative Fiscal Analyst;

(e) review and approve the executive director's:

(i) annual work plan;

(ii) long-range master plan for the capitol hill complex, capitol hill facilities, and capitol hill grounds; and

(iii) furnishings plan for placement and care of objects under the care of the board;

(f) approve all changes to the buildings and their grounds, including:

(i) restoration, remodeling, and rehabilitation projects;

(ii) usual maintenance program; and

(iii) any transfers or loans of objects under the board's care;

(g) define and identify all significant aspects of [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds~~]capitol hill, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Utah Historical Society;

(v) Office of Museum Services; and

(vi) Arts Council;

(h) inventory, define, and identify all significant contents of the buildings and all state-owned items of historical significance that were at one time in the buildings, after consultation with the:

(i) Division of Facilities Construction and Management;

(ii) State Library Division;

(iii) Division of Archives and Records Service;

(iv) Utah Historical Society;

(v) Office of Museum Services; and

(vi) Arts Council;

(i) maintain archives relating to the construction and development of the buildings, the contents of the buildings and [~~their~~]the grounds, including[~~documents such as~~] plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use~~]capitol hill and the use of capitol hill.

[~~(2)(a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and~~]

[~~(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.~~]

[~~(3)~~](2)(a) The board shall make rules to govern, administer, and regulate [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of~~]capitol hill, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of [~~the capitol hill complex~~]capitol hill adopted by the board under the authority of this Subsection [~~(3)~~](2) is an infraction.

(c) If an act violating a rule under Subsection [~~(3)(b)~~](2)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections [~~(3)(b) and (c)~~](2)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection [~~(3)~~](2) is subject to a civil penalty not to exceed $2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the rules.

[~~(4)~~](3) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

[~~(5)~~](4) The board shall name:

(a) the House Building[~~, that is defined in Section 36-5-1,~~] the "Rebecca D. Lockhart House Building"; and

(b) committee room 210 in the Senate Building[~~, that is defined in Section 36-5-1,~~] the "Allyson W. Gamble Committee Room."[~~.~~]

[~~(6)~~](5)(a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and[~~ capitol hill~~] grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to [~~it by~~]the board under this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) Utah Historical Society;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection [~~(6)(a)(vii)~~](5)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of the Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee, who shall be from the Governor's Office of Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one

individual to act as chair of the subcommittee for a one- year term.

[~~(7)~~](6)(a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture, furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on[~~the~~] capitol hill[~~complex~~].

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection [~~(7)(b)~~](6)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on[~~the~~] capitol hill[~~complex~~].

Section 47. Section 63O-2-401, which is renumbered from Section 63C-9-401 is renumbered and amended to read:

~~63C-9-401~~. 63O-2-401. Executive director. Part 4. Executive Director

The board shall:

(1) appoint an executive director to assist the board in performing [~~its duties under this chapter~~]the duties of the board;

(2)(a) require the budget and operations subcommittee to review and make recommendations to the board regarding:

(i) the executive director's annual performance; and

(ii) the executive director's suggestions for staff, including staff duties, performance, compensation, and personnel;

(b) approve, deny, or modify the subcommittee's recommendations, which shall be submitted to the board before the board submits[~~its~~] budget recommendations under Subsections [~~63C-9-301(1)~~]

[~~(i)~~] 63O-2-301(1)(c) and (d); and

(c) make rules governing the review, compensation, and bonus process for the executive director and staff.

[~~(i) and~~]

Section 48. Section 63O-2-402, which is renumbered from Section 63C-9-402 is renumbered and amended to read:

~~63C-9-402~~. 63O-2-402. Executive director -- Duties.

The executive director shall:

(1) develop, for board approval, a master plan with a projection of at least 20 years concerning the stewardship responsibilities, operation, activities, maintenance, preservation, restoration, and modification of [~~the capitol hill complex, capitol hill facilities, and capitol hill grounds~~]capitol hill, including, if directed by the board, a plan to restore the buildings to their original architecture;

(2) develop, as part of the master plan submitted for board approval, a furnishings plan for the placement and care of objects under the care of the board;

(3) prepare, and recommend for board approval, an annual budget and work plan, that is consistent with the master plan, for all work to be performed under this chapter, including usual operations and maintenance and janitorial and preventative maintenance for [~~the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents~~]capitol hill and the contents of capitol hill;

(4) develop an operations, maintenance, and janitorial program for [~~the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents~~]capitol hill and the contents of capitol hill;

(5) develop a program to purchase or accept by donation, permanent loan, or outside funding items necessary to implement the master plan;

(6) develop and maintain a registration system and inventory of the contents of[~~the~~] capitol hill facilities and[~~capitol hill~~] grounds and of the original documents relating to the buildings' construction and alteration;

(7) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the capitol hill facilities and that are not owned by the state;

(8) develop a program to locate and acquire state- owned items of historical significance that were at one time in the buildings;

(9) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of the board;

(10) assist in matters dealing with the preservation of historic materials;

(11) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;

(12) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;

(13) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections policy and by the registration system;

(14) approve all art and exhibits placed on capitol hill after board approval;

(15) employ staff to assist[~~him~~] in administering this chapter and direct and coordinate [~~their~~]the staff's activities;

(16) contract for professional services of qualified consultants, including architectural historians, landscape architects with experience in landscape architectural preservation, conservators, historians, historic architects, engineers, artists, exhibit designers, and craftsmen;

(17) prepare annually a complete and detailed written report for the board that accounts for all funds received and disbursed by the board during the preceding fiscal year;

(18) develop and manage a visitor services program for capitol hill which shall include public outreach programs, public tours, events, and communication and public relation services; and

(19) subject to Section 63O-1-205, manage and organize all transit and parking programs on[~~the~~] capitol hill [~~complex, except that:~~].

[~~(a) the Legislative Management Committee shall direct the executive director's management and organization of transit and parking associated with the legislative area as defined in Section 36-5-1; and~~]

[~~(b) the governor shall direct the executive director's management and organization of transit and parking associated with the governor's area as defined in Section 67-1-16.~~]

Section 49. Section 63O-2-403, which is renumbered from Section 63C-9-403 is renumbered and amended to read:

~~63C-9-403~~. 63O-2-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall [~~adopt administrative~~]make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 50. Section 63O-2-501, which is renumbered from Section 63C-9-501 is renumbered and amended to read:

~~63C-9-501~~. 63O-2-501. Soliciting donations.

Part 5. Fundraising and Donations

(1) The executive director, under the direction of the board, shall:

(a) develop plans and programs to solicit gifts, money, and items of value from private persons, foundations, or organizations; and

(b) actively solicit donations from those persons and entities.

(2)(a) Property provided by those entities is the property of the state and is under the control of the board.

(b) Subsection (2)(a) does not apply to temporary exhibits or to the personal property of persons having an office in a building on capitol hill.

(3) The board:

(a) shall deposit money donated to the board into the State Capitol Preservation Board budget as expendable receipts;

(b) shall use gifts of money made to the board for the purpose specified by the grantor, if any; and

(c) may return to the donor any gift or money donated to the board if a majority of the board determines that use of the gift or money is unfeasible, or will otherwise not be placed or used on capitol hill.

Section 51. Section 63O-2-601, which is renumbered from Section 63C-9-601 is renumbered and amended to read:

~~63C-9-601~~. 63O-2-601. Responsibility for items.

Part 6. Furnishings, Fixtures, and Other Items

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the Utah Historical Society, the Division of Arts and Museums, the arts collection committee of the State of Utah Alice Merrill Horne Art Collection, or any other state agency.

Section 52. Section 63O-2-602, which is renumbered from Section 63C-9-602 is renumbered and amended to read:

~~63C-9-602~~. 63O-2-602. Transfer of certain historical items.

(1)(a) A state agency or other state entity that possesses a state-owned item identified by the executive director and the board as an item of historical significance that was at one time located in the capitol hill facilities shall transfer the item to the inventory of the board at the direction of the executive director not later than the 60th day after the date that the executive director notifies the agency or entity.

(b) The state agency or other state entity shall subsequently transfer physical possession of the item to the board in accordance with policies and procedures established by the board.

(2) This section does not apply to records or documents in the custody of the Division of Archives and Records Service.

Section 53. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in

Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]63O-2-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 54. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section [~~63C-9-403~~]63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by

the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 55. Repealer.

This bill repeals:

Section 36-2-1, Legislative in-session employees.

Section 36-5-1, Reservation of area for Legislature -- Duties of Legislative Management Committee.

Section 36-12-2, Standing committees.

Section 36-12-3, Interim committees -- Membership -- Purpose -- Meetings and rules.

Section 36-12-4, Interim committees of two houses -- Meeting jointly -- Joint rules -- Majority vote.

Section 36-12-5, Duties of interim committees.

Section 36-21-1, Definition -- Deadline for state governmental entities filing legislation -- Waiver.

Section 36-34-101, Statewide elected official summit.

Section 63C-9-101, Title.

Section 67-1-16, Reservation of area for governor.

Section 56. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The following sections take effect on July 1, 2024:

(a) Section 63A- 5b- 303 (Effective 07/01/24); and

(b) Section 63J- 1- 602.2 (Effective 07/01/24).

CHAPTER 426
S. B. 98
Passed February 16, 2024
Approved March 19, 2024
Effective May 1, 2024

ONLINE DATA SECURITY AND PRIVACY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill amends provisions related to cybersecurity, breach notification requirements, and authorized domain name extensions.

Highlighted Provisions:

This bill:

- defines terms;
- makes technical and conforming changes;
- describes a person's breach notification responsibilities to the Utah Cyber Center; and
- describes a governmental entity's reporting responsibilities to the Utah Cyber Center.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-44-202, as last amended by Laws of Utah 2023, Chapter 496
63D-2-102, as last amended by Laws of Utah 2023, Chapter 275
63D-2-105, as enacted by Laws of Utah 2023, Chapter 496

ENACTS:

63A-16-1101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63A-16-510, (Renumbered from 63A-16-510, as enacted by Laws of Utah 2023, Chapter 496)
63A-16-511, (Renumbered from 63A-16-511, as enacted by Laws of Utah 2023, Chapter 496)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-44-202 is amended to read:

13-44-202. Personal information -- Disclosure of system security breach.

(1)(a) A person who owns or licenses computerized data that includes personal information concerning a Utah resident shall, when the person becomes aware of a breach of system security, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused for identity theft or fraud purposes.

(b) If an investigation under Subsection (1)(a) reveals that the misuse of personal information for identity theft or fraud purposes has occurred, or is reasonably likely to occur, the person shall provide notification to each affected Utah resident.

(c) If an investigation under Subsection (1)(a) reveals that the misuse of personal information relating to 500 or more Utah residents, for identity theft or fraud purposes, has occurred or is reasonably likely to occur, the person shall, in addition to the notification required in Subsection (1)(b), provide notification to:

(i) the Office of the Attorney General; and

(ii) the Utah Cyber Center created in Section [~~63A-16-510~~]63A-16-1102.

(d) If an investigation under Subsection (1)(a) reveals that the misuse of personal information relating to 1,000 or more Utah residents, for identity theft or fraud purposes, has occurred or is reasonably likely to occur, the person shall, in addition to the notification required in Subsections (1)(b) and (c), provide notification to each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in 15 U.S.C. Sec. 1681a.

(2) A person required to provide notification under Subsection (1) shall provide the notification in the most expedient time possible without unreasonable delay:

(a) considering legitimate investigative needs of law enforcement, as provided in Subsection (4)(a);

(b) after determining the scope of the breach of system security; and

(c) after restoring the reasonable integrity of the system.

(3)(a) A person who maintains computerized data that includes personal information that the person does not own or license shall notify and cooperate with the owner or licensee of the information of any breach of system security immediately following the person's discovery of the breach if misuse of the personal information occurs or is reasonably likely to occur.

(b) Cooperation under Subsection (3)(a) includes sharing information relevant to the breach with the owner or licensee of the information.

(4)(a) Notwithstanding Subsection (2), a person may delay providing notification under Subsection (1)(b) at the request of a law enforcement agency that determines that notification may impede a criminal investigation.

(b) A person who delays providing notification under Subsection (4)(a) shall provide notification in good faith without unreasonable delay in the most expedient time possible after the law enforcement agency informs the person that notification will no longer impede the criminal investigation.

(5)(a) A notification required by Subsection (1)(b) may be provided:

(i) in writing by first-class mail to the most recent address the person has for the resident;

(ii) electronically, if the person's primary method of communication with the resident is by electronic means, or if provided in accordance with the consumer disclosure provisions of 15 U.S.C. Section 7001;

(iii) by telephone, including through the use of automatic dialing technology not prohibited by other law; or

(iv) for residents of the state for whom notification in a manner described in Subsections (5)(a)(i) through (iii) is not feasible, by publishing notice of the breach of system security:

(A) in a newspaper of general circulation; and

(B) as required in Section 45-1-101.

(b) If a person maintains the person's own notification procedures as part of an information security policy for the treatment of personal information the person is considered to be in compliance with the notification requirement in Subsection (1)(b) if the procedures are otherwise consistent with this chapter's timing requirements and the person notifies each affected Utah resident in accordance with the person's information security policy in the event of a breach.

(c) A person who is regulated by state or federal law and maintains procedures for a breach of system security under applicable law established by the primary state or federal regulator is considered to be in compliance with this part if the person notifies each affected Utah resident in accordance with the other applicable law in the event of a breach.

(6)(a) [~~If a person providing a notification under Subsection (1)(c) to the Office of the Attorney General or the Utah Cyber Center submits the information required under Subsection 63G-2-309(1)(a)(i), records submitted to the Office of the Attorney General or the Utah Cyber Center under Subsection (1)(c) and information produced by the Office of the Attorney General or the Utah Cyber Center for any coordination or assistance provided to the person are presumed to be confidential and are a protected record under Subsections 63G-2-305(1) and (2).~~]The following information may be deemed confidential and classified as a protected record under Subsections 63G-2-305(1) and (2) if the requirements of Subsection 63G-2-309(1)(a)(i) are met:

(i) a notification submitted under Subsection (1)(c), including supporting information provided under Subsection (6)(b); and

(ii) information produced by the Office of the Attorney General or the Utah Cyber Center in providing coordination or assistance to the person providing notification under Subsection (1)(c).

(b) A person providing notification under Subsection (1)(c) to the Office of the Attorney General or the Utah Cyber Center of a breach of system security shall include the following information in the notification, to the extent the information is known or available at the time the person provides the notification:

(i) the date the breach of system security occurred;

(ii) the date the breach of system security was discovered;

(iii) the total number of people affected by the breach of system security, including the total number of Utah residents affected;

(iv) the type of personal information involved in the breach of system security; and

(v) a short description of the breach of system security that occurred.

[~~(b) The department may disclose information provided by a person under Subsection (1)(c) or produced as described in Subsection (6)(a) only if:~~]

[~~(i) disclosure is necessary to prevent imminent and substantial harm; or~~]

[~~(ii) the information is anonymized or aggregated in a manner that makes it unlikely that information that is a trade secret, as defined in Section 13-24-2, will be disclosed.~~]

(7) A waiver of this section is contrary to public policy and is void and unenforceable.

Section 2. Section 63A-16-1101 is enacted to read:

63A-16-1101. Definitions.

Part 11. Utah Cyber Center

As used in this part:

(1) "Cyber Center" means the Utah Cyber Center created in Section 63A-16-1102.

(2) "Data breach" means the unauthorized access, acquisition, disclosure, loss of access, or destruction of:

(a) personal data affecting 500 or more individuals; or

(b) data that compromises the security, confidentiality, availability, or integrity of the computer systems used or information maintained by the governmental entity.

(3) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(4) "Personal data" means information that is linked or can be reasonably linked to an identified individual or an identifiable individual.

Section 3. Section 63A-16-1102, which is renumbered from Section 63A-16-510 is renumbered and amended to read:

~~63A-16-510~~. 63A-16-1102. Utah Cyber Center -- Creation -- Duties.

[~~(1) As used in this section:~~]

[~~(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.~~]

[~~(b) "Utah Cyber Center" means the Utah Cyber Center created in this section.~~]

[~~(2)~~](1)(a) There is created within the division the Utah Cyber Center.

(b) The chief information security officer appointed under Section 63A-16-210 shall serve as the director of the [~~Utah~~]Cyber Center.

[~~(3)~~](2) The division shall operate the [~~Utah~~]Cyber Center in partnership with the following entities within the Department of Public Safety created in Section 53-1-103:

(a) the Statewide Information and Analysis Center;

(b) the State Bureau of Investigation created in Section 53-10-301; and

(c) the Division of Emergency Management created in Section 53-2a-103.

[~~(4)~~](3) In addition to the entities described in Subsection (3), the [~~Utah~~]Cyber Center shall collaborate with:

(a) the Cybersecurity Commission created in Section 63C-27-201;

(b) the Office of the Attorney General;

(c) the Utah Education and Telehealth Network created in Section 53B-17-105;

(d) appropriate federal partners, including the Federal Bureau of Investigation and the Cybersecurity and Infrastructure Security Agency;

(e) appropriate information sharing and analysis centers;

(f) [~~associations representing political subdivisions in the state, including the Utah League of Cities and Towns and the Utah Association of Counties~~]information technology directors, cybersecurity professionals, or equivalent individuals representing political subdivisions in the state; and

(g) any other person the division believes is necessary to carry out the duties described in Subsection [~~(5)~~](4).

[~~(5)~~](4) The [~~Utah~~]Cyber Center shall, within legislative appropriations:

(a) by June 30, 2024, develop a statewide strategic cybersecurity plan for [~~executive branch agencies and other~~]governmental entities;

(b) with respect to executive branch agencies:

(i) identify, analyze, and, when appropriate, mitigate cyber threats and vulnerabilities;

(ii) coordinate cybersecurity resilience planning;

(iii) provide cybersecurity incident response capabilities; and

(iv) recommend to the division standards, policies, or procedures to increase the cyber resilience of executive branch agencies individually or collectively;

(c) at the request of a governmental entity, coordinate cybersecurity incident response for [~~an incident~~]a data breach affecting the governmental entity in accordance with Section [~~63A-16-511~~] 63A-16-1103;

(d) promote cybersecurity best practices;

(e) share cyber threat intelligence with governmental entities and, through the Statewide Information and Analysis Center, with other public and private sector organizations;

(f) serve as the state cybersecurity incident response [~~hotline~~]repository to receive reports of breaches of system security, including notification or disclosure under Section 13-44-202 [~~or 63A-16-511~~]and data breaches under Section 63A-16-1103;

(g) develop incident response plans to coordinate federal, state, local, and private sector activities and manage the risks associated with an attack or malfunction of critical information technology systems within the state;

(h) coordinate, develop, and share best practices for cybersecurity resilience in the state;

(i) identify sources of funding to make cybersecurity improvements throughout the state;

(j) develop a sharing platform to provide resources based on information, recommendations, and best practices; and

(k) partner with institutions of higher education and other public and private sector organizations to increase the state's cyber resilience.

Section 4. Section 63A-16-1103, which is renumbered from Section 63A-16-511 is renumbered and amended to read:

~~63A-16-511~~. 63A-16-1103. Reporting to the Cyber Center -- Assistance to governmental entities -- Records.

[~~(1) As used in this section:~~]

[~~(a) "Governmental entity" means the same as that term is defined in Section 63G-2-103.~~]

[~~(b) "Utah Cyber Center" means the Utah Cyber Center created in Section 63A-16-510.~~]

[~~(2)~~](1)(a) A governmental entity shall [~~contact~~]notify the [~~Utah~~]Cyber Center as soon as practicable when the governmental entity becomes aware of a data breach[~~ of system security~~].

(b) When a governmental entity notifies the Cyber Center of a data breach under Subsection (1)(a), the governmental entity shall include the following information:

(i) the date and time the data breach occurred;

(ii) the date the data breach was discovered;

(iii) the total number of people affected by the data breach, including the total number of Utah residents affected;

(iv) the type of personal data involved in the data breach;

(v) a short description of the data breach that occurred;

(vi) the path or means by which access was gained to the system, computer, or network, if known;

(vii) the individual or entity who perpetrated the data breach, if known;

(viii) steps the governmental entity is taking or has taken to mitigate the impact of the data breach; and

(ix) any other details requested by the Cyber Center.

[~~(3)~~](2) The [~~Utah~~]Cyber Center shall provide the governmental entity with assistance in responding to the data breach[~~ of system security~~], which may include:

(a) conducting all or part of [~~the~~]an internal investigation [~~required under Subsection 13-44-202(1)(a)~~]into the data breach;

(b) assisting law enforcement with the law enforcement investigation if needed;

(c) determining the scope of the data breach[~~ of system security~~];

(d) assisting the governmental entity in restoring the reasonable integrity of the system; or

(e) providing any other assistance in response to the reported data breach[~~ of system security~~].

[~~(4)(a) A person providing information to the Utah Cyber Center may submit the information required in Section 63G-2-309 to request that the information submitted by the person and information produced by the Utah Cyber Center in the course of the Utah Cyber Center's investigation be classified as a confidential protected record.~~]

[~~(b) Information submitted to the Utah Cyber Center under Subsection 13-44-202(1)(c) regarding a breach of system security may include information regarding the type of breach, the attack vector, attacker, indicators of compromise, and other details of the breach that are requested by the Utah Cyber Center.~~]

[~~(c)~~](3)(a) A governmental entity that is required to submit information under Section [~~63A-16-511~~]63A-16-1103 shall provide records to the [~~Utah~~]Cyber Center as a shared record in accordance with Section 63G-2-206.

(b) The following information may be deemed confidential and may only be shared as provided in Subsection 63G-2-206:

(i) the information provided to the Cyber Center by a governmental entity under Subsections (1)(b)(vi) through (ix); and

(ii) information produced by the Cyber Center in response to a report of a data breach under Subsection (2).

Section 5. Section 63D-2-102 is amended to read:

63D-2-102. Definitions.

As used in this chapter:

(1)(a) "Collect" means the gathering of personally identifiable information:

(i) from a user of a governmental website; or

(ii) about a user of the governmental website.

(b) "Collect" includes use of any identifying code linked to a user of a governmental website.

(2) "Court website" means a website on the Internet that is operated by or on behalf of any court created in Title 78A, Chapter 1, Judiciary.

(3) "Governmental entity" means:

(a) an executive branch agency as defined in Section 63A-16-102;

(b) the legislative branch;

(c) the judicial branch;

(d) the State Board of Education created in Section 20A-14-101.5;

(e) the Utah Board of Higher Education created in Section 53B-1-402;

(f) an institution of higher education as defined in Section 53B-1-102; and

(g) a political subdivision of the state:

(i) as defined in Section 17B-1-102; and

(ii) including a school district created under Section 53G-3-301 or 53G-3-302.

(4)(a) "Governmental website" means a website on the Internet that is operated by or on behalf of a governmental entity.

(b) "Governmental website" includes a court website.

(5) "Governmental website operator" means a governmental entity or person acting on behalf of the governmental entity that:

(a) operates a governmental website; and

(b) collects or maintains personally identifiable information from or about a user of that website.

(6) "Personally identifiable information" means information that identifies:

(a) a user by:

(i) name;

(ii) account number;

(iii) physical address;

(iv) email address;

(v) telephone number;

(vi) Social Security number;

(vii) credit card information; or

(viii) bank account information;

(b) a user as having requested or obtained specific materials or services from a governmental website;

(c) Internet sites visited by a user; or

(d) any of the contents of a user's data-storage device.

(7) "School" means a public or private elementary or secondary school.

[~~(7)~~](8) "User" means a person who accesses a governmental website.

Section 6. Section 63D-2-105 is amended to read:

63D-2-105. Use of authorized domain extensions for government websites.

(1)[~~(a)~~] As used in this section, "authorized top level domain" means any of the following suffixes that follows the domain name in a website address:

[~~(i)~~](a) gov;

[~~(ii)~~](b) edu; and

[~~(iii)~~](c) mil.

(2) Beginning [~~January~~]July 1, 2025, a governmental entity shall use an authorized top level domain for:

(a) the website address for the governmental entity's government website; and

(b) the email addresses used by the governmental entity and the governmental entity's employees.

(3) Notwithstanding Subsection (2), a governmental entity may operate a website that uses a top level domain that is not an authorized top level domain if:

(a)(i) a reasonable person would not mistake the website as the governmental entity's primary website; and

[~~(b)~~](ii) the governmental website is:

[~~(i)~~](A) solely for internal use and not intended for use by members of the public;

[~~(ii)~~](B) temporary and in use by the governmental entity for a period of less than one year; or

[~~(iii)~~](C) related to an event, program, or informational campaign operated by the governmental entity in partnership with another person that is not a governmental entity[~~.~~]; or

(b) the governmental entity is a school district or a school that is not an institution of higher education and the use of an authorized top level domain is otherwise prohibited, provided that once the use of an authorized top level domain is not otherwise prohibited, the school district or school shall transition to an authorized top level domain within 15 months.

(4) The chief information officer appointed under Section 63A-16-201 may authorize a waiver of the requirement in Subsection (2) if:

(a) there are extraordinary circumstances under which use of an authorized domain extension would cause demonstrable harm to citizens or businesses; and

(b) the executive director or chief executive of the governmental entity submits a written request to the chief information officer that includes a justification for the waiver.

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 427
S. B. 100
Passed February 14, 2024
Approved March 19, 2024
Effective May 1, 2024

LOCAL REFERENDA AMENDMENTS

Chief Sponsor: Heidi Balderree
House Sponsor: Matt MacPherson

LONG TITLE

General Description:

This bill modifies provisions related to local referenda.

Highlighted Provisions:

This bill:

- provides that a city's, town's, or county's decision to issue a revenue bond payable solely from excise tax revenue is subject to a local referendum; and
- shortens the time frame for filing an application for a local referendum petition.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-307, as last amended by Laws of Utah 2008, Chapter 21
20A-7-601, as last amended by Laws of Utah 2023, Chapters 107, 219

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-307 is amended to read:

11-14-307. Revenue bonds payable out of excise tax revenues.

(1) To the extent constitutionally permissible, a city, town, or county may:

(a) issue bonds payable solely from a special fund into which are to be deposited:

(i) excise taxes levied and collected by the city, town, or county;

(ii) excise taxes levied by the state and rebated pursuant to law to the city, town, or county; or

(iii) a combination of the excise taxes described in Subsections (1)(a)(i) and (ii); or

(b) pledge all or any part of the excise taxes described in Subsection (1)(a) as an additional source of payment for general obligation bonds it issues.

(2)(a) If the covenant is not inconsistent with this chapter, a resolution or trust indenture providing for the issuance of bonds payable in whole or in part from the proceeds of excise tax revenues may contain covenants with the holder or holders of the bonds as to:

(i) the excise tax revenues;

(ii) the disposition of the excise tax revenues;

(iii) the issuance of future bonds; and

(iv) other pertinent matters that are considered necessary by the governing body to assure the marketability of those bonds.

(b) A resolution may also include provisions to insure the enforcement, collection, and proper application of excise tax revenues as the governing body may think proper.

(c) The proceeds of bonds payable in whole or in part from pledged class B or C road funds shall be used to construct, repair, and maintain streets and roads in accordance with Sections 72-6-108 and 72-6-110 and to fund any reserves and costs incidental to the issuance of the bonds.

(d) When any bonds payable from excise tax revenues have been issued, the resolution or other enactment of the legislative body imposing the excise tax and pursuant to which the tax is being collected, the obligation of the governing body to continue to levy, collect, and allocate the excise tax, and to apply the revenues derived from the excise tax in accordance with the provisions of the authorizing resolution or other enactment, shall be irrevocable until the bonds have been paid in full as to both principal and interest, and is not subject to amendment in any manner that would impair the rights of the holders of those bonds or which would in any way jeopardize the timely payment of principal or interest when due.

(3)(a) The state pledges to and agrees with the holders of any bonds issued by a city, town, or county to which the proceeds of excise taxes collected by the state and rebated to the city, town, or county are devoted or pledged as authorized in this section, that the state will not alter, impair, or limit the excise taxes in a manner that reduces the amounts to be rebated to the city, town, or county which are devoted or pledged as authorized in this section until the bonds or other securities, together with applicable interest, are fully met and discharged.

(b) Nothing in this Subsection (3) precludes alteration, impairment, or limitation of excise taxes if adequate provision is made by law for the protection of the holders of the bonds.

(c) A city, town, or county may include this pledge and undertaking for the state in those bonds.

(4)(a) Outstanding bonds to which excise tax revenues are pledged as the sole source of payment may not at any one time exceed an amount for which the average annual installments of principal and interest will exceed 80% of the total excise tax revenues received by the issuing entity from the collection or rebate of the excise tax revenues during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted.

(b) If an excise tax has not been levied by a city, town, or county for a sufficient period of time to determine the 80% bond payment requirement under Subsection (4)(a), a city, town, or county may use an excise tax revenue that is currently levied within the same geographic coverage area and with the same percentage of collection to determine the amount of excise tax revenues that are expected to be received to determine the 80% bond payment requirement under Subsection (4)(a).

(5) Bonds issued solely from a special fund into which are to be deposited excise tax revenues constitutes a borrowing solely upon the credit of the excise tax revenues received or to be received by the city, town, or county and does not constitute an indebtedness or pledge of the general credit of the city, town, or county.

(6) Before issuing any bonds under this section, a city, town, or county shall comply with Section 11-14-318.

[~~(7) A city, town, or county shall submit the question of whether or not to issue any bonds under this section to voters for their approval or rejection if, within 30 calendar days after the notice required by Section 11-14-318, a written petition requesting an election and signed by at least 20% of the registered voters in the city, town, or county is filed with the city, town, or county.~~]

(7) A city's, town's, or county's action to issue a bond under this section is subject to a local referendum in accordance with Title 20A, Chapter 7, Issues Submitted to the Voters.

Section 2. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a)(i), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e)(i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12- 1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 20% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 21% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 34% of the number of active voters in the metro township or city; and

(ii) 34% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 36% of the number of active voters in the metro township or city; and

(ii) 36% of the number of active voters in at least 75% of the metro township's or city's voter participation areas; or

(f) for a metro township with a population less than 10,000, a city of the fifth class, or a town, 40% of the number of active voters in the metro township, city, or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application before 5 p.m. within [~~seven~~]five days after the day on which the local law was passed.

(7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 428
S. B. 116
Passed February 22, 2024
Approved March 19, 2024
Effective May 1, 2024

EVICTION NOTICE REQUIREMENTS AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill addresses the handling of personal animals impacted by eviction.

Highlighted Provisions:

This bill:

- defines terms;
- imposes requirements in relation to a personal animal on the premises when enforcing an order of restitution; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-46-103, as last amended by Laws of Utah 2023, Chapter 360
78B-6-812, as last amended by Laws of Utah 2019, Chapter 136

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-46-103 is amended to read:

11-46-103. Stray animals -- Impounded animals

(1) Each municipal or county animal control officer shall hold or cause to be held at an animal shelter any unidentified or unclaimed stray animal, and any other animal taken into custody by the municipal or county animal control officer, in safe and humane custody for a minimum of five business days after the time of impound and prior to making any final disposition of the animal.

(2) An animal shelter shall ensure that a record of each held animal is maintained that includes the:

(a) date of impound;

(b) date of disposition; and

(c) method of disposition, which may be:

(i) placement in an adoptive home or other transfer of the animal, which shall be in accordance with Part 2, Animal Shelter Pet Sterilization Act;

(ii) return to the animal's owner;

(iii) placement in a community cat program as defined in Section 11-46-302; or

(iv) euthanasia in accordance with Part 4, Euthanasia of Shelter Animals.

(3) An [~~unidentified or unclaimed stray~~] impounded animal may be euthanized before the completion of the five working day minimum holding period to prevent unnecessary suffering due to serious injury or disease if the euthanasia complies with:

(a) written agency or department policies and procedures;

(b) local ordinances; and

(c) Part 4, Euthanasia of Shelter Animals.

(4) An [~~unidentified or unclaimed stray~~] impounded animal shall be returned to the animal's owner upon:

(a) the establishment of proof of ownership;

(b) compliance with the requirements of applicable local ordinances; and

(c) compliance with Part 2, Animal Shelter Pet Sterilization Act.

Section 2. Section 78B-6-812 is amended to read:

78B-6-812. Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) As used in this section:

(a) "Personal animal" means a domestic dog, cat, rabbit, bird, or other animal that is kept solely as a pet and is not a production animal.

(b)(i) "Production animal" means a live, nonhuman vertebrate member of the biological kingdom Animalia used for the purpose of producing, or being sold to another for the purpose of producing, food, fiber, or another commercial product.

(ii) "Production animal" includes:

(A) cattle;

(B) sheep;

(C) goats;

(D) swine;

(E) poultry;

(F) ratites;

(G) equines;

(H) domestic cervidae;

(I) cameliadae;

(J) a guard dog;

(K) a stock dog;

(L) a livestock guardian dog; and

(M) a fur bearing animal kept for the purpose of commercial fur production.

(2) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant of the time limit set by the court for the defendant to vacate the premises, which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances; and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of its enforcement.

[~~(2)~~](3)(a) A copy of the order of restitution and a form for the defendant to request a hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302(2).

(b) A request for hearing or other pleading filed by the defendant may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The date of service, the name, title, signature, and telephone number of the person serving the order and the form shall be legibly endorsed on the copy of the order and the form served on the defendant.

(d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.

[~~(3)~~](4)(a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.

(b)(i) Personal property remaining in the leased property may be removed from the premises by the sheriff or constable and transported to a suitable location for safe storage.

(ii) The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.

(c) A tenant may not access the property until the removal and storage costs have been paid in full, except that the tenant shall be provided reasonable access within five business days to retrieve:

(i) clothing;

(ii) identification;

(iii) financial documents, including all those related to the tenant's immigration status or employment status;

(iv) documents pertaining to receipt of public services; and

(v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.

(d) The personal property removed and stored is considered abandoned property and subject to Section 78B-6-816.

(e) If a personal animal is on the premises, the sheriff or constable executing the order of restitution shall give the personal animal to the tenant, if the tenant is present.

(f) If the tenant is not present when the order of restitution is enforced:

(i) the sheriff, constable, or landlord shall notify the local animal control authority to take custody of the personal animal;

(ii) the animal control authority shall respond to take custody of the personal animal within one business day after the day on which the sheriff, constable, or landlord provides the notice described in Subsection (4)(f)(i);

(iii) the animal control authority or organization where the personal animal is taken shall apply the same standards described in Section 11-46-103;

(iv) the landlord shall provide the animal control authority with the name and last known contact information of the tenant; and

(v) the animal control authority shall post a notice at the premises in a visible place with the name and contact information of the animal control authority or organization where the personal animal is taken.

[~~(4)~~](5)(a) In the event of a dispute concerning the manner of enforcement of the restitution order, the defendant may file a request for a hearing.

(b) The court shall:

(i) set the matter for hearing:

(A) within 10 calendar days [~~from the filing of the request,~~]after the day on which the defendant files the request for a hearing; or

(B) [~~or~~]as soon[~~thereafter~~] as practicable, if the court is unable to set the matter within the time described in Subsection (5)(b)(i)(A); and

(ii) [~~shall mail~~]provide notice of the hearing to the parties.

[~~(5)~~](6) The Judicial Council shall draft the forms necessary to implement this section.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 429
S. B. 136
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

REAUTHORIZATION OF ADMINISTRATIVE RULES

Chief Sponsor: Curtis S. Bramble
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill provides legislation regarding state agency administrative rules.

Highlighted Provisions:

This bill:

- reauthorizes all state agency administrative rules.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL:

Be it enacted by the Legislature of the state of Utah:

Section 1. Rules reauthorization.

All rules of Utah state agencies are reauthorized.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 430
S. B. 165
Passed February 22, 2024
Approved March 19, 2024
Effective May 1, 2024

TITLE RECORDING NOTICE REQUIREMENTS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill modifies notice requirements related to real property.

Highlighted Provisions:

This bill:

- requires that a county maintain a system for a property owner to elect to receive electronic notification when the county recorder records a deed or a mortgage on the owner's property;
- describes the method by which a property owner may elect to receive the electronic notice; and
- requires that a county treasurer provide instructions notice in the tax describing how an owner can elect to receive the electronic notice.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-6, as last amended by Laws of Utah 2014, Chapter 22
59-2-919, as last amended by Laws of Utah 2023, Chapters 16, 435
59-2-1317, as last amended by Laws of Utah 2023, Chapters 16, 505

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-21-6 is amended to read:

17-21-6. General duties of recorder -- Records and indexes.

(1) Each recorder shall:

(a) keep an entry record, in which the recorder shall, upon acceptance and recording of any instrument, enter the instrument in the order of its recording, the names of the parties to the instrument, its date, the hour, the day of the month and the year of recording, and a brief description, and endorse upon each instrument a number corresponding with the number of the entry;

(b) keep a grantors' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantor in alphabetical order, the name of the grantee, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(c) keep a grantees' index, in which the recorder shall index deeds and final judgments or decrees partitioning or affecting the title to or possession of real property, which shall show the entry number of the instrument, the name of each grantee in alphabetical order, the name of the grantor, the date of the instrument, the time of recording, the kind of instrument, the book and page, and a brief description;

(d) keep a mortgagors' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagor, debtor, or person charged with the encumbrance in alphabetical order, the name of the mortgagee, lien holder, creditor, or claimant, the date of the instrument, the time of recording, the instrument, consideration, the book and page, and a brief description;

(e) keep a mortgagees' index, in which the recorder shall enter all mortgages, deeds of trust, liens, and other instruments in the nature of an encumbrance upon real estate, which shall show the entry number of the instrument, the name of each mortgagee, lien holder, creditor, or claimant, in alphabetical order, the name of the mortgagor or person charged with the encumbrance, the date of the instrument, the time of recording, the kind of instrument, the consideration, the book and page, and a brief description;

(f) subject to [~~Subsection (3)~~]Subsection (4), keep a tract index, which shall show by description every instrument recorded, the date and the kind of instrument, the time of recording, and the book and page and entry number;

(g) keep an index of recorded maps, plats, and subdivisions;

(h) keep an index of powers of attorney showing the date and time of recording, the book, the page, and the entry number;

(i) keep a miscellaneous index, in which the recorder shall enter all instruments of a miscellaneous character not otherwise provided for in this section, showing the date of recording, the book, the page, the entry number, the kind of instrument, from, to, and the parties;

(j) keep an index of judgments showing the judgment debtors, the judgment creditors, the amount of judgment, the date and time of recording, the satisfaction, and the book, the page, and the entry number;

(k) keep a general recording index in which the recorder shall index all executions and writs of attachment, and any other instruments not required by law to be spread upon the records, and in separate columns the recorder shall enter the names of the plaintiffs in the execution and the names of the defendants in the execution;[~~and~~]

(l) keep an index of water right numbers that are included on an instrument recorded on or after May

13, 2014, showing the date and time of recording, the book and the page or the entry number, and the kind of instrument[.]; and

(m) beginning January 1, 2025:

(i) maintain a system that allows a property owner to receive, upon the property owner's election, an electronic notice when the county recorder records a deed or mortgage, as defined in Section 70D-1-102, on the property owner's real property; and

(ii) if a property owner elects to receive electronic notice as described in Subsection (1)(m)(i), within 30 days after the day on which the county recorder records a deed or a mortgage as defined in Section 70D-1-102 on real property, provide an electronic notice of the recording to each property owner.

(2) Upon request, a county recorder may provide the notice described in Subsection (1)(m)(ii) to a property owner by a means other than electronic.

(3) Subsection (1)(m) applies only to real property for which the county treasurer provides a tax notice described in Section 59-2-1317.

[~~(2)~~](4) The recorder shall alphabetically arrange the indexes required by this section and keep a reverse index.

[~~(3)~~](5)(a) The tract index required by Subsection (1)(f) shall be kept so that it shows a true chain of title to each tract or parcel, together with each encumbrance on the tract or parcel, according to the records of the office.

(b) A recorder shall abstract an instrument in the tract index unless:

(i) the instrument is required to contain a legal description under Section 17-21-20 or Section 57-3-105 and does not contain that legal description; or

(ii) the instrument contains errors, omissions, or defects to the extent that the tract or parcel to which the instrument relates cannot be determined.

(c) If a recorder abstracts an instrument in the tract index or another index required by this section, the recorder may:

(i) use a tax parcel number;

(ii) use a site address;

(iii) reference to other instruments of record recited on the instrument; or

(iv) reference another instrument that is recorded concurrently with the instrument.

(d) A recorder is not required to go beyond the face of an instrument to determine the tract or parcel to which an instrument may relate.

(e) A person may not bring an action against a recorder for injuries or damages suffered as a result of information contained in an instrument recorded in a tract index or other index that is required by this section despite errors, omissions, or defects in the instrument.

(f) The fact that a recorded instrument described in Subsection (3)(e) is included in the tract index does not cure a failure to give public notice caused by an error, omission, or defect.

(g) A document that is indexed in all or part of the indexes required by this section shall give constructive notice.

[~~(4)~~](6) Nothing in this section prevents the recorder from using a single name index if that index includes all of the indexes required by this section.

Section 2. Section 59-2-919 is amended to read:

59-2-919. Notice and public hearing requirements for certain tax increases -- Exceptions.

(1) As used in this section:

(a) "Additional ad valorem tax revenue" means ad valorem property tax revenue generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

(b) "Ad valorem tax revenue" means ad valorem property tax revenue not including revenue from:

(i) eligible new growth as defined in Section 59-2-924; or

(ii) personal property that is:

(A) assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) semiconductor manufacturing equipment.

(c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year that begins on January 1 and ends on December 31.

(d) "County executive calendar year taxing entity" means a calendar year taxing entity that operates under the county executive-council form of government described in Section 17-52a-203.

(e) "Current calendar year" means the calendar year immediately preceding the calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate.

(f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that begins on July 1 and ends on June 30.

(g) "Last year's property tax budgeted revenue" does not include revenue received by a taxing entity from a debt service levy voted on by the public.

(2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax rate unless the taxing entity meets:

(a) the requirements of this section that apply to the taxing entity; and

(b) all other requirements as may be required by law.

(3)(a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar year taxing

entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax rate if the calendar year taxing entity:

(i) 14 or more days before the date of the regular general election or municipal general election held in the current calendar year, states at a public meeting:

(A) that the calendar year taxing entity intends to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate;

(B) the dollar amount of and purpose for additional ad valorem tax revenue that would be generated by the proposed increase in the certified tax rate; and

(C) the approximate percentage increase in ad valorem tax revenue for the taxing entity based on the proposed increase described in Subsection (3)(a)(i)(B);

(ii) provides notice for the public meeting described in Subsection (3)(a)(i) in accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a separate item on the meeting agenda that notifies the public that the calendar year taxing entity intends to make the statement described in Subsection (3)(a)(i);

(iii) meets the advertisement requirements of Subsections (6) and (7) before the calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

(iv) provides notice by mail:

(A) seven or more days before the regular general election or municipal general election held in the current calendar year; and

(B) as provided in Subsection (3)(c); and

(v) conducts a public hearing that is held:

(A) in accordance with Subsections (8) and (9); and

(B) in conjunction with the public hearing required by Section 17-36-13 or 17B-1-610.

(b)(i) For a county executive calendar year taxing entity, the statement described in Subsection (3)(a)(i) shall be made by the:

(A) county council;

(B) county executive; or

(C) both the county council and county executive.

(ii) If the county council makes the statement described in Subsection (3)(a)(i) or the county council states a dollar amount of additional ad valorem tax revenue that is greater than the amount of additional ad valorem tax revenue previously stated by the county executive in accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:

(A) make the statement described in Subsection (3)(a)(i) 14 or more days before the county executive calendar year taxing entity conducts the public hearing under Subsection (3)(a)(v); and

(B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the county executive calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v).

(c) The notice described in Subsection (3)(a)(iv):

(i) shall be mailed to each owner of property:

(A) within the calendar year taxing entity; and

(B) listed on the assessment roll;

(ii) shall be printed on a separate form that:

(A) is developed by the commission;

(B) states at the top of the form, in bold upper-case type no smaller than 18 point "NOTICE OF PROPOSED TAX INCREASE"; and

(C) may be mailed with the notice required by Section 59-2-1317;

(iii) shall contain for each property described in Subsection (3)(c)(i):

(A) the value of the property for the current calendar year;

(B) the tax on the property for the current calendar year; and

(C) subject to Subsection (3)(d), for the calendar year for which the calendar year taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax rate, the estimated tax on the property;

(iv) shall contain the following statement:

"[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar year]. This notice contains estimates of the tax on your property and the proposed tax increase on your property as a result of this tax increase. These estimates are calculated on the basis of [insert previous applicable calendar year] data. The actual tax on your property and proposed tax increase on your property may vary from this estimate.";

(v) shall state the date, time, and place of the public hearing described in Subsection (3)(a)(v);[~~and~~]

(vi) may contain other property tax information approved by the commission[.]; and

(vii) if sent in calendar year 2024, 2025, or 2026, shall contain:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall calculate the estimated tax on property on the basis of:

(i) data for the current calendar year; and

(ii) the amount of additional ad valorem tax revenue stated in accordance with this section.

(4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

(a) provides notice by meeting the advertisement requirements of Subsections (6) and (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year taxing entity's annual budget is adopted; and

(b) conducts a public hearing in accordance with Subsections (8) and (9) before the fiscal year taxing entity's annual budget is adopted.

(5)(a) A taxing entity is not required to meet the notice or public hearing requirements of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with the requirements of this section.

(b) A taxing entity is not required to meet the notice requirements of Subsection (3) or (4) if:

(i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that certified tax rate without having to comply with the notice provisions of this section; or

(ii) the taxing entity:

(A) budgeted less than $20,000 in ad valorem tax revenue for the previous fiscal year; and

(B) sets a budget during the current fiscal year of less than $20,000 of ad valorem tax revenue.

(6)(a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this section shall be published:

(i) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the taxing entity;

(ii) electronically in accordance with Section 45-1-101; and

(iii) for the taxing entity, as a class A notice under Section 63G-30-102, for at least 14 days.

(b) The advertisement described in Subsection (6)(a)(i) shall:

(i) be no less than 1/4 page in size;

(ii) use type no smaller than 18 point; and

(iii) be surrounded by a 1/4-inch border.

(c) The advertisement described in Subsection (6)(a)(i) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

(d) It is the intent of the Legislature that:

(i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a newspaper that is published at least one day per week; and

(ii) the newspaper or combination of newspapers selected:

(A) be of general interest and readership in the taxing entity; and

(B) not be of limited subject matter.

(e)(i) The advertisement described in Subsection (6)(a)(i) shall:

(A) except as provided in Subsection (6)(f), be run once each week for the two weeks before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(ii) The advertisement described in Subsection (6)(a)(ii) shall:

(A) be published two weeks before a taxing entity conducts a public hearing described in Subsection (3)(a)(v) or (4)(b); and

(B) state that the taxing entity will meet on a certain day, time, and place fixed in the advertisement, which shall be seven or more days after the day the first advertisement is published, for the purpose of hearing comments regarding any proposed increase and to explain the reasons for the proposed increase.

(f) If a fiscal year taxing entity's public hearing information is published by the county auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run the advertisement once during the week before the fiscal year taxing entity conducts a public hearing at which the taxing entity's annual budget is discussed.

(g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an advertisement shall be substantially as follows:

"NOTICE OF PROPOSED TAX INCREASE

(NAME OF TAXING ENTITY)

The (name of the taxing entity) is proposing to increase its property tax revenue.

The (name of the taxing entity) tax on a (insert the average value of a residence in the taxing entity rounded to the nearest thousand dollars) residence would increase from $_____ to $_____, which is $_____ per year.

The (name of the taxing entity) tax on a (insert the value of a business having the same value as the average value of a residence in the taxing entity) business would increase from $_____ to $_____, which is $_____ per year.

If the proposed budget is approved, (name of the taxing entity) would increase its property tax budgeted revenue by ___% above last year's

property tax budgeted revenue excluding eligible new growth.

All concerned citizens are invited to a public hearing on the tax increase.

PUBLIC HEARING

Date/Time:

(date) (time)

Location:

(name of meeting place and address of meeting place)

To obtain more information regarding the tax increase, citizens may contact the (name of the taxing entity) at (phone number of taxing entity)."

(7) The commission:

(a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by two or more taxing entities; and

(b) subject to Section 45- 1- 101, may authorize:

(i) the use of a weekly newspaper:

(A) in a county having both daily and weekly newspapers if the weekly newspaper would provide equal or greater notice to the taxpayer; and

(B) if the county petitions the commission for the use of the weekly newspaper; or

(ii) the use by a taxing entity of a commission approved direct notice to each taxpayer if:

(A) the cost of the advertisement would cause undue hardship;

(B) the direct notice is different and separate from that provided for in Section 59- 2- 919.1; and

(C) the taxing entity petitions the commission for the use of a commission approved direct notice.

(8)(a)(i)(A) A fiscal year taxing entity shall, on or before March 1, notify the county legislative body in which the fiscal year taxing entity is located of the date, time, and place of the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

(B) A county that receives notice from a fiscal year taxing entity under Subsection (8)(a)(i)(A) shall include on the notice required by Section 59- 2- 919.1 the date, time, and place of the public hearing described in Subsection (8)(a)(i)(A).

(ii) A calendar year taxing entity shall, on or before October 1 of the current calendar year, notify the county legislative body in which the calendar year taxing entity is located of the date, time, and place of the first public hearing at which the calendar year taxing entity's annual budget will be discussed.

(b)(i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be:

(A) open to the public; and

(B) held at a meeting of the taxing entity with no items on the agenda other than discussion and action on the taxing entity's intent to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity's budget, a special district's or special service district's fee implementation or increase, or a combination of these items.

(ii) The governing body of a taxing entity conducting a public hearing described in Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an opportunity to present oral testimony:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

(c)(i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing of another overlapping taxing entity in the same county.

(ii) The taxing entities in which the power to set tax levies is vested in the same governing board or authority may consolidate the public hearings described in Subsection (3)(a)(v) or (4)(b) into one public hearing.

(d) A county legislative body shall resolve any conflict in public hearing dates and times after consultation with each affected taxing entity.

(e)(i) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or (4)(b) beginning at or after 6 p.m.

(ii) If a taxing entity holds a public meeting for the purpose of addressing general business of the taxing entity on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b), the public meeting addressing general business items shall conclude before the beginning of the public hearing described in Subsection (3)(a)(v) or (4)(b).

(f)(i) Except as provided in Subsection (8)(f)(ii), a taxing entity may not hold the public hearing described in Subsection (3)(a)(v) or (4)(b) on the same date as another public hearing of the taxing entity.

(ii) A taxing entity may hold the following hearings on the same date as a public hearing described in Subsection (3)(a)(v) or (4)(b):

(A) a budget hearing;

(B) if the taxing entity is a special district or a special service district, a fee hearing described in Section 17B- 1- 643;

(C) if the taxing entity is a town, an enterprise fund hearing described in Section 10- 5- 107.5; or

(D) if the taxing entity is a city, an enterprise fund hearing described in Section 10- 6- 135.5.

(9)(a) If a taxing entity does not make a final decision on budgeting additional ad valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing entity shall:

(i) announce at that public hearing the scheduled time and place of the next public meeting at which the taxing entity will consider budgeting the additional ad valorem tax revenue; and

(ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described in Subsection (9)(a)(i) before September 1.

(b) A calendar year taxing entity may not adopt a final budget that budgets an amount of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem tax revenue stated at a public meeting under Subsection (3)(a)(i).

(c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed annual budget.

Section 3. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter;[~~and~~]

(xv) other property tax information approved by the commission[~~.~~]; and

(xvi) if sent in calendar year 2024, 2025, or 2026:

(A) notice that the taxpayer may request electronic notice as described in Subsection 17-21-6(1)(m); and

(B) instructions describing how to elect to receive a notice as described in Subsection 17-21-6(1)(m).

(3)(a) Unless expressly allowed under this section or another statutory provision, the treasurer may

not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii)(A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59- 2- 1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6)(a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7)(a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59- 2- 1302 or 59- 2- 1307.

(9)(a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non- payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 431
S. B. 168
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

AFFORDABLE BUILDING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill modifies provisions facilitating affordable buildings.

Highlighted Provisions:

This bill:

- defines terms and modifies definitions;
- adopts a statewide building code for modular building units;
- modifies the membership of the Olene Walker Housing Loan Fund Board by adding a member representing the interests of modular housing;
- modifies provisions related to reinvestment fee covenants or transfer fee covenants;
- modifies provisions of the First-Time Homebuyer Assistance Program;
- authorizes a municipality or county to create a home ownership promotion zone of 10 acres or less;
- describes the purposes and requirements of a home ownership promotion zone;
- allows a home ownership promotion zone to capture tax increment for up to 15 consecutive years to finance the objectives of the home ownership promotion zone;
- authorizes the creation of a home ownership promotion zone to be included in a municipality or county's moderate income housing plan; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:

10-9a-403, as last amended by Laws of Utah 2023, Chapters 88, 219 and 238
15A-1-202, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
15A-1-205, as enacted by Laws of Utah 2011, Chapter 14
15A-1-302, as enacted by Laws of Utah 2011, Chapter 14
15A-1-304, as enacted by Laws of Utah 2011, Chapter 14
15A-2-103, as last amended by Laws of Utah 2023, Chapters 160, 209
17-27a-403, as last amended by Laws of Utah 2023, Chapters 88, 238
35A-8-503, as last amended by Laws of Utah 2022, Chapter 406
57-1-46, as enacted by Laws of Utah 2010, Chapter 16
59-2-924, as last amended by Laws of Utah 2023, Chapter 502
63H-8-501, as enacted by Laws of Utah 2023, Chapter 519
63H-8-502, as enacted by Laws of Utah 2023, Chapter 519

ENACTS:

10-9a-538, Utah Code Annotated 1953
10-9a-1001, Utah Code Annotated 1953
10-9a-1002, Utah Code Annotated 1953
10-9a-1003, Utah Code Annotated 1953
10-9a-1004, Utah Code Annotated 1953
10-9a-1005, Utah Code Annotated 1953
15A-1-304.1, Utah Code Annotated 1953
15A-1-306.1, Utah Code Annotated 1953
15A-1-307, Utah Code Annotated 1953
15A-1-308, Utah Code Annotated 1953
15A-1-309, Utah Code Annotated 1953
17-27a-1201, Utah Code Annotated 1953
17-27a-1202, Utah Code Annotated 1953
17-27a-1203, Utah Code Annotated 1953
17-27a-1204, Utah Code Annotated 1953
17-27a-1205, Utah Code Annotated 1953
57-1-47, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1)(a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open

space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(B) for a town, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

(E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) create a home ownership promotion zone pursuant to Part 10, Home Ownership Promotion Zone for Municipalities;

[~~(R)~~](S) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

[~~(S)~~](T) create a program to transfer development rights for moderate income housing;

[~~(T)~~](U) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

[~~(U)~~](V) develop a moderate income housing project for residents who are disabled or 55 years old or older;

[~~(V)~~](W) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

[~~(W)~~](X) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

[~~(X)~~](Y) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).

(c)(i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with

or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i)(A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

(vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii)(A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 2. Section 10-9a-538 is enacted to read:

10-9a-538. Modular building.

(1) Title 15A, State Construction and Fire Codes Act, governs regulations related to the construction, transportation, installation, inspection, fees, and enforcement related to modular building.

(2) A municipality may adopt an ordinance regulating modular building so long as the ordinance conforms with Title 15A, State Construction and Fire Codes Act, and this chapter.

Section 3. Section 10-9a-1001 is enacted to read:

10-9a-1001. Definitions.

Part 10. Home Ownership Promotion Zone for Municipalities

As used in this part:

(1) "Affordable housing" means housing offered for sale at 80% or less of the median county home price for housing of that type.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed home ownership promotion zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the home ownership promotion zone.

(5) "Home ownership promotion zone" means a home ownership promotion zone created pursuant to this part.

(6) "Participant" means the same as that term is defined in Section 17C-1-102.

(7) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(8) "Project improvements" means the same as that term is defined in Section 11-36a-102.

(9) "System improvements" means the same as that term is defined in Section 11-36a-102.

(10) "Tax commission" means the State Tax Commission created in Section 59-1-201.

(11)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a home ownership promotion zone, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(12) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

Section 4. Section 10-9a-1002 is enacted to read:

10-9a-1002. Municipal designation of a home ownership promotion zone.

(1) Subject to the requirements of Sections 10-9a-1003 and 10-9a-1004, a municipality may create a home ownership promotion zone as described in this section.

(2) A home ownership promotion zone created under this section:

(a) is an area of 10 contiguous acres or less located entirely within the boundaries of the municipality, zoned for fewer than six housing units per acre before the creation of the home ownership promotion zone;

(b) shall be re-zoned for at least six housing units per acre; and

(c) may not be encumbered by any residential building permits as of the day on which the home ownership promotion zone is created.

(3)(a) The municipality shall designate the home ownership promotion zone by resolution of the legislative body of the municipality, passed or adopted in a public meeting of the legislative body of the municipality, following:

(i) the recommendation of the municipality planning commission; and

(ii) the notification requirements described in Section 10-9a-1004.

(b) The resolution described in Subsection (3)(a) shall describe how the home ownership promotion zone created pursuant to this section meets the objectives and requirements in Section 10-9a-1003.

(c) The home ownership promotion zone is created on the effective date of the resolution described in Subsection (3)(a).

(4) If a home ownership promotion zone is created as described in this section:

(a) affected local taxing entities are required to participate according to the requirements of the home ownership promotion zone established by the municipality; and

(b) each affected taxing entity is required to participate at the same rate.

(5) A home ownership promotion zone may be modified by the same manner it is created as described in Subsection (3).

(6) Within 30 days after the day on which the municipality creates the home ownership promotion zone as described in Subsection (3), the municipality shall:

(a) record with the recorder of the county in which the home ownership promotion zone is located a document containing:

(i) a description of the land within the home ownership promotion zone; and

(ii) the date of creation of the home ownership promotion zone;

(b) transmit a copy of the description of the land within the home ownership promotion zone and an accurate map or plat indicating the boundaries of the home ownership promotion zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a map and description of the land within the home ownership promotion zone to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the home ownership promotion zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity impacted by the home ownership promotion zone;

(iv) the tax commission; and

(v) the State Board of Education.

(7) A municipality may receive tax increment and use home ownership promotion zone funds as described in Section 10-9a-1005.

Section 5. Section 10-9a-1003 is enacted to read:

10-9a-1003. Applicability, requirements, and limitations.

(1) A home ownership promotion zone shall promote the following objectives:

(a) increasing availability of housing, including affordable housing;

(b) promotion of home ownership;

(c) overcoming development impediments and market conditions that render an affordable housing development cost prohibitive absent the incentives resulting from a home ownership promotion zone; and

(d) conservation of water resources through efficient land use.

(2) In order to accomplish the objectives described in Subsection (1), a municipality shall ensure that:

(a) land inside the proposed home ownership promotion zone is zoned as residential, with at least six planned housing units per acre;

(b) at least 60% of the proposed housing units within the home ownership promotion zone are affordable housing units; and

(c) all of the proposed housing units within the home ownership promotion zone are deed restricted to require owner occupation for at least five years.

(3) A municipality may restrict short term rentals in a home ownership promotion zone.

(4) A municipality may not create a home ownership promotion zone if:

(a) the proposed home ownership promotion zone would overlap with a school district and:

(i)(A) the school district has more than one municipality within the school district's boundaries; and

(B) the school district already has 100 acres designated as home ownership promotion zone within the school district's boundaries; or

(ii)(A) the school district has one municipality within the school district's boundaries; and

(B) the school district already has 50 acres designated as home ownership promotion zone within the school district's boundaries; or

(b) the area in the proposed home ownership zone would overlap with:

(i) a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702; or

(ii) an existing housing and transit reinvestment zone.

Section 6. Section 10-9a-1004 is enacted to read:

10-9a-1004. Notification prior to creation of a home ownership promotion zone.

(1)(a) As used in this section, "hearing" means a public meeting in which the legislative body of a municipality:

(i) considers a resolution creating a home ownership promotion zone; and

(ii) takes public comment on a proposed home ownership promotion zone.

(b) A hearing under this section may be combined with any other public meeting of a legislative body of a municipality.

(2) Before a municipality creates a home ownership promotion zone as described in Section 10-9a-1002, it shall provide notice of a hearing as described in this section.

(3) The notice required by Subsection (2) shall be given by:

(a) publishing notice for the municipality, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the legislative body of the municipality intends to have a hearing;

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the proposed home ownership promotion zone;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the proposed home ownership promotion zone is located; and

(iv)(A) if the proposed home ownership promotion zone is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if the proposed home ownership promotion zone is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the proposed home ownership promotion zone.

(4) The mailing of the notice to record property owners required under Subsection (3)(b) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(5) The municipality shall include in each notice required under this section:

(a)(i) a boundary description of the proposed home ownership promotion zone; or

(ii)(A) a mailing address or telephone number where a person may request that a copy of the boundary description of the proposed home ownership promotion zone be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description of the proposed home ownership promotion zone;

(b) a map of the boundaries of the proposed home ownership promotion zone;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(6) The municipality shall include in each notice under Subsection (3)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the proposed home ownership promotion zone will be paid to the municipality for proposed home ownership promotion zone development rather than to the taxing entity to which the tax revenue would otherwise have been paid; and

(b) an invitation to the recipient of the notice to submit to the municipality comments concerning the subject matter of the hearing before the date of the hearing.

(7) A municipality may include in a notice under Subsection (2) any other information the municipality considers necessary or advisable, including the public purpose achieved by the proposed home ownership promotion zone.

Section 7. Section 10-9a-1005 is enacted to read:

10-9a-1005. Payment, use, and administration of revenue from a home ownership promotion zone.

(1)(a) A municipality may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a municipality may receive and use tax increment pursuant to a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, distribute 60% of the tax increment collected from property within the home ownership promotion zone to the municipality over the home ownership promotion zone to be used as described in this section.

(3)(a) Tax increment distributed to a municipality in accordance with Subsection (2) is not revenue of the taxing entity or municipality, but home ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the municipality within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a municipality, the agency shall enter into an interlocal agreement with the municipality.

(4)(a) A municipality or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the municipality shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A municipality or agency shall use home ownership promotion zone funds to achieve the purposes described in Section 10-9a-1003 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs; or

(c) the costs of the municipality or agency to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the municipality and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A municipality may:

(a) create one or more public infrastructure districts within a home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 8. Section 15A-1-202 is amended to read:

15A-1-202. Definitions.

As used in this chapter:

(1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops, or keeping or raising domestic animals.

(2)(a) "Approved code" means a code, including the standards and specifications contained in the code, approved by the division under Section 15A-1-204 for use by a compliance agency.

(b) "Approved code" does not include the State Construction Code.

(3) "Building" means a structure used or intended for supporting or sheltering any use or occupancy and any improvements attached to it.

(4) "Code" means:

(a) the State Construction Code; or

(b) an approved code.

(5) "Commission" means the Uniform Building Code Commission created in Section 15A-1-203.

(6) "Compliance agency" means:

(a) an agency of the state or any of its political subdivisions which issues permits for construction regulated under the codes;

(b) any other agency of the state or its political subdivisions specifically empowered to enforce compliance with the codes; or

(c) any other state agency which chooses to enforce codes adopted under this chapter by authority given the agency under a title other than this part and Part 3, Factory Built Housing and Modular Units Administration Act.

(7) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 15A-1-204(1), including:

(a) a building code;

(b) an electrical code;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code;

(h) a swimming pool and spa code; [~~and~~]

(i) a manufactured housing installation standard code; and

(j) Modular Building Institute Standards 1200 and 1205, issued by the International Code Council, except as specifically modified by provisions of this title governing modular units.

(8) "Construction project" means the same as that term is defined in Section 38-1a-102.

(9) "Executive director" means the executive director of the Department of Commerce.

(10) "Legislative action" includes legislation that:

(a) adopts a new State Construction Code;

(b) amends the State Construction Code; or

(c) repeals one or more provisions of the State Construction Code.

(11)(a) "Local regulator" means a political subdivision of the state that is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, [~~and~~]installation, inspection, or other activities subject to the codes.

(b) "Local regulator" may include the local regulator's designee.

(12) "Membrane-covered frame structure" means a nonpressurized building with a structure composed of a rigid framework to support a tensioned membrane that provides a weather barrier.

(13) "Not for human occupancy" means use of a structure for purposes other than protection or comfort of human beings, but allows people to enter the structure for:

(a) maintenance [~~and~~]or repair; [~~and~~]or

(b) the care of livestock, crops, or equipment intended for agricultural use which are kept there.

(14) "Opinion" means a written, nonbinding, and advisory statement issued by the commission concerning an interpretation of the meaning of the codes or the application of the codes in a specific circumstance issued in response to a specific request by a party to the issue.

(15) "Remote yurt" means a membrane-covered frame structure that:

(a) is no larger than 710 square feet;

(b) is not used as a permanent residence;

(c) is located in an unincorporated county area that is not zoned for residential, commercial, industrial, or agricultural use;

(d) does not have plumbing or electricity;

(e) is set back at least 300 feet from any river, stream, lake, or other body of water; and

(f) is registered with the local health department.

(16) "State regulator" means an agency of the state which is empowered to engage in the regulation of construction, alteration, remodeling, building, repair, and other activities subject to the codes adopted pursuant to this chapter.

Section 9. Section 15A-1-205 is amended to read:

15A-1-205. Division duties -- Relationship of division to other entities.

(1)(a) The division shall administer the codes adopted or approved under Section 15A-1-204 pursuant to this chapter.

(b) Notwithstanding Subsection (1)(a), the division has no responsibility to:

(i) conduct inspections to determine compliance with the codes;

(ii) issue permits; or

(iii) assess building permit fees.

(c) Notwithstanding any other provision, the division, the Division of Facilities Construction and Management, the state regulator, any approved third party inspection agency as defined by Section 15A-1-302, or any approved third party inspector as defined by Section 15A-1-302 does not have the responsibility or authority to perform the duties reserved to a local regulator as set forth in Section 15A-1-304, unless designated by a local regulator to perform that duty.

(2) As part of the administration of the codes, the division shall:

(a) comply with Section 15A-1-206;

(b) schedule appropriate hearings;

(c) maintain and publish for reference:

(i) the current State Construction Code; and

(ii) any approved code; and

(d) publish the opinions of the commission with respect to interpretation and application of the codes.

(3)(a) As part of the administration of the codes, the division shall license inspectors, including approved third party inspectors.

(b) The Division of Facilities Construction and Management may access a list of all licensed inspectors, including approved third party inspectors, on the division's website.

Section 10. Section 15A-1-302 is amended to read:

15A-1-302. Definitions.

As used in this part:

(1) "Compliance agency" [~~is as~~]means the same as that term is defined in Section 15A-1-202.

(2) "Construction documents" means the same as that term is defined by Modular Building Institute Standards 1200.

(3) "Decal" means a form of certification, created by the Division of Facilities Construction and Management and issued by a third party inspection agency, to be permanently attached to a module, panelized system, or modular building unit indicating that the module, panelized system, or modular building unit has been constructed to meet or exceed applicable building code requirements.

[~~(2)~~](4) "Factory built housing" means a manufactured home or mobile home.

[~~(3)~~](5) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis.

[~~(4)~~](6) "HUD Code" means the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

[~~(5)~~](7) "Local regulator" [~~is as~~]means the same as that term is defined in Section 15A-1-202.

[~~(6)~~](8) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the HUD Code, in one or more sections, that:

(a) in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet; and

(b) is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(9) "Manufacturing plant" means the same as that term is defined by Modular Building Institute Standards 1200.

[~~(7)~~](10) "Mobile home" means a transportable factory built housing unit built before June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD Code.

(11) "Modular manufacturer" means the entity responsible for manufacturing a panelized system or module.

[~~(8)~~](12) "Modular unit" or "modular building unit" means a structure:

(a) [~~built from sections that are manufactured~~]constructed from one or more modules or panelized systems that is manufactured in accordance with the State Construction Code and transported to a [~~building site; and~~]location;

(b) the purpose of which is for human habitation, occupancy, or use; and

(c) is not a factory-built house, manufactured home, or mobile home.

(13) "Module" means a three-dimensional, volumetric section of a modular building unit designed and approved to be transported as a single section, independent of other sections, to a location for onsite construction.

(14) "Offsite construction" means a modular building unit that:

(a) is designed and constructed in compliance with this part;

(b) is wholly or in substantial part fabricated in a manufacturing plant for installation at an onsite location; and

(c) has been manufactured in such a manner that all parts or processes cannot be inspected at the end site location without disassembly, potentially resulting in damage or destruction to the modular building unit.

(15) "Onsite construction" means:

(a) the preparation of a location where a modular building unit will be installed, including preparation of site foundation, construction of any necessary supporting structure, and preparation to connect the modular building unit to necessary utilities; and

(b) assembly and installation of one or more modules or panelized systems in accordance with construction documents into a modular building unit, including completion of any site-related construction and connecting the modular building unit to necessary utilities.

(16) "Panelized system" means a closed wall, roof, or floor component that is constructed at a manufacturing plant or by a modular manufacturer in a manner that prevents the construction from being fully inspected at an onsite location without disassembly, damage, or destruction.

[~~(9)~~](17) "State regulator" [~~is as~~]means the same as that term is defined in Section 15A-1-202.

(18) "Third party inspection agency" means an entity approved by the Division of Facilities Construction and Management to be qualified to inspect a module or panelized system for compliance with the construction documents, compliance control, and applicable code.

(19) "Third party inspector" means a person who:

(a) is qualified to inspect a modular building unit for compliance with construction documents, compliance control, and applicable building code;

(b) works under the direction of a third party inspection agency;

(c) has been licensed by the division under Section 15A-1-307; and

(d) is approved by the Division of Facilities Construction and Management to conduct third

party inspections, as described in Section 15A-1-307.

(20) "Unregistered modular unit" means a modular unit that:

(a) has not been inspected as required by this title; or

(b) does not have a required decal.

Section 11. Section 15A-1-304 is amended to read:

15A-1-304. Modular units.

Modular unit construction, [~~setup~~]installation, issuance of permits for construction or [~~setup~~]installation, and setup shall be in accordance with the following:

(1) Construction, installation, and setup of a modular unit, module, or panelized system shall be in accordance with the State Construction Code.

(2) A local regulator has the responsibility and exclusive authority [~~for plan review and issuance of permits for construction, modification, or setup for the political subdivision in which the modular unit is to be setup;~~]to:

(a) review and approve the elements of construction documents related to onsite construction;

(b) issue a permit for construction of a modular building unit or a modular building unit site modification;

(c) perform an inspection of onsite construction of a modular building unit or modular building unit site modification;

(d) verify that a module or panelized system is installed in accordance with:

(i) the modular unit's construction documents;

(ii) the State Construction Code; and

(iii) applicable state and local requirements;

(e) verify that a decal has been permanently affixed to a modular building unit;

(f) subject to Subsection (3), establish and assess fees related to the construction and installation of modular units;

(g) upon discovery of visible damage to a module or panelized system, or discovery of evidence that would cause a reasonable inspector to believe that a modular building unit may not be in compliance with the State Construction Code or construction documents:

(i) inform the Division of Facilities Construction and Management; and

(ii) proceed in accordance with the guidance in Modular Building Institute Standards 1200 and 1205;

(h) approve any proposed alteration or change to a set of construction documents so long as the alteration or change complies with the requirements of this chapter;

(i) inspect any alteration to a modular unit or panelized system that occurred after installation;

(j) notwithstanding any other provision of state law, the construction code and standards, agency rule, or local ordinance:

(i) prevent the use or occupancy of a modular building unit that, in the opinion of the local regulator, contains a serious defect or presents an imminent safety hazard; and

(ii) report the prevention of use or occupancy of a modular building unit to the Division of Facilities Construction and Management and the division; and

(k) perform all other duties and responsibilities set forth in the Modular Building Institute Standards 1200 and 1205 not otherwise listed in this section.

(3) Fees related to the construction and installation of modular building units may include building permit fees, inspection fees, impact fees, and administrative fees.

(4)(a) In addition to any immunity and protections set forth in the Utah Governmental Immunity Act, a municipality shall not be liable for a claim arising solely from the offsite construction of a module, panelized system, or modular building unit.

(b) A local regulator may provide written notice with the certificate of occupancy that explains the municipality's limitations of liability pursuant to this section and the Utah Governmental Immunity Act.

[~~(3)~~](5) An inspection of the construction, modification of, or setup of a modular unit shall conform with this chapter.

[~~(4)~~](6) A local regulator has the responsibility to issue an approval for the political subdivision in which a modular unit is to be setup or is setup.

[~~(5)~~](7) Nothing in this section precludes:

(a) a local regulator from contracting with a qualified third party to act as its designee for the inspection or plan review provided in this section; or

(b) the state from entering into an interstate compact for third party inspection of the construction of a modular unit.

Section 12. Section 15A-1-304.1 is enacted to read:

15A-1-304.1. Unregistered modular units.

(1) Except as provided in Subsection (7), the Division of Facilities Construction and Management shall determine whether an unregistered modular unit is compliant with this chapter.

(2) Upon discovery of an unregistered modular unit, the Division of Facilities Construction and Management shall:

(a) inform the local regulator, which shall:

(i) issue an order to the owner of the unregistered modular unit to cease use or occupancy of the unregistered modular unit until a third party inspector determines the unregistered modular unit has come into compliance; or

(ii) determine if the unregistered modular unit is considered compliant, as described in Subsection (7); and

(b) require the owner of the unregistered modular unit to:

(i) produce documentation of the modular unit's compliance with this chapter:

(A) if the unregistered modular unit is only missing a decal or had a decal but the decal is no longer visible; or

(B) if the unregistered modular unit is considered compliant under Subsection (7); or

(ii) arrange for a third party inspector to inspect the unregistered modular unit, as described in Subsection (4).

(3) Upon receiving and verifying the documentation described in Subsection (2)(b)(i)(A), the Division of Facilities Construction and Management shall issue the owner of an unregistered modular unit a decal to be affixed to the unregistered modular unit.

(4)(a) Upon inspection of an unregistered modular unit, a third party inspector shall determine when and where the unregistered modular unit was manufactured.

(b) If the unregistered modular unit was manufactured in another state by a modular manufacturer approved by a regulator in that state at the time the unregistered modular unit was manufactured, the third party inspector shall:

(i) conduct a review of the original construction documents and the requirements of the state in which the unregistered modular unit was manufactured as of the time of manufacturing to determine the degree to which the unregistered modular unit's manufacture and installation is compliant with the requirements of this chapter;

(ii) in accordance with Subsection (5), conduct an inspection of the unregistered modular unit; and

(iii) determine whether the unregistered modular unit is compliant with:

(A) the requirements for a modular building described in this chapter; and

(B) the building codes that were in effect at the time the unregistered modular building was manufactured.

(c) If the unregistered modular unit was manufactured in another state by a modular manufacturer that was not approved by that state, or if the date of manufacture of the unregistered modular unit cannot be determined, the third party inspector shall:

(i) in accordance with Subsection (5), conduct an inspection of the unregistered modular unit; and

(ii) determine whether the unregistered modular unit is compliant with the requirements for a modular building described in this chapter.

(d) If the third party inspector cannot determine where or when the unregistered modular unit was manufactured, or if original construction documents for the unregistered modular unit cannot be located or verified, the third party inspector shall inspect the unregistered modular unit for compliance with this chapter, including requiring disassembly of the unregistered modular unit if necessary.

(5) If the third party inspector is able to review and verify the original construction documents for the unregistered modular unit, and the original construction documents for the unregistered modular unit are sufficient to determine whether the construction of the unregistered modular unit complies with this chapter, the third party inspector may not require disassembly of the modular unit.

(6)(a) If the third party inspector determines the unregistered modular unit is compliant with the requirements for modular units in this chapter:

(i) the third party inspector shall report the finding to:

(A) the Division of Facilities Construction and Management; and

(B) the local regulator; and

(ii) affix a decal to the unregistered modular unit.

(b) The report described in Subsection (6)(a)(i) shall include a description of any changes made to the unregistered modular unit.

(7) If an unregistered modular unit installed before May 4, 2024, has a certificate of occupancy from a local regulator, the unregistered modular unit is considered compliant with the requirements for a modular unit described in this chapter so long as the unregistered modular unit remains in the jurisdiction of the local regulator that issued the certificate of occupancy.

Section 13. Section 15A-1-306.1 is enacted to read:

15A-1-306.1. Division of Facilities Construction and Management duties for modular building units.

The Division of Facilities Construction and Management:

(1) shall maintain current information on the HUD Code and the portions of the State Construction Code relevant to modular building unit installation and provide at reasonable cost the information to compliance agencies or local regulators requesting the information;

(2) shall provide qualified personnel to advise compliance agencies and local regulators regarding the standards for:

(a) construction and installation of modular building units;

(b) construction and setup inspection of modular building units; and

(c) additions or modifications to modular building units;

(3) may inspect modular building units during the construction or manufacturing process to determine compliance of a modular manufacturer with this title for modular building units to be installed within the state;

(4) upon a finding of substantive deficiency at a modular manufacturer, through inspection or based on a report from an approved third party inspection agency, may:

(a) suspend the manufacturer's construction of modular units to be sold or installed in the state;

(b) issue a corrective order to the manufacturer; or

(c) require an increase in third party inspections until the Division of Facilities Construction and Management is satisfied that the deficiency is resolved;

(5) shall, if an action is taken pursuant to Subsection (4), provide notice of its action and a copy of the corrective order to the local regulator in the political subdivision where a modular unit is to be installed;

(6) shall have rights of entry and inspection as specified under the HUD Code and Modular Building Institute Standard 1200 and Standard 1205, as applicable;

(7) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section and Section 15A-1-307, including a continuing education requirement for modular building unit construction and installation contractors; and

(8) shall have the authority to set and collect fees associated with the provision of decals to support the administration of the modular building unit program.

Section 14. Section 15A-1-307 is enacted to read:

15A-1-307. Third party review - Inspection agencies.

(1) By no later than July 1, 2024, the Division of Facilities Construction and Management shall maintain a list of third party inspection agencies that have been approved by the Division of Facilities Construction and Management to conduct:

(a) review of construction documents; and

(b) an inspection of a module or panelized system.

(2) An approved third party inspection agency:

(a) shall demonstrate knowledge of applicable sections of the Utah Code and State Construction Code and other applicable laws and rules;

(b) shall be independent in judgment and not have any actual or potential conflict of interest;

(c) is not affiliated with or influenced or controlled by any producer, supplier, vendor, developer, builder, or related fields applicable to the construction of modular units in any manner that might affect its capacity to render its conclusions and inspections without bias;

(d) shall carry insurance in the amount set by the Division of Facilities Construction and Management to cover liabilities and losses arising or relating to possible errors and omissions from its operations, reviews, and inspections; and

(e) shall perform all duties set forth in the Modular Building Institute Standard 1205, Chapter 4, as amended.

(3) An approved third party inspector:

(a) shall demonstrate knowledge of applicable sections of the Utah Code and State Construction Code and other applicable laws and rules;

(b) shall be independent in judgment and not have any actual or potential conflict of interest;

(c) is not affiliated with or influenced or controlled by any producer, supplier, vendor, developer, builder, or related fields applicable to the construction of modular units in any manner that might affect its capacity to render its conclusions and inspections without bias;

(d) shall carry insurance in the amount set by the Division of Facilities Construction and Management to cover liabilities and losses arising or relating to possible errors and omissions from its operations, reviews, and inspections; and

(e) shall perform all duties set forth in the Modular Building Institute Standard 1205, Chapter 4, as amended.

(4) A third party inspector at an approved third party agency shall:

(a) be licensed and certified as a combination building inspector under Title 58, Occupations and Professions;

(b) meet the requirements for a third party inspector under the Modular Building Institute Standard 1205, Chapter 4; and

(c) be knowledgeable regarding the construction and installation of modular units.

(5)(a) A modular manufacturer shall contract with one or more third party agencies or third party inspectors to perform offsite construction documents review and inspection.

(b) A contract described in Subsection (5)(a) does not constitute an actual or implied conflict of interest.

Section 15. Section 15A-1-308 is enacted to read:

15A-1-308. Manufacturing plants -- Quality assurance inspections.

(1) The Division of Facilities Construction and Management shall approve a modular manufacturer before modular building units produced by or sold by the modular manufacturer may be used for human occupancy within the state.

(2) A modular manufacturer, or an employee of a modular manufacturer, shall meet each requirement of Modular Building Institute 1200 Standard, Chapter 5 and 1205 Standard, Chapters 4 and 5.

(3) The quality assurance and control plan, as required in Modular Building Institute 1200 Standard, Chapter 5, and further defined per Modular Building Institute 1205 Standard, Chapter 5, shall include a conflict of interest form developed by the Division of Facilities Construction and Management.

(4) Quality assurance personnel at the manufacturing plant shall:

(a) demonstrate to the Division of Facilities Construction and Management and an applicable third party inspection agency that the quality assurance personnel have adequate knowledge of the product, factory operations, and the codes and standards for the product being manufactured;

(b) demonstrate to the satisfaction of the Division of Facilities Construction and Management the ability of the quality assurance personnel to perform required duties, as outlined by the Division of Facilities Construction and Management by rule; and

(c) inspect each module and panelized system for quality control.

(5)(a) After local building permit issuance, a modular manufacturer, third party agency, or third party inspector may not amend a construction document without approval from a local regulator.

(b) A local regulator shall approve an amendment to a construction document unless it violates a site-specific provision of municipal code or affects the safety or the habitability of a modular unit.

Section 16. Section 15A-1-309 is enacted to read:

15A-1-309. Decal.

A decal issued by the Division of Facilities Construction and Management and affixed by a third party inspection agency in compliance with this part shall warrant that the modular building unit has been inspected in accordance with this part and the modular building unit is:

(1) fit for human occupancy; and

(2) manufactured in accordance with applicable codes and the construction documents.

Section 17. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2021 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) except as provided in Subsection (1)(c), the 2021 edition of the International Residential Code, issued by the International Code Council;

(c) the residential provisions of Chapter 11, Energy Efficiency, of the 2015 edition of the International Residential Code, issued by the International Code Council;

(d) Appendix AQ of the 2021 edition of the International Residential Code, issued by the International Code Council;

(e) the 2021 edition of the International Plumbing Code, issued by the International Code Council;

(f) the 2021 edition of the International Mechanical Code, issued by the International Code Council;

(g) the 2021 edition of the International Fuel Gas Code, issued by the International Code Council;

(h) the 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

(i) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(j) the commercial provisions of the 2021 edition of the International Energy Conservation Code, issued by the International Code Council;

(k) the 2021 edition of the International Existing Building Code, issued by the International Code Council;

(l) subject to Subsection 15A-2-104(2), the HUD Code;

(m) subject to Subsection 15A-2-104(1), Appendix AE of the 2021 edition of the International Residential Code, issued by the International Code Council;

(n) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

(o) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8a-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; [~~and~~]

(p) the residential provisions of the 2021 edition of the International Swimming Pool and Spa Code, issued by the International Code Council[.]; and

(q) Modular Building Institute Standards 1200 and 1205, issued by the International Code Council, except as modified by provisions of this title governing modular units.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, Fire, and State Lands, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(o) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 18. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1)(a) The planning commission shall provide notice, as provided in Section 17-27a-203, of the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c)(i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(e);

(iv) a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3); and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the county, an employer that provides contracted services for the county, or any other public employer that operates within the county;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) create a home ownership promotion zone pursuant to Part 12, Home Ownership Promotion Zone for Counties;

[~~(R)~~](S) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

[~~(S)~~](T) create a program to transfer development rights for moderate income housing;

[~~(T)~~](U) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

[~~(U)~~](V) develop a moderate income housing project for residents who are disabled or 55 years old or older;

[~~(V)~~](W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

[~~(W)~~](X) demonstrate implementation of any other program or strategy to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

(iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit

district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

(iv) The planning commission shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(ii).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i)(A) consider and coordinate with the regional transportation plan developed by the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(e)(i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(e)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and water use and preservation element may affect the Great Salt Lake;

(iii) shall notify the community water systems serving drinking water within the unincorporated portion of the county and request feedback from the community water systems about how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(iv) shall consider the potential opportunities and benefits of planning for regionalization of public water systems;

(v) shall consult with the Department of Agriculture and Food for information and technical resources regarding the potential benefits of agriculture conservation easements and potential implementation of agriculture water optimization projects that would support regional water conservation goals;

(vi) shall notify an irrigation or canal company located in the county so that the irrigation or canal company can be involved in the protection and integrity of the irrigation or canal company's delivery systems;

(vii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(viii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(ix) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(x) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(xi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii)(A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 19. Section 17-27a-1201 is enacted to read:

17-27a-1201. Definitions.

Part 12. Home Ownership Promotion Zone for Counties

As used in this part:

(1) "Affordable housing" means housing offered for sale at 80% or less of the median county home price for housing of that type.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed home ownership promotion zone area, a year beginning

the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the home ownership promotion zone.

(5) "Home ownership promotion zone" means a home ownership promotion zone created pursuant to this part.

(6) "Participant" means the same as that term is defined in Section 17C-1-102.

(7) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(8) "Project improvements" means the same as that term is defined in Section 11-36a-102.

(9) "System improvements" means the same as that term is defined in Section 11-36a-102.

(10) "Tax commission" means the State Tax Commission created in Section 59-1-201.

(11)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a home ownership promotion zone, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(12) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

Section 20. Section 17-27a-1202 is enacted to read:

17-27a-1202. County designation of a home ownership promotion zone.

(1) Subject to Sections 17-27a-1203 and 17-27a-1204, a county may create a home ownership promotion zone as described in this section.

(2) A home ownership promotion zone created under this section:

(a) is an area of 10 contiguous unincorporated acres or less located entirely within the boundaries of the county, zoned for fewer than six housing units per acre before the creation of the home ownership promotion zone;

(b) shall be re-zoned for at least six housing units per acre; and

(c) may not be encumbered by any residential building permits as of the day on which the home ownership promotion zone is created.

(3)(a) The county shall designate the home ownership promotion zone by resolution of the legislative body of the county following:

(i) the recommendation of the county planning commission; and

(ii) the notification requirements described in Section 17-27a-1204.

(b) The resolution described in Subsection (3)(a) shall describe how the home ownership promotion zone created pursuant to this section meets the objectives and requirements of Section 17-27a-1203.

(c) The home ownership promotion zone is created on the effective date of the resolution described in Subsection (3)(a).

(4) If a home ownership promotion zone is created as described in this section:

(a) affected local taxing entities are required to participate according to the requirements of the home ownership promotion zone established by the county; and

(b) each affected taxing entity is required to participate at the same rate.

(5) A home ownership promotion zone may be modified by the same manner it is created as described in Subsection (3).

(6) Within 30 days after the day on which the county creates the home ownership promotion zone as described in Subsection (3), the county shall:

(a) record with the recorder a document containing:

(i) a description of the land within the home ownership promotion zone; and

(ii) the date of creation of the home ownership promotion zone;

(b) transmit a copy of the description of the land within the home ownership promotion zone and an accurate map or plat indicating the boundaries of the home ownership promotion zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a map and description of the land within the home ownership promotion zone to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the home ownership promotion zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity impacted by the home ownership promotion zone;

(iv) the tax commission; and

(v) the State Board of Education.

(7) A county may receive tax increment and use home ownership promotion zone funds as described in Section 17-27a-1205.

Section 21. Section 17-27a-1203 is enacted to read:

17-27a-1203. Applicability, requirements, and limitations.

(1) A home ownership promotion zone shall promote the following objectives:

(a) increasing availability of housing, including affordable housing;

(b) promotion of home ownership;

(c) overcoming development impediments and market conditions that render an affordable housing development cost prohibitive absent the incentives resulting from a home ownership promotion zone; and

(d) conservation of water resources through efficient land use.

(2) In order to accomplish the objectives described in Subsection (1), a county shall ensure that:

(a) land inside the proposed home ownership promotion zone is zoned as residential, with at least six planned housing units per acre;

(b) at least 60% of the proposed housing units within the home ownership promotion zone are affordable housing units; and

(c) all of the proposed housing units within the home ownership promotion zone are deed restricted to require owner occupation for at least five years.

(3) A county may restrict short term rentals in a home ownership promotion zone.

(4) A county may not create a home ownership promotion zone if:

(a) the proposed home ownership promotion zone would overlap with a school district and:

(i)(A) the school district has more than one municipality within the school district's boundaries; and

(B) the school district already has 100 acres designated as home ownership promotion zone within the school district's boundaries; or

(ii)(A) the school district has one municipality within the school district's boundaries; and

(B) the school district already has 50 acres designated as home ownership promotion zone within the school district's boundaries; or

(b) the area in the proposed home ownership promotion zone would overlap with:

(i) a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702; or

(ii) an existing housing and transit reinvestment zone.

Section 22. Section 17-27a-1204 is enacted to read:

17-27a-1204. Notification prior to creation of a home ownership promotion zone.

(1)(a) As used in this section, "hearing" means a public meeting in which the legislative body of a county:

(i) considers a resolution creating a home ownership promotion zone; and

(ii) takes public comment on a proposed home ownership promotion zone.

(b) A hearing under this section may be combined with any other public meeting of a legislative body of a county.

(2) Before a county creates a home ownership promotion zone as described in Section 17-27a-1002, it shall provide notice of a hearing as described in this section.

(3) The notice required by Subsection (2) shall be given by:

(a) publishing notice for the county, as a class A notice under Section 63G-30-102, for at least 14 days before the day on which the legislative body of the county intends to have a hearing;

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the proposed home ownership promotion zone;

(ii) the State Tax Commission; and

(iii)(A) if the proposed home ownership promotion zone is subject to a taxing entity committee, each member of the taxing entity committee and the State Board of Education; or

(B) if the proposed home ownership promotion zone is not subject to a taxing entity committee, the legislative body or governing board of each taxing entity within the boundaries of the proposed home ownership promotion zone.

(4) The mailing of the notice to record property owners required under Subsection (3)(b) shall be conclusively considered to have been properly completed if:

(a) the county mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(5) The county shall include in each notice required under this section:

(a)(i) a boundary description of the proposed home ownership promotion zone; or

(ii)(A) a mailing address or telephone number where a person may request that a copy of the

boundary description of the proposed home ownership promotion zone be sent at no cost to the person by mail, email, or facsimile transmission; and

(B) if the agency or community has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the boundary description of the proposed home ownership promotion zone;

(b) a map of the boundaries of the proposed home ownership promotion zone;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(6) The county shall include in each notice under Subsection (3)(b):

(a) a statement that property tax revenue resulting from an increase in valuation of property within the proposed home ownership promotion zone will be paid to the county for proposed home ownership promotion zone development rather than to the taxing entity to which the tax revenue would otherwise have been paid; and

(b) an invitation to the recipient of the notice to submit to the county comments concerning the subject matter of the hearing before the date of the hearing.

(7) A county may include in a notice under Subsection (2) any other information the county considers necessary or advisable, including the public purpose achieved by the proposed home ownership promotion zone.

Section 23. Section 17-27a-1205 is enacted to read:

17-27a-1205. Payment, use, and administration of revenue from a home ownership promotion zone.

(1)(a) A county may receive tax increment and use home ownership promotion zone funds in accordance with this section.

(b) The maximum amount of time that a county may receive and use tax increment pursuant to a home ownership promotion zone is 15 consecutive years.

(2) A county that collects property tax on property located within a home ownership promotion zone shall, in accordance with Section 59-2-1365, retain 60% of the tax increment collected from property within the home ownership promotion zone to be used as described in this section.

(3)(a) Tax increment retained by a county in accordance with Subsection (2) is not revenue of the taxing entity or county, but home ownership promotion zone funds.

(b) Home ownership promotion zone funds may be administered by an agency created by the county within which the home ownership promotion zone is located.

(c) Before an agency may receive home ownership promotion zone funds from a county, the agency shall enter into an interlocal agreement with the county.

(4)(a) A county or agency shall use home ownership promotion zone funds within, or for the direct benefit of, the home ownership promotion zone.

(b) If any home ownership promotion zone funds will be used outside of the home ownership promotion zone, the legislative body of the county shall make a finding that the use of the home ownership promotion zone funds outside of the home ownership promotion zone will directly benefit the home ownership promotion zone.

(5) A county or agency shall use home ownership promotion zone funds to achieve the purposes described in Section 17-27a-1203 by paying all or part of the costs of any of the following:

(a) project improvement costs;

(b) systems improvement costs; or

(c) the costs of the county to create and administer the home ownership promotion zone, which may not exceed 3% of the total home ownership promotion zone funds.

(6) Home ownership promotion zone funds may be paid to a participant, if the county and participant enter into a participation agreement which requires the participant to utilize the home ownership promotion zone funds as allowed in this section.

(7) Home ownership promotion zone funds may be used to pay all of the costs of bonds issued by the county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(8) A county may:

(a) create one or more public infrastructure districts within home ownership promotion zone under Title 17D, Chapter 4, Public Infrastructure District Act; and

(b) pledge and utilize the home ownership promotion zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 24. Section 35A-8-503 is amended to read:

35A-8-503. Housing loan fund board -- Duties -- Expenses.

(1) There is created the Olene Walker Housing Loan Fund Board.

(2) The board is composed of [~~13~~]14 voting members.

(a) The governor shall appoint the following members to four-year terms:

(i) two members from local governments, of which:

(A) one member shall be a locally elected official who resides in a county of the first or second class; and

(B) one member shall be a locally elected official who resides in a county of the third, fourth, fifth, or sixth class;

(ii) two members from the mortgage lending community, of which:

(A) one member shall have expertise in single-family mortgage lending; and

(B) one member shall have expertise in multi-family mortgage lending;

(iii) one member from real estate sales interests;

(iv) two members from home builders interests, of which:

(A) one member shall have expertise in single-family residential construction; and

(B) one member shall have expertise in multi-family residential construction;

(v) one member from rental housing interests;

(vi) two members from housing advocacy interests, of which:

(A) one member who resides within any area in a county of the first or second class; and

(B) one member who resides within any area in a county of the third, fourth, fifth, or sixth class;

(vii) one member of the manufactured housing interest;

(viii) one member with expertise in transit-oriented developments; [~~and~~]

(ix) one member who represents rural interests[~~.~~]; and

(x) one member who represents the interests of modular housing.

(b) The director or the director's designee serves as the secretary of the board.

(c) The members of the board shall annually elect a chair from among the voting membership of the board.

(3)(a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(4)(a) The board shall:

(i) meet regularly, at least quarterly to conduct business of the board, on dates fixed by the board;

(ii) meet twice per year, with at least one of the meetings in a rural area of the state, to provide information to and receive input from the public regarding the state's housing policies and needs;

(iii) keep minutes of its meetings; and

(iv) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(b) Seven members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.

(5) The board shall:

(a) review the housing needs in the state;

(b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;

(c) determine the means to implement the policies and goals of this chapter;

(d) select specific projects to receive grant or loan money; and

(e) determine how fund money shall be allocated and distributed.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 25. Section 57-1-46 is amended to read:

57-1-46. Transfer fee and reinvestment fee covenants.

(1) As used in this section:

(a) "Association expenses" means expenses incurred by a common interest association for:

(i) the administration of the common interest association;

(ii) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;

(iii) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property owners, tenants, common areas, the burdened property, or property governed by the common interest association; or

(iv) other facilities, activities, services, or programs that are required or permitted under the common interest association's organizational documents.

(b) "Association facilities" means any real property, improvements on real property, or personal property owned, leased, constructed, developed, managed, or used by a common interest association, including common areas.

(c) "Burdened property" means the real property that is subject to a reinvestment fee covenant or transfer fee covenant.

(d) "Common areas" means areas described within:

(i) the definition of "common areas and facilities" under Section 57-8-3; and

(ii) the definition of "common areas" under Section 57-8a-102.

(e) "Common interest association":

(i) means:

(A) an association, as defined in Section 57-8a-102;

(B) an association of unit owners, as defined in Section 57-8-3; or

(C) a nonprofit association; and

(ii) includes a person authorized by an association, association of unit owners, or nonprofit association, as the case may be.

(f) "Large master planned development" means an approved development:

(i) of at least 500 acres or 500 units; and

(ii) that includes a commitment to fund, construct, develop, or maintain:

(A) common infrastructure;

(B) association facilities;

(C) community programming;

(D) resort facilities;

(E) open space; or

(F) recreation amenities.

(g) "Nonprofit association" means a nonprofit corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, to benefit, enhance, preserve, govern, manage, or maintain burdened property.

(h) "Organizational documents":

(i) for an association, as defined in Section 57-8a-102, means governing documents as defined in Section 57-8a-102;

(ii) for an association of unit owners, as defined in Section 57-8-3, means a declaration as defined in Section 57-8-3; and

(iii) for a nonprofit association:

(A) means a written instrument by which the nonprofit association exercises powers or manages, maintains, or otherwise affects the property under the jurisdiction of the nonprofit association; and

(B) includes articles of incorporation, bylaws, plats, charters, the nonprofit association's rules, and declarations of covenants, conditions, and restrictions.

(i) "Reinvestment fee covenant" means a covenant, restriction, or agreement that:

(i) affects real property; and

(ii) obligates a future buyer or seller of the real property to pay to a common interest association, upon and as a result of a transfer of the real property, a fee that is dedicated to benefitting the burdened property, including payment for:

(A) common planning, facilities, and infrastructure;

(B) obligations arising from an environmental covenant;

(C) community programming;

(D) resort facilities;

(E) open space;

(F) recreation amenities;

(G) charitable purposes; or

(H) association expenses.

(j) "Transfer fee covenant":

(i) means an obligation, however denominated, expressed in a covenant, restriction, agreement, or other instrument or document:

(A) that affects real property;

(B) that is imposed on a future buyer or seller of real property, other than a person who is a party to the covenant, restriction, agreement, or other instrument or document; and

(C) to pay a fee upon and as a result of a transfer of the real property; and

(ii) does not include:

(A) an obligation imposed by a court judgment, order, or decree;

(B) an obligation imposed by the federal government or a state or local government entity; or

(C) a reinvestment fee covenant.

(2) A transfer fee covenant recorded on or after March 16, 2010 is void and unenforceable.

(3)(a) Except as provided in Subsection (3)(b), a reinvestment fee covenant may not be sold, assigned, or conveyed unless the sale, assignment, or conveyance is to a common interest association that was formed to benefit the burdened property.

(b) A common interest association may assign or pledge to a lender the right to receive payment under a reinvestment fee covenant if:

(i) the assignment or pledge is as collateral for a credit facility; and

(ii) the lender releases the collateral interest upon payment in full of all amounts that the common interest association owes to the lender under the credit facility.

(4) A reinvestment fee covenant recorded on or after March 16, 2010 is not enforceable if the reinvestment fee covenant is intended to affect property that is the subject of a previously recorded transfer fee covenant or reinvestment fee covenant.

(5) A reinvestment fee covenant recorded on or after March 16, 2010 may not obligate the payment of a fee that exceeds .5% of the value of the burdened property, unless the burdened property is part of a large master planned development.

(6)(a) A reinvestment fee covenant recorded on or after March 16, 2010 is void and unenforceable unless a notice of reinvestment fee covenant, separate from the reinvestment fee covenant, is recorded in the office of the recorder of each county in which any of the burdened property is located.

(b) A notice under Subsection (6)(a) shall:

(i) state the name and address of the common interest association to which the fee under the reinvestment fee covenant is required to be paid;

(ii) include the notarized signature of the common interest association's authorized representative;

(iii) state that the burden of the reinvestment fee covenant is intended to run with the land and to bind successors in interest and assigns;

(iv) state that the existence of the reinvestment fee covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property;

(v) state the duration of the reinvestment fee covenant;

(vi) state the purpose of the fee required to be paid under the reinvestment fee covenant; and

(vii) state that the fee required to be paid under the reinvestment fee covenant is required to benefit the burdened property.

(c) A recorded notice of reinvestment fee covenant that substantially complies with the requirements of Subsection (6)(b) is valid and effective.

(7)(a) A reinvestment fee covenant or transfer fee covenant recorded before March 16, 2010 is not enforceable after May 31, 2010, unless:

(i) a notice that is consistent with the notice described in Subsection (6) is recorded in the office of the recorder of each county in which any of the burdened property is located; or

(ii) a notice of reinvestment fee covenant or transfer fee covenant, as described in Subsection (7)(b), is recorded in the office of the recorder of each county in which any of the burdened property is located.

(b) A notice under Subsection (7)(a)(ii) shall:

(i) include the notarized signature of the beneficiary of the reinvestment fee covenant or transfer fee covenant, or the beneficiary's authorized representative;

(ii) state the name and current address of the beneficiary under the reinvestment fee covenant or transfer fee covenant;

(iii) state that the burden of the reinvestment fee covenant or transfer fee covenant is intended to run with the land and to bind successors in interest and assigns; and

(iv) state the duration of the reinvestment fee covenant or transfer fee covenant.

(c) A recorded notice of reinvestment fee covenant or transfer fee covenant that substantially complies with the requirements of Subsection (7)(b) is valid and effective.

(d) A notice under Subsection (7)(b):

(i) that is recorded after May 31, 2010, is not enforceable; and

(ii) shall comply with the requirements of Section 57-1-47.

(e) An amendment to a notice under Subsection (7)(b) recorded after May 31, 2010, seeking to amend a notice under Subsection (7)(b) recorded before May 31, 2010, is not an enforceable amendment.

(8) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon:

(a) an involuntary transfer;

(b) a transfer that results from a court order;

(c) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity;

(d) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or

(e) the transfer of burdened property by a financial institution, except to the extent that the reinvestment fee covenant requires the payment of a common interest association's costs directly related to the transfer of the burdened property, not to exceed $250.

Section 26. Section 57-1-47 is enacted to read:

57-1-47. Notice requirements for continuation of existing private transfer fee obligations.

(1) In addition to the requirements described in Subsection 57-1-46(7), a person required to file a notice under this section shall:

(a)(i) file the notice described in this section on or before May 31, 2024; and

(ii) re-file the notice, no earlier than May 1 and no later than May 31, every three years thereafter; and

(b) amend the notice to reflect any change in the name or address of any payee included in the notice no later than the 30 days after the day on which the change occurs.

(2) A person who amends a notice filed under Subsection (1) shall include with the amendment:

(a) the recording information of the original notice; and

(b) the legal description of the property subject to the private transfer fee obligation.

(3) To be effective, a notice filed under this section shall be approved in writing by every person holding a majority of the beneficial interests in the private transfer fee obligation.

(4) If a person required to file a notice under this section fails to comply with this section:

(a) payment of the private transfer fee may not be a requirement for the conveyance of an interest in the property to a purchaser;

(b) the property is not subject to further obligation under the private transfer fee obligation; and

(c) the private transfer fee obligation is void.

(5) A recorded notice of transfer fee covenant that complies with the requirements of this section is valid and effective.

(6)(a) A person that is no longer subject to a private transfer fee obligation may seek declaratory relief in court to address any encumbrance on real property owned by the person.

(b) Upon a successful claim for declaratory relief, as described in Subsection (6)(a), a court may award the person costs and reasonable attorney fees.

Section 27. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a)(i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c)(i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(v) for a host local government, the same as that term is defined in Section 63N-2-502; [~~or~~]

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602[~~.~~]; or

(vii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 10-9a-1001 or Section 17-27a-1201.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f)(i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(v) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vi) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government; [~~or~~]

(vii) for the State Fair Park Authority created in Section 11-68-201, the taxable value of:

(A) fair park land, as defined in Section 11-68-101, that is subject to a privilege tax under Section 11-68-402; or

(B) personal property located on property that is subject to the privilege tax described in Subsection (1)(n)(vii)(A)[~~.~~]; or

(viii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a home ownership promotion zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the home ownership promotion zone.

(o)(i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation; [~~or~~]

(v) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment[~~.~~]; or

(vi) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, an amount equal to the incremental value that is no longer provided to a home ownership promotion zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; [~~or~~]

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602[~~.~~]; or

(iii) for a home ownership promotion zone created under Title 10, Chapter 9a, Part 10, Home Ownership Promotion Zone for Municipalities, or Title 17, Chapter 27a, Part 12, Home Ownership Promotion Zone for Counties, the same as that term is defined in Section 10-9a-1001 or Section 17-27a-1201.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4)(a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6)(a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7)(a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8)(a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9)(a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 28. Section 63H-8-501 is amended to read:

63H-8-501. Definitions.

As used in this part:

(1)(a) "First-time homebuyer" means an individual who [~~qualifies for assistance under 42 U.S.C. Sec. 12852.~~]satisfies:

(i) the three-year requirement described in Section 143(d) of the Internal Revenue Code of 1986, as amended, and any corresponding federal regulations; and

(ii) requirements made by the corporation by rule, as described in Section 63H-8-502.

(b) "First-time homebuyer" includes a single parent, as defined by the corporation by rule made as described in Section 63H-8-502, who would meet the three-year requirement described in Subsection (1)(a)(i) but for a present ownership interest in a principal residence in which the single parent:

(i) had a present ownership interest with the single parent's former spouse during the three-year period;

(ii) resided while married during the three-year period; and

(iii) no longer:

(A) has a present ownership interest; or

(B) resides.

(2) "Home equity amount" means the difference between:

(a)(i) in the case of a sale, the sales price for which the qualifying residential unit is sold by the recipient in a bona fide sale to a third party with no right to repurchase less an amount up to 1% of the sales price used for seller-paid closing costs; or

(ii) in the case of a refinance, the current appraised value of the qualifying residential unit; and

(b) the total payoff amount of any qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit.

(3) "Program" means the First-Time Homebuyer Assistance Program created in Section 63H-8-502.

(4) "Program funds" means money appropriated for the program.

(5) "Qualifying mortgage loan" means a mortgage loan that:

(a) is purchased by the corporation; and

(b) is subject to a document that is recorded in the office of the county recorder of the county in which the residential unit is located.

(6) "Qualifying residential unit" means a residential unit that:

(a) is located in the state;

(b) is new construction or newly constructed but not yet inhabited;

(c) is financed by a qualifying mortgage loan;

(d) is owner-occupied [~~upon~~]within 60 days of purchase, or in the case of a two-unit dwelling, at least one unit is owner-occupied within 60 days of purchase; and

(e) is purchased for an amount that does not exceed:

(i) $450,000; or

(ii) if applicable, the maximum purchase price established by the corporation under Subsection 63H-8-502(6).

(7) "Recipient" means a first-time homebuyer who receives program funds.

(8)(a) "Residential unit" means a house, condominium, townhome, or similar residential structure that serves as a one-unit dwelling or forms part of a two-unit dwelling.

(b) "Residential unit" includes a manufactured home or modular home that is attached to a permanent foundation.

Section 29. Section 63H-8-502 is amended to read:

63H-8-502. First-Time Homebuyer Assistance Program.

(1) There is created the First-Time Homebuyer Assistance Program administered by the corporation.

(2) Subject to appropriations from the Legislature, the corporation shall distribute program funds to[~~-~~]:

(a) first-time homebuyers to provide support for the purchase of qualifying residential units; and

(b) reimburse the corporation for a distribution of funds under Subsection (2)(a) that took place on or after July 1, 2023.

(3) The maximum amount of program funds that a first-time homebuyer may receive under the program is $20,000.

(4)(a) A recipient may use program funds to pay for:

(i) the down payment on a qualifying residential unit;

(ii) closing costs associated with the purchase of a qualifying residential unit;

(iii) a permanent reduction in the advertised par interest rate on a qualifying mortgage loan that is used to finance a qualifying residential unit; or

(iv) any combination of Subsections (4)(a)(i), (ii), and (iii).

(b) The corporation shall direct the disbursement of program funds for a purpose authorized in Subsection (4)(a).

(c) A recipient may not receive a payout or distribution of program funds upon closing.

(5) The builder or developer of a qualifying residential unit may not increase the price of the qualifying residential unit on the basis of program funds being used towards the purchase of that qualifying residential unit.

(6)(a) In accordance with rules made by the corporation under Subsection (9), the corporation may adjust the maximum purchase price of a qualifying residential unit for which a first-time homebuyer qualifies to receive program funds in order to reflect current market conditions[~~, provided that~~].

(b) In connection with an adjustment made under Subsection (6)(a), the corporation may establish one or more maximum purchase prices corresponding by residential unit type, geographic location, or any other factor the corporation considers relevant.

(c) [~~the~~]The corporation [~~adjusts the~~]may adjust a maximum purchase price under this Subsection (6) no more frequently than once each calendar year.

(7)(a) [~~If~~]Except as provided in Subsection (7)(b), if the recipient sells the qualifying residential unit or refinances the qualifying mortgage loan that was used to finance the purchase of the qualifying residential unit before the end of the original term of the qualifying mortgage loan, the recipient shall repay to the corporation an amount equal to the lesser of:

[~~(a)~~](i) the amount of program funds the recipient received; or

[~~(b)~~](ii) 50% of the recipient's home equity amount.

(b) Subsection (7)(a) does not apply to a qualifying mortgage loan that is refinanced with a new qualifying mortgage loan if any subordinate qualifying mortgage loan, or loan from program funds used on the purchase of the qualifying residential unit, is resubordinated only to the new qualifying mortgage loan.

(8) Any funds repaid to the corporation under Subsection (7) shall be used for program distributions.

(9) The corporation shall make rules governing the application form, process, and criteria the corporation will use to distribute program funds to first-time homebuyers, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(10) The corporation may use up to 5% of program funds for administration.

(11) The corporation shall report annually to the Social Services Appropriations Subcommittee on disbursements from the program and any adjustments made to the maximum purchase price or maximum purchase prices of a qualifying residential unit under Subsection (6).

Section 30. Effective date.

This bill takes effect on May 1, 2024.

Section 31. Retrospective operation.

(1) The following sections have retrospective operation to July 1, 2023:

(a) Section 63H- 8- 501; and

(b) Section 63H- 8- 502.

CHAPTER 432
S. B. 171
Passed February 22, 2024
Approved March 19, 2024
Effective May 1, 2024

MUNICIPAL RENTAL DWELLING LICENSING AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill modifies provisions of the municipal code regarding rental dwellings.

Highlighted Provisions:

This bill:

- provides that a municipal ordinance on the licensing of an owner of a rental dwelling does not apply to an owner who does not receive compensation for the use of the rental dwelling.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-85.5, as last amended by Laws of Utah 2023, Chapter 327

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-85.5 is amended to read:

10-8-85.5. "Rental dwelling" defined -- Municipality may require a business license or a regulatory business license and inspections -- Exception.

(1) As used in this section, "rental dwelling" means a building or portion of a building that is:

(a) used or designated for use as a residence by one or more persons; and

(b)(i) available to be rented, loaned, leased, or hired out for a period of one month or longer; or

(ii) arranged, designed, or built to be rented, loaned, leased, or hired out for a period of one month or longer.

(2)(a) [~~The~~]Subject to Subsection (2)(e), the legislative body of a municipality may by ordinance require the owner of a rental dwelling located within the municipality:

(i) to obtain a business license pursuant to Section 10-1-203; or

(ii)(A) to obtain a regulatory business license to operate and maintain the rental dwelling in accordance with Section 10-1-203.5; and

(B) to allow inspections of the rental dwelling as a condition of obtaining a regulatory business license.

(b) A municipality may not require an owner of multiple rental dwellings or multiple buildings containing rental dwellings to obtain more than one regulatory business license for the operation and maintenance of those rental dwellings.

(c) A municipality may not charge a fee for the inspection of a rental dwelling.

(d) If a municipality's inspection of a rental dwelling, allowed under Subsection (2)(a)(ii)(B), approves the rental dwelling for purposes of a regulatory business license, a municipality may not inspect that rental dwelling except as provided for in Section 10-1-203.5.

(e) An ordinance under Subsection (2)(a) does not apply to an owner of a rental dwelling who demonstrates by a signed affidavit that the owner does not receive compensation from the use of the owner's rental dwelling.

(3) A municipality may not:

(a) interfere with the ability of an owner of a rental dwelling to contract with a tenant concerning the payment of the cost of a utility or municipal service provided to the rental dwelling; or

(b) except as required under the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act, for a structural change to the rental dwelling, or as required in an ordinance adopted before January 1, 2008, require the owner of a rental dwelling to retrofit the rental dwelling with or install in the rental dwelling a safety feature that was not required when the rental dwelling was constructed.

(4) Nothing in this section shall be construed to affect the rights and duties established under Title 57, Chapter 22, Utah Fit Premises Act, or to restrict a municipality's ability to enforce its generally applicable health ordinances or building code, a local health department's authority under Title 26A, Chapter 1, Local Health Departments, or the Department of Health and Human Service's authority under Title 26B, Utah Health and Human Services Code.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 433
S. B. 174
Passed February 28, 2024
Approved March 19, 2024
Effective January 1, 2025

SAFE LEAVE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses paid leave for certain state employees.

Highlighted Provisions:

This bill:

- establishes safe leave as a form of paid leave available to certain state employees;
- subject to certain requirements, requires certain state employers to allow an employee described above to use up to one week of paid safe leave per calendar year for a reason related to:
  - the employee having been the victim of domestic violence, sexual assault, stalking, or human trafficking; or
  - the employee's immediate family member having been the victim of an incident described above;
- requires an employee to use all accrued annual, compensatory, and excess leave before using safe leave;
- prohibits a state employer from:
  - taking retaliatory action against an employee for using safe leave; or
  - compensating an employee for unused safe leave upon the employee's termination of employment;
- subject to an exception, requires a state employee to give a state employer at least seven days notice before using safe leave;
- provides that unused safe leave does not accrue annually; and
- requires the Division of Human Resource Management to adopt rules to administer safe leave.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:
63A-17-511.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-511.5 is enacted to read:

63A-17-511.5. Safe leave.

(1) As used in this section:

(a) "Child" means an individual younger than 18 years old.

(b) "Immediate family" means a qualified employee's:

(i) parent, spouse, child, or sibling; or

(ii) an individual that the qualified employee claims as a dependent for state or federal income tax purposes.

(c) "Qualified employee" means an employee of a state employer who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv)(A) is the victim of domestic violence, sexual assault, stalking, or human trafficking; or

(B) has an immediate family member who is the victim of an incident described in Subsection (1)(c)(iv)(A).

(d) "Retaliatory action" means the same as that term is defined in Section 63A-17-511.

(e) "Safe leave" means paid leave hours that a state employer provides to a qualified employee for a reason described in Subsection (2)(a).

(f)(i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institution of higher education;

(B) the Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the attorney general's office;

(F) the state auditor's office; or

(G) the state treasurer's office.

(2)(a) Subject to Subsection (3), a state employer shall allow a qualified employee to use up to one week of safe leave per calendar year for a reason related to, or arising out of, an incident described in Subsection (1)(c)(iv)(A) or (B), including:

(i) to obtain services from a domestic violence shelter, rape crisis center, or similar shelter or service program;

(ii) to temporarily or permanently relocate;

(iii) to file a complaint or report with law enforcement;

(iv) to enroll a child in a new school;

(v) to meet with a district or county attorney's office;

(vi) to attend or participate in a court hearing;

(vii) to obtain psychological or emotional counseling;

(viii) to receive medical treatment; or

(ix) to take another action that is necessary to maintain, improve, or restore the physical, psychological, emotional, or economic health or safety of the qualified employee or the qualified employee's immediate family member.

(b) A state employer shall allow a qualified employee to use the amount of safe leave available to the qualified employee on a pro rata basis, as adopted by rule by the division under Subsection (12), if the qualified employee:

(i) is a part- time employee; or

(ii) works in excess of a 40- hour work week or the equivalent of a 40- hour work week.

(3) A state employer may not grant a qualified employee safe leave under Subsection (2) unless the qualified employee has first exhausted all of the qualified employee's available accrued annual, compensatory, and excess leave balances.

(4) The amount of safe leave authorized under Subsection (2):

(a) may be used intermittently;

(b) may not be used more than two years after the date of an incident described in Subsection (1)(c)(iv)(A) or (B), unless the qualified employee's use of safe leave is for a reason related to, or arising out of, the criminal prosecution of an individual alleged to be the perpetrator of an incident described in Subsection (1)(c)(iv)(A) or (B);

(c) runs concurrently with leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.;

(d) does not increase if the qualified employee or the qualified employee's immediate family member is the victim of more than one of the incidents described in Subsection (1)(c)(iv)(A) or (B); and

(e) does not accrue annually.

(5)(a) Except as provided in Subsection (5)(b), a qualified employee shall give a state employer notice at least seven days before the day on which the qualified eligible employee plans to:

(i) begin using safe leave; and

(ii) stop using safe leave.

(b) If circumstances beyond a qualified employee's control prevent the qualified employee from giving the state employer notice in accordance with Subsection (5)(a), the qualified employee shall give the state employer each notice described in Subsection (5)(a) as soon as reasonably practicable.

(6) Except as provided in Subsection (4)(c), a state employer may not charge safe leave against sick, annual, compensatory, excess, or another leave to which a qualified employee is entitled.

(7) A state employer may not compensate a qualified employee for any unused safe leave upon the qualified employee's termination of employment.

(8)(a) After the expiration of a qualified employee's safe leave, the state employer shall ensure that the qualified employee may return to:

(i) the position that the qualified employee held before using safe leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the qualified employee held before using safe leave.

(b) If, during the time that a qualified employee uses safe leave, the state employer experiences a reduction in force and, as part of the reduction in force, the qualified employee would have been separated from employment if the qualified employee was not using safe leave, the state employer may separate the qualified employee in accordance with any applicable process or procedure as if the qualified employee was not using safe leave.

(9) During the time a qualified employee uses safe leave, the qualified employee shall continue to receive all employment related benefits and payments at the same level that the qualified employee received immediately before using safe leave, if the qualified employee pays any required employee contribution.

(10) A state employer may not:

(a) interfere with or otherwise restrain a qualified employee from using safe leave; or

(b) take retaliatory action against a qualified employee for using safe leave.

(11) A state employer shall provide each qualified employee written information regarding the qualified employee's right to use safe leave in accordance with this section.

(12) On or before January 1, 2025, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for:

(a) the use and administration of safe leave under this section; and

(b) a schedule that provides safe leave for a qualified employee who is part- time or who works in excess of a 40- hour work week on a pro rata basis.

Section 2. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 434
S. B. 213
Passed February 28, 2024
Approved March 19, 2024
Effective May 1, 2024

CRIMINAL JUSTICE MODIFICATIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Sentencing Commission to review and revise, on or before October 31, 2024, supervision guidelines regarding appropriate sanctions and incentives;
- requires the Utah Sentencing Commission to establish sentencing guidelines to address habitual offenders;
- requires the Department of Corrections to create a program to provide incentives for maintaining eligible employment for certain offenders on probation or parole;
- modifies the crime of unlawful sexual activity with a minor to address a defendant who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- modifies the crime of unlawful adolescent sexual activity to include an actor who is 18 years old and enrolled in high school at the time the sexual activity occurred;
- addresses the sentencing of an individual who has been previously convicted of felony offenses;
- addresses pretrial detention of certain individuals who have committed a felony offense;
- modifies the requirements for a magistrate or judge when ordering pretrial release;
- addresses the means by which the Board of Pardons and Parole notifies a victim of any hearing or decision;
- allows a victim to submit a written statement for a hearing by the Board of Pardons and Parole;
- addresses consideration of a victim's written statement by the Board of Pardons and Parole;
- addresses the information that a court and a prosecuting attorney forwards to the Board of Pardons and Parole;
- modifies the duties of a law enforcement officer with regard to a victim;
- amends the requirements for a drug court program; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63M-7-303, as last amended by Laws of Utah 2023, Chapters 266, 330 and 534 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 330
63M-7-404, as last amended by Laws of Utah 2023, Chapter 111
64-13-21, as last amended by Laws of Utah 2022, Chapter 187
76-5-401, as last amended by Laws of Utah 2023, Chapter 123
76-5-401.3, as last amended by Laws of Utah 2023, Chapters 123, 161
77-18-102, as last amended by Laws of Utah 2023, Chapter 330
77-18-103, as last amended by Laws of Utah 2023, Chapter 155
77-20-205, as last amended by Laws of Utah 2023, Chapters 408, 447
77-27-9.5, as last amended by Laws of Utah 1998, Chapter 355
77-27-9.7, as last amended by Laws of Utah 1994, Chapter 13
77-27-13, as last amended by Laws of Utah 1998, Chapter 171
77-36-2.1, as last amended by Laws of Utah 2023, Chapters 138, 447
78A-5-201, as last amended by Laws of Utah 2023, Chapter 330

Sections affected by Coordination Clause:

63M-7-404, as last amended by Laws of Utah 2023, Chapter 11118
63M-7-404.3, as enacted in S.B. 200 (2024 General Session)1719
76-5-401.3, as last amended by Laws of Utah 2023, Chapters 123, 16116

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections [~~77-18-103(2)(c)~~]77-18-103(3)(c) and (d).".

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

(24) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(25) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(28) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(29) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

(30) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(31) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 2. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, forensic mental health, and related issues;

(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections [~~77-18-103(2)(c)~~]77-18-103(3)(c) and (d), as provided in Section 63M-7-305;

(h) comply with Section 32B-2-306;

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 26B-5-611;

(j) advise the Department of Health and Human Services regarding the state hospital admissions policy for individuals in the custody of the Department of Corrections;

(k) regarding the interaction between an individual with a mental illness or an intellectual disability and the civil commitment system, criminal justice system, or juvenile justice system:

(i) promote communication between and coordination among all agencies interacting with the individual;

(ii) study, evaluate, and recommend changes to laws and procedures;

(iii) identify and promote the implementation of specific policies and programs to deal fairly and efficiently with the individual; and

(iv) promote judicial education;

(l) study the long-term need for adult patient staffed beds at the state hospital, including:

(i) the total number of staffed beds currently in use at the state hospital;

(ii) the current staffed bed capacity at the state hospital;

(iii) the projected total number of staffed beds needed in the adult general psychiatric unit of the state hospital over the next three, five, and 10 years based on:

(A) the state's current and projected population growth;

(B) current access to mental health resources in the community; and

(C) any other factors the council finds relevant to projecting the total number of staffed beds; and

(iv) the cost associated with the projected total number of staffed beds described in Subsection (1)(l)(iii); and

(m) each year report on whether the pay of the state hospital's employees is adequate based on market conditions.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report:

(a) with the assistance and staff support from the state hospital, regarding the items described in Subsections (1)(l) and (m), including any recommendations, to the Health and Human Services Interim Committee before October 1 of each year; and

(b) any other recommendations annually to the commission, the governor, the Legislature, and the Judicial Council.

Section 3. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist

individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2)(a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3)(a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4)(a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:

(i) the seriousness of any violation of the condition of probation;

(ii) the probationer's conduct while on probation; and

(iii) the probationer's criminal history.

(5)(a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:

(i) the seriousness of any violation of the condition of parole;

(ii) the individual's conduct while on parole; and

(iii) the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) On or before October 31, 2024, the commission shall review and revise the supervision tools in the guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section 64-13g-101.

[~~(8)~~](9)(a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection [~~(8)~~](9), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

[~~(9)~~](10) The commission shall establish and maintain supervision length guidelines in accordance with this section.

[~~(10)~~](11)(a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed $50,000:

(i) securities fraud, Sections 61-1-1 and 61-1-21;

(ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;

(iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

(iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(v) arson, Section 76-6-102;

(vi) burglary, Section 76-6-202;

(vii) theft under Title 76, Chapter 6, Part 4, Theft;

(viii) forgery, Section 76-6-501;

(ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

(x) insurance fraud, Section 76-6-521;

(xi) computer crimes, Section 76-6-703;

(xii) mortgage fraud, Section 76-6-1203;

(xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

(xiv) communications fraud, Section 76-10-1801;

(xv) money laundering, Section 76-10-1904; and

(xvi) other offenses in the discretion of the commission.

(b) The guidelines described in Subsection [~~(10)(a)~~](11)(a) shall include a sentencing matrix with proportionate escalating sanctions based on the amount of a victim's loss.

(c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection [~~(10)(a)~~](11)(a).

[~~(11)~~](12)(a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.

(b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection [~~(11)(a)~~](12)(a), including the application of aggravating and mitigating factors specific to the offense.

(13) The commission shall establish guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

Section 4. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1)(a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

(c) The department shall establish standards for:

(i) the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on

available resources, to felony offenders and offenders sentenced under Subsection 58-37-8 (2)(b)(ii); and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established by the Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4)(a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6)(a)(i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b)(i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7)(a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing [~~an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).~~]

[~~(b) The program shall provide that an offender earns~~]an offender to earn a reduction credit of 30 days from the offender's period of probation or parole for each month the offender [~~completes without any violation of~~]complies with the terms of the offender's probation or parole agreement, including the case action plan.

(b)(i) For offenders placed on probation under Section 77-18-105 or parole under Section 76-3-202 on or after July 1, 2026, the department shall establish a program, consistent with the sentencing and supervision length guidelines described in Section 63M-7-404, to provide incentives for an offender that maintains eligible employment, as defined in Section 64-13g-101.

(ii) The program under Subsection (7)(b)(i) may include a credit towards the reduction of the length of supervision for an offender at a rate of up to 30 days for each month that the offender maintains eligible employment, as defined in Section 64-13g-101.

(iii) A court, or the Board of Pardons and Parole, is not required to grant a request for termination of supervision under the program described in this Subsection (7)(b) if the court, or the Board of Pardons and Parole, finds that:

(A) the offender presents a substantial risk to public safety;

(B) termination would prevent the offender from completing risk reduction programming or treatment; or

(C) the eligibility criteria for termination of supervision, as established in the sentencing and supervision length guidelines described in Section 63M-7-404, have not been met.

(iv) This Subsection (7)(b) does not prohibit the department, or another supervision services provider, from requesting termination of supervision based on the eligibility criteria in the

sentencing and supervision length guidelines described in Section 63M-7-404.

(c) The department shall:

(i) maintain a record of credits earned by an offender under this Subsection (7)[~~and shall~~]; and

(ii) request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 5. Section 76-5-401 is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

(1)(a) As used in this section, "minor" means an individual who is 14 years old or older, but younger than 16 years old, at the time the sexual activity described in Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2)(a) Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if the actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of an individual and the mouth or anus of another individual; or

(iii) causes the penetration, however slight, of the genital or anal opening of the minor by a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(3)(a) A violation of Subsection (2) is a third degree felony.

(b)(i) Notwithstanding Subsection (3)(a) or (c), a violation of Subsection (2) is a class B misdemeanor if the defendant establishes by a preponderance of the evidence the mitigating factor that:

(A) the defendant is less than four years older than the minor at the time the sexual activity occurred[~~, the offense is a class B misdemeanor.~~]; or

(B) the defendant is 18 years old and enrolled in high school at the time the sexual activity occurred.

(ii) An offense under Subsection (3)(b)(i) is not subject to registration under Subsection 77-41-102(18)(a)(vii).

(c)(i) Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

(ii) An offense under Subsection (3)(c)(i) is not subject to registration under Subsection 77-41-102(18)(a)(vii).

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403;

(d) aggravated sexual assault, in violation of Section 76-5-405; or

(e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Section 6. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1)(a) As used in this section, "adolescent" means an individual [~~in the transitional phase of human physical and psychological growth and~~

~~development between childhood and adulthood~~] who is 12 years old or older[~~,~~] but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful adolescent sexual activity if:

(a) the actor:

[~~(a)~~](i) is [~~an adolescent~~]12 years old or older but younger than 18 years old; and

[~~(b)~~](ii) has sexual activity with [~~another~~]an adolescent[~~.~~]; or

(b) the actor:

(i) has sexual activity with an adolescent who is 12 or 13 years old; and

(ii) is 18 years old and is enrolled in high school at the time the sexual activity occurred.

(3)(a) A violation of Subsection (2)(a) is a:

[~~(a)~~](i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

[~~(b)~~](ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

[~~(c)~~](iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

[~~(d)~~](iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

[~~(e)~~](v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

[~~(f)~~](vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

[~~(g)~~](vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

[~~(h)~~](viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(b) A violation of Subsection (2)(b) is a third degree felony.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

(d) object rape of a child, in violation of Section 76-5-402.3;

(e) forcible sodomy, in violation of Section 76-5-403;

(f) sodomy on a child, in violation of Section 76-5-403.1;

(g) sexual abuse of a child, in violation of Section 76-5-404;

(h) aggravated sexual assault, in violation of Section 76-5-405;

(i) incest, in violation of Section 76-7-102; or

(j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

(5) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

(6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

(7) An offense under this section is not subject to registration under Subsection 77-41-102(18).

Section 7. Section 77-18-102 is amended to read:

77-18-102. Definitions.

As used in this chapter:

(1) "Assessment" means, except as provided in Section 77-18-104, the same as the term "risk and needs assessment" in Section 77-1-3.

(2) "Board" means the Board of Pardons and Parole.

(3) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(4) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(5) "Convicted" means the same as that term is defined in Section 76-3-201.

(6) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(7) "Default" means the same as that term is defined in Section 77-32b-102.

(8) "Delinquent" means the same as that term is defined in Section 77-32b-102.

(9) "Department" means the Department of Corrections created in Section 64-13-2.

(10) "Habitual offender" means an individual who has been convicted in:

(a) at least six cases for one or more felony offenses in each case; and

(b) each case described in Subsection (10)(a) within five years before the day on which the defendant is convicted of the felony offense before the court.

[~~(10)~~](11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(11)~~](12) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(12)~~](13) "Screening" means, except as provided in Section 77-18-104, a tool or questionnaire that is designed to determine whether an individual needs further assessment or any additional resource or referral for treatment.

[~~(13)~~](14) "Substance use disorder treatment" means treatment obtained through a substance use disorder program that is licensed by the Office of Licensing within the Department of Health and Human Services.

Section 8. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2)(a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense and the defendant is a habitual offender, the prosecuting attorney shall notify the court that the defendant is a habitual offender.

(b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for the conviction without ordering and obtaining a presentence investigation report, unless the court finds good cause to proceed with sentencing without the presentence investigation report.

[~~(2)~~](3) If a presentence investigation report is required under Subsection (2) or the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);

(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;

(d) recommendations for treatment for the defendant; and

(e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

[~~(3)~~](4) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

[~~(4)~~](5)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection [~~(4)(a)(i)(B)~~](5)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the [~~Division of Adult Probation and Parole~~]department or the law enforcement agency.

(b) The [~~Division of Adult Probation and Parole~~]department shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

[~~(5)~~](6) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

[~~(6)~~](7)(a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

[~~(7)~~](8) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(2);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

[~~(8)~~](9)(a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection [~~(8)(a)~~](9)(a) shall be presented in open court on record and in the presence of the defendant.

Section 9. Section 77-20-205 is amended to read:

77-20-205. Pretrial release by a magistrate or judge.

(1)(a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(c) Notwithstanding Subsection (1)(a) or (b), a magistrate shall issue a temporary pretrial status order under Subsection (1) that detains an individual if the individual is arrested for a felony offense and the magistrate finds:

(i) there is substantial evidence to support the individual's arrest for the felony offense;

(ii) the individual committed the felony offense while:

(A) the individual was on parole or probation for a conviction of a felony offense; or

(B) the individual was released and awaiting trial on a previous charge for a felony offense; and

(iii) based on information reasonably available to the magistrate, the individual has at least nine cases where the individual has been charged or convicted, or entered a plea of guilty, within five years from the day on which the individual was arrested for the felony offense described in Subsection (1)(c)(i).

(d) Subsection (1)(c) does not limit or prohibit a magistrate's authority to detain an individual who does not meet the requirements described in Subsection (1)(c).

(2)(a) Except as provided in Subsection (2)(b), the magistrate or judge shall issue a pretrial status order at an individual's first appearance before the court.

(b) The magistrate or judge may delay the issuance of a pretrial status order at an individual's first appearance before the court:

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(c) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(b), the

magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3)(a) When a magistrate or judge issues a pretrial status order, the pretrial status order shall:

(i) release the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designate a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) order the individual to be detained during the time that individual awaits trial or other resolution of criminal charges.

(b) In making a determination about pretrial release in a pretrial status order, the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(4) In making a determination about pretrial release, a magistrate or judge shall impose:

(a) only conditions of release that are reasonably available[~~and necessary to reasonably ensure:~~]; and

(b) conditions of release that reasonably ensure:

[~~(a)~~](i) the individual's appearance in court when required;

[~~(b)~~](ii) the safety of any witnesses or victims of the offense allegedly committed by the individual;

[~~(c)~~](iii) the safety and welfare of the public; and

[~~(d)~~](iv) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(5) Except as provided in Subsection (1)(c) or (6), a magistrate or judge may impose a condition, or combination of conditions, for pretrial release that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (4).

(6)(a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (6)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(7)(a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a county jail official fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the county jail official's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(8) In making a determination about pretrial release, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony;

(vi) the results of a lethality assessment completed in accordance with Section 77-36-2.1; or

(vii) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(9) The magistrate or judge may not base a determination about pretrial release solely on the seriousness or type of offense that the individual is arrested for or charged with, unless the individual is arrested for or charged with a capital felony.

(10) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge.

Section 10. Section 77-27-9.5 is amended to read:

77-27-9.5. Victim may attend hearings.

(1) As used in this section, "hearing" means a hearing for a parole grant or revocation, or a rehearing of either of these if the offender is present.

(2)(a) Except as provided in Subsection (2)(b), when a hearing is held regarding any offense committed by the defendant that involved the victim, the victim may attend the hearing to present [~~his~~]the victim's views concerning the decisions to be made regarding the defendant.

(b)(i) The victim may not attend a redetermination or special attention hearing[~~,~~] if the offender is not present.

(ii) At that redetermination or special attention hearing, the board shall give consideration to any presentation previously given by the victim regarding that offender.

(3)(a) The [~~notice of the hearing shall be timely sent to the victim at his most recent address of record with the board~~]board shall send timely notice of the hearing to the victim as provided in Subsection (3)(c).

(b) The notice shall include:

(i) the date, time, and location of the hearing;

(ii) a clear statement of the reason for the hearing, including all offenses involved;

(iii) the statutes and rules applicable to the victim's participation in the hearing;

(iv) the address and telephone number of an office or person the victim may contact for further

explanation of the procedure regarding victim participation in the hearing; and

(v) specific information about how, when, and where the victim may obtain the results of the hearing.

(c) The board may notify a victim through the board's website or through the mail or other electronic means available to the board.

(d) If the victim requests that a notification occur using a specific method offered by the board, the board shall make reasonable efforts to accommodate that request.

[~~(c)~~](e) If the victim is [~~dead~~]deceased, or the board is otherwise unable to contact the victim, the board shall make reasonable efforts to notify the victim's immediate family of the hearing.

[~~(d)~~](f) The victim may communicate with the board for consideration of continuance of the hearing if travel or other significant conflict prohibits [~~their~~]the victim's attendance at the hearing.

(4) The victim, or family members if the victim is deceased or unable to attend due to physical incapacity, may:

(a) attend the hearing to observe;

(b) make a statement to the board, or [~~its appointed examiner either~~]the board's appointed examiner, in person or through a representative appointed by the victim or [~~his~~]the victim's family; and

(c) remain present for the hearing if [~~he~~]the victim appoints another to make a statement on [~~his~~]the victim's behalf.

(5) The statement may be presented:

(a) as a written statement, which may also be read aloud, if the presenter desires; or

(b) as an oral statement presented by the person selected under Subsection (4).

(6) The victim may be accompanied by a member of his family or another individual, present to provide emotional support to the victim.

(7) The victim may, upon request, testify outside the presence of the defendant but a separate hearing may not be held for this purpose.

(8)(a) If a victim does not attend a hearing, the victim may provide a written statement that complies with board rules.

(b) If the victim does not offer a verbal or written statement at the time of the hearing, the board shall consider any statement from the victim that was previously provided to the board.

(c) The board may not afford a written statement provided by a victim less weight than a verbal statement solely because the statement is written.

Section 11. Section 77-27-9.7 is amended to read:

77-27-9.7. Victim right to notification of release -- Notice by board.

[~~A victim entitled to notice of the hearings regarding parole under Section 77-27-9.5 shall also be notified by the Board of Pardons and Parole of the right of victims to be advised upon request of other releases of the defendant under Section 64-13-14.7. The board may include this notification in the same notice sent under Section 77-27-9.5.~~]

(1)(a) In accordance with Subsection 77-38-104(1)(p), the board shall notify a victim of the victim's right to be informed, upon request, of other releases of the offender under Section 64-13-14.7.

(b) The board may provide the notification to the victim as described in Subsection 77-27-9.5(3)(c).

(2) The board may include the notification under Subsection (1) with the notification sent under Subsection 77-27-9.5(3).

(3) The board shall coordinate with the Department of Corrections to ensure notice under this section is provided to [~~victims~~]a victim.

Section 12. Section 77-27-13 is amended to read:

77-27-13. Board of Pardons and Parole -- Duties of the judiciary, the Department of Corrections, and law enforcement -- Removal of material from files.

(1) The chief executive officer and employees of each penal or correctional institution shall cooperate fully with the board, permit board members free access to offenders, and furnish the board with pertinent information regarding an offender's physical, mental, and social history and his institutional record of behavior, discipline, work, efforts of self-improvement, and attitude toward society.

(2)(a) The [~~Department of Corrections shall~~] department shall:

(i) furnish any pertinent information [~~it has~~], within the department's possession, to the board; and [~~shall~~]

(ii) provide a copy of the [~~pre-sentence report~~]presentence report, any available information within the department's possession concerning the impact a crime may have had upon the victim or the victim's family, and any other investigative reports to the board.

(b) In all cases where a [~~pre-sentence~~] presentence report has not been completed, the department shall:

(i) make a [~~post-sentence~~]postsentence report [~~and shall~~]; and

(ii) provide a copy of [~~it~~]the postsentence report to the board as soon as possible.

(c) The department shall provide the board, upon request, any additional investigations or

information needed by the board to reach a decision or conduct a hearing.

(3) The department shall make [~~its~~]the department's facilities available to the board to carry out [~~its~~]the board's functions.

(4) Law enforcement officials responsible for the offender's arrest, conviction, and sentence shall furnish all pertinent data requested by the board.

[~~(5)(a) In all cases where an indeterminate sentence is imposed, the judge imposing the sentence may within 30 days from the date of the sentence, mail to the chief executive of the board a statement in writing setting out the term for which, in his opinion, the offender sentenced should be imprisoned, and any information he may have regarding the character of the offender or any mitigating or aggravating circumstances connected with the offense for which the offender has been convicted. In addition, the prosecutor shall in all cases, within 30 days from the date of sentence, forward in writing to the chief executive of the board a full and complete description of the crime, a written record of any plea bargain entered into, a statement of the mitigating or aggravating circumstances or both, all investigative reports, a victim impact statement referring to physical, mental, or economic loss suffered, and any other information the prosecutor believes will be relevant to the board. These statements shall be preserved in the files of the board.~~]

(5)(a) If an indeterminate sentence is imposed in a case, the court shall forward, within 30 days after the day on which the sentence was imposed, to the board:

(i) a record of the judgment and commitment;

(ii) if available and in the court's possession, a victim impact statement referring to any loss suffered by a victim; and

(iii) any other record that the court believes will be relevant to the board, including a statement:

(A) proposing the term for which, in the court's opinion, the offender should be imprisoned;

(B) any information the court may have regarding the character of the offender; and

(C) any mitigating or aggravating circumstances connected with the offense for which the offender has been convicted.

(b) If the court amends an order for a judgment and commitment, the court shall forward the amended order to the board within 30 days after the day on which the amended order is entered.

(6) If an indeterminate sentence is imposed in a case and the offender is committed to prison, the prosecuting attorney shall forward, in writing and within 30 days after the day on which the sentence was imposed, to the board:

(a) a victim impact statement referring to any loss suffered by a victim; and

(b) any other information the prosecuting attorney believes will be relevant to the board, including a summary and recommendations related to the case.

[~~(b)~~](7) Notwithstanding Subsection [~~(5)(a)~~](5) or (6), the board may remove from [~~its~~]the board's files any:

[~~(i)~~](a) statement that [~~it~~]the board is not going to rely on in [~~its decisionmaking~~]the board's decision- making process;

[~~(ii)~~](b) information found to be incorrect by a court, the [~~Board of Pardons and Parole~~]board, or an administrative agency; or

[~~(iii)~~](c) duplicative materials.

[~~(6)~~](8) The chief executive officer of any penal or correctional institution shall permit offenders to send mail to the board without censorship.

Section 13. Section 77-36-2.1 is amended to read:

77-36-2.1. Duties of law enforcement officers -- Notice to victims -- Lethality assessments.

(1) [~~For purposes of~~]As used in this section:)

(a) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(a)~~](b)(i) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(ii) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

[~~(b)~~](c) "Intimate partner" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) has or had one or more children in common with the other party;

(iv) is the biological parent of the other party's unborn child;

(v) is or was in a consensual sexual relationship with the other party; or

(vi) is or was in a dating relationship with the other party.

[~~(c)~~](d) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(d)~~](e) "Primary purpose domestic violence organization" means a contract provider of domestic violence services as described in Section 80-2-301.

(2) A law enforcement officer who responds to an allegation of domestic violence shall:

(a) use all reasonable means to protect the victim and prevent further violence, including:

(i) taking the action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged domestic violence;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arrange, facilitate, or provide for the victim and any child to obtain medical treatment; [~~and~~]

(vi) arrange, facilitate, or provide the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of domestic violence, in accordance with Subsection (3); and

(vii) providing the pamphlet created by the department under Section 53-5c-201 to the victim if the allegation of domestic violence:

(A) includes a threat of violence as described in Section 76-5-107;

(B) results, or would result, in the owner cohabitant becoming a restricted person under Section 76-10-503; or

(C) is accompanied by a completed lethality assessment that demonstrates the cohabitant is at high risk of being further victimized; and

(b) if the allegation of domestic violence is against an intimate partner, complete the lethality assessment protocols described in this section.

(3)(a) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this chapter, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, and Title 78B, Chapter 7, Part 2, Child Protective Orders.

(b) The written notice shall include:

(i) a statement that the forms needed in order to obtain an order for protection are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled;

(ii) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance; and

(iii) the information required to be provided to both parties in accordance with Subsections 78B-7-802(8) and (9) .

(4) If a weapon is confiscated under this section, the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a domestic violence protective order is not issued or once the domestic violence protective order is terminated.

(5) A law enforcement officer shall complete a lethality assessment form by asking the victim:

(a) if the aggressor has ever used a weapon against the victim or threatened the victim with a weapon;

(b) if the aggressor has ever threatened to kill the victim or the victim's children;

(c) if the victim believes the aggressor will try to kill the victim;

(d) if the aggressor has ever tried to choke the victim;

(e) if the aggressor has a gun or could easily get a gun;

(f) if the aggressor is violently or constantly jealous, or controls most of the daily activities of the victim;

(g) if the victim left or separated from the aggressor after they were living together or married;

(h) if the aggressor is unemployed;

(i) if the aggressor has ever attempted suicide, to the best of the victim's knowledge;

(j) if the victim has a child that the aggressor believes is not the aggressor's biological child;

(k) if the aggressor follows or spies on the victim, or leaves threatening messages for the victim; and

(l) if there is anything else that worries the victim about the victim's safety and, if so, what worries the victim.

(6) A law enforcement officer shall comply with Subsection (7) if:

(a) the victim answers affirmatively to any of the questions in Subsections (5)(a) through (d);

(b) the victim answers negatively to the questions in Subsections (5)(a) through (d), but affirmatively to at least four of the questions in Subsections (5)(e) through (k); or

(c) as a result of the victim's response to the question in Subsection (5)(l), the law enforcement officer believes the victim is in a potentially lethal situation.

(7) If the criteria in Subsections (6)(a), (b), or (c) are met, the law enforcement officer shall:

(a) advise the victim of the results of the assessment; [~~and~~]

(b) refer the victim to a nongovernment organization victim advocate at a primary purpose domestic violence organization[~~.~~]; and

(c) refer the victim to a criminal justice system victim advocate if the responding law enforcement agency has a criminal justice system victim advocate available.

(8) If a victim does not or is unable to provide information to a law enforcement officer sufficient to allow the law enforcement officer to complete a lethality assessment form, or does not speak or is

unable to speak with a nongovernment organization victim advocate, the law enforcement officer shall document this information on the lethality assessment form and submit the information to the Department of Public Safety under Subsection (9).

(9)(a) Except as provided in Subsection (9)(b), a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety while on scene.

(b) If a law enforcement officer is not reasonably able to submit the results of a lethality assessment while on scene, the law enforcement officer shall submit the results of the lethality assessment to the Department of Public Safety as soon as practicable.

(c)(i) Before the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using means prescribed by the Department of Public Safety.

(ii) After the reporting mechanism described in Subsection (10)(a) is developed, a law enforcement officer shall submit the results of a lethality assessment to the Department of Public Safety using that reporting mechanism.

(10) The Department of Public Safety shall:

(a) as soon as practicable, develop and maintain a reporting mechanism by which a law enforcement officer will submit the results of a lethality assessment as required by Subsection (9);

(b) provide prompt analytical support to a law enforcement officer who submits the results of a lethality assessment using the reporting mechanism described in Subsection (10)(a); and

(c) create and maintain a database of lethality assessment data provided under this section.

(11)(a) Subject to Subsection (11)(b), a law enforcement officer shall include the results of a lethality assessment and any related, relevant analysis provided by the Department of Public Safety under Subsection (10), with:

(i) a probable cause statement submitted in accordance with Rule 9 of the Utah Rules of Criminal Procedure; and

(ii) an incident report prepared in accordance with Section 77-36-2.2.

(b) In a probable cause statement or incident report, a law enforcement officer may not include information about how or where a victim was referred under Subsection (7)(b).

Section 14. Section 78A-5-201 is amended to read:

78A-5-201. Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

(1) There may be created a drug court program in any judicial district that demonstrates:

(a) the need for a drug court program; and

(b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

(a) include monitoring and evaluation components to measure program effectiveness; and

(b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

(i) executive director of the Department of Health and Human Services;

(ii) executive director of the Department of Corrections; and

(iii) state court administrator.

(3)(a) Funds disbursed to a drug court program shall be allocated as follows:

(i) 87% to the Department of Health and Human Services for testing, treatment, and case management; and

(ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.

(b) This provision does not apply to federal block grant funds.

(4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

(5) Screening criteria for participation in a drug court program shall include:

(a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;

(b) an agreement to frequent alcohol and other drug testing;

(c) participation in one or more substance abuse treatment programs; and

(d) an agreement to submit to sanctions for noncompliance with drug court program requirements.

(6)(a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.

(b) [~~Acceptance~~]The eligibility requirements described in Subsection (6)(a):

(i) shall require that the acceptance of an offender into a drug court [~~shall be based~~]is based on a risk and needs assessment[~~, without regard to the nature of the offense.~~] and targeted at individuals who are high risk and high needs; and

(ii) may not limit participation in a drug court only to individuals convicted of an offense described in Section 58-37-8.

(c) A plea to, conviction of, or adjudication for a felony offense is not required for participation in a drug court program.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

Section 16. Coordinating S.B. 213 with H.B. 16.

If S.B. 213, Criminal Justice Modifications, and H.B. 16, Sexual Offenses Amendments, both pass and become law, the Legislature intends that, on May 1, 2024, Section 76-5-401.3 be amended to read:

"**76-5-401.3.**

Unlawful adolescent sexual activity - - Penalties - - Limitations.

(1) (a) As used in this section, "adolescent" means an individual[~~in the transitional phase of human physical and psychological growth and development between childhood and adulthood~~] who is 12 years old or older[~~,~~] but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection [~~(4)~~](5), an actor commits unlawful sexual activity if[~~the actor~~]:

[~~(a) is an adolescent; and~~

~~(b) has sexual activity with another adolescent.~~]

(a) (i) the actor is 12 years old or older but younger than 18 years old;

(ii) the actor engages in sexual activity with an adolescent;

(iii) the actor is not the biological sibling of the adolescent; and

(iv) both the actor and the adolescent mutually agree to the sexual activity; or

(b) (i) the actor engages in sexual activity with an adolescent who is 13 years old;

(ii) the actor is 18 years old and enrolled in high school at the time that the sexual activity occurred;

(iii) the actor is not the biological sibling of the adolescent; and

(iv) both the actor and the adolescent mutually agree to the sexual activity.

(3) (a) A violation of Subsection (2)(a) is a:

[~~(a)~~] (i) third degree felony if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is[~~12 or~~] 13 years old;

[~~(b)~~] (ii) third degree felony if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

[~~(c)~~] (iii) class A misdemeanor if an actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

[~~(d)~~] (iv) class A misdemeanor if an actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

[~~(e)~~] (v) class B misdemeanor if an actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

[~~(f)~~] (vi) class B misdemeanor if an actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

[~~(g)~~] (vii) class C misdemeanor if an actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

[~~(h)~~] (viii) class C misdemeanor if an actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(b) A violation of Subsection (2)(b) is a third degree felony.

(4) The actor and the adolescent do not mutually agree to the sexual activity under Subsection (2) if:

(a) the adolescent expresses lack of agreement to the sexual activity through words or conduct;

(b) the actor overcomes the adolescent's will through:

(i) threats to the adolescent or any other individual;

(ii) force;

(iii) coercion; or

(iv) enticement;

(c) the actor is able to overcome the adolescent through concealment or by the element of surprise;

(d) the actor knows, or reasonably should know, that the adolescent has a mental disease or defect, which renders the adolescent unable to:

(i) appraise the nature of the act;

(ii) resist the act;

(iii) understand the possible consequences to the adolescent's health or safety; or

(iv) appraise the nature of the relationship between the actor and the adolescent;

(e) the actor knows that the adolescent participates in the sexual activity because the adolescent erroneously believes that the actor is someone else; or

(f) the actor intentionally impaired the power of the adolescent to appraise or control the adolescent's conduct by administering any substance without the adolescent's knowledge.

[~~(4)~~] (5) The offenses referred to in Subsection (2) are:

(a) rape[~~, in violation of~~] under Section 76-5-402;

[~~(b) rape of a child, in violation of Section 76-5-402.1;~~

~~(c)~~] (b) object rape[~~, in violation of~~] under Section 76-5-402.2;

[~~(d) object rape of a child, in violation of Section 76-5-402.3;~~

~~(e)~~] (c) forcible sodomy[~~, in violation of~~] under Section 76-5-403;

[~~(f) sodomy on a child, in violation of Section 76-5-403.1;~~

~~(g) sexual abuse of a child, in violation of Section 76-5-404;~~

~~(h)~~] (d) aggravated sexual assault[~~, in violation of~~] under Section 76-5-405;

[~~(i)~~] (e) incest[~~, in violation of~~] under Section 76-7-102; or

[~~(j)~~] (f) an attempt to commit [~~any~~]an offense listed in Subsections [~~(4)(a) through (4)(i)~~](5)(a) through (e).

[~~(5)~~] (6) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-303.5 or a referral to a youth court under Section 80-6-902.

[~~(6)~~] (7) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

[~~(7)~~] (8) An offense under this section is not subject to registration under Subsection 77-41-102(18).".

Section 17. Coordinating S.B. 213 with H.B. 395 and S.B. 200 if all pass and become law.

If S.B. 213, Criminal Justice Modifications, H.B. 395, DUI Offense Amendments, and S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, all pass and become law:

(1) the Legislature intends that, on May 1, 2024:

(a) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

"63M-7-404.3.

Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) On or before October 31, 2024, the sentencing commission shall review and revise the supervision tools in the adult sentencing and supervision length guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section 64-13g-101.

(3) The sentencing commission shall establish guidelines in the adult sentencing and supervision length guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

(4) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again."; and

(b) all occurrences of the language "sentencing and supervision length guidelines in Section 63M-7-404" in Subsection 64-13-21(7)(b) in S.B. 213 be replaced with "adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1"; and

(2) the Legislature intends that, on July 1, 2024, Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

"**63M-7-404.3.**

Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) Before July 1, 2024, the sentencing commission shall revise and review the adult sentencing and supervision length guidelines to reflect appropriate penalties for the following offenses:

(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2;

(ii) negligently operating a vehicle resulting in injury, Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death, Section 76-5-207.

(b) The guidelines under Subsection (2)(a) shall consider the following:

(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;

(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;

(iii) the offender's number of previous convictions for driving under the influence related offenses as defined in Subsection 41-6a-501(2)(a); and

(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.

(3) On or before October 31, 2024, the sentencing commission shall review and revise the supervision tools in the adult sentencing and supervision length guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section 64-13g-101.

(4) The sentencing commission shall establish guidelines in the adult sentencing and supervision length guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

(5) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.".

Section 18. Coordinating S.B. 213 with H.B. 395 if S.B. 200 does not pass and become law.

If S.B. 213, Criminal Justice Modifications, and H.B. 395, DUI Offense Amendments, both pass and become law, and S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, does not pass and become law, the Legislature intends that, on July 1, 2024, Section 63M-7-404 be amended to read:

"**63M-7-404.**

Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the

accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:

(i) the seriousness of any violation of the condition of probation;

(ii) the probationer's conduct while on probation; and

(iii) the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:

(i) the seriousness of any violation of the condition of parole;

(ii) the individual's conduct while on parole; and

(iii) the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, to implement the recommendations of the State Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) On or before October 31, 2024, the commission shall review and revise the supervision tools in the guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section 64-13g-101.

[~~(8)~~] (9) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection [~~(8)~~](9), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

[~~(9)~~] (10) The commission shall establish and maintain supervision length guidelines in accordance with this section.

[~~(10)~~] (11) (a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed $50,000:

(i) securities fraud, Sections 61-1-1 and 61-1-21;

(ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;

(iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

(iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(v) arson, Section 76-6-102;

(vi) burglary, Section 76-6-202;

(vii) theft under Title 76, Chapter 6, Part 4, Theft;

(viii) forgery, Section 76-6-501;

(ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

(x) insurance fraud, Section 76-6-521;

(xi) computer crimes, Section 76-6-703;

(xii) mortgage fraud, Section 76-6-1203;

(xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

(xiv) communications fraud, Section 76-10-1801;

(xv) money laundering, Section 76-10-1904; and

(xvi) other offenses in the discretion of the commission.

(b) The guidelines described in Subsection [~~(10)(a)~~](11)(a) shall include a sentencing matrix with proportionate escalating sanctions based on the amount of a victim's loss.

(c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection [~~(10)(a)~~](11)(a).

[~~(11)~~] (12) (a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.

(b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection [~~(11)(a)~~](12)(a), including the application of aggravating and mitigating factors specific to the offense.

(13) The commission shall establish guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

(14) (a) Before July 1, 2024, the sentencing commission shall review and revise the commission's sentencing and supervision length guidelines to reflect appropriate penalties for the following offenses:

(i) an interlock restricted driver operating a vehicle without an ignition interlock system, Section 41-6a-518.2;

(ii) negligently operating a vehicle resulting in death, Section 76-5-207; and

(iii) negligently operating a vehicle resulting in death, Section 76-5-207.

(b) The guidelines under Subsection (14)(a) shall consider the following:

(i) the current sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both as identified in Section 41-6a-505 when injury or death do not result;

(ii) the degree of injury and the number of victims suffering injury or death as a result of the offense;

(iii) the offender's number of previous convictions for driving under the influence related offenses including those defined in Subsection 41-6a-501(2)(a); and

(iv) whether the offense amounts to extreme DUI, as that term is defined in Section 41-6a-501.".

Section 19. Coordinating S.B. 213 with S.B. 200 if H.B. 395 does not pass and become law.

If S.B. 213, Criminal Justice Modifications, and S.B. 200, State Commission on Criminal and Juvenile Justice Amendments, both pass and become law, and H.B. 395, DUI Offense Amendments, does not pass and become law, the Legislature intends that, on May 1, 2024:

(1) Section 63M-7-404.3 enacted in S.B. 200 be amended to read:

"**63M-7-404.3.**

Adult sentencing and supervision length guidelines.

(1) The sentencing commission shall establish and maintain adult sentencing and supervision length guidelines regarding:

(a) the sentencing and release of offenders in order to:

(i) accept public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in sentencing;

(iv) better define responsibility in sentencing; and

(v) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole;

(b) the length of supervision of offenders on probation or parole in order to:

(i) accept public comment;

(ii) increase equity in criminal supervision lengths;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing court while preserving the role of the Board of Pardons and Parole; and

(c) appropriate, evidence-based probation and parole supervision policies and services that assist offenders in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an offender's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet the needs of an offender; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) On or before October 31, 2024, the sentencing commission shall review and revise the supervision tools in the adult sentencing and supervision length guidelines to:

(a) recommend appropriate sanctions for an individual who violates probation or parole by:

(i) committing a felony offense, a misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, or a misdemeanor offense for driving under the influence described in Section 41-6a-502;

(ii) possessing a dangerous weapon; or

(iii) willfully refusing to participate in treatment ordered by the court or the Board of Pardons and Parole; and

(b) recommend appropriate incentives for an individual on probation or parole that:

(i) completes all conditions of probation or parole; or

(ii) maintains eligible employment as defined in Section 64-13g-101.

(3) The sentencing commission shall establish guidelines in the adult sentencing and supervision length guidelines that recommend an enhanced sentence that a court or the Board of Pardons and Parole should consider when determining the period in which a habitual offender, as defined in Section 77-18-102, will be incarcerated.

(4) The sentencing commission shall modify:

(a) the adult sentencing and supervision length guidelines to reduce recidivism for the purposes of protecting the public and ensuring efficient use of state funds; and

(b) the criminal history score in the adult sentencing and supervision length guidelines to reduce recidivism, including factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again."; and

(2) all occurrences of the language "sentencing and supervision length guidelines in Section 63M-7-404" in Subsection 64-13-21(7)(b) in S.B. 213 be replaced with "adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1.".

CHAPTER 435
S. B. 23
Passed February 29, 2024
Approved March 19, 2024
Effective May 1, 2024

HIGHWAY DESIGNATION AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill creates a highway and a rest area designation.

Highlighted Provisions:

This bill:

- establishes the Jake Garn Legacy Highway; and
- establishes the Governor Scott Matheson and Senator Jake Garn Rest Area.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
72-4-221, Utah Code Annotated 1953
72-4-222, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-4-221 is enacted to read:

72-4-221. Jake Garn Legacy Highway.

(1) There is established the Jake Garn Legacy Highway comprising a section of Route 40 from I-80 southerly to Route 32.

(2) The Department of Transportation shall designate the portions of the highway described in Subsection (1) as Jake Garn Legacy Highway on future state highway maps.

Section 2. Section 72-4-222 is enacted to read:

72-4-222. Governor Scott Matheson and Senator Jake Garn Rest Area.

There is established the Governor Scott Matheson and Senator Jake Garn Rest Area at milepoint 202.11 on Route 6 in Utah County.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 436
S. B. 272
Passed March 1, 2024
Approved March 19, 2024
Effective May 1, 2024

CAPITAL CITY REVITALIZATION ZONE

Chief Sponsor: Daniel McCay
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill enacts provisions to enable a local government to create a revitalization zone.

Highlighted Provisions:

This bill:

- establishes procedures to create a revitalization zone for the use of tax revenue for the benefit of creating or improving infrastructure within a designated project area that is located within the local government's boundaries;
- provides requirements for the project area;
- authorizes a qualifying local government to levy a sales and use tax within the local government's boundaries and for use within the project area, subject to certain procedures and approvals;
- provides requirements and procedures for a local government to create a revitalization zone and negotiate a project participation agreement that would allow a project participant to participate in the use of funds within the project area;
- provides requirements for allowable uses of revenue and funds;
- provides requirements for a participation agreement;
- requires termination of access to funds and repayment of funds in the event of breach or ceasing to operate or regularly use a stadium in the project area;
- creates procedures for the Revitalization Zone Committee to give its approval to a project area and participation agreement that has been endorsed by the local government;
- creates the Revitalization Zone Committee to approve project areas and project participation agreements created and endorsed by the local government, and to review expenditures and activities in relation to a project area and project participants;
- creates procedures for the Revitalization Zone Committee to give its approval to a project area and participation agreement that has been endorsed by the local government;
- allows a local government to give final approval to a project area and a participation agreement that has been endorsed by the local government and approved by the Revitalization Zone Committee;
- requires a local government with a revitalization zone to provide reports to the Revitalization Zone Committee; and
- requires a local government to provide reports to the Executive Appropriations Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

59-12-402.5, Utah Code Annotated 1953
63N-3-1301, Utah Code Annotated 1953
63N-3-1302, Utah Code Annotated 1953
63N-3-1303, Utah Code Annotated 1953
63N-3-1304, Utah Code Annotated 1953
63N-3-1305, Utah Code Annotated 1953
63N-3-1306, Utah Code Annotated 1953
63N-3-1307, Utah Code Annotated 1953
63N-3-1308, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-402.5 is enacted to read:

59-12-402.5. Capital city revitalization sales and use tax -- Deadline -- Rate -- Collection fees -- Imposition.

(1) As used in this section:

(a) "Local government" means a first class city located within a first class county.

(b) "Project area" means the same as that term is defined in Section 63N-3-1301.

(2) The legislative body of the local government may impose a sales and use tax under this section if the legislative body, on or before December 31, 2024:

(a) complies with the requirements of Title 63N, Chapter 3, Part 13, Capital City Revitalization Zone;

(b) gives final approval to an application by giving final approval of a project zone and a participation agreement as provided in Section 63N-3-1306; and

(c) imposes the tax according to the procedures and requirements of Section 63N-3-1306.

(3)(a) The tax rate may not exceed .5%.

(b) The tax imposed under this section may not be imposed for a period greater than 30 years, beginning on the date of the first imposition of the tax.

(4) Except as provided in Subsection (5), the local government shall impose a tax under this section on the transactions described in Subsection 59-12-103(1).

(5) A local government may not impose a tax under this section on:

(a) the sale of:

(i) a motor vehicle;

(ii) an aircraft;

(iii) a watercraft;

(iv) a modular home;

(v) a manufactured home; or

(vi) a mobile home;

(b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.

(6) For purposes of this section, the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(7) A local government that imposes a tax under this section shall impose the tax on the purchase price or the sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(8) A local government may impose a tax under this section by majority vote of the members of the local government's legislative body in compliance with the procedures and requirements of Title 63N, Chapter 3, Part 13, Capital City Revitalization Zone.

(9) A military installation development authority may not impose a tax under this section.

(10)(a) The commission shall distribute the revenue collected from the tax under this section on transactions occurring within the district sales tax area as defined in Section 11-70-101 to the Utah Fairpark Area Investment and Restoration District created in Section 11-70-201.

(b) The commission shall distribute the revenue collected outside of the district sales tax area referenced in Subsection (10)(a) to the local government.

(11) A local government shall use revenue referenced in Subsection (10)(b) only:

(a) within the project area defined in Section 63N-3-1301; and

(b) for the allowable uses under Section 63N-3-1303.

Section 2. Section 63N-3-1301 is enacted to read:

63N-3-1301. Definitions.

Part 13. Capital City Revitalization Zone

As used in this part:

(1) "Committee" means the Revitalization Zone Committee created in Section 63N-3-1307.

(2) "Franchise agreement" means a legally binding and valid agreement under which:

(a) a major professional sports league has awarded a franchise to a franchise recipient; and

(b) the major professional sports league team that is the subject of the agreement is playing, or will play, home games in a qualified stadium that exists or will be constructed within the project area.

(3) "Local government" means the municipality in which the project area is located.

(4) "Major professional sports league" means the National Basketball Association or the National Hockey League.

(5) "Project area" means the area created and designated to receive funds and revenue according to the terms and requirements of this part.

(6) "Project participant" means a person that is approved to participate in the use of public funds in a project area according to the procedures and requirements of this part.

(7) "Qualified stadium" means a sports facility that:

(a) provides seating for spectators in a number that is reasonably consistent with the capacity of other stadiums used by other teams in the major professional sports league;

(b) is located within the project area; and

(c)(i) is in active use as the home venue of a major professional sports league team; or

(ii) in the case of a stadium that is proposed to be constructed or remodeled, will be the home venue of a major professional sports league.

(8) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

Section 3. Section 63N-3-1302 is enacted to read:

63N-3-1302. Project area.

(1) A local government may, according to the requirements and procedures of this part, create a project area for the use of revenue authorized under Section 59-12-402.5, which revenue shall be used only for the allowed purposes under Section 63N-3-1303.

(2) A project area created under this part shall:

(a) be located entirely within the boundaries of the local government;

(b) be no greater than 100 acres in area;

(c) be roughly centered around, and include the entire property footprint of a currently existing qualified stadium;

(d) include the entire property footprint of any qualified stadium that is planned to be built;

(e) be contiguous; and

(f) have boundaries that are reasonably compact in relation to their distance from the currently existing qualified stadium.

Section 4. Section 63N-3-1303 is enacted to read:

63N-3-1303. Allowable uses of funds.

(1) A local government shall use any funds or revenue provided under Section 59-12-402.5 within and for the direct benefit of the project area, and subject to the requirements of this section.

(2) In addition to the requirements of Subsection (1), the allowable uses for the funds and revenue collected as authorized under this part are:

(a) costs for, including debt service or the costs of bonds issued by the local government or state:

(i) paid to or for the benefit of a project participant for the construction or remodel of a qualified stadium within the project area in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay bonds and interest; and

(ii) the construction, demolition, modification, or realignment of infrastructure or structures within the project area for the purpose of:

(A) complementing a qualified stadium and its associated uses, including entertainment and recreational uses on land within the project area; and

(B) improvement, demolition, modification, realignment, or restoration of areas within the project area for pedestrian and traffic flow, and for aesthetic, entertainment, recreational, and safety purposes;

(b) infrastructure and roads, including state roads, within the project area;

(c) traffic mitigation costs within the project area;

(d) law enforcement or public security needs within the project area; and

(e) costs of the local government to create a project area or participation agreement and to administer the funds, which cost may not exceed 1% of the tax revenue collected under Section 59-12-402.5.

(3)(a) The amount of funds and revenue used for, or for the benefit of, the project participant shall be limited to a maximum dollar amount that shall be explicitly stated in the participation agreement.

(b) A project participant may not receive the benefit of funds or revenue in an amount greater than the maximum dollar amount referred to in Subsection (3)(a).

Section 5. Section 63N-3-1304 is enacted to read:

63N-3-1304. Application for approval as a project participant in a project area.

A person that seeks to have a local government create a project area under this part, and to be a project participant within that project area, shall provide a local government with a written application that certifies that the applicant:

(1) is a party to a franchise agreement;

(2) is or will be operating the team that is subject to the franchise agreement:

(a) in an existing qualified stadium located within the project area to be created; or

(b) in a new qualified stadium that will be located within the project area;

(3) shows the existing and, as applicable, the proposed location and footprint of the qualified stadium;

(4) lists any public funds that are currently being received by, or are authorized to be received by:

(a) the applicant; or

(b) any major professional sports league team that is owned or operated by the applicant; and

(5) any proposals or information related to the application, including specific details about the franchise agreement or plans for a qualified stadium, a proposed boundary for the project area, proposals for land or stadium ownership arrangements or stadium revenue-sharing arrangements, or plans or requests for urban renewal or reconstruction.

Section 6. Section 63N-3-1305 is enacted to read:

63N-3-1305. Local government review -- Participation agreement requirements -- Proposed project area and proposed participation agreement -- Zoning -- Deadline.

(1) Upon receipt of an application described in Section 63N-3-1304, a local government shall review the application and, if the application is complete, may negotiate with the applicant to develop:tt

(a) a description of a proposed project area that meets the requirements of Section 63N-3-1302; and

(b) a proposed participation agreement with the applicant, which agreement shall contain:

(i) a map or description of the project area;

(ii) a description of the type and extent of each type of tax or other revenue that would be available to the applicant within the project area if the applicant is approved as a project participant;

(iii) the location and footprint of the qualified stadium, and if applicable, the location, footprint, and design of any proposed future or remodeled qualified stadium;

(iv) if a qualified stadium is to be constructed, remodeled, or replaced, requirements and plans for the design, remodel, operation, and other terms related to the existing or new qualified stadium;

(v) a master plan that:

(A) provides an overview of challenges and issues to be addressed within the project area, including land use, infrastructure, economic issues, and public safety issues;

(B) provides a 30-year plan for the physical development and the ongoing management of the project area, including maps, plats, charts, drawings, time lines, and descriptive, explanatory, and other related information that supports and demonstrates the plan; and

(C) provides a specific plan for each of the following subject areas, each of which shall include,

to the extent possible, detailed and specific information on projects and time lines for the named subject area, and where specific details cannot be provided, provides a list of specific goals, planned outcomes, and time lines for achieving those goals and outcomes:

(I) a financial plan, including the planned sources, uses, distribution, and time lines for the use of funds and revenue;

(II) a land use plan, including designs, ownership, demolition, construction, and time lines, including plans for modification of roads and infrastructure layout, removal or construction of buildings, and creation of new spaces, facilities, and landmarks;

(III) a public asset plan, including plans for modifications, renovations, and use scenarios for existing buildings and public assets within the project area, including buildings owned by a city or county, features, and other public assets that will be affected by revitalization of the project area;

(IV) a public safety plan, including plans for mitigating crime and ensuring safety and physical security within the project area;

(V) a homelessness mitigation plan, including plans to provide resources for homeless individuals and to mitigate and manage camping and other related social issues within the project area;

(VI) a transportation plan, including plans to enable access to and from, and public transportation, vehicle, and pedestrian traffic flow within the project area; and

(VII) a parking plan, including estimates for parking needs and plans for accommodating those needs within the project area;

(vi) a provision that the local government may not provide, and that a project participant may not receive, a direct subsidy;

(vii)(A) the maximum dollar amount that may be used for, or for the benefit of, the project participant, as required under Subsection 63N-3-1303(3); and

(B) a clear description of what fund and revenue uses will or will not be considered for the benefit of the project participant and therefore subject to the limit required under Subsection 63N-3-1303(3);

(viii) terms, procedures, and remedies related to breach of a participation agreement, which shall contain:

(A) specific descriptions of what constitutes breach of the participation agreement;

(B) a requirement that access to funds ceases and that a project participant shall repay to the local government the full amount of revenue or funds received subject to Subsection 63N-3-1303(3) if the major professional sports league team leaves or ceases to use a qualified stadium as its exclusive home stadium, subject to any additional terms agreed to in the participation agreement;

(C) a description of all remedies available to the local government in association with a breach; and

(D) designation of a guarantor, security interests, or other measures to ensure repayment of revenue and funds in the event of a breach;

(ix) procedures and penalties that apply in the event that the local government or project participant fails to meet requirements, goals, or objectives set under Subsection (1)(b)(v);

(x) an acknowledgment that the parties to the agreement are subject to the requirements of this part;

(xi) any additional obligations, terms, or conditions mutually agreed upon by the local government and the project participant; and

(xii) may contain:

(A) any terms and conditions that affect a project participant's ability to receive or use project area funds;

(B) any terms or agreements regarding the qualified stadium and its associated property, including ownership, management, maintenance, operation, revenue sharing, or other agreements;

(C) terms, procedures, or remedies related to breach of a participation agreement; and

(D) any other relevant agreement between the applicant and the local government.

(2) Before finalizing a proposed project area under Subsection (3), a local government shall ensure that any zoning modifications or requirements within the project area are complete.

(3) If the applicant and the local government develop a proposed project area and a proposed participation agreement as described in Subsection (1), the local government shall, no later than September 1, 2024, provide notice of the proposed agreement and provide a copy of the application, the proposed project area, and the proposed participation agreement to:

(a) the legislative body of the local government; and

(b) the Revitalization Zone Committee.

Section 7. Section 63N-3-1306 is enacted to read:

63N-3-1306. Local government endorsement -- Revitalization Zone Committee approval -- Final approval by local government -- Imposition of tax.

(1)(a) The legislative body of the local government shall, no later than the date that is 14 calendar days after the date that notice of a proposed project area and proposed participation agreement is provided under Subsection 63N-3-1305(2), in a public meeting by a majority vote:

(i) endorse the application by:

(A) endorsing the proposed project area, with or without amendment; and

(B) endorsing the proposed participation agreement, with or without amendment; or

(ii) reject the application.

(b) If the legislative body of the local government endorses the application, the legislative body shall provide notice of the endorsement to the Revitalization Zone Committee, and provide the committee with any amended project area or amended participation agreement.

(c) If the legislative body of the local government rejects the application:

(i) the legislative body shall provide notice of the rejection to the mayor of the local government; and

(ii) the applicant and the local government may develop another proposed project area and proposed participation agreement and present those documents according to the procedures and requirements of Section 63N-3-1305.

(2) If the legislative body of the local government endorses the application under Subsection (1):

(a) The Revitalization Zone Committee shall, no later than 30 calendar days after the date that notice of the local government's endorsement of an application is provided under Subsection (1)(b), in a public meeting by a majority vote:

(i) approve or reject the endorsed project area; and

(ii) approve or reject the endorsed project participation agreement.

(b) If the committee approves the endorsed project area and the endorsed participation agreement:

(i) the committee shall give notice of the approval to the mayor and the legislative body of the local government; and

(ii) the legislative body of the local government may meet to consider final approval as provided under Subsection (3).

(c) If the committee fails to approve the endorsed project area, the endorsed participation agreement, or both the project area and participation agreement:

(i) the committee may adopt a statement or findings as to why the committee failed to provide its approval;

(ii) the committee shall give notice of the failure to approve to the mayor and the legislative body of the local government; and

(iii) the local government may:

(A) develop another proposed project area and proposed participation agreement according to the procedures and requirements of Section 63N-3-1305;

(B) in a public meeting of the legislative body of the local government, review, amend, or endorse another project area or participation agreement according to the procedures and requirements of Subsection (1); or

(C) take no further action on the application.

(3) If the Revitalization Zone Committee approves the endorsed project area and the endorsed public participation agreement under Subsection (2), the legislative body of the local government may, by a majority vote in a public meeting:

(a) give final approval to the application by:

(i) approving the project area in the form approved by the committee;

(ii) approving the proposed participation agreement in the form approved by the committee; and

(iii) designating the applicant as a project participant; or

(b) reject the application.

(4) After giving final approval to the application, the local government shall:

(a) impose taxes or revenue sources that may be used within the project area, including taxes or funds authorized under Section 59-12-402.5; and

(b) provide reports to the committee as required under Subsection 63N-3-1308(2).

Section 8. Section 63N-3-1307 is enacted to read:

63N-3-1307. Revitalization Zone Committee -- Creation -- Membership -- Staff.

(1) There is created the Revitalization Zone Committee to review the activities of, and advise a local government and project participants in a project area created under this part.

(2) The committee consists of the following members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House; and

(c) one individual appointed by the governor.

(3)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2) as cochair of the committee.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2) as cochair of the committee.

(4)(a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes action of the Revitalization Zone Committee.

(5) The committee shall meet to review an endorsed application as provided under Section 63N-3-1306.

(6) The committee may meet, upon the agreement of both cochairs:

(a) to review a report provided under Subsection 63N-3-1308(2);

(b) at the discretion of the cochairs; and

(c) at the request of a local government.

(7) A legislative member of the committee shall be paid salary and expenses in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislative Compensation.

(8) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) The Office of Legislative Research and General Counsel shall:

(a) provide staff support to the committee; and

(b) consult with the Office of the Legislative Fiscal Analyst on fiscal issues reviewed by the committee.

Section 9. Section 63N-3-1308 is enacted to read:

63N-3-1308. Revitalization Zone Committee -- Duties -- Reporting requirements of local government -- Executive Appropriations Committee.

(1) The Revitalization Zone Committee shall have the following duties:

(a) to approve or reject an endorsed project area and an endorsed project participation agreement according to the procedures and requirements of Section 63N-3-1306;

(b) to review reports that are issued by a local government in accordance with Subsection (2);

(c) to review the financial activities of a local government and project participants in relation to a project area; and

(d) to make recommendations to the Legislature regarding a project area and participation agreement, requirements or procedures related to a project area, taxes or public funds, or other matters relating to a project area or participation agreement.

(2) A local government shall, after giving final approval to an application under Section 63N-3-1306, and each six months thereafter, or upon a request of the committee, provide a report to the committee that contains:

(a) a summary of the projects and uses that are currently underway or planned in relation to the project area;

(b) if not previously provided, or if modified, a copy of the project area and participation agreement;

(c) a detailed accounting of:

(i) all public funds collected within the project area since the last report;

(ii) all public funds provided to each project participant since the last report; and

(iii) all public funds committed or spent, and a description of their use, since the last report;

(d) the projected budget and time line for each project or use that is currently underway or planned in relation to the project area; and

(e) an accounting or a detailed summary of the financial impact of the project area on the state and its residents.

(3) At the discretion of the Executive Appropriations Committee of the Legislature, the local government and the Revitalization Zone Committee shall provide an in-person report to the Executive Appropriations Committee:

(a) at least once per calendar year, that shall contain at least the following information:

(i) a summary of the projects and uses that are currently underway or planned in relation to the project area;

(ii) a detailed accounting of:

(A) all public funds collected within the project area since the last report;

(B) all public funds provided to each project participant since the last report; and

(C) all public funds committed or spent, and a description of their use, since the last report;

(iii) the projected budget and time line for each project or use that is currently underway or planned in relation to the project area;

(iv) an accounting or a detailed summary of the financial impact of the project area on the state and its residents;

(v) any recommendations or requests from the local government; and

(vi) any recommendations or requests form the Revitalization Zone Committee;

(b) after the local government provides a proposed project area and proposed participation agreement under Section 63N-3-1305; and

(c) after the local government gives final approval to an application under Section 63N-3-1306.

Section 10. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 437
H. B. 8
Passed February 28, 2024
Approved March 20, 2024
Effective March 20, 2024

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- authorizes certain state agency fees;
- authorizes internal service fund rates;
- adjusts funding for the impact of Internal Service Fund rate changes; and,
- provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates ($544,000) in operating and capital budgets for fiscal year 2024, including:

- ($530,200) from the General Fund; and
- ($13,800) from the Income Tax Fund.

This bill appropriates $30,323,400 in operating and capital budgets for fiscal year 2025, including:

- $7,660,500 from the General Fund;
- $9,686,900 from the Income Tax Fund; and
- $12,976,000 from various sources as detailed in this bill.

This bill appropriates $42,400 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $53,100 in business-like activities for fiscal year 2025.

This bill appropriates $11,200 in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates $17,500 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 1

To Department of Government Operations - Finance - Mandated
From General Fund,
One-time ..... (530,200)
From Income Tax Fund,
One-time ..... (13,800)
Schedule of Programs:
Internal Service Fund Rate Impacts . (544,000)

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 2

To Attorney General
From General Fund 99,600
From Income Tax Fund 1,600
From Federal Funds 4,100
From Dedicated Credits Revenue 900
From General Fund Restricted - Consumer Privacy Account 100
From General Fund Restricted - Tobacco Settlement Account 200
From Revenue Transfers 1,000
Schedule of Programs:
Administration 81,300
Civil 7,400
Criminal Prosecution 18,800

Item 3

To Attorney General - Children's Justice Centers
From General Fund 300
From General Fund Restricted - Victim Services Restricted Account 100
Schedule of Programs:
Children's Justice Centers 400

Item 4

To Attorney General - Prosecution Council

From General Fund 2,000
From Dedicated Credits Revenue 200
From Revenue Transfers 2,100
Schedule of Programs:
Prosecution Council 4,300

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole
From General Fund 61,400
Schedule of Programs:
Board of Pardons and Parole 61,400

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To Utah Department of Corrections - Programs and Operations
From General Fund 1,283,700
Schedule of Programs:
Adult Probation and Parole Administration 116,700
Adult Probation and Parole Programs ... 76,400
Department Administrative Services .. 998,600
Department Executive Director 39,700
Department Training 900
Prison Operations Administration 7,200
Prison Operations Central Utah/Gunnison 70,600
Prison Operations Inmate Placement 1,500
Re-entry and Rehabilitation Administration ..... (1,800)
Re-entry and Rehabilitation Re-Entry . (4,400)
Re-entry and Rehabilitation Treatment .. (100)
Prison Operations Utah State Correctional Facility ..... (21,600)

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 7
To Judicial Council/State Court Administrator - Administration
From General Fund 134,400
From Dedicated Credits Revenue ..... (100)
From General Fund Restricted - Children's Legal Defense 1,100
From General Fund Restricted - Court Trust Interest 5,800
From General Fund Rest. - Justice Court Tech., Security & Training 1,700
From General Fund Restricted - Nonjudicial Adjustment Account ..... (100)
Schedule of Programs:
Administrative Office 145,800
Data Processing ..... (100)
Juvenile Courts ..... (2,900)

Item 8
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund 248,100
From Dedicated Credits Revenue 3,800
From General Fund Restricted - State Court Complex Account 65,100
Schedule of Programs:
Contracts and Leases 317,000

Item 9
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund ..... (1,100)
From General Fund Restricted - Children's Legal Defense ..... (100)
Schedule of Programs:
Guardian ad Litem ..... (1,200)

GOVERNOR'S OFFICE

Item 10
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 100,300
From Federal Funds 35,500
From Dedicated Credits Revenue 500
From General Fund Restricted - Victim Services Restricted Account 31,700
From Crime Victim Reparations Fund 5,600
Schedule of Programs:
CCJJ Commission 118,400
Judicial Performance Evaluation Commission 2,900
Substance Use and Mental Health Advisory Council ..... (100)
Utah Office for Victims of Crime 52,400

Item 11
To Governor's Office
From General Fund 197,700
From Dedicated Credits Revenue 61,200
From Expendable Receipts .. 200
Schedule of Programs:
Administration 96,100
Governor's Residence 100
Lt. Governor's Office 162,900

Item 12
To Governor's Office - Governors Office of Planning and Budget
From General Fund 2,800
From Dedicated Credits Revenue 100
Schedule of Programs:
Administration ..... (15,500)
Management and Special Projects 2,500
Budget, Policy, and Economic Analysis .. 15,800
Planning Coordination 100

Item 13
To Governor's Office - Indigent Defense Commission
From General Fund 100
From Expendable Receipts .. 300
From General Fund Restricted - Indigent Defense Resources 9,300
From Revenue Transfers 400
Schedule of Programs:
Office of Indigent Defense Services 9,200
Indigent Appellate Defense Division 900

Item 14
To Governor's Office - Colorado River Authority of Utah
From Expendable Receipts .. 300
From General Fund Restricted - Colorado River Authority of Utah Restricted Account 2,700
Schedule of Programs:

Colorado River Authority of Utah 3,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 15
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund 170,000
From Federal Funds 9,300
From Dedicated Credits Revenue 2,100
From General Fund Restricted - Juvenile Justice Reinvestment Account 400
From Revenue Transfers 700
Schedule of Programs:
Juvenile Justice & Youth Services 122,100
Secure Care 28,200
Youth Services 23,400
Community Programs 8,800

Item 16
To Department of Health and Human Services - Correctional Health Services
From General Fund 159,300
Schedule of Programs:
Correctional Health Services 159,300

OFFICE OF THE STATE AUDITOR

Item 17
To Office of the State Auditor - State Auditor
From General Fund 22,200
From Dedicated Credits Revenue 20,700
Schedule of Programs:
State Auditor 42,900

DEPARTMENT OF PUBLIC SAFETY

Item 18
To Department of Public Safety - Driver License
From Dedicated Credits Revenue 200
From Department of Public Safety Restricted Account 394,600
From Pass-through 600
Schedule of Programs:
Driver License Administration 6,200
Driver Records 187,200
Driver Services 202,000

Item 19
To Department of Public Safety - Emergency Management
From General Fund 27,300
Schedule of Programs:
Emergency Management 27,300

Item 20
To Department of Public Safety - Highway Safety
From Federal Funds 6,400
From Public Safety Motorcycle Education Fund 100
From Revenue Transfers 700
Schedule of Programs:
Highway Safety 7,200

Item 21
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 11,000
From Dedicated Credits Revenue 600
Schedule of Programs:
Basic Training 9,800
POST Administration 200
Regional/Inservice Training 1,600

Item 22
To Department of Public Safety - Programs & Operations
From General Fund 1,783,200
From Income Tax Fund 3,000
From Federal Funds 8,200
From Dedicated Credits Revenue 50,400
From Expendable Receipts .. 700
From General Fund Restricted - Victim Services Restricted Account 12,000
From Department of Public Safety Restricted Account 55,200
From General Fund Restricted - Fire Academy Support 9,100
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 32,700
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 200
From Revenue Transfers 4,800
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 600
Schedule of Programs:
Aero Bureau 6,200
CITS Administration 1,600
CITS Communications 4,400
CITS State Bureau of Investigation 122,800
CITS State Crime Labs ..... (23,700)
Department Commissioner's Office 676,400
Department Fleet Management 800
Department Grants 13,700
Department Intelligence Center ..... (800)
Fire Marshal - Fire Fighter Training 2,700
Fire Marshal - Fire Operations 7,400
Highway Patrol - Administration 22,700
Highway Patrol - Commercial Vehicle .. 78,800
Highway Patrol - Federal/State Projects .. 100
Highway Patrol - Field Operations 808,500
Highway Patrol - Protective Services ... 83,700
Highway Patrol - Safety Inspections 5,400
Highway Patrol - Special Enforcement ... 2,000
Highway Patrol - Special Services 43,200
Highway Patrol - Technology Services ... 1,500
Information Management - Operations 102,700

Item 23
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 14,100
From Income Tax Fund 400
From Dedicated Credits Revenue 112,900
From General Fund Restricted - Concealed Weapons Account 86,000
From Revenue Transfers 13,000
Schedule of Programs:
Non-Government/Other Services 226,400

STATE TREASURER

Item 24
To State Treasurer
From General Fund 5,500

From Dedicated Credits
Revenue 5,300
From Land Trusts Protection and Advocacy Account 1,600
From Unclaimed Property Trust 13,700
Schedule of Programs:
Advocacy Office 1,600
Money Management Council 1,300
Treasury and Investment 9,500
Unclaimed Property 13,700

UTAH COMMUNICATIONS AUTHORITY

Item 25
To Utah Communications Authority - Administrative Services Division
From General Fund Restricted - Utah Statewide Radio System Acct. 100,400
Schedule of Programs:
Administrative Services Division 100,400

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 26
To Career Service Review Office
From General Fund 200
Schedule of Programs:
Career Service Review Office 200

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 27
To Utah Education and Telehealth Network
From Income Tax Fund 200
From Federal Funds 100
Schedule of Programs:
Administration 300

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 28
To Department of Government Operations - Administrative Rules
From General Fund 2,800
Schedule of Programs:
DAR Administration 2,800

Item 29
To Department of Government Operations - DFCM
From General Fund 23,500
From Income Tax Fund 5,500
From Dedicated Credits
Revenue 14,500
From Capital Projects Fund . 28,200
Schedule of Programs:
DFCM Administration 70,000
Energy Program 1,400
Governor's Residence 300

Item 30
To Department of Government Operations - DGO Administration
From General Fund ..... (94,200)
From Dedicated Credits
Revenue ..... (28,800)
Schedule of Programs:
Executive Director's Office ..... (94,200)
Office of Internal Audit ..... (28,800)

Item 31
To Department of Government Operations - Finance - Mandated
From General Fund ..... (701,900)
From Income Tax Fund ..... (3,500)
Schedule of Programs:
Internal Service Fund Rate Impacts ..... (350,200)
State Employee Benefits ..... (355,200)

Item 32
To Department of Government Operations - Finance - Mandated - Ethics Commissions
From General Fund 400
Schedule of Programs:
Executive Branch Ethics Commission 300
Political Subdivisions Ethics Commission . 100

Item 33
To Department of Government Operations - Division of Finance
From General Fund 188,600
From Dedicated Credits
Revenue 14,600
From Gen. Fund Rest. - Internal Service Fund Overhead 46,100
Schedule of Programs:
Finance Director's Office 4,500
Financial Information Systems 215,100
Financial Reporting 5,100
Payables/Disbursing ..... (5,800)
Payroll 40,600
Technical Services ..... (10,200)

Item 34
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 3,500
From Federal Funds 100
From Medicaid Expansion Fund 100
From Revenue Transfers 6,000
Schedule of Programs:
Inspector General of Medicaid Services .. 9,700

Item 35
To Department of Government Operations - Judicial Conduct Commission
From General Fund 5,000
Schedule of Programs:
Judicial Conduct Commission 5,000

Item 36
To Department of Government Operations - Purchasing
From General Fund 6,700
Schedule of Programs:
Purchasing and General Services 6,700

Item 37
To Department of Government Operations - State Archives
From General Fund 40,000
From Dedicated Credits Revenue 100
Schedule of Programs:
Archives Administration 37,600
Patron Services 900
Preservation Services 400
Records Analysis 1,200

Item 38
To Department of Government Operations - Chief Information Officer
From General Fund 48,400
Schedule of Programs:
Administration 48,400

Item 39
To Department of Government Operations - Integrated Technology
From General Fund ..... (9,400)
From Federal Funds ..... (600)
From Dedicated Credits Revenue ..... (7,000)
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. ..... (2,000)
Schedule of Programs:
Utah Geospatial Resource Center .... (19,000)

Item 40
To Department of Government Operations - Human Resource Management
From General Fund ..... (710,500)
Schedule of Programs:
Pay for Performance ..... (710,500)

CAPITAL BUDGET

Item 41
To Capital Budget - Capital Improvements
From General Fund 200
From Income Tax Fund 300
Schedule of Programs:
Capital Improvements 500

TRANSPORTATION

Item 42
To Transportation - Aeronautics
From General Fund 200
From Dedicated Credits Revenue 300
From Aeronautics Restricted Account ..... (1,100)
Schedule of Programs:
Administration ..... (1,100)
Airplane Operations 800
Civil Air Patrol ..... (300)

Item 43
To Transportation - Highway System Construction
From Transportation Fund .. 66,800
From Expendable Receipts .. 10,400
Schedule of Programs:
Federal Construction 77,200

Item 44
To Transportation - Engineering Services
From Transportation Fund .. (2,700)
From Federal Funds ..... (1,400)
From Dedicated Credits Revenue ..... (100)
From Active Transportation Investment Fund ..... (100)
From Transit Transportation Investment Fund ..... (300)
Schedule of Programs:
Civil Rights ..... (200)
Construction Management ..... (400)
Engineering Services ..... (600)
Environmental ..... (100)
Materials Lab ..... (300)
Preconstruction Admin ..... (800)
Program Development ..... (1,700)
Research ..... (200)
Right-of-Way ..... (200)
Structures ..... (100)

Item 45
To Transportation - Operations/Maintenance Management
From Transportation Fund .. 273,300
From Federal Funds ..... (500)
From Dedicated Credits Revenue ..... (300)
Schedule of Programs:
Field Crews ..... (1,100)
Maintenance Administration 213,200
Maintenance Planning ..... (1,000)
Region 1 ..... (1,500)
Region 2 ..... (1,600)
Region 3 ..... (1,800)
Region 4 ..... (2,400)
Shops 77,000
Traffic Operations Center ..... (7,900)
Traffic Safety/Tramway ..... (400)

Item 46
To Transportation - Region Management
From Transportation Fund .. (6,600)
From Federal Funds ..... (800)
From Dedicated Credits Revenue ..... (600)
Schedule of Programs:
Region 1 ..... (1,500)
Region 2 ..... (3,000)
Region 3 ..... (2,700)
Region 4 ..... (800)

Item 47
To Transportation - Support Services
From Transportation Fund .. 1,123,400
From Federal Funds 24,200
Schedule of Programs:
Administrative Services 26,300
Community Relations ..... (400)
Comptroller ..... (2,100)
Data Processing 947,000
Human Resources Management 172,600
Ports of Entry ..... (4,200)
Procurement 300
Risk Management 8,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 48
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund .. 282,700
Schedule of Programs:
Administration 94,600
Executive Director 68,600
Operations 189,100
Stores and Agencies ..... (6,600)
Warehouse and Distribution ..... (63,000)

DEPARTMENT OF COMMERCE

Item 49
To Department of Commerce - Commerce General Regulation
From Federal Funds 2,400
From Dedicated Credits Revenue 13,200
From General Fund Restricted - Commerce Electronic Payment Fee Restricted Account 12,500
From General Fund Restricted - Commerce Service Account 321,000
From General Fund Restricted - Factory Built Housing Fees 1,100
From Gen. Fund Rest. - Geologist Education and Enforcement 200
From Gen. Fund Rest. - Latino Community Support Rest. Acct 200
From Gen. Fund Rest. - Nurse Education & Enforcement Acct. 400
From OWHTF - Low Income Housing 100
From General Fund Restricted - Pawnbroker Operations 1,900
From General Fund Restricted - Public Utility Restricted Acct. 38,900
From Revenue Transfers 9,600
From Pass-through 1,200
Schedule of Programs:
Administration 142,600
Consumer Protection 41,800
Corporations and Commercial Code 12,400
Occupational and Professional Licensing 122,400
Office of Consumer Services 9,900
Public Utilities 27,100
Real Estate 23,600
Securities 22,900

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 50
To Governor's Office of Economic Opportunity - Administration
From General Fund ..... (17,500)
Schedule of Programs:
Administration ..... (17,500)

Item 51
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 34,500
From Income Tax Fund 700
From Federal Funds 2,200
From Dedicated Credits Revenue 2,400
Schedule of Programs:
Business Services 9,600
Incentives and Grants 9,900
Strategic Initiatives 7,500
Systems and Control 12,800

Item 52
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 30,900
From Dedicated Credits Revenue 1,700
Schedule of Programs:
Film Commission 1,500
Tourism 31,100

FINANCIAL INSTITUTIONS

Item 53
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 69,400
Schedule of Programs:
Administration 69,400

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 54
To Department of Cultural and Community Engagement - Administration
From General Fund 123,200
From Dedicated Credits Revenue 2,500
Schedule of Programs:
Administrative Services 7,500
Executive Director's Office 17,400
Information Technology 99,800
Utah Multicultural Affairs Office 1,000

Item 55
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 26,400
Schedule of Programs:
Administration 26,600
Community Arts Outreach ..... (200)

Item 56
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 600
From Federal Funds 6,400
From Dedicated Credits Revenue 100
Schedule of Programs:
Commission on Service and Volunteerism 7,100

Item 57
To Department of Cultural and Community Engagement - Indian Affairs
From General Fund 400
From Dedicated Credits Revenue 100
Schedule of Programs:
Indian Affairs 500

Item 58
To Department of Cultural and Community Engagement - Historical Society
From General Fund 4,500
Schedule of Programs:
Administration 4,400
Library and Collections 400
Public History, Communication and Information ..... (300)

Item 59
To Department of Cultural and Community Engagement - State Library
From General Fund 4,700
From Federal Funds ..... (200)
From Dedicated Credits

Revenue 1,900
From Revenue Transfers 1,400
Schedule of Programs:
Administration 8,800
Blind and Disabled ..... (2,600)
Bookmobile 2,200
Library Development ..... (300)
Library Resources ..... (300)

Item 60
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund 1,100
From Federal Funds 200
From Dedicated Credits Revenue 200
Schedule of Programs:
STEM Action Center 1,500

Item 61
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund 400
From Dedicated Credits Revenue 100
Schedule of Programs:
Pete Suazo Athletics Commission 500

Item 62
To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund ..... (200)
Schedule of Programs:
Administration ..... (200)

INSURANCE DEPARTMENT

Item 63
To Insurance Department - Insurance Department Administration
From Dedicated Credits Revenue 100
From General Fund Restricted - Captive Insurance 5,700
From General Fund Restricted - Insurance Department Acct. 70,300
From General Fund Rest. - Insurance Fraud Investigation Acct. 17,400
From General Fund Restricted - Technology Development 16,700
Schedule of Programs:
Administration 68,600
Captive Insurers 5,700
Electronic Commerce Fee 16,700
Insurance Fraud Program 19,200

LABOR COMMISSION

Item 64
To Labor Commission
From General Fund 95,900
From Federal Funds 12,100
From Dedicated Credits Revenue 300
From Employers' Reinsurance Fund 700
From General Fund Restricted - Industrial Accident Account 5,000
From General Fund Restricted - Workplace Safety Account 1,700
Schedule of Programs:
Adjudication 3,300
Administration 79,500
Antidiscrimination and Labor 9,100
Boiler, Elevator and Coal Mine Safety Division 6,300
Industrial Accidents 1,800
Utah Occupational Safety and Health ... 15,800
Workplace Safety ..... (100)

PUBLIC SERVICE COMMISSION

Item 65
To Public Service Commission
From General Fund Restricted - Public Utility Restricted Acct. ..... (10,400)
From Revenue Transfers .... (100)
Schedule of Programs:
Administration ..... (10,500)

UTAH STATE TAX COMMISSION

Item 66
To Utah State Tax Commission - Tax Administration
From General Fund 289,500
From Income Tax Fund 234,200
From Dedicated Credits Revenue 7,700
From General Fund Restricted - License Plate Restricted Account 300
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 7,800
From General Fund Rest. - Sales and Use Tax Admin Fees 127,900
From Uninsured Motorist Identification Restricted Account 100
Schedule of Programs:
Operations 641,400
Tax and Revenue ..... (7,200)
Customer Service 20,700
Enforcement 12,600

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 67
To Department of Workforce Services - Administration
From General Fund 67,900
From Federal Funds 112,500
From Dedicated Credits Revenue 1,800
From Expendable Receipts .. 1,600
From Education Savings Incentive Restricted Account 600
From Permanent Community Impact Loan Fund 500
From Permanent Community Impact Bonus Fund 300
From Revenue Transfers 44,400
Schedule of Programs:
Administrative Support 7,500
Communications 1,200
Executive Director's Office 1,000
Human Resources 219,900

Item 68
To Department of Workforce Services - General Assistance
From General Fund ..... (300)
Schedule of Programs:
General Assistance ..... (300)

Item 69
To Department of Workforce Services - Housing and Community Development
From General Fund 3,900
From Federal Funds 9,400
From Dedicated Credits Revenue 4,200
From Housing Opportunities for Low Income Households 1,900
From Olene Walker Housing Loan Fund 2,300
From OWHT- Fed Home 1,900
From OWHTF- Low Income Housing 1,900
From Revenue Transfers 2,700
Schedule of Programs:
Community Development 1,000
Community Development Administration(1,100)
Community Services ..... (100)
HEAT ..... (4,500)
Housing Development 33,000
Weatherization Assistance ..... (100)

Item 70
To Department of Workforce Services - Operations and Policy
From General Fund 260,400
From Income Tax Fund ..... (500)
From Federal Funds 1,010,500
From Dedicated Credits Revenue 5,300
From Expendable Receipts .. 49,100
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 1,600
From Medicaid Expansion Fund 3,800
From Navajo Revitalization Fund 300
From OWHTF- Low Income Housing 200
From Permanent Community Impact Loan Fund 5,900
From Permanent Community Impact Bonus Fund 4,500
From Qualified Emergency Food Agencies Fund 200
From General Fund Restricted - School Readiness Account ..... (1,700)
From Revenue Transfers 680,000
Schedule of Programs:
Eligibility Services 90,200
Facilities and Pass- Through 155,000
Information Technology 1,794,600
Workforce Development ..... (19,000)
Workforce Research and Analysis ..... (1,200)

Item 71
To Department of Workforce Services - State Office of Rehabilitation
From General Fund 34,400
From Federal Funds 3,700
From Dedicated Credits Revenue 700
From Expendable Receipts .. (100)
From Revenue Transfers 700
Schedule of Programs:
Blind and Visually Impaired ..... (1,800)
Deaf and Hard of Hearing 46,100
Executive Director ..... (200)
Rehabilitation Services ..... (4,700)

Item 72
To Department of Workforce Services - Unemployment Insurance
From General Fund 1,000
From Federal Funds 12,600
From Dedicated Credits Revenue 200
From Revenue Transfers 100
Schedule of Programs:
Adjudication 5,400
Unemployment Insurance Administration 8,500

Item 73
To Department of Workforce Services - Office of Homeless Services
From General Fund 300
From Federal Funds 100
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 300
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 100
Schedule of Programs:
Homeless Services 800

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 74
To Department of Health and Human Services - Operations
From General Fund 1,486,700
From Income Tax Fund 18,100
From Federal Funds 1,137,900
From Dedicated Credits Revenue 110,000
From Revenue Transfers 191,400
Schedule of Programs:
Executive Director Office 3,400
Ancillary Services 66,900
Finance & Administration 2,338,800
Data, Systems, & Evaluations 504,300
Public Affairs, Education & Outreach 2,200
American Indian / Alaska Native 1,200
Continuous Quality Improvement 24,200
Customer Experience 3,100

Item 75
To Department of Health and Human Services - Clinical Services
From General Fund 17,600
From Income Tax Fund 1,000
From Federal Funds 5,600
From Dedicated Credits Revenue 4,400
From Expendable Receipts .. 800
From Department of Public Safety Restricted Account 800
From Gen. Fund Rest. - State Lab Drug Testing Account 200
From Revenue Transfers 300
Schedule of Programs:
Medical Examiner 16,600
State Laboratory 4,500
Primary Care and Rural Health 3,600
Health Equity 4,600
Medical Education Council 1,400

Item 76
To Department of Health and Human Services - Department Oversight

From General Fund 18,700
From Federal Funds 12,600
From Dedicated Credits Revenue 3,500
From Revenue Transfers 7,000
Schedule of Programs:
Licensing & Background Checks 32,300
Internal Audit 1,700
Admin Hearings 7,600
Utah Developmental Disabilities Council .. 200

Item 77
To Department of Health and Human Services - Health Care Administration
From General Fund 110,000
From Federal Funds 458,200
From Expendable Receipts .. 14,200
From Hospital Provider Assessment Fund .. 200
From Medicaid Expansion Fund 13,100
From Nursing Care Facilities Provider Assessment Fund 1,300
From Revenue Transfers 22,700
Schedule of Programs:
Integrated Health Care Administration 112,200
Long-Term Services and Supports Administration 64,100
Provider Reimbursement Information System for Medicaid 443,400

Item 78
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 229,000
From Federal Funds 33,000
From Dedicated Credits Revenue 14,700
From Expendable Receipts .. 800
From Expendable Receipts - Rebates 600
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account 6,500
From Medicaid Expansion Fund 400
From General Fund Restricted - Tobacco Settlement Account 600
From Revenue Transfers 48,300
Schedule of Programs:
Children's Health Insurance Program Services 3,500
Medicaid Home and Community Based Services 3,400
Medicaid Pharmacy Services 500
Medicaid Other Services 2,100
Non-Medicaid Behavioral Health Treatment and Crisis Response 71,600
State Hospital 252,800

Item 79
To Department of Health and Human Services - Long-Term Services & Support
From General Fund 88,500
From Income Tax Fund 700
From Federal Funds 1,900
From Dedicated Credits Revenue 5,700
From Expendable Receipts .. 400
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account 2,500
From Revenue Transfers 125,300
Schedule of Programs:
Aging & Adult Services 100
Adult Protective Services 6,900
Office of Public Guardian 2,400
Aging Waiver Services 700
Services for People with Disabilities 14,600
Community Supports Waiver Services 100
Utah State Developmental Center 200,200

Item 80
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund 700
From Federal Funds 250,300
From Dedicated Credits Revenue 200
From Expendable Receipts .. 1,800
From General Fund Restricted - Tobacco Settlement Account 4,700
From Revenue Transfers 8,800
Schedule of Programs:
Communicable Disease 207,700
Health Promotion and Prevention 43,700
Emergency Medical Services and Preparedness 21,500
Population Health ..... (6,400)

Item 81
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 279,800
From Income Tax Fund 150,900
From Federal Funds 379,600
From Dedicated Credits Revenue 900
From Expendable Receipts .. 3,800
From General Fund Restricted - Adult Autism Treatment Account 1,100
From General Fund Restricted - Victim Services Restricted Account 300
From Revenue Transfers 31,400
Schedule of Programs:
Child & Family Services 362,800
Domestic Violence 1,400
Child Abuse Prevention and Facility Services 3,200
Children with Special Healthcare Needs 18,300
Maternal & Child Health 34,000
DCFS Selected Programs 428,100

Item 82
To Department of Health and Human Services - Office of Recovery Services
From General Fund 171,800
From Federal Funds 247,400
From Dedicated Credits Revenue 3,500
From Expendable Receipts .. 2,600
From Medicaid Expansion Fund 100
From Revenue Transfers 24,900
Schedule of Programs:
Recovery Services 230,100
Child Support Services 21,200
Children in Care Collections 1,000
Attorney General Contract 191,500
Medical Collections 6,500

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 83
To University of Utah - Education and General
From Income Tax Fund 5,465,300
From Dedicated Credits
Revenue 1,821,800
Schedule of Programs:
Operations and Maintenance 104,400
Institutional Support 7,182,700

UTAH STATE UNIVERSITY

Item 84
To Utah State University - Education and General
From Income Tax Fund 967,100
From Dedicated Credits
Revenue 322,400
Schedule of Programs:
Operations and Maintenance 124,000
Institutional Support 1,165,500

WEBER STATE UNIVERSITY

Item 85
To Weber State University - Education and General
From Income Tax Fund 324,000
From Dedicated Credits
Revenue 108,100
Schedule of Programs:
Operations and Maintenance 29,500
Institutional Support 402,600

SOUTHERN UTAH UNIVERSITY

Item 86
To Southern Utah University - Education and General
From Income Tax Fund 1,072,900
From Dedicated Credits
Revenue 357,600
Schedule of Programs:
Operations and Maintenance 22,400
Institutional Support 1,408,100

UTAH VALLEY UNIVERSITY

Item 87
To Utah Valley University - Education and General
From Income Tax Fund 336,500
From Dedicated Credits
Revenue 112,100
Schedule of Programs:
Operations and Maintenance 25,400
Institutional Support 423,200

SNOW COLLEGE

Item 88
To Snow College - Education and General
From Income Tax Fund 175,700
From Dedicated Credits
Revenue 58,500
Schedule of Programs:
Operations and Maintenance 6,500
Institutional Support 227,700

UTAH TECH UNIVERSITY

Item 89
To Utah Tech University - Education and General
From Income Tax Fund 236,800
From Dedicated Credits
Revenue 78,900
Schedule of Programs:
Institutional Support 303,900
Operations and Maintenance 11,800

SALT LAKE COMMUNITY COLLEGE

Item 90
To Salt Lake Community College - Education and General
From Income Tax Fund 138,100
From Dedicated Credits
Revenue 46,000
Schedule of Programs:
Operations and Maintenance 23,200
Institutional Support 160,900

UTAH BOARD OF HIGHER EDUCATION

Item 91
To Utah Board of Higher Education - Administration
From General Fund 1,900
From Income Tax Fund 40,600
Schedule of Programs:
Administration 42,500

BRIDGERLAND TECHNICAL COLLEGE

Item 92
To Bridgerland Technical College - Education and General
From Income Tax Fund 69,000
Schedule of Programs:
Institutional Support 69,000

DAVIS TECHNICAL COLLEGE

Item 93
To Davis Technical College - Education and General
From Income Tax Fund 73,900
Schedule of Programs:
Institutional Support 73,900

DIXIE TECHNICAL COLLEGE

Item 94
To Dixie Technical College - Education and General
From Income Tax Fund 24,600
Schedule of Programs:
Institutional Support 24,600

MOUNTAINLAND TECHNICAL COLLEGE

Item 95
To Mountainland Technical College - Education and General
From Income Tax Fund 67,600
Schedule of Programs:
Institutional Support 67,600

OGDEN-WEBER TECHNICAL COLLEGE

Item 96
To Ogden-Weber Technical College - Education and General

From Income Tax Fund 123,500
Schedule of Programs:
Institutional Support 123,500

SOUTHWEST TECHNICAL COLLEGE

Item 97
To Southwest Technical College - Education and General
From Income Tax Fund 24,800
Schedule of Programs:
Institutional Support 24,800

TOOELE TECHNICAL COLLEGE

Item 98
To Tooele Technical College - Education and General
From Income Tax Fund 18,600
Schedule of Programs:
Institutional Support 18,600

UINTAH BASIN TECHNICAL COLLEGE

Item 99
To Uintah Basin Technical College - Education and General
From Income Tax Fund 42,400
Schedule of Programs:
Institutional Support 42,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 100
To Department of Agriculture and Food - Administration
From General Fund 78,800
From Federal Funds 10,800
From Dedicated Credits Revenue 8,100
From Revenue Transfers 2,000
Schedule of Programs:
Commissioner's Office 48,100
Administrative Services 51,600

Item 101
To Department of Agriculture and Food - Animal Industry
From General Fund 18,800
From Income Tax Fund 1,700
From Federal Funds 6,400
From Dedicated Credits Revenue 700
From General Fund Restricted - Horse Racing 100
From General Fund Restricted - Livestock Brand 7,200
Schedule of Programs:
Animal Health 18,500
Brand Inspection 9,800
Meat Inspection 6,300
Horse Racing Commission 300

Item 102
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds 100
From General Fund Restricted - Invasive Species Mitigation Account 1,100
Schedule of Programs:
Invasive Species Mitigation 1,200

Item 103
To Department of Agriculture and Food - Marketing and Development
From General Fund 2,000
From Federal Funds 800
From Dedicated Credits Revenue 100
Schedule of Programs:
Marketing and Development 2,900

Item 104
To Department of Agriculture and Food - Plant Industry
From General Fund 1,300
From Federal Funds 4,400
From Dedicated Credits Revenue 14,000
From Revenue Transfers 100
Schedule of Programs:
Plant Industry Administration 5,900
Grain Lab 1,400
Insect, Phyto, and Nursery 2,000
Pesticide 3,400
Feed, Fertilizer, and Seed 3,200
Organics 3,900

Item 105
To Department of Agriculture and Food - Predatory Animal Control
From General Fund 4,300
From Revenue Transfers 2,300
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 1,900
Schedule of Programs:
Predatory Animal Control 8,500

Item 106
To Department of Agriculture and Food - Rangeland Improvement
From General Fund 3,300
From Gen. Fund Rest. - Rangeland Improvement Account 900
From Revenue Transfers 1,000
Schedule of Programs:
Rangeland Improvement Projects 900
Grazing Improvement Program Administration 4,300

Item 107
To Department of Agriculture and Food - Regulatory Services
From General Fund 15,400
From Federal Funds 15,500
From Dedicated Credits Revenue 42,300
Schedule of Programs:
Regulatory Services Administration 4,500
Bedding & Upholstered 1,300
Weights & Measures 10,900
Food Inspection 31,300
Dairy Inspection 25,200

Item 108
To Department of Agriculture and Food - Resource Conservation
From General Fund 10,900
From Federal Funds 1,200

Schedule of Programs:
Conservation Administration 1,600
Water Quantity 10,200
Salinity 300

Item 109
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 5,000
Schedule of Programs:
Industrial Hemp 5,000

Item 110
To Department of Agriculture and Food - Analytical Laboratory
From General Fund 12,700
From Federal Funds 600
From Dedicated Credits Revenue 4,600
Schedule of Programs:
Analytical Laboratory 17,900

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 111
To Department of Environmental Quality - Drinking Water
From General Fund 30,900
From Federal Funds 17,000
From Dedicated Credits Revenue 4,800
From Water Dev. Security Fund - Drinking Water Loan Prog. 12,400
From Water Dev. Security Fund - Drinking Water Orig. Fee 100
Schedule of Programs:
Drinking Water Administration 23,700
Safe Drinking Water Act 29,200
System Assistance 11,700
State Revolving Fund 600

Item 112
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund 2,500
From Federal Funds 14,400
From Dedicated Credits Revenue ..... (1,000)
From General Fund Restricted - Petroleum Storage Tank ..... (3,100)
From Petroleum Storage Tank Cleanup Fund 300
From Petroleum Storage Tank Trust Fund 200
Schedule of Programs:
CERCLA 17,800
Tank Public Assistance ..... (3,100)
Petroleum Storage Tank Cleanup 1,700
Petroleum Storage Tank Compliance .. (3,100)

Item 113
To Department of Environmental Quality - Executive Director's Office
From General Fund 51,400
From Federal Funds 5,400
From General Fund Restricted - Environmental Quality 10,500
Schedule of Programs:
Executive Director Office Administration 67,300

Item 114
To Department of Environmental Quality - Waste Management and Radiation Control
From Federal Funds 4,200
From Dedicated Credits Revenue 4,900
From Expendable Receipts .. 100
From General Fund Restricted - Environmental Quality 11,300
From Gen. Fund Rest. - Used Oil Collection Administration 100
Schedule of Programs:
Hazardous Waste 17,500
Solid Waste 2,300
Radiation 100
Low Level Radioactive Waste 500
WIPP 100
Used Oil 100

Item 115
To Department of Environmental Quality - Water Quality
From General Fund 16,100
From Federal Funds 2,100
From Dedicated Credits Revenue 800
From Revenue Transfers 1,100
From Gen. Fund Rest. - Underground Wastewater System ..... (800)
From Water Dev. Security Fund - Utah Wastewater Loan Prog. 600
Schedule of Programs:
Water Quality Support 18,500
Water Quality Protection 2,200
Onsite Wastewater ..... (800)

Item 116
To Department of Environmental Quality - Air Quality
From General Fund 29,600
From Federal Funds ..... (2,300)
From Dedicated Credits Revenue 21,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining 500
From Clean Fuel Conversion Fund ..... (100)
Schedule of Programs:
Air Quality Administration 49,200
Planning ..... (6,500)
Compliance 3,400
Permitting 2,600

DEPARTMENT OF NATURAL RESOURCES

Item 117
To Department of Natural Resources - Administration
From General Fund 230,100
Schedule of Programs:
Administrative Services 80,600
Executive Director 146,000
Law Enforcement 1,600
Public Information Office 1,900

Item 118
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund 31,000

From Federal Funds 16,800
From Dedicated Credits Revenue 26,100
From General Fund Restricted - Sovereign Lands Management 5,600
From Revenue Transfers 7,800
Schedule of Programs:
Division Administration 14,600
Fire Management 6,500
Fire Suppression Emergencies 9,100
Forest Management 2,800
Lands Management 5,600
Lone Peak Center 16,400
Program Delivery 32,200
Project Management 100

Item 119
To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds 4,700
From Dedicated Credits Revenue 100
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 3,000
From Gen. Fund Rest. - Oil & Gas Conservation Account 12,700
Schedule of Programs:
Administration 12,400
Oil and Gas Program 8,100

Item 120
To Department of Natural Resources - Utah Geological Survey
From General Fund 5,700
From Federal Funds 100
From Dedicated Credits Revenue 800
From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account 300
From General Fund Restricted - Mineral Lease 100
From Revenue Transfers 100
Schedule of Programs:
Administration ..... (3,600)
Geologic Information and Outreach 10,700

Item 121
To Department of Natural Resources - Water Resources
From General Fund 6,700
From Federal Funds 1,100
From Water Resources Conservation and Development Fund 4,100
Schedule of Programs:
Administration ..... (1,900)
Board 100
Construction 5,900
Interstate Streams 1,100
Planning 6,700

Item 122
To Department of Natural Resources - Water Rights
From General Fund 53,900
From Federal Funds 200
From Dedicated Credits Revenue 500
From General Fund Restricted - Water Rights Restricted Account 26,700
Schedule of Programs:
Adjudication 16,800
Administration 1,900
Applications and Records ..... (3,800)
Dam Safety 1,200
Field Services 5,200
Technical Services 60,000

Item 123
To Department of Natural Resources - Watershed Restoration
From General Fund 500
Schedule of Programs:
Watershed Restoration 500

Item 124
To Department of Natural Resources - Wildlife Resources
From General Fund 33,000
From Federal Funds 82,500
From Expendable Receipts .. 600
From General Fund Restricted - Aquatic Invasive Species Interdiction Account 5,400
From General Fund Restricted - Predator Control Account 1,900
From Revenue Transfers 300
From General Fund Restricted - Wildlife Resources 335,900
Schedule of Programs:
Administrative Services 254,100
Aquatic Section 49,100
Conservation Outreach 19,400
Director's Office 7,200
Habitat Section 33,200
Law Enforcement 50,900
Wildlife Section 45,700

Item 125
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund 41,100
From General Fund Restricted - Constitutional Defense 17,400
Schedule of Programs:
Public Lands Policy Coordinating Office . 58,500

Item 126
To Department of Natural Resources - Division of State Parks
From General Fund 25,300
From Federal Funds 700
From Dedicated Credits Revenue 4,600
From Expendable Receipts .. 500
From General Fund Restricted - State Park Fees 277,900
From Revenue Transfers 600
Schedule of Programs:
Executive Management 400
State Park Operation Management 144,500
Support Services 163,900
Heritage Services 800

Item 127
To Department of Natural Resources - Division of Parks - Capital
From Federal Funds 900
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 1,000
From General Fund Restricted - State Park Fees 100
Schedule of Programs:

Renovation and Development 2,000

Item 128
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund 900
From Federal Funds 4,800
From Dedicated Credits Revenue 100
From Expendable Receipts .. 300
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 2,200
From General Fund Restricted - Boating 6,300
From General Fund Restricted - Off-highway Vehicle 9,200
Schedule of Programs:
Management 1,900
Oversight 9,800
Recreation Services 1,400
Administration 10,700

Item 129
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From Federal Funds 100
Schedule of Programs:
Land and Water Conservation 100

Item 130
To Department of Natural Resources - Office of Energy Development
From General Fund ..... (13,100)
From Income Tax Fund ..... (1,600)
From Federal Funds ..... (40,800)
From Dedicated Credits Revenue ..... (700)
From Expendable Receipts .. (1,500)
From Ut. S. Energy Program Rev. Loan Fund (ARRA) ..... (1,400)
Schedule of Programs:
Office of Energy Development ..... (59,100)

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 131
To School and Institutional Trust Lands Administration
From Land Grant Management Fund 31,100
Schedule of Programs:
Accounting ..... (300)
Administration 11,800
Auditing ..... (200)
Board ..... (100)
Development - Operating ..... (900)
Director 400
External Relations ..... (100)
Grazing and Forestry 600
Information Technology Group 15,900
Legal/Contracts ..... (100)
Surface 4,500
Energy and Minerals ..... (400)

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 132
To State Board of Education - Child Nutrition Programs
From Federal Funds 100
Schedule of Programs:
Child Nutrition 100

Item 133
To State Board of Education - State Charter School Board
From Income Tax Fund 3,600
Schedule of Programs:
State Charter School Board & Administration 3,600

Item 134
To State Board of Education - Utah Schools for the Deaf and the Blind
From Income Tax Fund 53,100
From Dedicated Credits Revenue 12,300
Schedule of Programs:
Administration 65,400

Item 135
To State Board of Education - State Board and Administrative Operations
From Income Tax Fund 16,100
From General Fund Restricted - Mineral Lease 1,300
From Revenue Transfers 30,600
Schedule of Programs:
Indirect Cost Pool 33,500
Board and Administration 14,500

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 136
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 9,500
Schedule of Programs:
School and Institutional Trust Fund Office 9,500

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 137
To Capitol Preservation Board
From General Fund 163,800
From Dedicated Credits Revenue 9,000
From Expendable Receipts .. 300
Schedule of Programs:
Capitol Preservation Board 173,100

LEGISLATURE

Item 138
To Legislature - Senate
From General Fund 1,900
Schedule of Programs:
Administration 1,900

Item 139
To Legislature - House of Representatives

From General Fund 3,400
Schedule of Programs:
Administration 3,400

Item 140
To Legislature - Office of Legislative Research and General Counsel
From General Fund 10,600
Schedule of Programs:
Administration 10,600

Item 141
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 5,200
Schedule of Programs:
Administration and Research 5,200

Item 142
To Legislature - Office of the Legislative Auditor General
From General Fund 5,100
Schedule of Programs:
Administration 5,100

Item 143
To Legislature - Legislative Services
From General Fund 22,600
From Dedicated Credits Revenue 300
Schedule of Programs:
Administration 13,900
Information Technology 9,000

UTAH NATIONAL GUARD

Item 144
To Utah National Guard
From General Fund 214,000
From Dedicated Credits Revenue 100
Schedule of Programs:
Administration ..... (100)
Operations and Maintenance 214,200

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 145
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 48,700
From Federal Funds 800
From Dedicated Credits Revenue 100
Schedule of Programs:
Administration 46,200
Cemetery 600
State Approving Agency 500
Outreach Services 2,100
Military Affairs 200

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 146
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits Revenue 62,600
Schedule of Programs:
State Debt Collection Fund 62,600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 147
To Department of Commerce - Consumer Protection Education and Training Fund
From Licenses/Fees 1,800
Schedule of Programs:
Consumer Protection Education and Training Fund 1,800

Item 148
To Department of Commerce - Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 400
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 400

Item 149
To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 100
Schedule of Programs:
RMLERR Fund 100

Item 150
To Department of Commerce - Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 1,300
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund 1,300

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 151
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Dedicated Credits Revenue 300
Schedule of Programs:
Heritage and Arts Foundation Fund 300

PUBLIC SERVICE COMMISSION

Item 152
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue ..... (200)

Schedule of Programs:
Universal Public Telecommunications Service Support ..... (200)

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 153
To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund
From Trust and Agency Funds ..... (100)
Schedule of Programs:
Individuals with Visual Disabilities Vendor Fund ..... (100)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 154
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers 100
Schedule of Programs:
Salinity Offset Fund 100

DEPARTMENT OF NATURAL RESOURCES

Item 155
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Interest Income 100
From Designated Sales Tax .. 1,400
Schedule of Programs:
Outdoor Recreation Infrastructure Account 1,500

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 156
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds ..... (25,200)
From Dedicated Credits Revenue ..... (200)
Schedule of Programs:
Veterans Nursing Home Fund ..... (25,400)

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 157
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue 20,900
Schedule of Programs:
Utah Correctional Industries 20,900

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 158
To Labor Commission - Employers Reinsurance Fund
From Dedicated Credits Revenue 500
From Interest Income 100
Schedule of Programs:
Employers Reinsurance Fund 600

Item 159
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits Revenue 11,600
From Interest Income 200
From Premium Tax Collections 3,100
Schedule of Programs:
Uninsured Employers Fund 14,900

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 160
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 5,200
Schedule of Programs:
Qualified Patient Enterprise Fund 5,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 161
To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund ..... (200)
From Utah Rural Rehabilitation Loan State Fund ..... (100)
Schedule of Programs:
Agriculture Loan Program ..... (300)

Item 162
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue 11,800

Schedule of Programs:
Qualified Production Enterprise Fund .. 11,800

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 163
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 8,500
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 8,500

Item 164
To Colorado River Authority of Utah Restricted Account
From General Fund 2,700
Schedule of Programs:
Colorado River Authority Restricted Account 2,700

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

STATE TREASURER

Item 165
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds 17,500
Schedule of Programs:
Utah Navajo Trust Fund 17,500

Section 3. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2024 and ending June 30, 2025.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Administration
Government Records Access and Management Act
Document Certification 2.00
CD Duplication (per CD) 5.00
Plus actual staff costs
DVD Duplication (per DVD) 10.00
Plus actual staff costs
Photocopies
Non-color (per page) 0.25
Color (per page) 0.40
11 x 17 (per page) 1.00
Odd Size ..... Actual cost
Document Faxing (per page) 1.00
Long Distance Faxing for Over 10 Pages .. 1.00
Record Preparation ..... Actual cost
Record Preparation 2.00
Plus actual postage costs
Other Media ..... Actual cost
Other Services ..... Actual cost
Criminal Prosecution
Child Protection Registry ... 0.005

CHILDREN'S JUSTICE CENTERS
CJC Conference Registrations
(per Variable) ..... Varies by type
This represents the fee charged for the Children's Justice Center's annual conference. Conference Registration (per unit/day) - Varies by Type.

ISF - ATTORNEY GENERAL
Civil Division
Attorney - Co-located
Rate (per Hour) 161.00
The Legislature intends that the Attorney-Office Rate (per Hour) be $166.00, the Attorney-Co-located Rate (per Hour) be $161.00, the Paralegal-Office Rate (per Hour) be $78.00, and the Paralegal-Co-located Rate (her Hour) be $75.00 for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025.
Attorney - Office
Rate (per Hour) 166.00
The Legislature intends that the Attorney-Office Rate (per Hour) be $166.00, the Attorney-Co-located Rate (per Hour) be $161.00, the Paralegal-Office Rate (per Hour) be $78.00, and the Paralegal-Co-located Rate (her Hour) be $75.00 for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025.
Investigator - Co-located
Rate (per Month) ..... Actual cost
Investigator - Office Rate ... Actual cost
Paralegal - Co-located
Rate (per Hour) 75.00
The Legislature intends that the Attorney-Office Rate (per Hour) be $166.00, the Attorney-Co-located Rate (per Hour) be $161.00, the Paralegal-Office Rate (per Hour) be $78.00, and the Paralegal-Co-located Rate (her Hour) be $75.00 for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025.
Paralegal - Office
Rate (per Hour) 78.00
The Legislature intends that the Attorney-Office Rate (per Hour) be $166.00, the Attorney-Co-located Rate (per Hour) be $161.00, the Paralegal-Office Rate (per Hour) be $78.00, and the Paralegal-Co-located Rate (her Hour) be $75.00 for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025.

PROSECUTION COUNCIL
UPC Training Registrations Private
Attorney 350.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided throughout the year.

UPC Training Registrations Public Attorneys 125.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided many times per year.

BOARD OF PARDONS AND PAROLE

Digital Media 10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Adult Probation and Parole Programs

Programs and Operations Fees (Apply to the entire Department of Corrections)
- Inmate Support Collections ..... Actual cost

Department Executive Director

Programs and Operations Fees (Apply to the entire Department of Corrections)
- Odd Size Photocopies (per page) .... Actual cost
- Document Certification 2.00
- Local Document Faxing (per page) 0.50
- Long Distance Document Faxing (per page) 2.00
- Staff Time to Search, Compile, and Otherwise Prepare Record ..... Actual cost
- Mail and Ship Preparation, Plus Actual Postage Costs ..... Actual cost
- CD Duplication (per CD) 5.00
- DVD Duplication (per DVD) 10.00
- Other Media ..... Actual cost
- Other Services ..... Actual cost
- 8.5 x 11 Photocopy (per page) 0.25
- OSDC Supervision Collection 30.00
- Resident Support 6.00
- Restitution for Prisoner Damages .. Actual cost
- False Information Fines .. Range: $1 - $84,200
- Sale of Services ..... Actual cost
- Patient Social Security Benefits Collections . Amount Based on Actual Collected
- Sale of Goods and Materials ..... Actual cost
- Rental of Space ..... Contractual
- Victim Rep Inmate WithheldRange: $1 - $50,000
- Offender Tuition Payments ..... Actual cost
- Sundry Revenue Collection ..... Miscellaneous collections

UTAH CORRECTIONAL INDUSTRIES

UCi
- Sale of Goods and Materials .. Cost plus profit
- Sale of Services ..... Cost plus profit

GOVERNOR'S OFFICE

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions

Extraditions Services-Restitution ..... Court Ordered

Utah Office for Victims of Crime

Utah Crime Victims Conference 150.00

Administration

Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office
- Staff Time to Search, Compile, and Otherwise Prepare Record ..... Actual Cost
- Mailing ..... Actual Cost
- Paper (per side of sheet) 0.25
- Audio Recording 5.00
- Video Recording 15.00
- Document Faxing (per page) 0.50
- Long Distance Faxing over 10 Pages 1.00

Lt. Governor's Office

Lobbyist
- Lobbyist Badge Replacement 10.00

Election Information
- Copy of Election Results 35.00
- Copy of Complete Voter Information Database 1,050.00

Notary
- Notary Commission 95.00
- Notary Test Retake Within 30 Days 40.00
- Remote Notary Application 50.00

Certifications
- Apostille 20.00
- Apostille for Adoption 10.00
- Certificate of Authentication 20.00
- Certificate of Authentication for Adoption 10.00
- Special Certificate 10.00
- Photocopies (per page) 0.25
- International Postage 10.00
- Expedited Processing
  - Within Two Hours if Presented Before 3:00 p.m. 75.00
  - End of Next Business Day 35.00

Local Government and Limited Purpose Entity Registry
- Local Government and Limited Purpose Entity New Registration 50.00
- Local Government and Limited Purpose Entity Registration Renewal 25.00

GOVERNORS OFFICE OF PLANNING AND BUDGET

Management and Special Projects

Conference Registration (per unit / day) ..... Varies by Type

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JUVENILE JUSTICE & YOUTH SERVICES

Government Records Access and Management Act
- Paper (per side of sheet) 0.25
- Audio Tape (per tape) 5.00
- Video Tape (per tape) 15.00
- Mailing ..... Actual cost
- Compiling and Reporting in Another Format (per hour) 25.00
- Programmer/Analyst Assistance Required (per hour) 50.00

CORRECTIONAL HEALTH SERVICES

Medical
- Prisoner Various Prostheses Co- pay ... 1/2 cost
- Inmate Support Collections ..... Actual cost

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour) 15.00

This fee is for an individual to take one hour of training provided either online or in person at the Office of the State Auditor.

Professional Services and Event Training ..... Actual Cost

This fee is to reimburse the State Auditor for the actual costs of audit services or actual costs of training services provided at a location other than online or in the Office of the State Auditor.

Record Access Fee ..... Actual Cost

This fee is to reimburse the Office of the State Auditor for the actual costs of providing records under the Government Records Access and Management Act (GRAMA).

Financial Transparency Database Subscription Fee ..... Actual Cost

This fee is to reimburse the Office of the State Auditor for actual costs of accessing large amounts of transparency database information.

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration

Commercial Driver School
- License
  - Original 100.00
  - Annual renewal 100.00
  - Duplicate 10.00
  - Instructor 30.00
  - Annual instructor renewal 20.00
  - Duplicate instructor 6.00
  - Branch office original 30.00
  - Branch office annual renewal 30.00
- Branch office reinstatement 75.00
- Instructor/operation reinstatement 75.00
- School Reinstatement 75.00

Commercial Driver License intra-state medical waiver 25.00

Certified Record
- first 15 pages 10.75

Includes Motor Vehicle Record
- 16 to 30 pages 15.75

Includes Motor Vehicle Record
- 31 to 45 pages 20.75

Includes Motor Vehicle Record
- 46 or more pages 25.75

Includes Motor Vehicle Record

Copy of full driver history 7.00

Copies of any other record 5.00

Includes tape recording, letter, medical copy, arrests

Verification
- Driver address record verification 3.00
- Validate service 0.75

Pedestrian vehicle permit ... 13.00

Citation monitoring verification 0.06

Ignition Interlock System
- License
  - Provider
    - Original 100.00
    - Annual renewal 100.00
    - Duplicate 10.00
    - Branch office inspection 30.00
    - Branch office annual inspection 30.00
  - Installer
    - Original 30.00
    - Annual renewal 30.00
    - Duplicate 6.00
  - Provider
    - Reinstatement 75.00
    - Installer 75.00

Driver Records

Online services 3.00

Utah Interactive Convenience Fee

Driver Services

Commercial Driver License third party testing
- License
  - Original tester 100.00
  - Annual tester renewal 100.00
  - Duplicate tester 10.00
  - Original examiner 30.00
  - Annual examiner renewal 20.00
  - Duplicate examiner 6.00
  - Examiner reinstatement 75.00
  - Tester reinstatement 75.00

EMERGENCY MANAGEMENT

PIO Conference registration fees 225.00

PIO Conference late registration fee 250.00

PIO Conference half registration fee 100.00

PIO Conference guest fee 200.00

Mobile Command Vehicle (per Hour) 65.00

Mobile command operator (per Hour) 40.00

Utah Expo registration fee .. 5.00

Utah Certified Emergency Manager (per Application) 100.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training

Satellite academy technology fee 25.00

Dorm room 10.00

K-9 training (out of state agencies) 2,175.00

Duplicate POST certification 5.00

Duplicate certificate, wallet card 5.00

Duplicate radar or intox card 2.00

Law enforcement officials and judges firearms course 1,000.00

Cadet Application
- Online application processing fee 35.00

Rental
- Pursuit interventions technique training vehicles 100.00
- Firing range 300.00
- Shoot house 150.00
- Camp William firing range 200.00

Peace Officers' Standards and Training (POST)
- Reactivation/waiver 75.00
- Supervisor class 50.00

PROGRAMS & OPERATIONS

CITS State Crime Labs

Additional DNA casework per sample - full analysis 894.00

DNA casework per sample - quantitation only 459.00

Drugs - controlled substances per item of evidence 355.00

Fingerprints per item of

evidence 345.00
Serology/Biology per item of evidence 335.00
Training course materials reimbursement (per Person) 250.00
Department Commissioner's Office
Fees Applicable to All Divisions In Department of Public Safety
Courier delivery ..... Actual cost
Fax (per page) 1.00
Audio/Video/Photos (per CD) 25.00
Developed photo negatives (per photo) 1.00
Printed digital photos (per paper) 2.00

1, 2, or 4 photos per sheet (8x11) based on request
Miscellaneous computer processing (per hour) ..... Cost of Employee Time
Bulk/e-data transaction (per Record) 0.10
Copies
Mailing ..... Actual cost
Color (per page) 1.00
Over 50 pages (per page) 0.50
1-10 pages 5.00
11-50 pages 25.00
Department Sponsored Conferences
Registration (per registrant) 275.00
Late registration (per registrant) 300.00
Vendor fee (per Vendor) 700.00
Fire Marshal - Fire Operations
Fire and life safety review (per Sq. Ft.) ..... Greater of $75/plan review or $.022/sq. ft.
Annual license for display operator, special effects operator, or flame effects operator (per License) 40.00
Annual license for importer and wholesaler of pyrotechnic devices (per License) 250.00
Inspection For Fire Clearance
Re-Inspection Fee (per Re-Inspection) .. 250.00
Liquid Petroleum Gas
License
Class I 450.00
Class II 450.00
Class III 105.00
Class IV 150.00
Branch office 338.00
Duplicate 30.00
Examination 30.00
Re-examination 30.00
Five year examination 30.00
Certificate 40.00
Dispenser Operator B 20.00
Plan Reviews
More than 5000 gallons 150.00
5000 water gallons or less 75.00
Special inspections (per hour) 50.00
Re-inspection 250.00

3rd inspection or more
Private Container Inspection
More than one container 150.00
One container 75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems
License 300.00
Combination 150.00
Branch office license 150.00
Certificate of registration 40.00
Duplicate certificate of registration 40.00
License transfer 50.00
Application for exemption 150.00
Examination 30.00
Re-examination 30.00
Five year examination 30.00
Automatic Fire Sprinkler Inspection and Testing
Certificate of registration 30.00
Examination 20.00
Re-examination 20.00
Three year extension 20.00
Fire Alarm Inspection and Testing
Certificate of registration 40.00
Examination 30.00
Re-examination 30.00
Three year extension 30.00
Highway Patrol - Administration
UHP conference registration fee 250.00
Online traffic reports Utah Interactive convenience fee 2.50
Photogrammetry 100.00
Cessna (per hour) 155.00

Plus meals and lodging
Helicopter (per hour) 1,350.00

Plus meals and lodging
Court order requesting blood samples be sent to outside agency 40.00
Highway Patrol - Federal/State Projects
24-7 Sobriety Program
New participant set up fee (per Participant) 30.00
Portable breath test (per Test) 2.00
Urine test (per Test) 6.00
Continuous alcohol monitoring bracelet (per Day) 10.00
Transportation and security details (per hour) 100.00

Plus mileage
Highway Patrol - Safety Inspections
Safety Inspection Program
Safety inspection manual 5.50
Stickers (book of 25) 4.50
Sticker reports (book of 25) 3.00
Inspection certificates for passenger/light truck (book of 50) 3.00
Inspection certificates for ATV (book of 25) 3.00
Inspection Station
Permit application fee 100.00
Station physical address change 100.00
Replacement of lost permit 2.25
Inspector
Certificate application fee 7.00

Valid for 5 years
Certificate renewal fee 4.50
Replacement of lost certificate 1.00
Emergency Medical Services
Data
Emergency Medical Services License
Emergency Medical Services License Data Request 500.00
Registration and Licensure
License/License Renewal Fee
Instructor Six Month Extension Fee ... 40.00
License Verification 10.00
Permit

Behavior Health Unit (per Vehicle) 105.00

Behavioral Health Unit Permit

Registration and Licensure
License/License Renewal Fee
Course Coordinator Extension Fee 40.00

Inspection
Dispatch 105.00

Quality Assurance and Designation Review
Stroke Center
Designation/Redesignation 150.00

Registration and Licensure
License/License Renewal Fee
Quality Assurance Review Fee
All Levels 30.00
Training Officer Extension Fee 40.00

Quality Assurance Designation Review
Air Ambulance Quality Assurance
Review 5,000.00

Registration and Licensure
License Fee
Blood Draw Permit 35.00
Quality Assurance Review Fee for All Levels
Late Fee 75.00

Certification Fee
License/License Renewal Fee
Initial and Reciprocity Quality Assurance for
All Levels 45.00
Decal for purchase for All Levels 2.00
Patches for purchase for All Levels 5.00
Course Audit Fee 40.00

Course Request Fee
Course for All Levels 300.00
Course for All Levels 300.00

Ground Ambulance - Emergency Medical Technician
Permit
Quality Assurance Review (per vehicle) 105.00
Advanced (per vehicle) 135.00

Ground Ambulance Emergency Medical Technician Permit Advanced

Interfacility Transfer Ambulance
Permit
Emergency Medical Technician Quality
Assurance Review (per vehicle) 100.00
Advanced (per vehicle) 130.00

Interfacility Transfer Ambulance Permit Advanced

Fleet Vehicles
Permit
Fleet fee (per fleet) 3,200.00

Agency with 20 or more vehicles

Paramedic
Permit
Rescue (per vehicle) 170.00

Paramedic Rescue Permit
Tactical Response (per vehicle) 170.00

Paramedic Tactical Response Permit
Ambulance (per vehicle) 170.00
Interfacility Transfer Service
(per vehicle) 170.00

Quick Response Unit
Permit
Emergency Medical Technician Quality
Assurance Review (per vehicle) 105.00
Advanced (per vehicle) 100.00

Air Ambulance
Permit
Advanced Permit (per vehicle) 135.00
Specialized (per vehicle) 170.00
Out of State (per vehicle) 205.00

Quality Assurance Designation Review
Resource Hospital (per hospital) 150.00
Trauma Center Verification/Quality Assurance
Review 5,000.00
Trauma Designation Consultation Quality
Assurance Review 750.00
Focused Quality Assurance Review ... 3,000.00
Emergency Patient Receiving Facility
Re-designation 150.00
Emergency Patient Receiving Facility Initial
Designation 500.00

Quality Assurance Application Reviews
Newspaper Publications
Original Air Ambulance License 850.00
Original Ground Ambulance/Paramedic License
Non-Contested 850.00
Original Ambulance/Paramedic License
Contested 1,500.00

up to actual cost
Original Designation 135.00
Renewal Ambulance/Paramedic/Air
License 135.00
Renewal Designation 135.00
Upgrade in Ambulance Service Level ... 125.00
Change in ownership/operator
Upgrade in Ambulance Service Level . 125.00
Contested ..... Up to actual cost
Change in geographic service area
Non-contested 850.00
Contested ..... Up to actual cost

Quality Assurance Course Review
Critical Care Endorsement 20.00

Requesting a change to the name. Remove Certification and replace with Endorsement.
Course Coordinator
Seminar Registration 50.00
Emergency Medical
Training and Testing Program
Designation 135.00
Instructor Seminar
Registration 150.00
Training Application Late Fee 25.00
None
Conference Sponsor/Vendor 500.00
New Course Coordinator
Course Coordination Endorsement 75.00
Course Coordination Endorsement 75.00
New Instructor
Endorsement 150.00

Requesting a change to the name. Remove Course Certification and replace with New Instructor Endorsement.
New Training Officer
Endorsement 75.00

Requesting a change to the name. Remove Initial Certification and replace with New Training Officer Endorsement.
Pediatric
Advanced Life Support Course 170.00
Education for Prehospital Professionals
Course 170.00

Training Officer
Seminar Registration 50.00
Training and Seminars
Additional Lunch 15.00
Emergency Vehicle Operations Instructor Course 40.00
Medical Director's Course 50.00
Management/Leadership Seminar 150.00
Prehospital Trauma Life Support Course 175.00
Pediatric Advanced Life Support Course Renewal 85.00
Equipment Delivery
Pediatric
Rental of course equipment to for-profit agency 150.00
Quality Assurance Course Review
Pediatric
Education for Prehospital Professionals Course Renewal 85.00
Data
Pre-hospital
Non-profits Users 800.00
Academic, non-profit, and other government users
For-profit Users 1,600.00
Trauma Registry
Non-profits Users 800.00
Academic, non-profit, and other government users
For-profit Users 1,600.00

BUREAU OF CRIMINAL IDENTIFICATION

Law Enforcement/Criminal Justice Services

TAC Conference registration . 100.00

Non-Government/Other Services

Vacatur expungement order processing fee 65.00
Replication fee for Rap Back enrollment (per Request) 10.00
Record challenge fee (per Request) 15.00
Paper arrest (OTN) fingerprint card packets (per card packet) 15.00
Right of Access (per Request) 15.00
AFIS retain (per Request) ... 5.00
Applicant fingerprint card (WIN) (per Request) 15.00
Firearm transaction (Brady check) 7.50
Name/DOB applicant background check 15.00
CFP instructor registration .. 35.00
Board of Pardons expungement processing 65.00
Fingerprint services 15.00
Print Other State Agency Cards 5.00
State agency ID set up 50.00
Child ID kits 1.00
Extra copies rap sheet 15.00
Extra fingerprint cards 5.00
Concealed weapons permit renewal Utah Interactive convenience fee 0.75
Photos 15.00
Application for removal from White Collar Crime Registry 120.00
Private Investigator
Original agency license application and license 215.00
Renewal of an agency license 115.00
Original registrant or apprentice license application and license 115.00
Renewal of a registrant or apprentice license 65.00
Late fee renewal - agency 65.00
Late fee renewal - registrant/apprentice . 45.00
Reinstatement of any license 65.00
Duplicate identification card 25.00
Bail Enforcement
Original bail enforcement agent license application and license 250.00
Renewal of a bail enforcement agent or bail bond recovery agency license 150.00
Original bail recovery agent license application and license 150.00
Renewal of each bail recovery agent license 100.00
Original bail recovery apprentice license application and license 150.00
Renewal of each bail recovery apprentice license 100.00
Late fee renewal - enforcement agent/recovery agency 50.00
Late fee renewal - recovery agent 30.00
Late fee renewal - recovery apprentice ... 30.00
Reinstatement of a bail enforcement agent or bail bond recovery agency license 50.00
Duplicate identification card 10.00
Reinstatement of an identification card .. 10.00
Sex Offender Kidnap Registry
Application for removal from registry ... 168.00
Eligibility certificate for removal from registry 25.00
Expungements
Special certificate of eligibility. 65.00
Application 65.00
Certificate of eligibility 65.00

STATE TREASURER

Treasury and Investment

Government Records Access and Management Act (GRAMA) Fees for the Entire Treasurer's Office ..... Actual Cost
Staff Time to Search, Compile, and Otherwise Prepare Record and Mailing

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

DFCM

DFCM Administration

Program Management
Non-state Funded Project Fees
Projects < $99,999 (per Project) 4.0%
Maximum fee of $4,000
Projects >= $100K and <$499,999
(per Project) ..... $4,000 + 1.8% over $100,000
Maximum fee of $11,200
Projects >= $500K and <$2,499,999
(per Project) ..... $11,200 + 0.9% over $500,000
maximum fee of $29,200

Projects >= $2.5M and <$9,999,999 ..... $29,200 + 0.6% over $2,500,000

Maximum fee of $74,200

Projects >= $10M and <$49,999,999 ..... $74,200 + 0.18% over $10,000,000

Maximum fees of $146,200

Projects >= $50M (per Project) ..... $146,200 + 0.12% over $50,000,000

Maximum fees of $206,200 at $100M

DGO ADMINISTRATION

Executive Director's Office

Government Records Access and Management Act
- Photocopies, Black & White (per Copy) 0.10
- Photocopies, Color (per Copy) 0.25
- Photocopy Labor Cost (per Utah Statute 63G-2-203(2)) (per page) ..... Actual Cost
- Certified Copy of a Document (per certification) 4.00
- Long Distance Fax Within U.S. (per fax number) 2.00
- Electronic Documents on Any Physical Media (per USB (GB)) ..... Actual Cost
- Mail Within U.S. (per address) 2.00
- Mail Outside U.S. (per address) 5.00
- Research or services ..... Actual cost

DIVISION OF FINANCE

Financial Information Systems

FINET Interface Document Clean Up (per Hour) 62.00

Credit Card Payments ..... Variable

Contract rebates

Financial Reporting

Loan Origination Fee 500.00

Loan Servicing 170.00

ISF Accounting Services ..... Actual cost

Cash Mgt Improvement Act Interest Calculation ..... Actual cost

Single Audit Billing to State Auditor's Office ..... Actual Cost

Payables/Disbursing

Reissued Tax Warrants 9.00

Reissued Warrants - Non-Tax 2.50

Disbursements
- Collection Service 15.00
- IRS Collection Service 25.00

Payroll

Out-of-State Employee Maintenance Fee 1,300.00

Out-of-State Employee Set Up Fee 2,200.00

Payroll Interface Document Cleanup 46.00

STATE ARCHIVES

Archives Administration

Archives Administration
- Data Base Download (plus Work Setup Fee) (per Record) 0.10

Patron Services

Patron Services
- Copy - Paper to PDF (Copier use by Patron) 0.05
- Digital Collection Setup Host fee 300.00
- Local Commercial License 10.00
- National Commercial License 50.00
- Copy - Paper to PDF (copier use by staff) . 0.25

General
- Certified Copy of a Document 4.00

Mailing and Fax Charges
- Within USA
  - Mailing in USA - 1 to 10 Pages 3.00
  - Mailing in USA - Microfilm 1 to 2 Reels 4.00
  - Mailing in USA - Each additional Microfilm Reel 1.00
  - Mailing in USA - CD/DVD/USB 4.00
  - Mailing in USA - Add Postage for Each 10 Pages 1.00
- International
  - Mailing International - 1 to 10 Pages ... 5.00
  - Mailing International - Each Additional 10 Pages 1.00
  - Mailing International - Microfilm 1 to 2 Reels 6.00
  - Mailing International - Each additional Microfilm Reel 2.00
  - Mailing International - CD/DVD/ USB 6.00

Copy Charges
- Documents
  - Copy Charges - 11 x 14 and 11 x 17 by Staff, Limit 50 ..... 0.50
  - Copy Charges - 11 x 14 and 11 x 17 by Patron 0.25
  - 8.5x11
    - Copy - 8.5 x 11 by Staff, Limit 50 ..... 0.25
    - Copy - 8.5 x 11 by Patron 0.10
- Microfilm/Microfiche
  - Digital
    - Copy - Digital by Staff, Limit 25 ..... 1.00
    - Copy - Digital by Patron 0.15
  - Paper
    - Copy Microfilm - Paper by Staff, Limit 25 ..... 1.00
    - Copy Microfilm - Paper by Patron 0.25

Other
- Archivist Consultation fee (per hr.) (per hour) 40.00
- Special Request (contractual agreement, SOW) ..... At Cost

Supplies
- Supplies - USB Flash Drive (per gigabyte) 5.00
- Supplies - CD (per disk) 0.30
- Supplies - DVD (per disk) 0.40
- Electronic File on-line (per File) 2.50

Preservation Services

Microfilm and Digital Services
- Document Scanning - Manual-up to 11 x 17 (per image) 1.00
- Electronic Image to Microfilm (per 35 mm reel) 60.00
- Oversize or fragile handling (overhead digital camera) (per shot) 2.50
- Transparency Scanning - Manual-slides (25 maximum) (per slide) 2.00

Reformatting Services
Work Setup Fee (WSF) 50.00
Microfiche Production Fee per Image Plus (WSF) (per image) 1.00
Microfilm and Digital Services
Electronic Image to Microfilm
For my (per 16 mm reel) 50.00
Microfilm to CD/DVD/USB (per reel) 50.00
Reformatting Services
Digital Imaging 300 dpi or higher 10.00
Audio
Copy Charges - Audio Recordings 10.00
Video
Copy Video - Video Recording (excludes cost of medium) 20.00

STATE DEBT COLLECTION FUND

Office of State Debt Collection
Corrections Tuition Fee 10% of tuition account balance
Collection Penalty 6.0%
Collection Interest ..... Prime + 2%
Post Judgment Interest ..... Variable
Labor Commission Wage Claims ..... Variable

10% of partial payments; 1/3 of claim or $500, whichever is greater for full payments
Administrative Collection 15.5%

15.5% of amount collected (18.34% effective rate)
Garnishment Request ..... Actual cost
Legal Document Service ..... Actual cost

Greater of $20 or Actual
Credit card processing fee charged to collection vendors 1.75%
Court Filing,
Deposition/Transcript/Skip Tracing Actual cost

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

Box Elder Public Safety 71,705.00
Cultural & Community Engagement
MSS 39,964.25
Garage- Groundskeeper III
(per Hour) 58.50
Garage- Lead Journey Maintenance
(per Hour) 74.85
Manti Courthouse 0.00
Taylorsville State Office
Building 3,230,074.88
SLC VA home 40,667.90
Garage- Groundskeeper I
(per Hour) 47.09
Provo Courts/Terrace 1,320,997.88
DEQ Building 104,788.63
Unified Lab #2 ..... 865,836.54
Cedar City DNR 77,790.16
Ogden VA Nursing Home 52,945.37
Clearfield Warehouse C6 -
Archives 157,693.20
Garage- Facilities Manager / Coord II
(per Hour) 80.08
Spanish Fork Veterinary Lab 65,716.03
Utah Arts Collection 43,900.00
West Jordan Courts 557,835.00
Chase Home 17,428.00
Clearfield Warehouse C7 -
DNR/DPS 102,837.00
Garage- Grounds Supervisor
(per Hour) 59.56
Garage- Journey Plumber
(per Hour) 71.77
Payson VA Nursing Home ... 189,105.70
Utah State Office of
Education 410,669.00
Calvin Rampton Complex ... 1,602,863.00
Garage- Journey Electrician
(per Hour) 79.28
Utah State Developmental
Center 3,098,357.00
Vernal DNR Regional 80,394.00
Vernal Drivers License 36,055.00
Department of Public Safety
DPS Crime Lab 42,000.00
Cannon Health 860,515.00
Garage- Electronics Resource Group
(per Hour) 63.64
Garage- Groundskeeper II
(per Hour) 52.14
Garage- Journey HVAC
(per Hour) 77.86
Lone Peak Forestry & Fire .. 45,820.65
N UT Fire Dispatch Center .. 30,438.66
DPS Drivers License 185,577.00
Alcoholic Beverage Services
Stores 2,597,694.00
Garage- Journey Maintenance
(per Hour) 64.21
Ivins VA Nursing Home 134,064.39
Utah State Tax Commission . 970,200.00
Vernal Juvenile Courts 40,256.00
Veteran's Memorial Cemetery 69,504.00
Work Force Services
DWS/DHS - 1385 South State 408,430.70
Alcoholic Beverage Services
Administration 954,951.92
Brigham City Regional
Center 573,808.00
Garage- Maintenance Supervisor
(per Hour) 72.39
Price Public Safety 90,897.00
Vernal 8th District Court 293,649.00
Wasatch Courts 11,518.56
DWS Administration 685,930.00
Archive Building 166,335.00
Capitol Hill Complex 2,893,434.07
Department of Government Operations Surplus Property 59,747.00
Garage- Mechanic
(per Hour) 51.67
Juab County Court 76,798.00
Ogden Juvenile Court 444,038.00
Department of Public Safety
DPS Farmington Public Safety 100,425.00
Work Force Services
DWS Call Center 200,317.00
Brigham City Court 269,400.00
Cedar City Courts 155,520.00
Dixie Drivers License 72,928.00
Fairpark Driver's License
Division 61,571.00
Garage- Administrative Staff
(per Hour) 58.83
Garage- Journey Boiler Operator
(per Hour) 77.37

Garage-Support Specialist (per Hour) 60.64
Rio Grande Depot 244,431.35
Human Services
DHS - Vernal 74,117.00
Work Force Services
DWS Cedar City 143,461.00
Adult Probation and Parole Freemont Office Building 223,375.00
Cedar City Regional Center .. 132,008.00
DCFS - Orem 145,792.00
Division of Services for the Blind and Visually Impaired Training Housing 49,736.00
Driver License West Valley .. 98,880.00
Farmington 2nd District Courts 537,465.00
Garage-Apprentice Maintenance (per Hour) 61.82
Garage-Journey Carpenter (per Hour) 62.96
Garage-Temp Groundskeeper (per Hour) 29.24
Glendinning Fine Arts Center 43,691.00
Governor's Residence 227,156.00
Heber M. Wells 1,152,179.00
Highland Regional Center ... 331,766.40
Layton Court 165,896.00
Logan 1st District Court 491,267.00
Moab Regional Center 142,533.00
Murray Highway Patrol 276,738.00
Natural Resources 745,072.00
Natural Resources Price 124,323.00
Natural Resources Richfield (Forestry) 136,508.14
Navajo Trust Fund Administration 157,640.00
Office of Rehabilitation Services 204,156.00
Ogden Court 562,740.00
Ogden Division of Motor Vehicles and Drivers License 111,964.00
Ogden Juvenile Probation ... 211,134.00
Ogden Radio Shop 16,434.00
Ogden Regional Center 786,511.27
Orem Public Safety 130,640.00
Orem Region Three Department of Transportation 178,192.00
Provo Juvenile Work Crew .. 74,164.77
Provo Regional Center 839,011.10
Public Safety Depot Ogden .. 34,822.00
Richfield Court 161,535.68
Richfield Dept. of Technology Services Center 39,000.00
Richfield Regional Center ... 75,499.00
Salt Lake Court 2,118,160.00
Salt Lake Government Building #1 ..... 972,934.00
Salt Lake Regional Center - 1950 West 250,492.00
St. George Courts 600,353.00
St. George DPS 87,572.00
St. George Tax Commission .. 64,224.00
State Library 221,121.80
State Library State Mail 162,341.55
State Library Visually Impaired 137,538.65
Taylorsville Center for the Deaf 166,141.60
Tooele Courts 354,051.00
Unified Lab 883,894.00
Vernal Division of Services for People with Disabilities 31,330.00
Human Services
DHS Clearfield East 127,306.00
DHS Ogden - Academy Square 374,834.00
Work Force Services
DWS Brigham City 62,804.00
DWS Clearfield/Davis County 180,633.00
DWS Logan 255,088.00
DWS Metro Employment Center ... 252,776.00
DWS Midvale 135,640.00
DWS Ogden 203,748.00
DWS Provo 195,970.00
DWS Richfield 58,072.00
DWS South County Employment Center 176,196.00
DWS St. George 86,452.00
DWS Vernal 73,702.00

DIVISION OF FINANCE

ISF - Purchasing Card
Purchasing Card ..... Variable
Contract rebates
Car and/or Hotel Only 8.00
Travel
Travel Agency Service
Regular 27.00
Online 17.00
State Agent 22.00
Group
10-25 people 24.50
26-50 people 22.00
51-99 people 19.50
100+ people 19.00
School District Agent 17.00

DIVISION OF FLEET OPERATIONS

ISF - Fuel Network
State-Owned Sites Markup on Fuel (per gallon) 0.28
Retail Sites Markup on Fuel (per gallon) 0.15
Percentage of Transaction Value on Non-fuel Purchases 3.0%
EPA Compliance Monitoring (per month) 100.00
Service Rate (per hour) 70.00
Materials Rate ..... Actual cost
Petroleum Storage Tank Trust Fund Rate ..... Actual cost
Accounts receivable late fee
Past 30 Days ..... 5% of balance
Past 60 Days ..... 10% of balance
Past 90 Days ..... 15% of balance

ISF - Motor Pool
Lease Rate (per month, per vehicle) ..... See formula
Contract price divided by current life cycle.
Maintenance & Repair (Mileage) ..... See formula
Maintenance and repair costs for a particular vehicle/use type, divided by total miles for that vehicle/use type
Management Information System (per month each vehicle) 4.00

Administrative Rate - Leased Vehicles (per vehicle per month) 36.00
Administrative Rate - Owned Vehicles (per vehicle per month) 14.00
Daily Pool Rates ..... Actual Cost
Short Term Used Vehicle Lease 155.02
Commercial Equipment Rental ..... Cost plus $12 Fee
Telematics GPS Tracking .... Actual cost
Accident Deductible (per accident) ..... Actual cost
Fuel Pass-through (per gallons) ..... Actual cost
Additional Management Services: Research & Complaints 50.00
Operator Negligence and Vehicle Abuse (per occurrence) ..... Varies
Vehicle Service Center (per work order each vehicle) 8.00
Vehicle Feature and Miscellaneous Equipment Upgrade ..... Actual cost
Vehicle Detail Cleaning Service .... Actual cost
Accounts receivable late fee
Past 30-days ..... 5% of balance
Past 60-days ..... 10% of balance
Past 90-days ..... 15% of balance
Statutory Maintenance Non-Compliance
10 Days Late (per vehicle per month) . 100.00
20 Days Late (per vehicle per month) . 200.00
30+ Days Late (per vehicle per month) 300.00

Transactions Group
Transactions Rate (per hour) 65.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF - Central Mailing
Priority Meter/Seal 0.05
State Mail
Courier
Courier - Zone 1 ..... 2.26
Courier - Zone 2 ..... 3.88
Courier - Zone 3 ..... 8.04
Courier - Zone 4 ..... 9.70
Courier - Zone 5 ..... 14.35
Courier - Zone 6 ..... 17.79
Courier - Zone 7 ..... 21.73
Courier - Zone 8 ..... 26.42
Courier - Zone 9 ..... 28.49
Courier - Zone 10 ..... 33.22
Courier - Zone 11 ..... 36.02
Courier - Zone 12 ..... 39.87
Production
Incoming Optical Character Recognition Sort 0.103
Business Reply/Postage Due 0.54
Special Handling/Labor (per hour) 85.00
Auto Fold 0.024
Label Generate 0.155
Label Apply 0.15
Auto Tab 0.35
Meter/Seal 0.028
Optical Character Reader 0.028
Additional Insert 0.01
Accountable Mail 1.45
Intelligent Inserting 0.033

ISF - Cooperative Contracting
Cooperative Contracts
Administrative ..... Up to 1.0%

ISF - Federal Surplus Property
Surplus
Federal Shipping and handling charges ..... See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance

ISF - Print Services
Contract Management (per impression) 0.005
Self Service Copy Rates 0.004
Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results

ISF - State Surplus Property
Disposal Rate ..... Actual cost + 10% dumpster fee
Surplus
Surcharge for use of a Financial Transaction Card ..... Up to 3%
Surcharge applies only to the amount charged to a financial transaction card
Online Sales
Non-Vehicle ..... 50% of net proceeds
Miscellaneous Property Pick-up Process
State Agencies
Total Sales Proceeds ..... See formula
Less prorated rebate of retained earnings
Handheld Devices (Wireless Phones)
Less than 1-Year Old .... 75% of actual cost
$30 minimum
1 Year and Older ..... 50% of cost - $30 minimum
Unique Property Processing ..... Negotiated % of sales price
Propose minimum $25 (includes donations, correlates with federal)
Electronic/Hazardous Waste Recycling ..... Actual cost
Vehicles and Heavy Equipment ..... 6.5% of Net Sale Price plus $100 per Vehicle
Default Auction Bids ..... 10% of sales price
Labor (per hour) 26.00
Half hour minimum
Copy Rates (per copy) 0.10
Semi Truck and Trailer Service (per mile) . 1.08
Two-ton Flat Bed Service (per mile) 0.61
Forklift Service (per hour) 23.00
4-6000 lbs
On-site sale away from Utah State Agency Surplus Property yard ... 7% of net sale price
Storage
Building (per cubic foot per month) 0.43
Fenced lot (per square foot per month) 0.23
Accounts receivable late fees
Past 30 days ..... 5% of balance
Past 60 days ..... 10% of balance

RISK MANAGEMENT

ISF - Risk Management Administration
Specialized Lines of

Coverage ..... See Formula

These are specialized lines of insurance outside of typical coverage lines. The aviation and cyber fees are pass- through costs direct from insurance provider. Also shown are fees to host (administer) the enterprise learning management system (Saba).

Aviation Insurance Premiums (pass through)
HE- 00058 Southern Utah University 1,086,494.00
HE- 00121 Utah State University ... 399,180.00
HE- 00122 Utah Valley University .. 177,064.00
SG- 00090 Dept of Public Safety 274,971.00
SG- 00109 DOT Aeronautics 51,920.00
SG- 00219 DNR Dept of Natural Resources 39,422.00
SG- 00232 Dept of Agriculture & Food 24,917.00

Commercial Auto Insurance
HE- 00051 Snow College 1,450.00
HE- 00058 Southern Utah University . 5,800.01
HE- 00115 University of Utah 26,100.03
HE- 00121 Utah State University 29,000.03
HE- 00175 Utah Tech University 8,700.01
HE- 00248 Weber State University .. 23,200.02
SG- 00065 Tax Commission 1,450.00
SG- 00075 Attorney Generals Office .. 1,450.00
SG- 00110 Treasurers Office 1,450.00
SG- 00180 Governors Office 4,350.00
SG- 00216 Utah National Guard 1,450.00

Cyber Liability
HE- 00036 UCAT- Tooele ATC 4,368.00
HE- 00042 Salt Lake Community College 71,705.00
HE- 00051 Snow College 11,982.00
HE- 00058 Southern Utah University 92,627.00
HE- 00059 UCAT- Southwest ATC 6,915.00
HE- 00082 UCAT- Bridgerland ATC . 11,280.00
HE- 00113 UCAT- Uintah Basin ATC . 5,000.00
HE- 00115 University of Utah 1,431,715.00
HE- 00121 Utah State University ... 106,555.00
HE- 00122 Utah Valley University ... 78,337.00
HE- 00158 UCAT- Ogden Weber Technical College 21,929.49
HE- 00170 UCAT- Davis ATC 27,131.00
HE- 00174 UCAT- Dixie ATC 4,169.00
HE- 00175 Utah Tech University 65,117.00
HE- 00213 UCAT- Mountainland Technical College 15,931.00
HE- 00248 Weber State University .. 69,260.00

Learning Management System
Learning Management System - Enterprise Rate (per Hour) 55.00
Learning Management System - Garage Rate (per Hour) 55.00
SG- 00038 DOT Dept of Transportation 5,650.00
SG- 00066 Utah Division of Technology Services 18,562.00
SG- 00071 Dept of Alcoholic Beverage Service 6,120.00
SG- 00140 Commerce Department 405.00
SG- 00207 Utah Division of Human Resource Management 13,993.00
SG- 00210 Department of Health and Human Services 22,910.00
SG- 00223 Utah Division of Archives and Records Service 1,096.00
SG- 00225 Dept of GovOps 4,520.00
SG- 00226 Facilities Construction & Management (DFCM) - Maint 1,075.00
SG- 00227 Utah Division of Finance .. 3,910.00
SG- 00228 Utah Division of Fleet Operations 2,818.00
SG- 00249 Dept of Workforce Services 7,460.00

ISF - Workers' Compensation

Workers Compensation Premiums
Aviation Crews (per $100 wages) ..... $1.60 per $100 wages
Aviation Pilots (per $100 wages) ..... $3.37 per $100 wages
Helicopter Pilots (per $100 wages) ..... $1.53 per $100 wages
Road Construction Crews (per $100 wages) ..... $1.60 per $100 wages
State Employees (per $100 wages) ..... $0.52 per $100 wages

Risk Management - Auto

Auto Property Damage (APD) Premium Methodology
APD Premiums ..... See below

Auto Physical Damage Insurance Coverage Premium
Standard Deductible (per incident) ... 1,500.00

APD Premiums: Charter Schools
CS- 00016 Fast Forward Charter School 570.00
CS- 00029 Gateway Preparatory Academy 2,010.00
CS- 00046 Salt Lake School for the Performing Arts 2,010.00
CS- 00053 Soldier Hollow Charter School 500.00
CS- 00062 Success Academy - Iron County 290.00
CS- 00074 American Leadership Academy 3,370.00
CS- 00085 Pinnacle Canyon Academy 9,740.00
CS- 00087 Providence Hall Charter School 4,300.00
CS- 00094 C S Lewis Academy Charter School 1,650.00
CS- 00104 Canyon Grove Academy ... 1,150.00
CS- 00119 Utah County Academy of Sciences 430.00
CS- 00127 Itineris Early College High School 290.00
CS- 00134 Karl G Maeser Preparatory Academy 1,790.00
CS- 00154 Northern Utah Academy for Math, Engr & Science 1,070.00
CS- 00191 East Hollywood High School 1,150.00
CS- 00196 Merit College Preparatory Academy 2,150.00
CS- 00202 Guadalupe Charter School . 2,150.00
CS- 00237 Valley Academy 5,160.00
CS- 00241 Vista at Entrada School for Performing Arts and Technology 1,150.00
CS- 00242 Walden School of Liberal Arts 140.00
CS- 00282 Mana Academy Charter School 500.00

CS- 00283 Real Salt Lake Academy ... 3,010.00
CS- 00284 Vanguard Charter School .. 1,000.00
CS- 00302 Utah Military Academy 6,370.00
CS- 00304 Franklin Discovery Academy 1,000.00
APD Premiums: Higher Education
HE- 00036 Tooele Technical College .. 3,140.00
HE- 00042 Salt Lake Community College 51,630.00
HE- 00051 Snow College 11,830.00
HE- 00058 Southern Utah University 51,680.00
HE- 00059 Southwest Technical College 4,690.00
HE- 00082 Bridgerland Technical College 7,670.00
HE- 00113 Uintah Basin Technical College 6,530.00
HE- 00115 University of Utah 3,890.00
HE- 00121 Utah State University ... 231,860.00
HE- 00122 Utah Valley University ... 44,060.00
HE- 00158 Ogden/Weber Technical College 2,970.00
HE- 00170 Davis Technical College ... 5,370.00
HE- 00174 Dixie Technical College ... 6,220.00
HE- 00175 Utah Tech University 24,540.00
HE- 00213 Mountainland Technical College 6,680.00
HE- 00248 Weber State University .. 36,370.00
APD Premiums: Independent Agencies
OT- 00120 Utah State Fairpark 1,890.00
OT- 00205 Heber Valley Railroad 1,270.00
APD Premiums: School Districts
SD- 00019 Garfield School District ... 14,750.00
SD- 00035 Tintic School District 4,220.00
SD- 00037 Tooele School District 64,530.00
SD- 00039 Rich School District 7,790.00
SD- 00044 Salt Lake School District . 83,810.00
SD- 00047 San Juan School District . 58,330.00
SD- 00050 Sevier School District 34,800.00
SD- 00054 South Sanpete School District 20,380.00
SD- 00055 South Summit School District 11,290.00
SD- 00057 Southeastern Educational Center 150.00
SD- 00060 Southwest Education Developmental Center 1,610.00
SD- 00073 Alpine School District ... 331,580.00
SD- 00078 Beaver School District 17,200.00
SD- 00080 Box Elder School District . 83,150.00
SD- 00083 Park City School District . 21,500.00
SD- 00086 Piute School District 8,940.00
SD- 00088 Provo School District 40,430.00
SD- 00096 Cache School District 105,790.00
SD- 00098 Canyons School District . 139,630.00
SD- 00100 Carbon School District ... 27,870.00
SD- 00102 Central Utah Educational Services 450.00
SD- 00114 Uintah School District 58,060.00
SD- 00126 Iron School District 57,250.00
SD- 00129 Jordan School District ... 168,030.00
SD- 00130 Juab School District 19,130.00
SD- 00133 Kane School District 18,430.00
SD- 00152 North Summit School District 9,790.00
SD- 00153 Northeastern Utah Educational Services (NUES) 1,550.00
SD- 00156 Ogden City School District 12,550.00
SD- 00166 Logan City School District 9,210.00
SD- 00168 Daggett School District 8,390.00
SD- 00172 Davis School District 305,690.00
SD- 00177 Duchesne School District . 40,020.00
SD- 00186 Nebo School District 142,160.00
SD- 00189 North Sanpete School District 18,210.00
SD- 00194 Emery School District 25,360.00
SD- 00197 Millard School District ... 24,510.00
SD- 00200 Grand School District 12,370.00
SD- 00201 Granite School District .. 217,570.00
SD- 00212 Morgan School District ... 18,630.00
SD- 00215 Murray School District ... 16,510.00
SD- 00244 Wasatch School District .. 29,130.00
SD- 00245 Washington School District 101,080.00
SD- 00246 Wayne School District 7,800.00
SD- 00247 Weber School District ... 118,080.00
SD- 00347 Granite Education Foundation 1,320.00
APD Premiums: State Agencies
SG- 00014 Environmental Quality Department 9,720.00
SG- 00020 Natural Resources - Oil, Gas & Mining 5,480.00
SG- 00021 Natural Resources - Parks 65,290.00
SG- 00025 Natural Resources - Wildlife Resources 22,510.00
SG- 00026 Navajo Trust Fund 5,130.00
SG- 00038 Transportation (UDOT) . 428,890.00
SG- 00048 School for the Deaf and Blind 2,270.00
SG- 00065 Tax Commission 23,480.00
SG- 00066 Utah Division of Technology Services 7,930.00
SG- 00070 Board of Pardons & Parole . 2,350.00
SG- 00071 Alcoholic Beverage Services 4,020.00
SG- 00075 Attorney Generals Office . 25,040.00
SG- 00076 Auditors Office 640.00
SG- 00089 Natural Resources - Public Lands Policy Coord Office 1,270.00
SG- 00090 Public Safety Department 1,010,640.00
SG- 00092 Public Safety - Emergency Services 1,890.00
SG- 00093 Public Safety - Fire Marshal ... 1.00
SG- 00110 Treasurers Office 320.00
SG- 00111 Trust Lands 6,460.00
SG- 00118 Utah Communications Authority 6,370.00
SG- 00124 Insurance Department 8,870.00
SG- 00135 Labor Commission 12,550.00
SG- 00140 Commerce Department 9,520.00
SG- 00141 Department of Cultural & Community Engagement - Admin 3,350.00
SG- 00143 Department of Cultural & Community Engagement - Arts & Museums 320.00
SG- 00144 Department of Cultural & Community Engagement - Library 6,640.00
SG- 00146 Corrections - CUCF 12,050.00
SG- 00147 Corrections - Utah State Prison 110,070.00
SG- 00148 Corrections AP&P 175,950.00
SG- 00149 Courts 44,900.00

SG-00180 Governors Office 640.00
SG-00181 Governors Office - Criminal and Juvenile Justice 320.00
SG-00183 Governors Office of Economic Opportunity 5,430.00
SG-00193 Board of Education 22,570.00
SG-00210 Department of Health and Human Services 195,230.00
SG-00216 Utah National Guard 18,090.00
SG-00219 Natural Resources Department 287,760.00
SG-00220 Natural Resources - Forestry, Fire & State Lands 4,150.00
SG-00225 Utah Department of Government Operations - EDO 330.00
SG-00226 Facilities Construction & Management (DFCM) - Maint 41,800.00
SG-00228 Utah Division of Fleet Operations 14,920.00
SG-00230 Utah Division of Purchasing and General Services 4,820.00
SG-00231 Utah Division of Risk Management 4,000.00
SG-00232 Agriculture 62,030.00
SG-00240 Veterans Affairs 7,960.00
SG-00249 Workforce Services Department 44,820.00
SG-00257 Natural Resources - Office of Energy Development 320.00

Risk Management - Liability

Liability Premium Methodology
Liability Premiums 1.00

Exposure data and loss history are provided to an actuary, who proposes rates.

Liability Premiums: Charter Schools
CS-00015 Excelsior Academy Charter School 31,050.00
CS-00016 Fast Forward Charter School 9,050.00
CS-00027 Navigator Pointe Charter School 8,300.00
CS-00029 Gateway Preparatory Academy 14,310.00
CS-00031 The Ranches Academy Charter School 7,610.00
CS-00041 Salt Lake Arts Academy ... 8,340.00
CS-00043 Renaissance Academy 16,160.00
CS-00046 Salt Lake School for the Performing Arts 4,120.00
CS-00053 Soldier Hollow Charter School 7,170.00
CS-00063 Success Academy - Washington County 9,770.00
CS-00074 American Leadership Academy 33,290.00
CS-00079 Beehive Science & Technology Academy 13,600.00
CS-00085 Pinnacle Canyon Academy . 8,340.00
CS-00087 Providence Hall Charter School 44,790.00
CS-00094 C S Lewis Academy Charter School 5,590.00
CS-00104 Canyon Grove Academy .. 12,100.00
CS-00105 Quest Academy Charter School 21,330.00
CS-00106 Reagan Academy 14,930.00
CS-00119 Utah County Academy of Sciences 11,230.00
CS-00123 Venture Academy Charter School 16,660.00
CS-00125 Intech Collegiate High School 5,070.00
CS-00127 Itineris Early College High School 6,240.00
CS-00128 John Hancock Charter School 3,780.00
CS-00134 Karl G Maeser Preparatory Academy 12,910.00
CS-00136 Lakeview Academy 21,020.00
CS-00137 Channing Hall 13,350.00
CS-00138 City Academy 2,720.00
CS-00154 Northern Utah Academy for Math, Engr & Science 22,980.00
CS-00155 Odyssey Charter School ... 7,110.00
CS-00160 Mountain Heights Academy 20,340.00
CS-00179 Good Foundations Charter School 8,960.00
CS-00187 Noah Webster Academy .. 11,230.00
CS-00190 North Star Academy 10,850.00
CS-00191 East Hollywood High School 5,200.00
CS-00196 Merit College Preparatory Academy 9,610.00
CS-00198 Moab Charter School 1,250.00
CS-00202 Guadalupe Charter School . 6,530.00
CS-00214 Mountainville Academy ... 15,910.00
CS-00221 Academy for Math, Engineering, and Science 8,730.00
CS-00237 Valley Academy 11,480.00
CS-00238 Center for Creativity, Innovation, and Discovery 9,250.00
CS-00241 Vista at Entrada School for Performing Arts and Technology ... 23,480.00
CS-00242 Walden School of Liberal Arts 8,780.00
CS-00243 Wasatch Peak Academy .. 10,110.00
CS-00252 WSU Kinder Charter Academy 460.00
CS-00253 Winter Sports School 2,180.00
CS-00270 Scholar Academy 13,890.00
CS-00275 Ignite Entrepreneurship Academy 10,540.00
CS-00279 St George Academy 4,570.00
CS-00282 Mana Academy Charter School 6,260.00
CS-00283 Real Salt Lake Academy ... 7,280.00
CS-00284 Vanguard Charter School . 11,230.00
CS-00289 Bonneville Academy 8,630.00
CS-00300 Career Path High 3,970.00
CS-00301 Wallace Stegner Academy 28,690.00
CS-00302 Utah Military Academy ... 18,070.00
CS-00304 Franklin Discovery Academy 14,580.00
CS-00314 Utah International Charter School 4,990.00

Liability Premiums: Higher Education
HE-00009 Aggie Redrock Foundation ... 900.00
HE-00036 Tooele Technical College . 18,850.00
HE-00042 Salt Lake Community College 554,940.00
HE-00051 Snow College 158,990.00
HE-00058 Southern Utah University 404,730.00
HE-00059 Southwest Technical

College 23,660.00
HE- 00082 Bridgerland Technical College 63,440.00
HE- 00113 Uintah Basin Technical College 34,130.00
HE- 00115 University of Utah 3,118,350.00
HE- 00121 Utah State University . 1,552,450.00
HE- 00122 Utah Valley University 1,157,650.00
HE- 00158 Ogden/Weber Technical College 61,620.00
HE- 00170 Davis Technical College .. 66,610.00
HE- 00174 Dixie Technical College .. 43,140.00
HE- 00175 Utah Tech University ... 451,870.00
HE- 00213 Mountainland Technical College 81,930.00
HE- 00248 Weber State University . 526,940.00
Liability Premiums: Independent Agencies
OT- 00120 Utah State Fairpark 16,140.00
OT- 00205 Heber Valley Railroad 13,390.00
School Districts 12,826,440.00
Liability Premiums: State Agencies
SG- 00014 Environmental Quality Department 202,900.00
SG- 00017 Financial Institutions 42,790.00
SG- 00026 Navajo Trust Fund 14,410.00
SG- 00038 Transportation (UDOT) 5,239,390.00
SG- 00049 Senate 10,170.00
SG- 00065 Tax Commission 314,840.00
SG- 00066 Utah Division of Technology Services 342,231.338
SG- 00070 Board of Pardons & Parole 26,760.00
SG- 00071 Alcoholic Beverage Services 312,940.00
SG- 00075 Attorney Generals Office 368,200.00
SG- 00076 Auditors Office 24,140.00
SG- 00090 Public Safety Department 1,417,650.00
SG- 00099 Capitol Preservation Board 6,590.00
SG- 00101 Career Service Review Office1,490.00
SG- 00103 Public Service Commission 10,520.00
SG- 00107 Utah Board of Higher Education 201,800.00
SG- 00110 Treasurers Office 16,510.00
SG- 00111 Trust Lands 40,940.00
SG- 00118 Utah Communications Authority 23,590.00
SG- 00124 Insurance Department ... 52,710.00
SG- 00131 Judicial Conduct Commission 7,880.00
SG- 00135 Labor Commission 66,480.00
SG- 00140 Commerce Department .. 154,700.00
SG- 00141 Department of Cultural & Community Engagement - Admin 91,090.00
SG- 00147 Corrections - Utah State Prison 2,462,100.00
SG- 00149 Courts 531,320.00
SG- 00161 Legislative Auditors Office 24,110.00
SG- 00162 Legislative Fiscal Analysts Office 17,900.00
SG- 00163 Legislative Services 30,670.00
SG- 00164 Legislative Research & General Counsel 44,220.00
SG- 00183 Governors Office of Economic Opportunity 15,136.00
SG- 00180 Governors Office 36,949.5935
SG- 00181 Governors Office - Criminal and Juvenile Justice 56,348.13
SG- 00182 Governors Office - Tourism Division 33,024.00
SG- 00184 Governors Office of Planning and Budget 20,322.28
SG- 00185 Governors Office - Utah Office for Victims of Crime 1.00
SG- 00193 Board of Education 463,490.00
SG- 00268 School & Institutional Trust Fund 6,590.00
SG- 00206 House of Representatives . 14,680.00
SG- 00207 Utah Division of Human Resource Management 56,858.0546
SG- 00210 Department of Health and Human Services 2,109,780.00
SG- 00216 Utah National Guard 141,840.00
SG- 00219 Natural Resources Department 1,283,680.00
SG- 00222 DGO Office of Administrative Rules 2,166.0211
SG- 00223 Utah Division of Archives and Records Service 11,913.1162
SG- 00224 Office of State Debt Collection 7,039.5687
SG- 00225 Utah Department of Government Operations - DGO Admin 4,332.0423
SG- 00226 Facilities Construction & Management (DFCM) - Maint ... 94,763.4243
SG- 00227 Utah Division of Finance 23,826.2324
SG- 00228 Utah Division of Fleet Operations 12,996.1268
SG- 00230 Utah Division of Purchasing and General Services 34,114.8328
SG- 00231 Utah Division of Risk Management 30,324.1479
SG- 00232 Agriculture 189,680.00
SG- 00240 Veterans Affairs 19,420.00
SG- 00249 Workforce Services Department 802,930.00
SG- 00251 DGO Inspector Gen Med Admin 9,747.0951
SG- 00258 Governors Office - Colorado River Authority 5,110.00

Risk Management - Property

Property Coverage Premium Methodology
Premium for Existing Insured Building and Contents ..... See formula

The building/structure values are professionally evaluated every three to five years by an outside contractor through an agency contract. Values during interim years are updated by applying annual trending data supplied by the contractor for buildings that have been previously appraised. Content values are provided annually by the insured entities. Exposure data (asset values) and loss history are provided to an outside actuary, who provides a proposal for rates.

Premium for Newly Insured Buildings

Buildings valued in excess of $25 million reported to broker, who obtains rate from excess insurance carrier. Initial premium cost is passed through to covered entity.

Property Premiums: Charter Schools
CS- 00015 Excelsior Academy Charter School 56,390.00
CS- 00016 Fast Forward Charter School 13,530.00
CS- 00027 Navigator Pointe Charter

School 14,780.00
CS- 00029 Gateway Preparatory Academy 22,770.00
CS- 00031 The Ranches Academy Charter School 16,470.00
CS- 00041 Salt Lake Arts Academy ... 8,190.00
CS- 00043 Renaissance Academy 30,940.00
CS- 00046 Salt Lake School for the Performing Arts 1,340.00
CS- 00053 Soldier Hollow Charter School 13,110.00
CS- 00062 Success Academy - Iron County 450.00
CS- 00063 Success Academy - Washington County 350.00
CS- 00074 American Leadership Academy 95,540.00
CS- 00079 Beehive Science & Technology Academy 48,930.00
CS- 00085 Pinnacle Canyon Academy 36,140.00
CS- 00087 Providence Hall Charter School 107,480.00
CS- 00094 C S Lewis Academy Charter School 15,260.00
CS- 00104 Canyon Grove Academy .. 24,280.00
CS- 00105 Quest Academy Charter School 43,220.00
CS- 00106 Reagan Academy 28,330.00
CS- 00119 Utah County Academy of Sciences 33,920.00
CS- 00123 Venture Academy Charter School 46,100.00
CS- 00125 Intech Collegiate High School 1,070.00
CS- 00127 Itineris Early College High School 27,120.00
CS- 00128 John Hancock Charter School 46,090.00
CS- 00134 Karl G Maeser Preparatory Academy 34,760.00
CS- 00136 Lakeview Academy 48,190.00
CS- 00137 Channing Hall 29,440.00
CS- 00138 City Academy 970.00
CS- 00154 Northern Utah Academy for Math, Engr & Science 470.00
CS- 00155 Odyssey Charter School .. 20,790.00
CS- 00160 Mountain Heights Academy 1,160.00
CS- 00179 Good Foundations Charter School 11,570.00
CS- 00187 Noah Webster Academy .. 23,750.00
CS- 00190 North Star Academy 19,320.00
CS- 00191 East Hollywood High School 31,170.00
CS- 00196 Merit College Preparatory Academy 26,530.00
CS- 00198 Moab Charter School 3,030.00
CS- 00202 Guadalupe Charter School . 1,390.00
CS- 00214 Mountainville Academy ... 37,680.00
CS- 00221 Academy for Math, Engineering, and Science 1,830.00
CS- 00237 Valley Academy 14,080.00
CS- 00238 Center for Creativity, Innovation, and Discovery 18,570.00
CS- 00241 Vista at Entrada School for Performing Arts and Technology ... 29,140.00
CS- 00242 Walden School of Liberal Arts 19,720.00
CS- 00243 Wasatch Peak Academy .. 16,040.00
CS- 00252 WSU Kinder Charter Academy 80.00
CS- 00253 Winter Sports School 5,400.00
CS- 00270 Scholar Academy 21,670.00
CS- 00275 Ignite Entrepreneurship Academy 20,500.00
CS- 00279 St George Academy 12,310.00
CS- 00282 Mana Academy Charter School 990.00
CS- 00283 Real Salt Lake Academy .. 38,220.00
CS- 00284 Vanguard Charter School .. 1,280.00
CS- 00289 Bonneville Academy 24,860.00
CS- 00300 Career Path High 1,340.00
CS- 00301 Wallace Stegner Academy 46,130.00
CS- 00302 Utah Military Academy ... 11,430.00
CS- 00304 Franklin Discovery Academy 21,840.00
CS- 00314 Utah International Charter School 740.00
Property Premiums: Higher Education
HE- 00036 Tooele Technical College . 51,580.00
HE- 00042 Salt Lake Community College 1,044,970.00
HE- 00051 Snow College 721,910.00
HE- 00058 Southern Utah University 1,156,690.00
HE- 00059 Southwest Technical College 79,260.00
HE- 00082 Bridgerland Technical College 208,420.00
HE- 00113 Uintah Basin Technical College 174,730.00
HE- 00115 University of Utah ... 24,858,050.00
HE- 00121 Utah State University . 4,482,980.00
HE- 00122 Utah Valley University 1,826,460.00
HE- 00158 Ogden/Weber Technical College 371,760.00
HE- 00170 Davis Technical College . 344,340.00
HE- 00174 Dixie Technical College . 126,110.00
HE- 00175 Utah Tech University . 1,063,930.00
HE- 00213 Mountainland Technical College 196,890.00
HE- 00248 Weber State University 1,936,200.00
Property Premiums: Independent Agencies
OT- 00120 Utah State Fairpark 122,940.00
OT- 00205 Heber Valley Railroad 11,150.00
Property Premiums: School Districts
SD- 00019 Garfield School District .. 132,420.00
SD- 00035 Tintic School District 46,010.00
SD- 00037 Tooele School District ... 694,470.00
SD- 00039 Rich School District 75,840.00
SD- 00044 Salt Lake School District 2,843,380.00
SD- 00047 San Juan School District 404,750.00
SD- 00050 Sevier School District ... 363,820.00
SD- 00054 South Sanpete School District 277,990.00
SD- 00055 South Summit School District 126,670.00
SD- 00057 Southeastern Educational Center 1,930.00
SD- 00060 Southwest Education Developmental Center 1,990.00
SD- 00073 Alpine School District . 2,727,300.00
SD- 00078 Beaver School District ... 126,670.00
SD- 00080 Box Elder School District 574,150.00
SD- 00083 Park City School District 610,600.00
SD- 00086 Piute School District 43,500.00
SD- 00088 Provo School District 824,110.00

SD-00096 Cache School District 582,520.00
SD-00098 Canyons School District 2,364,870.00
SD-00100 Carbon School District .. 200,230.00
SD-00114 Uintah School District ... 357,280.00
SD-00126 Iron School District 503,310.00
SD-00129 Jordan School District . 2,149,910.00
SD-00130 Juab School District 140,100.00
SD-00133 Kane School District 144,100.00
SD-00152 North Summit School District 91,400.00
SD-00153 Northeastern Utah Educational Services (NUES) 1,500.00
SD-00156 Ogden City School District 852,540.00
SD-00166 Logan City School District 295,560.00
SD-00168 Daggett School District ... 31,050.00
SD-00172 Davis School District .. 3,985,190.00
SD-00177 Duchesne School District 446,220.00
SD-00186 Nebo School District .. 1,459,500.00
SD-00189 North Sanpete School District 133,020.00
SD-00194 Emery School District ... 290,400.00
SD-00197 Millard School District .. 309,750.00
SD-00200 Grand School District ... 173,280.00
SD-00201 Granite School District 2,449,080.00
SD-00212 Morgan School District .. 156,380.00
SD-00215 Murray School District .. 262,080.00
SD-00244 Wasatch School District . 439,850.00
SD-00245 Washington School District 2,224,370.00
SD-00246 Wayne School District 61,650.00
SD-00247 Weber School District . 1,588,410.00
SD-00347 Granite Education Foundation 760.00

Property Premiums: Independent Agencies

SG-00118 Utah Communications Authority 232,680.00

Property Premiums: State Agencies

SG-00014 Environmental Quality Department 34,260.00
SG-00017 Financial Institutions 1,140.00
SG-00020 Natural Resources - Oil, Gas & Mining 3,000.00
SG-00021 Natural Resources - Parks 1,084,890.00
SG-00022 Natural Resources - Utah Geological Survey 4,280.00
SG-00023 Natural Resources - Water Resources Division 7,490.00
SG-00024 Natural Resources - Water Rights 2,830.00
SG-00025 Natural Resources - Wildlife Resources 355,000.00
SG-00026 Navajo Trust Fund 7,640.00
SG-00038 Transportation (UDOT) . 992,100.00
SG-00048 School for the Deaf and Blind 161,280.00
SG-00049 Senate 1,800.00
SG-00065 Tax Commission 23,030.00
SG-00066 Utah Division of Technology Services 77,030.00
SG-00092 Public Safety - Emergency Services 30.00
SG-00070 Board of Pardons & Parole . 2,170.00
SG-00071 Alcoholic Beverage Services 223,280.00
SG-00075 Attorney Generals Office .. 9,070.00
SG-00076 Auditors Office 1,810.00
SG-00089 Natural Resources - Public Lands Policy Coord Office 320.00
SG-00090 Public Safety Department 171,970.00
SG-00091 Public Safety - Drivers License 14,430.00
SG-00093 Public Safety - Fire Marshal . 860.00
SG-00099 Capitol Preservation Board 790,380.00
SG-00101 Career Service Review Office .. 70.00
SG-00103 Public Service Commission 2,720.00
SG-00107 Utah Board of Higher Education 83,510.00
SG-00108 Transportation (UDOT) - Unlicensed Equipment 29,530.00
SG-00109 Transportation (UDOT) - Aeronautical Operations 7,670.00
SG-00110 Treasurers Office 1,510.00
SG-00111 Trust Lands 7,590.00
SG-00124 Insurance Department 570.00
SG-00131 Judicial Conduct Commission 100.00
SG-00135 Labor Commission 5,590.00
SG-00140 Commerce Department 7,650.00
SG-00141 Department of Cultural & Community Engagement - Admin 1,130.00
SG-00143 Department of Cultural & Community Engagement - Arts & Museums ... 47,720.00
SG-00144 Department of Cultural & Community Engagement - Library 25,240.00
SG-00145 Department of Cultural & Community Engagement - State History 160,650.00
SG-00146 Corrections - CUCF 309,910.00
SG-00147 Corrections - Utah State Prison 751,160.00
SG-00148 Corrections AP&P 107,530.00
SG-00149 Courts 89,090.00
SG-00161 Legislative Auditors Office . 1,120.00
SG-00162 Legislative Fiscal Analysts Office 490.00
SG-00163 Legislative Services 2,110.00
SG-00164 Legislative Research & General Counsel 1,930.00
SG-00180 Governors Office 16,140.00
SG-00181 Governors Office - Criminal and Juvenile Justice 2,330.00
SG-00183 Governors Office of Economic Opportunity 2,970.00
SG-00184 Governors Office of Planning and Budget 3,210.00
SG-00185 Governors Office - Utah Office for Victims of Crime 1,640.00
SG-00193 Board of Education 48,410.00
SG-00206 House of Representatives .. 3,690.00
SG-00207 Utah Division of Human Resource Management 1,160.00
SG-00208 DHHS - Juvenile Justice Center 299,370.00
SG-00209 DHHS - State Hospital .. 314,520.00
SG-00210 Department of Health and Human Services 176,000.00
SG-00211 DHHS - Developmental Center 166,550.00
SG-00216 Utah National Guard 984,310.00
SG-00219 Natural Resources Department 14,620.00

SG-00220 Natural Resources - Forestry, Fire & State Lands 17,730.00
SG-00222 DGO Office of Administrative Rules 230.00
SG-00223 Utah Division of Archives and Records Service 70,570.00
SG-00224 Office of State Debt Collection 380.00
SG-00225 Utah Department of Government Operations - DGO Admin 600.00
SG-00226 Facilities Construction & Management (DFCM) - Maint .. 4,977,980.00
SG-00227 Utah Division of Finance .. 1,190.00
SG-00228 Utah Division of Fleet Operations 1,020.00
SG-00230 Utah Division of Purchasing and General Services 24,300.00
SG-00231 Utah Division of Risk Management 1,560.00
SG-00232 Agriculture 13,420.00
SG-00240 Veterans Affairs 300,980.00
SG-00249 Workforce Services Department 59,570.00
SG-00258 Governors Office - Colorado River Authority 290.00
SG-00268 School & Institutional Trust Fund 3,060.00

Course of Construction Premiums
Builder's Risk (Course of Construction) Premium 0.10

Charged once per project (unless scope changes)

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division

Device Rate
(per Device/Month) 184.72

This rate combines expenses tied to each devices (desktop/laptops) which connect to state systems. It includes Computer and Helpdesk Support, Network Connection, SCCM, and Security Support. This is not an additional expense to agencies, it combines several existing fees to simplify agency budgeting and billing review.

User Rate (per User/Month) . 39.87

This rate combines expenses tied to each user in the state systems. It includes Google Enterprise, Adobe Pro/Sign, and User Management (identity, authorization, authentication). This is not an additional expense to agencies, it combines several existing fees to simplify agency budgeting and billing review.

Application Developer Rate
Tier 1 (per Hour) 86.13
Tier 2 (per Hour) 99.88
Tier 3 (per Hour) 118.75
Tier 4 (per Hour) 136.32

Communications and Phone Services
Business Phone Line VoIP (incl. Softphone & LD) (per Line/Month) 23.90
Business Phone Line Analog (per SBA) ..... Special Billing Agreement
Toll Free (per Minute) 0.0404
Persistent Chat (per User/Month) 8.18
Contact Center (per Core License/Month) 39.77
Technician Hourly Rate (per Hour) 104.81

Computer Support Services
Computer and Helpdesk Support (Non-Seat Rate) (per Device/Month) 82.73
AdobePro/Sign* (Non-Seat Rate) (per Device/Month) 3.80
DaaS AWS (per Cost + 10%) ..... Direct Cost + 10%
DaaS Citrix/GCP (per Device/Month) 50.56
Google Email and Collaboration Tools (Non-Seat Rate) (per Account/Month) 12.22
On-Call Support (per SBA) .... Special Billing Agreement

Network Services
Network Connection (Non-Seat Rate) (per Device/Month) 68.90
Network Connection - Internet of Things (per Connection/Month) 9.82
Network Services - 10 GB (per Connection/Month) 275.60
Network Connection - Non-Cabinet Agencies (per Device/Month) 82.89

Security Services
Security Support/IAM (Non-Seat Rate) (per Device/Month) 55.95
Security Assessment and Remediation (Non-Seat Rate) (per Table) ..... Table

Device Count: 1-99 $15,500; 100-499 $31,000; 500-1999 $62,000; 2000-4999 $124,000; >5000 $248,000, Insurance Only $3,565

Database Services
Oracle Database Hosting Core Model (per Core/Month) 2,762.49
Oracle Database Hosting Shared Model (per GB/Month) 22.38
SQL Database Hosting Core Model (per Core/Month) 1,173.38
SQL Database Hosting Shared Model (per GB/Month) 7.65

Hosting Services
Processing (CPU) (per CPU/Month) 33.17
Memory (per GB/Month) 6.13
General Purpose Storage (per GB/Month) 0.0411
Back-up Services (per GB/Month) 0.1173
Web Application Hosting (per Instance/Month) 261.47
Data Center Rack Space - Full Rack (per Rack/Month) 936.86
Data Center Rack Space - Rack U (per Rack U/Month) 31.23
Cloud Hosting and Storage Services (per Cloud) ..... Actual Cost
DTS Cloud Infrastructure (per Hour) 2.45

Print Services
Secure Application Print (per Image) ... 0.0292

Miscellaneous Services
DTS Consulting Charge (per Hour) ..... Table

Tier 1: $88.58/hr; Tier 2: $102.33/hr; Tier 3: $121.20/hr; Tier 4: $138.77/hr

Consultant Services (Managed Service Provider) (per Direct Cost + 3%) ..... Direct Cost + 3%
All Other Contracts (per Up to Cost + 1%) ..... Cost + 1%
Enterprise Software (per Up to Cost + 10%) ..... Up to Cost + 10%
Other Technical Services

(per Cost + 10%) ..... Cost + 10%
Service Now Low Code Licenses
(per Cost + 10%) ..... Cost + 10%
Microsoft Power App/BI Licenses (per Cost + 10%) ..... Cost + 10%
Salesforce Licenses
(per Cost + 10%) ..... Cost + 10%

INTEGRATED TECHNOLOGY

Utah Geospatial Resource Center

UGRC Services
GPS Subscriptions
(per Subscription/Year) 600.00
Geographic Information Technologies Professional Labor (per Hour) . see schedule below

Tier 1: $88.58/hr; Tier 2: $102.33/hr; Tier 3: $121.20/hr; Tier 4: $138.77/hr

HUMAN RESOURCE MANAGEMENT

Statewide Management Liability Training

Course Fee (per student) 750.00
Other Training Fee
(per hour) 25.00

Pay for Performance

P4P Services (per FTE) 40.51

HUMAN RESOURCES INTERNAL SERVICE FUND

ISF - Core HR Services

Core Services (per FTE) 95.09

ISF - Field Services

Consulting Services (Non- Customer)
(per Consult) ..... Actual Cost
HR Field Services (per FTE) . 838.54
Notary Service Fee 6.50

ISF - Payroll Field Services

Payroll Services (per FTE) ... 80.38

TRANSPORTATION

AERONAUTICS

Administration

Convenience Fee (for Credit or Debit Card Payment) 3%

Airplane Operations

Aircraft Rental
Cessna (per Hour) 195.00
King Air C90B (per Hour) 935.00
King Air B200 (per Hour) 1,200.00
King Air 260 (per Hour) 1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE

Conference Registration ..... Up to $2,000.00
Conference Exhibitor Booth . Up to $6,000.00
Utah Small Wireless Facilities Deployment (5G)
New Collocation Fee 100.00
Annual Collocation Fee 50.00
New Facility Installation Fee 250.00
Facility Annual Renewal Fee 250.00
Training and Certification ... Up to $1,000.00
Event Coordination, Inspection and Monitoring (Regular Hours)
(per Hour) 60.00
Event Coordination, Inspection and Monitoring (Non- regular Hours)
(per Hour) 80.00
Special Event Application Review (Single Region)
(per Event) 250.00
Special Event Application Review (Multi- region)
(per Event) 500.00
Expedited Review Fee
(per Event) 600.00
Outdoor Advertising
New Permit 950.00
Permit Renewal and Administrative Services Fee 90.00
Permit Renewal Late Fee (per Sign) 300.00
Sign Alteration Permit (per Sign) 950.00
Transfer of Ownership Permit 250.00
Retroactive Permit Fee Penalty
(per Sign) 250.00
Impound and Storage Fees 25.00

ENGINEERING SERVICES

Planning and Investment

Electric Vehicle Charging Fees
Electric Vehicle Fast DC Charging Session 1.00
Electric Vehicle Fast DC Charging Energy
(per kWh) 0.40
Electric Vehicle Fast DC Idling
(per Minute) ..... $0.40 after 10 minute grace
Electric Vehicle Level 2 Charging Session 1.00
Electric Vehicle Level 2 Charging Energy
(per kWh) 0.08
Electric Vehicle Level 2 Idling
(per Minute) ..... $0.40 after 15 minute grace

Materials Lab

Out of State Material Lab Billings
(per Hour) ..... Up to $100.00

OPERATIONS/MAINTENANCE MANAGEMENT

Region 4

Lake Powell Ferry Rates
Foot Passengers 10.00
Motorcycles 15.00
Vehicles Under 20' 25.00
Vehicles Over 20' (per Additional Foot) 1.50

Traffic Safety/Tramway

Tramway Registration
Two- car or Multicar Aerial Passenger Tramway
Aerial Tramway - 101 Horse Power or Over 2,030.00
Aerial Tramway - 100 Horse Power or Under 1,010.00
Tramway Surcharge for Winter and Summer Use 15%

The 15% surcharge reflects changes to the setup and operation of the lifts for winter and summer operation of the ropeways.

Chair Lift
Fixed Grip
2 Passenger .. 630.00
3 Passenger .. 750.00
4 Passenger .. 875.00
Conveyor, Rope Tow 260.00
Funicular - Single or Double Reversible 2,030.00
Rope Tow, J- bar, T- bar, or Platter Pull . 260.00
Detachable Grip Chair or Gondola
3 Passenger 1,510.00
4 Passenger 1,625.00
6 Passenger 1,750.00

8 Passenger 1,880.00
Gondola - Cabin Capacity from 5 to 8 . 1,010.00
Gondola - Cabin Capacity greater than 8 ..... 2,030.00

SUPPORT SERVICES

Administrative Services

Express Lane - Administrative Fee 2.50
GRAMA Requests (per Hour) 40.00
Non-sufficient Check Collection 20.00
Non-sufficient Check Service Charge 20.00
Tow Truck Driver Certification 200.00
Access Management Application
Type 1 ..... 75.00
Type 2 ..... 475.00
Type 3 ..... 1,000.00
Type 4 ..... 2,300.00
Access Violation Fine (per Day) 100.00
Encroachment Permits
Landscaping 30.00
Manhole Access 30.00
Inspection (per Hour) 60.00
Overtime Inspection (per Hour) 80.00
Utility Permits
Low Impact 30.00
Medium Impact 135.00
High Impact 300.00
Excess Impact 500.00

AMUSEMENT RIDE SAFETY

Citations - Operation of an Amusement Ride without a Current Permit 1st Offense (per Violation, per Ride, per Day) 500.00
Citations - Operation of an Amusement Ride without a Current Permit 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations - Failure to Notify Director of Intent to Operate within the State 1st Offense 500.00
Citations - Failure to Notify Director of Intent to Operate within the State 2nd Offense 1,000.00
Citations - Operation of an Amusement Ride without Proper Liability Insurance 1st Offense (per Violation, per Ride, per Day).....500.00
Citations - Operation of an Amusement Ride without Proper Liability Insurance 2nd Offense (per Violation, per Ride, per Day)..... 1,000.00
Citations - Operation of an Amusement Ride without Current Safety Inspection Report 1st Offense (per Violation, per Ride, per Day) ..500.00
Citations - Operation of an Amusement Ride without Current Safety Inspection Report 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 1st Offense (per Violation, per Ride, per Day) 1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 2nd Offense (per Violation, per Ride, per Day) 2,500.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 1st Offense (per Violation, per Ride, per Day) 1,000.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 2nd Offense (per Violation, per Ride, per Day) 1,500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 1st Offense (per Violation, per Ride, per Day) 500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 2nd Offense (per Violation, per Ride, per Day) 1,000.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 1st Offense. . . 500.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 2nd Offense . . .1,000.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 1st Offense (per Violation, per Ride, per Day) 500.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 2nd Offense (per Violation, per Ride, per Day) 750.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 1st Offense (per Violation, per Ride, per Day) 250.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 2nd Offense (per Violation, per Ride, per Day) 500.00
Citations - Falsifying an Application to the Director 1st Offense 1,000.00
Citations - Falsifying an Application to the Director 2nd Offense 1,500.00
Citations - Denying Access to the Director 1st Offense 1,000.00
Citations - Denying Access to the Director 2nd Offense 1,500.00
Citations - Other Violations to the Statute or Rules not Listed 2nd Offense 250.00
Annual Amusement Ride Permit
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)
Permit Fee per Ride
Kiddie Ride 100.00
Non-kiddie Ride 100.00
Annual Inspector Registration
Application Fee 50.00
Renewal Fee (Every Two Years) 40.00

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

DABS OPERATIONS

Administration

Customized Reports Produced by Request (per hour) 50.00
Stock Location Report 25.00
Photocopies 0.15

Returned Check Fee 20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence 20.00
Research (per hour) 30.00
Video/DVD 25.00
Price Lists
Master Category 8.00
$96 Yearly
Alpha by Product 8.00
$96 Yearly
Numeric by Code 8.00
$96 Yearly
Military 8.00
$96 Yearly
Executive Director
Compliance Licensee Lists ... 10.00
Label Approval Fee 50.00
Fee for DABC staff time for label approval process
Late Fee 300.00
Fee charged for missing the application or renewal deadline. Was approved after public hearing September 2021.
Licensee Rules 20.00
Master Limited Restaurant License Application fee 5,330.00
Master Limited Restaurant License Application fee
Master Limited Restaurant License renewal fee 4,250.00
Master Limited Restaurant License renewal fee
Training Fee 25.00
H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.
Utah Code 30.00
Stores and Agencies
Type 5 Administrative Overhead Fee (per Percentage) ..... 3% of actual sales
The DABS Compliance Division administers the program by awarding, administering, and modifying the Type 5 Package Agency contracts as needed, conducting annual audits of Type 5 Package Agencies under contract for compliance with Title 32B, Alcoholic Beverage Control Act, and the contracts, taking any action to remedy compliance issues, and serving as a resource for compliance- and licensing-related issues that arise with Type 5 Package Agencies. The DABS Finance/Accounting division administers the program by: Reconciling Type 5 Package Agents Monthly Sales Reports, and charging them the applicable percentage of administrative overhead fees and earmarked transfer amounts.
Warehouse and Distribution
Missed Appointment with Less than 24 Hour Notice (per appointment) 500.00
Missed Appointment without Notice (per appointment) 1,000.00
Non-Compliant Labeling (per case) 25.00
PO Revisions Not Sent to Purchasing in Advance (per line item) 250.00
Product Disposal (per pallet) . 500.00
Re-configuring Pallets (per pallet) 250.00
Restacking Shifted/Collapsed Loads (per load) 250.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration
Administration
Motor Vehicle Franchise Act
Application 83.00
Renewal 83.00
Powersport Vehicle Franchise Act
Application 83.00
Renewal 83.00
Application in addition to MVFA 27.00
Renewal in addition to MVFA 27.00
Late Renewal 20.00
Employer Legal Status Voluntary Certification (Bi-annual) 3.00
Home Owner Associations
HOA Registration 37.00
Change in HOA Registration 10.00
Commerce Department
All Divisions
Booklets ..... Actual Cost
Administrative Expungement Application 200.00
Electronic Payment (Base sub-total under $100) ..... Not to Exceed $3.00
Electronic Payment Fee (Base sub-total over $100) ..... Not to Exceed 3%
Priority Processing 75.00
List of Licensees/Business Entities 25.00
Photocopies (per copy) 0.30
Verification of Licensure/Custodian of Record 20.00
Returned Check Charge 20.00
FBI Fingerprint File Search 10.00
BCI Fingerprint File Search 20.00
($25 With $5 RAP Back included)
Fingerprint Processing for non-department 10.00
Government Records and Management Act
Staff time to search, compile and otherwise prepare record ..... Actual Amount
GRAMA Electronic Record ..... Actual Cost
Property Rights Ombudsman
Filing Request for Advisory Opinion 150.00
Land Use Seminar Continuing Education 25.00
Books
Citizens Guide to Land Use
Single copy .. 15.00
Six or more copies 9.00
Case of 22 books 132.00

Consumer Protection
Business Opportunity Disclosure Register
Exempt 100.00
Approved 200.00
Charitable Solicitation Act
Charity 75.00
Professional Fund Raiser 250.00
Credit Services Organization
Annual Fee 250.00
Debt Management Services Organizations 250.00
Health Spa
Registration / Renewal 100.00
Immigration Consultants
Initial Registration Fee 200.00
License Renewal Fee 200.00
Maintenance Funding Provider
Registrations New Application/Renewal . 300.00
Miscellaneous
Transcript / Diploma Request 30.00
Residential vocational and life skills registration 500.00
Microcassette Copying (per tape) .. Actual Cost
Miscellaneous Fees
Late Renewal (per month) 25.00
Pawnshop Registry
Pawnbroker Late Fee 50.00
Out- of- State Pawnshop Database Request 900.00
Pawnshop/2nd hand store Registration . 300.00
Law Enforcement Registration 3.00
Postsecondary Schools
Initial Application 850.00
Renewal Application 850.00
Registration Review 850.00
Accredited Institution Certificate of Exemption Registration/Renewal 850.00
Postsecondary Schools Registration Application 850.00
Non- Profit Exemption Certificate Registration/Renewal 1,500.00
Telephone Solicitation
Telemarketing Registration 500.00
Transportation Network Company
Registration 5,000.00
License Renewal 5,000.00

Corporations and Commercial Code
Annual Report
Profit 13.00
Nonprofit 10.00
Limited Partnership 13.00
Limited Liability Company 13.00
Other Foreign/Domestic 13.00
Change Form 13.00
Articles of Incorporation
Domestic Profit 54.00
Domestic Nonprofit 30.00
Foreign Profit 54.00
Foreign Nonprofit 30.00
Certification
Corporate Standing 12.00
Corporate Standing- Long Form 20.00
Changes of Corporate Status
Amend/Restate/Merge- Profit 37.00
Amend/Restate/Merge- Nonprofit 17.00
Amendment- Foreign 37.00
Pre- authorization of document 25.00
Statement of Correction 12.00
Conversion 37.00
Commercial Code Lien Filing
UCC I Filings (per page) 12.00
UCC Addendum (per page) 12.00
UCC III Assignment/Amendment 12.00
UCC III Continuation 12.00
UCC III Termination ..... No Charge
CFS- 1 ..... 12.00
CFS Addendum 12.00
CFS- 3 ..... 12.00
CFS- 2 ..... 12.00
CFS Registrant 25.00
Master List 25.00
Commercial Registered Agent
Registration 52.00
Changes 52.00
Terminations 52.00
Corporation Search
In- House 10.00
DBA
Registration 22.00
Renewals 13.00
Business/Real Estate Investment Trust .. 22.00
Decentralized Autonomous Organizations
Annual Registration Fee 300.00
Lien Search
Search 12.00
Limited Liability Company
Articles of Organization/Qualification 54.00
Reinstate 54.00
Amend/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
Limited Partnership
Certificate/Qualification 70.00
Reinstate 54.00
Amend/Restate/Merge 37.00
Statement of Correction 12.00
Conversion 37.00
Other
Statement Authority 15.00

One- time registration or as changes are needed
Late Renewal 10.00
Out of State Motorist Summons 12.00
Collection Agency Bond 32.00
Unregistered Foreign Business 12.00
Foreign Name Registration 22.00
Statement of Certification 12.00
Name Reservation 22.00
Telecopier Transmittal 5.00
Telecopier Transmittal (per page) 1.00
Partnerships
Limited Liability 27.00
General 27.00

5- year renewal
Limited Liability Partnership Articles of Incorporation 70.00

Previously under Limited Partnership, now LLP's Articles of Incorporation
Reinstatement
Profit 54.00
Requalification/Reinstatement
Nonprofit 30.00
Single- Sign- On

Single Sign- On- Portal Fee 5.00

Surcharge on Business renewals for Single Sign- On Portal.

Trademark/Electronic Trademark
Initial Application and 1st Class Code ... 50.00
Each Additional Class Code 25.00
Renewals 50.00
Assignments 25.00
Transactions Through Utah Interactive
Registered Principal Search 3.00
Business Entity Search Principals 1.00
Certificate of Good Standing 12.00
Subscription 75.00
UCC Searches 12.00
List Compilation
Customized ..... $5.00 + $0.03 per record
One Stop Business
Registration ..... $5.00 + $0.05 per record
Unincorporated Cooperative Association
Articles of Incorporation/Qualification ... 22.00
Annual Report 7.00

Occupational and Professional Licensing

Acupuncturist
New Application Filing 110.00
License Renewal 63.00
Alarm Company
Company Application Filing 330.00
Company License Renewal 203.00
Agent Application Filing 60.00
Agent License Renewal 42.00
Agent Temporary Permit 20.00
Anesthesiologist Assistant
Anesthesiologist Assistant 180.00
Renewal 133.00
Architect
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge .. 10.00
Armored Car
Registration 330.00
Renewal 203.00
Security Officer Registration 60.00
Security Officer Renewal 42.00
Education Approval 300.00
Athletic Agents
New Application Filing 510.00
License Renewal 510.00
Athletic Trainer
New Application Filing 70.00
License Renewal 47.00
Building Inspector
New Application Filing 85.00
License Renewal 63.00
Certified Court Reporter
New Application Filing 45.00
License Renewal 42.00
Certified Dietician
New Application Filing 60.00
License Renewals 37.00
Certified Nurse Midwife
New Application Filing 100.00
License Renewal 73.00
Intern- New Application Filing 35.00
Certified Public Accountant
Individual CPA Application Filing 85.00
Individual License/Certificate Renewal .. 63.00
CPA Firm Application for Registration ... 90.00
CPA Firm Registration Renewal 52.00
Chiropractic Physician
New Application Filing 200.00
License Renewal 103.00
Clinical Mental Health Counselor
New Application Filing 120.00
License Renewals 93.00
Professional Counselor Associate New Application Filing 85.00
Associate Clinical Mental Health Extern New Application 85.00
Commercial Interior Design
Certification New Application 70.00
Certification Renewal 47.00
Construction Ownership
Ownership Status Report 20.00
Ownership Listing/Change 20.00
Contractor
Electronic Reference Library Surcharge ... 1.00

Assessed on initial and renewal licenses for Architects, Engineers, Land Surveyors, Electrical and Plumbing Contractors

New Application Filing 175.00
License Renewals 113.00
New / Change Qualifier 50.00
Corporation Conversion 35.00
Continuing Education Course Approval .. 40.00
Continuing Education
(per credit hour tracking) 1.00
Controlled Substance
New Application Filing 100.00
License Renewal 78.00
Controlled Substance Handler
Facility New Application Filing 90.00
Facility License Renewal 68.00
Individual New Application Filing 90.00
Individual License Renewal 68.00
Controlled Substance Precursor
Distributor New Application Filing 210.00
License Renewal 113.00
Cosmetologist/Barber
Esthetician / Nail Technician Apprentice Cosmetology disciplines Registration / Renewal 20.00
Barber Renewal 52.00
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Barber New Application 60.00
School License Renewal 52.00
Barber Instructor Certificate 60.00
Deception Detection
Examiner Administrator Application 50.00
Examiner Administrator Renewal 32.00
Examiner New Application Filing 50.00
Examiner License Renewal 32.00
Intern New Application Filing 35.00
Intern License Renewal 32.00
Dental Hygienist
New Application Filing 60.00
License Renewal 47.00
Anesthesia Upgrade New Application 35.00
Dentist
New Application Filing 110.00
License Renewals 73.00

Anesthesia Upgrade New Application 60.00
Direct Entry Midwife
New Application Filing 100.00
License Renewal 73.00
Electrician
General Electrical Contractor New Application Filing 175.00
Residential Electrical Contractor New Application Filing 175.00
Residential Electrical Contractor Renewal 113.00
General Electrical Contractor Renewal .. 113.00
Contractor Surcharge Education Fund 5.00
Apprentice Tracking per credit hour 0.24
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval .. 40.00
Continuing Education (per credit hour tracking) 1.00
Electrologist
New Application Filing 50.00
License Renewals 32.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Elevator Mechanic
New Application Filing 110.00
License Renewal 63.00
Continuing Education Course Approval .. 40.00
Continuing Education (per credit hour tracking) 1.00
Engineer
Education and Enforcement Surcharge .. 10.00
Engineer, Professional
New Application Filing 110.00
Engineer License Renewal 63.00
Structural Engineer New Application Filing 110.00
Structural Engineer License Renewal 63.00
Environmental Health Scientist
New Application Filing 60.00
License Renewal 37.00
New Application Filing 60.00

In training
Esthetician
New Application Filing 60.00
License Renewals 52.00
Instructor Certificate 60.00
Master New Application Filing 85.00
Master License Renewal 68.00
School New Application Filing 110.00
School License Renewal 110.00
Factory Built Housing
Dealer New Application Filing 30.00
Dealer License Renewal 30.00
On- site Plant Inspection (per hour) ..... $50 per hour plus expenses
Education and Enforcement 25.00
Funeral Services
Director New Application Filing 160.00
Director License Renewal 88.00
Intern New Application Filing 85.00
Establishment New Application Filing .. 250.00
Establishment License Renewal 250.00
Genetic Counselor
New Application Filing 150.00
License Renewal 138.00
Geologist
New Application Filing 150.00
License Renewal 123.00
Education and Enforcement Fund 15.00
Hair Design
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing and Renewal 110.00
License Apprenticeship 20.00
Handyman Affirmation
Handyman Exemption Registration/Renewal 35.00
Health Facility Administrator
New Application Filing 120.00
License Renewals 83.00
Hearing Instrument Specialist
New Application Filing 150.00
License Renewal 103.00
Intern New Application Filing 35.00
Hearing Instrument Specialist
Hearing Instrument Intern Renewal 20.00
Hunting Guide
New Application Filing 75.00
License Renewal 50.00
Land Surveyor
New Application Filing 110.00
License Renewals 63.00
Education and Enforcement Surcharge .. 10.00
Landscape Architect
New Application Filing 110.00
License Renewal 63.00
Examination Record 30.00
Education and Enforcement Fund 10.00
Marriage and Family Therapist
Therapist New Application Filing 120.00
Therapist License Renewal 93.00
Associate New Application Filing 85.00
Externship New Application Filling 85.00
Massage
Assistant New Application Filing 35.00
Assistant License Renewal 20.00
Assistant in Training New Application ... 35.00
Massage Supervisor Re- designation 20.00
Apprentice Renewal 20.00
Therapist New Application Filing 60.00
Therapist License Renewal 52.00
Apprentice New Application Filing 35.00
Medical Language Interpreter
New Application Filing 50.00
Interpreter Renewal 25.00
Music Therapy
Certified Music Therapist New Application 70.00
Certified Music Therapist Application Renewal 47.00
Nail Technician
New Application Filing 60.00
License Renewal 52.00
Instructor Certificate 60.00
School New Application Filing 110.00
School License Renewal 110.00
Naturopathic Physician
New Application Filing 200.00
License Renewals 113.00
Nursing

Licensed Practical Nurse New Application Filing 60.00
Licensed Practical Nurse License Renewal 68.00
Registered Nurse New Application Filing 60.00
Registered Nurse License Renewal 68.00
Advanced Practice RN New Application Filing 100.00
Advanced Practice RN License Renewal .. 78.00
Advanced Practice RN- Intern New Application Filing 35.00
Certified Nurse Anesthetist New Application Filing 100.00
Certified Nurse Anesthetist License Renewal 78.00
Educational Program Approval- Initial Visit 500.00
Educational Program Approval- Follow- up 250.00
Medication Aide Certified New Application Filing 50.00
Medication Aide Certified License Renewal 42.00
Occupational Therapist
Compact New 80.00
Compact Renewal 47.00
New Application Filing 70.00
Therapist License Renewal 47.00
Assistant New Application Filing 70.00
Assistants License Renewal 47.00
Occupational Therapy Assistant
Compact New 80.00
Compact Renewal 47.00
Optometrist
New Application Filing 140.00
License Renewal 93.00
Osteopathic Physician and Surgeon
Interstate Compact License Renewal ... 193.00
Interstate Compact License New Application Filing 200.00
New Application Filing 200.00
License Renewals 193.00
Other
Pre- License Conviction Administrative Review 50.00
Inactive/Reactivation/Emeritus License .. 50.00
Temporary License 50.00
Late Renewal 20.00
License/Registration Reinstatement 50.00
Duplicate License 10.00
Disciplinary File Search (per order document) 12.00
Change Qualifier 50.00
UBC Seminar ..... Actual Cost
surcharge of 1% of Building Permits in accordance w/ UCA- 15a- 1- 209- 5- a
UBC Building Permit surcharge ..... 1% of Building Cost
DOPL Licensed Profession Data Request First 200 Records 5.00
New Fee
DOPL Licenced Profession Data Request Each Additional Request 0.03
New Fee
DOPL Licenced Profession Data Request Full List 0.01
Outfitter
New License Filing 150.00
License Renewal 50.00
Pharmacy
Licensed Dispensing Practice- New Application 110.00
Licensed Dispensing Practice- Renewal .. 73.00
Dispensing Medical Practitioner New Application Filing 110.00
Dispensing Medical Practitioner License Renewal 73.00
Dispensing Medical Practitioner Clinic New Application 200.00
Dispensing Medical Practitioner Clinic License Renewal 113.00
Technician Trainee New / Renewal 50.00
Pharmacist New Application Filing 110.00
Pharmacist License Renewal 73.00
Intern New Application Filing 100.00
Technician New Application Filing 60.00
Technician License Renewal 57.00
Class A New Application Filing 200.00
Class A License Renewal 103.00
Class B New Application 200.00
Class B License Renewal 103.00
Class C New Application 200.00
Class C License Renewal 103.00
Class D New Application 200.00
Class D License Renewal 103.00
Class E New Application 200.00
Class E License Renewal 103.00
Physical Therapy
Compact New / Renewal 47.00
Assistant Compact New/Renewal 47.00
Dry Needle Registration 50.00
New Application Filing 70.00
License Renewal 47.00
Physical Therapy Assistant
New Application Filing 60.00
License Renewal 47.00
Physician Assistant
Physician Assistant Compact ..... Actual Cost
Physician Assistant Utah Compact Fee . 180.00
New Application Filing 180.00
License Renewals 133.00
Physician Educator
I new application 200.00
I renewal 193.00
II new application 200.00
I renewal 193.00
Physician and Surgeon
Restricted Associate Physician New Application Filing 210.00
Restricted Associate Physician Renewal . 123.00
Qualified Medical Provider Cannabis Fee 100.00
Physician Compact Interstate Commission Service Fee ..... Actual Cost
Compact Existing Licensee Fee 40.00
Interstate Compact New License Application Filing 200.00
Interstate Compact License Renewal ... 193.00
Physician/Surgeon
New Application Filing 200.00
License Renewal 193.00
Plumber
General Plumbing Contractor New Application Filing 175.00
General Plumbing Contractor Renewal . 113.00
Residential Plumbing Contractor New Application Filing 175.00

Residential Plumbing Contractor Renewal 113.00
Contractor Surcharge Education Fund 5.00
CE Course Approval 40.00
CE Course Attendee Tracking / per hour .. 1.00
Apprentice CE Attendance Tracking/ per hour 0.24
New Application Filing 110.00
License Renewals 63.00
Podiatric Physician
New Application Filing 200.00
License Renewal 113.00
Pre- Need Funeral Arrangement
Sales Agent New Application Filing 85.00
Sales Agent License Renewal 73.00
Private Probation Provider
New Application Filing 85.00
License Renewal 63.00
Psychologist
Behavioral Analyst New Application Filing 120.00
Behavioral Analyst License Renewal 93.00
Assistant Behavioral Analyst New Application Filing 120.00
Assistant Behavioral Analyst License Renewal 93.00
Behavioral Specialist License Renewal ... 78.00
Assistant Behavioral Specialist License Renewal 78.00
New Application Filing 200.00
License Renewal 128.00
Certified Psychology Resident New App Filing 85.00
Radiologist Assistant
New Application Filing 70.00
License Renewal 47.00
Radiology
Technologist New Application Filing 70.00
Technologist License Renewal 47.00
Practical Technologist New Application Filing 70.00
Practical Technologist License Renewal .. 47.00
Recreation Therapy
Master Therapeutic Recreational Specialist New Application Filing 70.00
Master Therapeutic Recreational Specialist License Renewal 47.00
Therapeutic Recreational Specialist New Application Filing 70.00
Therapeutic Recreational Specialist License Renewal 47.00
Therapeutic Recreational Technical New License Application 70.00
Therapeutic Recreational Technician License Renewal 47.00
Registered Nurse
Apprentice 35.00
Residence Lien Recovery Fund
Registration Processing Fee- Voluntary Registrants 25.00
Post- claim Laborer Assessment 20.00
Beneficiary Claim 120.00
Laborer Beneficiary Claim 15.00
Reinstatement of Lapsed Registration ... 50.00
Late 20.00
Certificate of Compliance 30.00
Respiratory Care Practitioner
New Application Filing 60.00
License Renewal 52.00
Security Services
Contract Security Company Application Filing 330.00
Contract Security Company Renewal ... 203.00
Replace/Change Qualifier 50.00
Education Program Approval 300.00
Education Program Approval Renewal .. 103.00
Armed Security Officer New Application Filing 60.00
Armed Security Officer New License Renewal 42.00
Unarmed Security Officer New Application Filing 60.00
Unarmed Security Officer New License Renewal 42.00
Social Worker
Counseling Compact 50.00
Clinical New Application Filing 120.00
Clinical License Renewal 93.00
Certified New Application Filing 120.00
Certified License Renewal 93.00
Certified Externship 85.00
Social Service Worker New Application Filing 85.00
Social Service Worker License Renewal .. 78.00
Speech Language Pathologist / Audiologist
Speech Language Pathologist and Audiologist New Application Filing 70.00
Speech Language Pathologist and Audiologist License Renewal 47.00
Speech Language Pathologist/Audiologist
Speech Language Pathologist Compact New Application Filing 70.00
Speech Language Pathologist Compact Renewal 47.00
Audiologist Compact New Application Filing 70.00
Audiologist Compact Renewal 47.00
Speech Language Pathologist New Application Filing 70.00
Speech Language Pathologist License Renewal 47.00
Audiologist New Application Filing 70.00
Audiologist License Renewal 47.00
State Certified Veterinary Technician
New Application 50.00
Renewal 35.00
State Construction Registry
Online
Intent To Finance 8.00
Final Lien Waiver ..... Free Filing
Construction Business Registry 5.00
Notice of Commencement 7.50
Appended Notice of Commencement Online 7.50
Preliminary Notice 1.25
Notice of Completion 7.50
Required Notifications ..... Actual Cost
Requested Notifications ..... Opt in Free
Receipt Retrieval
Within 2 years 1.00
Beyond 2 years 5.00
Public Search 1.00
Annual account set up

Auto bill to credit card 60.00
Invoice 100.00
Notice of Construction Loan 8.00
Notice of Intent to Complete 8.00
Notice of Retention 1.25
Notice of Remaining to Complete 1.25
Offline
Notice of Commencement 15.00
Appended Notice of Commencement - Online 15.00
Preliminary Notice 6.00
Notice of Completion 15.00
Required Notifications 6.00
Requested Notifications 25.00
Receipt Retrieval
Within 2 years 6.00
Beyond 2 years 12.50
Public Search . . . . . No Charge
Annual account set up
Auto bill to credit card 75.00
Invoice 125.00
Notice of Construction Loan 15.00
Notice of Intent to Complete 16.00
Notice of Retention 8.00
Notice of Remaining to Complete 6.00
Notice of Loan Default . . . . . No Charge
Building Permit . . . . . No Charge

Filed by city
Withdrawal of Preliminary Notice No Charge
Substance Use Disorder Counselor (Certified)
Certified Advanced Counselor 70.00
Certified Advanced Counselor Intern 70.00
Certified Substance Counselor 70.00
Certified Counselor Intern 70.00
Certified Substance Extern 70.00
Substance Use Disorder Counselor (Licensed)
Licensed Advanced New Application 85.00
Licensed Advanced Renewal 78.00
New Application Filing 85.00
License Renewal 78.00
Veterinarian
New Application Filing 150.00
License Renewal 83.00
Intern New Application Filing 35.00
Vocational Rehab Counselor
New Application Filing 70.00
License Renewal 47.00

Office of Consumer Services

Administration
Home Owner Associations
Homeowners Association Officers Search 0.05

$5 minimum fee

Real Estate

Appraisal Management Company
AMC Registration 350.00
Renewal 350.00
Late 50.00
Appraisers
AMC National Registry Fee 25.00
Appraisal Education Special Event Provider Fee 250.00
Appraisal Education Special Event (per day) 150.00
Licensed and Certified
Application 250.00
Renewal 350.00
National Register 80.00
Appraiser CE Course Application/Renewal 75.00
Appraiser Temporary Permit Extension . 100.00

One time only
Temporary Permit 100.00
Appraiser Trainee Registration 100.00
Appraiser Expert Witness 200.00
Appraiser Trainee Renewal 100.00
Appraiser Pre- License School Application 100.00
Appraiser Pre- License Instructor Application 75.00
Broker
New Application 100.00

2 year
Renewal 48.00
Broker/Sales Agent
Property Management Sales Agent Designation 50.00
Activation 15.00
New Company 200.00
Company Broker Change 50.00
Company Name Change 100.00
Verification (per copy) 20.00
Certifications
Real Estate Prelicense School Certification 100.00
Real Estate Prelicense Instructor Certification 75.00
Real Estate Branch Schools 100.00
Appraiser Prelicense Course Certification 70.00
Appraiser CE Instructor Application/Renewal 75.00
Education
Real Estate Broker 18.00
Continuing Registration 10.00
Real Estate Agent 12.00
General Division
Duplicate License 10.00
Certifications/Computer Histories 20.00
Late Renewal 50.00
Reinstatement 100.00
Branch Office 200.00
No Action Letter 120.00
Trust Account Seminar 5.00
Continuing Education Instructor/Course Late 25.00
Mortgage Broker
Mortgage Loan Originator New Application 100.00
Mortgage Loan Originator Renewal 30.00
Mortgage Lending Manager
Application 100.00
Renewal 30.00
Mortgage Lender Entities
Application 200.00
Renewal 200.00
Mortgage DBA 200.00
Activation 15.00
Mortgage Education
Individual 36.00
Entity 50.00
Mortgage Prelicense School Certification 100.00
Mortgage Prelicense Instructor Certification/Renewal 75.00
Mortgage Branch Schools 100.00

Mortgage Continuing Education Course Certification Application Renewal 75.00
Mortgage Continuing Education Instructor Certification 50.00
Mortgage Out of State Records Inspection 500.00
Real Estate Education
Real Estate Continuing Education Course Certification 75.00
Real Estate Continuing Education Instructor Certification 50.00
Registration Addendum
Supplementary Filing 200.00
Sales Agent
New Application (2 year) 100.00
Renewal 48.00
Subdivided Land
Exemption
Water Corporation 50.00
Temporary Permit 100.00
Application 500.00
Charge over 30 ..... 3.00
Inspection Deposit 300.00
Consolidation 200.00
Charge 3.00
Renewal Report 203.00
HUD 100.00
Timeshare and Camp Resort
Late Fee 100.00
Salesperson 100.00

New and renewal
Registration 500.00
Per unit charge over 100 ..... 3.00
Inspection Deposit 300.00
Consolidation 200.00
Per unit charge 3.00
Temporary Permit 100.00
Renewal Reports 203.00

Securities
Certified Adviser
New and Renewal 500.00
Certified Dealer
New and Renewal 500.00
Covered Securities Notice Filings
Regulation A Timely Securities Filing ... 100.00
Late Fee Regulation A Filing 500.00
Investment Companies 600.00
All Other Covered Securities 100.00
Late Fee Rule 506 Notice Filing 500.00

Less than 15 days after sale
Exemptions
Transactional 60.00
Securities 60.00
Federal Covered Adviser
New and Renewal 70.00
Licensing
Agent 40.00
Broker/Dealer 130.00
Investment Advisor
New and renewal 40.00
Investment Advisor Representative
New and renewal 30.00
Other
Title III Crowd Funding Timely Notice Filing 100.00
Title III Crowd Funding Notice Filing Late Fee 500.00
Late Renewal 20.00
Fairness Hearing 1,500.00
Statute Booklet ..... Actual Cost
Small Corp. Offering Registration (SCOR) ..... Variable
Rules and form booklet ..... Actual Cost

Excluding SCOR
Postage and Handling ..... Actual Cost
Securities Registration
Qualification Registration 300.00
Coordinated Registration 300.00
Transactional Exemptions
No- action and Interpretative Opinions .. 120.00

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ADMINISTRATION
Government Records Access and Management Act (GRAMA) fees apply for the entire Department
Odd size photocopies (per Page) ... Actual Cost

GRAMA fees apply to the entire Department. The fees are to send requested information to the requestee and can be different sized documentation.

8.5 x 11 photocopy (per page) 0.25

GRAMA fees apply to the entire Department. The fees are to send requested information to the requestee via photocopy documents per public record.

Document Certification 2.00

GRAMA fees apply to the entire Department. Some documents require to be certified depending on what the item is. There is a fee to get documents certified.

Local Document Faxing (per page) 0.50

Sending faxes for GRAMA requests. GRAMA fees apply to the entire Department

Staff time to search, compile and prepare records (per Hour) ..... Actual Cost

Each GRAMA request must be reviewed and prepared, redacted, and researched to ensure only pertinent information is sent to the requester. GRAMA fees apply to the entire Department

Mail and ship preparation, plus actual postage (per Hour) ..... Actual Cost

Preparing requested GRAMA request require postage and envelopes and depending on how the documents are being sent (express mail, priority mail) actual postage fees. GRAMA fees apply to the entire Department

Media Storage Duplication (per Hour) .. Actual Cost

Storing information in a database is associated with costs such as drives and memory drives some memory billed thru DTS. GRAMA fees apply to the entire Department

SPONSORSHIP - LEVEL 1
(per SPONSORSHIP) ..... $0 to $500

GOED will consider opportunities that support our mission and agency objectives to help the state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce;

to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. From $1 to $500 fee applies for the entire Department

SPONSORSHIP - LEVEL 2
(per SPONSORSHIP) ..... $501 to $1,000

GOED will consider opportunities that support our mission and agency objectives to help the state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce; to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. From $501 to $1,000 fee applies for the entire Department

SPONSORSHIP - LEVEL 3
(per SPONSORSHIP) ..... $1,001 to $5,000

GOED will consider opportunities that support our mission and agency objectives to help the state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce; to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. From $1,001 to $5,000 fee applies for the entire Department

SPONSORSHIP - LEVEL 4
(per SPONSORSHIP) ..... $5,001 to $10,000

GOED will consider opportunities that support our mission and agency objectives to help the state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce; to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. From $5,001 to $10,000 fee applies for the entire Department

SPONSORSHIP - LEVEL 5
(per SPONSORSHIP) ..... Over $10,000

GOED will consider opportunities that support our mission and agency objectives to help the state's businesses excel in job creation, innovation, entrepreneurship, and global trade; to develop a quality workforce; to have a stable and sustainable business friendly environment; promote Utah as a premier vacation destination; and foster a film culture. Over $10,000 fee applies for the entire Department

GOED Participation Fees
(per Participant) ..... Up to $500 per participant

ECONOMIC PROSPERITY

Business Services

Loan Origination Fee for Capital Access Program ..... 0.5% of the full program cost

This a fee that will be charged to financial institutions to cover the admin costs associated with originating the loan and starts calendar year 2023.

Loan Origination Fee for Loan Participation Program ..... Variable

This is a variable fee, and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level and starts calendar year 2023.

Loan Origination Fee, for Loan Participation Program ..... 0.5% of the full program cost

This a fee that will be charged to financial institutions to cover the admin costs associated with originating the loan and starts calendar year 2023.

Small Business Innovative Research (SBIR) / Small Business Technology Transfer (STTR)
Innovation Center Search Fee (per User) 125.00
Innovation Center 4-8 hour seminar/workshop (per User) 75.00
Innovation Center 4-8 hour seminar/workshop: non-client (per User) 50.00
Innovation Center 4-8 hour seminar/workshop: client (per User) 25.00
Innovation Center 2-4 hour seminar/workshop (per User) 25.00
Innovation Center 1-4 hour seminar/workshop (per User) 10.00
Seminar - Outside speakers: all day event (per User) 225.00
Seminar - Outside speakers: all day event (early bird) (per User) 150.00
Seminar - Outside speakers: all day event (search client) (per User) 100.00

Incentives and Grants

Housing and Transit Reinvestment Zone 20,000.00

This is to facilitate the Housing and Transit Reinvestment Zone Act

PTAC Participation Fee
(per Participant) ..... Up to $60

Rural Investment Jobs Act - Annual Fee 50,000.00

Annual fee to be paid by each approved rural investment company. Calculated by dividing $50,000 by the number of approved rural investment companies. Due on or before the last day of February each year.

Market Tax Credit Fee 100,000.00

Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.

Strategic Initiatives

Block Chain (per License) ... 50.00

This fee is established to cover the administration costs for administering the program.

Community Reinvestment Agency Database
Community Reinvestment Agency Database Fee ..... Actual Amount

Actual costs to administer the Community Reinvestment Agency Database.

CommunityGrants App
CommunityGrants App User - State of Utah Executive Branch Agencies (per User) .. 72.00

CommunityGrants App User - State of Utah Executive Branch Agencies (per User)

CommunityGrants App User - Tier 1 (per User) 480.00

CommunityGrants App User - Tier 1 (per User)

CommunityGrants App User - Tier 2 (per User) 420.00

CommunityGrants App User - Tier 2 (per User)

CommunityGrants App User - Tier 3 (per User) 360.00

CommunityGrants App User - Tier 3 (per User)

CommunityGrants App User - Tier 4 (per User) 300.00

CommunityGrants App User - Tier 4 (per User)

CommunityGrants App User - Tier 5 (per User) 240.00

CommunityGrants App User - Tier 5 (per User)

CommunityGrants Customer Portal - 100 Members (per User) 3,000.00

CommunityGrants Customer Portal - 100 Members (per 100)

CommunityGrants Customer Community - Min. 100 Members (per User) 900.00

CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)

CommunityGrants Customer Community - Min. 500 Members (per User) 2,000.00

CommunityGrants Customer Community - Minimum - 500 Members (per 100)

CommunityGrants Customer Community- Wholesale- 100 Members (per User) 1,200.00

CommunityGrants Customer Community - Wholesale - 100 Members (per 100)

CommunityGrants Customer Community- Wholesale- 500 Members (per User) 2,400.00

CommunityGrants Customer Community - Wholesale - 500 Members (per 100)

CommunityGrants Customer Community - Retail - 100 Members (per User) ... 1,800.00

CommunityGrants Customer Community - Retail - 100 Members (per 100)

CommunityGrants Customer Community - Retail - 500 Members (per User) ... 3,720.00

CommunityGrants Customer Community - Retail - 500 Members (per 100)

OFFICE OF TOURISM

Tourism

Hotel Convention Center (per Monthly) 1,000.00

This covers administrative fees where post- opening claims will be paid by withholding that amount from the amount paid to the hotel owner in connection with each post- opening claim.

Hotel Convention Center Monthly (per Monthly) 2,500.00

This covers administrative fees where pre- opened claims will be paid by withholding that amount from the amount paid to the hotel owner in connection with each pre- opening claim.

Tourism/Film Participation Fees (per Event) ..... Actual cost up to $70,000

Participation fees for Sales Missions and Trade Missions, also co- op marketing costs for in- country ad campaigns set up by the international trade reps. This fee covers participation in international events, trade shows, sales missions, and marketing campaigns.

Gift Store Fee (per Net Revenue) ..... 3% of Net Revenue

Calendars

- Calendar sales: Individual (purchases of less than 30) 10.00
- Calendar sales: Bulk (non- state agencies) . 8.00
- Calendar sales: Bulk (state agencies) 6.00
- Calendar sales: Office of Tourism, Film, and Global Branding employees 5.00

These fees may apply to one or more programs within the Office of Tourism Line Item.

- Calendar Envelopes 0.50

Posters

- Posters: Framed wall posters 55.00
- Posters: Non framed wall posters 2.99

Shirts

- T- shirt sales (cost per shirt) 10.00

Commissions

- Tourism promotional items re- seller commission 12%

This licensing fee is 12% of product sales.

- UDOT Signage Commissions 54,000.00

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration

Photocopies 0.25

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

UTAH STEM FOUNDATION FUND

Innovation Hub Camp 200.00

Innovation Hub Equipment Use (per hour) 10.00

Innovation Hub General Use (per Day) 5.00

Innovation Hub General Use (monthly) (per month) 25.00

Innovation Hub Premium PLA Filament Use (per gram) 0.02

Innovation Hub Space Rental (per hour) 50.00

Innovation Hub Standard PLA Filament Use (per gram) 0.01

Makerspace Class 100.00

ADMINISTRATION

Administrative Services

Conference Level 4 - Vendor/Display Table - registration not included (per Table) 300.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 5 - Vendor/Display Table - registration not included (per Table) 500.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Department Merchandise

General Merchandise - Level 1 (per Item) . 5.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

General Merchandise - Level 2 (per Item) 10.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

General Merchandise - Level 3 (per Item) 15.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

General Merchandise - Level 4 (per Item) 20.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

General Merchandise - Level 5 (per Item) 50.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

General Merchandise - Level 6 (per Item) 100.00

Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.

Department Conference

Conference Level 1 - Early Registration (per Person) 20.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 1 - Regular Registration (per Person) 25.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 1 - Late Registration (per Person) 30.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 1 - Vendor/Display Table - registration not included (per Table) . . . 50.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 - Early Registration (per Person) 45.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 - Regular Registration (per Person) 50.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 - Late Registration (per Person) 55.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 - Vendor/Display Table - registration not included (per Table) . . 100.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 - Student/Group/Change Leader Registration (per Person) 70.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 - Early Registration (per Person) 80.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 - Regular Registration (per Person) 95.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 - Late Registration (per Person) 100.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 - Vendor/Display Table Fee - registration not included (per Table) . . 150.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship

Conference Sponsorship Level 1 . . . . . 350.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 2 . . . . . 500.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 3 . . . . . 650.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 4 . . . . . 1,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 5 . . . . . 2,500.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 6 . . . . . 5,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 7 . . . . . 10,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

General Training and Workshop

General Training/Workshop Participation - Level 1 (per Person) 5.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 2 (per Person) 10.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 3 (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 4 (per Person) 25.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 5 (per Person) 30.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 6 (per Person) 40.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 7 (per Person) 50.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 8 (per Person) 60.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 9 (per Person) 125.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation - Level 10 (per Person) 300.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Materials Fee (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

Government Records Access and Management Act

Photocopies (per page) 0.25

GRAMA fees apply for the entire Department of Cultural and Community Engagement.

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach

Art Consultation Fee Level 1 (per Hour) ..... 2 Hour Minimum

2 Hour Minimum - consultation, site visits, and curation

Art Consultation Fee Level 2 (per Hour) 60.00

2 Hour Minimum - condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)

Art Consultation Fee Level 3 (per Hour) 45.00

3 Hour Minimum - packing, shipping, and installation

Change Leader Conference .. 55.00

This is the fee that will be charged for the annual change leader conference.

Change Leader Institute Level 5 ..... 500.00

Community Outreach

Traveling Exhibit Fees 125.00

Traveling Exhibit Fees Title I Schools .. 100.00

Community/State Partnership Change Leader Registration

Change Leader Institute Level 1 ..... 100.00

Change Leader Institute Level 2 ..... 200.00

Change Leader Institute Level 3 ..... 300.00

Change Leader Institute Level 4 ..... 400.00

Museum Services

Museum Environmental Monitoring Kit Rental/Shipping (per Period) 40.00

Museum Environmental Monitoring Kit Deposit 150.00

HISTORICAL SOCIETY

State Historical Society

Business/Corporate/Family .. 80.00

Utah Historical Society Annual Membership

History Conference - Member 50.00

Annual History Conference Registration fee for Utah State Historical Society Members

History Conference - Nonmember 100.00

Annual History Conference Registration for non historical society members

History Conference - Vendor/Exhibitor Table 50.00

Annual History Conference

University of Illinois Press .. 9,600.00

Utah Historical Society Annual Membership: UIP manages the institutional subscription agency memberships and sends the money to the State of Utah.

Utah Historical Society Annual Membership

Student/Adjunct/Senior 40.00

Individual 50.00

Sustaining/Business/Corporate 250.00

Patron/Institution/Subscription Agencies/UIP 100.00

Sponsor 300.00

Lifetime 1,000.00

Utah Historical Quarterly
(per issue) 13.00

Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)

Publication Royalties 1.00

HISTORICAL SOCIETY

Historic Preservation and Antiquities

Anthropological Remains Recovery (per Recovery or Analysis and reporting) . 2,500.00

Fee is for recovery or analysis and reporting services.

GIS Search - Staff Performed
(per 1/4 Hour) 15.00
GIS Data Cut and Transfer
(per Section) 15.00

Library and Collections

Surplus Photo 5x7 ..... 2.50
Surplus Photo 8x10 ..... 4.00
B/W Historic Photo
4x5 B/W Historic Photo 7.00
5x7 B/W Historic Photo 10.00
8x10 B/W Historic Photo 15.00
Self- Serve Photo 0.50
Digital Image 300 dpl> 10.00
Historic Collection Use 10.00
Research Center
Self Copy 8.5x11 ..... 0.10
Self Copy 11x17 ..... 0.25
Staff Copy 8.5x11 ..... 0.25
Staff Copy 11x17 ..... 0.50
Digital Self Scan/Save (per Page) 0.05
Digital Staff Scan/Save (per Page) 0.25
Microfilm Self Copy (per page) 0.25
Microfilm Self Scan/Save (per Page) 0.15
Microfilm Staff Scan/Save or Copy (per page) 1.00
Audio Recording (per item) .. 10.00
Video Recording (per item) .. 20.00
Diazo print
16 mm diazo print (per roll) 12.00
35 mm diazo print (per roll) 14.00
Microfilm Digitization 40.00
Digital Format Conversion .. 5.00
Surplus Photo 4x5 ..... 1.00
Mailing Charges 1.00

STATE LIBRARY

Administration

Sale of Used Books/Materials 1.00

Disposal of discarded books.

PETE SUAZO ATHLETICS COMMISSION

Unarmed Combat Event
Unarmed Combat Event: <500 Seats 500.00
Unarmed Combat Event:
500 - 1,000 Seats 1,000.00

This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.

Unarmed Combat Event:
1,000 - 3,000 Seats 1,750.00

This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.

Unarmed Combat Event:
3,000 - 5,000 seats 3,250.00

This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.

Unarmed Combat Event:
5,000 - 10,000 Seats 4,750.00

This fee is not changing but is more accurately reflecting the individual charge vs how it was previously listed as a compounding charge.

Unarmed Combat Event:
>10,000 Seats (per Seat) 2.00

This fee is changing to more fully cover costs associated with larger events.

Licenses and Badges
Promoter (per License) 250.00
Official, Manager, Matchmaker
(per License) 50.00

Judge, Referee, Matchmaker, Contestant Manager Licenses

Contestant, Second (Corner)
(per License) 50.00

Amateur, Professional, Second (Corner), Timekeeper Licenses

Federal and National ID
(per Badge) 10.00

Drug Tests, Fight Fax, Contestant ID Badge

Additional Inspector 100.00
Health Testing 20.00

Health and safety testing required for participants

Event Registration 100.00

Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar

STATE HISTORIC PRESERVATION OFFICE

Administration

Online Cultural Resources Viewer (per unit 1- 20, depending on usage) 50.00

INSURANCE DEPARTMENT

HEALTH INSURANCE ACTUARY

Actuary Restricted Revenue
Actuary Restricted Revenue - Actuarial Review Assessment ..... As Appropriated

Health Insurance Actuarial Review Assessment for the cost of one- full time actuary position limited to the amount appropriated by the legislature for the fiscal year pursuant to 31A- 30- 115.

INSURANCE DEPARTMENT ADMINISTRATION

Administration

Continuing Care Provider
Continuing Care Provider -
Initial Application 6,900.00
Continuing Care Provider -
Initial Disclosure Statement 600.00
Continuing Care Provider -
Renewal 6,900.00
Continuing Care Provider -
Renewal Disclosure Statement 600.00

Continuing Care Provider - Late Renewal or Reinstatement 6,950.00
Continuing Education Provider
Continuing Education Provider - Initial or Renewal 250.00
Continuing Education Provider - Late Renewal or Reinstatement 300.00
Continuing Education Provider - Post Approval 25.00
Insurer
Annual Service Fee
Insurer - Annual Service Fee - $0 premium volume 0.00
Insurer - Annual Service Fee - More than $0 to less than $1M premium volume 950.00
Insurer - Annual Service Fee - $1M to less than $3M premium volume 1,500.00
Insurer - Annual Service Fee - $3M to less than $6M premium volume 2,125.00
Insurer - Annual Service Fee - $6M to less than $11M premium volume 2,875.00
Insurer - Annual Service Fee - $11M to less than $15M premium volume 3,775.00
Insurer - Annual Service Fee - $15M to less than $20M premium volume 4,800.00
Insurer - Annual Service Fee - $20M or more in premium volume 5,950.00
Certificate of Authority
Insurer - Certificate of Authority Initial Application 1,000.00
Insurer - Certificate of Authority Renewal 300.00
Insurer - Certificate of Authority Late Renewal 350.00
Insurer - Certificate of Authority Reinstatement 1,000.00
Insurer - Certificate of Authority Amendment 250.00
Insurer - Insurer Form A Filing 2,000.00
Insurer - Mutual Insurer Organizational Permit 1,000.00
Insurer - Redomestication Filing 2,000.00
Life Settlement Provider
Life Settlement Provider - Initial License Application 1,000.00
Life Settlement Provider - Renewal 300.00
Life Settlement Provider - Late Renewal 350.00
Life Settlement Provider - Reinstatement 1,000.00
Life Settlement Provider - Annual Service Fee 600.00
Navigator
Navigator - Individual Initial License ... 35.00
Navigator - Individual License Renewal . 35.00
Navigator - Individual License Reinstatement 60.00
Navigator - Agency Initial License 40.00
Navigator - Agency License Renewal 40.00
Navigator - Agency License Reinstatement 65.00
Other
Other - Accepting Service of Legal Process 10.00
Other - Address Correction 35.00
Other - Administrative Action Removal from Public Access (per action) 185.00
Other - Annual Statement Copy 40.00
Other - Code Book 57.00

Cost to agency
Other - Code Book Mailing Fee 3.00
Other - Examination Fee 94.00

Agency cost for billable hours for in- house examinations of insurers.
Other - Independent Review Organization Application 250.00
Other - List Production - Staff Fee 50.00

1 CD and up to 30 minutes of staff time
Other - List Production - Staff Fee - Additional Time 50.00

For each additional 30 minutes or fraction thereof
Other - List Production - Printed List (per page) 1.00

Information already in list format
Other - Non- Electronic Payment Processing 25.00
Other - Photocopy (per page) 0.50
Other - Returned Check Charge 20.00
Other - Workers' Comp Schedule 5.00
Other Organization
Other Organization - Initial Application 250.00
Other Organization - Renewal 200.00
Other Organization - Late Renewal 250.00
Other Organization - Reinstatement ... 250.00
Other Organization - Annual Service Fee 200.00
Pharmacy Benefit Manager
Pharmacy Benefit Manager - Initial License Application 1,000.00
Pharmacy Benefit Manager - Renewal 1,000.00
Pharmacy Benefit Manager - Late Renewal or Reinstatement 1,050.00
Producer
Producer - Individual
Full Line Initial or Biennial Renewal License 70.00
Producer - Individual - Full Line Reinstatement 120.00
Producer - Individual - Limited Line Initial or Biennial Renewal License 45.00
Producer - Individual - Limited Line Reinstatement 95.00
Producer - Individual - Additional Line of Authority 25.00
Producer - Agency
Producer - Agency - Full Line and Limited Line Initial or Biennial Renewal License .. 75.00
Producer - Agency - License Reinstatement 125.00
Producer - Agency - Additional Line of Authority 25.00
Producer - Title Resident Agency Initial or Biennial Renewal License 100.00
Producer - Title Resident Agency Reinstatement 150.00
Producer - Title Dual License Form Filing 25.00
Professional Employer Organization
Professional Employer Organization - Certified - Initial License 2,000.00
Professional Employer Organization - Certified - Renewal 1,000.00
Professional Employer Organization - Certified Late Renewal or Reinstatement 1,050.00

Professional Employer Organization - Non-Certified - Initial or Renewal License 2,000.00
Non-Certified - Late Renewal or Reinstatement 2,050.00
Small Operator
Professional Employer Organization - Small Operator - Initial License 2,000.00
Professional Employer Organization - Small Operator - Renewal 1,000.00
Small Operator - Late Renewal or Reinstatement 1,050.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer - Initial License Application 1,000.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer - Renewal 500.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer - Late Renewal 550.00
Surplus Lines Insurers & Accredited/Certified/Trusteed Reinsurer - Reinstatement 1,000.00
Bail Bond Agency
Bail Bond Agency - Resident Initial or Renewal License 250.00
Bail Bond Agency - Reinstatement of Lapsed License 300.00

Captive Insurers

Captive Insurer
Captive Insurer - License Initial Application 200.00
Captive Insurer - Initial License Application Review 72.00
Captive Insurer - Initial License Issuance 7,250.00
Captive Insurer - Renewal 7,250.00
Captive Insurer - Dormancy Certificate Annual Renewal 2,500.00
Captive Insurer - Late Renewal 7,300.00
Captive Insurer - Reinstatement 7,300.00
Captive Insurer - Cell Initial Application 200.00
Captive Insurer - Cell Initial License . 1,000.00
Captive Insurer - Cell License Renewal 1,000.00
Captive Insurer - Cell Late Renewal Additional Fee 50.00
Captive Insurer - Cell Dormancy Certificate Annual Renewal 500.00

Criminal Background Checks

Criminal Background Check
Criminal Background Check - BCI Fingerprinting 15.00
Criminal Background Check - FBI Fingerprinting 13.25

Electronic Commerce Fee

Electronic Commerce Restricted
Electronic Commerce Restricted - Agency License 10.00
Electronic Commerce Restricted - Captive Insurer 250.00
Electronic Commerce Restricted - Continuing Education Provider 20.00
Electronic Commerce Restricted - Database Access per Transaction 3.00
Electronic Commerce Restricted - Individual License 5.00
Electronic Commerce Restricted - Paper Filing 5.00
Electronic Commerce Restricted - Paper Application 25.00
Electronic Commerce Restricted - Insurer, Surplus Lines Insurer, and Accredited/Certified/Trusteed Reinsurer 75.00
Electronic Commerce Restricted - Life Settlement Provider, Professional Employer Organization, Continuing Care Provider, Pharmacy Benefit Manager and Other Organization Fee 50.00

GAP Waiver Program

GAP Waiver Restricted Revenue
GAP Waiver Restricted Revenue - Annual Registration 1,000.00
GAP Waiver Restricted Revenue - Late Annual Registration 1,050.00
GAP Waiver Restricted Revenue - Retailer Assessment 50.00
GAP Waiver Restricted Revenue - Late Retailer Assessment 100.00

GAP Waiver Restricted Revenue - Late Retailer Assessment

Insurance Fraud Program

Fraud Program Restricted Revenue
Premium Assessment
Fraud Program Restricted Revenue - Premium Assessment Late Fee 50.00
Investigation Recovery
Fraud Program Restricted Revenue - Investigative Recovery 0.00

Cost to agency

TITLE INSURANCE PROGRAM

Title
Title Insurance Recovery, Education, and Research Fund
Title - Title Insurance Recovery, Education and Research Fund - Individual Initial or Renewal Assessment 15.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Initial License Assessment 1,000.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band A $0 up to $1M written premium volume 125.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band B $1 up to $10M written premium volume 250.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band C $10M up to $20M written premium volume 375.00
Title - Title Insurance Recovery, Education and Research Fund - Agency Renewal Assessment Band D or more than $20M written premium volume 500.00
Title Licensee Enforcement Restricted Account
Regulation Assessment ..... As Appropriated

The cost of one full-time equivalent position limited to the amount appropriated by the legislature for the fiscal year.

LABOR COMMISSION

Administration

Industrial Accidents Division

Workers Compensation

Coverage Waiver 50.00

34A-2-1003(1) A waiver application and a waiver renewal application fee was established by the commission in accordance with Section 63J-1-504, except that the fee may not exceed $50.

Seminar Fee (alternate years)

(per registrant) . . . . . Not to exceed 500.00

Industrial Accidents no longer hosts the biannual conference. The fee is not used as a result.

Premium Assessment

Workplace Safety Fund

(per premium) 0.25%

A .25% of the premium income remitted to the State Treasurer pursuant to UC 59-9-101(2)(c), 34A-2-701, for the Labor Commission to promote workplace safety.

Employers Reinsurance Fund

(per premium) 0%

The fee is set by actuarial studies, then a insurance premium payments collected by the Tax Commission makes an assessment against total premium for the ERF fund.

Uninsured Employers Fund

(per premium) 0.5%

The Actuary, Deloitte, does a study on economic conditions and makes an estimate for revenues and projecting expenditures. An estimate and recommendation of the premium assessment is presented to the Labor Commission.

Industrial Accidents Restricted Account

(per premium) 0.50%

34A-2-1003(1) An $50 application fee was established by the commission in accordance with Section 63J-1-504. A .5% premium income established pursuant to Subsection 59-9-10(2)(c)(iv); and Section 34A-2-1003.

Certificate to Self-Insured

New Self-Insured Certificate . . 1,200.00

R612-400 The new self insurance certificate application fee is $1,000 as established by the commission pursuant to section 63J-1-504.

Self-Insured Certificate Renewal 650.00

R612-400 The renewal of a self insurance certificate fee is $1,000 as established by the commission pursuant to section 63J-1-504.

Boiler, Elevator and Coal Mine Safety Division

Boiler and Pressure Vessel Inspections

Owner

User Inspection Agency

Certification 250.00

Certificate of Competency

Original Exam 25.00

Renewal 20.00

Jacketed Kettles and Hot Water Supply

Consultation

Witness special inspection

(per hour) 60.00

The fee is for covering the cost of an inspector conducting boiler inspection.

Boilers

Existing

<250,000 BTU 30.00

> 250,000 BTU but <4,000,000 BTU 60.00

> 4,000,001 BTU but < 20,000,000 150.00

> 20,000,000 BTU 300.00

New

<250,000 BTU 45.00

> 250,000 BTU but <4,000,000 BTU 90.00

> 4,000,001 BTU but <20,000,000 BTU 225.00

> 20,000,000 BTU 450.00

Pressure Vessel

Existing 30.00

New 45.00

Pressure Vessel Inspection by Owner-user

25 or less on single statement

(per vessel) 5.00

26 through 100 on single statement (per statement) 100.00

101 through 500 on single statement (per statement) 200.00

over 500 on single statement

(per statement) 400.00

Elevator Inspections Existing Elevators

Hydraulic 85.00

Electric 85.00

Handicapped 85.00

Other Elevators 85.00

Elevator Inspections New Elevators

Hydraulic 300.00

Electric 700.00

Handicapped 200.00

Other Elevators 200.00

Consultation and Review (per hour) 60.00

Escalators/Moving Walks 700.00

Remodeled Electric 500.00

Roped Hydraulic 500.00

Coal Mine Certification

Mine Foreman 50.00

Temporary Mine Foreman 35.00

Fire Boss 50.00

Surface Foreman 50.00

Temporary Surface Foreman 35.00

Hoistman 50.00

Electrician

Underground 50.00

Surface 50.00

Certification Retest

Per section 20.00

Maximum fee charge 50.00

Hydrocarbon Mine Certifications

Hoistman 50.00

Certification Retest

Per section . . . 20.00

Maximum fee charge 50.00

Gilsonite

Mine Examiner 50.00

Shot Firer 50.00

Mine Foreman

Certificate . . . 50.00

Temporary . . . 35.00

Photocopies, Search, Printing

Black and White no special handling 0.25

The fee is set to cover the cost of paper and toner but does not reflect the actual cost of making copies.

Research, redacting, unstapling, restapling (per hour) 15.00

Fee largely for research in response to a GRAMA request.

More than 1 hour (per hour) 20.00

Fee largely for research in response to a GRAMA request.

Color Printing (per page) 0.50

The cost or color printing or copying.

Certified Copies (per certification) 2.00

Plus search fees if applicable

Electronic documents CD or DVD 2.00

Fax plus telephone costs 0.50

UTAH STATE TAX COMMISSION

LICENSE PLATES PRODUCTION

License Plates Production

Decal Replacement 1.00

TAX ADMINISTRATION

Operations

Administration

Liquor Profit Distribution 6.00

All Divisions

Certified Document 5.00

Faxed Document Processing (per page) . . 1.00

Record Research 6.50

Photocopies, over 10 copies (per page) . . . 0.10

Research, special requests (per hour) . . . 20.00

Customer Service

Administration

All Divisions

Convenience Fee . . . . . Not to exceed 3%

Convenience fee for tax payments and other authorized transactions

Lien Subordination . . . . . Not to exceed 300.00

Tax Clearance 50.00

Custom Programming (per hour) 85.00

Data Processing Set-Up 55.00

Sample License Plates 5.00

License Plates Production

Reflectorized Plate . . . . . Up to $20

Plate Mailing Charge (per Plate Set) . up to $10

Motor Vehicle

Motor Vehicle Data Retrieval 3.00

Motor Vehicle Data Retrieval Via Internet 2.00

Bulk Data Retrieval Service Charge (per 1,000 Records) 25.00

Motor Vehicle Transaction (per standard unit) 1.87

Motor Carrier

Cab Card 3.00

Duplicate Registration 3.00

Temporary Permit

Individual permit 6.00

Electronic Payment

Authorized Motor Vehicle Registrations . . . . . Not to exceed 4.00

Special Group Plate Programs

Inventory ordered before July 1, 2003

Extra Plate Costs 5.50

Plus standard plate fee

New Programs or inventory reorders after July 1, 2003

Start-up or significant program changes (per program) 3,900.00

Extra Plate Costs

(per decal set ordered) 3.50

Plus standard plate fee

Extra Handling Cost

(per decal set ordered) 2.40

Special Group Logo Decals . . . . Variable

Variable depending upon the specific order of decals

Special Group Slogan Decals . . Variable

Variable depending upon the specific order of decals

Outdoor Recreation

Outdoor Recreation Decal Replacement . . . 4.00

Property and Miscellaneous Taxes

Motor and Special Fuel

International Fuel Tax Administration

Decal (per set) 4.00

Reinstatement 100.00

Enforcement

MV Business Regulation

Dismantler's Retitling Inspection 50.00

Salvage Vehicle Inspection 50.00

Electronic Payment

Temporary Permit Books (per book) . . . . . Up to $8

Dealer Permit Penalties (per penalty) . . . . . Not to exceed 1.00

Salvage Buyer's License (per license) . . . . . Up to $6

Purchase of a License Plate (per Plate) . . . . . up to $6

Purchase of an In-Transit Permit (per permit) . . . . . up to $2

Purchase or Renewal of a License (per license) . . . . . up to $8

Licenses

Motor Vehicle Manufacturer License . . 102.00

Motor Vehicle Remanufacturer License 102.00

New Motor Vehicle Dealer 127.00

Transporter 51.00

Body Shop 112.00

Used Motor Vehicle Dealer 127.00

Dismantler 102.00

Salesperson 31.00

Salesperson's License Transfer Fee 31.00

Salesperson's License Reissue 5.00

Crusher 102.00

Used Motorcycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00

New Motorcycle, Off-Highway Vehicle, and Small Trailer Dealer 51.00

Representative 26.00

Distributor or Factory Branch and Distributor Branch's 61.00

Additional place of business

Temporary . . . 26.00

Permanent . . . Variable

Variable rate - same rate as the original license fee (based on license type)

License Plates

Purchase

Manufacturer . 10.00
Dealer 12.00
Dismantler ... 10.00
Transporter .. 10.00
Renewal
Manufacturer . 8.50
Dealer 10.50
Dismantler ... 8.50
Transporter .. 8.50
In-transit Permit 2.50
Motor Vehicle
Motor Vehicle Data Retrieval 3.00
Motor Vehicle Data Retrieval Via Internet 2.00
Motor Vehicle Transaction (per standard unit) 1.87
Outdoor Recreation
Outdoor Recreation Decal Replacement ... 4.00
Temporary Permit Restricted Fund
Individual Permit 6.00
Temporary Permit ..... Not to exceed 13.00
Sold to dealers in bulk, not to exceed approved fee amount
Temporary Sports Event Registration Certificate ..... Not to exceed 12.00

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office

Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services
Photocopies, 8.5"x11", black & white (per Page) 0.15
These GRAMA fees apply to the entire Department of Workforce Services.
Photocopies, 11"x17" black & white, or color (per Page) 0.40
These GRAMA fees apply to the entire Department of Workforce Services.
Research (per Hour) ..... Actual Cost
These GRAMA fees apply to the entire Department of Workforce Services.
Document Faxing (per Page) 2.00
These GRAMA fees apply to the entire Department of Workforce Services.
Mailing, postage, shipping, etc. .... Actual Cost
These GRAMA fees apply to the entire Department of Workforce Services.
Other Services ..... Actual Cost
These GRAMA fees apply to the entire Department of Workforce Services.

HOUSING AND COMMUNITY DEVELOPMENT

Housing Development

Private Activity Bond
Confirmation per million of allocated volume cap 300.00
Original application: under $3 million 1,500.00
Original application: $3-$5 million ... 2,000.00
Original application: over $5 million .. 3,000.00
Private Activity Bond Re-application
Re-application: under $3 million 750.00
Re-application: $3 - $5 million 1,000.00
Re-application: over $5 million 1,500.00
Private Activity Bond Extension
Second 90 Day Extension 2,000.00
Third 90 Day Extension 4,000.00
Each Additional 90 Day Extension 4,000.00

Weatherization Assistance

Intermountain Weatherization Training Center Facility Use 0-24 persons (per Day) 1,100.00
Intermountain Weatherization Training Center Facility Use 25-50 persons (per Day) 1,700.00
Intermountain Weatherization Training Center Training 0-24 persons (per Day) 2,220.00
Intermountain Weatherization Training Center Training 25-50 persons (per Day) 4,000.00
Intermountain Weatherization Training Center Additional Instructor (per Instructor) 540.00
Certification Training Exam (per Exam) ..... Actual Cost
Initial Certification Training (per Person) 2,200.00
Recertification Refresher Training (per Hour) 105.00
Written Certification Test Proctoring (per Written Exam) 300.00
Field Certification Test Proctoring (per Field Exam) 400.00

OPERATIONS AND POLICY

Workforce Development

Career Ladder Course (per Course) 16.00

STATE OFFICE OF REHABILITATION

Blind and Visually Impaired

Low Vision Store ..... Actual Cost

Deaf and Hard of Hearing

Interpreter
Standard Late Fee (per Assessment) 80.00
Annual Maintenance/Recognition (per Individual) 70.00
Interpreter Certification
Knowledge Exam (per Exam) 60.00
Novice Exam (per Exam) 150.00
Professional Exam (per Exam) 150.00
Temporary Permit (per Permit) 150.00
Student Permit (per Permit) 15.00
Out-of-State Interpreter Certification
Utah Novice Level Certificate 300.00
Utah Professional Level Certificate 300.00
Knowledge Exam 120.00

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration

Debt Collection Information Disclosure Fee (per Report) 15.00
Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.

REFUGEE SERVICES FUND

World Refugee Day Shared Partner Booth (per Shared Booth) 50.00
World Refugee Day Full Partner Booth (per Full Booth) 100.00
World Refugee Day Around the World Booth (per Booth) 25.00
World Refugee Day Global Market Booth (per Booth) 40.00
World Refugee Day Food Vendor Booth (per Booth) 75.00
World Refugee Day Soccer (per Team) 50.00

OFFICE OF HOMELESS SERVICES

Homeless Services

State Community Services Office Homeless Summit 35.00

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OPERATIONS

Executive Director Office

All the fees in this section apply for the entire Department of Health and Human Services
Conference Registrations 100.00
Non-sufficient Check Collection Fee 35.00
Non-sufficient Check Service Charge 20.00
Specialized Services
Expedited Shipping Fee 20.00
Testimony
Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) 78.75

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time plus travel costs.

Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD (Medical Doctor) (per hour) 250.00

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time plus travel costs.

Government Records Access and Management Act
Mailing or shipping cost .. Actual cost up to a $100.00
Staff time for file search and/or information compilation
Department of Technology Services (per hour) ... 70.00

For Department of Technology Services or programmer/analyst staff time.

Department of Health and Human Services (per hour) 35.00

For Department of Health and Human Services staff time; first 15 minutes free, additional time.

Copy
11 x 8.5 Black and White Copies (per page) 0.15
11x17 or Color Copies (per page) 0.40
Information on disk (per kilobyte) 0.02
Administrative Fee, 1-15 copies 25.00
Administrative Fee, each additional copy 1.00
Fax (per page) 0.50

Data, Systems, & Evaluations

Data Access Base Fees
Behavioral Risk Factor Surveillance System
Standard Annual Limited Data Set ... 300.00

The Behavioral Risk Factor Surveillance System dataset provides surveillance data on health-related risk behaviors, chronic health conditions, and use of preventive services of the Utah population. The data is used for program planning, assessment work, evaluation projects, and research purposes.

Healthcare Facilities Data Series
Fee Discounts - Healthcare Facilities Data Series ..... Note

Note: (1) The Following Discounts Apply: Utah State agencies and Local Health Departments; and components of the Indian health system serving Utah residents i.e. Indian Tribes, Indian Health Service, tribally owned and operated health systems, the Urban Indian Organization, and Tribal Epidemiology Centers (100%); Utah Healthcare Facility with <35,000 discharges (50% for Standard Limited Data Set); Prior Years (25% for any data set); University or Not for Profit Entity (50% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited use data set, including custom data services fee).

Standard Annual Limited Data Set 3,600.00

This fee allows a user to obtain a single year of inpatient or ambulatory surgery or emergency department encounter limited data set. It contains 16 out of the 18 safe harbor identifiers related to information about patient, diagnoses, provider, payers, charges and more. These data sets require review and approval by both an Institutional Review Board and the Health Data Committee prior to distribution of data to the user.

Standard Annual Research Data set 6,000.00
Quarterly Preliminary Feeds 4,500.00
Federal Annual Database 4,500.00

Database for agreements conducted under Federal government entities.

All Payer Claims Data Standard Limited Data Series
Fee Discounts - All Payer Claims Data Standard Limited Data Series ..... Note

Notes: (1) Utah State agencies and Local Health Departments; and components of the Indian health system serving Utah residents i.e. Indian Tribes, Indian Health Service, tribally owned and operated health systems, the Urban Indian Organization, and Tribal

Epidemiology Centers (100%); Contributing Carrier (50% for standard limited use data sets); Geographic Subset (discount proportional to percent of records required from limited use data set, in addition to custom data services fee).
Single Year 8,000.00
Two Years 12,000.00
Three Years 16,000.00

This fee is for an all-payer claims database limited data set that includes three years specified by the requester. The data set contains 16 out of the 18 Safe Harbor identifiers related to a member's medical, pharmacy, and dental claims as well as insurance enrollment and health care provider data. These data sets require review and approval by both an Institutional Review Board and the Health Data Committee prior to distribution of data to the user.
Additional Years 4,000.00
All Payer Claims Data Standard Research Data Series
Fee Discounts - All Payer Claims Data Standard Research Data Series ..... Note

Notes: (1) The following discounts apply: Utah State agencies and Local Health Departments; and components of the Indian health system serving Utah residents i.e. Indian Tribes, Indian Health Service, tribally owned and operated health systems, the Urban Indian Organization, and Tribal Epidemiology Centers (100%); Contributing Carrier (50% for standard limited use data sets); Geographic Subset (discount proportional to percent of records required from limited use data set, in addition to custom data services fee).
Single Year 20,000.00
Two Years 30,000.00
Three Years 40,000.00

This fee is for an all-payer claims database identifiable data set that includes three years specified by the requester. The data set contains the 18 Safe Harbor identifiers related to medical, pharmacy, and dental claims as well as insurance enrollment and health care provider data. These data sets require review and approval by both an Institutional Review Board and the Health Data Committee. The data set includes sensitive and detailed patient data.
Additional Years 10,000.00
Other Data Series and Licenses (Fee Discounts Apply)
Fee Discounts - Other Data Series and Licenses ..... Note

Note: The following discounts apply: Non-Contributing Carrier (50% for CAHPS Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); Institutional license On-time Renewal (15%).
Institutional License 150,000.00

This fee is for a multi-use, multi-user license to access all data series included within this fee schedule. The license covers use for a 12-month period starting with the data specified in the licensing agreement and ending 365 days later. A 15% discount will be given if the license is renewed prior to the license termination date.
Single Data Series Institutional License 75,000.00

12-month multi-use, multi-user license to access one data series [Healthcare Facilities or All Payer Claims] included within this fee schedule. Note: 15% discount for on-time renewal.
Healthcare Effectiveness Data and Information Set Data Set 1,575.00
Consumer Assessment of Healthcare Providers and Systems Data Set 1,575.00
Consumer Assessment of Healthcare Providers and Systems Survey Responses ... 2,000.00
Other Fees and Services
Custom data services (per hour) 100.66

Note: This hourly fee applies to all custom work, including but not limited to: data extraction analytics; aggregate patient-risk profiles for clinics, payers or systems; data management reprocessing; data matching; and creation of samples or subsets.
Additional Fields to create a custom data set (per field added) 225.00
Individual Information Extract (per person) 100.00
Convenience Fee (for Credit or Debit Card payment) 3%
Birth Certificate
Initial Copy 22.00

Fees cover the cost of producing the certificate of birth. They also fund the registration of births and may cover a portion of the maintenance of the data applications used to register births.
Stillbirth Certificate Initial Copy 18.00
Book Copy of Birth Certificate - in addition to birth certificate fee 5.00
Adoption - in addition to birth certificate fee 40.00
Sealed Record Fee - in addition to birth certificate fee 40.00

This fee is for an amendment to a record that will not be displayed on the record as an amendment.
Delayed Registration - in addition to birth certificate fee 40.00
Legitimation - in addition to birth certificate fee 40.00
Death Certificate
Initial Copy 30.00

Fees cover the cost of producing the certificate of death. They also fund the registration of deaths and may cover a portion of the maintenance of the data applications

used to register deaths. The Legislature intends that for every initial copy of a Utah Death Certificate sold, $12 shall be remitted to the Office of the Medical Examiner.
Burial Transit Permit 7.00
Disinterment Permit 25.00
Reprint Fee 3.00
Specialized Services
Additional Copies 10.00

The fee provides a cost break for customers ordering more than one copy of a vital record certificate.
Amendment Fee - Affidavit, Court Order, Voluntary Declaration of Paternity - in addition to certificate fee 5.00
Paternity Search (one hour minimum) (per hour) 18.00
Marriage and Divorce Abstracts 18.00
Adoption Registry 25.00
Adoption Expedite Fee 25.00
Birth Parent Information Registration ... 25.00
Adoption Records Access Fee 25.00
Adoption Records Amendment Fee 10.00
Death Research (one hour minimum) (per hour) 20.00
Death Notification Subscription Fee (organization less than or equal to 100,000 lives) 500.00
Death Notification Subscription Fee (organizations greater than 100,000 lives) 1,000.00
Death Notification Fee (per matched death) 1.00
Court Order Paternity - in addition to birth certificate fee 40.00
Online Access to Computerized Vital Records (per month) 12.00
Ad- hoc Statistical Requests (per hour) ... 45.00
Online Convenience Fee 4.00

This fee is sent to Tyler Technologies and covers the cost of an online order for vital records certificates. It passes the cost of the online ordering through to the customer.
Online Identity Verification 1.39
Expedite Fee 15.00
Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event) 50.00

Public Affairs, Education & Outreach

Government Records Access and Management Act Fees - these fees apply for the entire Department of Human Services
Paper (per side of sheet) 0.25
Audio Tape (per tape) 5.00
Video Tape (per tape) 15.00
Mailing ..... Actual cost
Compiling and Reporting
In Another Format (per hour) 25.00
If Programmer/Analyst Assistance is Required (per hour) 50.00

CLINICAL SERVICES

Medical Examiner

Examinations of Non-jurisdictional Cases
Autopsy, full or partial 2,500.00

plus cost of body transportation
External Examination 500.00

plus cost of body transportation
Facilities
Use of Office of the Medical Examiner facilities by Non-Office of the Medical Examiner Pathologists
Use of facilities and staff for autopsy .. 500.00
Use of facilities only for autopsy or examination 400.00
Use of facilities and staff for external examinations 300.00
Use of Tissue Harvest Room for Acquisition
Skin Graft 133.00
Bone 266.00
Heart Valve 70.00
Saphenous vein 70.00
Eye 35.00
Reports
Copy of Autopsy and Toxicology Report
All requestors 35.00

No charge for copies for (1) immediate relative or legal representative as outlined in UCA 26B-8-217(2)(a)(i)-(ii) and (2) for law enforcement, physicians, attorneys and government entities as outlined in UCA 26B-8-217(2)(a)(iii)-(iv), and 26B-8-217(2)(b)(i)-(iv).
Copy of Miscellaneous Office of the Medical Examiner Case File Papers
Copies for immediate relative or legal representative as outlined in UCA 26B-8-217(2)(a)(i)-(ii) 10.00
All other requestors 35.00

No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26B-8-217(2)(a)(iii)-(iv), and 26B-8-217(2)(b)(i)-(iv).
Cremation Authorization
Review and authorize cremation permit. 150.00

$10.00 per permit payable to Vital Records for processing.
Expert Services - Forensic Pathologist Case Review, Consultation, and Testimony, Portal to Portal, up to 8 Hours/day
Criminal cases, out of state (per hour) .. 500.00

$4,000.00 max/day
Non-jurisdictional criminal and all civil cases (per hour) 500.00

$4,000.00 max/day
Consultation on non-Medical Examiner cases (per hour) 500.00

$4,000.00 max/day
Photographic, Slide, and Digital Services
Digital Photographic Images
Copies for immediate relative or legal representative as outlined in UCA 26B-8-217(2)(a)(i)-(ii) (per case) 10.00
All other requestors (per case) 35.00

No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26B-8-217(2)(a)(iii)-(iv), and 26B-8-217(2)(b)(i)-(iv).
Digital X-ray images from Digital Source (Digital Imaging and Communications in Medicine). 10.00
Copied from color slide negatives.

(per image) 5.00

Digital photographic images.

Body Storage

Daily charge for use of Medical Examiner Storage Facilities (per Day) 30.00

Beginning 24 hours after notification that body is ready for release.

Biologic samples requests

Handling of requested samples for shipping to outside lab. 25.00

Processing of Office of the Medical Examiner samples for non-Office of the Medical Examiner testing.

Handling and storage of requested samples by outside sources (per year) 25.00

Storage fee (outside normal Office of the Medical Examiner retention schedule).

Return request by immediate relative as defined in code UCA 26B-8-201(3) 55.00

Sample return fee

Histology

Glass Slides (re-cuts, routine stains) per slide 20.00

Glass slides - Immunohistochemical stains per slide 50.00

Histochemical stains per slide 30.00

State Laboratory

These fees apply for the entire Division of Disease Control and Prevention

Laboratory General

Emergency Waiver 0.00

Under certain conditions of public health import (e.g. - disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.

Handling

Total cost of shipping and testing of referral samples to be rebilled to customer. (per Referral lab's invoice) ..... Actual Cost

Repeat Testing (per sample, each reanalysis) ... Actual Cost of normal fee

A normal fee will be charged if repeat testing is required due to poor quality sample.

Mycoplasma Genitalium Detection by Nucleic Acid Testing 30.00

All

Laboratory Testing of Public Health Significance ..... Actual costs up to $200

The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.

Newborn Screening

Laboratory Testing and Follow-up Services 140.00

This fee covers the costs for screening all newborns in the state of Utah for common disorders.

Out of State Screening 116.00

Chemistry

Administration

Chain of Custody Request Fee 20.00

Rush Fee 50.00

Metals

Standard Metals

Environmental Protection Agency 200.8 Copper and Lead 26.40

Standard Method 2330B Langelier Index 6.05

Environmental Protection Agency 353.2 Nitrite 17.60

This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.

Environmental Protection Agency 353.2 Nitrate 17.60

This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.

Environmental Protection Agency 200.8 - Magnesium 13.20

Environmental Protection Agency 200.8 - Iron 13.20

Environmental Protection Agency 200.8 Lithium 13.20

Environmental Protection Agency 200.8 - Potassium 13.20

Environmental Protection Agency 200.8 - Strontium 13.20

Environmental Protection Agency 200.8 Digestion 24.20

Environmental Protection Agency 200.8 Tin 13.20

Environmental Protection Agency 200.8 Cobalt 13.20

Environmental Protection Agency 200.8 Vanadium 13.20

Environmental Protection Agency Method 200.8 Zirconium 13.20

Mercury 245.1 ..... 27.50

may include a digestion fee

Mercury Environmental Protection Agency 7473 ..... 35.00

Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C 43.00

may include a digestion fee

Environmental Protection Agency 200.8 Aluminum 13.20

Environmental Protection Agency 200.8 Antimony 13.20

Environmental Protection Agency 200.8 Arsenic 13.20

Environmental Protection Agency 200.8 Barium 13.20

Environmental Protection Agency 200.8 Beryllium 13.20

Environmental Protection Agency 200.8 Cadmium 13.20

Environmental Protection Agency 200.8 Chromium 13.20

Environmental Protection

Agency 200.8 Copper 13.20
Environmental Protection
Agency 200.8 Lead 13.20
Environmental Protection
Agency 200.8 Manganese 13.20
Environmental Protection
Agency 200.8 Molybdenum . . . 13.20
Environmental Protection
Agency 200.8 Nickel 13.20
Environmental Protection
Agency 200.8 Selenium 13.20
Environmental Protection
Agency 200.8 Silver 13.20
Environmental Protection
Agency 200.8 Thallium 13.20
Environmental Protection
Agency 200.8 Zinc 13.20
Environmental Protection
Agency 200.8 Boron 13.20
Environmental Protection
Agency 200.8 Calcium 13.20
Environmental Protection
Agency Sodium 200.8 . . . . . 13.20
Hardness (Requires Calcium & Magnesium
tests) 6.05
Selenium Environmental Protection
Agency 1638 . . . . . 50.00

Organic Contaminants
Environmental Protection Agency 524.2
Trihalomethanes 89.93
Haloacetic Acids Method
6251B 179.30
Environmental Protection Agency
524.2 . . . . . 228.80

Trihalomethanes, Maximum Potential
Environmental Protection Agency 544
Microcystin RR: Microcystin
Arginine (R) 300.00
Microcystin YR Tyrosine (Y).
Arginine (R) 300.00
Microcystin LR Leucine (L)
Arginine (R) 300.00

Inorganics
Alkalinity (Total) Standard
Method 2320B 25.00
Bromate Environmental Protection Agency
300.1 . . . . . 30.25
Chlorate Environmental Protection Agency
300.1 . . . . . 30.25
Chlorite Environmental Protection Agency
300.1 . . . . . 30.25
Chloride Environmental Protection Agency
300.0 . . . . . 19.31
Environmental Protection Agency 300.0
Fluoride 20.35
Environmental Protection Agency 300.1
Sulfate 17.88
Chromium (Hexavalent) Environmental
Protection Agency 218.7 . . . . . 60.50
Cyanide, Total 335.4 . . . . . 55.00
Environmental Protection Agency 353.2
Nitrate + Nitrite 20.00

This fee covers the cost for the analysis of Nitrate + Nitrite found in samples. This is a major component of Hazardous Algae Blooms.
Perchlorate 314.0 . . . . . 60.50
Environmental Protection Agency 537.1 -
Per- and Polyfluoroalkyl Substances 290.00
pH (Test of acidity or alkalinity) 150.1 . 12.00
Environmental Protection Agency 375.2
Sulfate 25.00
Environmental Protection Agency 180.1
Turbidity 12.00
Odor, Environmental Protection
Agency 140.1 . . . . . 30.25
Organic Constituents, Ultraviolet-Absorbing
Standard Method 5910B 36.30
Carboxylic Acids (Oxalate, Formate,
Acetate) 46.20
Nitrogen, Total Standard Method 4500-N
(Lachat) 35.00

This fee covers the cost for analysis of total nitrogen found in samples. This is a major contributor to Hazardous Algae Blooms.
Organic Carbon, Total Standard
Method 5310B 30.00
Environmental Protection Agency 300.1
Bromide 30.25

Organics
Anatoxin by Enzyme-Linked Immunosorbent
Assay 300.00
Chlorophyll-A Free From Pheophytin A High
Sensitivity Environmental Protection
Agency 447 . . . . . 120.00
Chlorophyll-A Corrected for Pheophytin A
Environmental Protection Agency 445, 446 or
equivalent 25.00
Chlorophyll-A by High Performance Liquid
Chromatography 110.61
Cyanotoxin Quantitative Polymerase Chain
Reaction Method 33.00
Cylindrospermopsin by Enzyme-Linked
Immunosorbent Assay 300.00
Periphyton 30.00
Organic Wet Chemistry 200.00

Water Bacteriology
Legionella Standard Methods 9260J . . . 68.20

Liter of water
Solids, Total Dissolved Standard Method
2540C 14.03
Environmental Protection Agency 325.2
Chloride 20.00
Standard Method 5210B Carbonaceous
Biochemical/Soluble Oxygen Demand 36.30
Standard Method 2120B Color 13.20
Environmental Protection Agency 544
Nodularin 300.00
Legiolert 37.22
Water Microbiology (Drinking Water and
Surface Water)
Total Coliforms/Escherichia coli 20.90

Colilert/Colisure
Heterotrophic Plate Count by 9215 B
Pour Plate 14.30
Inorganic Surface Water (Lakes, Rivers,
Streams) Tests

Ammonia Environmental Protection Agency 350.1 . . . . . 22.00
Biochemical Oxygen Demand 5-day test Standard Method 5210B 27.00
Chlorophyll A Standard Method 10200H - Chlorophyll-A 18.70
Phosphorus, Total 365.1 . . . . . 23.00

This fee covers the cost of analyzing and preparing total phosphorus found in samples. This is a major component of Hazardous Algae Blooms.
Silica 370.1 . . . . . 20.00
Solids, Total Volatile, Environmental Protection Agency 160.4 . . . . . 22.50
Solids, Total Suspended Standard Method 2540D 15.00
Specific Conductance 120.1 . . . 10.00
Environmental Protection Agency 376.2 Sulfide 50.00

Infectious Disease
Arbovirus
TrioPlex Polymerase Chain Reaction . . . 65.00
Zika Immunoglobulin M 45.00
Next Generation Sequencing
Bacterial Sequencing 107.00
Bacterial Sequencing Analysis 40.00
Bacterial Sequencing and Identification 108.00
Bacterial Sequencing, Identification, Analysis 122.00
Microbial Source Tracking via shotgun metagenomics sequencing 194.00
Microbial Source Tracking via culture based 150.00
Immunology
Hepatitis
Anti-Hepatitis B Antibody 21.50
Anti-Hepatitis B Antigen 21.50
C (Anti-Hepatitis C Virus) Antibody 25.00
HIV (Human Immunodeficiency Virus)
1/2 and O, Antigen/Antibody Combo 30.00
Supplemental Testing (HIV-1/HIV-2 differentiation) 42.00
Syphilis
Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer) 11.00
TP-PA (Treponema Pallidum - Particle Agglutination) Confirmation . . . 22.00
QuantiFERON
QuantiFERON Gold 65.00
Virology
BioFire FilmArray Respiratory Panel . 160.00
Herpesvirus (Herpes Simplex Virus-1, Herpes Simplex Virus-2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction 51.00
Rabies - Not epidemiological indicated or pre-authorized 180.00
Influenza (Polymerase Chain Reaction) 150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing 25.00

Fee-for-service sexually transmitted diseases test. The Department of Health and Human Services has a grant that covers testing for specific local health departments.
Trichomonas vaginalis detection PCR Polymerase Chain Reaction 35.00
Bacterial and yeast species identification 4.00
Bacteriology
BioFire FilmArray Gastrointestinal Panel 185.00
Mycobacteriology
Culture 81.00
Mycobacterium tuberculosis susceptibilities (send out) 175.00
Identification and Susceptibility by GeneXpert 126.00

Parameter Category Fees charge for each sample tested
Atomic Absorption/Atomic Emission 300.00
Radiological chemistry - Alpha spectrometry 300.00
Radiological chemistry - Beta 300.00
Calculation of Analytical Results 50.00
Organic Clean Up 200.00
Toxicity/Synthetic Extractions Characteristics Procedure 200.00
Radiological chemistry - Gamma 300.00
Gas Chromatography
Simple 300.00
Complex 600.00
Semivolatile 500.00
Volatile 500.00
Radiological chemistry - Gas Proportional Counter 300.00
Gravimetric 100.00
High Pressure Liquid Chromatography . 300.00
Inductively Coupled Plasma Metals Analysis 400.00
Inductively Coupled Plasma Mass Spectrometry 500.00
Ion Chromatography 200.00
Ion Selective Electrode base methods . . . 100.00
Radiological chemistry - Liquid Scintillation 300.00
Metals Digestion 100.00
Simple Microbiological Testing 100.00
Complex Microbiological Testing 300.00
Organic Extraction 200.00
Physical Properties 100.00
Titrimetric 100.00
Spectrometry 200.00
While Effluent Toxicity 600.00
Environmental Laboratory Certification
Certification Clarification 0.00

Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.
Annual certification fee (chemistry and/or microbiology)
Utah laboratories 1,250.00
Out-of-state laboratories 3,250.00

Plus reimbursement of all travel expenses
National Environmental Accreditation Program recognition 1,250.00

Certification change 500.00
Performance Based Method Review (per method fee) 250.00
Primary Method Addition for Recognition Laboratories 500.00

Health Equity

Community Health Worker Certification Renewal Fee (per certification) 25.00
Community Health Worker Certification (per certification) 50.00
Community Health Worker Certification Penalty Fee (per certification) 100.00

DEPARTMENT OVERSIGHT

Licensing & Background Checks

Late Fee 50.00

This fee is assessed 1-30 days after expiration of a license.

Licensing
Online Background Check Application . . . 20.00

Fee assessed to process an initial or annual renewal background check application.

Adult Day Care
Initial License Fee
0-50 Consumers per Program . . 990.00

Initial Licensing Fee, charged to applicants seeking to serve 0-50 Consumers.

More than 50 Consumers per Program 990.00
Renewal Fee
0-50 Consumers per Program . . 330.00
More than 50 Consumers per Program 660.00
Per Licensed Capacity 9.90

This is the fee assessed per capacity to license an Adult Day Care Program.

Child Placing Adoption
Initial License Fee 990.00

This is the fee assessed to license a child-placing adoption agency.

Renewal Fee 825.00

This is the fee assessed to renew a license for Child-placing Adoption Program.

Child Placing Foster
Initial License Fee and Renewal Fee . . 275.00

This is the fee assessed to renew a license for Child-placing Foster Program.

Day Treatment
Initial License Fee 990.00

This is the fee assessed to license a day treatment program.

Renewal Fee 495.00

This is the fee assessed to renew a license for a Day Treatment Program.

Intermediate Secure Treatment
Initial License Fee 990.00

This is the fee assessed to license an Intermediate Secure Treatment program.

Renewal Fee 825.00

This is the fee assessed to renew a license for an Intermediate Secure Treatment Program.

Per Licensed Capacity 9.90

This is the fee assessed per capacity to license an Intermediated Secure Treatment Program.

Life Safety Pre-inspection
Initial Fee to Verify Life and Fire Safety 660.00

Outdoor Youth Program
Initial License Fee and Renewal Fee 1,548.80

This is the fee assessed to license and relicense an Outdoor Youth Program.

Outpatient Treatment
Initial License Fee 990.00

This is the fee assessed to license an Outpatient Treatment program.

Renewal Fee 330.00

This is the fee assessed to renew a license for an Outpatient Treatment Program.

Recovery Residences
Initial License Fee 1,424.50

This is the fee assessed to license a Recovery Residences Program.

Renewal Fee 550.00

This is the fee assessed to renew a license for a Recovery Residences Program.

Residential Support
Initial License Fee 990.00

This is the fee assessed to license a Residential Support Program.

Renewal Fee 330.00

This is the fee assessed to renew a license for a Residential Support Program.

Social Detoxification
Initial license fee 990.00

This is the fee assessed to license a Social Detoxification Program.

Renewal Fee 660.00

This is the fee assessed to renew a license for a Social Detoxification Program.

Residential Treatment
Initial License Fee 990.00

This is the fee assessed to license a Residential Treatment Program.

Renewal Fee 660.00

This is the fee assessed to renew a license for a Residential Treatment Program.

Per Licensed Capacity 9.90

This is the fee assessed per capacity to license a Residential Treatment Program.

Therapeutic School Program
Initial License Fee 990.00

This is the fee assessed to license a Therapeutic School Program.

Renewal Fee 660.00

This is the fee assessed to renew a license for a Therapeutic School Program.

Per Licensed Capacity 9.90

This is the fee assessed per capacity to license a Therapeutic School Program.

These fees apply for the entire Department of Health and Human Services
Background Screening Fee - Public Safety 33.25

This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by

Department of Public Safety, then the Legislature also approves the same change for the Department of Health and Human Services. Fees collected by the Division of Licensing and Background Checks are passed through to Public Safety.

Background checks initial or annual renewal (not in Direct Access Clearance System) 20.00

This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System. This fee will be assessed for initial or annual renewal.

Fingerprint Clone Fee 10.00

If an applicant has previously been fingerprinted and is changing the program they are associated with, then the Department of Public Safety can transfer the prints instead of the applicant being reprinted.

Direct Access Clearance System

Facility Initial or Change of Ownership (per 100) 100.00

Initial Clearance 20.00

Facility Renewal 200.00

Fee type now required.

Other

Inspection fee for non-compliant facility follow-up inspection 35.76

The charge per extra follow-up visit begins with the second additional visit required due to non-compliance.

These fees apply for the entire Division of Licensing and Background Checks

Credit and Debit Card Fee

(per transaction) ..... Not to exceed 3%

To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues. Convenience Fee (for debit or credit card payment)

Online Processing Fee (per transaction) ... 0.75

Convenience fee to cover the cost of Utah Interactive processing fee.

Fingerprints 15.00

Annual License

Abortion Clinics 1,800.00

Health Facilities base 371.92

A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.

Direct Access Clearance System

Contractor Access 100.00

Two Year Licensing Base

Plus the appropriate fee as listed below to any new or renewal license

Health Care Facility 743.83

The Division of Licensing and Background Checks licenses many different types of health care facilities; this is the base fee for that process and then each different type has add-on costs.

Health Care Providers

Change Fee 185.96

Charged for making changes to existing licenses.

Hospitals

Hospital Licensed Bed 55.79

This per bed fee is for the licensing of the hospital.

Nursing Care Facilities, and Small Health Care Facilities Licensed Bed 44.63

End Stage Renal Disease Centers Licensed Station 260.34

Freestanding Ambulatory Surgery Centers (per facility) 4,277.04

Birthing Centers (per licensed unit) 743.83

Hospice Agencies 2,138.52

Home Health Agencies 2,138.52

Personal Care Agencies 1,430.45

Mammography Screening Facilities 743.83

Assisted Living Facilities

Type I (per licensed bed) 37.19

Type II (per licensed bed) 37.19

This per bed fee is for the licensing of the assisted living Type II.

The fee for each satellite and branch office of current licensed facility 371.92

Late Fee

Within 1 to 14 days after expiration of license ..... 50% of scheduled fee

Within 15 to 30 days after expiration of license ..... 75% of scheduled fee

New Provider/Change in Ownership

Applications for health care facilities . 1,069.26

Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

Assisted Living and Small Health Care Type-N (nursing focus) Limited Capacity

Applications: 464.90

Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay

If a health care facility application is terminated or delayed during the application process, then a fee based on services rendered will be retained as follows:

On-site inspections ..... 90% of total fee

Plan Review and Inspection

Hospitals

Number of Beds

Up to 16 ..... 3,445.00

17 to 50 ..... 6,890.00

This fee is assessed for architectural plan reviews for a hospital with 17-50 beds.

51 to 100 .... 10,335.00

This fee is assessed for architectural plan reviews for a hospital with 51-100 beds.

101 to 200 ... 12,870.00

This fee is assessed for architectural plan reviews for a hospital with 101-200 beds.

201 to 300 ... 15,470.00

301 to 400 ... 17,192.50

Over 400, base 17,192.50
Over 400, each additional bed . . 37.50

In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities
Number of Beds
Up to 5 . . . . . 1,118.00
6 to 16 . . . . . 1,716.00
17 to 50 . . . . . 3,900.00

This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 17-50 beds.

51 to 100 . . . . 6,890.00

This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 51-100 beds.

101 to 200 . . . 8,580.00

This fee is assessed for architectural plan reviews for nursing care facilities and small health care facilities with 101-200 beds.

Freestanding Ambulatory Surgical Facilities (per operating room) 1,722.50

Other Freestanding Ambulatory Facilities (per service unit) 442.00

Includes Birthing Centers, Abortion Clinics, and similar facilities.

End Stage Renal Disease Facilities (per service unit) 175.50

Assisted Living Type I and Type II
Number of Beds
Up to 5 . . . . . 598.00
6 to 16 . . . . . 1,196.00
17 to 50 . . . . . 2,762.50

This fee is assessed for architectural plan reviews for assisted living facilities with 17-50 beds.

51 to 100 . . . . 5,167.50

This fee is assessed for architectural plan reviews for assisted living facilities with 51-100 beds.

101 to 200 . . . 7,247.50

This fee is assessed for architectural plan reviews for assisted living facilities with 101-200 beds.

Remodels of Licensed Facilities
Hospitals, Freestanding Surgery Facilities (per square foot) 0.29
All others excluding Home Health Agencies (per square foot) 0.25
Each additional required on-site inspection 559.00

Health Care Facility Licensing Rules . . . . . Actual cost

Plus mailing

Other Plan Review Fee Policies
Plan Review Onsite Inspection . . . . See Notes

If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, then the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be $559.00 per inspection, plus mileage reimbursement at the approved state rate.

Previously Reviewed or Approved Plan . . . . . 60% of scheduled fee

A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.

Special Equipment Facility Addition or Remodel (per square foot) 0.52

A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator.

Terminated or Delayed Plan Review
Preliminary Drawing
Review . . . . . 25% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Working Drawings and Specifications
Review . . . . . 80% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, then the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Certificate of Authority
Working Drawings and Specifications
Review . . . . . 80% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, then the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Conditional Monitoring Inspections
Center-based providers (per visit) 253.00

Charge is per each visit required due to non-compliance when a Facility is on a conditional license.

Home-based providers (per visit) 245.00

Charge is per each visit required due to non-compliance when a Facility is on a conditional license.

Conditional Monitoring Fee 393.37

Visits required due to non-compliance. Facility is on a conditional license. Excludes state operated facilities.

Annual License
Child Care Facility Base 62.00

Plus the appropriate fee as listed below to any new or renewal license
Change in license or certificate during the license period more than twice a year 44.34
Child Care Center Facilities (per child) . . . 1.75
Late Fee . . . . . Variable

Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, $31 plus $0.75 per child in the requested capacity. For homes, $31.

New Provider/Change in Ownership
Applications for Child Care center facilities 200.00

A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

HEALTH CARE ADMINISTRATION

Integrated Health Care Administration

Provider Enrollment
Medicaid application fee for prospective or re-enrolling 750.00

This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.

INTEGRATED HEALTH CARE SERVICES

Children's Health Insurance Program Services

Quarterly Premium
Plan B 30.00

138%-150% of Poverty Level
Plan C 75.00

150%-200% of Poverty Level
Late 15.00
State Children's Health Insurance Program 75.00

200% or Lower of Poverty Level

Non-Medicaid Behavioral Health Treatment and Crisis Response

Alcoholic Beverage Server
On Premise and Off Premise Sales 3.50

State Hospital

Use of Utah State Hospital Facilities
Photo Shoots (per 2 hours) 20.00

Fee for use of the Utah State Hospitals (USH) outdoor facilities for photographing. USH charges this minimal amount to cover additional traffic and facility use.

Groups Up To 50 People (per day) 75.00

Fee for use of the castle or other group gathering area as the Utah State Hospital (USH). This fee will be used for groups of 50 or less. USH charges this minimal amount to cover scheduling, additional traffic and facility use.

Groups Over 50 People (per day) 150.00

Fee for use of the castle or other group gathering area as the Utah State Hospital (USH). This fee will be used for groups of 50 or less. USH charges this minimal amount to cover scheduling, additional traffic and facility use.

LONG-TERM SERVICES & SUPPORT

Disabilities - Other Waiver Services

Graduated 1,300.00

Critical support services for people with disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of gross family income.

PUBLIC HEALTH, PREVENTION, AND EPIDEMIOLOGY

Communicable Disease

Utah Statewide Immunization Information System
Non-Financial Contributing Partners
Match on Immunization Records in Database (per record) 12.00
File Format Conversion (per hour) 30.00

Emergency Medical Services and Preparedness

Equipment Delivery
Strike Team BLU-MED Mobile Field Response Tent Support 6,000.00

CHILDREN, YOUTH, & FAMILIES

Child & Family Services

Live Scan Testing 10.00

Office of Early Childhood

Baby Watch Early Intervention Monthly Participation Fee
Household income 101% to 186% of Federal Poverty Level 10.00
Household income 187% to 200% of Federal Poverty Level 20.00
Household income 201% to 250% of Federal Poverty Level 30.00
Household income 251% to 300% of Federal Poverty Level 40.00

Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.

Household income 301% to 400% of Federal Poverty Level 50.00

Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.

Household income 401% to 500% of Federal Poverty Level 60.00
Household income 501% to 600% of Federal Poverty Level 80.00
Household income 601% to 700% of Federal Poverty Level 100.00

Household income 701% to 800% of Federal Poverty Level 120.00
Household income 801% to 900% of Federal Poverty Level 140.00
Household income 901% to 1000% of Federal Poverty Level 160.00
Household income 1001% to 1100% of Federal Poverty Level 180.00
Household income above 1100% of Federal Poverty Level 200.00

Baby Watch Early Intervention family fees are assessed to families who receive early intervention services and are based on a sliding fee schedule. Fee revenue collected by the Department of Health and Human Services is passed through to the local early intervention agency that provided the services and is used to supplement other funds passed through to the local early intervention agency.

OFFICE OF RECOVERY SERVICES

Child Support Services

Automated Credit Card Convenience 2.00

Fee for self- serve payments made online or through the automated phone system (interactive voice response)

Collections Processing 12.00

6% of each payment amount not to exceed $12 per month. Done automatically through ORSIS.

Assisted Credit Card Convenience 6.00

Fee for phone payments made with the assistance of an accounting worker

Federal Offset 25.00
Annual Collection 35.00

Annual fee of $35 charged after $550 collected on a "never- assistance" case. Done automatically through ORSIS.

QUALIFIED PATIENT ENTERPRISE FUND

Qualified Medical Provider Proxy Registration (Initial) (per Provider) 30.00
Qualified Medical Provider Proxy Registration (Renewal) (per Provider) ... 30.00

Renewal every 2 years

Non- Utah Resident Patient Card (Initial) (per Patient) 15.00

Valid for 21 days

Non- Utah Resident Patient Card (Renewal) (per Patient) 15.00

Patients may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

Non- Utah Resident Guardian and Provisional Card (Initial)
(per Guardian/Patient) 15.00

Valid for 21 days

Non- Utah Resident Guardian and Provisional Card (Renewal)
(per Guardian/Patient) 15.00

Guardian may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

Guardian (already background screened as a Caregiver) and Provisional Card (Initial) (per Guardian/Patient/Caregiver) 15.00
Guardian (already background screened as a Caregiver) and Provisional Card (6 Month) (per Guardian/Patient/Caregiver) 15.00
Caregiver (already background screened as a Guardian) Registration and Card (Initial) (per Guardian/Patient/Caregiver) 15.00
Caregiver Registration (already background screened as a Guardian) and Card (Renewal) (per Guardian/Patient/Caregiver) 5.00

Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 90- day patient renewal.

Medical Cannabis
Pharmacy and Medical Provider Fees
Qualified Medical Provider Registration (Initial) (per Provider) 150.00
Qualified Medical Provider Registration (Renewal) (per Provider) 50.00

Renewal every 2 years

Pharmacy Medical Provider/Pharmacist Registration Fee (Initial)
(per Provider) 150.00
Pharmacy Medical Provider/Pharmacist Registration Fee (Renewal)
(per Provider) 50.00

Renewal every 2 years

Pharmacy Agent Registration (Initial or >= 1 Year Expired) (per Agent) 100.00
Pharmacy Agent Registration (Renewal) (per Agent) 50.00
Courier Agent Registration (Initial or >= 1 Year Expired) (per Agent) 100.00
Courier Agent Registration (Renewal) (per Agent) 50.00
Patient Fees
Patient Card (Initial) (per Patient) 15.00

Registering patients and providing patient information to qualifying medical providers and registered medical cannabis pharmacies helps ensure only patients with qualifying medical conditions per statute are allowed access to approved medical cannabis products within amounts prescribed and allowed by statute.

Patient Registration Renewal (6 - 12 Month) (per Patient) 15.00

Registering patients and providing patient information to qualifying medical providers and registered medical cannabis pharmacies helps ensure only patients with qualifying medical conditions per statute are allowed access to approved medical cannabis products within amounts prescribed and allowed by statute.

Guardian and Provisional Card (Initial or >= 1 Year Expired) (per Guardian/Patient) 68.25
Guardian and Provisional Card (6 Month) (per Guardian/Patient) 24.00
Guardian (already background screened as a Guardian) and Provisional Card (Initial) (per Guardian/Patient) 15.00

Guardian (already background screened as a Guardian) and Provisional Card (6 Month) (per Guardian/patient) 15.00
Caregiver Registration and Card (Initial or >= 1 Year Expired) (per Caregiver) 68.25
Caregiver Registration and Card (Renewal) (per Caregiver) 14.00
Caregiver (already background screened as a Caregiver) Registration and Card (Initial) (per Caregiver) 15.00
Caregiver Registration (already background screened as a Caregiver) and Card (Renewal) (per Caregiver) 5.00

Renewal date is dependent upon the renewal date of the related patient card.
Uniform Transaction Fee
(per Transaction) 3.00

The fee provides funding for research and outreach, policies and rules, staff support for three boards, as well as general administration and accounting for the program. This fee has also provided funding to make payments to the General Fund towards repaying the original loan provided by the Legislature to start the program.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

Commissioner's Office
General Administration
Administrative Hearing Fee (per Hour) Variable

Hourly charge varies from $0 to $500 depending on type of hearing and staffing required.

Registered Farms Recording 10.00
All Agriculture Divisions
Certified document 25.00
Mileage ..... Variable

To be charged according to the current mileage rate of the State of Utah.

Duplicate 15.00
Late 25.00
Print License/Prod Certificate Fee 20.00
Returned check 20.00
Copies of files
Per hour 10.00
Per copy 0.25
Certificates of Export
Single Certificate 30.00
More than 3 pages 55.00
Certificate of Free Sale Expedite Fee ... 70.00

ANIMAL INDUSTRY

Animal Health
Animal Health
Aerial Hunting License Fee 10.00
Aquaculture Inspection 100.00
Inspection Service (per Hour) 60.00
Commercial Aquaculture Facility 150.00
Commercial Fishing Facility 30.00
Hatchery Operation (Poultry) 25.00
Poultry Dealer License (per dealer) 25.00
Health Certificate Book 50.00
Trichomoniasis Report Book 10.00
Trichomoniasis Ear Tags 2.00
Citation
Per violation 500.00
Per head 2.00

If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.

Service Fee for Veterinarians
Per day 600.00
Per mile ..... Variable

To be charged according to the current mileage rate of the State of Utah.

Meat Inspection
Meat Inspection
Verification of Ownership License 100.00
Farm Custom Slaughter 100.00
Inspection Service 60.00
Harvest Ear Tags 2.00
Brand Verification of Ownership at Slaughter 10.00
Meat Packing
Meat Packing Plant 150.00
Custom Exempt 150.00
T/A (Talmage-Aiken) Official 150.00
Packing/Processing Official 150.00

Horse Racing Commission
Utah Horse Commission (fees are not to exceed the amounts identified)
License
Owner/Trainer (1 Year) 150.00
Owner/Trainer (3 Years) 450.00
Owner (1 Year) 100.00
Owner (3 Years) 300.00
Organization (1 Year) 100.00
Trainer (1 Year) 100.00
Trainer (3 Years) 300.00
Assistant trainer (1 Year) 100.00
Assistant trainer (3 Years) 300.00
Jockey (1 Year) 100.00
Jockey (3 Years) 300.00
Veterinary Clinic (1 Year) 100.00
Veterinary Clinic (3 Years) 300.00
Racing Official (1 Year) 100.00
Racing Organization Manager or Official (1 Year) 100.00
Racing Organization Manager or Official (3 Years) 300.00
Pony Rider (1 Year) 75.00
Pony Rider (3 Years) 225.00
Groom (1 Year) 75.00
Groom (3 Years) 225.00
Security Guard 75.00
Security Investigator 75.00
Concessionaire 75.00
Drug Test Fee for Finalists 150.00
Drug Test Fee 100.00

MARKETING AND DEVELOPMENT

Marketing/Utah's Own
Utah's Own Supporter 1,000.00
Utah's Own New Member Registration .. 75.00
Utah's Own Member Renewal 60.00

PLANT INDUSTRY

Plant Industry Administration
Plant Industry Agriculture Inspection

Agricultural Inspection: Inspection services performed (per Hour) 40.00
Agricultural Inspection: Overtime (per hour) 60.00
For inspectors' time over 40 hours per week and on Holidays, plus regular fees.
Agricultural Inspection Mileage ..... Variable
To be charged according to the current mileage rate of the State of Utah.
Citations, maximum per violation 500.00

Grain Lab

Grain
Regular hourly rate (per hour) 40.00
Overtime hourly rate (per hour) 60.00
Official Inspection Services
Railcar (per car) 20.50
Supervision Fee - Railcar (per car) 1.10
Truck or trailer (per carrier) 10.50
Supervision Fee - Truck or Trailer (per carrier) 0.26
Container Inspection 21.50
Submitted sample (per sample) 9.00
Supervision Fee - Submitted Sample (per sample) 0.26
Re- inspection
Based on new sample (per truck) 10.50
Basis file sample 9.00
Based on new sample rail 20.50
Protein test
Original or file sample retest ... 9.00
Oil and starch 9.00
Basis new sample 6.00
Factor only determination (per factor) ... 3.00
Plus samplers hourly rate, if applicable
Stowage examination services (per certificate) 10.00
Insect damaged kernel, determination (weevil, bore) 3.00
Sealing rail cars or containers upon request over 5 seals per rail car 5.00
Falling number inspection, per sample (per Sample) 13.00
Class X Weighing inspection (per Inspection) 6.00
Non- Official Services
Safflower Grading 13.00
Class II weighing (per carrier) 6.00
Grain grading instructions (per hour, per person) 20.00
Set of check Samples 25.00
Proteins- moisture, Set of 5
Grade certification (per inspection) 50.00
Grain Sales (per 5 GL) 2.50

Insect, Phyto, and Nursery

Beekeepers
License
1 to 20 hives 10.00
21 to 100 hives 25.00
101 to 500 hives 50.00
Phytosanitary
Inspection (per inspection) 100.00
Export Compliance Agreements 50.00
Nursery
Agent 50.00
Gross Sales
$0 to $5,000 ..... 40.00
$5,001 to $100,000 ..... 80.00
$100,001 to $250,000 ..... 120.00
$250,001 to $500,000 ..... 160.00
$500,001 and up 200.00

Pesticide

Pesticide
Product Registration 195.00
Adding Category (per occurrence) 15.00
Triennial (3 year) examination and educational materials 20.00
Commercial Applicator Certification
Business License 110.00
Triennial (3 year) Certification and License 45.00
Dealer License
Triennial Dealer License 100.00

Feed, Fertilizer, and Seed

Feed
Product Registration 60.00
Custom Formula Permit 75.00
Fertilizer
Product Registration 60.00
Blenders License 75.00
Minimum Annual Assessment (per Assessment) 20.00
Assessment (per ton) 0.35
Seed
Seed Purity
Flowers 24.00
Grains 16.00
Grasses 34.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Germination
Flowers 24.00
Grains 16.00
Grasses 25.00
Legumes 16.00
Trees and Shrubs 25.00
Vegetables 16.00
Seed Tetrazolium Test
Flowers 44.00
Grains 28.00
Grasses 44.00
Legumes 34.00
Trees and Shrubs 44.00
Vegetables 28.00
Embryo Analysis (Loose Smut Test) 25.00
Cut Test 16.00
Mill Check (per hour) 40.00
Moisture Test 24.00
Canada Standards 20.00
Examination of Extra Quantity for Other Crop or Weed (per hour) 40.00
Examination for Noxious Weeds Only (per hour) 40.00
Emergency service for single component only (per sample) 42.00
Shipping Point
Minimum Certificate (per certificate) 30.00
Fruit Bulk Load (per hundredweight) 0.10
Vegetable Bulk Load (per hundredweight) . 0.10
Control Atmosphere 10.00
Hay and Straw Weed Free Certification
Bulk loads of hay up to 10 loads 30.00
Charge for each hay tag 0.10

Organics

Plant Industry Agriculture Inspection
Good Agricultural Practices (GAP) Inspection (per hour) ..... Federal rate
Organic
Certification - Crop 400.00
Certification - Livestock 750.00
Certification - Processor 750.00
Export Origin Certification 100.00
Annual registration late fee (per Registration) 100.00
Fee for inspection (per hour) 65.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour) 98.00
Major holidays and Sundays plus regular fees (per hour) 98.00
Gross Sales
$0 to $5,000 ..... Exempt

If an organic producer has gross sales of less than or equal to $5,000 for the previous calendar year, they are exempt from paying this fee.

$5,001 to $10,000 ..... 100.00
$10,001 to $15,000 ..... 180.00
$15,001 to $20,000 ..... 240.00
$20,001 to $25,000 ..... 300.00
$25,001 to $30,000 ..... 360.00
$30,001 to $35,000 ..... 420.00
$35,001 to $50,000 ..... 600.00
$50,001 to $75,000 ..... 900.00
$75,001 to $100,000 ..... 1,200.00
$100,001 to $150,000 ..... 1,800.00
$150,001 to $280,000 ..... 2,240.00
$280,001 to $375,000 ..... 3,000.00
$375,001 to $500,000 ..... 4,000.00
$500,001 to $1,000,000 ..... 5,000.00
$1,000,001 and up 10,000.00

REGULATORY SERVICES

Regulatory Services Administration
Domestic Game Slaughter
Domestic Game Slaughter Permit 500.00
Domestic Game Slaughter Inspection (per Hour) 100.00
Domestic Game Slaughter Mileage ... Variable

To be charged according to the current mileage rate of the State of Utah.

Bedding & Upholstered
Bedding/Upholstered Furniture
Bedding Permit 105.00
Upholsterer with employees 90.00
Upholsterer without employees 65.00

Weights & Measures
Weights and Measures
Weighing and measuring devices/individual service person (per Service person) 50.00
Metrology services (per hour) 50.00
Fuel Dispenser Inspection, including LPG/CNG 50.00
Base Weights and Measures
Meter Inspection 50.00
Small Scale Inspection 50.00
Large Scale Inspection 200.00
Check Registers/Scanners 25.00
Special Scale Inspections
Large Capacity Truck (Man Hour) (per hour) 25.00
Large Capacity Truck (Per Mile) (per mile) 2.00
Large Capacity Truck (Equipment Hour) (per hour) 25.00
Pickup Truck (Man Hour) (per hour) ... 25.00
Pickup Truck (Per Mile) (per mile) 1.00
Pickup Truck (Equipment Hour) (per hour) 20.00

Equipment use

Overnight Trip (per day) ..... Variable

Includes the State's per diem rate plus the cost of lodging.

Citations, maximum per violation 500.00

Food Inspection
Base Inspection by Establishment Type
Cottage / Very Small 100.00
Small 200.00

Less than 1,000 sq. ft. / 4 or fewer employees

Medium 450.00

1,000- 5,000 sq. ft., with limited food processing

Large 750.00

Food processor over 1,000 sq. ft. / Grocery store 1,000- 50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000- 50,000 sq. ft.

Super 1,000.00

Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.

Kratom
Kratom Product Registration 240.00
Kratom Alkaloid Testing 120.00
Plan Review
Follow Up 200.00
Alternative Follow Up ..... Variable

Based on the establishment size as defined in Base Food Inspection (Cottage/Very Small, Small, Medium, Large or Super).

Special Inspection
Food and Dairy Inspection
Per hour 30.00
Overtime rate 40.00

Dairy Inspection
Dairy
Test milk for payment 100.00
Operate milk manufacturing plant (per Plant) 1,000.00
Make butter (per Operation) 100.00
Haul farm bulk milk (per Operation) 100.00
Make cheese (per Operation) 100.00
Operate a pasteurizer (per Operator) ... 100.00
Dairy Products Distributor (per Distributor) 500.00
Milk Processing Plants
Milk Processing Plants - Small (per Inspection) 250.00
Milk Processing Plants - Medium (per Inspection) 500.00
Milk Processing Plants - Large (per Inspection) 1,000.00
Milk Processing Plants - Super (per Inspection) 2,000.00

QUALIFIED PRODUCTION ENTERPRISE FUND

Medical Cannabis

Application Fees
Establishment Application Fee - Level 1 ..... 2,500.00
Medical Cannabis Establishment Application Fee for: Cultivators, Processors, Pharmacies, Laboratories
Establishment Application Fee - Level 2 ..... 250.00
Medical Cannabis Establishment Application Fee for: Courier/Home Delivery
License Fees
Cultivation License Fee 100,000.00
Processor Tier 1 License Fee 90,000.00
Processor Tier 2 License Fee 35,000.00
Pharmacy License (URBAN) Fee .. 67,000.00
Weber, Davis, Salt Lake and Utah Counties
Pharmacy License (RURAL) Fee ... 50,000.00
All counties other than Weber, Davis, Salt Lake and Utah Counties
Courier/Home Delivery License Fee . 2,500.00
Laboratory License Fee 15,000.00
Research University License 2,500.00
Other Medical Cannabis Program Fees
Establishment Agent Registration Fee - Background Check Needed 150.00
Establishment Agent Registration Fee - No Background Check Needed 100.00
Establishment License Change of Ownership Fee 300.00
Establishment License Change of Location Fee 750.00
Medical Cannabis Laboratory Testing Panels
Medical Cannabis Concentrate Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Flower Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Pre-Pack Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Medical Cannabis Final Product Testing Panel ..... Actual Cost
Amount charged per test is calculated as actual labor and material expenses.
Individual Tests
Cannabinoid Testing - High Volume 77.00
When 16 or more samples are processed
Cannabinoid Testing - Low Volume ..... Variable based on quantity
When 15 or less samples are processed
Pesticide Testing 176.00
Foreign Matter Testing 17.00
Heavy Metal Testing 121.00
Mycotoxin Testing 143.00
Microbial Life Testing (w/PCR) 132.00
Microbial Life Testing (w/o PCR) 99.00
Residual Solvent Testing 121.00
Terpenes Testing 121.00
Moisture Content Testing 28.00
Water Activity 22.00

INDUSTRIAL HEMP

Industrial Hemp
License Fees
Industrial Hemp Processor Licensing Fee Tier 1 ..... 2,500.00
Industrial Hemp Processor Licensing Fee Tier 2 ..... 2,000.00
Industrial Hemp Processor Licensing Fee Tier 3 ..... 1,000.00
Industrial Hemp Processor Licensing Fee Tier 4 ..... 750.00
Industrial Hemp Lab Licensing Fee . 2,500.00
Registration and Permit Fees
Product Registration Fee for Cannabinoid Products 250.00
Product Registration Service Fee for Cannabinoid Products 75.00
Hemp Retail Establishment Permit Fee 50.00
Other Industrial Hemp Program Fees
Background Check Fee 51.50
Late Fee for Industrial Hemp Program License or Product Registration 50.00

ANALYTICAL LABORATORY

Analytical Laboratory
Expedited (Rush) Testing - Any Test 60.00
General Laboratory Test Fee ..... Actual Cost
All tests not listed in the fee schedule. Amount charged per test is calculated as actual labor and material expenses.
Chemistry
Alcohol Content Testing 25.00
Anatoxin-a ELISA Test - First Sample 141.00
Anatoxin-a ELISA Test - Additional Samples 50.00
Microcystin ELISA Test - First Sample 137.00
Microcystin ELISA Test - Additional Samples 50.00
Cylindrospermopsin ELISA Test - First Sample 137.00
Cylindrospermopsin ELISA Test- Additional Samples 50.00
Saxitoxin ELISA Test - First Sample . 137.00
Saxitoxin ELISA Test - Additional Sample 50.00
Fat 60.00
Fiber, Crude 60.00
Proximate analysis (moisture, protein, fat, fiber, ash) 90.00
Proximate analysis (moisture, protein, fiber) 60.00
Protein 40.00
NPN (Non-Protein Nitrogen) 50.00
Ash 20.00
Nitrogen 40.00
Available Phosphorous 120.00
Potash 120.00
Nutritive Metals, First Analyte 60.00
Nutritive Metals, Additional Analytes .. 25.00
pH 20.00
Soil/Plants - Single Test 305.00
Soil/Plants - Multi-residue Test 400.00
Microbiology

Appendix N Splits <2 Analyts, per sample 70.00
Appendix N Splits <15 Analysts, per sample 140.00
Appendix N Splits 15+ Analysts, per sample 200.00
Section 6 Splits <2 Analysts, per sample 70.00
Section 6 Splits <15 Analysts, per sample 140.00
Section 6 Splits 15+ Analysts 200.00
Salmonella Screen 40.00
Salmonella confirmatory testing (per Test) 250.00
E. coli Screen (per Test) 40.00
E. coli confirmatory testing (per Test) . 250.00
E. coli O157:H7 Screen 40.00
E. coli O157:H7 confirmation testing .. 250.00
STEC Screen (per Test) 40.00
STEC confirmatory testing (per Test) . 450.00
Listeria Screen 40.00
Listeria confirmatory testing (per Test) 250.00
Campylobacter Screen 40.00
Campylobacter confirmation testing .. 250.00

GENERAL FUND RESTRICTED - UTAH LIVESTOCK BRAND AND ANTI-THEFT ACCOUNT

Brand Inspection
Rodeo Stock Inspection 350.00
Brand Recording 75.00
Brand Renewal and Registration (5 Years) 175.00
Brand renewal/registration permits to be valid for 5 years
Brand Renewal and Registration (10 Years) 350.00
Brand renewal/registration permits to be valid for 10 years
Brand Transfer 175.00
Online Production Sale License 50.00
Livestock Dealer (per dealer) 250.00
Livestock Auction Market (per Market) . 100.00
Livestock Dealer/Agent (per Agent) 75.00
Auction Weigh Person (per Weigh Person) 25.00
Minimum Charge (per inspection stop) ... 20.00
Cattle (per head) 1.00
Horse (per head) 2.00
Sheep (per head) 0.05
Estray Animals ..... Variable
Actual amount of proceeds received for the sale of the estray animal.
Lifetime Horse Permit (per Horse) 40.00
Citation (per violation) 200.00
Citation (per head) 2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.
Special Sales 250.00
Temporary Livestock Sale 250.00
Brand Book 25.00
Certified copy of Recording (new brand card) 5.00
Show and Seasonal Permits
Horse (per head) 25.00
Cattle (per head) 25.00
Horse Permit
Duplicate Lifetime 10.00
Lifetime Transfer 10.00
Elk Farming
Elk Inspection New License 500.00
Elk Brand Inspection (per elk) 5.00
Service Charge (per stop, per owner) ... 15.00
Elk Hunting Permit 100.00
Elk License
Renewal 300.00
Late 50.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

DRINKING WATER

Drinking Water Administration
Special Surveys ..... Actual cost
File Searches ..... Actual cost
Safe Drinking Water Act
Annual Connections Fee
Community Water Systems (CWS)
1-50 ERCs
Incentivized (per Year) 25.00
Non-Incentivized (per year) ... 0.50
51-500 ERCs
Incentivized (per Year) 138.00
Non-Incentivized (per year) ... 166.00
501-3,300 ERCs
Incentivized (per Year) 950.00
Non-Incentivized (per year) ... 1,140.00
3,301-5,000 ERCs
Incentivized (per Year) 2,075.00
Non-Incentivized (per year) ... 2,490.00
5,001-10,000 ERCs
Incentivized (per Year) 3,750.00
Non-Incentivized (per year) ... 4,500.00
10,001-17,500 ERCs
Incentivized (per Year) 6,875.00
Non-Incentivized (per year) ... 8,250.00
17,501-25,000 ERCs
Incentivized (per Year) 10,625.00
Non-Incentivized (per year) ... 12,750.00
25,001-50,000 ERCs
Incentivized (per Year) 18,750.00
Non-Incentivized (per year) ... 22,500.00
50,001-75,000 ERCs
Incentivized (per Year) 31,250.00
Non-Incentivized (per year) ... 37,500.00
75,001-200,000 ERCs
Incentivized (per Year) 68,750.00
Non-Incentivized (per year) ... 82,500.00
Cross Connection Control Program
Certification and Renewal
Program Administrator: paper testing 270.00
Program Administrator: renewal 150.00
Assembly Tester and Class III; initial certification and renewal 270.00
Certificate of reciprocity with another state 270.00
Replacement Certificate 30.00
Operator Certification Program
Examination: online 144.00
Any level
Examination: paper 240.00
Any level
Renewal of certification 180.00

Every 3 years if applied for during designated period
Reinstatement of lapsed certificate 360.00
Certificate of reciprocity with another state 180.00

System Assistance

Well Sealing Inspection (per hour) 125.00
Technical Assistance (per hour) 125.00

ENVIRONMENTAL RESPONSE AND REMEDIATION

CERCLA

CERCLA Professional and Technical services or assistance (per hour) 125.00

Including but not limited to oversight of cleanups EPCRA Technical Assistance, preparing, administering or conducting administrative process, environmental covenants.

Clandestine Drug Lab Decontamination Specialist Certification
Certification and Recertification 275.00
Retest of Certification Exam 125.00
Enforceable Written Assurance Letters
Written letter 500.00

Flat fee to cover costs up to 8 hours of work.
Additional charge for any costs above $500 (per hour) 125.00

Petroleum Storage Tank Cleanup

Petroleum Storage Tank (PST) Professional/Technical services or assistance (per hour) 125.00

Including but not limited to PST Claim Preparation Assistance, Management and Oversight for releases not covered by the fund, PST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer, or conduct administrative process, environmental covenants.

Petroleum Storage Tank Compliance

PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both 300.00
Aboveground Petroleum Storage Tank Notification Fee (per Facility) 250.00
Environmental Response and Remediation Program Training ..... Actual cost
UST Operators Registration - Initial 100.00
UST Operators Registration - Renewal 50.00
UST Operator 'Out of Compliance' Re-Training 200.00
Petroleum Storage Tank Red Tag Replacement 500.00

Applied only when a Red Tag is removed without authorization

Petroleum Storage Tank Installation
Base Fee 500.00
Annual Petroleum Storage Tank
Tanks on Petroleum Storage Tank (PST) Fund 130.00
Tanks not on PST Fund 260.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements 400.00
Certification or Certification Renewal for UST Contractors
PST Consultants, UST installers, UST removers, Certified Samplers, & non-government UST inspectors & testers (per Certification) 275.00
PST Consultant Recertification Class ... 150.00
Review and approval of Alternate PST Financial Assurance Mechanisms 300.00
Petroleum Storage Tank Installation Tank Fee (State Inspector) 200.00

EXECUTIVE DIRECTOR'S OFFICE

Executive Director Office Administration

All Divisions
Request for copies over 10 pages (per page) 0.25
Copies made by the requestor- over 10 pages (per page) 0.05
Compiling, tailoring, searching, etc., a record in another format ..... Actual cost*

Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request. *After the first 1/4 hour.

Special computer data requests (per hour) 125.00
CDs (per disk) 10.00
DVDs (per disk) 8.00
Contract Services ..... Actual Cost

To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on the permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.

WASTE MANAGEMENT AND RADIATION CONTROL

Hazardous Waste

Resource Conservation and Recovery Act (RCRA) Facility List 5.00
Enforceable Written Assurance Letters or Similar Letters
Flat fee for up to 8 hours to complete letter 500.00
Additional per hour charge if over the original 8 hours 125.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs)
Professional (per hour) 125.00

This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders; compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans

Hazardous Waste Permit Filing
Hazardous Waste Operation Plan Renewal or Modification 1,000.00
Vehicle Manufacturer Mercury Switch Removal and Collection Plan
Mercury Switch Removal and Collection Plan Filing 100.00
Solid Waste
Plan Renewals and Plan Modifications 100.00
Variance Requests 500.00
New Incinerator
Commercial 5,000.00
Industrial or Private 1,000.00
Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)
New Comm. Facility
Class V and Class VI Landfills 1,000.00
New Non-Commercial Facility 750.00
Radiation
Pre-Licensing, review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour) 125.00
Publication costs for making public notice of required actions ..... Actual cost
Expedited application review (per hour) 125.00

Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.

Management and oversight of impounded radioactive material ..... Actual cost
Analytical costs for monitoring samples from radioactive materials facilities ..... Actual cost
Low Level Radioactive Waste
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Review of Commercial Low-level Radioactive Waste Disposal and Uranium Recovery Special Projects ..... Actual cost

Applicable when the licensee and the Division agree that a review will be conducted by a contractor in support of the efforts of Division staff.

WASTE TIRE RECYCLING FUND
Waste Tire Recycling
Registration
Recycler or Transporter (per year) 100.00

Fees for registration applications received during the year will be prorated at $8.30 per month over the number of months remaining in the year.

WATER QUALITY
Water Quality Support
Operator Certification
Certification Examination Application Fee: Computer-based test 50.00
Certification Examination Application Fee: Paper-based test 200.00
Renewal of Certificate 75.00
or New Certificate Change in Status
Reinstatement of Lapsed Certificate plus renewal (per month) 55.00

$165.00 maximum (Renewal fee required with reinstatement)

Duplicate Certificate 30.00
Certification by reciprocity with another state 200.00
Water Quality Protection
Construction permits and sales and use tax exemptions (per hour) 125.00

Except projects of political subdivisions funded by the Division of Water Quality.

Water Quality Permits
Annual Non-discharging municipal and commercial treatment facilities 350.00
UIC Class V Inventory Review Fee 250.00
All Other Permits
UPDES, Ground Water, & Underground Injection Control Permits Not Listed (per hour) 125.00

including permit renewals and modifications

Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour) 125.00

Permittee to be notified upon receipt of application

Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water
Cement Manufacturing
Major 1,202.00
Minor 301.00
Coal Mining and Preparation
General Permit 601.00
Individual Major 1,804.00
Individual Minor 1,202.00
Concentrated Animal Feeding Operations (CAFO) General Permit 152.00
Construction Dewatering/Hydrostatic Testing General Permit 208.00
Dairy Products
Major 1,202.00
Minor 601.00
Electric
Major 1,502.00
Minor 601.00
Fish Hatcheries General Permit 167.00
Food and Kindred Products
Major 1,502.00
Minor 601.00
Hazardous Waste Clean-up Sites 3,607.00
Geothermal
Major 1,202.00
Minor 601.00
Inorganic Chemicals
Major 1,804.00
Minor 901.00
Iron and Steel Manufacturing
Major 3,607.00
Minor 901.00
Leaking Underground Storage Tank (LUST) Cleanup
General Permit 601.00

LUST Cleanup Individual Permit . . . 1,202.00
Meat Products
Major 1,804.00
Minor 601.00
Metal Finishing and Products
Major 1,804.00
Minor 901.00
Mineral Mining and Processing
Sand and Gravel 334.00
Salt Extraction 334.00
Other
Other Majors 1,202.00
Other Minors 601.00
Manufacturing
Major 2,404.00
Minor 901.00
Oil and Gas Extraction
flow rate <=0.5 million gallons per day (MGD) 601.00
flow rate > 0.5 MGD 901.00
Ore Mining
Major 1,804.00
Minor 901.00
Major w/ concentration process 13,800.00
Organic Chemicals Manufacturing
Major 3,006.00
Minor 901.00
Petroleum Refining
Major 2,404.00
Minor 901.00
Pharmaceutical Preparations
Major 2,404.00
Minor 901.00
Rubber and Plastic Products
Major 1,502.00
Minor 901.00
Space Propulsion
Major 3,340.00
Minor 901.00
Steam and/or Power Electric Plants
Major 1,202.00
Minor 601.00
Water Treatment Plants
General Permit 167.00
Annual UPDES Publicly Owned Treatment Works (POTW)
Large >10 million gallons per day (mgd) flow design (per year) 12,144.00
Medium >3 mgd but <10 mgd flow design (per year) 7,590.00
Small <3 mgd but >1 mgd (per year) 1,518.00
Very Small <1 mgd (per year) 760.00
Annual UPDES Pesticide Applicator Fee
Small Applicator 276.00
Medium Applicator 690.00
Large Applicator 2,278.00
Groundwater Remediation Treatment Plant 7,590.00
Biosolids Annual Fee (Domestic Sludge)
Small Systems (per year) 532.00

1-4,000 connections
Medium Systems (per year) 1,542.00

4,001 to 15,000 connections
Large Systems (per year) 2,239.00

greater than 15,000 connections
Non-contact Cooling Water
Flow rate <= 10,000 gallons per day (gpd) (per year) 152.00
10,000 gpd <Flow rate 100,000 gpd (per year) 304.00
100,000 gpd < Flow rate <1.0 mgd (per year) 607.00
Flow Rate > 1.0 mgd (per year) 911.00
Pretreatment Program
Pretreatment Program - For Industrial Users in non-Approved Pretreatment Program areas (per application) 600.00
Pretreatment Inspections and Audits (per hour) 125.00
Pretreatment Technical Assistance (per hour) 125.00
Pretreatment sample analytical costs (per analysis) . . . . . Actual Cost
Stormwater Permits
General Multi-Sector Industrial Storm Water Permit (per year) 250.00
Industrial Stormwater No Exposure Certificate (per 5 years) 150.00
Construction Stormwater
Common Plan - <1 acre of disturbed area (per year) 150.00
acre to <5 acres of disturbed area (per year) 250.00
5 acres to <30 acres of disturbed area (per year) 350.00
30 acres or more of disturbed area (per year) 450.00
Construction Stormwater Low Erosivity Waiver Fee (per project) 100.00

One-time project based fee.
Municipal Storm Water
0-5,000 Population (per year) 750.00
5,001 - 10,000 Population (per year) 1,250.00
10,001 - 50,000 Population (per year) 1,750.00
50,001 - 125,000 Population (per year) 3,000.00
> 125,000 Population (per year) 4,000.00
Annual Ground Water Permit Administration Fee
Tailings/Evaporation/Process Ponds; Heaps (per site) . . . . . Actual cost
0-1 Acre 531.00
>1-15 Acres 1,063.00
>15-50 Acres 2,125.00
>50-300 Acres 3,188.00
>300-500 Acres 8,473.00
>500 Acres 16,946.00
Underground Injection Control Permit Application Fee
Class I Hazardous Waste Disposal . . . 25,000.00

One-time fee
Class I Non-Hazardous Waste Disposal 9,000.00

One-time fee
Class III Solution Mining 7,200.00

One-time fee
Class V Aquifer Storage and Recovery 5,400.00

One-time fee
Water Quality Cleanup Activities
Corrective Action, Site Investigation/Remediation Oversight, Administration of Consent Orders and

Agreements, and emergency response to spills and water pollution incidents
(per hour) 125.00
Sample Analytical Lab Work ..... Actual Cost
Technical Review of and assistance given
(per hour) 125.00

401 Certification; permit appeals; and sales and use tax exemptions; waste- load analysis; Great Salt Lake Certifications

GENERAL FUND RESTRICTED - ENVIRONMENTAL QUALITY

Other Radioactive Materials License Annual Fee
(per License) ..... Actual Cost

For radioactive materials not listed on this schedule.
Hazardous Waste Flat Fee
(per year) 3,193,600.00

Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19- 6- 118.
License Authorizing the Receipt of Waste Radioactive Material for
Packaging 11,040.00

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material (Annual fee). Includes repackaging.
Licenses authorizing receipt of prepackaged waste radioactive material from
others 4,400.00

The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material (annual fee).
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and
development 11,840.00

including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices. Annual Fee
Other licenses issued for human use of radioactive material 4,400.00

except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices. Annual fee.
Investigation of a misadministration by a third party as defined in R313- 30- 5 or in R313- 32- 2, as applicable ..... Actual cost
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313- 19- 30 (per type of license category) Full annual fee
License amendment, for greater than three applications in a calendar
year 200.00
Other types of radioactive materials license fees (per license) ..... Actual Cost

For types not listed on this schedule.
General License
Annual Fee for measuring, gauging, and control devices 100.00

as described in R313- 21- 22(4), other than hydrogen- 3 (tritium) devices and polonium- 210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing, Depleted Uranium.
Generator Site Access Permits
Non- Broker Generators transferring radioactive waste (per year) 2,500.00
Brokers (waste collectors or processors)
(per year) 7,500.00
Non- Hazardous Solid Waste
Polychlorinated Biphenyl (PCBs)
(per ton) 4.75

Or fraction of a ton
Radioactive Material
Special Nuclear Material
Possession and use in sealed sources contained in devices used in industrial measuring systems, including X- ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development 2,960.00
Use as calibration and reference sources 960.00
All other licenses 6,400.00
Source Material
Annual Fee
All other source material licenses 5,100.00
Radioactive Material other than Source Material and Special Nuclear Material
Annual license fee for possession and use of radioactive material for:
Broad scope for processing or manufacturing for commercial distribution, processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, sources or devices containing radioactive material 11,840.00

Includes broad scope for research and development that do not authorize commercial distribution.
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 4,000.00
Industrial radiography operations 10,240.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self- shielded units), or search and development that do not authorize commercial distribution 3,760.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 6,960.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 13,920.00
All other radioactive material .. 2,080.00
Annual fee for:

Licenses that Authorize Services for Other Licensees 1,680.00

Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services

Licenses that authorize services for leak testing only 640.00

Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)

Annual 2,363,100.00

New Application

Siting application Actual costs up to $250,000

License application . . . . . Actual costs up to $1,000,000

Renewal . . . . . Actual costs up to $1,000,000

Pre-licensing, operations review, and consultation on commercial low-level radioactive waste facilities (per hour) 125.00

Solid Waste Facility Fee

Treatment and Disposal facilities . . . Greater of $125 or $0.21/ton Quarterly

Treatment (thermal, physical, or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Transfer facilities Greater of $125 or $0.11/ton Quarterly

The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Source Material

Uranium mills in operational or standby status or commercial sites disposing of or reprocessing (per month) 29,120.00

Uranium mills in closure status (per month) 10,760.00

Commercial sites disposing of uranium mill byproduct material (per month) . . . 10,760.00

Well Logging, Well Surveys, and Tracer Studies Licenses

for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies

Well Logging, Well Surveys, and Tracer Studies Licenses - Annual Fee 8,400.00

X-Ray

Machine-Generated Radiation

Annual Registration Fee

Per control unit including first tube, plus annual fee for each additional tube connected to the control unit

Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental and Industrial Facility 45.00

Division Conducted Inspection, Per Tube

Hospital/Therapy, Medical, Chiropractic, Industrial Facility with High and/or Very High Radiation Areas Accessible to Individuals and Other Types 115.00

Annual or Biennial

Podiatry/Veterinary, Industrial Facility with Cabinet X-Ray Units or Units Designated for Other Purposes 85.00

Dental

First tube on a single control unit 55.00

Additional tubes on a control unit (per Tube) . . . 22.50

Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts

Inspection report (per Tube) . . . 25.00

AIR QUALITY

Compliance

Annual Aggregate Compliance

20 or less tons per year (per year) 207.00

21-79 tons per year (per year) 414.00

80-99 tons per year (per year) 1,035.00

100 or more tons per year (per year) . . 1,449.00

Asbestos and Lead-Based Paint (LBP) Abatement

Course Accreditation Fee (per hour) 125.00

Asbestos Company/LBP Firm Certification Application (per year) 316.25

LBP Renovation Firm Certification Application (per year) 126.50

Asbestos Individual Certification Application 158.13

Asbestos Individual Certification Application Surcharge, (Non-Utah Accredited Training Provider) 37.95

LBP Abatement Worker Certification Application (per year) 126.50

LBP Inspector, Dust Sampling Technician Certification Application (per year) . . . 158.13

LBP Inspector/Risk Assessor, Supervisor, Project Designer Certification Application (per year) 253.00

LBP Renovator Certification Application (per year) 126.50

Lost Certification Card Replacement 37.95

Annual Asbestos Notification 632.50

Asbestos/LBP Abatement Project Notification Base Fee 189.75

Asbestos/LBP Abatement Project Notification Base Fee - Owner Occupied Residences 63.25

Abatement Unit Fee/100 units or any fraction thereof up to 10,000 units 8.86

(square feet/linear feet/cubic feet) (times 3)

School Building Asbestos Hazard Emergency Response Act (AHERA) abatement unit fees will be waived

Abatement Unit Fee/100 units or any fraction thereof more than 10,000 units 4.43

(square feet/linear feet/cubic feet) (times 3)

School Building AHERA abatement fees will be waived

Demolition Notification Base 31.63

Demolition unit per 5,000 square feet or any fraction thereof 63.25

Alternative Work Practice Review Application

Less than 10 day training provider/Private Residence Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) Requests 125.00

NESHAP Structures and Any Other Requests 316.25

Oil and Gas
Permit By Rule (PBR) Registration (Control Not Required) (per hour) 287.50
Permit By Rule (PBR) Registration (Control Required) (per hour) 575.00
Major and Minor Source Compliance Inspection (per hour) . . . . . Actual cost
Permitting
Emission Inventory Workshop 17.25

Attendance
Air Emissions (per ton) 112.45
Annual NSR Fee
Ten year review of non-expiring permits, rule and process training, electronic permitting tools
<20 tons annual emissions (per unit) . . 200.00
20 to 49 tons annual emissions (per unit) 400.00
50-99 tons annual emissions (per unit) 800.00
100-250 tons annual emissions (per unit) 1,500.00
>250 tons annual emissions (per unit) 2,500.00
Permit Category
Filing Fees
Name Changes 115.00
Small Sources Exemptions and Soil Remediation, Source Determination Letter 287.50
New non-Prevention of Significant Deterioration (PSD) sources, minor & major modifications to existing sources, Administrative Amendments 575.00
Any unpermitted sources at an existing facility 1,725.00
New major prevention of significant deterioration (PSD) sources 5,750.00

Monitoring plan review and site visit
Application Review Fees
New Prevention of Significant Deterioration (PSD) Source or Major PSD Modification to Major Source in Nonattainment Area, ... 56,250.00

or New Major Non-PSD Source or Major Non-PSD Modification in Nonattainment Areas. Covers initial hours up to 450.
New Prevention of Significant Deterioration (PSD) in Attainment Areas, Non-PSD Major Source or Non-PSD Major Modification to Major Source in Attainment Areas 37,500.00

Covers initial hours up to 300
New minor source or modifications to minor source 2,500.00

Covers initial hours up to 20
Generic permit for minor source or modifications of minor sources 1,000.00

up to 8 hours (sources for which engineering review/BACT standardized)
Temporary Relocations 875.00

Up to 7 hours, at $125/hour
Permitting cost for additional hours (per hour) 125.00
Technical review of and assistance given (per hour) 125.00

e.g. appeals, sales/use tax exemptions, soils exemptions, soils remediations, name change, small source exemptions, experimental approvals, impact analyses, etc.
Air Quality Training . . . . . Actual Cost

GENERAL FUND REST. - USED OIL COLLECTION ADMINISTRATION ACCOUNT

Used Oil
Used Oil Collection Center Registration . . . . . No Charge
Permit Application Fee for Transporter, Transfer Facility, Processor/Re-refiner, and Off-Specification Burner, including Permit Modifications and Plan Reviews 100.00
Annual Used Oil Handler Certification for Transporter, Transfer Facility, Processor/Re-refiner, Off-Specification Burner, (per year) 100.00
Marketer Application Fee 50.00
Annual Used Oil Handlers Certificate for Marketer (per year) 50.00

ENVIRONMENTAL VOLUNTARY CLEANUP RESTRICTED ACCOUNT

Voluntary Environmental Cleanup Program Application Fee 2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour) 125.00

UNDERGROUND WASTEWATER DISPOSAL SYSTEM RESTRICTED ACCT

Underground Wastewater Disposal System Restricted Acct
Underground Wastewater Disposal Systems
New Systems Fee 40.00
Certificate Issuance 25.00

DRINKING WATER ORIGINATION FEE SUBACCOUNT

Drinking Water Loan Origination (State) . . . 1.0 % of Loan Amount

DRINKING WATER ORIGINATION FEE-FEDERAL

Drinking Water Loan Origination (Federal) . 1.0 % of Loan Amount

WATER QUALITY ORIGINATION FEE SUB ACCOUNT

Water Quality Loan Origination (State) . . . . . 1.0 % of Loan Amount

WATER QUALITY ORIGINATION FEE-FEDERAL

Water Quality Loan Origination (Federal) . . 1.0 % of Loan Amount

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE, AND STATE LANDS

Division Administration
Administrative
Application
Mineral Lease 40.00
Special Lease Agreement 40.00
Mineral Unit/Communitization Agreement 40.00
Special Use Lease Agreement (SULA) . 300.00

Grazing Permit 50.00
Materials Permit 200.00
Easement 150.00
Right of Entry 50.00
Exchange of Land 1,000.00
Sovereign Land General Permit
Private 50.00
Public 0.00
Assignment
Mineral Lease
Total Assignment 50.00
Interest Assignment 50.00
Operating Right Assignment 50.00
Overriding Royalty Assignment 50.00
Partial Assignment 50.00
Collateral Assignment 50.00
Special Use Lease Agreement (SULA) ... 50.00
Grazing Permit per AUM
(Animal Unit Month) 2.00
Grazing Sublease per AUM
(Animal Unit Month) 2.00
Materials Permits 50.00
Easement 50.00
Right of Entry (ROE) 50.00
Sovereign Land General Permit 50.00
Grazing Non-use (per lease) 10%
Special Use Lease Agreement
(SULA) non-use 10%
ROE, Easement, Grazing
amendment 50.00
SULA, general permit, mineral lease, materials permit amendment 125.00
Reinstatement 150.00

Surface leases & permits per reinstatement/per lease or permit
Bioprospecting - Registration 50.00
Oral Auction Administration . Actual cost
Affidavit of Lost Document
(per document) 25.00
Certified Document
(per document) 10.00
Research on Leases or Title Records
(per hour) 50.00
Reproduction of Records
Self-Service (per copy) 0.10
By staff (per copy) 0.40
Change on Name of Division Records (per occurrence) 20.00
Fax copy (per page) 1.00

Send only
Late Fee ..... 6% or $30
Returned check charge 30.00
Sovereign Lands
Rights of Entry
Seismic Survey Fees
Primacord (per mile) 200.00
Surface Vibrators (per mile) ... 200.00
Shothole >50 ft (per hole) 50.00
Shothole <50 ft (per mile) 200.00
Pattern Shotholes (per pattern) . 200.00
Commercial 200.00
Commercial Recreation Event (per person over 150 people) 2.00

Minimum ROE of $200 plus per person royalty
Data Processing
Production Time (per hour) 55.00
Programming Time (per hour) 75.00
Geographic Information System
Processing Time (per hour) 55.00
Personnel Time (per hour) 50.00
Sovereign Lands
Easements
Minimum Easement 225.00
Canal
Existing
<=33' wide (per rod) 15.00
>33' but <=66' wide (per rod) . 30.00
>66' but <=100' wide (per rod) . 45.00
>100' wide (per rod) 60.00
New
<=33' wide (per rod) 30.00
>33' but <=66' wide (per rod) . . 45.00
>66' but <=100' wide (per rod) . 60.00
>100' wide (per rod) 75.00
Roads
Existing
<=33' wide (per rod) 5.50
>33' but <=66' wide (per rod) . . 11.00
>66' but <=100' wide (per rod) . 16.50
>100' wide (per rod) 22.00
New
<=33' wide (per rod) 8.50
>33' but <=66' wide (per rod) . . 17.00
>66' but <=100' wide (per rod) . 25.50
>100' wide (per rod) 34.00
Power lines, Telephone Cables, Retaining walls and jetties
<=30' wide (per rod) 14.00
>30' but <=60' wide (per rod) . . 20.00
>60' but <=100' wide (per rod) 26.00
>100' but <=200' wide (per rod) 32.00
>200' but <=300' wide (per rod) 42.00
>300' wide (per rod) 52.00
Pipelines
<=2" (per rod) 7.00
>2" but <=13" (per rod) 14.00
>13" but <=25" (per rod) 20.00
>25" but <=37" (per rod) 26.00
>37" (per rod) (per rod) 52.00
Special Use Lease Agreements (SULA)
SULA Lease Rate 450.00

Minimum $450 or market rate per R652-30-400
Grazing Permits 3.00

Annual rate per AUM (Animal Unit Month)
Special Use Lease Agreements .... Market rate
General Permits
Mooring Buoys: 3 year max term 50.00
Renewal - Mooring Buoys; 3 year max term 50.00
Floating Dock, Wheeled Pier, Seasonal Use; 3 year max 250.00
Dock/pier, Single Upland Owner Use; 3 year max 350.00
Boat Ramp, Temporary, Metal; 3 year max 250.00
Boat Ramp, Concrete, Gravel; 10 year max 700.00

Irrigation Pump - Pump Head Only; 15 year max 50.00
Irrigation Pump - Structure; 15 year max 150.00
Storm Water Outfall, Drain; 10 year max 150.00
Other 450.00
Minimum $450 or market rate per R652-30-400
Mineral Lease
Rental Rate 1st ten years (per acre) 1.10
Rental Rate Renewals (per acre) 2.20

OIL, GAS, AND MINING

Administration
New Coal Mine Permit Application 5.00
Copy
Staff Copy (per page) 0.25
Self Copy (per page) 0.10
Minerals Reclamation
Mineral Program
Exploration Permit 150.00
Annual Permit
Small Mining Operations 150.00
Large Mining Operations
20 to 50 acres 500.00
Over 50 acres 1,000.00

UTAH GEOLOGICAL SURVEY

Administration
Miscellaneous
Copies, Staff (per copy) 0.25
Energy and Minerals
Sample Library
Cutting Thin Section Blanks 10.00
Core Plug <1 inch (per plug) 10.00
Core Plugs > 1 inch diameter 25.00
Layout-Cuttings, Core, Coal, Oil/Water (per box) 5.00
Binocular/Petrographic Microscopes (per day) 25.00
Workshop Fee - Building Use (per day) . 250.00
Workshop - Saturday/Sunday/Holiday Surcharge 320.00
Core Slabbing
1.8" Diameter or Smaller (per foot) 10.00
1.8"-3.5" Diameter (per foot) 14.00
Core Photographing
Box/Closeup 8x10 color/Thin Section (per Photo) 5.00
Geologic Mapping
Paleontology
File Search Requests
Paleontology File Search Fee 30.00
Up to 30 minutes

WATER RESOURCES

Administration
Water Banking Contract Application Fee 200.00
Water Banking Statutory Application Fee 300.00
Color Plots
Existing (per linear foot) 2.00
Custom Orders . . . . . Current staff rate
Plans and Specifications
Small Set 10.00
Average Size Set 25.00
Large Set 35.00
Cloud Seeding License . . . . . Variable
Fees shall be determined by the division based on actual cost.
Copies, Staff (per hour) . . . . . Current staff rate

WATER RIGHTS

Administration
Applications
Appropriation . . . . . Variable see below
For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:
Flow - cubic feet per second (cfs)
More than 0, not to exceed 0.1 . . . . . 150.00
More than 0.1, not to exceed 0.5 . . . . . 200.00
More than 0.5, not to exceed 1.0 . . . . . 250.00
More than 1.0, not to exceed 2.0 . . . . . 300.00
More than 2.0, not to exceed 3.0 . . . . . 350.00
More than 3.0, not to exceed 4.0 . . . . . 400.00
More than 4.0, not to exceed 5.0 . . . . . 430.00
More than 5.0, not to exceed 6.0 . . . . . 460.00
More than 6.0, not to exceed 7.0 . . . . . 490.00
More than 7.0, not to exceed 8.0 . . . . . 520.00
More than 8.0, not to exceed 9.0 . . . . . 550.00
More than 9.0, not to exceed 10.0 . . . . . 580.00
More than 10.0, not to exceed 11.0 . . . . 610.00
More than 11.0, not to exceed 12.0 . . . . 640.00
More than 12.0, not to exceed 13.0 . . . . 670.00
More than 13.0, not to exceed 14.0 . . . . 700.00
More than 14.0, not to exceed 15.0 . . . . 730.00
More than 15.0, not to exceed 16.0 . . . . 760.00
More than 16.0, not to exceed 17.0 . . . . 790.00
More than 17.0, not to exceed 18.0 . . . . 820.00
More than 18.0, not to exceed 19.0 . . . . 850.00
More than 19.0, not to exceed 20.0 . . . . 880.00
More than 20.0, not to exceed 21.0 . . . . 910.00
More than 21.0, not to exceed 22.0 . . . . 940.00
More than 22.0, not to exceed 23.0 . . . . 970.00
More than 23.0 . . . . . 1,000.00
Volume - acre-feet (af)
More than 0, not to exceed 20 . . . . . 150.00
More than 20, not to exceed 100 . . . . . 200.00
More than 100, not to exceed 500 . . . . . 250.00
More than 500, not to exceed 1,000 . . . 300.00
More than 1,000, not to exceed 1,500 . . 350.00
More than 1,500, not to exceed 2,000 . . 400.00
More than 2,000, not to exceed 2,500 . . 430.00
More than 2,500, not to exceed 3,000 . . 460.00
More than 3,000, not to exceed 3,500 . . 490.00
More than 3,500, not to exceed 4,000 . . 520.00
More than 4,000, not to exceed 4,500 . . 550.00
More than 4,500, not to exceed 5,000 . . 580.00
More than 5,000, not to exceed 5,500 . . 610.00
More than 5,500, not to exceed 6,000 . . 640.00
More than 6,000, not to exceed 6,500 . . 670.00
More than 6,500, not to exceed 7,000 . . 700.00
More than 7,000, not to exceed 7,500 . . 730.00
More than 7,500, not to exceed 8,000 . . 760.00
More than 8,000, not to exceed 8,500 . . 790.00
More than 8,500, not to exceed 9,000 . . 820.00
More than 9,000, not to exceed 9,500 . . 850.00
More than 9,500, not to exceed 10,000 . 880.00
More than 10,000, not to exceed 10,500 910.00
More than 10,500, not to exceed 11,000 940.00

More than 11,000, not to exceed 11,500 970.00
More than 11,500 ..... 1,000.00
Extension Requests for Submitting a Proof of Appropriation
Less than 14 years after the date of approval of the application 50.00
14 years or more after the date of approval of the application 150.00
Fixed time periods 150.00
For Each Certification of Copies 10.00
A Reasonable Charge for Preparing Copies of a Document ..... Variable

Actual cost
Application to Segregate a Water Right .. 50.00
Groundwater Recovery Permit 2,500.00

Fee Changed from Recharge to Recovery
Notification for the use of Sewage Effluent or to Change the Point of Discharge 750.00
Diligence Claim Investigation 500.00
Report of Water Right Conveyance Submission 150.00

Utah Code 73-1-10 requires owners to file a report of water rights conveyance (ROCs) with the Division of Water Rights to update the ownership records of the State Engineer relating to their respective rights. The processing of ROCs requires Division of Water Rights staff to review the submitted forms, deeds, maps, and other records to demonstrate a valid chain of title. Upon satisfaction that the chain of title is accurate and complete, the Division of Water Rights updates the ownership information on the records of the State Engineer. The fee may not exceed, but may be less than the maximum amount stated in the fee schedule. Anything up to the first fifteen pages will be $85 and then $2 per page after that up to a maximum of $150.

Protest Filings 15.00
Livestock Watering Certificate 150.00
Well Driller
Permit
Initial 350.00
Renewal (Annual) (per year) 100.00
Late renewal (Annual) (per year) 50.00
Drill Rig Operator Registration
Initial 100.00
Renewal (Annual) (per year) 50.00
Late Renewal (Annual) (per year) 50.00
Pump Installer License
Initial 200.00
Renewal (Annual) (per year) 75.00
Late renewal (Annual) (per year) 50.00
Pump Rig Operator Registration
Initial 75.00
Renewal (Annual) (per year) 25.00
Late renewal (Annual) (per year) 25.00
Stream Alteration
Commercial 2,000.00
Government 500.00
Non-Commercial 100.00

WATERSHED RESTORATION

Sage Grouse Mitigation Agreement Fee (per Credit/Acre) 5.00
Sage Grouse Mitigation Application Fee 100.00
Sage Grouse Mitigation Credit Transfer Fee (per Credit/Acre) 5.00

WILDLIFE RESOURCES

Director's Office

Fishing Licenses
Resident
Youth Fishing (12-13) 5.00
Resident Youth Fishing Ages 14-17 (365 Day) 16.00
Resident Fishing Ages 18-64 (365 Day) 40.00

Resident Multi Year License (Up to 5 years) for Ages 18-64 $39/year.
Age 65 Or Older (365 Day) 31.00
Disabled Veteran (365 Day) 12.00
Resident Fishing 3 Day Any Age 19.00
7-Day (Any Age) 30.00
Resident Set Line Fishing License 22.00
Nonresident
Youth Fishing (12-13) 10.00
Nonresident Youth Fishing Ages 14-17 (365 Day) 34.00
Nonresident Fishing Age 18 Or Older (365 Day) 94.00

Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older $93/year (includes license extensions).
Nonresident Fishing 3 Day Any Age ... 31.00
7-Day (Any Age) 51.00
Nonresident Set Line Fishing License .. 25.00
Season Fishing Licenses Includes Combinations ..... Up to 20% discount
Stamps
Wyoming Flaming Gorge 30.00
Game Licenses
Introductory Hunting License 5.00

Upon successful completion of Hunter Education - add to registration fee
Resident Introductory Combination License (Hunter's Ed Completion) 6.00
Nonresident Introductory Combination License (Hunter's Ed Completion) 6.00
Resident
Hunting License (up to 13) 11.00
Resident Hunting License Ages 14-17 .. 16.00
Resident Hunting License Ages 18-64 .. 40.00

Resident Multi Year license (Up to 5 years) for Ages 18-64 $39/year
Resident Hunting License Ages 65 Or Older 31.00
Resident Hunting License Disabled Veteran (365 Day) 25.50
Resident Youth Combination License Ages 14-17 ..... 20.00
Resident Combination License Ages 18-64 ..... 44.00

Resident Multi Year License (Up to 5 Years) for ages 18-64 $43/year
Resident Combination Ages 65 or Older 35.00
Resident Combination License Disabled Veteran (365 Day) 28.50
Dedicated Hunter Certificate of Registration (COR)
3 Year (12-17) 120.00
3 Year (18+) 215.00

Lifetime License Dedicated Hunter Certificate of Registration (COR)
3 Year (12-17) 37.50
3 Year (18+) 86.00
Nonresident
Nonresident Youth Hunting License Ages 17 and Under 34.00
Nonresident Hunting License Age 18 or Older (365 Day) 120.00
Nonresident Multi Year Hunting License 119.00

(Up to 5 Years, including license extensions)
Nonresident Youth Combination License (Ages 17 and under) 38.00
Nonresident Combination License (Ages 18 or Older) 150.00

Nonresident Multi Year License (Up to 5 Years, includes extensions) for Ages 18 or Older . . . . . $149/year.
Nonresident Small Game - 3 Day 46.00
Falconry Meet 15.00
Dedicated Hunter Certificate of Registration (COR)
3 Year (12-17) 834.00

Includes season fishing license
3 Year (18+) 1,067.00

Includes season fishing license
General Season Permits
Resident
Youth General Season Turkey 25.00
Turkey 40.00
General Season Deer 46.00
General Season Deer Youth 40.00
Antlerless Deer 35.00
Two Doe Antlerless 50.00
Depredation - Antlerless 35.00
Archery Bull Elk 56.00
General Bull Elk 56.00
Youth General Season Bull Elk 50.00
Multi Season General Bull Elk 200.00
Antlerless Elk 56.00
Control Antlerless Elk 40.00
Resident Two Cow Elk permit 85.00
Resident Bison (No Management Plan) . 50.00

This permit is valid on private lands only.
Resident Landowner Mitigation
Deer - Antlerless 35.00
Elk - Antlerless 40.00
Pronghorn - Doe 35.00
Nonresident
Turkey 125.00
General Season Deer 418.00

Includes season fishing license
Depredation - Antlerless 118.00
Antlerless Deer 118.00
Two Doe Antlerless 217.00
Archery Bull Elk 613.00

Includes season fishing license
General Bull 613.00

Includes season fishing license
Multi Season General Bull Elk 830.00
Antlerless Elk 350.00
Control Antlerless Elk 118.00
Nonresident Two Cow Elk permit 385.00
Nonresident Bison (No Management Plan) 100.00

Permit valid on private lands only.
Nonresident Landowner Mitigation
Deer - Antlerless 118.00
Two Doe Antlerless Deer Mitigation . . 217.00
Elk - Antlerless 350.00
Pronghorn - Doe 118.00
Two doe Antlerless Pronghorn Mitigation 217.00
Limited Entry Game Permits
Deer
Resident
Limited Entry 94.00
Multi Season Limited Entry
Buck 170.00
Premium Limited Entry 185.00
Multi Season Premium Limited Entry
Buck 336.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Buck 94.00
Limited Entry 94.00
Premium Limited Entry 185.00
Antlerless 35.00
Two Doe Antlerless 50.00
Nonresident
Limited Entry 670.00

Includes season fishing license
Multi Season Limited Entry
Buck 1,130.00

Includes season fishing license
Premium Limited Entry 798.00

Includes season fishing license
Multi Season Premium Limited Entry
Buck 1,330.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Buck 670.00

Includes season fishing license
Limited Entry 568.00

Includes season fishing license. Includes CWMU Management buck deer permits.
Premium Limited Entry 798.00

Includes season fishing license
Antlerless 118.00
Two Doe Antlerless 217.00
Elk
Resident
Limited Entry Bull 314.00
Multi Season Limited Entry Bull 564.00
Depredation 56.00
Depredation - Bull Elk - With Current Year Unused Bull Permit 235.00
Depredation - Bull Elk - Without Current Year Unused Bull Permit 314.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 314.00
Antlerless 56.00
Nonresident

Limited Entry Bull 1,050.00

Includes season fishing license
Multi Season Limited Entry Bull 1,855.00

Includes fishing license
Depredation - Antlerless 350.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Any Bull 1,050.00

Includes fishing license
Antlerless 350.00

Pronghorn
Resident
Limited Buck 63.00
Limited Doe 35.00
Limited Two Doe 60.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Buck 63.00
Doe 35.00
Depredation Doe 35.00
Archery Buck 63.00
Nonresident
Limited Buck 371.00

Includes season fishing license
Limited Doe 118.00
Limited Two Doe 217.00
Archery Buck 371.00

Includes season fishing license
Depredation Doe 118.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Buck 371.00

Includes season fishing license
Doe 118.00

Moose
Resident
Bull 454.00
Antlerless 249.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Bull 454.00
Antlerless 249.00
Nonresident
Bull 2,244.00

Includes season fishing license
Antlerless 1,100.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner
Bull 2,244.00

Includes season fishing license
Antlerless 1,100.00

Bison
Resident 460.00
Resident Antelope Island 1,221.00
Nonresident 2,420.00

Includes season fishing license
Nonresident Antelope Island 2,877.00

Includes season fishing license
Bighorn Sheep
Resident
Desert 564.00
Rocky Mountain 564.00
Resident Rocky Mtn/Desert Bighorn Sheep Ewe permit 110.00
Nonresident
Desert 2,244.00

Includes season fishing license
Rocky Mountain 2,244.00

Includes season fishing license
Nonresident Rocky Mtn/Desert Bighorn Sheep Ewe permit 1,050.00

Goats
Resident Mountain 454.00
Nonresident Mountain 2,244.00

Includes season fishing license
Cougar/Bear
Resident
Cougar 58.00
Cougar Spot and Stalk 10.00

This fee will permit qualified hunters to take a cougar while in the field.
Bear 93.00
Premium Bear 183.00
Bear Archery 93.00
Cougar Pursuit 50.00
Bear Pursuit 45.00
Nonresident
Cougar 327.00
Bear 389.00
Multi Season Bear 566.00
Cougar Pursuit 171.00
Bear Pursuit 171.00

Wolf
Resident 20.00
Nonresident 80.00

Cougar/Bear
Cougar or Bear Damage 30.00

Wild Turkey
Resident Limited Entry 40.00
Nonresident Limited Entry 125.00

Waterfowl
Swan
Resident 40.00
Nonresident 125.00
Sandhill Crane
Resident 40.00
Nonresident 125.00

Sportsman Permits
Resident
Bull Moose 454.00
Hunter's Choice Bison 454.00
Desert Bighorn Ram 564.00
Bull Elk 564.00
Buck Deer 185.00
Buck Pronghorn 63.00
Bear 93.00
Cougar 58.00
Mountain Goat 454.00
Rocky Mountain Sheep 564.00
Turkey 40.00

Other
Falconry Permits
Resident
Capture

Apprentice Class 40.00
General Class 55.00
Master Class 55.00
Nonresident
Capture
Apprentice Class 145.00
General Class 145.00
Master Class 145.00
Handling 10.00
Includes licenses, Certificate of Registration, and exchanges
Resident Drawing Application 10.00
Nonresident Draw Applications 15.00
Landowner Association Application 150.00
Nonrefundable
Resident/Nonresident Dedicated Hunter Hourly Labor Buyout Rate 40.00
First 16 hours are paid out at $25/hour, last 16 hours are paid out at $40/hour.
Bird Bands 0.25
Furbearer/Trap Registration
Resident Furbearer 33.00
Any age
Nonresident Furbearer 195.00
Any age
Resident Bobcat Temporary Possession 17.00
Nonresident Bobcat Temporary Possession 57.00
Resident Trap Registration 10.00
Nonresident Trap Registration 10.00
Duplicate Licenses, Permits and Tags
Hunter Education Cards 10.00
Furharvester Education Cards 10.00
Duplicate Vouchers
CWMU/Conservation/Mitigation 25.00
Refund of Hunting Draw License 25.00
Application Amendment 25.00
Late Harvest Reporting 50.00
Exchange 10.00
Wildlife Management Area Access (Without a Valid License) 10.00
Division Programs Participation Fee . . Variable
Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.
Wood Products on Division Land
Firewood (2 Cords) 10.00
Christmas Tree 5.00
Ornamentals
Conifers (per tree) 5.00
Maximum $60.00 per permit
Deciduous (per tree) 3.00
Maximum $60.00 per permit
Posts 0.40
Maximum $60.00 per permit
Hunter Education
Hunter Education Training 7.00
Hunter Education Home Study 7.00
Furharvester Education Training 7.00
Bowhunter Education Class 7.00
Long Distance Verification 2.00
Becoming an Outdoors Woman 150.00
Special Needs Rates Available
Hunter Education Range
Adult 15.00
Market price up to $15
Youth 8.00
Ages 15 and under. Market price up to $8.
Annual Pass for Rifle/Archery/Handgun Range
Market Price Up to $500
Group rate for organized groups and not for special passes . . . . . 50% discount
Spotting Scope Rental . . . . . Up to $10.00
Trap, Skeet or Riverside Skeet (per round) . . . . . Up to $15.00
Market price up to $15
Five Stand - Multi-Station BirdsUp To $15.00
Market price up to $15
Ten Punch Pass
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/Handgun) . . . . . Up to $75
Market price up to $75.00
Ten Punch Pass Shooting Ranges (Shotgun) . . . . . Up to $145
Market price up to $145.00
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun) . . . . . Up to $145
Market price up to $145.00
Range Venue Rental (50% Cancellation0 . . . . . Up To $150
Shooting Center RV Camping . . . . . $10.00 to $50.00
Reproduction of Records
Self-Service (per copy) 0.10
Staff Service (per copy) 0.25
Geographic Information System
Personnel Time (per hour) 50.00
Processing (per hour) 55.00
Data Processing
Programming Time (per hour) . . 75.00
Production (per hour) 55.00
License Agency
Application 20.00
Other Services to be reimbursed at actual time and materials
Postage . . . . . Current rate
Lost License Paper by License Agents (per page) 10.00
Return check charge 20.00
Easement and Leases Schedule
Application for Leases
Leases 250.00
Nonrefundable
Easements
Rights-of-Way 750.00
Nonrefundable
Rights-of-Entry 50.00
Nonrefundable
Easements Oil and Gas Pipelines 250.00
Amendment to Lease, Easement, Right-of-Way 400.00
Nonrefundable
Amendment to Right of Entry . . 50.00
Certified Document 5.00
Nonrefundable
Research on Leases or Title Records (per hour) 50.00

Rights-of-Way
Leases and Easements - Resulting in Long-Term Uses of Habitat ..... Variable

Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.
Special Use Permits for Non-Depleting Land Uses of <1 Year ..... Variable

A nonrefundable application of $50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.
Width of Easement
0' - 30' Initial 13.00
0' - 30' Renewal 10.00
31' - 60' Initial 20.00
31' - 60' Renewal 15.00
61' - 100' Initial 26.00
61' - 100' Renewal 20.00
101' - 200' Initial 33.00
101' - 200' Renewal 25.00
201' - 300' Initial 44.00
201' - 300' Renewal 35.00
>300' Initial 55.00
>300' Renewal 42.00
Outside Diameter of Pipe
<2.0" Initial 10.00
<2.0" Renewal 5.00
2.0" - 13" Initial 20.00
2.0" - 13" Renewal 10.00
13.1"-25" Initial 40.00
25.1" - 37" Initial 75.00

Outside Pipe Diameter
13.1" - 25" Renewal 15.00
25.1" - 37" Renewal 20.00
>37" Initial 100.00
>37" Renewal 40.00
Roads, Canals
Permanent Loss of Habitat Plus High Maintenance Disturbance 20.00

1' - 33' New Construction
Permanent Loss of Habitat Plus High Maintenance Disturbance 13.00

1' - 33' Existing
Permanent Loss of Habitat Plus High Maintenance Disturbance 27.00

33.1' - 66' New Construction
Permanent Loss of Habitat Plus High Maintenance Disturbance 20.00

33.1' - 66' Existing
Assignments: Easements, Grazing Permits, Right-of-entry, Special Use 250.00
Certificates of Registration
Initial - Personal Use 75.00
Initial - Commercial 150.00
TYPE I
Certificate of Registration (COR) Fishing Contest
Small, Under 50 ..... 20.00
Medium, 50 to 100 ..... 100.00
Large, over 200 ..... 250.00
Amendment 10.00
Certificate of Registration (COR) Handling 10.00
Renewal 30.00
Late Fee for Failure to Renew Certificates of Registration When Due: Greater of $10 or 20% of Fee ..... Variable

Greater of $10 or 20% of fee.
Required Inspections 100.00
Failure to Submit Required Annual Activity Report When Due 10.00
Request for Species Reclassification ... 200.00
Request for Variance 200.00
Commercial Fishing and Dealing Commercially in Aquatic Wildlife
Dealer in Live/Dead Bait 75.00
Helper Cards - Live/Dead Bait . 15.00
Commercial Seiner 1,000.00
Helper Cards - Commercial Seiner 100.00
Commercial Brine Shrimper ... 15,000.00
Helper Cards - Commercial Brine Shrimper 1,500.00
Upland Game Cooperative Wildlife Management Units
New Application 250.00
Annual 150.00
Big Game Cooperative Wildlife Management Unit
New Application 250.00
Annual 150.00
Falconry
Three Year 45.00
Five Year 75.00
Commercial Hunting Areas
New Application 150.00
Renewal Application 150.00

DIVISION OF STATE PARKS

State Park Operation Management

All fees for the Division of State Parks may not exceed, but may be less than, the amounts stated in the division's fee schedule.
Golf Course Fees
Greens Fees, 9 Holes 25.00
Motorized Cart, per 9 Holes 16.00
Driving Range 9.00
Boat Mooring
In/Off Season With or Without Utilities (per foot), Nonresident 14.00
In/Off Season With or Without Utilities (per foot) 7.00
Boat and RV Storage 200.00
Entrance Fees 25.00
Entrance Fee, Nonresident 60.00
Camping Fees 60.00

Camping, Nonresident 120.00
Day Use Annual Pass, Residents Only (12 months) 150.00
Group Site Day-Use Fees 250.00
Group Camping Fees 400.00
Equipment and Building Rental per Hour 100.00
Parking Fee 5.00
Reservation Fee 10.65
Lodging 200.00
Lodging, Nonresident 400.00
Promotional Pass 1,100.00
Commercial Dealer Demo Pass 200.00
Staff or Researcher Time per Hour 50.00
Application Fees 250.00

Easement, Grazing permit, Construction/Maintenance, Special Use Permit, Waiting List, Events

Repository Fees
Curation (per storage unit) 700.00
Annual Repository Agreement, Annual Agreement Fee, Fee Collection, Return Checks, and Duplicate Document (per storage unit) 80.00

DIVISION OF OUTDOOR RECREATION

Management

OHV and Boating Program Fees
Off-highway Vehicle Program and Personal Watercraft Safety Certificate, including replacement certificates 30.00
OHV Program Fee
Statewide OHV Registration Fee 72.00
State-issued Permit to Non-resident OHV 30.00
Boating Section Fees
Statewide Boat Registration Fee - Vessels less than 16ft 20.00
Statewide Boat Registration Fee - Vessels 16ft and greater, including PWC 40.00
Carrying Passengers for Hire Fee - Out-of-State Outfitters 200.00
Boat Livery Registration Fee - 25 vessels or less 50.00
Boat Livery Registration Fee - 26 vessels to 50 vessels 75.00
Boat Livery Registration Fee - 51 vessels or more 100.00
Boat Dealer Number and Registration Fee 25.00
Recreation Service Fee 20.00

Carrying Passengers for Hire Fee - In-State Outfitters 150.00

OFFICE OF ENERGY DEVELOPMENT

Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit 15.00
Well Recompletion or Workover 10.00

Application fee for the Well Recompletion or Workover Tax Credit certificate (59-5-102)

RESTC Production Tax Credit 150.00

Application fee for the Renewable Energy Systems PRODUCTION Tax Credit.

Alternative Energy Development Tax Credit 150.00
High Cost Infrastructure Tax Credit, private investment $10 million or less 150.00
High Cost Infrastructure Tax Credit, private investment more than $10 million 250.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration

Name change on Administrative Records
Name Change on Admin. Records - Surface Document 50.00
Name Change on Admin. Records - Mineral Lease (per lease) 50.00
Surface Resources
Easements
Application 750.00
Amendment 400.00
Assignment Fees 250.00
Collateral 250.00
Reinstatement 400.00
Exchange
Application 1,000.00
Grazing Permit
Application 75.00
Amendment 75.00
Assignment Fees $10 per AUM (Standard) or $30 (Within a Family)
Collateral 50.00
Reinstatement 100.00
Non-Use 20.00
Modified
Application 250.00
Assignment Fees 250.00
Amendment 50.00
Collateral 50.00
Reinstatement 30.00
Right of Entry
Application 100.00
Amendment 50.00
Assignment Fees 250.00
Extension of Time 100.00
Right of Entry Trailing Permit
Application plus AUM (Animal Unit Month) fees 50.00
Sales/Certificates
Processing 750.00
Assignment 250.00
Partial Conveyance 250.00
Patent Reissue 50.00
Special Use Agreements
Application 250.00
Amendment 400.00
Assignment Fees 250.00
Collateral 250.00
Processing 700.00
Reinstatement 400.00
Timber Agreement
Application (< 6 months) 100.00

6 months or less

Assignment (< 6 months) 250.00

6 months or less

Application (>6 months) 500.00

longer than 6 months

Assignment (>6 months) 250.00

longer than 6 months
Extension of Time 250.00
longer than 6 months
Energy & Minerals
Assignment
Mineral Assignment 150.00
Materials Permit (Sand & Gravel) - Assignment 400.00
Overriding Royalty 150.00
Segregation 300.00
Application
Materials Permit (Sand and Gravel) Application 500.00
Mineral Materials Permit 250.00
Mineral Lease 50.00
Rockhounding Permit
Association 200.00
Individual/Family 25.00
Processing
Materials Permit (Sand/Gravel) 1,000.00
Transfer Active Oil and Gas Lease to Current Form 50.00
Affidavit of Lost Document
(per document) 25.00
Utah Interactive / E- check fee 3.00
Bank Charge / Credit Card fees
(per incident) . . . . . 3 percent

Fee based on total transaction value.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

POLICY, COMMUNICATION, & OVERSIGHT

Student Support Services

Conference or Professional Development Registration (per Day) 50.00

This fee is intended to help cover some of the costs associated with organizing a conference or workshop. This fee is an up to $50.00 a day amount.

SYSTEM STANDARDS & ACCOUNTABILITY

RTC Fees

RTC Special Education Program Monitoring Fee: 1- 75 Students (per RTC) . . 2,200.00

This is an annual fee collected from eligible Residential Treatment Centers (RTCs) to cover the personnel cost in certifying RTCs to provide services for special education students.

RTC Special Education Program Monitoring Fee: 76+ Students (per RTC) . . . 2,900.00

This is an annual fee collected from eligible Residential Treatment Centers (RTCs) to cover the personnel cost in certifying RTCs to provide services for special education students.

RTC Special Education Program Monitoring Fee: Distance Over 2 Hours
(per RTC) 1,545.00

This fee is collected from eligible Residential Treatment Centers (RTCs) to cover the personnel travel for their onsite monitoring visits every 2 years.

RTC Special Education Program Monitoring Fee: Distance Up to 2 Hours
(per RTC) 490.00

This fee is collected from eligible Residential Treatment Centers (RTCs) to cover the personnel travel for their onsite monitoring visits every 2 years.

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Administration

USDB Audiologist Fee
(per Hour) 88.90

This audiology fee is charged to LEAs that have greater than 3% of student population when an USDB audiologist performs a hearing exam on a student. This fee is an hourly fee. This fee assists in recovering the costs of our audiology team.

Study Abroad Fee 500.00

This fee is a commitment fee charged to students that sign up to participate in USDB's study abroad. The fee is returned to the student days before the trip and is used by the student for spending money. This teaches the student commitment, and budgeting and use of the funds during the trip.

Support Services
Conference Attendance
Educator - Conference Attendance Fee 100.00

This fee is for when USDB creates a conference and charges up to $100 for educators to attend to assist in recouping the conference costs.

Parent - Conference Attendance Fee . . . 25.00

This nominal fee of $25 is charged to parents of deaf or hard of hearing, blind or low- vision, or deaf- blind students. The fee assists USDB in creating and presenting the conference.

Adult Lunch Tickets (per meal) 4.50

This fee is charged to any USDB employee or parent that purchases a school lunch. The purpose of this fee is to recoup the cost of the lunch provided to the employee or parent.

Copy and Fax Machine
Copy Machine
Color 1.00

This fee reimburses USDB for personal color copies made by staff.

Black/White . . 0.10

This fee reimburses USDB for black and white copies made by USDB personnel.

Room Rental
Conference 100.00

This fee offsets the cost for support services to set up the meeting room, costs of utilities, and to clean the room after it has been used.

Utah State Instructional Materials Access Center

USIMAC Book Processing Fee
(per Braille Volume) 150.00

This fee covers the cost of printing a textbook in braille or large print for an out of state student.

USIMAC Book Shipping Fee
(per Braille Volume) 15.00

This fee covers the cost for USIMAC to ship a textbook to an out of state student.

School for the Deaf

Instruction

Teacher's Aide 17.31

This fee covers the actual cost per hour of providing a teacher's aide to an LEA that has over 3% of the state's student population.

Educator 83.74

This fee recovers the actual cost of providing an educator of the deaf, blind or deaf blind to LEAs that have greater than 3% of the state's student population

After-School Program 30.00

This fee covers the cost of any after-school program(s) that a student may participate in.

Pre-School Monthly Tuition 100.00

This nominal monthly fee helps offset some of the costs of running the USDB preschool.

Out-of-State Tuition 50,600.00

This fee is imposed on out of state school districts for sending one of their students to attend USDB. This fee offsets the costs of the educator, aide and other staff involved in the child's education.

Educational Interpreter 50.58

This fee covers the cost to provide an interpreter for our deaf students to LEAs that have greater than 3% of the students' population.

Support Services

Athletic (per sport) 100.00

This $100 fee is charged to USDB students that participate in any given sport. The fee is charged per sport that the student participates in.

Room Rental

Multipurpose 200.00

This fee covers the cost of setting up, taking down and cleaning the multipurpose room. The fee also includes utilities costs.

School for the Blind

Instruction

Student Education Services Aide 34.88

This fee recovers the costs per hour for an educational service aide.

Support Services

Room Rental

Dormitory 50.00

This fee covers the cost of having a parent or individual that is not a USDB student to stay in the dorms on the Ogden campus.

STATE BOARD AND ADMINISTRATIVE OPERATIONS

Indirect Cost Pool

Indirect Cost Pool

Restricted Funds

USBE percentage of personal service costs 14.8%

Unrestricted Funds

USBE percentage of personal service costs 18.5%

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

A-South Lawn

A-South Lawn (per event) 2,000.00

A-South Lawn (per hour) 400.00

Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.

Parking Lot

Parking Space (per stall per day) 7.00

For events only

Rotunda

Commercial Production (per event) . 5,000.00

Rental Fee Monday-Thursday (per event) 2,200.00

Rental Fee Friday-Sunday (per event) 2,500.00

Two-hour block Monday - Friday during Leg Session and Interim days (7:00 a.m.-5:30 p.m.) ..... No charge

Hall of Governors

Hall of Governors (per event) 1,500.00

Hall of Governors - Two-hour block Monday - Friday during Leg Session and Interim days (7:00 a.m.-5:30 p.m.) ..... No charge

Plaza

Plaza (per event) 1,500.00

Plaza Hourly (per hour) 200.00

Room 105

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Room #105 (per hour) 50.00

Room #105 Monday - Friday 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge

Room 170

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Room #170 (per hour) 50.00

Room #170 Monday - Friday 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge

Room 210

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Room #210 (per hour) 50.00

Room #210 Monday - Friday 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge

Board Room

General Public, Commercial, and Private Groups

Board Room (per hour) 150.00

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Board Room (per hour) 75.00

Olmsted Room

Nonprofit, Gov't Nonofficial Business, K-12, and Higher Ed

Olmsted Room (per hour) 50.00

Olmsted Room Monday - Friday 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge

Kletting Room

Nonprofit, Gov't Nonofficial Business, K - 12, and Higher Ed
Kletting Room (per hour) 50.00
Kletting Room Monday - Friday 7:00 a.m.- 5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Seagull Room
Nonprofit, Gov't Nonofficial Business, K - 12, and Higher Ed
Seagull Room (per hour) 50.00
Seagull Room Monday - Friday 7:00 a.m.- 5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Beehive Room
Nonprofit, Gov't Nonofficial Business, K - 12, and Higher Ed
Beehive Room (per hour) 50.00
Beehive Room Monday - Friday 7:00 a.m.- 5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Copper Room
Nonprofit, Gov't Nonofficial Business, K - 12, and Higher Ed
Copper Room (per hour) 50.00
Copper Room Monday - Friday 7:00 a.m.- 5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Aspen Room
Nonprofit, Gov't Nonofficial Business, K - 12, and Higher Ed
Aspen Room (per hour) 50.00
Aspen Room Monday - Friday 7:00 a.m.- 5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week) ..... No charge
Capitol Hill Grounds
Commercial Production Grounds (per day) 2,500.00
Commercial Production White Chapel (per event) 1,000.00
Commercial filming/photography Capitol building 2- hour increments 500.00
Commercial filming/photography Capitol grounds 2- hour increments 250.00
D- West Lawn
D- West Lawn (per event) 500.00
D- West Lawn (per hour) 150.00
Miscellaneous Other
Access Badges 25.00
Additional Labor (per person, per 1/2 hr) . 25.00
Additional Personnel (per person, per 1/2 hr) 25.00
Adjustment (per person, per 1/2 hr) 25.00
Administrative Fee 10.00
Baby Grand Piano 200.00
Chairs (per chair) 1.50
Change in set- up fee (per person, per 1/2 hr) 25.00
Easel 10.00
Event/Dance Floor 30x30 ..... 1,000.00
Event/Dance Floor 21x21 ..... 600.00
Event/Dance Floor 15x15 ..... 450.00
Event/Dance Floor 12x12 ..... 250.00
Event/Dance Floor 6x6 ..... 125.00
Extension Cords 5.00
Free Speech Public Space Usage ... No charge
Garbage Can ..... No charge
Gold Formal Chair (per chair) 5.00
Image Use Fee 50.00
Insurance Coverage for Capitol Hill Facilities and Grounds ..... Required

Coverage of $1,000,000 for certain events is required

Locker Rentals (per year) 40.00
Podium
With Microphone 35.00
Without Microphone 25.00
Polycom Phone Rental 10.00
Projector Cart 25.00
Risers (per section) 25.00
Security (per officer, per hour) 60.00
Speaker (per speaker) 15.00
Stanchion 10.00
Standing Microphone 15.00
Table (per table) 7.00
Table Pedestal Round 42" (per table) 10.00
Upright Piano 50.00
United States Flag 35.00
Utah Flag 40.00
Flag Certificate 15.00

Flag Certificate provided when a personal flag is flown over the Capitol

Wood Folding Chair (per chair) 2.50
South Steps
South Steps (per event) 500.00
South Steps Hourly (per hour) 125.00
White Community Memorial Chapel
White Chapel (per day) 1,000.00
White Chapel noon- midnight rehearsal . 250.00

UTAH NATIONAL GUARD

Operations and Maintenance

Armory Rental
Armory Rental Fee (per hour) 25.00

Armory rental fee of $25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.

Security Attendant (per hour) 15.00

Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.

Refundable Cleaning Deposit 100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

VETERANS AND MILITARY AFFAIRS

Cemetery

Veteran Burial 948.00

Individual veteran burial fee at the Utah Veterans Cemetery and Memorial Park. Fee is determined by the National Cemetery Administration within the U.S. Department of Veterans Affairs.

Spouse/Family Burial 948.00

Individual veteran spouse or dependent burial fee at the Utah Veterans Cemetery & Memorial Park.
Reservist Burial 948.00

Fee to inter reservists
Reservist Marker 275.00

Cost of purchasing, shipping and inscribing the flat headstone marker
Reservist Niche Cover 95.00

Cost of purchasing, shipping, and inscribing the niche cover marker
Saturday Burial 700.00

Surcharge for a Saturday burial
Chapel Rental 150.00

Fee for renting the on-site chapel for funerals, memorials, or other events
Niche Vase 25.00
Disinterment
Cremation Disinterment 150.00
Single Depth Casket Disinterment 600.00
Double Depth Casket Disinterment 900.00

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 438
H. B. 35
Passed February 23, 2024
Approved March 20, 2024
Effective May 1, 2024

METRO TOWNSHIP MODIFICATIONS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Luz Escamilla

Cosponsor:
Ashlee Matthews
Anthony E. Loubet

LONG TITLE

General Description:

This bill modifies and enacts provisions relating to metro townships.

Highlighted Provisions:

This bill:

- converts metro townships into municipalities;
- provides for the classification and governance of the converted municipalities;
- enacts language governing the transition from a metro township to a municipality; and
- makes conforming changes and repeals obsolete language due to the elimination of metro townships.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-1-104, as last amended by Laws of Utah 2015, Chapter 352
10-1-303, as last amended by Laws of Utah 2021, Chapter 210
10-1-402, as last amended by Laws of Utah 2021, Chapter 210
10-2-302, as last amended by Laws of Utah 2015, Chapter 352
10-2-405, as last amended by Laws of Utah 2023, Chapter 478
10-2-425, as last amended by Laws of Utah 2023, Chapters 16, 327
10-2-425, as last amended by Laws of Utah 2023, Chapters 16, 310 and 327
10-3-205, as last amended by Laws of Utah 2017, Chapter 158
10-3-205.5, as last amended by Laws of Utah 2016, Chapter 14
10-3-1302, as last amended by Laws of Utah 2015, Chapter 352
10-3b-102, as last amended by Laws of Utah 2015, Chapter 352
10-3b-103, as last amended by Laws of Utah 2015, Chapter 352
10-3b-601, as enacted by Laws of Utah 2015, Chapter 352
10-5-102, as last amended by Laws of Utah 2015, Chapter 352
10-5-108, as last amended by Laws of Utah 2023, Chapter 435
10-6-103, as last amended by Laws of Utah 2015, Chapter 352
10-6-113, as last amended by Laws of Utah 2023, Chapter 435
10-6-137, as enacted by Laws of Utah 1979, Chapter 26
10-6-152, as last amended by Laws of Utah 2023, Chapter 435
10-9a-302, as last amended by Laws of Utah 2021, Chapter 385
10-9a-408, as last amended by Laws of Utah 2023, Chapters 88, 501 and 529 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 88
11-3-8, as last amended by Laws of Utah 2018, Chapter 189
11-13a-102, as last amended by Laws of Utah 2023, Chapter 16
11-14-102, as last amended by Laws of Utah 2023, Chapter 16
11-14-301, as last amended by Laws of Utah 2022, Chapter 325
11-17-2, as last amended by Laws of Utah 2020, Chapter 354
11-26-401, as enacted by Laws of Utah 2023, Chapter 361
11-39-101, as last amended by Laws of Utah 2023, Chapter 16
11-41-102, as last amended by Laws of Utah 2023, Chapters 16, 34
11-42a-102, as last amended by Laws of Utah 2023, Chapter 16
11-42b-101, as enacted by Laws of Utah 2022, Chapter 376
11-46a-101, as enacted by Laws of Utah 2023, Chapter 245
11-48-101.5, as last amended by Laws of Utah 2023, Chapters 16, 327
11-54-102, as last amended by Laws of Utah 2023, Chapter 16
11-56-102, as last amended by Laws of Utah 2023, Chapter 450
11-58-102, as last amended by Laws of Utah 2023, Chapters 16, 259
11-58-205, as last amended by Laws of Utah 2023, Chapters 16, 259
11-59-102, as last amended by Laws of Utah 2023, Chapters 16, 263
11-61-102, as last amended by Laws of Utah 2023, Chapter 16
11-63-102, as enacted by Laws of Utah 2019, Chapter 50
11-65-101, as last amended by Laws of Utah 2023, Chapter 16
11-66-101, as enacted by Laws of Utah 2022, Chapter 306
15A-5-202.5, as last amended by Laws of Utah 2023, Chapter 95
17-2-209, as last amended by Laws of Utah 2023, Chapter 15
17-23-17, as last amended by Laws of Utah 2023, Chapter 15
17-23-17.5, as last amended by Laws of Utah 2015, Chapter 352
17-36-29, as last amended by Laws of Utah 2017, Chapter 453

17B-1-102, as last amended by Laws of Utah 2023, Chapter 15
17B-1-502, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1102, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1104, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1106, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-1110, as last amended by Laws of Utah 2023, Chapter 435
17B-2a-1111, as last amended by Laws of Utah 2016, Chapter 176
17C-1-102, as last amended by Laws of Utah 2023, Chapter 15
18-1-1, as last amended by Laws of Utah 2021, Chapters 201, 257
19-5-108.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
20A-1-102, as last amended by Laws of Utah 2023, Chapters 15, 234 and 297
20A-1-201.5, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-1-203, as last amended by Laws of Utah 2020, Chapter 47
20A-1-306, as last amended by Laws of Utah 2022, Chapter 325
20A-1-510, as last amended by Laws of Utah 2023, Chapter 46
20A-5-301, as last amended by Laws of Utah 2016, Chapter 176
20A-6-401, as last amended by Laws of Utah 2023, Chapter 45
20A-6-402, as last amended by Laws of Utah 2020, Chapter 31
20A-7-101, as last amended by Laws of Utah 2023, Chapters 107, 116
20A-7-401.3, as enacted by Laws of Utah 2019, Chapter 203
20A-7-501, as last amended by Laws of Utah 2023, Chapter 107
20A-7-502.7, as last amended by Laws of Utah 2023, Chapter 107
20A-7-504, as last amended by Laws of Utah 2023, Chapter 107
20A-7-601, as last amended by Laws of Utah 2023, Chapters 107, 219
20A-7-602.7, as last amended by Laws of Utah 2023, Chapter 107
20A-7-602.8, as last amended by Laws of Utah 2023, Chapters 107, 504
20A-7-604, as last amended by Laws of Utah 2023, Chapter 107
20A-11-101, as last amended by Laws of Utah 2023, Chapter 15
26B-2-101, as last amended by Laws of Utah 2023, Chapter 305
32B-1-102, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400
32B-1-702, as renumbered and amended by Laws of Utah 2019, Chapter 403
32B-1-704, as last amended by Laws of Utah 2022, Chapter 447
32B-2-402, as last amended by Laws of Utah 2022, Chapter 255
32B-4-202, as last amended by Laws of Utah 2023, Chapter 371
35A-8-805, as enacted by Laws of Utah 2018, Chapter 251
35A-16-401, as last amended by Laws of Utah 2023, Chapter 302
35A-16-501, as last amended by Laws of Utah 2023, Chapter 302
35A-16-701, as enacted by Laws of Utah 2023, Chapter 302
36-11-102, as last amended by Laws of Utah 2023, Chapter 16
41-1a-1222, as last amended by Laws of Utah 2023, Chapter 33
41-6a-1115.1, as enacted by Laws of Utah 2019, Chapter 428
52-1-1, as last amended by Laws of Utah 2016, Chapter 176
52-4-203, as last amended by Laws of Utah 2023, Chapter 16
53-2a-208, as last amended by Laws of Utah 2023, Chapter 34
53-2a-802, as last amended by Laws of Utah 2022, Chapter 447
53-2a-1403, as enacted by Laws of Utah 2021, Chapter 106
53-2d-101, as last amended by Laws of Utah 2023, Chapters 16, 327 and renumbered and amended by Laws of Utah 2023, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
53-5a-202, as enacted by Laws of Utah 2023, Chapter 395
53-7-225, as last amended by Laws of Utah 2023, Chapter 341
53B-21-107, as last amended by Laws of Utah 2015, Chapter 352
56-1-39, as enacted by Laws of Utah 2023, Chapter 41 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 41
59-1-403, as last amended by Laws of Utah 2023, Chapters 21, 52, 86, 259, and 329
59-12-203, as last amended by Laws of Utah 2017, Chapter 13
59-12-2220, as last amended by Laws of Utah 2023, Chapter 529
63A-5b-901, as last amended by Laws of Utah 2023, Chapter 16
63G-6a-103, as last amended by Laws of Utah 2023, Chapter 16
63G-26-102, as last amended by Laws of Utah 2023, Chapter 16
63G-29-101, as enacted by Laws of Utah 2023, Chapter 76
63J-4-801, as last amended by Laws of Utah 2023, Chapter 16
63N-2-103, as last amended by Laws of Utah 2022, Chapter 200
63N-4-801, as last amended by Laws of Utah 2023, Chapter 499
65A-1-1, as last amended by Laws of Utah 2016, Chapter 174
65A-8-212, as last amended by Laws of Utah 2018, Chapter 189
67-1a-2, as last amended by Laws of Utah 2023, Chapter 297
68-3-12.5, as last amended by Laws of Utah 2021, Chapter 93

72-2-108, as last amended by Laws of Utah 2020, Chapter 377
72-2-121, as last amended by Laws of Utah 2023, Chapter 529
73-10-34, as last amended by Laws of Utah 2023, Chapter 260
78A-7-202, as last amended by Laws of Utah 2023, Chapters 139, 435
78B-6-2301, as last amended by Laws of Utah 2023, Chapter 16

ENACTS:
10-1-201.5, Utah Code Annotated 1953

REPEALS:
10-2-301.5, as enacted by Laws of Utah 2015, Chapter 352
10-2a-401, as enacted by Laws of Utah 2015, Chapter 352
10-2a-402, as last amended by Laws of Utah 2019, Chapter 165
10-2a-403, as enacted by Laws of Utah 2015, Chapter 352 and further amended by Revisor Instructions, Laws of Utah 2015, Chapter 352
10-2a-404, as last amended by Laws of Utah 2023, Chapters 16, 435
10-2a-405, as last amended by Laws of Utah 2023, Chapter 435
10-2a-406, as enacted by Laws of Utah 2015, Chapter 352
10-2a-407, as enacted by Laws of Utah 2015, Chapter 352
10-2a-408, as enacted by Laws of Utah 2015, Chapter 352
10-2a-409, as enacted by Laws of Utah 2015, Chapter 352
10-2a-410, as last amended by Laws of Utah 2023, Chapter 435
10-2a-411, as last amended by Laws of Utah 2016, Chapter 14
10-2a-412, as enacted by Laws of Utah 2015, Chapter 352
10-2a-413, as last amended by Laws of Utah 2019, Chapter 165
10-2a-414, as enacted by Laws of Utah 2016, Chapter 176
10-3b-501, as last amended by Laws of Utah 2018, Chapter 174
10-3b-502, as last amended by Laws of Utah 2018, Chapter 174
10-3b-503, as last amended by Laws of Utah 2019, Chapter 24
10-3b-504, as last amended by Laws of Utah 2018, Chapter 174
10-3c-101, as enacted by Laws of Utah 2015, Chapter 352
10-3c-102, as last amended by Laws of Utah 2023, Chapter 16
10-3c-103, as last amended by Laws of Utah 2016, Chapter 176
10-3c-201, as enacted by Laws of Utah 2015, Chapter 352
10-3c-202, as last amended by Laws of Utah 2017, Chapter 13
10-3c-203, as last amended by Laws of Utah 2022, Chapter 288
10-3c-204, as last amended by Laws of Utah 2023, Chapter 435
10-3c-205, as enacted by Laws of Utah 2015, Chapter 352
52-1-5.1, as enacted by Laws of Utah 2016, Chapter 176

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-104 is amended to read:

10-1-104. Definitions.

As used in this title:

(1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a city of the fifth class, under Section 10-2-301.

(2) "Contiguous" means:

(a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and

(b) if used to describe an area's relationship to another area, sharing a common boundary.

(3) "Governing body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:

(a) in a city of the first or second class, the governing body is the city commission;

(b) in a city of the third, fourth, or fifth class, the governing body is the city council; and

(c) in a town, the governing body is the town council[~~; and~~].

[~~(d) in a metro township, the governing body is the metro township council.~~]

(4) "Municipal" means of or relating to a municipality.

(5) "Municipality" means:

(a) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class; or

(b) a town, as classified in Section 10-2-301[~~; or~~].

[~~(c) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the context of authorizing, governing, or otherwise regulating the provision of municipal services.~~]

(6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

(7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and

regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.

(9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

(10) "Town" means a municipality classified by population as a town under Section 10-2-301.

(11) "Unincorporated" means not within a municipality.

Section 2. Section 10-1-201.5 is enacted to read:

10-1-201.5. Metro townships converted to municipalities -- Classification -- Form of government -- Continuity of operations.

(1) As used in this section:

(a) "Converted municipality" means a municipality that is converted from an incorporated township into a municipality under Subsection (2).

(b) "Incorporated township" means a metro township incorporated under Laws of Utah 2015, Chapter 352, Sections 50 through 62.

(2) As of May 1, 2024, an incorporated township is automatically converted into a municipality.

(3) The classification of a converted municipality is governed by Section 10-2-301, based on the converted municipality's population on May 1, 2024.

(4)(a) The powers of municipal government of a converted municipality are vested in a five-member council, as provided in Chapter 3b, Part 4, Five-Member Council Form of Municipal Government.

(b) Subsection (4)(a) does not limit a converted municipality's ability to change the converted municipality's form of government, as provided in Chapter 3b, Part 6, Changing to Another Form of Municipal Government.

(c)(i) Notwithstanding Chapter 3b, Part 6, Changing to Another Form of Municipal Government, the council of a converted municipality may, by a resolution adopted before July 1, 2024 by two-thirds of all council members, change the converted municipality's form of government to another form listed in Subsection 10-3b-601(1).

(ii) If a converted municipality's form of government is changed under Subsection (4)(c)(i), the election of municipal officers under the new form of government is governed by Section 10-3b-606.

(5)(a) The members of a converted municipality's council on May 1, 2024 consist of the individuals serving as council members for the incorporated township immediately before the incorporated township was converted into a municipality under Subsection (2), with the mayor of the incorporated township becoming the mayor of the converted municipality.

(b)(i) Subject to Subsection (4)(c), if applicable, and to Subsection (5)(b)(ii), the term of office of a member of the converted municipality's council on May 1, 2024 is the same as the term of office that would have applied to the council member if the incorporated township had not converted to a municipality under Subsection (2).

(ii)(A) The office of mayor of a converted municipality is subject to election beginning the first municipal election after the incorporated township converts to a municipality under Subsection (2).

(B) The term of office of the mayor of a converted municipality continues from May 1, 2024 until a successor to the office of mayor is elected and qualified.

(6)(a) Upon an incorporated township's conversion to a municipality under Subsection (2):

(i) each ordinance, resolution, or policy of the incorporated township becomes the ordinance, resolution, or policy of the converted municipality;

(ii) the converted municipality may continue to:

(A) operate and function as the incorporated township had been operating and functioning before the conversion; and

(B) provide services the incorporated township had been providing before the conversion;

(iii) a converted municipality may, after the conversion, continue to impose and collect a tax, fee, fine, or other charge that the incorporated township was authorized to impose and collect before the conversion;

(iv) a proceeding pending before the incorporated township at the time of conversion continues without change before the converted municipality;

(v) a right or privilege of the incorporated township becomes the right or privilege of the converted municipality; and

(vi) a contractual or other obligation of the incorporated township, including a contractual or other obligation with another governmental entity, becomes the contractual or other obligation of the converted municipality.

(b) An ordinance that under Subsection (6)(a)(i) becomes an ordinance of the converted municipality includes a county ordinance that became an ordinance of the incorporated township under Laws of Utah 2016, Chapter 176, Section 2 and has not been repealed, subject to any amendment of that ordinance that the incorporated township enacted before the incorporated township's conversion to a municipality under Subsection (2).

(7) A converted municipality succeeds to the position of the incorporated township with respect to the incorporated township's participation or inclusion in a special district or special service district, including a municipal services district.

Section 3. Section 10-1-303 is amended to read:

10-1-303. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2) "Contractual franchise fee" means:

(a) a fee:

(i) provided for in a franchise agreement; and

(ii) that is consideration for the franchise agreement; or

(b)(i) a fee similar to Subsection (2)(a); or

(ii) any combination of Subsections (2)(a) and (b).

(3)(a) "Delivered value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

(i) the value of the energy itself; and

(ii) any transportation, freight, customer demand charges, services charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

(b) "Delivered value" does not include the amount of a tax paid under:

(i) Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) this part.

(4) "De minimis amount" means an amount of taxable energy that does not exceed the greater of:

(a) 5% of the energy supplier's estimated total Utah gross receipts from sales of property or services; or

(b) $10,000.

(5) "Energy supplier" means a person supplying taxable energy, except that the commission may by rule exclude from this definition a person supplying a de minimis amount of taxable energy.

(6) "Franchise agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

(7) "Franchise tax" means:

(a) a franchise tax;

(b) a tax similar to a franchise tax; or

(c) any combination of Subsections (7)(a) and (b).

(8) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(9) "Person" is as defined in Section 59-12-102.

(10) "Taxable energy" means gas and electricity.

Section 4. Section 10-1-402 is amended to read:

10-1-402. Definitions.

As used in this part:

(1) "Commission" means the State Tax Commission.

(2)(a) Subject to Subsections (2)(b) and (c), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(b) For purposes of this section and Section 10-1-407, "customer" means:

(i) the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract; or

(ii) if the end user is not the person described in Subsection (2)(b)(i), the end user of telecommunications service.

(c) "Customer" does not include a reseller:

(i) of telecommunications service; or

(ii) for mobile telecommunications service, of a serving carrier under an agreement to serve the customer outside the telecommunications provider's licensed service area.

(3)(a) "End user" means the person who uses a telecommunications service.

(b) For purposes of telecommunications service provided to a person who is not an individual, "end user" means the individual who uses the telecommunications service on behalf of the person who is provided the telecommunications service.

(4)(a) "Gross receipts from telecommunications service" means the revenue that a telecommunications provider receives for telecommunications service rendered except for amounts collected or paid as:

(i) a tax, fee, or charge:

(A) imposed by a governmental entity;

(B) separately identified as a tax, fee, or charge in the transaction with the customer for the telecommunications service; and

(C) imposed only on a telecommunications provider;

(ii) sales and use taxes collected by the telecommunications provider from a customer under Title 59, Chapter 12, Sales and Use Tax Act; or

(iii) interest, a fee, or a charge that is charged by a telecommunications provider on a customer for failure to pay for telecommunications service when payment is due.

(b) "Gross receipts from telecommunications service" includes a charge necessary to complete a sale of a telecommunications service.

(5) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(6) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(7) "Place of primary use":

(a) for telecommunications service other than mobile telecommunications service, means the

street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:

(i) the residential street address of the customer; or

(ii) the primary business street address of the customer; or

(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(8) Notwithstanding where a call is billed or paid, "service address" means:

(a) if the location described in this Subsection (8)(a) is known, the location of the telecommunications equipment:

(i) to which a call is charged; and

(ii) from which the call originates or terminates;

(b) if the location described in Subsection (8)(a) is not known but the location described in this Subsection (8)(b) is known, the location of the origination point of the signal of the telecommunications service first identified by:

(i) the telecommunications system of the telecommunications provider; or

(ii) if the system used to transport the signal is not a system of the telecommunications provider, information received by the telecommunications provider from its service provider; or

(c) if the locations described in Subsection (8)(a) or (b) are not known, the location of a customer's place of primary use.

(9)(a) Subject to Subsections (9)(b) and (9)(c), "telecommunications provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; or

(ii) engages in an activity described in Subsection (9)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (9)(a) is a telecommunications provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(c) "Telecommunications provider" does not include an aggregator as defined in Section 54-8b-2.

(10) "Telecommunications service" means:

(a) telecommunications service, as defined in Section 59-12-102, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(b) mobile telecommunications service, as defined in Section 59-12-102:

(i) that originates and terminates within the boundaries of one state; and

(ii) only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(c) an ancillary service as defined in Section 59-12-102.

(11)(a) Except as provided in Subsection (11)(b), "telecommunications tax or fee" means any of the following imposed by a municipality on a telecommunications provider:

(i) a tax;

(ii) a license;

(iii) a fee;

(iv) a license fee;

(v) a license tax;

(vi) a franchise fee; or

(vii) a charge similar to a tax, license, or fee described in Subsections (11)(a)(i) through (vi).

(b) "Telecommunications tax or fee" does not include:

(i) the municipal telecommunication's license tax authorized by this part; or

(ii) a tax, fee, or charge, including a tax imposed under Title 59, Revenue and Taxation, that is imposed:

(A) on telecommunications providers; and

(B) on persons who are not telecommunications providers.

Section 5. Section 10-2-302 is amended to read:

10-2-302. Change of class of municipality.

(1) Each municipality shall retain its classification under Section 10-2-301 until changed as provided in this section or Subsection 67-1a-2(3).

(2)[~~(a)~~] If a municipality's population, as determined by the lieutenant governor under Subsection 67-1a-2(3), indicates that the municipality's population has decreased below the limit for its current class, the legislative body of the municipality may petition the lieutenant governor to prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure.

[~~(b) Notwithstanding Subsection (2)(a), the legislative body of a metro township may not petition under this section to change from a metro township to a city or town.~~]

(3) A municipality's change in class is effective on the date of the lieutenant governor's certificate under Subsection 67-1a-2(3).

Section 6. Section 10-2-405 is amended to read:

10-2-405. Acceptance or denial of an annexation petition -- Petition certification process -- Modified petition.

(1)(a)(i) A municipal legislative body may:

(A) subject to Subsection (1)(a)(ii), deny a petition filed under Section 10-2-403; or

(B) accept the petition for further consideration under this part.

(ii) A petition shall be considered to have been accepted for further consideration under this part if a municipal legislative body fails to act to deny or accept the petition under Subsection (1)(a)(i):

(A) in the case of a city of the first or second class, within 14 days after the filing of the petition; or

(B) in the case of a city of the third, fourth, or fifth class[~~,~~] or a town[~~, or a metro township~~], at the next regularly scheduled meeting of the municipal legislative body that is at least 14 days after the date the petition was filed.

(b) If a municipal legislative body denies a petition under Subsection (1)(a)(i), it shall, within five days after the denial, mail written notice of the denial to:

(i) the contact sponsor; and

(ii) the clerk of the county in which the area proposed for annexation is located.

(2) If the municipal legislative body accepts a petition under Subsection (1)(a)(i) or is considered to have accepted the petition under Subsection (1)(a)(ii), the city recorder or town clerk, as the case may be, shall, within 30 days after that acceptance:

(a) obtain from the assessor, clerk, surveyor, and recorder of the county in which the area proposed for annexation is located the records the city recorder or town clerk needs to determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4);

(b) with the assistance of the municipal attorney, determine whether the petition meets the requirements of Subsections 10-2-403(3) and (4); and

(c)(i) if the city recorder or town clerk determines that the petition meets those requirements, certify the petition and mail or deliver written notification of the certification to the municipal legislative body, the contact sponsor, and the county legislative body; or

(ii) if the city recorder or town clerk determines that the petition fails to meet any of those requirements, reject the petition and mail or deliver written notification of the rejection and the reasons for the rejection to the municipal legislative body, the contact sponsor, and the county legislative body.

(3)(a)(i) If the city recorder or town clerk rejects a petition under Subsection (2)(c)(ii), the petition may be modified to correct the deficiencies for which it was rejected and then refiled with the city recorder or town clerk, as the case may be.

(ii) A signature on an annexation petition filed under Section 10-2-403 may be used toward fulfilling the signature requirement of Subsection 10-2-403(2)(b) for the petition as modified under Subsection (3)(a)(i).

(b) If a petition is refiled under Subsection (3)(a) after having been rejected by the city recorder or town clerk under Subsection (2)(c)(ii), the refiled petition shall be treated as a newly filed petition under Subsection 10-2-403(1).

(4) Any vote by a municipal legislative body to deny a petition under this part may be recalled and set for reconsideration by a majority of the voting members of the municipal legislative body.

(5) Each county assessor, clerk, surveyor, and recorder shall provide copies of records that a city recorder or town clerk requests under Subsection (2)(a).

Section 7. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements -- Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary[~~, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404,~~] shall:

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 26B-4-168, file with the Department of Health and Human Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part[~~ or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015,~~] also causes an automatic annexation to a special district under Section 17B-1-416 or an automatic withdrawal from a special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

[~~(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:~~]

[~~(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and~~]

[~~(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).~~]

[~~(6)~~](5)(a) As used in this Subsection [~~(6)~~](5):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 8. Section 10-2-425 is amended to read:

10-2-425. Filing of notice and plat -- Recording and notice requirements --

Effective date of annexation or boundary adjustment.

(1) The legislative body of each municipality that enacts an ordinance under this part approving the annexation of an unincorporated area or the adjustment of a boundary[~~, or the legislative body of an eligible city, as defined in Section 10-2a-403, that annexes an unincorporated island upon the results of an election held in accordance with Section 10-2a-404,~~] shall:

(a) within 60 days after enacting the ordinance or the day of the election or, in the case of a boundary adjustment, within 60 days after each of the municipalities involved in the boundary adjustment has enacted an ordinance, file with the lieutenant governor:

(i) a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5;

(b) upon the lieutenant governor's issuance of a certificate of annexation or boundary adjustment, as the case may be, under Section 67-1a-6.5:

(i) if the annexed area or area subject to the boundary adjustment is located within the boundary of a single county, submit to the recorder of that county the original notice of an impending boundary action, the original certificate of annexation or boundary adjustment, the original approved final local entity plat, and a certified copy of the ordinance approving the annexation or boundary adjustment; or

(ii) if the annexed area or area subject to the boundary adjustment is located within the boundaries of more than a single county:

(A) submit to the recorder of one of those counties the original notice of impending boundary action, the original certificate of annexation or boundary adjustment, and the original approved final local entity plat;

(B) submit to the recorder of each other county a certified copy of the documents listed in Subsection (1)(b)(ii)(A); and

(C) submit a certified copy of the ordinance approving the annexation or boundary adjustment to each county described in Subsections (1)(b)(ii)(A) and (B); and

(c) concurrently with Subsection (1)(b):

(i) send notice of the annexation or boundary adjustment to each affected entity; and

(ii) in accordance with Section 53-2d-514, file with the Bureau of Emergency Medical Services:

(A) a certified copy of the ordinance approving the annexation of an unincorporated area or the adjustment of a boundary; and

(B) a copy of the approved final local entity plat.

(2) If an annexation or boundary adjustment under this part[~~ or Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015,~~] also causes an automatic annexation to a special district under Section 17B-1-416 or an automatic withdrawal from a special district under Subsection 17B-1-502(2), the municipal legislative body shall, as soon as practicable after the lieutenant governor issues a certificate of annexation or boundary adjustment under Section 67-1a-6.5, send notice of the annexation or boundary adjustment to the special district to which the annexed area is automatically annexed or from which the annexed area is automatically withdrawn.

(3) Each notice required under Subsection (1) relating to an annexation or boundary adjustment shall state the effective date of the annexation or boundary adjustment, as determined under Subsection (4).

(4) An annexation or boundary adjustment under this part is completed and takes effect:

(a) for the annexation of or boundary adjustment affecting an area located in a county of the first class, except for an annexation under Section 10-2-418:

(i) July 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding November 1 through April 30; and

(B) the requirements of Subsection (1) are met before that July 1; or

(ii) January 1 following the lieutenant governor's issuance under Section 67-1a-6.5 of a certificate of annexation or boundary adjustment if:

(A) the certificate is issued during the preceding May 1 through October 31; and

(B) the requirements of Subsection (1) are met before that January 1; and

(b) subject to Subsection (5), for all other annexations and boundary adjustments, the date of the lieutenant governor's issuance, under Section 67-1a-6.5, of a certificate of annexation or boundary adjustment.

[~~(5) If an annexation of an unincorporated island is based upon the results of an election held in accordance with Section 10-2a-404:~~]

[~~(a) the county and the annexing municipality may agree to a date on which the annexation is complete and takes effect; and~~]

[~~(b) the lieutenant governor shall issue, under Section 67-1a-6.5, a certification of annexation on the date agreed to under Subsection (5)(a).~~]

[~~(6)~~](5)(a) As used in this Subsection [~~(6)~~](5):

(i) "Affected area" means:

(A) in the case of an annexation, the annexed area; and

(B) in the case of a boundary adjustment, any area that, as a result of the boundary adjustment, is moved from within the boundary of one municipality to within the boundary of another municipality.

(ii) "Annexing municipality" means:

(A) in the case of an annexation, the municipality that annexes an unincorporated area; and

(B) in the case of a boundary adjustment, a municipality whose boundary includes an affected area as a result of a boundary adjustment.

(b) The effective date of an annexation or boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(c) Until the documents listed in Subsection (1)(b)(i) are recorded in the office of the recorder of each county in which the property is located, a municipality may not:

(i) levy or collect a property tax on property within an affected area;

(ii) levy or collect an assessment on property within an affected area; or

(iii) charge or collect a fee for service provided to property within an affected area, unless the municipality was charging and collecting the fee within that area immediately before annexation.

Section 9. Section 10-3-205 is amended to read:

10-3-205. Election of officers in municipalities operating under a city council form of government.

Each municipality operating under a five-member or six-member city council form of government shall hold municipal elections to fill, for a term of four years, the following offices in the following years:

(1) in the year following a year in which a presidential election is held, the offices of:

(a) approximately half the council members; and

(b) except as provided in Subsection (2)(b)[~~or 10-2a-410(2)(a)(ii)~~], mayor; and

(2) in the year preceding a year in which a presidential election is held, the offices of:

(a) the remaining council members; and

(b) for a municipality that elected a mayor in 2015 for a term of four years, mayor.

Section 10. Section 10-3-205.5 is amended to read:

10-3-205.5. At-large election of officers -- Election of commissioners or council members.

(1) Except as provided in Subsection (2), (3), or (4), the officers of each city shall be elected in an at-large election held at the time and in the manner provided for electing municipal officers.

(2)(a) The governing body of a city may by ordinance provide for the election of some or all commissioners or council members, as the case may be, by district equal in number to the number of commissioners or council members elected by district.

(b)(i) Each district shall be of substantially equal population as the other districts.

(ii) Within six months after the Legislature completes its redistricting process, the governing body of each city that has adopted an ordinance under Subsection (2)(a) shall make any adjustments in the boundaries of the districts as may be required to maintain districts of substantially equal population.

[~~(3)(a) The municipal council members of a metro township, as defined in Section 10-2a-403, are elected:~~]

[~~(i) for a metro township with a population of 10,000 or more, by district in accordance with Subsection 10-2a-410(1)(a); or~~]

[~~(ii) for a metro township with a population of less than 10,000, at-large in accordance with Subsection 10-2a-410(1)(b).~~]

[~~(b) The council districts in a metro township with a population of 10,000 or more shall comply with the requirements of Subsections (2)(b)(i) and (ii).~~]

[~~(4)(a) For a city incorporated in accordance with Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015:~~]

[~~(i) the council members are elected by district in accordance with Section 10-2a-410; and~~]

[~~(ii) the mayor is elected at-large in accordance with Section 10-2a-410.~~]

[~~(b) The council districts in a city described in Subsection (4)(a) shall comply with the requirements of Subsections (2)(b)(i) and (ii).~~]

Section 11. Section 10-3-1302 is amended to read:

10-3-1302. Purpose.

[~~(1)~~] The purposes of this part are to establish standards of conduct for municipal officers and employees and to require these persons to disclose actual or potential conflicts of interest between their public duties and their personal interests.

[~~(2) In a metro township, as defined in Section 10-2a-403, the provisions of this part may not be applied to an appointed officer as that term is defined in Section 17-16a-3 or a county employee who is required by law to provide services to the metro township.~~]

Section 12. Section 10-3b-102 is amended to read:

10-3b-102. Definitions.

As used in this chapter:

(1) "Council-mayor form of government" means the form of municipal government that:

(a)(i) is provided for in Laws of Utah 1977, Chapter 48;

(ii) may not be adopted without voter approval; and

(iii) consists of two separate, independent, and equal branches of municipal government; and

(b) on and after May 5, 2008, is described in Part 2, Council-Mayor Form of Municipal Government.

(2) "Five-member council form of government" means the form of municipal government described in Part 4, Five-Member Council Form of Municipal Government.

[~~(3) "Metro township" means the same as that term is defined in Section 10-2a-403.~~]

[~~(4) "Metro township council form of government" means the form of metro township government described in Part 5, Metro Township Council Form of Municipal Government.~~]

[~~(5)~~](3) "Six-member council form of government" means the form of municipal government described in Part 3, Six-Member Council Form of Municipal Government.

Section 13. Section 10-3b-103 is amended to read:

10-3b-103. Forms of municipal government -- Form of government for towns -- Former council-manager form.

(1) A municipality operating on May 4, 2008, under the council-mayor form of government:

(a) shall, on and after May 5, 2008:

(i) operate under a council-mayor form of government, as defined in Section 10-3b-102; and

(ii) be subject to:

(A) this part;

(B) Part 2, Council-Mayor Form of Municipal Government;

(C) Part 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (1)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 3, Six-Member Council Form of Municipal Government; or

(ii) Part 4, Five-Member Council Form of Municipal Government[~~; or~~].

[~~(iii) Part 5, Metro Township Council Form of Municipal Government.~~]

(2) A municipality operating on May 4, 2008 under a form of government known under the law then in effect as the six-member council form:

(a) shall, on and after May 5, 2008, and whether or not the council has adopted an ordinance appointing a manager for the municipality:

(i) operate under a six-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

(B) Part 3, Six-Member Council Form of Municipal Government;

(C) Part 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (2)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 2, Council-Mayor Form of Municipal Government; or

(ii) Part 4, Five-Member Council Form of Municipal Government[~~; or~~].

[~~(iii) Part 5, Metro Township Council Form of Municipal Government.~~]

(3) A municipality operating on May 4, 2008, under a form of government known under the law then in effect as the five-member council form:

(a) shall, on and after May 5, 2008:

(i) operate under a five-member council form of government, as defined in Section 10-3b-102;

(ii) be subject to:

(A) this part;

(B) Part 4, Five-Member Council Form of Municipal Government;

(C) Part 6, Changing to Another Form of Municipal Government; and

(D) except as provided in Subsection (3)(b), other applicable provisions of this title; and

(b) is not subject to:

(i) Part 2, Council-Mayor Form of Municipal Government; or

(ii) Part 3, Six-Member Council Form of Municipal Government[~~; or~~].

[~~(iii) Part 5, Metro Township Council Form of Municipal Government.~~]

(4) Subject to Subsection (5), each municipality[~~other than a metro township~~] incorporated on or after May 5, 2008, shall operate under:

(a) the council-mayor form of government, with a five-member council;

(b) the council-mayor form of government, with a seven-member council;

(c) the six-member council form of government; or

(d) the five-member council form of government.

(5) Each town shall operate under a five-member council form of government unless:

(a) before May 5, 2008, the town has changed to another form of municipal government; or

(b) on or after May 5, 2008, the town changes its form of government as provided in Part 6, Changing to Another Form of Municipal Government.

[~~(6) Each metro township:~~]

[~~(a) shall operate under a metro township council form of government;~~]

[~~(b) is subject to:~~]

[~~(i) this part;~~]

[~~(ii) Part 5, Metro Township Council Form of Municipal Government; and~~]

[~~(iii) except as provided in Subsection (6)(c), other applicable provisions of this title; and~~]

[~~(c) is not subject to:~~]

[~~(i) Part 2, Council-Mayor Form of Municipal Government;~~]

[~~(ii) Part 3, Six-Member Council Form of Municipal Government; or~~]

[~~(iii) Part 4, Five-Member Council Form of Municipal Government.~~]

[~~(7)~~](6)(a) As used in this Subsection [~~(7)~~](6), "council-manager form of government" means the form of municipal government:

(i) provided for in Laws of Utah 1977, Chapter 48;

(ii) that cannot be adopted without voter approval; and

(iii) that provides for, subject to Subsections (7) and (8)[~~and (9)~~], an appointed manager with duties and responsibilities established in Laws of Utah 1977, Chapter 48.

(b) A municipality operating on May 4, 2008, under the council-manager form of government:

(i) shall:

(A) continue to operate, on and after May 5, 2008, under the council-manager form of government according to the applicable provisions of Laws of Utah 1977, Chapter 48; and

(B) be subject to:

(I) this Subsection [~~(7)~~](6) and other applicable provisions of this part;

(II) Part 6, Changing to Another Form of Municipal Government; and

(III) except as provided in Subsection (7)(b)(ii), other applicable provisions of this title; and

(ii) is not subject to:

(A) Part 2, Council-Mayor Form of Municipal Government;

(B) Part 3, Six-Member Council Form of Municipal Government; or

(C) Part 4, Five-Member Council Form of Municipal Government[~~; or~~].

[~~(D) Part 5, Metro Township Council Form of Municipal Government.~~]

[~~(8)~~](7)(a) As used in this Subsection [~~(8)~~](7), "interim vacancy period" means the period of time that:

(i) begins on the day on which a municipal general election described in Section 10-3-201 is held to elect a council member; and

(ii) ends on the day on which the council member-elect begins the council member's term.

(b)(i) The council may not appoint a manager during an interim vacancy period.

(ii) Notwithstanding Subsection [~~(8)(b)(i)~~](7)(b)(i):

(A) the council may appoint an interim manager during an interim vacancy period; and

(B) the interim manager's term shall expire once a new manager is appointed by the new administration after the interim vacancy period has ended.

(c) Subsection [~~(8)(b)~~](7)(b) does not apply if all the council members who held office on the day of the municipal general election whose term of office was vacant for the election are re-elected to the council for the following term.

[~~(9)~~](8) A council that appoints a manager in accordance with this section may not, on or after May 10, 2011, enter into an employment contract that contains an automatic renewal provision with the manager.

[~~(10)~~](9) Nothing in this section may be construed to prevent or limit a municipality operating under any form of municipal government from changing to another form of government as provided in Part 6, Changing to Another Form of Municipal Government.

Section 14. Section 10-3b-601 is amended to read:

10-3b-601. Authority to change to another form of municipal government.

[~~(1)~~] As provided in this part, a municipality may change from the form of government under which it operates to:

[~~(a)~~](1) the council-mayor form of government with a five-member council;

[~~(b)~~](2) the council-mayor form of government with a seven-member council;

[~~(c)~~](3) the six-member council form of government; or

[~~(d)~~](4) the five-member council form of government.

[~~(2)(a) A metro township that changes from the metro township council form of government to a form described in Subsection (1):~~]

[~~(i) is no longer a metro township; and~~]

[~~(ii) subject to Subsection (2)(b), is a city or town and operates as and has the authority of a city or town.~~]

[~~(b) If a metro township with a population that qualifies as a town in accordance with Section~~

~~10-2-301 changes the metro township's form of government in accordance with this part, the metro township may only change to the five-member council form of government.~~]

[~~(3) A municipality other than a metro township may not operate under the metro township council form of government.~~]

Section 15. Section 10-5-102 is amended to read:

10-5-102. Applicability.

This chapter [~~shall apply~~]applies to all[~~:~~] towns.

[~~(1) towns; and~~]

[~~(2) metro townships of the second class to the same extent as a town.~~]

Section 16. Section 10-5-108 is amended to read:

10-5-108. Budget hearing -- Notice -- Adjustments.

(1) Prior to the adoption of the final budget or an amendment to a budget, a town council shall hold a public hearing to receive public comment.

(2) The town council shall provide notice of the place, purpose, and time of the public hearing by providing notice for the town[~~ or metro township~~], as a class A notice under Section 63G-30-102, for at least seven days before the hearing.

(3) After the hearing, the town council, subject to Section 10-5-110, may adjust expenditures and revenues in conformity with this chapter.

Section 17. Section 10-6-103 is amended to read:

10-6-103. Applicability.

This chapter [~~shall apply~~]applies to all[~~:~~]

[~~(1)~~] cities, including charter cities[~~; and~~].

[~~(2) metro townships of the first class to the same extent as a city.~~]

Section 18. Section 10-6-113 is amended to read:

10-6-113. Budget -- Notice of hearing to consider adoption.

At the meeting at which each tentative budget is adopted, the governing body shall establish the time and place of a public hearing to consider its adoption and shall order that notice of the public hearing be published for the city[~~ or metro township~~], as a class A notice under Section 63G-30-102, for at least seven days before the day of the hearing.

Section 19. Section 10-6-137 is amended to read:

10-6-137. City recorder -- Office -- Meetings and records -- Certified records as evidence.

(1) The office of the city recorder shall be located at the place of the governing body or at some other place convenient [~~thereto~~]to the place of the governing body, as the governing body [~~may direct. The~~]directs.

(2)(a) Except as provided in Subsection (2)(b), the city recorder or a deputy city recorder shall attend the meetings and keep the record of the proceedings of the governing body.

(b) An individual designated by a municipal services district to provide recorder or clerk services to a city is not required to attend a meeting of the city governing body if the individual ensures compliance with the meeting minutes and recording requirements of Section 52-4-203.

(c) Copies of all papers filed in the recorder's office and transcripts from all records of the governing body, if certified by the recorder under the corporate seal, are admissible in all courts as originals.

Section 20. Section 10-6-152 is amended to read:

10-6-152. Notice that audit completed and available for inspection.

Within 10 days following the receipt of the audit report furnished by the independent auditor, the city auditor in cities having an auditor and the city recorder in all other cities shall:

(1) prepare a notice to the public that the audit of the city has been completed;

(2) provide the notice for the city[~~ or metro township~~], as a class A notice under Section 63G-30-102, for at least 10 days; and

(3) make a copy of the notice described in Subsection (1) available for inspection at the office of the city auditor or recorder.

Section 21. Section 10-9a-302 is amended to read:

10-9a-302. Planning commission powers and duties -- Training requirements.

(1) The planning commission shall review and make a recommendation to the legislative body for:

(a) a general plan and amendments to the general plan;

(b) land use regulations, including:

(i) ordinances regarding the subdivision of land within the municipality; and

(ii) amendments to existing land use regulations;

(c) an appropriate delegation of power to at least one designated land use authority to hear and act on a land use application;

(d) an appropriate delegation of power to at least one appeal authority to hear and act on an appeal from a decision of the land use authority; and

(e) application processes that:

(i) may include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and

(ii) shall protect the right of each:

(A) land use applicant and adversely affected party to require formal consideration of any application by a land use authority;

(B) land use applicant or adversely affected party to appeal a land use authority's decision to a separate appeal authority; and

(C) participant to be heard in each public hearing on a contested application.

(2) Before making a recommendation to a legislative body on an item described in Subsection (1)(a) or (b), the planning commission shall hold a public hearing in accordance with Section 10-9a-404.

(3) A legislative body may adopt, modify, or reject a planning commission's recommendation to the legislative body under this section.

(4) A legislative body may consider a planning commission's failure to make a timely recommendation as a negative recommendation.

(5) Nothing in this section limits the right of a municipality to initiate or propose the actions described in this section.

(6)(a)(i) This Subsection (6) applies to:

(A) a city of the first, second, third, or fourth class; and

(B) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class[~~; and~~].

[~~(C) a metro township with a population of 5,000 or more.~~]

(ii) The population figures described in Subsection (6)(a)(i) shall be derived from:

(A) the most recent official census or census estimate of the United States Census Bureau; or

(B) if a population figure is not available under Subsection (6)(a)(ii)(A), an estimate of the Utah Population Committee.

(b) A municipality described in Subsection (6)(a)(i) shall ensure that each member of the municipality's planning commission completes four hours of annual land use training as follows:

(i) one hour of annual training on general powers and duties under Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(ii) three hours of annual training on land use, which may include:

(A) appeals and variances;

(B) conditional use permits;

(C) exactions;

(D) impact fees;

(E) vested rights;

(F) subdivision regulations and improvement guarantees;

(G) land use referenda;

(H) property rights;

(I) real estate procedures and financing;

(J) zoning, including use-based and form-based; and

(K) drafting ordinances and code that complies with statute.

(c) A newly appointed planning commission member may not participate in a public meeting as an appointed member until the member completes the training described in Subsection (6)(b)(i).

(d) A planning commission member may qualify for one completed hour of training required under Subsection (6)(b)(ii) if the member attends, as an appointed member, 12 public meetings of the planning commission within a calendar year.

(e) A municipality shall provide the training described in Subsection (6)(b) through:

(i) municipal staff;

(ii) the Utah League of Cities and Towns; or

(iii) a list of training courses selected by:

(A) the Utah League of Cities and Towns; or

(B) the Division of Real Estate created in Section 61-2-201.

(f) A municipality shall, for each planning commission member:

(i) monitor compliance with the training requirements in Subsection (6)(b); and

(ii) maintain a record of training completion at the end of each calendar year.

Section 22. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Initial report" or "initial moderate income housing report" means the one-time report described in Subsection (2).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403(2)(b)(iii).

(e) "Report" means an initial report or a subsequent progress report.

(f) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class; or

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class[~~; or~~].

[~~(iii) a metro township with a population of 5,000 or more.~~]

(g) "Subsequent progress report" means the annual report described in Subsection (3).

(2)(a) The legislative body of a specified municipality shall submit an initial report to the division.

(b)(i) This Subsection (2)(b) applies to a municipality that is not a specified municipality as of January 1, 2023.

(ii) As of January 1, if a municipality described in Subsection (2)(b)(i) changes from one class to another or grows in population to qualify as a specified municipality, the municipality shall submit an initial plan to the division on or before August 1 of the first calendar year beginning on January 1 in which the municipality qualifies as a specified municipality.

(c) The initial report shall:

(i) identify each moderate income housing strategy selected by the specified municipality for continued, ongoing, or one-time implementation, restating the exact language used to describe the moderate income housing strategy in Subsection 10-9a-403(2)(b)(iii); and

(ii) include an implementation plan.

(3)(a) After the division approves a specified municipality's initial report under this section, the specified municipality shall, as an administrative act, annually submit to the division a subsequent progress report on or before August 1 of each year after the year in which the specified municipality is required to submit the initial report.

(b) The subsequent progress report shall include:

(i) subject to Subsection (3)(c), a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous 12-month period to implement the moderate income housing strategies identified in the initial report for implementation;

(ii) a description of each land use regulation or land use decision made by the specified municipality during the previous 12-month period to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iii) a description of any barriers encountered by the specified municipality in the previous 12-month period in implementing the moderate income housing strategies;

(iv) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license or comparable license or permit to rent;

(v) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vi) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(c) For purposes of describing actions taken by a specified municipality under Subsection (3)(b)(i), the specified municipality may include an ongoing action taken by the specified municipality prior to the 12-month reporting period applicable to the subsequent progress report if the specified municipality:

(i) has already adopted an ordinance, approved a land use application, made an investment, or approved an agreement or financing that substantially promotes the implementation of a moderate income housing strategy identified in the initial report; and

(ii) demonstrates in the subsequent progress report that the action taken under Subsection (3)(c)(i) is relevant to making meaningful progress towards the specified municipality's implementation plan.

(d) A specified municipality's report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before May 1 of the year in which the report is required.

(4) Within 90 days after the day on which the division receives a specified municipality's report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (5), review the report to determine compliance with this section.

(5)(a) An initial report does not comply with this section unless the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) A subsequent progress report does not comply with this section unless the report:

(i) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to the requirements of Subsection 10-9a-403(2)(a)(iii)(D), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(ii) is in a form approved by the division; and

(iii) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies;

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies; and

(E) identify any barriers encountered by the specified municipality in implementing the selected moderate income housing strategies.

(6)(a) A specified municipality qualifies for priority consideration under this Subsection (6) if the specified municipality's report:

(i) complies with this section; and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The Transportation Commission may, in accordance with Subsection 72-1-304(3)(c), give priority consideration to transportation projects located within the boundaries of a specified municipality described in Subsection (6)(a) until the Department of Transportation receives notice from the division under Subsection (6)(e).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (6), the division shall send a notice of prioritization to the legislative body of the specified municipality and the Department of Transportation.

(d) The notice described in Subsection (6)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration; and

(iii) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the specified municipality no longer qualifies for priority consideration under this Subsection (6).

(7)(a) If the division, after reviewing a specified municipality's report, determines that the report does not comply with this section, the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) A specified municipality that receives a notice of noncompliance may:

(i) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(ii) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(c) The notice described in Subsection (7)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to:

(A) submit to the division a corrected report that cures each deficiency in the report within 90 days after the day on which the notice of compliance is sent; or

(B) submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent; and

(iii) state that failure to take action under Subsection (7)(c)(ii) will result in the specified municipality's ineligibility for funds under Subsection (9).

(d) For purposes of curing the deficiencies in a report under this Subsection (7), if the action needed to cure the deficiency as described by the division requires the specified municipality to make a legislative change, the specified municipality may

cure the deficiency by making that legislative change within the 90-day cure period.

(e)(i) If a specified municipality submits to the division a corrected report in accordance with Subsection (7)(b)(i) and the division determines that the corrected report does not comply with this section, the division shall send a second notice of noncompliance to the legislative body of the specified municipality within 30 days after the day on which the corrected report is submitted.

(ii) A specified municipality that receives a second notice of noncompliance may submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent.

(iii) The notice described in Subsection (7)(e)(i) shall:

(A) state that the specified municipality has an opportunity to submit to the division a request for an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; and

(B) state that failure to take action under Subsection (7)(e)(iii)(A) will result in the specified municipality's ineligibility for funds under Subsection (9).

(8)(a) A specified municipality that receives a notice of noncompliance under Subsection (7)(a) or (7)(e)(i) may request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent.

(b) Within 90 days after the day on which the division receives a request for an appeal, an appeal board consisting of the following three members shall review and issue a written decision on the appeal:

(i) one individual appointed by the Utah League of Cities and Towns;

(ii) one individual appointed by the Utah Homebuilders Association; and

(iii) one individual appointed by the presiding member of the association of governments, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, of which the specified municipality is a member.

(c) The written decision of the appeal board shall either uphold or reverse the division's determination of noncompliance.

(d) The appeal board's written decision on the appeal is final.

(9)(a) A specified municipality is ineligible for funds under this Subsection (9) if:

(i) the specified municipality fails to submit a report to the division;

(ii) after submitting a report to the division, the division determines that the report does not comply with this section and the specified municipality fails to:

(A) cure each deficiency in the report within 90 days after the day on which the notice of noncompliance is sent; or

(B) request an appeal of the division's determination of noncompliance within 10 days after the day on which the notice of noncompliance is sent;

(iii) after submitting to the division a corrected report to cure the deficiencies in a previously-submitted report, the division determines that the corrected report does not comply with this section and the specified municipality fails to request an appeal of the division's determination of noncompliance within 10 days after the day on which the second notice of noncompliance is sent; or

(iv) after submitting a request for an appeal under Subsection (8), the appeal board issues a written decision upholding the division's determination of noncompliance.

(b) The following apply to a specified municipality described in Subsection (9)(a) until the division provides notice under Subsection (9)(e):

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5);

(ii) beginning with a report submitted in 2024, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $250 per day that the specified municipality:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (7); and

(iii) beginning with the report submitted in 2025, the specified municipality shall pay a fee to the Olene Walker Housing Loan Fund in the amount of $500 per day that the specified municipality, in a consecutive year:

(A) fails to submit the report to the division in accordance with this section, beginning the day after the day on which the report was due; or

(B) fails to cure the deficiencies in the report, beginning the day after the day by which the cure was required to occur as described in the notice of noncompliance under Subsection (6).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (9), and is required to pay a fee under

Subsection (9)(b), if applicable, the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, the State Tax Commission and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (9)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) describe the fee the specified municipality is required to pay under Subsection (9)(b), if applicable[~~,~~]; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

(e) The division shall notify the legislative body of a specified municipality and the Department of Transportation in writing if the division determines that the provisions of this Subsection (9) no longer apply to the specified municipality.

(f) The division may not determine that a specified municipality that is required to pay a fee under Subsection (9)(b) is in compliance with the reporting requirements of this section until the specified municipality pays all outstanding fees required under Subsection (9)(b) to the Olene Walker Housing Loan Fund, created under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(10) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 23. Section 11-3-8 is amended to read:

11-3-8. Conflicting local ordinances prohibited.

A county, city, or town[~~, or metro township~~] may not adopt an ordinance or regulation in conflict with Sections 53-7-220 through 53-7-225.

Section 24. Section 11-13a-102 is amended to read:

11-13a-102. Definitions.

As used in this chapter:

(1) "Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

(2)(a) "Governing board" means the body that governs a governmental nonprofit corporation.

(b) "Governing board" includes a board of directors.

(3) "Governmental entity" means the state, a county, a municipality, a special district, a special service district, a school district, a state institution of higher education, or any other political subdivision or administrative unit of the state.

(4)(a) "Governmental nonprofit corporation" means:

(i) a nonprofit corporation that is wholly owned or wholly controlled by one or more governmental entities, unless the nonprofit corporation receives no operating funding or other financial support from any governmental entity; or

(ii) a nonprofit corporation in which one or more governmental entities exercise a controlling interest and:

(A) that exercises taxing authority;

(B) that imposes a mandatory fee for association or participation with the nonprofit corporation where that association or participation is mandated by law; or

(C) that receives a majority of the nonprofit corporation's operating funding from one or more governmental entities under the nonprofit corporation's governing documents, except where voluntary membership fees, dues, or assessments compose the operating funding.

(b) "Governmental nonprofit corporation" does not include a water company, as that term is defined in Section 16-4-102, unless the water company is wholly owned by one or more governmental entities.

(5) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

Section 25. Section 11-14-102 is amended to read:

11-14-102. Definitions.

For the purpose of this chapter:

(1) "Bond" means any bond authorized to be issued under this chapter, including municipal bonds.

(2) "Election results" has the same meaning as defined in Section 20A-1-102.

(3) "Governing body" means:

(a) for a county, city, or town,[~~ or metro township,~~] the legislative body of the county, city, or town;

(b) for a special district, the board of trustees of the special district;

(c) for a school district, the local board of education; or

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the governing body of the county or municipality that created the special service district, if no administrative control board has been established under Section 17D-1-301; or

(ii) the administrative control board, if one has been established under Section 17D-1-301 and the power to issue bonds not payable from taxes has been delegated to the administrative control board.

(4)(a) "Local political subdivision" means a county, city, town,[~~metro township,~~] school district, special district, or special service district.

(b) "Local political subdivision" does not include the state and its institutions.

(5) "Special district" means a district operating under Title 17B, Limited Purpose Local Government Entities - Special Districts.

Section 26. Section 11-14-301 is amended to read:

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2)(a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602, with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) For a bond described in this section that is approved by voters on or after May 8, 2002, but before May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection 20A-7-607(3), unless an application, described in Subsection 20A-7-607(4)(a), is made to a court;

(ii) a court determines, under Subsection 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) For a bond described in this section that was approved by voters on or after May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends:

(i) if a county, city, town,[~~metro township,~~] or court determines, under Section 20A-7-602.7, that the proposed referendum is not legally referable to voters, the later of:

(A) the day on which the county, city, or town[~~, or metro township~~] provides the notice described in Subsection 20A-7-602.7(1)(b)(ii); or

(B) if a sponsor appeals, under Subsection 20A-7-602.7(4), the day on which a court decision that the proposed referendum is not legally referable to voters becomes final; or

(ii) if a county, city, town,[~~metro township,~~] or court determines, under Section 20A-7-602.7, that the proposed referendum is legally referable to voters, the later of:

(A) the day on which the local clerk determines, under Section 20A-7-607, that the number of certified names is insufficient for the proposed referendum to appear on the ballot; or

(B) if the local clerk determines, under Section 20A-7-607, that the number of certified names is sufficient for the proposed referendum to appear on the ballot, the day on which the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(e) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(f) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(g) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3)(a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable

property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

(7)(a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Section 27. Section 11-17-2 is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, or town,[~~ or metro township,~~] the legislative body of the county, city, or town[~~, or metro township~~];

(b) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

(c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and

(d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5)(a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city[,] or town[~~, or metro township~~] in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10)(a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section

53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 28. Section 11-26-401 is amended to read:

11-26-401. Definitions -- Prohibition on car sharing program taxes, fees, and other charges.

(1) As used in this part:

(a) "Car sharing" means the same as that term is defined in Section 13-48a-101.

(b) "County" means the same as that term is defined in Section 17-50-101.

(c) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

[~~(c)~~](d) "Municipality" means a city or a town.

[~~(d) "Political subdivision" means the same as that term is defined in Section 11-14-102.~~]

(e) "Rental" means the same as the terms "lease" or "rental" are defined in Section 59-12-102.

(2) A [~~county, municipality, or other~~]local political subdivision may not impose a tax, fee, or charge on the gross proceeds or gross income of a car sharing transaction that the jurisdiction does not impose on other transactions involving the rental of a motor vehicle without a driver.

Section 29. Section 11-39-101 is amended to read:

11-39-101. Definitions.

As used in this chapter:

(1) "Bid limit" means:

(a) for a building improvement:

(i) for the year 2003, $40,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year; and

(b) for a public works project:

(i) for the year 2003, $125,000; and

(ii) for each year after 2003, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by the lesser of 3% or the actual percent change in the Consumer Price Index during the previous calendar year.

(2) "Building improvement":

(a) means the construction or repair of a public building or structure; and

(b) does not include construction or repair at an international airport.

(3) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(4)(a) "Design-build project" means a building improvement or public works project for which both the design and construction are provided for in a single contract with a contractor or combination of contractors capable of providing design-build services.

(b) "Design-build project" does not include a building improvement or public works project:

(i) that a local entity undertakes under contract with a construction manager that guarantees the contract price and is at risk for any amount over the contract price; and

(ii) each component of which is competitively bid.

(5) "Design-build services" means the engineering, architectural, and other services necessary to formulate and implement a design-build project, including the actual construction of the project.

(6) "Emergency repairs" means a building improvement or public works project undertaken on an expedited basis to:

(a) eliminate an imminent risk of damage to or loss of public or private property;

(b) remedy a condition that poses an immediate physical danger; or

(c) reduce a substantial, imminent risk of interruption of an essential public service.

(7) "Governing body" means:

(a) for a county, city, or town,[~~, or metro township,~~] the legislative body of the county, city, or town[~~, or metro township~~];

(b) for a special district, the board of trustees of the special district; and

(c) for a special service district:

(i) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(ii) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301.

(8) "Local entity" means a county, city, town,[~~metro township,~~] special district, or special service district.

(9) "Lowest responsive responsible bidder" means a prime contractor who:

(a) has submitted a bid in compliance with the invitation to bid and within the requirements of the

plans and specifications for the building improvement or public works project;

(b) is the lowest bidder that satisfies the local entity's criteria relating to financial strength, past performance, integrity, reliability, and other factors that the local entity uses to assess the ability of a bidder to perform fully and in good faith the contract requirements;

(c) has furnished a bid bond or equivalent in money as a condition to the award of a prime contract; and

(d) furnishes a payment and performance bond as required by law.

(10) "Procurement code" means the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(11) "Public works project":

(a) means the construction of:

(i) a park or recreational facility; or

(ii) a pipeline, culvert, dam, canal, or other system for water, sewage, storm water, or flood control; and

(b) does not include:

(i) the replacement or repair of existing infrastructure on private property;

(ii) construction commenced before June 1, 2003; and

(iii) construction or repair at an international airport.

(12) "Special district" means the same as that term is defined in Section 17B-1-102.

(13) "Special service district" has the same meaning as defined in Section 17D-1-102.

Section 30. Section 11-41-102 is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23A-6-101.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town,[~~metro township,~~] school district, special district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

(b) a state agency as defined in Section 63J-1-220;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15)(a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17)(a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 31. Section 11-42a-102 is amended to read:

11-42a-102. Definitions.

(1) "Air quality standards" means that a vehicle's emissions are equal to or cleaner than the standards established in bin 4 Table S04-1, of 40 C.F.R. 86.1811-04(c)(6).

(2)(a) "Assessment" means the assessment that a local entity or the C-PACE district levies on private property under this chapter to cover the costs of an energy efficiency upgrade, a renewable energy system, or an electric vehicle charging infrastructure.

(b) "Assessment" does not constitute a property tax but shares the same priority lien as a property tax.

(3) "Assessment fund" means a special fund that a local entity establishes under Section 11-42a-206.

(4) "Benefitted property" means private property within an energy assessment area that directly benefits from improvements.

(5) "Bond" means an assessment bond and a refunding assessment bond.

(6)(a) "Commercial or industrial real property" means private real property used directly or indirectly or held for one of the following purposes or activities, regardless of whether the purpose or activity is for profit:

(i) commercial;

(ii) mining;

(iii) agricultural;

(iv) industrial;

(v) manufacturing;

(vi) trade;

(vii) professional;

(viii) a private or public club;

(ix) a lodge;

(x) a business; or

(xi) a similar purpose.

(b) "Commercial or industrial real property" includes:

(i) private real property that is used as or held for dwelling purposes and contains:

(A) more than four rental units; or

(B) one or more owner-occupied or rental condominium units affiliated with a hotel; and

(ii) real property owned by:

(A) the military installation development authority, created in Section 63H-1-201; or

(B) the Utah Inland Port Authority, created in Section 11-58-201.

(7) "Contract price" means:

(a) up to 100% of the cost of installing, acquiring, refinancing, or reimbursing for an improvement, as determined by the owner of the property benefitting from the improvement; or

(b) the amount payable to one or more contractors for the assessment, design, engineering, inspection, and construction of an improvement.

(8) "C-PACE" means commercial property assessed clean energy.

(9) "C-PACE district" means the statewide authority established in Section 11-42a-106 to

implement the C-PACE Act in collaboration with governing bodies, under the direction of OED.

(10) "Electric vehicle charging infrastructure" means equipment that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to deliver electric energy to a qualifying electric vehicle or a qualifying plug-in hybrid vehicle.

(11) "Energy assessment area" means an area:

(a) within the jurisdictional boundaries of a local entity that approves an energy assessment area or, if the C-PACE district or a state interlocal entity levies the assessment, the C-PACE district or the state interlocal entity;

(b) containing only the commercial or industrial real property of owners who have voluntarily consented to an assessment under this chapter for the purpose of financing the costs of improvements that benefit property within the energy assessment area; and

(c) in which the proposed benefitted properties in the area are:

(i) contiguous; or

(ii) located on one or more contiguous or adjacent tracts of land that would be contiguous or adjacent property but for an intervening right-of-way, including a sidewalk, street, road, fixed guideway, or waterway.

(12) "Energy assessment bond" means a bond:

(a) issued under Section 11-42a-401; and

(b) payable in part or in whole from assessments levied in an energy assessment area.

(13) "Energy assessment lien" means a lien on property within an energy assessment area that arises from the levy of an assessment in accordance with Section 11-42a-301.

(14) "Energy assessment ordinance" means an ordinance that a local entity adopts under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(15) "Energy assessment resolution" means one or more resolutions adopted by a local entity under Section 11-42a-201 that:

(a) designates an energy assessment area;

(b) levies an assessment on benefitted property within the energy assessment area; and

(c) if applicable, authorizes the issuance of energy assessment bonds.

(16) "Energy efficiency upgrade" means an improvement that is:

(a) permanently affixed to commercial or industrial real property; and

(b) designed to reduce energy or water consumption, including:

(i) insulation in:

(A) a wall, roof, floor, or foundation; or

(B) a heating and cooling distribution system;

(ii) a window or door, including:

(A) a storm window or door;

(B) a multiglazed window or door;

(C) a heat-absorbing window or door;

(D) a heat-reflective glazed and coated window or door;

(E) additional window or door glazing;

(F) a window or door with reduced glass area; or

(G) other window or door modifications;

(iii) an automatic energy control system;

(iv) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(v) caulk or weatherstripping;

(vi) a light fixture that does not increase the overall illumination of a building, unless an increase is necessary to conform with the applicable building code;

(vii) an energy recovery system;

(viii) a daylighting system;

(ix) measures to reduce the consumption of water, through conservation or more efficient use of water, including installation of:

(A) low-flow toilets and showerheads;

(B) timer or timing systems for a hot water heater; or

(C) rain catchment systems;

(x) a modified, installed, or remodeled fixture that is approved as a utility cost-saving measure by the governing body or executive of a local entity;

(xi) measures or other improvements to effect seismic upgrades;

(xii) structures, measures, or other improvements to provide automated parking or parking that reduces land use;

(xiii) the extension of an existing natural gas distribution company line;

(xiv) an energy efficient elevator, escalator, or other vertical transport device;

(xv) any other improvement that the governing body or executive of a local entity approves as an energy efficiency upgrade; or

(xvi) any improvement that relates physically or functionally to any of the improvements listed in Subsections (16)(b)(i) through (xv).

(17) "Governing body" means:

(a) for a county, city, or town,[~~or metro township,~~] the legislative body of the county, city, or town[~~, or metro township~~];

(b) for a special district, the board of trustees of the special district;

(c) for a special service district:

(i) if no administrative control board has been appointed under Section 17D-1-301, the legislative body of the county, city, town, or metro township that established the special service district; or

(ii) if an administrative control board has been appointed under Section 17D-1-301, the administrative control board of the special service district;

(d) for the military installation development authority created in Section 63H-1-201, the board, as that term is defined in Section 63H-1-102; and

(e) for the Utah Inland Port Authority, created in Section 11-58-201, the board, as defined in Section 11-58-102.

(18) "Improvement" means a publicly or privately owned energy efficiency upgrade, renewable energy system, or electric vehicle charging infrastructure that:

(a) a property owner has requested; or

(b) has been or is being installed on a property for the benefit of the property owner.

(19) "Incidental refunding costs" means any costs of issuing a refunding assessment bond and calling, retiring, or paying prior bonds, including:

(a) legal and accounting fees;

(b) charges of financial advisors, escrow agents, certified public accountant verification entities, and trustees;

(c) underwriting discount costs, printing costs, and the costs of giving notice;

(d) any premium necessary in the calling or retiring of prior bonds;

(e) fees to be paid to the local entity to issue the refunding assessment bond and to refund the outstanding prior bonds;

(f) any other costs that the governing body determines are necessary and proper to incur in connection with the issuance of a refunding assessment bond; and

(g) any interest on the prior bonds that is required to be paid in connection with the issuance of the refunding assessment bond.

(20) "Installment payment date" means the date on which an installment payment of an assessment is payable.

(21) "Jurisdictional boundaries" means:

(a) for the C-PACE district or any state interlocal entity, the boundaries of the state; and

(b) for each local entity, the boundaries of the local entity.

(22)(a) "Local entity" means:

(i) a county, city, or town[~~, or metro township~~];

(ii) a special service district, a special district, or an interlocal entity as that term is defined in Section 11-13-103;

(iii) a state interlocal entity;

(iv) the military installation development authority, created in Section 63H-1-201;

(v) the Utah Inland Port Authority, created in Section 11-58-201; or

(vi) any political subdivision of the state.

(b) "Local entity" includes the C-PACE district solely in connection with:

(i) the designation of an energy assessment area;

(ii) the levying of an assessment; and

(iii) the assignment of an energy assessment lien to a third-party lender under Section 11-42a-302.

(23) "Local entity obligations" means energy assessment bonds and refunding assessment bonds that a local entity issues.

(24) "OED" means the Office of Energy Development created in Section 79-6-401.

(25) "OEM vehicle" means the same as that term is defined in Section 19-1-402.

(26) "Overhead costs" means the actual costs incurred or the estimated costs to be incurred in connection with an energy assessment area, including:

(a) appraisals, legal fees, filing fees, facilitation fees, and financial advisory charges;

(b) underwriting fees, placement fees, escrow fees, trustee fees, and paying agent fees;

(c) publishing and mailing costs;

(d) costs of levying an assessment;

(e) recording costs; and

(f) all other incidental costs.

(27) "Parameters resolution" means a resolution or ordinance that a local entity adopts in accordance with Section 11-42a-201.

(28) "Prior bonds" means the energy assessment bonds refunded in part or in whole by a refunding assessment bond.

(29) "Prior energy assessment ordinance" means the ordinance levying the assessments from which the prior bonds are payable.

(30) "Prior energy assessment resolution" means the resolution levying the assessments from which the prior bonds are payable.

(31) "Property" includes real property and any interest in real property, including water rights and leasehold rights.

(32) "Public electrical utility" means a large-scale electric utility as that term is defined in Section 54-2-1.

(33) "Qualifying electric vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas;

(c) draws propulsion energy from a battery with at least 10 kilowatt hours of capacity; and

(d) is an OEM vehicle except that the vehicle is fueled by a fuel described in Subsection (33)(c).

(34) "Qualifying plug-in hybrid vehicle" means a vehicle that:

(a) meets air quality standards;

(b) is not fueled by natural gas or propane;

(c) has a battery capacity that meets or exceeds the battery capacity described in Subsection 30D(b)(3), Internal Revenue Code; and

(d) is fueled by a combination of electricity and:

(i) diesel fuel;

(ii) gasoline; or

(iii) a mixture of gasoline and ethanol.

(35) "Reduced payment obligation" means the full obligation of an owner of property within an energy assessment area to pay an assessment levied on the property after the local entity has reduced the assessment because of the issuance of a refunding assessment bond, in accordance with Section 11-42a-403.

(36) "Refunding assessment bond" means an assessment bond that a local entity issues under Section 11-42a-403 to refund, in part or in whole, energy assessment bonds.

(37)(a) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to commercial or industrial real property not located in the certified service area of a distribution electrical cooperative, as that term is defined in Section 54-2-1, and:

(i) produces energy from renewable resources, including:

(A) a photovoltaic system;

(B) a solar thermal system;

(C) a wind system;

(D) a geothermal system, including a generation system, a direct-use system, or a ground source heat pump system;

(E) a microhydro system;

(F) a biofuel system; or

(G) any other renewable source system that the governing body of the local entity approves;

(ii) stores energy, including:

(A) a battery storage system; or

(B) any other energy storing system that the governing body or chief executive officer of a local entity approves; or

(iii) any improvement that relates physically or functionally to any of the products, systems, or devices listed in Subsection (37)(a)(i) or (ii).

(b) "Renewable energy system" does not include a system described in Subsection (37)(a)(i) if the system provides energy to property outside the energy assessment area, unless the system:

(i)(A) existed before the creation of the energy assessment area; and

(B) beginning before January 1, 2017, provides energy to property outside of the area that became the energy assessment area; or

(ii) provides energy to property outside the energy assessment area under an agreement with a public electrical utility that is substantially similar to agreements for other renewable energy systems that are not funded under this chapter.

(38) "Special district" means a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(39) "Special service district" means the same as that term is defined in Section 17D-1-102.

(40) "State interlocal entity" means:

(a) an interlocal entity created under Chapter 13, Interlocal Cooperation Act, by two or more counties, cities, or towns[~~, or metro townships~~] that collectively represent at least a majority of the state's population; or

(b) an entity that another state authorized, before January 1, 2017, to issue bonds, notes, or other obligations or refunding obligations to finance or refinance projects in the state.

(41) "Third-party lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other entity that provides loans directly to property owners for improvements authorized under this chapter.

Section 32. Section 11-42b-101 is amended to read:

11-42b-101. Definitions.

As used in this chapter:

(1) "Assessment" means the assessment that a specified county levies on benefitted properties under this chapter to pay for beneficial activities.

(2) "Assessment area" means a convention and tourism business assessment area designated under this chapter.

(3)(a) "Beneficial activity" means any activity or service that increases hotel room rates or occupancy levels at lodging establishments.

(b) "Beneficial activity" includes an activity to:

(i) promote tourism;

(ii) sponsor or incentivize a cultural or sports event, festival, conference, or convention;

(iii) facilitate economic or workforce development for the lodging industry, including workforce recruitment or retention; or

(iv) promote placemaking, visitor management, or destination enhancement.

(4) "Benefitted property" means a lodging establishment that directly or indirectly benefits from a beneficial activity.

(5) "Guest" means an individual for whom a lodging establishment provides lodging accommodations for compensation.

(6) "Lodging establishment" means the same as that term is defined in Section 29- 2- 102.

(7) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(8) "Owner" means the owner of a benefitted property, or the authorized agent or employee of the owner.

(9) "Qualified number of owners" means a number of owners of benefitted properties that represents 60% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, provided that if an owner of one or more benefitted properties represents 40% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, no more than 40% of the total assessment amount shall be attributed to that owner.

(10) "Specified county" means a county of the first or second class.

(11) "Third party administrator" means a private nonprofit organization, primarily engaged in destination marketing and promotion, that enters into a contract with a specified county to provide beneficial activities within an assessment area in accordance with the management plan.

Section 33. Section 11- 46a- 101 is amended to read:

11- 46a- 101. Definitions.

As used in this chapter:

(1)(a) "Animal" means any nonhuman vertebrate life form.

(b) "Animal" does not include domestic cats, domestic dogs, exotic animals, or reptiles.

(2)(a) "Animal enterprise" means a commercial enterprise, an academic enterprise, or a competition that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, sport, or testing.

(b) "Animal enterprise" includes an animal competition, exposition, fair, rodeo, farm, feedlot, furrier, ranch, or event intended to exhibit or advance agricultural arts and sciences.

(c) "Animal enterprise" does not include an aquarium, circus, horse and carriage operation, retail pet store, or zoo.

(3) "Exotic animal" means a:

(a) member of the family Felidae not indigenous to Utah, except the species Felis catus (domestic cat);

(b) nonhuman primate;

(c) nonwolf member of the family Canidae not indigenous to Utah, except the species Canis familiaris (domestic dog);

(d) bear; and

(e) member of the order Crocodylia.

(4) "Political subdivision" means:

(a) a city[~~,~~] or town[~~, or metro township~~]; or

(b) a county, as it relates to the licensing and regulation of an animal enterprise or working animal in the unincorporated area of the county.

(5)(a) "Working animal" means an animal used for performing a specific duty or function in commerce, including an animal used for entertainment, herding, transportation, education, or exhibition.

(b) "Working animal" does not include a horse and carriage operation.

Section 34. Section 11- 48- 101.5 is amended to read:

11- 48- 101.5. Definitions.

As used in this chapter:

(1)(a) "911 ambulance services" means ambulance services rendered in response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under Title 26B, Chapter 4, Part 1, Utah Emergency Medical Services System.

(2) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(3) "Political subdivision" means a county, city, town, special district, or special service district.

Section 35. Section 11- 54- 102 is amended to read:

11- 54- 102. Definitions.

As used in this chapter:

(1) "Buyback purchaser" means a person who buys a procurement item from the local government entity to which the person previously sold the procurement item.

(2) "Excess repurchase amount" means the difference between:

(a) the amount a buyback purchaser pays to a local government entity to purchase a procurement item that the buyback purchaser previously sold to the local government entity; and

(b) the amount the local government entity paid to the buyback purchaser to purchase the procurement item.

(3) "Local government entity" means a county, city, town,[~~ metro township,~~] special district, special service district, community reinvestment agency, conservation district, or school district that is not subject to Title 63G, Chapter 6a, Utah Procurement Code.

(4) "Procurement item" means the same as that term is defined in Section 63G-6a-103.

Section 36. Section 11-56-102 is amended to read:

11-56-102. Definitions.

As used in this chapter:

(1)(a) "Enclosed mobile business" means a business that maintains ongoing mobility and of which the receipt of goods or services offered and point of sales occurs within an enclosed vehicle, an enclosed trailer, or an enclosed mobile structure.

(b) An enclosed mobile business's goods or services include those offered in the following industries:

(i) barber;

(ii) beauty and cosmetic, including nail, eyelash, and waxing;

(iii) cycling;

(iv) cell phone;

(v) computer;

(vi) footwear;

(vii) media archive and transfer;

(viii) pet grooming;

(ix) sewing and tailoring;

(x) small engine; and

(xi) tool.

(c) "Enclosed mobile business" does not include a food cart, a food truck, or an ice cream truck.

(2) "Event permit" means a permit that a political subdivision issues to the organizer of a mobile business event located on public property.

(3)(a) "Food cart" means a cart:

(i) that is not motorized; and

(ii) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(b) "Food cart" does not include an enclosed mobile business, a food truck, or an ice cream truck.

(4)(a) "Food truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.

(b) "Food truck" does not include an enclosed mobile business, a food cart, or an ice cream truck.

(5) "Health department permit" means a document that a local health department issues to authorize a mobile business to operate within the jurisdiction of the local health department.

(6)(a) "Ice cream truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(ii) from which a vendor, from within the frame of the vehicle, serves ice cream;

(iii) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(iv) that may stop to serve ice cream at the signal of a patron.

(b) "Ice cream truck" does not include an enclosed mobile business, a food cart, or a food truck.

(7) "Local health department" means the same as that term is defined in Section 26A-1-102.

(8) "Mobile business" means an enclosed mobile business, a food cart, a food truck, or an ice cream truck.

(9) "Mobile business event" means an event at which a mobile business has been invited by the event organizer to offer the mobile business's goods or services at a private or public gathering.

(10) "Operator" means a person, including a vendor, who owns, manages, controls, or operates a mobile business.

(11) "Political subdivision" means:

(a) a city[~~,~~] or town[~~, or metro township~~]; or

(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(12)(a) "Temporary mass gathering" means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(b) "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection (15)(a)(i).

Section 37. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a)(i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

(7) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (7)(a).

(8) "Development project" means a project for the development of land within a project area.

(9) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(10) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

(11) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

(12) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

(13) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

(14) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302(3) who does not have the power to vote on matters of authority business.

(15) "Project area" means:

(a) the authority jurisdictional land, subject to Section 11-58-605; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(16) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

(17) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

(18) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(19) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(20) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town,[~~metro township,~~] school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(21)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i)(A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii)(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that are developed as part of a remediation project.

(22) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

(23) "Remediation differential" means property tax differential generated from a remediation project area.

(24) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a) obtained ownership of the land.

(25) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

(26) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

(27) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(28) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(29) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 38. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member -- Services from state agencies -- Procurement policy.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5)(a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7)(a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8)(a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town,[~~metro township,~~] special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9)(a) The authority may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

(10)(a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Section 39. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(5) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(6) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(7) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town,[~~metro township,~~] school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(8) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(9) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 40. Section 11-61-102 is amended to read:

11-61-102. Definitions.

As used in this chapter:

(1) "Expressive activity" means:

(a) peacefully assembling, protesting, or speaking;

(b) distributing literature;

(c) carrying a sign; or

(d) signature gathering or circulating a petition.

(2) "Generally applicable time, place, and manner restriction" means a content-neutral ordinance, policy, practice, or other action that:

(a) by its clear language and intent, restricts or infringes on expressive activity;

(b) applies generally to any person; and

(c) is not an individually applicable time, place, and manner restriction.

(3)(a) "Individually applicable time, place, and manner restriction" means a content-neutral policy, practice, or other action:

(i) that restricts or infringes on expressive activity; and

(ii) that a political subdivision applies:

(A) on a case-by-case basis;

(B) to a specifically identified person or group of persons; and

(C) regarding a specifically identified place and time.

(b) "Individually applicable time, place, and manner restriction" includes a restriction placed on expressive activity as a condition to obtain a permit.

(4)(a) "Political subdivision" means a county, city, or town[~~, or metro township~~].

(b) "Political subdivision" does not mean:

(i) a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts;

(ii) a special service district under Title 17D, Chapter 1, Special Service District Act; or

(iii) a school district under Title 53G, Chapter 3, School District Creation and Change.

(5)(a) "Public building" means a building or permanent structure that is:

(i) owned, leased, or occupied by a political subdivision or a subunit of a political subdivision;

(ii) open to public access in whole or in part; and

(iii) used for public education or political subdivision activities.

(b) "Public building" does not mean:

(i) a building owned or leased by a political subdivision or a subunit of a political subdivision:

(A) that is closed to public access;

(B) where state or federal law restricts expressive activity; or

(C) when the building is used by a person, in whole or in part, for a private function; or

(ii) a public school.

(6)(a) "Public grounds" means the area outside a public building that is a traditional public forum where members of the public may safely gather to engage in expressive activity.

(b) "Public grounds" includes sidewalks, streets, and parks.

(c) "Public grounds" does not include the interior of a public building.

Section 41. Section 11-63-102 is amended to read:

11-63-102. Definitions.

As used in this chapter:

(1) "Commercial trampoline" means a device that:

(a) incorporates a trampoline bed; and

(b) is used for recreational jumping, springing, bouncing, acrobatics, or gymnastics in a trampoline park.

(2) "Emergency response plan" means a written plan of action for the reasonable and appropriate contact, deployment, and coordination of services, agencies, and personnel to provide the earliest possible response to an injury or emergency.

(3) "Inherent risk" means a danger or condition that is an integral part of an activity occurring at a trampoline park.

(4) "Inspection" means a procedure that an inspector conducts to:

(a) determine whether a trampoline park facility, including any device or material, is constructed, assembled, maintained, tested, and operated in accordance with this chapter and the manufacturer's recommendations;

(b) determine the operational safety of a trampoline park facility, including any device or material; and

(c) determine whether the trampoline park's policies and procedures comply with this chapter.

(5) "Inspector" means an individual who:

(a) conducts an inspection of a trampoline park to certify compliance with this chapter and industry safety standards; and

(b)(i) is certified by:

(A) an organization that develops and publishes consensus standards for a wide range of materials, products, systems, and services that are used for trampolines; or

(B) an organization that promotes trampoline park safety and adopts the standards described in Subsection (5)(b)(i)(A);

(ii) represents the insurer of the trampoline park;

(iii) represents or is certified by a department or agency, regardless of whether the agency is located within the state, that:

(A) inspects amusement and recreational facilities and equipment; and

(B) certifies and trains professional private industry inspectors through written testing and continuing education requirements; or

(iv) represents an organization that the United States Olympic Committee designates as the national governing body for gymnastics.

(6) "Local regulating authority" means the business licensing division of:

(a) the city[~~,~~] or town[~~, or metro township~~] in which the trampoline park is located; or

(b) if the trampoline park is located in an unincorporated area, the county.

(7) "Operator" means a person who owns, manages, or controls or who has the duty to manage or control the operation of a trampoline park.

(8) "Participant" means an individual that uses trampoline park equipment.

(9) "Trampoline bed" means the flexible surface of a trampoline on which a user jumps or bounces.

(10) "Trampoline court" means an area of a trampoline park comprising:

(a) multiple commercial trampolines; or

(b) at least one commercial trampoline and at least one associated foam or inflatable bag pit.

(11) "Trampoline park" means a place of business that offers the recreational use of a trampoline court for a fee.

Section 42. Section 11-65-101 is amended to read:

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town,[~~ metro township,~~] school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii)(A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 43. Section 11-66-101 is amended to read:

11-66-101. Limits on regulation of all-terrain vehicles.

(1) As used in this chapter:

(a) "Political subdivision" means:

(i) a city[~~,~~] or town[~~, or metro township~~]; or

(ii) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(b) "Street-legal ATV" means any all-terrain type vehicle that meets the requirements, including the registration, inspection, and license plate requirements, of being a street-legal ATV as described in Section 41-6a-1509.

(2) For any business, including a business that rents one or more street-legal ATVs, a political subdivision may not as a condition of the business obtaining or maintaining a business license or permit:

(a) require any additional inspection, registration, or license plate requirements, including requiring any additional sticker or other identifying mark, for any street-legal ATV owned or rented by the business;

(b) require any equipment modifications of a street-legal ATV owned or rented by the business; or

(c) limit the amount of street-legal ATVs owned or rented by the business.

(3) A political subdivision may not revoke or fail to renew a business license or permit of a business based on the violation of a traffic ordinance or other local ordinance by any customer of the business operating a street-legal ATV.

(4) A political subdivision may not enact or enforce an unreasonable noise ordinance that imposes a fine or other penalty for the operation of a street-legal ATV.

Section 44. Section 15A-5-202.5 is amended to read:

15A-5-202.5. Amendments and additions to Chapters 3 and 4 of IFC.

(1) For IFC, Chapter 3, General Requirements:

(a) IFC, Chapter 3, Section 304.1.2, Vegetation, is amended as follows: Delete line six and replace it with: "Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance".

(b) IFC, Chapter 3, Section 310.8, Hazardous environmental conditions, is deleted and rewritten as follows: "1. When the fire code official determines that existing or historical hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, any of the following may occur:

1.1. If the existing or historical hazardous environmental conditions exist in a municipality, the legislative body of the municipality may prohibit the ignition or use of an ignition source in:

1.1.1. mountainous, brush-covered, forest-covered, or dry grass-covered areas;

1.1.2. within 200 feet of waterways, trails, canyons, washes, ravines, or similar areas;

1.1.3. the wildland urban interface area, which means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose; or

1.1.4. a limited area outside the hazardous areas described in this paragraph 1.1 to facilitate a readily identifiable closed area, in accordance with paragraph 2.

1.2. If the existing or historical hazardous environmental conditions exist in an unincorporated area, the state forester may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the unincorporated area, after consulting with the county fire code official who has jurisdiction over that area.

[~~1.3. If the existing or historical hazardous environmental conditions exist in a metro township created under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, the metro township legislative body may prohibit the ignition or use of an ignition source in all or part of the areas described in paragraph 1.1 that are within the township.~~]

2. If a municipal legislative body[~~,~~] or the state forester[~~, or a metro township legislative body~~] closes an area to the discharge of fireworks under paragraph 1, the legislative body or state forester shall:

2.1. designate the closed area along readily identifiable features like major roadways, waterways, or geographic features;

2.2. ensure that the boundary of the designated closed area is as close as is practical to the defined hazardous area, provided that the closed area may include areas outside of the hazardous area to facilitate a readily identifiable line; and

2.3. identify the closed area through a written description or map that is readily available to the public.

3. A municipal legislative body[~~,~~] or the state forester[~~, or a metro township legislative body~~] may

close a defined area to the discharge of fireworks due to a historical hazardous environmental condition under paragraph 1 if the legislative body or state forester:

3.1. makes a finding that the historical hazardous environmental condition has existed in the defined area before July 1 of at least two of the preceding five years;

3.2. produces a map indicating the boundaries, in accordance with paragraph 2, of the defined area described; and

3.3. before May 1 of each year the defined area is closed, provides the map described in paragraph 3.2 to the county in which the defined area is located.

4. A municipal legislative body[~~,~~] or the state forester[~~, or a metro township legislative body~~] may not close an area to the discharge of fireworks due to a historical hazardous environmental condition unless the legislative body or state forester provides a map, in accordance with paragraph 3."

(c) IFC, Chapter 3, Section 311.1.1, Abandoned premises, is amended as follows: On line 10 delete the words "International Property Maintenance Code and the".

(d) IFC, Chapter 3, Section 311.5, Placards, is amended as follows: On line three delete the word "shall" and replace it with the word "may".

(2) IFC, Chapter 4, Emergency Planning and Preparedness:

(a) In IFC, Chapter 4, the following new Sections are added:

"401.3.1.1 Special Education Classrooms. Special education classrooms may shelter in place, or delay evacuation when all of the following conditions are met:

401.3.1.1.1 There is no visible flame or evidence of products of combustion (smoke).

401.3.1.1.2 The building is completely protected by an approved fire sprinkler system.

401.3.1.1.3 The building is completely protected by an approved fire alarm system.

401.3.1.1.4 The classroom has a minimum of one approved exit that discharges directly to the exterior.

401.3.1.1.5 The classroom has been approved to shelter in place by the fire code official."

(b) In IFC, Chapter 4, Section 401.3.3, Delayed notification, a new exception is added:

"Exception: Group E Occupancies. Teachers may delay evacuation upon fire alarm activation for up to 60 seconds when all of the following conditions are met:

A. There is no visible flame or evidence of products of combustion (smoke).

B. The building is protected throughout by an approved fire sprinkler system.

C. The building is protected throughout by an approved fire alarm system.

D. Students are in the safe zone of the room lined up and prepared for immediate evacuation."

(c) IFC, Chapter 4, Section 403.9.2.1, College and university buildings, is deleted and replaced with the following:

"403.9.2.1 College and university buildings and fraternity and sorority houses.

(i) College and university buildings, including fraternity and sorority houses, shall prepare an approved fire safety and evacuation plan, in accordance with Section 404.

(ii) Group R-2 college and university buildings, including fraternity and sorority houses, shall comply with Sections 403.9.2.1.1 and 403.9.2.1.2."

(d) IFC, Chapter 4, Section 405.3, Table 405.3, is amended to add the following footnotes:

(i) "c. Secondary schools in Group E occupancies shall have an emergency evacuation drill conducted at least every two months, to a total of four emergency evacuation drills during the nine-month school year. The first emergency evacuation drill shall be conducted within 10 school days after the beginning of classes. The third emergency evacuation drill, weather permitting, shall be conducted 10 school days after the beginning of the next calendar year. The second and fourth emergency evacuation drills may be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. If inclement weather causes a secondary school to miss the 10-day deadline for the third emergency evacuation drill, the secondary school shall perform the third emergency evacuation drill as soon as practicable after the missed deadline."

(ii) "d. In Group E occupancies, excluding secondary schools, if the AHJ approves, the monthly required emergency evacuation drill can be substituted by a security or safety drill to include shelter in place, earthquake drill, or lock down for violence. The routine emergency evacuation drill must be conducted at least every other drill."

(iii) "e. A-3 occupancies in academic buildings of institutions of higher learning are required to have one emergency evacuation drill per year, provided the following conditions are met:

(A) The building has a fire alarm system in accordance with Section 907.2.

(B) The rooms classified as assembly shall have fire safety floor plans as required in Subsection 404.2.2(4) posted.(C) The building is not classified a high-rise building.(D) The building does not contain hazardous materials over the allowable quantities by code."

Section 45. Section 17-2-209 is amended to read:

17-2-209. Minor adjustments to county boundaries authorized -- Public hearing -- Joint resolution of county legislative

bodies -- Notice and plat to lieutenant governor -- Recording requirements -- Effective date.

(1)(a) Counties sharing a common boundary may, in accordance with the provisions of Subsection (2) and Article XI, Section 3, of the Utah Constitution and for purposes of real property tax assessment and county record keeping, adjust all or part of the common boundary to move it, subject to Subsection (1)(b), a sufficient distance to reach to, and correspond with, the closest existing property boundary of record.

(b) A boundary adjustment under Subsection (1)(a) may not create a boundary line that divides or splits:

(i) an existing parcel;

(ii) an interest in the property; or

(iii) a claim of record in the office of recorder of either county sharing the common boundary.

(2) The legislative bodies of both counties desiring to adjust a common boundary in accordance with Subsection (1) shall:

(a) hold a joint public hearing on the proposed boundary adjustment;

(b) at least seven days before the public hearing described in Subsection (2)(a), provide written notice of the proposed adjustment to:

(i) each owner of real property whose property, or a portion of whose property, may change counties as the result of the proposed adjustment; and

(ii) any of the following whose territory, or a portion of whose territory, may change counties as the result of the proposed boundary adjustment, or whose boundary is aligned with any portion of the existing county boundary that is being proposed for adjustment:

(A) a city;

(B) a town;

[~~(C) a metro township;~~]

[~~(D)~~](C) a school district;

[~~(E)~~](D) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

[~~(F)~~](E) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

[~~(G)~~](F) an interlocal entity governed by Title 11, Chapter 13, Interlocal Cooperation Act;

[~~(H)~~](G) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

[~~(I)~~](H) a local building authority governed by Title 17D, Chapter 2, Local Building Authority Act; and

[~~(J)~~](I) a conservation district governed by Title 17D, Chapter 3, Conservation District Act; and

(c) adopt a joint resolution approved by both county legislative bodies approving the proposed boundary adjustment.

(3) The legislative bodies of both counties adopting a joint resolution under Subsection (2)(c) shall:

(a) within 15 days after adopting the joint resolution, jointly send to the lieutenant governor:

(i) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) a copy of an approved final local entity plat, as defined in Section 67-1a-6.5; and

(b) upon the lieutenant governor's issuance of a certificate of boundary adjustment under Section 67-1a-6.5, jointly submit to the recorder of the county in which the property is located after the boundary adjustment:

(i) the original notice of an impending boundary action;

(ii) the original certificate of boundary adjustment;

(iii) the original approved final local entity plat; and

(iv) a certified copy of the joint resolution approving the boundary adjustment.

(4)(a) As used in this Subsection (4):

(i) "Affected area" means an area that, as a result of a boundary adjustment under this section, is moved from within the boundary of one county to within the boundary of another county.

(ii) "Receiving county" means a county whose boundary includes an affected area as a result of a boundary adjustment under this section.

(b) A boundary adjustment under this section takes effect on the date the lieutenant governor issues a certificate of boundary adjustment under Section 67-1a-6.5.

(c)(i) The effective date of a boundary adjustment for purposes of assessing property within an affected area is governed by Section 59-2-305.5.

(ii) Until the documents listed in Subsection (3)(b) are recorded in the office of the recorder of the county in which the property is located, a receiving county may not:

(A) levy or collect a property tax on property within an affected area;

(B) levy or collect an assessment on property within an affected area; or

(C) charge or collect a fee for service provided to property within an affected area.

(5) Upon the effective date of a boundary adjustment under this section:

(a) all territory designated to be adjusted into another county becomes the territory of the other county; and

(b) the provisions of Sections 17-2-207 and 17-2-208 apply in the same manner as with an annexation under this part.

Section 46. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

(1) As used in this section:

(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b)[~~(i)~~] "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

[~~(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.~~]

(2)(a)(i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of an infraction.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor's seal or stamp; and

(j) the surveyor's business name and address.

(4)(a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor's stamp or seal; and

(iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6)(a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7)(a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of Professional Licensing Act.

(9) Each federal or state agency, board, or commission, special district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 47. Section 17-23-17.5 is amended to read:

17-23-17.5. Corner perpetuation and filing -- Definitions -- Establishment of corner file

-- Preservation of map records -- Filing fees -- Exemptions.

(1) As used in this section:

(a) "Accessory to a corner" means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(b) "Corner," unless otherwise qualified, means a property corner, a property controlling corner, a public land survey corner, or any combination of these.

(c) "Geographic coordinates" means mathematical values that designate a position on the earth relative to a given reference system. Coordinates shall be established pursuant to Title 57, Chapter 10, Utah Coordinate System.

(d) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(e) "Monument" means an accessory that is presumed to occupy the exact position of a corner.

(f) "Property controlling corner" means a public land survey corner or any property corner which does not lie on a property line of the property in question, but which controls the location of one or more of the property corners of the property in question.

(g) "Property corner" means a geographic point of known geographic coordinates on the surface of the earth, and is on, a part of, and controls a property line.

(h) "Public land survey corner" means any corner actually established and monumented in an original survey or resurvey used as a basis of legal descriptions for issuing a patent for the land to a private person from the United States government.

(i) "Reference monument" means a special monument that does not occupy the same geographical position as the corner itself, but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(j)[~~(i)~~] "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

[~~(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.~~]

(2)(a) Any land surveyor making a boundary survey of lands within this state and utilizing a corner shall, within 90 days, complete, sign, and file with the county surveyor of the county where the corner is situated, a written record to be known as a corner file for every public land survey corner and accessory to the corner which is used as control in any survey by the surveyor, unless the corner and its accessories are already a matter of record in the county.

(b) Where reasonably possible, the corner file shall include the geographic coordinates of the corner.

(c) A surveyor may file a corner record as to any property corner, reference monument, or accessory to a corner.

(d) Corner records may be filed concerning corners used before the effective date of this section.

(3) The county surveyor of the county containing the corners shall have on record as part of the official files maps of each township within the county, the bearings and lengths of the connecting lines to government corners, and government corners looked for and not found.

(4) The county surveyor shall make these records available for public inspection at the county facilities during normal business hours.

(5) Filing fees for corner records shall be established by the county legislative body consistent with existing fees for similar services. All corners, monuments, and their accessories used prior to the effective date of this section shall be accepted and filed with the county surveyor without requiring the payment of the fees.

(6) When a corner record of a public land survey corner is required to be filed under the provisions of this section and the monument needs to be reconstructed or rehabilitated, the land surveyor shall contact the county surveyor in accordance with Section 17-23-14.

(7) A corner record may not be filed unless it is signed by a land surveyor.

(8) All filings relative to official cadastral surveys of the Bureau of Land Management of the United States of America performed by authorized personnel shall be exempt from filing fees.

Section 48. Section 17-36-29 is amended to read:

17-36-29. Special fund ceases -- Transfer.

(1)(a) Except as provided in Subsection (1)(b), if a county legislative body determines that the purpose no longer exists for which the legislative body created a special fund or any portion of the special fund, the legislative body may authorize the transfer of the remaining balance or a portion of the remaining balance to the fund balance account in the county general fund.

(b) The legislative body may redistribute the remaining balance or a portion of the remaining balance described in Subsection (1)(a) in accordance with Subsection (1)(c) if:

(i) the county levied the fund primarily on property in the unincorporated areas of the county;

(ii) the county established a municipal services fund to provide municipal services under Sections 17-34-1 and 17-36-9; and

(iii) the area from which the county levied the fund has since incorporated as a city[~~,~~] or town[~~, or metro township~~].

(c) The legislative body of a county described in Subsection (1)(b) may set aside the remaining balance or a portion of the remaining balance described in Subsection (1)(a) in a fund from which the county may make disbursements to support and benefit the area and the residents in the area from which the county originally derived the special fund.

(2) Any balance which remains in a special assessment fund and any unrequired balance in a special improvement guaranty fund shall be treated as provided in Subsection 11-42-701(5).

(3) Any balance which remains in a capital projects fund shall be transferred to the appropriate debt service fund or such other fund as the bond ordinance requires or to the county general fund balance account.

Section 49. Section 17B-1-102 is amended to read:

17B-1-102. Definitions.

As used in this title:

(1) "Appointing authority" means the person or body authorized to make an appointment to the board of trustees.

(2) "Basic special district":

(a) means a special district that is not a specialized special district; and

(b) includes an entity that was, under the law in effect before April 30, 2007, created and operated as a special district, as defined under the law in effect before April 30, 2007.

(3) "Bond" means:

(a) a written obligation to repay borrowed money, whether denominated a bond, note, warrant, certificate of indebtedness, or otherwise; and

(b) a lease agreement, installment purchase agreement, or other agreement that:

(i) includes an obligation by the district to pay money; and

(ii) the district's board of trustees, in its discretion, treats as a bond for purposes of Title 11, Chapter 14, Local Government Bonding Act, or Title 11, Chapter 27, Utah Refunding Bond Act.

(4) "Cemetery maintenance district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 1, Cemetery Maintenance District Act, including an entity that was created and operated as a cemetery maintenance district under the law in effect before April 30, 2007.

(5) "Drainage district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 2, Drainage District Act, including an entity that was created and operated as a drainage district under the law in effect before April 30, 2007.

(6) "Facility" or "facilities" includes any structure, building, system, land, water right, water, or other real or personal property required to provide a service that a special district is authorized to provide, including any related or appurtenant easement or right-of-way, improvement, utility, landscaping, sidewalk, road, curb, gutter, equipment, or furnishing.

(7) "Fire protection district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 3, Fire Protection District Act, including an entity that was created and operated as a fire protection district under the law in effect before April 30, 2007.

(8) "General obligation bond":

(a) means a bond that is directly payable from and secured by ad valorem property taxes that are:

(i) levied:

(A) by the district that issues the bond; and

(B) on taxable property within the district; and

(ii) in excess of the ad valorem property taxes of the district for the current fiscal year; and

(b) does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(9) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:

(a) to guarantee the proper completion of an improvement;

(b) that is required before a special district may provide a service requested by a service applicant; and

(c) that is offered to a special district to induce the special district before construction of an improvement begins to:

(i) provide the requested service; or

(ii) commit to provide the requested service.

(10) "Improvement assurance warranty" means a promise that the materials and workmanship of an improvement:

(a) comply with standards adopted by a special district; and

(b) will not fail in any material respect within an agreed warranty period.

(11) "Improvement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 4, Improvement District Act, including an entity that was created and operated as a county improvement district under the law in effect before April 30, 2007.

(12) "Irrigation district" means a special district that operates under and is subject to the provisions

of this chapter and Chapter 2a, Part 5, Irrigation District Act, including an entity that was created and operated as an irrigation district under the law in effect before April 30, 2007.

(13) "Metropolitan water district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 6, Metropolitan Water District Act, including an entity that was created and operated as a metropolitan water district under the law in effect before April 30, 2007.

(14) "Mosquito abatement district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 7, Mosquito Abatement District Act, including an entity that was created and operated as a mosquito abatement district under the law in effect before April 30, 2007.

(15) "Municipal" means of or relating to a municipality.

(16) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(17) "Municipal services district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 11, Municipal Services District Act.

(18) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or other legal entity.

(19) "Political subdivision" means a county, city, town,[~~ metro township,~~] special district under this title, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

(20) "Private," with respect to real property, means not owned by the United States or any agency of the federal government, the state, a county, or a political subdivision.

(21) "Public entity" means:

(a) the United States or an agency of the United States;

(b) the state or an agency of the state;

(c) a political subdivision of the state or an agency of a political subdivision of the state;

(d) another state or an agency of that state; or

(e) a political subdivision of another state or an agency of that political subdivision.

(22) "Public transit district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 8, Public Transit District Act, including an entity that was created and operated as a public transit district under the law in effect before April 30, 2007.

(23) "Revenue bond":

(a) means a bond payable from designated taxes or other revenues other than the special district's ad valorem property taxes; and

(b) does not include:

(i) an obligation constituting an indebtedness within the meaning of an applicable constitutional or statutory debt limit;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(24) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(25) "Service applicant" means a person who requests that a special district provide a service that the special district is authorized to provide.

(26) "Service area" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 9, Service Area Act, including an entity that was created and operated as a county service area or a regional service area under the law in effect before April 30, 2007.

(27) "Short-term bond" means a bond that is required to be repaid during the fiscal year in which the bond is issued.

(28) "Special assessment" means an assessment levied against property to pay all or a portion of the costs of making improvements that benefit the property.

(29) "Special assessment bond" means a bond payable from special assessments.

(30) "Special district" means a limited purpose local government entity, as described in Section 17B-1-103, that operates under, is subject to, and has the powers described in:

(a) this chapter; or

(b)(i) this chapter; and

(ii)(A) Chapter 2a, Part 1, Cemetery Maintenance District Act;

(B) Chapter 2a, Part 2, Drainage District Act;

(C) Chapter 2a, Part 3, Fire Protection District Act;

(D) Chapter 2a, Part 4, Improvement District Act;

(E) Chapter 2a, Part 5, Irrigation District Act;

(F) Chapter 2a, Part 6, Metropolitan Water District Act;

(G) Chapter 2a, Part 7, Mosquito Abatement District Act;

(H) Chapter 2a, Part 8, Public Transit District Act;

(I) Chapter 2a, Part 9, Service Area Act;

(J) Chapter 2a, Part 10, Water Conservancy District Act; or

(K) Chapter 2a, Part 11, Municipal Services District Act.

(31) "Specialized special district" means a special district that is a cemetery maintenance district, a drainage district, a fire protection district, an improvement district, an irrigation district, a metropolitan water district, a mosquito abatement district, a public transit district, a service area, a water conservancy district, a municipal services district, or a public infrastructure district.

(32) "Taxable value" means the taxable value of property as computed from the most recent equalized assessment roll for county purposes.

(33) "Tax and revenue anticipation bond" means a bond:

(a) issued in anticipation of the collection of taxes or other revenues or a combination of taxes and other revenues; and

(b) that matures within the same fiscal year as the fiscal year in which the bond is issued.

(34) "Unincorporated" means not included within a municipality.

(35) "Water conservancy district" means a special district that operates under and is subject to the provisions of this chapter and Chapter 2a, Part 10, Water Conservancy District Act, including an entity that was created and operated as a water conservancy district under the law in effect before April 30, 2007.

(36) "Works" includes a dam, reservoir, well, canal, conduit, pipeline, drain, tunnel, power plant, and any facility, improvement, or property necessary or convenient for supplying or treating water for any beneficial use, and for otherwise accomplishing the purposes of a special district.

Section 50. Section 17B-1-502 is amended to read:

17B-1-502. Withdrawal of area from special district -- Automatic withdrawal in certain circumstances.

(1)(a) An area within the boundaries of a special district may be withdrawn from the special district only as provided in this part or, if applicable, as provided in Chapter 2a, Part 11, Municipal Services District Act.

(b) Except as provided in Subsections (2) and (3), the inclusion of an area of a special district within a municipality because of a municipal incorporation under Title 10, Chapter 2a, Municipal Incorporation, or a municipal annexation or boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, does not affect the requirements under this part for the process of withdrawing that area from the special district.

(2)(a) An area within the boundaries of a special district is automatically withdrawn from the special district by the annexation of the area to a municipality or the adding of the area to a municipality by boundary adjustment under Title 10, Chapter 2, Part 4, Annexation, if:

(i) the special district provides:

(A) fire protection, paramedic, and emergency services; or

(B) law enforcement service;

(ii) an election for the creation of the special district was not required because of Subsection 17B-1-214(3)(d) or (g); and

(iii) before annexation or boundary adjustment, the boundaries of the special district do not include any of the annexing municipality.

(b) The effective date of a withdrawal under this Subsection (2) is governed by Subsection 17B-1-512(2)(b).

(3)(a) Except as provided in Subsection (3)(c) or (d), an area within the boundaries of a special district located in a county of the first class is automatically withdrawn from the special district by the incorporation of a municipality whose boundaries include the area if:

(i) the special district provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services;

(ii) an election for the creation of the special district was not required because of Subsection 17B-1-214(3) (g); and

(iii) the legislative body of the newly incorporated municipality:

[~~(A) for a city or town incorporated under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, complies with the feasibility study requirements of Section 17B-2a-1110;~~]

[~~(B)~~](A) adopts a resolution no later than 180 days after the effective date of incorporation approving the withdrawal that includes the legal description of the area to be withdrawn; and

[~~(C)~~](B) delivers a copy of the resolution to the board of trustees of the special district.

(b) The effective date of a withdrawal under this Subsection (3) is governed by Subsection 17B-1-512(2)(a).

(c) Section 17B-1-505 [~~shall govern~~]governs the withdrawal of an incorporated area within a county of the first class if:

(i) the special district from which the area is withdrawn provides:

(A) fire protection, paramedic, and emergency services;

(B) law enforcement service; or

(C) municipal services, as defined in Section 17B-2a-1102;

(ii) an election for the creation of the special district was not required under Subsection 17B-1-214(3)(d) or (g); and

(iii) for a special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, the 180-day period described in Subsection [~~(3)(a)(iii)(B)~~](3)(a)(iii)(A) is expired.

(d) An area may not be withdrawn from a special district that provides municipal services, as defined in Section 17B-2a-1102, excluding fire protection, paramedic, emergency, and law enforcement services, if[~~:~~]

[~~(i)~~] the area is [~~incorporated as a metro township; and~~]within a converted municipality, as defined in Section 10-1-201.5.

[~~(ii) at the election to incorporate as a metro township, the residents of the area chose to be included in a municipal services district.~~]

Section 51. Section 17B-2a-1102 is amended to read:

17B-2a-1102. Definitions.

As used in this part[~~:~~]

[~~(1) "Municipal~~], "municipal services" means one or more of the services identified in Section 17-34-1, 17-36-3, or 17B-1-202.

[~~(2) "Metro township" means:~~]

[~~(a) a metro township for which the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district; or~~]

[~~(b) a metro township that subsequently joins a municipal services district.~~]

Section 52. Section 17B-2a-1104 is amended to read:

17B-2a-1104. Additional municipal services district powers.

(1) In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

[~~(1)~~](a) notwithstanding Subsection 17B-1-202(3), provide no more than six municipal services;

[~~(2)~~](b) assist a municipality or a county located within a municipal services district by providing staffing and administrative services, including:

[~~(a)~~](i) human resources staffing and services;

[~~(b)~~](ii) finance and budgeting staffing and services; [~~and~~]

[~~(c)~~](iii) information technology staffing and services; and

(iv) treasurer, recorder or clerk, surveyor, engineer, or auditor services; and

[~~(3)~~](c) issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district.

(2) A municipal services district that includes a converted municipality, as defined in Section 10-1-201.5, shall, upon request by the converted municipality, collect on behalf of the converted municipality all fines, fees, charges, levies, and other payments imposed by the converted municipality.

Section 53. Section 17B-2a-1106 is amended to read:

17B-2a-1106. Municipal services district board of trustees -- Governance.

(1) Notwithstanding any other provision of law regarding the membership of a special district board of trustees, the initial board of trustees of a municipal services district shall consist of the county legislative body.

(2)(a) If, after the initial creation of a municipal services district, an area within the district is incorporated as a municipality as defined in Section 10-1-104 and the area is not withdrawn from the district in accordance with Section 17B-1-502 or 17B-1-505, or an area within the municipality is annexed into the municipal services district in accordance with Section 17B-2a-1103, the district's board of trustees shall be as follows:

(i) subject to Subsection (2)(b), a member of that municipality's governing body;

(ii) one member of the county council of the county in which the municipal services district is located; and

(iii) the total number of board members is not required to be an odd number.

(b) A member described in Subsection (2)(a)(i) shall be[~~:~~]

[~~(i) for a municipality other than a metro township,~~] designated by the municipal legislative body[~~; and~~].

[~~(ii) for a metro township, the mayor of the metro township or, during any period of time when the mayor is absent, unable, or refuses to act, the mayor pro tempore that the metro township council elects in accordance with Subsection 10-3b-503(4).~~]

(3) For a board of trustees described in Subsection (2), each board member's vote is weighted using the proportion of the municipal services district population that resides:

(a) for each member described in Subsection (2)(a)(i), within that member's municipality; and

(b) for the member described in Subsection (2)(a)(ii), within the unincorporated county.

(4) The board may adopt a resolution providing for future board members to be appointed, as provided in Section 17B-1-304, or elected, as provided in Section 17B-1-306.

(5) Notwithstanding Subsections 17B-1-309(1) or 17B-1-310(1), the board of trustees may adopt a resolution to determine the internal governance of the board.

(6) The municipal services district and the county may enter into an agreement for the provision of legal services to the municipal services district.

Section 54. Section 17B-2a-1110 is amended to read:

17B-2a-1110. Withdrawal from a municipal services district upon incorporation -- Feasibility study required for city or town withdrawal -- Public hearing -- Notice -- Revenues transferred to municipal services district.

(1)(a) A municipality may withdraw from a municipal services district in accordance with Section 17B-1-502 or 17B-1-505, as applicable, and the requirements of this section.

(b) If a municipality engages a feasibility consultant to conduct a feasibility study under Subsection (2)(a), the 180 days described in Subsection [~~17B-1-502(3)(a)(iii)(B)~~] 17B-1-502(3)(a)(iii)(A) is tolled from the day that the municipality engages the feasibility consultant to the day on which the municipality holds the final public hearing under Subsection (5).

(2)(a) If a municipality decides to withdraw from a municipal services district, the municipal legislative body shall, before adopting a resolution under Section 17B-1-502 or 17B-1-505, as applicable, engage a feasibility consultant to conduct a feasibility study.

(b) The feasibility consultant shall be chosen:

(i) by the municipal legislative body; and

(ii) in accordance with applicable municipal procurement procedures.

(3) The municipal legislative body shall require the feasibility consultant to:

(a) complete the feasibility study and submit the written results to the municipal legislative body before the council adopts a resolution under Section 17B-1-502;

(b) submit with the full written results of the feasibility study a summary of the results no longer than one page in length; and

(c) attend the public hearings under Subsection (5).

(4)(a) The feasibility study shall consider:

(i) population and population density within the withdrawing municipality;

(ii) current and five-year projections of demographics and economic base in the withdrawing municipality, including household size and income, commercial and industrial development, and public facilities;

(iii) projected growth in the withdrawing municipality during the next five years;

(iv) subject to Subsection (4)(b), the present and five-year projections of the cost, including overhead, of municipal services in the withdrawing municipality;

(v) assuming the same tax categories and tax rates as currently imposed by the municipal services district and all other current service providers, the present and five-year projected revenue for the withdrawing municipality;

(vi) a projection of any new taxes per household that may be levied within the withdrawing municipality within five years of the withdrawal; and

(vii) the fiscal impact on other municipalities serviced by the municipal services district.

(b)(i) For purposes of Subsection (4)(a)(iv), the feasibility consultant shall assume a level and quality of municipal services to be provided to the withdrawing municipality in the future that fairly and reasonably approximates the level and quality of municipal services being provided to the withdrawing municipality at the time of the feasibility study.

(ii) In determining the present cost of a municipal service, the feasibility consultant shall consider:

(A) the amount it would cost the withdrawing municipality to provide municipal services for the first five years after withdrawing; and

(B) the municipal services district's present and five-year projected cost of providing municipal services.

(iii) The costs calculated under Subsection (4)(a)(iv) shall take into account inflation and anticipated growth.

(5) If the results of the feasibility study meet the requirements of Subsection (4), the municipal legislative body shall, at its next regular meeting after receipt of the results of the feasibility study, schedule at least one public hearing to be held:

(a) within the following 60 days; and

(b) for the purpose of allowing:

(i) the feasibility consultant to present the results of the study; and

(ii) the public to become informed about the feasibility study results, including the requirement that if the municipality withdraws from the municipal services district, the municipality must comply with Subsection (9), and to ask questions about those results of the feasibility consultant.

(6) At a public hearing described in Subsection (5), the municipal legislative body shall:

(a) provide a copy of the feasibility study for public review; and

(b) allow the public to express its views about the proposed withdrawal from the municipal services district.

(7)(a) The municipal clerk or recorder shall publish notice of the public hearings required under Subsection (5) for the municipality, as a class A

notice under Section 63G-30-102, for at least three weeks before the day of the first hearing described in Subsection (5).

(b) The notice under Subsection (7)(a) shall include the feasibility study summary and shall indicate that a full copy of the study is available for inspection and copying at the office of the municipal clerk or recorder.

(8) At a public meeting held after the public hearing required under Subsection (5), the municipal legislative body may adopt a resolution under Section 17B-1-502 or 17B-1-505, as applicable, if the municipality is in compliance with the other requirements of that section.

(9) The municipality shall pay revenues in excess of 5% to the municipal services district for 10 years beginning on the next fiscal year immediately following the municipal legislative body adoption of a resolution or an ordinance to withdraw under Section 17B-1-502 or 17B-1-505 if the results of the feasibility study show that the average annual amount of revenue under Subsection (4)(a)(v) exceed the average annual amount of cost under Subsection (4)(a)(iv) by more than 5%.

Section 55. Section 17B-2a-1111 is amended to read:

17B-2a-1111. Withdrawal of a municipality that changes form of government.

If a municipality after the 180-day period described in Subsection [~~17B-1-502(3)(a)(iii)(B)~~] 17B-1-502(3)(a)(iii)(A) changes form of government in accordance with Title 10, Chapter 3b, Part 6, Changing to Another Form of Municipal Government, the municipality under the new form of government may withdraw from a municipal services district only in accordance with the provisions of Section 17B-1-505.

Section 56. Section 17C-1-102 is amended to read:

17C-1-102. Definitions.

As used in this title:

(1) "Active project area" means a project area that has not been dissolved in accordance with Section 17C-1-702.

(2) "Adjusted tax increment" means the percentage of tax increment, if less than 100%, that an agency is authorized to receive:

(a) for a pre-July 1, 1993, project area plan, under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3);

(b) for a post-June 30, 1993, project area plan, under Section 17C-1-404, excluding tax increment under Section 17C-1-406;

(c) under a project area budget approved by a taxing entity committee; or

(d) under an interlocal agreement that authorizes the agency to receive a taxing entity's tax increment.

(3) "Affordable housing" means housing owned or occupied by a low or moderate income family, as determined by resolution of the agency.

(4) "Agency" or "community reinvestment agency" means a separate body corporate and politic, created under Section 17C-1-201.5 or as a redevelopment agency or community development and renewal agency under previous law:

(a) that is a political subdivision of the state;

(b) that is created to undertake or promote project area development as provided in this title; and

(c) whose geographic boundaries are coterminous with:

(i) for an agency created by a county, the unincorporated area of the county; and

(ii) for an agency created by a municipality, the boundaries of the municipality.

(5) "Agency funds" means money that an agency collects or receives for agency operations, implementing a project area plan or an implementation plan as defined in Section 17C-1-1001, or other agency purposes, including:

(a) project area funds;

(b) income, proceeds, revenue, or property derived from or held in connection with the agency's undertaking and implementation of project area development or agency-wide project development as defined in Section 17C-1-1001;

(c) a contribution, loan, grant, or other financial assistance from any public or private source;

(d) project area incremental revenue as defined in Section 17C-1-1001; or

(e) property tax revenue as defined in Section 17C-1-1001.

(6) "Annual income" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(7) "Assessment roll" means the same as that term is defined in Section 59-2-102.

(8) "Base taxable value" means, unless otherwise adjusted in accordance with provisions of this title, a property's taxable value as shown upon the assessment roll last equalized during the base year.

(9) "Base year" means, except as provided in Subsection 17C-1-402(4)(c), the year during which the assessment roll is last equalized:

(a) for a pre-July 1, 1993, urban renewal or economic development project area plan, before the project area plan's effective date;

(b) for a post-June 30, 1993, urban renewal or economic development project area plan, or a community reinvestment project area plan that is subject to a taxing entity committee:

(i) before the date on which the taxing entity committee approves the project area budget; or

(ii) if taxing entity committee approval is not required for the project area budget, before the date on which the community legislative body adopts the project area plan;

(c) for a project on an inactive airport site, after the later of:

(i) the date on which the inactive airport site is sold for remediation and development; or

(ii) the date on which the airport that operated on the inactive airport site ceased operations; or

(d) for a community development project area plan or a community reinvestment project area plan that is subject to an interlocal agreement, as described in the interlocal agreement.

(10) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(11) "Board" means the governing body of an agency, as described in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a proposed project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget, Subsection 17C-3-201(2)(d) for an economic development project area budget, or Subsection 17C-5-302(2)(e) for a community reinvestment project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the president of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under project area plans and project area budgets at the time that a project area budget for a new project area is being considered.

(15) "Community" means a county or municipality.

(16) "Community development project area plan" means a project area plan adopted under Chapter 4, Part 1, Community Development Project Area Plan.

(17) "Community legislative body" means the legislative body of the community that created the agency.

(18) "Community reinvestment project area plan" means a project area plan adopted under Chapter 5, Part 1, Community Reinvestment Project Area Plan.

(19) "Contest" means to file a written complaint in the district court of the county in which the agency is located.

(20) "Development impediment" means a condition of an area that meets the requirements described in Section 17C-2-303 for an urban renewal project area or Section 17C-5-405 for a community reinvestment project area.

(21) "Development impediment hearing" means a public hearing regarding whether a development impediment exists within a proposed:

(a) urban renewal project area under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302; or

(b) community reinvestment project area under Section 17C-5-404.

(22) "Development impediment study" means a study to determine whether a development impediment exists within a survey area as described in Section 17C-2-301 for an urban renewal project area or Section 17C-5-403 for a community reinvestment project area.

(23) "Economic development project area plan" means a project area plan adopted under Chapter 3, Part 1, Economic Development Project Area Plan.

(24) "Fair share ratio" means the ratio derived by:

(a) for a municipality, comparing the percentage of all housing units within the municipality that are publicly subsidized income targeted housing units to the percentage of all housing units within the county in which the municipality is located that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(25) "Family" means the same as that term is defined in regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(26) "Greenfield" means land not developed beyond agricultural, range, or forestry use.

(27) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(28) "Housing allocation" means project area funds allocated for housing under Section 17C-2-203, 17C-3-202, or 17C-5-307 for the purposes described in Section 17C-1-412.

(29) "Housing fund" means a fund created by an agency for purposes described in Section 17C-1-411 or 17C-1-412 that is comprised of:

(a) project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001 allocated for the purposes described in Section 17C-1-411; or

(b) an agency's housing allocation.

(30)(a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A)(I) that is no longer in operation as an airport; or

(II)(Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (30)(a).

(31)(a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (31)(a).

(32) "Income targeted housing" means housing that is owned or occupied by a family whose annual income is at or below 80% of the median annual income for a family within the county in which the housing is located.

(33) "Incremental value" means a figure derived by multiplying the marginal value of the property located within a project area on which tax increment is collected by a number that represents the adjusted tax increment from that project area that is paid to the agency.

(34) "Loan fund board" means the Olene Walker Housing Loan Fund Board, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(35)(a) "Local government building" means a building owned and operated by a community for the primary purpose of providing one or more primary community functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Local government building" does not include a building the primary purpose of which is cultural or recreational in nature.

(36) "Major transit investment corridor" means the same as that term is defined in Section 10-9a-103.

(37) "Marginal value" means the difference between actual taxable value and base taxable value.

(38) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(39) "Municipality" means a city[~~,~~] or town[~~, or metro township as defined in Section 10-2a-403~~].

(40) "Participant" means one or more persons that enter into a participation agreement with an agency.

(41) "Participation agreement" means a written agreement between a person and an agency that:

(a) includes a description of:

(i) the project area development that the person will undertake;

(ii) the amount of project area funds the person may receive; and

(iii) the terms and conditions under which the person may receive project area funds; and

(b) is approved by resolution of the board.

(42) "Plan hearing" means the public hearing on a proposed project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, Subsection 17C-4-102(1)(d) for a community development project area plan, or Subsection 17C-5-104(3)(e) for a community reinvestment project area plan.

(43) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, and before May 10, 2016, whether or not amended subsequent to the project area plan's adoption.

(44) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to the project area plan's adoption.

(45) "Private," with respect to real property, means property not owned by a public entity or any other governmental entity.

(46) "Project area" means the geographic area described in a project area plan within which the project area development described in the project area plan takes place or is proposed to take place.

(47) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area prepared in accordance with:

(a) for an urban renewal project area, Section 17C-2-201;

(b) for an economic development project area, Section 17C-3-201;

(c) for a community development project area, Section 17C-4-204; or

(d) for a community reinvestment project area, Section 17C-5-302.

(48) "Project area development" means activity within a project area that, as determined by the board, encourages, promotes, or provides development or redevelopment for the purpose of implementing a project area plan, including:

(a) promoting, creating, or retaining public or private jobs within the state or a community;

(b) providing office, manufacturing, warehousing, distribution, parking, or other facilities or improvements;

(c) planning, designing, demolishing, clearing, constructing, rehabilitating, or remediating environmental issues;

(d) providing residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to the structures or spaces;

(e) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating existing structures;

(f) providing open space, including streets or other public grounds or space around buildings;

(g) providing public or private buildings, infrastructure, structures, or improvements;

(h) relocating a business;

(i) improving public or private recreation areas or other public grounds;

(j) eliminating a development impediment or the causes of a development impediment;

(k) redevelopment as defined under the law in effect before May 1, 2006; or

(l) any activity described in this Subsection (48) outside of a project area that the board determines to be a benefit to the project area.

(49) "Project area funds" means tax increment or sales and use tax revenue that an agency receives under a project area budget adopted by a taxing entity committee or an interlocal agreement.

(50) "Project area funds collection period" means the period of time that:

(a) begins the day on which the first payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement; and

(b) ends the day on which the last payment of project area funds is distributed to an agency under a project area budget approved by a taxing entity committee or an interlocal agreement.

(51) "Project area plan" means an urban renewal project area plan, an economic development project area plan, a community development project area plan, or a community reinvestment project area plan that, after the project area plan's effective date, guides and controls the project area development.

(52)(a) "Property tax" means each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax.

(53) "Public entity" means:

(a) the United States, including an agency of the United States;

(b) the state, including any of the state's departments or agencies; or

(c) a political subdivision of the state, including a county, municipality, school district, special district, special service district, community reinvestment agency, or interlocal cooperation entity.

(54) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, natural gas, telecommunication, or other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, or other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(55) "Record property owner" or "record owner of property" means the owner of real property, as shown on the records of the county in which the property is located, to whom the property's tax notice is sent.

(56) "Sales and use tax revenue" means revenue that is:

(a) generated from a tax imposed under Title 59, Chapter 12, Sales and Use Tax Act; and

(b) distributed to a taxing entity in accordance with Sections 59-12-204 and 59-12-205.

(57) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (57)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(58) "Survey area" means a geographic area designated for study by a survey area resolution to determine whether:

(a) one or more project areas within the survey area are feasible; or

(b) a development impediment exists within the survey area.

(59) "Survey area resolution" means a resolution adopted by a board that designates a survey area.

(60) "Taxable value" means:

(a) the taxable value of all real property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, for the current year;

(b) the taxable value of all real and personal property the commission assesses in accordance with Title 59, Chapter 2, Part 2, Assessment of Property, for the current year; and

(c) the year end taxable value of all personal property a county assessor assesses in accordance with Title 59, Chapter 2, Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(61)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value of the property and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(62) "Taxing entity" means a public entity that:

(a) levies a tax on property located within a project area; or

(b) imposes a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(63) "Taxing entity committee" means a committee representing the interests of taxing entities, created in accordance with Section 17C-1-402.

(64) "Unincorporated" means not within a municipality.

(65) "Urban renewal project area plan" means a project area plan adopted under Chapter 2, Part 1, Urban Renewal Project Area Plan.

Section 57. Section 18-1-1 is amended to read:

18-1-1. Liability and damages for dog injury -- Exceptions.

(1)(a) Except as provided in Subsections (2) and (3), a person who owns or keeps a dog is liable for an injury caused by the dog, regardless of whether:

(i) the dog is vicious or mischievous; or

(ii) the owner knows the dog is vicious or mischievous.

(b) Damages for an injury described in Subsection (1)(a) shall be determined in accordance with Section 78B-5-818.

(2) Neither the state nor any county, city,[~~ metro township,~~] or town in the state nor any peace officer employed by the state, a county, a city,[~~ a metro township,~~] or a town [~~shall be~~]is liable in damages for an injury caused by a dog, if:

(a) the dog and the dog's law enforcement handler are trained to assist in law enforcement and are certified according to the standards adopted in Title 53, Chapter 6, Part 4, Law Enforcement Canine Team Certification Act;

(b) the governmental agency has adopted a written policy on the necessary and appropriate use of dogs in official law enforcement duties;

(c) the actions of the dog's handler do not violate the agency's written policy; and

(d) the injury occurs while the dog is reasonably and carefully being used in the apprehension, arrest, or location of a suspected offender or in maintaining or controlling the public order.

(3) A person who owns or keeps a dog is not liable for an injury or death caused by the dog if:

(a) the injury or death is to another animal;

(b) the injury or death occurs:

(i) on the person's private property; and

(ii) while the dog is reasonably secured within a fence or other enclosure; and

(c) the animal described in Subsection (3)(a) entered the person's private property without consent.

Section 58. Section 19-5-108.5 is amended to read:

19-5-108.5. Storm water permits.

(1) As used in this section:

(a) "Applicant" means a person who is conducting or proposing to conduct a use of land and who a permittee requires or allows to use low impact development.

(b) "Independent review" is a review conducted:

(i) in accordance with this section; and

(ii) by an engineer, or engineering firm, designated by the division as having technical expertise in the area of storm water calculations.

(c) "Low impact development" means structural or natural engineered systems located close to the source of storm water that use or mimic natural processes to encourage infiltration, evapotranspiration, or reuse of the storm water.

(d) "Permittee" means a municipality[~~, metro township,~~] or county with a storm water permit under the Utah Pollutant Discharge Elimination System.

(e) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

(f) "Storm water permit" means a permit issued to a permittee by the division for the permittee's municipal separate storm sewer system.

(g) "Utah Pollutant Discharge Elimination System" means the state-wide program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits under this chapter.

(2) A permittee shall reduce any requirement for an applicant to manage or control storm water runoff rates or storm water runoff volumes for flood control purposes to account for the reduction in storm water associated with approved low impact development practices.

(3) The director shall create and maintain a list of engineers, including engineering firms, capable of providing independent review of low impact development designs and storm water calculations for use by an applicant and a permittee pursuant to an appeal described in Subsection (4).

(4)(a) An applicant who appeals a permittee's determination regarding post-construction retention requirements under the permittee's storm water permit may request the permittee to refer the appeal to independent review for purposes of determining the technical aspects of the appeal, including:

(i) the required size of any low impact development system;

(ii) the calculations of reductions in storm water runoff rates or storm water runoff volumes for flood control due to the use of low impact development; and

(iii) the feasibility of constructing low impact development practices required by the permittee.

(b) If an applicant makes a request under Subsection (4)(a):

(i) the permittee shall:

(A) select an engineer or engineering firm from the list described in Subsection (3); and

(B) pay one-half of the cost of the independent review.

(ii) An engineer or engineering firm selected by the permittee under Subsection (4)(b)(i) may not be:

(A) associated with the application that is the subject of the appeal; or

(B) employed by the permittee.

(iii) The applicant shall pay:

(A) one-half of the cost of the independent review; and

(B) the municipality's published appeal fee.

Section 59. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3)(a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a special district office in accordance with Subsection 20A-1-206(3)(b)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a special district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the special district clerk or chief executive officer for:

(i) a special district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes:

(a) the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form; and

(b) the record, described in Subsection 20A-3a-401(8)(c), of voters contacted to cure a ballot.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-505(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(31) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a special district election, and a bond election.

(32) "Local political subdivision" means a county, a municipality, a special district, or a local school district.

(33) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(34) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(35) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(36) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102; or

(b) the mayor in the council-manager form of government defined in Subsection [~~10-3b-103(7); or~~]10-3b-103(6).

[~~(c) the mayor of a metro township form of government defined in Section 10-3b-102.~~]

(37) "Municipal general election" means the election held in municipalities and, as applicable, special districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(38) "Municipal legislative body" means[~~:~~]

[~~(a)~~] the council of the city or town in any form of municipal government[~~; or~~].

[~~(b) the council of a metro township.~~]

(39) "Municipal office" means an elective office in a municipality.

(40) "Municipal officers" means those municipal officers that are required by law to be elected.

(41) "Municipal primary election" means an election held to nominate candidates for municipal office.

(42) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(43) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(44) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c)(i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

(45) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(46) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(47)(a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(48) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(49) "Polling place" means a building where voting is conducted.

(50) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(51) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(52) "Primary convention" means the political party conventions held during the year of the regular general election.

(53) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(54) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(55) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(56) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(57)(a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(58) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(59) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling place and provides the voter with a ballot.

(60) "Registration form" means a form by which an individual may register to vote under this title.

(61) "Regular ballot" means a ballot that is not a provisional ballot.

(62) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(63) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(64) "Resident" means a person who resides within a specific voting precinct in Utah.

(65) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

(66) "Sample ballot" means a mock ballot similar in form to the official ballot, published as provided in Section 20A-5-405.

(67) "Special district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(68) "Special district officers" means those special district board members who are required by law to be elected.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means:

(a) except as provided in Subsection (75)(b), the absence of an individual to serve in a position created by state constitution or state statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause ; or

(b) in relation to a candidate for a position created by state constitution or state statute, the removal of a candidate due to the candidate's death, resignation, or disqualification.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 60. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) The regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for[:]

[~~(a)~~] national, state, school board, and county offices[~~; and~~].

[~~(b) offices for a metro township, city, or town incorporated under Section 10-2a-404.~~]

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for municipal offices.

(3) A presidential primary election shall be held throughout the state on the first Tuesday in March in the year in which a presidential election will be held.

Section 61. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2)(a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5)(a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a remaining school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

(x) a vote on a special property tax under Section 53F-8-402; or

(xi) a vote on the incorporation of a municipality in accordance with Section 10-2a-210[~~; or~~].

[~~(xii) a vote on incorporation or annexation as described in Section 10-2a-404.~~]

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 62. Section 20A-1-306 is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and [~~68-3-12.5(28) and (40)~~] 68-3-12.5(27) and (38), an electronic signature may not be used to sign a petition to:

(1) except as provided in Section 20A-21-201, qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) except as provided in Section 20A-21-201, qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 63. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

(1)(a) As used in this section:

(i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined in Section 20A-1-102.

(ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

(b) Except as otherwise provided in this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; and

(iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(d)(i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iii).

(ii)(A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

(e) If the municipal legislative body does not timely comply with Subsections (1)(b) through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

(f) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through (d), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

(g) If the municipality fails to timely comply with a directive described in Subsection (1)(f):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 days after the day on which the governor receives the notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2)(a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3)(a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4)(a)(i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection (1)(c)(iii) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

(5) In a municipality operating under the six-member council form of government or the council-manager form of government, defined in Subsection [~~10-3b-103(7)~~]10-3b-103(6), if the voting members of the city council reach a tie vote on a matter of filling a vacancy, the mayor may vote to break the tie.

(6) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

(7) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

(8) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

Section 64. Section 20A-5-301 is amended to read:

20A-5-301. Combined voting precincts -- Municipalities.

(1)(a) The municipal legislative body of a city of the first or second class may combine up to four regular county voting precincts into one municipal voting precinct for purposes of a municipal election if they designate the location and address of each of those combined voting precincts.

(b) The polling place shall be within the combined voting precinct or within 1/2 mile of the boundaries of the voting precinct.

(2)(a) The municipal legislative body of a city of the third, fourth, or fifth class[~~,~~] or a town[~~, or a metro township~~] may combine two or more regular county voting precincts into one municipal voting precinct for purposes of an election if it designates the location and address of that combined voting precinct.

(b) If only two precincts are combined, the polling place shall be within the combined precinct or within 1/2 mile of the boundaries of the combined voting precinct.

(c) If more than two precincts are combined, the polling place should be as near as practical to the middle of the combined precinct.

Section 65. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City[~~,~~] or Town[~~, or Metro Township~~]), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, mark the space following the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(d) after the rules, the designation of the office for which the candidates seek nomination is printed and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed in 10-point bold type, followed by a hair-line rule;

(e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 66. Section 20A-6-402 is amended to read:

20A-6-402. Ballots for municipal general elections.

(1) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, for a manual ballot at a municipal general election, an election officer shall ensure that:

(a) the names of the two candidates who received the highest number of votes for mayor in the municipal primary are placed upon the ballot;

(b) if no municipal primary election was held, the names of the candidates who filed declarations of candidacy for municipal offices are placed upon the ballot;

(c) for other offices:

(i) twice the number of candidates as there are positions to be filled are certified as eligible for election in the municipal general election from those candidates who received the greater number of votes in the primary election; and

(ii) the names of those candidates are placed upon the municipal general election ballot;

(d) the names of the candidates are placed on the ballot in the order specified under Section 20A-6-305;

(e) in an election in which a voter is authorized to cast a write-in vote and where a write-in candidate is qualified under Section 20A-9-601, a write-in area is placed upon the ballot that contains, for each office in which there is a qualified write-in candidate:

(i) a blank, horizontal line to enable a voter to submit a valid write-in candidate; and

(ii) a square or other conforming area that is adjacent to or opposite the blank horizontal line to enable the voter to indicate the voter's vote;

(f) ballot propositions that have qualified for the ballot, including propositions submitted to the voters by the municipality, municipal initiatives, and municipal referenda, are listed on the ballot in accordance with Section 20A-6-107; and

(g) bond propositions that have qualified for the ballot are listed on the ballot under the title assigned to each bond proposition under Section 11-14-206.

(2) Except as otherwise required for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, when using a mechanical ballot at municipal general elections, each election officer shall ensure that:

(a) the following endorsements are displayed on the first portion of the ballot:

(i) "Official Ballot for ____ (City[~~,~~] or Town[~~, or Metro Township~~]), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title;

(b) immediately below the election officer's title, a distinct border or line separates the endorsements from the rest of the ballot;

(c) immediately below the border or line, an "Instructions to Voters" section is displayed that states: "To vote for a candidate, select the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by another border or line;

(d) after the border or line, the designation of the office for which the candidates seek election is displayed, and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are displayed, followed by a line or border;

(e) after the line or border, the names of the candidates are displayed in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a voting square or position is located adjacent to the name of each candidate;

(g) following the name of the last candidate for each office in which a write-in candidate is qualified under Section 20A-9-601, the ballot contains a write-in space where the voter may enter the name of and vote for a valid write-in candidate for the office; and

(h) the candidate groups are separated from each other by a line or border.

(3) When a municipality has chosen to nominate candidates by convention or committee, the election officer shall ensure that the party name is included with the candidate's name on the ballot.

Section 67. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4); or

(c) for a town, the town council[~~; or~~].

[~~(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.~~]

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact statement" means

a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

(11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

(15)(a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(21)(a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(22) "Local legislative body" means the legislative body of a county, city, or town[~~, or metro township~~].

(23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(27) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(28) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(29) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

(30) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(31) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

(32) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

(33) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

(34) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(35) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

(36)(a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(37) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(38) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(39) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 68. Section 20A-7-401.3 is amended to read:

20A-7-401.3. Voter participation areas.

(1)(a) Except as provided in Subsection (2):

(i) [~~a metro township with a population of 65,000 or more,~~]a city of the first or second class[~~,~~] or a county of the first or second class shall, no later than January 1, 2020, again on January 1, 2022, and January 1 each 10 years after 2022, divide the[~~metro township,~~] city[~~,~~] or county into eight contiguous and compact voter participation areas of substantially equal population; and

(ii) [~~a metro township with a population of 10,000 or more,~~]a city of the third or fourth class[~~,~~] or a county of the third or fourth class shall, no later than January 1, 2020, again on January 1, 2022, and January 1 each 10 years after 2022, divide the[~~metro township,~~] city[~~,~~] or county into four contiguous and compact voter participation areas of substantially equal population.

(b) A[~~ metro township,~~] city[~~,~~] or county shall use the voter participation areas described in Subsection (1)(a) or (2)(b) for the purpose described in Sections 20A-7-501 and 20A-7-601.

(2)(a) This section does not apply to[~~ a metro township with a population of less than 10,000,~~] a county of the fifth or sixth class, a city of the fifth class, or a town.

(b) A[~~ metro township,~~] city[~~,~~] or county that has established council districts that are not at-large districts may, regardless of the number of council districts that are not at-large districts, use the council districts as voter participation areas under this section.

Section 69. Section 20A-7-501 is amended to read:

20A-7-501. Initiatives -- Signature requirements -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) An eligible voter seeking to have an initiative submitted to a local legislative body or to a vote of the people for approval or rejection shall, after filing an initiative application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for[~~ a metro township with a population of 100,000 or more, or~~] a city of the first class:

(i) 7.5% of the number of active voters in the[~~metro township or~~] city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for[~~ a metro township with a population of 65,000 or more but less than 100,000, or~~] a city of the second class:

(i) 8.25% of the number of active voters in the[~~metro township or~~] city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for[~~ a metro township with a population of 30,000 or more but less than 65,000, or~~] a city of the third class:

(i) 10% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for[~~ a metro township with a population of 10,000 or more but less than 30,000, or~~] a city of the fourth class:

(i) 11.5% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(i) for[~~ a metro township with a population of 1,000 or more but less than 10,000,~~] a city of the fifth class[~~,~~] or a county of the fifth class, 25% of the number of active voters in the[~~ metro township,~~] city[~~,~~] or county; or

(j) for[~~ a metro township with a population of less than 1,000,~~] a town[~~,~~] or a county of the sixth class, 35% of the number of active voters in the[~~ metro township,~~] town[~~,~~] or county.

(3) If the total number of certified signatures collected for the initiative petition equals or exceeds the number of signatures required by this section, the clerk or recorder shall deliver the proposed law to the local legislative body at the local legislative body's next meeting.

(4)(a) The local legislative body shall either adopt or reject the proposed law without change or amendment within 30 days after the day on which the local legislative body receives the proposed law under Subsection (3).

(b) The local legislative body may:

(i) adopt the proposed law and refer the proposed law to the people;

(ii) adopt the proposed law without referring the proposed law to the people; or

(iii) reject the proposed law.

(c) If the local legislative body adopts the proposed law but does not refer the proposed law to the people, the proposed law is subject to referendum as with other local laws.

(d)(i) If a county legislative body rejects a proposed law, or takes no action on a proposed law, the county clerk shall submit the proposed law to the voters of the county at the next regular general election immediately after the initiative application for the proposed law is filed under Section 20A-7-502.

(ii) If a local legislative body of a municipality rejects a proposed law, or takes no action on a proposed law, the municipal recorder or clerk shall submit the proposed law to the voters of the municipality at the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

(e)(i) If a local legislative body rejects a proposed law, or takes no action on a proposed law, the local legislative body may adopt a competing local law.

(ii) The local legislative body shall prepare and adopt the competing local law within the 30-day period described in Subsection (4)(a).

(iii) If a local legislative body adopts a competing local law, the clerk or recorder shall refer the competing local law to the voters of the county or municipality at the same election at which the law proposed by initiative is submitted under Subsection (4)(d).

(f) If conflicting local laws are submitted to the people at the same election and two or more of the conflicting measures are approved by the people, the proposed law that receives the greatest number of affirmative votes shall control all conflicts.

Section 70. Section 20A-7-502.7 is amended to read:

20A-7-502.7. Referability to voters.

(1) Within 20 days after the day on which an eligible voter files an initiative application under Section 20A-7-502, counsel for the county, city, or town[~~, or metro township~~] to which the initiative pertains shall:

(a) review the proposed law that is the subject of the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law that is the subject of an initiative application is legally referable to voters unless:

(a) the proposed law:

(i) is patently unconstitutional;

(ii) is nonsensical;

(iii) is administrative, rather than legislative, in nature;

(iv) could not become law if passed;

(v) contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3); or

(b) is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the initiative application for the current proposed law is filed;

(c) the subject of the proposed law is not clearly expressed in the law's title; or

(d) the initiative application was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, or town[~~, or metro township~~] may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, or town[~~, or metro township~~] rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed by the initiative application is legally referable to voters, the local clerk shall comply with Subsection 20A-7-504(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any appeal of the determination, is final.

Section 71. Section 20A-7-504 is amended to read:

20A-7-504. Manual initiative process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town,[~~, metro township,~~] or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall provide to the sponsors:

(a) a copy of the initiative petition; and

(b) a signature sheet.

(4) The sponsors of the initiative shall:

(a) arrange and pay for the printing of all documents that are part of the initiative packets; and

(b) ensure that the initiative packets and the documents described in Subsection (4)(a) meet the requirements of this part.

(5)(a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create initiative packets by binding a copy of the initiative petition with the text of the proposed law and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each initiative packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6)(a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number initiative packets; and

(ii) number each initiative packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number an initiative packet in a manner not directed by the county clerk; or

(ii) circulate or submit an initiative packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (6)(a).

Section 72. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a)(i), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

(d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

(e)(i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, or town[~~, or metro township~~].

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

(g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for[~~ a metro township with a population of 100,000 or more, or~~] a city of the first class:

(i) 7.5% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for[~~ a metro township with a population of 65,000 or more but less than 100,000, or~~] a city of the second class:

(i) 8.25% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for[~~ a metro township with a population of 30,000 or more but less than 65,000, or~~] a city of the third class:

(i) 10% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for[~~ a metro township with a population of 10,000 or more but less than 30,000, or~~] a city of the fourth class:

(i) 11.5% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the[~~ metro township's or~~] city's voter participation areas;

(i) for[~~ a metro township with a population of 1,000 or more but less than 10,000,~~] a city of the fifth class[~~,~~] or a county of the fifth class, 25% of the number of active voters in the[~~ metro township,~~] city[~~,~~] or county; or

(j) for[~~ a metro township with a population of less than 1,000,~~] a town[~~,~~] or a county of the sixth class, 35% of the number of active voters in the[~~ metro township,~~] town[~~,~~] or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for[~~ a metro township with a population of 100,000 or more, or~~] a city of the first class:

(i) 15% of the number of active voters in the[~~ metro township or~~] city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(d) for[~~a metro township with a population of 65,000 or more but less than 100,000,~~] or a city of the second class:

(i) 16% of the number of active voters in the[~~metro township or~~] city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(e) for[~~a metro township with a population of 30,000 or more but less than 65,000, or~~] a city of the third class:

(i) 27.5% of the number of active voters in the[~~metro township or~~] city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(f) for[~~a metro township with a population of 10,000 or more but less than 30,000, or~~] a city of the fourth class:

(i) 29% of the number of active voters in the[~~metro township or~~] city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(g) for[~~a metro township with a population of 1,000 or more but less than 10,000, or~~] a city of the fifth class, 35% of the number of active voters in the[~~metro township or~~] city; or

(h) for[~~a metro township with a population of less than 1,000 or~~] a town, 40% of the number of active voters in the[~~metro township or~~] town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12- 1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall, after filing a referendum application, obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for[~~a metro township with a population of 100,000 or more, or~~] a city of the first class:

(i) 20% of the number of active voters in the[~~metro township or~~] city; and

(ii) 20% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(c) for[~~a metro township with a population of 65,000 or more but less than 100,000, or~~] a city of the second class:

(i) 20% of the number of active voters in the[~~metro township or~~] city; and

(ii) 21% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(d) for[~~a metro township with a population of 30,000 or more but less than 65,000, or~~] a city of the third class:

(i) 34% of the number of active voters in the[~~metro township or~~] city; and

(ii) 34% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas;

(e) for[~~a metro township with a population of 10,000 or more but less than 30,000, or~~] a city of the fourth class:

(i) 36% of the number of active voters in the[~~metro township or~~] city; and

(ii) 36% of the number of active voters in at least 75% of the[~~metro township's or~~] city's voter participation areas; or

(f) for[~~a metro township with a population less than 10,000,~~] a city of the fifth class[~~,~~] or a town, 40% of the number of active voters in the[~~metro township,~~] city[~~,~~] or town.

(6) Sponsors of any referendum petition challenging, under Subsection (2), (3), (4), or (5), any local law passed by a local legislative body shall file the application before 5 p.m. within seven days after the day on which the local law was passed.

(7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 73. Section 20A-7-602.7 is amended to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 days after the day on which an eligible voter files a referendum application under Section 20A-7-602 for a local law other than a land use law, counsel for the county, city, or town[~~, or metro township~~] to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the referendum application was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, or town[~~, or metro township~~] may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4)(a) If, under Subsection (1)(b)(ii), a county, city, or town[~~, or metro township~~] rejects a proposed referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 74. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which a referendum eligible voter files an application under Section 20A-7-602 for a land use law, counsel for the county, city, or town[~~, or metro township~~] to which the referendum pertains shall:

(a) review the referendum application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2)(a) Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

(i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(iii) the proposed referendum challenges more than one law passed by the local legislative body; or

(iv) the referendum application was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a:

(i) municipal land use law, as defined in Section 20A-7-101, if the land use law was passed by a unanimous vote of the local legislative body; or

(ii) transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-day period described in Subsection (1), a county, city, or town[~~, or metro township~~] may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4)(a) If a county, city, or town[~~, or metro township~~] rejects a proposed referendum

concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 75. Section 20A-7-604 is amended to read:

20A-7-604. Manual referendum process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town,[~~, metro township,~~] or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall provide the sponsors with

a copy of the referendum petition and a signature sheet.

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of all documents that are part of the referendum packets; and

(b) ensure that the referendum packets and the documents described in Subsection (4)(a) meet the form requirements of this section.

(5)(a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6)(a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number referendum packets;

(ii) sign an agreement with the local clerk, specifying the range of numbers that the sponsor will use to number the referendum packets; and

(iii) number each referendum packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a referendum packet in a manner not directed by the county clerk; or

(ii) circulate or submit a referendum packet that is not numbered in the manner directed by the county clerk.

Section 76. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1)(a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive

contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6)(a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business;

(iii) goods or services provided for the benefit of a political entity at less than fair market value that are not authorized by or coordinated with the political entity; or

(iv) data or information described in Subsection (24)(b).

(7) "Coordinated with" means that goods or services provided for the benefit of a political entity are provided:

(a) with the political entity's prior knowledge, if the political entity does not object;

(b) by agreement with the political entity;

(c) in coordination with the political entity; or

(d) using official logos, slogans, and similar elements belonging to a political entity.

(8)(a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the goods or services acquired by the expenditure; and

(iii) the date the expenditure was made.

(12)(a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of $10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15)(a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee;

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value; or

(vii) an independent expenditure, as defined in Section 20A-11-1702.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city[~~,~~] or town[~~, or metro township~~].

(21) "Incorporation election" means the election conducted under Section 10-2a-210[~~, or 10-2a-404~~].

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24)(a) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(b) "In-kind contribution" does not include survey results, voter lists, voter contact information, demographic data, voting trend data, or other information that:

(i) is not commissioned for the benefit of a particular candidate or officeholder; and

(ii) is offered at no cost to a candidate or officeholder.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35)(a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36)(a) "Political consultant" means a person who is paid by a reporting entity, or paid by another person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

(39)(a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, special district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than $5,000 for the purpose described in Subsection (39)(b)(vi)(A).

(40)(a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(41)(a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(42) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(43)(a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(44) "Primary election" means any regular primary election held under the election laws.

(45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(47)(a) "Public service assistance" means the following when given or provided to an officeholder

to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(48) "Receipts" means contributions and public service assistance.

(49) "Registered lobbyist" means a person licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(53)(a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(55) "School board office" means the office of state school board.

(56)(a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

Section 77. Section 26B-2-101 is amended to read:

26B-2-101. Definitions.

As used in this part:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

(2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(3) "Applicant" means a person that applies for an initial license or a license renewal under this part.

(4)(a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(5)(a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and

(iv)(A) does not provide the treatment or services described in Subsection (38)(a); or

(B) provides the treatment or services described in Subsection (38)(a) on a limited basis, as described in Subsection (5)(b)(ii).

(b)(i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.

(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (38)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (38)(a).

(c) "Boarding school" does not include a therapeutic school.

(6) "Child" means an individual under 18 years old.

(7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(8) "Child-placing agency" means a person that engages in child placing.

(9) "Client" means an individual who receives or has received services from a licensee.

(10)(a) "Congregate care program" means any of the following that provide services to a child:

(i) an outdoor youth program;

(ii) a residential support program;

(iii) a residential treatment program; or

(iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to service a child for a limited time.

(11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the office.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.

(20) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.

(21) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(23)(a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(27) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(28) "Licensee" means an individual or a human services program licensed by the office.

(29) "Local government" means a city, town[~~, metro township~~], or county.

(30) "Minor" means child.

(31) "Office" means the Office of Licensing within the department.

(32) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c)(i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(33) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(34) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(35) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(36)(a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v)(A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(37) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(38)(a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(39)(a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(40) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(41) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(42) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(43) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.

(44) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (44)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(45) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(46) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(47) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(48)(a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for the program's services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of the program's services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(49)(a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 78. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4)(a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether

drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; or

(vii) a restaurant venue;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9)(a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11)(a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28)(a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36)(a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

(41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44)(a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

(45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and

Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(47)(a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51)(a) "Heavy beer" means a product that:

(i)(A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

(52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(53)(a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii)(A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (53)(a); and

(ii) has one or more privately owned dwelling units.

(54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(60) "Intoxicated" or "intoxication" means that

an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections (60)(a) through (c).

(61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(63) "Licensee" means a person who holds a license.

(64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66)(a)(i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B)(I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city[~~,~~] or town[~~, or metro township~~], the governing body of the city[~~,~~] or town[~~, or metro township~~]; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(75)(a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i)(A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(77) "Minor" means an individual under 21 years old.

(78) "Nondepartment enforcement agency" means an agency that:

(a)(i) is a state agency other than the department; or

(ii) is an agency of a county, city, or town[~~, or metro township~~]; and

(b) has a responsibility to enforce one or more provisions of this title.

(79) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(80)(a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(83) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(84) "Opaque" means impenetrable to sight.

(85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(86) "Package agent" means a person who holds a package agency.

(87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or

furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(88)(a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(89) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(90) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (90)(a) through (f); or

(ii) a package agent.

(91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(92) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(93)(a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(94) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(95)(a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(96) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(97)(a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act;

(II) in accordance with the laws of the state in which it is issued; or

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(98) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(99)(a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(101) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (101)(a) to a third party for the third party's event.

(102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(103)(a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(104) "Residence" means a person's principal place of abode within Utah.

(105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(106) "Resort" means the same as that term is defined in Section 32B-8-102.

(107) "Resort facility" is as defined by the commission by rule.

(108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c)(i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(113) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(115)(a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

(116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(118) "Serve" means to place an alcoholic product before an individual.

(119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (119)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(123) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(124) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(126)(a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(127) "Sports center" is as defined by the commission by rule.

(128)(a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(129) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(131)(a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(132)(a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(133) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(134) "Supplier" means a person who sells an alcoholic product to the department.

(135) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(138) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(139) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b)(i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(140)(a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 79. Section 32B-1-702 is amended to read:

32B-1-702. Alcohol training and education -- Revocation, suspension, or nonrenewal of retail license.

(1) The commission may suspend, revoke, or not renew a license of a retail licensee if any of the following individuals fail to complete an alcohol training and education seminar:

(a) a retail manager; or

(b) retail staff.

(2) A city, town[~~, metro township~~], or county in which a retail licensee conducts business may suspend, revoke, or not renew the business license of the retail licensee if a retail manager or retail staff fails to complete an alcohol training and education seminar.

(3) A local authority that issues an off-premise beer retailer license to a business that is engaged in the retail sale of beer for consumption off the beer retailer's premises may immediately suspend the off-premise beer retailer license if any of the following individuals fails to complete an alcohol training and education seminar:

(a) an off-premise retail manager; or

(b) off-premise retail staff.

Section 80. Section 32B-1-704 is amended to read:

32B-1-704. Department training programs.

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4)(a) Each retail manager shall complete the training described in Subsection (1)(a) no later than the later of:

(i) 30 days after the day on which the retail manager is hired; or

(ii) the day on which the retail licensee obtains a retail license.

(b) Each off-premise retail manager shall complete the training described in Subsection (2) no later than the later of:

(i) 30 days after the day on which the off-premise retail manager is hired; or

(ii) 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.

(c)(i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

(5) If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town[~~, metro township~~], or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 81. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means[~~:~~] a city or town.

[~~(i) a city;~~]

[~~(ii) a town; or~~]

[~~(iii) a metro township.~~]

(f)(i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of Integrated Healthcare within the Department of Health and Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection 32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4)(a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 82. Section 32B-4-202 is amended to read:

32B-4-202. Duties to enforce this title.

It is the duty of the following to diligently enforce this title in their respective capacities:

(1) the governor;

(2) a commissioner;

(3) the director;

(4) an official, inspector, or department employee;

(5) a prosecuting official of the state or its political subdivisions;

(6) a county, city, or town[~~, or metro township~~];

(7) a peace officer, sheriff, deputy sheriff, constable, marshal, or law enforcement official;

(8) a state health official; and

(9) a clerk of the court.

Section 83. Section 35A-8-805 is amended to read:

35A-8-805. Reporting requirements.

(1) As used in this section:

(a) "Affordable housing" means, as determined by the department, the number of housing units within a county or municipality where a household whose income is at or below 50% of area median income is able to live in a unit without spending more than 30% of their income on housing costs.

(b) "County" means the unincorporated area of a county.

(c) "Low-income housing" means, as determined by the department, the number of Section 42, Internal Revenue Code, housing units within a county or municipality.

(d) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(2)(a) On or before October 1 of each year, the division shall provide a report to the department for inclusion in the department's annual report described in Section 35A-1-109.

(b) The report shall include:

(i) an estimate of how many affordable housing units and how many low-income housing units are available in each county and municipality in the state;

(ii) a determination of the percentage of affordable housing available in each county and municipality in the state as compared to the statewide average;

(iii) a determination of the percentage of low-income housing available in each county and municipality in the state as compared to the statewide average; and

(iv) a description of how information in the report was calculated.

Section 84. Section 35A-16-401 is amended to read:

35A-16-401. Definitions.

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Authorized provider" means a nonprofit provider of homeless services that is authorized by a third-tier eligible municipality to operate a temporary winter response shelter within the municipality in accordance with Part 5, Winter Response Plan Requirements.

(3) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

(4) "Eligible services" means any activities or services that mitigate the impacts of the location of an eligible shelter, including direct services, public safety services, and emergency services, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i)(A) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office; and

(B) operates for no less than three months during the period beginning October 1 and ending April 30 of the following year; or

(ii)(A) meets the definition of a homeless shelter under Section 35A-16-501; and

(B) increases capacity during a winter response period, as defined in Section 35A-16-501, in accordance with Subsection 35A-16-502(6)(a).

(6) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

(7) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

(8) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(9) "Public safety services" means law enforcement, emergency medical services, or fire protection.

(10) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

(11) "Third-tier eligible municipality" means a municipality that:

(a) as determined by the office, has or is proposed to have an eligible shelter within the municipality's geographic boundaries within the following fiscal year; and

(b) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services.

Section 85. Section 35A-16-501 is amended to read:

35A-16-501. Definitions.

As used in this part:

(1) "Applicable county" means a county of the first or second class.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an applicable county.

(3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide overnight shelter to under a conditional use permit.

(4) "Chief executive officer" means the same as that term is defined in Section 11-51-102.

(5) "Community location" means the same as that term is defined in Section 10-8-41.6.

(6) "Conference of mayors" means an association consisting of the mayor of each municipality located within a county.

(7) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(8) "County winter response task force" or "task force" means a task force described in Section 35A-16-501.5.

(9) "Homeless shelter" means a facility that:

(a) provides temporary shelter to individuals experiencing homelessness;

(b) operates year-round; and

(c) is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(10) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(11) "State facility" means the same as that term is defined in Section 63A-5b-1001.

(12) "Subsequent winter response period" means the winter response period that begins on October 15 of the year in which a county winter response task force is required to submit a winter response plan to the office under Section 35A-16-502.

(13) "Targeted winter response bed count" means the targeted bed count number for an applicable county during the winter response period, as determined jointly by the applicable local homeless council and the office.

(14) "Temporary winter response shelter" means a facility that:

(a) provides temporary emergency shelter to individuals experiencing homelessness during a winter response period; and

(b) does not operate year-round.

(15) "Winter response period" means the period beginning October 15 and ending April 30 of the following year.

(16) "Winter response plan" means the plan described in Section 35A-16-502.

Section 86. Section 35A-16-701 is amended to read:

35A-16-701. Definitions.

As used in this part:

(1) "Affected county" means a county of the first, second, third, or fourth class in which a code blue event is anticipated.

(2) "Applicable local homeless council" means the local homeless council that is responsible for coordinating homeless response within an affected county.

(3) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide temporary shelter to under a conditional use permit.

(4) "Code blue alert" means a proclamation issued by the Department of Health and Human Services under Section 35A-16-702 to alert the public of a code blue event.

(5) "Code blue event" means a weather event in which the National Weather Service predicts temperatures of 15 degrees Fahrenheit or less, including wind chill, or any other extreme weather conditions established in rules made by the Department of Health and Human Services under Subsection 35A-16-702(4), to occur in any county of the first, second, third, or fourth class for two hours or longer within the next 24 to 48 hours.

(6) "Homeless shelter" means a facility that provides temporary shelter to individuals experiencing homelessness.

(7) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

Section 87. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a)(i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b)(i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(4) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

(5)(a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

(9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

(11)(a) "Expenditure" means any of the items listed in this Subsection (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, 2 U.S.C. Sec. 434, Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity;

(B) that is widely attended and related to a governmental duty of a public official;

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

(12) "Food reimbursement rate" means the total amount set by the director of the Division of

Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13)(a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(15)(a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or a board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

(18) "Lobbying" means communicating with a public official for the purpose of influencing a legislative action, executive action, local action, or education action.

(19)(a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature, an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

(20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, or town[~~, or metro township~~];

(b) a special district governed by Title 17B, Limited Purpose Local Government Entities - Special Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

(24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

(26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(27) "Public official" means:

(a)(i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions;

(b) an immediate family member of a person described in Subsection (27)(a);

(c) a local official; or

(d) an education official.

(28) "Public official type" means a notation to identify whether a public official is:

(a)(i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection (27)(a)(iii);

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of an individual described in Subsection (27)(a), (c), or (d).

(29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

(30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(31) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law,

sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (31)(b).

(32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 88. Section 41-1a-1222 is amended to read:

41-1a-1222. Local option highway construction and transportation corridor preservation fee -- Exemptions -- Deposit -- Transfer -- County ordinance -- Notice.

(1) As used in this section[~~:~~]

[~~(a) "Metro township" means the same as that term is defined in Section 10-2a-403.(b) "Unincorporated"~~], "unincorporated" means the same as that term is defined in Section 10-1-104.

(2)(a)(i) Except as provided in Subsection (2)(a)(ii), a county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $10 on each motor vehicle registration within the county.

(ii) A county legislative body may impose a local option highway construction and transportation corridor preservation fee of up to $7.75 on each motor vehicle registration for a six-month registration period under Section 41-1a-215.5 within the county.

(iii) A fee imposed under Subsection (2)(a)(i) or (ii) shall be set in whole dollar increments.

(b) If imposed under Subsection (2)(a), at the time application is made for registration or renewal of registration of a motor vehicle under this chapter, the applicant shall pay the local option highway construction and transportation corridor preservation fee established by the county legislative body.

(c) The following are exempt from the fee required under Subsection (2)(a):

(i) a motor vehicle that is exempt from the registration fee under Section 41-1a-1209 or Subsection 41-1a-419(3);

(ii) a commercial vehicle with an apportioned registration under Section 41-1a-301; and

(iii) a motor vehicle with a Purple Heart special group license plate issued:

(A) on or before December 31, 2023; or

(B) in accordance with Part 16, Sponsored Special Group License Plates.

(3)(a) Except as provided in Subsection (3)(b), the revenue generated under this section shall be:

(i) deposited in the Local Highway and Transportation Corridor Preservation Fund created in Section 72-2-117.5;

(ii) credited to the county from which it is generated; and

(iii) used and distributed in accordance with Section 72-2-117.5.

(b) The revenue generated by a fee imposed under this section in a county of the first class shall be deposited or transferred as follows:

(i) 50% of the revenue shall be:

(A) deposited in the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) used in accordance with Section 72-2-121;

(ii) 30% of the revenue shall be deposited, credited, and used as provided in Subsection (3)(a); and

(iii) 20% of the revenue shall be transferred to the legislative body of a county of the first class.

(4) Beginning in a fiscal year beginning on or after July 1, 2023, and for 15 years thereafter, the legislative body of the county of the first class shall annually transfer, from the revenue transferred to the legislative body of a county of the first class as described in Subsection (3)(b)(iii):

(a) $300,000 to Kearns[~~ township~~]; and

(b) $225,000 to Magna[~~ township~~].

(5) To impose or change the amount of a fee under this section, the county legislative body shall pass an ordinance:

(a) approving the fee;

(b) setting the amount of the fee; and

(c) providing an effective date for the fee as provided in Subsection (6).

(6)(a) If a county legislative body enacts, changes, or repeals a fee under this section, the enactment, change, or repeal shall take effect on July 1 if the commission receives notice meeting the requirements of Subsection (6)(b) from the county prior to April 1.

(b) The notice described in Subsection (6)(a) shall:

(i) state that the county will enact, change, or repeal a fee under this part;

(ii) include a copy of the ordinance imposing the fee; and

(iii) if the county enacts or changes the fee under this section, state the amount of the fee.

Section 89. Section 41-6a-1115.1 is amended to read:

41-6a-1115.1. Scooter-share programs -- Local ordinances regulating motor assisted scooters.

(1) For the purposes of this section:

(a) "Local authority" means a county, city, or town[~~, or metro township~~].

(b) "Scooter-share operator" means a person offering a shared scooter for hire.

(c) "Scooter-share program" means the offering of a shared scooter for hire.

(d) "Shared scooter" means a motor assisted scooter offered for hire.

(2) A local authority may regulate the operation of a motor assisted scooter within its jurisdiction.

(3) A local authority may authorize the operation of a motor assisted scooter on sidewalks and regulate the operation, including the maximum speed on the sidewalks.

(4) A regulation adopted by a local authority pursuant to this section regarding the operation of a motor assisted scooter shall be consistent with the regulation of bicycles and this title.

(5)(a) A local authority may regulate the operation of a scooter-share program within its jurisdiction. Regulation of scooter-share programs shall be consistent with this Subsection (5).

(b) A shared scooter shall bear a single unique alphanumeric identification visible from a distance of five feet, that may not be obfuscated by branding or other markings, and that shall be used throughout the state, including by local authorities, to identify the shared scooter.

(c) A scooter-share operator shall maintain the following insurance coverage dedicated exclusively for operation of shared scooters:

(i) commercial general liability insurance coverage with a limit of at least $1,000,000 each occurrence and $5,000,000 aggregate;

(ii) automobile insurance coverage with a limit of at least $1,000,000 each occurrence and $1,000,000 aggregate;

(iii) umbrella or excess liability coverage with a limit of at least $5,000,000 each occurrence and $5,000,000 aggregate; and

(iv) when the scooter-share operator employs an individual, workers' compensation coverage of no less than required by law.

(d) Penalties for a moving or parking violation involving a motor assisted scooter or a shared scooter shall be assessed to the person responsible for the violation, and may not exceed penalties assessed to a rider of a bicycle.

(e) A scooter-share operator may be required to pay fees, provided that the total amount of the fees collected may not exceed the reasonable and necessary cost to the local authority of administering scooter-share programs, including a reasonable fee for the use of the right-of-way, commensurate and proportional to fees charged for similar uses.

(f) A scooter-share operator may be required to indemnify the local authority for claims, demands, costs, including reasonable attorney fees, losses, or damages brought against the local authority, and arising out of a negligent act, error, omission, or willful misconduct by the scooter-share operator or the scooter-share operator's employees, except to the extent the claims, demands, costs, losses, or damages arise out of such local authority's negligence or willful misconduct.

(g) In the interests of safety and right-of-way management, a local authority may designate locations where scooter-share operators may not stage shared scooters, provided that at least one location shall be permitted on each side of each city block in commercial zones and business districts.

(h) A local authority may require scooter-share operators, as a condition for operating a scooter-share program, to provide to the local authority anonymized fleet and ride activity data for completed trips starting or ending within the jurisdiction of the local authority on a vehicle of the scooter-share operator or of any person or company controlled by, controlling, or under common control with the scooter-share operator, provided that, to ensure individual privacy the trip data:

(i) is provided via an application programming interface, subject to the scooter-share operator's license agreement for such interface, in compliance with a national data format specification;

(ii) provided shall be treated as trade secret and proprietary business information, and may not be shared to third parties without the scooter-share operator's consent, and may not be treated as owned by the local authority; and

(iii) shall be considered private information, and may not be disclosed under Title 63G, Chapter 2, Government Records Access and Management Act, pursuant to a public records request received by the local authority without prior aggregation or obfuscation to protect individual privacy.

(i) In regulating a shared scooter or a scooter-share program, a local authority may not impose any unduly restrictive requirement on a scooter-share operator, including:

(i) requiring operation below cost; or

(ii) subjecting riders of shared scooters to requirements more restrictive than those applicable to riders of privately owned motor assisted scooters or bicycles.

Section 90. Section 52-1-1 is amended to read:

52-1-1. Official bonds to run to state, county, municipality, or other agency.

[~~When the law directs that a public officer shall give a bond without prescribing to whom it shall run it shall be made, if the public officer is a state officer, to the state; if a county, precinct or district officer, to the county; if a municipal officer, to the city, town, or metro township; and if a school officer, to the board of education.~~]If a public officer is required to give a bond but the requirement does not prescribe to

whom the bond is to be made, the bond shall be made to:

(1) the state, if the public officer is a state officer;

(2) the county, if the public officer is a county, precinct, or district officer;

(3) the city or town, if the public officer is a municipal officer; or

(4) the board of education, if the public officer is a school officer.

Section 91. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2)(a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(c) A public body that has members who were elected to the public body shall satisfy the requirement described in Subsection (2)(a)(iv) by recording each vote:

(i) in list format;

(ii) by category for each action taken by a member, including yes votes, no votes, and absent members; and

(iii) by each member's name.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4)(a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, or town[~~, or metro township~~].

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section 63A-16-601.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or

(B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 92. Section 53-2a-208 is amended to read:

53-2a-208. Local emergency -- Declarations -- Termination of a local emergency.

(1)(a) Except as provided in Subsection (1)(b), a chief executive officer of a municipality or county may declare by proclamation a state of emergency if the chief executive officer finds:

(i) a disaster has occurred or the occurrence or threat of a disaster is imminent in an area of the municipality or county; and

(ii) the municipality or county requires additional assistance to supplement the response and recovery efforts of the municipality or county.

(b) A chief executive officer of a municipality may not declare by proclamation a state of emergency in response to an epidemic or a pandemic.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city[~~,~~] or town,[~~ or metro township~~] shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23A-1-202, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(6)(a) Except as provided in Subsection (6)(b), a state of emergency described in Subsection (1) expires the earlier of:

(i) the day on which the chief executive officer finds that:

(A) the threat or danger has passed;

(B) the disaster reduced to the extent that emergency conditions no longer exist; or

(C) the municipality or county no longer requires state government assistance to supplement the response and recovery efforts of the municipality or county;

(ii) 30 days after the day on which the chief executive officer declares the state of emergency; or

(iii) the day on which the legislative body of the municipality or county terminates the state of emergency by majority vote.

(b)(i)(A) The legislative body of a municipality may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the municipality.

(B) The legislative body of a county may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the county.

(ii) The legislative body of a municipality or county may by majority vote extend a state of emergency for a time period stated in the motion.

(iii) If the legislative body of a municipality or county extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated by the legislative body in the motion.

(iv) An action by a legislative body of a municipality or county to terminate a state of emergency as described in this Subsection (6)(b) is not subject to veto by the relevant chief executive officer.

(c) Except as provided in Subsection (7), after a state of emergency expires in accordance with this Subsection (6), the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency.

(7)(a) After a state of emergency expires in accordance with Subsection (6), the chief executive officer may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the chief executive officer finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (7)(a) expires in accordance with Subsections (6)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (7)(a) expires, the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

Section 93. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1)(a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage Services Commission, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6)(a) "Office" includes all state and local offices, the powers and duties of which are defined by

constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns[~~, metro townships~~], districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 94. Section 53-2a-1403 is amended to read:

53-2a-1403. Emergency operations plan.

(1) Each county shall create and maintain an emergency operations plan.

(2) Each city[~~,~~] and town[~~, and metro township~~] shall:

(a) create and maintain an emergency operations plan; or

(b) adopt the emergency operations plan created by the county in which the city[~~,~~] or town[~~, or metro township~~] is located.

Section 95. Section 53-2d-101 is amended to read:

53-2d-101. Definitions.

As used in this chapter:

(1)(a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 53-2d-809.

(3) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

(4) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(5) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

(6)(a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(7) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

(8) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(9) "Committee" means the State Emergency Medical Services Committee created by Section 53-2d-104.

(10) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

(11) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(12) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

(13) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

(14) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

(15)(a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(16) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

(17) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (17)(a) through (c).

(18) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

(19) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(20) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(21) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(22) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(23) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(24) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

(25) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(26) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26B-4-119.

(27) "Political subdivision" means:

(a) a city[~~,~~] or town[~~, or metro township~~];

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(28) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

(29) "Trauma" means an injury requiring immediate medical or surgical intervention.

(30) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(31) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(32) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(33) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 96. Section 53-5a-202 is amended to read:

53-5a-202. Definitions.

As used in this part:

(1)(a) "Federal regulation" means a federal executive order, rule, or regulation that infringes upon, prohibits, restricts, or requires individual licensure for, or registration of, the purchase, ownership, possession, transfer, or use of a firearm, ammunition, or firearm accessory.

(b) "Federal regulation" does not include:

(i) a federal firearm statute; or

(ii) a federal executive order, rule, or regulation that is incorporated into the Utah Code by reference.

(2) "Firearm" means the same as that term is defined in Section 76-10-501.

(3) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(4) "Political subdivision" means a city, town,[~~metro township,~~] county, special district, or water conservancy district.

Section 97. Section 53-7-225 is amended to read:

53-7-225. Times for sale and discharge of fireworks -- Criminal penalty -- Permissible closure of certain areas -- Maps and signage.

(1) Except as provided in Section 53-7-221, this section supersedes any other code provision regarding the sale or discharge of fireworks.

(2) A person may sell class C common state approved explosives in the state as follows:

(a) beginning on June 24 and ending on July 25;

(b) beginning on December 29 and ending on December 31; and

(c) two days before and on the Chinese New Year's eve.

(3) A person may not discharge class C common state approved explosives in the state except as follows:

(a) between the hours of 11 a.m. and 11 p.m., except that on July 4 and July 24, the hours are 11 a.m. to midnight:

(i) beginning on July 2 and ending on July 5; and

(ii) beginning on July 22 and ending on July 25;

(b)(i) beginning at 11 a.m. on December 31 and ending at 1 a.m. on the following day; or

(ii) if New Year's eve is on a Sunday and the county[~~,~~] or municipality[~~, or metro township~~] determines to celebrate New Year's eve on the prior Saturday, then a person may discharge class C common state approved explosives on that prior Saturday within the county[~~,~~] or municipality[~~, or metro township~~];

(c) between the hours of 11 a.m. and 11 p.m. on January 1; and

(d) beginning at 11 a.m. on the Chinese New Year's eve and ending at 1 a.m. on the following day.

(4) A person is guilty of an infraction, punishable by a fine of up to $1,000, if the person discharges a class C common state approved explosive:

(a) outside the legal discharge dates and times described in Subsection (3); or

(b) in an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b).

(5)(a) Except as provided in Subsection (5)(b) or (c), a county, a municipality[~~, a metro township~~], or the state forester may not prohibit a person from discharging class C common state approved explosives during the permitted periods described in Subsection (3).

(b)(i) As used in this Subsection (5)(b), "negligent discharge":

(A) means the improper use and discharge of a class C common state approved explosive; and

(B) does not include the date or location of discharge or the type of explosive used.

(ii) A municipality[~~ or metro township~~] may prohibit:

(A) the discharge of class C common state approved explosives in certain areas with hazardous environmental conditions, in accordance with Subsection 15A-5-202.5(1)(b); or

(B) the negligent discharge of class C common state approved explosives.

(iii) A county may prohibit the negligent discharge of class C common state approved explosives.

(c) The state forester may prohibit the discharge of class C common state approved explosives as provided in Subsection 15A-5-202.5(1)(b) or Section 65A-8-212.

(6) If a municipal legislative body[~~,~~] or the state forester[~~, or a metro township legislative body~~] provides a map to a county identifying an area in which the discharge of fireworks is prohibited due to a historical hazardous environmental condition under Subsection 15A-5-202.5(1)(b), the county shall, before June 1 of that same year:

(a) create a county-wide map, based on each map the county has received, indicating each area within the county in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b);

(b) provide the map described in Subsection (6)(a) to:

(i) each retailer that sells fireworks within the county; and

(ii) the state fire marshal; and

(c) publish the map on the county's website.

(7) A retailer that sells fireworks shall display:

(a) a sign that:

(i) is clearly visible to the general public in a prominent location near the point of sale;

(ii) indicates the legal discharge dates and times described in Subsection (3); and

(iii) indicates the criminal charge and fine associated with discharge:

(A) outside the legal dates and times described in Subsection (3); and

(B) within an area in which fireworks are prohibited under Subsection 15A-5-202.5(1)(b); and

(b) the map that the county provides, in accordance with Subsection (6)(b).

Section 98. Section 53B-21-107 is amended to read:

53B-21-107. Investment in bonds by private and public entities -- Approval as collateral security.

(1) Any bank, savings and loan association, trust, or insurance company organized under the laws of this state or federal law may invest its capital and surplus in bonds issued under this chapter.

(2) The officers having charge of a sinking fund or any county, city[~~, metro township~~], town,[~~,~~] or school district may invest the sinking fund in bonds issued under this chapter.

(3) The bonds shall also be approved as collateral security for the deposit of any public funds and for the investment of trust funds.

Section 99. Section 56-1-39 is amended to read:

56-1-39. Assessment for right of way infrastructure improvements.

(1) As used in this section:

(a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced costs, and liability avoidance.

(b) "Government entity" means the state or a county, city, town, [~~metro township, local~~]special district, or special service district.

(c)(i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the federal Surface Transportation Board.

(ii) "Railroad" does not include a rail carrier that is:

(A) exempt from assessment under 49 U.S.C. Sec. 24301; or

(B) owned by a government entity.

(d)(i) "Right of way infrastructure improvement" means construction, reconstruction, repair, or maintenance of public infrastructure that:

(A) is paid for by a government entity; and

(B) is partially or wholly within a railroad's right of way or crosses over a railroad's right of way.

(ii) "Right of way infrastructure improvement" includes any component of construction, reconstruction, repair, or maintenance of public infrastructure, including:

(A) any environmental impact study, environmental mitigation, or environmental project management; and

(B) any required or requested review by a non-governmental entity.

(e) "Public infrastructure" means any of the following improvements:

(i) a system or line for water, sewer, drainage, electrical, or telecommunications;

(ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

(iii) signage or signaling related to an improvement described in Subsection (1)(e)(i) or (ii);

(iv) an environmental improvement; or

(v) any other improvement similar to the improvements described in Subsections (1)(e)(i) through (iv).

(2) A government entity may, to the extent allowed under federal law, assess a railroad for any portion of the cost of a right of way infrastructure improvement, including any cost attributable to delay, if:

(a) the government entity determines that the right of way infrastructure improvement provides a benefit to the railroad;

(b) the amount of the assessment is proportionate to the benefit the railroad receives, as determined by the government entity; and

(c) the government entity uses the assessment to pay for or as reimbursement for the cost of the right of way infrastructure improvement and not for the general support of the government entity.

(3)(a) If two or more government entities have authority under this section to assess a railroad for the same right of way infrastructure improvement, the Office of Rail Safety created in Section 72-17-101 shall:

(i) determine the amount of each government entity's assessment in accordance with Subsection (2);

(ii) assess the railroad for the total of all amounts described in Subsection (3)(a)(i); and

(iii) distribute the collected assessments to each government entity.

(b) The total amount of an assessment under this Subsection (3) may not exceed the amount described in Subsection (2)(b).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to establish a process for implementing the provisions of this Subsection (3).

Section 100. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, or town[~~, or metro township~~];

(ii) the military installation development authority created in Section 63H-1-201; or

(iii) the Utah Inland Port Authority created in Section 11-58-201.

(2)(a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4)(a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l)(i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Health and Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m)(i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n)(i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii)(A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v)(A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26B-3-106 and 26B-3-903, the commission shall provide an eligibility worker with the Department of Health and Human Services or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health and Human Services or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26B-3-106 and 26B-3-903.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y)(i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii)(A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(aa) Notwithstanding Subsection (2), the commission shall inform the Department of Workforce Services, as soon as practicable, whether an individual claimed and is entitled to claim a federal earned income tax credit for the year requested by the Department of Workforce Services if:

(i) the Department of Workforce Services requests this information; and

(ii) the commission has received the information release described in Section 35A-9-604.

(bb)(i) As used in this Subsection (4)(bb), "unclaimed property administrator" means the

administrator or the administrator's agent, as those terms are defined in Section 67-4a-102.

(ii)(A) Notwithstanding Subsection (2), upon request from the unclaimed property administrator and to the extent allowed under federal law, the commission shall provide the unclaimed property administrator the name, address, telephone number, county of residence, and social security number or federal employer identification number on any return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(B) The unclaimed property administrator may use the information described in Subsection (4)(aa)(ii)(A) only for the purpose of returning unclaimed property to the property's owner in accordance with Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act.

(iii) The unclaimed property administrator is subject to the confidentiality provisions of this section with respect to any information the unclaimed property administrator receives under this Subsection (4)(aa).

(5)(a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6)(a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(d) Notwithstanding Subsection (6)(a) or (b), for a disclosure of information to the Office of the Legislative Auditor General in accordance with Title 36, Chapter 12, Legislative Organization, an individual described in Subsection (2):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 101. Section 59-12-203 is amended to read:

59-12-203. County, city, or town may levy tax -- Contracts pursuant to Interlocal Cooperation Act.

(1) As used in this section, "converted municipality" means the same as that term is defined in Section 10-1-201.5.

(2) A county, city, or town[~~, or metro township~~] may impose a sales and use tax under this part.

[~~(2) The State Tax Commission shall treat a metro township that imposes a tax under this part as a city under this part.~~]

[~~(3) The State Tax Commission shall calculate the amount of a distribution to a metro township under this part in the same manner as the State Tax Commission calculates a distribution to a city under Section 59-12-205.~~]

[~~(4)~~](3)(a) Except as provided in Subsection [~~(4)(b)~~](3)(b), if a [~~metro township~~]converted municipality imposes a tax under this part, the State Tax Commission shall distribute the amount that the State Tax Commission calculates under Section 59-12-205 to the [~~metro township~~]converted municipality.

(b) The State Tax Commission shall transfer the amount that would otherwise be distributed to a [~~metro township~~]converted municipality under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the [~~metro township~~]converted municipality:

(i) provides written notice to the State Tax Commission requesting the transfer; and

(ii) designates the municipal services district to which the [~~metro township~~]converted municipality requests the State Tax Commission to transfer the revenues.

[~~(5)~~](4) A county, city, or town[~~, or metro township~~] that imposes a sales and use tax under this part may:

(a) enter into agreements authorized by Title 11, Chapter 13, Interlocal Cooperation Act; and

(b) use any or all of the revenue collected from the tax for the mutual benefit of local governments that elect to contract with one another pursuant to Title 11, Chapter 13, Interlocal Cooperation Act.

Section 102. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in

Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3)(a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6)(a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8)(a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and

(7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b)(i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c)(i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city[~~,~~] or town[~~, or metro township~~] is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city[~~,~~] or town[~~, or metro township~~] would have received under Subsection (8)(a) to cities[~~,~~] or towns[~~, or metro townships~~] to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) A county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(11)(a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b)(i) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c)(i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall

be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12)(a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(13)(a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 103. Section 63A-5b-901 is amended to read:

63A-5b-901. Definitions.

As used in this part:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

(3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

(4) "Local government entity" means a county, city, town[~~, metro township~~], special district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

(5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).

(6) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.

(7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

(8) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

(9) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in Section 63A-5b-304; and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

(10) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

(12) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency is not occupying or using; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

(13) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Section 104. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(15) "Contract" means an agreement for a procurement.

(16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(17) "Contractor" means a person who is awarded a contract with a procurement unit.

(18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(22) "Days" means calendar days, unless expressly provided otherwise.

(23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(31)(a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(36) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(37) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b)(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(38) "Independent procurement unit" means:

(a)(i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a special district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(39) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (39)(a).

(40) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(41) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(42) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(43) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii)(A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(44) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(45) "Local government procurement unit" means:

(a) a county, municipality, or project entity, and each office of the county, municipality, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; or

(ii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b)(i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-316; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

(46) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(47) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(48) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(49) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (49)(a).

(50) "Offeror" means a person who submits a proposal in response to a request for proposals.

(51) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(52) "Procure" means to acquire a procurement item through a procurement.

(53) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(54) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(55) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a special district, the board of trustees of the special district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p)(i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under

the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(iv) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(56) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a special district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district; and

(xi) a public corporation; and

(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(57) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(58) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(59) "Public corporation" means the same as that term is defined in Section 63E-1-102.

(60) "Project entity" means the same as that term is defined in Section 11-13-103.

(61) "Public entity" means the state or any other government entity within the state that expends public funds.

(62) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

(63) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

(64) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

(65) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

(66) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score

thresholds set forth in the request for statement of qualifications.

(67) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

(68) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

(69) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

(70) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

(71) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

(72) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(73) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

(74) "Responsive" means conforming in all material respects to the requirements of a solicitation.

(75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

(76) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c)(i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the facilities division, the facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a special district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the special district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

(77) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

(78) "Small purchase process" means the procurement process described in Section 63G-6a-506.

(79) "Sole source contract" means a contract resulting from a sole source procurement.

(80) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

(81) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

(82) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

(83) "Special district" means the same as that term is defined in Section 17B-1-102.

(84) "Special service district" means the same as that term is defined in Section 17D-1-102.

(85) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

(86) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

(87) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

(88) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

(89) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

(90) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

(91) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

(92) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

(93) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

(94) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 105. Section 63G-26-102 is amended to read:

63G-26-102. Definitions.

As used in this chapter:

(1) "Personal information" means a record or other compilation of data that identifies a person as a donor to an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code.

(2) "Public agency" means a state or local government entity, including:

(a) a department, division, agency, office, commission, board, or other government organization;

(b) a political subdivision, including a county, city, town[~~, metro township~~], special district, or special service district;

(c) a public school, school district, charter school, or public higher education institution; or

(d) a judicial or quasi-judicial body.

Section 106. Section 63G-29-101 is amended to read:

63G-29-101. Definitions.

(1)(a) "Governmental entity" means:

(i) the state;

(ii) a county, city, town[~~, metro township~~], school district, special district, special service district, or other political subdivision of the state; or

(iii) an independent entity.

(b) "Governmental entity" includes an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of an entity described in Subsection (1)(a).

(2) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(3) "Members of a person's social network" means the people a person authorizes to be part of the person's social media communications and network.

(4)(a) "Social credit score" means a numeric, alphanumeric, or alphabetic value or other categorization assigned to a person based on:

(i) the person's:

(A) compliance or noncompliance with government guidance;

(B) social media post;

(C) participation or membership in a lawful club, association, or union;

(D) political affiliation; or

(E) employment industry or employer; or

(ii) the identity of the members of the person's social network.

(b) "Social credit score" does not include:

(i) a consumer report as defined in 15 U.S.C. Sec. 1681a;

(ii) compliance or noncompliance with statute, administrative rule, or other law; or

(iii) a numeric, alphanumeric, or alphabetic value or other categorization assigned to a person for:

(A) purposes of education, training, or job performance assessment;

(B) purposes of a contest or competition;

(C) purposes of hiring a prospective employee or independent contractor;

(D) purposes of issuance or taking an action against a professional license, certification, registration, or permit;

(E) purposes of a professional or tax audit; or

(F) use by a financial institution or an affiliate of a financial institution regulated under Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq., to determine risk of loss, impairment, or default.

Section 107. Section 63J-4-801 is amended to read:

63J-4-801. Definitions.

As used in this part:

(1) "American Rescue Plan Act" means the American Rescue Plan Act, Pub. L. 117-2.

(2) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(3) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(4) "Grant program" means the COVID-19 Local Assistance Matching Grant Program established in Section 63J-4-802.

(5) "Local government" means a county, city, town[~~, metro township~~], special district, or special service district.

(6) "Review committee" means the COVID-19 Local Assistance Matching Grant Program Review Committee established in Section 63J-4-803.

Section 108. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

(1)(a) "Business entity" means a person that enters into a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.

(b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104.3(2), "business entity" includes a nonprofit entity.

(2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.

(3) "Development zone" means an economic development zone created under Section 63N-2-104.

(4) "Local government entity" means a county, city, or town[~~, or metro township~~].

(5) "New commercial project" means an economic development opportunity that:

(a) involves a targeted industry;

(b) is located within:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a municipality that has a population of 10,000 or less and the municipality is located within a county of the second class; or

(c) involves an economic development opportunity that the commission determines to be eligible for a tax credit under this part.

(6) "Remote work opportunity" means a new commercial project that:

(a) does not require a physical office in the state where employees associated with the new commercial project are required to work; and

(b) requires employees associated with the new commercial project to:

(i) work remotely from a location within the state; and

(ii) maintain residency in the state.

(7) "Significant capital investment" means an investment in capital or fixed assets, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state.

(8) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.

(9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

(10) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity to which the office authorizes a tax credit;

(b) lists the business entity's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity for the taxable year; and

(d) may include other information as determined by the office.

(11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.

Section 109. Section 63N-4-801 is amended to read:

63N-4-801. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3)(a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

(5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

(6) "Qualified asset" means a physical asset that provides or supports an essential public service.

(7) "Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Rural community" means a rural county or rural municipality.

(9) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(10) "Rural municipality" means a city[~~,~~] or town[~~, or metro township~~] located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

(11) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 110. Section 65A-1-1 is amended to read:

65A-1-1. Definitions.

As used in this title:

(1) "Division" means the Division of Forestry, Fire, and State Lands.

(2) "Initial attack" means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.

(3) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

(4) "Municipality" means a city[~~,~~] or town[~~, or metro township~~].

(5) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

(6) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

(7) "State lands" means all lands administered by the division.

(8) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

(9) "Wildland" means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

(b) structures, if any, are widely scattered.

(10) "Wildland fire" means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface, as defined in Section 65A-8a-102.

Section 111. Section 65A-8-212 is amended to read:

65A-8-212. Power of state forester to close hazardous areas -- Violations of an order closing an area.

(1)(a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use, except as provided in Subsection (5).

(b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:

(i) smoking;

(ii) the use of vehicles or equipment;

(iii) welding, cutting, or grinding of metals;

(iv) subject to Subsection (5), fireworks;

(v) explosives; or

(vi) the use of firearms for target shooting.

(c) Any restriction or closure relating to firearms use:

(i) shall be done with support of the duly elected county sheriff of the affected county or counties;

(ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and

(iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.

(d) The State Forester and County Sheriff shall:

(i) agree to the terms of any restriction or closure relating to firearms use;

(ii) reduce the agreement to writing;

(iii) sign the agreement indicating approval of its terms and duration; and

(iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.

(2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.

(3) The order or proclamation closing or limiting the use in the area shall set forth:

(a) the exact area coming under the order;

(b) the date when the order becomes effective; and

(c) if advisable, the authority from whom permits for entry into the area may be obtained.

(4) Any entry into or use of any area in violation of this section is a class B misdemeanor.

(5) The state forester may not restrict or prohibit the discharge of fireworks within the municipal boundaries of a city[~~,~~] or town[~~, or metro township~~].

Section 112. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of the State of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2)(a) As the chief election officer, the lieutenant governor shall:

(i) exercise oversight, and general supervisory authority, over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) establish uniformity in the election ballot;

(iv)(A) prepare election information for the public as required by law and as determined appropriate by the lieutenant governor; and

(B) make the information described in Subsection (2)(a)(iv)(A) available to the public and to news media, on the Internet, and in other forms as required by law and as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of individuals nominated to run for, or elected to, office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, and 20A-5-803;

(x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

(xi) exercise all other election authority, and perform other election duties, as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor:

(i) shall oversee all elections, and functions relating to elections, in the state;

(ii) shall, in accordance with Section 20A-1-105, take action to enforce compliance by an election officer with legal requirements relating to elections; and

(iii) may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3)(a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii)(A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii)(A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

[~~(c) The lieutenant governor shall:~~]

[~~(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and~~]

[~~(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.~~]

[~~(d)~~](c) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

[~~(e)~~](d) If the applicable population figure under Subsection (3)(b) or [~~(d)~~](c) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

[~~(f)~~](e)(i) If the applicable population figure under Subsection (3)(b) or [~~(d)~~](c) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 113. Section 68-3-12.5 is amended to read:

68-3-12.5. Definitions for Utah Code.

(1) The definitions listed in this section apply to the Utah Code, unless:

(a) the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute; or

(b) a different definition is expressly provided for the respective title, chapter, part, section, or subsection.

(2) "Adjudicative proceeding" means:

(a) an action by a board, commission, department, officer, or other administrative unit of the state that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including an action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of an action described in Subsection (2)(a).

(3) "Administrator" includes "executor" when the subject matter justifies the use.

(4) "Advisory board," "advisory commission," and "advisory council" mean a board, commission, committee, or council that:

(a) is created by, and whose duties are provided by, statute or executive order;

(b) performs its duties only under the supervision of another person as provided by statute; and

(c) provides advice and makes recommendations to another person that makes policy for the benefit of the general public.

(5) "Armed forces" means the United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

[~~(6) "City" includes, depending on population, a metro township as defined in Section 10-3c-102.~~]

[~~(7)~~](6) "County executive" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county executive, in the county executive-council optional form of government authorized by Section 17-52a-203; or

(c) the county manager, in the council-manager optional form of government authorized by Section 17-52a-204.

[~~(8)~~](7) "County legislative body" means:

(a) the county commission, in the county commission or expanded county commission form of government established under Title 17, Chapter 52a, Changing Forms of County Government;

(b) the county council, in the county executive-council optional form of government authorized by Section 17-52a-203; and

(c) the county council, in the council-manager optional form of government authorized by Section 17-52a-204.

[~~(9)~~](8) "Depose" means to make a written statement made under oath or affirmation.

[~~(10)~~](9) "Executor" includes "administrator" when the subject matter justifies the use.

[~~(11)~~](10) "Guardian" includes a person who:

(a) qualifies as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment; or

(b) is appointed by a court to manage the estate of a minor or incapacitated person.

[~~(12)~~](11) "Highway" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

[~~(13)~~](12) "Intellectual disability" means a significant, subaverage general intellectual functioning that:

(a) exists concurrently with deficits in adaptive behavior; and

(b) is manifested during the developmental period as defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

[~~(14)~~](13) "Intermediate care facility for people with an intellectual disability" means an intermediate care facility for the mentally retarded, as defined in Title XIX of the Social Security Act.

[~~(15)~~](14) "Land" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

[~~(16)~~](15) "Month" means a calendar month, unless otherwise expressed.

[~~(17)~~](16) "Oath" includes "affirmation."

[~~(18)~~](17) "Person" means:

(a) an individual;

(b) an association;

(c) an institution;

(d) a corporation;

(e) a company;

(f) a trust;

(g) a limited liability company;

(h) a partnership;

(i) a political subdivision;

(j) a government office, department, division, bureau, or other body of government; and

(k) any other organization or entity.

[~~(19)~~](18) "Personal property" includes:

(a) money;

(b) goods;

(c) chattels;

(d) effects;

(e) evidences of a right in action;

(f) a written instrument by which a pecuniary obligation, right, or title to property is created, acknowledged, transferred, increased, defeated, discharged, or diminished; and

(g) a right or interest in an item described in Subsections [~~(19)(a)~~](18)(a) through (f).

[~~(20)~~](19) "Personal representative," "executor," and "administrator" include:

(a) an executor;

(b) an administrator;

(c) a successor personal representative;

(d) a special administrator; and

(e) a person who performs substantially the same function as a person described in Subsections

[~~(20)(a)~~](19)(a) through (d) under the law governing the person's status.

[~~(21)~~](20) "Policy board," "policy commission," or "policy council" means a board, commission, or council that:

(a) is authorized to make policy for the benefit of the general public;

(b) is created by, and whose duties are provided by, the constitution or statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[~~(22)~~](21) "Population" is shown by the most recent state or national census, unless expressly provided otherwise.

[~~(23)~~](22) "Process" means a writ or summons issued in the course of a judicial proceeding.

[~~(24)~~](23) "Property" includes both real and personal property.

[~~(25)~~](24) "Real estate" or "real property" includes:

(a) land;

(b) a tenement;

(c) a hereditament;

(d) a water right;

(e) a possessory right; and

(f) a claim.

[~~(26)~~](25) "Review board," "review commission," and "review council" mean a board, commission, committee, or council that:

(a) is authorized to approve policy made for the benefit of the general public by another body or person;

(b) is created by, and whose duties are provided by, statute; and

(c) performs its duties according to its own rules without supervision other than under the general control of another person as provided by statute.

[~~(27)~~](26) "Road" includes:

(a) a public bridge;

(b) a county way;

(c) a county road;

(d) a common road; and

(e) a state road.

[~~(28)~~](27) "Signature" includes a name, mark, or sign written with the intent to authenticate an instrument or writing.

[~~(29)~~](28) "State," when applied to the different parts of the United States, includes a state, district, or territory of the United States.

[~~(30)~~](29) "Swear" includes "affirm."

[~~(31)~~](30) "Testify" means to make an oral statement under oath or affirmation.

[~~(32) "Town" includes, depending on population, a metro township as defined in Section 10-3c-102.~~]

[~~(33)~~](31) "Uniformed services" means:

(a) the armed forces;

(b) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(c) the commissioned corps of the United States Public Health Service.

[~~(34)~~](32) "United States" includes each state, district, and territory of the United States of America.

[~~(35)~~](33) "Utah Code" means the 1953 recodification of the Utah Code, as amended, unless the text expressly references a portion of the 1953 recodification of the Utah Code as it existed:

(a) on the day on which the 1953 recodification of the Utah Code was enacted; or

(b)(i) after the day described in Subsection [~~(35)(a)~~](33)(a); and

(ii) before the most recent amendment to the referenced portion of the 1953 recodification of the Utah Code.

[~~(36)~~](34) "Vessel," when used with reference to shipping, includes a steamboat, canal boat, and every structure adapted to be navigated from place to place.

[~~(37)~~](35)(a) "Veteran" means an individual who:

(i) has served in the United States Armed Forces for at least 180 days:

(A) on active duty; or

(B) in a reserve component, to include the National Guard; or

(ii) has incurred an actual service-related injury or disability while in the United States Armed Forces regardless of whether the individual completed 180 days; and

(iii) was separated or retired under conditions characterized as honorable or general.

(b) This definition is not intended to confer eligibility for benefits.

[~~(38)~~](36) "Will" includes a codicil.

[~~(39)~~](37) "Writ" means an order or precept in writing, issued in the name of:

(a) the state;

(b) a court; or

(c) a judicial officer.

[~~(40)~~](38) "Writing" includes:

(a) printing;

(b) handwriting; and

(c) information stored in an electronic or other medium if the information is retrievable in a perceivable format.

Section 114. Section 72-2-108 is amended to read:

72-2-108. Apportionment of funds available for use on class B and class C roads -- Bonds.

(1) For purposes of this section:

(a) "Eligible county" means a county of the fifth class, as described in Section 17-50-501, that received a distribution for fiscal year 2015 that was reapportioned to include money in addition to the amount calculated under Subsection (2), and the portion of the distribution derived from the calculation under Subsection (2) was less than 60% of the total distribution.

(b) "Graveled road" means a road:

(i) that is:

(A) graded; and

(B) drained by transverse drainage systems to prevent serious impairment of the road by surface water;

(ii) that has an improved surface; and

(iii) that has a wearing surface made of:

(A) gravel;

(B) broken stone;

(C) slag;

(D) iron ore;

(E) shale; or

(F) other material that is:

(I) similar to a material described in Subsection (1)(b)(iii)(A) through (E); and

(II) coarser than sand.

(c) "Paved road" includes:

(i) a graveled road with a chip seal surface; and

(ii) a circulator alley.

(d) "Road mile" means a one-mile length of road, regardless of:

(i) the width of the road; or

(ii) the number of lanes into which the road is divided.

(e) "Weighted mileage" means the sum of the following:

(i) paved road miles multiplied by five; and

(ii) all other road type road miles multiplied by two.

(2) Subject to the provisions of Subsections (3) through (7), funds appropriated for class B and class C roads shall be apportioned among counties and municipalities in the following manner:

(a) 50% in the ratio that the class B roads weighted mileage within each county and class C roads weighted mileage within each municipality bear to the total class B and class C roads weighted mileage within the state; and

(b) 50% in the ratio that the population of a county or municipality bears to the total population of the state as of the last official federal census or the United States Bureau of Census estimate, whichever is most recent, except that if population estimates are not available from the United States Bureau of Census, population figures shall be derived from the estimate from the Utah Population Committee.

(3) For purposes of Subsection (2)(b), "the population of a county" means:

[~~(a) for a county of the first class with a metro township, as defined in Section 10-2a-403, within the boundaries of the county as of January 1, 2020:~~]

[~~(i) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 7% of the total population of that county, including municipalities; and~~]

[~~(ii) if the population of a county outside the corporate limits of municipalities in the county is less than 7% of the total population:~~]

[~~(A) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:~~]

[~~(I) 7%; and~~]

[~~(II) the actual percentage of population outside the corporate limits of municipalities in that county; and~~]

[~~(B) the population apportioned to the county shall be 7% of the total population of that county, including incorporated municipalities; or~~]

[~~(b) for any county not described in Subsection (3)(a):~~]

[~~(i)~~](a) the population of a county outside the corporate limits of municipalities in that county, if the population of the county outside the corporate limits of municipalities in that county is not less than 14% of the total population of that county, including municipalities; and

[~~(ii)~~](b) if the population of a county outside the corporate limits of municipalities in the county is less than 14% of the total population:

[~~(A)~~](i) the aggregate percentage of the population apportioned to municipalities in that county shall be reduced by an amount equal to the difference between:

[~~(I)~~](A) 14%; and

[~~(II)~~](B) the actual percentage of population outside the corporate limits of municipalities in that county; and

[~~(B)~~](ii) the population apportioned to the county shall be 14% of the total population of that county, including incorporated municipalities.

(4) For an eligible county, the department shall reapportion the funds under Subsection (2) to ensure that the county or municipality receives, for a fiscal year beginning on or after July 1, 2018, an amount equal to the greater of:

(a) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(b)(i) the amount apportioned to the county or municipality for class B and class C roads through the apportionment formula under Subsection (2) or this Subsection (4) in the prior fiscal year; plus

(ii) the amount calculated as described in Subsection (6).

(5)(a) The department shall decrease proportionately as provided in Subsection (5)(b) the apportionments to counties and municipalities for which the reapportionment under Subsection (4) does not apply.

(b) The aggregate amount of the funds that the department shall decrease proportionately from the apportionments under Subsection (5)(a) is an amount equal to the aggregate amount reapportioned to counties and municipalities under Subsection (4).

(6)(a) In addition to the apportionment adjustments made under Subsection (4), a county or municipality that qualifies for reapportioned money under Subsection (4) shall receive an amount equal to the amount apportioned to the eligible county or municipality under Subsection (4) for class B and class C roads in the prior fiscal year multiplied by the percentage increase or decrease in the total funds available for class B and class C roads between the prior fiscal year and the fiscal year that immediately preceded the prior fiscal year.

(b) The adjustment under Subsection (6)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(7)(a) If a county or municipality does not qualify for a reapportionment under Subsection (4) in the current fiscal year but previously qualified for a reapportionment under Subsection (4) on or after July 1, 2017, the county or municipality shall receive an amount equal to the greater of:

(i) the amount apportioned to the county or municipality for class B and class C roads in the current fiscal year under Subsection (2); or

(ii) the amount apportioned to the county or municipality for class B and class C roads in the prior fiscal year.

(b) The adjustment under Subsection (7)(a) shall be made in the same way as provided in Subsections (5)(a) and (b).

(8) The governing body of any municipality or county may issue bonds redeemable up to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the costs of constructing, repairing, and maintaining class B or class C roads and may pledge class B or class C road funds received pursuant to this section to pay principal, interest, premiums, and reserves for the bonds.

Section 115. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (9), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities[~~, metro townships,~~] and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,000,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay.

(5)(a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(k), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(k).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(k).

(c) A local government may not use revenue described in Subsection (4)(k) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(d)(i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) Subject to Subsection (9), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(9) Any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

Section 116. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering -- Loans and grants.

(1) As used in this section:

(a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act.

(b)(i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(c) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

(d)(i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

(e)(i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

(f) "Power generation use" means water used in the production of energy, such as use in an electric generation facility, natural gas refinery, or coal processing plant.

(g)(i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

(h) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

(i) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

(j) "Secondary water supplier" means an entity that supplies pressurized secondary water.

(k) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii)(A) is a city[~~,~~] or town[~~, or metro township~~]; or

(B) supplies 5,000 or fewer secondary water connections.

(2)(a)(i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

(c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

(d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

(e)(i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4)(a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5)(a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

(6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8)(a)(i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g)(i) The state engineer's final order may be reviewed by trial de novo by the district court in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each non-metered secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources

Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

(13)(a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10), or (11), to comply with this section, a secondary water supplier is not required to meter every secondary water connection of the secondary water supplier's system, but shall meter at strategic points of the system as approved by the state engineer under this Subsection (13) if:

(i) the system has no storage and relies on stream flow;

(ii)(A) the majority of secondary water users on the system are associated with agriculture use or power generation use; and

(B) less than 50% of the secondary water is used by residential secondary water users; or

(iii) the system has:

(A) 1,000 or fewer users; and

(B) a mix of pressurized lines and open ditches.

(b)(i) A secondary water supplier may obtain the approval by the state engineer of strategic points where metering is to occur as required under this Subsection (13) by filing an application with the state engineer in the form established by the state engineer.

(ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish procedures for approving strategic points for metering under this Subsection (13).

Section 117. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government; and

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection [~~10-3b-103(7); and~~]10-3b-103(6).

[~~(iii) for a metro township, the chair of the metro township council.~~]

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2)(a) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position.

(b) The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

(c) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive- council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality[~~ and the chairs of each metro township~~] in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

(d)(i) If there is no county bar association, the member in Subsection (2)(c)(iii) shall be appointed by the regional bar association.

(ii) If no regional bar association exists, the state bar association shall make the appointment.

(e) Members appointed under Subsections (2)(c)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

(f)(i) Except as provided in Subsection (2)(f)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge.

(ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.

(iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

(g)(i) The state court administrator shall provide staff to the commission.

(ii) The Judicial Council shall establish rules and procedures for the conduct of the commission.

(3)(a) A judicial vacancy for a justice court shall be announced:

(i) as an employment opportunity on the Utah Courts' website;

(ii) in an email to the members of the Utah State Bar; and

(iii) for the justice court's jurisdiction, as a class A notice under Section 63G- 30- 102, for at least 30 days.

(b) A judicial vacancy for a justice court may also be advertised through other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5)(a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.

(b) Upon completion of the orientation seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

(6)(a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.

(b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 118. Section 78B- 6- 2301 is amended to read:

78B- 6- 2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section 53- 5a- 102.

(3) "Legislative firearm preemption" means the preemption provided for in Sections 53- 5a- 102 and 76- 10- 500.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town[~~, metro township~~], special district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 119. Repealer.

This bill repeals:

Section 10-2-301.5, Classification of metro townships according to population.

Section 10-2a-401, Title.

Section 10-2a-402, Application.

Section 10-2a-403, Definitions.

Section 10-2a-404, Election -- Notice.

Section 10-2a-405, Duties of county legislative body -- Public hearing -- Notice -- Other election and incorporation issues -- Rural real property excluded.

Section 10-2a-406, Ballot used at metro township incorporation election.

Section 10-2a-407, Ballot used at unincorporated island annexation election.

Section 10-2a-408, Notification to lieutenant governor of incorporation election results.

Section 10-2a-409, Unincorporated island annexation -- Notice and recording-- Applicable provisions.

Section 10-2a-410, Determination of metro township districts -- Determination of metro township or city initial officer terms -- Adoption of proposed districts -- Notice.

Section 10-2a-411, Election of officers of new city, town, or metro township.

Section 10-2a-412, Notification to lieutenant governor of election of officers.

Section 10-2a-413, Incorporation under this part subject to other provisions.

Section 10-2a-414, Transition -- Continuity of county process.

Section 10-3b-501, Metro township government powers vested in a five-member council.

Section 10-3b-502, Governance of metro townships that are not in a municipal services district.

Section 10-3b-503, Mayor in a metro township included in a municipal services district.

Section 10-3b-504, Council in a metro township that is included in a municipal services district.

Section 10-3c-101, Title.

Section 10-3c-102, Definitions.

Section 10-3c-103, Status and powers.

Section 10-3c-201, Title.

Section 10-3c-202, Budget.

Section 10-3c-203, Administrative and operational services -- Staff provided by county or municipal services district -- Recording of open meetings.

Section 10-3c-204, Taxing authority limited -- Notice.

Section 10-3c-205, Fees.

Section 52-1-5.1, Metro township officers -- Where filed.

Section 120. Effective date.

This bill takes effect on May 1, 2024 with the exception of the changes in Sections 10-2-425 (Effective 07/01/24) and 53-2d-101 (Effective 07/01/24), which take effect on July 1, 2024.

CHAPTER 439
H. B. 51
Passed February 23, 2024
Approved March 20, 2024
Effective May 1, 2024

HEALTH AND HUMAN SERVICES FUNDING AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses risk analysis and budgetary buffers related to the Medicaid program.

Highlighted Provisions:

This bill:

- directs the Office of the Legislative Fiscal Analyst, in consultation with the Governor's Office of Planning and Budget, to analyze risks associated with the funding of the Medicaid program and to recommend budgetary actions based on that analysis;
- renames the Medicaid Expansion Fund as the Medicaid ACA Fund and extends that fund's sunset date;
- merges the Medicaid Restricted Account into the Medicaid Growth Reduction and Budget Stabilization Account;
- allows the Legislature to appropriate money to and from the Medicaid Growth Reduction and Budget Stabilization Account, with certain conditions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to Department of Health and Human Services - General Fund Restricted -- Medicaid Growth Reduction and Budget Stabilization Account as a one-time appropriation:
  - from the General Fund Restricted - Medicaid Restricted Account, One-time, $23,700,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-818.5, as last amended by Laws of Utah 2023, Chapter 327
19-1-206, as last amended by Laws of Utah 2023, Chapter 327
26B-1-315, as last amended by Laws of Utah 2023, Chapter 471 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-113, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-210, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-211, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-504, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-508, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-512, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-601, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-604, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-605, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-608, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-3-612, as renumbered and amended by Laws of Utah 2023, Chapter 306
36-12-13, as last amended by Laws of Utah 2023, Chapters 16, 430
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471
63A-5b-607, as last amended by Laws of Utah 2023, Chapter 329
63C-9-403, as last amended by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-1-226, as last amended by Laws of Utah 2023, Chapters 249, 269, 270, 275, 310, 332, 335, 420, and 495 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapters 329, 332
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
63J-1-315, as last amended by Laws of Utah 2023, Chapter 329
72-6-107.5, as last amended by Laws of Utah 2023, Chapter 330
79-2-404, as last amended by Laws of Utah 2023, Chapter 330

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid [~~Restricted~~]Growth Reduction and Budget Stabilization Account created in Section [~~26B-1-309~~]63J-1-315.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage

of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount

necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid [~~Restricted~~]Growth Reduction and Budget Stabilization Account created in Section [~~26B-1-309~~]63J-1-315.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 3. Section 26B-1-315 is amended to read:

26B-1-315. Medicaid ACA Fund.

(1) There is created an expendable special revenue fund known as the "Medicaid [~~Expansion~~]ACA Fund."

(2) The fund consists of:

(a) assessments collected under Chapter 3, Part 5, Inpatient Hospital Assessment;

(b) intergovernmental transfers under Section 26B-3-508;

(c) savings attributable to the health coverage improvement program, as defined in Section 26B-3-501, as determined by the department;

(d) savings attributable to the enhancement waiver program, as defined in Section 26B-3-501, as determined by the department;

(e) savings attributable to the Medicaid waiver expansion, as defined in Section 26B-3-501, as determined by the department;

(f) savings attributable to the inclusion of psychotropic drugs on the preferred drug list under Subsection 26B-3-105(3) as determined by the department;

(g) revenues collected from the sales tax described in Subsection 59-12-103(11);

(h) gifts, grants, donations, or any other conveyance of money that may be made to the fund from private sources;

(i) interest earned on money in the fund; and

(j) additional amounts as appropriated by the Legislature.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4)(a) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may use money from the fund to pay the costs, not otherwise paid for with federal funds or other revenue sources, of:

(i) the health coverage improvement program as defined in Section 26B-3-501;

(ii) the enhancement waiver program as defined in Section 26B-3-501;

(iii) a Medicaid waiver expansion as defined in Section 26B-3-501; and

(iv) the outpatient upper payment limit supplemental payments under Section 26B-3-511.

(b) A state agency administering the provisions of Chapter 3, Part 5, Inpatient Hospital Assessment, may not use:

(i) funds described in Subsection (2)(b) to pay the cost of private outpatient upper payment limit supplemental payments; or

(ii) money in the fund for any purpose not described in Subsection (4)(a).

Section 4. Section 26B-3-113 is amended to read:

26B-3-113. Expanding the Medicaid program.

(1) As used in this section:

(a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.

[~~(b) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.~~]

[~~(c)~~](b) "Medicaid [~~Expansion~~]ACA Fund" means the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315.

(c) "Medicaid expansion" means an expansion of the Medicaid program in accordance with this section.

(2)(a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid program shall be expanded to cover additional low-income individuals.

(b) The department shall continue to seek approval from CMS to implement the Medicaid waiver expansion as defined in Section [~~26B-1-112~~]26B-3-210.

(c) The department may implement any provision described in Subsections [~~26B-3-112(2)(b)(iii) through (viii)~~]26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval from CMS to implement that provision.

(3) The department shall expand the Medicaid program in accordance with this Subsection (3) if the department:

(a) receives approval from CMS to:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for enrolling an individual in the Medicaid expansion under this Subsection (3); and

(iii) permit the state to close enrollment in the Medicaid expansion under this Subsection (3) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (3);

(b) pays the state portion of costs for the Medicaid expansion under this Subsection (3) with funds from:

(i) the Medicaid [~~Expansion~~]ACA Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(c) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (3) if the department projects that the cost of the Medicaid expansion under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4)(a) The department shall expand the Medicaid program in accordance with this Subsection (4) if the department:

(i) receives approval from CMS to:

(A) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid expansion under this Subsection (4); and

(C) permit the state to close enrollment in the Medicaid expansion under this Subsection (4) if the department has insufficient funds to provide services to new enrollment under the Medicaid expansion under this Subsection (4);

(ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4) with funds from:

(A) the Medicaid [~~Expansion~~]ACA Fund;

(B) county contributions to the nonfederal share of Medicaid expenditures; or

(C) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures; and

(iii) closes the Medicaid program to new enrollment under the Medicaid expansion under this Subsection (4) if the department projects that the cost of the Medicaid expansion under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The department shall submit a waiver, an amendment to an existing waiver, or a state plan amendment to CMS to:

(i) administer federal funds for the Medicaid expansion under this Subsection (4) according to a per capita cap developed by the department that includes an annual inflationary adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees, and provides greater

flexibility to the state than the current Medicaid payment model;

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (4);

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (4) violates certain program requirements as defined by the department;

(iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to remain in the Medicaid program for up to a 12-month certification period as defined by the department; and

(v) allow federal Medicaid funds to be used for housing support for eligible enrollees in the Medicaid expansion under this Subsection (4).

(5)(a)(i) If CMS does not approve a waiver to expand the Medicaid program in accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop proposals to implement additional flexibilities and cost controls, including cost sharing tools, within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver or state plan amendment.

(ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i) shall include:

(A) a path to self-sufficiency for qualified adults in the Medicaid expansion that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and

(B) a requirement that an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan.

(iii) The department shall submit the request for a waiver or state plan amendment developed under Subsection (5)(a)(i) on or before March 15, 2020.

(b) Notwithstanding Sections 26B-3-127 and 63J-5-204, and in accordance with this Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in the optional Medicaid expansion population under PPACA and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance, on the earlier of:

(i) the day on which CMS approves a waiver to implement the provisions described in Subsections (5)(a)(ii)(A) and (B); or

(ii) July 1, 2020.

(c) The department shall seek a waiver, or an amendment to an existing waiver, from federal law to:

(i) implement each provision described in Subsections 26B-3-210(2)(b)(iii) through (viii) in a Medicaid expansion under this Subsection (5);

(ii) limit, in certain circumstances as defined by the department, the ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an individual enrolled in a Medicaid expansion under this Subsection (5); and

(iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under this Subsection (5) violates certain program requirements as defined by the department.

(d) The eligibility criteria in this Subsection (5) shall be construed to include all individuals eligible for the health coverage improvement program under Section 26B-3-207.

(e) The department shall pay the state portion of costs for a Medicaid expansion under this Subsection (5) entirely from:

(i) the Medicaid [~~Expansion~~]ACA Fund;

(ii) county contributions to the nonfederal share of Medicaid expenditures; or

(iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid expenditures.

(f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds available under Subsection (5)(e):

(i) the department may reduce or eliminate optional Medicaid services under this chapter;

(ii) savings, as determined by the department, from the reduction or elimination of optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid [~~Expansion~~]ACA Fund; and

(iii) the department may submit to CMS a request for waivers, or an amendment of existing waivers, from federal law necessary to implement budget controls within the Medicaid program to address the deficiency.

(g) If the costs of the Medicaid expansion under this Subsection (5) are projected by the department to exceed the funds available in the current fiscal year under Subsection (5)(e), including savings resulting from any action taken under Subsection (5)(f):

(i) the governor shall direct the department and Department of Workforce Services to reduce commitments and expenditures by an amount sufficient to offset the deficiency:

(A) proportionate to the share of total current fiscal year General Fund appropriations for each of those agencies; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations;

(ii) the Division of Finance shall reduce allotments to the department and Department of Workforce Services by a percentage:

(A) proportionate to the amount of the deficiency; and

(B) up to 10% of each agency's total current fiscal year General Fund appropriations; and

(iii) the Division of Finance shall deposit the total amount from the reduced allotments described in Subsection (5)(g)(ii) into the Medicaid [~~Expansion~~]ACA Fund.

(6) The department shall maximize federal financial participation in implementing this section, including by seeking to obtain any necessary federal approvals or waivers.

(7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

(8) The department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that a Medicaid expansion is operational:

(a) the number of individuals who enrolled in the Medicaid expansion;

(b) costs to the state for the Medicaid expansion;

(c) estimated costs to the state for the Medicaid expansion for the current and following fiscal years;

(d) recommendations to control costs of the Medicaid expansion; and

(e) as calculated in accordance with Subsections 26B-3-506(4) and 26B-3-606(2), the state's net cost of the qualified Medicaid expansion.

Section 5. Section 26B-3-210 is amended to read:

26B-3-210. Medicaid waiver expansion.

(1) As used in this section:

(a) "Federal poverty level" means the same as that term is defined in Section 26B-3-207.

(b) "Medicaid waiver expansion" means an expansion of the Medicaid program in accordance with this section.

(2)(a) Before January 1, 2019, the department shall apply to CMS for approval of a waiver or state plan amendment to implement the Medicaid waiver expansion.

(b) The Medicaid waiver expansion shall:

(i) expand Medicaid coverage to eligible individuals whose income is below 95% of the federal poverty level;

(ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for enrolling an individual in the Medicaid program;

(iii) provide Medicaid benefits through the state's Medicaid accountable care organizations in areas where a Medicaid accountable care organization is implemented;

(iv) integrate the delivery of behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model;

(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C. Sec. 607(d), for qualified adults;

(vi) require an individual who is offered a private health benefit plan by an employer to enroll in the employer's health plan;

(vii) sunset in accordance with Subsection (5)(a); and

(viii) permit the state to close enrollment in the Medicaid waiver expansion if the department has insufficient funding to provide services to additional eligible individuals.

(3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department may only pay the state portion of costs for the Medicaid waiver expansion with appropriations from:

(a) the Medicaid [~~Expansion~~]ACA Fund, created in Section 26B-1-315;

(b) county contributions to the non-federal share of Medicaid expenditures; and

(c) any other contributions, funds, or transfers from a non-state agency for Medicaid expenditures.

(4)(a) In consultation with the department, Medicaid accountable care organizations and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on enrollment, engagement of patients, and coordination of services.

(b) As part of the provision described in Subsection (2)(b)(iv), the department shall apply for a waiver to permit the creation of an integrated delivery system:

(i) for any geographic area that expresses interest in integrating the delivery of services under Subsection (2)(b)(iv); and

(ii) in which the department:

(A) may permit a local mental health authority to integrate the delivery of behavioral health services and physical health services;

(B) may permit a county, local mental health authority, or Medicaid accountable care organization to integrate the delivery of behavioral health services and physical health services to select groups within the population that are newly eligible under the Medicaid waiver expansion; and

(C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate payments for behavioral health services and physical health services to plans or providers.

(5)(a) If federal financial participation for the Medicaid waiver expansion is reduced below 90%, the authority of the department to implement the Medicaid waiver expansion shall sunset no later than the next July 1 after the date on which the federal financial participation is reduced.

(b) The department shall close the program to new enrollment if the cost of the Medicaid waiver expansion is projected to exceed the appropriations

for the fiscal year that are authorized by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(6) If the Medicaid waiver expansion is approved by CMS, the department shall report to the Social Services Appropriations Subcommittee on or before November 1 of each year that the Medicaid waiver expansion is operational:

(a) the number of individuals who enrolled in the Medicaid waiver program;

(b) costs to the state for the Medicaid waiver program;

(c) estimated costs for the current and following state fiscal year; and

(d) recommendations to control costs of the Medicaid waiver expansion.

Section 6. Section 26B-3-211 is amended to read:

26B-3-211. Primary Care Network enhancement waiver program.

(1) As used in this section:

(a) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in this section.

(b) "Federal poverty level" means the poverty guidelines established by the secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9902(2).

(c) "Health coverage improvement program" means the same as that term is defined in Section 26B-3-207.

(d) "Income eligibility ceiling" means the percentage of federal poverty level:

(i) established by the Legislature in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for coverage in the enhancement waiver program in accordance with this section.

(e) "Optional population" means the optional expansion population under PPACA if the expansion provides coverage for individuals at or above 95% of the federal poverty level.

(f) "Primary Care Network" means the state Primary Care Network program created by the Medicaid primary care network demonstration waiver obtained under Section 26B-3-108.

(2) The department shall continue to implement the Primary Care Network program for qualified individuals under the Primary Care Network program.

(3)(a) The division shall apply for a Medicaid waiver or a state plan amendment with CMS to implement, within the state Medicaid program, the enhancement waiver program described in this section within six months after the day on which:

(i) the division receives a notice from CMS that the waiver for the Medicaid waiver expansion submitted under Section 26B-3-210, Medicaid waiver expansion, will not be approved; or

(ii) the division withdraws the waiver for the Medicaid waiver expansion submitted under Section 26B-3-210, Medicaid waiver expansion.

(b) The division may not apply for a waiver under Subsection (3)(a) while a waiver request under Section 26B-3-210, Medicaid waiver expansion, is pending with CMS.

(4) An individual who is eligible for the enhancement waiver program may receive the following benefits under the enhancement waiver program:

(a) the benefits offered under the Primary Care Network program;

(b) diagnostic testing and procedures;

(c) medical specialty care;

(d) inpatient hospital services;

(e) outpatient hospital services;

(f) outpatient behavioral health care, including outpatient substance use care; and

(g) for an individual who qualifies for the health coverage improvement program, as approved by CMS, temporary residential treatment for substance use in a short term, non-institutional, 24-hour facility, without a bed capacity limit, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

(5) An individual is eligible for the enhancement waiver program if, at the time of enrollment:

(a) the individual is qualified to enroll in the Primary Care Network or the health coverage improvement program;

(b) the individual's annual income is below the income eligibility ceiling established by the Legislature under Subsection (1)(d); and

(c) the individual meets the eligibility criteria established by the department under Subsection (6).

(6)(a) Based on available funding and approval from CMS, the department shall determine the criteria for an individual to qualify for the enhancement waiver program, based on the following priority:

(i) adults in the expansion population, as defined in Section 26B-3-207, who qualify for the health coverage improvement program;

(ii) adults with dependent children who qualify for the health coverage improvement program under Subsection 26B-3-207(3) ;

(iii) adults with dependent children who do not qualify for the health coverage improvement program; and

(iv) if funding is available, adults without dependent children.

(b) The number of individuals enrolled in the enhancement waiver program may not exceed 105% of the number of individuals who were enrolled in the Primary Care Network on December 31, 2017.

(c) The department may only use appropriations from the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315 to fund the state portion of the enhancement waiver program.

(7) The department may request a modification of the income eligibility ceiling and the eligibility criteria under Subsection (6) from CMS each fiscal year based on enrollment in the enhancement waiver program, projected enrollment in the enhancement waiver program, costs to the state, and the state budget.

(8) The department may implement the enhancement waiver program by contracting with Medicaid accountable care organizations to administer the enhancement waiver program.

(9) In accordance with Subsections 26B-3-207(10) and (11), the department may use funds that have been appropriated for the health coverage improvement program to implement the enhancement waiver program.

(10) If the department expands the state Medicaid program to the optional population, the department:

(a) except as provided in Subsection (11), may not accept any new enrollees into the enhancement waiver program after the day on which the expansion to the optional population is effective;

(b) shall suspend the enhancement waiver program within one year after the day on which the expansion to the optional population is effective; and

(c) shall work with CMS to maintain the waiver for the enhancement waiver program submitted under Subsection (3) while the enhancement waiver program is suspended under Subsection (10)(b).

(11) If, after the expansion to the optional population described in Subsection (10) takes effect, the expansion to the optional population is repealed by either the state or the federal government, the department shall reinstate the enhancement waiver program and continue to accept new enrollees into the enhancement waiver program in accordance with the provisions of this section.

Section 7. Section 26B-3-504 is amended to read:

26B-3-504. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The collecting agent for the assessment imposed under Section 26B-3-503 is the department.

(2) The department is vested with the administration and enforcement of this part, and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this part;

(b) audit records of a facility that:

(i) is subject to the assessment imposed by this part; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessment in Part 7, Hospital Provider Assessment; and

(b) deposit assessments collected under this part into the Medicaid [~~Expansion~~]ACA Fund created by Section 26B-1-315.

Section 8. Section 26B-3-508 is amended to read:

26B-3-508. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) The state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of CMS approval of:

(a) the health improvement program waiver under Section 26B-3-207; or

(b) the assessment for private hospitals in this part.

(3) The intergovernmental transfer is apportioned as follows:

(a) the state teaching hospital is responsible for:

(i) 30% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a) through (c); and

(ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d); and

(b) non-state government hospitals are responsible for:

(i) 1% of the portion of the hospital share specified in Subsections 26B-3-506(1)(a) through (c); and

(ii) 0% of the hospital share specified in Subsection 26B-3-506(1)(d).

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 9. Section 26B-3-512 is amended to read:

26B-3-512. Repeal of assessment.

(1) The assessment imposed by this part shall be repealed when:

(a) the executive director certifies that:

(i) action by Congress is in effect that disqualifies the assessment imposed by this part from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(ii) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(A) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(B) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this part; or

(iii) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015; or

(b) this part is repealed in accordance with Section 63I-1-226.

(2) If the assessment is repealed under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this part;

(b) the department shall disburse money in the special Medicaid [~~Expansion~~]ACA Fund in accordance with the requirements in Subsection 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment;

(c) any money remaining in the Medicaid [~~Expansion~~]ACA Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this part shall be refunded to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years; and

(d) any money remaining in the Medicaid [~~Expansion~~]ACA Fund after the disbursements described in Subsections (2)(b) and (c) shall be deposited into the General Fund by the end of the fiscal year that the assessment is suspended.

Section 10. Section 26B-3-601 is amended to read:

26B-3-601. Definitions.

As used in this part:

(1) "Assessment" means the Medicaid expansion hospital assessment established by this part.

(2) "CMS" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

(3) "Discharges" means the number of total hospital discharges reported on:

(a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost report for the applicable assessment year; or

(b) a similar report adopted by the department by administrative rule, if the report under Subsection (3)(a) is no longer available.

(4) "Division" means the Division of Integrated Healthcare within the department.

(5) "Hospital share" means the hospital share described in Section 26B-3-605.

(6) "Medicaid accountable care organization" means a managed care organization, as defined in 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section 26B-3-202.

(7) "Medicaid [~~Expansion~~]ACA Fund" means the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315.

(8) "Medicaid waiver expansion" means the same as that term is defined in Section 26B-3-210.

(9) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of hospitals.

(10)(a) "Non-state government hospital" means a hospital owned by a non-state government entity.

(b) "Non-state government hospital" does not include:

(i) the Utah State Hospital; or

(ii) a hospital owned by the federal government, including the Veterans Administration Hospital.

(11)(a) "Private hospital" means:

(i) a privately owned general acute hospital operating in the state as defined in Section 26B-2-201; or

(ii) a privately owned specialty hospital operating in the state, including a privately owned hospital for which inpatient admissions are predominantly:

(A) rehabilitation;

(B) psychiatric;

(C) chemical dependency; or

(D) long-term acute care services.

(b) "Private hospital" does not include a facility for residential treatment as defined in Section 26B-2-101.

(12) "Qualified Medicaid expansion" means an expansion of the Medicaid program in accordance with Subsection 26B-3-113(5).

(13) "State teaching hospital" means a state owned teaching hospital that is part of an institution of higher education.

Section 11. Section 26B-3-604 is amended to read:

26B-3-604. Collection of assessment -- Deposit of revenue -- Rulemaking.

(1) The department shall act as the collecting agent for the assessment imposed under Section 26B-3-603.

(2) The department shall administer and enforce the provisions of this part, and may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to:

(a) collect the assessment, intergovernmental transfers, and penalties imposed under this part;

(b) audit records of a facility that:

(i) is subject to the assessment imposed under this part; and

(ii) does not file a Medicare cost report; and

(c) select a report similar to the Medicare cost report if Medicare no longer uses a Medicare cost report.

(3) The department shall:

(a) administer the assessment in this part separately from the assessments in Part 7, Hospital Provider Assessment,and Part 5, Inpatient Hospital Assessment; and

(b) deposit assessments collected under this part into the Medicaid [~~Expansion~~]ACA Fund.

(4)(a) Hospitals shall pay the quarterly assessments imposed by this part to the division within 15 business days after the original invoice date that appears on the invoice issued by the division.

(b) The department may make rules creating requirements to allow the time for paying the assessment to be extended.

Section 12. Section 26B-3-605 is amended to read:

26B-3-605. Hospital share.

(1) The hospital share is:

(a) for the period from April 1, 2019, through June 30, 2020, $15,000,000; and

(b) beginning July 1, 2020, 100% of the state's net cost of the qualified Medicaid expansion, after deducting appropriate offsets and savings expected as a result of implementing the qualified Medicaid expansion, including:

(i) savings from:

(A) the Primary Care Network program;

(B) the health coverage improvement program, as defined in Section 26B-3-207;

(C) the state portion of inpatient prison medical coverage;

(D) behavioral health coverage; and

(E) county contributions to the non-federal share of Medicaid expenditures; and

(ii) any funds appropriated to the Medicaid [~~Expansion~~]ACA Fund.

(2)(a) Beginning July 1, 2020, the hospital share is capped at no more than $15,000,000 annually.

(b) Beginning July 1, 2020, the division shall prorate the cap specified in Subsection (2)(a) in any year in which the qualified Medicaid expansion is not in effect for the full fiscal year.

Section 13. Section 26B-3-608 is amended to read:

26B-3-608. State teaching hospital and non-state government hospital mandatory intergovernmental transfer.

(1) A state teaching hospital and a non-state government hospital shall make an intergovernmental transfer to the Medicaid [~~Expansion~~]ACA Fund, in accordance with this section.

(2) The hospitals described in Subsection (1) shall pay the intergovernmental transfer beginning on the later of:

(a) April 1, 2019; or

(b) CMS approval of the assessment for private hospitals in this part.

(3) The intergovernmental transfer is apportioned between the non-state government hospitals as follows:

(a) the state teaching hospital shall pay for the portion of the hospital share described in Section 26B-3-611; and

(b) non-state government hospitals shall pay for the portion of the hospital share described in Section 26B-3-611.

(4) The department shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate:

(a) the method of calculating the amounts designated in Subsection (3); and

(b) the schedule for the intergovernmental transfers.

Section 14. Section 26B-3-612 is amended to read:

26B-3-612. Suspension of assessment.

(1) The department shall suspend the assessment imposed by this part when the executive director certifies that:

(a) action by Congress is in effect that disqualifies the assessment imposed by this part from counting toward state Medicaid funds available to be used to determine the amount of federal financial participation;

(b) a decision, enactment, or other determination by the Legislature or by any court, officer, department, or agency of the state, or of the federal government, is in effect that:

(i) disqualifies the assessment from counting toward state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds; or

(ii) creates for any reason a failure of the state to use the assessments for at least one of the Medicaid programs described in this part; or

(c) a change is in effect that reduces the aggregate hospital inpatient and outpatient payment rate below the aggregate hospital inpatient and outpatient payment rate for July 1, 2015.

(2) If the assessment is suspended under Subsection (1):

(a) the division may not collect any assessment or intergovernmental transfer under this part;

(b) the division shall disburse money in the Medicaid [~~Expansion~~]ACA Fund that was derived from assessments imposed by this part in accordance with the requirements in Subsection 26B-1-315(4), to the extent federal matching is not reduced by CMS due to the repeal of the assessment; and

(c) the division shall refund any money remaining in the Medicaid [~~Expansion~~]ACA Fund after the disbursement described in Subsection (2)(b) that was derived from assessments imposed by this part to the hospitals in proportion to the amount paid by each hospital for the last three fiscal years.

Section 15. Section 36-12-13 is amended to read:

36-12-13. Office of the Legislative Fiscal Analyst established -- Powers, functions, and duties -- Qualifications.

(1) There is established an Office of the Legislative Fiscal Analyst as a permanent staff office for the Legislature.

(2) The powers, functions, and duties of the Office of the Legislative Fiscal Analyst under the supervision of the fiscal analyst are:

(a)(i) to estimate general revenue collections, including comparisons of:

(A) current estimates for each major tax type to long-term trends for that tax type;

(B) current estimates for federal fund receipts to long-term federal fund trends; and

(C) current estimates for tax collections and federal fund receipts to long-term trends deflated for the inflationary effects of debt monetization; and

(ii) to report the analysis required under Subsection (2)(a)(i) to the Legislature's Executive Appropriations Committee before each annual general session of the Legislature;

(b) to analyze in detail the state budget before the convening of each legislative session and make recommendations to the Legislature on each item or program appearing in the budget, including:

(i) funding for and performance of programs, acquisitions, and services currently undertaken by state government to determine whether each department, agency, institution, or program should:

(A) continue at its current level of expenditure;

(B) continue at a different level of expenditure; or

(C) be terminated; and

(ii) increases or decreases to spending authority and other resource allocations for the current and future fiscal years;

(c) to prepare on all proposed bills fiscal estimates that reflect:

(i) potential state government revenue impacts;

(ii) anticipated state government expenditure changes;

(iii) anticipated expenditure changes for county, municipal, special district, or special service district governments;

(iv) anticipated direct expenditure by Utah residents and businesses, including the unit cost, number of units, and total cost to all impacted residents and businesses; and

(v) if the proposed bill changes retirement benefits under a system or plan governed by Title 49, Utah State Retirement and Insurance Benefit Act, the anticipated effect on:

(A) each affected system's or plan's unfunded actuarial accrued liability and actuarial funded ratio, based on current employer contributions;

(B) employer contributions and member contributions;

(C) a retiree's retirement allowance;

(D) the total cost to active members and retirees; and

(E) the total cost to employers for all active members and retirees;

(d) to indicate whether each proposed bill will impact the regulatory burden for Utah residents or businesses, and if so:

(i) whether the impact increases or decreases the regulatory burden; and

(ii) whether the change in burden is high, medium, or low;

(e) beginning in 2017 and repeating every three years after 2017, to prepare the following cycle of analyses of long-term fiscal sustainability:

(i) in year one, the joint revenue volatility report required under Section 63J-1-205;

(ii) in year two, a long-term budget for programs appropriated from major funds and tax types; and

(iii) in year three, a budget stress test that, in consultation with the Governor's Office of Planning and Budget:

(A) [~~comparing~~]compares estimated future revenue to and expenditure from major funds and tax types under various potential economic conditions;

(B) analyzes the economic and policy risks associated with funding for the Medicaid program and expansions of the Medicaid program;

(C) measures value at risk; and

(D) recommends budgetary actions to manage risk;

(f) to report instances in which the administration may be failing to carry out the expressed intent of the Legislature;

(g) to propose and analyze statutory changes for more effective operational economies or more effective administration;

(h) to prepare, before each annual general session of the Legislature, a summary showing the current status of the following as compared to the past nine fiscal years:

(i) debt;

(ii) long-term liabilities;

(iii) contingent liabilities;

(iv) General Fund borrowing;

(v) reserves;

(vi) fund and nonlapsing balances; and

(vii) cash funded capital investments;

(i) to make recommendations for addressing the items described in Subsection (2)(h) in the upcoming annual general session of the Legislature;

(j) to prepare, after each session of the Legislature, a summary showing the effect of the final legislative program on the financial condition of the state;

(k) to conduct organizational and management improvement studies in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(l) to prepare and deliver upon request of any interim committee or the Legislative Management Committee, reports on the finances of the state and on anticipated or proposed requests for appropriations;

(m) to recommend areas for research studies by the executive department or the interim committees;

(n) to appoint and develop a professional staff within budget limitations;

(o) to prepare and submit the annual budget request for the office;

(p) to develop a taxpayer receipt:

(i) available to taxpayers through a website; and

(ii) that allows a taxpayer to view on the website an estimate of how the taxpayer's tax dollars are expended for government purposes; and

(q) to publish or provide other information on taxation and government expenditures that may be accessed by the public.

(3) The legislative fiscal analyst shall have a master's degree in public administration, political science, economics, accounting, or the equivalent in academic or practical experience.

(4) In carrying out the duties provided for in this section, the legislative fiscal analyst may obtain access to all records, documents, and reports necessary to the scope of the legislative fiscal analyst's duties according to the procedures contained in Title 36, Chapter 14, Legislative Subpoena Powers.

(5) The Office of the Legislative Fiscal Analyst shall provide any information the State Board of Education reports in accordance with Subsection 53E-3-507(7) to:

(a) the chief sponsor of the proposed bill; and

(b) upon request, any legislator.

Section 16. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to

17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the

deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 17. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the

taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)(i) As used in this Subsection (7)(b):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (7)(b)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d)(i) As used in this Subsection (8)(d):

(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.

(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).

(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).

(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section

35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid [~~Expansion~~]ACA Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 18. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6)(a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7)(a)(i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b)(i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health and Human Services in accordance with Subsection 26B-3-909(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10)(a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11)(a)(i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid ~~[Restricted]~~Growth Reduction and Budget Stabilization Account created by Section ~~[26B-1-309]~~63J-1-315.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 19. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid ~~[Restricted]~~Growth Reduction and Budget Stabilization Account created in Section ~~[26B-1-309]~~63J-1-315.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 20. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid [~~Expansion~~]ACA Fund, is repealed July 1, [~~2024~~]2034.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-136, related to the Volunteer Emergency Medical Service Personnel Health Insurance Program, is repealed July 1, 2027.

(30) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(31) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(32) Section 26B-5-112.5 is repealed December 31, 2026.

(33) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(34) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(35) Section 26B-5-120 is repealed December 31, 2026.

(36) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(37) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(38) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(39) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(40) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(41) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(42) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

(43) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 21. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(i), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, which creates the Medicaid [~~Expansion~~]ACA Fund, is repealed July 1, [~~2024~~]2034.

(3) Section 26B-1-319, which creates the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(4) Section 26B-1-320, which creates the Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsection 26B-1-324(4), the language that states "the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202," is repealed December 31, 2026.

(6) Subsection 26B-1-329(6), related to the Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(7) Section 26B-1-402, related to the Rare Disease Advisory Council Grant Program, is repealed July 1, 2026.

(8) Section 26B-1-409, which creates the Utah Digital Health Service Commission, is repealed July 1, 2025.

(9) Section 26B-1-410, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(10) Section 26B-1-416, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(11) Section 26B-1-417, which creates the Brain Injury Advisory Committee, is repealed July 1, 2025.

(12) Section 26B-1-418, which creates the Neuro-Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee, is repealed January 1, 2025.

(13) Section 26B-1-422, which creates the Early Childhood Utah Advisory Council, is repealed July 1, 2029.

(14) Section 26B-1-428, which creates the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program, is repealed July 1, 2025.

(15) Section 26B-1-430, which creates the Coordinating Council for Persons with Disabilities, is repealed July 1, 2027.

(16) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(17) Section 26B-1-432, which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(18) Section 26B-1-434, regarding the Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2026.

(19) Section 26B-2-407, related to drinking water quality in child care centers, is repealed July 1, 2027.

(20) Subsection 26B-3-107(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(21) Section 26B-3-136, which creates the Children's Health Care Coverage Program, is repealed July 1, 2025.

(22) Section 26B-3-137, related to reimbursement for the National Diabetes Prevention Program, is repealed June 30, 2027.

(23) Subsection 26B-3-213(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed December 31, 2026.

(24) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.

(25) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2024.

(26) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2024.

(27) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

(28) Section 26B-3-910, regarding alternative eligibility, is repealed July 1, 2028.

(29) Section 26B-4-710, related to rural residency training programs, is repealed July 1, 2025.

(30) Subsections 26B-5-112(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed December 31, 2026.

(31) Section 26B-5-112.5 is repealed December 31, 2026.

(32) Section 26B-5-114, related to the Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

(33) Section 26B-5-118, related to collaborative care grant programs, is repealed December 31, 2024.

(34) Section 26B-5-120 is repealed December 31, 2026.

(35) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:

(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and

(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.

(36) In relation to the Behavioral Health Crisis Response Commission, on December 31, 2026:

(a) Subsection 26B-5-609(1)(a) is repealed;

(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the commission," is repealed;

(c) Subsection 26B-5-610(1)(b) is repealed;

(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the commission," is repealed; and

(e) Subsection 26B-5-610(4), the language that states "In consultation with the commission," is repealed.

(37) Subsections 26B-5-611(1)(a) and (10), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

(38) Section 26B-5-612, related to integrated behavioral health care grant programs, is repealed December 31, 2025.

(39) Subsection 26B-7-119(5), related to reports to the Legislature on the outcomes of the Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

(40) Section 26B-7-224, related to reports to the Legislature on violent incidents and fatalities involving substance abuse, is repealed December 31, 2027.

(41) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2024.

(42) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.

Section 22. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-309 is repealed on July 1, 2024.

[~~(4)~~](5) Section 26B-1-313 is repealed on July 1, 2024.

[~~(5)~~](6) Section 26B-1-314 is repealed on July 1, 2024.

[~~(6)~~](7) Section 26B-1-321 is repealed on July 1, 2024.

[~~(7)~~](8) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

[~~(8)~~](9) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

[~~(9)~~](10) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(10)~~](11) Section 26B-3-142 is repealed July 1, 2024.

[~~(11)~~](12) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(12)~~](13) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(13)~~](14) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14)~~](15) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(15)~~](16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(16)~~](17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 23. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-309 is repealed on July 1, 2024.

[~~(3)~~](4) Section 26B-1-313 is repealed on July 1, 2024.

[~~(4)~~](5) Section 26B-1-314 is repealed on July 1, 2024.

[~~(5)~~](6) Section 26B-1-321 is repealed on July 1, 2024.

[~~(6)~~](7) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

[~~(7)~~](8) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(8)~~](9) Section 26B-3-142 is repealed July 1, 2024.

[~~(9)~~](10) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(10)~~](11) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(11)~~](12) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(12)~~](13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 24. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Deposits -- Transfers of Medicaid growth savings -- Base budget adjustments -- Appropriations.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(b) "Division" means the Division of Integrated Healthcare created in Section 26B-3-102.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26B-3-101.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3)(a) The following shall be deposited into the Medicaid Growth Reduction and Budget Stabilization Account:

(i) deposits described in Subsection (4);

(ii) beginning July 1, 2024, any general funds appropriated to the department for the state plan for medical assistance or for Medicaid administration by the Division of Integrated Healthcare that are not expended by the department in the fiscal year for which the general funds were appropriated and which are not otherwise designated as nonlapsing shall lapse into the Medicaid Growth Reduction and Budget Stabilization Account;

(iii) beginning July 1, 2024, any unused state funds that are associated with the Medicaid program from the Department of Workforce Services;

(iv) beginning July 1, 2024, any penalties imposed and collected under:

(A) Section 17B-2a-818.5;

(B) Section 19-1-206;

(C) Section 63A-5b-607;

(D) Section 63C-9-403;

(E) Section 72-6-107.5; or

(F) Section 79-2-404; and

(v) at the close of fiscal year 2024, the Division of Finance shall transfer any existing balance in the Medicaid Restricted Account created in Section 26B-1-309 into the Medicaid Growth Reduction and Budget Stabilization Account.

(b) In addition to the deposits described in Subsection (3)(a), the Legislature may appropriate money into the Medicaid Growth Reduction and Budget Stabilization Account.

[~~(3)~~](4)(a)(i) Except as provided in Subsection [~~(6)~~](7), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection [~~(6)~~](7), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections [~~(3)(a)~~](4)(a) and [~~(3)(b)~~](4)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26B-3-202 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

[~~(4)~~](5) The Division of Finance shall calculate the amount to be transferred under Subsection [~~(3)~~](4):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

[~~(5)~~](6)(a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection [~~(5)(a)~~](6)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection [~~(3)~~](4), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection [~~(5)(a)~~](6)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections [~~(3)~~](4) and [~~(4)~~](5), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection [~~(5)~~](6) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

[~~(6)~~](7) Notwithstanding Subsections [~~(3)~~](4) and [~~(4)~~](5), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

[~~(7)~~](8) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) for the Medicaid program; and

[~~(a)~~](b)(i) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; [~~and~~]or

(ii) if the amount of the appropriation is equal to or less than the balance in the Medicaid Growth Reduction and Budget Stabilization Account that comprises deposits described in Subsections (3)(a)(ii) through (v) and appropriations described in Subsection (3)(b).

[~~(b) for the Medicaid program.~~]

[~~(8)~~](9) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 25. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after

July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid [~~Restricted~~]Growth Reduction and Budget Stabilization Account created in Section [~~26B-1-309~~]63J-1-315.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 26. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii)(A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5)(a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26B-3-909;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b)(i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an

underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)(i)(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).

(7)(a)(i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid ~~[Restricted]~~Growth Reduction and Budget Stabilization Account created in Section ~~[26B-1-309]~~63J-1-315.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 27. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 27(a) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted - - Medicaid Growth Reduction and Budget Stabilization Account

From General Fund Restricted - Medicaid Restricted Account, One- time $23,700,000

Schedule of Programs:

General Fund Restricted - - Medicaid Growth Reduction and Budget Stabilization Account $23,700,000

Section 28. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2)(a) The actions affecting the following sections take effect on July 1, 2024:

(i) Section 17B- 2a- 818.5;

(ii) Section 19- 1- 206;

(iii) Section 63A- 5b- 607;

(iv) Section 63C- 9- 403;

(v) Section 63I- 1- 226 (Effective 07/01/2024);

(vi) Section 63I- 2- 226 (Effective 07/01/2024);

(vii) Section 72- 6- 107.5; and

(viii) Section 79- 2- 404.

(b) The actions affecting Section 59- 12- 103 (Contingently Effective 01/01/2025) contingently take effect on January 1, 2025.

CHAPTER 440
H. B. 50
Passed February 5, 2024
Approved March 20, 2024
Effective May 1, 2024

STATE HIGHWAY DESIGNATION AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Transportation Code to designate the West Davis Corridor as a state highway and other changes to highway designations.

Highlighted Provisions:

This bill:

- adds the West Davis Corridor to the state highway inventory; and
- amends the description of SR-154 in Draper.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-4-121, as last amended by Laws of Utah 2014, Chapter 44
72-4-123, as last amended by Laws of Utah 2022, Chapter 83

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-4-121 is amended to read:

72-4-121. State highways -- SR-152 to SR-160.

State highways include:

(1) SR-152. From Route 71 at 4800 South Street southeasterly on Van Winkle Expressway to the Route 215 Interchange near 6400 South Street.

(2) SR-153. From Route 160 in Beaver easterly by Puffer Lake to Route 89 in Junction City.

(3) SR-154. From [~~Route 15 westerly near 13400 South~~]150 East Street westerly on Bangerter Highway to near 3200 West; then northerly to the westbound off ramp of Route 80 near the Salt Lake International Airport.

(4) SR-155. From Route 10 in Huntington northeasterly to Cleveland; then northerly to Route 10 at Washboard Junction.

(5) SR-156. From Route 198 in Spanish Fork north on Main Street to Route 15.

(6) SR-157. From Route 6 in Helper easterly on Poplar Street to Main Street; then southerly and northeasterly to Kenilworth.

(7) SR-158. From Eden Junction on Route 39 northerly to the parking lot of Powder Mountain Ski Resort.

(8) SR-159. From Route 21 near Garrison north to Route 6 near the Utah-Nevada state line.

(9) SR-160. From Route 15 south of Beaver northerly through Beaver to Route 15 north of Beaver.

Section 2. Section 72-4-123 is amended to read:

72-4-123. State highways -- SR-171 to SR-176, SR-178, SR-180.

State highways include:

(1) SR-171. From Route 111 at Eighty-fourth West Street and Thirty-fifth South Street easterly on Thirty-fifth South Street and Thirty-third South Street to Route 215 at the east-side belt route.

(2) SR-172. From 6200 South north on 5600 West to Route 80.

(3) SR-173. From Route 111 southeast of Magna easterly through Kearns and Murray to Route 89 at 5300 South Street in Murray.

(4) SR-174. From Intermountain Power Plant main gate southeasterly to Route 6 south of Lynndyl.

(5) SR-175. From Route 89 westerly on 11400 South to Route 154.

(6) SR-176. From Route 114 westerly on Vineyard Connector to Main Street in Vineyard.

(7) SR-177. From the on-ramps of Route 15 and Route 67 in Farmington westerly and northerly to Route 193 in West Point.

[~~(7)~~](8) SR-178. From the southbound on and off ramps of Route 15 east on 800 South in Payson to Route 198.

[~~(8)~~](9) SR-179. From Route 138 near Grantsville northerly via Midvalley Highway to Route 80 in Tooele County.

[~~(9)~~](10) SR-180. From Route 15 southeast of American Fork northerly on Fifth East Street to Route 89 in American Fork.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 441
H. B. 74
Passed February 2, 2024
Approved March 20, 2024
Effective May 1, 2024

UTILITY RELOCATION COST SHARING AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to allocation of costs to relocate utility infrastructure within state highway and certain public transit rights-[–]of-[ ]way.

Highlighted Provisions:

This bill:

- defines terms;
- requires coordination and cooperation between the Department of Transportation and utilities impacted by certain capital development projects;
- provides for sharing of utility relocation costs caused by certain capital development projects for which the Department of Transportation has oversight and supervision;
- requires the Department of Transportation to abide by agreements with a utility relevant to the relocation of utility infrastructure; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-6-116, as last amended by Laws of Utah 2020, Chapter 80

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-6-116 is amended to read:

72-6-116. Regulation of utilities -- Relocation of utilities.

(1) As used in this section:

(a) "Cost of relocation" includes the entire amount paid by the utility company properly attributable to the relocation of the utility after deducting any increase in the value of the new utility and any salvage value derived from the old utility.

(b) "Department project" means:

(i) a state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway; or

(ii) a fixed guideway capital development project for which the department has oversight and supervision, including a transit station, passenger loading or unloading zone, parking lot, or other facility that is constructed or reconstructed immediately adjacent to a fixed guideway that is part of a fixed guideway capital development project.

[~~(b)~~](c) "Exempt water supplier" means an entity that directly or indirectly supplies at least a portion of the entity's water for culinary purposes to the public for municipal, domestic, or industrial use, and is:

(i) a water corporation, as defined in Section 54-2-1, that is regulated by the Public Service Commission; or

(ii) a community water system:

(A) that either supplies water to at least 100 service connections used by year-round residents, or regularly serves at least 200 year-round residents; and

(B) whose voting members own a share in the community water system, receive water from the community water system in proportion to the member's share in the community water system, and pay the rate set by the community water system based on the water the member receives.

[~~(c)~~](d) "Utility" includes telecommunication, crude oil, petroleum products, gas, electricity, cable television, water, sewer, data, and video transmission lines, drainage and irrigation facilities, and other similar utilities whether public, private, or cooperatively owned.

[~~(d)~~](e) "Utility company" means a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions.

(2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of all utilities.

(b) If the department determines under the rules established in this section that it is necessary that any utilities should be relocated, notwithstanding any other provision of this section:

(i) the utility company owning or operating the utilities shall relocate the utilities [~~in accordance with this section and the~~]after receiving an order of the department[~~.~~]; and

(ii) the cost allocations described in Subsection (3) shall apply.

(3)(a) The department shall pay 100% of the cost of relocation of a utility to accommodate construction of a [~~state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway~~]department project if the:

(i) utility is owned or operated by:

(A) a political subdivision of the state; or

(B) an exempt water supplier;

(ii) utility company owns the easement or fee title to the right-of-way in which the utility is located; or

(iii) utility is located in a public utility easement as defined in Section 54-3-27.

(b) Except as provided in Subsection (3)(a), (c), or (d) or Section 54-21-603, the department shall pay 50% of the cost of relocation of a utility to accommodate construction of a [~~state highway project, including the construction of a proposed state highway and the improvement, widening, or modification of an existing state highway~~] department project, and the utility company shall pay the remainder of the cost of relocation.

[~~(c) If the utility described in Subsection (3)(b) is a crude oil or petroleum products pipeline, unless the utility meets the conditions described in Subsection (3)(a):~~]

[~~(i) the utility company shall pay the lesser of:~~]

(c) Subject to Subsection (3)(e), if a utility company is responsible to pay for a portion of a utility relocation as described in Subsection (3)(b):

(i) the utility shall pay the lesser of:

(A) 50% of the cost of relocation of the [~~pipeline~~]utility to accommodate construction of a [~~proposed state highway and the improvement, widening, and modification of an existing highway~~] department project; or

(B) 50% of the cost of any structure or facility necessary to avoid impinging on the [~~pipeline, and the department shall pay the remainder of the cost of the structure or facility; and~~]utility;

(ii) the department shall pay the remainder of the cost, which is the total cost less the portion paid by the utility under Subsection (3)(c)(i); and

(iii) the department shall make the final decision whether to proceed under:

(A) Subsection (3)(c)(i)(A); or

(B) Subsection (3)(c)(i)(B).

(d) This Subsection (3) does not affect the provisions of Subsection 72-7-108(5).

(e)(i) If the department or a large public transit district has entered into a written agreement with a utility before May 1, 2024, pertaining to the use of right-of-way by the utility and relocation costs, the department and the utility shall abide by the terms of the agreement when constructing a fixed guideway capital development project.

(ii) If the department has entered into a written agreement with a utility pertaining to the use of right-of-way by the utility and relocation costs, the department and the utility shall abide by the terms of the agreement when constructing a department project.

(4) If a utility is relocated, the utility company owning or operating the utility, its successors or assigns, may maintain and operate the utility, with the necessary appurtenances, in the new location.

(5) In accordance with this section, the cost of relocating a utility in connection with any [~~project on a highway is a cost of highway construction~~] department project is a cost of construction for the department project.

(6)(a) The department shall notify affected utility companies, in accordance with Section 54-3-29, whenever the relocation of utilities is likely to be necessary because of a [~~reconstruction~~]department project.

(b) The notification shall be made during the preliminary design of the project or as soon as practical in order to minimize the number, costs, and delays of utility relocations.

(c) [~~A utility company notified~~]When the department notifies a utility company under this Subsection (6):

(i) the utility shall coordinate and cooperate with the department and the department's contractor on the utility relocations, including the scheduling of the utility relocations[~~.~~]; and

(ii) the department and the utility shall strive to identify conflicts, minimize utility relocation costs and operational impacts, minimize department project costs and delays, and coordinate and cooperate with one another.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 442
H. B. 79
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

INITIATIVES AND REFERENDA AMENDMENTS

Chief Sponsor: Jennifer Dailey- Provost
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions relating to collecting signatures for, or removing signatures from, an initiative petition or a referendum petition.

Highlighted Provisions:

This bill:

- defines terms;
- modifies requirements for a form to remove a signature from an initiative petition or a referendum petition;
- clarifies that a particular document that a signature gatherer is required to provide to a petition signer must only be offered to the petition signer;
- establishes an alternate procedure for an individual with a disability to sign, or to request removal of a signature from, an initiative petition or a referendum petition and an alternate procedure for verifying the individual's signature;
- in relation to the alternate procedure described in the preceding paragraph:
  - modifies certain forms to reflect the alternate procedure; and
  - makes it a crime to engage in certain fraudulent activity;
- modifies the requirements that must be fulfilled before circulating a statewide initiative or a statewide referendum;
- provides that an individual who signs an initiative packet or a referendum packet must read the entire statement included with the packet;
- provides that the attestation relating to reading a statement provided with an initiative packet or a referendum packet or reading the law to which the initiative or referendum relates, does not require the signature- gatherer to attest that the individual understands the statement or law;
- modifies the verification form for a signature packet;
- modifies certain mailing requirements to permit other delivery methods;
- requires a local clerk to provide petition sponsors with a copy of the voter information pamphlet to be included in the signature packet; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A- 1- 1003, as enacted by Laws of Utah 2023, Chapter 116 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 116
20A- 7- 101, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 104, as enacted by Laws of Utah 2021, Chapter 418
20A- 7- 105, as enacted by Laws of Utah 2023, Chapter 116
20A- 7- 202.5, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 203, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 204, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 209, as last amended by Laws of Utah 2023, Chapters 45, 107 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 45
20A- 7- 213, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 215, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 216, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 303, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 308, as last amended by Laws of Utah 2023, Chapters 45, 107
20A- 7- 312, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 313, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 314, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 502.5, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 503, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 504, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 508, as last amended by Laws of Utah 2023, Chapters 45, 107 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 45
20A- 7- 512, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 514, as last amended by Laws of Utah 2023, Chapter 107
20A- 7- 515, as last amended by Laws of Utah 2023, Chapters 107, 116
20A- 7- 602.5, as last amended by Laws of Utah 2023, Chapter 107

20A-7-603, as last amended by Laws of Utah 2023, Chapter 107
20A-7-604, as last amended by Laws of Utah 2023, Chapter 107
20A-7-608, as last amended by Laws of Utah 2023, Chapters 45, 107
20A-7-612, as last amended by Laws of Utah 2023, Chapter 107
20A-7-614, as last amended by Laws of Utah 2023, Chapter 107
20A-7-615, as last amended by Laws of Utah 2023, Chapters 107, 116

ENACTS:
20A-7-106, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-1003 is amended to read:

20A-1-1003. Signature removal -- Statement required.

(1) A voter who signs a petition may have the voter's signature removed from the petition by submitting to the clerk a statement requesting that the voter's signature be removed.

(2)(a)(i) The statement described in Subsection (1) shall include:

(A) the name or description of the petition from which the voter seeks to remove the voter's signature;

[~~(A)~~](B) the name of the voter;

[~~(B)~~](C) the resident address at which the voter is registered to vote;

[~~(C)~~](D) except as otherwise provided in Section 20A-7-106, the voter's signature; and

[~~(D)~~](E) the date of the signature described in Subsection [~~(2)(a)(i)(C)~~](2)(a)(i)(D).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(b) Except as provided in Subsection [~~20A-7-216(5)(c), 20A-7-314(5)(c), 20A-7-515(4)(d), or 20A-7-615(4)(d)~~]20A-7-216(5)(a), 20A-7-314(5)(a), 20A-7-515(4)(b), or 20A-7-615(4)(b), a voter may not submit a statement described in Subsection (1) by email or other electronic means.

(c) In order for the signature to be removed, the clerk must receive the statement described in Subsection (1) no later than the deadline described in the provision of law governing the petition.

(d) A voter may only remove a signature from a petition in accordance with this section and the provision of law governing the petition.

(e) A clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection (3).

(3) [~~The~~]Except to the extent otherwise required under Section 20A-7-106, the clerk shall use the following procedures to determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if the signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the individual's signature on the statement is reasonably consistent with the individual's signature on the statewide voter registration database, the clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the clerk shall remove the signature from the petition if:

(i) the address on the statement and the address provided by the individual with the individual's petition signature match the address of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i); and

(c) if there is no match of an address and a substantially similar name, the clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and the birth date or age provided by the individual with the individual's petition signature match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the individual's signature on the statement is reasonably consistent with the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i)[~~; and~~].

[~~(d) if~~]

(4) If a signature does not qualify for removal under Subsection (3)(a), (b), or (c), or, if applicable, Section 20A-7-106, the clerk may not remove the signature from the petition.

Section 2. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact statement" means

a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

(11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

(15)(a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(21)(a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(22) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(27) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(28) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(29) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

(30) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(31) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

(32) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; [~~and~~]

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

[~~(B)~~](C) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; [~~and~~]

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the

initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

[~~(B)~~](C) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; [~~and~~]

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

[~~(B)~~](C) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; [~~and~~]

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

[~~(B)~~](C) does not include an electronic signature.

(33) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

(34) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(35) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

(36)(a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(37) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(38) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(39) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 3. Section 20A-7-104 is amended to read:

20A-7-104. Signature gatherers -- Payments -- Badges -- Information -- Requirement to provide initiative or referendum for reading.

(1) A person may not pay a person to gather signatures under this chapter based on a rate per signature, on a rate per verified signature, or on the initiative or referendum qualifying for the ballot.

(2) A person that pays a person to gather signatures under this section shall base the payment solely on an hourly rate.

(3) A person may not accept payment made in violation of this section.

(4) An individual who is paid to gather signatures for a petition described in this chapter shall, while gathering signatures, wear a badge on the front of the individual's torso that complies with the following, ensuring that the information on the badge is clearly visible to the individual from whom a signature is sought:

(a) the badge shall be printed in black ink on white cardstock and laminated; and

(b) the information on the badge shall be in at least 24-point type and include the following information:

(i) an identification number that is unique to the individual gathering signatures, assigned by:

(A) for a statewide initiative or referendum, the lieutenant governor; or

(B) for a local initiative or referendum, the local clerk;

(ii) the title of the initiative or referendum;

(iii) the words "Paid Signature Gatherer"; and

(iv) the name of the entity paying the signature gatherer.

(5) [~~Except as provided in Subsection (6)(b), an~~]An individual who gathers signatures under this chapter shall [~~provide~~]offer a paper document to each individual who signs the petition that:

(a) is printed in black ink on white paper, white cardstock, or a white sticker, in at least 12-point type; and

(b)(i) for an initiative, includes the name of the initiative and the following statement:

"You may view the initiative, its fiscal impact, and information on removing your signature from the petition at [list a uniform resource locator that links directly to the information described in Section 20A-7-202.7 or 20A-7-502.6, as applicable]."; or

(ii) for a referendum, includes the name of the referendum and the following statement:

"You may view the referendum and information on removing your signature from the petition at [list a uniform resource locator that links directly to the information described in Section 20A-7-304.5 or 20A-7-604.5, as applicable]."

(6) An individual who gathers signatures under this chapter[~~.~~]

[~~(a)~~] shall, before collecting a signature from an individual, present to the individual a printed or digital copy of the initiative or referendum and wait for the individual to read the initiative or referendum[~~; and~~].

[~~(b) is not required to provide the document described in Subsection (5) if, after the individual offers to provide the document, the individual who signs the petition declines to accept the document.~~]

(7) A person who violates this section is guilty of a class B misdemeanor.

Section 4. Section 20A-7-105 is amended to read:

20A-7-105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3)(a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4)(a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5)(a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 40 days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the last initiative packet to the county clerk, the sponsors shall submit to the county clerk:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-105(5)(c).

_____

(Name) (Residence Address) (Date)".

(e) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c) or (d).

(6)(a) Within 21 days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002, or 20A-7-106 if applicable, to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8)(a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the application is filed; or

(iv)(A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

[~~(e) A statement described in this Subsection (8) shall comply with the requirements described in Subsection 20A-1-1003(2).~~]

[~~(f)~~](e) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

[~~(g)~~](f) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9)(a) If the county clerk timely receives a statement requesting signature removal under Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 5. Section 20A-7-106 is enacted to read:

20A-7-106. Petition signature or removal for an individual with a disability.

(1) If a voter who desires to sign a petition is, due to a qualifying disability under the Americans with Disabilities Act, unable to fill out the signature sheet or to sign the voter's name consistently, the voter may:

(a) inform the individual gathering signatures that, due to a qualifying disability under the Americans with Disabilities Act, the voter is unable to fill out the signature sheet or to sign the voter's name consistently; and

(b) direct the individual gathering signatures to:

(i) fill out the form on the signature sheet with the information provided by the voter; and

(ii) in place of the registered voter's signature:

(A) place the initials "AV" to indicate that the county clerk must use an alternate verification process to verify the validity of the voter's signature; and

(B) place next to the initials described in Subsection (1)(b)(ii)(A) a phone number, email address, or other method that the county clerk may use to contact the voter to verify the identity of the voter.

(2) If a voter who desires to remove the voter's signature from a petition is, due to a qualifying disability under the Americans with Disabilities

Act, unable to sign the voter's name consistently, the voter may, instead of signing the statement described in Section 20A-1-1003:

(a) place the initials "AV" to indicate that the county clerk must use an alternate verification process to verify the validity of the voter's signature; and

(b) include in the statement a phone number, email address, or other method that the county clerk may use to contact the voter to verify the identity of the voter.

(3) The alternate verification process described in this section includes:

(a) the process described in Subsection 20A-3a-401(7)(b); or

(b) another process established by rule, made by the director of elections within the Office of the Lieutenant Governor, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 6. Section 20A-7-202.5 is amended to read:

20A-7-202.5. Initial fiscal impact statement -- Preparation of statement -- Challenge to statement.

(1) Within three working days after the day on which the lieutenant governor receives an initiative application, the lieutenant governor shall submit a copy of the initiative application to the Office of the Legislative Fiscal Analyst.

(2)(a) The Office of the Legislative Fiscal Analyst shall prepare an unbiased, good faith initial fiscal impact statement for the proposed law, not exceeding 100 words plus 100 words per revenue source created or impacted by the proposed law, that contains:

(i) a description of the total estimated fiscal impact of the proposed law over the time period or time periods determined by the Office of the Legislative Fiscal Analyst to be most useful in understanding the estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase taxes, decrease taxes, or impose a new tax, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law, a dollar amount showing the estimated amount of a new tax, and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase a particular tax or tax rate, the tax percentage difference and the tax percentage increase for each tax or tax rate increased;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a dollar amount representing the estimated cost or savings, if any, to state or local government entities under the proposed law;

(vi) if the proposed law would increase costs to state government, a listing of all sources of funding for the estimated costs; and

(vii) a concise description and analysis titled "Funding Source," not to exceed 100 words for each funding source, of the funding source information described in Subsection 20A-7-202(2)(e)(ii).

(b) If the proposed law is estimated to have no fiscal impact, the Office of the Legislative Fiscal Analyst shall include a summary statement in the initial fiscal impact statement in substantially the following form:

"The Office of the Legislative Fiscal Analyst estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(3) Within 25 calendar days after the day on which the lieutenant governor delivers a copy of the initiative application, the Office of the Legislative Fiscal Analyst shall:

(a) [~~deliver~~]send a copy of the initial fiscal impact statement to the lieutenant governor's office; and

(b) [~~mail~~]send a copy of the initial fiscal impact statement to the first five sponsors named in the initiative application.

(4)(a)(i) Three or more of the sponsors of the initiative petition may, within 20 calendar days after the day on which the Office of the Legislative Fiscal Analyst delivers the initial fiscal impact statement to the lieutenant governor's office, file a petition with the appropriate court, alleging that the initial fiscal impact statement, taken as a whole, is an inaccurate estimate of the fiscal impact of the initiative.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the petition filed with the court to:

(A) any person or group that has filed an argument with the lieutenant governor's office for or against the initiative that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the initiative.

(b)(i) There is a presumption that the initial fiscal impact statement prepared by the Office of the Legislative Fiscal Analyst is based upon reasonable assumptions, uses reasonable data, and applies accepted analytical methods to present the estimated fiscal impact of the initiative.

(ii) The court may not revise the contents of, or direct the revision of, the initial fiscal impact

statement unless the plaintiffs rebut the presumption by clear and convincing evidence that establishes that the initial fiscal impact statement, taken as a whole, is an inaccurate statement of the estimated fiscal impact of the initiative.

(iii) The court may refer an issue related to the initial fiscal impact statement to a master to examine the issue and make a report in accordance with Utah Rules of Civil Procedure, Rule 53.

(c) The court shall certify to the lieutenant governor a fiscal impact statement for the initiative that meets the requirements of this section.

Section 7. Section 20A-7-203 is amended to read:

20A-7-203. Manual initiative process -- Form of initiative petition and signature sheets.

(1) This section applies only to the manual initiative process.

(2)(a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _____(month\day\year);

Each signer says:

I have personally signed this initiative petition or, if I am an individual with a qualifying disability, I have signed this initiative petition by directing the signature gatherer to enter the initials "AV" as my signature;

The date next to my signature correctly reflects the date that I actually signed the initiative petition;

I have personally [~~reviewed~~]read the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this initiative were held at: (list dates and locations of public hearings.)".

(b) If the initiative proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following statement, "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal Impact of" followed by the title of the initiative, in at least 12- point, bold type;

(ii) except as provided in Subsection (5), the initial fiscal impact statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A- 7- 202.5(2)(a), including any update in accordance with Subsection 20A- 7- 204.1(5), in not less than 12- point type;

(iii) if the initiative proposes a tax increase, the following statement in 12- point, bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12- point, bold type, followed by the following statement in not less than eight- point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this initiative packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence or, in the case of an individual with a qualifying disability, I have signed this initiative petition on the individual's behalf, at the direction of the individual and in the individual's presence, by entering the initials "AV" as the individual's signature;

I certify that, for each individual whose signature is represented in this initiative packet by the initials "AV":

I obtained the individual's voluntary direction or consent to sign the initiative petition on the individual's behalf;

I do not believe, or have reason to believe, that the individual lacked the mental capacity to give direction or consent;

I do not believe, or have reason to believe, that the individual did not understand the purpose or nature of my signing the initiative petition on the individual's behalf;

I did not intentionally or knowingly deceive the individual into directing me to, or consenting for me to, sign the initiative petition on the individual's behalf; and

I did not intentionally or knowingly enter false information on the signature sheet;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each [~~individual has printed and signed the~~]individual's name[~~and written the individual's~~], post office address, and residence is written correctly, that each signer has read [~~and understands~~]the law proposed by the initiative, and that each signer is registered to vote in Utah[.];

[~~Each individual who signed the initiative packet wrote the~~]The correct date of signature appears next to [~~the~~]each individual's name[.]; and

I have not paid or given anything of value to any individual who signed this initiative packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)

(5) If the initial fiscal impact statement described in Subsection (3)(f)(ii), as updated in accordance with Subsection 20A- 7- 204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on an initiative signature sheet, that does not exceed 200 words.

(6) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(7) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A- 2- 105.

Section 8. Section 20A- 7- 204 is amended to read:

20A- 7- 204. Manual initiative process - - Circulation requirements - - Lieutenant

governor to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection (3), circulate initiative packets that meet the form requirements of this part.

(3) The lieutenant governor shall provide the sponsors with a copy of the initiative petition and a signature sheet within three days after the day on which the following conditions are fulfilled:

(a) the sponsors hold the final hearing required under Section 20A-7-204.1;

(b) the sponsors provide to the Office of the Lieutenant Governor the video tape, audio tape, or comprehensive minutes described in Subsection 20A-7-204.1(4) for each public hearing described in Section 20A-7-204.1;

(c)(i) the sponsors give written notice to the Office of the Lieutenant Governor that the sponsors waive the opportunity to change the text of the proposed law under Subsection 20A-7-204.1(5);

(ii) the deadline, described in Subsection 20A-7-204.1(5)(a), for changing the text of the proposed law passes without the sponsors filing an application addendum in accordance with Subsection 20A-7-204.1(5); or

(iii) if the sponsors file an application addendum in accordance with Subsection 20A-7-204.1(5), the Office of the Legislative Fiscal Analyst provides to the Office of the Lieutenant Governor:

(A) an updated initial fiscal impact statement, in accordance with Subsection 20A-7-204.1(5)(b); or

(B) a written notice indicating that no changes to the initial fiscal impact statement are necessary; [~~and~~]

(d)(i) the sponsors give written notice to the Office of the Lieutenant Governor that the sponsors waive the opportunity to:

(A) challenge the initial fiscal impact statement in court; and

(B) if applicable, challenge the updated initial fiscal impact statement in court;

(ii) the deadline, described in Subsection 20A-7-202.5(4)(a)(i), for:

(A) challenging the initial fiscal impact statement in court passes without the sponsors filing a petition to challenge; and

(B) if applicable, challenging the updated initial fiscal impact statement in court passes without the sponsors filing a petition to challenge; or

(iii) if the sponsors timely file a petition challenging the initial fiscal impact statement in court or, if applicable, the updated initial fiscal impact statement in court, and the court's decision becomes final; and

[~~(d)~~](e) the sponsors sign an agreement, under Subsection (6)(a), with the Office of the Lieutenant Governor specifying the range of numbers that the sponsors will use to number the initiative packets.

(4) The sponsors of the initiative shall:

(a) arrange and pay for the printing of all documents that are part of the initiative packets; and

(b) ensure that the initiative packets and the documents described in Subsection (4)(a) meet the requirements of this part.

(5)(a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create the initiative packets by binding a copy of the initiative petition with the text of the proposed law, including any modification made under Subsection 20A-7-204.1(5) and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(6)(a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number initiative packets;

(ii) sign an agreement with the Office of the Lieutenant Governor, specifying the range of numbers that the sponsors will use to number the initiative packets; and

(iii) number each initiative packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number an initiative packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit an initiative packet that is not numbered in the manner directed by the lieutenant governor's office.

Section 9. Section 20A-7-209 is amended to read:

20A-7-209. Short title and summary of initiative -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2)(a) The Office of Legislative Research and General Counsel shall:

(i) entitle each statewide initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(ii) prepare for each initiative:

(A) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(B) an impartial summary of the contents of the initiative, not exceeding 125 words; and

(iii) provide each short title, and summary to the lieutenant governor on or before June 26.

(b) The short title and summary may be distinct from the title of the proposed law.

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(d) Subject to Subsection (4), for each statewide initiative, the official ballot shall show, in the following order:

(i) the number of the initiative, determined in accordance with Section 20A-6-107;

(ii) the short title;

(iii) except as provided in Subsection (2)(e):

(A) the summary;

(B) the text of the proposed law; and

(C) a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative, including the information described in Subsection 20A-7-202(2), the initial fiscal impact statement described in Section 20A-7-202.5, as updated under Section 20A-7-204.1, and the arguments relating to the initiative that are included in the voter information pamphlet; and

(iv) the initial fiscal impact statement prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1.

(e) Unless the information described in Subsection (2)(d)(iii) is shown on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative on the ballot and a link to a location on the lieutenant governor's website where a voter may review the additional information described in Subsection (2)(d)(iii)(C).

(f) Unless the information described in Subsection (2)(d)(iii) for all initiatives on the ballot, and the information described in Subsection 20A-7-308(2)(c)(iii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(3) On or before June 27, the lieutenant governor shall [~~mail~~]send a copy of the short title and summary to any sponsor of the petition.

(4)(a)(i) At least three of the sponsors of the petition may, on or before July 6, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the challenge, the court shall direct the lieutenant governor to send notice of the challenge to:

(A) any person or group that has filed an argument for or against the initiative that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the individual designated to receive notice about any issues relating to the initiative.

(b)(i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the initiative.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 10. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign any name other than the individual's own to an initiative petition or a statement described in Subsection 20A-7-105(8) or 20A-7-216(4);

(b) knowingly sign the individual's name more than once for the same initiative at one election;

(c) knowingly indicate that an individual who signed an initiative petition signed the initiative petition on a date other than the date that the individual signed the initiative petition;

(d) sign an initiative petition knowing the individual is not a legal voter; [~~or~~]

(e) on behalf of a voter described in Section 20A-7-106, place the initials "AV" or enter any information on a signature sheet or statement described in Section 20A-7-106, if the individual:

(i) does not obtain the voluntary direction or consent of the voter;

(ii) believes or has reason to believe that the voter lacks the mental capacity to give the voter's direction or consent;

(iii) believes or has reason to believe that the voter does not understand the purpose or nature of the action taken by the individual on behalf of the voter;

(iv) intentionally or knowingly deceives the voter into providing the direction or consent of the voter; or

(v) intentionally or knowingly enters false information on the signature sheet or statement; or

[~~(e)~~](f) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the individual's signature for the initiative petition is not the date that the individual signed the initiative petition;

(c) the individual has not witnessed the signatures of those individuals whose signatures the individual collects or submits; or

(d) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign an initiative petition;

(b) pay an individual to remove the individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the individual's name removed from an initiative petition.

(4) A violation of this section is a class A misdemeanor.

Section 11. Section 20A-7-215 is amended to read:

20A-7-215. Electronic initiative process -- Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2)(a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/beginning on _____(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3)(a) The second screen presented on the approved device shall include the following statement:

"Public hearings to discuss this initiative were held at: (list dates and locations of public hearings.)".

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(4)(a) The third screen presented on the approved device shall include the title of proposed law, described in Subsection 20A-7-202(2)(e)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(5) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement: "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source;

(b)(i) if the initiative proposes a tax increase, the following statement, "This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent,

resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative does not propose a tax increase, the following statement, "This initiative does not propose a tax increase.";

(c) the initial fiscal impact statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection 20A-7-204.1(6);

(d) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures; and

(e) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally [~~reviewed~~]read the entirety of each statement presented on this device;

I am personally signing this initiative petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this initiative petition will be made public.

Do you wish to continue and sign this initiative petition?"

(6)(a) If the individual clicks "no" in response to the question described in Subsection (5)(e), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5)(e), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the initiative petition through the signature process described in Section 20A-21-201.

Section 12. Section 20A-7-216 is amended to read:

20A-7-216. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign an initiative petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) A voter who signs an initiative petition may have the voter's signature removed from the initiative petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) for an electronic signature gathered before December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 90 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4); or

(b) for an electronic signature gathered on or after December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4).

[~~(5)(a) The statement described in Subsection (4) shall include:~~]

[~~(i) the name of the voter;~~]

[~~(ii) the resident address at which the voter is registered to vote;~~]

[~~(iii) the signature of the voter; and~~]

[~~(iv) the date of the signature described in Subsection (5)(a)(iii).~~]

[~~(b) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4) may include the voter's birth date or age.~~]

[~~(c)~~](5)(a) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

[~~(d)~~](b) A person may only remove an electronic signature from an initiative petition in accordance with this section.

[~~(e)~~](c) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Subsection 20A-1-1003(3).

Section 13. Section 20A-7-303 is amended to read:

20A-7-303. Manual referendum process -- Form of referendum petition and signature sheets.

(1) This section applies only to the manual referendum process.

(2)(a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this referendum petition or, if I am an individual with a qualifying disability, I have signed this referendum petition by directing the signature gatherer to enter the initials "AV" as my signature;

The date next to my signature correctly reflects the date that I actually signed the referendum petition;

I have personally [~~reviewed~~]read the entire statement included with this referendum packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this referendum petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12-point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the

individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this referendum packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence or, in the case of an individual with a qualifying disability, I have signed this referendum petition on the individual's behalf, at the direction of the individual and in the individual's presence, by entering the initials "AV" as the individual's signature;

I certify that, for each individual whose signature is represented in this referendum packet by the initials "AV":

I obtained the individual's voluntary direction or consent to sign the referendum petition on the individual's behalf;

I do not believe, or have reason to believe, that the individual lacked the mental capacity to give direction or consent;

I do not believe, or have reason to believe, that the individual did not understand the purpose or nature of my signing the referendum petition on the individual's behalf;

I did not intentionally or knowingly deceive the individual into directing me to, or consenting for me to, sign the referendum petition on the individual's behalf; and

I did not intentionally or knowingly enter false information on the signature sheet;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each [~~individual has printed and signed the~~]individual's name[~~and written the individual's~~], post office address, and residence is written correctly, that each signer has read [~~and understands~~]the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah[~~.~~];

[~~Each individual who signed the referendum packet wrote the~~]The correct date of signature appears next to [~~the~~]each individual's name[~~.~~]; and

I have not paid or given anything of value to any individual who signed this referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date).

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 14. Section 20A-7-308 is amended to read:

20A-7-308. Short title and summary of referendum -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the referendum petition and the law to which the referendum relates to the Office of Legislative Research and General Counsel.

(2)(a) The Office of Legislative Research and General Counsel shall:

(i) entitle each statewide referendum that qualifies for the ballot "Proposition Number __" and assign a number to the referendum in accordance with Section 20A-6-107;

(ii) prepare for each referendum:

(A) an impartial short title, not exceeding 25 words, that generally describes the law to which the referendum relates; and

(B) an impartial summary of the contents of the law to which the referendum relates, not exceeding 125 words; and

(iii) submit the short title and summary to the lieutenant governor within 15 days after the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The short title and summary may be distinct from the title of the law that is the subject of the referendum.

(c) Subject to Subjection (4), for each statewide referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107;

(ii) the short title; and

(iii) except as provided in Subsection (2)(d):

(A) the summary;

(B) a copy of the law; and

(C) a link to a location on the lieutenant governor's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(d) Unless the information described in Subsection (2)(c)(iii) is shown on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review the additional information described in Subsection (2)(c)(iii)(C).

(e) Unless the information described in Subsection 20A-7-209(2)(d)(iii) for all initiatives on the ballot, and the information described in Subsection (2)(c)(iii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(3) Immediately after the Office of Legislative Research and General Counsel submits the short title and summary to the lieutenant governor, the lieutenant governor shall mail or email a copy of the short title and summary to any of the sponsors of the referendum petition.

(4)(a)(i) At least three of the sponsors of the referendum petition may, within 15 days after the day on which the lieutenant governor [~~mails~~]sends the short title and summary, challenge the wording of the short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the law to which the referendum relates; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b)(i) There is a presumption that the short title prepared by the Office of Legislative Research and General Counsel is an impartial description of the contents of the referendum.

(ii) The court may not revise the wording of the short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the short title is false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the law to which the referendum relates.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 15. Section 20A-7-312 is amended to read:

20A-7-312. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to a referendum petition;

(b) knowingly sign the person's name more than once for the same referendum petition at one election;

(c) knowingly indicate that a person who signed a referendum petition signed the referendum petition on a date other than the date that the person signed the petition;

(d) sign a referendum petition knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9) knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the person's signature for the referendum petition is not the date that the person signed the referendum petition;

(c) the person has not witnessed the signatures of those persons whose signatures the person collects or submits; or

(d) one or more individuals who sign the referendum petition are not registered to vote in Utah.

(3) It is unlawful for any person to:

(a) pay a person to sign a referendum petition;

(b) pay a person to remove the person's signature from a referendum petition;

(c) accept payment to sign a referendum petition; [~~or~~]

(d) accept payment to have the person's name removed from a referendum petition[~~.~~]; or

(e) on behalf of a voter described in Section 20A-7-106, place the initials "AV" or enter any information on a signature sheet or statement described in Section 20A-7-106, if the individual:

(i) does not obtain the voluntary direction or consent of the voter;

(ii) believes or has reason to believe that the voter lacks the mental capacity to give the voter's direction or consent;

(iii) believes or has reason to believe that the voter does not understand the purpose or nature of the action taken by the individual on behalf of the voter;

(iv) intentionally or knowingly deceives the voter into providing the direction or consent of the voter; or

(v) intentionally or knowingly enters false information on the signature sheet or statement.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 16. Section 20A-7-313 is amended to read:

20A-7-313. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2)(a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully order that Senate (or House) Bill No.____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3)(a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4)(a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally [~~reviewed~~]read the entirety of each statement presented on this device;

I am personally signing this referendum petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this referendum petition will be made public.

Do you wish to continue and sign this referendum petition?"

(6)(a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the referendum petition through the signature process described in Section 20A-21-201.

Section 17. Section 20A-7-314 is amended to read:

20A-7-314. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) A voter who signs a referendum petition may have the voter's signature removed from the referendum petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the voter signs the statement requesting removal; or

(b) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-315(4).

[~~(5)(a) The statement described in Subsection (4) shall include:~~]

[~~(i) the name of the voter;~~]

[~~(ii) the resident address at which the voter is registered to vote;~~]

[~~(iii) the signature of the voter; and~~]

[~~(iv) the date of the signature described in Subsection (5)(a)(iii).~~]

[~~(b) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4) may include the voter's birth date or age.~~]

[~~(c)~~](5)(a) A voter may not submit a signature removal statement described in Subsection (4) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

[~~(d)~~](b) A person may only remove an electronic signature from a referendum petition in accordance with this section.

[~~(e)~~](c) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Subsection 20A-1-1003(3).

Section 18. Section 20A-7-502.5 is amended to read:

20A-7-502.5. Initial fiscal and legal impact statement -- Preparation of statement.

(1) Within three business days after the day on which the local clerk receives an initiative application, the local clerk shall submit a copy of the initiative application to the county, city, or town's budget officer.

(2)(a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith initial fiscal and legal impact statement for the proposed law that contains:

(i) a dollar amount representing the total estimated fiscal impact of the proposed law;

(ii) if the proposed law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax affected under the proposed law and a dollar amount representing the total estimated increase or decrease in taxes under the proposed law;

(iii) if the proposed law would increase taxes, the tax percentage difference and the tax percentage increase;

(iv) if the proposed law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt under the proposed law;

(v) a listing of all sources of funding for the estimated costs associated with the proposed law showing each source of funding and the percentage of total funding provided from each source;

(vi) a dollar amount representing the estimated costs or savings, if any, to state and local government entities under the proposed law;

(vii) the proposed law's legal impact, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(viii) a concise explanation, not exceeding 100 words, of the information described in this Subsection (2)(a) and of the estimated fiscal impact, if any, under the proposed law.

(b)(i) If the proposed law is estimated to have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If the proposed law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that the law proposed by this initiative would result in a total fiscal expense/savings of $_____, which includes a (type of tax or taxes) tax increase/decrease of $_____ and a $_____ increase/decrease in public debt."

(iii) If the estimated fiscal impact of the proposed law is highly variable or is otherwise difficult to

reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors affecting the variability or difficulty of the estimate.

(iv) If the proposed law would increase taxes, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(3) The budget officer shall prepare an unbiased, good faith estimate of the cost of printing and distributing information related to the initiative petition in the voter information pamphlet as required by Section 20A-7-402.

(4) Within 20 calendar days after the day on which the local clerk submits a copy of the proposed law under Subsection (1), the budget officer shall:

(a) [~~deliver~~]send a copy of the initial fiscal impact and legal statement to the local clerk's office; and

(b) [~~mail~~]send a copy of the initial fiscal impact and legal statement to the first three sponsors named in the initiative application.

Section 19. Section 20A-7-503 is amended to read:

20A-7-503. Manual initiative process -- Form of initiative petition and signature sheet.

(1) This section applies only to the manual initiative process.

(2)(a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this initiative petition or, if I am an individual with a qualifying disability, I have signed this initiative petition by directing the signature gatherer to enter the initials "AV" as my signature;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally [~~reviewed~~]read the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) If the initiative proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection (2)(a):

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

(3) Each initiative signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10- point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10- point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this initiative petition, you are stating that you have read and understand the law proposed by this initiative petition." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal and legal impact of" followed by the title of the initiative, in at least 12- point, bold type;

(ii) the summary statement in the initial fiscal impact and legal statement issued by the budget officer in accordance with Subsection 20A- 7- 502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A- 7- 502.5(3), in not less than 12- point, bold type;

(iii) if the initiative proposes a tax increase, the following statement in 12- point, bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12- point, bold type, followed by the following statement in not less than eight- point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence or, in the case of an individual with a qualifying disability, I have signed this initiative petition on the individual's behalf, at the direction of the individual and in the individual's presence, by entering the initials "AV" as the individual's signature;

I certify that, for each individual whose signature is represented in this initiative packet by the initials "AV":

I obtained the individual's voluntary direction or consent to sign the initiative petition on the individual's behalf;

I do not believe, or have reason to believe, that the individual lacked the mental capacity to give direction or consent;

I do not believe, or have reason to believe, that the individual did not understand the purpose or nature of my signing the initiative petition on the individual's behalf;

I did not intentionally or knowingly deceive the individual into directing me to, or consenting for me to, sign the initiative petition on the individual's behalf; and

I did not intentionally or knowingly enter false information on the signature sheet;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative; and

I believe that each [~~individual has printed and signed the~~]individual's name[~~and written the individual's~~], post office address, and residence is written correctly, that each signer has read [~~and understands~~]the law proposed by the initiative, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

[~~Each individual who signed the packet wrote the~~]The correct date of signature appears next to [~~the~~]each individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 20. Section 20A-7-504 is amended to read:

20A-7-504. Manual initiative process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall provide to the sponsors:

(a) a copy of the initiative petition; [~~and~~]

(b) a signature sheet[~~.~~]; and

(c) a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(4) The sponsors of the initiative shall:

(a) arrange and pay for the printing of all documents that are part of the initiative packets; and

(b) ensure that the initiative packets and the documents described in Subsection (4)(a) meet the requirements of this part.

(5)(a) The sponsors or an agent of the sponsors may prepare the initiative packets for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create initiative packets by binding a copy of the initiative petition with the text of the proposed law and no more than 50 signature sheets together at the top in a manner that the initiative packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each initiative packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6)(a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number initiative packets; and

(ii) number each initiative packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number an initiative packet in a manner not directed by the county clerk; or

(ii) circulate or submit an initiative packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection (6)(a).

Section 21. Section 20A-7-508 is amended to read:

20A-7-508. Short title and summary of initiative -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the initiative petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare for each initiative:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(ii) an impartial summary of the contents of the initiative, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered initiative titles with the local clerk within 20 days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the initiative; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3)(a) The short title and summary may be distinct from the title of the proposed law.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the initiative.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the initiative.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the initiative.

(e) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4)(a) Within five calendar days after the date the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the initiative may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the initiative petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6), for each county or municipal initiative, the following shall be printed on the official ballot:

(i) the short title; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the proposed law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each initiative, including the information described in Subsection 20A-7-502(2), the initial fiscal impact and legal statement described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet.

(d) Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative on the ballot and a link to a location on the election officer's website where a voter may review the additional information described in Subsection (4)(c)(ii)(C).

(e) Unless the information described in Subsection (4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection 20A-7-608(4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall [~~serve~~]send a copy of the short title and summary [~~by mail upon~~]to the sponsors of the initiative and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6)(a) If the short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the initiative; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 22. Section 20A-7-512 is amended to read:

20A-7-512. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any individual to:

(a) sign any name other than the individual's own name to an initiative petition or a statement described in Subsection 20A-7-505(4) or 20A-7-515(4);

(b) knowingly sign the individual's name more than once for the same initiative at one election;

(c) knowingly indicate that an individual who signed an initiative petition signed the initiative petition on a date other than the date that the individual signed the initiative petition;

(d) sign an initiative petition knowing the individual is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the individual's signature for the initiative petition is

not the date that the individual signed the initiative petition;

(c) the individual has not witnessed the signatures of the individuals whose signatures the individual collects or submits; or

(d) one or more individuals who signed the initiative petition are not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign an initiative petition;

(b) pay an individual to remove the individual's signature from an initiative petition;

(c) accept payment to sign an initiative petition; [~~or~~]

(d) accept payment to have the individual's name removed from an initiative petition[~~.~~]; or

(e) on behalf of a voter described in Section 20A-7-106, place the initials "AV" or enter any information on a signature sheet or statement described in Section 20A-7-106, if the individual:

(i) does not obtain the voluntary direction or consent of the voter;

(ii) believes or has reason to believe that the voter lacks the mental capacity to give the voter's direction or consent;

(iii) believes or has reason to believe that the voter does not understand the purpose or nature of the action taken by the individual on behalf of the voter;

(iv) intentionally or knowingly deceives the voter into providing the direction or consent of the voter; or

(v) intentionally or knowingly enters false information on the signature sheet or statement.

(4) A violation of this section is a class A misdemeanor.

Section 23. Section 20A-7-514 is amended to read:

20A-7-514. Electronic initiative process -- Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2)(a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3)(a) The second screen presented on the approved device shall include the title of proposed law, described in Subsection 20A-7-502(2)(d)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(4) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement, "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a)(i) if the initiative proposes a tax increase, the following statement, "This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative does not propose a tax increase, the following statement, "This initiative does not propose a tax increase.";

(b) the summary statement from the initial fiscal impact and legal statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3);

(c) a statement indicating whether persons gathering signatures for the initiative petition may be paid for gathering signatures; and

(d) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally [~~reviewed~~]read the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same initiative petition, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this initiative petition will be made public.

Do you wish to continue and sign this initiative petition?"

(5)(a) If the individual clicks "no" in response to the question described in Subsection (4)(d), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (4)(d), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 24. Section 20A-7-515 is amended to read:

20A-7-515. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4)(a) A voter who signs an initiative petition may have the voter's signature removed from the initiative petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-516(4);

(iii) 316 days after the day on which the initiative application is filed; or

(iv)(A) for a county initiative, April 15 immediately before the next regular general election immediately after the initiative application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the initiative application is filed under Section 20A-7-502.

[~~(b) The statement described in Subsection (4)(a) shall include:~~]

[~~(i) the name of the voter;~~]

[~~(ii) the resident address at which the voter is registered to vote;~~]

[~~(iii) the signature of the voter; and~~]

[~~(iv) the date of the signature described in Subsection (4)(b)(iii).~~]

[~~(c) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4)(a) may include the voter's birth date or age.~~]

[~~(d)~~](b) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

[~~(e)~~](c) A person may only remove an electronic signature from an initiative petition in accordance with this section.

[~~(f)~~](d) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Subsection 20A-1-1003(3).

Section 25. Section 20A-7-602.5 is amended to read:

20A-7-602.5. Initial fiscal and legal impact statement -- Preparation of statement.

(1) Within three business days after the day on which the local clerk receives a referendum application, the local clerk shall submit a copy of the referendum application to the county, city, or town's budget officer.

(2)(a) The budget officer, together with legal counsel, shall prepare an unbiased, good faith initial fiscal and legal impact statement for repealing the law the referendum proposes to repeal that contains:

(i) a dollar amount representing the total estimated fiscal impact of repealing the law;

(ii) if repealing the law would increase or decrease taxes, a dollar amount representing the total estimated increase or decrease for each type of tax that would be impacted by the law's repeal and a dollar amount representing the total estimated increase or decrease in taxes that would result from the law's repeal;

(iii) if repealing the law would result in the issuance or a change in the status of bonds, notes, or other debt instruments, a dollar amount representing the total estimated increase or decrease in public debt that would result;

(iv) a listing of all sources of funding for the estimated costs that would be associated with the law's repeal, showing each source of funding and the percentage of total funding that would be provided from each source;

(v) a dollar amount representing the estimated costs or savings, if any, to state and local government entities if the law were repealed;

(vi) the legal impacts that would result from repealing the law, including:

(A) any significant effects on a person's vested property rights;

(B) any significant effects on other laws or ordinances;

(C) any significant legal liability the city, county, or town may incur; and

(D) any other significant legal impact as determined by the budget officer and the legal counsel; and

(vii) a concise explanation, not exceeding 100 words, of the information described in this Subsection (2)(a) and of the estimated fiscal impact, if any, if the law were repealed.

(b)(i) If repealing the law would have no fiscal impact, the local budget officer shall include a summary statement in the initial fiscal impact and legal statement in substantially the following form:

"The (title of the local budget officer) estimates that repealing the law this referendum proposes to repeal would have no significant fiscal impact and would not result in either an increase or decrease in taxes or debt."

(ii) If repealing the law is estimated to have a fiscal impact, the local budget officer shall include a summary statement in the initial fiscal and legal impact statement describing the fiscal impact.

(iii) If the estimated fiscal impact of repealing the law is highly variable or is otherwise difficult to reasonably express in a summary statement, the local budget officer may include in the summary statement a brief explanation that identifies those factors impacting the variability or difficulty of the estimate.

(3) Within 20 calendar days after the day on which the local clerk submits a copy of the application under Subsection (1), the budget officer shall:

(a) [~~deliver~~]send a copy of the initial fiscal impact and legal statement to the local clerk's office; and

(b) [~~mail~~]send a copy of the initial fiscal impact and legal statement to the first three sponsors named in the referendum application.

Section 26. Section 20A-7-603 is amended to read:

20A-7-603. Manual referendum process -- Form of referendum petition and signature sheet.

(1) This section applies only to the manual referendum process.

(2)(a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year);

Each signer says:

I have personally signed this referendum petition or, if I am an individual with a qualifying disability, I have signed this referendum petition by directing the signature gatherer to enter the initials "AV" as my signature;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally [~~reviewed~~]read the entire statement included with this packet;

I am registered to vote in Utah; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

(3) Each referendum signature sheet shall:

(a) be printed on sheets of paper 8- 1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three- fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14- point type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10- point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10- point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10- point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10- point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10- point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10- point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10- point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words, "By signing this referendum petition, you are stating that you have read and understand the law that this referendum petition seeks to overturn." in 12- point type;

(e) the table described in Subsection (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet or the information described in Subsection (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12- point, bold type, followed by the following statement in not less than eight- point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

(4) The final page of each referendum packet shall contain the following printed or typed statement:

"Verification of signature collector

State of Utah, County of ____

I, _____, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence or, in the case of an individual with a qualifying disability, I have signed this referendum petition on the individual's behalf, at the direction of the individual and in the individual's presence, by entering the initials "AV" as the individual's signature;

I certify that, for each individual whose signature is represented in this referendum packet by the initials "AV":

I obtained the individual's voluntary direction or consent to sign the referendum petition on the individual's behalf;

I do not believe, or have reason to believe, that the individual lacked the mental capacity to give direction or consent;

I do not believe, or have reason to believe, that the individual did not understand the purpose or nature of my signing the referendum petition on the individual's behalf;

I did not intentionally or knowingly deceive the individual into directing me to, or consenting for me to, sign the referendum petition on the individual's behalf; and

I did not intentionally or knowingly enter false information on the signature sheet;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn; and

I believe that each [~~individual has printed and signed the~~]individual's name[~~and written the individual's~~], post office address, and residence is written correctly, that each signer has read [~~and understands~~]the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah.

_____

(Name) (Residence Address) (Date)

[~~Each individual who signed the packet wrote the~~]The correct date of signature appears next to [~~the~~]each individual's name.

I have not paid or given anything of value to any individual who signed this referendum packet to encourage that individual to sign it.

_____

(Name) (Residence Address) (Date)".

(5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

(6) An individual's status as a resident, under Subsection (4), is determined in accordance with Section 20A-2-105.

Section 27. Section 20A-7-604 is amended to read:

20A-7-604. Manual referendum process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

(2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections (3) and 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

(3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall provide the sponsors with[~~a copy of the referendum petition and a signature sheet.~~]:

(a) a copy of the referendum petition;

(b) a signature sheet; and

(c) a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(4) The sponsors of the referendum petition shall:

(a) arrange and pay for the printing of all documents that are part of the referendum packets; and

(b) ensure that the referendum packets and the documents described in Subsection (4)(a) meet the form requirements of this section.

(5)(a) The sponsors or an agent of the sponsors may prepare the referendum packets for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition with the text of the law that is the subject of the referendum and no more than 50 signature sheets together at the top in a manner that the referendum packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

(6)(a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number referendum packets;

(ii) sign an agreement with the local clerk, specifying the range of numbers that the sponsor will use to number the referendum packets; and

(iii) number each referendum packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a referendum packet in a manner not directed by the county clerk; or

(ii) circulate or submit a referendum packet that is not numbered in the manner directed by the county clerk.

Section 28. Section 20A-7-608 is amended to read:

20A-7-608. Short title and summary of referendum -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the referendum petition and the law to which the referendum relates to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that qualifies for the ballot "Proposition Number __" and give the referendum a number assigned in accordance with Section 20A-6-107;

(b) prepare for the referendum:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the law to which the referendum relates; and

(ii) an impartial summary of the contents of the law to which the referendum relates, not exceeding 125 words;

(c) file the proposed short title, summary, and the numbered referendum title with the local clerk within 20 days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3)(a) The short title and summary may be distinct from the title of the law that is the subject of the referendum petition.

(b) In preparing a short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial description of the subject of the referendum.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the referendum.

(d) The short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the referendum.

(4)(a) Within five calendar days after the day on which the local attorney files a proposed short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the referendum petition may file written comments in response to the proposed short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final short title and summary that meets the requirements of Subsection (3); and

(iii) return the referendum petition and file the short title and summary with the local clerk.

(c) Subject to Subsection (6), for each county or municipal referendum, the following shall be printed on the official ballot:

(i) the short title; and

(ii) except as provided in Subsection (4)(d):

(A) the summary;

(B) a copy of the ordinance, resolution, or written description of the local law; and

(C) a link to a location on the election officer's website where a voter may review additional information relating to each referendum, including the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) Unless the information described in Subsection (4)(c)(ii) is printed on the official ballot, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each referendum on the ballot and a link to a location on the election officer's website where a voter may review the additional information described in Subsection (4)(c)(ii)(C).

(e) Unless the information described in Subsection 20A-7-508(4)(c)(ii) for all initiatives on the ballot, and the information described in Subsection (4)(c)(ii) for all referenda on the ballot, is printed on the ballot, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot, unless the summary is printed directly on the ballot."

(5) Immediately after the local attorney files a copy of the short title and summary with the local clerk, the local clerk shall [~~serve~~]send a copy of the short title and summary [~~by mail upon~~]to the sponsors of the referendum petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6)(a) If the short title or summary provided by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the short title and summary and consider the arguments; and

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 29. Section 20A-7-612 is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign a name other than the individual's own name to any referendum petition;

(b) knowingly sign the individual's name more than once for the same referendum at one election;

(c) knowingly indicate that an individual who signed a referendum petition signed the referendum petition on a date other than the date that the individual signed the referendum petition;

(d) sign a referendum petition knowing that the individual is not a legal voter;

(e) in connection with circulating a referendum petition, represent that a document is an official government document if the individual knows or has reason to know that the document is not an official government document; or

(f) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the signature date associated with the individual's signature for the referendum petition is not the date that the individual signed the referendum petition;

(c) the individual has not witnessed the signatures the individual collects or submits; or

(d) one or more individuals whose signatures appear in the referendum packet is not registered to vote in Utah.

(3) It is unlawful for an individual to:

(a) pay an individual to sign a referendum petition;

(b) pay an individual to remove the individual's signature from a referendum petition;

(c) accept payment to sign a referendum petition; [~~or~~]

(d) accept payment to have the individual's name removed from a referendum petition[~~.~~]; or

(e) on behalf of a voter described in Section 20A-7-106, place the initials "AV" or enter any information on a signature sheet or statement described in Section 20A-7-106, if the individual:

(i) does not obtain the voluntary direction or consent of the voter;

(ii) believes or has reason to believe that the voter lacks the mental capacity to give the voter's direction or consent;

(iii) believes or has reason to believe that the voter does not understand the purpose or nature of the action taken by the individual on behalf of the voter;

(iv) intentionally or knowingly deceives the voter into providing the direction or consent of the voter; or

(v) intentionally or knowingly enters false information on the signature sheet or statement.

(4) A violation of this section is a class A misdemeanor.

(5) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 30. Section 20A-7-614 is amended to read:

20A-7-614. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2)(a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on _____(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3)(a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4)(a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the referendum petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally [~~reviewed~~]read the entirety of each statement presented on this device;

I am personally signing this referendum petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same referendum petition, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Do you wish to continue and sign this referendum petition?"

(6)(a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the referendum petition through the signature process described in Section 20A-21-201.

Section 31. Section 20A-7-615 is amended to read:

20A-7-615. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process described in Section 20A-21-201.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4)(a) A voter who signs a referendum petition may have the voter's signature removed from the referendum petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-616(3).

[~~(b) The statement described in Subsection (4)(a) shall include:~~]

[~~(i) the name of the voter;~~]

[~~(ii) the resident address at which the voter is registered to vote;~~]

[~~(iii) the signature of the voter; and~~]

[~~(iv) the date of the signature described in Subsection (4)(b)(iii).~~]

[~~(c) To increase the likelihood of the voter's signature being identified and removed, the statement described in Subsection (4)(a) may include the voter's birth date or age.~~]

[~~(d)~~](b) A voter may not submit a signature removal statement described in Subsection (4)(a) by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

[~~(e)~~](c) A person may only remove an electronic signature from a referendum petition in accordance with this section.

[~~(f)~~](d) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Subsection 20A-1-1003(3).

Section 32. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 443
H. B. 80
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

CANDIDATE AND OFFICEHOLDER DISCLOSURE MODIFICATIONS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to conflicts of interest and campaign finance disclosure statements.

Highlighted Provisions:

This bill:

- requires an elected officer of a political subdivision and a member of a state land use authority to annually file a conflict of interest disclosure statement;
- requires the clerk of the political subdivision or state land use authority described above to:
  - post an electronic copy of the conflict of interest disclosure statement on the political subdivision's or state land use authority's website; and
  - provide the lieutenant governor's office with a link to the electronic posting described above;
- requires the lieutenant governor to post the link described above on the state conflict of interest disclosure website;
- standardizes the monetary amount that triggers an elected officer's disclosure obligation;
- establishes penalties for an elected officer or a member of a state land use authority who fails to file a conflict of interest disclosure statement;
- requires a municipal or county clerk to provide the lieutenant governor with an electronic link to the campaign finance statement filed by a candidate for municipal or county office;
- requires the lieutenant governor to post the link described above on the lieutenant governor's website; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-208, as last amended by Laws of Utah 2023, Chapter 45
10-3-1303, as last amended by Laws of Utah 2016, Chapter 350
10-3-1304, as last amended by Laws of Utah 2013, Chapter 445
10-3-1305, as last amended by Laws of Utah 2013, Chapter 445
10-3-1306, as last amended by Laws of Utah 2010, Chapter 378
10-3-1307, as last amended by Laws of Utah 1989, Chapter 147
10-3-1308, as last amended by Laws of Utah 1989, Chapter 147
10-3-1309, as last amended by Laws of Utah 1991, Chapter 241
10-3-1311, as last amended by Laws of Utah 2018, Chapter 461
10-3-1312, as last amended by Laws of Utah 1989, Chapter 147
11-58-304, as last amended by Laws of Utah 2022, Chapter 82
11-59-306, as last amended by Laws of Utah 2022, Chapter 237
11-65-304, as enacted by Laws of Utah 2022, Chapter 59
17-16-6.5, as last amended by Laws of Utah 2023, Chapter 45
17-16a-3, as last amended by Laws of Utah 2011, Chapter 297
17-16a-4, as last amended by Laws of Utah 2013, Chapters 142, 445
17-16a-5, as last amended by Laws of Utah 1993, Chapter 227
17-16a-6, as last amended by Laws of Utah 2011, Chapter 297
17-16a-7, as enacted by Laws of Utah 1983, Chapter 46
17-16a-8, as enacted by Laws of Utah 1983, Chapter 46
17-16a-9, as enacted by Laws of Utah 1983, Chapter 46
17-16a-10, as last amended by Laws of Utah 1991, Chapter 241
17-16a-12, as enacted by Laws of Utah 1983, Chapter 46
20A-11-103, as last amended by Laws of Utah 2016, Chapter 16
20A-11-1602, as last amended by Laws of Utah 2021, Chapter 20
20A-11-1602.5, as last amended by Laws of Utah 2021, Chapter 20
53C-1-202, as last amended by Laws of Utah 2020, Chapters 352, 373
63H-4-102, as last amended by Laws of Utah 2021, Chapter 280
63H-8-201, as last amended by Laws of Utah 2020, Chapters 352, 373
63M-14-202, as last amended by Laws of Utah 2022, Chapter 98
67-16-3, as last amended by Laws of Utah 2018, Chapter 415
67-16-6, as last amended by Laws of Utah 2014, Chapter 196
67-16-7, as last amended by Laws of Utah 2018, Chapter 59
73-32-302, as last amended by Laws of Utah 2023, Chapter 34 and renumbered and amended by Laws of Utah 2023, Chapter 205

ENACTS:

10-3-1303.5, Utah Code Annotated 1953
10-3-1313, Utah Code Annotated 1953
17-16a-3.5, Utah Code Annotated 1953
17-16a-13, Utah Code Annotated 1953
63H-1-304, Utah Code Annotated 1953
67-16-16, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-208 is amended to read:

10-3-208. Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

(i) a person acting on behalf of a candidate at the direction of the reporting entity;

(ii) a person employed by a candidate in the candidate's capacity as a candidate;

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c)(i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d)(i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f)(i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a);

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h)(i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2)(a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3) through (7).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3) through (7).

(3) Each candidate:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any campaign contributions received into a personal or business account.

(4)(a) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

(b) Each candidate who is not eliminated at a municipal primary election shall file a campaign finance statement with the municipal clerk or recorder no later than:

(i) 28 days before the day on which the municipal general election is held;

(ii) seven days before the day on which the municipal general election is held; and

(iii) 30 days after the day on which the municipal general election is held.

(c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(5) If a municipality does not conduct a primary election for a race, each candidate who will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

(6) Each campaign finance statement described in Subsection (4) or (5) shall:

(a) except as provided in Subsection (6)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives $500 or less in contributions and spends $500 or less on the candidate's campaign.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8)(a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than $50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection (8)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection (9).

(9) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again 35 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

(10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i)[~~(A)~~] posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the day on which the statement is filed; and

[~~(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or~~]

(ii) [~~submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.~~]in order to comply with the requirements of Subsection 20A-11-103(4)(b)(ii), providing the lieutenant governor with a link to the electronic posting described in Subsection (10)(b)(i) no later than two business days after the day on which the statement is filed.

(11)(a) If a candidate fails to timely file a campaign finance statement required under Subsection (4) or (5), the municipal clerk or recorder:

(i) may send an electronic notice to the candidate that states:

(A) that the candidate failed to timely file the campaign finance statement; and

(B) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified; and

(ii) may impose a fine of $50 on the candidate.

(b) The municipal clerk or recorder shall disqualify a candidate and inform the appropriate election official that the candidate is disqualified if the candidate fails to file a campaign finance statement described in Subsection (4) or (5) within 24 hours after the deadline for filing the report.

(c) If a candidate is disqualified under Subsection (11)(b), the election official:

(i) shall:

(A) notify every opposing candidate for the municipal office that the candidate is disqualified;

(B) send an email notification to each voter who is eligible to vote in the municipal election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(C) post notice of the disqualification on a public website; and

(D) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(ii) may not count any votes for that candidate.

(12) An election official may fulfill the requirements described in Subsection (11)(c)(i) in relation to a mailed ballot, including a military overseas ballot, by including with the ballot a written notice:

(a) informing the voter that the candidate is disqualified; or

(b) directing the voter to a public website to inform the voter whether a candidate on the ballot is disqualified.

(13) Notwithstanding Subsection (11)(b), a candidate who timely files each campaign finance statement required under Subsection (4) or (5) is not disqualified if:

(a) the statement details accurately and completely the information required under Subsection (6), except for inadvertent omissions or insignificant errors or inaccuracies; and

(b) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(14) A candidate for municipal office who is disqualified under Subsection (11)(b) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(15) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

(16)(a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection (16)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 10-3-1303 is amended to read:

10-3-1303. Definitions.

As used in this part:

(1)(a) "Appointed officer" means [~~any person~~]an individual appointed to:

(i) [~~any~~]a statutory office or position; or

(ii) [~~ any other person appointed to any ~~]a position of employment with a city or with a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

(b) [~~Appointed officers include, but are not limited to, persons serving on ~~]"Appointed officer" includes an individual serving on a special, regular, or full-time [~~committees, agencies, or boards whether or not such persons are compensated for their ~~]committee, agency, or board, regardless of whether the individual is compensated for the individual's services. [~~The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the municipality.~~]

(c) "Appointed officer" does not include an elected officer.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to [~~any ~~]a person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(5) "Elected officer" means[~~ a person~~]:

(a) an individual elected or appointed to fill a vacancy in the office of mayor, commissioner, or council member; or

(b) an individual who is considered to be elected to the office of mayor, commissioner, or council member by a municipal legislative body in accordance with Section 20A-1-206.

(6) "Improper disclosure" means the disclosure of private, controlled, or protected information to [~~any ~~]a person who does not have both the right and the need to receive the information.

(7) "Municipal employee" means [~~a person who is not an elected or appointed officer ~~]an individual who is employed on a full[~~-~~] or part-time basis by a municipality or by a community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

(8) "Officer" means an appointed officer or an elected officer.

[~~(8)~~](9) "Private, controlled, or protected information" means information classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, or [~~other ~~]another applicable provision of law.

[~~(9)~~](10) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Section 3. Section 10-3-1303.5 is enacted to read:

10-3-1303.5. Statutory construction.

The definition of appointed officer in Section 10-3-1303 does not have the effect of making an appointed individual or employee an officer of the municipality.

Section 4. Section 10-3-1304 is amended to read:

10-3-1304. Use of office for personal benefit prohibited.

(1) As used in this section, "economic benefit tantamount to a gift" includes:

(a) a loan at an interest rate that is substantially lower than the commercial rate then currently prevalent for similar loans; [~~and~~]or

(b) compensation received for [~~private services~~]a private service rendered at a rate substantially exceeding the fair market value of the [~~services~~]service.

(2) Except as provided in Subsection (4), it is an offense for an [~~elected or appointed~~]officer or municipal employee to:

(a) disclose or improperly use private, controlled, or protected information acquired by reason of the officer's or municipal employee's official position or in the course of official duties in order to further substantially the officer's or municipal employee's personal economic interest or to secure special privileges or exemptions for the officer or municipal employee or for others;

(b) use or attempt to use the officer's or municipal employee's official position to:

(i) further substantially the officer's or municipal employee's personal economic interest; or

(ii) secure special privileges for the officer or municipal employee or for others; or

(c) knowingly receive, accept, take, seek, or solicit, directly or indirectly, for the officer or municipal employee or for another, a gift of substantial value or a substantial economic benefit tantamount to a gift that:

(i) would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(3) Subsection (2)(c) does not apply to:

(a) an occasional nonpecuniary gift having a value of less than $50;

(b) an award publicly presented in recognition of public services;

(c) any bona fide loan made in the ordinary course of business; or

(d) a political campaign contribution.

(4) This section does not apply to an [~~elected or appointed~~]officer or municipal employee who engages in conduct that constitutes a violation of this section to the extent that the [~~elected or appointed~~]officer or municipal employee is chargeable, for the same conduct, under Section 76-8-105.

Section 5. Section 10-3-1305 is amended to read:

10-3-1305. Compensation for assistance in transaction involving municipality -- Public disclosure and filing required.

(1) As used in this section, "municipal body" means any public board, commission, committee, or other public group organized to make public policy decisions or to advise persons who make public policy decisions.

(2) Except as provided in Subsection [~~(6)~~](9), it is an offense for an [~~elected officer, or an appointed officer,~~]officer who is a member of a [~~public~~]municipal body to receive or agree to receive compensation for assisting [~~any~~]a person or business entity in [~~any~~]a transaction involving the [~~municipality in which the member is an officer unless the member~~]municipality of which the officer is elected or appointed unless the officer:

(a) files with the mayor a sworn statement [~~giving the information required by this section~~]disclosing the information described in Subsection (8); [~~and~~]

(b) discloses the information [~~required by~~]described in Subsection [~~(5)~~](8) in an open meeting to the members of the municipal body of which the officer is a member immediately before the discussion[~~.~~]; and

(c) for an officer who is an elected officer, files the sworn statement described in Subsection (2)(a) with the city recorder or town clerk.

(3) It is an offense for an appointed officer who is not a member of a [~~public~~]municipal body or a municipal employee to receive or agree to receive compensation for assisting [~~any~~]a person or business entity in [~~any~~]a transaction involving the municipality by which the [~~person is employed~~] appointed officer or municipal employee is employed unless the appointed officer or employee:

(a) files with the mayor a sworn statement [~~giving the information required by this section~~]disclosing the information described in Subsection (8); and

(b) discloses the information [~~required by~~]described in Subsection [~~(5)~~](8) to:

(i) the [~~officer~~]appointed officer's or municipal employee's immediate supervisor; and

(ii) any other municipal officer or employee who may rely [~~upon the employee's~~]on the appointed officer's or municipal employee's representations in evaluating or approving the transaction.

(4)(a) [~~The officer or employee shall file the statement required to be filed by this section~~]An officer or municipal employee shall file the sworn statement described in Subsection (2)(a) or (3)(a), as applicable, on or before the earlier of:

(i) 10 days before the date [~~of any agreement between the elected or appointed officer or municipal employee and the person or business entity being assisted or~~]on which the officer or municipal employee and the person or business entity being assisted enter into an agreement; or

(ii) 10 days before [~~the receipt of compensation by the officer or employee, whichever is earlier~~]the date on which the officer or municipal employee receives compensation.

(5) In accordance with Subsection (2)(c), an elected officer shall file the sworn statement with the city recorder or town clerk on or before the earlier of the deadlines described in Subsections (4)(a)(i) and (ii).

(6) A municipal recorder or town clerk who receives a sworn statement described in Subsection (2)(a) shall:

(a) post a copy of the sworn statement on the municipality's website; and

(b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.

[~~(b)~~](7) The [~~statement is~~]sworn statements described in this section are public information and shall be available for examination by the public.

[~~(5)~~](8) The [~~statement and disclosure~~]sworn statement and public disclosure described in Subsections (2) and (3) shall contain:

(a) the name and address of the officer or municipal employee;

(b) the name and address of the person or business entity being or to be assisted or in which the [~~appointed or elected official or municipal employee~~]officer or municipal employee has a substantial interest; and

(c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

[~~(6)~~](9) This section does not apply to an [~~elected officer, or an appointed officer,~~]officer who is a member of a [~~public~~]municipal body and who engages in conduct that constitutes a violation of this section to the extent that the [~~elected officer or appointed~~]officer is chargeable, for the same conduct, under Section 76-8-105.

Section 6. Section 10-3-1306 is amended to read:

10-3-1306. Interest in business entity regulated by municipality -- Disclosure statement required.

(1) [~~Every appointed or elected officer or~~]An officer under this part, or a municipal employee, who is an officer, director, agent, or employee or the owner of a substantial interest in [~~any~~]a business entity [~~which~~]that is subject to the regulation of the municipality [~~in which he is an elected or appointed officer or municipal employee~~]in which the officer or municipal employee is elected, appointed, or employed, shall disclose the position held and the nature and value of [~~his~~]the officer's or employee's interest:

(a) upon first becoming appointed, elected, or employed by the municipality[~~,~~]; and

(b) [~~again at any time thereafter if the elected or appointed officer's or municipal employee's position in the business entity has changed significantly or if the value of his interest in the entity has increased significantly since the last disclosure~~]when the officer's or municipal employee's position in the business entity changes significantly or when the value of the officer's or municipal employee's interest in the entity significantly increases above the officer's or municipal employee's most recent disclosure.

(2) [~~The disclosure shall be made in a sworn statement filed with the mayor.~~]An officer or municipal employee shall make the disclosure described in Subsection (1) in a sworn statement filed with:

(a) the mayor; and

(b) for an officer who is an elected officer, the city recorder or town clerk.

(3) The mayor shall:

(a) report the substance of [~~all such disclosure statements~~]the sworn statement described in Subsection (2) to the members of the governing body[~~,~~]; or

(b) [~~may provide to the members of the governing body copies of the disclosure statement within 30 days after the statement is received by him~~]provide a copy of the sworn statement to the members of the governing body no later than 30 days after the date on which the mayor receives the statement.

(4) The municipal recorder or town clerk who receives the sworn statement described in Subsection (2) shall:

(a) post a copy of the sworn statement on the municipality's website; and

(b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.

[~~(3)~~](5)(a) This section does not apply to [~~instances~~]an instance where the value of the interest does not exceed $[~~2,000~~]$5,000.

(b) [~~Life insurance policies and annuities~~]A life insurance policy or an annuity may not be considered in determining the value of [~~any such~~]the interest.

Section 7. Section 10-3-1307 is amended to read:

10-3-1307. Interest in business entity doing business with municipality -- Disclosure.

(1) [~~Every appointed or elected officer~~]An officer under this part, or municipal employee, who is an officer, director, agent, employee, or owner of a substantial interest in [~~any~~]a business entity [~~which~~]that does or anticipates doing business with the municipality in which [~~he is an appointed or elected officer or municipal employee,~~]the officer or municipal employee is appointed, elected, or employed, shall:

(a) publicly disclose the conflict of interest to the members of the body of which [~~he~~]the officer is a member or by which [~~he~~]the municipal employee is employed, immediately [~~prior to~~]before any discussion by [~~such~~]the municipal body concerning matters relating to [~~such~~]the business entity, the nature of [~~his~~]the officer's or municipal employee's interest in [~~that~~]the business entity[~~,~~]; and

(b) for an officer who is an elected officer, file a sworn statement describing the conflict of interest with the city recorder or town clerk.

(2) The [~~disclosure statement~~]public disclosure described in Subsection (1)(a) shall be entered in the minutes of the meeting.

(3) A city recorder or town clerk who receives the sworn statement described in Subsection (1)(b) shall:

(a) post a copy of the sworn statement on the municipality's website; and

(b) ensure that the sworn statement remains posted on the municipality's website until the elected officer leaves office.

[~~(3)~~](4) Disclosure by a municipal employee under this section is satisfied if the municipal employee makes the disclosure in the manner [~~required by Sections~~]described in Section 10-3-1305 [~~and~~]or Section 10-3-1306.

Section 8. Section 10-3-1308 is amended to read:

10-3-1308. Investment creating conflict of interest with duties -- Disclosure.

[~~Any personal interest or investment by a municipal employee or by any elected or appointed official of a municipality which creates a conflict between the employee's or official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 10-3-1306~~]An officer or municipal employee who has a personal interest or investment that creates a conflict between the officer's or municipal employee's personal interests and the officer's or municipal employee's public duties shall disclose the conflict in the manner described in Section 10-3-1306.

Section 9. Section 10-3-1309 is amended to read:

10-3-1309. Inducing officer or employee to violate part prohibited.

It is a class A misdemeanor for any person to induce or seek to induce [~~any appointed or elected officer or~~]an officer or a municipal employee to violate any of the provisions of this part.

Section 10. Section 10-3-1311 is amended to read:

10-3-1311. Municipal ethics commission -- Complaints charging violations.

(1) A municipality may establish by ordinance an ethics commission to review a complaint against an officer or a municipal employee subject to this part for a violation of a provision of this part.

(2)(a) A person filing a complaint for a violation of this part shall file the complaint:

(i) with the municipal ethics commission, if a municipality has established a municipal ethics commission in accordance with Subsection (1); or

(ii) with the Political Subdivisions Ethics Review Commission in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission, if the municipality has not established a municipal ethics commission.

(b) A municipality that receives a complaint described in Subsection (2)(a) may:

(i) accept the complaint if the municipality has established a municipal ethics commission in accordance with Subsection (1); or

(ii) forward the complaint to the Political Subdivisions Ethics Review Commission established in Section 63A-15-201:

(A) regardless of whether the municipality has established a municipal ethics commission; or

(B) if the municipality has not established a municipal ethics commission.

(3) If the alleged ethics complaint is against a person who is a member of the municipal ethics commission, the complaint shall be filed with or forwarded to the Political Subdivisions Ethics Review Commission.

Section 11. Section 10-3-1312 is amended to read:

10-3-1312. Violation of disclosure requirements -- Penalties -- Rescission of prohibited transaction.

If [~~any~~]a transaction is entered into in connection with a violation of Section 10-3-1305, 10-3-1306, 10-3-1307, or 10-3-1308, the municipality:

(1) shall dismiss or remove the [~~appointed or elected~~]officer or municipal employee who knowingly and intentionally violates this part from employment or office; and

(2) may rescind or void [~~any~~]a contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the municipality.

Section 12. Section 10-3-1313 is enacted to read:

10-3-1313. Annual conflict of interest disclosure -- City recorder or town clerk -- Posting of written disclosure statement -- Penalties.

(1) In addition to any other disclosure obligation described in this part, an elected officer shall, no sooner than January 1 and no later than January 31 of each year during which the elected officer holds the office of mayor, commissioner, or council member:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the city recorder or town clerk.

(2)(a) No later than 10 business days after the day on which the elected officer submits the written disclosure statement described in Subsection (1) to the city recorder or town clerk, the city recorder or town clerk shall:

(i) post an electronic copy of the written disclosure statement on the municipality's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The city recorder or town clerk shall ensure that the elected officer's written disclosure statement remains posted on the municipality's website until the elected officer leaves office.

(3) A city recorder or town clerk shall take the action described in Subsection (4) if:

(a) an elected officer fails to timely submit the written disclosure statement described in Subsection (1); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the city recorder or town clerk shall, within five days after the day on which the city recorder or town clerk determines that a violation occurred, notify the elected officer of the violation and direct the elected officer to submit an amended written disclosure statement correcting the problem.

(5)(a) It is unlawful for an elected officer to fail to submit or amend a written disclosure statement within seven days after the day on which the elected officer receives the notice described in Subsection (4).

(b) An elected officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The city recorder or town clerk shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the city recorder or town clerk shall impose a civil fine of $100 against an elected officer who violates Subsection (5)(a).

(6) The city recorder or town clerk shall deposit a fine collected under this section into the municipality's general fund as a dedicated credit to pay for the costs of administering this section.

Section 13. Section 11-58-304 is amended to read:

11-58-304. Limitations on board members and executive director -- Annual conflict of interest disclosure statement -- Penalties.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, within a project area, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within a project area; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility within a project area.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4)(a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5)(a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) In addition to any other limitation on a board member described in this section, a voting member or nonvoting member of the board shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority's board.

(7)(a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (6) to the administrator or clerk of the authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the authority's website until the board member leaves office.

(8) The administrator or clerk of the authority's board shall take the action described in Subsection (9) if:

(a) a board member fails to timely submit the written disclosure statement described in Subsection (6); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(9) If a circumstance described in Subsection (8) occurs, the administrator or clerk of the authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(10)(a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (9).

(b) A board member who violates Subsection (10)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority's board shall report a violation of Subsection (10)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (10)(b), the administrator or clerk of the authority's board shall impose a civil fine of $100 against a board member who violates Subsection (10)(a).

(11) The administrator or clerk of the authority's board shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

[~~(6)~~](12) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 14. Section 11-59-306 is amended to read:

11-59-306. Limitations on board members -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) As used in this section:

(a) "Designated individual" means an individual:

(i)(A) who is a member of the Senate or House of Representatives;

(B) who has been appointed as a member of the board under Subsection 11-59-302(2)(a) or (b); and

(C) whose legislative district includes some or all of the point of the mountain state land; or

(ii) who is designated to serve as a board member under Subsection 11-59-302(2)(e) or (f).

(b) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

(c) "Family member" means a parent, spouse, sibling, child, or grandchild.

(d) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

(v) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

(vi) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

(vii) leasehold interest; and

(viii) any other real property interest that is capable of being owned.

(2) An individual may not serve as a member of the board if:

(a) subject to Subsection (5) for a designated individual, the individual owns an interest in real property, other than a personal residence in which the individual resides, on or within five miles of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located on or within one- half mile of the point of the mountain state land;

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land; or

(d) the individual or a family member of the individual receives or is expected to receive a direct financial benefit.

(3)(a) Before taking office as a board member, an individual shall submit to the authority a statement:

(i) verifying that the individual's service as a board member does not violate Subsection (2); and

(ii) for a designated individual, identifying any interest in real property, other than a personal residence in which the individual resides, located on or within five miles of the point of the mountain state land.

(b) If a designated individual takes action, during the individual's service as a board member, to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the individual intends to live, located on or within five miles of the point of the mountain state land, the designated individual shall submit a written statement to the board chair describing the action, the interest in real property that the designated individual intends to acquire, and the location of the real property.

(4) Except for a board member who is a designated individual, a board member is disqualified from further service as a board member if the board member, at any time during the board member's service on the board, takes any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the member intends to reside, located on or within five miles of the point of the mountain state land.

(5) A designated individual who submits a written statement under Subsection (3)(a)(ii) or (b) may not serve or continue to serve as a board member unless at least two- thirds of all other board members conclude that the designated individual's service as a board member does not and will not create a material conflict of interest impairing the ability of the designated individual to exercise fair and impartial judgment as a board member and to act in the best interests of the authority.

(6)(a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(7) Except as provided in Subsection (13), a board member shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A- 11- 1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority's board.

(8)(a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (7) to the administrator or clerk of the authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (8)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the authority's website until the board member leaves office.

(9) The administrator or clerk of the authority's board shall take the action described in Subsection (10) if:

(a) a board member fails to timely submit the written disclosure statement described in Subsection (7); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A- 11- 1604(6).

(10) If a circumstance described in Subsection (9) occurs, the administrator or clerk of the authority's board shall, within five days after the day on which

the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(11)(a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (10).

(b) A board member who violates Subsection (11)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority's board shall report a violation of Subsection (11)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (11)(b), the administrator or clerk of the authority's board shall impose a civil fine of $100 against a board member who violates Subsection (11)(a).

(12) The administrator or clerk of the authority's board shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

(13) For an individual who is appointed as a board member under Subsection 11-59-302(2)(a), (b), (c)(iii), (d), or (e):

(a) Subsection (7) does not apply; and

(b) the administrator or clerk of the authority's board shall, instead:

(i) post an electronic link on the authority's website to the written disclosure statement the board member made in the board member's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures; or

(B) an elected officer of a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (13)(b)(i).

Section 15. Section 11-65-304 is amended to read:

11-65-304. Limitations on board members and executive director -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to participate in or receive a direct financial benefit from the management of Utah Lake.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the lake authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4)(a) A voting member or nonvoting member of the board or an employee of the lake authority may not receive a direct financial benefit from the management of Utah Lake.

(b) For purposes of Subsection (4)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the lake authority.

(5) Except as provided Subsection (11), a voting member or nonvoting member of the board shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the lake authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the lake authority's board.

(6)(a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (5) to the administrator or clerk of the lake authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the lake authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (6)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the lake authority's website until the board member leaves office.

(7) The administrator or clerk of the lake authority's board shall take the action described in Subsection (8) if:

(a) a board member fails to timely submit the written disclosure statement described in Subsection (5); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(8) If a circumstance described in Subsection (7) occurs, the administrator or clerk of the lake authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(9)(a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (8).

(b) A board member who violates Subsection (9)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the lake authority's board shall report a violation of Subsection (9)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (9)(b), the administrator or clerk of the lake authority's board shall impose a civil fine of $100 against a board member who violates Subsection (9)(a).

(10) The administrator or clerk of the lake authority's board shall deposit a fine collected under this section into the lake authority's account to pay for the costs of administering this section.

(11) For an individual who is appointed as a board member under Subsection 11-65-302(2)(b), (c), (d), or (e)(ii):

(a) Subsection (5) does not apply; and

(b) the administrator or clerk of the lake authority's board shall, instead:

(i) post an electronic link on the lake authority's website to the written disclosure statement the board member made in the board member's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section 17-16a-13; or

(C) an elected officer of a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (11)(b)(i).

[~~(5)~~](12) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 16. Section 17-16-6.5 is amended to read:

17-16-6.5. Campaign financial disclosure in county elections.

(1)(a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:

(i) candidates for county office; and

(ii) candidates for local school board office who reside in that county.

(b) The ordinance required by Subsection (1)(a) shall include:

(i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;

(ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;

(iii) a requirement that the financial reports identify:

(A) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and

(B) for each expenditure, the name of the recipient and the amount of the expenditure;

(iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;

(v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and

(vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:

(A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(c)(i) As used in this Subsection (1)(c), "account" means an account in a financial institution:

(A) that is not described in Subsection (1)(b)(iv); and

(B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person files a declaration

of candidacy or federal office, deposits a contribution or makes an expenditure.

(ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:

(A) since the last financial report was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).

(3) A candidate for elective office in a county or local school board office:

(a) shall deposit a contribution in a separate campaign account in a financial institution; and

(b) may not deposit or mingle any contributions received into a personal or business account.

(4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:

(a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and

(b) no later than 30 days after the date of the regular general election.

(5)(a) The statement filed seven days before the regular general election shall include:

(i) a list of each contribution received by the candidate, and the name of the donor, if known; and

(ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.

(b) The statement filed 30 days after the regular general election shall include:

(i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and

(ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.

(6)(a) As used in this Subsection (6), "account" means an account in a financial institution:

(i) that is not described in Subsection (3)(a); and

(ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

(b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):

(i) a contribution deposited in an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account; or

(ii) an expenditure made from an account:

(A) since the last campaign finance statement was filed; or

(B) that has not been reported under a statute or ordinance that governs the account.

(7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds $50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.

(9) Any person who fails to comply with this section is guilty of an infraction.

(10)(a) Counties may, by ordinance, enact requirements that:

(i) require greater disclosure of campaign contributions and expenditures; and

(ii) impose additional penalties.

(b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.

(11) If a candidate fails to file an interim report due before the election, the county clerk:

(a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:

(i) that the candidate failed to timely file the report; and

(ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the

report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and

(b) impose a fine of $100 on the candidate.

(12)(a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.

(b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.

(c) A candidate who is disqualified under Subsection (12)(a) shall file with the county clerk a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

(13) If a candidate is disqualified under Subsection (12)(a), the election official:

(a) shall:

(i) notify every opposing candidate for the county office that the candidate is disqualified;

(ii) send an email notification to each voter who is eligible to vote in the county election office race for whom the election official has an email address informing the voter that the candidate is disqualified and that votes cast for the candidate will not be counted;

(iii) post notice of the disqualification on the county's website; and

(iv) if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; and

(b) may not count any votes for that candidate.

(14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice directing the voter to the county's website to inform the voter whether a candidate on the ballot is disqualified.

(15) A candidate is not disqualified if:

(a) the candidate files the interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;

(b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

(c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(16)(a) A report is considered timely filed if:

(i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;

(ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or

(iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

(17)(a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.

(b) In a civil action filed under Subsection (17)(a), the court shall award costs and attorney fees to the prevailing party.

(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i)[~~(A)~~] posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the day on which the statement is filed; and

[~~(B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or~~]

(ii) [~~submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.~~]in order to meet the requirements of Subsection 20A-11-103(4)(b)(ii), providing the lieutenant governor with a link to the electronic posting described in Subsection (18)(b)(i) no later than two business days after the day the statement is filed.

Section 17. Section 17-16a-3 is amended to read:

17-16a-3. Definitions.

As used in this part:

(1)(a) "Appointed officer" means [~~any person~~]an individual appointed to[-]:

(i) [~~any~~]a statutory office or position; or

(ii) [~~any other person appointed to any position of employment with a county, except special employees~~]a position of employment with a county, except a special employee.

(b) [~~Appointed officers include, but are not limited to persons serving on~~]"Appointed officer" includes

an individual serving on a special, regular or full-time [~~committees, agencies, or boards whether or not such persons are compensated for their~~]committee, agency, or board, regardless of whether the individual is compensated for the individual's services. [~~The use of the word "officer" in this part is not intended to make appointed persons or employees "officers" of the county.~~]

(c) "Appointed officer" does not include an elected officer.

(2) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to so assist such person or business entity.

(3) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(4) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated or transferred to any person or business entity for or in consideration of personal services, materials, property, or any other thing whatsoever.

(5) "Elected officer" means [~~any person~~]an individual elected or appointed to [~~any~~]an office in the county.

(6) "Governmental action" means [~~any~~]an action on the part of a county including:

(a) [~~any~~]a decision, determination, finding, ruling, or order; [~~and~~]

(b) [~~any~~]a grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval[~~, or~~]; or

(c) [~~the denial thereof, or the failure to act in respect to~~]the denial of, or failure to act upon, a matter described in Subsection (6)(a) or (b).

(7) "Officer" means an appointed officer or an elected officer.

[~~(7)~~](8) "Special employee" means [~~any person~~]an individual hired on the basis of a contract to perform a special service for the county pursuant to an award of a contract following a public bid.

[~~(8)~~](9) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, and the individual's minor children, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity.

Section 18. Section 17-16a-3.5 is enacted to read:

17-16a-3.5. Statutory construction.

The definition of appointed officer in Section 17-16a-3 does not have the effect of making an appointed individual or employee an officer of the county.

Section 19. Section 17-16a-4 is amended to read:

17-16a-4. Prohibited use of official position -- Exception.

(1) Except as provided in Subsection (3) or (5), it is an offense for an [~~elected or appointed~~]officer to:

(a) disclose confidential information acquired by reason of the officer's official position or use that information to secure special privileges or exemptions for [~~himself~~]the officer or others;

(b) use or attempt to use the officer's official position to secure special privileges for the officer or for others; or

(c) knowingly receive, accept, take, seek or solicit, directly or indirectly, any gift or loan for the officer or for another, if the gift or loan tends to influence the officer in the discharge of the officer's official duties.

(2) This section [~~is inapplicable~~]does not apply to:

(a) an occasional nonpecuniary gift having a value of less than $50;

(b) an award publicly presented;

(c) any bona fide loan made in the ordinary course of business; or

(d) political campaign contributions subject to Section 17-16-6.5.

(3) A member of a county legislative body who is also a member of the governing board of a provider of mental health or substance abuse services under contract with the county does not commit an offense under Subsection (1)(a) or (b) by discharging, in good faith, the duties and responsibilities of each position, if the county legislative body member does not participate in the process of selecting the mental health or substance abuse service provider.

(4) Notwithstanding the provisions of this section, a county or county official may encourage support from a public or private individual or institution, whether in financial contributions or by other means, on behalf of an organization or activity that benefits the community.

(5) This section does not apply to an [~~elected or appointed~~]officer who engages in conduct that constitutes a violation of this section to the extent that the [~~elected or appointed~~]officer is chargeable, for the same conduct, under Section 76-8-105.

Section 20. Section 17-16a-5 is amended to read:

17-16a-5. Compensation for assistance in transaction involving county -- Public disclosure and filing required.

(1) [~~No elected or appointed officer may~~]An officer may not receive or agree to receive compensation for assisting [~~any~~]a person or business entity in [~~any~~]a transaction involving the county in which [~~he is an officer unless he~~]the officer is elected or appointed unless the officer:

(a) [~~files with the county legislative body a sworn statement giving the information required by this section, and~~]files with the county legislative body a sworn statement disclosing the information described in Subsection (5);

(b) discloses in open meeting to the members of the body of which [~~he~~]the officer is a member, immediately [~~prior to~~]before the discussion, the information [~~required by Subsection (3).~~]described in Subsection (5); and

(c) for an officer who is an elected officer, files the sworn statement described in Subsection (1)(a) with the county clerk.

(2) [~~The statement required to be filed by this section shall be filed~~]An officer shall file the sworn statement described in Subsection (1)(a) on or before the earlier of:

(a) 10 days [~~prior to the date of any agreement between the elected or appointed officer and the person or business entity being assisted or~~]before the date on which the officer and the person or business entity being assisted enter into an agreement; or

(b) 10 days [~~prior to the receipt of compensation by the business entity~~]before the date on which the officer receives compensation.

(3) In accordance with Subsection (1)(c), an elected officer shall file the sworn statement with the county clerk on or before the earlier of the deadlines described in Subsections (2)(a) and (b).

(4) A county clerk who receives the sworn statement described in Subsection (1)(a) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

(5) The [~~statement~~]sworn statement described in Subsection (1)(a) is public information and is available for examination by the public.

[~~(3)~~](6) The [~~statement and disclosure~~]sworn statement and public disclosure described in Subsection (1) shall contain the following information:

(a) the name and address of the officer;

(b) the name and address of the person or business entity being or to be assisted, or in which the [~~appointed or elected official~~]officer has a substantial interest; and

(c) a brief description of the transaction as to which service is rendered or is to be rendered and of the nature of the service performed or to be performed.

Section 21. Section 17-16a-6 is amended to read:

17-16a-6. Interest in business entity regulated by county -- Disclosure.

(1) [~~Every appointed or elected officer~~]An officer under this part who is an officer, director, agent, or employee or the owner of a substantial interest in any business entity [~~which~~]that is subject to the regulation of the county [~~in which the officer is an elected or appointed officer~~]in which the officer is appointed or elected shall disclose the position held and the precise nature and value of the officer's interest:

(a) upon first becoming appointed or elected[~~,~~]; and

(b) [~~again~~]during January of each year [~~thereafter~~]during which the officer continues to be an appointed or elected officer.

(2) [~~The disclosure shall be made in a sworn statement filed with the county legislative body.~~]An officer shall make the disclosure described in Subsection (1) in a sworn statement filed with:

(a) the county legislative body; and

(b) if the officer is an elected officer, the county clerk.

(3) The commission shall:

(a) report the substance of [~~all such disclosure statements~~]the sworn statement described in Subsection (2) to the members of the governing body; or

(b) [~~may provide to the members of the governing body, copies of the disclosure statement within 30 days after the statement is received~~]provide a copy of the sworn statement described in Subsection (2) to the members of the governing body no later than 30 days after the day on which the commission receives the statement.

(4) A county clerk who receives the sworn statement described in Subsection (2) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

(5)(a) This section does not apply to instances where the value of the interest does not exceed $[~~2,000, and~~]5,000.

(b) A life insurance [~~policies and annuities~~]policy or an annuity may not be considered in determining the value of the interest.

Section 22. Section 17-16a-7 is amended to read:

17-16a-7. Interest in business entity doing business with county -- Disclosure.

(1) [~~Every appointed or elected officer~~]An officer under this part who is an officer, director, agent, or employee, or owner of a substantial interest in [~~any~~]a business entity [~~which~~]that does or anticipates doing business with the county [~~in which he is an appointed or elected officer,~~]in which the officer is appointed or elected shall:

(a) publicly disclose the conflict of interest to the members of the body [~~on which he~~]of which the

officer is a member, immediately [~~prior to any~~]before a discussion by [~~such~~]the body on matters relating to [~~such~~]the business entity, the nature of [~~his~~]the officer's interest in [~~that~~]the business entity[~~.~~]; and

(b) for an officer who is an elected officer, file a sworn statement describing the conflict of interest with the county clerk.

(2) The [~~disclosure statement~~]public disclosure described in Subsection (1)(a) shall be entered in the minutes of the meeting.

(3) A county clerk who receives the sworn statement described in Subsection (1)(b) shall:

(a) post a copy of the sworn statement on the county's website; and

(b) ensure that the sworn statement remains posted on the county's website until the elected officer leaves office.

Section 23. Section 17-16a-8 is amended to read:

17-16a-8. Investment creating conflict of interest with duties -- Disclosure.

[~~Any personal interest of or investment by any elected or appointed official of a county which creates a potential or actual conflict between the official's personal interests and his public duties shall be disclosed in open meeting to the members of the body in the manner required by Section 17-16a-6~~]An officer who has a personal interest or investment that creates a potential or actual conflict between the officer's personal interests and the officer's public duties shall disclose the conflict in the manner described in Section 17-16a-6.

Section 24. Section 17-16a-9 is amended to read:

17-16a-9. Inducing officer to violate provisions prohibited.

No person shall induce or seek to induce [~~any appointed or elected~~]an officer to violate any of the provisions of this part.

Section 25. Section 17-16a-10 is amended to read:

17-16a-10. Violation a misdemeanor -- Removal from office.

In addition to any penalty contained in any other provision of law, [~~any~~]a person who knowingly and intentionally violates this part is guilty of a class A misdemeanor and shall be dismissed from employment or removed from office.

Section 26. Section 17-16a-12 is amended to read:

17-16a-12. Rescission of prohibited transaction.

If [~~any~~]a transaction is entered into in connection with a violation of Section 17-16a-6, the county may rescind or void [~~any~~]a contract or subcontract entered into pursuant to that transaction without returning any part of the consideration received by the county.

Section 27. Section 17-16a-13 is enacted to read:

17-16a-13. Annual conflict of interest disclosure -- County clerk -- Penalties.

(1) In addition to any other disclosure obligation described in this part, an elected officer shall, no sooner than January 1 and no later than January 31 of each year during which the elected officer holds county elective office:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the county clerk.

(2)(a) No later than 10 business days after the day on which an elected officer submits the written disclosure described in Subsection (1) to the county clerk, the county clerk shall:

(i) post an electronic copy of the written disclosure statement on the county's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The county clerk shall ensure that the elected officer's written disclosure statement remains posted on the county's website until the elected officer leaves office.

(3) A county clerk shall take the action described in Subsection (4) if:

(a) an elected officer fails to timely submit the written disclosure statement described in Subsection (1); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the county clerk shall, within five days after the day on which the county clerk determines that a violation occurred, notify the elected officer of the violation and direct the elected officer to submit an amended written disclosure statement correcting the problem.

(5)(a) It is unlawful for an elected officer to fail to submit or amend a written disclosure statement within seven days after the day on which the elected officer receives the notice described in Subsection (4).

(b) A regulated officeholder who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the county clerk shall impose a

civil fine of $100 against an elected officer who violates Subsection (5)(a).

(6) The county clerk shall deposit a fine collected under this part into the county's general fund as a dedicated credit to pay for the costs of administering this section.

Section 28. Section 20A-11-103 is amended to read:

20A-11-103. Notice of pending interim and summary reports -- Form of submission -- Public availability -- Notice of reporting and filing requirements.

(1)(a) Except as provided under Subsection (1)(b), 10 days before an interim report or summary report is due under this chapter or Chapter 12, Part 2, Judicial Retention Elections, the chief election officer shall inform the filing entity by electronic mail unless postal mail is requested:

(i) that the financial statement is due;

(ii) of the date that the financial statement is due; and

(iii) of the penalty for failing to file the financial statement.

(b) The chief election officer is not required to provide notice:

(i) to a candidate or political party of the financial statement that is due before the candidate's or political party's political convention;

(ii) of a financial statement due in connection with a public hearing for an initiative under the requirements of Section 20A-7-204.1; or

(iii) to a corporation or labor organization, as defined in Section 20A-11-1501.

(2) A filing entity shall electronically file a financial statement via electronic mail or the Internet according to specifications established by the chief election officer.

(3)(a) A financial statement is considered timely filed if the financial statement is received by the chief election officer's office before midnight, Mountain Time, at the end of the day on which the financial statement is due.

(b) For a county clerk's office that is not open until midnight at the end of the day on which a financial statement is due, the county clerk shall permit a candidate to file the financial statement via email or another electronic means designated by the county clerk.

(c) A chief election officer may extend the time in which a filing entity is required to file a financial statement if a filing entity notifies the chief election officer of the existence of an extenuating circumstance that is outside the control of the filing entity.

(4) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the lieutenant governor shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

[~~(b) post an electronic copy or the contents of each financial statement in a searchable format on a website established by the lieutenant governor:~~]

[~~(i) for campaign finance statements submitted to the lieutenant governor under the requirements of Section 10-3-208 or Section 17-16-6.5, no later than seven business days after the date of receipt of the campaign finance statement; or~~]

[~~(ii) for a summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date the summary report or interim report is electronically filed.~~]

(b) post on a website established by the lieutenant governor:

(i) an electronic copy or the contents of each summary report or interim report filed under the requirements of this chapter or Chapter 12, Part 2, Judicial Retention Elections, no later than three business days after the date on which the summary report or interim report is electronically filed; or

(ii) for a campaign finance statement filed under the requirements of Section 10-3-208, for a municipality, or Section 17-16-6.5, for a county, a link to the municipal or county website that hosts the campaign finance statement, no later than seven business days after the date on which the lieutenant governor receives the link from:

(A) the municipal clerk or recorder, in accordance with Subsection 10-3-208(10)(b)(ii); or

(B) the county clerk, in accordance with Subsection 17-16-6.5(18)(b)(ii).

[~~(5) If a municipality, under Section 10-3-208, or a county, under Section 17-16-6.5, elects to provide campaign finance disclosure on its own website, rather than through the lieutenant governor, the website established by the lieutenant governor shall contain a link or other access point to the municipality or county website.~~]

[~~(6)~~](5) Between January 1 and January 15 of each year, the chief election officer shall provide notice, by postal mail or email, to each filing entity for which the chief election officer has a physical or email address, of the reporting and filing requirements described in this chapter.

Section 29. Section 20A-11-1602 is amended to read:

20A-11-1602. Definitions.

As used in this part:

(1) "Conflict of interest" means an action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is

required to disclose under the provisions of this section, if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

(2) "Conflict of interest disclosure" means a disclosure, on the website, of all information required under Section 20A-11-1604.

(3) "Entity" means a corporation, a partnership, a limited liability company, a limited partnership, a sole proprietorship, an association, a cooperative, a trust, an organization, a joint venture, a governmental entity, an unincorporated organization, or any other legal entity, regardless of whether it is established primarily for the purpose of gain or economic profit.

(4) "Local official" means:

(a) an elected officer of:

(i) a municipality under Title 10, Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; or

(ii) a county under Title 17, Chapter 16a, County Officers and Employees Disclosure Act;

(b) a special public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; or

(c) another individual:

(i) who is not a regulated officeholder; and

(ii) who is required to annually make a conflict of interest disclosure in accordance with Subsection 20A-11-1604(6).

[~~(4)~~](5) "Filing officer" means:

(a) the lieutenant governor, for the office of a state constitutional officer or State Board of Education member; or

(b) the lieutenant governor or the county clerk in the county of the candidate's residence, for a state legislative office.

[~~(5)~~](6) "Immediate family" means the regulated officeholder's spouse, a child living in the regulated officeholder's immediate household, or an individual claimed as a dependent for state or federal income tax purposes by the regulated officeholder.

[~~(6)~~](7) "Income" means earnings, compensation, or any other payment made to an individual for gain, regardless of source, whether denominated as wages, salary, commission, pay, bonus, severance pay, incentive pay, contract payment, interest, per diem, expenses, reimbursement, dividends, or otherwise.

[~~(7)~~](8)(a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

[~~(8)~~](9) "Preceding year" means the year immediately preceding the day on which the regulated officeholder makes a conflict of interest disclosure.

[~~(9)~~](10) "Regulated officeholder" means an individual who is required to make a conflict of interest disclosure under the provisions of this part.

[~~(10)~~](11) "State constitutional officer" means the governor, the lieutenant governor, the state auditor, the state treasurer, or the attorney general.

[~~(11)~~](12) "Website" means the Candidate and Officeholder Conflict of Interest Disclosure Website described in Section 20A-11-1602.5.

Section 30. Section 20A-11-1602.5 is amended to read:

20A-11-1602.5. Candidate and Officeholder Conflict of Interest Disclosure Website.

(1) The lieutenant governor shall, in cooperation with the county clerks, establish and administer a Candidate and Officeholder Conflict of Interest Disclosure Website.

(2) The website shall:

(a) permit a candidate or officeholder to securely access the website for the purpose of:

(i) complying with the conflict of interest disclosure requirements described in this part; and

(ii) editing conflict of interest disclosures;

(b) contain a record of all conflict of interest disclosures and edits made by the candidate or officeholder for at least the preceding four years; [~~and~~]

(c) permit any person to view a conflict of interest disclosure made by a candidate or officeholder[~~.~~]; and

(d) contain a link to the conflict of interest disclosure made by a local official.

Section 31. Section 53C-1-202 is amended to read:

53C-1-202. Board of trustees membership -- Nomination list -- Qualifications -- Terms -- Replacement -- Chair -- Quorum -- Annual conflict of interest disclosure statement -- Penalties.

(1) There is established the School and Institutional Trust Lands Board of Trustees.

(2) The board shall consist of seven members appointed on a nonpartisan basis by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(3)(a) Except for the appointment made pursuant to Subsection (5), all appointments to the board shall be for a nonconsecutive term of six years, or until a replacement has been appointed and confirmed pursuant to this section.

(b) If a vacancy occurs, the governor shall appoint a replacement, following the procedures set forth in Subsections (2), (4), (5), and (6), to fill the unexpired term.

(c) Any member of the board who has served less than six years upon the expiration of that member's term is eligible for a consecutive reappointment.

(4)(a) The governor shall select six of the seven appointees to the board from a nomination list of at least two candidates for each position or vacancy submitted pursuant to Section 53C-1-203.

(b) The governor may request an additional nomination list of at least two candidates from the nominating committee if the initial list of candidates for a given position is unacceptable.

(c)(i) If the governor fails to select an appointee within 60 days after receipt of the initial list or within 60 days after the receipt of an additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim appointee shall serve until the matter is resolved by the committee and the governor or until replaced pursuant to this chapter.

(5)(a) The governor may appoint one member without requiring a nomination list.

(b) The member appointed under Subsection (5)(a) serves at the pleasure of the governor.

(6)(a) Each board candidate shall possess outstanding professional qualifications pertinent to the purposes and activities of the trust.

(b) The board shall represent the following areas of expertise:

(i) nonrenewable resource management or development;

(ii) renewable resource management or development; and

(iii) real estate.

(c) Other qualifications which are pertinent for membership to the board are expertise in any of the following areas:

(i) business;

(ii) investment banking;

(iii) finance;

(iv) trust administration;

(v) asset management; and

(vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i) through (v).

(7) The board of trustees shall select a chair and vice chair from its membership.

(8) Before assuming a position on the board, each member shall take an oath of office.

(9) Four members of the board constitute a quorum for the transaction of business.

(10) The governor or five board members may, for cause, remove a member of the board.

(11) A member of the board shall :

(a) comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest[.]; and

(b) no sooner than January 1 and no later than January 31 of each year during which the member holds office on the board:

(i) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(ii) submit the written disclosure statement to the administrator or clerk of the board.

(12)(a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (11)(b) to the administrator or clerk of the board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the administration's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (12)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the administration's website until the board member leaves office.

(13) The administrator or clerk of the board shall take the action described in Subsection (14) if:

(a) a board member fails to timely file the written disclosure statement described in Subsection (11)(b); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(14) If a circumstance described in Subsection (13) occurs, the administrator or clerk of the board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(15)(a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (14).

(b) A board member who violates Subsection (15)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the board shall report a violation of Subsection (15)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (15)(b), the administrator or clerk of the board shall impose a civil fine of $100 against a board member who violates Subsection (15)(a).

(16) The administrator or clerk of the board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.

Section 32. Section 63H-1-304 is enacted to read:

63H-1-304. Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) Except as provided in Subsection (7), a board member shall, no sooner than January 1 and no later than January 31 of each year during which the board member holds office on the authority's board:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority's board.

(2)(a) No later than 10 business days after the date on which the board member submits the written disclosure statement described in Subsection (1) to the administrator or clerk of the authority's board, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The administrator or clerk shall ensure that the board member's written disclosure statement remains posted on the authority's website until the board member leaves office.

(3) The administrator or clerk of the authority's board shall take the action described in Subsection (4) if:

(a) a board member fails to timely file the written disclosure statement described in Subsection (1); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the administrator or clerk of the authority's board shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the board member of the violation and direct the board member to submit an amended written disclosure statement correcting the problem.

(5)(a) It is unlawful for a board member to fail to submit or amend a written disclosure statement within seven days after the day on which the board member receives the notice described in Subsection (4).

(b) A board member who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority's board shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the administrator or clerk of the authority's board shall impose a civil fine of $100 against a board member who violates Subsection (5)(a).

(6) The administrator or clerk of the authority's board shall deposit a fine collected under this section into the board's account to pay for the costs of administering this section.

(7) For an individual who is appointed as a board member under Subsection 63H-1-302(2)(b):

(a) Subsection (1) does not apply; and

(b) the administrator or clerk of the authority's board shall, instead:

(i) post an electronic link on the authority's website to the written disclosure statement the board member made in the board member's capacity as an elected officer of:

(A) a county, under Section 17-16a-13; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Section 33. Section 63H-4-102 is amended to read:

63H-4-102. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) There is created an independent state agency and a body politic and corporate known as the "Heber Valley Historic Railroad Authority."

(2) The authority is composed of eight members as follows:

(a) one member of the county legislative body of Wasatch County;

(b) the mayor of Heber City;

(c) the mayor of Midway;

(d) the executive director of the Department of Transportation or the executive director's designee;

(e) the director of the Division of State Parks, or the director's designee; and

(f) three public members appointed by the governor with the advice and consent of the Senate, being private citizens of the state, as follows:

(i) two people representing the tourism industry, one each from Wasatch and Utah counties; and

(ii) one person representing the public at large.

(3) All members shall be residents of the state.

(4)(a) Except as required by Subsection (4)(b), the three public members are appointed for four-year terms beginning July 1, 2010.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of authority members are staggered so that approximately half of the authority is appointed every two years.

(5) Any of the three public members may be removed from office by the governor or for cause by an affirmative vote of any four members of the authority.

(6) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term by the governor with advice and consent of the Senate for the unexpired term.

(7) Each public member shall hold office for the term of appointment and until a successor has been appointed and qualified.

(8) A public member is eligible for reappointment, but may not serve more than two full consecutive terms.

(9) The governor shall appoint the chair of the authority from among its members.

(10) The members shall elect from among their number a vice chair and other officers they may determine.

(11) The powers of the authority are vested in its members.

(12)(a) Four members constitute a quorum for transaction of authority business.

(b) An affirmative vote of at least four members is necessary for any action taken by the authority.

(13) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(14) Except as provided in Subsection (20), a member shall, no sooner than January 1 and no later than January 31 of each year during which the member holds office on the authority:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority.

(15)(a) No later than 10 business days after the date on which the member submits the written disclosure statement described in Subsection (14) to the administrator or clerk of the authority, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (15)(a)(i).

(b) The administrator or clerk shall ensure that the member's written disclosure statement remains posted on the authority's website until the member leaves office.

(16) The administrator or clerk of the authority shall take the action described in Subsection (17) if:

(a) a member fails to timely file the written disclosure statement described in Subsection (14); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(17) If a circumstance described in Subsection (16) occurs, the administrator or clerk of the authority shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the member of the violation and direct the member to submit an amended written disclosure statement correcting the problem.

(18)(a) It is unlawful for a member to fail to submit or amend a written disclosure statement within seven days after the day on which the member receives the notice described in Subsection (17).

(b) A member who violates Subsection (18)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority shall report a violation of Subsection (18)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (18)(b), the administrator or clerk of the authority shall impose a civil fine of $100 against a member who violates Subsection (18)(a).

(19) The administrator or clerk of the authority shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

(20) For an individual who is appointed to the authority under Subsection (2)(a), (b), or (c):

(a) Subsection (14) does not apply; and

(b) the administrator or clerk of the authority shall, instead:

(i) post an electronic link on the authority's website to the written disclosure statement the member made in the member's capacity as an elected officer of:

(A) a county, under Section 17-16a-13; or

(B) a municipality, under Section 10-3-1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (20)(b)(i).

Section 34. Section 63H-8-201 is amended to read:

63H-8-201. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum --

Per diem and expenses -- Annual conflict of interest disclosure statement -- Penalties.

(1)(a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

(i) Utah Housing Finance Association; and

(ii) Utah Housing Finance Agency in connection with a contract entered into when that was the corporation's legal name.

(c) No other entity may use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) the executive director of the Department of Workforce Services or the executive director's designee;

(b) the commissioner of the Department of Financial Institutions or the commissioner's designee;

(c) the state treasurer or the treasurer's designee; and

(d) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of the state; and

(ii) not more than three of the public trustees are members of the same political party.

(4)(a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5)(a) A public trustee of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6)(a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7)(a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees does not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(9) A trustee shall, no sooner than January 1 and no later than January 31 of each year during which the trustee holds office on the board of trustees:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the board of trustees.

(10)(a) No later than 10 business days after the date on which the trustee submits the written disclosure statement described in Subsection (9) to the administrator or clerk of the board of trustees, the administrator or clerk shall:

(i) post a copy of the written disclosure statement on the corporation's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (10)(a)(i).

(b) The administrator or clerk shall ensure that the trustee's written disclosure statement remains posted on the corporation's website until the trustee leaves office.

(11) The administrator or clerk of the board of trustees shall take the action described in Subsection (12) if:

(a) a trustee fails to timely file the written disclosure statement described in Subsection (9); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(12) If a circumstance described in Subsection (11) occurs, the administrator or clerk of the board of trustees shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the trustee of the violation and direct the trustee to submit an amended written disclosure statement correcting the problem.

(13)(a) It is unlawful for a trustee to fail to submit or amend a written disclosure statement within seven days after the day on which the trustee receives the notice described in Subsection (12).

(b) A trustee who violates Subsection (13)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the board of trustees shall report a violation of Subsection (13)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (13)(b), the administrator or clerk of the board of trustees shall impose a civil fine of $100 against a member who violates Subsection (13)(a).

(14) The administrator or clerk of the board shall deposit a fine collected under this section into the corporation's account to pay for the costs of administering this section.

[~~(9)~~](15) [~~A~~]In addition to the written disclosure statement described in Subsection (9), a trustee described in Subsection (2)(d) shall also comply with the conflict of interest provisions described in Section 63G-24-301.

Section 35. Section 63M-14-202 is amended to read:

63M-14-202. Organization of the authority -- Annual conflict of interest disclosure statement -- Penalties.

(1) The authority is composed of seven authority members:

(a) five authority members who represent Colorado River authority areas;

(b) one authority member who represents the governor; and

(c) one authority member who represents tribal interests.

(2) The five Colorado River authority areas, defined by existing county boundaries that reflect the historic and current use of the Colorado River system, include:

(a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit, Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah Water Conservancy District;

(b) the Uintah Basin Area composed of Duchesne and Uintah counties, notwithstanding that these counties fall within the Central Utah Area, and Daggett county;

(c) the Price and San Rafael Area composed of Carbon and Emery counties;

(d) the Virgin River Area composed of Kane and Washington counties; and

(e) the State of Utah Area that represents:

(i) the remaining counties using the Colorado River system;

(ii) the Department of Natural Resources and the Department of Natural Resources' divisions; and

(iii) the users of the Colorado River system that are not specifically included in the other four Colorado River authority areas and include Garfield, Grand, San Juan, and Wayne counties.

(3) The members of the authority are:

(a) four members appointed as follows:

(i) a representative of the Central Utah Area appointed by the board of trustees of the Central Utah Water Conservancy District;

(ii) a representative of the Uintah Basin Area appointed jointly by the boards of trustees of the Duchesne County and Uintah Water Conservancy Districts;

(iii) a representative of the Price and San Rafael Area appointed jointly by the county commission of Carbon County and the board of trustees of the Emery Water Conservancy District; and

(iv) a representative of the Virgin River Area appointed by the board of trustees of the Washington County Water Conservancy District;

(b) the director of the Division of Water Resources as the representative of the State of Utah Area created in Subsection (2)(e);

(c) the executive director of the Department of Natural Resources as the representative of the governor; and

(d) a representative of tribal interests who is:

(i) appointed by the governor; and

(ii) a member of a federally recognized Indian tribe if the tribe is, in whole or in part, located within the state and within the Colorado River system.

(4) A joint appointment required under Subsection (3) requires the agreement of both appointing authorities before the authority member seat is filled.

(5) An authority member who is appointed under Subsection (3) shall:

(a) be a resident of the state; and

(b) have experience and a general knowledge of:

(i) Colorado River issues and the use of the Colorado River system in the member's respective Colorado River authority area;

(ii) the development of the use of the waters of the Colorado River system; and

(iii) the rights of this state concerning the resources and benefits of the Colorado River system.

(6)(a) An appointing authority shall notify the chair of:

(i) the appointing authority's initial appointment to the authority; and

(ii) the appointment of a new member or when a vacancy is being filled.

(b) An appointment of an authority member is effective when received by the chair.

(c) The initial term of an appointed authority member expires June 30, 2027. Before June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority members beginning July 1, 2027, and notify each appointing authority of the duration of the term of the appointing authority's authority member. The staggering of terms after July 1, 2027, shall result in approximately one-third of the appointed authority members' terms expiring every two years. After the respective terms of adjustment are complete, subsequent authority members shall be appointed by an appointing authority for six-year terms.

(d) An authority member term shall end on June 30. New terms commence on July 1.

(e) An authority member whose term has expired shall serve until replaced or reappointed by the applicable appointing authority.

(f) An appointing authority may at any time remove the appointing authority's authority member for neglect of duty or malfeasance in office. If the authority member is jointly appointed, the authority member may only be removed by joint agreement of both appointing authorities.

(7) In the event of a vacancy in the authority, the chair shall notify the appointing authority of the vacancy and ask that an authority member be promptly appointed.

(8)(a) An authority member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Department of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) If an authority member is a full-time employee with either the state or a water conservancy district, the authority member is not eligible for the per diem compensation.

(9) The executive director appointed under Section 63M-14-401 shall provide staff services to the authority.

(10) An authority member shall, no sooner than January 1 and no later than January 31 of each year during which the authority member holds office on the authority:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the authority.

(11)(a) No later than 10 business days after the date on which the authority member submits the written disclosure statement described in Subsection (10) to the administrator or clerk of the authority, the administrator or clerk shall:

(i) post a copy of the written disclosure statement on the authority's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (11)(a)(i).

(b) The administrator or clerk shall ensure that the authority member's written disclosure statement remains posted on the authority's website until the authority member leaves office.

(12) The administrator or clerk of the authority shall take the action described in Subsection (13) if:

(a) an authority member fails to timely file the written disclosure statement described in Subsection (10); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(13) If a circumstance described in Subsection (12) occurs, the administrator or clerk of the authority shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the authority member of the violation and direct the authority member to submit an amended written disclosure statement correcting the problem.

(14)(a) It is unlawful for an authority member to fail to submit or amend a written disclosure statement within seven days after the day on which the authority member receives the notice described in Subsection (13).

(b) An authority member who violates Subsection (14)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the authority shall report a violation of Subsection (14)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (14)(b), the administrator or clerk of the authority shall impose a civil fine of $100 against an authority member who violates Subsection (14)(a).

(15) The administrator or clerk of the authority shall deposit a fine collected under this section into the authority's account to pay for the costs of administering this section.

Section 36. Section 67-16-3 is amended to read:

67-16-3. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions; or

(b) an association as defined in Section 53G-7-1101.

(2) "Agency head" means the chief executive or administrative officer of any agency.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(6) "Controlled, private, or protected information" means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(7) "Filing clerk" means:

(a) the special district clerk, for a special public officer who holds an office on:

(i) the board of trustees of a special district; or

(ii) the governing body of a special service district; or

(b) the chief administrative officer, for a special public officer who holds an office on a local school board.

(8) "Governing body" means:

(a) the legislative body of a county, city, or town that establishes a special service district, if an administrative control board has not been appointed under Section 17D-1-301; or

(b) the administrative control board of a special service district, if the administrative control board has been appointed under Section 17D-1-301.

[~~(7)~~](9) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:

(a) any decision, determination, finding, ruling, or order; and

(b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.

[~~(8)~~](10) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.

[~~(9)~~](11) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days. "Legislative employee" does not include legislators.

[~~(10)~~](12) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.

[~~(11)~~](13) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.

[~~(12)~~](14)(a) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by:

(i) the state;

(ii) a political subdivision of the state; or

(iii) an association as defined in Section 53G-7-1101.

(b) "Public employee" does not include legislators or legislative employees.

[~~(13)~~](15)(a) "Public officer" means an elected or appointed officer:

(i)(A) of the state;

(B) of a political subdivision of the state; or

(C) an association as defined in Section 53G-7-1101; and

(ii) who occupies a policymaking post.

(b) "Public officer" includes a special public officer.

[~~(b)~~](c) "Public officer" does not include legislators or legislative employees.

(16) "Special public officer" means a public officer who is an elected or appointed member of:

(a) the board of trustees of a special district or the governing body of a special service district, if the special district or the special service district has an annual budget that is equal to or exceeds 10 times the revenue and expenditure amount described in Subsection 51-2a-201(1); or

(b) a local school board.

[~~(14)~~](17) "State" means the state of Utah.

[~~(15)~~](18) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

Section 37. Section 67-16-6 is amended to read:

67-16-6. Receiving compensation for assistance in transaction involving an agency -- Sworn statement.

(1) Except as provided in Subsection [~~(5)~~](6), it is an offense for a public officer or public employee to receive or agree to receive compensation for assisting any person or business entity in any transaction involving an agency unless the public officer or public employee files a sworn, written statement [~~containing the information required by~~]disclosing the information described in Subsection (2) with:

(a) the head of the officer or employee's own agency;

(b) the agency head of the agency with which the transaction is being conducted; [~~and~~]

(c) the state attorney general[~~.~~]; and

(d) for a public officer who is a special public officer, the filing clerk of the board of trustees, governing body, or local school board, as applicable, of which the special public officer is an elected or appointed member.

(2) The [~~statement~~]sworn statement described in Subsection (1) shall contain:

(a) the name and address of the public officer or public employee involved;

(b) the name of the public officer's or public employee's agency;

(c) the name and address of the person or business entity being or to be assisted; and

(d) a brief description of:

(i) the transaction as to which service is rendered or is to be rendered; and

(ii) the nature of the service performed or to be performed.

(3) [~~The statement required to be filed under Subsection (1) shall be filed within~~]A public officer or public employee shall file the sworn statement described in Subsection (1) on or before the earlier of:

(a) 10 days after the date [~~of any agreement between the public officer or public employee and the person or business entity being assisted~~]on which the public officer or public employee and the person or business entity being assisted enter into an agreement; or

(b) the [~~receipt of compensation, whichever is earlier~~]public officer's or public employee's receipt of compensation.

(4) In accordance with Subsection (1)(d), a special public officer shall file the sworn statement with the filing clerk on or before the earlier of the deadlines described in Subsections (3)(a) and (b).

(5) A filing clerk who receives the sworn statement described in Subsection (1) shall:

(a) post a copy of the special public officer's sworn statement on, as applicable, the special district's, special service district's, or school district's website; and

(b) ensure that the sworn statement remains posted on the website described in Subsection (5)(a) until the special public officer leaves office.

[~~(4)~~](6) The [~~statement is~~]sworn statement described in Subsection (1) is public information and shall be available for examination by the public.

[~~(5)~~](7) This section does not apply to a public officer or public employee who engages in conduct that constitutes a violation of this section to the extent that the public officer or public employee is chargeable, for the same conduct, under Section 63G-6a-2404 or Section 76-8-105.

Section 38. Section 67-16-7 is amended to read:

67-16-7. Disclosure of substantial interest in regulated business -- Exceptions.

(1) Except as provided in Subsection (5), a public officer or public employee who is an officer, director, agent, employee, or owner of a substantial interest in any business entity that is subject to the regulation of the agency by which the public officer or public employee is employed shall disclose [~~any~~]a position held in the entity and the precise nature and value of the public officer's or public employee's interest in the entity:

(a) upon first becoming a public officer or public employee;

(b) whenever the public officer's or public employee's position in the business entity changes significantly; and

(c) if the value of the public officer's or public employee's interest in the entity increases significantly.

(2) The disclosure required under Subsection (1) shall be made in a sworn statement filed with:

(a) for a public officer or a public employee of the state, the attorney general;

(b) for a public officer or a public employee of a political subdivision, the chief governing body of the political subdivision;

(c) the head of the agency with which the public officer or public employee is affiliated; [~~and~~]

(d) for a public employee, the public employee's immediate supervisor[~~.~~]; and

(e) for a public officer who is a special public officer, the filing clerk of the board or trustees,

governing body, or local school board, as applicable, of which the special public officer is an elected or appointed member.

(3) A filing clerk who receives the sworn statement described in Subsection (1) shall:

(a) post a copy of the special public officer's sworn statement on, as applicable, the special district's, special service district's, or school district's website; and

(b) ensure that the sworn statement remains posted on the website described in Subsection (3)(a) until the special public officer leaves office.

[~~(3)~~](4)(a) This section does not apply to instances where the total value of the substantial interest does not exceed $[~~2,000~~]5,000.

(b) A life insurance policy or an annuity is not required to be considered in determining the value of a substantial interest under this section.

[~~(4)~~](5) A disclosure made under this section is a public record and a person with whom a disclosure is filed under Subsection (2) shall make the disclosure available for public inspection.

[~~(5)~~](6) A public officer is not required to file a disclosure under this section if the public officer files a disclosure under Section 20A-11-1604.

Section 39. Section 67-16-16 is enacted to read:

67-16-16. Special public officer -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) Except as provided in Subsection (7), a special public officer shall, no sooner than January 1 and no later than January 31 of each year during which the special public officer holds elected or appointed office:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the filing clerk.

(2)(a) No later than 10 business days after the day on which a special public officer submits the written disclosure statement described in Subsection (1) to the filing clerk, the filing clerk shall:

(i) post an electronic copy of the written disclosure statement on, as applicable, the special district's, special service district's, or school district's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (2)(a)(i).

(b) The filing clerk shall ensure that the special public officer's written disclosure statement remains posted on the website described in Subsection (2)(a)(i) until the special public officer leaves office.

(3) The filing clerk shall take the action described in Subsection (4) if:

(a) a special public officer fails to timely submit a written disclosure statement; or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(4) If a circumstance described in Subsection (3) occurs, the filing clerk shall, within five days after the day on which the filing clerk determines that a violation occurred, notify the special public officer of the violation and direct the special public officer to submit an amended report correcting the problem.

(5)(a) It is unlawful for a special public officer to fail to submit or amend a written disclosure statement within seven days after the day on which the special public officer receives the notice described in Subsection (4).

(b) A special public officer who violates Subsection (5)(a) is guilty of a class B misdemeanor.

(c) The filing clerk shall report a violation of Subsection (5)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (5)(b), the filing clerk shall impose a civil fine of $100 against a special public officer who violates Subsection (5)(a).

(6) The filing clerk shall deposit a fine collected under this section into the, as applicable, special district's, special service district's, or school district's general fund as a dedicated credit to pay for the costs of administering this section.

(7) For a special public officer who is also a state legislator, a member of the legislative body of a county or municipality, or who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law:

(a) Subsection (1) does not apply; and

(b) the filing clerk shall, instead:

(i) post an electronic link on the website described in Subsection (2)(a)(i) to the written disclosure statement the special public officer made in the special public officer's capacity as:

(A) a state legislator, under Title 20A, Chapter 11, Part 16, Conflict of Interest Disclosures;

(B) an elected officer of a county, under Section 17-16a-13;

(C) an elected officer of a municipality, under Section 10-3-1313; or

(D) an individual who is otherwise required to make the written disclosure statement described in Subsection (1) under another provision of law; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (7)(b)(i).

Section 40. Section 73-32-302 is amended to read:

73-32-302. Advisory council created -- Staffing -- Per diem and travel expenses -- Annual conflict of interest disclosure statement -- Exception -- Penalties.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2)(a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section 23A-13-101;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3)(a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

(b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment, the governor shall adjust the length of terms of voting members to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5)(a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The office, the department, and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

(8) Except as provided in Subsection (14), a council member shall, no sooner than January 1 and no later than January 31 of each year during which the council member holds office on the council:

(a) prepare a written conflict of interest disclosure statement that contains a response to each item of information described in Subsection 20A-11-1604(6); and

(b) submit the written disclosure statement to the administrator or clerk of the council.

(9)(a) No later than 10 business days after the date on which the council member submits the written disclosure statement described in Subsection (8) to the administrator or clerk of the council, the administrator or clerk shall:

(i) post an electronic copy of the written disclosure statement on the council's website; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (9)(a)(i).

(b) The administrator or clerk of the council shall ensure that the council member's written disclosure statement remains posted on the council's website until the council member leaves office.

(10) The administrator or clerk of the council shall take the action described in Subsection (11) if:

(a) a council member fails to timely file the written disclosure statement described in Subsection (8); or

(b) a submitted written disclosure statement does not comply with the requirements of Subsection 20A-11-1604(6).

(11) If a circumstance described in Subsection (10) occurs, the administrator or clerk of the council shall, within five days after the day on which the administrator or clerk determines that a violation occurred, notify the council member of the violation and direct the council member to submit an amended written disclosure statement correcting the problem.

(12)(a) It is unlawful for a council member to fail to submit or amend a written disclosure statement

within seven days after the day on which the council member receives the notice described in Subsection (11).

(b) A council member who violates Subsection (12)(a) is guilty of a class B misdemeanor.

(c) The administrator or clerk of the council shall report a violation of Subsection (12)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (12)(b), the administrator or clerk of the council shall impose a civil fine of $100 against a council member who violates Subsection (12)(a).

(13) The administrator or clerk of the council shall deposit a fine collected under this section into the council's account to pay for the costs of administering this section.

(14) For an individual appointed to the council under Subsection (2)(a)(v) or (vi):

(a) Subsection (8) does not apply; and

(b) the administrator or clerk of the council shall, instead:

(i) post an electronic link on the council's website to the written disclosure statement the council member made in the council member's capacity as an elected officer of:

(A) a county, under Section 17- 16a- 13; or

(B) a municipality, under Section 10- 3- 1313; and

(ii) provide the lieutenant governor with a link to the electronic posting described in Subsection (14)(b)(i).

Section 41. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 444
H. B. 138
Passed February 28, 2024
Approved March 20, 2024
Effective May 1, 2024

LOBBYIST DISCLOSURE AND REGULATION ACT AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses communications with an elected official's employer.

Highlighted Provisions:

This bill:

- prohibits a person from communicating with an elected official's employer with the intent to influence, coerce, or intimidate the elected official's action on a vote or another official act; and
- makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-11-302, as enacted by Laws of Utah 1991, Chapter 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-11-302 is amended to read:

36-11-302. Improper influence -- Communication with an elected official's employer prohibited.

[~~A person may not seek to influence the vote of any legislator through communication with the legislator's employer.~~]

(1) As used in this section:

(a) "Elected official" means:

(i) a member of the Legislature;

(ii) a member of the legislative body of a local government;

(iii) a member of a board of education; or

(iv) the mayor of a city, town, or metro township.

(b) "Elected official" includes a person who is appointed to fill a vacancy in the office of an elected official described in Subsection (1)(a).

(2) A person may not communicate with an elected official's employer with the intent to influence, coerce, or intimidate the elected official's action on a vote or another official act.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 445
H. B. 85
Passed February 13, 2024
Approved March 20, 2024
Effective May 1, 2024

ELECTRIC BIKE AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends the definition of an electric assisted bicycle.

Highlighted Provisions:

This bill:

- amends the definition of an electric assisted bicycle:
  - to add a requirement that the cranks be installed at the time of original manufacture; and
  - to exclude certain other types of cycles from the definition;
- requires a seller or manufacturer of an electric assisted bicycle, as well as other devices that are similar to but do not meet the definition of an electric assisted bicycle, to ensure that the device has a label indicating what type of device is being sold or manufactured; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-102, as last amended by Laws of Utah 2023, Chapters 219, 532

41-6a-1115.5, as last amended by Laws of Utah 2022, Chapter 86

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5)(a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6)(a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7)(a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle [~~described in Subsection (18)(d)(i).~~]equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling; and

(b) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour.

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle [~~described in Subsection (18)(d)(ii).~~]equipped with a motor or electronics that:

(a) may be used exclusively to propel the bicycle; and

(b) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour.

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle [~~described in Subsection (18)(d)(iii).~~]equipped with a motor or electronics that:

(a) provides assistance only when the rider is pedaling;

(b) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(c) is equipped with a speedometer.

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i)(A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(18)(a) "Electric assisted bicycle" means a bicycle with an electric motor that:

[~~(a)~~](i) has a power output of not more than 750 watts;

[~~(b) has fully operable pedals on permanently affixed cranks;that were installed at the time of original manufacture;~~]

(ii) has fully operable pedals;

(iii) has permanently affixed cranks that were installed at the time of the original manufacture;

[~~(c)~~](iv) is fully operable as a bicycle without the use of the electric motor; and

[~~(d)~~](v) is one of the following:

(A) a class 1 electric assisted bicycle;

(B) a class 2 electric assisted bicycle;

(C) a class 3 electric assisted bicycle; or

(D) a programmable electric assisted bicycle.

[~~(i) an electric assisted bicycle equipped with a motor or electronics that:~~]

[~~(A) provides assistance only when the rider is pedaling; and~~]

[~~(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;~~]

[~~(ii) an electric assisted bicycle equipped with a motor or electronics that:~~]

[~~(A) may be used exclusively to propel the bicycle; and~~]

[~~(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or~~]

[~~(iii) an electric assisted bicycle equipped with a motor or electronics that:~~]

[~~(A) provides assistance only when the rider is pedaling;~~]

[~~(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and~~]

[~~(C) is equipped with a speedometer.~~]

(b) "Electric assisted bicycle" does not include:

(i) a moped;

(ii) a motor assisted scooter;

(iii) a motorcycle;

(iv) a motor-driven cycle; or

(v) any other vehicle with less than four wheels that is designed, manufactured, intended, or advertised by the seller to have any of the following capabilities or features, or that is modifiable or is modified to have any of the following capabilities or features:

(A) has the ability to attain the speed of 20 miles per hour or greater on motor power alone;

(B) is equipped with a continuous rated motor power of 750 watts or greater;

(C) is equipped with foot pegs for the operator at the time of manufacture, or requires installation of a pedal kit to have operable pedals; or

(D) if equipped with multiple operating modes and a throttle, has one or more modes that exceed 20 miles per hour on motor power alone.

(19)(a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(20) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(21) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(22) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(23) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(24)(a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(25) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(26) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(27) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(28) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(29) "Highway authority" means the same as that term is defined in Section 72-1-102.

(30)(a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(31) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(32) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(33) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(34) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(35) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(36)(a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(37) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(38)(a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(39) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (39)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(40) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

(41)(a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(42)(a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(43)(a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(44) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(45)(a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(46) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(47) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(48) "Operate" means the same as that term is defined in Section 41-1a-102.

(49) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(50) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

(51)(a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(52) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(53) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(54) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(55) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(56) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(57) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(58) "Programmable electric assisted bicycle" means an electric assisted bicycle with capability to switch or be programmed to function as a class 1 electric assisted bicycle, class 2 electric assisted bicycle, or class 3 electric assisted bicycle, provided that the electric assisted bicycle fully conforms with the respective requirements of each class of electric assisted bicycle when operated in that mode.

[~~(58)~~](59) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(59)~~](60) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(60)~~](61) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(61)~~](62) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

[~~(62)~~](63) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(63)~~](64)(a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(64)~~](65) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be

plainly visible at all times while set apart as a safety zone.

[~~(65)~~](66)(a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(66)~~](67)(a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(67)~~](68) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(68)~~](69) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(69)~~](70)(a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(70)~~](71) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(71)~~](72) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(72)~~](73) "Stop" when required means complete cessation from movement.

[~~(73)~~](74) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(74)~~](75) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(75)~~](76) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(76)~~](77) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(77)~~](78) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(78)~~](79) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(79)~~](80) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(80)~~](81) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(81)~~](82)(a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(82)~~](83) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(83)~~](84) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(84)~~](85) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(85)~~](86) "Urban district" means the territory contiguous to and including any street, in which

structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(86)~~](87) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1115.5 is amended to read:

41-6a-1115.5. Electric assisted bicycles -- Restrictions -- Penalties.

(1) Except as otherwise provided in this section, an electric assisted bicycle is subject to the provisions under this chapter for a bicycle.

(2) An individual may operate an electric assisted bicycle on a path or trail designated for the use of a bicycle.

(3)(a) A local authority or state agency may adopt an ordinance or rule to regulate or restrict the use of an electric assisted bicycle, or a specific classification of an electric assisted bicycle, on a sidewalk, path, or trail within the jurisdiction of the local authority or state agency.

(b) When enacting ordinances or making rules related to the use of a pathway or soft-surface trail, and during the planning or construction of a pathway or soft-surface trail, a local authority or state agency shall consider accommodations and increased trail access by a person with a mobility disability.

(4) An individual under 16 years old may not operate a class 3 electric assisted bicycle.

(5) An individual under 14 years old may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk unless the individual is under the direct supervision of the individual's parent or guardian.

(6) An individual under eight years old may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk.

(7) The owner of an electric assisted bicycle may not authorize or knowingly permit an individual to operate an electric assisted bicycle in violation of this section.

(8)(a) Beginning January 1, 2017, each Utah-based manufacturer of an electric assisted bicycle and each distributor of an electric assisted bicycle in Utah shall permanently affix a label in a prominent location on the electric assisted bicycle.

(b) Each manufacturer and each distributer shall ensure that the label is printed in Arial font, in 9-point type or larger, and includes the:

(i) appropriate electric assisted bicycle classification number described in Section 41-6a-102;

(ii) top assisted speed; and

(iii) wattage of the motor.

(c) A Utah-based manufacturer or seller shall ensure that a programmable electric assisted bicycle is equipped with a conspicuous label indicating the class or classes of electric assisted bicycle of which the programmable electric assisted bicycle is capable of operating.

(d) Beginning May 1, 2024, a seller of any new or used vehicle with less than four wheels that is powered by an electric motor that is not an electric assisted bicycle shall clearly and conspicuously provide the following disclosure to a prospective purchaser at the time of sale and in any advertising materials, online website, or social media post promoting the vehicle: "THIS VEHICLE IS NOT AN "ELECTRIC ASSISTED BICYCLE" AS DEFINED BY UTAH MOTOR VEHICLE CODE AND IS INSTEAD A TYPE OF MOTOR VEHICLE AND SUBJECT TO APPLICABLE MOTOR VEHICLE LAWS IF USED ON PUBLIC ROADS OR PUBLIC LANDS. YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS VEHICLE. TO DETERMINE IF COVERAGE IS PROVIDED YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."

(e) For a disclosure described in Subsection (8)(d), the seller shall ensure that the disclosure appears in bold, capital letters at least the same font size as the description of the vehicle.

(f) A person's actions to knowingly advertise, offer for sale, or sell a vehicle that is not an electric assisted bicycle as an electric bicycle, electric assisted bicycle, electric bike, or e-bike without making the disclosure described in Subsection (8)(d) constitutes prima facie evidence of a deceptive trade practice under Section 13-11a-3.

(9) An individual who violates this section is guilty of an infraction.

(10) A class 2 electric assisted bicycle is subject to the restrictions of Section 41-6a-526.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 446
H. B. 142
Passed February 13, 2024
Approved March 20, 2024
Effective May 1, 2024

RAILROAD DRONE AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill allows the operation of an unmanned aircraft system near public transit facilities or critical infrastructure facilities under certain circumstances.

Highlighted Provisions:

This bill:

- allows an individual to operate an unmanned aircraft system near or above public transit facilities if the individual is:
  - employed or contracted by a large public transit district to use an unmanned aircraft to examine public transit facilities for safety purposes; or
  - a member of law enforcement with a legitimate law enforcement purpose;
- prohibits the operation of an unmanned aircraft system near or above certain critical infrastructure facilities, with certain exceptions; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-10-1002, as renumbered and amended by Laws of Utah 2023, Chapter 216

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-10-1002 is amended to read:

72-10-1002. Safe operation of unmanned aircraft.

(1) An individual who operates an unmanned aircraft system to fly an unmanned aircraft for recreational purposes shall comply with this section or [~~14 C.F.R. Sec. 101, Subpart E~~]49 U.S.C. Sec. 44809.

(2) An individual operating an unmanned aircraft shall:

(a) maintain visual line of sight of the unmanned aircraft in order to:

(i) know the location of the unmanned aircraft;

(ii) determine the attitude, altitude, and direction of flight;

(iii) observe the airspace for other air traffic or hazards; and

(iv) determine that the unmanned aircraft does not endanger the life or property of another person; and

(b) ensure that the ability described in Subsection (2)(a)(i) is exercised by either:

(i) the operator of the unmanned aircraft; or

(ii) a visual observer.

(3) An individual may not operate an unmanned aircraft in Class B, Class C, or Class D airspace or within the lateral boundaries of the surface area of Class E airspace designated for an airport unless the operator of the unmanned aircraft has prior authorization from air traffic control.

(4) An individual may not operate an unmanned aircraft in a manner that interferes with operations and traffic patterns at any airport, heliport, or seaplane base.

(5)(a) [~~An~~]Except as provided in Subsection (5)(b), an individual may not operate an unmanned aircraft system:

[~~(a)~~](i) from a public transit rail platform or station; or

[~~(b)~~](ii)[~~(i)~~](A) under a height of 50 feet within a public transit fixed guideway right-of-way; and

[~~(ii)~~](B) directly above any overhead electric lines used to power a public transit rail vehicle.

(b) Subsection (5)(a) does not apply to:

(i) an individual employed or contracted by a large public transit district who may operate an unmanned aircraft from a public transit rail platform or station or near a public transit facility:

(A) to examine the public transit right-of-way for impediments or obstructions;

(B) to examine a public transit facility for safety concerns; or

(C) for any other safety-related purpose related to the operations of a large public transit district; or

(ii) an individual who is a member of law enforcement operating an unmanned aircraft system in accordance with Section 72-10-802.

(6)(a) An individual may not operate an unmanned aircraft over any surface critical infrastructure facility as defined in Section 76-6-106.3, unless the operator of the unmanned aircraft has prior authorization from the facility.

(b) Subsection (6)(a) does not apply to:

(i) a first responder, as that term is defined in Section 53-3-207; or

(ii) a state or federal agency with regulatory authority over the relevant critical infrastructure facility.

[~~(6)~~](7) An individual may not operate an unmanned aircraft in violation of a notice to airmen described in 14 C.F.R. Sec. 107.47.

[~~(7)~~](8) [~~An~~]Unless a waiver has been granted by the Federal Aviation Administration, an individual may not operate an unmanned aircraft at an altitude that is higher than 400 feet above ground level unless the unmanned aircraft:

(a) is flown within a 400- foot radius of a structure; and

(b) does not fly higher than 400 feet above the structure's immediate uppermost limit.

[~~(8)~~](9)(a) An individual who violates this section is liable for any damages that may result from the violation.

(b) A law enforcement officer shall issue a written warning to an individual who violates this section who has not previously received a written warning for a violation of this section.

(c) Except as provided in Subsection [~~(8)(d)~~](9)(d), an individual who violates this section after receiving a written warning for a previous violation of this section is guilty of an infraction.

(d) An individual who violates this section is guilty of a class B misdemeanor for each conviction of a violation of this section after the individual is convicted of an infraction or a misdemeanor for a previous violation of this section.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 447
H. B. 160
Passed February 13, 2024
Approved March 20, 2024
Effective May 1, 2024

CAMPAIGN FUNDING AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to clothing expenses for which campaign funds may be used.

Highlighted Provisions:

This bill:

- clarifies that an officeholder may use campaign funds for clothing bearing the logo or name of a jurisdiction, district, government organization, government entity, caucus, or political party that the officeholder represents or of which the officeholder is a member; and
- modifies the definition of "personal use expenditure" in relation to municipalities and counties to make the permitted uses of campaign funds for clothing consistent with the uses permitted under the Election Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-209, as last amended by Laws of Utah 2019, Chapter 204
17-16-202, as last amended by Laws of Utah 2019, Chapters 155, 204
20A-11-104, as last amended by Laws of Utah 2021, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-209 is amended to read:

10-3-209. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for the purposes of this section:

(a) "Candidate" means a person who:

(i) files a declaration of candidacy for municipal office; or

(ii) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(b) "Officeholder" means a person who is elected to and currently holds a municipal office.

(c)(i) "Personal use expenditure" means an expenditure that:

(A) is not excluded from the definition of personal use expenditure by Subsection (2) and primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(B) would cause the candidate or officeholder to recognize the expenditure as taxable income under federal law.

(ii) "Personal use expenditure" includes:

(A) a mortgage, rent, utility, or vehicle payment;

(B) a household food item or supply;

(C) a clothing expense, except:

[~~(C)~~](I) [~~clothing, except for~~]clothing bearing the candidate's name or campaign slogan or logo [~~and~~]that is used in the candidate's campaign;

(II) clothing bearing the logo or name of a jurisdiction, district, government organization, government entity, caucus, or political party that the officeholder represents or of which the officeholder is a member; or

(III) repair or replacement of clothing that is damaged while the candidate or officeholder is engaged in an activity of a candidate or officeholder;

(D) an admission to a sporting, artistic, or recreational event or other form of entertainment;

(E) dues, fees, or gratuities at a country club, health club, or recreational facility;

(F) a salary payment made to a candidate, officeholder, or a person who has not provided a bona fide service to a candidate or officeholder;

(G) a vacation;

(H) a vehicle expense;

(I) a meal expense;

(J) a travel expense;

(K) a payment of an administrative, civil, or criminal penalty;

(L) a satisfaction of a personal debt;

(M) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(N) a membership fee for a professional or service organization; and

(O) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this section, "personal use expenditure" does not mean an expenditure made:

(a) for a political purpose;

(b) for candidacy for public office;

(c) to fulfill a duty or activity of an officeholder;

(d) for a donation to a registered political party;

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(f) to return all or a portion of a contribution to a donor;

(g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i)(A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(ii) a meal expense;

(iii) a travel expense, including an expense incurred for airfare or a rental vehicle;

(iv) a payment for a service provided by an attorney or accountant;

(v) a tuition payment or registration fee for participation in a meeting or conference;

(vi) a gift;

(vii) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

(viii) a booth at a meeting or event; or

(ix) educational material;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community;

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2); or

(n) to pay childcare expenses of:

[~~(A)~~](i) a candidate while the candidate is engaging in campaign activity; or

[~~(B)~~](ii) an officeholder while the officeholder is engaging in the duties of an officeholder.

(3)(a) A municipality may adopt an ordinance prohibiting a personal use expenditure by a candidate with requirements that are more stringent than the requirements provided in Subsection (4).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1) or (2).

(c) If a municipality fails to adopt a personal use expenditure ordinance described in Subsection (3)(a), a candidate shall comply with the requirements contained in Subsection (4).

(4) A candidate or an officeholder may not use money deposited into a campaign account for:

(a) a personal use expenditure; or

(b) an expenditure prohibited by law.

(5) A municipality may enforce this section by adopting an ordinance:

(a) to provide for the evaluation of a campaign finance statement to identify a personal use expenditure; and

(b) to commence informal adjudicative proceedings if, after an evaluation described in Subsection (5)(a), there is probable cause to believe that a candidate or officeholder has made a personal use expenditure.

(6) If, in accordance with the proceedings described in Subsection (5)(b) established in municipal ordinance, a municipality determines that a candidate or officeholder has made a personal use expenditure, the municipality:

(a) may require the candidate or officeholder to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the municipality; and

(ii) deposit the amount of the personal use expenditure into the campaign account from which the personal use expenditure was disbursed; and

(b) shall deposit the money received under Subsection (6)(a)(i) into the municipal general fund.

Section 2. Section 17-16-202 is amended to read:

17-16-202. Definitions.

As used in this part:

(1)(a) Except as provided in Subsection (1)(b), "contribution" means any of the following when done for a political purpose:

(i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or

(vi) an in-kind contribution.

(b) "Contribution" does not include:

(i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; or

(iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.

(2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.

(3) "County office candidate" means an individual who:

(a) files a declaration of candidacy for a county office; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.

(4) "County officer" means an individual who holds a county office.

(5)(a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or the separate bank account required under Section 17-16-6.5;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.

(b) "Expenditure" does not include:

(i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

(6) "Filing entity" means:

(a) a county office candidate;

(b) a county officer;

(c) a local school board candidate;

(d) a local school board member; or

(e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section 17-16-6.5.

(7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(8) "Local school board candidate" means an individual who:

(a) files a declaration of candidacy for local school board; or

(b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.

(9)(a) "Personal use expenditure" means an expenditure that:

(i)(A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and

(B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or

(ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) a clothing expense, except:

(A) clothing bearing the county office candidate's or local school board candidate's name or campaign slogan or logo that is used in the county office candidate's or local school board candidate's campaign;

(B) clothing bearing the logo or name of a jurisdiction, district, government organization, government entity, caucus, or political party that the county officer or local school board member represents or of which the county officer or local school board member is a member;

(C) repair or replacement of clothing that is damaged while the county office candidate or county officer is engaged in an activity of a county office candidate or county officer; or

(D) repair or replacement of clothing that is damaged while the local school board candidate or local school board member is engaged in an activity of a local school board candidate or local school board member;

[~~(iii) clothing, except for clothing:~~]

[~~(A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and~~]

[~~(B) used in the county office candidate's or local school board member's campaign;~~]

(iv) admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a county office candidate, county officer, local school board candidate, or local school board member; or

(B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) payment of an administrative, civil, or criminal penalty;

(xii) satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(c) "Personal use expenditure" does not include an expenditure made:

(i) for a political purpose;

(ii) for candidacy for county office or local school board;

(iii) to fulfill a duty or activity of a county officer or local school board member;

(iv) for a donation to a registered political party;

(v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(vi) to return all or a portion of a contribution to a contributor;

(vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:

(A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;

(B) for motor fuel or special fuel, as defined in Section 59- 13- 102;

(C) a meal expense;

(D) a travel expense, including an expense incurred for airfare or a rental vehicle;

(E) a payment for a service provided by an attorney or accountant;

(F) a tuition payment or registration fee for participation in a meeting or conference;

(G) a gift;

(H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;

(I) a booth at a meeting or event; or

(J) educational material;

(viii) to purchase or mail informational material, a survey, or a greeting card;

(ix) for a donation to a charitable organization, as defined in Section 13- 22- 2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13- 22- 2;

(x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;

(xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;

(xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c);

(xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member; or

(xv) to pay childcare expenses of:

(A) a candidate while the candidate is engaging in campaign activity; or

(B) an officeholder while the officeholder is engaging in the duties of an officeholder.

(10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.

(11) "Reporting entity":

(a) means the same as that term is defined in Section 20A-11-101; and

(b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Section 3. Section 20A-11-104 is amended to read:

20A-11-104. Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

(1)(a) As used in this chapter, "personal use expenditure" means an expenditure that:

(i)(A) is not excluded from the definition of personal use expenditure by Subsection (2); and

(B) primarily furthers a personal interest of a candidate or officeholder or a candidate's or officeholder's family, which interest is not connected with the performance of an activity as a candidate or an activity or duty of an officeholder; or

(ii) would likely cause the candidate or officeholder to recognize the expenditure as taxable income under federal or state law.

(b) "Personal use expenditure" includes:

(i) a mortgage, rent, utility, or vehicle payment;

(ii) a household food item or supply;

(iii) a clothing expense, except:

(A) clothing bearing the candidate's name or campaign slogan or logo that is used in the candidate's campaign; [~~or~~]

(B) clothing bearing the logo or name of a jurisdiction, district, government organization, government entity, caucus, or political party that the officeholder represents or of which the officeholder is a member; or

[~~(B)~~](C) repair or replacement of clothing that is damaged while the candidate or officeholder is engaged in an activity of a candidate or officeholder;

(iv) an admission to a sporting, artistic, or recreational event or other form of entertainment;

(v) dues, fees, or gratuities at a country club, health club, or recreational facility;

(vi) a salary payment made to:

(A) a candidate or officeholder; or

(B) a person who has not provided a bona fide service to a candidate or officeholder;

(vii) a vacation;

(viii) a vehicle expense;

(ix) a meal expense;

(x) a travel expense;

(xi) a payment of an administrative, civil, or criminal penalty;

(xii) a satisfaction of a personal debt;

(xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;

(xiv) a membership fee for a professional or service organization; and

(xv) a payment in excess of the fair market value of the item or service purchased.

(2) As used in this chapter, "personal use expenditure" does not include an expenditure made:

(a) for a political purpose;

(b) for candidacy for public office;

(c) to fulfill a duty or activity of an officeholder;

(d) for a donation to a registered political party;

(e) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;

(f) to return all or a portion of a contribution to a contributor;

(g) for the following items, if made in connection with the candidacy for public office or an activity or duty of an officeholder:

(i)(A) a mileage allowance at the rate established by the Division of Finance under Section 63A-3-107; or

(B) for motor fuel or special fuel, as defined in Section 59-13-102;

(ii) a food expense, including food or beverages:

(A) served at a campaign event;

(B) served at a charitable event;

(C) consumed, or provided to others, by a candidate while the candidate is engaged in campaigning;

(D) consumed, or provided to others, by an officeholder while the officeholder is acting in the capacity of an officeholder; or

(E) provided as a gift to an individual who works on a candidate's campaign or who assists an officeholder in the officeholder's capacity as an officeholder;

(iii) a travel expense of a candidate, if the primary purpose of the travel is related to the candidate's campaign, including airfare, car rental, other transportation, hotel, or other expenses incidental to the travel;

(iv) a travel expense of an individual assisting a candidate, if the primary purpose of the travel by the individual is to assist the candidate with the candidate's campaign, including an expense described in Subsection (2)(g)(iii);

(v) a travel expense of an officeholder, if the primary purpose of the travel is related to an activity or duty of the officeholder, including an expense described in Subsection (2)(g)(iii);

(vi) a travel expense of an individual assisting an officeholder, if the primary purpose of the travel by the individual is to assist the officeholder in an activity or duty of an officeholder, including an expense described in Subsection (2)(g)(iii);

(vii) a payment for a service provided by an attorney or accountant;

(viii) a tuition payment or registration fee for participation in a meeting or conference;

(ix) a gift;

(x) a payment for the following items in connection with an office space:

(A) rent;

(B) utilities;

(C) a supply; or

(D) furnishing;

(xi) a booth at a meeting or event;

(xii) educational material; or

(xiii) an item purchased for a purpose related to a campaign or to an activity or duty of an officeholder;

(h) to purchase or mail informational material, a survey, or a greeting card;

(i) for a donation to a charitable organization, as defined by Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;

(j) to repay a loan a candidate makes from the candidate's personal account to the candidate's campaign account;

(k) to pay membership dues to a national organization whose primary purpose is to address general public policy;

(l) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the candidate's or officeholder's community;

(m) for one or more guests of an officeholder or candidate to attend an event, meeting, or conference described in this Subsection (2), including related travel expenses and other expenses, if attendance by the guest is for a primary purpose described in Subsection (2)(g)(iv) or (vi); or

(n) to pay childcare expenses of:

(i) a candidate while the candidate is engaging in campaign activity; or

(ii) an officeholder while the officeholder is engaging in the duties of an officeholder.

(3)(a) The lieutenant governor shall enforce this chapter prohibiting a personal use expenditure by:

(i) evaluating a financial statement to identify a personal use expenditure; and

(ii) commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act, if the lieutenant governor has probable cause to believe a candidate or officeholder has made a personal use expenditure.

(b) Following the proceeding, the lieutenant governor may issue a signed order requiring a candidate or officeholder who has made a personal use expenditure to:

(i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the lieutenant governor; and

(ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.

(c) The lieutenant governor shall deposit money received under Subsection (3)(b)(i) in the General Fund.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 448
H. B. 176
Passed February 9, 2024
Approved March 20, 2024
Effective May 1, 2024

ELECTED OFFICIAL VACANCY AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Derrin R. Owens

Cosponsor:
Matthew H. Gwynn
Candice B. Pierucci
Jefferson S. Burton
Jon Hawkins

LONG TITLE

General Description:

This bill addresses elected officials of political subdivisions who are reservists of the armed forces.

Highlighted Provisions:

This bill:

- defines terms;
- conforms to U.S. Department of Defense policy directives regarding members of the armed forces reserves who hold elective office and who are called to active duty military service by:
  - specifying who qualifies as an armed forces reservist; and
  - permitting an elected official reservist, depending upon the length of active duty service, to continue to exercise the functions of the elected official's office or take a military leave of absence from office;
- clarifies that an elected official reservist who takes a military leave of absence does not create a vacancy in the elected official's office; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-513, as last amended by Laws of Utah 2023, Chapter 15

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-513 is amended to read:

20A-1-513. Temporary absence in elected office of a political subdivision for military service.

(1) As used in this section:

(a)(i) "Armed forces" means the [~~same as that term is defined in Section 68-3-12.5, and includes:~~]United States Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard.

[~~(i)~~](ii) "Armed forces" includes the National Guard[~~; and~~].

[~~(ii) the national guard and armed forces reserves.~~]

(b)(i) "Elected official" [~~is a person~~]means an individual who holds an office of a political subdivision that is required by law to be filled by an election.

(ii) "Elected official" includes [~~a person~~]an individual who is appointed to fill a vacancy in an office described in Subsection (1)(b)(i).

(c) "Elected official reservist" means an elected official who is:

(i) a member of the armed forces reserves component;

(ii) a member of the National Guard; or

(iii) a retired member of the armed forces who may be called to active, full-time duty in the armed forces under Title 10, U.S.C., Armed Forces.

[~~(c)~~](d)(i) "Military leave" means the temporary absence from an office:

(A) by an elected official reservist called to active, full-time duty in the armed forces; and

(B) for a period of time that exceeds 30 days and does not exceed 400 days.

(ii) "Military leave" includes the time [~~a person~~]an individual on leave, as described in Subsection [~~(1)(c)(i)~~](1)(d)(i), spends for:

(A) out processing;

(B) an administrative delay;

(C) accrued leave; and

(D) on rest and recuperation leave program of the armed forces.

[~~(d)~~](e) "Political subdivision's governing body" means:

(i) for a county, city, or town, the legislative body of the county, city, or town;

(ii) for a special district, the board of trustees of the special district;

(iii) for a local school district, the local school board;

(iv) for a special service district:

(A) the legislative body of the county, city, or town that established the special service district, if no administrative control board has been appointed under Section 17D-1-301; or

(B) the administrative control board of the special service district, if an administrative control board has been appointed under Section 17D-1-301; and

(v) for a political subdivision not listed in Subsections [~~(1)(d)(i)~~](1)(e)(i) through (iv), the body that governs the affairs of the political subdivision.

[~~(e)~~](f) "Temporary replacement" means the [~~person~~]individual appointed by the political subdivision's governing body in accordance with this section to exercise the powers and duties of the

office of [~~the~~]an elected official reservist who takes military leave.

(2) [~~An elected official creates a vacancy in the elected official's office if the elected official is called to active, full-time duty in the armed forces in accordance with Title 10, U.S.C.A. unless the elected official takes military leave as provided by this section.~~]An elected official reservist who takes military leave in accordance with this section does not create a vacancy in the elected official's office.

(3)(a) An elected official reservist who is called to active, full-time duty in the armed forces [~~in a status other than in accordance with~~]under Title 10, [~~U.S.C.A~~]U.S.C., Armed Forces, shall notify the political subdivision's governing body of the elected official's orders [~~not~~]no later than five days [~~after receipt of~~]after the day on which the elected official receives the orders.

(b) [~~The~~]An elected official reservist described in Subsection (3)(a) may:

(i) if the period of active, full-time duty does not exceed 270 days:

(A) continue to carry out the elected official's duties if possible while on active, full-time duty; or

(B) take military leave if the elected official submits to the political subdivision's governing body written notice of the intent to take military leave and the expected duration of the military leave; or

(ii) if the period of active, full-time duty exceeds 270 days but does not exceed 400 days, take military leave if the elected official submits to the political subdivision's governing body:

(A) written notice of the intent to take military leave and the expected duration of the military leave[~~.~~]; and

(B) written certification that the secretary of the armed force of which the elected official is a member granted the elected official permission under U.S. Department of Defense Directive 1344.10 to continue to hold the elected official's office while on active, full-time duty.

(4)(a) An elected official reservist who chooses to continue to carry out the elected official's duties [~~while on active, full-time duty~~]under Subsection (3)(b)(i)(A) shall, [~~within~~]no later than 10 days after [~~arrival at the official's place of deployment~~]the day of the elected official's deployment, confirm in writing to the political subdivision's governing body that the elected official has the ability to carry out the elected official's duties.

(b) If [~~no confirmation is received by the political subdivision within the time period~~]an elected official reservist does not submit the confirmation to the political subdivision's governing body before the deadline described in Subsection (4)(a), the [~~elected official shall be placed~~]political subdivision's governing body shall:

(i) place the elected official in [~~a~~] military leave status; and

(ii) [~~a temporary replacement appointed~~]appoint a temporary replacement in accordance with Subsection [~~(6)~~](8).

(5)(a) An elected official reservist who chooses to take military leave under Subsection (3)(b)(ii) shall, no later than 21 days after the date of the elected official's deployment, submit to the political subdivision's governing body the written notice and certification described in Subsection (3)(b)(ii).

(b) If an elected official reservist does not submit the notice and certification to the political subdivision's governing body before the deadline described in Subsection (5)(a):

(i) the political subdivision's governing body may not appoint a temporary replacement under Subsection (8); and

(ii) the elected official reservist creates a vacancy in the elected official's office.

(6) An elected official reservist who is called to active, full-time duty in the armed forces under Title 10, U.S.C., Armed Forces, for a period of more than 400 days creates a vacancy in the elected official's office.

[~~(5)~~](7) An elected [~~official's~~]official reservist's military leave:

(a) begins [~~the later of~~]:

(i) for an elected official reservist described in Subsection (3)(b)(i), the later of:

(A) the day after the day on which the elected official notifies the political subdivision's governing body of the intent to take military leave;

[~~(ii)~~](B) [~~day 11~~]11 days after the day of the elected official's deployment if no confirmation is received[~~.~~]by the political subdivision's governing body in accordance with Subsection (4)(a); or

[~~(iii)~~](C) the day on which the elected official begins active, full-time duty in the armed forces; [~~and~~]or

(ii) for an elected official reservist described in Subsection (3)(b)(ii), the day after the day on which the elected official submits to the political subdivision's governing body the written notice and certification described in Subsection (3)(b)(ii); and

(b) ends the sooner of:

(i) the expiration of the elected [~~official's~~]official reservist's term of office; or

(ii) the day on which the elected official[~~.~~]reservist ends active, full-time duty in the armed forces.

[~~(6)~~](8) A temporary replacement shall:

(a) meet the qualifications required to hold the office; and

(b) be appointed:

(i) when an elected official reservist:

(A) takes military leave under Subsection (3)(b)(i)(B) or (b)(ii); or

(B) is placed in military leave status under Subsection (4)(b)(i); and

(ii) by the political subdivision's governing body:

(A) [~~in the same manner as provided by this part for a midterm vacancy~~]if a registered political party nominated the elected official [~~who takes military leave~~]reservist as a candidate for the office, in the same manner as provided in Subsection 20A-1-508(3) for the appointment of an interim replacement; or

[~~(ii)~~](B) [~~by the political subdivision's governing body after submitting an application in accordance with Subsection (8)(b)~~]if a registered political party did not nominate the elected official [~~who takes military leave~~]reservist[~~.~~] as a candidate for the office[~~.~~], after submitting an application in accordance with Subsection (10)(b).

[~~(7)~~](9)(a) A temporary replacement shall exercise the powers and duties of the office for which the temporary replacement is appointed for the duration of the elected [~~official's~~]official reservist's military leave.

(b) An elected [~~official~~]reservist may not exercise the powers or duties of the office while on military leave.

(c) If a temporary replacement is not appointed as required by Subsection [~~(6)(b)~~](8)(b), no [~~person~~]individual may exercise the powers and duties of the elected [~~official's~~]official reservist's office during the elected official's military leave.

[~~(8)~~](10) The political subdivision's governing body shall establish:

(a) the distribution of the emoluments of the office between the elected official[~~.~~]reservist and the temporary replacement; and

(b) an application form and the date and time before which [~~a person~~]an individual shall submit the application to be considered by the political subdivision's governing body for appointment as a temporary replacement.

(11) This section does not apply to an elected official who is not an elected official reservist.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 449
H. B. 221
Passed February 27, 2024
Approved March 20, 2024
Effective July 1, 2024

STIPENDS FOR FUTURE EDUCATORS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill creates the Stipends for Future Educators Grant Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Stipends for Future Educators Grant Program; and
- provides a sunset date.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - Educator Licensing - Educator Licensing as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $8,400,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467

63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

ENACTS:

53F-5-222, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-222 is enacted to read:

53F-5-222. Stipends for Future Educators Grant Program.

(1) As used in this section:

(a) "Eligible student teacher" means a student teacher who:

(i) is enrolled in an educator preparation program that leads to a Utah professional level educator license; and

(ii) works at an LEA as a full-time student teacher to meet the educator preparation program requirements.

(b) "License" means the same as that term is defined in Section 53E-6-102.

(c) "Program" means the Stipends for Future Educators Grant Program described in Subsection (2).

(2) This section creates the Stipends for Future Educators Grant Program.

(3) Subject to legislative appropriations, the state board shall award a grant to an eligible student teacher who:

(a) submits an application to the state board;

(b) is enrolled and in good standing in an educator preparation program leading to a Utah professional level educator license;

(c) seeks to obtain the student teacher's first Utah professional level educator license;

(d) has not received a grant award under the program; and

(e) does not receive compensation from:

(i) an LEA, unless the eligible student teacher works as a substitute teacher;

(ii) a work service program offered through the Department of Workforce Services; or

(iii) the Grow Your Own Educator Pipeline Program as described in Section 53F-5-218.

(4) The state board shall determine the amount of the grant award.

(5) The state board may, subject to legislative appropriations and the number of applicants:

(a) reduce the amount of the grant award; and

(b) distribute grant awards on a pro rata basis.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(14) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(15) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(16) Section 53F-5-222 is repealed on July 1, 2028.

[~~(16)~~](17) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](18) Section 53F-9-403 is repealed on July 1, 2024.

[~~(18)~~](19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 3. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53B-6-105.7 is repealed July 1, 2024.

(9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(10) Section 53B-8-114 is repealed July 1, 2024.

(11) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(12) Section 53B-10-101 is repealed on July 1, 2027.

(13) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(14) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(17) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(18) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(19) Section 53F-5-222 is repealed on July 1, 2028.

[~~(19)~~](20) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](21) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](22) On July 1, 2023, when making changes in this section, the Office of Legislative Research

and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 4. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 4(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Educator Licensing

From Public Education Economic Stabilization Restricted Account, One-time $8,400,000

Schedule of Programs:

Educator Licensing $8,400,000

Section 5. Effective date.

This bill takes effect on July 1, 2024 with the exception of 63I-2-253 (Superseded 07/01/24) which takes effect on May 1, 2024.

CHAPTER 450
H. B. 227
Passed February 15, 2024
Approved March 20, 2024
Effective May 1, 2024

MUNICIPAL OFFICE MODIFICATIONS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions relating to the filling of a mid-term vacancy in a municipal office.

Highlighted Provisions:

This bill:

- modifies language relating to the process for filling a mid-term vacancy in a municipal office.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3b-302, as enacted by Laws of Utah 2008, Chapter 19
20A-1-510, as last amended by Laws of Utah 2023, Chapter 46

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3b-302 is amended to read:

10-3b-302. Mayor in six-member council form of government -- Mayor pro tempore.

(1) The mayor in a municipality operating under a six-member council form of municipal government:

(a) is, except as provided in Subsection (1)(b), a nonvoting member of the council;

(b) votes as a voting member of the council:

(i) on each matter for which there is a tie vote of the other council members present at a council meeting, including a tie vote to fill a mid-term vacancy under Section 20A-1-510; or

(ii) when the council is voting on:

(A) whether to appoint or dismiss a municipal manager; or

(B) an ordinance that enlarges or restricts the mayor's powers, duties, or functions;

(c) is the chair of the council and presides at all council meetings;

(d) exercises ceremonial functions for the municipality;

(e) may not veto an ordinance, tax levy, or appropriation passed by the council;

(f) except as modified by ordinance under Subsection 10-3b-303(2), has the powers and duties described in Section 10-3b-104; and

(g) may, within budget constraints, appoint one or more administrative assistants to the mayor.

(2)(a) If the mayor is absent or unable or refuses to act, the council may elect a member of the council as mayor pro tempore, to:

(i) preside at a council meeting; and

(ii) perform, during the mayor's absence, disability, or refusal to act, the duties and functions of mayor.

(b) The municipal clerk or recorder shall enter in the minutes of the council meeting the election of a council member as mayor pro tempore under Subsection (2)(a).

Section 2. Section 20A-1-510 is amended to read:

20A-1-510. Midterm vacancies in municipal offices.

(1)(a) As used in this section:

(i) "Vacancy," subject to Subsection (1)(a)(ii), means the same as that term is defined in Section 20A-1-102.

(ii) "Vacancy," if due to resignation, occurs on the effective date of the resignation.

(b) Except as otherwise provided in this section, if any vacancy occurs in the office of municipal executive or member of a municipal legislative body, the municipal legislative body shall, within 30 calendar days after the day on which the vacancy occurs, appoint a registered voter in the municipality who meets the qualifications for office described in Section 10-3-301 to fill the unexpired term of the vacated office.

(c) Before acting to fill the vacancy, the municipal legislative body shall:

(i) give public notice of the vacancy at least 14 calendar days before the day on which the municipal legislative body meets to fill the vacancy;

(ii) identify, in the notice:

(A) the date, time, and place of the meeting where the vacancy will be filled;

(B) the person to whom an individual interested in being appointed to fill the vacancy may submit the interested individual's name for consideration; and

(C) the deadline for submitting an interested individual's name; and

(iii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(d)(i) The municipal legislative body shall take an initial vote to fill the vacancy from among the names of the candidates interviewed under Subsection (1)(c)(iii).

(ii)(A) If no candidate receives a majority vote of the municipal legislative body in the initial vote described in Subsection (1)(d)(i), the two candidates that received the most votes in the initial vote, as determined by the tie-breaking procedures described in Subsections (1)(d)(ii)(B) through (D) if necessary, shall be placed before the municipal legislative body for a second vote to fill the vacancy.

(B) If the initial vote results in a tie for second place, the candidates tied for second place shall be reduced to one by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the candidate that received the most votes in the initial vote and the candidate that wins the coin toss described in this Subsection (1)(d)(ii)(B).

(C) If the initial vote results in a tie among three or more candidates for first place, the candidates tied for first place shall be reduced to two by a coin toss conducted in accordance with Subsection (1)(d)(ii)(D), and the second vote described in Subsection (1)(d)(ii)(A) shall be between the two candidates that remain after the coin toss described in this Subsection (1)(d)(ii)(C).

(D) A coin toss required under this Subsection (1)(d) shall be conducted by the municipal clerk or recorder in the presence of the municipal legislative body.

(iii) If, in the second vote described in Subsection (1)(d)(ii)(A), neither candidate receives a majority vote of the municipal legislative body, the vacancy shall be determined by a coin toss between the two candidates in accordance with Subsection (1)(d)(ii)(D).

(e) If the municipal legislative body does not timely comply with Subsections (1)(b) through (d), the municipal clerk or recorder shall immediately notify the lieutenant governor.

(f) After receiving notice that a municipal legislative body has failed to timely comply with Subsections (1)(b) through (d), the lieutenant governor shall:

(i) notify the municipal legislative body of the violation; and

(ii) direct the municipal legislative body to, within 30 calendar days after the day on which the lieutenant governor provides the notice described in this Subsection (1)(f), appoint an eligible individual to fill the vacancy in accordance with Subsections (1)(c) and (d).

(g) If the municipality fails to timely comply with a directive described in Subsection (1)(f):

(i) the lieutenant governor shall notify the governor of the municipality's failure to fill the vacancy; and

(ii) the governor shall, within 45 days after the day on which the governor receives the notice described in Subsection (1)(g)(i), provide public notice soliciting candidates to fill the vacancy in accordance with Subsection (1)(c) and appoint an individual to fill the vacancy.

(2)(a) A vacancy in the office of municipal executive or member of a municipal legislative body shall be filled by an interim appointment, followed by an election to fill a two-year term, if:

(i) the vacancy occurs, or a letter of resignation is received, by the municipal executive at least 14 days before the deadline for filing for election in an odd-numbered year; and

(ii) two years of the vacated term will remain after the first Monday of January following the next municipal election.

(b) In appointing an interim replacement, the municipal legislative body shall:

(i) comply with the notice requirements of this section; and

(ii) in an open meeting, interview each individual whose name is submitted for consideration, and who meets the qualifications for office, regarding the individual's qualifications.

(3)(a) In a municipality operating under the council-mayor form of government, as defined in Section 10-3b-102:

(i) the council may appoint an individual to fill a vacancy in the office of mayor before the effective date of the mayor's resignation by making the effective date of the appointment the same as the effective date of the mayor's resignation; and

(ii) if a vacancy in the office of mayor occurs before the effective date of an appointment under Subsection (1) or (2) to fill the vacancy, the remaining council members, by majority vote, shall appoint a council member to serve as acting mayor during the time between the creation of the vacancy and the effective date of the appointment to fill the vacancy.

(b) A council member serving as acting mayor under Subsection (3)(a)(ii) continues to:

(i) act as a council member; and

(ii) vote at council meetings.

(4)(a)(i) For a vacancy of a member of a municipal legislative body as described in this section, the municipal legislative body member whose resignation creates the vacancy on the municipal legislative body may:

(A) interview an individual whose name is submitted for consideration under Subsection (1)(c)(iii) or (2)(b)(ii); and

(B) vote on the appointment of an individual to fill the vacancy.

(ii) Notwithstanding Subsection (4)(a)(i), a member of a legislative body who is removed from office in accordance with state law may not cast a vote under Subsection (4)(a)(i).

(b) A member of a municipal legislative body who submits his or her resignation to the municipal legislative body may not rescind the resignation.

(c) A member of a municipal legislative body may not vote on an appointment under this section for himself or herself to fill a vacancy in the municipal legislative body.

[~~(5) In a municipality operating under the six-member council form of government or the council-manager form of government, defined in Subsection 10-3b-103(7), if the voting members of the city council reach a tie vote on a matter of filling a vacancy, the mayor may vote to break the tie.~~]

[~~(6)~~](5) In a municipality operating under the council-mayor form of government, the mayor may not:

(a) participate in the vote to fill a vacancy;

(b) veto a decision of the council to fill a vacancy; or

(c) vote in the case of a tie.

[~~(7)~~](6) A mayor whose resignation from the municipal legislative body is due to election or appointment as mayor may, in the case of a tie, participate in the vote under this section.

[~~(8)~~](7) A municipal legislative body may, consistent with the provisions of state law, adopt procedures governing the appointment, interview, and voting process for filling vacancies in municipal offices.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 451
H. B. 249
Passed February 15, 2024
Approved March 20, 2024
Effective May 1, 2024

UTAH LEGAL PERSONHOOD AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill addresses legal personhood.

Highlighted Provisions:

This bill:

- defines terms; and
- prohibits a governmental entity from granting or recognizing legal personhood in certain categories of nonhumans.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63G-31-101, Utah Code Annotated 1953
63G-31-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-31-101 is enacted to read:

63G-31-101. Definitions.

CHAPTER 31. LEGAL PERSONHOOD

As used in this chapter:

(1) "Body of water" means any natural or man-made accumulation of water, regardless of whether the accumulation of water is static or subject to a force that causes a hydrological current.

(2) "Governmental entity" means:

(a) a court;

(b) the Legislature;

(c) the legislative body of a political subdivision; or

(d) another entity of the state or a political subdivision, if the entity has adjudicatory or rulemaking authority.

(3) "Human being" means a member of the species classified as Homo sapiens;

(4) "Land" means the solid terrestrial surface or subsurface of the earth.

(5) "Legal personhood" means:

(a) the legal rights and obligations of an individual under the laws of this state; or

(b) the legal rights and obligations of a person other than an individual under the laws of this state.

(6) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

(7) "Real property" means any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

(8) "State" means the same as that term is defined in Section 63G-7-102.

Section 2. Section 63G-31-102 is enacted to read:

63G-31-102. Legal personhood restricted.

Notwithstanding any other provision of law, a governmental entity may not grant legal personhood to, nor recognize legal personhood in:

(1) artificial intelligence;

(2) an inanimate object;

(3) a body of water;

(4) land;

(5) real property;

(6) atmospheric gases;

(7) an astronomical object;

(8) weather;

(9) a plant;

(10) a nonhuman animal; or

(11) any other member of a taxonomic domain that is not a human being.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 452
H. B. 269
Passed February 29, 2024
Approved March 20, 2024
Effective July 1, 2024

PUBLIC SCHOOL HISTORY CURRICULA AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Daniel McCay

Cosponsor:
Joseph Elison
Karianne Lisonbee
Cheryl K. Acton
Matthew H. Gwynn
Steven J. Lund
Kera Birkeland
Ken Ivory
Phil Lyman
Walt Brooks
Colin W. Jack
Rex P. Shipp
Kay J. Christofferson
Tim Jimenez
Keven J. Stratton
Tyler Clancy
Dan N. Johnson

LONG TITLE

General Description:

This bill adds the "Ten Commandments" and the Magna Carta to a list of historical documents and principles that school curricula and activities may include for a thorough study.

Highlighted Provisions:

This bill:

- defines terms;
- adds the "Ten Commandments" and the Magna Carta to a list of historical documents and principles that school curricula and activities may include for a thorough study; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-10-302, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-302 is amended to read:

53G-10-302. Instruction in American history and government -- Study and posting of American heritage documents.

(1) As used in this section, "Ten Commandments" means the Decalogue, known as the Ten Commandments, as recorded in the Hebrew Scriptures in Exodus 20:2-17 and Deuteronomy 5:6-21.

(2) The Legislature recognizes that a proper understanding of American history and government is essential to good citizenship, and that the public schools are the primary public institutions charged with responsibility for assisting children and youth in gaining that understanding.

[~~(2)~~](3)(a) The state board and local school boards shall periodically review school curricula and activities to ensure that effective instruction in American history and government is taking place in the public schools.

(b) The boards shall solicit public input as part of the review process.

(c) Instruction in American history and government shall include a study of:

(i) forms of government, such as a republic, a pure democracy, a monarchy, and an oligarchy;

(ii) political philosophies and economic systems, such as socialism, individualism, and free market capitalism; and

(iii) the United States' form of government, a compound constitutional republic.

[~~(3)~~](4) School curricula and activities shall include a thorough study of historical documents and principles such as:

(a) the Declaration of Independence;

(b) the United States Constitution;

(c) the national motto;

(d) the pledge of allegiance;

(e) the national anthem;

(f) the Mayflower Compact;

(g) the writings, speeches, documents, and proclamations of the Founders and the Presidents of the United States;

(h) organic documents from the pre-Colonial, Colonial, Revolutionary, Federalist, and post Federalist eras;

(i) United States Supreme Court decisions;

(j) the Ten Commandments;

(k) the Magna Carta;

[~~(j)~~](l) Acts of the United States Congress, including the published text of the Congressional Record; and

[~~(k)~~](m) United States treaties.

[~~(4)~~](5) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate.

[~~(5)~~](6) There shall be no content-based censorship of American history and heritage

documents referred to in this section due to their religious or cultural nature.

[~~(6)~~](7) Public schools shall display "In God we trust," which is declared in 36 U.S.C. 302 to be the national motto of the United States, in one or more prominent places within each school building.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 453
H. B. 272
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

CHILD CUSTODY PROCEEDINGS AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill concerns the protection of children in certain judicial proceedings.

Highlighted Provisions:

This bill:

- defines terms;
- in certain proceedings involving child custody and parent-time:
  - specifies requirements for the admission of expert evidence; and
  - requires a court to consider specific evidence when determining custody and parent-time;
- amends provisions regarding the supervision of supervised parent-time;
- imposes certain requirements and limitations regarding orders to improve the relationship between a parent and a child;
- requires the state court administrator to make recommendations regarding the education and training of court personnel involving child custody and related proceedings;
- requires that certain protective order proceedings comply with specific standards; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:
30-3-10, as last amended by Laws of Utah 2023, Chapters 44, 327
30-3-10.1, as last amended by Laws of Utah 2023, Chapter 44
30-3-10.10, as enacted by Laws of Utah 2006, Chapter 287
30-3-34, as last amended by Laws of Utah 2021, Chapter 399
30-3-34.5, as last amended by Laws of Utah 2022, Chapter 430

ENACTS:
30-3-41, Utah Code Annotated 1953
78A-2-232, Utah Code Annotated 1953
78B-7-121, Utah Code Annotated 1953

Sections affected by Coordination Clause:
30-3-10, as last amended by Laws of Utah 2023, Chapters 44, 32710
30-3-10.1, as last amended by Laws of Utah 2023, Chapter 4410
30-3-10.2, as last amended by Laws of Utah 2019, Chapter 188
30-3-34, as last amended by Laws of Utah 2021, Chapter 39910
30-3-34.5, as last amended by Laws of Utah 2022, Chapter 43010
30-3-41, Utah Code Annotated 195310
78B-7-121, Utah Code Annotated 195310

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-10 is amended to read:

30-3-10. Custody of a child -- Custody factors.

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child[~~ and may consider among other factors the court finds relevant, the following for each parent:~~].

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 30-3-41, evidence of domestic violence, physical abuse, or sexual abuse involving the child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201; and

(c) whether custody and parent-time would endanger the child's health or physical or psychological safety.

(4) In determining any form of custody and parent-time under Subsection (1), the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of [~~domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent~~]psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co- parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection [~~(10)~~](12), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

[~~(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76- 10- 1201;~~]

[~~(h)~~](g) the parent's reasons for having relinquished custody or parent- time in the past;

[~~(i)~~](h) duration and depth of desire for custody or parent- time;

[~~(j)~~](i) the parent's religious compatibility with the child;

[~~(k)~~](j) the parent's financial responsibility;

[~~(l)~~](k) the child's interaction and relationship with step- parents, extended family members of other individuals who may significantly affect the child's best interests;

[~~(m)~~](l) who has been the primary caretaker of the child;

[~~(n)~~](m) previous parenting arrangements in which the child has been happy and well- adjusted in the home, school, and community;

[~~(o)~~](n) the relative benefit of keeping siblings together;

[~~(p)~~](o) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

[~~(q)~~](p) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

[~~(r)~~](q) any other factor the court finds relevant.

[~~(3)~~](5) There is a rebuttable presumption that joint legal custody, as defined in Section 30- 3- 10.1, is in the best interest of the child, except in cases when there is:

(a) in accordance with Section 30- 3- 41,evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30- 3- 10.2.

[~~(4)~~](6)(a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30- 3- 10.8 and 30- 3- 10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

[~~(5)~~](7)(a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b)(i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent- time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent- time otherwise.

(ii) The desires of a child 14 years old or older shall be given added weight, but is not the single controlling factor.

(c)(i) If an interview with a child is conducted by the court pursuant to Subsection [~~(5)(b)~~](7)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

[~~(6)~~](8)(a) Except as provided in Subsection [~~(6)(b)~~](8)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57- 21- 2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

[~~(7)~~](9) This section does not establish a preference for either parent solely because of the gender of the parent.

[~~(8)~~](10) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

[~~(9)~~](11) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are service members and the service member has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

[~~(10)~~](12) In considering the past conduct and demonstrated moral standards of each party under Subsection [~~(2)(d)~~](4)(c) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;

(iii) medical cannabis courier agent, as that term is defined in Section 26B-4-201; or

(iv) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

Section 2. Section 30-3-10.1 is amended to read:

30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.

As used in this chapter:

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2)(a) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child.

(b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, [~~visitation~~]parent-time, and authority to grant limited contact with a child.

[~~(2)~~](3) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(4) "Joint legal custody":

(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;

(b) may include an award of exclusive authority by the court to one parent to make specific decisions;

(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;

(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and

(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

[~~(3)~~](5) "Joint physical custody":

(a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;

(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;

(c) may require that a primary physical residence for the child be designated; and

(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

(6) "Protective order" means:

(a) a civil protective order, as that term is defined in Section 78B-7-102;

(b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or

(c) a foreign protection order, as that term is defined in Section 78B-7-302.

(7) "Psychological maltreatment" means a repeated pattern or extreme incident of caretaker behavior that:

(a) intentionally thwarts a child's basic psychological needs, including physical and psychological safety, cognitive stimulation, and respect;

(b) conveys that a child is worthless, defective, or expendable; and

(c) may terrorize a child.

[~~(4)~~](8) "Service member" means a member of a uniformed service.

(9) "Sexual abuse" means the same as that term is defined in Section 80-1-102.

[~~(5)~~](10) "Uniformed service" means:

(a) active and reserve components of the United States Armed Forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the National Guard of a state.

Section 3. Section 30-3-10.10 is amended to read:

30-3-10.10. Parenting plan -- Domestic violence.

(1) In any proceeding regarding a parenting plan, the court shall consider evidence of domestic violence in accordance with Section 30-3-41, if presented.

(2) If there is a protective order, civil stalking injunction, or the court finds that a parent has committed domestic violence, the court shall consider the impact of domestic violence in awarding parent-time, and make specific findings regarding the award of parent-time.

(3) If the court orders parent-time and a protective order or civil stalking injunction is still in place, it shall consider whether to order the parents to conduct parent-time pick-up and transfer through a third party. The parent who is the stated victim in the order or injunction may submit to the court, and the court shall consider, the name of a person considered suitable to act as the third party.

(4) If the court orders the parents to conduct parent-time through a third party, the parenting plan shall specify the time, day, place, manner, and the third party to be used to implement the exchange.

Section 4. Section 30-3-34 is amended to read:

30-3-34. Parent-time -- Best interests -- Rebuttable presumption.

(1) If the parties are unable to agree on a parent-time schedule, the court may:

(a) establish a parent-time schedule; or

(b) order a parent-time schedule described in Section 30-3-35, 30-3-35.1, 30-3-35.2, or 30-3-35.5.

(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled.

(3) In accordance with Section 30-3-41, when ordering a parent-time schedule a court shall consider:

(a) evidence of domestic violence, physical abuse, or sexual abuse involving the child, a parent, or a household member of the parent; and

(b) whether parent-time would endanger the child's health or physical or psychological safety.

(4) A court may consider the following when ordering a parent-time schedule:

[~~(a) whether parent-time would endanger the child's physical health or mental health, or significantly impair the child's emotional development;~~]

[~~(b)~~](a) evidence of [~~domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, a parent, or a household member of the parent~~]psychological maltreatment;

[~~(c)~~](b) the distance between the residency of the child and the noncustodial parent;

[~~(d) a credible allegation of child abuse has been made;~~]

[~~(e)~~](c) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;

[~~(f)~~](d) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

[~~(g)~~](e) the preference of the child if the court determines the child is of sufficient maturity;

[~~(h)~~](f) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

[~~(i)~~](g) shared interests between the child and the noncustodial parent;

[~~(j)~~](h) the involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

[~~(k)~~](i) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

[~~(l)~~](j) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

[~~(m)~~](k) the minimal duration of and lack of significant bonding in the parents' relationship before the conception of the child;

[~~(n)~~](l) the parent-time schedule of siblings;

[~~(o)~~](m) the lack of reasonable alternatives to the needs of a nursing child; and

[~~(p)~~](n) any other criteria the court determines relevant to the best interests of the child.

[~~(4)~~](5) The court shall enter the reasons underlying the court's order for parent-time that:

(a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

(b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.

[~~(5)~~](6) A court may not order a parent-time schedule unless the court determines by a preponderance of the evidence that the parent-time schedule is in the best interest of the child.

[~~(6)~~](7) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

Section 5. Section 30-3-34.5 is amended to read:

30-3-34.5. Supervised parent-time.

(1) Considering the fundamental liberty interests of parents and children, it is the policy of this state that divorcing parents have unrestricted and unsupervised access to their children. When necessary to protect a child and no less restrictive means is reasonably available however, and in accordance with Section 30-3-41, a court may order supervised parent-time if the court finds evidence that the child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3,[~~and~~] 76-5-114, and 80-1-102, from the noncustodial parent if left unsupervised with the noncustodial parent.

(2) [~~A court that~~]If the court finds evidence of domestic violence, child abuse, or an ongoing risk to a child, and orders supervised parent-time, the court shall give preference to [~~persons suggested by the parties to supervise, including relatives~~] supervision by a professional individual or private agency trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

(3) If a professional individual or private agency described in Subsection (2) is not available, affordable, or practicable under the circumstances, a court shall give preference to supervision by an individual who is:

(a) capable and willing to provide physical and psychological safety and security to the child, and to assist in the avoidance and prevention of domestic and family violence; and

(b) is trained in child abuse reporting laws, the developmental needs of a child, and the dynamics of domestic violence, child abuse, sexual abuse, and substance abuse.

(4) [~~If the court finds that the persons suggested by the parties are~~]If an individual described in Subsection (2) or (3) is not available, affordable, or practicable under the circumstances, or if the court does not find evidence of domestic violence, child abuse, or an ongoing risk to a child, a court may order supervised parent-time that is supervised by an individual who is willing to supervise, and [~~are~~]is capable of protecting the [~~children~~]child from physical or emotional harm, or child abuse, [~~the court shall authorize the persons to supervise parent-time~~]and the court shall give preference to individuals suggested by the parties, including relatives.

[~~(3) If the court is unable to authorize any persons to supervise parent-time pursuant to Subsection (2), the court may require that the noncustodial parent seek the services of a professional individual or agency to exercise their supervised parent-time.~~]

[~~(4)~~](5) At the time supervised parent-time is imposed, the court shall consider:

(a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and

(b) whether the requirement for supervised parent-time should expire after a set period of time.

[~~(5) The~~]

(6) Except when the court makes a finding that, due to abuse by or the incapacity of the noncustodial parent, supervised parent-time will be necessary indefinitely to ensure the physical or psychological safety and protection of the child, the court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted. The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.

[~~(6)~~](7) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court in Subsection [~~(5)~~](6) have been accomplished.

Section 6. Section 30-3-41 is enacted to read:

30-3-41. Definitions -- Expert evidence -- Violence or abuse findings -- Child relationship and reunification.

(1) As used in this section:

(a)(i) "Child custody proceeding" means a civil proceeding between the parents of a child that involves the care or custody of the child, including proceedings involving:

(A) divorce;

(B) separation;

(C) parent-time;

(D) paternity;

(E) child support; or

(F) legal or physical custody of the child.

(ii) "Child custody proceeding" does not include:

(A) a child protective, abuse, or neglect proceeding;

(B) a juvenile justice proceeding; or

(C) a child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.

(b) "Forensic" means professional activities undertaken pursuant to a court order or for use in litigation, including the evaluation or treatment of a parent, child, or other individual who is involved in a child custody proceeding.

(c) "Reunification treatment" means a treatment or therapy aimed at reuniting or reestablishing a relationship between a child and an estranged or rejected parent or other family member of the child.

(2) In a child custody proceeding, if a parent is alleged to have committed domestic violence or abuse, including sexual abuse:

(a) the court may admit expert evidence from a court-appointed or outside professional relating to alleged domestic violence or abuse only if the professional possesses demonstrated expertise and adequate experience in working with victims of domestic violence or abuse, including sexual abuse, that is not solely of a forensic nature; and

(b) in making a finding regarding an allegation of domestic violence or abuse, including sexual abuse, the court shall consider evidence of past domestic violence, sexual violence, or abuse committed by the accused parent, including:

(i) any past or current protective order against the accused parent; or

(ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual violence, or abuse.

(3) Subsection (2) does not preclude the court from:

(a) admitting expert evidence, subject to rules of evidence, from a court-appointed or outside professional relating to issues other than alleged domestic violence or abuse; or

(b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes available through treatment or therapy after the court enters an order of custody or parent-time.

(4) As part of a child custody proceeding, a court may not, solely in order to improve a deficient relationship between a parent and a child, including in the context of reunification treatment:

(a) remove the child from a parent or litigating party:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the child is bonded; or

(b) restrict reasonable contact between the child and a parent or litigating party:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the child is bonded.

(5) As part of a child custody proceeding where the court has reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child:

(a) a court may not order a reunification treatment or program unless there is generally accepted proof:

(i) of the physical and psychological safety, effectiveness, and therapeutic value of the reunification treatment; and

(ii) that the reunification treatment is not associated with causing harm to a child;

(b) a court may not order a reunification treatment that is predicated on cutting off a child from a parent:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the child is bonded;

(c) any order to remediate the resistance of a child to have contact with a violent or abusive parent shall primarily address the behavior of that parent or the contributions of that parent to the resistance of the child; and

(d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and that requires the parent to take steps to potentially improve the child's relationship with a violent or abusive parent, shall:

(i) prioritize the child's physical and psychological safety and needs; and

(ii) be narrowly tailored to address specific behavior.

(6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering mental health treatment by a licensed mental health professional that is generally accepted by and meets the standards of practice for mental health professions if:

(a) the court does not have reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child; and

(b) the treatment does not pose a risk to the child or parent.

Section 7. Section 78A-2-232 is enacted to read:

78A-2-232. Child abuse and domestic abuse education and training for judges, court commissioners, and court personnel.

(1) As used in this section:

(a) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

(b) "Child custody proceeding" means a civil proceeding between the parents of a child that involves the care or custody of the child including proceedings involving:

(i) divorce;

(ii) separation;

(iii) parent-time;

(iv) paternity;

(v) child support;

(vi) legal or physical custody of a child; or

(vii) a civil protective order as that term is defined in Section 78B-7-102.

(2) The state court administrator described in Section 78A-2-105 shall develop or recommend a proposed training and education program that:

(a) shall be designed to improve the ability of the courts to:

(i) recognize domestic violence and child abuse in child custody proceedings; and

(ii) make appropriate custody decisions that prioritize a child's physical and psychological safety and well-being;

(b) shall focus solely on domestic and sexual violence and child abuse, including:

(i) child sexual abuse;

(ii) physical abuse;

(iii) emotional abuse;

(iv) coercive control;

(v) implicit and explicit bias, including biases relating to parents with disabilities;

(vi) trauma;

(vii) long-term and short-term impacts of domestic violence and child abuse on children; and

(viii) victim and perpetrator behavior patterns and relationship dynamics within the cycle of violence;

(c) shall be based on evidence-based and peer-reviewed research by recognized experts in the types of abuse described in Subsection (2)(b);

(d) shall require training to be provided by a professional with substantial experience in assisting survivors of domestic violence or child abuse, including an advocacy services provider;

(e) may include input from a survivor of domestic violence or child physical or sexual abuse; and

(f) may incorporate curriculum, best practices, or other materials developed for or used in similar training and education programs.

(3)(a) The state court administrator shall present the proposed or recommended training and education program to the Judiciary Interim Committee on or before the committee's September 2024 interim meeting.

(b) The presentation described in Subsection (3)(a) shall include:

(i) recommendations for the specific personnel positions that will be required to participate in the program;

(ii) recommended performance metrics for the program and how those metrics may be tracked;

(iii) an estimate of the costs to implement the program; and

(iv) an identification of potential grant sources, if any, that may be available to fund the program in whole or in part.

Section 8. Section 78B-7-121 is enacted to read:

78B-7-121. Requirements for proceedings between the parents of a child.

(1)(a) As used in this section, "relevant proceeding" means a civil proceeding under this chapter:

(i) between the parents of a child;

(ii) that involves the care or custody of the child; and

(iii) that concerns a protective order under this chapter.

(b) "Relevant proceeding" does not include:

(i) any child protective, abuse, or neglect proceeding;

(ii) a juvenile justice proceeding; or

(iii) any child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.

(2) In a relevant proceeding, the court shall comply with the standards described in Section 30-3-41.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

Section 10. Coordinating H.B. 272 with S.B. 95.

If H.B. 272, Child Custody Proceedings Amendments, and S.B. 95, Domestic Relations Recodification, both pass and become law, the Legislature intends that, on September 1, 2024:

(1) Subsections 30-3-10(1) through (4) in H.B. 272 be amended to read:

"[~~(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.~~

~~(2) In determining any form of custody and parent-time under Subsection (1), the court shall~~

~~consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:~~]

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-103, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) [~~,~~]evidence of[~~ domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;~~] psychological maltreatment;

(b) [~~,~~]the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) [~~,~~]physical needs;

(ii) [~~,~~]emotional needs;

(iii) [~~,~~]educational needs;

(iv) [~~,~~]medical needs; and

(v) [~~,~~]any special needs;

(c) [~~,~~]the parent's capacity and willingness to function as a parent, including:

(i) [~~,~~]parenting skills;

(ii) [~~,~~]co-parenting skills, including:

(A) [~~,~~]ability to appropriately communicate with the other parent;

(B) [~~,~~]ability to encourage the sharing of love and affection; and

(C) [~~,~~]willingness to allow frequent and continuous contact between the minor child and the other parent, except that, if the court determines that the parent is acting to protect the minor child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) [~~,~~]ability to provide personal care rather than surrogate care;

(d) [~~ in accordance with Subsection (10),~~]the past conduct and demonstrated moral character of the parent as described in Subsection (9);

(e) [~~,~~]the emotional stability of the parent;

(f) [~~,~~]the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

[~~(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;~~

~~(h)~~] (g) the parent's reasons for having relinquished custody or parent-time in the past;

[~~(i)~~] (h) duration and depth of desire for custody or parent-time;

[~~(j)~~] (i) the parent's religious compatibility with the minor child;

[~~(k)~~] (j) the parent's financial responsibility;

[~~(l)~~] (k) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the minor child's best interests;

[~~(m)~~] (l) who has been the primary caretaker of the minor child;

[~~(n)~~] (m) previous parenting arrangements in which the minor child has been happy and well-adjusted in the home, school, and community;

[~~(o)~~] (n) the relative benefit of keeping siblings together;

[~~(p)~~] (o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;

[~~(q)~~] (p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and

[~~(r)~~] (q) any other factor the court finds relevant.";

(2) all references to "child" in Subsections 30-3-10.1(7) and 30-3-34(3) in H.B. 272 be changed to "minor child";

(3) the changes to Subsection 30-3-34(4)(a) in H.B. 272 supersede the changes to Subsection 81-9-206(3)(b) in S.B. 95;

(4) all references to "child" in Subsection 30-3-34.5(3)(a) in H.B. 272 be changed to "minor child";

(5) Subsection 30-3-34.5(4) in H.B. 272 be amended to read:

"(4) [~~If the court finds that the persons suggested by the parties are~~]If an individual described in Subsection (2) or (3) is not available, affordable, or practicable under the circumstances, or if the court does not find evidence of domestic violence, child abuse, or an ongoing risk to a minor child, a court may order supervised parent-time that is supervised by an individual who is willing to supervise, and[~~are~~] is capable of protecting the[~~children~~] minor child from physical or emotional harm, or child abuse,[~~the court shall authorize the persons to supervise parent-time~~] and the court shall give preference to individuals suggested by the parties, including relatives.";

(6) all references to "child" in Subsection 30-3-34.5(6) in H.B. 272 be changed to "minor child";

(7) Section 30-3-41 enacted in H.B. 272 be renumbered to 81-9-103 and be amended to read:

"[~~30-3-41.~~]81-9-103. Expert evidence -- Violence or abuse findings -- Child relationship and reunification.

(1) As used in this section:

(a) (i) "Child custody proceeding" means a civil proceeding between the parents of a minor child that involves the care or custody of the minor child, including proceedings involving:

(A) divorce;

(B) separation;

(C) parent-time;

(D) paternity;

(E) child support; or

(F) legal or physical custody of the minor child.

(ii) "Child custody proceeding" does not include:

(A) a child protective, abuse, or neglect proceeding;

(B) a juvenile justice proceeding; or

(C) a child placement proceeding in which a state, local, or tribal government, a designee of such a government, or any contracted child welfare agency or child protective services agency of such a government is a party to the proceeding.

(b) "Forensic" means professional activities undertaken pursuant to a court order or for use in litigation, including the evaluation or treatment of a parent, minor child, or other individual who is involved in a child custody proceeding.

(c) "Reunification treatment" means a treatment or therapy aimed at reuniting or reestablishing a relationship between a minor child and an estranged or rejected parent or other family member of the minor child.

(2) In a child custody proceeding, if a parent is alleged to have committed domestic violence or abuse, including sexual abuse:

(a) the court may admit expert evidence from a court-appointed or outside professional relating to alleged domestic violence or abuse only if the professional possesses demonstrated expertise and adequate experience in working with victims of domestic violence or abuse, including sexual abuse, that is not solely of a forensic nature; and

(b) in making a finding regarding an allegation of domestic violence or abuse, including sexual abuse, the court shall consider evidence of past domestic violence, sexual violence, or abuse committed by the accused parent, including:

(i) any past or current protective order against the accused parent; or

(ii) any charge, arrest, or conviction of the accused parent for domestic violence, sexual violence, or abuse.

(3) Subsection (2) does not preclude the court from:

(a) admitting expert evidence, subject to rules of evidence, from a court-appointed or outside professional relating to issues other than alleged domestic violence or abuse; or

(b) admitting evidence, subject to rules of evidence, that is discovered or otherwise becomes available through treatment or therapy after the court enters an order of custody or parent-time.

(4) As part of a child custody proceeding, a court may not, solely in order to improve a deficient relationship between a parent and a minor child, including in the context of reunification treatment:

(a) remove the minor child from a parent or litigating party:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the minor child is bonded; or

(b) restrict reasonable contact between the minor child and a parent or litigating party:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the minor child is bonded.

(5) As part of a child custody proceeding where the court has reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child:

(a) a court may not order a reunification treatment or program unless there is generally accepted proof:

(i) of the physical and psychological safety, effectiveness, and therapeutic value of the reunification treatment; and

(ii) that the reunification treatment is not associated with causing harm to a child;

(b) a court may not order a reunification treatment that is predicated on cutting off a minor child from a parent:

(i) who is competent and not physically or sexually abusive; and

(ii) with whom the minor child is bonded;

(c) any order to remediate the resistance of a minor child to have contact with a violent or abusive parent shall primarily address the behavior of that parent or the contributions of that parent to the resistance of the minor child; and

(d) any order to a parent who meets the criteria in Subsections (5)(b)(i) and (ii), and that requires the parent to take steps to potentially improve the minor child's relationship with a violent or abusive parent, shall:

(i) prioritize the minor child's physical and psychological safety and needs; and

(ii) be narrowly tailored to address specific behavior.

(6) Subject to Subsection (4), Subsection (5) does not preclude the court from ordering mental health treatment by a licensed mental health professional that is generally accepted by and meets the standards of practice for mental health professions if:

(a) the court does not have reasonable cause to believe that there is domestic violence, child abuse, or an ongoing risk to the child; and

(b) the treatment does not pose a risk to the child or parent.";

(8) the reference in Subsection 78B-7-121(2) in H.B. 272 be changed from "Section 30-3-41" to "Section 81-9-103.";

(9) Subsection 81-9-205(2)(a)(i) in S.B. 95 be amended to read:

"(i) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the minor child, a parent, or a household member of the parent in accordance with Section 81-9-103;"; and

(10) Subsection 81-9-207(1) in S.B. 95 be amended to read:

"(1) If it is necessary to protect a minor child and there is no less restrictive means reasonably available, and in accordance with Section 81-9-103, a court may order supervised parent-time if the court finds evidence that the minor child would be subject to physical or emotional harm or child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, and 80-1-102, from the noncustodial parent if left unsupervised with the noncustodial parent.".

CHAPTER 454
H. B. 292
Passed February 14, 2024
Approved March 20, 2024
Effective May 1, 2024

SNOWPLOW AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the Traffic Code regarding a snow plow.

Highlighted Provisions:

This bill:

- clarifies that a government snow plow may not be cited for a lighting violation.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-102, as last amended by Laws of Utah 2023, Chapters 219, 532
41-6a-718, as enacted by Laws of Utah 2023, Chapter 219
41-6a-1616, as last amended by Laws of Utah 2016, Chapter 348

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) a fire department [~~vehicles~~]vehicle;

(b) a police [~~vehicles~~]vehicle;

(c) [~~ambulances~~]an ambulance; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5)(a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6)(a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7)(a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i)(A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(18) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(19)(a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(20) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(21) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(22) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(23) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(24)(a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(25) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(26) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(27) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(28) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(29) "Highway authority" means the same as that term is defined in Section 72-1-102.

(30)(a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(31) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(32) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(33) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(34) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(35) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(36)(a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(37) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(38)(a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(39) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (39)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(40) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an

object, caused by a neuro-muscular, orthopedic, or other condition.

(41)(a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(42)(a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(43)(a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(44) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(45)(a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(46) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(47) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(48) "Operate" means the same as that term is defined in Section 41-1a-102.

(49) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(50) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

(51)(a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(52) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(53) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(54) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(55) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(56) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(57) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(58) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(59) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(60) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(61) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

(62) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(63)(a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(64) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(65)(a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(66)(a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(67) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(68) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(69)(a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

(70) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(71) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(72) "Stop" when required means complete cessation from movement.

(73) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(74) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(75) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

(76) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

(77) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

(78) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

(79) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

(80) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

(81)(a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

(82) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(83) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

(84) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

(85) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

(86) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-718 is amended to read:

41-6a-718. Operation of a snowplow -- Approaching a snowplow -- Prohibition to pass.

(1)(a) A snowplow operator shall ensure that a snowplow in operation on a highway displays flashing yellow lights.

(b) An individual operating a snowplow as an agent of a highway authority, while engaged in the removal of snow or ice on a highway, may not be charged with a violation under this chapter related to parking, standing, turning, backing, lighting, or yielding the right-of-way.

(c) Notwithstanding the exemptions described in Subsection (1)(b), an individual operating a snowplow shall operate the snowplow with reasonable care.

(2) If a snowplow is displaying flashing yellow lights, an individual operating a vehicle in the vicinity of the snowplow may not pass or overtake a snowplow on a side of the snowplow where a plow blade is deployed.

(3) If three or more snowplows are operating in echelon formation, an individual operating a vehicle in the vicinity of the snowplows may not overtake or pass the snowplows on either side of the snowplows.

(4) A violation of Subsection (2) or (3) is an infraction.

Section 3. Section 41-6a-1616 is amended to read:

41-6a-1616. High intensity beams -- Red or blue lights -- Flashing lights -- Color of rear lights and reflectors.

(1)(a) Except as provided under Subsection (1)(b), under the conditions specified under Subsection 41-6a-1603(1)(a), a lighted lamp or illuminating device on a vehicle, which projects a beam of light of an intensity greater than 300 candlepower, shall be directed so that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) The provisions of Subsection (1)(a) do not apply to head lamps, spot lamps, auxiliary lamps, flashing turn signals, hazard warning lamps, [~~and~~]school bus warning lamps, or a snow plow, when operated at the direction of the state or a political subdivision of the state.

(c) A motor vehicle on a highway may not have more than a total of four lamps lighted on the front of the vehicle including head lamps, auxiliary

lamps, spot lamps, or any other lamp if the lamp projects a beam of an intensity greater than 300 candlepower.

(2)(a) Except for an authorized emergency vehicle described in Section 41-6a-1601, a school bus described in Section 41-6a-1302, or a simulated emergency vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a red light that is visible from directly in front of the center of the vehicle.

(b) Except for a law enforcement vehicle, or a simulated emergency vehicle used in accordance with Section 41-6a-1718, a person may not operate or move any vehicle or equipment on a highway with a lamp or device capable of displaying a blue light that is visible from directly in front of the center of the vehicle.

(3) A person may not use flashing lights on a vehicle except for:

(a) taillights of bicycles described in Section 41-6a-1114;

(b) authorized emergency vehicles described in Section 41-6a-1601;

(c) turn signals described in Section 41-6a-1604;

(d) hazard warning lights described in Sections 41-6a-1608 and 41-6a-1611;

(e) school bus flashing lights described in Section 41-6a-1302;

(f) vehicles engaged in highway construction or maintenance described in Section 41-6a-1617;

(g) a simulated emergency vehicle used in accordance with Section 41-6a-1718; and

(h) a continuously flashing light system under Section 41-6a-1604.

(4) Except for an authorized emergency vehicle described in Section 41-6a-1601, or a media production vehicle used in accordance with Section 41-6a-1718, a person may not use a rotating light on any vehicle.

(5) A violation of this section is an infraction.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 455
H. B. 312
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies licensure provisions related to animal massage therapists.

Highlighted Provisions:

This bill:

- allows an individual to engage in the practice of animal massage therapy without a massage therapist license.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-307, as last amended by Laws of Utah 2023, Chapter 62
58-47b-304, as last amended by Laws of Utah 2023, Chapter 225

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-28-307 is amended to read:

58-28-307. Exemptions from chapter.

In addition to the exemptions from licensure in Section 58-1-307 this chapter does not apply to:

(1) an individual who practices veterinary medicine, surgery, or dentistry upon any animal owned by the individual, and the employee of that individual when the practice is upon an animal owned by the employee's employer, and incidental to employment, except:

(a) this exemption does not apply to an individual, or the individual's employee, when the ownership of an animal was acquired for the purpose of circumventing this chapter; and

(b) this exemption does not apply to the administration, dispensing, or prescribing of a prescription drug, or nonprescription drug intended for off label use, unless the administration, dispensing, or prescribing of the drug is obtained through an existing veterinarian-patient relationship;

(2) an individual who as a student at a veterinary college approved by the board engages in the practice of veterinary medicine, surgery, and dentistry as part of the individual's academic training and under the direct supervision and control of a licensed veterinarian, if that practice is during the last two years of the college course of instruction and does not exceed an 18-month duration;

(3) a veterinarian who is an officer or employee of the government of the United States, or the state, or its political subdivisions, and technicians under the veterinarian's supervision, while engaged in the practice of veterinary medicine, surgery, or dentistry for that government;

(4) an individual while engaged in the vaccination of poultry, pullorum testing, typhoid testing of poultry, and related poultry disease control activity;

(5) an individual who is engaged in bona fide and legitimate medical, dental, pharmaceutical, or other scientific research, if that practice of veterinary medicine, surgery, or dentistry is directly related to, and a necessary part of, that research;

(6) a veterinarian licensed under the laws of another state rendering professional services in association with licensed veterinarians of this state for a period not to exceed 90 days;

(7) a registered pharmacist of this state engaged in the sale of veterinary supplies, instruments, and medicines, if the sale is at the registered pharmacist's regular place of business;

(8) an individual in this state engaged in the sale of veterinary supplies, instruments, and medicines, except prescription drugs which must be sold in compliance with state and federal regulations, if the supplies, instruments, and medicines are sold in original packages bearing adequate identification and directions for application and administration and the sale is made in the regular course of, and at the regular place of business;

(9) an individual rendering emergency first aid to animals in those areas where a licensed veterinarian is not available, and if suspicious reportable diseases are reported immediately to the state veterinarian;

(10) an individual performing or teaching nonsurgical bovine artificial insemination;

(11) an individual affiliated with an institution of higher education who teaches nonsurgical bovine embryo transfer or any technician trained by or approved by an institution of higher education who performs nonsurgical bovine embryo transfer, but only if any prescription drug used in the procedure is prescribed and administered under the direction of a veterinarian licensed to practice in Utah;

(12)(a) the practice of animal chiropractic by a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, who has been certified by the American Veterinary Chiropractic Association for performing chiropractic on an animal;

(b) upon written referral by a licensed veterinarian, the practice of animal physical therapy by a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act, who

has completed at least 100 hours of animal physical therapy training, including quadruped anatomy and hands-on training, approved by the division;

(c) [~~upon written referral by a licensed veterinarian, the practice of animal massage therapy by a massage therapist licensed under Chapter 47b, Massage Therapy Practice Act, who has completed at least 60 hours of animal massage therapy training, including quadruped anatomy and hands-on training, approved by the division;~~]the practice of animal massage therapy by an individual who has completed at least 60 hours of animal massage therapy training in areas specified by the division in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(d) upon written referral by a licensed veterinarian, the practice of acupuncture by an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act, who has completed a course of study on animal acupuncture approved by the division;

(13) unlicensed assistive personnel performing duties appropriately delegated to the unlicensed assistive personnel in accordance with Section 58-28-502;

(14) an animal shelter employee who is:

(a)(i) acting under the indirect supervision of a licensed veterinarian; and

(ii) performing animal euthanasia in the course and scope of employment; and

(b) acting under the indirect supervision of a veterinarian who is under contract with the animal shelter, administering a rabies vaccine to a shelter animal in accordance with the Compendium of Animal Rabies Prevention and Control;

(15) an individual providing appropriate training for animals; however, this exception does not include diagnosing any medical condition, or prescribing or dispensing any prescription drugs or therapeutics;

(16) an individual who performs teeth floating if the individual:

(a) has a valid certification from the International Association of Equine Dentistry, or an equivalent certification designated by division rule made in collaboration with the board, to perform teeth floating;

(b) administers or uses a sedative drug only if the individual is under the direct supervision of a veterinarian in accordance with Subsection 58-28-502(2)(a)(iv); and

(17) an individual testing a bovine for pregnancy if the individual has:

(a) obtained a masters degree or higher in animal reproductive physiology; and

(b) completed at least eight hours of continuing education on animal reproductive physiology within the previous two-year period.

Section 2. Section 58-47b-304 is amended to read:

58-47b-304. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the practice of massage therapy or the practice of limited massage therapy, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;

(b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

(c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a, Nurse Midwife Practice Act;

(d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice Act, while under the general supervision of a physical therapist;

(f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act;

(h) a hospital staff member employed by a hospital, who practices massage as part of the staff member's responsibilities;

(i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;

(j) a student in training enrolled in a massage therapy school approved by the division;

(k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician Practice Act;

(l)(i) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act; and

(ii) an occupational therapy assistant licensed under Chapter 42a, Occupational Therapy Practice Act, while under the general supervision of an occupational therapist;

(m) an individual performing animal massage therapy under the rules made by the division in accordance with Subsection 58-28-307(12);

[~~(m)~~](n) an individual performing gratuitous massage; and

[~~(n)~~](o) an individual:

(i) certified by or through, and in good standing with, an industry organization that is recognized by the division and that represents a profession with established standards and ethics:

(A) who is certified to practice reflexology and whose practice is limited to the scope of practice of reflexology;

(B) who is certified to practice a type of zone therapy, including foot zone therapy, and whose practice is limited to the scope of practice for which the individual is certified;

(C) who is certified to practice ortho- bionomy and whose practice is limited to the scope of practice of ortho- bionomy;

(D) who is certified to practice bowenwork and whose practice is limited to the scope of practice of bowenwork; or

(E) who is certified to practice a type of brain integration and whose practice is limited to the scope of practice for which the individual is certified;

(ii) whose clients remain fully clothed from the shoulders to the knees; and

(iii) whose clients do not receive gratuitous massage from the individual.

(2) An individual described in Subsection (1) may not represent oneself as a massage therapist, massage apprentice, massage assistant, or massage assistant in- training.

(3) This chapter may not be construed to:

(a) authorize any individual licensed under this chapter to engage in any manner in the practice of medicine as defined by the laws of this state;

(b) require insurance coverage or reimbursement for massage therapy or limited massage therapy from third party payors; or

(c) prevent an insurance carrier from offering coverage for massage therapy or limited massage therapy.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 456
H. B. 311
Passed February 23, 2024
Approved March 20, 2024
Effective May 1, 2024

LANE FILTERING AMENDMENTS

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends the Traffic Code in relation to lane filtering.

Highlighted Provisions:

This bill:

- defines terms; and
- clarifies that lane filtering is permitted on an off-ramp.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-704, as last amended by Laws of Utah 2023, Chapter 219

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-704 is amended to read:

41-6a-704. Overtaking and passing vehicles proceeding in same direction.

(1) As used in this section:

(a)(i) "Off-ramp" means the portion of a roadway that connects a freeway or limited access highway to an intersection.

(ii) "Off-ramp" does not include the portion of a roadway that connects two controlled access highways, two limited access highways, or a controlled access highway and a limited access highway.

(b)(i) "On-ramp" means the portion of a roadway that connects an intersection to a freeway or limited access highway.

(ii) "On-ramp" does not include the portion of a roadway that connects two controlled access highways, two limited access highways, or a controlled access highway and a limited access highway.

[~~(1)~~](2)(a) Except as provided in Section 41-6a-718, on any highway:

(i) the operator of a vehicle overtaking another vehicle proceeding in the same direction shall:

(A) except as provided under Section 41-6a-705, promptly pass the overtaken vehicle on the left at a safe distance; and

(B) enter a right-hand lane or the right side of the roadway only when safely clear of the overtaken vehicle;

(ii) the operator of an overtaken vehicle:

(A) shall give way to the right in favor of the overtaking vehicle; and

(B) may not increase the speed of the vehicle until completely passed by the overtaking vehicle.

(b) The exemption from the minimum speed regulations for a vehicle operating on a grade under Section 41-6a-605 does not exempt the vehicle from promptly passing a vehicle as required under Subsection [~~(1)(a)(i)(A)~~](2)(a)(i)(A).

[~~(2)~~](3) On a highway having more than one lane in the same direction, the operator of a vehicle traveling in the left general purpose lane:

(a) shall, upon being overtaken by another vehicle in the same lane, yield to the overtaking vehicle by moving safely to a lane to the right; and

(b) may not impede the movement or free flow of traffic in the left general purpose lane.

[~~(3)~~](4) An operator of a vehicle traveling in the left general purpose lane that has a vehicle following directly behind the operator's vehicle at a distance so that less than two seconds elapse before reaching the location of the operator's vehicle when space is available for the operator to yield to the overtaking vehicle by traveling in the right-hand lane is prima facie evidence that the operator is violating Subsection [~~(2)~~](3).

[~~(4)~~](5) The provisions of Subsection [~~(2)~~](3) do not apply to an operator of a vehicle traveling in the left general purpose lane when:

(a) overtaking and passing another vehicle proceeding in the same direction in accordance with Subsection [~~(1)(a)(i)~~](2)(a)(i);

(b) preparing to turn left or taking a different highway or an exit on the left;

(c) responding to emergency conditions;

(d) avoiding actual or potential traffic moving onto the highway from an acceleration or merging lane; or

(e) following the direction of a traffic-control device that directs the use of a designated lane.

[~~(5)~~](6) An individual may engage in lane filtering only when the following conditions exist:

(a) the individual is operating a motorcycle;

(b) the individual is:

(i) on a roadway that is divided into two or more adjacent traffic lanes in the same direction of travel; or

(ii) on an off-ramp that is divided into two or more adjacent traffic lanes in the same direction of travel;

(c) the individual is:

(i) on a roadway with a speed limit of 45 miles per hour or less; or

(ii) on an off- ramp;

(d) the individual is not on an on- ramp;

[~~(d)~~](e) the vehicle being overtaken in the same lane is stopped;

[~~(e)~~](f) the motorcycle is traveling at a speed of 15 miles per hour or less; and

[~~(f)~~](g) the movement may be made safely.

[~~(6)~~](7) A violation of Subsection [~~(1), (2), or (5)~~](2), (3), or (6) is an infraction.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 457
H. B. 313
Passed February 21, 2024
Approved March 20, 2024
Effective May 1, 2024

MOTOR CARRIER AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends the Transportation Code.

Highlighted Provisions:

This bill:

- amends the definition of a commercial vehicle; and
- changes the weight restrictions for an oversize and overweight permit.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-7-406, as last amended by Laws of Utah 2017, Chapters 96, 118
72-9-102, as last amended by Laws of Utah 2023, Chapter 296

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-7-406 is amended to read:

72-7-406. Oversize permits and oversize and overweight permits for vehicles of excessive size or weight -- Applications -- Restrictions -- Fees -- Rulemaking provisions -- Penalty.

(1)(a) The department may, upon receipt of an application and good cause shown, issue in writing an oversize permit or an oversize and overweight permit. The oversize permit or oversize and overweight permit may authorize the applicant to operate or move upon a highway:

(i) a vehicle or combination of vehicles, unladen or with a load weighing more than the maximum weight specified in Section 72-7-404 for any wheel, axle, group of axles, or total gross weight; or

(ii) a vehicle or combination of vehicles that exceeds the vehicle width, height, or length provisions under Section 72-7-402 or draw-bar length restriction under Subsection 72-7-403(1)(a).

(b) Except as provided under Subsections (5) and (8),the department may not issue an oversize and overweight permit under this section to allow the transportation of a load that is reasonably divisible.

(c) The department may not authorize a maximum size or weight permit under this section that could impair the state's ability to qualify for federal-aid highway funds.

(d) The department may deny or issue a permit under this section to protect the safety of the traveling public and to protect highway foundation, surfaces, or structures from undue damage by one or more of the following:

(i) limiting the number of trips the vehicle may make;

(ii) establishing seasonal or other time limits within which the vehicle may operate or move on the highway indicated;

(iii) requiring insurance in addition to the permit to compensate for any potential damage by the vehicle to any highway; and

(iv) otherwise limiting the conditions of operation or movement of the vehicle.

(e) Prior to granting a permit under this section, the department shall approve the route of any vehicle or combination of vehicles.

(2) An application for a permit under this section shall state:

(a) the proposed maximum wheel loads, maximum axle loads, all axle spacings of each vehicle or combination of vehicles;

(b) the proposed maximum load size and maximum size of each vehicle or combination of vehicles;

(c) the specific roads requested to be used under authority of the permit; and

(d) if the permit is requested for a single trip or if other seasonal limits or time limits apply.

(3)(a) The driver of each vehicle requiring an oversize permit or oversize and overweight permit shall ensure that the permit is present in the vehicle or combination of vehicles to which the permit refers and available for inspection by any peace officer, special function officer, port of entry agent, or other personnel authorized by the department.

(b) A driver may provide proof of an oversize permit or oversize and overweight permit as required in Subsection (3)(a) by showing an electronic copy of the permit.

(4) The department may not issue a permit under this section, and a permit is not valid, unless the vehicle or combination of vehicles is:

(a) properly registered for the weight authorized by the permit; or

(b) registered for a gross laden weight of 78,001 pounds or over, if the gross laden weight authorized by the permit exceeds 80,000 pounds.

(5)(a)(i) The department may issue an oversize permit under this section for a vehicle or combination of vehicles that exceeds one or more of the maximum width, height, or length provisions under Section 72-7-402.

(ii) Except for an annual oversize permit for an implement of husbandry under Section 72-7-407,

for a permit issued under Subsection (5)(a)(iii), or for an annual oversize permit issued under Subsection (5)(a)(iv), the department may issue only a single trip oversize permit for a vehicle or combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long.

(iii) An oversize permit may be issued for a vehicle or combination of vehicles with a maximum height of 14 feet 6 inches high to allow the transportation of a load that is reasonably divisible.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of an annual oversize permit for a vehicle or combination of vehicles that is more than 14 feet 6 inches wide, 14 feet high, or 105 feet long if the department determines that the permit is needed to accommodate highway transportation needs for multiple trips on a specified route.

(b) The fee is $30 for a single trip oversize permit under this Subsection (5). This permit is valid for not more than 96 continuous hours.

(c) The fee is $75 for a semiannual oversize permit under this Subsection (5). This permit is valid for not more than 180 continuous days.

(d) The fee is $90 for an annual oversize permit under this Subsection (5). This permit is valid for not more than 365 continuous days.

(6)(a) The department may issue an oversize and overweight permit under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds one or more of the maximum weight provisions of Section 72-7-404 up to a gross weight of 125,000 pounds.

(b) The fee is $60 for a single trip oversize and overweight permit under this Subsection (6). This permit is valid for not more than 96 continuous hours.

(c) A semiannual oversize and overweight permit under this Subsection (6) is valid for not more than 180 continuous days. The fee for this permit is:

(i) $180 for a vehicle or combination of vehicles with gross vehicle weight of [~~more than 80,000 pounds, but not exceeding~~]84,000 pounds or less;

(ii) $320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) $420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(d) An annual oversize and overweight permit under this Subsection (6) is valid for not more than 365 continuous days. The fee for this permit is:

(i) $240 for a vehicle or combination of vehicles with gross vehicle weight of [~~more than 80,000 pounds, but not exceeding~~]84,000 pounds or less;

(ii) $480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) $540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 125,000 pounds.

(7)(a) The department may issue a single trip oversize and overweight permit under this section for a vehicle or combination of vehicles carrying a nondivisible load that exceeds:

(i) one or more of the maximum weight provisions of Section 72-7-404; or

(ii) a gross weight of 125,000 pounds.

(b)(i) The fee for a single trip oversize and overweight permit under this Subsection (7), which is valid for not more than 96 continuous hours, is $.012 per mile for each 1,000 pounds above 80,000 pounds subject to the rounding described in Subsection (7)(c).

(ii) The minimum fee that may be charged under this Subsection (7) is $80.

(iii) The maximum fee that may be charged under this Subsection (7) is $540.

(c)(i) The miles used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 50 mile increment.

(ii) The pounds used to calculate the fee under this Subsection (7) shall be rounded up to the nearest 25,000 pound increment.

(iii) The department shall round the dollar amount used to calculate the fee under this Subsection (7) to the nearest $10 increment.

(8)(a) The department may issue an oversize and overweight permit under this section for a vehicle or combination of vehicles carrying a divisible load if:

(i) the bridge formula under Subsection 72-7-404(3) is not exceeded; and

(ii) the length of the vehicle or combination of vehicles is:

(A) more than the limitations specified under Subsections 72-7-402(4)(c) and (d) or Subsection 72-7-403(1)(a) but not exceeding 81 feet in cargo carrying length and the application is for a single trip, semiannual trip, or annual trip permit; or

(B) more than 81 feet in cargo carrying length but not exceeding 95 feet in cargo carrying length and the application is for an annual trip permit.

(b) The fee is $60 for a single trip oversize and overweight permit under this Subsection (8). The permit is valid for not more than 96 continuous hours.

(c) The fee for a semiannual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 180 continuous days is:

(i) $180 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) $320 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) $420 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(d) The fee for an annual oversize and overweight permit under this Subsection (8), which permit is valid for not more than 365 continuous days is:

(i) $240 for a vehicle or combination of vehicles with gross vehicle weight of more than 80,000 pounds, but not exceeding 84,000 pounds;

(ii) $480 for a vehicle or combination of vehicles with gross vehicle weight of more than 84,000 pounds, but not exceeding 112,000 pounds; and

(iii) $540 for a vehicle or combination of vehicles with gross vehicle weight of more than 112,000 pounds, but not exceeding 129,000 pounds.

(9) Permit fees collected under this section shall be credited monthly to the Transportation Fund.

(10) The department shall prepare maps, drawings, and instructions as guidance when issuing permits under this section.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the issuance and revocation of all permits under this section and Section 72-7-407.

(12) Any person who violates any of the terms or conditions of a permit issued under this section:

(a) may have the person's permit revoked; and

(b) is guilty of an infraction, except that a violation of any rule made under Subsection (11) is not subject to a criminal penalty.

Section 2. Section 72-9-102 is amended to read:

72-9-102. Definitions.

As used in this chapter:

(1)(a) "Commercial vehicle" includes:

(i) an interstate commercial vehicle; [~~and~~]

(ii) an intrastate commercial vehicle[~~.~~]; and

(iii) a tow truck.

(b) "Commercial vehicle" does not include the following vehicles for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks;

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes; or

(iv) vehicles owned by the state or a local government.

(2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating or gross vehicle weight of 10,001 or more pounds, or gross combination weight rating or gross combination weight of 10,001 or more pounds, whichever is greater;

(b) is designed or used to transport more than eight passengers, including the driver, for compensation;

(c) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

(d)(i) is used to transport materials designated as hazardous in accordance with 49 U.S.C. Sec. 5103; and

(ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle B, Chapter I, Subchapter C.

(3) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway only within the boundaries of this state if the commercial vehicle:

(a)(i) has a manufacturer's gross vehicle weight rating or gross vehicle weight, or gross combination weight rating or gross combination weight of 26,001 or more pounds, whichever is greater, and is operated by an individual who is 18 years old or older; or

(ii) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 16,001 or more pounds and is operated by an individual who is under 18 years old;

(b)(i) is designed to transport more than 15 passengers, including the driver; or

(ii) is designed to transport more than 12 passengers, including the driver, and has a manufacturer's gross vehicle weight rating or gross combination weight rating of 13,000 or more pounds; or

(c) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(4) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as that term is defined in Section 41-1a-102.

(6) "Property owner" means the owner or lessee of real property.

(7) "State impound yard" means the same as that term is defined in Section 41-1a-102.

(8) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting business for tow truck services.

(10) "Tow truck operator" means an individual that performs operations related to a tow truck service as an employee or as an independent contractor on behalf of a tow truck motor carrier.

(11) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(12) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 458
H. B. 377
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

PODIATRIST PRACTICE AMENDMENTS

Chief Sponsor: Paul A. Cutler
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions regarding podiatric physicians.

Highlighted Provisions:

This bill:

- allows a podiatric physician to perform wound debridement on the limbs and torso, under certain conditions.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-5a-102, as last amended by Laws of Utah 2023, Chapter 328
58-5a-103, as last amended by Laws of Utah 2023, Chapter 328

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-5a-102 is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Assisted living facility" means the same as that term is defined in Section 26B-2-201.

[~~(1)~~](2) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

[~~(2)~~](3) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~](4) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

[~~(4)~~](5) "Practice of podiatry" means, subject to Section 58-5a-103, the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions, and wound debridement on the limbs and torso, by all appropriate and lawful means[~~, subject to Section 58-5a-103~~].

[~~(5)~~](6) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

[~~(6)~~](7)(a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(vii) gross incompetency in the practice of podiatry;

(viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(x) willfully using false or fraudulent advertising;

(xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

(A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(B) conduct described in Subsections [~~(6)(a)(i)~~](7)(a)(i) through (xi) or Subsection 58-1-501(1); or

(xiii) violating the requirements of Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

(b) "Unprofessional conduct" does not include, in accordance with Title 26B, Chapter 4, Part 2,

Cannabinoid Research and Medical Cannabis, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26B-4-201, recommending the use of medical cannabis within the scope of a practice of podiatry.

Section 2. Section 58-5a-103 is amended to read:

58-5a-103. Scope of practice.

(1) Subject to the provisions of this section, an individual licensed as a podiatric physician under this chapter may perform[-]:

(a) a surgical procedure on a bone of the foot or ankle[,]; and

(b) biological, enzymatic, autolytic, and mechanical wound debridement on the limbs and torso, if the podiatric physician is certified by the American Board of Wound Management as a Certified Wound Specialist Physician.

(2) Except as provided in Subsections (3) and (4), an individual licensed as a podiatric physician under this chapter may not perform:

(a) an ankle fusion;

(b) a massive ankle reconstruction; or

(c) a reduction of a trimalleolar ankle fracture.

(3) An individual licensed as a podiatric physician under this chapter who meets the requirements described in Subsection (4) may only:

(a) treat a fracture of the tibia if at least one portion of the fracture line enters the ankle joint;

(b) treat a foot or ankle condition using hardware, including screws, plates, staples, pins, and wires, if at least one portion of the hardware system is attached to a bony structure at or below the ankle mortise; and

(c) place hardware for the treatment of soft tissues in the foot or ankle no more proximal than the distal 10 centimeters of the tibia.

(4) Subject to Subsection (3), an individual licensed as a podiatric physician under this chapter may only perform a procedure described in Subsection (2) if the individual:

(a)(i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education; and

(ii) is board certified in reconstructive rearfoot and ankle surgery by the American Board of Foot and Ankle Surgery;

(b)(i) graduated on or after June 1, 2006, from a three-year residency program in podiatric medicine and surgery that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii) is board qualified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery; and

(iii) provides the division documentation that the podiatric physician has completed training or experience, which the division determines is acceptable, in standard or advanced rearfoot and ankle procedures; or

(c)(i) graduated before June 1, 2006, from a residency program in podiatric medicine and surgery that was at least two years in length and that was accredited, at the time of graduation, by the Council on Podiatric Medical Education;

(ii)(A) is board certified in reconstructive rearfoot ankle surgery by the American Board of Foot and Ankle Surgery;

(B) if the residency described in Subsection (4)(c)(i) is a PSR-24 24-month podiatric surgical residency, provides proof that the individual completed the residency, to a hospital that is accredited by the Joint Commission, and meets the hospital's credentialing criteria for foot and ankle surgery; or

(C) in addition to the residency described in Subsection (4)(c)(i), has completed a fellowship in foot and ankle surgery that was accredited by the Council on Podiatric Medical Education at the time of completion; and

(iii) provides the division documentation that the podiatric physician has completed training and experience, which the division determines is acceptable, in standard or advanced rearfoot and ankle procedures.

(5) An individual licensed as a podiatric physician under this chapter may not perform an amputation proximal to Chopart's joint.

(6) An individual licensed as a podiatric physician under this chapter may not perform a surgical treatment on an ankle, on a governing structure of the foot or ankle above the ankle, or on a structure related to the foot or ankle above the ankle, unless the individual performs the surgical treatment:

(a) in an ambulatory surgical facility, a general acute hospital, or a specialty hospital, as defined in Section 26B-2-201; and

(b) subject to review by a quality care review body that includes qualified, licensed physicians and surgeons.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 459
H. B. 441
Passed February 28, 2024
Approved March 20, 2024
Effective January 1, 2025

REGISTRATION OF NOVEL VEHICLES

Chief Sponsor: Norman K Thurston
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends Title 41, Motor Vehicles, in relation to novel vehicles.

Highlighted Provisions:

This bill:

- defines terms;
- establishes a registration process for a novel vehicle;
- provides a process for an individual to appeal to the State Tax Commission to review a novel vehicle registration determination;
- addresses requirements for a street-legal novel vehicle; and
- requires the State Tax Commission to provide an annual report to the Transportation Interim Committee regarding the registration of novel vehicles.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
41-1a-201, as last amended by Laws of Utah 2023, Chapter 532
41-1a-205, as last amended by Laws of Utah 2017, Chapters 149, 406
41-6a-102, as last amended by Laws of Utah 2023, Chapters 219, 532
41-6a-1509, as last amended by Laws of Utah 2022, Chapter 68
41-6a-1601, as last amended by Laws of Utah 2019, Chapter 428
41-6a-1629, as last amended by Laws of Utah 2014, Chapter 229
41-6a-1642, as last amended by Laws of Utah 2023, Chapters 22, 33 and 532
41-22-10.3, as last amended by Laws of Utah 2015, Chapter 412
53-8-205, as last amended by Laws of Utah 2017, Chapters 149, 406

ENACTS:
41-27-101, Utah Code Annotated 1953
41-27-201, Utah Code Annotated 1953
41-27-202, Utah Code Annotated 1953
41-27-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-201 is amended to read:

41-1a-201. Function of registration -- Registration required -- Penalty.

(1) Unless exempted, a person or automated driving system may not operate and an owner may not engage an automated driving system, give another person permission to engage an automated driving system, or give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, restored-modified vehicle, off-highway vehicle, vessel, or park model recreational vehicle in this state unless it has been registered in accordance with this chapter, [~~Title 41, Chapter 22, Off-highway Vehicles~~]Chapter 22, Off-highway Vehicles, Chapter 27, Novel Vehicle Registration, or Title 73, Chapter 18, State Boating Act.

(2) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

(3)(a) In the event that materials are temporarily unavailable for registration items required under Section 41-1a-402, the commission may delay initial vehicle registration or renewal of vehicle registrations.

(b) In a circumstance described in Subsection (3)(a), a person does not violate Subsection (1) for failure to register a vehicle during a delay period described in Subsection (3)(a).

Section 2. Section 41-1a-205 is amended to read:

41-1a-205. Safety inspection certificate required for commercial motor vehicles and initial registration of street-legal ATVs, street-legal novel vehicles, and salvage vehicles.

(1) A street-legal all-terrain vehicle registered in accordance with Section 41-6a-1509 is subject to a safety inspection the first time that a person registers an off-highway vehicle as a street-legal all-terrain vehicle.

(2) A street-legal novel vehicle registered in accordance with Section 41-27-201 is subject to a safety inspection the first time that a person registers a novel vehicle as a street-legal novel vehicle.

[~~(2)~~](3) A salvage vehicle as defined in Section 41-1a-1001 is subject to a safety inspection when the owner makes the initial application to register the vehicle as a salvage vehicle.

[~~(3)~~](4) A safety inspection certificate shall be displayed on:

(a) all registered commercial vehicles as defined in Section 72-9-102;

(b) a motor vehicle with three or more axles, pulling a trailer, or pulling a trailer with multiple axles;

(c) a combination unit;

(d) a bus or van for hire;

(e) a taxicab; and

(f) a motor vehicle operated by a ground transportation service provider as defined in Section 72-10-601.

[~~(4)~~](5) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 3. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5)(a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6)(a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7)(a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (18)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i)(A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Echelon formation" means the operation of two or more snowplows arranged side-by-side or diagonally across multiple lanes of traffic of a multi-lane highway to clear snow from two or more lanes at once.

(18) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(19)(a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(20) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(21) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(22) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a Tagliabue or equivalent closed-cup test device.

(23) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(24)(a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(25) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(26) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(27) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

(28) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(29) "Highway authority" means the same as that term is defined in Section 72-1-102.

(30)(a) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(31) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(32) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(33) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(34) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(35) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(36)(a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(37) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(38)(a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(39) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (39)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(40) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

(41)(a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(42)(a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(43)(a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(44) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(45)(a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(46) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(47) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(48) "Operate" means the same as that term is defined in Section 41-1a-102.

(49) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(50) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

(51)(a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(52) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(53) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(54) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(55) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(56) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(57) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(58) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(59) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or

official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(60) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(61) "Restored-modified vehicle" means the same as the term defined in Section 41-1a-102.

(62) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(63)(a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(64) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(65)(a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(66)(a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(67) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(68) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(69)(a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

(70) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(71) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(72) "Stop" when required means complete cessation from movement.

(73) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(74) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(75) "Street-legal novel vehicle" means a vehicle registered as a novel vehicle under Section 41-27-201 that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(75)~~](76) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(76)~~](77) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(77)~~](78) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(78)~~](79) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(79)~~](80) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority

for the purpose of regulating, warning, or guiding traffic.

[~~(80)~~](81) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(81)~~](82)(a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(82)~~](83) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(83)~~](84) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(84)~~](85) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(85)~~](86) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(86)~~](87) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 4. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1)(a) Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section as a street-legal ATV on a street or highway.

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle as a street-legal ATV on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion is met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2)(a) Except as provided in Subsection (2)(b), an individual may operate a vehicle that is registered as a novel vehicle on a street or highway, if the vehicle meets the requirements of this section as a street-legal novel vehicle.

(b) An individual may not operate a vehicle registered as a novel vehicle as a street-legal novel vehicle on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion are met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal novel vehicle in an area that is not open to motor vehicle use.

[~~(2)~~](3) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under this chapter;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under Chapter 22, Off-highway Vehicles, and Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(4) A street-legal novel vehicle shall comply with Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the requirements for registration as a novel vehicle under Section 41-27-201.

[~~(3)~~](5)(a) The owner of an all-terrain type I vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle or of a vehicle registered as a novel vehicle being operated as a street-legal novel vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

[~~(4)~~](6)(a) Subject to the requirements of Subsection [~~(4)(b)~~](6)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(7)(a) Subject to the requirements of Subsection (7)(b), an operator of a street-legal novel vehicle, when operating as a street-legal novel vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal novel vehicle, when operating a street-legal novel vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal novel vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal novel vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

[~~(5)~~](8)(a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV or street-legal novel vehicle that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Division of Outdoor Recreation, after notifying the Outdoor Adventure Commission, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Outdoor Recreation, after notifying the Outdoor Adventure Commission, shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection [~~(5)(a)~~](8)(a).

[~~(6)~~](9) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

[~~(7)~~](10) A violation of this section is an infraction.

Section 5. Section 41-6a-1601 is amended to read:

41-6a-1601. Operation of unsafe or improperly equipped vehicles on public highways -- Exceptions.

(1)(a) A person may not operate or move and an owner may not cause or knowingly permit to be operated or moved on a highway a vehicle or combination of vehicles that:

(i) is in an unsafe condition that may endanger any person;

(ii) does not contain those parts or is not at all times equipped with lamps and other equipment in proper condition and adjustment as required in this chapter;

(iii) is equipped in any manner in violation of this chapter; or

(iv) emits pollutants in excess of the limits allowed under the rules of the Air Quality Board created under Title 19, Chapter 2, Air Conservation Act, or under rules made by local health departments.

(b) A person may not do any act forbidden or fail to perform any act required under this chapter.

(2)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in coordination with the rules made under Section 53-8-204, the department shall make rules setting minimum standards covering the design, construction, condition, and operation of vehicle equipment for safely operating a motor vehicle on the highway as required under this part.

(b) The rules under Subsection (2)(a):

(i) shall conform as nearly as practical to Federal Motor Vehicle Safety Standards and Regulations;

(ii) may incorporate by reference, in whole or in part, the federal standards under Subsection (2)(b)(i) and nationally recognized and readily available standards and codes on motor vehicle safety;

(iii) shall include provisions for the issuance of a permit under Section 41-6a-1602;

(iv) shall include standards for the emergency lights of authorized emergency vehicles;

(v) may provide standards and specifications applicable to lighting equipment on school buses consistent with:

(A) this part;

(B) federal motor vehicle safety standards; and

(C) current specifications of the Society of Automotive Engineers;

(vi) shall provide procedures for the submission, review, approval, disapproval, issuance of an approval certificate, and expiration or renewal of approval of any part as required under Section 41-6a-1620;

(vii) shall establish specifications for the display or etching of a vehicle identification number on a vehicle;

(viii) shall establish specifications in compliance with this part for a flare, fusee, electric lantern, warning flag, or portable reflector used in compliance with this part;

(ix) shall establish approved safety and law enforcement purposes when video display is visible to the motor vehicle operator; and

(x) shall include standards and specifications for both original equipment and parts included when a vehicle is manufactured and aftermarket equipment and parts included after the original manufacture of a vehicle.

(c) The following standards and specifications for vehicle equipment are adopted:

(i) 49 C.F.R. 571.209 related to safety belts;

(ii) 49 C.F.R. 571.213 related to child restraint devices;

(iii) 49 C.F.R. 393, 396, and 396 Appendix G related to commercial motor vehicles and trailers operated in interstate commerce;

(iv) 49 C.F.R. 571 Standard 108 related to lights and illuminating devices; and

(v) 40 C.F.R. 82.30 through 82.42 and Part 82, Subpart B, Appendix A and B related to air conditioning equipment.

(3) Nothing in this chapter or the rules made by the department prohibit:

(a) equipment required by the United States Department of Transportation; or

(b) the use of additional parts and accessories on a vehicle not inconsistent with the provisions of this chapter or the rules made by the department.

(4) Except as specifically made applicable, this chapter and rules of the department with respect to equipment required on vehicles do not apply to:

(a) implements of husbandry;

(b) road machinery;

(c) road rollers;

(d) farm tractors;

(e) motorcycles;

(f) motor-driven cycles;

(g) motor assisted scooters;

(h) vehicles moved solely by human power;

(i) off-highway vehicles registered under Section 41-22-3 either:

(i) on a highway designated as open for off-highway vehicle use; or

(ii) in the manner prescribed by Subsections 41-22-10.3(1) through (3); or

(j) off-highway implements of husbandry when operated in the manner prescribed by Subsections 41-22-5.5(3) through (5).

(5) The vehicles referred to in Subsections (4)(i) and (j) are subject to the equipment requirements of Title 41, Chapter 22, Off-highway Vehicles, and the rules made under that chapter.

(6)(a)(i) Except as provided in Subsection (6)(a)(ii), a federal motor vehicle safety standard supersedes any conflicting provision of this chapter.

(ii) Federal motor vehicle safety standards do not supersede the provisions of Section 41-6a-1509 governing the requirements for and use of street-legal all-terrain vehicles or street-legal novel vehicles on highways.

(b) The department:

(i) shall report any conflict found under Subsection (6)(a) to the appropriate committees or officials of the Legislature; and

(ii) may adopt a rule to replace the superseded provision.

(7) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 6. Section 41-6a-1629 is amended to read:

41-6a-1629. Vehicles subject to Sections 41-6a-1629 through 41-6a-1633 -- Definitions.

(1) As used in Sections 41-6a-1629 through 41-6a-1633:

(a) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest longitudinal structural member of the body of the vehicle.

(b) "Frame height" means the vertical distance between the ground and the lowest point on the frame. The distance is measured when the vehicle is unladen and on a level surface.

(c) "Gross vehicle weight rating (GVWR)" means the original manufacturer's gross vehicle weight rating, whether or not the vehicle is modified by use of parts not originally installed by the original manufacturer.

(d) "Manufacturer" means any person engaged in manufacturing or assembling new motor vehicles utilizing new parts or components, or a person defined as a manufacturer in current applicable Federal Motor Vehicle Safety Standards and Regulations.

(e) "Mechanical alteration" or "mechanical lift" means modification or alteration of the axles, chassis, suspension, or body by any means, including tires and wheels, and excluding any load, which affects the frame height of the motor vehicle.

(f) "O.E.M." means original equipment manufacturer.

(g) "Original equipment" means an item of motor vehicle equipment, including tires, which were installed in or on a motor vehicle or available as an option for the particular vehicle from the original manufacturer at the time of its delivery to the first purchaser.

(h) "Wheel track" means the shortest distance between the center of the tire treads on the same axle. On vehicles having dissimilar axle widths, the axle with the widest distance is used for all calculations.

(2)(a) Except as provided in Subsections (2)(b) and (c), the provisions of Sections 41-6a-1629 through 41-6a-1633 apply to all motor vehicles operated or parked on a highway.

(b) The provisions of Sections 41-6a-1629 through 41-6a-1633 do not apply to the following vehicles:

(i) implements of husbandry;

(ii) farm tractors;

(iii) road machinery;

(iv) road rollers; and

(v) historical vehicles or horseless carriages that have been restored as near to original condition as is reasonably possible.

(c) The provisions of Subsection 41-6a-1631(2) and Sections 41-6a-1632 and 41-6a-1633 do not apply to a street-legal all-terrain vehicle or a street-legal novel vehicle operated in accordance with Section 41-6a-1509.

Section 7. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle

emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2)(a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(D) Volkswagen Golf Sportwagen, model year 2015;

(E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(F) Volkswagen Beetle, model years 2013, 2014, and 2015;

(G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(C) Audi A6 Quattro, model years 2014, 2015, and 2016;

(D) Audi A7 Quattro, model years 2014, 2015, and 2016;

(E) Audi A8, model years 2014, 2015, and 2016;

(F) Audi A8L, model years 2014, 2015, and 2016;

(G) Audi Q5, model years 2014, 2015, and 2016; and

(H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b)(i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3)(a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1982 or older; or

(ii) for a vintage vehicle that has a model year of 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) a vehicle registered as a novel vehicle under Section 41-27-201;

[~~(e)~~](f) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

[~~(f)~~](g) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

[~~(g)~~](h) a motorcycle as defined in Section 41-1a-102;

[~~(h)~~](i) an electric motor vehicle as defined in Section 41-1a-102; and

[~~(i)~~](j) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection [~~(4)(f)~~](4)(g) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8)(a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9)(a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c)(i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10)(a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b)(i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11)(a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate

legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13)(a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14)(a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 8. Section 41-22-10.3 is amended to read:

41-22-10.3. Operation of vehicles on highways -- Limits.

A person may not operate an off-highway vehicle upon any street or highway, not designated as open to off-highway vehicle use, except:

(1) when crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;

(2) when loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation;

(3) when an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority; or

(4) when operating a street-legal all-terrain vehicle or a street-legal novel vehicle on a highway in accordance with Section 41-6a-1509.

(5) A violation of this section is an infraction.

Section 9. Section 41-27-101 is enacted to read:

41-27-101. Definitions.

CHAPTER 27. NOVEL VEHICLE REGISTRATION

Part 1. General Provisions

As used in this chapter:

(1) "Commission" means the State Tax Commission.

(2) "Division" means the Motor Vehicle Division.

(3) "Novel vehicle" means a vehicle:

(a) that is not expressly exempt from registration; and

(b)(i) that does not fit within a vehicle category;

(ii) with unique characteristics that make it unclear whether the vehicle fits within a vehicle category; or

(iii) that a reasonable person would not consider the vehicle to be clearly included in an existing vehicle category.

(4) "Vehicle" means a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, restored-modified vehicle, off-highway vehicle, vessel, or park model recreational vehicle.

(5)(a) "Vehicle category" means a vehicle type:

(i) that is defined in this title or Title 73, Chapter 18, State Boating Act; and

(ii) for which registration is required under:

(A) this chapter;

(B) Chapter 1a, Motor Vehicle Act;

(C) Chapter 22, Off-highway Vehicles; or

(D) Title 73, Chapter 18, State Boating Act.

(b) "Vehicle category" does not include a novel vehicle.

(6) "VIN" means a vehicle identification number or a hull identification number.

Section 10. Section 41-27-201 is enacted to read:

41-27-201. Novel vehicle registration.

Part 2. Registration Process

(1) An owner registering a vehicle shall provide the VIN, if applicable.

(2) The division shall identify a vehicle category based on the VIN.

(3) If the vehicle does not have a VIN, or if the division is unable to determine the vehicle category based on the VIN:

(a) the owner shall provide the division with a description of the vehicle, including the vehicle's purpose; and

(b) if the description of the vehicle fits with an existing category of vehicle, the vehicle shall be registered in accordance with that vehicle category.

(4) The vehicle shall be registered as a novel vehicle if:

(a) the vehicle is not expressly exempt from registration; and

(b)(i) the vehicle does not fit within a vehicle category;

(ii) the unique characteristics of the vehicle make it unclear whether the vehicle fits within a vehicle category; or

(iii) a reasonable person would not consider the vehicle to be clearly included in an existing vehicle category.

(5) A person registering a novel vehicle shall pay:

(a) in accordance with Section 59-2-405, an annual $1 fee in lieu of property tax; and

(b) an annual $1 registration fee, to be deposited into the Transportation Fund.

(6) The division shall issue a registration sticker or license plate for a vehicle that is registered as a novel vehicle, as appropriate.

(7) A vehicle registered as a street-legal novel vehicle is subject to the requirements described in Section 41-6a-1509.

(8) The division may provide title to a novel vehicle.

(9) Except as expressly provided in this chapter:

(a) a novel vehicle that is not a watercraft is subject to the provisions applicable to an off-highway vehicle under Chapter 22, Off-Highway Vehicles; and

(b) a novel vehicle that is a watercraft is subject to the provisions applicable to a motorboat under Title 73, Chapter 18, State Boating Act.

Section 11. Section 41-27-202 is enacted to read:

41-27-202. Appeal to commission.

(1) If an owner disagrees with the division's decision, the owner may, within 14 days after the day on which the division makes the decision, appeal the decision to the commission by:

(a) filing a notice of appeal with the commission; and

(b) including any additional information regarding the vehicle.

(2)(a) In reviewing a decision described in Subsection (1), the commission may:

(i) admit additional evidence; and

(ii) make a correction or change in the vehicle category determination made by the division.

(b) The owner shall register the vehicle in accordance with the commission's determination.

(c) The division shall reduce the fee required to register a vehicle under Subsection (2)(b) by the amount paid by the owner of the vehicle under Subsection 41-27-201(4).

(3) The commission shall decide an appeal filed under Subsection (1) as soon as practicable and promptly notify:

(a) the owner; and

(b) the division.

Section 12. Section 41-27-301 is enacted to read:

41-27-301. Novel vehicle report to Transportation Interim Committee.

Part 3. Commission Reporting

(1) The commission shall, at or before the October interim meeting of the Transportation Interim Committee, present a report on novel vehicle registrations that includes:

(a) the number of vehicles registered as novel vehicles; and

(b) a description of the vehicles registered as novel vehicles.

(2) The Transportation Interim Committee shall review the report described in Subsection (1) and determine whether to propose legislation relating to registration of a particular type of novel vehicle.

(3) A vehicle previously registered as a novel vehicle shall continue to be registered as a novel vehicle, unless the Legislature amends the Utah Code to:

(a) require the vehicle to be registered otherwise; or

(b) exempt the vehicle from registration.

Section 13. Section 53-8-205 is amended to read:

53-8-205. Safety inspection required for certain vehicles -- Out-of-state permits.

(1)(a) A salvage vehicle as defined in Section 41-1a-1001 is required to pass a safety inspection when an application is made for initial registration as a salvage vehicle.

(b) An off-highway vehicle being registered for the first time as a street-legal all-terrain vehicle as described in Section 41-6a-1509 is required to pass a safety inspection when the owner makes the initial application to register the vehicle as a street-legal all-terrain vehicle.

(c) A novel vehicle being registered for the first time as a street-legal novel vehicle as described in Section 41-27-201 is required to pass a safety inspection when the owner makes the initial application to register the vehicle as a street-legal novel vehicle.

[~~(c)~~](d) The owner of a commercial vehicle, as defined in Section 72-9-102, shall:

(i) ensure that the commercial vehicle passes a safety inspection annually; or

(ii) provide evidence of a valid annual federal inspection that complies with the requirements of 49 C.F.R. Sec. 396.17.

[~~(d)~~](e) The owner of a vehicle operated by a ground transportation service provider as defined in Section 72-10-601 shall ensure that the vehicle passes a safety inspection annually.

[~~(e)~~](f) An owner of one or more of the following types of vehicles shall ensure that the vehicle passes a safety inspection annually:

(i) a motor vehicle with three or more axles, pulling a trailer, or pulling a trailer with multiple axles;

(ii) a combination unit;

(iii) a bus or van for hire; or

(iv) a taxicab.

(2) A safety inspection station shall issue two safety inspection certificates to the owner of:

(a) each motor vehicle that passes a safety inspection under this section; and

(b) a street-legal all-terrain vehicle that meets all the equipment requirements in Section 41-6a-1509.

(3) A person operating a motor vehicle required to have an annual safety inspection shall have in the person's immediate possession a safety inspection certificate or other evidence of compliance.

(4) The division may authorize the acceptance of a safety inspection certificate issued in another state having a safety inspection law similar to Utah's law.

(5) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 14. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 460
S. B. 2
Passed February 28, 2024
Approved March 20, 2024
Effective July 1, 2024

PUBLIC EDUCATION BUDGET AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2023, and ending June 30, 2024, and for the fiscal year beginning July 1, 2024, and ending June 30, 2025.

Highlighted Provisions:

This bill:

- expands allowable uses of the Automobile Driver Education Tax Account;
- establishes a start date for when the Executive Appropriations Committee will include an appropriation to the Local Levy Growth Account under certain circumstances;
- repeals statutory provisions for discontinued or reallocated programs;
- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) at $4,494 for fiscal year 2024-2025, which is five percent higher than the WPU value in FY 2024;
- adjusts the number of weighted pupil units for the At-Risk Students Add-on WPU programs to reflect increased student weightings approved by the Legislature;
- makes certain statutory changes to adjust programmatic formulas with funding changes;
- provides appropriations for other purposes as described; and
- provides intent language.

Money Appropriated in this Bill:

- This bill appropriates ($100) in operating and capital budgets for fiscal year 2024, all of which is from the Income Tax Fund.
- This bill appropriates ($82,895,200) in restricted fund and account transfers for fiscal year 2024.
- This bill appropriates $32,784,800 in transfers to unrestricted funds for fiscal year 2024.
- This bill appropriates ($82,895,200) in fiduciary funds for fiscal year 2024.
- This bill appropriates $367,666,600 in operating and capital budgets for fiscal year 2025, including:
  - ($133,000) from General Fund;
  - $104,998,700 from Uniform School Fund;
  - $43,426,400 from the Income Tax Fund; and
  - $219,374,500 from various sources as detailed in this bill.
- This bill appropriates $43,395,600 in restricted fund and account transfers for fiscal year 2025, including:
  - ($40,867,500) from Uniform School Fund;
  - $1,367,900 from Income Tax Fund; and
  - $82,895,200 from various sources as detailed in this bill.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2023, Chapters 1, 328, and 380
53E-1-203, as last amended by Laws of Utah 2022, Chapters 36 and 218
53F-2-208, as last amended by Laws of Utah 2023, Chapters 129, 161, and 356
53F-2-301, as last amended by Laws of Utah 2023, Chapters 7, 467 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 467
53F-2-704, as last amended by Laws of Utah 2019, Chapters 136 and 186
53F-7-201, as last amended by Laws of Utah 2019, Chapter 186
53G-7-218, as last amended by Laws of Utah 2022, Chapter 408
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

REPEALS:

53F-2-407, as last amended by Laws of Utah 2019, Chapter 186
53F-2-411, as last amended by Laws of Utah 2019, Chapter 186
53F-2-417, as last amended by Laws of Utah 2020, Chapter 408
53F-2-503, as last amended by Laws of Utah 2022, Chapter 408
53F-2-519, as last amended by Laws of Utah 2019, Chapters 186 and 446
53F-5-207, as last amended by Laws of Utah 2023, Chapter 328
53F-5-209, as last amended by Laws of Utah 2020, Chapter 408
53F-5-210, as last amended by Laws of Utah 2020, Chapters 338 and 408

Sections affected by Coordination Clause:

53F-2-301, as last amended by Laws of Utah 2023, Chapters 7, 467 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 46720

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the

information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and

(t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(d) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;

(f) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(g) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(h) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;~~]

[~~(i)~~](h) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(j)~~](i) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(k)~~](j) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(l)~~](k) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human Service regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2)(a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4)(a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

[~~(vii) the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Interventions Grant Program;~~]

[~~(viii)~~](vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and

[~~(ix)~~](viii) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7)(a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 3. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

(iii) the Basic Program, described in Part 3, Basic Program (Weighted Pupil Units);

(iv) the Adult Education Program, described in Section 53F-2-401;

(v) state support of pupil transportation, described in Section 53F-2-402;

(vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vii) the Concurrent Enrollment Program, described in Section 53F-2-409;

(viii) the juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; and

(ix) dual language immersion, described in Section 53F-2-502; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2)(a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in

Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

(3) [~~If~~]Beginning in the 2026 fiscal year, if the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

Section 4. Section 53F-2-301 is amended to read:

53F-2-301. Minimum basic tax rate for a fiscal year that begins after July 1, 2022.

(1) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic rate; and

(ii) set annually by the Legislature in Subsection (2)(a).

(e) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (2)(a).

(f) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(g) "WPU value amount" means an amount:

(i) that is equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the immediately preceding fiscal year; and

(ii) set annually by the Legislature in Subsection (3)(a).

(h) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(i) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (3)(a).

(2)(a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2023~~]2024, is [~~$708,960,800~~]$759,529,000 in revenue statewide.

(b) The preliminary estimate of the minimum basic tax rate for a fiscal year that begins on July 1, [~~2023, is .001356~~]2024, is .001429.

(3)(a) The WPU value amount for the fiscal year that begins on July 1, [~~2023~~]2024, is [~~$27,113,600~~]$29,240,600 in revenue statewide.

(b) The preliminary estimate of the WPU value rate for the fiscal year that begins on July 1, [~~2023, is .000052~~]2024, is .000055.

(4)(a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (2)(b) and the estimate of the WPU value rate provided in Subsection (3)(b) are based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (4)(a)(i) and the certified WPU value rate described in Subsection (4)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(5)(a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, each local school board shall impose the combined basic rate.

(b)(i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (5).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (5).

(6)(a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of revenue generated by the school district by the following:

(i) the combined basic rate; and

(ii) the basic levy increment rate.

(b)(i) If the difference described in Subsection (6)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (6)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(7) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302; and

(b) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 5. Section 53F-2-704 is amended to read:

53F-2-704. Charter school levy state guarantee.

(1) As used in this section:

(a) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53F-2-703.

(b) "Charter school students' average local revenues" means the amount determined as follows:

(i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;

(ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and

(iii) divide the sum calculated under Subsection (1)(b)(ii) by the number of students enrolled in charter schools on the previous October 1.

(c) "District local property tax revenues" means the sum of a school district's revenue received from the following:

(i) a voted local levy imposed under Section 53F-8-301;

(ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended for[~~:~~]

[~~(A)~~] pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy;[~~ and~~]

[~~(B) the Early Literacy Program described in Section 53F-2-503, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;~~]

(iii) a capital local levy imposed under Section 53F-8-303; and

(iv) a guarantee described in Section 53F-2-601, 53F-3-202, or 53F-3-203.

(d) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:

(i) a school district's average daily membership; and

(ii) the average daily membership of a school district's resident students who attend charter schools.

(e) "Resident student" means a student who is considered a resident of the school district under Title 53G, Chapter 6, Part 3, School District Residency.

(f) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:

(i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and

(ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district average daily membership.

(2)(a) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection 53F-2-702(2)(a).

(b) Except as provided in Subsection (2)(c), the amount of money provided by the state for a charter school student shall be the sum of:

(i) charter school students' average local revenues minus the charter school levy per pupil revenues; and

(ii) statewide average debt service revenues.

(c) If the total of charter school levy per pupil revenues distributed by the state board and the amount provided by the state under Subsection (2)(b) is less than $1,427, the state shall provide an additional supplement so that a charter school receives at least $1,427 per student under Subsection 53F-2-702(2).

(d)(i) If the legislative appropriation described in Subsection (2)(a) is insufficient to provide an amount described in Subsection (2)(b) for each

charter school student, the state board shall make an adjustment to Minimum School Program allocations as described in Section 53F-2-205.

(ii) Following an adjustment described in Subsection (2)(d)(i), if legislative appropriations remain insufficient to provide an amount described in Subsection (2)(b) for each student enrolled in a charter school, the state board shall:

(A) distribute to a charter school an amount described in Subsection (2)(b) for each student enrolled in the charter school under or equal to the maximum number of students the charter school serves, as described in the charter school's charter school agreement described in Section 53G-5-303; and

(B) distribute money remaining after the distributions described in Subsection (2)(d)(ii)(A) to a charter school based on the charter school's share of all students enrolled in charter schools who exceed the number of maximum students served by charter schools, as described in charter school agreements entered into under Section 53G-5-303.

(3)(a) Except as provided in Subsection (3)(b), of the money provided to a charter school under Subsection 53F-2-702(2), 10% shall be expended for funding school facilities only.

(b) Subsection (3)(a) does not apply to an online charter school.

Section 6. Section 53F-7-201 is amended to read:

53F-7-201. Appropriations from Automobile Driver Education Tax Account.

There is appropriated to the state board from the Automobile Driver Education Tax Account, annually, all money in the account, in excess of the expense of administering the collection of the tax, for use and distribution[~~.~~]:

(1) in the administration and maintenance of driver education classes and programs with respect to classes offered in the school district and the establishment of experimental programs, including the purchasing of equipment, by the state board[~~.~~];

(2) for pupil transportation; and

(3) for other expenditures related to public education as the Legislature designates.

Section 7. Section 53G-7-218 is amended to read:

53G-7-218. Establishment of early learning plan -- Digital reporting platform.

(1) A local school board of a school district or a charter school governing board of a charter school that serves students in any of kindergarten or grades 1 through 3 shall annually submit to the state board an early learning plan that includes:

[~~(a) the early literacy plan described in Section 53F-2-503, including:~~]

[~~(i) the growth goal described in Subsection 53F-2-503(4)(d); and~~]

[~~(ii) one goal that is specific to the school district or charter school as described in Subsection 53F-2-503(4)(e);~~]

[~~(b)~~](a) the early mathematics plan described in Section 53E-3-521, including:

(i) a growth goal for the school district or charter school that:

(A) is based upon student learning gains as measured by the mathematics benchmark assessment described in Section 53E-4-307.5; and

(B) includes the target that the state board establishes under Section 53E-3-521; and

(ii) one goal that:

(A) is specific to the school district or charter school;

(B) is measurable;

(C) addresses current performance gaps in student mathematics proficiency based on data; and

(D) includes specific strategies for improving outcomes; and

[~~(c)~~](b) one additional goal related to literacy or mathematics that:

(i) is specific to the school district or charter school;

(ii) is measurable;

(iii) addresses current performance gaps in student literacy or mathematics proficiency based on data; and

(iv) includes specific strategies for improving outcomes.

(2) A local school board or charter school governing board shall approve a plan described in Subsection (1) in a public meeting before submitting the plan to the state board.

(3)(a) The state board shall:

(i) provide model plans that a local school board or a charter school governing board may use;

(ii) develop uniform standards for acceptable growth goals that a local school board or a charter school governing board adopts for a school district or charter school under this section; and

(iii) review and approve or disapprove a plan submitted under this section.

(b) Notwithstanding Subsection (3)(a), a local school board or a charter school governing board may develop the board's own plan.

(4) The state board shall:

(a) develop strategies to provide support for a school district or charter school that fails to meet:

[~~(i)(A) the growth goal related to the state literacy target described in Subsection (1)(a)(i); or~~]

[~~(B)~~](i) the growth goal related to the state mathematics target described in Subsection [~~(1)(b)(i)~~](1)(a)(i); and

(ii) one of the goals specific to the school district or charter school described in [~~Subsections (1)(a)(ii), (1)(b)(ii), or (1)(c)~~]Subsection (1)(a)(ii) or (1)(b); and

(b) provide increasing levels of support to a school district or charter school that fails to meet the combination of goals described in Subsection (4)(a) for two consecutive years.

(5)(a) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy and mathematics.

(b) The digital reporting platform described in Subsection (5)(a) shall include performance information for a school district or charter school on the goals described in Subsection (1).

Section 8. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:(i) which health insurers in the state the air medical transport provider contracts with;(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53B-6-105.7 is repealed July 1, 2024.

(9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(10) Section 53B-8-114 is repealed July 1, 2024.

(11) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(12) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.~~]

[~~(14)~~](13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](14) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](15) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](16) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](17) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](18) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](19) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 9. Repealer.

This bill repeals:

Section 53F-2-407, Appropriation for library books and electronic resources.

Section 53F-2-411, Appropriation for Title I Schools in Improvement Paraeducators Program.

Section 53F-2-417, Rural school district transportation grants.

Section 53F-2-503, Early Literacy Program -- Literacy proficiency plan.

Section 53F-2-519, Appropriation for school nurses.

Section 53F-5-207, Intergenerational Poverty Interventions Grant Program --

Definitions -- Grant requirements -- Reporting requirements.

Section 53F-5-209, Grants for school-based mental health supports.

Section 53F-5-210, Educational Improvement Opportunities Outside of the Regular School Day Grant Program.

Section 10. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 10(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund,

One-time	50,000,000

Schedule of Programs:

Grades 1 - 12	50,000,000

The Legislature intends that the State Board of Education use up to $10,000,000 one-time in nonlapsing balances from the Minimum School Program - Basic School Program to mitigate fiscal year 2024 monthly state funding allocation changes associated with the calculation of weighted pupil unit under statutory changes to 53F-2-302 passed in House Bill 1, Public Education Base Budget Amendments (2024 General Session).

ITEM 2

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Beginning

Nonlapsing Balances	(22,996,100)

From Closing

Nonlapsing Balances	22,996,100

ITEM 3

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund,

One-time	(50,000,000)

Schedule of Programs:

Voted Local Levy Program	(50,000,000)

ITEM 4

To State Board of Education - Educator Licensing

From Income Tax Fund, One-time 53,600

From Beginning

Nonlapsing Balances	(198,200)

From Closing

Nonlapsing Balances	198,200

Schedule of Programs:

Educator Licensing	53,600

ITEM 5

To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund, One-time 40,000

From Beginning

Nonlapsing Balances	(6,590,500)

From Closing

Nonlapsing Balances	6,590,500

Schedule of Programs:

Software Licenses for Early Literacy	10,500
General Financial Literacy	5,700
Intergenerational Poverty Interventions	4,300
Partnerships for Student Success	10,600
Supplemental Educational Improvement Matching Grants	700
Competency-Based Education Grants	8,200

ITEM 6

To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund, One-time 207,100

Schedule of Programs:

Adult Education	14,100
CTE Comprehensive Guidance	11,700
Digital Teaching and Learning	28,000
Dual Immersion	10,400
At-Risk Students	20,300
Special Education State Programs	34,300
Youth-in-Custody	34,900
Early Literacy Program	21,800
Student Health and Counseling Support Program	12,700
Early Learning Training and Assessment	10,100
Early Intervention	8,800

ITEM 7

To State Board of Education - Policy, Communication, & Oversight

From Income Tax Fund, One-time 207,100

Schedule of Programs:

Policy and Communication	24,500
Student Support Services	150,700
School Turnaround and Leadership Development Act	31,900

ITEM 8

To State Board of Education - System Standards & Accountability

From Income Tax Fund, One-time 503,600

From Beginning

Nonlapsing Balances (1,000,000)

From Closing

Nonlapsing Balances 1,000,000

Schedule of Programs:

Teaching and Learning	226,700
Assessment and Accountability	40,900
Career and Technical Education	106,200
Special Education	900
Early Literacy Outcomes Improvement	128,900

ITEM 9

To State Board of Education - State Charter School Board

From Income Tax Fund, One-time 73,400

From Beginning

Nonlapsing Balances (1,000,000)

From Closing

Nonlapsing Balances 1,000,000

Schedule of Programs:

State Charter School Board & Administration	73,400

ITEM 10

To State Board of Education - Utah Schools for the Deaf and the Blind

From Beginning

Nonlapsing Balances (1,000,000)

From Closing

Nonlapsing Balances 1,000,000

The Legislature intends that Utah Schools for the Deaf and the Blind add one audiology van and one 3/4 ton pickup truck in FY 2024.

ITEM 11

To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund, One-time 22,300

Schedule of Programs:

Statewide Online Education Program	645,900
Home and Private School Students	(623,600)

ITEM 12

To State Board of Education - State Board and Administrative Operations

From Income Tax Fund, One-time (1,107,200)

Schedule of Programs:

Financial Operations	144,900
Information Technology	112,800
Indirect Cost Pool	8,800
Data and Statistics	2,400
Board and Administration	(1,376,100)

Subsection 10(b) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 13

To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Closing Fund Balance (82,895,200)

Schedule of Programs:

Public Education Economic Stabilization Restricted Account	(82,895,200)

Subsection 10(c) Transfers to Unrestricted Funds

The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

ITEM 14

To Income Tax Fund

From Nonlapsing Balances - Contracted Initiatives and Grants - English Language Learner Software Licenses 71,100

From Nonlapsing Balances - Contracted Initiatives and Grants - General Financial Literacy 617,900

From Nonlapsing Balances - Contracted Initiatives and Grants - Intergenerational Poverty Interventions 79,300

From Nonlapsing Balances - Contracted Initiatives and Grants - Math and Science Opportunities 216,600

From Nonlapsing Balances - Contracted Initiatives and Grants - Partnerships for Student Success 32,200

From Nonlapsing Balances -

Contracted Initiatives and Grants -

Software Licenses for Early Literacy 5,397,600

From Nonlapsing Balances - Contracted Initiatives and Grants - Supplemental Educational Improvement Matching Grants 42,400

From Nonlapsing Balances - Contracted Initiatives and Grants - ULEAD 350,000

From Nonlapsing Balances - Educator Licensing 198,200

From Nonlapsing Balances - Related to Basic School Program - Adult Education 146,200

From Nonlapsing Balances - Related to Basic School Program - Centennial Scholarship Program 23,600

From Nonlapsing Balances - Related to Basic School Program - Charter School Local Replacement 10,000,000

From Nonlapsing Balances - Related to Basic School Program - Concurrent Enrollment 27,300

From Nonlapsing Balances - Related to Basic School Program - Digital Teaching and Learning 194,600

From Nonlapsing Balances - Related to Basic School Program - Dual Immersion 23,000

From Nonlapsing Balances - Related to Basic School Program - Enhancement for Accelerated Students 31,500

From Nonlapsing Balances - Related to Basic School Program - Special Education - Intensive Services 333,300

From Nonlapsing Balances - Related to Basic School Program - Teacher and Student Success Program 12,000,000

From Nonlapsing Balances - State Charter School Board - New Charter Startup Funding 1,000,000

From Nonlapsing Balances - System Standards & Accountability - Assessment and Accountability 1,000,000

From Nonlapsing Balances - Utah Schools for the Deaf and the Blind - Administration 1,000,000

Schedule of Programs:

Income Tax Fund, One-time 32,784,800

Subsection 10(d) Fiduciary Funds

The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

ITEM 15

To School and Institutional Trust Fund Office - Permanent State School Fund

From Public Education Economic Stabilization Restricted Account, One-time (82,895,200)

Schedule of Programs:

Permanent State School Fund (82,895,200)

Section 11. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025.

Subsection 11(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 16

To State Board of Education - Minimum School Program - Basic School Program

From Uniform School Fund 72,176,800

From Local Revenue 1,367,900

Schedule of Programs:

Kindergarten	2,000,100
Grades 1 - 12	31,006,900
Foreign Exchange	20,700
Necessarily Existent Small Schools	1,543,700
Professional Staff	2,930,300
Special Education - Add-on	5,168,900
Special Education - Self-Contained	591,000
Special Education - Preschool	576,600
Special Education - Extended School Year	23,300
Special Education - Impact Aid	105,100
Special Education - Extended Year for Special Educators	46,400
Career and Technical Education - Add-on	1,483,400
Class Size Reduction	2,160,200
Students At-Risk Add-on (5,493 WPUs)	25,888,100

The Legislature intends that a local governing board may use funds received through the Students At-Risk Add-on to provide English language learner software and hardware instructional materials and licenses for English language learner instruction and support.

The Legislature further intends that a local governing board may select a vendor to provide software and instructional materials for students.

ITEM 17

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund 14,621,900

From Automobile Driver Education Tax Account 2,000,000

From Public Education Economic Stabilization Restricted Account, One-time 78,401,000

From Teacher and Student Success Account 1,367,900

From Beginning Nonlapsing Balances (22,996,100)

From Closing Nonlapsing Balances 22,996,100

Schedule of Programs:

Pupil Transportation To & From School 1,550,700
At-Risk Students - Gang Prevention and Intervention (90,500)
Youth in Custody 391,800
Adult Education 220,200
Enhancement for Accelerated Students 85,200
Concurrent Enrollment 245,100
Teacher Salary Supplement 2,000,000
Dual Immersion 7,367,000
Digital Teaching and Learning Program 19,852,400
Effective Teachers in High Poverty Schools Incentive Program 801,000
Teacher and Student Success Program (13,632,100)
Charter School Funding Base Program 3,600,000
Educator Professional Time 74,000,000

The Legislature intends that the State Board of Education, in consultation with the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget, review administrative or base funding for charter schools in relation to their administrative obligations in statute and total state funding of charter schools enrolling fewer than 2,000 students with small school districts considering how factors such as size, scale, and location impact relative operational costs.

The Legislature further intends that the State Board of Education report to the Public Education Appropriations Subcommittee prior to October 31, 2025, the status of the study or recommendations for the Legislature to review.

The Legislature intends that the State Board of Education use up to $85,000 one-time in nonlapsing balances in the Student Health and Counseling Support program to support student mental health screenings.

ITEM 18

To State Board of Education - Minimum School Program - Voted and Board Local Levy Programs

From Uniform School Fund 3,200,000

Schedule of Programs:

Voted Local Levy Program 3,200,000

ITEM 19

To State Board of Education - Educator Licensing

From Income Tax Fund 53,600

From Beginning Nonlapsing Balances (198,200)

From Closing Nonlapsing Balances 198,200

Schedule of Programs:

Educator Licensing 53,600

ITEM 20

To State Board of Education - Fine Arts Outreach

Schedule of Programs:

The Legislature intends that the State Board of Education use the $6,121,000 ongoing appropriated to the Fine Arts Outreach - Professional Outreach Programs in the Schools in Item 28 of House Bill 1, Public Education Base Budget Amendments (2024 General Session) to maintain the renewable grant program for participating professional outreach providers in the public schools as follows:

(1) $727,700 to Ballet West;

(2) $225,000 to the Nora Eccles Harrison Museum of Art;

(3) $159,000 to Plan-B Theatre;

(4) $342,700 to Repertory Dance Theatre;

(5) $289,500 to Ririe-Woodbury Dance Company;

(6) $359,900 to the Springville Museum of Art;

(7) $271,900 to Spy Hop;

(8) $458,100 to Tanner Dance;

(9) $387,800 to the Utah Festival Opera and Musical Theatre;

(10) $233,900 to the Utah Film Center;

(11) $216,000 to the Utah Museum of Contemporary Art;

(12) $209,900 to the Utah Museum of Fine Art;

(13) $449,000 to the Utah Opera;

(14) $447,600 to the Utah Shakespeare Festival; and

(15) $1,343,000 to the Utah Symphony.

ITEM 21

To State Board of Education - Contracted Initiatives and Grants

From General Fund (133,000)

From Income Tax Fund 40,404,700

From Income Tax Fund, One-time 3,000,000

From Public Education Economic Stabilization Restricted Account, One-time 16,616,200

From Beginning Nonlapsing Balances (6,590,500)

From Closing Nonlapsing Balances 6,590,500

Schedule of Programs:

Computer Science Initiatives 7,000,000
Contracts and Grants 13,616,200
Software Licenses for Early Literacy 10,500
General Financial Literacy 5,700
Intergenerational Poverty Interventions (1,006,500)
Paraeducator to Teacher Scholarships (24,500)
Partnerships for Student Success 10,600

ULEAD (100,000)
Supplemental Educational Improvement Matching Grants (132,300)
Competency-Based Education Grants 8,200
Utah Fits All Scholarship Program 40,000,000
Pupil Transportation Rural School Reimbursement 500,000

The Legislature intends that the State Board of Education use $1,000,000 ongoing and $6,000,000 one-time appropriated for the K12 Computer Science for Utah Grant Program to provide grants to local education agencies to implement the Utah Computer Science Master Plan.

The Legislature further intends that local education agencies use the grants to improve computer science education outcomes and course offerings, including:

(1) the creation and implementation of local education agency computer science plan; and

(2) effective implementation of approved courses, and effective training opportunities for licensed educators.

ITEM 22

To State Board of Education - MSP Categorical Program Administration

From Income Tax Fund 207,000

From Beginning Nonlapsing Balances 100

From Closing Nonlapsing Balances (100)

Schedule of Programs:

Adult Education 14,100
CTE Comprehensive Guidance 11,700
Digital Teaching and Learning 28,000
Dual Immersion 10,400
At-Risk Students 20,300
Special Education State Programs 34,300
Youth-in-Custody 34,900
Early Literacy Program 21,700
Student Health and Counseling Support Program 12,700
Early Learning Training and Assessment 10,100
Early Intervention 8,800

ITEM 23

To State Board of Education - Science Outreach

Schedule of Programs:

The Legislature intends that the State Board of Education use the $6,040,000 ongoing appropriated to the Science Outreach Informal Science Education Enhancement in Item 32 of House Bill 1, Public Education Base Budget Amendments (2024 General Session), to maintain the renewable grant program for participating professional outreach providers in the public schools as follows:

(1) $1,052,600 to the Clark Planetarium;

(2) $715,600 to Discovery Gateway;

(3) $119,600 to Hawkwatch International;

(4) $807,400 to Loveland Living Planet Aquarium;

(5) $866,800 to the Natural History Museum of Utah;

(6) $245,300 to the Ogden Nature Center;

(7) $355,800 to Red Butte Gardens;

(8) $897,200 to Thanksgiving Point;

(9) $598,100 to The Leonardo; and

(10) $381,600 to Utah's Hogle Zoo.

ITEM 24

To State Board of Education - Policy, Communication, & Oversight

From Income Tax Fund 207,100

Schedule of Programs:

Policy and Communication 24,500
Student Support Services (849,300)
School Turnaround and Leadership Development Act 31,900
Student Mental Health Screenings 1,000,000

ITEM 25

To State Board of Education - System Standards & Accountability

From Income Tax Fund 503,600

From Dedicated Credits Revenue (6,100,000)

From Automobile Driver Education Tax Account 5,100,000

From Public Education Economic Stabilization Restricted Account, One-time 3,500,000

From Beginning Nonlapsing Balances (1,000,000)

From Closing Nonlapsing Balances 1,000,000

Schedule of Programs:

Teaching and Learning 2,726,700
Assessment and Accountability 40,900
Career and Technical Education 106,200
Special Education 900
Early Literacy Outcomes Improvement 128,900

ITEM 26

To State Board of Education - State Charter School Board

From Income Tax Fund 73,400

From Beginning Nonlapsing Balances (1,000,000)

From Closing Nonlapsing Balances 1,000,000

Schedule of Programs:

State Charter School Board & Administration 73,400

ITEM 27

To State Board of Education - Utah Schools for the Deaf and the Blind

From Income Tax Fund (56,400)

From Public Education Economic Stabilization Restricted Account, One- time 300,000

Schedule of Programs:

Administration (56,400)
Utah State Instructional Materials Access Center 300,000

ITEM 28

To State Board of Education - Statewide Online Education Program Subsidy

From Income Tax Fund 140,400

Schedule of Programs:

Statewide Online Education Program 764,000
Home and Private School Students (623,600)

ITEM 29

To State Board of Education - State Board and Administrative Operations

From Income Tax Fund (1,107,000)

From Public Education Economic Stabilization Restricted Account, One- time 101,160,600

Schedule of Programs:

Financial Operations 101,305,500
Information Technology 112,800
Indirect Cost Pool 8,800
Data and Statistics (144,300)
Board and Administration (1,229,200)

ITEM 30

To State Board of Education - Public Education Capital Projects

From Uniform School Fund, One- time 15,000,000

From Public Education Economic Stabilization Restricted Account, One- time 15,000,000

Schedule of Programs:

Small School District Capital Projects 30,000,000

ITEM 31

To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Acct. 660,900

Schedule of Programs:

School and Institutional Trust Fund Office 660,900

Subsection 11(b) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 32

To Uniform School Fund Restricted - Public Education Economic Stabilization Restricted Account

From Uniform School Fund (40,867,500)

From Beginning Fund Balance 82,895,200

Schedule of Programs:

Public Education Economic Stabilization Restricted Account 42,027,700

ITEM 33

To Teacher and Student Success Account

From Income Tax Fund 1,367,900

Schedule of Programs:

Teacher and Student Success Account 1,367,900

Section 12. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) If approved by two- thirds of all the members elected to each house, the following Subsections take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override:

(a) Section 10, FY 2024 Appropriations;

(b) Subsection 10(a), Operating and Capital Budgets;

(c) Subsection 10(b), Expendable Funds and Accounts;

(d) Subsection 10(c), Restricted Fund and Account Transfers; and

(e) Subsection 10(d), Fiduciary Funds.

Section 13. Coordinating S.B. 2 with H.B. 1

If S.B. 2, Public Education Budget Amendments, and H.B. 1, Public Education Base Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53F- 2- 301 in this bill supersede the amendments to Section 53F- 2- 301 in H.B. 1 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 461
H. B. 531
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

LASER POINTER AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill concerns the criminal offense of unlawful use of a laser pointer.

Highlighted Provisions:

This bill:

- defines terms;
- amends the criminal offense of unlawful use of a laser pointer to include conduct concerning an aircraft or the aircraft's occupants;
- provides criminal penalties; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-2501, as enacted by Laws of Utah 2001, Chapter 67

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-2501 is amended to read:

76-10-2501. Unlawful use of a laser pointer.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Laser light" means light that is amplified by stimulated emission of radiation.

[~~(b)~~](c) "Laser pointer" means any portable device that emits a visible beam of laser light that may be directed at [~~a person~~]an individual.

[~~(c)~~](d) "Law enforcement officer" means an officer under Section 53-13-103.

(2) [~~A person is guilty of~~]An actor commits unlawful use of a laser pointer if the [~~person~~]actor directs a beam of laser light from a laser pointer at:

(a) a moving motor vehicle or [~~its~~]the occupants of a moving motor vehicle; [~~or~~]

(b) one whom the [~~person~~]actor knows or has reason to know is a law enforcement officer[~~.~~]; or

(c) an aircraft or the occupants of an aircraft.

(3) It is an affirmative defense to a charge under Subsection (2)(b) that:

(a) the law enforcement officer was:

(i) not in uniform;

(ii) not traveling in a vehicle identified as a law enforcement vehicle; and

(iii) not otherwise engaged in an activity that would give the [~~person~~]actor reason to know [~~him~~]the law enforcement officer to be a law enforcement officer; and

(b) the law enforcement officer was not otherwise known by the [~~person~~]actor to be a law enforcement officer.

(4) [~~Violation~~]

(a) A violation of Subsection (2)(a) is an infraction.

(b) [~~Violation~~]A violation of Subsection (2)(b) is a class C misdemeanor.

(c)(i) Except as provided in Subsection (4)(c)(ii) or (4)(c)(iii), a violation of Subsection (2)(c) is a class B misdemeanor.

(ii) Except as provided in Subsection (4)(c)(iii), a violation of Subsection (2)(c) is a class A misdemeanor if the actor previously has been convicted of a violation of Subsection (2)(c).

(iii) A violation of Subsection (2)(c) is a third degree felony if the actor's conduct causes an aircraft to crash or perform an emergency landing.

(5) If the violation of this section constitutes an offense subject to a greater penalty under another provision of [~~Title 76, Utah Criminal Code,~~]this title than is provided under this section, this section does not prohibit the prosecution and sentencing for the offense subject to a greater penalty.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 462
S. B. 3
Passed February 27, 2024
Approved March 20, 2024
Effective March 20, 2024

CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Jerry W Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024.

Highlighted Provisions:

This bill:

- ▶ provides appropriations for the use and support of higher education and certain state agencies;
- ▶ authorizes full time employment levels for certain internal service funds;
- ▶ provides appropriations for other purposes as described; and
- ▶ provides intent language.

Money Appropriated in this Bill:

This bill appropriates $481,530,000 in operating and capital budgets for fiscal year 2024, including:

- ($1,062,700) from the General Fund;
- $1,506,300 from the Income Tax Fund; and
- $481,086,400 from various sources as detailed in this bill.

This bill appropriates ($69,598,700) in expendable funds and accounts for fiscal year 2024, including:

- $1,099,600 from the General Fund; and
- ($70,698,300) from various sources as detailed in this bill.

This bill appropriates $155,607,200 in business-like activities for fiscal year 2024, including:

- $5,499,400 from the General Fund; and
- $150,107,800 from various sources as detailed in this bill.

This bill appropriates ($18,185,400) in restricted fund and account transfers for fiscal year 2024, including:

- ($1,239,900) from the General Fund;
- ($12,648,000) from the Income Tax Fund; and
- ($4,297,500) from various sources as detailed in this bill.

This bill appropriates $63,790,900 in transfers to unrestricted funds for fiscal year 2024.

This bill appropriates ($31,105,600) in capital project funds for fiscal year 2024, including:

- ($16,815,000) from the Income Tax Fund; and
- ($14,290,600) from various sources as detailed in this bill.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE
ATTORNEY GENERAL

Item 1

To Attorney General

The Legislature intends that the Attorney General's Office, Medicaid Fraud Division, purchase two (2) additional vehicles for investigators with division funds approved during the 2024 General Session of Legislature.

The Legislature intends that the Attorney General's Office, Medicaid Fraud Division, purchase one additional vehicle for investigators in Fiscal Year 2024 with division funds approved during the 2023 General Session of the Legislature.

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 in appropriations to the Attorney General's Office in Item 1 of Chapter 468, Laws of Utah 2023, not to lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to purchase of hardware and software, program development and operational costs, facility upgrades, pass-through funds appropriated by the Legislature, and other one-time operational and capital expenses.

Item 2

To Attorney General - Children's Justice Centers

From Federal Funds,

One-time 13,700

From Expendable Receipts,

One-time 55,100

Schedule of Programs:

Children's Justice Centers 68,800

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $6,133,400 in appropriations to the Children's Justice Centers Item 152 of Chapter 468, Laws of Utah 2023, not to lapse

at the close of Fiscal Year 2024. The use of any unused funds is limited to costs passed through to operate the local centers or for one-time operational costs.

Item 3

To Attorney General - Contract Attorneys

The Legislature intends that the Attorney General's Office be authorized to use up to $1,151,500 appropriated previously in the Contract Attorneys line item for Commerce Clause Legal Challenge for other purposes in the same line item.

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $6,000,000 in appropriations to the Attorney General - Contract Attorneys, Item 3 of Chapter 468, Laws of Utah 2023, not to lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to payment of costs associated with the Chevron Doctrine litigation, the Utah Monuments litigation, and other civil litigation.

Item 4

To Attorney General - Prosecution Council

From Federal Funds,

One-time 53,300

From Dedicated Credits Revenue,

One-time 37,800

From Revenue Transfers,

One-time 250,000

Schedule of Programs:

Prosecution Council 341,100

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $150,000 in appropriations to the Utah Prosecution Council, Item 4 of Chapter 468, Laws of Utah 2023, not to lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to training and technical assistance to prosecutors.

BOARD OF PARDONS AND PAROLE

Item 5

To Board of Pardons and Parole

From General Fund,

One-time ..... (500,000)

Schedule of Programs:

Board of Pardons and Parole ..... (500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,500,000 provided for the Board of Pardons and Parole in Item 51 of Chapter 9 Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds shall be limited to capital improvements, hearing audio-visual infrastructure, one-time technology or research projects, public outreach and transparency initiative, electronic records and systems, employee incentives and training, contract costs associated with defense counsel for offenders, or offender evaluations.

UTAH DEPARTMENT OF CORRECTIONS

Item 6

To Utah Department of Corrections - Programs and Operations

From General Fund,

One-time ..... (1,301,900)

From Federal Funds,

One-time 705,900

Schedule of Programs:

Adult Probation and Parole Programs ..... (1,055,500)
Department Administrative Services ... 19,000
Prison Operations Administration ... (265,400)
Re-entry and Rehabilitation Re-Entry . 705,900

Under Section 63J-1-603 of the Utah Code, the Legislature intents that the appropriation of up to $10,000,000 for the Utah Department of Corrections - Programs and Operations in item 52 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to the purchase of the following items: stab and ballistic vests, uniforms, radio supplies and equipment, authorized vehicle purchases, inmate support and food costs, inmate programming/treatment, firearms and ammunition, computer equipment/software and support, equipment and supplies, employee training and development, building and office maintenance/remodeling, furniture, officer recruitment and special projects.

The Legislature intends that, within existing funds the Department of Corrections be granted the authority to purchase one vehicle for the AP&P Deputy Director, one vehicle for each investigations staff member, one vehicle for each K9 dog handler, additional vehicles for the CIRT response team expanded operations, additional vehicles for UDC Administration, additional vehicles for the background investigation team, additional vehicles for AP&P agents/supervisors, and additional vehicles for efficiencies & inmate transports with existing department funds.

Item 7

To Utah Department of Corrections - Jail Contracting

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $5,000,000 for the Utah Department of Corrections - Jail Contracting in item 54 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any funds is limited to housing additional inmates, and treatment and vocational programming for inmates housed at the county jails.

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 8

To Judicial Council/State Court Administrator - Administration

From General Fund,

One-time ..... (600,000)

From Dedicated Credits Revenue,

One-time 600,000

From General Fund Restricted - Court Security Account, One-time 1,809,900

Schedule of Programs:

Courts Security 1,809,900
Data Processing 600,000
District Courts ..... (600,000)

Under Sections 63J-1-603 and 63J-1-602.1(62) of the Utah Code, the Legislature intends that any unspent funds remaining in the Juvenile Courts (Budget Line BAAA, Appropriation Code BAE) shall not lapse at the close of Fiscal Year 2024. Unused funds are to be used for Juvenile Courts.

Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to $3,225,000 provided to the Judicial Council/State Court Administrator - Administration in Laws of Utah 2023 Chapter 9, Item 55, shall not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; furniture and repairs; purchase of Utah code and rules for judges; and Wellness Council carryforward.

Item 9

To Judicial Council/State Court Administrator - Contracts and Leases

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator- Contracts and Leases in Laws of Utah 2023 Chapter 9, Item 56 shall not lapse at the close of Fiscal Year 2024. The use of any non-lapsing funds is limited to lease cost increases, contractual obligations and support.

Item 10

To Judicial Council/State Court Administrator - Grand Jury

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $800 provided to the Judicial Council/State Court Administrator- Grand Jury in Laws of Utah 2023 Chapter 9, Item 57 shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to expenses related to the grand jury.

Item 11

To Judicial Council/State Court Administrator - Guardian ad Litem

From General Fund,

One-time 531,000

Schedule of Programs:

Guardian ad Litem 531,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator- Guardian ad Litem in Laws of Utah 2023 Chapter 9, Item 58 shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to employee training, development, and incentives; computer equipment and software, special projects and studies, and temporary employees.

Item 12

To Judicial Council/State Court Administrator - Jury and Witness Fees

From General Fund,

One-time 431,000

Schedule of Programs:

Jury, Witness, and Interpreter 431,000

GOVERNOR'S OFFICE

Item 13

To Governor's Office - Commission on Criminal and Juvenile Justice

From General Fund,

One-time 450,000

Schedule of Programs:

CCJJ Commission 450,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $2,500,000 provided for the Commission on Criminal and Juvenile Justice in Items 16, 62, and 96 of Chapter 9 Laws of Utah 2023 not lapse at the close of fiscal year 2024. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2024. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contract extradition costs, meeting and travel costs, state pass through grant programs, legal costs associated with deliberations required

for judicial retention elections and voter outreach for judicial retention elections and costs.

Item 14

To Governor's Office

From Income Tax Fund,

One-time 225,000

Schedule of Programs:

Administration 225,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,500,000 provided for the Governor's Office in Item 64 of Chapter 9 Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The Legislature further intends that appropriations provided in Item 1 of Chapter 297 Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to one-time expenditures of the Governor and Lieutenant Governor's Offices.

Item 15

To Governor's Office - Governors Office of Planning and Budget

From Federal Funds,

One-time 117,000

Schedule of Programs:

Planning Coordination 117,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $2,000,000 provided for the Governor's Office - Governor's Office of Planning and Budget in Item 65 of Chapter 9 Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any funds is limited to one-time expenditures of the Governor's Office of Planning and Budget.

Item 16

To Governor's Office - Suicide Prevention

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Suicide Prevention line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Suicide Rate (Target = below 22.2 per 100,000).

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for the Governor's Office - Suicide Prevention in Item 67 of Chapter 9 Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any funds is limited to the same purposes as the original appropriations.

Item 17

To Governor's Office - Colorado River Authority of Utah

From Federal Funds,

One-time 999,900

From Expendable Receipts,

One-time 250,000

From Revenue Transfers,

One-time 100,000

Schedule of Programs:

Colorado River Authority of Utah ... 1,349,900

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 18

To Department of Health and Human Services - Juvenile Justice & Youth Services

From General Fund,

One-time ..... (371,600)

Schedule of Programs:

Juvenile Justice & Youth Services ... (409,900)
Secure Care 14,000
Youth Services 21,500
Community Programs 2,800

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,500,000 provided for the Division of Juvenile Justice & Youth Services in Item 69 of Chapter 9 in Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to the same purposes of the original appropriation including information technology, data processing and technology based expenditures; capital developments, projects, facility repairs, maintenance, critical needs, and improvements; other charges for pass-through expenditures; one-time operational expenses, short-term projects and studies that promote efficiency and service improvement; employee attraction and retention, training, education assistance, and incentives; translation and interpreting services.

Item 19

To Department of Health and Human Services - Correctional Health Services

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of appropriations to the Utah Department of Health and Human Service in Item 382 of Chapter 486, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to the purchase of pharmaceuticals, medical supplies & equipment, computer equipment/software, contractual medical services, and employee training & development.

OFFICE OF THE STATE AUDITOR

Item 20

To Office of the State Auditor - State Auditor

From Dedicated Credits Revenue,

One-time 84,400

Schedule of Programs:

State Auditor 84,400

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $850,000 provided for the Office of the State Auditor in Item 70 of Chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, data analytics, and state privacy officer activities.

DEPARTMENT OF PUBLIC SAFETY

Item 21

To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $8,000,000 provided for the Department of Public Safety - Emergency Management - Emergency and Disaster Management item 71 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Funding will be used for reimbursement for emergency costs and loans that qualify as determined in statute.

Item 22

To Department of Public Safety - Driver License

From Public Safety Motorcycle Education Fund, One-time 75,000

Schedule of Programs:

Motorcycle Safety 75,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Driver License item 72 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and 63J-1-602.2. Funding shall be used for one-time enhancements to the uninsured motorist program.

Item 23

To Department of Public Safety - Emergency Management

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for the Department of Public Safety - Emergency Management item 73 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Funding will be used for one-time purchases of emergency management related equipment and expenses.

Item 24

To Department of Public Safety - Highway Safety

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $200,000 provided for The Department of Public Safety - Highway Safety item 75 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 322 63J-1-602.2. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 25

To Department of Public Safety - Peace Officers' Standards and Training

From General Fund,

One-time 15,000

Schedule of Programs:

POST Administration 15,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety - Peace Officers' Standards and Training item 97 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Funding shall be used for equipment, technology, and other one-time operating expenses.

Item 26

To Department of Public Safety - Programs & Operations

From General Fund,

One-time ..... (1,811,800)

From Federal Funds,

One-time ..... (1,342,300)

From General Fund Restricted - Firefighter Support Account,

One-time 150,000

From General Fund Restricted - Public Safety Honoring Heroes Account,

One-time 150,000

From General Fund Restricted - Utah Law Enforcement Memorial Support Restricted Account, One-time 50,000

Schedule of Programs:

CITS State Crime Labs ..... (1,342,300)
Department Commissioner's Office 188,200
Fire Marshal - Fire Operations 150,000
Highway Patrol - Field Operations . (1,800,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations

of up to $18,000,000 provided for The Department of Public Safety - Programs and Operations item 98 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. This amount excludes any nonlapsing funds from accounts listed under section 63J-1-602.1 and section 63J-1-602.2. Funding shall be used for equipment, helicopter parts purchases, technology, emergencies, first responder mental health grants, early intervention system grant funds, and other one-time operating expenses and capital purchases.

Item 27

To Department of Public Safety - Bureau of Criminal Identification

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $4,000,000 provided for The Department of Public Safety - Bureau of Criminal Identification item 99 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Funding shall be used for training, equipment purchases, and other one-time operating expenses. Carryover funding shall also be used to offset cyclical downturns in revenues collected by BCI as these revenues make up a majority of its budget.

STATE TREASURER

Item 28

To State Treasurer

From Land Trusts Protection and Advocacy Account, One-time 165,000

Schedule of Programs:

Advocacy Office 165,000

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $400,000 provided in Laws of Utah 2023, Chapter 9, Item 4 for the Office of the State Treasurer not lapse at the close of Fiscal Year 2024. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 29

To Career Service Review Office

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $30,000 of the appropriations provided for Career Service Review Office in Item 51, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to grievance resolution.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 30

To Department of Government Operations - DFCM

From General Fund,

One-time ..... (264,000)

Schedule of Programs:

DFCM Administration ..... (264,000)

The Legislature intends that DFCM Administration add up to 5 vehicles for Project Management staff to provide services to customers in FY 2024.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $2,700,000 of the appropriations provided for the DFCM Administration line item in Item 55, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: information technology projects, customer service, optimization efficiency projects, time-limited FTE's, and Governor's Mansion maintenance, $2,500,000; and Energy Program operations, $200,000

Item 31

To Department of Government Operations - DGO Administration

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of appropriations provided for the DGO Administration line item in Item 57, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: general operations of the Executive Directors Office, $625,000; capital improvements/maintenance, DP software, and equipment, $75,000; leadership training, $100,000; website maintenance, $150,000; and internal auditing, $50,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of appropriations provided for the DGO Administration line item in Item 35, Chapter 485, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to Job Title and Classification Review Consultant.

Item 32

To Department of Government Operations - Finance - Mandated

The Legislature intends that FY 2020, FY 2021, FY 2022, FY 2023, or FY 2024 appropriations from Federal Funds - Coronavirus Relief Fund or Federal Funds - American Rescue Plan remain available for expenditure in future fiscal years until all funds are expended or the period of availability has ended. This authorization to make expenditures in future fiscal years fulfills the Legislative review and approval of

certain federal funds requests as required under 63J-5-204.

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distributes the excess deposits according to the formula provided in UCA 53C-3-203(4).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $120,000 of the appropriations provided for Finance Mandated - Ethics Commissions in Item 59, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to investigations and commissions and staff expenses.

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59-21-2(1).

The Legislature intends that the Division of Finance may not allocate the $5.0 million provided for the Finance Mandated line item in Item 149, Chapter 300, Laws of Utah 2022, for the Public Lands Litigation Program until after the Federalism Commission reports to the Executive Appropriations Committee (EAC) and the EAC approves the allocation.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $191,600 of appropriations provided for the Finance - Mandated line item in Item 228, Chapter 486, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the support of state agencies to come into compliance with records privacy requirements.

Item 33

To Department of Government Operations - Division of Finance

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,150,000 appropriations provided for the Finance Administration line item in Item 60, Chapter 5, Laws of Utah 2023 shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: maintenance and operation of statewide systems, $2,650,000; websites, $100,000; training, $150,000; professional services and studies, $200,000; computer replacement, $50,000; for the Chart of Accounts project, $750,000; and costs associated with federal funds accountability, $250,000.

Item 34

To Department of Government Operations - Inspector General of Medicaid Services

From General Fund,

One-time ..... (250,000)

Schedule of Programs:

Inspector General of Medicaid Services ..... (250,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $625,000 of the appropriations provided for the Inspector General of Medicaid Services line item in Item 61, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: additional staff, $100,000; training, $15,000; travel, $10,000; and case management system, $500,000.

Item 35

To Department of Government Operations - Judicial Conduct Commission

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of appropriations provided for the Judicial Conduct Commission, Item 62, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to professional services for investigations.

Item 36

To Department of Government Operations - Post Conviction Indigent Defense

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for Post Conviction Indigent Defense line item in Item 63, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to legal costs for death row inmates.

Item 37

To Department of Government Operations - State Archives

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of appropriations provided for the State Archives line item in Item 65, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: electronic records management and preservation, $75,000; records repository systems improvements, $25,000; and computer systems upgrades, $50,000.

Item 38

To Department of Government Operations - Chief Information Officer

From General Fund,

One-time 210,000

Schedule of Programs:

Administration 210,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to

$23,850,000 of appropriations provided for the Chief Information Officer line item in Item 67, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: costs associated with IT initiatives, $100,000; technology innovation program (H.B. 395, 2018 General Session), $250,000; Government Digital Verifiable Record Amendments (H.B. 470, 2023 General Session), $500,000; Human Capital Management system (H.B. 0002, Item 36, 2022 General Session), $5,000,000; and for Innovation funds (H.B. 2, Item 36, 2022 General Session), $18,000,000.

Item 39

To Department of Government Operations - Integrated Technology

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $600,000 of appropriations provided for the Integrated Technology Services line item in Item 68, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: Utah Geospatial ResourceCenter projects, $200,000; aerial imagery, $75,000; Global Positioning System Reference Network upgrades and maintenance, $300,000; and Survey Monument Restoration grant obligations to local government, $25,000.

Item 40

To Department of Government Operations - Human Resource Management

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $160,000 of the appropriations provided for the Human Resource Management line item in Item 70, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to ALJ Compliance, $10,000; and general operational expenses of supporting the pay for performance program, $150,000.

CAPITAL BUDGET

Item 41

To Capital Budget - Pass-Through

Schedule of Programs:

DFCM Pass Through 40,000,000
Olympic Park Improvement ..... (40,000,000)

Notwithstanding the intent language in New Fiscal Year Supplemental Appropriations Act (Senate Bill 2, 2023 General Session) Item 110, the Legislature intends that up to $25,000,000 from Federal Funds - American Rescue Plan - Capital Projects Fund shall be used for the Wasatch Canyons Behavioral Health Campus if the United States Treasury Department approve the project. If the United States Treasury Department does not approve the project, the Legislature intends that these funds be used for broadband infrastructure.

The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, or Soldier Hollow Nordic Center.

Item 42

To Capital Budget - Property Acquisition

From Income Tax Fund,

One-time ..... (673,000)

Schedule of Programs:

Snow College Central Valley Medical Center Land Bank ..... (115,700)
Snow College Jorgensen Land Bank . (143,900)
Snow College Triple D Land Bank ... (413,400)

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 43

To State Board of Bonding Commissioners - Debt Service - Debt Service

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 and the County of the First Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Bonding Commission, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, onetime proportionally to the reduction in subsidy payment received, thus holding the Debt Service line item harmless.

TRANSPORTATION

Item 44

To Transportation - Aeronautics

From General Fund,

One-time ..... (500,000)

From Dedicated Credits Revenue,

One-time ..... (224,700)

From Aeronautics Restricted Account,

One-time 1,440,400

Schedule of Programs:

Aid to Local Airports 1,060,000
Airplane Operations ..... (344,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends up to $854,900 of appropriations provided for the Aeronautics line item in Item 22, Chapter

282, Laws of Utah 2014, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to airport construction projects.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $7,000,000 of appropriations provided for the Aeronautics line item in Item 28, Chapter 468, Laws of Utah 2023, shall not lapse at the close of fiscal year 2024. Expenditures of these funds are limited to the purchase of a state plane.

Notwithstanding the intent language included in Item 28, Chapter 468, Laws of Utah 2023, the Legislature intends that once the Department of Transportation (UDOT) takes possession of a new King Air plane purchased with the funds appropriated by that item, UDOT will keep the existing Model 200 King Air and will transfer the existing Model 90 King Air to Utah Valley University (UVU). The Legislature intends that UDOT and UVU report progress on the above transaction to the Executive Appropriations Committee before December 1, 2024.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends up to $600,000 of appropriations provided for the Aeronautics line item in Item 50, Chapter 485, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to operating and maintenance costs for the state planes.

Item 45

To Transportation - Highway System Construction

From Transportation Fund,

One-time ..... (250,000)

Schedule of Programs:

State Construction ..... (250,000)

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $88,500,000 of appropriations for the Highway System Construction line item in Item 251, Chapter 486, Laws of Utah 2023, shall not lapse at the close of FY 2024.

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

The Legislature intends that the Department of Transportation use $40,000,000 appropriated by Senate Bill 6, Item 24, to apply for and match a federal rail grant, including project design and environmental activities for the Provo-Sub consolidation project if necessary to obtain a grant, and that the Department report to the Executive Appropriations Committee prior to expending state funds to match a federal rail grant.

Item 46

To Transportation - Engineering Services

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,400,000 of appropriations provided for the Engineering Services line item in Item 23, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: engineering services special project, $300,000; road usage charge program, $2,500,000; and SPR state match for federal projects, $600,000.

Item 47

To Transportation - Operations/Maintenance Management

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 of appropriations provided for the Operations/Maintenance Management line item in Item 24, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: highway maintenance, $2,000,000; and equipment purchases, $1,000,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 in unexpended proceeds derived from the sale of real property or an interest in real property from a maintenance facility shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $2,000,000 in unexpended funds for lands and buildings shall not lapse at the close FY 2024. Expenditures of these funds are limited to the improvement of a maintenance facility.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $4,600,000 of appropriations provided for the Operations/Maintenance Management line

item in Item 24, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the Advanced Traffic Management System.

The Legislature intends for the Department of Transportation to utilize maintenance funds previously allocated for state highways now eligible for the Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Item 48

To Transportation - Region Management

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $800,000 of appropriations provided for the Region Management line item in Item 79, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to region management.

Item 49

To Transportation - Safe Sidewalk Construction

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on State highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in Section 72-8-104, Utah Code Annotated, 1953. The funds appropriated for sidewalk construction shall not lapse at the close of FY 2024. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 50

To Transportation - Support Services

From Transportation Fund,

One-time 289,400

Schedule of Programs:

Administrative Services 250,000
Human Resources Management 39,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation report the final status of performance measures established in FY 2024 appropriations bills for the Support Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Transportation shall report on the following performance measures: 1. Delay along I-15 (Target: delay should not grow by more than 4% annually); 2. Maintain a reliable fast condition on I-15 along the Wasatch Front (Target: at least 90% of segments); 3. Achieve optimal use of snow and ice equipment and materials (Target: at least 87% effectiveness); 4. Support increase of trips by public transit (Target: increase in average weekday boarding by 1%); 5. Traffic fatalities (Target: at least a 2.5% reduction from the 3-year rolling average); 6. Traffic serious injuries (Target: at least a 2.5% reduction from the 3-year rolling average); 7. Traffic crashes (Target: at least a 2.5% reduction from the 3-year rolling average); 8. Internal fatalities (Target: zero); 9. Internal injuries (Target: 10% below prior year injury rate); 10. Internal equipment damage (Target: equipment damage 6.85 incidents per 200,0000 working hours); 11. Pavement performance (Target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition- low volume pavement); 12. Maintain the bridge condition (Target: at least 80% in fair or good condition); 13. Maintain the health of Automated Transportation Management Systems (ATMS) (Target: at least 90% in good condition); and 14. Maintain the health of signals (Target: at least 90% in good condition).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $800,000 of appropriations provided for the Support Services line item in Item 80, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to: computer software development projects, $300,000; and building improvements, $500,000.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $149,300 of appropriations provided for the Support Services line item in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the development of rules and standards.

Item 51

To Transportation - Transportation Investment Fund Capacity Program

From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 15,976,200

Schedule of Programs:

Transportation Investment Fund Capacity Program 15,976,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $508,700,000 of appropriations provided for the TIF Capacity Program line item in Item 1, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to

$35,000,000 of appropriations provided for the TIF Capacity Program line item in Item 48, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to requirements in Chapter 441, Laws of Utah 2021.

The Legislature intends that up to $15,976,200 of appropriations provided for the TIF Capacity Program line item shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the requirements in Chapter 77, Laws of Utah 2022.

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that as funding is available from the Transportation Investment Fund, the Department of Transportation may use funds along with matching and other funding to help mitigate traffic impact associated with the Taylorsville State Office Building.

Item 52

To Transportation - Amusement Ride Safety

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for the Amusement Ride Safety line item in Item 114, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the Amusement Ride Safety program.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation report the final status of performance measures established in FY 2024 appropriations for the Amusement Ride Safety line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Transportation shall report on the following measures: 1. Number of rides registered; 2. Percent of ride registrations completed within 3 days of receipt; and 3. Number of inspectors registered.

Item 53

To Transportation - Transit Transportation Investment

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $101,600,000 of appropriations provided for the Transit Transportation Investment line item in Item 2, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Transit Transportation Investment line item in Item 30, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to the Transit Transportation Investment program.

Item 54

To Transportation - Pass-Through

From General Fund,

One-time ..... (1,713,700)

Schedule of Programs:

Pass-Through ..... (1,713,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of appropriations provided for the Pass-Through line item in Item 84, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to technical planning assistance.

Item 55

To Transportation - Railroad Crossing Safety

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for the Railroad Crossing Safety line item in Item 2, H.B. 4002, 2020 Fourth Special Session, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to railroad safety crossing grants.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR
DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 56

To Department of Alcoholic Beverage Services - DABS Operations

From Liquor Control Fund,

One-time ..... (3,937,300)

Schedule of Programs:

Stores and Agencies ..... (3,937,300)

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $7,500,000 provided for the Department of Alcoholic Beverage Services - DABS Operations in Item 68 of Chapter 4 in Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Funds shall be limited to information technology projects including Alcoholic Beverage Purchasing Program (Wine Club & Special Orders), Click & Collect, Compliance System Upgrade, and Stores Infrastructure.

Item 57

To Department of Alcoholic Beverage Services - Parents Empowered

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided to the Alcoholic Beverage Services - Parents Empowered in Item 69 of Chapter 4 in Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the Underage Drinking Prevention Media and Education campaigns.

DEPARTMENT OF COMMERCE

Item 58

To Department of Commerce - Commerce General Regulation

The Legislature intends that $819,845 deposited to the Consumer Protection Ed Fund for the JUUL vaping settlement be transferred to the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account during FY 2024; these funds shall not lapse at the close of Fiscal Year 2024 in either fund.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 provided by Item 124 Chapter 4, Laws of Utah 2023 for the Department of Commerce - General Regulation shall not lapse at the close of Fiscal Year 2024. The use of these funds is limited to Social Media Enforcement Implementation and litigation expenses incurred.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,500,000 provided by Item 123, Chapter 4, Law of Utah 2023 for the Department of Commerce - Building Inspector Training shall not lapse at the close of Fiscal Year 2024. The use of which is limited to statutory outreach and education on land use and building codes.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 59

To Governor's Office of Economic Opportunity - Administration

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 provided by Item 70, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Administration shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations.

Item 60

To Governor's Office of Economic Opportunity - Economic Prosperity

From Federal Funds,

One-time 6,372,400

From Dedicated Credits Revenue,

One-time 50,000

Schedule of Programs:

Business Services 206,400
Incentives and Grants 5,571,000
Strategic Initiatives 645,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $45,000,000 provided by Item 64, Chapter 485, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Economic Prosperity, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations, personal services, Business Services, Incentives and Grants, Strategic Initiatives, and Systems and Control.

Item 61

To Governor's Office of Economic Opportunity - Office of Tourism

From Federal Funds,

One-time 1,884,300

Schedule of Programs:

Tourism 1,884,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $10,000,000 provided by Item 72, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Office of Tourism shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations, marketing, tourism, and film support.

Item 62

To Governor's Office of Economic Opportunity - Pass-Through

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $30,000,000 provided by Item 73, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Pass Through, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

The Legislature intends that, at the close of fiscal year 2024, the Division of Finance transfer any fiscal year 2024 closing nonlapsing balances or carry forward funding in support of the Office of Outdoor Recreation to the Department of Natural Resources - Recreation Management, as fiscal year 2025 beginning nonlapsing balances.

Item 63

To Governor's Office of Economic Opportunity - Rural Employment Expansion Program

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $3,000,000 provided by Item 12, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity -

Rural Employment Expansion, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 64

To Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,100,000 provided by Item 14, Chapter 4, laws of Utah 2023 for the Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 65

To Governor's Office of Economic Opportunity - Rural Rapid Manufacturing Grant

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $200,000 provided by Item 15, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Rural Rapid Manufacturing Grant, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 66

To Governor's Office of Economic Opportunity - Inland Port Authority

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $3,200,000 provided by Item 76, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Inland Port Authority shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to lease costs and personnel services.

Item 67

To Governor's Office of Economic Opportunity - Point of the Mountain Authority

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $15,000,000 provided by Item 77, Chapter4, Laws of Utah 2023 for the Governors Office of Economic Opportunity - Point of the Mountain Authority shall not lapse at the close of fiscal Year 2024. The use of any nonlapsing funds is limited to programmatic opportunities, contractual obligations and support.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,400,000 provided by Item 77, Chapter 4, laws of Utah 2023 for the Governor's Office of Economic Opportunity - Point of the Mountain Authority shall not lapse at the close of Fiscal Year 2024. The use of any non-lapsing funds is limited to lease costs and personnel services.

Item 68

To Governor's Office of Economic Opportunity - Rural Opportunity Program

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $20,000,000 provided by Item 78, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Rural Opportunities Grants, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 69

To Governor's Office of Economic Opportunity - Economic Assistance Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $10,000,000 provided by item 80, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Economic Assistance Grants, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 70

To Governor's Office of Economic Opportunity - World Trade Center Utah

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,800,000 provided by Item 70, Chapter 485, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - World Trade Center Utah, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 71

To Governor's Office of Economic Opportunity - Utah Sports Commission

From General Fund,

One-time 75,000

Schedule of Programs:

Utah Sports Commission 75,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $10,000,000 provided by Item 71, Chapter 485, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Utah Sports Commission, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $15,000,000 provided by Item 71, Chapter 485, Laws of Utah 2023 for the Governor's Office of Economic Opportunity -

Utah Sports Commission, shall not lapse at the close of Fiscal Year 2024. The use of any non-lapsing funds is limited to contractual obligations and support.

The Legislature intends that the Sports Commission use one-time appropriations provided by this item to grant: the PGA Korn Ferry Tour: $75,000.

FINANCIAL INSTITUTIONS

Item 72

To Financial Institutions - Financial Institutions Administration

From General Fund Restricted - Financial Institutions, One-time 231,200

Schedule of Programs:

Administration 15,000
Building Operations and Maintenance . 216,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Division of Financial Institutions in Laws of Utah 2023 shall not lapse at the close of Fiscal Year 2024. The use of which is limited to Social Media Enforcement Implementation and litigation expenses incurred during FY 2025 - $216,200.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 73

To Department of Cultural and Community Engagement - Administration

From General Fund,

One-time ..... (227,000)

Schedule of Programs:

Administrative Services ..... (227,000)

The Legislature intends that any unexpended funds remaining at the end of fiscal year 2024 in the Martin Luther King Restricted Account (Fund 1057) be transferred to the CCE Administration line item, Multicultural Affairs program.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $280,000 of the General Fund provided by Item 20, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2024. These funds will be used for operations, small capacity grants for non-profits, and community outreach and reinvestment.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $625,000 of the General Fund provided by Item 20, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2024. These funds are to be used for digital, IT, innovation purposes, and other general State History Museum projects.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of the General Fund provided by Item 20, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2024. These funds are to be used for special projects, building maintenance, renovation, and outreach.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $250,000 of the General Fund provided by Item 20, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Administration Division not lapse at the close of Fiscal Year 2024. These funds will be used specifically for America 250.

Item 74

To Department of Cultural and Community Engagement - Division of Arts and Museums

From Federal Funds,

One-time 400,000

From Revenue Transfers,

One-time 5,000

Schedule of Programs:

Administration 5,000
Grants to Non-profits 400,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $900,000 of the General Fund provided by Item 21, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Division of Arts and Museums not lapse at the close of Fiscal Year 2024. These funds are to be used for cultural outreach, community programming, and the purchase of art.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of the General Fund provided by Item 21, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Division of Arts and Museums not lapse at the close of Fiscal Year 2024. These funds are to be used for cultural outreach.

Item 75

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

From Federal Funds,

One-time 3,000,000

From Dedicated Credits Revenue,

One-time 400,000

From Revenue Transfers,

One-time 50,000

Schedule of Programs:

Commission on Service and Volunteerism 3,450,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $600,000 of the General Fund and Dedicated Credits provided by Item 22, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations, general operating support community outreach and programming.

Item 76

To Department of Cultural and Community Engagement - Indian Affairs

From Dedicated Credits Revenue,

One-time 13,200

From Revenue Transfers,

One-time 10,000

Schedule of Programs:

Indian Affairs 23,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $800,000 of the General Fund provided by Item 24, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Indian Affairs Division not lapse at the close of Fiscal Year 2024. These funds will be spent on a Bears Ears Cultural/Visitor Center, community engagement, partnerships, and trainings.

Item 77

To Department of Cultural and Community Engagement - Pass-Through

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Items 25 and 86, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Pass Through line item not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations and support.

Item 78

To Department of Cultural and Community Engagement - Historical Society

From General Fund,

One-time ..... (71,000)

From Federal Funds,

One-time ..... (71,400)

From Dedicated Credits Revenue,

One-time 218,100

From Revenue Transfers,

One-time 30,000

Schedule of Programs:

Administration 30,000
Historic Preservation and Antiquities (140,000)
Library and Collections 10,000
Public History, Communication and Information 210,000
Main Street Program ..... (4,300)

The Legislature intends that fiscal year 2023 carryover for the State Historic Preservation Office in the CCE Utah Historical Society line item be transferred to the State Historic Preservation Office line item.

The Legislature intends that any unexpended funds remaining at the end of fiscal year 2024 in the CCE Utah Historical Society Cemeteries Program be transferred to the SHPO Cemeteries Program.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $750,000 of the General Fund provided by Item 26, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement Utah Historical Society not lapse at the close of Fiscal Year 2024. These funds will be used for operations, projects, and community outreach.

Item 79

To Department of Cultural and Community Engagement - State Library

From Federal Funds,

One-time 1,000,000

Schedule of Programs:

Administration 360,000
Library Resources 640,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of the General Fund provided by Item 27, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - State Library not lapse at the close of Fiscal Year 2024. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 80

To Department of Cultural and Community Engagement - Stem Action Center

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of the General Fund provided by Item 28, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - STEM Action Center Division not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations and support.

Item 81

To Department of Cultural and Community Engagement - One Percent for Arts

From Revenue Transfers,

One-time 400,000

Schedule of Programs:

One Percent for Arts 400,000

Item 82

To Department of Cultural and Community Engagement - State of Utah Museum

The Legislature intends that any unexpended funds remaining at the end of fiscal year 2024 in the DCCE State of Utah Museum line item be transferred to line item CCE Utah Historical Society.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $1,500,000 of the General Fund provided by Item 81, Chapter 485, Laws of Utah 2023 for the Department of Cultural and Community Engagement Utah Historical Society not lapse at the close of Fiscal Year 2024. These funds will be used for operations, programming, and community outreach related to the new State History Museum.

Item 83

To Department of Cultural and Community Engagement - Arts & Museums Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Items 30 and 91, Chapter 4, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Pass Through line item not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations and support.

Item 84

To Department of Cultural and Community Engagement - Capital Facilities Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 31, Chapter 4, and Item 310, Chapter 486 Laws of Utah 2023 for the Department of Cultural and Community Engagement - Pass Through line item not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations and support.

Item 85

To Department of Cultural and Community Engagement - Heritage & Events Grants

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 32 and 92, Chapter 4, and Item 311, Chapter 486 Laws of Utah 2023 for the Department of Cultural and Community Engagement - Heritage & Events Pass Through line item not lapse at the close of Fiscal Year 2024. These funds will be used for contractual obligations and support.

Item 86

To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission

From Dedicated Credits Revenue,

One-time 74,000

Schedule of Programs:

Pete Suazo Athletics Commission 74,000

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to an additional $300,000 of the General Fund provided by Item 54, Chapter 468, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Pete Suazo Commission not lapse at the close of Fiscal Year 2024. These funds will be used for operations, projects, and community outreach.

Item 87

To Department of Cultural and Community Engagement - State Historic Preservation Office

From General Fund,

One-time 298,000

From Federal Funds,

One-time 1,271,400

From Dedicated Credits Revenue,

One-time 31,900

From Revenue Transfers,

One-time 30,000

Schedule of Programs:

Administration 1,400,000
Main Street Program 231,300

The Legislature intends that any funds remaining at the close of FY 24 in the Department of Cultural and Community Engagement -Utah Historical Society Cemeteries program not lapse but move to the Department of Cultural and Community Engagement - State Historic Preservation Office Cemeteries program. The Legislature also intends that any funds remaining at the close of FY 24 in the Department of Cultural and Community Engagement - State of Utah Museum program not lapse but move to the Department of Cultural and Community Engagement - Utah Historical Society State of Utah Museum program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $350,000 of the General Fund provided by Item 312, Chapter 486, Laws of Utah 2023 for the Department of Cultural and Community Engagement - State Historic Preservation Office not lapse at the close of Fiscal Year 2024. These funds will be used for operations,

application maintenance, projects, community outreach, contractual services, time limited positions, and supplies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 1, Chapter 202, Laws of Utah 2023 for the Department of Cultural and Community Engagement - Archaeological and Historic Sites Grants not lapse at the close of Fiscal Year 2024. These funds will be used for grants related to archaeological and historic sites.

INSURANCE DEPARTMENT

Item 88

To Insurance Department - Insurance Department Administration

From General Fund Rest. - Insurance Fraud Investigation Acct.,

One-time 300,000

Schedule of Programs:

Insurance Fraud Program 300,000

PUBLIC SERVICE COMMISSION

Item 89

To Public Service Commission

The Legislature intends the PSC use the non-lapsing balance for operations, front office security upgrades, database upgrades, hearing room maintenance, court reporter expenses, any necessary consulting work, and purchase of a copy machine.

UTAH STATE TAX COMMISSION

Item 90

To Utah State Tax Commission - License Plates Production

From General Fund Restricted - License Plate Restricted Account,

One-time 1,000,000

Schedule of Programs:

License Plates Production 1,000,000

Item 91

To Utah State Tax Commission - Tax Administration

From General Fund,

One-time ..... (500,000)

From Dedicated Credits Revenue,

One-time 1,031,200

From General Fund Restricted - License Plate Restricted Account, One-time 3,700

From General Fund Restricted - Electronic Payment Fee Rest. Acct,

One-time 150,000

From General Fund Rest. - Sales and Use Tax Admin Fees, One-time 228,200

From Uninsured Motorist Identification Restricted Account, One-time 1,000

Schedule of Programs:

Operations ..... (294,900)
Customer Service 859,000
Enforcement 350,000

The Legislature intends that appropriations provided to the Tax Commission - Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $1,500,000 not lapse at the close of FY 2024. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; paying for mailed postcard reminders; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs.

Under UCA 63J-1-602.2(45) the Legislature intends that appropriations of up to $8,000,000 made to the Tax Commission - Tax Administration in Chapter 4 Item 103 of the Laws of Utah 2023 for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5 not lapse at the close of Fiscal Year 2024.

SOCIAL SERVICES
DEPARTMENT OF WORKFORCE SERVICES

Item 92

To Department of Workforce Services - Administration

From Federal Funds,

One-time 10,000

From Education Savings Incentive Restricted Account, One-time ..... (870,800)

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 10,000

From Housing Opportunities for Low Income Households, One-time .... (5,100)

From Navajo Revitalization Fund,

One-time ..... (6,700)

From Olene Walker Housing Loan Fund, One-time ..... (20,400)

From OWHT-Fed Home,

One-time ..... (5,100)

From OWHTF-Low Income Housing,

One-time 18,400

From Qualified Emergency Food Agencies Fund, One-time 2,800

From Shared Equity Revolving Loan Fund, One-time 1,000

From Rural Single-Family Home Loan, One-time 1,000

From Beginning Nonlapsing

Balances 170,500

Schedule of Programs:

Administrative Support ..... (1,088,000)
Communications 1,000
Executive Director's Office 390,500
Human Resources 1,000
Internal Audit 1,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of General Fund appropriations provided in Item 52 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Administration line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Item 93

To Department of Workforce Services - General Assistance

From Income Tax Fund,

One-time ..... (80,700)

From Revenue Transfers,

One-time ..... (6,100)

From Beginning Nonlapsing

Balances 80,700

Schedule of Programs:

General Assistance ..... (6,100)

The Legislature authorizes the State Division of Finance to transfer FY 2024 Beginning Balances from the General Assistance line item to the Administration line item in the amount of $170,500, to the Operations and Policy line item in the amount of $1,203,100, to the Utah State Office of Rehabilitation line item in the amount of $4,500, and to the Unemployment Insurance line item in the amount of $52,000.

Item 94

To Department of Workforce Services - Housing and Community Development

From General Fund,

One-time ..... (1,000,000)

From Federal Funds,

One-time 4,950,000

From Dedicated Credits Revenue,

One-time 2,394,400

From Economic Revitalization & Investment Fund, One-time 500

From Housing Opportunities for Low Income Households, One-time .... (557,000)

From Olene Walker Housing Loan Fund, One-time ..... (552,700)

From OWHLF Multi-Family Hous Preserv Revolv Loan, One-time 5,500

From OWHT-Fed Home,

One-time ..... (557,000)

From OWHTF-Low Income Housing,

One-time 45,600

From Qualified Emergency Food Agencies Fund, One-time 94,100

From Shared Equity Revolving Loan Fund, One-time 60,000

From Rural Single-Family Home Loan, One-time 80,000

From Revenue Transfers,

One-time ..... (66,600)

From Beginning Nonlapsing

Balances 4,871,000

Schedule of Programs:

Community Development 158,500
Community Development
Administration ..... (1,667,300)
Community Services 84,900
Housing Development 11,191,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $227,800 of General Fund appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services Housing and Community Development line item, and up to $500,000 of General Fund appropriations provided in Item 55 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $30,000 of dedicated credit revenue appropriations provided in Item 103 of Chapter 4 Laws of Utah 2022, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of

expendable receipts appropriations provided in Item 55 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $59,600 of dedicated credit revenue appropriations provided in Item 78 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $870,000 of Special Administrative Expense Account appropriations provided in Item 18 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $158,500 of dedicated credit revenue appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,841,800 of dedicated credit revenue appropriations provided in Item 60 of Chapter 468 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Emergency Rental Assistance program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,700,000 of dedicated credit revenue appropriations provided in Item 94 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Emergency Rental Assistance program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of dedicated credit revenue appropriations provided in Item 55 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time affordable housing projects and projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of general fund appropriations provided in Item 94 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the construction of a transitional housing unit for survivors of domestic violence.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of general fund appropriations provided in Item 94 of Chapter 485 Laws of Utah 2023 for the Department of Workforce Services Housing and Community Development line item and up to $200,000 of general fund appropriations provided in Item 332 of Chapter 486 Laws of Utah 2023 for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the Section 8 Landlord Incentive Program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $320,000 of general fund appropriations provided in Item

94 of Chapter 485 Laws of Utah 2023 for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and other one-time costs of providing emergency food services for the Emergency Food Network program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $600,400 of general fund appropriations provided in Items 1 and 5 of Chapter 406 Laws of Utah 2022 for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to developing a statewide database for moderate income housing units and efforts to increase housing affordability through local zoning and housing regulation reform, as described in House Bill 462 (2022 General Session).

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $132,000 of general fund appropriations provided in Item 94 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Item 95

To Department of Workforce Services - Nutrition Assistance - SNAP

From Federal Funds,

One-time 53,659,700

Schedule of Programs:

Nutrition Assistance - SNAP 53,659,700

Item 96

To Department of Workforce Services - Operations and Policy

From Federal Funds,

One-time 4,782,400

From Dedicated Credits Revenue,

One-time ..... (282,400)

From Education Savings Incentive Restricted Account, One-time 870,800

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 20,000

From Housing Opportunities for Low Income Households, One-time .... (2,000)

From Olene Walker Housing Loan Fund, One-time ..... (39,600)

From OWHT-Fed Home,

One-time ..... (2,000)

From OWHTF-Low Income Housing,

One-time 33,600

From Qualified Emergency Food Agencies Fund, One-time 5,500

From Shared Equity Revolving Loan Fund, One-time 1,000

From General Fund Restricted - School Readiness Account,

One-time ..... (3,536,000)

From Rural Single-Family Home Loan, One-time 1,000

From Beginning Nonlapsing

Balances 2,504,900

Schedule of Programs:

Child Care Assistance 1,689,900
Eligibility Services 2,693,000
Facilities and Pass-Through 53,100
Information Technology 396,900
Nutrition Assistance 900
Other Assistance 1,302,100
Refugee Assistance 141,100
Temporary Assistance for Needy Families 1,216,300
Trade Adjustment Act Assistance 28,600
Workforce Development ..... (3,226,100)
Workforce Investment Act Assistance ... 86,400
Workforce Research and Analysis .... (25,000)

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Income Tax Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2024. For FY 2024 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2024. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature authorizes the Department of Workforce Services to spend all available money, as authorized by the Department of Health and Human Services, in the Medicaid Expansion Fund for FY 2024 regardless of the amount appropriated as allowed by the Funds authorizing statute.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of Special Administrative Expense Account appropriations provided in Item 96 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services Operations and Policy line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to programs or initiatives implemented by the Department of Workforce Services for

workforce development; for a purpose which supports the department, employers, or workforce initiatives; and for programs that reinvest in the workforce.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,200,000 of General Fund appropriations provided in Item 57 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Operations and Policy line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of General Fund appropriations provided in Item 333 of Chapter 486 Laws of Utah 2023, for the Department of Workforce Services Operations and Policy line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the childcare solutions and workforce productivity plan.

Item 97

To Department of Workforce Services - State Office of Rehabilitation

From Federal Funds, One-time 2,100

From Dedicated Credits Revenue,

One-time ..... (377,500)

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 100

From Housing Opportunities for Low Income Households, One-time .... (1,000)

From Olene Walker Housing Loan Fund, One-time ..... (500)

From OWHT-Fed Home,

One-time ..... (1,000)

From Shared Equity Revolving Loan Fund, One-time 1,000

From Rural Single-Family Home Loan, One-time 1,000

From Beginning Nonlapsing Balances .. 4,500

Schedule of Programs:

Deaf and Hard of Hearing 6,200
Rehabilitation Services ..... (377,500)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,500,000 of General Fund appropriations provided in Item 76 of Chapter 5 Laws of Utah 2020 and/or Item 82 of Chapter 9 Laws of Utah 2021 and/or Education Fund/Income Tax Fund appropriations provided in items 41 and/or 236 of Chapter 442 of Laws of Utah 2021 and/or item 97 of Chapter 485 Laws of Utah 2023 for the Department of Workforce Services State Office of Rehabilitation line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate colocation of personnel.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $30,000 of dedicated credit revenue appropriations provided in Item 110 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of items and devices for the low vision store.

Item 98

To Department of Workforce Services - Unemployment Insurance

From General Fund,

One-time ..... (217,900)

From Federal Funds,

One-time 273,000

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 1,000

From Housing Opportunities for Low Income Households, One-time .... (1,000)

From Olene Walker Housing Loan Fund, One-time ..... (500)

From OWHT-Fed Home,

One-time ..... (1,000)

From OWHTF-Low Income Housing,

One-time 500

From Shared Equity Revolving Loan Fund, One-time 1,000

From Rural Single-Family Home Loan, One-time 1,000

From Beginning Nonlapsing

Balances 269,900

Schedule of Programs:

Adjudication 96,100
Unemployment Insurance
Administration 229,900

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations provided in Item 59 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Unemployment Insurance line item, shall not

lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Item 99

To Department of Workforce Services - Office of Homeless Services

From General Fund,

One-time ..... (340,500)

From Federal Funds,

One-time 4,627,100

From Expendable Receipts,

One-time 500,000

From Gen. Fund Rest. - Pamela Atkinson Homeless Account,

One-time 181,300

From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account, One-time 3,724,500

From Revenue Transfers,

One-time 699,900

From Beginning Nonlapsing

Balances 1,785,200

Schedule of Programs:

Homeless Services 11,177,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations in this item provided in Item 60 of Chapter 10 Laws of Utah 2023, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time studies and projects; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and the purchase of equipment and software.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $6,200,000 of General Fund appropriations provided in Item 99 of Chapter 485 Laws of Utah 2023, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including Switchpoint St. George emergency shelter remodel and renovation, low-barrier/non-congregate shelter planning, end of life and medical respite care for the homeless, and the attainable housing grants program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $9,000,000 of General Fund appropriations provided in Item 340 of Chapter 486 Laws of Utah 2023, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to deeply affordable housing projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $340,500 of General Fund appropriations provided in Item 341 of Chapter 486 Laws of Utah 2023, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time administrative costs, including time-limited or temporary personnel and contractor costs; one-time training; and one-time projects, including one-time housing affordability projects.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,451,000 of General Fund appropriations provided in Item 1 of Chapter 414 Laws of Utah 2020, for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to improvement of the electronic Homeless Management Information System as described in Senate Bill 244 (2020 General Session), the collection of accurate client-level data on the provision of housing and services to individuals and families experiencing homelessness, and the collection of outcome data from providers.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of expendable receipts appropriations for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time costs associated with providing emergency shelter, including low-barrier/non-congregate shelter and winter overflow shelter.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 100

To Department of Health and Human Services - Operations

From General Fund,

One-time 302,700

From Dedicated Credits Revenue,

One-time 89,700

From Revenue Transfers,

One-time 713,100

From Closing Nonlapsing

Balances ..... (8,950,000)

Schedule of Programs:

Executive Director Office ..... (3,348,800)
Ancillary Services 100
Finance & Administration ..... (4,570,400)
Data, Systems, & Evaluations 207,300
Public Affairs, Education & Outreach (134,400)
American Indian / Alaska Native 100
Continuous Quality Improvement 1,000
Customer Experience 600

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 61 of Chapter 10, Laws of Utah 2023 up to $950,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Operations line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to (1) $700,000 expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement, (2) $200,000 ongoing development and maintenance of the vital records application portal, and (3) $50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and information technology equipment in the Center for Health Data and Informatics.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 61 of Chapter 10, Laws of Utah 2023 up to $400,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Operations line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to the consolidation of the Department of Health and the Department of Human Services into the Department of Health and Human Services.

The Legislature intends that the Department of Health and Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Income Tax Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2024. For FY 2024 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2024. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 100 of Chapter 485, Laws of Utah 2023 up to $5,600,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Operations line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to expenditures related to construction of a children's mental health campus in Utah County to provide mental health services and auxiliary support to young children, their families, and community partners.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 61 of Chapter 10, Laws of Utah 2023 up to $2,000,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services Operations line item as a beginning balance in Fiscal Year 2025 and the use of nonlapsing funds is limited to the funds received for the Utah Sustainable Health Collaborative.

Item 101

To Department of Health and Human Services - Clinical Services

From General Fund,

One-time ..... (271,800)

From Income Tax Fund,

One-time ..... (2,050,000)

From Federal Funds,

One-time 17,276,300

From Dedicated Credits Revenue,

One-time 2,334,100

From Expendable Receipts,

One-time 206,100

From Revenue Transfers,

One-time 1,239,400

Schedule of Programs:

Medical Examiner ..... (7,800)
State Laboratory 20,648,800
Primary Care and Rural Health ..... (2,200)
Health Equity 145,300
Medical Residency Grant Program .. (1,500,000)
Forensic Psychiatry Grant Program . (550,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $25,000 General Fund of appropriations provided in Item 345, Chapter 486, Laws of Utah 2023 for the Department of Health and Human Services - Clinical Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to accessibility improvements to LGBTQ+ health clinic.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under

Item 62 of Chapter 10, Laws of Utah 2023 up to $1,450,000 General Fund under the Clinical Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to: (1) $750,000 to laboratory equipment, computer equipment, software, building improvements, or other laboratory needs to sustain continuing operations that would otherwise not be possible without this nonlapsing authority, (2) $500,000 to maintenance or replacement of computer equipment and software, equipment, building improvements or other purchases or services that improve or expand services provided by the Office of the Medical Examiner, and (3) $200,000 for programming and information technology projects, replacement of computers and other information technology equipment or other one-time projects.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 62 of Chapter 10, Laws of Utah 2023, up to $50,000 provided for the Clinical Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to $50,000 to help maintain the existing Veterans Health Access Program.

Item 102

To Department of Health and Human Services - Department Oversight

From General Fund,

One-time ..... (499,200)

From Revenue Transfers,

One-time 867,000

From Closing Nonlapsing

Balances ..... (1,155,000)

Schedule of Programs:

Licensing & Background Checks .... (916,900)
Internal Audit 129,600
Admin Hearings 100

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 63 of Chapter 10, Laws of Utah 2023 up to $500,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to upgrades to databases, training for providers and staff, or assistance of individuals during a facility shutdown.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 63 of Chapter 10, Laws of Utah 2023 up to $505,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to (1) $210,000 to health facility plan review activities in Health Facility Licensing and Certification, (2) $150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, and (3) $145,000 to Office of Background Processing for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 63 of Chapter 10, Laws of Utah 2023 up to $150,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Department Oversight line item as a beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; and short-term projects and studies that promote efficiency and service improvement.

Item 103

To Department of Health and Human Services - Health Care Administration

From General Fund,

One-time ..... (50,300)

From Federal Funds,

One-time 885,500

From Expendable Receipts,

One-time 3,043,600

From Revenue Transfers,

One-time 2,376,000

Schedule of Programs:

Integrated Health Care Administration 4,013,200
Long-Term Services and Supports Administration 225,100
Provider Reimbursement Information System for Medicaid 200
Seeded Services 2,016,300

The Legislature intends that the Department of Health and Human Services submit Medicaid state plan amendments to the Centers for Medicare and Medicaid Services (CMS) with an effective date of July 1, 2024 necessary to enhance the States Medicaid graduate medical education (GME) program for the University of Utah Hospitals and Clinics. The first amendment(s) would be modeled after Medicaid GME payment arrangements approved by CMS within the

past five years. The second amendment(s) would open the GME program to include the training of nursing and allied health professionals and be similar to what has been requested by other states within the past five years. All state plan amendments would include intergovernmental transfer-funded direct and indirect GME payments to the University of Utah Hospitals and Clinics with calculations based on Medicaid inpatient and outpatient managed care payments. This intent language does not authorize the use of any General or Income Tax Fund for this purpose.

The Legislature intends that the $500,000 in beginning nonlapsing provided to the Department of Health and Human Services' Health Care Administration line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to $500,000 funds not otherwise designated as nonlapsing to the Department of Health and Human Services' Integrated Health Care Services line item or Health Care Administration line item or a combination from both line items not to exceed $500,000 being retained as nonlapsing in Fiscal Year 2024.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $9,375,000 of appropriations provided in Item 64, Chapter 10, Laws of Utah 2023 and subsequent FY 2024 appropriations for the Department of Health and Human Services' Health Care Administration line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds shall be limited to: (1) $7,800,000 for the operation and stabilization of the new Medicaid Management Information System, (2) $500,000 for providing application level security and redundancy for core Medicaid applications, (3) $475,000 for compliance with unfunded mandates and the purchase of computer equipment and software, and (4) $600,000 for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; appropriated one-time projects; and appropriated restricted fund purposes.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any unspent funds in the Department of Health and Human Services Health Care Administration line item shall not lapse at the end of the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to Medicaid expenditures.

Item 104

To Department of Health and Human Services - Integrated Health Care Services

From General Fund,

One-time 4,432,400

From Federal Funds,

One-time 147,210,500

From Federal Funds - Enhanced FMAP, One-time ..... (200,000)

From Expendable Receipts,

One-time 15,602,100

From General Fund Restricted - Statewide Behavioral Health Crisis Response Account, One-time 8,000,000

From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account,

One-time 159,000

From Medicaid Expansion Fund,

One-time 216,900

From General Fund Restricted - Opioid Litigation Proceeds Restricted Account,

One-time 2,800,000

From General Fund Restricted - Tobacco Settlement Account,

One-time 45,000

From Revenue Transfers,

One-time 2,255,600

From Closing Nonlapsing

Balances ..... (1,350,000)

Schedule of Programs:

Children's Health Insurance Program Services 31,783,100
Medicaid Accountable Care Organizations 78,533,800
Medicaid Behavioral Health Services 200
Medicaid Home and Community Based Services ..... (1,394,900)
Medicaid Long Term Care Services (14,086,200)
Medicaid Other Services 4,700
Expansion Accountable Care Organizations 211,400
Non-Medicaid Behavioral Health Treatment and Crisis Response 84,861,200
State Hospital ..... (741,800)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $32,500 General Fund of appropriations provided in Item 360, Chapter 486, Laws of Utah 2023 for the Department of Health and Human Services - Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to medically assisted treatment administration fee increase.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $75,000 Opioid Litigation Proceeds Restricted

Account of appropriations provided in Item 360, Chapter 486, Laws of Utah 2023 for the Department of Health and Human Services - Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to behavioral health prescription digital therapeutic pilot.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $2,400,000 General Fund Restricted - Opioid Litigation Proceeds Restricted Account, provided for the Department of Health and Human Services Integrated Health Care Services line item shall not lapse at the close of fiscal year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to supporting pregnant moms with substance use disorder.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any General Fund savings remaining from the enhanced FMAP related to the American Rescue Plan Act of 2021 (ARPA) in the Department of Health and Human Services - Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to expenses authorized under the Department's ARPA Home and Community Based Services Enhanced Funding Spending Plan approved by the Centers for Medicare and Medicaid Services.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of appropriations provided in Item 65, Chapter 10, Laws of Utah 2023 and subsequent FY 2024 appropriations for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be limited to providing application-level security and redundancy for core Medicaid applications in the Department of Health and Human Services' Health Care Administration line item.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 65 of Chapter 10, Laws of Utah 2023 up to $200,000 provided from the Tobacco Settlement Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to the uses outlined in Utah Code 51-9-201.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 104 of Chapter 485, Laws of Utah 2023 up to $3,850,000 provided from the Opioid Litigation Settlement Restricted Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to the uses outlined in Utah Code 51-9-801.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 65 of Chapter 10, Laws of Utah 2023 up to $9,000,000 provided from the Statewide Behavioral Health Crisis Response Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to the uses outlined in Utah Code 26B-1-324.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 65 of Chapter 10, Laws of Utah 2023 up to $150,000 provided from the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the Department of Health and Human Services - Integrated Health Care Services line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to the uses outlined in Utah Code 59-14-807.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 of appropriations provided in Item 65, Chapter 10, Laws of Utah 2023 and subsequent FY 2024 appropriations for the Department of Health and Human Services - Integrated Health Care Services line item from units that are not 100% Medicaid shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to data processing and technology based expenditures; incentive awards and bonuses; facility repairs, maintenance, and improvements; other charges and pass through expenditures; Utah State Hospital cost settlement audit variances; insurance paybacks; short-term projects and studies that promote efficiency and service improvement; trainings; appropriated one-time projects; and appropriated restricted fund purposes.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 245 of Chapter 300, Laws of Utah 2022 up to $350,000 General Fund provided for the Department of Health and Human Services' Integrated Health Care Services line item shall not lapse at the close of Fiscal Year 2024.

Pursuant to Section 63J-1-603 of the Utah code, the Legislature intends that any unspent funds in the Department of Health and Human Services Integrated Healthcare Services line item shall not lapse at the end of the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to Medicaid expenditures.

Item 105

To Department of Health and Human Services - Long-Term Services & Support

From General Fund,

One-time 5,835,200

From Federal Funds,

One-time 10,209,900

From Revenue Transfers,

One-time 21,758,000

From Closing Nonlapsing

Balances ..... (350,000)

Schedule of Programs:

Adult Protective Services ..... (334,000)
Office of Public Guardian 9,000
Services for People with Disabilities ... 516,800
Community Supports Waiver Services 12,149,700
Disabilities - Non Waiver Services .. 6,743,100
Disabilities - Other Waiver Services 14,777,400
Utah State Developmental Center ... 3,591,100

Under Subsection 26B-6-402(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2024 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements, and improvements, to provide services to eligible individuals waiting for services, limited one-time services including respite care, service brokering, family skill building, and preservation classes, housing assistance, after school group services, contractor training and other professional services. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2024 on the use of these nonlapsing funds.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $325,000 of appropriations provided in Item 66, Chapter 10, Laws of Utah 2023 and subsequent FY 2024 appropriations for the Department of Health and Human Services - Long-Term Services & Support line item not lapse at the close of Fiscal Year 2024. The nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; incentives and bonuses; other equipment or supplies; training; special projects or studies; and client services for Adult Protective Services and the Aging Waiver consistent with the requirements found at UCA 63J-1-603(3).

Item 106

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology

From General Fund,

One-time ..... (1,956,900)

From Federal Funds,

One-time 78,100

From Expendable Receipts,

One-time 150,000

Schedule of Programs:

Communicable Disease ..... (25,400)
Health Promotion and Prevention 250,700
Emergency Medical Services and Preparedness ..... (1,941,900)
Population Health ..... (12,200)

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 67 of Chapter 10, Laws of Utah 2023 up to $5,075,000 provided for the Department of Health and Human Services Public Health, Prevention, and Epidemiology line item shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to: (1) $500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (2) $175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by the Office of Communicable Disease; (3) $75,000 for use of the Traumatic Brain Injury Fund; (4) $25,000 to local health departments expenses in responding to a local health emergency; (5) $100,000 to support the Utah Produce Incentive Program; (6) $200,000 to support testing, certifications, background screenings, replacement of testing equipment and supplies in the Office of Emergency Medical Services and Preparedness; (7) up to $4,000,000 provided for payments to local health departments for compliance with state standards.

Pursuant to Section 63J-1-602.2(10) the Legislature intends that under Item 67 of Chapter 10, Laws of Utah 2023 that up to $500,000 provided for the Department of Health and Human Services Public Health, Prevention, and Epidemiology line item shall not lapse at the close of Fiscal Year 2024. The nonlapsing funds shall be applied to the

Department of Public Safety - Programs and Operations line item as the General Fund beginning balance in Fiscal Year 2025 and the use of any nonlapsing funds is limited to: emergency medical services grant program.

Item 107

To Department of Health and Human Services - Children, Youth, & Families

From General Fund,

One-time ..... (105,100)

From Federal Funds,

One-time ..... (11,700)

From Dedicated Credits Revenue,

One-time 1,519,600

From Expendable Receipts,

One-time 37,300

From Revenue Transfers,

One-time 5,562,000

From Closing Nonlapsing

Balances ..... (9,140,800)

Schedule of Programs:

Child & Family Services ..... (3,563,100)
Domestic Violence 900
Out-of-Home Services 1,261,000
Adoption Assistance ..... (4,750,000)
Child Abuse Prevention and Facility Services 400
Children with Special Healthcare Needs 29,200
Maternal & Child Health ..... (54,700)
Family Health ..... (997,300)
DCFS Selected Programs 426,000
Office of Early Childhood 5,508,900

The Legislature intends that the Department of Health and Human Services, for the appropriation from Federal Funds - American Rescue Plan - Capital Projects Fund in Item 107 of Chapter 485 in Laws of Utah 2023, is authorized to expend any amount from the appropriation not expended by the end of the Fiscal Year 2024, up to the amount of the appropriation, in a fiscal year following the fiscal year of the appropriation and prior to the expiration of the period of performance.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 104 of Chapter 10, Laws of Utah 2023 up to $500,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The use of nonlapsing funds is limited to funding within the Division of Family Health for grants to organizations providing services to adults with autism in Utah.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 113 of Chapter 10, Laws of Utah 2023 up to $400,000 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The use of nonlapsing funds is limited to funding within the Division of Family Health including $100,000 for evidence-based nurse home visiting services for at risk individuals with a priority focus on first-time mothers and up to $300,000 for Children with Special Health Care Needs, Maternal and Child Health, Early Childhood and Coordinated Care and Regional Supports activities.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 107 of Chapter 485, Laws of Utah 2023 up to $107,500 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The use of nonlapsing funds is limited to funding within the Division of Family Health for a study of the characteristics and needs of those experiencing homelessness in Utah.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 379 of Chapter 486, Laws of Utah 2023 up to $3,133,300 General Fund provided for the Department of Health and Human Services shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to expanding home visitation services for families.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $5,000,000 of appropriations provided in Item 113, Chapter 10, Laws of Utah 2023 for the Department of Health and Human Services - Division of Child and Family Services not lapse at the close of Fiscal Year 2024. The Legislature intends the Department of Health and Human Services - Division of Child and Family Services use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 108

To Department of Health and Human Services - Office of Recovery Services

From General Fund,

One-time 16,800

From Federal Funds,

One-time 6,088,000

Schedule of Programs:

Recovery Services 9,800
Child Support Services 6,093,700

Children in Care Collections 100
Medical Collections 1,200

HIGHER EDUCATION
UNIVERSITY OF UTAH

Item 109

To University of Utah - Education and General

From Dedicated Credits Revenue,

One-time 30,238,900

Schedule of Programs:

Education and General 30,238,900

The Legislature intends that the remaining amount of the $100,000 one-time Income Tax Fund appropriation to the University of Utah from Item 75 of Current Fiscal Year Supplemental Appropriations (House Bill 3, 2023 General Session) continue to be used for the Women Legislators of Utah History Project.

Item 110

To University of Utah - School of Medicine

From Dedicated Credits Revenue,

One-time 875,000

Schedule of Programs:

School of Medicine 875,000

Item 111

To University of Utah - School of Dentistry

From Dedicated Credits Revenue,

One-time 7,774,400

Schedule of Programs:

School of Dentistry 7,774,400

UTAH STATE UNIVERSITY

Item 112

To Utah State University - Education and General

From Income Tax Fund,

One-time 460,500

From Dedicated Credits Revenue,

One-time ..... (6,183,900)

Schedule of Programs:

Education and General ..... (5,597,400)
USU - School of Veterinary Medicine (126,000)

Item 113

To Utah State University - USU - Eastern Education and General

From Dedicated Credits Revenue,

One-time 286,800

Schedule of Programs:

USU - Eastern Education and General 286,800

Item 114

To Utah State University - USU - Eastern Career and Technical Education

From Dedicated Credits Revenue,

One-time 257,000

Schedule of Programs:

USU - Eastern Career and Technical Education 257,000

Item 115

To Utah State University - Regional Campuses

From Dedicated Credits Revenue,

One-time ..... (2,025,400)

Schedule of Programs:

Uintah Basin Regional Campus .... (1,872,000)
Brigham City Regional Campus .... (1,327,300)
Tooele Regional Campus 1,173,900

Item 116

To Utah State University - Blanding Campus

From Dedicated Credits Revenue,

One-time ..... (715,800)

Schedule of Programs:

Blanding Campus ..... (715,800)

WEBER STATE UNIVERSITY

Item 117

To Weber State University - Education and General

From Income Tax Fund,

One-time 209,300

From Dedicated Credits Revenue,

One-time ..... (5,006,900)

Schedule of Programs:

Education and General ..... (4,797,600)

SOUTHERN UTAH UNIVERSITY

Item 118

To Southern Utah University - Education and General

From Dedicated Credits Revenue,

One-time 11,959,900

Schedule of Programs:

Education and General 11,959,900

UTAH VALLEY UNIVERSITY

Item 119

To Utah Valley University - Education and General

From Income Tax Fund,

One-time 788,500

From Dedicated Credits Revenue,

One-time ..... (5,062,800)

Schedule of Programs:

Education and General ..... (3,623,700)
Operations and Maintenance ..... (650,600)

SNOW COLLEGE

Item 120

To Snow College - Education and General

From Income Tax Fund,

One-time 101,400

From Dedicated Credits Revenue,

One-time ..... (774,200)

Schedule of Programs:

Education and General ..... (672,800)

Item 121

To Snow College - Career and Technical Education

From Dedicated Credits Revenue,

One-time 271,800

Schedule of Programs:

Career and Technical Education 271,800

UTAH TECH UNIVERSITY

Item 122

To Utah Tech University - Education and General

From Income Tax Fund,

One-time 96,400

From Dedicated Credits Revenue,

One-time 6,008,000

Schedule of Programs:

Education and General 6,263,200
Operations and Maintenance ..... (158,800)

SALT LAKE COMMUNITY COLLEGE

Item 123

To Salt Lake Community College - Education and General

From Income Tax Fund,

One-time 810,800

From Dedicated Credits Revenue,

One-time ..... (7,781,500)

Schedule of Programs:

Education and General ..... (6,387,600)
Operations and Maintenance ..... (583,100)

Item 124

To Salt Lake Community College - Career and Technical Education

From Dedicated Credits Revenue,

One-time 231,400

Schedule of Programs:

School of Applied Technology 231,400

UTAH BOARD OF HIGHER EDUCATION

Item 125

To Utah Board of Higher Education - Administration

From Income Tax Fund,

One-time 1,500,000

From Federal Funds,

One-time ..... (6,700)

Schedule of Programs:

Administration 1,500,000
Utah Data Research Center ..... (6,700)

The Legislature intends that the Utah Board of Higher Education use $3,264,600 appropriated in Item 134 of S.B. 2, 2023 Genera Session, for higher education initiatives that advance innovation and commercialization through increasing student engagement, convening events, resourcing innovation districts, issuing grants or engaging in other activities that promote innovation and commercialization as determined by the board.

Item 126

To Utah Board of Higher Education - Talent Ready Utah

From Dedicated Credits Revenue,

One-time ..... (52,400)

From General Fund Restricted - Utah Capital Investment Restricted Account,

One-time 15,000,000

Schedule of Programs:

Talent Ready Utah 14,947,600

The Legislature intends that the Utah Board of Higher Education use funds appropriated in this item for Commercialization Shared Services in coordination with the Utah Innovation Fund.

The Legislature intends that the Utah Fund of Funds deposit $15,000,000 into the Utah Capital Investment Fund before June 30, 2024.

The Legislature intends that appropriations from the Utah Capital Investment Corporation Restricted Account be used by the Utah Board of Education for the Utah Innovation Lab and shall not lapse at the close of fiscal year 2025.

BRIDGERLAND TECHNICAL COLLEGE

Item 127

To Bridgerland Technical College - Education and General

From Income Tax Fund,

One-time ..... (121,500)

From Dedicated Credits Revenue,

One-time 829,900

Schedule of Programs:

Bridgerland Technical College 829,900
Operations and Maintenance ..... (121,500)

DAVIS TECHNICAL COLLEGE

Item 128

To Davis Technical College - Education and General

From Income Tax Fund,

One-time 216,300

From Dedicated Credits Revenue,

One-time 817,500

Schedule of Programs:

Davis Technical College 1,033,800

DIXIE TECHNICAL COLLEGE

Item 129

To Dixie Technical College - Education and General

From Income Tax Fund,

One-time 23,300

From Dedicated Credits Revenue,

One-time 568,000

Schedule of Programs:

Dixie Technical College 591,300

MOUNTAINLAND TECHNICAL COLLEGE

Item 130

To Mountainland Technical College - Education and General

From Dedicated Credits Revenue,

One-time 1,823,700

Schedule of Programs:

Mountainland Technical College 1,823,700

OGDEN-WEBER TECHNICAL COLLEGE

Item 131

To Ogden-Weber Technical College - Education and General

From Dedicated Credits Revenue,

One-time 198,300

Schedule of Programs:

Ogden-Weber Technical College 198,300

SOUTHWEST TECHNICAL COLLEGE

Item 132

To Southwest Technical College - Education and General

From Dedicated Credits Revenue,

One-time 153,300

Schedule of Programs:

Southwest Technical College 153,300

TOOELE TECHNICAL COLLEGE

Item 133

To Tooele Technical College - Education and General

From Dedicated Credits Revenue,

One-time 331,500

Schedule of Programs:

Tooele Technical College 331,500

UINTAH BASIN TECHNICAL COLLEGE

Item 134

To Uintah Basin Technical College - Education and General

From Dedicated Credits Revenue,

One-time 407,200

Schedule of Programs:

Uintah Basin Technical College 407,200

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 135

To Department of Agriculture and Food - Animal Industry

From General Fund,

One-time ..... (511,900)

Schedule of Programs:

Animal Health ..... (250,000)
Meat Inspection ..... (261,900)

Item 136

To Department of Agriculture and Food - Building Operations

From General Fund,

One-time 179,800

Schedule of Programs:

Building Operations 179,800

Item 137

To Department of Agriculture and Food - Invasive Species Mitigation

From Federal Funds,

One-time 120,000

Schedule of Programs:

Invasive Species Mitigation 120,000

Item 138

To Department of Agriculture and Food - Marketing and Development

From Federal Funds,

One-time 910,000

From Dedicated Credits Revenue,

One-time 7,200

Schedule of Programs:

Marketing and Development 917,200

Item 139

To Department of Agriculture and Food - Plant Industry

From Dedicated Credits Revenue,

One-time ..... (15,000)

Schedule of Programs:

Pesticide ..... (15,000)

Item 140

To Department of Agriculture and Food - Predatory Animal Control

From General Fund,

One-time 250,000

From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention,

One-time 244,000

Schedule of Programs:

Predatory Animal Control 494,000

The Legislature intends that the Predatory Animal Control program purchase one truck through Fleet Operations.

Item 141

To Department of Agriculture and Food - Regulatory Services

From Dedicated Credits Revenue,

One-time ..... (15,000)

Schedule of Programs:

Food Inspection ..... (15,000)

Item 142

To Department of Agriculture and Food - Resource Conservation

From General Fund,

One-time 200,000

From Revenue Transfers,

One-time 907,000

Schedule of Programs:

Conservation Administration 200,000
Water Quality 907,000

The Legislature intends that the $30 million one-time from the American Rescue Plan Act appropriated in Item 1 of S.B. 277 from the 2023 General Session be utilized for any of the Agriculture Water Optimization Project types listed and be spent before the General Fund appropriated by the same item.

Item 143

To Department of Agriculture and Food - Industrial Hemp

From Dedicated Credits Revenue,

One-time 170,000

Schedule of Programs:

Industrial Hemp 170,000

Item 144

To Department of Agriculture and Food - Analytical Laboratory

From General Fund,

One-time ..... (179,800)

From Revenue Transfers,

One-time 30,000

Schedule of Programs:

Analytical Laboratory ..... (149,800)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 145

To Department of Environmental Quality - Drinking Water

From Federal Funds,

One-time 5,000,000

From Revenue Transfers,

One-time ..... (4,100)

Schedule of Programs:

Safe Drinking Water Act ..... (4,100)
State Revolving Fund 5,000,000

Item 146

To Department of Environmental Quality - Environmental Response and Remediation

From General Fund, One-time 400

From Federal Funds,

One-time 4,044,600

From Dedicated Credits Revenue,

One-time 1,200

From Revenue Transfers,

One-time ..... (16,100)

Schedule of Programs:

Voluntary Cleanup 16,800
CERCLA 4,043,900
Petroleum Storage Tank Cleanup ..... (3,700)
Petroleum Storage Tank Compliance . (26,900)

Item 147

To Department of Environmental Quality - Executive Director's Office

From General Fund, One-time 8,700

From General Fund Restricted - Environmental Quality, One-time 35,900

From Revenue Transfers,

One-time 329,900

Schedule of Programs:

Executive Director Office Administration 383,800

Radon ..... (9,300)

Item 148

To Department of Environmental Quality - Waste Management and Radiation Control

From Federal Funds,

One-time 383,800

From Revenue Transfers,

One-time 51,500

Schedule of Programs:

Solid Waste 383,800
Radiation 51,500

Item 149

To Department of Environmental Quality - Water Quality

From Federal Funds,

One-time 1,687,700

From Dedicated Credits Revenue,

One-time 85,100

From Revenue Transfers,

One-time ..... (11,200)

Schedule of Programs:

Water Quality Support 85,100
Water Quality Protection 669,300
Water Quality Permits 1,007,200

Item 150

To Department of Environmental Quality - Air Quality

From General Fund,

One-time ..... (8,700)

From Federal Funds,

One-time 17,581,100

From General Fund Restricted - Environmental Quality, One-time ..... (35,900)

From Revenue Transfers,

One-time ..... (290,900)

Schedule of Programs:

Air Quality Administration 32,400
Planning 17,345,900
Compliance ..... (84,800)
Permitting ..... (47,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $721,000 of the General Fund appropriated in Laws of Utah 2023 Chapter 485, Item 166 shall not lapse at the end of FY 2024. Uses of these funds are limited to the Great Salt Lake Dust monitoring and study, the Emissions Inventory Study, and Uintah Basin Air Monitoring Infrastructure and Equipment.

Notwithstanding intent language included in Item 19, H.B. 5, from the 2024 General Session, the Legislature intends that of the $1,845,700 nonlapsing designated for Woodstove Replacement, $626,500 be used instead for two-stroke yard and garden equipment incentives and that $250,000 be used for DAQ Ozone Modeling.

DEPARTMENT OF NATURAL RESOURCES

Item 151

To Department of Natural Resources - Administration

From General Fund,

One-time ..... (19,000)

Schedule of Programs:

Executive Director ..... (19,000)

Item 152

To Department of Natural Resources - Forestry, Fire, and State Lands

From Dedicated Credits Revenue,

One-time 1,000,000

From General Fund Restricted - Sovereign Lands Management, One-time ... (30,700)

Schedule of Programs:

Fire Management 1,000,000
Lands Management ..... (30,700)

Item 153

To Department of Natural Resources - Oil, Gas, and Mining

From General Fund Restricted - GFR - Division of Oil, Gas, and Mining,

One-time 250,000

Schedule of Programs:

Board 250,000

The Legislature intends that $250,000 from the Division of Oil, Gas, and Mining Restricted Account for Board & Mining Programs Process Improvement shall not lapse at the close of FY 2024.

Item 154

To Department of Natural Resources - Utah Geological Survey

From General Fund, One-time ..... (200)

From Federal Funds,

One-time 54,300

From Dedicated Credits Revenue,

One-time 143,800

From Revenue Transfers,

One-time 1,030,400

Schedule of Programs:

Energy and Minerals 1,228,500
Geologic Hazards ..... (200)

Item 155

To Department of Natural Resources - Water Resources

From Federal Funds - American Rescue Plan, One-time 5,000,000

From Expendable Receipts,

One-time 800,000

From Revenue Transfers,

One-time 2,000,000

From Water Resources Conservation and Development Fund,

One-time 100,000

Schedule of Programs:

Cloud Seeding 2,800,000
Construction 5,000,000
Planning 100,000

The Legislature intends that the appropriations by this line item from the American Rescue Plan - State and Local Fiscal Recovery Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 156

To Department of Natural Resources - Water Rights

From General Fund,

One-time ..... (2,000)

Schedule of Programs:

Applications and Records ..... (2,000)

In addition to intent language passed in H.B. 5, Item 28, the Legislature intends that $70,000 of the $4,600,000 for Water Rights Measurements/Data Enhancement be used for telemetering of the Vermillion Dam on the Sevier River.

Item 157

To Department of Natural Resources - Wildlife Resources

From General Fund Restricted - Wildlife Resources, One-time ..... (93,400)

Schedule of Programs:

Administrative Services ..... (93,400)

Item 158

To Department of Natural Resources - Wildlife Resources Capital Budget

From General Fund,

One-time ..... (599,400)

From General Fund Restricted - Wildlife Resources, One-time 599,400

Item 159

To Department of Natural Resources - Public Lands Policy Coordinating Office

From Dedicated Credits Revenue,

One-time 5,000

Schedule of Programs:

Public Lands Policy Coordinating Office .. 5,000

Item 160

To Department of Natural Resources - Division of State Parks

From General Fund Restricted - State Park Fees, One-time 1,504,600

Schedule of Programs:

State Park Operation Management .. 1,504,600

The legislature intends State Parks purchase one additional vehicle for the regional crews.

Item 161

To Department of Natural Resources - Division of Parks - Capital

From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 1,618,800

From General Fund Restricted - State Park Fees, One-time 500,000

Schedule of Programs:

Renovation and Development 2,118,800

Item 162

To Department of Natural Resources - Division of Outdoor Recreation

From Dedicated Credits Revenue,

One-time 200,000

From General Fund Restricted - Zion National Park Support Programs,

One-time 161,200

Schedule of Programs:

Agreements 161,200
Administration 200,000

The Legislature intends that the Division of Outdoor Recreation purchase three vehicles through Fleet Operation.

Item 163

To Department of Natural Resources - Division of Outdoor Recreation- Capital

From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 6,094,000

Schedule of Programs:

Recreation Capital 4,386,400
Trails Program 1,707,600

Item 164

To Department of Natural Resources - Office of Energy Development

From General Fund,

One-time ..... (125,000)

From Federal Funds,

One-time 30,881,900

From Expendable Receipts,

One-time 60,000

From Revenue Transfers,

One-time 2,075,000

Schedule of Programs:

Office of Energy Development 32,891,900

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 165

To School and Institutional Trust Lands Administration

From Land Grant Management Fund,

One-time 649,500

Schedule of Programs:

Administration 547,000
Legal/Contracts 10,000
Energy and Minerals 92,500

The Legislature intends that the School & Institutional Trust Lands Administration purchase two fleet vehicles.

Item 166

To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital

From Land Grant Management Fund,

One-time ..... (500,000)

Schedule of Programs:

Capital ..... (500,000)

EXECUTIVE APPROPRIATIONS CAPITOL PRESERVATION BOARD

Item 167

To Capitol Preservation Board

From Dedicated Credits Revenue,

One-time 205,100

Schedule of Programs:

Capitol Preservation Board 205,100

LEGISLATURE

Item 168

To Legislature - Legislative Services Digital Wellness Commission

From General Fund,

One-time ..... (300,000)

From Beginning Nonlapsing Balances ..... (994,200)

From Closing Nonlapsing Balances 994,200

Schedule of Programs:

Digital Wellness Commission ..... (300,000)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 169

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From General Fund,

One-time 200,000

Schedule of Programs:

Administration 200,000
Cemetery ..... (5,727,400)
Northern Utah Cemetery 5,727,400

Item 170

To Department of Veterans and Military Affairs - DVMA Pass Through

From General Fund,

One-time ..... (200,000)

Schedule of Programs:

DVMA Pass Through ..... (200,000)

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE GOVERNOR'S OFFICE

Item 171

To Governor's Office - Municipal Incorporation Expendable Special Revenue Fund

From General Fund,

One-time 100,000

Schedule of Programs:

Municipal Incorporation Expendable Special Revenue Fund 100,000

INFRASTRUCTURE AND GENERAL GOVERNMENT TRANSPORTATION

Item 172

To Transportation - County of the First Class Highway Projects Fund

The Legislature intends that, if amounts appropriated from the County of the First

Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 173

To Department of Cultural and Community Engagement - History Donation Fund

The legislature intends that Cultural and Community Engagement use $1,000,000 of the funds appropriated in S.B. 4 Business, Economic Development and Labor Base Budget History Donation Fund, Item 47 and Item 108 on a one-time basis for the Golden Spike Monument.

PUBLIC SERVICE COMMISSION

Item 174

To Public Service Commission - Universal Public Telecom Service

From Revenue Transfers,

One-time 10,984,200

Schedule of Programs:

Universal Public Telecommunications Service Support 10,984,200

Item 175

To Public Service Commission - Universal Telecommunications Support Fund

The legislature intends the PSC use the non-lapsing balance to maintain the fund balance in the Utah Universal Service Fund (UUSF) of at least three months of obligations as outlined in performance measure one in HB4, item 111, 2023 General Session.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 176

To Department of Workforce Services - Individuals with Visual Impairment Fund

From Beginning Fund

Balance 90,300

From Closing Fund

Balance ..... (75,300)

Schedule of Programs:

Individuals with Visual Impairment Fund 15,000

Item 177

To Department of Workforce Services - Individuals with Visual Impairment Vendor Fund

From Beginning Fund

Balance ..... (10,900)

From Closing Fund

Balance 90,500

Schedule of Programs:

Individuals with Visual Disabilities Vendor Fund 79,600

Item 178

To Department of Workforce Services - Navajo Revitalization Fund

From Beginning Fund

Balance 1,033,800

From Closing Fund

Balance ..... (1,532,800)

Schedule of Programs:

Navajo Revitalization Fund ..... (499,000)

Item 179

To Department of Workforce Services - Permanent Community Impact Bonus Fund

From Beginning Fund

Balance ..... (5,851,700)

From Closing Fund

Balance 6,141,700

Schedule of Programs:

Permanent Community Impact Bonus Fund 290,000

Item 180

To Department of Workforce Services - Permanent Community Impact Fund

From Beginning Fund

Balance 57,709,300

From Closing Fund

Balance ..... (87,714,300)

Schedule of Programs:

Permanent Community Impact Fund ..... (30,005,000)

Item 181

To Department of Workforce Services - Qualified Emergency Food Agencies Fund

From Beginning Fund

Balance 138,600

From Closing Fund

Balance ..... (138,600)

Item 182

To Department of Workforce Services - Uintah Basin Revitalization Fund

From Beginning Fund

Balance 2,062,600

From Closing Fund

Balance ..... (2,836,300)

Schedule of Programs:

Uintah Basin Revitalization Fund ... (773,700)

Item 183

To Department of Workforce Services - Utah Community Center for the Deaf Fund

From Beginning Fund

Balance ..... (5,700)

From Closing Fund Balance 6,500

Schedule of Programs:

Utah Community Center for the Deaf Fund 800

Item 184

To Department of Workforce Services - Olene Walker Low Income Housing

From General Fund,

One-time 500,000

From Federal Funds,

One-time 1,000,000

From Beginning Fund

Balance 8,587,400

From Closing Fund

Balance ..... (27,710,200)

Schedule of Programs:

Olene Walker Low Income Housing ..... (17,622,800)

The Legislature authorizes the State Division of Finance to transfer FY 2024 dedicated credit beginning balances from the Housing and Community Development line item to the Olene Walker Housing Loan Fund in the amount of $500,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 185

To Department of Health and Human Services - Licensed Provider Assessment Fund

From General Fund,

One-time 500,000

Schedule of Programs:

Licensed Provider Assessment Fund ... 500,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 186

To Department of Environmental Quality - Hazardous Substance Mitigation Fund

From General Fund, One-time ..... (400)

From General Fund Restricted - Environmental Quality, One-time ..... (1,200)

Schedule of Programs:

Hazardous Substance Mitigation Fund . (1,600)

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 187

To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund

From Federal Funds,

One-time ..... (32,666,200)

Schedule of Programs:

Veterans Nursing Home Fund ... (32,666,200)

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 188

To Utah Department of Corrections - Utah Correctional Industries

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $20,004,000 for the Utah Department of Corrections - Utah Correctional Industries in item 87 of chapter 9, Laws of Utah 2023 not lapse at the close of Fiscal Year 2024. Any nonlapsing retained earnings would be used in the ongoing operations of UCI.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 189

To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Division of Facilities Construction and Management - Facilities Management line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following

performance measure: 1. Facility Maintenance Cost (Target = 18%).

Item 190

To Department of Government Operations - Division of Finance

The Legislature intends that the ISF - Finance - Purchasing Card program be authorized to increase its Capital Outlay for the new Travel and Expense Reporting System by $1,000,000 in FY 2024.

Item 191

To Department of Government Operations - Division of Fleet Operations

The Legislature intends that Fleet Operations transfer vehicles as appropriate from other agencies to meet statewide fleet needs and to reduce the overall count of the state fleet. In authorizing capital outlay for Fleet Operations, the Legislature intends that Fleet Operations purchase electric and plug-in hybrid vehicles whenever prudent.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations for the Fleet Operations line item in Item 91, Chapter 5, Laws of Utah 2023, shall not lapse at the close of FY 2024. Expenditures of these funds are limited to capital outlay authority granted within FY 2024 for vehicles not delivered by the end of FY 2024.

Item 192

To Department of Government Operations - Division of Purchasing and General Services

From General Services - Cooperative Contract Mgmt, One-time 995,000

Schedule of Programs:

ISF - General Services Administration 995,000

Item 193

To Department of Government Operations - Risk Management

From General Fund,

One-time 5,500,000

Schedule of Programs:

ISF - Risk Management Administration 5,500,000

Item 194

To Department of Government Operations - Human Resources Internal Service Fund

From General Fund, One-time ..... (600)

From Dedicated Credits Revenue,

One-time 600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR
GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 195

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund

From Federal Funds,

One-time 21,100,000

Schedule of Programs:

State Small Business Credit Initiative Program Fund 21,100,000

SOCIAL SERVICES
DEPARTMENT OF WORKFORCE SERVICES

Item 196

To Department of Workforce Services - Economic Revitalization and Investment Fund

From Beginning Fund

Balance ..... (94,300)

From Closing Fund

Balance 93,800

Schedule of Programs:

Economic Revitalization and Investment Fund ..... (500)

Item 197

To Department of Workforce Services - Unemployment Compensation Fund

From Beginning Fund

Balance 51,980,100

From Closing Fund

Balance 75,109,200

Schedule of Programs:

Unemployment Compensation Fund 127,089,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 198

To Department of Health and Human Services - Qualified Patient Enterprise Fund

From Dedicated Credits Revenue,

One-time 2,305,400

From Revenue Transfers,

One-time 1,422,600

From Closing Fund

Balance ..... (3,728,000)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY
DEPARTMENT OF AGRICULTURE AND FOOD

Item 199

To Department of Agriculture and Food - Qualified Production Enterprise Fund

From Dedicated Credits Revenue,

One-time 923,400

Schedule of Programs:

Qualified Production Enterprise Fund . 923,400

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 200

To Correctional Institution Clinical Services Transition Account

From General Fund,

One-time ..... (588,100)

Schedule of Programs:

Correctional Institution Clinical Services Transition Account ..... (588,100)

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 201

To Risk Management - Property Fund

From General Services - Cooperative Contract Mgmt, One-time 500,000

From Risk Management - Workers Compensation Fund,

One-time 2,000,000

Schedule of Programs:

Risk Management - Property Fund .. 2,500,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 202

To General Fund Restricted - Industrial Assistance Account

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $25,000,000 provided by Item 63, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Industrial Assistance Account, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 203

To General Fund Restricted - Motion Picture Incentive Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $1,500,000 provided by Item 118, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Motion Picture Incentive Fund shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 204

To General Fund Restricted - Tourism Marketing Performance Fund

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $22,822,000 provided by Item 72, Chapter 4, Laws of Utah 2023 for the Governor's Office of Economic Opportunity - Tourism Marketing Performance, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to contractual obligations and support.

Item 205

To General Fund Restricted - Native American Repatriation Restricted Account

From General Fund,

One-time ..... (10,000)

Schedule of Programs:

General Fund Restricted - Native American Repatriation Restricted Account .... (10,000)

SOCIAL SERVICES

Item 206

To General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account

From Beginning Fund

Balance 1,959,600

Schedule of Programs:

General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 1,959,600

Item 207

To General Fund Restricted - Homeless Account

From Beginning Fund

Balance 467,300

Schedule of Programs:

General Fund Restricted - Pamela Atkinson Homeless Account 467,300

Item 208

To General Fund Restricted - Homeless to Housing Reform Account

From Beginning Fund

Balance 8,423,800

From Closing Fund Balance 9,700

Schedule of Programs:

General Fund Restricted - Homeless to Housing Reform Restricted Account 8,433,500

Item 209

To General Fund Restricted - School Readiness Account

From Beginning Fund

Balance 865,400

From Closing Fund

Balance ..... (1,382,700)

Schedule of Programs:

General Fund Restricted - School Readiness Account ..... (517,300)

Item 210

To Medicaid Expansion Fund

From Dedicated Credits Revenue,

One-time ..... (3,600,000)

From Interest Income,

One-time 8,589,900

From Revenue Transfers,

One-time ..... (1,949,100)

From Closing Fund

Balance ..... (2,829,400)

Schedule of Programs:

Medicaid Expansion Fund 211,400

Item 211

To Adult Autism Treatment Account

From General Fund,

One-time ..... (641,800)

Schedule of Programs:

Adult Autism Treatment Account ... (641,800)

HIGHER EDUCATION

Item 212

To Performance Funding Restricted Account

From Income Tax Fund,

One-time ..... (12,648,000)

From Closing Fund

Balance 12,648,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 213

To General Fund Restricted - Agricultural Water Optimization Account

From Lapsing Balance .. (30,000,000)

Schedule of Programs:

Agricultural Water Optimization Account ..... (30,000,000)

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 214

To General Fund

From American Rescue Plan Act Administrative Fund, One-time 51,000,000

From Capital Project Fund - Contingency Reserve, One-time 10,610,100

From Capital Project Fund - Project Reserve, One-time 345,600

Schedule of Programs:

General Fund, One-time 61,955,700

SOCIAL SERVICES

Item 215

To General Fund

From General Fund Restricted - Cancer Research Account,

One-time 14,900

From Organ Donation Contribution Fund, One-time 216,000

From Pediatric Neuro-Rehabilitation Fund, One-time 10,100

From Qualified Patient Enterprise Fund, One-time 600,000

Schedule of Programs:

General Fund, One-time 841,000

EXECUTIVE APPROPRIATIONS

Item 216

To General Fund - EAC

From Nonlapsing Balances - From Legislature - Legislative Services Digital Wellness Commission 994,200

Schedule of Programs:

General Fund, One-time 994,200

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT
CAPITAL BUDGET

Item 217

To Capital Budget - DFCM Capital Projects Fund

From Income Tax Fund,

One-time ..... (16,815,000)

Schedule of Programs:

DFCM Capital Projects Fund .... (16,815,000)

TRANSPORTATION

Item 218

To Transportation - Transportation Investment Fund of 2005

From Transportation Fund,

One-time . . . . . (14,290,600)

Schedule of Programs:

Transportation Investment Fund . (14,290,600)

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

Item 219

To Transportation - Transit Transportation Investment Fund

The Legislature intends that the Department of Transportation use up to $75,000,000 appropriated by Item 371, Chapter 300, Laws of Utah 2022, for transit for the Point of the Mountain corridor.

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 463
S. B. 8
Passed February 27, 2024
Approved March 20, 2024
Effective July 1, 2024

STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- provides funding for a 3% labor market increase for state employees and higher education employees;
- provides funding for pay for performance labor market increases for state employees;
- provides funding for a 5% discretionary increase for offices of the Legislature, statewide elected officials, and the Judiciary;
- provides funding for a 0.7% salary enhancement for state employees participating in the Utah Retirement Systems Tier II retirement plan;
- provides funding for health and dental benefit cost changes as recommended by the Public Employees Health Programs;
- provides funding for retirement rate changes for certain state employees;
- provides funding for an up- to $26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates $8,313,200 in operating and capital budgets for fiscal year 2024, including:

- ($3,468,400) from the General Fund;
- ($172,100) from the Income Tax Fund; and
- $11,953,700 from various sources as detailed in this bill.

This bill appropriates $54,200 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $3,167,100 in business- like activities for fiscal year 2024, including:

- $20,900 from the General Fund; and
- $3,146,200 from various sources as detailed in this bill.

This bill appropriates $212,046,500 in operating and capital budgets for fiscal year 2025, including:

- $68,084,100 from the General Fund;
- $63,127,800 from the Income Tax Fund; and
- $80,834,600 from various sources as detailed in this bill.

This bill appropriates $671,300 in expendable funds and accounts for fiscal year 2025.

This bill appropriates $3,653,300 in business- like activities for fiscal year 2025, including:

- $20,900 from the General Fund; and
- $3,632,400 from various sources as detailed in this bill.

This bill appropriates $71,000 in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates $78,900 in fiduciary funds for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 of this bill takes effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

BOARD OF PARDONS AND PAROLE

Item 1
To Board of Pardons and Parole
From General Fund,
One- time 85,200
Schedule of Programs:
Board of Pardons and Parole 85,200

UTAH DEPARTMENT OF CORRECTIONS

Item 2
To Utah Department of Corrections - Programs and Operations
From General Fund,
One- time 6,065,600
Schedule of Programs:
Adult Probation and Parole Administration 60,700
Adult Probation and Parole Programs 1,708,200
Department Administrative Services .. 158,100
Department Executive Director 229,600
Department Training 72,200
Prison Operations Administration 295,700
Prison Operations Central Utah/Gunnison 965,100
Prison Operations Inmate Placement ... 71,500
Re- entry and Rehabilitation

Administration 22,300
Re-entry and Rehabilitation Re-Entry . 283,300
Re-entry and Rehabilitation Treatment 247,300
Prison Operations Utah State Correctional Facility 1,951,600

GOVERNOR'S OFFICE

Item 3
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund,
One-time 111,200
From Federal Funds,
One-time 40,600
From Dedicated Credits Revenue, One-time 300
From Crime Victim Reparations Fund,
One-time 1,800
From General Fund Restricted - Criminal Forfeiture Restricted Account,
One-time 900
Schedule of Programs:
CCJJ Commission 64,100
Extraditions 900
Judicial Performance Evaluation Commission 9,700
Sentencing Commission 3,900
State Asset Forfeiture Grant Program 900
State Task Force Grants 800
Substance Use and Mental Health Advisory Council 3,400
Utah Office for Victims of Crime 71,100

Item 4
To Governor's Office
From General Fund,
One-time 499,200
From Dedicated Credits Revenue,
One-time 18,800
Schedule of Programs:
Administration 452,900
Lt. Governor's Office 42,000
Washington Funding 23,100

Item 5
To Governor's Office - Governors Office of Planning and Budget
From General Fund,
One-time 138,200
Schedule of Programs:
Administration 138,200

Item 6
To Governor's Office - Indigent Defense Commission
From Expendable Receipts, One-time 800
From General Fund Restricted - Indigent Defense Resources, One-time 38,600
From Revenue Transfers, One-time 900
Schedule of Programs:
Office of Indigent Defense Services 19,600
Indigent Appellate Defense Division 20,700

Item 7
To Governor's Office - Colorado River Authority of Utah
From General Fund Restricted - Colorado River Authority of Utah Restricted Account,
One-time 18,900
Schedule of Programs:
Colorado River Authority of Utah 18,900

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 8
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund,
One-time 37,000
From Federal Funds,
One-time 1,300
From Dedicated Credits Revenue, One-time 200
From Revenue Transfers, One-time 100
Schedule of Programs:
Juvenile Justice & Youth Services 25,000
Secure Care 6,800
Youth Services 6,800

Item 9
To Department of Health and Human Services - Correctional Health Services
From General Fund Restricted - Correctional Institution Clinical Services Transition Account,
One-time 23,200
Schedule of Programs:
Correctional Health Services 23,200

DEPARTMENT OF PUBLIC SAFETY

Item 10
To Department of Public Safety - Driver License
From Dedicated Credits Revenue,
One-time 500
From Department of Public Safety Restricted Account, One-time 483,600
From Public Safety Motorcycle Education Fund,
One-time 1,500
Schedule of Programs:
Driver License Administration 52,500
Driver Records 110,600
Driver Services 321,000
Motorcycle Safety 1,500

Item 11
To Department of Public Safety - Emergency Management
From General Fund,
One-time 151,700
Schedule of Programs:
Emergency Management 151,700

Item 12
To Department of Public Safety - Highway Safety
From Federal Funds,
One-time 35,700
From Dedicated Credits Revenue, One-time 300
From Public Safety Motorcycle Education Fund,
One-time 300
From Revenue Transfers,
One-time 3,700
Schedule of Programs:
Highway Safety 40,000

Item 13
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund,
One-time 104,000
From Dedicated Credits Revenue,
One-time 2,200

Schedule of Programs:
Basic Training 53,300
POST Administration 29,700
Regional/Inservice Training 23,200

Item 14
To Department of Public Safety - Programs & Operations
From General Fund,
One-time 2,378,600
From Federal Funds,
One-time 15,700
From Dedicated Credits Revenue,
One-time 180,900
From Department of Public Safety Restricted Account, One-time 100,600
From General Fund Restricted - Fire Academy Support, One-time 53,100
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-time 1,100
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-time 1,300
From Revenue Transfers,
One-time 7,500
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-time 4,000
Schedule of Programs:
Aero Bureau 41,300
CITS Administration 16,000
CITS Communications 286,500
CITS State Bureau of Investigation 224,500
CITS State Crime Labs 179,300
Department Commissioner's Office 190,700
Department Fleet Management 4,800
Department Grants 23,200
Department Intelligence Center 46,700
Fire Marshal - Fire Fighter Training 9,700
Fire Marshal - Fire Operations 49,500
Highway Patrol - Administration 24,800
Highway Patrol - Commercial Vehicle .. 94,600
Highway Patrol - Federal/State Projects .. 300
Highway Patrol - Field Operations .. 1,181,500
Highway Patrol - Protective Services .. 170,800
Highway Patrol - Safety Inspections 19,500
Highway Patrol - Special Enforcement .. 27,100
Highway Patrol - Special Services 127,600
Highway Patrol - Technology Services .. 24,400

Item 15
To Department of Public Safety - Bureau of Criminal Identification
From General Fund,
One-time 43,200
From Dedicated Credits Revenue,
One-time 92,800
From General Fund Restricted - Concealed Weapons Account,
One-time 71,200
From Revenue Transfers,
One-time 1,000
Schedule of Programs:
Non-Government/Other Services 208,200

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 16
To Department of Government Operations - Administrative Rules
From General Fund,
One-time 12,500
Schedule of Programs:
DAR Administration 12,500

Item 17
To Department of Government Operations - DFCM
From General Fund,
One-time 66,700
From Income Tax Fund,
One-time 2,500
From Dedicated Credits Revenue,
One-time 29,100
From Capital Projects Fund,
One-time 101,200
Schedule of Programs:
DFCM Administration 185,400
Energy Program 14,100

Item 18
To Department of Government Operations - DGO Administration
From General Fund,
One-time 86,400
From Revenue Transfers,
One-time 21,800
Schedule of Programs:
Executive Director's Office 108,200

Item 19
To Department of Government Operations - Finance - Mandated
From General Fund,
One-time ..... (23,549,500)
From Income Tax Fund,
One-time ..... (564,200)
From Transportation Fund,
One-time ..... (991,600)
From Federal Funds,
One-time ..... (2,306,400)
From Dedicated Credits Revenue,
One-time ..... (696,200)
Schedule of Programs:
Internal Service Fund Rate Impacts (5,500,200)
State Employee Benefits ..... (22,607,700)

Item 20
To Department of Government Operations - Division of Finance
From General Fund,
One-time 111,800
From Dedicated Credits Revenue,
One-time 28,900
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time 6,900
Schedule of Programs:
Finance Director's Office 18,300
Financial Information Systems 36,600

Financial Reporting 43,100
Payables/Disbursing 35,200
Payroll 14,400

Item 21
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund,
One-time 22,900
From Revenue Transfers,
One-time 37,500
Schedule of Programs:
Inspector General of Medicaid Services . 60,400

Item 22
To Department of Government Operations - Judicial Conduct Commission
From General Fund,
One-time 10,300
Schedule of Programs:
Judicial Conduct Commission 10,300

Item 23
To Department of Government Operations - Purchasing
From General Fund,
One-time 27,200
Schedule of Programs:
Purchasing and General Services 27,200

Item 24
To Department of Government Operations - State Archives
From General Fund,
One-time 56,900
From Federal Funds, One-time 700
From Dedicated Credits Revenue,
One-time 1,600
Schedule of Programs:
Archives Administration 13,500
Patron Services 25,400
Preservation Services 6,700
Records Analysis 13,600

Item 25
To Department of Government Operations - Chief Information Officer
From General Fund,
One-time 89,900
Schedule of Programs:
Administration 89,900

Item 26
To Department of Government Operations - Integrated Technology
From General Fund,
One-time 20,600
From Dedicated Credits Revenue,
One-time 12,000
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time ... 3,600
Schedule of Programs:
Utah Geospatial Resource Center 36,200

TRANSPORTATION

Item 27
To Transportation - Aeronautics
From General Fund,
One-time 2,200
From Aeronautics Restricted Account,
One-time 70,700
Schedule of Programs:
Administration 67,300
Airplane Operations 5,600

Item 28
To Transportation - Engineering Services
From Transportation Fund,
One-time 1,114,800
Schedule of Programs:
Environmental 11,300
Materials Lab 10,500
Program Development 1,093,000

Item 29
To Transportation - Operations/Maintenance Management
From Transportation Fund,
One-time 1,432,000
Schedule of Programs:
Field Crews 6,100
Maintenance Administration 1,352,200
Region 1 9,000
Region 2 16,600
Region 4 16,500
Shops 22,000
Traffic Operations Center 9,600

Item 30
To Transportation - Region Management
From Transportation Fund,
One-time 1,096,100
Schedule of Programs:
Region 1 4,900
Region 2 1,079,400
Region 4 11,800

Item 31
To Transportation - Support Services
From Transportation Fund,
One-time 674,800
Schedule of Programs:
Administrative Services 663,900
Comptroller 6,500
Ports of Entry 4,400

Item 32
To Transportation - Amusement Ride Safety
From General Fund,
One-time 3,300
Schedule of Programs:
Amusement Ride Safety 3,300

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 33
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund,
One-time 775,500
Schedule of Programs:
Administration 22,300
Executive Director 149,900
Stores and Agencies 544,100
Warehouse and Distribution 59,200

DEPARTMENT OF COMMERCE

Item 34
To Department of Commerce - Commerce General Regulation
From Federal Funds,
One-time 9,800
From Dedicated Credits Revenue,
One-time 1,500
From General Fund Restricted - Commerce Service Account, One-time 491,900
From General Fund Restricted - Factory Built Housing Fees, One-time ... 100
From Gen. Fund Rest. - Nurse Education & Enforcement Acct., One-time 100
From General Fund Restricted - Public Utility Restricted Acct., One-time . 132,200
From Revenue Transfers,
One-time 1,000
Schedule of Programs:
Administration 155,300
Consumer Protection 48,600
Corporations and Commercial Code 26,000
Occupational and Professional Licensing 172,800
Office of Consumer Services 20,000
Public Utilities 122,000
Real Estate 36,200
Securities 55,700

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 35
To Governor's Office of Economic Opportunity - Administration
From General Fund,
One-time 55,700
Schedule of Programs:
Administration 55,700

Item 36
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund,
One-time 127,600
Schedule of Programs:
Business Services 38,600
Incentives and Grants 24,200
Strategic Initiatives 32,700
Systems and Control 32,100

Item 37
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund,
One-time 64,300
Schedule of Programs:
Film Commission 11,100
Tourism 53,200

FINANCIAL INSTITUTIONS

Item 38
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions, One-time 175,100
Schedule of Programs:
Administration 175,100

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 39
To Department of Cultural and Community Engagement - Administration
From General Fund,
One-time 80,000
Schedule of Programs:
Executive Director's Office 80,000

Item 40
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund,
One-time 48,600
From Dedicated Credits Revenue,
One-time 400
Schedule of Programs:
Administration 39,500
Community Arts Outreach 9,500

Item 41
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund,
One-time 18,300
From Federal Funds,
One-time 22,300
From Dedicated Credits Revenue,
One-time 200
Schedule of Programs:
Commission on Service and Volunteerism 40,800

Item 42
To Department of Cultural and Community Engagement - Indian Affairs
From General Fund,
One-time 5,300
From Dedicated Credits Revenue,
One-time 1,200
Schedule of Programs:
Indian Affairs 6,500

Item 43
To Department of Cultural and Community Engagement - Historical Society
From General Fund,
One-time 43,800
Schedule of Programs:
Administration 38,500
State of Utah Museum 5,300

Item 44
To Department of Cultural and Community Engagement - State Library
From General Fund,
One-time 56,600
From Dedicated Credits Revenue,
One-time 29,900
Schedule of Programs:
Administration 83,000
Bookmobile 3,500

Item 45
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund,
One-time 20,900

Schedule of Programs:
STEM Action Center 20,900

Item 46
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund,
One-time 3,100
Schedule of Programs:
Pete Suazo Athletics Commission 3,100

Item 47
To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund,
One-time 29,900
From Federal Funds,
One-time 15,600
From Dedicated Credits Revenue,
One-time 6,900
Schedule of Programs:
Administration 52,400

INSURANCE DEPARTMENT

Item 48
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review,
One-time 5,000
Schedule of Programs:
Health Insurance Actuary 5,000

Item 49
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Captive Insurance, One-time 27,400
From General Fund Restricted - Insurance Department Acct.,
One-time 181,600
From General Fund Rest. - Insurance Fraud Investigation Acct.,
One-time 41,000
Schedule of Programs:
Administration 181,000
Captive Insurers 27,400
Insurance Fraud Program 41,600

LABOR COMMISSION

Item 50
To Labor Commission
From General Fund,
One-time 132,600
From Federal Funds,
One-time 79,300
From Employers' Reinsurance Fund,
One-time 100
From General Fund Restricted - Industrial Accident Account, One-time 59,100
From General Fund Restricted - Workplace Safety Account, One-time 2,700
Schedule of Programs:
Adjudication 25,900
Administration 50,400
Antidiscrimination and Labor 50,300
Boiler, Elevator and Coal Mine Safety Division 29,600
Industrial Accidents 33,300
Utah Occupational Safety and Health ... 81,600
Workplace Safety 2,700

PUBLIC SERVICE COMMISSION

Item 51
To Public Service Commission
From General Fund Restricted - Public Utility Restricted Acct., One-time . 38,000
Schedule of Programs:
Administration 38,000

UTAH STATE TAX COMMISSION

Item 52
To Utah State Tax Commission - Tax Administration
From General Fund,
One-time 469,600
From Income Tax Fund,
One-time 386,900
From Federal Funds,
One-time 13,800
From Dedicated Credits Revenue,
One-time 145,700
From General Fund Restricted - License Plate Restricted Account, One-time 300
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-time 89,700
From General Fund Rest. - Sales and Use Tax Admin Fees, One-time 192,400
From Revenue Transfers,
One-time 3,800
From Uninsured Motorist Identification Restricted Account, One-time 2,700
Schedule of Programs:
Operations 141,900
Tax and Revenue 407,700
Customer Service 453,500
Property and Miscellaneous Taxes 160,100
Enforcement 141,700

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 53
To Department of Workforce Services - Administration
From General Fund,
One-time 106,500
From Federal Funds,
One-time 231,000
Schedule of Programs:
Administrative Support 195,000
Communications 25,500
Executive Director's Office 83,400
Internal Audit 33,600

Item 54
To Department of Workforce Services - General Assistance
From General Fund,
One-time 12,700
Schedule of Programs:
General Assistance 12,700

Item 55
To Department of Workforce Services - Housing and Community Development
From General Fund,
One-time 38,600
From Federal Funds,
One-time 61,800
From Expendable Receipts, One-time 700
Schedule of Programs:
Community Development 22,500
Community Development Administration 11,800
Community Services 6,500
HEAT 8,600
Housing Development 32,600
Weatherization Assistance 19,100

Item 56
To Department of Workforce Services - Operations and Policy
From General Fund,
One-time 435,100
From Income Tax Fund,
One-time 1,600
From Federal Funds,
One-time 1,950,900
From Revenue Transfers,
One-time 1,400
Schedule of Programs:
Eligibility Services 1,391,900
Facilities and Pass-Through 31,600
Workforce Development 896,700
Workforce Research and Analysis 68,800

Item 57
To Department of Workforce Services - State Office of Rehabilitation
From General Fund,
One-time 136,500
From Federal Funds,
One-time 722,400
From Expendable Receipts, One-time 200
Schedule of Programs:
Blind and Visually Impaired 68,200
Deaf and Hard of Hearing 63,700
Disability Determination 212,400
Executive Director 6,200
Rehabilitation Services 508,600

Item 58
To Department of Workforce Services - Unemployment Insurance
From General Fund,
One-time 95,000
From Federal Funds,
One-time 362,000
Schedule of Programs:
Adjudication 81,800
Unemployment Insurance Administration 375,200

Item 59
To Department of Workforce Services - Office of Homeless Services
From General Fund, One-time ..53,000
Schedule of Programs:
Homeless Services 53,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 60
To Department of Health and Human Services - Operations
From General Fund,
One-time 6,068,800
From Income Tax Fund, One-time ...800
From Federal Funds,
One-time 6,000
From Dedicated Credits Revenue,
One-time 7,000
From Revenue Transfers,
One-time 2,100
Schedule of Programs:
Executive Director Office 42,900
Ancillary Services 6,013,900
Finance & Administration 3,700
Data, Systems, & Evaluations 14,300
Public Affairs, Education & Outreach 5,200
Continuous Quality Improvement 4,700

Item 61
To Department of Health and Human Services - Clinical Services
From General Fund, One-time ..6,600
From Federal Funds, One-time...7,400
From Dedicated Credits Revenue,
One-time 5,000
From Expendable Receipts, One-time ..100
From Department of Public Safety Restricted Account, One-time 300
From Gen. Fund Rest. - State Lab Drug Testing Account, One-time 300
Schedule of Programs:
Medical Examiner 6,100
State Laboratory 13,600

Item 62
To Department of Health and Human Services - Department Oversight
From General Fund,
One-time 10,100
From Federal Funds,
One-time 8,700
From Dedicated Credits Revenue,
One-time 1,800
From Revenue Transfers,
One-time 4,900
Schedule of Programs:
Licensing & Background Checks 19,200
Internal Audit 6,300

Item 63
To Department of Health and Human Services - Health Care Administration
From General Fund,
One-time 6,300
From Federal Funds,
One-time 32,600
From Expendable Receipts,
One-time 7,900
From Hospital Provider Assessment Fund, One-time 100
From Medicaid Expansion Fund,
One-time 2,300
From Nursing Care Facilities Provider Assessment Fund, One-time 800
From Revenue Transfers,

One-time 4,900
Schedule of Programs:
Integrated Health Care Administration . 48,800
Provider Reimbursement Information System for Medicaid 6,100

Item 64
To Department of Health and Human Services - Integrated Health Care Services
From General Fund,
One-time 55,600
From Dedicated Credits Revenue,
One-time 4,200
From Revenue Transfers,
One-time 13,400
Schedule of Programs:
State Hospital 73,200

Item 65
To Department of Health and Human Services - Long-Term Services & Support
From General Fund,
One-time 34,000
From Income Tax Fund,
One-time 300
From Federal Funds,
One-time 2,200
From Dedicated Credits Revenue,
One-time 3,200
From Expendable Receipts, One-time 400
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account, One-time 500
From Revenue Transfers,
One-time 52,800
Schedule of Programs:
Adult Protective Services 8,600
Services for People with Disabilities 4,300
Utah State Developmental Center 80,500

Item 66
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund,
One-time 5,900
From Federal Funds,
One-time 30,500
From Expendable Receipts, One-time 100
From General Fund Restricted - Tobacco Settlement Account, One-time 400
From Revenue Transfers, One-time 600
Schedule of Programs:
Communicable Disease 10,200
Health Promotion and Prevention 10,900
Emergency Medical Services and Preparedness 11,900
Population Health 4,500

Item 67
To Department of Health and Human Services - Children, Youth, & Families
From General Fund,
One-time 74,400
From Federal Funds,
One-time 31,200
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Child & Family Services 96,500
Child Abuse Prevention and Facility Services 5,300
Maternal & Child Health 3,900

Item 68
To Department of Health and Human Services - Office of Recovery Services
From General Fund,
One-time 6,400
From Federal Funds,
One-time 14,200
From Dedicated Credits Revenue,
One-time 5,600
From Expendable Receipts,
One-time 4,600
From Revenue Transfers,
One-time 100
Schedule of Programs:
Child Support Services 30,900

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 69
To Department of Agriculture and Food - Administration
From General Fund,
One-time 42,200
From Federal Funds,
One-time 4,100
From Dedicated Credits Revenue,
One-time 2,700
From Revenue Transfers,
One-time 900
Schedule of Programs:
Commissioner's Office 49,900

Item 70
To Department of Agriculture and Food - Animal Industry
From General Fund,
One-time 58,600
From Federal Funds,
One-time 34,800
From Dedicated Credits Revenue,
One-time 1,400
From General Fund Restricted - Livestock Brand,
One-time 23,400
Schedule of Programs:
Animal Health 86,300
Brand Inspection 23,400
Meat Inspection 8,500

Item 71
To Department of Agriculture and Food - Invasive Species Mitigation
From General Fund Restricted - Invasive Species Mitigation Account,
One-time 7,900
Schedule of Programs:
Invasive Species Mitigation 7,900

Item 72
To Department of Agriculture and Food - Marketing and Development
From General Fund,
One-time 13,100
From Federal Funds,

One-time 5,800
From Dedicated Credits Revenue,
One-time 300
Schedule of Programs:
Marketing and Development 19,200

Item 73
To Department of Agriculture and Food - Plant Industry
From General Fund,
One-time 2,800
From Federal Funds,
One-time 23,700
From Dedicated Credits Revenue,
One-time 66,800
From Revenue Transfers, One-time 300
Schedule of Programs:
Plant Industry Administration 69,900
Pesticide 23,700

Item 74
To Department of Agriculture and Food - Predatory Animal Control
From General Fund,
One-time 22,200
From Revenue Transfers,
One-time 8,200
Schedule of Programs:
Predatory Animal Control 30,400

Item 75
To Department of Agriculture and Food - Rangeland Improvement
From General Fund,
One-time 19,400
From Gen. Fund Rest. - Rangeland Improvement Account, One-time 6,700
Schedule of Programs:
Rangeland Improvement Projects 6,700
Grazing Improvement Program Administration 19,400

Item 76
To Department of Agriculture and Food - Regulatory Services
From General Fund,
One-time 13,200
From Federal Funds,
One-time 16,300
From Dedicated Credits Revenue,
One-time 75,000
Schedule of Programs:
Regulatory Services Administration ... 100,100
Weights & Measures 4,400

Item 77
To Department of Agriculture and Food - Resource Conservation
From General Fund,
One-time 41,500
From Federal Funds,
One-time 10,600
From Dedicated Credits Revenue,
One-time 200
From Revenue Transfers,
One-time 8,500
Schedule of Programs:
Conservation Administration 48,700
Conservation Districts 3,400
Water Quality 8,500
Soil Health 200

Item 78
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue,
One-time 23,900
Schedule of Programs:
Industrial Hemp 23,900

Item 79
To Department of Agriculture and Food - Analytical Laboratory
From General Fund,
One-time 16,300
From Federal Funds, One-time 800
From Dedicated Credits Revenue,
One-time 6,300
Schedule of Programs:
Analytical Laboratory 23,400

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 80
To Department of Environmental Quality - Drinking Water
From General Fund,
One-time 24,200
From Dedicated Credits Revenue,
One-time 7,000
From Water Dev. Security Fund - Drinking Water Loan Prog., One-time 16,700
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-time 5,800
Schedule of Programs:
Drinking Water Administration 16,500
Safe Drinking Water Act 20,600
System Assistance 10,000
State Revolving Fund 6,600

Item 81
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund,
One-time 17,700
From Dedicated Credits Revenue,
One-time 21,700
From General Fund Restricted - Petroleum Storage Tank, One-time ... 6,000
From Petroleum Storage Tank Trust Fund, One-time 33,600
From General Fund Restricted - Voluntary Cleanup, One-time 15,100
Schedule of Programs:
Environmental Response and Remediation 1,600
Voluntary Cleanup 15,100
CERCLA 18,100
Tank Public Assistance 6,000
Petroleum Storage Tank Cleanup 22,700
Petroleum Storage Tank Compliance ... 30,600

Item 82
To Department of Environmental Quality - Executive Director's Office
From General Fund,
One-time 53,200
From General Fund Restricted - Environmental Quality, One-time 20,300
Schedule of Programs:
Executive Director Office

Administration 73,100
Radon 400

Item 83
To Department of Environmental Quality - Waste Management and Radiation Control
From Dedicated Credits Revenue, One-time 33,200
From Expendable Receipts, One-time 2,200
From General Fund Restricted - Environmental Quality, One-time 111,300
From Gen. Fund Rest. - Used Oil Collection Administration, One-time . 10,100
From Waste Tire Recycling Fund, One-time 2,200
Schedule of Programs:
Hazardous Waste 56,300
Solid Waste 23,800
Radiation 32,200
Low Level Radioactive Waste 23,100
WIPP 2,200
Used Oil 10,700
Waste Tire 2,200
X-Ray 8,500

Item 84
To Department of Environmental Quality - Water Quality
From General Fund, One-time 62,400
From Dedicated Credits Revenue, One-time 44,000
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining, One-time 1,600
From Gen. Fund Rest. - Underground Wastewater System, One-time 800
From Water Dev. Security Fund - Utah Wastewater Loan Prog., One-time 26,500
From Water Dev. Security Fund - Water Quality Orig. Fee, One-time 1,700
Schedule of Programs:
Water Quality Support 46,500
Water Quality Protection 41,700
Water Quality Permits 48,000
Onsite Wastewater 800

Item 85
To Department of Environmental Quality - Air Quality
From General Fund, One-time 75,600
From Dedicated Credits Revenue, One-time 107,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining, One-time 13,900
Schedule of Programs:
Air Quality Administration 18,600
Planning 47,500
Compliance 68,700
Permitting 61,700

DEPARTMENT OF NATURAL RESOURCES

Item 86
To Department of Natural Resources - Administration
From General Fund, One-time 124,700
Schedule of Programs:
Administrative Services 29,800
Executive Director 85,900
Law Enforcement 4,200
Public Information Office 4,800

Item 87
To Department of Natural Resources - Contributed Research
From Expendable Receipts, One-time 1,700
Schedule of Programs:
Contributed Research 1,700

Item 88
To Department of Natural Resources - Cooperative Agreements
From Federal Funds, One-time 40,200
From Expendable Receipts, One-time 24,000
From Revenue Transfers, One-time 600
Schedule of Programs:
Federal Agreements 40,200
State Agreements 600
Other Agreements 24,000

Item 89
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund, One-time 138,100
From Federal Funds, One-time 94,500
From Dedicated Credits Revenue, One-time 153,300
From General Fund Restricted - Sovereign Lands Management, One-time 29,700
From Revenue Transfers, One-time 12,900
Schedule of Programs:
Division Administration 29,700
Fire Management 37,800
Fire Suppression Emergencies 34,500
Forest Management 18,300
Lands Management 29,800
Lone Peak Center 94,200
Program Delivery 184,200

Item 90
To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds, One-time 71,300
From Dedicated Credits Revenue, One-time 4,000
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining, One-time 52,600
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-time 86,500
Schedule of Programs:

Abandoned Mine 26,300
Administration 54,000
Coal Program 31,200
Minerals Reclamation 21,000
Oil and Gas Program 81,900

Item 91
To Department of Natural Resources - Species Protection
From General Fund Restricted - Species Protection, One-time 25,800
Schedule of Programs:
Species Protection 25,800

Item 92
To Department of Natural Resources - Utah Geological Survey
From General Fund,
One-time 90,400
From Federal Funds,
One-time 29,600
From Dedicated Credits Revenue,
One-time 37,800
From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account,
One-time 12,800
From General Fund Restricted - Mineral Lease,
One-time 26,000
From Gen. Fund Rest. - Land Exchange Distribution Account,
One-time 500
From Revenue Transfers,
One-time 1,900
Schedule of Programs:
Administration 17,000
Energy and Minerals 47,100
Geologic Hazards 26,300
Geologic Information and Outreach 38,200
Geologic Mapping 34,900
Groundwater 35,500

Item 93
To Department of Natural Resources - Water Resources
From General Fund,
One-time 92,200
From Dedicated Credits Revenue,
One-time 100
From Water Resources Conservation and Development Fund,
One-time 57,900
Schedule of Programs:
Administration 22,200
Construction 62,700
Interstate Streams 9,800
Planning 55,500

Item 94
To Department of Natural Resources - Water Rights
From General Fund,
One-time 170,800
From Federal Funds,
One-time 2,600
From Dedicated Credits Revenue,
One-time 49,800
From General Fund Restricted - Water Rights Restricted Account,
One-time 49,600
Schedule of Programs:
Adjudication 49,500
Administration 40,000
Applications and Records 106,300
Dam Safety 23,100
Field Services 38,200
Technical Services 15,700

Item 95
To Department of Natural Resources - Watershed Restoration
From General Fund,
One-time 3,400
From Dedicated Credits Revenue,
One-time 300
Schedule of Programs:
Watershed Restoration 3,700

Item 96
To Department of Natural Resources - Wildlife Resources
From General Fund,
One-time 146,800
From Federal Funds,
One-time 335,100
From General Fund Restricted - Aquatic Invasive Species Interdiction Account,
One-time 12,700
From General Fund Restricted - Predator Control Account,
One-time 6,400
From General Fund Restricted - Wildlife Habitat,
One-time 8,500
From General Fund Restricted - Wildlife Resources, One-time 676,300
Schedule of Programs:
Administrative Services 94,300
Aquatic Section 287,100
Conservation Outreach 100,600
Director's Office 68,200
Habitat Council 8,500
Habitat Section 171,900
Law Enforcement 242,000
Wildlife Section 213,200

Item 97
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund,
One-time 38,600
From General Fund Restricted - Constitutional Defense, One-time 16,400
Schedule of Programs:
Public Lands Policy Coordinating Office 55,000

Item 98
To Department of Natural Resources - Division of State Parks
From General Fund,
One-time 58,600
From Federal Funds,
One-time 2,600
From Dedicated Credits Revenue,
One-time 18,800
From Expendable Receipts,
One-time 2,100
From General Fund Restricted - State Park Fees,
One-time 501,600
From Revenue Transfers, One-time 200

Schedule of Programs:
Executive Management 16,900
State Park Operation Management 520,100
Support Services 42,000
Heritage Services 4,900

Item 99
To Department of Natural Resources - Division of Parks - Capital
From Federal Funds,
One-time 13,700
From Expendable Receipts,
One-time 1,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 4,100
From General Fund Restricted - State Park Fees, One-time 23,800
Schedule of Programs:
Donated Capital Projects 1,000
Renovation and Development 41,600

Item 100
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund,
One-time 6,200
From Federal Funds,
One-time 16,300
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 1,200
From General Fund Restricted - Boating, One-time 22,000
From General Fund Restricted - Off-highway Vehicle, One-time 30,500
Schedule of Programs:
Management 9,500
Oversight 26,600
Recreation Services 10,400
Administration 29,700

Item 101
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From General Fund Restricted - Off-highway Vehicle, One-time 1,800
Schedule of Programs:
Off-highway Vehicle Grants 1,800

Item 102
To Department of Natural Resources - Office of Energy Development
From General Fund,
One-time 23,500
From Federal Funds,
One-time 12,800
From Dedicated Credits Revenue,
One-time 1,800
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-time 500
Schedule of Programs:
Office of Energy Development 38,600

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 103
To Capitol Preservation Board
From General Fund,
One-time 22,700
Schedule of Programs:
Capitol Preservation Board 22,700

LEGISLATURE

Item 104
To Legislature - Legislative Services
From General Fund,
One-time 132,200
Schedule of Programs:
Legislative Interns 132,200

UTAH NATIONAL GUARD

Item 105
To Utah National Guard
From General Fund,
One-time 89,100
From Federal Funds,
One-time 583,000
From Dedicated Credits Revenue,
One-time 500
Schedule of Programs:
Administration 34,800
Operations and Maintenance 637,800

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 106
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund,
One-time 55,000
From Federal Funds,
One-time 9,100
From Dedicated Credits Revenue,
One-time 1,700
Schedule of Programs:
Administration 26,200
Cemetery 11,800
State Approving Agency 3,200
Outreach Services 20,800
Military Affairs 3,800

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 107
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits Revenue,
One-time 1,600
Schedule of Programs:
State Debt Collection Fund 1,600

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

PUBLIC SERVICE COMMISSION

Item 108
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits Revenue,
One-time 3,700
Schedule of Programs:
Universal Public Telecommunications Service Support 3,700

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 109
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers,
One-time 1,500
Schedule of Programs:
Salinity Offset Fund 1,500

DEPARTMENT OF NATURAL RESOURCES

Item 110
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Designated Sales Tax,
One-time 7,400
Schedule of Programs:
Outdoor Recreation Infrastructure Account 7,400

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 111
To Utah National Guard - National Guard MWR Fund
From Dedicated Credits Revenue,
One-time 23,400
Schedule of Programs:
National Guard MWR Fund 23,400

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 112
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds,
One-time 16,600
Schedule of Programs:
Veterans Nursing Home Fund 16,600

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 113
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue,
One-time 188,800
Schedule of Programs:
Utah Correctional Industries 188,800

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 114
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits Revenue,
One-time 300,900
Schedule of Programs:
ISF - Facilities Management 300,900

Item 115
To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits Revenue,
One-time 43,700
Schedule of Programs:
ISF - Fuel Network 15,200
ISF - Motor Pool 20,300
Transactions Group 8,200

Item 116
To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits Revenue,
One-time 120,500
Schedule of Programs:
ISF - Central Mailing 32,300
ISF - Cooperative Contracting 75,600
ISF - Federal Surplus Property 300
ISF - Print Services 2,500
ISF - State Surplus Property 9,800

Item 117
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue,
One-time 2,192,300
Schedule of Programs:
ISF - Enterprise Technology Division 2,192,300

Item 118
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund,
One-time 20,900
From Dedicated Credits Revenue,
One-time 287,500
Schedule of Programs:
Administration 146,900

ISF - Core HR Services 1,900
ISF - Field Services 157,300
ISF - Payroll Field Services 2,300

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 119
To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund, One-time 5,600
Schedule of Programs:
Agriculture Loan Program 5,600

Item 120
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue, One-time 6,900
Schedule of Programs:
Qualified Production Enterprise Fund ... 6,900

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 121
To Attorney General
From General Fund 1,278,900
From General Fund, One-time 66,300
From Income Tax Fund 6,100
From Income Tax Fund, One-time 400
From Federal Funds 169,800
From Federal Funds, One-time 8,300
From Dedicated Credits Revenue 39,200
From Dedicated Credits Revenue, One-time 1,900
From General Fund Restricted - Consumer Privacy Account 7,200
From General Fund Restricted - Consumer Privacy Account, One-time 400
From General Fund Restricted - Tobacco Settlement Account 9,700
From General Fund Restricted - Tobacco Settlement Account, One-time 500
From Revenue Transfers 42,500
From Revenue Transfers, One-time 2,100
Schedule of Programs:
Administration 353,400
Civil 445,800
Criminal Prosecution 834,100

Item 122
To Attorney General - Children's Justice Centers
From General Fund 18,500
From General Fund, One-time 500
From Federal Funds 1,800
From Dedicated Credits Revenue 600
From Expendable Receipts .. 500
From General Fund Restricted - Victim Services Restricted Account 12,500
From General Fund Restricted - Victim Services Restricted Account, One-time 300
From Revenue Transfers 1,000
Schedule of Programs:
Children's Justice Centers 35,700

Item 123
To Attorney General - Prosecution Council
From General Fund 20,300
From General Fund, One-time 1,500
From Dedicated Credits Revenue 1,800
From Dedicated Credits Revenue, One-time 100
From Revenue Transfers 21,500
From Revenue Transfers, One-time 1,500
Schedule of Programs:
Prosecution Council 46,700

BOARD OF PARDONS AND PAROLE

Item 124
To Board of Pardons and Parole
From General Fund 300,900
From General Fund, One-time 22,600
Schedule of Programs:
Board of Pardons and Parole 323,500

UTAH DEPARTMENT OF CORRECTIONS

Item 125
To Utah Department of Corrections - Programs and Operations
From General Fund 21,265,200
From General Fund, One-time 1,281,000
Schedule of Programs:
Adult Probation and Parole Administration 190,900
Adult Probation and Parole Programs 6,272,000
Department Administrative Services .. 464,700
Department Executive Director 593,600
Department Training 226,000
Prison Operations Administration ... 1,192,600
Prison Operations Central Utah/Gunnison 3,691,600
Prison Operations Inmate Placement .. 232,300
Re-entry and Rehabilitation Administration 67,700
Re-entry and Rehabilitation Re-Entry . 931,600
Re-entry and Rehabilitation Treatment 818,900
Prison Operations Utah State Correctional Facility 7,864,300

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 126
To Judicial Council/State Court Administrator - Administration
From General Fund 8,044,000
From General Fund, One-time 484,500
From General Fund Restricted - Court Security Account 12,800
From General Fund Restricted - Court Security Account, One-time 1,400
Schedule of Programs:
Administrative Office 321,500
Court of Appeals 346,900
Courts Security 14,200
Data Processing 472,400
District Courts 4,065,700
Grants Program 38,900
Judicial Education 49,400
Justice Courts 24,600
Juvenile Courts 2,850,300
Law Library 103,700
Supreme Court 255,100

The Legislature intends the salary for a District Court judge for the fiscal year beginning July 1, 2024, and ending June 30, 2025, shall be $213,900. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest $50.

Item 127
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 610,800
From General Fund, One-time 42,400
Schedule of Programs:
Guardian ad Litem 653,200

Item 128
To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund 33,400
From General Fund, One-time 2,000
Schedule of Programs:
Jury, Witness, and Interpreter 35,400

GOVERNOR'S OFFICE

Item 129
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 264,300
From General Fund, One-time 16,200
From Federal Funds 68,600
From Federal Funds, One-time 2,900
From Dedicated Credits Revenue 2,100
From Dedicated Credits Revenue, One-time 200
From General Fund Restricted - Victim Services Restricted Account 85,200
From General Fund Restricted - Victim Services Restricted Account, One-time 9,700
From Crime Victim Reparations Fund 17,000
From Crime Victim Reparations Fund, One-time 1,700
From General Fund Restricted - Criminal Forfeiture Restricted Account 4,900
From General Fund Restricted - Criminal Forfeiture Restricted Account, One-time 200
Schedule of Programs:
CCJJ Commission 167,400
Extraditions 4,600
Judicial Performance Evaluation Commission 26,700
Sentencing Commission 11,200
State Asset Forfeiture Grant Program ... 5,100
State Task Force Grants 5,000
Substance Use and Mental Health Advisory Council 12,700
Utah Office for Victims of Crime 228,300
Utah Victim Services Commission 12,000

Item 130
To Governor's Office
From General Fund 712,500
From General Fund, One-time 13,500
From Dedicated Credits Revenue 53,500
From Dedicated Credits Revenue, One-time 2,600
From Expendable Receipts .. 400
Schedule of Programs:
Administration 589,700
Governor's Residence 16,900
Lt. Governor's Office 141,400
Washington Funding 34,500

The Legislature intends that the Governor's salary for the fiscal year beginning July 1, 2024, and ending June 30, 2025, shall be $188,400. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67-22-1 and rounded to the nearest $50.

Item 131
To Governor's Office - Governors Office of Planning and Budget
From General Fund 297,000
From General Fund, One-time 13,500
From Dedicated Credits Revenue 800
From Dedicated Credits Revenue, One-time 100
Schedule of Programs:
Administration 165,100
Management and Special Projects 34,600
Budget, Policy, and Economic Analysis .. 82,000
Planning Coordination 29,700

Item 132
To Governor's Office - Indigent Defense Commission
From General Fund 6,100
From General Fund,

One-time 300
From Expendable Receipts .. 1,900
From Expendable Receipts, One-time 100
From General Fund Restricted - Indigent Defense Resources 136,300
From General Fund Restricted - Indigent Defense Resources, One-time 5,700
From Revenue Transfers 2,000
From Revenue Transfers, One-time 100
Schedule of Programs:
Office of Indigent Defense Services 53,000
Indigent Appellate Defense Division 99,500

Item 133
To Governor's Office - Colorado River Authority of Utah
From Expendable Receipts .. 3,500
From Expendable Receipts, One-time 400
From General Fund Restricted - Colorado River Authority of Utah Restricted Account 55,500
From General Fund Restricted - Colorado River Authority of Utah Restricted Account, One-time 3,400
Schedule of Programs:
Colorado River Authority of Utah 62,800

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 134
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund 2,950,300
From General Fund, One-time 354,600
From Federal Funds 75,900
From Federal Funds, One-time 8,800
From Dedicated Credits Revenue 21,500
From Dedicated Credits Revenue, One-time 2,700
From Expendable Receipts .. 400
From Expendable Receipts, One-time 100
From General Fund Restricted - Juvenile Justice Reinvestment Account 9,000
From General Fund Restricted - Juvenile Justice Reinvestment Account, One-time 1,000
From Revenue Transfers 11,000
From Revenue Transfers, One-time 1,300
Schedule of Programs:
Juvenile Justice & Youth Services ... 1,009,400
Secure Care 950,800
Youth Services 1,283,000
Community Programs 193,400

Item 135
To Department of Health and Human Services - Correctional Health Services
From General Fund 1,189,200
From General Fund, One-time 110,500
Schedule of Programs:
Correctional Health Services 1,299,700

OFFICE OF THE STATE AUDITOR

Item 136
To Office of the State Auditor - State Auditor
From General Fund 171,400
From General Fund, One-time 14,000
From Dedicated Credits Revenue 142,400
From Dedicated Credits Revenue, One-time 11,400
Schedule of Programs:
State Auditor 317,700
State Privacy Officer 21,500

DEPARTMENT OF PUBLIC SAFETY

Item 137
To Department of Public Safety - Driver License
From Dedicated Credits Revenue 1,700
From Dedicated Credits Revenue, One-time 100
From Department of Public Safety Restricted Account 1,993,000
From Department of Public Safety Restricted Account, One-time 132,000
From Public Safety Motorcycle Education Fund 5,700
From Public Safety Motorcycle Education Fund, One-time 700
From Pass-through 3,100
From Pass-through, One-time 200
Schedule of Programs:
Driver License Administration 205,000
Driver Records 435,700
Driver Services 1,489,400
Motorcycle Safety 6,400

Item 138
To Department of Public Safety - Emergency Management
From General Fund 559,500
From General Fund, One-time 28,800
Schedule of Programs:
Emergency Management 588,300

Item 139
To Department of Public Safety - Highway Safety
From Federal Funds 112,600
From Federal Funds, One-time 7,800
From Dedicated Credits Revenue 800
From Public Safety Motorcycle Education Fund 900
From Public Safety Motorcycle Education Fund, One-time 100
From Revenue Transfers 11,800
From Revenue Transfers, One-time 800
Schedule of Programs:
Highway Safety 134,800

Item 140
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 316,100
From General Fund, One-time 11,900
From Dedicated Credits Revenue 9,200

From Dedicated Credits Revenue,
One-time 300
Schedule of Programs:
Basic Training 180,900
POST Administration 86,600
Regional/Inservice Training 70,000

Item 141
To Department of Public Safety - Programs & Operations
From General Fund 9,324,800
From General Fund,
One-time 423,800
From Income Tax Fund 1,000
From Income Tax Fund,
One-time 100
From Federal Funds 42,900
From Federal Funds,
One-time 1,600
From Dedicated Credits
Revenue 692,000
From Dedicated Credits Revenue,
One-time 29,000
From Expendable Receipts .. 2,400
From Expendable Receipts,
One-time 100
From General Fund Restricted - Victim Services Restricted Account 4,700
From General Fund Restricted - Victim Services Restricted Account,
One-time 300
From Department of Public Safety Restricted Account 196,400
From Department of Public Safety Restricted Account, One-time 9,100
From General Fund Restricted - Emergency Medical Services System
Account 24,700
From General Fund Restricted - Emergency Medical Services System Account,
One-time 2,500
From General Fund Restricted - Fire Academy Support 225,700
From General Fund Restricted - Fire Academy Support, One-time 10,200
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 200,200
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-time 8,500
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 5,000
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account, One-time 200
From Revenue Transfers 23,500
From Revenue Transfers,
One-time 900
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 17,500
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau, One-time 500
Schedule of Programs:
Aero Bureau 181,600
CITS Administration 52,600
CITS Communications 1,106,100
CITS State Bureau of Investigation .. 1,019,500
CITS State Crime Labs 724,800
Department Commissioner's Office 444,100
Department Fleet Management 17,700
Department Grants 71,400
Department Intelligence Center 188,800
Fire Marshal - Fire Fighter Training ... 40,200
Fire Marshal - Fire Operations 223,000
Highway Patrol - Administration 92,900
Highway Patrol - Commercial Vehicle . 427,500
Highway Patrol - Federal/State Projects .. 600
Highway Patrol - Field Operations .. 5,114,800
Highway Patrol - Protective Services .. 648,300
Highway Patrol - Safety Inspections 68,800
Highway Patrol - Special Enforcement . 101,100
Highway Patrol - Special Services 476,000
Highway Patrol - Technology Services . 109,900
Emergency Medical Services 137,900

Item 142
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 132,300
From General Fund,
One-time 9,600
From Income Tax Fund 1,200
From Income Tax Fund,
One-time 100
From Dedicated Credits
Revenue 423,100
From Dedicated Credits Revenue,
One-time 26,700
From General Fund Restricted - Concealed Weapons Account 317,300
From General Fund Restricted - Concealed Weapons Account,
One-time 19,600
From Revenue Transfers 38,300
From Revenue Transfers,
One-time 3,000
Schedule of Programs:
Law Enforcement/Criminal Justice Services 63,800
Non-Government/Other Services 907,400

STATE TREASURER

Item 143
To State Treasurer
From General Fund 52,700
From General Fund,
One-time 3,300
From Dedicated Credits
Revenue 59,200
From Dedicated Credits Revenue,
One-time 3,300
From Land Trusts Protection and Advocacy Account 25,000
From Land Trusts Protection and Advocacy Account, One-time 1,300
From Unclaimed Property
Trust 87,000
From Unclaimed Property Trust,
One-time 7,700
Schedule of Programs:
Advocacy Office 26,300
Money Management Council 5,800
Treasury and Investment 113,200
Unclaimed Property 94,200

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 144
To Career Service Review Office
From General Fund 9,800
From General Fund,
One-time 1,400
Schedule of Programs:
Career Service Review Office 11,200

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 145
To Utah Education and Telehealth Network - Digital Teaching and Learning Program
From Income Tax Fund 8,100
Schedule of Programs:
Digital Teaching and Learning Program . 8,100

Item 146
To Utah Education and Telehealth Network
From Income Tax Fund 680,500
From Dedicated Credits Revenue 355,800
Schedule of Programs:
Technical Services 1,036,300

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 147
To Department of Government Operations - Administrative Rules
From General Fund 33,300
From General Fund,
One-time 3,300
Schedule of Programs:
DAR Administration 36,600

Item 148
To Department of Government Operations - DFCM
From General Fund 201,300
From General Fund,
One-time 13,200
From Income Tax Fund 25,500
From Income Tax Fund,
One-time 2,100
From Dedicated Credits Revenue 80,900
From Dedicated Credits Revenue,
One-time 6,000
From Capital Projects Fund . 221,200
From Capital Projects Fund,
One-time 11,400
Schedule of Programs:
DFCM Administration 499,300
Energy Program 32,500
Governor's Residence 29,800

Item 149
To Department of Government Operations - DGO Administration
From General Fund 166,100
From General Fund,
One-time 8,500
From Dedicated Credits Revenue 24,100
From Dedicated Credits Revenue,
One-time 2,600
From Revenue Transfers 21,800
Schedule of Programs:
Executive Director's Office 223,100

Item 150
To Department of Government Operations - Finance - Mandated
From General Fund ..... (7,609,900)
From General Fund,
One-time ..... (5,540,700)
From Income Tax Fund ..... (246,400)
From Transportation Fund .. (991,600)
From Federal Funds ..... (2,306,400)
From Dedicated Credits Revenue ..... (696,200)
Schedule of Programs:
Internal Service Fund Rate Impacts ..... (5,500,200)
State Employee Benefits ..... (11,891,000)

Under provisions of 63A-17-805 of the Utah Code, the employer defined contribution match for the fiscal year beginning July 1, 2024, and ending June 30, 2025, shall be $26 per pay period.

Item 151
To Department of Government Operations - Division of Finance
From General Fund 331,800
From General Fund,
One-time 25,700
From Dedicated Credits Revenue 77,800
From Dedicated Credits Revenue,
One-time 6,300
From Gen. Fund Rest. - Internal Service Fund Overhead 28,700
From Gen. Fund Rest. - Internal Service Fund Overhead, One-time 2,200
Schedule of Programs:
Finance Director's Office 68,000
Financial Information Systems 140,100
Financial Reporting 119,300
Payables/Disbursing 96,800
Payroll 48,300

Item 152
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 61,900
From General Fund,
One-time 5,000
From Federal Funds 1,000
From Federal Funds, One-time 100
From Medicaid Expansion Fund 900
From Medicaid Expansion Fund,
One-time 100
From Revenue Transfers 104,000
From Revenue Transfers,
One-time 8,400
Schedule of Programs:
Inspector General of Medicaid Services 181,400

Item 153
To Department of Government Operations - Judicial Conduct Commission
From General Fund 20,500

From General Fund,
One-time 700
Schedule of Programs:
Judicial Conduct Commission 21,200

Item 154
To Department of Government Operations - Purchasing
From General Fund 122,800
From General Fund,
One-time 5,600
Schedule of Programs:
Purchasing and General Services 128,400

Item 155
To Department of Government Operations - State Archives
From General Fund 149,500
From General Fund,
One-time 17,400
From Federal Funds 2,200
From Federal Funds,
One-time 300
From Dedicated Credits Revenue 4,200
From Dedicated Credits Revenue,
One-time 600
Schedule of Programs:
Archives Administration 41,300
Patron Services 61,600
Preservation Services 20,100
Records Analysis 51,200

Item 156
To Department of Government Operations - Chief Information Officer
From General Fund 239,800
From General Fund,
One-time 14,200
Schedule of Programs:
Administration 254,000

Item 157
To Department of Government Operations - Integrated Technology
From General Fund 52,100
From General Fund,
One-time 3,900
From Federal Funds 2,100
From Federal Funds,
One-time 200
From Dedicated Credits Revenue 35,400
From Dedicated Credits Revenue,
One-time 2,900
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct. 10,500
From Gen. Fund Rest. - Statewide Unified E-911 Emerg. Acct., One-time ... 800
Schedule of Programs:
Utah Geospatial Resource Center 107,900

TRANSPORTATION

Item 158
To Transportation - Aeronautics
From General Fund 25,600
From General Fund,
One-time 1,500
From Dedicated Credits Revenue 15,500
From Dedicated Credits Revenue,
One-time 1,200
From Aeronautics Restricted Account 133,600
From Aeronautics Restricted Account,
One-time 2,200
Schedule of Programs:
Administration 128,900
Airplane Operations 50,700

Item 159
To Transportation - Highway System Construction
From Transportation Fund .. 144,200
From Transportation Fund,
One-time 10,600
Schedule of Programs:
State Construction 154,800

Item 160
To Transportation - Engineering Services
From Transportation Fund .. 2,565,100
From Transportation Fund,
One-time 98,300
From Federal Funds 603,900
From Federal Funds,
One-time 41,900
From Dedicated Credits Revenue 114,300
From Dedicated Credits Revenue,
One-time 8,700
From Active Transportation Investment Fund 28,600
From Active Transportation Investment Fund,
One-time 2,100
From Marda Dillree Corridor Preservation Fund 6,200
From Marda Dillree Corridor Preservation Fund,
One-time 500
From Transit Transportation Investment Fund 95,700
From Transit Transportation Investment Fund,
One-time 6,800
Schedule of Programs:
Civil Rights 18,100
Construction Management 156,400
Engineer Development Pool 102,400
Engineering Services 252,200
Environmental 181,800
Highway Project Management Team 60,800
Planning and Investment 51,000
Materials Lab 341,800
Preconstruction Admin 209,900
Program Development 1,619,900
Research 108,400
Right-of-Way 196,400
Structures 273,000

Item 161
To Transportation - Operations/Maintenance Management
From Transportation Fund .. 7,852,000
From Transportation Fund,
One-time 474,300
From Federal Funds 494,700
From Federal Funds,
One-time 38,800
From Dedicated Credits Revenue 146,000
From Dedicated Credits Revenue,

One-time 10,900
Schedule of Programs:
Field Crews 1,122,900
Maintenance Administration 1,352,200
Maintenance Planning 173,200
Region 1 850,100
Region 2 1,249,900
Region 3 757,600
Region 4 1,706,400
Seasonal Pools 175,600
Shops 623,300
Traffic Operations Center 780,600
Traffic Safety/Tramway 224,900

Item 162
To Transportation - Region Management
From Transportation Fund .. 2,918,500
From Transportation Fund,
One-time 131,200
From Federal Funds 179,100
From Federal Funds,
One-time 12,900
From Dedicated Credits
Revenue 154,100
From Dedicated Credits Revenue,
One-time 11,100
Schedule of Programs:
Region 1 531,900
Region 2 1,843,900
Region 3 424,500
Region 4 606,600

Item 163
To Transportation - Support Services
From Transportation Fund .. 1,772,800
From Transportation Fund,
One-time 79,000
From Federal Funds 255,300
From Federal Funds,
One-time 19,000
Schedule of Programs:
Administrative Services 867,700
Community Relations 93,200
Comptroller 264,700
Data Processing 21,500
Human Resources Management 103,400
Internal Auditor 78,100
Ports of Entry 559,000
Procurement 93,100
Risk Management 45,400

Item 164
To Transportation - Amusement Ride Safety
From General Fund 6,600
From General Fund,
One-time 200
From General Fund Restricted - Amusement Ride Safety Restricted Account . 5,900
From General Fund Restricted - Amusement Ride Safety Restricted Account,
One-time 400
Schedule of Programs:
Amusement Ride Safety 13,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 165
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund .. 2,046,500
From Liquor Control Fund,
One-time 99,500
Schedule of Programs:
Administration 61,000
Executive Director 374,000
Stores and Agencies 1,534,200
Warehouse and Distribution 176,800

DEPARTMENT OF COMMERCE

Item 166
To Department of Commerce - Building Inspector Training
From Dedicated Credits
Revenue 3,000
From Dedicated Credits Revenue,
One-time 700
Schedule of Programs:
Building Inspector Training 3,700

Item 167
To Department of Commerce - Commerce General Regulation
From Federal Funds 23,300
From Federal Funds,
One-time 1,700
From Dedicated Credits
Revenue 54,100
From Dedicated Credits Revenue,
One-time 5,900
From General Fund Restricted - Commerce Electronic Payment Fee Restricted Account 13,700
From General Fund Restricted - Commerce Electronic Payment Fee Restricted Account, One-time 1,400
From General Fund Restricted - Commerce Service Account 1,450,100
From General Fund Restricted - Commerce Service Account, One-time 111,100
From General Fund Restricted - Factory Built Housing Fees 3,900
From General Fund Restricted - Factory Built Housing Fees, One-time ... 400
From Gen. Fund Rest. - Geologist Education and Enforcement 700
From Gen. Fund Rest. - Geologist Education and Enforcement, One-time ... 100
From Gen. Fund Rest. - Latino Community Support Rest. Acct 300
From Gen. Fund Rest. - Nurse Education & Enforcement Acct. 1,900
From Gen. Fund Rest. - Nurse Education & Enforcement Acct., One-time 200
From General Fund Restricted - Pawnbroker Operations 5,300
From General Fund Restricted - Pawnbroker Operations, One-time 600

From General Fund Restricted - Public Utility Restricted Acct. 306,200
From General Fund Restricted - Public Utility Restricted Acct., One-time . 21,500
From Revenue Transfers 35,900
From Revenue Transfers, One-time 3,800
From Pass-through 4,600
From Pass-through, One-time 700
Schedule of Programs:
Administration 328,300
Consumer Protection 181,400
Corporations and Commercial Code 146,300
Occupational and Professional Licensing 696,300
Office of Consumer Services 51,600
Public Utilities 299,500
Real Estate 138,000
Securities 206,000

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 168
To Governor's Office of Economic Opportunity - Administration
From General Fund 111,500
From General Fund, One-time 5,000
Schedule of Programs:
Administration 116,500

Item 169
To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 380,500
From General Fund, One-time 20,500
From Income Tax Fund 6,800
From Income Tax Fund, One-time 700
From Federal Funds 21,100
From Federal Funds, One-time 1,700
From Dedicated Credits Revenue 20,400
From Dedicated Credits Revenue, One-time 1,700
Schedule of Programs:
Business Services 138,800
Incentives and Grants 82,200
Strategic Initiatives 116,000
Systems and Control 116,400

Item 170
To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund 209,600
From General Fund, One-time 15,600
From Dedicated Credits Revenue 7,100
From Dedicated Credits Revenue, One-time 700
Schedule of Programs:
Film Commission 40,000
Tourism 193,000

FINANCIAL INSTITUTIONS

Item 171
To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 474,200
From General Fund Restricted - Financial Institutions, One-time 32,000
Schedule of Programs:
Administration 506,200

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 172
To Department of Cultural and Community Engagement - Administration
From General Fund 173,500
From General Fund, One-time 11,900
From Dedicated Credits Revenue 3,200
From Dedicated Credits Revenue, One-time 400
Schedule of Programs:
Administrative Services 64,100
Executive Director's Office 104,500
Information Technology 4,100
Utah Multicultural Affairs Office 16,300

Item 173
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 130,600
From General Fund, One-time 11,200
From Federal Funds 2,700
From Federal Funds, One-time 500
From Dedicated Credits Revenue 3,500
From Dedicated Credits Revenue, One-time 400
Schedule of Programs:
Administration 55,500
Community Arts Outreach 89,300
Museum Services 4,100

Item 174
To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 23,000
From General Fund, One-time 500
From Federal Funds 71,400
From Federal Funds, One-time 5,300
From Dedicated Credits Revenue 600
Schedule of Programs:
Commission on Service and Volunteerism 100,800

Item 175
To Department of Cultural and Community Engagement - Indian Affairs
From General Fund 18,800
From General Fund, One-time 600
From Dedicated Credits

Revenue 2,800
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Indian Affairs 22,300

Item 176
To Department of Cultural and Community Engagement - Historical Society
From General Fund 183,400
From General Fund,
One-time 14,900
From Dedicated Credits
Revenue 1,400
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Administration 58,300
Library and Collections 22,500
Public History, Communication and Information 20,800
State of Utah Museum 98,200

Item 177
To Department of Cultural and Community Engagement - State Library
From General Fund 138,500
From General Fund,
One-time 9,900
From Federal Funds 19,600
From Federal Funds,
One-time 3,000
From Dedicated Credits
Revenue 84,100
From Dedicated Credits Revenue,
One-time 6,100
From Revenue Transfers 2,600
From Revenue Transfers,
One-time 300
Schedule of Programs:
Administration 100,200
Blind and Disabled 65,700
Bookmobile 33,600
Library Development 26,300
Library Resources 38,300

Item 178
To Department of Cultural and Community Engagement - Stem Action Center
From General Fund 60,700
From General Fund,
One-time 4,000
From Federal Funds 4,700
From Federal Funds,
One-time 400
From Dedicated Credits
Revenue 4,200
From Dedicated Credits Revenue,
One-time 400
Schedule of Programs:
STEM Action Center 57,900
STEM Action Center - Grades 6-8 16,500

Item 179
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From General Fund 8,400
From Dedicated Credits
Revenue 2,100
Schedule of Programs:
Pete Suazo Athletics Commission 10,500

Item 180
To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund 69,200
From General Fund,
One-time 3,800
From Federal Funds 42,900
From Federal Funds,
One-time 3,200
From Dedicated Credits
Revenue 18,900
From Dedicated Credits Revenue,
One-time 1,400
Schedule of Programs:
Administration 117,100
Public Archaeology 16,900
Main Street Program 5,400

INSURANCE DEPARTMENT

Item 181
To Insurance Department - Health Insurance Actuary
From General Fund Rest. - Health Insurance Actuarial Review 12,900
From General Fund Rest. - Health Insurance Actuarial Review,
One-time 700
Schedule of Programs:
Health Insurance Actuary 13,600

Item 182
To Insurance Department - Insurance Department Administration
From Dedicated Credits Revenue 400
From General Fund Restricted - Captive Insurance 27,400
From General Fund Restricted - Insurance Department Acct. 526,800
From General Fund Restricted - Insurance Department Acct.,
One-time 37,800
From General Fund Rest. - Insurance Fraud Investigation Acct. 118,000
From General Fund Rest. - Insurance Fraud Investigation Acct.,
One-time 5,500
Schedule of Programs:
Administration 556,100
Captive Insurers 27,400
Insurance Fraud Program 132,400

Item 183
To Insurance Department - Title Insurance Program
From General Fund Rest. - Title Licensee Enforcement Acct. 11,400
From General Fund Rest. - Title Licensee Enforcement Acct.,
One-time 700
Schedule of Programs:
Title Insurance Program 12,100

LABOR COMMISSION

Item 184
To Labor Commission
From General Fund 354,700

From General Fund,
One-time 23,900
From Federal Funds 191,600
From Federal Funds,
One-time 14,600
From Dedicated Credits
Revenue 4,600
From Dedicated Credits Revenue,
One-time 500
From Employers' Reinsurance
Fund 2,400
From Employers' Reinsurance Fund,
One-time 300
From General Fund Restricted - Industrial Accident Account 181,200
From General Fund Restricted - Industrial Accident Account,
One-time 14,300
From General Fund Restricted - Workplace Safety Account 22,600
From General Fund Restricted - Workplace Safety Account, One-time 2,100
Schedule of Programs:
Adjudication 88,800
Administration 106,400
Antidiscrimination and Labor 148,500
Boiler, Elevator and Coal Mine Safety Division 105,100
Industrial Accidents 109,800
Utah Occupational Safety and Health .. 247,500
Workplace Safety 6,700

PUBLIC SERVICE COMMISSION

Item 185
To Public Service Commission
From General Fund Restricted - Public Utility Restricted Acct. 129,000
From General Fund Restricted - Public Utility Restricted Acct.,
One-time 10,100
From Revenue Transfers 400
Schedule of Programs:
Administration 139,500

UTAH STATE TAX COMMISSION

Item 186
To Utah State Tax Commission - Tax Administration
From General Fund 1,327,700
From General Fund,
One-time 97,000
From Income Tax Fund 1,088,800
From Income Tax Fund,
One-time 80,300
From Federal Funds 36,900
From Federal Funds,
One-time 2,800
From Dedicated Credits
Revenue 421,300
From Dedicated Credits Revenue,
One-time 32,400
From General Fund Restricted - License Plate Restricted Account 15,700
From General Fund Restricted - License Plate Restricted Account,
One-time 1,900
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 235,400
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account, One-time 13,000
From General Fund Rest. - Sales and Use Tax Admin Fees 544,500
From General Fund Rest. - Sales and Use Tax Admin Fees, One-time 39,700
From Revenue Transfers 10,200
From Revenue Transfers,
One-time 700
From Uninsured Motorist Identification Restricted Account 7,600
From Uninsured Motorist Identification Restricted Account, One-time 500
Schedule of Programs:
Operations 462,800
Tax and Revenue 1,205,800
Customer Service 1,413,100
Property and Miscellaneous Taxes 476,200
Enforcement 398,500

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 187
To Department of Workforce Services - Administration
From General Fund 223,500
From General Fund,
One-time 14,600
From Federal Funds 507,600
From Federal Funds,
One-time 33,700
From Dedicated Credits
Revenue 3,000
From Dedicated Credits Revenue,
One-time 400
From Expendable Receipts .. 3,300
From Expendable Receipts,
One-time 300
From Education Savings Incentive Restricted Account 22,800
From Education Savings Incentive Restricted Account, One-time 3,000
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 400
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-time 100
From Navajo Revitalization
Fund 400
From Olene Walker Housing Loan
Fund 800
From Olene Walker Housing Loan Fund,
One-time 100
From OWHTF-Low Income
Housing 400
From OWHTF-Low Income Housing,
One-time 100
From Permanent Community Impact Loan
Fund 2,200
From Permanent Community Impact Loan Fund,
One-time 300
From Permanent Community Impact Bonus
Fund 1,800

From Permanent Community Impact Bonus Fund, One-time 200
From General Fund Restricted - School Readiness Account 400
From General Fund Restricted - School Readiness Account, One-time 100
From Revenue Transfers 98,100
From Revenue Transfers, One-time 12,400
Schedule of Programs:
Administrative Support 601,100
Communications 77,400
Executive Director's Office 150,300
Internal Audit 101,200

Item 188
To Department of Workforce Services - General Assistance
From General Fund 34,900
From General Fund, One-time 3,500
From Revenue Transfers 1,400
From Revenue Transfers, One-time 200
Schedule of Programs:
General Assistance 40,000

Item 189
To Department of Workforce Services - Housing and Community Development
From General Fund 50,600
From General Fund, One-time 1,200
From Federal Funds 173,100
From Federal Funds, One-time 13,900
From Dedicated Credits Revenue 7,200
From Dedicated Credits Revenue, One-time 800
From Expendable Receipts .. 3,100
From Expendable Receipts, One-time 300
From Housing Opportunities for Low Income Households 5,000
From Housing Opportunities for Low Income Households, One-time 700
From Navajo Revitalization Fund 800
From Olene Walker Housing Loan Fund 5,900
From Olene Walker Housing Loan Fund, One-time 800
From OWHT-Fed Home 5,000
From OWHT-Fed Home, One-time 700
From OWHTF-Low Income Housing 4,900
From OWHTF-Low Income Housing, One-time 700
From Permanent Community Impact Loan Fund 4,500
From Permanent Community Impact Loan Fund, One-time 600
From Permanent Community Impact Bonus Fund 3,300
From Permanent Community Impact Bonus Fund, One-time 500
From Revenue Transfers 4,700
From Revenue Transfers, One-time 500
Schedule of Programs:
Community Development 67,000
Community Development Administration 33,600
Community Services 19,800
HEAT 27,500
Housing Development 96,500
Weatherization Assistance 44,400

Item 190
To Department of Workforce Services - Operations and Policy
From General Fund 1,365,300
From General Fund, One-time 134,500
From Income Tax Fund 44,400
From Income Tax Fund, One-time 5,900
From Federal Funds 3,864,900
From Federal Funds, One-time 270,400
From Dedicated Credits Revenue 9,700
From Dedicated Credits Revenue, One-time 1,200
From Expendable Receipts .. 25,700
From Expendable Receipts, One-time 3,800
From Medicaid Expansion Fund 111,800
From Medicaid Expansion Fund, One-time 16,400
From Olene Walker Housing Loan Fund 400
From Olene Walker Housing Loan Fund, One-time 100
From OWHTF-Low Income Housing 500
From OWHTF-Low Income Housing, One-time 100
From General Fund Restricted - School Readiness Account 130,600
From General Fund Restricted - School Readiness Account, One-time 18,300
From Revenue Transfers 1,143,000
From Revenue Transfers, One-time 167,100
Schedule of Programs:
Eligibility Services 4,434,000
Facilities and Pass-Through 31,600
Workforce Development 2,643,500
Workforce Research and Analysis 205,000

Item 191
To Department of Workforce Services - State Office of Rehabilitation
From General Fund 605,500
From General Fund, One-time 60,500
From Federal Funds 1,699,000
From Federal Funds, One-time 120,400
From Dedicated Credits Revenue 11,500
From Dedicated Credits Revenue, One-time 1,400
From Expendable Receipts .. 9,600
From Expendable Receipts, One-time 1,300

From Revenue Transfers 2,000
From Revenue Transfers,
One-time 200
Schedule of Programs:
Blind and Visually Impaired 201,000
Deaf and Hard of Hearing 188,500
Disability Determination 609,300
Executive Director 17,500
Rehabilitation Services 1,495,100

Item 192
To Department of Workforce Services - Unemployment Insurance
From General Fund 122,300
From General Fund,
One-time 3,900
From Federal Funds 1,133,500
From Federal Funds,
One-time 112,900
From Dedicated Credits Revenue 19,800
From Dedicated Credits Revenue,
One-time 2,900
From Expendable Receipts .. 900
From Expendable Receipts,
One-time 100
From Revenue Transfers 3,200
From Revenue Transfers,
One-time 500
Schedule of Programs:
Adjudication 237,500
Unemployment Insurance Administration 1,162,500

Item 193
To Department of Workforce Services - Office of Homeless Services
From General Fund 89,500
From General Fund,
One-time 3,000
From Federal Funds 9,700
From Federal Funds,
One-time 800
From Gen. Fund Rest. - Pamela Atkinson Homeless Account 4,800
From Gen. Fund Rest. - Pamela Atkinson Homeless Account,
One-time 400
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct 24,300
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-time 2,000
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 21,100
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account,
One-time 1,700
Schedule of Programs:
Homeless Services 157,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 194
To Department of Health and Human Services - Operations
From General Fund 6,636,500
From General Fund,
One-time 61,800
From Income Tax Fund 11,300
From Income Tax Fund,
One-time 1,300
From Federal Funds 245,300
From Federal Funds,
One-time 26,200
From Dedicated Credits Revenue 68,400
From Dedicated Credits Revenue,
One-time 7,300
From Revenue Transfers 126,400
From Revenue Transfers,
One-time 13,000
Schedule of Programs:
Executive Director Office 189,700
Ancillary Services 6,013,900
Finance & Administration 365,700
Data, Systems, & Evaluations 304,500
Public Affairs, Education & Outreach ... 82,200
American Indian / Alaska Native 21,400
Continuous Quality Improvement 166,400
Customer Experience 53,700

Item 195
To Department of Health and Human Services - Clinical Services
From General Fund 289,100
From General Fund,
One-time 23,000
From Income Tax Fund 4,600
From Income Tax Fund,
One-time 100
From Federal Funds 200,800
From Federal Funds,
One-time 24,600
From Dedicated Credits Revenue 142,400
From Dedicated Credits Revenue,
One-time 14,300
From Expendable Receipts .. 5,500
From Expendable Receipts,
One-time 800
From Department of Public Safety Restricted Account 11,100
From Department of Public Safety Restricted Account, One-time 700
From Gen. Fund Rest. - State Lab Drug Testing Account 7,500
From Gen. Fund Rest. - State Lab Drug Testing Account, One-time 900
From Revenue Transfers 2,000
From Revenue Transfers,
One-time 200
Schedule of Programs:
Medical Examiner 280,000
State Laboratory 368,600
Primary Care and Rural Health 48,200
Health Equity 24,900
Medical Education Council 5,900

Item 196
To Department of Health and Human Services - Department Oversight
From General Fund 321,900
From General Fund,
One-time 40,900
From Federal Funds 247,100
From Federal Funds,

One-time 31,600
From Dedicated Credits Revenue 66,000
From Dedicated Credits Revenue, One-time 9,200
From Revenue Transfers 131,700
From Revenue Transfers, One-time 18,000
Schedule of Programs:
Licensing & Background Checks 703,000
Internal Audit 100,900
Admin Hearings 43,400
Utah Developmental Disabilities Council 19,100

Item 197
To Department of Health and Human Services - Health Care Administration
From General Fund 336,000
From General Fund, One-time 39,200
From Federal Funds 1,426,500
From Federal Funds, One-time 165,000
From Expendable Receipts .. 169,200
From Expendable Receipts, One-time 19,200
From Hospital Provider Assessment Fund 3,700
From Hospital Provider Assessment Fund, One-time 400
From Medicaid Expansion Fund 48,400
From Medicaid Expansion Fund, One-time 5,400
From Nursing Care Facilities Provider Assessment Fund 21,400
From Nursing Care Facilities Provider Assessment Fund, One-time 2,500
From Revenue Transfers 159,200
From Revenue Transfers, One-time 18,500
Schedule of Programs:
Integrated Health Care Administration 1,906,200
Long-Term Services and Supports Administration 317,300
Provider Reimbursement Information System for Medicaid 191,100

Item 198
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 2,585,400
From General Fund, One-time 191,000
From Federal Funds 39,600
From Federal Funds, One-time 5,500
From Dedicated Credits Revenue 192,600
From Dedicated Credits Revenue, One-time 14,000
From Expendable Receipts .. 500
From Expendable Receipts, One-time 100
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account 9,400
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account, One-time 1,300
From Medicaid Expansion Fund 400
From Medicaid Expansion Fund, One-time 100
From General Fund Restricted - Tobacco Settlement Account 400
From General Fund Restricted - Tobacco Settlement Account, One-time 100
From Revenue Transfers 601,300
From Revenue Transfers, One-time 43,700
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment and Crisis Response 119,200
State Hospital 3,566,200

Item 199
To Department of Health and Human Services - Long-Term Services & Support
From General Fund 970,000
From General Fund, One-time 87,600
From Income Tax Fund 6,700
From Income Tax Fund, One-time 600
From Federal Funds 47,700
From Federal Funds, One-time 4,700
From Dedicated Credits Revenue 55,800
From Dedicated Credits Revenue, One-time 4,500
From Expendable Receipts .. 9,200
From Expendable Receipts, One-time 900
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account 110,100
From General Fund Restricted - Division of Services for People with Disabilities Restricted Account, One-time 12,900
From Revenue Transfers 1,300,200
From Revenue Transfers, One-time 111,700
Schedule of Programs:
Adult Protective Services 197,900
Office of Public Guardian 49,500
Aging Waiver Services 16,100
Services for People with Disabilities ... 377,000
Community Supports Waiver Services ... 2,200
Utah State Developmental Center ... 2,079,900

Item 200
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund 99,100
From General Fund, One-time 10,700
From Federal Funds 1,698,100
From Federal Funds, One-time 175,000
From Dedicated Credits Revenue 1,400
From Dedicated Credits Revenue, One-time 100

From Expendable Receipts .. 14,500
From Expendable Receipts,
One-time 1,600
From General Fund Restricted - Tobacco Settlement Account 50,600
From General Fund Restricted - Tobacco Settlement Account,
One-time 6,600
From Revenue Transfers 79,600
From Revenue Transfers,
One-time 9,600
Schedule of Programs:
Communicable Disease 1,401,900
Health Promotion and Prevention 541,900
Emergency Medical Services and Preparedness 162,300
Population Health 40,800

Item 201
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 3,458,900
From General Fund,
One-time 373,500
From Income Tax Fund 22,700
From Income Tax Fund,
One-time 2,400
From Federal Funds 1,348,600
From Federal Funds,
One-time 147,700
From Dedicated Credits Revenue 9,400
From Dedicated Credits Revenue,
One-time 1,100
From Expendable Receipts .. 1,300
From Expendable Receipts,
One-time 100
From General Fund Restricted - Adult Autism Treatment Account 38,200
From General Fund Restricted - Adult Autism Treatment Account,
One-time 4,400
From General Fund Restricted - Victim Services Restricted Account 4,600
From General Fund Restricted - Victim Services Restricted Account,
One-time 400
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp. 2,800
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp.,
One-time 300
From Revenue Transfers 97,300
From Revenue Transfers,
One-time 11,100
Schedule of Programs:
Child & Family Services 4,470,400
Domestic Violence 30,400
Child Abuse Prevention and Facility Services 41,800
Children with Special Healthcare Needs 294,600
Maternal & Child Health 189,200
Family Health 29,800
Office of Coordinated Care and Regional Supports 197,900
DCFS Selected Programs 70,700
Office of Early Childhood 200,000

Item 202
To Department of Health and Human Services - Office of Recovery Services
From General Fund 363,400
From General Fund,
One-time 52,200
From Federal Funds 652,900
From Federal Funds,
One-time 89,900
From Dedicated Credits Revenue 150,100
From Dedicated Credits Revenue,
One-time 20,100
From Expendable Receipts .. 89,300
From Expendable Receipts,
One-time 11,800
From Medicaid Expansion Fund 2,100
From Medicaid Expansion Fund,
One-time 400
From Revenue Transfers 91,600
From Revenue Transfers,
One-time 15,100
Schedule of Programs:
Recovery Services 234,300
Child Support Services 1,113,800
Children in Care Collections 29,200
Medical Collections 161,600

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 203
To University of Utah - Education and General
From Income Tax Fund 16,668,100
From Dedicated Credits Revenue 5,556,300
Schedule of Programs:
Operations and Maintenance 2,938,600
Instruction 11,092,700
Research 1,929,900
Public Service 605,800
Academic Support 1,393,600
Student Services 1,252,400
Institutional Support 3,011,400

Item 204
To University of Utah - School of Medicine
From Income Tax Fund 1,485,100
From Dedicated Credits Revenue 494,900
Schedule of Programs:
School of Medicine 1,980,000

Item 205
To University of Utah - University Hospital
From Income Tax Fund 452,700
Schedule of Programs:
Instruction 414,400
Public Service 38,300

Item 206
To University of Utah - School of Dentistry
From Income Tax Fund 277,000
From Dedicated Credits Revenue 92,400
Schedule of Programs:
School of Dentistry 369,400

Item 207
To University of Utah - Special Projects

From Income Tax Fund 339,400
Schedule of Programs:
Natural History Museum of Utah 41,000
Seismograph Stations 23,500
Red Butte Garden 4,700
Statewide TV Administration 100,400
Rocky Mountain Center for Occupational & Environmental Health 54,200
Center on Aging 4,300
Poison Control Center 111,300

UTAH STATE UNIVERSITY

Item 208
To Utah State University - Education and General
From Income Tax Fund 8,427,100
From Dedicated Credits Revenue 2,809,600
Schedule of Programs:
Operations and Maintenance 1,335,100
Instruction 6,124,400
Research 164,500
Academic Support 1,139,500
Student Services 828,600
Institutional Support 1,572,400
Scholarships and Fellowships 72,200

Item 209
To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 218,500
Schedule of Programs:
Instruction 56,500
Public Service 3,300
Academic Support 157,000
Custom Fit 1,700

Item 210
To Utah State University - Veterinary Medicine
From Income Tax Fund 131,400
From Dedicated Credits Revenue 43,900
Schedule of Programs:
Instruction 37,700
Academic Support 137,200
Operations and Maintenance 400

Item 211
To Utah State University - Special Projects
From Income Tax Fund 1,376,400
Schedule of Programs:
Agriculture Experiment Station 499,100
Cooperative Extension 742,800
Prehistoric Museum 15,500
Water Research Laboratory 119,000

WEBER STATE UNIVERSITY

Item 212
To Weber State University - Education and General
From Income Tax Fund 4,437,400
From Dedicated Credits Revenue 1,479,400
Schedule of Programs:
Operations and Maintenance 500,500
Instruction 2,650,500
Research 6,100
Public Service 16,200
Academic Support 621,200
Student Services 516,900
Institutional Support 1,549,500
Scholarships and Fellowships 55,900

Item 213
To Weber State University - Special Projects
From Income Tax Fund 35,400
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 35,400

SOUTHERN UTAH UNIVERSITY

Item 214
To Southern Utah University - Education and General
From Income Tax Fund 2,832,800
From Dedicated Credits Revenue 944,400
Schedule of Programs:
Operations and Maintenance 344,000
Instruction 1,464,900
Public Service 14,600
Academic Support 452,100
Student Services 501,600
Institutional Support 769,900
Scholarships and Fellowships 230,100

Item 215
To Southern Utah University - Special Projects
From Income Tax Fund 4,700
Schedule of Programs:
Rural Health 4,700

UTAH VALLEY UNIVERSITY

Item 216
To Utah Valley University - Education and General
From Income Tax Fund 7,186,600
From Dedicated Credits Revenue 2,395,700
Schedule of Programs:
Operations and Maintenance 1,006,400
Instruction 4,280,400
Public Service 26,000
Academic Support 1,158,500
Student Services 881,400
Institutional Support 2,161,700
Scholarships and Fellowships 67,900

Item 217
To Utah Valley University - Special Projects
From Income Tax Fund 141,100
Schedule of Programs:
Fire and Rescue Training 141,100

SNOW COLLEGE

Item 218
To Snow College - Education and General
From Income Tax Fund 1,081,800
From Dedicated Credits Revenue 360,500
Schedule of Programs:
Operations and Maintenance 255,400
Instruction 571,700
Public Service 12,000
Academic Support 130,000
Student Services 164,800
Institutional Support 306,200
Scholarships and Fellowships 2,200

Item 219
To Snow College - Career and Technical Education

From Income Tax Fund 132,600
Schedule of Programs:
Instruction 71,100
Academic Support 6,400
Student Services 12,600
Institutional Support 36,000
Custom Fit 6,500

UTAH TECH UNIVERSITY

Item 220
To Utah Tech University - Education and General
From Income Tax Fund 2,325,500
From Dedicated Credits Revenue 775,200
Schedule of Programs:
Instruction 1,155,500
Public Service 50,600
Academic Support 358,100
Student Services 363,900
Institutional Support 875,800
Operations and Maintenance 295,100
Scholarships and Fellowships 1,700

Item 221
To Utah Tech University - Special Projects
From Income Tax Fund 1,500
Schedule of Programs:
Zion Park Amphitheater 1,500

SALT LAKE COMMUNITY COLLEGE

Item 222
To Salt Lake Community College - Education and General
From Income Tax Fund 4,007,600
From Dedicated Credits Revenue 1,336,300
Schedule of Programs:
Operations and Maintenance 662,500
Instruction 2,304,300
Public Service 4,700
Academic Support 362,400
Student Services 586,200
Institutional Support 1,386,600
Scholarships and Fellowships 37,200

Item 223
To Salt Lake Community College - Career and Technical Education
From Income Tax Fund 359,400
Schedule of Programs:
Instruction 226,300
Academic Support 18,700
Student Services 44,200
Institutional Support 36,300
Operations and Maintenance 27,300
Scholarships and Fellowships 2,200
Custom Fit 4,400

UTAH BOARD OF HIGHER EDUCATION

Item 224
To Utah Board of Higher Education - Administration
From General Fund 89,500
From Income Tax Fund 645,400
Schedule of Programs:
Administration 665,400
Utah Data Research Center 69,500

Item 225
To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 38,200
Schedule of Programs:
Talent Ready Utah 38,200

BRIDGERLAND TECHNICAL COLLEGE

Item 226
To Bridgerland Technical College - Education and General
From Income Tax Fund 677,100
Schedule of Programs:
Instruction 392,900
Public Service 1,800
Academic Support 15,200
Student Services 33,100
Institutional Support 129,600
Operations and Maintenance 91,800
Custom Fit 12,700

DAVIS TECHNICAL COLLEGE

Item 227
To Davis Technical College - Education and General
From Income Tax Fund 880,200
Schedule of Programs:
Instruction 339,800
Academic Support 244,500
Student Services 91,100
Institutional Support 117,600
Operations and Maintenance 81,500
Scholarships and Fellowships 4,200
Custom Fit 1,500

DIXIE TECHNICAL COLLEGE

Item 228
To Dixie Technical College - Education and General
From Income Tax Fund 442,700
Schedule of Programs:
Instruction 216,100
Public Service 1,300
Academic Support 13,300
Student Services 35,900
Institutional Support 100,100
Operations and Maintenance 65,000
Scholarships and Fellowships 5,600
Custom Fit 5,400

MOUNTAINLAND TECHNICAL COLLEGE

Item 229
To Mountainland Technical College - Education and General
From Income Tax Fund 941,500
Schedule of Programs:
Instruction 432,900
Academic Support 96,500
Student Services 69,400
Institutional Support 203,100
Operations and Maintenance 125,900
Custom Fit 13,700

OGDEN-WEBER TECHNICAL COLLEGE

Item 230
To Ogden-Weber Technical College - Education and General

From Income Tax Fund 588,200
Schedule of Programs:
Instruction 295,400
Academic Support 33,000
Student Services 85,900
Institutional Support 123,300
Operations and Maintenance 50,600

SOUTHWEST TECHNICAL COLLEGE

Item 231
To Southwest Technical College - Education and General
From Income Tax Fund 247,800
Schedule of Programs:
Instruction 101,400
Academic Support 20,800
Student Services 20,100
Institutional Support 64,200
Operations and Maintenance 34,000
Scholarships and Fellowships 400
Custom Fit 6,900

TOOELE TECHNICAL COLLEGE

Item 232
To Tooele Technical College - Education and General
From Income Tax Fund 267,700
Schedule of Programs:
Instruction 126,300
Student Services 48,500
Institutional Support 62,400
Operations and Maintenance 23,600
Custom Fit 6,900

UINTAH BASIN TECHNICAL COLLEGE

Item 233
To Uintah Basin Technical College - Education and General
From Income Tax Fund 407,700
Schedule of Programs:
Instruction 213,300
Student Services 22,000
Institutional Support 104,400
Operations and Maintenance 58,100
Custom Fit 9,900

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 234
To Department of Agriculture and Food - Administration
From General Fund 125,700
From General Fund,
One-time 8,500
From Federal Funds 14,800
From Federal Funds,
One-time 900
From Dedicated Credits
Revenue 10,100
From Dedicated Credits Revenue,
One-time 500
From Revenue Transfers 3,200
From Revenue Transfers,
One-time 300
Schedule of Programs:
Commissioner's Office 97,200
Administrative Services 66,800

Item 235
To Department of Agriculture and Food - Animal Industry
From General Fund 169,500
From General Fund,
One-time 12,200
From Income Tax Fund 6,500
From Income Tax Fund,
One-time 600
From Federal Funds 95,900
From Federal Funds,
One-time 7,700
From Dedicated Credits
Revenue 4,200
From Dedicated Credits Revenue,
One-time 300
From General Fund Restricted -
Horse Racing 200
From General Fund Restricted -
Livestock Brand 68,300
From General Fund Restricted - Livestock Brand,
One-time 4,400
Schedule of Programs:
Animal Health 160,500
Brand Inspection 90,500
Meat Inspection 118,200
Horse Racing Commission 600

Item 236
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds 1,600
From Federal Funds,
One-time 200
From General Fund Restricted - Invasive Species Mitigation Account 24,100
From General Fund Restricted - Invasive Species Mitigation Account,
One-time 1,800
Schedule of Programs:
Invasive Species Mitigation 27,700

Item 237
To Department of Agriculture and Food - Marketing and Development
From General Fund 38,700
From General Fund,
One-time 1,900
From Federal Funds 16,400
From Federal Funds,
One-time 800
From Dedicated Credits
Revenue 1,200
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Marketing and Development 59,100

Item 238
To Department of Agriculture and Food - Plant Industry
From General Fund 8,700
From General Fund,
One-time 500
From Federal Funds 77,600
From Federal Funds,

One-time 9,100
From Dedicated Credits Revenue 214,900
From Dedicated Credits Revenue, One-time 25,000
From Revenue Transfers 1,100
From Revenue Transfers, One-time 100
Schedule of Programs:
Plant Industry Administration 89,400
Grain Lab 10,400
Insect, Phyto, and Nursery 54,500
Pesticide 73,500
Feed, Fertilizer, and Seed 63,300
Organics 45,900

Item 239
To Department of Agriculture and Food - Predatory Animal Control
From General Fund 56,000
From General Fund, One-time 4,300
From Revenue Transfers 26,000
From Revenue Transfers, One-time 2,300
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 15,100
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention, One-time 1,900
Schedule of Programs:
Predatory Animal Control 105,600

Item 240
To Department of Agriculture and Food - Rangeland Improvement
From General Fund 55,600
From General Fund, One-time 4,200
From Gen. Fund Rest. - Rangeland Improvement Account 28,600
From Gen. Fund Rest. - Rangeland Improvement Account, One-time 6,100
From Revenue Transfers 10,300
From Revenue Transfers, One-time 1,200
Schedule of Programs:
Rangeland Improvement Projects 34,700
Grazing Improvement Program Administration 71,300

Item 241
To Department of Agriculture and Food - Regulatory Services
From General Fund 40,400
From General Fund, One-time 3,300
From Federal Funds 60,500
From Federal Funds, One-time 5,900
From Dedicated Credits Revenue 217,700
From Dedicated Credits Revenue, One-time 19,800
Schedule of Programs:
Regulatory Services Administration ... 118,600
Bedding & Upholstered 16,300
Weights & Measures 76,000
Food Inspection 109,600
Dairy Inspection 27,100

Item 242
To Department of Agriculture and Food - Resource Conservation
From General Fund 221,700
From General Fund, One-time 42,300
From Federal Funds 55,700
From Federal Funds, One-time 11,000
From Dedicated Credits Revenue 1,100
From Dedicated Credits Revenue, One-time 200
From Revenue Transfers 40,500
From Revenue Transfers, One-time 8,100
Schedule of Programs:
Conservation Administration 122,300
Conservation Districts 39,100
Water Quantity 95,600
Water Quality 65,100
Soil Health 49,100
Salinity 4,100
Easements and Loan Projects 5,300

Item 243
To Department of Agriculture and Food - Industrial Hemp
From Dedicated Credits Revenue 84,700
From Dedicated Credits Revenue, One-time 3,600
Schedule of Programs:
Industrial Hemp 88,300

Item 244
To Department of Agriculture and Food - Analytical Laboratory
From General Fund 46,400
From General Fund, One-time 3,800
From Federal Funds 2,300
From Federal Funds, One-time 200
From Dedicated Credits Revenue 17,200
From Dedicated Credits Revenue, One-time 1,400
Schedule of Programs:
Analytical Laboratory 71,300

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 245
To Department of Environmental Quality - Drinking Water
From General Fund 187,400
From General Fund, One-time 27,800
From Dedicated Credits Revenue 30,700
From Dedicated Credits Revenue, One-time 4,400
From Water Dev. Security Fund - Drinking Water Loan Prog. 112,500
From Water Dev. Security Fund - Drinking Water Loan Prog., One-time 15,000

From Water Dev. Security Fund - Drinking Water Orig. Fee 34,900
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-time 4,200
Schedule of Programs:
Drinking Water Administration 71,700
Safe Drinking Water Act 121,100
System Assistance 158,400
State Revolving Fund 65,700

Item 246
To Department of Environmental Quality - Environmental Response and Remediation
From General Fund 173,300
From General Fund, One-time 32,100
From Dedicated Credits Revenue 61,300
From Dedicated Credits Revenue, One-time 7,100
From General Fund Restricted - Petroleum Storage Tank 9,000
From General Fund Restricted - Petroleum Storage Tank, One-time ... 1,300
From Petroleum Storage Tank Cleanup Fund 16,200
From Petroleum Storage Tank Cleanup Fund, One-time 2,900
From Petroleum Storage Tank Trust Fund 126,800
From Petroleum Storage Tank Trust Fund, One-time 16,900
From General Fund Restricted - Voluntary Cleanup 42,800
From General Fund Restricted - Voluntary Cleanup, One-time 8,800
Schedule of Programs:
Environmental Response and Remediation 78,300
Voluntary Cleanup 51,600
CERCLA 140,700
Tank Public Assistance 10,300
Petroleum Storage Tank Cleanup 107,500
Petroleum Storage Tank Compliance .. 110,100

Item 247
To Department of Environmental Quality - Executive Director's Office
From General Fund 159,800
From General Fund, One-time 12,700
From Dedicated Credits Revenue 3,800
From Dedicated Credits Revenue, One-time 500
From General Fund Restricted - Environmental Quality 41,300
From General Fund Restricted - Environmental Quality, One-time 2,400
Schedule of Programs:
Executive Director Office Administration 216,100
Radon 4,400

Item 248
To Department of Environmental Quality - Waste Management and Radiation Control
From Dedicated Credits Revenue 108,800
From Dedicated Credits Revenue, One-time 11,100
From Expendable Receipts .. 8,500
From Expendable Receipts, One-time 1,900
From General Fund Restricted - Environmental Quality 357,600
From General Fund Restricted - Environmental Quality, One-time 37,400
From Gen. Fund Rest. - Used Oil Collection Administration 32,700
From Gen. Fund Rest. - Used Oil Collection Administration, One-time . 5,300
From Waste Tire Recycling Fund 17,200
From Waste Tire Recycling Fund, One-time 3,200
Schedule of Programs:
Hazardous Waste 215,200
Solid Waste 74,800
Radiation 102,900
Low Level Radioactive Waste 86,100
WIPP 10,400
Used Oil 40,400
Waste Tire 20,400
X-Ray 33,500

Item 249
To Department of Environmental Quality - Water Quality
From General Fund 242,400
From General Fund, One-time 24,000
From Dedicated Credits Revenue 148,400
From Dedicated Credits Revenue, One-time 12,300
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining 5,500
From General Fund Restricted - GFR - Division of Water Quality Oil, Gas, and Mining, One-time 500
From Revenue Transfers 5,700
From Revenue Transfers, One-time 800
From Gen. Fund Rest. - Underground Wastewater System 2,200
From Gen. Fund Rest. - Underground Wastewater System, One-time 700
From Water Dev. Security Fund - Utah Wastewater Loan Prog. 109,000
From Water Dev. Security Fund - Utah Wastewater Loan Prog., One-time 10,300
From Water Dev. Security Fund - Water Quality Orig. Fee 7,200
From Water Dev. Security Fund - Water Quality Orig. Fee, One-time 700
Schedule of Programs:
Water Quality Support 151,000
Water Quality Protection 216,500
Water Quality Permits 199,300
Onsite Wastewater 2,900

Item 250
To Department of Environmental Quality - Air Quality
From General Fund 358,400

From General Fund,
One-time 33,200
From Dedicated Credits
Revenue 336,700
From Dedicated Credits Revenue,
One-time 27,400
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and
Mining 40,000
From General Fund Restricted - GFR - Division of Air Quality Oil, Gas, and Mining,
One-time 3,100
From Clean Fuel Conversion
Fund 8,900
From Clean Fuel Conversion Fund,
One-time 1,000
Schedule of Programs:
Air Quality Administration 82,100
Planning 293,200
Compliance 250,500
Permitting 182,900

DEPARTMENT OF NATURAL RESOURCES

Item 251
To Department of Natural Resources - Administration
From General Fund 242,000
From General Fund,
One-time 11,600
Schedule of Programs:
Administrative Services 88,500
Executive Director 136,600
Law Enforcement 12,500
Public Information Office 16,000

Item 252
To Department of Natural Resources - Contributed Research
From Expendable Receipts .. 1,700
Schedule of Programs:
Contributed Research 1,700

Item 253
To Department of Natural Resources - Cooperative Agreements
From Federal Funds 106,500
From Federal Funds,
One-time 5,900
From Expendable Receipts .. 38,700
From Expendable Receipts,
One-time 2,300
From Revenue Transfers 24,400
From Revenue Transfers,
One-time 1,600
Schedule of Programs:
Federal Agreements 112,400
State Agreements 26,000
Other Agreements 41,000

Item 254
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund 397,300
From General Fund,
One-time 33,000
From Federal Funds 278,700
From Federal Funds,
One-time 24,600
From Dedicated Credits
Revenue 457,200
From Dedicated Credits Revenue,
One-time 39,500
From General Fund Restricted - Sovereign Lands Management 75,800
From General Fund Restricted - Sovereign Lands Management, One-time ... 6,700
From Revenue Transfers 48,600
From Revenue Transfers,
One-time 4,100
Schedule of Programs:
Division Administration 100,400
Fire Management 136,600
Fire Suppression Emergencies 80,400
Forest Management 65,200
Lands Management 82,600
Lone Peak Center 314,000
Program Delivery 586,300

Item 255
To Department of Natural Resources - Oil, Gas, and Mining
From Federal Funds 189,200
From Federal Funds,
One-time 16,500
From Dedicated Credits
Revenue 12,800
From Dedicated Credits Revenue,
One-time 1,100
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 143,300
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining,
One-time 10,400
From Gen. Fund Rest. - Oil & Gas Conservation Account 244,000
From Gen. Fund Rest. - Oil & Gas Conservation Account, One-time 19,200
Schedule of Programs:
Abandoned Mine 84,300
Administration 148,500
Coal Program 81,600
Minerals Reclamation 66,700
Oil and Gas Program 255,400

Item 256
To Department of Natural Resources - Species Protection
From General Fund Restricted - Species Protection 100,400
From General Fund Restricted - Species Protection, One-time 7,400
Schedule of Programs:
Species Protection 107,800

Item 257
To Department of Natural Resources - Utah Geological Survey
From General Fund 273,200
From General Fund,
One-time 22,200
From Federal Funds 85,000
From Federal Funds,
One-time 6,900
From Dedicated Credits
Revenue 55,800
From Dedicated Credits Revenue,
One-time 2,400

From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account 36,700
From General Fund Restricted - Utah Geological Survey Oil, Gas, and Mining Restricted Account, One-time 3,000
From General Fund Restricted - Mineral Lease 101,800
From General Fund Restricted - Mineral Lease, One-time 9,400
From Gen. Fund Rest. - Land Exchange Distribution Account 1,300
From Gen. Fund Rest. - Land Exchange Distribution Account, One-time 100
From Revenue Transfers 51,800
From Revenue Transfers, One-time 6,500
Schedule of Programs:
Administration 57,100
Energy and Minerals 143,100
Geologic Hazards 93,700
Geologic Information and Outreach 133,300
Geologic Mapping 116,000
Groundwater 112,900

Item 258
To Department of Natural Resources - Water Resources
From General Fund 283,300
From General Fund, One-time 21,700
From Federal Funds 19,900
From Federal Funds, One-time 2,500
From Dedicated Credits Revenue 100
From Water Resources Conservation and Development Fund 134,100
From Water Resources Conservation and Development Fund, One-time 9,500
Schedule of Programs:
Administration 50,800
Cloud Seeding 5,500
Construction 187,200
Interstate Streams 31,900
Planning 195,700

Item 259
To Department of Natural Resources - Water Rights
From General Fund 517,500
From General Fund, One-time 39,100
From Federal Funds 8,400
From Federal Funds, One-time 600
From Dedicated Credits Revenue 92,000
From Dedicated Credits Revenue, One-time 4,600
From General Fund Restricted - Water Rights Restricted Account 210,400
From General Fund Restricted - Water Rights Restricted Account, One-time 16,700
Schedule of Programs:
Adjudication 204,100
Administration 85,100
Applications and Records 326,400
Dam Safety 80,900
Field Services 120,900
Technical Services 71,900

Item 260
To Department of Natural Resources - Watershed Restoration
From General Fund 9,700
From General Fund, One-time 700
From Dedicated Credits Revenue 300
Schedule of Programs:
Watershed Restoration 10,700

Item 261
To Department of Natural Resources - Wildlife Resources
From General Fund 396,100
From General Fund, One-time 25,400
From Federal Funds 971,200
From Federal Funds, One-time 79,900
From Expendable Receipts .. 6,300
From Expendable Receipts, One-time 600
From General Fund Restricted - Aquatic Invasive Species Interdiction Account 62,800
From General Fund Restricted - Aquatic Invasive Species Interdiction Account, One-time 5,800
From General Fund Restricted - Predator Control Account 19,800
From General Fund Restricted - Predator Control Account, One-time 1,700
From Revenue Transfers 3,200
From Revenue Transfers, One-time 300
From General Fund Restricted - Wildlife Conservation Easement Account 400
From General Fund Restricted - Wildlife Habitat 20,600
From General Fund Restricted - Wildlife Habitat, One-time 700
From General Fund Restricted - Wildlife Resources 1,727,000
From General Fund Restricted - Wildlife Resources, One-time 117,300
Schedule of Programs:
Administrative Services 297,300
Aquatic Section 769,800
Conservation Outreach 302,800
Director's Office 157,700
Habitat Council 21,300
Habitat Section 489,200
Law Enforcement 826,700
Wildlife Section 574,300

Item 262
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund 112,000
From General Fund, One-time 7,600

From General Fund Restricted - Constitutional Defense 47,500
From General Fund Restricted - Constitutional Defense, One-time 3,200
Schedule of Programs:
Public Lands Policy Coordinating Office 170,300

Item 263
To Department of Natural Resources - Division of State Parks
From General Fund 157,500
From General Fund, One-time 8,400
From Federal Funds 6,700
From Federal Funds, One-time 300
From Dedicated Credits Revenue 48,800
From Dedicated Credits Revenue, One-time 2,300
From Expendable Receipts .. 5,400
From Expendable Receipts, One-time 300
From General Fund Restricted - State Park Fees 1,413,100
From General Fund Restricted - State Park Fees, One-time 71,500
From Revenue Transfers 3,900
From Revenue Transfers, One-time 300
Schedule of Programs:
Executive Management 53,600
State Park Operation Management .. 1,546,300
Support Services 103,400
Heritage Services 15,200

Item 264
To Department of Natural Resources - Division of Parks - Capital
From Federal Funds 48,000
From Federal Funds, One-time 5,100
From Expendable Receipts .. 1,000
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 44,400
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 6,000
From General Fund Restricted - State Park Fees 26,700
From General Fund Restricted - State Park Fees, One-time 400
Schedule of Programs:
Donated Capital Projects 1,000
Renovation and Development 130,600

Item 265
To Department of Natural Resources - Division of Outdoor Recreation
From General Fund 15,500
From General Fund, One-time 1,200
From Federal Funds 48,500
From Federal Funds, One-time 4,600
From Dedicated Credits Revenue 1,400
From Dedicated Credits Revenue, One-time 200
From Expendable Receipts .. 6,000
From Expendable Receipts, One-time 800
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 15,700
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, One-time 2,100
From General Fund Restricted - Boating 88,300
From General Fund Restricted - Boating, One-time 7,300
From General Fund Restricted - Off-highway Vehicle 126,200
From General Fund Restricted - Off-highway Vehicle, One-time 10,800
Schedule of Programs:
Management 32,500
Oversight 142,000
Recreation Services 42,700
Administration 111,400

Item 266
To Department of Natural Resources - Division of Outdoor Recreation- Capital
From Federal Funds 4,300
From Federal Funds, One-time 700
From General Fund Restricted - Off-highway Vehicle 5,400
From General Fund Restricted - Off-highway Vehicle, One-time 700
Schedule of Programs:
Land and Water Conservation 5,000
Off-highway Vehicle Grants 6,100

Item 267
To Department of Natural Resources - Office of Energy Development
From General Fund 44,300
From General Fund, One-time 2,200
From Income Tax Fund 2,400
From Income Tax Fund, One-time 300
From Federal Funds 78,100
From Federal Funds, One-time 7,000
From Dedicated Credits Revenue 2,700
From Dedicated Credits Revenue, One-time 100
From Expendable Receipts .. 2,300
From Expendable Receipts, One-time 300
From Ut. S. Energy Program Rev. Loan Fund (ARRA) 2,800
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-time 200
Schedule of Programs:
Office of Energy Development 142,700

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 268
To School and Institutional Trust Lands Administration

From Land Grant Management Fund 389,300
From Land Grant Management Fund, One-time 41,300
Schedule of Programs:
Accounting 25,300
Administration 12,600
Auditing 17,700
Board 2,200
Development - Operating 53,200
Director 20,500
External Relations 11,500
Grazing and Forestry 27,300
Information Technology Group 55,600
Legal/Contracts 38,600
Surface 77,000
Archaeology 19,100
Energy and Minerals 70,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 269
To State Board of Education - Child Nutrition Programs
From Federal Funds 155,900
From Federal Funds, One-time 15,600
From Dedicated Credit - Liquor Tax 24,200
From Dedicated Credit - Liquor Tax, One-time 2,400
Schedule of Programs:
Child Nutrition 198,100

Item 270
To State Board of Education - Educator Licensing
From Income Tax Fund 146,400
From Income Tax Fund, One-time 8,800
Schedule of Programs:
Educator Licensing 155,200

Item 271
To State Board of Education - Contracted Initiatives and Grants
From General Fund 10,400
From General Fund, One-time 1,600
From Income Tax Fund 54,700
From Income Tax Fund, One-time 3,000
Schedule of Programs:
Carson Smith Scholarships 8,800
Software Licenses for Early Literacy 6,800
General Financial Literacy 4,800
Intergenerational Poverty Interventions . 5,100
Partnerships for Student Success 8,000
UPSTART 2,500
ULEAD 19,900
Supplemental Educational Improvement Matching Grants 3,200
Competency-Based Education Grants ... 6,600
Special Needs Opportunity Scholarship Administration 4,000

Item 272
To State Board of Education - MSP Categorical Program Administration
From Income Tax Fund 196,900
From Income Tax Fund, One-time 13,300
Schedule of Programs:
Adult Education 12,600
Beverley Taylor Sorenson Elem. Arts Learning Program 14,100
CTE Comprehensive Guidance 7,200
Digital Teaching and Learning 18,700
Dual Immersion 6,400
At-Risk Students 27,800
Special Education State Programs 26,100
Youth-in-Custody 31,400
Early Literacy Program 16,800
State Safety and Support Program 18,000
Student Health and Counseling Support Program 12,700
Early Learning Training and Assessment 8,000
Early Intervention 10,400

Item 273
To State Board of Education - Policy, Communication, & Oversight
From General Fund 900
From General Fund, One-time 100
From Income Tax Fund 155,000
From Income Tax Fund, One-time 9,300
From Federal Funds 140,700
From Federal Funds, One-time 14,100
From General Fund Restricted - Mineral Lease 400
Schedule of Programs:
Policy and Communication 94,500
Student Support Services 177,100
School Turnaround and Leadership Development Act 48,900

Item 274
To State Board of Education - System Standards & Accountability
From Income Tax Fund 323,500
From Income Tax Fund, One-time 20,600
From Federal Funds 670,900
From Federal Funds, One-time 41,400
From Dedicated Credits Revenue 64,000
From Dedicated Credits Revenue, One-time 4,500
From Expendable Receipts .. 4,100
From Expendable Receipts, One-time 300
From General Fund Restricted - Mineral Lease 3,100
From General Fund Restricted - Mineral Lease, One-time 300
Schedule of Programs:
Student Achievement 21,500
Teaching and Learning 258,700
Assessment and Accountability 141,400
Career and Technical Education 165,800
Special Education 398,200
RTC Fees 4,900
Early Literacy Outcomes Improvement 142,200

Item 275
To State Board of Education - State Charter School Board
From Income Tax Fund 69,600
From Income Tax Fund, One-time 4,500
Schedule of Programs:
State Charter School Board & Administration 74,100

Item 276
To State Board of Education - Utah Schools for the Deaf and the Blind
From Income Tax Fund 2,512,600
From Income Tax Fund, One-time 205,900
From Federal Funds 3,100
From Federal Funds, One-time 700
From Dedicated Credits Revenue 89,800
From Dedicated Credits Revenue, One-time 17,100
From Revenue Transfers 180,100
From Revenue Transfers, One-time 42,300
Schedule of Programs:
Administration 1,848,600
Transportation and Support Services .. 461,500
Utah State Instructional Materials Access Center 136,000
School for the Deaf 289,100
School for the Blind 316,400

Item 277
To State Board of Education - Statewide Online Education Program Subsidy
From Income Tax Fund 29,700
From Income Tax Fund, One-time 2,400
Schedule of Programs:
Statewide Online Education Program ... 32,100

Item 278
To State Board of Education - State Board and Administrative Operations
From Income Tax Fund 510,800
From Income Tax Fund, One-time 36,800
From Federal Funds 49,500
From Federal Funds, One-time 3,400
From General Fund Restricted - Mineral Lease 28,600
From General Fund Restricted - Mineral Lease, One-time 1,800
From General Fund Restricted - School Readiness Account 2,600
From General Fund Restricted - School Readiness Account, One-time 100
From Revenue Transfers 275,600
From Revenue Transfers, One-time 17,000
From Uniform School Fund Rest. - Trust Distribution Account 21,100
From Uniform School Fund Rest. - Trust Distribution Account, One-time 600
Schedule of Programs:
Financial Operations 213,600
Information Technology 241,000
Indirect Cost Pool 321,200
Data and Statistics 66,500
School Trust 23,700
Board and Administration 81,900

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 279
To School and Institutional Trust Fund Office
From School and Institutional Trust Fund Management Acct. 101,300
From School and Institutional Trust Fund Management Acct., One-time 4,700
Schedule of Programs:
School and Institutional Trust Fund Office 106,000

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 280
To Capitol Preservation Board
From General Fund 69,800
From General Fund, One-time 6,600
From Dedicated Credits Revenue 2,700
From Dedicated Credits Revenue, One-time 400
Schedule of Programs:
Capitol Preservation Board 79,500

LEGISLATURE

Item 281
To Legislature - Senate
From General Fund 133,400
From General Fund, One-time 1,800
Schedule of Programs:
Administration 135,200

Item 282
To Legislature - House of Representatives
From General Fund 215,300
From General Fund, One-time ..... (1,900)
Schedule of Programs:
Administration 213,400

Item 283
To Legislature - Office of Legislative Research and General Counsel
From General Fund 615,400
From General Fund, One-time 25,000
Schedule of Programs:
Administration 640,400

Item 284
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 229,400
From General Fund, One-time 11,900
Schedule of Programs:
Administration and Research 241,300

Item 285
To Legislature - Office of the Legislative Auditor General

From General Fund 356,600
From General Fund,
One-time 19,100
Schedule of Programs:
Administration 375,700

Item 286
To Legislature - Legislative Services
From General Fund 273,500
From General Fund,
One-time 16,900
From Dedicated Credits
Revenue 1,700
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Administration 83,600
Information Technology 208,600

UTAH NATIONAL GUARD

Item 287
To Utah National Guard
From General Fund 221,000
From General Fund,
One-time 12,500
From Income Tax Fund 300
From Federal Funds 1,315,900
From Federal Funds,
One-time 72,300
From Dedicated Credits
Revenue 900
From Dedicated Credits Revenue,
One-time 100
Schedule of Programs:
Administration 100,500
Operations and Maintenance 1,521,900
Tuition Assistance 600

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 288
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 166,800
From General Fund,
One-time 10,200
From Federal Funds 30,900
From Federal Funds,
One-time 1,700
From Dedicated Credits
Revenue 5,500
From Dedicated Credits Revenue,
One-time 300
Schedule of Programs:
Administration 64,500
Cemetery 40,300
State Approving Agency 12,400
Outreach Services 83,000
Military Affairs 15,200

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 289
To Attorney General - Litigation Fund
From Dedicated Credits
Revenue 20,300
Schedule of Programs:
Litigation Fund 20,300

DEPARTMENT OF PUBLIC SAFETY

Item 290
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits
Revenue 370,300
From Dedicated Credits Revenue,
One-time 22,600
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 392,900

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 291
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits
Revenue 63,200
From Dedicated Credits Revenue,
One-time 6,900
Schedule of Programs:
State Debt Collection Fund 70,100

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 292
To Department of Commerce - Consumer Protection Education and Training Fund
From Licenses/Fees 2,900
From Licenses/Fees,
One-time 700
Schedule of Programs:
Consumer Protection Education and Training Fund 3,600

Item 293
To Department of Commerce - Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees 4,000
From Licenses/Fees,
One-time 700
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 4,700

Item 294
To Department of Commerce - Real Estate Education, Research, and Recovery Fund

From Dedicated Credits
Revenue 15,900
From Dedicated Credits Revenue,
One-time 1,400
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 17,300

Item 295
To Department of Commerce - Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 9,500
From Licenses/Fees,
One-time 600
From Interest Income 400
Schedule of Programs:
RMLERR Fund 10,500

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 296
To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund
From Dedicated Credits
Revenue 6,500
From Dedicated Credits Revenue,
One-time 1,400
Schedule of Programs:
Heritage and Arts Foundation Fund 7,900

PUBLIC SERVICE COMMISSION

Item 297
To Public Service Commission - Universal Public Telecom Service
From Dedicated Credits
Revenue 10,800
From Dedicated Credits Revenue,
One-time 700
Schedule of Programs:
Universal Public Telecommunications Service Support 11,500

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 298
To Department of Agriculture and Food - Salinity Offset Fund
From Revenue Transfers 4,900
From Revenue Transfers,
One-time 700
Schedule of Programs:
Salinity Offset Fund 5,600

DEPARTMENT OF NATURAL RESOURCES

Item 299
To Department of Natural Resources - Outdoor Recreation Infrastructure Account
From Interest Income 400
From Interest Income,
One-time 100
From Designated Sales Tax .. 22,100
From Designated Sales Tax,
One-time 1,300
Schedule of Programs:
Outdoor Recreation Infrastructure Account 23,900

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 300
To Utah National Guard - National Guard MWR Fund
From Dedicated Credits
Revenue 52,500
From Dedicated Credits Revenue,
One-time 2,000
Schedule of Programs:
National Guard MWR Fund 54,500

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 301
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds 45,100
From Federal Funds,
One-time 3,400
Schedule of Programs:
Veterans Nursing Home Fund 48,500

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

UTAH DEPARTMENT OF CORRECTIONS

Item 302
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits
Revenue 441,100
From Dedicated Credits Revenue,
One-time 29,700
Schedule of Programs:
Utah Correctional Industries 470,800

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 303
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management
From Dedicated Credits
Revenue 300,900
Schedule of Programs:

ISF - Facilities Management 300,900

Item 304
To Department of Government Operations - Division of Fleet Operations
From Dedicated Credits
Revenue 43,700
Schedule of Programs:
ISF - Fuel Network 15,200
ISF - Motor Pool 20,300
Transactions Group 8,200

Item 305
To Department of Government Operations - Division of Purchasing and General Services
From Dedicated Credits
Revenue 120,500
Schedule of Programs:
ISF - Central Mailing 32,300
ISF - Cooperative Contracting 75,600
ISF - Federal Surplus Property 300
ISF - Print Services 2,500
ISF - State Surplus Property 9,800

Item 306
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits
Revenue 2,192,300
Schedule of Programs:
ISF - Enterprise Technology Division 2,192,300

Item 307
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund 20,900
From Dedicated Credits
Revenue 287,500
Schedule of Programs:
Administration 146,900
ISF - Core HR Services 1,900
ISF - Field Services 157,300
ISF - Payroll Field Services 2,300

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 308
To Labor Commission - Uninsured Employers Fund
From Dedicated Credits
Revenue 1,500
From Premium Tax
Collections 300
Schedule of Programs:
Uninsured Employers Fund 1,800

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 309
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits
Revenue 65,900
From Dedicated Credits Revenue, One-time 6,400
Schedule of Programs:
Qualified Patient Enterprise Fund 72,300

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 310
To Department of Agriculture and Food - Agriculture Loan Programs
From Agriculture Resource Development Fund 15,200
From Agriculture Resource Development Fund, One-time 1,800
From Utah Rural Rehabilitation Loan State Fund 5,100
From Utah Rural Rehabilitation Loan State Fund, One-time 900
Schedule of Programs:
Agriculture Loan Program 23,000

Item 311
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits
Revenue 113,000
From Dedicated Credits Revenue, One-time 6,600
Schedule of Programs:
Qualified Production Enterprise Fund . 119,600

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 312
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 28,700
From General Fund, One-time 2,300
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 31,000

Item 313
To Colorado River Authority of Utah Restricted Account
From General Fund 36,600
From General Fund, One-time 3,400
Schedule of Programs:
Colorado River Authority Restricted Account 40,000

Subsection 2(e). Fiduciary Funds. The Legislature has reviewed proposed revenues,

expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

STATE TREASURER

Item 314
To State Treasurer - Navajo Trust Fund
From Trust and Agency Funds 76,500
From Trust and Agency Funds, One-time 2,400
Schedule of Programs:
Utah Navajo Trust Fund 78,900

Section 3. Effective Date.
If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 of this bill takes effect on July 1, 2024.

CHAPTER 464
S. B. 13
Passed February 15, 2024
Approved March 20, 2024
Effective May 1, 2024

EDUCATION ENTITY AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill provides a home-based microschool and micro-education entity with certain similar duties, requirements, waivers, and rights as private and charter schools.

Highlighted Provisions:

This bill:

- defines terms;
- requires a county and municipality to consider a home-based microschool and micro-education entity as a permitted use in all zoning districts within a county and municipality;
- identifies the occupancy requirements to which a micro-education entity is subject;
- requires a local school board to excuse a student who attends a home-based microschool or micro-education entity under certain circumstances;
- provides that an instructor of a school-age child who attends a home-based microschool or micro-education entity is solely responsible for instruction, materials, and evaluation;
- prohibits a local school board from requiring a home-based microschool or micro-education entity to provide teaching credentials, submit to inspection, and conduct testing;
- prevents government entities from regulating home-based microschool and micro-education entity food preparation and distribution under certain circumstances;
- requires a home-based microschool and micro-education entity to register as a business;
- exempts a student who attends a home-based microschool or micro-education entity from immunization requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2023, Chapters 16, 327 and 478
10-9a-305, as last amended by Laws of Utah 2023, Chapter 16
10-9a-529, as last amended by Laws of Utah 2023, Chapter 16
17-27a-103, as last amended by Laws of Utah 2023, Chapters 15, 327 and 478
17-27a-305, as last amended by Laws of Utah 2023, Chapter 15
32B-1-102, as last amended by Laws of Utah 2023, Chapters 328, 371 and 400
53G-6-201, as last amended by Laws of Utah 2021, Chapters 113, 261 and 427
53G-6-706, as last amended by Laws of Utah 2019, Chapter 293
53G-9-301, as last amended by Laws of Utah 2023, Chapter 328

ENACTS:

53G-6-212, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A- 7- 601(6); and

(c) determined to be legally referable under Section 20A- 7- 602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7)(a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12)(a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13)(a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100- year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100- year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Home- based microschool" means the same as that term is defined in Section 53G- 6- 201.

[~~(20)~~](21) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

[~~(21)~~](22) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

[~~(22)~~](23) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(23)~~](24) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(24)~~](25) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(25)~~](26) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one- year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

[~~(26)~~](27) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(27)~~](28) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b)(i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(28)~~](29) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(29)~~](30) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(30)~~](31) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(31)~~](32) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application.

[~~(32)~~](33) "Land use permit" means a permit issued by a land use authority.

[~~(33)~~](34) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(34)~~](35) "Legislative body" means the municipal council.

[~~(35)~~](36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

[~~(36)~~](37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(37)~~](38)(a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(38)~~](39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(39)~~](41) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

[~~(40)~~](42) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e)(i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

[~~(41)~~](43) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(42)~~](44) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[~~(43)~~](45) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(44)~~](46) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

[~~(45)~~](47) "Parcel" means any real property that is not a lot.

[~~(46)~~](48)(a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(47)~~](49) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(48)~~](50) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

[~~(49)~~](51) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

[~~(50)~~](52) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(51)~~](53) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(52)~~](54) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

[~~(53)~~](55) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(54)~~](56) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(55)~~](57) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(56)~~](58) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(57)~~](59) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(58)~~](60) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(59)~~](61) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(60)~~](62) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(61)~~](63) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(62)~~](64) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(63)~~](65) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(64)~~](66) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(65)~~](67) "State" includes any department, division, or agency of the state.

[~~(66)~~](68)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(65)(c)~~](68)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

[~~(67)~~](69)(a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(68)~~](70) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(69)~~](71) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(70)~~](72) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(71)~~](73) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(72)~~](74) "Unincorporated" means the area outside of the incorporated area of a city or town.

[~~(73)~~](75) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(74)~~](76) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-305 is amended to read:

10-9a-305. Other entities required to conform to municipality's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1)(a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any municipality when installing, constructing, operating, or otherwise using any area, land, or building situated within that municipality.

(b) In addition to any other remedies provided by law, when a municipality's land use ordinance is violated or about to be violated by another political subdivision, that municipality may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2)(a) Except as provided in Subsection (3), a school district or charter school is subject to a municipality's land use ordinances.

(b)(i) Notwithstanding Subsection (3), a municipality may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a municipality may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a municipality may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A municipality may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the municipality in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a municipality may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6)(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a municipal building inspector;

(ii)(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is[~~:~~]

[~~(A)~~] not an employee of the contractor[~~; (B)~~] , licensed to perform the inspection that the inspector is requested to perform, and approved by[~~:~~]

[~~(I)~~] a municipal building inspector[~~;~~] or:

[~~(II)~~](A)[~~(Aa)~~] for a school district, a school district building inspector from that school district; or

[~~(C) licensed to perform the inspection that the inspector is requested to perform.~~]

[~~(Bb)~~](B) for a charter school, a school district building inspector from the school district in which the charter school is located[~~; and~~].

(b) The approval under Subsection [~~(6)(a)(iii)(B)~~](6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and municipal building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7)(a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a municipality.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or a micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the municipality.

(d) If a municipality has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or a micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e)(i) A school district[~~ or a~~], charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district or charter school used an independent building inspector for inspection of the school building; or

(B) a municipal official with authority to issue the certificate, if the school district[~~ or~~], charter school, or micro-education entity used a municipal building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any municipal requirement for an inspection or a certificate of occupancy.

(f)(i) A micro-education entity may operate in a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

(A) may have up to 100 students in the facility; and

(B) shall have enough space for at least 20 net square feet per student.

(g) A micro-education entity may operate in a facility that is subject to and complies with the same occupancy requirements as a Class B Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii)(A) each classroom in the facility has an exit directly to the outside at the level of exit or discharge; or

(B) the structure has a code compliant fire sprinkler system;

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet; and

(iv) the facility has enough space for at least 20 net square feet per student.

(h)(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling, except that the home-based microschool shall have enough space for at least 35 net square feet per student.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated by Section 15A-1-210.

(8)(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 10-9a-510;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 10-9a-304; or

(b) authorize a municipality to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with municipal zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting municipal ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

Section 3. Section 10-9a-529 is amended to read:

10-9a-529. Specified public utility located in a municipal utility easement.

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsections [~~10-9a-103(40)(a) through (e)~~]10-9a-103(42)(a) through (e).

Section 4. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, special district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential

property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7)(a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d)(i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14)(a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15)(a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Home-based microschool" means the same as that term is defined in Section 53G-6-201.

[~~(22)~~](23) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[~~(23)~~](24) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

[~~(24)~~](25) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

[~~(25)~~](26) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

[~~(26)~~](27) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

[~~(27)~~](28) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

[~~(28)~~](29) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

[~~(29)~~](30) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b)(i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[~~(30)~~](31) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(31)~~](32) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

[~~(32)~~](33) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

[~~(33)~~](34) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

[~~(34)~~](35) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

[~~(35)~~](36) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

[~~(36)~~](37) "Land use permit" means a permit issued by a land use authority.

[~~(37)~~](38) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

[~~(38)~~](39) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

[~~(39)~~](40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

[~~(40)~~](41)(a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision or a subdivision amendment.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(41)~~](42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Micro-education entity" means the same as that term is defined in Section 53G-6-201.

[~~(42)~~](44) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

[~~(43)~~](45) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

[~~(44)~~](46) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[~~(45)~~](47) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[~~(46)~~](48) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[~~(47)~~](49) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

[~~(48)~~](50) "Parcel" means any real property that is not a lot.

[~~(49)~~](51)(a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

[~~(50)~~](52) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[~~(51)~~](53) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

[~~(52)~~](54) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

[~~(53)~~](55) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

[~~(54)~~](56) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[~~(55)~~](57) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, special district, special service district, or other political subdivision of the state; or

(d) a charter school.

[~~(56)~~](58) "Public hearing" means a hearing at which members of the public are provided a

reasonable opportunity to comment on the subject of the hearing.

[~~(57)~~](59) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

[~~(58)~~](60) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

[~~(59)~~](61) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

[~~(60)~~](62) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

[~~(61)~~](63) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) which is licensed or certified by the Department of Health and Human Services under:

(i) Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities; or

(ii) Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

[~~(62)~~](64) "Residential roadway" means a public local residential road that:

(a) will serve primarily to provide access to adjacent primarily residential areas and property;

(b) is designed to accommodate minimal traffic volumes or vehicular traffic;

(c) is not identified as a supplementary to a collector or other higher system classified street in an approved municipal street or transportation master plan;

(d) has a posted speed limit of 25 miles per hour or less;

(e) does not have higher traffic volumes resulting from connecting previously separated areas of the municipal road network;

(f) cannot have a primary access, but can have a secondary access, and does not abut lots intended for high volume traffic or community centers, including schools, recreation centers, sports complexes, or libraries; and

(g) primarily serves traffic within a neighborhood or limited residential area and is not necessarily continuous through several residential areas.

[~~(63)~~](65) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

[~~(64)~~](66) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[~~(65)~~](67) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

[~~(66)~~](68) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

[~~(67)~~](69)(a) "Special district" means an entity under Title 17B, Limited Purpose Local Government Entities - Special Districts.

(b) "Special district" includes a governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

[~~(68)~~](70) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

[~~(69)~~](71) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[~~(70)~~](72) "State" includes any department, division, or agency of the state.

[~~(71)~~](73)(a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection [~~(70)(c)~~](73)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

[~~(72)~~](74)(a) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(i) vacates all or a portion of the subdivision;

(ii) alters the outside boundary of the subdivision;

(iii) changes the number of lots within the subdivision;

(iv) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(v) alters a common area or other common amenity within the subdivision.

(b) "Subdivision amendment" does not include a lot line adjustment, between a single lot and an adjoining lot or parcel, that alters the outside boundary of the subdivision.

[~~(73)~~](75) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

[~~(74)~~](76) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

[~~(75)~~](77) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[~~(76)~~](78) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

[~~(77)~~](79) "Unincorporated" means the area outside of the incorporated area of a municipality.

[~~(78)~~](80) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

[~~(79)~~](81) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 5. Section 17-27a-305 is amended to read:

17-27a-305. Other entities required to conform to county's land use ordinances -- Exceptions -- School districts, charter schools, home-based microschools, and micro-education entities -- Submission of development plan and schedule.

(1)(a) Each county, municipality, school district, charter school, special district, special service district, and political subdivision of the state shall conform to any applicable land use ordinance of any county when installing, constructing, operating, or otherwise using any area, land, or building situated within a mountainous planning district or the unincorporated portion of the county, as applicable.

(b) In addition to any other remedies provided by law, when a county's land use ordinance is violated or about to be violated by another political subdivision, that county may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the improper installation, improvement, or use.

(2)(a) Except as provided in Subsection (3), a school district or charter school is subject to a county's land use ordinances.

(b)(i) Notwithstanding Subsection (3), a county may:

(A) subject a charter school to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(B) impose regulations upon the location of a project that are necessary to avoid unreasonable risks to health or safety, as provided in Subsection (3)(f).

(ii) The standards to which a county may subject a charter school under Subsection (2)(b)(i) shall be objective standards only and may not be subjective.

(iii) Except as provided in Subsection (7)(d), the only basis upon which a county may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under Subsection (2)(b)(i).

(iv) Nothing in Subsection (2)(b)(iii) may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.

(3) A county may not:

(a) impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, county building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;

(b) except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of school children and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;

(c) require a district or charter school to pay fees not authorized by this section;

(d) provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;

(e) require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in Title 11, Chapter 36a, Impact Fees Act;

(f) impose regulations upon the location of an educational facility except as necessary to avoid unreasonable risks to health or safety; or

(g) for a land use or a structure owned or operated by a school district or charter school that is not an educational facility but is used in support of providing instruction to pupils, impose a regulation that:

(i) is not imposed on a similar land use or structure in the zone in which the land use or structure is approved; or

(ii) uses the tax exempt status of the school district or charter school as criteria for prohibiting or regulating the land use or location of the structure.

(4) Subject to Section 53E-3-710, a school district or charter school shall coordinate the siting of a new school with the county in which the school is to be located, to:

(a) avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and

(b) maximize school, student, and site safety.

(5) Notwithstanding Subsection (3)(d), a county may, at its discretion:

(a) provide a walk-through of school construction at no cost and at a time convenient to the district or charter school; and

(b) provide recommendations based upon the walk-through.

(6)(a) Notwithstanding Subsection (3)(d), a school district or charter school shall use:

(i) a county building inspector;

(ii)(A) for a school district, a school district building inspector from that school district; or

(B) for a charter school, a school district building inspector from the school district in which the charter school is located; or

(iii) an independent, certified building inspector who is[~~:~~]

[~~(A)~~] not an employee of the contractor[~~; (B)~~], licensed to perform the inspection that the inspector is requested to perform, and approved by[~~:~~]

[~~(I)~~] a county building inspector[~~;~~] or:

[~~(II)~~](A)[~~(Aa)~~] for a school district, a school district building inspector from that school district; or

[~~(C) licensed to perform the inspection that the inspector is requested to perform.~~]

[~~(Bb)~~](B) for a charter school, a school district building inspector from the school district in which the charter school is located[~~; and~~].

(b) The approval under Subsection [~~(6)(a)(iii)(B)~~](6)(a)(iii) may not be unreasonably withheld.

(c) If a school district or charter school uses a school district or independent building inspector under Subsection (6)(a)(ii) or (iii), the school district or charter school shall submit to the state superintendent of public instruction and county building official, on a monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

(7)(a) A charter school, home-based microschool, or micro-education entity shall be considered a permitted use in all zoning districts within a county.

(b) Each land use application for any approval required for a charter school, home-based microschool, or micro-education entity, including an application for a building permit, shall be processed on a first priority basis.

(c) Parking requirements for a charter school or micro-education entity may not exceed the minimum parking requirements for schools or other institutional public uses throughout the county.

(d) If a county has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school or micro-education entity may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school or micro-education entity provides a waiver.

(e)(i) A school district [~~or a~~], charter school, or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from:

(A) the state superintendent of public instruction, as provided in Subsection 53E-3-706(3), if the school district[~~—or~~], charter school, or micro-education entity used an independent building inspector for inspection of the school building; or

(B) a county official with authority to issue the certificate, if the school district[~~ or~~], charter school, or micro-education entity used a county building inspector for inspection of the school building.

(ii) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of Subsection 53E-3-706(3)(a)(ii).

(iii) A charter school or micro-education entity may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school or micro-education entity used a school district building inspector for inspection of the school building.

(iv) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under Subsection 53E-3-706(3) or a school district official with authority to issue the certificate shall be considered to satisfy any county requirement for an inspection or a certificate of occupancy.

(f)(i) A micro-education entity may operate a facility that meets Group E Occupancy requirements as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a).

(ii) A micro-education entity operating in a facility described in Subsection (7)(f)(i):

(A) may have up to 100 students in the facility; and

(B) shall have enough space for at least 20 net square feet per student;

(g) A micro-education entity may operate a facility that is subject to and complies with the same occupancy requirements as a Class B Occupancy as defined by the International Building Code, as incorporated by Subsection 15A-2-103(1)(a), if:

(i) the facility has a code compliant fire alarm system and carbon monoxide detection system;

(ii)(A) each classroom in the facility has an exit directly to the outside at the level of exit discharge; or

(B) the structure has a code compliant fire sprinkler system;

(iii) the facility has an automatic fire sprinkler system in fire areas of the facility that are greater than 12,000 square feet; and

(iv) the facility has enough space for at least 20 net square feet per student.

(h)(i) A home-based microschool is not subject to additional occupancy requirements beyond occupancy requirements that apply to a primary dwelling, except that the home-based microschool shall have enough space for at least 35 square feet per student.

(ii) If a floor that is below grade in a home-based microschool is used for home-based microschool purposes, the below grade floor of the home-based microschool shall have at least one emergency escape or rescue window that complies with the requirements for emergency escape and rescue windows as defined by the International Residential Code, as incorporated in Section 15A-1-210.

(8)(a) A specified public agency intending to develop its land shall submit to the land use authority a development plan and schedule:

(i) as early as practicable in the development process, but no later than the commencement of construction; and

(ii) with sufficient detail to enable the land use authority to assess:

(A) the specified public agency's compliance with applicable land use ordinances;

(B) the demand for public facilities listed in Subsections 11-36a-102(17)(a), (b), (c), (d), (e), and (g) caused by the development;

(C) the amount of any applicable fee described in Section 17-27a-509;

(D) any credit against an impact fee; and

(E) the potential for waiving an impact fee.

(b) The land use authority shall respond to a specified public agency's submission under Subsection (8)(a) with reasonable promptness in order to allow the specified public agency to consider information the municipality provides under Subsection (8)(a)(ii) in the process of preparing the budget for the development.

(9) Nothing in this section may be construed to:

(a) modify or supersede Section 17-27a-304; or

(b) authorize a county to enforce an ordinance in a way, or enact an ordinance, that fails to comply with Title 57, Chapter 21, Utah Fair Housing Act, the federal Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq., the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or any other provision of federal law.

(10) Nothing in Subsection (7) prevents a political subdivision from:

(a) requiring a home-based microschool or micro-education entity to comply with local zoning and land use regulations that do not conflict with this section, including:

(i) parking;

(ii) traffic; and

(iii) hours of operation;

(b) requiring a home-based microschool or micro-education entity to obtain a business license;

(c) enacting county ordinances and regulations consistent with this section;

(d) subjecting a micro-education entity to standards within each zone pertaining to setback, height, bulk and massing regulations, off-site parking, curb cut, traffic circulation, and construction staging; and

(e) imposing regulations on the location of a project that are necessary to avoid risks to health or safety.

(11) Notwithstanding any other provision of law, the proximity restrictions that apply to community locations do not apply to a micro-education entity.

Section 6. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport or domestic airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4)(a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 26B-5-205.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility;

(vi) an arena; or

(vii) a restaurant venue;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9)(a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(10) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(11)(a) "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume; and

(B) no more than 5% of alcohol by volume or 4% by weight;

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may contain:

(i) hops extract;

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient; or

(iii) a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that:

(A) is used in the production of beer;

(B) is in a formula approved by the federal Alcohol and Tobacco Tax and Trade Bureau after the formula is filed for approval under 27 C.F.R. Sec. 25.55; and

(C) does not contribute more than 10% of the overall alcohol content of the beer.

(c) "Beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsection (11)(b)(iii), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(12) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(13) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(14) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(15) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(16) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(17) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(18) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(19) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(20) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(21) "Commission" means the Alcoholic Beverage Services Commission created in Section 32B-2-201.

(22) "Commissioner" means a member of the commission.

(23) "Community location" means:

(a) a public or private school as defined in Subsection 32B-1-102(115);

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(24) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(25) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(26) "Controlled group of manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(27) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(28)(a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(29) "Crime involving moral turpitude" is as defined by the commission by rule.

(30) "Department" means the Department of Alcoholic Beverage Services created in Section 32B-2-203.

(31) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(32) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(33) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(34) "Director," unless the context requires otherwise, means the director of the department.

(35) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(36)(a) Subject to Subsection (36)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (36) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(37) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(38) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(39) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(40) "Domestic airport" means an airport that:

(a) has at least 15,000 commercial airline passenger boardings in any five-year period;

(b) receives scheduled commercial passenger aircraft service; and

(c) is not an international airport.

(41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44)(a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

(b) "Flavored malt beverage" may contain a propylene glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the beverage.

(c) "Flavored malt beverage" does not include beer or heavy beer.

(d) "Flavored malt beverage" is considered liquor for purposes of this title.

(45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(47)(a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51)(a) "Heavy beer" means a product that:

(i)(A) contains more than 5% alcohol by volume;

(B) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes more than 10% of the overall alcohol content of the product; or

(C) contains at least .5% of alcohol by volume and no more than 5% of alcohol by volume or 4% by weight, and has a label or packaging that is rejected under Subsection 32B-1-606(3)(b); and

(ii) is obtained by fermentation, infusion, or decoction of:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" may, if the heavy beer contains more than 5% alcohol by volume, contain a propolyne glycol-, ethyl alcohol-, or ethanol-based flavoring agent that contributes to the overall alcohol content of the heavy beer.

(c) "Heavy beer" does not include:

(i) a flavored malt beverage;

(ii) a product that contains alcohol derived from:

(A) except as provided in Subsections (51)(a)(i)(B) and (51)(b), spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(d) "Heavy beer" is considered liquor for the purposes of this title.

(52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(53)(a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii)(A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for a banquet and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (53)(a); and

(ii) has one or more privately owned dwelling units.

(54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(60) "Intoxicated" or "intoxication" means that

an individual exhibits plain and easily observable outward manifestations of behavior or physical signs produced by or as a result of the use of:

(a) an alcoholic product;

(b) a controlled substance;

(c) a substance having the property of releasing toxic vapors; or

(d) a combination of products or substances described in Subsections (60)(a) through (c).

(61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License;

(d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

(e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

(f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

(g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(63) "Licensee" means a person who holds a license.

(64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66)(a)(i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B)(I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

(73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

(74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

(75)(a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i)(A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

(76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

(77) "Minor" means an individual under 21 years old.

(78) "Nondepartment enforcement agency" means an agency that:

(a)(i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

(79) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

(80)(a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

(81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-premise Beer Retailer State License.

(82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

(83) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

(84) "Opaque" means impenetrable to sight.

(85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

(86) "Package agent" means a person who holds a package agency.

(87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

(88)(a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

(89) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

(90) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections (90)(a) through (f); or

(ii) a package agent.

(91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

(92) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

(93)(a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

(94) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

(95)(a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

(96) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

(97)(a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued[~~:~~]

[~~(I)~~] under Title 53, Chapter 3, Uniform Driver License Act[~~;~~]

[~~(II)~~] , in accordance with the laws of the state in which it is issued[~~;~~], or

[~~(III)~~] in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

(98) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, Resort Spa Sublicense.

(99)(a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

(100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

(101) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection (101)(a) to a third party for the third party's event.

(102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

(103)(a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

(104) "Residence" means a person's principal place of abode within Utah.

(105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

(106) "Resort" means the same as that term is defined in Section 32B-8-102.

(107) "Resort facility" is as defined by the commission by rule.

(108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Restaurant venue" means a room within a restaurant that:

(a) is located on the licensed premises of a restaurant licensee;

(b) is separated from the area within the restaurant for a patron's consumption of food by a permanent, opaque, floor-to-ceiling wall such that the inside of the room is not visible to a patron in the area within the restaurant for a patron's consumption of food; and

(c)(i) has at least 1,000 square feet that:

(A) may be reserved for a banquet; and

(B) accommodates at least 75 individuals; or

(ii) if the restaurant is located in a small or unincorporated locality, has an appropriate amount of space, as determined by the commission, that may be reserved for a banquet.

(113) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(114) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(115)(a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool;[~~or~~]

(v) a home school[~~.~~];

(vi) a home-based microschool as defined in Section 53G-6-201; or

(vii) a micro-education entity as defined in Section 53G-6-201.

(116) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(117) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(118) "Serve" means to place an alcoholic product before an individual.

(119) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (119)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(120) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(121) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(122) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(123) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(124) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.

(125) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

(126)(a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

(127) "Sports center" is as defined by the commission by rule.

(128)(a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

(129) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

(130) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

(131)(a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

(132)(a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

(133) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a spa sublicense.

(134) "Supplier" means a person who sells an alcoholic product to the department.

(135) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

(136) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

(137) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

(138) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

(139) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b)(i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

(140)(a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

(141) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 7. Section 53G-6-201 is amended to read:

53G-6-201. Definitions.

As used in this part:

(1)(a) "Absence" or "absent" means the failure of a school-age child assigned to a class or class period to attend a class or class period.

(b) "Absence" or "absent" does not mean multiple tardies used to calculate an absence for the sake of a truancy.

(2) "Educational neglect" means the same as that term is defined in Section 80-1-102.

(3)(a) "Home-based microschool" means an individual or association of individuals that:

(i) registers as a business entity in accordance with state and local laws; and

(ii) for compensation, provides kindergarten through grade 12 education services to 16 or fewer students from an individual's residential dwelling, accessory dwelling unit, or residential property.

(b) "Home-based microschool" does not include a daycare.

(4) "Instructor" means an individual who teaches a student as part of a home-based microschool or micro-education entity.

(5)(a) "Micro-education entity" means a person or association of persons that:

(i) registers as a business entity in accordance with state and local laws; and

(ii) for compensation, provides kindergarten through grade 12 education services to 100 students or fewer.

(b) "Micro-education entity" does not include:

(i) a daycare;

(ii) a home-based microschool;

(iii) a private school; or

(iv) a school within the public education system.

[~~(3)~~](6) "Minor" means an individual who is under 18 years old.

[~~(4)~~](7) "Parent" includes:

(a) a custodial parent of the minor;

(b) a legally appointed guardian of a minor; or

(c) any other person purporting to exercise any authority over the minor which could be exercised by a person described in Subsection [~~(4)~~](7)(a) or (b).

[~~(5)~~](8) "School day" means the portion of a day that school is in session in which a school-age child is required to be in school for purposes of receiving instruction.

[~~(6)~~](9) "School year" means the period of time designated by a local school board or charter school governing board as the school year for the school where the school-age child:

(a) is enrolled; or

(b) should be enrolled, if the school-age child is not enrolled in school.

[~~(7)~~](10) "School-age child" means a minor who:

(a) is at least six years old but younger than 18 years old; and

(b) is not emancipated.

[~~(8)~~](11)(a) "Truant" means a condition in which a school-age child, without a valid excuse, and subject to Subsection [~~(8)~~](11)(b), is absent for at least:

(i) half of the school day; or

(ii) if the school-age child is enrolled in a learner verified program, as that term is defined by the state board, the relevant amount of time under the LEA's policy regarding the LEA's continuing enrollment measure as it relates to truancy.

(b) A school-age child may not be considered truant under this part more than one time during one day.

[~~(9)~~](12) "Truant minor" means a school-age child who:

(a) is subject to the requirements of Section 53G-6-202 or 53G-6-203; and

(b) is truant.

[~~(10)~~](13)(a) "Valid excuse" means:

(i) an illness, which may be either mental or physical, regardless of whether the school-age child or parent provides documentation from a medical professional;

(ii) mental or behavioral health of the school-age child;

(iii) a family death;

(iv) an approved school activity;

(v) an absence permitted by a school-age child's:

(A) individualized education program; or

(B) Section 504 accommodation plan;

(vi) an absence permitted in accordance with Subsection 53G-6-803(5); or

(vii) any other excuse established as valid by a local school board, charter school governing board, or school district.

(b) "Valid excuse" does not mean a parent acknowledgment of an absence for a reason other than a reason described in Subsections [~~(10)(a)(i)~~](13)(a)(i) through (vi), unless specifically permitted by the local school board, charter school governing board, or school district under Subsection [~~(10)(a)(vi)~~](13)(a)(vi).

Section 8. Section 53G-6-212 is enacted to read:

53G-6-212. Home-based microschool and micro-education entity waivers and exemptions.

(1) A home-based microschool or micro-education entity:

(a) may form to provide education services to school-age children; and

(b) is not an LEA, a public school, or otherwise a part of the public education system.

(2) A local health department may not require a home-based microschool or micro-education entity to obtain a food establishment permit or undergo an inspection in order to prepare or provide food if staff of the home-based microschool or micro-education entity does not prepare and serve food.

Section 9. Section 53G-6-706 is amended to read:

53G-6-706. Placement of a student of a home school, micro-education entity, or home-based microschool, who transfers to a public school.

(1) For the purposes of this section[~~:~~]

[~~(a) "Home school student" means a student who attends a home school pursuant to Section 53G-6-204.(b) "Parent"~~], "parent" means the same as that term is defined in Section 53G-6-201.

(2) [~~When a home school student transfers from a home school~~]When a home school student, a home-based microschool student, or a micro-education entity student transfers from a home school, a home-based microschool, or a micro-education entity to a public school, the public school shall place the student in the grade levels, classes, or courses that the student's parent and[~~ in consultation with~~] the school administrator determine are appropriate based on the parent's assessment of the student's academic performance.

(3)(a) Within 30 days of [~~a home school~~]the student's placement in a public school grade level, class, or course, either the student's teacher or the student's parent may request a conference to consider changing the student's placement.

(b) If the student's teacher and the student's parent agree on a placement change, the public school shall place the student in the agreed upon grade level, class, or course.

(c) If the student's teacher and the student's parent do not agree on a placement change, the public school shall evaluate the student's subject matter mastery in accordance with Subsection (3)(d).

(d) The student's parent has the option of:

(i) allowing the public school to administer, to the student, assessments that are:

(A) regularly administered to public school students; and

(B) used to measure public school students' subject matter mastery and determine placement; or

(ii) having a private entity or individual administer assessments of subject matter mastery to the student at the parent's expense.

(e) After an evaluation of a student's subject matter mastery, a public school may change [~~a~~]the student's placement in a grade level, class, or course.

(4) [~~This~~]In accordance with Section 53G-6-702, this section does not apply to a student who is dual enrolled in a public school and a[~~home school pursuant to Section 53G-6-702.~~]:

(a) home school;

(b) home-based microschool; or

(c) micro-education entity.

Section 10. Section 53G-9-301 is amended to read:

53G-9-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

(i) a licensed health care provider;

(ii) an authorized representative of a local health department;

(iii) an authorized representative of the department;

(iv) a registered nurse; or

(v) a pharmacist;

(b) information regarding each disease against which the student has been immunized by previously contracting the disease; and

(c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.

(6) "Legally responsible individual" means:

(a) a student's parent;

(b) the student's legal guardian;

(c) an adult brother or sister of a student who has no legal guardian; or

(d) the student, if the student:

(i) is an adult; or

(ii) is a minor who may consent to treatment under Section 26B-4-321.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

(a) a medical doctor;

(b) an osteopathic doctor;

(c) a physician assistant; or

(d) an advanced practice registered nurse.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.

(10)(a) "School" means any public or private:

[~~(a)~~](i) elementary or secondary school through grade 12;

[~~(b)~~](ii) preschool;

[~~(c)~~](iii) child care program, as that term is defined in Section 26B-2-401;

[~~(d)~~](iv) nursery school; or

[~~(e)~~](v) kindergarten.

(b) "School" does not include a:

(i) home school;

(ii) home-based microschool; or

(iii) micro-education entity.

(11) "Student" means an individual who attends a school.

(12) "Vaccinating" or "vaccination" means the administration of a vaccine.

(13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 465
S. B. 37
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

ELECTION LAW REVISIONS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions in the Election Code and related provisions.

Highlighted Provisions:

This bill:

- permits the board of a special district to submit an application to the lieutenant governor requesting permission to hold elections for membership on the board at a municipal general election instead of a regular general election, or vice versa;
- to compensate for a change in the election year, permits the lieutenant governor to shorten the term of office of a special district board member by one year if:
  - shortening the board member's term of office is necessary to have approximately half of the board members' terms expire every two years; and
  - the board members unanimously support the application to change the election for the board;
- directs the lieutenant governor to make an electronic compilation of the Election Code and transmit the compilation to each county clerk;
- provides that, in conducting a ballot reconciliation, an election officer must ensure that the sum of the number of ballots tabulated and the number of uncounted verified ballots equals the number of voters given credit for voting;
- clarifies that the board of trustees or the administrative control board of a special district is the board of canvassers for a special district election;
- specifies that a ballot for a municipal primary election must instruct a voter to mark the space adjacent to the name of the candidate for whom the voter votes;
- modifies provisions relating to a ballot title for, and analysis of, a proposed constitutional amendment or another question submitted to the voters by the Legislature;
- requires the sponsors of a statewide initiative to submit certain information to the lieutenant governor on the day on which the sponsors submit the last initiative packet to the county clerk;
- requires a filing officer to inform an individual who files a declaration of candidacy that the individual must provide an actively-monitored email address for certain election-related communications;
- provides that the email address described above is not a record for purposes of the Government Records Access and Management Act;
- requires an election officer to, based on when a candidate withdraws, email notice of the withdrawal to voters;
- permits a government agency to release an at-risk government employee's voter registration record, subject to the same requirements imposed on a county clerk for releasing the voter registration record of a protected individual; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-303, as last amended by Laws of Utah 2023, Chapter 15
17B-1-306, as last amended by Laws of Utah 2023, Chapters 15, 435
20A-1-305, as enacted by Laws of Utah 1993, Chapter 1
20A-4-109, as enacted by Laws of Utah 2023, Chapter 297
20A-4-301, as last amended by Laws of Utah 2023, Chapter 15
20A-6-401, as last amended by Laws of Utah 2023, Chapter 45
20A-7-101, as last amended by Laws of Utah 2023, Chapters 107, 116
20A-7-103, as last amended by Laws of Utah 2023, Chapter 435
20A-7-105, as enacted by Laws of Utah 2023, Chapter 116
20A-7-702, as last amended by Laws of Utah 2023, Chapter 107
20A-7-703, as last amended by Laws of Utah 2020, Chapter 277
20A-9-201, as last amended by Laws of Utah 2022, Chapters 13, 18
20A-9-203, as last amended by Laws of Utah 2023, Chapters 116, 435
20A-9-207, as enacted by Laws of Utah 2023, Chapter 45
20A-9-601, as last amended by Laws of Utah 2019, Chapters 142, 255 and 279
63G-2-103, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516
63G-2-303, as last amended by Laws of Utah 2019, Chapter 402

ENACTS:

20A-7-703.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1)(a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created special district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2)(a)(i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created special district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3)(a)(i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the special district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the special district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5)(a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6)(a) As used in this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a special district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7)(a) A member of a board of trustees shall obtain a fidelity bond or obtain theft or crime insurance for

the faithful performance of the member's duties, in the amount and with the sureties or with an insurance company that the board of trustees prescribes.

(b) The special district:

(i) may assist the board of trustees in obtaining a fidelity bond or obtaining theft or crime insurance as a group or for members individually; and

(ii) shall pay the cost of each fidelity bond or insurance coverage required under this Subsection (7).

(8)(a) [~~The lieutenant governor may extend the term of an elected district board member by one year in~~]In order to compensate for a change in the election year under Subsection 17B-1-306(14)[~~.~~], the lieutenant governor may:

(i) extend the term of an elected district board member by one year; or

(ii) subject to Subsection 17B-1-306(14)(b)(iii), and in accordance with Subsection (2)(a), shorten the term of an elected district board member by one year, if necessary, to ensure that the term of approximately half of the board members expires every two years.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9)(a) A special district shall:

(i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the special district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the special district.

Section 2. Section 17B-1-306 is amended to read:

17B-1-306. Special district board -- Election procedures -- Notice.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2)(a) Each election of a special district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the special district board in consultation with the county clerk for each county in which the special district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The special district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c)(i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each special district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the special district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the special district shall publish the notice described in Subsection (3) for the special district, as a class A notice under Section 63G-30-102, for at least 10 days before the first day for filing a declaration of candidacy.

(5)(a) Except as provided in Subsection (5)(c), to become a candidate for an elective special district board position, an individual shall file a declaration of candidacy in person with an official designated by the special district within the candidate filing period for the applicable election year in which the election for the special district board is held and:

(i) during the special district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a special district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the special district

during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the special district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the special district; and

(iii) the individual communicates with the official designated by the special district using an electronic device that allows the individual and official to see and hear each other.

(d)(i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) _____, being first duly sworn, say that I reside at (Street) _____, City of _____, County of _____, state of Utah, (Zip Code) _____, (Telephone Number, if any)_____; that I meet the qualifications for the office of board of trustees member for _____ (state the name of the special district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed) _____

Subscribed and sworn to (or affirmed) before me by _____ on this _____ day of _____, ____.

(Signed) _____

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective special district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6)(a) A primary election may be held if:

(i) the election is authorized by the special district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7)(a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the special district clerk shall certify the candidate names to the clerk of each county in which the special district is located.

(b)(i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the special district is located and the special district clerk shall coordinate the placement of the name of each candidate for special district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the special district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the special district board of trustees, in consultation with the county clerk, shall provide for a separate special district election ballot to be administered by poll workers at polling places designated under Subsection (2).

(c)(i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii)(A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8)(a) Each voter at an election for a board of trustees member of a special district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic special district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of special district board members is governed by Title 20A, Election Code.

(10)(a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a special district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11)(a) Except as provided in Subsection (11)(b), each special district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that special district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14)(a) As used in this Subsection (14), "board" means:

(i) a special district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) [~~A board may~~]If a board desires to hold elections for membership on the board at a regular general election instead of a municipal general election [~~if the board submits~~], or at a municipal general election instead of a regular general election, the board may submit an application to the lieutenant governor that:

(i) requests permission to [~~hold elections for membership on the board at a regular general election instead of a municipal general election; and~~]change the election year for membership on the board in a manner described in this Subsection (14)(b);

(ii) indicates that [~~holding elections at the time of the regular general election~~]a change in the election year is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason[~~.~~]; and

(iii) if a change in the election year may result in shortening a board member's term of office, indicates that the members of the board unanimously support the lieutenant governor taking that action.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the [~~application~~]if:

(i) [~~–~~]the lieutenant governor concludes that [~~holding the elections at the regular general election~~]changing the election year is beneficial based on the criteria described in Subsection [~~(14)(b)(ii).~~](14)(b)(ii); and

(ii) for an application that may result in shortening a board member's term of office, the application satisfies the unanimity requirement described in Subsection (14)(b)(iii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the [~~regular~~]general election specified in the application; and

(ii) the board may not hold elections at the time of [~~a municipal general election~~]an election other than the general election specified in the application, unless the board receives permission from the lieutenant governor to [~~hold all future elections for membership on the board at a municipal general election instead of a regular general election,~~]change the election under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15)(a) This Subsection (15) applies to a special district if:

(i) the special district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the special district was created before January 1, 2020.

(b) The board of a special district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the special district board, subject to Subsection (15)(d).

(d)(i) The special district board shall provide to property owners eligible to vote at the special district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii)(A) The special district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii)(A) After the deadline for submitting nomination forms, the special district board shall provide a ballot to all property owners eligible to vote at the special district election.

(B) A special district board shall allow at least five days for ballots to be returned.

(iv) A special district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 3. Section 20A-1-305 is amended to read:

20A-1-305. Compilation and distribution of election laws.

(1) The lieutenant governor shall:

(a) [~~publish a sufficient number of copies of~~]make an electronic compilation of Title 20A, Election Code, and any other provisions of law that govern elections; and

(b) [~~transmit copies~~]transmit an electronic copy of the compilation to each county clerk.

(2) Each county clerk shall[~~:~~] furnish each election officer in the county with a copy of the compilation described in Subsection (1)(a).

[~~(a) inform the lieutenant governor of the number of copies needed; and~~]

[~~(b) furnish each election officer in the county with one copy.~~]

Section 4. Section 20A-4-109 is amended to read:

20A-4-109. Ballot reconciliation - - Rulemaking authority.

(1) In accordance with this section and rules made under Subsection (2), an election officer whose office processes ballots shall:

(a) conduct ballot reconciliations every time ballots are tabulated;

(b) conduct a final ballot reconciliation when an election officer concludes processing all ballots;

(c) document each ballot reconciliation;

(d) publicly release the results of each ballot reconciliation; and

(e) in conducting ballot reconciliations:

(i) ensure that the [~~number of ballots received for processing, the number of ballots processed, and~~]sum of the number of uncounted verified ballots and the number of ballots tabulated is equal to the number of voters given credit for voting[~~, are equal~~]; or

(ii) if the [~~numbers~~]sum described in Subsection (1)(e)(i) [~~are~~]is not equal to the number of voters given credit for voting, account for and explain the differences in the numbers.

(2) The director of elections within the Office of the Lieutenant Governor may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and requirements for conducting, documenting, and publishing a ballot reconciliation.

Section 5. Section 20A-4-301 is amended to read:

20A-4-301. Board of canvassers.

(1)(a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each special district whose election is conducted by the county if:

(A) the election relates to the creation of the special district;

(B) the county legislative body serves as the governing body of the special district; or

(C) there is no duly constituted governing body of the special district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2)(a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3)(a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

(4)(a) If a board of trustees or an administrative control board is the governing body of a special district, the board of trustees or the administrative control board is the board of special district canvassers for the special district.

(b) The board of special district canvassers shall meet to canvass the returns at the usual place of meeting for the board of trustees or the administrative control board, as applicable, at a date and time determined by the special district clerk that is no sooner than seven days after the day of the election and no later than 14 days after the day of the election.

(c) Attendance of a simple majority of the board of trustees or the administrative control board is a quorum for conducting the canvass.

Section 6. Section 20A-6-401 is amended to read:

20A-6-401. Ballots for municipal primary elections.

(1) Each election officer shall ensure that:

(a) the following endorsements are printed in 18 point bold type:

(i) "Official Primary Ballot for ____ (City, Town, or Metro Township), Utah";

(ii) the date of the election; and

(iii) a facsimile of the signature of the election officer and the election officer's title in eight point type;

(b) immediately below the election officer's title, two one-point parallel horizontal rules separate endorsements from the rest of the ballot;

(c) immediately below the horizontal rules, an "Instructions to Voters" section is printed in 10 point bold type that states: "To vote for a candidate, mark the space [~~following~~]adjacent to the name(s) of the person(s) you favor as the candidate(s) for each respective office." followed by two one-point parallel rules;

(d) after the rules, the designation of the office for which the candidates seek nomination is printed and the words, "Vote for one" or "Vote for up to _____ (the number of candidates for which the voter may vote)" are printed in 10-point bold type, followed by a hair-line rule;

(e) after the hair-line rule, the names of the candidates are printed in heavy face type between lines or rules three-eighths inch apart, in the order specified under Section 20A-6-305 with surnames last and grouped according to the office that they seek;

(f) a square with sides not less than one-fourth inch long is printed immediately adjacent to the names of the candidates; and

(g) the candidate groups are separated from each other by one light and one heavy line or rule.

(2) A municipal primary ballot may not contain any space for write-in votes.

Section 7. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (2)(a) for the county in which the metro township is located.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact statement" means

a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

(11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

(15)(a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(21)(a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(22) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(27) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(28) "Presiding officers" means the president of the Senate and the speaker of the House of Representatives.

[~~(28)~~](29) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

[~~(29)~~](30) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

[~~(30)~~](31) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

[~~(31)~~](32) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

[~~(32)~~](33) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

[~~(33)~~](34) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual

referendum process to collect signatures in support of an initiative or referendum.

[~~(34)~~](35) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

[~~(35)~~](36) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

[~~(36)~~](37)(a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

[~~(37)~~](38) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

[~~(38)~~](39) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

[~~(39)~~](40) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 8. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed constitutional amendment or other question to the voters.

(2) The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute for the state, as a class A notice under Section 63G-30-102, through the date of the election.

(3) The [~~legislative general counsel~~]presiding officers shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign [~~it a letter according to~~]a letter to the constitutional amendment in accordance with the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that:

(i) summarizes the subject matter of the amendment or question; and

(ii) for a proposed constitutional amendment, summarizes any legislation that is enacted and will become effective upon the voters' adoption of the proposed constitutional amendment; and

(d) deliver each letter or number and ballot title to the lieutenant governor.

(4) The lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that the letter or number and the ballot title of each amendment and question prepared in accordance with this section are included in the sample ballots and official ballots; and

(b) publish the sample ballots and official ballots as provided by law.

Section 9. Section 20A-7-105 is amended to read:

20A-7-105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3)(a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4)(a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5)(a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 40 days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) [~~When the sponsors submit the last initiative packet to the county clerk, the sponsors shall submit to the county clerk:~~]For a statewide initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the county clerk, submit to the lieutenant governor:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-105(5)(c).

_____

(Name) (Residence Address) (Date)".

(e) For a local initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the local clerk, submit to the local clerk the items described in Subsection (5)(d).

[~~(e)~~](f) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c) [~~or~~], (d), or (e).

(6)(a) Within 21 days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8)(a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the application is filed; or

(iv)(A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A statement described in this Subsection (8) shall comply with the requirements described in Subsection 20A-1-1003(2).

(f) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

(g) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9)(a) If the county clerk timely receives a statement requesting signature removal under

Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 10. Section 20A-7-702 is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents.

The voter information pamphlet shall contain the following items in this order:

(1) a cover title page;

(2) an introduction to the pamphlet by the lieutenant governor;

(3) a table of contents;

(4) a list of all candidates for constitutional offices;

(5) a list of candidates for each legislative district;

(6) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;

(7) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

(a) a copy of the number and ballot title of the measure;

(b) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

(c)(i) for a measure other than a measure described in Section 20A-7-103, the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel; or

(ii) for a measure described in Section 20A-7-103, the analysis of the measure prepared by the presiding officers;

(d) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

(e) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

(f) for each initiative qualified for the ballot:

(i) a copy of the initiative as certified by the lieutenant governor and a copy of the initial fiscal impact statement prepared according to Section 20A-7-202.5; and

(ii) if the initiative proposes a tax increase, the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(g) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

(8) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

(a) a description of the judicial selection process;

(b) a description of the judicial performance evaluation process;

(c) a description of the judicial retention election process;

(d) a list of the criteria of the judicial performance evaluation and the certification standards;

(e) the names of the judges standing for retention election; and

(f) for each judge:

(i) a list of the counties in which the judge is subject to retention election;

(ii) a short biography of professional qualifications and a recent photograph;

(iii) a narrative concerning the judge's performance;

(iv) for each certification standard under Section 78A-12-205, a statement identifying whether, under Section 78A-12-205, the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

(v) a statement that the Judicial Performance Evaluation Commission:

(A) has determined that the judge meets or exceeds minimum performance standards;

(B) has determined that the judge does not meet or exceed minimum performance standards; or

(C) has not made a determination regarding whether the judge meets or exceeds minimum performance standards;

(vi) any statement, described in Subsection 78A-12-206(3)(b), provided by a judge whom the Judicial Performance Evaluation Commission determines does not meet or exceed minimum performance standards;

(vii) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

(viii) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;

(9) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge's current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

(10) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

(11) voter registration information, including information on how to obtain a ballot;

(12) a list of all county clerks' offices and phone numbers;

(13) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

(14) a phone number that a voter may call to obtain information regarding the location of a polling place; and

(15) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, _____ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on ____ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)

(signed) _____

Lieutenant Governor".

Section 11. Section 20A-7-703 is amended to read:

20A-7-703. Analysis of initiative or referendum -- Determination of fiscal effects.

(1) The director of the Office of Legislative Research and General Counsel, after the approval of the legislative general counsel as to legal sufficiency, shall:

(a) prepare an impartial analysis of each measure submitted to the voters [~~by the Legislature or~~]by initiative or referendum petition; and

(b) submit the impartial analysis to the lieutenant governor no later than the day that falls 90 days before the date of the election in which the measure will appear on the ballot.

(2) The director shall ensure that the impartial analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) avoids the use of technical terms as much as possible;

(d) shows the effect of the measure on existing law;

(e) identifies any potential conflicts with the United States or Utah Constitutions raised by the measure;

(f) fairly describes the operation of the measure;

(g) identifies the measure's fiscal effects over the time period or time periods determined by the director to be most useful in understanding the estimated fiscal impact of the proposed law; and

(h) identifies the amount of any increase or decrease in revenue or cost to state or local government.

[~~(3) The director shall analyze the measure as it is proposed to be adopted without considering any implementing legislation, unless the implementing legislation has been enacted and will become effective upon the adoption of the measure by the voters.~~]

[~~(4)~~](3)(a) In determining the fiscal effects of a measure, the director shall confer with the legislative fiscal analyst.

(b) The director shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

[~~(5)~~](4) If the director requests the assistance of any state department, agency, or official in preparing the director's analysis, that department, agency, or official shall assist the director.

Section 12. Section 20A-7-703.1 is enacted to read:

20A-7-703.1. Analysis of measure submitted to voters by Legislature -- Determination of fiscal effects.

(1) The presiding officers shall:

(a) prepare an analysis of each measure, described in Section 20A-7-103, that is submitted to the voters by the Legislature; and

(b) submit the analysis to the lieutenant governor no later than the day that falls 90 days before the date of the election in which the measure will appear on the ballot.

(2) The presiding officers shall ensure that the analysis:

(a) is not more than 1,000 words long;

(b) is prepared in clear and concise language that will easily be understood by the average voter;

(c) to the extent possible, avoids the use of technical terms;

(d) shows the effect of the measure on existing law;

(e) describes the measure;

(f) identifies the measure's fiscal effects over the time period or time periods determined by the presiding officers to be most useful in understanding the estimated fiscal impact of the measure; and

(g) identifies the amount of any increase or decrease in revenue or cost to state or local government.

(3) The presiding officers shall analyze the measure as the measure is proposed to be adopted, without considering any implementing legislation, unless the implementing legislation has been enacted and will become effective upon the adoption of the measure by the voters.

(4)(a) In determining the fiscal effects of a measure, the presiding officers shall confer with the legislative fiscal analyst.

(b) The presiding officers shall consider any measure that requires implementing legislation in order to take effect to have no financial effect, unless implementing legislation has been enacted that will become effective upon adoption of the measure by the voters.

(5) If the presiding officers request the assistance of any state department, agency, or official in preparing the analysis described in this section, that department, agency, or official shall assist the presiding officers.

Section 13. Section 20A-9-201 is amended to read:

20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of more than one political party prohibited with exceptions -- General filing and form requirements -- Affidavit of impecuniosity.

(1) Before filing a declaration of candidacy for election to any office, an individual shall:

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

(c) if seeking a registered political party's nomination as a candidate for elective office, state:

(i) the registered political party of which the individual is a member; or

(ii) that the individual is not a member of a registered political party.

(2)(a) Except as provided in Subsection (2)(b), an individual may not:

(i) file a declaration of candidacy for, or be a candidate for, more than one office in Utah during any election year;

(ii) appear on the ballot as the candidate of more than one political party; or

(iii) file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise in the registered political party's bylaws.

(b)(i) An individual may file a declaration of candidacy for, or be a candidate for, president or vice president of the United States and another office, if the individual resigns the individual's candidacy for the other office after the individual is officially nominated for president or vice president of the United States.

(ii) An individual may file a declaration of candidacy for, or be a candidate for, more than one justice court judge office.

(iii) An individual may file a declaration of candidacy for lieutenant governor even if the individual filed a declaration of candidacy for another office in the same election year if the individual withdraws as a candidate for the other office in accordance with Subsection 20A-9-202(6) before filing the declaration of candidacy for lieutenant governor.

(3)(a) Except for a candidate for president or vice president of the United States, before the filing officer may accept any declaration of candidacy, the filing officer shall:

(i) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking;

(ii) require the individual to state whether the individual meets the requirements described in Subsection (3)(a)(i);

(iii) if the declaration of candidacy is for a county office, inform the individual that an individual who holds a county elected office may not, at the same time, hold a municipal elected office; and

(iv) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) Before accepting a declaration of candidacy for the office of county attorney, the county clerk shall ensure that the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the county in which the individual is seeking office; and

(iv) a current resident of the county in which the individual is seeking office and either has been a resident of that county for at least one year before the date of the election or was appointed and is currently serving as county attorney and became a resident of the county within 30 days after appointment to the office.

(c) Before accepting a declaration of candidacy for the office of district attorney, the county clerk shall ensure that, as of the date of the election, the individual filing that declaration of candidacy is:

(i) a United States citizen;

(ii) an attorney licensed to practice law in the state who is an active member in good standing of the Utah State Bar;

(iii) a registered voter in the prosecution district in which the individual is seeking office; and

(iv) a current resident of the prosecution district in which the individual is seeking office and either will have been a resident of that prosecution district for at least one year before the date of the election or was appointed and is currently serving as district attorney and became a resident of the prosecution district within 30 days after receiving appointment to the office.

(d) Before accepting a declaration of candidacy for the office of county sheriff, the county clerk shall ensure that the individual filing the declaration:

(i) is a United States citizen;

(ii) is a registered voter in the county in which the individual seeks office;

(iii)(A) has successfully met the standards and training requirements established for law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and Certification Act; or

(B) has met the waiver requirements in Section 53-6-206;

(iv) is qualified to be certified as a law enforcement officer, as defined in Section 53-13-103; and

(v) before the date of the election, will have been a resident of the county in which the individual seeks office for at least one year.

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

(4) If an individual who files a declaration of candidacy does not meet the qualification requirements for the office the individual is seeking, the filing officer may not accept the individual's declaration of candidacy.

(5) If an individual who files a declaration of candidacy meets the requirements described in Subsection (3), the filing officer shall:

(a) inform the individual that:

(i) the individual's name will appear on the ballot as the individual's name is written on the individual's declaration of candidacy;

(ii) the individual may be required to comply with state or local campaign finance disclosure laws; and

(iii) the individual is required to file a financial statement before the individual's political convention under:

(A) Section 20A-11-204 for a candidate for constitutional office;

(B) Section 20A-11-303 for a candidate for the Legislature; or

(C) local campaign finance disclosure laws, if applicable;

(b) except for a presidential candidate, provide the individual with a copy of the current campaign financial disclosure laws for the office the individual is seeking and inform the individual that failure to comply will result in disqualification as a candidate and removal of the individual's name from the ballot;

(c)(i) provide the individual with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the individual of the submission deadline under Subsection 20A-7-801(4)(a);

(ii) inform the individual that the individual must provide the filing officer with an email address that the individual actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the individual wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(iii) inform the individual that the email address described in Subsection (5)(c)(ii) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) obtain from the individual the email address described in Subsection (5)(c)(ii);

(d) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(i) signing the pledge is voluntary; and

(ii) signed pledges shall be filed with the filing officer;

(e) accept the individual's declaration of candidacy; and

(f) if the individual has filed for a partisan office, provide a certified copy of the declaration of candidacy to the chair of the county or state political party of which the individual is a member.

(6) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(a) accept the candidate's pledge; and

(b) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(7)(a) Except for a candidate for president or vice president of the United States, the form of the declaration of candidacy shall:

(i) be substantially as follows:

"State of Utah, County of ____

I, _____, declare my candidacy for the office of ____, seeking the nomination of the ____ party. I do solemnly swear, under penalty of perjury, that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____ Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath)."; and

(ii) require the candidate to state, in the sworn statement described in Subsection (7)(a)(i):

(A) the registered political party of which the candidate is a member; or

(B) that the candidate is not a member of a registered political party.

(b) An agent designated under Subsection 20A-9-202(1)(c) to file a declaration of candidacy may not sign the form described in Subsection (7)(a) or Section 20A-9-408.5.

(8)(a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

(i) $50 for candidates for the local school district board; and

(ii) $50 plus 1/8 of 1% of the total salary for the full term of office legally paid to the person holding the office for all other federal, state, and county offices.

(b) Except for presidential candidates, the filing officer shall refund the filing fee to any candidate:

(i) who is disqualified; or

(ii) who the filing officer determines has filed improperly.

(c)(i) The county clerk shall immediately pay to the county treasurer all fees received from candidates.

(ii) The lieutenant governor shall:

(A) apportion to and pay to the county treasurers of the various counties all fees received for filing of nomination certificates or acceptances; and

(B) ensure that each county receives that proportion of the total amount paid to the lieutenant governor from the congressional district that the total vote of that county for all candidates for representative in Congress bears to the total vote of all counties within the congressional district for all candidates for representative in Congress.

(d)(i) A person who is unable to pay the filing fee may file a declaration of candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the filing officer, a financial statement filed at the time the affidavit is submitted.

(ii) A person who is able to pay the filing fee may not claim impecuniosity.

(iii)(A) False statements made on an affidavit of impecuniosity or a financial statement filed under this section shall be subject to the criminal penalties provided under Sections 76-8-503 and 76-8-504 and any other applicable criminal provision.

(B) Conviction of a criminal offense under Subsection (8)(d)(iii)(A) shall be considered an offense under this title for the purposes of assessing the penalties provided in Subsection 20A-1-609(2).

(iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in substantially the following form:

"Affidavit of Impecuniosity

Individual Name _____

Address _____

Phone Number _____

I,_____(name), do solemnly [swear] [affirm], under penalty of law for false statements, that, owing to my poverty, I am unable to pay the filing fee required by law.

Date_____

Signature_____

Affiant

Subscribed and sworn to before me on _____(month\day\year)

_____

(signature)

Name and Title of Officer Authorized to Administer Oath _____".

(v) The filing officer shall provide to a person who requests an affidavit of impecuniosity a statement printed in substantially the following form, which may be included on the affidavit of impecuniosity:

"Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a candidate who is found guilty of filing a false statement, in addition to being subject to criminal penalties, will be removed from the ballot."

(vi) The filing officer may request that a person who makes a claim of impecuniosity under this Subsection (8)(d) file a financial statement on a form prepared by the election official.

(9) An individual who fails to file a declaration of candidacy or certificate of nomination within the time provided in this chapter is ineligible for nomination to office.

(10) A declaration of candidacy filed under this section may not be amended or modified after the final date established for filing a declaration of candidacy.

Section 14. Section 20A-9-203 is amended to read:

20A-9-203. Declarations of candidacy -- Municipal general elections -- Nomination petition -- Removal of signature.

(1) An individual may become a candidate for any municipal office if:

(a) the individual is a registered voter; and

(b)(i) the individual has resided within the municipality in which the individual seeks to hold elective office for the 12 consecutive months immediately before the date of the election; or

(ii) the territory in which the individual resides was annexed into the municipality, the individual has resided within the annexed territory or the municipality the 12 consecutive months immediately before the date of the election.

(2)(a) For purposes of determining whether an individual meets the residency requirement of Subsection (1)(b)(i) in a municipality that was incorporated less than 12 months before the election, the municipality is considered to have been incorporated 12 months before the date of the election.

(b) In addition to the requirements of Subsection (1), each candidate for a municipal council position shall, if elected from a district, be a resident of the council district from which the candidate is elected.

(c) In accordance with Utah Constitution, Article IV, Section 6, a mentally incompetent individual, an individual convicted of a felony, or an individual convicted of treason or a crime against the elective franchise may not hold office in this state until the right to hold elective office is restored under Section 20A-2-101.3 or 20A-2-101.5.

(3)(a) An individual seeking to become a candidate for a municipal office shall, regardless of the nomination method by which the individual is seeking to become a candidate:

(i) except as provided in Subsection (3)(b) or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, and subject to Subsection 20A-9-404(3)(e), file a declaration of candidacy, in person with the city recorder or town clerk, during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year; and

(ii) pay the filing fee, if one is required by municipal ordinance.

(b) Subject to Subsection (5)(b), an individual may designate an agent to file a declaration of candidacy with the city recorder or town clerk if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the city recorder or town clerk;

(iii) the individual communicates with the city recorder or town clerk using an electronic device that allows the individual and city recorder or town clerk to see and hear each other; and

(iv) the individual provides the city recorder or town clerk with an email address to which the city recorder or town clerk may send the individual the copies described in Subsection (4).

(c) Any resident of a municipality may nominate a candidate for a municipal office by:

(i) except as provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, filing a nomination petition with the city recorder or town clerk during the office hours described in Section 10-3-301 and not later than the close of those office hours, between June 1 and June 7 of any odd-numbered year that includes signatures in support of the nomination petition of the lesser of at least:

(A) 25 registered voters who reside in the municipality; or

(B) 20% of the registered voters who reside in the municipality; and

(ii) paying the filing fee, if one is required by municipal ordinance.

(4)(a) Before the filing officer may accept any declaration of candidacy or nomination petition, the filing officer shall:

(i) read to the prospective candidate or individual filing the petition the constitutional and statutory qualification requirements for the office that the candidate is seeking;

(ii) require the candidate or individual filing the petition to state whether the candidate meets the requirements described in Subsection (4)(a)(i); and

(iii) inform the candidate or the individual filing the petition that an individual who holds a municipal elected office may not, at the same time, hold a county elected office.

(b) If the prospective candidate does not meet the qualification requirements for the office, the filing officer may not accept the declaration of candidacy or nomination petition.

(c) If it appears that the prospective candidate meets the requirements of candidacy, the filing officer shall:

(i) inform the candidate that the candidate's name will appear on the ballot as it is written on the declaration of candidacy;

(ii) provide the candidate with a copy of the current campaign financial disclosure laws for the office the candidate is seeking and inform the candidate that failure to comply will result in disqualification as a candidate and removal of the candidate's name from the ballot;

(iii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide Electronic Voter Information Website Program and inform the candidate of the submission deadline under Subsection 20A-7-801(4)(a);

(iv) inform the candidate that the candidate must provide the filing officer with an email address that the candidate actively monitors:

(A) to receive a communication from a filing officer or an election officer; and

(B) if the candidate wishes to display a candidate profile on the Statewide Electronic Voter Information Website, to submit to the website the biographical and other information described in Subsection 20A-7-801(4)(a)(ii);

(v) inform the candidate that the email address described in Subsection (4)(c)(iv) is not a record under Title 63G, Chapter 2, Government Records Access and Management Act;

(vi) obtain from the candidate the email address described in Subsection (4)(c)(iv);

[~~(iv)~~](vii) provide the candidate with a copy of the pledge of fair campaign practices described under Section 20A-9-206 and inform the candidate that:

(A) signing the pledge is voluntary; and

(B) signed pledges shall be filed with the filing officer; and

[~~(v)~~](viii) accept the declaration of candidacy or nomination petition.

(d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer shall:

(i) accept the candidate's pledge; and

(ii) if the candidate has filed for a partisan office, provide a certified copy of the candidate's pledge to the chair of the county or state political party of which the candidate is a member.

(5)(a) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____, being first sworn and under penalty of perjury, say that I reside at ____ Street, City of ____, County of ____, state of Utah, Zip Code ____, Telephone Number (if any) ____; that I am a registered voter; and that I am a candidate for the office of ____ (stating the term). I will meet the legal qualifications required of candidates for this office. If filing via a designated agent, I attest that I will be out of the state of Utah during the entire candidate filing period. I will file all campaign financial disclosure reports as required by law and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot. I request that my name be printed upon the applicable official ballots. (Signed) _____

Subscribed and sworn to (or affirmed) before me by ____ on this _____(month\day\year).

(Signed) _____ (Clerk or other officer qualified to administer oath)."

(b) An agent designated under Subsection (3)(b) to file a declaration of candidacy may not sign the form described in Subsection (5)(a).

(c)(i) A nomination petition shall be in substantially the following form:

"NOMINATION PETITION

The undersigned residents of (name of municipality), being registered voters, nominate (name of nominee) for the office of (name of office) for the (length of term of office)."

(ii) The remainder of the petition shall contain lines and columns for the signatures of individuals signing the petition and each individual's address and phone number.

(6) If the declaration of candidacy or nomination petition fails to state whether the nomination is for the two-year or four-year term, the clerk shall consider the nomination to be for the four-year term.

(7)(a)(i) The clerk shall verify with the county clerk that all candidates are registered voters.

(b) With the assistance of the county clerk, and using the procedures described in Section 20A-1-1002, the municipal clerk shall determine whether the required number of signatures of registered voters appears on a nomination petition.

(8) Immediately after expiration of the period for filing a declaration of candidacy, the clerk shall:

(a) publicize a list of the names of the candidates as they will appear on the ballot by publishing the list for the municipality, as a class A notice under Section 63G-30-102, for seven days; and

(b) notify the lieutenant governor of the names of the candidates as they will appear on the ballot.

(9) Except as provided in Subsection (10)(c), an individual may not amend a declaration of candidacy or nomination petition filed under this section after the candidate filing period ends.

(10)(a) A declaration of candidacy or nomination petition that an individual files under this section is valid unless a person files a written objection with the clerk before 5 p.m. within 10 days after the last day for filing.

(b) If a person files an objection, the clerk shall:

(i) mail or personally deliver notice of the objection to the affected candidate immediately; and

(ii) decide any objection within 48 hours after the objection is filed.

(c) If the clerk sustains the objection, the candidate may, before 5 p.m. within three days after the day on which the clerk sustains the objection, correct the problem for which the objection is sustained by amending the candidate's declaration of candidacy or nomination petition, or by filing a new declaration of candidacy.

(d)(i) The clerk's decision upon objections to form is final.

(ii) The clerk's decision upon substantive matters is reviewable by a district court if prompt application is made to the district court.

(iii) The decision of the district court is final unless the Supreme Court, in the exercise of its discretion, agrees to review the lower court decision.

(11) A candidate who qualifies for the ballot under this section may withdraw as a candidate by filing a written affidavit with the municipal clerk.

(12)(a) A voter who signs a nomination petition under this section may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the city recorder or municipal clerk, submitting to the municipal clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (12)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the municipal clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 15. Section 20A-9-207 is amended to read:

20A-9-207. Withdrawal of candidacy -- Notice.

As used in this section:

(1) "Public office" means the offices of governor, lieutenant governor, attorney general, state auditor, state treasurer, state senator, state representative, state school board, or an elective office of a local political subdivision.

(2) "Public office candidate" means a person who files a declaration of candidacy for a public office.

(3) If a public office candidate withdraws as a candidate, [~~the~~]an election officer shall:

(a) no later than two business days after the day on which the election officer receives notice of the withdrawal, notify every opposing candidate for the public office that the public office candidate has withdrawn;

(b) subject to Subsection (4), upon notice of a withdrawal that occurs 65 or fewer days before the date of the election, send an email notification to each voter who is eligible to vote in the public office race for whom the election officer has an email address informing the voter:

(i) that the public office candidate has withdrawn; and

(ii) that [~~votes~~]a vote cast for the public office candidate will not be counted[~~;~~], regardless of whether the public office candidate's name appears on the ballot;

(c) post notice of the withdrawal on a public website; and

[~~(d) if practicable, remove the public office candidate's name from the ballot.~~]

(d) if practicable, include with the ballot, including a military or overseas ballot, a written notice that:

(i) contains the information described in Subsections (3)(b)(i) and (ii); or

(ii) directs the voter to a public website to inform the voter whether a candidate on the ballot has withdrawn.

[~~(4) An election officer may fulfill the requirement described in Subsection (3) in relation to a mailed ballot, including a military or overseas ballot, by including with the ballot a written notice:~~]

[~~(a) informing the voter that the candidate has withdraw; or~~]

[~~(b) directing the voter to a public website to inform the voter whether a candidate on the ballot has withdrawn.~~]

(4) An election officer shall send the email notification described in Subsection (3)(b) on or before the earlier of:

(a) the next day on which the election officer mails ballots in accordance with Section 20A-3a-202; or

(b) two business days before the date of the election.

Section 16. Section 20A-9-601 is amended to read:

20A-9-601. Qualifying as a write-in candidate.

(1)(a) Except as provided in Subsection (1)(b), an individual who wishes to become a valid write-in candidate shall file a declaration of candidacy in person, or through a designated agent for a candidate for president or vice president of the United States, with the appropriate filing officer before 5 p.m. no later than 65 days before the date of the regular general election or [~~a~~]the municipal general election in which the individual intends to be a write-in candidate.

(b)(i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsection (2)(d), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

(A) the individual is located outside of the state during the entire filing period;

(B) the designated agent appears in person before the filing officer; and

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2)(a) The form of the declaration of candidacy for a write-in candidate for all offices, except president or vice president of the United States, is substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of ____ for the ____ district (if applicable). I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, Utah, Zip Code ____, Phone No. ____; I will not knowingly violate any law governing campaigns and elections; if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and rejection of any votes cast for me. The mailing address that I designate for receiving official election notices is _____.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath)."

(b) The form of the declaration of candidacy for a write-in candidate for president of the United States is substantially as follows:

"State of Utah, County of ____

I, _____, declare my intention of becoming a candidate for the office of the president of the United States. I do solemnly swear that: I will meet the qualifications to hold the office, both legally and constitutionally, if selected; I reside at _____ in the City or Town of ____, State ____, Zip Code ____, Phone No. ____; I will not knowingly violate any law governing campaigns and elections. The mailing address that I designate for receiving official election notices is _____. I designate _____ as my vice presidential candidate.

_____

Subscribed and sworn before me this _____(month\day\year).

Notary Public (or other officer qualified to administer oath.)"

(c) A declaration of candidacy for a write-in candidate for vice president of the United States shall be in substantially the same form as a declaration of candidacy described in Subsection 20A-9-202(7).

(d) An agent described in Subsection (1)(a) or (b) may not sign the form described in Subsection (2)(a) or (b).

(3)(a) The filing officer shall:

(i) read to the candidate the constitutional and statutory requirements for the office;

(ii) ask the candidate whether the candidate meets the requirements; and

(iii) if the declaration of candidacy is for a legislative office, inform the individual that Utah Constitution, Article VI, Section 6, prohibits a person who holds a public office of profit or trust, under authority of the United States or Utah, from being a member of the Legislature.

(b) If the candidate cannot meet the requirements of office, the filing officer may not accept the write-in candidate's declaration of candidacy.

(4)(a) Except as provided in Subsection (4)(b), a write-in candidate is subject to Subsection 20A-9-201(8).

(b) A write-in candidate for president of the United States is subject to Subsection 20A-9-201(8)(d) or 20A-9-803(1)(d), as applicable.

(5) By November 1 of each regular general election year, the lieutenant governor shall certify to each county clerk the names of all write-in candidates who filed their declaration of candidacy with the lieutenant governor.

Section 17. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4)(a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5)(a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11)(a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14)(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not [~~mean~~]include:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; [~~or~~]

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702[~~.~~]; or

(xix) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 18. Section 63G-2-303 is amended to read:

63G-2-303. Private information concerning certain government employees.

(1) As used in this section:

(a) "At-risk government employee" means a current or former:

(i) peace officer as specified in Section 53-13-102;

(ii) state or federal judge of an appellate, district, justice, or juvenile court, or court commissioner;

(iii) judge authorized by Title 39A, Chapter 5, Utah Code of Military Justice;

(iv) judge authorized by Armed Forces, Title 10, United States Code;

(v) federal prosecutor;

(vi) prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

(vii) law enforcement official as defined in Section 53-5-711;

(viii) prosecutor authorized by Title 39A, Chapter 5, Utah Code of Military Justice; or

(ix) state or local government employee who, because of the unique nature of the employee's regular work assignments or because of one or more recent credible threats directed to or against the employee, would be at immediate and substantial risk of physical harm if the employee's personal information is disclosed.

(b) "Family member" means the spouse, child, sibling, parent, or grandparent of an at-risk government employee who is living with the employee.

(c) "Personal information" means the employee's or the employee's family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, social security number, insurance coverage, marital status, or payroll deductions.

(2)(a) Pursuant to Subsection 63G-2-302(1)(h), an at-risk government employee may file a written application that:

(i) gives notice of the employee's status as an at-risk government employee to each agency of a government entity holding a record or a part of a record that would disclose the employee's personal information; and

(ii) requests that the government agency classify those records or parts of records as private.

(b) An at-risk government employee desiring to file an application under this section may request assistance from the government agency to identify the individual records containing personal information.

(c) Each government agency shall develop a form that:

(i) requires the at-risk government employee to designate each specific record or part of a record containing the employee's personal information that the applicant desires to be classified as private;

(ii) affirmatively requests that the government entity holding those records classify them as private;

(iii) informs the employee that by submitting a completed form the employee may not receive official announcements affecting the employee's property, including notices about proposed municipal annexations, incorporations, or zoning modifications; and

(iv) contains a place for the signature required under Subsection (2)(d).

(d) A form submitted by an employee under Subsection (2)(c) shall be signed by the highest ranking elected or appointed official in the employee's chain of command certifying that the employee submitting the form is an at-risk government employee.

(3) A county recorder, county treasurer, county auditor, or a county tax assessor may fully satisfy the requirements of this section by:

(a) providing a method for the assessment roll and index and the tax roll and index that will block public access to the home address, home telephone number, situs address, and Social Security number; and

(b) providing the at-risk government employee requesting the classification with a disclaimer informing the employee that the employee may not receive official announcements affecting the employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A government agency holding records of an at-risk government employee classified as private under this section may release the record or part of the record if:

(a) the employee or former employee gives written consent;

(b) a court orders release of the records; [~~or~~]

(c) the government agency receives a certified death certificate for the employee or former employee[~~.~~]; or

(d) as it relates to the employee's voter registration record:

(i) the person to whom the record or part of the record is released is a qualified person under Subsection 20A-2-104(4)(n); and

(ii) the government agency's release of the record or part of the record complies with the requirements of Subsection 20A-2-104(4)(o).

(5)(a) If the government agency holding the private record receives a subpoena for the records, the government agency shall attempt to notify the at-risk government employee or former employee by mailing a copy of the subpoena to the employee's last-known mailing address together with a request that the employee either:

(i) authorize release of the record; or

(ii) within 10 days of the date that the copy and request are mailed, deliver to the government agency holding the private record a copy of a motion to quash filed with the court who issued the subpoena.

(b) The government agency shall comply with the subpoena if the government agency has:

(i) received permission from the at-risk government employee or former employee to comply with the subpoena;

(ii) not received a copy of a motion to quash within 10 days of the date that the copy of the subpoena was mailed; or

(iii) received a court order requiring release of the records.

(6)(a) Except as provided in Subsection (6)(b), a form submitted under this section remains in effect until the earlier of:

(i) four years after the date the employee signs the form, whether or not the employee's employment terminates before the end of the four-year period; and

(ii) one year after the government agency receives official notice of the death of the employee.

(b) A form submitted under this section may be rescinded at any time by:

(i) the at-risk government employee who submitted the form; or

(ii) if the at-risk government employee is deceased, a member of the employee's immediate family.

Section 19. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 466
S. B. 44
Passed February 26, 2024
Approved March 20, 2024
Effective January 1, 2024

ALTERNATIVE EDUCATION SCHOLARSHIP COMBINATION

Chief Sponsor: Lincoln Fillmore
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill combines the Carson Smith Scholarship and Special Needs Opportunity Scholarship Programs.

Highlighted Provisions:

This bill:

- renames the Special Needs Opportunity Scholarship program;
- allows for home school students and preschool aged students to receive a scholarship;
- adds expenses with a qualifying provider to allowable scholarship expenses;
- provides regulatory autonomy for a qualifying school, qualifying provider, and home school student;
- allows scholarships to be used for services from eligible service providers and establishes an approval process;
- directs the reallocation of unused funds in the Carson Smith Scholarship Program;
- phases out new applications for the Carson Smith Scholarship Program after the 2023-2024 school year; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
53E-1-202.1, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-401, as last amended by Laws of Utah 2023, Chapter 190
53E-7-402, as last amended by Laws of Utah 2023, Chapter 190 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 190
53E-7-403, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-404, as last amended by Laws of Utah 2022, Chapter 262
53E-7-405, as last amended by Laws of Utah 2023, Chapters 190, 353
53E-7-406, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-407, as last amended by Laws of Utah 2022, Chapter 262
53E-7-408, as last amended by Laws of Utah 2023, Chapter 353
53F-4-302, as last amended by Laws of Utah 2019, Chapter 186
53F-4-304, as last amended by Laws of Utah 2020, Chapter 408
53F-6-401, as enacted by Laws of Utah 2023, Chapter 1
59-7-109.1, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
59-7-625, as last amended by Laws of Utah 2022, Chapter 262
59-10-1041, as last amended by Laws of Utah 2022, Chapter 262
67-3-1, as last amended by Laws of Utah 2023, Chapters 16, 330, 353, and 480

ENACTS:
53E-7-408.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-202.1 is amended to read:

53E-1-202.1. Report to the Public Education Appropriations Subcommittee on the Carson Smith Opportunity Scholarship Program.

(1) Beginning in 2021, the State Board of Education shall, in accordance with Section 68-3-14, annually submit the report described in Section 53E-7-404 to the Public Education Appropriations Subcommittee.

(2) This section supersedes any conflicting provisions of Utah law.

Section 2. Section 53E-7-401 is amended to read:

53E-7-401. Definitions.

As used in this part:

(1) "The Carson Smith Opportunity Scholarship Program" or "program" means the program established in Section 53E-7-402.

(2) "Eligible student" means:

(a) a student who:

(i) is :

(A) eligible to participate in public school, in kindergarten, or grades 1 through 12;

(B) enrolled in a qualifying school as defined in Subsection (11);

(C) a home-based scholarship student as defined in Subsection (6); or

(D) at least three years old before September 2 of the year the scholarship is awarded;

(ii) is a resident of the state;

(iii) has a qualified disability identified under 20 U.S.C. Sec. 140(3) as determined by:

(A) having an IEP within the previous three years; or

(B) a multidisciplinary team evaluation described in Subsection (7); and

[~~(A) has an IEP; or~~]

[~~(B) is determined by a multidisciplinary evaluation team to be eligible for services under 20 U.S.C. Sec. 1401(3); and~~]

(iv) during the school year for which the student is applying for the scholarship, is not:

(A) a student who receives a scholarship under the Carson Smith Scholarship Program created in Section 53F-4-302; or

(B) enrolled as a public school student; or

(b) a student who:

(i) meets the requirement of Subsections [~~(1)(a)(i) and (ii)~~](2)(a)(i) and (ii); and

(ii) is a sibling of and resides in the same household as a student described in Subsection [~~(1)(a)~~](2)(a) if:

(A) the student described in Subsection [~~(1)(a)~~](2)(a) is a scholarship student and has verified enrollment or intent to enroll at a qualifying school or participate in services provided by a qualifying provider; and

(B) the sibling is applying for a scholarship to attend the same qualifying school or participate in the same services provided by a qualifying provider.

[~~(2)~~](3)(a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

(i) program donations to a scholarship granting organization; or

(ii) scholarship money allocated to a qualifying school or qualifying provider by a scholarship granting organization under Section 53E-7-405.

(b) "Employee" does not include an individual who volunteers at the scholarship granting organization [~~or~~], qualifying school, or qualifying provider.

[~~(3)~~](4) "Family income" means the annual income of the parent, parents, legal guardian, or legal guardians with whom a scholarship student lives.

[~~(4)~~](5) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

[~~(5)~~](6) "Home-based scholarship student" means a student who:

(a) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(b) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and

(c) receives a benefit from a scholarship under the program.

(7) "Multidisciplinary evaluation team" means two or more individuals:

(a) who are qualified in two or more separate disciplines or professions; and

(b) who evaluate a child.

[~~(6)~~](8) "Officer" means:

(a) a member of the board of a scholarship granting organization [~~or~~], qualifying school, or qualifying provider; or

(b) the chief administrative officer of a scholarship granting organization [~~or~~], qualifying school, or qualifying provider.

[~~(7)~~](9) "Program donation" means a donation to the program under Section 53E-7-405.

[~~(8)~~](10) "Qualifying provider" means:

(a) an entity that:

(i) is not a public school and is autonomous and not an agent of the state, in accordance with Section 53E-7-406; and

(ii) meets the requirement described in Section 53E-7-403; and

(b) is an eligible service provider approved by the scholarship granting organization in accordance with Section 53E-7-408.5.

(11) "Qualifying school" means a private school that:

(a) provides kindergarten, elementary, or secondary education;

(b) is approved by the state board under Section 53E-7-408; and

(c) meets the requirements described in Section 53E-7-403.

[~~(9)~~](12) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[~~(10)~~](13) "Scholarship" means a grant awarded to an eligible student:

(a) by a scholarship granting organization out of program donations; and

(b) for the purpose of paying for a scholarship expense.

[~~(11)~~](14) "Scholarship expense" means an expense that a parent or eligible student incurs in the education of the eligible student for goods or a service that a qualifying school or qualifying provider provides or facilitates, including:

(a) published tuition and fees of a qualifying school or qualifying provider;

(b) fees and instructional materials at a technical college;

(c) tutoring services;

(d) fees for after-school or summer education programs;

(e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum, qualifying provider, or a qualifying school recommends;

(f) educational software and applications;

(g) supplies or other equipment related to an eligible student's educational needs;

(h) computer hardware or other technological devices that are intended primarily for an eligible student's educational needs;

(i) fees for the following examinations, or for a preparation course for the following examinations, that the scholarship granting organization approves:

(i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(ii) a state-recognized industry certification examination; and

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the scholarship granting organization approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the eligible student to and from a qualifying school or qualifying provider, not to exceed $750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) the scholarship granting organization approves in accordance with Subsection 53E-7-405(3).

[~~(12)~~](15) "Scholarship granting organization" means an organization that is:

(a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.

[~~(13)~~](16) "Scholarship student" means an eligible student, including a home-based scholarship student, who receives a scholarship under this part.

[~~(14) "Special Needs Opportunity Scholarship Program" or "program" means the program established in Section 53E-7-402.~~]

[~~(15)~~](17) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 3. Section 53E-7-402 is amended to read:

53E-7-402. Carson Smith Opportunity Scholarship Program.

(1) There is established the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a scholarship to help cover the cost of a scholarship expense.

(2)(a) A scholarship granting organization shall award, in accordance with this part, scholarships to eligible students.

(b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:

(i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and

(ii) awarding a scholarship to an eligible student described in Subsection [~~53E-7-401(1)(b)~~] 53E-7-401(2)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection [~~53E-7-401(1)(a)~~]53E-7-401(2)(a) who have applied and qualify.

(c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection[~~53E-7-401(1)(b)~~]53E-7-401(2)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student described in Subsection [~~53E-7-401(1)(a)~~]53E-7-401(2)(a) who is:

(i) in kindergarten through grade 12 and whose family income is:

(A) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5; [~~or~~]

(B) except as provided in Subsection (3)(a)(i)(C), above 185% of the federal poverty level, the value of the weighted pupil unit multiplied by two; or

(C) above 185% of the federal poverty level and the eligible student would have received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, the value of the weighted pupil unit multiplied by 2.5; or

[~~(b)~~](ii) in preschool, the value of the weighted pupil unit; or

(b) for an eligible student described in Subsection [~~53E-7-401(1)(b)~~]53E-7-401(2)(b), half the value of the weighted pupil unit.

(4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.

(5) The scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student.

Section 4. Section 53E-7-403 is amended to read:

53E-7-403. Qualifying school and qualifying provider requirements.

(1) A qualifying school or qualifying provider shall:

(a) notify a scholarship granting organization of the qualifying school's or qualifying provider's intention to participate in the program;

(b) submit evidence to the scholarship granting organization that the qualifying school has been approved by the state board under Section 53E-7-408; and

(c) submit a signed affidavit to the scholarship granting organization that the qualifying school or qualifying provider will comply with the requirements of this part.

(2) A qualifying school or qualifying provider shall comply with 42 U.S.C. Sec. 1981, and meet state and local health and safety laws and codes.

(3) Before the beginning of the school year immediately following a school year in which a qualifying school or qualifying provider receives scholarship money equal to or more than [~~$100,000~~]$500,000, the qualifying school or qualifying provider shall file with a scholarship granting organization that allocates scholarship money to the qualifying school:

(a) a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of scholarship money expected to be received during the school year; or

(b) financial information that demonstrates the financial viability of the qualifying school or qualifying provider, as required by the scholarship granting organization.

(4) If a scholarship granting organization determines that a qualifying school or qualifying provider has violated a provision of this part, the scholarship granting organization may interrupt disbursement of or withhold scholarship money from the qualifying school or qualifying provider.

(5)(a) If the state board determines that a qualifying school no longer meets the eligibility requirements described in Section 53E-7-408, the state board may withdraw the state board's approval of the school.

(b) A private school that does not have the state board's approval under Section 53E-7-408 may not accept scholarship money under this part.

(6) A qualifying school shall, when administering an annual assessment required under Section 53E-7-408, ensure that the qualifying school uses a norm-referenced assessment.

(7) If a scholarship granting organization determines that a qualifying provider no longer meets the requirements described in Section 53E-7-208.5, the scholarship granting organization may interrupt disbursement of or withhold scholarship money for the qualifying provider.

Section 5. Section 53E-7-404 is amended to read:

53E-7-404. State board duties.

(1) The state board shall:

(a) publish on the state board's website:

(i) information about the program; and

(ii) information about each scholarship granting organization;

(b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;

(c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;

(d) establish uniform financial accounting standards for scholarship granting organizations;

[~~(e) annually calculate the amount of the program donations cap described in Section 53E-7-407; and~~]

[~~(f)~~](e) in accordance with Section 53E-1-202.1, annually submit a report on the program to the Public Education Appropriations Subcommittee that includes:

[~~(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;~~]

[~~(ii)~~](i) administrative costs of the program;

[~~(iii)~~](ii) the number of scholarship students that are eligible students described in Subsection [~~53E-7-401(1)(a)~~]53E-7-401(2)(a) and the number of scholarship students that are eligible students described in Subsection [~~53E-7-401(1)(b)~~]53E-7-401(2)(b) from each school district;

[~~(iv)~~](iii) standards used by the scholarship granting organization to determine whether a student is an eligible student; and

[~~(v)~~](iv) savings to the state and LEAs as a result of scholarship students exiting the public school system.

(2)(a) In accordance with Subsection (3) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.

(b) An organization that responds to a request for proposals described in Subsection (2)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and

(iv) a description of the organization's proposed scholarship application process.

(3)(a) The state board shall enter into an agreement described in Subsection (2)(a) with one scholarship granting organization on or before January 1, 2021.

(b) The state board may enter into an agreement described in Subsection (2)(a) with additional scholarship granting organizations after January 1, 2023, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.

(c)(i) No later than 10 days after the day on which the state board enters into an agreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.

(ii) If, under Subsection (4)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.

(4)(a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.

(b) A scholarship granting organization that receives a notice described in Subsection (4)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.

(c)(i) If a scholarship granting organization that receives a notice described in Subsection (4)(a) fails to correct a violation in the time period described in Subsection (4)(b), the state board may bar the scholarship granting organization from further participation in the program.

(ii) A scholarship granting organization may appeal a decision made by the state board under Subsection (4)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A scholarship granting organization may not accept program donations while the scholarship granting organization:

(i) is barred from participating in the program under Subsection (4)(c)(i); or

(ii) has an appeal pending under Subsection (4)(c)(ii).

(e) A scholarship granting organization that has an appeal pending under Subsection (4)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.

(5) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.

(6) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:

(a) the administration of scholarships to a qualifying school or qualifying provider receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection (4)(c)(i);

(b) when an eligible student does not continue in enrollment at a qualifying school or participation in services provided by a qualifying provider:

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

(B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled or qualifying provider in which the eligible student is no longer participating; and

(ii) requiring the qualifying school or qualifying provider in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization;

(c) audit and report requirements as described in Section 53E-7-405; and

(d) requiring the scholarship granting organization, in accordance with the Family

Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:

[~~(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;~~]

[~~(ii)~~](i) the number of scholarship students that are eligible students described in Subsection [~~53E-7-401(1)(a)~~]53E-7-401(2)(a) and the number of scholarship students that are eligible students described in Subsection [~~53E-7-401(1)(b)~~] 53E-7-401(2)(b) from each school district;

[~~(iii)~~](ii) standards used to determine whether a student is an eligible student; and

[~~(iv)~~](iii) any other information requested by the Public Education Appropriations Subcommittee for the state board to include in the annual report described in Section 53E-1-202.1.

Section 6. Section 53E-7-405 is amended to read:

53E-7-405. Program donations -- Scholarship granting organization requirements -- Legislative appropriations.

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations and allow a person that makes a program donation to designate a qualifying school or qualifying provider to which the donation shall be directed for scholarships;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school or qualifying provider in which the scholarship student is enrolled or participates;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that during the state fiscal year:

(i) at least 92% of the scholarship granting organization's revenue from program donations [~~is~~]and other funding sources are spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations [~~is~~]and other funding sources are spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations [~~is~~]and other funding sources are spent on marketing and fundraising costs; and

(iv) all revenue from [~~program donations'~~]interest or investments is spent on scholarships;

(g) carry forward no more than 60% of the scholarship granting organization's [~~program donations~~]funds, less funds for a scholarship that has been awarded, and funds expended for administration and marketing, from the state fiscal year in which the scholarship granting organization received the [~~program donations~~]funds to the following state fiscal year;

(h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations or other funds, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations or other funds;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school or qualifying provider that accepts the scholarship student;

(k) report to the state board on or before [~~October~~]November 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations and other funding sources that the scholarship granting organization received during the previous calendar year;

(iii)(A) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection [~~53E-7-401(1)(a)~~]53E-7-401(2)(a); and

(B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection [~~53E-7-401(1)(b)~~]53E-7-401(2)(b); and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m)(i) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

[~~(i)~~](A) receives scholarship money for tuition expenses; and

[~~(ii)~~](B) does not have continuing enrollment and attendance at a qualifying school[~~.~~]; or

(ii) has transitioned to be a home- based student.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Income Tax Fund.

(5)(a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school or qualifying provider selected by the parent for the applicant to attend or participate in using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E- 7- 404; and

(b) is prepared by a certified public accountant.

(7)(a) If a scholarship granting organization allocates $500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations and other funding sources; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than [~~120 days after the last day of the state fiscal year~~]November 1.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d)(i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8)(a) A scholarship granting organization may not allocate scholarship money to a qualifying school or qualifying provider if:

(i) the scholarship granting organization determines that the qualifying school or qualifying provider intentionally or substantially misrepresented information on overpayment;

(ii) the qualifying school or qualifying provider fails to refund an overpayment in a timely manner; or

(iii) the qualifying school or qualifying provider routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school or qualifying provider under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school or qualifying provider during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools or qualifying providers according

to the time the scholarship recipient spends at each school or each provider.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer [~~or employee~~]; or

(b) allocate scholarship money to a qualifying school or qualifying provider at which the scholarship recipient has a relative who is an officer or an [~~employee~~]administrator of the qualifying school or qualifying provider.

(11) The Legislature may appropriate funds to the board to be distributed in an equal amount to each scholarship granting organization for the same purposes program donations are used.

Section 7. Section 53E-7-406 is amended to read:

53E-7-406. Qualifying school or qualifying provider regulatory autonomy -- Home school autonomy -- Student records -- Scholarship student status.

(1) Nothing in this part:

(a) except as expressly described in this part, grants additional authority to any state agency or LEA to regulate or control:

(i) a qualifying school, qualifying provider, or home school; or

(ii) students receiving education from a qualifying school, qualifying provider, or home school;

(b) applies to or otherwise affects the freedom of choice of an out-of-program home school student, including the curriculum, resources, developmental planning, or any other aspect of the out-of-program home school student's education; or

(c) expands the regulatory authority of the state, a state office holder, or an LEA to impose any additional regulation of a qualifying school or qualifying provider beyond any regulation necessary to administer this part.

(2) A qualifying school or qualifying provider:

(a) has a right to maximum freedom from unlawful governmental control in providing for the educational needs of a scholarship student who attends or engages with the qualifying school or qualifying provider; and

(b) is not an agent of the state by virtue of the provider's acceptance of payment from a scholarship account in accordance with this part.

(3) Except as provided in Section 53E-7-403 regarding qualifying schools or qualifying providers, Section 53E-7-408 regarding eligible schools, or Section 53E-7-408.5 regarding eligible service providers, a scholarship granting organization may not require a qualifying provider to alter the qualifying provider's creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.

(4) An LEA or a school in an LEA in which a scholarship student was previously enrolled shall provide to the scholarship student's parent a copy of all school records relating to the student that the LEA possesses within 30 days after the day on which the LEA or school receives the parent's request for the student's records, subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

(5) By virtue of a scholarship student's involvement in the program and unless otherwise expressly provided in statute, a scholarship student is not:

(a) enrolled in the public education system; or

(b) otherwise subject to statute, administrative rules, or other state regulations as if the student was enrolled in the public education system.

[~~(1) Nothing in this part:~~]

[~~(a) grants additional authority to any state agency or LEA to regulate private schools except as expressly described in this part; or~~]

[~~(b) expands the regulatory authority of the state, a state office holder, or a local school district to impose any additional regulation of a qualifying school beyond those necessary to enforce the requirements of the program.~~]

[~~(2) A qualifying school shall be given the maximum freedom to provide for the educational needs of a scholarship recipient who attends the qualifying school without unlawful governmental control.~~]

[~~(3) Except as provided in Section 53E-7-403, a qualifying school may not be required to alter the qualifying school's creed, practices, admission policy, or curriculum in order to accept scholarship money.~~]

[~~(4) A local education agency or school in a local education agency in which a scholarship recipient was previously enrolled shall provide to a qualifying school in which the scholarship recipient is currently enrolled a copy of all requested school records relating to the scholarship recipient, subject to:~~]

[~~(a) Title 53E, Chapter 9, Student Privacy and Data Protection; and~~]

[~~(b) Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.~~]

Section 8. Section 53E-7-407 is amended to read:

53E-7-407. Tax credit certificates issued by a scholarship granting organization.

(1) In accordance with this section [~~and subject to Subsection (3)~~], a scholarship granting organization shall provide a tax credit certificate, on a form provided by the State Tax Commission, to a person that makes a donation as described in Section 53E-7-405.

(2)(a) The scholarship granting organization shall provide the information from a completed tax credit certificate to the State Tax Commission electronically and in a manner prescribed by the State Tax Commission.

(b) A scholarship granting organization shall issue a tax credit certificate within 30 days after the day on which a person makes a donation to the program.

[~~(3)(a) A scholarship granting organization may not issue a tax credit certificate for a calendar year if issuing the tax credit certificate will cause the total amount of the tax credit certificates issued for the calendar year to exceed the program donations cap amount described in Subsection (4).~~]

[~~(b)~~](3)(a) Before accepting a donation to the program from a person, the scholarship granting organization shall provide the person with notice:

(i) that the donation may not be eligible for a tax credit;

(ii) of the process described in Subsection [~~(3)(c)~~](3)(b); and

(iii) of the total amount of tax credit certificates that the scholarship granting organization has issued for the calendar year.

[~~(c)~~](b) During a calendar year, a scholarship granting organization shall:

(i) issue tax credit certificates in the order that the scholarship granting organization received a corresponding donation; and

(ii) track the total amount of program donations received during the year as corresponding tax credit certificates are issued.

[~~(d)~~](c) If a scholarship granting organization accepts a donation that, when added to the current total amount of program donations received that year, will exceed the program donations cap described in Subsection (4), the scholarship granting organization shall issue a tax credit certificate in the amount that is the difference between the program donations cap and the total amount of program donations received before the donation was received.

(4)(a) The program donations cap for the 2021 calendar year is $5,940,000.

(b) For a calendar year after 2021, the state board shall calculate the program donations cap as follows:

(i) if the total program donations for the previous calendar year exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the cap amount for the previous calendar year increased by 10% plus a percentage equal to the percentage of growth in the participation of the program from the previous calendar year; or

(ii) if the total program donations for the previous calendar year did not exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the same as the cap amount for the previous calendar year.

(5) A person that receives a tax credit certificate in accordance with this section shall retain the certificate for the same time period a person is required to keep books and records under Section 59-1-1406.

Section 9. Section 53E-7-408 is amended to read:

53E-7-408. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b)(i) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(A) the audit shall be performed in accordance with generally accepted auditing standards;

(B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(C) the audited financial statements shall be as of a period within the last 12 months; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective student will participate;

(f)(i) administer an annual assessment of each scholarship student's academic progress; and

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction:

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to the parent of a scholarship student the relevant credentials of the teachers who will be teaching the scholarship student.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another qualifying school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph;

(c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b); or

(d) the private school charges a scholarship student more in tuition or fees than another student based solely upon the scholarship student being a scholarship recipient under this part.

[~~(3) A home school is not eligible to enroll scholarship students.~~]

[~~(4)~~](3) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

[~~(5)~~](4) A private school intending to enroll scholarship students shall submit an application to the state board.

[~~(6)~~](5) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) publish on the state board's website, a list of private schools approved under this section.

[~~(7)~~](6) A private school approved under this section that changes ownership shall:

(a) submit a new application to the state board; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Section 10. Section 53E-7-408.5 is enacted to read:

53E-7-408.5. Eligible service provider.

(1) To be an eligible service provider, a private program or service:

(a) shall provide to the scholarship granting organization:

(i) a federal employer identification number;

(ii) the provider's address and contact information;

(iii) a description of each program or service the provider proposes to offer directly to a scholarship student; and

(iv) subject to Subsection (2), any other information as required by the scholarship granting organization;

(b) shall comply with the antidiscrimination provisions of 42 U.S.C. Sec. 2000d; and

(c) may not act as a consultant, clearing house, or intermediary that connects a scholarship student with or otherwise facilitates the student's engagement with a program or service that another entity provides.

(2) The scholarship granting organization shall adopt policies that maximize the number of eligible service providers, including accepting new providers throughout the school year, while ensuring education programs or services provided through the program meet student needs and otherwise comply with this part.

(3) A private program or service intending to receive scholarship funds shall:

(a) submit an application to the scholarship granting organization; and

(b) agree to not refund, rebate, or share scholarship funds with scholarship students or scholarship students' parents in any manner except remittances or refunds to a scholarship account in accordance with this part and procedures that the program manager establishes.

(4) The scholarship granting organization shall:

(a) if the private program or service meets the eligibility requirements of this section, recognize the private program or service as an eligible service provider and approve a private program or service's application to receive scholarship funds on behalf of a scholarship student; and

(b) make available to the public a list of eligible service providers approved under this section.

(5) A private program or service approved under this section that changes ownership shall:

(a) cease operation as an eligible service provider until:

(i) the program or service submits a new application to the scholarship granting organization; and

(ii) the scholarship granting organization approves the new application; and

(b) demonstrate that the private program or service continues to meet the eligibility requirements of this section.

Section 11. Section 53F-4-302 is amended to read:

53F-4-302. Scholarship program created -- Qualifications.

(1) The Carson Smith Scholarship Program is created to award scholarships to students with disabilities to attend a private school.

(2) To qualify for a scholarship:

(a) the student's custodial parent shall reside within Utah;

(b) the student shall have one or more of the following disabilities:

(i) an intellectual disability;

(ii) deafness or being hard of hearing;

(iii) a speech or language impairment;

(iv) a visual impairment;

(v) a serious emotional disturbance;

(vi) an orthopedic impairment;

(vii) autism;

(viii) traumatic brain injury;

(ix) other health impairment;

(x) specific learning disabilities;

(xi) deafblindness; or

(xii) a developmental delay, provided the student is at least three years [~~of age, pursuant~~]old, as described to Subsection (2)(c), and is younger than eight years [~~of age~~]old;

(c) the student shall be at least three years [~~of age~~]old before September 2 of the year in which admission to a private school is sought and under 19 years [~~of age~~]old on the last day of the school year as determined by the private school, or, if the individual has not graduated from high school, will be under 22 years [~~of age~~]old on the last day of the school year as determined by the private school; and

(d) except as provided in Subsection (3), the student shall:

(i) be enrolled in a Utah public school in the school year prior to the school year the student will be enrolled in a private school;

(ii) have an IEP; and

(iii) have obtained acceptance for admission to an eligible private school.

(3) The requirements of Subsection (2)(d) do not apply in the following circumstances:

(a) the student is enrolled or has obtained acceptance for admission to an eligible private school that has previously served students with disabilities; and

(b) an assessment team is able to readily determine with reasonable certainty:

(i) that the student has a disability listed in Subsection (2)(b) and would qualify for special education services, if enrolled in a public school; and

(ii) for the purpose of establishing the scholarship amount, the appropriate level of special education services which should be provided to the student.

(4)(a) [~~To~~]Except as provided in Subsection (11)(b), to receive a full-year scholarship under this part, a parent of a student shall submit to the LEA where the student is enrolled an application on or before the August 15 immediately preceding the first day of the school year for which the student would receive the scholarship.

(b) [~~The~~]Except as provided in Subsection (11)(b), the state board may waive the full-year scholarship deadline described in Subsection (4)(a).

(c) An application for a scholarship shall contain an acknowledgment by the parent that the selected school is qualified and capable of providing the level of special education services required for the student.

(5)(a) The scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of special education services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship student if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student.

(c) Acceptance of a scholarship has the same effect as a parental refusal to consent to services pursuant to Section 614(a)(1) of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(d) The creation of the scholarship program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6)(a) Except as provided in Subsection (6)(b), a scholarship shall remain in force for the lesser of:

(i) three years; or

(ii) until the student is determined ineligible for special education services.

(b) If a student is determined ineligible for special education services as described in Subsection (6)(a)(ii) before the end of a school year, the student may remain enrolled at the private school and qualifies for the scholarship until the end of the school year.

(c) A scholarship [~~shall~~]may be extended for an additional three years, if:

(i) the student is evaluated by an assessment team; and

(ii) the assessment team determines that the student would qualify for special education services, if enrolled in a public school.

(d) The assessment team shall determine the appropriate level of special education services which should be provided to the student for the purpose of setting the scholarship amount.

(e) A scholarship [~~shall~~]may be extended for successive three-year periods as provided in Subsections (6)(a) and (c):

(i) until the student graduates from high school; or

(ii) if the student does not graduate from high school, until the student is [~~age~~]22 years old.

(7) A student's parent, at any time, may remove the student from a private school and place the student in another eligible private school and retain the scholarship.

(8) A scholarship student:

(a) may participate in the Statewide Online Education Program described in Part 5, Statewide Online Education Program; and

(b) may not participate in a dual enrollment program pursuant to Section 53G-6-702.

(9) The parents of a scholarship student have the authority to choose the private school that will best serve the interests and educational needs of that student, which may be a sectarian or nonsectarian school, and to direct the scholarship resources available for that student solely as a result of their genuine and independent private choices.

[~~(10)(a) An LEA shall notify in writing the parents of students enrolled in the LEA who have an IEP of the availability of a scholarship to attend a private school through the Carson Smith Scholarship Program.~~]

[~~(b) The notice described under Subsection (10)(a) shall:~~]

[~~(i) be provided no later than 30 days after the student initially qualifies for an IEP;~~]

[~~(ii) be provided annually no later than February 1 to all students who have an IEP; and~~]

[~~(iii) include the address of the Internet website maintained by the state board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program.~~]

[~~(c) An LEA or school within an LEA that has an enrolled student who has an IEP shall post the address of the Internet website maintained by the state board that provides prospective applicants with detailed program information and application forms for the Carson Smith Scholarship Program on the LEA's or school's website, if the LEA or school has one.~~]

(10) The state board shall notify the parents of a scholarship student in writing of:

(a) the termination of new applicants in the existing scholarship program; and

(b) the ability of a current scholarship student to remain in the scholarship program as described in Subsection (6)(c) and (e).

(11) After the 2023-2024 school year, an LEA or the state board may not:

(a) accept a new application; or

(b) provide a waiver of a full-year application.

Section 12. Section 53F-4-304 is amended to read:

53F-4-304. Scholarship payments.

(1)(a) The state board shall award scholarships subject to the availability of money appropriated by the Legislature for that purpose.

(b) The Legislature shall annually appropriate money to the state board from the General Fund to make scholarship payments.

(c) The Legislature shall annually increase the amount of money appropriated under Subsection (1)(b) by an amount equal to the product of:

(i) the average scholarship amount awarded as of December 1 in the previous year; and

(ii) the product of:

(A) the number of students in preschool through grade 12 in public schools statewide who have an IEP on December 1 of the previous year; and

(B) 0.0007.

(d) If the number of scholarship students as of December 1 in any school year equals or exceeds 7% of the number of students in preschool through grade 12 in public schools statewide who have an IEP as of December 1 in the same school year, the Public Education Appropriations Subcommittee shall study the requirement to increase appropriations for scholarship payments as provided in this section.

(e)(i) If money is not available to pay for all scholarships requested, the state board shall

allocate scholarships on a random basis except that the state board shall give preference to students who received scholarships in the previous school year.

(ii) If money is insufficient in a school year to pay for all the continuing scholarships, the state board may not award new scholarships during that school year and the state board shall prorate money available for scholarships among the eligible students who received scholarships in the previous year.

(f) Beginning with the 2025 fiscal year, the state board shall:

(i) calculate a maximum award cap that may not exceed the cost of the program including scholarship payments from the previous fiscal year; and

(ii) transfer any funds in excess of the amount described in Subsection (1)(f)(i) to the Carson Smith Opportunity Scholarship Program established in Section 53E-7-402.

(2) Except as provided in Subsection (4), the state board shall award full-year scholarships in the following amounts:

(a) for a student who received an average of 180 minutes per day or more of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 2.5; or

(ii) the private school tuition and fees; and

(b) for a student who received an average of less than 180 minutes per day of special education services in a public school before transferring to a private school, an amount not to exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.5; or

(ii) the private school tuition and fees.

(3) The scholarship amount for a student enrolled in a half-day kindergarten or part-day preschool program shall be the amount specified in Subsection (2)(a) or (b) multiplied by .55.

(4) If a student leaves a private school before the end of a fiscal quarter:

(a) the private school is only entitled to the amount of scholarship equivalent to the number of days that the student attended the private school; and

(b) the private school shall remit a prorated amount of the scholarship to the state board in accordance with the procedures described in rules adopted by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) For the amount of funds remitted under Subsection (4)(b), the state board shall:

(a) make the amount available to the student to enroll immediately in another qualifying private school; or

(b) refund the amount back to the Carson Smith Scholarship Program account [~~to be available to support the costs of another scholarship~~].

(6)(a) The state board shall make an additional allocation on a random basis before June 30 each year only:

(i) if there are sufficient remaining funds in the program; and

(ii) for scholarships for students enrolled in a full-day preschool program.

(b) If the state board awards a scholarship under Subsection (6)(a), the scholarship amount or supplement may not exceed the lesser of:

(i) the value of the weighted pupil unit multiplied by 1.0; or

(ii) the private school tuition and fees.

(c) The state board shall, when preparing annual growth projection numbers for the Legislature, include the annual number of applications for additional allocations described in Subsection (6)(a).

(7)(a) The scholarship amount for a student who receives a waiver under Subsection 53F-4-302(3) shall be based upon the assessment team's determination of the appropriate level of special education services to be provided to the student.

(b)(i) If the student requires an average of 180 minutes per day or more of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(a).

(ii) If the student requires less than an average of 180 minutes per day of special education services, a full-year scholarship shall be equal to the amount specified in Subsection (2)(b).

(iii) If the student is enrolled in a half-day kindergarten or part-day preschool program, a full-year scholarship is equal to the amount specified in Subsection (3).

(8)(a) Except as provided in Subsection (8)(b), upon review and receipt of documentation that verifies a student's admission to, or continuing enrollment and attendance at, a private school, the state board shall make scholarship payments quarterly in four equal amounts in each school year in which a scholarship is in force.

(b) In accordance with state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make a scholarship payment before the first quarterly payment of the school year, if a private school requires partial payment of tuition before the start of the school year to reserve space for a student admitted to the school.

(9) A parent of a scholarship student shall notify the state board if the student does not have continuing enrollment and attendance at an eligible private school.

(10) Before scholarship payments are made, the state board shall cross-check enrollment lists of scholarship students, LEAs, and youth in custody to ensure that scholarship payments are not erroneously made.

Section 13. Section 53F-6-401 is amended to read:

53F-6-401. Definitions.

As used in this part:

(1) "Eligible student" means a student:

(a) who is eligible to participate in public school, in kindergarten, or grades 1 through 12;

(b) who is a resident of the state;

(c) who, during the school year for which the student is applying for a scholarship account:

(i) does not receive a scholarship under:

(A) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(B) the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(ii) except for a student who is enrolled part-time in accordance with Section 53G-6-702, is not enrolled in an LEA upon receiving the scholarship;

(d) whose eligibility is not suspended or disqualified under Section 53F-6-401; and

(e) who completes, to maintain eligibility, the portfolio requirement described in Subsection 53F-6-402(3)(d).

(2) "Federal poverty level" means the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(3)(a) "Home-based scholarship student" means a student who:

(i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

(ii) is excused from enrollment in an LEA in accordance with Section 53G-6-204 to attend a home school; and

(iii) receives a benefit of scholarship funds.

(b) "Home-based scholarship student" does not mean a home school student who does not receive a scholarship under the program.

(4) "Program manager" means an organization that:

(a) is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code;

(b) is not affiliated with any international organization;

(c) does not harvest data for the purpose of reproducing or distributing the data to other entities;

(d) has no involvement in guiding or directing any curriculum or curriculum standards;

(e) does not manage or otherwise administer a scholarship under:

(i) the Carson Smith Scholarship Program established in Section 53F-4-302; or

(ii) the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program established in Section 53E-7-402; and

(f) an agreement with the state board recognizes as a program manager, in accordance with this part.

(5)(a) "Program manager employee" means an individual working for the program manager in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from scholarship funds.

(b) "Program manager employee" does not include:

(i) an individual who volunteers for the program manager or for a qualifying provider;

(ii) an individual who works for a qualifying provider; or

(iii) a qualifying provider.

(6) "Program manager officer" means:

(a) a member of the board of a program manager; or

(b) the chief administrative officer of a program manager.

(7) "Qualifying provider" means one of the following entities that is not a public school and is autonomous and not an agent of the state, in accordance with Section 53F-6-406:

(a) an eligible school that the program manager approves in accordance with Section 53F-6-408; or

(b) an eligible service provider that the program manager approves in accordance with Section 53F-6-409.

(8) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(9) "Scholarship account" means the account to which a program manager allocates funds for the payment of approved scholarship expenses in accordance with this part.

(10) "Scholarship expense" means an expense described in Section 53F-6-402 that a parent or scholarship student incurs in the education of the scholarship student for a service or goods that a qualifying provider provides, including:

(a) tuition and fees of a qualifying provider;

(b) fees and instructional materials at a technical college;

(c) tutoring services;

(d) fees for after-school or summer education programs;

(e) textbooks, curricula, or other instructional materials, including any supplemental materials or associated online instruction that a curriculum or a qualifying provider recommends;

(f) educational software and applications;

(g) supplies or other equipment related to a scholarship student's educational needs;

(h) computer hardware or other technological devices that are intended primarily for a scholarship student's educational needs;

(i) fees for the following examinations, or for a preparation course for the following examinations, that the program manager approves:

(i) a national norm-referenced or standardized assessment described in Section 53F-6-410, an advanced placement examination, or another similar assessment;

(ii) a state-recognized industry certification examination; and

(iii) an examination related to college or university admission;

(j) educational services for students with disabilities from a licensed or accredited practitioner or provider, including occupational, behavioral, physical, audiology, or speech-language therapies;

(k) contracted services that the program manager approves and that an LEA provides, including individual classes, after-school tutoring services, transportation, or fees or costs associated with participation in extracurricular activities;

(l) ride fees or fares for a fee-for-service transportation provider to transport the scholarship student to and from a qualifying provider, not to exceed $750 in a given school year;

(m) expenses related to extracurricular activities, field trips, educational supplements, and other educational experiences; or

(n) any other expense for a good or service that:

(i) a parent or scholarship student incurs in the education of the scholarship student; and

(ii) the program manager approves, in accordance with Subsection (4)(d).

(11) "Scholarship funds" means:

(a) funds that the Legislature appropriates for the program; and

(b) interest that scholarship funds accrue.

(12)(a) "Scholarship student" means an eligible student, including a home-based scholarship student, for whom the program manager establishes and maintains a scholarship account in accordance with this part.

(b) "Scholarship student" does not include a home school student who does not receive a scholarship award under the program.

(13) "Utah Fits All Scholarship Program" or "program" means the scholarship program established in Section 53F-6-402.

Section 14. Section 59-7-109.1 is amended to read:

59-7-109.1. Charitable contributions to the Carson Smith Opportunity Scholarship Program.

(1) Notwithstanding anything to the contrary in Section 59-7-109, a taxpayer may not subtract a charitable contribution that meets the requirements of Section 59-7-109 to the extent that the taxpayer claims a tax credit under Section 59-7-625 for the same charitable contribution.

(2) This section supersedes any conflicting provisions of Utah law.

Section 15. Section 59-7-625 is amended to read:

59-7-625. Nonrefundable tax credit for a donation to the Carson Smith Opportunity Scholarship Program.

(1) A taxpayer that makes a donation to the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's liability under this chapter for a taxable year, the taxpayer:

(a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years; and

(b) may carry back the amount of the tax credit that exceeds the taxpayer's tax liability to the previous taxable year.

Section 16. Section 59-10-1041 is amended to read:

59-10-1041. Nonrefundable tax credit for a donation to the Carson Smith Opportunity Scholarship Program.

(1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

(a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years; and

(b) may carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability to the previous taxable year.

(3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

Section 17. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1)(a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3)(a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c)(i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8)(a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14)(a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15)(a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among special district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Special Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for special districts under Title 17B, Limited Purpose Local Government Entities - Special Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v)(A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist special districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific special districts and special service districts selected by the state auditor and make the information available to all districts.

(17)(a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) Except as provided in Subsection (21), the state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

(21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:

(i) the scholarship granting organization for the [~~Special Needs~~]Carson Smith Opportunity Scholarship Program, created in Section 53E-7-402;

(ii) the State Board of Education for the Carson Smith Scholarship Program, created in Section 53F-4-302; and

(iii) the scholarship program manager for the Utah Fits All Scholarship Program, created in Section 53F-6-402.

(b) Nothing in this subsection limits or impairs the authority of the State Board of Education to administer the programs described in Subsection (21)(a).

(22) The state auditor shall, based on the information posted by the Office of Legislative Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track and post the following information on the state auditor's website:

(a) the information posted under Subsections 36-12-12.1(2)(a) through (e);

(b) an indication regarding whether the policy is timely adopted, adopted late, or not adopted;

(c) an indication regarding whether the policy complies with the requirements established by law for the policy; and

(d) a link to the policy.

(23)(a) A legislator may request that the state auditor conduct an inquiry to determine whether a government entity, government official, or government employee has complied with a legal obligation directly imposed, by statute, on the government entity, government official, or government employee.

(b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct the inquiry requested.

(c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state auditor shall post the results of the inquiry on the state auditor's website.

(d) The state auditor may limit the inquiry described in this Subsection (23) to a simple determination, without conducting an audit, regarding whether the obligation was fulfilled.

Section 18. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The actions affecting Sections 59-7-625 and 59-10-1041 have retrospective operation for taxable year beginning on or after January 1, 2024.

CHAPTER 467
S. B. 48
Passed February 29, 2024
Approved March 20, 2024
Effective July 1, 2024

COUNTY CORRECTIONAL FACILITY REIMBURSEMENT AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill concerns county correctional facility reimbursement.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions concerning county correctional facility reimbursement for state probationary inmates and state parole inmates;
- amends provisions concerning the Subcommittee on County Correctional Facility Contracting and Reimbursement, including reporting requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Governor's Office - CCJJ - Jail Reimbursement - Jail Reimbursement as a one-time appropriation:
  - from the General Fund, One-time, $1,000,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-16-1002, as last amended by Laws of Utah 2023, Chapters 158, 161, 382, and 448
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
63I-2-264, as last amended by Laws of Utah 2021, Chapter 366
63J-1-602.2, as last amended by Laws of Utah 2023, Chapters 33, 34, 134, 139, 180, 212, 246, 310, 330, 345, 354, and 534
64-13e-102, as last amended by Laws of Utah 2023, Chapter 246
64-13e-103.1, as last amended by Laws of Utah 2023, Chapter 246
64-13e-104, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
64-13e-105, as last amended by Laws of Utah 2023, Chapter 246

REPEALS:

64-13e-103.2, as last amended by Laws of Utah 2023, Chapter 246

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 41-6a-511, courts to collect and maintain data;

(e) Section 53-23-101, reporting requirements for reverse-location warrants;

(f) Section 53-24-102, sexual assault offense reporting requirements for law enforcement agencies;

(g) Section 63M-7-214, law enforcement agency grant reporting;

(h) Section 63M-7-216, prosecutorial data collection;

(i) Section 64-13-21, supervision of sentenced offenders placed in community;

(j) Section 64-13-25, standards for programs;

(k) Section 64-13-45, department reporting requirements;

(l) Section 64-13e-104, [~~housing of~~]county correctional facility reimbursement program for state probationary inmates [~~or~~]and state parole inmates;

(m) Section 77-7-8.5, use of tactical groups;

(n) Section 77-11b-404, forfeiture reporting requirements;

(o) Section 77-20-103, release data requirements;

(p) Section 77-22-2.5, court orders for criminal investigations;

(q) Section 78A-2-109.5, court demographics reporting;

(r) Section 80-6-104, data collection on offenses committed by minors; and

(s) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 2. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63H-7a-303 is repealed July 1, 2024.

(6) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(7) Subsection [~~63J-1-602.2(45)~~] 63J-1-602.2(46), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

(8) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 3. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates: Title 64.

[~~(1) Section 64-13e-103.2 is repealed June 30, 2024.~~]

Section 4. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Rangeland Improvement Act created in Section 4-20-101.

(4) The Percent-for-Art Program created in Section 9-6-404.

(5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

(6) The Utah Lake Authority created in Section 11-65-201.

(7) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

(9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26B-3-108(7).

(10) The primary care grant program created in Section 26B-4-310.

(11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

(12) The Utah Health Care Workforce Financial Assistance Program created in Section 26B-4-702.

(13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26B-4-707;

(b) provision of medical residency grants described in Section 26B-4-711; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

(15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

(16) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

(17) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(18) The Utah National Guard, created in Title 39A, National Guard and Militia Act.

(19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(20) The Emergency Medical Services Grant Program in Section 53-2d-207.

(21) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(22) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(23) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

(24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(26) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(27) The State Capitol Preservation Board created by Section 63C-9-201.

(28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(31) The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(32) County correctional facility contracting program for state inmates as described in Section 64-13e-103.

(33) County correctional facility reimbursement program for state probationary inmates and state parole inmates as described in Section 64-13e-104.

[~~(33)~~](34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(34)~~](35) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(35)~~](36) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(36)~~](37) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(37)~~](38) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(38)~~](39) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(39)~~](40) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(40)~~](41) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(41)~~](42) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(42)~~](43) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(43)~~](44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(44)~~](45) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

[~~(45)~~](46) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.5.

[~~(46)~~](47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.

Section 5. Section 64-13e-102 is amended to read:

64-13e-102. Definitions.

As used in this chapter:

[~~(1) "Actual county daily incarceration rate" means the median amount of jail daily incarceration costs based on the data submitted by counties in accordance with Subsection 64-13e-104(6)(b).~~]

[~~(2)~~](1) "Alternative treatment program" means:

(a) an evidence-based cognitive behavioral therapy program; or

(b) a certificate-based program provided by:

(i) an institution of higher education described in Subsection 53B-1-102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

[~~(3) "Annual inmate jail days" means the total number of state probationary inmates housed in a county jail each day for the preceding fiscal year.~~]

[~~(4)~~](2) [~~"CCJJ" ~~]"Board" means the Board of Pardons and Parole.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice, created in Section 63M-7-201.

(4)(a) "Condition of probation day" means a day spent by a state probationary inmate in a county correctional facility as a condition of probation.

(b) "Condition of probation day" includes a day spent by a state probationary inmate in a county correctional facility:

(i) after the date of sentencing;

(ii) before the date of sentencing, if a court orders that the state probationary inmate shall receive credit for time served in a county correctional facility before the date of sentencing;

(iii) as a condition of an original order of probation; and

(iv) as a condition of a new order of probation after a prior revocation of probation.

(c) "Condition of probation day" does not include a day spent by a state probationary inmate in a county correctional facility:

(i) as a probation sanction day;

(ii) after the state probationary inmate has spent 365 consecutive days in a county correctional facility for a single order of probation;

(iii) as a condition of a plea in abeyance agreement if a conviction has not been entered;

(iv) on a hold instituted by the federal Immigration and Customs Enforcement Agency of the United States Department of Homeland Security; or

(v) after the termination of probation if the state probationary inmate is:

(A) sentenced to prison; or

(B) eligible for release.

(5) "Department" means the Department of Corrections, created in Section 64-13-2.

(6) "Division[~~ of Finance~~]" means the Division of Finance, created in Section 63A-3-101.

(7)(a) "Eligible bed day" means a day spent by a state probationary inmate or a state parole inmate in a county correctional facility that is eligible for reimbursement under Section 64-13e-104.

(b) "Eligible bed day" includes:

(i) a condition of probation day;

(ii) a parole hold day;

(iii) a parole sanction day; and

(iv) a probation sanction day.

(8)(a) "Parole hold day" means a day spent in a county correctional facility by a state parole inmate under Subsection 64-13-29(3) based on a suspected violation of the state parole inmate's terms of parole.

(b) "Parole hold day" does not include a day spent in a county correctional facility by a state parole inmate:

(i) after the state parole inmate has spent 72 hours, excluding weekends and holidays, for a single suspected violation of the state parole inmate's terms of parole; or

(ii) as a parole sanction day.

(9)(a) "Parole sanction day" means a day spent in a county correctional facility by a state parole inmate as a sanction under Subsection 64-13-6(2) for a violation of the state parole inmate's terms of parole.

(b) "Parole sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.

(c) "Parole sanction day" does not include a parole hold day.

(10)(a) "Probation sanction day" means a day spent in a county correctional facility by a state probationary inmate as a sanction under Subsection 64-13-6(2) based on a violation of the state probationary inmate's terms of probation.

(b) "Probation sanction day" includes not more than three consecutive days and not more than a total of five days within a period of 30 days for each sanction.

(c) "Probation sanction day" does not include:

(i) a condition of probation day; or

(ii) a day spent in a county correctional facility by a state probationary inmate under Subsection 64-13-29(3) based on a suspected violation of the state probationary inmate's terms of probation.

[~~(7) "Final county daily incarceration rate" means the amount equal to:~~]

[~~(a) the amount appropriated by the Legislature for the purpose of making payments to counties under Section 64-13e-104; divided by~~]

[~~(b) the average annual inmate jail days for the preceding five fiscal years.~~]

[~~(8) "Jail daily incarceration costs" means the following daily costs incurred by a county jail for housing a state probationary inmate on behalf of the department:~~]

[~~(a) executive overhead;~~]

[~~(b) administrative overhead;~~]

[~~(c) transportation overhead;~~]

[~~(d) division overhead; and~~]

[~~(e) motor pool expenses.~~]

[~~(9)~~](11) "State daily incarceration rate" means the average daily incarceration rate, calculated by

the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

[~~(10)~~](12) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

[~~(11)~~](13) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77-27-1; and

(b) housed in a county correctional facility for a reason related to the individual's parole.

[~~(12)~~](14) "State probationary inmate" means a felony probationer sentenced to time in a county correctional facility under Subsection 77-18-105(6).

[~~(13)~~](15) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 6. Section 64-13e-103.1 is amended to read:

64-13e-103.1. Calculating the state incarceration rate.

(1) Before September 15 of each year, the department shall:

(a) calculate the state daily incarceration rate; and

(b) inform each county and [~~CCJJ~~]the commission of the state daily incarceration rate.

(2) The state daily incarceration rate may not be less than the rate presented to the Executive Appropriations Committee of the Legislature for purposes of setting the appropriation for the department's budget.

Section 7. Section 64-13e-104 is amended to read:

64-13e-104. County correctional facility reimbursement program for state probationary inmates and state parole inmates -- Payments.

[~~(1)(a) A county shall accept and house a state probationary inmate or a state parole inmate in a county correctional facility, subject to available resources.~~]

[~~(b) A county may release a number of inmates from a county correctional facility, but not to exceed the number of state probationary inmates in excess of the number of inmates funded by the appropriation authorized in Subsection (2) if:~~]

[~~(i) the state does not fully comply with the provisions of Subsection (9) for the most current fiscal year; or~~]

[~~(ii) funds appropriated by the Legislature for this purpose are less than 50% of the actual county daily incarceration rate.~~]

[~~(2)~~](1) A county may receive reimbursement from the state for the county's eligible bed days as described in this section.

(2) Within funds appropriated by the Legislature for [~~this~~]the purpose described in Subsection (1), the [~~Division of Finance~~]division shall[~~.~~]:

(a) pay a county [~~that houses a state probationary inmate or a state parole inmate~~]for the county's eligible bed days at a rate of [~~47.89%~~]50% of the [~~actual county~~]state daily incarceration rate; and

(b) administer the payments under this section.

(3) Funds appropriated by the Legislature under Subsection (2):

(a) are nonlapsing;

(b) may only be used for the purposes described in Subsection (2) [~~and Subsection (10)~~]; and

(c) may not be used for:

(i) the costs of administering the payment described in this section; or

(ii) payment of county correctional facility contract costs for state inmates under Section 64-13e-103.

(4) The costs described in Subsection (3)(c)(i) shall be [~~covered~~]funded by legislative appropriation.

(5)[~~(a) The Division of Finance shall administer the payment described in Subsection (2) and Subsection (10). (b) In accordance with Subsection (9), CCJJ shall, by rule made pursuant~~]The commission may adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~establish~~]rules to administer this section, including establishing requirements and procedures for collecting data from counties for the purpose of completing the calculations described in this section.

[~~(c) Notwithstanding any other provision of this section, CCJJ shall adjust the amount of the payments described in Subsection (7)(b), on a pro rata basis, to ensure that the total amount of the payments made does not exceed the amount appropriated by the Legislature for the payments.~~]

(6) Each county that receives the payment described in Subsection (2) [~~and Subsection (10) shall:~~]shall submit a report to the commission in accordance with the requirements established by the commission.

[~~(a) on at least a monthly basis, submit a report to CCJJ that includes:~~]

[~~(i) the number of state probationary inmates and state parole inmates the county housed under this section;~~]

[~~(ii) the total number of state probationary inmate days of incarceration and state parole inmate days of incarceration that were provided by the county;~~]

[~~(iii) the total number of offenders housed pursuant to Subsection 64-13-21(2)(b); and~~]

[~~(iv) the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b); and~~]

[~~(b) before September 15 of every third year beginning in 2022, calculate and inform CCJJ of the county's jail daily incarceration costs for the preceding fiscal year.~~]

(7)(a) On or before September 30 of each year, [~~CCJJ~~]the commission shall:

(i) compile the information from the reports described in Subsection [~~(6)(a)~~](6) that relate to the preceding state fiscal year and provide a copy of the compilation to each county that submitted a report; and

(ii) calculate:

(A) [~~the actual county incarceration rate, based on the most recent year that data was reported in accordance with Subsection (6)(b)~~]the eligible bed days for each county; and

(B) [~~the final county incarceration rate~~]the amount owed to each county based on the county's eligible bed days in accordance with Subsection (2).

(b) On or before October 15 of each year, [~~CCJJ~~]the commission shall inform the [~~Division of Finance~~]division and each county of[~~:~~]

[~~(i) the actual county incarceration rate;~~]

[~~(ii) the final county incarceration rate; and (iii)~~] the exact amount of the payment described in this section that shall be made to each county.

(8)(a) On or before December 15 of each year, the [~~Division of Finance~~]division shall distribute the payment described in Subsection (7)(b) in a single payment to each county.

(b) Funds from the Jail Reimbursement Reserve Program may be used only once existing annual appropriated funds for the fiscal year have been exhausted.

[~~(9)(a) The amount paid to each county under Subsection (8) shall be calculated on a pro rata basis, based on the average number of state probationary inmate days of incarceration and the average state parole inmate days of incarceration that were provided by each county for the preceding five state fiscal years; and~~]

[~~(b) if funds are available, the total number of days of incarceration of offenders housed pursuant to Subsection 64-13-21(2)(b).~~]

[~~(10) If funds appropriated under Subsection (2) remain after payments are made pursuant to Subsection (8), the Division of Finance shall pay a county that houses in its jail a person convicted of a felony who is on probation or parole and who is incarcerated pursuant to Subsection 64-13-21(2)(b) on a pro rata basis not to exceed 50% of the actual county daily incarceration rate.~~]

Section 8. Section 64-13e-105 is amended to read:

64-13e-105. Subcommittee on County Correctional Facility Contracting and Reimbursement -- Purpose -- Responsibilities -- Membership.

(1) There is created within [~~CCJJ~~]the commission, the Subcommittee on County Correctional Facility Contracting and Reimbursement consisting of the individuals listed in Subsection (3).

(2) The subcommittee shall meet at least [~~quarterly~~]annually to review, discuss, and make recommendations for:

(a) the state daily incarceration rate, described in Section 64-13e-103.1;

[~~(b) the county daily incarceration rate;~~]

[~~(c)~~](b) county correctional facility contracting and reimbursement processes and goals, including the creation of a comprehensive statewide system of county correctional facility contracting and reimbursement;

[~~(d)~~](c) developing a partnership between the state and counties to create common goals for housing state inmates;

[~~(e)~~](d) calculations for the projected number of bed spaces needed;

[~~(f)~~](e) programming for inmates while incarcerated;

[~~(g)~~](f) proposals to reduce recidivism;

[~~(h)~~](g) enhancing partnerships to improve law enforcement and incarceration programs;

[~~(i)~~](h) inmate transportation costs; and

[~~(j)~~](i) the compilation described in Subsection 64-13e-104(7).

(3) The membership of the subcommittee shall consist of the following nine members:

(a) as designated by the Utah Sheriffs' Association:

(i) one sheriff of a county that is currently under contract with the department to house state inmates; and

(ii) one sheriff of a county that is currently receiving reimbursement from the department for housing state probationary inmates or state parole inmates;

(b) the executive director of the department or the executive director's designee;

(c) as designated by the Utah Association of Counties:

(i) one member of the legislative body of one county that is currently under contract with the department to house state inmates; and

(ii) one member of the legislative body of one county that is currently receiving reimbursement

for housing state probationary inmates or state parole inmates;

(d) the executive director of [~~CCJJ~~]the commission or the executive director's designee;

(e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(f) one member of the Senate, appointed by the president of the Senate; and

(g) the executive director of the Governor's Office of Planning and Budget or the executive director's designee.

(4) The subcommittee shall report to the Law Enforcement and Criminal Justice Interim Committee in November [~~2023 and 2024 on progress and efforts to create and implement a~~]of each year on the status of the comprehensive statewide county correctional facility reimbursement and contracting system.

(5) The subcommittee shall report to the Executive Offices and Criminal Justice Appropriations Subcommittee not later than October 31 [~~in 2022, 2023, and 2024~~]of each year on costs associated with [~~creating and implementing a~~]the comprehensive statewide county correctional facility reimbursement and contracting system established in this chapter.

(6)(a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the [~~Division of Finance~~]division according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 9. Repealer.

This bill repeals:

Section 64-13e-103.2, State daily incarceration rate -- Limits -- Payments to county correctional facilities for state probationary and state parole inmates.

Section 10. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 10(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - CCJJ - Jail Reimbursement

From General Fund, One-time	$1,000,000
Schedule of Programs:	
Jail Reimbursement	$1,000,000

Section 11. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 468
S. B. 52
Passed February 28, 2024
Approved March 20, 2024
Effective July 1, 2024

EDUCATOR SALARY AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill amends educator salary adjustments and the Teacher Salary Supplemental Program to include regional education service agencies.

Highlighted Provisions:

This bill:

- defines terms;
- includes regional education service agencies to educator salary adjustments and the Teacher Salary Supplement Program; and
- provides for an annual increase to the legislative appropriation under certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-405, as last amended by Laws of Utah 2023, Chapters 1, 373
53F-2-504, as last amended by Laws of Utah 2023, Chapter 373
53G-4-410, as last amended by Laws of Utah 2020, Chapters 253, 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, regional education service agency, or the Utah Schools for the Deaf and the Blind who holds:

(a)(i) a license issued by the state board; and

(ii) a position as a:

(A) classroom teacher;

(B) speech pathologist;

(C) librarian or media specialist;

(D) preschool teacher;

(E) mentor teacher;

(F) teacher specialist or teacher leader;

(G) guidance counselor;

(H) audiologist;

(I) psychologist; or

(J) social worker; or

(b)(i) a license issued by the Division of Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3)(a) The state board shall distribute to each school district, each charter school, each regional education service agency, and the Utah Schools for the Deaf and the Blind money that the Legislature appropriates for educator salary adjustments based on the number of educator positions described in Subsection (4) in the school district, the charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind.

(b) Notwithstanding Subsections (3)(a), if appropriations are insufficient to provide the full amount of educator salary adjustments described in this section, the state board shall distribute money appropriated for educator salary adjustments to school districts, charter schools, each regional education service agency, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, each regional education service agency, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment for each full-time-equivalent educator is:

(i) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is funded and in effect, $8,400; or

(ii) if Title 53F, Chapter 6, Part 4, Utah Fits All Scholarship Program, is not funded and in effect, $4,200;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator;

(c) a salary adjustment may not be awarded if an educator has received an unsatisfactory rating on the educator's three most recent evaluations; and

(d) for a fiscal year beginning on or after July 1, 2024, the amount of the salary adjustment is equal to:

(i) the amount of salary adjustment in the preceding fiscal year; and

(ii) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules to ensure that the LEAs do not reduce or artificially limit a teacher's salary to convert the salary supplement in this section into a windfall to the LEA; and

(b) may make rules as necessary to administer this section.

(6)(a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7)(a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments described in this section shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, each regional education service agency, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 2. Section 53F-2-504 is amended to read:

53F-2-504. Teacher Salary Supplement Program.

(1) As used in this section:

(a) "Eligible teacher" means a teacher who:

(i) has a qualifying educational background or qualifying teaching background;

(ii) has a supplement-approved assignment that corresponds to the teacher's qualifying educational background or qualifying teaching background;

(iii) qualifies for the teacher's supplement-approved assignment in accordance with state board rule; and

(iv)(A) is a new employee; or

(B) has not received an unsatisfactory rating on the teacher's three most recent evaluations.

(b) "Field of computer science" means:

(i) computer science; or

(ii) computer information technology.

(c) "Field of science" means:

(i) integrated science;

(ii) chemistry;

(iii) physics;

(iv) physical science; or

(v) general science.

(d) "Qualifying educational background" means:

(i) for a teacher who is assigned a secondary school level mathematics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in mathematics; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements for a bachelor's degree major, master's degree, or doctoral degree in mathematics;

(ii) for a teacher who is assigned a grade 7 or 8 integrated science course, chemistry course, or physics course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of science;

(iii) for a teacher who is assigned a computer science course:

(A) a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(B) a bachelor's degree major, master's degree, or doctoral degree that has course requirements that are substantially equivalent to the course requirements of those required for a bachelor's degree major, master's degree, or doctoral degree in a field of computer science; or

(iv) for a teacher who is assigned to teach special education, a bachelor's degree major, master's degree, or doctoral degree in special education.

(e) "Qualifying teaching background" means:

(i) the teacher has been teaching the same supplement-approved assignment in Utah public schools for at least 10 years; or

(ii) the teacher has a professional deaf education license issued by the state board.

(f) "Supplement-approved assignment" means an assignment to teach:

(i) a secondary school level mathematics course;

(ii) integrated science in grade 7 or 8;

(iii) chemistry;

(iv) physics;

(v) computer science;

(vi) special education; or

(vii) deaf education.

(2)(a) Subject to future budget constraints, the Legislature shall:

(i) annually appropriate money to the Teacher Salary Supplement Program to maintain annual salary supplements for eligible teachers provided in previous years; and

(ii) provide salary supplements to new recipients.

(b) Money appropriated for the Teacher Salary Supplement Program shall include money for the following employer-paid benefits:

(i) retirement;

(ii) workers' compensation;

(iii) Social Security; and

(iv) Medicare.

(3)(a) The annual salary supplement for an eligible teacher who is assigned full-time to a supplement-approved assignment is:

(i) for a fiscal year beginning before July 1, 2023, $4,100 and funded through an appropriation described in Subsection (2); and

(ii) for a fiscal year beginning on or after July 1, 2023, the amount equal to:

(A) the amount of the annual salary supplement in the preceding fiscal year; and

(B) a percentage increase that is equal to the percentage increase in the value of the WPU in the preceding fiscal year.

(b) An eligible teacher who is assigned part-time to a supplement-approved assignment shall receive a partial salary supplement based on the number of hours worked in the supplement-approved assignment.

(4) The state board shall:

(a) create an online application system for a teacher to apply to receive a salary supplement through the Teacher Salary Supplement Program;

(b) determine if a teacher is an eligible teacher;

(c) verify, as needed, the determinations made under Subsection (4)(b) with school district and school administrators; and

(d) certify a list of eligible teachers.

(5) An eligible teacher shall apply to the state board, as provided by the board to receive the salary supplement authorized in this section in accordance with state board rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6)(a) The state board shall establish and administer an appeal process for a teacher to follow if the teacher applies for a salary supplement and does not receive a salary supplement under Subsection (8).

(b)(i) The appeal process established in Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying educational background on the basis that the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(ii) A teacher shall provide transcripts and other documentation to the state board in order for the state board to determine if the teacher has a degree or degree major with course requirements that are substantially equivalent to the qualifying educational background associated with the teacher's supplement-approved assignment.

(c)(i) The appeal process established under Subsection (6)(a) shall allow a teacher to appeal eligibility as an eligible teacher with a qualifying teaching background on the basis that the teacher has a qualifying teaching background.

(ii) The teacher shall provide to the state board evidence to verify that the teacher has a qualifying teaching background.

(7)(a) The state board shall distribute money appropriated to the Teacher Salary Supplement Program to school districts, [~~and~~]charter schools, and regional education service agencies for the Teacher Salary Supplement Program in accordance with the provisions of this section.

(b) The state board shall include the employer-paid benefits described under Subsection (2)(b) in the amount of each salary supplement.

(c) The employer-paid benefits described under Subsection (2)(b) are an addition to the salary supplement limits described under Subsection (3).

(8)(a) Money received from the Teacher Salary Supplement Program shall be used by a school district, [~~or~~]charter school, or regional education service agencies to provide a salary supplement equal to the amount specified in Subsection (3) for each eligible teacher.

(b) The salary supplement is part of an eligible teacher's base pay, subject to eligible teacher's qualification as an eligible teacher every year, semester, or trimester.

(9) Notwithstanding the provisions of this section, if the appropriation for the program is insufficient to cover the costs associated with salary supplements, the state board may distribute the funds in the Teacher Salary Supplement Program on a pro rata basis.

Section 3. Section 53G-4-410 is amended to read:

53G-4-410. Regional education service agencies.

(1) As used in this section:

(a) "Eligible regional education service agency" means a regional education service agency in existence before July 1, 2020.

(b) "Regional education service agency" means an entity formed by two or more school districts as an interlocal entity, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the authority and duties described in this section.

(2) The Legislature strongly encourages school districts to collaborate and cooperate to provide educational services in a manner that will best utilize resources for the overall operation of the public education system.

(3) A regional education service agency formed by an interlocal agreement, in accordance with Title 11, Chapter 13, Interlocal Cooperation Act:

(a) for an eligible regional education service agency, may receive a distribution described in Subsection (6) if the Legislature appropriates money for eligible regional education service agencies;

(b) may apply directly for any grant or program in which an LEA may participate if the agency has the written consent of the LEAs that the agency serves;

(c) may receive services from or partner with any department, division, or agency of the state, including coverage by the Division of Risk Management;

(d) may recommend educators for licensing;

(e) may provide services for students as approved by the regional education service agency's board;

(f) may access as necessary LEA systems that the board provides; and

(g) does not have authority over the LEAs which the agency serves.

(4) A regional education service agency may elect to participate as an employer for retirement programs under:

(a) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(b) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(c) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(5)(a) If local school boards enter into an interlocal agreement to confirm or formalize a regional education service agency in operation before July 1, 2011, the interlocal agreement may not eliminate any rights or obligations of the regional education service agency in effect before entering into the interlocal agreement.

(b) An interlocal agreement entered into to confirm or formalize an existing regional education service agency shall have the effect of confirming and ratifying in the regional education service agency, the title to any property held in the name, or for the benefit of the regional education service agency as of the effective date of the interlocal agreement.

(6)(a) The state board shall distribute any funding appropriated to eligible regional education service agencies as provided by the Legislature.

(b) The state board may provide funding to an eligible regional education service agency in addition to legislative appropriations.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules regarding regional education service agencies including:

(a) the authority, scope, and duties of a regional education service agency;

(b) the creation of a regional education service agency coordinating council, including:

(i) defining the council's role and authority; and

(ii) provisions for the council's membership;

(c) the distribution of legislative appropriations to eligible regional education service agencies;

(d) the designation of eligible regional education service agencies as agents to distribute Utah Education and Telehealth Network services; and

(e) the designation of eligible regional education service agencies as agents for regional coordination of public education and higher education services.

(8) The board shall annually:

(a) review the funding the Legislature appropriates to support regional education service agencies; and

(b) recommend any adjustments as part of the board's annual budget request.

(9) Subject to future budgetary constraints, the Legislature shall increase the annual appropriation for regional education service agencies at the same percentage as the annual state labor market increase for state agencies.

Section 4. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 469
S. B. 51
Passed February 9, 2024
Approved March 20, 2024
Effective May 1, 2024

ROAD CONSTRUCTION BID LIMIT AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill updates a statutory bid limit related to procurement for class B and class C road projects.

Highlighted Provisions:

This bill:

- increases the bid limit for class B and class C road construction projects to allow local governments more flexibility in granting construction projects;
- adjusts the inflation factor on the bid limit to tie increases to the National Highway Construction Cost Index instead of the Consumer Price Index;
- removes a cap on the annual increase due to inflation;
- amends provisions related to bid requirements for construction self-performed by a county or municipality;
- requires construction materials used by a county or municipality for self-performed construction are tested to ensure that the materials meet certain quality standards; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-6-109, as last amended by Laws of Utah 2007, Chapter 69

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-6-109 is amended to read:

72-6-109. Class B and C roads -- Construction and maintenance -- Definitions -- Estimates lower than bids -- Accountability.

(1) As used in this section and Section 72-6-108:

(a) "Bid limit" means:

(i) for the year [~~2003, $125,000~~]2024, $350,000; and

(ii) for each year after [~~2003~~]2024, the amount of the bid limit for the previous year, plus an amount calculated by multiplying the amount of the bid limit for the previous year by[~~ the lesser of 3% or~~] the actual percent change in the [~~Consumer Price Index~~]National Highway Construction Cost Index during the previous calendar year.

[~~(b) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.~~]

[~~(c)~~](b)(i) "Construction" means the work that would apply to:

(A) any new roadbed either by addition to existing systems or relocation;

(B) resurfacing of existing roadways with more than two inches of bituminous pavement; or

(C) new structures or replacement of existing structures, except the replacement of drainage culverts.

(ii) "Construction" does not include maintenance, emergency repairs, or the installation of traffic control devices as described in Section 41-6a-302.

[~~(d)~~](c) "Improvement project" means construction and maintenance as defined in this section except for that maintenance excluded under Subsection (2).

[~~(e)~~](d) "Maintenance" means the keeping of a road facility in a safe and usable condition to which it was constructed or improved, and includes:

(i) the reworking of an existing surface by the application of up to and including two inches of bituminous pavement;

(ii) the installation or replacement of guardrails, seal coats, and culverts;

(iii) the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and

(iv) horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

(e) "National Highway Construction Cost Index" means the National Highway Construction Cost Index published by the Federal Highway Administration.

(f) "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one class B or C road, within a half-mile proximity and occurs within the same calendar year.

(2) The following types of maintenance work are not subject to the contract or bid limit requirements of this section:

(a) the repair of less than the entire surface by crack sealing or patching; and

(b) road repairs incidental to the installation, replacement, or repair of water mains, sewers, drainage pipes, culverts, or curbs and gutters.

(3)(a)(i) If the estimates of a qualified engineer referred to in Section 72-6-108 are substantially

lower than any responsible bid received or in the event no bids are received, the county or municipality may perform the work by force account.

(ii) In no event shall "substantially lower" mean estimates that are less than 10% below the lowest responsible bid.

(b) If a county or municipality performs an improvement project by force account, it shall:

(i) provide an accounting of the costs and expenditures of the improvement including material, labor, and direct equipment costs to be calculated using the Cost Reference Guide for Construction Equipment by Dataquest Inc. or the Federal Emergency Management Agency schedule of equipment rates;

(ii) disclose the costs and expenditures to any person upon request and allow the person to make a copy and pay for the actual cost of the copy; and

(iii) perform the work using the same specifications and standards that would apply to a private contractor.

(4) A county or municipality may not provide construction services to another municipality until the requirements in Section 72-6-108 have been satisfied by the receiving county or municipality.

(5) For any construction self-performed by a county or municipality that exceeds the bid limit, the county or municipality shall seek private bids in accordance with Section 72-6-108.

(6)(a) Before self-performing any construction, and at least annually, a county or municipality shall ensure that the aggregate, asphalt, and concrete materials owned by the county or municipality for construction use are tested by an independent, qualified firm to ensure the materials meet the same standards required by the department for private contractors for the same work.

(b) The legislative body of the county or municipality shall ensure that the results of the tests described in Subsection (6)(a) are public record.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 470
S. B. 61
Passed March 1, 2024
Approved March 20, 2024
Effective July 1, 2024

ELECTRONIC CIGARETTE AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions related to electronic cigarettes.

Highlighted Provisions:

This bill:

- prohibits the sale of electronic cigarette products that have not received market authorization or are pending market authorization from the federal Food and Drug Administration;
- codifies a nicotine limit for electronic cigarette products;
- prohibits the sale of flavored electronic cigarette products; and
- creates a registry for electronic cigarette products.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-8-41.6, as last amended by Laws of Utah 2023, Chapter 327
17-50-333, as last amended by Laws of Utah 2023, Chapter 327
26B-7-505, as renumbered and amended by Laws of Utah 2023, Chapter 308
59-14-807, as last amended by Laws of Utah 2023, Chapters 98, 300, 329, and 531 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 531
76-10-101, as last amended by Laws of Utah 2023, Chapter 330
76-10-113, as enacted by Laws of Utah 2020, Chapter 302

ENACTS:

26A-1-131, Utah Code Annotated 1953
59-14-810, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

[~~(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.~~]

[~~(e)~~](d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

[~~(f)~~](e) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(g)~~](f) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~](g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

[~~(v) any flavored electronic cigarette product is sold; or~~]

[~~(vi)~~](v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

[~~(i)~~](h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

[~~(j)~~](i) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3)(a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4)(a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6)(a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7)(a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Section 26B-7-503;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 2. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

[~~(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.~~]

[~~(e)~~](d) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

[~~(f)~~](e) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(g)~~](f) "Nicotine product" means the same as that term is defined in Section 76-10-101.

[~~(h)~~](g) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business; or

[~~(v) any flavored electronic cigarette product is sold; or~~]

[~~(vi)~~](v) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

[~~(i)~~](h) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

[~~(j)~~](i) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3)(a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4)(a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b)(i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6)(a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26B, Chapter 7, Part 5, Regulation of Smoking, Tobacco Products, and Nicotine Products; or

(iv) under any other provision of state law or local ordinance.

(7)(a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 3. Section 26A-1-131 is enacted to read:

26A-1-131. Electronic cigarette registry enforcement.

(1)(a) A local health department may examine the books, papers, and records of a retailer in this state, for the purpose of determining compliance with Section 59-14-810.

(b) A local health department may make the inspections and examinations at any time during ordinary business hours, and may inspect the premises and all desks, safes, vaults, and other fixtures and furniture contained in or upon the premises for the purpose of ascertaining whether an electronic cigarette product is held or possessed in violation of Section 59-14-810.

(c) Unannounced follow-up examinations of all retailers are required within 30 days after any violation of Section 59-14-810.

(d) A local health department shall publish the results of all examinations at least annually and shall make the results available to the public on request.

(e) Any electronic cigarette product offered for sale in violation of Section 59-14-810 is declared to be a contraband good and shall be immediately embargoed by a local health department.

(f) An electronic cigarette product described in Subsection (1)(e) may be embargoed without a warrant by:

(i) a local health department; or

(ii) a law enforcement agency of this state if directed by a local health department with jurisdiction over where the product is found.

(g) The cost of embargoing shall be borne by the retailer.

(h) In an action brought under this section, a local health department may recover reasonable expenses incurred in investigating and preparing the case and attorney fees.

(i) A retailer shall remove any embargoed electronic cigarette product from the retailer's active inventory and work with the wholesaler or distributor to return or dispose the electronic cigarette product.

(2)(a) A local health department shall disclose to the attorney general any information received under this section which is requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this section or Section 59-14-810.

(b) A local health department and the attorney general shall share with each other information received under this section and Section 59-14-810 or corresponding laws of other states.

(c) A local health department shall provide any necessary information to the State Tax Commission regarding violations of Section 59-14-810.

(3) A monetary penalty assessed to a retailer by a local health department under this section shall be doubled if the retailer fails to provide documentation establishing a clear chain of custody back to the manufacturer.

Section 4. Section 26B-7-505 is amended to read:

26B-7-505. Electronic cigarette products -- Labeling -- Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.

(1) The department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance that is not a manufacturer sealed electronic cigarette substance regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(2) On or before January 1, 2021, the department shall, in consultation with a local health department and with input from members of the public, establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements to sell a manufacturer sealed electronic cigarette product regarding:

(a) labeling;

(b) nicotine content;

(c) packaging; and

(d) product quality.

(3)(a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).

(b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic cigarette product unless the manufacturer sealed electronic cigarette product complies with the requirements established by the department under Subsection (2).

(c) Notwithstanding Subsections (3)(a) and (3)(b), beginning on January 1, 2025, a person may not sell an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product as that term is defined in Section 76-10-101.

(4)(a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).

(b) Except as provided in Subsection (4)(c), a local health department may enact a rule or regulation regarding electronic cigarette substance manufacturing.

(c) A local health department may not enact a rule or regulation regarding a manufacturer sealed electronic cigarette product.

(5) A person may not advertise an electronic cigarette product as a tobacco cessation device.

(6)(a) Any nicotine product shall contain the statement described in Subsection [~~(7)~~](6)(b) if the nicotine product:

[~~(a)~~](i)[~~(i)~~](A) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal regulations; or

[~~(ii)~~](B) is not otherwise required under federal or state law to contain a nicotine warning; and

[~~(b)~~](ii) contains nicotine.

[~~(7)~~](b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection (6)(a) as follows:

"This product contains nicotine."

Section 5. Section 59-14-807 is amended to read:

59-14-807. Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account."

(2) The Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account consists of:

(a) revenue collected from the tax imposed by Section 59-14-804;

(b) fees and penalties collected under Section 59-14-810;

[~~(b)~~](c) all money received by the attorney general or the Department of Commerce as a result of any judgment, settlement, or compromise of claims pertaining to alleged violations of law related to the manufacture, marketing, distribution, or sale of electronic cigarette products, as defined in Section 76-10-101:

(i) if the total amount of the judgment, settlement, or compromise received by the state exceeds $1,000,000; and

(ii) after reimbursement to the attorney general and the Department of Commerce for expenses related to the matters described in Subsection [~~(2)(b)~~](2)(c); and

[~~(c)~~](d) amounts appropriated by the Legislature.

(3)(a) For each fiscal year and subject to appropriation by the Legislature, the Division of Finance shall distribute from the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account:

(i) $2,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(ii) $2,000,000 to the Department of Health and Human Services for statewide cessation programs and prevention education;

(iii) $1,180,000 to the Department of Public Safety for law enforcement officers aimed at disrupting organizations and networks that provide tobacco products, electronic cigarette products, nicotine products, and other illegal controlled substances to minors;

(iv) $3,000,000, which shall be allocated to the local health departments by the Department of Health and Human Services using the formula created in accordance with Section 26A-1-116;

(v) $5,084,200 to the State Board of Education for school-based prevention programs; [~~and~~]

(vi) $2,000,000 to the Department of Health and Human Services for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television[~~.~~]; and

(vii) of the money deposited under Section 59-14-810:

(A) to the commission, in an amount equal to the amount necessary to create and maintain the registry described in Section 59-14-810;

(B) to the Department of Health and Human Services, in an amount necessary for completing duties described in Section 59-14-810; and

(C) to the Department of Health and Human Services, the remainder to be divided among the local health departments for inspection and enforcement described in Sections 26A-1-131 and 59-14-810.

(b) If the amount in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account is insufficient to cover the distributions described in Subsection (3)(a), the distribution amounts shall be adjusted proportionately.

(4)(a) The local health departments shall use the money received in accordance with Subsection (3)(a) for enforcing:

(i) the regulation provisions described in Section 26B-7-505;

(ii) the labeling requirement described in Section 26B-7-505; and

(iii) the penalty provisions described in Section 26B-7-518.

(b) The Department of Health and Human Services shall use the money received in accordance with Subsection (3)(a)(ii) for the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in Section 26B-1-428.

(c) The local health departments shall use the money received in accordance with Subsection (3)(a)(iv) to issue grants under the Electronic Cigarette, Marijuana, and Other Drug Prevention Grant Program created in Section 26A-1-129.

(d) The State Board of Education shall use the money received in accordance with Subsection (3)(a)(v) to distribute to local education agencies to pay for:

(i)(A) stipends for positive behaviors specialists as described in Subsection 53G-10-407(4)(a)(i);

(B) the cost of administering the positive behaviors plan as described in Subsection 53G-10-407(4)(a)(ii); and

(C) the cost of implementing an Underage Drinking and Substance Abuse Prevention Program in grade 4 or 5, as described in Subsection 53G-10-406(3)(b); or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525.

(5)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(6) Subject to legislative appropriations, funds remaining in the Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account after the distribution described in Subsection (3) may only be used for:

(a) funding commission personnel to enforce compliance with the tax collection requirements of this part; and

(b) programs and activities related to the prevention and cessation of electronic cigarette, nicotine products, marijuana, and other drug use.

Section 6. Section 59-14-810 is enacted to read:

59-14-810. Electronic cigarette product registry.

(1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that:

(a) the manufacturer agrees to comply with this section; and

(b) the electronic cigarette product is a premarket authorized or pending electronic cigarette product as defined in Section 76-10-101 and will not be illegal to be sold in the state as of January 1, 2025.

(2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

(3)(a) Each certification form shall include:

(i) the name of the electronic cigarette product, nicotine content level by percentage, and any flavors contained in the product;

(ii)(A) a copy of the order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(B) evidence that the premarket tobacco product application for the electronic cigarette product or nicotine product was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

(iii) a nonrefundable $1,000 fee for an electronic cigarette product that is being added to the registry in the first instance; and

(iv) information described in Subsection (10) if applicable.

(b) The commission shall make the materials submitted under Subsection (3)(a) available to the Department of Health and Human Services for review and approval.

(c) A manufacturer required to submit a certification form under this section shall notify the commission and the Department of Health and Human Services in a manner prescribed by the commission within 30 days of any material change making the certification form no longer accurate, including:

(i) the issuance or denial of a marketing authorization or other order by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j; or

(ii) any other order or action by the United States Food and Drug Administration or any court that affects the ability of the electronic cigarette product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(d) On or before January 31 of each year and in a manner prescribed by the commission, a manufacturer shall:

(i) recertify that the information contained in the certification is correct and accurate;

(ii) correct or amend information if necessary; and

(iii) pay a $250 nonrefundable fee for each electronic cigarette product on the registry that is manufactured by the manufacturer.

(e) A manufacturer may amend a certification, including to add additional electronic cigarette products to the registry, if all requirements of this section are met.

(f) The commission shall:

(i) provide an electronic notification to a manufacturer that has not submitted a recertification under Subsection (3)(d); and

(ii) remove a manufacturer or an electronic cigarette product that is not recertified from the registry by March 15.

(4)(a) The Department of Health and Human Services shall review materials described in Subsection (3)(a) and notify the commission regarding whether an electronic cigarette product should be included in the registry.

(b) On or before October 1, 2024, the commission shall make publicly available on the commission's website a registry that lists each electronic cigarette product manufacturer and each electronic cigarette product for which certification forms have been approved by the Department of Health and Human Services.

(c) An electronic cigarette product may not be listed on the registry unless the Department of Health and Human Services determines the requirements of Subsection (3)(a) are met.

(5)(a) If the Department of Health and Human Services obtains information that an electronic cigarette product should not be listed in the registry, the Department of Health and Human Services shall provide the manufacturer notice and an opportunity to cure deficiencies before notifying the commission to remove the manufacturer or products from the registry.

(b) Except as provided in Subsection (5)(c), the Department of Health and Human Services shall comply with Title 63G, Chapter 4, Administrative Procedures Act, before notifying the commission to remove an electronic cigarette product or manufacturer from the registry.

(c) Subsection (5)(b) does not apply to a manufacturer failing:

(i) to decertify an electronic cigarette product;

(ii) to provide fees and documentation described in Subsection (3)(a) or (3)(d); or

(iii) to comply with Subsection (10).

(6)(a) If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30 days from the day on which the product is removed from the registry to remove the product from any inventory and return the product to the manufacturer for disposal.

(b) After the period described in Subsection (6)(a), any electronic cigarette product of a manufacturer identified in the notice of removal are contraband and are subject to penalties under Subsection (8) and seizure, forfeiture, and destruction under Section 26A-1-131.

(7)(a) Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.

(b) A manufacturer may not sell, either directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, an electronic cigarette product in this state that is not included in the registry.

(8)(a) A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

(i) $1,000 for each product offered for sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(b) The commission shall suspend the person's license issued under Section 59-14-803 for a violation of Subsection (8)(a) as follows:

(i) for a second violation within a 12-month period, at least 14 days;

(ii) for a third violation within a 12-month period, at least 60 days; or

(iii) for a fourth violation within a 12-month period, at least one year.

(c) A manufacturer whose electronic cigarette products are not listed in the registry and are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:

(i) $1,000 for each product offered for retail sale in violation of this section; and

(ii) $100 per day until the offending product is removed from the market or until the offending product is properly listed on the registry.

(d) A manufacturer that falsely represents any information required by a certification form described in this section shall be guilty of a class C misdemeanor for each false representation.

(e) A repeated violation of this section shall constitute a deceptive act or practice as provided in Sections 13-11-4 and 13-11a-3 and shall be subject to any remedies or penalties available for a violation of those sections.

(9)(a) To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

(i) the Department of Health and Human Services;

(ii) a local health department; or

(iii) the attorney general.

(b) The commission and attorney general shall share with each other information received under this section, or corresponding laws of other states.

(10)(a)(i) The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

(A) the nonresident manufacturer has registered to do business in the state as a foreign corporation or business entity; or

(B) the nonresident manufacturer appoints and maintains without interruption the services of an agent in this state to receive any service of process on behalf of the manufacturer.

(b) The nonresident manufacturer shall provide the name, address, and telephone number of the agent to the commission.

(c)(i) A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment.

(ii) In the event an agent terminates an agency appointment, the manufacturer shall notify the commission of the termination within five calendar days and shall include proof to the satisfaction of the commission of the appointment of a new agent.

(11) Before May 31 of each year, the commission and the Department of Health and Human Services shall provide a report to the Revenue and Taxation Interim Committee and the Health and Human Services Interim Committee regarding:

(a) the status of the registry;

(b) manufacturers and products included in the registry;

(c) revenue and expenditures related to administration of this section; and

(d) enforcement activities undertaken under this section and Section 26A-1-131.

(12) All fees and penalties collected under this section shall be used for administration and enforcement of this section and Section 26A-1-131.

(13) The commission, in consultation with the Department of Health and Human Services, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

Section 7. Section 76-10-101 is amended to read:

76-10-101. Definitions.

As used in this part:

(1)(a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

(i) contains nicotine;

(ii) is intended for human consumption;

(iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

(iii) dissolvable salts, orbs, pellets, sticks, or strips; and

(iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

(2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

(3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

(4)(a) "Electronic cigarette" means:

(i) any electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) which simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7)(a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb,[~~or~~] spice, or mint.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that[:] has a taste or smell of only tobacco or menthol.

[~~(i) has a taste or smell of only tobacco, mint, or menthol; or~~]

[~~(ii) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i).~~]

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(10)(a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(11) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

(13) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a cafe;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(16) "Premarket authorized or pending electronic cigarette product" means an electronic cigarette product that:

(a)(i) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i); or

(ii)(A) was marketed in the United States on or before August 8, 2016;

(B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C. Sec. 387j on or before September 9, 2020; and

(C) has an application described in Subsection (16)(b)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect; and

(b) does not exceed:

(i) 4.0% nicotine by weight per container; or

(ii) a nicotine concentration of 40 milligrams per milliliter.

[~~(16)~~](17) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

[~~(17)~~](18) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

[~~(18)~~](19)(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) "Tobacco paraphernalia" includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) "Tobacco paraphernalia" does not include matches or lighters.

[~~(19)~~](20) "Tobacco product" means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

[~~(20)~~](21) "Tobacco retailer" means:

(a) a general tobacco retailer, as that term is defined in Section 26B-7-501; or

(b) a retail tobacco specialty business.

Section 8. Section 76-10-113 is amended to read:

76-10-113. Prohibition on distribution of flavored electronic cigarette products -- Prohibition of electronic cigarette products without federal authorization.

(1) [~~It~~]Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a retail tobacco specialty business to give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any person.

(2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person a flavored electronic cigarette product.

(3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell, offer for sale, or furnish to any person an electronic cigarette product that is not a premarket authorized or pending electronic cigarette product.

[~~(2)~~](4) An individual who violates this section is guilty of:

(a) a class C misdemeanor for the first offense; and

(b) a class B misdemeanor for any subsequent offense.

Section 9. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 471
S. B. 65
Passed February 21, 2024
Approved March 20, 2024
Effective July 1, 2024

ONLINE STUDENT FUNDING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Carol S. Moss

LONG TITLE

General Description:

This bill requires the exclusion of a fully online student from a local education agency's (LEA) capital outlay funding formulas.

Highlighted Provisions:

This bill:

- amends the capital outlay foundation distribution formula;
- amends the capital outlay enrollment growth distribution formula; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-3-202, as last amended by Laws of Utah 2019, Chapter 186
53F-3-203, as last amended by Laws of Utah 2019, Chapter 186

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-3-202 is amended to read:

53F-3-202. Capital Outlay Foundation Program created -- Distribution formulas -- Allocations.

(1) As used in this section:

(a) "ADM" or "pupil in average daily membership" means the same as that term is defined in Section 53F-2-102 excluding a pupil fully enrolled in an online education program for at least 180 days.

(b) "Foundation guarantee level per ADM" means a minimum revenue amount per ADM generated by the base tax effort rate, including the following:

(i) the revenue generated locally from a school district's combined capital levy rate; and

(ii) the revenue allocated to a school district by the state board in accordance with Section 53F-3-202.

[~~(b)~~](c) "Qualifying school district" means a school district with a property tax yield per ADM less than the foundation guarantee level per ADM.

[~~(c)~~](d) "Small school district" means a school district that has fewer than 1,000 pupils in average daily membership.

(2) There is created the Capital Outlay Foundation Program to provide capital outlay funding to a school district based on a district's local property tax effort and property tax yield per student compared to a foundation guarantee funding level.

(3)(a) The state board shall determine the foundation guarantee level per ADM that fully allocates the funds appropriated to the state board for distribution under this section.

(b) In determining the foundation guarantee level per ADM and a school district's allocation of funds under this section, the state board shall use data from the fiscal year that is two years prior to the fiscal year the school district receives the allocation, including the:

(i) number of pupils in average daily membership;

(ii) tax rates; and

(iii) derived net taxable value.

(4) By June 1, a county treasurer shall report to the state board the actual collections of property taxes in the school districts located within the county treasurer's county for the period beginning April 1 through the following March 31 immediately preceding that June 1.

(5) If a qualifying school district imposes a combined capital levy rate that is greater than or equal to the base tax effort rate, the state board shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM; and

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM, as determined in accordance with Subsection (3); and

(ii) the qualifying school district's property tax yield per ADM.

(6) If a qualifying school district imposes a combined capital levy rate less than the base tax effort rate, the state board shall allocate to the qualifying school district an amount equal to the product of the following:

(a) the qualifying school district's ADM;

(b) an amount equal to the difference between the following:

(i) the foundation guarantee level per ADM; and

(ii) the qualifying school district's property tax yield per ADM; and

(c) a percentage equal to:

(i) the qualifying school district's combined capital levy rate; divided by

(ii) the base tax effort rate.

(7)(a) The state board shall allocate:

(i) a minimum of $200,000 to each small school district with a property tax base per ADM less than or equal to the statewide average property tax base per ADM;

(ii) a minimum of $100,000 to each small school district with a property tax base per ADM that is:

(A) greater than the statewide average property tax base per ADM; and

(B) less than or equal to two times the statewide average property tax base per ADM; and

(iii) a minimum of $50,000 to each small school district with a property tax base per ADM that is:

(A) greater than two times the statewide average property tax base per ADM; and

(B) less than or equal to five times the statewide average property tax base per ADM.

(b) The state board shall incorporate the minimum allocations described in Subsection (7)(a) in its calculation of the foundation guarantee level per ADM determined in accordance with Subsection (3).

Section 2. Section 53F-3-203 is amended to read:

53F-3-203. Capital Outlay Enrollment Growth Program created -- Distribution formulas -- Allocations.

(1) As used in this section:

(a) "Average annual net enrollment increase" means the quotient of:

(i)(A) enrollment in the prior fiscal year, based on October 1 enrollment counts excluding a pupil fully enrolled in an online education program for at least 180 days; minus

(B) enrollment in the year four years prior, based on October 1 enrollment counts excluding a pupil fully enrolled in an online education program for at least 180 days; divided by

(ii) three.

(b) "Eligible district" or "eligible school district" means a school district that:

(i) has an average annual net enrollment increase; and

(ii) has a property tax base per ADM in the year two years prior that is less than two times the statewide average property tax base per ADM in the year two years prior.

(2) There is created the Capital Outlay Enrollment Growth Program to provide capital outlay funding to school districts experiencing net enrollment increases.

(3) [~~For fiscal years beginning on or after July 1, 2008, the~~]The state board shall annually allocate appropriated funds to eligible school districts in accordance with Subsection (4).

(4) The state board shall allocate to an eligible school district an amount equal to the product of:

(a) the quotient of:

(i) the eligible school district's average annual net enrollment increase; divided by

(ii) the sum of the average annual net enrollment increase in all eligible school districts; and

(b) the total amount appropriated for the Capital Outlay Enrollment Growth Program in that fiscal year.

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 472
S. B. 67
Passed February 16, 2024
Approved March 20, 2024
Effective May 1, 2024

PUBLIC THOROUGHFARE AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill amends provisions related to the establishment and invalidation of a public thoroughfare on private land.

Highlighted Provisions:

This bill:

- provides that a road on which public use has been discontinued for more than 50 years, ownership is vested in the private property owner.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-5-105, as last amended by Laws of Utah 2023, Chapter 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-5-105 is amended to read:

72-5-105. Highways, streets, or roads once established continue until abandoned -- Temporary closure -- Notice.

(1)(a) Except as provided in Subsections (1)(b), (3), and (7), all public highways, streets, or roads once established shall continue to be highways, streets, or roads until formally abandoned or vacated by written order, resolution, or ordinance resolution of a highway authority having jurisdiction or by court decree, and the written order, resolution, ordinance, or court decree has been duly recorded in the office of the recorder of the county or counties where the highway, street, or road is located.

(b) If public use of a highway, street, or road across private land has been discontinued for more than 50 years:

(i) the highway, street, or road is not required to be formally abandoned as described in Subsection (1)(a); and

(ii) ownership of the highway, street, or road is vested in the adjoining record owner or owners, with one-half of the width of the highway, street, or road vesting to the adjoining owners.

(c) Subsection (1)(b) does not apply to a public highway, street, or road claimed by the state or county under R.S. 2477 or across federal lands.

(2)(a) For purposes of assessment, upon the recordation of an order executed by the proper authority with the county recorder's office, title to the vacated or abandoned highway, street, or road shall vest to the adjoining record owners, with one-half of the width of the highway, street, or road assessed to each of the adjoining owners.

(b) Provided, however, that should a description of an owner of record extend into the vacated or abandoned highway, street, or road that portion of the vacated or abandoned highway, street, or road shall vest in the record owner, with the remainder of the highway, street, or road vested as otherwise provided in this Subsection (2).

(c) Title to a highway, street, or road that a local highway authority closes to vehicular traffic under Subsection (3) or (7) remains vested in the city.

(3)(a) In accordance with this section, a state or local highway authority may temporarily close a class B, C, or D road, an R.S. 2477 right-of-way, or a portion of a class B, C, or D road or R.S. 2477 right-of-way.

(b)(i) A temporary closure authorized under this section is not an abandonment.

(ii) The erection of a barrier or sign on a highway, street, or road once established is not an abandonment.

(iii) An interruption of the public's continuous use of a highway, street, or road once established is not an abandonment even if the interruption is allowed to continue unabated.

(c) A temporary closure under Subsection (3)(a) may be authorized only under the following circumstances:

(i) when a federal authority, or other person, provides an alternate route to an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way if the alternate route is:

(A) accepted by the highway authority; and

(B) formalized by a federal permit or a written agreement between the federal authority or other person and the highway authority;

(ii) when a state or local highway authority determines that correction or mitigation of injury to private or public land resources is necessary on or near a class B or D road or portion of a class B or D road; or

(iii) when a local highway authority makes a finding that temporary closure of all or part of a class C road is necessary to mitigate unsafe conditions.

(d)(i) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), the local highway authority may convert the closed portion of the road to another public use or purpose related to the mitigation of the unsafe condition.

(ii) If a local highway authority temporarily closes all or part of a class C road under Subsection (3)(c)(iii), and the closed portion of road is the

subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(e) A highway authority shall reopen an R.S. 2477 right-of-way or portion of an R.S. 2477 right-of-way temporarily closed under this section if the alternate route is closed for any reason.

(f) A temporary closure authorized under Subsection (3)(c)(ii) shall:

(i) be authorized annually; and

(ii) not exceed two years or the time it takes to complete the correction or mitigation, whichever is less.

(4) To authorize a closure of a road under Subsection (3) or (7), a local highway authority shall pass an ordinance to temporarily or indefinitely close the road.

(5) Before authorizing a temporary or indefinite closure as described in Subsection (4), a highway authority shall:

(a) hold a hearing on the proposed temporary or indefinite closure;

(b) provide notice of the hearing by mailing a notice to the Department of Transportation; and

(c) except for a closure under Subsection (3)(c)(iii), provide notice to the owners of the properties abutting the highway, as a class B notice under Section 63G-30-102, for at least four weeks before the day of the hearing.

(6) The right-of-way and easements, if any, of a property owner and the franchise rights of any public utility may not be impaired by a temporary or indefinite closure authorized under this section.

(7)(a) A local highway authority may close to vehicular travel and convert to another public use or purpose a highway, road, or street over which the local highway authority has jurisdiction, for an indefinite period of time, if the local highway authority makes a finding that:

(i) the closed highway, road, or street is not necessary for vehicular travel;

(ii) the closure of the highway, road, or street is necessary to correct or mitigate injury to private or public land resources on or near the highway, road, or street; or

(iii) the closure of the highway, road, or street is necessary to mitigate unsafe conditions.

(b) If a local highway authority indefinitely closes all or part of a highway, road, or street under Subsection (7)(a)(iii), and the closed portion of road is the subject of a lease agreement between the local highway authority and another entity, the local highway authority may not reopen the closed portion of the road until the lease agreement terminates.

(c) An indefinite closure authorized under this Subsection (7) is not an abandonment.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 473
S. B. 74
Passed January 31, 2024
Approved March 20, 2024
Effective May 1, 2024

PORT OF ENTRY AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends provisions related to port-of-entry weight limits and agreements between states at certain ports-of-entry.

Highlighted Provisions:

This bill:

- provides an exception to the typical vehicle weight standards at a port-of-entry to allow the Department of Transportation to apply the lowest applicable gross vehicle weight or gross combination weight applicable at certain ports-of-entry where the Department of Transportation has entered into an agreement regarding operation of the port-of-entry; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-9-502, as last amended by Laws of Utah 2023, Chapter 296

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-9-502 is amended to read:

72-9-502. Motor vehicles to stop at ports-of-entry -- Signs -- Exceptions -- Rulemaking -- By-pass permits.

(1) Except [~~under Subsection (3)~~]as provided in Subsections (3) and (5), a motor carrier operating a motor vehicle with a gross vehicle weight or gross combination weight of 26,001 or more pounds, whichever is greater, shall stop at a port-of-entry as required under this section.

(2) The department may erect and maintain signs directing motor vehicles to a port-of-entry as provided in this section.

(3) A motor vehicle required to stop at a port-of-entry under Subsection (1) is exempt from this section if:

(a) the total one-way trip distance for the motor vehicle would be increased by more than 5% or three miles, whichever is greater if diverted to a port-of-entry;

(b) the motor vehicle is operating under a temporary port-of-entry by-pass permit issued under Subsection (4); or

(c) the motor vehicle is an implement of husbandry as defined in Section 41-1a-102 being operated only incidentally on a highway as described in Section 41-1a-202.

(4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the issuance of a temporary port-of-entry by-pass permit exempting a motor vehicle from the provisions of Subsection (1) if the department determines that the permit is needed to accommodate highway transportation needs due to multiple daily or weekly trips in the proximity of a port-of-entry.

(b) The rules under Subsection (4)(a) shall provide that one permit may be issued to a motor carrier for multiple motor vehicles.

(5) If a port-of-entry is subject to an agreement entered into pursuant to Section 72-9-503, the department may apply the lowest gross vehicle weight or gross combination weight applicable to the relevant port-of-entry.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 474
S. B. 86
Passed February 29, 2024
Approved March 20, 2024
Effective May 1, 2024

LOCAL GOVERNMENT BONDS AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions relating to local government bonds.

Highlighted Provisions:

This bill:

- prohibits a local political subdivision from issuing a lease revenue bond if a specified threshold is exceeded, with an exception; and
- requires a local government entity intending to issue certain lease revenue bonds to comply with specified notice and public hearing requirements before issuing the lease revenue bond.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-103, as last amended by Laws of Utah 2016, Chapter 386
17D-2-501, as enacted by Laws of Utah 2008, Chapter 360

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-103 is amended to read:

11-14-103. Bond issues authorized -- Purposes -- Use of bond proceeds.

(1) Any local political subdivision may, in the manner and subject to the limitations and restrictions contained in this chapter, issue its negotiable bonds for the purpose of paying all or part of the cost of:

(a) acquiring, improving, or extending any one or more improvements, facilities, or property that the local political subdivision is authorized by law to acquire, improve, or extend;

(b) acquiring, or acquiring an interest in, any one or more or any combination of the following types of improvements, facilities, or property to be owned by the local political subdivision, either alone or jointly with one or more other local political subdivisions, or for the improvement or extension of any of those wholly or jointly owned improvements, facilities, or properties:

(i) public buildings of every nature, including without limitation, offices, courthouses, jails, fire, police and sheriff's stations, detention homes, and any other buildings to accommodate or house lawful activities of a local political subdivision;

(ii) waterworks, irrigation systems, water systems, dams, reservoirs, water treatment plants, and any other improvements, facilities, or property used in connection with the acquisition, storage, transportation, and supplying of water for domestic, industrial, irrigation, recreational, and other purposes and preventing pollution of water;

(iii) sewer systems, sewage treatment plants, incinerators, and other improvements, facilities, or property used in connection with the collection, treatment, and disposal of sewage, garbage, or other refuse;

(iv) drainage and flood control systems, storm sewers, and any other improvements, facilities, or property used in connection with the collection, transportation, or disposal of water;

(v) recreational facilities of every kind, including without limitation, athletic and play facilities, playgrounds, athletic fields, gymnasiums, public baths, swimming pools, camps, parks, picnic grounds, fairgrounds, golf courses, zoos, boating facilities, tennis courts, auditoriums, stadiums, arenas, and theaters;

(vi) convention centers, sports arenas, auditoriums, theaters, and other facilities for the holding of public assemblies, conventions, and other meetings;

(vii) roads, bridges, viaducts, tunnels, sidewalks, curbs, gutters, and parking buildings, lots, and facilities;

(viii) airports, landing fields, landing strips, and air navigation facilities;

(ix) educational facilities, including without limitation, schools, gymnasiums, auditoriums, theaters, museums, art galleries, libraries, stadiums, arenas, and fairgrounds;

(x) hospitals, convalescent homes, and homes for the aged or indigent; and

(xi) electric light works, electric generating systems, and any other improvements, facilities, or property used in connection with the generation and acquisition of electricity for these local political subdivisions and transmission facilities and substations if they do not duplicate transmission facilities and substations of other entities operating in the state prepared to provide the proposed service unless these transmission facilities and substations proposed to be constructed will be more economical to these local political subdivisions;

(c) new construction, renovation, or improvement to a state highway within the boundaries of the local political subdivision or an environmental study for a state highway within the boundaries of the local political subdivision; or

(d) except as provided in Subsection (5), the portion of any claim, settlement, or judgment that exceeds $3,000,000.

(2) Except as provided in Subsection (1)(c), any improvement, facility, or property under Subsection (1) need not lie within the limits of the local political subdivision.

(3) A cost under Subsection (1) may include:

(a) the cost of equipment and furnishings for such improvements, facilities, or property;

(b) all costs incident to the authorization and issuance of bonds, including engineering, legal, and fiscal advisers' fees;

(c) costs incident to the issuance of bond anticipation notes, including interest to accrue on bond anticipation notes;

(d) interest estimated to accrue on the bonds during the period to be covered by the construction of the improvement, facility, or property and for 12 months after that period; and

(e) other amounts which the governing body finds necessary to establish bond reserve funds and to provide working capital related to the improvement, facility, or property.

(4)(a) Except as provided in Subsection (4)(b), the proceeds from bonds issued on or after May 14, 2013, may not be used:

(i) for operation and maintenance expenses for more than one year after the date any of the proceeds are first used for those expenses; or

(ii) for capitalization of interest more than five years after the bonds are issued.

(b) The restrictions on the use of bond proceeds under Subsection (4)(a) do not apply to bonds issued to pay all or part of the costs of a claim, settlement, or judgment under Subsection (1)(d).

(5) Beginning on or after July 1, 2021, a local political subdivision may not issue its negotiable bonds for a purpose described in Subsection (1)(d).

(6)(a) As used in this Subsection (6):

(i) "Applicable lease revenue bond" means a lease revenue bond in an amount that exceeds $10,000,000.

(ii) "Combined total" means the total of all lease revenue bonds issued by a local political subdivision within any consecutive three-year period.

(b)(i) A local political subdivision may not issue a lease revenue bond if the issuance of the bond will cause the combined total to exceed $200,000,000.

(ii) The amount of a lease revenue bond to pay for the construction, reconstruction, or remodeling of a correctional facility, as defined in Section 77-17b-102, does not count toward the combined total.

(c) Before issuing an applicable lease revenue bond on or after May 1, 2024, a local political subdivision shall:

(i) make a statement at a meeting of the local political subdivision, as provided in Subsection (6)(d);

(ii) as provided in Subsection (6)(e), publish notice of the proposed issuance of a lease revenue bond and of the public hearing under Subsection (6)(f); and

(iii) hold a public hearing, as provided in Subsection (6)(f).

(d)(i) At a regular meeting of the local political subdivision that is held at least 14 days before a public hearing under Subsection (6)(f), the governing body of a local political subdivision intending to issue an applicable lease revenue bond shall make a statement indicating:

(A) the intent to issue a lease revenue bond; and

(B) the purpose and estimated amount of the lease revenue bond.

(ii) The local political subdivision's agenda under Section 52-4-202 for a meeting described in Subsection (6)(d)(i) shall include a separate item for the statement required under Subsection (6)(d)(i).

(e)(i) A local political subdivision intending to issue an applicable lease revenue bond shall provide notice of the intent to issue a lease revenue bond and of the public hearing required under Subsection (6)(f).

(ii) The notice required under Subsection (6)(e)(i) shall be published:

(A) subject to Section 45-1-101, in a newspaper or combination of newspapers of general circulation in the local political subdivision;

(B) electronically in accordance with Section 45-1-101; and

(C) for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 14 days immediately before the public hearing under Subsection (6)(d).

(iii) If the local political subdivision intending to issue an applicable lease revenue bond is a school district, the notice required by Subsection (6)(e)(i) shall include a statement that contains substantially the following language: "This proposed lease revenue bond commits money from future property tax and income tax revenue allocated to the school district. Additionally, a lease revenue bond generally has a higher interest cost than a voter-approved general obligation bond."

(iv) The notice described in Subsection (6)(e)(ii)(A):

(A) shall be no less than 1/4 page in size, use type no smaller than 18 point, and be surrounded by a 1/4-inch border;

(B) shall be run once each week for the two weeks before a local political subdivision conducts a public hearing under Subsection (6)(f); and

(C) may not be placed in the portion of a newspaper where legal notices and classified advertisements appear.

(v) A notice required under Subsection (6)(e)(i) shall:

(A) contain a clear statement indicating that the local political subdivision intends to issue a lease revenue bond;

(B) explain the purpose, proposed amount, and length of term of the lease revenue bond and the annual amount that the local political subdivision will be required to pay in principal and interest on the lease revenue bond;

(C) identify the intended lessee of the facility to be constructed using proceeds from the lease revenue bond and the expected annual amount of lease payments that the lessee will pay;

(D) provide the date, time, place, and purpose of the public hearing under Subsection (6)(f); and

(E) provide the date, time, and place of the local political subdivision governing body meeting at which the governing body anticipates taking action on the proposal to issue a lease revenue bond.

(f)(i) A local political subdivision intending to issue an applicable lease revenue bond shall hold a public hearing on the proposed lease revenue bond.

(ii) A public hearing under this Subsection (6)(f):

(A) shall be held beginning at or after 6:00 p.m.;

(B) shall be held separate from any other public hearing; and

(C) may be held the same day as another public hearing, including immediately before or after the other public hearing.

(iii) At a public hearing under this Subsection (6)(f), the governing body of the local political subdivision shall provide a member of the public desiring to be heard an opportunity to present testimony on the proposed issuance of a lease revenue bond:

(A) within reasonable time limits; and

(B) without unreasonable restriction on the number of individuals allowed to make public comment.

Section 2. Section 17D-2-501 is amended to read:

17D-2-501. Provisions applicable to issuance of local building authority bonds.

(1) Except as otherwise provided in this chapter:

[~~(1)~~](a) each local building authority that issues bonds shall:

[~~(a)~~](i) issue them as provided in Title 11, Chapter 14, Local Government Bonding Act, except Section 11-14-306; and

[~~(b)~~](ii) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act;

[~~(2)~~](b) bonds issued by a local building authority are governed by and subject to Title 11, Chapter 14, Local Government Bonding Act, except Sections 11-14-306 and 11-14-403; and

[~~(3)~~](c) each local building authority that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

(2) A local building authority that issues a lease revenue bond on or after May 1, 2024 shall comply with the same requirements and is subject to the same limitations under Subsection 11-14-103(6) that apply to the issuance of a lease revenue bond by a local political subdivision, as defined in Section 11-14-102.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 475
S. B. 91
Passed February 29, 2024
Approved March 20, 2024
Effective May 1, 2024

LOCAL GOVERNMENT OFFICERS COMPENSATION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill modifies provisions relating to the compensation of certain county and municipal officers.

Highlighted Provisions:

This bill:

- requires a county legislative body or municipal governing body proposing a compensation increase for specified officers to hold a public hearing on the proposed increase and provide notice of the hearing; and
- repeals language relating to compensation of municipal officers.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-818, as last amended by Laws of Utah 2023, Chapter 435
17-16-14, as last amended by Laws of Utah 1993, Chapter 227

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-818 is amended to read:

10-3-818. Salaries in municipalities -- Notice.

(1) The elective and statutory officers of municipalities shall receive [~~such~~]the compensation for their services [~~as~~]that the governing body [~~may fix~~]fixes by ordinance adopting compensation or compensation schedules enacted after public hearing.

(2)(a) As used in this Subsection (2):

(i) "Compensation" means:

(A) salary, including salary paid under a contract;

(B) a budgeted bonus or budgeted incentive pay;

(C) a vehicle allowance; and

(D) deferred salary.

(ii) "Compensation increase" means an increase in any item of compensation listed in Subsection (2)(a)(i).

(iii) "Executive municipal officer" means:

(A) the city or town manager or chief administrative officer;

(B) the assistant city or town manager or assistant city or town chief administrative officer;

(C) the city or town attorney;

(D) an individual who is the head or chief of a city or town department or division; or

(E) an individual who is the chief assistant or deputy of an individual described in Subsection (2)(a)(ii)(D).

(b) Before a governing body may adopt a final budget or a final amended budget that includes a compensation increase for an executive municipal officer, the governing body shall:

(i) hold a public hearing on the compensation increase; and

(ii) publish notice of the time, place, and purpose of the public hearing:

(A) for at least seven days before the date of the public hearing; and

(B) as a class A notice under Section 63G-30-102.

(c) A public hearing under Subsection (2)(b)(i):

(i) shall be held separate from any other public hearing; and

(ii) may be held the same day as another public hearing, including immediately before or after the other public hearing.

[~~(2) Upon its own motion the governing body may review or consider the compensation of any officer or officers of the municipality or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed, or amended. In the event that the governing body decides that the compensation or compensation schedules should be adopted, changed, or amended, it shall set a time and place for a public hearing at which all interested persons shall be given an opportunity to be heard.~~]

[~~(3) Notice of the time, place, and purpose of the meeting shall be published, for at least seven days before the day of the meeting, for the municipality, as a class A notice under Section 63G-30-102.~~]

[~~(4) After the conclusion of the public hearing, the governing body may enact an ordinance fixing, changing, or amending the compensation of any elective or appointive officer of the municipality or adopting a compensation schedule applicable to any officer or officers.~~]

[~~(5) Any ordinance enacted before Laws of Utah 1977, Chapter 48, by a municipality establishing a salary or compensation schedule for its elective or appointive officers and any salary fixed prior to Laws of Utah 1977, Chapter 48, shall remain effective until the municipality has enacted an ordinance pursuant to the provisions of this chapter.~~]

[~~(6) The compensation of all municipal officers shall be paid at least monthly out of the municipal treasury provided that municipalities having 1,000 or fewer population may by ordinance provide for the payment of its statutory officers less frequently. None of the provisions of this chapter shall be considered as limiting or restricting the authority to any municipality that has adopted or does adopt a charter pursuant to Utah Constitution, Article XI, Section 5, to determine the salaries of its elective and appointive officers or employees.~~]

Section 2. Section 17-16-14 is amended to read:

17-16-14. Salaries of county officers.

(1) The annual salaries of the officers of all counties in the state shall be fixed by the respective county legislative bodies[~~, provided no changes shall be made in existing salaries of county officers until the county legislative body in a county desiring to change existing salaries of county officers shall first hold a public hearing at which all interested persons shall be given an opportunity to be heard~~], subject to the requirements of this section.

(2)(a) As used in this Subsection (2):

(i) "Compensation" means:

(A) salary, including salary paid under a contract;

(B) a budgeted bonus or budgeted incentive pay;

(C) a vehicle allowance; and

(D) deferred salary.

(ii) "Compensation increase" means an increase in any item of compensation listed in Subsection (2)(a)(i).

(iii) "Executive county officer" means:

(A) the county manager or chief administrative officer;

(B) the assistant county manager or assistant county chief administrative officer;

(C) an individual who is the head or chief of a county department or division;

(D) an individual who is the chief assistant or deputy of an individual described in Subsection (2)(a)(ii)(C); or

(E) in a county of the first class with a county executive-council form of government under Section 17-52a-203, an individual appointed by the county executive to a position requiring the advice and consent of the county legislative body, as provided by county ordinance.

(b) Before a county legislative body may adopt a final budget or a final amended budget that includes a compensation increase for an executive county officer, the county legislative body shall:

(i) hold a public hearing on the compensation increase; and

(ii) publish notice of the time, place, and purpose of the public hearing:

(A) for at least seven days before the date of the public hearing; and

(B) as a class A notice under Section 63G-30-102.

(c) A public hearing under Subsection (2)(b)(i):

(i) shall be held separate from any other public hearing; and

(ii) may be held the same day as another public hearing, including immediately before or after the other public hearing.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 476
S. B. 92
Passed February 20, 2024
Approved March 20, 2024
Effective May 1, 2024

STUDENT COMMUNICATION METHODS

Chief Sponsor: Stephanie Pitcher
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill requires local school boards to develop policies and procedures for students to have non-electronic notification of and access to certain activities and events.

Highlighted Provisions:

This bill:

- requires local school boards to develop polices and procedures to ensure that students have non-electronic notification of and access to certain activities and events; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-402, as last amended by Laws of Utah 2023, Chapters 16, 252, 343, 352, and 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-402 is amended to read:

53G-4-402. Powers and duties generally.

(1) A local school board shall:

(a) implement the core standards for Utah public schools using instructional materials that best correlate to the core standards for Utah public schools and graduation requirements;

(b) administer tests, required by the state board, which measure the progress of each student, and coordinate with the state superintendent and state board to assess results and create plans to improve the student's progress, which shall be submitted to the state board for approval;

(c) use progress-based assessments as part of a plan to identify schools, teachers, and students that need remediation and determine the type and amount of federal, state, and local resources to implement remediation;

(d) for each grading period and for each course in which a student is enrolled, issue a grade or performance report to the student:

(i) that reflects the student's work, including the student's progress based on mastery, for the grading period; and

(ii) in accordance with the local school board's adopted grading or performance standards and criteria;

(e) develop early warning systems for students or classes failing to make progress;

(f) work with the state board to establish a library of documented best practices, consistent with state and federal regulations, for use by the special districts;

(g) implement training programs for school administrators, including basic management training, best practices in instructional methods, budget training, staff management, managing for learning results and continuous improvement, and how to help every [~~child~~]student achieve optimal learning in basic academic subjects; and

(h) ensure that the local school board meets the data collection and reporting standards described in Section 53E-3-501.

(2) Local school boards shall spend Minimum School Program funds for programs and activities for which the state board has established minimum standards or rules under Section 53E-3-501.

(3)(a) A local school board may purchase, sell, and make improvements on school sites, buildings, and equipment, and construct, erect, and furnish school buildings.

(b) School sites or buildings may only be conveyed or sold on local school board resolution affirmed by at least two-thirds of the school board members.

(4)(a) A local school board may participate in the joint construction or operation of a school attended by students residing within the district and students residing in other districts either within or outside the state.

(b) Any agreement for the joint operation or construction of a school shall:

(i) be signed by the president of the local school board of each participating district;

(ii) include a mutually agreed upon pro rata cost; and

(iii) be filed with the state board.

(5) A local school board may establish, locate, and maintain elementary, secondary, and applied technology schools.

(6) A local school board may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for the overall operation of the school districts, including shared transportation services.

(7) [~~An~~]Local school boards shall ensure that an agreement under Subsection (6)[~~, shall~~]:

(a) [~~be~~]is signed by the president of the local school board of each participating district;

(b) [~~specify~~]specifies the resource being shared;

(c) [~~include~~]includes a mutually agreed upon pro rata cost;

(d) [~~include~~]includes the duration of the agreement; and

(e) [~~be~~]is filed with the state board.

(8) Except as provided in Section 53E-3-905, a local school board may enroll children in school who are at least five years old before September 2 of the year in which admission is sought.

(9) A local school board:

(a) may establish and support school libraries; and

(b) shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the LEA uses or through a separate platform; and

(ii)(A) for a school district with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a school district with fewer than 1,000 enrolled students, no later than August 1, 2026.

(10) A local school board may collect damages for the loss, injury, or destruction of school property.

(11) A local school board may authorize guidance and counseling services for students and the student's parents before, during, or following school enrollment.

(12)(a) A local school board shall administer and implement federal educational programs in accordance with Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

(b) Federal funds are not considered funds within the school district budget under Chapter 7, Part 3, Budgets.

(13)(a) A local school board may organize school safety patrols and adopt policies under which the patrols promote student safety.

(b) A student appointed to a safety patrol shall be at least 10 years old and have written parental consent for the appointment.

(c) Safety patrol members may not direct vehicular traffic or be stationed in a portion of a highway intended for vehicular traffic use.

(d) Liability may not attach to a school district, its employees, officers, or agents, or to a safety patrol member, a parent of a safety patrol member, or an authorized volunteer assisting the program by virtue of the organization, maintenance, or operation of a school safety patrol.

(14)(a) A local school board may on its own behalf, or on behalf of an educational institution for which the local school board is the direct governing body, accept private grants, loans, gifts, endowments, devises, or bequests that are made for educational purposes.

(b) The contributions made under Subsection (14)(a) are not subject to appropriation by the Legislature.

(15)(a) A local school board may appoint and fix the compensation of a compliance officer to issue citations for violations of Subsection 76-10-105(2)(b).

(b) A person may not be appointed to serve as a compliance officer without the person's consent.

(c) A teacher or student may not be appointed as a compliance officer.

(16) A local school board shall adopt bylaws and policies for the local school board's own procedures.

(17)(a) A local school board shall make and enforce policies necessary for the control and management of the district schools.

(b) Local school board policies shall be in writing, filed, and referenced for public access.

(18) A local school board may hold school on legal holidays other than Sundays.

(19)(a) A local school board shall establish for each school year a school traffic safety committee to implement this Subsection (19).

(b) The committee shall be composed of one representative of:

(i) the schools within the district;

(ii) the Parent Teachers' Association of the schools within the district;

(iii) the municipality or county;

(iv) state or local law enforcement; and

(v) state or local traffic safety engineering.

(c) The committee shall:

(i) receive suggestions from school community councils, parents, teachers, and others, and recommend school traffic safety improvements, boundary changes to enhance safety, and school traffic safety program measures;

(ii) review and submit annually to the Department of Transportation and affected municipalities and counties a child access routing plan for each elementary, middle, and junior high school within the district;

(iii) [~~consult~~]in consultation with the Utah Safety Council and the Division of Family Health Services[~~and~~], provide training to all students in kindergarten through grade 6, within the district, on school crossing safety and use; and

(iv) help ensure the district's compliance with rules made by the Department of Transportation under Section 41-6a-303.

(d) The committee may establish subcommittees as needed to assist in accomplishing the committee's duties under Subsection (19)(c).

(20)(a) A local school board shall adopt and implement a comprehensive emergency response plan to prevent and combat violence in the local

school board's public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events.

(b) The local school board shall ensure that the plan[~~shall~~]:

(i) [~~include~~]includes prevention, intervention, and response components;

(ii) [~~be~~]is consistent with the [~~student conduct and discipline~~]school discipline and conduct policies required for school districts under [~~Chapter 11, Part 2, Miscellaneous Requirements~~]Chapter 8, Part 2, School Discipline and Conduct Plans;

(iii) [~~require~~]requires professional learning for all district and school building staff on the staff's roles in the emergency response plan;

(iv) [~~provide~~]provides for coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to violence in the areas and activities referred to in Subsection (20)(a); and

(v) [~~include~~]includes procedures to notify a student who is off campus at the time of a school violence emergency because the student is:

(A) participating in a school-related activity; or

(B) excused from school for a period of time during the regular school day to participate in religious instruction at the request of the student's parent.

(c) The state board, through the state superintendent, shall develop comprehensive emergency response plan models that local school boards may use, where appropriate, to comply with Subsection (20)(a).

(d) A local school board shall, by July 1 of each year, certify to the state board that its plan has been practiced at the school level and presented to and reviewed by its teachers, administrators, students, and the student's parents and local law enforcement and public safety representatives.

(21)(a) A local school board may adopt an emergency response plan for the treatment of sports-related injuries that occur during school sports practices and events.

(b) The plan may be implemented by each secondary school in the district that has a sports program for students.

(c) The plan may:

(i) include emergency personnel, emergency communication, and emergency equipment components;

(ii) require professional learning on the emergency response plan for school personnel who are involved in sports programs in the district's secondary schools; and

(iii) provide for coordination with individuals and agency representatives who:

(A) are not employees of the school district; and

(B) would be involved in providing emergency services to students injured while participating in sports events.

(d) The local school board, in collaboration with the schools referred to in Subsection (21)(b), may review the plan each year and make revisions when required to improve or enhance the plan.

(e) The state board, through the state superintendent, shall provide local school boards with an emergency plan response model that local school boards may use to comply with the requirements of this Subsection (21).

(22)(a) A local school board shall approve an LEA's policies and procedures that an LEA develops to ensure that students have non-electronic notification of and access to:

(i) school activities and events, including:

(A) schedule changes;

(B) extracurricular activities; and

(C) sporting events; and

(ii) the emergency response plans described in Subsections (20) and (21).

(b) Notwithstanding Subsection (22)(a), an LEA may provide electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii) if:

(i)(A) the school provides each student with an electronic device; and

(B) the electronic device is capable of receiving electronic notification of and access to school activities and events as described in Subsections (22)(a)(i) and (ii); or

(ii) an emergency, unforeseen circumstance, or other incident arises and an LEA cannot reasonably provide timely non-electronic notification.

(c) An LEA may not require the use of a privately owned electronic device to complete course work.

[~~(22)~~](23) A local school board shall do all other things necessary for the maintenance, prosperity, and success of the schools and the promotion of education.

[~~(23)~~](24)(a) Before closing a school or changing the boundaries of a school, a local school board shall:

(i) [~~at least~~]on or before 90 days before [~~approving~~]the day on which the local school board approves the school closure or school boundary change, provide notice that the local school board is considering the closure or boundary change to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents;

(B) parents of students enrolled in other schools within the school district that may be affected by the closure or boundary change, using the same form of communication the local school board regularly uses to communicate with parents; and

(C) the governing council and the mayor of the municipality in which the school is located;

(ii) provide an opportunity for public comment on the proposed school closure or school boundary change during at least two public local school board meetings; and

(iii) hold a public hearing as defined in Section 10-9a-103 and provide public notice of the public hearing [~~as described in~~]in accordance with Subsection [~~(23)(b)~~](24)(b).

(b) [~~The notice of a public hearing required under Subsection (23)(a)(iii)~~]A local school board shall:

(i) [~~indicate the~~]ensure the notice of a public hearing required under Subsection (24)(a)(iii) indicates the:

(A) school or schools under consideration for closure or boundary change; and

(B) the date, time, and location of the public hearing;

(ii) for at least 10 days before the day [~~of~~]on which the public hearing[~~, be published~~] occurs, publish the notice of public hearing for the school district in which the school is located, as a class A notice under Section 63G-30-102; and

(iii) at least 30 days before the day on which the public hearing [~~described in Subsection (23)(a)(iii), be provided as described in Subsections (23)(a)(i)~~] occurs, provide notice of the public hearing in the same manner as the notice of consideration under Subsection (24)(a)(i).

[~~(24)~~](25) A local school board may implement a facility energy efficiency program established under Title 11, Chapter 44, Performance Efficiency Act.

[~~(25)~~](26) A local school board may establish or partner with a certified youth court in accordance with Section 80-6-902 or establish or partner with a comparable restorative justice program, in coordination with schools in that district. A school may refer a student to a youth court or a comparable restorative justice program in accordance with Section 53G-8-211.

[~~(26)~~](27)(a) As used in this Subsection [~~(26)~~](27):

(i) "Learning material" means any learning material or resource used to deliver or support a student's learning, including textbooks, reading materials, videos, digital materials, websites, and other online applications.

(ii)(A) "Instructional material" means learning material that a local school board adopts and approves for use within the LEA.

(B) "Instructional material" does not include learning material used in a concurrent enrollment, advanced placement, or international baccalaureate program or class or another class with required instructional material that is not subject to selection by the local school board.

(iii) "Supplemental material" means learning material that:

(A) an educator selects for classroom use; and

(B) a local school board has not considered and adopted, approved, or prohibited for classroom use within the LEA.

(b) A local school board shall:

(i) make instructional material that the school district uses readily accessible and available for a parent to view;

(ii) annually notify a parent of a student enrolled in the school district of how to access the information described in Subsection [~~(26)(b)(i)~~](27)(b)(i); and

(iii) include on the school district's website information about how to access the information described in Subsection [~~(26)(b)(i)~~](27)(b)(i).

(c) In selecting and approving instructional materials for use in the classroom, a local school board shall:

(i) establish an open process, involving educators and parents of students enrolled in the LEA, to review and recommend instructional materials for board approval; and

(ii) ensure that under the process described in Subsection [~~(26)(c)(i)~~](27)(c)(i), the board:

(A) before the meetings described in Subsection [~~(26)(c)(ii)(B)~~](27)(c)(ii)(B), posts the recommended learning material online to allow for public review or, for copyrighted material, makes the recommended learning material available at the LEA for public review;

(B) before adopting or approving the recommended instructional materials, holds at least two public meetings on the recommendation that provides an opportunity for educators whom the LEA employs and parents of students enrolled in the LEA to express views and opinions on the recommendation; and

(C) adopts or approves the recommended instructional materials in an open and regular board meeting.

(d) A local school board shall adopt a supplemental materials policy that provides flexible guidance to educators on the selection of supplemental materials or resources that an educator reviews and selects for classroom use using the educator's professional judgment, including whether any process or permission is required before classroom use of the materials or resources.

(e) If an LEA contracts with another party to provide online or digital materials, the LEA shall include in the contract a requirement that the provider give notice to the LEA any time that the provider makes a material change to the content of the online or digital materials, excluding regular informational updates on current events.

(f) Nothing in this Subsection [~~(26)~~](27) requires a local school board to review all learning materials used within the LEA.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 477
S. B. 94
Passed February 14, 2024
Approved March 20, 2024
Effective May 1, 2024

ELECTIONS RECORDS AMENDMENTS

Chief Sponsor: Karen Kwan
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill amends provisions relating to the disclosure of the name and address of individuals whose ballots have been rejected and not yet resolved.

Highlighted Provisions:

This bill:

- prohibits an election officer who discloses the name and address of voters whose ballots have been rejected and not yet resolved from including in the disclosure the name or address of a protected individual.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-401, as last amended by Laws of Utah 2023, Chapters 56, 106, 297, and 406 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 106

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice -- Disclosures relating to unresolved ballots.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2)(a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with this section.

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4)(a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine:

(i) in accordance with the rules made under Subsection (11):

(A) that the signature on the affidavit of the return envelope is reasonably consistent with the individual's signature in the voter registration records; or

(B) for an individual who checks the box described in Subsection (5)(c)(v), that the signature is verified by alternative means;

(ii) that the affidavit is sufficient;

(iii) that the voter is registered to vote in the correct precinct;

(iv) that the voter's right to vote the ballot has not been challenged;

(v) that the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, record the ballot as "rejected" and state the reason for the rejection; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5)(a) If the poll workers reject an individual's ballot because the poll workers determine, in accordance with rules made under Subsection (11), that the signature on the return envelope is not reasonably consistent with the individual's signature in the voter registration records, the election officer shall:

(i) contact the individual in accordance with Subsection (6); and

(ii) inform the individual:

(A) that the individual's signature is in question;

(B) how the individual may resolve the issue; and

(C) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(c).

(b) The election officer shall ensure that the notice described in Subsection (5)(a) includes:

(i) when communicating the notice by mail, a printed copy of the affidavit described in Subsection (5)(c) and a courtesy reply envelope;

(ii) when communicating the notice electronically, a link to a copy of the affidavit described in Subsection (5)(c) or information on how to obtain a copy of the affidavit; or

(iii) when communicating the notice by phone, either during a direct conversation with the voter or in a voicemail, arrangements for the voter to receive a copy of the affidavit described in Subsection (5)(c), either in person from the clerk's office, by mail, or electronically.

(c) An affidavit described in Subsection (5)(a)(ii)(C) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit;

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes; and

(v) a check box accompanied by language in substantially the following form: "I am a voter with a qualifying disability under the Americans with Disabilities Act that impacts my ability to sign my name consistently. I can provide appropriate documentation upon request. To discuss accommodations, I can be contacted at _____".

(d) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(c) to the election officer.

(e) An election officer who receives a signed affidavit under Subsection (5)(d) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-502;

(ii) if the election officer receives the affidavit no later than 5 p.m. three days before the day on which the canvass begins, count the individual's ballot; and

(iii) if the check box described in Subsection (5)(c)(v) is checked, comply with the rules described in Subsection (11)(c).

(6)(a) The election officer shall, within two business days after the day on which an individual's ballot is rejected, notify the individual of the rejection and the reason for the rejection, by phone, mail, email, or SMS text message, unless:

(i) the ballot is cured within one business day after the day on which the ballot is rejected; or

(ii) the ballot is rejected because the ballot is received late or for another reason that cannot be cured.

(b) If an individual's ballot is rejected for a reason described in Subsection (6)(a)(ii), the election officer shall notify the individual of the rejection and the reason for the rejection by phone, mail, email, or SMS text message, within the later of:

(i) 30 days after the day of the rejection; or

(ii) 30 days after the day of the election.

(c) The election officer may, when notifying an individual by phone under this Subsection (6), use auto-dial technology.

(7) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless, no later than 5 p.m. three days before the day on which the canvass begins, the election officer:

(a) receives a signed affidavit from the individual under Subsection (5); or

(b)(i) contacts the individual;

(ii) if the election officer has reason to believe that an individual, other than the voter to whom the ballot was sent, signed the ballot affidavit, informs the individual that it is unlawful to sign a ballot affidavit for another person, even if the person gives permission;

(iii) verifies the identity of the individual by:

(A) requiring the individual to provide at least two types of personal identifying information for the individual; and

(B) comparing the information provided under Subsection (7)(b)(iii)(A) to records relating to the individual that are in the possession or control of an election officer; and

(iv) documenting the verification described in Subsection (7)(b)(iii), by recording:

(A) the name and voter identification number of the individual contacted;

(B) the name of the individual who conducts the verification;

(C) the date and manner of the communication;

(D) the type of personal identifying information provided by the individual;

(E) a description of the records against which the personal identifying information provided by the individual is compared and verified; and

(F) other information required by the lieutenant governor.

(8) The election officer shall:

(a) retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election;

(b) retain and preserve the documentation described in Subsection (7)(b)(iv); and

(c) if the election officer complies with Subsection (8)(b) by including the documentation in the voter's voter registration record, make, retain, and preserve a record of the name and voter identification number of each voter contacted under Subsection (7)(b).

(9)(a) The election officer shall record the following in the database used to verify signatures:

(i) any initial rejection of a ballot under Subsection (4)(c), within one business day after the day on which the election officer rejects the ballot; and

(ii) any resolution of a rejection of a ballot under Subsection (7), within one business day after the day on which the ballot rejection is resolved.

(b) An election officer shall include, in the canvass report, a final report of the disposition of all rejected and resolved ballots, including, for ballots rejected, the following:

(i) the number of ballots rejected because the voter did not sign the voter's ballot; and

(ii) the number of ballots rejected because the voter's signatures on the ballot, and in records on file, do not correspond.

(10) Willful failure to comply with this section constitutes willful neglect of duty under Section 20A-5-701.

(11) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) criteria and processes for use by poll workers in determining if a signature corresponds with the signature on file for the voter under Subsections (3)(a) and (4)(a)(i)(A);

(b) training and certification requirements for election officers and employees of election officers regarding the criteria and processes described in Subsection (11)(a); and

(c) in compliance with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. Secs. 12131 through 12165, an alternative means of verifying the identity of an individual who checks the box described in Subsection (5)(c)(v).

(12) [~~If~~]Subject to Subsection (13), if, in response to a request, and in accordance with the requirements of law, an election officer discloses the name or address of voters whose ballots have been rejected and not yet resolved, the election officer shall:

(a) make the disclosure within two business days after the day on which the request is made;

(b) respond to each request in the order the requests were made; and

(c) make each disclosure in a manner, and within a period of time, that does not reflect favoritism to one requestor over another.

(13) A disclosure described in Subsection (12) may not include the name or address of a protected individual, as defined in Subsection 20A-2-104(1).

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 478
S. B. 106
Passed February 14, 2024
Approved March 20, 2024
Effective May 1, 2024

PUBLIC COLD BATH REQUIREMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Paul A. Cutler

LONG TITLE

General Description:

This bill addresses the regulation of public cold baths.

Highlighted Provisions:

This bill:

- defines a public cold bath; and
- prohibits the Department of Health and Human Services from regulating public cold baths.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26B-7-122, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-7-122 is enacted to read:

26B-7-122. Rules for public cold baths.

(1) As used in this section, "public cold bath" means a tub or tank that:

(a) is used by:

(i) the general public, regardless of whether there is a charge or payment for use; and

(ii) one bather at a time;

(b) contains chilled water that is:

(i) maintained at a temperature lower than 60 degrees Fahrenheit;

(ii) no more than 180 gallons in volume; and

(iii) at a depth that allows the bather to maintain the bather's head above the water while in a seated position; and

(c) continuously filters and sanitizes the chilled water.

(2) The department may not adopt a rule that restricts, limits, or imposes requirements on the operation of a public cold bath.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 479
S. B. 112
Passed March 1, 2024
Approved March 20, 2024
Effective May 1, 2024

COSMETOLOGY LICENSING AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill modifies the Cosmetology and Associated Professions Licensing Act.

Highlighted Provisions:

This bill:

- establishes a state license for each of the following:
  - an eyelash and eyebrow technician;
  - an eyelash and eyebrow technician instructor; and
  - an eyelash and eyebrow technology school;
- clarifies the definition of "direct supervision";
- allows a licensed instructor to teach the instructor's scope of practice at any licensed school;
- modifies the membership of the Cosmetology and Associated Professions Licensing Board;
- reduces the training and experience requirements for the following licenses:
  - a barber instructor;
  - a cosmetologist/barber instructor;
  - an electrologist instructor;
  - an esthetician instructor;
  - a hair designer instructor; and
  - a nail technician instructor;
- provides for an eyelash and eyebrow technician apprenticeship; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-11a-102, as last amended by Laws of Utah 2021, Chapter 115
58-11a-201, as last amended by Laws of Utah 2017, Chapter 342
58-11a-301, as last amended by Laws of Utah 2017, Chapter 342
58-11a-302, as last amended by Laws of Utah 2021, Chapters 285, 409
58-11a-304, as last amended by Laws of Utah 2021, Chapter 227
58-11a-306, as last amended by Laws of Utah 2020, Chapter 339
58-11a-501, as last amended by Laws of Utah 2023, Chapter 328

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-11a-102 is amended to read:

58-11a-102. Definitions.

As used in this chapter:

(1) "Approved barber or cosmetologist/barber apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(1) for barbers or Subsection 58-11a-306(2) for cosmetologist/barbers and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) "Approved esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(4) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Approved eyelash and eyebrow technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(7) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~](4) "Approved hair designer apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(3) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(4)~~](5) "Approved master esthetician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(5) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(5)~~](6) "Approved nail technician apprenticeship" means an apprenticeship that meets the requirements of Subsection 58-11a-306(6) and the requirements established by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(6)~~](7) "Barber" means a person who is licensed under this chapter to engage in the practice of barbering.

[~~(7)~~](8) "Barber instructor" means a barber who is licensed under this chapter to engage in the practice of barbering instruction.

[~~(8)~~](9) "Board" means the Cosmetology and Associated Professions Licensing Board created in Section 58-11a-201.

[~~(9)~~](10) "Cosmetic laser procedure" includes a nonablative procedure as defined in Section 58-67-102.

[~~(10)~~](11) "Cosmetic supervisor" means a supervisor as defined in Section 58-1-505.

[~~(11)~~](12) "Cosmetologist/barber" means a person who is licensed under this chapter to engage in the practice of cosmetology/barbering.

[~~(12)~~](13) "Cosmetologist/barber instructor" means a cosmetologist/barber who is licensed under this chapter to engage in the practice of cosmetology/barbering instruction.

[~~(13)~~](14) "Direct supervision" means that the supervisor of an apprentice or the instructor of a student is [~~immediately available~~]physically present in the same building as the apprentice or student and readily able to establish direct contact with the apprentice or student for consultation, advice, instruction, and evaluation.

[~~(14)~~](15) "Electrologist" means a person who is licensed under this chapter to engage in the practice of electrology.

[~~(15)~~](16) "Electrologist instructor" means an electrologist who is licensed under this chapter to engage in the practice of electrology instruction.

[~~(16)~~](17) "Esthetician" means a person who is licensed under this chapter to engage in the practice of esthetics.

[~~(17)~~](18) "Esthetician instructor" means a master esthetician who is licensed under this chapter to engage in the practice of esthetics instruction.

(19) "Eyelash and eyebrow technician" means a person who is licensed under this chapter to engage in the practice of eyelash and eyebrow technology.

(20) "Eyelash and eyebrow technician instructor" means an eyelash and eyebrow technician licensed under this chapter to engage in the practice of eyelash and eyebrow technology instruction.

[~~(18)~~](21) "Fund" means the Cosmetology and Associated Professions Education and Enforcement Fund created in Section 58-11a-103.

[~~(19)~~](22)(a) "Hair braiding" means the twisting, weaving, or interweaving of a person's natural human hair.

(b) "Hair braiding" includes the following methods or styles:

(i) African-style braiding;

(ii) box braids;

(iii) cornrows;

(iv) dreadlocks;

(v) french braids;

(vi) invisible braids;

(vii) micro braids;

(viii) single braids;

(ix) single plaits;

(x) twists;

(xi) visible braids;

(xii) the use of lock braids;

(xiii) the use of decorative beads, accessories, and extensions; and

(xiv) the use of wefts if applied without the use of glue or tape.

(c) "Hair braiding" does not include:

(i) the use of:

(A) wefts if applied with the use of glue or tape;

(B) synthetic tape;

(C) synthetic glue;

(D) keratin bonds;

(E) fusion bonds; or

(F) heat tools;

(ii) the cutting of human hair; or

(iii) the application of heat, dye, a reactive chemical, or other preparation to:

(A) alter the color of the hair; or

(B) straighten, curl, or alter the structure of the hair.

[~~(20)~~](23) "Hair designer" means a person who is licensed under this chapter to engage in the practice of hair design.

[~~(21)~~](24) "Hair designer instructor" means a hair designer who is licensed under this chapter to engage in the practice of hair design instruction.

[~~(22)~~](25) "Licensed barber or cosmetology/barber school" means a barber or cosmetology/barber school licensed under this chapter.

[~~(23)~~](26) "Licensed electrology school" means an electrology school licensed under this chapter.

[~~(24)~~](27) "Licensed esthetics school" means an esthetics school licensed under this chapter.

[~~(25)~~](28) "Licensed hair design school" means a hair design school licensed under this chapter.

[~~(26)~~](29) "Licensed nail technology school" means a nail technology school licensed under this chapter.

[~~(27)~~](30) "Master esthetician" means an individual who is licensed under this chapter to engage in the practice of master-level esthetics.

[~~(28)~~](31) "Nail technician" means an individual who is licensed under this chapter to engage in the practice of nail technology.

[~~(29)~~](32) "Nail technician instructor" means a nail technician licensed under this chapter to engage in the practice of nail technology instruction.

[~~(30)~~](33) "Practice of barbering" means:

(a) cutting, clipping, or trimming the hair of the head of any person by the use of scissors, shears, clippers, or other appliances;

(b) draping, shampooing, scalp treatments, basic wet styling, and blow drying;

(c) removing hair from the face or neck of a person by the use of shaving equipment; and

(d) when providing other services described in this Subsection [~~(30)~~](33), gently massaging the head, back of the neck, and shoulders by manual or mechanical means.

[~~(31)~~](34) "Practice of barbering instruction" means teaching the practice of barbering at a licensed barber school, at [~~a licensed cosmetology/barber school,~~]any school licensed under this chapter or for an approved barber apprenticeship.

[~~(32)~~](35) "Practice of basic esthetics" means any one of the following skin care procedures done on the body for cosmetic purposes and not for the treatment of medical, physical, or mental ailments:

(a) cleansing, stimulating, manipulating, exercising, applying oils, antiseptics, clays, or masks, manual extraction, including a comedone extractor, depilatories, waxes, tweezing, the application of eyelash or eyebrow extensions, natural nail manicures or pedicures, or callous removal by buffing or filing;

(b) limited chemical exfoliation as defined by rule;

(c) removing superfluous hair by means other than electrolysis, except that an individual is not required to be licensed as an esthetician to engage in the practice of threading;

(d) other esthetic preparations or procedures with the use of the hands, a high- frequency or galvanic electrical apparatus, or a heat lamp for cosmetic purposes and not for the treatment of medical, physical, or mental ailments;

(e) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes or eyebrows, or applying eyelash or eyebrow extensions; or

(f) except as provided in Subsection [~~(32)(f)(i)~~](35)(f)(i), cosmetic laser procedures under the direct cosmetic medical procedure supervision of a cosmetic supervisor limited to the following:

(i) superfluous hair removal which shall be under indirect supervision;

(ii) anti- aging resurfacing enhancements;

(iii) photo rejuvenation; or

(iv) tattoo removal.

[~~(33)~~](36)(a) "Practice of cosmetology/barbering" means:

(i) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(ii) cutting, clipping, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(iii) arching eyebrows, tinting eyebrows or eyelashes, perming eyelashes or eyebrows, applying eyelash or eyebrow extensions;

(iv) removing hair from the body of a person by the use of depilatories, waxing, or shaving equipment;

(v) cutting, curling, styling, fitting, measuring, or forming caps for wigs or hairpieces or both on the human head; or

(vi) practicing hair weaving or hair fusing or servicing previously medically implanted hair.

(b) The term "practice of cosmetology/barbering" includes:

(i) the practice of barbering;

(ii) the practice of basic esthetics; [~~and~~]

(iii) the practice of nail technology[~~.~~]; and

(iv) the practice of eyelash and eyebrow technology.

(c) An individual is not required to be licensed as a cosmetologist/barber to engage in the practice of threading.

[~~(34)~~](37) "Practice of cosmetology/barbering instruction" means teaching the practice of cosmetology/barbering:

(a) at [~~a licensed cosmetology/barber school, a licensed barber school, or a licensed nail technology school~~]any school licensed under this chapter; or

(b) for an approved cosmetologist/barber apprenticeship.

[~~(35)~~](38) "Practice of electrology" means:

(a) the removal of superfluous hair from the body of a person by the use of electricity, waxing, shaving, or tweezing; or

(b) cosmetic laser procedures under the supervision of a cosmetic supervisor limited to superfluous hair removal.

[~~(36)~~](39) "Practice of electrology instruction" means teaching the practice of electrology at [~~a licensed electrology school~~]any school licensed under this chapter.

[~~(37)~~](40) "Practice of esthetics instruction" means teaching the practice of basic esthetics or the practice of master- level esthetics:

(a) at [~~a licensed esthetics school or a licensed cosmetology/barber school~~]any school licensed under this chapter; or

(b) for an approved esthetician apprenticeship or an approved master esthetician apprenticeship.

(41) "Practice of eyelash and eyebrow technology" means arching eyebrows by tweezing, tinting eyelashes or eyebrows, perming eyelashes or eyebrows, or applying eyelash or eyebrow extensions.

(42) "Practice of eyelash and eyebrow technology instruction" means teaching the practice of eyelash and eyebrow technology at any school licensed under this chapter or for an approved eyelash and eyebrow technician apprenticeship.

[~~(38)~~](43) "Practice of hair design" means:

(a) styling, arranging, dressing, curling, waving, permanent waving, cleansing, singeing, bleaching, dyeing, tinting, coloring, or similarly treating the hair of the head of a person;

(b) barbering, cutting, clipping, shaving, or trimming the hair by the use of scissors, shears, clippers, or other appliances;

(c) cutting, curling, styling, fitting, measuring, or forming caps for wigs, hairpieces, or both on the human head; or

(d) practicing hair weaving, hair fusing, or servicing previously medically implanted hair.

[~~(39)~~](44) "Practice of hair design instruction" means teaching the practice of hair design at [~~a licensed cosmetology/barber school, a licensed hair design school, or a licensed barber school~~]any school licensed under this chapter.

[~~(40)~~](45)(a) "Practice of master-level esthetics" means:

(i) any of the following when done for cosmetic purposes on the body and not for the treatment of medical, physical, or mental ailments:

(A) body wraps as defined by rule;

(B) hydrotherapy as defined by rule;

(C) chemical exfoliation as defined by rule;

(D) advanced pedicures as defined by rule;

(E) sanding, including microdermabrasion;

(F) advanced extraction;

(G) dermaplaning;

[~~(G)~~](H) other esthetic preparations or procedures with the use of:

(I) the hands; or

(II) a mechanical or electrical apparatus which is approved for use by division rule for beautifying or similar work performed on the body for cosmetic purposes and not for the treatment of a medical, physical, or mental ailment; or

[~~(H)~~](I) cosmetic laser procedures under the supervision of a cosmetic supervisor with a physician's evaluation before the procedure, as needed, unless specifically required under Section 58-1-506, and limited to the following:

(I) superfluous hair removal;

(II) anti-aging resurfacing enhancements;

(III) photo rejuvenation; or

(IV) tattoo removal with a physician's, advanced practice nurse's, or physician assistant's evaluation before the tattoo removal procedure, as required by Subsection 58-1-506(3)(a); and

(ii) lymphatic massage by manual or other means as defined by rule.

(b) Notwithstanding the provisions of Subsection [~~(40)(a)~~](45)(a), a master-level esthetician may perform procedures listed in Subsection [~~(40)(a)(i)(H)~~](45)(a)(i)(H) if done under the supervision of a cosmetic supervisor acting within the scope of the cosmetic supervisor license.

(c) The term "practice of master-level esthetics" includes:

(i) the practice of esthetics, but an individual is not required to be licensed as an esthetician or master-level esthetician to engage in the practice of threading[~~.~~]; and

(ii) the practice of eyelash and eyebrow technology.

[~~(41)~~](46)(a) "Practice of nail technology" means to trim, cut, clean, manicure, shape, massage, or enhance the appearance of the hands, feet, and nails of an individual by the use of hands, mechanical, or electrical preparation, antiseptic, lotions, or creams[~~, including~~].

(b) "Practice of nail technology" includes:

(i) the application and removal of sculptured or artificial nails[~~.~~]; and

(ii) using blades, including corn or callus planer or rasp, for smoothing, shaving, or removing dead skin from the feet.

[~~(42)~~](47) "Practice of nail technology instruction" means teaching the practice of nail technology at [~~a licensed nail technician school, at a licensed cosmetology/barber school,~~]any school licensed under this chapter or for an approved nail technician apprenticeship.

[~~(43)~~](48) "Recognized barber school" means a barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(44)~~](49) "Recognized cosmetology/barber school" means a cosmetology/barber school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(45)~~](50) "Recognized electrology school" means an electrology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(46)~~](51) "Recognized esthetics school" means an esthetics school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

(52) "Recognized eyelash and eyebrow technology school" means an eyelash and eyebrow technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(47)~~](53) "Recognized hair design school" means a hair design school located in a state other than

Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(48)~~](54) "Recognized nail technology school" means a nail technology school located in a state other than Utah, whose students, upon graduation, are recognized as having completed the educational requirements for licensure in that state.

[~~(49)~~](55) "Salon" means a place, shop, or establishment in which cosmetology/barbering, esthetics, electrology,[~~or~~] nail technology, or eyelash and eyebrow technology is practiced.

[~~(50)~~](56) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-11a-502.

[~~(51)~~](57) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-11a-501 and as may be further defined by rule by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Section 58-11a-201 is amended to read:

58-11a-201. Board.

(1) There is created the Cosmetology and Associated Professions Licensing Board consisting of the following[~~nine~~] members:

(a) one barber or cosmetologist/barber;

(b)(i) one barber or cosmetologist/barber instructor; or

(ii) one representative of a licensed barber or cosmetology/barber school;

(c) one master esthetician;

(d)(i) one esthetician instructor; or

(ii) one representative of a licensed esthetics school;

(e) one nail technician;

(f)(i) one nail technician instructor; or

(ii) one representative of a licensed nail [~~technician~~]technology school;

(g) one electrologist; [~~and~~]

(h) one eyelash and eyebrow technician;

(i)(i) one eyelash and eyebrow technician instructor; or

(ii) one representative of a licensed eyelash and eyebrow technology school; and

[~~(h)~~](j) two members from the general public.

(2)(a) The board shall be appointed and serve in accordance with Section 58-1-201.

(b)(i) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a public school.

(ii) At least one of the members of the board appointed under Subsections (1)(b), (d), and (f) shall be an instructor at or a representative of a private school.

(3) The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(b) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 3. Section 58-11a-301 is amended to read:

58-11a-301. Licensure required -- License classifications.

(1) Except as specifically provided in Section 58-1-307 or 58-11a-304, a license is required to:

(a) engage in the practice of:

(i) barbering;

(ii) barbering instruction;

(iii) cosmetology/barbering;

(iv) cosmetology/barbering instruction;

(v) electrology;

(vi) electrology instruction;

(vii) esthetics;

(viii) master-level esthetics;

(ix) esthetics instruction;

(x) hair design;

(xi) hair design instruction;

(xii) nail technology; [~~or~~]

(xiii) nail technology instruction; [~~or~~]

(xiv) eyelash and eyebrow technology; or

(xv) eyelash and eyebrow technology instruction; or

(b) operate:

(i) a barbering school;

(ii) a cosmetology/barbering school;

(iii) an electrology school;

(iv) an esthetics school;

(v) a hair design school; [~~or~~]

(vi) a nail technology school[~~.~~]; or

(vii) an eyelash and eyebrow technology school.

(2) The division shall issue to a person who qualifies under this chapter a license in the following classifications:

(a) barber;

(b) barber instructor;

(c) barber school;

(d) cosmetologist/barber;

(e) cosmetologist/barber instructor;

(f) cosmetology/barber school;

(g) electrologist;

(h) electrologist instructor;

(i) electrology school;

(j) esthetician;

(k) master esthetician;

(l) esthetician instructor;

(m) esthetics school;

(n) hair designer;

(o) hair designer instructor;

(p) hair design school;

(q) nail [~~technology~~]technician;

(r) nail technology instructor; [~~and~~]

(s) nail technology school[~~.~~];

(t) eyelash and eyebrow technician;

(u) eyelash and eyebrow technology instructor; and

(v) eyelash and eyebrow technology school.

(3) A person who participates as an apprentice in an approved apprenticeship under this chapter shall register with the division as described in Section 58-11a-306.

Section 4. Section 58-11a-302 is amended to read:

58-11a-302. Qualifications for licensure.

(1) Each applicant for licensure as a barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized barber school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of a minimum of 1,000 hours of instruction, or the equivalent number of credit hours, over a period of not less than 25 weeks;

(ii)(A) graduation from a recognized barber school located in a state other than Utah whose curriculum consists of less than 1,000 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed barber in a state other than Utah for not less than the number of hours required to equal 1,000 total hours when added to the hours of instruction described in Subsection (1)(c)(ii)(A); or

(iii) completion of an approved barber apprenticeship; and

(d) meet one of the following requirements established by rule:

(i) pass an examination that consists of a written theory portion and a practical portion; or

(ii) pass a practical examination and provide the written attestation of a licensed barber or cosmetologist/barber instructor who participated in the school or training under Subsection (1)(c), stating that the applicant has the necessary training and skill to be a licensed barber.

(2) Each applicant for licensure as a barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~250~~]150 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of [~~250~~]150 hours or the equivalent number of credit hours; or

(iii) a minimum of [~~2,000~~]1,000 hours of experience as a barber; and

(e) meet the examination requirement established by rule.

(3) Each applicant for licensure as a barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for barber schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(4) Each applicant for licensure as a cosmetologist/barber shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber school whose curriculum consists of a minimum of 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii)(A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber in a state other than Utah for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (4)(c)(ii)(A); or

(iii) completion of an approved cosmetology/barber apprenticeship; and

(d) meet the examination requirement established by rule.

(5) Each applicant for licensure as a cosmetologist/barber instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~400~~]240 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of [~~400~~]240 hours or the equivalent number of credit hours; or

(iii) a minimum of [~~3,000~~]1,600 hours of experience as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(6) Each applicant for licensure as a cosmetologist/barber school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for cosmetology schools, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(7) Each applicant for licensure as an electrologist shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of having graduated from a licensed or recognized electrology school after completing a curriculum of 600 hours of instruction or the equivalent number of credit hours; and

(d) meet the examination requirement established by rule.

(8) Each applicant for licensure as an electrologist instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an electrologist;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~150~~]90 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized

school, as defined by rule, consisting of a minimum of [~~150~~]90 hours or the equivalent number of credit hours; or

(iii) a minimum of 1,000 hours of experience as an electrologist; and

(e) meet the examination requirement established by rule.

(9) Each applicant for licensure as an electrologist school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for electrologist schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(10) Each applicant for licensure as an esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of one of the following:

(i) graduation from a licensed or recognized esthetic school or a licensed or recognized cosmetology/barber school whose curriculum consists of not less than 15 weeks of esthetic instruction with a minimum of 600 hours or the equivalent number of credit hours;

(ii) completion of an approved esthetician apprenticeship; or

(iii)(A) graduation from a recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber for not less than the number of hours required to equal 1,600 total hours when added to the hours of instruction described in Subsection (10)(c)(iii)(A); and

(d) meet the examination requirement established by division rule.

(11) Each applicant for licensure as a master esthetician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) completion of at least 1,200 hours of training, or the equivalent number of credit hours, at a licensed or recognized esthetics school, except that up to 600 hours toward the 1,200 hours may have been completed:

(A) at a licensed or recognized cosmetology/barbering school, if the applicant graduated from the school and its curriculum consisted of at least 1,600 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; or

(B) at a licensed or recognized cosmetology/barber school located in a state other than Utah, if the applicant graduated from the school and its curriculum contained full flexibility within its hours of instruction; or

(ii) completion of an approved master esthetician apprenticeship;

(d) if the applicant will practice lymphatic massage, provide satisfactory documentation to show completion of 200 hours of training, or the equivalent number of credit hours, in lymphatic massage as defined by division rule; and

(e) meet the examination requirement established by division rule.

(12) Each applicant for licensure as an esthetician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a master esthetician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~300~~]180 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of [~~300~~]180 hours or the equivalent number of credit hours; or

(iii) a minimum of [~~1,000~~]900 hours of experience in esthetics; and

(e) meet the examination requirement established by rule.

(13) Each applicant for licensure as an esthetics school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for esthetics schools, including staff, curriculum, and accreditation requirements, established by division rule made in collaboration with the board; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(14) Each applicant for licensure as a hair designer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized cosmetology/barber, hair design, or barbering school whose curriculum consists of a minimum of 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours;

(ii)(A) graduation from a recognized cosmetology/barber, hair design, or barbering school located in a state other than Utah whose curriculum consists of less than 1,200 hours of instruction, or the equivalent number of credit hours, with full flexibility within those hours; and

(B) practice as a licensed cosmetologist/barber or hair designer in a state other than Utah for not less than the number of hours required to equal 1,200 total hours when added to the hours of instruction described in Subsection (14)(c)(ii)(A);

(iii) being a state licensed cosmetologist/barber; or

(iv) completion of an approved hair designer apprenticeship; and

(d) meet the examination requirements established by rule.

(15) Each applicant for licensure as a hair designer instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a hair designer or as a cosmetologist/barber;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~300~~]180 hours or the equivalent number of credit hours;

(ii) on-the-job instructor training conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of [~~300~~]180 hours or the equivalent number of credit hours; or

(iii) a minimum of [~~2,500~~]1,200 hours of experience as a hair designer or as a cosmetologist/barber; and

(e) meet the examination requirement established by rule.

(16) Each applicant for licensure as a hair design school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's physical facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for a hair design school, including staff and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(17) Each applicant for licensure as a nail technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) graduation from a licensed or recognized nail technology school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 300 hours of instruction, or the equivalent number of credit hours;

(ii)(A) graduation from a recognized nail technology school located in a state other than Utah whose curriculum consists of less than 300 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed nail technician in a state other than Utah for not less than the number of hours required to equal 300 total hours when added to the hours of instruction described in Subsection (17)(c)(ii)(A); or

(iii) completion of an approved nail technician apprenticeship; and

(d) meet the examination requirement established by division rule.

(18) Each applicant for licensure as a nail technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection [~~(24)~~](27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as a nail technician;

(d) provide satisfactory documentation of completion of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of [~~75~~]45 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of [~~75~~]45 hours or the equivalent number of credit hours; or

(iii) a minimum of [~~600~~]300 hours of experience in nail technology; and

(e) meet the examination requirement established by rule.

(19) Each applicant for licensure as a nail technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for nail technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection [~~(22)~~](25).

(20) Each applicant for licensure as an eyelash and eyebrow technician shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation of:

(i) completion of a course or program in eyelash and eyebrow technology from a licensed or recognized eyelash and eyebrow technology school, a licensed or recognized esthetics school, or a licensed or recognized cosmetology/barber school, whose curriculum consists of not less than 100 hours of instruction, or the equivalent number of credit hours;

(ii)(A) completion of a course or program in eyelash and eyebrow technology from a recognized eyebrow and eyelash technology school or recognized cosmetology/barber school located in a state other than Utah whose curriculum consists of less than 100 hours of instruction or the equivalent number of credit hours; and

(B) practice as a licensed eyelash and eyebrow technician in a state other than Utah for not less than the number of hours required to equal 100 total hours when added to the hours of instruction described in Subsection (20)(c)(ii)(A); or

(iii) completion of an approved eyelash and eyebrow apprenticeship; and

(d) meet the examination requirement established by division rule.

(21) Each applicant for licensure as an eyelash and eyebrow technician instructor shall:

(a) submit an application in a form prescribed by the division;

(b) subject to Subsection (27), pay a fee determined by the department under Section 63J-1-504;

(c) provide satisfactory documentation that the applicant is currently licensed as an eyelash and eyebrow technician;

(d) provide satisfactory documentation of:

(i) an instructor training program conducted by a licensed or recognized school, as defined by rule, consisting of a minimum of 15 hours or the equivalent number of credit hours;

(ii) an on-the-job instructor training program conducted by a licensed instructor at a licensed or recognized school, as defined by rule, consisting of a minimum of 15 hours or the equivalent number of credit hours; or

(iii) a minimum of 100 hours of experience in eyelash and eyebrow technology; and

(e) meet the examination requirement established by division rule.

(22) Each applicant for licensure as an eyelash and eyebrow technology school shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504; and

(c) provide satisfactory documentation:

(i) of appropriate registration with the Division of Corporations and Commercial Code;

(ii) of business licensure from the city, town, or county in which the school is located;

(iii) that the applicant's facilities comply with the requirements established by rule; and

(iv) that the applicant meets:

(A) the standards for eyelash and eyebrow technology schools, including staff, curriculum, and accreditation requirements, established by rule; and

(B) the requirements for recognition as an institution of postsecondary study as described in Subsection (25).

[~~(20)~~](23) Each applicant for licensure under this chapter whose education in the field for which a license is sought was completed at a foreign school may satisfy the educational requirement for licensure by demonstrating, to the satisfaction of the division, the educational equivalency of the foreign school education with a licensed school under this chapter.

[~~(21)~~](24)(a) A licensed or recognized school under this section shall accept credit hours towards graduation for documented, relevant, and substantially equivalent coursework previously completed by:

(i) a student that did not complete the student's education while attending a different school; or

(ii) a licensee of any other profession listed in this section, based on the licensee's schooling, apprenticeship, or experience.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the division may make rules governing the acceptance of credit hours under Subsection [~~(21)(a)~~](24)(a).

[~~(22)~~](25) A school licensed or applying for licensure under this chapter shall maintain recognition as an institution of postsecondary study by meeting the following conditions:

(a) the school shall admit as a regular student only an individual who has earned a recognized high school diploma or the equivalent of a recognized high school diploma, or who is beyond the age of compulsory high school attendance as prescribed by Title 53G, Chapter 6, Part 2, Compulsory Education; and

(b) the school shall be licensed by name, or in the case of an applicant, shall apply for licensure by name, under this chapter to offer one or more training programs beyond the secondary level.

[~~(23)~~](26) A person seeking to qualify for licensure under this chapter by apprenticing in an approved apprenticeship shall register with the division as described in Section 58-11a-306.

[~~(24)~~](27) The department may only charge a fee to a person applying for licensure as any type of instructor under this chapter if the person is not a licensed instructor in any other profession under this chapter.

[~~(25)~~](28) In order to encourage economic development in the state, the department may offer any required examination under this section, which is prepared by a national testing organization, in languages in addition to English.

(29) For purposes of a national accrediting agency recognized by the United States Department of Education, on-the-job instructor training described in this section is not considered a program.

Section 5. Section 58-11a-304 is amended to read:

58-11a-304. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology,[~~—or~~] nail technology, or eyelash and eyebrow technology without being licensed under this chapter:

(1) a person licensed under the laws of this state to engage in the practice of medicine, surgery, osteopathy, or chiropractic when engaged in the practice of the profession for which they are licensed;

(2) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(3) a registered nurse, undertaker, or mortician licensed under the laws of this state when engaged in the practice of the profession for which the person is licensed;

(4) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

(5) a person who engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology,[~~or~~] nail technology, or eyelash and eyebrow technology without compensation;

(6) a person instructing an adult education class or other educational program directed toward persons who are not licensed under this chapter and that is not intended to train persons to become licensed under this chapter, provided:

(a) an attendee receives no credit toward educational requirements for licensure under this chapter;

(b) the instructor informs each attendee in writing that taking such a class or program will not

certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(c)(i) the instructor is properly licensed; or

(ii) the instructor receives no compensation;

(7) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians;

(8) a person enrolled in a licensed barber, cosmetology/barber, or hair design school when participating in an on the job training internship under the direct supervision of a licensed barber, cosmetologist/barber, or hair designer upon completion of a basic program under the standards established by rule by the division in collaboration with the board;

(9) a person enrolled in an approved apprenticeship pursuant to Section 58-11a-306;

(10) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology,[~~, or~~] nail technology, or eyelash and eyebrow technology when demonstrating the company's products to a potential customer, provided the employee makes no representation to a potential customer that attending such a demonstration will certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter;

(11) a person who:

(a) is qualified to engage in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology,[~~, or~~] nail technology, or eyelash and eyebrow technology in another jurisdiction as evidenced by licensure, certification, or lawful practice in the other jurisdiction;

(b) is employed by, or under contract with, a motion picture company; and

(c) engages in the practice of barbering, cosmetology/barbering, hair design, esthetics, master-level esthetics, electrology,[~~, or~~] nail technology, or eyelash and eyebrow technology in the state:

(i) solely to assist in the production of a motion picture; and

(ii) for no more than 120 days per calendar year;

(12) a person who:

(a) engages in hair braiding; and

(b) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; and

(13) a person who:

(a) dries, styles, arranges, dresses, curls, hot irons, shampoos, or conditions hair;

(b) does not cut the hair;

(c) does not apply dye to alter the color of the hair;

(d) does not apply reactive chemicals to straighten, curl, or alter the structure of the hair;

(e) unless it is expressly exempted under this section or Section 58-1-307, does not engage in other activity requiring licensure under this chapter; [~~and~~]

(f) provides evidence to the division that the person has received a hair safety permit from completing a hair safety program that:

(i) is approved by the division;

(ii) consists of no more than two hours of instruction;

(iii) is offered by a provider approved by the division; and

(iv) includes an examination that requires a passing score of 75%; and

(g) displays in a conspicuous location in the person's place of business:

(i) a valid hair safety permit as described in Subsection (13)(f); and

(ii) a sign notifying the public that the person's services are not provided by an individual who has a license under this chapter.

Section 6. Section 58-11a-306 is amended to read:

58-11a-306. Apprenticeship.

(1) An approved barber apprenticeship shall:

(a) consist of not less than 1,250 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a barber instructor or a cosmetology/barber instructor; and

(ii) provides one-on-one direct supervision of the barber apprentice during the apprenticeship program.

(2) An approved cosmetologist/barber apprenticeship shall:

(a) consist of not less than 2,500 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a cosmetologist/barber instructor; and

(ii) provides one-on-one direct supervision of the cosmetologist/barber apprentice during the apprenticeship program.

(3) An approved hair designer apprenticeship shall:

(a) consist of not less than 1,600 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a hair designer instructor or a cosmetologist/barber instructor; and

(ii) provides one-on-one direct supervision of the hair designer apprentice during the apprenticeship program.

(4) An approved esthetician apprenticeship shall:

(a) consist of not less than 800 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as an esthetician instructor; and

(ii) provides one-on-one direct supervision of the esthetician apprentice during the apprenticeship program.

(5) An approved master esthetician apprenticeship shall:

(a) consist of not less than 1,500 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a master-level esthetician instructor; and

(ii) provides one-on-one direct supervision of the master esthetician apprentice during the apprenticeship program.

(6) An approved nail technician apprenticeship shall:

(a) consist of not less than 375 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as a nail technician instructor or a cosmetology/barber instructor;

(ii) provides direct supervision of the nail technician apprentice during the apprenticeship program; and

(iii) provides direct supervision to no more than two nail technician apprentices during the apprentice program.

(7) An approved eyelash and eyebrow technician apprenticeship shall:

(a) consist of not less than 125 hours of training; and

(b) be conducted by a supervisor who:

(i) is licensed under this chapter as an eyelash and eyebrow technician instructor or a cosmetology/barber instructor;

(ii) provides direct supervision of the eyelash and eyebrow technician apprentice during the apprenticeship program; and

(iii) provides direct supervision to no more than two eyelash and eyebrow technician apprentices during the apprenticeship program.

[~~(7)~~](8) A person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter shall:

(a) register with the division before beginning the training requirements by:

(i) submitting a form prescribed by the division, which includes the name of the licensed supervisor; and

(ii) paying a fee determined by the department under Section 63J-1-504;

(b) complete the apprenticeship within five years of the date on which the division approves the registration; and

(c) notify the division within 30 days if the licensed supervisor changes after the registration is approved by the division.

[~~(8)~~](9) Notwithstanding Subsection [~~(7)~~](8), if a person seeking to qualify for licensure by apprenticing in an approved apprenticeship under this chapter registers with the division before January 1, 2017, any training requirements completed by the person as an apprentice in an approved apprenticeship before registration may be applied to successful completion of the approved apprenticeship.

Section 7. Section 58-11a-501 is amended to read:

58-11a-501. Unprofessional conduct.

Unprofessional conduct includes:

(1) failing as a licensed school to obtain or maintain accreditation as required by rule;

(2) failing as a licensed school to comply with the standards of accreditation applicable to such schools;

(3) failing as a licensed school to provide adequate instruction to enrolled students;

(4) failing as an apprentice supervisor to provide direct supervision to the apprentice;

(5) failing as an instructor to provide direct supervision to students who are providing services to an individual under the instructor's supervision;

(6) failing as an apprentice supervisor to comply with division rules relating to apprenticeship programs under this chapter;

(7) keeping a salon or school, its furnishing, tools, utensils, linen, or appliances in an unsanitary condition;

(8) failing to comply with Title 26B, Utah Health and Human Services Code;

(9) failing to display licenses or certificates as required under Section 58-11a-305;

(10) failing to comply with physical facility requirements established by rule;

(11) failing to maintain mechanical or electrical equipment in safe operating condition;

(12) failing to adequately monitor patrons using steam rooms, dry heat rooms, baths, showers, or saunas;

(13) prescribing or administering prescription drugs;

(14) failing to comply with all applicable state and local health or sanitation laws;

(15) engaging in any act or practice in a professional capacity that is outside the applicable scope of practice;

(16) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through education or training;

(17) in connection with the use of a chemical exfoliant, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license:

(a) using any acid, concentration of an acid, or combination of treatments which violates the standards established by rule;

(b) removing any layer of skin deeper than the stratum corneum of the epidermis; or

(c) using an exfoliant that contains phenol, TCA acid of over 15%, or BCA acid;

(18) in connection with the sanding of the skin, unless under the supervision of a licensed health care practitioner acting within the scope of his or her license, removing any layer of skin deeper than the stratum corneum of the epidermis;

(19) using as a barber, cosmetologist/barber,[~~or~~] nail technician, or eyelash and eyebrow technician any laser procedure or intense, pulsed light source, except that nothing in this chapter precludes an individual licensed under this chapter from using a nonprescriptive laser device; or

(20) failing to comply with a judgment order from a court of competent jurisdiction resulting from the failure to pay outstanding tuition or education costs incurred to comply with this chapter.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 480
S. B. 113
Passed February 29, 2024
Approved March 20, 2024
Effective May 1, 2024

DISPOSITION OF STATE PROPERTY AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions related to the sale, long-term lease, or other disposition of state property.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the duties and the authority of the Division of Facilities Construction and Management (division);
- modifies provisions related to the purchase, disposal, or exchange of real property owned by the division; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-5b-303, as last amended by Laws of Utah 2023, Chapter 329
63A-5b-303, as last amended by Laws of Utah 2023, Chapters 329, 394
63A-5b-806, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-902, as last amended by Laws of Utah 2023, Chapter 263
63A-5b-904, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-905, as last amended by Laws of Utah 2022, Chapter 421
63A-5b-908, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-909, as last amended by Laws of Utah 2022, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities[~~.~~]

[~~(A)~~] to implement the state building energy efficiency program under Section 63A-5b-1002[~~; and~~];

[~~(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;~~]

[~~(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and~~]

(viii) except as provided in Subsection (2)(c), convey, lease, or dispose of division-owned real property for fair market value, as determined by the division; and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if[~~ the acquisition cost~~]:

(i) the acquisition cost does not exceed $500,000[~~.~~], as estimated by the division; or

(ii) the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(viii).

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; [~~and~~]

(c) convey, lease, or dispose of vacant division-owned real property for less than fair market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property; and

[~~(c)~~](d) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d)(i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e)(i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 2. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1)(a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or to the state's departments, except institutions of higher education and the trust lands administration;

(vi)(A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities[~~:~~]

[~~(A)~~] to implement the state building energy efficiency program under Section 63A-5b-1002; [~~and~~]

[~~(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5b-1003;~~]

[~~(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 26B-6-507(2); and~~]

(viii) except as provided in Subsection (2)(c), convey, lease, or dispose of division-owned real property for fair market value, as determined by the division; and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if[~~ the acquisition cost~~]:

(i) the acquisition cost does not exceed $500,000[~~.~~], as estimated by the division; or

(ii) the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection (1)(a)(viii).

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; [~~and~~]

(c) convey, lease, or dispose of vacant division-owned real property for less than fair market value, subject to the requirements of Part 9, Disposal of Division-owned Real Property; and

[~~(c)~~](d) take all other action necessary for carrying out the purposes of this chapter.

(3)(a) The division may not supervise or control the allocation of space for an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d)(i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e)(i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts described in Section 78A-2-108.

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 3. Section 63A-5b-806 is amended to read:

63A-5b-806. Division rules on the value of property bought or exchanged -- Exception.

(1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the value of the real property is congruent with the proposed price and other terms of the purchase or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined in Section 61-2g-102.

(3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of real property, or an interest in real property[~~,~~]:

(a) with a value of less than $500,000, as estimated by the division[~~.~~]; or

(b) if the real property is part or all of the consideration received in exchange for division-owned real property conveyed, leased, or disposed of under Subsection 63A-5b-303(1)(a)(viii).

Section 4. Section 63A-5b-902 is amended to read:

63A-5b-902. Application of part.

(1) [~~The~~]Except as stated in Subsection (1)(e), the provisions of this part, other than this section, do not apply to:

[~~(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)(viii);~~]

[~~(b)~~](a) the division's disposal or lease of division-owned property [~~with~~]that would otherwise be subject to this part, if the division-owned property has a value under $500,000, as estimated by the division;

[~~(c)~~](b) a conveyance, lease, or disposal of division-owned property in connection with:

(i) the establishment of a state store, as defined in Section 32B-1-102; or

(ii) the construction of student housing; [~~or~~]

[~~(d)~~](c) a conveyance, lease, or disposal of any part of the point of the mountain state land, as defined in Section 11-59-102, by the Point of the Mountain State Land Authority created in Section 11-59-201[~~.~~]; or

(d) a conveyance, lease, or disposal of division-owned property for fair market value, as determined by the division, under Subsection 63A-5b-303(1)(a)(viii), except that the following sections apply:

(i) Section 63A-5b-907.5;

(ii) Section 63A-5b-908;

(iii) Section 63A-5b-910;

(iv) Section 63A-5b-911; and

(v) Section 63A-5b-912.

(2) Nothing in Subsection [~~(1)(b) or (c)~~](1)(a), (b), or (d) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Section 5. Section 63A-5b-904 is amended to read:

63A-5b-904. Division authority with respect to vacant division-owned property -- Limitations.

(1) Subject to Section 63A-5b-909, the division may:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property, if the director determines that the primary state agency's occupancy or use is in the best interests of the state;

(b) effect a transfer of ownership or lease of vacant division-owned property, as provided in this section; or

(c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section 63A-5b-908.

[~~(2)(a) The division may effect a transfer of ownership or lease of vacant division-owned property to an applicant for fair market value if the director determines that the transfer of ownership or lease to that applicant is in the state's best interest.~~]

[~~(b) In determining the state's best interest under Subsection (2)(a), the director may consider:~~]

[~~(i) the price and financial terms of all qualified proposals; and~~]

[~~(ii) the relative benefits to the state of the proposed uses of the vacant division-owned property as stated in the qualified proposals.~~]

[~~(3)~~](2) The division may effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return if:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

[~~(4)~~](3)(a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection [~~(4)(a)~~](3)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5b-908.

Section 6. Section 63A-5b-905 is amended to read:

63A-5b-905. Notice required before division may effect a transfer of ownership or lease of division-owned property for less than fair market value.

(1) Before the division may effect a transfer of ownership or lease of vacant division-owned property for less than fair market value, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section 7. Section 63A-5b-908 is amended to read:

63A-5b-908. Referring vacant division-owned property to the Department of Transportation for auction.

(1) The division may refer vacant division-owned property to the Department of Transportation for a public auction if:

(a)[~~(i)~~] for a conveyance, lease, or disposal of vacant division-owned property for less than fair market value:

(i) the division has provided notice under Section 63A-5b-905 with respect to the vacant division-owned property; and

(ii) the division receives no qualified proposals in response to the notice under Section 63A-5b-905;

(b) the director determines that:

(i) there is no reasonable likelihood that within the foreseeable future:

(A) a primary state agency will use or occupy the vacant division-owned property; or

(B) a secondary state agency, local government entity, or public purpose nonprofit entity will seek a transfer of ownership or lease of the vacant division-owned property; and

(ii) disposing of the vacant division-owned property through a public auction is in the best interests of the state;

(c) the director requests and receives a recommendation on the proposed public auction from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the public auction.

(2) If the division refers a vacant division-owned property to the Department of Transportation for public auction, the Department of Transportation shall publicly auction the vacant division-owned property under the same law and in the same manner that apply to a public auction of Department of Transportation property.

(3) At a public auction conducted under Subsection (2), the Department of Transportation may, on behalf of the division, accept an offer to purchase the vacant division-owned property.

(4) The division and the Department of Transportation shall coordinate together to:

(a) manage the details of finalizing any sale of the vacant division-owned property at public auction; and

(b) ensure that the buyer acquires proper title and that the division receives the net proceeds of the sale.

(5) If a public auction under this section does not result in a sale of the vacant division-owned property, the Department of Transportation shall notify the division and refer the vacant division-owned property back to the division.

Section 8. Section 63A-5b-909 is amended to read:

63A-5b-909. State real property subject to right of first refusal.

(1)(a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).

(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:

(i) comply with the requirements of Section 78B-6-520.3; and

(ii) terminate any process[~~ under this chapter~~] to convey the vacant division-owned property.

(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.

(2)(a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of Subsections 78B-6-521(2) and (3).

(b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in Subsection 78B-6-521(2)(a), the division shall:

(i) sell the vacant division-owned property to the original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, in accordance with Section 78B-6-521; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property[~~ under the provisions of this chapter~~] in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Section 9. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63A-5b-303 (Effective 07/01/2024) take effect on July 1, 2024.

CHAPTER 481
S. B. 115
Passed February 21, 2024
Approved March 20, 2024
Effective May 1, 2024

HIGHER EDUCATION TUITION AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Michael L. Kohler

LONG TITLE

General Description:

This bill amends when resident student status for tuition purposes can be given.

Highlighted Provisions:

This bill:

- extends resident tuition status to immediate family members of military service members under certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-102, as last amended by Laws of Utah 2023, Chapters 44, 50

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-8-102 is amended to read:

53B-8-102. Definitions -- Resident student status -- Exceptions.

(1) As used in this section:

(a) "Eligible person" means an individual who is entitled to post-secondary educational benefits under Title 38 U.S.C., Veterans' Benefits.

(b) "Immediate family member" means an individual's spouse or dependent child.

(c) "Military service member" means an individual who:

(i) is serving on active duty in the United States Armed Forces within the state of Utah;

(ii) is a member of a reserve component of the United States Armed Forces assigned in Utah;

(iii) is a member of the Utah National Guard; or

(iv) maintains domicile in Utah, as described in Subsection (9)(a), but is assigned outside of Utah pursuant to federal permanent change of station orders.

(d) "Military veteran" has the same meaning as veteran in Section 68-3-12.5.

(e) "Parent" means a student's biological or adoptive parent.

(2) The meaning of "resident student" is determined by reference to the general law on the subject of domicile, except as provided in this section.

(3)(a) Institutions within the state system of higher education may grant resident student status to any student who has come to Utah and established residency for the purpose of attending an institution of higher education, and who, prior to registration as a resident student:

(i) has maintained continuous Utah residency status for one full year;

(ii) has signed a written declaration that the student has relinquished residency in any other state; and

(iii) has submitted objective evidence that the student has taken overt steps to establish permanent residency in Utah and that the student does not maintain a residence elsewhere.

(b) Evidence to satisfy the requirements under Subsection (3)(a)(iii) includes:

(i) a Utah high school transcript issued in the past year confirming attendance at a Utah high school in the past 12 months;

(ii) a Utah voter registration dated a reasonable period prior to application;

(iii) a Utah driver license or identification card with an original date of issue or a renewal date several months prior to application;

(iv) a Utah vehicle registration dated a reasonable period prior to application;

(v) evidence of employment in Utah for a reasonable period prior to application;

(vi) proof of payment of Utah resident income taxes for the previous year;

(vii) a rental agreement showing the student's name and Utah address for at least 12 months prior to application; and

(viii) utility bills showing the student's name and Utah address for at least 12 months prior to application.

(c) A student who is claimed as a dependent on the tax returns of a person who is not a resident of Utah is not eligible to apply for resident student status.

(4) Except as provided in Subsection (8), an institution within the state system of higher education may establish stricter criteria for determining resident student status.

(5) If an institution does not have a minimum credit-hour requirement, that institution shall honor the decision of another institution within the state system of higher education to grant a student resident student status, unless:

(a) the student obtained resident student status under false pretenses; or

(b) the facts existing at the time of the granting of resident student status have changed.

(6) Within the limits established in Title 53B, Chapter 8, Tuition Waiver and Scholarships, each institution within the state system of higher education may, regardless of its policy on obtaining resident student status, waive nonresident tuition either in whole or in part, but not other fees.

(7) In addition to the waivers of nonresident tuition under Subsection (6), each institution may, as athletic scholarships, grant full waiver of fees and nonresident tuition, up to the maximum number allowed by the appropriate athletic conference as recommended by the president of each institution.

(8) Notwithstanding Subsection (3), an institution within the state system of higher education shall grant resident student status for tuition purposes to:

(a) a military service member, if the military service member provides:

(i) the military service member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; or

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a);

(b) a military service member's immediate family member, if the military service member's immediate family member provides:

(i)(A) the military service member's current United States military identification card; or

(B) the immediate family member's current United States military identification card; and

(ii)(A) a statement from the military service member's current commander, or equivalent, stating that the military service member is assigned in Utah; [~~or~~]

(B) evidence that the military service member is domiciled in Utah, as described in Subsection (9)(a); or

(C) evidence that the immediate family member completed at least one year of grades 9 through 12 at a local education agency, as defined in Section 53E-1-102, within the state while the military service member was assigned in Utah, regardless of the service member's current assignment.

(c) a military veteran, regardless of whether the military veteran served in Utah, if the military veteran provides:

(i) evidence of an honorable or general discharge;

(ii) a signed written declaration that the military veteran has relinquished residency in any other state and does not maintain a residence elsewhere;

(iii) objective evidence that the military veteran has demonstrated an intent to establish residency in Utah, which may include any one of the following:

(A) a Utah voter registration card;

(B) a Utah driver license or identification card;

(C) a Utah vehicle registration;

(D) evidence of employment in Utah;

(E) a rental agreement showing the military veteran's name and Utah address; or

(F) utility bills showing the military veteran's name and Utah address;

(d) a military veteran's immediate family member, regardless of whether the military veteran served in Utah, if the military veteran's immediate family member provides:

(i) evidence of the military veteran's honorable or general discharge;

(ii) a signed written declaration that the military veteran's immediate family member has relinquished residency in any other state and does not maintain a residence elsewhere; and

(iii) objective evidence that the military veteran's immediate family member has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii); or

(e) an eligible person who provides:

(i) evidence of eligibility under Title 38 U.S.C., Veterans' Benefits;

(ii) a signed written declaration that the eligible person will use the G.I. Bill benefits; and

(iii) objective evidence that the eligible person has demonstrated an intent to establish residency in Utah, which may include any one of the items described in Subsection (8)(c)(iii).

(f) an alien who provides:

(i) evidence that the alien is a special immigrant visa recipient;

(ii) evidence that the alien has been granted refugee status, humanitarian parole, temporary protected status, or asylum; or

(iii) evidence that the alien has submitted in good faith an application for refugee status, humanitarian parole, temporary protected status, or asylum under United States immigration law.

(9)(a) The evidence described in Subsection (8)(a)(ii)(B) or (8)(b)(ii)(B) includes:

(i) a current Utah voter registration card;

(ii) a valid Utah driver license or identification card;

(iii) a current Utah vehicle registration;

(iv) a copy of a Utah income tax return, in the military service member's or military service member's spouse's name, filed as a resident in accordance with Section 59-10-502; or

(v) proof that the military service member or military service member's spouse owns a home in

Utah, including a property tax notice for property owned in Utah.

(b) Aliens who are present in the United States on visitor, student, or other visas not listed in Subsection (8)(f) or (9)(c), which authorize only temporary presence in this country, do not have the capacity to intend to reside in Utah for an indefinite period and therefore are classified as nonresidents.

(c) Aliens who have been granted or have applied for permanent resident status in the United States are classified for purposes of resident student status according to the same criteria applicable to citizens.

(10) Any American Indian who is enrolled on the tribal rolls of a tribe whose reservation or trust lands lie partly or wholly within Utah or whose border is at any point contiguous with the border of Utah, and any American Indian who is a member of a federally recognized or known Utah tribe and who has graduated from a high school in Utah, is entitled to resident student status.

(11) A Job Corps student is entitled to resident student status if the student:

(a) is admitted as a full-time, part-time, or summer school student in a program of study leading to a degree or certificate; and

(b) submits verification that the student is a current Job Corps student.

(12) A person is entitled to resident student status and may immediately apply for resident student status if the person:

(a) marries a Utah resident eligible to be a resident student under this section; and

(b) establishes his or her domicile in Utah as demonstrated by objective evidence as provided in Subsection (3).

(13) Notwithstanding Subsection (3)(c), a dependent student who has at least one parent who has been domiciled in Utah for at least 12 months prior to the student's application is entitled to resident student status.

(14)(a) A person who has established domicile in Utah for full-time permanent employment may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on an employer requested transfer to Utah, recruitment by a Utah employer, or a comparable work-related move for full-time permanent employment in Utah.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when Utah employment was first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(15)(a) A person who is in residence in Utah to participate in a United States Olympic athlete training program, at a facility in Utah, approved by the governing body for the athlete's Olympic sport, shall be entitled to resident status for tuition purposes.

(b) Upon the termination of the athlete's participation in the training program, the athlete shall be subject to the same residency standards applicable to other persons under this section.

(c) Time spent domiciled in Utah during the Olympic athlete training program in Utah counts for Utah residency for tuition purposes upon termination of the athlete's participation in a Utah Olympic athlete training program.

(16)(a) A person who has established domicile in Utah for reasons related to divorce, the death of a spouse, or long-term health care responsibilities for an immediate family member, including the person's spouse, parent, sibling, or child, may rebut the presumption of a nonresident classification by providing substantial evidence that the reason for the individual's move to Utah was, in good faith, based on the long-term health care responsibilities.

(b) All relevant evidence concerning the motivation for the move shall be considered, including:

(i) the person's employment and educational history;

(ii) the dates when the long-term health care responsibilities in Utah were first considered, offered, and accepted;

(iii) when the person moved to Utah;

(iv) the dates when the person applied for admission, was admitted, and was enrolled as a postsecondary student;

(v) whether the person applied for admission to an institution of higher education sooner than four months from the date of moving to Utah;

(vi) evidence that the person is an independent person who is:

(A) at least 24 years old; or

(B) not claimed as a dependent on someone else's tax returns; and

(vii) any other factors related to abandonment of a former domicile and establishment of a new domicile in Utah for purposes other than to attend an institution of higher education.

(17) The board, after consultation with the institutions, shall make rules not inconsistent with this section:

(a) concerning the definition of resident and nonresident students;

(b) establishing procedures for classifying and reclassifying students;

(c) establishing criteria for determining and judging claims of residency or domicile;

(d) establishing appeals procedures; and

(e) other matters related to this section.

(18) A student shall be exempt from paying the nonresident portion of total tuition if the student:

(a) is a foreign national legally admitted to the United States;

(b) attended high school in this state for three or more years; and

(c) graduated from a high school in this state or received the equivalent of a high school diploma in this state.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 482
S. B. 122
Passed February 7, 2024
Approved March 20, 2024
Effective May 1, 2024

YOUTH APPRENTICESHIP GOVERNANCE STRUCTURE AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill creates a youth apprenticeship governance study.

Highlighted Provisions:

This bill:

- defines terms;
- creates a youth apprenticeship governance study;
- establishes the entities charged with conducting the study;
- provides the required components of the study;
- provides for staffing of the study; and
- requires a report of the findings.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-34-110, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-34-110 is enacted to read:

53B-34-110. Youth apprenticeship governance study.

(1) As used in this section:

(a) "Apprenticeship" means the same as the term is defined in Section 35A-6-102.

(b) "Study" means the study created in Subsection (2).

(2) There is created a study to design a framework and system for maximizing efficiencies and expanding youth apprenticeship opportunities for students.

(3) The study shall be conducted collaboratively by the following entities:

(a) the Governor's Office;

(b) the State Board of Education;

(c) the Department of Workforce Services;

(d) the Talent Ready Utah Program; and

(e) relevant participating employers as determined by the entities described in Subsections (3)(a) through (d).

(4) The study shall examine framework and system design recommendations regarding:

(a) ways to increase youth apprenticeship offerings;

(b) increasing student and employer participation in youth apprenticeships;

(c) formalizing roles and streamlining use of existing infrastructure described in:

(i) Title 35A, Chapter 6, Apprenticeship Act;

(ii) Title 53B, Chapter 34, Talent, Education, and Industry Alignment, including the role of the state apprenticeship intermediary described in Section 53B-34-103; and

(iii) Section 53G-7-902;

(d) aligning youth apprenticeship efforts to meet the definition of youth apprenticeship defined in Section 35A-6-102;

(e) identifying metrics to assess the success of youth apprenticeship programs;

(f) opportunities to leverage secondary and post-secondary educational programs in conjunction with youth apprenticeships, including:

(i) career and technical education;

(ii) concurrent enrollment; and

(iii) stackable credentials; and

(g) the creation of career competencies to prepare a qualified workforce.

(5) The staff of the Talent Ready Utah Program shall staff the study.

(6) No later than May 1, 2025, the entities described in Subsections (3)(a) through (e) shall report the recommendations described in Subsection (4) to:

(a) the talent board; and

(b) the Unified Economic Opportunity Commission.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 483
S. B. 135
Passed February 29, 2024
Approved March 20, 2024
Effective January 1, 2025

ADVANCED AIR MOBILITY AND AERONAUTICS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provision related to aeronautics and advanced air mobility systems.

Highlighted Provisions:

This bill:

- defines terms;
- requires roadable aircraft to be registered as both a motor vehicle and as an aircraft;
- provides for the distribution of registration fees for roadable aircraft and advanced air mobility systems;
- amends definitions related to airports of regional significance;
- provides for the leasing of navigable airspace above highway rights-of-way in certain circumstances;
- extends certain land use protections to public use vertiports;
- clarifies that flight is generally permitted in airspace over state lands and waters;
- prohibits government entities from purchasing or operating an unmanned aircraft system manufactured or assembled in certain foreign countries for inspection of certain critical infrastructure; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
41-1a-102, as last amended by Laws of Utah 2023, Chapters 33, 532
41-1a-203, as last amended by Laws of Utah 2021, Chapter 59
41-1a-205, as last amended by Laws of Utah 2017, Chapters 149, 406
41-1a-501, as last amended by Laws of Utah 1992, Chapter 218 and renumbered and amended by Laws of Utah 1992, Chapter 1
41-1a-1201, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, 335, and 372
41-1a-1206, as last amended by Laws of Utah 2023, Chapters 22, 33 and 464
41-6a-1642, as last amended by Laws of Utah 2023, Chapters 22, 33 and 532
59-12-602, as last amended by Laws of Utah 2023, Chapter 361
72-2-126, as last amended by Laws of Utah 2022, Chapter 99
72-10-102, as last amended by Laws of Utah 2023, Chapter 216
72-10-109, as last amended by Laws of Utah 2023, Chapter 216
72-10-110, as last amended by Laws of Utah 2023, Chapter 216
72-10-401, as last amended by Laws of Utah 2023, Chapter 65
72-10-403, as last amended by Laws of Utah 2023, Chapter 65

ENACTS:
72-10-1101, Utah Code Annotated 1953
72-10-1201, Utah Code Annotated 1953
72-10-1202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24)(a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30)(a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32)(a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

(39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(41)(a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" includes a roadable aircraft.

[~~(b)~~](c) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(42) "Motorboat" means the same as that term is defined in Section 73-18-2.

(43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(44) "Natural gas" means a fuel of which the primary constituent is methane.

(45)(a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(49)(a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(50) "Original issue license plate" means a license plate that is of a format and type issued by the state in the same year as the model year of a vehicle that is a model year 1973 or older.

(51) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(52)(a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the

lessee exercises the lessee's option to purchase the vehicle.

(53) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(54) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(55)(a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(56) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(57) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

(58) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(59) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(60) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(61) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(62) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(63) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(64) "Registration decal" means the decal issued by the division that is evidence of compliance with the division's registration requirements.

(65)(a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(66) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(67) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(68) "Restored-modified vehicle" means a motor vehicle that has been restored and modified with modern parts and technology, including emission control technology and an on-board diagnostic system.

(69) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(70) "Roadable aircraft" means the same as that term is defined in Section 72-10-102.

[~~(70)~~](71) "Sailboat" means the same as that term is defined in Section 73-18-2.

[~~(71)~~](72) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(72)~~](73) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[~~(73)~~](74) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418 or Part 16, Sponsored Special Group License Plates.

[~~(74)~~](75)(a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [~~(74)(a)~~](75)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~(75)~~](76)(a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~(76)~~](77) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[~~(77)~~](78)(a) "Standard license plate" means a license plate for general issue described in Subsection 41-1a-402(1).

(b) "Standard license plate" includes a license plate for general issue that the division issues before January 1, 2024.

[~~(78)~~](79) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

[~~(79)~~](80) "Symbol decal" means the decal that is designed to represent a special group and displayed on a special group license plate.

[~~(80)~~](81) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(81)~~](82)(a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(82)~~](83) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(83)~~](84) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(84)~~](85) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(85)~~](86) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(86)~~](87) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(87)~~](88) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(88)~~](89) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(89)~~](90) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(90)~~](91) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(91)~~](92) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(92)~~](93) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(93)~~](94) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-203 is amended to read:

41-1a-203. Prerequisites for registration, transfer of ownership, or registration renewal.

(1)(a)(i) Except as provided in Subsection (1)(b), the division shall mail a notification to the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(ii) The division shall ensure that mailing of notifications described in Section (1)(a)(i) begins as soon as practicable.

(b)(i) The division shall provide a process for a vehicle owner to choose to receive electronic notification of the pending expiration of a vehicle's registration.

(ii) If a vehicle owner chooses electronic notification, the division shall notify by email the owner of a vehicle at least 30 days before the date the vehicle's registration is due to expire.

(2) Except as otherwise provided, before registration of a vehicle, an owner shall:

(a) obtain an identification number inspection under Section 41-1a-204;

(b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;

(c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;

(d) pay the automobile driver education tax required by Section 41-1a-208;

(e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

(f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

(g) pay the motor carrier fee under Section 41-1a-1219, if applicable;

(h) pay any applicable local emissions compliance fee under Section 41-1a-1223; [~~and~~]

(i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act[~~.~~]; and

(j) for a roadable aircraft, provide proof of registration of the roadable aircraft as an aircraft under Section 72-10-109.

(3) In addition to the requirements in Subsection (1), an owner of a vehicle that has not been previously registered or that is currently registered under a previous owner's name shall apply for a valid certificate of title in the owner's name before registration.

(4) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(5) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 41-22-3 for an off-highway vehicle that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

(6) The division may not issue a registration renewal for a motor vehicle if the division has received a hold request for the motor vehicle for which a registration renewal has been requested as described in:

(a) Section 72-1-213.1; or

(b) Section 72-6-118.

Section 3. Section 41-1a-205 is amended to read:

41-1a-205. Safety inspection certificate required for commercial motor vehicles and initial registration of street-legal ATVs and salvage vehicles.

(1) A street-legal all-terrain vehicle registered in accordance with Section 41-6a-1509 is subject to a safety inspection the first time that a person registers an off-highway vehicle as a street-legal all-terrain vehicle.

(2) A salvage vehicle as defined in Section 41-1a-1001 is subject to a safety inspection when the owner makes the initial application to register the vehicle as a salvage vehicle.

(3) A roadable aircraft is subject to a safety inspection when the owner makes the initial application to register the roadable aircraft.

[~~(3)~~](4) A safety inspection certificate shall be displayed on:

(a) all registered commercial vehicles as defined in Section 72-9-102;

(b) a motor vehicle with three or more axles, pulling a trailer, or pulling a trailer with multiple axles;

(c) a combination unit;

(d) a bus or van for hire;

(e) a taxicab; and

(f) a motor vehicle operated by a ground transportation service provider as defined in Section 72-10-601.

[~~(4)~~](5) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

Section 4. Section 41-1a-501 is amended to read:

41-1a-501. Certificate of title required.

Unless exempted, each owner of a motor vehicle, vessel, outboard motor, trailer, semitrailer, manufactured home, mobile home, [~~or~~] off-highway vehicle, or roadable aircraft shall apply to the division for a certificate of title on forms furnished by the division as evidence of ownership.

Section 5. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), (8), and (9) and Sections 41-1a-1205, 41-1a-1220, 41-1a-1221, 41-1a-1222, 41-1a-1223, and 41-1a-1603, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), (7), and (9), and Section 41-1a-1212 shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

(4)(a) Except as provided in Subsections (3) and (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(5)(a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); [~~and~~]

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii)[~~.~~]; and

(vii) $17 of the registration fee imposed under Subsection 41-1a-1206(1)(j).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(6)(a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(7)(a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319.

(9)(a) Beginning on January 1, 2024, subject to Subsection (9)(b), $2 of each registration fee imposed under Section 41-1a-1206 shall be deposited into the Rural Transportation Infrastructure Fund created in Section 72-2-133.

(b) Beginning on January 1, 2025, and each January 1 thereafter, the amount described in Subsection (9)(a) shall be annually adjusted by taking the amount deposited the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the amount deposited by the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(c) The amounts calculated as described in Subsection (9)(b) shall be rounded up to the nearest 1 cent.

Section 6. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d)(i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e)(i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f)(i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that has a model year of 1983 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) Each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $21.75 for each hybrid electric motor vehicle; and

(iii) $56.50 for each plug-in hybrid electric motor vehicle; [~~and~~]

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1983 or newer, 50 cents[~~.~~]; and

(j) $28.50 for each roadable aircraft.

(2)(a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

(ii) $16.50 for each hybrid electric motor vehicle; and

(iii) $43.50 for each plug-in hybrid electric motor vehicle.

(3)(a) Beginning on January 1, 2024, at the time of registration:

(i) in addition to the amounts described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(h), (4)(a), and (7), the individual shall also pay an additional $7 as part of the registration fee; and

(ii) in addition to the amounts described in Subsection (2)(a), the individual shall also pay an additional $5 as part of the registration fee.

(b)(i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (1)(j), (2)(a), (3)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(c) The amounts calculated as described in Subsection (3)(b) shall be rounded up to the nearest 25 cents.

(4)(a) The initial registration fee for a vintage vehicle that has a model year of 1982 or older is $40.

(b) A vintage vehicle that has a model year of 1982 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued on or before December 31, 2023, or issued in accordance with Part 16, Sponsored Special Group License Plates, is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6)(a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b)(i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 7. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2)(a) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(i) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(A) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(B) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(C) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(D) Volkswagen Golf Sportwagen, model year 2015;

(E) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(F) Volkswagen Beetle, model years 2013, 2014, and 2015;

(G) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(H) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(ii) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(A) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(B) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(C) Audi A6 Quattro, model years 2014, 2015, and 2016;

(D) Audi A7 Quattro, model years 2014, 2015, and 2016;

(E) Audi A8, model years 2014, 2015, and 2016;

(F) Audi A8L, model years 2014, 2015, and 2016;

(G) Audi Q5, model years 2014, 2015, and 2016; and

(H) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(b)(i) An owner of a restored-modified vehicle subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1).

(ii) A county emissions program may not refuse to perform an emissions inspection or indicate a failed emissions test of the vehicle based solely on a modification to the engine or component of the motor vehicle if:

(A) the modification is not likely to result in the motor vehicle having increased emissions relative to the emissions of the motor vehicle before the modification; and

(B) the motor vehicle modification is a change to an engine that is newer than the engine with which the motor vehicle was originally equipped, or the engine includes technology that increases the facility of the administration of an emissions test, such as an on-board diagnostics system.

(iii) The first time an owner seeks to obtain an emissions inspection as a prerequisite to registration of a restored-modified vehicle:

(A) the owner shall present the signed statement described in Subsection 41-1a-226(4); and

(B) the county emissions program shall perform the emissions test.

(iv) If a motor vehicle is registered as a restored-modified vehicle and the registration certificate is notated as described in Subsection 41-1a-226(4), a county emissions program may not refuse to perform an emissions test based solely on the restored-modified status of the motor vehicle.

(3)(a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1:

(i) if the vintage vehicle has a model year of 1982 or older; or

(ii) for a vintage vehicle that has a model year of 1983 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; [~~and~~]

(i) a motor vehicle with a model year of 1967 or older[~~.~~]; and

(j) a roadable aircraft as defined in Section 72-10-102.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8)(a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9)(a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c)(i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10)(a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b)(i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11)(a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13)(a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14)(a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

(15) A county legislative body described in Subsection (1) may exempt a motor vehicle from an emissions inspection if:

(a) the motor vehicle is 30 years old or older;

(b) the county determines that the motor vehicle was driven less than 1,500 miles during the preceding 12-month period; and

(c) the owner provides to the county legislative body a statement signed by the owner that states the motor vehicle:

(i) is primarily a collector's item used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours; or

(D) parades; or

(ii) is only used for occasional transportation.

Section 8. Section 59-12-602 is amended to read:

59-12-602. Definitions.

As used in this part:

(1)[~~(a) Subject to Subsection (1)(b), "airport facility" means an airport of regional significance, as defined by the Transportation Commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(b)~~] "Airport facility" [~~includes~~]means an airport of regional significance, and includes:

[~~(i)~~](a) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;

[~~(ii)~~](b) a control tower, including a radar system;

[~~(iii)~~](c) a public area of an airport; or

[~~(iv)~~](d) a terminal facility.

(2) "Airport of regional significance" means the same as that term is defined in Section 59-12-2202.

[~~(2)~~](3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

[~~(3)~~](4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

[~~(4)~~](5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

[~~(5)~~](6) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

[~~(6)~~](7) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

[~~(7)~~](8)(a) Except as provided in Subsection [~~(7)(b)~~](8)(b), "off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

[~~(8)~~](9) "Motorcycle" means the same as that term is defined in Section 41-22-2.

[~~(9)~~](10) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

[~~(10)~~](11)(a) Except as provided in Subsection [~~(10)(c)~~](11)(c), "recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer; and

(iii) a fifth wheel trailer.

(c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

[~~(11)~~](12)(a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

[~~(12)~~](13)(a) "Short-term rental" means a lease or rental that is 30 days or less.

(b) "Short-term rental" does not include car sharing as that term is defined in Section 13-48a-101.

[~~(13)~~](14) "Snowmobile" means the same as that term is defined in Section 41-22-2.

[~~(14)~~](15) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

Section 9. Section 72-2-126 is amended to read:

72-2-126. Aeronautics Restricted Account.

(1) There is created a restricted account entitled the Aeronautics Restricted Account within the Transportation Fund.

(2) The account consists of money generated from the following revenue sources:

(a) aviation fuel tax allocated for aeronautical operations deposited into the account in accordance with Section 59-13-402;

(b) aircraft registration fees deposited into the account in accordance with Section 72-10-110;

(c) appropriations made to the account by the Legislature;

(d) contributions from other public and private sources for deposit into the account; and

(e) interest earned on account money.

(3) The department shall allocate funds in the account to the separate accounts of individual airports as required under Section 59-13-402.

(4)(a) Except as provided in Subsection (4)(b), the department shall use funds in the account for:

(i) the construction, improvement, operation, and maintenance of publicly used airports in this state;

(ii) the payment of principal and interest on indebtedness incurred for the purposes described in Subsection (4)(a);

(iii) operation of the division of aeronautics;

(iv) the promotion of aeronautics in this state; and

(v) the payment of the costs and expenses of the Department of Transportation in administering Title 59, Chapter 13, Part 4, Aviation Fuel, or another law conferring upon it the duty of regulating and supervising aeronautics in this state.

(b)(i) The department may use funds in the account for the support of aerial search and rescue operations, provided that no money deposited into the account under Subsection (2)(a) is used for that purpose.

(ii) The department may use funds in the account from the registration of unmanned aircraft systems only for state infrastructure and administration related to advanced air mobility and unmanned aircraft systems.

(5)(a) Money in the account may not be used by the department for the purchase of aircraft for purposes other than those described in Subsection (4).

(b) Money in the account may not be used to provide or subsidize direct operating costs of travel for purposes other than those described in Subsection (4).

(6) The Department may not use money in the account to fund:

(a) more than 77% of the operations costs related to state owned aircraft in fiscal year 2023-24;

(b) more than 52% of the operations costs related to state owned aircraft in fiscal year 2024-25;

(c) more than 26% of the operations costs related to state owned aircraft in fiscal year 2025-26;

(d) more than 10% of the operations costs related to state owned aircraft in fiscal year 2026-27; or

(e) any operations costs related to state owned aircraft in a fiscal year beginning on or after July 1, 2027.

Section 10. Section 72-10-102 is amended to read:

72-10-102. Definitions.

As used in this chapter:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2)(a) "Advanced air mobility system" means a system that transports individuals and property using piloted and unpiloted aircraft, including electric aircraft and electric vertical takeoff and landing aircraft, in controlled or uncontrolled airspace.

(b) "Advanced air mobility system" includes each component of a system described in Subsection (2)(a), including:

(i) the aircraft, including payload;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) remote and autonomous functions.

(3) "Aerial transit corridor" means an airspace volume defining a three-dimensional route segment with performance requirements to operate within or to cross where tactical air traffic control separation services are not provided.

(4) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(5) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

(a) compensation or other reward;

(b) advertising the occupation;

(c) calling his facilities an air school, or any equivalent term; or

(d) employing or using other instructors.

(6) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(7) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(8) "Airport" means any area of land, water, or both, that:

(a) is used or is made available for landing and takeoff;

(b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;

(c) meets the minimum requirements established by the department as to size and design, surface, marking, equipment, and operation; and

(d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.

(9) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.

(10) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.

(11)(a) "Airport revenue" means:

(i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:

(A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;

(B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

(I) for the right to conduct an activity on the airport or to use or occupy airport property;

(II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;

(III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and

(IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or

(C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and

(ii) state and local taxes on aviation fuel.

(b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.

(12) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(13) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(14) "Civil aircraft" means any aircraft other than a public aircraft.

(15) "Commercial aircraft" means aircraft used for commercial purposes.

(16) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

(17) "Commercial flight operator" means a person who conducts commercial operations.

(18) "Commercial operations" means:

(a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

(19) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(20) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

(21) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

(22) "Flight" means any kind of locomotion by aircraft while in the air.

(23) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

(24) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

(25) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

(26) "Navigable airspace" means the same as that term is defined in 49 U.S.C. Sec. 40102.

[~~(26)~~](27) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

[~~(27)~~](28) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

[~~(28)~~](29) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

[~~(29)~~](30) "Person" means any individual, corporation, limited liability company, or association of individuals.

[~~(30)~~](31) "Pilot" means any person who operates the controls of an aircraft while in-flight.

[~~(31)~~](32) "Primary glider" means any glider that has a gliding angle of less than 10 to one.

[~~(32)~~](33) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any

government-owned aircraft engaged in carrying persons or goods for commercial purposes.

[~~(33)~~](34) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

[~~(34)~~](35) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

(36) "Roadable aircraft" means an aircraft capable of taking off and landing from a suitable airfield and is also designed to be driven on a highway as a conveyance.

[~~(35)~~](37) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.

[~~(36)~~](38) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

[~~(37)~~](39) "Unmanned aircraft" means an aircraft that is:

(a) capable of sustaining flight; and

(b) operated with no possible direct human intervention from on or within the aircraft.

[~~(38)~~](40) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(a) the unmanned aircraft, including payload;

(b) communications equipment;

(c) navigation equipment;

(d) controllers;

(e) support equipment; and

(f) autopilot functionality.

[~~(39)~~](41) "Unmanned aircraft system traffic management" means a traffic management ecosystem for uncontrolled operations, including unmanned aircraft systems, that is separate from, but complementary to, the Federal Aviation Administration's air traffic management system.

[~~(40)~~](42) "Vertiport" means an area of land, or a structure, used or intended to be used for electric, hydrogen, and hybrid vertical aircraft landings and takeoffs, including associated buildings and facilities.

Section 11. Section 72-10-109 is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1)(a) A person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft domiciled in this state unless the aircraft has a current certificate of registration issued by the department.

(b) The restriction described in Subsection (1)(a) does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

(3) Beginning on January 1, [~~2024~~]2025, a person may not operate in this state an unmanned aircraft system or an advanced air mobility aircraft for commercial operation for which certification is required under 14 C.F.R. Part 107 or 135 unless the aircraft has a current certificate of registration issued by the department.

Section 12. Section 72-10-110 is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the Federal Aviation Administration aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2)(a) Except as provided in Subsection (3) or (4), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of[~~-~~]:

(i) 0.4% of the average wholesale value of the aircraft shall be paid[~~.~~]; or

(ii) for a roadable aircraft, 0.2% of the average wholesale value of the roadable aircraft shall be paid.

(b) For purposes of calculating the average wholesale value of an aircraft under Subsection (2)(a) or (3)(d), the department shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(c) For an aircraft not listed in the Aircraft Bluebook Price Digest, the department shall calculate the average wholesale value of the aircraft using common industry standards.

(d)(i) An owner of an aircraft may challenge the department's calculation of the average wholesale value of the aircraft.

(ii) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the department's calculation under Subsection (2)(d)(i).

(3)(a) An annual registration fee of $100 is imposed on an aircraft that is used:

(i) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

(ii) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft 60 years or older equal to the lesser of:

(i) $100; or

(ii) the annual registration fee provided for under Subsection (2)(a).

(c)(i) Except as provided in Subsection (3)(c)(iii), an owner of an aircraft shall apply for a certificate of registration described in Section 72-10-109, if the aircraft:

(A) is in the manufacture, construction, fabrication, assembly, or repair process;

(B) is not complete; and

(C) does not have a valid airworthiness certificate.

(ii) An aircraft described in Subsection (3)(c)(i) is exempt from the annual registration fee described in Subsection (2)(a).

(iii) The registration requirement described in Subsection (3)(c)(i) does not apply to an aircraft that, in accordance with Section 59-12-104, is exempt from the taxes imposed under Title 59, Chapter 12, Sales and Use Tax Act.

(d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:

(i) used by an air charter service for air charter; and

(ii) owned by a person other than the air charter service.

(e) The annual registration fee required in this section is due on December 31 of each year.

(4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish and administer a registration fee for an unmanned aircraft system or an advanced air mobility system registered pursuant to Subsection 72-10-109(3).

(b) The rules made pursuant to Subsection (4)(a) regarding registration and applicable fees for an unmanned aircraft system or an advanced air mobility system may include:

(i) a system for classifying unmanned aircraft systems or an advanced air mobility systems;

(ii) technical guidance for complying with state and federal law;

(iii) criteria under which the department may suspend or revoke registration;

(iv) criteria under which the department may waive registration requirements for an applicant currently holding a valid license or permit to operate unmanned aircraft systems issued by another state or territory of the United States, the District of Columbia, or the United States; and

(v) other rules regarding operation as determined by the department.

(c)(i) Registration fees for an unmanned aircraft system shall be deposited into the aeronautics restricted account created in Section 72-2-126.

(ii) The registration fee imposed under Subsection (2)(a)(ii) for a roadable aircraft shall be deposited in the aeronautics restricted account created in Section 72-2-126.

(5)(a) The department shall provide a registration card to an owner of an aircraft if:

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(6) The registration fees assessed under this chapter shall be collected by the department to be distributed as provided in Subsection (7).

(7) After deducting the costs of administering all aircraft registrations under this chapter, the department shall deposit all remaining aircraft registration fees into the Aeronautics Restricted Account created by Section 72-2-126.

(8) Aircraft which are initially registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(9)(a) For purposes of this section, an aircraft based at the owner's airport means an aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use, or of an airport that receives grant funding from the state, shall provide a list of all aircraft based at the owner's airport to the department.

(10) The department shall maintain a statewide database of all aircraft based within the state.

(11) The department may suspend or revoke a registration if the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 13. Section 72-10-401 is amended to read:

72-10-401. Definitions.

As used in this part[~~, unless the context otherwise requires~~]:

(1)(a) "Airport" means any publicly used area of land or water that is used, or intended to be used, for the landing and take-off of aircraft and utilized or to be utilized in the interest of the public for these purposes.

(b) "Airport" includes a vertiport if the vertiport is open for public use.

(2) "Airport hazard" means any structure, tree, object of natural growth, or use of land that potentially obstructs or otherwise impacts the safe and efficient utilization of the navigable airspace required for the flight of aircraft in landing or take-off at an airport.

(3) "Airport influence area" means land located[~~.~~]:

(a) within 5,000 feet of an airport runway[~~.~~]; or

(b) within 500 feet of a vertiport that is open for public use.

(4) "Airport overlay zone" means a secondary zoning district designed to protect the public health, safety, and welfare near an airport that:

(a) applies land use regulation in addition to the primary zoning district land use regulation of property used as an airport and property within an airport influence area;

(b) may extend beyond the airport influence area;

(c) ensures airport utility as a public asset;

(d) protects property owner land values near an airport through compatible land use regulations as recommended by the Federal Aviation Administration; and

(e) protects aircraft occupant safety through protection of navigable airspace.

(5) "Avigation easement" means an easement permitting unimpeded aircraft flights over property subject to the easement and includes the right:

(a) to create or increase noise or other effects that may result from the lawful operation of aircraft; and

(b) to prohibit or remove any obstruction to such overflight.

(6) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(7) "Political subdivision" means any municipality, city, town, or county.

(8) "Structure" means any object constructed or installed by man, including buildings, towers, smokestacks, and overhead transmission lines.

(9) "Tree" means any object of natural growth.

Section 14. Section 72-10-403 is amended to read:

72-10-403. Airport zoning regulations.

(1) Flight of aircraft over the lands and waters of the state is lawful, unless:

(a) at such a low altitude as to interfere with the existing use to which the owner has put the land, water, or the airspace over the land or water; or

(b) so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.

[~~(1)~~](2) In order to prevent the creation or establishment of airport hazards, each political subdivision located within an airport influence area, shall adopt, administer, and enforce land use regulations for the airport influence area, including an airport overlay zone, under the police power and in the manner and upon the conditions prescribed:

(a) in this part;

(b) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; and

(c) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

[~~(2)~~](3)(a) Each political subdivision located within an airport influence area shall notify a person building on or developing land in an airport influence area, in writing, of aircraft overflights and associated noise.

(b) To promote the safe and efficient operation of the airport, a political subdivision located within an airport influence area:

(i) shall:

(A) adopt an airport overlay zone conforming to the requirements of this chapter and 14 C.F.R. Part 77; and

(B) require any proposed development within an airport influence area to conform with 14 C.F.R. Part 77; and

(ii) may, as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require a person building or developing land to grant or sell to the airport owner, at appraised fair market value, an avigation easement.

[~~(3)~~](4) If a political subdivision located within an airport influence area fails to adopt an airport overlay zone by December 31, 2024, then the following requirements shall apply in an airport influence area:

(a) each political subdivision located within an airport influence area shall notify a person building on or developing land within an airport influence area, in writing, of aircraft overflights and associated noise;

(b) as a condition to granting a building permit, subdivision plat, or a requested zoning change within an airport influence area, require the person building or developing land to grant or sell to the

airport owner, at appraised fair market value, an avigation easement; and

(c) require a person building or developing land within an airport influence area conform to the requirements of this chapter and 14 C.F.R. Part 77.

Section 15. Section 72-10-1101 is enacted to read:

72-10-1101. Navigable airspace leasing.

Part 11. Navigable Airspace Leasing

(1) A highway authority may enter into a non-exclusive lease agreement for the use of the navigable airspace above a highway for private purposes:

(a) for such period as the highway authority determines the navigable airspace will not be needed for public purposes; and

(b) upon other terms and conditions the highway authority finds to be in the public interest.

(2) Before entering into a lease agreement for the use of navigable airspace, a highway authority shall ensure that the agreement described in Subsection (1) is consistent with Federal Aviation Administration requirements.

(3) The highway authority shall determine whether the agreement described in Subsection (1) will unreasonably interfere with the public use and utility of the highway and is in the public interest.

(4) An agreement described in Subsection (1) does not affect the dedication of the highway under Section 72-5-104.

Section 16. Section 72-10-1201 is enacted to read:

72-10-1201. Definitions.

Part 12. Prohibition on the Purchase of Unmanned Aircraft Manufactured or Assembled by a Covered Foreign Entity

As used in this part:

(1) "Covered foreign entity" means an individual, foreign government, or party:

(a) on the Consolidated Screening List or Entity List as designated by the United States Secretary of Commerce;

(b) domiciled in the People's Republic of China or the Russian Federation;

(c) under the influence or control of the government of the People's Republic of China or the Russian Federation; or

(d) that is a subsidiary or affiliate of an individual, government, or party described in Subsections (1)(a) through (c).

(2) "Critical infrastructure" means the same as that term is defined in Section 76-6-106.3.

(3) "Political subdivision" means the same as that term is defined in Section 11-55-102.

(4) "Public entity" means the state of Utah, a political subdivision, or any department, division, commission, or other governmental entity created by the Utah Constitution or law.

Section 17. Section 72-10-1202 is enacted to read:

72-10-1202. Prohibition on the purchase of unmanned aircraft manufactured or assembled by a covered foreign entity.

(1) Except as provided in Subsection (2), a public entity or contractor working directly for a public entity may not purchase or operate an unmanned aircraft system for the inspection of critical infrastructure if the unmanned aircraft system was manufactured or assembled by a covered foreign entity.

(2) Regardless of the country of origin of manufacture or assembly of an unmanned aircraft system, a public entity or contractor working directly for a public entity may operate an unmanned aircraft system for the inspection of critical infrastructure if the public entity ensures that:

(a) the unmanned aircraft system is not connected to the Internet during the inspection operation;

(b) after the inspection operation is complete, any data collected from the inspection, including any images, video, data, geospatial data, or flight logs, are removed before the unmanned aircraft system is connected to the Internet; and

(c) if the inspection operation requires the broadcast of video from the unmanned aircraft system through an Internet connection, the relevant software for the unmanned aircraft system is developed in the United States or approved under the National Defense Authorization Act enacted for the most recent fiscal year.

Section 18. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 484
S. B. 137
Passed February 21, 2024
Approved March 20, 2024
Effective July 1, 2024

TEACHER EMPOWERMENT

Chief Sponsor: Lincoln Fillmore
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends several programs to better empower and retain teachers in the state.

Highlighted Provisions:

This bill:

- expands the allowable uses of funds allocated for paid professional hours;
- establishes an alternative teacher evaluation process;
- prohibits data of a chronically absent student from being used in a teacher's evaluation; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:
53F-2-203, as last amended by Laws of Utah 2022, Chapter 456
53F-2-208, as last amended by Laws of Utah 2023, Chapters 129, 161 and 356
53F-7-203, as last amended by Laws of Utah 2023, Chapter 348
53G-11-501, as last amended by Laws of Utah 2020, Chapter 354
53G-11-501.5, as last amended by Laws of Utah 2019, Chapter 293
53G-11-502, as enacted by Laws of Utah 2018, Chapter 3
53G-11-505, as last amended by Laws of Utah 2021, Chapter 251
53G-11-507, as last amended by Laws of Utah 2019, Chapter 293
53G-11-511, as last amended by Laws of Utah 2020, Chapter 408
53G-11-512, as last amended by Laws of Utah 2019, Chapter 293
53G-11-518, as last amended by Laws of Utah 2020, Chapter 408
53G-11-519, as enacted by Laws of Utah 2020, Chapter 73
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

ENACTS:
53G-11-520, Utah Code Annotated 1953

REPEALS:
53G-11-504.1, as enacted by Laws of Utah 2020, Third Special Session, Chapter 10

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of LEA governing board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an Income Tax Fund budget deficit, as defined in Section 63J-1-312, exists, the state board, after consultation with each LEA governing board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), an LEA governing board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) An LEA governing board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the [~~Teacher Salary Supplement Program~~]Salary Supplement for Highly Needed Educators Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; or

(e) a special education program within the basic school program.

(6) An LEA governing board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) An LEA governing board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the state board as part of the school district or charter school's Annual Financial and Program report.

Section 2. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) concurrent enrollment courses for accelerated foreign language students described in Section 53E-10-307;

(iii) the Basic Program, described in Part 3, Basic Program (Weighted Pupil Units);

(iv) the Adult Education Program, described in Section 53F-2-401;

(v) state support of pupil transportation, described in Section 53F-2-402;

(vi) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

(vii) the Concurrent Enrollment Program, described in Section 53F-2-409;

(viii) the juvenile gang and other violent crime prevention and intervention program, described in Section 53F-2-410; and

(ix) dual language immersion, described in Section 53F-2-502; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the [~~Teacher Salary Supplement Program~~]Salary Supplement for Highly Needed Educators Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2)(a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

(3) If the Executive Appropriations Committee includes in the public education base budget or the final public education budget an increase in the value of the WPU in excess of the amounts described in Subsection (1)(a), the Executive Appropriations Committee shall also include an appropriation to the Local Levy Growth Account established in Section 53F-9-305 in an amount equivalent to at least 0.5% of the total amount appropriated for WPUs in the relevant budget.

Section 3. Section 53F-7-203 is amended to read:

53F-7-203. Paid professional hours for educators.

(1) As used in this section:

(a) "Paid professional hours" means hours outside of an educator's contracted hours.

(b) "Qualifying time" means the hours spent engaged in professional learning, including:

(i) time spent traveling for the professional learning; and

(ii) time engaged in the professional learning.

(c) "Qualifying time" does not include time spent:

(i) outside of the professional learning environment; or

(ii) between the professional learning activities or sessions once the professional learning has ended for the day;

(2) Subject to legislative appropriations, the state board shall provide funding to each LEA to provide additional paid professional hours to the following educators in accordance with this section:

(a) general education and special education teachers;

(b) counselors;

(c) school administration;

(d) school specialists;

(e) student support;

(f) school psychologists;

(g) speech language pathologists; and

(h) audiologists.

[~~(2)~~](3) The state board shall distribute funds appropriated to the state board under Subsection 53F-9-204(6) to each LEA in proportion to the number of educators described in Subsection [~~(1)~~](2) within the LEA.

[~~(3)~~](4) An LEA shall use funding under this section to provide paid professional hours that:

(a) provide educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and

(b) may include activities that:

(i) improve and increase an educator's:

(A) knowledge of the academic subjects the educator teaches;

(B) time to plan and prepare daily lessons based on student needs;

(C) understanding of how students learn; and

(D) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on the analysis;

(ii) are an integral part of broad school-wide and LEA-wide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) advance educator understanding of:

(A) effective and evidence-based instructional strategies; and

(B) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of educators;

(v) are aligned with, and directly related to, academic goals of the school or LEA; [~~and~~]

(vi) as determined between an educator and principal, use qualifying time for professional learning that follows a comprehensive evidence-based approach to improving an educator's effectiveness in raising student achievement, including:

(A) trainings;

(B) conferences;

(C) seminars;

(D) workshops; and

(E) coursework that is not related to requirements for a degree from an institution of higher education; and

[~~(vi)~~](vii) include instruction in the use of data and assessments to inform and instruct classroom practice[~~.~~]; and

(c) may include expenses an educator incurs for professional learning, including:

(i) registration fees;

(ii) travel related expenses at the allowable rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107;

(iii) required materials; and

(iv) hourly pay for qualifying time equivalent to the educator's contracted hourly rate in the most recent school year.

[~~(4)~~](5)(a) An educator shall:

(i) on or before the fifth day of instruction in a given school year, create a plan, in consultation with the educator's principal, on how the educator plans to use paid professional hours provided under this section [~~during the school year~~]; and

(ii) before the end of a given [~~school~~]fiscal year, provide a written statement to the educator's principal of how the educator used paid professional hours provided under this section [~~during the school year~~].

(b)(i) Subsection [~~(4)(a)(i)~~](5)(a)(i) does not limit an educator who begins employment after the fifth day of instruction in a given year from receiving paid professional hours under this section.

(ii) An LEA may prorate the paid professional hours of an educator who begins employment after the fifth day of instruction in a given year according to the portion of the school year for which the LEA employs the educator.

Section 4. Section 53G-11-501 is amended to read:

53G-11-501. Definitions.

As used in this part:

(1) "Administrator" means an individual who supervises educators and holds an appropriate license [~~issued by the state board.~~].

(2) "Career educator" means a licensed employee who has a reasonable expectation of continued employment under the policies of a local school board.

(3) "Career employee" means an employee of a school district who has obtained a reasonable expectation of continued employment based upon Section 53G-11-503 and an agreement with the employee or the employee's association, district practice, or policy.

(4) "Chronically absent" means a student who:

(a) was enrolled in an LEA for at least 60 calendar days; and

(b) missed 10% or more days of instruction, whether the absence was excused or not.

[~~(4)~~](5) "Contract term" or "term of employment" means the period of time during which an employee is engaged by the school district under a contract of employment, whether oral or written.

[~~(5)~~](6) "Dismissal" or "termination" means:

(a) termination of the status of employment of an employee;

(b) failure to renew or continue the employment contract of a career employee beyond the then-current school year;

(c) reduction in salary of an employee not generally applied to all employees of the same category employed by the school district during the employee's contract term; or

(d) change of assignment of an employee with an accompanying reduction in pay, unless the assignment change and salary reduction are agreed to in writing.

[~~(6)~~](7) "Educator" means an individual employed by a school district who is required to hold a professional license issued by the state board, except:

(a) a superintendent; or

(b) an individual who works less than three hours per day or is hired for less than half of a school year.

[~~(7)~~](8)(a) "Employee" means a career or provisional employee of a school district, except as provided in Subsection (7)(b).

(b) Excluding Section 53G-11-518, for purposes of this part, "employee" does not include:

(i) a district superintendent or the equivalent at the Utah Schools for the Deaf and the Blind;

(ii) a district business administrator or the equivalent at the Utah Schools for the Deaf and the Blind; or

(iii) a temporary employee.

[~~(8)~~](9) "Formative evaluation" means a planned, ongoing process which allows educators to engage in reflection and growth of professional skills as related to the Utah Effective Teaching Standards.

(10) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates the termination of an employee who started to work for a district most recently before terminating a more senior employee.

[~~(9)~~](11) "Provisional educator" means an educator employed by a school district who has not achieved status as a career educator within the school district.

[~~(10)~~](12) "Provisional employee" means an individual, other than a career employee or a temporary employee, who is employed by a school district.

[~~(11)~~](13) "School board" means a local school board or, for the Utah Schools for the Deaf and the Blind, the state board.

[~~(12)~~](14) "School district" or "district" means:

(a) a public school district; or

(b) the Utah Schools for the Deaf and the Blind.

[~~(13)~~](15) "Summative evaluation" means [~~the annual evaluation that summarizes an educator's performance during a school year and that is used to make decisions related to the educator's employment.~~]an evaluation that:

(a) a supervisor conducts;

(b) summarizes an educator's performance during an evaluation cycle; and

(c) a supervisor or school district may use to make decisions related to an educator's employment.

[~~(14)~~](16) "Temporary employee" means an individual who is employed on a temporary basis as defined by policies adopted by the school board. If the class of employees in question is represented by an employee organization recognized by the school board, the school board shall adopt the school board's policies based upon an agreement with that organization. Temporary employees serve at will and have no expectation of continued employment.

[~~(15)~~](17)(a) "Unsatisfactory performance" means a deficiency in performing work tasks that may be:

(i) due to insufficient or undeveloped skills or a lack of knowledge or aptitude; and

(ii) remediated through training, study, mentoring, or practice.

(b) "Unsatisfactory performance" does not include the following conduct that is designated as a cause for termination under Section 53G-11-512 or a reason for license discipline by the state board or Utah Professional Practices Advisory Commission:

(i) a violation of work policies;

(ii) a violation of school board policies, state board rules, or law;

(iii) a violation of standards of ethical, moral, or professional conduct; or

(iv) insubordination.

Section 5. Section 53G-11-501.5 is amended to read:

53G-11-501.5. Legislative findings.

(1) The Legislature finds that the effectiveness of public educators can be improved and enhanced by providing specific feedback and support for improvement through a systematic, fair, and competent [~~annual~~] evaluation and remediation of public educators whose performance is inadequate.

(2) The state board and each local school board shall implement Sections 53G-11-501, 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, [~~and~~] 53G-11-511, and 53G-11-520 in accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), to:

(a) allow the educator and the school district to promote the professional growth of the educator; and

(b) identify and encourage quality instruction in order to improve student academic growth.

Section 6. Section 53G-11-502 is amended to read:

53G-11-502. Applicability.

[~~Reserved~~]A local school board shall implement the educator evaluation process described in:

(1) Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511; or

(2) Section 53G-11-520.

Section 7. Section 53G-11-505 is amended to read:

53G-11-505. State board rules -- Reporting to Legislature.

Subject to Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, [~~and~~] 53G-11-511, [~~rules adopted by the state board~~]and 53G-11-520, the state board shall ensure that the rules the state board adopts under Section 53G-11-504 [~~shall~~]:

(1) provide general guidelines, requirements, and procedures for the development and implementation of employee evaluations;

(2) establish required components and allow for optional components of employee evaluations;

(3) require school districts to choose valid and reliable methods and tools to implement the evaluations; and

(4) establish a timeline for school districts to implement employee evaluations.

Section 8. Section 53G-11-507 is amended to read:

53G-11-507. Components of educator evaluation program.

(1) A local school board in consultation with a joint committee established in Section 53G-11-506 shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards established by the state board and includes:

(a) a systematic annual evaluation of all provisional, probationary, and career educators;

(b) use of multiple lines of evidence, including:

(i) self-evaluation;

(ii) student and parent input;

(iii) for an administrator, employee input;

(iv) a reasonable number of supervisor observations to ensure adequate reliability;

(v) evidence of professional growth and other indicators of instructional improvement based on educator professional standards established by the state board; and

(vi) student academic growth data;

(c) a summative evaluation that differentiates among [~~four~~] levels of performance; and

(d) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.

(2)(a) An educator evaluation program described in Subsection (1) may include a reasonable number of peer observations.

(b) An educator evaluation program described in Subsection (1) may not use end-of-level assessment scores in educator evaluation.

Section 9. Section 53G-11-511 is amended to read:

53G-11-511. Rulemaking for privacy protection.

[~~(1) A school district shall report to the state board the number and percent of educators in each of the four levels of performance assigned under Section 53G-11-508.~~]

[~~(2) The data reported under Subsection (1) shall be separately reported for the following educator classifications:~~]

[~~(a) administrators;~~]

[~~(b) teachers, including separately reported data for provisional teachers and career teachers; and~~]

[~~(c) other classifications or demographics of educators as determined by the state board.~~]

[~~(3) The state superintendent shall include the data reported by school districts under this section in the State Superintendent's Annual Report required by Section 53E-3-301.~~

~~(4)~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to ensure the privacy and protection of individual evaluation data.

Section 10. Section 53G-11-512 is amended to read:

53G-11-512. Local school board to establish dismissal procedures.

(1) A local school board shall, by contract with its employees or their associations, or by resolution of the local school board, establish procedures for dismissal of employees in an orderly manner without discrimination.

(2) The local school board shall ensure that the procedures [~~shall~~]described in Subsection (1) include:

(a) standards of due process;

(b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) [~~Procedures~~]The local school board shall ensure that the procedures and standards for a plan of assistance adopted under Subsection (2)(c) [~~shall~~] require a plan of assistance to identify:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

(4) If a career employee exhibits both unsatisfactory performance as described in

Subsection [~~53G-11-501(15)(a)~~]53G-11-501(16)(a) and conduct described in Subsection [~~53G-11-501(15)(b)~~]53G-11-501(16)(b), an employer:

(a) may:

(i) attempt to remediate the conduct of the career employee; or

(ii) terminate the career employee for cause if the conduct merits dismissal consistent with procedures established by the local school board; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

(5) If the conduct of a career employee described in Subsection (4) is satisfactorily remediated, and unsatisfactory performance issues remain, an employer shall develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

(6) If the conduct of a career employee described in Subsection (4) is not satisfactorily remediated, an employer:

(a) may dismiss the career employee for cause in accordance with procedures established by the local school board that include standards of due process and causes for dismissal; and

(b) is not required to develop and implement a plan of assistance for the career employee, as provided in Section 53G-11-514.

Section 11. Section 53G-11-518 is amended to read:

53G-11-518. State board to make rules on performance compensation.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules requiring a school district's employee compensation system to be aligned with the district's annual evaluation system described in Section 53G-11-507.

(2) [~~Rules adopted~~]The state board shall ensure that rules the state board adopts under Subsection (1) [~~shall~~]:

(a) establish a timeline for developing and implementing an employee compensation system that is aligned with an annual evaluation system; and

(b) provide that [~~beginning no later than the 2016-17 school year~~]:

(i) any advancement on an adopted wage or salary schedule:

(A) shall be based primarily on an evaluation; and

(B) may not be based on end-of-level assessment scores; and

(ii) an employee may not advance on an adopted wage or salary schedule if the employee's rating on the most recent evaluation is at the lowest level of an evaluation instrument.

Section 12. Section 53G-11-519 is amended to read:

53G-11-519. Utah Recognizing Inspiring School Employees Award.

(1) As used in this section:

(a) "Association" means the governing board of the association that represents a majority of classified school employees employed in the state.

(b) "Classified school employee" means the same as that term is defined in the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6682.

(c) "Eligible individual" means a classified school employee who meets the eligibility requirements to be a nominee for the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

(2)(a) In accordance with the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq., the governor shall annually nominate a classified school employee for the Recognizing Inspiring School Employees Award Program.

(b) The governor shall consider submissions from the association in making the nomination described in Subsection (2)(a).

(c) The association shall submit a list of eligible individuals to the governor no later than September 1 each year[~~, beginning on September 1, 2020~~].

(3)(a) There is created the Utah Recognizing Inspiring School Employees Award Program to recognize excellence exhibited by public school system employees providing services to students in pre-kindergarten through grade 12.

(b) The Utah Recognizing Inspiring School Employees Award shall be awarded to the governor's nominee for the federal Recognizing Inspiring School Employees Award Program under the Recognizing Achievement in Classified School Employees Act, 20 U.S.C. Sec. 6681 et seq.

Section 13. Section 53G-11-520 is enacted to read:

53G-11-520. Alternative educator evaluation process.

(1) As described in Section 53G-11-502, a school district may choose to perform an educator evaluation as described in this section.

(2) A school district that chooses the educator evaluation process described in this section is exempt from the requirements described in Sections 53G-11-506, 53G-11-507, 53G-11-508, 53G-11-509, 53G-11-510, and 53G-11-511.

(3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) describe a framework for the evaluation of educators in accordance with Part 3, Licensed Employee Requirements, and this section;

(b) require an educator's summative evaluation to be based on:

(i) educator professional standards established by the state board; and

(ii) the requirements described in Subsections (9) and (10);

(c) establish standards for an independent review of an educator's summative evaluation; and

(d) ensure the privacy and protection of individual evaluation data.

(4) A school district shall develop an educator evaluation program in consultation with the school district's joint committee.

(5) A school district shall ensure the joint committee described in Subsection (4) consists of an equal number of classroom teachers, parents, and administrators the school district appoints.

(6) A school district may appoint members of the joint committee from:

(a) a list of nominees who are classroom teachers, created through a vote of teachers in a nomination election;

(b) a list of nominees who are administrators, created through a vote of administrators in a nomination election; and

(c) a list of nominees who are parents that school community councils within the school district submit to the school district.

(7) Subject to Subsection (8), the joint committee may:

(a) adopt or adapt an evaluation program for educators based on a model the state board develops; or

(b) create the school district's own evaluation program for educators.

(8) A school district shall ensure that an evaluation program the joint committee develops complies with the requirements of this section including the rules the state board adopts under Subsection (3).

(9) A school district, in consultation with a joint committee described in Subsection (4), shall adopt a reliable and valid educator evaluation program that evaluates educators based on educator professional standards the state board establishes, including:

(a) an annual formative assessment for an educator, a provisional educator, and a career educator;

(b) as described in Subsections (11), (12), and (13), a summative assessment for an educator that occurs at least once every four years;

(c) use of multiple lines of evidence, including:

(i) self-evaluation;

(ii) student and parent input;

(iii) for an administrator, employee input;

(iv) a reasonable number of supervisor observations to ensure adequate reliability;

(v) evidence of professional growth and other indicators of instructional improvement; and

(vi) student academic growth data;

(d) a summative evaluation that differentiates among levels of performance; and

(e) for an administrator, the effectiveness of evaluating employee performance in a school or school district for which the administrator has responsibility.

(10) A school district, in relation to an educator evaluation program described in Subsection (9):

(a) may include a reasonable number of peer observations; and

(b) may not use:

(i) end-of-level assessment scores; or

(ii) the data of a student that is chronically absent.

(11) The individual whom the school district and joint committee designate to be responsible for administering an educator's summative evaluation shall:

(a) at least 15 days before an educator's first evaluation:

(i) notify the educator of the evaluation process; and

(ii) give the educator a copy of a relevant evaluation instrument;

(b) allow the educator to respond to any part of the evaluation;

(c) attach the educator's response to the evaluation if the educator provides a response in writing;

(d) within 15 days after the day on which the evaluation process is complete, discuss the written evaluation with the educator; and

(e) based upon the educator's performance, assign to the educator one of the levels of performance required in Subsection (9)(d).

(12)(a) An educator who is not satisfied with a summative evaluation may request a review of the evaluation within 15 days after receiving the written evaluation.

(b)(i) If an educator requests a review in accordance with Subsection (12), the school district superintendent or the superintendent's designee shall appoint an individual whom the school district does not employ who has expertise in teacher or personnel evaluation to review the evaluation procedures and make recommendations to the superintendent regarding the educator's summative evaluation.

(ii) The individual conducting a review of an educator's summative evaluation under Subsection (12)(b)(i) shall conduct the review in accordance with the rules that the state board makes under Subsection (3).

(13)(a) In accordance with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b), the principal or immediate supervisor of a provisional educator shall assign an individual who has received training or will receive training in mentoring educators as a mentor to the provisional educator.

(b) Where possible, the principal or immediate supervisor described in Subsection (13)(a) shall assign as a mentor a career educator who:

(i) performs substantially the same duties as the provisional educator; and

(ii) has at least three years of educational experience.

(c) The mentor described in this Subsection (13):

(i) shall assist the provisional educator to become effective and competent in the teaching profession and school system; and

(ii) may not serve as an evaluator of the provisional educator.

(d) An educator who is assigned as a mentor described in this Subsection (13) may receive compensation for mentor services in addition to the educator's regular salary.

(14) The state board shall:

(a) consult with school districts; and

(b) report to the Education Interim Committee's November 2028 committee meeting regarding:

(i) implementation of the alternative educator evaluation process; and

(ii) making recommendations for needed changes.

Section 14. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(14) Subsection 53F-2-504(11), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed on July 1, 2026.

[~~(14)~~](15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(15)~~](16) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(16)~~](17) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](18) Section 53F-9-403 is repealed on July 1, 2024.

(19) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed on July 1, 2029.

(20) Section 53G-11-506, Establishment of educator evaluation program -- Joint committee, is repealed on July 1, 2029.

(21) Section 53G-11-507, Components of educator evaluation program, is repealed on July 1, 2029.

(22) Section 53G-11-508, Summative evaluation timelines -- Review of summative evaluations, is repealed on July 1, 2029.

(23) Section 53G-11-509, Mentor for provisional educator, is repealed on July 1, 2029.

(24) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed on July 1, 2029.

(25) Section 53G-11-511, Report of performance levels, is repealed on July 1, 2029.

(26) Subsections 53G-11-520(1) and (2), regarding optional alternative educator evaluation processes, are repealed on July 1, 2029.

[~~(18)~~](27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 15. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53B-6-105.7 is repealed July 1, 2024.

(9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(10) Section 53B-8-114 is repealed July 1, 2024.

(11) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(12) Section 53B-10-101 is repealed on July 1, 2027.

(13) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(14) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(17) Subsection 53F-2-504(11), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed on July 1, 2026.

[~~(17)~~](18) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](20) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](21) Section 53F-9-403 is repealed on July 1, 2024.

(22) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed on July 1, 2029.

(23) Section 53G-11-506, Establishment of educator evaluation program - - Joint committee, is repealed on July 1, 2029.

(24) Section 53G-11-507, Components of educator evaluation program, is repealed on July 1, 2029.

(25) Section 53G-11-508, Summative evaluation timelines - - Review of summative evaluations, is repealed on July 1, 2029.

(26) Section 53G-11-509, Mentor for provisional educator, is repealed on July 1, 2029.

(27) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed on July 1, 2029.

(28) Section 53G-11-511, Report of performance levels, is repealed on July 1, 2029.

(29) Subsections 53G-11-520(1) and (2), regarding optional alternative educator evaluation processes, are repealed on July 1, 2029.

[~~(21)~~](30) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 16. Repealer.

This bill repeals:

Section 53G-11-504.1, Waiver of employee evaluation requirement.

Section 17. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 485
S. B. 148
Passed February 26, 2024
Approved March 20, 2024
Effective January 1, 2025

AIRCRAFT PROPERTY TAX AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill modifies provisions related to property tax assessment for aircrafts.

Highlighted Provisions:

This bill:

- subjects aircraft to state registration by the Department of Transportation based on the number of days an aircraft operates in the state in a year;
- limits the types of aircraft subject to central assessment by the State Tax Commission;
- requires the Department of Transportation to annually provide a list to the State Tax Commission identifying each aircraft subject to state registration; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-201, as last amended by Laws of Utah 2023, Chapter 471
72-10-109, as last amended by Laws of Utah 2023, Chapter 216

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-201 is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property -- Determination of value of aircraft -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1)(a) By May 1 of each year, the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) [~~all~~]subject to Subsection (1)(b), all operating property of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters that are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) For purposes of Subsection (1)(a)(iii), if the operating property of an airline, air charter service, or air contract service includes an aircraft, the commission shall assess the aircraft only if the aircraft operates under 14 C.F.R. Part 121, with a maximum takeoff weight exceeding 35,000 pounds.

[~~(b)(i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:~~]

[~~(A) used by the air charter service for air charter; and~~]

[~~(B) owned by a person other than the air charter service.~~]

[~~(ii) For purposes of this Subsection (1)(b):~~]

[~~(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and~~]

[~~(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:~~]

[~~(I) a principal, owner, or member of the air charter service; or~~]

[~~(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.~~]

(2)(a) The commission may not assess property owned by a telecommunications service provider.

(b) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

(i) The commission shall assess and collect property tax annually on state-assessed commercial vehicles that are registered pursuant to Section 41-1a-222 or 41-1a-228.

(ii) State-assessed commercial vehicles brought into the state that are required to be registered in

Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

(iii) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

(iv) The commission shall adjust the value of state- assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3)(a) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property.

(b) The commission shall determine the rate of capitalization applicable to mines, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions.

(c) In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4)(a) As used in this Subsection (4), "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are:

(i) identified by year, make, and model; and

(ii) in average condition typical for the aircraft's type and vintage.

(b)(i) Except as provided in Subsection (4)(d), the commission shall use an aircraft pricing guide, adjusted as provided in Subsection (4)(c), to determine the fair market value of aircraft assessed under this part.

(ii) The commission shall use the Airliner Price Guide as the aircraft pricing guide, except that:

(A) if the Airliner Price Guide is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide;

(B) if an aircraft is not listed in the Airliner Price Guide, the commission shall use the Aircraft Bluebook Price Digest as the aircraft pricing guide; and

(C) if the Aircraft Bluebook Price Digest is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide.

(c)(i) To reflect the value of an aircraft fleet that is used as part of the operating property of an airline, air charter service, or air contract service, the fair market value of the aircraft shall include a fleet adjustment as provided in this Subsection (4)(c).

(ii) If the aircraft pricing guide provides a method for making a fleet adjustment, the commission shall use the method described in the aircraft pricing guide.

(iii) If the aircraft pricing guide does not provide a method for making a fleet adjustment, the commission shall make a fleet adjustment by reducing the aircraft pricing guide value of each aircraft in the fleet by .5% for each aircraft over three aircraft up to a maximum 20% reduction.

(d) The commission may use an alternative method for valuing aircraft of an airline, air charter service, or air contract service if the commission:

(i) has clear and convincing evidence that the aircraft values reflected in the aircraft pricing guide do not reasonably reflect fair market value of the aircraft; and

(ii) cannot identify an alternative aircraft pricing guide from which the commission may determine aircraft value.

(5) Immediately following the assessment, the commission shall send, by certified mail, notice of the assessment to the owner or operator of the assessed property and the assessor of the county in which the property is located.

(6) The commission may consult with a county in valuing property in accordance with this part.

(7) The local county assessor shall separately assess property that is assessed by the unitary method if the commission determines that the property:

(a) is not necessary to the conduct of the business; and

(b) does not contribute to the income of the business.

Section 2. Section 72-10-109 is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1)[~~(a) A~~]Except as provided in Subsection (2), a person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft [~~domiciled~~]operating in this state for 181 or more days within any consecutive 12-month period unless the aircraft has a current certificate of registration issued by the department.

[~~(b) The restriction described in Subsection (1)(a)~~]

(2) The state registration requirement under Subsection (1) does not apply to:

(a) aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft[~~or to~~];

(b) a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration[.]; or

(c) aircraft operating under 14 C.F.R. Part 121, with a maximum takeoff weight exceeding 35,000 pounds.

[~~(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).~~]

(3) Beginning on January 1, 2024, a person may not operate in this state an unmanned aircraft system or an advanced air mobility aircraft for commercial operation for which certification is required under 14 C.F.R. Part 107 or 135 unless the aircraft has a current certificate of registration issued by the department.

(4) The department shall, or before December 31 of each calendar year, provide to the State Tax Commission a list of each aircraft for which a current certificate of registration is issued by the department under Subsection (1).

Section 3. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 486
H. B. 365
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

COSMETIC PROCEDURE AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to cosmetic procedures.

Highlighted Provisions:

This bill:

- defines terms;
- allows a telemedicine service to be used for an initial consult before the initiation of a treatment protocol or series of treatments; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-102, as last amended by Laws of Utah 2022, Chapter 415
58-1-302.1, as enacted by Laws of Utah 2023, Chapter 278
58-1-506, as last amended by Laws of Utah 2023, Chapter 223
58-67-102, as last amended by Laws of Utah 2023, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-102 is amended to read:

58-1-102. Definitions.

[~~For purposes of~~]As used in this title:

(1) "Ablative procedure" [~~is as defined in~~]means the same as that term is defined in Section 58-67-102.

(2) "Cosmetic medical procedure":

(a) [~~is as defined in~~]means the same as that term is defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Cryolipolysis" means a nonablative fat reduction procedure that uses cold temperature to reduce fat deposits in certain areas of the body.

[~~(3)~~](4) "Department" means the Department of Commerce.

[~~(4)~~](5) "Director" means the director of the Division of Professional Licensing.

[~~(5)~~](6) "Division" means the Division of Professional Licensing created in Section 58-1-103.

[~~(6)~~](7) "Executive director" means the executive director of the Department of Commerce.

[~~(7)~~](8) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

[~~(8)~~](9)(a)(i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal and cryolipolysis.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

[~~(9)~~](10) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

[~~(10)~~](11) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

(12) "Telemedicine service" means the same as that term is defined in Section 26B-4-704.

[~~(11)~~](13) "Unlawful conduct" [~~has the meaning given in~~]means the same as that term is defined in Subsection 58-1-501(1).

[~~(12)~~](14) "Unprofessional conduct" [~~has the meaning given in~~]means the same as that term is defined in Subsection 58-1-501(2).

Section 2. Section 58-1-302.1 is amended to read:

58-1-302.1. Temporary license for telemedicine.

(1) As used in this section:

(a) "Nonresident health care license" means a health care license issued by another state, district, or territory of the United States.

(b) "Telemedicine service" means the same as that term is defined in Section [~~26-60-102~~]26B-4-704.

(2) An individual with a temporary license issued under this section is authorized to provide a telemedicine service if:

(a) the telemedicine service is a service the individual is licensed to perform under the nonresident health care license of the state, district, or territory that issued the nonresident health care license;

(b) at the time the telemedicine service is performed, the patient is located in Utah; and

(c) performing the telemedicine service would not otherwise violate state law.

(3) The division shall issue a temporary license described in Subsection (2) to an individual who has a nonresident health care license in good standing if:

(a) the individual has completed an application for a license by endorsement in accordance with Section 58-1-302; and

(b) the division determines that they will not be able to process the application within 15 days from the day on which the application is submitted.

(4) The division may not charge a fee for a temporary license issued under this section beyond the fee required for a license issued under Section 58-1-302.

Section 3. Section 58-1-506 is amended to read:

58-1-506. Supervision of cosmetic medical procedures.

(1) For purposes of this section:

(a) "Delegation group A" means the following who are licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii):

(i) a physician assistant, if acting in accordance with Chapter 70a, Utah Physician Assistant Act;

(ii) a registered nurse;

(iii) a master esthetician; and

(iv) an electrologist, if evaluating for or performing laser hair removal.

(b) "Delegation group B" means:

(i) a practical nurse or an esthetician who is licensed under this title, acting within their respective scopes of practice, and qualified under Subsections (2)(f)(i) and (iii); and

(ii) a medical assistant who is qualified under Subsections (2)(f)(i) and (iii).

(c) "Direct cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee; and

(ii) is present and available for a face-to-face communication with the supervisee when and where a cosmetic medical procedure is performed.

(d) "General cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) is available in a timely and appropriate manner in person to evaluate and initiate care for a patient with a suspected adverse reaction or complication; and

(iii) is located within 60 minutes or 60 miles of the cosmetic medical facility.

(e) "Hair removal review" means:

(i) conducting an in-person, face-to-face interview of a patient based on the responses provided by the patient to a detailed medical history assessment that was prepared by the supervisor;

(ii) evaluating for contraindications and conditions that are part of the treatment plan; and

(iii) if the patient history or patient presentation deviates in any way from the treatment plan, referring the patient to the supervisor and receiving clearance from the supervisor before starting the treatment.

(f) "Indirect cosmetic medical procedure supervision" means the supervisor:

(i) has authorized the procedure to be done on the patient by the supervisee;

(ii) has given written instructions to the person being supervised;

(iii) is present within the cosmetic medical facility in which the person being supervised is providing services; and

(iv) is available to:

(A) provide immediate face-to-face communication with the person being supervised; and

(B) evaluate the patient, as necessary.

(2) A supervisor supervising a nonablative cosmetic medical procedure for hair removal shall:

(a) have an unrestricted license to practice medicine or advanced practice registered nursing in the state;

(b) develop the medical treatment plan for the procedure;

(c) conduct a hair removal review, or delegate the hair removal review to a member of delegation group A, of the patient prior to initiating treatment or a series of treatments;

(d) personally perform the nonablative cosmetic medical procedure for hair removal, or authorize and delegate the procedure to a member of delegation group A or B;

(e) during the nonablative cosmetic medical procedure for hair removal provide general cosmetic medical procedure supervision to individuals in delegation group A performing the procedure, except physician assistants, who shall act in accordance with Chapter 70a, Utah Physician Assistant Act, and indirect cosmetic medical procedure supervision to individuals in delegation group B performing the procedure; and

(f) verify that a person to whom the supervisor delegates an evaluation under Subsection (2)(c) or delegates a procedure under Subsection (2)(d) or (3)(c)(ii):

(i) has received appropriate training regarding the medical procedures developed under Subsection (2)(b);

(ii) has an unrestricted license under this title or is performing under the license of the supervising physician and surgeon; and

(iii) has maintained competence to perform the nonablative cosmetic medical procedure through documented education and experience of at least 80 hours, as further defined by rule, regarding:

(A) the appropriate standard of care for performing nonablative cosmetic medical procedures;

(B) physiology of the skin;

(C) skin typing and analysis;

(D) skin conditions, disorders, and diseases;

(E) pre- and post-procedure care;

(F) infection control;

(G) laser and light physics training;

(H) laser technologies and applications;

(I) safety and maintenance of lasers;

(J) cosmetic medical procedures an individual is permitted to perform under this title;

(K) recognition and appropriate management of complications from a procedure; and

(L) cardiopulmonary resuscitation (CPR).

(3) For a nonablative cosmetic medical procedure for tattoo removal:

(a) a supervisor supervising a nonablative cosmetic medical procedure for tattoo removal shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing in the state; and

(ii) develop the medical treatment plan for the procedure; and

(b) a nurse practitioner or physician assistant:

(i) shall conduct an in-person face-to-face evaluation of a patient before initiating a treatment protocol or series of treatments for removing a tattoo;

(ii) shall inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;

(iii) shall refer a patient with a condition described in Subsection (3)(b)(ii) to a physician for treatment or further evaluation; and

(iv) may not perform a nonablative cosmetic medical procedure to remove a tattoo on a patient unless the patient is approved for the tattoo removal by a physician after the physician evaluates the patient.

(4) For a nonablative cosmetic medical procedure other than hair removal under Subsection (2) or tattoo removal under Subsection (3):

(a) a physician who has an unrestricted license to practice medicine, a nurse practitioner who has an unrestricted license for advanced practice registered nursing, or a physician assistant acting in accordance with Chapter 70a, Utah Physician Assistant Act, who has an unrestricted license to practice as a physician assistant, shall:

(i) develop a treatment plan for the nonablative cosmetic medical procedure; and

(ii) conduct an [~~in-person face-to-face~~]evaluation of the patient [~~prior to~~]either in-person or utilizing a live telemedicine visit before the initiation of a treatment protocol or series of treatments; and

[~~(b) a nurse practitioner or physician assistant conducting an in-person face-to-face evaluation of a patient under Subsection (3)(a)(ii) prior to removing a tattoo shall:~~]

[~~(i) inspect the patient's skin for any discoloration unrelated to the tattoo and any other indication of cancer or other condition that should be treated or further evaluated before the tattoo is removed;~~]

[~~(ii) refer a patient with any such condition to a physician for treatment or further evaluation; and~~]

[~~(iii) shall not supervise a nonablative cosmetic medical procedure to remove a tattoo on the patient until the patient has been approved for the tattoo removal by a physician who has evaluated the patient; and~~]

[~~(c)~~](b) the supervisor supervising the procedure shall:

(i) have an unrestricted license to practice medicine or advanced practice registered nursing;

(ii) personally perform the nonablative cosmetic medical procedure or:

(A) authorize and provide general cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by a registered nurse or a master esthetician;

(B) authorize and provide supervision as provided in Chapter 70a, Utah Physician Assistant Act, for the nonablative cosmetic medical procedure that is performed by a physician assistant; or

(C) authorize and provide direct cosmetic medical procedure supervision for the nonablative cosmetic medical procedure that is performed by an esthetician; and

(iii) verify that a person to whom the supervisor delegates a procedure under Subsection (3)(c):

(A) has received appropriate training regarding the medical procedures to be performed;

(B) has an unrestricted license and is acting within the person's scope of practice under this title; and

(C) is qualified under Subsection (2)(f)(iii).

[~~(4)~~](5) A supervisor performing or supervising a cosmetic medical procedure under Subsection (2) or (3) or (4) shall ensure that:

(a) the supervisor's name is prominently posted at the cosmetic medical facility identifying the supervisor;

(b) a copy of the supervisor's license is displayed on the wall of the cosmetic medical facility;

(c) the patient receives written information with the name and licensing information of the supervisor who is supervising the nonablative cosmetic medical procedure and the person who is performing the nonablative cosmetic medical procedure;

(d) the patient is provided with a telephone number that is answered within 24 hours for follow-up communication; and

(e) the cosmetic medical facility's contract with a master esthetician who performs a nonablative cosmetic medical procedure at the facility is kept on the premises of the facility.

[~~(5)~~](6) Failure to comply with the provisions of this section is unprofessional conduct.

[~~(6)~~](7) A chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act, is not subject to the supervision requirements in this section for a nonablative cosmetic medical procedure for hair removal if the chiropractic physician is acting within the scope of practice of a chiropractic physician and with training specific to nonablative hair removal.

Section 4. Section 58-67-102 is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1)(a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal or cryolipolysis.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(6) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(7) "Board" means the Physicians Licensing Board created in Section 58-67-201.

(8) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

(9) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

(10)(a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (10)(a).

(11)(a) "Cosmetic medical procedure" includes:

[~~(a)~~](i) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; [~~and~~]or

(ii) the injection of medication or substance, including a neurotoxin or a filler, for cosmetic purposes.

(b) "Cosmetic medical procedure" does not include a treatment of the ocular globe [~~such as~~]including refractive surgery.

(12) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (12)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (12)(a); or

(d) to make an examination or determination as described in Subsection (12)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(13) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-67-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17)(a)(i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(19)(a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22)(a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23)(a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 487
H. B. 2
Passed February 28, 2024
Approved March 21, 2024
Effective July 1, 2024

NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides budget increases and decreases for other purposes as described;
- authorizes full time employment levels for certain internal service funds; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $1,183,235,100 in operating and capital budgets for fiscal year 2025, including:

- ($848,244,000) from the General Fund;
- $1,074,090,600 from the Income Tax Fund; and
- $957,388,500 from various sources as detailed in this bill.

This bill appropriates $61,372,000 in expendable funds and accounts for fiscal year 2025, including:

- $6,922,100 from the General Fund; and
- $54,449,900 from various sources as detailed in this bill.

This bill appropriates $133,010,200 in business-like activities for fiscal year 2025, including:

- $21,749,400 from the General Fund; and
- $111,260,800 from various sources as detailed in this bill.

This bill appropriates $2,561,000 in restricted fund and account transfers for fiscal year 2025, including:

- $24,092,600 from the General Fund;
- ($19,169,900) from the Income Tax Fund; and
- ($2,361,700) from various sources as detailed in this bill.

This bill appropriates $892,600 in transfers to unrestricted funds for fiscal year 2025.

This bill appropriates $354,889,600 in capital project funds for fiscal year 2025, including:

- $60,800,000 from the General Fund;
- $209,396,900 from the Income Tax Fund; and
- $84,692,700 from various sources as detailed in this bill.

This bill reflects $37,520,600 in higher education budget reporting for fiscal year 2025.

Other Special Clauses:

This bill takes effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund 850,000
From General Fund, One-time 627,000
From Federal Funds 733,900
Schedule of Programs:
Administration 1,077,000
Criminal Prosecution 1,133,900

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Attorney General line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Attorney Staff Assessment (Target=90).

Item 2
To Attorney General - Children's Justice Centers
From Federal Funds 18,700
From Expendable Receipts .. 75,100
Schedule of Programs:
Children's Justice Centers 93,800

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Children's Justice Centers line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the

following performance measures: 1) Caregiver References (Target=90.9%); 2) Multidisciplinary Teams (Target=89.1%); 3) Caregiver Satisfaction (Target=88.7%).

Item 3
To Attorney General - Contract Attorneys
From General Fund,
One-time ..... (865,100)
Schedule of Programs:
Contract Attorneys ..... (865,100)

Item 4
To Attorney General - Prosecution Council
From General Fund ..... (90,000)
From Federal Funds 68,300
From Dedicated Credits Revenue 37,800
From Revenue Transfers 250,000
Schedule of Programs:
Prosecution Council 266,100

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Prosecution Council line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Trial without Domestic Violence Victim (Target=80%); 2) Utah Prosecution Council Conferences (Target=50%); 3) Trauma-Informed Training (Target=50%).

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole
From General Fund 130,000
From General Fund,
One-time 300,000
Schedule of Programs:
Board of Pardons and Parole 430,000

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To Utah Department of Corrections - Programs and Operations
From General Fund 15,150,500
From General Fund,
One-time 7,225,000
From Federal Funds,
One-time 705,900
Schedule of Programs:
Adult Probation and Parole Programs 1,498,900
Department Executive Director 825,000
Prison Operations Administration .... (46,000)
Re-entry and Rehabilitation Re-Entry . 705,900
Prison Operations Utah State Correctional Facility 20,097,600

The Legislature intends that, within existing funds the Department of Corrections may purchase one vehicle for the AP&P Deputy Director, one vehicle for each investigations staff member, one vehicle for each K9 dog handler, additional vehicles for the CIRT response team expanded operations, additional vehicles for UDC Administration, additional vehicles for the background investigation team, additional vehicles for AP&P agents/supervisors, and additional vehicles for efficiencies & inmate transports.

Item 7
To Utah Department of Corrections - Department Medical Services
From General Fund ..... (50,398,700)
Schedule of Programs:
Medical Services ..... (50,398,700)

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Department of Corrections report the final status of performance measures established in FY 2024 appropriations bills for the Department Medical Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Department of Corrections shall report on the following performance measures: 1. Health Care Request Timeliness (Target = 45%); 2. Mental Health Assessment Timeliness (Target = 30); 3. Intake Physical Evaluation (Target = 100%); 4. Missed Medical Appointments (Target = 10%); and 5. Dental Request Timeliness (Target = 37%).

Item 8
To Utah Department of Corrections - Jail Contracting
From General Fund,
One-time ..... (500,000)
Schedule of Programs:
Jail Contracting ..... (500,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Department of Corrections report the final status of performance measures established in FY 2024 appropriations bills for the Jail Contracting line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Department of Corrections shall report on the following performance measure: 1. Programming in Jail Contracting (Target = 33%).

Item 9
To Utah Department of Corrections - County Correctional Facility Contracting Reserve
From General Fund,
One-time 500,000
Schedule of Programs:

County Correctional Facility Contracting Reserve 500,000

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 10
To Judicial Council/State Court Administrator - Administration
From General Fund,
One-time 800,000
From Dedicated Credits Revenue 600,000
From General Fund Restricted - Court Security Account 1,809,900
Schedule of Programs:
Courts Security 1,809,900
Data Processing 600,000
District Courts 800,000

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Administration line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Target the recommended time standards in District and Juvenile Courts for all case types; as per the published Utah State Courts Performance Measures; (2) and Clearance rate in all courts, as per the published Utah State Courts Performance Measures (Target 100%).

Item 11
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund,
One-time ..... (33,700)
Schedule of Programs:
Contracts and Leases ..... (33,700)

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Contracts and Leases line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Execute and administer required contracts within the terms of the contracts and appropriations (Target 100%).

The Legislature intends that the Courts report on a long-term proposal for courthouse space currently leased in American Fork including both lease and construction options during the 2024 interim.

Item 12
To Judicial Council/State Court Administrator - Grand Jury

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Grand Jury line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Administer called Grand Juries (Target 100%).

Item 13
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 500,000
Schedule of Programs:
Guardian ad Litem 500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Office of the Guardian ad Litem report performance measures for the Administration line item, whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: seven performance measures for the line item found in the Utah Office of Guardian ad Litem and CASA Annual Report.

Item 14
To Judicial Council/State Court Administrator - Jury and Witness Fees
From General Fund 701,500
From General Fund,
One-time 980,000
Schedule of Programs:
Jury, Witness, and Interpreter 1,681,500

The Legislature intends that the appropriations provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter line item for the 2025 Fiscal Year and ongoing may be used to increase the number of FTE to a maximum of 19.

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Courts report performance measures for the Jury, Witness, and Interpreter line item,

whose mission is "to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: Timely pay all required jurors, witnesses and interpreters (Target 100%).

The Legislature intends that the Courts report on a proposal/options to expand the court interpreter labor pool including certification, higher education programming, training, recruiting etc. and report to the Executive Offices and Criminal Justice Appropriation Subcommittee during the 2024 interim. The Legislature further intends that the Courts consult with Division of Human Resource Management, state higher education institutions, the Department of Commerce, among others in their review.

GOVERNOR'S OFFICE

Item 15
To Governor's Office - CCJJ - Factual Innocence Payments
From General Fund,
One-time 390,100
Schedule of Programs:
Factual Innocence Payments 390,100

Item 16
To Governor's Office - CCJJ - Jail Reimbursement

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report the final status of performance measures established in FY 2024 appropriations bills for the CCJJ - Jail Reimbursement line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office shall report on the following performance measures: 1. Parolees on 72-Hour Holds (Target = 0); and 2. Condition of Probation Felony Offenders (Target = 0).

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Jail Reimbursement line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Parolees on 72-Hour Holds; 2) Condition of Probation Felony Offenders.

Item 17
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund 450,000
From General Fund,
One-time 600,000
From Federal Funds 2,271,900
Schedule of Programs:
CCJJ Commission 3,021,900
Utah Victim Services Commission 300,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Commission on Criminal and Juvenile Justice line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Victim Reparation Claim Timeliness (Target=50%); 2) Improvement in Website Visits (Target=100%); CCJJ Grant Monitoring, number of site visits conducted (Target=25).

Item 18
To Governor's Office
From General Fund,
One-time 149,900
Schedule of Programs:
Administration ..... (100)
Lt. Governor's Office 150,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Governor's Office line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percentage of registered voters that voted during the last even year general election (Target = 75%); 2) Number of constituent affairs responses.

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report the final status of performance measures established in FY 2024 appropriations bills for the Governor's Office line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office shall report on the following performance measures: 1. Constituent Affairs Responses (Target = 59,483); and 2. Voter Turnout (Target = 82%).

Item 19
To Governor's Office - Governors Office of Planning and Budget
From General Fund ..... (600,000)
Schedule of Programs:

Planning Coordination ..... (600,000)

The Legislature intends that when the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget do the Medicaid stress testing required by H.B. 51, Health and Human Services Funding Amendments, 2024 General Session, that they include a scenario where the federal government reduces or eliminates reimbursement available to nursing homes via the Upper Payment Limit.

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Governor's Office of Planning and Budget line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) the overall percentage of budget line items with a defined performance measure (Target = increase FY 2024 percentage compared to FY 2023 percentage).

Item 20

To Governor's Office - Indigent Defense Commission

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Indigent Defense line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Organizational Capacity (Target=10% increase); 2) Counsel for All Eligible (Target=10% increase); 3) Scope of Representation (Target=10% increase); 4) Independence (Target=10% increase); 5) Specialization (Target=10% increase); 6) Right to Appeal (Target=10% increase); 7) Free From Conflicts of Interest (Target=10% increase); 8) Effective Representation - Training, Resources, Compensation (Target=10% increase).

Item 22

To Governor's Office - Suicide Prevention

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report performance measures for the Suicide Prevention line item. The Governor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Suicide Rate (Target = below 22.2 per 100,000).

Item 23

To Governor's Office - Colorado River Authority of Utah

The Legislature intends that the Colorado River Authority may purchase one vehicle with department funds in Fiscal Year 2025.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 24

To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund ..... (386,500)
From Dedicated Credits
Revenue 208,200
From Expendable Receipts .. 3,700
From Revenue Transfers 406,300
Schedule of Programs:
Juvenile Justice & Youth Services ... (409,900)
Secure Care 325,500
Youth Services 136,000
Community Programs 180,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Juvenile Justice & Youth Services line item, whose mission is "to be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percent of youth who avoid JJYS, DCFS, or formal probation orders within 90 days of release from the implementation phase of the Youth Services plan (Target = 100%; and 2) Percent of youth during custody who have reduced dynamic risk (Target = 80%).

Item 25

To Department of Health and Human Services - Correctional Health Services
From General Fund 49,276,800
From Dedicated Credits
Revenue 629,800
Schedule of Programs:
Correctional Health Services 49,906,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Correctional Health Services line item. The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following

performance measures: 1) Percentage of Dental Exams performed within 7 days of admission (or evidence of refusal); 2) Percentage of Mental Health screenings completed within 14 days of admission; 3) Percentage of inmates failing to keep appointments; 4) Percentage of initial health assessments completed within 7 days of admission (or evidence of refusal).

OFFICE OF THE STATE AUDITOR

Item 26
To Office of the State Auditor - State Auditor
From Dedicated Credits
Revenue 168,800
Schedule of Programs:
State Auditor 168,800

In accordance with UCA 63J-1-903, the Legislature intends that the State Auditor's Office report performance measures for the State Auditor line item. The State Auditor's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Timely Audits (Target=65%); 2) Annual Comprehensive Financial Report (Target=153 days); 3) Federal Compliance Report (Target=184 days); 4) Local Government Financial Audits (Target=100%).

DEPARTMENT OF PUBLIC SAFETY

Item 27
To Department of Public Safety - Division of Homeland Security - Emergency and Disaster Management

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Division of Homeland Security Emergency and Disaster Management line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: (1) distribution of funds for appropriate and approved expenses (Target 100%).

Item 28
To Department of Public Safety - Driver License
From Public Safety Motorcycle Education Fund 150,000
Schedule of Programs:
Motorcycle Safety 150,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Driver License Division line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: (1) average customer call wait time (Target=30 seconds).

Item 29
To Department of Public Safety - Emergency Management

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Emergency Management line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: (1) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent).

Item 30
To Department of Public Safety - Peace Officers' Standards and Training

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the POST line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measures for FY 2025: (1) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), and (2) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent).

Item 31
To Department of Public Safety - Programs & Operations
From General Fund 1,164,400
From General Fund, One-time 4,605,000
From Federal Funds ..... (1,342,300)
From Department of Public Safety Restricted Account 100,000
From General Fund Restricted - Emergency Medical Services System Account 33,900
Schedule of Programs:
Aero Bureau 1,970,000
CITS State Crime Labs ..... (1,342,300)

Department Commissioner's Office 386,900
Department Intelligence Center 110,000
Highway Patrol - Field Operations .. 1,800,200
Highway Patrol - Technology Services . 100,000
Emergency Medical Services 1,536,200

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2025 and may purchase those vehicles in FY 2024 if funds are available.

The Legislature intends that any proceeds from the sale of a helicopter or salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for their Programs and Operations line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: (1) median DNA case turnaround time (Target=60 days).

Item 32
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 301,100
Schedule of Programs:
Law Enforcement/Criminal Justice Services 301,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Public Safety report performance measures for the Bureau of Criminal Identification line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=7 days).

STATE TREASURER

Item 33
To State Treasurer
From General Fund ..... (1,000,000)
From General Fund, One-time 100,000
From Land Trusts Protection and Advocacy Account 120,000
From Land Trusts Protection and Advocacy Account, One-time 20,000
Schedule of Programs:
Advocacy Office 140,000
Treasury and Investment ..... (900,000)

In accordance with UCA 63J-1-903, the Legislature intends that the State Treasurer report the final status of performance measures established in FY 2024 appropriations bills for the State Treasurer line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the State Treasurer shall report on the following performance measures: 1. Unique Projects (Target = $0); 2. Unclaimed Property Claims (Target = $20,000,000); 3. Ratio of Claim Dollars Paid to Unclaimed Property Received (Target = 50%); 4. PFI Increase (Target = $0); 5. PTIF Rate Spread to Benchmark Rate (Target = 0.3%); and 6. Media Attention (Target = 0).

In accordance with UCA 63J-1-903, the Legislature intends that the State Treasurer's Office report performance measures for the State Treasurer line item. The State Treasurer's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) One-on-One Legislator Outreach (Target = 90%); 2) Percent Increase in Beneficiary Outreach (Target = 50%) ; 3) Gain Commitment to Actively Promote Constitutional Amendment Addressing Intergenerational Equity of Trust Distributions (Target=70% of Public Educations Organizations and 30% of Legislators) 4) Ratio of Claim Dollars Paid to Unclaimed Property Received (Target=50%); 5) Unclaimed Property Claims (Target=$20,000,000); 6) PTIF Rate Spread to Benchmark Rate (Target=0.15%).

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 34
To Career Service Review Office

In accordance with UCA 63J-1-903, the Legislature intends that the Career Service Review Office report the final status of performance measures established in FY 2024 appropriations bills for the Career Service Review Office line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Career Service Review Office shall report on the following performance measures: 1. Timely Evidentiary Hearings (Target = 150); 2. Performance Standards for Hearing Officers (Target = 100%); 3. Completed

Jurisdictional Analysis (Target = 15); and 4. Timely Written Decisions (Target = 20).

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 35
To Utah Education and Telehealth Network
From Income Tax Fund,
One-time 4,000,000
Schedule of Programs:
Course Management Systems 4,000,000

The Legislature intends that the Utah Education and Telehealth Network use up to $4.0 million one-time as appropriated by this item for licensing Utah's Online Library and Creative Content/Media Development, Production and Editing Suite for K-12.

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Education and Telehealth Network report the final status of performance measures established in FY 2024 appropriations bills for the Utah Education and Telehealth Network line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Education and Telehealth Network shall report on the following performance measures: 1. Utilization of UETN Learning Management System Services (Target = 74%); 2. Network Circuits (Target = 1,447); and 3. Individual IVC Events Conducted Over UETN IVC Systems (Target = 56,733).

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 36
To Department of Government Operations - Administrative Rules

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Administrative Rules line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Coordinators from agencies trained (Target = 80%); 2. Average Days to Publish an Administration Rule (Target = 4); and 3. Average Days to Review Rule Filings (Target = 4).

Item 37
To Department of Government Operations - DFCM

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the DFCM line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Capital Improvement (Target = 86%); and 2. Capital Budget Estimates (Target = 5% +/-).

The Legislature intends that the DFCM Administration add up to 5 vehicles for Project Management staff to provide services to customers in FY 2025.

Item 38
To Department of Government Operations - DGO Administration
From General Fund ..... (500,000)
From Revenue Transfers 500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the DGO Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Independent Audits/Evaluations (Target = 6); 2. Air-improvement Activities (Target = 40); and 3. Percent of Audit Plans Completed (Target = 90%).

Item 39
To Department of Government Operations - Division of Finance
From General Fund 2,230,400
Schedule of Programs:
Finance Director's Office 2,230,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Division of Finance line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Days to Close the Fiscal Year (Target = 60); 2. ACFR Completed by December 31st (Target = 100%); and 3. On Time Payroll (Target = 100%).

Item 40
To Department of Government Operations - Inspector General of Medicaid Services

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Inspector General of Medicaid Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following

performance measures: 1. Medicaid Cost Avoidance (Target = $15,000,000); 2. Medicaid Dollars Recovered (Target = $5,000,000); 3. Medicaid Fraud Evaluation Leads (Target = 350); 4. Recommendations for Improvement (Target = 100); and 5. Medicaid Fraud Cases Referred (Target = 40).

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional $60,000 of the states share of Medicaid collections during FY 2025 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 41

To Department of Government Operations - Judicial Conduct Commission
From General Fund 217,500
From General Fund,
One-time 224,700
Schedule of Programs:
Judicial Conduct Commission 442,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Judicial Conduct Commission line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Publish Annual Report in 60 Days After Fiscal Year End (Target = 100%); and 2. Average Days to Conduct Preliminary Investigation (Target = 90).

Item 42

To Department of Government Operations - Purchasing
From General Fund ..... (600,000)
Schedule of Programs:
Purchasing and General Services .... (600,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Purchasing line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Number of Best Value Cooperative Contracts (Target = 1,400); 2. Best Value Cooperative Contracts Spend (Target = $1,000,000,000); and 3. Best Value Cooperative Contracts Discount (Target = 40%).

Item 43

To Department of Government Operations - State Archives
From General Fund 200,000
Schedule of Programs:
Archives Administration 200,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the State Archives line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Reformatting Records, Accuracy (Target = 95%); 2. Reformatting Records, Timeliness (Target = 95%); and 3. Government Employee Records Training and Certification (Target = 95%).

Item 44

To Department of Government Operations - Chief Information Officer
From General Fund ..... (450,000)
From General Fund,
One-time 4,718,600
From Federal Funds,
One-time 17,098,700
From Dedicated Credits
Revenue 450,000
Schedule of Programs:
Administration 21,817,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Chief Information Officer line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Application Development Satisfaction (Target = 83%); 2. Data security (Target = 700); and 3. Procurement and Deployment, Number of Days Employees Receive Computers (Target = 10).

The Legislature intends that $3,893,600 appropriated by this item to the Division of Technology Services - Utah Cyber Center be expended as required by the guidance set forth in the State and Local Cybersecurity Grant Program and according to the cybersecurity plan created and ratified by the Utah Cybersecurity Commission. It is further intended that the division report to the Infrastructure and General Government Appropriations Subcommittee on expended funds in accordance with state defined deadlines or in line with federal grant reporting deadlines.

Item 45

To Department of Government Operations - Integrated Technology
From General Fund 500,000
Schedule of Programs:
Utah Geospatial Resource Center 500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Integrated Technology line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. County-sourced Updates for Next Generation 911 (Target = 165); 2. UGRC uptime (Target = 99.50%); and 3. UGRC GPS Uptime (Target = 99.5%).

Item 46

To Department of Government Operations - Human Resource Management
From General Services - Cooperative Contract Mgmt, One-time 1,500,000
Schedule of Programs:
Pay for Performance 1,500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Human Resource Management line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Percent of Liability Training (Target = 85%); and 2. Agencies complying with an Active Policy and/or Procedure (Target = 95%).

CAPITAL BUDGET

Item 47

To Capital Budget - Capital Development - Higher Education
From Higher Education Capital Projects Fund, One-time 64,169,900
From Technical Colleges Capital Projects Fund, One-time 84,170,500
Schedule of Programs:
SUU Business Building West Addition . 809,900
USU Science Engineering Research Building Renovation 18,000
Snow College Social Science Classroom & Lab Building 41,215,700
Ogden Weber Technical College Pathway Building 84,170,500
Utah Valley University Student Athlete Academic Building 3,500,000
Southern Utah University Highway 56 Phoenix Plaza 4,635,000
Utah State University Human Resources Building 4,991,300
Utah State University Veterinary School 9,000,000

The Legislature intends that before commencing construction of a capital development project funded for an institution of higher education during the 2024 General Session, the Division of Facilities Construction and Management (DFCM) and the institution shall report to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee on the status and cost of the project, and that DFCM and the institution shall seek feedback from the committees before committing funds for demolition or construction. The Legislature further intends that prior to committing funds for construction that DFCM, the institution, and the Board of Higher Education shall certify to the committees that the institution (1) has developed a plan that will utilize each classroom space in the building an average of 33.75 hours of instruction per week for spring and fall semesters with 66.7 percent seat occupancy, and will work to increase utilization of classroom space during the summer; and (2) has presented a plan to implement space utilization of non-classroom areas as per industry standards.

Item 48

To Capital Budget - Capital Development - Other State Government
From Capital Projects Fund, One-time 10,000,000
Schedule of Programs:
Salt Lake Veteran Nursing Home .. 10,000,000

Item 49

To Capital Budget - Capital Improvements

The Legislature intends that the Division of Facilities Construction and Management use up to $3 million from Capital Improvement funds in FY 2025 to retrofit an obsolete state-owned facility to serve as an expanded childcare opportunity facility.

Item 50

To Capital Budget - Pass-Through
From General Fund, One-time 76,100,000
Schedule of Programs:
DFCM Pass Through 76,100,000

The Legislature intends that $75,000,000 provided in this item shall be passed through to the Huntsman Cancer Institute Vineyard Research project..

The Legislature intends that $1,100,000 provided in this item shall be passed through to the Family Promise of Ogden Building.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 51

To State Board of Bonding Commissioners - Debt Service - Debt Service
From General Fund, One-time 892,600
From Transportation Investment Fund of 2005 ..... (21,202,400)
From County of First Class Highway Projects Fund ..... (301,300)

From Revenue Transfers,
One-time ..... (892,600)
From Beginning Nonlapsing
Balances 892,600
Schedule of Programs:
G.O. Bonds - Transportation ..... (20,611,100)

TRANSPORTATION

Item 52
To Transportation - Aeronautics
From General Fund 400,000
From General Fund,
One-time ..... (250,000)
From Dedicated Credits
Revenue ..... (224,700)
From Aeronautics Restricted
Account 1,460,000
From Aeronautics Restricted Account,
One-time 1,964,700
Schedule of Programs:
Administration 1,900,000
Aid to Local Airports 1,060,000
Airplane Operations 390,000

Item 53
To Transportation - Highway System Construction
From Transportation Fund .. (8,563,000)
From Transportation Fund,
One-time ..... (1,685,000)
Schedule of Programs:
State Construction ..... (10,248,000)

Item 54
To Transportation - Operations/Maintenance Management
From Transportation Fund .. 5,082,200
From Transportation Fund,
One-time 910,000
From Transportation Investment Fund of 2005 56,000
From Transportation Investment Fund of 2005,
One-time 300,000
Schedule of Programs:
Equipment Purchases 1,881,700
Lands and Buildings 282,200
Maintenance Administration 143,000
Maintenance Planning 586,800
Region 1 378,600
Region 2 555,300
Region 3 353,600
Region 4 623,000
Traffic Operations Center 1,544,000

Item 55
To Transportation - Support Services
From Transportation Fund .. 3,520,200
From Transportation Fund,
One-time 775,000
Schedule of Programs:
Administrative Services 250,000
Community Relations 3,805,000
Data Processing 200,800
Human Resources Management 39,400

Item 56
To Transportation - Transportation Investment Fund Capacity Program
From Transportation Investment Fund of 2005 ..... (45,056,000)
From Transportation Investment Fund of 2005,
One-time ..... (300,000)
Schedule of Programs:
Transportation Investment Fund Capacity Program ..... (45,356,000)

Item 57
To Transportation - Pass-Through
From General Fund ..... (1,313,700)
From General Fund,
One-time 25,500,000
Schedule of Programs:
Pass-Through 24,186,300

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 58
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund .. (3,513,100)
From Liquor Control Fund,
One-time ..... (3,346,300)
Schedule of Programs:
Administration 3,100,500
Executive Director 150,000
Stores and Agencies ..... (10,109,900)

The Legislature intends that the Department of Alcoholic Beverage Services be allowed to increase its vehicle fleet by up to four vehicles with funding from existing appropriations.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Alcoholic Beverage Services report performance measures for the DABS Operations line item, whose mission is, "The Utah Department of Alcoholic Beverage Services oversees the sale and distribution of alcoholic products in the state of Utah. The department proudly serves all Utahns, whether or not they choose to drink alcohol. We recognize our important role in the community in which we financially support crucial government services, support local businesses and tourism, and prioritize alcohol prevention education for the health and safety of all Utahns. We honor our statutory and legal obligations and value our duty as public servants, working for all Utahns." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 59
To Department of Alcoholic Beverage Services - Parents Empowered

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Alcoholic Beverage Services report performance measures for the Parents Empowered line item, whose mission is, "pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of everyone in our communities." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills and the current status of the following performance measure for FY 2025: 1) Ad awareness of the dangers of underage drinking and prevention tips (Target = 70%); 2) Ad awareness of "Parents Empowered" (Target = 60%); 3) Percentage of students who used alcohol during their lifetime (Target = 16%).

DEPARTMENT OF COMMERCE

Item 60
To Department of Commerce - Building Inspector Training

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report the final status of performance measures established in FY 2024 appropriations bills for the Building Inspector Training line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Commerce shall report on the following performance measures: 1. Program Expenses for Employees (Target = 20%); 2. Approved vendors (Target = 50%); and 3. Annual CE Provided (Target = 34,000).

Item 61
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 689,800
From General Fund Restricted - Commerce Service Account, One-time 1,000,000
Schedule of Programs:
Administration 1,000,000
Consumer Protection 476,800
Occupational and Professional Licensing 53,000
Securities 160,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Commerce General Regulation line item, whose mission is "to protect the public interest by ensuring fair commercial and professional practices." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For 2025, the department shall report the following performance measures: 1) Increase the percentage of licensees and registrations department-wide who choose to file online in conjunction with new online registration options (Target = 50% adoption rate in first two years). 2) Increase the overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach (Target = 5% increase in the number of controlled substance database searches by providers and enforcement) 3) Increase the percentage of licensees and registrants ware given online reminders to renew their license or registration instead of mailed reminders (Target = 20% increase).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report the final status of performance measures established in FY 2024 appropriations bills for the Commerce General Regulation line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Commerce shall report on the following performance measures: 1. Corporation Business online filings vs paper filings (Target = 97%); 2. Licensing Renewals conducted online for DOPL (Target = 90%); and 3. Increased usage of Controlled Substance Database (Target = 5%).

Item 62
To Department of Commerce - Office of Consumer Services Professional and Technical Services

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report the final status of performance measures established in FY 2024 appropriations bills for the Office of Consumer Services Professional and Technical Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Commerce shall report on the following performance measures: 1. Dollars spent vs. dollars at Stake for consumers (Target = $500,000); and 2. Dollars spent per

each instance of customer impact (Target = 10%).

Item 63

To Department of Commerce - Public Utilities Professional and Technical Services

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report the final status of performance measures established in FY 2024 appropriations bills for the Public Utilities Professional and Technical Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Commerce shall report on the following performance measures: 1. Savings from Consultant Contracts (Target = 40%); and 2. Contracts with Industry professionals (Target = 40%).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 64

To Governor's Office of Economic Opportunity - Administration

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Contract processing efficiency (Target = 95%); 2. Public and Community Relations (Target = 10%); and 3. Finance processing (Target = 75%).

Item 65

To Governor's Office of Economic Opportunity - Economic Prosperity

From General Fund, One-time 5,500,000

From Federal Funds 13,813,600

From Dedicated Credits Revenue 50,000

Schedule of Programs:

Business Services 168,600

Incentives and Grants 18,300,000

Strategic Initiatives 895,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Economic Prosperity line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Corporate Recruitment (Target = 2%); 2. Compliance (Target = 50%); and 3. Business Services (Target = 4%).

Item 66

To Governor's Office of Economic Opportunity - Office of Tourism

From Federal Funds 1,884,300

From General Fund Restricted - Tourism Marketing Performance ... (180,000)

From General Fund Restricted - Tourism Marketing Performance, One-time ..... (95,600)

Schedule of Programs:

Marketing and Advertising ..... (275,600)

Tourism 1,884,300

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Office of Tourism line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Film Commission Metric (Target = 5%); and 2. Tourism Marketing Performance Account (Target = 3%).

Item 67

To Governor's Office of Economic Opportunity - Pass-Through

From General Fund ..... (25,000)

From General Fund, One-time 15,554,000

Schedule of Programs:

Pass-Through 15,529,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Pass-Through line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Contract processing efficiency (Target = 95%); 2. Finance processing (Target = 90%); and 3. Assessment (Target = 100%).

Item 68

To Governor's Office of Economic Opportunity - Rural Employment Expansion Program

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Rural Employment Expansion Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Business development (Target =

5%); and 2. Workforce Participation (Target = 5%).

Item 69

To Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Rural Coworking and Innovation Center Grant Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Project assessment (Target = 100%); 2. Program Efficiency (Target = 100%); and 3. Finance processing (Target = 90%).

Item 70

To Governor's Office of Economic Opportunity - Inland Port Authority

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Inland Port Authority line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Communications (Target = 95%); 2. Finance & Budget (Target = 98%); and 3. Business Development (Target = 24).

Item 71

To Governor's Office of Economic Opportunity - Point of the Mountain Authority

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Point of the Mountain Authority line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Master plan input (Target = 1); 2. Develop proposal evaluation plan (Target = 1); and 3. Master plan framework (Target = 1).

Item 72

To Governor's Office of Economic Opportunity - Rural Opportunity Program

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the Rural Opportunity Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Assessment (Target = 100%); 2. Program Efficiency (Target = 100%); 3. Contract processing efficiency (Target = 95%); and 4. Finance processing (Target = 90%).

Item 73

To Governor's Office of Economic Opportunity - SBIR/STTR Center

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the SBIR/STTR Center line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measures: 1. Workshops (Target = 15); 2. Information Dissemination (Target = 100%); and 3. Staff Development (Target = 100%).

Item 74

To Governor's Office of Economic Opportunity - World Trade Center Utah
From General Fund 500,000
From General Fund, One-time 100,000
Schedule of Programs:
World Trade Center Utah 600,000

Item 75

To Governor's Office of Economic Opportunity - Utah Sports Commission
From General Fund 25,000
From General Fund, One-time 3,000,000
From General Fund Restricted - Tourism Marketing Performance ... (20,000)
From General Fund Restricted - Tourism Marketing Performance, One-time ..... (10,600)
Schedule of Programs:
Utah Sports Commission 2,994,400

The Legislature intends that the Sports Commission use ongoing appropriations provided by this item to grant: Rocky Mountain Golden Gloves: $25,000.

FINANCIAL INSTITUTIONS

Item 76

To Financial Institutions - Financial Institutions Administration
From General Fund Restricted - Financial Institutions 657,700
From General Fund Restricted - Financial Institutions, One-time 39,200
Schedule of Programs:
Administration 696,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Financial Institutions report performance measures for the Financial Institutions Administration line item, whose mission is to "charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah." The Department of Financial Institutions shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report on the following performance measures: (1) Depository Institutions not on the Department's "Watched Institutions" list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target =Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = $3.8 billion).

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 77

To Department of Cultural and Community Engagement - Administration
From General Fund, One-time 500,000
From Federal Funds ..... (100)
From Dedicated Credits Revenue ..... (149,400)
Schedule of Programs:
Administrative Services 500,000
Information Technology ..... (27,100)
Utah Multicultural Affairs Office .... (122,400)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Increase in Youth Engagement (Target = 1,450); 2. Internal Risk Assessment (Target = 2); 3. Programing availability to vulnerable student population (Target = 78%); 4. Division Outcome-Based Performance Measures (Target = 33%); 5. Collaboration across division and agency lines (Target = 66%); and 6. Digital Collection of the State's Historical and Art Collection (Target = 35%).

The legislature intends the funds for America250 be used in FY 2025 and FY 2026.

Item 78

To Department of Cultural and Community Engagement - Division of Arts and Museums
From Federal Funds 400,000
From Revenue Transfers 5,000
Schedule of Programs:
Administration 5,000
Grants to Non-profits 400,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the Division of Arts and Museums line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Training and Development in cultural sector (Target = 2,500); 2. Counties served by traveling art exhibit (Target = 69%); 3. Grant funding to counties (Target = 27); and 4. Number of activity locations provided by UAM grantees (Target = 210).

Item 79

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism
From General Fund 450,000
From Federal Funds 3,000,000
From Dedicated Credits Revenue 400,000
From Revenue Transfers 50,000
Schedule of Programs:
Commission on Service and Volunteerism 3,900,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the Commission on Service and Volunteerism line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Measure of organizations with volunteer management systems (Target = 85%); 2. AmeriCorps Program Management and Compliance (Target = 90%); and 3. Target audience served through AmeriCorps (Target = 88%).

Item 80

To Department of Cultural and Community Engagement - Indian Affairs
From Dedicated Credits Revenue 13,200
From Revenue Transfers 10,000
Schedule of Programs:
Indian Affairs 23,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills

for the Indian Affairs line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Measure of tribes visited personally by State of Utah (Target = 80%); 2. Measure of attendees in Youth Track of the Governor's Native American Summit (Target = 30%); and 3. Measure of state agencies with liaisons participating in Indian affairs (Target = 70%).

Item 81

To Department of Cultural and Community Engagement - Historical Society
From General Fund 5,401,800
From Federal Funds ..... (68,700)
From Dedicated Credits Revenue 219,400
From Revenue Transfers 300,000
From Beginning Nonlapsing Balances 1,163,200
From Closing Nonlapsing Balances ..... (1,163,200)
Schedule of Programs:
Administration 30,000
Historic Preservation and Antiquities .. 136,600
History Projects and Grants ..... (143,000)
Library and Collections 10,000
Public History, Communication and Information 210,000
Main Street Program ..... (4,300)
State of Utah Museum 5,613,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the State History line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Percentage of state history collection prepared to be moved (Target = 33%); 2. Measure of Certified Local Governments involved in historical preservations (Target = 60%); and 3. Cultural Compliance Review rate (Target = 95%).

Item 82

To Department of Cultural and Community Engagement - State Library
From Federal Funds 1,000,000
From Revenue Transfers .... (154,400)
Schedule of Programs:
Administration 205,600
Library Resources 640,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the State Library line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Total Bookmobile circulation annually (Target = 445,000); 2. Total Blind and Print Disabled circulation annually (Target = 305,500); 3. Total usage of products via Utah's Online Public Library (Target = 314,945); 4. Number of checkouts of online materials (Target = 3,404,811); and 5. Number of in-person and online training hours for librarians (Target = 8,000).

Item 83

To Department of Cultural and Community Engagement - Stem Action Center
From Federal Funds 200,000
From Dedicated Credits Revenue ..... (200,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the Stem Action Center line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Providing STEM Resources to Underrepresented Communities (Target = 96,000); 2. Providing Mentoring to Support Improved Math Outcomes for Students (Target = 10%); 3. Percentage of grants and dollars awarded off the Wasatch Front. (Target = 40%); 4. Percent of communities off the Wasatch Front served by STEM in Motion Kits (Target = 40%); and 5. Number of events with engagement of corporate partners (Target = 50%).

Item 84

To Department of Cultural and Community Engagement - One Percent for Arts
From Revenue Transfers 400,000
Schedule of Programs:
One Percent for Arts 400,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the One Percent for Arts line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Inspection rate of public art collection (Target = 15%); and 2. Number of Utah artists engaged in professional development opportunities (Target = 7%).

Item 85
To Department of Cultural and Community Engagement - State of Utah Museum
From General Fund ..... (5,613,200)
From Beginning Nonlapsing Balances ..... (1,163,200)
From Closing Nonlapsing Balances 1,163,200
Schedule of Programs:
State of Utah Museum Administration ..... (5,613,200)

Item 86
To Department of Cultural and Community Engagement - Arts & Museums Grants
From General Fund 100,000
From General Fund, One-time 2,000,000
Schedule of Programs:
Pass Through Grants 100,000
Competitive Grants 2,000,000

Item 87
To Department of Cultural and Community Engagement - Capital Facilities Grants
From General Fund, One-time 2,000,000
Schedule of Programs:
Pass Through Grants 2,000,000

Item 88
To Department of Cultural and Community Engagement - Heritage & Events Grants
From General Fund 75,000
Schedule of Programs:
Pass Through Grants 75,000

Item 89
To Department of Cultural and Community Engagement - Pete Suazo Athletics Commission
From Dedicated Credits Revenue 74,000
Schedule of Programs:
Pete Suazo Athletics Commission 74,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Cultural and Community Engagement report the final status of performance measures established in FY 2024 appropriations bills for the Pete Suazo Athletics Commission line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Cultural and Community Engagement shall report on the following performance measures: 1. Licensure Efficiency (Target = 90%); 2. High Profile Events (Target = 1); and 3. Increase revenue (Target = 12%).

Item 90
To Department of Cultural and Community Engagement - State Historic Preservation Office
From General Fund 211,400
From General Fund, One-time 800,000
From Federal Funds 1,268,700
From Dedicated Credits Revenue ..... (399,400)
From Revenue Transfers 30,000
Schedule of Programs:
Administration 1,606,400
Main Street Program 4,300
Cemeteries 300,000

INSURANCE DEPARTMENT

Item 91
To Insurance Department - Bail Bond Program

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report the final status of performance measures established in FY 2024 appropriations bills for the Bail Bond Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Insurance Department shall report on the following performance measures: 1. Response Rate of Insurance Statute Violations (Target = 90%); and 2. Regulated Insurance Industry's Financial Contribution to Utah's Economy (Target = 3%).

Item 92
To Insurance Department - Health Insurance Actuary

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Insurance report performance measures for the Insurance - Health Insurance Actuary line item, whose mission is to "protect the financial security of people and businesses in Utah." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) timeliness of processing rate filings (Target = 75% within 45 days).

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report the final status of performance measures established in FY 2024 appropriations bills for the Health Insurance Actuary line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Insurance Department shall report on the following performance measure: 1. Rate of Rate Filings (Target = 95%).

Item 93
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. 668,000
From General Fund Rest. - Insurance Fraud Investigation Acct. 510,000
Schedule of Programs:
Administration 668,000
Insurance Fraud Program 510,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Insurance report performance measures for all Insurance line items based upon the following measures: 1. Customer Feedback. Percent of customers surveyed that report satisfactory or exceptional service, target 75%. 2. Department Efficiency. Monitor growth in the Insurance Department as a ratio to growth in the industry to assure efficient and effective government. Insurance Industry's Financial Contribution to Utah's Economy. Target a 3% increase in the total contributions to Utah's economy through the industry regulated by the Insurance Department.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Insurance report performance measures for the Insurance Administration line item, whose mission is to "protect the financial security of people and businesses in Utah." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) timeliness of processing work product (Target = 75% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report the final status of performance measures established in FY 2024 appropriations bills for the Insurance Department Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Insurance Department shall report on the following performance measures: 1. Response Rate to Violations of Insurance Statute (Target = 90%); 2. Resident Licenses Processing Rate (Target = 75%); 3. Increase in Key Examiners Within Workforce (Target = 25%); and 4. Work Product Processing Rate (Target = 95%).

Item 94

To Insurance Department - Title Insurance Program

In accordance with UCA 63J-1-903, the Legislature intends that the Insurance Department report the final status of performance measures established in FY 2024 appropriations bills for the Title Insurance Program line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Insurance Department shall report on the following performance measure: 1. Response rate to violations of insurance statute (Target = 90%).

LABOR COMMISSION

Item 95

To Labor Commission
From General Fund,
One-time ..... (24,100)
From General Fund Restricted - Workplace Safety Account 7,200
From General Fund Restricted - Workplace Safety Account, One-time 54,000
Schedule of Programs:
Boiler, Elevator and Coal Mine Safety Division 6,500
Utah Occupational Safety and Health ... 30,600

The Legislature intends that the Division of Labor Commission be allowed to increase the fleet by two (2) vehicles in FY 2025.

In accordance with UCA 63J-1-903, the Legislature intends that the Labor Commission report the final status of performance measures established in FY 2024 appropriations bills for the Labor Commission line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Labor Commission shall report on the following performance measures: 1. Workers Comp Decisions Heard by Adjudication (Target = 100%); 2. Decisions issued on motions for review (Target = 100%); 3. Rate of employment discrimination cases completed (Target = 70%); 4. Rate of UOSH Citations Issued (Target = 90%); 5. Rate of elevator units overdue for inspection (Target = 0%); and 6. Rate of Number of Employers Eligible for Workers Comp (Target = 25%).

UTAH STATE TAX COMMISSION

Item 96

To Utah State Tax Commission - License Plates Production
From General Fund Restricted - License Plate Restricted Account 1,000,000
Schedule of Programs:
License Plates Production 1,000,000

Item 97

To Utah State Tax Commission - Liquor Profit Distribution
From General Fund Restricted - Alcoholic Beverage Enforcement and Treatment Account 1,920,000
Schedule of Programs:
Liquor Profit Distribution 1,920,000

Item 98

To Utah State Tax Commission - Tax Administration
From General Fund,
One-time 500,000

From Dedicated Credits Revenue 1,030,600
From Dedicated Credits Revenue, One-time 700
From General Fund Restricted - License Plate Restricted Account 3,700
From General Fund Restricted - Electronic Payment Fee Rest. Acct ... 150,000
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 600,000
From General Fund Rest. - Sales and Use Tax Admin Fees 46,500
From General Fund Rest. - Sales and Use Tax Admin Fees, One-time 798,700
From Uninsured Motorist Identification Restricted Account 1,000
Schedule of Programs:
Operations 1,322,200
Customer Service 859,000
Enforcement 950,000

The Legislature intends that the Utah State Tax Commission work with the Division of Human Resource Management to develop and implement a compensation structure including salary ranges for POST-certified officers within the Motor Vehicles Enforcement Division based on total compensation funding levels at the close of the 2024 General Session.

The Legislature intends that the State Tax Commission follow standard procurement laws when purchasing, for the State Tax Commission STR Address Verification funding item for $600,000 one-time.

In accordance with UCA 63J-1-903, the Legislature intends that the Tax Commission report performance measures for the Tax Administration line item, whose mission is "to promote tax and motor vehicle law compliance." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Provide oversight and training to counties related to the property tax system - counties have been provided the necessary information (Target = 100%), 2) Percentage of titles issued in 30 days or less (Target = 90%), and 3) Number of delinquent cases closed (Target = 5% increase over previous year).

The Legislature intends that the appropriation for State Tax Commission STR Address Verification item for $600,000 one-time be used to procure a system that provides a single short-term rental (STR) portal capable of identifying STR listings and unique properties throughout the state. The system should include public facing mapping and internal reporting tools that help link properties to TRT remittance. The system shall also provide auditing tools to reconcile instances where a Voluntary Collection Agreement (VCA) with Online Travel Agencies (OTAs) apply, as VCA agreements take away auditing authority. The system shall allow for a local government opt-in mechanism for comprehensive STR monitoring, allowing for unique user rights, enabling local and county jurisdictions to opt in for customized dashboards addressing regulation and compliance. Additionally, the system shall provide a single portal capable of scaling as the needs of the state and local jurisdiction change to function as a full system of record for licensing, STR registration, and a comprehensive tax system on both state and local government opt-in levels.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 99
To Department of Workforce Services - Administration
From Federal Funds, One-time 697,900
From Education Savings Incentive Restricted Account ..... (870,800)
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 10,000
From Housing Opportunities for Low Income Households ..... (5,100)
From Navajo Revitalization Fund ..... (6,700)
From Olene Walker Housing Loan Fund ..... (15,500)
From OWHT-Fed Home ..... (5,100)
From OWHTF-Low Income Housing 18,500
From Qualified Emergency Food Agencies Fund 2,800
From Shared Equity Revolving Loan Fund 1,000
From Rural Single-Family Home Loan 1,000
From General Fund Restricted - Special Admin. Expense Account, One-time 70,500
From Unemployment Compensation Fund, One-time 67,700
Schedule of Programs:
Administrative Support ..... (706,500)
Communications 70,900
Executive Director's Office 459,000
Human Resources 67,800
Internal Audit 75,000

The Legislature intends that $67,700 of the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 100
To Department of Workforce Services - General Assistance
From General Fund,

One-time ..... (4,292,400)
From Income Tax Fund,
One-time 4,292,400
From Revenue Transfers .... (5,800)
Schedule of Programs:
General Assistance ..... (5,800)

Item 101
To Department of Workforce Services - Housing and Community Development
From General Fund 238,000
From Federal Funds,
One-time 23,000,000
From Dedicated Credits Revenue,
One-time 2,597,400
From Economic Revitalization & Investment Fund 500
From Housing Opportunities for Low Income Households ..... (555,300)
From Olene Walker Housing Loan Fund ..... (443,000)
From OWHLF Multi-Family Hous Preserv Revolv Loan 5,500
From OWHT-Fed Home ..... (555,300)
From OWHTF-Low Income Housing 47,300
From Qualified Emergency Food Agencies Fund 32,100
From Qualified Emergency Food Agencies Fund, One-time 62,000
From Shared Equity Revolving Loan Fund 60,000
From Rural Single-Family Home Loan 80,000
From Revenue Transfers .... (64,700)
Schedule of Programs:
Community Development 3,114,200
Community Development Administration 10,000
Community Services 2,020,100
HEAT 11,650,800
Housing Development 3,007,200
Weatherization Assistance 4,702,200

Item 102
To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds 80,728,000
Schedule of Programs:
Nutrition Assistance - SNAP 80,728,000

Item 103
To Department of Workforce Services - Operations and Policy
From General Fund,
One-time ..... (4,543,700)
From Income Tax Fund,
One-time 4,543,700
From Federal Funds 13,627,000
From Federal Funds,
One-time 41,286,800
From Dedicated Credits Revenue ..... (281,000)
From Education Savings Incentive Restricted Account 870,800
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 20,000
From Housing Opportunities for Low Income Households ..... (2,000)
From Olene Walker Housing Loan Fund ..... (2,600)
From OWHT-Fed Home ..... (2,000)
From OWHTF-Low Income Housing 33,700
From Qualified Emergency Food Agencies Fund 5,500
From Shared Equity Revolving Loan Fund 1,000
From General Fund Restricted - School Readiness Account ..... (3,514,800)
From Rural Single-Family Home Loan 1,000
From General Fund Restricted - Special Admin. Expense Account, One-time 2,815,500
From Unemployment Compensation Fund, One-time 2,575,400
Schedule of Programs:
Child Care Assistance 14,686,500
Eligibility Services 4,656,200
Facilities and Pass-Through 778,800
Information Technology 7,726,000
Nutrition Assistance 8,000
Other Assistance 102,500
Refugee Assistance 1,226,400
Temporary Assistance for Needy Families 10,570,500
Trade Adjustment Act Assistance 248,600
Workforce Development 16,336,100
Workforce Investment Act Assistance .. 750,400
Workforce Research and Analysis 344,300

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Income Tax Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2024. For FY 2025 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2025. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that $2,575,400 of the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

The legislature intends the Department of Workforce Services and the Department of Health and Human Services report to the Social Services Appropriation Subcommittee and the Medical Care Advisory Committee on their efforts to increase the proportion of ex parte renewal rates by October 1, 2024.

The Legislature intends that the $3,000,000 provided in the Department of Workforce Services - Operation and Policy Line Item for the Neighborhood House from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of Neighborhood House to

receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY 2025 - $1,000,000; FY 2026 - $1,000,000; FY 2027 - $1,000,000.

The Legislature intends that the $150,000 provided in the Department of Workforce Services - Operation and Policy Line Item for the Social Skills Building Students with Disabilities from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of Social Skills Building - Students with Disabilities to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY 2025 - $50,000; FY 2026 - $50,000; FY 2027 - $50,000.

The Legislature intends that the $1,725,000 provided in the Department of Workforce Services - Operation and Policy Line Item for the NewGen: Youth Homelessness Solutions and Preventions funding item from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the "Youth Futures Utah" funding item to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY 2025 - $575,000; FY 2026 - $575,000; FY 2027 - $575,000.

Item 104

To Department of Workforce Services - State Office of Rehabilitation
From General Fund,
One-time ..... (24,175,100)
From Income Tax Fund,
One-time 24,175,100
From Federal Funds 3,055,900
From Federal Funds,
One-time 12,400
From Dedicated Credits Revenue ..... (376,000)
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 100
From Housing Opportunities for Low Income Households ..... (1,000)
From Olene Walker Housing Loan Fund ..... (500)
From OWHT-Fed Home ..... (1,000)
From Shared Equity Revolving Loan Fund 1,000
From Rural Single-Family Home Loan 1,000
From General Fund Restricted - Special Admin. Expense Account, One-time 1,500
From Unemployment Compensation Fund, One-time 1,400
Schedule of Programs:
Blind and Visually Impaired 76,900
Deaf and Hard of Hearing 34,100
Disability Determination 969,800
Executive Director 33,700
Rehabilitation Services 1,580,300

The Legislature intends that $1,400 of the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 105

To Department of Workforce Services - Unemployment Insurance
From Federal Funds,
One-time 6,649,400
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 1,000
From Housing Opportunities for Low Income Households ..... (1,000)
From OWHT-Fed Home ..... (1,000)
From Shared Equity Revolving Loan Fund 1,000
From Rural Single-Family Home Loan 1,000
From General Fund Restricted - Special Admin. Expense Account, One-time 837,500
From Unemployment Compensation Fund, One-time 555,500
Schedule of Programs:
Adjudication 1,163,100
Unemployment Insurance Administration 6,880,300

The Legislature intends that $555,500 of the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 106

To Department of Workforce Services - Office of Homeless Services
From General Fund 10,000,000
From General Fund, One-time (170,300)
From Federal Funds,
One-time 35,052,500
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-time 15,812,500
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 2,927,700
Schedule of Programs:
Homeless Services 63,622,400

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 107

To Department of Health and Human Services - Operations
From General Fund 311,200
From General Fund,
One-time 2,150,000
From Federal Funds 4,232,100
From Dedicated Credits Revenue 300
From Beginning Nonlapsing Balances 8,950,000
Schedule of Programs:
Executive Director Office 5,481,200
Ancillary Services ..... (377,800)
Finance & Administration 10,148,600
Data, Systems, & Evaluations 524,300
Public Affairs, Education & Outreach (134,400)
American Indian / Alaska Native 100

Continuous Quality Improvement 1,000
Customer Experience 600

The Legislature intends that the Department of Health and Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Income Tax Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2024. For FY 2025 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2025. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Health and Human Services report to the Executive Appropriations Committee no later than April 30, 2024, on an implementation and funding transfer plan for the Pay for Performance personnel cost increases appropriated during the 2023 General Session for Fiscal Year 2024 throughout the Department of Health and Human Services.

The Legislature intends that the use of the $18,500,000 American Rescue Plan Act funding appropriated to the Department of Health and Human Services in SB1001, line 755 June 2021 Special Session, be expanded to include (1) development of a comprehensive Utah Healthy Places Index implementation and communication plan, (2) maintenance of a Utah DHHS disaster response PPE stockpile including warehouse space, support services, personnel, inventory cycling and sustainability analysis, and (3) operations related to public health and COVID pandemic response and similar expenses as allowed under the American Rescue Plan Act. Additionally, the Legislature intends that any unused ARPA spending authority from this item may be allocated to the Public Health Information System Updates project, appropriated to the Department of Health and Human Services in SB 1001 Items 59 and 63 in the June 2021 Special Session, for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Item 108
To Department of Health and Human Services - Clinical Services
From General Fund 48,700
From General Fund, One-time 267,700
From Income Tax Fund, One-time 1,159,000
From Federal Funds ..... (13,765,200)
From Dedicated Credits Revenue ..... (2,334,100)
From Expendable Receipts .. (62,100)
From Revenue Transfers 1,107,400
Schedule of Programs:
Medical Examiner ..... (7,800)
State Laboratory ..... (17,807,300)
Primary Care and Rural Health 2,967,700
Health Equity 1,268,800

The Legislature intends that the Department of Health and Human Services and other recipients of funding via OUD Treatment Expansion report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

Item 109
To Department of Health and Human Services - Department Oversight
From General Fund 800
From General Fund, One-time ..... (8,192,500)
From Income Tax Fund, One-time 8,192,500
From Dedicated Credits Revenue 500,000
From Revenue Transfers 830,800
From Beginning Nonlapsing Balances 1,155,000
Schedule of Programs:
Licensing & Background Checks 2,406,900
Internal Audit 79,600
Admin Hearings 100

The Legislature intends that the increased dedicated credits revenue due to the increase of these fees shall be retained by the Division of Licensing and Background Checks in the Department of Health and Human Services as ongoing dedicated credits starting in Fiscal Year 2025.

Item 110
To Department of Health and Human Services - Health Care Administration
From General Fund 787,800
From Income Tax Fund 56,400
From Federal Funds 3,415,200
From Expendable Receipts .. 1,100
From Revenue Transfers 2,549,200
Schedule of Programs:
Integrated Health Care Administration 3,255,300
Long-Term Services and Supports Administration 1,005,000
Provider Reimbursement Information System for Medicaid 200
Seeded Services 2,549,200

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by December 1, 2024, on limiting the State-funded non- Institution for Mental Disease disproportionate share payments to hospitals in counties of the third class or smaller. The report shall include the likelihood of federal approval of this change as well as the estimated impact by hospital.

The Legislature intends that the Department of Health and Human Services review and analyze the efficacy of including Anti-Obesity Medications (AOM) in the

Medicaid program. The department shall report to the Social Services Appropriations Subcommittee, no later than October 1, 2024 the efficacy of AOMs, the impact on comorbidities, the potential for overall cost savings due to deferred medical procedures and reduced medications related to comorbidities, suggested eligibility requirements, and any other findings they deem relevant.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2025 regardless of the amount appropriated.

Item 111

To Department of Health and Human Services - Integrated Health Care Services
From General Fund ..... (48,783,200)
From General Fund, One-time ..... (237,311,800)
From Income Tax Fund, One-time 239,040,900
From Federal Funds 133,583,000
From Federal Funds, One-time ..... (440,800)
From Dedicated Credits Revenue 120,000
From Expendable Receipts .. 78,768,700
From Expendable Receipts, One-time ..... (331,900)
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account 22,186,800
From Ambulance Service Provider Assess Exp Rev Fund 1,316,800
From Medicaid Expansion Fund ..... (14,229,900)
From Medicaid Expansion Fund, One-time ..... (7,800)
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account 1,476,200
From Revenue Transfers 3,163,600
From Beginning Nonlapsing Balances 1,350,000
Schedule of Programs:
Children's Health Insurance Program Services 32,763,100
Medicaid Accountable Care Organizations ..... (63,908,300)
Medicaid Behavioral Health Services .. 924,600
Medicaid Home and Community Based Services ..... (1,240,900)
Medicaid Pharmacy Services 1,369,300
Medicaid Long Term Care Services ..... (24,076,000)
Medicaid Other Services 218,616,200
Expansion Accountable Care Organizations ..... (14,361,700)
Expansion Behavioral Health Services .. 47,000
Expansion Pharmacy Services 1,151,700
Non-Medicaid Behavioral Health Treatment and Crisis Response 27,776,100
State Hospital 839,500

The Legislature intends that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26B-3-207 Health Coverage Improvement Program: (1) 5% for individuals who meet the additional criteria in 26B-3-207 Subsection 3 and (2) the income level in place prior to July 1, 2017 for an individual with a dependent child.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2025 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2025 regardless of the amount appropriated.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Matching Funds for Counties Using Opioid Funds in County Jails or Receiving Centers report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Emergency Department/Urgent Care induction to Medications for Opioid Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via State Opioid Settlement Appropriation - Shifting Efforts Upstream report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Expanding Care for Pregnant Patients with Substance Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via USARA Recovery Community Centers report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Substance Use Disorder Recovery and Animal Companions report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via PROUD: Pathway to Recovery from Opiate Use Disorder report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

The Legislature intends that the funding provided for Medicaid Pharmacy Dispensing Fee be exclusively used to raise fee-for-service reimbursement rates. The Legislature further intends that Medicaid accountable care organizations provide an equivalent reimbursement rate increase to match the fee-for-services reimbursement rates.

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Spy Hop Youth Prevention Services report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

Item 112

To Department of Health and Human Services - Long-Term Services & Support
From General Fund 24,857,200
From General Fund, One-time ..... (250,578,700)
From Income Tax Fund, One-time 247,779,600
From Federal Funds 15,798,700
From Federal Funds - Enhanced FMAP 9,180,400
From Revenue Transfers 30,760,900
From Revenue Transfers, One-time 5,900,000
From Beginning Nonlapsing Balances 350,000
Schedule of Programs:
Aging & Adult Services 2,090,400
Adult Protective Services 366,000
Office of Public Guardian 9,000
Aging Waiver Services ..... (25,000)
Services for People with Disabilities ... 996,500
Community Supports Waiver Services 47,223,300
Disabilities - Non Waiver Services .. 5,900,000
Disabilities - Other Waiver Services 24,386,100
Utah State Developmental Center ... 3,101,800

The Legislature intends that for any funding appropriated to the Division of Services for People with Disabilities (DSPD) In FY 2025, DSPD shall: 1) not direct funds solely to increase the salaries of direct care workers; 2) allow funds to be expended on administrative costs borne by service provider agencies and not solely on direct care salary and benefit expenditures; and 3) that the Division not require providers to provide accounting reports based solely on requirements that the funding could be used only for the salary of direct care workers as required in previous years.

Item 113

To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund ..... (156,400)
From General Fund, One-time ..... (2,200)
From Income Tax Fund, One-time 2,200
From Expendable Receipts .. 150,000
Schedule of Programs:
Communicable Disease ..... (25,400)
Health Promotion and Prevention 122,800
Emergency Medical Services and Preparedness ..... (91,600)

Population Health ..... (12,200)

The Legislature intends that the Department of Health and Human Services or other recipients of funding via Primary Prevention report to the Social Services Appropriations Subcommittee by January 1, 2026 on (1) outcomes achieved, (2) advisability of continuing funding, and (3) challenges faced in reaching desired outcomes.

Item 114

To Department of Health and Human Services - Children, Youth, & Families
From General Fund ..... (460,000)
From General Fund, One-time ..... (151,577,200)
From Income Tax Fund, One-time 155,228,400
From Federal Funds 22,304,200
From Federal Funds, One-time 100,000
From Dedicated Credits Revenue 1,519,600
From Expendable Receipts .. 37,300
From Revenue Transfers 5,059,800
From Beginning Nonlapsing Balances 9,140,800
Schedule of Programs:
Child & Family Services 28,758,600
Domestic Violence 900
Out-of-Home Services 1,021,700
Adoption Assistance 5,141,400
Child Abuse Prevention and Facility Services 400
Children with Special Healthcare Needs . 2,700
Maternal & Child Health ..... (55,200)
Family Health 1,017,700
DCFS Selected Programs 426,000
Office of Early Childhood 5,038,700

Item 115

To Department of Health and Human Services - Office of Recovery Services
From General Fund 16,800
Schedule of Programs:
Recovery Services 9,800
Child Support Services 5,700
Children in Care Collections 100
Medical Collections 1,200

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 116

To University of Utah - Education and General
From General Fund ..... (135,901,300)
From Income Tax Fund 131,689,400
From Income Tax Fund, One-time 3,061,800
From Dedicated Credits Revenue 30,238,900
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 8,786,200
Schedule of Programs:
Operations and Maintenance 2,097,000
Instruction 21,262,200
Research 3,410,800
Public Service 1,053,600
Academic Support 2,521,000
Student Services 2,283,200
Institutional Support 5,247,200

The Legislature intends that the remaining amount of the $100,000 one-time Income Tax Fund appropriation to the University of Utah from Item 75 of Current Fiscal Year Supplemental Appropriations (House Bill 3, 2023 General Session) continue to be used for the Women Legislators of Utah History Project.

Item 117

To University of Utah - School of Medicine
From Income Tax Fund 44,669,600
From Income Tax Fund, One-time 680,200
From Dedicated Credits Revenue 33,932,200
From General Fund Restricted - Cigarette Tax Restricted Account 2,800,000
From Beginning Nonlapsing Balances 1,821,700
Schedule of Programs:
School of Medicine 83,903,700

Item 118

To University of Utah - Cancer Research and Treatment
From Income Tax Fund 542,700
From Income Tax Fund, One-time ..... (542,700)

Item 119

To University of Utah - University Hospital
From Income Tax Fund ..... (94,500)
From Income Tax Fund, One-time 94,500

Item 120

To University of Utah - School of Dentistry
From Income Tax Fund 4,148,500
From Income Tax Fund, One-time 63,200
From Dedicated Credits Revenue 12,326,200
Schedule of Programs:
School of Dentistry 16,537,900

Item 121

To University of Utah - Schools of Medicine and Dentistry
From General Fund, One-time 800,000
From Income Tax Fund ..... (49,561,500)
From Dedicated Credits Revenue ..... (37,609,000)
From General Fund Restricted - Cigarette Tax Restricted Account ..... (2,800,000)
From Beginning Nonlapsing Balances ..... (1,821,700)
Schedule of Programs:
Instruction ..... (49,118,100)
Research ..... (1,918,400)
Public Service ..... (752,700)
Academic Support ..... (33,256,200)
Institutional Support ..... (3,019,900)
Operations and Maintenance ..... (2,871,800)
Scholarships and Fellowships ..... (55,100)

Item 122
To University of Utah - Special Projects
From Income Tax Fund 229,100
From Income Tax Fund,
One-time 217,900
Schedule of Programs:
Rocky Mountain Center for Occupational & Environmental Health 447,000

In addition to the intent language in item 55 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph two to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

UTAH STATE UNIVERSITY

Item 123
To Utah State University - Education and General
From General Fund ..... (138,193,100)
From General Fund,
One-time 884,000
From Income Tax Fund 138,081,500
From Income Tax Fund,
One-time 3,816,100
From Dedicated Credits Revenue ..... (8,512,300)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 5,136,400
Schedule of Programs:
Operations and Maintenance ..... (787,300)
Instruction 1,873,700
Research 771,000
Academic Support ..... (602,400)
Student Services ..... (159,200)
Institutional Support 138,000
Scholarships and Fellowships ..... (21,200)

Item 124
To Utah State University - USU - Eastern Career and Technical Education
From Income Tax Fund 226,200
From Income Tax Fund,
One-time 110,900
From Dedicated Credits Revenue 257,000
Schedule of Programs:
Instruction 67,200
Public Service 4,000
Academic Support 522,900

Item 125
To Utah State University - Veterinary Medicine
From Income Tax Fund ..... (403,800)
From Income Tax Fund,
One-time 328,500
From Dedicated Credits Revenue ..... (126,000)
Schedule of Programs:
Instruction ..... (27,100)
Research ..... (100)
Academic Support ..... (173,900)
Operations and Maintenance ..... (200)

Item 126
To Utah State University - Special Projects
From Income Tax Fund ..... (440,300)
From Income Tax Fund,
One-time 619,500
Schedule of Programs:
Agriculture Experiment Station ..... (156,500)
Cooperative Extension 360,700
Prehistoric Museum ..... (3,100)
Water Research Laboratory ..... (21,900)

In addition to the intent language in item 59 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph two to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

WEBER STATE UNIVERSITY

Item 127
To Weber State University - Education and General
From General Fund ..... (38,490,000)
From General Fund,
One-time ..... (51,690,000)
From Income Tax Fund 37,164,500
From Income Tax Fund,
One-time 54,684,400
From Dedicated Credits Revenue ..... (5,006,900)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 3,571,300
Schedule of Programs:
Operations and Maintenance ..... (490,500)
Instruction 1,297,400
Research ..... (1,400)
Public Service ..... (3,800)
Academic Support ..... (151,300)
Student Services ..... (126,000)
Institutional Support ..... (277,300)
Scholarships and Fellowships ..... (13,800)

Item 128
To Weber State University - Special Projects
From Income Tax Fund ..... (23,800)
From Income Tax Fund,
One-time 23,800

In addition to the intent language in item 61 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph two to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the

Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

SOUTHERN UTAH UNIVERSITY

Item 129
To Southern Utah University - Education and General
From Income Tax Fund ..... (396,200)
From Income Tax Fund,
One-time 987,800
From Dedicated Credits
Revenue 11,959,900
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 2,308,500
Schedule of Programs:
Operations and Maintenance 1,204,900
Instruction 6,267,100
Public Service 54,200
Academic Support 1,706,400
Student Services 1,895,000
Institutional Support 2,863,600
Scholarships and Fellowships 868,800

Item 130
To Southern Utah University - Special Projects
From Income Tax Fund ..... (8,300)
From Income Tax Fund,
One-time 308,300
Schedule of Programs:
Shakespeare Festival 300,000

In addition to the intent language in item 63 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph two to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

UTAH VALLEY UNIVERSITY

Item 131
To Utah Valley University - Education and General
From Income Tax Fund ..... (2,237,900)
From Income Tax Fund,
One-time 2,717,000
From Dedicated Credits
Revenue ..... (5,062,800)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 5,473,700
Schedule of Programs:
Operations and Maintenance ..... (1,711,600)
Instruction 2,086,000
Public Service 1,100
Academic Support 50,200
Student Services 38,300
Institutional Support 423,000
Scholarships and Fellowships 3,000

Item 132
To Utah Valley University - Special Projects
From Income Tax Fund ..... (75,600)
From Income Tax Fund,
One-time 75,600

In addition to the intent language in item 65 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

SNOW COLLEGE

Item 133
To Snow College - Education and General
From Income Tax Fund 451,900
From Income Tax Fund,
One-time ..... (6,600)
From Dedicated Credits
Revenue ..... (774,200)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,113,800
Schedule of Programs:
Operations and Maintenance 60,000
Instruction 279,600
Public Service 2,900
Academic Support 30,400
Student Services 38,700
Institutional Support 122,800
Scholarships and Fellowships 250,500

Item 134
To Snow College - Career and Technical Education
From Income Tax Fund ..... (25,400)
From Income Tax Fund,
One-time 25,400
From Dedicated Credits
Revenue 271,800
Schedule of Programs:
Instruction 151,100
Academic Support 13,900
Student Services 28,000
Institutional Support 78,800

Item 135
To Snow College - Special Projects

In addition to the intent language in item 68 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

UTAH TECH UNIVERSITY

Item 136
To Utah Tech University - Education and General
From Income Tax Fund 268,200
From Income Tax Fund,
One-time 394,900
From Dedicated Credits
Revenue 6,008,000
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 1,928,200
Schedule of Programs:
Instruction 4,370,900
Public Service 130,100
Academic Support 919,800
Student Services 935,000
Institutional Support 2,204,600
Operations and Maintenance 35,100
Scholarships and Fellowships 3,800

Item 137
To Utah Tech University - Special Projects
From Income Tax Fund ..... (900)
From Income Tax Fund, One-time 900

In addition to the intent language in item 70 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph two to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

SALT LAKE COMMUNITY COLLEGE

Item 138
To Salt Lake Community College - Education and General
From Income Tax Fund 373,600
From Income Tax Fund,
One-time ..... (127,100)
From Dedicated Credits
Revenue ..... (7,781,500)
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 3,115,900
Schedule of Programs:
Operations and Maintenance ..... (1,345,900)
Instruction ..... (1,243,400)
Public Service ..... (4,300)
Academic Support ..... (316,300)
Student Services ..... (261,700)
Institutional Support ..... (1,215,300)
Scholarships and Fellowships ..... (32,200)

Item 139
To Salt Lake Community College - Career and Technical Education
From Income Tax Fund 356,000
From Income Tax Fund,
One-time 62,500
From Dedicated Credits
Revenue 231,400
Schedule of Programs:
Instruction 567,400
Academic Support 12,000
Student Services 28,300
Institutional Support 23,200
Operations and Maintenance 17,500
Scholarships and Fellowships 1,500

Item 140
To Salt Lake Community College - Special Projects

In addition to the intent language in item 73 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

UTAH BOARD OF HIGHER EDUCATION

Item 141
To Utah Board of Higher Education - Administration
From Income Tax Fund ..... (9,058,900)
From Income Tax Fund,
One-time 6,631,800
From Federal Funds ..... (6,700)
Schedule of Programs:
Administration ..... (2,427,100)
Utah Data Research Center ..... (6,700)

The Legislature intends that the institutions of the Utah System of Higher Education increase its fleet by up to 54 vehicles with funding from existing appropriations as presented in the USHE Vehicle Expansion Report FY 2025.

The Legislature intends that the $5,000,000 appropriation in this item for Technical College Equipment be distributed equitably to the institutions by the Board of Higher Education. The Legislature further intends that the board report electronically to the Higher Education Appropriations Subcommittee regarding the distribution methodology before distributing the funds.

Item 142
To Utah Board of Higher Education - Student Assistance
From Income Tax Fund ..... (174,100)
From Income Tax Fund,
One-time 174,100

Item 143
To Utah Board of Higher Education - Student Support
From Income Tax Fund ..... (50,600)
From Income Tax Fund,
One-time 50,600

Item 144
To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 2,212,600

From Income Tax Fund,
One-time 4,787,400
From Dedicated Credits
Revenue ..... (52,400)
Schedule of Programs:
Talent Ready Utah 6,947,600

The Legislature intends that appropriations from the Utah Capital Investment Corporation Restricted Account be used by the Utah Board of Education for the Utah Innovation Lab and shall not lapse at the close of fiscal year 2025.

BRIDGERLAND TECHNICAL COLLEGE

Item 145
To Bridgerland Technical College - Education and General
From Income Tax Fund 357,100
From Income Tax Fund,
One-time 113,200
From Dedicated Credits
Revenue 829,900
Schedule of Programs:
Instruction 961,600
Public Service 2,400
Academic Support 20,000
Student Services 43,100
Institutional Support 157,200
Operations and Maintenance 115,900

Item 146
To Bridgerland Technical College - Special Projects

In addition to the intent language in item 80 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

DAVIS TECHNICAL COLLEGE

Item 147
To Davis Technical College - Education and General
From Income Tax Fund 917,700
From Income Tax Fund,
One-time 55,500
From Dedicated Credits
Revenue 817,500
Schedule of Programs:
Instruction 913,600
Academic Support 433,700
Student Services 161,500
Institutional Support 208,400
Operations and Maintenance 66,400
Scholarships and Fellowships 7,100

Item 148
To Davis Technical College - Special Projects

In addition to the intent language in item 82 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

DIXIE TECHNICAL COLLEGE

Item 149
To Dixie Technical College - Education and General
From Income Tax Fund 1,174,500
From Income Tax Fund,
One-time 234,500
From Dedicated Credits
Revenue 568,000
Schedule of Programs:
Instruction 1,030,200
Public Service 4,100
Academic Support 46,700
Student Services 125,900
Institutional Support 521,900
Operations and Maintenance 228,200
Scholarships and Fellowships 20,000

Item 150
To Dixie Technical College - Special Projects

In addition to the intent language in item 84 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

MOUNTAINLAND TECHNICAL COLLEGE

Item 151
To Mountainland Technical College - Education and General
From Income Tax Fund 2,896,500
From Income Tax Fund,
One-time ..... (1,368,800)
From Dedicated Credits
Revenue 1,823,700
Schedule of Programs:
Instruction 2,355,100
Academic Support 489,900
Student Services 351,500
Institutional Support 1,030,600
Operations and Maintenance ..... (875,700)

Item 152
To Mountainland Technical College - Special Projects

In addition to the intent language in item 86 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

OGDEN-WEBER TECHNICAL COLLEGE

Item 153
To Ogden-Weber Technical College - Education and General
From Income Tax Fund 1,532,100
From Income Tax Fund, One-time ..... (510,800)
From Dedicated Credits Revenue 198,500
Schedule of Programs:
Instruction 629,200
Academic Support 68,000
Student Services 173,800
Institutional Support 246,100
Operations and Maintenance 102,700

Item 154
To Ogden-Weber Technical College - Special Projects

In addition to the intent language in item 88 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

SOUTHWEST TECHNICAL COLLEGE

Item 155
To Southwest Technical College - Education and General
From Income Tax Fund 1,158,300
From Income Tax Fund, One-time 44,500
From Dedicated Credits Revenue 153,300
Schedule of Programs:
Instruction 651,100
Academic Support 104,400
Student Services 101,900
Institutional Support 325,200
Operations and Maintenance 172,000
Scholarships and Fellowships 1,500

Item 156
To Southwest Technical College - Special Projects

In addition to the intent language in item 90 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

TOOELE TECHNICAL COLLEGE

Item 157
To Tooele Technical College - Education and General
From Income Tax Fund ..... (44,500)
From Income Tax Fund, One-time ..... (254,200)
From Dedicated Credits Revenue 331,500
Schedule of Programs:
Instruction 160,700
Student Services 61,600
Institutional Support 79,500
Operations and Maintenance ..... (269,000)

Item 158
To Tooele Technical College - Special Projects

In addition to the intent language in item 92 of the Higher Education Base Budget (Senate Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

UINTAH BASIN TECHNICAL COLLEGE

Item 159
To Uintah Basin Technical College - Education and General
From Income Tax Fund 496,000
From Income Tax Fund, One-time 66,100
From Dedicated Credits Revenue 407,200
Schedule of Programs:
Instruction 780,400
Student Services 22,900
Institutional Support 107,200
Operations and Maintenance 58,800

Item 160
To Uintah Basin Technical College - Special Projects

In addition to the intent language in item 94 of the Higher Education Base Budget (Senate

Bill 1, 2024 General Session), the Legislature amends paragraph one to read: "The Legislature intends that funding allocated to Student Success be used to provide access and assistance to all students regardless of race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity. The Legislature further intends that the Board of Higher Education report to the Higher Education Appropriations Subcommittee on the status and allocation of these funds before July 1, 2025."

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 161
To Department of Agriculture and Food - Administration
From General Fund, One-time 500,000
Schedule of Programs:
Commissioner's Office 500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Fee Reporting Accuracy (Target = 90%); and 2. Continuous Improvement Project (Target = 100%).

Item 162
To Department of Agriculture and Food - Animal Industry
From General Fund ..... (25,000)
From Federal Funds ..... (300,000)
From Closing Nonlapsing Balances 300,000
Schedule of Programs:
Animal Health ..... (25,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Animal Industry line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Number of Animal Health Outreach Events (Target = 30); 2. Meat Inspector Sanitation Task Completion (Target = 70%); 3. Number of Animal Traces Completed in 1 Hour (Target = 100%); and 4. Change of Livestock Ownership Training Hours (Target = 40).

Item 163
To Department of Agriculture and Food - Building Operations
From General Fund 179,800
Schedule of Programs:
Building Operations 179,800

Item 164
To Department of Agriculture and Food - Invasive Species Mitigation
From Federal Funds 120,000
Schedule of Programs:
Invasive Species Mitigation 120,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Invasive Species Mitigation line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Treatment Monitoring Results (Target = 100%); 2. EDRR Points Treated (Target = 65%); and 3. Population Invasiveness (Target = 15%).

Item 165
To Department of Agriculture and Food - Marketing and Development
From General Fund ..... (30,000)
From General Fund, One-time 1,000,000
From Federal Funds 1,410,000
From Dedicated Credits Revenue 7,200
Schedule of Programs:
Marketing and Development 2,387,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Marketing and Development line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Increase in Social Media Followers (Target = 5%); 2. Utah's Own Website Membership Profile Views (Target = 145,000); 3. Website Bounce Rate (Target = 70%); and 4. Utah's Own Membership Retention (Target = 80%).

Item 166
To Department of Agriculture and Food - Plant Industry
From General Fund ..... (35,000)
From Dedicated Credits Revenue ..... (15,000)
Schedule of Programs:
Plant Industry Administration ..... (35,000)
Pesticide ..... (15,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Plant Industry line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Seed Compliance Violation Rate (Target = 10%); 2. Pesticide Compound Enforcement Action Rate (Target = 30%); and 3. Fertilizer Compliance Violation Rate (Target = 5%).

The Legislature intends that the Division of Plant Industry purchase the following vehicles through Fleet Operations: one small SUV and two mid-sized trucks.

Item 167

To Department of Agriculture and Food - Predatory Animal Control
From General Fund 300,000
From General Fund, One-time 300,000
From Gen. Fund Rest. - Agriculture and Wildlife Damage Prevention 108,000
Schedule of Programs:
Predatory Animal Control 708,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Predatory Animal Control line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures:1. Percent of Reported Predator Incidents with Response (Target = 80%); 2. Number of Documented Kills of Livestock by Mountain Lions and Bears (Target = under 930); and 3. Rate of Cougar caused Mortality of Deer (Target = 8%).

The Legislature intends that up to $150,000 of the one-time General Fund be used by the Predatory Animal Control program to purchase a vehicle for each additional trapper hired with the ongoing funding provided by this item.

Item 168

To Department of Agriculture and Food - Rangeland Improvement
From General Fund ..... (35,000)
From General Fund, One-time 1,000,000
From Gen. Fund Rest. - Rangeland Improvement Account, One-time 3,373,700
Schedule of Programs:
Rangeland Improvement Projects ... 4,373,700
Grazing Improvement Program Administration ..... (35,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Rangeland Improvement line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Projects to Manage Grazing Intensity (Target = 15); 2. Animal Unit Months Affected by GIP Projects (Target = 250,000); and 3. Water System Improvements (Target = 150).

Item 169

To Department of Agriculture and Food - Regulatory Services
From Federal Funds ..... (564,700)
From Dedicated Credits Revenue ..... (15,000)
From Revenue Transfers .... (1,300)
From Pass-through ..... (900)
From Closing Nonlapsing Balances 450,000
Schedule of Programs:
Regulatory Services Administration .. (70,900)
Food Inspection ..... (61,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Regulatory Services line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Retail Fuel Inspections Compliance Rate (Target = 85%); 2. Percent of Critical Violations on Dairy Inspections (Target = 25%); 3. Retail Food Inspections without Risk Factors (Target = 50%); and 4. Number of Bedding and Upholstered Retail Inspections (Target = 350).

The Legislature intends that the Division of Regulatory Services purchase the following vehicles through Fleet Operations: one large truck and one compact sedan.

Item 170

To Department of Agriculture and Food - Resource Conservation
From General Fund 325,000
From Federal Funds ..... (250,000)
From General Fund Restricted - LeRay McAllister Critical Land Conservation Program Account 1,000,000
From Closing Nonlapsing Balances 70,000
Schedule of Programs:
Conservation Administration 145,000
Easements and Loan Projects 1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of

Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Resource Conservation line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Number of People Attending Soil Health Workshops (Target = 650) 2. Number of Conservation Commission Projects Completed (Target = 125); and 3. Change in Irrigation Efficiency from Water Optimization Projects (Target = 25%).

Item 171

To Department of Agriculture and Food - State Fair Park Authority

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the State Fair Park Authority line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. State Fair Attendance (Target = 274,100); 2. Utah State Fair New Revenue (Target = $150,000); and 3. Fairpark Net Revenue (Target = 5%).

Item 172

To Department of Agriculture and Food - Industrial Hemp

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Industrial Hemp line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Percent of Registered Products Inspected for Potency (Target = 6%); 2. Industrial Hemp Processor Inspections (Target = 80%); and 3. Percent of Unregistered Hemp Products during Inspections (Target = 50%).

Item 173

To Department of Agriculture and Food - Analytical Laboratory

From General Fund ..... (179,800)

From Revenue Transfers 30,000

Schedule of Programs:

Analytical Laboratory ..... (149,800)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Analytical Laboratory line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Total Number of Samples Collected (excluding Medical Cannabis) (Target = 3,700); 2. Laboratory Certification (Target = Completion); 3. Laboratory Equipment Replacement (Target = 0%); 4. Laboratory Test Results Completed Within 10 Days (Target = 100%); 5. Total Number of Tests Conducted (excluding Medical Cannabis) (Target = 10,000); and 6. Medical Cannabis Sample Collection within 7 Days of Request (Target = 100%).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 174

To Department of Environmental Quality - Drinking Water

From Federal Funds,

One-time 8,090,900

From Revenue Transfers .... (4,100)

Schedule of Programs:

Safe Drinking Water Act 163,300

System Assistance 2,923,500

State Revolving Fund 5,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Drinking Water line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measures: 1. Population Served by Approved Water System (Target = 95%); 2. Public Water Systems with an Approved Rating (Target = 95%); and 3. Significant Drinking Water Deficiencies Resolved (Target = 100%).

Item 175

To Department of Environmental Quality - Environmental Response and Remediation

From General Fund 400

From Dedicated Credits Revenue 1,200

From Revenue Transfers .... (16,100)

Schedule of Programs:

Voluntary Cleanup 16,800

CERCLA ..... (700)

Petroleum Storage Tank Cleanup ..... (3,700)

Petroleum Storage Tank Compliance . (26,900)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Environmental Response and Remediation line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of

Environmental Quality shall report on the following performance measures: 1. Underground Storage Tank (UST) Compliance Rate (Target = 90%); 2. Issued Brownfield Tools (Target = 14); and 3. Closed Leaking Petroleum Storage Tank Sites (Target = 90).

Item 176
To Department of Environmental Quality - Executive Director's Office
From General Fund 8,700
From General Fund Restricted - Environmental Quality 35,900
From Revenue Transfers 329,900
Schedule of Programs:
Executive Director Office
Administration 383,800
Radon ..... (9,300)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Executive Director's Office to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measures: 1. Timeliness of Resolving Audit Findings (Target = 100%); 2. Continuous Improvement Projects (Target = 100%); and 3. Customers Able to Complete their Intended Task on DEQ.utah.gov (Target = 75%).

Item 177
To Department of Environmental Quality - Waste Management and Radiation Control
From Federal Funds 250,000
From Federal Funds,
One-time 109,300
From General Fund Restricted - Environmental Quality 303,400
From Revenue Transfers 51,500
Schedule of Programs:
Solid Waste 359,300
Radiation 51,500
Low Level Radioactive Waste 303,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Waste Management and Radiation Control line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measures: 1. Compliance Assistance Provided for Small Businesses (Target = 65 businesses); 2. Percent of Permits and Licenses Issued/Modified Within Set Timeframes (Target = 90%); and 3. Compliance Rate of Medical X-Ray Facilities (Target = 90%).

Item 178
To Department of Environmental Quality - Water Quality
From Federal Funds,
One-time 1,922,900
From Revenue Transfers .... (11,200)
Schedule of Programs:
Water Quality Support 77,900
Water Quality Protection 1,620,800
Water Quality Permits 213,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Water Quality line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measures: 1. Municipal Wastewater Effluent Quality (mg/L Oxygen Potential) (Target = 435); 2. Percent of Permits Renewed on Time (Target = 95%); and 3. Percent of Permit Holders in Compliance (Target = 90%).

Item 179
To Department of Environmental Quality - Air Quality
From General Fund ..... (8,700)
From Federal Funds,
One-time 20,254,900
From Dedicated Credits Revenue 702,300
From General Fund Restricted - Environmental Quality ..... (35,900)
From Revenue Transfers .... (290,900)
Schedule of Programs:
Air Quality Administration 75,600
Planning 20,081,000
Compliance 135,100
Permitting 330,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Air Quality line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measures: 1. Facility Compliance with Air Quality Standards (Target = 94.5%); 2. Percent of Data Available from Air Monitoring Samplers (Target = 98%); 3. Per Capita Rate of Statewide Air Emissions (Target = 0.5); and 4. Percent of Approval Orders Issued Within 180 Days (Target = 95%).

DEPARTMENT OF NATURAL RESOURCES

Item 180
To Department of Natural Resources - Administration
From General Fund ..... (19,000)

From General Fund Restricted - Sovereign Lands Management ..... (1,800)
From General Fund Restricted - Sovereign Lands Management, One-time ... 15,000
Schedule of Programs:
Executive Director ..... (19,000)
Lake Commissions 13,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Administration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Ratio of Total Employees to Administration (Target = 55); 2. Percent of Budget from Non-General Fund Sources (Target = 80%); and 3. Adverse Audit Findings (Target = 0).

The Legislature intends that the $45,000 ongoing General Fund and $55,000 ongoing funding from the Sovereign Lands Management Account in the Lake Commission appropriation unit be used for the Bear Lake Commission.

Item 181
To Department of Natural Resources - Contributed Research

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Contributed Research line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Hunter Satisfaction Survey Results (Target = 3.3); 2. Percentage of Limited Entry Elk Units Meeting Age Objective for Harvested Bulls (Target = 80%); 3. Percentage of Mule Deer Units Meeting Buck to Doe Ratio (Target = 80%).

Item 182
To Department of Natural Resources - Cooperative Agreements

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Cooperative Agreements line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. New Wildlife Species Listed Under the Endangered Species Act (Target = 0); 2. Public Contacts on Aquatic Invasive Species (Target = 400,000); 3. Boat Decontaminations (Target = 10,000); and 4. Habitat Acres Restored Annually (Target = 180,000).

Item 183
To Department of Natural Resources - DNR Pass Through
From General Fund,
One-time 250,000
Schedule of Programs:
DNR Pass Through 250,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the DNR Pass Through line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Disperse Funding According to Legislative Directive (Target = 100%); 2. Percent Completed on Time and on Budget (Target = 100%); 3. Maintain Auditing Costs Less Than 8% of Appropriations (Target = 8%); and 4. Number of Annual Visitors to the Hogle Zoo (Target = 1,000,000).

The Legislature intends that the Division of Finance shall not disburse the funding provided by this item for the State Management of Wolves until a comprehensive financial audit of past expenditures of state funds has been presented to and reviewed by the Natural Resources, Agriculture and Environmental Quality Appropriations Subcommittee. Further, funding provided by this item shall only be paid on a reimbursement basis; all requested documentation related to reimbursement shall be free of redaction.

Item 184
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund ..... (200,000)
From General Fund,
One-time 3,400,000
From Dedicated Credits Revenue 1,000,000
From General Fund Restricted - Sovereign Lands Management 1,189,300
From General Fund Restricted - Sovereign Lands Management, One-time ... 7,650,000
Schedule of Programs:
Fire Management 1,000,000
Lands Management 1,339,300
Project Management 10,700,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Forestry, Fire, and State Lands line item to the Office of the Legislative Fiscal Analyst and to the

Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Number of Trained Firefighters (Target = 3,246); 2. Communities With 'Tree City USA' Recognition (Target = 72); and 3. Acres of Hazardous Fuel Reduction Treatments (Target = 7,500).

The Legislature intends that the Division of Forestry, Fire and State Lands purchase seven vehicles through Fleet Operations.

The Legislature intends that the Division of Finance shall not disburse the funding provided by this item for the Atlantis Foundation until a comprehensive financial audit of past expenditures of state funds has been presented to and reviewed by the Natural Resources, Agriculture and Environmental Quality Appropriations Subcommittee. Further, funding provided by this item shall only be paid on a reimbursement basis; all requested documentation related to reimbursement shall be free of redaction.

Item 185

To Department of Natural Resources - Oil, Gas, and Mining
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 200,000
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining,
One-time 723,000
Schedule of Programs:
Oil and Gas Program 923,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Oil, Gas, and Mining line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Timing of Issuing Large Mine Mineral Permits (Target = 100%); 2. Average Number of Days Between Well Inspections (Target = 365); and 3. Average Number of Days to Conduct Inspections for Priority 1 Sites (Target = 90).

Item 186

To Department of Natural Resources - Species Protection
From General Fund,
One-time 2,000,000
Schedule of Programs:
Species Protection 2,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Species Protection line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Red Shiner Eradication from 37 miles of the Virgin River in Utah (Target = 100%); 2. Delisting or Downlisting (Target = 1); and 3. June Sucker Population Enhancement (Target = 5,000).

Item 187

To Department of Natural Resources - Utah Geological Survey
From General Fund ..... (200)
From General Fund,
One-time 400,000
From Dedicated Credits
Revenue 143,800
From Revenue Transfers 1,030,400
Schedule of Programs:
Energy and Minerals 1,574,200
Geologic Hazards ..... (200)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Utah Geological Survey to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Item Views in the UGS GeoData Archive (Target = 3,500,000); 2. Public Engagement of UGS Reports (Target = 60,000); and 3. UGS Interactive Map Layers Usage (Target = 17,000,000).

Item 188

To Department of Natural Resources - Water Resources
From General Fund ..... (352,800)
From General Fund,
One-time 10,500,000
From Expendable Receipts,
One-time 800,000
From Water Resources Conservation and Development Fund,
One-time 1,650,000
Schedule of Programs:
Cloud Seeding 800,000
Interstate Streams ..... (352,800)
Planning 12,150,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Water Resources line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Municipal and Industrial Water Use Reduction from 2015 Baseline (Target =

16%); 2. Percentage of Precipitation Increase from Cloud Seeding (Target = 10%); and 3. Number of Projects Contracted by the Conservation and Development Fund (Target = 15).

Item 189

To Department of Natural Resources - Water Rights
From General Fund 203,000
From General Fund,
One-time 3,037,500
From General Fund Restricted - Water Rights Restricted Account,
One-time 567,400
From General Fund Restricted - Sovereign Lands Management 1,000,000
From General Fund Restricted - Sovereign Lands Management, One-time ... 1,000,000
Schedule of Programs:
Applications and Records ..... (2,000)
Field Services 5,242,500
Technical Services 567,400

The Legislature intends that the Division of Water Rights purchase two vehicles through Fleet Operations.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Water Rights line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Timely Processing of Uncontested Applications (Target = 80); 2. Average Number of Unique Web Users to the Water Rights Website (Target = 1,000); 3. Parties that Have Been Noticed in Comprehensive Adjudication (Target = 2,000); Percent of Systems in the State that are Fully Telemetered (Target = 25%); and 5. Year to Complete the Bear River Adjudication (Target = 2030).

Item 190

To Department of Natural Resources - Watershed Restoration

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Watershed Restoration line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. State Funding Leverage Ratio for WRI Projects (Target = 3); 2. Stream Miles Restored (Target = 175); and 3. Number of Acres Treated (Target = 120,000).

Item 191

To Department of Natural Resources - Wildlife Resources
From General Fund,
One-time 8,500,000
From General Fund Restricted - Wildlife Resources 1,606,600
From General Fund Restricted - Wildlife Resources, One-time 5,100,000
Schedule of Programs:
Administrative Services 1,606,600
Director's Office 13,500,000
Wildlife Section 100,000

The Legislature intends that the Division of Wildlife Resources use up to $100,000 from the Wildlife Resources Account for prevention and compensation of damage caused by bison in FY 2025.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Wildlife Resources line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Percent of Law Enforcement Contacts Without Violation (Target = 90%); 2. Shooting Range Participation (Target = 90,000); 3. Hunting Participation (Target = 380,000) and 4. Fishing Participation (Target = 800,000).

The Legislature intends that the General Fund appropriation for the Division of Wildlife Resources line item shall be used for making the mutually agreed upon $1,000,000 payment to the Utah School and Institutional Trust Lands Administration (SITLA) to preserve access to public land for hunters and wildlife dependent recreation.

The Legislature intends that the Division of Wildlife Resources spends up to $400,000 on livestock damage.

The Legislature intends that up to $1,350,000 of the General Fund appropriation for the Division of Wildlife Resources line item shall be used for efforts to contain aquatic invasive species at Lake Powell and prevent them from spreading to other waters in Utah. Upon request the division shall provide detailed documentation as to how its appropriation from the General Fund was spent.

Under Section 63-J-603 of the Utah Code, the Legislature intends the $550,000 one-time appropriation from the Wildlife Resources Restricted Account provided in Laws of Utah 2023, Chapter 468, Item 123, shall not lapse at the close of FY 2024 and the funding shall be used for the public access acquisition.

Item 192
To Department of Natural Resources - Wildlife Resources Capital Budget
From General Fund,
One-time ..... (599,400)
From General Fund Restricted - Wildlife Resources, One-time 599,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Wildlife Resources Capital Budget line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. New Motorboat Access Projects (Target = 10); 2. DFCM Facility Audit Score (Target = 90%); and 3. Operating Hatcheries (Target = 13).

Item 193
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund,
One-time 650,000
From Dedicated Credits
Revenue 5,000
Schedule of Programs:
Public Lands Policy Coordinating Office 655,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Public Lands Policy Coordinating Office to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Percent of Legal Filings Submitted On-time (Target = 100%); 2. Percent of Counties with Favorable Review of PLPCO Interactions (Target = 70%); and 3. Percent of Agencies with Favorable Review of PLPCO Interactions (Target = 70%).

The Legislature intends that $650,000 from the General Fund provided by this item be used by the Utah Public Lands Policy Coordinating Office to procure the professional services of a private or nonprofit Utah corporation to provide legal support to the following counties: Beaver, Garfield, Kane, Piute, and Wayne in public lands related matters.

Item 194
To Department of Natural Resources - Division of State Parks
From General Fund Restricted - State Park Fees 3,154,600
From General Fund Restricted - State Park Fees, One-time 1,500,000
Schedule of Programs:
State Park Operation Management .. 4,654,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for State Parks to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Total Revenue Collections (Target = $42,000,000); 2. Gate Revenue (Target = $34,500,000); and 3. Expenditures (Target = $38,500,000).

The Legislature intends that the General Fund appropriation for the State Parks operations line item shall be used primarily for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how the division's general fund appropriation was spent.

Item 195
To Department of Natural Resources - Division of Parks - Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 1,714,200
From General Fund Restricted - State Park Fees, One-time 11,000,000
Schedule of Programs:
Renovation and Development 7,714,200
Land Acquisition 5,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for State Parks Capital to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Donations Revenue (Target = $150,000); 2. Capital Renovation Projects Completed (Target = 15).

Item 196
To Department of Natural Resources - Division of Outdoor Recreation
From Dedicated Credits
Revenue 200,000
Schedule of Programs:
Administration 200,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Outdoor Recreation line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall

report on the following performance measures: 1. Trail Crew Projects Completed (Target = 96); 2. Adult OHV Education Course Completions (Target = 60,000); 3. Youth OHV Education Course Completions (Target = 2,500); 4. OHV Contacts Made During Patrols (Target = 60,000); 5. Boating Vessel Inspections Completed (Target = 5,000); 6. Youth Personal Watercraft Course Completions (Target = 1,000).

The Legislature intends that the Division of Outdoor Recreation purchase eight vehicles through Fleet Operation.

Item 197

To Department of Natural Resources - Division of Outdoor Recreation- Capital
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 6,571,300
From General Fund Restricted - Boating, One-time 77,000
From General Fund Restricted - Off-highway Vehicle, One-time 2,086,000
Schedule of Programs:
Recreation Capital 6,046,700
Trails Program 2,687,600

The Legislature intends that the $840,000 one-time funding from the Off-highway Vehicle Account provided by this item be used for trail development and other infrastructure improvements benefitting off-highway vehicles in proximity to the Butch Cassidy State Monument.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Outdoor Recreation Capital Budget line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Days of Downtime for Snowcats Resulting from Preventable Accidents (Target = 20); 2. Percent of Division Assets Receiving Preventative Maintenance (Target = 95%); 3. Dollars of OHV Recreation Grants Awarded (Target = $3,600,000); 4. Percent of Utah Outdoor Recreation Grant Dollars Spent in Rural Areas (Target = 50%).

Item 198

To Department of Natural Resources - Office of Energy Development
From General Fund ..... (236,000)
From Federal Funds,
One-time 28,285,500
From Expendable Receipts .. 60,000
From Revenue Transfers 75,000
Schedule of Programs:
Office of Energy Development 28,184,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Office of Energy Development line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Energy Education and Workforce Development Training Opportunities (Target = 50); 2. Percent of RESTC Tax Incentive Applications Processed Within 30 Days (Target = 95%); and 3. Percent of Annual Milestones Achieved in U.S. D.O.E. Funded Programs (Target = 100%).

Item 199

To Department of Natural Resources - Office of the Great Salt Lake Commissioner
From General Fund,
One-time 170,600
From Federal Funds,
One-time 50,000,000
From General Fund Restricted - Great Salt Lake Account, One-time 5,000,000
From General Fund Restricted - Sovereign Lands Management, One-time ... 10,000,000
Schedule of Programs:
GSL Commissioner
Administration 65,170,600

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 200

To School and Institutional Trust Lands Administration
From Land Grant Management Fund 722,000
From Land Grant Management Fund,
One-time 1,000,000
Schedule of Programs:
Accounting 200,000
Administration 345,000
Information Technology Group 1,000,000
Legal/Contracts 6,000
Energy and Minerals 171,000

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report the final status of performance measures established in FY 2024 appropriations bills for the School and Institutional Trust Lands Administration to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the School and Institutional Trust Lands Administration shall report on the following performance measures: 1. Energy and Minerals Gross Revenue (Target = $70,000,000); 2. Surface Gross Revenue (Target = $14,215,000); and 3. Planning and Development Gross Revenue (Target = $37,200,000).

Item 201
To School and Institutional Trust Lands Administration - Land Stewardship and Restoration

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report the final status of performance measures established in FY 2024 appropriations bills for the Land Stewardship and Restoration to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the School and Institutional Trust Lands Administration shall report on the following performance measures: 1. Number of Contacts with the Public for Stewardship Education (Target = 1,000); 2. Number of Acres of Watershed Restoration Treatments on Trust Lands (Target = 500); 3. Number of Habitat Conservation Projects for Sensitive Species (Target = 2).

Item 202
To School and Institutional Trust Lands Administration - School and Institutional Trust Lands Administration Capital

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report the final status of performance measures established in FY 2024 appropriations bills for the School and Institutional Trust Lands Administration Capital to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the School and Institutional Trust Lands Administration shall report on the following performance measures: 1. Number of Blocks with Land Use Plans Completed for Future Development (Target = 1); and 2. Water Right Purchases (Target = 2).

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 203
To Capitol Preservation Board
From General Fund, One-time ..... (1,382,600)
From Dedicated Credits Revenue 205,100
Schedule of Programs:
Capitol Preservation Board ..... (1,177,500)

LEGISLATURE

Item 204
To Legislature - Office of Legislative Research and General Counsel
From General Fund 329,000
Schedule of Programs:
Administration 329,000

Item 205
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund 215,000
Schedule of Programs:
Administration and Research 215,000

The Legislature intends that when the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget do the Medicaid stress testing required by H.B. 51, Health and Human Services Funding Amendments, 2024 General Session, that they include a scenario where the federal government reduces or eliminates reimbursement available to nursing homes via the Upper Payment Limit.

Item 206
To Legislature - Office of the Legislative Auditor General
From General Fund 220,000
Schedule of Programs:
Administration 220,000

Item 207
To Legislature - Legislative Services
From General Fund 236,000
From General Fund, One-time 400,000
Schedule of Programs:
Pass Through ..... (100,000)
Information Technology 736,000

Item 208
To Legislature - Legislative Services Digital Wellness Commission
From General Fund ..... (300,000)
From Beginning Nonlapsing Balances ..... (994,200)
From Closing Nonlapsing Balances 994,200
Schedule of Programs:
Digital Wellness Commission ..... (300,000)

UTAH NATIONAL GUARD

Item 209
To Utah National Guard
From General Fund 297,900
From General Fund, One-time 3,000,000
From Income Tax Fund, One-time 1,650,000
From Federal Funds 577,900
Schedule of Programs:
Administration ..... (2,100)
Operations and Maintenance 877,900
Tuition Assistance 1,650,000
West Traverse Sentinel Landscape .. 3,000,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 210
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From General Fund 350,000
Schedule of Programs:
Administration 200,000
Outreach Services 150,000

Item 211
To Department of Veterans and Military Affairs - DVMA Pass Through
From General Fund ..... (50,000)
From General Fund,
One-time 1,740,000
Schedule of Programs:
DVMA Pass Through 1,690,000

The Legislature intends that the Division of Finance shall not disburse the funding provided by this item for Best Defense Foundation until a comprehensive financial audit of past expenditures of state funds has been presented to and reviewed by the Executive Appropriations Committee. Further, funding provided by this item shall only be paid on a reimbursement basis; all requested documentation related to reimbursement shall be free of redaction.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNOR'S OFFICE

Item 212
To Governor's Office - Crime Victim Reparations Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report the final status of performance measures established in FY 2024 appropriations bills for the Crime Victim Reparations Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office shall report on the following performance measure: 1. Victim Reparation Claim Timeliness (Target = 75%).

DEPARTMENT OF PUBLIC SAFETY

Item 213
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From General Fund ..... (77,500)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund ..... (77,500)

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 214
To Department of Government Operations - State Debt Collection Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the State Debt Collection line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Cost to Collect $1 as a Ratio (Target = $0.20); and 2. Percent of Accounts with Partial or Full Payment after 5 Years (Target = 40%).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

PUBLIC SERVICE COMMISSION

Item 215
To Public Service Commission - Universal Public Telecom Service
From Revenue Transfers,
One-time 21,284,900
Schedule of Programs:
Universal Public Telecommunications Service Support 21,284,900

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 216
To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund,
One-time 7,000,000
From Federal Funds 500,000
Schedule of Programs:
Olene Walker Low Income Housing .. 7,500,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 217
To Department of Health and Human Services - Allyson Gamble Organ Donation Contribution Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measure for the Allyson Gamble Organ Donation Contribution Fund, whose mission is "To promote and support organ donations, maintain and operate a statewide organ donation registry and provide donor awareness education throughout the State of Utah." The department shall report to the

Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measure: Increase Division of Motor Vehicle/Driver's License Division Donations. Target - 15%.

Item 218
To Department of Health and Human Services - Utah State Hospital Unit Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report the final status of performance measures established in FY 2024 appropriations bills for the Utah State Hospital Unit Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Health and Human Services shall report on the following performance measure: 1) Number of internal reviews completed with statute, federal regulations, and other requirements (Target = 1).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 219
To Department of Environmental Quality - Hazardous Substance Mitigation Fund
From General Fund ..... (400)
From General Fund Restricted - Environmental Quality ..... (1,200)
Schedule of Programs:
Hazardous Substance Mitigation Fund . (1,600)

Item 220
To Department of Environmental Quality - Waste Tire Recycling Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report the final status of performance measures established in FY 2024 appropriations bills for the Waste Tire Recycling Fund to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Environmental Quality shall report on the following performance measure: 1. Number of Waste Tires Recycled (Target = 50,000).

DEPARTMENT OF NATURAL RESOURCES

Item 221
To Department of Natural Resources - Wildland Fire Suppression Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Wildland Fire Suppression Fund to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Non-Federal Wildland Acres Burned (Target = 10,577); 2. Number of Entities Participating in the Cooperative Wildfire System (Target = 205); and 3. Rate of Human-Caused Wildfires (Target = 50%).

EXECUTIVE APPROPRIATIONS

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 222
To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund
From Federal Funds,
One-time 32,666,200
Schedule of Programs:
Veterans Nursing Home Fund 32,666,200

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 223
To Attorney General - ISF - Attorney General

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney General's Office report performance measures for the Attorney General ISF line item. The Attorney General's Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Attorney Staff Assessment (Target=90).

UTAH DEPARTMENT OF CORRECTIONS

Item 224
To Utah Department of Corrections - Utah Correctional Industries

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 225
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management

The Legislature intends that the DFCM Internal Service Fund may add up to 15 FTE, up to 10 vehicles, and up to $500,000 in capital assets, beyond the authorized level if new facilities come online or maintenance agreements are requested in FY 2025. Any added FTEs, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

Item 226
To Department of Government Operations - Division of Fleet Operations

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Division of Fleet Operations line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Audits of Agency Mobility (Target = 12); 2. Improve Light-duty Fleet Emission (Target = 35%); and 3. Fleet Financial Solvency (Target = 50%).

Item 227
To Department of Government Operations - Division of Purchasing and General Services

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Purchasing line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Days to Review Contract (Target = 4); and 2. Customer Service Score (Target = 9).

Item 228
To Department of Government Operations - Risk Management
From General Fund,
One-time 21,750,000
From Premiums 45,455,200
From Interest Income 600,000
Schedule of Programs:
ISF - Risk Management
Administration 21,750,000
Risk Management - Property 46,055,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Risk Management line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Follow-up on Safety Findings (Target = 100%); 2. Processed Claims Where Staff Followed the Rules and Standards (Target = 96%); and 3. Liability Fund Reserves as % of Actuarily Calculated Target (Target = 100%).

Item 229
To Department of Government Operations - Enterprise Technology Division

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Enterprise Technology Division line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Customer Satisfaction (Target = 4.5); 2. Competitive Rates (Target = 100%); and 3. Application Availability (Target = 99%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Enterprise Technology Division line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Customer Satisfaction (Target = 4); 2. Competitive Rates (Target = 100%); and 3. Application Availability (Target = 99%).

Item 230
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund ..... (600)
From Dedicated Credits Revenue 600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Human Resources Internal Service Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Days of Operating

Expenses Held in Reserve (Target = 30); and 2. Satisfaction (Target = 91%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report the final status of performance measures established in FY 2024 appropriations bills for the Human Resources Internal Service Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Government Operations shall report on the following performance measures: 1. Days of Operating Expenses Held in Reserve (Target = 30); 2. DHRM Staff to 100 State Employees Ratio (Target = 1.7); and 3. Satisfaction (Target = 91%).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 231

To Department of Alcoholic Beverage Services - State Store Land Acquisition Fund

The Legislature intends that the Department of Alcoholic Beverage Services spend up to $4.5 million from the State Store Land Acquisition and Building Construction Fund per property from the State Store Land Acquisition and Building Construction Fund to purchase property for the South Salt Lake and Murray stores in FY 2025.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 232

To Governor's Office of Economic Opportunity - State Small Business Credit Initiative Program Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the State Small Business Credit Initiative Program Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measure: 1. Small Business Loan Loss Minimization (Target = 3).

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 233

To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 3,812,300
From Beginning Fund Balance 3,728,000
From Closing Fund Balance . (7,540,300)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 234

To Department of Agriculture and Food - Agriculture Loan Programs

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Agriculture Loan Programs line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Number of Applications Received (Target = 60); 2. Number of Loans Approved (Target = 40); 3. Dollar Amount of Loans Approved (Target = $8,000,000); and 4. Number of Loan Applications in Process (Target = 50).

Item 235

To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue 923,400
Schedule of Programs:
Qualified Production Enterprise Fund . 923,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report the final status of performance measures established in FY 2024 appropriations bills for the Qualified Production Enterprise Fund to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Agriculture and Food shall report on the following performance measures: 1. Medical Cannabis Establishments Inspected Twice Quarterly (Target = 100%); 2. Percent of Inspected Products Violating Safety Standards (Target = 5%); and 3. Percent of Licensee Requests Responded to within 5 Business Days (Target = 90%).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 236

To Department of Environmental Quality - Water Development Security Fund - Drinking Water
From Federal Funds, One-time 46,353,600
Schedule of Programs:
Drinking Water 46,353,600

Item 237

To Department of Environmental Quality - Water Development Security Fund - Water Quality

From Federal Funds,
One-time 17,928,000
Schedule of Programs:
Water Quality 17,928,000

DEPARTMENT OF NATURAL RESOURCES

Item 238
To Department of Natural Resources - Water Resources Construction Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report the final status of performance measures established in FY 2024 appropriations bills for the Water Resources Construction Fund to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Department of Natural Resources shall report on the following performance measures: 1. Dam Safety Projects Contracted (Target = 1); 2. Number of Years for all High Hazard Dams to be Upgraded (Target = 30); and 3. Number of High Hazard Dams Needing to be Upgraded (Target = 5).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 239
To General Fund Restricted - Indigent Defense Resources Account

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office report the final status of performance measures established in FY 2024 appropriations bills for the General Fund Restricted - Indigent Defense Resources Account line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office shall report on the following performance measures: 1. Principle 1: Organizational Capacity (Target = 10%); 2. Specialization (Target = 30%); 3. Principle 3: Scope of Representation (Target = 10%); 4. Principle 2: Counsel for All Eligible (Target = 10%); 5. Criminal Appeals (Target = 20%); 6. Regionalization of Indigent Defense Commission (Target = 50%); 7. Principle 8: Effective Representation (Training, Resources, Compensation) (Target = 10%); 8. Principle 6: Right to Appeal (Target = 10%); 9. Survey Response (Target = 10%); 10. Independently-Administered Defense Resources (Target = 40%); 11. Principle 7: Free From Conflicts of Interest (Target = 10%); 12. Principle 5: Specialization (Target = 10%); and 13. Principle 4: Independence (Target = 10%).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 240
To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund ..... (200,000)
From General Fund,
One-time ..... (106,200)
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance ..... (306,200)

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report the final status of performance measures established in FY 2024 appropriations bills for the General Fund Restricted - Tourism Marketing Performance Fund line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Governor's Office of Economic Opportunity shall report on the following performance measure: 1. Tourism SUCCESS Metric (Target = 20%).

Item 241
To General Fund Restricted - Native American Repatriation Restricted Account
From General Fund ..... (10,000)
Schedule of Programs:
General Fund Restricted - Native American Repatriation Restricted Account .... (10,000)

Item 242
To State Mandated Insurer Payments Restricted
From General Fund 1,222,000
Schedule of Programs:
State Mandated Insurer Payments Restricted 1,222,000

SOCIAL SERVICES

Item 243
To Statewide Behavioral Health Crisis Response Account
From General Fund 22,186,800
Schedule of Programs:
Statewide Behavioral Health Crisis Response Account 22,186,800

Item 244
To Medicaid Expansion Fund
From General Fund ..... (30,000,000)
From General Fund,
One-time 30,000,000
From Dedicated Credits Revenue 900,000
From Interest Income 8,589,900
From Revenue Transfers .... (2,659,300)
From Beginning Fund Balance 2,829,400
From Closing Fund Balance . (24,021,700)
Schedule of Programs:
Medicaid Expansion Fund ..... (14,361,700)

HIGHER EDUCATION

Item 245
To Performance Funding Restricted Account
From Income Tax Fund ..... (7,169,900)
From Income Tax Fund,
One-time ..... (12,000,000)
From Closing Fund Balance . 12,000,000
Schedule of Programs:
Performance Funding Restricted Account ..... (7,169,900)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 246
To LeRay McAllister Working Farm and Ranch Fund
From General Fund 1,000,000
Schedule of Programs:
LeRay McAllister Working Farm and Ranch Fund 1,000,000

The Legislature intends that $1,000,000 General Fund provided by this item be used by the Land Conservation Board to make grants for the purchase of agricultural conservation easements.

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Income Tax Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Income Tax Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 247
To General Fund
From Nonlapsing Balances - Build America Bonds Subsidy 892,600
Schedule of Programs:
General Fund, One-time 892,600

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 248
To Capital Budget - DFCM Capital Projects Fund
From General Fund,
One-time 10,800,000
Schedule of Programs:
DFCM Capital Projects Fund 10,800,000

Item 249
To Capital Budget - Higher Education Capital Projects Fund
From Income Tax Fund,
One-time 19,536,700
Schedule of Programs:
Higher Education Capital Projects Fund 19,536,700

The Legislature intends that Utah Valley University utilize $3.5 million of their dedicated allocation from the Higher Education Capital Projects Fund for the design of the Student Athlete Academic Building in FY 2025.

Item 250
To Capital Budget - Technical Colleges Capital Projects Fund
From Income Tax Fund,
One-time 64,860,200
Schedule of Programs:
Technical Colleges Capital Projects Fund 64,860,200

Item 251
To Capital Budget - State Agency Capital Development Fund
From Income Tax Fund,
One-time 125,000,000
Schedule of Programs:
State Agency Capital Development Fund 125,000,000

TRANSPORTATION

Item 252
To Transportation - Transportation Investment Fund of 2005
From Transportation Fund,
One-time 84,692,700
Schedule of Programs:
Transportation Investment Fund ... 84,692,700

Item 253
To Transportation - Transit Transportation Investment Fund
From General Fund,
One-time 50,000,000
Schedule of Programs:
Transit Transportation Investment Fund 50,000,000

Subsection 1(g). Higher Education Budget Reporting. The Legislature has reviewed proposed revenues and expenditures for the following institutions of higher education. These figures are for reporting purposes only and include appropriations made to the operating and capital budgets of these institutions.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 254
To University of Utah - Education and General
From State Appropriations .. (5,999,100)
From State Appropriations,
One-time 3,061,800
From Tuition and Fees 30,238,900
Schedule of Programs:
Instruction 15,140,700
Research 2,642,900
Public Service 816,400
Academic Support 1,953,400
Student Services 1,699,400
Institutional Support 4,085,300

Operations and Maintenance 963,500

Item 255
To University of Utah - University Hospital
From State Appropriations .. (94,500)
From State Appropriations,
One-time 94,500

Item 256
To University of Utah - Cancer Research and Treatment
From State Appropriations .. 542,700
From State Appropriations,
One-time 120,000
Schedule of Programs:
Research 662,700

Item 257
To University of Utah - Schools of Medicine and Dentistry
From State Appropriations .. (743,400)
From State Appropriations,
One-time 1,543,400
Schedule of Programs:
Operations and Maintenance 800,000

Item 258
To University of Utah - Special Projects
From State Appropriations .. (217,900)
From State Appropriations,
One-time 217,900

UTAH STATE UNIVERSITY

Item 259
To Utah State University - Education and General
From State Appropriations .. (835,400)
From State Appropriations,
One-time 4,700,100
From Tuition and Fees ..... (8,512,300)
Schedule of Programs:
Instruction ..... (2,074,800)
Research 696,600
Academic Support ..... (858,900)
Student Services ..... (628,200)
Institutional Support ..... (335,800)
Scholarships and Fellowships ..... (53,600)
Operations and Maintenance ..... (1,392,900)

Item 260
To Utah State University - Veterinary Medicine
From State Appropriations .. (328,500)
From State Appropriations,
One-time 329,000
From Tuition and Fees ..... (126,000)
Schedule of Programs:
Instruction ..... (27,100)
Research ..... (100)
Academic Support ..... (98,600)
Operations and Maintenance 300

Item 261
To Utah State University - Special Projects
From State Appropriations .. (619,500)
From State Appropriations,
One-time 865,800
Schedule of Programs:
Agriculture Experiment Station 246,300

Item 262
To Utah State University - Career and Technical Education
From State Appropriations .. (110,900)
From State Appropriations,
One-time 106,700
From Tuition and Fees 257,000
Schedule of Programs:
Instruction 67,200
Public Service 4,000
Academic Support 185,800
Custom Fit ..... (4,200)

WEBER STATE UNIVERSITY

Item 263
To Weber State University - Education and General
From State Appropriations .. (1,913,100)
From State Appropriations,
One-time 2,994,400
From Tuition and Fees ..... (5,020,400)
Schedule of Programs:
Instruction ..... (781,600)
Research ..... (5,000)
Public Service ..... (27,000)
Academic Support ..... (527,700)
Student Services ..... (439,600)
Institutional Support ..... (1,316,800)
Scholarships and Fellowships ..... (47,600)
Operations and Maintenance ..... (793,800)

Item 264
To Weber State University - Special Projects
From State Appropriations .. (23,800)
From State Appropriations,
One-time 23,800

SOUTHERN UTAH UNIVERSITY

Item 265
To Southern Utah University - Education and General
From State Appropriations .. (1,079,900)
From State Appropriations,
One-time 911,200
From Tuition and Fees 11,959,900
Schedule of Programs:
Instruction 4,644,100
Public Service 45,500
Academic Support 1,430,400
Student Services 1,588,300
Institutional Support 2,359,600
Scholarships and Fellowships 728,300
Operations and Maintenance 995,000

Item 266
To Southern Utah University - Special Projects
From State Appropriations .. (8,300)
From State Appropriations,
One-time 308,300
Schedule of Programs:
Shakespeare Festival 300,000

UTAH VALLEY UNIVERSITY

Item 267
To Utah Valley University - Education and General
From State Appropriations .. (2,672,200)
From State Appropriations,
One-time 2,717,000

From Tuition and Fees ..... (5,062,800)
Schedule of Programs:
Instruction ..... (735,100)
Public Service ..... (13,700)
Academic Support ..... (617,700)
Student Services ..... (470,300)
Institutional Support ..... (852,800)
Scholarships and Fellowships ..... (36,500)
Operations and Maintenance ..... (2,291,900)

Item 268
To Utah Valley University - Special Projects
From State Appropriations .. (75,600)
From State Appropriations,
One-time 75,600

SNOW COLLEGE

Item 269
To Snow College - Education and General
From State Appropriations .. 256,600
From State Appropriations,
One-time 448,500
From Tuition and Fees 774,200
Schedule of Programs:
Instruction 308,200
Public Service 6,400
Academic Support 69,500
Student Services 88,100
Institutional Support 164,100
Scholarships and Fellowships 251,100
Operations and Maintenance 591,900

Item 270
To Snow College - Career and Technical Education
From State Appropriations .. (25,400)
From State Appropriations,
One-time 25,400
From Tuition and Fees 271,800
Schedule of Programs:
Instruction 151,100
Academic Support 13,900
Student Services 28,000
Institutional Support 78,800

UTAH TECH UNIVERSITY

Item 271
To Utah Tech University - Education and General
From State Appropriations .. (868,700)
From State Appropriations,
One-time 394,900
From Tuition and Fees 6,008,000
Schedule of Programs:
Instruction 2,475,400
Public Service 98,500
Academic Support 696,300
Student Services 707,700
Institutional Support 1,702,700
Operations and Maintenance ..... (149,400)
Scholarships and Fellowships 3,000

Item 272
To Utah Tech University - Special Projects
From State Appropriations .. (900)
From State Appropriations,
One-time 900

SALT LAKE COMMUNITY COLLEGE

Item 273
To Salt Lake Community College - Education and General
From State Appropriations .. (390,300)
From State Appropriations,
One-time ..... (127,100)
From Tuition and Fees ..... (7,781,500)
Schedule of Programs:
Instruction ..... (3,355,400)
Public Service ..... (7,000)
Academic Support ..... (527,600)
Student Services ..... (603,600)
Institutional Support ..... (2,019,300)
Scholarships and Fellowships ..... (53,700)
Operations and Maintenance ..... (1,732,300)

Item 274
To Salt Lake Community College - Career and Technical Education
From State Appropriations .. (62,500)
From State Appropriations,
One-time 62,500
From Tuition and Fees 231,400
Schedule of Programs:
Instruction 148,900
Academic Support 12,000
Student Services 28,300
Institutional Support 23,200
Operations and Maintenance 17,500
Scholarships and Fellowships 1,500

BRIDGERLAND TECHNICAL COLLEGE

Item 275
To Bridgerland Technical College - Education and General
From State Appropriations .. (113,200)
From State Appropriations,
One-time 113,200
From Tuition and Fees 829,900
Schedule of Programs:
Instruction 491,300
Public Service 2,400
Academic Support 20,000
Student Services 22,300
Institutional Support 178,000
Operations and Maintenance 115,900

DAVIS TECHNICAL COLLEGE

Item 276
To Davis Technical College - Education and General
From State Appropriations .. 607,200
From State Appropriations,
One-time 5,100
From Tuition and Fees 813,800
Schedule of Programs:
Instruction 552,700
Academic Support 433,700
Student Services 161,500
Institutional Support 208,400
Operations and Maintenance 66,400
Scholarships and Fellowships 3,400

DIXIE TECHNICAL COLLEGE

Item 277
To Dixie Technical College - Education and General

From State Appropriations .. 904,500
From State Appropriations,
One-time 234,500
From Tuition and Fees 568,000
Schedule of Programs:
Instruction 760,200
Public Service 4,100
Academic Support 46,700
Student Services 125,900
Institutional Support 521,900
Operations and Maintenance 228,200
Scholarships and Fellowships 20,000

MOUNTAINLAND TECHNICAL COLLEGE

Item 278
To Mountainland Technical College - Education and General
From State Appropriations .. 2,737,000
From State Appropriations,
One-time ..... (1,368,800)
From Tuition and Fees 1,823,700
Schedule of Programs:
Instruction 2,195,600
Academic Support 489,900
Student Services 351,500
Institutional Support 1,030,600
Operations and Maintenance ..... (875,700)

OGDEN-WEBER TECHNICAL COLLEGE

Item 279
To Ogden-Weber Technical College - Education and General
From State Appropriations .. 1,498,800
From State Appropriations,
One-time 119,300
From Tuition and Fees 87,400
Schedule of Programs:
Instruction 496,200
Academic Support 85,700
Student Services 144,700
Institutional Support 246,100
Operations and Maintenance 732,800

SOUTHWEST TECHNICAL COLLEGE

Item 280
To Southwest Technical College - Education and General
From State Appropriations .. 1,032,500
From State Appropriations,
One-time 44,500
From Tuition and Fees 335,100
Schedule of Programs:
Instruction 707,100
Academic Support 104,400
Student Services 101,900
Institutional Support 325,200
Operations and Maintenance 172,000
Scholarships and Fellowships 1,500

TOOELE TECHNICAL COLLEGE

Item 281
To Tooele Technical College - Education and General
From State Appropriations .. (44,500)
From State Appropriations,
One-time ..... (254,200)
From Tuition and Fees 331,500
Schedule of Programs:
Instruction 160,700
Student Services 61,600
Institutional Support 79,500
Operations and Maintenance ..... (269,000)

UINTAH BASIN TECHNICAL COLLEGE

Item 282
To Uintah Basin Technical College - Education and General
From State Appropriations .. (66,100)
From State Appropriations,
One-time 32,000
From Tuition and Fees 407,200
Schedule of Programs:
Instruction 184,200
Student Services 22,900
Institutional Support 107,200
Operations and Maintenance 58,800

Section 2. Effective Date.
This bill takes effect on July 1, 2024.

CHAPTER 488
H. B. 3
Passed March 1, 2024
Approved March 21, 2024
Effective March 21, 2024

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Jerry W Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2023 and ending June 30, 2024 and for the fiscal year beginning July 1, 2024 and ending June 30, 2025.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain public education programs;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides funds for the bills with fiscal impact passed in the 2024 General Session;
- provides budget increases and decreases for other purposes as described;
- provides funding when combined with appropriations in "State Agency and Higher Education Compensation Appropriations" (Senate Bill 8, 2024 General Session) for a 2.14 percent salary enhancement for employees on the Public Safety Tier II retirement plan;
- authorizes rates and fees;
- authorizes full time employment levels for certain internal service funds;
- provides intent language; and
- provides a mathematical formula for the annual appropriations limit.

Money Appropriated in this Bill:

This bill appropriates $58,766,100 in operating and capital budgets for fiscal year 2024, including:

- $50,727,100 from the General Fund;
- $12,391,300 from the Income Tax Fund; and
- ($4,352,300) from various sources as detailed in this bill.

This bill appropriates $6,923,400 in expendable funds and accounts for fiscal year 2024.

This bill appropriates $26,048,300 in business- like activities for fiscal year 2024, including:

- $979,100 from the General Fund; and
- $25,069,200 from various sources as detailed in this bill.

This bill appropriates ($21,989,200) in restricted fund and account transfers for fiscal year 2024, including:

- ($31,989,200) from the General Fund; and
- $10,000,000 from various sources as detailed in this bill.

This bill appropriates $2,417,800 in fiduciary funds for fiscal year 2024.

This bill appropriates $211,175,600 in capital project funds for fiscal year 2024, including:

- ($50,000,000) from the General Fund; and
- $261,175,600 from various sources as detailed in this bill.

This bill appropriates $399,433,300 in operating and capital budgets for fiscal year 2025, including:

- $108,924,200 from the General Fund;
- $2,490,700 from the Uniform School Fund;
- $107,736,800 from the Income Tax Fund; and
- $180,281,600 from various sources as detailed in this bill.

This bill appropriates $51,234,400 in expendable funds and accounts for fiscal year 2025, including:

- ($1,000,000) from the General Fund; and
- $52,234,400 from various sources as detailed in this bill.

This bill appropriates $15,161,000 in business- like activities for fiscal year 2025, including:

- $8,779,100 from the General Fund; and
- $6,381,900 from various sources as detailed in this bill.

This bill appropriates ($4,494,900) in restricted fund and account transfers for fiscal year 2025, all of which is from the General Fund.

This bill appropriates $201,611,000 in capital project funds for fiscal year 2025, including:

- $12,000,000 from the General Fund;
- ($125,372,800) from the Income Tax Fund; and
- $314,983,800 from various sources as detailed in this bill.

This bill reflects $10,585,400 in higher education budget reporting for fiscal year 2025.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2024.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2024 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2023 and ending June 30, 2024. These are additions to amounts otherwise appropriated for fiscal year 2024.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums

of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From General Fund,
One-time 9,700
Schedule of Programs:
Criminal Prosecution 9,700

To implement the provisions of Firearms Financial Transaction Amendments (House Bill 406, 2024 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 2
To Utah Department of Corrections - Department Medical Services
From General Fund,
One-time ..... (1,248,700)
From General Fund Restricted - Correctional Institution Clinical Services Transition Account,
One-time ..... (479,300)
Schedule of Programs:
Medical Services ..... (1,728,000)

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 3
To Judicial Council/State Court Administrator - Administration
From General Fund,
One-time 400,000
Schedule of Programs:
Administrative Office 400,000

Under Sections 63J-1-603 and 63J-1-602.1(63) of the Utah Code, the Legislature intends that any unspent dedicated credits remaining in the Law Library from certificate of admissions created under Section 78A-9-102 shall not lapse at the close of Fiscal Year 2024. Unused funds are to be used to supplement the costs of the Courts Self-help Center.

Item 4
To Judicial Council/State Court Administrator - Administration
From General Fund,
One-time 43,000
Schedule of Programs:
Data Processing 43,000

To implement the provisions of Criminal Code Recodification and Cross References (House Bill 15, 2024 General Session).

Item 5
To Judicial Council/State Court Administrator - Administration
From General Fund,
One-time 19,400
Schedule of Programs:
Data Processing 19,400

To implement the provisions of Road Rage Amendments (House Bill 30, 2024 General Session).

Item 6
To Judicial Council/State Court Administrator - Administration
From General Fund,
One-time 9,400
Schedule of Programs:
District Courts 9,400

To implement the provisions of Joint Resolution Dissolving Richmond City Justice Court (Senate Joint Resolution 10, 2024 General Session).

Item 7
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund,
One-time 389,000
Schedule of Programs:
Contracts and Leases 389,000

Item 8
To Judicial Council/State Court Administrator - Jury and Witness Fees

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $2,000,000 provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter in Laws of Utah 2023 Chapter 9, Item 59 shall not lapse at the close of Fiscal Year 2024. The use of any non-lapsing funds is limited to expenses for jury, witness fees and interpretation services.

GOVERNOR'S OFFICE

Item 9
To Governor's Office - Commission on Criminal and Juvenile Justice

Under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $6,633,400 provided for the Commission on Criminal and Juvenile Justice in Items 16, 62, and 96 of Chapter 9 Laws of Utah 2023 not lapse at the close of fiscal year 2024. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2024. The use of any unused funds is limited to employee incentives, one-time remodeling costs, equipment purchases, one-time DTS projects, research and development contract extradition costs, meeting and travel costs, state pass through grant programs, legal costs associated with deliberations required for judicial retention elections and voter outreach for judicial retention elections and costs, and to provide sexual assault services.

Item 10
To Governor's Office - Emergency Fund
From General Fund,
One-time 300,000
Schedule of Programs:
Governor's Emergency Fund 300,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that $300,000

from the General Fund one-time provided in this item for the Governor's Emergency Fund not lapse at the close of FY 2024. Use of these funds is limited to National Guard and public safety expenses.

Item 11
To Governor's Office
From General Fund,
One-time 225,000
From Income Tax Fund,
One-time ..... (225,000)

Notwithstanding intent language in "Election Amendments" (House Bill 2001, 2023 Second Special Session) Item 1, the Legislature intends that the Lieutenant Governor's Office may use appropriations of up to $1,000,000 of that item for costs related to the 2024 presidential primary, the elections results website, and accessible voting. In addition, under section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $150,000 provided by that item not lapse at the close of Fiscal Year 2024. Unused funds are limited to one-time expenditures of the Lieutenant Governor's Offices for the elections results website and accessible voting.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 12
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund,
One-time 211,400
From Federal Funds - American Rescue Plan, One-time 1,398,400
Schedule of Programs:
Juvenile Justice & Youth Services 211,400
Secure Care 589,200
Youth Services 809,200

The Legislature intends that the appropriations by this line item from the American Rescue Plan - State and Local Fiscal Recovery Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 13
To Department of Health and Human Services - Correctional Health Services
From General Fund,
One-time 1,248,700
From General Fund Restricted - Correctional Institution Clinical Services Transition Account, One-time 2,710,000
Schedule of Programs:
Correctional Health Services 3,958,700

The Legislature intends that the Division of Finance, when closing FY 2024, transfer any remaining balances in the Correctional Institution Clinical Services Transition Account to the following program: Department of Health and Human Services - Correctional Health Services.

The Legislature intends that the Division of Finance, when closing FY 2024, transfer any balances in the Correctional Institution Clinical Services Transition Account and Corrections -- Department of Medical Services (MDA) to the Department of Health and Human Services - - Correctional Health Services (KMDAB).

OFFICE OF THE STATE AUDITOR

Item 14
To Office of the State Auditor - State Auditor
From General Fund,
One-time 20,000
Schedule of Programs:
State Auditor 20,000

To implement the provisions of Sex-based Designations for Privacy, Anti-bullying, and Women's Opportunities (House Bill 257, 2024 General Session).

Item 15
To Office of the State Auditor - State Auditor
From General Fund,
One-time 15,000
Schedule of Programs:
State Auditor 15,000

To implement the provisions of Equal Opportunity Initiatives (House Bill 261, 2024 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 16
To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account, One-time 32,500
Schedule of Programs:
Driver Services 32,500

To implement the provisions of Road Rage Amendments (House Bill 30, 2024 General Session).

Item 17
To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account, One-time 8,800
Schedule of Programs:
Driver Services 8,800

To implement the provisions of Youth Fee Waiver Amendments (Senate Bill 223, 2024 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 18
To Department of Government Operations - DFCM
From Dedicated Credits Revenue,
One-time 20,300
Schedule of Programs:

DFCM Administration 20,300

To implement the provisions of Affordable Building Amendments (Senate Bill 168, 2024 General Session).

Item 19
To Department of Government Operations - Division of Finance

The Legislature intends that, if "Funds Amendments" (Senate Bill 241, 2024 General Session) becomes law, the Division of Finance, when closing FY 2024, transfer any balances in the following accounts to the following agency budgets or accounts: Prison Project Fund to the Capital Projects Fund; and Invasive Species Mitigation Account to the Department of Agriculture - Invasive Species Mitigation Program.

The Legislature intends that the Division of Finance, when closing FY 2024, transfer any balances in the following accounts to the following agency budgets or accounts: Support for State Owned Shooting Ranges Account to Department of Natural Resources - Wildlife Resources - Conservation Outreach; Humanitarian Service Restricted Account to Cultural and Community Engagement - Commission on Service and Volunteerism; Martin Luther King, Jr. Civil Rights Support Account to Cultural and Community Engagement - Administration - Utah Multicultural Affairs Office; Guardian ad Litem Services Account to Courts - Guardian ad Litem; Utah Housing Opportunity Restricted Account to the Real Estate Education, Research, and Recovery Fund; Zion National Park Support Restricted Account to Department of Natural Resources - Outdoor Recreation - Agreements; and Share the Road Bicycle Support Restricted Account to Department of Transportation - Share the Road program.

Item 20
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund,
One-time 200
From Federal Funds,
One-time 600
Schedule of Programs:
Inspector General of Medicaid Services ... 800

To implement the provisions of Caregiver Compensation Amendments (Senate Bill 32, 2024 General Session).

CAPITAL BUDGET

Item 21
To Capital Budget - Pass-Through
From General Fund,
One-time 25,000,000
From Federal Funds - American Rescue Plan - Capital Projects Fund,
One-time ..... (50,000,000)
Schedule of Programs:
DFCM Pass Through ..... (25,000,000)

Notwithstanding the intent language in "Current Fiscal Year Supplemental Appropriations" (Senate Bill 3, 2024 General Session), Item 41, the Legislature intends that $25,000,000 General Fund provided by this item be utilized for the Wasatch Canyons Behavioral Health Campus.

TRANSPORTATION

Item 22
To Transportation - Highway System Construction
From Federal Funds,
One-time 4,993,100
From Federal Funds - American Rescue Plan - Capital Projects Fund,
One-time 50,000,000
Schedule of Programs:
Federal Construction 4,993,100
State Construction 50,000,000

Notwithstanding the intent language in "Infrastructure and General Government Base Budget" (Senate Bill 6, 2024 General Session), Item 21, and "Current Fiscal Year Supplemental Appropriations" (Senate Bill 3, 2024 General Session), Item 41, the Legislature intends that up to $50,000,000 from Federal Funds - American Rescue Plan - Capital Projects Fund shall be used for broadband infrastructure.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $50,000,000 of appropriations provided in this item shall not lapse at the close of FY 2024. Expenditures of these funds are limited to broadband infrastructure.

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects Fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 23
To Transportation - Cooperative Agreements
From Federal Funds,
One-time 9,676,200
Schedule of Programs:
Cooperative Agreements 9,676,200

Item 24
To Transportation - Engineering Services
From Federal Funds,
One-time 18,538,500
Schedule of Programs:
Program Development 18,139,300
Research 249,200
Structures 150,000

Item 25
To Transportation - Operations/Maintenance Management
From Transportation Fund,
One-time ..... (1,000)
From Federal Funds,
One-time 200,000
Schedule of Programs:
Shops ..... (1,000)
Traffic Safety/Tramway 200,000

Item 26
To Transportation - Region Management
From Transportation Fund,
One-time ..... (340,400)
Schedule of Programs:
Region 4 ..... (340,400)

Item 27
To Transportation - Support Services
From Transportation Fund,
One-time 341,400
From Federal Funds,
One-time 182,600
Schedule of Programs:
Ports of Entry 182,600
Risk Management 341,400

Item 28
To Transportation - Pass-Through

The Legislature intends that the Department of Transportation use one-time appropriations allocated in "Current Fiscal Year Supplemental Appropriations" (Senate Bill 3, 2024 General Session), Item 54, to grant the Central Wasatch Commission $200,000 in FY 2024.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 29
To Department of Commerce - Commerce General Regulation
From Dedicated Credits Revenue,
One-time 22,100
From General Fund Restricted - Commerce Service Account, One-time 186,800
Schedule of Programs:
Administration 208,900

To implement the provisions of Artificial Intelligence Amendments (Senate Bill 149, 2024 General Session).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 30
To Governor's Office of Economic Opportunity - Economic Prosperity
From Beginning Nonlapsing Balances ..... (12,300,000)
Schedule of Programs:
Incentives and Grants ..... (12,300,000)

Item 31
To Governor's Office of Economic Opportunity - Pass-Through
From General Fund,
One-time 282,600
Schedule of Programs:
Pass-Through 282,600

The Legislature intends that the Governor's Office of Economic Opportunity use the $282,600 one-time General Fund appropriations allocated in this item for Senior Financial Aid Advocates.

FINANCIAL INSTITUTIONS

Item 32
To Financial Institutions - Financial Institutions Administration
Schedule of Programs:
Administration 201,200
Building Operations and Maintenance ..... (201,200)

The Legislature intends that the Department of Financial Institutions shift $201,200 from Building Operations and Maintenance to Administration in Fiscal Year 2024.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $216,200 provided by Item 127, Chapter 4, Laws of Utah 2023 for the Division of Financial Institutions shall not lapse at the close of FY 2024. The use of these funds is limited to the promotion of financial literacy and educational programs that safeguard the interests of financial institution customers.

INSURANCE DEPARTMENT

Item 33
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct.,
One-time 17,500
Schedule of Programs:
Administration 17,500

To implement the provisions of Medical Preauthorization Amendments (Senate Bill 275, 2024 General Session).

LABOR COMMISSION

Item 34
To Labor Commission

The Legislature intends that the Labor Commission may purchase one additional vehicle with department funds in either FY 2024 or FY 2025.

UTAH STATE TAX COMMISSION

Item 35
To Utah State Tax Commission - Tax Administration
From Income Tax Fund,
One-time 16,300
Schedule of Programs:
Tax and Revenue 16,300

To implement the provisions of Utah Fits All Scholarship Program Amendments (House Bill 529, 2024 General Session).

Item 36
To Utah State Tax Commission - Tax Administration
From General Fund,
One-time 20,500
Schedule of Programs:
Enforcement 20,500

To implement the provisions of Electronic Cigarette Amendments (Senate Bill 61, 2024 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 37
To Department of Workforce Services - Administration
From Education Savings Incentive Restricted Account, One-time 4,200
Schedule of Programs:
Administrative Support 4,200

Item 38
To Department of Workforce Services - State Office of Rehabilitation
From Education Savings Incentive Restricted Account, One-time 500
Schedule of Programs:
Deaf and Hard of Hearing 500

Item 39
To Department of Workforce Services - Unemployment Insurance
From Education Savings Incentive Restricted Account, One-time 1,000
Schedule of Programs:
Adjudication 500
Unemployment Insurance Administration . 500

Item 40
To Department of Workforce Services - Office of Homeless Services
From General Fund,
One-time 1,200,000
Schedule of Programs:
Homeless Services 1,200,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,200,000 of General Fund appropriations for the Department of Workforce Services Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2024. The use of any nonlapsing funds is limited to one-time costs associated with providing emergency shelter, including low-barrier/non-congregate shelter and winter overflow shelter.

Item 41
To Department of Workforce Services - Office of Homeless Services
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account,
One-time 333,800
Schedule of Programs:
Homeless Services 333,800

To implement the provisions of Homelessness and Vulnerable Populations Amendments (House Bill 421, 2024 General Session).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 42
To Department of Health and Human Services - Operations
From General Fund,
One-time 40,000
Schedule of Programs:
Public Affairs, Education & Outreach ... 40,000

Item 43
To Department of Health and Human Services - Operations
From General Fund,
One-time 3,200
Schedule of Programs:
Data, Systems, & Evaluations 3,200

To implement the provisions of Youth Fee Waiver Amendments (Senate Bill 223, 2024 General Session).

Item 44
To Department of Health and Human Services - Health Care Administration
From General Fund,
One-time 42,600
From Federal Funds,
One-time 42,600
Schedule of Programs:
Integrated Health Care Administration . 85,200

To implement the provisions of Psychotropic Medication Oversight Pilot Program Amendments (House Bill 38, 2024 General Session).

Item 45
To Department of Health and Human Services - Integrated Health Care Services
From General Fund Restricted - Opioid Litigation Proceeds Restricted Account,
One-time ..... (2,800,000)
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment and Crisis Response ..... (2,800,000)

Under terms of Utah Code Annotated Section 63-1-603, the Legislature intends that up to $1,000,000 of appropriations provided in Item 360 of Chapter 486, Laws of Utah 2023, for the purpose titled "Funding Alcohol/Drug Addiction Center" in the Department of Health and Human Services' Integrated Health Care Services line item not lapse at the close of fiscal year 2024. The use of any nonlapsing funds is limited to capital repairs for the building in Murray, Utah housing the Alano Club.

Item 46
To Department of Health and Human Services - Integrated Health Care Services
From General Fund,
One-time ..... (900,000)
From Federal Funds,
One-time ..... (2,590,000)
From Medicaid Expansion Fund,
One-time ..... (110,000)

Schedule of Programs:
Offsets to Medicaid Expenditures . . . (3,600,000)

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 47
To Department of Health and Human Services - Long-Term Services & Support
From General Fund,
One-time . . . . . (282,600)
Schedule of Programs:
Aging & Adult Services . . . . . (282,600)

Item 48
To Department of Health and Human Services - Children, Youth, & Families
From General Fund,
One-time 2,430,800
Schedule of Programs:
Out-of-Home Services 2,430,800

Item 49
To Department of Health and Human Services - Children, Youth, & Families
From General Fund,
One-time 1,600
Schedule of Programs:
DCFS Selected Programs 1,600

To implement the provisions of Youth Fee Waiver Amendments (Senate Bill 223, 2024 General Session).

Item 50
To Department of Health and Human Services - Office of Recovery Services
From Revenue Transfers,
One-time 540,700
Schedule of Programs:
Recovery Services 536,800
Children in Care Collections 3,900

HIGHER EDUCATION UNIVERSITY OF UTAH

Item 51
To University of Utah - University Hospital
From Income Tax Fund,
One-time 12,500,000
From Federal Funds - American Rescue Plan - Capital Projects Fund,
One-time . . . . . (25,000,000)
Schedule of Programs:
University Hospital . . . . . (12,500,000)

Notwithstanding the intent language in "Higher Education Base Budget" (Senate Bill 1, 2024 General Session), Item 4, the Legislature intends that $12,500,000 from the Income Tax Fund be utilized for the University of Utah Redwood Road Clinic.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 52
To Department of Environmental Quality - Water Quality

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $16,800 one-time appropriation from the Sovereign Lands Management Account provided by this item not lapse at the close of FY 2024.

Item 53
To Department of Environmental Quality - Water Quality
From General Fund Restricted - Sovereign Lands Management, One-time . . . 16,800
Schedule of Programs:
Water Quality Protection 14,000
Water Quality Permits 2,800

To implement the provisions of Great Salt Lake Revisions (House Bill 453, 2024 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 54
To Department of Natural Resources - Water Resources
From General Fund,
One-time 21,989,200
Schedule of Programs:
Planning 21,989,200

The Legislature intends that the $21,989,200 one-time General Fund provided by this item be used by the Division of Water Resources for water infrastructure projects. Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that this appropriation not lapse at the close of FY 2024.

Item 55
To Department of Natural Resources - Office of Energy Development
From General Fund,
One-time 200,000
Schedule of Programs:
Office of Energy Development 200,000

Item 56
To Department of Natural Resources - Office of Energy Development
From General Fund,
One-time 27,500
Schedule of Programs:
Office of Energy Development 27,500

To implement the provisions of Energy Security Amendments (Senate Bill 161, 2024 General Session).

Item 57
To Department of Natural Resources - Utah Energy Research Grant Program
From General Fund,

One-time ..... (1,000,000)
Schedule of Programs:
Utah Energy Research Grant Program ..... (1,000,000)

To implement the provisions of Utah San Rafael State Energy Lab (House Bill 410, 2024 General Session).

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 58
To State Board of Education - State Board and Administrative Operations
From Income Tax Fund,
One-time 100,000
Schedule of Programs:
Financial Operations 100,000

To implement the provisions of State Grant Process Amendments (House Bill 335, 2024 General Session).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 59
To Legislature - Senate
From General Fund,
One-time 11,500
Schedule of Programs:
Administration 11,500

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 6, 2024 General Session).

Item 60
To Legislature - House of Representatives
From General Fund,
One-time 18,100
Schedule of Programs:
Administration 18,100

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 6, 2024 General Session).

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 61
To Transportation - County of the First Class Highway Projects Fund
From Licenses/Fees,
One-time 3,156,700
From Interest Income,
One-time 800,000
From Revenue Transfers,
One-time 2,966,700
Schedule of Programs:
County of the First Class Highway Projects Fund 6,923,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 62
To Department of Environmental Quality - Environmental Mitigation & Response Fund

The Legislature intends that the Division of Finance, when closing FY 2024, transfer the full balance from the subaccounts for the Entrada (Wasatch Fuel), KUC (Kennecott), and Mountain Fuel settlements from the Hazardous Substance Mitigation Fund to the Environmental Mitigation and Response Fund.

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 63
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund,
One-time ..... (20,900)
From Dedicated Credits Revenue,
One-time 20,900

Item 64
To Department of Government Operations - Human Resources Internal Service Fund
From Dedicated Credits Revenue,
One-time ..... (2,200)
Schedule of Programs:
Administration ..... (2,200)

To implement the provisions of Division of Human Resource Management Amendments (House Bill 77, 2024 General Session).

TRANSPORTATION

Item 65
To Transportation - State Infrastructure Bank Fund
From Interest Income,
One-time 12,750,000
Schedule of Programs:

State Infrastructure Bank Fund 12,750,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 66
To Governor's Office of Economic Opportunity - Rural Opportunity Fund
From Beginning Fund Balance 12,300,000
Schedule of Programs:
Rural Opportunity Fund 12,300,000

The legislature intends that $12,300,000 in nonlapsing balances be transferred from the Governor's Office of Economic Opportunity - Economic Prosperity line item to the Rural Opportunity Fund.

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 67
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue, One-time 1,200
From Closing Fund Balance . (700)
Schedule of Programs:
Qualified Patient Enterprise Fund 500

To implement the provisions of Medical Cannabis Pharmacy Modifications (House Bill 389, 2024 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 68
To Department of Natural Resources - Utah Energy Research Fund
From General Fund, One-time 1,000,000
Schedule of Programs:
Utah Energy Research Fund 1,000,000

To implement the provisions of Utah San Rafael State Energy Lab (House Bill 410, 2024 General Session).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 69
To Long-term Capital Projects Fund
From General Fund, One-time ..... (21,989,200)
Schedule of Programs:
Long-term Capital Projects Fund (21,989,200)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 70
To General Fund Restricted - Motion Picture Incentive Fund

Under Utah Code Annotated 63N-8-103 as modified in "Motion Picture Incentives Amendments" (House Bill 78, 2024 General Session), the Legislature authorizes the Governor's Office of Economic Opportunity to issue tax credit certificates for rural productions in the amount of $12 million for fiscal year 2025.

Item 71
To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund, One-time ..... (10,000,000)
From Federal Funds - American Rescue Plan, One-time 10,000,000

The Legislature intends that the appropriations by this line item from the American Rescue Plan - State and Local Fiscal Recovery Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

PUBLIC EDUCATION

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 72
To School and Institutional Trust Fund Office - Permanent State School Fund
From Public Education Economic Stabilization Restricted Account, One-time 2,417,800
Schedule of Programs:
Permanent State School Fund 2,417,800

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 73
To Transportation - Transportation Investment Fund of 2005
From General Fund, One-time ..... (50,000,000)

From Transportation Fund,
One-time 24,241,400
From Transportation Investment Fund of 2005,
One-time ..... (42,888,200)
From Licenses/Fees,
One-time 2,087,700
From Interest Income,
One-time 18,885,100
From County of First Class Highway Projects Fund,
One-time ..... (1,348,400)
From Designated Sales Tax,
One-time 188,362,600
From Other Financing Sources,
One-time 20,000,000
Schedule of Programs:
Transportation Investment Fund .. 159,340,200

Item 74
To Transportation - Transit Transportation Investment Fund
From Interest Income,
One-time 7,000,000
From Designated Sales Tax,
One-time 18,685,400
From Revenue Transfers,
One-time 5,000,000
Schedule of Programs:
Transit Transportation Investment Fund 30,685,400

Item 75
To Transportation - Rail Transportation Restricted Account
From Interest Income,
One-time 150,000
Schedule of Programs:
Rail Transportation Restricted Account 150,000

Item 76
To Transportation - Cottonwood Canyon Transportation Investment Fund
From Interest Income,
One-time 1,000,000
From Designated Sales Tax,
One-time 20,000,000
Schedule of Programs:
Cottonwood Canyon Transportation Investment Fund 21,000,000

Section 2. FY 2025 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2024 and ending June 30, 2025. These are additions to amounts otherwise appropriated for fiscal year 2025.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 77
To Attorney General
From General Fund 6,100
From Federal Funds 1,900
From Dedicated Credits Revenue 400
From General Fund Restricted - Consumer Privacy Account 100
From Revenue Transfers 500
Schedule of Programs:
Civil ..... (10,512,800)
Criminal Prosecution 9,000
Solicitor General 10,512,800

Item 78
To Attorney General
From General Fund 58,400
Schedule of Programs:
Criminal Prosecution 58,400

To implement the provisions of Firearms Financial Transaction Amendments (House Bill 406, 2024 General Session).

Item 79
To Attorney General
From General Fund 114,000
Schedule of Programs:
Criminal Prosecution 114,000

To implement the provisions of Children's Device Protection Act (Senate Bill 104, 2024 General Session).

BOARD OF PARDONS AND PAROLE

Item 80
To Board of Pardons and Parole
From General Fund 4,400
Schedule of Programs:
Board of Pardons and Parole 4,400

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Pardons and Parole report performance measures for their line item, whose mission is "to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) measure of recidivism (target = 70% or more); 2) measure of time under board jurisdiction (target = 5 years or more); 3) measure of parole revocations (target = 0.30 or less); and 4) measure of alignment of board decisions with the guidelines (target = 60% or more).

Item 81
To Board of Pardons and Parole
From General Fund 4,900
Schedule of Programs:
Board of Pardons and Parole 4,900

To implement the provisions of Correctional Facility Amendments (House Bill 26, 2024 General Session).

Item 82
To Board of Pardons and Parole

From General Fund 1,000
Schedule of Programs:
Board of Pardons and Parole 1,000

To implement the provisions of Drug Sentencing Modifications (House Bill 68, 2024 General Session).

Item 83
To Board of Pardons and Parole
From General Fund 1,500
Schedule of Programs:
Board of Pardons and Parole 1,500

To implement the provisions of Criminal Justice Amendments (House Bill 366, 2024 General Session).

Item 84
To Board of Pardons and Parole
From General Fund 7,600
Schedule of Programs:
Board of Pardons and Parole 7,600

To implement the provisions of Criminal Justice Modifications (Senate Bill 213, 2024 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 85
To Utah Department of Corrections - Programs and Operations
From General Fund 1,012,500
Schedule of Programs:
Adult Probation and Parole Administration 1,700
Adult Probation and Parole Programs .. 263,000
Department Executive Director 4,700
Department Training 5,000
Prison Operations Administration 69,200
Prison Operations Central Utah/Gunnison 185,000
Prison Operations Inmate Placement 3,600
Re-entry and Rehabilitation Re-Entry .. 25,000
Re-entry and Rehabilitation Treatment .. 2,000
Prison Operations Utah State Correctional Facility 453,300

The Legislature intends that the Department of Corrections use the $13,025,000 appropriation from the General Fund in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session) Item 6 to relieve certified staff compression issues starting July 1, 2024

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Programs and Operations line item. The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percentage of all probationers' and parolees' Case Action Plan (CAP) goals that are active and align with primary Risk/Needs assessment indicators; 2) Per capita rate of assault incidents in the prison; 3) Percentage of all incarcerated population's Case Action Plan (CAP) goals that are active and align with primary Risk/Needs assessment indicators; and 4) Number of staff needed to eliminate mandatory overtime at USCF (target = 115).

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Department of Corrections report the final status of performance measures established in FY 2024 appropriations bills for the Programs and Operations line item to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024. For FY 2025, the Utah Department of Corrections shall report on the following performance measures: 1. Prisoner Violence (Target = 0%); and 2. Supervision Early Termination (Target = 22%).

Item 86
To Utah Department of Corrections - Programs and Operations
From General Fund 45,000
Schedule of Programs:
Prison Operations Utah State Correctional Facility 45,000

To implement the provisions of School Threat Penalty Amendments (House Bill 14, 2024 General Session).

Item 87
To Utah Department of Corrections - Programs and Operations
From General Fund 64,600
Schedule of Programs:
Prison Operations Utah State Correctional Facility 64,600

To implement the provisions of Drug Sentencing Modifications (House Bill 68, 2024 General Session).

Item 88
To Utah Department of Corrections - Programs and Operations
From General Fund 50,600
From General Fund, One-time ..... (42,900)
Schedule of Programs:
Adult Probation and Parole Programs 7,700

To implement the provisions of Unlawful Kissing of a Child or Minor (House Bill 225, 2024 General Session).

Item 89
To Utah Department of Corrections - Programs and Operations
From General Fund 1,951,200
Schedule of Programs:
Prison Operations Utah State Correctional Facility 1,951,200

To implement the provisions of Law Enforcement Employee Overtime Amendments (House Bill 271, 2024 General Session).

Item 90
To Utah Department of Corrections - Programs and Operations
From General Fund 124,800
From General Fund, One-time ..... (24,400)
Schedule of Programs:
Adult Probation and Parole Programs ... 24,400
Prison Operations Utah State Correctional Facility 76,000

To implement the provisions of Criminal Justice Amendments (House Bill 366, 2024 General Session).

Item 91
To Utah Department of Corrections - Programs and Operations
From General Fund 58,000
From General Fund, One-time ..... (58,000)

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 92
To Utah Department of Corrections - Programs and Operations
From General Fund 380,000
From General Fund, One-time 1,287,000
Schedule of Programs:
Department Administrative Services 1,287,000
Prison Operations Utah State Correctional Facility 380,000

To implement the provisions of Criminal Justice Modifications (Senate Bill 213, 2024 General Session).

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 93
To Judicial Council/State Court Administrator - Administration
From General Fund ..... (171,000)
From General Fund, One-time 1,966,000
Schedule of Programs:
Administrative Office 1,400,000
Data Processing 1,366,000
District Courts ..... (971,000)

The Legislature intends that the Administrative Office of the Courts use the $200,000 one-time General Fund provided by this item to grant: Domestic Violence and Family Law Legal Aid.

Item 94
To Judicial Council/State Court Administrator - Administration
From General Fund, One-time 21,000
Schedule of Programs:
Data Processing 21,000

To implement the provisions of Criminal Accounts Receivable Amendments (House Bill 21, 2024 General Session).

Item 95
To Judicial Council/State Court Administrator - Administration
From General Fund 30,100
Schedule of Programs:
Justice Courts 30,100

To implement the provisions of Correctional Facility Amendments (House Bill 26, 2024 General Session).

Item 96
To Judicial Council/State Court Administrator - Administration
From General Fund 18,900
Schedule of Programs:
District Courts 18,900

To implement the provisions of Road Rage Amendments (House Bill 30, 2024 General Session).

Item 97
To Judicial Council/State Court Administrator - Administration
From General Fund 23,800
Schedule of Programs:
District Courts 23,800

To implement the provisions of Threat of Violence Amendments (House Bill 147, 2024 General Session).

Item 98
To Judicial Council/State Court Administrator - Administration
From General Fund ..... (1,100)
Schedule of Programs:
District Courts ..... (1,100)

To implement the provisions of Criminal Defamation Amendments (House Bill 158, 2024 General Session).

Item 99
To Judicial Council/State Court Administrator - Administration
From General Fund 10,900
Schedule of Programs:
District Courts 10,900

To implement the provisions of Involuntary Commitment Amendments (House Bill 203, 2024 General Session).

Item 100
To Judicial Council/State Court Administrator - Administration
From General Fund 10,200
Schedule of Programs:
District Courts 10,200

To implement the provisions of Restitution Revisions (House Bill 218, 2024 General Session).

Item 101
To Judicial Council/State Court Administrator - Administration
From General Fund 26,900
Schedule of Programs:
District Courts 26,900

To implement the provisions of Unlawful Kissing of a Child or Minor (House Bill 225, 2024 General Session).

Item 102
To Judicial Council/State Court Administrator - Administration
From General Fund 82,000
Schedule of Programs:
District Courts 82,000

To implement the provisions of Court-ordered Treatment Modifications (House Bill 299, 2024 General Session).

Item 103
To Judicial Council/State Court Administrator - Administration
From General Fund ..... (13,200)
From General Fund, One-time 34,000
From General Fund Restricted - Children's Legal Defense 2,200
Schedule of Programs:
Data Processing 34,000
District Courts ..... (11,000)

To implement the provisions of Amendments to Mandatory Courses for Family Law Actions (House Bill 337, 2024 General Session).

Item 104
To Judicial Council/State Court Administrator - Administration
From General Fund, One-time 210,200
Schedule of Programs:
Data Processing 210,200

To implement the provisions of Amendments to Expungement (House Bill 352, 2024 General Session).

Item 105
To Judicial Council/State Court Administrator - Administration
From General Fund, One-time 9,800
Schedule of Programs:
Data Processing 9,800

To implement the provisions of Bail Amendments (House Bill 356, 2024 General Session).

Item 106
To Judicial Council/State Court Administrator - Administration
From General Fund 23,300
Schedule of Programs:
Juvenile Courts 23,300

To implement the provisions of Juvenile Justice Revisions (House Bill 362, 2024 General Session).

Item 107
To Judicial Council/State Court Administrator - Administration
From General Fund 20,500
Schedule of Programs:
District Courts 20,500

To implement the provisions of Criminal Justice Amendments (House Bill 366, 2024 General Session).

Item 108
To Judicial Council/State Court Administrator - Administration
From General Fund 488,800
Schedule of Programs:
District Courts 488,800

To implement the provisions of Homelessness and Vulnerable Populations Amendments (House Bill 421, 2024 General Session).

Item 109
To Judicial Council/State Court Administrator - Administration
From General Fund 7,600
Schedule of Programs:
District Courts 4,900
Juvenile Courts 2,700

To implement the provisions of Lewdness Involving a Child Amendments (House Bill 424, 2024 General Session).

Item 110
To Judicial Council/State Court Administrator - Administration
From General Fund 6,800
Schedule of Programs:
District Courts 6,800

To implement the provisions of Counterfeit Airbag Amendments (House Bill 537, 2024 General Session).

Item 111
To Judicial Council/State Court Administrator - Administration
From General Fund 17,100
From General Fund, One-time 49,600
Schedule of Programs:
Data Processing 58,200
District Courts 8,500

To implement the provisions of Joint Resolution Amending Rules of Civil Procedure on Change of Judge as a Matter of Right (House Joint Resolution 8, 2024 General Session).

Item 112
To Judicial Council/State Court Administrator - Administration
From General Fund ..... (365,800)
Schedule of Programs:
District Courts ..... (365,800)

To implement the provisions of Joint Resolution Regarding District Court Operations (House Joint Resolution 22, 2024 General Session).

Item 113
To Judicial Council/State Court Administrator - Administration
From General Fund 977,700
Schedule of Programs:
District Courts 488,900
Juvenile Courts 488,800

To implement the provisions of Judiciary Amendments (Senate Bill 70, 2024 General Session).

Item 114
To Judicial Council/State Court Administrator - Administration
From General Fund 8,200
Schedule of Programs:
District Courts 8,200

To implement the provisions of Evidence Retention Amendments (Senate Bill 76, 2024 General Session).

Item 115
To Judicial Council/State Court Administrator - Administration
From General Fund 85,500
Schedule of Programs:
District Courts 85,500

To implement the provisions of Domestic Violence Amendments (Senate Bill 110, 2024 General Session).

Item 116
To Judicial Council/State Court Administrator - Administration
From General Fund, One-time 70,000
Schedule of Programs:
Data Processing 70,000

To implement the provisions of Criminal Justice Modifications (Senate Bill 213, 2024 General Session).

Item 117
To Judicial Council/State Court Administrator - Administration
From General Fund 28,100
Schedule of Programs:
District Courts 28,100

To implement the provisions of Joint Resolution Dissolving Richmond City Justice Court (Senate Joint Resolution 10, 2024 General Session).

Item 118
To Judicial Council/State Court Administrator - Contracts and Leases
From General Fund, One-time 447,000
From General Fund Restricted - State Court Complex Account, One-time 494,000
Schedule of Programs:
Contracts and Leases 941,000

Item 119
To Judicial Council/State Court Administrator - Guardian ad Litem
From General Fund 171,000
Schedule of Programs:
Guardian ad Litem 171,000

GOVERNOR'S OFFICE

Item 120
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-time ..... (300,000)
From Crime Victim Reparations Fund 643,000
Schedule of Programs:
Utah Office for Victims of Crime 643,000
Utah Victim Services Commission ... (300,000)

Item 121
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund, One-time 50,000
Schedule of Programs:
Substance Use and Mental Health Advisory Council 50,000

To implement the provisions of Court-ordered Treatment Modifications (House Bill 299, 2024 General Session).

Item 122
To Governor's Office - Commission on Criminal and Juvenile Justice
From General Fund ..... (6,500)
Schedule of Programs:
CCJJ Commission ..... (6,500)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 123
To Governor's Office
From General Fund 150,000
From General Fund, One-time ..... (150,000)

Item 124
To Governor's Office - Indigent Defense Commission
From General Fund 100
From General Fund Restricted - Indigent Defense Resources 1,100
Schedule of Programs:
Indigent Appellate Defense Division 1,200

Item 125
To Governor's Office - Indigent Defense Commission
From General Fund Restricted - Indigent Defense Resources 60,000
Schedule of Programs:
Office of Indigent Defense Services 60,000

To implement the provisions of Indigent Defense Amendments (Senate Bill 160, 2024 General Session).

Item 126
To Governor's Office - Indigent Defense Commission
From General Fund 40,000
Schedule of Programs:
Office of Indigent Defense Services 40,000

To implement the provisions of Court Transcript Fee Amendments (Senate Bill 167, 2024 General Session).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 127
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund 3,083,000
From Federal Funds 9,500
Schedule of Programs:

Juvenile Justice & Youth Services 199,400
Community Programs 2,893,100

Item 128
To Department of Health and Human Services - Juvenile Justice & Youth Services
From General Fund 1,002,000
Schedule of Programs:
Community Programs 1,002,000

To implement the provisions of Psychotropic Medication Oversight Pilot Program Amendments (House Bill 38, 2024 General Session).

Item 129
To Department of Health and Human Services - Correctional Health Services
From General Fund ..... (1,518,100)
Schedule of Programs:
Correctional Health Services ..... (1,518,100)

In addition to other fees passed in House Bill 8, "State Agency Fees and Internal Service Fund Rate Authorization and Appropriations" (House Bill 8, 2024 General Session), the Legislature approves the following fees and amounts: 1. Prisoner Co-Pay - $5.00; and 2. Prisoner Prescription - $2.00.

Item 130
To Department of Health and Human Services - Correctional Health Services
From General Fund ..... (30,000)
From General Fund, One-time 30,000
From Dedicated Credits Revenue 60,000
From Dedicated Credits Revenue, One-time ..... (60,000)

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 131
To Department of Health and Human Services - Correctional Health Services
From General Fund 269,800
From General Fund, One-time ..... (125,000)
Schedule of Programs:
Correctional Health Services 144,800

To implement the provisions of Substance Use Treatment in Correctional Facilities (Senate Bill 212, 2024 General Session).

OFFICE OF THE STATE AUDITOR

Item 132
To Office of the State Auditor - State Auditor
From General Fund 16,000
From General Fund, One-time 8,000
Schedule of Programs:
State Auditor 24,000

To implement the provisions of Infrastructure Financing Districts (House Bill 13, 2024 General Session).

Item 133
To Office of the State Auditor - State Auditor
From Dedicated Credits Revenue 300,000
Schedule of Programs:
State Auditor 300,000

To implement the provisions of Equal Opportunity Initiatives (House Bill 261, 2024 General Session).

Item 134
To Office of the State Auditor - State Auditor
From General Fund 105,000
From Dedicated Credits Revenue 129,500
Schedule of Programs:
State Privacy Officer 234,500

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 135
To Office of the State Auditor - State Auditor
From Dedicated Credits Revenue 75,000
From Dedicated Credits Revenue, One-time ..... (75,000)

To implement the provisions of Utah Fairpark Area Investment and Restoration District (House Bill 562, 2024 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 136
To Department of Public Safety - Driver License
From Department of Public Safety Restricted Account 2,900
Schedule of Programs:
Driver Services 2,900

To implement the provisions of Road Rage Amendments (House Bill 30, 2024 General Session).

Item 137
To Department of Public Safety - Emergency Management
From General Fund, One-time 500,000
Schedule of Programs:
Emergency Management 500,000

The Legislature intends that the Division of Emergency Management use the $500,000 one-time General Fund provided by this item to grant: Security Infrastructure for Domestic Violence.

Item 138
To Department of Public Safety - Peace Officers' Standards and Training
From General Fund 1,200
From Dedicated Credits Revenue 100
From Uninsured Motorist Identification Restricted Account 500,000
Schedule of Programs:
Basic Training 501,300

Item 139
To Department of Public Safety - Programs & Operations

From General Fund 608,400
From General Fund,
One-time 250,000
From Federal Funds 87,000
From Dedicated Credits
Revenue 25,800
From Department of Public Safety Restricted Account 7,500
From General Fund Restricted - Fire Academy Support 3,500
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 9,600
From General Fund Restricted - Reduced Cigarette Ignition Propensity & Firefighter Protection Account 100
From Gen. Fund Rest. - Utah Highway Patrol Aero Bureau 500
Schedule of Programs:
Aero Bureau 4,900
CITS Communications 52,300
CITS State Bureau of Investigation 41,200
Department Commissioner's Office 250,000
Fire Marshal - Fire Operations 4,000
Highway Patrol - Commercial Vehicle .. 10,300
Highway Patrol - Field Operations 238,200
Highway Patrol - Protective Services ... 11,400
Highway Patrol - Special Enforcement ... 3,800
Highway Patrol - Special Services 10,200
Highway Patrol - Technology Services ... 1,100
Emergency Medical Services 365,000

The Legislature intends that the Department of Public Safety, Programs and Operations, may purchase eight additional vehicles with department funds.

Item 140
To Department of Public Safety - Programs & Operations
From General Fund 100,000
Schedule of Programs:
Department Commissioner's Office 100,000

To implement the provisions of School Employee Firearm Possession Amendments (House Bill 119, 2024 General Session).

Item 141
To Department of Public Safety - Programs & Operations
From Dedicated Credits
Revenue ..... (160,000)
From Dedicated Credits Revenue,
One-time 80,000
Schedule of Programs:
Emergency Medical Services ..... (80,000)

To implement the provisions of Volunteer Emergency Medical Service Personnel Insurance Program Amendments (House Bill 217, 2024 General Session).

Item 142
To Department of Public Safety - Programs & Operations
From General Fund 118,900
Schedule of Programs:
Department Commissioner's Office 118,900

To implement the provisions of First Responder Mental Health Services Amendments (House Bill 378, 2024 General Session).

Item 143
To Department of Public Safety - Programs & Operations
From General Fund 175,000
From General Fund,
One-time 10,000
Schedule of Programs:
Department Commissioner's Office 185,000

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 144
To Department of Public Safety - Programs & Operations
From General Fund ..... (1,200)
Schedule of Programs:
Department Commissioner's Office .... (1,200)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 145
To Department of Public Safety - Programs & Operations
From General Fund Restricted - Fire Academy Support 10,200
Schedule of Programs:
Fire Marshal - Fire Operations 10,200

To implement the provisions of Education Entity Amendments (Senate Bill 13, 2024 General Session).

Item 146
To Department of Public Safety - Programs & Operations
From General Fund 80,000
From General Fund,
One-time 80,000
Schedule of Programs:
CITS State Bureau of Investigation 160,000

To implement the provisions of Offender Registry Amendments (Senate Bill 23, 2024 General Session).

Item 147
To Department of Public Safety - Programs & Operations
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct. 760,000
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct., One-time .... (412,000)
Schedule of Programs:
Highway Patrol - Field Operations 348,000

To implement the provisions of License Plate Revisions (Senate Bill 45, 2024 General Session).

Item 148
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 165,800
From General Fund,
One-time 96,000
From Dedicated Credits
Revenue ..... (50,000)

Schedule of Programs:
Non- Government/Other Services 211,800

To implement the provisions of Amendments to Expungement (House Bill 352, 2024 General Session).

Item 149
To Department of Public Safety - Bureau of Criminal Identification
From General Fund 37,000
From Dedicated Credits Revenue ..... (37,000)

To implement the provisions of Expungement Revisions (Senate Bill 163, 2024 General Session).

STATE TREASURER

Item 150
To State Treasurer
From General Fund 1,000,000
Schedule of Programs:
Treasury and Investment 1,000,000

Item 151
To State Treasurer
From General Fund, One- time 50,000
Schedule of Programs:
Treasury and Investment 50,000

To implement the provisions of Precious Metals Amendments (House Bill 348, 2024 General Session).

Item 152
To State Treasurer
From Dedicated Credits Revenue, One- time 210,000
From Closing Nonlapsing Balances ..... (140,000)
Schedule of Programs:
Treasury and Investment 70,000

To implement the provisions of State Treasurer Investment Amendments (House Bill 572, 2024 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 153
To Department of Government Operations - DFCM
From Dedicated Credits Revenue 161,300
Schedule of Programs:
DFCM Administration 161,300

To implement the provisions of Affordable Building Amendments (Senate Bill 168, 2024 General Session).

Item 154
To Department of Government Operations - Finance - Mandated
From General Fund, One- time 2,500,000
Schedule of Programs:
Redistricting Commission 2,500,000

The Legislature intends that the Division of Finance shall not apportion or release any of the $2.5 million General Fund appropriation for Presidential Debate until the University of Utah reports to the Executive Appropriations Committee the uses of this money and the Executive Appropriations Committee approves releasing of the funds.

Item 155
To Department of Government Operations - Finance - Mandated
From General Fund 300,000
Schedule of Programs:
Internal Service Fund Rate Impacts ... 300,000

To implement the provisions of Equal Opportunity Initiatives (House Bill 261, 2024 General Session).

Item 156
To Department of Government Operations - Division of Finance
From Dedicated Credits Revenue 1,958,000
From Dedicated Credits Revenue, One- time 1,818,900
Schedule of Programs:
Financial Information Systems 1,818,900
Technical Services 1,958,000

To implement the provisions of Utah Fairpark Area Investment and Restoration District (House Bill 562, 2024 General Session).

Item 157
To Department of Government Operations - Division of Finance
From General Fund 1,800
Schedule of Programs:
Finance Director's Office 1,800

To implement the provisions of State Treasurer Investment Amendments (House Bill 572, 2024 General Session).

Item 158
To Department of Government Operations - Division of Finance
From General Fund, One- time 9,600
Schedule of Programs:
Payroll 9,600

To implement the provisions of Safe Leave Amendments (Senate Bill 174, 2024 General Session).

Item 159
To Department of Government Operations - Division of Finance
From General Fund, One- time 2,500
Schedule of Programs:
Payroll 2,500

To implement the provisions of Generational Water Infrastructure Amendments (Senate Bill 211, 2024 General Session).

Item 160
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 1,400
From General Fund,
One-time ..... (1,400)
From Federal Funds 3,800
From Federal Funds,
One-time ..... (3,800)

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 161
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 1,400
From Federal Funds 3,800
Schedule of Programs:
Inspector General of Medicaid Services .. 5,200

To implement the provisions of Caregiver Compensation Amendments (Senate Bill 32, 2024 General Session).

Item 162
To Department of Government Operations - Inspector General of Medicaid Services
From General Fund 1,400
From General Fund,
One-time ..... (1,400)
From Federal Funds 3,800
From Federal Funds,
One-time ..... (3,800)

To implement the provisions of Native American Health Amendments (Senate Bill 181, 2024 General Session).

Item 163
To Department of Government Operations - Chief Information Officer
From General Fund 700,000
From General Fund,
One-time 2,520,100
Schedule of Programs:
Administration 3,220,100

Item 164
To Department of Government Operations - Chief Information Officer
From General Fund 60,000
Schedule of Programs:
IT Projects 60,000

To implement the provisions of Protection of State Official or Employee Personal Information (House Bill 538, 2024 General Session).

Item 165
To Department of Government Operations - Office of Data Privacy
From General Fund 1,535,600
From General Fund,
One-time 258,000
Schedule of Programs:
Office of Data Privacy 1,793,600

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

CAPITAL BUDGET

Item 166
To Capital Budget - Capital Development - Higher Education
From Higher Education Capital Projects Fund, One-time ..... (60,400)
Schedule of Programs:
SUU Business Building West Addition . (5,000)
Snow College Social Science Classroom & Lab Building ..... (55,400)

Item 167
To Capital Budget - Capital Improvements
From General Fund ..... (10,000,000)
From General Fund,
One-time 20,000,000
Schedule of Programs:
Capital Improvements 10,000,000

The Legislature intends that the Division of Facilities Construction and Management use up to $100,000 provided by this item to secure access to Range Creek.

Item 168
To Capital Budget - Pass-Through
From General Fund,
One-time 250,000
Schedule of Programs:
DFCM Pass Through 250,000

The Legislature intends that the Division of Facilities Construction and Management use one-time appropriations provided by this item to grant the City of Huntsville $250,000.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 169
To State Board of Bonding Commissioners - Debt Service - Debt Service
From Income Tax Fund,
One-time 100,000,000
Schedule of Programs:
G.O. Bonds - Higher Ed 100,000,000

The Legislature intends that, should revenue collections for fiscal year 2024 and revised revenue projections for fiscal year 2025 be sufficient to support all existing appropriations from the General and Income Tax Funds for those years, the Legislative Fiscal Analyst shall, when drafting the base budget bills for the 2025 Legislative General Session, rescind this $100,000,000 appropriation from the Income Tax Fund, and apply these funds to the State Agency Capital Development Fund base budget bill one-time in fiscal year 2025. The Legislature intends that the state Board of Bonding Commissioners shall not commit, encumber, or expend this appropriation until after the tenth day of the 2025 Legislative Session.

TRANSPORTATION

Item 170
To Transportation - Highway System Construction
From General Fund,
One-time 250,000
Schedule of Programs:

State Construction 250,000

The Legislature intends that the Department of Transportation use one-time appropriation of $250,000 allocated in this item to construct cattle guards and fencing along SR-25, as much as funding allows.

Item 171
To Transportation - Highway System Construction
From Transportation Fund .. (1,200)
Schedule of Programs:
State Construction ..... (1,200)

To implement the provisions of State Highway Designation Amendments (House Bill 50, 2024 General Session).

Item 172
To Transportation - Cooperative Agreements
From Federal Funds 9,676,200
Schedule of Programs:
Cooperative Agreements 9,676,200

Item 173
To Transportation - Engineering Services
From Federal Funds 23,971,200
From Dedicated Credits
Revenue 100,000
From General Fund Restricted - Infrastructure and Economic Diversification Investment Account, One-time 5,000,000
Schedule of Programs:
Engineering Services 1,010,800
Planning and Investment 100,000
Program Development 23,821,200
Structures 150,000
Transit Capital Development 3,068,600
Active Transportation 920,600

The Legislature intends that the Department of Transportation use one-time appropriation of $5,000,000 allocated in this item to distribute proportionally to counties the amount of severance tax revenue generated by each county.

Item 174
To Transportation - Operations/Maintenance Management
From Transportation Fund .. (1,000)
From Federal Funds 1,800,000
From Dedicated Credits
Revenue ..... (3,349,700)
Schedule of Programs:
Equipment Purchases ..... (5,000,000)
Field Crews 1,095,900
Region 1 463,500
Region 2 946,400
Region 3 248,200
Region 4 431,800
Seasonal Pools 64,500
Shops ..... (1,000)
Traffic Safety/Tramway 200,000

Item 175
To Transportation - Region Management
From Transportation Fund .. (340,400)
Schedule of Programs:
Region 4 ..... (340,400)

Item 176
To Transportation - Support Services
From Transportation Fund .. 341,400
From Federal Funds,
One-time 197,400
Schedule of Programs:
Ports of Entry 197,400
Risk Management 341,400

Item 177
To Transportation - Support Services
From Transportation Fund .. 70,000
Schedule of Programs:
Comptroller 70,000

To implement the provisions of Transportation Funding Modifications (House Bill 488, 2024 General Session).

Item 178
To Transportation - Pass-Through

The Legislature intends that $500,000 appropriated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 57, for Power District Transportation Study be passed through by the Department of Transportation to a Metropolitan Planning Organization in a county of the first class for the study.

The Legislature intends that the Department of Transportation use one-time appropriations allocated in "New Fiscal Year Supplemental Appropriations Act," (House Bill 2, 2024 General Session), Item 57, to grant: Cache Valley Transit District $5,000,000 in FY 2025; City of St. George $15,000,000 in FY 2025; and City of Provo $5,000,000 in FY 2025.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE SERVICES

Item 179
To Department of Alcoholic Beverage Services - DABS Operations
From Liquor Control Fund,
One-time 170,000
Schedule of Programs:
Operations 170,000

To implement the provisions of Alcohol Amendments (House Bill 548, 2024 General Session).

DEPARTMENT OF COMMERCE

Item 180
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 107,000
Schedule of Programs:
Occupational and Professional Licensing 107,000

Item 181
To Department of Commerce - Commerce General Regulation

From General Fund Restricted - Commerce Service Account 7,900
From General Fund Restricted - Commerce Service Account, One-time 37,400
Schedule of Programs:
Consumer Protection 45,300

To implement the provisions of Charitable Solicitations Act Amendments (House Bill 43, 2024 General Session).

Item 182
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 227,600
From General Fund Restricted - Commerce Service Account, One-time 8,500
Schedule of Programs:
Occupational and Professional Licensing 236,100

To implement the provisions of Social Work Licensure Compact (House Bill 44, 2024 General Session).

Item 183
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 80,000
Schedule of Programs:
Occupational and Professional Licensing 80,000

To implement the provisions of Licensing Amendments (House Bill 58, 2024 General Session).

Item 184
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 600
From General Fund Restricted - Commerce Service Account, One-time 8,900
Schedule of Programs:
Occupational and Professional Licensing . 9,500

To implement the provisions of Pharmacy Amendments (House Bill 132, 2024 General Session).

Item 185
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 3,100
From General Fund Restricted - Commerce Service Account, One-time 2,600
Schedule of Programs:
Occupational and Professional Licensing . 5,700

To implement the provisions of Residential Construction Amendments (House Bill 152, 2024 General Session).

Item 186
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 19,300
From General Fund Restricted - Commerce Service Account, One-time 1,800
Schedule of Programs:
Consumer Protection 21,100

To implement the provisions of Automatic Renewal Contract Requirements (House Bill 174, 2024 General Session).

Item 187
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 9,000
Schedule of Programs:
Occupational and Professional Licensing . 9,000

To implement the provisions of Order for Life Sustaining Treatment Amendments (House Bill 200, 2024 General Session).

Item 188
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 15,600
Schedule of Programs:
Consumer Protection 15,600

To implement the provisions of Home Solar Energy Amendments (House Bill 215, 2024 General Session).

Item 189
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account, One-time 10,400
Schedule of Programs:
Administration 10,400

To implement the provisions of Access to Protected Health Information (House Bill 427, 2024 General Session).

Item 190
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 20,100
Schedule of Programs:
Occupational and Professional Licensing 20,100

To implement the provisions of Construction Trade Amendments (House Bill 483, 2024 General Session).

Item 191
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 80,100
Schedule of Programs:
Occupational and Professional Licensing 80,100

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 192
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 8,200
From General Fund Restricted - Commerce Service Account, One-time 6,800
Schedule of Programs:

Occupational and Professional Licensing 15,000

To implement the provisions of Licensed School Psychological Practitioner Amendments (House Bill 530, 2024 General Session).

Item 193
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account ..... (36,100)
Schedule of Programs:
Occupational and Professional Licensing ..... (36,100)

To implement the provisions of Boards and Commissions Modifications (House Bill 534, 2024 General Session).

Item 194
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 185,000
Schedule of Programs:
Occupational and Professional Licensing 185,000

To implement the provisions of Behavioral Health Licensing Amendments (Senate Bill 26, 2024 General Session).

Item 195
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 26,400
From General Fund Restricted - Commerce Service Account, One-time 15,000
Schedule of Programs:
Corporations and Commercial Code 41,400

To implement the provisions of Commercial Filing Amendments (Senate Bill 43, 2024 General Session).

Item 196
To Department of Commerce - Commerce General Regulation
From General Fund 288,000
Schedule of Programs:
Consumer Protection 288,000

To implement the provisions of Children's Device Protection Act (Senate Bill 104, 2024 General Session).

Item 197
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 27,100
From General Fund Restricted - Commerce Service Account, One-time 1,000
Schedule of Programs:
Occupational and Professional Licensing 28,100

To implement the provisions of Cosmetology Licensing Amendments (Senate Bill 112, 2024 General Session).

Item 198
To Department of Commerce - Commerce General Regulation
From Dedicated Credits Revenue, One-time 110,700
From General Fund Restricted - Commerce Service Account, One-time 934,000
Schedule of Programs:
Administration 1,044,700

To implement the provisions of Artificial Intelligence Amendments (Senate Bill 149, 2024 General Session).

Item 199
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 1,400
Schedule of Programs:
Occupational and Professional Licensing . 1,400

To implement the provisions of Affordable Building Amendments (Senate Bill 168, 2024 General Session).

Item 200
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 144,000
Schedule of Programs:
Occupational and Professional Licensing 144,000

To implement the provisions of Social Media Regulation Amendments (Senate Bill 194, 2024 General Session).

Item 201
To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Account 33,600
From General Fund Restricted - Commerce Service Account, One-time 5,600
Schedule of Programs:
Occupational and Professional Licensing 39,200

To implement the provisions of Life Coaching Requirements (Senate Bill 251, 2024 General Session).

Item 202
To Department of Commerce - Public Utilities Professional and Technical Services
From General Fund Restricted - Public Utility Restricted Acct., One-time . 100,000
Schedule of Programs:
Professional and Technical Services ... 100,000

To implement the provisions of Energy Independence Amendments (Senate Bill 224, 2024 General Session).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 203
To Governor's Office of Economic Opportunity - Administration
From General Fund ..... (800)
Schedule of Programs:

Administration ..... (800)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 204

To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 200,000
Schedule of Programs:
Business Services 200,000

Item 205

To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund Restricted - Cannabinoid Proceeds Restricted Account 50,000
From General Fund Restricted - Cannabinoid Proceeds Restricted Account, One-time 5,000
Schedule of Programs:
Administration 55,000

To implement the provisions of Industrial Hemp Amendments (House Bill 52, 2024 General Session).

Item 206

To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund, One-time 2,000,000
Schedule of Programs:
Incentives and Grants 2,000,000

To implement the provisions of Governor's Office of Economic Opportunity Amendments (Senate Bill 84, 2024 General Session).

Item 207

To Governor's Office of Economic Opportunity - Economic Prosperity
From General Fund 123,000
Schedule of Programs:
Incentives and Grants 123,000

To implement the provisions of First Home Investment Zone Act (Senate Bill 268, 2024 General Session).

Item 208

To Governor's Office of Economic Opportunity - Office of Tourism
From General Fund Restricted - Tourism Marketing Performance ... (720,000)
From General Fund Restricted - Tourism Marketing Performance, One-time 95,600
Schedule of Programs:
Marketing and Advertising ..... (624,400)

Item 209

To Governor's Office of Economic Opportunity - Pass-Through
From General Fund ..... (1,795,200)
From General Fund, One-time 6,030,000
Schedule of Programs:
Pass-Through 4,234,800

The Legislature intends that the Governor's Office of Economic Opportunity use one-time appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 67 and this item to grant: Sundance Institute $1,375,000, Taste Utah "Lets Eat Out" $200,000, Central Utah Agri-park $1,000,000, Hildale City Maxwell Park $3,079,000, Breaking Barriers $150,000, San Juan Hospital Building Replacement $12,500,000, Utah Tech Week $250,000, Utah Advanced Materials Manufacturing Initiative $1,000,000.

The Legislature intends that the Governor's Office of Economic Opportunity use ongoing appropriations allocated in "Business, Economic Development, and Labor Base Budget" (Senate Bill 4, 2024 General Session) Item 70 to grant: Partnership for Hill Air Force Base $50,000, SheTech $350,000.

The Legislature intends that the Governor's Office of Economic Opportunity (GOEO) use one-time appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 67 to grant Utah Workforce Housing Advocacy $1,000,000. GOEO shall distribute the funds consistent with Section 63G-6b-202 after establishing deliverables, reporting, and performance metrics described in Section 63G-6b-202(4) in "State Grant Process Amendments", (House Bill 335, 2024 General Session).

The Legislature intends that the Governor's Office of Economic Opportunity use the $700,000 ongoing General Fund appropriations allocated in this item for Senior Financial Aid Advocates.

The Legislature intends that the Governor's Office of Economic Opportunity use one-time appropriations provided by this item to grant: Utah Consular Corp $30,000, United Way of Northern Utah $700,000, Utah Diplomacy Program $50,000, Utah Refugee Scouting $250,000.

The Legislature intends that the Governor's Office of Economic Opportunity use the one-time General Fund appropriation of $150,000 in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 67 for Breaking Barriers by distributing funds to Kinect Capital to help connect women owned businesses to venture capital funding.

Item 210

To Governor's Office of Economic Opportunity - Utah Sports Commission
From General Fund Restricted - Tourism Marketing Performance ... (80,000)
From General Fund Restricted - Tourism Marketing Performance, One-time 10,600
Schedule of Programs:
Utah Sports Commission ..... (69,400)

The Legislature intends that the Sports Commission use ongoing appropriations

allocated in "Business, Economic Development, and Labor Base Budget" (Senate Bill 4, 2024 General Session) Item 74 and "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session) Item 75 to grant: Utah Championship $45,000, Run Elite $150,000, and Rocky Mountain Golden Gloves $125,000.

FINANCIAL INSTITUTIONS

Item 211
To Financial Institutions - Financial Institutions Administration
Schedule of Programs:
Administration ..... (25,000)
Building Operations and Maintenance .. 25,000

The Legislature intends that the Department of Financial Institutions shift $25,500 from Administration to Building Operations and Maintenance for an office lease increase in Fiscal Year 2025.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 212
To Department of Cultural and Community Engagement - Administration
From General Fund ..... (1,500)
Schedule of Programs:
Administrative Services ..... (1,500)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 213
To Department of Cultural and Community Engagement - Division of Arts and Museums
From General Fund 85,000
Schedule of Programs:
Community Arts Outreach 85,000

To implement the provisions of Public Art Funding Amendments (Senate Bill 144, 2024 General Session).

Item 214
To Department of Cultural and Community Engagement - Arts & Museums Grants
From General Fund 75,000
Schedule of Programs:
Pass Through Grants 75,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 87 and in this item to grant Hill Aerospace Museum $175,000.

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations allocated in "Business, Economic Development, and Labor Base Budget" (Senate Bill 4, 2024 General Session) Item 86 to grant Utah Sports Hall of Fame $252,500.

Item 215
To Department of Cultural and Community Engagement - Capital Facilities Grants

The Legislature intends that the Department of Cultural and Community Engagement use one-time appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 87 to grant St. George Musical Theatre Construction $1,000,000.

Item 216
To Department of Cultural and Community Engagement - Capital Facilities Grants
From General Fund,
One-time 1,000,000
Schedule of Programs:
Pass Through Grants 1,000,000

To implement the provisions of Concurrent Resolution Creating the Golden Spike State Monument (Senate Concurrent Resolution 6, 2024 General Session).

Notwithstanding the intent language in "Current Fiscal Year Supplemental Appropriations" (Senate Bill 3, 2024 General Session), Item 173, the Legislature intends that $2,000,000 one-time General Fund allocated in this item and "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session) be utilized for the Golden Spike Monument.

Item 217
To Department of Cultural and Community Engagement - Heritage & Events Grants
From General Fund 75,000
Schedule of Programs:
Pass Through Grants 75,000

The Legislature intends that the Department of Cultural and Community Engagement use ongoing appropriations allocated in this item and "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session) item 88 to grant Ogden Pioneer Days Rodeo $150,000.

INSURANCE DEPARTMENT

Item 218
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. 300
From General Fund Rest. - Insurance Fraud Investigation Acct. 2,900
Schedule of Programs:
Insurance Fraud Program 3,200

The Legislature intends that the increased revenue from the Insurance Fraud Assessment Fee and the Insurer Service Fee be used to fund a financial regulator, Attorney General ISF for Administration, and Property and Casualty Market Examiners for a total of $115,00 one-time and $513,000 ongoing.

Item 219
To Insurance Department - Insurance Department Administration

From General Fund Restricted - Insurance Department Acct. 71,000
From General Fund Restricted - Insurance Department Acct., One-time 10,000
Schedule of Programs:
Administration 81,000

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 220
To Insurance Department - Insurance Department Administration
From General Fund Rest. - Insurance Fraud Investigation Acct. 442,500
Schedule of Programs:
Insurance Fraud Program 442,500

To implement the provisions of Insurance Amendments (Senate Bill 31, 2024 General Session).

Item 221
To Insurance Department - Insurance Department Administration
From General Fund Restricted - Insurance Department Acct. 9,300
From General Fund Restricted - Insurance Department Acct., One-time 5,000
Schedule of Programs:
Administration 14,300

To implement the provisions of Medical Preauthorization Amendments (Senate Bill 275, 2024 General Session).

LABOR COMMISSION

Item 222
To Labor Commission

In accordance with UCA 63J-1-903, the Legislature intends that the Labor Commission report performance measures for the Labor Commission line item, whose mission is to "achieve safety in Utah's workplaces and fairness in employment and housing." The Labor Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report on the following performance measures: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 223
To Public Service Commission

In accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report performance measures for the Administration line item, whose mission is "to provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report on: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah's public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0).

UTAH STATE TAX COMMISSION

Item 224
To Utah State Tax Commission - License Plates Production
From General Fund Restricted - License Plate Restricted Account ..... (1,073,000)
From General Fund Restricted - License Plate Restricted Account, One-time 24,000
Schedule of Programs:
License Plates Production ..... (1,049,000)

To implement the provisions of License Plate Revisions (Senate Bill 45, 2024 General Session).

Item 225
To Utah State Tax Commission - Tax Administration
From General Fund 200
From Dedicated Credits Revenue 100
From General Fund Restricted - Motor Vehicle Enforcement Division Temporary Permit Account 300
Schedule of Programs:
Enforcement 600

Item 226
To Utah State Tax Commission - Tax Administration
From General Fund 375,400
From General Fund, One-time 44,900
Schedule of Programs:
Operations 36,900

Enforcement 383,400

To implement the provisions of Industrial Hemp Amendments (House Bill 52, 2024 General Session).

Item 227
To Utah State Tax Commission - Tax Administration
From General Fund Restricted - License Plate Restricted Account 30,000
Schedule of Programs:
Operations 30,000

To implement the provisions of Disabled Parking Amendments (House Bill 210, 2024 General Session).

Item 228
To Utah State Tax Commission - Tax Administration
From General Fund,
One-time 43,100
Schedule of Programs:
Operations 43,100

To implement the provisions of Registration of Novel Vehicles (House Bill 441, 2024 General Session).

Item 229
To Utah State Tax Commission - Tax Administration
From General Fund 50,300
From General Fund,
One-time 12,600
From Income Tax Fund 42,000
From Income Tax Fund,
One-time 10,500
From General Fund Rest. - Sales and Use Tax Admin Fees 22,700
Schedule of Programs:
Operations 138,100

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 230
To Utah State Tax Commission - Tax Administration
From Income Tax Fund 61,000
Schedule of Programs:
Tax and Revenue 61,000

To implement the provisions of Utah Fits All Scholarship Program Amendments (House Bill 529, 2024 General Session).

Item 231
To Utah State Tax Commission - Tax Administration
From General Fund 133,900
From General Fund,
One-time 10,100
Schedule of Programs:
Operations 77,000
Tax and Revenue 67,000

To implement the provisions of Utah Fairpark Area Investment and Restoration District (House Bill 562, 2024 General Session).

Item 232
To Utah State Tax Commission - Tax Administration
From Dedicated Credits Revenue 800
Schedule of Programs:
Operations 800

To implement the provisions of Motor Vehicle Act Amendments (Senate Bill 16, 2024 General Session).

Item 233
To Utah State Tax Commission - Tax Administration
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account,
One-time 69,700
Schedule of Programs:
Operations 49,200
Enforcement 20,500

To implement the provisions of Electronic Cigarette Amendments (Senate Bill 61, 2024 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 234
To Department of Workforce Services - Administration
From Education Savings Incentive Restricted Account 8,400
Schedule of Programs:
Administrative Support 8,400

Item 235
To Department of Workforce Services - Administration
From General Fund ..... (2,900)
Schedule of Programs:
Administrative Support ..... (2,900)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 236
To Department of Workforce Services - Housing and Community Development
From General Fund 19,800
Schedule of Programs:
Housing Development 19,800

To implement the provisions of Affordable Building Amendments (Senate Bill 168, 2024 General Session).

Item 237
To Department of Workforce Services - Nutrition Assistance - SNAP
From Federal Funds,
One-time 25,047,800
Schedule of Programs:
Nutrition Assistance - SNAP 25,047,800

Item 238
To Department of Workforce Services - Operations and Policy
From General Fund,
One-time 1,810,400

From Federal Funds,
One-time 1,110,400
From Olene Walker Housing Loan
Fund ..... (29,700)
Schedule of Programs:
Eligibility Services 2,220,800
Workforce Development 670,300

Notwithstanding the intent language in "New Fiscal Year Supplemental Appropriations Act," (House Bill 2 2024 General Session) Item 103, lines 1809-1818 the Legislature intends that the following intent language supersedes the language found in House Bill 2: "The Legislature intends that the $1,725,000 provided in the Department of Workforce Services - Operation and Policy Line Item for the NewGen: Youth Homelessness Solutions and Preventions funding item from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the NewGen: Youth Homelessness Solutions and Preventions funding item to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY 2025 - $575,000; FY 2026 - $575,000; FY 2027 - $575,000."

Item 239
To Department of Workforce Services - Operations and Policy
From General Fund 51,800
From General Fund,
One-time ..... (31,900)
From Federal Funds 155,300
From Federal Funds,
One-time ..... (52,600)
Schedule of Programs:
Eligibility Services 62,000
Information Technology 60,600

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 240
To Department of Workforce Services - State Office of Rehabilitation
From Education Savings Incentive Restricted Account 1,000
Schedule of Programs:
Deaf and Hard of Hearing 1,000

Item 241
To Department of Workforce Services - Unemployment Insurance
From Education Savings Incentive Restricted Account 2,000
From Olene Walker Housing Loan
Fund (500)
From OWHTF-Low Income Housing 500
Schedule of Programs:
Adjudication 1,000
Unemployment Insurance
Administration 1,000

Item 242
To Department of Workforce Services - Office of Homeless Services
From General Fund,
One-time 35,600,000
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted
Account 2,500,000
Schedule of Programs:
Homeless Services 38,100,000

Item 243
To Department of Workforce Services - Office of Homeless Services
From General Fund 116,700
From General Fund,
One-time 100,800
Schedule of Programs:
Homeless Services 217,500

To implement the provisions of Homelessness Services Amendments (House Bill 298, 2024 General Session).

Item 244
To Department of Workforce Services - Office of Homeless Services
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted
Account 670,900
From General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account,
One-time ..... (2,500)
Schedule of Programs:
Homeless Services 668,400

To implement the provisions of Homelessness and Vulnerable Populations Amendments (House Bill 421, 2024 General Session).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 245
To Department of Health and Human Services - Operations
From General Fund 1,463,000
From General Fund,
One-time 40,000
Schedule of Programs:
Finance & Administration 1,355,000
Data, Systems, & Evaluations 108,000
Public Affairs, Education & Outreach ... 40,000

The Legislature intends that the Department of Health and Human Services use ongoing appropriations allocated in "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session), Item 107 to grant (1) Pro-Life Utah $200,000; and (2) Pregnancy Resource Center of Salt Lake, Inc. $200,000.

Item 246
To Department of Health and Human Services - Operations
From General Fund 25,100
From General Fund,
One-time 1,500
From Federal Funds 11,500
From Federal Funds, One-time 900

Schedule of Programs:
Finance & Administration 39,000

To implement the provisions of Federal Funds Contingency Planning (House Bill 59, 2024 General Session).

Item 247
To Department of Health and Human Services - Operations
From General Fund 1,200
Schedule of Programs:
Finance & Administration 1,200

To implement the provisions of Amendments to Expungement (House Bill 352, 2024 General Session).

Item 248
To Department of Health and Human Services - Operations
From General Fund 151,200
From General Fund, One-time 309,300
Schedule of Programs:
Finance & Administration 22,000
Data, Systems, & Evaluations 438,500

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 249
To Department of Health and Human Services - Operations
From General Fund 1,500
From General Fund, One-time ..... (1,500)
From Federal Funds 11,500
From Federal Funds, One-time ..... (11,500)
From Medicaid Expansion Fund 5,100
From Medicaid Expansion Fund, One-time ..... (5,100)

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 250
To Department of Health and Human Services - Operations
From General Fund ..... (3,400)
From Federal Funds ..... (700)
Schedule of Programs:
Finance & Administration ..... (4,100)

To implement the provisions of State Boards and Commissions Modifications (House Bill 532, 2024 General Session).

Item 251
To Department of Health and Human Services - Operations
From General Fund 6,200
Schedule of Programs:
Finance & Administration 6,200

To implement the provisions of Behavioral Health System Amendments (Senate Bill 27, 2024 General Session).

Item 252
To Department of Health and Human Services - Operations
From General Fund ..... (7,500)
Schedule of Programs:
Data, Systems, & Evaluations ..... (7,500)

To implement the provisions of Health and Human Services Reporting Requirements (Senate Bill 42, 2024 General Session).

Item 253
To Department of Health and Human Services - Operations
From General Fund 19,000
Schedule of Programs:
Data, Systems, & Evaluations 19,000

To implement the provisions of Youth Fee Waiver Amendments (Senate Bill 223, 2024 General Session).

Item 254
To Department of Health and Human Services - Clinical Services
From General Fund 24,000
From Federal Funds ..... (1,836,100)
From Federal Funds, One-time 17,276,300
From Dedicated Credits Revenue, One-time 2,334,100
From Expendable Receipts, One-time 62,100
Schedule of Programs:
State Laboratory 19,672,500
Primary Care and Rural Health .... (1,443,200)
Health Equity ..... (368,900)

The Legislature intends that $100,000 from the General Fund one-time appropriated by "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session) in Item 108, for Community Clinic Funding be distributed in one lump sum by August 1, 2024 directly to Doctors' Free Clinic in St. George.

The Legislature intends that the Department of Health and Human Services use the $493,400 one-time appropriations allocated in New Fiscal Year Supplemental Appropriations Act, (House Bill 2, 2024 General Session) Item 108 for Project Embrace.

Item 255
To Department of Health and Human Services - Department Oversight
From General Fund 50,000
Schedule of Programs:
Internal Audit 50,000

Item 256
To Department of Health and Human Services - Department Oversight
From General Fund ..... (117,500)
Schedule of Programs:
Licensing & Background Checks .... (117,500)

To implement the provisions of Foster Care Amendments (House Bill 451, 2024 General Session).

Item 257
To Department of Health and Human Services - Health Care Administration
From General Fund 62,800
From General Fund, One-time 7,100
From Federal Funds 68,436,300
From Federal Funds, One-time ..... (35,300)
From Dedicated Credits Revenue 400
From Dedicated Credits Revenue, One-time 100
From Expendable Receipts .. 104,000
From Expendable Receipts, One-time 12,400
From Hospital Provider Assessment Fund 1,300
From Hospital Provider Assessment Fund, One-time 200
From Medicaid Expansion Fund 31,300
From Medicaid Expansion Fund, One-time 3,800
From Nursing Care Facilities Provider Assessment Fund 7,900
From Nursing Care Facilities Provider Assessment Fund, One-time 900
From Revenue Transfers 90,600
From Revenue Transfers, One-time 10,800
Schedule of Programs:
Integrated Health Care Administration 68,734,600

Item 258
To Department of Health and Human Services - Health Care Administration
From General Fund 255,800
From Federal Funds 255,800
Schedule of Programs:
Integrated Health Care Administration 511,600

To implement the provisions of Psychotropic Medication Oversight Pilot Program Amendments (House Bill 38, 2024 General Session).

Item 259
To Department of Health and Human Services - Health Care Administration
From General Fund 50,400
From General Fund, One-time ..... (42,500)
From Federal Funds 391,400
From Federal Funds, One-time ..... (76,400)
From Medicaid Expansion Fund 172,900
From Medicaid Expansion Fund, One-time ..... (145,800)
Schedule of Programs:
Provider Reimbursement Information System for Medicaid 350,000

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 260
To Department of Health and Human Services - Health Care Administration
From General Fund 15,000
From Federal Funds 135,000
Schedule of Programs:
Provider Reimbursement Information System for Medicaid 150,000

To implement the provisions of Behavioral Health Licensing Amendments (Senate Bill 26, 2024 General Session).

Item 261
To Department of Health and Human Services - Health Care Administration
From General Fund 37,500
From General Fund, One-time ..... (35,500)
From Federal Funds 37,500
From Federal Funds, One-time ..... (35,500)
Schedule of Programs:
Integrated Health Care Administration .. 4,000

To implement the provisions of Native American Health Amendments (Senate Bill 181, 2024 General Session).

Item 262
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 1,000,800
From General Fund, One-time 9,000,000
From Federal Funds 1,836,400
From Dedicated Credits Revenue 300
From General Fund Restricted - Alternative Eligibility Account 4,500,000
From Revenue Transfers 900
Schedule of Programs:
Children's Health Insurance Program Services 4,497,000
Medicaid Behavioral Health Services (931,500)
Medicaid Home and Community Based Services ..... (100)
Medicaid Long Term Care Services .. 2,836,400
Non-Medicaid Behavioral Health Treatment and Crisis Response 9,931,500
State Hospital 5,100

Notwithstanding intent language in "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session), Item 111, the Legislature intends that the funding provided for Medicaid Pharmacy Dispensing Fee be exclusively used to raise fee-for-service reimbursement rates, and strikes the remainder of the intent language in Item 111 which said, "The Legislature further intends that Medicaid accountable care organizations provide an equivalent reimbursement rate increase to match the fee-for-services reimbursement rates."

The Legislature intends that the Department of Health and Human Services use one-time funding allocated under this item to grant: Davis Behavioral Health $8,200,000.

The Legislature intends that the Department of Health and Human Services

use one-time appropriations allocated in Item 111, "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session), to grant (1) Valley Behavioral Health $50,000; and (2) The Children's Center Utah $1,000,000.

The Legislature intends that the Department of Health and Human Services use one-time appropriations allocated in Item 104, "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session), to grant Cherish Families $579,100.

The Legislature intends that the Department of Health and Human Services use one-time appropriations allocated in this item to grant Utah Health & Human Rights $200,000.

The Legislature intends that the Department of Health and Human Services use one-time appropriations allocated in this item to grant Bridle Up Hope $300,000.

Item 263
To Department of Health and Human Services - Integrated Health Care Services
From Federal Funds 6,154,200
From Revenue Transfers 1,834,100
Schedule of Programs:
Medicaid Behavioral Health Services 7,988,300

To implement the provisions of Psychotropic Medication Oversight Pilot Program Amendments (House Bill 38, 2024 General Session).

Item 264
To Department of Health and Human Services - Integrated Health Care Services
From Income Tax Fund,
One-time 2,000,000
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment and Crisis Response 2,000,000

To implement the provisions of Homelessness and Vulnerable Populations Amendments (House Bill 421, 2024 General Session).

Item 265
To Department of Health and Human Services - Integrated Health Care Services
From General Fund ..... (4,987,500)
From General Fund,
One-time ..... (412,500)
From Federal Funds ..... (8,493,400)
From Federal Funds,
One-time ..... (4,546,900)
From Expendable Receipts .. 17,000
From Expendable Receipts,
One-time ..... (17,000)
From Medicaid Expansion Fund ..... (128,600)
From Medicaid Expansion Fund,
One-time ..... (417,600)
Schedule of Programs:
Medicaid Other Services 1,605,500
Offsets to Medicaid Expenditures . (21,430,000)
Expansion Other Services 838,000

To implement the provisions of Health Amendments (House Bill 501, 2024 General Session).

Item 266
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 163,000
Schedule of Programs:
Non-Medicaid Behavioral Health Treatment and Crisis Response 163,000

To implement the provisions of Behavioral Health System Amendments (Senate Bill 27, 2024 General Session).

Item 267
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 7,300
From General Fund,
One-time ..... (7,300)
From Federal Funds 5,163,400
From Federal Funds,
One-time ..... (5,163,400)
From Medicaid Expansion Fund 2,900
From Medicaid Expansion Fund,
One-time ..... (2,900)

To implement the provisions of Native American Health Amendments (Senate Bill 181, 2024 General Session).

Item 268
To Department of Health and Human Services - Integrated Health Care Services
From General Fund 30,000
From General Fund,
One-time ..... (30,000)
From Expendable Receipts .. (33,000)
From Expendable Receipts,
One-time 33,000
From Medicaid Expansion Fund 3,000
From Medicaid Expansion Fund,
One-time ..... (3,000)

To implement the provisions of Medicaid Reimbursement Rate Amendments (Senate Bill 197, 2024 General Session).

The Legislature intends that the Department of Health and Human Services (department) study and evaluate what constitutes a substantially similar service under Subsection 26B-3-203(4)(a). In undertaking the study and evaluation, the Legislature intends that the department evaluate whether diagnosis and treatment services under the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), including applied behavioral analysis, are substantially similar to diagnosis and treatment services under an Accountable Care Organization or behavioral health plan. The department shall include community stakeholders in its evaluation that have substantial knowledge of behavioral health codes under current procedural terminology and descriptions

issued by the American Medical Association and the Centers for Medicare & Medicaid Services. The department shall submit a report on the results of the study and evaluation to the Health and Human Services Interim Committee by September 30, 2024.

Item 269
To Department of Health and Human Services - Long-Term Services & Support
From General Fund ..... (700,000)
From General Fund,
One-time 500,000
Schedule of Programs:
Aging & Adult Services ..... (200,000)

Item 270
To Department of Health and Human Services - Long-Term Services & Support
From General Fund 18,900
From Federal Funds 18,900
Schedule of Programs:
Services for People with Disabilities 37,800

To implement the provisions of Amendments to Expungement (House Bill 352, 2024 General Session).

Item 271
To Department of Health and Human Services - Long-Term Services & Support
From Federal Funds 1,700
Schedule of Programs:
Services for People with Disabilities 1,700

To implement the provisions of Person-centered Services Amendments (House Bill 388, 2024 General Session).

Item 272
To Department of Health and Human Services - Long-Term Services & Support
From General Fund,
One-time 250,000
Schedule of Programs:
Services for People with Disabilities ... 250,000

To implement the provisions of Respite Care Amendments (Senate Bill 267, 2024 General Session).

Item 273
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund,
One-time 310,000
From Federal Funds,
One-time 10,000,000
Schedule of Programs:
Communicable Disease ..... (1,400)
Health Promotion and Prevention 1,400
Emergency Medical Services and Preparedness 10,275,700
Population Health 34,300

Item 274
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund,
One-time 7,500
Schedule of Programs:
Health Promotion and Prevention 7,500

To implement the provisions of Student Health Amendments (House Bill 468, 2024 General Session).

Item 275
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund 4,300
From General Fund,
One-time 26,000
Schedule of Programs:
Health Promotion and Prevention 30,300

To implement the provisions of School Prescription Amendments (House Bill 475, 2024 General Session).

Item 276
To Department of Health and Human Services - Public Health, Prevention, and Epidemiology
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account 230,000
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Proceeds Restricted Account,
One-time 610,300
Schedule of Programs:
Health Promotion and Prevention 840,300

To implement the provisions of Electronic Cigarette Amendments (Senate Bill 61, 2024 General Session).

Item 277
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 8,484,500
From General Fund,
One-time 370,000
From Federal Funds 2,313,700
From General Fund Restricted - Adult Autism Treatment Account 100
From Revenue Transfers 200
Schedule of Programs:
Child & Family Services ..... (22,315,500)
Domestic Violence 1,000,000
Out-of-Home Services 9,797,200
Child Abuse Prevention and Facility Services 370,000
Children with Special Healthcare Needs .. 700
Office of Coordinated Care and Regional Supports 5,061,700
Office of Early Childhood 17,254,400

The Legislature intends that the Department of Health and Human Services use one-time appropriations allocated in Item 114, "New Fiscal Year Supplemental Appropriations Act", (House Bill 2, 2024 General Session), to grant (1) Children's Service Society of Utah $750,000; (2) Dave Thomas Foundation for Adoption $1,000,000; and (3) Utah Homicide Survivors $250,000.

Item 278
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 1,341,200
From Federal Funds 2,421,900
Schedule of Programs:

Out- of- Home Services 3,763,100

To implement the provisions of Psychotropic Medication Oversight Pilot Program Amendments (House Bill 38, 2024 General Session).

Item 279
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 351,000
Schedule of Programs:
DCFS Selected Programs 351,000

To implement the provisions of Judiciary Amendments (Senate Bill 70, 2024 General Session).

Item 280
To Department of Health and Human Services - Children, Youth, & Families
From General Fund 9,600
Schedule of Programs:
DCFS Selected Programs 9,600

To implement the provisions of Youth Fee Waiver Amendments (Senate Bill 223, 2024 General Session).

Item 281
To Department of Health and Human Services - Office of Recovery Services
From Federal Funds 2,597,700
From Revenue Transfers 85,200
Schedule of Programs:
Recovery Services 81,500
Child Support Services 2,597,700
Children in Care Collections 3,700

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 282
To University of Utah - School of Medicine
From General Fund, One- time 800,000
Schedule of Programs:
School of Medicine 800,000

Item 283
To University of Utah - Schools of Medicine and Dentistry
From General Fund, One- time ..... (800,000)
Schedule of Programs:
Operations and Maintenance ..... (800,000)

UTAH STATE UNIVERSITY

Item 284
To Utah State University - Education and General
From General Fund 1,000,000
From Income Tax Fund ..... (3,065,000)
From Income Tax Fund, One- time ..... (505,000)
Schedule of Programs:
Instruction ..... (1,750,000)
Research ..... (820,000)

The Legislature intends that the $1,000,000 from the General Fund appropriated ongoing by this item to Utah State University be used as a grant to the Utah MEP Alliance. The Legislature further intends that Utah State University use one- time appropriations from the General Fund allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 123 to grant the Utah MEP Alliance $884,000.

Item 285
To Utah State University - Special Projects
From Income Tax Fund 2,865,000
From Income Tax Fund, One- time 505,000
Schedule of Programs:
Energy Education and Workforce Initiative 2,550,000
Utah Forest Restoration Institute 820,000

WEBER STATE UNIVERSITY

Item 286
To Weber State University - Education and General
From Income Tax Fund Restricted - Performance Funding Rest. Acct. 134,600
Schedule of Programs:
Instruction 134,600

SOUTHERN UTAH UNIVERSITY

Item 287
To Southern Utah University - Education and General
From Income Tax Fund 162,600
From Income Tax Fund, One- time 9,300
Schedule of Programs:
Operations and Maintenance 121,900
Institutional Support 50,000

UTAH VALLEY UNIVERSITY

Item 288
To Utah Valley University - Education and General
From Income Tax Fund 250,000
Schedule of Programs:
Institutional Support 250,000

Item 289
To Utah Valley University - Special Projects
From Income Tax Fund 125,000
From Income Tax Fund, One- time 750,000
Schedule of Programs:
Fire and Rescue Training 875,000

To implement the provisions of Fire and Rescue Training Amendments (Senate Bill 119, 2024 General Session).

UTAH BOARD OF HIGHER EDUCATION

Item 290
To Utah Board of Higher Education - Administration
From Income Tax Fund, One- time 100,000
Schedule of Programs:
Administration 100,000

The Legislature intends that the Board of Higher Education distribute this $100,000 one- time appropriation for Western Heritage

Sustainability equitably to eligible institutions.

Item 291
To Utah Board of Higher Education - Administration
From Income Tax Fund 140,000
From Income Tax Fund, One-time 280,000
Schedule of Programs:
Administration 420,000

To implement the provisions of Equal Opportunity Initiatives (House Bill 261, 2024 General Session).

Item 292
To Utah Board of Higher Education - Student Assistance
From Income Tax Fund, One-time 2,500,000
Schedule of Programs:
Prime Pilot Program Amendments .. 2,500,000

Item 293
To Utah Board of Higher Education - Talent Ready Utah
From Income Tax Fund 250,000
Schedule of Programs:
Talent Ready Utah 250,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 294
To Department of Agriculture and Food - Animal Industry
From General Fund 175,000
Schedule of Programs:
Animal Health 175,000

Item 295
To Department of Agriculture and Food - Invasive Species Mitigation
From General Fund 2,000,000
From General Fund Restricted - Invasive Species Mitigation Account ..... (2,071,900)
From Beginning Nonlapsing Balances 71,900

To implement the provisions of Funds Amendments (Senate Bill 241, 2024 General Session).

Item 296
To Department of Agriculture and Food - Rangeland Improvement
From General Fund, One-time 175,000
Schedule of Programs:
Rangeland Improvement Projects 175,000

Item 297
To Department of Agriculture and Food - Resource Conservation
From General Fund, One-time 1,000,000
Schedule of Programs:
Water Quality 1,000,000

The Legislature intends that the Division of Resource Conservation may purchase up to two vehicles.

Item 298
To Department of Agriculture and Food - State Fair Park Authority
From General Fund 1,000,000
Schedule of Programs:
State Fair Park Authority 1,000,000

The Legislature intends that the Department of Agriculture and Food use the ongoing General Fund provided by this item to grant: State Fair Park Authority $1,000,000.

Item 299
To Department of Agriculture and Food - Industrial Hemp
From General Fund Restricted - Cannabinoid Proceeds Restricted Account 1,371,500
From General Fund Restricted - Cannabinoid Proceeds Restricted Account, One-time 79,900
Schedule of Programs:
Industrial Hemp 1,451,400

To implement the provisions of Industrial Hemp Amendments (House Bill 52, 2024 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 300
To Department of Environmental Quality - Water Quality
From General Fund Restricted - Sovereign Lands Management, One-time ... 92,400
Schedule of Programs:
Water Quality Protection 72,800
Water Quality Permits 19,600

To implement the provisions of Great Salt Lake Revisions (House Bill 453, 2024 General Session).

Item 301
To Department of Environmental Quality - Air Quality
From General Fund 114,500
From General Fund, One-time 202,400
Schedule of Programs:
Air Quality Administration 150,000
Planning 166,900

The Legislature intends that the Division of Air Quality use the one-time General Fund provided by this item to grant: University of Utah - Mobile Air Quality Observation System $150,000.

Item 302
To Department of Environmental Quality - Air Quality
From General Fund ..... (32,500)
Schedule of Programs:
Air Quality Administration ..... (32,500)

To implement the provisions of Environmental Quality Amendments (House Bill 373, 2024 General Session).

Item 303
To Department of Environmental Quality - Air Quality
From General Fund,
One-time 311,200
Schedule of Programs:
Planning 267,000
Permitting 44,200

To implement the provisions of Energy Security Amendments (Senate Bill 161, 2024 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 304
To Department of Natural Resources - Administration
From General Fund 150,000
Schedule of Programs:
Executive Director 150,000

To implement the provisions of Data Privacy Amendments (House Bill 491, 2024 General Session).

Item 305
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund 1,497,400
From Federal Funds 1,300
From Dedicated Credits Revenue 4,800
From General Fund Restricted - Sovereign Lands Management 100
From Revenue Transfers 1,900
Schedule of Programs:
Fire Management 2,300
Fire Suppression Emergencies 2,200
Lone Peak Center 3,100
Program Delivery 2,700
Project Management 1,495,200

The Legislature intends that the Division of Forestry, Fire, and State Lands use the $1,495,200 ongoing General Fund provided by this item to implement provisions of "Utah Lake Authority" (House Bill 232, 2022 General Session).

Item 306
To Department of Natural Resources - Forestry, Fire, and State Lands
From General Fund Restricted - Sovereign Lands Management ..... (100,000)
Schedule of Programs:
Lands Management ..... (100,000)

To implement the provisions of Utah Lake Modifications (Senate Bill 242, 2024 General Session).

Item 307
To Department of Natural Resources - Oil, Gas, and Mining
From Gen. Fund Rest. - Oil & Gas Conservation Account 120,000
Schedule of Programs:
Oil and Gas Program 120,000

To implement the provisions of Produced Water Amendments (House Bill 295, 2024 General Session).

Item 308
To Department of Natural Resources - Oil, Gas, and Mining
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining 150,000
From General Fund Restricted - GFR - Division of Oil, Gas, and Mining,
One-time 10,000
Schedule of Programs:
Oil and Gas Program 160,000

To implement the provisions of Environmental Quality Amendments (House Bill 373, 2024 General Session).

Item 309
To Department of Natural Resources - Water Resources
From General Fund,
One-time ..... (1,000,000)
From Water Resources Conservation and Development Fund 270,000
Schedule of Programs:
Planning ..... (730,000)

The Legislature intends that the Division of Water Resources use the one-time General Fund provided by this item and by "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 188, to grant: Cove-East Fork Virgin River Watershed Project $9,000,000.

The Legislature intends that the $270,000 ongoing from the Water Resources Conservation and Development Fund provided by this item be used by the Division of Water Resources for two planning staff to address findings in the Performance Audit of Utah's Water Management and to assist with holistic statewide planning and coordination.

Item 310
To Department of Natural Resources - Wildlife Resources
From General Fund 7,400
From Federal Funds 600
From General Fund Restricted - Aquatic Invasive Species Interdiction Account 1,000
From General Fund Restricted - Wildlife Resources 21,000
Schedule of Programs:
Law Enforcement 30,000

Item 311
To Department of Natural Resources - Wildlife Resources
From General Fund Restricted - Wildlife Resources 15,000
Schedule of Programs:
Wildlife Section 15,000

To implement the provisions of Wildlife Hunting Amendments (House Bill 222, 2024 General Session).

Item 312
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund,
One-time 800,000
Schedule of Programs:
Public Lands Policy Coordinating Office 800,000

The Legislature intends that the Public Lands Policy Coordinating Office use the $300,000 one-time General Fund provided by this item to grant: Duchesne City and Myton City Defense Fund $300,000.

Item 313
To Department of Natural Resources - Public Lands Policy Coordinating Office
From General Fund ..... (7,900)
Schedule of Programs:
Public Lands Policy Coordinating Office ..... (7,900)

To implement the provisions of Snake Valley Aquifer Advisory Council Amendments (House Bill 57, 2024 General Session).

Item 314
To Department of Natural Resources - Division of State Parks
From General Fund 2,800
From Federal Funds 100
From Dedicated Credits Revenue 1,000
From Expendable Receipts .. 100
From General Fund Restricted - State Park Fees 27,600
From Revenue Transfers 100
Schedule of Programs:
Executive Management 600
State Park Operation Management 31,100

Item 315
To Department of Natural Resources - Division of State Parks
From General Fund Restricted - State Park Fees, One-time 26,000
Schedule of Programs:
Support Services 26,000

To implement the provisions of Evidence Retention Amendments (Senate Bill 76, 2024 General Session).

Item 316
To Department of Natural Resources - Division of Outdoor Recreation
From Federal Funds 600
From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account 300
From General Fund Restricted - Boating 4,300
From General Fund Restricted - Off-highway Vehicle 5,700
Schedule of Programs:
Oversight 9,600
Administration 1,300

Item 317
To Department of Natural Resources - Office of Energy Development
From General Fund 236,000
Schedule of Programs:
Office of Energy Development 236,000

Item 318
To Department of Natural Resources - Office of Energy Development
From General Fund 665,000
From Federal Funds,
One-time 350,000
Schedule of Programs:
Office of Energy Development 1,015,000

To implement the provisions of Utah Energy Act Amendments (House Bill 48, 2024 General Session).

Item 319
To Department of Natural Resources - Office of Energy Development
From General Fund ..... (1,000)
Schedule of Programs:
Office of Energy Development ..... (1,000)

To implement the provisions of Energy Infrastructure Amendments (House Bill 124, 2024 General Session).

Item 320
To Department of Natural Resources - Office of Energy Development
From General Fund,
One-time 752,000
Schedule of Programs:
Office of Energy Development 752,000

To implement the provisions of Energy Security Amendments (Senate Bill 161, 2024 General Session).

Item 321
To Department of Natural Resources - Utah Energy Research Grant Program
From General Fund ..... (1,000,000)
Schedule of Programs:
Utah Energy Research Grant Program ..... (1,000,000)

To implement the provisions of Utah San Rafael State Energy Lab (House Bill 410, 2024 General Session).

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 322
To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund,
One-time 2,400,000
From Public Education Economic Stabilization Restricted Account,
One-time 1,000,000
Schedule of Programs:
At-Risk Students - Gang Prevention and Intervention 2,400,000
Beverley Taylor Sorenson Elem. Arts Learning Program 1,000,000

Item 323
To State Board of Education - Minimum School Program - Related to Basic School Programs
From Uniform School Fund .. 90,700
Schedule of Programs:
Educator Salary Adjustments 90,700

To implement the provisions of Educator Salary Amendments (Senate Bill 52, 2024 General Session).

STATE BOARD OF EDUCATION

Item 324
To State Board of Education - Educator Licensing
From Public Education Economic Stabilization Restricted Account,
One-time 270,000
Schedule of Programs:
Educator Licensing 270,000

To implement the provisions of Teacher Licensure Amendments (House Bill 208, 2024 General Session).

Item 325
To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund 200,000
Schedule of Programs:
Center for the School of the Future 200,000

The Legislature intends that the State Board of Education use $200,000 ongoing to provide a grant to the Center for the School of the Future at Utah State University to support innovation and improvement to stabilize teacher supply and retention within public education, while also impacting the capacity of local education agencies to improve student learning outcomes.

The Legislature intends that the State Board of Education use one-time appropriations provided in "Public Education Budget Amendments" (Senate Bill 2, 2024 General Session), Item 21 to grant the following: $300,000 for the Stand4Kind anti-bullying program; $616,200 for the Infini-D learning program in rural schools; $1,200,000 for the Research Supported Social Skills Development Program; $3,000,000 for the High School Service Pilot Program; $3,500,000 for the YouScience Student Credential Account program; and $5,000,000 for the Assessment to Achievement program.

Item 326
To State Board of Education - Contracted Initiatives and Grants
From Income Tax Fund 60,000
Schedule of Programs:
Utah Fits All Scholarship Program 60,000

To implement the provisions of Utah Fits All Scholarship Program Amendments (House Bill 529, 2024 General Session).

Item 327
To State Board of Education - Regional Education Service Agencies
From Income Tax Fund 48,600
Schedule of Programs:
Regional Education Service Agencies ... 48,600

To implement the provisions of Educator Salary Amendments (Senate Bill 52, 2024 General Session).

Item 328
To State Board of Education - Policy, Communication, & Oversight
From Income Tax Fund 43,800
Schedule of Programs:
Student Support Services 43,800

To implement the provisions of Child Sexual Abuse Prevention Amendments (Senate Bill 205, 2024 General Session).

Item 329
To State Board of Education - System Standards & Accountability
From Public Education Economic Stabilization Restricted Account,
One-time ..... (2,500,000)
Schedule of Programs:
Teaching and Learning ..... (2,500,000)

Item 330
To State Board of Education - Statewide Online Education Program Subsidy
From Income Tax Fund 280,000
Schedule of Programs:
Statewide Online Education Program .. 280,000

To implement the provisions of Statewide Online Education Program Amendments (House Bill 247, 2024 General Session).

Item 331
To State Board of Education - State Board and Administrative Operations

The Legislature intends that the State Board of Education, in conjunction with the Governor's Office of Planning and Budget and the Legislative Fiscal Analyst, develop procedures to provide all data needed to calculate the budget adjustments for student enrollment growth and weighted pupil unit value adjustments outlined in 53F-2-208 to the Governor's Office and Legislature before October 15 of each year. The Legislature further intends that the State Board of Education report these procedures to the Public Education Appropriations Subcommittee before August 15, 2024, and recommend any statutory changed necessary to implement the procedures.

Item 332
To State Board of Education - State Board and Administrative Operations
From Income Tax Fund,
One-time 624,000
Schedule of Programs:
Information Technology 624,000

To implement the provisions of Statewide Online Education Program Amendments (House Bill 247, 2024 General Session).

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 333
To Legislature - Senate
From General Fund ..... (1,600)
Schedule of Programs:
Administration ..... (1,600)

To implement the provisions of State Boards and Commissions Amendments (House Bill 72, 2024 General Session).

Item 334
To Legislature - Senate
From General Fund ..... (2,400)
Schedule of Programs:
Administration ..... (2,400)

To implement the provisions of Judicial Rules Review Amendments (House Bill 344, 2024 General Session).

Item 335
To Legislature - Senate
From General Fund ..... (44,800)
Schedule of Programs:
Administration ..... (44,800)

To implement the provisions of Boards and Commissions Modifications (House Bill 534, 2024 General Session).

Item 336
To Legislature - Senate
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of Joint Rules Resolution - Interim Subcommittee Amendments (House Joint Resolution 30, 2024 General Session).

Item 337
To Legislature - Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of Behavioral Health System Amendments (Senate Bill 27, 2024 General Session).

Item 338
To Legislature - Senate
From General Fund 11,500
Schedule of Programs:
Administration 11,500

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 6, 2024 General Session).

Item 339
To Legislature - House of Representatives
From General Fund ..... (1,600)
Schedule of Programs:
Administration ..... (1,600)

To implement the provisions of State Boards and Commissions Amendments (House Bill 72, 2024 General Session).

Item 340
To Legislature - House of Representatives
From General Fund ..... (2,400)
Schedule of Programs:
Administration ..... (2,400)

To implement the provisions of Judicial Rules Review Amendments (House Bill 344, 2024 General Session).

Item 341
To Legislature - House of Representatives
From General Fund ..... (57,600)
Schedule of Programs:
Administration ..... (57,600)

To implement the provisions of Boards and Commissions Modifications (House Bill 534, 2024 General Session).

Item 342
To Legislature - House of Representatives
From General Fund 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of Joint Rules Resolution - Interim Subcommittee Amendments (House Joint Resolution 30, 2024 General Session).

Item 343
To Legislature - House of Representatives
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of Behavioral Health System Amendments (Senate Bill 27, 2024 General Session).

Item 344
To Legislature - House of Representatives
From General Fund 18,100
Schedule of Programs:
Administration 18,100

To implement the provisions of Joint Resolution Authorizing Pay of In-session Employees (Senate Joint Resolution 6, 2024 General Session).

Item 345
To Legislature - Legislative Services
From General Fund,
One-time ..... (495,000)
Schedule of Programs:
Pass Through ..... (495,000)

The Legislature intends that Legislative Services use the $5,000 General Fund One-time appropriation in this item to grant: Membership Fee in the Phoenix Correspondence Commission.

UTAH NATIONAL GUARD

Item 346
To Utah National Guard
From General Fund 500

From Federal Funds 4,800
Schedule of Programs:
Operations and Maintenance 5,300

Item 347
To Utah National Guard
From General Fund,
One-time 3,350,000
Schedule of Programs:
Operations and Maintenance 3,350,000

To implement the provisions of Utah National Guard Amendments (House Bill 245, 2024 General Session).

The Legislature intends that the Utah National Guard use the $3,350,000 General Fund One-time appropriation in this item for recruiting and retention bonuses.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 348
To Department of Veterans and Military Affairs - Veterans and Military Affairs
From Dedicated Credits Revenue,
One-time 3,800
Schedule of Programs:
Administration 3,800

To implement the provisions of Wind Energy Facility Siting Modifications (House Bill 117, 2024 General Session).

Item 349
To Department of Veterans and Military Affairs - DVMA Pass Through

The Legislature intends that $1,150,000 from the General Fund One-time appropriated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 211, for Advanced Air Mobility Center of Excellence and Ecosystem Accelerator be used by 47G (the Utah Aerospace and Defense Association) to support the state's air mobility efforts and foster growth through services to companies competing in this space in partnership with the Utah Department of Transportation, Governor's Office of Economic Opportunity, Utah Inland Port Authority, and private business. The Legislature intends that 47G use the funds to assist in matchmaking with larger defense contractors and work in coordination with the Utah Innovation Lab to develop an investment ecosystem of venture capital and private equity investors and work with Talent Ready Utah to support workforce needs.

The Legislature intends that $500,000 from the General Fund One-time appropriated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 211, for Best Defense Foundation be used to provide programs and services that benefit veterans who are Utah residents, or veteran events held in Utah.

The Legislature intends that the Department of Veterans and Military Affairs use one-time appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 211, to grant: Advanced Air Mobility Center of Excellence and Ecosystem Accelerator, $1,150,000; Best Defense Foundation, $500,000; USS Utah Commissioning Celebration, $50,000; and Utah Golf Foundation Veterans on Course, $40,000.

The Legislature intends that the Department of Veterans and Military Affairs use ongoing appropriations allocated in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 211, to grant: Counselors for Military School Children Expansion, $400,000; and Utah Defense Alliance, ($250,000).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 350
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits
Revenue 20,400
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 20,400

Item 351
To Department of Public Safety - Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits
Revenue 518,200
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 518,200

To implement the provisions of Alcohol Amendments (House Bill 548, 2024 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 352
To Department of Government Operations - State Debt Collection Fund
From Dedicated Credits Revenue,
One-time 92,700
Schedule of Programs:
State Debt Collection Fund 92,700

To implement the provisions of Criminal Accounts Receivable Amendments (House Bill 21, 2024 General Session).

TRANSPORTATION

Item 353
To Transportation - County of the First Class Highway Projects Fund
From Licenses/Fees 3,257,700
From Interest Income 800,000
From Revenue Transfers 2,966,700
Schedule of Programs:
County of the First Class Highway Projects Fund 7,024,400

Item 354
To Transportation - County of the First Class Highway Projects Fund
From Revenue Transfers 300,000
From Revenue Transfers, One-time 42,900,000
Schedule of Programs:
County of the First Class Highway Projects Fund 43,200,000

To implement the provisions of Transportation Funding Modifications (House Bill 488, 2024 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

PUBLIC SERVICE COMMISSION

Item 355
To Public Service Commission - Universal Telecommunications Support Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report performance measures for the Universal Telecommunications Support Fund line item, whose mission is to "provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024 the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report on: (1) Number of months within a fiscal year during which the Fund did not maintain a balance equal to at least three months of fund payments (Target= 0); (2) Number of times a change to the fund surcharge occurred more than once every three fiscal years (Target = 0); (3) Total adoption and usage of Telecommunications Relay Service and Caption Telephone Service within a fiscal year (Target = 30,000).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 356
To Department of Workforce Services - Olene Walker Low Income Housing
From General Fund, One-time (1,000,000)
Schedule of Programs:
Olene Walker Low Income Housing . (1,000,000)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 357
To Department of Environmental Quality - Environmental Mitigation & Response Fund
From Hazardous Substance Mitigation Fund, One-time 1,378,700
Schedule of Programs:
Environmental Mitigation & Response Fund 1,378,700

The Legislature intends that the Division of Finance transfer the full balance from the subaccounts for the Entrada (Wasatch Fuel), KUC (Kennecott), and Mountain Fuel settlements from the Hazardous Substance Mitigation Fund to the Environmental Mitigation and Response Fund.

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 358
To Attorney General - ISF - Attorney General
Budgeted FTE 1.0

Item 359
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue, One-time 3,800
Schedule of Programs:
Civil Division 3,800

To implement the provisions of Wind Energy Facility Siting Modifications (House Bill 117, 2024 General Session).

Item 360
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue 351,000
Schedule of Programs:
Child Protection Division 351,000
Budgeted FTE 2.0

To implement the provisions of Judiciary Amendments (Senate Bill 70, 2024 General Session).

Item 361
To Attorney General - ISF - Attorney General

From Dedicated Credits
Revenue 288,000
Schedule of Programs:
Criminal Division 288,000
Budgeted FTE 1.0

To implement the provisions of Children's Device Protection Act (Senate Bill 104, 2024 General Session).

Item 362
To Attorney General - ISF - Attorney General
From Dedicated Credits
Revenue 6,500
Schedule of Programs:
Civil Division 6,500

To implement the provisions of Cosmetology Licensing Amendments (Senate Bill 112, 2024 General Session).

Item 363
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue,
One-time 198,700
Schedule of Programs:
Civil Division 198,700
Budgeted FTE 0.5

To implement the provisions of Energy Security Amendments (Senate Bill 161, 2024 General Session).

Item 364
To Attorney General - ISF - Attorney General
From Dedicated Credits
Revenue 144,000
Schedule of Programs:
Criminal Division 144,000
Budgeted FTE 0.5

To implement the provisions of Social Media Regulation Amendments (Senate Bill 194, 2024 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 365
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits Revenue 900
Schedule of Programs:
Utah Correctional Industries 900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Utah Correctional Industries line item. The Department of Corrections shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before August 15, 2024, the final status of performance measures established in FY 2024 appropriations bills. For FY 2025, the department shall report the following performance measures: 1) Percent of work-eligible inmates employed by UCI in prison; 2) Percent of workers leaving UCI who are successfully completing the program.

Item 366
To Utah Department of Corrections - Utah Correctional Industries
From Dedicated Credits
Revenue ..... (989,200)
From Dedicated Credits Revenue,
One-time 200,000
Schedule of Programs:
Utah Correctional Industries ..... (789,200)

To implement the provisions of License Plate Revisions (Senate Bill 45, 2024 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 367
To Department of Government Operations - Enterprise Technology Division
From Dedicated Credits Revenue,
One-time 6,600
Schedule of Programs:
ISF - Enterprise Technology Division 6,600

To implement the provisions of Safe Leave Amendments (Senate Bill 174, 2024 General Session).

Item 368
To Department of Government Operations - Human Resources Internal Service Fund
From General Fund ..... (20,900)
From Dedicated Credits
Revenue 20,900

Item 369
To Department of Government Operations - Human Resources Internal Service Fund
From Dedicated Credits
Revenue ..... (6,500)
Schedule of Programs:
Administration ..... (6,500)

To implement the provisions of Division of Human Resource Management Amendments (House Bill 77, 2024 General Session).

TRANSPORTATION

Item 370
To Transportation - State Infrastructure Bank Fund
From Interest Income 9,950,000
Schedule of Programs:
State Infrastructure Bank Fund 9,950,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 371
To Governor's Office of Economic Opportunity - Rural Opportunity Fund
From General Fund,
One-time 7,500,000
Schedule of Programs:
Rural Opportunity Fund 7,500,000

The Legislature intends that $7,500,000 one-time General Fund provided by this item and $10,000,000 in balances be allocated to the Rural Opportunity Fund to be used as a loan for the San Juan Hospital.

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 372
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue ..... (3,812,300)
Schedule of Programs:
Qualified Patient Enterprise Fund . (3,812,300)

Item 373
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 56,400
From Dedicated Credits Revenue, One-time ..... (21,600)
From Beginning Fund Balance 700
From Closing Fund Balance . (31,900)
Schedule of Programs:
Qualified Patient Enterprise Fund 3,600

To implement the provisions of Medical Cannabis Pharmacy Modifications (House Bill 389, 2024 General Session).

Item 374
To Department of Health and Human Services - Qualified Patient Enterprise Fund
From Closing Fund Balance . (10,400)
Schedule of Programs:
Qualified Patient Enterprise Fund ... (10,400)

To implement the provisions of Boards and Commissions Modifications (House Bill 534, 2024 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 375
To Department of Agriculture and Food - Qualified Production Enterprise Fund
From Dedicated Credits Revenue 24,000
From Closing Fund Balance . 2,300
Schedule of Programs:
Qualified Production Enterprise Fund .. 26,300

To implement the provisions of Medical Cannabis Pharmacy Modifications (House Bill 389, 2024 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 376
To Department of Environmental Quality - Water Development Security Fund - Water Quality
From General Fund, One-time 300,000
Schedule of Programs:
Water Quality 300,000

The Legislature intends that the Division of Water Quality use the one-time General Fund provided by this item to grant: Mountain Green Wastewater Plant $300,000.

DEPARTMENT OF NATURAL RESOURCES

Item 377
To Department of Natural Resources - Utah Energy Research Fund
From General Fund 1,000,000
Schedule of Programs:
Utah Energy Research Fund 1,000,000

To implement the provisions of Utah San Rafael State Energy Lab (House Bill 410, 2024 General Session).

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 378
To General Fund Restricted - Indigent Defense Resources Account
From General Fund 60,000
Schedule of Programs:
General Fund Restricted - Indigent Defense Resources Account 60,000

To implement the provisions of Indigent Defense Amendments (Senate Bill 160, 2024 General Session).

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 379
To General Fund Restricted - Industrial Assistance Account
From General Fund, One-time 2,000,000
Schedule of Programs:
General Fund Restricted - Industrial Assistance Account 2,000,000

Item 380
To General Fund Restricted - Tourism Marketing Performance Fund
From General Fund ..... (800,000)
From General Fund, One-time 106,200
Schedule of Programs:
General Fund Restricted - Tourism Marketing Performance ..... (693,800)

SOCIAL SERVICES

Item 381
To General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account
From General Fund 2,500,000
Schedule of Programs:
General Fund Restricted - Homeless Shelter Cities Mitigation Restricted Account 2,500,000

HIGHER EDUCATION

Item 382
To Performance Funding Restricted Account

The Legislature intends that, if "Higher Education Amendments" (Senate Bill 192, 2024 General Session) passes and becomes law, an additional $134,600 from the Performance Funding Restricted Account be transferred to Weber State University.

The Legislature intends that the institutions of higher education may utilize earned performance funding for compensation increases.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 383
To General Fund Restricted - Invasive Species Mitigation Account
From General Fund ..... (2,000,000)
Schedule of Programs:
General Fund Restricted - Invasive Species Mitigation Account ..... (2,000,000)

To implement the provisions of Funds Amendments (Senate Bill 241, 2024 General Session).

Item 384
To General Fund Restricted - Environmental Quality
From General Fund 638,900
Schedule of Programs:
GFR - Environmental Quality 638,900

EXECUTIVE APPROPRIATIONS

Item 385
To Firefighters Retirement Trust & Agency Fund
From General Fund ..... (7,000,000)
Schedule of Programs:
Firefighters Retirement Trust & Agency Fund ..... (7,000,000)

Subsection 2(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 386
To Capital Budget - DFCM Capital Projects Fund

The Legislature intends that the Division of Facilities Construction and Management use $800,000 from the DFCM Capital Projects Fund for the Manti Courthouse Juvenile Courtroom Build-out in FY 2025.

The Legislature intends that the Division of Facilities Construction and Management use $10,000,000 from the DFCM Capital Projects Fund provided in "New Fiscal Year Supplemental Appropriations Act" (House Bill 2, 2024 General Session), Item 48, be used for the Salt Lake Veterans Home Construction in FY 2025.

Item 387
To Capital Budget - DFCM Capital Projects Fund
From Transit Transportation Investment Fund 1,000,000
From Transit Transportation Investment Fund, One-time ..... (1,000,000)

To implement the provisions of Utility Relocation Cost Sharing Amendments (House Bill 74, 2024 General Session).

Item 388
To Capital Budget - Higher Education Capital Projects Fund
From Income Tax Fund, One-time ..... (372,800)
Schedule of Programs:
Higher Education Capital Projects Fund ..... (372,800)

Item 389
To Capital Budget - State Agency Capital Development Fund
From Income Tax Fund, One-time ..... (125,000,000)
Schedule of Programs:
State Agency Capital Development Fund ..... (125,000,000)

TRANSPORTATION

Item 390
To Transportation - Transportation Investment Fund of 2005
From General Fund ..... (5,000,000)
From Transportation Fund .. 36,998,300
From Licenses/Fees 3,066,100
From County of First Class Highway Projects Fund ..... (1,348,400)
From Designated Sales Tax .. 203,916,200
From Other Financing Sources, One-time 20,000,000
Schedule of Programs:
Transportation Investment Fund .. 257,632,200

Item 391
To Transportation - Transportation Investment Fund of 2005
From Designated Sales Tax .. (46,900,000)
From Designated Sales Tax, One-time 2,100,000
Schedule of Programs:
Transportation Investment Fund . (44,800,000)

To implement the provisions of Transportation Funding Modifications (House Bill 488, 2024 General Session).

Item 392
To Transportation - Transportation Investment Fund of 2005
From General Fund, One-time 17,000,000
From Beginning Fund Balance ..... (300,000,000)
Schedule of Programs:
Transportation Investment Fund (283,000,000)

To implement the provisions of State Treasurer Investment Amendments (House Bill 572, 2024 General Session).

Item 393
To Transportation - Transit Transportation Investment Fund
From Interest Income 7,000,000
From Designated Sales Tax .. 19,201,600
From Revenue Transfers 5,000,000
Schedule of Programs:
Transit Transportation Investment Fund 31,201,600

The Legislature intends that, should revenue collections for fiscal year 2024 and revised revenue projections for fiscal year 2025 be sufficient to support all existing appropriations from the General and Income Tax Funds for those years with the exception of that for Higher Education Debt Service, the Utah Department of Transportation shall use the $50,000,000 provided by Item 253 in "New Fiscal Year Supplemental Appropriations Act," (House Bill 2, 2024 General Session) for a transit stop at the Point of the Mountain. The Utah Department of Transportation shall not commit, encumber, or expend these funds until after the tenth day of the 2025 Legislative General Session. Should revenue collections and estimates be insufficient to support all appropriations including that for Higher Education Debt Service and the General Fund deposit to the Transit Transportation Investment Fund, the Legislative Fiscal Analyst shall rescind the $50,000,000 one-time General Fund appropriation to the Transit Transportation Investment Fund in base budget bills prepared for the 2026 General Session.

The Legislature intends that up to $16,000,000 of the Transit Transportation Investment Fund be used by the Department of Transportation for the Sharp-Tintic Railroad realignment project in Utah County. This $16,000,000 may not be used to satisfy the local match requirement for Transit Transportation Investment Fund projects required by statute.

Item 394
To Transportation - Rail Transportation Restricted Account
From Interest Income 150,000
Schedule of Programs:
Rail Transportation Restricted Account 150,000

Item 395
To Transportation - Cottonwood Canyon Transportation Investment Fund
From Interest Income 1,000,000
From Designated Sales Tax .. 20,000,000
Schedule of Programs:
Cottonwood Canyon Transportation Investment Fund 21,000,000

Item 396
To Transportation - Transportation Infrastructure General Fund Support Subfund
From Transportation Investment Fund of 2005, One-time 300,000,000
Schedule of Programs:
Transportation Infrastructure General Fund Support Subfund 300,000,000

To implement the provisions of State Treasurer Investment Amendments (House Bill 572, 2024 General Session).

Item 397
To Transportation - Commuter Rail Subaccount
From Revenue Transfers 46,900,000
From Revenue Transfers, One-time ..... (2,100,000)
Schedule of Programs:
Commuter Rail Subaccount 44,800,000

To implement the provisions of Transportation Funding Modifications (House Bill 488, 2024 General Session).

Subsection 2(f). Higher Education Budget Reporting. The Legislature has reviewed proposed revenues and expenditures for the following institutions of higher education. These figures are for reporting purposes only and include appropriations made to the operating and capital budgets of these institutions.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 398
To University of Utah - Education and General
From State Appropriations .. 3,404,600
Schedule of Programs:
Instruction 3,404,600

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

UTAH STATE UNIVERSITY

Item 399
To Utah State University - Education and General
From State Appropriations .. 989,200
Schedule of Programs:
Instruction 989,200

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

Item 400
To Utah State University - Career and Technical Education
From State Appropriations .. 59,600
Schedule of Programs:
Instruction 59,600

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

WEBER STATE UNIVERSITY

Item 401
To Weber State University - Education and General
From State Appropriations .. 834,300
Schedule of Programs:
Instruction 834,300

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

SOUTHERN UTAH UNIVERSITY

Item 402
To Southern Utah University - Education and General
From State Appropriations .. 699,600
Schedule of Programs:
Instruction 699,600

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

UTAH VALLEY UNIVERSITY

Item 403
To Utah Valley University - Education and General
From State Appropriations .. 829,100
Schedule of Programs:
Instruction 829,100

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

Item 404
To Utah Valley University - Special Projects
From State Appropriations .. 125,000
From State Appropriations, One-time 750,000
Schedule of Programs:
Fire and Rescue Training 875,000

To implement the provisions of Fire and Rescue Training Amendments (Senate Bill 119, 2024 General Session).

SNOW COLLEGE

Item 405
To Snow College - Education and General
From State Appropriations .. 303,000
Schedule of Programs:
Instruction 303,000

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

Item 406
To Snow College - Career and Technical Education
From State Appropriations .. 93,600
Schedule of Programs:
Instruction 93,600

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

UTAH TECH UNIVERSITY

Item 407
To Utah Tech University - Education and General
From State Appropriations .. 279,500
Schedule of Programs:
Instruction 279,500

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

SALT LAKE COMMUNITY COLLEGE

Item 408
To Salt Lake Community College - Education and General
From State Appropriations .. 471,300
Schedule of Programs:
Instruction 471,300

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

Item 409
To Salt Lake Community College - Career and Technical Education
From State Appropriations .. 68,200
Schedule of Programs:
Instruction 68,200

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

BRIDGERLAND TECHNICAL COLLEGE

Item 410
To Bridgerland Technical College - Education and General
From State Appropriations .. 336,000
Schedule of Programs:
Instruction 336,000

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

DAVIS TECHNICAL COLLEGE

Item 411
To Davis Technical College - Education and General
From State Appropriations .. 234,600
Schedule of Programs:
Instruction 234,600

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

DIXIE TECHNICAL COLLEGE

Item 412
To Dixie Technical College - Education and General
From State Appropriations .. 255,800
Schedule of Programs:
Instruction 255,800

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

MOUNTAINLAND TECHNICAL COLLEGE

Item 413
To Mountainland Technical College - Education and General
From State Appropriations .. 198,100
Schedule of Programs:
Instruction 198,100

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

OGDEN-WEBER TECHNICAL COLLEGE

Item 414
To Ogden-Weber Technical College - Education and General

From State Appropriations . . 402,100
Schedule of Programs:
Instruction 402,100

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

SOUTHWEST TECHNICAL COLLEGE

Item 415
To Southwest Technical College - Education and General
From State Appropriations . . 61,200
Schedule of Programs:
Instruction 61,200

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

TOOELE TECHNICAL COLLEGE

Item 416
To Tooele Technical College - Education and General
From State Appropriations . . 53,400
Schedule of Programs:
Instruction 53,400

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

UINTAH BASIN TECHNICAL COLLEGE

Item 417
To Uintah Basin Technical College - Education and General
From State Appropriations . . 137,200
Schedule of Programs:
Instruction 137,200

To implement the provisions of Higher Education Amendments (Senate Bill 192, 2024 General Session).

Section 3. FY 2025 Appropriations. Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$ApproplLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

(a) $$Inflate_{Base} = \frac{GNPIndex_{vintage,1983}}{GNPIndex_{vintage,1989}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

(b) $$Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

(c) $$PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

(d) $$SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}} \right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}} \right) \right]$$

(e) as used in the state appropriations limit formula:

(i) i is a variable representing a given fiscal year;

(ii) $Adjust_i$ is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J- 3- 203;

(iii) $Appropriations_{1985}$ is the state capital and operations appropriations from the General Fund and non- Uniform School fund in fiscal year 1985;

(iv) $Debt_{1985}$ is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,i}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{i-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{i-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.
If approved by two- thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2024.

CHAPTER 489
H. B. 71
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2024

BEHAVIORAL HEALTH CRISIS RESPONSE MODIFICATIONS

Chief Sponsor: Steve Eliason
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses behavioral health crisis response services.

Highlighted Provisions:

This bill:

- allows the Department of Health and Human Services (department) to reimburse nonemergency secured behavioral health transport providers;
- requires the department to apply for a Medicaid waiver or state plan amendment to allow the department to assess nonemergency secured behavioral health transport providers certain amounts;
- if a Medicaid waiver or state plan amendment is approved, requires the department to reimburse nonemergency secured behavioral health transport providers and authorizes the department to make rules to implement the waiver or state plan amendment; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-3-135, as renumbered and amended by Laws of Utah 2023, Chapter 306

26B-3-135, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 306

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-3-135 is amended to read:

26B-3-135. Reimbursement for nonemergency secured behavioral health transport providers.

(1) The department may[~~, not~~] reimburse a nonemergency secured behavioral health transport provider that is designated under Section 26B-4-117.

(2) Before July 1, 2024, the department shall apply for a Medicaid waiver or state plan amendment to allow the department to assess nonemergency secured behavioral health transport providers an amount up to the non-federal share the department needs to seed amounts that will support fee-for-service nonemergency secured behavioral health transport rates adopted by the department.

(3) If a waiver or state plan amendment described in Subsection (2) is approved, the department:

(a) shall reimburse a nonemergency secured behavioral health transport provider that is designated under Section 26B-4-117 in an amount up to the nonemergency secured behavioral health transport rates adopted annually by the department; and

(b) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate assessments and payments to nonemergency secured behavioral health transport providers designated under Section 26B-4-117.

Section 2. Section 26B-3-135 is amended to read:

26B-3-135. Reimbursement for nonemergency secured behavioral health transport providers.

(1) As used in this section, "nonemergency secured behavioral health transport" means the same as that term is defined in Section 53-2d-101.

(2) The department may[~~, not~~] reimburse a nonemergency secured behavioral health transport provider that is designated under Section 53-2d-403.

(3) Before July 1, 2024, the department shall apply for a Medicaid waiver or state plan amendment to allow the department to assess nonemergency secured behavioral health transport providers an amount up to the non-federal share the department needs to seed amounts that will support fee-for-service nonemergency secured behavioral health transport rates adopted by the department.

(4) If a waiver or state plan amendment described in Subsection (3) is approved, the department:

(a) shall reimburse a nonemergency secured behavioral health transport provider that is designated under Section 26B-4-117 in an amount up to the nonemergency secured behavioral health transport rates adopted annually by the department; and

(b) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to integrate assessments and payments to nonemergency secured behavioral health transport providers designated under Section 26B-4-117.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 26B-3-135 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 490
H. B. 107
Passed February 13, 2024
Approved March 21, 2024
Effective May 1, 2024

RECYCLING FACILITY TRANSPARENCY AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill requires political subdivisions to publish information about the collection of recyclable materials.

Highlighted Provisions:

This bill:

- defines terms;
- requires a recyclable material hauler to report data to political subdivisions about the amount of recycling material collected;
- requires a recycling facility to submit an annual report on the amount of recycling material collected to the Division of Waste Management and Radiation Control;
- requires a political subdivision to publish the recycling data; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-509, as last amended by Laws of Utah 2023, Chapter 206

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-509 is amended to read:

19-6-509. Recycling data -- Publication.

(1) As used in this section:

(a)(i) "Municipal solid waste" means nonhazardous solid waste, including garbage, refuse, office waste, or other similar material that results from the operation of residential, municipal, commercial, or institutional establishments or community activities.

(ii) "Municipal solid waste" does not include a plastic or material that is converted or held at an advanced recycling facility, including:

(A) post-use polymers; or

(B) recovered feedstock.

(b) "Recyclable material" means municipal solid waste that is suitable for recycling.

(c) "Recyclable material hauler" means a person, including a political subdivision, who:

(i) for compensation, collects and transports recyclable material; and

(ii) uses the billing and collection system of a political subdivision to bill or collect payment from the recyclable material hauler's customers.

(d) "Recycle" means to take action to recover recyclable materials from the municipal solid waste stream for the purposes of use or reuse, conversion into raw materials, or use in the production of new products.

(e) "Recycling facility" means a facility that:

(i) accepts recyclable material collected and paid for through a political subdivision's billing process;

(ii) separates the recyclable material by material type;

(iii) sells the recyclable material; and

(iv) sends the waste stream contaminant to a landfill.

(f) "Recycling facility annual report" is a report submitted each year by a recycling facility to the Division of Waste Management and Radiation Control.

(2) A recyclable material hauler shall [~~report, in accordance with Subsection (3) and according to the best of the recycler's knowledge,~~]collect data on the approximate tonnage of recyclable material collected by the recyclable material hauler that the recyclable material hauler delivered directly, or through an intermediary hauler, to:

(a) a landfill; [~~and~~]or

(b) a recycling facility.

(3)(a) At least two times each calendar year, a recyclable material hauler shall [~~provide the information~~]report the data described in Subsection (2) to [~~the political subdivision whose billing and collection system the recyclable material hauler uses~~]each political subdivision that the recyclable material hauler uses for billing and collection.

(b) The recyclable material hauler shall provide data under Subsection (3)(a) for the longer of:

(i) the time since the recyclable material hauler last provided the data; or

(ii) six months before the day on which the data is provided.

(4) Within 45 days after the day on which a recyclable material hauler provides data under this section, [~~a~~]the political subdivision shall publish the data, as available:

(a) in a newsletter produced by the [~~municipality~~]political subdivision; and

(b) if the political subdivision operates a website, on [~~a~~]the website operated by the [~~municipality~~]political subdivision.

(5)(a) A recycling facility shall submit a recycling facility annual report by March 1.

(b) The recycling facility shall complete the recycling facility annual report:

(i) using the methods approved by the Division of Waste Management and Radiation Control; and

(ii) including data collected during the previous calendar year.

(c) The Division of Waste Management and Radiation Control shall compile the data submitted in the recycling facility annual reports described in this Subsection (5) by June 1 each year.

(6) A political subdivision shall publish the data or an electronic link to the data compiled by the Division of Waste Management and Radiation Control from the recycling facility annual reports described in Subsection (5):

(a) in a newsletter produced by the political subdivision that is published between June 1 and October 1 of each year; and

(b) if a political subdivision operates a website, on the website each year beginning on a date that occurs between June 1 and October 1, and ending no earlier than December 31 of the same year.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 491
H. B. 211
Passed February 14, 2024
Approved March 21, 2024
Effective May 1, 2024

PENALTY FOR FALSE STATEMENT DURING DRUG ARREST

Chief Sponsor: Ken Ivory
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill modifies offenses related to giving false information to a law enforcement officer.

Highlighted Provisions:

This bill:

- makes it a crime for an actor arrested for a crime to falsely claim the actor ingested drugs before the arrest; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-8-506, as last amended by Laws of Utah 2005, Chapter 92

Sections affected by Coordination Clause:

76-8-506, as last amended by Laws of Utah 2005, Chapter 923

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-8-506 is amended to read:

76-8-506. Providing false information to law enforcement officers, government agencies, or specified professionals.

[~~A person~~]An actor is guilty of a class B misdemeanor if[~~he~~]:

(1) the actor knowingly gives or causes to be given false information to [~~any~~]a peace officer or [~~any~~]a state or local government agency or personnel with a purpose of inducing the recipient of the information to believe that another person has committed an offense;

(2) the actor knowingly gives or causes to be given to [~~any~~]a peace officer, [~~any~~]a state or local government agency or personnel, or to [~~any person~~]an individual licensed in this state to practice social work, psychology, or marriage and family therapy, information concerning the commission of an offense, knowing that the offense did not occur or knowing that [~~he~~]the actor has no information relating to the offense or danger; [~~or~~]

(3) the actor knowingly gives or causes to be given false information to [~~any~~]a state or local government agency or personnel with a purpose of inducing a change in the [~~person's~~]actor's licensing or certification status or the licensing or certification status of another person; or

(4)(a) at the time of the actor's arrest for an offense, the actor states to a law enforcement officer that the actor ingested drugs before the actor's arrest;

(b) the law enforcement officer, based on the actor's statement described in Subsection (4)(a), takes the actor to a health care facility for medical treatment; and

(c) a medical examination of the actor demonstrates that the actor's statement described in Subsection (4)(a) was false.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

Section 3. Coordinating H.B. 211 with H.B. 15.

If H.B. 211, Penalty for False Statement During Drug Arrest, and H.B. 15, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on May 1, 2024, Section 76-8-506 be amended to read:

"76-8-506. Providing false information to a law enforcement [~~officers~~]officer, government [~~agencies~~]agency, or specified [~~professionals~~]professional.

[~~A person is guilty of a class B misdemeanor if he:~~]

(1) [–]Terms defined in Sections 76-1-101.5, 76-8-101, and 76-8-501 apply to this section.

(2) An actor commits providing false information to a law enforcement officer, government agency, or specified professional if:

(a) the actor knowingly gives or causes to be given:

(i) [~~-~~]false information to [~~any~~]a peace officer or [~~any~~]state or local government agency or personnel with a purpose of inducing the recipient of the information to believe that another person has committed an offense;

[~~(2) knowingly gives or causes to be given to any~~](ii) information concerning the commission of an offense to a peace officer, [~~any~~]a state or local government agency or personnel, or to [~~any person~~]an individual licensed in this state to practice social work, psychology, or marriage and family therapy, [~~information concerning the commission of an offense,~~]knowing that the offense did not occur or knowing that [~~he~~]the actor has no information relating to the offense or danger; or

[~~(3) knowingly gives or causes to be given~~](iii) false information to [~~any~~]a state or local government agency or personnel with a purpose of inducing a change in the [~~person's~~]actor's licensing or certification status or the licensing or certification status of another person; or

(b) (i) at the time of the actor's arrest for an offense, the actor states to a law enforcement officer that the actor ingested drugs before the actor's arrest;

(ii) the law enforcement officer, based on the actor's statement described in Subsection (2)(b)(i),

takes the actor to a health care facility for medical treatment; and

(iii) a medical examination of the actor demonstrates that the actor's statement described in Subsection (2)(b)(i) was false.

(3) A violation of Subsection (2) is a class B misdemeanor.".

CHAPTER 492
H. B. 348
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

PRECIOUS METALS AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Kirk A. Cullimore

Cosponsor:
Matthew H. Gwynn
A. Cory Maloy
Cheryl K. Acton
Jon Hawkins
Michael J. Petersen
Carl R. Albrecht
Tim Jimenez
Thomas W. Peterson
Stewart E. Barlow
Dan N. Johnson
Judy Weeks Rohner
Kera Birkeland
Michael L. Kohler
Rex P. Shipp
Walt Brooks
Jason B. Kyle
Keven J. Stratton
Jefferson S. Burton
Trevor Lee
Mark A. Strong
Kay J. Christofferson
Steven J. Lund
Christine F. Watkins
Tyler Clancy
Phil Lyman
Douglas R. Welton
Joseph Elison
Matt MacPherson

LONG TITLE

General Description:

This bill modifies provisions related to precious metals.

Highlighted Provisions:

This bill:

- defines terms;
- exempts a portion of funds in certain budget reserve accounts from the State Money Management Act;
- authorizes the state treasurer to invest a portion of the funds in certain budget reserve accounts in precious metals; and
- requires the state treasurer to conduct a study related to precious metals.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
51-7-2, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328

ENACTS:
67-4-19, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201; [~~and~~]

(o) the Utah fund of funds created in Section 63N-6-401[~~.~~]; and

(p) subject to Subsection 67-4-19(2), the portion of the funds in the following accounts invested by the state treasurer in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

Section 2. Section 67-4-19 is enacted to read:

67-4-19. Investments of public funds in precious metals by state treasurer -- Precious metals study and report to Legislature.

(1) As used in this section, "precious metal" means the same as that term is defined in Section 61-1-13.

(2)(a) Subject to Subsection (2)(b), the state treasurer may invest a portion of public funds in the following accounts in precious metals:

(i) the State Disaster Recovery Restricted Account, created in Section 53-2a-603;

(ii) the General Fund Budget Reserve Account, created in Section 63J-1-312;

(iii) the Income Tax Fund Budget Reserve Account, created in Section 63J-1-313; and

(iv) the Medicaid Growth Reduction and Budget Stabilization Account, created in Section 63J-1-315.

(b)(i) The amount of public funds that the state treasurer may invest in precious metals in an account described in Subsection (2)(a) may not, at the time the investment is made, exceed 10% of the total amount of public funds in that account.

(ii) The requirements of Subsections 51-7-14(2) and (3) apply to the state treasurer's investments in precious metals under Subsection (2)(a).

(iii) Any public funds in an account described in Subsection (2)(a) not invested by the state treasurer in precious metals under this Subsection (2) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

(3) The state treasurer shall:

(a) conduct a study analyzing the role of precious metals in augmenting, stabilizing, and ensuring the economic security and prosperity of the state, the families and residents of the state, and businesses in the state; and

(b) submit to the Revenue and Taxation Interim Committee on or before the committee's 2024 October interim committee meeting any recommendations for legislation resulting from the outcome of the study conducted under Subsection (3)(a).

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 493
H. B. 374
Passed February 23, 2024
Approved March 21, 2024
Effective May 1, 2024

STATE ENERGY POLICY AMENDMENTS

Chief Sponsor: Colin W. Jack
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies the state energy policy.

Highlighted Provisions:

This bill:

- defines terms;
- provides that the state energy policy:
  - is focused on human well-being and quality of life;
  - encourages the use of dispatchable energy resources;
  - fosters innovation and development to meet future energy demand; and
  - allows for market-based solutions; and
- requires the Office of Energy Development to report annually to the Public Utilities, Energy, and Technology Interim Committee regarding:
  - development and implementation of the state energy plan; and
  - the state energy plan's compliance with the state energy policy; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-102, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-301, as last amended by Laws of Utah 2023, Chapters 186, 195
79-6-401, as last amended by Laws of Utah 2023, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 79-6-102 is amended to read:

79-6-102. Definitions.

As used in this chapter:

(1) "Adequate" means an amount of energy sufficient to continuously meet demand from under normal conditions, not including planned outages and temporary service disruptions.

(2) "Affordable" means priced to be accessible to the population without causing financial strain or compromising basic needs, quality of life, or well-being.

(3) "Appointing authority" means:

(a) on and before June 30, 2029, the governor; and

(b) on and after July 1, 2029, the executive director.

(4) "Clean" means minimizing adverse environmental impact and able to meet state standards for environmental quality.

(5) "Dispatchable" means available for use on demand and generally available to be delivered at a time and quantity of the operator's choosing.

(6) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

[~~(2)~~](7)(a) On and before June 30, 2029, "energy advisor" means the governor's energy advisor appointed under Section 79-6-401.

(b) On and after July 1, 2029, "energy advisor" means the energy advisor appointed by the executive director under Section 79-6-401.

(8) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(9) "Intermittent" means available for use on a variable basis that is dependent on elements outside of the control of the operator.

[~~(3)~~](10) "Office" means the Office of Energy Development created in Section 79-6-401.

(11)(a) "Reliable" means supporting a system generally able to provide a continuous supply and the resiliency to withstand sudden or unexpected disturbances.

(b) "Reliable" includes, for systems delivering electricity, the ability to provide electricity at the proper voltage and frequency.

(12) "Secure" means protected against disruption, tampering, and external interference.

[~~(4) "State agency" means an executive branch:~~]

[~~(a) department;~~]

[~~(b) agency;~~]

[~~(c) board;~~]

[~~(d) commission;~~]

[~~(e) division; or~~]

[~~(f) state educational institution.~~]

(13) "Sustainable" means domestically sourced and able to provide affordable, reliable energy in adequate quantities for current and future generations without compromising economic prosperity or environmental health.

(14) "Governmental entity" means:

(a) any department, agency, board, commission, or other instrumentality of the state; or

(b) a political subdivision of the state.

Section 2. Section 79-6-301 is amended to read:

79-6-301. State energy policy.

[~~(1) It is the policy of the state that:~~]

[~~(a) Utah shall have adequate, reliable, affordable, sustainable, and clean energy resources;~~]

[~~(b) Utah shall promote the development of:~~]

[~~(i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and oil sands;~~]

[~~(ii) renewable energy resources, including geothermal, solar, wind, biomass, biofuel, and hydroelectric;~~]

[~~(iii) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;~~]

[~~(iv) alternative transportation fuels and technologies;~~]

[~~(v) infrastructure to facilitate energy development, diversified modes of transportation, greater access to domestic and international markets for Utah's resources, and advanced transmission systems;~~]

[~~(vi) energy storage, pumped storage, and other advanced energy systems, including hydrogen from all sources;~~]

[~~(vii) electricity systems that can be controlled at the request of grid operators to meet system load demands, to ensure an adequate supply of dispatchable energy generation resources;~~]

[~~(viii) electricity systems that are stable and capable of serving load without accelerating damage to customer equipment; and~~]

[~~(ix) increased refinery capacity;~~]

[~~(c) Utah shall promote the development of resources and infrastructure sufficient to meet the state's growing demand, while contributing to the regional and national energy supply, thus reducing dependence on international energy sources;~~]

[~~(d) Utah shall promote the development of resources, tools, and infrastructure to enhance the state's ability to:~~]

[~~(i) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies;~~]

[~~(ii) maintain adequate supply, including reserves of proven and cost-effective dispatchable electricity reserves to meet grid demand; and~~]

[~~(iii) ensure the state's energy independence by promoting the use of energy resources generated within the state;~~]

[~~(e) Utah shall allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;~~]

[~~(f) Utah shall pursue energy conservation, energy efficiency, and environmental quality;~~]

[~~(g) Utah shall promote the development of a secure supply chain from resource extraction to energy production and consumption;~~]

[~~(h)(i) state regulatory processes should be streamlined to balance economic costs with the level of review necessary to ensure protection of the state's various interests; and~~]

[~~(ii) where federal action is required, Utah will encourage expedited federal action and will collaborate with federal agencies to expedite review;~~]

[~~(i) Utah shall maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:~~]

[~~(i) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and~~]

[~~(ii) investment will occur only when adequate financial returns can be realized;~~]

[~~(j) Utah shall promote training and education programs focused on developing a comprehensive understanding of energy, including:~~]

[~~(i) programs addressing:~~]

[~~(A) energy conservation;~~]

[~~(B) energy efficiency;~~]

[~~(C) supply and demand; and~~]

[~~(D) energy related workforce development; and~~]

[~~(ii) energy education programs in grades kindergarten through grade 12; and~~]

[~~(k) Utah shall promote the use of clean energy sources by considering the emissions of an energy resource throughout the entire life cycle of the energy resource.~~]

[~~(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1).~~]

[~~(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).~~]

(1) It is the policy of the state that:

(a)(i) Utah will develop its energy resources and plan its energy future with a focus on human well-being and quality of life, recognizing that reliable access to energy is vital for human health, adaptation, economic growth, and prosperity;

(ii) Utah shall have energy resources that have the following attributes, listed in order of priority:

(A) adequate;

(B) reliable;

(C) dispatchable;

(D) affordable;

(E) sustainable;

(F) secure; and

(G) clean; and

(iii) Utah shall encourage the construction and use of energy systems that balance the criteria described in Subsection (1)(a)(ii) while giving priority to the criteria in the order they are listed in Subsection (1)(a)(ii);

(b)(i) Utah shall foster market-based solutions to:

(A) meet current and future energy demands;

(B) protect proven technologies; and

(C) minimize political uncertainties in pursuing energy development and strategy;

(ii) Utah shall promote the development of a diverse energy portfolio, including:

(A) dispatchable energy resources, including natural gas, coal, oil, and hydroelectric;

(B) nuclear power generation technologies certified for use by the United States Nuclear Regulatory Commission including molten salt reactors producing medical isotopes;

(C) intermittent energy resources, including solar and wind;

(D) clean energy sources by considering the environmental impact, including emissions, of an energy resource throughout the entire life cycle of the energy resource; and

(E) increased refinery capacity; and

(iii) Utah shall encourage innovation in the development of energy resources, including:

(A) emerging energy resources, including geothermal, biomass, biofuel, oil shale, and oil sands;

(B) alternative transportation fuels and technologies; and

(C) energy storage, pumped storage, and other developing energy systems, including hydrogen from all sources;

(c)(i) Utah shall streamline state regulatory processes to balance economic costs with the level of review necessary to ensure protection of the state's interests; and

(ii) Utah shall encourage expedited federal action and will collaborate with federal agencies to expedite review;

(d)(i) Utah shall maintain an environment that provides for stable consumer prices that are as low as possible while providing producers and suppliers a fair return on investment, recognizing that:

(A) economic prosperity is linked to the availability, reliability, and affordability of consumer energy supplies; and

(B) investment will occur only when adequate financial returns can be realized;

(ii) Utah shall assess the utility value of each prospective energy resource to meet the state's increasing demands including:

(A) a market analysis with and without government subsidies; and

(B) the total system impact of an energy resource;

(iii) Utah shall provide support for the innovation, research, and development of new energy resources and promote the development of resources and infrastructure sufficient to meet the state's growing demand and to contribute to the regional and national energy supply, thus reducing dependence on international energy materials; and

(iv) Utah shall allow market forces to drive prudent use of energy resources, although incentives and other methods may be used to ensure the state's optimal development and use of energy resources in the short- and long-term;

(e) Utah shall promote the development of resources, tools, and infrastructure to enhance the state's ability to:

(i) maintain adequate supply, including reserves of proven and cost-effective resources to meet demand;

(ii) ensure the state's energy independence by promoting and prioritizing the use of energy resources generated within the state; and

(iii) respond effectively to significant disruptions to the state's energy generation, energy delivery systems, or fuel supplies;

(f)(i) Utah shall research and develop in consideration of the complete life cycle of an energy resource including mining, transportation, consumption, disposal, and reclamation;

(ii) Utah shall promote the development of a secure supply chain from resource extraction to energy production and consumption; and

(iii) Utah shall, in accordance with the policy principles described in this section, support the construction of infrastructure to encourage:

(A) energy development;

(B) diversified modes of energy transportation;

(C) greater access to domestic and international markets for Utah's resources; and

(D) advanced transmission systems;

(g) Utah shall pursue energy conservation, energy efficiency, and environmental quality; and

(h) Utah shall promote training and education programs developed by the office, focused on developing a comprehensive understanding of energy, including:

(i) programs addressing:

(A) supply and demand;

(B) energy related workforce development;

(C) energy efficiency; and

(D) energy conservation; and

(ii) energy education programs in grades kindergarten through grade 12.

(2) Governmental entities, the Public Service Commission, electric corporations, and gas corporations shall conduct activities consistent with Subsection (1).

(3) A person may not file suit to challenge a state agency's action that is inconsistent with Subsection (1).

Section 3. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development in the Department of Natural Resources.

(2)(a) The energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.

(b) The director:

(i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, 63C-26-202, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6)(a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8)(a) An employee of the office is an at-will employee.

(b) For an employee of the office on July 1, 2021, the employee shall have the same salary and benefit options the employee had when the office was part of the office of the governor.

(9)(a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient utilization and development of:

(A) nonrenewable energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall consult with stakeholders, including representatives from:

(i) energy companies in the state;

(ii) private and public institutions of higher education within the state conducting energy-related research; and

(iii) other state agencies.

(c) [~~On or before the October 2023 interim meeting, the~~]The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee [~~and the Executive Appropriations Interim Committee~~]on or before the October interim meeting describing:

(i) progress towards creation and implementation of the strategic energy plan;

(ii) the plan's compliance with the state energy policy; and

[~~(ii)~~](iii) a proposed budget for the office to continue development of the strategic energy plan.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 494
H. B. 388
Passed February 29, 2024
Approved March 21, 2024
Effective May 1, 2024

PERSON-CENTERED SERVICES AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions concerning the Division of Services for People with Disabilities.

Highlighted Provisions:

This bill:

- requires the Division of Services for People with Disabilities (division) to report certain information upon request by a legislator or legislative committee;
- provides that the division must provide notice, hold a public hearing, and fund a reasonably equivalent service if the division changes a rule or policy that results in a reduction or elimination of day program or supported employment services;
- requires the division to support providers in implementing employment preparation programs and additional personally meaningful services and supports; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-6-405, as renumbered and amended by Laws of Utah 2023, Chapter 308

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-6-405 is amended to read:

26B-6-405. Division responsibilities -- Policy mediation.

(1) The division shall establish its rules in accordance with:

(a) the policy of the Legislature as set forth by this part; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division shall:

(a) establish program policy for the division, the developmental center, and programs and facilities operated by or under contract with the division;

(b) establish rules for the assessment and collection of fees for programs within the division;

(c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay and implement the schedule with respect to service recipients and their families where not otherwise prohibited by federal law or regulation or not otherwise provided for in Section 26B-6-411;

(d) establish procedures to ensure that private citizens, consumers, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new policy or proposed revision to an existing policy;

(e) provide a mechanism for systematic and regular review of existing policy and for consideration of policy changes proposed by the persons and agencies described under Subsection (2)(d);

(f) establish and periodically review the criteria used to determine who may receive services from the division and how the delivery of those services is prioritized within available funding;

(g) review implementation and compliance by the division with policies established by the board to ensure that the policies established by the Legislature in this chapter are carried out; [~~and~~]

(h) annually report to the executive director[~~.~~]; and

(i) upon request by a legislator or a legislative committee, provide a report detailing actions the division has taken to enhance the quality of life for individuals with disabilities, including how the division has:

(i) provided services and support in the most person-centered way, reflecting the unique desires, assessed competencies, and limitations of each individual, and in the least restrictive environment best suited to each individual's needs;

(ii) ensured opportunities to access employment; and

(iii) enabled reasonable personal choice in selecting services and support that promotes:

(A) independence;

(B) productivity; and

(C) integration in community life.

(3) The division may not make, amend, or repeal a rule or policy if the effect of making, amending, or repealing the rule or policy would be to reduce or eliminate day program services, supported employment services, or employment preparation services for individuals with disabilities, unless the division:

(a) provides notice of the proposed rule or policy change to all persons who would be affected by the change at least 30 days before the proposed change becomes effective;

(b) holds a public hearing on the proposed rule or policy change:

(i) before the proposed change becomes effective; and

(ii) no less than seven days nor more than 30 days after the division satisfies the notice requirement in Subsection (3)(b)(i); and

(c) appropriately funds a reasonably equivalent service for individuals served by the reduced or eliminated day program services, supported employment services, or employment preparation services.

(4) In accordance with the federal directive to provide services and supports in a setting and manner that is person-centered, and to empower individuals whose circumstances and disabilities make it unlikely for them to find suitable competitive integrated employment, the division shall support providers by permitting the providers maximum flexibility in creating and implementing employment preparation programs and additional personally meaningful services and supports.

[~~(3)~~](5) The executive director shall mediate any differences which arise between the policies of the division and those of any other policy board or division in the department.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 495
H. B. 404
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

PUBLIC ENTITY RESTRICTIONS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Daniel McCay

Cosponsor:
Stephanie Gricius
Karianne Lisonbee
Cheryl K. Acton
Jon Hawkins
A. Cory Maloy
Kera Birkeland
Ken Ivory
Jefferson Moss
Bridger Bolinder
Colin W. Jack
Michael J. Petersen
Jefferson S. Burton
Tim Jimenez
Val L. Peterson
Kay J. Christofferson
Michael L. Kohler
Andrew Stoddard
Tyler Clancy
Trevor Lee
Jordan D. Teuscher
Jennifer Dailey-Provost
Rosemary T. Lesser
Christine F. Watkins

LONG TITLE

General Description:

This bill concerns restrictions on a public entity.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a municipality from entering into a sister city relationship with certain other municipalities;
- prohibits certain public entities from using the procurement process under certain circumstances to:
  - contract with certain foreign entities for certain technology products or services; or
  - obtain a product that was made using forced labor;
- requires certain entities to provide a certification involving certain procurement contracts;
- includes cross references relating to the new requirements; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63G-6a-602, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-702, as last amended by Laws of Utah 2020, Chapter 257

ENACTS:

10-1-206, Utah Code Annotated 1953
63G-6a-121, Utah Code Annotated 1953

Sections affected by Coordination Clause:

63G-6a-121, Utah Code Annotated 19536

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-206 is enacted to read:

10-1-206. Sister municipality restriction.

(1) As used in this section, "forced labor" means labor from a child or an adult that is obtained through the use of force or coercion.

(2) A municipality may not enter into or renew a sister city agreement or arrangement with another municipality unless the other municipality confirms that there are no forced labor production facilities within the other municipality's borders.

(3) An agreement in violation of Subsection (2) is void.

Section 2. Section 63G-6a-121 is enacted to read:

63G-6a-121. Specific procurement restrictions relating to forced labor and restricted foreign entities.

(1) As used in this section:

(a) "Forced labor" means labor from a child or an adult that is obtained through the use of force or coercion.

(b) "Forced labor product" means a product that was made:

(i) using forced labor; or

(ii) includes a component that was made using forced labor.

(c) "Restricted foreign entity" means:

(i) a company that is owned or directly controlled by the government of China, Iran, North Korea, or Russia;

(ii) a company that the United States Secretary of Defense is required to list as a military company under the requirements of federal national defense authorization acts;

(iii) an affiliate of a company described in Subsection (1)(c)(i) or (1)(c)(ii);

(iv) a company, entity, or other subsidiary headquartered in the country with a commercial or defense industrial base of which a company described in Subsection (1)(c)(ii) is a part;

(v) a company appearing on the designated entity lists of the United States Department of Defense, United States Department of Commerce, or the Federal Communications Commission; or

(vi) a subsidiary of a company described in Subsection (1)(c)(i), (1)(c)(ii), or (1)(c)(v) or a country, company, or other entity described in Subsection (1)(c)(iv).

(2)(a) Except as provided under Subsection (3), an executive branch procurement unit, judicial procurement unit, or legislative procurement unit may not procure:

(i) technology or technology services, networks, or systems from a restricted foreign entity; or

(ii) a forced labor product.

(b)(i) A vendor that submits a bid or a proposal to a procurement unit described in Subsection (2)(a) for a contract involving technology or technology services, networks, or systems, shall certify that the vendor is not a restricted foreign entity.

(ii) A vendor that submits a bid or proposal to a procurement unit described in Subsection (2)(a) for a contract involving a product shall certify that the product is not a forced labor product.

(3)(a) Except as provided under Subsection (3)(b), a procurement unit described in Subsection (2)(a) shall reject a bid or proposal submitted in violation of Subsection (2).

(b) A procurement unit described in Subsection (2)(a) is not required to comply with the requirements described in Subsection (2) if:

(i) the procurement unit has determined that there are no other reasonable options for the procurement; or

(ii) the product or service, or the contract pertaining to the product or service, was obtained or entered into before May 1, 2024.

(4) The board may make rules in accordance with Chapter 3, Utah Administrative Rulemaking Act, to address procurement restrictions relating to restricted foreign entities and forced labor products.

Section 3. Section 63G-6a-602 is amended to read:

63G-6a-602. Contracts awarded by bidding.

A procurement unit may award a contract for a procurement item by the bidding process, in accordance with:

(1) the rules of the rulemaking authority; and

(2) if applicable, the requirements under Section 63G-6a-121, Specific procurement restrictions relating to forced labor and restricted foreign entities.

Section 4. Section 63G-6a-702 is amended to read:

63G-6a-702. Contracts awarded by request for proposals.

(1) A procurement unit may award a contract for a procurement item by the request for proposals process, in accordance with:

(a) rulemaking authority rules[.]; and

(b) if applicable, the requirements under Section 63G-6a-121, Specific procurement restrictions relating to forced labor and restricted foreign entities.

(2) The procurement of architect-engineer services is governed by Part 15, Design Professional Services.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

Section 6. Coordinating H.B. 404 with S.B. 135.

If H.B. 404, Public Entity Restrictions, and S.B. 135, Advanced Air Mobility and Aeronautics Amendments, both pass and become law, the Legislature intends that, on January 1, 2025, the following language be added as Subsection (5) to Section 63G-6a-121 enacted in H.B. 404:

"(5) Notwithstanding this section, a procurement of an unmanned aircraft system is governed by Title 72, Chapter 10, Part 12, Prohibition on the Purchase of Unmanned Aircraft Manufactured or Assembled by a Covered Foreign Entity.".

CHAPTER 496
H. B. 410
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

UTAH SAN RAFAEL STATE ENERGY LAB

Chief Sponsor: Christine F. Watkins
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill establishes the Utah San Rafael Energy Lab and creates the Utah San Rafael Energy Lab Board.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Utah San Rafael Energy Lab;
- creates the Utah Energy Research Fund;
- establishes the Utah San Rafael Energy Lab Board (board);
- establishes the membership and duties of the board and the lab;
- outlines the purpose and duties of the board and the lab; and
- establishes a project proposal solicitation and approval process.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Natural Resources - Office of Energy Development as a one-time appropriation:
  - from the General Fund, One-time, $2,000,000

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-6-1001, Utah Code Annotated 1953
79-6-1002, Utah Code Annotated 1953
79-6-1003, Utah Code Annotated 1953
79-6-1004, Utah Code Annotated 1953
79-6-1005, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 79-6-1001 is enacted to read:

79-6-1001. Definitions.

As used in this part:

(1) "Board" means the Utah San Rafael Energy Lab Board established in Section 79-6-1003.

(2) "Director" means the director of the Office of Energy Development as defined in Section 79-6-401.

(3) "Fund" means the Utah Energy Research Fund established in Section 79-6-1002.

(4) "Lab" means the Utah San Rafael Energy Lab established in Section 79-6-1004.

(5) "Lab director" means the director appointed under Section 79-6-1004 to oversee the lab.

(6) "Project proposal" means a formal written submission to the board applying for approval of a specific research initiative conducted at the lab.

(7) "Office" means the Office of Energy Development as defined in Section 79-6-401.

Section 2. Section 79-6-1002 is enacted to read:

79-6-1002. Utah Energy Research Fund.

(1) There is created an enterprise fund known as the "Utah Energy Research Fund."

(2) The fund consists of:

(a) grants, entitlements, and other money received by the office from the federal government;

(b) revenues from users of the Utah San Rafael Energy Lab, deposited into the fund under Subsection 79-6-1004(2)(d);

(c) transfers, grants, bequests, and money made available from any source to implement this part; and

(d) money appropriated to the fund by the Legislature.

(3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited in the fund.

(4) As funding allows, the office may use money in the fund for:

(a) administering the Utah Energy Research Grant Program created in Section 79-6-403; and

(b) funding the ongoing operation of the Utah San Rafael Energy Lab, including compensation for lab staff.

Section 3. Section 79-6-1003 is enacted to read:

79-6-1003. Utah San Rafael Energy Lab Board -- Duties -- Expenses.

(1) There is established in the office the Utah San Rafael Energy Lab Board that is composed of the following nine voting board members:

(a) the director, or the director's designee, who shall serve as the chair of the board;

(b) the president of the University of Utah or the president's designee;

(c) the president of Utah State University or the president's designee;

(d) the commissioner of higher education, as described in Section 53B-1-408, or the commissioner's designee;

(e) one member, who is not a legislator, with experience in the non-regulated energy industry appointed by the speaker of the House of Representatives;

(f) one member, who is not a legislator, with experience in energy commercialization appointed by the president of the Senate;

(g) one member appointed by the governor who resides in a county of the third, fourth, fifth, or sixth class as described in Section 17-50-501; and

(h) two members appointed by the office with relevant expertise in energy research and development.

(2)(a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the person making an appointment shall, at the time of appointment or reappointment, adjust the length of board member terms to ensure the terms of board members are staggered so that approximately half of the board is constituted of new members every two years.

(c) The person who appoints a member under Subsection (1) may remove an appointee who was appointed by the person for cause.

(d) The person who appoints a member under Subsection (1) shall fill a vacancy on the board in the same manner as provided in Subsection (1).

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term.

(f) Unless removed for cause under Subsection (2)(c) a board member shall serve until a successor is appointed.

(3)(a) A majority of the board constitutes a quorum.

(b) A majority vote of the quorum is required for an action to be taken by the board.

(4) The board shall:

(a) foster innovation and support technological development in the energy sector by collaborating with industry leaders, researchers, entrepreneurs, investors, and other stakeholders;

(b) identify areas of economic growth and workforce development opportunities related to emerging energy technologies and solutions;

(c) seek potential investors and partners from the technology, finance, and business sectors to support innovative research and early-stage ventures focused on developing commercially viable energy technologies in the state;

(d) in consultation with the lab, identify and prioritize high-impact research projects for the lab aligned to the state's energy policy goals;

(e) develop evaluation criteria for approving project proposals, with input from the lab director, including:

(i) alignment with state energy policy priorities;

(ii) commercialization potential;

(iii) economic impact; and

(iv) other relevant factors as determined by the board;

(f) recommend allocation of lab resources for project proposals;

(g) approve providing matching grants to applicants under the Utah Energy Research Grant Program created in Section 79-6-403; and

(h) consult with relevant stakeholders for input on energy research priorities and potential collaborations.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall meet at least quarterly and may hold additional meetings as necessary to review project proposals.

Section 4. Section 79-6-1004 is enacted to read:

79-6-1004. Utah San Rafael Energy Lab established -- Lab director.

(1) There is established within the office a program and facility known as the Utah San Rafael Energy Lab to facilitate innovative energy research and development projects.

(2) The lab shall:

(a) receive and evaluate project proposals;

(b) submit recommendations to the board for approval regarding specific project proposals based on the lab's evaluation;

(c) conduct innovative energy technology research and development projects that have commercialization potential and support the state's energy policy goals;

(d) enter into financial contracts with entities seeking to use the lab, with revenues deposited into the Utah Energy Research Fund created in Section 79-6-1002;

(e) assess the viability of emerging energy solutions for deployment within the state, considering:

(i) cost-effectiveness;

(ii) dispatchability;

(iii) sustainability;

(iv) reliability; and

(v) environmental impact;

(f) provide analysis and recommendations to policymakers regarding energy system planning, infrastructure needs, and the value of different energy initiatives being considered within the state; and

(g) collaborate with universities, industry partners, entrepreneurs, community representatives, and other research entities.

(3)(a) The director shall appoint a full-time lab director with the consent of the board to oversee the day-to-day operations of the lab.

(b) The lab director shall report to the director.

(c) As funding allows, the office may employ staff to support the lab's operations.

Section 5. Section 79-6-1005 is enacted to read:

79-6-1005. Project proposal solicitation and approval process.

(1) The lab shall have an open project proposal solicitation process to facilitate innovative energy research and development conducted at the lab that is aligned with the state energy policy.

(2) The lab shall receive project proposals from:

(a) academics and research faculty from universities and research institutions;

(b) private sector companies, including technology entrepreneurs and small businesses;

(c) government agencies and national laboratories;

(d) nonprofit organizations and foundations engaged in energy research; and

(e) other qualified research teams.

(3)(a) The lab shall evaluate the feasibility, merit, and potential impact of project proposals received under Subsection (2).

(b) After evaluating the project proposals, the lab shall submit recommendations to the board for specific project proposals that the lab advises approving, based on the evaluation criteria.

(4) The board shall review the project proposals and recommendations submitted by the lab and make final decisions on approval of project proposals for funding and implementation, based on criteria developed by the board under Section 79-6-1003.

(5) The office may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing detailed project proposal evaluation criteria and selection procedures.

Section 6. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 6(a) Business-like Activities

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To Department of Natural Resources - Office of Energy Development

From General Fund, One-time $2,000,000

Schedule of Programs:

Utah San Rafael Energy Lab $2,000,000

Section 7. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 497
H. B. 415
Passed February 29, 2024
Approved March 21, 2024
Effective May 1, 2024

SCHOOL FEES AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends and enacts provisions related to elementary and secondary school fees.

Highlighted Provisions:

This bill:

- amends definitions;
- prescribes fees a local education agency (LEA) may charge a secondary school student for a curricular or co-curricular activity for a certain duration;
- authorizes an LEA to charge a secondary school student a fee for an extracurricular activity for a certain duration;
- prohibits an LEA from charging a general fee;
- amends provisions related to fees for textbooks;
- prohibits charging a student in grade 6 a fee for a remediation program; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - State Board and Administrative Operations - Financial Operations as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $35,537,800

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380
53E-8-401, as last amended by Laws of Utah 2020, Chapter 408
53E-10-305, as last amended by Laws of Utah 2020, Chapters 220, 365
53G-5-405, as last amended by Laws of Utah 2023, Chapter 343
53G-6-302, as last amended by Laws of Utah 2023, Chapter 328
53G-6-303, as last amended by Laws of Utah 2019, Chapter 293
53G-6-701, as enacted by Laws of Utah 2018, Chapter 3
53G-7-501, as last amended by Laws of Utah 2020, Chapter 51
53G-7-502, as last amended by Laws of Utah 2019, Chapter 223
53G-7-503, as last amended by Laws of Utah 2021, Chapter 341
53G-7-504, as last amended by Laws of Utah 2020, Chapter 408
53G-9-803, as last amended by Laws of Utah 2019, Chapter 293
53G-10-503, as last amended by Laws of Utah 2021, Chapter 247
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

RENUMBERS AND AMENDS:

53G-7-602, (Renumbered from 53G-7-602, as last amended by Laws of Utah 2020, Chapter 138)
53G-7-603, (Renumbered from 53G-7-603, as repealed and reenacted by Laws of Utah 2019, Chapter 223)

REPEALS:

53G-7-601, as last amended by Laws of Utah 2020, Chapter 138

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

(l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(m) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

(n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

(o) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

(p) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

(q) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

(r) the report described in Section 53G-7-221 by the State Board of Education regarding innovation plans;

(s) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and

(t) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

[~~(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;~~]

[~~(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;~~]

[~~(c)~~](a) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(d)~~](b) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;~~]

[~~(f)~~](c) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(g)~~](d) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(h)~~](e) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(i)~~](f) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;~~]

[~~(k)~~](g) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(l)~~](h) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the State Board of Education, and the Department of Health and Human [~~Service~~]Services regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 2. Section 53E-8-401 is amended to read:

53E-8-401. Eligibility for services of the Utah Schools for the Deaf and the Blind.

(1) Except as provided in Subsections (3), (4), and (5), an individual is eligible to receive services of the Utah Schools for the Deaf and the Blind if the individual is:

(a) a resident of Utah;

(b) younger than 22 years [~~of age~~]old;

(c) referred to the Utah Schools for the Deaf and the Blind by:

(i) the individual's school district of residence;

(ii) a local early intervention program; or

(iii) if the referral is consistent with the Individual with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the Parent Infant Program; and

(d) identified as deaf, blind, or deafblind through:

(i) the special education eligibility determination process; or

(ii) the Section 504 eligibility determination process.

(2)(a) In determining eligibility for an individual who is younger than age three and is deafblind, the following information may be used:

(i) opthalmological and audiological documentation;

(ii) functional vision or hearing assessments and evaluations; or

(iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.

(b) Informed clinical opinion shall be:

(i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

(ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.

(3)(a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.

(b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.

(4)(a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with the rules of the state board described in Subsection (6).

(b) [~~The rules shall~~]Notwithstanding Section 53G-7-503, the state board shall ensure that the rules described in Subsection (6) require the payment of tuition for services provided to a nonresident.

(5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board:

(a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and

(b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the resident is younger than 22 years [~~of age~~]old.

Section 3. Section 53E-10-305 is amended to read:

53E-10-305. Tuition and fees.

(1) Except as provided in this section, the Utah Board of Higher Education or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.

(2)(a) The Utah Board of Higher Education may charge a one-time fee for a student to participate in the concurrent enrollment program.

(b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(3)(a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.

(b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.

(4)(a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than $30 per credit hour for a concurrent enrollment course for which a student earns college credit.

(b) An institution of higher education may not charge more than:

(i) $5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;

(ii) $10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(6)(b); or

(iii) $15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

[~~(5) In accordance with Section 53G-7-603, an LEA may charge a fee for a textbook, as defined in Section 53G-7-601, that is required for a concurrent enrollment course.~~]

Section 4. Section 53G-5-405 is amended to read:

53G-5-405. Application of statutes and rules to charter schools.

(1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.

(2)(a) Except as provided in Subsections (2)(b) and (2)(c), state board rules governing the following do not apply to a charter school:

(i) school libraries;

(ii) required school administrative and supervisory services; and

(iii) required expenditures for instructional supplies.

(b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.

(c) If a charter school provides access to a school library, the charter school governing board shall provide an online platform:

(i) through which a parent is able to view the title, author, and a description of any material the parent's child borrows from the school library, including a history of borrowed materials, either using an existing online platform that the charter school uses or through a separate platform; and

(ii)(A) for a charter school with 1,000 or more enrolled students, no later than August 1, 2024; and

(B) for a charter school with fewer than 1,000 enrolled students, no later than August 1, 2026.

(3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:

(a) Section 53E-4-408, requiring an independent evaluation of instructional materials;

(b) Section 53G-4-409, requiring the use of activity disclosure statements;

(c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;

[~~(d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;~~]

[~~(e)~~](d) Section 53G-7-1202, requiring the establishment of a school community council; and

[~~(f)~~](e) Section 53G-10-404, requiring annual presentations on adoption.

(4) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.

(5) Each charter school shall be subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53G-5-404.

(7)(a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.

(b)(i) The State Charter School Board shall present recommendations for exemption to the state board for consideration.

(ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Section 5. Section 53G-6-302 is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(b) "Human services program" means the same as that term is defined in Section 26B-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 26B-2-116.

(2) The school district of residence of a minor child whose custodial parent resides within Utah is:

(a) the school district in which the custodial parent resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section 26B-2-131 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent moves from the state;

(ii) the child's parent executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4)(a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees[~~ or other charges relating~~], as defined in Section 53G-7-501, to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches [~~the age of 18~~]18 years old, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 6. Section 53G-6-303 is amended to read:

53G-6-303. Guardianship for residency purposes by responsible adult -- Procedure to obtain -- Termination.

(1) For purposes of this part, "responsible adult" means a person 21 years [~~of age~~]old or older who is a resident of this state and is willing and able to provide reasonably adequate food, clothing, shelter, and supervision for a minor child.

(2) A local school board may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent does not reside within the state upon compliance with the following requirements:

(a) submission to the school district of a signed and notarized affidavit by the child's custodial parent stating that:

(i) the child's presence in the district is not for the primary purpose of attending the public schools;

(ii) the child's physical, mental, moral, or emotional health would best be served by a transfer of guardianship to the Utah resident;

(iii) the affiant is aware that designation of a guardian under this section is equivalent to a court-ordered guardianship under Section 75-5-206 and will suspend or terminate any existing parental or guardianship rights in the same manner as would occur under a court-ordered guardianship;

(iv) the affiant consents and submits to any such suspension or termination of parental or guardianship rights;

(v) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(vi) the affiant designates a named responsible adult as agent, authorized to accept service on behalf of the affiant of any process, notice, or demand required or permitted to be served in connection with any action under Subsection (2)(a)(v); and

(vii) it is the affiant's intent that the child become a permanent resident of the state and reside with and be under the supervision of the named responsible adult;

(b) submission to the school district of a signed and notarized affidavit by the responsible adult stating that:

(i) the affiant is a resident of the school district and desires to become the guardian of the child;

(ii) the affiant consents and submits to the jurisdiction of the state district court in which the school district is located in any action relating to the guardianship or custody of the child in question;

(iii) the affiant will accept the responsibilities of guardianship for the duration, including the responsibility to provide adequate supervision, discipline, food, shelter, educational and emotional support, and medical care for the child if designated as the child's guardian; and

(iv) the affiant accepts the designation as agent under Subsection (2)(a)(vi);

(c) submission to the school district of a signed and notarized affidavit by the child stating that:

(i) the child desires to become a permanent resident of Utah and reside with and be responsible to the named responsible adult; and

(ii) the child will abide by all applicable policies of any public school which the child may attend after guardianship is awarded; and

(d) if the child's custodial parent cannot be found in order to execute the statement required under Subsection (2)(a), the responsible adult must submit an affidavit to that effect to the district. The district shall also submit a copy of the statement to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.

(3) The district may require the responsible adult, in addition to the documents set forth in Subsection (2), to also submit any other documents which are relevant to the appointment of a guardian of a minor or which the district reasonably believes to be necessary in connection with a given application to substantiate any claim or assertion made in connection with the application for guardianship.

(4) Upon receipt of the information and documentation required under Subsections (2) and (3), and a determination by the local school board that the information is accurate, that the requirements of this section have been met, and that the interests of the child would best be served by granting the requested guardianship, the local school board or its authorized representative may designate the applicant as guardian of the child by issuing a designation of guardianship letter to the applicant.

(5)(a) If a local school board has adopted a policy permitting the local school board to designate a guardian under this section, a denial of an application for appointment of a guardian may be appealed to the district court in which the school district is located.

(b) The court shall uphold the decision of the local school board unless it finds, by clear and convincing evidence, that the local school board's decision was arbitrary and capricious.

(c) An applicant may, rather than appealing the local school board's decision under Subsection (5)(b), file an original Petition for Appointment of Guardian with the district court, which action shall proceed as if no decision had been made by the local school board.

(6) A responsible adult obtaining guardianship under this section has the same rights, authority, and responsibilities as a guardian appointed under Section 75-5-201.

(7)(a) The school district shall deliver the original documents filed with the school district, together with a copy of the designation of guardianship issued by the district, in person or by any form of mail requiring a signed receipt, to the clerk of the state district court in which the school district is located.

(b) The court may not charge the school district a fee for filing guardianship papers under this section.

(8)(a) The authority and responsibility of a custodial parent submitting an affidavit under this section may be restored by the district, and the guardianship obtained under this section terminated by the district:

(i) upon submission to the school district in which the guardianship was obtained of a signed and notarized statement by the person who consented to guardianship under Subsection (2)(a) requesting termination of the guardianship; or

(ii) by the person accepting guardianship under Subsection (2)(b) requesting the termination of the guardianship.

(b) If the school district determines that it would not be in the best interests of the child to terminate the guardianship, the district may refer the request for termination to the state district court in which the documents were filed under Subsection (5) for further action consistent with the interests of the child.

(9) The school district shall retain copies of all documents required by this section until the child in question has reached [~~the age of 18~~]18 years old unless directed to surrender the documents by a court of competent jurisdiction.

(10)(a) Intentional submission to a school district of fraudulent or misleading information under this part is punishable under Section 76-8-504.

(b) A school district which has reason to believe that a party has intentionally submitted false or misleading information under this part may, after notice and opportunity for the party to respond to the allegation:

(i) void any guardianship, authorization, or action which was based upon the false or misleading information; and

(ii) recover, from the party submitting the information, the full cost of any benefits received by the child on the basis of the false or misleading information, including tuition, fees, as defined in Section 53G-7-501, and other unpaid school charges, together with any related costs of recovery.

(c) A student whose guardianship or enrollment has been terminated under this section may, upon payment of all applicable tuition and fees, as defined in Section 53G-7-501, continue in enrollment until the end of the school year unless excluded from attendance for cause.

Section 7. Section 53G-6-701 is amended to read:

53G-6-701. Definitions.

[~~Reserved~~]As used in this part, "fee" means the same as that term is defined in Section 53G-7-501.

Section 8. Section 53G-7-501 is amended to read:

53G-7-501. Definitions.

As used in this part:

(1) "Co-curricular activity" means an activity, a course, or a program that:

(a) is an extension of a curricular activity;

(b) is included in an instructional plan and supervised or conducted by a teacher or education professional;

(c) is conducted outside of regular school hours;

(d) is provided, sponsored, or supported by an LEA; and

(e) includes a required regular school day activity, course, or program.

(2) "Curricular activity" means an activity, a course, or a program that[~~ is~~]:

(a) is intended to deliver instruction;

(b) is provided, sponsored, or supported by an LEA; and

(c) is conducted only during school hours.

(3) "Elementary school" means a school that provides instruction to students in grades kindergarten, 1, 2, 3, 4, 5, or 6.

(4)(a) "Elementary school student" means a student enrolled in an elementary school.

(b) "Elementary school student" does not include a secondary school student.

(5)(a) "Extracurricular activity" means an activity, a course, or a program that is:

(i) not directly related to delivering required instruction;

(ii) not a curricular activity or co-curricular activity; and

(iii) provided, sponsored, or supported by an LEA.

(b) "Extracurricular activity" does not include a noncurricular club as defined in Section 53G-7-701.

(6)(a) "Fee" means a charge, expense, deposit, rental, or payment:

(i) regardless of how the charge, expense, deposit, rental, or payment is termed, described, requested, or required directly or indirectly;

(ii) in the form of money, goods, or services; and

(iii) that is a condition to a student's full participation in an activity, course, or program that is provided, sponsored, or supported by an LEA.

(b) "Fee" includes:

[~~(i) money or something of monetary value raised by a student or the student's family through fundraising;~~]

[~~(ii)~~](i) charges or expenditures for a school field trip or activity trip, including related transportation, food, lodging, and admission charges;

[~~(iii)~~](ii) payments made to a third party that provides a part of a school activity, class, or program;

[~~(iv)~~](iii) charges or expenditures for classroom[~~:~~]

[~~(A) textbooks;~~]

[~~(B)~~] instructional equipment or supplies; [~~or~~]

[~~(C) materials;~~]

[~~(v)~~](iv) charges or expenditures for school activity clothing; and

[~~(vi)~~](v) a fine other than a fine described in Subsection (6)(c)(i).

(c) "Fee" does not include:

(i) a student fine specifically approved by an LEA for:

(A) failing to return school property;

(B) losing, wasting, or damaging private or school property through intentional, careless, or irresponsible behavior, or as described in Section 53G-8-212; or

(C) improper use of school property, including a parking violation;

(ii) a payment for school breakfast or lunch;

(iii) a deposit that is:

(A) a pledge securing the return of school property; and

(B) refunded upon the return of the school property; [~~or~~]

(iv) a charge for insurance, unless the insurance is required for a student to participate in an activity, course, or program[~~.~~]; or

(v) money or another item of monetary value raised by a student or the student's family through fundraising.

(7)(a) "Fundraising" means an activity or event provided, sponsored, or supported by an LEA that uses students to generate funds or raise money to:

(i) provide financial support to a school or a school's class, group, team, or program; or

(ii) benefit a particular charity or for other charitable purposes.

(b) "Fundraising" does not include an alternative method of raising revenue without students.

(8)(a) "Instructional equipment or supplies" means an activity-, course-, or program-related tool or supply that:

(i) a student is required to use as part of an activity, course, or program in a secondary school;

(ii) become the property of the student upon exiting the activity, course, or program; and

(iii) is subject to a fee waiver.

(b) "Instructional equipment or supplies" does not include school equipment.

[~~(8)~~](9)(a) "School activity clothing" means special shoes or items of clothing:

(i)(A) that meet specific requirements, including requesting a specific brand, fabric, or imprint; [~~and~~]

(B) that a school requires a student to provide; and

(C) that become the property of the student upon exiting the activity, course, or program; and

(ii) that [~~is~~]are required to be worn by a student for [~~a co-curricular or extracurricular~~]an activity-, course-, or a program-related activity.

(b) "School activity clothing" does not include:

(i) a school uniform; or

(ii) clothing that is commonly found in students' homes.

(10) "School equipment" means a machine, equipment, facility, or tool that:

(a) is durable;

(b) is reusable;

(c) is consumable;

(d) is owned or retained by a secondary school; and

(e) a student uses as part of an activity, course, or program in a secondary school.

[~~(9)~~](11)(a) "School uniform" means special shoes or an item of clothing:

(i)(A) that meet specific requirements, including a requested specific color, style, fabric, or imprint; and

(B) that a school requires a student to provide; and

(ii) that is worn by a student for a curricular activity.

(b) "School uniform" does not include school activity clothing.

[~~(10)~~](12) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

[~~(11)~~](13) "Secondary school student":

(a) means a student enrolled in a secondary school; and

(b) includes a student in grade 6 if the student attends a secondary school.

[~~(12)~~](14)(a) "Textbook" means [~~the same as that term is defined in Section 53G-7-601.~~] instructional material necessary for participation in an activity, course, or program, regardless of the format of the material.

(b) "Textbook" includes:

(i) a hardcopy book or printed pages of instructional material, including a consumable workbook; or

(ii) computer hardware, software, or digital content.

(c) "Textbook" does not include instructional equipment or supplies.

[~~(13)~~](15) "Waiver" means a full[~~ or partial~~] release from a requirement to pay a fee and from any provision in lieu of fee payment.

Section 9. Section 53G-7-502 is amended to read:

53G-7-502. Schools to be free.

Except as otherwise provided in this public education code, the public education system shall be free to an individual:

(1) between five and 18 years [~~of age~~]old who is a resident; and

(2) over 18 years old who is domiciled in the state of Utah and has not completed requirements for a high school diploma.

Section 10. Section 53G-7-503 is amended to read:

53G-7-503. Fees -- Prohibitions -- Voluntary supplies -- Enforcement -- Penalties.

(1) An LEA may only charge a fee if the fee is :

(a) authorized under this part; and

(b) noticed by the LEA governing board in accordance with Section 53G-7-505.

(2)(a) An LEA may not require a fee for elementary school activities that are part of the regular school day or for supplies used during the regular school day.

(b) An elementary school or elementary school teacher may compile and provide to[~~, a~~] an elementary school student's parent a suggested list of supplies for use during the regular school day so that a parent may furnish, only on a voluntary basis, those supplies for student use.

(c) A list provided to an elementary school student's parent in accordance with Subsection (2)(b) shall include and be preceded by the following language:

"NOTICE: THE ITEMS ON THIS LIST WILL BE USED DURING THE REGULAR SCHOOL DAY. THEY MAY BE BROUGHT FROM HOME ON A VOLUNTARY BASIS, OTHERWISE, THEY WILL BE FURNISHED BY THE SCHOOL."

(3) Beginning with the 2025-2026 school year:

(a) an LEA may not charge a secondary student a fee for a curricular activity or a co-curricular activity that is required for the instruction of established core standards as described in Section 53E-4-202 or 53E-4-204, and that is not an elective, except for the following:

(i) instructional equipment or supplies;

(ii) a driver education course described in Section 53G-10-503;

(iii) a payment for a fee for:

(A) open enrollment application processing in accordance with Section 53G-6-402;

(B) charter school application processing in accordance with Section 53G-6-503; or

(C) competency remediation programs in accordance with Section 53G-9-803;

(iv) a fee described in Subsection (5);

(v) a music instrument rental; or

(vi) school activity clothing;

(b) for that portion of a co-curricular activity that is during regular school hours, an LEA may only charge a secondary student for the fees described in Subsection (3)(a); and

(c) an LEA may charge a secondary student a fee for a co-curricular activity or extracurricular activity, including the life-cycle replacement costs for school equipment directly related to the co-curricular or extracurricular activity.

(4) An LEA may charge a secondary student:

(a) or an individual, a fee for an adult education course in accordance with Section 53E-10-202; or

(b) a fee for tuition, college credit, an exam, or a textbook, as described in Section 53G-7-506, for:

(i) an Advanced Placement course;

(ii) an International Baccalaureate course; or

(iii) a concurrent enrollment course, as described in Section 53E-10-302.

(5) An LEA may not charge a fee, except as provided in Subsection (3)(c):

(a) for school equipment; or

(b) that is general in nature and for a service or good that does not have a direct benefit to the student paying the fee.

(6) An LEA governing board shall authorize each fee individually.

[~~(3)~~](7)(a) [~~Beginning with or after the 2022-2023 school year, if~~]If an LEA imposes a fee under this part, the fee shall be equal to or less than the expense incurred by the LEA in providing for a student the activity, course, or program for which the LEA imposes the fee.

(b) An LEA may not impose an additional fee or increase a fee to supplant or subsidize another fee, including a fee to supplant or subsidize an expense that the LEA incurs for:

(i) a curricular activity; or

(ii) an expense for the portion of a co-curricular activity that occurs during regular school hours.

[~~(4)(a) Beginning with or after the 2021-2022 school year, and notwithstanding~~]

(8) Notwithstanding Section 53E-3-401, if the state board finds that an LEA has violated a provision of this part[~~ or Part 6, Textbook Fees~~], the state board shall impose corrective action against the LEA, which may include:

[~~(i)~~](a) requiring an LEA to repay improperly charged fees;

[~~(ii)~~](b) withholding state funds; [~~and~~]or

[~~(iii)~~](c) suspending the LEA's authority to charge fees for an amount of time specified by the state board.

[~~(b)~~](9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

[~~(i)~~](a) that require notice and an opportunity to be heard for an LEA affected by a state board action described in this Subsection [~~(4)(a)~~](9); and

[~~(ii)~~](b) to administer [~~this Subsection (4)~~]this Subsection (9).

[~~(5)(a) For each fee on an LEA's fee schedule described in Section 53G-7-505, the LEA shall:~~]

[~~(i) by July 1, 2020, determine whether the fee is curricular, co-curricular, or extracurricular;~~]

[~~(ii) for the 2020-2021 school year, measure the total number of:~~]

[~~(A) students who pay each fee; and~~]

[~~(B) money received for each fee;~~]

[~~(iii) for the 2020-2021 school year, measure the total:~~]

[~~(A) number of students who receive a fee waiver; and~~]

[~~(B) value of each waiver for each waived fee; and~~]

[~~(iv) by July 1, 2021, report the separate categories of data gathered under Subsections (5)(a)(ii) and (iii) to the state board.~~]

[~~(b) The state board shall report on the data the board receives under Subsection (5)(a) to the Education Interim Committee on or before the date of the November interim meeting in 2021.~~]

Section 11. Section 53G-7-504 is amended to read:

53G-7-504. Waiver of fees -- Appeal of decision.

(1)(a) [~~If~~]Subject to the provisions of this part, if an LEA or a school within an LEA charges one or more fees, the LEA shall grant a waiver to a student if charging the fee would deny the student the opportunity to fully participate or complete a requirement because of an inability to pay the fee.

(b) An LEA governing board shall:

(i) adopt policies for granting a waiver; and

(ii) in accordance with Section 53G-7-505, give notice of waiver eligibility and policies.

(2)(a) An LEA that charges a fee under this part [~~and Part 6, Textbook Fees,~~]may provide a variety of alternatives for a student or family to satisfy a fee requirement, including allowing a student to provide:

(i) tutorial assistance to other students;

(ii) assistance before or after school to teachers and other school personnel on school related matters; and

(iii) general community or home service.

(b) Each LEA governing board may add to the list of alternatives provided by the state board, subject to approval by the state board.

(3) With regard to a student who is in the custody of the Division of Child and Family Services who is also eligible under Title IV-E of the federal Social Security Act, an LEA governing board shall require fee waivers or alternatives in accordance with this section.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules:

(a) requiring a parent of a student applying for a fee waiver to provide documentation and certification to the school verifying:

(i) the student's eligibility to receive the waiver; and

(ii) if applicable, that the student has complied with alternatives for satisfying the fee requirements under Subsection (2) to the fullest extent reasonably possible according to the individual circumstances of the student and the LEA; and

(b) specifying the acceptable forms of documentation for the requirement under Subsection (4)(a), which shall include verification based on income tax returns or current pay stubs.

(5) Notwithstanding the requirements under Subsection (4), an LEA is not required to keep documentation on file after the verification is completed.

(6) If a school denies a student or parent request for a fee waiver, the school shall provide the student or parent:

(a) the school's written decision to deny a waiver; and

(b) the procedure to appeal in accordance with LEA policy.

Section 12. Section 53G-7-506, which is renumbered from Section 53G-7-602 is renumbered and amended to read:

~~53G-7-602.~~ 53G-7-506. State policy on providing free textbooks.

(1) It is the public policy of this state that public education shall be free.

(2) A student may not be denied an education because of economic inability to purchase textbooks necessary for advancement in or graduation from the public school system.

(3)(a) Beginning with the [~~2022-23~~]2024-2025 school year, an LEA[~~:~~]

[~~(i) except as provided in Subsection (3)(a)(ii), may not sell textbooks or otherwise charge a fee for textbooks or the maintenance costs of school equipment; and (ii)~~] may only charge a fee for a textbook required for an Advanced Placement, International Baccalaureate, or, as described in Section 53E-10-302, a concurrent enrollment course.

(b) The LEA shall waive a fee described in Subsection [~~(3)(a)(ii)~~](3)(a) in full [~~or in part~~]if a student qualifies for a waiver in accordance with Section 53G-7-504.

Section 13. Section 53G-7-507, which is renumbered from Section 53G-7-603 is renumbered and amended to read:

~~53G-7-603.~~ 53G-7-507. Purchase of textbooks -- Textbooks provided to teachers.

(1) An LEA governing board may purchase textbooks directly from the textbook publisher at prices and terms approved by the state board.

(2) An LEA governing board shall purchase each textbook necessary for a teacher to conduct [~~his or her~~]the teacher's class.

(3) An LEA may pay the LEA's cost of furnishing textbooks from school operating funds, the textbook fund, or from other available funds.

(4) A textbook remains the property of the LEA.

Section 14. Section 53G-9-803 is amended to read:

53G-9-803. Remediation programs for secondary students.

(1) For purposes of this section:

(a) "Secondary school" means a school that provides instruction to students in grades 7, 8, 9, 10, 11, or 12.

(b) "Secondary school student":

(i) means a student enrolled in a secondary school; and

(ii) includes a student in grade 6 if the student attends a secondary school.

(2) A school district or charter school shall implement programs for secondary school students to attain the competency levels and graduation requirements established by the state board.

(3)(a) A school district or charter school shall establish remediation programs for secondary school students who do not meet competency levels in English, mathematics, science, or social studies.

(b) Participation in the programs is mandatory for secondary school students who fail to meet the competency levels based on classroom performance.

(4) Secondary school students who require remediation under this section may not be advanced to the following class in subject sequences until [~~they meet~~]the student meets the required competency level for the subject or complete the required remediation program, except that a school district or charter school may allow secondary school students requiring remediation who would otherwise be scheduled to enter [~~their~~]the student's first year of high school to complete [~~their~~]the student's remediation program during that first year.

(5)(a) Remediation programs provided under this section should not be unnecessarily lengthy or repetitive.

(b) A secondary school student need not repeat an entire class if remediation can reasonably be achieved through other means.

(6) A school district or charter school may charge secondary school students a fee to participate in the remediation programs unless the secondary school student is in grade 6.

Section 15. Section 53G-10-503 is amended to read:

53G-10-503. Driver education funding -- Reimbursement of a local education agency for driver education class expenses -- Limitations -- Excess funds -- Student fees.

(1)(a) Except as provided in Subsection (1)(b), a local education agency that provides driver education shall fund the program solely through:

(i) funds provided from the Automobile Driver Education Tax Account in the Uniform School Fund as created under Section 41-1a-1205; and

(ii) student fees collected by each school.

(b) In determining the cost of driver education, a local education agency may exclude:

(i) the full-time equivalent cost of a teacher for a driver education class taught during regular school hours; and

(ii) classroom space and classroom maintenance.

(c) A local education agency may not use any additional school funds beyond those allowed under Subsection (1)(b) to subsidize driver education.

(2)(a) The state superintendent shall, prior to September 2nd following the school year during which it was expended, or may at earlier intervals during that school year, reimburse each local education agency that applied for reimbursement in accordance with this section.

(b) A local education agency that maintains driver education classes that conform to this part and the rules prescribed by the state board may apply for reimbursement for the actual cost of providing the behind-the-wheel and observation training incidental to those classes.

(3) Under the state board's supervision for driver education, a local education agency may:

(a) employ personnel who are not licensed by the state board under Section 53E-6-201; or

(b) contract with private parties or agencies licensed under Section 53-3-504 for the behind-the-wheel phase of the driver education program.

(4) The reimbursement amount shall be paid out of the Automobile Driver Education Tax Account in the Uniform School Fund and may not exceed:

(a) $100 per student who has completed driver education during the school year;

(b) $30 per student who has only completed the classroom portion in the school during the school year; or

(c) $70 per student who has only completed the behind-the-wheel and observation portion in the school during the school year.

(5) If the amount of money in the account at the end of a school year is less than the total of the reimbursable costs, the state superintendent shall allocate the money to each local education agency in the same proportion that the local education agency's reimbursable costs bear to the total reimbursable costs of all local education agencies.

(6) If the amount of money in the account at the end of any school year is more than the total of the reimbursement costs provided under Subsection (4), the state superintendent may allocate the excess funds to local education agencies:

(a) to reimburse each local education agency that applies for reimbursement of the cost of a fee waived under Section 53G-7-504 for driver education; and

(b) to aid in the procurement of equipment and facilities which reduce the cost of behind-the-wheel instruction.

(7)(a) A local school board shall, in accordance with Chapter 7, Part 5, Student Fees, establish the student fee for driver education for the local education agency.

(b) Student fees shall be reasonably associated with the costs of driver education that are not otherwise covered by reimbursements and allocations made under this section.

Section 16. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

[~~(4) Section 53-22-104 is repealed December 31, 2023.~~]

[~~(5)~~](4) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~](5) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(7)~~](6) Section 53B-8-114 is repealed July 1, 2024.

[~~(8)~~](7) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(9)~~](8) Section 53B-10-101 is repealed on July 1, 2027.

[~~(10)~~](9) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(11)~~](10) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(12)~~](11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~](12) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(14)~~](13) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(15)~~](14) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(16)~~](15) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](16) Section 53F-9-403 is repealed on July 1, 2024.

[~~(18)~~](17) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 17. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and[~~".~~]."

(6) Section 53-7-109 is repealed on July 1, 2024.

[~~(7) Section 53-22-104 is repealed December 31, 2023.~~]

[~~(8)~~](7) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](9) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](10) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](11) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](12) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](14) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](15) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](16) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](17) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](18) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](19) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](20) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 18. Repealer.

This bill repeals:

Section 53G-7-601, Definitions.

Section 19. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 19(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - State Board and Administrative Operations

From Public Education Economic Stabilization Restricted Account, One-time $35,537,800

Schedule of Programs:

Financial Operations $35,537,800

The Legislature intends that the State Board of Education use the $35,537,800 one-time appropriated funds from the Public Education Economic Stabilization Restricted Account to be distributed over three years, beginning July 1, 2025, and ending June 30, 2028, to mitigate local revenue impacts associated with implementing House Bill 415, School Fees Amendments, by local education agencies.

Section 20. Effective date.

This bill takes effect on May 1, 2024 with the exception of Section 63I-2-253 (Effective 07/01/24), which takes effect on July 1, 2024.

CHAPTER 498
H. B. 430
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2024

LOCAL GOVERNMENT TRANSPORTATION SERVICES AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill permits public transit innovation grants and amends provisions related to allocation of certain local option sales and use taxes for transportation.

Highlighted Provisions:

This bill:

- defines terms;
- allows certain local option sales and use tax revenue and Transit Transportation Investment Fund money to be used for public transit innovation grants;
- requires the Department of Transportation and the Transportation Commission to coordinate grant proposals for public transit innovation and administer certain grants;
- grants rulemaking authority to the Transportation Commission to create a prioritization process and to administer grant proposals;
- requires grant recipients to report on the use and progress of public transit innovation grant operations;
- requires a large public transit district to provide a report to each municipality regarding expenditures, transit service, and ridership utilized by residents; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-802, as last amended by Laws of Utah 2023, Chapters 15, 476
17B-2a-808.1, as last amended by Laws of Utah 2022, Chapter 207
59-12-2202, as last amended by Laws of Utah 2023, Chapter 529
59-12-2212.2, as enacted by Laws of Utah 2019, Chapter 479
59-12-2219, as last amended by Laws of Utah 2023, Chapter 529
59-12-2220, as last amended by Laws of Utah 2023, Chapter 529
72-1-303, as last amended by Laws of Utah 2023, Chapter 219
72-2-121, as last amended by Laws of Utah 2023, Chapter 529
72-2-124, as last amended by Laws of Utah 2023, Chapters 22, 88, 219, and 529

ENACTS:

17B-2a-828, Utah Code Annotated 1953
72-2-301, Utah Code Annotated 1953
72-2-302, Utah Code Annotated 1953
72-2-303, Utah Code Annotated 1953
72-2-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3)(a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Confidential employee" means a person who, in the regular course of the person's duties:

(a) assists in and acts in a confidential capacity in relation to other persons who formulate, determine, and effectuate management policies regarding labor relations; or

(b) has authorized access to information relating to effectuating or reviewing the employer's collective bargaining policies.

(5) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(6) "Department" means the Department of Transportation created in Section 72-1-201.

(7) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

(10)(a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(11) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(12)(a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(13) "Managerial employee" means a person who is:

(a) engaged in executive and management functions; and

(b) charged with the responsibility of directing, overseeing, or implementing the effectuation of management policies and practices.

(14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(15) "Multicounty district" means a public transit district located in more than one county.

(16) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(17)(a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(18) "Public transit district" means a special district that provides public transit services.

(19) "Public transit innovation grant" means the same as that term is defined in Section 72-2-301.

[~~(19)~~](20) "Small public transit district" means any public transit district that is not a large public transit district.

[~~(20)~~](21) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

[~~(21)~~](22)(a) "Supervisor" means a person who has authority, in the interest of the employer, to:

(i) hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

(ii) adjust another employee's grievance or recommend action to adjust another employee's grievance.

(b) "Supervisor" does not include a person whose exercise of the authority described in Subsection [~~(21)(a)~~](22)(a):

(i) is of a merely routine or clerical nature; and

(ii) does not require the person to use independent judgment.

[~~(22)~~](23) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(23)~~](24) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[~~(24)~~](25) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

[~~(25)~~](26) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 2. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section

are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

(k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o)(i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory council created in Section 17B-2a-808.2, hear audit

reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; [~~and~~]

(u) review and approve any:

(i) contract or expense exceeding $200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to $200,000 or more;

(B) increases a contract of or expense of $200,000 or more by 15% or more; or

(C) has a total change order value of $200,000 or more[~~.~~]; and

(v) coordinate with political subdivisions within the large public transit district and the department to coordinate public transit services provided by the large public transit district with pilot services related to public transit innovation grants.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Finance Review Commission created in Section 63C-25-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7)(a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8)(a) The board of trustees shall provide a report to each city and town within the boundary of the large public transit district, that shall provide an accounting of:

(i) the amount of revenue from local option sales and use taxes under this part that was collected within each respective county, city, or town and allocated to the large public transit district as provided in this part;

(ii) how much revenue described in Subsection (8)(a) was allocated to provide public transit services utilized by residents of each city and town; and

(iii) how the revenue described in Subsection (8)(b) was spent to provide public transit services

utilized by residents of each respective city and town.

(b) The board of trustees shall provide the report described in Subsection (8)(a):

(i) on or before January 1, 2025; and

(ii) at least every two years thereafter.

(c) To provide the report described in this Subsection (8), a board of trustees may coordinate with the Department of Transportation to report on relevant public transit capital development administered by the Department of Transportation.

[~~(8)(a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.~~]

[~~(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed $150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.~~]

[~~(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.~~]

Section 3. Section 17B-2a-828 is enacted to read:

17B-2a-828. Public transit innovation grants.

(1) A public transit district shall coordinate public transit services provided by the public transit district with pilot services related to public transit innovation grants.

(2) After receiving the reports described in Section 72-2-304, the public transit district shall consider integrating awarded public transit innovation grant operations that meet the public transit district's service planning standards.

Section 4. Section 59-12-2202 is amended to read:

59-12-2202. Definitions.

As used in this part:

(1) "Airline" means the same as that term is defined in Section 59-2-102.

(2) "Airport facility" means the same as that term is defined in Section 59-12-602.

(3) "Airport of regional significance" means an airport identified by the Federal Aviation Administration in the most current National Plan of Integrated Airport Systems or an update to the National Plan of Integrated Airport Systems.

(4) "Annexation" means an annexation to:

(a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

(b) a city or town under Title 10, Chapter 2, Part 4, Annexation.

(5) "Annexing area" means an area that is annexed into a county, city, or town.

(6) "Class A road" means the same as that term is described in Section 72-3-102.

(7) "Class B road" means the same as that term is described in Section 72-3-103.

(8) "Class C road" means the same as that term is described in Section 72-3-104.

(9) "Class D road" means the same as that term is described in Section 72-3-105.

(10) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(11) "Eligible political subdivision" means a political subdivision that:

(a) provides public transit services;

(b) is not a public transit district; and

(c) is not annexed into a public transit district.

(12) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(14) "Major collector highway" means the same as that term is defined in Section 72-4-102.5.

(15) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(16) "Minor arterial highway" means the same as that term is defined in Section 72-4-102.5.

(17) "Minor collector road" means the same as that term is defined in Section 72-4-102.5.

(18) "Principal arterial highway" means the same as that term is defined in Section 72-4-102.5.

(19) "Public transit" means the same as that term is defined in Section 17B-2a-802.

(20) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

(21) "Public transit innovation grant" means the same as that term is defined in Section 72-2-301.

[~~(21)~~](22) "Public transit provider" means a public transit district or an eligible political subdivision.

[~~(22)~~](23) "Public transit service" means a service provided as part of public transit.

[~~(23)~~](24) "Regionally significant transportation facility" means:

(a) in a county of the first or second class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a fixed guideway that:

(A) extends across two or more cities or unincorporated areas; or

(B) is an extension to an existing fixed guideway; or

(iv) an airport of regional significance; or

(b) in a county of the second class that is not part of a large public transit district, or in a county of the third, fourth, fifth, or sixth class:

(i) a principal arterial highway;

(ii) a minor arterial highway;

(iii) a major collector highway;

(iv) a minor collector road; or

(v) an airport of regional significance.

[~~(24)~~](25) "State highway" means a highway designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act.

[~~(25)~~](26)(a) Subject to Subsection [~~(25)(b)~~](26)(b), "system for public transit" means the same as the term "public transit" is defined in Section 17B-2a-802.

(b) "System for public transit" includes:

(i) the following costs related to public transit:

(A) maintenance costs; or

(B) operating costs;

(ii) a fixed guideway;

(iii) a park and ride facility;

(iv) a passenger station or passenger terminal;

(v) a right-of-way for public transit; or

(vi) the following that serve a public transit facility:

(A) a maintenance facility;

(B) a platform;

(C) a repair facility;

(D) a roadway;

(E) a storage facility;

(F) a utility line; or

(G) a facility or item similar to those described in Subsections [~~(25)(b)(vi)(A)~~](26)(b)(vi)(A) through (F).

Section 5. Section 59-12-2212.2 is amended to read:

59-12-2212.2. Allowable uses of local option sales and use tax revenue.

(1) Except as otherwise provided in this part, a county, city, or town that imposes a local option sales and use tax under this part may expend the revenue generated from the local option sales and use tax for the following purposes:

(a) the development, construction, maintenance, or operation of:

(i) a class A road;

(ii) a class B road;

(iii) a class C road;

(iv) a class D road;

(v) traffic and pedestrian safety infrastructure, including:

(A) a sidewalk;

(B) curb and gutter;

(C) a safety feature;

(D) a traffic sign;

(E) a traffic signal; or

(F) street lighting;

(vi) streets, alleys, roads, highways, and thoroughfares of any kind, including connected structures;

(vii) an airport facility;

(viii) an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination; or

(ix) an intelligent transportation system;

(b) a system for public transit;

(c) all other modes and forms of conveyance used by the public;

(d) debt service or bond issuance costs related to a project or facility described in Subsections (1)(a) through (c); or

(e) corridor preservation related to a project or facility described in Subsections (1)(a) through (c).

(2) Any revenue subject to rights or obligations under a contract between a county, city, or town and a public transit district entered into before January 1, 2019, remains subject to existing contractual rights and obligations.

(3) In addition to the uses described in Subsection (1), for any revenue generated by a sales and use tax imposed under Section 59-12-2219 that is not contractually obligated for debt service, the percentage described in Subsection 59-12-2219(11) shall be made available for public transit innovation grants as provided in Title 72, Chapter 2, Part 3, Public Transit Innovation Grants.

Section 6. Section 59-12-2219 is amended to read:

59-12-2219. County option sales and use tax for highways and public transit -- Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing budgeted transportation revenue.

(1) Subject to the other provisions of this part, and subject to Subsection (13), a county legislative body may impose a sales and use tax of .25% on the

transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2) Subject to Subsection (9), the commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (3) through (8).

(3) If the entire boundary of a county that imposes a sales and use tax under this section is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(b) .10% shall be distributed as provided in Subsection (6); and

(c) .05% shall be distributed to the county legislative body.

(4) If the entire boundary of a county that imposes a sales and use tax under this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single large public transit district, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be transferred to the public transit district in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be transferred to the eligible political subdivision in accordance with Section 59-12-2206;

(ii) .10% shall be distributed as provided in Subsection (6); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (4)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(5) For a county not described in Subsection (3) or (4), if a county of the second, third, fourth, fifth, or sixth class imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) for a city or town within the county that is annexed into a single public transit district, the commission shall distribute the sales and use tax revenue collected within that city or town as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body;

(b) for an eligible political subdivision within the county, the commission shall distribute the sales and use tax revenue collected within that eligible political subdivision as follows:

(i) .10% shall be distributed as provided in Subsection (6);

(ii) .10% shall be distributed as provided in Subsection (7); and

(iii) .05% shall be distributed to the county legislative body; and

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (5)(a) and (b), as follows:

(i) .10% shall be distributed as provided in Subsection (6); and

(ii) .15% shall be distributed to the county legislative body.

(6)(a) Subject to Subsection (6)(b), the commission shall make the distributions required by Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) as follows:

(i) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties and cities that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (3)(b), (4)(a)(ii), (4)(b)(ii), (4)(c)(i), (5)(a)(i), (5)(b)(i), (5)(c)(i), and (7)(d)(ii)(A) within the counties and cities that impose a tax under this section shall be distributed to the unincorporated areas, cities, and towns within those counties and cities on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b)(i) Population for purposes of this Subsection (6) shall be determined on the basis of the most

recent official census or census estimate of the United States Bureau of the Census.

(ii) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from an estimate from the Utah Population Committee.

(7)(a)(i) Subject to the requirements in Subsections (7)(b) and (c), a county legislative body:

(A) for a county that obtained approval from a majority of the county's registered voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016, may, in consultation with any cities, towns, or eligible political subdivisions within the county, and in compliance with the requirements for changing an allocation under Subsection (7)(e), allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision; or

(B) for a county that imposes a sales and use tax under this section on or after May 10, 2016, shall, in consultation with any cities, towns, or eligible political subdivisions within the county, allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) by adopting a resolution specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(ii) If a county described in Subsection (7)(a)(i)(A) does not allocate the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) in accordance with Subsection (7)(a)(i)(A), the commission shall distribute 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(A) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(B) an eligible political subdivision within the county.

(b) If a county legislative body allocates the revenue as described in Subsection (7)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to:

(i) a public transit district for a city or town within the county that is annexed into a single public transit district; or

(ii) an eligible political subdivision within the county.

(c) Notwithstanding Section 59-12-2208, the opinion question described in Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this Subsection (7).

(d) The commission shall make the distributions required by Subsection (5)(a)(ii) or (5)(b)(ii) as follows:

(i) the percentage specified by a county legislative body shall be distributed in accordance with a resolution adopted by a county legislative body under Subsection (7)(a) to an eligible political subdivision or a public transit district within the county; and

(ii) except as provided in Subsection (7)(a)(ii), if a county legislative body allocates less than 100% of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) to a public transit district or an eligible political subdivision, the remainder of the revenue under Subsection (5)(a)(ii) or (5)(b)(ii) not allocated by a county legislative body through a resolution under Subsection (7)(a) shall be distributed as follows:

(A) 50% of the revenue as provided in Subsection (6); and

(B) 50% of the revenue to the county legislative body.

(e) If a county legislative body seeks to change an allocation specified in a resolution under Subsection (7)(a), the county legislative body may change the allocation by:

(i) adopting a resolution in accordance with Subsection (7)(a) specifying the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision;

(ii) obtaining approval to change the allocation of the sales and use tax by a majority of all the members of the county legislative body; and

(iii) subject to Subsection (7)(f):

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

(B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(e) and approved by the county legislative body in accordance with Subsection (7)(e)(ii).

(g)(i) If a county makes an allocation by adopting a resolution under Subsection (7)(a) or changes an allocation by adopting a resolution under Subsection (7)(e), the allocation shall take effect on the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice meeting the requirements of Subsection (7)(g)(ii) from the county.

(ii) The notice described in Subsection (7)(g)(i) shall state:

(A) that the county will make or change the percentage of an allocation under Subsection (7)(a) or (e); and

(B) the percentage of revenue under Subsection (5)(a)(ii) or (5)(b)(ii) that will be allocated to a public transit district or an eligible political subdivision.

(8)(a) If a public transit district is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90- day period that begins on the date the commission receives written notice from the public transit district of the organization of the public transit district.

(b) If an eligible political subdivision intends to provide public transit service within a county after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90- day period that begins on the date the commission receives written notice from the eligible political subdivision stating that the eligible political subdivision intends to provide public transit service within the county.

(9)(a)(i) Notwithstanding Subsections (3) through (8), for a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute all of the sales and use tax revenue collected by the county before June 30, 2019, to the county for the purposes described in Subsection (9)(a)(ii).

(ii) For any revenue collected by a county pursuant to Subsection (9)(a)(i) before June 30, 2019, the county may expend that revenue for:

(A) reducing transportation related debt;

(B) a regionally significant transportation facility; or

(C) a public transit project of regional significance.

(b) For a county that has not imposed a sales and use tax under this section before May 8, 2018, and if the county imposes a sales and use tax under this section before June 30, 2019, the commission shall distribute the sales and use tax revenue collected by the county on or after July 1, 2019, as described in Subsections (3) through (8).

(c) For a county that has not imposed a sales and use tax under this section before June 30, 2019, if the entire boundary of that county is annexed into a large public transit district, and if the county imposes a sales and use tax under this section on or after July 1, 2019, the commission shall distribute the sales and use tax revenue collected by the county as described in Subsections (3) through (8).

(10) A county, city, or town may expend revenue collected from a tax under this section, except for revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i), for a purpose described in Section 59- 12- 2212.2.

(11)(a) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (3)(a), (4)(a)(i), (4)(b)(i), or (7)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(b) As provided in Section 59- 12- 2212.2, for the .10% designated for public transit described in Subsection (3)(a) that is not contractually obligated for debt service, beginning on July 1, 2025, a public transit district shall make available to the Department of Transportation an amount equal to 10% of the .10% to be used for public transit innovation grants as provided in Title 72, Chapter 2, Part 3, Public Transit Innovation Grants.

(12) Notwithstanding Section 59- 12- 2208, a county, city, or town legislative body may, but is not required to, submit an opinion question to the county's, city's, or town's registered voters in accordance with Section 59- 12- 2208 to impose a sales and use tax under this section.

(13)(a)(i) Notwithstanding any other provision in this section, if the entire boundary of a county is annexed into a large public transit district, if the county legislative body wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) If the entire boundary of a county is annexed into a large public transit district, the county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (13)(a), any sales and use tax imposed under this section by passage of a county ordinance on or before June 30, 2022, may remain in effect.

(14)(a) Beginning on July 1, 2020, and subject to Subsection (15), if a county has not imposed a sales and use tax under this section, subject to the provisions of this part, the legislative body of a city or town described in Subsection (14)(b) may impose a .25% sales and use tax on the transactions described in Subsection 59- 12- 103(1) within the city or town.

(b) The following cities or towns may impose a sales and use tax described in Subsection (14)(a):

(i) a city or town that has been annexed into a public transit district; or

(ii) an eligible political subdivision.

(c) If a city or town imposes a sales and use tax as provided in this section, the commission shall distribute the sales and use tax revenue collected by the city or town as follows:

(i) .125% to the city or town that imposed the sales and use tax, to be distributed as provided in Subsection (6); and

(ii) .125%, as applicable, to:

(A) the public transit district in which the city or town is annexed; or

(B) the eligible political subdivision for public transit services.

(d) If a city or town imposes a sales and use tax under this section and the county subsequently imposes a sales and use tax under this section, the commission shall distribute the sales and use tax revenue collected within the city or town as described in Subsection (14)(c).

(15)(a)(i) Notwithstanding any other provision in this section, if a city or town legislative body wishes to impose a sales and use tax under this section, the city or town legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2022.

(ii) A city or town legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2022.

(b) Notwithstanding the deadline described in Subsection (15)(a), any sales and use tax imposed under this section by passage of an ordinance by a city or town legislative body on or before June 30, 2022, may remain in effect.

Section 7. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3)(a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6)(a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible

political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8)(a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b)(i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c)(i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city, town, or metro township is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city, town, or metro township would have received under Subsection (8)(a) to cities, towns, or metro townships to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10) A county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(11)(a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b)(i)(A) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(B) Revenue deposited into the County of the First Class Highway Projects Fund created in Section 72-2-121 as described in Subsection (11)(b)(i)(A) may be used for public transit innovation grants as provided in Title 72, Chapter 2, Part 3, Public Transit Innovation Grants.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the

day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c)(i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12)(a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(13)(a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 8. Section 72-1-303 is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects and programs in the state transportation systems and the capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public meetings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department on state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; [~~and~~]

(j) determining the priorities and funding levels of public transit innovation grants, as defined in Section 72-2-301; and

[~~(j)~~](k) reviewing administrative rules made, substantively amended, or repealed by the department.

(2)(a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125,

the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 9. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection [~~(9)~~](10), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

(k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) $2,000,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay.

(5)(a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(k), the executive director shall proportionately reduce the amounts transferred as described in Subsection (4)(k).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection (4)(k).

(c) A local government may not use revenue described in Subsection (4)(k) to supplant existing

class B or class C road funds that a local government has budgeted for transportation projects.

(d)(i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The department may expend up to $3,000,000 of revenue deposited into the account as described in Subsection 59-12-2220(11)(b) for public transit innovation grants, as provided in Part 3, Public Transit Innovation Grants.

[~~(7)~~](8) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

[~~(8)~~](9) Subject to Subsection [~~(9)~~](10), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

[~~(9)~~](10) Any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

Section 10. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4)(a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5)(a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6)(a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director

before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7)(a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9)(a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304; or

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e)(i) Subject to Subsections (9)(g) and (h), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(i) In accordance with Part 3, Public Transit Innovation Grants, the commission may prioritize money from the fund for public transit innovation grants, as defined in Section 72-2-301, for public transit capital development projects requested by a political subdivision within a public transit district.

(10)(a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(11)(a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

Section 11. Section 72-2-301 is enacted to read:

72-2-301. Definitions.

Part 3. Public Transit Innovation Grants

As used in this part:

(1) "Council of governments" means the same as that term is defined in Section 17B-2a-802.

(2) "Grant" means a public transit innovation grant.

(3) "High growth area" means an area or municipality within a public transit district that:

(a) has significantly higher population increase relative to other areas within the county; and

(b) is projected to continue to have significant population growth.

(4) "Public transit district" means the same as that term is defined in Section 17B-2a-802.

(5)(a) "Public transit innovation grant" means a grant to provide targeted pilot programs to:

(i) increase public transit ridership;

(ii) increase public transit service in high growth areas within the public transit district; and

(iii) work toward expanding public transit services.

(b) "Public transit innovation grant" includes a grant to provide:

(i) pilot bus routes and services in high growth areas;

(ii) pilot shuttle connections between fixed guideway stations and job centers, recreation and cultural facilities and attractions, or schools; and

(iii) other pilot programs similar to those described in Subsections (5)(b)(i) and (ii) as coordinated between the public transit district and political subdivisions within the public transit district.

Section 12. Section 72-2-302 is enacted to read:

72-2-302. Public transit innovation grant funding sources.

(1) In accordance with Section 72-2-303, the commission, in coordination with the department, may rank, prioritize, and provide public transit innovation grants with money derived from the following sources:

(a) certain local option sales and use tax revenue as described in Subsection 59-12-2219(11)(b); and

(b) revenue deposited in accordance with Subsection 59-12-2220(11) into the County of the First Class Highway Projects Fund created in Section 72-2-121.

(2) In accordance with Section 72-2-124, the department may rank and prioritize public transit innovation grants for capital development to the commission, to be funded with money derived from the Transit Transportation Investment Fund as described in Subsection 72-2-124(9).

(3) Administrative costs of the department to administer public transit innovation grants under this part shall be paid from the funds described in Subsection (1)(a).

Section 13. Section 72-2-303 is enacted to read:

72-2-303. Public transit innovation grants -- Administration.

(1) The commission, in consultation with the department, relevant councils of governments, metropolitan planning organizations, and public transit districts, shall develop a process for the prioritization of grant proposals that includes:

(a) instructions on making and submitting a grant proposal;

(b) methodology for selecting grants; and

(c) methodology for awarding grants.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish the process described in Subsection (1) and as otherwise necessary to implement this part.

(3) The department shall:

(a) accept grant applications;

(b) rank grant proposals based on the objectives and criteria established in this part; and

(c) provide money to grant recipients as directed by the commission and in accordance with this part.

(4) A municipality or a group of municipalities may submit a grant proposal to the department.

(5)(a) A public transit innovation grant proposal shall include data, evidence, and information about:

(i) how the project will advance the purposes and goals of a public transit innovation grant described in Subsection 72-2-301(5);

(ii) how the proposed services will provide a direct public transit service benefit to the municipality or area;

(iii) the proposed mode of public transit or purpose for the funding;

(iv) the proposed operator of the service, including qualifications for any proposed operator that is not a public transit district;

(v) any funds provided by the municipality or group of municipalities as part of the grant proposal;

(vi) how the pilot service will improve ridership in the municipality or area; and

(vii) any other information that the municipality or public transit district finds relevant.

(b) A public transit innovation grant proposal may propose a term of up to three years.

(c) A public transit innovation grant proposal shall include information regarding integration and coordination with existing public transit services.

(6) In considering a public transit innovation grant proposal, the commission shall consider criteria including:

(a) population growth within the municipality or area relative to other municipalities or areas within the same county;

(b) how the proposal furthers the following objectives:

(i) increasing public transit ridership in the area;

(ii) improving connectivity for the first and last mile relative to other public transit services; and

(iii) improving public transit connectivity in high-growth areas within the public transit district; and

(c) any funds proposed to be invested by the municipality or public transit district as part of the grant proposal.

(7) The grant proposal may allow for bids for a vendor or public transit district to provide or operate the proposed services.

(8) Subject to available funding described in Subsection 72-2-302(1), the commission may award a public transit innovation grant to a recipient that the commission determines furthers the objectives described in Subsections (5) and (6).

(9)(a) Subject to Subsection (9)(b), if the commission approves a grant to provide money from a local option sales and use tax described in Subsection 59-12-2219(11), a public transit district shall transfer the money to the department, and the department shall transfer the money to the grant recipient.

(b) A public transit district may offset money from a local option sales and use tax described in Subsection 59-12-2219(11) with other funds available to the public transit district.

(10) If the commission approves a grant to provide money as provided in Subsection 72-2-121(7), the department shall transfer the money to the grant recipient.

(11) Any grant funds, assets, or infrastructure acquired or improved through a public transit innovation grant under this part belong to the grant recipient.

Section 14. Section 72-2-304 is enacted to read:

72-2-304. Reporting.

(1) At least annually, a recipient of a grant under this part shall provide a report to the department and the relevant public transit district.

(2) The report described in Subsection (1) shall include:

(a) the amount of money provided through the grant;

(b) an accounting of how the grant money has been utilized;

(c) the type of services provided;

(d) coordination with existing public transit services;

(e) ridership data relevant to the innovative public transit service, including:

(i) the number of riders; and

(ii) whether the ridership or targeted objectives match projections; and

(f) other information as determined by the grant recipient.

(3) The department shall consolidate the reports the department receives under Subsection (1) and, on or before November 1 of each year, provide the consolidated reports to the Transportation Interim Committee.

(4) The department and the commission are not responsible for providing performance measures or ensuring proper use of grant funds.

Section 15. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 499
H. B. 449
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

PEDESTRIAN SAFETY AND FACILITIES ACT MODIFICATIONS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Kathleen A. Riebe

Cosponsor:
Kera Birkeland
Jeffrey D. Stenquist
Cheryl K. Acton
Marsha Judkins

LONG TITLE

General Description:

This bill makes changes to the Pedestrian Safety and Facilities Act.

Highlighted Provisions:

This bill:

- makes changes to include a bicyclist in the provisions of the Pedestrian Safety and Facilities Act; and
- adds additional safety measures for pedestrians and bicyclists.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-8-102, as last amended by Laws of Utah 2003, Chapter 292
72-8-103, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-8-104, as renumbered and amended by Laws of Utah 1998, Chapter 270
72-8-105, as renumbered and amended by Laws of Utah 1998, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 72-8-102 is amended to read:

72-8-102. Definitions.

CHAPTER 8. PEDESTRIAN AND BICYCLIST SAFETY AND FACILITIES ACT

As used in this chapter:

(1) "Construction" means the function of constructing or reconstructing a sidewalk with or without curb and gutter and includes land acquisition and engineering or inspection as defined by the rules and regulations of the department.

(2) "Curb and gutter" means the area between the roadway and sidewalk designed for water runoff and providing a barrier for safety of pedestrian and vehicular traffic.

(3) "Participating municipality" means a city of the third, fourth, or fifth class or a town.

(4) "Pedestrian and bicyclist safety [~~devices~~]device" means [~~any~~]a device or method appurtenant to a roadway designed to foster the safety of pedestrian or bicyclist traffic including sidewalks, curbs, gutters, [~~and~~]pedestrian overpasses, pedestrian crossings, bicycle lanes, multi-use paths, median islands, curb extensions, barriers, and changes in street alignment.

Section 2. Section 72-8-103 is amended to read:

72-8-103. Designated county and municipal sidewalks -- Construction on easements granted by transportation department.

(1) All sidewalks, including curbs and gutters within the unincorporated areas of a county and within nonparticipating municipalities situated within the county, are designated county sidewalks. All sidewalks within participating municipalities are designated municipal sidewalks.

(2) Counties and participating municipalities may construct and maintain curbs, gutters, sidewalks, [~~and~~]or pedestrian and bicyclist safety devices adjacent to the traveled portion of state highways upon easements that may be granted by the department. The department shall cooperate with counties and participating municipalities to accomplish pedestrian and bicyclist safety construction and maintenance.

(3) A county or municipality may construct and maintain pedestrian and bicyclist safety devices on state highways in compliance with rules made by the department.

Section 3. Section 72-8-104 is amended to read:

72-8-104. Funding priorities by county and municipality officials -- Factors.

(1) A county or municipality may use a portion of [~~their~~]the county's or municipality's B and C road funds for pedestrian and bicyclist safety devices under this part.

(2) The county legislative body of the counties and the governing officials of participating municipalities may establish funding priorities relating to construction of curbs, gutters, sidewalks, or other pedestrian and bicyclist safety construction, with funds permitted to be expended by this part, based on [~~factors including, but not limited to~~]:

(a) existing useable rights-of-way;

(b) vehicle-pedestrian and vehicle-bicyclist accident experience;

(c) average daily vehicle traffic;

(d) average daily pedestrian and bicyclist traffic;

(e) average daily school age pedestrian and bicyclist traffic; [~~and~~]

(f) speed of vehicle traffic[.];

(g) proximity to public transit; and

(h) other relevant factors.

(3) All construction performed under this part shall be barrier free to wheelchairs at crosswalks and intersections.

Section 4. Section 72-8-105 is amended to read:

72-8-105. Pedestrian and bicyclist safety to be considered in highway planning.

A highway authority shall consider pedestrian and bicyclist safety in all highway engineering and planning where pedestrian or bicyclist traffic may be a significant factor on all projects within the state or any of its political subdivisions.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 500
H. B. 460
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

GOVERNMENT EMPLOYEE CONSCIENCE PROTECTION AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses required reasonable accommodations for government employees in certain circumstances.

Highlighted Provisions:

This bill:

- defines terms;
- requires a governmental entity to grant an employee's request to be relieved from performing a certain task if granting the request would not place an undue hardship on the governmental entity;
- creates protections for employees who request to be relieved from a certain task; and
- creates a cause of action for a government employee whose request to be relieved from performing a certain task was denied.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-302, as last amended by Laws of Utah 2023, Chapters 329, 471

ENACTS:

67-27-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3);[~~and~~]

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004[~~.~~]; and

(ee) a record including confidential information as that term is defined in Section 67-27-105.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)(a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 2. Section 67-27-105 is enacted to read:

67-27-105. Reasonable accommodations for government employees.

(1) As used in this section:

(a) "Confidential information" means any:

(i) information related to an employee's request under Subsection (2); or

(ii) record created under Subsection (3) or (4).

(b) "Conscience" means a sincerely held belief as to the rightness or wrongness of an action or inaction.

(c)(i) "Employee" means an individual employed by a governmental entity.

(ii) "Employee" does not include:

(A) an elected official;

(B) an individual employed by the Legislature; or

(C) an individual who is appointed or employed to be on an elected official's personal staff to assist the elected official in fulfilling the elected official's duties.

(d) "First responder" means:

(i) a law enforcement officer, as that term is defined in Section 53-13-103;

(ii) an emergency medical technician, as that term is defined in Section 53-2e-101;

(iii) an advanced emergency medical technician, as that term is defined in Section 53-2e-101;

(iv) a paramedic, as that term is defined in Section 53-2e-101;

(v) a firefighter, as that term is defined in Section 53B-8c-102; or

(vi) a dispatcher, as that term is defined in Section 53-6-102.

(e) "Governmental entity" means:

(i) the state;

(ii) a political subdivision of the state, including a county, city, town, school district, special district, institution of higher education, or special service district; or

(iii) an entity created by the state, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.

(f) "Retaliatory action" means any of the following actions taken by a governmental entity against an employee as a result of the employee filing a request under Subsection (2):

(i) a dismissal;

(ii) a reduction of compensation;

(iii) a failure to increase compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) a failure to promote if the employee would otherwise be promoted; or

(v) a threat to take an action described in Subsections (1)(f)(i) through (iv).

(g) "Task" means a specific job, duty, or function.

(h) "Undue hardship" means a substantial burden, privation, or adversity on a governmental

entity that would result from granting an employee's request to be relieved from performing a certain task when considering all relevant factors, including:

(i) the practical impact on the governmental entity in light of the nature, size, and operating cost of the governmental entity;

(ii) the disruption of the governmental entity's operations;

(iii) the nature of the employee's duties;

(iv) the number of employees the governmental entity will be required to grant a request to if the governmental entity grants the employee's request;

(v) the type of workplace; and

(vi) the number of requests by the employee in the preceding 12 months from the day on which the employee submitted the request.

(2)(a) Except as provided in Subsection (2)(b), a governmental entity may not deny an employee's reasonable request to be relieved from performing a certain task if:

(i) performing the task would conflict with the employee's sincerely held religious beliefs or conscience;

(ii) the employee has complied with the requirements of Subsection (3); and

(iii) relieving the employee from the task would not impose an undue hardship on the governmental entity.

(b) A governmental entity is not required to grant an employee's request under Subsection (2)(a) if:

(i) the request is to be relieved from performing a task that is part of training or safety instructions directly related to the employee's employment;

(ii) granting the request would result in a deficit in the amount of work for which the employee is compensated;

(iii) granting the request would create a conflict with an existing legal obligation and the governmental entity cannot avoid the conflict if the governmental entity grants the employee's request under Subsection (3);

(iv) the employee is a first responder and the request by the employee under Subsection (2)(a) is to be relieved from performing a task that involves protecting the safety of the public; or

(v) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is being asserted for an improper purpose.

(3) Except as provided in Subsection (3)(b), an employee seeking to be relieved from performing a certain task under Subsection (2) shall:

(a)(i) as soon as practicable but not more than two days after the day on which the employee received the assignment to perform the task, submit a written request to the employee's supervisor providing an explanation as to why the task would conflict with the employee's sincerely held religious beliefs or conscience; or

(ii) if the employee receives the assignment to perform the task within two days after the day on which the employee received the assignment, orally or in writing immediately request to be relieved from performing the task; and

(b) provide the governmental entity with a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns.

(4)(a) Except as provided in Subsection (4)(c), a governmental entity that receives a request under Subsection (3) shall respond to the request as soon as practicable but at least five days before the day on which the certain task is required to be performed.

(b) If a governmental entity denies an employee's request submitted as described in Subsection (3), the governmental entity shall include in the response required under Subsection (4)(a):

(i) an explanation of the governmental entity's decision and why:

(A) granting the request would impose an undue hardship on the governmental entity; or

(B) the governmental entity is not required to grant the employee's request for a reason described in Subsection (2)(b); and

(ii) that the employee may seek redress in a court as described in Subsection (6) if the employee has exhausted the internal process allowing the governmental entity to address the employee's concerns under Subsection (3)(b).

(c) An employee and governmental entity may agree in writing to waive or extend the time limit described in Subsection (4)(a).

(5)(a) A governmental entity may adopt a policy detailing the requirements of this section.

(b) A policy adopted under Subsection (5)(a) shall:

(i) provide the governmental entity's employees a process for making a request under this section;

(ii) designate an individual to receive an employee request described in Subsection (3);

(iii) outline the information an employee is required to provide to the governmental entity in a request described in Subsection (3);

(iv) describe the process the employee is required to undertake to allow the governmental entity a reasonable opportunity to grant the employee's request or otherwise address the employee's concerns under Subsection (3)(b); and

(v) outline the process the governmental entity will use to evaluate a request received under Subsection (3) in determining if the request will impose an undue hardship on the governmental entity.

(c) A governmental entity establishing a policy under this Subsection (5) shall ensure that:

(i) the governmental entity's employees receive notice of the policy and access to a copy of the policy when the policy is adopted or when an employee begins working for the governmental entity, whichever occurs first; and

(ii) if the governmental agency receives a request under Subsection (3), the governmental entity includes a reference to the governmental entity's policy in the governmental entity's response.

(6)(a) An employee has a right of action against the governmental entity that employs the employee if:

(i) the employee has complied with Subsection (3) in good faith;

(ii) the employee has complied with any policy created under Subsection (5) after receiving notice and a reference of the policy as described in Subsection (5)(c);

(iii) the employee's asserted religious beliefs or conscience described in Subsection (2)(a)(i) is not asserted for an improper purpose; and

(iv)(A) granting the request would not have imposed an undue hardship on the governmental entity; or

(B) the governmental entity cannot meet an exception described in Subsection (2)(b).

(b) An employee seeking to assert a right of action under this section shall bring the action in a court within 180 calendar days after the day on which the employee received the governmental entity's response described in Subsection (4).

(c) If an employee establishes, by a preponderance of the evidence, that the employee meets the requirements described in Subsection (6)(a), the court:

(i) shall grant the employee relief by:

(A) issuing an injunction ordering the governmental entity to relieve the employee from the specific task if the task is still to be performed; or

(B) ordering the governmental entity to reinstate or rehire the employee, with an award of back pay, if the employee was constructively discharged, demoted, or terminated as a direct result of the governmental entity's violation of Subsection (2); and

(ii) may award to the employee reasonable attorney fees, and court costs.

(7) The classification of an employee's confidential information is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

(8) A governmental entity may not take retaliatory action against an employee for submitting a meritorious request under Subsection (3).

(9) Nothing in this section:

(a) limits the employee's right to bring any other claim the employee may have against the governmental entity; or

(b) prevents a governmental entity from implementing a policy required by state or federal law.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 501
H. B. 488
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2024

TRANSPORTATION FUNDING MODIFICATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to transportation funding, distributes money from the County of the First Class Highway Projects Fund, and creates the County of the First Class Infrastructure Bank Fund.

Highlighted Provisions:

This bill:

- amends provisions related to certain local option sales and use taxes to allow revenue to be used for public safety purposes, and to remove the requirement for the imposition to be subject to an opinion question for the relevant registered voters in certain circumstances;
- distributes money from the County of the First Class Highway Projects Fund to certain projects within a county of the first class;
- allows certain funds in the Cottonwood Canyons Transportation Investment Fund for public safety enforcement in the Cottonwood Canyons of Salt Lake County;
- creates the County of the First Class Infrastructure Bank Fund and provides a process for distribution of money in the fund as revolving loans;
- directs certain money repaid into the County of the First Class Infrastructure Bank Fund for certain projects within a county of the first class;
- creates the Commuter Rail Subaccount within the Transit Transportation Investment Fund and transfers certain sales and use tax revenues into the Commuter Rail Subaccount; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Transportation - Operations/Maintenance Management - Maintenance Administration as an ongoing appropriation:
  - from the Cottonwood Canyon Transportation Investment Fund, $400,000
- to Transportation - Pass-Through - Pass-Through as a one-time appropriation:
  - from the Rail Transportation Restricted Account, One-time, $11,000,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, and 471
59-12-103, as last amended by Laws of Utah 2023, Chapters 22, 213, 329, 361, 459, and 471
59-12-2216, as last amended by Laws of Utah 2019, Chapter 479
59-12-2220, as last amended by Laws of Utah 2023, Chapter 529
63B-31-103, as last amended by Laws of Utah 2022, Chapter 259
63J-1-602.1, as last amended by Laws of Utah 2023, Chapters 26, 33, 34, 194, 212, 330, 419, 434, 448, and 534
72-2-121, as last amended by Laws of Utah 2023, Chapter 529
72-2-124, as last amended by Laws of Utah 2023, Chapters 22, 88, 219, and 529

ENACTS:

72-2-301, Utah Code Annotated 1953
72-2-302, Utah Code Annotated 1953
72-2-303, Utah Code Annotated 1953
72-2-304, Utah Code Annotated 1953
72-2-305, Utah Code Annotated 1953
72-2-306, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(f) or (g), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to [~~Subsection (7)(b)~~]Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under

Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)[~~(i) As used in this Subsection (7)(b):~~]

[~~(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.~~]

[~~(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.~~]

[~~(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).~~]

[~~(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv).~~]

[~~(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).~~]

(i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

[~~(iii)~~](ii) The commission shall annually deposit the amount described in Subsection [~~(7)(b)(ii)~~](7)(b)(i) into the [~~Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.~~]Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

[~~(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.~~]

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d)(i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of

2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

[~~(d)(i) As used in this Subsection (8)(d):~~]

[~~(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.~~]

[~~(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.~~]

[~~(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).~~]

[~~(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).~~]

[~~(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).~~]

[~~(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.~~]

[~~(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.~~]

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 2. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59- 12- 104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59- 12- 104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59- 12- 104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed;

(m) amounts paid or charged for a sale:

(i)(A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition; and

(n) sales of leased tangible personal property from the lessor to the lessee made in the state.

(2)(a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (11)(a); and

(B)(I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(f) or (g) and subject to Subsection (2)(l), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c)(i) Except as provided in Subsection (2)(f) or (g), a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of the tax rates a county, city, or town imposes under this chapter on the amounts paid or charged for food or food ingredients.

(ii) There is no state tax imposed on amounts paid or charged for food and food ingredients.

(d) Except as provided in Subsection (2)(f) or (g), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e)(i)(A) If a shared vehicle owner certifies to the commission, on a form prescribed by the commission, that the shared vehicle is an individual-owned shared vehicle, a tax imposed under Subsection (2)(a)(i)(A) does not apply to car sharing, a car-sharing program, a shared vehicle driver, or a shared vehicle owner.

(B) A shared vehicle owner's certification described in Subsection (2)(e)(i)(A) is required once during the time that the shared vehicle owner owns the shared vehicle.

(C) The commission shall verify that a shared vehicle is an individual-owned shared vehicle by verifying that the applicable Utah taxes imposed under this chapter were paid on the purchase of the shared vehicle.

(D) The exception under Subsection (2)(e)(i)(A) applies to a certified individual-owned shared vehicle shared through a car-sharing program even if non-certified shared vehicles are also available to be shared through the same car-sharing program.

(ii) A tax imposed under Subsection (2)(a)(i)(B) or (2)(a)(ii) applies to car sharing.

(iii)(A) A car-sharing program may rely in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i).

(B) If a car-sharing program relies in good faith on a shared vehicle owner's representation that the shared vehicle is an individual-owned shared vehicle certified with the commission as described in Subsection (2)(e)(i), the car-sharing program is not liable for any tax, penalty, fee, or other sanction imposed on the shared vehicle owner.

(iv) If all shared vehicles shared through a car-sharing program are certified as described in Subsection (2)(e)(i)(A) for a tax period, the car-sharing program has no obligation to collect and remit the tax under Subsection (2)(a)(i)(A) for that tax period.

(v)[~~(A)~~] A car-sharing program is not required to list or otherwise identify an individual-owned shared vehicle on a return or an attachment to a return.

(vi) A car-sharing program shall:

(A) retain tax information for each car-sharing program transaction; and

(B) provide the information described in Subsection (2)(e)(vi)(A) to the commission at the commission's request.

(f)(i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II)(Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of

taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(f)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(f)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(f)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g)(i) Except as otherwise provided in this chapter and subject to Subsections (2)(g)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(g)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h)(i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(h)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(i) Subject to Subsections (2)(j) and (k), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i); or

(iii) Subsection (2)(f)(i)(A)(I).

(j)(i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(k)(i) For a tax rate described in Subsection (2)(k)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(k)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i); or

(C) Subsection (2)(f)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(l)(i) For a location described in Subsection (2)(l)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(l)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3)(a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c); and

(iv) the tax imposed by Subsection (2)(f)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b)(i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d)(i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e)(i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5)(a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b)(i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c)(i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c), 15% of the remaining difference described in Subsection (5)(a) shall be

deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), each fiscal year, the commission shall deposit into the Water Infrastructure Restricted Account created in Section 73-10g-103 the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year.

(7)(a) Notwithstanding Subsection (3)(a) and subject to [~~Subsection (7)(b)~~]Subsections (7)(b), (c), and (d), for a fiscal year beginning on or after July 1, 2023, the commission shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 17% of the revenue collected from the following sales and use taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b)[~~(i) As used in this Subsection (7)(b):~~]

[~~(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.~~]

[~~(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.~~]

[~~(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).~~]

[~~(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iii).~~]

[~~(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iii).~~]

(i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit under Subsection (7)(a) into the Transportation Investment Fund of 2005 by an amount equal to .44% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

[~~(iii)~~](ii) The commission shall annually deposit the amount described in Subsection [~~(7)(b)(ii)~~](7)(b)(i) into the [~~Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000~~]Cottonwood Canyons Transportation Investment Fund created in Section 72-2-124.

[~~(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b) in the same proportion as the decline in relevant revenue.~~]

(c)(i) Subject to Subsection (7)(c)(ii), for a fiscal year beginning on or after July 1, 2023, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsections (7)(a) and (7)(b) by an amount that is equal to 5% of:

(A) the amount of revenue generated in the current fiscal year by the portion of taxes listed under Subsection (3)(a) that equals 20.68% of the revenue collected from taxes described in Subsections (7)(a)(i) through (iv);

(B) the amount of revenue generated in the current fiscal year by registration fees designated under Section 41-1a-1201 to be deposited into the Transportation Investment Fund of 2005; and

(C) revenues transferred by the Division of Finance to the Transportation Investment Fund of 2005 in accordance with Section 72-2-106 in the current fiscal year.

(ii) The amount described in Subsection (7)(c)(i) may not exceed $45,000,000 in a given fiscal year.

(iii) The commission shall annually deposit the amount described in Subsection (7)(c)(i) into the Active Transportation Investment Fund created in Subsection 72-2-124(11).

(d)(i) For a fiscal year beginning on or after July 1, 2024, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under this Subsection (7) by an amount that is equal to 1% of the revenue collected from the following sales and use taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(f)(i)(A)(I).

(ii) The commission shall annually deposit the amount described in Subsection (7)(d)(i) into the Commuter Rail Subaccount created in Section 72-2-124.

(8)(a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7), and subject to Subsections (8)(b) and (d)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes

listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i); and

(iii) the tax imposed by Subsection (2)(f)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

[~~(d)(i) As used in this Subsection (8)(d):~~]

[~~(A) "Additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.~~]

[~~(B) "Combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iii) and (8)(d)(iii) in any single fiscal year.~~]

[~~(C) "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).~~]

[~~(D) "Relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iii).~~]

[~~(ii) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(iii).~~]

[~~(iii) The commission shall annually deposit the amount described in Subsection (8)(d)(ii) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.~~]

[~~(iv) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.~~]

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the commission receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the commission shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(11)(a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (11)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26B-1-315.

(12) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the commission shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(13)(a) For each fiscal year beginning with fiscal year 2020-21, the commission shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) is less than $1,813,400 for a fiscal year, the commission shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (7) and (8) during the fiscal year to the General Fund.

(14) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(15) Notwithstanding Subsection (3)(a), the commission shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i); and

(c) the tax imposed by Subsection (2)(f)(i)(A)(I).

Section 3. Section 59-12-2216 is amended to read:

59-12-2216. County option sales and use tax for a fixed guideway, to fund a system for public transit, or for highways -- Base -- Rate -- Allocation and expenditure of revenues.

(1) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of up to .30% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(2)(a) Subject to Subsection (3), before obtaining voter approval in accordance with Section 59-12-2208, a county legislative body shall adopt a resolution specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund uses described in Section 59-12-2212.2.

(b) A county legislative body of a county of the third through sixth class that imposes a sales and use tax as described in Subsection (1) on or after January 1, 2024, shall specify the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund uses described in Section 59-12-2212.2 or for public safety purposes as provided in Subsection (3)(b).

(3)(a) [~~A~~]Except as provided in Subsection (2)(b), a county legislative body shall in the resolution described in Subsection (2) allocate 100% of the revenues the county will receive from the sales and use tax under this section for one or more of the purposes described in Section 59-12-2212.2.

(b) In addition to the purposes described in Section 59-12-2212.2, a county legislative body of a county of the third through sixth class that imposes a sales and use tax as authorized in this section on or after January 1, 2024, may allocate revenues to public safety purposes.

(4) Notwithstanding Section 59-12-2208, the opinion question required by Section 59-12-2208 shall state the allocations the county legislative body makes in accordance with this section.

(5) The revenues collected from a sales and use tax under this section shall be:

(a) allocated in accordance with the allocations specified in the resolution under Subsection (2); and

(b) expended as provided in this section.

(6) If a county legislative body allocates revenues collected from a sales and use tax under this section for a state highway project, before beginning the state highway project within the county, the county legislative body shall:

(a) obtain approval from the Transportation Commission to complete the project; and

(b) enter into an interlocal agreement established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, with the Department of Transportation to complete the project.

(7)(a) If after a county legislative body imposes a sales and use tax under this section the county legislative body seeks to change an allocation specified in the resolution under Subsection (2), the county legislative body may change the allocation by:

[~~(a)~~](i) adopting a resolution [~~in accordance with Subsection (2)~~] specifying the percentage of revenues the county will receive from the sales and use tax under this section that will be allocated to fund one or more of the items described in Section 59-12-2212.2[~~;~~]or Subsection (2)(b); and

[~~(b)~~](ii) obtaining approval to change the allocation of the sales and use tax by a majority of all of the members of the county legislative body; and

[~~(c)~~](iii) subject to Subsection (8)(a):

[~~(i)~~](A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the opportunity to express the registered voter's opinion on whether the allocation should be changed; and

[~~(ii)~~](B) in accordance with Section 59-12-2208, obtaining approval to change the allocation from a majority of the county's registered voters voting on changing the allocation.

(b) A county of the third through sixth class that imposes a sales and use tax as authorized in this section on or after January 1, 2024, that seeks to change the allocation of the revenues is not required to submit the opinion question to the county's registered voters.

(8)(a) Notwithstanding Section 59-12-2208, the opinion question required by Subsection (7)(c)(i) shall state the allocations specified in the resolution adopted in accordance with Subsection (7)(a) and approved by the county legislative body in accordance with Subsection (7)(b).

(b) Notwithstanding Section 59-12-2208, a county legislative body of a county of the third through sixth class that imposes a sales and use tax under this section on or after January 1, 2024, may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(9) Revenues collected from a sales and use tax under this section that a county allocates for a state highway within the county shall be:

(a) deposited into the Highway Projects Within Counties Fund created by Section 72-2-121.1; and

(b) expended as provided in Section 72-2-121.1.

(10)(a) Notwithstanding Section 59-12-2206 and subject to Subsection (10)(b), revenues collected from a sales and use tax under this section that a county allocates for a project, debt service, or bond

issuance cost relating to a highway that is a principal arterial highway or minor arterial highway that is included in a metropolitan planning organization's regional transportation plan, but is not a state highway, shall be transferred to the Department of Transportation if the transfer of the revenues is required under an interlocal agreement:

(i) entered into on or before January 1, 2010; and

(ii) established in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) The Department of Transportation shall expend the revenues described in Subsection (10)(a) as provided in the interlocal agreement described in Subsection (10)(a).

Section 4. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund highways or a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision; or

(ii) a city or town within the boundary of the county is an eligible political subdivision; or

(c) a county legislative body of a county not described in Subsection (1)(a) or (1)(b) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3)(a) The commission shall distribute sales and use tax revenue collected under this section as determined by a county legislative body as described in Subsection (3)(b).

(b) If a county legislative body imposes a sales and use tax as described in this section, the county legislative body may elect to impose a sales and use tax revenue distribution as described in Subsection (4), (5), (6), or (7), depending on the class of county, and presence and type of a public transit provider in the county.

(4) If a county legislative body imposes a sales and use tax as described in this section, and the entire boundary of the county is annexed into a large public transit district, and the county is a county of the first class, the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(5) If a county legislative body imposes a sales and use tax as described in this section and the entire boundary of the county is annexed into a large public transit district, and the county is a county not described in Subsection (4), the commission shall distribute the sales and use tax revenue as follows:

(a) .10% to a public transit district as described in Subsection (11);

(b) .05% to the cities and towns as provided in Subsection (8); and

(c) .05% to the county legislative body.

(6)(a) Except as provided in Subsection (12)(c), if the entire boundary of a county that imposes a sales and use tax as described in this section is not annexed into a single public transit district, but a city or town within the county is annexed into a single public transit district, or if the city or town is an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the county as provided in Subsection (6)(b) or (c).

(b) For a city, town, or portion of the county described in Subsection (6)(a) that is annexed into the single public transit district, or an eligible political subdivision, the commission shall distribute the sales and use tax revenue collected within the portion of the county that is within a public transit district or eligible political subdivision as follows:

(i) .05% to a public transit provider as described in Subsection (11);

(ii) .075% to the cities and towns as provided in Subsection (8); and

(iii) .075% to the county legislative body.

(c) Except as provided in Subsection (12)(c), for a city, town, or portion of the county described in Subsection (6)(a) that is not annexed into a single public transit district or eligible political subdivision in the county, the commission shall distribute the sales and use tax revenue collected within that portion of the county as follows:

(i) .08% to the cities and towns as provided in Subsection (8); and

(ii) .12% to the county legislative body.

(7) For a county without a public transit service that imposes a sales and use tax as described in this section, the commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .08% to the cities and towns as provided in Subsection (8); and

(b) .12% to the county legislative body.

(8)(a) Subject to Subsections (8)(b) and (c), the commission shall make the distributions required by Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) as follows:

(i) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the percentage that the population of each unincorporated area, city, or town bears to the total population of all of the counties that impose a tax under this section; and

(ii) 50% of the total revenue collected under Subsections (4)(b), (5)(b), (6)(b)(ii), (6)(c)(i), and (7)(a) within the counties that impose a tax under Subsections (4) through (7) shall be distributed to the unincorporated areas, cities, and towns within those counties on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215.

(b)(i) Population for purposes of this Subsection (8) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

(ii) If a needed population estimate is not available from the United States Census Bureau, population figures shall be derived from an estimate from the Utah Population Estimates Committee created by executive order of the governor.

(c)(i) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a city, town, or metro township is ineligible for funds in accordance with Subsection 10-9a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that city, town, or metro township would have received under Subsection (8)(a) to cities, towns, or metro townships to which Subsection 10-9a-408(7) does not apply.

(ii) Beginning on January 1, 2024, if the Housing and Community Development Division within the Department of Workforce Services determines that a county is ineligible for funds in accordance with Subsection 17-27a-408(7), beginning the first day of the calendar quarter after receiving 90 days' notice, the commission shall distribute the distribution that county would have received under Subsection (8)(a) to counties to which Subsection 17-27a-408(7) does not apply.

(9) If a public transit service is organized after the date a county legislative body first imposes a tax under this section, a change in a distribution required by this section may not take effect until the first distribution the commission makes under this section after a 90-day period that begins on the date the commission receives written notice from the public transit provider that the public transit service has been organized.

(10)(a) [~~A~~]Except as provided in Subsection (10)(b), a county, city, or town that received distributions described in Subsections (4)(b), (4)(c), (5)(b), (5)(c), (6)(b)(ii), (6)(b)(iii), (6)(c), and (7) may only expend those funds for a purpose described in Section 59-12-2212.2.

(b) If a county described in Subsection (1)(a) that is a county of the first class imposes the sales and use tax authorized in this section, the county may also use funds distributed in accordance with Subsection (4)(c) for public safety purposes.

(11)(a) Subject to Subsections (11)(b), (c), and (d), revenue designated for public transit as described in this section may be used for capital expenses and service delivery expenses of:

(i) a public transit district;

(ii) an eligible political subdivision; or

(iii) another entity providing a service for public transit or a transit facility within the relevant county, as those terms are defined in Section 17B-2a-802.

(b)(i) If a county of the first class imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit within a county of the first class as described in Subsection (4)(a) shall be transferred to the County of the First Class Highway Projects Fund created in Section 72-2-121.

(ii) If a county of the first class imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(b)(i), for revenue designated for public transit as described in Subsection (4)(a):

(A) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the County of the First

Class Highway Projects Fund created in Section 72-2-121; and

(B) 50% of the revenue from a sales and use tax imposed under this section in a county of the first class shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9).

(c)(i) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, for a three-year period following the date on which the county imposes the sales and use tax under this section, revenue designated for public transit as described in Subsection (5)(a) shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(ii) If a county that is not a county of the first class for which the entire boundary of the county is annexed into a large public transit district imposes a sales and use tax described in this section, beginning on the day three years after the date on which the county imposed the tax as described in Subsection (11)(c)(i), for the revenue that is designated for public transit in Subsection (5)(a):

(A) 50% shall be transferred to the Transit Transportation Investment Fund created in Subsection 72-2-124(9); and

(B) 50% shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(d) Except as provided in Subsection (12)(c), for a county that imposes a sales and use tax under this section, for revenue designated for public transit as described in Subsection (6)(b)(i), the revenue shall be transferred to the relevant county legislative body to be used for a purpose described in Subsection (11)(a).

(12)(a) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(b) If a county passes an ordinance to impose a sales and use tax as described in this section, the sales and use tax shall take effect on the first day of the calendar quarter after a 90-day period that begins on the date the commission receives written notice from the county of the passage of the ordinance.

(c) A county that imposed the local option sales and use tax described in this section before January 1, 2023, may maintain that county's distribution allocation in place as of January 1, 2023.

(13)(a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county, city, or town budgeted for transportation or public transit as of the date the tax becomes effective for a county, city, or town.

(b) The limitation under Subsection (13)(a) does not apply to a designated transportation or public transit capital or reserve account a county, city, or town established before the date the tax becomes effective.

Section 5. Section 63B-31-103 is amended to read:

63B-31-103. Transportation bonds -- Maximum amount -- Use for State Infrastructure Bank Fund loans.

(1)(a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $30,000,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the purposes described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance for general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2)(a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to transfer to the State Infrastructure Bank Fund created in Section 72-2-202 to be used to issue loans pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund.

(b) Any distribution from the State Infrastructure Bank Fund shall be contingent upon a commitment from the borrower that revenue is available to repay the loan from the State Infrastructure Bank Fund which shall be paid in whole or in part from revenue distributions described in Subsection [~~72-2-121(4)(k)~~]72-2-121(4)(j).

(c) Notwithstanding Subsection 72-2-204(2), a loan or assistance made with proceeds from bonds issued under this section shall bear an interest rate not to exceed .5% above the bond market interest rate available to the state for an issuance under this section.

Section 6. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Native American Repatriation Restricted Account created in Section 9-9-407.

(2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.

(3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.

(6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(8) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26B-3-906.

(9) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26B-7-111.

(10) The Technology Development Restricted Account created in Section 31A-3-104.

(11) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.

(16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(19) The School Readiness Restricted Account created in Section 35A-15-203.

(20) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(21) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(22) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(23) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(25) The License Plate Restricted Account created by Section 41-1a-122.

(26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(27) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(28) The Response, Recovery, and Post-disaster Mitigation Restricted Account created in Section 53-2a-1302.

(29) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(31) The DNA Specimen Restricted Account created in Section 53-10-407.

(32) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(33) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(34) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(36) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(37) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(39) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(41) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(42) The Relative Value Study Restricted Account created in Section 59-9-105.

(43) The Cigarette Tax Restricted Account created in Section 59-14-204.

(44) Funds paid to the Division of Real Estate for the cost of a criminal background check for a

mortgage loan license, as provided in Section 61-2c-202.

(45) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(46) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(47) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(48) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(49) The Immigration Act Restricted Account created in Section 63G-12-103.

(50) Money received by the military installation development authority, as provided in Section 63H-1-504.

(51) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(52) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(53) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(54) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(55) The Motion Picture Incentive Account created in Section 63N-8-103.

(56) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(57) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(58) The following funds or accounts created in Section 72-2-124:

(a) Transportation Investment Fund of 2005;

(b) Transit Transportation Investment Fund;

(c) Cottonwood Canyons Transportation Investment Fund;

(d) Active Transportation Investment Fund; and

(e) Commuter Rail Subaccount.

[~~(58)~~](59) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

[~~(59)~~](60) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

[~~(60)~~](61) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

[~~(61)~~](62) Award money under the State Asset Forfeiture Grant Program, as provided under Section 77-11b-403.

[~~(62)~~](63) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

[~~(63)~~](64) Fees for certificate of admission created under Section 78A-9-102.

[~~(64)~~](65) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(65)~~](66) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(66)~~](67) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(67)~~](68) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(68)~~](69) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 7. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund;

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund; and

(e) the portion of the sales and use tax transferred into the fund as described in Subsections 59-12-2220(4)(a) and 59-12-2220(11)(b).

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Subject to Subsection (9), the executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

(g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

(h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

(i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

[~~(j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:~~]

[~~(i) $2,000,000 to West Valley City for highway improvement to 4100 South;~~]

[~~(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;~~]

[~~(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;~~]

[~~(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;~~]

[~~(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;~~]

[~~(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;~~]

[~~(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;~~]

[~~(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;~~]

[~~(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;~~]

[~~(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and~~]

[~~(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and~~]

[~~(k)~~](j) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

(i) $2,000,000 to Sandy;

(ii) [~~$2,000,000~~]$2,300,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

(xi) $500,000 to Midvale;

(xii) $500,000 to Millcreek;

(xiii) $500,000 to Murray;

(xiv) $400,000 to Cottonwood Heights; and

(xv) $300,000 to Holladay[~~.~~]; and

(k) for the 2024-25 and 2025-26 fiscal years, and subject to revenue balances after the distributions under Subsection (4)(j), to reimburse the following municipalities for the amounts and projects indicated, as each project progresses and as revenue balances allow:

(i) $3,200,000 to South Jordan for improvements to Bingham Rim Road from Grandville Avenue to Mountain View Corridor;

(ii) $1,960,000 to Midvale for improvements to Center Street between State Street and 700 West;

(iii) $3,500,000 to Salt Lake City for first and last mile public transit improvements throughout Salt Lake City;

(iv) $1,500,000 to Cottonwood Heights for improvements to Fort Union Boulevard and 2300 East;

(v) $3,450,000 to Draper for improvements to Bangerter Highway between 13800 South and I-15;

(vi) $10,500,000 to Herriman to construct a road between U-111 and 13200 South;

(vii) $3,000,000 to West Jordan for improvements to 1300 West;

(viii) $1,050,000 to Riverton for improvements to the Welby Jacob Canal trail between 11800 South and 13800 South;

(ix) $3,500,000 to Taylorsville for improvements to Bangerter Highway and 4700 South;

(x) $470,000 to the department for construction of a sound wall on Bangerter Highway at approximately 11200 South;

(xi) $1,250,000 to Murray for improvements to Murray Boulevard between 4800 South and 5300 South;

(xii) $1,450,000 to West Valley for construction of a road connecting 5400 South to U-111;

(xiii) $1,840,000 to Magna for construction and improvements to 8400 West and 4100 South;

(xiv) $1,000,000 to South Jordan for construction of arterial roads connecting U-111 and Old Bingham Highway;

(xv) $1,200,000 to Millcreek for reconstruction of and improvements to 2000 East between 3300 South and Atkin Avenue;

(xvi) $1,230,000 to Holladay for improvements to Highland Drive between Van Winkle Expressway and Arbor Lane;

(xvii) $1,800,000 to West Valley City for improvements to 4000 West between 4100 South and 4700 South and improvements to 4700 South from 4000 West to Bangerter Highway; and

(xviii) $1,000,000 to Taylorsville for improvements to 4700 South at the I-215 interchange.

(5)(a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection [~~(4)(k)~~](4)(j), the executive director shall proportionately reduce the amounts transferred as described in Subsection [~~(4)(k)~~](4)(j).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection [~~(4)(k)~~](4)(j).

(c) A local government may not use revenue described in Subsection [~~(4)(k)~~](4)(j) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

[~~(d)(i) A municipality or county that received a transfer of funds described in Subsection (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection (4)(j).~~]

[~~(ii) After the department is satisfied that the municipality or county described in Subsection~~

~~(4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in Subsection (4)(k).~~]

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) Subject to Subsection (9), and notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

(9) [~~Any~~]Subject to Subsection (10), any revenue deposited into the fund as described in Subsection (2)(e) shall be used to provide funding or loans for public transit projects, operations, and supporting infrastructure in the county of the first class.

(10) For the first three years after a county of the first class imposes a sales and use tax authorized in Section 59-12-2220, revenue deposited into the fund as described in Subsection (2)(e) shall be allocated as follows:

(a) 10% to the department to construct an express bus facility on 5600 West; and

(b) 90% into the County of the First Class Infrastructure Bank Fund created in Section 72-2-302.

Section 8. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4)(a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) subject to Subsection (4)(c), two lanes on U-111 from Herriman Parkway to [~~11800 South~~]South Jordan Parkway;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(c)(i) Construction related to the project described in Subsection (4)(a)(ix)(D) may not commence until a right-of-way not owned by a federal agency that is required for the realignment and extension of U-111, as described in the department's 2023 environmental study related to the project, is dedicated to the department.

(ii) Notwithstanding Subsection (4)(c)(i), if a right-of-way is not dedicated for the project as described in Subsection (4)(c)(i) on or before October 1, 2024, the department may proceed with the project, except that the project will be limited to two lanes on U-111 from Herriman Parkway to 11800 South.

(5)(a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6)(a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7)(a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9)(a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304; or

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e)(i) Subject to Subsections (9)(g) and (h), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(10)(a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(e) The department may use up to 2% of the revenue deposited into the account under Subsection 59-12-103(7)(b) to contract with local governments as necessary for public safety enforcement related to the Cottonwood Canyons of Salt Lake County.

(11)(a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

(12)(a) As used in this Subsection (12), "commuter rail" means the same as that term is defined in Section 63N-3-602.

(b) There is created in the Transit Transportation Investment Fund the Commuter Rail Subaccount.

(c) The subaccount shall be funded by:

(i) contributions deposited into the subaccount in accordance with Section 59-12-103;

(ii) appropriations into the subaccount by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(d)(i) The subaccount shall earn interest.

(ii) All interest earned on money in the subaccount shall be deposited into the subaccount.

(e) As prioritized by the commission through the prioritization process adopted under Section 72-1-304 or as directed by the Legislature, the department may only use money from the subaccount for projects that improve the state's commuter rail infrastructure, including the building or improvement of grade-separated crossings between commuter rail lines and public highways.

(f) Appropriations made in accordance with this section are nonlapsing in accordance with Section 63J-1-602.1.

Section 9. Section 72-2-301 is enacted to read:

72-2-301. Definitions.

Part 3. County of the First Class Infrastructure Bank Fund

As used in this part:

(1) "Fund" means the County of the First Class Infrastructure Bank Fund created under Section 72-2-302.

(2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:

(a) capital reserves and other security for bond or debt instrument financing; or

(b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.

(3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.

(4) "Public entity" means a county of the first class or any of the following located within a county of the first class:

(a) a municipality;

(b) a special district;

(c) a special service district; or

(d) an intergovernmental entity organized under state law.

(5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.

(6) "Transportation project" means a project:

(a) to improve a state or local highway;

(b) to improve a public transportation facility or nonmotorized transportation facility;

(c) to construct or improve parking facilities;

(d) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or

(e) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(7) "Transportation project" includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing.

(8) "Transportation project" may only include a project if the project is part of:

(a) the statewide long range plan;

(b) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or

(c) a local government general plan or economic development initiative.

Section 10. Section 72-2-302 is enacted to read:

72-2-302. County of the First Class Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the County of the First Class Infrastructure Bank Fund.

(2)(a) The fund consists of money generated from the following revenue sources:

(i) deposits into the fund in accordance with Subsection 72-2-121(9);

(ii) appropriations made to the fund by the Legislature;

(iii) federal money and grants that are deposited into the fund;

(iv) money transferred to the fund by the commission from other money available to the department;

(v) state grants that are deposited into the fund;

(vi) contributions or grants from any other private or public sources for deposit into the fund; and

(vii) subject to Subsection (2)(b) and Section 72-2-306, all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5)(a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) Prioritization of infrastructure loans described in Subsection (5)(a) shall follow the same process as described in Section 72-2-303.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

Section 11. Section 72-2-303 is enacted to read:

72-2-303. Loans and assistance -- Authority -- Rulemaking.

(1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.

(3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:

(a) availability of money in the fund;

(b) credit worthiness of the project;

(c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;

(d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;

(e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;

(f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;

(g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;

(h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and

(i) other provisions the commission considers appropriate.

Section 12. Section 72-2-304 is enacted to read:

72-2-304. Loan program procedures -- Repayment.

(1) A public entity within a county of the first class may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.

(2) A loan or assistance from the fund shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) A loan shall be repaid no later than 20 years from the date the department issues the loan to the borrower, with repayment commencing no later than:

(a) when the project is completed; or

(b) in the case of a highway project, when the facility has opened to traffic.

(4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:

(a) transportation project or publicly owned infrastructure project revenues, including special assessment revenues;

(b) general funds of the public entity;

(c) money withheld under Subsection (7); or

(d) any other legally available revenues.

(5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(6) Before obtaining an infrastructure loan, a county or municipality shall:

(a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and

(b) adopt an ordinance or resolution authorizing the infrastructure loan.

(7)(a) If a public entity fails to comply with the terms of a public entity's infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

(b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money into the fund to pay the amounts due under the contract.

(c) The department may elect when to request the withholding of money under this Subsection (7).

(8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.

(9) For any money received into the fund for repayment of a loan as described in this section, the department shall distribute the repaid money as described in Section 72-2-306.

Section 13. Section 72-2-305 is enacted to read:

72-2-305. Department authority to contract.

The department may, upon approval of the commission:

(1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects or publicly owned infrastructure projects in accordance with this chapter; and

(2) enter into and perform the contracts and agreements with entities concerning the planning, construction, leasing, or other acquisition, installation, or financing of transportation projects or publicly owned infrastructure projects.

Section 14. Section 72-2-306 is enacted to read:

72-2-306. Distribution of funds after repayment.

(1) Any money deposited into the fund from repayment of a loan or interest issued under this part shall be distributed as described in this section.

(2) As the department receives repayment of a loan and interest issued under this part, the department shall distribute:

(a) 50% of the money to Sandy, for a bridge connecting a commuter rail station on the west side of I-15 with the east side of I-15;

(b) 30% of the money to Bluffdale, for construction of a multiple lane, grade-separated rail crossing at 1000 West and 14600 South; and

(c) 20% of the money to the department, to construct and provide enhanced ingress and egress to a transit mobility center on property north of Big Cottonwood Canyon.

Section 15. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 15(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Transportation - Operations/Maintenance Management

From Cottonwood Canyon Transportation Investment Fund $400,000

Schedule of Programs:

Maintenance Administration $400,000

ITEM 2

To Transportation - Pass-Through

From Rail Transportation Restricted Account, One-time $11,000,000

Schedule of Programs:

Pass-Through $11,000,000

The Legislature intends that the Department of Transportation pass through:(1) $10,000,000 appropriated by this item to the city of Vineyard for the 12th Overpass Project; and (2) $1,000,000 appropriated by this item to the city of Orem for the Center Street Railroad Crossing.

Section 16. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2024.

(2) The actions affecting Section 59-12-103 (Contingently Effective 01/01/25) take effect on January 1, 2025.

CHAPTER 502
H. B. 507
Passed March 1, 2024
Approved March 21, 2024
Effective January 1, 2025

CONSTRUCTION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses construction site storm water runoff controls.

Highlighted Provisions:

This bill:

- defines terms;
- establishes standards regarding how municipality systems:
  - regulate controls for storm water runoff; and
  - inspect construction sites impacting storm water runoff;
- establishes penalties for non- compliance; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

19- 5- 105, as last amended by Laws of Utah 2011, Chapter 155

ENACTS:

19- 5- 108.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19- 5- 105 is amended to read:

19- 5- 105. Rulemaking authority and procedure.

(1)(a) Except as provided in Subsections (2) and (3), no rule that the board makes for the purpose of the state administering a program under the federal Clean Water Act or the federal Safe Drinking Water Act may be more stringent than the corresponding federal regulations[~~which address the same circumstances~~].

(b) In making rules, the board may incorporate by reference corresponding federal regulations.

(c) Any rule of the board is subject to Section 63G- 3- 502.

(2)(a) The board may make rules more stringent than corresponding federal regulations for the purpose described in Subsection (1), only if it makes a written finding after public comment and hearing and based on evidence in the record that the corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) The municipal system may not make requirements for permits that are more stringent than corresponding federal regulations for the purpose described in Subsection (1), unless the municipal system makes a written finding after public comment and hearing and based on evidence in the record that the corresponding federal regulations are not adequate to protect public health and the environment of the state.

(i) [~~Those findings shall be accompanied by~~]The board and municipal system shall include with a written finding described in Subsection (2)(a) an opinion referring to and evaluating the public health and environmental information and studies contained in the record [~~which~~]that form the basis for the board's or municipal system's conclusion.

(3) The board may make rules related to agriculture water more stringent than the corresponding federal regulations if the commission approves.

Section 2. Section 19- 5- 108.3 is enacted to read:

19- 5- 108.3. Construction site storm water runoff control.

(1) As used in this section:

(a) "Applicant" means a person that applies for a construction storm water permit to conduct or propose to conduct a use of land for a construction site.

(b) "Application" means a construction storm water permit application.

(c) "Best management practice" means the methods, measures, or practices in compliance with the federal Clean Water Act.

(d) "Construction storm water permit" means a permit required for soil disturbances of an acre or more, including less than an acre if it is part of a common plan of development or sale, where the disturbance is caused by construction activity.

(e) "Electronic site inspection" means geo- located and time- stamped photos taken, evaluated, and submitted electronically by the applicant to the municipal system.

(f) "Municipal system" means a municipal separate storm sewer system described in the federal Clean Water Act.

(g) "Oversight inspection" means a construction site inspection performed by the municipal system to assess compliance with the permit.

(h) "Permit" means a construction storm water permit.

(i) "Prevention plan" means the storm water pollution prevention plan described in the federal Clean Water Act.

(j) "Program" means the program described in Subsection (2).

(k) "Violation" means a failure to implement or maintain preferred best management practices.

(2) This section does not supersede rules or regulations created by the board or division under this chapter.

(3) No permit, rule, or action by a municipal system for the purpose of administering the program may be more stringent than the minimum requirements of the federal Clean Water Act.

(4) A municipal system may not deviate from the federal Clean Water Act, unless the deviation is expressly permitted by state statute.

(5)(a) Each municipal system shall determine the municipal system's preferred best management practices.

(b) Each municipal system shall publish the municipal system's preferred best management practices on a website controlled by the municipal system.

(6) Each municipal system shall:

(a) maintain a list of requirements that make a complete application for a permit; and

(b) publish on a website controlled by the municipal system the list described in Subsection (6)(a).

(7) The list described in Subsection (6)(a) may not exceed the template in the federal Clean Water Act.

(8)(a) Each municipal system shall complete the review of the prevention plan within 14 business days after the day on which the applicant submits a complete prevention plan.

(b) Each municipal system may request more information, or modification to the prevention plan, if the request:

(i) is specific;

(ii) includes citations to local ordinances, or state or federal law that require the modification to the prevention plan; and

(iii) is logged in an index of requested modification.

(c) Each municipal system has 14 business days after the day on which the applicant submits the information or modification described in Subsection (8)(b) to complete the review of the prevention plan.

(9) A municipal system shall not impose a fine.

(10) Any violation found by the municipal system may not result in an order to stop construction activity if:

(a) an applicant selects the preferred best management practice for the site conditions;

(b) an applicant implements and properly maintains the best management practices as described in Subsection (5), by the municipal system; and

(c) the violation is a result from a deficiency in the best management practice.

(11)(a) The municipal system:

(i) shall notify the applicant, in writing, of a violation;

(ii) shall provide the applicant a reasonable time of at least 24 hours to correct the violation; and

(iii) may perform an inspection to verify that the violation is corrected.

(b) If an applicant does not correct the violation described in Subsection (11)(a)(i) within the deadline set under Subsection (11)(a)(ii), the municipal system:

(i) shall notify the applicant, in writing, that the violation has not been corrected;

(ii) may issue a written warning that construction activity may be stopped if the violation is not corrected within no less than another 24-hour period; and

(iii) may perform an inspection to verify that the violation is corrected.

(c) If an applicant does not correct the violation described in Subsection (11)(a)(i) within the deadline set under Subsection (11)(b), the municipal system:

(i) shall notify the applicant, in writing, that the violation has not been corrected; and

(ii) may order the applicant to stop construction activity until the municipal system performs an inspection to verify that the violation is corrected or the applicant demonstrates that the violation is corrected through electronic site inspection.

(d) A municipal system may not impose the process described in this Subsection (11) later than 30 days after the day on which the municipal system provides the required preceding notice of violation or continuing violation.

(e) A municipal system may issue an order to stop construction earlier than described in Subsection (11)(c)(ii) if the municipal system has a clearly documented reason articulating an immediate threat to water quality.

(f) A municipal system may recoup the costs incurred to correct a violation the applicant refuses to correct after the enforcement process described in this Subsection (11) has been exhausted if the municipal system, at the time of clean up, determines a significant harm to water quality or the storm water system is imminent.

(12)(a) A municipal system shall develop a checklist for a pre-construction prevention plan review that is consistent with the federal Clean Water Act.

(b) The applicant, or an applicant's designee, shall participate in the pre-construction site inspections.

(c) A municipal system may conduct a pre-construction site inspection in person or using an electronic site inspection tool.

(13) Each municipal system shall develop, publish, and implement standard operating procedures, forms, or similar types of documents for construction site inspections.

(14) A municipal system shall conduct an oversight inspection through an electronic site inspection.

(15) A municipal system may conduct an on-site inspection if the municipal system has a documented reason for justifying an on-site oversight inspection.

(16) Each municipal system shall:

(a) develop and publish a procedure for the applicant to notify the municipal system that the applicant has completed active construction and is prepared for the municipal system to conduct verification of final stabilization; and

(b) provide a copy of the procedure described in Subsection (16)(a) to the applicant when the municipal system issues the permit.

Section 3. Effective date.

This bill takes effect on January 1, 2025.

CHAPTER 503
H. B. 515
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

ELECTION ADMINISTRATION MODIFICATIONS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill modifies provisions related to recounts and tie votes in elections.

Highlighted Provisions:

This bill:

- requires an election officer to automatically conduct a recount if the board of canvassers certifies a tie vote;
- consolidates provisions related to tie votes in an election;
- provides that the selection of a winning candidate by lot occurs when, following the automatic recount described above, the board of canvassers certifies a tie vote;
- provides that the public meeting at which certain elected officials select the winning candidate among the candidates subject to a tie vote must occur no later than three days after the recount canvass;
- allows, but does not require, certain candidates subject to a tie vote to attend the public meeting described above;
- clarifies that the political subdivision administering an election shall pay for the cost of a recount; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-304, as repealed and reenacted by Laws of Utah 2018, Chapter 187
20A-4-304, as last amended by Laws of Utah 2023, Chapters 15, 297 and 435
20A-4-306, as last amended by Laws of Utah 2022, Chapter 18
20A-4-401, as last amended by Laws of Utah 2023, Chapter 15
20A-9-403, as last amended by Laws of Utah 2023, Chapter 116

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-304 is amended to read:

20A-1-304. Tie votes.

[~~Except for a race conducted by instant runoff voting under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if two or more candidates for a position have an equal and the highest number of votes for any office, the election officer shall, in a public meeting held within 30 days after the day on which the canvass is completed, determine the candidate selected, by lot, in the presence of each candidate subject to the tie.~~]

(1) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(2) Except as provided in Subsection (3), if, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs, the election officer shall, in a public meeting held no later than three days after the day on which the recount canvass is completed:

(a) determine the winning candidate, by lot, in whatever manner the election officer determines; and

(b) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

(3)(a) If, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race for a national, statewide, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor no later than three days after the day on which the recount canvass is completed:

(i) determine the winning nominee, by lot, in whatever manner the governor determines; and

(ii) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

(b) If, after conducting a recount under Subsection 20A-4-401(5), a tie vote occurs in a primary election race for a county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges no later than three days after the day on which the recount canvass is completed:

(i) determine the winning nominee, by lot, in whatever manner the judges determine; and

(ii) provide notice and an opportunity for each candidate involved in the tie to observe the casting or drawing of the lot or to send a representative to observe the casting or drawing of the lot.

Section 2. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

[~~(1) Each board of canvassers shall:~~]

(1)(a) [~~except~~]Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction[~~;~~].

(b) Except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, a board of canvassers shall declare a "tie vote" if:

(i) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

[~~(b)~~](c) A board of canvassers shall declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction[~~;~~].

[~~(c)~~](d) A board of canvassers shall:

(i) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

[~~(d)~~](ii) if applicable, certify the results of each special district election to the special district clerk.

(2) The election officer shall submit a report to the board of canvassers that includes the following information:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) standardized statistics, on a form provided by the lieutenant governor, disclosing:

(i) the number of ballots counted;

(ii) provisional ballots; and

(iii) the number of ballots rejected;

(h) a final ballot reconciliation report;

(i) other information required by law to be provided to the board of canvassers; and

(j) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that the report is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2) for the jurisdiction, as a class A notice under Section 63G-30-102, for at least seven days.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election].": and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, special district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 3. Section 20A-4-306 is amended to read:

20A-4-306. Statewide canvass.

(1)(a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(c) Attendance of all members of the state board of canvassers is required to constitute a quorum for conducting the canvass.

(2)(a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in the lieutenant governor's office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) [~~The~~]Except as provided in Subsection (2)(d), the lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with the lieutenant governor's seal; and

(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(d) The lieutenant governor shall, in the report described in Subsection (2)(b), declare a tie vote if:

(i) two or more officers receive an equal and the highest number of votes for an office; or

(ii) in a race for an at-large office:

(A) two or more candidates receive an equal number of votes; and

(B) a recount is necessary to determine which candidates are elected to the at-large office.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and

(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any

certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.

(5)(a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of the primary canvass to the county clerks.

(6)(a) At noon on the fourth Tuesday in March of a year in which a presidential election will be held, the lieutenant governor shall:

(i) canvass the returns of the presidential primary election; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) The lieutenant governor shall certify the results of the presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Section 4. Section 20A-4-401 is amended to read:

20A-4-401. Recounts -- Procedure.

[~~(1)(a) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.~~]

[~~(b) Except as provided in Subsection (1)(c), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).~~]

[~~(c) For a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, that losing candidate may file a request for a recount in accordance with Subsection (1)(d).~~]

[~~(d) A candidate who files a request for a recount under Subsection (1) (b) or (c) shall file the request:~~]

[~~(i) for a municipal primary election, with the municipal clerk, before 5 p.m. within three days after the canvass; or~~]

[~~(ii) for all other elections, before 5 p.m. within seven days after the canvass with:~~]

[~~(A) the municipal clerk, if the election is a municipal general election;~~]

[~~(B) the special district clerk, if the election is a special district election;~~]

[~~(C) the county clerk, for races voted on entirely within a single county; or~~]

[~~(D) the lieutenant governor, for statewide races and multicounty races.~~]

[~~(e) The election officer shall:~~]

[~~(i) supervise the recount;~~]

[~~(ii) recount all ballots cast for that race;~~]

[~~(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots;~~]

[~~(iv) for a race where only one candidate may win, declare elected the candidate who receives the highest number of votes on the recount; and~~]

[~~(v) for a race where multiple candidates may win, declare elected the applicable number of candidates who receive the highest number of votes on the recount.~~]

(1) This section does not apply to a race conducted by instant runoff voting under Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project.

(2) The election officer shall conduct a recount of votes cast in a race if:

(a) two or more candidates for an office receive an equal and the highest number of votes for that office; or

(b) in a race for an at-large office, two or more candidates receive an equal number of votes and at least one of the candidates must be eliminated to determine which candidates are elected.

(3)(a) Except as provided in Subsection (2) or (3)(b), for a race between candidates, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is equal to or less than .25% of the total number of votes cast for all candidates in the race, the losing candidate may file a request for a recount in accordance with Subsection (4).

(b) Except as provided in Subsection (2), for a race between candidates where the total of all votes cast in the race is 400 or less, if the difference between the number of votes cast for a winning candidate in the race and a losing candidate in the race is one vote, the losing candidate may file a request for a recount in accordance with Subsection (4).

(4) A losing candidate who files a request for a recount under Subsection (3)(a) or (b) shall file the request:

(a) for a municipal primary election, with the municipal clerk, before 5 p.m., no later than three days after the day on which the canvass is completed; or

(b) for all other elections, before 5 p.m., no later than seven days after the day on which the canvass is completed, with:

(i) the municipal clerk, if the election is a municipal general election;

(ii) the special district clerk, if the election is a special district election;

(iii) the county clerk, for a race voted on entirely within a single county; or

(iv) the lieutenant governor, for a statewide race or multi-county race.

(5)(a) The election officer shall conduct the recount:

(i) for a race described in Subsection (2), no later than 10 days after the day on which the board of canvassers certifies the vote totals; or

(ii) for a race described in Subsection (3), no later than seven days after the day on which the losing candidate requests the recount.

(b) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast in the race;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv)(A) for a race between candidates for a single office, declare elected the candidate who receives the highest number of votes on the recount;

(B) for a race for an at-large office, declare elected the candidate who receives the highest number of votes on the recount, until all offices are filled by the candidates who received the highest number of votes;

(C) for a race described in Subsection (5)(b)(iv)(A) in which two or more candidates receive an equal and the highest number of votes, declare a tie vote; or

(D) for a race described in Subsection (5)(b)(iv)(B) in which two or more candidates receive an equal number of votes, declare a tie vote if the selection of the winning candidate by lot under Section 20A-1-304 is necessary to determine which candidate is elected to the at-large office.

(6) The cost of a recount under Subsection (5) shall be paid by:

(a) for a statewide race or multi-county race, the state; or

(b) for all other races:

(i) the political subdivision that conducts the election; or

(ii) the political subdivision that enters into a contract or interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with a provider election officer to conduct the election.

[~~(2)~~](7)(a) Except as provided in Subsection [~~(2)(b)~~](7)(b), for a ballot proposition or a bond proposition, if the proposition passes or fails by a margin that is equal to or less than .25% of the total votes cast for or against the proposition, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection [~~(2)(c)~~](8).

(b) For a ballot proposition or a bond proposition where the total of all votes cast for or against the proposition is 400 or less, if the difference between the number of votes cast for the proposition and the number of votes cast against the proposition is one vote, any 10 voters who voted in the election where the proposition was on the ballot may file a request for a recount before 5 p.m. within seven days after the day of the canvass with the person described in Subsection [~~(2)(c)~~](8).

[~~(d) The election officer shall~~]

[~~(c)~~](8) The 10 voters who file a request for a recount under Subsection [~~(2)(a)~~](7)(a) or (b) shall file the request with:

[~~(i)~~](a) the municipal clerk, if the election is a municipal election;

[~~(ii)~~](b) the special district clerk, if the election is a special district election;

[~~(iii)~~](c) the county clerk, for [~~propositions~~]a proposition voted on entirely within a single county; or

[~~(iv)~~](d) the lieutenant governor, for [~~statewide propositions and multicounty propositions~~]a statewide proposition or multi-county proposition.

[~~(3) Costs incurred by recount under Subsection (1) may not be assessed against the person requesting the recount.~~]

(9)(a) In conducting the recount, the election officer shall:

(i) supervise the recount;

(ii) recount all ballots cast for [~~that~~]the ballot proposition or bond proposition;

(iii) reexamine all uncounted ballots to ensure compliance with Chapter 3a, Part 4, Disposition of Ballots; and

(iv) declare the ballot proposition or bond proposition to have "passed" or "failed" based upon the results of the recount.

[~~(e)~~](b) Proponents and opponents of the ballot proposition or bond proposition may designate representatives to witness the recount.

[~~(f)~~](10) The voters requesting [~~the recount~~]a recount under Subsection (7)(a) or (b) shall pay the costs of the recount.

[~~(4)~~](11)(a) Upon [~~completion of the recount~~] completing a recount described in Subsection (5) or (9), the election officer shall immediately convene the board of canvassers.

(b) The board of canvassers shall:

(i) canvass the election returns for the race or proposition that was the subject of the recount; and

(ii) with the assistance of the election officer, prepare and sign the report required by Section 20A-4-304 or 20A-4-306.

(c) If the recount is for a statewide [~~or multicounty race or for a~~]race, multi-county race, or a statewide proposition, the board of county canvassers shall prepare and transmit a separate report to the lieutenant governor as required by Subsection 20A-4-304(7).

(d) The canvassers' report prepared as provided in this Subsection [~~(4)~~](11) is the official result of the race or proposition that is the subject of the recount.

Section 5. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1)(a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A-9-202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even-numbered year in which a regular general election will be held.

(2)(a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b)(i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd-numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A-8-103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A-8-103.

(3)(a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A-9-202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a nomination petition that was:

(i) circulated and completed in accordance with Section 20A-9-405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b)(i) A candidate for elective office shall submit signatures for a nomination petition to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c)(i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A-9-408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd-numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd-numbered year.

(d) The filing officer shall:

(i) except as otherwise provided in Section 20A-21-201, verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A-9-202(1)(b);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if

the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) except as otherwise provided in Section 20A-21-201 and with the assistance of the county clerk as applicable, use the procedures described in Section 20A-1-1002 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A-9-202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4)(a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, _____(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is ____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5)(a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c)(i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

[~~(6)(a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.~~]

[~~(b) When a tie vote occurs in any primary election for any county office, the district court judges of the~~

~~district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.~~]

[~~(7)~~](6) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

[~~(8)~~](7) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 504
H. B. 516
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

STATE LAND PURCHASE AMENDMENTS

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Senate Sponsor: Michael K. McKell

Cosponsor:
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Andrew Stoddard
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Keven J. Stratton
Brady Brammer
Dan N. Johnson
Jordan D. Teuscher
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Michael L. Kohler
Christine F. Watkins
Jefferson S. Burton
Trevor Lee

LONG TITLE

General Description:

This bill deals with land conveyances to restricted foreign entities in the state.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the definition of restricted foreign entity to prevent the following entities from obtaining an interest in land in the state:
  - an entity that is owned or directly controlled by the government of China, Iran, North Korea, or Russia; and
  - an entity in which a restricted foreign entity owns a majority interest;
- requires that a restricted foreign entity alienate any interest in the state within one year;
- requires that the Department of Public Safety:
  - maintain a publicly available list of restricted foreign entities;
  - create a process for reporting a land conveyance to a restricted foreign entity;
  - provide an annual notice regarding restricted foreign entities to each county auditor in the state; and
  - investigate any conveyance to a restricted foreign entity;
- describes the duties of a county recorder in relation to restricted foreign entities; and
- provides the Division of Facilities Construction and Management authority to sell an interest in land that a restricted foreign entity fails to timely alienate.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-1-106, as last amended by Laws of Utah 2023, Chapters 328, 447
63L-13-101, as enacted by Laws of Utah 2023, Chapter 61
63L-13-201, as enacted by Laws of Utah 2023, Chapter 61
63L-13-202, as enacted by Laws of Utah 2023, Chapter 61

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victim Reparations Board and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section 63M-7-505;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and

rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211;

(k) provide for the security and protection of public officials, public officials' staff, and the capitol hill complex in accordance with the provisions of this part;[~~and~~]

(l) fulfill the duties described in Sections 77-36-2.1 and 78B-7-120 related to lethality assessments[~~.~~]; and

(m) fulfill the duties described in Section 63L-13-201 related to restricted foreign entities.

(2)(a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26B-8-319.

Section 2. Section 63L-13-101 is amended to read:

63L-13-101. Definitions.

As used in this chapter:

(1) "Interest in land" means any right, title, lien, claim, interest, or estate with respect to land.

(2)(a) "Land" means all real property within the state.

(b) "Land" includes:

(i) agricultural land, as defined in Section 4-46-102;

(ii) land owned or controlled by a political subdivision;

(iii) land owned or controlled by a school district;

(iv) non-federal land, as defined in Section 9-9-402;

(v) private land;

(vi) public land;

(vii) state land, as defined in Subsection 9-9-402(14)(a);

(viii) waters of the state, as defined in Subsection 19-5-102(23)(a); and

(ix) subsurface land.

(c) "Land" does not include real property that is owned, controlled, or held in trust by the federal government.

(3) "Land conveyance" means the transfer of any interest in land from one party to another.

[~~(3)~~](4) "Restricted foreign entity" means:

(a) a company that the United States Secretary of Defense is required to identify and report as a military company under Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283;

(b) an entity that is owned or directly controlled by the government of China, Iran, North Korea, or Russia;

(c) an affiliate, subsidiary, or holding company of [~~a company~~]an entity described in Subsection [~~(3)(a)~~](4)(a) or (b);

[~~(c)~~](d) a country with a commercial or defense industrial base of which [~~a company~~]an entity described in Subsection [~~(3)(a) or (b)~~](4)(a), (b), or (c) is a part;

[~~(d)~~](e) a state, province, region, prefecture, subdivision, or municipality of a country described in Subsection [~~(3)(c); and~~](4)(d);

[~~(e)~~](f) an agency, bureau, committee, or department of a country described in Subsection [~~(3)(c).~~](4)(d); or

(g) any entity in which any entity described in Subsections (4)(a) through (f) maintains at least a 51% ownership interest.

Section 3. Section 63L-13-201 is amended to read:

63L-13-201. Acquisition of land prohibited -- Exceptions -- Enforcement.

(1) As used in this section, "department" means the Department of Public Safety created under Section 53-1-103.

[~~(1)~~](2) Subject to Subsection [~~(2)~~](3) and Section 63L-13-202, a restricted foreign entity may not acquire an interest in land in this state.

[~~(2) Subsection (1) does not apply to an interest in land that a restricted foreign entity acquired before May 3, 2023:~~]

[~~(a) by purchase, grant, gift, donation, devise, or bequest;~~]

[~~(b) as security for the repayment of a debt; or~~]

[~~(c) as a party to a contract for the transfer or conveyance of an interest in land to the restricted foreign entity.~~]

[~~(3) A deed or other written instrument, other than in probate, purporting to convey an interest in land to a restricted foreign entity in violation of Subsection (1) is invalid.~~]

(3) A restricted foreign entity that, in violation of Subsection (2), obtains an interest in land shall alienate the interest in accordance with Section 63L-13-202.

(4) The department shall:

(a) maintain a publicly available list of restricted foreign entities;

(b) create a process by which a county recorder may report a land conveyance the county recorder suspects is prohibited under this section;

(c) provide an annual notice to each county recorder in the state that includes:

(i) instruction on how to identify a restricted foreign entity;

(ii) the process by which a county recorder may report to the department a land conveyance the county recorder suspects is prohibited under this section; and

(iii) any additional information the department deems necessary;

(d) investigate the validity of each land conveyance a county recorder reports under this section;

(e) when, after investigation, the department determines that a land conveyance violates this section:

(i) give notice to the restricted foreign entity that:

(A) the land conveyance violates this section; and

(B) Section 63L-13-202 requires the restricted foreign entity to alienate the restricted foreign entity's interest in the land within one year or the Division of Facilities Construction and Management will sell the interest in accordance with Subsection 63L-13-202(3); and

(ii) notify the county recorder of the county in which the land is located of the land conveyance; and

(f) coordinate with the Division of Facilities Construction and Management to facilitate a sale of the interest in land as described in Section 63L-13-202.

(5) A county recorder:

(a) is not liable for a conveyance to a restricted foreign entity; and

(b) shall, upon notice from the department under Subsection (4)(e)(ii), create a public record of each violation of this section.

Section 4. Section 63L-13-202 is amended to read:

63L-13-202. Alienate within one year -- Sale of property.

(1)(a) A restricted foreign entity that acquires an interest in land on or after [~~May 3, 2023, by grant, gift, donation, devise, or bequest~~]May 1, 2024, shall alienate the interest within [~~five years~~]one year after the date of acquisition.

(b) A restricted foreign entity that acquired an interest in land before May 1, 2024, shall alienate the interest on or before May 1, 2025.

(2) If a restricted foreign entity fails to alienate an interest in land [~~in accordance with Subsection (1), the interest escheats to the state.~~]as described in Subsection (1), the Division of Facilities Construction and Management shall sell the interest in land in accordance with Subsection (3).

(3) The Division of Facilities Construction and Management shall sell an interest in land described in Subsection (2):

(a) at public auction;

(b) when practicable, in the city, town, or precinct where the land is located;

(c) the day after the one year time period described in Subsection (1) elapses, but not longer than one year after the day on which the time period in Subsection (1) elapses;

(d) after publication of the date, time, and place of sale:

(i) in a newspaper having general circulation in the county, once in each of the two successive weeks immediately preceding the date of the sale; and

(ii) in accordance with Section 45-1-101 for the two weeks immediately preceding the date of the sale; and

(e) after notification, sent by certified mail at least 10 days before the first date of publication described in Subsection (3)(d), to:

(i) the restricted foreign entity;

(ii) all lien holders of record; and

(iii) any other person known to have an interest in the land.

(4) If a political subdivision sold an interest in land described in Subsection (2) to the restricted foreign entity, the political subdivision has a right of first refusal before the sale described in Subsection (3).

(5) After the sale of the interest in land described in Subsection (3), the Division of Facilities Construction and Management shall submit to the county recorder for recording notice of a sale described in this section.

(6) Proceeds from a sale under Subsection (3) shall:

(a) satisfy any outstanding liens on the interest in land; and

(b) after satisfying any outstanding liens, be deposited into the General Fund.

Section 5. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 505
H. B. 518
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

STATE CONSTRUCTION CODE MODIFICATIONS

Chief Sponsor: Thomas W. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the State Construction Code.

Highlighted Provisions:

This bill:

- ▶ amends the State Construction Code to:
  - align with updated standards in the International Residential Code (IRC); and
  - modify provisions of the IRC; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

15A-1-104, as enacted by Laws of Utah 2014, Chapter 197
15A-2-103, as last amended by Laws of Utah 2023, Chapters 160, 209
15A-3-105, as last amended by Laws of Utah 2023, Chapter 209
15A-3-202, as last amended by Laws of Utah 2023, Chapter 209
15A-3-203, as last amended by Laws of Utah 2023, Chapter 209
15A-3-204, as last amended by Laws of Utah 2023, Chapter 209
15A-3-205, as last amended by Laws of Utah 2023, Chapter 209
15A-3-206, as last amended by Laws of Utah 2023, Chapter 209
15A-3-401, as last amended by Laws of Utah 2019, Chapter 20
15A-3-701, as last amended by Laws of Utah 2023, Chapter 209
15A-3-801, as last amended by Laws of Utah 2023, Chapter 209
15A-5-103, as last amended by Laws of Utah 2023, Chapter 95
58-55-102, as last amended by Laws of Utah 2023, Chapter 223

Sections affected by Coordination Clause:

15A-3-203, as last amended by Laws of Utah 2023, Chapter 20913
15A-3-205, as last amended by Laws of Utah 2023, Chapter 20913
15A-5-103, as last amended by Laws of Utah 2023, Chapter 9513

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-1-104 is amended to read:

15A-1-104. Permit approval required -- Certificate of occupancy valid.

[~~(1) As used in this section:~~]

[~~(a) "Compliance agency" is as defined in Section 15A-1-202.~~]

[~~(b) "Project" is as defined in Section 15A-1-209.~~]

[~~(2) A compliance agency for a political subdivision may not reject a permit, or otherwise withhold approval of a project whenever approval is required, for failure to comply with the applicable provisions of this title unless the compliance agency:~~]

[~~(a) cites with specificity the applicable provision with which the project has failed to comply; and~~]

[~~(b) describes how the project has failed to comply.~~]

[~~(3) If a compliance agency or a representative of a compliance agency issues a certificate of occupancy, the compliance agency may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit are made to elements of the project after the certificate was issued.~~]

(1) As used in this section:

(a) "Completed noncompliant structure" means a structure that was constructed and completed without:

(i) obtaining a building permit;

(ii) passing inspections; or

(iii) obtaining a certificate of occupancy as required by Section 15A-1-204.

(b) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

(c) "Project" means the same as that term is defined in Section 15A-1-209.

(2) A compliance agency for a political subdivision may not reject a permit, or withhold approval of a project whenever approval is required, for failure to comply with the applicable provisions of this title unless the compliance agency:

(a) cites with specificity the applicable provision with which the project has failed to comply; and

(b) describes how the project has failed to comply.

(3) A municipality may not withhold a permit or project approval for a project because of a completed noncompliant structure on the same property provided that the completed noncompliant structure:

(a) has been completed for five years or more;

(b) does not pose a health, life, or safety concern;

(c) is unrelated to, independent from, and not affected by the project; and

(d) is outside the scope of work under the permit for the project.

(4) A municipality may require additional permitting, engineering, or inspections for a completed noncompliant structure if it:

(a) has been completed for ten years or less; or

(b) poses a health, life, or safety concern.

(5) If a compliance agency or a representative of a compliance agency issues a certificate of occupancy, the compliance agency may not withdraw the certificate of occupancy or exert additional jurisdiction over the elements of the project for which the certificate was issued unless additional changes or modifications requiring a building permit are made to elements of the project after the certificate was issued.

Section 2. Section 15A-2-103 is amended to read:

15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

(a) the 2021 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) [~~except as provided in Subsection (1)(c), ~~]the 2021 edition of the International Residential Code, issued by the International Code Council;

[~~(c) the residential provisions of Chapter 11, Energy Efficiency, of the 2015 edition of the International Residential Code, issued by the International Code Council;~~]

[~~(d)~~](c) Appendix AQ of the 2021 edition of the International Residential Code, issued by the International Code Council;

[~~(e)~~](d) the 2021 edition of the International Plumbing Code, issued by the International Code Council;

[~~(f)~~](e) the 2021 edition of the International Mechanical Code, issued by the International Code Council;

[~~(g)~~](f) the 2021 edition of the International Fuel Gas Code, issued by the International Code Council;

[~~(h)~~](g) the 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

[~~(i) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;~~]

[~~(j)~~](h) [~~the commercial provisions of ~~]the 2021 edition of the International Energy Conservation Code, issued by the International Code Council;

[~~(k)~~](i) the 2021 edition of the International Existing Building Code, issued by the International Code Council;

[~~(l)~~](j) subject to Subsection 15A-2-104(2), the HUD Code;

[~~(m)~~](k) subject to Subsection 15A-2-104(1), Appendix AE of the 2021 edition of the International Residential Code, issued by the International Code Council;

[~~(n)~~](l) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

[~~(o)~~](m) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section 9-8a-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

[~~(p)~~](n) the residential provisions of the 2021 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, Fire, and State Lands, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection [~~(1)(o)~~](1)(n) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 3. Section 15A-3-105 is amended to read:

15A-3-105. Amendments to Chapters 10 through 12 of IBC.

(1) In IBC, Section 1010.2.4, number (2), the following is added at the end of the sentence: "Blended assisted living facilities shall comply with Section 1010.2.14.1."

(2) A new IBC Section 1010.2.14.1 is added as follows: "1010.2.14.1 Blended assisted living

facilities. In occupancy Group I-1, Condition 2 or Group I-2, a Type-II assisted living facility licensed by the Department of Health and Human Services for residents with Alzheimer's or dementia, and having a controlled egress locking system to prevent operation from the egress side shall be permitted to also house residents without a clinical need for their containment where all of the following provisions are met:

(a) locks in the means of egress comply with all IBC requirements for controlled egress doors;

(b) all residents without a clinical need for their containment shall have the keys, codes, or other means necessary to exit the facility, in a manner that is determined by the facility operator and communicated to the resident or their legal representative;

(c) residents or their legal representative acknowledge in writing that they understand and agree to living in a facility where egress is controlled; and

(d) the number of residents housed in a smoke compartment with controlled egress shall not be greater than 30."

(3) In IBC, Section 1011.5.2, exception 3 is deleted and replaced with the following: " 3. In Group R-3 occupancies, within dwelling units in Group R-2 occupancies, and in Group U occupancies that are accessory to a Group R-3 occupancy, or accessory to individual dwelling units in Group R-2 occupancies, the maximum riser height shall be 8 inches (203 mm) and the minimum tread depth shall be 9 inches (229 mm). The minimum winder tread depth at the walk line shall be 10 inches (254 mm), and the minimum winder tread depth shall be 6 inches (152 mm). A nosing not less than 0.75 inch (19.1 mm) but not more than 1.25 inches (32 mm) shall be provided on stairways with solid risers where the tread depth is less than 10 inches (254 mm)."

[~~(2)~~](4) In IBC, Section 1011.11, a new exception 6 is added as follows: " 6. In occupancies in Group R-3, as applicable in Section 101.2 and in occupancies in Group U, which are accessory to an occupancy in Group R-3, as applicable in Section 101.2, handrails shall be provided on at least one side of stairways consisting of four or more risers."

[~~(3)~~](5) IBC, Section 1025, is deleted.

Section 4. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R101.2, Exception, the words "where provided with an automatic sprinkler system complying with Section P2904" are deleted.

(2) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

[~~(3) IRC, Section R105.2, number 10, is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762 mm) above grade at any point and not requiring guardrails, that do not serve the exit door required by Section R311.4."~~]

(3) In IRC Section R105.2, under Building, the following changes are made:

(a) Number 3 is deleted and replaced with the following: "3. Retaining walls retaining less than 4 feet (1219mm) of unbalanced fill, unless supporting a surcharge or requiring design per Section R404.4."

(b) Number 10 is deleted and replaced with the following: "10. Decks that are not more than 30 inches (762mm) above grade at any point and not requiring guardrails, that do not serve exit door required by Section R311.4."

(4) In IRC, Section R105.2, a new exception is added: "11. Grade level, non-connected conex boxes, less than 350 square feet, used for storage only."

[~~(4)~~](5) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

[~~(5)~~](6) IRC, Section 109.1.5, is deleted and replaced with the following: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.4 to prevent water from entering the weather-resistive barrier."

[~~(6)~~](7) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

[~~(7)~~](8) In IRC, Section R202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word "official."

[~~(8)~~](9) In IRC, Section R202, the definition for "Approved Agency" is modified by replacing the word "and" with "or."

[~~(9)~~](10) In IRC, Section 202, the definition for "Approved Source" is modified by adding the words "or licensed engineer or architect" after the word "official."

[~~(10)~~](11) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority

having jurisdiction under Utah Code, Subsection 19-4-104(4)."

[~~(11)~~](12) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

[~~(12)~~](13) In IRC, Section 202, the following definition is added: "DUAL SOURCE CONNECTION. A pipe that is installed so that either the nonpotable (i.e. secondary) irrigation water or the potable water is connected to a pressurized irrigation system at one time, but not both at the same time; or a pipe that is installed so that either the potable water or private well water is connected to a residence at one time, but not both at the same time. The potable water supply line shall be protected by a reduced pressure backflow preventer."

[~~(13)~~](14) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

[~~(14)~~](15) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

[~~(15)~~](16) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

[~~(16)~~](17) IRC, Figure R301.2 (3), is deleted and replaced with R301.2 (3) as follows:

"TABLE NO. R301.2 (3)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utah-snowload.usu.edu/, for ground snow load values."

[~~(17)~~](18) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

[~~(18)~~](19) In IRC, Section R302.2, the following sentence is added at the end of the paragraph: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

[~~(19)~~](20) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2- inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

[~~(20)~~](21) In IRC, Section R302.5.1, the last sentence is deleted.

[~~(21)~~](22) IRC, Section R302.13, is deleted.

[~~(22)~~](23) In IRC, Section R303.4, the following exception is added: "Exception: Dwelling units tested in accordance with Section N1102.4.1.2 (R402.4.1.2) which has an air tightness of 3.0 ACH (50) or greater do not require mechanical ventilation."

(24) In IRC, Section R310.1, all words in the last sentence after "or to a yard or court", are deleted, and Exception 3 of this section is deleted.

[~~(23)~~](25) In IRC, Section R310.7, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(24)~~](26) IRC, Sections R311.7.45 through R311.7.5.3, are deleted and replaced with the following: "R311.7.45.1 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12- inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).

R311.7.5.3 Nosing. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4- inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm).

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

[~~(25)~~](27) IRC, Section R312.2, is deleted.

[~~(26)~~](28) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two- family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

[~~(27)~~](29) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(28)~~](30) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

[~~(29)~~](31) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

[~~(30)~~](32) A new IRC, Section R328.12, is added as follows:

"R328.12 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

[~~(31)~~](33) In IRC, Section 403.1.3.5.3, an exception is added as follows: "Exception: Vertical steel in footings shall be permitted to be located while concrete is still plastic and before it has set. Where vertical steel resists placement or the consolidation of concrete around steel is impeded, the concrete shall be vibrated to ensure full contact between the vertical steel and concrete."

[~~(32)~~](34) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(33)~~](35) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(34)~~](36) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(35)~~](37) In IRC, Section R405.1, a second exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geotechnical report shall make a recommendation regarding a drainage system."

[~~(36)~~](38) In IRC, Section R506.2.3, the words "10-mil (0.010 inch; 0.25 mm)" are deleted and replaced with "6-mil (0.006 inch; 0.152 mm)" and the words "conforming to ASTM E1745 Class A requirements" are deleted.

Section 5. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) IRC, Section [~~609.4.1~~]R609.4.1, is deleted.

(2) In IRC, Section N1101.4 (R102.1.1), a new section N1101.4.1 (R102.1.1) is added as follows: "N1101.4.1 National Green Building Standard. Buildings complying with ICC 700-2020 National Green Building Standard and achieving the Gold rating level for the energy efficiency category shall be deemed to exceed the energy efficiency required by this code. The building shall also meet the requirements identified in table N1105.2 and the building thermal envelope efficiency is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables N1102.2.2 and N1102.1.3 of the 2009 IRC."

[~~(2)~~](3) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation [~~required to be submitted in order to issue a building permit.~~"]required for building permits shall include only those items specified in Subsection 10-5-132(8) of the Utah Municipal Code."

(4) In IRC, Section N1101.10.3 (R303.1.3) the following changes are made:

(a) The following is added at the end of the first sentence "or EN 14351-1:2006+A1:2010."

(b) The word "accredited" is replaced with "approved" in the third sentence.

(c) The following sentence is added after the third sentence: "A conversion factor of 5.678 shall be used to convert from U values expressed in SI units: ()/53678=."

(d) After "NFRC 200" the following words are added: "or EN 14351-1:2006+A1:2010," and in the sentence the word "accredited" is replaced with the word "approved."

(e) The following new sentence shall be inserted immediately prior to the last sentence: "Total Energy Transmittance values may be substituted for SHGC, and Luminous Transmission values may be substituted for VT."

[~~(3)~~](5) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted. [~~(4) In IRC, Section N1101.13 (R401.2), add Exception as follows:~~

~~"2. Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:~~]

[~~(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";~~ ~~(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and~~

~~(c) after January 1, 2021, "5 percent better than code."".~~ ~~(5) In IRC, Table N1102.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote j is added as follows:~~

~~"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."~~]

(6) In IRC, Section N1101.13 (R401.2), in the first sentence, the words "Section N1101.13.5 and" are deleted.

(7) In IRC, Section N1101.13.5 (R401.2.5) is deleted.

(8) In IRC, Section N1101.14 (R401.3) Number 7, the words "and the compliance path used" are deleted.

(9) In IRC, Table N1102.1.2 (R402.1.2):

(a) in the column titled Fenestration U-Factor the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC", the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the column titled "Ceiling U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.026 and replace it with 0.030;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.024 and replace it with 0.026; and

(iii) in the row titled "Climate Zone 6" delete 0.024 and replace it with 0.026;

(d) in the column titled "Wood Frame Wall U Factor", the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.060 and replace it with 0.060;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.045 and replace it with 0.060; and

(iii) in the row titled "Climate Zone 6" delete 0.045 and replace it with 0.060;

(e) in the column titled "Basement Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.050 and replace it with 0.075; and

(ii) in the row titled "Climate Zone 6" delete 0.50 and replace it with 0.065; and

(f) in the column titled "Crawl Space Wall U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4" delete 0.055 and replace it with 0.078; and

(ii) in the row titled "Climate Zone 6" delete 0.55 and replace it with 0.065.

[~~(6)~~](10) In IRC, Table N1102.1.3 (R402.1.3), the following changes are made:

(a) in the column titled "Wood Frame Walls R-Value" a new footnote indicator "j" is added and at the bottom of the footnotes the following footnote "j" is added: "j. In climate zone 3B and 5B, an R-15, and in climate zone 6, an R-20 shall be acceptable where air-impermeable insulation is installed in the cavity space, exterior continuous insulation, or some combination thereof; and the tested house air leakage is a maximum of 2.0 ACH50"; and

(b) add a new footnote "k" as follows: "k. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has 0.30 U-factor or lower, minimum heating equipment efficiency is for gas 95 AFUE, or for oil, 84 AFUE, and all other components requirements are met."

(11) In IRC, Table N1102.1.3 (R402.1.3) the following changes are made:

(a) in the column titled "Fenestration U-Factor" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6" delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC" the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the Column R-Value the following changes are made:

(i) in the row titled "Climate Zone 3" delete 49 and replace it with 38;

(ii) in the row titled "Climate Zone 5 and Marine 4" delete 60 and replace it with 49; and

(iii) in the row titled "Climate Zone 6" delete 60 and replace it with 49;

(d) in the Column titled "Wood Frame Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 3" delete all values and replace with 20+Oci or 13+5ci or 015ci;

(ii) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 21+Oci or 15+5ci or 0+15ci; and

(iii) in the row titled "Climate Zone 6" delete all values and replace with 21+Oci or 15+5ci or 0+15ci;

(e) in the column titled "Basement Wall R Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 11+5ci;

(f) in the column titled "Slab R Value and Depth" the following changes are made:

(i) in the row titled "Climate Zone 3" delete 10ci. 2 ft and replace it with NR; and

(ii) in the row titled "Climate Zone 5 & Marine 4" delete 4 ft and replace it with 2 ft; and

(g) in the column titled "Crawl Space Wall R-Value" the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4" delete all values and replace with 15+Oci or 0+11ci or 11+5ci; and

(ii) in the row titled "Climate Zone 6" delete all values and replace with 19+Oci or 0+13ci or 0+11+5ci.

(12) In IRC, a new subsection N1102.1.5.1 (R402.1.5.1) is added as follows: "1102.1.5.1 (R402.1.5.1) RESCheck 2012 Utah Energy Conservation Code. Compliance with section N1102.1.5 (R402.1.5) may be satisfied using the

software RESCheck 2012 Utah Energy Conservation Code, which shall satisfy the R-value and U-factor requirements of N1102.1, N1102.2, and N1102.3, provided the following conditions are met:

(a) in "Climate Zone 5 and 6" the software result shall show 5% better than code; and

(b) in "Climate Zone 3", the software result shall show 5% better than code when software inputs for window U-factor .65 and window SHGC=0.40, notwithstanding actual windows installed shall conform to requirements of Tables N1102.1.2 (R402.1.2) and N1102.1.3 (R402.1.3)."

(13) In IRC, Sections N1102.2.1 (R402.2.1), a new Section N1102.2.1.1 is added as follows:

"N1102.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B shall be permitted provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, R806.5.

2. The house shall attain a blower door test result 2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope."

[~~(7)~~](14) In IRC, Section N1102.2.9.1 (R402.2.9.1) the numeral (i) is added before the words "cut at a 45 degree" and the following is added after the words "exterior wall": "or (ii) lowered from top of slab 4" when a 4" thermal break material such as, but not limited to, felt or asphalt impregnated fiber board, with a minimum thickness of 1/4" is installed at the upper 4" of slab".

(15) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

[~~(8)~~](16) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

[~~(9)~~](17) In IRC, Table N1102.4.1.1 (R402.4.1.1) in the column titled "COMPONENT, the following changes are made:

(a) In the row "Rim Joists" the word "exterior" in the first sentence is deleted, and the second sentence is deleted.

(b) In the row "Electrical/phone box on the exterior walls" the last sentence is deleted and replaced with: "Alternatively, close cell foam, caulking or gaskets may be used, or air sealed boxes may be installed."

(18) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the [~~first~~]fourth sentence[:], the word "third" is deleted.

[~~(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";~~]

[~~(ii) after January 1, 2019, replace the word "five" with "3.5"; and~~]

[~~(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.~~]

(b) The following sentence is [~~inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."~~]

[~~(d) The following sentence is inserted after the third sentence:~~]added after the fourth sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

[~~(c) In the third sentence, the word "third" is deleted.~~]

(c) In the first Exception the second sentence is deleted.

[~~(10)~~](19) [~~In~~] IRC, Section N1103.3.3 (R403.3.3), [~~the exception for duct air leakage testing is deleted and replaced with the following:~~]is deleted.

(a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";

[~~(b) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and~~]

[~~(c) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at~~

~~least 80% of all ducts (measured by length) located entirely within the building thermal envelope."~~]

[~~(11) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the second exception: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training."~~]

[~~(12) In IRC, Section N1103.3.4 (R403.3.4):~~]

[~~(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and~~]

[~~(b) in Subsection 2:~~]

[~~(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;~~]

[~~(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and~~]

[~~(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.~~]

(20) IRC Section N1103.3.3.1 (R403.3.3.1) is deleted.

[~~(13)~~](21) In IRC, Section N1103.3.5 (R403.3.5), the [~~words "or plenums" are deleted.~~]the following changes are made:

(a) a second Exception is added as follows: "A duct leakage test shall not be required for any system designed such that no air handlers or ducts are located within unconditioned attics."

(b) the following is added at the end of the section: "The following parties shall be approved to conduct testing:

(i) Parties certified by BPT or RESNET;

(ii) Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."

[~~(14) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.~~]

(22) In IRC, Section N1103.3.6 (R403.3.6) the following changes are made:

(a) in Subsection 1:

(i) the number 4.0 is changed to 6.0;

(ii) the number 113.3 is changed to 170;

(iii) the number 3.0 is changed to 5.0; and

(iv) the number 85 is changed to 141;

(b) in Subsection 2:

(i) the number 4.0 is changed to 5.0; and

(ii) the number 113.3 is changed to 141; and

(c) Subsection 3 is deleted.

(23) In IRC, Section N1103.3.7 (R403.3.7) the words "or plenums" are deleted.

(24) In IRC, Section N1103.5.1.1 (R403.5.1.1) the words "Where installed" are added at the beginning of the first sentence.

(25) In IRC, Section N1103.5.2 (R403.5.2) the following change is made, Subsections 5 and 6 are deleted and Subsection 7 is renumbered to 5.

[~~(15)~~](26) IRC, Section [~~N1103.6.1 (R403.6.1)~~]N1103.6.2 (R403.6.2), is deleted and replaced with the following: [~~"N1103.6.1 (R403.6.1)~~]"N1103.6.2 (R403.6.2) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table [~~N1103.6.1 (R403.6.1)~~]N1103.6.2 (R403.6.2).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

[~~(16)~~](27) In IRC, Section [~~N1103.6.1 (R403.6.1),~~]N1103.6.2 (R403.6.2), the table is deleted and replaced with the following:

"TABLE [~~N1103.6.1 (R403.6.1)~~]N1103.6.2 (R403.6.2)",

MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range Hoods	Any	2.8 cfm/watt	Any
In- line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any"

[~~(17) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:~~

~~"TABLE N1106.4 (R406.4)~~

~~MAXIMUM ENERGY RATING INDEX~~

~~CLIMATE ZONE~~	~~ENERGY RATING INDEX~~
~~3~~	~~65~~
~~5~~	~~69~~
~~6~~	~~68"~~]

(28) IRC, Section N1103.6.3 (R403.6.3) is deleted.

[~~(18)~~](29) In IRC, Section N1103.7 (R403.7) the word "approved" is deleted in the first sentence and the following is added after the word "methodologies[~~.~~]"[~~,~~]: "complying with N1103.7.1 (R403.7.1)".

[~~(19)~~](30) A new IRC, Section N1103.7.1 (R403.7.1) is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(20) In IRC, Section M1307.2, the words "In Seismic Design Categories D0, D1, and D2, and in townhouses in Seismic Design Category C", are deleted, and in Subparagraph 1, the last sentence is deleted.~~]

[~~(21)~~](31) In IRC, Section N1104.1 (R404.1), the word "All" is replaced with "Not less than 90 percent of the lamps in".

(32) IRC, Section N1104.1.1 (R404.1.1) is deleted.

(33) IRC, Section N1104.2 (R404.2) is deleted.

(34) IRC, Section N1104.3 (R404.3) is deleted.

(35) In IRC, section N1105.2 (R405.2) the following changes are made:

(a) In Subsection 3, the words "approved by the code official" are deleted; and

(b) In Subsection 3, the following words are added at the end of the sentence: "when applicable and readily available".

(36) In IRC, Section N1106.3 (R406.3) "Building thermal envelope" is deleted, and replaced with "Building thermal envelope and on-site renewables. The proposed total building thermal envelope UA, which is the sum of U-factor times assembly area, shall be less than or equal to the building thermal envelope UA using the prescriptive U-factors from Table N1102.1.2 multiplied by 1.15 in accordance with Equation 11-4. The area-weighted maximum fenestration SHGC permitted in Climate Zones 0 through 3 shall be: 0.30.UAProposed design =1.15xUAPrescriptive reference design (Equation 11-4)."

(37) In IRC, Section N1106.3.1 (R406.3.1) is deleted.

(38) In IRC, Section N1106.3.2 (R403.3.2) is deleted.

(39) In IRC, Section N1106.4 (R406.4) the following changes are made:

(a) In the first sentence, the words "in accordance with Equation 11-5" are deleted and replaced with: "permitted to be calculated using the minimum total air exchange rate for the rated home (Qtot) and for the index adjustment factor in accordance with Equation 11.5.";

(b) In equation 11-5, the words "Ventilation rate, CFM" are deleted and replaced with: "Qtot"; and

(c) In the last sentence the number "5" is deleted and replaced with "15".

(40) In IRC N1106.5, in the column titled "ENERGY RATING INDEX" of Table R406.5, the following changes are made:

(a) In the row for "Climate Zone 3", "51" is deleted and replaced with "65";

(b) In the row for "Climate Zone 5", "55" is deleted and replaced with "69"; and

(c) In the row for "Climate Zone 6", "54" is deleted and replaced with "68".

(41) In IRC, Section N1108 (R408) is deleted.

(42) In IRC, Section M1401.3 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

[~~(22)~~](43) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(23)~~](44) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335-2-40."

[~~(24)~~](45) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

[~~(25)~~](46) IRC, Section M1411.9, is deleted.

[~~(26)~~](47) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

[~~(27)~~](48) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 6. Section 15A-3-204 is amended to read:

15A-3-204. Amendments to Chapters 16 through 25 of IRC.

(1) In IRC, Section M1602.2, a new exception is added at the end of Item 8 as follows: "Exception: The discharge of return air from an accessory dwelling unit into another dwelling unit, or into an accessory dwelling unit from another dwelling unit, is not prohibited."

(2) A new IRC, Section G2401.2, is added as follows: "G2401.2 Meter Protection. Fuel gas services shall be in an approved location and/or provided with structures designed to protect the fuel gas meter and surrounding piping from physical damage, including falling, moving, or

migrating ice and snow. If an added structure is used, it must provide access for service and comply with the IBC or the IRC."

[~~(3) IRC, Section P2503.2, is deleted and replaced with the following: "P2503.2 Testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protections, and spill- resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross- Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross- Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064."~~]

(3) In IRC, Section 2503.5.1, #2 Air Test is deleted and replaced with the following: "Where water is not available at the construction site or where freezing conditions limit the use of water on the construction site, plastic drainage and vent pipe may be permitted to be tested with air. The following procedures shall be followed:

(a) Proper personal protective equipment, including safety eyewear and protective headgear, should be worn by all individuals in any area where an air or gas test is being conducted.

(b) Contractor shall take all precautions necessary to limit the pressure within the plastic piping.

(c) No drain and vent system shall be pressurized in excess of 6 psi as measured by accurate gauges graduated to no more than three times the test pressure.

(d) The pressure gauge shall be monitored during the test period, which should not exceed 15 minutes.

(e) At the conclusion of the test, the system shall be depressurized gradually, all trapped air or gases should be vented, and test balls and plugs should be removed with caution."

(4) In IRC, Section P2503.8, the word "devices" is deleted and replaced with the word "assemblies."

(5) IRC, Section P2503.8.2, is deleted and replaced with the following: "P2503.2 Testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protections, and spill- resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross- Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross- Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064."

Section 7. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

(1) IRC, Section P2602.1, is deleted and replaced with the following: "P2602.1 General. The water- distribution system of any building or premises where plumbing fixtures are installed shall be connected to a public water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code Sections 73- 3- 1, 73- 3- 3, and 73- 3- 25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter.

Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code Section 10- 8- 38, or an approved private sewage disposal system in accordance with Utah Administrative Code, Rule R317- 4, as administered by the Department of Environmental Quality, Division of Water Quality.

Exception: Sanitary drainage piping and systems that convey only the discharge from bathtubs, showers, lavatories, clothes washers, and laundry trays shall not be required to connect to a public sewer or to a private sewage disposal system provided that the piping or systems are connected to a system in accordance with Sections P2910 or P2911."

(2) A new IRC, Section P2602.3, is added as follows: "P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73- 3- 1 and 73- 3- 25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction."

(3) A new IRC, Section P2602.4, is added as follows: "P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10- 8- 38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality."

(4) In IRC, Section P2705, Item 5, the words "lavatory" and "lavatories" are deleted.

(5) In IRC, Section P2705, a new Item 9 is added as follows: "9. Lavatories. A lavatory shall not be set

closer than 12 inches from its center to any side wall or partition. A lavatory shall be provided with a clearance of 24 inches in width and 21 inches in depth in front of the lavatory to any side wall, partition, or obstruction." Remaining item numbers are renumbered accordingly.

(6) In IRC, Section P2801.6.2, the following is added at the end of the section: "When permitted by the code official, the pan drain may be directly connected to a soil stack, waste stack, or branch drain. The pan drain shall be individually trapped and vented as required in Section 907.1. The pan drain shall not be directly or indirectly connected to any vent. The trap shall be provided with a trap primer conforming to ASSE 1018 or ASSE 1044, a barrier type floor drain trap seal protection device meeting ASSE 1072, or a deep seal p- trap."

(7) A new IRC, Section P2801.6.3, is added as follows: "P2801.6.3 Pan designation. A water heater pan shall be considered an emergency receptor designated to receive the discharge of water from the water heater only and shall not receive the discharge from any other fixtures, devises, or equipment."

(8) IRC, Section P2801.8, is deleted and replaced with the following: "P2801.8 Water heater seismic bracing. As a minimum requirement, water heaters shall be anchored or strapped to resist horizontal displacement caused by earthquake motion. Strapping shall be at points within the upper one- third and lower one- third of the appliance's vertical dimensions.

(9) In IRC, Section P2804.6.1, a new number 15 is added as follows: "15. Be installed in accordance with the manufacturer's installation instructions, not to exceed 180 degrees in directional changes."

(10) A new IRC, Section P2902.1.1, is added as follows: "P2902.1.1 Backflow assembly testing. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill- resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The Utah Cross Connection Control Commission has adopted the field test procedures published by the Manual of Cross Connection Control, Tenth Edition. This manual is published by the University of Southern California's Foundation for Cross- Connection Control and Hydraulic Research. Test gauges shall comply with ASSE 1064.

(11) In IRC, Section P2902.1, the following subsections are added as follows:

"P2902.[~~1.2~~]1.1 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

P2902.1.2 Specific Installation Criteria.

P2902.[~~1.2~~]1.3 Reduced Pressure Principle Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly may not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.

c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4 of the International Plumbing Code as amended in Utah Code, Subsection 15A- 3- 303(1).

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.[~~1.2.2~~]1.4 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.[~~1.2.3~~]1.5 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.

e. The assembly shall be installed in a vertical position."

(12) In IRC, Table 2903.2, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory faucet" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

(13) In IRC, Section P2903.3, the words "public water main or an" are deleted and the following sentence is added at the end: "A water pressure booster pump may not be connected to a public water main unless allowed by Utah Administrative Code, Rule R309-540."

(14) In IRC, Section 2903.5, at the beginning of the second sentence, insert "If installed,".

(15) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: "Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers."

(16) IRC, Section P2910.5, is deleted and replaced with the following:

"P2910.5 Potable water connections.

A system that utilizes nonpotable water (i.e., pressurized irrigation) and installs a connection to the potable water system for backup must install a Reduced Pressure Principle Assembly (RP) directly downstream of the potable water connection (Stop and Waste) and install a "dual source connection" directly downstream from the (RP) installed so that either the potable water system or the nonpotable water is connected at any time to prevent a direct Cross Connection and to protect the potable water from any potential hazard from the nonpotable water system. See Utah Code Section 19-4-112. Note: RP must be tested within 10 days of installation and annually whether the drinking water is used or not."

(17) IRC, Section P2910.9.5, is deleted and replaced with the following:

"P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902."

(18) In IRC, Section P2911.12.4, the following words are deleted: "and backwater valves."

(19) In IRC, Section P2912.15.6, the following words are deleted: "and backwater valves."

(20) In IRC, Section P3007.3.3.1, the words "stainless steel, cast iron, galvanized steel, brass" are added after the word "PE."

(21) IRC, Section P3009, is deleted and replaced with the following:

"P3009 Graywater soil absorption systems: Graywater recycling systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of Utah Administrative Code, R317-401, Graywater Systems. Graywater recycling systems utilized for subsurface irrigation for other occupancies shall comply with Utah Administrative Code, R317-3, Design Requirements for Wastewater Collection, Treatment, and Disposal Systems, and Utah Administrative Code, R317-4, Onsite Wastewater Systems."

(22) In IRC, Section P3101.4, the following sentence is added at the end of the paragraph: "Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward."

(23) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: "Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent."

(24) In IRC, Section E3401.2, the second sentence is modified by adding the words "townhouses", after the word "dwellings" and the word "their" before the word "accessory" and the following is added after "NFPA 70", "such as, but not limited to the following equipment:

(a) fixed outdoor electric deicing and snow-melting equipment;

(b) motors;

(c) generators;

(d) transformers;

(e) phase converters;

(f) stationary standby batteries;

(g) elevators;

(h) dumbwaiters;

(i) platform lifts;

(j) stairway chairlifts;

(k) electric vehicle power transfer systems;

(l) electric welders;

(m) audio signal processing, amplification, and reproduction equipment;

(n) information technology equipment;

(o) solar photovoltaic (PV) systems;

(p) optional standby systems;

(q) interconnected electric power production sources;

(r) energy storage systems; and

(s) energy management systems."

Section 8. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 36, 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: "Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside."

(2) IRC, Section E3606.5, is deleted.

(3) IRC, Section E3901.4.2, is deleted and replaced with the following:

"E3901.4.2 Island and Peninsular Countertops and Work Spaces. Receptacle outlets, if installed to serve an island or peninsular countertop or work surface, shall be installed in accordance with E3901.4.3. If a receptacle outlet is not provided to serve an island or peninsular countertop or work surface, provisions shall be provided at the island or peninsula for future addition of a receptacle outlet to serve the island or peninsular countertop or work surface.

(4) IRC, Section E3901.4.3, is deleted and replaced with the following:

"E3901.4.3 Receptacle Outlet Location. Receptacle outlets shall be located in one or more of the following:

1. On or above, but not more than 20 inches (508 mm) above a countertop or work surface.

2. In a countertop using receptacle outlet assemblies listed for use in countertops.

3. In a work surface using receptacle outlet assemblies listed for use in work surface or listed for use in countertops.

Receptacle outlets rendered not readily accessible by appliances fastened in place, appliance garages, sinks, or range tops as covered in the exception to Section E3901.4.1 or appliances occupying assigned spaces shall not be considered as these required outlets.

4. Under the countertop not more than 14 inches from the bottom leading edge of the countertop."

(5) In IRC, Section 3902.1, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(6) In IRC, Section 3902.2, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(7) In IRC, Section 3902.3, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(8) In IRC, Section 3902.4, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(9) In IRC, Section 3902.5, after the word "125-volt" add the words "single phase 15 and 20 ampere in unfinished portions of the basement shall have ground-fault circuit-interrupter protection for personnel" and delete the rest of the section.

(10) In IRC, Section 3902.6, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(11) In IRC, Section 3902.7, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(12) In IRC, Section 3902.8, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(13) In IRC, Section 3902.9, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(14) IRC, Section 3902.10, is deleted.

(15) In IRC, Section 3902.12, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(16) In IRC, Section 3902.13, after the word "125-volt" add "single phase 15 and 20 ampere" and strike the words "through 250 volt."

(17) IRC, Section E3902.16 is deleted.

(18) IRC Section E3902.17 is deleted.

(19) IRC, Section E3902.18 is deleted.

(20) IRC, Section 4002.11, is deleted and replaced with the following: "4002.11 Bathtub and Shower Space. Receptacles shall not be installed within or directly over a bathutb or shower stall."

(21) IRC, Chapter 44, is amended by deleting the standard for "ANCE."

[~~(21)~~](22) In IRC, Chapter 44, the standard for ASHRAE is amended by changing "34-2013" to "34-2019."

[~~(22)~~](23) In IRC, Chapter 44, the standard for CSA, is amended by changing the:

(a) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(b) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(23)~~](24) In IRC, Chapter 44, the standard for UL, is amended by changing the:

(a) standard reference number "1995-2011" to "1995-2015";

(b) standard reference number "UL/CSA/ANCE 60335-2-40-2012" to "UL/CSA 60335-2-40-2019"; and

(c) title "Standard for Household and Similar Electrical Appliances, Part 2: Particular

Requirements for Motor-Compressors" to "Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition."

[~~(24)~~]

(25) In IRC, Chapter 44, the standard for ANSI/RESNET/ICC 201-2019 Section 4.4.4 is added as follows: "4.4.4. Air Source Heat Pumps and Air Conditioners. For Heat Pumps and Air Conditioners with the more recent Manufacturers Equipment Performance Ratings (HSPF2 or SEER2) available, and HSPF and SEER are not available, these ratings shall be converted to HSPF and SEER values by dividing HSPF2 or SEER2 by the conversion factors in Table 4.4.4.1(1). If the type of equipment is not determined, the conversion shall default to the Ducted Split System factors. All calculations, including Equation 4.1-1a shall use HSPF or SEER values as made available by the Manufacturer or converted as specified in this section.Table 4.4.4.1(1) SEER2 and HSPF2 Conversion Factors3.

EQUIPMENT TYPE	SEER2/SEER	EER/EER4	HSPF/HSPF
Ductless Systems	1.00	1.00	0.90
Ducted Split System	0.95	0.95	0.85
Ducted Package System	0.95	0.95	0.84
Small Duct High Velocity System	1.00	not applicable	0.85
Ducted Space-Constrained Air Conditioner	0.97	not applicable	not applicable
Ducted Space-Constrained Heat Pump		not applicable	0.85

(26) IRC, Chapter 44, is amended by adding the following reference standard:

"Standard reference number	Title	Referenced in code section number
USC- FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089- 2531	Table P2902.3"

[~~(25)~~](27) In IRC, Chapter 44, is amended by adding the following reference standard: "UL 9540-20: Energy Storage Systems and Equipment; R328.1, R328.2, and R328.6."

[~~(26)~~](28)(a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection [~~(22)(a)~~](27)(a) is not required.

Section 9. Section 15A-3-401 is amended to read:

15A-3-401. General provisions.

(1) The amendments in this part are adopted as amendments to the IMC to be applicable statewide.

(2) In IMC, Section 505.4, a new subsection 505.4.1 is added as follows: "505.4.1 Makeup Air. Makeup air is not required in residential dwelling units where gas, liquid, or solid fuel-burning appliances located within a units air barrier are all direct-vent or use a mechanical draft venting system."

(3) In IMC, Section 1004.2, the first sentence is deleted and replaced with the following: " In accordance with Title 34A, Chapter 7, Safety, and requirements made by rule by the Labor Commission, boilers and pressure vessels in Utah are regulated by the Utah Labor Commission, Division of Boiler, Elevator and Coal Mine Safety, except those located in private residences or in apartment houses of less than five family units. Boilers shall be installed in accordance with their listing and labeling, with minimum clearances as prescribed by the manufacturer's installation instructions and the state boiler code, whichever is greater."

[~~(3)~~](4) In IMC, Section 1004.3.1, the word "unlisted" is inserted before the word "boilers".

[~~(4)~~](5) In IMC, Section 1209.3, the following words are added at the end of the section: "or other methods approved for the application."

Section 10. Section 15A-3-701 is amended to read:

15A-3-701. General provisions.

The following is adopted as an amendment to the IECC to be applicable statewide:

(1) IECC, Section C405.11, is deleted and replaced with the following: "C405.11 Automatic receptacle control. Automatic receptacle control to be optional and decided by property owner."

(2) In IECC, Section R102.1.1, a new section R102.1.1 is added as follows: "R102.1.1 National Green Building Standard complying with ICC 700-2020 National Green Building Standard and achieving the Gold rating level for the energy efficiency category shall be deemed to exceed the energy efficiency required by this code. The building shall also meet the requirements identified in table N1105.2 and the building thermal envelope efficiency is greater than or equal to levels of efficiency and solar heat gain coefficients (SHGC) in Tables N1102.2.2 and N1102.1.3 of the 2009 IRC."

[~~(2)~~](3) In IECC, Section R103.2, all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required [~~to be submitted in order to issue a building permit.~~"]for building permits shall include only those items specified in 10-5-132(8) of the Utah Municipal Code."

[~~(3)~~](4) In IECC, Section R303.1.3, the following changes are made:

(a) The following is added at the end of the first sentence: "or EN 14351-1:2006+A1:2010."

(b) The word "accredited" is replaced with "approved" in the third sentence.

(c) The following sentence is added after the third sentence: "A conversion factor of 5.678 shall be used to convert from U values expressed in SI units: ()/53678=."

(d) After "NFRC 200" the following words are added: "or EN 14351-1:2006+A1:2010", and in the sentence the word "accredited" is replaced with the word "approved".

(e) The following new sentence shall be inserted immediately prior to the last sentence: "Total Energy Transmittance values may be substituted for SHGC, and Luminous Transmission values may be substituted for VT."

(5) In IECC, Section R303.3, all wording after the first sentence is deleted.

[~~(4)~~](6) In IECC, Section R401.2, [~~a new number 4 is added as follows:~~]in the first sentence, the words "Section R401.13.5 and" are deleted.

[~~"4. Compliance may be shown by demonstrating a result, using the software RESCheck 2012 Utah Energy Conservation Code, of:~~]

[~~(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";~~]

[~~(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and~~]

[~~(c) after January 1, 2021, "5 percent better than code"."~~]

[~~(5) In IECC, Table R402.2, in the column entitled MASS WALL R-VALUE, a new footnote j is added as follows:~~

~~"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is, for gas, 90 AFUE, or, for oil, 84 AFUE, and all other component requirements are met."~~]

[~~(6)~~](7) In IECC, Section R401.2.5 is deleted.

(8) In IECC, Section R401.3 Number 7, the words "and the compliance path used" are deleted.

(9) In IECC Table R402.1.2, the following changes are made:

(a) in the column titled "Fenestration U- Factor", the following changes are made:

(i) in the row titled "Climate Zone 3", delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4", delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6", delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC", the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the column titled "Climate U- Factor", the following changes are made:

(i) in the row titled "Climate Zone 3", delete 0.026 and replace it with 0.030;

(ii) in the row titled "Climate Zone 5 and Marine 4", delete 0.024 and replace it with 0.026; and

(iii) in the row titled "Climate Zone 6", delete 0.024 and replace it with 0.026;

(d) in the column titled "Wood Frame Wall U Factor", the following changes are made:

(i) in the row titled "Climate Zone 3", delete 0.060 and replace it with 0.060;

(ii) in the row titled "Climate Zone 5 and Marine 4", delete 0.045 and replace it with 0.060; and

(iii) in the row titled "Climate Zone 6", delete 0.045 and replace it with 0.060;

(e) in the column titled "Basement wall U- Factor", the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4", delete 0.050 and replace it with 0.075; and

(ii) in the row titled "Climate Zone 6", delete 0.50 and replace it with 0.065; and

(f) in the column titled "Crawl Space Wall U- Factor", the following changes are made:

(i) in the row titled "Climate Zone 5 and Marine 4", delete 0.055 and replace it with 0.078; and

(ii) in the row titled "Climate Zone 6", delete 0.55 and replace it with 0.065.

(10) In IECC, Table R402.1.3, the following changes are made:

(a) in the column titled "Fenestration U- Factor", the following changes are made:

(i) in the row titled "Climate Zone 3", delete 0.30 and replace it with 0.32;

(ii) in the row titled "Climate Zone 5 and Marine 4", delete 0.30 and replace it with 0.32; and

(iii) in the row titled "Climate Zone 6", delete 0.30 and replace it with 0.32;

(b) in the column titled "Glazed Fenestration SHGC", the following change is made: in the row titled "Climate Zone 3" delete 0.25 and replace it with 0.35;

(c) in the column R- Value the following changes are made:

(i) in the row titled "Climate Zone 3", delete 49 and replace it with 38;

(ii) in the row titled "Climate Zone 5 and Marine 4", delete 60 and replace it with 49; and

(iii) in the row titled "Climate Zone 6", delete 60 and replace it with 49;

(d) in the column titled "Wood Frame Wall R- Value", the following changes are made:

(i) in the row titled "Climate Zone 3", delete all values and replace with "20+Oci or 13+5ci or 0+15ci";

(ii) in the row titled "Climate Zone 5 or Marine 4", delete all values and replace with "21+Oci or 15+5ci or 0+15ci"; and

(iii) in the row titled "Climate Zone 6", delete all values and replace with "21+Oci or 15+5ci or 0+15ci";

(e) in the column titled "Basement Wall R- Value", the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4", delete all values and replace with "15+Oci or 0+11ci or 11+5ci"; and

(ii) in the row titled "Climate Zone 6", delete all values and replace with "19+Oci or 0+13ci or 11+5ci";

(f) in the column titled "Slab R- Value and Depth", the following changes are made:

(i) in the row titled "Climate Zone 3", delete "10ci. 2ft" and replace it with "NR"; and

(ii) in the row titled "Climate Zone 5 & Marine 4", delete "4 ft" and replace it with "2 ft";

(g) in the column titled "Crawl Space Wall R- Value", the following changes are made:

(i) in the row titled "Climate Zone 5 or Marine 4", delete all values and replace with "15+Oci or 0+11ci or 11+5ci"; and

(ii) in the row titled "Climate Zone 6", delete all values and replace with "19+Oci or 0+13ci or 0+11+5ci"; and

(h) in IECC, Table R402.2, in the column titled "MASS WALL R- VALUE", a new footnote "j" is added as follows: "j Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in "Zones 5 through 8" when overall window glazing has a .31 U- factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

(11) In IECC, a new subsection R402.1.5.1 is added as follows: "R402.1.5.1 RESCheck 2012 Utah

Energy Conservation Code. Compliance with section N1102.1.5 (R402.1.5) may be satisfied using the software RESCheck 2012 Utah Energy Conservation Code, which shall satisfy the R-value and U-factor requirements of N1102.1, N1102.2, and N1102.3, provided the following conditions are met:

(a) In Climate Zone 5 and 6 the software result shall show 5% better than code; and

(b) In Climate Zone 3, the software result shall show 5% better than code when software inputs for window U-factor = 0.65 and window SHGC = 0.40, notwithstanding actual windows installed shall conform to requirements of Tables N1102.1.2 (R402.1.2) and N1102.1.3 (R402.1.3)."

(12) In IECC, Section R402.2.1, a new section is added as follows: "R402.2.1.1. Unvented attic and unvented enclosed rafter assemblies. Unvented attic and unvented enclosed rafter assemblies conforming to Section R806.5 shall be provided with an R-value of R-22 (maximum U-Factor of 0.045) in Climate Zone 3-B or an R-value of R-26 (maximum U-factor of 0.038) in Climate Zones 5-B and 6-B shall be permitted provided all the following conditions are met:

1. The unvented attic assembly complies with the requirements of the International Residential Code, Section R806.5.

2. The house shall attain a blower door test result 2.5ACH 50.

3. The house shall require a whole house mechanical ventilation system that does not rely solely on a negative pressure strategy (must be positive, balanced or hybrid).

4. Where insulation is installed below the roof deck and the exposed portion of roof rafters are not already covered by the R-20 depth of the air-impermeable insulation, the exposed portion of the roof rafters shall be wrapped (covered) by minimum R-3 unless directly covered by drywall/finished ceiling. Roof rafters are not required to be covered by minimum R-3 if a continuous insulation is installed above the roof deck.

5. Indoor heating, cooling and ventilation equipment (including ductwork) shall be inside the building thermal envelope.

[~~(7)~~](13) A new IECC, Section R402.2.1.3 is added as follows: "R402.2.1.3 Walls with Air-Impermeable Insulation. Where IECC Table R402.1.2 requires R-20 for wood framed walls in climate zones 3-B and 5-B or R-20+5CI for climate zone 6-B, an air-impermeable insulation installed in the wall cavity with R-value of R-15 for climate zones 3-B and 5-B or R-20 for climate zone 6-B shall be deemed equivalent to the provisions in IECC Table R402.1.2, provided the home attains a blower door test 2.5ACH."

(14) In IECC, Section R402.2.9.1, the numeral "(i)" is added before the words "cut at a 45 degree" and the following is added after the words "exterior wall:": "or (ii) lowered from top of slab 4" when a 4" thermal break material such as, but not limited to, felt or asphalt impregnated fiber board, with a minimum thickness of 1/4" is installed at the upper 4" of slab."

(15) In IECC, Section R402.4.1, in the first sentence, the word "and" is deleted and replaced with the word "or".

[~~(8)~~](16) In IECC, Section R402.4.1.1, the [~~last sentence is~~]second and the last sentences are deleted and replaced with the following: "Where [~~allowed~~]required by the code official, the builder [~~may~~]shall certify compliance [~~to components criteria for items which may not be inspected during regularly scheduled inspections~~]with criteria indicated in Table R1102.4.1 for items which are not readily visible during regularly scheduled inspections."

[~~(9)~~](17) In IECC, Table R402.4.1.1 in the column titled "COMPONENT", the following changes are made:

(a) in the row "Rim Joists" the word "exterior" in the first sentence is deleted, and the second sentence is deleted.

(b) In the row "Electrical/phone box on the exterior walls" the last sentence is deleted and replaced with: "Alternatively, close cell foam, caulking or gaskets may be used, or air sealed boxes may be installed."

(18) In IECC, Section R402.4.1.2, the following changes are made:

(a) In the [~~first~~]fourth sentence[~~:~~], the word "third" is deleted.

[~~(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";~~]

[~~(ii) after January 1, 2019, replace the word "five" with "3.5"; and~~]

[~~(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.~~]

(b) The following sentence is [~~inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."~~]added after the fourth sentence:

[~~(d) The following sentence is inserted after the third sentence: ~~]"The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

(c) In the first Exception the second sentence is deleted.

[~~(e) In the third sentence, the word "third" is deleted.~~]

[~~(10) In IECC, Section R403.3.3, the exception for duct air leakage testing is deleted and replaced with the following:~~]

[~~(a) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The total leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";~~]

[~~(b) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and~~]

[~~(c) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope."~~]

[~~(11) In IECC, Section R403.3.3, the following is added after the exception:~~

~~"The following parties shall be approved to conduct testing:~~

~~1. Parties certified by BPI or RESNET.~~

~~2. Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."~~]

[~~(12) In IECC, Section R403.3.4:~~]

[~~(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, and the number 85 is changed to 114.6; and~~]

[~~(b) in Subsection 2:~~]

[~~(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;~~]

[~~(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and~~]

[~~(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.~~]

[~~(13)~~](19) In IECC, Section R402.4.1.3 the following changes are made:

(a) in the first sentence, the words 5.0 air changes per hour in Climate Zones 0, 1 and 2, and 3.0 are deleted and replaced with 4.0., and the words in Climate Zone 3 through 8 are deleted;

(b) in the first sentence of the Exception, 0.28 is replaced with 5.0 air changes per hour or 0.30; and

(c) in Number 2, the words of "conditioned floor area" are inserted before the words "or smaller."

(20) In IECC, Section R402.6 is deleted.

(21) In IECC, Section R403.3.1 is deleted and replaced with the following: "Ducts located outside conditioned space. Supply and return ducts in attics shall be insulated to a minimum of R- 8 where 3 inches (76.2 mm) in diameter and greater and R- 6 where less than 3 inches (76.2 mm) in diameter. Supply and return ducts in other portions of the building shall be insulated to a minimum of R- 6 where 3 inches (76.2 mm) in diameter or greater and R- 4.2 where less than 3 inches (76.2 mm) in diameter. Exception: Ducts or portions thereof located completely inside the building thermal envelope."

(22) In IECC, Section R403.3.3, is deleted.

(23) In IECC, Section R403.3.3.1 is deleted.

(24) In IECC, Section R403.3.5, the [~~words "or plenums" are deleted.~~]following changes are made:

(a) a second Exception is added as follows: "A duct leakage test shall not be required for any system designed such that no air handlers or ducts are located within unconditioned attics."

(b) the following is added at the end of the section: "The following parties shall be approved to conduct testing:

(i) Parties certified by BPT or RESNET

(ii) Licensed contractors who have completed training provided by Duct Test equipment manufacturers or other comparable training."

[~~(14) In IECC, Section R403.5.3, Subsection 5 is deleted and Subsections 6 and 7 are renumbered.~~]

[~~(15)~~](25) In IECC, Section N1103.3.6 (R403.3.6) the following changes are made:

(a) in Subsection 1:

(i) the number 4.0 is changed to 6.0;

(ii) the number 113.3 is changed to 170;

(iii) the number 3.0 is changed to 5.0; and

(iv) the number 85 is changed to 141;

(b) in Subsection 2:

(i) the number 4.0 is changed to 5.0; and

(ii) the number 113.3 is changed to 141; and

(c) Subsection 3 is deleted.

(26) In IECC, Section N1103.3.7 (R403.3.7) the words "or plenums" are deleted.

(27) In IECC, Section N1103.5.1.1 (R403.5.1.1) the words "Where installed" are added at the beginning of the first sentence.

(28) IECC, Section [~~R403.6.1~~]R403.6.2, is deleted and replaced with the following: [~~"R403.6.1~~]"R403.6.2 Whole- house mechanical ventilation system fan efficacy. Fans used to provide whole- house mechanical ventilation shall meet the efficacy requirements of Table [~~R403.6.1.~~]R403.6.2."

"Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole- house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

[~~(16)~~](29) In IECC, Section [~~R403.6.1~~]R403.6.2, the table is deleted and replaced with the following:

"TABLE [~~R403.6.1~~]R403.6.2"

"MECHANICAL VENTILATION SYSTEM FAN EFFICACY"

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range Hoods	Any	2.8 cfm/watt	Any
In- line fan	Any	2.8 cfm/watt	Any
Bathroom, utility room	10	1.4 cfm/watt	<90
Bathroom, utility room	90	2.8 cfm/watt	Any"

[~~(17) In IECC, Section R406.5, the table is deleted and replaced with the following:~~

~~"TABLE R406.5~~

~~MAXIMUM ENERGY RATING INDEX~~

~~CLIMATE ZONE~~	~~ENERGY RATING INDEX~~
~~3~~	~~65~~
~~5~~	~~69~~
~~6~~	~~68"~~]

[~~(18)~~](30) In IECC, Section R403.6.3 is deleted.

(31) In IECC, Section R403.7, the word "approved" is deleted in the first sentence and the following is added after the word "methodologies": "complying with R403.7.1."

(32) A new IECC, Section R403.7.1, is added as follows: "R403.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(33) In IECC, Section R404.1, the word "All" is replaced with "Not less than 90 percent of the lamps in."

(34) In IECC, Section R404.1.1 is deleted.

(35) In IECC, Section R404.2 is deleted.

(36) In IECC, Section R404.3 is deleted.

(37) In IECC, Section R405.2 the following changes are made:

(a) in Subsection 3, the words "approved by the code official" are deleted; and

(b) in Subsection 3, the following words are added at the end of the sentence: "when applicable and readily available."

(38) In IECC, Section R406.3 "Building thermal envelope" is deleted, and replaced with the following: "Building thermal envelope and on-site renewables. The proposed total building thermal envelope UA, which is the sum of U-factor times assembly area, shall be less than or equal to the building thermal envelope UA using the prescriptive U-factors From Table N1102.1.2 multiplied by 1.15 in accordance with Equation 11-4. The area-weighted maximum fenestration SHGC permitted in Climate Zones 0 through 3 shall be 0.30.UAProposed design = 1.15 x UAPrescriptive reference design (Equation 11-4)."

(39) In IECC, Section R406.3.1 is deleted.

(40) In IECC, Section R406.3.2 is deleted.

(41) In IECC, Section R406.4 the following changes are made:

(a) in the first sentence, the words "in accordance with Equation 11-5" are deleted and replaced with: "permitted to be calculated using the minimum total air exchange Rate for the rated home (Qtot) and for the index adjustment factor in accordance with Equation 11.5.";

(b) in equation 11-5, the words "Ventilation rate, CFM" are deleted and replaced with: "Qtot"; and

(c) in the last sentence, the number "5" is deleted and replaced with "15".

(42) In IECC, Section R406.5 in the column titled ENERGY RATING INDEX of Table R406.5, the following changes are made:

(a) in the row for Climate Zone 3, "51" is deleted and replaced with "65";

(b) in the row for Climate Zone 5, "55" is deleted and replaced with "69"; and

(c) in the row for Climate Zone 6, "54" is deleted and replaced with "68".

(43) In IECC, Section R408 is deleted.

(a)(i)(A) In IECC, Chapter 6, the standard for ANSI/RESNET/ICC 201-2019 section 4.4.4 is added as follows: "4.4.4. Air Source Heat Pumps and Air Conditioners. For Heat Pumps and Air Conditioners with the more recent Manufacturers Equipment Performance Ratings (HSPF2 or SEER2) available, and HSPF and SEER are not available, these ratings shall be converted to HSPF and SEER values by dividing HSPF2 or SEER2 by the conversion factors in Table 4.4.4.1(1). If the type of equipment is not determined, the conversion shall default to the Ducted Split System factors. All calculations, including Equation 4.1-1a shall use HSPF or SEER values as made available by the Manufacturer or converted as specified in this section. Table 4.4.4.1(1) SEER2 and HSPF2 Conversion"

EQUIPMENT TYPE	SEER2/SEER	EER2/EER4	HSPF2/HSPF
Ductless Systems	1.00	1.00	0.90
Ducted Split System	0.95	0.95	0.85
Ducted Package System	0.95	0.95	0.84
Small Duct High Velocity System	1.00	Not Applicable	0.85
Ducted Space-Constrained Air Conditioner	0.97	Not Applicable	Not Applicable
Ducted Space-Constrained Heat Pump		not applicable	0.85”

Section 11. Section 15A-3-801 is amended to read:

15A-3-801. General provisions.

The following are adopted as amendments to the IEBC and are applicable statewide:

(1) In IEBC, Section 202, the definition for "Approved" is modified by adding the words "or independent third-party licensed engineer or architect and submitted to the building official" after the word official.

(2) In Section 202, the following definition is added: "BUILDING OFFICIAL. See Code Official."

[~~(2)~~](3) In Section 202, the definition for "code official" is deleted and replaced with the following:

"CODE OFFICIAL. The officer or other designated authority having jurisdiction (AHJ) charged with the administration and enforcement of this code."

[~~(3)~~](4) In Section 202, the definition for existing buildings is deleted and replaced with the following:

"EXISTING BUILDING. A building that is not a dangerous building and that was either lawfully erected under a prior adopted code, or deemed a legal non-conforming building by the code official."

[~~(4)~~](5) In IEBC, Section 302.3, the following is added after the words "code official" in the last sentence: "or independent third-party licensed engineer or architect and submitted to the building official."

(6) In Section 301.3, the exception is deleted.

[~~(5) In Section 305.4.2, number 7 is added after number 6 as follows: "7. When a change of occupancy in a building or portion of a building results in a Group R-2 occupancy, not less than 20% of the dwelling or sleeping units shall be Type-B dwelling or sleeping units. These dwelling or sleeping units may be located on any floor of the building provided with an accessible route. Two percent, but not less than one unit, of the dwelling or sleeping units shall be Type-A dwelling units."~~]

[~~(6)~~](7) Section 503.6 is deleted and replaced with the following:

"503.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance of such items. Reduced seismic forces are permitted for design purposes."

[~~(7) In Section 705.1, Exception number 3, the following is added at the end of the exception: "This exception does not apply if the existing facility is undergoing a change of occupancy classification."~~]

(8) Section 706.3.1 is deleted and replaced with the following:

"706.3.1 Bracing for unreinforced masonry bearing wall parapets and other appendages.

Where a permit is issued for reroofing more than 25 percent of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist the reduced International Building Code level seismic forces as specified in Section 303 of this code unless an evaluation demonstrates compliance of such items."

(9) Section 906.6 is deleted and replaced with the following:

"906.6 Bracing for unreinforced masonry parapets and other appendages upon reroofing.

Where the intended alteration requires a permit for reroofing and involves removal of roofing materials from more than 25% of the roof area of a building assigned to Seismic Design Category D, E, or F that has parapets constructed of unreinforced masonry or appendages such as cornices, spires, towers, tanks, signs, statuary, etc., the work shall include installation of bracing to resist out-of-plane seismic forces, unless an evaluation demonstrates compliance with such items. Reduced seismic forces are permitted for design purposes."

(10)(a) Section 1006.3 is deleted and replaced with the following:

"1006.3 Seismic Loads. Where a change of occupancy results in a building being assigned to a higher risk category, or when a change of occupancy results in a design occupant load increase of 100% or more, the building shall satisfy the requirements of Section 1613 of the International Building Code using full seismic forces."

(b) Section 1006.3, exceptions 1 through 3 remain unchanged.

(c) In Section 1006.3, add a new exception 5 as follows:

"5. Where the design occupant load increase is less than 25 occupants and the occupancy category does not change."

(11) In Section [~~1012.7.3~~]1011.7.3, exception 2 is deleted.

Section 12. Section 15A-5-103 is amended to read:

15A-5-103. Nationally recognized codes incorporated by reference.

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2021 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing, Processing, and Extraction Facilities, 2018 edition;

(3) National Fire Protection Association, NFPA 54, National Fuel Gas Code, [~~2021~~]2024 edition; and

(4) National Fire Protection Association, NFPA 58, Liquefied Petroleum Gas Code, [~~2023~~]2024 edition.

Section 13. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1)(a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

(7)(a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(11)(a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(12) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

(15) "Construction trade" means any trade or occupation involving:

(a)(i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(17)(a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (17)by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(18)(a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(22) "Employee" means an individual as defined by the division by rule giving consideration to the

definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(24)(a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(26)(a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(27)(a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28)(a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following:

(i) irrigation;

(ii) drainage;

(iii) water power;

(iv) water supply;

(v) flood control;

(vi) an inland waterway;

(vii) a harbor;

(viii) a railroad;

(ix) a highway;

(x) a tunnel;

(xi) an airport;

(xii) an airport runway;

(xiii) a sewer;

(xiv) a bridge;

(xv) a refinery;

(xvi) a pipeline;

(xvii) a chemical plant;

(xviii) an industrial plant;

(xix) a pier;

(xx) a foundation;

(xxi) a power plant;[~~or~~]

(xxii) a utility plant or installation[~~.~~]; or

(xxiii) an underground electric utility conduit.

(b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or

(ii) performance of:

(A) plumbing work;

(B) electrical work beyond underground electric utility conduit; or

(C) mechanical work.

(29)(a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a

building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(31) "Individual" means a natural person.

(32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(33) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(34) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(35) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(36) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(37)(a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(38) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(39) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(40) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(41)(a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(42) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and

equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(43) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(44) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(45) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(46)(a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(47) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(48) "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

(49) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(50)(a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(51) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(53) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(54) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 14. Effective date.

This bill takes effect on July 1, 2024.

Section 15. Coordinating H.B. 518 with H.B. 64.

If H.B. 518, State Construction Code Modifications, and H.B. 64, State Construction and Fire Codes Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, the amendments to:

(1) Section 15A-3-203 in H.B. 518 supersede the amendments to Section 15A-3-203 in H.B. 64;

(2) Section 15A-3-205 in H.B. 518 supersede the amendments to Section 15A-3-205 in H.B. 64; and

(3) Section 15A-5-103 in H.B. 518 supersede the amendments to Section 15A-5-103 in H.B. 64.

CHAPTER 506
H. B. 532
Passed February 28, 2024
Approved March 21, 2024
Effective October 1, 2024

STATE BOARDS AND COMMISSIONS MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies or repeals various boards and commissions.

Highlighted Provisions:

This bill:

- repeals the Utah Museums Advisory Board on October 1, 2024;
- repeals the arts collection committee on October 1, 2024;
- renames and modifies the Utah Arts Advisory Board as the Utah Arts and Museums Advisory Board and repeals the board with review on July 1, 2029;
- repeals the Utah Health Care Workforce Financial Assistance Program Advisory Committee;
- repeals the Opioid and Overdose Fatality Review Committee;
- modifies membership of the Employment Advisory Council and repeals the council with review on July 1, 2029;
- repeals the Governor's Committee on Employment of People with Disabilities on October 1, 2024;
- repeals the advisory council to advise and assist the Division of Services for the Deaf and Hard of Hearing;
- renames and modifies the Criminal Justice Data Management Task Force as the Public Safety Data Management Task Force and repeals the task force on July 1, 2029;
- repeals the Domestic Violence Data Task Force on October 1, 2024;
- repeals the Private Investigator Hearing and Licensure Board on October 1, 2024;
- renames and modifies the Bail Bond Recovery Licensure Board as the Bail Bond Recovery and Private Investigator Licensure Board and repeals the board with review on July 1, 2029;
- modifies the duties of the Emergency Management Administration Council and repeals the council with review on July 1, 2029;
- repeals the Statewide Mutual Aid Committee on October 1, 2024;
- renames and modifies the State Emergency Medical Services Committee as the Trauma System and Emergency Medical Services Advisory Committee and repeals the committee with review on July 1, 2029;
- repeals the Trauma System Advisory Committee on October 1, 2024;
- repeals the Stroke Registry Advisory Committee;
- repeals the Cardiac Registry Advisory Committee;
- repeals the Multi-Disciplinary Trauma-Informed Committee;
- modifies the membership of the State Commission on Criminal and Juvenile Justice;
- requires law enforcement agencies and other organizations that provide domestic violence services to submit certain data to the State Commission on Criminal and Juvenile Justice;
- modifies the Utah Victim Services Commission and repeals the commission with review on July 1, 2029;
- repeals the Crime Victim Reparations Assistance Board on December 31, 2024;
- repeals the Utah Council on Victims of Crime on December 31, 2024;
- repeals the Rural Online Working Hubs Grant Advisory Committee;
- repeals the Rural Physician Loan Repayment Program Advisory Committee on July 1, 2026;
- enacts language for the appointment of individuals to new or modified committees; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-6-102, as last amended by Laws of Utah 2020, Chapter 419
9-6-202, as last amended by Laws of Utah 2020, Chapters 154, 419
9-6-301, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-302, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-304, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-6-504, as last amended by Laws of Utah 2020, Chapter 419
9-6-505, as last amended by Laws of Utah 2020, Chapter 419
11-48-103, as last amended by Laws of Utah 2023, Chapters 16, 310 and 327
26B-1-202, as last amended by Laws of Utah 2023, Chapter 302
26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305
26B-1-204, as last amended by Laws of Utah 2023, Chapters 249, 305 and 310
26B-4-702, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-8-231, as renumbered and amended by Laws of Utah 2023, Chapter 306
35A-4-502, as last amended by Laws of Utah 2011, Chapter 439
36-12-23, as enacted by Laws of Utah 2023, Chapter 429
36-29-111, as last amended by Laws of Utah 2023, Chapter 87
52-4-205, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
53-1-104, as last amended by Laws of Utah 2023, Chapters 40, 310

53-1-106, as last amended by Laws of Utah 2023, Chapters 328, 447
53-2a-105, as last amended by Laws of Utah 2021, Chapter 344
53-2d-101, as last amended by Laws of Utah 2023, Chapters 16, 327 and renumbered and amended by Laws of Utah 2023, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
53-2d-104, as renumbered and amended by Laws of Utah 2023, Chapters 305, 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 305
53-2d-105, as last amended by Laws of Utah 2023, Chapter 327 and renumbered and amended by Laws of Utah 2023, Chapter 310 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327
53-2d-305, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53-9-102, as last amended by Laws of Utah 2011, Chapter 432
53-11-102, as last amended by Laws of Utah 2015, Chapter 170
53-11-104, as last amended by Laws of Utah 2014, Chapter 134
53-11-105, as last amended by Laws of Utah 2013, Chapter 396
53-11-106, as last amended by Laws of Utah 2013, Chapter 51
53B-28-402, as last amended by Laws of Utah 2023, Chapter 16
63A-16-1002, as last amended by Laws of Utah 2023, Chapters 158, 161, 382, and 448
63I-1-209, as last amended by Laws of Utah 2020, Chapters 154, 232 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 154
63I-1-235, as last amended by Laws of Utah 2023, Chapters 27, 52
63I-1-236, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63I-2-209, as last amended by Laws of Utah 2023, Chapter 33
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
63I-2-235, as last amended by Laws of Utah 2022, Chapter 21
63I-2-236, as last amended by Laws of Utah 2023, Chapters 87, 101 and 273
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
63M-7-202, as last amended by Laws of Utah 2023, Chapter 150
63M-7-204, as last amended by Laws of Utah 2023, Chapters 158, 330, 382, and 500
63M-7-218, as last amended by Laws of Utah 2023, Chapters 158, 161 and 382
63M-7-502, as last amended by Laws of Utah 2022, Chapters 148, 185 and 430
63M-7-506, as last amended by Laws of Utah 2020, Chapter 149
63M-7-507, as last amended by Laws of Utah 2020, Chapter 149
63M-7-508, as last amended by Laws of Utah 2020, Chapter 149
63M-7-511, as last amended by Laws of Utah 2023, Chapter 158
63M-7-516, as last amended by Laws of Utah 2020, Chapter 149
63M-7-517, as last amended by Laws of Utah 2020, Chapter 149
63M-7-519, as last amended by Laws of Utah 2020, Chapter 149
63M-7-521.5, as last amended by Laws of Utah 2020, Chapter 149
63M-7-522, as last amended by Laws of Utah 2020, Chapter 149
63M-7-525, as last amended by Laws of Utah 2020, Chapter 149
63M-7-902, as enacted by Laws of Utah 2023, Chapter 150
63M-7-904, as enacted by Laws of Utah 2023, Chapter 150
63N-4-502, as last amended by Laws of Utah 2022, Chapter 129
63N-4-504, as enacted by Laws of Utah 2019, Chapter 467
73-3d-201, as enacted by Laws of Utah 2023, Chapter 126
80-2-402, as renumbered and amended by Laws of Utah 2022, Chapter 334

ENACTS:
63C-1-103, Utah Code Annotated 1953
63M-7-220, Utah Code Annotated 1953

REPEALS:
26B-1-403, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-407, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-408, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-419, as renumbered and amended by Laws of Utah 2023, Chapter 305
35A-13-504, as renumbered and amended by Laws of Utah 2016, Chapter 271
53-2d-903, as renumbered and amended by Laws of Utah 2023, Chapters 305, 310
53-2d-904, as renumbered and amended by Laws of Utah 2023, Chapters 305, 310

53-11-125, as enacted by Laws of Utah 2018, Chapter 462
63M-7-209, as last amended by Laws of Utah 2023, Chapter 330
63M-7-209, as last amended by Laws of Utah 2023, Chapters 310, 330
63N-4-505, as enacted by Laws of Utah 2019, Chapter 467

Sections affected by Coordination Clause:
9-6-301, as repealed and reenacted by Laws of Utah 2020, Chapter 41979

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-6-102 is amended to read:

9-6-102. Definitions.

As used in this chapter:

(1) "Arts" means the various branches of creative human activity, including visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.

(2) "Arts and museums board" means the Utah Arts and Museums Advisory Board created in Section 9-6-301.

(3) "Development" includes:

(a) constructing, expanding, or repairing a museum or other facility that houses arts or cultural presentations;

(b) providing for public information, preservation, and access to museums, the arts, and the cultural heritage of the state; and

(c) supporting the professional development of artists, cultural administrators, and cultural leaders within the state.

(4) "Director" means the director of the Division of Arts and Museums.

(5) "Division" means the Division of Arts and Museums.

(6) "Museum" means an organized and permanent institution that:

(a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

(d) exhibits the collection to the public on a regular schedule.

[~~(7) "Museums board" means the Utah Museums Advisory Board created in Section 9-6-305.~~]

Section 2. Section 9-6-202 is amended to read:

9-6-202. Division director.

(1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the arts and museums board[~~ and the museums board~~].

(2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.

(3) In addition to the division, the director is the chief administrative officer for[~~:~~]

[~~(a)~~] the Utah Arts and Museums Advisory Board created in Section 9-6-301[~~; and~~].

[~~(b) the Utah Museums Advisory Board created in Section 9-6-305.~~]

Section 3. Section 9-6-301 is amended to read:

9-6-301. Utah Arts and Museums Advisory Board.

(1) There is created within the division the Utah Arts and Museums Advisory Board.

(2)(a) Except as provided in [~~Subsections~~] Subsection (2)(b)[~~ and (2)(f)~~], the arts and museums board shall consist of [~~13~~]nine members appointed by the governor to four-year terms with the consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts and museums board members are staggered so that approximately half of the arts and museums board is appointed every two years.

[~~(c)~~](3) The governor shall appoint :

(a) [~~eight~~]five members who are working artists or administrators, one from each of the following areas:

(i) visual arts, media arts, architecture, or design;

[~~(ii) architecture or design;~~]

[~~(iii)~~](ii) literature;

[~~(iv)~~](iii) music;

[~~(v)~~](iv) folk, traditional, or native arts; and

[~~(vi)~~](v) theater or dance;

[~~(vii) dance; and~~]

[~~(viii) media arts.~~]

[~~(d)~~](b) two members who are qualified, trained, and experienced museum professionals who each have a minimum of five years of continuous paid work experience at a museum;

(c) [~~The governor shall appoint three members who are~~]one member who is knowledgeable in or appreciative of the arts[~~.~~] or museums; and

[~~(e)~~](d) [~~The governor shall appoint two members who have~~]one member who has expertise in technology, marketing, business, or finance.

[~~(f) Before January 1, 2026, the governor may appoint up to three additional members who are knowledgeable in or appreciative of the arts:~~]

[~~(i) for terms that shall end before January 1, 2026; and~~]

[~~(ii) in which case the arts board may consist of up to 16 members until January 1, 2026.~~]

[~~(3)~~](4) The governor shall appoint members described in Subsection (3) from the state at large with due consideration for geographical representation.

[~~(4)~~](5) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.

[~~(5)~~](6) A simple majority of the voting members of the arts and museums board constitutes a quorum for the transaction of business.

[~~(6)~~](7)(a) The arts and museums board members shall elect a chair and a vice chair from among the arts and museums board's members.

(b) The chair and the vice chair shall serve a term of two years.

[~~(7)~~](8) The arts and museums board shall meet at least [~~once~~]twice each year.

[~~(8)~~](9) A member of the arts and museums board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(9)~~](10) Except as provided in Subsection [~~(8)~~](9), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

(11) The division shall provide staff to the arts and museums board.

Section 4. Section 9-6-302 is amended to read:

9-6-302. Arts and museums board powers and duties.

(1) The arts and museums board may:

(a) with the concurrence of the director, make rules governing the conduct of the arts and museums board's business in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) receive gifts, bequests, and property.

(2) The arts and museums board shall:

(a) act in an advisory capacity for the division;

(b) [~~appoint an arts collection committee as described in Section 9-6-303 to~~]in accordance with Subsection (3), advise the division[~~, and the arts board~~] regarding the works of art acquired and maintained under this part; and

(c) with the concurrence of the director, approve the allocation of arts and museums grant money and State of Utah Alice Merrill Horne Art Collection acquisition funding.

(3) When advising the division as described in Subsection (2)(b), the arts and museums board shall, with the concurrence of the director, appoint and consult with any combination of artists, art historians, museum professionals, gallery owners, knowledgeable art collectors, art appraisers, or judges of art.

Section 5. Section 9-6-304 is amended to read:

9-6-304. State of Utah Alice Merrill Horne Art Collection.

(1) There is created the State of Utah Alice Merrill Horne Art Collection.

(2) The State of Utah Alice Merrill Horne Art Collection:

(a) consists of all works of art acquired under this part; and

(b) shall be held as the property of the state and under the control of the division.

(3) Works of art in the State of Utah Alice Merrill Horne Art Collection may be loaned for exhibition purposes in accordance with recommendations from the arts and museums board and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) The division shall:

(a) take reasonable precautions to avoid damage or destruction to works of art in the State of Utah Alice Merrill Horne Art Collection;

(b) procure insurance coverage for the works of art in the State of Utah Alice Merrill Horne Art Collection; and

(c) ensure that all works of art shipped to and from any exhibition under this section are packed by an expert packer.

(5)(a) The division may only deaccession works of art in the State of Utah Alice Merrill Horne Art Collection in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A work of art in the State of Utah Alice Merrill Horne Art Collection that is to be deaccessioned in accordance with division rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the division is not subject to the surplus property program described in Section 63A-2-401 for that work of art.

Section 6. Section 9-6-504 is amended to read:

9-6-504. Duties of the division.

The division, in accordance with the provisions of this part, shall:

(1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-6-503;

(2) determine the eligibility of each qualifying organization to receive money from the state fund;

(3) determine the matching amount each qualifying organization shall raise in order to qualify to receive money from the state fund;

(4) establish a date by which each qualifying organization shall provide its matching funds;

(5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and

(6)(a) in accordance with the provisions of this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish criteria by rule for determining the eligibility of qualifying organizations to receive money from the state fund; and

(b) in making rules under this Subsection (6), the division may consider the recommendations of the arts and museums board[~~ and the museums board~~].

Section 7. Section 9-6-505 is amended to read:

9-6-505. Eligibility requirements of qualifying arts organizations -- Allocation limitations -- Matching requirements.

(1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund the organization has created under Section 9-6-503:

(a) if the qualifying organization has received a grant from the division during one of the three years immediately before making application for state fund money under this Subsection (1); or

(b) upon recommendation of the arts and museums board[~~ or the museums board~~], if the qualifying organization has not received a grant from the board within the past three years.

(2)(a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the division by calculating the average cash income of the qualifying organization during the past three fiscal years as contained in the qualifying organization's final reports on file with the division.

(b) The division shall notify each qualifying organization of the maximum amount of money from the state fund for which the qualifying organization qualifies.

(c) The minimum amount that may be allocated to each qualifying organization from the state fund is $2,500.

(d) If the maximum amount for which the organization qualifies under the calculation described in Subsection (2)(a) is less than $2,500, the organization may still apply for $2,500.

(3)(a) After the division determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the state fund, the qualifying organization shall match the amount qualified for with money raised and designated exclusively for that purpose.

(b) State money, in-kind contributions, and preexisting endowment gifts may not be used to match money from the state fund.

(4) The amount of match money described in Subsection (3) that a qualifying organization is required to provide shall be based on a sliding scale as follows:

(a) any amount requested not exceeding $100,000 shall be matched one-to-one;

(b) any additional amount requested that makes the aggregate amount requested exceed $100,000 but not exceed $500,000 shall be matched two-to-one; and

(c) any additional amount requested that makes the aggregate amount requested exceed $500,000 shall be matched three-to-one.

(5)(a) Qualifying organizations shall raise the matching amount within three years after applying for money from the state fund by a date determined by the division.

(b) Money from the state fund shall be released to the qualifying organization only upon verification by the board that the matching money has been received on or before the date determined under Subsection (5)(a).

(c) Verification of matching funds shall be made by a certified public accountant.

(d) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than $20,000 as audited confirmation of matching funds is received by the division.

(e) Money from the state fund shall be granted to each qualifying organization on the basis of the matching funds a qualifying organization has raised by the date determined under Subsection (5)(a).

Section 8. Section 11-48-103 is amended to read:

11-48-103. Provision of 911 ambulance services in municipalities and counties.

(1) The governing body of each municipality and county shall, subject to Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers, ensure at least a minimum level of 911 ambulance services are provided:

(a) within the territorial limits of the municipality or county;

(b) by a ground ambulance provider, licensed by the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers; and

(c) in accordance with rules established by the [~~State~~]Trauma System and Emergency Medical Services Committee under [~~Subsection 53-2d-105(8)~~]Section 53-2d-105.

(2) A municipality or county may:

(a) subject to Subsection (3), maintain and support 911 ambulance services for the municipality's or county's own jurisdiction; or

(b) contract to:

(i) provide 911 ambulance services to any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(ii) receive 911 ambulance services from any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency;

(iii) jointly provide 911 ambulance services with any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency; or

(iv) contribute toward the support of 911 ambulance services in any county, municipal corporation, special district, special service district, interlocal entity, private corporation, nonprofit corporation, state agency, or federal agency in return for 911 ambulance services.

(3)(a) A municipality or county that maintains and supports 911 ambulance services for the municipality's or county's own jurisdiction under Subsection (2)(a) shall obtain a license as a ground ambulance provider from the Bureau of Emergency Medical Services under Title 53, Chapter 2d, Part 5, Ambulance and Paramedic Providers.

(b) Sections 53-2d-505 through 53-2d-505.3 do not apply to a license described in Subsection (3)(a).

Section 9. Section 26B-1-202 is amended to read:

26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(14) provide training and educational opportunities for the department's staff;

(15) collect child support payments and any other money due to the department;

(16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403, including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(18) carry out the responsibilities assigned to the department by statute;

(19) examine and audit the expenditures of any public funds provided to a local substance abuse authority, a local mental health authority, a local area agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 62A-15-102;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department;

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make

recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the [~~Crime Victim Reparations and Assistance Board~~]Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title[~~, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code~~];

(47) oversee public education vision screening as described in Section 53G-9-404; and

(48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue Alert.

Section 10. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) State Emergency Medical Services Committee;

(e) Air Ambulance Committee;

(f) Health Data Committee;

[~~(g) Utah Health Care Workforce Financial Assistance Program Advisory Committee;~~]

[~~(h)~~](g) Child Care Provider Licensing Committee;

[~~(i)~~](h) Primary Care Grant Committee;

[~~(j)~~](i) Adult Autism Treatment Program Advisory Committee;

[~~(k)~~](j) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

[~~(l)~~](k) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well- being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 11. Section 26B-1-204 is amended to read:

26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

(2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) Board of Aging and Adult Services;

(b) Utah State Developmental Center Board;

(c) Health Facility Committee;

(d) Health Data Committee;

[~~(e) Utah Health Care Workforce Financial Assistance Program Advisory Committee;~~]

[~~(f)~~](e) Child Care Provider Licensing Committee;

[~~(g)~~](f) Primary Care Grant Committee;

[~~(h)~~](g) Adult Autism Treatment Program Advisory Committee;

[~~(i)~~](h) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

[~~(j)~~](i) any boards, councils, or committees that are created by statute in this title.

(3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Chapter 5, Health Care - Substance Use and Mental Health;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well- being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with this title.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in this title.

Section 12. Section 26B-4-702 is amended to read:

26B-4-702. Creation of Utah Health Care Workforce Financial Assistance Program -- Duties of department.

(1) As used in this section:

(a) "Eligible professional" means a geriatric professional or a health care professional who is eligible to participate in the program.

(b) "Geriatric professional" means a person who:

(i) is a licensed:

(A) health care professional;

(B) social worker;

(C) occupational therapist;

(D) pharmacist;

(E) physical therapist; or

(F) psychologist; and

(ii) is determined by the department to have adequate advanced training in geriatrics to prepare the person to provide specialized geriatric care within the scope of the person's profession.

(c) "Health care professional" means:

(i) a licensed:

(A) physician;

(B) physician assistant;

(C) nurse;

(D) dentist; or

(E) mental health therapist; or

(ii) another licensed health care professional designated by the department by rule.

(d) "Program" means the Utah Health Care Workforce Financial Assistance Program created in this section.

(e) "Underserved area" means an area designated by the department as underserved by health care professionals, based upon the results of a needs assessment developed by the department[~~—in consultation with the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419~~].

(2) There is created within the department the Utah Health Care Workforce Financial Assistance Program to provide, within funding appropriated by the Legislature for the following purposes:

(a) professional education scholarships and loan repayment assistance to health care professionals who locate or continue to practice in underserved areas; and

(b) loan repayment assistance to geriatric professionals who locate or continue to practice in underserved areas.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules governing the administration of the program, including rules that address:

(a) application procedures;

(b) eligibility criteria;

(c) selection criteria;

(d) service conditions, which at a minimum shall include professional service in an underserved area for a minimum period of time by any person receiving a scholarship or loan repayment assistance;

(e) penalties for failure to comply with service conditions or other terms of a scholarship or loan repayment contract;

(f) criteria for modifying or waiving service conditions or penalties in case of extreme hardship or other good cause; and

(g) administration of contracts entered into before the effective date of this act, between the department and scholarship or loan repayment recipients, as authorized by law.

(4) The department may provide education loan repayment assistance to an eligible professional if the eligible professional:

(a) agrees to practice in an underserved area for the duration of the eligible professional's participation in the program; and

(b) submits a written commitment from the health care facility employing the eligible professional that the health care facility will provide education loan repayment assistance to the eligible professional in an amount equal to 20% of the total award amount provided to the eligible professional.

[~~(5) The department shall seek and consider the recommendations of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419 as it develops and modifies rules to administer the program.~~]

[~~(6)~~](5) Funding for the program:

(a) shall be a line item within the appropriations act;

(b) shall be nonlapsing unless designated otherwise by the Legislature; and

(c) may be used to cover administrative costs of the program[~~, including reimbursement expenses of the Utah Health Care Workforce Financial Assistance Program Advisory Committee created under Section 26B-1-419~~].

[~~(7)~~](6) Refunds for loan repayment assistance, penalties for breach of contract, and other payments to the program are dedicated credits to the program.

[~~(8)~~](7) The department shall prepare an annual report on the revenues, expenditures, and outcomes of the program.

Section 13. Section 26B-8-231 is amended to read:

26B-8-231. Overdose fatality examiner.

(1) Within funds appropriated by the Legislature, the department shall provide compensation, at a standard rate determined by the department, to an overdose fatality examiner.

(2) The overdose fatality examiner shall:

(a) work with the medical examiner to compile data regarding overdose and opioid related deaths, including:

(i) toxicology information;

(ii) demographics; and

(iii) the source of opioids or drugs;

(b) as relatives of the deceased are willing, gather information from relatives of the deceased regarding the circumstances of the decedent's death;

(c) maintain a database of information described in Subsections (2)(a) and (b); and

(d) coordinate no less than monthly with the suicide prevention coordinator described in Section 26B-5-611[~~; and~~].

[~~(e) coordinate no less than quarterly with the Opioid and Overdose Fatality Review Committee created in Section 26B-1-403.~~]

Section 14. Section 35A-4-502 is amended to read:

35A-4-502. Administration of Employment Security Act.

(1)(a) The department shall administer this chapter through the division.

(b) The department may make, amend, or rescind any rules and special orders necessary for the administration of this chapter.

(c) The division may:

(i) employ persons;

(ii) make expenditures;

(iii) require reports;

(iv) make investigations;

(v) make audits of any or all funds provided for under this chapter when necessary; and

(vi) take any other action it considers necessary or suitable to that end.

(d) No later than the first day of October of each year, the department shall submit to the governor a report covering the administration and operation of this chapter during the preceding calendar year and shall make any recommendations for amendments to this chapter as the department considers proper.

(e)(i) The report required under Subsection (1)(d) shall include a balance sheet of the money in the fund in which there shall be provided, if possible, a reserve against liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the division in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period.

(ii) Whenever the department believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, it shall promptly inform the governor and the Legislature and make appropriate recommendations.

(2)(a) The department may make, amend, or rescind rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The director of the division or the director's designee may adopt, amend, or rescind special orders after appropriate notice and opportunity to be heard. Special orders become effective 10 days after notification or mailing to the last-known address of the individuals or concerns affected thereby.

(3) The director of the division or the director's designee shall cause to be printed for distribution to the public:

(a) the text of this chapter;

(b) the department's rules pertaining to this chapter;

(c) the department's annual reports to the governor required by Subsection (1)(e); and

(d) any other material the director of the division or the director's designee considers relevant and suitable and shall furnish them to any person upon application.

(4)(a) The division may delegate to any person so appointed the power and authority it considers reasonable and proper for the effective administration of this chapter and may bond any person handling money or signing checks under this authority.

(b) The department may, when permissible under federal and state law, make arrangements to voluntarily elect coverage under the United States Civil Service Retirement System or a comparable private retirement plan with respect to past as well as future services of individuals employed under this chapter who:

(i) were hired prior to October 1, 1980; and

(ii) have been retained by the department without significant interruption in the employees' services for the department.

(c) An employee of the department who no longer may participate in a federal or other retirement system as a result of a change in status or appropriation under this chapter may purchase credit with the employee's assets from the federal or other retirement system in which the employee may no longer participate in a retirement system created under:

(i) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act for a purchase made under this Subsection (4)(c) by an employee eligible for service credit under Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or

(ii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act, for a purchase

made under this Subsection (4)(c) by an employee eligible for service credit under Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(5) There is created an Employment Advisory Council composed of the members listed in Subsections (5)(a) and (b).

(a) The executive director shall appoint:

(i) not less than [~~five~~]three employer representatives chosen from individuals recommended by employers, employer associations, or employer groups;

(ii) not less than [~~five~~]three employee representatives chosen from individuals recommended by employees, employee associations, or employee groups; and

(iii) [~~five~~]three public representatives chosen at large.

(b) The executive director or the executive director's designee shall serve as a nonvoting member of the council.

(c) The employee representatives shall include both union and nonunion employees who fairly represent the percentage in the labor force of the state.

(d) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(e)(i) Except as required by Subsection (5)(e)(ii), as terms of current council members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(ii) Notwithstanding the requirements of Subsection (5)(e)(i), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(f) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(g) The executive director shall terminate the term of any council member who ceases to be representative as designated by the council member's original appointment.

(h) The council shall advise the department and the Legislature in formulating policies and discussing problems related to the administration of this chapter including:

(i) reducing and preventing unemployment;

(ii) encouraging the adoption of practical methods of vocational training, retraining, and vocational guidance;

(iii) monitoring the implementation of the Wagner-Peyser Act;

(iv) promoting the creation and development of job opportunities and the reemployment of unemployed workers throughout the state in every possible way; and

(v) appraising the industrial potential of the state.

(i) The council shall assure impartiality and freedom from political influence in the solution of the problems listed in Subsection (5)(h).

(j) The executive director or the executive director's designee shall serve as chair of the council and call the necessary meetings.

(k) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(l) The department shall provide staff support to the council.

(6) In the discharge of the duties imposed by this chapter, the division director or the director's designee as designated by department rule, may in connection with a disputed matter or the administration of this chapter:

(a) administer oaths and affirmations;

(b) take depositions;

(c) certify to official acts; and

(d) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records necessary as evidence.

(7)(a) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the director of the division or the director's designee shall have jurisdiction to issue to that person an order requiring the person to appear before the director or the director's designee to produce evidence, if so ordered, or give testimony regarding the matter under investigation or in question. Any failure to obey that order of the court may be punished by the court as contempt.

(b) Any person who, without just cause, fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in that person's power to do so, in obedience to a subpoena of the director or the director's designee shall be punished as provided in Subsection 35A-1-301(1)(b). Each day the violation continues is a separate offense.

(c) In the event a witness asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

(8)(a) In the administration of this chapter, the division shall cooperate with the United States Department of Labor to the fullest extent consistent with the provisions of this chapter and shall take action, through the adoption of appropriate rules by the department and administrative methods and standards, as necessary to secure to this state and its citizens all advantages available under the provisions of:

(i) the Social Security Act that relate to unemployment compensation;

(ii) the Federal Unemployment Tax Act; and

(iii) the Federal-State Extended Unemployment Compensation Act of 1970.

(b) In the administration of Section 35A-4-402, which is enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, 26 U.S.C. Sec. 3304, the division shall take any action necessary to ensure that the section is interpreted and applied to meet the requirements of the federal act, as interpreted by the United States Department of Labor and to secure to this state the full reimbursement of the federal share of extended and regular benefits paid under this chapter that are reimbursable under the federal act.

Section 15. Section 36-12-23 is amended to read:

36-12-23. Legislative committees -- Staffing.

As used in this section:

(1) "Chair" means a presiding officer or a co-presiding officer of a legislative committee.

(2) "Committee" means a standing committee, interim committee, subcommittee, special committee, authority, commission, council, task force, panel, or board in which legislative participation is required by law or legislative rule.

(3) "Legislative committee" means a committee:

(a) formed by the Legislature to study or oversee subjects of legislative concern; and

(b) that is required by law or legislative rule to have a chair who is a legislator.

(4) "Legislator" means a member of either house of the Legislature.

(5) "Professional legislative office" means the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, or the Office of the Legislative Auditor General.

(6)(a) Except as provided in Subsection (7), a professional legislative office shall provide staff support to a legislative committee.

(b) If a law or legislative rule does not designate which particular professional legislative office shall provide staff support to a legislative committee, that office shall be the Office of Legislative Research and General Counsel.

(7) This section does not apply to:

(a) the Point of the Mountain State Land Authority created in Section 11-59-201;

(b) the Utah Broadband Center Advisory Commission created in Section 36-29-109;

(c) the Blockchain and Digital Innovation Task Force created in Section 36-29-110;

(d) the [~~Criminal Justice~~]Public Safety Data Management Task Force created in Section 36-29-111;

(e) the Constitutional Defense Council created in Section 63C-4a-202;

(f) the Women in the Economy Subcommittee created in Section 63N-1b-402;

(g) the House Ethics Committee established under Legislative Joint Rule JR6-2-101; or

(h) the Senate Ethics Committee established under Legislative Joint Rule JR6-2-101.

Section 16. Section 36-29-111 is amended to read:

36-29-111. Public Safety Data Management Task Force.

(1) As used in this section[~~, "task force"~~]:

(a) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(b) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(c) "Task force" means the [~~Criminal Justice~~]Public Safety Data Management Task Force created in this section.

(d) "Victim" means an individual who is a victim of domestic violence, as defined in Section 77-36-1.

(2) There is created the [~~Criminal Justice~~]Public Safety Data Management Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(c) representatives from the following organizations as requested by the executive director of the State Commission on Criminal and Juvenile Justice:

(i) the State Commission on Criminal and Juvenile Justice;

[~~(ii) the Office of the Utah Attorney General;~~]

[~~(iii)~~](ii) the Judicial Council;

[~~(iv)~~](iii) the Statewide Association of Prosecutors;

[~~(v)~~](iv) the Department of Corrections;

[~~(vi)~~](v) the Department of Public Safety;

[~~(vii) the Utah League of Cities and Towns;~~]

[~~(viii)~~](vi) the Utah Association of Counties;

[~~(ix)~~](vii) the Utah Chiefs of Police Association;

[~~(x)~~](viii) the Utah Sheriffs Association;

[~~(xi)~~](ix) the Board of Pardons and Parole;

(x) the Department of Health and Human Services;

(xi) the Utah Division of Indian Affairs; and

[~~(xii) a representative from a bail bond agency; and~~]

[~~(xiii)~~](xii) any other organizations or groups as recommended by the executive director of the Commission on Criminal and Juvenile Justice.

(3)(a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4)(a) A majority of the members of the task force present at a meeting constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5)(a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The State Commission on Criminal and Juvenile Justice shall provide staff support to the task force.

(7) The task force shall review the state's current criminal justice data collection requirements and make recommendations regarding:

(a) possible ways to connect the various records systems used throughout the state so that data can be shared between criminal justice agencies and with policymakers;

(b) ways to automate the collection, storage, and dissemination of the data;

(c) standardizing the format of data collection and retention;[~~ and~~]

(d) the collection of domestic violence data in the state; and

[~~(d)~~](e) the collection of data not already required related to criminal justice.

[~~(8) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:~~]

[~~(a) the Law Enforcement and Criminal Justice Interim Committee; and~~]

[~~(b) the Legislative Management Committee.~~]

[~~(9) The task force is repealed July 1, 2025.~~]

(8) On or before November 30 of each year, the task force shall provide a report to the Law Enforcement and Criminal Justice Interim Committee and the Legislative Management Committee that includes:

(a) recommendations in accordance with Subsection (7)(a);

(b) information on:

(i) lethality assessments conducted in the state, including:

(A) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(B) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A) regarding the use of lethality assessments;

(ii) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A);

(iii) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(A) issued;

(B) amended or dismissed before the date of expiration; or

(C) dismissed under Section 78B-7-605; and

(iv) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(A) stalking;

(B) strangulation;

(C) violence in the presence of a child; and

(D) threats of suicide or homicide;

(c) a review of and feedback on:

(i) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (8)(b)(i)(A); and

(ii) the collection of domestic violence data in the state, including:

(A) the coordination between state, local, and not-for-profit agencies to collect data from

lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section 53-5c-201;

(B) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies within federal confidentiality requirements; and

(C) the need for any additional data collection requirements or efforts; and

(d) any proposed legislation.

Section 17. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

[~~(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26B-1-403, to review and discuss an individual case, as described in Subsection 26B-1-403(10);~~]

[~~(d)~~](c) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

[~~(e)~~](d) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

[~~(f)~~](e) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

[~~(g)~~](f) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83);

[~~(h)~~](g) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market; and

[~~(i)~~](h) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 18. Section 53-1-104 is amended to read:

53-1-104. Boards, bureaus, councils, divisions, and offices.

(1) The following are the policymaking boards and committees within the department:

(a) the [~~State~~]Trauma System and Emergency Medical Services Committee created in Section 53-2d-104;

(b) the Air Ambulance Committee created in Section 53-2d-107;

(c) the Driver License Medical Advisory Board, created in Section 53-3-303;

(d) the Concealed Firearm Review Board, created in Section 53-5-703;

(e) the Utah Fire Prevention Board, created in Section 53-7-203;

(f) the Liquified Petroleum Gas Board, created in Section 53-7-304; and

(g) [~~the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.~~]the Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.

(2) The Peace Officer Standards and Training Council, created in Section 53-6-106, is within the department.

(3) The following are the divisions within the department:

(a) the Administrative Services Division, created in Section 53-1-203;

(b) the Management Information Services Division, created in Section 53-1-303;

(c) the Division of Emergency Management, created in Section 53-2a-103;

(d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officer Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are the bureaus within the department:

(a) the Bureau of Emergency Medical Services, created in Section 53-2d-102;

(b) the Bureau of Criminal Identification, created in Section 53-10-201;

(c) the State Bureau of Investigation, created in Section 53-10-301;

(d) the Bureau of Forensic Services, created in Section 53-10-401; and

(e) the Bureau of Communications, created in Section 53-10-501.

Section 19. Section 53-1-106 is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Division of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the [~~Crime Victim Reparations Board~~]Commission on Criminal and Juvenile Justice and the Utah Office for Victims of Crime in conducting research or monitoring victims' programs, as required by Section [~~63M-7-505~~]63M-7-507;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 53-2a-702;

(h) implement the provisions of Section 53-2a-402, the Emergency Management Assistance Compact;

(i) ensure that any training or certification required of a public official or public employee, as

those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(j) employ a law enforcement officer as a public safety liaison to be housed at the State Board of Education who shall work with the State Board of Education to:

(i) support training with relevant state agencies for school resource officers as described in Section 53G-8-702;

(ii) coordinate the creation of model policies and memorandums of understanding for a local education agency and a local law enforcement agency; and

(iii) ensure cooperation between relevant state agencies, a local education agency, and a local law enforcement agency to foster compliance with disciplinary related statutory provisions, including Sections 53E-3-516 and 53G-8-211;

(k) provide for the security and protection of public officials, public officials' staff, and the capitol hill complex in accordance with the provisions of this part; and

(l) fulfill the duties described in Sections 77-36-2.1 and 78B-7-120 related to lethality assessments.

(2)(a) The department shall establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) All fees not established in statute shall be established in accordance with Section 63J-1-504.

(3) The department may establish or contract for the establishment of an Organ Procurement Donor Registry in accordance with Section 26B-8-319.

Section 20. Section 53-2a-105 is amended to read:

53-2a-105. Emergency Management Administration Council created -- Function -- Composition -- Expenses.

(1) There is created the Emergency Management Administration Council to :

(a) provide advice and coordination for state and local government agencies on government emergency prevention, mitigation, preparedness, response, and recovery actions and activities[.];

(b) review the progress and status of the statewide mutual aid system as defined in Section 53-2a-302;

(c) assist in developing methods to track and evaluate activation of the statewide mutual aid system; and

(d) examine issues facing participating political subdivisions, as defined in Section 53-2a-302, regarding implementation of the statewide mutual aid system.

(2) The council shall develop comprehensive guidelines and procedures that address the operation of the statewide mutual aid system, including:

(a) projected or anticipated costs of responding to emergencies;

(b) checklists for requesting and providing assistance;

(c) record keeping for participating political subdivisions;

(d) reimbursement procedures and other necessary implementation elements and necessary forms for requests; and

(e) other records documenting deployment and return of assets.

(3) The council may prepare an annual report on the condition and effectiveness of the statewide mutual aid system, make recommendations for correcting any deficiencies, and submit the report to the Political Subdivisions Interim Committee.

[~~(2)~~](4) The council shall meet at the call of the chair, but at least semiannually.

[~~(3)~~](5) The council shall be made up of the:

(a) lieutenant governor, or the lieutenant governor's designee;

(b) attorney general, or the attorney general's designee;

(c) heads of the following state agencies, or their designees:

(i) Department of Public Safety;

(ii) Division of Emergency Management;

(iii) Department of Transportation;

(iv) Department of Health;

(v) Department of Environmental Quality;

(vi) Department of Workforce Services;

(vii) Department of Natural Resources;

(viii) Department of Agriculture and Food;

(ix) Division of Technology Services; and

(x) Division of Indian Affairs;

(d) adjutant general of the National Guard or the adjutant general's designee;

(e) statewide interoperability coordinator of the Utah Communications Authority or the coordinator's designee;

(f) two representatives with expertise in emergency management appointed by the Utah League of Cities and Towns;

(g) two representatives with expertise in emergency management appointed by the Utah Association of Counties;

(h) up to four additional members with expertise in emergency management, critical infrastructure, or key resources as these terms are defined under [~~6 U.S. Code Section 101~~]6 U.S.C. Sec. 101 appointed from the private sector, by the co-chairs of the council;

(i) two representatives appointed by the Utah Emergency Management Association;

(j) one representative from the Urban Area Working Group, appointed by the council co-chairs;

(k) one representative from education, appointed by the council co-chairs; and

(l) one representative from a volunteer or faith-based organization, appointed by the council co-chairs.

[~~(4)~~](6) The commissioner and the lieutenant governor shall serve as co-chairs of the council.

[~~(5)~~](7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(6)~~](8) The council shall coordinate with existing emergency management related entities including:

(a) the Emergency Management Regional Committees established by the Department of Public Safety; and

[~~(b) the Statewide Mutual Aid Committee established under Section 53-2a-303; and~~]

[~~(c)~~](b) the Hazardous Chemical Emergency Response Commission designated under Section 53-2a-703.

[~~(7)~~](9) The council may appoint additional members or establish other committees and task forces as determined necessary by the council to carry out the duties of the council.

Section 21. Section 53-2d-101 is amended to read:

53-2d-101. Definitions.

As used in this chapter:

(1)(a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Account" means the Automatic External Defibrillator Restricted Account, created in Section 53-2d-809.

(3) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 53-2d-404 to operate in the state.

(4) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(5) "Automatic external defibrillator" or "AED" means an automated or automatic computerized medical device that:

(a) has received pre-market notification approval from the United States Food and Drug Administration, pursuant to 21 U.S.C. Sec. 360(k);

(b) is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia;

(c) is capable of determining, without intervention by an operator, whether defibrillation should be performed; and

(d) upon determining that defibrillation should be performed, automatically charges, enabling delivery of, or automatically delivers, an electrical impulse through the chest wall and to an individual's heart.

(6)(a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302;

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(7) "Bureau" means the Bureau of Emergency Medical Services created in Section 53-2d-102.

(8) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(9) "Committee" means the [~~State~~]Trauma System and Emergency Medical Services Committee created by Section 53-2d-104.

(10) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26B-2-201.

(11) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(12) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26B-4-116.

(13) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 53-2d-402 during transport.

(14) "Emergency medical dispatch center" means a public safety answering point, as defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by the bureau.

(15)(a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 53-2d-402.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(16) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 53-2d-403(1)(a); and

(c) emergency medical service personnel.

(17) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (17)(a) through (c).

(18) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 53-2d-404.

(19) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(20) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 5, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(21) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

(22) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(23) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(24) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 53-2d-405; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 53-2d-403.

(25) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 5, Ambulance and Paramedic Providers.

(26) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26B-4-119.

(27) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a special district created under Title 17B, Limited Purpose Local Government Entities - Special Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 53-2d-505.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(28) "Sudden cardiac arrest" means a life-threatening condition that results when a person's heart stops or fails to produce a pulse.

(29) "Trauma" means an injury requiring immediate medical or surgical intervention.

(30) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(31) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(32) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(33) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 22. Section 53-2d-104 is amended to read:

53-2d-104. Trauma System and Emergency Medical Services Committee -- Membership -- Expenses.

(1) There is created the [~~State~~]Trauma System and Emergency Medical Services Committee.

(2) The committee shall be composed of the following [~~19~~]11 members appointed by the governor, at least [~~six~~]three of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) [~~five~~]four physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) [~~two physicians who practice~~]one physician who practices in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) [~~two representatives from private ambulance providers~~]one representative from a private ambulance provider;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) [~~two chief officers from fire agencies operated by the~~]one chief officer from a fire agency operated by one of the following classes of licensed or designated emergency medical services providers:

(i) a municipality[~~,~~];

(ii) a county[~~, and~~]; or

(iii) a fire district[~~, provided that no class of medical services providers may have more than one representative under this Subsection (2)(d)~~];and

(e) four of any of the following representatives:

[~~(e)~~](i) one director of a law enforcement agency that provides emergency medical services;

[~~(f)~~](ii) one hospital administrator;

[~~(g)~~](iii) one emergency care nurse;

[~~(h)~~](iv) one paramedic in active field practice;

[~~(i)~~](v) one emergency medical technician in active field practice;

[~~(j)~~](vi) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;

[~~(k)~~](vii) one licensed mental health professional with experience as a first responder;

[~~(l)~~](viii) one licensed behavioral emergency services technician; [~~and~~]or

[~~(m)~~](ix) one consumer.

(3)(a) Except as provided in Subsection (3)(b), members shall be appointed to a four-year term[~~beginning July 1~~].

(b) Notwithstanding Subsection (3)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years; and

(ii) may not reappoint a member for more than two consecutive terms[~~; and~~].

[~~(iii) shall:~~]

[~~(A) initially appoint the second member under Subsection (2)(b) from a different private provider than the private provider currently serving under Subsection (2)(b); and~~]

[~~(B) thereafter stagger each replacement of a member in Subsection (2)(b) so that the member positions under Subsection (2)(b) are not held by representatives of the same private provider.~~]

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(4)(a)(i) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b)(i) The chair shall convene a minimum of four meetings per year.

(ii) The chair may call special meetings.

(iii) The chair shall call a meeting upon request of five or more members of the committee.

(c)(i) [~~Nine~~]Six members of the committee constitute a quorum for the transaction of business.

(ii) The action of a majority of the members present is the action of the committee.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) Administrative services for the committee shall be provided by the bureau.

Section 23. Section 53-2d-105 is amended to read:

53-2d-105. Committee advisory duties.

The committee shall [~~adopt rules, with the concurrence of the bureau, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that~~]:

(1) [~~establish~~] advise the bureau chief regarding:

(a) licensure, certification, and reciprocity requirements under Section 53-2d-402;

[~~(2)~~](b) [~~establish~~]designation requirements under Section 53-2d-403;

[~~(3) promote the development of a statewide emergency medical services system under Section 53-2d-403;~~]

[~~(4)~~](c) [~~establish~~]insurance requirements for ambulance providers;

[~~(5)~~](d) [~~provide~~]guidelines for requiring patient data under Section 53-2d-203;

[~~(6)~~](e) [~~establish~~]criteria for awarding grants under Section 53-2d-207;

[~~(7)~~](f) [~~establish~~]requirements for the coordination of emergency medical services and the medical supervision of emergency medical service providers under Section 53-2d-403;

[~~(8)~~](g) [~~select~~]appropriate vendors to establish certification requirements for emergency medical dispatchers;

[~~(9)~~](h) [~~establish~~]the minimum level of service for 911 ambulance services provided under Section 11-48-103; and

(i) rules necessary to administer this chapter, which shall be made by the bureau chief in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(2) promote the development of a statewide emergency medical services system under Section 53-2d-403.

[~~(10) are necessary to carry out the responsibilities of the committee as specified in other sections of this chapter.~~]

Section 24. Section 53-2d-305 is amended to read:

53-2d-305. Trauma center designations and guidelines.

(1) The bureau, after seeking the advice of the [~~trauma system advisory~~]committee, shall establish by rule:

(a) trauma center designation requirements; and

(b) model state guidelines for triage, treatment, transportation, and transfer of trauma patients to the most appropriate health care facility.

(2) The bureau shall designate as a trauma center each hospital that:

(a) voluntarily requests a trauma center designation; and

(b) meets the applicable requirements established pursuant to Subsection (1).

Section 25. Section 53-9-102 is amended to read:

53-9-102. Definitions.

In this chapter, unless otherwise stated:

(1) "Adequate records" means records containing, at a minimum, sufficient information to identify the client, the dates of service, the fee for service, the payments for service, the type of service given, and copies of any reports that may have been made.

(2) "Advertising" means the submission of bids, contracting or making known by any public notice, publication, or solicitation of business, directly or indirectly, that services regulated under this chapter are available for consideration.

(3) "Agency" means a person who holds an agency license pursuant to this chapter, and includes one who employs an individual for wages and salary, and withholds all legally required deductions and contributions, or contracts with a registrant or an apprentice on a part-time or case-by-case basis to conduct an investigation on behalf of the agency.

(4) "Applicant" means any person who has submitted a completed application and all required fees.

(5) "Apprentice" means a person who holds an apprentice license pursuant to this chapter, has not met the requirements for registration, and works under the direct supervision and guidance of an agency.

(6) "Board" means the [~~Private Investigator Hearing and Licensure Board created in Section 53-9-104~~]Bail Bond Recovery and Private Investigator Licensure Board created in Section 53-11-104.

(7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(8) "Commissioner" means the commissioner of the Department of Public Safety.

(9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from trial or plea, including a plea of no contest, regardless of whether the imposition of sentence was suspended.

(10) "Department" means the Department of Public Safety.

(11) "Direct supervision" means that the agency or employer:

(a) is responsible for, and authorizes, the type and extent of work assigned;

(b) reviews and approves all work produced by the apprentice before it goes to the client;

(c) closely supervises and provides direction and guidance to the apprentice in the performance of his assigned work; and

(d) is immediately available to the apprentice for verbal contact, including by electronic means.

(12) "Emergency action" means a summary suspension of a license pending revocation, suspension, or probation in order to protect the public health, safety, or welfare.

(13) "Employee" means an individual who works for an agency or other employer, is listed on the agency's or employer's payroll records, and is under the agency's or employer's direction and control. An employee is not an independent contractor.

(14) "Identification card" means a card issued by the commissioner to a qualified applicant for an agency, registrant, or apprentice license.

(15) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department informs the licensee of the need to modify or eliminate certain practices and that continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the licensee.

(16) "Licensee" means a person to whom an agency, registrant, or apprentice license is issued by the department.

(17)(a) "Private investigator or private detective" means any person, except collection agencies and credit reporting agencies, who, for consideration, engages in business or accepts employment to conduct any investigation for the purpose of obtaining information with reference to:

(i) crime, wrongful acts, or threats against the United States or any state or territory of the United States;

(ii) the identity, reputation, character, habits, conduct, business occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movements, whereabouts, affiliations, associations, or transactions of any person or group of persons;

(iii) the credibility of witnesses or other persons;

(iv) the whereabouts of missing persons or owners of abandoned property;

(v) the causes and origin of, or responsibility for a fire, libel, slander, a loss, an accident, damage, or an injury to real or personal property;

(vi) the business of securing evidence to be used before investigating committees or boards of award or arbitration or in the trial of civil or criminal cases and the trial preparation;

(vii) the prevention, detection, and removal of installed devices for eavesdropping or observation;

(viii) the business of "skip tracing" persons who have become delinquent in their lawful debts, either when hired by an individual, collection agency, or through the direct purchase of the debt from a financial institution or entity owning the debt or judgment; or

(ix) serving civil process.

(b) "Private investigator or private detective" does not include:

(i) any person or employee conducting an investigation on the person's or employee's own behalf or on behalf of the employer if the employer is not a private investigator under this chapter;

(ii) an employee of an attorney licensed to practice law in this state; or

(iii) a currently licensed certified public accountant or CPA as defined in Section 58-26a-102.

(18) "Qualifying party" means the individual meeting the qualifications under this chapter for a private investigator license.

(19) "Registrant" means any person who holds a registrant license pursuant to this chapter. The registrant performs private investigative work either as an employee on an employer's payroll or, on a contract with an agency, part-time, or case-by-case basis, with a minimum amount of direction.

(20) "Restructuring" means any change in the legal status of a business.

(21) "Unprofessional conduct" means any of the following:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a private investigator or registrant in this state;

(c) gross negligence in the practice of a private investigator or registrant;

(d) failing or refusing to maintain adequate records and investigative findings on a subject of investigation or a client;

(e) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of an agency, registrant, or apprentice license. In all cases, conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission of the crime; or

(f) making a fraudulent or untrue statement to the bureau, board, department, or its investigators, staff, or consultants.

Section 26. Section 53-11-102 is amended to read:

53-11-102. Definitions.

As used in this chapter:

(1) "Applicant" means a person who has submitted to the department a completed application and all required application and processing fees.

(2) "Bail bond agency" means a bail enforcement agent licensed under this chapter who operates a business to carry out the functions of a bail enforcement agent, and to conduct this business:

(a) employs one or more persons licensed under this chapter for wages or salary, and withholds all legally required deductions and contributions; or

(b) contracts with a bail recovery agent or bail recovery apprentice on a part-time or case-by-case basis.

(3) "Bail enforcement agent" means an individual licensed under this chapter as a bail enforcement agent to enforce the terms and conditions of a defendant's release on bail in a civil or criminal proceeding, to apprehend a defendant or surrender a defendant to custody, or both, as is appropriate, and who:

(a) is appointed by a bail bond surety; and

(b) receives or is promised money or other things of value for this service.

(4) "Bail recovery agent" means an individual employed by a bail enforcement agent to assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

(a) presenting a defendant for required court appearances;

(b) apprehending or surrendering a defendant to a court; or

(c) keeping the defendant under necessary surveillance.

(5) "Bail recovery apprentice" means any individual licensed under this chapter as a bail recovery apprentice, and who:

(a) has not met the requirements for licensure as a bail recovery agent or bail enforcement agent; and

(b) is employed by a bail enforcement agent, and works under the direct supervision of a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting activities at the direction of the employing bail enforcement agent that under this chapter do not require direct supervision.

(6) "Board" means the Bail Bond Recovery and Private Investigator Licensure Board created under Section 53-11-104.

(7) "Bureau" means the Bureau of Criminal Identification created in Section 53-10-201 within the Department of Public Safety.

(8) "Commissioner" means the commissioner of public safety as defined under Section 53-1-107, or his designee.

(9) "Contract employee" or "independent contractor" means a person who works for an agency as an independent contractor.

(10) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the imposition of sentence was suspended.

(11) "Department" means the Department of Public Safety.

(12) "Direct supervision" means a bail enforcement agent employing or contracting with a bail recovery apprentice, or a bail recovery agent employed by or contracting with that bail enforcement agent who:

(a) takes responsibility for and assigns the work a bail recovery apprentice may conduct; and

(b) closely supervises, within close physical proximity, and provides direction and guidance to the bail recovery apprentice regarding the assigned work.

(13) "Emergency action" means a summary suspension of a license issued under this chapter pending revocation, suspension, or probation, in order to protect the public health, safety, or welfare.

(14) "Identification card" means a card issued by the commissioner to an applicant qualified for licensure under this chapter.

(15) "Letter of concern" means an advisory letter to notify a licensee that while there is insufficient evidence to support probation, suspension, or revocation of a license, the department believes:

(a) the licensee should modify or eliminate certain practices; and

(b) continuation of the activities that led to the information being submitted to the department may result in further disciplinary action against the license.

(16) "Occupied structure" means any edifice, including residential and public buildings, vehicles, or any other structure that could reasonably be expected to house or shelter persons.

(17) "Private investigator or private detective" means the same as that term is defined in Section 53-9-102.

[~~(17)~~](18) "Supervision" means the employing bail enforcement agent is responsible for and authorizes the type and extent of work assigned to a bail recovery agent who is his employee or contract employee.

[~~(18)~~](19) "Unprofessional conduct" means:

(a) engaging or offering to engage by fraud or misrepresentation in any activities regulated by this chapter;

(b) aiding or abetting a person who is not licensed pursuant to this chapter in representing that person as a bail recovery agent in this state;

(c) gross negligence in the practice of a bail recovery agent;

(d) committing a felony or a misdemeanor involving any crime that is grounds for denial, suspension, or revocation of a bail recovery license, and conviction by a court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission; or

(e) making a fraudulent or untrue statement to the board, department, its investigators, or staff.

Section 27. Section 53-11-104 is amended to read:

53-11-104. Board.

(1)[~~(a)~~] There is established under the Department of Public Safety a Bail Bond Recovery and Private Investigator Licensure Board consisting of [~~five~~]eight members appointed by the commissioner.

[~~(b) The commissioner may appoint, in accordance with this section, persons who are also serving in the same capacity on the Private Investigator Hearing and Licensure Board under Section 53-9-104.~~]

(2) Each member of the board shall be a citizen of the United States and a resident of this state at the time of appointment:

(a) one member shall be a person who is qualified for and is licensed under this chapter;

(b) one member shall be a person who is qualified for and is licensed under Title 53, Chapter 9, Private Investigator Regulation Act;

[~~(b)~~](c) one member shall be a an attorney licensed to practice in the state;

[~~(c)~~](d) one member shall be a chief of police or sheriff;

(e) one member shall be a supervisory investigator from the commissioner's office;

[~~(d)~~](f) one member shall be an owner of a bail bond surety company;[~~ and~~]

(g) one member shall be an owner of a private investigator agency;

[~~(e)~~](h) one member shall be a public member who:

(i) does not have a financial interest in a bail bond surety or bail bond recovery business;[~~ and~~]

(ii) does not have a financial interest in a private investigative agency; and

[~~(ii)~~](iii) does not have an immediate family member or a household member, or a personal or professional acquaintance who is licensed or registered under this chapter or Title 53, Chapter 9, Private Investigator Regulation Act.

(3)(a) As terms of current board members expire, the commissioner shall appoint each new member or reappointed member to a four-year term, except as required by Subsection (3)(b).

(b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) At its first meeting every year, the board shall elect a chair and vice chair from its membership.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) A member may not serve more than one term, except that a member appointed to fill a vacancy or appointed for an initial term of less than four years under Subsection (3) may be reappointed for one additional full term.

(8) The commissioner, after a board hearing and recommendation, may remove any member of the board for misconduct, incompetency, or neglect of duty.

(9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

Section 28. Section 53-11-105 is amended to read:

53-11-105. Powers and duties of board.

(1) The board shall:

(a)(i) review all applications for licensing and renewals of licenses submitted by the bureau under this chapter and Title 53, Chapter 9, Private Investigator Regulation Act; and

(ii) approve or disapprove [~~these~~]the applications;

(b) review all complaints and take disciplinary action; and

(c) establish standards for and approve providers of courses required for licensure under this section.

(2) The board may take and hear evidence, administer oaths and affirmations, and compel by subpoena the attendance of witnesses and the production of books, papers, records, documents, and other information relating to:

(a) investigation of an applicant for licensure under this chapter or Title 53, Chapter 9, Private Investigator Regulation Act; or

(b) a formal complaint against or department investigation of a bail enforcement agent, bail recovery agent, [~~or~~]bail recovery apprentice, or a private investigator.

Section 29. Section 53-11-106 is amended to read:

53-11-106. Board meetings and hearings -- Quorum.

(1) The board shall meet at the call of the chair, but not less often than once each quarter.

(2)(a) A quorum consists of [~~three~~]five members.

(b) The action of a majority of a quorum constitutes an action of the board.

(3) If a member has three or more unexcused absences within a 12-month period, the commissioner shall determine if that board member should be released from board duties.

Section 30. Section 53B-28-402 is amended to read:

53B-28-402. Campus safety study -- Report to Legislature.

(1) As used in this section:

(a) "Campus law enforcement" means a unit of an institution that provides public safety services.

(b)(i) "Institution" means an institution of higher education described in Section 53B-2-101.

(ii) "Institution" includes an institution's campus law enforcement.

(c) "Local law enforcement" means a state or local law enforcement agency other than campus law enforcement.

(d) "Public safety services" means police services, security services, dispatch services, emergency services, or other similar services.

(e) "Sexual violence" means the same as that term is defined in Section 53B-28-301.

(f) "Special district" means the same as that term is defined in Section 17B-1-102.

(g) "Special service district" means the same as that term is defined in Section 17D-1-102.

(h) "Student" means the same as that term is defined in Section 53B-28-301.

(i) "Student organization" means the same as that term is defined in Section 53B-28-401.

(2) The board shall:

(a) study issues related to providing public safety services on institution campuses, including:

(i) policies and practices for hiring, supervision, and firing of campus law enforcement officers;

(ii) training of campus law enforcement in responding to incidents of sexual violence or other crimes reported by or involving a student, including training related to lethality or similar assessments;

(iii) how campus law enforcement and local law enforcement respond to reports of incidents of sexual violence or other crimes reported by or involving a student, including supportive measures for victims and disciplinary actions for perpetrators;

(iv) training provided to faculty, staff, students, and student organizations on campus safety and prevention of sexual violence;

(v) roles, responsibilities, jurisdiction, and authority of local law enforcement and campus law enforcement, including authority based on:

(A) the type of public safety services provided; or

(B) geographic boundaries;

(vi) how an institution and local law enforcement coordinate to respond to on-campus and off-campus incidents requiring public safety services, including:

(A) legal requirements or restrictions affecting coordination;

(B) agreements, practices, or procedures governing coordination between an institution and local law enforcement, including mutual support, sharing information, or dispatch management; and

(C) any issues that may affect the timeliness of a response to an on-campus or off-campus incident reported by or involving a student;

(vii) infrastructure, staffing, and equipment considerations that impact the effectiveness of campus law enforcement or local law enforcement responses to an on-campus or off-campus incident reported by or involving a student;

(viii) the benefits and disadvantages of an institution employing campus law enforcement compared to local law enforcement providing public safety services on an institution campus;

(ix) an institution's compliance with federal and state crime statistic reporting requirements;

(x) how an institution informs faculty, staff, and students about a crime or emergency on campus;

(xi) national best practices for providing public safety services on institution campuses, including differences in best practices based on the size, infrastructure, location, and other relevant characteristics of a college or university; and

(xii) any other issue the board determines is relevant to the study;

(b) make recommendations for providing public safety services on institution campuses statewide;

(c) produce a final report of the study described in this section, including the recommendations described in Subsection (2)(b); and

(d) in accordance with Section 68-3-14, present the final report described in Subsection (2)(c) to the Education Interim Committee and the Law Enforcement and Criminal Justice Interim Committee at or before the committees' November 2021 meetings.

(3) In carrying out the board's duties under this section, the board may coordinate with individuals and organizations with knowledge, expertise, or experience related to the board's duties under this section, including:

(a) the Department of Health and Human Services;

(b) the Utah Office for Victims of Crime;

(c) the Utah [~~Council on Victims of Crime~~]Victim Services Commission;

(d) institutions;

(e) local law enforcement;

(f) special districts or special service districts that provide 911 and emergency dispatch service; and

(g) community and other non-governmental organizations.

Section 31. Section 63A-16-1002 is amended to read:

63A-16-1002. Criminal and juvenile justice database.

(1) The commission shall oversee the creation and management of a criminal and juvenile justice database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 41-6a-511, courts to collect and maintain data;

(e) Section 53-23-101, reporting requirements for reverse-location warrants;

(f) Section 53-24-102, sexual assault offense reporting requirements for law enforcement agencies;

(g) Section 63M-7-214, law enforcement agency grant reporting;

(h) Section 63M-7-216, prosecutorial data collection;

(i) Section 63M-7-220, domestic violence data collection;

[~~(i)~~](j) Section 64-13-21, supervision of sentenced offenders placed in community;

[~~(j)~~](k) Section 64-13-25, standards for programs;

[~~(k)~~](l) Section 64-13-45, department reporting requirements;

[~~(l)~~](m) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

[~~(m)~~](n) Section 77-7-8.5, use of tactical groups;

[~~(n)~~](o) Section 77-11b-404, forfeiture reporting requirements;

[~~(o)~~](p) Section 77-20-103, release data requirements;

[~~(p)~~](q) Section 77-22-2.5, court orders for criminal investigations;

[~~(q)~~](r) Section 78A-2-109.5, court demographics reporting;

[~~(r)~~](s) Section 80-6-104, data collection on offenses committed by minors; and

[~~(s)~~](t) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 32. Section 63C-1-103 is enacted to read:

63C-1-103. Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024.

(1) As used in this section:

(a) "Enacted committee" means:

(i) the following committees enacted on October 1, 2024:

(A) the Utah Arts and Museums Advisory Board created in Section 9-6-301;

(B) the Public Safety Data Management Task Force created in Section 36-29-111;

(C) the Bail Bond Recovery and Private Investigator Licensure Board created in Section 54-11-104; and

(D) the Trauma System and Emergency Medical Services Advisory Committee created in Section 53-2d-104; and

(ii) the following as constituted on or after October 1, 2024:

(A) the Employment Advisory Council created in Subsection 35A-4-302(5); and

(B) the Emergency Management Administration Council created in Section 53-2a-105.

(b) "Expired committee" means:

(i) the following which, in accordance with Title 63I, Chapter 2, Repeal Dates by Title Act, repeal on October 1, 2024:

(A) the Utah Museums Advisory Board created in Section 9-6-305;

(B) the Domestic Violence Data Task Force created in Section 63C-29-201;

(C) the Private Investigator Hearing and Licensure Board created in Section 53-9-104; and

(D) the Trauma System Advisory Committee created in Section 26B-1-406;

(ii) the following as constituted before October 1, 2024:

(A) the Utah Arts Advisory Board created in Section 9-6-301;

(B) the Criminal Justice Data Management Task Force created in Section 36-29-111;

(C) the Bail Bond Recovery Licensure Board created in Section 53-11-104;

(D) the State Emergency Medical Services Committee created in Sections 26B-1-404 and 53-2d-104;

(E) the Employment Advisory Council created in Subsection 35A-4-302(5); and

(F) the Emergency Management Administration Council created in Section 53-2a-105.

(c) "Utah Victim Services Commission enacted" means the Utah Victim Services Commission

created in Section 63M-7-902 as constituted on or after December 31, 2024.

(d) "Utah Victim Services Commission expired" means the Utah Victim Services Commission as constituted before December 31, 2024.

(2) An individual who is appointed as a member of:

(a) an expired committee is removed from the expired committee after September 30, 2024; and

(b) the Utah Victim Services Commission expired, is removed from the commission after December 30, 2024.

(3)(a) On or after May 1, 2024, but before October 1, 2024, the appointing authority of an enacted committee may appoint a member to the enacted committee in accordance with the section governing appointment to the enacted committee.

(b)(i) A member described in Subsection (3)(a) may not begin the individual's term of service on the enacted committee before October 1, 2024; and

(ii) if applicable under the section governing appointment to the enacted committee, the Senate may provide advice and consent.

(4)(a) Nothing in this section prevents an appointing authority from appointing an individual who is removed from an expired committee in accordance with Subsection (2) to an enacted committee if the individual's appointment meets the requirements of the section governing appointment to the enacted committee.

(b) If an individual is removed from an expired committee under Subsection (2) and is then appointed to an enacted committee under Subsection (3)(a), and the appointed position has limited terms an individual may serve, the appointment under Subsection (3)(a) does not count as an additional term.

(5)(a) On or after May 1, 2024, but before December 31, 2024, the appointing authority of the Utah Victim Services Commission enacted may appoint a member to the Utah Victim Services Commission enacted in accordance with Section 63M-7-902.

(b) A member described in Subsection (5)(a) may not begin the individual's term of service before December 31, 2024.

(6)(a) Nothing in this section prevents an appointing authority from appointing an individual who is removed from the Utah Victim Services Commission expired in accordance with Subsection (2)(b) to the Utah Victim Services Commission enacted if the individual's appointment meets the requirements of Section 63M-7-902.

(b) If an individual is removed from the Utah Victim Services Commission expired under Subsection (2)(b) and is then appointed to the Utah Victim Services Commission enacted under Subsection (5)(a), and the appointed position has limited terms an individual may serve, the appointment under Subsection (5)(a) does not count as an additional term.

Section 33. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

[~~(1) Section 9-6-303, which creates the Arts Collection Committee, is repealed July 1, 2027.~~]

[~~(2) Section 9-6-305, which creates the Utah Museums Advisory Board, is repealed July 1, 2027.~~]

[~~(3)~~](1) Section 9-6-301, Utah Arts and Museums Advisory Board, is repealed July 1, 2029.

(2) Section 9-6-302, Arts and museums board powers and duties, is repealed July 1, 2029.

(3) Section 9-9-405, which creates the Native American Remains Review Committee, is repealed July 1, 2025.

(4) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2026.

Section 34. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, [~~2032~~]2029.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2028.~~]

[~~(6)~~](5) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(7)~~](6) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(8)~~](7) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 35. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Section 36-29-111, Public Safety Data Management Task Force, is repealed July 1, 2029.

[~~(2)~~](3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

[~~(3)~~](4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2028.

[~~(4)~~](5) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

Section 36. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [~~2027~~]2029.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

(6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

(15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

(16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(17) Section 53F-5-213 is repealed July 1, 2023.

(18) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(19) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(20) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(22) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(23) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

(24) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 37. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [~~2027~~]2029.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-104, Trauma System and Emergency Medical Services Committee -- Membership -- Expenses, is repealed on July 1, 2029.

(4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(6) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](14) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](16) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](17) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(23)~~](25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](26) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](27) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 38. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [~~2027~~]2029.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-104, Trauma System and Emergency Medical Services Committee -- Membership -- Expenses, is repealed on July 1, 2029.

(4) Section 53-2d-703 is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

(6) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(5)~~](7) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(6)~~](8) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](9) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](10) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](11) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](12) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](14) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](15) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](16) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the

recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15)~~](17) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.

[~~(16)~~](18) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](19) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](20) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](23) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](24)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23)~~](25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(24)~~](26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](27) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](28) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 39. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A through 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.~~]

[~~(13)~~](12) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](13) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](14) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](15) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](16) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](17) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](18) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](19) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](20) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.~~]

[~~(23)~~](21) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

(22) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

[~~(24)~~](23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](29) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 40. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Section 9-6-303, Arts collection committee, is repealed on October 1, 2024.

(2) Section 9-6-305, Utah Museums Advisory Board, is repealed on October 1, 2024;

(3) Section 9-6-306, Museums board power and duties, is repealed on October 1, 2024.

(4) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

[~~(2)~~](5) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.

[~~(3)~~](6) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

[~~(4)~~](7) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

[~~(5)~~](8) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section 41. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-423, which creates the rural Physician Loan Repayment Program Advisory Committee, is repealed on July 1, 2026.

[~~(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.~~]

(9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(10) Section 26B-3-142 is repealed July 1, 2024.

(11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(13) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(14) Subsections 26B-4-703(3)(b), (3)(c)(i) and (ii), and (6)(b) are repealed on July 1, 2026.

[~~(14)~~](15) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(15)~~](16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(16)~~](17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 42. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties, is repealed on July 1, 2026.

[~~(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.~~]

(7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(8) Section 26B-3-142 is repealed July 1, 2024.

(9) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(10) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(11) Subsections 26B-4-703(3)(b), (3)(c)(i) and (ii), and (6)(b) are repealed on July 1, 2026.

[~~(11)~~](12) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(12)~~](13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 43. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates: Title 35A.

(1) Section 35A-1-104.6 is repealed June 30, 2022.

(2) Section 35A-3-212 is repealed June 30, 2025.

(3) Section 35A-13-301, Title, is repealed October 1, 2024.

(4) Section 35A-13-302, Governor's Committee on Employment of People with Disabilities, is repealed on October 1, 2024.

Section 44. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2 is repealed July 1, 2024.

(2) Section 36-29-107.5 is repealed on November 30, 2024.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

[~~(5) Section 36-29-111 is repealed July 1, 2025.~~]

[~~(6)~~](5) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

[~~(7)~~](6) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

Section 45. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2a-303, Statewide mutual aid committee, is repealed on October 1, 2024.

[~~(4)~~](5) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(6) Section 53-2d-302, Trauma system advisory committee, is repealed on October 1, 2024.

[~~(5)~~](7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(6)~~](8) Section 53-7-109 is repealed on July 1, 2024.

(9) The following sections creating and establishing the duties of the Private Investigator Hearing and Licensure Board, are repealed on October 1, 2024:

(a) Section 53-9-104;

(b) Section 53-9-105; and

(c) Section 53-9-106.

[~~(7)~~](10) Section 53-22-104 is repealed December 31, 2023.

[~~(8)~~](11) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](12) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](13) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](14) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](15) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](16) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](17) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](18) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](19) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](20) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](21) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](22) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](23) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](24) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 46. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A through Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions

transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

[~~(4)~~](5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(6) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

[~~(5)~~](7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(6)~~](8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(7)~~](9) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

(10) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

(11) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

(12) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(8)~~](13) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(9)~~](14) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 47. Section 63M-7-202 is amended to read:

63M-7-202. Composition -- Appointments -- Ex officio members -- Terms -- United States Attorney as nonvoting member.

(1) The State Commission on Criminal and Juvenile Justice is composed of [~~26~~]25 voting members as follows:

(a) the chief justice of the supreme court, as the presiding officer of the judicial council, or a judge designated by the chief justice;

(b) the state court administrator or the state court administrator's designee;

(c) the executive director of the Department of Corrections or the executive director's designee;

(d) the executive director of the Department of Health and Human Services or the executive director's designee;

(e) the commissioner of the Department of Public Safety or the commissioner's designee;

(f) the attorney general or an attorney designated by the attorney general;

(g) the president of the chiefs of police association or a chief of police designated by the association's president;

(h) the president of the sheriffs' association or a sheriff designated by the association's president;

(i) the chair of the Board of Pardons and Parole or a member of the Board of Pardons and Parole designated by the chair;

(j) the chair of the Utah Sentencing Commission or a member of the Utah Sentencing Commission designated by the chair;

(k) the chair of the Utah Substance Use and Mental Health Advisory Council or a member of the Utah Substance Use and Mental Health Advisory Council designated by the chair;

(l) the chair of the Utah Board of Juvenile Justice or a member of the Utah Board of Juvenile Justice designated by the chair;

(m) the chair of the Utah Victim Services Commission or a member of the Utah Victim Services Commission designated by the chair;

[~~(n) the chair of the Utah Council on Victims of Crime or a member of the Utah Council on Victims of Crime designated by the chair;~~]

[~~(o)~~](n) the executive director of the Salt Lake Legal Defender Association or an attorney designated by the executive director;

[~~(p)~~](o) the chair of the Utah Indigent Defense Commission or a member of the Indigent Defense Commission designated by the chair;

[~~(q)~~](p) the Salt Lake County District Attorney or an attorney designated by the district attorney; and

[~~(r)~~](q) the following members designated to serve four-year terms:

(i) a juvenile court judge, appointed by the chief justice, as presiding officer of the Judicial Council;

(ii) a representative of the statewide association of public attorneys designated by the association's officers;

(iii) one member of the House of Representatives who is appointed by the speaker of the House of Representatives; and

(iv) one member of the Senate who is appointed by the president of the Senate.

(2) The governor shall appoint the remaining five members to four-year staggered terms as follows:

(a) one criminal defense attorney appointed from a list of three nominees submitted by the Utah State Bar Association;

(b) one attorney who primarily represents juveniles in delinquency matters appointed from a list of three nominees submitted by the Utah Bar Association;

(c) one representative of public education;

(d) one citizen representative; and

(e) a representative from a local faith who has experience with the criminal justice system.

(3) In addition to the members designated under Subsections (1) and (2), the United States Attorney

for the district of Utah or an attorney designated by the United States Attorney may serve as a nonvoting member.

(4) In appointing the members under Subsection (2), the governor shall take into account the geographical makeup of the commission.

Section 48. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 26B-5-102(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

[~~(u) oversee the trauma-informed justice program described in Section 63M-7-209;~~]

[~~(v)~~](u) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5;

[~~(w)~~](v) report annually to the Law Enforcement and Criminal Justice Interim Committee on the

progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision;

[~~(x)~~](w) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 26B-5-102(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 26B-5-102(2)(n) by each mental health or substance use treatment program;

[~~(y)~~](x) publish the report described in Subsection [~~(1)(x)~~](1)(w) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees ;[~~ and~~]

[~~(z)~~](y) receive, compile, and publish on the commission's website the data provided under:

(i) Section 53-23-101;

(ii) Section 53-24-102; and

(iii) Section 53-26-101; and

(z) review, research, advise, and make recommendations to the three branches of government regarding evidence-based sex offense management policies and practices, including supervision standards, treatment standards, and the sex offender registry.

(2)(a) The commission may designate an entity to perform the duties described in this part.

(b) If the commission designates an entity under Subsection [~~(1)(r)~~](2)(a), the commission shall ensure that the membership of the designated entity includes representation from [~~the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation~~]relevant stakeholder groups from the parts of the justice system implicated in the policy area.

Section 49. Section 63M-7-218 is amended to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through [~~(r)~~](s).

Section 50. Section 63M-7-220 is enacted to read:

63M-7-220. Domestic violence data collection.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Cohabitant abuse protective order" means an order issued with or without notice to the respondent in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders.

(c) "Lethality assessment" means an evidence-based assessment that is intended to identify a victim of domestic violence who is at a high risk of being killed by the perpetrator.

(d) "Victim" means the same as that term is defined in Section 77-36-1.

(2) Beginning July 1, 2025, each law enforcement agency and other organizations that provide domestic violence services within the state shall submit the following data to the commission for compilation and analysis in collaboration with the data collected by the Department of Public Safety in accordance with Section 77-36-2.1 and the Administrative Office of the Courts:

(a) lethality assessments conducted in the state, including:

(i) the type of lethality assessments used by law enforcement agencies and other organizations that provide domestic violence services; and

(ii) training and protocols implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i) regarding the use of lethality assessments;

(b) the data collection efforts implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i);

(c) the number of cohabitant abuse protective orders that, in the immediately preceding calendar year, were:

(i) issued;

(ii) amended or dismissed before the date of expiration; and

(iii) dismissed under Section 78B-7-605; and

(d) the prevalence of domestic violence in the state and the prevalence of the following in domestic violence cases:

(i) stalking;

(ii) strangulation;

(iii) violence in the presence of children; and

(iv) threats of suicide or homicide.

(3) The commission, in collaboration with domestic violence organizations and other related stakeholders, shall conduct a review of and provide feedback on:

(a) lethality assessment training and protocols implemented by law enforcement agencies and the organizations described in Subsection (2)(a)(i); and

(b) the collection of domestic violence data in the state, including:

(i) coordination between state, local, and not-for-profit agencies to collect data from lethality assessments and on the prevalence of domestic violence, including the number of voluntary commitments of firearms under Section 53-5c-201;

(ii) efforts to standardize the format for collecting domestic violence and lethality assessment data from state, local, and not-for-profit agencies subject to federal confidentiality requirements; and

(iii) the need for any additional data collection requirements or efforts.

(4) On or before November 30 of each year, the commission shall provide a written report to the Law Enforcement and Criminal Justice Interim Committee describing:

(a) the information gathered under Subsections (2) and (3); or

(b) the progress and assessment of available data under Subsections (2) and (3).

Section 51. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

[~~(3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.~~]

[~~(4)~~](3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

[~~(5)~~](4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

[~~(6)~~](5) "Child" means an unemancipated individual who is under 18 years old.

[~~(7)~~](6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

[~~(8)~~](7) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(9)~~](8)(a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death;

(B) punishable under Title 76, Chapter 5, Offenses Against the Individual; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

[~~(10)~~](9)(a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

[~~(11)~~](10) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

[~~(12)~~](11) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

[~~(13)~~](12) "Director" means the director of the office.

[~~(14)~~](13) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

[~~(15)~~](14)(a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

[~~(16)~~](15) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

[~~(17)~~](16) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

[~~(18)~~](17) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

[~~(19)~~](18)(a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection [~~(19)(a)~~](18)(a).

[~~(20)~~](19) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(21)~~](20)(a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

[~~(22)~~](21) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(23)~~](22) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(24)~~](23) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

[~~(25)~~](24) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(26)~~](25) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

[~~(27)~~](26) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

[~~(28)~~](27) "Offense" means a violation of Title 76, Utah Criminal Code.

[~~(29)~~](28) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[~~(30)~~](29) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

[~~(31)~~](30) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(32)~~](31) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(33)~~](32)(a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(34)~~](33) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(35)~~](34)(a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(36)~~](35) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(37)~~](36) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(38)~~](37) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(39)~~](38) "Serious bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(40)~~](39) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

[~~(41)~~](40) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(42)~~](41) "Substantial bodily injury" means the same as that term is defined in Section 76-1-101.5.

[~~(43)~~](42)(a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(44)~~](43) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 52. Section 63M-7-506 is amended to read:

63M-7-506. Duties of the office.

(1) The [~~board~~]office shall:

[~~(a) adopt a description of the office and prescribe the general operation of the board;~~]

[~~(b)~~](a) prescribe policy for the office;

[~~(c)~~](b) under the direction of the executive director of the Commission on Criminal and Juvenile Justice, adopt rules to implement and administer this part in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may include setting of ceilings on reparations, defining of terms not specifically stated in this part, and establishing of rules governing attorney fees;

[~~(d)~~](c) prescribe forms for applications for reparations;

[~~(e) review all reparations awards made by the reparations staff, although the board may not reverse or modify reparations awards authorized by the reparations staff;~~]

[~~(f)~~](d) render an annual report to the governor and the Legislature regarding the staff's and the board's activities;

[~~(g)~~](e) [~~cooperate with the director and the director's staff in formulating~~]formulate standards for the uniform application of Section 63M-7-509, taking into consideration the rates and amounts of reparation payable for injuries and death under other laws of this state and the United States;

[~~(h)~~](f) allocate money available in the fund to victims of criminally injurious conduct for reparations claims;

[~~(i)~~](g) allocate money available to other victim services as provided by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, once a sufficient reserve has been established for reparation claims; and

[~~(j)~~](h) [~~approve the allocation and disbursement of~~]as authorized by the Commission on Criminal and Juvenile Justice, allocate and disburse funds made available to the office by the United States, the state, foundations, corporations, or other entities or individuals to subgrantees from private, non-profit, and governmental entities operating qualified statewide assistance programs.

(2) All rules, or other statements of policy, along with application forms specified by the [~~board~~]office, are binding upon the director, the reparations officers, assistance officers, and other staff.

Section 53. Section 63M-7-507 is amended to read:

63M-7-507. Director -- Appointment and functions -- Office duties.

(1) The executive director of the Commission on Criminal and Juvenile Justice[~~, after consulting with the board,~~] shall appoint a director to carry out the provisions of this part.

(2) The director shall:

(a) be an experienced administrator with a background in at least one of the following fields:

(i) social work;

(ii) psychology;

(iii) criminal justice;

(iv) law; or

(v) another field related to the fields described in Subsections (2)(a)(i) through (iv);

(b) demonstrate an understanding of the needs of crime victims and of services to victims; and

(c) devote the director's time and capacity to the director's duties.

(3) In addition to the requirements under Subsection (2), the director shall:

(a) hire staff, including reparations and assistance officers, as necessary;

(b) act when necessary as a reparations officer in deciding an initial reparations claim;

(c) possess the same investigation and decision-making authority as the reparations officers;

(d) hear appeals from the decisions of the reparations officers, unless the director acted as a reparations officer on the initial reparations claim;

[~~(e) serve as a liaison between the office and the board;~~]

[~~(f)~~](e) serve as the public relations representative of the office;

[~~(g)~~](f) provide for payment of all administrative salaries, fees, and expenses incurred by the staff of the [~~board~~]office, to be paid out of appropriations from the fund;

[~~(h)~~](g) cooperate with the state treasurer and the state Division of Finance in causing the funds in the fund to be invested and the fund's investments sold or exchanged and the proceeds and income collected;

[~~(i)~~](h) apply for, receive, allocate, disburse, and account for, subject to approval and in conformance with policies adopted by the [~~board~~]office, all grant funds made available by the United States, the state, foundations, corporations, and other businesses, agencies, or individuals;

[~~(j)~~](i) obtain and utilize the services of other governmental agencies upon request; and

[~~(k)~~](j) act in any other capacity or perform any other acts necessary for the office[~~ or board~~] to successfully fulfill the office's[~~ or board's~~] statutory duties and objectives.

(4) The director may request assistance from the Commission on Criminal and Juvenile Justice, the Department of Public Safety, and other state agencies in conducting research or monitoring victims' programs.

Section 54. Section 63M-7-508 is amended to read:

63M-7-508. Reparations officers.

The reparations officers shall in addition to any assignments made by the director:

(1) hear and determine all matters relating to a reparations claim and reinvestigate or reopen a reparations claim without regard to statutes of limitation or periods of prescription;

(2) obtain from prosecuting attorneys, law enforcement officers, and other criminal justice agencies, investigations and data to enable the reparations officer to determine whether and to what extent a claimant qualifies for reparations;

(3) as determined necessary by the reparations officers, hold hearings, administer oaths or affirmations, examine any individual under oath or affirmation, issue subpoenas requiring the attendance and giving of testimony of witnesses, require the production of any books, papers, documents, or other evidence which may contribute to the reparations officer's ability to determine particular reparation awards;

(4) determine who is a victim or dependent;

(5) award reparations or other benefits determined to be due under this part and the rules of the [~~board~~]office made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(6) take notice of judicially recognized facts and general, technical, and scientific facts within the reparations officers' specialized knowledge;

(7) advise and assist[~~ the board~~] in developing policies recognizing the rights, needs, and interests of crime victims;

(8) render periodic reports as requested by the [~~board~~]Commission on Criminal and Juvenile Justice concerning:

(a) the reparations officers' activities; and

(b) the manner in which the rights, needs, and interests of crime victims are being addressed by the state's criminal justice system;

(9) establish priorities for assisting elderly victims of crime or those victims facing extraordinary hardships;

(10) cooperate with the State Commission on Criminal and Juvenile Justice to develop information regarding crime victims' problems and programs; and

(11) assist the director in publicizing the provisions of the office, including the procedures for obtaining reparation, and in encouraging law enforcement agencies, health providers, and other related officials to take reasonable care to ensure that victims are informed about the provisions of this part and the procedure for applying for reparation.

Section 55. Section 63M-7-511 is amended to read:

63M-7-511. Compensable losses and amounts.

A reparations award under this part may be made if:

(1) the reparations officer finds the reparations claim satisfies the requirements for the reparations

award under the provisions of this part and the rules of the [~~board~~]office;

(2) money is available in the fund;

(3) the individual for whom the reparations award is to be paid is otherwise eligible under this part; and

(4) the reparations claim is for an allowable expense incurred by the victim, as follows:

(a) reasonable and necessary charges incurred for products, services, and accommodations;

(b) inpatient and outpatient medical treatment and physical therapy, subject to rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) mental health counseling that:

(i) is set forth in a mental health treatment plan that is approved before any payment is made by a reparations officer; and

(ii) qualifies within any further rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(d) actual loss of past earnings and anticipated loss of future earnings because of a death or disability resulting from the personal injury at a rate not to exceed 66-2/3% of the individual's weekly gross salary or wages or the maximum amount allowed under the state workers' compensation statute;

(e) care of minor children enabling a victim or spouse of a victim, but not both, to continue gainful employment at a rate per child per week as determined under rules established by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(f) funeral and burial expenses for death caused by the criminally injurious conduct, subject to rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(g) loss of support to a dependent not otherwise compensated for a pecuniary loss for personal injury, for as long as the dependence would have existed had the victim survived, at a rate not to exceed 66-2/3% of the individual's weekly salary or wages or the maximum amount allowed under the state workers' compensation statute, whichever is less;

(h) personal property necessary and essential to the health or safety of the victim as defined by rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(i) medical examinations, subject to rules made by the [~~board~~]office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which may allow for exemptions from Sections 63M-7-509, 63M-7-512, and 63M-7-513; and

(j) for a victim of sexual assault who becomes pregnant from the sexual assault, health care:

(i) for the victim during the duration of the victim's pregnancy if the health care is related to or resulting from the sexual assault or the pregnancy; and

(ii) for the victim and the victim's child for one year after the day on which the victim's child is born.

Section 56. Section 63M-7-516 is amended to read:

63M-7-516. Waiver of privilege.

(1)(a) A victim who is a claimant waives any privilege as to communications or records relevant to an issue of the physical, mental, or emotional conditions of the victim except for the attorney-client privilege.

(b) The waiver described in Subsection (1)(a) applies only to reparations officers, the director, the [~~board~~]assistant director reparations program manager, and legal counsel.

(2) A claimant may be required to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

(3)(a) The reparations officer hearing a reparations claim or an appeal from a reparations claim shall make available to the claimant a copy of the report.

(b) If the victim is deceased, the director or the director's appointee, on request, shall furnish the claimant a copy of the report unless dissemination of that copy is prohibited by law.

Section 57. Section 63M-7-517 is amended to read:

63M-7-517. Additional testing.

(1) If the mental, physical, or emotional condition of a victim is material to a reparations claim, the reparations officer, director, the assistant director reparations program manager, or chair of the board who hears the reparations claim or the appeal may order the claimant to submit to a mental or physical examination by a physician or psychologist and may recommend to the court to order an autopsy of a deceased victim.

(2) The court may order an additional examination for good cause shown and shall provide notice to the individual to be examined and the individual's representative.

(3) All reports from additional examinations shall set out findings, including results of all tests made, diagnoses, prognoses, other conclusions, and reports of earlier examinations of the same conditions.

(4) A copy of the report shall be made available to the victim or the representative of the victim unless dissemination of that copy is prohibited by law.

Section 58. Section 63M-7-519 is amended to read:

63M-7-519. Assignment of recovery -- Reimbursement.

(1)(a) By accepting a reparations award, the victim:

(i) automatically assigns to the office any claim the victim may have relating to criminally injurious conduct in the reparations claim; and

(ii) is required to reimburse the office if the victim recovers any money relating to the criminally injurious conduct.

(b) The office's right of assignment and reimbursement under Subsection (1)(a) is limited to the lesser of:

(i) the amount paid by the office; or

(ii) the amount recovered by the victim from the third party.

(c) The office may be reimbursed under Subsection (1)(a) regardless of whether the office exercises the office's right of assignment under Subsection (1)(a).

(2) The [~~board~~]executive director of the Commission on Criminal and Juvenile Justice, with the concurrence of the director, may reduce the office's right of reimbursement if the [~~board~~]executive director determines that:

(a) the reduction will benefit the fund; or

(b) the victim has ongoing expenses related to the offense upon which the reparations claim is based and the benefit to the victim of reducing the office's right of reimbursement exceeds the benefit to the office of receiving full reimbursement.

(3) The office reserves the right to make a claim for reimbursement on behalf of the victim and the victim may not impair the office's claim or the office's right of reimbursement.

Section 59. Section 63M-7-521.5 is amended to read:

63M-7-521.5. Payments to medical service providers.

(1)(a) Except as provided in Subsection (2), a medical service provider who accepts payment from the office shall agree to accept payments as payment in full on behalf of the victim or claimant and may not attempt to collect further payment from the victim or the claimant for services for which the office has made payment.

(b) In the event the office is unable to make full payment in accordance with the office's rules, the medical service provider may collect from the victim or claimant, but not more than the amount the provider would have received from the office.

(2)(a) When a medical service provider receives notice that a reparations claim has been filed, the medical service provider may not, before the office determines whether to issue a reparations award, engage in debt collection for the claim, including:

(i) repeatedly calling or writing to a victim and threatening to refer unpaid health care costs to a debt collection agency, attorney, or other person for collection; or

(ii) filing for or pursuing a legal remedy for payment of unpaid health care costs.

(b) The statute of limitations for collecting a debt is tolled during the time in which a request for a reparations award is being reviewed by the office.

(3) The office may:

(a) use the fee schedule utilized by the Utah Public Employees Health Plan or any other fee schedule adopted by the [~~board~~]office; and

(b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the fee schedule adopted in accordance with this section.

Section 60. Section 63M-7-522 is amended to read:

63M-7-522. Emergency reparations award.

(1) If the reparations officer determines that the claimant will suffer financial hardship unless an emergency reparations award is made, and it appears likely that a final reparations award will be made, an amount may be paid to the claimant, to be deducted from the final reparations award or repaid by and recoverable from the claimant to the extent that it exceeds the final reparations award.

(2) The [~~board~~]office may limit emergency reparations awards under Subsection (1) to any amount the [~~board~~]office considers necessary.

Section 61. Section 63M-7-525 is amended to read:

63M-7-525. Purpose -- Not entitlement program.

(1)(a) The purpose of the office is to assist victims of criminally injurious conduct who may be eligible for assistance from the fund.

(b) Reparation to a victim under this part is limited to the money available in the fund.

(2)(a) The assistance program described in Subsection (1) is not an entitlement program.

(b) A reparations award may be limited or denied as determined appropriate by the [~~board~~]office.

(c) Failure to grant a reparations award does not create a cause of action against the office, the state, or any of its subdivisions and there is no right to judicial review over the decision whether or not to grant a reparations award.

(3) A cause of action based on a failure to give or receive the notice required by this part does not accrue to any person against the state, any of its agencies or local subdivisions, any of their law enforcement officers or other agents or employees, or any health care or medical provider or its agents

or employees nor does it affect or alter any requirement for filing or payment of a reparations claim.

Section 62. Section 63M-7-902 is amended to read:

63M-7-902. Creation -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the Utah Victim Services Commission within the State Commission on Criminal and Juvenile Justice.

(2) The commission is composed of the following members:

(a) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(b) the director of the Utah Office for Victims of Crime or the director's designee;

[~~(c) the executive director of the Department of Health and Human Services or the executive director's designee;~~]

[~~(d)~~](c) the executive director of the Department of Corrections or the executive director's designee;

[~~(e)~~](d) the director of the Division of Multicultural Affairs or the director's designee;

[~~(f)~~](e) the executive director of the state sexual assault coalition for this state or the executive director's designee;

[~~(g)~~](f) the executive director of the state domestic violence coalition for this state or the executive director's designee;

[~~(h)~~](g) the executive director of the tribal coalition for this state or the executive director's designee;

[~~(i)~~](h) the director of the Children's Justice Center Program in the Office of the Attorney General or the director's designee;

[~~(j) the chair of the Children's Justice Center Standing Committee or the chair's designee;~~]

[~~(k)~~](i) the attorney general or the attorney general's designee;

[~~(l)~~](j) the commissioner of the Department of Public Safety or the commissioner's designee;

[~~(m)~~](k) a criminal justice system based advocate, appointed by the governor with the advice and consent of the Senate;

[~~(n)~~](l) a prosecuting attorney, appointed by the governor with the advice and consent of the Senate;

[~~(o)~~](m) a criminal defense attorney, appointed by the governor with the advice and consent of the Senate;

[~~(p)~~](n) a law enforcement representative from the Utah Sheriffs Association or Utah Chiefs of Police Association, appointed by the governor with the advice and consent of the Senate; and

[~~(q) an individual who is a victim of crime, appointed by the governor with the advice and consent of the Senate;~~]

[~~(r)~~](o) an individual who is a current [~~or former representative from the House of Representatives or has experience or expertise with the legislative process, appointed by the speaker of the House of Representatives; and~~]representative from the House of Representatives or senator from the Senate, appointed jointly by the speaker of the House of Representatives and president of the Senate.

[~~(s) an individual who is a current or former senator from the Senate or has experience or expertise with the legislative process, appointed by the president of the Senate.~~]

(3)(a) A member appointed under Subsections [~~(2)(m) through (s)~~](2)(k) through (o) shall serve a four-year term.

(b) A member appointed to serve a four-year term is eligible for reappointment.

(4) When a vacancy occurs in the membership of the commission for any reason, the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment.

(5) Except as otherwise provided in Subsection [~~(5)~~](6), a member may not receive compensation for the member's service but may receive per diem and reimbursement for travel expenses incurred as a member at the rates established by:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(6) A member may not receive per diem or reimbursement for travel expenses under Subsection (5) if the member is being paid by a governmental entity while performing the member's service on the commission.

Section 63. Section 63M-7-904 is amended to read:

63M-7-904. Duties of the commission -- Report.

(1) The commission shall:

(a) advocate for the adoption, repeal, or modification of laws or proposed legislation in the interest of victims of crime;

(b) make recommendations to the Legislature, the governor, and the Judicial Council on the following:

(i) enforcing existing rights of victims of crime;

(ii) enhancing rights of victims of crime;

(iii) the role of victims of crime in the criminal justice system;

(iv) victim restitution;

(v) educating and training criminal justice professionals on the rights of victims of crime; and

(vi) enhancing services to victims of crimes; and

(c) provide training on the rights of victims of crime.

(2) The commission shall, in partnership with state agencies and organizations, including the Children's Justice Center Program, the Utah Office for Victims of Crime, [~~the Utah Council on Victims of Crime,~~]and the Division of Child and Family Services:

(a) review and assess the duties and practices of the State Commission on Criminal and Juvenile Justice regarding services and criminal justice policies pertaining to victims;

(b) encourage and facilitate the development and coordination of trauma-informed services for crime victims throughout the state;

(c) encourage and foster public and private partnerships for the purpose of:

(i) assessing needs for crime victim services throughout the state;

(ii) developing crime victim services and resources throughout the state; and

(iii) coordinating crime victim services and resources throughout the state;

(d) generate unity for ongoing efforts to reduce and eliminate the impact of crime on victims through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(e) recommend and support the creation, dissemination, and implementation of statewide policies and plans to address crimes, including domestic violence, sexual violence, child abuse, and driving under the influence of drugs and alcohol;

[~~(f) develop a systematic process and clearinghouse for the collection and dissemination of data on domestic violence and sexual violence;~~]

[~~(g)~~](f) collect information on statewide funding for crime victim services and prevention efforts, including the sources, disbursement, and outcomes of statewide funding for crime victim services and prevention efforts;

[~~(h)~~](g) consider recommendations from any subcommittee of the commission; and

[~~(i)~~](h) make recommendations regarding:

(i) the duties and practices of the State Commission on Criminal and Juvenile Justice to ensure that:

(A) crime victims are a vital part of the criminal justice system of the state;

(B) all crime victims and witnesses are treated with dignity, respect, courtesy, and sensitivity; and

(C) the rights of crime victims and witnesses are honored and protected by law in a manner no less vigorous than protections afforded to criminal defendants; and

(ii) statewide funding for crime victim services and prevention efforts.

[~~(2)~~](3) The commission may :

(a) subject to court rules and the governor's approval, advocate in an appellate court on behalf of a victim of crime;

(b) recommend to the Legislature the services to be funded by the Victim Services Restricted Account;

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the process by which a victim, or a representative of a victim, may submit a complaint alleging a violation of the victim's rights; and

(d) review any action taken by a district victims' rights committee.

[~~(3)~~](4) The commission shall report the commission's recommendations annually to the State Commission on Criminal and Juvenile Justice, the governor, the Judicial Council, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Health and Human Services Interim Committee, the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee.

[~~(4)~~](5) When taking an action or making a recommendation, the commission shall respect that a state agency is bound to follow state law and may have duties or responsibilities imposed by state law.

Section 64. Section 63N-4-502 is amended to read:

63N-4-502. Definitions.

As used in this part:

[~~(1) "Advisory committee" means the Rural Online Working Hubs Grant Advisory Committee created in Section 63N-4-505.~~]

[~~(2)~~](1) "Coworking and innovation center" means a facility designed to provide individuals with the infrastructure and equipment to participate in the online workforce.

[~~(3)~~](2) "Entity" means a county, city, nonprofit organization, or institution of higher education.

[~~(4)~~](3) "Grant" means a grant awarded as part of the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

[~~(5)~~](4) "Grant program" means the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

[~~(6)~~](5) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Section 65. Section 63N-4-504 is amended to read:

63N-4-504. Requirements for awarding a working hubs grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall

make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:

(a) the form and process of submitting an application to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining grant amounts; and

(d) the reporting requirements of grant recipients.

(2) In determining the award of a grant, the office may prioritize projects:

(a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;

(b) where an applicant demonstrates comprehensive planning of the project but has limited access to financial resources, including financial resources from local or county government; and

(c) that maximize economic development opportunities in collaboration with the economic development needs or plans of an educational institution, a county, and a municipality.

(3) Subject to legislative appropriation, a grant may only be awarded by the executive director[~~after consultation with the advisory committee~~].

(4) A grant may only be awarded under this part:

(a) if the grant recipient agrees to provide any combination of funds, land, buildings, or in-kind work in an amount equal to at least 25% of the grant;

(b) if the grant recipient agrees not to use grant money for the ongoing operation or maintenance of a coworking and innovation center; and

(c) in an amount no more than $500,000 to a grant applicant.

Section 66. Section 73-3d-201 is amended to read:

73-3d-201. Declaration of a temporary water shortage emergency by the governor.

(1)(a) Subject to the requirements of this section, the governor may declare a temporary water shortage emergency by issuing an executive order if, on the governor's own initiative or at the request of a person entitled to make a request, the governor determines that an existing or imminent short-term interruption of water delivery in this state caused by manmade or natural causes other than drought:

(i) threatens:

(A) the availability or quality of an essential water supply or water supply infrastructure; or

(B) the operation of the economy; and

(ii) because of the threats described in Subsection (1)(a)(i), jeopardizes the peace, health, safety, or welfare of the people of this state.

(b) The governor may only issue the executive order declaring a temporary water shortage emergency described in Subsection (1)(a):

(i) with the advice and recommendation of the state engineer; and

(ii) in consultation with the emergency management administration [~~committee~~]council created by Section 53-2a-105.

(c) An executive order issued under this Subsection (1) shall state with specificity:

(i) the nature of the interruption of water supply;

(ii) subject to Subsection (2), the time period for which the temporary water shortage emergency is declared;

(iii) a description of the geographic area that is subject to the executive order;

(iv) a list of the specific persons entitled to make a request who may exercise the preferential use of water under Section 73-3d-301 during the effective period of the temporary water shortage emergency; and

(v) the purposes outlined in Subsection 73-3d-301(1) for which a person who is described in Subsection (1)(c)(iv) may take the water subject to Section 73-3d-301.

(d) Before providing a recommendation to the governor under Subsection (1)(b)(i), the state engineer shall require a person entitled to make a request who is described in Subsection (1)(c)(iv) to provide a written statement describing how the person entitled to make a request has exhausted other reasonable means to acquire water.

(e) A person entitled to make a request who is described in Subsection (1)(c)(iv) may take water preferentially during a temporary water shortage emergency only for a purpose authorized by the executive order.

(f)(i) Within seven calendar days of the day on which the governor issues an executive order declaring a temporary water shortage emergency, the Legislative Management Committee shall:

(A) review the executive order;

(B) advise the governor on the declaration of a temporary water shortage emergency; and

(C) recommend to the Legislature whether the executive order should be kept as issued by the governor, extended, or terminated.

(ii) The failure of the Legislative Management Committee to meet as required by Subsection (1)(f)(i) does not affect the validity of the executive order declaring a temporary water shortage emergency.

(2)(a) The governor shall state in an executive order declaring a temporary water shortage emergency the time period for which the temporary

water shortage emergency is declared, except that the governor may not declare a temporary water shortage emergency for longer than 30 days after the date the executive order is issued.

(b) The governor may terminate an executive order declaring a temporary water shortage emergency before the expiration of the time period stated in the executive order.

(c) An executive order declaring a temporary water emergency issued by the governor within 30 days of the expiration or termination of a prior executive order for the same emergency is considered an extension subject to Subsection (2)(e).

(d) The Legislature may extend the time period of an executive order declaring a temporary water shortage emergency by joint resolution, except that the Legislature may not extend a temporary water shortage emergency for longer than one year from the day on which the executive order declaring a temporary water shortage emergency is issued.

(e) An executive order declaring a temporary water shortage emergency may be renewed or extended only by joint resolution of the Legislature.

Section 67. Section 80-2-402 is amended to read:

80-2-402. Child welfare training coordinator -- Mandatory education and training of child welfare caseworkers -- Development of curriculum.

(1) There is created within the division a full-time position of a child welfare training coordinator.

(2) The child welfare training coordinator is not responsible for direct casework services or the supervision of casework services, but is required to:

(a) develop child welfare curriculum that:

(i) is current and effective, consistent with the division's mission and purpose for child welfare; and

(ii) utilizes curriculum and resources from a variety of sources including those from:

(A) the public sector;

(B) the private sector; and

(C) inside and outside of the state;

(b) recruit, select, and supervise child welfare trainers;

(c) develop a statewide training program, including a budget and identification of sources of funding to support that training;

(d) evaluate the efficacy of training in improving job performance;

(e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;

(f) monitor staff compliance with division training requirements and individual training plans; and

(g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.

(3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:

(a) is driven by child safety and family well-being;

(b) emphasizes child and family voice;

(c) [~~is trauma-informed, as defined in Section 63M-7-209~~]is based on a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system; and

(d) is consistent with national child welfare practice standards.

(4) A child welfare caseworker shall complete training in:

(a) the legal duties of a child welfare caseworker;

(b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:

(i) initial contact;

(ii) safety and risk assessment, as described in Section 80-2-403; and

(iii) intervention;

(c) recognizing situations involving:

(i) substance abuse;

(ii) domestic violence;

(iii) abuse; and

(iv) neglect; and

(d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:

(i) search and seizure of evidence;

(ii) the warrant requirement;

(iii) exceptions to the warrant requirement; and

(iv) removing a child from the custody of the child's parent or guardian.

(5) The division shall train the division's child welfare caseworkers to:

(a) apply the risk assessment tools and rules described in Subsection 80-1-102(83); and

(b) develop child and family plans that comply with:

(i) federal mandates; and(ii) the specific needs of the child and the child's family.

(6) The division shall use the training of child welfare caseworkers to emphasize:

(a) the importance of maintaining the parent-child relationship;

(b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and

(c) the importance and priority of:

(i) kinship placement in the event a child must be taken into protective custody; and

(ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.

(7) If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:

(a) completed the training described in Subsections (4), (5), and (6); and

(b) participated in sufficient skills development for a child welfare caseworker.

Section 68. Repealer.

This bill repeals:

Section 26B-1-403, Opioid and Overdose Fatality Review Committee.

Section 26B-1-407, Stroke registry advisory committee.

Section 26B-1-408, Cardiac registry advisory committee.

Section 26B-1-419, Utah Health Care Workforce Financial Assistance Program Advisory Committee -- Membership -- Compensation -- Duties.

Section 35A-13-504, Appointment of advisory council.

Section 53-2d-903, Stroke registry advisory committee.

Section 53-2d-904, Cardiac registry advisory committee.

Section 53-11-125, Exemptions from licensure.

Section 63M-7-209, Trauma-informed justice program.

Section 63M-7-209, Trauma-informed justice program.

Section 63N-4-505, Rural Online Working Hubs Grant Advisory Committee -- Membership -- Duties -- Expenses.

Section 69. Effective date.

(1) Except as provided in Subsections (2) through (5), this bill takes effect on October 1, 2024.

(2) The actions affecting the following sections take effect on May 1, 2024:

(a) Section 26B-1-204;

(b) Section 26B-1-403;

(c) Section 26B-1-407;

(d) Section 26B-1-408;

(e) Section 26B-1-419;

(f) Section 26B-4-702;

(g) Section 35A-13-504;

(h) Section 52-4-205;

(i) Section 53-2d-903;

(j) Section 53-2d-904;

(k) Section 53-11-125;

(l) Section 63A-16-1002;

(m) Section 63C-1-103;

(n) Section 63I-1-209;

(o) Section 63I-1-235;

(p) Section 63I-1-236;

(q) Section 63I-1-253;

(r) Section 63I-1-263;

(s) Section 63I-2-209;

(t) Section 63I-2-226 (Effective 05/01/24);

(u) Section 63I-2-235;

(v) Section 63I-2-236;

(w) Section 63I-2-263;

(x) Section 63M-7-204;

(y) Section 63M-7-209;

(z) Section 63M-7-209;

(aa) Section 63M-7-218;

(bb) Section 63M-7-220;

(cc) Section 63N-4-502;

(dd) Section 63N-4-504;

(ee) Section 63N-4-505 (Effective 05/01/24);

(ff) Section 73-3d-201; and

(gg) Section 80-2-402.

(3) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 26B-1-204;

(b) Section 63I-1-253;

(c) Section 63I-2-226

(d) Section 63I-2-253; and

(e) Section 63M-7-209 (Effective 07/01/24).

(4) The actions affecting Section 63I-1-253 contingently take effect on January 1, 2025.

(5) The actions affecting the following sections take effect on December 31, 2024:

(a) Section 26B-1-202;

(b) Section 53-1-106;

(c) Section 53B-28-402;

(d) Section 63M-7-202;

(e) Section 63M-7-502;

(f) Section 63M-7-506;

(g) Section 63M-7-507;

(h) Section 63M-7-508;

(i) Section 63M-7-511;

(j) Section 63M-7-516;

(k) Section 63M-7-517;

(l) Section 63M-7-519;

(m) Section 63M-7-521.5;

(n) Section 63M-7-522;

(o) Section 63M-7-525;

(p) Section 63M-7-902; and

(q) Section 63M-7-904.

Section 70. Coordinating H.B. 532 with H.B. 115.

If H.B. 532, State Boards and Commissions Modifications, and H.B. 115, Cultural and Community Engagement Amendments, both pass and become law, the Legislature intends that, on October 1, 2024, the amendments to Section 9-6-301 in H.B. 532 supersede the amendments to Section 9-6-301 in H.B. 115.

CHAPTER 507
H. B. 534
Passed February 29, 2024
Approved March 21, 2024
Effective May 1, 2024

BOARDS AND COMMISSIONS MODIFICATIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies boards and commissions.

Highlighted Provisions:

This bill:

- repeals on May 1, 2024, the following boards, commissions, and entities and provisions related to the following boards, commissions, and entities:
  - Air Quality Policy Advisory Board;
  - Alcoholic Beverage Services Advisory Board;
  - Board of State Parks;
  - Criminal Code Evaluation Task Force;
  - Decision and Action Committee;
  - Deep Technology Talent Advisory Council;
  - Heritage Trees Advisory Committee;
  - Interpreter Certification Board;
  - Labor Relations Board;
  - Local Food Advisory Council;
  - Mental Health Protections for First Responders Workgroup;
  - Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board;
  - Sex Offense Management Board;
  - State Instruction Materials Commission;
  - Technology Initiative Advisory Board;
  - Transportation Advisory Committee;
  - the advisory board for motor vehicle business regulation;
  - the advisory council to the Division of Services for the Blind and Visually Impaired; and
  - the committee to review requests for the Charter School Revolving Account;
- as of October 1, 2024:
  - renames the Physical Therapy Licensing Board as the Physical Therapies Licensing Board and modifies the board to include the duties of the Board of Occupational Therapy;
  - renames the Board of Nursing as the Board of Nursing and Certified Nurse Midwives and modifies the board to include the duties of the Certified Nurse Midwife Board;
  - renames the Architects Licensing Board to the Architects and Landscape Architects Licensing Board and modifies the board to include the duties of the Landscape Architects Board;
  - renames the Plumbers Licensing Board as the Electricians and Plumbers Licensing Board and modifies the board to include the duties of the Electricians Licensing Board;
  - modifies the membership of the Construction Services Commission;
  - renames the Board of Massage Therapy as the Board of Massage Therapy and Acupuncture and modifies the board to include the duties of the Acupuncture Licensing Board; and
  - renames the Physicians Licensing Board as the Medical Licensing Board and modifies the board to include the duties of the Osteopathic Physician and Surgeon's Licensing Board and the Physician Assistant Licensing Board;
- repeals on October 1, 2024, the following boards:
  - Board of Occupational Therapy;
  - Certified Nurse Midwife Board;
  - Landscape Architects Board;
  - Electricians Licensing Board;
  - Acupuncture Licensing Board;
  - Osteopathic Physician and Surgeon's Licensing Board;
  - Physician Assistant Licensing Board;
  - Utah Motor Vehicle Franchise Advisory Board;
  - Utah Powersport Vehicle Franchise Advisory Board;
  - Board of Bank Advisors; and
  - Board of Credit Union Advisors; and
- repeals on July 1, 2026, the following:
  - Cannabis Research Review Board; and
  - Title 53, Chapter 2c, COVID- 19 Health and Economic Response Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4- 35- 102, as last amended by Laws of Utah 2020, Chapter 326
4- 35- 105, as last amended by Laws of Utah 2020, Chapter 326
7- 1- 203, as last amended by Laws of Utah 2020, Chapter 352
13- 14- 102, as last amended by Laws of Utah 2020, Chapter 367
13- 14- 104, as last amended by Laws of Utah 2015, Chapter 268
13- 14- 106, as last amended by Laws of Utah 2008, Chapter 382
13- 14- 107, as last amended by Laws of Utah 2008, Chapter 382
13- 14- 201, as last amended by Laws of Utah 2023, Chapter 240
13- 14- 202, as last amended by Laws of Utah 2005, Chapter 249
13- 14- 203, as last amended by Laws of Utah 2005, Chapter 249
13- 14- 301, as last amended by Laws of Utah 2009, Chapter 318
13- 14- 302, as last amended by Laws of Utah 2015, Chapter 268
13- 14- 303, as last amended by Laws of Utah 2005, Chapter 249

13-14-304, as last amended by Laws of Utah 2015, Chapter 268
13-14-305, as last amended by Laws of Utah 2005, Chapter 249
13-14-306, as last amended by Laws of Utah 2015, Chapter 268
13-32a-102, as last amended by Laws of Utah 2022, Chapter 201
13-35-102, as last amended by Laws of Utah 2018, Chapter 166
13-35-104, as last amended by Laws of Utah 2008, Chapter 382
13-35-106, as last amended by Laws of Utah 2008, Chapter 382
13-35-107, as last amended by Laws of Utah 2008, Chapter 382
13-35-201, as last amended by Laws of Utah 2005, Chapter 268
13-35-202, as last amended by Laws of Utah 2005, Chapter 268
13-35-203, as last amended by Laws of Utah 2005, Chapter 268
13-35-301, as last amended by Laws of Utah 2005, Chapter 268
13-35-302, as last amended by Laws of Utah 2016, Chapter 414
13-35-303, as last amended by Laws of Utah 2005, Chapter 268
13-35-305, as last amended by Laws of Utah 2005, Chapter 268
13-35-306, as last amended by Laws of Utah 2005, Chapter 268
15A-1-204, as last amended by Laws of Utah 2023, Chapter 209
15A-1-206, as enacted by Laws of Utah 2011, Chapter 14
26B-1-239, as enacted by Laws of Utah 2023, Chapter 2
26B-1-421, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-303, as renumbered and amended by Laws of Utah 2023, Chapter 306
26B-4-219, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307
26B-4-506, as renumbered and amended by Laws of Utah 2023, Chapter 307
26B-4-513, as renumbered and amended by Laws of Utah 2023, Chapter 307
34-20-2, as last amended by Laws of Utah 2016, Chapter 370
34-20-8, as last amended by Laws of Utah 2016, Chapter 348
34-20-9, as last amended by Laws of Utah 1987, Chapter 161
34A-1-202, as last amended by Laws of Utah 2013, Chapter 413
35A-13-602, as last amended by Laws of Utah 2019, Chapter 89
35A-13-604, as renumbered and amended by Laws of Utah 2016, Chapter 271
35A-13-605, as renumbered and amended by Laws of Utah 2016, Chapter 271
35A-13-606, as renumbered and amended by Laws of Utah 2016, Chapter 271
35A-13-608, as renumbered and amended by Laws of Utah 2016, Chapter 271
35A-13-609, as renumbered and amended by Laws of Utah 2016, Chapter 271
41-3-102, as last amended by Laws of Utah 2023, Chapter 63
41-3-105, as last amended by Laws of Utah 2022, Chapter 259
41-3-107, as renumbered and amended by Laws of Utah 1992, Chapter 234
41-3-109, as last amended by Laws of Utah 2008, Chapter 382
41-22-12, as last amended by Laws of Utah 2015, Chapter 412
53B-6-105.7, as last amended by Laws of Utah 2019, Chapter 444
53B-6-105.9, as last amended by Laws of Utah 2020, Chapter 365
53B-26-301, as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53B-26-302, as enacted by Laws of Utah 2020, Chapter 361
53E-4-403, as last amended by Laws of Utah 2022, Chapter 377
53E-4-405, as renumbered and amended by Laws of Utah 2018, Chapter 1
53E-4-407, as last amended by Laws of Utah 2019, Chapter 186
53E-4-408, as last amended by Laws of Utah 2020, Chapter 408
53F-2-403, as last amended by Laws of Utah 2021, Chapter 303
53F-9-203, as last amended by Laws of Utah 2020, Chapter 154
53G-10-206, as enacted by Laws of Utah 2023, Chapter 294
53G-10-402, as last amended by Laws of Utah 2020, Chapters 354, 408
58-3a-102, as last amended by Laws of Utah 2011, Chapter 14
58-3a-201, as enacted by Laws of Utah 1996, Chapter 260
58-17b-102, as last amended by Laws of Utah 2023, Chapters 223, 328
58-17b-605, as last amended by Laws of Utah 2020, Chapter 372
58-17b-610.8, as last amended by Laws of Utah 2022, Chapter 465
58-17b-625, as last amended by Laws of Utah 2023, Chapter 223
58-17b-1005, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-24b-102, as last amended by Laws of Utah 2014, Chapter 354
58-24b-201, as enacted by Laws of Utah 2009, Chapter 220
58-24c-104, as enacted by Laws of Utah 2017, Chapter 164
58-31b-102, as last amended by Laws of Utah 2023, Chapters 223, 329
58-31b-201, as last amended by Laws of Utah 2018, Chapter 318
58-31e-103, as enacted by Laws of Utah 2017, Chapter 26
58-37f-304, as last amended by Laws of Utah 2020,

Chapter 147
58-38a-201, as last amended by Laws of Utah 2022, Chapter 415
58-42a-102, as last amended by Laws of Utah 2015, Chapter 432
58-44a-102, as last amended by Laws of Utah 2012, Chapter 285
58-47b-102, as last amended by Laws of Utah 2023, Chapter 225
58-47b-201, as last amended by Laws of Utah 1998, Chapter 159
58-53-102, as renumbered and amended by Laws of Utah 1998, Chapter 191
58-54-201, as renumbered and amended by Laws of Utah 2011, Chapter 61
58-55-102, as last amended by Laws of Utah 2023, Chapter 223
58-55-103, as last amended by Laws of Utah 2020, Chapter 339
58-55-201, as last amended by Laws of Utah 2022, Chapters 32, 413
58-55-302, as last amended by Laws of Utah 2023, Chapter 223
58-67-102, as last amended by Laws of Utah 2023, Chapter 2
58-67-201, as last amended by Laws of Utah 2022, Chapter 284
58-68-102, as last amended by Laws of Utah 2023, Chapter 2
58-70a-102, as last amended by Laws of Utah 2023, Chapter 329
58-70b-101, as enacted by Laws of Utah 2022, Chapter 284
58-71-102, as last amended by Laws of Utah 2023, Chapters 249, 311
58-72-102, as last amended by Laws of Utah 2019, Chapter 485
58-88-205, as enacted by Laws of Utah 2022, Chapter 353
63I-1-204, as last amended by Laws of Utah 2023, Chapters 79, 210
63I-1-207, as last amended by Laws of Utah 2023, Chapter 29
63I-1-213, as last amended by Laws of Utah 2022, Chapters 244, 413
63I-1-219, as last amended by Laws of Utah 2022, Chapter 194
63I-1-234, as last amended by Laws of Utah 2020, Chapters 154, 332
63I-1-235, as last amended by Laws of Utah 2023, Chapters 27, 52
63I-1-236, as last amended by Laws of Utah 2023, Chapters 112, 139, 228, and 475
63I-1-241, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, and 335
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 310, 367, and 494
63I-1-253, as last amended by Laws of Utah 2023, Chapters 30, 52, 133, 161, 187, 310, 367, and 494
63I-1-258, as last amended by Laws of Utah 2023, Chapter 303
63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63I-1-265, as enacted by Laws of Utah 2020, Chapter 154
63I-1-279, as last amended by Laws of Utah 2023, Chapter 211
63I-2-204, as last amended by Laws of Utah 2023, Chapters 33, 273
63I-2-209, as last amended by Laws of Utah 2023, Chapter 33
63I-2-213, as last amended by Laws of Utah 2023, Chapter 33
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329
63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
63I-2-234, as last amended by Laws of Utah 2023, Chapter 364
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467
63I-2-258, as last amended by Laws of Utah 2020, Chapter 354
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
65A-8-302, as last amended by Laws of Utah 2009, Chapter 344
65A-8-304, as renumbered and amended by Laws of Utah 2007, Chapter 136
76-7-314, as last amended by Laws of Utah 2023, Chapters 301, 330
76-7-328, as enacted by Laws of Utah 2004, Chapter 272
79-2-201, as last amended by Laws of Utah 2023, Chapters 34, 205
79-4-102, as last amended by Laws of Utah 2021, Chapter 280

ENACTS:
63C-1-103, Utah Code Annotated 1953
63I-2-207, Utah Code Annotated 1953

REPEALS:
4-2-601, as enacted by Laws of Utah 2018, Chapter 51
4-2-602, as last amended by Laws of Utah 2022, Chapter 67
4-2-603, as enacted by Laws of Utah 2018, Chapter 51
4-2-604, as enacted by Laws of Utah 2018, Chapter 51
4-35-103, as last amended by Laws of Utah 2020, Chapter 326
13-32a-112, as last amended by Laws of Utah 2022, Chapter 201
19-2a-102, as last amended by Laws of Utah 2021, Chapter 69
32B-2-210, as last amended by Laws of Utah 2022, Chapter 447
34-20-3, as last amended by Laws of Utah 2020, Chapters 352, 373

34-20-4, as last amended by Laws of Utah 1997, Chapter 375
34-20-5, as last amended by Laws of Utah 2011, Chapter 297
34-20-6, as enacted by Laws of Utah 1969, Chapter 85
34-20-10, as last amended by Laws of Utah 2008, Chapter 382
34-20-11, as last amended by Laws of Utah 1997, Chapter 296
34-20-12, as enacted by Laws of Utah 1969, Chapter 85
34A-2-107.3, as enacted by Laws of Utah 2021, Chapter 82
35A-13-404, as renumbered and amended by Laws of Utah 2016, Chapter 271
35A-13-603, as last amended by Laws of Utah 2020, Chapter 365
36-29-108, as last amended by Laws of Utah 2023, Chapter 112
41-3-106, as last amended by Laws of Utah 2010, Chapters 286, 324
53B-6-105.5, as last amended by Laws of Utah 2020, Chapter 365
53B-26-303, as last amended by Laws of Utah 2021, Chapter 282
53E-4-402, as last amended by Laws of Utah 2019, Chapter 186
53E-4-404, as last amended by Laws of Utah 2019, Chapter 186
63M-7-801, as enacted by Laws of Utah 2023, Chapter 155
63M-7-802, as enacted by Laws of Utah 2023, Chapter 155
63M-7-803, as enacted by Laws of Utah 2023, Chapter 155
65A-8-306, as last amended by Laws of Utah 2010, Chapter 286
79-4-301, as last amended by Laws of Utah 2021, Chapter 280
79-4-302, as last amended by Laws of Utah 2021, Chapter 280
79-4-303, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-304, as last amended by Laws of Utah 2022, Chapter 140
79-4-305, as renumbered and amended by Laws of Utah 2009, Chapter 344
79-4-502, as last amended by Laws of Utah 2021, Chapter 280

Sections affected by Coordination Clause:
58-17b-605, as last amended by Laws of Utah 2020, Chapter 372166

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-35-102 is amended to read:

4-35-102. Definitions.

As used in this chapter:

[~~(1) "Committee" means the Decision and Action Committee created by this chapter.~~]

[~~(2)~~](1) "Department" means the Department of Agriculture and Food.

[~~(3)~~](2) "Fund" means the Plant Pest Fund created by Section 4-35-106.

[~~(4)~~](3) "Plant pest" means a biological agent that the commissioner determines to be a threat to agriculture in the state as described in Subsection 4-2-103(1)(k)(i).

Section 2. Section 4-35-105 is amended to read:

4-35-105. Commissioner to act upon declaration of a plant pest emergency.

(1) The commissioner initiates operations to control a plant pest in the designated area or upon declaration of an infestation emergency.

(2) The commissioner[~~ and the members of the committee~~] may suspend or terminate control operations upon a determination that the operations will not significantly reduce the plant pest population in the designated emergency area.

Section 3. Section 7-1-203 is amended to read:

7-1-203. Board of Financial Institutions.

(1) There is created a Board of Financial Institutions consisting of the commissioner and the following five members, who shall be qualified by training and experience in their respective fields and shall be appointed by the governor with the advice and consent of the Senate:

(a) one representative from the commercial banking business;

(b) one representative from the consumer lending, money services business, or escrow agency business;

(c) one representative from the industrial bank business;

(d) one representative from the credit union business; and

(e) one representative of the general public who, as a result of education, training, experience, or interest, is well qualified to consider economic and financial issues and data as they may affect the public interest in the soundness of the financial systems of this state.

(2) The commissioner shall act as chair.

(3)(a) A member of the board shall be a resident of this state.

[~~(b) No more than three members of the board may be from the same political party.~~]

[~~(c)~~](b) No more than two members of the board may be connected with the same financial institution or its holding company.

[~~(d)~~](c) A member may not participate in any matter involving an institution with which the member has a conflict of interest.

(4)(a) Except as required by Subsection (4)(b), the terms of office shall be four years each expiring on July 1.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member serves until the member's successor is appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term.

(5)(a) The board shall meet at least quarterly on a date the board sets.

(b) The commissioner or any two members of the board may call additional meetings.

(c) Four members constitute a quorum for the transaction of business.

(d) Actions of the board require a vote of a majority of those present when a quorum is present.

(e) A meeting of the board and records of the board's proceedings are subject to Title 52, Chapter 4, Open and Public Meetings Act, except for discussion of confidential information pertaining to a particular financial institution.

(6)(a) A member of the board shall, by sworn or written statement filed with the commissioner, disclose any position of employment or ownership interest that the member has with respect to any institution subject to the jurisdiction of the department.

(b) The member shall:

(i) file the statement required by this Subsection (6) when first appointed to the board; and

(ii) subsequently file amendments to the statement if there is any material change in the matters covered by the statement.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The board shall:

(a) advise the commissioner with respect to:

[~~(a)~~](i) the exercise of the commissioner's duties, powers, and responsibilities under this title; and

[~~(b)~~](ii) the organization and performance of the department and its employees[~~.~~];

(b) advise the governor and the commissioner on problems relating to financial institutions and foster the interest and cooperation of financial institutions in the improvement of their services to the people of the state; and

[~~(9)~~](c) [~~The board shall~~]recommend annually to the governor and the Legislature a budget for the requirements of the department in carrying out its duties, functions, and responsibilities under this title.

Section 4. Section 13-14-102 is amended to read:

13-14-102. Definitions.

As used in this chapter:

[~~(1) "Advisory board" or "board" means the Utah Motor Vehicle Franchise Advisory Board created in Section 13-14-103.~~]

[~~(2)~~](1) "Affected municipality" means an incorporated city or town:

(a) that is located in the notice area; and

(b)(i) within which a franchisor is proposing a new or relocated dealership that is within the relevant market area of an existing dealership of the same line-make owned by another franchisee; or

(ii) within which an existing dealership is located and a franchisor is proposing a new or relocated dealership within the relevant market area of that existing dealership of the same line-make.

[~~(3)~~](2) "Affiliate" has the meaning set forth in Section 16-10a-102.

[~~(4)~~](3) "Aftermarket product" means any product or service not included in the franchisor's suggested retail price of the new motor vehicle, as that price appears on the label required by 15 U.S.C. Sec. 1232(f).

[~~(5)~~](4) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new motor vehicle dealer; and

(b) that is identified as a new motor vehicle dealer's principal place of business for licensing purposes under Section 41-3-204.

[~~(6)~~](5) "Department" means the Department of Commerce.

[~~(7)~~](6) "Do-not-drive order" means an order issued by a franchisor that instructs an individual not to operate a motor vehicle of the franchisor's line-make due to a recall.

[~~(8)~~](7) "Executive director" means the executive director of the Department of Commerce.

[~~(9)~~](8)(a) "Franchise" or "franchise agreement" means a written agreement, or in the absence of a written agreement, then a course of dealing or a practice for a definite or indefinite period, in which:

(i) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(ii) a community of interest exists in the marketing of new motor vehicles, new motor vehicle parts, and services related to the sale or lease of new motor vehicles at wholesale or retail.

(b) "Franchise" or "franchise agreement" includes a sales and service agreement.

[~~(10)~~](9) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new motor vehicles manufactured, produced, represented, or distributed by the franchisor.

[~~(11)~~](10) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new motor vehicles manufactured, produced, assembled, represented, or distributed by the franchisor, and includes:

(a) the manufacturer, producer, assembler, or distributor of the new motor vehicles;

(b) an intermediate distributor; and

(c) an agent, officer, or field or area representative of the franchisor.

[~~(12)~~](11) "Lead" means the referral by a franchisor to a franchisee of a potential customer whose contact information was obtained from a franchisor's program, process, or system designed to generate referrals for the purchase or lease of a new motor vehicle, or for service work related to the franchisor's vehicles.

[~~(13)~~](12) "Line-make" means:

(a) for other than a recreational vehicle, the motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor; or

(b) for a recreational vehicle, a specific series of recreational vehicle product that:

(i) is identified by a common series trade name or trademark;

(ii) is targeted to a particular market segment, as determined by decor, features, equipment, size, weight, and price range;

(iii) has a length and floor plan that distinguish the recreational vehicle from other recreational vehicles with substantially the same decor, features, equipment, size, weight, and price;

(iv) belongs to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and

(v) a franchise agreement authorizes a dealer to sell.

[~~(14)~~](13) "Mile" means 5,280 feet.

[~~(15)~~](14) "Motor home" means a self-propelled vehicle, primarily designed as a temporary dwelling for travel, recreational, or vacation use.

[~~(16)~~](15)(a) "Motor vehicle" means:

(i) except as provided in Subsection [~~(16)(b)~~](15)(b), a trailer;

(ii) a travel trailer;

(iii) except as provided in Subsection [~~(16)(b)~~](15)(b), a motor vehicle as defined in Section 41-3-102;

(iv) a semitrailer as defined in Section 41-1a-102; and

(v) a recreational vehicle.

(b) "Motor vehicle" does not include:

(i) a motorcycle as defined in Section 41-1a-102;

(ii) an off-highway vehicle as defined in Section 41-3-102;

(iii) a small trailer;

(iv) a trailer that:

(A) is not designed for human habitation; and

(B) has a gross vehicle weight rating of less than 26,000 pounds;

(v) a mobile home as defined in Section 41-1a-102;

(vi) a trailer of 750 pounds or less unladen weight; and

(vii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product.

[~~(17)~~](16) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

[~~(18)~~](17) "New motor vehicle dealer" is a person who is licensed under Subsection 41-3-202(1) to sell new motor vehicles.

[~~(19)~~](18) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

[~~(20)~~](19) "Notice area" means the geographic area that is:

(a) within a radius of at least six miles and no more than 10 miles from the site of an existing dealership; and

(b) located within a county with a population of at least 225,000.

[~~(21)~~](20) "Primary market area" means:

(a) for an existing dealership, the geographic area established by the franchisor that the existing dealership is intended to serve; or

(b) for a new or relocated dealership, the geographic area proposed by the franchisor that the new or relocated dealership is intended to serve.

[~~(22)~~](21) "Recall" means a determination by a franchisor or the National Highway Traffic Safety Administration that a motor vehicle has a safety-related defect or fails to meet a federal safety or emissions standard.

[~~(23)~~](22) "Recall repair" means any diagnostic work, labor, or part necessary to resolve an issue that is the basis of a recall.

[~~(24)~~](23)(a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or pulled by another vehicle.

(b) "Recreational vehicle" includes:

(i) a travel trailer;

(ii) a camping trailer;

(iii) a motor home;

(iv) a fifth wheel trailer; and

(v) a van.

[~~(25)~~](24)(a) "Relevant market area," except with respect to recreational vehicles, means:

(i) as applied to an existing dealership that is located in a county with a population of less than 225,000:

(A) the county in which the existing dealership is located; and

(B) the area within a 15-mile radius of the existing dealership; or

(ii) as applied to an existing dealership that is located in a county with a population of 225,000 or more, the area within a 10-mile radius of the existing dealership.

(b) "Relevant market area," with respect to recreational vehicles, means:

(i) the county in which the dealership is to be established or relocated; and

(ii) the area within a 35-mile radius from the site of the existing dealership.

[~~(26)~~](25) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

[~~(27)~~](26) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

[~~(28)~~](27) "Site-control agreement" means an agreement, however denominated and regardless of the agreement's form or of the parties to the agreement, that has the effect of:

(a) controlling in any way the use and development of the premises upon which a franchisee's business operations are located;

(b) requiring a franchisee to establish or maintain an exclusive dealership facility on the premises upon which the franchisee's business operations are located; or

(c) restricting the ability of the franchisee or, if the franchisee leases the dealership premises, the franchisee's lessor to transfer, sell, lease, develop, redevelop, or change the use of some or all of the dealership premises, whether by sublease, lease, collateral pledge of lease, right of first refusal to purchase or lease, option to purchase or lease, or any similar arrangement.

[~~(29)~~](28) "Small trailer" means the same as that term is defined in Section 41-3-102.

[~~(30)~~](29) "Stop-sale order" means an order issued by a franchisor that prohibits a franchisee from selling or leasing a certain used motor vehicle of the franchisor's line-make, which then or thereafter is in the franchisee's inventory, due to a recall.

[~~(31)~~](30) "Trailer" means the same as that term is defined in Section 41-3-102.

[~~(32)~~](31) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(33)~~](32) "Used motor vehicle" means a motor vehicle that:

(a) has been titled and registered to a purchaser other than a franchisee; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[~~(34)~~](33) "Value of a used motor vehicle" means the average trade-in value for a used motor vehicle of the same year, make, and model as reported in a recognized, independent third-party used motor vehicle guide.

[~~(35)~~](34) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Section 5. Section 13-14-104 is amended to read:

13-14-104. Powers and duties of the executive director.

[~~(1)(a) Except as provided in Subsection 13-14-106(3), the advisory board shall make recommendations to the executive director on the administration and enforcement of this chapter, including adjudicative and rulemaking proceedings.~~]

[~~(b) The executive director shall:~~]

[~~(i) consider the advisory board's recommendations; and~~]

[~~(ii) issue any rules or final decisions by the department.~~]

[~~(2)~~](1) The executive director[~~, in consultation with the advisory board,~~] shall[-]:

(a) administer and enforce this chapter; and

(b) make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~](2)(a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) In an adjudicative proceeding under this chapter, any order issued by the executive director[~~:~~]

[~~(i)~~] shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under [~~Title 63G, Chapter 4, Administrative Procedures Act; and~~]Title 63G, Chapter 4, Administrative Procedures Act.

[~~(ii) if the order modifies or rejects a finding of fact in a recommendation from the advisory board, shall be made on the basis of information learned from the executive director's:~~]

[~~(A) personal attendance at the hearing; or~~]

[~~(B) review of the record developed at the hearing.~~]

[~~(4)~~](3) The executive director's decision under this section shall be made available to the public.

Section 6. Section 13-14-106 is amended to read:

13-14-106. Administrative proceedings commenced by the agency.

(1) Except as provided in Subsection (3), after a hearing[~~, and after receipt of the advisory board's recommendation~~], if the executive director finds that a person has violated this chapter or any rule made under this chapter, the executive director may:

(a) issue a cease and desist order; and

(b) assess an administrative fine.

(2)(a) In determining the amount and appropriateness of an administrative fine under Subsection (1), the executive director shall consider:

(i) the gravity of the violation;

(ii) any history of previous violations; and

(iii) any attempt made by the person to retaliate against another person for seeking relief under this chapter or other federal or state law relating to the motor vehicle industry.

(b) In addition to any other action permitted under Subsection (1), the department may file an action with a court seeking to enforce the executive director's order and pursue the executive director's assessment of a fine in an amount not to exceed $5,000 for each day a person violates an order of the executive director.

(3)(a) In addition to the grounds for issuing an order on an emergency basis listed in Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if the executive director determines that irreparable damage is likely to occur if immediate action is not taken.

(b) In issuing an emergency order under Subsection (3)(a) the executive director shall comply with the requirements of Subsections 63G-4-502(2) and (3).

Section 7. Section 13-14-107 is amended to read:

13-14-107. Administrative proceedings -- Request for agency action.

(1)(a) A person may commence an adjudicative proceeding in accordance with this chapter and Title 63G, Chapter 4, Administrative Procedures Act to:

(i) remedy a violation of this chapter;

(ii) obtain approval of an act regulated by this chapter; or

(iii) obtain any determination that this chapter specifically authorizes that person to request.

(b) A person shall commence an adjudicative proceeding by filing a request for agency action in accordance with Section 63G-4-201.

(2) [~~After receipt of the advisory board's recommendation, the~~]The executive director shall apportion in a fair and equitable manner between the parties any costs of the adjudicative proceeding, including reasonable attorney fees.

Section 8. Section 13-14-201 is amended to read:

13-14-201. Prohibited acts by franchisors -- Affiliates -- Disclosures.

(1) A franchisor may not in this state:

(a) except as provided in Subsection (3), require a franchisee to order or accept delivery of any new motor vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to:

(i) participate monetarily in any advertising campaign; or

(ii) contest, or purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new motor vehicles or related products, if the franchisee:

(i) maintains a reasonable line of credit for each make or line of vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable or cause the franchisee to lose control of the premises or impose any other unreasonable requirement related to the facilities or premises;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

(i) adopt, change, establish, enforce, modify, or implement a plan or system for the allocation, scheduling, or delivery of new motor vehicles, parts, or accessories to the franchisor's franchisees so that the plan or system is not fair, reasonable, and equitable, including a plan or system that imposes a vehicle sales objective, goal, or quota on a franchisee, or that evaluates a franchisee's sales effectiveness or overall sales performance, without providing a reasonable opportunity for the franchisee to acquire the necessary vehicles in a timely manner from the franchisor on commercially reasonable terms;

(j) increase the price of any new motor vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made prior to the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless the franchisor's franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorney fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear the franchisee's right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new motor vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under-utilize the franchisee's existing dealer facility or facilities, including by:

(i) requiring or otherwise coercing a franchisee to exclude or remove from the franchisee's facility operations the selling or servicing of a line-make of vehicles for which the franchisee has a franchise agreement to utilize the facilities; or

(ii) prohibiting the franchisee from locating, relocating, or occupying a franchise or line-make in an existing facility owned or occupied by the franchisee that includes the selling or servicing of another franchise or line-make at the facility provided that the franchisee gives the franchisor written notice of the franchise co-location;

(o) fail to include in any franchise agreement or other agreement governing a franchisee's ownership of a dealership or a franchisee's conduct of business under a franchise the following language or language to the effect that: "If any provision in this agreement contravenes the laws or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new motor vehicle to purchasers who acquire the vehicle in this state except through a franchisee with whom the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) engage in the distribution or sale of a recreational vehicle that is manufactured, rented, sold, or offered for sale in this state without being constructed in accordance with the standards set by

the American National Standards Institute for recreational vehicles and evidenced by a seal or plate attached to the vehicle;

(r) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on motor vehicles, except warranty service repairs:

(i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale and service of the franchisor's motor vehicles; or

(ii) on owned motor vehicles by a person or government entity who has purchased new motor vehicles pursuant to a franchisor's fleet discount program;

(s) fail to provide a franchisee with a written franchise agreement;

(t)(i) except as provided in Subsection (1)(t)(ii) and notwithstanding any other provisions of this chapter:

(A) unreasonably fail or refuse to offer to its same line-make franchised dealers all models manufactured for that line-make; or

(B) unreasonably require a dealer to:

(I) pay any extra fee, remodel, renovate, recondition the dealer's existing facilities; or

(II) purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles; and

(ii) notwithstanding Subsection (1)(t)(i), a recreational vehicle franchisor may split a line-make between motor home and travel trailer products;

(u) except as provided in Subsection (6), directly or indirectly:

(i) own an interest in a new motor vehicle dealer or dealership;

(ii) operate or control a new motor vehicle dealer or dealership;

(iii) act in the capacity of a new motor vehicle dealer, as defined in Section 13-14-102; or

(iv) operate a motor vehicle service facility;

(v) fail to timely pay for all reimbursements to a franchisee for incentives and other payments made by the franchisor;

(w) directly or indirectly influence or direct potential customers to franchisees in an inequitable manner, including:

(i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of the franchisee's products or services in an amount exceeding the actual cost of the referral;

(ii) giving a customer referral to a franchisee on the condition that the franchisee agree to sell the vehicle at a price fixed by the franchisor; or

(iii) advising a potential customer as to the amount that the potential customer should pay for a particular product;

(x) fail to provide comparable delivery terms to each franchisee for a product of the franchisor, including the time of delivery after the placement of an order by the franchisee;

(y) if a franchisor provides personnel training to the franchisor's franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;

(z) condition a franchisee's eligibility to participate in a sales incentive program on the requirement that a franchisee use the financing services of the franchisor or a subsidiary or affiliate of the franchisor for inventory financing;

(aa) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:

(i) monthly financial statements provided by the franchisee;

(ii) the profitability of a franchisee; or

(iii) the status of a franchisee's inventory of products;

(bb) use any performance standard, incentive program, or similar method to measure the performance of franchisees unless the standard or program:

(i) is designed and administered in a fair, reasonable, and equitable manner;

(ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample; and

(iii) is, upon request by a franchisee, disclosed and explained in writing to the franchisee, including:

(A) how the standard or program is designed;

(B) how the standard or program will be administered; and

(C) the types of data that will be collected and used in the application of the standard or program;

(cc) other than sales to the federal government, directly or indirectly, sell, lease, offer to sell, or offer to lease, a new motor vehicle or any motor vehicle owned by the franchisor, except through a franchised new motor vehicle dealer;

(dd) compel a franchisee, through a finance subsidiary, to agree to unreasonable operating requirements, except that this Subsection (1)(dd) may not be construed to limit the right of a financing subsidiary to engage in business practices in accordance with the usage of trade in retail and wholesale motor vehicle financing;

(ee) condition the franchisor's participation in co-op advertising for a product category on the franchisee's participation in any program related to another product category or on the franchisee's

achievement of any level of sales in a product category other than that which is the subject of the co-op advertising;

(ff) except as provided in Subsections (7) through (9), discriminate against a franchisee in the state in favor of another franchisee of the same line-make in the state:

(i) by selling or offering to sell a new motor vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;

(ii) except as provided in Subsection (8), by using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new motor vehicle to the franchisee or later, that results in the sale of or offer to sell a new motor vehicle to one franchisee in the state at a higher price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is made available by the franchisor to another franchisee in the state during a similar time period;

(iii) except as provided in Subsection (9), by failing to provide or direct a lead in a fair, equitable, and timely manner; or

(iv) if the franchisee complies with any reasonable requirement concerning the sale of new motor vehicles, by using or considering the performance of any of its franchisees located in this state relating to the sale of the franchisor's new motor vehicles in determining the:

(A) dealer's eligibility to purchase program, certified, or other used motor vehicles from the franchisor;

(B) volume, type, or model of program, certified, or other used motor vehicles the dealer is eligible to purchase from the franchisor;

(C) price of any program, certified, or other used motor vehicles that the dealer is eligible to purchase from the franchisor; or

(D) availability or amount of any discount, credit, rebate, or sales incentive the dealer is eligible to receive from the manufacturer for the purchase of any program, certified, or other motor vehicle offered for sale by the franchisor;

(gg)(i) take control over funds owned or under the control of a franchisee based on the findings of a warranty audit, sales incentive audit, or recall repair audit, unless the following conditions are satisfied:

(A) the franchisor fully identifies in writing the basis for the franchisor's claim or charge back arising from the audit, including notifying the franchisee that the franchisee has 20 days from the day on which the franchisee receives the franchisor's claim or charge back to assert a protest in writing to the franchisor identifying the basis for the protest;

(B) the franchisee's protest shall inform the franchisor that the protest shall be submitted to a mediator in the state who is identified by name and address in the franchisee's notice to the franchisor;

(C) if mediation is requested under Subsection (1)(gg)(i)(B), mediation shall occur no later than 30 days after the day on which the franchisor receives the franchisee's protest of a claim or charge back;

(D) if mediation does not lead to a resolution of the protest, the protest shall be set for binding arbitration in the same venue in which the mediation occurred;

(E) binding arbitration under Subsection (1)(gg)(i)(D) shall be conducted:

(I) by an arbitrator mutually agreed upon by the franchisor and the franchisee; and

(II) on a date mutually agreed upon by the franchisor and the franchisee, but shall be held no later than 90 days after the franchisor's receipt of the franchisee's notice of protest;

(F) this Subsection (1)(gg)(i) applies exclusively to warranty audits, recall repair audits, and sales incentive audits;

(G) Subsections (1)(gg)(i)(A) through (E) do not apply if the franchisor reasonably believes that the amount of the claim or charge back is related to a fraudulent act by the franchisee; and

(H) the costs of the mediator or arbitrator instituted under this Subsection (1)(gg) shall be shared equally by the franchisor and the franchisee; or

(ii) require a franchisee to execute a written waiver of the requirements of Subsection (1)(gg)(i);

(hh) coerce, or attempt to coerce a franchisee to purchase or sell an aftermarket product manufactured by the franchisor, or obtained by the franchisor for resale from a third-party supplier and the franchisor or its affiliate derives a financial benefit from the franchisee's sale or purchase of the aftermarket product as a condition to obtaining preferential status from the franchisor;

(ii) through an affiliate, take any action that would otherwise be prohibited under this chapter;

(jj) impose any fee, surcharge, or other charge on a franchisee designed to recover the cost of a warranty repair for which the franchisor pays the franchisee;

(kk) except as provided by the audit provisions of this chapter, take an action designed to recover a cost related to a recall, including:

(i) imposing a fee, surcharge, or other charge on a franchisee;

(ii) reducing the compensation the franchisor owes to a franchisee;

(iii) removing the franchisee from an incentive program; or

(iv) reducing the amount the franchisor owes to a franchisee under an incentive program;

(ll) directly or indirectly condition any of the following actions on the willingness of a franchisee, prospective new franchisee, or owner of an interest in a dealership facility to enter into a site-control agreement:

(i) the awarding of a franchise to a prospective new franchisee;

(ii) the addition of a line-make or franchise to an existing franchisee;

(iii) the renewal of an existing franchisee's franchise;

(iv) the approval of the relocation of an existing franchisee's dealership facility, unless the franchisor pays, and the franchisee voluntarily accepts, additional specified cash consideration to facilitate the relocation; or

(v) the approval of the sale or transfer of a franchise's ownership, unless the franchisor pays, and the buyer voluntarily accepts, additional specified cash consideration to facilitate the sale or transfer;

(mm) subject to Subsection (11), deny a franchisee the right to return any or all parts or accessories that:

(i) were specified for and sold to the franchisee under an automated ordering system required by the franchisor; and

(ii)(A) are in good, resalable condition; and

(B)(I) the franchisee received within the previous 12 months; or

(II) are listed in the current parts catalog;

(nn) subject to Subsection (12), obtain from a franchisee a waiver of a franchisee's right, by threatening:

(i) to impose a detriment upon the franchisee's business; or

(ii) to withhold any entitlement, benefit, or service:

(A) to which the franchisee is entitled under a franchise agreement, contract, statute, rule, regulation, or law; or

(B) that has been granted to more than one other franchisee of the franchisor in the state;

(oo) coerce a franchisee to establish, or provide by agreement, program, or incentive provision that a franchisee must establish, a price at which the franchisee is required to sell a product or service that is:

(i) sold in connection with the franchisee's sale of a motor vehicle; and

(ii)(A) in the case of a product, not manufactured, provided, or distributed by the franchisor or an affiliate; or

(B) in the case of a service, not provided by the franchisor or an affiliate;

(pp) except as necessary to comply with a health or safety law, or to comply with a technology requirement compliance with which is necessary to sell or service a motor vehicle that the franchisee is authorized or licensed by the franchisor to sell or service, coerce or require a franchisee, through a penalty or other detriment to the franchisee's business, to:

(i) construct a new dealer facility or materially alter or remodel an existing dealer facility before the date that is 10 years after the date the construction of the new dealer facility at that location was completed, if the construction substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved; or

(ii) materially alter or remodel an existing dealer facility before the date that is 10 years after the date the previous alteration or remodeling at that location was completed, if the previous alteration or remodeling substantially complied with the franchisor's brand image standards or plans that the franchisor provided or approved;

(qq) notwithstanding the terms of a franchise agreement providing otherwise and subject to Subsection (14):

(i) coerce or require a franchisee, including by agreement, program, or incentive provision, to purchase a good or service, relating to a facility construction, alteration, or remodel, from a vendor that a franchisor or its affiliate selects, identifies, or designates, without allowing the franchisee, after consultation with the franchisor, to obtain a like good or service of substantially similar quality from a vendor that the franchisee chooses; or

(ii) coerce or require a franchisee, including by agreement, program, or incentive provision, to lease a sign or other franchisor image element from the franchisor or an affiliate without providing the franchisee the right to purchase a sign or other franchisor image element of like kind and quality from a vendor that the franchisee chooses;

(rr) when providing a new motor vehicle to a franchisee for offer or sale to the public, fail to provide to the franchisee a written disclosure that may be provided to a potential buyer of the new motor vehicle of each accessory or function of the vehicle that may be initiated, updated, changed, or maintained by the franchisor or affiliate through over the air or remote means, and the charge to the customer at the time of sale for such initiation, update, change, or maintenance; or

(ss) fail to provide reasonable compensation to a franchisee for assistance requested by a customer whose vehicle was subjected to an over the air or remote change, repair, or update to any part, system, accessory, or function by the franchisor or affiliate and performed at the franchisee's dealership in order to satisfy the customer.

(2) Notwithstanding Subsection (1)(r), a franchisor may authorize or permit a person to

perform warranty service repairs on motor vehicles if the warranty services [~~is~~]are for a franchisor of recreational vehicles.

(3) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new motor vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new motor vehicles.

(4) Subsection (1)(d) does not prevent a franchisor from requiring that a franchisee maintain separate sales personnel or display space.

(5) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new motor vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(6)(a) A franchisor may engage in any of the activities listed in Subsection (1)(u), for a period not to exceed 12 months if:

(i)(A) the person from whom the franchisor acquired the interest in or control of the new motor vehicle dealership was a franchised new motor vehicle dealer; and

(B) the franchisor's interest in the new motor vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(u) for the purpose of broadening the diversity of its dealer body and facilitating the ownership of a new motor vehicle dealership by a person who:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new motor vehicle dealership;

(C) has made a significant investment in the new motor vehicle dealership which is subject to loss;

(D) has an ownership interest in the new motor vehicle dealership; and

(E) operates the new motor vehicle dealership under a plan to acquire full ownership of the dealership within a reasonable period of time and under reasonable terms and conditions.

(b) [~~After receipt of the advisory board's recommendation, the~~]The executive director may, for good cause shown, extend the time limit set forth in Subsection (6)(a) for an additional period not to exceed 12 months.

(c) A franchisor who was engaged in any of the activities listed in Subsection (1)(u) in this state prior to May 1, 2000, may continue to engage in that activity, but may not expand that activity to acquire an interest in any other new motor vehicle dealerships or motor vehicle service facilities after May 1, 2000.

(d) Notwithstanding Subsection (1)(u), a franchisor may own, operate, or control a new motor vehicle dealership trading in a line-make of motor vehicle if:

(i) as to that line-make of motor vehicle, there are no more than four franchised new motor vehicle dealerships licensed and in operation within the state as of January 1, 2000;

(ii) the franchisor does not own directly or indirectly, more than a 45% interest in the dealership;

(iii) at the time the franchisor first acquires ownership or assumes operation or control of the dealership, the distance between the dealership thus owned, operated, or controlled and the nearest unaffiliated new motor vehicle dealership trading in the same line-make is not less than 150 miles;

(iv) all the franchisor's franchise agreements confer rights on the franchisee to develop and operate as many dealership facilities as the franchisee and franchisor shall agree are appropriate within a defined geographic territory or area; and

(v) as of January 1, 2000, no fewer than half of the franchisees of the line-make within the state own and operate two or more dealership facilities in the geographic area covered by the franchise agreement.

(7) Subsection (1)(ff) does not apply to recreational vehicles.

(8) Subsection (1)(ff)(ii) does not prohibit a promotional or incentive program that is functionally available to all competing franchisees of the same line-make in the state on substantially comparable terms.

(9) Subsection (1)(ff)(iii) may not be construed to:

(a) permit provision of or access to customer information that is otherwise protected from disclosure by law or by contract between a franchisor and a franchisee; or

(b) require a franchisor to disregard the preference volunteered by a potential customer in providing or directing a lead.

(10) Subsection (1)(ii) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

(11)(a) Subsection (1)(mm) does not apply to parts or accessories that the franchisee ordered and purchased outside of an automated parts ordering system required by the franchisor.

(b) In determining whether parts or accessories in a franchisee's inventory were specified and sold under an automated ordering system required by the franchisor, the parts and accessories in the franchisee's inventory are presumed to be the most recent parts and accessories that the franchisor sold to the franchisee.

(12)(a) Subsection (1)(nn) does not apply to a good faith settlement of a dispute, including a dispute relating to contract negotiations, in which the franchisee gives a waiver in exchange for fair consideration in the form of a benefit conferred on the franchisee.

(b) Subsection (12)(a) may not be construed to defeat a franchisee's claim that a waiver has been obtained in violation of Subsection (1)(nn).

(13)(a) As used in Subsection (1)(pp):

(i) "Materially alter":

(A) means to make a material architectural, structural, or aesthetic alteration; and

(B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition.

(ii) "Penalty or other detriment" does not include a payment under an agreement, incentive, or program that is offered to but declined or not accepted by a franchisee, even if a similar payment is made to another franchisee in the state that chooses to participate in the agreement, incentive, or program.

(b) Subsection (1)(pp) does not apply to:

(i) a program that provides a lump sum payment to assist a franchisee to make a facility improvement or to pay for a sign or a franchisor image element, if the payment is not dependent on the franchisee selling or purchasing a specific number of new vehicles;

(ii) a program that is in effect on May 8, 2012, with more than one franchisee in the state or to a renewal or modification of the program;

(iii) a program that provides reimbursement to a franchisee on reasonable, written terms for a substantial portion of the franchisee's cost of making a facility improvement or installing signage or a franchisor image element; or

(iv) a written agreement between a franchisor and franchisee, in effect before May 8, 2012, under which a franchisee agrees to construct a new dealer facility.

(14)(a) Subsection (1)(qq)(i) does not apply to:

(i) signage purchased by a franchisee in which the franchisor has an intellectual property right; or

(ii) a good used in a facility construction, alteration, or remodel that is:

(A) a moveable interior display that contains material subject to a franchisor's intellectual property right; or

(B) specifically eligible for reimbursement of over one-half its cost pursuant to a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms.

(b) Subsection (1)(qq)(ii) may not be construed to allow a franchisee to:

(i) impair or eliminate a franchisor's intellectual property right; or

(ii) erect or maintain a sign that does not conform to the franchisor's reasonable fabrication specifications and intellectual property usage guidelines.

(15) A franchisor may comply with Subsection (1)(rr) by notifying the franchisee that the information in a written disclosure described in Subsection (1)(rr) is available on a website or by other digital means.

Section 9. Section 13-14-202 is amended to read:

13-14-202. Sale or transfer of ownership.

(1)(a) The franchisor shall give effect to the change in a franchise agreement as a result of an event listed in Subsection (1)(b):

(i) subject to Subsection 13-14-305(2)(b); and

(ii) unless exempted under Subsection (2).

(b) The franchisor shall give effect to the change in a franchise agreement pursuant to Subsection (1)(a) for the:

(i) sale of a dealership;

(ii) contract for sale of a dealership;

(iii) transfer of ownership of a franchisee's dealership by:

(A) sale;

(B) transfer of the business; or

(C) stock transfer; or

(iv) change in the executive management of the franchisee's dealership.

(2) A franchisor is exempted from the requirements of Subsection (1) if:

(a) the transferee is denied, or would be denied, a new motor vehicle franchisee's license pursuant to Title 41, Chapter 3, Motor Vehicle Business Regulation Act; or

(b) the proposed sale or transfer of the business or change of executive management will be substantially detrimental to the distribution of franchisor's new motor vehicles or to competition in the relevant market area, provided that the franchisor has given written notice to the franchisee within 60 days following receipt by the franchisor of the following:

(i) a copy of the proposed contract of sale or transfer executed by the franchisee and the proposed transferee;

(ii) a completed copy of the franchisor's written application for approval of the change in ownership or executive management, if any, including the information customarily required by the franchisor; and

(iii)(A) a written description of the business experience of the executive management of the

transferee in the case of a proposed sale or transfer of the franchisee's business; or

(B) a written description of the business experience of the person involved in the proposed change of the franchisee's executive management in the case of a proposed change of executive management.

(3) For purposes of this section, the refusal by the franchisor to accept a proposed transferee is presumed to be unreasonable and undertaken without good cause if the proposed franchisee:

(a) is of good moral character; and

(b) otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the franchisor relating to the business experience of executive management and financial capacity to operate and maintain the dealership required by the franchisor of its franchisees.

(4)(a) If after receipt of the written notice from the franchisor described in Subsection (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of the business or change of executive management, the franchisee may file an application for a hearing before the [~~advisory board~~]executive director up to 60 days from the date of receipt of the notice.

(b) After a hearing[~~ and the executive director's receipt of the advisory board's recommendation~~], the executive director shall determine, and enter an order providing that:

(i) the proposed transferee or change in executive management:

(A) shall be approved; or

(B) may not be approved for specified reasons; or

(ii) a proposed transferee or change in executive management is approved if specific conditions are timely satisfied.

(c)(i) The franchisee shall have the burden of proof with respect to all issues raised by the franchisee's application for a hearing as provided in this section.

(ii) During the pendency of the hearing, the franchise agreement shall continue in effect in accordance with its terms.

(d) The[~~ advisory board and the~~] executive director shall expedite, upon written request, any determination sought under this section.

Section 10. Section 13-14-203 is amended to read:

13-14-203. Succession to franchise.

(1)(a) A successor, including a family member of a deceased or incapacitated franchisee, who is designated by the franchisee may succeed the franchisee in the ownership and operation of the dealership under the existing franchise agreement if:

(i) the designated successor gives the franchisor written notice of an intent to succeed to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180 days after the franchisee's death or incapacity;

(ii) the designated successor agrees to be bound by all of the terms and conditions of the franchise agreement; and

(iii) the designated successor meets the criteria generally applied by the franchisor in qualifying franchisees.

(b) A franchisor may refuse to honor the existing franchise agreement with the designated successor only for good cause.

(2) The franchisor may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored. The designated successor shall supply the personal and financial data promptly upon the request.

(3)(a) If a franchisor believes that good cause exists for refusing to honor the requested succession, the franchisor shall serve upon the designated successor notice of its refusal to approve the succession, within 60 days after the later of:

(i) receipt of the notice of the designated successor's intent to succeed the franchisee in the ownership and operation of the dealership; or

(ii) receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of the designated successor and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day the franchisor can serve notice under Subsection (3)(a).

(4) The notice of the franchisor provided in Subsection (3) shall:

(a) state the specific grounds for the refusal to approve the succession; and

(b) that discontinuance of the franchise agreement shall take effect not less than 180 days after the date the notice of refusal is served unless the proposed successor files an application for hearing under Subsection (6).

(5)(a) This section does not prevent a franchisee from designating a person as the successor by written instrument filed with the franchisor.

(b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs the succession rights to the management and operation of the dealership subject to the designated successor satisfying the franchisor's qualification requirements as described in this section.

(6)(a) If a franchisor serves a notice of refusal to a designated successor pursuant to Subsection (3), the designated successor may, within the 180-day period provided in Subsection (4), file with the [~~advisory board~~]executive director an application for a hearing and a determination by the executive director regarding whether good cause exists for the refusal.

(b) If application for a hearing is timely filed, the franchisor shall continue to honor the franchise agreement until after:

(i) the requested hearing has been concluded;

(ii) a decision is rendered by the executive director; and

(iii) the applicable appeal period has expired following a decision by the executive director.

Section 11. Section 13-14-301 is amended to read:

13-14-301. Termination or noncontinuance of franchise.

(1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to continue a franchise agreement or the rights to sell and service a line-make pursuant to a franchise agreement, whether through termination or noncontinuance of the franchise, termination or noncontinuance of a line-make, or otherwise, unless:

(a) the franchisee has received written notice from the franchisor 60 days before the effective date of termination or noncontinuance setting forth the specific grounds for termination or noncontinuance that are relied on by the franchisor as establishing good cause for the termination or noncontinuance;

(b) the franchisor has good cause for termination or noncontinuance; and

(c) the franchisor is willing and able to comply with Section 13-14-307.

(2) A franchisor may terminate a franchise, without complying with Subsection (1):

(a) if the franchisee's license as a new motor vehicle dealer is revoked under Title 41, Chapter 3, Motor Vehicle Business Regulation Act; or

(b) upon a mutual written agreement of the franchisor and franchisee.

(3)(a) At any time before the effective date of termination or noncontinuance of the franchise, the franchisee may apply to the [~~advisory board~~]executive director for a hearing on the merits, and following notice to all parties concerned, the hearing shall be promptly held as provided in Section 13-14-304.

(b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may not become effective until:

(i) final determination of the issue by the executive director; and

(ii) the applicable appeal period has lapsed.

(4) A franchisee may voluntarily terminate its franchise if the franchisee provides written notice to the franchisor at least 30 days prior to the termination.

Section 12. Section 13-14-302 is amended to read:

13-14-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1) Except as provided in Subsection [~~(6)~~](7), a franchisor shall provide the notice and documentation required under Subsection [~~(2)~~](3) if the franchisor seeks to:

(a) enter into a franchise agreement establishing a motor vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or

(b) relocate an existing motor vehicle franchisee.

(2) In determining whether a new or relocated dealership is within a relevant market area where the same line-make is represented by an existing dealership, the relevant market area is measured from the closest property boundary line of the existing dealership to the closest property boundary line of the new or relocated dealership.

(3)(a) If a franchisor seeks to take an action listed in Subsection (1), before taking the action, the franchisor shall, in writing, notify the [~~advisory board~~]executive director, the clerk of each affected municipality, and each franchisee in that line-make in the relevant market area.

(b) The notice required by Subsection (3)(a) shall:

(i) specify the intended action described under Subsection (1);

(ii) specify the good cause on which it intends to rely for the action; and

(iii) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.

(4)(a) Except as provided in Subsection (4)(c), the franchisor shall provide to the [~~advisory board~~]executive director, each affected municipality, and each franchisee in that line-make in the relevant market area the following documents relating to the notice described under Subsection (3):

(i)(A) any aggregate economic data and all existing reports, analyses, or opinions based on the aggregate economic data that were relied on by the franchisor in reaching the decision to proceed with the action described in the notice; and

(B) the aggregate economic data under Subsection (4)(a)(i)(A) includes:

(I) motor vehicle registration data;

(II) market penetration data; and

(III) demographic data;

(ii) written documentation that the franchisor has in the franchisor's possession that it intends to rely on in establishing good cause under Section 13-14-306 relating to the notice;

(iii) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will affect

the amount of business transacted by other franchisees of the same line-make in the relevant market area, as compared to business available to the franchisees; and

(iv) a statement that describes in reasonable detail how the establishment of a new franchisee or the relocation of an existing franchisee will be beneficial or injurious to the public welfare or public interest.

(b) The franchisor shall provide the documents described under Subsection (4)(a) with the notice required under Subsection (3).

(c) The franchisor is not required to disclose any documents under Subsection (4)(a) if:

(i) the documents would be privileged under the Utah Rules of Evidence;

(ii) the documents contain confidential proprietary information;

(iii) the documents are subject to federal or state privacy laws;

(iv) the documents are correspondence between the franchisor and existing franchisees in that line-make in the relevant market area; or

(v) the franchisor reasonably believes that disclosure of the documents would violate:

(A) the privacy of another franchisee; or

(B) Section 13-14-201.

(5)(a) Within 30 days of receiving notice required by Subsection (3), any franchisee that is required to receive notice under Subsection (3) may protest to the [~~advisory board~~]executive director the establishment or relocation of the dealership.

(b) No later than 10 days after the day on which a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the [~~advisory board~~]executive director has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

(6) If multiple protests are filed under Subsection (5), hearings may be consolidated to expedite the disposition of the issue.

(7) Subsections (1) through (6) do not apply to a relocation of an existing or successor dealer to a location that is:

(a) within the same county and less than two miles from the existing location of the existing or successor franchisee's dealership; or

(b) further away from a dealership of a franchisee of the same line-make.

(8) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of two miles from the dealership's existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

(b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional motor vehicle dealership; and

(c)(i) except as provided in Subsection (8)(c)(ii), the establishment of a temporary additional place of business by a recreational vehicle franchisee is considered the establishment of an additional motor vehicle dealership; and

(ii) the establishment of a temporary additional place of business by a recreational vehicle franchisee is not considered the establishment of an additional motor vehicle dealership if the recreational vehicle franchisee is participating in a trade show where three or more recreational vehicle dealers are participating.

Section 13. Section 13-14-303 is amended to read:

13-14-303. Effect of terminating a franchise.

If under Section 13-14-301 the executive director permits a franchisor to terminate or not continue a franchise and prohibits the franchisor from entering into a franchise for the sale of new motor vehicles of a line-make in a relevant market area, the franchisor may not enter into a franchise for the sale of new motor vehicles of that line-make in the specified relevant market area unless the executive director determines[~~, after a recommendation by the advisory board,~~] that there has been a change of circumstances so that the relevant market area at the time of the establishment of the new franchise agreement can reasonably be expected to support the new franchisee.

Section 14. Section 13-14-304 is amended to read:

13-14-304. Hearing regarding termination, relocation, or establishment of franchises.

(1)(a) Within 10 days after the day on which the [~~advisory board~~]executive director receives an application from a franchisee under Subsection 13-14-301(3) challenging a franchisor's right to terminate or not continue a franchise, or an application under Section 13-14-302 challenging the establishment or relocation of a franchise, the executive director shall:

(i) enter an order designating the time and place for the hearing; and

(ii) send a copy of the order by certified or registered mail, with return receipt requested, or by any form of reliable delivery through which receipt is verifiable to:

(A) the applicant;

(B) the franchisor; and

(C) if the application involves the establishment of a new franchise or the relocation of an existing dealership, each affected municipality and to each franchisee in the relevant market area engaged in the business of offering to sell or lease the same line-make.

(b) A copy of an order mailed under Subsection (1)(a) shall be addressed to the franchisee at the place where the franchisee's business is conducted.

(2) An affected municipality and any other person who can establish an interest in the application may intervene as a party to the hearing, whether or not that person receives notice.

(3) Any person, including an affected municipality, may appear and testify on the question of the public interest in the termination or noncontinuation of a franchise or in the establishment of an additional franchise.

(4)(a)(i) Any hearing ordered under Subsection (1) shall be conducted no later than 90 days after the day on which the application for hearing is filed.

(ii) A final decision on the challenge shall be made by the executive director no later than 20 days after the day on which the hearing ends.

(b) Failure to comply with the time requirements of Subsection (4)(a) is considered a determination that the franchisor acted with good cause or, in the case of a protest of a proposed establishment or relocation of a dealer, that good cause exists for permitting the proposed additional or relocated new motor vehicle dealer, unless:

(i) the delay is caused by acts of the franchisor or the additional or relocating franchisee; or

(ii) the delay is waived by the parties.

(5) The franchisor has the burden of proof to establish by a preponderance of the evidence that under the provisions of this chapter it should be granted permission to:

(a) terminate or not continue the franchise;

(b) enter into a franchise agreement establishing an additional franchise; or

(c) relocate the dealership of an existing franchisee.

(6) Any party to the hearing may appeal the executive director's final decision in accordance with Title 63G, Chapter 4, Administrative Procedures Act, including the franchisor, an existing franchisee of the same line-make whose relevant market area includes the site of the proposed dealership, or an affected municipality.

Section 15. Section 13-14-305 is amended to read:

13-14-305. Evidence to be considered in determining cause to terminate or discontinue.

(1) In determining whether a franchisor has established good cause for terminating or not continuing a franchise agreement,[~~ the advisory board and~~] the executive director shall consider:

(a) the amount of business transacted by the franchisee, as compared to business available to the franchisee;

(b) the investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise agreement;

(c) the permanency of the investment;

(d) whether it is injurious or beneficial to the public welfare or public interest for the business of the franchisee to be disrupted;

(e) whether the franchisee has adequate motor vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumer for the new motor vehicles handled by the franchisee and has been and is rendering adequate services to the public;

(f) whether the franchisee refuses to honor warranties of the franchisor under which the warranty service work is to be performed pursuant to the franchise agreement, if the franchisor reimburses the franchisee for the warranty service work;

(g) failure by the franchisee to substantially comply with those requirements of the franchise agreement that are determined by[~~ the advisory board or~~] the executive director to be:

(i) reasonable;

(ii) material; and

(iii) not in violation of this chapter;

(h) evidence of bad faith by the franchisee in complying with those terms of the franchise agreement that are determined by[~~ the advisory board or~~] the executive director to be:

(i) reasonable;

(ii) material; and

(iii) not in violation of this chapter;

(i) prior misrepresentation by the franchisee in applying for the franchise;

(j) transfer of any ownership or interest in the franchise without first obtaining approval from the franchisor or the executive director[~~ after receipt of the advisory board's recommendation~~]; and

(k) any other factor[~~ the advisory board or~~] the executive director [~~consider~~]considers relevant.

(2) Notwithstanding any franchise agreement, the following do not constitute good cause, as used in this chapter for the termination or noncontinuation of a franchise:

(a) the sole fact that the franchisor desires greater market penetration or more sales or leases of new motor vehicles;

(b) the change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership unless the franchisor proves that the change of ownership or executive management will be substantially detrimental to the distribution of the franchisor's motor vehicles; or

(c) the fact that the franchisee has justifiably refused or declined to participate in any conduct covered by Section 13-14-201.

(3) For purposes of Subsection (2), "substantially detrimental" includes the failure of any proposed transferee to meet the objective criteria applied by the franchisor in qualifying franchisees at the time of application.

Section 16. Section 13-14-306 is amended to read:

13-14-306. Evidence to be considered in determining cause to relocate or establish a new franchised dealership.

In determining whether a franchisor has established good cause for relocating an existing franchisee or establishing a new franchised dealership for the same line-make in a given relevant market area,[~~the advisory board and~~] the executive director shall consider:

(1) the amount of business transacted by other franchisees of the same line-make in that relevant market area, as compared to business available to the franchisees;

(2) the investment necessarily made and obligations incurred by other franchisees of the same line-make in that relevant market area in the performance of their part of their franchisee agreements;

(3) the permanency of the existing and proposed investment;

(4) whether it is injurious or beneficial to the public welfare or public interest for an additional franchise to be established, including:

(a) the impact on any affected municipality;

(b) population growth trends in any affected municipality;

(c) the number of dealerships in the primary market area of the new or relocated dealership compared to the number of dealerships in each primary market area adjacent to the new or relocated dealership's primary market area; and

(d) how the new or relocated dealership would impact the distance and time that an individual in the new or relocated dealership's primary market area would have to travel to access a dealership in the same line-make as the new or relocated dealership[~~.~~];

(5) whether the franchisees of the same line-make in that relevant market area are providing adequate service to consumers for the motor vehicles of the line-make, which shall include the adequacy of:

(a) the motor vehicle sale and service facilities;

(b) equipment;

(c) supply of vehicle parts; and

(d) qualified service personnel; and

(6) whether the relocation or establishment would cause any material negative economic effect on a dealer of the same line-make in the relevant market area.

Section 17. Section 13-32a-102 is amended to read:

13-32a-102. Definitions.

As used in this chapter:

(1) "Account" means the Pawnbroker, Secondhand Merchandise, and Catalytic Converter Operations Restricted Account created in Section 13-32a-113.

(2) "Antique item" means an item:

(a) that is generally older than 25 years;

(b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

(c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and

(d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) "Antique shop" means a business operating at an established location that deals primarily in the purchase, exchange, or sale of antique items.

(4) "Automated recycling kiosk" means an interactive machine that:

(a) is installed inside a commercial site used for the selling of goods and services to consumers;

(b) is monitored remotely by a live representative during the hours of operation;

(c) only engages in secondhand merchandise transactions involving wireless communication devices; and

(d) has the following technological functions:

(i) verifies the seller's identity by a live representative using the individual's identification;

(ii) generates a ticket; and

(iii) electronically transmits the secondhand merchandise transaction information to the central database.

(5) "Automated recycling kiosk operator" means a person whose sole business activity is the operation of one or more automated recycling kiosks.

[~~(6) "Board" means the Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board created by this chapter.~~]

[~~(7)~~](6) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

[~~(8)~~](7)(a) "Catalytic converter purchase" means a purchase from an individual of a used catalytic converter that is no longer affixed to a vehicle.

(b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

(i) from a business regularly engaged in automobile repair, crushing, dismantling, recycling, or salvage;

(ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) from another catalytic converter purchaser; or

(iv) that has never been affixed to a vehicle.

[~~(9)~~](8) "Catalytic converter purchaser" means a person who purchases a used catalytic converter in a catalytic converter purchase.

[~~(10)~~](9) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.

[~~(11)~~](10) "Children's product" means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

[~~(12)~~](11) "Children's product resale business" means a business operating at a commercial location and primarily selling children's products.

[~~(13)~~](12) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

(a) stamped metal, and issued by a government as monetary currency; or

(b)(i) worth more than its current value as currency; and

(ii) worth more than its metal content value.

[~~(14)~~](13) "Coin dealer" means a person whose sole business activity is the selling and purchasing of numismatic items and precious metals.

[~~(15)~~](14) "Collectible paper money" means paper currency that is no longer in circulation and is sold and purchased for the paper currency's collectible value.

[~~(16)~~](15)(a) "Commercial grade precious metals" or "precious metals" means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

(i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or

(ii) .925 fine sterling silver ingots, art bars, and medallions.

(b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

[~~(17)~~](16) "Consignment shop" means a business, operating at an established location:

(a) that deals primarily in the offering for sale property owned by a third party; and

(b) where the owner of the property only receives consideration upon the sale of the property by the business.

[~~(18)~~](17) "Division" means the Division of Consumer Protection created in Chapter 1, Department of Commerce.

[~~(19)~~](18) "Exonumia" means a privately issued token for trade that is sold and purchased for the token's collectible value.

[~~(20)~~](19) "Gift card" means a record that:

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

[~~(21)~~](20) "Identification" means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

[~~(22)~~](21) "IMEI number" means an International Mobile Equipment Identity number.

[~~(23)~~](22) "Indicia of being new" means property that:

(a) is represented by the individual pawning or selling the property as new;

(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

[~~(24)~~](23) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is located.

[~~(25)~~](24) "Numismatic item" means a coin, collectible paper money, or exonumia.

[~~(26)~~](25) "Original victim" means a victim who is not a party to the pawn or sale transaction or catalytic converter purchase and includes:

(a) an authorized representative designated in writing by the original victim; and

(b) an insurer who has indemnified the original victim for the loss of the described property.

[~~(27)~~](26) "Pawn or secondhand business" means a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

[~~(28)~~](27) "Pawn transaction" means:

(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;

(b) a loan of money on one or more deposits of personal property;

(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or

(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

[~~(29)~~](28) "Pawnbroker" means a person whose business:

(a) engages in a pawn transaction; or

(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.

[~~(30)~~](29) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

[~~(31)~~](30) "Pledgor" means an individual who conducts a pawn transaction with a pawnshop.

[~~(32)~~](31) "Property" means an article of tangible personal property, numismatic item, precious metal, gift card, transaction card, or other physical or digital card or certificate evidencing store credit, and includes a wireless communication device.

[~~(33)~~](32) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

[~~(34)~~](33) "Scrap jewelry" means an item purchased solely:

(a) for its gold, silver, or platinum content; and

(b) for the purpose of reuse of the metal content.

[~~(35)~~](34)(a) "Secondhand merchandise dealer" means a person whose business:

(i) engages in a secondhand merchandise transaction; and

(ii) does not engage in a pawn transaction.

(b) "Secondhand merchandise dealer" includes a coin dealer and an automated recycling kiosk operator.

(c) "Secondhand merchandise dealer" does not include:

(i) an antique shop when dealing in antique items;

(ii) a person who operates an auction house, flea market, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;

(iii) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," "estate sales," "storage unit sales," or "storage unit auctions";

(iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:

(A) card games;

(B) table-top games; or

(C) magic tricks;

(v) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

(vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;

(vii) a person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(viii) a person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(ix) an owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise ; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(x) an owner or operator of a business that contracts with other persons to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xi) any dealer as defined in Section 76-6-1402, that concerns scrap metal and secondary metals;

(xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale;

(xiii) the owner or operator of a children's product resale business;

(xiv) a consignment shop when dealing in consigned property; or

(xv) a catalytic converter purchaser.

[~~(36)~~](35) "Secondhand merchandise transaction" means the purchase or exchange of used or secondhand property.

[~~(37)~~](36) "Ticket" means a document upon which information is entered when a pawn transaction or secondhand merchandise transaction is made.

[~~(38)~~](37) "Transaction card" means a card, code, or other means of access to a value with the retail business issued to a person that allows the person to obtain, purchase, or receive any of the following:

(a) goods;

(b) services;

(c) money; or

(d) anything else of value.

[~~(39)~~](38) "Wireless communication device" means a cellular telephone or a portable electronic device designed to receive and transmit a text message, email, video, or voice communication.

Section 18. Section 13-35-102 is amended to read:

13-35-102. Definitions.

As used in this chapter:

[~~(1) "Advisory board" or "board" means the Utah Powersport Vehicle Franchise Advisory Board created in Section 13-35-103.~~]

[~~(2)~~](1) "Dealership" means a site or location in this state:

(a) at which a franchisee conducts the business of a new powersport vehicle dealer; and

(b) that is identified as a new powersport vehicle dealer's principal place of business for registration purposes under Section 13-35-105.

[~~(3)~~](2) "Department" means the Department of Commerce.

[~~(4)~~](3) "Executive director" means the executive director of the Department of Commerce.

[~~(5)~~](4) "Franchise" or "franchise agreement" means a written agreement, for a definite or indefinite period, in which:

(a) a person grants to another person a license to use a trade name, trademark, service mark, or related characteristic; and

(b) a community of interest exists in the marketing of new powersport vehicles, new powersport vehicle parts, and services related to the sale or lease of new powersport vehicles at wholesale or retail.

[~~(6)~~](5) "Franchisee" means a person with whom a franchisor has agreed or permitted, in writing or in practice, to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor.

[~~(7)~~](6)(a) "Franchisor" means a person who has, in writing or in practice, agreed with or permits a franchisee to purchase, sell, or offer for sale new powersport vehicles manufactured, produced, represented, or distributed by the franchisor, and includes:

(i) the manufacturer or distributor of the new powersport vehicles;

(ii) an intermediate distributor;

(iii) an agent, officer, or field or area representative of the franchisor; and

(iv) a person who is affiliated with a manufacturer or a representative or who directly or indirectly through an intermediary is controlled by, or is under common control with the manufacturer.

(b) For purposes of Subsection [~~(7)(a)(iv)~~](6)(a)(iv), a person is controlled by a manufacturer if the manufacturer has the authority directly or indirectly by law or by an agreement of the parties, to direct or influence the management and policies of the person.

[~~(8)~~](7) "Lead" means the referral by a franchisor to a franchisee of an actual or potential customer for the purchase or lease of a new powersport vehicle, or for service work related to the franchisor's vehicles.

[~~(9)~~](8) "Line-make" means the powersport vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the franchisor, or manufacturer of the powersport vehicle.

[~~(10)~~](9) "New powersport vehicle dealer" means a person who is engaged in the business of buying, selling, offering for sale, or exchanging new powersport vehicles either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise who has established a place of business for the sale, lease, trade, or display of powersport vehicles.

[~~(11)~~](10) "Notice" or "notify" includes both traditional written communications and all reliable forms of electronic communication unless expressly prohibited by statute or rule.

[~~(12)~~](11)(a) "Powersport vehicle" means:

(i) an all-terrain type I, type II, or type III vehicle "ATV" defined in Section 41-22-2;

(ii) a snowmobile as defined in Section 41-22-2;

(iii) a motorcycle as defined in Section 41-1a-102;

(iv) a personal watercraft as defined in Section 73-18-2;

(v) except as provided in Subsection [~~(12)(b)~~](11)(b), a motor-driven cycle as defined in Section 41-6a-102; or

(vi) a moped as defined in Section 41-6a-102.

(b) "Powersport vehicle" does not include:

(i) an electric assisted bicycle defined in Section 41-6a-102;

(ii) a motor assisted scooter as defined in Section 41-6a-102; or

(iii) an electric personal assistive mobility device as defined in Section 41-6a-102.

[~~(13)~~](12) "Relevant market area" means:

(a) for a powersport dealership in a county that has a population of less than 225,000:

(i) the county in which the powersport dealership exists or is to be established or relocated; and

(ii) in addition to the county described in Subsection [~~(13)(a)(i)~~](12)(a)(i), the area within a 15-mile radius from the site of the existing, new, or relocated dealership; or

(b) for a powersport dealership in a county that has a population of 225,000 or more, the area within a 10-mile radius from the site of the existing, new, or relocated dealership.

[~~(14)~~](13) "Sale, transfer, or assignment" means any disposition of a franchise or an interest in a franchise, with or without consideration, including a bequest, inheritance, gift, exchange, lease, or license.

[~~(15)~~](14) "Serve" or "served," unless expressly indicated otherwise by statute or rule, includes any reliable form of communication.

[~~(16)~~](15) "Written," "write," "in writing," or other variations of those terms shall include all reliable forms of electronic communication.

Section 19. Section 13-35-104 is amended to read:

13-35-104. Powers and duties of the executive director.

[~~(1)(a) Except as provided in Subsection 13-35-106(3), the advisory board shall make recommendations to the executive director on the administration and enforcement of this chapter, including adjudicative and rulemaking proceedings.~~]

[~~(b) The executive director shall:~~]

[~~(i) consider the advisory board's recommendations; and~~]

[~~(ii) issue any final decision by the department.~~]

[~~(2)~~](1) The executive director[~~, in consultation with the advisory board,~~] shall[~~-~~]:

(a) administer and enforce this chapter; and

(b) make rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~](2)(a) An adjudicative proceeding under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(b) In an adjudicative proceeding under this chapter, any order issued by the executive director[~~:~~]

[~~(i)~~] shall comply with Section 63G-4-208, whether the proceeding is a formal or an informal adjudicative proceeding under [~~Title 63G, Chapter 4, Administrative Procedures Act; and~~]Title 63G, Chapter 4, Administrative Procedures Act.

[~~(ii) if the order modifies or rejects a finding of fact in a recommendation from the advisory board, shall be made on the basis of information learned from the executive director's:~~]

[~~(A) personal attendance at the hearing; or~~]

[~~(B) review of the record developed at the hearing.~~]

Section 20. Section 13-35-106 is amended to read:

13-35-106. Administrative proceedings commenced by the agency.

(1) Except as provided in Subsection (3), after a hearing[~~ and after receipt of the advisory board's recommendation~~], if the executive director finds that a person has violated this chapter or any rule made under this chapter, the executive director may:

(a) issue a cease and desist order; and

(b) assess an administrative fine.

(2)(a) In determining the amount and appropriateness of an administrative fine under Subsection (1), the executive director shall consider:

(i) the gravity of the violation;

(ii) any history of previous violations; and

(iii) any attempt made by the person to retaliate against another person for seeking relief under this chapter or other federal or state law relating to the motor vehicle industry.

(b) In addition to any other action permitted under Subsection (1), the department may file an action with a court seeking to enforce the executive director's order and pursue the executive director's assessment of a fine in an amount not to exceed $5,000 for each day a person violates an order of the executive director.

(3)(a) In addition to the grounds for issuing an order on an emergency basis listed in Subsection 63G-4-502(1), the executive director may issue an order on an emergency basis if the executive director determines that irreparable damage is likely to occur if immediate action is not taken.

(b) In issuing an emergency order under Subsection (3)(a), the executive director shall comply with the requirements of Subsections 63G-4-502(2) and (3).

Section 21. Section 13-35-107 is amended to read:

13-35-107. Administrative proceedings -- Request for agency action.

(1)(a) A person may commence an adjudicative proceeding in accordance with this chapter and with Title 63G, Chapter 4, Administrative Procedures Act, to:

(i) remedy a violation of this chapter;

(ii) obtain approval of an act regulated by this chapter; or

(iii) obtain any determination that this chapter specifically authorizes that person to request.

(b) A person shall commence an adjudicative proceeding by filing a request for agency action in accordance with Section 63G-4-201.

(2) [~~After receipt of the advisory board's recommendation, the~~]The executive director shall apportion in a fair and equitable manner between the parties any costs of the adjudicative proceeding, including reasonable attorney fees.

Section 22. Section 13-35-201 is amended to read:

13-35-201. Prohibited acts by franchisors -- Disclosures.

(1) A franchisor in this state may not:

(a) except as provided in Subsection (2), require a franchisee to order or accept delivery of any new powersport vehicle, part, accessory, equipment, or other item not otherwise required by law that is not voluntarily ordered by the franchisee;

(b) require a franchisee to:

(i) participate monetarily in any advertising campaign or contest; or

(ii) purchase any promotional materials, display devices, or display decorations or materials;

(c) require a franchisee to change the capital structure of the franchisee's dealership or the means by or through which the franchisee finances the operation of the franchisee's dealership, if the dealership at all times meets reasonable capital standards determined by and applied in a nondiscriminatory manner by the franchisor;

(d) require a franchisee to refrain from participating in the management of, investment in, or acquisition of any other line of new powersport vehicles or related products, if the franchisee:

(i) maintains a reasonable line of credit for each make or line of powersport vehicles; and

(ii) complies with reasonable capital and facilities requirements of the franchisor;

(e) require a franchisee to prospectively agree to a release, assignment, novation, waiver, or estoppel that would:

(i) relieve a franchisor from any liability, including notice and hearing rights imposed on the franchisor by this chapter; or

(ii) require any controversy between the franchisee and a franchisor to be referred to a third party if the decision by the third party would be binding;

(f) require a franchisee to change the location of the principal place of business of the franchisee's dealership or make any substantial alterations to the dealership premises, if the change or alterations would be unreasonable;

(g) coerce or attempt to coerce a franchisee to join, contribute to, or affiliate with an advertising association;

(h) require, coerce, or attempt to coerce a franchisee to enter into an agreement with the franchisor or do any other act that is unfair or prejudicial to the franchisee, by threatening to cancel a franchise agreement or other contractual agreement or understanding existing between the franchisor and franchisee;

(i) adopt, change, establish, modify, or implement a plan or system for the allocation, scheduling, or delivery of new powersport vehicles, parts, or accessories to its franchisees so that the plan or system is not fair, reasonable, and equitable;

(j) increase the price of any new powersport vehicle that the franchisee has ordered from the franchisor and for which there exists at the time of the order a bona fide sale to a retail purchaser if the order was made prior to the franchisee's receipt of an official written price increase notification;

(k) fail to indemnify and hold harmless its franchisee against any judgment for damages or settlement approved in writing by the franchisor:

(i) including court costs and attorneys' fees arising out of actions, claims, or proceedings including those based on:

(A) strict liability;

(B) negligence;

(C) misrepresentation;

(D) express or implied warranty;

(E) revocation as described in Section 70A-2-608; or

(F) rejection as described in Section 70A-2-602; and

(ii) to the extent the judgment or settlement relates to alleged defective or negligent actions by the franchisor;

(l) threaten or coerce a franchisee to waive or forbear its right to protest the establishment or relocation of a same line-make franchisee in the relevant market area of the affected franchisee;

(m) fail to ship monthly to a franchisee, if ordered by the franchisee, the number of new powersport vehicles of each make, series, and model needed by the franchisee to achieve a percentage of total new

vehicle sales of each make, series, and model equitably related to the total new vehicle production or importation being achieved nationally at the time of the order by each make, series, and model covered under the franchise agreement;

(n) require or otherwise coerce a franchisee to under- utilize the franchisee's existing facilities;

(o) fail to include in any franchise agreement the following language or language to the effect that: "If any provision in this agreement contravenes the laws, rules, or regulations of any state or other jurisdiction where this agreement is to be performed, or provided for by such laws or regulations, the provision is considered to be modified to conform to such laws, rules, or regulations, and all other terms and provisions shall remain in full force.";

(p) engage in the distribution, sale, offer for sale, or lease of a new powersport vehicle to purchasers who acquire the vehicle in this state except through a franchisee with whom the franchisor has established a written franchise agreement, if the franchisor's trade name, trademark, service mark, or related characteristic is an integral element in the distribution, sale, offer for sale, or lease;

(q) except as provided in Subsection (2), authorize or permit a person to perform warranty service repairs on powersport vehicles, except warranty service repairs:

(i) by a franchisee with whom the franchisor has entered into a franchise agreement for the sale and service of the franchisor's powersport vehicles; or

(ii) on owned powersport vehicles by a person or government entity who has purchased new powersport vehicles pursuant to a franchisor's or manufacturer's fleet discount program;

(r) fail to provide a franchisee with a written franchise agreement;

(s) notwithstanding any other provisions of this chapter, unreasonably fail or refuse to offer to its same line- make franchised dealers all models manufactured for that line- make, or unreasonably require a dealer to pay any extra fee, remodel, renovate, recondition the dealer's existing facilities, or purchase unreasonable advertising displays or other materials as a prerequisite to receiving a model or series of vehicles;

(t) except as provided in Subsection (5), directly or indirectly:

(i) own an interest in a new powersport vehicle dealer or dealership;

(ii) operate or control a new powersport vehicle dealer or dealership;

(iii) act in the capacity of a new powersport vehicle dealer, as defined in Section 13- 35- 102; or

(iv) operate a powersport vehicle service facility;

(u) fail to timely pay for all reimbursements to a franchisee for incentives and other payments made by the franchisor;

(v) directly or indirectly influence or direct potential customers to franchisees in an inequitable manner, including:

(i) charging a franchisee a fee for a referral regarding a potential sale or lease of any of the franchisee's products or services in an amount exceeding the actual cost of the referral;

(ii) giving a customer referral to a franchisee on the condition that the franchisee agree to sell the vehicle at a price fixed by the franchisor; or

(iii) advising a potential customer as to the amount that the potential customer should pay for a particular product;

(w) fail to provide comparable delivery terms to each franchisee for a product of the franchisor, including the time of delivery after the placement of an order by the franchisee;

(x) if personnel training is provided by the franchisor to its franchisees, unreasonably fail to make that training available to each franchisee on proportionally equal terms;

(y) condition a franchisee's eligibility to participate in a sales incentive program on the requirement that a franchisee use the financing services of the franchisor or a subsidiary or affiliate of the franchisor for inventory financing;

(z) make available for public disclosure, except with the franchisee's permission or under subpoena or in any administrative or judicial proceeding in which the franchisee or the franchisor is a party, any confidential financial information regarding a franchisee, including:

(i) monthly financial statements provided by the franchisee;

(ii) the profitability of a franchisee; or

(iii) the status of a franchisee's inventory of products;

(aa) use any performance standard, incentive program, or similar method to measure the performance of franchisees unless the standard or program:

(i) is designed and administered in a fair, reasonable, and equitable manner;

(ii) if based upon a survey, utilizes an actuarially generally acceptable, valid sample; and

(iii) is, upon request by a franchisee, disclosed and explained in writing to the franchisee, including:

(A) how the standard or program is designed;

(B) how the standard or program will be administered; and

(C) the types of data that will be collected and used in the application of the standard or program;

(bb) other than sales to the federal government, directly or indirectly, sell, lease, offer to sell, or offer

to lease, a new powersport vehicle or any powersport vehicle owned by the franchisor, except through a franchised new powersport vehicle dealer;

(cc) compel a franchisee, through a finance subsidiary, to agree to unreasonable operating requirements, except that this Subsection (1)(cc) may not be construed to limit the right of a financing subsidiary to engage in business practices in accordance with the usage of trade in retail and wholesale powersport vehicle financing;

(dd) condition the franchisor's participation in co-op advertising for a product category on the franchisee's participation in any program related to another product category or on the franchisee's achievement of any level of sales in a product category other than that which is the subject of the co-op advertising;

(ee) discriminate against a franchisee in the state in favor of another franchisee of the same line-make in the state by:

(i) selling or offering to sell a new powersport vehicle to one franchisee at a higher actual price, including the price for vehicle transportation, than the actual price at which the same model similarly equipped is offered to or is made available by the franchisor to another franchisee in the state during a similar time period;

(ii) except as provided in Subsection (6), using a promotional program or device or an incentive, payment, or other benefit, whether paid at the time of the sale of the new powersport vehicle to the franchisee or later, that results in the sale of or offer to sell a new powersport vehicle to one franchisee in the state at a higher price, including the price for vehicle transportation, than the price at which the same model similarly equipped is offered or is made available by the franchisor to another franchisee in the state during a similar time period; or

(iii) except as provided in Subsection (7), failing to provide or direct a lead in a fair, equitable, and timely manner; or

(ff) through an affiliate, take any action that would otherwise be prohibited under this chapter.

(2) Subsection (1)(a) does not prevent the franchisor from requiring that a franchisee carry a reasonable inventory of:

(a) new powersport vehicle models offered for sale by the franchisor; and

(b) parts to service the repair of the new powersport vehicles.

(3) Subsection (1)(d) does not prevent a franchisor from:

(a) requiring that a franchisee maintain separate sales personnel or display space; or

(b) refusing to permit a combination of new powersport vehicle lines, if justified by reasonable business considerations.

(4) Upon the written request of any franchisee, a franchisor shall disclose in writing to the franchisee the basis on which new powersport vehicles, parts, and accessories are allocated, scheduled, and delivered among the franchisor's dealers of the same line-make.

(5)(a) A franchisor may engage in any of the activities listed in Subsection (1)(t), for a period not to exceed 12 months if:

(i)(A) the person from whom the franchisor acquired the interest in or control of the new powersport vehicle dealership was a franchised new powersport vehicle dealer; and

(B) the franchisor's interest in the new powersport vehicle dealership is for sale at a reasonable price and on reasonable terms and conditions; or

(ii) the franchisor is engaging in the activity listed in Subsection (1)(t) for the purpose of broadening the diversity of its dealer body and facilitating the ownership of a new powersport vehicle dealership by a person who:

(A) is part of a group that has been historically underrepresented in the franchisor's dealer body;

(B) would not otherwise be able to purchase a new powersport vehicle dealership;

(C) has made a significant investment in the new powersport vehicle dealership which is subject to loss;

(D) has an ownership interest in the new powersport vehicle dealership; and

(E) operates the new powersport vehicle dealership under a plan to acquire full ownership of the dealership within a reasonable period of time and under reasonable terms and conditions.

(b) [~~After receipt of the advisory board's recommendation, the~~]The executive director may, for good cause shown, extend the time limit set forth in Subsection (5)(a) for an additional period not to exceed 12 months.

(c) Notwithstanding Subsection (1)(t), a franchisor may own, operate, or control a new powersport vehicle dealership trading in a line-make of powersport vehicle if:

(i) as to that line-make of powersport vehicle, there are no more than four franchised new powersport vehicle dealerships licensed and in operation within the state as of January 1, 2002;

(ii) the franchisor does not own directly or indirectly, more than a 45% interest in the dealership;

(iii) at the time the franchisor first acquires ownership or assumes operation or control of the dealership, the distance between the dealership thus owned, operated, or controlled and the nearest unaffiliated new powersport vehicle dealership trading in the same line-make is not less than 150 miles;

(iv) all the franchisor's franchise agreements confer rights on the franchisee to develop and

operate as many dealership facilities as the franchisee and franchisor shall agree are appropriate within a defined geographic territory or area; and

(v) as of January 1, 2002, no fewer than half of the franchisees of the line-make within the state own and operate two or more dealership facilities in the geographic area covered by the franchise agreement.

(6) Subsection (1)(ee)(ii) does not prohibit a promotional or incentive program that is functionally available to all franchisees of the same line-make in the state on substantially comparable terms.

(7) Subsection (1)(ee)(iii) may not be construed to:

(a) permit provision of or access to customer information that is otherwise protected from disclosure by law or by contract between franchisor and a franchisee; or

(b) require a franchisor to disregard the preference of a potential customer in providing or directing a lead, provided that the franchisor does not direct the customer to such a preference.

(8) Subsection (1)(ff) does not limit the right of an affiliate to engage in business practices in accordance with the usage of trade in which the affiliate is engaged.

Section 23. Section 13-35-202 is amended to read:

13-35-202. Sale or transfer of ownership.

(1)(a) The franchisor shall give effect to the change in a franchise agreement as a result of an event listed in Subsection (1)(b):

(i) subject to Subsection 13-35-305(2)(b); and

(ii) unless exempted under Subsection (2).

(b) The franchisor shall give effect to the change in a franchise agreement pursuant to Subsection (1)(a) for the:

(i) sale of a dealership;

(ii) contract for sale of a dealership;

(iii) transfer of ownership of a franchisee's dealership by sale, transfer of the business, or by stock transfer; or

(iv) change in the executive management of the franchisee's dealership.

(2) A franchisor is exempted from the requirements of Subsection (1) if:

(a) the transferee is denied, or would be denied, a new powersport vehicle franchisee's registration pursuant to Section 13-35-105; or

(b) the proposed sale or transfer of the business or change of executive management will be substantially detrimental to the distribution of the franchisor's new powersport vehicles or to competition in the relevant market area, provided that the franchisor has given written notice to the franchisee within 60 days following receipt by the franchisor of the following:

(i) a copy of the proposed contract of sale or transfer executed by the franchisee and the proposed transferee;

(ii) a completed copy of the franchisor's written application for approval of the change in ownership or executive management, if any, including the information customarily required by the franchisor; and

(iii)(A) a written description of the business experience of the executive management of the transferee in the case of a proposed sale or transfer of the franchisee's business; or

(B) a written description of the business experience of the person involved in the proposed change of the franchisee's executive management in the case of a proposed change of executive management.

(3) For purposes of this section, the refusal by the franchisor to accept a proposed transferee is presumed to be unreasonable and undertaken without good cause if the proposed franchisee:

(a) is of good moral character; and

(b) otherwise meets the written, reasonable, and uniformly applied standards or qualifications, if any, of the franchisor relating to the business experience of executive management and financial capacity to operate and maintain the dealership required by the franchisor of its franchisees.

(4)(a) If after receipt of the written notice from the franchisor described in Subsection (1) the franchisee objects to the franchisor's refusal to accept the proposed sale or transfer of the business or change of executive management, the franchisee may file an application for a hearing before the [~~board~~]executive director up to 60 days from the date of receipt of the notice.

(b) After a hearing,[~~and the executive director's receipt of the advisory board's recommendation,~~] the executive director shall determine, and enter an order providing that:

(i) the proposed transferee or change in executive management:

(A) shall be approved; or

(B) may not be approved for specified reasons; or

(ii) a proposed transferee or change in executive management is approved if specific conditions are timely satisfied.

(c)(i) The franchisee shall have the burden of proof with respect to all issues raised by the franchisee's application for a hearing as provided in this section.

(ii) During the pendency of the hearing, the franchise agreement shall continue in effect in accordance with its terms.

(d) The[~~advisory board and the~~] executive director shall expedite, upon written request, any determination sought under this section.

Section 24. Section 13-35-203 is amended to read:

13-35-203. Succession to franchise.

(1)(a) A successor, including a family member of a deceased or incapacitated franchisee, who is designated by the franchisee may succeed the franchisee in the ownership and operation of the dealership under the existing franchise agreement if:

(i) the designated successor gives the franchisor written notice of an intent to succeed to the rights of the deceased or incapacitated franchisee in the franchise agreement within 180 days after the franchisee's death or incapacity;

(ii) the designated successor agrees to be bound by all of the terms and conditions of the franchise agreement; and

(iii) the designated successor meets the criteria generally applied by the franchisor in qualifying franchisees.

(b) A franchisor may refuse to honor the existing franchise agreement with the designated successor only for good cause.

(2)(a) The franchisor may request in writing from a designated successor the personal and financial data that is reasonably necessary to determine whether the existing franchise agreement should be honored.

(b) The designated successor shall supply the personal and financial data promptly upon the request.

(3)(a) If a franchisor believes that good cause exists for refusing to honor the requested succession, the franchisor shall serve upon the designated successor notice of its refusal to approve the succession, within 60 days after the later of:

(i) receipt of the notice of the designated successor's intent to succeed the franchisee in the ownership and operation of the dealership; or

(ii) the receipt of the requested personal and financial data.

(b) Failure to serve the notice pursuant to Subsection (3)(a) is considered approval of the designated successor and the franchise agreement is considered amended to reflect the approval of the succession the day following the last day the franchisor can serve notice under Subsection (3)(a).

(4) The notice of the franchisor provided in Subsection (3) shall state:

(a) the specific grounds for the refusal to approve the succession; and

(b) that discontinuance of the franchise agreement shall take effect not less than 180 days after the date the notice of refusal is served unless the proposed successor files an application for hearing under Subsection (6).

(5)(a) This section does not prevent a franchisee from designating a person as the successor by written instrument filed with the franchisor.

(b) If a franchisee files an instrument under Subsection (5)(a), the instrument governs the succession rights to the management and operation of the dealership subject to the designated successor satisfying the franchisor's qualification requirements as described in this section.

(6)(a) If a franchisor serves a notice of refusal to a designated successor pursuant to Subsection (3), the designated successor may, within the 180-day period provided in Subsection (4), file with the [~~advisory board~~]executive director an application for a hearing and a determination by the executive director regarding whether good cause exists for the refusal.

(b) If application for a hearing is timely filed, the franchisor shall continue to honor the franchise agreement until after:

(i) the requested hearing has been concluded;

(ii) a decision is rendered by the executive director; and

(iii) the applicable appeal period has expired following a decision by the executive director.

Section 25. Section 13-35-301 is amended to read:

13-35-301. Termination or noncontinuance of franchise.

(1) Except as provided in Subsection (2), a franchisor may not terminate or refuse to continue a franchise agreement unless:

(a) the franchisee has received written notice from the franchisor 60 days before the effective date of termination or noncontinuance setting forth the specific grounds for termination or noncontinuance that are relied on by the franchisor as establishing good cause for the termination or noncontinuance;

(b) the franchisor has good cause for termination or noncontinuance; and

(c) the franchisor is willing and able to comply with Section 13-35-105.

(2) A franchisor may terminate a franchise, without complying with Subsection (1):

(a) if for a particular line-make the franchisor or manufacturer discontinues that line-make;

(b) if the franchisee's registration as a new powersport vehicle dealer is revoked under Section 13-35-105; or

(c) upon a mutual written agreement of the franchisor and franchisee.

(3)(a) At any time before the effective date of termination or noncontinuance of the franchise, the franchisee may apply to the [~~advisory board~~]executive director for a hearing on the merits, and following notice to all parties concerned, the hearing shall be promptly held as provided in Section 13-35-304.

(b) A termination or noncontinuance subject to a hearing under Subsection (3)(a) may not become effective until:

(i) final determination of the issue by the executive director; and

(ii) the applicable appeal period has lapsed.

Section 26. Section 13-35-302 is amended to read:

13-35-302. Issuance of additional franchises -- Relocation of existing franchisees.

(1)(a) Except as provided in Subsection (2), a franchisor shall comply with Subsection (1)(b) if the franchisor seeks to:

(i) enter into a franchise establishing a powersport vehicle dealership within a relevant market area where the same line-make is represented by another franchisee; or

(ii) relocate an existing powersport vehicle dealership.

(b)(i) If a franchisor seeks to take an action listed in Subsection (1)(a), prior to taking the action, the franchisor shall in writing notify the [~~advisory board~~]executive director and each franchisee in that line-make in the relevant market area that the franchisor intends to take an action described in Subsection (1)(a).

(ii) The notice required by Subsection (1)(b)(i) shall:

(A) specify the good cause on which it intends to rely for the action; and

(B) be delivered by registered or certified mail or by any form of reliable delivery through which receipt is verifiable.

(c) Within 45 days of receiving notice required by Subsection (1)(b), any franchisee that is required to receive notice under Subsection (1)(b) may protest to the [~~advisory board~~]executive director the establishing or relocating of the dealership. When a protest is filed, the department shall inform the franchisor that:

(i) a timely protest has been filed;

(ii) a hearing is required;

(iii) the franchisor may not establish or relocate the proposed dealership until the [~~advisory board~~]executive director has held a hearing; and

(iv) the franchisor may not establish or relocate a proposed dealership if the executive director determines that there is not good cause for permitting the establishment or relocation of the dealership.

(d) If multiple protests are filed under Subsection (1)(c), hearings may be consolidated to expedite the disposition of the issue.

(2) Subsection (1) does not apply to the relocation of a franchisee's dealership:

(a) less than two miles from the existing location of the franchisee's dealership; or

(b) farther away from all powersport dealerships that are:

(i) of the same line-make as the franchisee's dealership; and

(ii) in the franchisee's existing dealership's relevant market area.

(3) For purposes of this section:

(a) relocation of an existing franchisee's dealership in excess of one mile from its existing location is considered the establishment of an additional franchise in the line-make of the relocating franchise;

(b) the reopening in a relevant market area of a dealership that has not been in operation for one year or more is considered the establishment of an additional powersport vehicle dealership; and

(c)(i) except as provided in Subsection (3)(c)(ii), the establishment of a temporary additional place of business by a powersport vehicle franchisee is considered the establishment of an additional powersport vehicle dealership; and

(ii) the establishment of a temporary additional place of business by a powersport vehicle franchisee is not considered the establishment of an additional powersport vehicle dealership if the powersport vehicle franchisee is participating in a trade show where three or more powersport vehicle dealers are participating.

Section 27. Section 13-35-303 is amended to read:

13-35-303. Effect of terminating a franchise.

If under Section 13-35-301 the executive director permits a franchisor to terminate or not continue a franchise and prohibits the franchisor from entering into a franchise for the sale of new powersport vehicles of a line-make in a relevant market area, the franchisor may not enter into a franchise for the sale of new powersport vehicles of that line-make in the specified relevant market area unless the executive director determines[~~, after a recommendation by the advisory board,~~] that there has been a change of circumstances so that the relevant market area at the time of the establishment of the new franchise agreement can reasonably be expected to support the new franchisee.

Section 28. Section 13-35-305 is amended to read:

13-35-305. Evidence to be considered in determining cause to terminate or discontinue.

(1) In determining whether a franchisor has established good cause for terminating or not continuing a franchise agreement,[~~ the advisory board and~~] the executive director shall consider:

(a) the amount of business transacted by the franchisee, as compared to business available to the franchisee;

(b) the investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise agreement;

(c) the permanency of the investment;

(d) whether it is injurious or beneficial to the public welfare or public interest for the business of the franchisee to be disrupted;

(e) whether the franchisee has adequate powersport vehicle sales and service facilities, equipment, vehicle parts, and qualified service personnel to reasonably provide for the needs of the consumer for the new powersport vehicles handled by the franchisee and has been and is rendering adequate services to the public;

(f) whether the franchisee refuses to honor warranties of the franchisor under which the warranty service work is to be performed pursuant to the franchise agreement, if the franchisor reimburses the franchisee for the warranty service work;

(g) failure by the franchisee to substantially comply with those requirements of the franchise agreement that are determined by[~~ the advisory board or~~] the executive director to be:

(i) reasonable;

(ii) material; and

(iii) not in violation of this chapter;

(h) evidence of bad faith by the franchisee in complying with those terms of the franchise agreement that are determined by[~~ the advisory board or~~] the executive director to be:

(i) reasonable;

(ii) material; and

(iii) not in violation of this chapter;

(i) prior misrepresentation by the franchisee in applying for the franchise;

(j) transfer of any ownership or interest in the franchise without first obtaining approval from the franchisor or the executive director[~~ after receipt of the advisory board's recommendation~~]; and

(k) any other factor[~~ the advisory board or~~] the executive director [~~consider~~]considers relevant.

(2) Notwithstanding any franchise agreement, the following do not constitute good cause, as used in this chapter for the termination or noncontinuation of a franchise:

(a) the sole fact that the franchisor desires:

(i) greater market penetration; or

(ii) more sales or leases of new powersport vehicles;

(b) the change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership unless the franchisor proves that the change of ownership or executive management will be substantially detrimental to the distribution of the franchisor's powersport vehicles; or

(c) the fact that the franchisee has justifiably refused or declined to participate in any conduct covered by Section 13-35-201.

(3) For purposes of Subsection (2), "substantially detrimental" includes the failure of any proposed transferee to meet the objective criteria applied by the franchisor in qualifying franchisees at the time of application.

Section 29. Section 13-35-306 is amended to read:

13-35-306. Evidence to be considered in determining cause to relocate existing franchisee or establish a new franchised dealership.

In determining whether a franchisor has established good cause for relocating an existing franchisee or establishing a new franchised dealership for the same line-make in a given relevant market area,[~~ the advisory board and~~] the executive director shall consider:

(1) the amount of business transacted by other franchisees of the same line-make in that relevant market area, as compared to business available to the franchisees;

(2) the investment necessarily made and obligations incurred by other franchisees of the same line-make in that relevant market area in the performance of their part of their franchisee agreements;

(3) the permanency of the existing and proposed investment;

(4) whether it is injurious or beneficial to the public welfare or public interest for an additional franchise to be established; and

(5) whether the franchisees of the same line-make in that relevant market area are providing adequate service to consumers for the powersport vehicles of the line-make, which shall include the adequacy of:

(a) the powersport vehicle sale and service facilities;

(b) equipment;

(c) supply of vehicle parts; and

(d) qualified service personnel.

Section 30. Section 15A-1-204 is amended to read:

15A-1-204. Adoption of State Construction Code -- Amendments by commission -- Approved codes -- Exemptions.

(1)(a) The State Construction Code is the construction codes adopted with any modifications in accordance with this section that the state and each political subdivision of the state shall follow.

(b) A person shall comply with the applicable provisions of the State Construction Code when:

(i) new construction is involved; and

(ii) the owner of an existing building, or the owner's agent, is voluntarily engaged in:

(A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation, conservation, or reconstruction of the building; or

(B) changing the character or use of the building in a manner that increases the occupancy loads, other demands, or safety risks of the building.

(c) On and after July 1, 2010, the State Construction Code is the State Construction Code in effect on July 1, 2010, until in accordance with this section:

(i) a new State Construction Code is adopted; or

(ii) one or more provisions of the State Construction Code are amended or repealed in accordance with this section.

(d) A provision of the State Construction Code may be applicable:

(i) to the entire state; or

(ii) within a county, city, or town.

(2)(a) The Legislature shall adopt a State Construction Code by enacting legislation that adopts a nationally recognized construction code with any modifications.

(b) Legislation described in Subsection (2)(a) shall state that the legislation takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (6), a State Construction Code adopted by the Legislature is the State Construction Code until, in accordance with this section, the Legislature adopts a new State Construction Code by:

(i) adopting a new State Construction Code in its entirety; or

(ii) amending or repealing one or more provisions of the State Construction Code.

(3)(a) Except as provided in Subsection (3)(b), for each update of a nationally recognized construction code, the commission shall prepare a report described in Subsection (4).

(b) For the provisions of a nationally recognized construction code that apply only to detached one- and two- family dwellings and townhouses not more than three stories above grade plane in height with separate means of egress and their accessory structures, the commission shall prepare a report described in Subsection (4) in 2022 and, thereafter, for every second update of the nationally recognized construction code.

(4)(a) In accordance with Subsection (3), on or before September 1 of the year after the year designated in the title of a nationally recognized construction code, the commission shall prepare and submit, in accordance with Section 68- 3- 14, a written report to the Business and Labor Interim Committee that:

(i) states whether the commission recommends the Legislature adopt the update with any modifications; and

(ii) describes the costs and benefits of each recommended change in the update or in any modification.

(b) After the Business and Labor Interim Committee receives the report described in Subsection (4)(a), the Business and Labor Interim Committee shall:

(i) study the recommendations; and

(ii) if the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

(5)(a)(i) The commission shall, by no later than September 1 of each year in which the commission is not required to submit a report described in Subsection (4), submit, in accordance with Section 68- 3- 14, a written report to the Business and Labor Interim Committee recommending whether the Legislature should amend or repeal one or more provisions of the State Construction Code.

(ii) As part of a recommendation described in Subsection (5)(a)(i), the commission shall describe the costs and benefits of each proposed amendment or repeal.

(b) The commission may recommend legislative action related to the State Construction Code:

(i) on the commission's own initiative;

(ii) upon the recommendation of the division; or

(iii) upon the receipt of a request by one of the following that the commission recommend legislative action related to the State Construction Code:

(A) a local regulator;

(B) a state regulator;

(C) a state agency involved with the construction and design of a building;

(D) the Construction Services Commission;

[~~(E) the Electrician Licensing Board;~~]

[~~(F)~~](E) the Electricians and Plumbers Licensing Board; or

[~~(G)~~](F) a recognized construction- related association.

(c) If the Business and Labor Interim Committee decides to recommend legislative action to the Legislature, the Business and Labor Interim Committee shall prepare legislation for consideration by the Legislature in the next general session.

(6)(a) Notwithstanding the provisions of this section, the commission may, in accordance with Title 63G, Chapter 3, Utah Administrative

Rulemaking Act, amend the State Construction Code if the commission determines that waiting for legislative action in the next general legislative session would:

(i) cause an imminent peril to the public health, safety, or welfare; or

(ii) place a person in violation of federal or other state law.

(b) If the commission amends the State Construction Code in accordance with this Subsection (6), the commission shall file with the division:

(i) the text of the amendment to the State Construction Code; and

(ii) an analysis that includes the specific reasons and justifications for the commission's findings.

(c) If the State Construction Code is amended under this Subsection (6), the division shall:

(i) publish the amendment to the State Construction Code in accordance with Section 15A-1-205; and

(ii) prepare and submit, in accordance with Section 68-3-14, a written notice to the Business and Labor Interim Committee containing the amendment to the State Construction Code, including a copy of the commission's analysis described in Subsection (6)(b)(ii).

(d) If not formally adopted by the Legislature at the next annual general session, an amendment to the State Construction Code under this Subsection (6) is repealed on the July 1 immediately following the next annual general session that follows the adoption of the amendment.

(7)(a) The division, in consultation with the commission, may approve, without adopting, one or more approved codes, including a specific edition of a construction code, for use by a compliance agency.

(b) If the code adopted by a compliance agency is an approved code described in Subsection (7)(a), the compliance agency may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building;

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(8) Except as provided in Subsections (6), (7), (9), and (10), or as expressly provided in state law, a state executive branch entity or political subdivision of the state may not, after December 1, 2016, adopt or enforce a rule, ordinance, or requirement that applies to a subject specifically addressed by, and that is more restrictive than, the State Construction Code.

(9) A state executive branch entity or political subdivision of the state may:

(a) enforce a federal law or regulation;

(b) adopt or enforce a rule, ordinance, or requirement if the rule, ordinance, or requirement applies only to a facility or construction owned or used by a state entity or a political subdivision of the state; or

(c) enforce a rule, ordinance, or requirement:

(i) that the state executive branch entity or political subdivision adopted or made effective before July 1, 2015; and

(ii) for which the state executive branch entity or political subdivision can demonstrate, with substantial evidence, that the rule, ordinance, or requirement is necessary to protect an individual from a condition likely to cause imminent injury or death.

(10) The Department of Health and Human Services or the Department of Environmental Quality may enforce a rule or requirement adopted before January 1, 2015.

(11)(a) Except as provided in Subsection (11)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, or a structure that is no more than 1,500 square feet and used solely for the type of sales described in Subsection 59-12-104(20), is exempt from the requirements of the State Construction Code.

(b)(i) Unless exempted by a provision other than Subsection (11)(a), a plumbing, electrical, and mechanical permit may be required when that work is included in a structure described in Subsection (11)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, a structure described in Subsection (11)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) within the boundaries of a city or town, and less than five contiguous acres; or

(B) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions, and less than two contiguous acres.

(12)(a) A remote yurt is exempt from the State Construction Code including the permit requirements of the State Construction Code.

(b) Notwithstanding Subsection (12)(a), a county may by ordinance require remote yurts to comply with the State Construction Code, if the ordinance requires the remote yurts to comply with all of the following:

(i) the State Construction Code;

(ii) notwithstanding Section 15A-5-104, the State Fire Code; and

(iii) notwithstanding Section 19-5-125, Title 19, Chapter 5, Water Quality Act, rules made under that chapter, and local health department's jurisdiction over onsite wastewater disposal.

Section 31. Section 15A-1-206 is amended to read:

15A-1-206. Code amendment process.

(1) The division, in consultation with the commission, shall establish by rule the procedure under which a request that the commission recommend legislative action is to be:

(a) filed with the division;

(b) reviewed by the commission; and

(c) addressed by the commission in the commission's report to the Business and Labor Interim Committee required by Section 15A-1-204.

(2) The division shall accept a request that the commission recommend legislative action in accordance with Section 15A-1-204 from:

(a) a local regulator;

(b) a state regulator;

(c) a state agency involved with the construction and design of a building;

(d) the Construction Services Commission;

[~~(e) the Electrician Licensing Board;~~]

[~~(f)~~](e) the Electricians and Plumbers Licensing Board; or

[~~(g)~~](f) a recognized construction-related association.

(3)(a) If one or more requests are received in accordance with this section, the division shall hold at least one public hearing before the commission concerning the requests.

(b) The commission shall conduct a public hearing under this Subsection (3) in accordance with the rules of the commission, which may provide for coordinating the public hearing with a meeting of the commission.

(c) After a public hearing described in this Subsection (3), the commission shall prepare a written report of its recommendations made on the basis of the public hearing. The commission shall include the information in the written report prepared under this Subsection (3)(c) in the commission's report to the Business and Labor Interim Committee under Section 15A-1-204.

(4) In making rules required by this chapter, the division shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 32. Section 26B-1-239 is amended to read:

26B-1-239. Systematic medical evidence review of hormonal transgender treatments.

(1) As used in this section, "hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(2) The department, in consultation with the Division of Professional Licensing created in Section 58-1-103, the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201,[~~the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,~~] the University of Utah, and a non-profit hospital system with multiple hospitals in Utah and experience in specialty pediatric care, shall conduct a systematic medical evidence review regarding the provision of hormonal transgender treatments to minors.

(3) The purpose of the systematic medical evidence review is to provide the Legislature with recommendations to consider when deciding whether to lift the moratorium described in Section 58-1-603.1.

(4) The systematic medical evidence review shall:

(a) analyze hormonal transgender treatments that are prescribed to a minor with gender dysphoria, including:

(i) analyzing any effects and side effects of the treatment; and

(ii) whether each treatment has been approved by the federal Food and Drug Administration to treat gender dysphoria;

(b) review the scientific literature regarding hormonal transgender treatments in minors, including short-term and long-term impacts, literature from other countries, and rates of desistence and time to desistence where applicable;

(c) review the quality of evidence cited in any scientific literature including to analyze and report on the quality of the data based on techniques such as peer review, selection bias, self-selection bias, randomization, sample size, and other applicable best research practices;

(d) include high quality clinical research assessing the short-term and long-term benefits and harms of hormonal transgender treatments prescribed to minors with gender dysphoria and the short-term and long-term benefits and harms of interrupting the natural puberty and development processes of the child;

(e) specify the conditions under which the department recommends that a treatment not be permitted;

(f) recommend what information a minor and the minor's parent should understand before consenting to a hormonal transgender treatment;

(g) recommend the best practices a health care provider should follow to provide the information described in Subsection (4)(f);

(h) describe the assumptions and value determinations used to reach a recommendation; and

(i) include any other information the department, in consultation with the entities described in Subsection (2), determines would assist the Legislature in enacting legislation related to the provision of hormonal transgender treatment to minors.

(5) Upon the completion of the systematic medical evidence review, the department shall provide the systematic medical evidence review to the Health and Human Services Interim Committee.

Section 33. Section 26B-1-421 is amended to read:

26B-1-421. Compassionate Use Board.

(1) The definitions in Section 26B-4-201 apply to this section.

(2)(a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) who are board certified by the American Board of Medical Specialties or an American Osteopathic Association Specialty Certifying Board in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, family medicine, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (2)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(3)(a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (3)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(d) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26B-4-213(2)(a), a minor described in Subsection 26B-4-213(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) when a qualified medical provider recommends that an individual described in Subsection 26B-4-213(2)(a)(i)(B) or a minor described in Subsection 26B-4-213(2)(c) be allowed to use a medical cannabis device or medical cannabis product to vaporize a medical cannabis treatment, review and approve or deny the use of the medical cannabis device or medical cannabis product;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7)(a)(i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b)(i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to :

(a) the Cannabis Research Review Board; and

(b) the advisory board.

Section 34. Section 26B-3-303 is amended to read:

26B-3-303. DUR Board -- Responsibilities.

The board shall:

(1) develop rules necessary to carry out its responsibilities as defined in this part;

(2) oversee the implementation of a Medicaid retrospective and prospective DUR program in accordance with this part, including responsibility for approving provisions of contractual agreements between the Medicaid program and any other entity that will process and review Medicaid drug claims and profiles for the DUR program in accordance with this part;

(3) develop and apply predetermined criteria and standards to be used in retrospective and prospective DUR, ensuring that the criteria and standards are based on the compendia, and that they are developed with professional input, in a consensus fashion, with provisions for timely revision and assessment as necessary. The DUR standards developed by the board shall reflect the local practices of physicians in order to monitor:

(a) therapeutic appropriateness;

(b) overutilization or underutilization;

(c) therapeutic duplication;

(d) drug-disease contraindications;

(e) drug-drug interactions;

(f) incorrect drug dosage or duration of drug treatment; and

(g) clinical abuse and misuse;

(4) develop, select, apply, and assess interventions and remedial strategies for physicians, pharmacists, and recipients that are educational and not punitive in nature, in order to improve the quality of care;

(5) disseminate information to physicians and pharmacists to ensure that they are aware of the board's duties and powers;

(6) provide written, oral, or electronic reminders of patient-specific or drug-specific information, designed to ensure recipient, physician, and pharmacist confidentiality, and suggest changes in prescribing or dispensing practices designed to improve the quality of care;

(7) utilize face-to-face discussions between experts in drug therapy and the prescriber or pharmacist who has been targeted for educational intervention;

(8) conduct intensified reviews or monitoring of selected prescribers or pharmacists;

(9) create an educational program using data provided through DUR to provide active and ongoing educational outreach programs to improve prescribing and dispensing practices, either directly or by contract with other governmental or private entities;

(10) provide a timely evaluation of intervention to determine if those interventions have improved the quality of care;

(11) publish the annual Drug Utilization Review report required under 42 C.F.R. Sec. 712;

(12) develop a working agreement with related boards or agencies, including the State Board of Pharmacy, [~~Physicians~~']Medical Licensing Board, and SURS staff within the division, in order to clarify areas of responsibility for each, where those areas may overlap;

(13) establish a grievance process for physicians and pharmacists under this part, in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(14) publish and disseminate educational information to physicians and pharmacists concerning the board and the DUR program, including information regarding:

(a) identification and reduction of the frequency of patterns of fraud, abuse, gross overuse, inappropriate, or medically unnecessary care among physicians, pharmacists, and recipients;

(b) potential or actual severe or adverse reactions to drugs;

(c) therapeutic appropriateness;

(d) overutilization or underutilization;

(e) appropriate use of generics;

(f) therapeutic duplication;

(g) drug-disease contraindications;

(h) drug-drug interactions;

(i) incorrect drug dosage and duration of drug treatment;

(j) drug allergy interactions; and

(k) clinical abuse and misuse;

(15) develop and publish, with the input of the State Board of Pharmacy, guidelines and standards to be used by pharmacists in counseling Medicaid recipients in accordance with this part. The guidelines shall ensure that the recipient may refuse counseling and that the refusal is to be documented by the pharmacist. Items to be discussed as part of that counseling include:

(a) the name and description of the medication;

(b) administration, form, and duration of therapy;

(c) special directions and precautions for use;

(d) common severe side effects or interactions, and therapeutic interactions, and how to avoid those occurrences;

(e) techniques for self-monitoring drug therapy;

(f) proper storage;

(g) prescription refill information; and

(h) action to be taken in the event of a missed dose; and

(16) establish procedures in cooperation with the State Board of Pharmacy for pharmacists to record information to be collected under this part. The recorded information shall include:

(a) the name, address, age, and gender of the recipient;

(b) individual history of the recipient where significant, including disease state, known allergies and drug reactions, and a comprehensive list of medications and relevant devices;

(c) the pharmacist's comments on the individual's drug therapy;

(d) name of prescriber; and

(e) name of drug, dose, duration of therapy, and directions for use.

Section 35. Section 26B-4-219 is amended to read:

26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

(1)(a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2)(a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider,

register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider as a pharmacy medical provider.

(3)(a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy; or

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the [~~Physicians~~]Medical Licensing Board[~~; and~~].

[~~(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.~~]

(c) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this part;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4)(a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5)(a) Except as provided in Subsection (5)(b), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and Section 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6)(a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section 36. Section 26B-4-506 is amended to read:

26B-4-506. Guidelines for dispensing a self-administered hormonal contraceptive.

(1) A pharmacist or pharmacist intern who dispenses a self-administered hormonal contraceptive under Section 26B-4-504:

(a) shall obtain a completed self-screening risk assessment questionnaire, that has been approved by the division in collaboration with the Board of Pharmacy and the [~~Physicians~~]Medical Licensing Board, from the patient before dispensing the self-administered hormonal contraceptive;

(b) if the results of the evaluation in Subsection (1)(a) indicate that it is unsafe to dispense a self-administered hormonal contraceptive to a patient:

(i) may not dispense a self-administered hormonal contraceptive to the patient; and

(ii) shall refer the patient to a primary care or women's health care practitioner;

(c) may not continue to dispense a self-administered hormonal contraceptive to a patient for more than 24 months after the date of the initial prescription without evidence that the patient has consulted with a primary care or women's health care practitioner during the preceding 24 months; and

(d) shall provide the patient with:

(i) written information regarding:

(A) the importance of seeing the patient's primary care practitioner or women's health care practitioner to obtain recommended tests and screening; and

(B) the effectiveness and availability of long-acting reversible contraceptives as an alternative to self-administered hormonal contraceptives; and

(ii) a copy of the record of the encounter with the patient that includes:

(A) the patient's completed self-assessment tool; and

(B) a description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(2) If a pharmacist dispenses a self-administered hormonal contraceptive to a patient, the pharmacist shall, at a minimum, provide patient counseling to the patient regarding:

(a) the appropriate administration and storage of the self-administered hormonal contraceptive;

(b) potential side effects and risks of the self-administered hormonal contraceptive;

(c) the need for backup contraception;

(d) when to seek emergency medical attention; and

(e) the risk of contracting a sexually transmitted infection or disease, and ways to reduce the risk of contraction.

(3) The division, in collaboration with the Board of Pharmacy and the [~~Physicians~~]Medical Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the self-screening risk assessment questionnaire described in Subsection (1)(a).

Section 37. Section 26B-4-513 is amended to read:

26B-4-513. Coprescription guidelines.

(1) As used in this section:

(a) "Controlled substance prescriber" means the same as that term is defined in Section 58-37-6.5.

(b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

(2) The department shall, in consultation with the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201,[~~ the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,~~] and the Division of Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

Section 38. Section 34-20-2 is amended to read:

34-20-2. Definitions.

As used in this chapter:

(1) "Affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce within the state.

(2) "Commerce" means trade, traffic, commerce, transportation, or communication within the state.

(3) "Election" means a proceeding in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives or for any other purpose specified in this chapter and includes elections conducted by the board or by any tribunal having competent jurisdiction or whose jurisdiction was accepted by the parties.

(4)(a) "Employee" includes any employee unless this chapter explicitly states otherwise, and

includes an individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment.

(b) "Employee" does not include an individual employed as an agricultural laborer, or in the domestic service of a family or person at his home, or an individual employed by his parent or spouse.

(5) "Employer" includes a person acting in the interest of an employer, directly or indirectly, but does not include:

(a) the United States;

(b) a state or political subdivision of a state;

(c) a person subject to the federal Railway Labor Act;

(d) a labor organization, other than when acting as an employer;

(e) a corporation or association operating a hospital if no part of the net earnings inures to the benefit of any private shareholder or individual; or

(f) anyone acting in the capacity of officer or agent of a labor organization.

(6) "Federal executive agency" means an executive agency, as defined in 5 U.S.C. Sec.105, of the federal government.

(7) "Franchise" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(8) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(9) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.

(10) "Labor dispute" means any controversy between an employer and the majority of the employer's employees in a collective bargaining unit concerning the right or process or details of collective bargaining or the designation of representatives.

(11) "Labor organization" means an organization of any kind or any agency or employee representation committee or plan in which employees participate that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

[~~(12) "Labor relations board" or "board" means the board created in Section 34-20-3.~~]

[~~(13)~~](12) "Person" includes an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver.

[~~(14)~~](13) "Representative" includes an individual or labor organization.

[~~(15)~~](14) "Secondary boycott" includes combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by:

(a) withholding patronage, labor, or other beneficial business intercourse;

(b) picketing;

(c) refusing to handle, install, use, or work on particular materials, equipment, or supplies; or

(d) by any other unlawful means, in order to bring him against his will into a concerted plan to coerce or inflict damage upon another.

[~~(16)~~](15) "Unfair labor practice" means any unfair labor practice listed in Section 34-20-8.

Section 39. Section 34-20-8 is amended to read:

34-20-8. Unfair labor practices.

(1) It shall be an unfair labor practice for an employer, individually or in concert with others:

(a) To interfere with, restrain or coerce employees in the exercise of the rights guaranteed in Section 34-20-7.

(b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it[~~, provided, that subject to rules and regulations made and published by the board pursuant to Section 34-20-6~~], provided that an employer is not prohibited from permitting employees to confer with the employer during working hours without loss of time or pay.

(c) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided, that nothing in this act shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this act as an unfair labor practice) to require as a condition of employment, membership therein, if such labor organization is the representative of the employees as provided in Subsection 34-20-9(1) in the appropriate collective bargaining unit covered by such agreement when made.

(d) To refuse to bargain collectively with the representative of a majority of the employer's employees in any collective bargaining unit[~~, provided, that, when two or more labor organizations claim to represent a majority of the employees in the bargaining unit, the employer shall be free to file with the board a petition for investigation of certification of representatives and during the pendency of the proceedings the employer may not be considered to have refused to bargain~~].

(e) To bargain collectively with the representatives of less than a majority of the employer's employees in a collective bargaining unit.

(f) To discharge or otherwise discriminate against an employee because the employee has filed charges or given testimony under this chapter.

(2) It shall be an unfair labor practice for an employee individually or in concert with others:

(a) To coerce or intimidate an employee in the enjoyment of the employee's legal rights, including those guaranteed in Section 34-20-7, or to intimidate the employee's family, picket the employee's domicile, or injure the person or property of the employee or the employee's family.

(b) To coerce, intimidate or induce an employer to interfere with any of the employer's employees in the enjoyment of their legal rights, including those guaranteed in Section 34-20-7, or to engage in any practice with regard to the employer's employees which would constitute an unfair labor practice if undertaken by the employer on the employer's own initiative.

(c) To co-operate in engaging in, promoting, or inducing picketing (not constituting an exercise of constitutionally guaranteed free speech), boycotting or any other overt concomitant of a strike unless a majority in a collective bargaining unit of the employees of an employer against whom such acts are primarily directed have voted by secret ballot to call a strike.

(d) To hinder or prevent, by mass picketing, threats, intimidation, force, or coercion of any kind the pursuit of any lawful work or employment, or to obstruct or interfere with entrance to or egress from any place of employment, or to obstruct or interfere with free and uninterrupted use of public roads, streets, highways, railways, airports, or other ways of travel or conveyance.

(e) To engage in a secondary boycott; or to hinder or prevent, by threats, intimidation, force, coercion, or sabotage, the obtaining, use or disposition of materials, equipment, or services; or to combine or conspire to hinder or prevent the obtaining, use or disposition of materials, equipment or services, provided, however, that nothing herein shall prevent sympathetic strikes in support of those in similar occupations working for other employers in the same craft.

(f) To take unauthorized possession of property of the employer.

(3) It shall be an unfair labor practice for any person to do or cause to be done on behalf of or in the interest of employers or employees, or in connection with or to influence the outcome of any controversy as to employment relations, any act prohibited by Subsections (1) and (2) of this section.

Section 40. Section 34-20-9 is amended to read:

34-20-9. Collective bargaining -- Representatives .

(1)[~~(a)~~] Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for those purposes shall be the exclusive representatives of all the employees in that unit for the purposes of collective bargaining in respect to rate of pay, wages, hours of employment, and of other conditions of employment.

[~~(b)~~](2) Any individual employee or group of employees may present grievances to their employer at any time.

[~~(2) The board shall decide in each case whether, in order to ensure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision of same.~~]

[~~(3) Whenever a question affecting intrastate commerce or the orderly operation of industry arises concerning the representation of employees, the board may investigate such controversy and certify to the parties in writing, the name or names of the representatives that have been designated or selected. In any such investigation, the board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under Section 34-20-10, or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain such representatives.~~]

[~~(4)(a) Whenever an order of the board made according to Section 34-20-10 is based in whole or in part upon facts certified following an investigation under Subsection (3), and there is a petition for the enforcement or review of such order, the certification and the record of the investigation shall be included in the transcript of the entire record required to be filed under Section 34-20-10.~~]

[~~(b) The decree of the court enforcing, modifying, or setting aside in whole or in part the order of the board shall be made and entered upon the pleadings, testimony, and proceedings set forth in the transcript.~~]

Section 41. Section 34A-1-202 is amended to read:

34A-1-202. Divisions and office -- Creation -- Duties -- Appeals Board, councils, and panel.

(1) There is created within the commission the following divisions and office:

(a) the Division of Industrial Accidents that shall administer the regulatory requirements of this title concerning industrial accidents and occupational disease;

(b) the Division of Occupational Safety and Health that shall administer the regulatory requirements of Chapter 6, Utah Occupational Safety and Health Act;

(c) the Division of Boiler and Elevator Safety that shall administer the regulatory requirements of Chapter 7, Safety;

(d) the Division of Antidiscrimination and Labor that shall administer the regulatory requirements of:

(i) Title 34, Labor in General, when specified by statute;

(ii) Chapter 5, Utah Antidiscrimination Act;

(iii) this title, when specified by statute; and

(iv) Title 57, Chapter 21, Utah Fair Housing Act;

(e) the Division of Adjudication that shall adjudicate claims or actions brought under this title; and

(f) the Utah Office of Coal Mine Safety created in Section 40-2-201.

(2) In addition to the divisions created under this section, within the commission are the following:

[~~(a) the Labor Relations Board created in Section 34-20-3;~~]

[~~(b)~~](a) the Appeals Board created in Section 34A-1-205; and

[~~(c)~~](b) the following program advisory councils:

(i) the workers' compensation advisory council created in Section 34A-2-107;

(ii) the Mine Safety Technical Advisory Council created in Section 40-2-203; and

(iii) the Coal Miner Certification Panel created in Section 40-2-204.

(3) In addition to the responsibilities described in this section, the commissioner may assign to a division a responsibility granted to the commission by law.

Section 42. Section 35A-13-602 is amended to read:

35A-13-602. Definitions.

As used in this part:

[~~(1) "Advisory board" or "board" means the Interpreter Certification Board created in Section 35A-13-603.~~]

[~~(2)~~](1) "Assistant director" means the assistant director who administers the program called the Division of Services for the Deaf and Hard of Hearing created in Section 35A-13-502.

[~~(3)~~](2) "Certified interpreter" means an individual who is certified as meeting the certification requirements of this part.

[~~(4)~~](3) "Interpreter services" means services that facilitate effective communication between a hearing individual and an individual who is deaf or hard of hearing through American Sign Language or a language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

Section 43. Section 35A-13-604 is amended to read:

35A-13-604. Powers and duties of the director.

[~~(1) The board shall function as an advisory board to the director and under the director's direction shall perform the following duties concerning the certification of interpreters:~~]

[~~(a) make recommendations to the director regarding:~~]

[~~(i) appropriate rules;~~]

[~~(ii) policy and budgetary matters;~~]

[~~(iii) the appropriate passing score for applicant examinations; and~~]

[~~(iv) standards of supervision for individuals in training to become certified interpreters;~~]

[~~(b) screen applicants for certification and make written recommendations to the director regarding certification, renewal, reinstatement, and recertification actions; and~~]

[~~(c) act as the presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders as designated by the director. (2)~~] The director[~~, with the collaboration and assistance of the advisory board,~~] shall:

[~~(a)~~](1) prescribe certification qualifications;

[~~(b)~~](2) prescribe rules governing applications for certification;

[~~(c)~~](3) provide for a fair and impartial method for the examination of applicants;

[~~(d)~~](4) define unprofessional conduct, by rule, to supplement the definition under this part; and

[~~(e)~~](5) establish conditions for reinstatement and renewal of certification.

[~~(3)(a) The advisory board shall designate one of its members on a permanent or rotating basis to:~~]

[~~(i) assist the director in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and~~]

[~~(ii) advise the director when investigating complaints.~~]

[~~(b) An advisory board member who has, under Subsection (3)(a), reviewed or investigated a complaint is disqualified from participating with the advisory board if the board serves as a presiding officer of an administrative proceeding concerning the complaint.~~]

Section 44. Section 35A-13-605 is amended to read:

35A-13-605. Certification required -- Classes of certification.

(1) Except as specifically provided in Section 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

(2) The director shall issue a certification to an individual who qualifies under this chapter in classifications determined by the director[~~ based upon recommendations from the advisory board~~].

Section 45. Section 35A-13-606 is amended to read:

35A-13-606. Qualifications for certification.

Each applicant for certification under this part shall:

(1) submit an application in a form prescribed by the director;

(2) pay a fee determined by the director under Section 63J-1-504 to help offset the costs of implementing this part for the administration of examinations for certification and for the issuance of certificates;

(3) be of good moral character; and

(4) comply with any other qualifications for certification established by the director in accordance with [~~Subsection 35A-13-604(2)~~] Section 35A-13-604.

Section 46. Section 35A-13-608 is amended to read:

35A-13-608. Continuing education.

(1)[~~(a)~~] As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education, as determined by the director, in accordance with standards defined by rule.

[~~(b) The director shall determine the number of hours based upon recommendations from the advisory board.~~]

(2) If the renewal cycle is extended or shortened under Section 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

Section 47. Section 35A-13-609 is amended to read:

35A-13-609. Exemptions from certification -- Temporary or restricted certification.

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal agency and who is engaged in activities regulated under this part as a part of the individual's service or employment with that federal agency, if the individual holds a valid certificate or license to provide interpreter services issued by another state or jurisdiction recognized by the director;

(b) a student engaged in providing interpreter services while in training in a recognized school approved by the director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the director while under the supervision of a qualified individual;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body approved by the director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or regularly engage in the practice of providing interpreter services in this state;

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group and individuals who travel with the team or group, not including spectators; or

(g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

(2)(a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to provide interpreter services.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3)(a) Upon the declaration of a national, state, or local emergency, the director[~~, in collaboration with the advisory board,~~] may suspend the requirements for permanent or temporary certification of individuals who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The director[~~, after consulting with the advisory board,~~] may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before [~~a decision is made by the board~~]the director makes a decision either to grant or deny the applicant a regular certification.

Section 48. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

[~~(5) "Board" means the advisory board created in Section 41-3-106.~~]

[~~(6)~~](5) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

[~~(7)~~](6) "Commission" means the State Tax Commission.

[~~(8)~~](7) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

[~~(9)~~](8)(a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

[~~(10)~~](9) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

[~~(11)~~](10) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

[~~(12)~~](11)(a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

[~~(13)~~](12) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

[~~(14)~~](13) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

[~~(15)~~](14) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

[~~(16)~~](15) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

[~~(17)~~](16) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(b)(i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(c) manufactured by the person.

[~~(18)~~](17) "Factory branch" means a branch office maintained by a person who manufactures or

assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

[~~(19)~~](18) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

[~~(20)~~](19) "Fleet transaction" means a licensee's sale of one or more motor vehicles to a manufacturer-approved current fleet customer under the manufacturer's fleet program.

[~~(21)~~](20)(a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection [~~(21)(a)~~](20)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

[~~(22)~~](21)(a) "Franchise holder" means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) "Franchise holder" does not include a manufacturer described in Subsection [~~(22)(a)~~](21)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

[~~(23)~~](22) "Low-volume manufacturer" means a manufacturer who:

(a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:

(i)(A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(ii) manufactured by the person; and

(b) constructs no more than 325 new motor vehicles in any 12-month period.

[~~(24)~~](23) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

[~~(25)~~](24) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

[~~(26)~~](25) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections [~~(26)(a)~~](25)(a) and (b).

[~~(27)~~](26)(a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer;

(iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

[~~(28)~~](27) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

[~~(29)~~](28) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

[~~(30)~~](29) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

[~~(31)~~](30) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.

[~~(32)~~](31)(a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection [~~(32)(a)~~](31)(a).

[~~(33)~~](32) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

[~~(34)~~](33) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

[~~(35)~~](34) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

[~~(36)~~](35) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

[~~(37)~~](36) "Small trailer" means a trailer that has an unladen weight of:

(a) more than 750 pounds; and

(b) less than 2,000 pounds.

[~~(38)~~](37) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

[~~(39)~~](38) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

[~~(40)~~](39) "Trailer" means the same as that term is defined in Section 41-1a-102.

[~~(41)~~](40) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

[~~(42)~~](41) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

[~~(43)~~](42) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[~~(44)~~](43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 49. Section 41-3-105 is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2)(a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3)(a) The administrator may investigate any suspected or alleged violation of:

(i) this chapter;

(ii) [~~Title 41, Chapter 1a, Motor Vehicle Act~~]Chapter 1a, Motor Vehicle Act;

(iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4)(a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6)(a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

[~~(7)(a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.~~]

[~~(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.~~]

[~~(8)~~](7) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or [~~Title 41, Chapter 1a, Motor Vehicle Act~~]Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of [~~Title 41, Chapter 1a, Motor Vehicle Act~~]Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

[~~(9)~~](8) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

[~~(10)~~](9) The Office of the Attorney General shall provide prosecution of this chapter.

Section 50. Section 41-3-107 is amended to read:

41-3-107. Attorney general -- Duty to render opinions and to represent or appear for administrator .

The attorney general shall:

(1) represent the administrator[~~, the division, and the board~~] and the division;

(2) give opinions on all questions of law relating to the interpretation of this chapter or arising out of the administration of this chapter; and

(3) appear on behalf of the administrator[~~, the division, or the board~~] or the division in all actions brought by or against the administrator[~~, the division, or board~~] or the division, whether under the provisions of this chapter or otherwise.

Section 51. Section 41-3-109 is amended to read:

41-3-109. Adjudicative proceedings -- Hearings.

[~~(1)~~] The commission, the division,[~~ the board,~~] and the administrator shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted under the authority of this chapter and Sections 41-1a-1001 through 41-1a-1008.

[~~(2) The administrator may request the attendance of the board at any hearing, or the administrator may direct that any hearing be held before the board.~~]

Section 52. Section 41-22-12 is amended to read:

41-22-12. Restrictions on use of public lands.

(1) Except as provided in [~~Sections~~]Section 79-4-203 and[~~ 79-4-304~~], federal agencies are encouraged and agencies of the state and its subdivisions shall pursue opportunities to open public land to responsible off-highway vehicle use and cross-country motor vehicle travel.

(2) A person may not tear down, mutilate, deface, or destroy:

(a) a sign, signboard, or other notice that prohibits or regulates the use of an off-highway vehicle on public land; or

(b) a fence or other enclosure or a gate or bars belonging to the fence or other enclosure.

(3) A violation of Subsection (2) is an infraction.

Section 53. Section 53B-6-105.7 is amended to read:

53B-6-105.7. Initiative student scholarship program.

(1) Notwithstanding the provisions of this section, beginning on July 1, 2019, the board may not accept new applications for a scholarship described in this section.

(2)(a) There is established an engineering, computer science, and related technology scholarship program as a component of the initiative created in Section 53B-6-105.

(b) The program is established to recruit, retain, and train engineering, computer science, and related technology students to assist in providing for and advancing the intellectual and economic welfare of the state.

(3)(a) The board:

(i) may make rules for the overall administration of the scholarship program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall administer the program[~~ in consultation with the Technology Initiative Advisory Board created in Section 53B-6-105.5~~].

(b) The board shall also use the following policies and procedures in administering the student scholarship program:

(i) students may use scholarship money at any institution within the state system of higher education that offers an engineering, computer science, or related technology degree;

(ii) scholarships shall be given to students who declare an intent to complete a prescribed course of instruction in one of the areas referred to in Subsection (3)(b)(i) and to work in the state after graduation in one of those areas; and

(iii) a scholarship may be cancelled at any time by the institution of attendance, if the student fails to make reasonable progress towards obtaining the degree or there appears to be a reasonable certainty that the student does not intend to work in the state upon graduation.

(4) The Legislature shall make an annual appropriation to the board to fund the student scholarship program created in this section.

Section 54. Section 53B-6-105.9 is amended to read:

53B-6-105.9. Incentive program for engineering, computer science, and related technology faculty.

(1) The Legislature shall provide an annual appropriation to help fund the faculty incentive component of the Engineering and Computer Science Initiative established under Section 53B-6-105.

(2) The appropriation shall be used to hire, recruit, and retain outstanding faculty in engineering, computer science, and related

technology fields under guidelines established by the board.

(3)(a) State institutions of higher education shall match the appropriation on a one-to-one basis in order to qualify for state money appropriated under Subsection (1).

(b)(i) Qualifying institutions shall annually report their matching dollars to the board.

(ii) The board shall make a summary report of the institutional matches.

[~~(iii) The annual report of the Technology Initiative Advisory Board required by Section 53B-6-105.5 shall include the summary report of the institutional matches.~~]

(4) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing policies and procedures to apply for and distribute the state appropriation to qualifying institutions.

Section 55. Section 53B-26-301 is amended to read:

53B-26-301. Definitions.

As used in this part:

[~~(1) "Advisory council" means the Deep Technology Talent Advisory Council created in Section 53B-26-303.~~]

[~~(2)~~](1)(a) "Deep technology" means technology that leads to new products and innovations based on scientific discovery or meaningful engineering innovation.

(b) "Deep technology" may include technology that leads to new products and innovations related to one or more of the following:

(i) advanced materials;

(ii) artificial intelligence;

(iii) augmented and virtual reality;

(iv) biotechnology;

(v) photonics;

(vi) quantum computing;

(vii) robotics;

(viii) secure computing; and

(ix) other emerging technologies as determined by the [~~advisory council~~]board.

[~~(3)~~](2) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Utah Tech University, Utah Valley University, or Salt Lake Community College.

Section 56. Section 53B-26-302 is amended to read:

53B-26-302. Deep technology initiative.

(1) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the board shall develop and oversee a deep technology talent initiative that includes providing funding for expanded programs in deep technology.

(2) The board shall facilitate collaborations that create expanded, multidisciplinary programs or stackable credential programs in both undergraduate and graduate studies that prepare students to be workforce participants in jobs requiring deep technology skills.

(3) An institution of higher education seeking to partner with one or more participating employers shall submit a proposal to the board, in a form approved by the board and in accordance with deadlines determined by the board, which contains the following elements:

(a) a description of the proposed program in deep technology that demonstrates the program will:

(i) be responsive to the deep technology talent needs of the state through industry involvement in the project's design;

(ii) be a partnership that includes at least one participating employer and at least one institution of higher education; and

(iii) address a previously unmet state need related to deep technology;

(b) an estimate of:

(i) student enrollment in the program;

(ii) what academic credit or credentials will be provided by the program; and

(iii) occupations for which graduates will be qualified;

(c) evidence that each participating employer is committed to participating and contributing to the program by providing any combination of instruction, extensive workplace experience, or mentoring;

(d) a description of any resources that will be provided by each participating employer in the program; and

(e) the amount of funding requested for the program, including justification for the funding.

(4) The board shall[~~ provide all proposals to the advisory council and the advisory council shall~~] review and prioritize each proposal received and [~~recommend to the board~~]determine whether the proposal should be funded, including the recommended amount of funding, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3);

(b) to what extent the proposed program:

(i) would expand the capacity to meet state or regional workforce needs related to deep technology;

(ii) would integrate deep technology competency with disciplinary expertise;

(iii) identifies a faculty member or other individual who has expertise and a demonstrated willingness to lead the proposed program;

(iv) would incorporate internships or significant project experiences, including team-based experiences;

(v) identifies how industry professionals would participate in curriculum development and teaching;

(vi) would create partnerships with other higher education institutions and industry; and

(vii) would be cost effective; and

(c) other relevant criteria as determined by[~~ the advisory council and~~] the board.

(5) Subject to Subsection (6) and the other provisions of this section, on or before September 1 of each fiscal year, the board[~~ shall review the recommendations of the advisory council and~~] may provide funding for deep technology programs using the criteria described in Subsection (4).

(6) Before the board may provide funding for one or more deep technology programs for fiscal year 2021, on or before October 1, 2020, the board shall provide written information regarding the proposed funding to, and shall consider the recommendations of, the Higher Education Appropriations Subcommittee.

(7)(a) Each institution of higher education that receives funding under this section shall, in a form approved by the board, annually provide written information to the board regarding the activities, successes, and challenges related to administering the deep technology program, including:

(i) specific entities that received funding under this section;

(ii) the amount of funding provided to each entity;

(iii) the number of participating students in each program;

(iv) the number of graduates of the program; and

(v) the number of graduates of the program employed in jobs requiring deep technology skills.

(b) On or before November 1 of each year, the board shall provide a written report containing the information described in this Subsection (7) to the:

(i) Education Interim Committee; and

(ii) Higher Education Appropriations Subcommittee.

Section 57. Section 53E-4-403 is amended to read:

53E-4-403. Evaluation of instructional materials -- Recommendation by the state board.

Part 4[~~01~~]. State Instructional Materials

(1) Semi-annually[~~ after reviewing the evaluations of the commission~~], the state board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in Sections 53G-10-103 and 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:

(a) instructional materials recommended by the state board as provided in this section; or

(b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

Section 58. Section 53E-4-405 is amended to read:

53E-4-405. Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.

(1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

(2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the [~~commission~~]state board.

(3) Each proposal must:

(a) be accompanied by sample copies of the instructional materials to be reviewed; and

(b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

Section 59. Section 53E-4-407 is amended to read:

53E-4-407. Illegal acts -- Misdemeanor.

It is a class B misdemeanor for a member of[~~ the commission or~~] the state board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Section 60. Section 53E-4-408 is amended to read:

53E-4-408. Instructional materials alignment with core standards for Utah public schools.

(1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:

(a) contracts with an independent party to evaluate and map the alignment of the primary

instructional materials with the core standards for Utah public schools adopted under Section 53E-3-501;

(b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and

(c) pays the costs related to the requirements of this Subsection (1).

(2) The requirements under Subsection (1) may not be performed by:

(a) the state board;

(b) the state superintendent or employees of the state board;

[~~(c) the State Instructional Materials Commission appointed pursuant to Section 53E-4-402;~~]

[~~(d)~~](c) a local school board or a school district; or

[~~(e)~~](d) the instructional materials creator or publisher.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and

(b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Section 61. Section 53F-2-403 is amended to read:

53F-2-403. Eligibility for state-supported transportation -- Approved bus routes.

(1) A student eligible for state-supported transportation means:

(a) a student enrolled in kindergarten through grade 6 who lives at least 1-1/2 miles from school;

(b) a student enrolled in grades 7 through 12 who lives at least two miles from school; and

(c) a student enrolled in a special program offered by a school district and approved by the state board for trainable, motor, multiple-disability, or other students with severe disabilities who are incapable of walking to school or where it is unsafe for students to walk because of their disabling condition, without reference to distance from school.

(2) If a school district implements double sessions as an alternative to new building construction, with the approval of the state board, those affected elementary school students residing less than 1-1/2 miles from school may be transported one way to or from school because of safety factors relating to darkness or other hazardous conditions as determined by the local school board.

(3)(a) The state board shall distribute transportation money to school districts based on:

(i) an allowance per mile for approved bus routes;

(ii) an allowance per hour for approved bus routes; and

(iii) a minimum allocation for each school district eligible for transportation funding.

(b)(i) Except as provided in Subsection (3)(b)(ii), the state board shall distribute appropriated transportation funds based on the prior year's eligible transportation costs as legally reported under Subsection 53F-2-402(3).

(ii) The state board shall distribute state appropriations for transportation for fiscal years 2021 and 2022 using fiscal year 2019 eligible transportation costs described in Subsection 53F-2-402(3).

(c) The state board shall annually review the allowance per mile and the allowance per hour and adjust the allowances to reflect current economic conditions.

(4)(a) Approved bus routes for funding purposes shall be determined on fall data collected by October 1.

(b) Approved route funding shall be determined on the basis of the most efficient and economic routes.

[~~(5) A Transportation Advisory Committee with representation from school district superintendents, business officials, school district transportation supervisors, and state board employees shall serve as a review committee for addressing school transportation needs, including recommended approved bus routes.~~]

[~~(6)~~](5) A local school board may provide for the transportation of students regardless of the distance from school, from general funds of the school district.

Section 62. Section 53F-9-203 is amended to read:

53F-9-203. Charter School Revolving Account.

(1)(a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Revolving Account.

(2)(a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:

(i) meet school building construction and renovation needs; and

(ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.

(b) The state board, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the state board.

(3) The Charter School Revolving Account shall consist of:

(a) money appropriated to the account by the Legislature;

(b) money received from the repayment of loans made from the account; and

(c) interest earned on money in the account.

(4) The state superintendent shall make loans to charter schools from the account to pay for the costs of:

(a) planning expenses;

(b) constructing or renovating charter school buildings;

(c) equipment and supplies; or

(d) other start-up or expansion expenses.

(5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.

(6) The state board shall:

(a) [~~except as provided in Subsection (7)(a),~~]review requests by charter schools for loans under this section; and

(b) in consultation with the State Charter School Board, approve or reject each request.

[~~(7)(a) The state board may establish a committee to:~~]

[~~(i) review requests under Subsection (6)(a); and~~]

[~~(ii) make recommendations to the state board and the State Charter School Board regarding the approval or rejection of a request.~~]

[~~(b)(i) A committee established under Subsection (7)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.~~]

[~~(ii) Of the members appointed to a committee established under Subsection (7)(a):~~]

[~~(A) one member shall be nominated by the governor; and~~]

[~~(B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.~~]

[~~(c) If the committee recommends approval of a loan application under Subsection (7)(a)(ii), the committee's recommendation shall include:~~]

[~~(i) the recommended amount of the loan;~~]

[~~(ii) the payback schedule; and~~]

[~~(iii) the interest rate to be charged.~~]

[~~(d) A committee member may not:~~]

[~~(i) be a relative, as defined in Section 53G-5-409, of a loan applicant; or~~]

[~~(ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.~~]

[~~(8)~~](7) A loan under this section may not be made unless the state board, in consultation with the State Charter School Board, approves the loan.

[~~(9)~~](8) The term of a loan to a charter school under this section may not exceed five years.

[~~(10)~~](9) The state board may not approve loans to charter schools under this section that exceed a total of $2,000,000 in any fiscal year.

[~~(11)~~](10)(a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the state board shall be deposited into the Charter School Revolving Account.

(b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Section 63. Section 53G-10-206 is amended to read:

53G-10-206. Educational freedom.

(1) As used in this section:

(a)(i) "Administrative personnel" means any LEA or state board staff personnel who have system-wide, LEA-wide, or school-wide functions and who perform management activities, including:

(A) developing broad policies for LEA or state-level boards; and

(B) executing developed policies through the direction of personnel at any level within the state or LEA.

(ii) "Administrative personnel" includes state, LEA, or school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, directors, executive directors, network directors, cabinet members, subject area directors, grant coordinators, specialty directors, career center directors, educational specialists, technology personnel, technology administrators, and others who perform management activities.

(b)(i) "Instructional personnel" means an individual whose function includes the provision of:

(A) direct or indirect instructional services to students;

(B) direct or indirect support in the learning process of students; or

(C) direct or indirect delivery of instruction, training, coaching, evaluation, or professional development to instructional or administrative personnel.

(ii) "Instructional personnel" includes:

(A) the state board, LEAs, schools, superintendents, boards, administrators, administrative staff, teachers, classroom teachers, facilitators, coaches, proctors, therapists, counselors, student personnel services, librarians,

media specialists, associations, affiliations, committees, contractors, vendors, consultants, advisors, outside entities, community volunteers, para-professionals, public-private partners, trainers, mentors, specialists, and staff; or

(B) any other employees, officials, government agencies, educational entities, persons, or groups for whom access to students is facilitated through, or not feasible without, the public education system.

(2)(a) Each LEA shall provide an annual assurance to the state board that the LEA's professional learning, administrative functions, displays, and instructional and curricular materials, are consistent with the following principles of individual freedom:

(i) the principle that all individuals are equal before the law and have unalienable rights; and

(ii) the following principles of individual freedom:

(A) that no individual is inherently racist, sexist, or oppressive, whether consciously or unconsciously, solely by virtue of the individual's race, sex, or sexual orientation;

(B) that no race is inherently superior or inferior to another race;

(C) that no person should be subject to discrimination or adverse treatment solely or partly on the basis of the individual's race, color, national origin, religion, disability, sex, or sexual orientation;

(D) that meritocracy or character traits, including hard work ethic, are not racist nor associated with or inconsistent with any racial or ethnic group; and

(E) that an individual, by virtue of the individual's race or sex, does not bear responsibility for actions that other members of the same race or sex committed in the past or present.

(b) Nothing in this section prohibits instruction regarding race, color, national origin, religion, disability, or sex in a manner that is consistent with the principles described in Subsection (2)(a).

(3) The state board or an LEA may not:

(a) attempt to persuade a student or instructional or administrative personnel to a point of view that is inconsistent with the principles described in Subsection (2)(a); or

(b) implement policies or programs, or allow instructional personnel or administrative personnel to implement policies or programs, with content that is inconsistent with the principles described in Subsection (2)(a).

[~~(4) The State Instructional Materials Commission may not recommend to the state board instructional materials under Section 53E-4-403 that violate this section or are inconsistent with the principles described in Subsection (2)(a).~~]

[~~(5)~~](4) The state board and state superintendent may not develop or continue to use core standards under Section 53E-3-301 or professional learning that are inconsistent with the principles described in Subsection (2)(a).

Section 64. Section 53G-10-402 is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "LEA governing board" means a local school board or charter school governing board.

(b) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or another.

(2)(a) The state board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene;

(iv) prevention of communicable disease;

(v) refusal skills; and

(vi) the harmful effects of pornography.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that, and instruction shall:

(i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases;

(ii) stress personal skills that encourage individual choice of abstinence and fidelity;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) except as provided in Subsection (2)(d), allow instruction to include information about

contraceptive methods or devices that stresses effectiveness, limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) that:

(i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(h); and

(ii) provide for an appeal and review process of the LEA governing board's adoption of instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials that include information on contraceptive methods or devices.

(e)(i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(ii) Subsection (2)(e)(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(f) The state board shall recommend instructional materials for use in the curricula required under Subsection (2)(a)[~~ after considering evaluations of instructional materials by the State Instructional Materials Commission~~].

(g) An LEA governing board may choose to adopt:

(i) the instructional materials recommended under Subsection (2)(f); or

(ii) other instructional materials in accordance with Subsection (2)(h).

(h) An LEA governing board that adopts instructional materials under Subsection (2)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and

(iii) adopt the instructional materials in an open and regular meeting of the LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to express their views and opinions on the materials at the meeting.

(3)(a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the state board, the Department of Health and Human Services shall cooperate with the state board in developing programs to provide instruction in those areas.

(4)(a) The state board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The state board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5)(a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

(c) The state board or an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The state board shall adopt, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules implementing this section.

(e) Nothing in this section limits the ability or authority of the state board or an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7)(a) An LEA governing board and an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) An LEA governing board shall provide appropriate professional development for the LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this

section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist an LEA governing board in providing the professional development required under Subsection (7)(b), the state board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection [~~(7)~~](7)(b).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

(8) An LEA governing board shall review every two years:

(a) LEA governing board policies on instruction described in this section;

(b) for a local school board, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.

Section 65. Section 58-3a-102 is amended to read:

58-3a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Architect" means a person licensed under this chapter as an architect.

(2) "Board" means the Architects and Landscape Architects Licensing Board created in Section 58-3a-201.

(3) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical, and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(4) "Complete construction plans" means a final set of plans and specifications for a building that normally includes:

(a) floor plans;

(b) elevations;

(c) site plans;

(d) foundation, structural, and framing detail;

(e) electrical, mechanical, and plumbing design;

(f) information required by the energy code;

(g) specifications and related calculations as appropriate; and

(h) all other documents required to obtain a building permit.

(5) "Fund" means the Architects Education and Enforcement Fund created in Section 58-3a-103.

(6)(a) "Practice of architecture" means rendering or offering to render the following services in connection with the design, construction, enlargement, or alteration of a building or group of buildings, and the space within and surrounding such buildings:

(i) planning;

(ii) facility programming;

(iii) preliminary studies;

(iv) preparation of designs, drawings, and specifications;

(v) preparation of technical submissions and coordination of any element of technical submissions prepared by others including, as appropriate and without limitation, professional engineers, and landscape architects; and

(vi) administration of construction contracts.

(b) "Practice of architecture" does not include the practice of professional engineering as defined in Section 58-22-102, but a licensed architect may perform such professional engineering work as is incidental to the practice of architecture.

(7) "Principal" means a licensed architect having responsible charge of an organization's architectural practice.

(8) "Supervision of an employee, subordinate, associate, or drafter of an architect" means that a licensed architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee, subordinate, associate, or drafter under the direction of the architect, and may be further defined by rule by the division in collaboration with the board.

(9) "Unlawful conduct" as defined in Section 58-1-501 is further defined in Section 58-3a-501.

(10) "Unprofessional conduct" as defined in Section 58-1-501 may be further defined by rule by the division in collaboration with the board.

Section 66. Section 58-3a-201 is amended to read:

58-3a-201. Board.

(1) There is created the Architects and Landscape Architects Licensing Board consisting of:

(a) four architects[~~and~~];

(b) two landscape architects; and

(c) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 53, Landscape Architects Licensing Act. [~~In addition, the~~]

(4) The board shall designate one of its members on a permanent or rotating basis to:

(a) assist the division in reviewing complaints concerning the[~~unlawful or unprofessional~~] conduct of [~~a licensee~~]an individual licensed under this chapter or Chapter 53, Landscape Architects Licensing Act; and

(b) advise the division in its investigation of these complaints.

[~~(4)~~](5) A board member who has, under Subsection [~~(3)~~](4), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 67. Section 58-17b-102 is amended to read:

58-17b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administering" means:

(a) the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person; or

(b) the placement by a veterinarian with the owner or caretaker of an animal or group of animals of a prescription drug for the purpose of injection, inhalation, ingestion, or any other means directed to the body of the animal by the owner or caretaker in accordance with written or verbal directions of the veterinarian.

(2) "Adulterated drug or device" means a drug or device considered adulterated under 21 U.S.C. Sec. 351 (2003).

(3)(a) "Analytical laboratory" means a facility in possession of prescription drugs for the purpose of analysis.

(b) "Analytical laboratory" does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are prediluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in vitro diagnostic use.

(4) "Animal euthanasia agency" means an agency performing euthanasia on animals by the use of prescription drugs.

(5) "Automated pharmacy systems" includes mechanical systems which perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of medications, and which collect, control, and maintain all transaction information.

(6) "Beyond use date" means the date determined by a pharmacist and placed on a prescription label at the time of dispensing that indicates to the patient or caregiver a time beyond which the contents of the prescription are not recommended to be used.

(7) "Board of pharmacy" or "board" means the Utah State Board of Pharmacy created in Section 58-17b-201.

(8) "Branch pharmacy" means a pharmacy or other facility in a rural or medically underserved area, used for the storage and dispensing of prescription drugs, which is dependent upon, stocked by, and supervised by a pharmacist in another licensed pharmacy designated and approved by the division as the parent pharmacy.

(9) "Centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, drug utilization review, claims adjudication, refill authorizations, and therapeutic interventions.

(10) "Class A pharmacy" means a pharmacy located in Utah that is authorized as a retail pharmacy to compound or dispense a drug or dispense a device to the public under a prescription order.

(11) "Class B pharmacy":

(a) means a pharmacy located in Utah:

(i) that is authorized to provide pharmaceutical care for patients in an institutional setting; and

(ii) whose primary purpose is to provide a physical environment for patients to obtain health care services; and

(b)(i) includes closed-door, hospital, clinic, nuclear, and branch pharmacies; and

(ii) pharmaceutical administration and sterile product preparation facilities.

(12) "Class C pharmacy" means a pharmacy that engages in the manufacture, production, wholesale, or distribution of drugs or devices in Utah.

(13) "Class D pharmacy" means a nonresident pharmacy.

(14) "Class E pharmacy" means all other pharmacies.

(15)(a) "Closed-door pharmacy" means a pharmacy that:

(i) provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a specific entity, including a health maintenance organization or an infusion company; or

(ii) engages exclusively in the practice of telepharmacy and does not serve walk-in retail customers.

(b) "Closed-door pharmacy" does not include a hospital pharmacy, a retailer of goods to the general public, or the office of a practitioner.

(16) "Collaborative pharmacy practice" means a practice of pharmacy whereby one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more practitioners under protocol whereby the pharmacist may perform certain pharmaceutical care functions authorized by the practitioner or practitioners under certain specified conditions or limitations.

(17) "Collaborative pharmacy practice agreement" means a written and signed agreement between one or more pharmacists and one or more practitioners that provides for collaborative pharmacy practice for the purpose of drug therapy management of patients and prevention of disease of human subjects.

(18)(a) "Compounding" means the preparation, mixing, assembling, packaging, or labeling of a limited quantity drug, sterile product, or device:

(i) as the result of a practitioner's prescription order or initiative based on the practitioner, patient, or pharmacist relationship in the course of professional practice;

(ii) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(iii) in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns.

(b) "Compounding" does not include:

(i) the preparation of prescription drugs by a pharmacist or pharmacy intern for sale to another pharmacist or pharmaceutical facility;

(ii) the preparation by a pharmacist or pharmacy intern of any prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner; or

(iii) the preparation of a prescription drug, sterile product, or device which has been withdrawn from the market for safety reasons.

(19) "Confidential information" has the same meaning as "protected health information" under the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

(20) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(21) "Dietary supplement" has the same meaning as Public Law Title 103, Chapter 417, Sec. 3a(ff) which is incorporated by reference.

(22) "Dispense" means the interpretation, evaluation, and implementation of a prescription drug order or device or nonprescription drug or device under a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient, research subject, or an animal.

(23) "Dispensing medical practitioner" means an individual who is:

(a) currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(iv) a nurse practitioner under Chapter 31b, Nurse Practice Act; or

(v) an optometrist under Chapter 16a, Utah Optometry Practice Act, if the optometrist is acting within the scope of practice for an optometrist; and

(b) licensed by the division under the Pharmacy Practice Act to engage in the practice of a dispensing medical practitioner.

(24) "Dispensing medical practitioner clinic pharmacy" means a closed-door pharmacy located within a licensed dispensing medical practitioner's place of practice.

(25) "Distribute" means to deliver a drug or device other than by administering or dispensing.

(26)(a) "Drug" means:

(i) a substance recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(ii) a substance that is required by any applicable federal or state law or rule to be dispensed by

prescription only or is restricted to administration by practitioners only;

(iii) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(iv) substances intended for use as a component of any substance specified in Subsections (26)(a)(i), (ii), (iii), and (iv).

(b) "Drug" does not include dietary supplements.

(27) "Drug regimen review" includes the following activities:

(a) evaluation of the prescription drug order and patient record for:

(i) known allergies;

(ii) rational therapy- contraindications;

(iii) reasonable dose and route of administration; and

(iv) reasonable directions for use;

(b) evaluation of the prescription drug order and patient record for duplication of therapy;

(c) evaluation of the prescription drug order and patient record for the following interactions:

(i) drug- drug;

(ii) drug- food;

(iii) drug- disease; and

(iv) adverse drug reactions; and

(d) evaluation of the prescription drug order and patient record for proper utilization, including over- or under- utilization, and optimum therapeutic outcomes.

(28) "Drug sample" means a prescription drug packaged in small quantities consistent with limited dosage therapy of the particular drug, which is marked "sample", is not intended to be sold, and is intended to be provided to practitioners for the immediate needs of patients for trial purposes or to provide the drug to the patient until a prescription can be filled by the patient.

(29) "Electronic signature" means a trusted, verifiable, and secure electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(30) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(31) "Hospital pharmacy" means a pharmacy providing pharmaceutical care to inpatients of a general acute hospital or specialty hospital licensed by the Department of Health and Human Services under Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(32) "Legend drug" has the same meaning as prescription drug.

(33) "Licensed pharmacy technician" means an individual licensed with the division, that may, under the supervision of a pharmacist, perform the activities involved in the technician practice of pharmacy.

(34) "Manufacturer" means a person or business physically located in Utah licensed to be engaged in the manufacturing of drugs or devices.

(35)(a) "Manufacturing" means:

(i) the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container; and

(ii) the promotion and marketing of such drugs or devices.

(b) "Manufacturing" includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(c) "Manufacturing" does not include the preparation or compounding of a drug by a pharmacist, pharmacy intern, or practitioner for that individual's own use or the preparation, compounding, packaging, labeling of a drug, or incident to research, teaching, or chemical analysis.

(36) "Medical order" means a lawful order of a practitioner which may include a prescription drug order.

(37) "Medication profile" or "profile" means a record system maintained as to drugs or devices prescribed for a pharmacy patient to enable a pharmacist or pharmacy intern to analyze the profile to provide pharmaceutical care.

(38) "Misbranded drug or device" means a drug or device considered misbranded under 21 U.S.C. Sec. 352 (2003).

(39)(a) "Nonprescription drug" means a drug which:

(i) may be sold without a prescription; and

(ii) is labeled for use by the consumer in accordance with federal law.

(b) "Nonprescription drug" includes homeopathic remedies.

(40) "Nonresident pharmacy" means a pharmacy located outside of Utah that sells to a person in Utah.

(41) "Nuclear pharmacy" means a pharmacy providing radio- pharmaceutical service.

(42) "Out- of- state mail service pharmacy" means a pharmaceutical facility located outside the state that is licensed and in good standing in another state, that:

(a) ships, mails, or delivers by any lawful means a dispensed legend drug to a patient in this state pursuant to a lawfully issued prescription;

(b) provides information to a patient in this state on drugs or devices which may include, but is not limited to, advice relating to therapeutic values, potential hazards, and uses; or

(c) counsels pharmacy patients residing in this state concerning adverse and therapeutic effects of drugs.

(43) "Patient counseling" means the written and oral communication by the pharmacist or pharmacy intern of information, to the patient or caregiver, in order to ensure proper use of drugs, devices, and dietary supplements.

(44) "Pharmaceutical administration facility" means a facility, agency, or institution in which:

(a) prescription drugs or devices are held, stored, or are otherwise under the control of the facility or agency for administration to patients of that facility or agency;

(b) prescription drugs are dispensed to the facility or agency by a licensed pharmacist or pharmacy intern with whom the facility has established a prescription drug supervising relationship under which the pharmacist or pharmacy intern provides counseling to the facility or agency staff as required, and oversees drug control, accounting, and destruction; and

(c) prescription drugs are professionally administered in accordance with the order of a practitioner by an employee or agent of the facility or agency.

(45)(a) "Pharmaceutical care" means carrying out the following in collaboration with a prescribing practitioner, and in accordance with division rule:

(i) designing, implementing, and monitoring a therapeutic drug plan intended to achieve favorable outcomes related to a specific patient for the purpose of curing or preventing the patient's disease;

(ii) eliminating or reducing a patient's symptoms; or

(iii) arresting or slowing a disease process.

(b) "Pharmaceutical care" does not include prescribing of drugs without consent of a prescribing practitioner.

(46) "Pharmaceutical facility" means a business engaged in the dispensing, delivering, distributing, manufacturing, or wholesaling of prescription drugs or devices within or into this state.

(47)(a) "Pharmaceutical wholesaler or distributor" means a pharmaceutical facility engaged in the business of wholesale vending or selling of a prescription drug or device to other than a consumer or user of the prescription drug or device that the pharmaceutical facility has not produced, manufactured, compounded, or dispensed.

(b) "Pharmaceutical wholesaler or distributor" does not include a pharmaceutical facility carrying out the following business activities:

(i) intracompany sales;

(ii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, if the activity is carried out between one or more of the following entities under common ownership or common administrative control, as defined by division rule:

(A) hospitals;

(B) pharmacies;

(C) chain pharmacy warehouses, as defined by division rule; or

(D) other health care entities, as defined by division rule;

(iii) the sale, purchase, or trade of a prescription drug or device, or an offer to sell, purchase, or trade a prescription drug or device, for emergency medical reasons, including supplying another pharmaceutical facility with a limited quantity of a drug, if:

(A) the facility is unable to obtain the drug through a normal distribution channel in sufficient time to eliminate the risk of harm to a patient that would result from a delay in obtaining the drug; and

(B) the quantity of the drug does not exceed an amount reasonably required for immediate dispensing to eliminate the risk of harm;

(iv) the distribution of a prescription drug or device as a sample by representatives of a manufacturer; and

(v) the distribution of prescription drugs, if:

(A) the facility's total distribution-related sales of prescription drugs does not exceed 5% of the facility's total prescription drug sales; and

(B) the distribution otherwise complies with 21 C.F.R. Sec. 1307.11.

(48) "Pharmacist" means an individual licensed by this state to engage in the practice of pharmacy.

(49) "Pharmacist-in-charge" means a pharmacist currently licensed in good standing who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of the pharmacy and all personnel.

(50) "Pharmacist preceptor" means a licensed pharmacist in good standing with one or more years of licensed experience. The preceptor serves as a teacher, example of professional conduct, and supervisor of interns in the professional practice of pharmacy.

(51) "Pharmacy" means any place where:

(a) drugs are dispensed;

(b) pharmaceutical care is provided;

(c) drugs are processed or handled for eventual use by a patient; or

(d) drugs are used for the purpose of analysis or research.

(52) "Pharmacy benefits manager or coordinator" means a person or entity that provides a pharmacy benefits management service as defined in Section 31A-46-102 on behalf of a self-insured employer, insurance company, health maintenance organization, or other plan sponsor, as defined by rule.

(53) "Pharmacy intern" means an individual licensed by this state to engage in practice as a pharmacy intern.

(54) "Pharmacy manager" means:

(a) a pharmacist-in-charge;

(b) a licensed pharmacist designated by a licensed pharmacy to consult on the pharmacy's administration;

(c) an individual who manages the facility in which a licensed pharmacy is located;

(d) an individual who oversees the operations of a licensed pharmacy;

(e) an immediate supervisor of an individual described in Subsections (54)(a) through (d); or

(f) another operations or site manager of a licensed pharmacy.

(55) "Pharmacy technician training program" means an approved technician training program providing education for pharmacy technicians.

(56)(a) "Practice as a dispensing medical practitioner" means the practice of pharmacy, specifically relating to the dispensing of a prescription drug in accordance with Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, and division rule adopted after consultation with the Board of pharmacy and the governing boards of the practitioners described in Subsection (23)(a).

(b) "Practice as a dispensing medical practitioner" does not include:

(i) using a vending type of dispenser as defined by the division by administrative rule; or

(ii) except as permitted by Section 58-17b-805, dispensing of a controlled substance as defined in Section 58-37-2.

(57) "Practice as a licensed pharmacy technician" means engaging in practice as a pharmacy technician under the general supervision of a licensed pharmacist and in accordance with a scope of practice defined by division rule made in collaboration with the board.

(58) "Practice of pharmacy" includes the following:

(a) providing pharmaceutical care;

(b) collaborative pharmacy practice in accordance with a collaborative pharmacy practice agreement;

(c) compounding, packaging, labeling, dispensing, administering, and the coincident distribution of prescription drugs or devices, provided that the administration of a prescription drug or device is:

(i) pursuant to a lawful order of a practitioner when one is required by law; and

(ii) in accordance with written guidelines or protocols:

(A) established by the licensed facility in which the prescription drug or device is to be administered on an inpatient basis; or

(B) approved by the division, in collaboration with the board and, when appropriate, the [~~Physicians~~]Medical Licensing Board, created in Section 58-67-201, if the prescription drug or device is to be administered on an outpatient basis solely by a licensed pharmacist;

(d) participating in drug utilization review;

(e) ensuring proper and safe storage of drugs and devices;

(f) maintaining records of drugs and devices in accordance with state and federal law and the standards and ethics of the profession;

(g) providing information on drugs or devices, which may include advice relating to therapeutic values, potential hazards, and uses;

(h) providing drug product equivalents;

(i) supervising pharmacist's supportive personnel, pharmacy interns, and pharmacy technicians;

(j) providing patient counseling, including adverse and therapeutic effects of drugs;

(k) providing emergency refills as defined by rule;

(l) telepharmacy;

(m) formulary management intervention;

(n) prescribing and dispensing a self-administered hormonal contraceptive in accordance with Title 26B, Chapter 4, Part 5, Treatment Access; and

(o) issuing a prescription in accordance with Section 58-17b-627.

(59) "Practice of telepharmacy" means the practice of pharmacy through the use of telecommunications and information technologies.

(60) "Practice of telepharmacy across state lines" means the practice of pharmacy through the use of telecommunications and information technologies that occurs when the patient is physically located within one jurisdiction and the pharmacist is located in another jurisdiction.

(61) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

(62) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(63) "Prescription" means an order issued:

(a) by a licensed practitioner in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(b) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(64) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(65) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(66) "Repackage":

(a) means changing the container, wrapper, or labeling to further the distribution of a prescription drug; and

(b) does not include:

(i) Subsection (66)(a) when completed by the pharmacist responsible for dispensing the product to a patient; or

(ii) changing or altering a label as necessary for a dispensing practitioner under Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, for dispensing a product to a patient.

(67) "Research using pharmaceuticals" means research:

(a) conducted in a research facility, as defined by division rule, that is associated with a university or college in the state accredited by the Northwest Commission on Colleges and Universities;

(b) requiring the use of a controlled substance, prescription drug, or prescription device;

(c) that uses the controlled substance, prescription drug, or prescription device in accordance with standard research protocols and techniques, including, if required, those approved by an institutional review committee; and

(d) that includes any documentation required for the conduct of the research and the handling of the controlled substance, prescription drug, or prescription device.

(68) "Retail pharmacy" means a pharmaceutical facility dispensing prescription drugs and devices to the general public.

(69)(a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

(70) "Self-audit" means an internal evaluation of a pharmacy to determine compliance with this chapter.

(71) "Supervising pharmacist" means a pharmacist who is overseeing the operation of the pharmacy during a given day or shift.

(72) "Supportive personnel" means unlicensed individuals who:

(a) may assist a pharmacist, pharmacist preceptor, pharmacy intern, or licensed pharmacy technician in nonjudgmental duties not included in the definition of the practice of pharmacy, practice of a pharmacy intern, or practice of a licensed pharmacy technician, and as those duties may be further defined by division rule adopted in collaboration with the board; and

(b) are supervised by a pharmacist in accordance with rules adopted by the division in collaboration with the board.

(73) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(74) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502 and may be further defined by rule.

(75) "Veterinary pharmaceutical facility" means a pharmaceutical facility that dispenses drugs intended for use by animals or for sale to veterinarians for the administration for animals.

Section 68. Section 58-17b-605 is amended to read:

58-17b-605. Drug product equivalents.

(1) For the purposes of this section:

(a)(i) "Drug" is as defined in Section 58-17b-102.

(ii) "Drug" does not mean a "biological product" as defined in Section 58-17b-605.5.

(b) "Drug product equivalent" means:

(i) a drug product that is designated as the therapeutic equivalent of another drug product in the Approved Drug Products with Therapeutic Equivalence Evaluations prepared by the Center for Drug Evaluation and Research of the United States Food and Drug Administration; and

(ii) notwithstanding Subsection (1)(b)(i), an appropriate substitute for albuterol designated by division rule made under Subsection (9).

(2) A pharmacist or pharmacy intern dispensing a prescription order for a specific drug by brand or proprietary name may substitute a drug product equivalent for the prescribed drug only if:

(a) the purchaser specifically requests or consents to the substitution of a drug product equivalent;

(b) the drug product equivalent is of the same generic type and is designated the therapeutic equivalent in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration;

(c) the drug product equivalent is permitted to move in interstate commerce;

(d) the pharmacist or pharmacy intern counsels the patient on the use and the expected response to the prescribed drug, whether a substitute or not, and the substitution is not otherwise prohibited by this chapter;

(e) the prescribing practitioner has not indicated that a drug product equivalent may not be substituted for the drug, as provided in Subsection (6); and

(f) the substitution is not otherwise prohibited by law.

(3)(a) Each out-of-state mail service pharmacy dispensing a drug product equivalent as a substitute for another drug into this state shall notify the patient of the substitution either by telephone or in writing.

(b) Each out-of-state mail service pharmacy shall comply with the requirements of this chapter with respect to a drug product equivalent substituted for another drug, including labeling and record keeping.

(4) Pharmacists or pharmacy interns may not substitute without the prescriber's authorization on trade name drug product prescriptions unless the product is currently categorized in the approved drug products with therapeutic equivalence evaluations prepared by the Center for Drug Evaluation and Research of the Federal Food and Drug Administration as a drug product considered to be therapeutically equivalent to another drug product.

(5) A pharmacist or pharmacy intern who dispenses a prescription with a drug product equivalent under this section assumes no greater liability than would be incurred had the pharmacist or pharmacy intern dispensed the prescription with the drug product prescribed.

(6)(a) If, in the opinion of the prescribing practitioner, it is in the best interest of the patient that a drug product equivalent not be substituted for a prescribed drug, the practitioner may indicate a prohibition on substitution either by writing "dispense as written" or signing in the appropriate space where two lines have been preprinted on a prescription order and captioned "dispense as written" or "substitution permitted".

(b) If the prescription is communicated orally by the prescribing practitioner to the pharmacist or pharmacy intern, the practitioner shall indicate the prohibition on substitution and that indication shall be noted in writing by the pharmacist or pharmacy intern with the name of the practitioner and the words "orally by" and the initials of the pharmacist or pharmacy intern written after it.

(7) A pharmacist or pharmacy intern who substitutes a drug product equivalent for a prescribed drug shall communicate the substitution to the purchaser. The drug product equivalent container shall be labeled with the name of the drug dispensed, and the pharmacist, pharmacy intern, or pharmacy technician shall indicate on the file copy of the prescription both the name of the prescribed drug and the name of the drug product equivalent dispensed in its place.

(8)(a) For purposes of this Subsection (8), "substitutes" means to substitute:

(i) a generic drug for another generic drug;

(ii) a generic drug for a nongeneric drug;

(iii) a nongeneric drug for another nongeneric drug; or

(iv) a nongeneric drug for a generic drug.

(b) A prescribing practitioner who makes a finding under Subsection (6)(a) for a patient with a seizure disorder shall indicate a prohibition on substitution of a drug product equivalent in the manner provided in Subsection (6)(a) or (b).

(c) Except as provided in Subsection (8)(d), a pharmacist or pharmacy intern who cannot dispense the prescribed drug as written, and who needs to substitute a drug product equivalent for the drug prescribed to the patient to treat or prevent seizures shall notify the prescribing practitioner prior to the substitution.

(d) Notification under Subsection (8)(c) is not required if the drug product equivalent is paid for in whole or in part by Medicaid.

(9)(a) The division shall designate by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board[~~,~~] and the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201,[~~and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,~~] appropriate substitutes for albuterol.

(b) Subsections (2)(b) and (4) do not apply to the substitution of a drug product equivalent for albuterol.

(10) Failure of a licensed medical practitioner to specify that no substitution is authorized does not constitute evidence of negligence.

Section 69. Section 58-17b-610.8 is amended to read:

58-17b-610.8. Prescription devices.

(1) The following documents from a prescribing practitioner shall be considered a prescription for

purposes of dispensing of and payment for a device described in Subsection (3), if the device is prescribed or indicated by the document and the document is on file with a pharmacy:

(a) a written prescription; or

(b) a written record of a patient's:

(i) current diagnosis; or

(ii) treatment protocol.

(2) A pharmacist or pharmacy intern at a pharmacy at which a document that is considered a prescription under Subsection (1) is on file may dispense under prescription a device described in Subsection (3) to the patient in accordance with:

(a) the document that is considered a prescription under Subsection (1); and

(b) rules made by the division under Subsection (4).

(3) This section applies to:

(a) nebulizers;

(b) spacers for use with nebulizers or inhalers; and

(c) diabetic supplies.

(4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board[~~, the Physicians~~] and the Medical Licensing Board created in Section 58-67-201[~~, and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201,~~] to implement this section.

Section 70. Section 58-17b-625 is amended to read:

58-17b-625. Administration of a long-acting injectable and naloxone.

(1) A pharmacist may, in accordance with this section, administer a drug described in Subsection (2).

(2) Notwithstanding the provisions of Subsection 58-17b-102(58)(c)(ii)(B), the division shall make rules in collaboration with the board and, when appropriate, the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish training for a pharmacist to administer naloxone and long-acting injectables intramuscularly.

(3) A pharmacist may not administer naloxone or a long-acting injectable intramuscularly unless the pharmacist:

(a) completes the training described in Subsection (2);

(b) administers the drug at a clinic or community pharmacy, as those terms are defined by the division, by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) is directed by the physician, as that term is defined in Section 58-67-102 or Section 58-68-102, who issues the prescription to administer the drug.

Section 71. Section 58-17b-1005 is amended to read:

58-17b-1005. Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.

(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;

(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(ii) a description of the epinephrine auto-injector dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201 and the Board of Pharmacy.

(2) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in accordance with a protocol that:

(a) requires the physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the stock albuterol;

(c) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(ii) a description of the stock albuterol dispensed; and

(iii) other relevant information; and

(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201 and the board.

Section 72. Section 58-24b-102 is amended to read:

58-24b-102. Definitions.

As used in this chapter:

(1) "Animal physical therapy" means practicing physical therapy or physiotherapy on an animal.

(2) "Board" means the [~~Utah Physical Therapy~~]Physical Therapies Licensing Board, created in Section 58-24b-201.

(3) "Consultation by telecommunication" means the provision of expert or professional advice by a physical therapist who is licensed outside of Utah to a licensed physical therapist or a health care provider by telecommunication or electronic communication.

(4) "General supervision" means supervision and oversight of a person by a licensed physical therapist when the licensed physical therapist is immediately available in person, by telephone, or by electronic communication to assist the person.

(5) "Licensed physical therapist" means a person licensed under this chapter to engage in the practice of physical therapy.

(6) "Licensed physical therapist assistant" means a person licensed under this chapter to engage in the practice of physical therapy, subject to the provisions of Subsection 58-24b-401(2)(a).

(7) "Licensing examination" means a nationally recognized physical therapy examination that is approved by the division, in consultation with the board.

(8) "On-site supervision" means supervision and oversight of a person by a licensed physical therapist or a licensed physical therapist assistant when the licensed physical therapist or licensed physical therapist assistant is:

(a) continuously present at the facility where the person is providing services;

(b) immediately available to assist the person; and

(c) regularly involved in the services being provided by the person.

(9) "Physical impairment" means:

(a) a mechanical impairment;

(b) a physiological impairment;

(c) a developmental impairment;

(d) a functional limitation;

(e) a disability;

(f) a mobility impairment; or

(g) a bodily malfunction.

(10)(a) "Physical therapy" or "physiotherapy" means:

(i) examining, evaluating, and testing an individual who has a physical impairment or injury;

(ii) identifying or labeling a physical impairment or injury;

(iii) formulating a therapeutic intervention plan for the treatment of a physical impairment, injury, or pain;

(iv) assessing the ongoing effects of therapeutic intervention for the treatment of a physical impairment or injury;

(v) treating or alleviating a physical impairment by designing, modifying, or implementing a therapeutic intervention;

(vi) reducing the risk of an injury or physical impairment;

(vii) providing instruction on the use of physical measures, activities, or devices for preventative and therapeutic purposes;

(viii) promoting and maintaining health and fitness;

(ix) the administration of a prescription drug pursuant to Section 58-24b-403;

(x) subject to Subsection 58-28-307(12)(b), engaging in the functions described in Subsections (10)(a)(i) through (ix) in relation to an animal, in accordance with the requirements of Section 58-24b-405; and

(xi) engaging in administration, consultation, education, and research relating to the practices described in this Subsection (10)(a).

(b) "Physical therapy" or "physiotherapy" does not include:

(i) diagnosing disease;

(ii) performing surgery;

(iii) performing acupuncture;

(iv) taking x-rays; or

(v) prescribing or dispensing a drug, as defined in Section 58-37-2.

(11) "Physical therapy aide" means a person who:

(a) is trained, on-the-job, by a licensed physical therapist; and

(b) provides routine assistance to a licensed physical therapist or licensed physical therapist assistant, while the licensed physical therapist or licensed physical therapist assistant practices physical therapy, within the scope of the licensed physical therapist's or licensed physical therapist assistant's license.

(12) "Recognized accreditation agency" means an accreditation agency that:

(a) grants accreditation, nationally, in the United States of America; and

(b) is approved by the division, in consultation with the board.

(13)(a) "Testing" means a standard method or technique used to gather data regarding a patient that is generally and nationally accepted by physical therapists for the practice of physical therapy.

(b) "Testing" includes measurement or evaluation of:

(i) muscle strength, force, endurance, or tone;

(ii) cardiovascular fitness;

(iii) physical work capacity;

(iv) joint motion, mobility, or stability;

(v) reflexes or autonomic reactions;

(vi) movement skill or accuracy;

(vii) sensation;

(viii) perception;

(ix) peripheral nerve integrity;

(x) locomotor skills, stability, and endurance;

(xi) the fit, function, and comfort of prosthetic, orthotic, or other assistive devices;

(xii) posture;

(xiii) body mechanics;

(xiv) limb length, circumference, and volume;

(xv) thoracic excursion and breathing patterns;

(xvi) activities of daily living related to physical movement and mobility;

(xvii) functioning in the physical environment at home or work, as it relates to physical movement and mobility; and

(xviii) neural muscular responses.

(14)(a) "Trigger point dry needling" means the stimulation of a trigger point using a dry needle to treat neuromuscular pain and functional movement deficits.

(b) "Trigger point dry needling" does not include the stimulation of auricular or distal points.

(15) "Therapeutic intervention" includes:

(a) therapeutic exercise, with or without the use of a device;

(b) functional training in self- care, as it relates to physical movement and mobility;

(c) community or work integration, as it relates to physical movement and mobility;

(d) manual therapy, including:

(i) soft tissue mobilization;

(ii) therapeutic massage; or

(iii) joint mobilization, as defined by the division, by rule;

(e) prescribing, applying, or fabricating an assistive, adaptive, orthotic, prosthetic, protective, or supportive device;

(f) airway clearance techniques, including postural drainage;

(g) integumentary protection and repair techniques;

(h) wound debridement, cleansing, and dressing;

(i) the application of a physical agent, including:

(i) light;

(ii) heat;

(iii) cold;

(iv) water;

(v) air;

(vi) sound;

(vii) compression;

(viii) electricity; and

(ix) electromagnetic radiation;

(j) mechanical or electrotherapeutic modalities;

(k) positioning;

(l) instructing or training a patient in locomotion or other functional activities, with or without an assistive device;

(m) manual or mechanical traction;

(n) correction of posture, body mechanics, or gait; and

(o) trigger point dry needling, under the conditions described in Section 58- 24b- 505.

Section 73. Section 58-24b-201 is amended to read:

58-24b-201. Physical Therapies Licensing Board -- Creation -- Membership -- Duties.

Part 2. Physical Therapies Licensing Board

(1) There is created the Physical [~~Therapy~~]Therapies Licensing Board, consisting of:

(a) three licensed physical therapists[~~,~~];

(b) one physical therapist assistant[~~, and~~];

(c) two licensed occupational therapists;

(d) one occupational therapy assistant; and

(e) one member of the general public.

(2) Members of the board shall be appointed and serve in accordance with Section 58- 1- 201.

(3) The duties and responsibilities of the board are described in Subsection (4) and Sections 58- 1- 201

through 58-1-203 with respect to this chapter or Chapter 42a, Occupational Therapy Practice Act.

(4) The board shall designate a member of the board, on a permanent or rotating basis, to:

(a) assist the division in reviewing complaints [~~of unlawful or unprofessional conduct of a licensee~~]concerning the conduct of an individual licensed under this chapter or Chapter 42a, Occupational Therapy Practice Act; and

(b) advise the division during the division's investigation of the complaints described in Subsection (4)(a).

(5) A board member who has reviewed a complaint or been involved in an investigation under Subsection (4) is disqualified from participating in an adjudicative proceeding relating to the complaint or investigation.

Section 74. Section 58-24c-104 is amended to read:

58-24c-104. Physical therapy licensing board.

As used in the compact, with reference to this state, "physical therapy licensing board" or "licensing board" means the [~~physical therapy licensing board~~]Physical Therapies Licensing Board created in Section 58-24b-201.

Section 75. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201.

(5) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(6) "Examinee" means an individual who applies to take or does take any examination required under this chapter for licensure.

(7) "Licensee" means an individual who is licensed or certified under this chapter.

(8) "Long-term care facility" means any of the following facilities licensed by the Department of Health and Human Services pursuant to Title 26B, Chapter 2, Part 2, Health Care Facility Licensing and Inspection:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

(9) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(10)(a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health and Human Services by rule made in

accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III- V controlled substances; and

(iii) Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow- up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d);

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well- being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

(g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and

(h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

(13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(15) "Registered nurse apprentice" means an individual licensed under Subsection 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the indirect supervision of an individual licensed under:

(a) Subsection 58-31b-301(2)(c), (e), or (f);

(b) Chapter 67, Utah Medical Practice Act; or

(c) Chapter 68, Utah Osteopathic Medical Practice Act.

(16) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

(18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 76. Section 58-31b-201 is amended to read:

58-31b-201. Board.

(1) There is created the Board of Nursing and Certified Nurse Midwives that consists of the following[~~11~~] members:

(a) [~~nine~~]five nurses in a manner as may be further defined in division rule; [~~and~~]

(b) two nurse midwives as defined in Section 58-44a-102; and

[~~(b)~~](c) two members of the public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) The board shall[~~carry out the duties and responsibilities in Sections 58-1-202 and 58-1-203 and shall~~]:

(a) carry out the duties and responsibilities described in Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 44a, Nurse Midwife Practice Act; and

[~~(a)~~](b)[~~(i)~~] recommend to the division minimum standards for educational programs qualifying a person for licensure or certification under this chapter and Chapter 44a, Nurse Midwife Practice Act;

[~~(ii)~~](c) recommend to the division denial, approval, or withdrawal of approval regarding educational programs that meet or fail to meet the established minimum standards; and

[~~(iii)~~](d) designate one of its members on a permanent or rotating basis to:

[~~(A)~~](i) assist the division in reviewing complaints concerning the[~~unlawful or unprofessional~~] conduct of [~~a licensee~~]an individual licensed under

this chapter or Chapter 44a, Nurse Midwife Practice Act; and

[~~(B)~~](ii) advise the division in its investigation of these complaints.

[~~(b)~~](4) A board member who has, under Subsection [~~(3)(a)(iii)~~](3)(d), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 77. Section 58-31e-103 is amended to read:

58-31e-103. Implementation and rulemaking authority.

(1) The term "head of the state licensing board," as used in Article VII b(1) of the Nurse Licensure Compact in Section 58-31e-102, means an individual who is an ex-officio member of the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201 and is appointed by the director to serve as the head of the state licensing board for purposes of Article VII b(1) of the Nurse Licensure Compact.

(2) The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to implement the provisions of this chapter.

Section 78. Section 58-37f-304 is amended to read:

58-37f-304. Database utilization.

(1) As used in this section:

(a) "Dispenser" means a licensed pharmacist, as described in Section 58-17b-303, the pharmacist's licensed intern, as described in Section 58-17b-304, or licensed pharmacy technician, as described in Section 58-17b-305, working under the supervision of a licensed pharmacist who is also licensed to dispense a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(b) "Outpatient" means a setting in which an individual visits a licensed healthcare facility or a healthcare provider's office for a diagnosis or treatment but is not admitted to a licensed healthcare facility for an overnight stay.

(c) "Prescriber" means an individual authorized to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act.

(d) "Schedule II opioid" means those substances listed in Subsection 58-37-4(2)(b)(i) or (2)(b)(ii).

(e) "Schedule III opioid" means those substances listed in Subsection 58-37-4(2)(c) that are opioids.

(2)(a) A prescriber shall check the database for information about a patient before the first time the prescriber gives a prescription to a patient for a Schedule II opioid or a Schedule III opioid.

(b) If a prescriber is repeatedly prescribing a Schedule II opioid or Schedule III opioid to a patient, the prescriber shall periodically review information about the patient in:

(i) the database; or

(ii) other similar records of controlled substances the patient has filled.

(c) A prescriber may assign the access and review required under Subsection (2)(a) to one or more employees in accordance with Subsections 58-37f-301(2)(i) and (j).

(d)(i) A prescriber may comply with the requirements in Subsections (2)(a) and (b) by checking an electronic health record system if the electronic health record system:

(A) is connected to the database through a connection that has been approved by the division; and

(B) displays the information from the database in a prominent manner for the prescriber.

(ii) The division may not approve a connection to the database if the connection does not satisfy the requirements established by the division under Section 58-37f-301.

(e) A prescriber is not in violation of the requirements of Subsection (2)(a) or (b) if the failure to comply with Subsection (2)(a) or (b):

(i) is necessary due to an emergency situation;

(ii) is caused by a suspension or disruption in the operation of the database; or

(iii) is caused by a failure in the operation or availability of the Internet.

(f) The division may not take action against the license of a prescriber for failure to comply with this Subsection (2) unless the failure occurs after the earlier of:

(i) December 31, 2018; or

(ii) the date that the division has the capability to establish a connection that meets the requirements established by the division under Section 58-37f-301 between the database and an electronic health record system.

(3) The division shall, in collaboration with the licensing boards for prescribers and dispensers:

(a) develop a system that gathers and reports to prescribers and dispensers the progress and results of the prescriber's and dispenser's individual access and review of the database, as provided in this section; and

(b) reduce or waive the division's continuing education requirements regarding opioid prescriptions, described in Section 58-37-6.5, including the online tutorial and test relating to the database, for prescribers and dispensers whose individual utilization of the database, as determined by the division, demonstrates substantial compliance with this section.

(4) If the dispenser's access and review of the database suggest that the individual seeking an

opioid may be obtaining opioids in quantities or frequencies inconsistent with generally recognized standards as provided in this section and Section 58-37f-201, the dispenser shall reasonably attempt to contact the prescriber to obtain the prescriber's informed, current, and professional decision regarding whether the prescribed opioid is medically justified, notwithstanding the results of the database search.

(5)(a) The division shall review the database to identify any prescriber who has a pattern of prescribing opioids not in accordance with the recommendations of:

(i) the CDC Guideline for Prescribing Opioids for Chronic Pain, published by the Centers for Disease Control and Prevention;

(ii) the Utah Clinical Guidelines on Prescribing Opioids for Treatment of Pain, published by the Department of Health and Human Services; or

(iii) other publications describing best practices related to prescribing opioids as identified by division rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the [~~Physicians~~]Medical Licensing Board.

(b) The division shall offer education to a prescriber identified under this Subsection (5) regarding best practices in the prescribing of opioids.

(c) A decision by a prescriber to accept or not accept the education offered by the division under this Subsection (5) is voluntary.

(d) The division may not use an identification the division has made under this Subsection (5) or the decision by a prescriber to accept or not accept education offered by the division under this Subsection (5) in a licensing investigation or action by the division.

(e) Any record created by the division as a result of this Subsection (5) is a protected record under Section 63G-2-305.

(6) The division may consult with a prescriber or health care system to assist the prescriber or health care system in following evidence-based guidelines regarding the prescribing of controlled substances, including the recommendations listed in Subsection (5)(a).

Section 79. Section 58-38a-201 is amended to read:

58-38a-201. Controlled Substances Advisory Committee.

There is created within the Division of Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

(1) the director of the Department of Health and Human Services or the director's designee;

(2) the State Medical Examiner or the examiner's designee;

(3) the commissioner of the Department of Public Safety or the commissioner's designee;

(4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the director's designee;

(5) the director of the Utah Poison Control Center or the director's designee;

(6) one physician who is a member of the [~~Physicians~~]Medical Licensing Board and is designated by that board;

(7) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

(8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;

(9) one physician who is currently licensed and practicing in the state, to be appointed by the governor;

(10) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

(11) one individual with expertise in substance abuse addiction, to be appointed by the governor;

(12) one representative from the Statewide Association of Prosecutors, to be designated by that association;

(13) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;

(14) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; and

(15) one member of the public, to be appointed by the governor.

Section 80. Section 58-42a-102 is amended to read:

58-42a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Board of Occupational Therapy created in Section 58-42a-201~~]Physical Therapies Licensing Board created in Section 58-24b-201.

(2)(a) "Individual treatment plan" means a written record composed for each client by a person licensed under this chapter to engage in the practice of occupational therapy.

(b) "Individual treatment plan" includes:

(i) planning and directing specific exercises and programs to improve sensory integration and motor functioning at the level of performance neurologically appropriate for the individual's stage of development;

(ii) establishing a program of instruction to teach a client skills, behaviors, and attitudes necessary

for the client's independent productive, emotional, and social functioning;

(iii) analyzing, selecting, and adapting functional exercises to achieve and maintain the client's optimal functioning in activities of daily living and to prevent further disability; and

(iv) planning and directing specific programs to evaluate and enhance perceptual, motor, and cognitive skills.

(3) "Occupational therapist" means a person licensed under this chapter to practice occupational therapy.

(4) "Occupational therapy aide" means a person who is not licensed under this chapter but who provides supportive services under the supervision of an occupational therapist or occupational therapy assistant.

(5) "Occupational therapy assistant" means a person licensed under this chapter to practice occupational therapy under the supervision of an occupational therapist as described in Sections 58-42a-305 and 58-42a-306.

(6)(a) "Practice of occupational therapy" means the therapeutic use of everyday life activities with an individual:

(i) that has or is at risk of developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction; and

(ii) to develop or restore the individual's ability to engage in everyday life activities by addressing physical, cognitive, psychosocial, sensory, or other aspects of the individual's performance.

(b) "Practice of occupational therapy" includes:

(i) establishing, remediating, or restoring an undeveloped or impaired skill or ability of an individual;

(ii) modifying or adapting an activity or environment to enhance an individual's performance;

(iii) maintaining and improving an individual's capabilities to avoid declining performance in everyday life activities;

(iv) promoting health and wellness to develop or improve an individual's performance in everyday life activities;

(v) performance-barrier prevention for an individual, including disability prevention;

(vi) evaluating factors that affect an individual's activities of daily living in educational, work, play, leisure, and social situations, including:

(A) body functions and structures;

(B) habits, routines, roles, and behavioral patterns;

(C) cultural, physical, environmental, social, virtual, and spiritual contexts and activity demands that affect performance; and

(D) motor, process, communication, interaction, and other performance skills;

(vii) providing interventions and procedures to promote or enhance an individual's safety and performance in activities of daily living in educational, work, and social situations, including:

(A) the therapeutic use of occupations and exercises;

(B) training in self-care, self-management, home-management, and community and work reintegration;

(C) the development, remediation, or compensation of behavioral skills and physical, cognitive, neuromuscular, and sensory functions;

(D) the education and training of an individual's family members and caregivers;

(E) care coordination, case management, and transition services;

(F) providing consulting services to groups, programs, organizations, or communities,

(G) modifying the environment and adapting processes, including the application of ergonomic principles;

(H) assessing, designing, fabricating, applying, fitting, and providing training in assistive technology, adaptive devices, orthotic devices, and prosthetic devices;

(I) assessing, recommending, and training an individual in techniques to enhance functional mobility, including wheelchair management;

(J) driver rehabilitation and community mobility;

(K) enhancing eating and feeding performance; and

(L) applying physical agent modalities, managing wound care, and using manual therapy techniques to enhance an individual's performance skills, if the occupational therapist has received the necessary training as determined by division rule in collaboration with the board.

(7) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-501.

(8) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-42a-502.

Section 81. Section 58-44a-102 is amended to read:

58-44a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Board" means the [~~Certified Nurse Midwife Board created in Section 58-44a-201~~]Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201.

(3) "Consultation and Referral Plan" means a written plan jointly developed by a certified nurse midwife, as defined in Subsection (7), and a consulting physician that permits the certified nurse midwife to prescribe schedule II-III controlled substances in consultation with the consulting physician.

(4) "Consulting physician" means a physician and surgeon or osteopathic physician:

(a) with an unrestricted license as a physician;

(b) qualified by education, training, and current practice in obstetrics, gynecology, or both to act as a consulting physician to a nurse midwife practicing under this chapter and providing intrapartum care or prescribing Schedule II-III controlled substances; and

(c) who is available to consult with a nurse midwife, which does not include the consulting physician being present at the time or place the nurse midwife is engaged in practice.

(5) "Individual" means a natural person.

(6) "Intrapartum referral plan":

(a) means a written plan prepared by a nurse midwife describing the guidelines under which the nurse midwife will consult with a consulting physician, collaborate with a consulting physician, and refer patients to a consulting physician; and

(b) does not require the nurse midwife to obtain the signature of a physician on the intrapartum referral plan.

(7) "Nurse midwife" means a person licensed under this chapter to engage in practice as a certified nurse midwife.

(8) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(9) "Practice as a certified nurse midwife" means:

(a) practice [~~as a registered nurse~~]of registered nursing as defined in Section 58-31b-102, and as consistent with the education, training, experience, and current competency of the licensee;

(b) practice of nursing within the generally recognized scope and standards of nurse midwifery as defined by rule and consistent with professionally recognized preparations and educational standards of a certified nurse midwife by a person licensed under this chapter, which practice includes:

(i) having a safe mechanism for obtaining medical consultation, collaboration, and referral with one or more consulting physicians who have agreed to consult, collaborate, and receive referrals, but who are not required to sign a written document regarding the agreement;

(ii) providing a patient with information regarding other health care providers and health care services and referral to other health care providers and health care services when requested or when care is not within the scope of practice of a certified nurse midwife; and

(iii) maintaining written documentation of the parameters of service for independent and collaborative midwifery management and transfer of care when needed; and

(c) the authority to:

(i) elicit and record a patient's complete health information, including physical examination, history, and laboratory findings commonly used in providing obstetrical, gynecological, and well infant services to a patient;

(ii) assess findings and upon abnormal findings from the history, physical examination, or laboratory findings, manage the treatment of the patient, collaborate with the consulting physician or another qualified physician, or refer the patient to the consulting physician or to another qualified physician as appropriate;

(iii) diagnose, plan, and implement appropriate patient care, including the administration and prescribing of:

(A) prescription drugs;

(B) schedule IV-V controlled substances; and

(C) schedule II-III controlled substances in accordance with a consultation and referral plan;

(iv) evaluate the results of patient care;

(v) consult as is appropriate regarding patient care and the results of patient care;

(vi) manage the intrapartum period according to accepted standards of nurse midwifery practice and a written intrapartum referral plan, including performance of routine episiotomy and repairs, and administration of anesthesia, including local, pudendal, or paracervical block anesthesia, but not including general anesthesia and major conduction anesthesia;

(vii) manage the postpartum period;

(viii) provide gynecological services;

(ix) provide noncomplicated newborn and infant care to the age of one year; and

(x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.

(10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.

(11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed certified nurse midwife in accordance with the standards of the profession as defined by rule.

(12) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as may be further defined by rule.

Section 82. Section 58-47b-102 is amended to read:

58-47b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Board of Massage Therapy and Acupuncture created in Section 58-47b-201.

(2) "Breast" means the female mammary gland and does not include the muscles, connective tissue, or other soft tissue of the upper chest.

(3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the muscular system.

(4) "Massage apprentice" means an individual licensed under this chapter as a massage apprentice.

(5) "Massage assistant" means an individual licensed under this chapter as a massage assistant.

(6) "Massage assistant in-training" means an individual licensed under this chapter as a massage assistant in-training.

(7) "Massage therapist" means an individual licensed under this chapter as a massage therapist.

(8) "Massage therapy supervisor" means:

(a) a massage therapist who has at least three years of experience as a massage therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(c) a physician licensed under Chapter 67, Utah Medical Practice Act;

(d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

(f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act.

(9)(a) "Practice of limited massage therapy" means:

(i) the systematic manual manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, relaxation, or achieving homeostasis;

(ii) seated chair massage;

(iii) the use of body wraps;

(iv) aromatherapy;

(v) reflexology; or

(vi) in connection with an activity described in this Subsection (9), the use of:

(A) the hands;

(B) a towel;

(C) a stone;

(D) a shell;

(E) a bamboo stick; or

(F) an herbal ball compress.

(b) "Practice of limited massage therapy" does not include work on an acute or subacute injury.

(10) "Practice of massage therapy" means:

(a) the examination, assessment, and evaluation of the soft tissue structures of the body for the purpose of devising a treatment plan to promote homeostasis;

(b) the systematic manual or mechanical manipulation of the soft tissue of the body for the purpose of promoting the therapeutic health and well-being of a client, enhancing the circulation of the blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic balance, or achieving homeostasis, or for any other purpose;

(c) the use of the hands or a mechanical or electrical apparatus in connection with this Subsection (10);

(d) the use of rehabilitative procedures involving the soft tissue of the body;

(e) range of motion or movements without spinal adjustment as set forth in Section 58-73-102;

(f) the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower, steam, and cabinet baths;

(g) manual traction and stretching exercise;

(h) correction of muscular distortion by treatment of the soft tissues of the body;

(i) counseling, education, and other advisory services to reduce the incidence and severity of physical disability, movement dysfunction, and pain;

(j) activities and modality techniques similar or related to the activities and techniques described in this Subsection (10);

(k) a practice described in this Subsection (10) on an animal to the extent permitted by:

(i) Subsection 58-28-307(12);

(ii) the provisions of this chapter; and

(iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(l) providing, offering, or advertising a paid service using the term massage or a derivative of

the word massage, regardless of whether the service includes physical contact.

(11) "Soft tissue" means the muscles and related connective tissue.

(12) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-47b-501.

(13) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 83. Section 58-47b-201 is amended to read:

58-47b-201. Board.

(1) There is created the Board of Massage Therapy and Acupuncture consisting of:

(a) four massage therapists; [~~and~~]

(b) two licensed acupuncturists as defined in Section 58-72-102; and

[~~(b)~~](c) one member of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3)(a) [~~The duties and responsibilities of the board are in accordance with Sections 58-1-202 and 58-1-203.~~]The board shall perform the duties and responsibilities described in Sections 58-1-202 and 58-1-203 with respect to this chapter and Chapter 72, Acupuncture Licensing Act.

(b) In addition, the board shall designate one of its members on a permanent or rotating basis to:

[~~(a)~~](i) assist the division in reviewing complaints concerning the[~~unlawful or unprofessional~~] conduct of [~~a licensee~~]an individual licensed under this chapter or Chapter 72, Acupuncture Licensing Act; and

[~~(b)~~](ii) advise the division in its investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

Section 84. Section 58-53-102 is amended to read:

58-53-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Landscape Architects~~]Architects and Landscape Architects Licensing Board created in Section [~~58-53-201~~]58-3a-201.

(2) "Fund" means the Landscape Architects Education and Enforcement Fund created in Section 58-53-103.

(3) "Practice of landscape architecture" means rendering or offering to render any of the following services:

(a) production of a site plan which may include the design of any of the following:

(i) sprinkler irrigation systems;

(ii) landscape grading and drainage plans; or

(iii) parking lots;

(b) design of any of the following structures incidental to the production of a site plan:

(i) retaining walls; or

(ii) raised platforms, decks, and walkways;

(c) design of any of the following structures incidental to the production of a site plan when the structure does not exceed 1,000 square feet:

(i) covered pavilions;

(ii) gazebos;

(iii) restrooms;

(iv) storage and maintenance facilities; or

(v) other accessory structures; or

(d) collaboration with architects and professional engineers in the design of roads, bridges, buildings, and structures with respect to the functional and aesthetic requirements of the area in which they are to be placed.

(4) "Principal" means a licensed landscape architect having responsible charge of a landscape architectural practice.

(5) "Supervision" with respect to the supervision of an employee of a landscape architect, means that a licensed landscape architect is responsible for and personally reviews, corrects when necessary, and approves work performed by any employee under the direction of the landscape architect, and may be further defined by rule of the division in collaboration with the board.

(6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-53-501.

(7) "Unprofessional conduct" is as defined in Section 58-1-501 and as may be further defined by rule of the division in collaboration with the board.

Section 85. Section 58-54-201 is amended to read:

58-54-201. Board created -- Membership -- Duties.

(1) There is created a Radiologic Technologist Licensing Board consisting of nine members as follows:

(a) three licensed radiologic technologists;

(b) one licensed radiology practical technician;

(c) one licensed radiologist assistant;

(d) two radiologists;

(e) one physician licensed under this title who is not a radiologist, and who uses radiologic services in the physician's practice; and

(f) one member from the general public.

(2) The board shall be appointed in accordance with Section 58-1-201.

(3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

(4) In accordance with Subsection 58-1-203(1)(f), there is established an advisory peer committee to the board consisting of eight members broadly representative of the state and including:

(a) one licensed physician and surgeon who is not a radiologist and who uses radiology equipment in a rural office-based practice, appointed from among recommendations of the [~~Physicians~~]Medical Licensing Board;

(b) one licensed physician and surgeon who is not a radiologist and who uses radiology equipment in an urban office-based practice, appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

(c) one licensed physician and surgeon who is a radiologist practicing in radiology, appointed from among recommendations of the [~~Physicians~~] Medical Licensing Board;

(d) one licensed osteopathic physician, appointed from among recommendations of the [~~Osteopathic Physicians~~]Medical Licensing Board;

(e) one licensed chiropractic physician, appointed from among recommendations of the Chiropractors Licensing Board;

(f) one licensed podiatric physician, appointed from among recommendations of the Podiatric Physician Board;

(g) one representative of the state agency with primary responsibility for regulation of sources of radiation, recommended by that agency; and

(h) one representative of a general acute hospital, as defined in Section 26B-2-201, that is located in a rural area of the state.

(5)(a) Except as required by Subsection (5)(b), members of the advisory peer committee shall be appointed to four-year terms by the director in collaboration with the board from among the recommendations.

(b) Notwithstanding the requirements of Subsection (5)(a), the director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The duties, responsibilities, and scope of authority of the advisory peer committee are:

(a) to advise the board with respect to the board's fulfillment of its duties, functions, and responsibilities under Sections 58-1-202 and 58-1-203; and

(b) to advise the division with respect to the examination the division is to adopt by rule, by which a radiology practical technician may qualify for licensure under Section 58-54-302.

Section 86. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1)(a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business" or "alarm company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm company officer" means:

(a) a governing person, as defined in Section 48-3a-102, of an alarm company;

(b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

(c) a general partner, as defined in Section 48-2e-102, of an alarm company; or

(d) a partner, as defined in Section 48-1d-102, of an alarm company.

(4) "Alarm company owner" means:

(a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

(i) is a corporation; and

(ii) is not publicly listed or traded; or

(b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

(5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

(6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

(7)(a) "Alarm system" means equipment and devices assembled for the purpose of:

(i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(11)(a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(12) "Board" means the[~~Electrician Licensing Board,~~] Alarm System Security and Licensing Board[~~,~~] or Electricians and Plumbers Licensing Board created in Section 58-55-201.

(13) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(14) "Commission" means the Construction Services Commission created under Section 58-55-103.

(15) "Construction trade" means any trade or occupation involving:

(a)(i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(16) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(17)(a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who

builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (17)by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(18)(a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(23) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(24)(a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(26)(a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(27)(a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the

fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28)(a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following:

(i) irrigation;

(ii) drainage;

(iii) water power;

(iv) water supply;

(v) flood control;

(vi) an inland waterway;

(vii) a harbor;

(viii) a railroad;

(ix) a highway;

(x) a tunnel;

(xi) an airport;

(xii) an airport runway;

(xiii) a sewer;

(xiv) a bridge;

(xv) a refinery;

(xvi) a pipeline;

(xvii) a chemical plant;

(xviii) an industrial plant;

(xix) a pier;

(xx) a foundation;

(xxi) a power plant; or

(xxii) a utility plant or installation.

(b) A general engineering contractor may not perform or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels; or

(ii) performance of:

(A) plumbing work;

(B) electrical work; or

(C) mechanical work.

(29)(a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(30) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(31) "Individual" means a natural person.

(32) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(33) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(34) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(35) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(36) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(37)(a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three

feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(38) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(39) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(40) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(41)(a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(42) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(43) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(44) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(45) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(46)(a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(47) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(48) "Responsible management personnel" means:

(a) a qualifying agent;

(b) an operations manager; or

(c) a site manager.

(49) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(50)(a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(51) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(52) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(53) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(54) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 87. Section 58-55-103 is amended to read:

58-55-103. Construction Services Commission created -- Functions -- Appointment -- Qualifications and terms of members -- Vacancies -- Expenses -- Meetings -- Concurrence.

(1)(a) There is created within the division the Construction Services Commission.

(b) The commission shall:

(i) with the concurrence of the director, make reasonable rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer and enforce this chapter which are consistent with this chapter including:

(A) licensing of various licensees;

(B) examination requirements and administration of the examinations, to include approving and establishing a passing score for applicant examinations;

(C) standards of supervision for students or persons in training to become qualified to obtain a license in the trade they represent; and

(D) standards of conduct for various licensees;

(ii) approve or disapprove fees adopted by the division under Section 63J-1-504;

(iii) except where the boards conduct them, conduct all administrative hearings not delegated to an administrative law judge relating to the licensing of any applicant;

(iv) except as otherwise provided in Sections 38-11-207 and 58-55-503, with the concurrence of the director, impose sanctions against licensees and certificate holders with the same authority as the division under Section 58-1-401;

(v) advise the director on the administration and enforcement of any matters affecting the division and the construction industry;

(vi) advise the director on matters affecting the division budget;

(vii) advise and assist trade associations in conducting construction trade seminars and industry education and promotion; and

(viii) perform other duties as provided by this chapter.

(2)[~~(a) Initially the commission shall be comprised of the five members of the Contractors Licensing Board and two of the three chair persons from the Plumbers Licensing Board, the Alarm System Security and Licensing Board, and the Electricians Licensing Board.~~]

[~~(b)~~](a) The terms of office of the commission members who are serving on the Contractors Licensing Board shall continue as they serve on the commission.

[~~(c) Beginning July 1, 2004, the~~]

(b) The commission shall be comprised of [~~nine~~]the following members appointed by the executive director with the approval of the governor from the following groups:

(i) one member shall be a licensed general engineering contractor;

(ii) one member shall be a licensed general building contractor;

(iii) two members shall be licensed residential and small commercial contractors;

[~~(iv) three members shall be the three chair persons from the Plumbers Licensing Board, the~~

~~Alarm System Security and Licensing Board, and the Electricians Licensing Board; and~~]

(iv) one member shall be a licensed plumber and a member of the Electricians and Plumbers Licensing Board;

(v) one member shall be a licensed electrician and a member of the Electricians and Plumbers Licensing Board;

(vi) one member shall be the chair person of the Alarm System Security and Licensing Board; and

[~~(v)~~](vii) two members shall be from the general public.

(3)(a) Except as required by Subsection (3)(b), as terms of current commission members expire, the executive director with the approval of the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the executive director with the approval of the governor shall, at the time of appointment or reappointment, adjust the length of terms to stagger the terms of commission members so that approximately 1/2 of the commission members are appointed every two years.

(c) A commission member may not serve more than two consecutive terms.

(4) The commission shall elect annually one of its members as chair, for a term of one year.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7)(a) The commission shall meet at least monthly unless the director determines otherwise.

(b) The director may call additional meetings at the director's discretion, upon the request of the chair, or upon the written request of four or more commission members.

(8)(a) Five members constitute a quorum for the transaction of business.

(b) If a quorum is present when a vote is taken, the affirmative vote of commission members present is the act of the commission.

(9) The commission shall comply with the procedures and requirements of Title 13, Chapter 1, Department of Commerce, and Title 63G, Chapter 4, Administrative Procedures Act, in all of its adjudicative proceedings.

(10)(a) For purposes of this Subsection (10), "concurrence" means the entities given a concurring role must jointly agree for the action to be taken.

(b) If a provision of this chapter requires concurrence between the director or division and the commission and no concurrence can be reached, the director or division has final authority.

(c) When this chapter requires concurrence between the director or division and the commission:

(i) the director or division shall report to and update the commission on a regular basis related to matters requiring concurrence; and

(ii) the commission shall review the report submitted by the director or division under this Subsection (10)(c) and concur with the report, or:

(A) provide a reason for not concurring with the report; and

(B) provide recommendations to the director or division.

Section 88. Section 58-55-201 is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created the Electrician and Plumbers Licensing Board consisting of [~~seven members as follows~~]the following members:

(a) three members[~~ shall be~~] licensed from among the license classifications of master or journeyman plumber, of whom at least one [~~shall represent~~]represents a union organization and at least one [~~shall be selected having~~]has no union affiliation;

(b) [~~three members shall be~~]two members who are licensed plumbing contractors, of whom at least one [~~shall represent~~]represents a union organization and at least one [~~shall be selected having~~]has no union affiliation; [~~and~~]

(c) three members licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(d) two members who are licensed electrical contractors, of whom at least one represents a union organization and at least one has no union affiliation;

[~~(c)~~](e) one member [~~shall be~~]who is from the public at large with no history of involvement in the construction trades.

(2)(a) There is created the Alarm System Security and Licensing Board consisting of [~~five members as follows~~]the following members:

(i) three individuals who are officers or owners of a licensed alarm business;

(ii) one individual from among nominees of the Utah Peace Officers Association; and

(iii) one individual representing the general public.

(b) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(ii) advise the division in its investigation of these complaints.

(c) A board member who has, under this Subsection (2)(c), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

[~~(3) There is created the Electricians Licensing Board consisting of seven members as follows:~~]

[~~(a) three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;~~]

[~~(b) three members shall be licensed electrical contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and~~]

[~~(c) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.~~]

[~~(4)~~](3) The duties, functions, and responsibilities of each board described in Subsections (1) [~~through (3)~~]and (2) include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession the board represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

Section 89. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider- administered examination at the end of the 25- hour course;

(iv) complete a five- hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25- hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v)(A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number or other satisfactory evidence of the applicant's identity permitted under rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2)(a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years full- time paid employment experience as a building inspector, which shall include at least one year full- time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a)(i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58- 55- 303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58- 55- 303; and

(B) considered to hold a current residential master plumber license under this chapter if

licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a

master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians and Plumbers Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) [~~A~~]a licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who:

(A) is an alarm company officer, alarm company owner, alarm company proprietor, an alarm company trustee, or other responsible management personnel;

(B) demonstrates 6,000 hours of experience in the alarm company business;

(C) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(D) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) provide the name, address, date of birth, social security number, fingerprint card, and consent to a background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for each alarm company officer, alarm company owner, alarm company proprietor, alarm company trustee, and responsible management personnel with direct responsibility for managing operations of the applicant within the state;

(iii) document that none of the persons described in Subsection (3)(k)(ii):

(A) have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; or

(B) are currently suffering from habitual drunkenness or from drug addiction or dependence;

(iv) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

(v) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

(iii) submit to and pass a criminal background check in accordance with Section 58-55-302.1 and requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

(v) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

(vi) meet with the division and board if requested by the division or the board.

(m)(i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii)(A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B)(I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent under this section and Section 58-55-302.1.

(5)(a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii)(A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii)(A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv)(A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii)(A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii)(A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (5)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(6)(a)(i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (6)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (6)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (6) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (6)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (6):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

(7)(a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (7)(a)(i), an ownership status report containing the information that would be required under Subsection (6) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (7)(a)(i) or an ownership status report described in Subsection (7)(a)(i) an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(8) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (6) or (7) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(9)(a) A social security number provided under Subsection (1)(e)(vi) or (3)(k)(ii) is a private record under Subsection 63G-2-302(1)(i).

(b) The division may designate an applicant's evidence of identity under Subsection (1)(e)(vi) as a private record in accordance with Section 63G-2-302.

Section 90. Section 58-67-102 is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1)(a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(6) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(7) "Board" means the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201.

(8) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

(9) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

(10)(a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (10)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (10)(a).

(11) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(12) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (12)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (12)(a); or

(d) to make an examination or determination as described in Subsection (12)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(13) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-67-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17)(a)(i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i) nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(19)(a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs,

or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii) the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22)(a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23)(a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Section 91. Section 58-67-201 is amended to read:

58-67-201. Board.

(1) There is created the [~~Physicians~~]Medical Licensing Board consisting of [~~nine physicians and surgeons and two members of the general public.~~]the following members:

(a) seven physicians and surgeons;

(b) two osteopathic physicians and surgeons;

(c) a physician who is a board certified psychiatrist who currently works or previously worked collaboratively with a physician assistant;

(d) three physician assistants, one of whom is involved in the administration of an approved physician assistant education program in the state; and

(e) two members of the public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3)(a) In addition to any duty or responsibility described in Section 58-1-202 or 58-1-203, the board shall regulate :

(i) anesthesiologist assistants licensed under [~~Chapter 70b, Anesthesiologist Assistant Licensing Act.~~]Chapter 70b, Anesthesiologist Assistant Licensing Act;

(ii) osteopathic physicians and surgeons licensed under Chapter 68, Utah Osteopathic Medical Practice Act; and

(iii) physician assistants licensed under Chapter 70a, Utah Physician Assistant Act.

(b) The board may also designate one of the board's members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the[~~unlawful or unprofessional~~] conduct of a licensee the board regulates; and

(ii) advise the division in the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in the complaint's investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

Section 92. Section 58-68-102 is amended to read:

58-68-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1)(a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers.

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "AOA" means the American Osteopathic Association.

(5) "Associate physician" means an individual licensed under Section 58-68-302.5.

(6) "Attempted sex change" means an attempt or effort to change an individual's body to present that individual as being of a sex or gender that is different from the individual's biological sex at birth.

(7) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by:

(a) sex and reproductive organ anatomy;

(b) chromosomal makeup; and

(c) endogenous hormone profiles.

(8) "Board" means the [~~Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201~~]Medical Licensing Board created in Section 58-67-201.

(9) "Collaborating physician" means an individual licensed under Section 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

(10) "Collaborative practice arrangement" means the arrangement described in Section 58-68-807.

(11)(a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (11)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (11)(a).

(12) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(13) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (13)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (13)(a); or

(d) to make an examination or determination as described in Subsection (13)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(14) "Medical assistant" means an unlicensed individual who may perform tasks as described in Subsection 58-68-305(6).

(15) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health and Human Services.

(16) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health and Human Services.

(17)(a)(i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (17)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(18) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(19)(a) "Practice of osteopathic medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part is based upon emphasis of the importance of the musculoskeletal system and manipulative therapy in the maintenance and restoration of health, by an individual in Utah or outside of the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (19)(a)(i) or (ii) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed osteopathic physician, and if the party using the designation is not a licensed osteopathic physician, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of osteopathic medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (19)(b)(ii), the conduct described in Subsection (19)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-68-501(2).

(20) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(21) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(22)(a) "Primary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, castration, orchiectomy, penectomy, vaginoplasty, or vulvoplasty;

(ii) for an individual whose biological sex at birth is female, hysterectomy, oophorectomy, metoidioplasty, or phalloplasty; or

(iii) any surgical procedure that is related to or necessary for a procedure described in Subsection (22)(a)(i) or (ii), that would result in the sterilization of an individual who is not sterile.

(b) "Primary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(23)(a) "Secondary sex characteristic surgical procedure" means any of the following if done for the purpose of effectuating or facilitating an individual's attempted sex change:

(i) for an individual whose biological sex at birth is male, breast augmentation surgery, chest feminization surgery, or facial feminization surgery; or

(ii) for an individual whose biological sex at birth is female, mastectomy, breast reduction surgery, chest masculinization surgery, or facial masculinization surgery.

(b) "Secondary sex characteristic surgical procedure" does not include:

(i) surgery or other procedures or treatments performed on an individual who:

(A) is born with external biological sex characteristics that are irresolvably ambiguous;

(B) is born with 46, XX chromosomes with virilization;

(C) is born with 46, XY chromosomes with undervirilization;

(D) has both ovarian and testicular tissue; or

(E) has been diagnosed by a physician, based on genetic or biochemical testing, with a sex development disorder characterized by abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female; or

(ii) removing a body part:

(A) because the body part is cancerous or diseased; or

(B) for a reason that is medically necessary, other than to effectuate or facilitate an individual's attempted sex change.

(24) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-501.

(26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

Section 93. Section 58-70a-102 is amended to read:

58-70a-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Physician Assistant Licensing Board created in Section 58-70a-201~~]Medical Licensing Board created in Section 58-67-201.

(2) "Competence" means possessing the requisite cognitive, non-cognitive, and communicative abilities and qualities to perform effectively within the scope of practice of the physician assistant's practice while adhering to professional and ethical standards.

(3) "Health care facility" means the same as that term is defined in Section 26B-2-201.

(4) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(5) "Physician" means the same as that term is defined in Section 58-67-102.

(6) "Physician assistant" means an individual who is licensed to practice under this chapter.

(7) "Practice as a physician assistant" means the professional activities and conduct of a physician assistant, also known as a PA, in diagnosing, treating, advising, or prescribing for any human disease, ailment, injury, infirmity, deformity, pain, or other condition under the provisions of this chapter.

(8) "Practice of mental health therapy" means the same as that term is defined in Section 58-60-102.

(9) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-70a-502.

(10) "Unprofessional conduct" means "unprofessional conduct":

(a) as defined in Sections 58-1-501 and 58-70a-503; and

(b) as further defined by the division by rule.

Section 94. Section 58-70b-101 is amended to read:

58-70b-101. Definitions.

As used in this chapter:

(1) "Anesthesiologist" means an individual who:

(a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) has completed a residency program in anesthesiology.

(2) "Anesthesiologist assistant" means an individual licensed under this chapter.

(3) "Board" means the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201.

(4) "Practice of assisting an anesthesiologist" means personally performing the health care services delegated to the anesthesiologist assistant by the supervising anesthesiologist in accordance with the acceptable medical practice and the American Society of Anesthesiologists' guidance for best practice of anesthesia in a care team model.

(5) "Supervision standards" means standards established by the division through rule that:

(a) prohibit an anesthesiologist from supervising more than four anesthesiologist assistants at any one time; and

(b) comply with the rules and regulations for anesthesia service reimbursement created by the Centers for Medicare and Medicaid Services to the extent that the rules and regulations do not conflict with state law.

Section 95. Section 58-71-102 is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" means the [~~same as that term is~~]practice of acupuncture as defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(4) "Diagnose" means:

(a) to examine in any manner another individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from an individual's body, or produced by an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (4)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (4)(a); or

(d) to make an examination or determination as described in Subsection (4)(a) upon or from information supplied directly or indirectly by another individual, whether or not in the presence of the individual the examination or determination concerns.

(5) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

(6) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

(7)(a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

(A) local anesthesia or a prescription drug described in Subsection (8)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection (7)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving nerves, veins, or arteries.

(8) "Natural medicine" means any:

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter medication;

(c) other nonprescription substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

(9)(a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician.

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

(c) "Naturopathic childbirth" does not include the use of:

(i) forceps delivery;

(ii) general or spinal anesthesia;

(iii) caesarean section delivery; or

(iv) induced labor or abortion.

(10)(a) "Naturopathic mobilization therapy" means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier.

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Chapter 73, Chiropractic Physician Practice Act.

(11)(a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

(12) "Naturopathic physician" means an individual licensed under this chapter to engage in the practice of naturopathic medicine.

(13) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

(I) refer patients to the consulting physician; and

(II) consult with the consulting physician;

(ii) using naturopathic mobilization therapy;

(iii) using naturopathic physical medicine;

(iv) using minor office procedures;

(v) prescribing or administering natural medicine;

(vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by

the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

(vii) prescribing barrier devices for contraception;

(viii) using dietary therapy;

(ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

(x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

(xi) taking of a history from and conducting of a physical examination upon a human patient; and

(xii) administering local anesthesia during the performance of a minor office procedure;

(b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (13)(a), whether or not for compensation; or

(c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

(14) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(15) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person licensed under this chapter or exempt from licensure under this chapter.

(16) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-501.

(18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 96. Section 58-72-102 is amended to read:

58-72-102. Acupuncture licensing -- Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the [~~Acupuncture Licensing Board created in Section 58-72-201~~]Board of Massage Therapy and Acupuncture created in Section 58-47b-201.

(2)(a) "Injection therapy" means the use of a hypodermic needle, by a licensed acupuncturist who has obtained a clean needle technique certificate from the National Commission for the Certification of Acupuncture and Oriental Medicine (NCCAOM), to inject any of the following sterile substances in liquid form into acupuncture points on the body subcutaneously or intramuscularly:

(i) a nutritional substance;

(ii) a local anesthetic;

(iii) autologous blood, if the licensee holds a current phlebotomy certification to draw blood;

(iv) sterile water;

(v) dextrose;

(vi) sodium bicarbonate; and

(vii) sterile saline.

(b) "Injection therapy" includes using ultrasound guidance to ensure that an injection is only a subcutaneous injection or an intramuscular injection.

(c) "Injection therapy" does not include injecting a substance into a vein, joint, artery, blood vessel, nerve, tendon, deep organ, or the spine.

(d) "Injection therapy" may not be performed on a pregnant woman or a child under the age of eight.

(3) "Licensed acupuncturist," designated as "L.Ac.," means a person who has been licensed under this chapter to practice acupuncture.

(4) "Moxibustion" means a heat therapy that uses the herb moxa to heat acupuncture points of the body.

(5)(a) "Practice of acupuncture" means the insertion of acupuncture needles, the use of injection therapy, and the application of moxibustion to specific areas of the body based on traditional oriental medical diagnosis and modern research as a primary mode of therapy.

(b) Adjunctive therapies within the scope of the practice of acupuncture may include:

(i) manual, mechanical, thermal, electrical, light, and electromagnetic treatments based on traditional oriental medical diagnosis and modern research;

(ii) the recommendation, administration, or provision of dietary guidelines, herbs, supplements, homeopathics, and therapeutic exercise based on

traditional oriental medical diagnosis and modern research according to practitioner training; and

(iii) the practice described in Subsections (5)(a) and (b) on an animal to the extent permitted by:

(A) Subsection 58-28-307(12);

(B) the provisions of this chapter; and

(C) division rule.

(c) "Practice of acupuncture" does not include:

(i) the manual manipulation or adjustment of the joints of the body beyond the elastic barrier; or

(ii) the "manipulation of the articulation of the spinal column" as defined in Section 58-73-102.

(6) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-72-503, and as may be further defined by division rule.

Section 97. Section 58-88-205 is amended to read:

58-88-205. Operating standards -- Rulemaking.

(1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing practice licensed under this part which shall include, but is not limited to, standards for:

(a) security;

(b) labeling;

(c) storage;

(d) supervision;

(e) inventory control; and

(f) patient counseling.

(2) The division may designate individual medications and classes of medications that may not be dispensed at a licensed dispensing practice under this chapter.

(3) When making rules under this part, the division shall consult with a group consisting of:

(a) two members of the [~~Physicians~~]Medical Licensing Board created in Section 58-67-201; and

(b) two members of the Utah State Board of Pharmacy created in Section 58-17b-201.

Section 98. Section 63C-1-103 is enacted to read:

63C-1-103. Appointment and terms of boards transitioning on October 1, 2024.

(1) As used in this section:

(a) "Enacted committee" means the following as constituted on or after October 1, 2024:

(i) the Physical Therapies Licensing Board created in Section 58-24b-201;

(ii) the Board of Nursing and Certified Nurse Midwives created in Section 58-31b-201;

(iii) the Architects and Landscape Architects Licensing Board created in Section 58-3a-201;

(iv) the Construction Services Commission created in Section 58-55-103;

(v) the Board of Massage Therapy and Acupuncture created in Section 58-47b-201; and

(vi) the Medical Licensing Board created in Section 58-67-201.

(b) "Expired committee" means:

(i) the following which, in accordance with Title 63I, Chapter 2, Repeal Dates by Title Act, are repealed on October 1, 2024:

(A) the Board of Occupational Therapy created in Section 58-42a-201;

(B) the Certified Nurse Midwife Board created in Section 58-44a-201;

(C) the Landscape Architects Board created in Section 58-53-201;

(D) the Acupuncture Licensing Board created in Section 58-72-201;

(E) the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201; and

(F) the Physician Assistant Licensing Board created in Section 58-70a-201; and

(ii) the following as constituted before October 1, 2024:

(A) the Physical Therapy Licensing Board created in Section 58-24b-201;

(B) the Board of Nursing created in Section 58-31b-201;

(C) the Architects Licensing Board created in Section 58-3a-201;

(D) the Plumbers Licensing Board created in Section 58-55-201;

(E) the Electricians Licensing Board created in Section 58-55-201;

(F) the Board of Massage Therapy created in Section 58-47b-201; and

(G) the Physicians Licensing Board created in Section 58-67-201.

(2) An individual who is appointed as a member of an expired committee is removed from the expired committee after September 30, 2024.

(3)(a) On or after May 1, 2024, but before October 1, 2024:

(i) the appointing authority of an enacted committee may appoint a member to the enacted committee in accordance with the section governing appointment to the enacted committee; and

(ii) if applicable under the section governing appointment to the enacted committee, the Senate may provide advice and consent.

(b) A member described in Subsection (3)(a) may not begin the individual's term of service on the enacted committee before October 1, 2024.

(4)(a) Nothing in this section prevents an appointing authority from appointing an individual who is removed from an expired committee in accordance with Subsection (2) to an enacted committee if the individual's appointment meets the requirements of the section governing appointment to the enacted committee.

(b) If an individual is removed from an expired committee under Subsection (2) and is then appointed to an enacted committee under Subsection (3)(a), and the appointed position has limited terms an individual may serve, the appointment under Subsection (3)(a) does not count as an additional term.

Section 99. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the Utah Grazing Improvement Program Advisory Board, is repealed July 1, 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

[~~(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.~~]

[~~(9)~~](8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

Section 100. Section 63I-1-207 is amended to read:

63I-1-207. Repeal dates: Title 7.

[~~(1)~~] Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, 2031.

[~~(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, 2032.~~]

[~~(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, 2033.~~]

Section 101. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates: Title 13.

(1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

[~~(2) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.~~]

[~~(3) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, 2032.~~]

[~~(4)~~](2) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2026.

Section 102. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

[~~(2) Section 19-2a-102 is repealed July 1, 2026.~~]

[~~(3) Section 19-2a-104 is repealed July 1, 2022.~~]

[~~(4)~~](2)(a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

(b) Notwithstanding Subsection [~~(4)(a)~~](2)(a), Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

[~~(5)~~](3) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

[~~(6)~~](4) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

[~~(7)~~](5) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

[~~(8)~~](6) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[~~(9)~~](7) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(10)~~](8) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(11)~~](9) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(12)~~](10) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 103. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection [~~34A-1-202(2)(c)(i)~~] 34A-1-202(2)(b)(i), related to the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection [~~34A-1-202(2)(c)(iii)~~] 34A-1-202(2)(b)(iii), related to the Coal Miner Certification Panel, is repealed July 1, 2024.

(3) Section 34A-2-107, which creates the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(4) Section 34A-2-202.5 is repealed December 31, 2030.

Section 104. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2032.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2028.

(6) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(7) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.~~]

[~~(8) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.~~]

Section 105. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates: Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2028.

(2) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

[~~(3) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed July 1, 2028.~~]

[~~(4)~~](3) Section 36-29-112, Justice Court Reform Task Force, is repealed July 1, 2025.

Section 106. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.~~]

[~~(3)~~](2) The following subsections addressing lane filtering are repealed on July 1, 2027:

(a) the subsection in Section 41-6a-102 that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

[~~(4)~~](3) Subsection 41-6a-1406(6)(b)(iii), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(5)~~](4) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

[~~(6)~~](5) Subsection 41-22-8(3), related to the Neuro-Rehabilitation Fund, is repealed January 1, 2025.

Section 107. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

[~~(4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.~~]

[~~(5)~~](4) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(6)~~](5) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(7)~~](6) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(8)~~](7) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(9)~~](8) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(10)~~](9) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(11)~~](10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(12)~~](11) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(13)~~](12) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.~~]

[~~(15)~~](13) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(16)~~](14) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(17)~~](15) Section 53F-5-213 is repealed July 1, 2023.

[~~(18)~~](16) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(19)~~](17) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(20)~~](18) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(21) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.~~]

[~~(22)~~](19) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(23)~~](20) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(24)~~](21) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 108. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

[~~(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.~~]

[~~(6)~~](5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.~~]

[~~(16)~~](14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](16) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](19) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.~~]

[~~(23)~~](20) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(24)~~](21) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(25)~~](22) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 109. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.

(3) Section 53-2d-703 is repealed July 1, 2027.

(4) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2024.

[~~(5) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.~~]

[~~(6)~~](5) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education is repealed July 1, 2027.

[~~(7)~~](6) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(10)~~](9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](10) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed on July 1, 2028.

[~~(12)~~](11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(13)~~](12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(14)~~](13) In relation to a standards review committee, on January 1, 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2027.~~]

[~~(16)~~](14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(17)~~](15) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(18)~~](16) Section 53F-5-213 is repealed July 1, 2023.

[~~(19)~~](17) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(20)~~](18) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(21)~~](19) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(22)~~](20)(a) Subsection 53F-9-201.1(2)(b)(ii), in relation to the use of funds from a loss in enrollment for certain fiscal years, is repealed on July 1, 2030.

(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.

[~~(23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.~~]

[~~(24)~~](21) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(25)~~](22) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

[~~(26)~~](23) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 110. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

[~~(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.~~]

[~~(2)~~](1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

[~~(3)~~](2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

[~~(4)~~](3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

[~~(5)~~](4) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

[~~(6)~~](5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

[~~(7)~~](6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

[~~(8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.~~]

[~~(9)~~](7) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

[~~(10)~~](8) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

[~~(11)~~](9) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

[~~(12) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.~~]

[~~(13)~~](10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[~~(14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.~~]

Section 111. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(5) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(6) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(8) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

(9) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(10) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(11) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

(13) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

(14) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(15) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(16) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(17) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(18) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(19) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

(20) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(21) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(22) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.~~]

[~~(24)~~](23) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](24) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](25) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](26) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](27) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](28) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](29) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](30) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[~~(32)~~](31) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

Section 112. Section 63I-1-265 is amended to read:

63I-1-265. Repeal dates: Title 65A.

[~~Section 65A-8-306, which creates the Heritage Trees Advisory Committee, is repealed July 1, 2026.~~]

Section 113. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

[~~(1) Subsection 79-2-201(2)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.~~]

[~~(2)~~](1) Subsection [~~79-2-201(2)(q)~~] 79-2-201(2)(o), related to the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

[~~(3)~~](2) Subsection [~~79-2-201(2)(r)(i)~~] 79-2-201(2)(p)(i), related to an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.

[~~(4)~~](3) Subsection [~~79-2-201(2)(s)~~] 79-2-201(2)(q), related to the Wildlife Board Nominating Committee, is repealed July 1, 2028.

[~~(5)~~](4) Subsection [~~79-2-201(2)(t)~~] 79-2-201(2)(r), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

[~~(6)~~](5) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

[~~(7)~~](6) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 114. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

[~~(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.~~]

[~~(2)~~](1) Subsection 4-41a-102(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.

(2) Section 4-41a-102.1 is repealed January 1, 2024.

(3) Title 4, Chapter 42, Utah Intracurricular Student Organization Support for Agricultural Education and Leadership, is repealed on July 1, 2024.

(4) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 115. Section 63I-2-207 is enacted to read:

63I-2-207. Repeal dates: Title 7.

(1) Section 7-3-40 is repealed October 1, 2024.

(2) Section 7-9-43 is repealed October 1, 2024.

Section 116. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Section 9-9-112, Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2024.

[~~(2) Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program, is repealed June 30, 2021.~~]

[~~(3)~~](2) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed on July 1, 2024.

[~~(4)~~](3) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed on July 1, 2024.

[~~(5)~~](4) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed on July 1, 2024.

Section 117. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16 is repealed on July 1, 2024.

(2) Section 13-14-103 is repealed October 1, 2024.

(3) Section 13-35-103 is repealed October 1, 2024.

[~~(2)~~](4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

Section 118. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(9) Section 26B-1-420, which creates the Cannabis Research Review Board, is repealed July 1, 2026.

(10) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

[~~(9)~~](11) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(10)~~](12) Section 26B-3-142 is repealed July 1, 2024.

[~~(11)~~](13) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(14) Subsection 26B-4-201(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(12)~~](15) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(16) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(13)~~](17) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(14)~~](18) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(15)~~](19) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(16)~~](20) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 119. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) Section 26B-1-420, which creates the Cannabis Research Review Board, is repealed July 1, 2026.

(8) Subsection 26B-1-421(9)(a) is repealed July 1, 2026.

[~~(7)~~](9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(8)~~](10) Section 26B-3-142 is repealed July 1, 2024.

[~~(9)~~](11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) Subsection 26B-4-201(4), defining the Cannabis Research Review Board, is repealed July 1, 2026.

(13) Subsection 26B-4-212(1)(b), defining the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(10)~~](14) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(11)~~](15) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

[~~(12)~~](16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 120. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates: Title 34A.

[~~(1) Section 34A-2-107.3 is repealed May 15, 2025. (2)~~] Subsection 34A-3-113(7) relating to a study is repealed on January 1, 2025.

Section 121. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

[~~(3)~~](4) Section 53-7-109 is repealed on July 1, 2024.

[~~(4)~~](5) Section 53-22-104 is repealed December 31, 2023.

[~~(5)~~](6) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~](7) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(7)~~](8) Section 53B-8-114 is repealed July 1, 2024.

[~~(8)~~](9) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(9)~~](10) Section 53B-10-101 is repealed on July 1, 2027.

[~~(10)~~](11) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(11)~~](12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(12)~~](13) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(13)~~](14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(14)~~](15) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(15)~~](16) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(16)~~](17) Section 53F-9-401 is repealed on July 1, 2024.

[~~(17)~~](18) Section 53F-9-403 is repealed on July 1, 2024.

[~~(18)~~](19) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 122. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

[~~(4)~~](5) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

[~~(5)~~](6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(6)~~](7) Section 53-7-109 is repealed on July 1, 2024.

[~~(7)~~](8) Section 53-22-104 is repealed December 31, 2023.

[~~(8)~~](9) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(9)~~](10) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(10)~~](11) Section 53B-8-114 is repealed July 1, 2024.

[~~(11)~~](12) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

[~~(12)~~](13) Section 53B-10-101 is repealed on July 1, 2027.

[~~(13)~~](14) Subsection 53E-1-201(1)(s) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(14)~~](15) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(15)~~](16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(16)~~](17) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(17)~~](18) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(18)~~](19) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

[~~(19)~~](20) Section 53F-9-401 is repealed on July 1, 2024.

[~~(20)~~](21) Section 53F-9-403 is repealed on July 1, 2024.

[~~(21)~~](22) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 123. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates: Title 58.

(1) Section 58-42a-201 is repealed October 1, 2024.

(2) Section 58-44a-201 is repealed October 1, 2024.

(3) Section 58-53-201 is repealed October 1, 2024.

(4) Section 58-68-201 is repealed October 1, 2024.

(5) Section 58-70a-201 is repealed October 1, 2024.

(6) Section 58-72-201 is repealed October 1, 2024.

Section 124. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council, is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Section 63C-1-103 is repealed January 1, 2025.

[~~(4)~~](5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(5)~~](6) Section 63H-7a-303 is repealed July 1, 2024.

[~~(6)~~](7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(7)~~](8) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(8)~~](9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(9)~~](10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 125. Section 65A-8-302 is amended to read:

65A-8-302. Definitions.

As used in this part:

(1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.

[~~(2) "Committee" means the Heritage Trees Advisory Committee.~~]

[~~(3)~~](2) "Division" means the Division of Forestry, Fire, and State Lands.

[~~(4)~~](3) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:

(a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;

(b) any tree or group of trees that has exceptional national, state, or local historic significance;

(c) any tree or group of trees which has an exceptional size or exceptional form for its species;

(d) any tree or group of trees which has an exceptional age for its species; or

(e) any tree or group of trees in the state which is the sole representative of its species.

[~~(5)~~](4) "Person" means any individual, partnership, corporation, or association.

Section 126. Section 65A-8-304 is amended to read:

65A-8-304. Guidelines and standards for granting or denying applications to alter or remove trees.

[~~(1) The committee shall develop published guidelines and standards to be used by the board in granting or denying applications for the alteration or removal of heritage trees.~~

~~(2) In addition to the guidelines and standards developed by the committee, the~~]The division shall consider the following criteria in granting or denying an application:

[~~(a)~~](1) the physical condition of the heritage tree or trees with respect to:

[~~(i)~~](a) insect infestation;

[~~(ii)~~](b) disease;

[~~(iii)~~](c) danger of falling;

[~~(iv)~~](d) proximity to existing or proposed structures; and

[~~(v)~~](e) interference with utility services;

[~~(b)~~](2) the necessity of alteration or removal of the heritage tree or trees in order to construct proposed improvements and allow economic enjoyment of property;

[~~(c)~~](3) the topography of the land and the effect of removal of the heritage tree or trees on:

[~~(i)~~](a) erosion;

[~~(ii)~~](b) soil retention; and

[~~(iii)~~](c) the diversion or increased flow of surface waters resultant upon alteration or removal;

[~~(d)~~](4) the number of heritage trees existing in the neighborhood on improved property;

[~~(e)~~](5) the effect alteration or removal would have on established standards and property values in the area; and

[~~(f)~~](6) the number of heritage trees the particular parcel can support according to good forestry practices.

Section 127. Section 76-7-314 is amended to read:

76-7-314. Violations of abortion laws -- Classifications.

(1) An intentional violation of Section 76-7-307, 76-7-308, 76-7-310, 76-7-310.5, 76-7-311, or 76-7-312 is a felony of the third degree.

(2) A violation of Section 76-7-326 is a felony of the third degree.

(3) A violation of Section 76-7-314.5 is a felony of the second degree.

(4) A violation of any other provision of this part, including Subsections 76-7-305(2)(a) through (c), and (e), is a class A misdemeanor.

(5) The Department of Health and Human Services shall report a physician's violation of any provision of this part to the [~~Physicians~~]Medical Licensing Board, described in Section 58-67-201.

(6) Any person with knowledge of a physician's violation of any provision of this part may report the violation to the [~~Physicians~~]Medical Licensing Board, described in Section 58-67-201.

(7) In addition to the penalties described in this section, the department may take any action described in Section 26B-2-208 against a health care facility if a violation of this chapter occurs at the health care facility.

Section 128. Section 76-7-328 is amended to read:

76-7-328. Hearing to determine necessity of physician's conduct.

(1) A physician accused of an offense under Section 76-7-326 may seek a hearing before the [~~Physicians~~]Medical Licensing Board created in [~~Section 58-67-201, or the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201~~]Section 58-67-201 on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon a

motion from the physician, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Section 129. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

[~~(c) Board of State Parks, created in Section 79-4-301;~~]

[~~(d)~~](c) Office of Energy Development, created in Section 79-6-401;

[~~(e)~~](d) Wildlife Board, created in Section 23A-2-301;

[~~(f)~~](e) Board of the Utah Geological Survey, created in Section 79-3-301;

[~~(g)~~](f) Water Development Coordinating Council, created in Section 73-10c-3;

[~~(h)~~](g) Division of Water Rights, created in Section 73-2-1.1;

[~~(i)~~](h) Division of Water Resources, created in Section 73-10-18;

[~~(j)~~](i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

[~~(k)~~](j) Division of Oil, Gas, and Mining, created in Section 40-6-15;

[~~(l)~~](k) Division of State Parks, created in Section 79-4-201;

[~~(m)~~](l) Division of Outdoor Recreation, created in Section 79-7-201;

[~~(n)~~](m) Division of Wildlife Resources, created in Section 23A-2-201;

[~~(o)~~](n) Utah Geological Survey, created in Section 79-3-201;

[~~(p) Heritage Trees Advisory Committee, created in Section 65A-8-306;~~]

[~~(q)~~](o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

[~~(r)~~](p)(i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

[~~(s)~~](q) Wildlife Board Nominating Committee, created in Section 23A-2-302;

[~~(t)~~](r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;

[~~(u)~~](s) Utah Watersheds Council, created in Section 73-10g-304;

[~~(v)~~](t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305; and

[~~(w)~~](u) Public Lands Policy Coordinating Office created in Section 63L-11-201.

(3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.

Section 130. Section 79-4-102 is amended to read:

79-4-102. Definitions.

[~~(1) "Board" means the Board of State Parks.~~ ~~(2)~~] "Division" means the Division of State Parks.

Section 131. Repealer.

This bill repeals:

Section 4-2-601, Title.

Section 4-2-602, Local Food Advisory Council created.

Section 4-2-603, Duties.

Section 4-2-604, Duties -- Interim report.

Section 4-35-103, Decision and Action Committee created -- Members -- How appointed -- Duties of committee -- Per diem and expenses allowed.

Section 13-32a-112, Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board.

Section 19-2a-102, Air Quality Policy Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation.

Section 32B-2-210, Alcoholic Beverage Services Advisory Board.

Section 34-20-3, Labor relations board.

Section 34-20-4, Labor relations board -- Employees -- Agencies -- Expenses.

Section 34-20-5, Labor relations board -- Offices -- Jurisdiction -- Member's participation in case.

Section 34-20-6, Labor relations board -- Rules and regulations.

Section 34-20-10, Unfair labor practices -- Powers of board to prevent -- Procedure.

Section 34-20-11, Hearings and investigations -- Power of board -- Witnesses -- Procedure.

Section 34-20-12, Willful interference -- Penalty.

Section 34A-2-107.3, Mental Health Protections for First Responders Workgroup.

Section 35A-13-404, Appointment of advisory council.

Section 35A-13-603, Board.

Section 36-29-108, Criminal Code Evaluation Task Force.

Section 41-3-106, Board -- Creation and composition -- Appointment, terms, compensation, and expenses of members -- Meetings -- Quorum -- Powers and duties -- Officers' election and duties -- Voting.

Section 53B-6-105.5, Technology Initiative Advisory Board -- Composition -- Duties.

Section 53B-26-303, Deep Technology Talent Advisory Council.

Section 53E-4-402, Creation of commission -- Powers -- Payment of expenses.

Section 53E-4-404, Meetings -- Notice.

Section 63M-7-801, Definitions.

Section 63M-7-802, Sex Offense Management Board - Creation - Members appointment - Qualifications - Terms.

Section 63M-7-803, Board duties.

Section 65A-8-306, Heritage Trees Advisory Committee -- Members -- Officers -- Expenses -- Functions.

Section 79-4-301, Board of State Parks -- Creation -- Functions.

Section 79-4-302, Board appointment and terms of members -- Expenses.

Section 79-4-303, Board meetings -- Quorum.

Section 79-4-304, Board rulemaking authority.

Section 79-4-305, Long-range plans.

Section 79-4-502, Violations of rules.

Section 132. Effective date.

(1) Except as provided in Subsections (2) through (4), this bill takes effect on May 1, 2024.

(2) The actions affecting the following sections take effect on July 1, 2024:

(a) Section 63I-1-253 (Effective 07/01/24) (Contingently Superseded 01/01/25);

(b) Section 63I-2-226 (Effective 07/01/24); and

(c) Section 63I-2-253 (Effective 07/01/24).

(3) The actions affecting the following sections take effect on October 1, 2024:

(a) Section 7-1-203;

(b) Section 13-14-102;

(c) Section 13-14-104;

(d) Section 13-14-106;

(e) Section 13-14-107;

(f) Section 13-14-201;

(g) Section 13-14-202;

(h) Section 13-14-203;

(i) Section 13-14-301;

(j) Section 13-14-302;

(k) Section 13-14-303;

(l) Section 13-14-304;

(m) Section 13-14-305;

(n) Section 13-14-306;

(o) Section 13-35-102;

(p) Section 13-35-104;

(q) Section 13-35-106;

(r) Section 13-35-107;

(s) Section 13-35-201;

(t) Section 13-35-202;

(u) Section 13-35-203;

(v) Section 13-35-301;

(w) Section 13-35-302;

(x) Section 13-35-303;

(y) Section 13-35-305;

(z) Section 13-35-306;

(aa) Section 15A-1-204;

(bb) Section 15A-1-206;

(cc) Section 26B-1-239;

(dd) Section 26B-3-303;

(ee) Section 26B-4-219;

(ff) Section 26B-4-506;

(gg) Section 26B-4-513;

(hh) Section 58-3a-102;

(ii) Section 58-3a-201;

(jj) Section 58-17b-102;

(kk) Section 58-17b-605;

(ll) Section 58-17b-610.8;

(mm) Section 58-17b-625;

(nn) Section 58-17b-1005;

(oo) Section 58-24b-102;

(pp) Section 58-24b-201;

(qq) Section 58-24c-104;

(rr) Section 58-31b-102;

(ss) Section 58-31b-201;

(tt) Section 58-31e-103;

(uu) Section 58-37f-304;

(vv) Section 58-38a-201;

(ww) Section 58-42a-102;

(xx) Section 58-44a-102;

(yy) Section 58-47b-102;

(zz) Section 58-47b-201;

(aaa) Section 58-53-102;

(bbb) Section 58-54-201;

(ccc) Section 58-55-102;

(ddd) Section 58-55-103;

(eee) Section 58-55-201;

(fff) Section 58-55-302;

(ggg) Section 58-67-102;

(hhh) Section 58-67-201;

(iii) Section 58-68-102;

(jjj) Section 58-70a-102;

(kkk) Section 58-70b-101;

(lll) Section 58-72-102;

(mmm) Section 58-88-205;

(nnn) Section 76-7-314; and

(ooo) Section 76-7-328.

(4) The actions affecting Section 63I-1-253 (Contingently Effective 01/01/25) contingently take effect on January 1, 2025.

Section 133. Coordinating H.B. 534 with H.B. 132.

If H.B. 534, Boards and Commissions Modifications, and H.B. 132, Pharmacy Amendments, both pass and become law, the Legislature intends that, on October 1, 2024, Subsection 58-17b-605(9)(b)(iii) enacted by H.B. 132 be deleted.

CHAPTER 508
H. B. 538
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

PROTECTION OF STATE OFFICIAL OR EMPLOYEE PERSONAL INFORMATION

Chief Sponsor: Kera Birkeland
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill addresses state elected official's or state employee's personal identifying information.

Highlighted Provisions:

This bill:

- defines terms;
- permits state elected officials or certain state employees to request the removal of personal identifying information from the open web by the Division of Technology Services (division);
- allows for contracting for services;
- provides for rulemaking related to requesting the removal;
- prohibits charging for the division's services;
- addresses liability related to the division's services;
- makes information a private record; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-16-104, as last amended by Laws of Utah 2023, Chapter 43

63G-2-302, as last amended by Laws of Utah 2023, Chapters 329, 471

ENACTS:

63A-16-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-16-104 is amended to read:

63A-16-104. Duties of division.

The division shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) once every three years:

(a) conduct an information technology security assessment via an independent third party:

(i) to evaluate the adequacy of the division's and the executive branch agencies' data and information technology system security standards; and

(ii) that will be completed over a period that does not exceed two years; and

(b) communicate the results of the assessment described in Subsection (4)(a) to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) subject to Subsection 63G-6a-109.5(9):

(a) advise executive branch agencies on project and contract management principles as they relate to information technology projects within the executive branch; and

(b) approve the acquisition of technology services and products by executive branch agencies as required under Section 63G-6a-109.5;

(6) work toward building stronger partnering relationships with providers;

(7) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(8) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(9) determine and implement statewide efforts to standardize data elements;

(10) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63A-16-209;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(11) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

(12) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the Government Operations Interim Committee in accordance with Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

(13) assist the Governor's Office of Planning and Budget with the development of information technology budgets for agencies;

(14) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this chapter;

(b) by the department; or

(c) by the division;

(15) provide support to executive branch agencies for the information technology assets and functions that are unique to the agency and are mission critical functions of the agency;

(16) provide in-house information technology staff support to executive branch agencies;

(17) establish a committee composed of agency user groups to coordinate division services with agency needs;

(18) assist executive branch agencies in complying with the requirements of any rule made by the chief information officer;

(19) develop and implement an effective enterprise architecture governance model for the executive branch;

(20) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources;

(21) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;

(22) serve as a project manager for enterprise architecture, including management of applications, standards, and procurement of enterprise architecture;

(23) coordinate the development and implementation of advanced state telecommunication systems;

(24) provide services, including technical assistance:

(a) to executive branch agencies and subscribers to the services; and

(b) related to information technology or telecommunications;

(25) establish telecommunication system specifications and standards for use by:

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63A-16-302;

(26) coordinate state telecommunication planning, in cooperation with:

(a) state telecommunication users;

(b) executive branch agencies; and

(c) other subscribers to the state's telecommunication systems;

(27) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:

(a)(i) governmental information technology; or

(ii) governmental telecommunication systems; and

(b)(i) as part of a cooperative organization; or

(ii) through means other than a cooperative organization;

(28) establish, operate, manage, and maintain:

(a) one or more state data centers; and

(b) one or more regional computer centers;

(29) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or the state's political subdivisions;

(30) in accordance with the executive branch strategic plan, implement minimum standards to

be used by the division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems;

(31) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:

(a) project management;

(b) application development; and

(c) subject to Subsections (5) and 63G-6a-109.5(9), procurement;

(32) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources; [~~and~~]

(33) establish a system of accountability to user agencies through the use of service agreements[~~.~~]; and

(34) provide the services described in Section 63A-16-109 for a state elected official or state employee who has been threatened.

Section 2. Section 63A-16-109 is enacted to read:

63A-16-109. Removal of state elected official or employee personal identifying information.

(1) As used in this section:

(a) "Open web" means the Internet used for everyday activities like browsing, searching, reading media, online shopping, or other website or online applications.

(b) "Personal identifying information" means the following:

(i) physical home address and personal email address;

(ii) home telephone number and personal mobile telephone number;

(iii) driver license or other government-issued identification; or

(iv) social security number.

(c)(i) "State elected official" means a person who holds an office in state government that is required by law to be filled by an election, including the offices of governor, lieutenant governor, attorney general, state auditor, state treasurer, and legislator.

(ii) "State elected official" does not include a judge.

(d) "State employee who has been threatened" means an individual:

(i)(A) who is a cabinet level official or senior staff of the governor; or

(B) who is an employee of the state executive branch and meets selective criteria implemented by the division that are established by rule made under Subsection (4); and

(ii) whose life or safety has been threatened in the course of performing the individual's state duties through a text, phone call, email, postal delivery, face-to-face encounter, or website or online application.

(2) At the written request of a state elected official or a state employee who has been threatened, the division shall within 30 days of receipt of the request:

(a) search the open web for personal identifying information that is about the state elected official or state employee who has been threatened;

(b) when possible, remove the personal identifying information found under Subsection (2)(a) from the open web; and

(c) conduct continuous monthly removal when possible of personal identifying information from the open web.

(3) The chief information officer may contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, with a third party to provide the services described in Subsection (2).

(4) The chief information officer may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish requirements related to:

(a) what information the state elected official or state employee who has been threatened shall provide the division as part of the request described in Subsection (2);

(b) procedures for submitting the written request to the division; and

(c) establishing the selective criteria used to determine whether a state employee may receive the services described in Subsection (2).

(5) The division may not charge a rate for the services provided under this section.

(6)(a) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the division is not liable for actions performed under this section except as a result of intentional misconduct or gross negligence including reckless, willful, or wanton misconduct.

(b) This section does not create a special duty of care.

(7) A federal, state, or local government record is not subject to this section, even if the government record contains personal identifying information.

Section 3. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in

Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions;

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii);

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3); [~~and~~]

(dd) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004[~~.~~]; and

(ee) a record relating to a request by a state elected official or state employee who has been threatened to the Division of Technology Services to remove personal identifying information from the open web under Section 63A-16-109.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 26B-6-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3)(a) As used in this Subsection (3), "medical records" means medical reports, records,

statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G- 2- 304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 509
H. B. 539
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

STATE LEGAL DISPUTE AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to state legal actions.

Highlighted Provisions:

This bill:

- modifies the Government Records Access and Management Act to address information regarding imminent or pending litigation shared among certain state entities;
- amends the state settlement approval process by:
  - directing the attorney general to share with the approving person any information relevant to a recommended settlement; and
  - clarifying that the cost to implement an action settlement agreement includes the cost of monetary and non-monetary terms;
- provides the attorney general's authority to take certain enforcement action against charter schools;
- addresses the sharing of information between the attorney general and the Legislature relating to state settlements and anticipated or pending state litigation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

63G-2-103, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516
63G-10-301, as last amended by Laws of Utah 2023, Chapter 535
63G-10-302, as last amended by Laws of Utah 2023, Chapter 535
63G-10-303, as last amended by Laws of Utah 2023, Chapter 535
63G-10-501, as last amended by Laws of Utah 2021, Chapters 33, 344
63G-10-503, as last amended by Laws of Utah 2023, Chapter 535
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530
67-5-17, as enacted by Laws of Utah 2000, Chapter 212

ENACTS:

63G-31-401.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

63G-10-103, as renumbered and amended by Laws of Utah 2008, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4)(a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5)(a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11)(a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14)(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial

contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program,

created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; [~~or~~]

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or [~~58-61-702.~~] 58-61-702; or

(xix) any item described in Subsection (25)(a) that is:

(A) described in Subsection 63G-2-305(17), (18), or (23)(b); and

(B) shared between any of the following entities:

(I) the Division of Risk Management;

(II) the Office of the Attorney General;

(III) the governor's office; or

(IV) the Legislature.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 2. Section 63G-10-103 is repealed and re-enacted to read:

63G-10-103. Notice of voidableness of settlement agreements.

(1) Each action settlement agreement and each financial settlement agreement executed in violation of this chapter is voidable by the governor or the Legislature as provided in this chapter.

(2)(a) When seeking approval of an action settlement agreement or a financial settlement agreement under this chapter, upon request the attorney general shall provide to the approving person any documents or information relevant to the recommended settlement.

(b) Information and documents shared under this section are governed by Subsection 67-5-17(6).

Section 3. Section 63G-10-301 is amended to read:

63G-10-301. Cost evaluation of action settlement agreements.

(1) Before legally binding the state to an action settlement agreement that might cost the state a total of $250,000 or more to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall estimate the cost of implementing the action settlement agreement and submit that cost estimate to the governor and the Legislative Management Committee.

(2) The Legislative Management Committee may:

(a) direct its staff to make an independent cost estimate of the cost of implementing the action settlement agreement; and

(b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Section 4. Section 63G-10-302 is amended to read:

63G-10-302. Governor to approve action settlement agreements.

(1) Before legally binding the state by executing an action settlement agreement that might cost government entities more than $250,000 to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall submit the proposed settlement agreement, including all terms material to the settlement, to the governor for the governor's approval or rejection.

(2) The governor shall approve or reject each action settlement agreement.

(3)(a) If the governor approves the action settlement agreement, the agency may execute the agreement.

(b) If the governor rejects the action settlement agreement, the agency may not execute the agreement.

(4) If an agency executes an action settlement agreement without obtaining the governor's approval under this section, the governor may issue an executive order declaring the settlement agreement void.

(5) An agency executing an agreement under this section shall give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 5. Section 63G-10-303 is amended to read:

63G-10-303. Legislative review and approval of action settlement agreements.

(1)(a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than $1,000,000 to implement, inclusive of the cost of the required action and any required monetary payment, an agency shall:

(i) submit the proposed action settlement agreement, including all terms that are material to the settlement, to the governor for the governor's approval or rejection as required by Section 63G-10-302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislative Management Committee for its review and recommendations.

(b) The Legislative Management Committee shall review the action settlement agreement and may:

(i) recommend that the agency execute the settlement agreement;

(ii) recommend that the agency reject the settlement agreement; or

(iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the settlement agreement.

(2)(a) Before legally binding the state by executing an action settlement agreement that might cost government entities more than $2,000,000 to implement, an agency shall:

(i) submit the proposed action settlement agreement, including all terms that are material to the settlement, to the governor for the governor's approval or rejection as required by Section 63G-10-302; and

(ii) if the governor approves the action settlement agreement, submit the action settlement agreement to the Legislature for its approval in an annual general session or a special session.

(b)(i) If the Legislature approves the action settlement agreement, the agency may execute the agreement.

(ii) If the Legislature rejects the action settlement agreement, the agency may not execute the agreement.

(c) If an agency executes an action settlement agreement without obtaining the Legislature's approval under this Subsection (2):

(i) the governor may issue an executive order declaring the action settlement agreement void; or

(ii) the Legislature may pass a joint resolution declaring the action settlement agreement void.

Section 6. Section 63G-10-501 is amended to read:

63G-10-501. Definitions.

As used in this part:

(1) "Executive director" means the individual appointed under Section 63A-1-105 as the executive director of the Department of Government Operations, created in Section 63A-1-104.

(2) "Risk management fund" means the fund created in Section 63A-4-201.

(3) "Risk manager" means the state risk manager appointed under Section 63A-4-101.5.

(4) "Settlement amount" means the total cost to implement:

(a) an action settlement as defined in Section 63G-10-102, including the cost of the required action and any required monetary payment; or

(b) a financial settlement as defined in Section 63G-10-102.

Section 7. Section 63G-10-503 is amended to read:

63G-10-503. Risk manager's authority to settle a claim -- Additional approvals required.

(1) The risk manager may compromise and settle any claim for which the risk management fund may be liable:

(a) if the settlement amount is $500,000 or less, on the risk manager's own authority;

(b) if the settlement amount is more than $500,000 but not more than $1,000,000, upon the approval of the attorney general, or the attorney general's representative, and the executive director;

(c) if the settlement amount is more than $1,000,000 but not more than $1,500,000, upon the governor's approval after receiving approval under Subsection (1)(b);

(d) if the settlement amount is more than $1,500,000 but not more than $2,000,000, upon the Legislative Management Committee's approval after receiving approval under Subsections (1)(b) and (c); and

(e) if the settlement amount is more than $2,000,000, upon the Legislature's approval after receiving approval under Subsections (1)(b), (c), and (d).

(2) When seeking approval from a person under Subsection (1), the risk manager shall provide the person a list of each material term in the proposed settlement agreement.

[~~(2)~~](3)(a) The risk manager shall, upon initiation of negotiations that the risk manager reasonably believes to have the potential to lead to a settlement requiring approval under Subsection (1)(d) or (e):

(i) notify the Legislature's general counsel that negotiations have commenced;

(ii) continue to keep the Legislature's general counsel informed of material developments in the negotiation process; and

(iii) permit the Legislature's general counsel to attend negotiations.

(b) The information that the risk manager shall provide to the Legislature's general counsel under Subsection [~~(2)(a)~~](3)(a) includes:

(i) the nature of the claim that is the subject of the settlement negotiations;

(ii) the known facts that support the claim and the known facts that controvert the claim; and

(iii) the risk manager's assessment of the potential liability under the claim.

(c) A document, paper, electronic data, communication, or other material that the risk manager provides to legislative general counsel in the discharge of the risk manager's responsibility under this Subsection [~~(2)~~](3) may not be considered to be a record, as defined in Section 63G-2-103.

(d) Information provided by the risk manager to legislative general counsel under Subsection [~~(2)(a)~~](3)(a) and a communication between the risk manager and legislative general counsel under Subsection [~~(2)(a)~~](3)(a) shall be considered to be evidence that is subject to Rule 408 of the Utah Rules of Evidence to the fullest extent possible.

(e) Subsections [~~(2)(e)~~](3)(c) and (d) apply regardless of whether:

(i) the risk manager acts personally under this section or through counsel or another individual acting under the risk manager's direction; or

(ii) other individuals under the direction of legislative general counsel are involved in the process described in this section.

[~~(3)~~](4) The risk manager shall, for each settlement agreement approved under this section for an amount greater than $250,000 but less than $1,500,000, give notice of the settlement to the Legislative Management Committee by sending a settlement agreement report to the president of the Senate, the speaker of the House of Representatives, and the director of the Office of Legislative Research and General Counsel within three business days of executing the agreement.

Section 8. Section 63G-31-401.1 is enacted to read:

63G-31-401.1. Government entity noncompliance.

(1) The state auditor shall:

(a) establish a process to receive and investigate alleged violations of this chapter by a government entity;

(b) provide notice to the relevant government entity of:

(i) each alleged violation of this chapter by the government entity; and

(ii) each violation that the state auditor determines to be substantiated, including an opportunity to cure the violation not to exceed 30 calendar days; and

(c) if a government entity fails to cure a violation in accordance with Subsection (1)(b)(ii), report the government entity's failure to:

(i) for a political subdivision as defined in Section 63G-7-102 or a charter school, the attorney general for enforcement under Subsection (2); or

(ii) for a state entity as defined in Section 67-4-2, the Legislative Management Committee.

(2)(a) The attorney general shall:

(i) enforce this chapter against a political subdivision or charter school upon referral by the state auditor under Subsection (1)(c) by imposing a fine of up to $10,000 per violation per day; and

(ii) deposit fines under Subsection (2)(a) into the General Fund.

(b) A political subdivision or charter school may seek judicial review of a fine that the attorney general imposes under this section to determine whether the fine is clearly erroneous.

(3) A local education agency is not in violation of this chapter for a lawful application of Section 53G-8-211.

Section 9. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Section 63A-17-806 is repealed June 30, 2026.

(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(5) Section 63G-31-401 is repealed May 1, 2024.

[~~(5)~~](6) Section 63H-7a-303 is repealed July 1, 2024.

[~~(6)~~](7) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(7)~~](8) Subsection 63J-1-602.2(45), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(8)~~](9) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(9)~~](10) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 10. Section 67-5-17 is amended to read:

67-5-17. Attorney-client relationship.

(1) When representing the governor, lieutenant governor, auditor, or treasurer, or when representing an agency under the supervision of any of those officers, the attorney general shall:

(a) keep the officer or the officer's designee reasonably informed about the status of a matter and promptly comply with reasonable requests for information;

(b) explain a matter to the extent reasonably necessary to enable the officer or the officer's designee to make informed decisions regarding the representation;

(c) abide by the officer's or designee's decisions concerning the objectives of the representation and consult with the officer or designee as to the means by which they are to be pursued; and

(d) jointly by agreement, establish protocols with the officer to facilitate communications and working relationships with the officer or agencies under the officer's supervision.

(2) Nothing in Subsection (1) modifies or supercedes any independent legal authority granted specifically by statute to the attorney general.

(3) When the attorney general institutes or maintains a civil enforcement action on behalf of the state of Utah that is not covered under Subsection (1), the attorney general shall:

(a) fully advise the governor, as the officer in whom the executive authority of the state is vested, before instituting the action, entering into a settlement or consent decree, or taking an appeal; and

(b) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information.

(4) In a civil action not covered under Subsection (1) or (3), the attorney general shall:

(a) keep the governor reasonably informed about the status of the matter and promptly comply with reasonable requests for information;

(b) explain the matter to the extent reasonably necessary to enable the governor to make informed decisions regarding the representation; and

(c) abide by the governor's decisions concerning the objectives of the representation and consult with the governor as to the means by which they are to be pursued.

(5) The governor may appear in any civil legal action involving the state and appoint legal counsel to advise or appear on behalf of the governor. The court shall allow the governor's appearance.

(6)(a) As used in this section, "cooperative state litigation" means:

(i) an anticipated or pending settlement that may require approval by the Legislature or the Legislative Management Committee in accordance with Title 63G, Chapter 10, State Settlement Agreements Act; or

(ii) anticipated or pending litigation in which:

(A) a party challenges the constitutionality of a state law; or

(B) the state challenges a federal law or regulation.

(b) When the Office of the Attorney General discusses or shares with persons within the legislative branch documents or information related to cooperative state litigation, the sharing is in furtherance of matters of common interest between the represented parties.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

Section 12. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace in any provision of Utah Code "63G-31-401" with "63G-31-401.1."

CHAPTER 510
H. B. 572

Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

STATE TREASURER INVESTMENT AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill directs the state treasurer to deposit into the Utah Homes Investment Program.

Highlighted Provisions:

This bill:

- creates the Utah Homes Investment Program (the program);
- directs the state treasurer to deposit certain funds into the program;
- provides for the terms of deposit in the program; and
- exempts deposits into the program from the Money Management Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2023, Chapters 139, 242 and 328
63I-1-251, as last amended by Laws of Utah 2021, Chapter 64
63I-1-272, as last amended by Laws of Utah 2022, Chapter 259

ENACTS:

51-12-101, Utah Code Annotated 1953
51-12-102, Utah Code Annotated 1953
51-12-201, Utah Code Annotated 1953
51-12-202, Utah Code Annotated 1953
51-12-203, Utah Code Annotated 1953
51-12-204, Utah Code Annotated 1953
72-2-134, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

(1) Except as provided in Subsection (2), the following funds are exempt from this chapter:

(a) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(b) funds of the Utah State Retirement Board;

(c) funds of the Utah Housing Corporation;

(d) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-802;

(e) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(f) the State Post-Retirement Benefits Trust Fund;

(g) the funds of the Utah Educational Savings Plan;

(h) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(i) the funds in the Navajo Trust Fund;

(j) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(k) the funds in the Employers' Reinsurance Fund;

(l) the funds in the Uninsured Employers' Fund;

(m) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 26B-1-331;

(n) the funds in the Risk Management Fund created in Section 63A-4-201;[~~and~~]

(o) the Utah fund of funds created in Section 63N-6-401[~~.~~]; and

(p) the funds deposited into the Utah Homes Investment Program from the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

(2) Except for the funds of the Utah State Retirement Board and the Utah Educational Savings Plan, the funds described in Subsection (1) are not exempt from Subsections 51-7-14(2) and (3).

Section 2. Section 51-12-101 is enacted to read:

51-12-101. Definitions.

CHAPTER 12. UTAH HOMES INVESTMENT PROGRAM

Part 1. General Provisions

As used in this chapter:

(1) "Attainable home" means a residence that costs the purchaser no more than the amount a qualifying residential unit may be purchased in accordance with Subsection 63H-8-501(6)(e) at the time the state treasurer deposits with a qualified depository.

(2) "Fund" means the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134.

(3) "Political subdivision" means:

(a) the municipality in which the attainable home is located; or

(b) the county, if the attainable home is located in an unincorporated portion of the county.

(4) "Qualified depository" means the same as that term is defined in Section 51-7-3.

(5)(a) "Qualified project" means a new construction housing development project in the state for which the developer:

(i) commits to:

(A) offering for sale no fewer than 60% of the total units within the project as attainable homes;

(B) including in the deed of sale for an attainable home a restriction, in favor of the political subdivision, that the attainable home be owner occupied for no fewer than five years; and

(C) having a plan to provide information to potential buyers of attainable homes about the First-Time Homebuyer Assistance Program created in Section 63H-8-502; and

(ii) executes a valid agreement with the political subdivision to develop housing meeting the requirements of Subsections (5)(a)(i)(A) and (B).

(b) "Qualified project" includes infrastructure within the housing development project.

Section 3. Section 51-12-102 is enacted to read:

51-12-102. Reporting.

(1) The state treasurer shall share the information reported in accordance with Subsection 51-12-202(2)(d) with the governor's office.

(2) Before December 31 of each year, the state treasurer and the governor's office or the governor's office's designee shall report to the Legislative Management Committee:

(a) the dollar amount of deposits and the number of qualified depositories in which a deposit is made in accordance with Part 2, Investment Program;

(b) the information reported in accordance with Subsection 51-12-202(2)(d); and

(c) the impact of the Utah Homes Investment Program on the availability of housing in the state.

Section 4. Section 51-12-201 is enacted to read:

51-12-201. Investment opportunities.

Part 2. Investment Program

(1) A qualified depository may request the state treasurer to make a deposit in the qualified depository if the qualified depository:

(a) has identified and approved for financing a qualified project; and

(b) requests no more than 100% of the financing for a qualified project.

(2) Subject to Subsection (3), the state treasurer shall approve the qualified depository's request for deposit:

(a) unless the state treasurer determines the qualified depository does not merit deposit under fiduciary duties and prudent investment practices within the parameters of this chapter;

(b) in an amount that is equal to the lesser of:

(i) the deposit amount requested;

(ii) $60,000,000; or

(iii) 50% of the qualified depository's maximum amount of public deposits determined in accordance with Section 51-7-18.1; and

(c) as sufficient money becomes available in the fund and in accordance with Subsection 72-2-134(4)(a).

(3) The state treasurer may not approve a request for deposit after December 31, 2025.

(4) The state treasurer shall notify Utah Housing Corporation of any qualified projects for which the state treasurer makes a deposit in a qualified depository.

Section 5. Section 51-12-202 is enacted to read:

51-12-202. Terms of deposit.

(1) The state treasurer shall enter into a deposit agreement with an approved qualified depository in accordance with Section 51-12-201.

(2) The deposit agreement shall provide that the qualified depository:

(a) shall offer loan financing to a developer of a qualified project at a rate no higher than 150 basis points above the federal funds effective rate at the time of the deposit;

(b) shall return the amount of deposit:

(i) with interest at a rate equal to the greater of:

(A) the federal funds effective rate at the time of the deposit minus 200 basis points; or

(B) 0.5%; and

(ii) at the earlier of:

(A) 24 months from the day on which the deposit is made;

(B) repayment of the loan financing;

(C) the sale of the last home in the qualified project; or

(D) June 30, 2027;

(c) is responsible for return of the amount of the deposit with accrued interest regardless of the completion of the qualified project or the repayment of the qualified depository's loan to the developer of the qualified project; and

(d) shall report to the state treasurer the total number of housing units and the number of attainable homes each qualified project created.

(3) A qualified depository may return the deposit earlier than the time period described in Subsection (2)(b)(ii) without penalty.

(4) The state treasurer shall deposit the return of the amount of the deposit, including interest, into the fund.

Section 6. Section 51-12-203 is enacted to read:

51-12-203. Penalty.

A developer or a qualified depository that fails to comply with the terms of deposit is disqualified from subsequent participation in the Utah Homes Investment Program.

Section 7. Section 51-12-204 is enacted to read:

51-12-204. Exception to credit union lending requirements.

Notwithstanding any provision of Title 7, Chapter 9, Utah Credit Union Act, or any other applicable statute requiring membership in the credit union by a borrower, a state or federally chartered credit union may make a loan to a developer of a qualified project and may request a deposit in accordance with Sections 51-12-201 and 51-12-202.

Section 8. Section 63I-1-251 is amended to read:

63I-1-251. Repeal dates: Title 51.

(1) Subsection 51-7-2(1)(p), relating to the Transportation Infrastructure General Fund Support Subfund created in Section 72-2-134, is repealed July 1, 2027.

(2) Title 51, Chapter 12, Utah Homes Investment Program, is repealed July 1, 2027.

Section 9. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

(1) Subsection 72-2-121(9), which creates transportation advisory committees, is repealed July 1, 2022.

(2) Section 72-2-134 is repealed July 1, 2027.

[~~(2)~~](3) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

Section 10. Section 72-2-134 is enacted to read:

72-2-134. Transportation Infrastructure General Fund Support Subfund.

(1) There is created within the Transportation Investment Fund of 2005 a subfund known as the "Transportation Infrastructure General Fund Support Subfund."

(2) The subfund consists of:

(a) appropriations by the Legislature;

(b) interest earned on the subfund; and

(c) returns of the amounts of deposit with accrued interest made in accordance with Section 51-12-202.

(3)(a) The subfund shall earn interest.

(b) Interest earned on money in the subfund shall be deposited into the subfund.

(4)(a) The state treasurer shall deposit up to $300,000,000 from the subfund in accordance with Title 51, Chapter 12, Utah Homes Investment Program.

(b) Notwithstanding Subsection (4)(a), the state treasurer may otherwise invest funds described in Subsection (4)(a) if funds are available after qualified projects are approved under Section 51-12-201.

(5) On June 30, 2027, the Division of Finance shall transfer any balance in the subfund into the Transportation Investment Fund of 2005.

Section 11. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 511
S. B. 150
Passed February 22, 2024
Approved March 21, 2024
Effective May 1, 2024

EXERCISE OF RELIGION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill provides legal protections related to the free exercise of religion.

Highlighted Provisions:

This bill:

- defines terms;
- recognizes the freedom of religion as a fundamental right;
- prohibits a government entity from substantially burdening a person's free exercise of religion, unless the burden is essential to furthering a compelling governmental interest and is the least restrictive means of furthering that interest;
- addresses the assertion of claims or defenses under this bill; and
- provides that a person who prevails in an action to enforce the provisions of this bill against a government entity is entitled to recover attorney fees and costs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL:

Utah Code Sections Affected:

ENACTS:

63G-31-101, Utah Code Annotated 1953
63G-31-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Uncodified language.

(1)(a) WHEREAS, Utah has long protected and prized the religious freedom of people of all faiths in the Utah Constitution and the Utah Code;

(b) WHEREAS, the federal Religious Freedom Restoration Act has protected religious freedom for three decades, but does not extend to state law;

(c) WHEREAS, thirty-five states have implemented legal protections for the free exercise of religion that are similar to the protections provided in this bill;

(d) WHEREAS, Utah has enacted a number of laws that balance religious freedom with other important civil rights; and

(e) WHEREAS, this part complements, rather than disrupts, the balance described in Subsection (1)(d).

(2) NOW, THEREFORE, the Legislature of the state of Utah enacts this bill to protect the free exercise of religion in Utah.

Section 2. Section 63G-31-101 is enacted to read:

63G-31-101. Definitions.

As used in this chapter:

(1) "Demonstrates" means to produce the evidence necessary to meet, and to meet, the burden of persuasion.

(2) "Free exercise of religion" means the right to act or refuse to act in a manner substantially motivated by a sincerely held religious belief, regardless of whether the exercise is compulsory or central to a larger system of religious belief.

(3) "Government action" includes:

(a) a law, statute, ordinance, rule, policy, order, or other assertion of governmental authority;

(b) the application of a law, statute, ordinance, rule, policy, order, or other assertion of governmental authority;

(c) any action taken by, or on behalf of, a government entity;

(d) action taken by a person other than a government entity to:

(i) enforce a law, statute, ordinance, rule, policy, order, or other assertion of governmental authority;

(ii) compel a government entity to act;

(iii) prohibit a government entity from acting; or

(iv) utilize an administrative or judicial proceeding of a government entity, or an instrumentality or function of a government entity, to exert government power, authority, or influence.

(4)(a) "Government entity" means:

(i) the state;

(ii) a court;

(iii) a county, city, town, metro township, school district, special district, special service district, or other political subdivision of the state;

(iv) an independent entity;

(v) any person, when acting under color of state law; or

(vi) an employee or agent of an entity described in Subsections (4)(a)(i) through (v) or Subsection (4)(b) who is acting in the capacity of an employee or agent of the entity.

(b) "Government entity" includes an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a person described in Subsection (4)(a).

(5) "Independent entity" means the same as that term is defined in Section 63E-1-102.

(6)(a) "Substantially burden" means that government action, directly or indirectly:

(i) constrains, limits, or denies the free exercise of religion by a person; or

(ii) compels a person to act, or fail to act, in a manner that is contrary to the person's free exercise of religion.

(b) "Substantially burden" includes:

(i) any of the following in response to, or as a consequence of, the person's free exercise of religion:

(A) withholding a government benefit;

(B) assessing criminal, civil, or administrative penalties or damages; or

(C) excluding a person from a government program or from access to a government facility or service; and

(ii) a burden described in Subsections (6)(a) and (b)(i), regardless of whether the burden is:

(A) imposed by:

(I) law, statute, ordinance, rule, policy, order, or other assertion of governmental authority;

(II) the application of law, statute, rule, policy, order, or other assertion of governmental authority; or

(III) any other means;

(B) applied or enforced by, or on behalf of, a government entity; or

(C) applied or enforced by, or on behalf of, a person other than a government entity to:

(I) enforce a law, statute, ordinance, rule, policy, order, or other assertion of governmental authority;

(II) compel a government entity to act;

(III) prohibit a government entity from acting; or

(IV) utilize an administrative or judicial proceeding of a government entity, or an instrumentality or function of a government entity, to exert government power, authority, or influence.

Section 3. Section 63G-31-201 is enacted to read:

63G-31-201. Free exercise of religion -- Limitations on burdens imposed by government -- Claims or defenses -- Attorney fees and costs.

(1) The free exercise of religion is a fundamental right and applies to all government action, including action that is facially neutral.

(2) Except as provided in Subsection (3):

(a) a government entity may not substantially burden the free exercise of religion of a person, regardless of whether the burden results from a rule of general applicability; and

(b) a person other than a government entity may not seek to apply or enforce government action against another person that substantially burdens the free exercise of religion of the other person, regardless of whether the burden results from a rule of general applicability.

(3) A government entity or government action may substantially burden a person's free exercise of religion only if the government entity, or any other person seeking to enforce government action, demonstrates that the burden on the person's free exercise of religion is:

(a) essential to furthering a compelling governmental interest; and

(b) the least restrictive means of furthering the compelling governmental interest.

(4) A person whose free exercise of religion is burdened in violation of this section:

(a) may assert the violation as a claim or defense in a judicial or administrative proceeding to obtain relief, regardless of whether a government entity is a party to the proceeding; and

(b) is not required to exhaust administrative remedies before bringing a claim, or raising a defense, described in this Subsection (4).

(5)(a) Except as provided in Subsection (5)(b), a person may not bring an action under this section against a government entity described in Subsections 63G-31-101(4)(a)(i) through (iii) unless, at least 60 days before the day on which the person brings the action, the person provides written notice to the government entity, in accordance with Subsections 63G-7-401(3)(b) through (d), that:

(i) states that the person intends to bring an action against the entity for a violation of this section;

(ii) describes the government action that has burdened or will burden the person's free exercise of religion; and

(iii) describes the manner in which the government action burdens or will burden the person's free exercise of religion.

(b) Subsection (5)(a) does not apply if the government action alleged in the action:

(i) is ongoing, and complying with Subsection (5)(a) will place an undue hardship on the person or increase the harm suffered by the person; or

(ii) is likely to occur or reoccur before the end of the 60-day period described in Subsection (5)(a).

(6) A person who prevails in an action to enforce the provisions of this section against a government entity is entitled to recover reasonable attorney fees and costs.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 512
S. B. 161
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

ENERGY SECURITY AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies provisions related to the regulation of energy.

Highlighted Provisions:

This bill:

- defines terms;
- allows a project entity to submit an application for an alternative air permit;
- outlines the review process for an alternative permit and conditions for either the alternative or transition permit to become effective;
- provides the state the option to purchase an electrical generation facility intended for decommissioning;
- creates a Decommissioned Asset Disposition Authority (authority) within the Office of Energy Development;
- requires the authority to:
  - govern the disposition of an electrical generation facility purchased by the state; and
  - prepare and submit an application to the Division of Air Quality for an evaluation of the feasibility of an alternative permit; and
- requires a study from the authority to:
  - analyze issues related to the state implementation plan arising out of a permit issued to an electrical generation facility intended for decommissioning;
  - determine and provide the fair market value of a project entity's electrical generation facility intended for decommissioning; and
  - evaluate the process for selling an electrical generation facility purchased by the state.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
11-13-318, as enacted by Laws of Utah 2023, Chapter 195

ENACTS:
11-13-320, Utah Code Annotated 1953
19-2-109.4, Utah Code Annotated 1953
79-6-404, Utah Code Annotated 1953
79-6-405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-318 is amended to read:

11-13-318. Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

(a) "Alternative permit" means the same as that term is defined in Section 11-13-320.

(b) "Decommissioning" means to remove an electrical generation facility from active service.

(c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project entity's assets.

(d) "Division" means the Division of Air Quality created in Section 19-1-105.

(e) "Fair market value" means the same as that term is defined in Section 79-6-405.

[~~(b)~~](f)(i) "Project entity asset" means a project entity's:

(A) land;

(B) buildings; or

(C) essential equipment, including turbines, generators, transformers, and transmission lines.

(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.

(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:

(a) the disposal of any project entity assets; or

(b) the decommissioning of the project entity's coal-powered electrical generation facility.

(3) The notice of decommissioning or disposal described in Subsection (2) shall include:

(a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority.

(6) If a project entity intends to submit an application for an alternative permit to the division

as described in Section 11-13-320, the project entity shall notify the Legislative Management Committee that the project entity intends to submit an application before July 1, 2024.

(7) If a project does not notify the Legislative Management Committee of an intent to submit an application, the Legislative Management Committee shall make recommendations to the governor regarding appropriate action, which may include calling a special session to enact legislation reconstituting the board of the project entity.

(8) A project entity shall provide the state the option to purchase for fair market value a project entity asset intended for decommissioning, with the option remaining open for at least two years, beginning on July 2, 2025.

Section 2. Section 11-13-320 is enacted to read:

11-13-320. Air quality permitting transition process.

(1) As used in this section:

(a) "Alternative permit" means an amendment to a transition permit that, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units.

(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section 79-6-404.

(c) "Division" means the Division of Air Quality created in Section 19-1-105.

(d) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

(e) "Transition permit" means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new facility but does not require closure of all existing generating units until after the new facility commences operation.

(2) A project entity that holds a pre-existing permit for an existing electrical generation facility with multiple generating units, and has been issued a transition permit for a new electrical generation facility, may submit an application to the division in accordance with Section 19-2-109.4 for issuance of an alternative permit.

(3) If a project entity intends to submit an application under Subsection (2), the project entity shall provide a binding notice of intent to the Legislative Management Committee on or before July 1, 2024.

(4) If a project entity submits an application under Subsection (2), the project entity shall submit the application on or before January 1, 2025.

Section 3. Section 19-2-109.4 is enacted to read:

19-2-109.4. Project entity transition permit.

(1) As used in this section:

(a) "Alternative permit" means an amendment to a transition permit that, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units.

(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section 79-6-404.

(c) "Division" means the Division of Air Quality created in Section 19-1-105.

(d) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

(e) "Project entity" means the same as that term is defined in Section 11-13-103.

(f) "Transition permit" means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new facility but does not require closure of all existing generating units until after the new facility commences operation.

(2) The division shall accept an application for an alternative permit from a project entity that has previously obtained a transition permit to authorize the same new electrical generating capacity contemplated by the transition permit.

(3) If the application for an alternative permit meets the requirements established by the board:

(a) the division shall issue an approval order for the alternative permit to the project entity;

(b) the conditions of the transition permit shall cease to apply, including requirements to reduce the capacity of existing generating units at the electrical generation facility; and

(c) the project entity shall submit all documentation required to modify any federal operating permit required to be maintained by the project entity, consistent with deadlines established by the division.

(4) If an alternative permit is not approved under Subsection (3), the conditions of the transition permit shall remain effective.

(5)(a) Upon receipt of an alternative air permit application prepared and submitted by the authority in accordance with Subsection 79-6-404(4)(c), the division shall conduct a full evaluation as if the application had been prepared and submitted by a project entity to determine whether the alternative air permit would be issued if applied for by the project entity.

(b) The division shall provide the results of any evaluation conducted under Subsection (5)(a) to the authority no later than January 30, 2025.

(c) If the division concludes after evaluation that an alternative permit would likely be issued to a project entity, the authority shall, within 30 days after the authority receives the results of the evaluation, submit recommendations to the Legislative Management Committee regarding options for the state to continue to authorize construction of the project entity's new electrical generation facility that do not require the closure of all of the project entity's existing electrical generating facilities.

(6) The division shall evaluate an application for an alternative permit independently from any pre-existing permit or transition permit based on updated assumptions, modeling, and requirements established in rule by the division and may rely upon the reduction of capacity of the existing electrical generation facility only as necessary to ensure that emissions of the new generating facility do not exceed thresholds established by federal law which would necessitate new source review as a major modification.

Section 4. Section 79-6-404 is enacted to read:

79-6-404. Decommissioned Asset Disposition Authority.

(1) As used in this section:

(a) "Asset intended for decommissioning" means an electrical generation facility owned by a project entity that is intended to be removed from active service.

(b) "Authority" means the Decommissioned Asset Disposition Authority created in this section.

(c) "Fair market value" means the value of an electrical generation facility considering both the assets and liabilities of the facility, including the value of water rights necessary to operate the existing electrical generation facility at full capacity.

(d) "Highest and best purchase offer" means the purchase offer for the asset intended for decommissioning that the authority determines to be in the overall best interest of the state, considering:

(i) the purchase price offer amount;

(ii) the potential purchaser's:

(A) commitment to utilize the best available control technology;

(B) intent to use state resources to the maximum extent feasible;

(C) commitment to provide jobs and other economic benefits to the state;

(D) intent to promote the interests of state residents and ratepayers; and

(E) financial capability; and

(iii) any other factors the authority considers relevant.

(e) "Project entity" means the same as that term is defined in Section 11-13-103.

(2) There is established within the office the Decommissioned Asset Disposition Authority.

(3)(a) The authority shall be composed of:

(i) the executive director of the office;

(ii) two members appointed by the governor;

(iii) two members appointed by the president of the Senate; and

(iv) two members appointed by the speaker of the House of Representatives.

(b) The office shall provide staff and support to the authority.

(4) The authority shall:

(a) provide recommendations to the governor and Legislature regarding the state exercising an option to purchase an asset intended for decommissioning;

(b) if the state exercises an option to purchase the asset intended for decommissioning under Section 11-13-318:

(i) enter into contracts and agreements related to the decommissioned asset;

(ii) govern the disposition of assets intended for decommissioning as outlined in Subsection (5); and

(iii) take any other action necessary for governance of a decommissioned asset purchased by the state; and

(c) contract with independent professionals that have expertise in emissions modeling, air quality impact assessments, regulatory compliance, and any other discipline necessary for the preparation and submission of a complete alternative air permit application, including:

(i) conducting emissions modeling, air quality impact assessments, and gathering any other information necessary for inclusion in a complete alternative air permit application;

(ii) preparing the full application with all necessary information included, as would be required for an application submitted by the owner of the electrical generation facility; and

(iii) submitting the full permit application to the Division of Air Quality.

(5) If the state exercises an option to purchase or otherwise take control of the asset intended for decommissioning under Section 11-13-318, the authority may, no sooner than July 2, 2025:

(a) hold a public hearing to receive comment and evidence regarding:

(i) the fair market value of the asset, including the valuation study conducted by the authority under Section 79-6-405; and

(ii) the proposed disposition of the decommissioned asset;

(b) establish procedures and timelines for potential purchasers to submit binding purchase offers;

(c) evaluate all purchase offers to determine the highest and best purchase offer;

(d) approve the sale of the decommissioned asset to the purchaser that has submitted the highest and best purchase offer; and

(e) take any other action necessary to govern the disposition of the decommissioned asset in accordance with this section.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the authority shall make rules that establish:

(a) procedures and associated timelines for potential purchasers to submit binding purchase offers for a decommissioned asset;

(b) objective criteria and a process to evaluate all purchase offers submitted for a decommissioned asset and determine which purchase offer is the highest and best offer; and

(c) a process for the authority to approve the sale of a decommissioned asset to the purchaser that has submitted the highest and best purchase offer.

Section 5. Section 79-6-405 is enacted to read:

79-6-405. Study of project entity asset intended for decommissioning.

(1) As used in this section:

(a) "Authority" means the Decommissioned Asset Disposition Authority, created in Section 79-6-404.

(b) "Fair market value" means the same as that term is defined in Section 79-6-404.

(2) The authority, in consultation with the office, shall conduct a study to:

(a) evaluate issues in regards to a state implementation plan as a result of issuing an alternative permit under Section 19-2-109.4;

(b) establish the fair market value of an electrical generation facility that a project entity intends to decommission; and

(c) evaluate the potential sale of the facility to new owners.

(3) In conducting the study described in this section, the authority shall contract or consult with independent professionals with expertise in:

(a) areas relevant to environmental regulatory compliance and clean air act state implementation plan development, including:

(i) related electric generation capacity;

(ii) resource adequacy; and

(iii) economic development considerations; and

(b) areas relevant to the valuation and disposition of electrical generation facilities, including:

(i) engineering;

(ii) environmental assessments;

(iii) energy economics;

(iv) water rights;

(v) mineral rights;

(vi) regulatory analysis;

(vii) financial analysis;

(viii) real estate valuation; and

(ix) legal analysis.

(4) The study described in Subsection (2) shall:

(a) for the evaluation of issues in regards to a state implementation plan as a result of issuing an alternative permit under Section 19-2-109.4, based on input from the Division of Air Quality and independent modeling, legal analysis, and economic analysis, evaluate:

(i) any technical deficiencies that could occur in a state implementation plan as a result of issuing an alternative permit; and

(ii) options for revising the state implementation plan to maximize flexibility for the state to utilize an alternative permit and preserve electric generating capacity sufficient to support economic growth in the state while ensuring the state implementation plan meets federal air quality standards;

(b) for the valuation of the project entity asset that a project entity intends to decommission, include:

(i) an assessment of all assets associated with the electrical generation facility, including real property, equipment, water rights, mineral rights, and any other associated assets;

(ii) an assessment of all financial assets and potential financial liabilities or risks related to the electrical generation facility intended for decommissioning;

(iii) an analysis of any encumbrances on the electrical generation facility;

(iv) the impact on valuation of an electrical generation facility related to the issuance of an alternative air quality permit under Section 19-2-109.4;

(v) a review of any potential effect a sale of the electrical generation facility would have on liabilities related to the electrical generation facility;

(vi) incorporation of any relevant local, regional, or national economic and market factors that may impact the fair market value; and

(vii) any other factors the authority considers relevant in establishing a fair market value for the electrical generation facility; and

(c) to evaluate the issues surrounding a potential sale of the facility, include:

(i) potential purchase and sale agreement terms;

(ii) the necessary financial capability of a potential purchaser, including experience raising capital, access to capital, financial stability, and ability to provide security for obligations related to decommissioning, remediation, and other liabilities;

(iii) operational experience and capability of a potential purchaser, including experience operating electrical generation facilities, contracting history, and historical operating metrics;

(iv) permitting, regulatory compliance, and construction issues for continued operation of the facility;

(v) the likelihood that continued operation of the facility would impact other electrical generation facilities in the state;

(vi) the potential for continued operation of the facility to infringe on existing utility service territories;

(vii) the viability of alternative business models for continued operation of the facility;

(viii) potential community and regional impacts resulting from continued operation or the retirement of the facility; and

(ix) the potential for continued operation of the facility to interfere with the rights and interests of the project entity, the project entity's members, power purchasers, bondholders, creditors, or other entities.

(5) In conducting the study described in Subsection (2), the project entity shall timely provide to the authority information related to the assets and potential liabilities of the electrical generation facility intended for decommissioning.

(6) The authority shall report the progress and results of the study to the Public Utilities, Energy, and Technology Interim Committee on or before November 30, 2024.

Section 6. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 513
S. B. 162
Passed February 29, 2024
Approved March 21, 2024
Effective May 1, 2024

RURAL DEVELOPMENT ACT AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill modifies the Rural Opportunity Program.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the Governor's Office of Economic Opportunity to award a grant or loan to a rural health care special district;
- removes the annual cap on grant awards to a rural community or business entity;
- modifies the interest rate on a loan issued by the Governor's Office of Economic Opportunity; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-4-801, as last amended by Laws of Utah 2023, Chapter 499
63N-4-802, as last amended by Laws of Utah 2023, Chapter 499

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-4-801 is amended to read:

63N-4-801. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) "Association of governments" means an association of political subdivisions of the state, established pursuant to an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(3)(a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(4) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

(5) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

(6) "Qualified asset" means a physical asset that provides or supports an essential public service.

(7) "Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) "Rural community" means a rural county or rural municipality.

(9) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(10) "Rural health care special district" means a special service district created to provide health care under Subsection 17D-1-201(6) that is located in a rural county or rural municipality.

[~~(10)~~](11) "Rural municipality" means a city, town, or metro township located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

[~~(11)~~](12) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 2. Section 63N-4-802 is amended to read:

63N-4-802. Creation of Rural Opportunity Program -- Awarding of grants and loans -- Rulemaking -- Reporting.

(1) There is created the Rural Opportunity Program.

(2) The program shall be overseen by the advisory committee and administered by the office.

(3)(a) In overseeing the program, the advisory committee shall make recommendations to the office on the awarding of grants and loans under this section.

(b) After reviewing the recommendations of the advisory committee, and subject to appropriations from the Legislature, the office shall:

(i) award grants to rural communities and business entities in accordance with Subsection (4)

and rules made by the center under Subsection (6); and

(ii) award loans to rural communities in accordance with Subsection (5) and rules made by the center under Subsection (6).

(4)(a) The office shall annually distribute an equal amount of grant money to all rural counties that have created a CEO board and apply for a grant, in an amount up to and including $200,000 annually per county.

(b) In addition to the grant money distributed to rural counties under Subsection (4)(a), the office may use program funds to:

(i) award grants to rural communities that demonstrate a funding match, in an amount established by rule under Subsection (6);

(ii) award grants to business entities that create new jobs within rural communities; [~~and~~]

(iii) award grants to associations of governments, subject to Subsection (4)(e)[~~.~~]; and

(iv) award grants to rural health care special districts.

(c) The office shall award grants under this Subsection (4) to address the economic development needs of rural communities, which needs may include:

(i) business recruitment, development, and expansion;

(ii) workforce training and development; and

(iii) infrastructure, industrial building development, and capital facilities improvements for business development.

(d) In awarding grants under this Subsection (4), the office:

(i) shall prioritize applications in accordance with rules made by the office under Subsection (6); and

[~~(ii) may not award more than $800,000 annually to a rural community or business entity; and~~]

[~~(iii)~~](ii) may not award more than 20% of the total amount of grant funds made available each year to associations of governments.

(e) An association of governments may not receive a grant from the program unless the association of governments demonstrates to the office that each county belonging to the association of governments has approved the request for grant funds.

(5)(a) In addition to the awarding of grants under Subsection (4), the office may use program funds to award loans to rural communities or rural health care special districts to provide financing for qualified projects.

(b)(i) A rural community or rural health care special district may not receive a loan from the program for a qualified project unless:

(A) the rural community or rural health care special district demonstrates to the office that the rural community or rural health care special district has exhausted all other means of securing funding from the state for the qualified project; and

(B) the rural community or rural health care special district enters into a loan contract with the office.

(ii) A loan contract under Subsection (5)(b)(i)(B):

(A) shall be secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the rural community or rural health care special district to the repayment of the loan; and

(B) may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(c) A loan under this Subsection (5) shall bear interest [~~at a rate:~~]as set by the office in consultation with the state treasurer.

[~~(i) not less than bond market interest rates available to the state; and~~]

[~~(ii) not more than .5% above bond market interest rates available to the state.~~]

(d) Before a rural community or rural health care special district may receive a loan from the office, the rural community or rural health care special district shall:

(i) publish the rural community's or rural health care special district's intention to obtain the loan at least once in accordance with the publication and notice requirements described in Section 11-14-316; and

(ii) adopt an ordinance or resolution authorizing the loan.

(e)(i) If a rural community or rural health care district that receives a loan from the office fails to comply with the terms of the loan contract, the office may seek any legal or equitable remedy to obtain compliance or payment of damages.

(ii) If a rural community or rural health care district fails to make loan payments when due, the state shall, at the request of the office, withhold an amount of money due to the rural community or rural health care district and deposit the withheld money into the fund to pay the amount due under the contract.

(iii) The office may elect when to take any action or request the withholding of money under this Subsection (5)(e).

(f) All loan contracts, bonds, notes, or other evidence of indebtedness securing any loans shall be collected and accounted for in accordance with Section 63B-1b-202.

(6)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the advisory committee, the office shall make rules to administer the program.

(b) The rules under Subsection (6)(a) shall establish:

(i) eligibility criteria for a rural community or business entity to receive a grant or loan under the program;

(ii) application requirements;

(iii) funding match requirements for a rural community to receive a grant under Subsection (4)(b);

(iv) a process for prioritizing grant and loan applications; and

(v) reporting requirements.

(7) The office shall include the following information in the annual written report described in Section 63N-1a-306:

(a) the total amount of grants and loans the office awarded to rural communities, rural health care special districts, and business entities under the program;

(b) a description of the projects for which the office awarded a grant or loan under the program;

(c) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under the program;

(d) whether the grants and loans awarded under the program have resulted in economic development within rural communities; and

(e) the office's recommendations regarding the effectiveness of the program and any suggestions for legislation.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 514
S. B. 169
Passed February 29, 2024
Approved March 21, 2024
Effective March 21, 2024

MILITARY INSTALLATION DEVELOPMENT AUTHORITY MODIFICATIONS

Chief Sponsor: Jerry W Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions concerning the Military Installation Development Authority.

Highlighted Provisions:

This bill:

- modifies definitions;
- allows the Military Installation Development Authority (authority) to impose an additional resort communities sales tax, with certain conditions;
- provides that the authority and its subsidiaries are not required to physically post meeting notices;
- adds a new circumstance under which the authority board may impose a MIDA accommodations tax;
- amends provisions relating to the sale of highway land from the Department of Transportation to the authority;
- requires that a county auditor include information about annual payment to the authority with a property valuation notice;
- amends the authority's allowable uses for property tax allocation and other funds;
- provides that, in certain circumstances, the authority may enter into an agreement to pay a school district a certain portion of the authority's property tax allocation from a project area; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59- 2- 919.1, as last amended by Laws of Utah 2023, Chapters 7, 471
59- 2- 1317, as last amended by Laws of Utah 2023, Chapters 16, 505
59- 12- 402, as last amended by Laws of Utah 2023, Chapter 435
63H- 1- 102, as last amended by Laws of Utah 2023, Chapter 16
63H- 1- 202, as last amended by Laws of Utah 2023, Chapters 16, 100 and 435
63H- 1- 203, as last amended by Laws of Utah 2013, Chapter 362
63H- 1- 205, as last amended by Laws of Utah 2021, Chapter 414
63H- 1- 207, as enacted by Laws of Utah 2020, Chapter 282
63H- 1- 501, as last amended by Laws of Utah 2022, Chapter 463
63H- 1- 502, as last amended by Laws of Utah 2022, Chapters 82, 463
63H- 1- 701, as last amended by Laws of Utah 2023, Chapter 435

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59- 2- 919.1 is amended to read:

59- 2- 919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59- 2- 919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection (4), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii)(A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59- 2- 1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59- 2- 1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F- 2- 703;

(B) the multicolor assessing and collecting levy described in Subsection 59- 2- 1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4); [~~and~~]

(D) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301; and

(E) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(vii) the tax impact on the property;

(viii) the time and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(xii) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

(4)(a) Subject to the other provisions of this Subsection (4), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b)(i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection (4):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection (4), if:

(i) the taxpayer revokes an election in accordance with Subsection (4)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection (4) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 2. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a special district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007;

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) if applicable, the annual payment described in Subsection 63H-1-501(4)(a);

(x) the date the taxes and tax notice charges are due;

[~~(x)~~](xi) the street address at which the taxes and tax notice charges may be paid;

[~~(xi)~~](xii) the date on which the taxes and tax notice charges are delinquent;

[~~(xii)~~](xiii) the penalty imposed on delinquent taxes and tax notice charges;

[~~(xiii)~~](xiv) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

[~~(xiv)~~](xv) other information specifically authorized to be included on the notice under this chapter; and

[~~(xv)~~](xvi) other property tax information approved by the commission.

(3)(a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii)(A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6)(a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7)(a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9)(a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due special district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 3. Section 59-12-402 is amended to read:

59-12-402. Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Military installation development authority imposition of tax.

(1)(a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.

(b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:

(i) the sale of:

(A) a motor vehicle;

(B) an aircraft;

(C) a watercraft;

(D) a modular home;

(E) a manufactured home; or

(F) a mobile home;

(ii) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and

(iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.

(c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(d) A municipality imposing a tax under this section shall impose the tax on the purchase price or sales price for amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

(2)(a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).

(b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.

(3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:

(a) pass a resolution approving the tax; and

(b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).

(4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:

(a) hold the additional resort communities sales tax election during:

(i) a regular general election; or

(ii) a municipal general election; and

(b) post notice of the election for the municipality, as a class A notice under Section 63G-30-102, for at least 15 days before the day on which the election is held.

(5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.

(6)(a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.

(b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.

(7) [~~A~~]Subject to Subsection 63H-1-203(1), a military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may[~~not~~] impose an additional resort communities sales tax under this section.

Section 4. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4)(a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicolor assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6)(a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b)(i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10)(a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States, the authority, or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13)(a) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(b) "Military land" includes land that is:

(i) owned or leased by the authority; and

(ii) held or used for the benefit of the military.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(a)(ii)(B); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i)(A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20)(a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including the authority or a county, city, town, school district, special district, special service district, or interlocal cooperation entity.

(23)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii)(A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 5. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4)(a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6)(a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7)(a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(i) notwithstanding Section 52-4-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(A) the board chair, for the authority board; or

(B) the subsidiary board chair, for a subsidiary board;

(ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

(iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

(A) is not required to establish an anchor location; and

(B) may convene and conduct the meeting without the determination otherwise required under Subsection 52-4-207(5)(a)(i).

(b) [~~Except as provided in Subsection (7)(c), the~~]The authority [~~is~~]and subsidiaries are not required to physically post notice notwithstanding any other provision of law.

[~~(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a).~~]

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10)(a)(i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c)(i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11)(a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i)(A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12)(a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution, Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 6. Section 63H-1-203 is amended to read:

63H-1-203. Levy of a municipal tax -- Direct tax payment to MIDA.

(1) A levy of a municipal energy tax, MIDA energy tax, telecommunications tax, transient room tax,[~~or~~] resort communities tax, or additional resort communities sales tax, including an increase in the applicable tax rate, requires the affirmative vote of:

(a) the authority board; and

(b) a majority of all elected members of the authority board.

(2) If the authority board levies a municipal energy tax, a consumer who acquires taxable energy shall pay the tax directly to the authority on a monthly basis if the consumer's energy supplier is not required under federal law to collect the tax in the manner described in Section 10-1-307.

Section 7. Section 63H-1-205 is amended to read:

63H-1-205. MIDA accommodations tax.

(1) As used in this section:

(a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may impose a MIDA accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located within a project area and on:

(a) authority-owned or other government-owned property[~~within the project area~~]; [~~or~~]

(b) privately owned property on which the authority owns a condominium unit that is part of the place of accommodation[~~.~~]; or

(c) privately owned property on which the authority board finds that a provider is providing a significant long-term benefit, including lodging but not including a benefit that is commonly provided, to members of the military at the property.

(3) The maximum rate of the MIDA accommodations tax is 15% of the amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA accommodations tax from customers, if the provider includes the amount as a separate billing line item.

(5) If the authority imposes the tax described in this section, neither the authority nor a public entity may impose, on the amounts paid or charged for accommodations and services, any other tax described in:

(a) Title 59, Chapter 12, Sales and Use Tax Act; or

(b) Title 59, Chapter 28, State Transient Room Tax Act.

(6) Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:

(a) the same procedures used to administer, collect, and enforce the tax under:

(i) Title 59, Chapter 12, Part 1, Tax Collection; or

(ii) Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) Title 59, Chapter 1, General Taxation Policies.

(7) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(8)(a) A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (5).

(b) The exemptions described in Sections 59-12-104, 59-12-104.1, and 59-12-104.6 do not apply to a tax imposed under this section.

(9) The State Tax Commission shall:

(a) except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and

(b) retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.

(10)(a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described in Section 59-12-301 for the county's general operations and administrative expenses.

Section 8. Section 63H-1-207 is amended to read:

63H-1-207. Authority jurisdiction over Department of Transportation property.

(1) As used in this section:

(a) "Highway land" means land that is:

(i) owned by the Department of Transportation, created in Section 72-1-201; and

(ii) [~~within an authority project area that~~]as of April 1, 2024, an area of no more than 35 total acres, adjacent to State Route 40, and within a military recreation facility project area.[~~was created to provide military recreation facilities and support.~~]

(b) "Highway land" does not include:

(i) a class A state road that is in active use; and

(ii) a shoulder or appurtenance that is contiguous to a class A state road that is in active use.

(2) Notwithstanding any other provision of statute, the authority has jurisdiction and control over highway land, subject to Subsection (3).

(3)(a) The executive director of the Department of Transportation may, in consultation with the authority, transfer, sell, trade, or lease the highway land or any interest in the highway land as provided in Section 72-5-111 and any applicable rules and regulations.

(b)(i) Notwithstanding Section 72-5-111, if the Department of Transportation sells highway land or any interest in highway land to the authority, the Department of Transportation shall transfer the proceeds of the sale to the authority.

(ii) The authority shall use any proceeds of a sale described in Subsection (3)(b)(i) for transportation or transit purposes within the project area where the sale of the highway land or interest in the highway land occurred.

Section 9. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.

(1)(a) The authority may:

(i) subject to Subsection (1)(b):

(A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

(ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) begins on the day on which the authority receives the first property tax allocation from that parcel.

(2)(a) For purposes of Subsection (1)(b), the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).

(3) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(4)(a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall make an annual payment to the authority:

(i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and

(ii) until the parcel becomes subject to the property tax described in Subsection (3).

(b) The authority may use the revenue from payments described in Subsection (4)(a) for any purpose described in Subsection 63H-1-502(1).

(c) The authority may submit for recording to the office of the recorder of the county in which a private parcel described in Subsection (4)(a) is located:

(i) a copy of an agreement between the authority and the private parcel owner that memorializes the payment obligation under Subsection (4)(a); or

(ii) a notice that describes the payment obligation under Subsection (4)(a).

(d) An owner of a private parcel described in Subsection (4)(a) may not be required to make a payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i) until the private parcel becomes subject to the property tax described in Subsection (3).

(e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the amount of the annual payment required under Subsection (4)(a) shall be:

(i) treated the same as a property tax; and

(ii) prorated between the previous owner and the owner who acquires title from the previous owner.

(f) A person who fails to pay or is delinquent in paying an annual payment described in Subsection (4)(a) is subject to the same penalties and interest as the failure or delinquent payment of a property tax in accordance with Title 59, Chapter 2, Property Tax Act.

(g) [~~If requested by the authority, a~~]A county treasurer shall:

(i) include the annual payment described in Subsection (4)(a) on a county property tax notice in accordance with Section 59-2-1317; and

(ii) collect the annual payment as part of the property tax collection.

(h) A county auditor shall include the annual payment described in Subsection (4)(a) on the notice of property valuation in accordance with Subsection 59-2-919.1(1).

(5) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(6)(a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

(7) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(a) a hotel;

(b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

Section 10. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i)(A) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(B) for a passenger ropeway, at least one end of the ropeway is located within the project area; or

(ii)(A) the funds expended are appropriated by the Legislature; and

(B) the authority is directed to expend the funds, and the project or purpose is directed, by the Legislature;

(f) to pay the principal and interest on bonds issued by the authority;

(g) to pay for a morale, welfare, and recreation program[~~of a United States Air Force base in Utah~~], or other program that benefits the military or veterans, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the authority's operation of public infrastructure and improvements to:

(a) operate and maintain the public infrastructure and improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenue received under Subsection 59-12-205(2)(a)(ii)(B);

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax or telecommunications tax revenue generated from hotels [~~located on authority-owned or other public-entity-owned property~~]that are subject to the MIDA accommodations tax under Section 63H-1-205; or

(g) payments received under Subsection 63H-1-501(4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

(5)(a) Subject to Subsection (5)(b), the authority may enter into an agreement with a school district to pay the school district a certain portion of the property tax allocation the authority receives from the project area if:

(i)(A) the school district levies a property tax in a project area established prior to 2023;

(B) the school district has a building authority that issued a lease revenue bond to construct a new school in 2022;

(C) the school district approved a property tax increase of its capital levy in 2023; and

(D) the authority and a county that entered into an interlocal cooperation agreement that allocated the property tax allocation agree to amend the interlocal agreement to allow for the payment; or

(ii) a school district levies a property tax for a general obligation bond authorized by an election after January 1, 2024.

(b) If the board approves an agreement described in Subsection (5)(a), the board shall provide that any annual tax payment is subordinate to any authority bonded indebtedness that pledged any property tax allocation from the project area as security for the bonds.

Section 11. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare[~~ and its board adopt~~] an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) [~~Each annual authority budget shall be adopted~~]The board shall adopt the annual authority budget before June 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4)(a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice, as a class A notice under Section 63G-30-102, for at least one week immediately before the day of the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year; and

[~~(b) legal fees; and~~]

[~~(c)~~](b) administrative costs, including legal fees, rent, supplies, and other materials, and salaries of authority personnel.

(6)(a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 12. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 515
S. B. 175
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

DESIGNATION OF BALLET WEST'S THE NUTCRACKER AS A STATE LANDMARK

Chief Sponsor: Luz Escamilla
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This bill designates a living historic landmark.

Highlighted Provisions:

This bill:

- defines the term "living historic landmark"; and
- designates Ballet West's production of Willam Christensen's "The Nutcracker" as a living historic landmark.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63G-1-1001, Utah Code Annotated 1953
63G-1-1002, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-1001 is enacted to read:

63G-1-1001. Living historic landmarks.

Part 10. State Living Historic Landmark

(1) As used in this part, "living historic landmark" means a cultural event:

(a) that is significant to the history, culture, economy, and character of the state;

(b) that is unique to the state;

(c) that is first in the nation;

(d) that has occurred in the state at least annually for no less than 65 years;

(e) for any designation after May 1, 2024, that is nominated by the Legislative Management Committee for the Legislature's consideration as a living historic landmark; and

(f) that the Legislature designates as a living historic landmark in Section 63G-1-1002.

(2) A living historic landmark is not owned or managed by the state.

Section 2. Section 63G-1-1002 is enacted to read:

63G-1-1002. Living historic landmarks designated.

Ballet West's production of Willam Christensen's "The Nutcracker" is designated as a living historic landmark.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 516
S. B. 177
Passed February 29, 2024
Approved March 21, 2024
Effective July 1, 2024

ABSENTEEISM PREVENTION AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: R. Neil Walter

LONG TITLE

General Description:

This bill allows a school age child's grade to include attendance under certain circumstances.

Highlighted Provisions:

This bill:

- allows a school age child's grade to include attendance under certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-6-206, as last amended by Laws of Utah 2023, Chapter 93

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-206 is amended to read:

53G-6-206. Duties of a local school board, charter school governing board, or school district in promoting regular attendance -- Parental involvement -- Liability not imposed -- Report to state board.

(1)(a) As used in this section, "intervention" means a series of non-punitive and increasingly frequent and individualized activities that are designed to:

(i) create a trusting relationship between teachers, students, and parents;

(ii) improve attendance;

(iii) improve academic outcomes; and

(iv) reduce negative behavior referrals.

(b) "Intervention" includes:

(i) mentorship programs;

(ii) family connection to community resources;

(iii) academic support through small group or individualized tutoring or similar methods; and

(iv) teaching executive function skills, including:

(A) planning;

(B) goal setting;

(C) understanding and following multi-step directions; and

(D) self-regulation.

(2)(a) Subject to Subsection (2)(b), [~~a local school board, charter school governing board, or school district~~]an LEA shall make efforts to promote regular attendance and resolve school absenteeism and truancy issues for each school-age child who is, or should be, enrolled in the [~~school district or charter school~~]LEA.

(b) A school-age child exempt from school attendance under Section 53G-6-204 or 53G-6-702, or a school-age child who is enrolled in a regularly established private school or part-time school, is not considered to be a school-age child who is or should be enrolled in a school district or charter school under Subsection (2)(a).

(3) The efforts described in Subsection (2) shall include, as reasonably feasible:

(a) counseling of the school-age child by school authorities;

(b)(i) issuing a notice of truancy to the school-age child in accordance with Section 53G-6-203; or

(ii) issuing a notice of compulsory education violation to the school-age child's parent in accordance with Section 53G-6-202;

(c) making any necessary adjustment to the curriculum and schedule to meet special needs of the school-age child;

(d) considering alternatives proposed by the school-age child's parent;

(e) incorporating attendance in the school-age child's course score or grade if:

(i) incorporation is determined appropriate through an individualized plan the school-age child's parent and teacher develops;

(ii) parental written consent is obtained for the individualized plan; and

(iii) the parent retains the ability to revoke the parent's consent described in Subsection (3)(e)(ii) at any time.

[~~(e)~~](f) monitoring school attendance of the school-age child;

[~~(f)~~](g) voluntary participation in truancy mediation, if available; and

[~~(g)~~](h) providing the school-age child's parent, upon request, with a list of resources available to assist the parent in resolving the school-age child's attendance problems.

(4) In addition to the efforts described in Subsection (3), the local school board, charter school governing board, or school district may enlist the assistance of community and law enforcement agencies and organizations for early intervention services as appropriate and reasonably feasible in accordance with Section 53G-8-211.

(5) This section does not impose civil liability on boards of education, local school boards, charter

school governing boards, school districts, or their employees.

(6) Proceedings initiated under this part do not obligate or preclude action by the Division of Child and Family Services under Section 53G- 6- 210.

(7) Each LEA shall annually report the following data separately to the state board:

(a) absences with a valid excuse; and

(b) absences without a valid excuse.

Section 2. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 517
S. B. 179
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to motor vehicles, the Department of Transportation, and highways, and makes technical corrections and changes.

Highlighted Provisions:

This bill:

- makes technical changes throughout various sections to clean up cross references and remove outdated language;
- amends the definition of a snowmobile;
- requires the State Tax Commission to create an electronic titling system;
- allows the Driver License Division to verify certain information related to the Transportation Security Administration Registered Traveler program;
- prohibits the storage of flammable, explosive, or combustible materials near or beneath certain highway and public transit facilities;
- amends provisions regarding the use of certain funds for public transit studies;
- amends the descriptions of highways near certain state parks;
- amends a provision related to required matching funds to qualify for certain transportation funding to exclude projects administered by the Department of Transportation;
- requires a person challenging a dedication of a public highway through continuous use to first notify the relevant highway authority before filing suit;
- amends the definition of abandoned aircraft; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:
17B-2a-804, as last amended by Laws of Utah 2023, Chapter 15
17B-2a-806, as last amended by Laws of Utah 2023, Chapter 22
17B-2a-807.2, as last amended by Laws of Utah 2022, Chapter 259
17B-2a-808.1, as last amended by Laws of Utah 2022, Chapter 207
17B-2a-808.2, as last amended by Laws of Utah 2023, Chapter 219
17B-2a-810.1, as enacted by Laws of Utah 2018, Chapter 424
41-1a-1201, as last amended by Laws of Utah 2023, Chapters 33, 212, 219, 335, and 372
41-6a-201, as renumbered and amended by Laws of Utah 2005, Chapter 2
41-22-2, as last amended by Laws of Utah 2022, Chapters 68, 88
53-3-102, as last amended by Laws of Utah 2023, Chapters 296, 328
53-3-109, as last amended by Laws of Utah 2023, Chapter 219
59-13-103, as last amended by Laws of Utah 2020, Chapter 373
72-1-201, as last amended by Laws of Utah 2023, Chapter 432
72-1-203, as last amended by Laws of Utah 2023, Chapters 22, 219
72-1-216, as last amended by Laws of Utah 2021, Chapter 280
72-1-304, as last amended by Laws of Utah 2023, Chapters 22, 88 and 219
72-2-124, as last amended by Laws of Utah 2023, Chapters 22, 88, 219, and 529
72-3-202, as last amended by Laws of Utah 2013, Chapter 14
72-3-203, as last amended by Laws of Utah 2013, Chapter 14
72-3-204, as last amended by Laws of Utah 2013, Chapter 14
72-3-205, as last amended by Laws of Utah 2013, Chapter 14
72-3-206, as last amended by Laws of Utah 2013, Chapter 14
72-5-104, as last amended by Laws of Utah 2020, Chapter 293
72-6-118, as last amended by Laws of Utah 2020, Chapter 377
72-6-121, as last amended by Laws of Utah 2023, Chapter 299
72-10-203.5, as enacted by Laws of Utah 2017, Chapter 301
72-10-205.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
72-17-101, as enacted by Laws of Utah 2023, Chapter 42
72-17-102, as enacted by Laws of Utah 2023, Chapter 42
77-11d-105, as renumbered and amended by Laws of Utah 2023, Chapter 448

ENACTS:
41-1a-523, Utah Code Annotated 1953
72-7-111, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) subject to Section ~~[72-1-202]~~72-1-203 pertaining to fixed guideway capital development within a large public transit district, acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e)(i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection ~~[17B-2a-808.1(5),]~~ 17B-2a-808.1(4), issue bonds as provided in and subject to Chapter 1, Part 11, Special District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) subject to Subsections (2) and (3), establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2)(a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c)(i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the

metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation;

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service; and

(c) coordinate with the Department of Transportation in accordance with Section [~~72-1-202~~]72-1-203 pertaining to fixed guideway capital development and associated parking facilities within a station area plan for a transit oriented development within a large public transit district.

(4) For any fixed guideway capital development project with oversight by the Department of Transportation as described in Section [~~72-1-202~~]72-1-203, a large public transit district shall coordinate with the Department of Transportation in all aspects of the project, including planning, project development, outreach, programming, environmental studies and impact statements, impacts on public transit operations, and construction.

(5) A public transit district may participate in a transit-oriented development only if:

(a) for a transit-oriented development involving a municipality:

(i) the relevant municipality has developed and adopted a station area plan; and

(ii) the municipality is in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(b) for a transit-oriented development involving property in an unincorporated area of a county, the county is in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

(6) A public transit district may be funded from any combination of federal, state, local, or private funds.

(7) A public transit district may not acquire property by eminent domain.

Section 2. Section 17B-2a-806 is amended to read:

17B-2a-806. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district -- Equitable allocation of resources within the public transit district.

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper;

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform; or

(c) perform any action that the state agency is authorized by law to perform for the benefit of a public transit district.

(2)(a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section 17-53-220.

(3)(a) To allocate resources and funds for development and operation of a public transit district, whether received under this section or from other sources, and subject to Section [~~72-1-202~~]72-1-203 pertaining to fixed guideway capital development within a large public transit district, a public transit district may:

(i) give priority to public transit services that feed rail fixed guideway services; and

(ii) allocate funds according to population distribution within the public transit district.

(b) The comptroller of a public transit district shall report the criteria and data supporting the allocation of resources and funds in the statement required in Section 17B-2a-812.

Section 3. Section 17B-2a-807.2 is amended to read:

17B-2a-807.2. Existing large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1)(a)(i) For a large public transit district created before January 1, 2019, and except as provided in Subsection (7), the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(ii) For purposes of a large public transit district created before January 1, 2019, the nominating regions are as follows:

(A) a central region that is Salt Lake County;

(B) a southern region that is comprised of Utah County and the portion of Tooele County that is part of the large public transit district; and

(C) a northern region that is comprised of Davis County, Weber County, and the portion of Box Elder County that is part of the large public transit district.

(iii)(A) If a large public transit district created before January 1, 2019, annexes an additional county into the large public transit district pursuant to Section 17B-1-402, following the issuance of the certificate of annexation by the lieutenant governor, the political subdivisions making up the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) If a large public transit district created before January 1, 2019, has a change to the boundaries of the large public transit district, the Legislature, after receiving and considering the proposal described in Subsection (1)(a)(iii)(A), shall designate the three regions for nominating members to the board of trustees of the large public transit district.

(b)(i) Except as provided in Subsection (5), the governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:

(A) one appointment from individuals nominated from the central region as described in Subsection (2);

(B) one appointment from individuals nominated from the southern region described in Subsection (3); and

(C) one appointment from individuals nominated from the northern region described in Subsection (4).

(2) For the appointment from the central region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Salt Lake County; and

(b) three individuals nominated by the mayor of Salt Lake County, with approval of the Salt Lake County council.

(3) For the appointment from the southern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Utah County;

(b) two individuals nominated by the county commission of Utah County; and

(c) one individual nominated by the county [~~commission~~]legislative body of Tooele County.

(4) For the appointment from the northern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) one individual nominated by the council of governments of Davis County;

(b) one individual nominated by the council of governments of Weber County;

(c) one individual nominated by the county commission of Davis County;

(d) one individual nominated by the county commission of Weber County; and

(e) one individual nominated by the county commission of Box Elder County.

(5)(a) The nominating counties described in Subsections (2) through (4) shall ensure that nominations are submitted to the governor no later than June 1 of each respective nominating year.

(b) If the governor fails to appoint one of the individuals nominated as described in Subsection (2), (3), or (4), as applicable, within 60 days of the nominations, the following appointment procedures apply:

(i) for an appointment for the central region, the Salt Lake County council shall appoint an individual, with confirmation by the Senate;

(ii) for an appointment for the southern region, the Utah County commission shall appoint an individual, in consultation with the Tooele County [~~commission~~]legislative body, with confirmation by the Senate; and

(iii) for an appointment for the northern region, the Davis County commission and the Weber County commission, collectively, and in consultation with the Box Elder County commission, shall appoint an individual, with confirmation by the Senate.

(6)(a) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(b) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(c) The compensation package for the board of trustees shall be determined by the local advisory council as described in Section 17B-2a-808.2.

(d)(i) Subject to Subsection (6)(d)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of a board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(7)(a) Subject to Subsection (8), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(c) Notwithstanding Subsection (2), (3), or (4), as applicable, at the expiration of a term of a member of the board of trustees, if the respective nominating entities and individuals for the respective region described in Subsection (2), (3), or (4), unanimously agree to retain the existing member of the board of trustees, the respective nominating individuals or bodies described in Subsection (2), (3), or (4) are not required to make nominations to the governor, and the governor may reappoint the existing member to the board of trustees.

(8) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(9) Subject to Subsections (7) and (8), a board of trustees of a large public transit district that is in place as of February 1, 2019, may remain in place.

(10) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(11)(a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (2), (3), or (4), and, if applicable, Subsection (5), for the respective member of the board of trustees creating the vacancy.

(b) If a vacancy occurs on the board of trustees of a large public transit district, the respective nominating region shall nominate individuals to the governor as described in this section within 60 days after the vacancy occurs.

(c) If the respective nominating region does not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(d) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (7)(b).

Section 4. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) [~~subject to Subsection (8),~~] create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

(k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) [~~subject to Subsection (4),~~] control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), [~~and subject to Subsection (4),~~] pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o)(i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

(u) review and approve any:

(i) contract or expense exceeding $200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to $200,000 or more;

(B) increases a contract of or expense of $200,000 or more by 15% or more; or

(C) has a total change order value of $200,000 or more.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection [~~(5)~~](4), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

[~~(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:~~]

[~~(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;~~]

[~~(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and~~]

[~~(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.~~]

[~~(5)~~](4) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the State Finance Review Commission created in Section 63C-25-201.

[~~(6)~~](5) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

[~~(7)~~](6)(a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

[~~(8)(a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.~~]

[~~(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed $150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.~~]

[~~(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.~~]

Section 5. Section 17B-2a-808.2 is amended to read:

17B-2a-808.2. Large public transit district local advisory council -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory council.

(2)(a)(i) For a large public transit district in existence as of January 1, 2019, the local advisory council shall have membership selected as described in Subsection (2)(b).

(ii)(A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).

(B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.

(b)(i) The council of governments of Salt Lake County shall appoint three members to the local advisory council.

(ii) The mayor of Salt Lake City shall appoint one member to the local advisory council.

(iii) The council of governments of Utah County shall appoint two members to the local advisory council.

(iv) The council of governments of Davis County and Weber County shall each appoint one member to the local advisory council.

(v) The councils of governments of Box Elder County and Tooele County shall jointly appoint one member to the local advisory council.

(3) The local advisory council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4)(a) The duties of the local advisory council shall include:

(i) setting the compensation packages of the board of trustees, which salary, except as provided in Subsection (4)(b), may not exceed $150,000 for a newly appointed board member, plus additional retirement and other standard benefits;

(ii) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;

(iii) except for a fixed guideway capital development project under the authority of the Department of Transportation as described in Section [~~72-1-202~~]72-1-203, reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;

(iv) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;

(v) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;

(vi) assisting with coordinated mobility and constituent services provided by the public transit district;

(vii) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

(viii) other duties described in Section 17B-2a-808.1.

(b) The local advisory council may approve an increase in the compensation for members of the board of trustees based on a cost-of-living adjustment at the same rate as government employees of the state for the same year.

(5) The local advisory council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 6. Section 17B-2a-810.1 is amended to read:

17B-2a-810.1. Attorney general as legal counsel for a large public transit district -- Large public transit district may sue and be sued.

(1) [~~Subject to Subsection (2), in~~]In accordance with Title 67, Chapter 5, Attorney General, the Utah attorney general shall serve as legal counsel for a large public transit district.

[~~(2)(a) For any large public transit district in existence as of May 8, 2018, the transition to legal representation by the Utah attorney general shall occur as described in this Subsection (2), but no later than July 1, 2019.~~]

[~~(b)(i) For any large public transit district in existence as of May 8, 2018, in partnership with the Utah attorney general, the board of trustees of the large public transit district shall study and develop a strategy to transition legal representation from a general counsel to the Utah attorney general.~~]

[~~(ii) In partnership with the Utah attorney general, the board of trustees of the large public transit district shall present a report to the Transportation Interim Committee before November 30, 2018, to:~~]

[~~(A) outline the transition strategy; and~~]

[~~(B) request any legislation that might be required for the transition.~~]

[~~(3)~~](2) Sections 67-5-6 through [~~13, Attorney General Career Service Act,~~]67-5-13 apply to representation of a large public transit district by the Utah attorney general.

[~~(4)~~](3) A large public transit district may sue, and it may be sued only on written contracts made by it or under its authority.

[~~(5)~~](4) In all matters requiring legal advice in the performance of the attorney general's duties and in the prosecution or defense of any action growing out of the performance of the attorney general's duties, the attorney general is the legal adviser of a large public transit district and shall perform any and all legal services required by the large public transit district.

[~~(6)~~](5) The attorney general shall aid in any investigation, hearing, or trial under the provisions of this part and institute and prosecute actions or proceedings for the enforcement of the provisions of the Constitution and statutes of this state or any rule or ordinance of the large public transit district affecting and related to public transit, persons, and property.

Section 7. Section 41-1a-523 is enacted to read:

41-1a-523. Electronic titling.

(1) The commission shall develop and establish an electronic titling system to process a vehicle title through electronic means.

(2) The commission shall ensure that the electronic titling system is available:

(a) for a dealer, no later than December 31, 2025; and

(b) for an individual who is not a dealer, no later than December 31, 2026.

(3) The commission shall ensure that the electronic titling system:

(a) allows all parties to a sale or transfer of a vehicle to transfer a vehicle title by electronic means;

(b) allows a lienholder to attach or release a lien; and

(c) provides a vehicle title in a secure, digital form.

Section 8. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (5), (6), (7), (8), and (9) and Sections 41-1a-1205, 41-1a-1220, 41-1a-1221, 41-1a-1222, 41-1a-1223, and 41-1a-1603, all fees collected under this part shall be deposited into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), (7), and (9), and Section 41-1a-1212 shall be deposited into the License Plate Restricted Account created in Section 41-1a-122.

(4)(a) Except as provided in Subsections (3) and (4)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this

part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of [~~1981~~]1983 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(5)(a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Transportation Investment Fund of 2005 created in Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(6)(a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Public Safety Restricted Account created in Section 53-3-106.

(7)(a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(8) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319.

(9)(a) Beginning on January 1, 2024, subject to Subsection (9)(b), $2 of each registration fee imposed under Section 41-1a-1206 shall be deposited into the Rural Transportation Infrastructure Fund created in Section 72-2-133.

(b) Beginning on January 1, 2025, and each January 1 thereafter, the amount described in Subsection (9)(a) shall be annually adjusted by taking the amount deposited the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the amount deposited by the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(c) The amounts calculated as described in Subsection (9)(b) shall be rounded up to the nearest 1 cent.

Section 9. Section 41-6a-201 is amended to read:

41-6a-201. Chapter relates to vehicles on highways -- Exceptions.

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, except:

(1) when a different place is specifically identified; [~~or~~]

(2) under the provisions of Section 41-6a-210, Part 4, Accident Responsibilities, and Part 5, Driving Under the Influence and Reckless Driving, which apply upon highways and elsewhere throughout the state[~~.~~]; or

(3) on private roads within the confines of a campus of a private institution of higher education that has a certified private law enforcement agency, as authorized by Subsection 53-19-202(1)(b).

Section 10. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3)(a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 3,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4)(a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11)(a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires, and equipped with a saddle or seat for the use of the rider.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 11. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground; and

(b) is equipped with:

(i) a steering mechanism;

(ii) seat belts; and

(iii) seating that does not require the operator to straddle or sit astride the motor vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or

for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6)(a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection (30).

(7)(a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating or gross vehicle weight of 26,001 or more pounds, or gross combination weight rating or gross combination weight of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15)(a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the United States Department of Health and Human Services in the Federal Register.

(24) "License" means the privilege to drive a motor vehicle.

(25)(a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

(26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(27) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(28) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(30) "Motor vehicle record" or "MVR" means a driving record under Subsection [~~53-3-109(6)(a)~~] 53-3-109(7)(a).

(31) "Motorboat" means the same as that term is defined in Section 73-18-2.

(32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(33) "Office of Recovery Services" means the Office of Recovery Services, created in Section 26B-9-103.

(34) "Operate" means the same as that term is defined in Section 41-1a-102.

(35)(a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other

financial penalty imposed on an individual by a court or other government entity.

(37)(a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

(38) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

(39) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

(40) "Renewal" means to validate a license certificate so that it expires at a later date.

(41) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(42)(a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (42)(b)(i) through (iii).

(43) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(44)(a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

Section 12. Section 53-3-109 is amended to read:

53-3-109. Records -- Access -- Fees -- Rulemaking.

(1)(a) Except as provided in this section, all records of the division shall be classified and disclosed in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) The division may disclose personal identifying information in accordance with 18 U.S.C. Chapter 123:

(i) to a licensed private investigator holding a valid agency license, with a legitimate business need;

(ii) to an insurer, insurance support organization, or a self-insured entity, or its agents, employees, or contractors that issues any motor vehicle insurance under Title 31A, Chapter 22, Part 3, Motor Vehicle Insurance, for use in connection with claims investigation activities, antifraud activities, rating, or underwriting for any person issued a license certificate under this chapter;

(iii) to a depository institution as that term is defined in Section 7-1-103;

(iv) to the State Tax Commission for the purposes of tax fraud detection and prevention and any other use required by law;

(v) subject to Subsection [~~(7)~~](8), to the University of Utah for data collection in relation to genetic and epidemiologic research; or

(vi)(A) to a government entity, including any court or law enforcement agency, to fulfill the government entity's functions; or

(B) to a private person acting on behalf of a government entity to fulfill the government entity's functions, if the division determines disclosure of the information is in the interest of public safety.

(2)(a) A person who receives personal identifying information shall be advised by the division that the person may not:

(i) disclose the personal identifying information from that record to any other person; or

(ii) use the personal identifying information from that record for advertising or solicitation purposes.

(b) Any use of personal identifying information by an insurer or insurance support organization, or by a self-insured entity or its agents, employees, or contractors not authorized by Subsection (1)(b)(ii) is:

(i) an unfair marketing practice under Section 31A-23a-402; or

(ii) an unfair claim settlement practice under Subsection 31A-26-303(3).

(3)(a) Notwithstanding the provisions of Subsection (1)(b), the division or its designee may disclose portions of a driving record, in accordance with this Subsection (3), to:

(i) an insurer as defined under Section 31A-1-301, or a designee of an insurer, for purposes of assessing driving risk on the insurer's current motor vehicle insurance policyholders;

(ii) an employer or a designee of an employer, for purposes of monitoring the driving record and status of current employees who drive as a responsibility of the employee's employment if the requester demonstrates that the requester has obtained the written consent of the individual to whom the information pertains; and

(iii) an employer or the employer's agents to obtain or verify information relating to a holder of a commercial driver license that is required under 49 U.S.C. Chapter 313.

(b) A disclosure under Subsection (3)(a)(i) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102 during the previous month;

(ii) be limited to the records of drivers who, at the time of the disclosure, are covered under a motor vehicle insurance policy of the insurer; and

(iii) be made under a contract with the insurer or a designee of an insurer.

(c) A disclosure under Subsection (3)(a)(ii) or (iii) shall:

(i) include the licensed driver's name, driver license number, date of birth, and an indication of whether the driver has had a moving traffic violation that is a reportable violation, as defined under Section 53-3-102, during the previous month;

(ii) be limited to the records of a current employee of an employer;

(iii) be made under a contract with the employer or a designee of an employer; and

(iv) include an indication of whether the driver has had a change reflected in the driver's:

(A) driving status;

(B) license class;

(C) medical self-certification status; or

(D) medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(d) The contract under Subsection (3)(b)(iii) or (c)(iii) shall specify:

(i) the criteria for searching and compiling the driving records being requested;

(ii) the frequency of the disclosures;

(iii) the format of the disclosures, which may be in bulk electronic form; and

(iv) a reasonable charge for the driving record disclosures under this Subsection (3).

(4)(a) Notwithstanding Subsection (1)(a), the division may provide a "yes" or "no" response to an electronically submitted request to verify information from a driver license or identification card issued by the division if:

(i) the request is made by a private entity operating under the Transportation Security Administration Registered Traveler program;

(ii) the private entity implements the Transportation Security Administration enrollment standards; and

(iii) the program participant:

(A) voluntarily provides the participant's division-issued identification to confirm the participant's identity; and

(B) consents to verification of the participant's name, date of birth, and home address.

(b) The data described in Subsection (4)(a)(iii)(B) may only be used to enroll or reenroll the participant in the Transportation Security Administration Registered Traveler program.

(c) The division may not furnish a "yes" response under Subsection (4)(a) unless all data fields match.

[~~(4)~~](5) The division may charge fees:

(a) in accordance with Section 53-3-105 for searching and compiling its files or furnishing a report on the driving record of a person;

(b) for each document prepared under the seal of the division and deliver upon request, a certified copy of any record of the division, and charge a fee set in accordance with Section 63J-1-504 for each document authenticated; [~~and~~]

(c) established in accordance with [~~the procedures and requirements of~~] Section 63J-1-504, for disclosing personal identifying information under Subsection (1)(b)[~~.~~]; and

(d) established in accordance with Section 63J-1-504, for each response under Subsection (4).

[~~(5)~~](6) Each certified copy of a driving record furnished in accordance with this section is admissible in any court proceeding in the same manner as the original.

[~~(6)~~](7)(a) A driving record furnished under this section may only report on the driving record of a person for a period of 10 years.

(b) Subsection [~~(6)(a)~~](7)(a) does not apply to court or law enforcement reports, reports of commercial driver license violations, or reports for commercial driver license holders.

[~~(7)~~](8)(a) The division shall include on each application for or renewal of a license or identification card under this chapter:

(i) the following notice: "The Driver License Division may disclose the information provided on this form to an entity described in Utah Code Ann. Subsection 53-3-109(1)(b)(v).";

(ii) a reference to the website described in Subsection [~~(7)(b)~~](8)(b); and

(iii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection [~~(7)(b)~~](8)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information [~~as~~] described in Subsection (1)(b)(v).

(b) In consultation with the division, the University of Utah shall create a website that provides an explanation and description of:

(i) what information may be disclosed by the division to the University of Utah under Subsection (1)(b)(v);

(ii) the methods and timing of anonymizing the information;

(iii) for situations where the information is not anonymized:

(A) how the information is used;

(B) how the information is secured;

(C) how long the information is retained; and

(D) who has access to the information;

(iv) research and statistical purposes for which the information is used; and

(v) other relevant details regarding the information.

(c) The website created by the University of Utah described in Subsection [~~(7)(b)~~](8)(b) shall include the following:

(i) a link to the division website for an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v); and

(ii) a link to an online form for the individual to affirmatively choose to remove, subject to Subsection [~~(7)(e)(ii)~~](8)(e)(ii), personal identifying information from the database controlled by the University of Utah that was disclosed pursuant to Subsection (1)(b)(v).

(d) In the course of business, the division shall provide information regarding the disclosure of personal identifying information, including providing on the division website:

(i) a link to the website created under Subsection [~~(7)(b)~~](8)(b) to provide individuals with information regarding the disclosure of personal identifying information under Subsection (1)(b)(v); and

(ii) a link to the division website for:

(A) information provided by the division, after consultation with the University of Utah, containing the explanation and description described in Subsection [~~(7)(b)~~](8)(b); and

(B) an online form for the individual to opt out of the disclosure of personal identifying information as described in Subsection (1)(b)(v).

(e)(i) The division may not disclose the personal identifying information under Subsection (1)(b)(v) if an individual opts out of the disclosure as described in Subsection [~~(7)(a)(iii)(B) or (7)(c)(i)~~](8)(a)(iii)(B) or (8)(c)(i).

(ii)(A) Except as provided in Subsection [~~(7)(e)(ii)(B),~~](8)(e)(ii)(B), if an individual makes a request as described in Subsection [~~(7)(c)(ii),~~](8)(c)(ii), the University of Utah shall, within 90 days of receiving the request, remove and destroy the individual's personal identifying information received under Subsection (1)(b)(v) from a database controlled by the University of Utah.

(B) The University of Utah is not required to remove an individual's personal identifying information as described in Subsection [~~(7)(e)(ii)(A)~~](8)(e)(ii)(A) from data released to a research study before the date of the request described in Subsection [~~(7)(c)(ii)~~](8)(c)(ii).

(f) The University of Utah shall conduct a biennial internal information security audit of the information systems that store the data received pursuant to Subsection (1)(b)(v), and, beginning in the year 2023, provide a biennial report of the

findings of the internal audit to the Transportation Interim Committee.

[~~(8)~~](9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to designate:

(a) what information shall be included in a report on the driving record of a person;

(b) the form of a report or copy of the report which may include electronic format;

(c) the form of a certified copy, as required under Section 53-3-216, which may include electronic format;

(d) the form of a signature required under this chapter which may include electronic format;

(e) the form of written request to the division required under this chapter which may include electronic format;

(f) the procedures, requirements, and formats for disclosing personal identifying information under Subsection (1)(b); and

(g) the procedures, requirements, and formats necessary for the implementation of Subsection (3).

[~~(9)~~](10)(a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created or maintained by the division or any information contained in a record created or maintained by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained by the division shall inform the commissioner and the division director of the unauthorized use.

Section 13. Section 59-13-103 is amended to read:

59-13-103. List of clean fuels provided to tax commission .

[~~(1)~~] The Air Quality Board shall annually provide to the tax commission a list of fuels that are clean fuels under Section 59-13-102.

[~~(2) The Air Quality Board appointed under Section 19-2-103 shall in conjunction with the State Tax Commission prepare and submit to the Legislature before January 1, 1995, a report evaluating the impacts, benefits, and economic consequences of the clean fuel provisions of Sections 59-13-201 and 59-13-301.~~]

Section 14. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department;

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state; [~~and~~]

(l) before July 1 of each year, coordinate with the Utah Highway Patrol Division created in Section 53-8-103 regarding:

(i) future highway projects that will add additional capacity to the state transportation system;

(ii) potential changes in law enforcement responsibilities due to future highway projects; and

(iii) incident management services on state highways[.]; and

(m) provide public transit services, in consultation with any relevant public transit provider.

(2)(a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

Section 15. Section 72-1-203 is amended to read:

72-1-203. Deputy director -- Appointment -- Qualifications -- Other assistants and advisers -- Salaries.

(1) The executive director shall appoint the following deputy directors, who shall serve at the discretion of the executive director:

(a) the deputy director of engineering and operation, who shall be a registered professional engineer in the state, and who shall be the chief engineer of the department; and

(b) the deputy director of planning and investment.

(2) As assigned by the executive director, the deputy directors described in Subsection (1) may assist the executive director with the following departmental responsibilities:

(a) project development, including statewide standards for project design and construction, right-of-way, materials, testing, structures, and construction;

(b) oversight of the management of the region offices described in Section 72-1-205;

(c) operations and traffic management;

(d) oversight of operations of motor carriers and ports;

(e) transportation systems safety;

(f) aeronautical operations;

(g) equipment for department engineering and maintenance functions;

(h) oversight and coordination of planning, including:

(i) development of statewide strategic initiatives for planning across all modes of transportation;

(ii) coordination with metropolitan planning organizations and local governments;

(iii) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(iv) corridor and area planning;

(i) asset management;

(j) programming and prioritization of transportation projects;

(k) fulfilling requirements for environmental studies and impact statements;

(l) resource investment, including identification, development, and oversight of public-private partnership opportunities;

(m) data analytics services to the department;

(n) corridor preservation;

(o) employee development;

(p) maintenance planning;

(q) oversight and facilitation of the negotiations and integration of public transit providers described in Section 17B-2a-827;

(r) oversight and supervision of any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended, including those responsibilities described in Subsections (2)(a), (h), (j), (k), and (l), and the implementation and enforcement of any federal grant obligations associated with fixed guideway capital development project funding; and

(s) other departmental responsibilities as determined by the executive director.

(3) The executive director shall ensure that the same deputy director does not oversee or supervise both the fixed guideway capital development responsibilities described in Subsection (2)(r) and the department's fixed guideway rail safety responsibilities, including the responsibilities described in Section 72-1-214.

Section 16. Section 72-1-216 is amended to read:

72-1-216. Statewide electric vehicle charging network plan -- Report.

(1)(a) The department, in consultation with relevant entities in the private sector, shall develop a statewide electric vehicle charging network plan.

(b) To develop the statewide electric vehicle charging network plan, the department shall consult with political subdivisions and other relevant state agencies, divisions, and entities, including:

(i) the Department of Environmental Quality created in Section 19-1-104;

(ii) the Division of Facilities Construction and Management created in Section 63A-5b-301;

(iii) the Office of Energy Development created in Section 79-6-401; and

(iv) the Department of Natural Resources created in Section 79-2-201.

(2) The statewide electric vehicle charging network plan shall provide implementation

strategies to ensure that electric vehicle charging stations are available:

(a) at strategic locations as determined by the department [~~by June 30, 2021~~];

(b) at incremental distances no greater than every 50 miles along the state's interstate highway system by December 31, 2025; and

(c) along other major highways within the state as the department finds appropriate.

[~~(3) The department shall provide a report before November 30, 2020, to the Transportation Interim Committee to outline the statewide electric vehicle charging network plan.~~]

Section 17. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1)(a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects described in Section 72-2-124;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b)(i) A local government or public transit district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or public transit district nominates a project for prioritization by the commission, the local government or public transit district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or public transit district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or public transit district will provide the percentage of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or public transit district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the percentage of costs required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3)(a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in

Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that the municipality or county no longer qualifies for prioritization under this Subsection (3)(c).

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 18. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3)(a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4)(a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5)(a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the municipality until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (5) no longer applies to the municipality.

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6)(a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of the county until the department receives notification from the Housing and Community Development Division within the Department of Workforce Services that ineligibility under this Subsection (6) no longer applies to the county.

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(7)(a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations

Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9)(a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) transfers of local option sales and use tax revenue as described in Subsection 59-12-2220(11)(b) or (c);

(v) private contributions; and

(vi) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the commission may prioritize money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304; [~~or~~]

(ii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility[~~.~~]; or

(iii) up to $500,000 per year, to be used for a public transit study.

(e)(i) Subject to Subsections [~~(9)(g) and (h)~~](9)(g), (h), and (i), the commission may only prioritize money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 30% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 30% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(g) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(b):

(i) the commission may prioritize money from the fund for public transit projects, operations, or maintenance within the county of the first class; and

(ii) Subsection (9)(e) does not apply.

(h) For any revenue transferred into the fund pursuant to Subsection 59-12-2220(11)(c):

(i) the commission may prioritize public transit projects, operations, or maintenance in the county from which the revenue was generated; and

(ii) Subsection (9)(e) does not apply.

(i) The requirement to provide funds equal to or greater than 30% of the costs needed for a project described in Subsection (9)(e) does not apply to a public transit capital development project or pedestrian or nonmotorized transportation project that the department proposes.

(10)(a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

(11)(a) There is created in the Transportation Investment Fund of 2005 the Active Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature; and

(iii) donations or grants from public or private entities.

(c)(i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The executive director may only use fund money to pay the costs needed for:

(i) the planning, design, construction, maintenance, reconstruction, or renovation of paved pedestrian or paved nonmotorized trail projects that:

(A) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(B) serve a regional purpose; and

(C) are part of an active transportation plan approved by the department or the plan described in Subsection (11)(d)(ii);

(ii) the development of a plan for a statewide network of paved pedestrian or paved nonmotorized trails that serve a regional purpose; and

(iii) the administration of the fund, including staff and overhead costs.

Section 19. Section 72-3-202 is amended to read:

72-3-202. State park access highways -- Anasazi State Park Museum to Edge of the Cedars State Park Museum.

State park access highways include:

(1) ANASAZI STATE PARK MUSEUM. Access to the Anasazi State Park Museum is at the park entrance located in Garfield County at milepoint [~~87.8~~]87.3 on State Highway 12. No access road is defined.

(2) BEAR LAKE STATE PARK (Marina). Access to the Bear Lake Marina is at the pay gate located in Rich County at milepoint [~~413.2~~]498.8 on State Highway 89. No access road is defined.

(3) BEAR LAKE STATE PARK (East Shore). Access to the Bear Lake East Shore begins in Rich County at State Highway 30 and proceeds northerly on a county road (L326) a distance of 9.2 miles, to the camping area of the park and is under the jurisdiction of Rich County.

(4) BEAR LAKE STATE PARK (Rendezvous Beach). Access to the Bear Lake Rendezvous Beach is at the park entrance in Rich County at milepoint [~~124.5~~]118 on State Highway 30. No access road is defined.

(5) CAMP FLOYD/STAGECOACH INN STATE PARK MUSEUM. Access to the Camp Floyd/Stagecoach Inn State Park Museum is at the parking area in Utah County at milepoint 20.6 on State Highway 73. No access road is defined.

(6) CORAL PINK SAND DUNES STATE PARK.

(a) Access to the Coral Pink Sand Dunes State Park begins in Kane County at State Highway 89 and proceeds southwesterly on [~~a~~] county road 43 a distance of 12.0 miles to the visitor center of the park and is under the jurisdiction of Kane County.

(b) The second access to the Coral Pink Sand Dunes State Park begins on the state border between Arizona and Utah and proceeds northerly on county road 43 and travels through the state park and is under the jurisdiction of Kane County.

(7) DANGER CAVE. Access to Danger cave is in Tooele County. No access road is defined.

(8) DEAD HORSE POINT STATE PARK. Access to Dead Horse Point State Park begins in Grand County at State Highway 191 and proceeds southwesterly on State Highway 313 a distance of 20.8 miles [~~to the camping area at the park and is under the jurisdiction of UDOT.~~], crosses into San Juan County between mile marker 2 and 3, continues to mile marker 0, and is under the jurisdiction of the department.

(9) DEER CREEK STATE PARK. Access to Deer Creek State Park begins in Wasatch County at State Highway 189 and proceeds southwesterly on State Highway 314 a distance of [~~0.2~~]0.8 miles to the boat ramp at the park and is under the jurisdiction of [~~UDOT~~]the department.

(10) EAST CANYON STATE PARK. Access to East Canyon State Park begins in Morgan County at State Highway 66 and proceeds southeasterly on State Highway 306 a distance of 0.1 miles to the parking area at the park and is under the jurisdiction of [~~UDOT~~]the department.

(11) ECHO STATE PARK. Access to Echo State Park begins in Coalville, Summit County at Main Street and proceeds northeasterly on Echo Dam Road a distance of 0.12 miles to the boat ramp at the park.

[~~(11)~~](12) EDGE OF THE CEDARS STATE PARK MUSEUM. Access to Edge of the Cedars State Park Museum begins in Blanding at U.S. Highway 191 and proceeds west on Center Street to 600 West then north on 600 West to the parking area and museum at 660 West 400 North. The access road is under the jurisdiction of Blanding.

Section 20. Section 72-3-203 is amended to read:

72-3-203. State park access highways -- Escalante Petrified Forest State Park to Huntington State Park.

State park access highways include:

(1) ESCALANTE PETRIFIED FOREST STATE PARK. Access to Escalante Petrified Forest State Park begins in Garfield County at State Highway 12 and proceeds northwesterly on a county road a

distance of 1 mile to the park's visitor center and is under the jurisdiction of Garfield County.

(2) FLIGHT PARK STATE RECREATION AREA. Access to Flight Park State Recreation Area begins in Utah County at East Frontage Road and proceeds northeasterly on Air Park Road, a distance of 0.5 miles to the park entrance and is under the jurisdiction of Utah County.

(3) FREMONT INDIAN STATE PARK MUSEUM. Access to the Fremont Indian State Park Museum begins in Sevier County at the Sevier Junction on Highway 89 and proceeds westerly on county road 2524 to interchange 17 on Interstate 70, a distance of 5.9 miles and is under the jurisdiction of Sevier County.

[~~(4) GOBLIN VALLEY STATE PARK (East Access). The East Access to the Goblin Valley State Park begins in Emery County at the junction of State Highway 24 and county road 1012 and proceeds westerly on county road 1012, a distance of 5.2 miles; then southerly on county road 1013, a distance of 6.0 miles; then southerly on county road 1014, a distance of 0.4 miles to the park entrance. The East Access is under the jurisdiction of Emery County.~~]

[~~(5)~~](4) GOBLIN VALLEY STATE PARK (North Access). The North Access to the Goblin Valley State Park begins in Emery County at the junction of [~~Interstate 70 and county road 332~~]county road 1013 and county road 1014 and proceeds southwesterly on county road 332, a distance of 10 miles; then southerly on county road 1033, a distance of 3.1 miles; then southeasterly on county road 1012, a distance of [~~10.6 miles; then southerly on county road 1013, a distance of 6.0 miles; then southerly on county road 1014, a distance of 0.4 miles to the park entrance.~~] 7.0 miles to the park fee station. The North Access is under the jurisdiction of Emery County.

[~~(6)~~](5) GOOSENECKS STATE PARK. Access to Goosenecks State Park begins in San Juan County at State Highway 261 and proceeds southwesterly on State Highway 316 a distance of 3.6 miles to the parking area and overlook at the park and is under the jurisdiction of UDOT.

[~~(7)~~](6) ANTELOPE ISLAND STATE PARK. Access to Antelope Island State Park begins in Davis County at State Highway 127 and proceeds southwesterly on a county road a distance of 7.2 miles to the parking area and marina at the park and is under the jurisdiction of Davis County.

[~~(8)~~](7) GREAT SALT LAKE STATE PARK MARINA. Access to the Great Salt Lake State Park Marina begins in Salt Lake County at Interstate Highway 80 and proceeds southwesterly on a county road a distance of 1.5 miles to the parking area and marina at the park and is under the jurisdiction of Salt Lake County.

[~~(9)~~](8) GREEN RIVER STATE PARK. Access to Green River State Park begins in Emery County at the junction of Route 19 and Green River Boulevard and proceeds southerly on Green River Boulevard, a distance of 0.5 miles to the park entrance and is under the jurisdiction of Green River.

[~~(10)~~](9) GUNLOCK STATE PARK. Access to [~~the~~] Gunlock State Park begins in Washington County at the junction of county road (L009) [~~and a county road~~](Old Highway 91) and Gunlock Road and proceeds northwesterly on [~~a county road~~]Gunlock Road a distance of [~~0.1~~]5.9 miles to the parking area at the park and is under the jurisdiction of Washington County.

[~~(11)~~](10) HUNTINGTON STATE PARK. Access to [~~the~~] Huntington State Park begins in Emery County at State Highway 10 and proceeds northwesterly on a county road a distance of 0.3 miles to the park entrance and is under the jurisdiction of Emery County.

Section 21. Section 72-3-204 is amended to read:

72-3-204. State park access highways -- Hyrum State Park to Painted Rocks.

State park access highways include:

(1) HYRUM STATE PARK. Access to Hyrum State Park is at the pay gate in Cache County at 405 West 300 South in Hyrum and proceeds northerly on 400 West to State Highway 101. No access road is defined.

(2) FRONTIER HOMESTEAD STATE PARK MUSEUM. Access to Frontier Homestead State Park Museum is at the parking area and museum in Iron County at milepoint [~~3.3~~]3.1 on State Highway 130 at 585 North Main St. in Cedar City. No access road is defined.

(3) FRONTIER HOMESTEAD STATE PARK (OLD IRON TOWN HISTORIC SITE). Access to Old Iron Town begins at the junction of a county road and State Highway 56, 19.0 miles west of Cedar City, and proceeds southwesterly 2.7 miles to the parking lot for Old Iron Town and is under the jurisdiction of Iron County.

(4) JORDAN RIVER OFF- HIGHWAY VEHICLE STATE PARK. Access to Jordan River Off- highway Vehicle State Park begins in Salt Lake County at 2100 North and proceeds northerly on Rose Park Lane, a distance of 1.25 miles to the park entrance and is under the jurisdiction of Salt Lake County.

(5) JORDANELLE STATE PARK (HAILSTONE MARINA). Access to the Jordanelle State Park Hailstone Marina begins in Wasatch County at State Highway 40 and proceeds southeasterly on State Highway 319 a distance of [~~1.4~~]1.2 miles to the marina parking area at the park and is under the jurisdiction of UDOT.

(6) JORDANELLE STATE PARK (ROCK CLIFF NATURE CENTER). Access to the Jordanelle State Park Rock Cliff Nature Center begins in Wasatch County at State Highway 32 and proceeds northwesterly on a county road a distance of 0.6 miles to the parking area at the park and is under the jurisdiction of the county.

(7) JORDANELLE STATE PARK (ROSS CREEK). Access to Jordanelle State Park Ross

Creek begins in Wasatch County at State Highway 189 and proceeds southerly on a county road a distance of 0.1 miles to the parking area at the park and is under the jurisdiction of the county.

(8) KODACHROME BASIN STATE PARK. Access to the Kodachrome Basin State Park begins in Kane County at State Highway 12 and proceeds southeasterly on a county road 10.1 miles to the parking area at Kodachrome Lodge and is under the jurisdiction of Kane County.

(9) MILLSITE STATE PARK. Access to the Millsite State Park begins in Emery County at State Highway 10 and proceeds northwesterly on a county road (L122) a distance of 4.6 miles to the parking area at the park and is under the jurisdiction of Emery County.

(10) OTTER CREEK STATE PARK. Access to the Otter Creek State Park is at the pay gate/contact station in Piute County at milepoint 6.4 on State Highway 22. No access road is defined.

(11) PAINTED ROCKS (YUBA EAST SHORE). Access to the Painted Rocks Yuba East Shore begins in Sanpete County at State Highway 28 and proceeds westerly on a county road a distance of 2.0 miles to the parking/boat launch area at the park and is under the jurisdiction of Sanpete County.

Section 22. Section 72-3-205 is amended to read:

72-3-205. State park access highways -- Palisade State Park to Starvation State Park.

State park access highways include:

(1) PALISADE STATE PARK. Access to the Palisade State Park begins in Sanpete County at State Highway 89 and proceeds northeasterly on a county road a distance of 2.2 miles to the golf club/contact station at the park and is under the jurisdiction of Sanpete County.

(2) PIUTE STATE PARK. Access to the Piute State Park begins in Piute County at State Highway 89 and proceeds southeasterly on a county road a distance of 1.0 miles to the parking area at the park and is under the jurisdiction of Piute County.

(3) QUAIL CREEK STATE PARK (North Access). The North Access to the Quail Creek State Park begins in Hurricane City at Old Highway 91 and proceeds southerly on 5300 West, a distance of 1.0 miles to the pay gate/contact station at the park. The North Access is under the jurisdiction of Hurricane City.

(4) QUAIL CREEK STATE PARK (South Access). The South Access to the Quail Creek State Park begins in Washington County at State Highway 9 and proceeds northerly on State Highway 318, a distance of 2.2 miles to the pay gate/contact station at the park. The South Access is under the jurisdiction of UDOT.

(5) RED FLEET STATE PARK. Access to the Red Fleet State Park begins in Uintah County at State Highway 191 and proceeds easterly on a county road a distance of 2.0 miles to the pay gate at the park and is under the jurisdiction of Uintah County.

(6) ROCKPORT STATE PARK. Access to the Rockport State Park begins in Summit County at State Highway 32 and proceeds northwesterly on State Highway 302 a distance of 0.2 miles to the pay gate at the park and is under the jurisdiction of UDOT.

(7) SAND HOLLOW STATE PARK (North Access). The North Access to the Sand Hollow State Park begins in Hurricane City at State Highway 9 and proceeds southerly on Sand Hollow Road, a distance of 3.9 miles to Sand Hollow Parkway. The North Access is under the jurisdiction of Hurricane City.

[~~(8) SAND HOLLOW STATE PARK (East Access). The East Access to the Sand Hollow State Park begins in Hurricane City at 1100 West and proceeds west on 3000 South, a distance of 1.7 miles; then proceeds southwesterly on Sand Hollow Road, a distance of 5.3 miles to Sand Hollow Parkway. The East Access is under the jurisdiction of Hurricane City.~~]

(8) SAND HOLLOW STATE PARK (South Access). The South Access to Sand Hollow State Park begins at the intersection of State Route 7 and Sand Hollow Road, then proceeds northerly on Sand Hollow Road, a distance of 0.87 miles to the park entrance road. The South Access is under the jurisdiction of Hurricane City.

(9) SCOFIELD (Mountain View). Access to Scofield Mountain View is at the boat launch in Carbon County at milepoint 9.2 on State Highway 96. No access road is defined.

(10) SCOFIELD STATE PARK (Madsen Bay). Access to the Scofield State Park Madsen Bay is at the park entrance in Carbon County at milepoint 12.3 on State Highway 96. No access road is defined.

[~~(11) SNOW CANYON STATE PARK. Access to the Snow Canyon State Park begins in Washington County at State Highway 18 near mile post 4 in St. George and proceeds northerly on Snow Canyon Parkway and Snow Canyon Drive to the south boundary of the Snow Canyon State Park.~~]

(11) SNOW CANYON STATE PARK.

(a) South access to the Snow Canyon State Park begins in Washington County at State Highway 18 near mile post 4 in St. George and proceeds westerly on Snow Canyon Parkway and northerly on Snow Canyon Drive to the south boundary of the Snow Canyon State Park (at the northern boundary of the Vermillion Cliffs development).

(b) The northern access is located at the intersection of State Route 18 and Snow Canyon Drive.

(12) STARVATION STATE PARK. Access to the Starvation State Park begins in Duchesne County at State Highway 40 and proceeds northwesterly on State Highway 311 a distance of [~~2.2~~]3.9 miles to the boat ramp at the park and is under the jurisdiction of UDOT.

Section 23. Section 72-3-206 is amended to read:

72-3-206. State park access highways -- Steinaker State Park to Yuba State Park.

State park access highways include:

(1) STEINAKER STATE PARK. Access to the Steinaker State Park begins in Uintah County at State Highway 191 and proceeds northwesterly on State Highway 301 a distance of [~~1.7~~]2.0 miles to the boat ramp at the park and is under the jurisdiction of UDOT.

(2) TERRITORIAL STATEHOUSE STATE PARK. Access to the Territorial Statehouse State Park is at the parking area in Millard County at milepoint 1.0 on State Highway 100. No access road is defined.

(3) THIS IS THE PLACE HERITAGE PARK. Access to This Is The Place Heritage Park is at the park entrance in Salt Lake County at 2601 East Sunnyside Avenue in Salt Lake City. No access road is defined.

(4) UTAH FIELD HOUSE OF NATURAL HISTORY STATE PARK. Access to Utah Field House of Natural History State Park is at the parking area in Uintah County at milepoint [~~145.8~~]145.1 on State Highway 40 at 496 East Main in Vernal. No access road is defined.

(5) UTAH LAKE STATE PARK. Access to the Utah Lake State Park begins in Utah County at State Highway 114 and proceeds westerly on a county road a distance of 2.5 miles to the pay gate at the park and is under the jurisdiction of Utah County.

(6) WASATCH MOUNTAIN STATE PARK (East Access). The East Access to the Wasatch Mountain State Park begins at the Summit-Wasatch County line and proceeds westerly on Guardsman Pass Road, a county road, a distance of .9 miles; then southeasterly on Pine Canyon Road, a county road, a distance of 7.3 miles to the campground entrance. The East Access is under the jurisdiction of Wasatch County.

(7) WASATCH MOUNTAIN STATE PARK (South Access). The South Access to the Wasatch Mountain State Park begins in Wasatch County at State Route 40 and proceeds westerly on Federal Route 3130 via River Road, Burgi Lane, and Cari Lane, county and city roads, a distance of 4.3 miles to State Highway 222; then northerly on State Highway 222, a distance of [~~1.1~~]1.3 miles to the campground entrance. The South Access is under the jurisdiction of Wasatch County and Midway City.

(8) WASATCH MOUNTAIN STATE PARK (West Access). The West Access to the Wasatch Mountain State Park begins at the Salt Lake-Wasatch County line and proceeds easterly on Guardsman Pass Road, a county road, a distance of 1.7 miles; then southeasterly on Pine Canyon Road, a county road, a distance of 7.3 miles to the campground entrance. The West Access is under the jurisdiction of Wasatch County.

(9) WASATCH MOUNTAIN (Soldier Hollow). Access to Soldier Hollow begins in Wasatch County at State Highway 113 and proceeds westerly on Tate Lane, a county road; then southwesterly on Soldier Hollow Lane to the parking area and clubhouse.

(10) WASATCH MOUNTAIN (Cascade Springs). Access to Cascade Springs begins in Wasatch County at the junction of Tate Lane and Stringtown Road, county roads, and proceeds northerly on Stringtown Road; then southwesterly on Cascade Springs Drive to the parking area. The access is under the jurisdiction of Wasatch County.

(11) WILLARD BAY STATE PARK (South). Access to the Willard Bay State Park South begins in Box Elder County at a county road and proceeds northwesterly on State Highway 312 a distance of [~~0.2~~]0.5 miles to the marina parking at the park and is under the jurisdiction of UDOT.

(12) WILLARD BAY STATE PARK (North). Access to the Willard Bay State Park North begins in Box Elder County at Interstate Highway 15 and proceeds southwesterly on State Highway 315 a distance of [~~0.6~~]1.0 miles to the marina parking at the park and is under the jurisdiction of UDOT.

(13) YUBA STATE PARK. Access to the Yuba State Park begins in Juab County at Interstate Highway 15 and proceeds southerly on county road (L203) a distance of 4.1 miles to the pay gate at the park and is under the jurisdiction of Juab County.

Section 24. Section 72-5-104 is amended to read:

72-5-104. Public use constituting dedication -- Scope.

(1) As used in this section, "highway," "street," or "road" does not include an area principally used as a parking lot.

(2) A highway is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of 10 years.

(3) The requirement of continuous use under Subsection (2) is satisfied if the use is as frequent as the public finds convenient or necessary and may be seasonal or follow some other pattern.

(4) Continuous use as a public thoroughfare under Subsection (2) is interrupted when:

(a) the person or entity interrupting the continuous use gives not less than 72 hours advance written notice of the interruption to the highway authority having jurisdiction of the highway, street, or road;

(b) the property owner undertakes an overt act which is intended to interrupt the use of the highway, street, or road as a public thoroughfare; and

(c) the overt act described in Subsection (4)(b) is reasonably calculated to interrupt the regularly

established pattern and frequency of public use for the given highway, street, or road for a period of no less than 24 hours.

(5) Installation of gates and posting of no trespassing signs are relevant forms of evidence but are not solely determinative of whether an interruption under Subsection (4) has occurred.

(6) A property owner's interruption under Subsection (4) of a highway, street, or road where the requirement of continuous use under Subsection (2) is not satisfied restarts the running of the 10-year period of continuous use required for dedication under Subsection (2).

(7)(a) The burden of proving dedication under Subsection (2) is on the party asserting the dedication.

(b) The burden of proving interruption under Subsection (4) is on the party asserting the interruption.

(8)(a) The dedication and abandonment creates a right-of-way held by the state or a local highway authority in accordance with Sections 72-3-102, 72-3-103, 72-3-104, 72-3-105, and 72-5-103.

(b) A property owner's interruption under Subsection (4) of a right-of-way claimed by the state or local highway authority in accordance with Subsection (8)(a) or R.S. 2477 has no effect on the validity of the state's or local highway authority's claim to the right-of-way and does not return the right-of-way to the property owner.

(9) The scope of a right-of-way described in Subsection (8)(a) is that which is reasonable and necessary to ensure safe travel according to the facts and circumstances.

(10) The provisions of this section apply to any claim under this section for which a court of competent jurisdiction has not issued a final unappealable judgment or order.

(11)(a) Before a person may file an action in district court to determine or challenge whether a highway, street, or road has been dedicated to the public as described in this section, the person shall first provide 30-day written notice to the relevant highway authority.

(b) In an action described in Subsection (11)(a), the person shall name as a defendant the highway authority that would have jurisdiction over the highway, street, or road.

Section 25. Section 72-6-118 is amended to read:

72-6-118. Definitions -- Establishment and operation of tollways -- Imposition and collection of tolls -- Amount of tolls -- Rulemaking.

(1) As used in this section:

(a) "High occupancy toll lane" means a high occupancy vehicle lane designated under Section 41-6a-702 that may be used by an operator of a vehicle carrying less than the number of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a toll or fee.

(b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

(c) "Toll lane" means a designated new highway or additional lane capacity that is constructed, operated, or maintained for which a toll is charged for its use.

(d)(i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through the use of toll revenues.

(ii) "Tollway" includes a high occupancy toll lane and a toll lane.

(e) "Tollway development agreement" has the same meaning as defined in Section 72-6-202.

(2) Subject to the provisions of Subsection (3), the department may:

(a) establish, expand, and operate tollways and related facilities for the purpose of funding in whole or in part the acquisition of right-of-way and the design, construction, reconstruction, operation, enforcement, and maintenance of or impacts from a transportation route for use by the public;

(b) enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements to implement this section;

(c) impose and collect tolls on any tollway established under this section, including collection of past due payment of a toll or penalty;

(d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls pursuant to the terms and conditions of a tollway development agreement;

(e) use technology to automatically monitor a tollway and collect payment of a toll, including:

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway involving the motor vehicle for which registration renewal has been requested.

(3)(a) The department may establish or operate a tollway on an existing highway if approved by the commission in accordance with the terms of this section.

(b) To establish a tollway on an existing highway, the department shall submit a proposal to the commission including:

(i) a description of the tollway project;

(ii) projected traffic on the tollway;

(iii) the anticipated amount of the toll to be charged; and

(iv) projected toll revenue.

(4)(a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the owner of a motor vehicle using the tollway according to the terms of the tollway;

(ii) send correspondence to the owner of the motor vehicle to inform the owner of:

(A) an unpaid toll and the amount of the toll to be paid to the department;

(B) the penalty for failure to pay the toll timely; and

(C) a hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely, which would prevent the renewal of the motor vehicle's registration;

(iii) require that the owner of the motor vehicle pay the toll to the department within 30 days of the date when the department sends written notice of the toll to the owner; and

(iv) impose a penalty for failure to pay a toll timely.

(b) The department shall mail the correspondence and notice described in Subsection (4)(a) to the owner of the motor vehicle according to the terms of a tollway.

(5)(a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to a motor vehicle and tollway enforcement including:

(i) registration and ownership information pertaining to a motor vehicle;

(ii) information regarding the failure of a motor vehicle owner to timely pay a toll or penalty imposed under this section; and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the owner of the motor vehicle has failed to pay a toll or penalty imposed under this section for usage of a tollway involving the motor vehicle for which registration renewal has been requested until the department withdraws the hold request.

(6)(a) Except as provided in Subsection (6)(b), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:

(i) set the amount of any toll imposed or collected on a tollway on a state highway; and

(ii) for tolls established under Subsection (6)(b), set:

(A) an increase in a toll rate or user fee above an increase specified in a tollway development agreement; or

(B) an increase in a toll rate or user fee above a maximum toll rate specified in a tollway development agreement.

(b) A toll or user fee and an increase to a toll or user fee imposed or collected on a tollway on a state highway that is the subject of a tollway development agreement shall be set in the tollway development agreement.

(7)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:

(i) necessary to establish and operate tollways on state highways;

(ii) that establish standards and specifications for automatic tolling systems and automatic tollway monitoring technology; and

(iii) to set the amount of a penalty for failure to pay a toll under this section.

(b) The rules shall:

(i) include minimum criteria for having a tollway; and

(ii) conform to regional and national standards for automatic tolling.

(8)(a) The commission may provide funds for public or private tollway pilot projects or high occupancy toll lanes from General Fund money appropriated by the Legislature to the commission for that purpose.

(b) The commission may determine priorities and funding levels for tollways designated under this section.

(9)(a) Except as provided in Subsection (9)(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for any state transportation purpose.

(b) Revenue generated from a tollway that is the subject of a tollway development agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance with Subsection (9)(a) unless:

(i) the revenue is to a private entity through the tollway development agreement; or

(ii) the revenue is identified for a different purpose under the tollway development agreement.

(10) Data described in Subsection (2)(e) obtained for the purposes of this section:

(a) in accordance with Section 63G-2-305, is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act, if the photographic or video data is maintained by a governmental entity;

(b) may not be used or shared for any purpose other than the purposes described in this section;

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant.

(11)(a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

[~~(12) Before November 1, 2018, the Driver License Division, the Division of Motor Vehicles, and the department shall jointly study and report findings and recommendations to the Transportation Interim Committee regarding the use of Title 53, Chapter 3, Part 6, Drivers' License Compact, and other methods to collect a toll or penalty under this section from:~~]

[~~(a) an owner of a motor vehicle registered outside this state; or~~]

[~~(b) a driver or lessee of a motor vehicle leased or rented for 30 days or less.~~]

Section 26. Section 72-6-121 is amended to read:

72-6-121. Clean fuel vehicle decal.

(1) Subject to the requirements of this section, the department shall issue a clean fuel vehicle decal permit and a clean fuel vehicle decal to an applicant if:

(a) the applicant is an owner of a vehicle:

(i) powered by clean fuel that meets the standards established by the department in rules authorized under Subsection 41-6a-702(5)(b); and

(ii) that is registered in the state of Utah;

(b) the applicant remits an application and all fees required under this section; and

(c) the department has clean fuel vehicle decals available subject to the limits established by the department in accordance with Subsection 41-6a-702(5)(b).

(2) The department shall establish the clean fuel vehicle decal design in consultation with the Utah Highway Patrol.

(3)(a) An applicant for a clean fuel vehicle decal shall pay a clean fuel vehicle decal fee established by the department in accordance with Section 63J-1-504.

(b) Funds generated by the clean fuel vehicle decal fee may be used by the department to cover the costs incurred in issuing clean fuel vehicle decals under this section.

(4)(a) The department shall issue a clean fuel vehicle decal permit and a clean fuel vehicle decal to a person who has been issued a clean fuel special group license plate prior to July 1, 2011.

(b) A person who applies to the department to receive a clean fuel vehicle decal permit and a clean fuel vehicle decal under Subsection (4)(a) is not subject to the fee imposed under Subsection (3).

(5)(a) An owner of a vehicle may not place a clean fuel vehicle decal on a vehicle other than the vehicle specified in the application for the clean fuel vehicle decal permit and the clean fuel vehicle decal.

(b) An owner of a vehicle issued a clean fuel vehicle permit and clean fuel vehicle decal is not required to place the clean fuel vehicle decal on the vehicle specified to drive in the high occupancy lane described in Subsection 41-6a-702(5).

(c) A person operating a motor vehicle that has been issued a clean fuel vehicle decal shall:

(i) in a manner consistent with Section 41-6a-1635, install on the windshield of the motor vehicle the clean vehicle transponder issued by the department;

[~~(i)~~](ii) have in the person's immediate possession the clean fuel vehicle decal permit issued by the department for the motor vehicle the person is operating; and

[~~(ii)~~](iii) present the permit upon demand of a peace officer.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to administer the clean fuel vehicle decal program authorized in this section.

Section 27. Section 72-7-111 is enacted to read:

72-7-111. Storage of flammable, explosive, or combustible materials prohibited.

(1) As used in this section:

(a) "Combustible" means a material capable of producing a usually rapid chemical process that creates heat and usually light.

(b) "Explosive" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion.

(c) "Flammable" means a material capable of being easily ignited and burning quickly.

(2) A person may not keep, store, or stockpile any flammable, explosive, or combustible material above ground directly beneath a bridge, overpass, viaduct, or tunnel owned or operated by a highway authority or large public transit district.

(3) A person who violates Subsection (2) is guilty of a class B misdemeanor.

Section 28. Section 72-10-203.5 is amended to read:

72-10-203.5. Advisory boards of airports and extraterritorial airports.

(1) For purposes of this section:

(a) "Airport owner" means the municipality, county, or airport authority that owns one or more airports.

(b) "Extraterritorial airport" means an airport, including the airport facilities, real estate, or other assets related to the operation of an airport, outside the municipality or county and within the boundary of a different municipality or county.

(2)(a) If an airport owner that owns an international airport also owns one or more extraterritorial airports, the airport owner shall create and maintain an advisory board as described in this section.

(b) The advisory board shall advise and consult the airport owner according to the process set forth in ordinance, rule, or regulation of the airport owner.

(3)(a) An advisory board described in Subsection (2) shall consist of 11 members, appointed as follows:

(i) one individual from each municipality or county in which an extraterritorial airport is located, appointed:

(A) according to an ordinance or policy in place in each municipality or county for appointing individuals to a board, if any; or

(B) if no ordinance or policy described in Subsection (3)(a)(i)(A) exists, by the chief executive officer of the municipality or county, with advice and consent from the legislative body of the municipality or county in which the extraterritorial airport is located; and

(ii) as many individuals as necessary, appointed by the chief executive officer of the airport owner, with advice and consent from the legislative body of the airport owner, when added to the individuals appointed under Subsection (3)(a)(i), to equal 11 total members on the advisory board.

(b) The airport owner shall ensure that members of the advisory board have the following qualifications:

(i) at least one member with experience in commercial or industrial construction projects with a budget of at least $10,000,000; and

(ii) at least one member with experience in management and oversight of an entity with an operating budget of at least $10,000,000.

(4)(a)(i) Except as provided in [~~Subsections (4)(b) and (6)(b)~~]Subsection (4)(b), the term of office for members of the advisory board shall be four years or until a successor is appointed, qualified, seated, and has taken the oath of office.

(ii) A member of the advisory board may serve two terms.

(b) When a vacancy occurs on the board for any reason, the replacement shall be appointed according to the procedures set forth in Subsection (3) for the member who vacated the seat, and the replacement shall serve for the remainder of the unexpired term.

(5) The advisory board shall select a chair of the advisory board.

[~~(6)(a) For an airport owner that owns and operates an extraterritorial airport as of March 9, 2017, that has an advisory board in place, the members of the advisory board may complete the member's respective current term on the advisory board.~~]

[~~(b) After March 9, 2017, and upon expiration of the current term of each member of the advisory board serving as of March 9, 2017, the airport owner shall ensure that the membership of the advisory board transitions to reflect the requirements of this section.~~]

[~~(7)~~](6)(a) The chief executive officer of each municipality or county in which an extraterritorial airport is located, with the advice and consent of the respective legislative body of the municipality or county, may create an extraterritorial airport advisory board to represent the interests of the extraterritorial airport.

(b) The extraterritorial airport advisory boards described in Subsection [~~(7)(a)~~](6)(a) shall meet at least quarterly, and:

(i) shall provide advisory support to the member of the advisory board representing the municipality or county; and

(ii) may advise in the request for proposals process of a fixed base operator for the respective extraterritorial airport.

[~~(8)~~](7) The airport owner, in consultation with the airport advisory board, shall, consistent with the requirements of federal law, study, produce an analysis, and advise regarding the highest and best use and operational strategy for each airport, including all lands, facilities, and assets owned by the airport owner.

[~~(9)~~](8) An airport owner, in consultation with the county auditor and the county assessor of a county in which an extraterritorial airport is located, shall explore in good faith whether a municipality or county where an extraterritorial airport is located receives airport-related tax disbursements to which the municipality or county is entitled.

[~~(10)~~](9) An airport owner shall report annually to the Transportation Interim Committee regarding the requirements in this section.

Section 29. Section 72-10-205.5 is amended to read:

72-10-205.5. Abandoned aircraft on airport property -- Seizure and disposal.

(1)(a) As used in this section, "abandoned aircraft" means an aircraft that:

(i) remains in an idle state on airport property for 45 consecutive calendar days;

(ii) is in a wrecked, inoperative, derelict, or partially dismantled condition; and

(iii) is not in the process of actively being repaired.

(b) "Abandoned aircraft" does not include an aircraft:

(i)(A) that has current FAA registration; and

[~~(ii)~~](B) that has current state registration; or

[~~(iii)~~](ii) for which evidence is shown indicating repairs are in process, including:

(A) receipts for parts and labor; or

(B) a statement from a mechanic making the repairs.

(2) An airport operator may take possession and dispose of an abandoned aircraft in accordance with Subsections (3) through (5).

(3) Upon determining that an aircraft located on airport property is abandoned, the airport operator shall:

(a) send, by registered mail, a notice containing the information described in Subsection (4) to the last known address of the last registered owner of the aircraft; and

(b) publish a notice containing the information described in Subsection (4) in a newspaper of general circulation in the county where the airport is located if:

(i) the owner or the address of the owner of the aircraft is unknown; or

(ii) the mailed notice is returned to the airport operator without a forwarding address.

(4) The notice described in Subsection (3) shall include:

(a) the name, if known, and the last known address, if any, of the last registered owner of the aircraft;

(b) a description of the aircraft, including the identification number, the location of the aircraft, and the date the aircraft is determined abandoned;

(c) a statement describing the specific grounds for the determination that the aircraft is abandoned;

(d) the amount of any accrued or unpaid airport charges; and

(e) a statement indicating that the airport operator intends to take possession and dispose of the aircraft if the owner of the aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the later of:

(i) 30 days after the day on which the notice is sent in accordance with Subsection (3)(a); or

(ii) 30 days after the day on which the notice is published in accordance with Subsection (3)(b), if applicable.

(5) If the owner of the abandoned aircraft fails to remove the aircraft from airport property, after payment in full of any charges described in Subsection (4)(d), within the time specified in Subsection (4)(e):

(a) the abandoned aircraft becomes the property of the airport operator; and

(b) the airport operator may dispose of the abandoned aircraft:

(i) in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service; or

(ii) in accordance with any other lawful method or procedure established by rule or ordinance adopted by the airport operator.

(6) If an airport operator complies with the provisions of this section, the airport operator is immune from liability for the seizure and disposal of an abandoned aircraft in accordance with this section.

Section 30. Section 72-17-101 is amended to read:

72-17-101. Office of Rail Safety -- Creation -- Applicability.

(1) In accordance with 49 C.F.R. Part 212, State Safety Participation Regulations, there is created within the department an Office of Rail Safety.

(2) As described in 49 C.F.R. Secs. 212.105 and 212.107, to organize the Office of Rail Safety, the executive director shall:

(a) enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities; and

(b) obtain certification from the Federal Railroad Administration to undertake inspection and investigative responsibilities and duties.

(3) In establishing the Office of Rail Safety in accordance with the duties described in 49 C.F.R. Part 212, the department may hire personnel and establish the duties of the office in phases.

(4) This [~~chapter~~]part applies to:

(a) a class I railroad; and

(b) commuter rail.

Section 31. Section 72-17-102 is amended to read:

72-17-102. Definitions.

As used in this [~~chapter~~]part:

(1) "Class I railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

(2) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

(3) "Federal Railroad Administration" means the Federal Railroad Administration created in 49 U.S.C. Sec. 103.

(4) "Office" means the Office of Rail Safety created in accordance with Section 72-17-101.

(5) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

Section 32. Section 77-11d-105 is amended to read:

77-11d-105. Disposition of unclaimed property.

(1)(a) If the owner of any lost or mislaid property cannot be determined or notified, or if the owner of the property is determined and notified, and fails to appear and claim the property after three months of the property's receipt by the local law enforcement agency, the agency shall:

(i) publish notice of the intent to dispose of the unclaimed property on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b);

(ii) post a similar notice on the public website of the political subdivision within which the law enforcement agency is located; and

(iii) post a similar notice in a public place designated for notice within the law enforcement agency.

(b) The notice shall:

(i) give a general description of the item; and

(ii) the date of intended disposition.

(c) The agency may not dispose of the lost or mislaid property until at least eight days after the date of publication and posting.

(2)(a) If no claim is made for the lost or mislaid property within nine days of publication and posting, the agency shall notify the person who turned the property over to the local law enforcement agency, if it was turned over by a person under Section 77-11d-103.

(b) Except as provided in Subsection (4), if that person has complied with the provisions of this chapter, the person may take the lost or mislaid property if the person:

(i) pays the costs incurred for advertising and storage; and

(ii) signs a receipt for the item.

(3) If the person who found the lost or mislaid property fails to take the property under the provisions of this chapter, the agency shall:

(a) apply the property to a public interest use as provided in Subsection (4);

(b) sell the property at public auction and apply the proceeds of the sale to a public interest use; or

(c) destroy the property if it is unfit for a public interest use or sale.

(4)(a) Before applying the lost or mislaid property to a public interest use, the agency having possession of the property shall obtain from the agency's legislative body:

[~~(a)~~](i) permission to apply the property to a public interest use; and

[~~(b)~~](ii) the designation and approval of the public interest use of the property.

(b) If the agency is a private law enforcement agency as defined in Subsection 53-19-102(4), the agency may apply the lost or mislaid property to a public interest use as provided in Subsection (4)(a) after obtaining the permission, designation, and approval of the legislative body of the municipality in which the agency is located.

(5) Any person employed by a law enforcement agency who finds property may not claim or receive property under this section.

Section 33. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 518
S. B. 201
Passed February 22, 2024
Approved March 21, 2024
Effective May 1, 2024

MUNICIPAL INCORPORATION MODIFICATIONS

Chief Sponsor: Evan J. Vickers
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions relating to municipal incorporations.

Highlighted Provisions:

This bill:

- requires feasibility request sponsors to pay the estimated cost of a feasibility study and a supplemental feasibility study;
- modifies the process relating to the Utah Population Committee's determination of population and related information for a proposed incorporation;
- modifies the period within which the lieutenant governor is required to engage a feasibility consultant to begin after the feasibility request sponsors have paid the estimated feasibility study cost;
- requires a newly incorporated municipality to reimburse feasibility request sponsors for the cost of a feasibility study and any supplemental feasibility study; and
- modifies a provision relating to the costs of incorporation and the fund that the lieutenant governor uses to pay those costs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2a-102, as last amended by Laws of Utah 2023, Chapter 224
10-2a-201.5, as last amended by Laws of Utah 2023, Chapter 224
10-2a-202, as last amended by Laws of Utah 2023, Chapter 224
10-2a-204, as last amended by Laws of Utah 2023, Chapter 224
10-2a-204.3, as enacted by Laws of Utah 2023, Chapter 224
10-2a-205, as last amended by Laws of Utah 2023, Chapters 16, 224
10-2a-206, as last amended by Laws of Utah 2023, Chapter 224
10-2a-220, as last amended by Laws of Utah 2023, Chapter 224

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2a-102 is amended to read:

10-2a-102. Definitions.

(1) As used in this part and Part 2, Incorporation of a Municipality:

(a) "Contact sponsor" means the person designated in the feasibility request as the contact sponsor under Subsection [~~10-2a-202(2)(d)~~] 10-2a-202(3)(b).

(b)(i) "Contiguous" means, except as provided in Subsection (1)(b)(ii), the same as that term is defined in Section 10-1-104.

(ii) "Contiguous" does not include a circumstance where:

(A) two areas of land are only connected by a strip of land between geographically separate areas; and

(B) the distance between the geographically separate areas described in Subsection (1)(b)(ii)(A) is greater than the average width of the strip of land connecting the geographically separate areas.

(c) "Feasibility consultant" means a person or firm:

(i) with expertise in the processes and economics of local government; and

(ii) who is independent of and not affiliated with a county or sponsor of a petition to incorporate.

(d) "Feasibility request" means a request, described in Section 10-2a-202, for a feasibility study for the proposed incorporation of a municipality.

(e)(i) "Municipal service" means any of the following that are publicly provided:

(A) culinary water;

(B) secondary water;

(C) sewer service;

(D) storm drainage or flood control;

(E) recreational facilities or parks;

(F) electrical power generation or distribution;

(G) construction or maintenance of local streets and roads;

(H) street lighting;

(I) curb, gutter, and sidewalk maintenance;

(J) law or code enforcement service;

(K) fire protection service;

(L) animal services;

(M) planning and zoning;

(N) building permits and inspections;

(O) refuse collection; or

(P) weed control.

(ii) "Municipal service" includes the physical facilities required to provide a service described in Subsection (1)(e)(i).

(f) "Private," with respect to real property, means taxable property.

(2) For purposes of this part:

(a) the owner of real property shall be the record title owner according to the records of the county recorder on the date of the filing of the feasibility request or petition for incorporation; and

(b) the assessed fair market value of private real property shall be determined according to the last assessment roll for county taxes before the filing of the feasibility request or petition for incorporation.

(3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or fraction of the total private land area within an area to sign a feasibility request or a petition for incorporation:

(a) a parcel of real property may not be included in the calculation of the required percentage or fraction unless the feasibility request or petition for incorporation is signed by:

(i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;

(b) the signature of a person signing a feasibility request or a petition for incorporation in a representative capacity on behalf of an owner is invalid unless:

(i) the person's representative capacity and the name of the owner the person represents are indicated on the feasibility request or petition for incorporation with the person's signature; and

(ii) the person provides documentation accompanying the feasibility request or petition for incorporation that substantiates the person's representative capacity; and

(c) subject to Subsection (3)(b), a duly appointed personal representative may sign a feasibility request or a petition for incorporation on behalf of a deceased owner.

Section 2. Section 10-2a-201.5 is amended to read:

10-2a-201.5. Qualifications for incorporation.

(1)(a) An area may incorporate as a town in accordance with this part if the area:

(i) is contiguous;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) An area may incorporate as a city in accordance with this part if the area:

(i) is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(2)(a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and

(ii) the area is contiguous.

(3) An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b)(i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4)(a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1)[~~ through (4)~~], (3), (4), and (5) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5)(a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 3. Section 10-2a-202 is amended to read:

10-2a-202. Feasibility request -- Requirements -- Limitations -- Request to Utah Population Committee.

(1) [~~The~~]Subject to Subsection (2), the process to incorporate a contiguous area of a county as a municipality is initiated by an individual filing a feasibility request, with the county clerk of the county where the area proposed to be incorporated is located, that [~~includes~~]:

(a) includes the signatures of the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is, as of January 1 of the current year, equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the area; [~~and~~]

(b) includes the typed or printed name and current residence address of each owner signing the request[~~.~~]; and

(c) is accompanied by the Utah Population Committee's written notice under Subsection (2)(d)(ii).

(2)(a) Before submitting a feasibility request under Subsection (1), an individual intending to file a feasibility request shall submit to the lieutenant governor a written request to the Utah Population Committee.

(b) A written request under Subsection (2)(a) shall:

(i) request the Utah Population Committee to determine whether, on the date the individual filed the request, the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5;

(ii) provide a description of the contiguous area proposed to be incorporated as a municipality; and

(iii) be accompanied by an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundary of the proposed municipality.

(c) Within seven business days after receiving a request under Subsection (2)(a), the lieutenant governor shall transmit the request to the Utah Population Committee.

(d) Within 20 days after receiving a written request from the lieutenant governor under Subsection (2)(c), the Utah Population Committee shall:

(i) determine whether, on the date the individual filed the request under Subsection (2)(a), the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5; and

(ii) provide a written notice of the determination to:

(A) the lieutenant governor; and

(B) the individual who submitted the request under Subsection (2)(a).

(e) An individual may not file a feasibility request under Subsection (1) unless the Utah Population Committee determines that the proposed municipality complies with the population, population density, and contiguity requirements described in Section 10-2a-201.5.

(f) A feasibility request may not be filed more than 30 days after the Utah Population Committee's written determination under Subsection (2)(d).

[~~(2)~~](3) The feasibility request shall include:

(a) [~~a~~]the same description of the contiguous area proposed to be incorporated as a municipality that was provided to the Utah Population Committee under Subsection (2)(b);

(b) a designation of up to five signers of the request as sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(c) an accurate map or plat, prepared by a licensed surveyor, showing [~~a~~]the same legal description of the boundaries of the proposed municipality as was included with a request submitted to the Utah Population Committee under Subsection (2)(b); [~~and~~]

(d) a copy of the Utah Population Committee's written determination under Subsection (2)(d); and

[~~(d)~~](e) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a municipality.

[~~(3)~~](4) The individual described in Subsection (1) shall, on the day on which the individual files the feasibility request with the county clerk, provide to the lieutenant governor:

(a) written notice that the individual filed the feasibility request that indicates the day on which the individual filed the feasibility request; and

(b) a complete copy of the feasibility request, including a copy of the written determination by the Utah Population Committee under Subsection (2)(d).

[~~(4)~~](5) A feasibility request may not propose for incorporation an area that includes some or all of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.

[~~(5)~~](6) Sponsors may not file a feasibility request relating to the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Section 4. Section 10-2a-204 is amended to read:

10-2a-204. Processing a feasibility request -- Certification or rejection -- Processing priority.

(1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-202, the county clerk shall:

(a) determine whether the feasibility request complies with Section 10-2a-202; and

(b) notify the lieutenant governor, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.

(2) The county clerk:

(a) shall keep the lieutenant governor apprised of the county clerk's progress in making the determination described in Subsection (1)(a); and

(b) may consult with the lieutenant governor in making the determination described in Subsection (1)(a).

(3) Within five days after the day on which the county clerk provides the notification described in Subsection (1)(b), the lieutenant governor shall:

(a) review the determination and the grounds for the determination to evaluate whether the feasibility request complies with Section 10-2a-202; and

(b)(i) uphold the determination;

(ii) reverse the determination; or

(iii) require the county clerk to provide additional information that the lieutenant governor identifies as necessary for the lieutenant governor to uphold or reverse the county clerk's determination.

(4) If the office requires the county clerk to provide additional information under Subsection (3)(b)(iii):

(a) the county clerk shall provide the additional information to the office within five days after the day on which the office notifies the county clerk that the additional information is required; and

(b) the office shall, within five days after the day on which the county clerk provides the additional information, uphold or reverse the determination of the county clerk described in Subsection (1)(b).

(5) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-202, the lieutenant governor shall:

(a) certify the request; and

(b) transmit written notification of the certification to the contact sponsor[~~; and~~].

[~~(c) transmit written notification of the certification to the Utah Population Committee.~~]

(6) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-202, the lieutenant governor shall reject the feasibility request and notify the contact sponsor in writing of the rejection and the grounds for the rejection.

[~~(7)(a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection (5)(c), the Utah Population Committee shall:~~]

[~~(i) determine whether, on the date the sponsors filed the feasibility request, the proposed municipality complied with the population, population density, and contiguity requirements described in Section 10-2a-201.5; and~~]

[~~(ii) provide notice of the determination to the lieutenant governor and the county clerk.~~]

[~~(b) If the Utah Population Committee determines that a proposed municipality does not comply with the population, population density, or contiguity requirements described in Section 10-2a-201.5, the lieutenant governor shall rescind the certification described in Subsection (5)(a) and reject the feasibility request.~~]

[~~(8)~~](7) The lieutenant governor shall certify or reject feasibility requests in the order in which the requests are filed.

[~~(9)~~](8)(a) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-202, [~~or rejects the feasibility request under Subsection (7)(b),~~] the sponsors may, subject to Section 10-2a-206, amend the feasibility request to correct the deficiencies and refile the feasibility request with the county clerk.

(b) The sponsors shall submit any amended feasibility request within 90 days after the day on which the lieutenant governor makes the determination or rejection described in Subsection [~~(9)(a)~~](8)(a).

(c) The sponsors may reuse a signature described in Subsection [~~10-2a-202(2)(a)~~]10-2a-202(1)(a) that is on a rejected feasibility request or on an amended feasibility request described in Subsection [~~(9)(a)~~](8)(a).

(d) The county clerk and the lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection [~~(9)(a)~~](8)(a) as a newly filed feasibility request and process the feasibility request in accordance with this section.

Section 5. Section 10-2a-204.3 is amended to read:

10-2a-204.3. Notice to property owners -- First public hearing.

(1) [~~Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204(7)(b), the~~]The county clerk shall:

(a) hold the first public hearing in relation to the proposed incorporation, at a location approved by the lieutenant governor, no later than 30 days after the day on which the [~~county clerk receives the notice described in Subsection 10-2a-204(7)(a)(ii)~~] lieutenant governor certifies the feasibility request under Subsection 10-2a-204(5);

(b) publish notice of the hearing in accordance with Subsection 10-2a-207(7); and

(c) within seven calendar days after the day on which the [~~county clerk receives the notice described in Subsection 10-2a-204(7)(a)(ii)~~] lieutenant governor certifies the feasibility request under Subsection 10-2a-204(5), mail written notice of the proposed incorporation and of the first public hearing described in this section to:

(i) each residence within, and each owner of real property located within:

(A) the proposed incorporation boundaries; and

(B) 300 feet of the proposed incorporation boundaries;

(ii) the contact sponsor; and

(iii) the lieutenant governor.

(2) The written notice provided by the county clerk under Subsections (1)(b) and (c) shall include:

(a) the following statement:

"NOTICE OF PROPOSED INCORPORATION AND FIRST PUBLIC HEARING

You have received this notice because you reside or own property within an area proposed for incorporation, or an area within 300 feet of an area proposed for incorporation. The first public hearing in relation to the proposed incorporation will be held on [insert date, time, and location]. The purpose of the first public hearing is to provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and certain rights you may have in relation to the proposed incorporation. A specified landowner, as defined in Utah Code Section 10-2a-204.5, may, within 30 days after the day of the public hearing, request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation. A specified landowner may not request exclusion after the end of the 30-day period. Any owner of land within a county where the area proposed for incorporation is located may, within 30 days after the day of the public hearing, request that the county clerk include all or part of that land in the area proposed for incorporation. An owner of land may not request inclusion after the end of the 30-day period.";

(b) a clear description of the area proposed for incorporation.

(3) Notwithstanding that the county conducts the first public hearing, the lieutenant governor, or a designee of the lieutenant governor, shall:

(a) direct the proceedings at the first public hearing, with the assistance of the county clerk as needed;

(b) provide information regarding the proposed incorporation, the incorporation process, including the process for deciding whether to incorporate, and the rights citizens may have in relation to the proposed incorporation;

(c) describe the process by which a specified landowner may request that the county clerk exclude all or part of the specified landowner's land from the area proposed for incorporation;

(d) describe the process by which an owner of land described in Subsection 10-2a-204.5(2)(b) may request that the county clerk include all or part of that land in the area proposed for incorporation;

(e) describe the criteria for granting a request for exclusion or inclusion of land; and

(f) answer questions from individuals who attend the first public hearing.

(4) The contact sponsor, or an agent of the contact sponsor, and the county clerk, or an employee of the county clerk designated by the county clerk, shall attend the first public hearing.

(5) The county clerk shall:

(a) provide the location and equipment for the public hearing, subject to approval by the lieutenant governor; and

(b) ensure compliance with the requirements of Title 52, Chapter 4, Open and Public Meetings Act, in relation to the public hearing.

Section 6. Section 10-2a-205 is amended to read:

10-2a-205. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1)(a) [~~Unless the lieutenant governor rescinds the certification under Subsection 10-2a-204(7)(b), the~~]The lieutenant governor shall, within [~~90~~]10 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-204(5)(a), [~~in accordance with Subsection~~

~~(2), engage a feasibility consultant to conduct a feasibility study.~~]:

(i) estimate the cost of a feasibility study under this section; and

(ii) provide the estimated cost to the feasibility request sponsors.

(b) The feasibility request sponsors shall pay to the lieutenant governor the amount of the estimated cost under Subsection (1)(a) of a feasibility study conducted on or after May 1, 2024.

(c) Within 90 days after the feasibility request sponsors pay the estimated feasibility study cost under Subsection (1)(a), the lieutenant governor shall, in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

(2) The lieutenant governor shall:

(a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) ensure that the feasibility consultant:

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and

(c) require the feasibility consultant to:

(i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;

(iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:

(A) the lieutenant governor;

(B) the county legislative body of the county in which the incorporation is proposed;

(C) the contact sponsor; and

(D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and

(iv) attend the public hearings described in Section 10-2a-207 to present the feasibility study results and respond to questions from the public.

(3)(a) The feasibility study shall include:

(i) an analysis of the population and population density within the area proposed for incorporation and the surrounding area;

(ii) the current and projected five-year demographics and tax base within the boundaries of the proposed municipality and surrounding area, including household size and income, commercial and industrial development, and public facilities;

(iii) subject to Subsection (3)(b), the current and five-year projected cost of providing municipal services to the proposed municipality, including administrative costs;

(iv) assuming the same tax categories and tax rates as currently imposed by the county and all other current service providers, the present and five-year projected revenue for the proposed municipality;

(v) an analysis of the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(iii) or revenues described in Subsection (3)(a)(iv) of the newly incorporated municipality;

(vi) an analysis of new revenue sources that may be available to the newly incorporated municipality that are not available before the area incorporates, including an analysis of the amount of revenues the municipality might obtain from those revenue sources;

(vii) the projected tax burden per household of any new taxes that may be levied within the proposed municipality within five years after incorporation;

(viii) the fiscal impact of the municipality's incorporation on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and

(ix) if the county clerk excludes property from, or includes property in, the proposed municipality under Section 10-2a-204.5, an update to the map and legal description described in Subsection [~~10-2a-202(2)(c)~~]10-2a-202(3)(c).

(b)(i) In calculating the projected costs under Subsection (3)(a)(iii), the feasibility consultant shall assume the proposed municipality will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area of the proposed municipality at the time the feasibility consultant conducts the feasibility study.

(ii) In calculating the current cost of a municipal service under Subsection (3)(a)(iii), the feasibility consultant shall consider:

(A) the amount it would cost the proposed municipality to provide the municipal service for the first five years after the municipality's incorporation; and

(B) the current municipal service provider's present and five-year projected cost of providing the municipal service.

(iii) In calculating costs under Subsection (3)(a)(iii), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the

following before submitting a draft of the feasibility study under Subsection (2)(c)(i):

(i) if the proposed municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides a municipal service to a portion of the proposed municipality; and

(iv) each other special service district that provides services to a portion of the proposed municipality.

(4) If the five-year projected revenues calculated under Subsection (3)(a)(iv) exceed the five-year projected costs calculated under Subsection (3)(a)(iii) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the contact sponsor and the lieutenant governor.

(5)(a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-206, show that the average annual amount of revenue calculated under Subsection (3)(a)(iv) does not exceed the average annual cost calculated under Subsection (3)(a)(iii) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) The process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-206 for the proposed incorporation demonstrates compliance with Subsection (5)(a).

(6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the boundaries of the proposed municipality may be altered to comply with Subsection (5).

(7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-206, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Section 7. Section 10-2a-206 is amended to read:

10-2a-206. Modified feasibility request -- Supplemental feasibility study.

(1)(a) The sponsors of a feasibility request may modify the request to alter the boundaries of the proposed municipality and refile the modified feasibility request with the county clerk if:

(i) the results of the feasibility study do not comply with Subsection 10-2a-205(5)(a); or

(ii)(A) the feasibility request complies with Subsection 10-2a-201.5(4)(b);

(B) the annexation petition described in Subsection 10-2a-201.5(4)(b) that proposed the annexation of an area that is part of the area proposed for incorporation has been denied; and

(C) an incorporation petition based on the feasibility request has not been filed.

(b)(i) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-205(2)(c)(iii).

(ii) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original feasibility request under Section 10-2a-202.

(c)(i) Subject to Subsection (1)(c)(ii), each modified feasibility request under Subsection (1)(a) shall comply with Subsections 10-2a-202(1) [~~through (4)~~], (3), (4), and (5) and Subsection 10-2a-201.5(4).

(ii) Notwithstanding Subsection (1)(c)(i), a signature on a feasibility request filed under Section 10-2a-202 may be used toward fulfilling the signature requirement of Subsection [~~10-2a-202(2)(a)~~]10-2a-202(1)(a) for the feasibility request as modified under Subsection (1)(a), unless the modified feasibility request proposes the incorporation of an area that is more than 20% larger or smaller than the area described by the original feasibility request in terms of:

(A) private land area; or

(B) assessed fair market value of private real property, as of January 1 of the current year.

(d) Within 20 days after the day on which the county clerk receives the modified request, the county clerk and the lieutenant governor shall follow the same procedure described in Subsections 10-2a-204(1) through (6) for the modified feasibility request as for an original feasibility request.

(e) Within 10 days after a modified feasibility request is filed, the lieutenant governor shall:

(i) estimate the cost of a supplemental feasibility study under this section; and

(ii) provide the estimated cost to the feasibility request sponsors.

(f) Within 20 days after the lieutenant governor provides the estimated supplemental feasibility study cost, the feasibility request sponsors shall pay the estimated cost to the lieutenant governor for a supplemental feasibility study conducted on or after May 1, 2024.

(2) The timely filing of a modified feasibility request under Subsection (1) gives the modified feasibility request the same processing priority under Subsection [~~10-2a-204(8)~~]10-2a-204(7) as the original feasibility request if the feasibility

request sponsors pay the estimated cost of the supplemental feasibility study as required in Subsection (1)(e).

(3) Within 10 days after the day on which the [~~county clerk receives a modified feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study has already been completed~~]lieutenant governor receives payment of the estimated supplemental feasibility study cost, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified feasibility request.

(4) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-205(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection (4)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the contact sponsor; and

(iv) each person to whom the consultant provided a draft under Subsection (4)(a).

(5)[~~(a) Subject to Subsection (5)(b), if~~]If the results of the supplemental feasibility study do not comply with Subsection 10-2a-205(5)(a)[~~, the sponsors may further modify the request in accordance with Subsection (1).~~]:

(a) the process to incorporate the area that is the subject of the supplemental feasibility study may not proceed; and

(b) a feasibility request under Section 10-2a-202 may not be filed within 18 months after the date of the supplemental feasibility study if the feasibility request proposes the incorporation of an area included within the area described in the supplemental feasibility study.

[~~(b) Subsections (1)(d), (3), and (4) apply to a modified feasibility request described in Subsection (5)(a).~~]

[~~(c) The county clerk shall consider a modified feasibility request described in Subsection (5)(a) as an original feasibility request for purposes of determining the modified feasibility request's processing priority under Subsection 10-2a-204(8).~~]

Section 8. Section 10-2a-220 is amended to read:

10-2a-220. Costs of incorporation -- Fees established by lieutenant governor.

(1)(a) There is created an expendable special revenue fund known as the "Municipal Incorporation Expendable Special Revenue Fund."

(b) The fund shall consist of:

(i) appropriations from the Legislature; [~~and~~]

(ii) payments that feasibility request sponsors make to the lieutenant governor under Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f); and

[~~(ii)~~](iii) fees the lieutenant governor collects and remits to the fund under this section.

(c) The lieutenant governor shall deposit all money collected under this section into the fund.

(2)(a) The lieutenant governor shall establish a fee in accordance with Section 63J-1-504 for a cost incurred by the lieutenant governor or the county for an incorporation proceeding, including:

(i) a request certification;

[~~(ii) a feasibility study;~~]

[~~(iii)~~](ii) a petition certification;

[~~(iv)~~](iii) publication of notices;

[~~(v)~~](iv) public hearings;

[~~(vi)~~](v) all other incorporation activities occurring after the elections; and

[~~(vii)~~](vi) any other cost incurred by the lieutenant governor or county in relation to an incorporation proceeding.

(b) A cost under Subsection (2)(a) does not include a cost incurred by a county for holding an election under Section 10-2a-210.

(3) [~~The~~]Subject to Subsections 10-2a-205(1)(b) and 10-2a-206(1)(f), the lieutenant governor shall pay for a cost described in Subsection (2)(a) using funds from the Municipal Incorporation Expendable Special Revenue Fund.

(4)(a) [~~An area that incorporates as a~~]A newly incorporated municipality shall [~~pay~~]:

(i) pay to the lieutenant governor each fee established under Subsection (2) for each cost described in Subsection (2)(a) incurred by the lieutenant governor or the county; [~~and~~]

(ii) pay the county for a cost described in Subsection (2)(b)[~~.~~]; and

(iii) reimburse feasibility request sponsors the cost the feasibility request sponsors paid for:

(A) a feasibility study under Section 10-2a-205; and

(B) any supplemental feasibility study under Section 10-2a-206.

(b) The lieutenant governor shall execute a payback agreement with each new municipality for

the new municipality to pay the fees described in Subsection (4)(a) over a period that, except as provided in Subsection (4)(c), may not exceed five years.

(c) If necessary, the lieutenant governor may extend a fee payment deadline beyond the deadline described in Subsection (4)(b) by amending the payback agreement described in Subsection (4)(b).

(d) The lieutenant governor shall deposit each fee the lieutenant governor collects under Subsection (4)(a)(i) into the Municipal Incorporation Expendable Special Revenue Fund.

(5) If the lieutenant governor expends funds from the Municipal Incorporation Expendable Special Revenue Fund that are not repaid to the lieutenant governor under Subsection (4)(a)(i) because an area did not incorporate as a municipality, the Legislature shall appropriate money to the fund in an amount equal to the funds that are not repaid.

Section 9. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 519
S. B. 204
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

CONDOMINIUM AND COMMUNITY ASSOCIATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Carol S. Moss

LONG TITLE

General Description:

This bill amends provisions relating to homeowners' associations.

Highlighted Provisions:

This bill:

- modifies the rights of a board member of a nonprofit corporation to inspect and copy records;
- adds an internal accessory dwelling unit to the definition of a rental;
- restricts a homeowners' association from regulating lease agreements in certain circumstances;
- requires that a homeowners' association adopt water wise landscaping rules;
- provides a remedy for an owner if the association does not implement water wise landscaping rules;
- clarifies the process by which a county assessor may assess a common area for property tax purposes;
- provides a process by which a homeowners' association may sell the common areas located within the homeowners' association;
- defines terms; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

16-6a-1602, as last amended by Laws of Utah 2023, Chapter 503
57-8-3, as last amended by Laws of Utah 2023, Chapter 503
57-8-7.2, as enacted by Laws of Utah 2004, Chapter 290
57-8-8.1, as last amended by Laws of Utah 2023, Chapter 503
57-8-10.1, as last amended by Laws of Utah 2023, Chapter 503
57-8-32, as last amended by Laws of Utah 2017, Chapter 405
57-8a-102, as last amended by Laws of Utah 2023, Chapter 503
57-8a-209, as last amended by Laws of Utah 2023, Chapter 503
57-8a-218, as last amended by Laws of Utah 2023, Chapter 503
57-8a-231, as last amended by Laws of Utah 2023, Chapters 139, 199
59-2-301.1, as last amended by Laws of Utah 2017, Chapter 49

ENACTS:

57-8a-232, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 16-6a-1602 is amended to read:

16-6a-1602. Inspection of records by directors and members.

(1) A director or member is entitled to inspect and copy any of the records of the nonprofit corporation described in Subsection 16-6a-1601(5):

(a) during regular business hours;

(b) at the nonprofit corporation's principal office; and

(c) if the director or member gives the nonprofit corporation written demand, at least five business days before the date on which the member wishes to inspect and copy the records.

(2) In addition to the rights set forth in Subsection (1), a director or member is entitled to inspect and copy any of the other records of the nonprofit corporation described in [~~Subsections 16-6a-1601(2) through (5)~~]Subsections 16-6a-1601(1) through (3):

(a) during regular business hours;

(b) at a reasonable location specified by the nonprofit corporation; and

(c) at least five business days before the date on which the member wishes to inspect and copy the records, if the director or member:

(i) meets the requirements of Subsection (3); and

(ii) gives the nonprofit corporation written demand.

(3) A director or member may inspect and copy the records described in [~~Subsection (2)~~]Subsections (1) and (2) only if:

(a) the demand is made:

(i) in good faith; and

(ii) for a proper purpose;

(b) the director or member describes with reasonable particularity the purpose and the records the director or member desires to inspect; and

(c) the records are directly connected with the described purpose.

(4) Notwithstanding Section 16-6a-102, for purposes of this section:

(a) "member" includes:

(i) a beneficial owner whose membership interest is held in a voting trust; and

(ii) any other beneficial owner of a membership interest who establishes beneficial ownership; and

(b) "proper purpose" means a purpose reasonably related to the demanding member's or director's interest as a member or director.

(5) The right of inspection granted by this section may not be abolished or limited by the articles of incorporation or bylaws.

(6) This section does not affect:

(a) the right of a director or member to inspect records under Section 16-6a-710;

(b) the right of a member to inspect records to the same extent as any other litigant if the member is in litigation with the nonprofit corporation; or

(c) the power of a court, independent of this chapter, to compel the production of corporate records for examination.

(7) A director or member may not use any information obtained through the inspection or copying of records permitted by Subsection (2) for any purposes other than those set forth in a demand made under Subsection (3).

Section 2. Section 57-8-3 is amended to read:

57-8-3. Definitions.

As used in this chapter:

(1) "Assessment" means any charge imposed by the association, including:

(a) common expenses on or against a unit owner pursuant to the provisions of the declaration, bylaws, or this chapter; and

(b) an amount that an association of unit owners assesses to a unit owner under Subsection 57-8-43(9)(g).

(2) "Association of unit owners" or "association" means all of the unit owners:

(a) acting as a group in accordance with the declaration and bylaws; or

(b) organized as a legal entity in accordance with the declaration.

(3) "Building" means a building, containing units, and comprising a part of the property.

(4) "Commercial condominium project" means a condominium project that has no residential units within the project.

(5) "Common areas and facilities" unless otherwise provided in the declaration or lawful amendments to the declaration means:

(a) the land included within the condominium project, whether leasehold or in fee simple;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus and installations existing for common use;

(g) such community and commercial facilities as may be provided for in the declaration; and

(h) all other parts of the property necessary or convenient to its existence, maintenance, and safety, or normally in common use.

(6) "Common expenses" means:

(a) all sums lawfully assessed against the unit owners;

(b) expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

(c) expenses agreed upon as common expenses by the association of unit owners; and

(d) expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(7) "Common profits," unless otherwise provided in the declaration or lawful amendments to the declaration, means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(8) "Condominium" means the ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

(9) "Condominium plat" means a plat or plats of survey of land and units prepared in accordance with Section 57-8-13.

(10) "Condominium project" means a real estate condominium project; a plan or project whereby two or more units, whether contained in existing or proposed apartments, commercial or industrial buildings or structures, or otherwise, are separately offered or proposed to be offered for sale. Condominium project also means the property when the context so requires.

(11) "Condominium unit" means a unit together with the undivided interest in the common areas and facilities appertaining to that unit. Any reference in this chapter to a condominium unit includes both a physical unit together with its appurtenant undivided interest in the common areas and facilities and a time period unit together with its appurtenant undivided interest, unless the reference is specifically limited to a time period unit.

(12) "Contractible condominium" means a condominium project from which one or more portions of the land within the project may be

withdrawn in accordance with provisions of the declaration and of this chapter. If the withdrawal can occur only by the expiration or termination of one or more leases, then the condominium project is not a contractible condominium within the meaning of this chapter.

(13) "Convertible land" means a building site which is a portion of the common areas and facilities, described by metes and bounds, within which additional units or limited common areas and facilities may be created in accordance with this chapter.

(14) "Convertible space" means a portion of the structure within the condominium project, which portion may be converted into one or more units or common areas and facilities, including limited common areas and facilities in accordance with this chapter.

(15) "Declarant" means all persons who execute the declaration or on whose behalf the declaration is executed. From the time of the recordation of any amendment to the declaration expanding an expandable condominium, all persons who execute that amendment or on whose behalf that amendment is executed shall also come within this definition. Any successors of the persons referred to in this subsection who come to stand in the same relation to the condominium project as their predecessors also come within this definition.

(16) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as it from time to time may be lawfully amended.

(17) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(18) "Expandable condominium" means a condominium project to which additional land or an interest in it may be added in accordance with the declaration and this chapter.

(19) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(20) "Governing documents":

(a) means a written instrument by which an association of unit owners may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association of unit owners; and

(b) includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association of unit owners.

(21) "Independent third party" means a person that:

(a) is not related to the unit owner;

(b) shares no pecuniary interests with the unit owner; and

(c) purchases the unit in good faith and without the intent to defraud a current or future lienholder.

(22) "Judicial foreclosure" means a foreclosure of a unit:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in this chapter.

(23) "Leasehold condominium" means a condominium project in all or any portion of which each unit owner owns an estate for years in his unit, or in the land upon which that unit is situated, or both, with all those leasehold interests to expire naturally at the same time. A condominium project including leased land, or an interest in the land, upon which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

(24) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain unit or units to the exclusion of the other units.

(25) "Majority" or "majority of the unit owners," unless otherwise provided in the declaration or lawful amendments to the declaration, means the owners of more than 50% in the aggregate in interest of the undivided ownership of the common areas and facilities.

(26) "Management committee" means the committee as provided in the declaration charged with and having the responsibility and authority to make and to enforce all of the reasonable rules covering the operation and maintenance of the property.

(27) "Management committee meeting" means a gathering of a management committee, whether in person or by means of electronic communication, at which the management committee can take binding action.

(28)(a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(29) "Mixed-use condominium project" means a condominium project that has both residential and commercial units in the condominium project.

(30) "Nonjudicial foreclosure" means the sale of a unit:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in this chapter.

(31) "Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement may not be considered to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure may affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the unit owners' association, liability for common expenses, or right to common profits, assigned on the basis thereof.

(32) "Period of administrative control" means the period of control described in Subsection 57-8-16.5(1).

(33) "Person" means an individual, corporation, partnership, association, trustee, or other legal entity.

(34) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(35) "Property" means the land, whether leasehold or in fee simple, the building, if any, all improvements and structures thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(36) "Protected area" means the same as that term is defined in Section 77-27-21.7.

(37) "Record," "recording," "recorded," and "recorder" have the meaning stated in Chapter 3, Recording of Documents.

(38) "Rentals" or "rental unit" means:

(a) a unit that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the unit owner is not occupying the unit as the unit owner's primary residence; or

(b) an occupied unit owned by an entity or trust, regardless of who occupies the unit.

(39) "Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the record of survey map and rounded off to a whole number. Certain spaces within the units including attic, basement, or garage space may be omitted from the calculation or be partially discounted by the use of a ratio, if the same basis of calculation is employed for all units in the condominium project and if that basis is described in the declaration.

(40) "Time period unit" means an annually recurring part or parts of a year specified in the declaration as a period for which a unit is separately owned and includes a timeshare estate as defined in Section 57-19-2.

(41) "Unconstructed unit" means a unit that:

(a) is intended, as depicted in the condominium plat, to be fully or partially contained in a building; and

(b) is not constructed.

(42)(a) "Unit" means a separate part of the property intended for any type of independent use, which is created by the recording of a declaration and a condominium plat that describes the unit boundaries.

(b) "Unit" includes one or more rooms or spaces located in one or more floors or a portion of a floor in a building.

(c) "Unit" includes a convertible space, in accordance with Subsection 57-8-13.4(3).

(43) "Unit number" means the number, letter, or combination of numbers and letters designating the unit in the declaration and in the record of survey map.

(44) "Unit owner" means the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration or, in the case of a leasehold condominium project, the person or persons whose leasehold interest or interests in the condominium unit extend for the entire balance of the unexpired term or terms.

(45) "Water wise landscaping" means:

(a) installation of plant materials, suited to the microclimate and soil conditions, that can:

(i) remain healthy with minimal irrigation once established; or

(ii) be maintained without the use of overhead spray irrigation;

(b) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(c) use of other landscape design features that:

(i) minimize the landscape's need for supplemental water from irrigation;

(ii) reduce the landscape area dedicated to lawn or turf; or

(iii) encourage vegetative coverage.

(46) "Water wise plant material" means a plant material suited to water wise landscaping.

Section 3. Section 57-8-7.2 is amended to read:

57-8-7.2. Scope -- Designation of certain areas.

(1) Unless otherwise provided in the declaration, this section applies to a unit if the declaration designates a wall, floor, or ceiling as a boundary of the unit.

(2)(a) The following are part of a unit:

(i) lath;

(ii) furring;

(iii) wallboard;

(iv) plasterboard;

(v) plaster;

(vi) paneling;

(vii) tiles;

(viii) wallpaper;

(ix) paint;

(x) finished flooring; and

(xi) any other material constituting part of the finished surface of a wall, floor, or ceiling.

(b) Any portion of a wall, floor, or ceiling not listed in Subsection (2)(a) is part of the common areas and facilities.

(3) If a chute, flue, duct, pipe, wire, conduit, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a unit:

(a) any portion of an item described in this Subsection (3) serving only that unit is part of the limited common areas and facilities; and

(b) any portion of an item described in this Subsection (3) is part of the common areas and facilities if the item serves:

(i) more than one unit; or

(ii) any portion of the common areas and facilities.

(4) Subject to Subsection (3), the following within the boundaries of a unit are part of the unit:

(a) spaces;

(b) interior partitions; and

(c) other fixtures and improvements.

(5) The following, if designated to serve a single unit but located outside the unit's boundaries, are limited common areas and facilities allocated exclusively to a unit:

(a) a shutter;

(b) an awning;

(c) a window box;

(d) a doorstep;

(e) a stoop;

(f) a porch;

(g) a balcony;

(h) a patio;

(i) an exterior door;

(j) an exterior window; and

(k) any other fixture.

Section 4. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2)(a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under [~~Subsection (4)~~]Subsection (5), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3)(a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6)(a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7)(a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8)(a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) [~~An~~]For any area for which one or more unit owners are responsible for landscape maintenance, the association of unit owners:

(a) shall adopt rules supporting [~~water-efficient landscaping, including allowance for~~] water wise landscaping, including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) limiting permissible plant material to specific water wise plant material;

(b) may not prohibit low water use on lawns during drought conditions; and

[~~(b)~~](c) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

(10) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(11) A rule shall be reasonable.

(12) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

(13) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 5. Section 57-8-10.1 is amended to read:

57-8-10.1. Rental restrictions.

(1)(a) Subject to Subsections (1)(b), (5), and (6), an association of unit owners may:

(i) create restrictions on the number and term of rentals in a condominium project; or

(ii) prohibit rentals in the condominium project.

(b) An association of unit owners that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a declaration or by amending the declaration.

(2) If an association of unit owners prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires a condominium project to exempt from the rental restrictions the following unit owner and the unit owner's unit:

(i) a unit owner in the military for the period of the unit owner's deployment;

(ii) a unit occupied by a unit owner's parent, child, or sibling;

(iii) a unit owner whose employer has relocated the unit owner for two years or less;

(iv) a unit owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

(A) a current resident of the unit; or

(B) the parent, child, or sibling of the current resident of the unit;

(b) a provision that allows a unit owner who has a rental in the condominium project before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the condominium project is located to continue renting until:

(i) the unit owner occupies the unit;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the unit, occupies the unit; or

(iii) the unit is transferred; and

(c) a requirement that the association of unit owners create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and units in the condominium project subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a unit by deed;

(b) the granting of a life estate in the unit; or

(c) if the unit is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12- month period.

(4) This section does not limit or affect residency age requirements for an association of unit owners that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration or amendment to a declaration recorded before transfer of the first unit from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6)(a) Subsections (1) through (5) do not apply to:

(i) a condominium project that contains a time period unit as defined in Section 57- 8- 3;

(ii) any other form of timeshare interest as defined in Section 57- 19- 2; or

(iii) subject to Subsection (6)(b), a condominium project in which the initial declaration is recorded before May 12, 2009, unless, on or after May 12, 2015, the association of unit owners:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association of unit owners may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all unit owners; and

(b) when the restriction or prohibition requires an amendment to the association of unit owners' declaration, the association of unit owners fulfills all other requirements for amending the declaration described in the association of unit owners' governing documents.

(8) Except as provided in Subsection (9), an association of unit owners may not require a unit owner who owns a rental unit to:

(a) obtain the association of unit owners' approval of a prospective renter;

(b) give the association of unit owners:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age;[~~or~~]

(c) pay an additional assessment, fine, or fee because the unit is a rental unit[~~.~~];

(d) use a lease agreement provided by the association; or

(e) obtain the association's approval of a lease agreement.

(9)(a) A unit owner who owns a rental unit shall give an association of unit owners the documents described in Subsection (8)(b) if the unit owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association of unit owners' declaration lawfully prohibits or restricts occupancy of the units by a certain class of individuals, the association of unit owners may require a unit owner who owns a rental unit to give the association of unit owners the information described in Subsection (8)(b), if:

(i) the information helps the association of unit owners determine whether the renter's occupancy of the unit complies with the association of unit owners' declaration; and

(ii) the association of unit owners uses the information to determine whether the renter's

occupancy of the unit complies with the association of unit owners' declaration.

(c) An association that permits at least 35% of the units in the association to be rental units may charge a unit owner who owns a rental unit an annual fee of up to $200 to defray the association's additional administrative expenses directly related to a unit that is a rental unit, as detailed in an accounting provided to the unit owner.

(d) An association may require a unit owner who owns a rental unit and the renter of the unit owner's rental unit to sign an addendum to a lease agreement provided by the association.

(10) The provisions of Subsections (8) and (9) apply to an association of unit owners regardless of when the association of unit owners is created.

Section 6. Section 57-8-32 is amended to read:

57-8-32. Sale of property and common areas and facilities.

(1) [~~Unless~~]Subject to Subsection 10-9a-605(5) or 17-27a-606(5), unless otherwise provided in the declaration or bylaws, and notwithstanding the provisions of Sections 57-8-30 and 57-8-31, the unit owners may[~~, at a meeting of unit owners called for the purpose of voting,~~] by an affirmative vote of at least 67% of unit owners, elect to sell, convey, transfer, or otherwise dispose of the property or all or part of the common areas and facilities.

(2) An affirmative vote described in Subsection (1) is binding upon all unit owners, and each unit owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the property or common areas and facilities.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and unit owners through recorded governing documents is extinguished in any portion of the common areas and facilities the unit owners sell, convey, transfer, or otherwise dispose of, if:

(a) the unit owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas and facilities, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas and facilities results in a person other than the association or a unit owner owning the portion of the common areas and facilities.

(4) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 7. Section 57-8a-102 is amended to read:

57-8a-102. Definitions.

As used in this chapter:

(1)(a) "Assessment" means a charge imposed or levied:

(i) by the association;

(ii) on or against a lot or a lot owner; and

(iii) pursuant to a governing document recorded with the county recorder.

(b) "Assessment" includes:

(i) a common expense; and

(ii) an amount assessed against a lot owner under Subsection 57-8a-405(7).

(2)(a) Except as provided in Subsection (2)(b), "association" means a corporation or other legal entity, any member of which:

(i) is an owner of a residential lot located within the jurisdiction of the association, as described in the governing documents; and

(ii) by virtue of membership or ownership of a residential lot is obligated to pay:

(A) real property taxes;

(B) insurance premiums;

(C) maintenance costs; or

(D) for improvement of real property not owned by the member.

(b) "Association" or "homeowner association" does not include an association created under Chapter 8, Condominium Ownership Act.

(3) "Board meeting" means a gathering of a board, whether in person or by means of electronic communication, at which the board can take binding action.

(4) "Board of directors" or "board" means the entity, regardless of name, with primary authority to manage the affairs of the association.

(5) "Common areas" means property that the association:

(a) owns;

(b) maintains;

(c) repairs; or

(d) administers.

(6) "Common expense" means costs incurred by the association to exercise any of the powers provided for in the association's governing documents.

(7) "Declarant":

(a) means the person who executes a declaration and submits it for recording in the office of the recorder of the county in which the property described in the declaration is located; and

(b) includes the person's successor and assign.

(8) "Director" means a member of the board of directors.

(9) "Electrical corporation" means the same as that term is defined in Section 54-2-1.

(10) "Gas corporation" means the same as that term is defined in Section 54-2-1.

(11)(a) "Governing documents" means a written instrument by which the association may:

(i) exercise powers; or

(ii) manage, maintain, or otherwise affect the property under the jurisdiction of the association.

(b) "Governing documents" includes:

(i) articles of incorporation;

(ii) bylaws;

(iii) a plat;

(iv) a declaration of covenants, conditions, and restrictions; and

(v) rules of the association.

(12) "Independent third party" means a person that:

(a) is not related to the owner of the residential lot;

(b) shares no pecuniary interests with the owner of the residential lot; and

(c) purchases the residential lot in good faith and without the intent to defraud a current or future lienholder.

(13) "Judicial foreclosure" means a foreclosure of a lot:

(a) for the nonpayment of an assessment;

(b) in the manner provided by law for the foreclosure of a mortgage on real property; and

(c) as provided in Part 3, Collection of Assessments.

(14) "Lease" or "leasing" means regular, exclusive occupancy of a lot:

(a) by a person or persons other than the owner; and

(b) for which the owner receives a consideration or benefit, including a fee, service, gratuity, or emolument.

(15) "Limited common areas" means common areas described in the declaration and allocated for the exclusive use of one or more lot owners.

(16) "Lot" means:

(a) a lot, parcel, plot, or other division of land:

(i) designated for separate ownership or occupancy; and

(ii)(A) shown on a recorded subdivision plat; or

(B) the boundaries of which are described in a recorded governing document; or

(b)(i) a unit in a condominium association if the condominium association is a part of a development; or

(ii) a unit in a real estate cooperative if the real estate cooperative is part of a development.

(17)(a) "Means of electronic communication" means an electronic system that allows individuals to communicate orally in real time.

(b) "Means of electronic communication" includes:

(i) web conferencing;

(ii) video conferencing; and

(iii) telephone conferencing.

(18) "Mixed-use project" means a project under this chapter that has both residential and commercial lots in the project.

(19) "Nonjudicial foreclosure" means the sale of a lot:

(a) for the nonpayment of an assessment;

(b) in the same manner as the sale of trust property under Sections 57-1-19 through 57-1-34; and

(c) as provided in Part 3, Collection of Assessments.

(20) "Period of administrative control" means the period during which the person who filed the association's governing documents or the person's successor in interest retains authority to:

(a) appoint or remove members of the association's board of directors; or

(b) exercise power or authority assigned to the association under the association's governing documents.

(21) "Political sign" means any sign or document that advocates:

(a) the election or defeat of a candidate for public office; or

(b) the approval or defeat of a ballot proposition.

(22) "Protected area" means the same as that term is defined in Section 77-27-21.7.

(23) "Rentals" or "rental lot" means:

(a) a lot that:

(i) is not owned by an entity or trust; and

(ii) is occupied by an individual while the lot owner is not occupying the lot as the lot owner's primary residence;[~~or~~]

(b) an occupied lot owned by an entity or trust, regardless of who occupies the lot[~~.~~]; or

(c) an internal accessory dwelling unit as defined in Section 10-9a-530 or 17-27a-526.

(24) "Residential lot" means a lot, the use of which is limited by law, covenant, or otherwise to primarily residential or recreational purposes.

(25)(a) "Rule" means a policy, guideline, restriction, procedure, or regulation of an association that:

(i) is not set forth in a contract, easement, article of incorporation, bylaw, or declaration; and

(ii) governs:

(A) the conduct of persons; or

(B) the use, quality, type, design, or appearance of real property or personal property.

(b) "Rule" does not include the internal business operating procedures of a board.

(26) "Sex offender" means the same as that term is defined in Section 77-27-21.7.

(27) "Solar energy system" means:

(a) a system that is used to produce electric energy from sunlight; and

(b) the components of the system described in Subsection (27)(a).

Section 8. Section 57-8a-209 is amended to read:

57-8a-209. Rental restrictions.

(1)(a) Subject to Subsections (1)(b), (5), (6), and (10), an association may:

(i) create restrictions on the number and term of rentals in an association; or

(ii) prohibit rentals in the association.

(b) An association that creates a rental restriction or prohibition in accordance with Subsection (1)(a) shall create the rental restriction or prohibition in a recorded declaration of covenants, conditions, and restrictions, or by amending the recorded declaration of covenants, conditions, and restrictions.

(2) If an association prohibits or imposes restrictions on the number and term of rentals, the restrictions shall include:

(a) a provision that requires the association to exempt from the rental restrictions the following lot owner and the lot owner's lot:

(i) a lot owner in the military for the period of the lot owner's deployment;

(ii) a lot occupied by a lot owner's parent, child, or sibling;

(iii) a lot owner whose employer has relocated the lot owner for two years or less;

(iv) a lot owned by an entity that is occupied by an individual who:

(A) has voting rights under the entity's organizing documents; and

(B) has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(v) a lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:

(A) the estate of a current resident of the lot; or

(B) the parent, child, or sibling of the current resident of the lot;

(b) a provision that allows a lot owner who has a rental in the association before the time the rental restriction described in Subsection (1)(a) is recorded with the county recorder of the county in which the association is located to continue renting until:

(i) the lot owner occupies the lot;

(ii) an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the lot; or

(iii) the lot is transferred; and

(c) a requirement that the association create, by rule or resolution, procedures to:

(i) determine and track the number of rentals and lots in the association subject to the provisions described in Subsections (2)(a) and (b); and

(ii) ensure consistent administration and enforcement of the rental restrictions.

(3) For purposes of Subsection (2)(b)(iii), a transfer occurs when one or more of the following occur:

(a) the conveyance, sale, or other transfer of a lot by deed;

(b) the granting of a life estate in the lot; or

(c) if the lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than 75% of the business entity's share, stock, membership interests, or partnership interests in a 12-month period.

(4) This section does not limit or affect residency age requirements for an association that complies with the requirements of the Housing for Older Persons Act, 42 U.S.C. Sec. 3607.

(5) A declaration of covenants, conditions, and restrictions or amendments to the declaration of covenants, conditions, and restrictions recorded before the transfer of the first lot from the initial declarant may prohibit or restrict rentals without providing for the exceptions, provisions, and procedures required under Subsection (2).

(6)(a) Subsections (1) through (5) do not apply to:

(i) an association that contains a time period unit as defined in Section 57-8-3;

(ii) any other form of timeshare interest as defined in Section 57-19-2; or

(iii) subject to Subsection (6)(b), an association that is formed before May 12, 2009, unless, on or after May 12, 2015, the association:

(A) adopts a rental restriction or prohibition; or

(B) amends an existing rental restriction or prohibition.

(b) An association that adopts a rental restriction or amends an existing rental restriction or prohibition before May 9, 2017, is not required to include the exemption described in Subsection (2)(a)(iv).

(7) Notwithstanding this section, an association may restrict or prohibit rentals without an exception described in Subsection (2) if:

(a) the restriction or prohibition receives unanimous approval by all lot owners; and

(b) when the restriction or prohibition requires an amendment to the association's recorded declaration of covenants, conditions, and restrictions, the association fulfills all other requirements for amending the recorded declaration of covenants, conditions, and restrictions described in the association's governing documents.

(8) Except as provided in Subsection (9), an association may not require a lot owner who owns a rental lot to:

(a) obtain the association's approval of a prospective renter;

(b) give the association:

(i) a copy of a rental application;

(ii) a copy of a renter's or prospective renter's credit information or credit report;

(iii) a copy of a renter's or prospective renter's background check; or

(iv) documentation to verify the renter's age;[~~or~~]

(c) pay an additional assessment, fine, or fee because the lot is a rental lot[~~.~~];

(d) use a lease agreement provided by the association; or

(e) obtain the association's approval of a lease agreement.

(9)(a) A lot owner who owns a rental lot shall give an association the documents described in Subsection (8)(b) if the lot owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.

(b) If an association's declaration of covenants, conditions, and restrictions lawfully prohibits or restricts occupancy of the lots by a certain class of individuals, the association may require a lot owner who owns a rental lot to give the association the information described in Subsection (8)(b), if:

(i) the information helps the association determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions; and

(ii) the association uses the information to determine whether the renter's occupancy of the lot complies with the association's declaration of covenants, conditions, and restrictions.

(c) An association that permits at least 35% of the lots in the association to be rental lots may charge a lot owner who owns a rental lot an annual fee of up to $200 to defray the association's additional administrative expenses directly related to a lot that is a rental lot, as detailed in an accounting provided to the lot owner.

(d) An association may require a lot owner who owns a rental lot and the renter of the lot owner's rental lot to sign an addendum to a lease agreement provided by the association.

(10) Notwithstanding Subsection (1)(a), an association may not restrict or prohibit the rental of an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, constructed within a lot owner's residential lot, if the internal accessory dwelling unit complies with all applicable:

(a) land use ordinances;

(b) building codes;

(c) health codes; and

(d) fire codes.

(11) The provisions of Subsections (8) through (10) apply to an association regardless of when the association is created.

Section 9. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1)(a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2)(a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than

attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3)(a) A rule criterion may not abridge the rights of a lot owner to display a religious or holiday sign, symbol, or decoration:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner restriction with respect to a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the lot.

(4)(a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) A rule may not regulate the content of a political sign.

(c) Notwithstanding Subsection (4)(a), a rule may reasonably regulate the time, place, and manner of posting a political sign.

(d) An association design provision may not establish design criteria for a political sign.

(5)(a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

(6)(a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

(7)(a) A rule may not interfere with a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection (7)(a), a rule may prohibit an activity within the confines of a dwelling or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii)(A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection (7)(b) that affect the use of or behavior inside the dwelling.

(8)(a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection (8)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

(9)(a) Subject to Subsection (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

(10)(a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection (10)(a).

(11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

(12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

(13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

(14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16)(a) [~~An~~]For any area for which one or more lot owners are responsible for landscape maintenance of any landscaping within the lot owner's lot or the common areas, the association

shall adopt rules supporting [~~water-efficient landscaping, including allowance for~~] water wise landscaping as defined in Section 57-8a-231 including:

(i) low water use requirements on lawns during drought conditions;

(ii) design criterion for water wise landscaping; and

(iii) [~~,~~]limiting permissible plant material to specific water wise plant material.

(b) A rule may not:

(i) prohibit or restrict the conversion of a grass park strip to [~~water-efficient landscaping ;~~]water wise landscaping as defined in Section 57-8a-231; or

(ii) prohibit low water use on lawns during drought conditions.

[~~(c) An association subject to this chapter and formed before March 5, 2023, shall adopt rules required under Subsection (16)(a) before June 30, 2023.~~]

(17)(a) Except as provided in Subsection (17)(b), a rule may not prohibit the owner of a residential lot

from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530 or 17-27a-526, within the owner's residential lot.

(b) Subsection (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

(18) A rule may restrict a sex offender from accessing a protected area that is maintained, operated, or owned by the association, subject to the exceptions described in Subsection 77-27-21.7(3).

(19) A rule shall be reasonable.

(20) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1), (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

(21) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

(22) This section applies to an association regardless of when the association is created.

Section 10. Section 57-8a-231 is amended to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d)(i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation;

(B) reduce the landscape area dedicated to lawn or turf; or

(C) encourage vegetative coverage.

(f) "Water wise plant material" means a plant material suited to water wise landscaping as defined in this section.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the [~~property~~]lot owner's [~~property~~]lot.

(3)(a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition; and

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations; and

(B) restricts or prohibits the use of specific plant materials other than water wise plant materials.

(b) An association may not require a [~~property~~]lot owner to:

(i) install or keep in place lawn or turf in an area with a width less than eight feet; or

(ii) have more than 50% vegetative coverage, that is not water wise landscaping, on the [~~property~~]lot owner's [~~property~~]lot.

(4)(a) Subject to Subsection (4)(b), if an association does not adopt rules as required by Subsection 57-8a-218(16) and fails to remedy the noncompliance within the time specified in Subsection (4)(c), a lot owner may file an action in state court for:

(i) injunctive relief requiring the association to comply with the requirements of Subsection 57-8a-218(16);

(ii) $500, or the lot owner's actual damages, whichever is greater;

(iii) any other remedy provided by law; and

(iv) reasonable costs and attorney fees.

(b) No fewer than 90 days before the day on which a lot owner files a complaint under Subsection (4)(a), the lot owner shall deliver written notice described in Subsection (4)(c) to the association.

(c) The lot owner shall include in a notice described in Subsection (4)(b):

(i) the requirements in Subsection 57-8a-218(16) for adopting water wise landscaping rules with which the association has failed to comply;

(ii) a demand that the association come into compliance with the requirements; and

(iii) a date, no fewer than 90 days after the day on which the lot owner delivers the notice, by which the association must remedy the association's noncompliance.

Section 11. Section 57-8a-232 is enacted to read:

57-8a-232. Sale of common areas.

(1) Subject to Subsection 10-9a-606(5) or 17-27a-606(5), unless otherwise provided in the governing documents, an association may by an affirmative vote of at least 67% of the voting interests of the association, elect to sell, convey, transfer, or otherwise dispose of all or part of the common areas.

(2) An affirmative vote described in Subsection (1) is binding upon all lot owners, and each lot owner shall execute and deliver the appropriate instruments and perform all acts as necessary to effect the sale, conveyance, transfer, or other disposition of the common areas.

(3) The general easement of ingress, egress, and use of the common areas and facilities granted to an association and lot owners through recorded governing documents is extinguished in any portion of the common areas and facilities the association sells, conveys, transfers, or otherwise disposes of, if:

(a) the lot owners, in selling, conveying, transferring, or otherwise disposing of the portion of the common areas, comply with:

(i) the provisions of this section; and

(ii) Section 10-9a-606 or 17-27a-606; and

(b) the sale, conveyance, transfer, or other disposition of the portion of the common areas results in a person other than the association or a lot owner owning the portion of the common areas and facilities.

(4) This section applies to an association regardless of when the association is created.

Section 12. Section 59-2-301.1 is amended to read:

59-2-301.1. Assessment of property subject to a conservation easement -- Assessment of golf course or hunting club -- Assessment of common areas.

(1) In assessing the fair market value of property subject to a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed, including:

(a) value that transfers to neighboring property because of the presence of a conservation easement on the property being assessed;

(b) practical and legal restrictions on the development potential of the property because of the presence of the conservation easement;

(c) the absence of neighboring property similarly subject to a conservation easement to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because of the presence of a conservation easement.

(2)(a) In assessing the fair market value of a golf course or hunting club, a county assessor shall consider factors relating to the golf course or hunting club and neighboring property that affect the fair market value of the golf course or hunting club, including:

(i) value that transfers to neighboring property because of the presence of the golf course or hunting club;

(ii) practical and legal restrictions on the development potential of the golf course or hunting club; and

(iii) the history of operation of the golf course or hunting club and the likelihood that the present use will continue into the future.

(b) The valuation method a county assessor may use in determining the fair market value of a golf course or hunting club includes:

(i) the cost approach;

(ii) the income capitalization approach; and

(iii) the sales comparison approach.

(3) Except as otherwise provided by the plat or accompanying recorded document, a county assessor shall assess a common area and facility as defined in Section 57-8-3 or a common area as defined in Section 57-8a-102 consistent with the equal ownership interests described in Subsection 10-9a-606(4) or 17-27a-606(4) and may not assess the common area and facility or common area in a manner that reflects a different division of interest.

[~~(3)~~](4) In assessing the fair market value of property that is a common area or facility under Title 57, Chapter 8, Condominium Ownership Act, or a common area under Title 57, Chapter 8a, Community Association Act, a county assessor shall consider factors relating to the property and neighboring property that affect the fair market value of the property being assessed, including:

(a) value that transfers to neighboring property because the property is a common area or facility;

(b) practical and legal restrictions on the development potential of the property because the property is a common area or facility;

(c) the absence of neighboring property similarly situated as a common area or facility to provide a basis for comparing values between properties; and

(d) any other factor that causes the fair market value of the property to be affected because the property is a common area or facility.

Section 13. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 520
S. B. 205
Passed February 28, 2024
Approved March 21, 2024
Effective July 1, 2024

CHILD SEXUAL ABUSE PREVENTION AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends the options to provide instruction on child sexual abuse and human trafficking.

Highlighted Provisions:

This bill:

- amends the options to provide instruction on child sexual abuse and human trafficking, including:
  - allowing a local education agency (LEA) to create instructional materials;
  - requiring the state board to contract with a provider for child sexual abuse and human trafficking instruction and training; and
  - establishing a grant for an LEA to use an alternative provider; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to State Board of Education - Contracted Initiatives and Grants - Child sexual abuse prevention as an ongoing appropriation:
  - from the Income Tax Fund, $1,000,000
- to State Board of Education - Contracted Initiatives and Grants - Child sexual abuse prevention grant program as an ongoing appropriation:
  - from the Income Tax Fund, $500,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53G-9-207, as last amended by Laws of Utah 2022, Chapter 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-207 is amended to read:

53G-9-207. Child sexual abuse prevention.

(1) As used in this section[~~,~~]:

(a)(i) "Age-appropriate instructional material" means materials that provide instruction on:

(A) the responsibility of adults for the safety of children;

(B) how to recognize uncomfortable inner feelings;

(C) how to say no and leave an uncomfortable situation;

(D) how to set clear boundaries; and

(E) the importance of discussing uncomfortable situations with parents and other trusted adults.

(ii) "Age-appropriate instructional material" does not include materials that:

(A) invites a student to share personal experiences about abuse during instruction;

(B) gives instruction regarding consent as described in Section 76-5-406; or

(C) includes sexually explicit language or depictions.

(b) "Alternative provider" means a provider other than the provider selected by the state board under Subsection (8) that provides the training and instruction described in Subsection (4) with instructional materials approved under Subsection (2).

(c) [~~"school"~~]"School personnel" means the same as that term is defined in Section 53G-9-203.

(2) The state board shall approve, in partnership with the Department of Health and Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3)(a) [~~A school district or charter school~~]An LEA shall provide, every other year, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;

(B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and

(C) the mandatory reporting requirements described in Sections 53E-6-701 and 80-2-602; and

(ii) parents of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) [~~A school district or charter school~~]An LEA:

(i) shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction [~~to school personnel and parents~~] under[~~Subsection~~]Subsections (3)(a)[~~.~~]and (4); or

(ii) may use instructional materials the LEA creates to provide the instruction and training described in Subsections (3)(a) and (4), if the LEA's instructional materials are approved by the state board under Subsection (2).

(4)(a) In accordance with Subsections (4)(b) and (5), [~~a school district or charter school~~]an LEA may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age- appropriate curriculum.

(b) [~~A school district or charter school~~]An LEA that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5)(a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E- 9- 202 and 53E- 9- 203.

(6) [~~A school district or charter school~~]An LEA may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the state board, [~~a school district or charter school~~]an LEA shall provide evidence of compliance with this section.

(8) The state board shall select a provider to provide the training and instruction described in Subsection (4), including requiring the provider selected to:

(a) engage in outreach efforts to support more schools to participate in the training and instruction;

(b) provide materials for the instruction involving students in accordance with Subsection (4);

(c) provide an outline of how many LEAs, schools, and students the provider could service; and

(d) submit a report to the state board that includes:

(i) information on the LEAs the provider engaged with in the outreach efforts, including:

(A) how many schools within an LEA increased instructional offerings for training and instruction; and

(B) the reasons why an LEA chose to participate or not in the offered training or instruction;

(ii) the number of schools and students that received the training and instruction;

(iii) budgetary information regarding how the provider utilized any funds the state board allocated; and

(iv) additional information the state board requests.

(9) Subject to legislative appropriation, there is created a grant program to support an LEA that chooses to use an alternative provider other than the provider selected by the state board under Subsection (8) to provide the training and instruction described in Subsection (4).

(10) The state board shall:

(a) establish a process to select alternative providers for an LEA to use, including:

(i) an application process for a provider to become an alternative provider;

(ii) required criteria for a provider to become an alternative provider; and

(iii) relevant timelines;

(b) create a process for an LEA to receive a grant award described in Subsection (9), including:

(i) an application process;

(ii) relevant timelines; and

(iii) a scoring rubric and corresponding formula for determining a grant amount; and

(c) make grant awards on a first come first served basis until the state board distributes all appropriated funds.

(11) An LEA that receives a grant award described in Subsection (10)(b) shall:

(a) use the grant award to cover the costs needed for implementation of the training or instruction described in Subsection (4); and

(b) upon request of the state board, provide an itemized list of the uses of the grant award.

Section 2. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 2(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Contracted Initiatives and Grants

From Income Tax Fund	$1,500,000

Schedule of Programs:

Child sexual abuse prevention grant program	$500,000
Child sexual abuse prevention	$1,000,000

Section 3. Effective date.

This bill takes effect on July 1, 2024.

CHAPTER 521
S. B. 208
Passed February 29, 2024
Approved March 21, 2024
Effective May 1, 2024

HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill amends provisions related to housing and transit reinvestment zones.

Highlighted Provisions:

This bill:

- amends definitions related to housing and transit reinvestment zones;
- amends provisions related to affordable housing thresholds to require 12% of the proposed dwelling units be reserved for certain levels of income;
- requires affordable housing requirements be met in each phase of development;
- requires that a housing and transit reinvestment zone be at least 10 acres;
- clarifies notice requirements to certain entities regarding the commencement of collection of tax increment;
- clarifies information required in a housing and transit reinvestment zone proposal;
- adds members to the housing and transit reinvestment zone committee;
- amends provisions regarding overlap of a housing and transit reinvestment zone with a community reinvestment project area;
- amends provisions related to the sales and use tax increment captured within a housing and transit reinvestment zone, including:
  - how the base year is established;
  - contiguity of affected sales and use tax boundaries; and
  - limiting a housing and transit reinvestment zone to only one sales and use tax increment period;
- amends the amount of housing and transit reinvestment zone funds allowed for administration of the housing and transit reinvestment zone;
- allows minor adjustments to a housing and transit reinvestment zone if the county assessor or county auditor adjusts parcel boundaries; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-3-602, as last amended by Laws of Utah 2023, Chapter 357
63N-3-603, as last amended by Laws of Utah 2023, Chapter 357
63N-3-604, as last amended by Laws of Utah 2023, Chapter 357
63N-3-605, as last amended by Laws of Utah 2023, Chapter 357
63N-3-607, as last amended by Laws of Utah 2022, Chapter 433
63N-3-610, as last amended by Laws of Utah 2022, Chapter 433

ENACTS:

63N-3-611, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63N-3-602 is amended to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income[~~.~~]:

(a) equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size[~~.~~], in certain circumstances as provided in this part; or

(b) equal to or less than 60% of the median gross income of the applicable municipal or county statistical area for households of the same size, in certain circumstances as provided in this part.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

[~~(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.~~]

(4) "Base year" means, for each tax increment collection period triggered within a proposed housing and transit reinvestment zone area, the calendar year prior to the calendar year the tax increment begins to be collected for those parcels triggered for that collection period.

(5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.

(6) "Bus rapid transit station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal that is specifically identified [~~in~~]as needed in phase one of a metropolitan planning

organization's adopted long-range transportation plan and in phase one of the relevant public transit district's [~~five-year~~]adopted long-range transit plan:

(a) along an existing bus rapid transit line; or

(b) along an extension to an existing bus rapid transit line or new bus rapid transit line.

(7)(a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

(8) "Commuter rail station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal, which has been specifically identified [~~in~~]as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's [~~five-year~~] adopted long-range transit plan:

(a) along an existing commuter rail line;

(b) along an extension to an existing commuter rail line or new commuter rail line; or

(c) along a fixed guideway extension from an existing commuter rail line.

(9)(a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open space;

(iv) trails;

(v) publicly-owned roadway facilities; or

(vi) other public facilities.

(10) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(11) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities.

(12) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(13) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(14) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

(15) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

(16) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

(17) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(18) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:

(a) dedicated to exclusive use by light-rail public transit vehicles;

(b) that may cross streets at grade; and

(c) that may share parts of surface streets.

(19) "Light rail station" means an existing station, stop, or terminal or a proposed station, stop, or terminal, which has been specifically identified [~~in~~]as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's [~~five-year~~]adopted long-range plan:

(a) along an existing light rail line; or

(b) along an extension to an existing light rail line or new light rail line.

(20) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(21) "Mixed use development" means development with a mix of[-]:

(a) multi-family residential use; and

(b) [-]at least one additional land use, which shall be a significant part of the overall development.

(22) "Municipality" means the same as that term is defined in Section 10-1-104.

(23) "Participant" means the same as that term is defined in Section 17C-1-102.

(24) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.

(25) "Public transit county" means a county that has created a small public transit district.

(26) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

(27) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

(28) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

(29) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

(30) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

(31) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

(32) "Tax Commission" means the State Tax Commission created in Section 59-1-201.

(33)(a) "Tax increment" means the difference between:

[~~(a)~~](i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

[~~(b)~~](ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property tax revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(34) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(35) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 2. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;

(c) promoting and encouraging development of owner-occupied housing;

[~~(c)~~](d) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;

[~~(d)~~](e) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

[~~(e)~~](f) [~~conservation of~~]conserving water resources through efficient land use;

[~~(f)~~](g) improving air quality by reducing fuel consumption and motor vehicle trips;

[~~(g)~~](h) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

[~~(h)~~](i) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

[~~(i)~~](j) increasing access to employment and educational opportunities; and

[~~(j)~~](k) increasing access to child care.

(2)(a) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

[~~(a)~~](i) except as provided in Subsection (3), at least [~~10%~~]12% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units[~~;~~], with:

(A) up to 9% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size; and

(B) at least 3% of the proposed dwelling units occupied or reserved for occupancy by households with a gross household income equal to or less than 60% of the median gross income of the applicable municipal or county statistical area for households of the same size;

[~~(b) at least 51% of the developable area within the housing and transit reinvestment zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50 dwelling units per acre or greater;~~]

(ii) except as provided in Subsection (2)(c), a housing and transit reinvestment zone shall include:

(A) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(B) an average of at least 50 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses;

[~~(c)~~](iii) mixed-use development; and

[~~(d)~~](iv) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom.

(b)(i) If a housing and transit reinvestment zone is phased, a municipality or public transit county shall ensure that a housing and transit reinvestment zone is phased and developed to provide the required 12% of affordable housing units in each phase of development.

(ii) A municipality or public transit county may allow a housing and transit reinvestment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(iii) A municipality or public transit county shall include in a housing and transit reinvestment zone proposal an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the housing and transit reinvestment zone.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, the housing and transit reinvestment zone shall include:

(i) at least 51% of the developable area within a housing and transit reinvestment zone as residential uses; and

(ii) an average of at least 39 dwelling units per acre within the acreage of the housing and transit reinvestment zone dedicated to residential uses.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4)(a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

(i) subject to Subsection (5)(a):

(A)(I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

(III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(B) has a total area of no more than 125 noncontiguous acres;

(ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 45-year period.

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection [~~(4)(b)(i)(A)(II) or (III),~~](4)(b)(i)(A)(II), (III), or (4)(e), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax increment amount approved in the

housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6), but a housing and transit reinvestment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 30-year period.

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

(e)(i) Subject to Subsection (4)(e)(ii), the radius restrictions described in Subsection (4)(b)(i) do not apply, and a housing and transit reinvestment zone may extend to an area between two light rail stations located within a city of the third class if the two light rail stations are within a .95 mile distance on the same light rail line.

(ii) If a housing and transit reinvestment zone is extended to accommodate two light rail stations as described in Subsection (4)(e)(i):

(A) the housing and transit reinvestment zone is limited to a total area not to exceed 100 noncontiguous acres; and

(B) the housing and transit reinvestment zone may not exceed a 1/4 mile radius from the light rail stations or any point on the light rail line between the two stations.

(f) If a parcel within the housing and transit reinvestment zone is included as an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

[~~(e) A county of the first class may not propose a housing and transit reinvestment zone that includes an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702.~~]

(5)(a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(c) A housing and transit reinvestment zone may not be smaller than 10 acres.

(6) The notice of commencement of collection of tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the tax increment collection is proposed to commence:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

(7)(a) The maximum number of housing and transit reinvestment zones at light rail stations is eight in any given county.

(b) Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three.

(8)(a) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.

(b)(i) A county described in Subsection (8)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.

(ii) A county described in Subsection (8)(a) that, on December 31, 2022, was noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate income housing report that the county complied with Subsection (8)(b)(i), may cure the deficiency in the county's moderate income housing report by submitting satisfactory proof to the Housing and Community Development Division that, notwithstanding the deadline in Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone.

(c)(i) A county described in Subsection (8)(a) may not propose a housing and transit reinvestment

zone if more than 15% of the acreage within the housing and transit reinvestment zone boundary is owned by the county.

(ii) For purposes of determining the percentage of acreage owned by the county as described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for highways, bus rapid transit, light rail, or commuter rail within the boundary of the housing and transit reinvestment zone.

(d) To accomplish the objectives described in Subsection (1), if a county described in Subsection (8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an application before December 31, 2022, an owner of undeveloped property who has submitted a land use application to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(a), including parcels that are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use development including the following:

(i) excluding the parcels devoted to commercial uses as described in Subsection (8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least 10% of the dwelling units as affordable housing units;

(ii) commercial uses including office, retail, educational, and healthcare in support of the mixed-use development constituting up to 1/3 of the total planned gross building square footage of the subject parcels; and

(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including parking infrastructure, streets, sidewalks, parks, and trails.

Section 3. Section 63N-3-604 is amended to read:

63N-3-604. Process for a proposal of a housing and transit reinvestment zone -- Analysis.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:

(a) prepare a proposal for the housing and transit reinvestment zone that:

(i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);

(ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a)(i);

(iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;

(iv) defines the boundaries of:

(A) the housing and transit reinvestment zone; and

(B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;

(v) includes maps of the proposed housing and transit reinvestment zone to illustrate:

(A) the proposed boundary and radius from a public transit hub;

(B) proposed housing density within the housing and transit reinvestment zone; and

(C) existing zoning and proposed zoning changes related to the housing and transit reinvestment zone;

(vi) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;

(vii) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);

(viii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;

(ix) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone in accordance with Section 63N-3-610;

(x) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;

(xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

(xii) evaluates possible benefits to active and public transportation availability and impacts on air quality;

(xiii) proposes a finance schedule to align expected revenue with required financing costs and payments;

(xiv) provides a pro-forma for the planned development [~~including the cost differential between surface parked multi-family development and enhanced development~~] that[-]:

(A) satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and

(B) includes data showing the cost difference between what type of development could feasibly be developed absent the housing and transit reinvestment zone tax increment and the type of development that is proposed to be developed with the housing and transit reinvestment zone tax increment; and

(xv) for a housing and transit reinvestment zone at a commuter rail station, light rail station, or bus rapid transit station that is proposed and not in

public transit service operation as of the date of submission of the proposal, demonstrates that the proposed station is:

(A) included [~~in~~]as needed in phase one of a metropolitan planning organization's adopted long-range transportation plan and in phase one of the relevant public transit district's [~~five-year~~]adopted long-range plan; and

(B) reasonably anticipated to be constructed in the near future; and

(b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.

(2) As part of the proposal described in Subsection (1), a municipality or public transit county shall study and evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and housing and transit reinvestment zone.

(3)(a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall:

(i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(b), provide notice of the proposal to all affected taxing entities, including the Tax Commission, cities, counties, school districts, [~~and~~] metropolitan planning organizations, and the county assessor and county auditor of the county in which the housing and transit reinvestment zone is located; and

(ii) at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).

(b) The gap analysis required in Subsection (3)(a)(ii) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;

(iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal;

(iv) an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and

(v) based on the market analysis and other findings, an opinion relative to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

(c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed housing and transit reinvestment zone as described in Subsection (3)(a)(i), the Tax Commission shall:

(i) evaluate the feasibility of administering the tax implications of the proposal; and

(ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the Tax Commission can feasibly administer the proposal.

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:

(a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.

(5)(a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to $20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 4. Section 63N-3-605 is amended to read:

63N-3-605. Housing and Transit Reinvestment Zone Committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;

(c) a member of the Transportation Commission created in Section 72-1-301;

(d) a member of the board of trustees of a large public transit district;

(e) one individual from the Office of the State Treasurer, designated by the state treasurer;

(f) [~~one member~~]two members designated by the president of the Senate;

(g) [~~one member~~]two members designated by the speaker of the House of Representatives;

(h) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;

(i) [~~one representative~~]two representatives designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and

(j) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4)(a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(6)(a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7)(a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(8)(a) Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:

(i) request changes to the housing and transit reinvestment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-604; or

(ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(9) If a housing and transit reinvestment zone is approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal;

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal; and

(c) each affected taxing [~~municipality~~]entity is required to participate at the same rate [~~as a participating county~~].

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Section 5. Section 63N-3-607 is amended to read:

63N-3-607. Payment, use, and administration of revenue from a housing and transit reinvestment zone.

(1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.

(2)(a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.

(c)(i) Tax increment paid to the municipality or public transit county are housing and transit

reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.

(ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-603.

(3)(a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.

(b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.

(4) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:

(a) income targeted housing costs;

(b) structured parking within the housing and transit reinvestment zone;

(c) enhanced development costs;

(d) horizontal construction costs;

(e) vertical construction costs;

(f) property acquisition costs within the housing and transit reinvestment zone; or

(g) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed [~~1%~~]2% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(2).

(5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.

(6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 6. Section 63N-3-610 is amended to read:

63N-3-610. Sales and use tax increment in a housing and transit reinvestment zone.

(1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:

(a) create a sales and use tax boundary as described in Subsection (2); and

(b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone, which sales and use tax base year is established prospectively, 90 days after the date of the notice described in Subsection (4).

(2)(a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:

(i) is based on state sales and use tax collection boundaries, which are determined using the ZIP Code as defined in Section 59-12-102, including the four digit delivery route extension; [~~and~~]

(ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone[~~.~~]; and

(iii) is one contiguous area that includes at least the entire boundary of the housing and transit reinvestment zone.

(b) If a state sales and use tax boundary is bisected by the boundary of the housing and transit reinvestment zone, the housing and transit reinvestment zone may include the entire state sales and use tax boundary.

[~~(b)~~](c) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.

(3)(a) Beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.

(b) A municipality or public transit county may only propose one sales and use tax increment period for a housing and transit reinvestment zone established under this section.

(4)(a) The establishment of a sales and use tax base year and the requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).

(b) The notice described in Subsection (4)(a) shall include:

(i) a statement that the housing and transit reinvestment zone will be established under this part;

(ii) the approval date and effective date of the housing and transit reinvestment zone; and

(iii) the definitions of the sales and use tax boundary and sales and use tax base year.

Section 7. Section 63N-3-611 is enacted to read:

63N-3-611. Boundary adjustments.

If the relevant county assessor or county auditor adjusts parcel boundaries relevant to a housing and transit reinvestment zone, the municipality administering the tax increment collected in the housing and transit reinvestment zone may make corresponding adjustments to the boundary of the housing and transit reinvestment zone.

Section 8. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 522
S. B. 211
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

GENERATIONAL WATER INFRASTRUCTURE AMENDMENTS

Chief Sponsor: J. Stuart Adams
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill addresses the development of water resources.

Highlighted Provisions:

This bill:

- defines terms;
- directs the creation of the Water District Water Development Council (council) under the Interlocal Cooperation Act;
- outlines restrictions on the council;
- provides for the powers and duties of the council;
- requires reporting by the council;
- requires consultation by the council;
- provides for access to documents of state or local agencies;
- amends provisions related to meetings and records of the council;
- addresses the powers and duties of the Board of Water Resources and the Division of Water Resources;
- addresses expenditures from the Water Infrastructure Restricted Account;
- provides for the appointment of the Utah water agent (water agent);
- provides for the powers and duties of the water agent;
- requires reporting by the water agent;
- requires consultation by the water agent;
- addresses negotiations of the water agent;
- amends provisions related to procurement and records of the water agent;
- addresses access to documents of state or local agencies;
- includes a sunset date regarding the water agent; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Governor's Office - Utah Water Agent - Utah Water Agent as a one-time appropriation:
  - from the General Fund, One-time, $3,000,000
- to Governor's Office - Utah Water Agent - Utah Water Agent as an ongoing appropriation:
  - from the General Fund, $1,000,000

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2023, Chapters 139, 374 and 457
63G-2-103, as last amended by Laws of Utah 2023, Chapters 16, 173, 231, and 516
63G-2-305, as last amended by Laws of Utah 2023, Chapters 1, 16, 205, and 329
63G-6a-107.6, as last amended by Laws of Utah 2021, Chapter 179
63I-1-273, as last amended by Laws of Utah 2023, Chapters 205, 261
67-22-2, as last amended by Laws of Utah 2023, Chapter 205
73-10-3, as last amended by Laws of Utah 2023, Chapter 140
73-10-4, as last amended by Laws of Utah 2023, Chapter 140
73-10-18, as last amended by Laws of Utah 2023, Chapter 140
73-10g-104, as last amended by Laws of Utah 2023, Chapter 261

ENACTS:

11-13-228, Utah Code Annotated 1953
73-10g-601, Utah Code Annotated 1953
73-10g-602, Utah Code Annotated 1953
73-10g-603, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-228 is enacted to read:

11-13-228. Water District Water Development Council.

(1) As used in this section:

(a) "Council" means the Water District Water Development Council created pursuant to this section.

(b) "Division" means the Division of Water Resources.

(c) "Generational" means sufficient to meet anticipated demand for 50 to 75 years.

(d) "Generational water infrastructure" means physical facilities or other physical assets designed to meet generational demands for water.

(e) "State or local entity" means:

(i) a department, division, commission, agency, or other instrumentality of state government; or

(ii) a political subdivision or the political subdivision's instrumentalities.

(f) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-602.

(g) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

(2)(a) Subject to the provisions of this part, the four largest water conservancy districts in the state based on operating budgets shall enter into an agreement with one another and the division to form the Water District Water Development

Council as a joint administrator of a joint or cooperative undertaking.

(b) The members of the council shall consist of:

(i) the general manager or the general manager's designee for each of the water conservancy districts described in Subsection (2)(a); and

(ii) the director of the division, who will represent the needs of the portions of the state that are not served by the water conservancy districts in the agreement.

(c) Members of the council may not receive compensation, per diem, or expenses for service on the council.

(d) The council shall appoint a director to manage operations of the council. The council shall set the salary for the director and the director serves at the pleasure of the council.

(e) The council shall establish and maintain office space and staff for the council and the water agent. The water conservancy districts that enter into the agreement shall pay the costs of the office space and staff that are directly related to the activities of the council, including staff from a water conservancy district that is assigned to work with the council, except that, to the extent appropriated by the Legislature, the state shall pay the costs of the water agent and any costs for non-district staff hired to solely work for the council or water agent.

(3)(a) The council may not own or operate water infrastructure, but may advise a water conservancy district that enters into the agreement about the development of generational water infrastructure by a water conservancy district.

(b) For the generational water needs of the citizens of Utah and within the authorities given to the water conservancy districts represented on the council in Title 17B, Chapter 2a, Part 10, Water Conservancy District Act, the council shall jointly plan for generational water infrastructure and advance the responsible development of water within the jurisdiction of the water conservancy districts represented on the council to address water users' generational need for adequate and reliable water supplies, including:

(i) assessing generational water needs based on population growth and economic development;

(ii) identifying possible sources to meet the generational water needs;

(iii) exploring physical interconnections and joint operations of generational water infrastructure that exist as of May 1, 2024, and into the future;

(iv) assessing water conservation as a component of generational water supplies and environmental conservation efforts;

(v) scoping solutions to determine the most viable pathways for meeting generational water needs;

(vi) collecting and analyzing data necessary to make informed decisions regarding generational water needs;

(vii) coordinating with other water suppliers within the state as needed;

(viii) making recommendations to the Legislature regarding projects, funding, and policy changes to provide for generational water needs; and

(ix) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created by Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Water Development Coordinating Council created by Sections 79-2-201 and 73-10c-3.

(c) The council shall coordinate with the division regarding the need for generational water infrastructure and how to meet that need and, as part of this coordination the council shall assist the division in the division's development of a state water plan under Section 73-10-15.

(d) The council shall receive input from and coordinate with the water agent.

(e) The council may not levy, assess, or collect ad valorem property taxes or issue bonds.

(f) The council shall adopt policies for procurement that enable the council to efficiently fulfill the council's responsibilities under the agreement.

(g) The council is advisory and may not establish policy for the state.

(h) The council does not control money used to fund water infrastructure.

(4) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the council, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(5) Nothing in this section restricts the ability of a water conservancy district to contract under Subsection 17B-2a-1004(2).

Section 2. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3)(a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging, which means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) "Fiduciary or commercial information" means information:

(a) related to any subject if disclosure:

(i) would conflict with a fiduciary obligation; or

(ii) is prohibited by insider trading provisions; or

(b) that is commercial in nature including:

(i) account owners or borrowers;

(ii) demographic data;

(iii) contracts and related payments;

(iv) negotiations;

(v) proposals or bids;

(vi) investments;

(vii) management of funds;

(viii) fees and charges;

(ix) plan and program design;

(x) investment options and underlying investments offered to account owners;

(xi) marketing and outreach efforts;

(xii) financial plans; or

(xiii) reviews and audits excluding the final report required under Section 53B-8a-111.

(7)(a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specified body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(8) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(9) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(10)(a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;

(iii) the Utah Independent Redistricting Commission; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(11) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(12)(a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

(13) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(14) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (10)(c)(ii) or (10)(c)(v).

(15) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 3. Section 63G-2-103 is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

(a) a systematic examination of financial, management, program, and related records for the purpose of determining the fair presentation of financial statements, adequacy of internal controls, or compliance with laws and regulations; or

(b) a systematic examination of program procedures and operations for the purpose of determining their effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chronological logs" mean the regular and customary summary records of law enforcement agencies and other public safety agencies that show:

(a) the time and general nature of police, fire, and paramedic calls made to the agency; and

(b) any arrests or jail bookings made by the agency.

(3) "Classification," "classify," and their derivative forms mean determining whether a record series, record, or information within a record is public, private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(4)(a) "Computer program" means:

(i) a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval, and manipulation of data from the computer system; and

(ii) any associated documentation and source material that explain how to operate the computer program.

(b) "Computer program" does not mean:

(i) the original data, including numbers, text, voice, graphics, and images;

(ii) analysis, compilation, and other manipulated forms of the original data produced by use of the program; or

(iii) the mathematical or statistical formulas, excluding the underlying mathematical algorithms contained in the program, that would be used if the manipulated forms of the original data were to be produced manually.

(5)(a) "Contractor" means:

(i) any person who contracts with a governmental entity to provide goods or services directly to a governmental entity; or

(ii) any private, nonprofit organization that receives funds from a governmental entity.

(b) "Contractor" does not mean a private provider.

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

(8) "Elected official" means each person elected to a state office, county office, municipal office, school board or school district office, special district office, or special service district office, but does not include judges.

(9) "Explosive" means a chemical compound, device, or mixture:

(a) commonly used or intended for the purpose of producing an explosion; and

(b) that contains oxidizing or combustive units or other ingredients in proportions, quantities, or packing so that:

(i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases; and

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

(10) "Government audit agency" means any governmental entity that conducts an audit.

(11)(a) "Governmental entity" means:

(i) executive department agencies of the state, the offices of the governor, lieutenant governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole, the Board of Examiners, the National Guard, the Career Service Review Office, the State Board of Education, the Utah Board of Higher Education, and the State Archives;

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

(iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar administrative units in the judicial branch;

(iv) any state-funded institution of higher education or public education; or

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business;

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking, except for the Water District Water Development Council created pursuant to Section 11-13-228;

(iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;

(iv) an association as defined in Section 53G-7-1101;

(v) the Utah Independent Redistricting Commission; and

(vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

(12) "Gross compensation" means every form of remuneration payable for a given period to an individual for services provided including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

(13) "Individual" means a human being.

(14)(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law, which report may describe:

(i) the date, time, location, and nature of the complaint, the incident, or offense;

(ii) names of victims;

(iii) the nature or general scope of the agency's initial actions taken in response to the incident;

(iv) the general nature of any injuries or estimate of damages sustained in the incident;

(v) the name, address, and other identifying information about any person arrested or charged in connection with the incident; or

(vi) the identity of the public safety personnel, except undercover personnel, or prosecuting attorney involved in responding to the initial incident.

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a) appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(c) Initial contact reports do not include accident reports, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

(19) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

(20) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(21) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(22) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

(23) "Public record" means a record that is not private, controlled, or protected and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

(24) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(25)(a) "Record" means a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics:

(i) that is prepared, owned, received, or retained by a governmental entity or political subdivision; and

(ii) where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

(B) that is unrelated to the conduct of the public's business;

(ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

(iii) material that is legally owned by an individual in the individual's private capacity;

(iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;

(v) proprietary software;

(vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;

(vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

(viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

(ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

(x) a computer program that is developed or purchased by or for any governmental entity for its own use;

(xi) a note or internal memorandum prepared as part of the deliberative process by:

(A) a member of the judiciary;

(B) an administrative law judge;

(C) a member of the Board of Pardons and Parole; or

(D) a member of any other body, other than an association or appeals panel as defined in Section 53G-7-1101, charged by law with performing a quasi-judicial function;

(xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

(xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205;

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102;

(xvi) child sexual abuse material, as defined by Section 76-5b-103;

(xvii) before final disposition of an ethics complaint occurs, a video or audio recording of the closed portion of a meeting or hearing of:

(A) a Senate or House Ethics Committee;

(B) the Independent Legislative Ethics Commission;

(C) the Independent Executive Branch Ethics Commission, created in Section 63A-14-202; or

(D) the Political Subdivisions Ethics Review Commission established in Section 63A-15-201; or

(xviii) confidential communication described in Section 58-60-102, 58-61-102, or 58-61-702.

(26) "Record series" means a group of records that may be treated as a unit for purposes of designation, description, management, or disposition.

(27) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

(28) "Schedule," "scheduling," and their derivative forms mean the process of specifying the length of time each record series should be retained by a governmental entity for administrative, legal, fiscal, or historical purposes and when each record series should be transferred to the state archives or destroyed.

(29) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

(i) person that is not created or controlled by the institution within the state system of higher education; or

(ii) federal, state, or local governmental entity.

(30) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(31) "State archivist" means the director of the state archives.

(32) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

(33) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 4. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to

the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals,

and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;

(44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26B-2-408:

(a) information or records held by the Department of Health and Human Services related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health and Human Services from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation

are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Special Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Section 31A-48-103;

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) an image taken of an individual during the process of booking the individual into jail, unless:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest;

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision;

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a);

(85) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding;

(86) any part of an application for a Utah Fits All Scholarship account described in Section 53F-6-402 or other information identifying a scholarship student as defined in Section 53F-6-401; [~~and~~]

(87) a record:

(a) concerning a claim to the use of waters in the Great Salt Lake;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a person concerning the claim, including a representative from another state or the federal government; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Great Salt Lake;

(ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms and conditions regarding the use of water in the Great Salt Lake; or

(iii) give an advantage to another person including another state or to the federal government in negotiations regarding the use of water in the Great Salt Lake[.]; and

(88) a record of the Utah water agent, appointed under Section 73-10g-602:

(a) concerning a claim to the use of waters;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state, a tribe, the federal government, or other government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water;

(ii) harm the ability of the Utah water agent to negotiate the best terms and conditions regarding the use of water; or

(iii) give an advantage to another state, a tribe, the federal government, or other government entity in negotiations regarding the use of water.

Section 5. Section 63G-6a-107.6 is amended to read:

63G-6a-107.6. Exemptions from chapter.

(1) Except for this Subsection (1), the provisions of this chapter do not apply to:

(a) a public entity's acquisition of a procurement item from another public entity; or

(b) a public entity that is not a procurement unit, including the Colorado River Authority of Utah as provided in Section 63M-14-210.

(2) Unless otherwise provided by statute and except for this Subsection (2), the provisions of this chapter do not apply to the acquisition or disposal of real property or an interest in real property.

(3) Except for this Subsection (3) and Part 24, Unlawful Conduct and Penalties, the provisions of this chapter do not apply to:

(a) funds administered under the Percent-for-Art Program of the Utah Percent-for-Art Act;

(b) a grant;

(c) medical supplies or medical equipment, including service agreements for medical equipment, obtained by the University of Utah Hospital through a purchasing consortium if:

(i) the consortium uses a competitive procurement process; and

(ii) the chief administrative officer of the hospital makes a written finding that the prices for purchasing medical supplies and medical equipment through the consortium are competitive with market prices;

(d) the purchase of firefighting supplies or equipment by the Division of Forestry, Fire, and State Lands, created in Section 65A-1-4, through the federal General Services Administration or the National Fire Cache system;

(e) supplies purchased for resale to the public; [~~or~~]

(f) activities related to the management of investments by a public entity granted investment authority by law[.]; or

(g) activities of the Utah water agent appointed under Section 73-10g-602.

(4) This chapter does not supersede the requirements for retention or withholding of construction proceeds and release of construction proceeds as provided in Section 13-8-5.

(5) Except for this Subsection (5), the provisions of this chapter do not apply to a procurement unit's hiring a mediator, arbitrator, or arbitration panel member to participate in the procurement unit's dispute resolution efforts.

Section 6. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

(3) Title 73, Chapter 10g, Part 6, Utah Water Agent, is repealed July 1, 2034.

[~~(3)~~](4) Section 73-18-3.5, which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

[~~(4)~~](5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

[~~(5)~~](6) Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are repealed July 1, 2027.

Section 7. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health, Nonphysician;

(xix) executive director, Department of Human Services;

(xx) executive director, Department of Transportation;

(xxi) executive director, Department of Veterans and Military Affairs;

(xxii) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201; [~~and~~]

(xxiii) Great Salt Lake commissioner, appointed under Section 73-32-201[~~.~~]; and

(xxiv) Utah water agent, appointed under Section 73-10g-602.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2)(a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b)(i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c)(i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3)(a)(i) Except as provided in Subsection (3)(a)(ii) or Subsection (3)(d), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(d) If under Section 73-10g-602 the governor appoints an individual who is serving in an appointed executive branch position to be the Utah water agent, the governor shall adjust the salary of the Utah water agent to account for salary received for the appointed executive branch position.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5)(a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 8. Section 73-10-3 is amended to read:

73-10-3. Organization of board.

[~~(1)~~] The board shall elect a chair and one or more vice-chairs who shall be members of the board, and shall establish the board's own rules of organization and procedure.

[~~(2) The board, with the approval of the executive director of the Department of Natural Resources and the governor, shall designate a representative who may be one of the board's members to represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may hereafter be entered into between the state and one or more sister states. A compact may not become binding upon the state until the compact is ratified and approved by the Utah State Legislature and the legislatures of other states that are parties to the compact.~~]

[~~(3) In acting as such representative of the state, the representative so acting shall act under the supervision of the governor, through the executive~~

~~director of the Department of Natural Resources and of the Board of Water Resources. The director of the Division of Finance shall fix the salary to be paid to the representative while the representative is acting in this capacity.~~]

[~~(4) The designee of the Water Resource Board shall continue to represent the state as outlined in Subsections (2) and (3) on waters in the state except for:~~]

[~~(a) the Colorado River system which is governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or~~]

[~~(b) state representation under:~~]

[~~(i) the Bear River Compact as provided in Section 73-16-4; or~~]

[~~(ii) the Columbia Interstate Compact as provided in Section 73-19-9.~~]

Section 9. Section 73-10-4 is amended to read:

73-10-4. Powers and duties of board.

(1) The board shall have the following powers and duties to:

(a) authorize studies, investigations, and plans for the full development, use, and promotion of the water and power resources of the state, including preliminary surveys, stream gauging, examinations, tests, and other estimates either separately or in consultation with federal, state and other agencies;

(b) enter into contracts subject to the provisions of this chapter for the construction of conservation projects that in the opinion of the board will conserve and use for the best advantage of the people of this state the water and power resources of the state, including projects beyond the boundaries of the state of Utah located on interstate waters when the benefit of such projects accrues to the citizens of the state;

(c) sue and be sued in accordance with applicable law;

(d) [~~supervise in cooperation with the governor and the executive director of the Department of Natural Resources,~~]cooperate with the Utah water agent, appointed under Section 73-10g-602, in matters affecting interstate compact negotiations and the administration of the compacts affecting the waters of interstate rivers, lakes and other sources of supply, with the exception of:

(i) the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act; or

(ii) state representation under:

(A) the Bear River Compact as provided in Section 73-16-4; or

(B) the Columbia Interstate Compact as provided in Section 73-19-9;

(e) contract with federal and other agencies and with the National Water Resources Association and to make studies, investigations and recommendations and do all other things on behalf of the state for any purpose that relates to the development, conservation, protection and control of the water and power resources of the state;

(f) consult and advise with the Utah Water Users' Association and other organized water users' associations in the state;

(g) consider and make recommendations on behalf of the state of reclamation projects or other water development projects for construction by any agency of the state or United States and in so doing recommend the order in which projects shall be undertaken; or

(h) review, approve, and revoke an application to create a water bank under Chapter 31, Water Banking Act, collect an annual report, maintain the water banking website, and conduct any other function related to a water bank as described in Chapter 31, Water Banking Act.

(2) Nothing contained in this section shall be construed to impair or otherwise interfere with the authority of the state engineer granted by this title, except as specifically otherwise provided in this section.

Section 10. Section 73-10-18 is amended to read:

73-10-18. Division of Water Resources -- Creation -- Power and authority.

(1) There is created the Division of Water Resources, which shall be within the Department of Natural Resources under the administration and general supervision of the executive director of the Department of Natural Resources and under the policy direction of the Board of Water Resources.

(2) Except for the waters of the Colorado River system that are governed by Title 63M, Chapter 14, Colorado River Authority of Utah Act, or state representation under the Bear River Compact or Columbia Interstate Compact, the Division of Water Resources shall:

(a) be the water resource authority for the state; and

(b) assume all of the functions, powers, duties, rights, and responsibilities of the Utah water and power board except those which are delegated to the board by this act and is vested with such other functions, powers, duties, rights and responsibilities as provided in this act and other law.

(3) Notwithstanding Subsection (2), the Utah water agent, appointed under Section 73-10g-602, has authority over out-of-state negotiations related to water importation in accordance with Chapter 10g, Part 6, Utah Water Agent, except when limited by Section 73-10g-603.

Section 11. Section 73-10g-104 is amended to read:

73-10g-104. Authorized use of the Water Infrastructure Restricted Account.

Money in the restricted account is to be used, subject to appropriation, for:

(1) the development of the state's undeveloped share of the Bear and Colorado rivers, pursuant to existing interstate compacts governing both rivers as described in Chapter 26, Bear River Development Act, and Chapter 28, Lake Powell Pipeline Development Act;

(2) repair, replacement, or improvement of federal water projects for local sponsors in the state when federal funds are not available;

(3) study and development of rules, criteria, targets, processes, and plans, as described in Subsection 73-10g-105(3); [~~and~~]

(4) a project that benefits the Colorado River drainage in Utah, including projects for water reuse, desalinization, building of dams, or water conservation, if a county or municipality that benefits from the project:

(a) requires a new residential subdivision follow the regional conservation level of .59 acre-feet regardless of whether the outside water is potable, reuse, or secondary water;

(b) adopts and implements the local water conservancy district's emergency drought contingency plan;

(c) adopts and implements the local water conservancy district's grass rebate program's maximum grass restrictions;

(d) prohibits grass in new retail, industrial, or commercial facility landscaping;

(e) has reuse water be managed by the local water conservancy district;

(f) does not withdraw water from an aquifer in excess of the safe yield of the aquifer as defined in Section 73-5-15;

(g) adopts and implements excess water use surcharges;

(h) prohibits private water features in new development, such as a fountain, pond, or ski lake; and

(i) prohibits large grassy areas in new development, unless the large grassy area is open to the general public[~~.~~]; and

(5) a project recommended to the Legislature by the Water District Water Development Council, created in Section 11-13-228, for generational water infrastructure, as defined in Section 11-13-228.

Section 12. Section 73-10g-601 is enacted to read:

73-10g-601. Definitions.

Part 6. Utah Water Agent

As used in this part:

(1) "Council" means the Water District Water Development Council created pursuant to Section 11-13-228.

(2) "Division" means the Division of Water Resources.

(3) "State or local entity" means:

(a) a department, division, commission, agency, or other instrumentality of state government; or

(b) a political subdivision or the political subdivision's instrumentalities.

(4) "Water agent" means the Utah water agent appointed by the governor under Section 73-10g-602.

Section 13. Section 73-10g-602 is enacted to read:

73-10g-602. Utah water agent.

(1)(a) The governor shall appoint, with the advice and consent of the Senate, a resident of this state to be the Utah water agent.

(b) The governor shall consult with the speaker of the House of Representatives and the president of the Senate before appointing the water agent.

(c) The water agent is a state employee.

(d) The governor may appoint an individual who is serving in an executive branch appointed position to be the water agent, and the individual may serve in both positions, except that the governor shall adjust the salary of the water agent to account for salary received for the executive branch appointed position.

(2) The water agent shall serve a term of six years and may be appointed to more than one term, but is subject to removal at the pleasure of the governor.

(3) If there is a vacancy in the position of water agent for any reason, the governor shall appoint a replacement using the same procedure as Subsection (1), including the requirement of the advice and consent of the Senate.

(4) Subject to Subsection (1)(d), the governor shall establish the water agent's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(5)(a) Upon appropriation by the Legislature, state money shall be used for the administration of this part, including paying the costs of:

(i) subject to Subsection (5)(b), the water agent's administrative, office, and staff support; and

(ii) reasonable travel expenses.

(b) The water agent shall use office and staffing support provided under Subsection 11-13-228(2)(e).

Section 14. Section 73-10g-603 is enacted to read:

73-10g-603. Powers and duties of water agent.

(1)(a) Subject to Subsection (1)(b) and in consultation with the speaker of the House of Representatives, president of the Senate, and governor, the water agent shall explore and negotiate with officials of other states, tribes, and

other government entities regarding possible water importation projects, including:

(i) for the citizens of Utah, representing the state concerning waters of out-of-state rivers, lakes, and other sources of supply of waters except when representation is otherwise provided in statute;

(ii) identifying potential out-of-state water resources;

(iii) working with the council and division to match the water resources described in Subsection (1)(a)(ii) to needs identified by the council or division;

(iv) establishing a strategy to designate what out-of-state water resources to pursue and how to execute that strategy;

(v) negotiating directly with out-of-state partners to execute the strategy described in Subsection (1)(a)(iv);

(vi) represent the state in interstate conferences between the state and one or more sister states held for the purpose of entering into compacts between such states for the division of the waters of interstate rivers, lakes, or other sources of water supply, and to represent the state upon commissions or other governing bodies provided for by any compacts that have been or may be entered into between the state and one or more sister states, except that a compact is not binding on the state until the compact is ratified and approved by the Legislature and the legislatures of other states that are parties to the compact;

(vii) recommending to the Legislature and to the council actions that may assist in the development of, strategies for, and execution of water importation projects; and

(viii) annually reporting findings and recommendations to:

(A) the governor;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Legislative Water Development Commission created in Section 73-27-102;

(E) the Natural Resources, Agriculture, and Environment Interim Committee; and

(F) the Board of Water Resources created in Section 73-10-1.5.

(b) The water agent may not act under this section in relation to interests governed by interstate compacts in which Utah is a party, such as the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact.

(2) The water agent shall consult and work with the council, state entities, the Colorado River Authority of Utah, and other bodies established by the state for interstate water negotiations.

(3) Subject to Title 63G, Chapter 2, Government Records Access and Management Act, upon request of the water agent, a state or local entity shall provide to the water agent a document, report, or information available within the state or local entity.

(4) The water agent may negotiate with tribes in accordance with this section, except to the extent that the water at issue comes from the Colorado River.

(5) This chapter may not be interpreted to override, substitute, or modify a water right within the state or the role and authority of the state engineer.

Section 15. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 15(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - Utah Water Agent

From General Fund	$1,000,000
From General Fund, One-time	$3,000,000

Schedule of Programs:

Utah Water Agent	$4,000,000

The Legislature intends that the one-time appropriation in this bill of $3,000,000 from the General Fund not lapse at the close of Fiscal Year 2025.

Section 16. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 523
S. B. 217
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

SCHOOL DISTRICT BONDING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Ariel Defay

LONG TITLE

General Description:

This bill requires school districts to update information regarding the district's bond debt at certain intervals.

Highlighted Provisions:

This bill:

- requires school districts to update information regarding the district's bond debt at certain intervals; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-4-603, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-603 is amended to read:

53G-4-603. Additional indebtedness -- Election -- Voter information pamphlet.

(1) As used in this section:

(a) "Qualifying general obligation bond" means a bond:

(i) issued pursuant to Title 11, Chapter 14, Local Government Bonding Act; and

(ii) authorized by an election held on or after July 1, 2014.

(b) "Voter information pamphlet" means the notification required by Section 11-14-202.

(2) A local school board may require the qualified electors of the district to vote on a proposition as to whether to incur indebtedness, subject to conditions provided in Title 11, Chapter 14, Local Government Bonding Act, if:

(a) the debts of the district are equal to school taxes and other estimated revenues for the school year, and it is necessary to create and incur additional indebtedness in order to maintain and support schools within the district; or

(b) the local school board determines it advisable to issue school district bonds to purchase school sites, buildings, or furnishings or to improve existing school property.

(3) A local school board shall specify, in the voter information pamphlet for a bond election, a plan of finance, including:

(a) the specific project or projects for which a bond is to be issued; and

(b) a priority designation for each project.

(4) Except as provided in Subsection (5), a local school board shall ensure that qualifying general obligation bond proceeds are used to complete projects in accordance with the plan of finance described in Subsection (3).

(5)(a) After distribution to the public of the voter information pamphlet, with two-thirds majority approval of the local school board, a local school board may upon a determination of compelling circumstances adjust the plan of finance described in Subsection (3) by:

(i) changing the priority designation of a project;

(ii) adding a project that was not listed in the voter information pamphlet; or

(iii) removing a project that was listed in the voter information pamphlet.

(b) A local school board may not vote on more than one adjustment described in Subsection (5)(a) per meeting.

(6) For a qualifying general obligation bond, a local school board shall:

(a) in accordance with Subsection (6)(b), post on the local school board's website:

[~~(a)~~](i) the plan of finance as described in the voter information pamphlet; and

[~~(b)~~](ii) a progress report detailing the status of the projects listed in the plan of finance, including:

[~~(i)~~](A) the status of any construction contracts related to a project;

[~~(ii)~~](B) the bid amount;

[~~(iii)~~](C) the estimated and actual construction start date;

[~~(iv)~~](D) the estimated and actual construction end date; and

[~~(v)~~](E) the final cost[~~.~~]; and

(b) update the information described in Subsection (6)(a):

(i) before the beginning of each new fiscal year; and

(ii) no less than 30 days before any vote on the issuance of a new bond by the local school board or the public.

(7)(a) If a local school board violates Subsection (4), a registered voter in the school district may file an action for an extraordinary writ to prohibit the local school board from adjusting the plan of finance

without obtaining the necessary local school board approval.

(b) If a registered voter prevails in an action under Subsection (7)(a), the court shall award reasonable costs and attorney fees to the registered voter.

(c) The action described in Subsection (7)(a) may not be used to challenge the validity of a bond.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 524
S. B. 219
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

SCHOOL ACTIVITY ELIGIBILITY COMMISSION MODIFICATIONS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill amends provisions related to the operation of the School Activity Eligibility Commission.

Highlighted Provisions:

This bill:

- amends the Open and Public Meetings Act to:
  - expressly exempt a meeting of the School Activity Eligibility Commission (commission) to discuss the eligibility of a specific student from the open meetings requirement; and
  - remove a meeting of the commission to discuss the eligibility of a specific student from the list of reasons to close a public meeting;
- prohibits the commission from discussing a specific student's eligibility in a public meeting;
- expands the records that are classified as protected records under the Government Records Access and Management Act in relation to a specific student's eligibility;
- amends provisions to ensure that an athletic association serves to pass communications between students, parents, or schools and the commission;
- clarifies an indemnification provision; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-201, as last amended by Laws of Utah 2006, Chapter 263 and renumbered and amended by Laws of Utah 2006, Chapter 14
52-4-205, as last amended by Laws of Utah 2023, Chapters 263, 328, 374, and 521
53G-6-1003, as enacted by Laws of Utah 2022, Chapter 478
53G-6-1004, as enacted by Laws of Utah 2022, Chapter 478
53G-6-1007, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-201 is amended to read:

52-4-201. Meetings open to the public -- Exceptions.

(1) A meeting is open to the public unless[~~.~~]:

(a) closed under Sections 52-4-204, 52-4-205, and 52-4-206[~~.~~]; or

(b) the meeting is solely for the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(2)(a) A meeting that is open to the public includes a workshop or an executive session of a public body in which a quorum is present, unless closed in accordance with this chapter.

(b) A workshop or an executive session of a public body in which a quorum is present that is held on the same day as a regularly scheduled public meeting of the public body may only be held at the location where the public body is holding the regularly scheduled public meeting unless:

(i) the workshop or executive session is held at the location where the public body holds its regularly scheduled public meetings but, for that day, the regularly scheduled public meeting is being held at different location;

(ii) any of the meetings held on the same day is a site visit or a traveling tour and, in accordance with this chapter, public notice is given;

(iii) the workshop or executive session is an electronic meeting conducted according to the requirements of Section 52-4-207; or

(iv) it is not practicable to conduct the workshop or executive session at the regular location of the public body's open meetings due to an emergency or extraordinary circumstances.

Section 2. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Savings Board of Trustees and its appointed board of directors, discussing fiduciary or commercial information;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business;

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments;

(r) considering a loan application, if public discussion of the loan application would disclose:

(i) nonpublic personal financial information; or

(ii) a nonpublic trade secret, as defined in Section 13-24-2, or nonpublic business financial information the disclosure of which would reasonably be expected to result in unfair competitive injury to the person submitting the information;

(s) a discussion of the board of the Point of the Mountain State Land Authority, created in Section 11-59-201, regarding a potential tenant of point of the mountain state land, as defined in Section 11-59-102; or

(t) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 26B-1-506(1)(a), and the responses to the report described in Subsections 26B-1-506(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26B-1-403, to review and discuss an individual case, as described in Subsection 26B-1-403(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26B-1-421 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26B-1-421;

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system;

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83); and

(h) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market[~~; and~~].

[~~(i) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.~~]

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 3. Section 53G-6-1003 is amended to read:

53G-6-1003. School Activity Eligibility Commission -- Baseline range.

(1) There is created the School Activity Eligibility Commission.

(2)(a) The commission shall consist of the following members:

(i) the following two members whom the president of the Senate appoints:

(A) a mental health professional; and

(B) a statistician with expertise in the analysis of medical data;

(ii) the following two members whom the speaker of the House of Representatives appoints:

(A) a board-certified physician with expertise in gender identity healthcare; and

(B) a sports physiologist;

(iii) the following two members whom the governor appoints:

(A) a representative of an athletic association; and

(B) an athletic trainer who serves student athletes on the collegiate level; and

(iv) one ad hoc member, serving on a case-by-case basis, who is:

(A) appointed by the athletic association in which the relevant student's school competes; and

(B) a certified high school coach or official who coaches or officiates in a separate region or classification from the relevant student's school and in the sport in which the relevant student seeks eligibility.

(b) An athletic association may prepare and communicate the association's sport-specific appointments described in Subsection (2)(a)(iv) in preparation for student requests in a given sport.

(3)(a) A member of the commission described in Subsections (2)(a)(i) through (iii) shall serve an initial term of one year, subject to reappointment for subsequent terms of two years.

(b) If a vacancy occurs in the membership of the commission, the individual responsible for the appointment of the vacant seat as described in Subsection (2) shall fill the vacancy in the same manner as the original appointment.

(4)(a)(i) Except as provided in Subsection (4)(a)(ii), all members of the commission constitute a quorum of the commission for a meeting to determine the eligibility of a student.

(ii) All members of the commission described in Subsections (2)(a)(i) through (iii) constitute a quorum for any meeting other than the meeting described in Subsection (4)(a)(i).

(b) An action of a majority of a quorum constitutes an action of the commission.

(5) A majority of the commission members described in Subsections (2)(a)(i) through (iii) shall elect a chair from among the members described in Subsections (2)(a)(i) through (iii) to:

(a) schedule meetings of the commission;

(b) set the agenda of commission meetings; and

(c) facilitate discussion among the commission's members.

(6) A commission member:

(a) may not receive compensation or benefits for the member's service on the commission; and

(b) may receive per diem and reimbursement for travel expenses that the commission member incurs as a commission member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(7) The commission may enter into an agreement with an athletic association to provide staff support to the commission.

(8)(a) The commission shall establish a baseline range of physical characteristics for students participating in a specific gender-designated activity at a specific age to provide the context for the evaluation of an individual student's eligibility for a given gender-designated interscholastic activity under Section 53G-6-1004.

(b) In creating the baseline ranges described in Subsection (8)(a), the commission shall include the physical characteristics for the age and gender group in a given gender-designated interscholastic activity that are relevant to the specific interscholastic activity.

(c) The physical characteristics described in Subsection (8)(b) may include height, weight, physical characteristics relevant to the application of the standard described in Subsection 53G-6-1004(3), or the extent of physical characteristics affected by puberty, giving consideration to the practicability of considering the physical characteristic when making an assessment of an individual student's eligibility under Section 53G-6-1004.

(9) [~~Any record of the commission, including any communication between an athletic association and the commission, that relates to~~]The following records that relate to the application or analysis of or determination under this part regarding the eligibility of a specific student shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~]:

(a) any record of the commission, including any communication between an athletic association and the commission; and

(b) any record that a school or LEA possesses.

(10) Members of the commission are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this part.

(11) The commission has no authority in relation to eligibility questions other than participation in a gender-designated interscholastic activity under this part.

Section 4. Section 53G-6-1004 is amended to read:

53G-6-1004. Eligibility for interscholastic activities.

(1)(a) Notwithstanding any state board rule or policy of an athletic association, and except as provided in Subsections (1)(b) and (c):

(i) once a student has obtained the eligibility approval of the commission under Subsection (2), the student may participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate; and

(ii) if a student does not obtain the eligibility approval of the commission under Subsection (2), the student may not participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate.

(b) A student who has undergone or is undergoing a gender transition shall obtain the eligibility approval of the commission under Subsection (2) to

participate in a gender-designated interscholastic activity that corresponds with the student's gender identity.

(c) Nothing in this subsection prohibits a student from participating in a gender-designated interscholastic activity in accordance with 34 C.F.R. Sec. 106.41(b).

(2)(a) When a student registers with an athletic association to participate in a gender-designated interscholastic activity:

(i) a student who has undergone or is undergoing a gender transition shall notify the athletic association of the student's transition and the need for the commission's eligibility approval as described in Subsection (1)(b);

(ii) the athletic association shall notify the commission of:

(A) a student for whom an eligibility determination of the commission is required due to the sex designation on the student's birth certificate not corresponding with the gender designation of the gender-designated interscholastic activity in which the student seeks to participate or the student's notice of a gender transition under Subsection (1)(a)(ii); and

(B) the association's ad hoc appointment to the commission described in Subsection 53G-6-1003(2)(a)(iv); and

(iii) the [~~commission~~]athletic association shall notify the student described in Subsection (2)(a) regarding the process for determining the student's eligibility for the activity under this section.

(b) The commission shall:

(i) schedule a [~~closed~~]non-public meeting to consider a student's eligibility to be held within 30 days after the day on which the commission receives the notification described in Subsection (2)(a); and

(ii) notify the relevant athletic association and the student's parents or legal guardians of the scheduled meeting.

(c) Before the meeting described in Subsection (2)(b):

(i) the student for whom the commission has scheduled the meeting or the student's parent or guardian is not required but may submit to the commission any information the student wishes to disclose to the commission that may be relevant to the commission's eligibility determination, including information regarding:

(A) the gender-designated interscholastic activities for which the student seeks eligibility;

(B) the gender-designated interscholastic activities in which the student has previously participated; and

(C) the student's physical characteristics or medical treatments that support the student's eligibility for the specific gender-designated interscholastic activity;

(ii) the commission may request additional evidence from the student that is:

(A) limited to the extent possible to protect the student's privacy; and

(B) only directly relevant to the commission's eligibility determination; and

(iii) the commission may offer the student a voucher to cover the cost of a diagnostic assessment if the commission makes a request for medical information under Subsection (2)(c)(ii) for which the student's insurance does not provide coverage or reimbursement for the diagnostic that:

(A) would provide the requested information; and

(B) is not free or otherwise readily available to the student.

(d) During the meeting described in Subsection (2)(b):

(i) only the following individuals may be present or participate electronically:

(A) the student for whom the commission is meeting to make an eligibility determination;

(B) the student's parents or guardians;

(C) the members and necessary staff of the commission; and

(D) any medical professionals or other witnesses the student chooses to include to support the student's eligibility;

(ii) attendees may participate in person or electronically; and

(iii) the commission shall:

(A) hear the information that supports the student's eligibility;

(B) deliberate the facts relevant to the student's physical characteristics and eligibility in camera or otherwise after temporarily excusing from the meeting the student, the student's parents or legal guardians, and any medical professionals or other witnesses whom the student includes; and

(C) render the commission's eligibility determination in accordance with Subsection (3) or request additional information and schedule an additional commission meeting to be held within 30 days of the meeting and in accordance with this Subsection (2)(d) to discuss the additional information and render the commission's eligibility determination.

(e) The commission may not address the commission's application or analysis of or determination under this part regarding the eligibility of a specific student in a public meeting or public communication.

(3)(a) In making an eligibility determination, the commission, after considering whether the student's assertion of a gender identity is consistent with the statutory definition of gender identity as that term is defined in Section 34A-5-102, including the implications for the student's mental

health of participating in the gender-designated interscholastic activity, shall:

[~~(a)~~](i) make a determination regarding whether, when measured against the relevant baseline range described in Subsection 53G-6-1003(8), granting the student's eligibility would:

[~~(i)~~](A) present a substantial safety risk to the student or others that is significantly greater than the inherent risks of the given activity; or

[~~(ii)~~](B) likely give the student a material competitive advantage when compared to students of the same age competing in the relevant gender-designated activity, including consideration of the student's previous history of participation in gender-designated interscholastic activities; and

[~~(b)~~](ii) record the commission's decision and rationale in writing and provide the written decision to the [~~student~~]athletic commission within 30 days after the day on which the commission renders an eligibility decision under Subsection (3)(a) in a meeting described in Subsection (2)(b).

(b) Upon receipt of the commission's determination and rationale under Subsection (3)(a), the athletic commission shall notify the student and the relevant school or LEA of the commission's determination and rationale.

(c) A school or LEA shall comply with the commission's determination under this Subsection (3).

(4)(a) Notwithstanding any other provision of law and except as provided in Subsections (3)(b) and (4)(b), the commission may not disclose:

(i) the name of a student whose eligibility the commission will consider, is considering, or has considered; or

(ii) the commission's determination regarding a student's eligibility.

(b) The commission shall disclose the commission's determination of a student's eligibility for a given gender-designated interscholastic activity to the relevant athletic association, only for the purpose of confirming whether the student is eligible for the interscholastic activity.

(c)(i) Notwithstanding any other provision of law, an athletic association may not disclose the information described in Subsections (4)(a)(i) and (ii).

(ii) Nothing in this Subsection (4) prohibits an athletic association from affirming that a student is eligible if the eligibility of a student is questioned.

Section 5. Section 53G-6-1007 is amended to read:

53G-6-1007. Indemnification - - Enforcement.

(1) The [~~state shall defend, indemnify,~~]attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) are brought or incurred as a result of this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 6. Effective date.

This bill takes effect oÂn May 1, 2024.

CHAPTER 525
S. B. 220
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2024

SCHOOL READINESS AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Katy Hall

LONG TITLE

General Description:

This bill amends provisions of preschool programs.

Highlighted Provisions:

This bill:

- defines terms;
- repeals the School Readiness Board;
- creates a school readiness team comprised of staff from the Department of Workforce Services' Office of Child Care and staff from the state board to fulfill certain duties regarding the school readiness grant programs;
- renames school readiness grant programs;
- prioritizes grant funding between grant programs;
- requires grant recipients to coordinate with UPSTART providers; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-15-102, as last amended by Laws of Utah 2023, Chapters 252, 328
35A-15-202, as last amended by Laws of Utah 2023, Chapter 380
35A-15-203, as renumbered and amended by Laws of Utah 2019, Chapter 342
35A-15-301, as renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342
35A-15-302, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342
35A-15-303, as enacted by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342
35A-15-401, as renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342
35A-15-402, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342
53E-1-201, as last amended by Laws of Utah 2023, Chapters 1, 328 and 380
53E-4-314, as last amended by Laws of Utah 2022, Chapter 316
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 380, 383, and 467
63I-2-253, as last amended by Laws of Utah 2023, Chapters 7, 21, 33, 142, 167, 168, 310, 380, 383, and 467

REPEALS:

35A-15-201, as last amended by Laws of Utah 2022, Chapter 461

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-102 is amended to read:

35A-15-102. Definitions.

As used in this chapter:

[~~(1) "Board" means the School Readiness Board, created in Section 35A-15-201.~~]

[~~(2)~~](1) "Department" means the Department of Workforce Services.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

[~~(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.~~]

[~~(4)~~](3)(a) "Eligible LEA" means an LEA that [~~has a data system capacity to collect~~]collects longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26B-2-405(2)(e).

[~~(5)~~](4)(a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26B, Chapter 2, Part 4, Child Care Licensing; or

(ii) except as provided in Subsection [~~(5)(b)(ii)~~](4)(b)(ii), is exempt from licensure under Section 26B-2-405.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26B-2-401; or

(ii) a program exempt from licensure under Subsection 26B-2-405(2)(e).

[~~(6)~~](5) "Eligible student" means a student:

(a)(i) who is [~~age~~]three, four, or five years old; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(8); and

(b)(i)[~~(A)~~] who is economically disadvantaged; [~~and~~]

[~~(B)~~](ii) whose parent or legal guardian reports that the student has experienced at least one risk factor;

[~~(ii)~~](iii) is an English learner; or

[~~(iii) is in foster care.~~]

(iv) has ever been in foster care.

[~~(7)~~](6) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

[~~(8)~~](7) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA[~~,~~] or eligible private provider[~~, or eligible home-based educational technology provider~~]; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

[~~(9)~~](8) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

[~~(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section 53G-7-203.~~]

[~~(11)~~](9) "Kindergarten transition plan" means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

[~~(12)~~](10) "Local Education Agency" or "LEA" means a school district or charter school.

[~~(13)~~](11) "Performance outcome measure" means:

(a) indicators, as determined by the [~~board~~]department, on the school readiness assessment[~~ and the kindergarten assessment~~]; or

(b) for a results-based contract, the indicators included in the contract.

[~~(14)~~](12) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the [~~board~~]department, a provider of a high quality school readiness program, and an investor.

[~~(15)~~](13) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

[~~(f) having ever been in foster care;~~]

[~~(g)~~](f) living with multiple families in the same household;

[~~(h)~~](g) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness; or

[~~(i) the primary language spoken in a child's home is a language other than English; or~~]

[~~(j)~~](h) having at least one parent who has not completed high school.

[~~(16)~~](14) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(15) "School readiness team" means a team comprised of staff from:

(a) the Department of Workforce Services' Office of Child Care that support preschool and early care programs; and

(b) the state board that oversees preschool programs.

[~~(17)~~](16) "State board" means the State Board of Education.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 2. Section 35A-15-202 is amended to read:

35A-15-202. Elements of a high quality school readiness program.

Part 2. School Readiness Program

[~~(1)~~] A high quality school readiness program that an eligible LEA or eligible private provider runs shall include:

[~~(a)~~](1) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah core standards for preschool that the [~~State Board of Education~~]state board adopts, and that incorporates:

[~~(i)~~](a) intentional and differentiated instruction in whole group, small group, and child-directed learning; and

[~~(ii)~~](b) intentional instruction in key areas of literacy and numeracy, as determined by the [~~State Board of Education~~]state board, that:

[~~(A)~~](i) is teacher led or through a partnership with a contractor as defined in Section 63N-20-101;

[~~(B)~~](ii) includes specific literacy and numeracy skills, such as phonological awareness; and

[~~(C)~~](iii) includes provider monitoring and ongoing professional learning and coaching;

[~~(b)~~](2) ongoing, focused, and intensive professional [~~development~~]learning for staff of the school readiness program;

[~~(c)~~](3) ongoing assessment of a student's educational growth and development that:

[~~(i)~~](a) is aligned to the Utah core standards for preschool that the [~~State Board of Education~~]state board adopts; and

[~~(ii)~~](b) evaluates student progress to inform instruction;

[~~(d)~~](4) administration of the school readiness assessment to each student;

[~~(e)~~](5) [~~for a preschool program that an eligible LEA runs,~~]a class size that does not exceed 20 students, with one adult for every 10 students in the class;

[~~(f)~~](6) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

[~~(g)~~](7) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

[~~(h)~~](8) only lead teachers who, by the lead teacher's second year, obtain at least:

[~~(i)~~](a) the minimum standard of a child development associate certification; or

[~~(ii)~~](b) an associate or bachelor's degree in an early childhood education related field; and

[~~(i)~~](9) a kindergarten transition plan.

[~~(2) A high quality school readiness program that a home-based educational technology provider runs shall meet the requirements as described in Title 63N, Chapter 20, UPSTART.~~]

Section 3. Section 35A-15-203 is amended to read:

35A-15-203. School Readiness Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) There is created in the General Fund a restricted account known as the "School Readiness Restricted [~~Account".~~]Account."

(2) The School Readiness Restricted Account consists of:

(a) money appropriated by the Legislature;

(b) all income and interest derived from the deposit and investment of money in the account;

(c) federal grants; and

(d) private donations.

(3) Subject to legislative appropriations, money in the restricted account may be used:

(a) to award a grant under Section 35A-15-301 or 35A-15-302;

(b) to contract with an evaluator;

(c) to fund the participation of eligible students in a high quality school readiness program through a results-based contract; and

(d) for administration costs and to monitor the programs described in this part.

(4) Money for awards under Subsection (3)(a) shall be allocated in the following order to:

(a) pay results-based contracts;

(b) grant awards under Section 35A-15-302; and

(c) if any allocated funds remain, grant awards under Section 35A-15-301.

Section 4. Section 35A-15-301 is amended to read:

35A-15-301. Becoming Quality School Readiness Grant Program.

(1) The [~~High~~]Becoming Quality School Readiness Grant Program is created to provide grants to the following, in order to assist an existing preschool [~~or home-based educational technology program~~]in becoming a high quality school readiness program:

(a) an eligible private provider; or

(b) an eligible LEA[~~; or~~].

[~~(c) an eligible home-based educational technology provider.~~]

(2) [~~The board, in cooperation with the department and the State Board of Education,~~]The department, in consultation with the school readiness team, shall solicit proposals from eligible LEAs[~~,~~] and eligible private providers[~~, and eligible home-based educational technology providers~~].

(3) Subject to legislative appropriations, [~~and the prioritization described in Section 35A-15-201, the board~~]the department, in consultation with the school readiness team, shall award grants to [~~respondents~~]applicants based on:

(a) [~~a respondent's~~]an applicant's capacity to effectively implement the components described in Section 35A-15-202;

(b) the percentage of [~~a respondent's students who are~~]eligible students; and

(c) the level of administrative support and leadership at [~~a respondent's~~]an applicant's program to effectively implement, monitor, and evaluate the program.

(4) To receive a grant under this section, [~~a respondent~~]an applicant shall submit a proposal to the [~~board~~]department detailing:

(a) the [~~respondent's~~]applicant's strategy to implement the high quality components described in Section 35A-15-202;

(b) the number of proposed students[~~the respondent plans to serve~~], categorized by age and whether the students are eligible students;

(c) for an eligible LEA or eligible private provider, the number of high quality school readiness program classrooms the [~~respondent~~]applicant plans to operate; and

(d) the estimated cost per student.

(5)(a) A grant recipient [~~of a grant under this section~~]shall use the grant to move the recipient's preschool program toward achieving the components described in Section 35A-15-202.

(b) A grant recipient [~~of a grant under this section~~]may not:

(i) enter into a results-based contract while the recipient receives the grant; or

(ii) receive grant funds under Section 35A-15-302.

(6) A grant recipient [~~of a grant under this section~~]shall ensure that each student who is enrolled in a classroom [~~or who uses a home-based educational technology program~~]supported by the grant has a unique student identifier by:

(a) if the recipient is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the recipient is an eligible private provider [~~or eligible home-based educational technology provider,~~]working with the [~~State Board of Education~~]state board to assign a unique student identifier to each student enrolled in the classroom[~~or who uses the home-based educational technology program~~].

[~~(7) A grant recipient that is an eligible LEA shall report annually to the board and the State Board of Education the following:~~]

[~~(a) number of students served by the preschool, including the number of students who are eligible students;~~]

[~~(b) attendance;~~]

[~~(c) cost per student; and~~]

[~~(d) assessment results, including the school readiness assessment, kindergarten assessment, and other assessments as determined by the board.~~]

[~~(8) A grant recipient that is an eligible private provider or an eligible home-based educational technology provider shall report annually to the board and the department the following:~~]

[~~(a) number of students served by the preschool or program, including the number of students who are eligible students;~~]

[~~(b) attendance;~~]

[~~(c) cost per student; and~~]

[~~(d) assessment results, including the school readiness assessment and other assessments as determined by the board.~~]

[~~(9)~~](7) A grant recipient shall work in cooperation with the UPSTART contractor in accordance with Section 63N-20-103 and develop data sharing agreements that include:

(a) program information;

(b) referrals; and

(c) shared student performance outcomes.

(8) The [~~board~~]department, in consultation with the school readiness team, shall make rules to effectively administer and monitor the grant program described in this section, including:

(a) requiring grant recipients to use assessments, including the school readiness assessment, as determined by the [~~board~~]school readiness team; and

(b) establishing reporting requirements for grant recipients.

(9) Subject to funding availability, a grant recipient may receive a grant under this section for no longer than three years.

Section 5. Section 35A-15-302 is amended to read:

35A-15-302. High Quality School Readiness Grant Program -- Determination of high quality school readiness program.

(1) [~~There is created the Student Access to~~]The High Quality School Readiness [~~Programs~~]Grant Program is created to expand access to high quality school readiness programs for eligible students through grants administered by the [~~board~~]department for eligible LEAs and [~~eligible~~]private providers.

(2) The [~~board, in cooperation with the department and the State Board of Education~~] department, in consultation with the school readiness team, shall solicit proposals from eligible LEAs and eligible private providers [~~to fund increases in the number of eligible students high quality school readiness programs can serve~~].

(3)(a) [~~Except as provided in Subsection (3)(c), a respondent~~]An applicant shall submit a proposal that includes the information described in Subsection (3)(b) to the [~~board~~]department.

(b) [~~A respondent's~~]An applicant's proposal for the grant solicitation described in Subsection (2) shall include:

(i) the [~~respondent's~~]applicant's existing and proposed school readiness program, including:

(A) the number of students served by the [~~respondent's~~]applicant's school readiness program;

[~~(B) the respondent's policies and procedures for admitting students into the school readiness program;~~]

[~~(C)~~](B) the estimated cost per student; and

[~~(D)~~](C) any fees [~~the respondent charges to~~]a parent or legal guardian pays for the school readiness program;

[~~(ii) the respondent's plan to use funding sources, in addition to a grant described in this section, including:~~]

[~~(A) federal funding; or~~]

[~~(B) private grants or donations;~~]

[~~(iii) existing or planned partnerships between the respondent and an LEA, eligible private provider, or eligible home-based technology provider to increase access to high quality school readiness programs for eligible students;~~]

[~~(iv)~~](ii) how the [~~respondent~~]applicant would use a grant to:

(A) expand the number of eligible students served by the [~~respondent's~~]applicant's school readiness program; and

(B) target the funding toward the highest risk students;

[~~(v)~~](iii) the results of any evaluations of the [~~respondent's~~]applicant's school readiness program; and

[~~(vi)~~](iv) a demonstration that the respondent's existing school readiness program meets performance outcome measures.

[~~(c) In addition to the requirements described in Subsection (3)(b), a respondent that is an eligible LEA shall describe in the respondent's proposal the percentage of the respondent's kindergarten through grade 12 students who are economically disadvantaged.~~]

(4) For each proposal received in response to the solicitation described in Subsection (2), the [~~board~~]school readiness team shall determine if the [~~respondent~~]applicant school readiness program is a high quality school readiness program by:

(a) applying the [~~tool~~]tools; [~~and~~]

(b) reviewing performance outcome measures[~~.~~]; and

(c) implementing the elements of a high quality school readiness program.

(5)(a) Subject to legislative appropriations and Subsection [~~(9)~~](8), the [~~board~~]department, in consultation with the school readiness team, shall award a grant to [~~a respondent~~]an applicant.

(b) The [~~board~~]department may only award a grant to [~~a respondent~~]an applicant if:

(i) the [~~respondent~~]applicant submits a proposal that includes the information required under Subsection (3); and

(ii) the [~~board~~]school readiness team determines that the [~~respondent's~~]applicant's program is a high quality school readiness program in accordance with Subsection (4).

(c)(i) A grant recipient [~~of a grant~~] may use funds received under this section to supplement an existing program but not supplant other funding.

(ii) An eligible LEA or an eligible private provider may not receive funding under this section if the eligible LEA or eligible private provider receives funding under Section 35A-15-301 or 35A-15-401.

(6) In evaluating a proposal received in response to the solicitation described in Subsection (2), the [~~board~~]school readiness team shall consider:

(a) the number and percent of students in the [~~respondent's~~]applicant's high quality school readiness program that are eligible students at the highest risk;

(b) geographic diversity, including whether the [~~respondent~~]applicant is urban or rural; and

[~~(c) the extent to which the respondent intends to participate in a partnership with an LEA, eligible private provider, or eligible home-based technology provider; and~~]

[~~(d)~~](c) the [~~respondent's~~]applicant's level of administrative support and leadership to effectively implement, monitor, and evaluate the program.

[~~(7) A respondent that receives a grant under this section shall:~~]

[~~(a) use the grant to expand access for eligible students to high quality school readiness programs by enrolling eligible students in a high quality school readiness program;~~]

[~~(b) report to the board annually regarding:~~]

[~~(i) how the respondent used the grant awarded under Subsection (5);~~]

[~~(ii) participation in any partnerships between an LEA, eligible private provider, or eligible home-based technology provider; and~~]

[~~(iii) the results of any evaluations;~~]

[~~(c) allow classroom or other visits for an evaluation; and~~]

[~~(d) for a respondent that is an eligible LEA, notify a parent or legal guardian who expresses interest in enrolling the parent or legal guardian's child in the LEA's high quality school readiness program of each state-funded high quality school readiness program operating within the eligible LEA's geographic boundaries.~~]

(7) A grant recipient shall work in cooperation with the UPSTART contractor in accordance with Section 63N-20-103 and develop data sharing agreements that include:

(a) program information;

(b) referrals; and

(c) shared student performance outcomes.

[~~(8)(a) The board shall establish interventions for a grantee that fails to comply with the requirements described in this section or meet the benchmarks described in Subsection (8)(c).~~]

[~~(b) An intervention under this Subsection (8) may include discontinuing or reducing funding.~~]

[~~(c)(i) The board shall adopt benchmarks for success on the performance outcome measures for a grant recipient under this section.~~]

[~~(ii) If a grant recipient fails to meet the board's benchmarks for success on the performance outcome measures, the grant recipient may not receive additional funding under this section.~~]

[~~(9)~~](8) Subject to legislative appropriations, the [~~board~~]department shall give [~~first~~]priority in awarding grants to [~~a respondent~~]an applicant that has previously received a grant under this section if the [~~respondent~~]applicant:

(a) makes the annual report described in [~~Subsection (7)(b)~~]Section 35A-15-303;

(b) participates in the evaluation; and

(c) continues to offer a high quality school readiness program[~~, as determined during an annual site visit by:~~]

[~~(i) the State Board of Education, for an eligible LEA; or (ii) the department, for an eligible private provider~~].

[~~(10)~~](9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~]department, in consultation with the school readiness team, shall make rules to:

(a) implement the [~~tool~~]observation tools; and

(b) administer the grant program.

Section 6. Section 35A-15-303 is amended to read:

35A-15-303. Evaluation -- Tools -- Reporting.

(1) The [~~State Board of Education~~]school readiness team shall[~~, in consultation with the board,~~] conduct the ongoing review and evaluation each school year of:

(a) a grant recipient under Section 35A-15-301; and

(b) a grant recipient under Section 35A-15-302.

(2)(a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the [~~State Board of Education~~]state board may enter into a contract with an evaluator to assist with the evaluation process.

(b) An evaluation described in Subsection (1) shall include:

(i) outcomes of onsite observations utilizing the [~~tool~~]tools developed under Subsection (4) at a frequency and number of classrooms visits established by the [~~board~~]department, in consultation with the school readiness team;

(ii) performance on the performance outcome measures; [~~and~~]

(iii) whether any of the programs improved kindergarten readiness through funding provided under Section 35A-15-301 or 35A-15-302[~~.~~]; and

(iv) student demographic data.

(3) The [~~board~~]school readiness team shall determine whether there is a correlation between the [~~tool~~]tools and the performance outcome measure.

(4)(a) [~~The board, in coordination with the department and the State Board of Education~~]The school readiness team shall:

[~~(a) shall:~~]

(i) develop [~~a tool~~]tools to determine whether a school readiness program is a high quality school readiness program; [~~and~~]

(ii) establish how [~~the board will~~]to apply the [~~tool~~]tools to make a determination described in [~~Subsection (4)(a)~~]this Subsection (4); [~~and~~]

(iii) establish how the school readiness team will assess performance outcome measures; and

(iv) adopt benchmarks for success on the performance outcome measures for a grant recipient under this section.

(b) The department, in consultation with the school readiness team, may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of this Subsection (4).

(5)(a) A grant recipient that receives a grant award under Section 35A-15-302 shall annually submit to the school readiness team:

(i) the number of students served by the preschool, including:

(A) the number of students who are eligible students; and

(B) the student's demographic area;

(ii) student attendance;

(iii) the cost per student; and

(iv) assessment results, including the school readiness assessment, and other assessments as determined by the school readiness team.

(b) The assessment results under Subsection (5)(a)(iv) shall include:

(i) student data assessment data and growth scores; and

(ii) the observation tool score.

(c) If a student growth or observation score is below the benchmark for success established by the school readiness team, the grant recipient shall:

(i) after the first year of not meeting the established benchmark:

(A) develop an action plan informed by a data analysis to inform focus improvement efforts; and

(B) submit a mid-year report on the progress of improvement efforts to the school readiness team; and

(ii) after the second year of not meeting the established benchmark:

(A) develop an action plan informed by a data analysis to inform focus improvement efforts; and

(B) submit a monthly report on the progress of improvement efforts to the school readiness team.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department, in consultation with the school readiness team, may adopt rules to establish eligibility criteria and grant funding priority for a grant recipient who, after three consecutive years, fails to meet the benchmark for success described in Subsection (5)(c).

[~~(5)(a) The State Board of Education shall annually prepare a report for the Education Interim Committee in accordance with Section 53E-1-201.~~]

[~~(b) The report described in Subsection (5)(a) shall include a summary of an evaluation and the efficacy of:~~]

[~~(i) the grant program described in Section 35A-15-301; and~~]

[~~(ii) the grant program described in Section 35A-15-302, including whether any recipients failed to meet benchmarks for success on performance outcome measures as described in Subsection 35A-15-302(8)(c).~~]

[~~(6) The board shall report to the Education Interim Committee by November 30, 2020, on benchmarks adopted by the board under Section 35A-15-302.~~]

Section 7. Section 35A-15-401 is amended to read:

35A-15-401. Requirements for a school readiness program to receive funding through a results-based contract.

(1) As used in this section:

(a) "Participating program operator" means an eligible LEA, [~~an eligible~~]a private provider, or [~~an eligible~~]a home-based educational technology provider[~~,~~] that is a party to a results-based contract.

(b) "Program" means a school readiness program funded through a results-based contract.

(2)(a) Subject to the requirements of this part, an eligible LEA, an eligible private provider, or an eligible home-based educational technology provider that operates a high quality school readiness program may enter into and receive funding through a results-based contract.

(b) An eligible LEA, an eligible private provider, or an eligible home-based educational technology provider may not enter into a results-based contract while receiving a grant under Part 3, Grants for High Quality School Readiness Programs.

(3) A participating program operator shall ensure that each student who is enrolled in a classroom, or who uses a home-based educational technology, that is part of a participating program operator's program has a unique student identifier by:

(a) if the participating program operator is an eligible LEA, assigning a unique student identifier to each student enrolled in the classroom; or

(b) if the participating program operator is an eligible private provider or eligible home-based technology provider, working with the [~~State Board of Education~~]state board to assign a unique student identifier to each student enrolled in the classroom or who uses the home-based educational technology.

(4) A participating program operator may not use funds received through a results-based contract to supplant funds for an existing high quality school readiness program, but may use the funds to supplement an existing high quality school readiness program.

(5)(a) If not prohibited by the Elementary and Secondary Education Act of 1965, 20 U.S.C. Secs. 6301-6576, a participating program operator may charge a sliding scale fee, based on household income, to a student enrolled in the participating program operator's program.

(b) A participating program operator may use grants, scholarships, or other money to help fund the program.

(6)(a) A participating program operator that is an eligible LEA may contract with an eligible private provider to provide a high quality school readiness program to a portion of the eligible LEA's eligible students if:

(i) the results-based contract specifies the number of students to be served by the eligible private provider; and

(ii) the eligible private provider meets the requirements described in this section for a participating program operator.

(b) An eligible LEA that contracts with an eligible private provider shall provide supportive services to the eligible private provider, which may include:

(i) professional [~~development~~]learning;

(ii) staffing or staff support;

(iii) materials; or

(iv) assessments.

Section 8. Section 35A-15-402 is amended to read:

35A-15-402. Results-based contracts -- Assessment.

(1) The [~~board~~]department may enter into a results-based contract to fund participation of eligible students in a high quality school readiness program in accordance with this part.

(2)(a) The [~~board~~]department shall include an investor as a party to a results-based contract.

(b) The [~~board~~]department may provide for a repayment to an investor to include a return of investment and an additional return on investment, dependent on achievement of the performance outcome measures set in the results-based contract.

(c) The additional return on investment described in Subsection (2)(b) may not exceed 5% above the current Municipal Market Data General Obligation Bond AAA scale for a 10 year maturity at the time of the issuance of the results-based contract.

(d) Funding obtained for an early education program through a results-based contract that includes an investor is not a procurement item under Section 63G-6a-103.

(e) A results-based contract that includes an investor shall include:

(i) a requirement that the repayment to the investor be conditioned on achieving the performance outcome measures set in the results-based contract;

(ii) a requirement for an independent evaluator to determine whether the performance outcome measures have been achieved;

(iii) a provision that repayment to the investor is:

(A) based upon available money in the School Readiness Restricted Account described in Section 35A-15-203; and

(B) subject to legislative appropriations; and

(iv) a provision that the investor is not eligible to receive or view personally identifiable student data of students funded through the results-based contract.

(f) The [~~board~~]department may not issue a results-based contract if the total outstanding obligations of results-based contracts that include an investor as a party to the contract would exceed $15,000,000 at any one time.

(3) The [~~board~~]department shall require an independent evaluation to determine if a school readiness program meets the performance outcome measures included in a results-based contract.

(4) If the [~~board~~]department enters into a results-based contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, the [~~board~~]department shall select an independent evaluator with experience in evaluating school readiness programs.

(5)(a) At the end of each year of a results-based contract after a student funded through a results-based contract completes kindergarten, the independent evaluator shall determine whether the performance outcome measures set in the results-based contract have been met.

(b) The [~~board~~]department may not pay an investor unless the evaluation described in Subsection (5)(a) determines that the performance outcome measures in the results-based contract have been met.

(6)(a) The [~~board~~]department shall ensure that a parent or guardian of an eligible student participating in a program funded through a results-based contract has given permission and signed an acknowledgment that the student's data may be shared for research and evaluation purposes, subject to federal law.

(b) The [~~board~~]department shall maintain documentation of parental permission required in Subsection (6)(a).

Section 9. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 53B-33-302 and the report on research and activities described in Section 53B-33-304 by the Utah Data Research Center;

[~~(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;~~]

[~~(d)~~](c) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

[~~(e)~~](d) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

[~~(f)~~](e) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

[~~(g)~~](f) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

[~~(h)~~](g) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

[~~(i)~~](h) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

[~~(j)~~](i) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

[~~(k)~~](j) the report described in Section 53F-2-522 regarding mental health screening programs;

[~~(l)~~](k) the report described in Section 53F-4-203 by the state board and the independent evaluator

on an evaluation of early interactive reading software;

[~~(m)~~](l) the report described in Section 63N-20-107 by the Governor's Office of Economic Opportunity on UPSTART;

[~~(n)~~](m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment;

[~~(o)~~](n) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

[~~(p)~~](o) the report described in Section 53F-5-405 by the [~~State Board of Education~~]state board regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income;

[~~(q)~~](p) the report described in Section 53B-35-202 regarding the Higher Education and Corrections Council;

[~~(r)~~](q) the report described in Section 53G-7-221 by the [~~State Board of Education~~]state board regarding innovation plans;

[~~(s)~~](r) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council; and

[~~(t)~~](s) the reports described in Section 53F-6-412 regarding the Utah Fits All Scholarship Program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

[~~(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;~~]

[~~(b)~~](a) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

[~~(c)~~](b) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(d)~~](c) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(e)~~](d) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(5) related to the PRIME pilot program;

[~~(f)~~](e) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(g)~~](f) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(h)~~](g) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(i)~~](h) upon request, a report described in Section 53G-7-222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

[~~(j)~~](i) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(k)~~](j) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(l)~~](k) the report described in Section 26B-5-113 by the Office of Substance Use and Mental Health, the [~~State Board of Education~~]state board, and the Department of Health and Human Service regarding recommendations related to Medicaid reimbursement for school-based health services.

Section 10. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" means a preschool [~~entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student~~]assessment that:

(i) measures literacy and numeracy; and

(ii) beginning with the 2026-2027 school year, measures growth from the beginning of the year to the end of the year.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.

(2) The state board shall develop or select a school readiness assessment[~~ that aligns with the kindergarten entry and exit assessment described in Section 53G-7-203~~].

(3) A school readiness program shall:

(a) [~~except as provided in Subsection (4),~~]administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) [~~or (4)~~]to the [~~School Readiness Board created in Section 35A-15-201~~]state board.

[~~(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:~~]

[~~(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and~~]

[~~(b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.~~]

(4) A private care provider or an LEA on behalf of a school that is not participating in the High Quality Readiness Grant Program, as described in Section 35A-15-301 or 35A-15-302, may submit school readiness assessment data to the state board.

[~~(5)(a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A-15-201:~~]

[~~(i) a private child care provider; or~~]

[~~(ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A-15-301.~~]

[~~(b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A-15-303(5).~~]

Section 11. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118 is repealed on July 1, 2024.

(2) Section 53-1-120 is repealed on July 1, 2024.

(3) Section 53-7-109 is repealed on July 1, 2024.

(4) Section 53-22-104 is repealed December 31, 2023.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(7) Section 53B-8-114 is repealed July 1, 2024.

(8) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(9) Section 53B-10-101 is repealed on July 1, 2027.

(10) Subsection [~~53E-1-201(1)(s)~~] 53E-1-201(1)(r) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(11) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(12) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(13) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(14) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(15) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(16) Section 53F-9-401 is repealed on July 1, 2024.

(17) Section 53F-9-403 is repealed on July 1, 2024.

(18) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 12. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118 is repealed on July 1, 2024.

(3) Section 53-1-120 is repealed on July 1, 2024.

(4) Section 53-2d-107, regarding the Air Ambulance Committee, is repealed July 1, 2024.

(5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(6) Section 53-7-109 is repealed on July 1, 2024.

(7) Section 53-22-104 is repealed December 31, 2023.

(8) Section 53B-6-105.7 is repealed July 1, 2024.

(9) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(10) Section 53B-8-114 is repealed July 1, 2024.

(11) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

(b) Section 53B-8-202;

(c) Section 53B-8-203;

(d) Section 53B-8-204; and

(e) Section 53B-8-205.

(12) Section 53B-10-101 is repealed on July 1, 2027.

(13) Subsection [~~53E-1-201(1)(s)~~] 53E-1-201(1)(r) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

(14) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(15) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(17) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

(18) Section 53F-5-221, regarding a management of energy and water pilot program, is repealed July 1, 2028.

(19) Section 53F-9-401 is repealed on July 1, 2024.

(20) Section 53F-9-403 is repealed on July 1, 2024.

(21) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 13. Repealer.

This bill repeals:

Section 35A-15-201, Establishment of the School Readiness Board -- Membership -- Funding prioritization.

Section 14. Effective date.

(1) This bill takes effect on July 1, 2024.

CHAPTER 526
S. B. 221
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

SCHOOL DISTRICT AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill amends and creates certain processes and requirements regarding school district creation.

Highlighted Provisions:

This bill:

- defines terms;
- amends and creates certain processes, timelines, and requirements regarding school district creation;
- requires a feasibility study before a school district creation;
- requires a feasibility study to be posted online and for public comment;
- allows for the use of a special election to elect certain school board members;
- allows for a legislative body to assist a new school district in securing funds for startup costs;
- increases the distribution amount of funds allowed for a new school district; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-203, as last amended by Laws of Utah 2020, Chapter 47
36-12-15, as last amended by Laws of Utah 2023, Chapter 21
53G-3-102, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-3-202, as last amended by Laws of Utah 2023, Chapter 252
53G-3-203, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-3-303, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-3-304, as last amended by Laws of Utah 2023, Chapter 7
53G-3-305, as last amended by Laws of Utah 2022, Chapter 265
53G-3-306, as last amended by Laws of Utah 2019, Chapter 293
53G-3-307, as last amended by Laws of Utah 2019, Chapter 293
53G-3-308, as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53G-3-301.1, Utah Code Annotated 1953
53G-3-301.2, Utah Code Annotated 1953
53G-3-301.3, Utah Code Annotated 1953
53G-3-301.4, Utah Code Annotated 1953

REPEALS AND REENACTS:

53G-3-301, as last amended by Laws of Utah 2023, Chapter 116
53G-3-302, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2)(a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5)(a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

(vii) a vote to elect members to school district boards for a new school district and a [~~remaining~~]reorganized new school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;

(viii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

(ix) a vote to create a new county under Section 17-3-1;

(x) a vote on a special property tax under Section 53F-8-402;

(xi) a vote on the incorporation of a municipality in accordance with Section 10-2a-210; or

(xii) a vote on incorporation or annexation as described in Section 10-2a-404.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 2. Section 36-12-15 is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

(b) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(c) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(4) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(5) The Office of the Legislative Auditor General shall exercise the constitutional authority provided in Utah Constitution, Article VI, Section 33.

(6) Under the direction of the legislative auditor general, the Office of the Legislative Auditor General shall:

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each audit, examination, investigation, or review to the Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit, examination, investigation, or review is completed;

(c) monitor, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

(7) In conducting an audit, examination, investigation, or review of an entity, the Office of the Legislative Auditor General may include a determination of any or all of the following:

(a) the honesty and integrity of any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard the entity's acquisition, custody, use, and accounting of public funds;

(d) whether the entity's administrators have complied with legislative intent;

(e) whether the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether the entity's programs have been effective in accomplishing intended objectives; and

(g) whether the entity's management control and information systems are adequate and effective.

(8)(a) If requested by the Office of the Legislative Auditor General, each entity that the legislative auditor general is authorized to audit under Utah Constitution, Article VI, Section 33, or this section shall, notwithstanding any other provision of law except as provided in Subsection (8)(b), provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.

(9)(a) In carrying out the duties provided for in this section and under Utah Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

(10) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

(11)(a) The following records in the custody or control of the legislative auditor general are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records and audit work papers that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report;

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

(B) waste of public funds, property, or personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of an entity for review, response, or information;

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

(C) other procedural documents necessary to fulfill the duties of the office; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsection (11)(a) do not prohibit the disclosure of records or information to a government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the Office of the Legislative Auditor General in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(12) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

(13) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit, the legislative auditor general shall, upon release of the audit:

(a) report immediately to the Audit Subcommittee that the entity has not implemented that recommendation; and

(b) shall report, as soon as possible, that the entity has not implemented that recommendation to an appropriate legislative committee designated by the Audit Subcommittee.

(14) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

(15)(a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the Office of the Legislative Auditor General;

(ii) the attorney general, county attorney, or district attorney; and

(iii)(A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(16)(a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative audit, examination, investigation, or review of an entity conducted by the Office of the Legislative Auditor General; or

(ii) the Office of the Legislative Auditor General's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (16)(a) is a class B misdemeanor.

(17)(a) Beginning July 1, 2020, the Office of the Legislative Auditor General may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The Office of the Legislative Auditor General shall require that an individual required to submit to a background check under this Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

(18) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the Legislative Auditor General shall conduct a feasibility study under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4.

Section 3. Section 53G-3-102 is amended to read:

53G-3-102. Definitions.

[~~As used in this chapter:~~]

[~~(1) "Allocation date" means:~~]

[~~(a) June 20 of the second calendar year after the local school board general election date described in Subsection 53G-3-302(3)(a)(i); or~~]

[~~(b) another date that the transition teams under Section 53G-3-302 mutually agree to.~~]

[~~(2) "Canvass date" means the date of the canvass of an election under Subsection 53G-3-301(5) at which voters approve the creation of a new school district under Section 53G-3-302.~~]

[~~(3) "Consolidation" means the merger of two or more school districts into a single administrative unit.~~]

[~~(4) "Creation election date" means the date of the election under Subsection 53G-3-301(9) at which voters approve the creation of a new school district under Section 53G-3-302.~~]

[~~(5) "Divided school district," "existing district," or "existing school district" means a school district from which a new district is created.~~]

[~~(6) "New district" or "new school district" means a school district created under Section 53G-3-301 or 53G-3-302.~~]

[~~(7) "Remaining district" or "remaining school district" means an existing district after the creation of a new district.~~

~~(8) "Restructuring" means the transfer of territory from one school district to another school district.~~]

As used in this chapter:

(1) "Allocation date" means:

(a) July 1 of the second calendar year following the local school board general election date or special election date as described in Section 53G-3-302; or

(b) another date to which the new local school board and reorganized school board agree.

(2) "Creation date" means the date on which voters approve the creation of a new school district under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4.

(3) "Divided school district" means:

(a) an existing school district from which a new school district is created under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4; and

(b) an existing school district from which a reorganized new school district is created.

(4)(a) "Feasibility study" means a study:

(i) conducted by:

(A) a school district, municipal legislative body, or interlocal agreement participants before July 31, 2024; or

(B) the Office of the Legislative Auditor General, subject to prioritization by the Legislative Audit Subcommittee; and

(ii) to determine:

(A) the financial viability for a new school district and reorganized new school district that is contained within the boundaries of a divided school district;

(B) the financial impact on a new school district and reorganized new school district that is contained within the boundaries of a divided school district; and

(C) the impact of the tax burden on taxpayers within the boundaries of the proposed new school district.

(5) "Interlocal agreement participant" means a public agency, as that term is defined in Section 11-13-103, that enters into an agreement with one or more other public agencies for the purpose

described in and in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(6) "Isolated area" means an area that:

(a) is entirely within the boundaries of an existing school district;

(b) is contiguous to the proposed new school district;

(c) has a combined student population of fewer than 5,000 students; and

(d) because of the creation of a new school district from the existing district in which the area is located, would become completely geographically isolated.

(7) "Municipality" means the same as that term is defined in Section 10-1-104.

(8) "New school district" means a school district created under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4.

(9) "Reorganized new school district" means the remaining portion of the divided school district after the creation of a new school district under Subsection 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4.

Section 4. Section 53G-3-202 is amended to read:

53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1)(a) Each school district shall be controlled by its local school board and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, including a reorganized new school district, shall comply with [~~Subsection 17-50-103(2)(a).~~]Section 17-50-103.

(2) The local school board shall have direction and control of all school property in the district and may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for overall operation of the public school system.

(3)(a) On or before 30 days following the day on which the creation of a new school district occurs under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4, and in accordance with Section 67-1a-15, a new school district shall be registered as a limited purpose entity by:

(i) the municipal legislative body in which the boundaries for the new school district is entirely located; or

(ii) the legislative body of interlocal agreement participants in which the new school district is located.

[~~(a)~~](b) Each school district shall register and maintain the school district's registration as a limited purpose entity[~~,~~] in accordance with Section 67-1a-15.

[~~(b)~~](c) A school district that fails to comply with [~~Subsection~~]Subsections (3)(a) and (b) or Section 67-1a-15 is subject to enforcement by the state auditor[~~,~~] in accordance with Section 67-3-1.

Section 5. Section 53G-3-203 is amended to read:

53G-3-203. Filing of notice and plat relating to school district boundary changes including creation, consolidation, division, or dissolution -- Recording requirements -- Effective date.

(1) The county legislative body shall[~~:~~]

[~~(a)~~] ,within 30 days [~~after the~~]following the day on which the creation, consolidation, division, or dissolution of a school district occurs, file with the lieutenant governor:

[~~(i)~~](a) a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

[~~(ii)~~](b) except in the case of a dissolution, a copy of an approved final local entity plat, as defined in Section 67-1a-6.5[~~; and~~].

[~~(b)~~](2) The county legislative body, upon the lieutenant governor's issuance of a certificate of boundary action under Section 67-1a-6.5, shall:

[~~(i)~~](a) if the school district is or, in the case of dissolution, was located within the boundary of a single county, submit to the recorder of that county:

[~~(A)~~](i) the original:

[~~(I)~~](A) notice of an impending boundary action;

[~~(II)~~](B) certificate of boundary action; and

[~~(III)~~](C) except in the case of dissolution, approved final local entity plat; and

[~~(B)~~](ii) if applicable, a certified copy of the resolution approving the boundary action; or

[~~(ii)~~](b) if the school district is or, in the case of a dissolution, was located within the boundaries of more than a single county:

[~~(A)~~](i) submit to the recorder of one of those counties:

[~~(I)~~](A) the original of the documents listed in [~~Subsections (1)(b)(i)(A)(I), (II), and (III)~~] Subsection (2)(a)(i); and

[~~(II)~~](B) if applicable, a certified copy of the resolution approving the boundary action; and

[~~(B)~~](ii) submit to the recorder of each other county:

[~~(I)~~](A) a certified copy of the documents listed in [~~Subsections (1)(b)(i)(A)(I), (II), and (III)~~] Subsection (2)(a)(i); and

[~~(II)~~](B) if applicable, a certified copy of the resolution approving the boundary action.

[~~(2)~~](3)(a) Upon the lieutenant governor's issuance of the certificate under Section 67-1a-6.5,

the creation, consolidation, division, dissolution, or other change affecting the boundary of a new or [~~existing~~]reorganized new school district that was the subject of the action has legal effect.

(b)(i) As used in this Subsection [~~(2)(b)~~](3)(b), "affected area" means:

(A) in the case of the creation of a school district, the area within the school district's boundary;

(B) in the case of the consolidation of multiple school districts, the area within the boundary of each school district that is consolidated into another school district;

(C) in the case of the division of a school district, the area within the boundary of the school district created by the division; and

(D) in the case of an addition to an existing school district, the area added to the school district.

(ii) [~~The~~]For purposes of assessing property within the school district, the effective date of a boundary action, as that term is defined in Section 17-23-20, [~~for purposes of assessing property within the school district~~]is governed by Section 59-2-305.5.

[~~(iii) Until the documents listed in Subsection (1)(b) are recorded in the office of the recorder of each county in which the property is located, a school district may not levy or collect a property tax on property within the affected area~~]

(iii) A school district may not levy or collect a property tax on property within the affected area until the county legislative body records the documents listed in Subsection (2) in the office of the recorder of each county in which the property is located.

Section 6. Section 53G-3-301 is repealed and re-enacted to read:

53G-3-301. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this chapter.

(2) The process to create a new school district may be initiated:

(a) through a citizens' initiative petition in accordance with Section 53G-3-301.1;

(b) at the request of the local school board of the divided district or districts to be affected by the creation of the new district in accordance with Section 53G-3-301.2;

(c) at the request of a municipality within the boundaries of the school district in accordance with Section 53G-3-301.3; or

(d) at the request of interlocal agreement participants in accordance with Section 53G-3-301.4.

(3) Except as provided in Sections 53G-3-301.3 and 53G-3-301.4, a request or petition under Subsection (2) may not form a new school district unless the new school district boundaries:

(a) are contiguous;

(b) do not completely surround or otherwise completely geographically isolate a portion of the existing school district that is not part of the proposed new school district from the remaining part of that existing school district; or

(c) include the entire boundaries of each participant municipality or town.

(4) For each new school district, each county legislative body shall comply with the notice and plat filing requirements of Section 53G-3-203.

(5) If a new school district is created, the new district shall reimburse the reorganized new district's documented costs to study and implement the proposal in proportion to the student population of each school district.

(6) An inadequacy of a feasibility study, as defined in Section 53G-3-102, may not be the basis of a legal action or other challenge to:

(a) an election for voter approval of the creation of a new school district; or

(b) the creation of the new school district.

(7) Notwithstanding the creation of a new district as provided in this part:

(a) a new school district and a reorganized new school district may not begin to provide educational services to the area within the new school district and reorganized new school district until July 1 of the second calendar year following the local school board election date as described in Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4; and

(b) the divided school district shall continue, until the time specified in Subsection (7)(a), to provide educational services within the entire area covered by the divided school district.

(8) A new school district and a reorganized new school district shall enter into a shared services agreement that permits students residing in each new school district access to attend a school that serves students with disabilities within or outside of each school district boundary:

(a) for up to five years;

(b) for actual costs of services provided to students; and

(c) without affecting services provided to other students.

(9) The process described in Subsection (2) may not be initiated more than once during any two-year period.

Section 7. Section 53G-3-301.1 is enacted to read:

53G-3-301.1. Creation of a new school district -- Citizens' initiative petition -- Procedures to be followed.

(1) Citizens may initiate the creation of a new school district through a citizens' initiative petition in accordance with this section and Section 53G-3-301.

(2)(a) The county clerk shall ensure that an initiative petition submitted under this section is signed by registered voters residing within the geographical boundaries of the proposed new school district in an amount equal to at least 10% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) The sponsors of a petition submitted under Subsection (2)(a) shall file a petition with the clerk of each county in which any part of the proposed new school district is located.

(c) The petition sponsors shall ensure that the petition described in Subsection (2)(b):

(i) indicates the typed or printed name and current residence address of each governing board member making a request, or registered voter signing a petition, as the case may be;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the petition or request as sponsors, designating one as the contact sponsor, with the mailing address and telephone number of each.

(3)(a)(i) A signer of a petition described in Subsection (1) may withdraw or, once withdrawn, reinstate the signer's signature by filing a written statement requesting for withdrawal or reinstatement with the county clerk no later than three business days after the day on which the petition is filed with the county clerk.

(ii) A statement described in Subsection (3)(a)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate an individual's signature from a petition after receiving a timely, valid statement.

(b) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether the petition has been signed by the required number of registered voters residing within the geographical boundaries of the proposed new school district.

(4) Within 14 days after the day on which a petition described in Subsection (1) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the petition complies with Subsections (2) and (3), as applicable, and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(5)(a) If the county clerk fails to certify or reject a petition within the time specified in Subsection (4), the petition is considered to be certified.

(b) If the county clerk rejects a petition, the individual who submitted the petition may amend the petition to correct the deficiencies for which the county clerk rejected the petition and refile the petition.

(6) Within 10 days after the day on which a county legislative body receives a certified petition as described in Subsection (4) or (5), the county legislative body shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(7)(a) The county legislative body shall:

(i) provide for a 45-day public comment period to begin on the day the county legislative body receives the study under Subsection (6); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendations.

(b) Within five business days after the day on which the public comment period ends, the legislative body of each county with which a petition is filed shall vote on the creation of the proposed new school district.

(c) A county legislative body approves an initiative proposal if a majority of the members of the legislative body vote in favor of the proposal.

(8)(a) If each county legislative body approves an initiative proposal under this section, each county legislative body shall submit the proposal to the county clerk of each county described in Subsection (2)(b) for a vote:

(i) by the legal voters of each existing school district the proposal affects;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) A new school district is created if a majority of the legal voters within the proposed new school

district and each existing school district voting on the proposal vote in favor of the creation of the new district.

Section 8. Section 53G-3-301.2 is enacted to read:

53G-3-301.2. Creation of a new school district -- Request by a local school board of an existing district -- Procedures to be followed.

(1) A local school board of an existing district that the creation of a new school district would affect may initiate the process to create a new school district in accordance with this section and Section 53G-3-301.

(2)(a) To initiate the school district creation process under Subsection (1), the local school board shall file a request with the clerk of each county in which any part of the proposed new school district is located.

(b) The local school board shall ensure that the request described in Subsection (2)(a):

(i) indicates the typed or printed and current residence address of each governing board member making a request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including one as the contact sponsor, with the mailing address and telephone number of each.

(3) Within five business days after the day on which a request described in Subsection (2) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with Subsection (2) and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(4)(a) If the county clerk fails to certify or reject a request within the time specified in Subsection (3), the request is considered to be certified.

(b) If the county clerk rejects a request, the local school board that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request and refile the request.

(5)(a) Within 14 days after the day the local school board receives certification as described in Subsection (3) or (4), the local school board shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(b) For the year 2024, the local school board may use a feasibility study conducted before July 31, 2024, if:

(i) the feasibility study contains the determinations described in Section 53G-3-102; and

(ii) the local school board receives a report and recommendation regarding the feasibility study in a public meeting.

(6)(a) The local school board shall:

(i) provide for a 45-day public comment period to begin on the day the local school board receives the report under Subsection (5); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the report and recommendations.

(b) Within 14 days after the day on which the public comment period ends, the local school board shall vote on the creation of the proposed new school district.

(c) A local school board approves a proposal if a majority of the local school board members vote in favor of the proposal.

(d) Within five business days after the day on which the local school board approves a proposal, the local school board shall notify the legislative body of each county described in Subsection (2)(a).

(7)(a) The legislative body of each county described in Subsection (2) shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters of each existing school district the proposal affects;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) A new school district is created if a majority of the legal voters within the proposed new school district and each existing school district voting on the proposal vote in favor of the creation of the new district.

Section 9. Section 53G-3-301.3 is enacted to read:

53G-3-301.3. Creation of a new school district -- Request by a municipality -- Procedures to be followed.

(1) A municipality located within the boundaries of a school district may initiate the process to create a new school district in accordance with this section and Section 53G-3-301.

(2)(a) To initiate the school district creation process under Subsection (1), a municipality shall file a request with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing municipality shall ensure that the request described in Subsection (2)(a):

(i) indicates the typed or printed and current residence address of each governing board member making a request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including one as the contact sponsor, with the mailing address and telephone number of each.

(3) Within five business days after the day on which a request described in Subsection (2) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with Subsection (2) and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the municipality and each county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(4)(a) If the county clerk fails to certify or reject a request within the time specified in Subsection (3), the request is considered to be certified.

(b) If the county clerk rejects a request, the municipality that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request and refile the request.

(5)(a) Within 10 days after the day on which a municipal legislative body receives a certification as described in Subsection (3) or (4), a municipal legislative body shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(b) For the year 2024, the municipal legislative body may use a feasibility study that the municipal legislative body conducted before July 31, 2024, if:

(i) the feasibility study contains the determinations described in Section 53G-3-102; and

(ii) the municipality receives a report and recommendation regarding the feasibility study in a public meeting.

(6)(a) The municipal legislative body shall:

(i) provide for a 45-day public comment period to begin on the day the study is presented to the municipal legislative body under Subsection (5); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the municipal legislative body shall vote on the creation of the proposed new school district.

(c) A municipal legislative body approves a proposal if a majority of the municipal legislative body vote in favor of the proposal.

(d) Within five business days after the day on which the municipal legislative body approves a proposal, the municipal legislative body shall notify the legislative body of each county described in Subsection (2)(a).

(7)(a) The legislative body of each county described in Subsection (2) shall submit the proposal to the county clerk to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(b) A new school district is created if a majority of the legal voters within the proposed new school district boundaries voting on the proposal vote in favor of the creation of the new district.

(8) Nothing in this section prevents a municipality from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 10. Section 53G-3-301.4 is enacted to read:

53G-3-301.4. Creation of a new school district -- By interlocal agreement participants -- Procedures to follow.

(1) Interlocal agreement participants may initiate the process to create a new school district in accordance with this section and with Section 53G-3-301.

(2)(a) By a majority vote of each legislative body, the legislative body of a municipality, together with at least one other municipality, may enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district if:

(i) except as provided in Subsection (3), the new school district boundaries comply with the requirements of Section 53G-3-301; and

(ii) the combined population within the proposed new school district of the interlocal agreement

participants is at least 80% of the total population of the proposed new school district.

(b) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(c) Boundaries of a new school district created under this section may include:

(i) a portion of one or more existing school districts; and

(ii) a portion of the unincorporated area of a county.

(3)(a) As used in this Subsection (3), "municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area, as that term is defined in Section 53G-3-102.

(b) Notwithstanding Subsection 53G-3-301(3), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(i) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(ii)(A) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(B) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(c)(i) Notwithstanding Subsection 53G-3-301(3), interlocal agreement participants may submit a proposal to the legal voters residing within the proposed new school district boundaries to create a new school district in accordance with an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, as that term is defined in Section 53G-3-102, if:

(A) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(B) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a measure to create a new school district that includes the potential isolated area; and

(C) the municipality, to which the interlocal agreement participants submitted a request under Subsection (3)(c)(i)(B), did not respond to the written request within 30 days after the day on which the request was submitted.

(ii) Each municipality receiving a request under Subsection (3)(c)(i) shall hold at least two public hearings to allow input from the public and affected school districts regarding whether or not the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(iii) A municipal legislative body approves a proposal to enter into an interlocal agreement with respect to the potential isolated area if a majority of the municipal legislative body votes in favor of the proposal.

(d)(i) The isolated area described in this Subsection (3) shall, on July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302, become part of the municipality's school district.

(ii) The divided district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302.

(4)(a) To initiate the school district creation process under Subsection (1), interlocal agreement participants shall file a request with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing interlocal agreement participants shall ensure that the request described in Subsection (4)(a):

(i) indicates the typed or printed and current residence address of each governing board member making a request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including as the contact sponsor, with the mailing address and telephone number of each.

(5) Within five business days after the day on which a request described in Subsection (4)(a) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with this section and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the legislative bodies of the interlocal agreement participants; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6)(a) If the county clerk fails to certify or reject a request within the time specified in Subsection (5), the request is considered to be certified.

(b)(i) If the county clerk rejects a request, the interlocal agreement participants that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request, and refile the request.

(7)(a) Within 30 days after the day on which the contact sponsor receives certification as described in Subsection (5) or (6), the contact sponsor shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(b) For the year 2024, the interlocal agreement participants may use a feasibility study that interlocal agreement participants conducted before July 31, 2024, if:

(i) the feasibility study contains the determinations described in Section 53G-3-102; and

(ii) the legislative bodies of the interlocal agreement participants receive a report and recommendation regarding the feasibility study in a public meeting.

(8)(a) The legislative bodies of the interlocal agreement participants shall:

(i) provide for a 45-day public comment period to begin on the day on which the legislative bodies of the interlocal agreement participants receive the report under Subsection (7); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the legislative bodies of the interlocal agreement participants shall vote on the creation of the proposed new school district.

(c) The interlocal agreement participants approve a proposal if a majority of each of the legislative bodies of the interlocal agreement participants' members vote in favor of the proposal.

(9)(a) Within five business days after the day on which the interlocal agreement participants approve a proposal, the interlocal agreement participants shall notify the legislative body of each county described in Subsection (4)(a).

(b) The legislative body of each county described in Subsection (4) shall submit the proposal to the respective clerk of each county to be voted on:

(i) by the legal voters residing within the proposed new school district boundaries;

(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and

(iii) at the next regular general election or municipal general election, whichever is first.

(10) A new school district is created if a majority of the legal voters residing within the proposed new district boundaries voting on the proposal vote in favor of the creation of the new school district.

(11) Nothing in this section prevents an interlocal agreement participant from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 11. Section 53G-3-302 is repealed and re-enacted to read:

53G-3-302. Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1)(a) If voters approve a proposal to create a new school district under this part:

(i) the legislative body of the county in which the new school district and reorganized new school district are located shall hold an election at the next general election, or at a special election in accordance with Section 20A-1-204, to elect:

(A) members to the local school board of the divided school district whose terms are expiring;

(B) all members to the local school board of the new school district; and

(C) all members to the local school board of the reorganized new school district;

(ii) the new school district and reorganized new school district shall divide the assets and liabilities of the divided school district between the new school district and the reorganized new school district as provided in Subsection (3) and Section 53G-3-307;

(iii) transferred employees shall be treated in accordance with Sections 53G-3-205 and 53G-3-308;

(iv) an individual residing within the boundaries of a new school district or reorganized new school district at the time the new school district is created may, for six school years following the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the reorganized new school district if:

(A) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(B) the individual would have been eligible to enroll in that secondary school had the new school district not been created;

(v) the reorganized new school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing to each individual making an election under Subsection (1)(a)(iv) for each school year for which the individual makes the election; and

(vi) within one year following the date on which the new school district begins providing educational services, the superintendent of each affected school

district shall meet, together with the state superintendent, to determine if further boundary changes should take place in accordance with Section 53G-3-501.

(b)(i) The county legislative body shall stagger and adjust the terms of the initial members of the local school boards of the new school district and the reorganized new school district so that approximately half of the local school board is elected every two years following the allocation date in accordance with Section 20A-1-104.

(ii) The term of a member of the divided school district local school board terminates on January 1 of the year following the allocation date, or as determined under Subsection (1)(b)(i).

(iii) Notwithstanding the existence of the new school district local school board and the reorganized new school district local school board under Subsection (1)(a)(i), the divided school district local school board shall continue to function and exercise authority as a local school board until the allocation date to the extent necessary to continue to provide educational services to the entire divided school district.

(iv) An individual may simultaneously serve as or be elected to be a member of the local school board of a divided school district and a member of the local school board of:

(A) a new school district; or

(B) a reorganized new school district.

(2)(a) The divided school district local school board shall, within 60 days after the creation date:

(i) prepare an inventory of the divided school district's:

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; and

(ii) deliver a copy of the inventory to the Office of the Legislative Auditor General.

(b) Following the local school board election date described in Subsection (1)(a), the new school district and reorganized new school district local school boards shall:

(i) request a copy of the inventory described in Subsection (2)(a) from the Office of the Legislative Auditor General;

(ii) determine the allocation of the divided school district's assets and, except for indebtedness under Section 53G-3-307, liabilities of the new school district and reorganized new school district in accordance with Subsection (3);

(iii) prepare a written report detailing the allocation under Subsection (2)(b)(ii); and

(iv) deliver a copy of the written report to the Office of the Legislative Auditor General and the divided school district local board.

(c) The new school district and reorganized new school district local boards shall determine the allocation under Subsection (2)(b) and deliver the report required under Subsection (2)(b) on or before July 1 of the year following the school board election date, unless that deadline is extended by mutual agreement of the new school district and reorganized new school district local boards.

(3)(a) As used in this Subsection (3):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii)(A) "Discretionary asset or liability" means, except as provided in Subsection (3)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii)(A) "Nondiscretionary asset or liability" means, except as provided in Subsection (3)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided under Subsection (3)(c), the new school district and reorganized new school district local school boards shall allocate all assets and liabilities the divided school district owns on the allocation date, both tangible and intangible, real and personal as follows:

(i) a physical asset and associated property asset shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new school district and reorganized new school district in proportion to the student population of the school districts;

(iii) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve eligible state supported transportation routes serving schools within the new school district and the reorganized new school district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(iv) other vehicles shall be allocated:

(A) in proportion to the student population of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the new school district and reorganized new school district local school boards may allocate an asset or liability in a manner different than the allocation method specified in Subsection (3)(b).

(4)(a) As used in this Subsection (4):

(i) "New school district startup costs" means the costs and expenses incurred by a new school district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board general election or special election date described in Subsection (1)(a)(i).

(ii) "Reorganized new school district startup costs" means the costs and expenses that a reorganized new school district incurs to make necessary adjustments to deal with the impacts resulting from the creation of the new school district and to prepare to provide educational services within the reorganized new school district once the new school district begins providing educational services within the new school district.

(b) On or before January 1 of the year following the new local school board general election or special election date described in Subsection (1)(a)(i), the divided school district shall make the unassigned reserve funds from the divided school district's general fund available for the use of the reorganized new school district and the new school district in proportion to the student enrollment of each new school district.

(c) The divided school district may make additional funds available for the use of the reorganized new school district and the new school district beyond the amount specified in Subsection (4)(b) through an interlocal agreement.

(d) The following may access and spend money made available under Subsection (4)(b):

(i) the reorganized new school district local school board; and

(ii) the new school district local school board.

(e) The new school district and the reorganized new school district may use the money made available under Subsection (4)(b) to pay for the new school district and reorganized new school district startup costs.

(5)(a) The divided school district shall transfer title or, if applicable, partial title of property to the new school district and the reorganized new school district in accordance with the allocation of property as stated in the report under Subsection (2)(b)(iii).

(b) The divided school district shall complete each transfer of title or, if applicable, partial title to real property and vehicles on or before one calendar year from the date of the local school board election date described in Subsection (1)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the divided school district;

(ii) the local school board of the reorganized new school district; and

(iii) the local school board of the new school district.

(c) The divided school district shall complete the transfer of all property not included in Subsection (5)(b) on or before November 1 of the calendar year following the local school board election date described in Subsection (1)(a)(i).

(6) Except as provided in Subsection (5), a divided school district may not transfer or agree to transfer title to district property beginning on the day the new school district or reorganized new school district is created without the prior consent of:

(a) the legislative body of the municipality in which the boundaries for the new school district or reorganized new school district are entirely located; or

(b) the legislative bodies of all interlocal agreement participants in which the boundaries of the new school district or reorganized new school district are located.

Section 12. Section 53G-3-303 is amended to read:

53G-3-303. New school district property tax -- Limitations.

[~~(1)(a) A new school district created under Section 53G-3-302 may not impose a property tax prior to the fiscal year in which the new school district assumes responsibility for providing student instruction.~~]

[~~(b) The remaining school district retains authority to impose property taxes on the existing school district, including the territory of the new school district, until the fiscal year in which the new school district assumes responsibility for providing student instruction.~~]

(1) A new school district, created under Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4, and a reorganized new school district may not impose a property tax before the fiscal year in which the new school district and reorganized new school district assume responsibility for providing student instruction.

(2)(a) If at the time a new school district created [~~pursuant to Section 53G-3-302 assumes~~]in accordance with Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4 assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section 53F-8-301, the new school district's board may:

(i) discontinue the levy for the new school district;

(ii) impose a levy on the new school district as provided in Section 53F-8-301; or

(iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's local school board applies a levy to the new school district [~~pursuant to~~]in accordance with Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the [~~existing~~]divided school district [~~or districts~~]at the time of the vote to create the new school district.

Section 13. Section 53G-3-304 is amended to read:

53G-3-304. Property tax levies in new district and reorganized new district -- Distribution of property tax revenue.

[~~(1) Notwithstanding terms defined in Section 53G-3-102, as used in this section:~~]

[~~(a) "Divided school district" or "existing district" means a school district from which a new district is created.~~]

[~~(b) "New district" means a school district created under Section 53G-3-302 after May 10, 2011.~~]

[~~(c) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:~~]

[~~(i) the minimum basic tax rate imposed under Section 53F-2-301;~~]

[~~(ii) a debt service levy imposed under Section 11-14-310; or~~]

[~~(iii) a judgment levy imposed under Section 59-2-1330.~~]

[~~(d) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.~~]

[~~(e) "Remaining district" means an existing district after the creation of a new district.~~]

[~~(2)~~](1) As used in this section:

(a) "Property tax levy" means a property tax levy that a school district is authorized to impose, except:

(i) the minimum basic tax rate imposed under Section 53F-2-301;

(ii) a debt service levy imposed under Section 11-14-310;

(iii) a judgment levy imposed under Section 59-2-1330; or

(iv) charter school tax rate.

(b) "Qualifying taxable year" means the calendar year in which a new district begins to provide educational services.

(2) A new school district and [~~remaining~~]reorganized new school district shall continue to impose property tax levies that were imposed by the divided school district in the taxable year [~~prior to~~]before the qualifying taxable year.

(3) Except as provided in Subsection (6), a property tax levy that a new school district and [~~remaining~~]reorganized new school district are required to impose under Subsection (2) shall be set at a rate that:

(a) is uniform in the new school district and [~~remaining~~]reorganized new school district; and

(b) generates the same amount of revenue that was generated by the property tax levy within the divided school district in the taxable year [~~prior to~~]before the qualifying taxable year.

(4) The county treasurer of the county in which a property tax levy is imposed under Subsection (2) shall distribute revenues generated by the property tax levy to the new school district and [~~remaining~~]reorganized new school district in proportion to the percentage of the divided school district's enrollment on the October 1 [~~prior to~~]before the new school district [~~commencing~~]or reorganized new school district commences educational services that were enrolled in schools currently located in the new school district or [~~remaining~~]reorganized new school district.

(5) On or before March 31, a county treasurer shall distribute revenues generated by a property tax levy imposed under Subsection (2) in the [~~prior~~]previous calendar year to a new school district and [~~remaining~~]reorganized new school district as provided in Subsection (4).

(6)(a) Subject to the notice and public hearing requirements of Section 59-2-919, a new school district or [~~remaining~~]reorganized new school district may set a property tax rate higher than the rate required by Subsection (3), up to:

(i) the maximum rate, if any, allowed by law; or

(ii) the maximum rate authorized by voters for a voted local levy under Section 53F-8-301.

(b) The revenues generated by the portion of a property tax rate in excess of the rate required by Subsection (3) shall be retained by the district that imposes the higher rate.

Section 14. Section 53G-3-305 is amended to read:

53G-3-305. Redistricting -- Local school board membership.

(1) Upon the creation of a new school district in accordance with Section 53G-3-301.1, 53G-3-301.2, 53G-3-301.3, or 53G-3-301.4, the applicable legislative body shall redistrict the affected school districts in accordance with Section 20A-14-201.

(2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Section 15. Section 53G-3-306 is amended to read:

53G-3-306. Transfer of school property to new school district and reorganized new school district.

[~~(1)(a)(i) On July 1 of the year following the local school board elections for a new district created pursuant to a citizens' initiative petition or local school board request under Section 53G-3-301 and an existing district as provided in Section 53G-3-305, the local school board of the existing district shall convey and deliver to the local school board of the new district all school property which the new district is entitled to receive.~~]

[~~(ii) Any disagreements as to the disposition of school property shall be resolved by the county legislative body.~~]

[~~(iii) Subsection (1)(a)(ii) does not apply to disagreements between transition teams about the proper allocation of property under Subsection 53G-3-302(4).~~]

[~~(b) An existing district shall transfer property to a new district created under Section 53G-3-302 in accordance with Section 53G-3-302.~~]

[~~(2)~~](1) On July 1 of the second calendar year following the local school board elections for a new school district and a reorganized new school district under this part, the divided school district's local school board shall convey and deliver to the new school district local school board and the reorganized new school district local school board all school property to which each new school district is entitled.

(2) Title vests in the new local school board, including all rights, claims, and causes of action to or for the property, for the use or the income from the property, for conversion, disposition, or withholding of the property, or for any damage or injury to the property.

(3) The new local school board may bring and maintain actions to recover, protect, and preserve the property and rights of the district's schools and to enforce contracts.

Section 16. Section 53G-3-307 is amended to read:

53G-3-307. Tax to pay for indebtedness of divided school district.

[~~(1)(a) For a new district created prior to May 10, 2011, the local school boards of the remaining and new districts shall determine the portion of the divided school district's bonded indebtedness and other indebtedness for which the property within the new district remains subject to the levy of taxes to pay a proportionate share of the divided school district's outstanding indebtedness.~~]

[~~(b) The proportionate share of the divided school district's outstanding indebtedness for which property within the new district remains subject to the levy of taxes shall be calculated by determining the proportion that the total assessed valuation of the property within the new district bears to the total assessed valuation of the divided school district:~~]

[~~(i) in the year immediately preceding the date the new district was created; or~~]

[~~(ii) at a time mutually agreed upon by the local school boards of the new district and the remaining district.~~]

[~~(c) The agreement reflecting the determinations made under this Subsection (1) shall take effect upon being filed with the county legislative body and the state board.~~]

[~~(2)(a) Except as provided in Subsection (2)(b), the local school board of a new district created prior to May 10, 2011, shall levy a tax on property within the new district sufficient to pay the new district's proportionate share of the indebtedness determined under Subsection (1).~~]

[~~(b) If a new district has money available to pay the new district's proportionate share of the indebtedness determined under Subsection (1), the new district may abate a property tax to the extent of money available.~~]

[~~(3)~~](1) As used in Subsections [~~(4)~~](2) and [~~(5)~~](3), "outstanding bonded indebtedness" means debt owed for a general obligation bond or lease revenue bond issued by the divided school district:

(a) [~~prior to~~]before the creation of the new school district; or

(b) in accordance with a mutual agreement of the local school boards of the [~~remaining~~]reorganized new school district and [~~new districts~~]the new school district under Subsection [~~(6)~~](4).

[~~(4)~~](2) If a new school district is created on or after May 10, 2011, property within the new school district and the [~~remaining~~]reorganized new school district is subject to the levy of a tax to pay the divided school district's outstanding bonded indebtedness as provided in Subsection [~~(5)~~](3).

[~~(5)~~](3)(a) Except as provided in Subsection [~~(5)(b)~~](3)(b), the local school board of the new school district and the local school board of the [~~remaining~~]reorganized new school district shall impose a tax levy at a rate that:

(i) generates from the combined districts the amount of revenue required each year to meet the outstanding bonded indebtedness of the divided school district; and

(ii) is [~~uniform within~~]based on the adjusted assessed value of the new school district and [~~remaining~~]reorganized new school district.

(b) A local school board of a new school district may abate a property tax required to be imposed under Subsection [~~(5)(a)~~](3)(a) to the extent the new school district has money available to pay to the [~~remaining~~]reorganized new school district the amount of revenue that would be generated within the new school district from the tax rate specified in Subsection [~~(5)(a)~~](3)(a).

[~~(6)~~](4)(a) The local school boards of the [~~remaining~~]new school district and [~~new districts~~]the reorganized new school district shall determine by mutual agreement the disposition of bonds approved but not issued by the divided school district before the creation of the new school district and reorganized new school district based primarily

on the representation made to the voters at the time of the bond election.

(b) Before a determination is made under Subsection [~~(6)(a)~~](4)(a), a [~~remaining~~]reorganized new school district may not issue bonds approved but not issued before the creation of the new school district and reorganized new school district if property in the new school district would be subject to the levy of a tax to pay the bonds.

Section 17. Section 53G-3-308 is amended to read:

53G-3-308. Employees of a new district.

(1) Upon the [~~creation of a new district~~]day a new school district commences educational services:

(a) an employee of [~~an existing~~]a divided school district who is employed at a school that is transferred to [~~the~~]a new school district shall become an employee of the [~~new~~]district in which the school is located; and

(b) the local school board of [~~the~~]a new school district shall:

(i) have discretion in the hiring of all other staff;

(ii) adopt the personnel policies and practices of the [~~existing~~]divided school district, including salary schedules and benefits; and

(iii) enter into agreements with employees of the new school district, or [~~their~~]the new school district employees' representatives, that have the same terms as those in the negotiated agreements between the [~~existing~~]divided school district and [~~its~~]the divided school district's employees that existed on or before the creation date.

(2)(a) Subject to Subsection (2)(b), an employee of a school district from which a new district is created who becomes an employee of [~~the~~]a new school district shall retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

(b) Subsection (2)(a) applies to:

(i) employees of [~~an existing~~]a divided school district who are transferred to a new school district [~~pursuant to~~]as described in Subsection (1)(a); and

(ii) employees of a school district from which a new school district is created who are hired by the new school district within one year of the date of the creation of the new school district.

(3) An employee who is transferred to a new school district [~~pursuant to~~]in accordance with Subsection (1)(a) and is [~~rehired~~]hired by the [~~existing~~]reorganized new school district within one year of the date of the creation of the new school district shall, when [~~rehired~~]hired by the [~~existing~~]reorganized new school district, retain the same status as a career or provisional employee with accrued seniority and accrued benefits.

(4) Before the new school district commences educational services, the reorganized new school district's local school board may not dismiss an employee of the reorganized new school district who is transferred to the new school district for the sole reason that the employee becomes an employee of the new school district.

Section 18. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 527
S. B. 223
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

YOUTH FEE WAIVER AMENDMENTS

Chief Sponsor: Jen Plumb
House Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill requires that certain fees be waived for an individual who is under the age of 26 and is a foster child, former foster child, or individual experiencing homelessness.

Highlighted Provisions:

This bill:

- requires the Department of Health and Human Services to waive a fee for a certified copy of a birth certificate in certain circumstances;
- requires the Department of Public Safety to waive a fee for certain licenses, permits, and identification cards in certain circumstances;
- requires the Utah Board of Higher Education to create policies requiring an institution of higher education to waive transcript fees in certain circumstances; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-8-113, as renumbered and amended by Laws of Utah 2023, Chapter 306
53-3-105, as last amended by Laws of Utah 2023, Chapter 328
53B-7-101, as last amended by Laws of Utah 2022, Chapter 421

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-8-113 is amended to read:

26B-8-113. Fee waived for certified copy of birth certificate.

(1) Notwithstanding Sections 26B-1-209 and 26B-6-112, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b)(i) homeless, as defined in Section 26B-3-207;

(ii) a person who is homeless, as defined in Section 35A-5-302;

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(iv) a homeless service provider as verified by the Department of Workforce Services; [~~or~~]

(v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a[~~.~~]; or

(vi) under the age of 26 and:

(A) is in the custody of the Division of Child and Family Services; or

(B) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

(2) To satisfy the requirement in Subsections (1)(b)(i) through (1)(b)(v), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

(a) a homeless shelter;

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services;

(d) a homeless service provider as verified by the Department of Workforce Services; or

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Section 2. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

[~~The~~]Except as provided in Subsection (39), the following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205 is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214 is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23)(a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26)(a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27)(a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28)(a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30)(a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i)(A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years old; [~~or~~]

(ii) submits written verification that the individual is homeless, as defined in Section 26B-3-207, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 35A-16-305;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii)[~~.~~]; or

(iii) is under the age of 26 and submits written verification that the individual:

(A) is in the custody of the Division of Child and Family Services; or

(B) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

(31)(a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services;

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26B-8-113; or

(v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32)(a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26B-3-207, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26B-8-113.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

(37) An original driving privilege card application under Section 53-3-207 is $32.

(38) A renewal of a driving privilege card application under Section 53-3-207 is $23.

(39) A fee may not be charged for an original class D license application, original provisional license application for a class D license, or a learner permit application if the individual applying is:

(a) under the age of 26; and

(b) submits written verification that the individual:

(i) is in the custody of the Division of Child and Family Services; or

(ii) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

Section 3. Section 53B-7-101 is amended to read:

53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section:

(a) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(b) "Research university" means the University of Utah or Utah State University.

(2)(a) Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in Part 7, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after the board has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.

(4)(a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) Except as provided in Sections 53B-2a-117 and 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be

submitted in accordance with procedures prescribed by the Division of Facilities Construction and Management.

(5)(a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

(6)(a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.

(7) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.

(8)(a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) [~~The~~]Subject to Subsection (13), the board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

(9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.

(11) An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

(12) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

(13) The board shall create policies requiring an institution of higher education to waive transcript fees for a student who is under the age of 26 and:

(a) is homeless, as defined in Section 26B-3-207;

(b) is a person who is homeless, as defined in Section 35A-5-302;

(c) is an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(d) is a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a;

(e) is in the custody of the Division of Child and Family Services; or

(f) was in the custody of the Division of Child and Family Services but is no longer in the custody of the Division of Child and Family Services due to the individual's age.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 528
S. B. 225
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

SCHOOL DISTRICT BOUNDARY AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This bill modifies provisions related to school district boundaries.

Highlighted Provisions:

This bill:

- defines terms;
- requires school districts that serve residents of a single municipality to initiate boundary adjustment proceedings upon certain municipal annexation actions;
- exempts a school district from initiating a boundary adjustment in connection with municipal annexation if the affected school districts determine it is in the best interests of the municipality's residents to maintain the existing school district boundaries;
- requires certain school districts that construct a school within the boundaries of another school district to initiate boundary adjustment proceedings by a specified date in order to transfer the land to the school district; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-3-501, as last amended by Laws of Utah 2023, Chapter 116

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-3-501 is amended to read:

53G-3-501. Transfer of a portion of a school district -- Required boundary adjustments -- Local school board petition -- Elector petition -- Certification of petition signatures -- Removal of signature -- Transfer election.

(1) Part of a school district may be transferred to another district in one of the following ways:

(a) presentation to the county legislative body of each of the affected counties of a resolution requesting the transfer, approved by at least four-fifths of the members of the local school board of each affected school district;

(b) presentation to the county legislative body of each affected county of a petition requesting that the voters vote on the transfer, signed by a majority of the members of the local school board of each affected school district; [~~or~~]

(c) presentation to the county legislative body of each affected county of a petition requesting that the voters vote on the transfer, signed by 15% of the registered voters in each of the affected school districts within that county[~~.~~]; or

(d) for a boundary adjustment required under Subsection (2) or (3), submission to the county legislative body of each of the affected counties of a resolution requesting the transfer from the local school board of the school district that is required to initiate the boundary adjustment.

[~~(2)(a) If an annexation of property by a city would result in its residents being served by more than one school district, then the presidents of the affected local school boards shall meet within 60 days prior to the effective date of the annexation to determine whether it would be advisable to adjust school district boundaries to permit all residents of the expanded city to be served by a single school district.~~]

[~~(b) Upon conclusion of the meeting, the local school board presidents shall prepare a recommendation for presentation to their respective local school boards as soon as reasonably possible.~~]

[~~(c) The local school boards may then initiate realignment proceedings under Subsection (1)(a) or (b).~~]

[~~(d) If a local school board rejects realignment under Subsection (1)(a) or (b), the other local school board may initiate the following procedures by majority vote within 60 days of the vote rejecting realignment:~~]

[~~(i)(A) within 30 days after a vote to initiate these procedures, each local school board shall appoint one member to a boundary review committee; or~~]

[~~(B) if the local school board becomes deadlocked in selecting the appointee under Subsection (2)(d)(i)(A), the local school board's chair shall make the appointment or serve as the appointee to the review committee.~~]

[~~(ii) The two local school board-appointed members of the committee shall meet and appoint a third member of the committee.~~]

[~~(iii) If the two local school board-appointed members are unable to agree on the appointment of a third member within 30 days after both are appointed, the state superintendent shall appoint the third member.~~]

[~~(iv) The committee shall meet as necessary to prepare recommendations concerning resolution of the realignment issue, and shall submit the recommendations to the affected local school boards within six months after the appointment of the third member of the committee.~~]

[~~(v) If a majority of the members of each local school board accepts the recommendation of the committee, or accepts the recommendation after~~

~~amendment by the local school boards, then the accepted recommendation shall be implemented.~~]

[~~(vi) If the committee fails to submit its recommendation within the time allotted, or if one local school board rejects the recommendation, the affected local school boards may agree to extend the time for the committee to prepare an acceptable recommendation or either local school board may request the state board to resolve the question.~~]

[~~(vii) If the committee has submitted a recommendation which the state board finds to be reasonably supported by the evidence, the state board shall adopt the committee's recommendation.~~]

[~~(viii) The decision of the state board is final.~~]

(2)(a) As used in this Subsection (2):

(i) "Expansion area" means the area of land approved for annexation and located outside the boundaries of a specified school district.

(ii) "Municipality" means a city or town.

(iii) "Originating school district" means the school district whose boundaries an expansion area is located within prior to the boundary adjustment required under Subsection (2)(b).

(iv) "Specified school district" means a school district:

(A) that serves residents within a single municipality; and

(B) for which the municipality whose residents the school district serves enacts an ordinance in accordance with Title 10, Chapter 2, Part 4, Annexation, approving the annexation of an area of land located outside the boundaries of the school district.

(b) Notwithstanding any other provisions of this chapter and except as provided in Subsection (2)(c)(ii), the local school board of a specified school district shall initiate boundary adjustment proceedings under Subsection (1)(d):

(i) to request the expansion area to be transferred to the specified school district from the originating school district; and

(ii) by submitting the resolution requesting the transfer, as provided in Subsection (1)(d), within 60 days after the day on which the municipality enacts the ordinance approving annexation of the expansion area.

(c)(i) Before initiating the boundary adjustment required under Subsection (2)(b), the local school board presidents of the specified school district and the originating school district shall, within the timeframe described in Subsection (2)(b)(ii), meet to determine whether allowing the expansion area to remain within the boundaries of the originating school district is in the best interests of the municipality's residents.

(ii) The requirements of Subsection (2)(b) do not apply to a specified school district if, upon meeting under Subsection (2)(c)(i), the presidents of the local school boards mutually agree that allowing the expansion area to remain within the boundaries of the originating school district is in the best interests of the municipality's residents.

(3)(a) This Subsection (3) applies to a school district that:

(i) serves residents within a single municipality; and

(ii) in calendar year 2018, completed construction on a secondary school within an area of land located outside the boundaries of the school district.

(b) Notwithstanding any other provisions of this chapter, the local school board of a school district described in Subsection (3)(a) shall initiate boundary adjustment proceedings under Subsection (1)(d):

(i) to request the land described in Subsection (3)(a)(ii) to be transferred to the school district from the school district whose boundaries the land is located within; and

(ii) by submitting the resolution requesting the transfer, as provided in Subsection (1)(d), on or before June 1, 2024.

[~~(3)~~](4) If a registered voter petition is presented to the county legislative body under Subsection (1)(c):

(a) within three business days after the day on which the county legislative body receives the petition, the county legislative body shall provide the petition to the county clerk; and

(b) within 14 days after the day on which a county clerk receives a petition from the county legislative body, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002 to determine whether the petition satisfies the requirements of Subsection (1)(c) for a registered voter petition;

(ii) certify on the petition whether each name is that of a registered voter in one of the affected districts; and

(iii) deliver the certified petition to the county legislative body.

[~~(4)~~](5)(a) A voter who signs a registered voter petition under Subsection (1)(c) may have the voter's signature removed from the petition by, no later than three business days after the day on which the county legislative body provides the petition to the county clerk, submitting to the county clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection [~~(4)(a)~~](5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove an individual's signature from a petition after receiving a timely,

valid statement requesting removal of the signature.

[~~(5)~~](6)(a) The voters of each affected district shall vote on the transfer requested under Subsection (1)(b) or (c) at an election called for that purpose, which may be the next general election.

(b) The election shall be conducted and the returns canvassed as provided by election law.

(c) A transfer is effected only if a majority of votes cast by the voters in both the proposed transferor district and in the proposed transferee district are in favor of the transfer.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 529
S. B. 227
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

BOARDS AND COMMISSIONS REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions related to boards and commissions.

Highlighted Provisions:

This bill:

- clarifies that, when the governor makes an appointment to a board, commission, or similar entity that requires the advice and consent of the Senate, the governor's new appointment, reappointment, or vacancy appointment of an individual to that board, commission, or similar entity also requires the advice and consent of the Senate; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-18-104, as last amended by Laws of Utah 2020, Chapters 352, 373
7-1-203, as last amended by Laws of Utah 2020, Chapter 352
9-6-301, as repealed and reenacted by Laws of Utah 2020, Chapter 419
9-8-204, as last amended by Laws of Utah 2023, Chapter 160
11-68-301, as renumbered and amended by Laws of Utah 2023, Chapter 502
17B-2a-807.1, as last amended by Laws of Utah 2021, Chapter 239
17B-2a-807.2, as last amended by Laws of Utah 2022, Chapter 259
17B-2a-1005, as last amended by Laws of Utah 2020, Chapter 352
19-2-103, as last amended by Laws of Utah 2020, Chapters 352, 373
19-4-103, as last amended by Laws of Utah 2020, Chapters 352, 373
19-5-103, as last amended by Laws of Utah 2020, Chapters 352, 373
23A-2-301, as last amended by Laws of Utah 2023, Chapter 211 and renumbered and amended by Laws of Utah 2023, Chapter 103
23A-2-303, as last amended by Laws of Utah 2023, Chapter 211 and renumbered and amended by Laws of Utah 2023, Chapter 103
26B-1-409, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-412, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-413, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-426, as renumbered and amended by Laws of Utah 2023, Chapter 305
26B-1-429, as last amended by Laws of Utah 2023, Chapter 435 and renumbered and amended by Laws of Utah 2023, Chapter 305
32B-2-205, as last amended by Laws of Utah 2022, Chapter 447
35A-8-304, as last amended by Laws of Utah 2022, Chapter 427
35A-8-2103, as last amended by Laws of Utah 2020, Chapters 352, 365 and 373
40-6-4, as last amended by Laws of Utah 2020, Chapters 352, 373
51-7-16, as last amended by Laws of Utah 2020, Chapters 352, 373
51-10-206, as last amended by Laws of Utah 2020, Chapter 352
53B-2-104, as last amended by Laws of Utah 2021, Chapter 187
59-1-201, as last amended by Laws of Utah 2020, Chapters 352, 373
61-1-18.5, as last amended by Laws of Utah 2020, Chapter 352
61-2g-204, as last amended by Laws of Utah 2021, Chapter 259
63A-15-201, as last amended by Laws of Utah 2023, Chapter 16
63G-2-501, as last amended by Laws of Utah 2021, Chapter 344
63M-7-504, as last amended by Laws of Utah 2020, Chapters 352, 373
63M-7-902, as enacted by Laws of Utah 2023, Chapter 150
63N-7-201, as repealed and reenacted by Laws of Utah 2022, Chapter 362
78A-11-103, as last amended by Laws of Utah 2020, Chapters 352, 373
78A-11-103, as last amended by Laws of Utah 2023, Chapter 394
78B-22-402, as last amended by Laws of Utah 2021, Chapter 228
80-5-702, as enacted by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-18-104 is amended to read:

4-18-104. Conservation Commission created -- Composition -- Appointment -- Terms -- Compensation -- Attorney general to provide legal assistance.

(1) There is created within the department the Conservation Commission to perform the functions specified in this chapter.

(2) The Conservation Commission shall be composed of:

(a) 12 voting members, including:

(i) the director of the Extension Service at Utah State University or the director's designee;

(ii) the executive director of the Department of Natural Resources or the executive director's designee;

(iii) the executive director of the Department of Environmental Quality or the executive director's designee;

(iv) the president of the County Weed Supervisors Association or the president's designee; and

(v) seven district supervisors who provide district representation on the commission on a multicounty basis; and

(b) the commissioner or the commissioner's designee.

(3) If a district supervisor is unable to attend a meeting, the district supervisor may designate an alternate to serve in the place of the district supervisor for that meeting.

(4) None of the members described in Subsection (2)(a)(v) or (3) may serve on an association that represents a conservation district.

(5)(a) The commissioner or the commissioner's designee shall serve as chair of the Conservation Commission.

(b) The commissioner or the commissioner's designee may not vote except in the event of a tie, in which case the commissioner or the commissioner's designee shall cast the deciding vote.

(6) The members of the commission specified in Subsection (2)(a)(v) shall:

(a) be recommended by the commission to the governor; and

(b) be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(7)(a) Except as required by Subsection (7)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) A commission member may not be appointed to more than two consecutive terms.

(8) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(9) When the governor makes a new appointment or reappointment under Subsection (7)(a), or a vacancy appointment under Subsection (8), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(9)~~](10) Attendance of six voting members of the commission at a meeting constitutes a quorum.

[~~(10)~~](11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(11)~~](12) The commission shall keep a record of the commission's actions.

[~~(12)~~](13) The attorney general shall provide legal services to the commission upon request.

[~~(13)~~](14) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 7-1-203 is amended to read:

7-1-203. Board of Financial Institutions.

(1) There is created a Board of Financial Institutions consisting of the commissioner and the following five members, who shall be qualified by training and experience in their respective fields and shall be appointed or reappointed by the governor with the advice and consent of the Senate:

(a) one representative from the commercial banking business;

(b) one representative from the consumer lending, money services business, or escrow agency business;

(c) one representative from the industrial bank business;

(d) one representative from the credit union business; and

(e) one representative of the general public who, as a result of education, training, experience, or interest, is well qualified to consider economic and financial issues and data as they may affect the public interest in the soundness of the financial systems of this state.

(2) The commissioner shall act as chair.

(3)(a) A member of the board shall be a resident of this state.

(b) No more than three members of the board may be from the same political party.

(c) No more than two members of the board may be connected with the same financial institution or its holding company.

(d) A member may not participate in any matter involving an institution with which the member has a conflict of interest.

(4)(a) Except as required by Subsection (4)(b), the terms of office shall be four years each expiring on July 1.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member serves until the member's successor is appointed and qualified.

(d) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(5)(a) The board shall meet at least quarterly on a date the board sets.

(b) The commissioner or any two members of the board may call additional meetings.

(c) Four members constitute a quorum for the transaction of business.

(d) Actions of the board require a vote of a majority of those present when a quorum is present.

(e) A meeting of the board and records of the board's proceedings are subject to Title 52, Chapter 4, Open and Public Meetings Act, except for discussion of confidential information pertaining to a particular financial institution.

(6)(a) A member of the board shall, by sworn or written statement filed with the commissioner, disclose any position of employment or ownership interest that the member has with respect to any institution subject to the jurisdiction of the department.

(b) The member shall:

(i) file the statement required by this Subsection (6) when first appointed to the board; and

(ii) subsequently file amendments to the statement if there is any material change in the matters covered by the statement.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The board shall advise the commissioner with respect to:

(a) the exercise of the commissioner's duties, powers, and responsibilities under this title; and

(b) the organization and performance of the department and its employees.

(9) The board shall recommend annually to the governor and the Legislature a budget for the requirements of the department in carrying out its duties, functions, and responsibilities under this title.

Section 3. Section 9-6-301 is amended to read:

9-6-301. Utah Arts Advisory Board.

(1) There is created within the division the Utah Arts Advisory Board.

(2)(a) Except as provided in Subsections (2)(b) and (2)(f), the arts board shall consist of 13 members appointed or reappointed by the governor to four-year terms with the advice and consent of the Senate.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts board members are staggered so that approximately half of the arts board is appointed every two years.

(c) The governor shall appoint eight members who are working artists or administrators, one from each of the following areas:

(i) visual arts;

(ii) architecture or design;

(iii) literature;

(iv) music;

(v) folk, traditional, or native arts;

(vi) theater;

(vii) dance; and

(viii) media arts.

(d) The governor shall appoint three members who are knowledgeable in or appreciative of the arts.

(e) The governor shall appoint two members who have expertise in technology, marketing, business, or finance.

(f) Before January 1, 2026, the governor may appoint up to three additional members who are knowledgeable in or appreciative of the arts:

(i) for terms that shall end before January 1, 2026; and

(ii) in which case the arts board may consist of up to 16 members until January 1, 2026.

(3) The governor shall appoint members from the state at large with due consideration for geographical representation.

(4) When a vacancy occurs in the membership for any reason, the governor shall, within 30 days after the date on which the vacancy occurs, appoint a replacement [~~member for the unexpired term within one month from the time of the vacancy~~], with the advice and consent of the Senate, for the unexpired term.

(5) A simple majority of the voting members of the arts board constitutes a quorum for the transaction of business.

(6)(a) The arts board members shall elect a chair and a vice chair from among the arts board's members.

(b) The chair and the vice chair shall serve a term of two years.

(7) The arts board shall meet at least once each year.

(8) A member of the arts board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) Except as provided in Subsection (8), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

Section 4. Section 9-8-204 is amended to read:

9-8-204. Board of State History.

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed or reappointed by the governor with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, who are persons with an interest in the subject matter of the society's responsibilities.

(3)(a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term with the consent of the Senate~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 5. Section 11-68-301 is amended to read:

11-68-301. Board -- Membership -- Term -- Quorum -- Vacancies -- Duties.

(1) The authority is governed by a board.

(2) The board is composed of:

(a) the director of the Division of Facilities Construction and Management or the director's designee;

(b) the commissioner of agriculture and food or the commissioner's designee;

(c) two members, appointed by the president of the Senate:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(d) two members, appointed by the speaker of the House:

(i) who have business related experience; and

(ii) of whom only one may be a legislator, in accordance with Subsection (3)(e);

(e) five members, of whom only one may be a legislator, in accordance with Subsection (3)(e), appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

(i) two members who represent agricultural interests;

(ii) two members who have business related experience; and

(iii) one member who is recommended by the Utah Farm Bureau Federation;

(f) one member, appointed by the mayor of Salt Lake City with the advice and consent of the Senate, who is a resident of the neighborhood located adjacent to the fair park land;

(g) a representative of Salt Lake County, if Salt Lake County is party to an executed lease agreement with the authority; and

(h) a representative of the Days of '47 Rodeo.

(3)(a)(i) Except as provided in Subsection (3)(a)(ii), a board member appointed under Subsection (2)(c), (d), (e), or (f) shall serve a term that expires on the December 1 four years after the year that the board member was appointed.

(ii) In making appointments to the board, the president of the Senate, the speaker of the House, the governor, and the mayor of Salt Lake City shall ensure that the terms of approximately 1/4 of the appointed board members expire each year.

(b) Except as provided in Subsection (3)(c), appointed board members serve until their successors are appointed and qualified.

(c)(i) If an appointed board member is absent from three consecutive board meetings without excuse, that member's appointment is terminated, the position is vacant, and the individual who appointed the board member shall appoint a replacement in accordance with the procedures described in this section.

(ii) The president of the Senate, the speaker of the House of Representatives, the governor, or the mayor of Salt Lake City, as applicable, may remove an appointed member of the board at will.

(d) The president of the Senate, the speaker of the House of Representatives, the governor, or the mayor of Salt Lake City, as appropriate, shall fill [~~any~~]a vacancy that occurs on the board for any reason by appointing an individual in accordance with the procedures described in this section for the unexpired term of the vacated member.

(e) No more than a combined total of two legislators may be appointed under Subsections (2)(c), (d), and (e).

(4) The governor shall select the board's chair.

(5) A majority of the members of the board is a quorum for the transaction of business.

(6) The board may elect a vice chair and any other board offices.

(7) The board may create one or more subcommittees to advise the board on any issue related to the state fair park.

(8) A member described in Subsection (2)(e) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(9) The board shall create and may, as the board considers appropriate, modify:

(a) a business plan for the authority;

(b) a financial plan for the authority that projects self-sufficiency for the authority within two years; and

(c) a master plan for the fair park land.

Section 6. Section 17B-2a-807.1 is amended to read:

17B-2a-807.1. Large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1)(a) For a large public transit district, the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(b)(i) The governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making an appointment from nominations given from each region created in Subsection (1)(b)(ii).

(ii)(A) Before creation of a large public transit district, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) For a large public transit district created after January 1, 2019, the Legislature, after receiving and considering the proposal described in Subsection (1)(b)(ii)(A), shall designate three regions for nominating members to the board of trustees of the large public transit district, and further describe the process for nomination for appointment to the board of trustees.

(c) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(d) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(e) The compensation package for the board of trustees shall be determined by a local advisory council as described in Section 17B-2a-808.2.

(f)(i) Subject to Subsection (1)(f)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of the board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(2)(a) Subject to Subsections (3), (4), and (7), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(3) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(4) The first time the board of trustees is appointed under this section, the governor shall stagger the initial term of each of the members of the board of trustees as follows:

(a) one member of the board of trustees shall serve an initial term of two years;

(b) one member of the board of trustees shall serve an initial term of three years; and

(c) one member of the board of trustees shall serve an initial term of four years.

(5) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(6)(a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1) for the member creating the vacancy.

(b) A replacement board member shall serve for the remainder of the unexpired term, but may serve

an unlimited number of terms as provided in Subsection (2)(b).

(c) If the nominating officials under Subsection (1) do not nominate to fill the vacancy within 60 days, the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy.

(7) Each board of trustees member shall serve until a successor is duly nominated, appointed, and qualified, unless the board of trustees member is removed from office or resigns or otherwise leaves office.

Section 7. Section 17B-2a-807.2 is amended to read:

17B-2a-807.2. Existing large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1)(a)(i) For a large public transit district created before January 1, 2019, and except as provided in Subsection (7), the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(ii) For purposes of a large public transit district created before January 1, 2019, the nominating regions are as follows:

(A) a central region that is Salt Lake County;

(B) a southern region that is comprised of Utah County and the portion of Tooele County that is part of the large public transit district; and

(C) a northern region that is comprised of Davis County, Weber County, and the portion of Box Elder County that is part of the large public transit district.

(iii)(A) If a large public transit district created before January 1, 2019, annexes an additional county into the large public transit district pursuant to Section 17B-1-402, following the issuance of the certificate of annexation by the lieutenant governor, the political subdivisions making up the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) If a large public transit district created before January 1, 2019, has a change to the boundaries of the large public transit district, the Legislature, after receiving and considering the proposal described in Subsection (1)(a)(iii)(A), shall designate the three regions for nominating members to the board of trustees of the large public transit district.

(b)[~~(i)~~] Except as provided in Subsection (5), the governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:

[~~(A)~~](i) one appointment from individuals nominated from the central region as described in Subsection (2);

[~~(B)~~](ii) one appointment from individuals nominated from the southern region described in Subsection (3); and

[~~(C)~~](iii) one appointment from individuals nominated from the northern region described in Subsection (4).

(2) For the appointment from the central region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Salt Lake County; and

(b) three individuals nominated by the mayor of Salt Lake County, with approval of the Salt Lake County council.

(3) For the appointment from the southern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Utah County;

(b) two individuals nominated by the county commission of Utah County; and

(c) one individual nominated by the county commission of Tooele County.

(4) For the appointment from the northern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) one individual nominated by the council of governments of Davis County;

(b) one individual nominated by the council of governments of Weber County;

(c) one individual nominated by the county commission of Davis County;

(d) one individual nominated by the county commission of Weber County; and

(e) one individual nominated by the county commission of Box Elder County.

(5)(a) The nominating counties described in Subsections (2) through (4) shall ensure that nominations are submitted to the governor no later than June 1 of each respective nominating year.

(b) If the governor fails to appoint one of the individuals nominated as described in Subsection (2), (3), or (4), as applicable, within 60 days of the nominations, the following appointment procedures apply:

(i) for an appointment for the central region, the Salt Lake County council shall appoint an individual, with [~~confirmation by~~]the advice and consent of the Senate;

(ii) for an appointment for the southern region, the Utah County commission shall appoint an individual, in consultation with the Tooele County commission, with [~~confirmation by the~~]the advise and consent of the Senate; and

(iii) for an appointment for the northern region, the Davis County commission and the Weber County commission, collectively, and in

consultation with the Box Elder County commission, shall appoint an individual, with [~~confirmation by~~]the advice and consent of the Senate.

(6)(a) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(b) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(c) The compensation package for the board of trustees shall be determined by the local advisory council as described in Section 17B-2a-808.2.

(d)(i) Subject to Subsection (6)(d)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of a board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(7)(a) Subject to Subsection (8), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(c) Notwithstanding Subsection (2), (3), or (4), as applicable, at the expiration of a term of a member of the board of trustees, if the respective nominating entities and individuals for the respective region described in Subsection (2), (3), or (4), unanimously agree to retain the existing member of the board of trustees, the respective nominating individuals or bodies described in Subsection (2), (3), or (4) are not required to make nominations to the governor, and the governor may, with the advice and consent of the Senate, reappoint the existing member to the board of trustees.

(8) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(9) Subject to Subsections (7) and (8), a board of trustees of a large public transit district that is in place as of February 1, 2019, may remain in place.

(10) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(11)(a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (1)(b), Subsection (2), (3), or (4), and, if applicable, Subsection (5), for the respective member of the board of trustees creating the vacancy.

(b) If a vacancy occurs on the board of trustees of a large public transit district, the respective nominating region shall nominate individuals to the governor as described in this section within 60 days after the date the vacancy occurs.

(c) If the respective nominating region does not nominate to fill the vacancy within 60 days, the governor shall, with the advice and consent of the Senate, appoint an individual to fill the vacancy.

(d) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (7)(b).

Section 8. Section 17B-2a-1005 is amended to read:

17B-2a-1005. Water conservancy district board of trustees -- Selection of members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

(1) Members of the board of trustees for a water conservancy district shall be:

(a) elected in accordance with:

(i) the petition or resolution that initiated the process of creating the water conservancy district; and

(ii) Section 17B-1-306;

(b) appointed in accordance with Subsection (2); or

(c) elected under Subsection (4)(a).

(2)(a) If the members of the board of trustees are appointed, within 45 days after the day on which a water conservancy district is created as provided in Section 17B-1-215, the board of trustees shall be appointed as provided in this Subsection (2).

(b) For a district located entirely within the boundaries of a single county, the county legislative body of that county shall appoint each trustee.

(c)(i) For a district located in more than a single county, the governor, with the advice and consent of the Senate, shall appoint each trustee from nominees submitted as provided in this Subsection (2)(c).

(ii)(A) Except as provided in Subsection (2)(c)(ii)(B), in a division composed solely of municipalities, the legislative body of each municipality within the division shall submit two nominees per trustee.

(B) The legislative body of a municipality may submit fewer than two nominees per trustee if the legislative body certifies in writing to the governor that the legislative body is unable, after reasonably diligent effort, to identify two nominees who are willing and qualified to serve as trustee.

(iii)(A) Except as provided in Subsection (2)(c)(iii)(B), in all other divisions, the county legislative body of the county in which the division is located shall submit three nominees per trustee.

(B) The county legislative body may submit fewer than three nominees per trustee if the county legislative body certifies in writing to the governor

that the county legislative body is unable, after reasonably diligent effort, to identify three nominees who are willing and qualified to serve as trustee.

(iv) If a trustee represents a division located in more than one county, the county legislative bodies of those counties shall collectively compile the list of three nominees.

(v) For purposes of this Subsection (2)(c), a municipality that is located in more than one county shall be considered to be located in only the county in which more of the municipal area is located than in any other county.

(d) In districts where substantial water is allocated for irrigated agriculture, one trustee appointed in that district shall be a person who owns irrigation rights and uses those rights as part of that person's livelihood.

(3)(a) The board shall give written notice of the upcoming vacancy in an appointed trustee's term and the date when the trustee's term expires to the county legislative body in single county districts and to the nominating entities and the governor in all other districts:

(i) if the upcoming vacancy is in a single county district, at least 90 days before the expiration of the trustee's term; and

(ii) for all other districts, on or before October 1 before the expiration of the appointed trustee's term.

(b)(i) Upon receipt of the notice of the expiration of an appointed trustee's term or notice of a vacancy in the office of an appointed trustee, the county or municipal legislative body, as the case may be, shall nominate candidates to fill the unexpired term of office pursuant to Subsection (2).

(ii) If a trustee is to be appointed by the governor and the entity charged with nominating candidates has not submitted the list of nominees within 90 days after service of the notice, the governor shall, with the advice and consent of the Senate, make the appointment from qualified candidates without consultation with the county or municipal legislative body.

(iii) If the governor fails to appoint, the incumbent shall continue to serve until a successor is appointed and qualified.

(iv) Appointment by the governor vests in the appointee, upon qualification, the authority to discharge the duties of trustee, subject only to the advice and consent of the Senate.

(c) Each trustee shall hold office during the term for which appointed and until a successor is duly appointed and has qualified.

(4)(a) Members of the board of trustees of a water conservancy district shall be elected, if, subject to Subsection (4)(b):

(i) two-thirds of all members of the board of trustees of the water conservancy district vote in favor of changing to an elected board; and

(ii) the legislative body of each municipality or county that appoints a member to the board of trustees adopts a resolution approving the change to an elected board.

(b) A change to an elected board of trustees under Subsection (4)(a) may not shorten the term of any member of the board of trustees serving at the time of the change.

(5) The board of trustees of a water conservancy district shall consist of:

(a) except as provided in Subsection (5)(b), not more than 11 persons who are residents of the district; or

(b) if the district consists of five or more counties, not more than 21 persons who are residents of the district.

(6) If an elected trustee's office is vacated, the vacated office shall be filled in accordance with Section 17B-1-303.

(7) Each trustee shall furnish a corporate surety bond at the expense of the district, conditioned for the faithful performance of duties as a trustee.

(8)(a) The board of trustees of a water conservancy district may:

(i) make and enforce all reasonable rules and regulations for the management, control, delivery, use, and distribution of water;

(ii) withhold the delivery of water with respect to which there is a default or delinquency of payment;

(iii) provide for and declare a forfeiture of the right to the use of water upon the default or failure to comply with an order, contract, or agreement for the purchase, lease, or use of water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has been declared;

(iv) allocate and reallocate the use of water to lands within the district;

(v) provide for and grant the right, upon terms, to transfer water from lands to which water has been allocated to other lands within the district;

(vi) create a lien, as provided in this part, upon land to which the use of water is transferred;

(vii) discharge a lien from land to which a lien has attached; and

(viii) subject to Subsection (8)(b), enter into a written contract for the sale, lease, or other disposition of the use of water.

(b)(i) A contract under Subsection (8)(a)(viii) may provide for the use of water perpetually or for a specified term.

(ii)(A) If a contract under Subsection (8)(a)(viii) makes water available to the purchasing party without regard to actual taking or use, the board may require that the purchasing party give security

for the payment to be made under the contract, unless the contract requires the purchasing party to pay for certain specified annual minimums.

(B) The security requirement under Subsection (8)(b)(ii)(A) in a contract with a public entity may be met by including in the contract a provision for the public entity's levy of a special assessment to make annual payments to the district.

Section 9. Section 19-2-103 is amended to read:

19-2-103. Members of board -- Appointment -- Terms -- Organization -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is not connected with industry;

(B) is an expert in air quality matters; and

(C) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mining industry;

(iv) one representative from the fuels industry;

(v) one representative from the manufacturing industry;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about air pollution matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B).

(3) No more than five of the appointed members of the board shall belong to the same political party.

(4) A majority of the members of the board may not derive any significant portion of their income from persons subject to permits or orders under this chapter.

(5)(a) Members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(6) A member may serve more than one term.

(7) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(8) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(9) The board shall elect annually a chair and a vice chair from its members.

(10)(a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Three days' notice shall be given to each member of the board before a meeting.

(11) Five members constitute a quorum at a meeting, and the action of a majority of members present is the action of the board.

(12) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 10. Section 19-4-103 is amended to read:

19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who is a Utah-licensed professional engineer with expertise in civil or sanitary engineering;

(ii) two representatives who are elected officials from a municipal government that is involved in the management or operation of a public water system;

(iii) one representative from an improvement district, a water conservancy district, or a metropolitan water district;

(iv) one representative from an entity that manages or operates a public water system;

(v) one representative from:

(A) the state water research community; or

(B) an institution of higher education that has comparable expertise in water research to the state water research community;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about drinking water and public water systems, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) represent different geographical areas within the state insofar as practicable;

(c) be a resident of Utah;

(d) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(e) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(3) No more than five appointed members of the board shall be from the same political party.

(4)(a) As terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(c)(i) Notwithstanding Subsection (4)(a), the term of a board member who is appointed before May 1, 2013, shall expire on April 30, 2013.

(ii) On May 1, 2013, the governor shall appoint or reappoint board members in accordance with this section.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) When the governor makes a new appointment or reappointment under Subsection (4)(a), or a vacancy appointment under Subsection (5), the governor's new appointment, reappointment, or vacancy appointment shall be with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(6)~~](7) Each member holds office until the expiration of the member's term, and until a successor is appointed, but not for more than 90 days after the expiration of the term.

[~~(7)~~](8) The board shall elect annually a chair and a vice chair from its members.

[~~(8)~~](9)(a) The board shall meet at least quarterly.

(b) Special meetings may be called by the chair upon the chair's own initiative, upon the request of the director, or upon the request of three members of the board.

(c) Reasonable notice shall be given to each member of the board before any meeting.

[~~(9)~~](10) Five members constitute a quorum at any meeting and the action of the majority of the members present is the action of the board.

[~~(10)~~](11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 11. Section 19-5-103 is amended to read:

19-5-103. Water Quality Board -- Members of board -- Appointment -- Terms -- Organization -- Meetings -- Per diem and expenses.

(1) The board consists of the following nine members:

(a) the following non-voting member, except that the member may vote to break a tie vote between the voting members:

(i) the executive director; or

(ii) an employee of the department designated by the executive director; and

(b) the following eight voting members, who shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies:

(i) one representative who:

(A) is an expert and has relevant training and experience in water quality matters;

(B) is a Utah-licensed physician, a Utah-licensed professional engineer, or a scientist with relevant training and experience; and

(C) represents local and special service districts in the state;

(ii) two government representatives who do not represent the federal government;

(iii) one representative from the mineral industry;

(iv) one representative from the manufacturing industry;

(v) one representative who represents agricultural and livestock interests;

(vi) one representative from the public who represents:

(A) an environmental nongovernmental organization; or

(B) a nongovernmental organization that represents community interests and does not represent industry interests; and

(vii) one representative from the public who is trained and experienced in public health.

(2) A member of the board shall:

(a) be knowledgeable about water quality matters, as evidenced by a professional degree, a professional accreditation, or documented experience;

(b) be a resident of Utah;

(c) attend board meetings in accordance with the attendance rules made by the department under Subsection 19-1-201(1)(d)(i)(A); and

(d) comply with all applicable statutes, rules, and policies, including the conflict of interest rules made by the department under Subsection 19-1-201(1)(d)(i)(B) and the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(3) No more than five of the appointed members may be from the same political party.

(4) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term with the advice and consent of the Senate~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5)(a) A member shall be appointed for a term of four years and is eligible for reappointment.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

(6) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, not to exceed 90 days after the formal expiration of the term.

(7) The board shall:

(a) organize and annually select one of its members as chair and one of its members as vice chair;

(b) hold at least four regular meetings each calendar year; and

(c) keep minutes of its proceedings which are open to the public for inspection.

(8) The chair may call a special meeting upon the request of three or more members of the board.

(9) Each member of the board and the director shall be notified of the time and place of each meeting.

(10) Five members of the board constitute a quorum for the transaction of business, and the action of a majority of members present is the action of the board.

(11) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 12. Section 23A-2-301 is amended to read:

23A-2-301. Wildlife Board created.

(1) There is created a Wildlife Board that consists of seven members appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2)(a) In addition to the requirements of Section 79-2-203, the members of the Wildlife Board shall have expertise or experience in at least one of the following areas:

(i) wildlife management or biology;

(ii) habitat management, including range or aquatic;

(iii) business, including knowledge of private land issues; and

(iv) economics, including knowledge of recreational wildlife uses.

(b) At least one member of the Wildlife Board shall represent each of the areas of expertise under Subsection (2)(a).

(3)(a) The governor shall select a board member from a list of nominees submitted by the nominating committee pursuant to Section 23A-2-302.

(b) No more than two members shall be from a single wildlife region described in Subsection 23A-2-303(1).

(c) The governor may request an additional list of at least two nominees from the nominating committee if the initial list of nominees for a given position is unacceptable.

(d)(i) If the governor fails to appoint a board member within 60 days after receipt of the initial or additional list, the nominating committee shall make an interim appointment by majority vote.

(ii) The interim board member shall serve until the matter is resolved by the nominating committee and the governor or until the board member is replaced pursuant to this chapter.

(4)(a) Except as required by Subsection (4)(b), as terms of current board members expire, the governor shall appoint a new member or reappointed member to a six-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that:

(i) the terms of board members are staggered so that approximately one-third of the Wildlife Board is appointed every two years; and

(ii) members serving from the same region have staggered terms.

(c) If a vacancy occurs, the nominating committee shall submit at least two names, as provided in Subsection 23A-2-302(4), to the governor and the governor shall appoint a replacement for the unexpired term.

(d) A board member may serve only one term unless the board member:

(i) is among the first board members appointed to serve four years or less; or

(ii) filled a vacancy under Subsection (4)(c) for four years or less.

(5) When the governor makes a new appointment or reappointment under Subsection (4)(a), or a vacancy appointment under Subsection (4)(c), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(5)~~](6)(a) The Wildlife Board shall elect a chair and a vice chair from the Wildlife Board's membership.

(b) Four members of the Wildlife Board constitutes a quorum.

(c) The director shall act as secretary to the Wildlife Board, but is not a voting member of the Wildlife Board.

[~~(6)~~](7)(a) The Wildlife Board shall hold a sufficient number of public meetings each year to expeditiously conduct the Wildlife Board's business.

(b) Meetings may be called by the chair upon five days notice or upon shorter notice in emergency situations.

(c) Meetings may be held at the Salt Lake City office of the division or elsewhere as determined by the Wildlife Board.

[~~(7)~~](8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(8)~~](9)(a) A member of the Wildlife Board shall complete an orientation course to assist the member in the performance of the duties of the member's office.

(b) The department shall provide the course required under Subsection [~~(8)(a)~~](9)(a).

[~~(9)~~](10) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 13. Section 23A-2-303 is amended to read:

23A-2-303. Regional advisory councils created.

(1) There are created five regional advisory councils that consist of 12 to 15 members each from the wildlife region whose boundaries are established for administrative purposes by the division.

(2) The members shall include individuals who represent the following groups and interests:

(a) agriculture;

(b) sportsmen;

(c) nonconsumptive wildlife;

(d) locally elected public officials;

(e) federal land agencies; and

(f) the public at large.

(3) The executive director, in consultation with the director, shall select the members from a list of nominees submitted by the respective interest group or agency.

(4) The regional advisory councils shall:

(a) hear broad input, including recommendations, biological data, and information regarding the effects of wildlife;

(b) gather information from staff, the public, and government agencies; and

(c) make recommendations to the Wildlife Board in an advisory capacity.

(5)(a) Except as required by Subsection (5)(b), a member shall serve a four-year term.

(b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(7) The councils shall determine:

(a) the time and place of meetings; and

(b) a procedural matter not specified in this chapter.

(8) Members of the councils shall complete an orientation course described in Subsection [~~23A-2-301(8)~~]23A-2-301(9).

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 14. Section 26B-1-409 is amended to read:

26B-1-409. Utah Digital Health Service Commission -- Creation -- Membership -- Duties.

(1) As used in this section:

(a) "Commission" means the Utah Digital Health Service Commission created in this section.

(b) "Digital health service" means the electronic transfer, exchange, or management of related data for diagnosis, treatment, consultation, educational, public health, or other related purposes.

(2) There is created within the department the Utah Digital Health Service Commission.

(3) The governor shall appoint or reappoint 13 members to the commission with the advice and consent of the Senate, as follows:

(a) a physician who is involved in digital health service;

(b) a representative of a health care system or a licensed health care facility as defined in Section 26B-2-201;

(c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues;

(d) a member of the public who is not involved with digital health service;

(e) a nurse who is involved in digital health service; and

(f) eight members who fall into one or more of the following categories:

(i) individuals who use digital health service in a public or private institution;

(ii) individuals who use digital health service in serving medically underserved populations;

(iii) nonphysician health care providers involved in digital health service;

(iv) information technology professionals involved in digital health service;

(v) representatives of the health insurance industry;

(vi) telehealth digital health service consumer advocates; and

(vii) individuals who use digital health service in serving mental or behavioral health populations.

(4)(a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.

(b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

(c) Seven commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.

(5)(a) Except as provided in Subsection (5)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.

(c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

(d) Notwithstanding Subsection (5)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

(e) When a vacancy occurs in membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall provide informatics staff support to the commission.

(8) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

(9) The commission shall:

(a) advise and make recommendations on digital health service issues to the department and other state entities;

(b) advise and make recommendations on digital health service related patient privacy and information security to the department;

(c) promote collaborative efforts to establish technical compatibility, uniform policies, privacy features, and information security to meet legal, financial, commercial, and other societal requirements;

(d) identify, address, and seek to resolve the legal, ethical, regulatory, financial, medical, and technological issues that may serve as barriers to digital health service;

(e) explore and encourage the development of digital health service systems as a means of reducing health care costs and increasing health care quality and access, with emphasis on assisting rural health care providers and special populations with access to or development of electronic medical records;

(f) seek public input on digital health service issues; and

(g) in consultation with the department, advise the governor and Legislature on:

(i) the role of digital health service in the state;

(ii) the policy issues related to digital health service;

(iii) the changing digital health service needs and resources in the state; and

(iv) state budgetary matters related to digital health service.

Section 15. Section 26B-1-412 is amended to read:

26B-1-412. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

(1) The definitions in Section 26B-2-201 apply to this section.

(2)(a) The Health Facility Committee shall consist of 12 members appointed by the governor in consultation with the executive director.

(b) The appointed members shall be knowledgeable about health care facilities and issues.

(3) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) one representative of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one licensed architect or engineer with expertise in health care facilities;

(i) one representative of assisted living facilities licensed under Chapter 2, Part 2, Health Care Facility Licensing and Inspection;

(j) two consumers, one of whom has an interest in or expertise in geriatric care; and

(k) one representative from either a home health care provider or a hospice provider.

(4)(a) Except as required by Subsection (4)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the advice and consent of the Senate.

(d)(i) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less.

(ii) Notwithstanding Subsection (4)(d)(i), a member may continue to serve as a member until the member is replaced.

(e) The committee shall annually elect from the committee's membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Six members constitute a quorum.

(h) A vote of the majority of the members present constitutes action of the committee.

(5) The committee shall:

(a) with the concurrence of the department, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for the licensing of health-care facilities; and

(ii) requiring the submission of architectural plans and specifications for any proposed new health-care facility or renovation to the department for review;

(b) approve the information for applications for licensure pursuant to Section 26B-2-207;

(c) advise the department as requested concerning the interpretation and enforcement of the rules established under Chapter 2, Part 2, Health Care Facility Licensing and Inspection; and

(d) advise, consult, cooperate with, and provide technical assistance to other agencies of the state and federal government, and other states and affected groups or persons in carrying out the purposes of Chapter 2, Part 2, Health Care Facility Licensing and Inspection.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 16. Section 26B-1-413 is amended to read:

26B-1-413. Health Data Committee -- Purpose, powers, and duties of the committee -- Membership -- Terms -- Chair -- Compensation.

(1) The definitions in Section 26B-8-501 apply to this section.

(2)(a) There is created within the department the Health Data Committee.

(b) The purpose of the committee is to direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues.

(3) The committee shall:

(a) with the concurrence of the department and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, develop and adopt by rule, following public hearing and comment, a health data plan that shall among its elements:

(i) identify the key health care issues, questions, and problems amenable to resolution or improvement through better data, more extensive or careful analysis, or improved dissemination of health data;

(ii) document existing health data activities in the state to collect, organize, or make available types of data pertinent to the needs identified in Subsection (3)(a)(i);

(iii) describe and prioritize the actions suitable for the committee to take in response to the needs identified in Subsection (3)(a)(i) in order to obtain or to facilitate the obtaining of needed data, and to encourage improvements in existing data collection, interpretation, and reporting activities, and indicate how those actions relate to the activities identified under Subsection (3)(a)(ii);

(iv) detail the types of data needed for the committee's work, the intended data suppliers, and the form in which such data are to be supplied, noting the consideration given to the potential alternative sources and forms of such data and to the estimated cost to the individual suppliers as well as to the department of acquiring these data in the proposed manner; the plan shall reasonably demonstrate that the committee has attempted to maximize cost-effectiveness in the data acquisition approaches selected;

(v) describe the types and methods of validation to be performed to assure data validity and reliability;

(vi) explain the intended uses of and expected benefits to be derived from the data specified in Subsection (3)(a)(iv), including the contemplated tabulation formats and analysis methods; the benefits described shall demonstrably relate to one or more of the following:

(A) promoting quality health care;

(B) managing health care costs; or

(C) improving access to health care services;

(vii) describe the expected processes for interpretation and analysis of the data flowing to the committee; noting specifically the types of expertise and participation to be sought in those processes; and

(viii) describe the types of reports to be made available by the committee and the intended audiences and uses;

(b) have the authority to collect, validate, analyze, and present health data in accordance with the plan while protecting individual privacy through the use of a control number as the health data identifier;

(c) evaluate existing identification coding methods and, if necessary, require by rule adopted in accordance with Subsection (4), that health data suppliers use a uniform system for identification of patients, health care facilities, and health care

providers on health data they submit under this section and Chapter 8, Part 5, Utah Health Data Authority; and

(d) advise, consult, contract, and cooperate with any corporation, association, or other entity for the collection, analysis, processing, or reporting of health data identified by control number only in accordance with the plan.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee , with the concurrence of the department, may adopt rules to carry out the provisions of this section and Chapter 8, Part 5, Utah Health Data Authority.

(5)(a) Except for data collection, analysis, and validation functions described in this section, nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to authorize or permit the committee to perform regulatory functions which are delegated by law to other agencies of the state or federal governments or to perform quality assurance or medical record audit functions that health care facilities, health care providers, or third party payors are required to conduct to comply with federal or state law.

(b) The committee may not recommend or determine whether a health care provider, health care facility, third party payor, or self-funded employer is in compliance with federal or state laws including federal or state licensure, insurance, reimbursement, tax, malpractice, or quality assurance statutes or common law.

(6)(a) Nothing in this section or in Chapter 8, Part 5, Utah Health Data Authority, shall be construed to require a data supplier to supply health data identifying a patient by name or describing detail on a patient beyond that needed to achieve the approved purposes included in the plan.

(7) No request for health data shall be made of health care providers and other data suppliers until a plan for the use of such health data has been adopted.

(8)(a) If a proposed request for health data imposes unreasonable costs on a data supplier, due consideration shall be given by the committee to altering the request.

(b) If the request is not altered, the committee shall pay the costs incurred by the data supplier associated with satisfying the request that are demonstrated by the data supplier to be unreasonable.

(9) After a plan is adopted as provided in Section 26B-8-504, the committee may require any data supplier to submit fee schedules, maximum allowable costs, area prevailing costs, terms of contracts, discounts, fixed reimbursement arrangements, capitations, or other specific arrangements for reimbursement to a health care provider.

(10)(a) The committee may not publish any health data collected under Subsection (9) that would disclose specific terms of contracts, discounts, or fixed reimbursement arrangements, or other specific reimbursement arrangements between an individual provider and a specific payer.

(b) Nothing in Subsection (9) shall prevent the committee from requiring the submission of health data on the reimbursements actually made to health care providers from any source of payment, including consumers.

(11) The committee shall be composed of 15 members.

(12)(a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

(b)(i) Fourteen members shall be appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Subsection (13) and[~~in accordance with~~] Title 63G, Chapter 24, Part 2, Vacancies.

(ii) No more than seven members of the committee appointed by the governor may be members of the same political party.

(13) The members of the committee appointed under Subsection (12)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined in Section 26B-2-201, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to the business's employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that the entity has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in or experienced with the collection, use, and analysis of health care data.

(14)(a) Except as required by Subsection (14)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (14)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after the members' terms expire until replaced.

(15) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate, and in accordance with Subsection (13) and Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(16) Committee members shall annually elect a chair of the committee from among the committee's membership. The chair shall report to the executive director.

(17)(a) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days' notice to the other members, or upon written request by at least four committee members with at least 10 working days' notice to other committee members.

(b) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(c) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

(18) A member:

(a) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107; and

(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 17. Section 26B-1-426 is amended to read:

26B-1-426. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services created in Section 26B-1-204 shall have seven members who are appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2)(a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(3)(a) No more than four members of the board may be from the same political party.

(b) The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services[~~.~~].

(4)(a) The board shall annually elect a chairperson from the board's membership.

(b) The board shall hold meetings at least once every three months.

(c) Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board.

(d) Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6)(a) The board shall adopt bylaws governing its activities.

(b) The bylaws described in Subsection (6)(a) shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 18. Section 26B-1-429 is amended to read:

26B-1-429. Utah State Developmental Center Board -- Creation -- Membership -- Duties -- Powers.

(1) There is created the Utah State Developmental Center Board within the department.

(2) The board is composed of nine members as follows:

(a) the director of the Division of Services for People with Disabilities or the director's designee;

(b) the superintendent of the developmental center or the superintendent's designee;

(c) the executive director or the executive director's designee;

(d) a resident of the Utah State Developmental Center selected by the superintendent; and

(e) five members appointed or reappointed by the governor with the advice and consent of the Senate as follows:

(i) three members of the general public; and

(ii) two members who are parents or guardians of individuals who receive services at the Utah State Developmental Center.

(3) In making appointments to the board, the governor shall ensure that:

(a) no more than three members have immediate family residing at the Utah State Developmental Center; and

(b) members represent a variety of geographic areas and economic interests of the state.

(4)(a) The governor shall appoint each member described in Subsection (2)(e) for a term of four years.

(b) An appointed member may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(c) Notwithstanding the requirements of Subsections (4)(a) and (b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed members are staggered so that approximately half of the appointed members are appointed every two years.

(d) Appointed members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 120 days after the formal expiration of a term.

(e) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(5)(a) The director shall serve as the chair.

(b) The board shall appoint a member to serve as vice chair.

(c) The board shall hold meetings quarterly or as needed.

(d) Five members are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(e) The chair shall be a non-voting member except that the chair may vote to break a tie vote between the voting members.

(6) An appointed member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7)(a) The board shall adopt bylaws governing the board's activities.

(b) Bylaws shall include procedures for removal of a member who is unable or unwilling to fulfill the requirements of the member's appointment.

(8) The board shall:

(a) act for the benefit of the Utah State Developmental Center and the Division of Services for People with Disabilities;

(b) advise and assist the Division of Services for People with Disabilities with the division's functions, operations, and duties related to the Utah State Developmental Center, described in Sections 26B-6-402, 26B-6-403, 26B-6-502, 26B-6-504, and 26B-6-506;

(c) administer the Utah State Developmental Center Miscellaneous Donation Fund, as described in Section 26B-1-330;

(d) administer the Utah State Developmental Center Long-Term Sustainability Fund, as described in Section 26B-1-331;

(e) approve the sale, lease, or other disposition of real property or water rights associated with the Utah State Developmental Center, as described in Subsection 26B-6-507(2); and

(f) within 21 days after the day on which the board receives the notice required under Subsection 10-2-419(3) (b), provide a written opinion regarding the proposed boundary adjustment to:

(i) the director of the Division of Facilities and Construction Management; and

(ii) the Legislative Management Committee.

Section 19. Section 32B-2-205 is amended to read:

32B-2-205. Director of alcoholic beverage services.

(1)(a) In accordance with Subsection (1)(b), the governor, with the advice and consent of the Senate, shall appoint a director of alcoholic beverage services to a four-year term.[~~-~~] The director may be appointed to more than one four-year term. The director is the administrative head of the department.

(b)(i) The governor shall appoint the director from nominations made by the commission.

(ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.

(iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:

(A) appoint the director; or

(B) reject the three nominations.

(iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint the director or reject the nominations until such time as the governor appoints the director.

(v) The governor may reappoint the director without seeking nominations from the commission. [~~Reappointment of a director is subject to the advice and consent of the Senate.~~]

(vi) The governor's reappointment of the director under Subsection (1)(b)(v) shall be made with the advice and consent of the Senate.

(c)(i) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may unilaterally appoint an interim director for a period of up to 30 calendar days.

(ii) If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period, subject to the advice and consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor.

(iii) Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.

(d) The director may be terminated by:

(i) the commission by a vote of four commissioners; or

(ii) the governor after consultation with the commission.

(e) The director may not be a commissioner.

(f) The director shall:

(i) be qualified in administration;

(ii) be knowledgeable by experience and training in the field of business management; and

(iii) possess any other qualification prescribed by the commission.

(2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) The director shall:

(a) carry out the policies of the commission;

(b) carry out the policies of the department;

(c) fully inform the commission of the operations and administrative activities of the department; and

(d) assist the commission in the proper discharge of the commission's duties.

Section 20. Section 35A-8-304 is amended to read:

35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

(a) the state treasurer or the state treasurer's designee;

(b) the chair of the Transportation Commission or the chair's designee;

(c) the executive director of the Governor's Office of Planning and Budget or the executive director's designee;

(d) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

(e) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

(f) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

(g) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County;

(h) a locally elected official from the county that:

(i) produced the most mineral lease money related to oil extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board;

(i) a locally elected official from the county that:

(i) produced the most mineral lease money related to natural gas extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board;

(j) a locally elected official from the county that:

(i) produced the most mineral lease money related to coal extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board; and

(k) an individual who resides in a county of the third, fourth, fifth, or sixth class, appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2)(a) The members specified under Subsections (1)(d) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Local Governments, the Six County Association of Governments, the Uintah Basin Association of Governments, and the Five County Association of Governments, respectively, except that the members specified under Subsections (1)(h) through (j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) When the governor makes a new appointment or reappointment under Subsection (2)(b), or a vacancy appointment under Subsection (2)(d), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(3)~~](4) The terms of office for the members specified under Subsections (1)(a) through (c) shall run concurrently with the term of office for the commission, department, or office from which each member comes.

[~~(4)~~](5)(a) The member specified under Subsection (1)(k) is the chair of the impact board.

(b) The chair of the impact board is responsible for the call and conduct of meetings.

[~~(5)~~](6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(6)~~](7) A member described in Subsections (1)(d) through (k) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(7)~~](8)(a) A majority of the members of the impact board constitutes a quorum.

(b) Action by a majority vote of a quorum of the impact board constitutes action by the impact board.

[~~(8)~~](9) The department shall provide staff support to the impact board.

Section 21. Section 35A-8-2103 is amended to read:

35A-8-2103. Private Activity Bond Review Board.

(1) There is created within the department the Private Activity Bond Review Board, composed of the following 11 members:

(a)(i) the executive director of the department or the executive director's designee;

(ii) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;

(iii) the state treasurer or the state treasurer's designee;

(iv) the chair of the Utah Board of Higher Education or the chair's designee; and

(v) the chair of the Utah Housing Corporation or the chair's designee; and

(b) six local government members who are:

(i) three elected or appointed county officials, nominated by the Utah Association of Counties and appointed or reappointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) three elected or appointed municipal officials, nominated by the Utah League of Cities and Towns and appointed or reappointed by the governor with the advice and consent of the Senate and in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2)(a) Except as required by Subsection (2)(b), the terms of office for the local government members of the board of review shall be four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board of review members are staggered so that approximately half of the board of review is appointed every two years.

(c) Members may be reappointed only once.

(3)(a) If a local government member ceases to be an elected or appointed official of the city or county the member is appointed to represent, that membership on the board of review terminates immediately and there shall be a vacancy in the membership.

(b) When a vacancy occurs in the local government membership for any reason[~~, the replacement shall be appointed within 30 days in the manner of the regular appointment for the unexpired term.~~]:

(i) the Utah Association of Counties or the Utah League of Cities and Towns shall, within 30 days after the date of the vacancy, nominate an official described in Subsection (1)(b)(i) or (ii), as applicable, to fill the vacancy; and

(ii) the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint the nominee for the unexpired term.

(4)(a) The chair of the board of review is the executive director of the department or the executive director's designee.

(b) The chair is nonvoting except in the case of a tie vote.

(5) Six members of the board of review constitute a quorum.

(6) Formal action by the board of review requires a majority vote of a quorum.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(8) The chair of the board of review serves as the state official designated under state law to make certifications required to be made under Section 146 of the code including the certification required by Section 149(e)(2)(F) of the code.

(9) A member appointed to fill a position described in Subsection (1)(b) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 22. Section 40-6-4 is amended to read:

40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of members -- Terms -- Chair -- Quorum -- Expenses.

(1)(a) There is created within the Department of Natural Resources the Board of Oil, Gas, and Mining.

(b) The board shall be the policy making body for the Division of Oil, Gas, and Mining.

(2)(a) The board shall consist of seven members appointed by the governor with the advice and consent of the Senate[~~ and~~] in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) No more than four members shall be from the same political party.

(c) In accordance with the requirements of Section 79-2-203, the members appointed under Subsection (2)(a) shall include the following:

(i) two members who are knowledgeable in mining matters;

(ii) two members who are knowledgeable in oil and gas matters;

(iii) one member who is knowledgeable in ecological and environmental matters;

(iv) one member who:

(A) is a private land owner;

(B) owns a mineral or royalty interest; and

(C) is knowledgeable in mineral or royalty interests; and

(v) one member who is knowledgeable in geological matters.

(3)(a) Except as required by Subsection (3)(b), as terms of current board members expire, the

governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member shall hold office until the expiration of the member's term and until the member's successor is appointed, but not more than 90 days after the expiration of the member's term.

(4)(a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.

(b) The person appointed shall have the same qualifications as the person's predecessor.

(5) When the governor makes a new appointment or reappointment under Subsection (3)(a), or a vacancy appointment under Subsection (4)(a), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(5)~~](6)(a) The board shall appoint its chair from the membership.

(b) Four members of the board shall constitute a quorum for the transaction of business and the holding of hearings.

[~~(6)~~](7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(7)~~](8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 23. Section 51-7-16 is amended to read:

51-7-16. State Money Management Council -- Members -- Terms -- Vacancies -- Chair and vice chair-- Executive secretary -- Meetings -- Quorum -- Members' disclosure of interests -- Per diem and expenses.

(1)(a) There is created a State Money Management Council composed of five members appointed or reappointed by the governor after consultation with the state treasurer and with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The members of the council shall be qualified by training and experience in the field of investment or finance as follows:

(i) at least one member, but not more than two members, shall be experienced in the banking business;

(ii) at least one member, but not more than two members, shall be an elected treasurer;

(iii) at least one member, but not more than two members, shall be an appointed public treasurer; and

(iv) two members, but not more than two members, shall be experienced in the field of investment.

(c) No more than three members of the council may be from the same political party.

(2)(a) Except as required by Subsection (2)(b), the council members shall be appointed for terms of four years.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(d) All members shall serve until their successors are appointed and qualified.

(3)(a) The council members shall elect a chair and vice chair.

(b) The state treasurer shall serve as executive secretary of the council without vote.

(4)(a) The council shall meet at least once per quarter at a regular date to be fixed by the council and at other times at the call of the chair, the state treasurer, or any two members of the council.

(b) Three members are a quorum for the transaction of business.

(c) Actions of the council require a vote of a majority of those present.

(d) All meetings of the council and records of its proceedings are open for inspection by the public at the state treasurer's office during regular business hours except for:

(i) reports of the commissioner of financial institutions concerning the identity, liquidity, or financial condition of qualified depositories and the amount of public funds each is eligible to hold; and

(ii) reports of the director concerning the identity, liquidity, or financial condition of certified dealers.

(5)(a) Each member of the council shall file a sworn or written statement with the lieutenant governor that discloses any position or employment or ownership interest that the member has in any financial institution or investment organization.

(b) Each member shall file the statement required by this Subsection (5) when the member becomes a

member of the council and when substantial changes in the member's position, employment, or ownership interests occur.

(c) Each member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 24. Section 51-10-206 is amended to read:

51-10-206. Diné Advisory Committee.

(1) There is created the Diné Advisory Committee.

(2)(a) The governor, with the advice and consent of the Senate, shall appoint nine members to the Diné Advisory Committee.

(b) In making an appointment under Subsection (2)(a), the governor shall ensure that the Diné Advisory Committee includes:

(i) two registered members of the Aneth Chapter of the Navajo Nation who reside in San Juan County, Utah;

(ii) one registered member of the Blue Mountain Diné who resides in San Juan County, Utah;

(iii) one registered member of the Mexican Water Chapter of the Navajo Nation who resides in San Juan County, Utah;

(iv) one registered member of the Naatsis'áán Chapter of the Navajo Nation who resides in San Juan County, Utah;

(v) subject to Subsection (4), two members who reside in San Juan County, Utah, one of whom is a registered member of the Oljato Chapter of the Navajo Nation, and one of whom is a registered member of either the Oljato Chapter or the Dennehotso Chapter of the Navajo Nation;

(vi) one registered member of the Red Mesa Chapter of the Navajo Nation who resides in San Juan County, Utah; and

(vii) one registered member of the Teec Nos Pos Chapter of the Navajo Nation who resides in San Juan County, Utah.

(3)(a)(i) Each chapter of the Utah Navajo Chapter, except the Aneth, Oljato, and Dennehotso chapters, shall submit to the governor the names of two nominees to the Diné Advisory Committee chosen by the chapter.

(ii) The governor shall appoint one of the two persons whose names are submitted under Subsection (3)(a)(i) as that chapter's representative on the Diné Advisory Committee.

(b)(i) The Blue Mountain Diné shall submit to the governor the names of two nominees to the Diné Advisory Committee.

(ii) The governor shall appoint one of the two persons whose names are submitted under Subsection (3)(b)(i) as the Blue Mountain Diné representative on the Diné Advisory Committee.

(c)(i) The Aneth Chapter shall submit to the governor the names of two nominees for each of the two positions to the Diné Advisory Committee representing the Aneth chapter.

(ii) The governor shall appoint two of the persons whose names are submitted under Subsection (3)(c)(i) to be the Aneth Chapter's representatives on the Diné Advisory Committee.

(d)(i) Subject to Subsection (3)(d)(ii), the Oljato Chapter shall submit to the governor the names of two nominees for each of the two positions to the Diné Advisory Committee representing the Oljato Chapter and the Dennehotso Chapter.

(ii) The Dennehotso Chapter may submit one nominee for purposes of the governor appointing a representative of the Oljato Chapter and the Dennehotso Chapter.

(iii) The governor shall appoint two of the persons whose names are submitted under Subsection (3)(d)(i) or (ii) to be the representatives on the Diné Advisory Committee of the Oljato Chapter and the Dennehotso Chapter.

(e) Before submitting a name to the governor, a Utah Navajo Chapter and the Blue Mountain Diné shall ensure that the individual's whose name is submitted:

(i) is an enrolled member of the Navajo Nation;

(ii) resides in San Juan County, Utah;

(iii) is 21 years of age or older;

(iv) is not an officer of the chapter;

(v) has not been convicted of a felony; and

(vi) is not currently, or within the last 12 months has not been, an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from an expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(4) If both members appointed under Subsection (2)(b)(v) are registered members of the Oljato Chapter, the two members shall attend Dennehotso Chapter meetings as practicable.

(5)(a) Except as provided in Subsection (5)(b) and other than the amount authorized by this section for Diné Advisory Committee member expenses, a person appointed to the Diné Advisory Committee may not solicit, accept, or receive any benefit from an expenditure of:

(i) the Division of Indian Affairs;

(ii) the fund; or

(iii) the Division of Indian Affairs or fund as an officer, director, employee, or contractor of a service provider that solicits, accepts, or receives a benefit from the expenditure of:

(A) the Division of Indian Affairs; or

(B) the fund.

(b) A member of the Diné Advisory Committee may receive a benefit from an expenditure of the fund if:

(i) when the benefit is discussed by the Diné Advisory Committee:

(A) the member discloses that the member may receive the benefit;

(B) the member physically leaves the room in which the Diné Advisory Committee is discussing the benefit; and

(C) the Diné Advisory Committee approves the member receiving the benefit by a unanimous vote of the members present at the meeting discussing the benefit;

(ii) a Utah Navajo Chapter requests that the benefit be received by the member;

(iii) the member is in compliance with the ethics and conflict of interest policy required under Subsection 51-10-204(2)(c);

(iv)(A) the expenditure from the fund is made in accordance with this chapter; and

(B) the benefit is no greater than the benefit available to members of the Navajo Nation residing in San Juan County, Utah; and

(v) the member is not receiving the benefit as an officer, director, employee, or contractor of a service provider.

(6)(a)(i) Except as required in Subsection (6)(a)(ii), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(ii) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the Diné Advisory Committee is appointed every two years.

(iii) The terms of the Aneth Chapter's representatives appointed under Subsection (3)(c)(ii) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(iv) The terms of the Oljato Chapter's and the Dennehotso Chapter's representatives appointed under Subsection (3)(d) shall be staggered in accordance with this Subsection (6) so that only one position is appointed by the governor in a year.

(b) Except as provided in Subsection (6)(c), a committee member shall serve until the committee member's successor is appointed and qualified.

(c) If a committee member is absent from three consecutive committee meetings, or if the committee member violates the ethical or conflict of interest policies established by statute or the Diné Advisory Committee:

(i) the committee member's appointment is terminated;

(ii) the position is vacant; and

(iii) the governor shall appoint a replacement.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term according to the procedures of this section.

(e) The governor may appoint an individual to more than one term on the Diné Advisory Committee.

(7) When the governor makes a new appointment or reappointment under Subsection (6)(a)(i), or a vacancy appointment under Subsection (6)(d), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate.

[~~(7)~~](8)(a) The committee members shall select a chair and vice chair from committee membership each two years subsequent to the appointment of new committee members.

(b) Five members of the Diné Advisory Committee is a quorum for the transaction of business.

(c) The Diné Advisory Committee shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) ensure that its meetings are held at or near:

(A) a chapter house or meeting hall of a Utah Navajo Chapter; or

(B) other places in Utah that the Diné Advisory Committee considers practical and appropriate; and

(iii) ensure that its meetings are public hearings at which a resident of San Juan County, Utah, may appear and speak.

[~~(8)~~](9) A committee member may not receive compensation or benefits for the committee member's service, but may receive per diem and travel expenses in accordance with policy adopted by the board.

[~~(9)~~](10) The trust administrator shall staff the Diné Advisory Committee.

[~~(10)~~](11) The Diné Advisory Committee shall advise the trust administrator about the expenditure of fund money.

Section 25. Section 53B-2-104 is amended to read:

53B-2-104. Degree-granting institution board of trustees -- Membership -- Terms -- Vacancies -- Oath -- Officers -- Bylaws -- Quorum -- Committees -- Compensation.

(1) As used in this section, "board of trustees" means the board of trustees for a degree-granting institution.

(2)(a) The board of trustees of a degree-granting institution consists of the following:

(i) except as provided in Subsection (2)(c), eight individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies; and

(ii) two ex officio members who are the president of the institution's alumni association, and the president of the associated students of the institution.

(b) In making the appointments described in Subsections (2)(a)(i) and (2)(c)(i), the governor:

(i) shall ensure that the membership of a board of trustees includes representation of interests of business, industry, and labor; and

(ii) may not appoint an individual to more than two consecutive full terms.

(c)(i) The board of trustees of Utah State University has nine individuals appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(ii) One of the nine individuals described in Subsection (2)(c)(i) shall reside in the Utah State University Eastern service region or the Utah State University Blanding service region.

(3)(a) The governor shall appoint four members of each board of trustees during each odd-numbered year to four-year terms commencing on July 1 of the year of appointment.

(b) Except as provided in Subsection (3)(d), a member appointed under Subsection (2)(a)(i) or (2)(c)(i) holds office until a successor is appointed and qualified.

(c) The ex officio members serve for the same period as they serve as presidents and until their successors have qualified.

(d)(i) The governor may remove a member appointed under Subsection (2)(a)(i) or (2)(c)(i) for cause.

(ii) The governor shall consult with the president of the Senate before removing a member in accordance with Subsection (3)(d)(i).

(4) When a vacancy occurs in the membership of a board of trustees for any reason, the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5)(a) Each member of a board of trustees shall take the official oath of office prior to assuming the office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(6) A board of trustees shall elect a chair and vice chair, who serve for two years and until their successors are elected and qualified.

(7)(a) A board of trustees may enact bylaws for the board of trustees' own government, including provisions for regular meetings.

(b)(i) A board of trustees may provide for an executive committee in the board of trustees' bylaws.

(ii) If established, an executive committee shall have full authority of the board of trustees to act upon routine matters during the interim between board of trustees meetings.

(iii) An executive committee may act on nonroutine matters only under extraordinary and emergency circumstances.

(iv) An executive committee shall report the executive committee's activities to the board of trustees at the board of trustees' next regular meeting following the action.

(c) Copies of a board of trustees' bylaws shall be filed with the board.

(8) A quorum is required to conduct business and consists of six members.

(9) A board of trustees may establish advisory committees.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) A board of trustees member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 26. Section 59-1-201 is amended to read:

59-1-201. Composition of commission -- Terms -- Removal from office -- Appointment.

(1) The commission shall be composed of four members appointed by the governor with the advice and consent of the Senate[~~, and~~] in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) Subject to Subsection (3), the term of office of each commissioner shall be for four years and expire on June 30 of the year the term ends.

(3) The governor shall stagger a term described in Subsection (2) so that the term of one commissioner expires each year.

(4) A commissioner shall hold office until a successor is appointed and qualified.

(5)(a) The governor may remove a commissioner from office for neglect of duty, inefficiency, or malfeasance, after notice and a hearing.

(b) If the governor removes a commissioner from office and appoints another person to replace the commissioner, the person the governor appoints to replace the commissioner:

(i) shall serve for the remainder of the unexpired term; and

(ii) may be reappointed as the governor determines.

(6) The individual the governor appoints or reappoints under Subsection (5) shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(6)~~](7)(a) Before appointing a commissioner, the governor shall request a list of names of potential appointees from:

(i) the Utah State Bar;

(ii) one or more organizations that represent certified public accountants who are licensed to practice in the state;

(iii) one or more organizations that represent persons who assess or appraise property in the state; and

(iv) one or more national organizations that:

(A) offer a professional certification in the areas of property tax, sales and use tax, and state income tax;

(B) require experience, education, and testing to obtain the certification; and

(C) require additional education to maintain the certification.

(b) In appointing a commissioner, the governor shall consider:

(i) to the extent names of potential appointees are submitted, the names of potential appointees submitted in accordance with Subsection [~~(6)(a)~~](7)(a); and

(ii) any other potential appointee of the governor's own choosing.

Section 27. Section 61-1-18.5 is amended to read:

61-1-18.5. Securities Commission -- Transition.

(1)(a) There is created a Securities Commission.

(b) The division shall provide staffing to the commission.

(2)(a) The commission shall:

(i) formulate and make recommendations to the director regarding policy and budgetary matters;

(ii) submit recommendations regarding registration requirements;

(iii) formulate and make recommendations to the director regarding the establishment of reasonable fees;

(iv) act in an advisory capacity to the director with respect to the exercise of the director's duties, powers, and responsibilities;

(v) conduct an administrative hearing under this chapter that is not:

(A) delegated by the commission to an administrative law judge or the division relating to a violation of this chapter; or

(B) expressly delegated to the division under this chapter;

(vi) except as provided in Subsection (2)(b), and consistent with Section 61-1-20, impose a sanction as provided in this chapter;

(vii) review rules made by the division for purposes of concurrence in accordance with Section 61-1-24; and

(viii) perform other duties as this chapter provides.

(b)(i) The commission may delegate to the division the authority to impose a sanction under this chapter.

(ii) If under Subsection (2)(b)(i) the commission delegates to the division the authority to impose a sanction, a person who is subject to the sanction may petition the commission for review of the sanction.

(iii) A person who is sanctioned by the division in accordance with this Subsection (2)(b) may seek agency review by the executive director only after the commission reviews the division's action.

(3)(a) The governor shall appoint five members to the commission with the advice and consent of the Senate as follows:

(i) two members from the securities brokerage community:

(A) who are not from the same broker-dealer or affiliate; and

(B) who have at least five years prior experience in securities matters;

(ii) one member from the securities section of the Utah State Bar:

(A) whose practice primarily involves:

(I) corporate securities; or

(II) representation of plaintiffs in securities cases;

(B) who does not routinely represent clients involved in:

(I) civil or administrative litigation with the division; or

(II) criminal cases brought under this chapter; and

(C) who has at least five years prior experience in securities matters;

(iii) one member who is an officer or director of a business entity not subject to the reporting

requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934; and

(iv) one member from the public at large who has no active participation in the securities business.

(b) A member may not serve more than two consecutive terms.

(4)(a) Except as required by Subsection (4)(b) and subject to Subsection (4)(c), as terms of current members expire, the governor shall appoint a new member or reappointed member to a four-year term.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) For purposes of making an appointment to the commission, the governor:

(i) shall as of May 12, 2009:

(A) appoint all five members of the commission; and

(B) stagger the terms of the five members of the commission to comply with Subsection (4)(b); and

(ii) may not consider the commission an extension of the previous Securities Advisory Board.

(d) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term.

(e) A member shall serve until the member's respective successor is appointed and qualified.

(f) The commission shall annually select one member to serve as chair of the commission.

(5) When the governor makes a new appointment or reappointment under Subsection (4)(a), or a vacancy appointment under Subsection (4)(d), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate.

[~~(5)~~](6)(a) The commission shall meet:

(i) at least quarterly on a regular date to be fixed by the commission; and

(ii) at such other times at the call of:

(A) the director; or

(B) any two members of the commission.

(b) A majority of the commission shall constitute a quorum for the transaction of business.

(c) An action of the commission requires a vote of a majority of members present.

[~~(6)~~](7) A member of the commission shall, by sworn and written statement filed with the Department of Commerce and the lieutenant governor, disclose any position of employment or ownership interest that the member has with respect to an entity or business subject to the jurisdiction of the division or commission. This statement shall be filed upon appointment and must be appropriately amended whenever significant changes occur in matters covered by the statement.

[~~(7)~~](8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(8)~~](9)(a) A rule or form made by the division under this section that is in effect on May 11, 2009, is considered to have been concurred with by the commission as of May 12, 2009, until the commission acts on the rule or form.

(b) For a civil or administrative action pending under this chapter as of May 12, 2009, brought under the authority of division under this chapter as in effect May 11, 2009, that may be brought only by the commission under this chapter as in effect on May 12, 2009:

(i) the action shall be considered brought by the commission; and

(ii) the commission may take any act authorized under this chapter regarding that action.

Section 28. Section 61-2g-204 is amended to read:

61-2g-204. Real Estate Appraiser Licensing and Certification Board.

(1)(a) There is established a Real Estate Appraiser Licensing and Certification Board that consists of seven regular members as follows:

(i) one state-licensed or state-certified appraiser who may be either a residential or general licensee or certificate holder;

(ii) one state-certified residential appraiser;

(iii) one state-certified general appraiser;

(iv) one member who is certified as either a state-certified residential appraiser or a state-certified general appraiser;

(v) one member who represents an appraisal management company registered in accordance with Chapter 2e, Appraisal Management Company Registration and Regulation Act;

(vi) one member:

(A) who is licensed or represents a person licensed under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act; or

(B) who represents a mortgage lender, as defined in Section 70D-2-102, operating in the state in accordance with Title 70D, Chapter 2, Mortgage Lending and Servicing Act; and

(vii) one member of the general public.

(b) A state-licensed or state-certified appraiser may be appointed as an alternate member of the board.

(c) The governor shall appoint all members of the board with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2)(a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term beginning on July 1.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Upon the expiration of a member's term, a member of the board shall continue to hold office until the appointment and qualification of the member's successor.

(d) A person may not serve as a member of the board for more than two consecutive terms.

(3)(a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) The governor may remove a member for cause.

(4) When the governor makes a new appointment or reappointment under Subsection (2)(a), or a vacancy appointment under Subsection (3)(a), the governor's new appointment, reappointment, or vacancy appointment shall be made with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

[~~(4)~~](5) The public member of the board may not be licensed or certified under this chapter.

[~~(5)~~](6) The board shall meet at least quarterly to conduct its business. The division shall give public notice of a board meeting.

[~~(6)~~](7) The members of the board shall elect a chair annually from among the members to preside at board meetings.

[~~(7)~~](8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(8)~~](9)(a) Four members of the board shall constitute a quorum for the transaction of business.

(b) If a quorum of members is unavailable for any meeting, the alternate member of the board, if any, shall serve as a regular member of the board for that meeting if with the presence of the alternate member a quorum is present at the meeting.

(c) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 29. Section 63A-15-201 is amended to read:

63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a special district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3)(a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102; or

(v) a principal as defined in Section 36-11-102.

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4)(a)(i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b)(i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements [~~of~~]described in Subsection (2) or (3)(b), as applicable.

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f)(i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5)(a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b)(i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Section 30. Section 63G-2-501 is amended to read:

63G-2-501. State Records Committee created -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the State Records Committee within the Department of Government Operations consisting of the following seven individuals:

(a) an individual in the private sector whose profession requires the individual to create or manage records that, if created by a governmental entity, would be private or controlled;

(b) an individual with experience with electronic records and databases, as recommended by a statewide technology advocacy organization that represents the public, private, and nonprofit sectors;

(c) the director of the Division of Archives and Records Services or the director's designee;

(d) two citizen members;

(e) one person representing political subdivisions, as recommended by the Utah League of Cities and Towns; and

(f) one individual representing the news media.

(2) The governor shall appoint or reappoint the members described in Subsections (1)(a), (b), (d), (e), and (f) with the advice and consent of the Senate in accordance with [~~Title 63G, Chapter 24, Part 2, Vacancies~~]Chapter 24, Part 2, Vacancies.

(3)(a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure

that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate in accordance with Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsection (1)(a), (b), (d), (e), or (f) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

Section 31. Section 63M-7-504 is amended to read:

63M-7-504. Crime Victim Reparations and Assistance Board -- Members.

(1)(a) A Crime Victim Reparations and Assistance Board is created, consisting of seven members appointed or reappointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) The membership of the board shall consist of:

(i) a member of the bar of this state;

(ii) a victim of criminally injurious conduct;

(iii) a licensed physician;

(iv) a representative of law enforcement;

(v) a mental health care provider;

(vi) a victim advocate; and

(vii) a private citizen.

(c) The governor may appoint a chair of the board who shall serve for a period of time prescribed by the governor, not to exceed the length of the chair's term. The board may elect a vice chair to serve in the absence of the chair.

(d) The board may hear appeals from administrative decisions as provided in rules adopted pursuant to Section 63M-7-515.

(2)(a) Except as required by Subsection (2)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member may be reappointed to one successive term in addition to a member's initial full-term appointment.

(3)(a) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(b) A member resigning from the board shall serve until the member's successor is appointed and qualified.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The board shall meet at least once quarterly but may meet more frequently as necessary.

(6) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 32. Section 63M-7-902 is amended to read:

63M-7-902. Creation -- Membership -- Terms -- Vacancies -- Expenses.

(1) There is created the Utah Victim Services Commission within the State Commission on Criminal and Juvenile Justice.

(2) The commission is composed of the following members:

(a) the executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee;

(b) the director of the Utah Office for Victims of Crime or the director's designee;

(c) the executive director of the Department of Health and Human Services or the executive director's designee;

(d) the executive director of the Department of Corrections or the executive director's designee;

(e) the director of the Division of Multicultural Affairs or the director's designee;

(f) the executive director of the state sexual assault coalition for this state or the executive director's designee;

(g) the executive director of the state domestic violence coalition for this state or the executive director's designee;

(h) the executive director of the tribal coalition for this state or the executive director's designee;

(i) the director of the Children's Justice Center Program in the Office of the Attorney General or the director's designee;

(j) the chair of the Children's Justice Center Standing Committee or the chair's designee;

(k) the attorney general or the attorney general's designee;

(l) the commissioner of the Department of Public Safety or the commissioner's designee;

(m) a criminal justice system based advocate, appointed by the governor with the advice and consent of the Senate;

(n) a prosecuting attorney, appointed by the governor with the advice and consent of the Senate;

(o) a criminal defense attorney, appointed by the governor with the advice and consent of the Senate;

(p) a law enforcement representative from the Utah Sheriffs Association or Utah Chiefs of Police Association, appointed by the governor with the advice and consent of the Senate;

(q) an individual who is a victim of crime, appointed by the governor with the advice and consent of the Senate;

(r) an individual who is a current or former representative from the House of Representatives or has experience or expertise with the legislative process, appointed by the speaker of the House of Representatives; and

(s) an individual who is a current or former senator from the Senate or has experience or expertise with the legislative process, appointed by the president of the Senate.

(3)(a) A member appointed under Subsections (2)(m) through (s) shall serve a four-year term.

(b) A member appointed to serve a four-year term is eligible for reappointment.

(c) The governor's reappointment of a member under Subsections (2)(m) through (q) shall be made with the advice and consent of the Senate.

(4) When a vacancy occurs in the membership of the commission for any reason, [~~the replacement shall be appointed by the applicable appointing authority for the remainder of the unexpired term of the original appointment~~]the applicable appointing authority shall, in accordance with any procedure described in Subsection (2)(a) through (s), appoint a replacement for the unexpired term.

(5) Except as otherwise provided in Subsection [~~(5)~~](6), a member may not receive compensation for the member's service but may receive per diem and reimbursement for travel expenses incurred as a member at the rates established by:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(6) A member may not receive per diem or reimbursement for travel expenses under Subsection (5) if the member is being paid by a governmental entity while performing the member's service on the commission.

Section 33. Section 63N-7-201 is amended to read:

63N-7-201. Board of Tourism created -- Members -- Meetings -- Expenses.

(1) There is created within the tourism office the Board of Tourism Development.

(2)(a) The board shall consist of 15 members appointed or reappointed by the governor to four-year terms with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(3) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(4) Not more than eight members of the board may be from the same political party.

(5)(a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (5)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the tourism industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of a tourism-related transportation provider, as recommended by the tourism industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Association, as recommended by the association for the governor's consideration.

(f) One member shall be appointed to represent the state's counties, as recommended by the Utah Association of Counties for the governor's consideration.

(g) One member shall be appointed from an arts and cultural organization, as recommended by the arts and cultural community for the governor's consideration.

(h) One member shall be appointed to represent the outdoor recreation industry, as recommended by the outdoor recreation industry for the governor's consideration.

(i)(i) The governor may choose to disregard a recommendation made for the board members described in Subsections (5)(c), (e), and (f) through (h).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (5)(i)(i).

(6) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed~~]the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(7) Eight members of the board constitute a quorum for conducting board business and exercising board powers.

(8) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(10) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

(11) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.

(12)(a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (12)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (12)(b) shall serve for the remainder of the board member's unexpired term.

(13)(a) The board's office shall be in Salt Lake City.

(b) The tourism office shall provide staff support to the board.

Section 34. Section 78A-11-103 is amended to read:

78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.

(1) The membership of the commission consists of the following 11 members:

(a) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

(b) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

(c) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

(d) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and

(e) two judges to be appointed by a majority of the Utah Supreme Court for a four-year term, neither of whom may:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court as the other; and

(iii) if trial judges, serve primarily in the same judicial district as the other.

(2)(a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(4)(a) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed by the appointing authority for that position for the unexpired term~~]the applicable appointing authority shall, in accordance with any procedure described in this section, appoint a replacement for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6)(a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(c) A member of the commission described in Subsection (1)(d) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Section 35. Section 78A-11-103 is amended to read:

78A-11-103. Judicial Conduct Commission -- Members -- Terms -- Vacancies -- Voting -- Power of chair.

(1)(a) The membership of the commission consists of the following 11 members:

(i) two members of the House of Representatives to be appointed by the speaker of the House of Representatives for a four-year term, not more than one of whom may be of the same political party as the speaker;

(ii) two members of the Senate to be appointed by the president of the Senate for a four-year term, not more than one of whom may be of the same political party as the president;

(iii) two members of, and in good standing with, the Utah State Bar, who shall be appointed by a majority of the Utah Supreme Court for a four-year term, none of whom may reside in the same judicial district;

(iv) three persons not members of the Utah State Bar, who shall be appointed by the governor, with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, for four-year terms, not more than two of whom may be of the same political party as the governor; and

(v) subject to Subsection (1)(b), two judges to be appointed by a majority of the Utah Supreme Court for a four-year term.

(b) The two judges appointed under Subsection (1)(a)(v) may not:

(i) be a member of the Utah Supreme Court;

(ii) serve on the same level of court; and

(iii) serve primarily in the same judicial district if the judges are district or juvenile court judges.

(2)(a) The terms of the members shall be staggered so that approximately half of the commission expires every two years.

(b) Members of the commission may not serve longer than eight years.

(3) The commission shall establish guidelines and procedures for the disqualification of any member from consideration of any matter. A judge who is a member of the commission or the Supreme Court may not participate in any proceedings involving the judge's own removal or retirement.

(4)(a) When a vacancy occurs in the membership for any reason, [~~the replacement shall be appointed by the appointing authority for that position for the unexpired term~~]the applicable appointing authority shall, in accordance with any procedure

described in this section, appoint a replacement for the unexpired term.

(b) If the appointing authority fails to appoint a replacement, the commissioners who have been appointed may act as a commission under all the provisions of this section.

(5) Six members of the commission shall constitute a quorum. Any action of a majority of the quorum constitutes the action of the commission.

(6)(a) At each commission meeting, the chair and executive director shall schedule all complaints to be heard by the commission and present any information from which a reasonable inference can be drawn that a judge has committed misconduct so that the commission may determine by majority vote of a quorum whether the executive director shall draft a written complaint in accordance with Subsection 78A-11-102(2)(b).

(b) The chair and executive director may not act to dismiss any complaint without a majority vote of a quorum of the commission.

(c) A member of the commission described in Subsection (1)(a)(iv) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) It is the responsibility of the chair and the executive director to ensure that the commission complies with the procedures of the commission.

(8) The chair shall be nonvoting except in the case of a tie vote.

(9) The chair shall be allowed the actual expenses of secretarial services, the expenses of services for either a court reporter or a transcriber of electronic tape recordings, and other necessary administrative expenses incurred in the performance of the duties of the commission.

(10) Upon a majority vote of the quorum, the commission may:

(a) employ an executive director, legal counsel, investigators, and other staff to assist the commission; and

(b) incur other reasonable and necessary expenses within the authorized budget of the commission and consistent with the duties of the commission.

(11) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, outlining its procedures and the appointment of masters.

Section 36. Section 78B-22-402 is amended to read:

78B-22-402. Commission members -- Member qualifications -- Terms -- Vacancy.

(1)(a) The commission is composed of 15 members.

(b) The governor, with the advice and consent of the Senate, and in accordance with Title 63G, Chapter 24, Part 2, Vacancies, shall appoint the following 11 members:

(i) two practicing criminal defense attorneys recommended by the Utah Association of Criminal Defense Lawyers;

(ii) one attorney practicing in juvenile delinquency defense recommended by the Utah Association of Criminal Defense Lawyers;

(iii) one attorney who represents parents in child welfare cases, recommended by an entity funded under the Child Welfare Parental Representation Program created in Section 78B-22-802;

(iv) one attorney representing minority interests recommended by the Utah Minority Bar Association;

(v) one member recommended by the Utah Association of Counties from a county of the first or second class;

(vi) one member recommended by the Utah Association of Counties from a county of the third through sixth class;

(vii) a director of a county public defender organization recommended by the Utah Association of Criminal Defense Lawyers;

(viii) two members recommended by the Utah League of Cities and Towns from its membership; and

(ix) one retired judge recommended by the Judicial Council.

(c) The speaker of the House of Representatives and the president of the Senate shall appoint two members of the Utah Legislature, one from the House of Representatives and one from the Senate.

(d) The Judicial Council shall appoint a member from the Administrative Office of the Courts.

(e) The executive director of the State Commission on Criminal and Juvenile Justice or the executive director's designee is a member of the commission.

(2) A member appointed by the governor shall serve a four-year term, except as provided in Subsection (3).

(3) The governor shall stagger the initial terms of appointees so that approximately half of the members appointed by the governor are appointed every two years.

(4) A member appointed to the commission shall have significant experience in indigent criminal defense , representing parents in child welfare cases, or in juvenile defense in delinquency proceedings or have otherwise demonstrated a strong commitment to providing effective representation in indigent defense services.

(5) An individual who is currently employed solely as a criminal prosecuting attorney may not serve as a member of the commission .

(6) A commission member shall hold office until the member's successor is appointed.

(7) The commission may remove a member for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or for any other good cause.

(8) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner, and in accordance with the same procedure, as the original appointment.

(9)(a) The commission shall elect annually a chair from the commission's membership to serve a one-year term.

(b) A commission member may not serve as chair of the commission for more than three consecutive terms.

(10) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(11)(a) A majority of the members of the commission constitutes a quorum.

(b) If a quorum is present, the action of a majority of the voting members present constitutes the action of the commission.

(c) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 37. Section 80-5-702 is amended to read:

80-5-702. Member qualifications -- Expenses.

(1) As used in this section, "member" means both a part-time member and a pro tempore member of the authority.

(2)(a) Except as required by Subsection (2)(b), the governor, with the advice and consent of the Senate, shall appoint or reappoint members to four-year terms.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the authority is appointed every two years.

(3) A member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.

(4) When a vacancy occurs in the membership for any reason, [~~the replacement member shall be appointed for the unexpired term~~]the governor shall, with the advice and consent of the Senate, appoint a replacement for the unexpired term.

(5) During the tenure of the member's appointment, a member may not:

(a) be an employee of the department, other than in the member's capacity as a member of the authority;

(b) hold any public office;

(c) hold any position in the state's juvenile justice system; or

(d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or the juvenile justice agency's contractor.

(6) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.

(7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 38. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 78A-11-103 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 530
S. B. 230
Passed March 1, 2024
Approved March 21, 2024
Effective March 21, 2024

STATE PURCHASING AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This bill modifies procurement provisions relating to procurements for a presidential debate.

Highlighted Provisions:

This bill:

- authorizes the procurement of items intended to be used to host a presidential debate to be made without engaging in a standard procurement process;
- provides that publication of a notice of a procurement for a presidential debate is not required;
- provides for a repeal of the provisions relating to the presidential debate procurement and the exception to the requirement to publish notice; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63G-6a-802, as last amended by Laws of Utah 2021, Chapter 406
63I-2-263, as last amended by Laws of Utah 2023, Chapters 33, 139, 212, 354, and 530

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-6a-802 is amended to read:

63G-6a-802. Award of contract without engaging in a standard procurement process -- Notice -- Duty to negotiate contract terms in best interest of procurement unit.

(1) A procurement unit may award a contract for a procurement item without engaging in a standard procurement process if the procurement official determines in writing that:

(a) there is only one source for the procurement item;

(b)(i) transitional costs are a significant consideration in selecting a procurement item; and

(ii) the results of a cost-benefit analysis demonstrate that transitional costs are unreasonable or cost-prohibitive, and that the award of a contract without engaging in a standard procurement process is in the best interest of the procurement unit;

(c) the award of a contract is under circumstances, described in rules adopted by the rulemaking authority, that make awarding the contract through a standard procurement process impractical and not in the best interest of the procurement unit; [~~or~~]

(d) the procurement item is intended to be used for, or in connection with the establishment of, a state store, as defined in Section 32B-1-102[~~.~~]; or

(e) the procurement item is intended to be used to host a debate of candidates for president of the United States held at a state institution of higher education.

(2) Transitional costs associated with a trial use or testing of a procurement item under a trial use contract awarded under Section 63G-6a-802.3 may not be included in a consideration of transitional costs under Subsection (1)(b).

(3)(a) Subject to Subsection (3)(b), a rulemaking authority shall make rules regarding the publication of notice for a procurement under this section that, at a minimum, require publication of notice of the procurement, in accordance with Section 63G-6a-112, if the cost of the procurement exceeds $50,000.

(b) Publication of notice under Section 63G-6a-112 is not required for:

(i) the procurement of public utility services pursuant to a sole source contract; [~~or~~]

(ii) other procurements under this section for which an applicable rule provides that notice is not required[~~.~~]; or

(iii) a procurement under Subsection (1)(e).

(4) A procurement official who awards a contract under this section shall negotiate with the contractor to ensure that the terms of the contract, including price and delivery, are in the best interest of the procurement unit.

Section 2. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

[~~(2) Section 63A-17-303 is repealed July 1, 2023.~~]

[~~(3)~~](2) Section 63A-17-806 is repealed June 30, 2026.

[~~(4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.~~]

(3) Subsections 63G-6a-802(1)(e) and (3)(b)(iii) are repealed January 1, 2025.

[~~(5)~~](4) Section 63H-7a-303 is repealed July 1, 2024.

[~~(6)~~](5) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(7)~~](6) Subsection 63J-1-602.2(~~45~~), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(8)~~](7) Subsection 63N-2-213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(9)~~](8) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 3. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all the members elected to each house, this bill takes effect May 1, 2024.

CHAPTER 531
S. B. 235
Passed March 1, 2024
Approved March 21, 2024
Effective March 21, 2024

RAILROAD AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill establishes a rail ombudsman.

Highlighted Provisions:

This bill:

- establishes a rail ombudsman position within the rail division; and
- modifies implementation dates of certain provisions or changes relating to rail.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Transportation - Operations/Maintenance Management - Maintenance Administration as an ongoing appropriation:
  - from the Rail Transportation Restricted Account, $800,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

56-1-12, as repealed and reenacted by Laws of Utah 2023, Chapter 232
56-1-13, as repealed and reenacted by Laws of Utah 2023, Chapter 232
56-1-39, as enacted by Laws of Utah 2023, Chapter 41 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 41
72-2-131, as last amended by Laws of Utah 2021, Chapter 387
72-17-101, as enacted by Laws of Utah 2023, Chapter 42
72-17-102, as enacted by Laws of Utah 2023, Chapter 42
72-17-103, as enacted by Laws of Utah 2023, Chapter 42
72-17-104, as enacted by Laws of Utah 2023, Chapter 42
72-17-105, as enacted by Laws of Utah 2023, Chapter 42
72-17-106, as enacted by Laws of Utah 2023, Chapter 42
72-17-107, as enacted by Laws of Utah 2023, Chapter 42
72-17-108, as enacted by Laws of Utah 2023, Chapter 42

ENACTS:

56-1-12.1, Utah Code Annotated 1953
56-1-13.1, Utah Code Annotated 1953
63I-2-256, Utah Code Annotated 1953
72-18-101, Utah Code Annotated 1953
72-18-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 56-1-12 is amended to read:

56-1-12. Injury to livestock -- Notice -- Railroad Livestock Damages Fund and Board -- Appeals -- Compensation and fees -- Rulemaking.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) As used in this section:

(a) "Actual fair market value" means the actual value of damages to livestock as determined by the Livestock Damages Board.

(b) "Damage" means injury or loss to livestock resulting from a strike by a railroad operation.

(c) "Department" means the Department of Agriculture and Food created in Section 4-2-102.

(d) "Estimated market value" means the market value of livestock as determined in rules made in accordance with Subsection [~~(8)~~](9).

(e) "Indemnification provision" means a covenant, promise, agreement or understanding in, in connection with, or collateral to a railroad contract requiring the other entity to insure, hold harmless, indemnify, or defend a railroad against liability if:

(i) the damages arise out of:

(A) damage to property, including livestock; or

(B) other related economic loss; and

(ii) the damages are caused by or resulting from the fault, in whole or in part, of the railroad or the railroad's agents or employees.

(f) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(g) "Livestock" means the same as that term is defined in Section 4-1-109.

(h) "Livestock Damages Board" means the Livestock Damages Board created in Subsection [~~(9)~~](10).

(i) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

(j) "Railroad Livestock Damage Fund" or "fund" means the Railroad Livestock Damage Fund created in Subsection [~~(7)~~](8).

(k) "Statewide railroad engineer" means the statewide railroad engineer within the Department of Transportation.

[~~(2)~~](3) Each railroad that operates in this state shall provide to the department current contact information suitable for communication between the department and the railroad regarding injury to livestock caused by a railroad.

[~~(3)~~](4)(a) A railroad operator that strikes, injures, or kills livestock during the operation of an engine or car shall:

(i) immediately record the location of the strike; and

(ii) within 24 hours of the strike, notify and provide pertinent information to the department and the statewide railroad engineer.

(b)(i) If a railroad fails to report a strike as required in Subsection [~~(3)(a)~~](4)(a), the railroad is liable for a civil penalty of at least $5,000 per incident.

(ii) It is prima facie evidence that a railroad has failed to report if:

(A) an investigation described in Subsection [~~(3)(c)~~](4)(c) determines that livestock was struck by railroad;

(B) the investigation under Subsection [~~(3)(c)~~](4)(c) resulted from a notification from a livestock owner of a potential strike as described in Subsection [~~(4)(c)~~](5)(c); and

(C) the railroad has not reported a corresponding strike under Subsection [~~(3)(a)~~](4)(a).

(iii) If the department determines that a railroad has failed to report as described in Subsection [~~(3)(b)(ii)~~](4)(b)(ii):

(A) the department shall notify the railroad and assess a civil penalty; and

(B) the railroad shall pay the civil penalty assessed by the department.

(iv) The department shall deposit into the Railroad Livestock Damage Fund any money received for a civil penalty under this Subsection [~~(3)(b)~~](4)(b).

(v) Payment of a civil penalty described in this Subsection [~~(3)(b)~~](4)(b) does not release a railroad from liability for damage to livestock.

(c) After receiving the notification described in Subsection [~~(3)(a)~~](4)(a), the department shall:

(i) notify the relevant law enforcement agency with jurisdiction over the location of the livestock strike; and

(ii) in consultation with the relevant law enforcement agency and the statewide railroad engineer, make reasonable efforts to:

(A) investigate the scene of the strike;

(B) identify the livestock that was struck;

(C) determine ownership of the livestock that was struck;

(D) assess the state of repair of the fences along the railroad right-of-way; and

(E) document and preserve relevant evidence of the scene of the strike.

(d)(i) After the investigation described in Subsection [~~(3)(b)~~](4)(b), if possible, the department and relevant law enforcement agency shall notify the owner of the livestock that was struck.

(ii) The department shall create and maintain a website to document and provide notice and information to the public regarding livestock strikes within this state.

(iii) If the relevant law enforcement agency and department are unable to identify the owner of the injured livestock as described in Subsection [~~(3)(b)~~](4)(b), the department shall post and maintain relevant information regarding the strike on a website to provide notice to the public regarding each livestock strike.

[~~(4)~~](5)(a) If livestock is struck by an implement of railroad operations, the owner of the livestock may receive compensation for the estimated market value or the actual fair market value of the damage.

(b) To obtain compensation, the owner of the damaged livestock shall notify the department as soon as possible after discovering the damage.

(c) A livestock owner shall notify the department each time the owner believes livestock has been damaged by railroad operations.

[~~(5)~~](6) A livestock owner shall file a proof of loss form, provided by the department, no later than 30 days after the date of the original notification livestock damage:

(a) has been received by the livestock owner pursuant to Subsection [~~(3)(c)~~](4)(c); or

(b) has been received by the department pursuant to Subsection [~~(4)(c)~~](5)(c).

[~~(6)~~](7) The department shall:

(a) within 30 days after the day the department receives a proof of loss form from a livestock owner, either accept or deny the claim for damages to livestock; and

(b) to the extent money is available in the Railroad Livestock Damage Fund created in Subsection [~~(7)~~](8), pay all accepted claims in accordance with the livestock estimated market value established pursuant to Subsection [~~(8)~~](9).

[~~(7)~~](8)(a) There is created an expendable special revenue fund called the Railroad Livestock Damage Fund.

(b) The fund shall consist of:

(i) deposits by the Legislature;

(ii) an initial deposit by each railroad as described in Subsection [~~(7)(c)~~](8)(c);

(iii) periodic payments by each railroad as required in Subsection [~~(7)(d)~~](8)(d);

(iv) annual deposits by each railroad for administrative costs as provided under Subsection [~~(7)(e)~~](8)(e);

(v) money deposited by the department from a civil penalty described in Subsection [~~(3)~~](4);

(vi) other donations or deposits into the fund; and

(vii) interest earned on the balance of the fund.

(c) Before December 31, 2023, each railroad shall pay into the Railroad Livestock Damage Fund:

(i) an initial, one-time fee of $150 per mile of railroad track owned by the railroad in this state, in

accordance with rules made under Subsection [~~(8)(b)~~](9)(b), to capitalize the fund for payment of claims as provided in this section; and

(ii) an initial, one-time fee of $75 per mile of railroad track owned by the railroad in this state, in accordance with rules made under Subsection [~~(8)(b)~~](9)(b), to pay for staff salaries and other costs to administer the fund and the department responsibilities under this section.

(d)(i) If the department issues payment from the fund in accordance with Subsection [~~(6)~~](7), the department shall notify the relevant railroad that is liable for the damage.

(ii) The department shall include in the notice to the railroad described in Subsection [~~(7)(d)(i)~~](8)(d)(i) relevant information, including:

(A) the date or approximate date that the damage occurred;

(B) the location where the damage occurred;

(C) the type of livestock that was damaged;

(D) the name of the owner of the livestock that was damaged; and

(E) the estimated market value of the damage for which the railroad is responsible.

(iii) Within 30 days of the date the railroad receives the notice described in Subsection [~~(7)(d)(iii)~~](8)(d)(i), the railroad shall remit to the department the value of the damage.

(iv) If a railroad fails to remit to the department the value of the damage as required in Subsection [~~(7)(d)(i)~~](8)(d)(i), the department may impose a civil penalty up to $10,000:

(A) for the failure to pay within 30 days as described in Subsection [~~(7)(d)(iii)~~](8)(d)(iii); and

(B) for every additional 30-day period of delinquency.

(v) Payment of a civil penalty described in Subsection [~~(7)(d)(iv)~~](8)(d)(iv) does not release a railroad from liability for damage to livestock.

(e)(i) Between July 1, 2023, and December 31, 2023, the department shall gather data from livestock strikes reported as required in this section to determine how many livestock strikes occurred during that six months.

(ii) Based on the information gathered under Subsection [~~(7)(e)(i)~~](8)(e)(i) and extrapolated and adjusted to estimate annual strike rates, beginning on July 1, 2024, the department shall establish and charge an administrative fee for each claim the department processes under this section sufficient to cover the staff salary and other administrative costs directly related to the administration of this section.

(iii) The department shall establish and publish the fee amount in rules made pursuant to Subsection [~~(8)~~](9).

(iv) The department may not charge more than necessary to cover the costs of salary and administration directly related to the duties under this chapter.

(f) In addition to payment of claims for damage to livestock as described in this section, the department may use money in the Railroad Livestock Damage Fund to pay for the costs of administration, staff salary, and other support related to the Railroad Livestock Damage Fund and administration of this section.

[~~(8)~~](9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to implement and enforce this section, including rules to establish the:

(a) estimated market value of each type of livestock;

(b) official mileage calculation for each railroad for the fee established in Subsection [~~(7)(c)~~](8)(c); and

(c) administrative fee per claim as described in Subsection [~~(7)(e)~~](8)(e).

[~~(9)~~](10)(a) A livestock owner may appeal the estimated market value granted by the department for damage to livestock by appealing to the Livestock Damages Board.

(b) There is created the Livestock Damages Board, which shall consist of three members appointed as described in Subsection [~~(9)(c)~~](10)(c).

(c) The commissioner of the department shall appoint three members to the Livestock Damages Board as follows:

(i) one member who owns or administers a livestock auction;

(ii) one member who owns livestock and is engaged in a livestock business; and

(iii) one member who works for the department.

(d) Except as described in Subsection [~~(9)(e)(ii)~~](10)(e)(ii), a member of the Livestock Damages Board may serve for up to two terms of four years.

(e)(i) The commissioner shall appoint the first members to the Livestock Damages Board on or before January 1, 2024.

(ii) The commissioner shall stagger the initial terms of the members of the Livestock Damages Board appointed on or before January 1, 2024, by:

(A) designating one appointee to serve an initial term of five years; and

(B) designating one appointee to serve an initial term of three years.

(f)(i) The Livestock Damages Board may convene twice each year to hear appeals regarding the value of livestock damaged by a railroad operation.

(ii) If a livestock owner provides clear and convincing evidence that the value of the damage to

livestock caused by a railroad operation exceeds the estimated market value established pursuant to Subsection [~~(8)~~](9), the Livestock Damages Board may issue payment from the fund at the actual fair market value amount established in the hearing.

[~~(10)~~](11) An indemnification provision in a contract between a railroad and another entity that operates on a railroad facility is against public policy and is void and unenforceable to the extent the indemnification provision is related to damages to livestock or another provision in this section.

Section 2. Section 56-1-12.1 is enacted to read:

56-1-12.1. Injury to livestock -- Notice.

Every person operating a railroad within this state that injures or kills any livestock of any description by the running of any engine or engines, car or cars, over or against any such livestock shall within three days thereafter post at the first railroad station in each direction from the place of such injury or killing in some conspicuous place on the outside of such station a notice in writing of the number and kind of animals so injured or killed, with a full description of each, and the time and place as near as may be of such injury or killing. Such notice shall be dated and signed by some officer or agent of such railroad, and a duplicate thereof shall be filed with the county clerk of the county in which stock is so injured or killed. Every person willfully failing, neglecting or refusing to comply with the provisions of this section is guilty of a class B misdemeanor and shall be fined in any sum not exceeding $50.

Section 3. Section 56-1-13 is amended to read:

56-1-13. Fencing right-of-way -- Gates.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) As used in this section:

(a) "Livestock" means the same as that term is defined in Section 4-1-109.

(b) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

[~~(2)~~](3) Each railroad shall erect and maintain a fence on each side of any railroad right-of-way owned or operated by the railroad that passes through:

(a) land owned by a private owner; or

(b) public land upon which grazing of livestock occurs.

[~~(3)~~](4) A railroad shall ensure that a fence required under Subsection [~~(2)~~](3) is:

(a) at least four and one-half feet high;

(b) constructed with barbed or other fencing wire, with at least five wires;

(c) constructed with substantial posts no more than 16.5 feet apart; and

(d) reasonably constructed to ensure livestock are unable to pass through the fence.

[~~(4)~~](5) A railroad shall ensure that fences required under Subsection [~~(2)~~](3) include proper gates and cattle guards at each private crossing.

[~~(5)~~](6) A railroad is liable to a livestock owner for all damages to livestock resulting from a railroad's failure to construct or maintain a fence as required in this section.

[~~(6)~~](7)(a) If a fence falls into disrepair or is damaged, the railroad shall ensure that the fence is repaired as soon as possible, but not later than 30 days after the date the railroad receives notice of the disrepair or damage.

(b) To recover damage to livestock caused by a damaged fence as described in this section, a livestock owner shall follow the procedures described in Section 56-1-12.

[~~(7)~~](8)(a) If a railroad fails to repair a fence within 30 days after the date the railroad receives notice as described in Subsection [~~(6)(a)~~](7)(a), the owner of the adjacent property may construct or repair the fence.

(b) If a land owner repairs a fence as described in Subsection [~~(7)(a)~~](8)(a):

(i) the railroad is liable for the full value of the work and materials for the construction or repair; and

(ii) if the railroad fails to timely reimburse the land owner, the land owner may file a civil action in a court of competent jurisdiction.

[~~(8)~~](9) Any work by a land owner to repair a fence required by this section does not:

(a) shift liability for damage to livestock as described in Section 56-1-12 to the land owner; or

(b) relieve the railroad from liability for damage to livestock as described in Section 56-1-12.

Section 4. Section 56-1-13.1 is enacted to read:

56-1-13.1. Fencing right-of-way -- Gates.

Every railroad company shall erect and maintain a fence on each side of its rights of way where the same passes through lands owned and improved by private owners, and at all public road crossings shall connect the same with cattle guards. Such fence shall not be less than four and one-half feet in height and may be constructed of barbed or other fencing wire with not less than five wires, and good, substantial posts not more than one rod apart with a stay midway between the posts attached to the wires to keep said wires in place; and whenever such railroad company shall provide gates for private crossings for the convenience of the owners of the land through which such railroad passes, such gates shall be so constructed that they may be easily operated; and every railroad company shall be liable for all damages sustained by the owner of any domestic animal killed or injured by such railroad in consequence of the failure to build or maintain such fence. The owner of such lands shall

keep such gate closed at all times when not in actual use, and if such owner fails to keep such gates closed, and in consequence thereof, any animal owned by him strays upon such railroad, and is killed or injured, such owner shall not be entitled to recover damages therefor.

Section 5. Section 56-1-39 is amended to read:

56-1-39. Assessment for right-of-way infrastructure improvements.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) As used in this section:

(a) "Benefit" includes enhanced property value, enhanced safety or efficiency, reduced costs, and liability avoidance.

(b) "Government entity" means the state or a county, city, town, metro township, local district, or special service district.

(c)(i) "Railroad" means a rail carrier that is a Class I railroad, as classified by the federal Surface Transportation Board.

(ii) "Railroad" does not include a rail carrier that is:

(A) exempt from assessment under 49 U.S.C. Sec. 24301; or

(B) owned by a government entity.

(d)(i) "Right of way infrastructure improvement" means construction, reconstruction, repair, or maintenance of public infrastructure that:

(A) is paid for by a government entity; and

(B) is partially or wholly within a railroad's right of way or crosses over a railroad's right of way.

(ii) "Right of way infrastructure improvement" includes any component of construction, reconstruction, repair, or maintenance of public infrastructure, including:

(A) any environmental impact study, environmental mitigation, or environmental project management; and

(B) any required or requested review by a non-governmental entity.

(e) "Public infrastructure" means any of the following improvements:

(i) a system or line for water, sewer, drainage, electrical, or telecommunications;

(ii) a street, road, curb, gutter, sidewalk, walkway, or bridge;

(iii) signage or signaling related to an improvement described in Subsection [~~(1)(e)(i)~~](2)(e)(i) or (ii);

(iv) an environmental improvement; or

(v) any other improvement similar to the improvements described in Subsections [~~(1)(e)(i)~~](2)(e)(i) through (iv).

[~~(2)~~](3) A government entity may, to the extent allowed under federal law, assess a railroad for any portion of the cost of a right of way infrastructure improvement, including any cost attributable to delay, if:

(a) the government entity determines that the right of way infrastructure improvement provides a benefit to the railroad;

(b) the amount of the assessment is proportionate to the benefit the railroad receives, as determined by the government entity; and

(c) the government entity uses the assessment to pay for or as reimbursement for the cost of the right of way infrastructure improvement and not for the general support of the government entity.

[~~(3)~~](4)(a) If two or more government entities have authority under this section to assess a railroad for the same right of way infrastructure improvement, the Office of Rail Safety created in Section 72-17-101 shall:

(i) determine the amount of each government entity's assessment in accordance with Subsection [~~(2)~~](3);

(ii) assess the railroad for the total of all amounts described in Subsection [~~(3)(a)(i)~~](4)(a)(i); and

(iii) distribute the collected assessments to each government entity.

(b) The total amount of an assessment under this Subsection [~~(3)~~](4) may not exceed the amount described in Subsection [~~(2)(b)~~](3)(b).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to establish a process for implementing the provisions of this Subsection [~~(3)~~](4).

Section 6. Section 63I-2-256 is enacted to read:

63I-2-256. Repeal dates: Title 56.

(1) Section 56-1-12.1, relating to injury to livestock, is repealed May 7, 2025.

(2) Section 56-1-13.1, relating to fencing right-of-way, is repealed May 7, 2025.

Section 7. Section 72-2-131 is amended to read:

72-2-131. Rail Transportation Subaccount -- Grants for railroad crossing safety.

(1) As used in this section, "eligible entity" means:

(a) a public entity; or

(b) a private entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

(2) There is created in the Transit Transportation Investment Fund, created in Section 72-2-124, the Rail Transportation [~~Restricted Account~~] Subaccount.

(3) The [~~account~~]subaccount shall be funded by:

(a) appropriations to the [~~account~~]subaccount by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest earned on money in the account.

(4) Upon appropriation, the department shall:

(a) use an amount equal to 10% of the money deposited into the [~~account~~]subaccount to provide grants in accordance with Subsection (5);

(b) use an amount equal to 10% of the money deposited into the [~~account~~]subaccount to pay:

(i) the costs of performing environmental impact studies in connection with construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads; or

(ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Subsection 63B-31-101(6); and

(c) use the remaining money deposited into the [~~account~~]subaccount to pay:

(i) the costs of construction, reconstruction, or renovation projects related to railroad crossings on class A, class B, or class C roads;

(ii) debt service related to a project described in Subsection (4)(b); [~~or~~]

(iii) the appropriate debt service or sinking fund for the repayment of bonds issued under Subsection 63B-31-101(5)[~~.~~]; or

(iv) ongoing maintenance costs of at-grade crossings between rail lines and public highways.

(5)(a) The department may award grants to one or more eligible entities to be used for the purpose of improving safety at railroad crossings on class A, class B, or class C roads.

(b) An eligible entity may use grant money for any expense related to improving safety at railroad crossings on class A, class B, or class C roads, including:

(i) signage; and

(ii) safety enhancements to a railroad crossing.

(c) The department shall prioritize, in the following order, grants to applicants that propose projects impacting railroad crossings that:

(i) have demonstrated safety concerns, including emergency services access; and

(ii) have high levels of vehicular and pedestrian traffic.

Section 8. Section 72-17-101 is amended to read:

72-17-101. Office of Rail Safety -- Creation -- Applicability.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) In accordance with 49 C.F.R. Part 212, State Safety Participation Regulations, there is created within the department an Office of Rail Safety.

[~~(2)~~](3) As described in 49 C.F.R. Secs. 212.105 and 212.107, to organize the Office of Rail Safety, the executive director shall:

(a) enter into an agreement with the Federal Railroad Administration to participate in inspection and investigation activities; and

(b) obtain certification from the Federal Railroad Administration to undertake inspection and investigative responsibilities and duties.

[~~(3)~~](4) In establishing the Office of Rail Safety in accordance with the duties described in 49 C.F.R. Part 212, the department may hire personnel and establish the duties of the office in phases.

[~~(4)~~](5) This chapter applies to:

(a) a class I railroad; and

(b) commuter rail.

Section 9. Section 72-17-102 is amended to read:

72-17-102. Definitions.

As used in this chapter:

(1) "Class I railroad" means the same as that term is defined in 49 U.S.C. Sec. 20102.

(2) "Commuter rail" means the same as that term is defined in Section 63N-3-602.

(3) "Federal Railroad Administration" means the Federal Railroad Administration created in 49 U.S.C. Sec. 103.

(4) "Office" means the Office of Rail Safety created in accordance with Section 72-17-101.

(5) "Railroad" means the same as that term is defined in 49 C.F.R. Sec. 200.3.

(6) The provisions in this section apply beginning on May 7, 2025.

Section 10. Section 72-17-103 is amended to read:

72-17-103. Duties of the Office of Rail Safety.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) In accordance with 49 C.F.R. Part 212, and the authorization granted from the Federal Railroad Administration, the office shall perform the inspection, compliance, and enforcement duties in the following areas:

(a) grade crossings;

(b) hazardous materials;

(c) motive power and equipment;

(d) operating practices;

(e) signal and train control; and

(f) track.

[~~(2)~~](3) As part of the responsibilities described in Subsection [~~(1)~~](2), the office shall:

(a) inspect and investigate railroad rights-of-way, facilities, equipment, and operations of railroads in this state;

(b) notify a railroad of any violation or lack of compliance with applicable state and federal laws, rules, regulations, orders, and directives;

(c) enforce applicable state and federal laws, rules, regulations, orders, and directives relating to the transportation by rail of persons or commodities; and

(d) issue orders to require compliance with state and federal laws, rules, regulations, orders, and directives.

[~~(3)~~](4) The office shall employ a sufficient number of federally certified inspectors and staff to ensure that railroad equipment, facilities, and tracks are inspected as frequently as reasonably required to ensure compliance and safety as required under state and federal law.

[~~(4)~~](5)(a) The office shall investigate railroad practices related to the length of time a railroad blocks a highway-railroad grade crossing.

(b) Upon petition of a political subdivision, or upon the office's own motion, the office may:

(i) conduct an investigation of the conditions related to a grade crossing; and

(ii) if necessary, conduct a hearing, make findings, and issue an order to determine whether highway-railroad crossing blocking practices of the railroad are reasonable.

(c)(i) The office shall examine and inspect the physical condition of all railroad facilities in this state to ensure compliance with safety requirements.

(ii) As part of the inspection and examination of railroad facilities and crossings, the office shall include an examination and inspection of:

(A) the condition of railroad facilities and crossing infrastructure;

(B) whether expansion of grade crossing infrastructure or other changes are justified based on the traffic and safety conditions; and

(C) other safety considerations required by federal law.

(d) If the office determines that a railroad's highway-railroad crossing blocking practices are unreasonable, the office shall:

(i) request the Federal Railroad Administration take enforcement actions pursuant to 49 C.F.R. Sec. 212.115; and

(ii) notify the Surface Transportation Board defined in 49 U.S.C. Sec. 10102 of the unsafe and unreasonable practices.

(e) If the office finds a violation of safety requirements as described in this section or in federal law, and the office requests an enforcement action and Federal Railroad Administration does not take enforcement action as described in 49 C.F.R. Sec. 212.115, the office may seek a civil penalty not less than $500 and no more than $10,000 for each offense.

[~~(5)~~](6)(a) The office shall examine and inspect the physical condition of all railroad facilities in this state to ensure compliance with safety requirements.

(b) If an inspector determines that a railroad facility is noncompliant, the office shall provide written notice to the railroad.

(c) If a railroad receives a notice described in Subsection [~~(5)(b)~~](6)(b), the railroad shall remedy the condition or practice within 30 days of the date of the notice.

(d) If after 30 days from the date of the notice the railroad has not remedied the condition or practice to the office's satisfaction, the office may set the matter for hearing.

(e) After a hearing described in Subsection [~~(5)(d)~~](6)(d), if the office determines that the condition or practice is noncompliant and the railroad has not made reasonable efforts to remedy the condition or practice, the office may issue an order requiring the railroad to:

(i) eliminate or remedy the unsafe or unlawful condition or practice; or

(ii) make any necessary repairs, alterations, or other changes to the relevant condition or practice to ensure compliance with state and federal law.

(f) In addition to any order issued under Subsection [~~(5)(e)~~](6)(e), after a hearing described in Subsection [~~(5)(d)~~](6)(d), if the office determines that the condition or practice is noncompliant and the railroad has not made reasonable efforts to remedy the condition or practice, and the condition or practice is so hazardous as to place a railroad employee or the public in immediate danger, the office may issue an order requiring the railroad:

(i) after 48 hours' written notice to the railroad, issue an order prohibiting:

(A) the unsafe or unlawful practice; or

(B) the use of the facility until completion of the necessary repair, alteration, or other necessary changes; and

(ii) pay a civil penalty of not more than $10,000 per violation or per day of violation of state or federal law, or a rule made in accordance with Subsection [~~(6)~~](7) or Section 72-17-107.

[~~(6)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules necessary to:

(a) establish the Office of Rail Safety as required in this part;

(b) establish and enforce rules regarding safe and reasonable procedures and standards regarding the

blocking of grade crossings, which standards and limits shall be commensurate with reasonable requirements of train and vehicular traffic operations;

(c) enforce this part and relevant state and federal law related to this part; and

(d) administer the Office of Rail Safety as described in this part.

Section 11. Section 72-17-104 is amended to read:

72-17-104. Federal Railroad Administration grant program.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) After reaching an agreement with and receiving the certification from the Federal Railroad Administration as described in Section 72-17-101, the office may apply for [~~Railroad Safety Grants~~]railroad safety grants as often as permitted by the Federal Railroad Administration.

Section 12. Section 72-17-105 is amended to read:

72-17-105. Establishment of administrative fees -- Payment -- Expenditures.

(1)[~~(a)~~] The provisions in this section apply beginning on May 7, 2025.

(2) The office shall annually determine a fee to be paid by each railroad that operated within the state and is subject to the jurisdiction of the office on a pro rata basis as described in Subsection [~~(2)~~](3).

[~~(b)~~](a) The office and the department shall establish the annual fee to produce a total amount not less than the amount required to regulate railroads and carry out the duties described in this part.

[~~(c)~~](b) The office shall use the revenue generated by the fees paid by each railroad for the investigation and enforcement activities of the office as authorized under this part.

[~~(2)~~](3)(a) For grade crossings inspections and services, the office shall establish and each railroad shall pay a fee based on:

(i) as of January 1 of each year, the number of crossings the railroad operates within this state that cross a highway, whether at grade, by overhead structure, or subway; and

(ii) the frequency of use of each crossing the railroad operates, including:

(A) the frequency of train operation at the crossing; and

(B) the frequency of highway traffic at the crossing.

(b) For hazardous materials related inspections and services, the office shall establish and each railroad shall pay a fee based on the tonnage of hazardous materials transported in this state during a given year.

(c) For motive power and equipment related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of motive power units and other equipment units operated by the railroad in this state.

(d) For track related inspections and services, the office shall establish and each railroad shall pay a fee based on the number of miles of track owned or operated by the railroad within this state.

(e) For signal and train control inspections and services, as well as operating practices inspections and services, the office shall establish and each railroad shall pay a fee based on gross operating revenue of each railroad generated within this state.

(f)(i) For inspection services related to commuter rail, notwithstanding any other agreement, a county or municipality with commuter rail service provided by a public transit district may request local option transit sales tax in accordance with Section 59-12-2206 and spend local option transit sales tax in the amount requested by the office.

(ii) A county or municipality that requests local option transit sales tax as described in Subsection [~~(2)(f)(i)~~](3)(f)(i) may transmit to the office the funds requested under Subsection [~~(2)(f)(i)~~](3)(f)(i) and transmitted to the county or municipality under Subsection 59-12-2206(5)(b).

(iii) A county or municipality that requests local option transit sales tax as described in Subsection [~~(2)(f)(i)~~](3)(f)(i) may not request more local option transit sales tax than is necessary to carry out the safety inspection and functions under this chapter.

(iv) The office is not required to charge or collect a fee related to inspections of commuter rail.

[~~(3)~~](4)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish each of the fee amounts described in Subsection [~~(2)~~](3):

(i) according to the data described in Subsection [~~(2)~~](3); and

(ii) to collect an amount sufficient to cover the budget and costs to administer the duties of the office.

(b) The department shall annually adjust the fees established in accordance with Subsection [~~(3)(a)~~](4)(a) to account for inflation and other budgetary factors.

[~~(4)~~](5) Each railroad that operates within this state shall pay to the office the fees described and established by the office.

Section 13. Section 72-17-106 is amended to read:

72-17-106. Office of Rail Safety Account.

(1) The provisions in this section apply beginning on May 7, 2025.

(2) There is created an expendable special revenue fund called the Office of Rail Safety Account.

[~~(2)~~](3) The account shall be funded by:

(a) deposits into the account by the Legislature;

(b) fees collected pursuant to Section 72-17-105; and

(c) other deposits or donations into the account.

[~~(3)~~](4) The office shall provide a detailed budget to account for the office's expenditures related to the enforcement of this part, including:

(a) salaries, per diem, and travel expenses of employees performing the duties described in this part;

(b) expenditures for clerical and support staff directly associated with the duties described in this part;

(c) expenditures for legal staff who pursue and administer complaints and compliance issues related to this part; and

(d) reasonable overhead costs related to Subsections [~~(3)(a)~~](4)(a) through (c).

[~~(4)~~](5) The office, in performing the duties under this part:

(a) shall limit the expenditure of funds to the total amount of fees collected from the railroads as described in this section; and

(b) may not expend funds from other sources accessible to the department.

Section 14. Section 72-17-107 is amended to read:

72-17-107. Rulemaking regarding railroad clearances and walkways.

(1) The provisions of this section apply beginning on May 7, 2025.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to establish safety standards related to:

[~~(1)~~](a) walkways adjacent to railroad track;

[~~(2)~~](b) clearances of structures and other obstructions near railroad track;

[~~(3)~~](c) the safety of office personnel conducting inspections in accordance with this part;

[~~(4)~~](d) railroad infrastructure and work spaces for railroad workers;

[~~(5)~~](e) signage related to railroad worker safety; and

[~~(6)~~](f) other safety standards as the department finds necessary.

Section 15. Section 72-17-108 is amended to read:

72-17-108. Agreements to indemnify in a railroad contract.

(1) The provisions of this section apply beginning on May 7, 2025.

(2) As used in this section:

(a) "Railroad contract" means a contract or agreement between:

(i) a railroad; and

(ii) another person that could be subject to a civil penalty or fine issued pursuant to this chapter.

(b) "Indemnification provision" means a covenant, promise, agreement, or understanding in, in connection with, or collateral to a railroad contract that requires the person to insure, hold harmless, indemnify, or defend the railroad against liability, if:

(i) the damages arise out of a civil penalty issued pursuant to this chapter; and

(ii) the damages are caused by or resulting from the fault of the railroad or the railroad's agents or employees.

[~~(2)~~](3) Except as provided in Subsection [~~(3)~~](4), an indemnification provision in a railroad contract is against public policy and is void and unenforceable.

[~~(3)~~](4) If an indemnification provision is included in a railroad contract, in any action for damages described in Subsection [~~(1)(b)(i)~~](2)(b)(i), the railroad may seek indemnification from another party to a railroad contract pro rata based on the proportional share of fault of each party, if:

(a) the damages are caused in part by the party other than the railroad; and

(b) the cause of the damages arose at a time when the party other than the railroad was operating pursuant to the railroad contract.

[~~(4)~~](5) This section may not be construed to impair a contract in existence before May 3, 2023.

Section 16. Section 72-18-101 is enacted to read:

72-18-101. Rail ombudsman.

CHAPTER 18. RAIL OMBUDSMAN

Part 1. Creation and Duties

(1) There is created the position of rail ombudsman in the rail division of the department.

(2) The executive director of the department shall appoint the rail ombudsman.

Section 17. Section 72-18-102 is enacted to read:

72-18-102. Rail ombudsman -- Duties.

(1) The rail ombudsman shall:

(a) develop and maintain expertise in and understanding of laws and regulations relating to rail;

(b) coordinate, consult, and provide information to private citizens, government entities, rail operators, stakeholders, and other interested parties about rail related issues;

(c) on the rail ombudsman's website, provide:

(i) updated, easily accessible information about the duties of the rail ombudsman; and

(ii) a form that a member of the public, including a railroad company employee, may use to submit a report or complaint;

(d) provide education and training regarding rail laws and regulations; and

(e) arrange and facilitate meetings between a rail company and one or more of the following, to resolve a rail dispute described in Subsection (2):

(i) a local government entity;

(ii) a large public transit district; or

(iii) a private property or livestock owner.

(2) The rail ombudsman shall facilitate meetings described in Subsection (1)(e) to resolve issues relating to:

(a) safety;

(b) at- grade and grade- separated rail crossings;

(c) fencing;

(d) injury to or loss of livestock;

(e) railroad maintenance, including maintenance agreements and road closures;

(f) improvements to railroad right- of- way infrastructure;

(g) track realignment;

(h) track consolidation; or

(i) any other issue that has caused a dispute between a rail company and a party described in Subsection (1)(e).

(3) If the rail ombudsman invites a rail company or another party described in Subsection (1)(e) to a meeting to resolve a rail dispute, the rail company or other person shall:

(a) attend the meeting; and

(b) attempt to resolve the dispute through the rail ombudsman before filing an action in court or seeking another remedy.

(4) A rail company and a party described in Subsections (1)(e)(i) through (iii) shall provide notice to the rail ombudsman before:

(a) closing a highway for railroad maintenance; or

(b) starting a construction project involving:

(i) an at- grade rail crossing; or

(ii) the realignment or consolidation of railroad tracks.

(5) The rail ombudsman may not address nor participate in:

(a) organized labor issues or disputes; or

(b) rail company employee safety issues.

Section 18. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 18(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Transportation - Operations/Maintenance Management

From Rail Transportation

Restricted Account $800,000

Schedule of Programs:

Maintenance Administration $800,000

Section 19. Effective date.

(1) Except as provided in Subsection (2), if approved by two- thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of the veto override.

(2) If this bill is not approved by two- thirds of all members elected to each house, this bill takes effect May 1, 2024.

CHAPTER 532
S. B. 246
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2024

JUVENILE JUSTICE MODIFICATIONS

Chief Sponsor: Luz Escamilla
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This bill addresses a notification to a school from a juvenile court.

Highlighted Provisions:

This bill:

- requires a local education agency (LEA) to transfer a notification from a juvenile court regarding a student to another LEA for one year; and
- makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53G-8-403, as last amended by Laws of Utah 2023, Chapter 161

80-6-103, as last amended by Laws of Utah 2023, Chapter 161

Sections affected by Coordination Clause:

53G-8-403, as last amended by Laws of Utah 2023, Chapter 1614

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-8-403 is amended to read:

53G-8-403. Superintendent required to notify school.

(1) "LEA head" means the superintendent of a school district or the director of a charter school.

(2) Within three days of receiving a notification from the juvenile court or a law enforcement agency under Section 80-6-103, the [~~district superintendent~~]LEA head or LEA head's designee shall notify the principal of the school the juvenile attends or last attended.

[~~(2)~~](3) Upon receipt of the information, the principal shall:

(a) make a notation in a secure file other than the student's permanent file; and

(b) if the student is still enrolled in the school, notify staff members who, in his opinion, should know of the adjudication.

[~~(3)~~](4) A person receiving information pursuant to this part may only disclose the information to other persons having both a right and a current need to know.

[~~(4)~~](5) Access to secure files shall be limited to persons authorized to receive information under this part.

(6) Beginning no later than July 1, 2025, an LEA shall digitally maintain the secure file described in Subsection (3) or, if available, the students related reintegration plan described in 53G-8-213, for one year from the day the notice is received and ensure the secure file follows the student if the student transfers to a different school or LEA.

Section 2. Section 80-6-103 is amended to read:

80-6-103. Notification to a school -- Civil and criminal liability.

(1) As used in this section:

(a) "School" means a school in a local education agency.

(b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(c) "School official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school.

(d) "Transferee school official" means the superintendent of a school district or the director of a charter school or designee in which the minor resides or attends school if the minor is admitted to home detention.

[~~(e) "School official" means:~~]

[~~(i) the school superintendent of the district in which the minor resides or attends school; or~~]

[~~(ii) if there is no school superintendent for the school, the principal of the school where the minor attends.~~]

[~~(d) "Transferee school official" means:~~]

[~~(i) the school superintendent of the district in which the minor resides or attends school if the minor is admitted to home detention; or~~]

[~~(ii) if there is no school superintendent for the school, the principal of the school where the minor attends if the minor is admitted to home detention.~~]

(2) A notification under this section is provided for a minor's supervision and student safety.

(3)(a) If a minor is taken into temporary custody under Section 80-6-201 for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.

(b) A notification under this Subsection (3) shall only disclose:

(i) the name of the minor;

(ii) the offense for which the minor was taken into temporary custody or admitted to detention; and

(iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.

(4) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.

(5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.

(6)(a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.

(b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.

(c) A notification under this section shall include:

(i) the name of the minor;

(ii) the offense for which the minor was adjudicated; and

(iii) if available, the name of the victim if the victim:

(A) resides in the same school district as the minor; or

(B) attends the same school as the minor.

(7) If the juvenile court orders probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for probation.

(8)(a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:

(i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and

(ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.

(b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.

(9)(a) A notification under this section shall be classified as a protected record under Section 63G-2-305.

(b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Section 3. Effective date.

This bill takes effect on July 1, 2024.

Section 4. Coordinating S.B. 246 with H.B. 331.

If S.B. 246, Juvenile Justice Modifications, and H.B. 331, School and Classroom Amendments, both pass and become law, the Legislature intends that, on July 1, 2024, changes to Section 53G-8-403 in S.B. 246 supersede amendments to Section 53G-8-403 in H.B. 331.

CHAPTER 533
S. B. 254
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

BOARDS AND COMMISSIONS AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies provisions related to executive boards.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the frequency by which an executive board is required to submit a report to the governor's office;
- modifies reporting requirements;
- requires an interim committee to unanimously approve the creation of certain new executive boards;
- subject to certain exceptions, authorizes the Legislature or the governor to deactivate or reactivate certain boards and commissions; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-1-2.5, as last amended by Laws of Utah 2023, Chapters 35, 249

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-1-2.5 is amended to read:

67-1-2.5. Executive boards -- Database -- Governor's review of new boards -- Creation of boards and commissions -- Inactive boards.

(1) As used in this section:

(a) "Administrator" means the boards and commissions administrator designated under Subsection (3).

(b) "Executive board" means an executive branch board, commission, council, committee, working group, task force, study group, advisory group, or other body:

(i) with a defined limited membership;

(ii) that is created by the constitution, by statute, by executive order, by the governor, lieutenant governor, attorney general, state auditor, or state treasurer or by the head of a department, division, or other administrative subunit of the executive branch of state government; and

(iii) that is created to operate for more than six months.

(c) "Inactive board" means a board that does not need to function at the present time, but may need to function in the future.

(d) "Interim committee" means the same as that term is defined in Legislative Joint Rules, Title 7, Chapter 1, Part 2, Creation and Organization of Legislative Committees.

(2)(a) Except as provided in Subsection (2)(c), before August 1 of the calendar year following the year in which a new executive board is created in statute, the governor shall:

(i) review the executive board to evaluate:

(A) whether the executive board accomplishes a substantial governmental interest; and

(B) whether it is necessary for the executive board to[~~remain in statute~~]continue to exist;

(ii) in the governor's review described in Subsection (2)(a)(i), consider:

(A) the funding required for the executive board;

(B) the staffing resources required for the executive board;

(C) the time members of the executive board are required to commit to serve on the executive board; and

(D) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction; and

(iii) submit a report to the Government Operations Interim Committee recommending that the Legislature:

(A) repeal the executive board;

(B) add a sunset provision or future repeal date to the executive board;

(C) make other changes to make the executive board more efficient; or

(D) make no changes to the executive board.

(b) In conducting the evaluation described in Subsection (2)(a), the governor shall give deference to:

(i) reducing the size of government; and

(ii) making governmental programs more efficient and effective.

(c) The governor is not required to conduct the review or submit the report described in Subsection (2)(a) for an executive board that is scheduled for repeal under Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title Act.

(3)(a) The governor shall designate a board and commissions administrator from the governor's staff to maintain a computerized database containing information about all executive boards.

(b) The administrator shall ensure that the database contains:

(i) the name of each executive board;

(ii) the current statutory or constitutional authority for the creation of the executive board;

(iii) the sunset date on which each executive board's statutory authority expires;

(iv) the state officer or department and division of state government under whose jurisdiction the executive board operates or with which the executive board is affiliated, if any;

(v) the name, address, gender, telephone number, and county of each individual currently serving on the executive board, along with a notation of all vacant or unfilled positions;

(vi) the title of the position held by the person who appointed each member of the executive board;

(vii) the length of the term to which each member of the executive board was appointed and the month and year that each executive board member's term expires;

(viii) whether members appointed to the executive board require the advice and consent of the Senate;

(ix) the organization, interest group, profession, local government entity, or geographic area that an individual appointed to an executive board represents, if any;

(x) the party affiliation of an individual appointed to an executive board, if the statute or executive order creating the position requires representation from political parties;

(xi) whether each executive board is a policy board or an advisory board;

(xii) whether the executive board has or exercises rulemaking authority, or is a rulemaking board as defined in Section 63G-24-102; and

(xiii) any compensation and expense reimbursement that members of the executive board are authorized to receive.

(4) The administrator shall ensure the governor's website includes:

(a) the information contained in the database, except for an individual's:

(i) physical address;

(ii) email address; and

(iii) telephone number;

(b) a portal, accessible on each executive board's web page within the governor's website, through which a member of the public may provide input on:

(i) an individual appointed to serve on the executive board; or

(ii) a sitting member of the executive board;

(c) each report the administrator receives under Subsection (5); and

(d) the summary report described in Subsection (6).

(5)(a) Before August 1, [~~once every five years, beginning in calendar year 2024~~]in each even-numbered year, each executive board shall prepare and submit to the administrator a report that includes:

(i) the name of the executive board;

(ii) a description of the executive board's official function and purpose;

(iii) a description of the actions taken by the executive board since the last report the executive board submitted to the administrator under this Subsection (5);

(iv) recommendations on whether any statutory, rule, or other changes are needed to make the executive board more effective; and

(v) an indication of whether the executive board should continue to exist.

(b) The administrator shall compile and post the reports described in Subsection (5)(a) to the governor's website before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a).

(6)(a) Before September 1 of a calendar year in which the administrator receives a report described in Subsection (5)(a), the administrator shall prepare a report that includes:

(i) as of July 1 of that year, the total number of executive boards that exist;

(ii) a summary of the reports submitted to the administrator under Subsection (5), including:

(A) a list of each executive board that submitted a report under Subsection (5);

(B) a list of each executive board that failed to timely submit a report under Subsection (5);

(C) an indication of any recommendations made under Subsection (5)(a)(iv); [~~and~~]

(D) a list of any executive boards that indicated under Subsection (5)(a)(v) that the executive board should no longer exist; and

(E) a recommendation regarding whether the administrator recommends the executive board should continue to exist; and

(iii) a list of each executive board, identified and reported by the Division of Archives and Record Services under Section 63A-16-601, that did not post a notice of a public meeting on the Utah Public Notice Website during the previous fiscal year.

(b) On or before September 1 of a calendar year in which the administrator prepares a report described in Subsection (6)(a), in accordance with Section 68-3-14, the administrator shall submit the report to:

(i) the president of the Senate;

(ii) the speaker of the House of Representatives; and

(iii) the Government Operations Interim Committee.

(c)(i) Within 60 days after the day on which an executive board fails to timely submit a report under Subsection (5), a legislative interim committee shall conduct a review to determine whether to recommend repeal of the executive board.

(ii) The Office of Legislative Research and General Counsel shall notify the chairs of an interim committee whose subject area most closely relates to an executive board described in Subsection (6)(c)(i) of:

(A) the name of the board;

(B) information regarding the function of the board; and

(C) the deadline by which the interim committee is required to conduct a review described in Subsection (6)(c)(i).

(iii) If there is not an interim committee with a subject area relating to the executive board, or if the interim committee described in Subsection (6)(c)(ii) is unable to timely conduct the review described in Subsection (6)(c), the Government Operations Interim Committee shall conduct the review.

(iv) If an interim committee recommends that an executive board described in Subsection (6)(c)(i) be repealed, the Office of Legislative Research and General Counsel shall draft a bill repealing the executive board.

(7) The Legislature may not create an executive board except through a bill that receives a favorable recommendation by unanimous vote of an interim committee.

(8) Except for an executive board created by the Utah Constitution, an interim committee may determine that an executive board is an inactive board and recommend that the governor deactivate the executive board.

(9) Except for an executive board created by the Utah Constitution, an interim committee may recommend that the governor reactivate a deactivated executive board.

(10) If an interim committee recommends that the governor deactivate or reactivate an executive board, the chairs of the interim committee shall submit a written notice identifying the name of the executive board and the reason for the recommendation to:

(a) the governor;

(b) the chairs of the Legislative Management Committee;

(c) the administrator, as defined in Section 67-1-2.5; and

(d) the executive branch agency that oversees the board.

(11) Except for an executive board created by the Utah Constitution, the Legislature may deactivate or reactivate an executive board by concurrent resolution.

(12)(a) Except as provided in Subsection (12)(c), the governor may determine that an executive board is an inactive board:

(i) in response to the recommendation of an interim committee; or

(ii) based on the governor's own determination.

(b) Except as provided in Subsection (12)(c), if the governor determines that an executive board is an inactive board, the governor may deactivate the executive board.

(c) The governor may not deactivate an executive board if:

(i) the executive board is created by the Utah Constitution;

(ii) within the previous one-year period, the Legislature created the executive board, reauthorized the executive board, or, by concurrent resolution, reactivated the executive board; or

(iii) the board is created by a statute that expressly prohibits the governor from deactivating the executive board.

(d) An executive board that the governor deactivates under Subsection (12)(b), or that the Legislature deactivates by concurrent resolution, may not take an action or fulfill a duty that the executive board is otherwise statutorily authorized to take or fulfill.

(13)(a) Except as provided in Subsection (13)(c), the governor may determine that a deactivated executive board should be reactivated.

(b) Except as provided in Subsection (13)(c), if the governor determines that a deactivated executive board should be reactivated, the governor may reactivate the executive board.

(c) The governor may not reactivate an executive board if:

(i) within the previous one-year period, the Legislature deactivated the executive board by concurrent resolution; or

(ii) the board is created by a statute that expressly prohibits the governor from reactivating the executive board.

(d) An executive board that the governor reactivates under Subsection (13)(b), or that the Legislature reactivates by concurrent resolution, may take an action or fulfill a duty that the executive board is statutorily authorized to take or fulfill.

(14) Before the governor deactivates or reactivates an executive board under this section, the governor shall submit a written notice

identifying the name of the board and the reason the governor has determined to deactivate or reactivate the executive board to:

(a) the chairs of the Legislative Management Committee;

(b) the chairs of the Government Operations Interim Committee;

(c) the administrator, as defined in Section 67-1-2.5; and

(d) the executive branch agency that oversees the board.

[~~(7)(a) On or before September 30, 2023, the administrator shall meet with the Division of Professional Licensing, the Insurance Department, the Department of Agriculture and Food, and the stakeholders involved with at least the following boards as part of the annual review of executive boards:~~]

[~~(i) the Landscape Architects Board;~~]

[~~(ii) the Professional Geologist Licensing Board;~~]

[~~(iii) the Bail Bond Oversight Board;~~]

[~~(iv) the Title and Escrow Commission; and~~]

[~~(v) the Horse Racing Commission.~~]

[~~(b) The review described in Subsection (7)(a) shall consider:~~]

[~~(i) the funding required for the executive board;~~]

[~~(ii) the staffing resources required for the executive board;~~]

[~~(iii) the time members of the executive board are required to commit to serve on the executive board;~~]

[~~(iv) whether the responsibilities of the executive board could reasonably be accomplished through an existing entity or without statutory direction;~~]

[~~(v) the historical record of how many meetings the executive board held in the last five years and the agendas of the executive board;~~]

[~~(vi) the ability to fill vacancies and appointments to the executive board;~~]

[~~(vii) the statutory duties of the executive board; and~~]

[~~(viii) other items to make the best recommendations for the executive board.~~]

[~~(8)(a) The administrator shall submit a report of the review described in Subsection (7)(b) to the Government Operations Interim Committee before October 17, 2023, recommending that the Legislature:~~]

[~~(i) repeal the executive board;~~]

[~~(ii) add a sunset or future repeal date to the executive board;~~]

[~~(iii) make other changes to make the executive board more efficient; or~~]

[~~(iv) make no changes to the executive board.~~]

[~~(b) In conducting the review described in Subsection (7)(b), the administrator shall give deference to:~~]

[~~(i) reducing the size of government;~~]

[~~(ii) making governmental programs more efficient and effective; and~~]

[~~(iii) reducing the burdens of government on business.~~]

Section 2. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 534
S. B. 258
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

MUNICIPAL INCORPORATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the Utah Municipal Code to provide for a pilot program for the incorporation of a preliminary municipality.

Highlighted Provisions:

This bill:

- defines terms;
- establishes a process for landowners to incorporate a preliminary municipality for the purpose of developing land for eventual incorporation into a town;
- describes requirements and procedures for applying to incorporate an area as a preliminary municipality;
- describes the responsibilities of the lieutenant governor and a county clerk in relation to the processes described in this bill;
- establishes the procedure for incorporating an area as a preliminary municipality, including a feasibility study, a public hearing, and the posting of a bond;
- describes development requirements;
- provides for appointment of a board and a board chair for a preliminary municipality;
- addresses the powers of, and limitations on, a preliminary municipality;
- requires the transition of a preliminary municipality to a town when the population of the preliminary municipality reaches a certain level;
- describes the requirements and procedures for transitioning a preliminary municipality into a town;
- provides for the election of officers for the future town;
- provides a sunset date for the provisions of this bill; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-104, as last amended by Laws of Utah 2015, Chapter 352
10-2a-201.5, as last amended by Laws of Utah 2023, Chapter 224
10-2a-202, as last amended by Laws of Utah 2023, Chapter 224
63I-1-210, as last amended by Laws of Utah 2022, Chapter 274

ENACTS:

10-2a-501, Utah Code Annotated 1953
10-2a-502, Utah Code Annotated 1953
10-2a-503, Utah Code Annotated 1953
10-2a-504, Utah Code Annotated 1953
10-2a-505, Utah Code Annotated 1953
10-2a-506, Utah Code Annotated 1953
10-2a-507, Utah Code Annotated 1953
10-2a-508, Utah Code Annotated 1953
10-2a-509, Utah Code Annotated 1953
10-2a-510, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-104 is amended to read:

10-1-104. Definitions.

As used in this title:

(1) "City" means a municipality that is classified by population as a city of the first class, a city of the second class, a city of the third class, a city of the fourth class, or a city of the fifth class, under Section 10-2-301.

(2) "Contiguous" means:

(a) if used to described an area, continuous, uninterrupted, and without an island of territory not included as part of the area; and

(b) if used to describe an area's relationship to another area, sharing a common boundary.

(3) "Governing body" means collectively the legislative body and the executive of any municipality. Unless otherwise provided:

(a) in a city of the first or second class, the governing body is the city commission;

(b) in a city of the third, fourth, or fifth class, the governing body is the city council;

(c) in a town, the governing body is the town council; and

(d) in a metro township, the governing body is the metro township council.

(4) "Municipal" means of or relating to a municipality.

(5) "Municipality" means:

(a) a city of the first class, city of the second class, city of the third class, city of the fourth class, city of the fifth class;

(b) a town, as classified in Section 10-2-301; [~~or~~]

(c) a metro township as that term is defined in Section 10-2a-403 unless the term is used in the

context of authorizing, governing, or otherwise regulating the provision of municipal services[.]; or

(d) a preliminary municipality incorporated under Chapter 2a, Part 5, Incorporation of a Preliminary Municipality.

(6) "Peninsula," when used to describe an unincorporated area, means an area surrounded on more than 1/2 of its boundary distance, but not completely, by incorporated territory and situated so that the length of a line drawn across the unincorporated area from an incorporated area to an incorporated area on the opposite side shall be less than 25% of the total aggregate boundaries of the unincorporated area.

(7) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(8) "Provisions of law" shall include other statutes of the state of Utah and ordinances, rules, and regulations properly adopted by any municipality unless the construction is clearly contrary to the intent of state law.

(9) "Recorder," unless clearly inapplicable, includes and applies to a town clerk.

(10) "Town" means a municipality classified by population as a town under Section 10-2-301.

(11) "Unincorporated" means not within a municipality.

Section 2. Section 10-2a-201.5 is amended to read:

10-2a-201.5. Qualifications for incorporation.

(1)(a) An area may incorporate as a town in accordance with this part if the area:

(i) is contiguous;

(ii) has a population of at least 100 people, but fewer than 1,000 people; and

(iii) is not already part of a municipality.

(b) A preliminary municipality may transition to, and incorporate as, a town, in accordance with Section 10-2a-510.

[~~(b)~~](c) An area may incorporate as a city in accordance with this part if the area:

(i) is contiguous;

(ii) has a population of 1,000 people or more; and

(iii) is not already part of a municipality.

(2)(a) An area may not incorporate under this part if:

(i) the area has a population of fewer than 100 people; or

(ii) except as provided in Subsection (2)(b), the area has an average population density of fewer than seven people per square mile.

(b) Subsection (2)(a)(ii) does not prohibit incorporation of an area if:

(i) noncompliance with Subsection (2)(a)(ii) is necessary to connect separate areas that share a demonstrable community interest; and

(ii) the area is contiguous.

(3) An area incorporating under this part may not include land owned by the United States federal government unless:

(a) the area, including the land owned by the United States federal government, is contiguous; and

(b)(i) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(ii) excluding the land from the incorporating area would create an unincorporated island within the proposed municipality.

(4)(a) Except as provided in Subsection (4)(b), an area incorporating under this part may not include some or all of an area proposed for annexation in an annexation petition under Section 10-2-403 that:

(i) was filed before the filing of the request for a feasibility study, described in Section 10-2a-202, relating to the incorporating area; and

(ii) is still pending on the date the request for the feasibility study described in Subsection (4)(a)(i) is filed.

(b) A feasibility request may propose for incorporation an area that includes some or all of an area proposed for annexation in an annexation petition described in Subsection (4)(a) if:

(i) the proposed annexation area that is part of the area proposed for incorporation does not exceed 20% of the area proposed for incorporation;

(ii) the feasibility request complies with Subsections 10-2a-202(1) through (4) with respect to excluding the proposed annexation area from the area proposed for incorporation; and

(iii) excluding the area proposed for annexation from the area proposed for incorporation would not cause the area proposed for incorporation to not be contiguous.

(c) Except as provided in Section 10-2a-206, the lieutenant governor shall consider each feasibility request to which Subsection (4)(b) applies as not proposing the incorporation of an area proposed for annexation.

(5)(a) An area incorporating under this part may not include part of a parcel of real property and exclude part of that same parcel unless the owner of the parcel gives written consent to exclude part of the parcel.

(b) A piece of real property that has more than one parcel number is considered to be a single parcel for purposes of Subsection (5)(a) if owned by the same owner.

Section 3. Section 10-2a-202 is amended to read:

10-2a-202. Feasibility request -- Requirements -- Limitations.

(1) The process to incorporate a contiguous area of a county as a municipality is initiated by an individual filing a feasibility request, with the county clerk of the county where the area proposed to be incorporated is located, that includes:

(a) the signatures of the owners of private real property that:

(i) is located within the area proposed to be incorporated;

(ii) covers at least 10% of the total private land area within the area; and

(iii) is, as of January 1 of the current year, equal in assessed fair market value to at least 7% of the assessed fair market value of all private real property within the area; and

(b) the typed or printed name and current residence address of each owner signing the request.

(2) The feasibility request shall include:

(a) a description of the contiguous area proposed to be incorporated as a municipality;

(b) a designation of up to five signers of the request as sponsors, one of whom is designated as the contact sponsor, with the mailing address and telephone number of each;

(c) an accurate map or plat, prepared by a licensed surveyor, showing a legal description of the boundaries of the proposed municipality; and

(d) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a municipality.

(3) The individual described in Subsection (1) shall, on the day on which the individual files the feasibility request with the county clerk, provide to the lieutenant governor:

(a) written notice that the individual filed the feasibility request that indicates the day on which the individual filed the feasibility request; and

(b) a complete copy of the feasibility request.

(4) A feasibility request may not propose for incorporation an area that includes [~~some or~~]all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-205(5)(a) unless:

(a) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(b) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing an incorporation petition under Section 10-2a-208.

(5) A feasibility request may not propose for incorporation an area that includes all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.

[~~(5)~~](6) Sponsors may not file a feasibility request relating to the incorporation of a town if the cumulative private real property that the sponsors own exceeds 40% of the total private land area within the boundaries of the proposed town.

Section 4. Section 10-2a-501 is enacted to read:

10-2a-501. Definitions.

Part 5. Incorporation of a Preliminary Muncipality

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Board," in relation to a preliminary municipality, means the same as a council described in Section 10-3b-402.

(3) "Board chair," in relation to a preliminary municipality, means the same as a mayor described in Section 10-3b-402.

(4) "Contiguous" means the same as that term is defined in Section 10-2a-102.

(5) "Feasibility consultant" means a person or firm:

(a) with expertise in the processes and economics of local government; and

(b) who is independent of, and not affiliated with, a county or a sponsor of a petition to incorporate a preliminary municipality under this part.

(6) "Feasibility request" means a request, described in Section 10-2a-502, for a feasibility study for the proposed incorporation of a preliminary municipality.

(7) "Initial landowners" means the persons who owned the land within the proposed preliminary municipality area when the person filed the feasibility request under Section 20A-1-501.

(8) "Municipal service" means the same as that term is defined in Section 10-2a-102.

(9) "Pending annexation area" means an area proposed for annexation in an annexation petition described in Section 10-2-403 that is filed before, and is still pending when, a person files the applicable request for a feasibility study under Section 10-2a-502.

(10) "Primary sponsor contact" means:

(a) in relation to a feasibility request:

(i) the individual designated as the primary sponsor contact for a feasibility request under Subsection 10-2a-502(5)(c); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed; or

(b) in relation to a petition for incorporation of a preliminary municipality:

(i) the individual designated as the primary sponsor contact for a petition for incorporation of a preliminary municipality under Subsection 10-2a-507(1)(d); or

(ii) an individual designated, in writing, by the initial landowners if a replacement primary sponsor contact is needed.

(11) "Private," in relation to real property, means taxable real property.

(12) "Proposed preliminary municipality area" means the area proposed for incorporation as a preliminary municipality in a feasibility request.

(13) "System infrastructure" means, as shown on the map or plat described in Subsection 10-2a-502(5)(e) for the proposed preliminary municipal area:

(a) the main thoroughfares within the proposed preliminary municipal area, including the roads that connect the proposed preliminary municipality area to an existing road outside the proposed preliminary municipality area; and

(b) the main lines that will connect a utility to the proposed preliminary municipality area, including the stubs that will connect the main lines to the development in the proposed preliminary municipality area.

Section 5. Section 10-2a-502 is enacted to read:

10-2a-502. Incorporation of a preliminary municipality -- Feasibility request -- Requirements.

(1) A person may apply to incorporate an area as a preliminary municipality by filing a feasibility request in accordance with this section.

(2) Subject to Subsection (6), a person may file a feasibility request in relation to an area that the person seeks to incorporate as a preliminary municipality if:

(a) the area is contiguous;

(b) no part of the area is within a county of the first class or second class;

(c) no part of the area is within, or within .25 miles of, a municipality;

(d) on the day on which the person files the feasibility request:

(i) the area is owned by no more than three persons, all of whom consent to incorporation as a preliminary municipality; and

(ii) at least 50% of the area is undeveloped;

(e) the persons who sign the feasibility request intend to develop the area to the point that:

(i) at least 100 individuals reside in the area;

(ii) the area will have an average population density of no less than seven individuals per square mile, unless:

(A) a population density of less than seven individuals per square mile is necessary in order to connect separate areas that share a demonstrable community interest; and

(B) the average population of the area has a population density of no less than seven individuals per square mile if the land necessary to connect the separate areas described in Subsection (2)(e)(ii)(A) is not included in the calculation; and

(iii) at least 10% of the housing in the preliminary municipality is affordable housing;

(f) the area does not include land owned by the United States government unless:

(i) the area, including the land owned by the United States government, is contiguous; and

(ii)(A) incorporating the land is necessary to connect separate areas that share a demonstrable community interest; or

(B) excluding the land from the area would create an unincorporated island within the proposed preliminary municipality;

(g) the area is entirely within one county; and

(h) the feasibility request complies with Subsection (3).

(3)(a) A proposed preliminary municipality area may not include all or part of a pending annexation area, unless:

(i) the portion of the pending annexation area included in the proposed preliminary municipality area does not exceed 20% of the proposed preliminary municipality area; and

(ii) the feasibility request would comply with the requirements of this section regardless of whether the portion of the pending annexation area included in the proposed preliminary municipality area is excluded from, or remains included in, the proposed preliminary municipality area.

(b) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study that qualifies to proceed under Subsection 10-2a-205(5)(a), unless:

(i) the proposed incorporation that is the subject of the completed feasibility study or supplemental feasibility study has been defeated by the voters at an election under Section 10-2a-210; or

(ii) the time described in Subsection 10-2a-208(1) for filing an incorporation petition based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors

filing an incorporation petition under Section 10-2a-208.

(c) A proposed preliminary municipality area may not include all or part of an area that is the subject of a completed feasibility study or supplemental feasibility study whose results comply with Subsection 10-2a-504(4), unless the time described in Subsection 10-2a-507(1) for filing a petition for incorporation based on the completed feasibility study or supplemental feasibility study has elapsed without the sponsors filing a petition for incorporation under Section 10-2a-507.

(4) Except as provided in Section 10-2a-505, the lieutenant governor shall consider each feasibility request that includes an area described in Subsection (3)(a) as if the request does not include the area described in Subsection (3)(a).

(5) A person who files a feasibility request under this section shall file the feasibility request with the lieutenant governor, including in the feasibility request:

(a) the signatures of all owners of real property included in the proposed preliminary municipality area, showing that the owners consent to including the real property in the proposed preliminary municipality area;

(b) the name, address, and phone number of each owner signing the feasibility request;

(c) a designation of one individual who signs the feasibility request as the primary sponsor contact for the feasibility request;

(d) a description of the proposed preliminary municipality area;

(e) an accurate map or plat, prepared by a licensed surveyor, showing:

(i) a legal description of the boundaries of the proposed preliminary municipality area and each phase of the proposed preliminary municipality area;

(ii) all development planned for the proposed preliminary municipality area; and

(iii) that the first phase of the proposed preliminary municipality area is projected to have at least 100 residents when completed; and

(f) a request that the lieutenant governor commission a study to determine the feasibility of incorporating the area as a preliminary municipality.

(6)(a) The provisions of this part, providing for the incorporation of a preliminary municipality, is a pilot project that ends on January 1, 2031.

(b) Except as provided in Subsection (7), a person may not file a feasibility request under this part in a calendar year during which two or more requests have already been filed in the state.

(7) A feasibility request does not count towards the limit described in Subsection (6)(b) if:

(a) the sponsors who file the request withdraw the request;

(b) the lieutenant governor rejects the feasibility request under Subsection 10-2a-503(4) or (5)(b), and the sponsors:

(i) do not timely amend the feasibility request under Subsection 10-2a-503(7)(b); or

(ii) are prohibited from amending the feasibility request under Subsection 10-2a-503(7)(c); or

(c) the process to incorporate is prohibited from proceeding under Subsection 10-2a-504(5)(a) and the sponsors:

(i) do not timely file a modified feasibility request under Subsection 10-2a-505(1)(b)(i); or

(ii) are prohibited from filing a modified feasibility request under Subsection 10-2a-505(3).

Section 6. Section 10-2a-503 is enacted to read:

10-2a-503. Processing a feasibility request -- Certification or rejection -- Processing priority -- Determination by the Utah Population Committee.

(1) Within 45 days after the day on which an individual files a feasibility request under Section 10-2a-502, the lieutenant governor shall:

(a) determine whether the feasibility request complies with Section 10-2a-502; and

(b) notify the clerk of the county where the proposed preliminary municipality area is located, in writing, of the determination made under Subsection (1)(a) and the grounds for the determination.

(2) A county clerk shall comply with a request by the lieutenant governor to provide information or a record to the lieutenant governor or to a sponsor of the feasibility request, to assist in complying with this part, within five calendar days after the day on which the lieutenant governor makes the request.

(3) If the lieutenant governor determines that the feasibility request complies with Section 10-2a-502, the lieutenant governor shall:

(a) certify the feasibility request; and

(b) transmit written notification of the certification to the primary sponsor contact, the county clerk, and the Utah Population Committee.

(4) If the lieutenant governor determines that the feasibility request fails to comply with Section 10-2a-502, the lieutenant governor shall reject the feasibility request and notify the primary sponsor contact and the county clerk, in writing, of the rejection and the grounds for the rejection.

(5)(a) Within 20 days after the day on which the lieutenant governor transmits written notification under Subsection (3)(b), the Utah Population Committee shall:

(i) determine whether, based on the map or plat described in Subsection 10-2a-502(5)(e), the proposed preliminary municipality will, when all

phases of the map or plat are completed, likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502; and

(ii) provide notice of the determination to the lieutenant governor and the county clerk.

(b) If the Utah Population Committee determines, under Subsection (5)(a)(i), that, when all phases of the plan or plat are completed, the proposed preliminary municipality will not likely comply with the population, population density, and contiguity requirements described in Section 10-2a-502, the lieutenant governor shall rescind the certification described in Subsection (3) and reject the feasibility request.

(6) The lieutenant governor shall certify or reject feasibility requests in the order in which the requests are filed.

(7)(a) If the lieutenant governor determines, under Subsection (4), that the feasibility request fails to comply with Section 10-2a-502, or rejects the feasibility request under Subsection (5)(b), the sponsors may, subject to Section 10-2a-505, amend the feasibility request to correct the deficiencies and refile the feasibility request with the lieutenant governor.

(b) Except as provided in Subsection (7)(c), the sponsors may submit an amended feasibility request within 90 days after the day on which the lieutenant governor makes the determination or rejection described in Subsection (7)(a).

(c) The sponsors may not submit an amended feasibility request more than once.

(d) The lieutenant governor shall consider a feasibility request that is amended and refiled under Subsection (7)(a) as a newly filed feasibility request and process the feasibility request in accordance with this section.

Section 7. Section 10-2a-504 is enacted to read:

10-2a-504. Feasibility study -- Feasibility study consultant -- Qualifications for proceeding with incorporation.

(1) Unless the lieutenant governor rescinds the certification under Subsection 10-2a-503(5)(b), the lieutenant governor shall, within 90 days after the day on which the lieutenant governor certifies a feasibility request under Subsection 10-2a-503(3)(a), in accordance with Subsection (2), engage a feasibility consultant to conduct a feasibility study.

(2) The lieutenant governor shall:

(a) select a feasibility consultant in accordance with Title 63G, Chapter 6a, Utah Procurement Code;

(b) ensure that the feasibility consultant:

(i) has expertise in the processes and economics of local government; and

(ii) is not affiliated with a sponsor of the feasibility request or the county in which the proposed municipality is located; and

(c) require the feasibility consultant to:

(i) submit a draft of the feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection (3)(c) within 90 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the study;

(ii) allow each person to whom the consultant provides a draft under Subsection (2)(c)(i) to review and provide comment on the draft;

(iii) submit a completed feasibility study, including a one-page summary of the results, to the following within 120 days after the day on which the lieutenant governor engages the feasibility consultant to conduct the feasibility study:

(A) the lieutenant governor;

(B) the county legislative body of the county in which the proposed preliminary municipality area is located;

(C) the primary sponsor contact; and

(D) each person to whom the consultant provided a draft under Subsection (2)(c)(i); and

(iv) attend the public hearings described in Section 10-2a-506 to present the feasibility study results and respond to questions from the public.

(3)(a) The feasibility study shall include:

(i) an analysis of:

(A) the likely population and population density within the proposed preliminary municipality area when all phases of the map or plat for the proposed preliminary municipality area are completed; and

(B) the population and population density of the area surrounding the proposed preliminary municipality area on the day on which the feasibility request was submitted;

(ii) an analysis of the following, determined as if, at the time of the analysis, the proposed preliminary municipality area is incorporated as a town with a population of 100 people:

(A) the initial and projected five-year demographics and tax base within the boundaries of the proposed preliminary municipality area and the surrounding area, including household size and income, commercial and industrial development, and public facilities;

(B) subject to Subsection (3)(b), the initial and five-year projected cost of providing municipal services to the proposed preliminary municipality area, including administrative costs;

(C) assuming the same tax categories and tax rates as imposed by the county and all other current service providers at the time during which the feasibility consultant prepares the feasibility study, the initial and five-year projected revenue for the proposed preliminary municipality area;

(D) the risks and opportunities that might affect the actual costs described in Subsection (3)(a)(ii)(B) or the revenues described in Subsection (3)(a)(ii)(C) of the proposed preliminary municipality area;

(E) new revenue sources that may be available to the proposed preliminary municipality area that are not available before the area incorporates, including an analysis of the amount of revenues the proposed preliminary municipality area might obtain from those revenue sources;

(F) the projected tax burden per household of any new taxes that may be levied within the proposed preliminary municipality area within five years after incorporation as a town; and

(G) the fiscal impact of the proposed preliminary municipality area's incorporation as a town on unincorporated areas, other municipalities, special districts, special service districts, and other governmental entities in the county; and

(iii) an analysis regarding whether sufficient water will be available to support the proposed preliminary municipality area when the development of the area is complete.

(b)(i) In calculating the projected costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall assume the proposed preliminary municipality area will provide a level and quality of municipal services that fairly and reasonably approximate the level and quality of municipal services that are provided to the area surrounding the proposed preliminary municipality area at the time the feasibility consultant conducts the feasibility study.

(ii) In calculating the current cost of a municipal service under Subsection (3)(a)(ii)(B), the feasibility consultant shall consider:

(A) the amount it would cost the proposed preliminary municipality area to provide the municipal service for the first five years after the area incorporates as a town; and

(B) the proposed or current municipal service provider's initial and five-year projected cost of providing the municipal service after the proposed preliminary municipality area incorporates as a town.

(iii) In calculating costs under Subsection (3)(a)(ii)(B), the feasibility consultant shall account for inflation and anticipated growth.

(c) In conducting the feasibility study, the feasibility consultant shall consult with the following before submitting a draft of the feasibility study under Subsection (2)(c)(iii):

(i) if the proposed preliminary municipality will include lands owned by the United States federal government, the entity within the United States federal government that has jurisdiction over the land;

(ii) if the proposed preliminary municipality will include lands owned by the state, the entity within state government that has jurisdiction over the land;

(iii) each entity that provides, or is proposed to provide, a municipal service to a portion of the proposed preliminary municipality area; and

(iv) each other special service district that provides, or is proposed to provide, services to a portion of the proposed preliminary municipality area.

(4) If the five-year projected revenues calculated under Subsection (3)(a)(ii)(C) exceed the five-year projected costs calculated under Subsection (3)(a)(ii)(B) by more than 5%, the feasibility consultant shall project and report the expected annual revenue surplus to the primary sponsor contact and the lieutenant governor.

(5)(a) Except as provided in Subsection (5)(b), if the results of the feasibility study, or a supplemental feasibility study described in Section 10-2a-505, show that the average annual amount of revenue calculated under Subsection (3)(a)(ii)(C) does not exceed the average annual cost calculated under Subsection (3)(a)(ii)(B) by more than 5%, the process to incorporate the area that is the subject of the feasibility study or supplemental feasibility study may not proceed.

(b) Except as provided in Subsection 10-2a-505(3), the process to incorporate an area described in Subsection (5)(a) may proceed if a subsequent supplemental feasibility study conducted under Section 10-2a-505 for the proposed incorporation demonstrates compliance with Subsection (5)(a).

(6) If the results of the feasibility study or revised feasibility study do not comply with Subsection (5), and if requested by the sponsors of the request, the feasibility consultant shall, as part of the feasibility study or revised feasibility study, make recommendations regarding how the proposed preliminary municipality area may be altered to comply with Subsection (5), unless the sponsors are precluded from modifying the feasibility request under Subsection 10-2a-505(3).

(7) The lieutenant governor shall post a copy of the feasibility study, and any supplemental feasibility study described in Section 10-2a-505, on the lieutenant governor's website and make a copy available for public review at the lieutenant governor's office.

Section 8. Section 10-2a-505 is enacted to read:

10-2a-505. Modified feasibility request -- Supplemental feasibility study.

(1)(a) The sponsors of a feasibility request may modify the request to alter the boundaries of the proposed preliminary municipality area and refile the modified feasibility request with the lieutenant governor if:

(i) the results of the feasibility study do not comply with Subsection 10-2a-504(5)(a); or

(ii)(A) the feasibility request complies with Subsection 10-2a-502(3)(a);

(B) the annexation petition described in Subsection 10-2a-502(3)(a) that proposed the annexation of an area that is part of the proposed preliminary municipality area has been denied; and

(C) a petition for incorporation described in Section 10-2a-507, based on the feasibility request, has not been filed.

(b)(i) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(i) more than 90 days after the day on which the feasibility consultant submits the final results of the feasibility study under Subsection 10-2a-504(2)(c)(iii).

(ii) The sponsors of a feasibility request may not file a modified request under Subsection (1)(a)(ii) more than 18 months after filing the original feasibility request under Section 10-2a-502.

(c) A modified feasibility request under Subsection (1)(a) shall comply with Subsections 10-2a-502(1) through (4).

(d) Within 20 days after the day on which the lieutenant governor receives the modified request, the lieutenant governor shall follow the same procedure described in Subsections 10-2a-503(1) through (4) for the modified feasibility request as for an original feasibility request.

(2) The timely filing of a modified feasibility request under Subsection (1) gives the modified feasibility request the same processing priority under Subsection 10-2a-503(6) as the original feasibility request.

(3) The sponsors of a feasibility request may not file a modified feasibility request under Subsection (1)(a)(i) more than once.

(4) Within 10 days after the day on which the county clerk receives a modified feasibility request under Subsection (1)(a) that relates to a request for which a feasibility study has already been completed, the lieutenant governor shall commission the feasibility consultant who conducted the feasibility study to conduct a supplemental feasibility study that accounts for the modified feasibility request.

(5) The lieutenant governor shall require the feasibility consultant to:

(a) submit a draft of the supplemental feasibility study to each applicable person with whom the feasibility consultant is required to consult under Subsection 10-2a-504(3)(c) within 30 days after the day on which the feasibility consultant is engaged to conduct the supplemental study;

(b) allow each person to whom the consultant provided a draft under Subsection (5)(a) to review and provide comment on the draft; and

(c) submit a completed supplemental feasibility study, to the following within 45 days after the day on which the feasibility consultant is engaged to conduct the feasibility study:

(i) the lieutenant governor;

(ii) the county legislative body of the county in which the incorporation is proposed;

(iii) the primary sponsor contact; and

(iv) each person to whom the consultant provided a draft under Subsection (5)(a).

(6)(a) Subject to Subsections (3) and (6)(b), if the results of the supplemental feasibility study do not comply with Subsection 10-2a-504(4), the sponsors may further modify the request in accordance with Subsection (1).

(b) Subsections (1)(d), (4), and (5) apply to a modified feasibility request described in Subsection (6)(a).

(c) The lieutenant governor shall consider a modified feasibility request described in Subsection (6)(a) as an original feasibility request for purposes of determining the modified feasibility request's processing priority under Subsection 10-2a-503(6).

Section 9. Section 10-2a-506 is enacted to read:

10-2a-506. Public hearings on feasibility study results -- Notice of hearings.

(1) If the results of the feasibility study or supplemental feasibility study comply with Subsection 10-2a-504(4), the lieutenant governor shall, after receipt of the results of the feasibility study or supplemental feasibility study, conduct public hearings in accordance with this section.

(2)(a) If a portion of the proposed preliminary municipality area is approved for annexation after the feasibility study or supplemental feasibility study is conducted but before the lieutenant governor conducts a public hearing under Subsection (4), the lieutenant governor may not conduct the public hearing under Subsection (4) unless:

(i) the sponsors of the feasibility study file a modified feasibility request in accordance with Section 10-2a-505; and

(ii) the results of the supplemental feasibility study comply with Subsection 10-2a-504(4).

(b) For purposes of Subsection (2)(a), an area is approved for annexation if a municipal legislative body:

(i) approves an annexation petition proposing the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-407 or 10-2-408; or

(ii) adopts an ordinance approving the annexation of an area that is part of the proposed preliminary municipality area under Section 10-2-418.

(3) The lieutenant governor shall conduct a public hearing:

(a) within 60 days after the day on which the lieutenant governor receives the results under Subsection (1) or (2)(a)(ii);

(b) at a location within or near the proposed preliminary municipality; and

(c) to allow the feasibility consultant to present the results of the feasibility study and inform the public about the results.

(4) The lieutenant governor shall:

(a) conduct an additional public hearing following each occasion when, after the day of the initial public hearing, the lieutenant governor receives the results of a supplemental feasibility study that comply with Subsection 10-2a-504(4); and

(b) hold the public hearing described in Subsection (4)(a):

(i) within 30 days after the day on which the lieutenant governor receives the results of the supplemental feasibility study;

(ii) at a location within or near the proposed preliminary municipality;

(iii) to inform the public that the feasibility presented to the public at the preceding public hearing does not apply; and

(iv) to allow the feasibility consultant to present the results of the supplemental feasibility study and inform the public about the results.

(5) At each public hearing required under this section, the lieutenant governor shall:

(a) provide a map or plat of the boundary of the proposed preliminary municipality;

(b) provide a copy of the applicable feasibility study for public review;

(c) allow members of the public to express views about the proposed preliminary municipality, including views about the proposed boundaries; and

(d) allow the public to ask the feasibility consultant questions about the applicable feasibility study.

(6) The lieutenant governor shall publish notice of each public hearing required under this section for the proposed preliminary municipality area, as a class B notice under Section 63G-30-102, for at least three weeks before the day of the public hearing.

(7)(a) Except as provided in Subsection (7)(b), for a hearing described in this section, the notice described in Subsection (7) shall:

(i) include the feasibility study summary described in Subsection 10-2a-504(2)(c)(iii); and

(ii) indicate that a full copy of the feasibility study is available on the lieutenant governor's website and for inspection at the lieutenant governor's office.

(b) Instead of publishing the feasibility summary under Subsection (7)(a)(i), the lieutenant governor may publish a statement that specifies the following sources where a person may view or obtain a copy of the feasibility study:

(i) the lieutenant governor's website;

(ii) the lieutenant governor's office; and

(iii) a mailing address and telephone number.

Section 10. Section 10-2a-507 is enacted to read:

10-2a-507. Petition for incorporation -- Requirements and form.

(1) At any time within one year after the day on which the lieutenant governor completes the public hearings required under Section 10-2a-506, the owners of the property who filed the feasibility request under Section 10-2a-502 for the proposed preliminary municipality area may proceed with the incorporation process by filing a petition for incorporation of the proposed preliminary municipality that:

(a) includes the typed or printed name, signature, address, and phone number of the initial landowners;

(b) describes the proposed preliminary municipality area, as described in the feasibility request or the modified feasibility request;

(c) demonstrates compliance with Subsection 10-2a-504(4);

(d) states the proposed name for the proposed preliminary municipality;

(e) designates the primary sponsor contact for the proposed preliminary municipality;

(f) designates the board chair and three of the four board members who will serve as a five member council form of government for the preliminary municipality, described in Section 10-3b-402, for the preliminary municipality;

(g) is accompanied by an accurate map or plat, prepared by a licensed surveyor, showing:

(i) the boundaries of the proposed preliminary municipality;

(ii) a single development plan for the proposed municipality, depicting each phase of the development;

(h) is accompanied by a bond, cash deposit, or letter of credit that:

(i) is posted by the initial landowners;

(ii) is in favor of the proposed preliminary municipality, to guarantee that the initial landowners will complete the system infrastructure no later than six years after the day on which the initial landowners file the petition for incorporation described in this section; and

(iii) will be refunded to the initial landowners in percentages that reflect the progress toward completing the system infrastructure; and

(i) is accompanied by payment in full, from the initial landowners, of the costs incurred by the lieutenant governor for the feasibility study, the public notices, the hearings, and the other expenses incurred by the lieutenant governor to comply with the requirements of this part in relation to the proposed preliminary municipality.

(2) If, within six years after the day on which the initial landowners file a petition for incorporation

under Subsection (1), the system infrastructure for the preliminary municipality is not completed, the portion of the bond, cash deposit, or letter of credit described in Subsection (1)(h) that has not been refunded to the initial landowners shall forfeit to the preliminary municipality.

(3) If, within four years after the day on which the first residential certificate of occupancy is issued for the development described in Subsection 10-2a-503(5)(e), or six years after the day on which the initial landowners file a petition for incorporation under Subsection (1), the preliminary municipality has not transitioned to a town:

(a) the lieutenant governor shall issue a certificate dissolving the preliminary municipality;

(b) all roads and infrastructure within the preliminary municipality revert to the county in which the preliminary municipality is located;

(c) the area within the proposed municipality falls under the jurisdiction of the county and is no longer incorporated; and

(d) the initial landowners are liable to the county for damages caused to the county due to the dissolution of the preliminary municipality.

Section 11. Section 10-2a-508 is enacted to read:

10-2a-508. Processing of petition by lieutenant governor -- Certification or rejection -- Petition modification.

(1) Within 45 days after the day on which a petition for incorporation is filed under Section 10-2a-507, the lieutenant governor shall:

(a) determine whether the petition for incorporation complies with Section 10-2a-507; and

(b)(i) if the lieutenant governor determines that the petition for incorporation complies with Section 10-2a-507, incorporate the preliminary municipality, issue a certificate of incorporation, and appoint the board chair and three board members designated under Subsection 10-2a-507(1)(e); or

(ii) if the lieutenant governor determines that the petition for incorporation fails to comply with Section 10-2a-507, reject the petition for incorporation and notify the primary sponsor contact in writing of the rejection and the reasons for the rejection.

(2)(a) If the lieutenant governor rejects a petition for incorporation under Subsection (1)(b)(ii), the sponsors of the petition for incorporation may correct the deficiencies for which the petition for incorporation was rejected and refile the petition for incorporation with the lieutenant governor.

(b) Notwithstanding the deadline described in Subsection 10-2a-507(1), the sponsors of the petition for incorporation may file a modified petition for incorporation under Subsection (2)(a) no later than 30 days after the day on which the lieutenant governor notifies the primary sponsor contact of the rejection under Subsection (1)(b)(ii).

(3)(a) Within 20 days after the day on which the lieutenant governor receives a modified petition for incorporation under Subsection (2)(a), the lieutenant governor shall review the modified petition for incorporation in accordance with Subsection (1).

(b) The sponsors of a petition for incorporation may not modify the petition for incorporation more than once.

Section 12. Section 10-2a-509 is enacted to read:

10-2a-509. Governance of preliminary municipality -- Utilities -- Road maintenance.

(1)(a) Within 30 days after the day on which the lieutenant governor issues a certificate of incorporation described in Subsection 10-2a-508(1)(b)(i), the county in which the preliminary municipality is located shall appoint one board member for the preliminary municipality.

(b) If the county fails to timely comply with Subsection (1)(a), the board chair and the three board members appointed under Subsection 10-2a-508(1)(b)(i) shall, by majority vote, appoint the final board member.

(2) The board chair and board members, described in Subsection (1), of a preliminary municipality:

(a) are not required to be residents of the preliminary municipality; and

(b) shall serve as the board for the preliminary municipality until replaced by election under Section 10-2a-510.

(3)(a) Within 14 days after the day on which the first residential certificate of occupancy is issued for the development described in Subsection 10-2a-503(5)(e), the engineer described in Subsection 10-2a-509(6), shall notify the county and the lieutenant governor, in writing:

(i) that the first residential certificate of occupancy has been issued for the preliminary municipality;

(ii) of the date on which the first residential certificate of occupancy was issued; and

(iii) of the physical address for which the first residential certificate of occupancy was issued.

(b) No later than the next municipal general election, or regular general election, that is at least 30 days after the date described in Subsection (3)(a)(ii), the initial landowners shall:

(i) replace the board chair or a board member with an individual who is a resident of the preliminary municipality; and

(ii) notify the county and the lieutenant governor of the appointment, in writing.

(4)(a) Subject to Subsection (4)(b), a preliminary municipality has all the powers and duties of a municipality.

(b) A preliminary municipality:

(i) may not impose a tax;

(ii) may enter into an interlocal agreement with a special district to provide utility services to the preliminary municipality;

(iii) has the same authority as another municipality to make decisions regarding zoning and land use;

(iv) may not receive an allocation of sales tax or gas tax; and

(v) may not exercise eminent domain authority.

(5) As needed, the county shall provide all services and utility connections to the preliminary municipality that the county provides other areas in the county if the preliminary municipality:

(a) pays the uniformly assessed rates for the services and utilities and reasonable connection fees; and

(b) complies with the county's established regulations and specifications for the construction and connection of the local improvements.

(6) The preliminary municipality shall maintain and repair any roadway that, on the day on which the individual filed the feasibility request under Section 10-2a-502:

(a) existed within the preliminary municipality;

(b) was within a public right of way that abuts the preliminary municipality; or

(c) was within 1/2 mile of the preliminary municipality and connected to, or was proposed in the feasibility request to be connected to, the preliminary municipality.

(7) Before the preliminary municipality submits a petition to transition to a town, the preliminary municipality shall select an independent third-party engineer to review and approve all building permit applications within the preliminary municipality to ensure compliance with the law.

(8) Chapter 2, Classification, Boundaries, Consolidation, and Dissolution of Municipalities, does not apply to a preliminary municipality.

Section 13. Section 10-2a-510 is enacted to read:

10-2a-510. Transitioning from a preliminary municipality to a town -- Petition -- Election of officers.

(1) Within 30 days after the day on which the population of a preliminary municipality exceeds 99 people, a person who filed the application to incorporate as a preliminary municipality or a resident of the preliminary municipality shall file with the lieutenant governor a petition to transition the preliminary municipality into a town.

(2) A petition to transition a preliminary municipality into a town shall include:

(a) a request that the lieutenant governor certify the transition of the preliminary municipality to, and the incorporation of the preliminary municipality as, a town;

(b) the name, address, and phone number of the person filing the request;

(c) the map or plat of the preliminary municipality;

(d) a legal description of the boundaries of the preliminary municipality;

(e) information regarding the preliminary municipality, including:

(i) the number of residences in the preliminary municipality;

(ii) the population of the preliminary municipality;

(iii) the number of adults and the number of children who reside in the preliminary municipality; and

(iv) information regarding the providers of municipal services and emergency services to the preliminary municipality;

(f) the proposed name for the town; and

(g) a signature sheet containing the names, addresses, and signatures of a majority of the adult residents of the preliminary municipality, supporting the proposed name for the town.

(3) Within 30 days after the day on which a person files a petition to transition a preliminary municipality into a town, the lieutenant governor shall:

(a) determine whether the preliminary municipality has a population of more than 99 people;

(b) examine the petition to determine whether the petition complies with Subsection (2);

(c) if the lieutenant governor determines that the preliminary municipality has a population of more than 99 people and that the petition complies with Subsection (2), proceed to transition the preliminary municipality as a town in accordance with Subsection (4);

(d) if the lieutenant governor determines that the preliminary municipality has a population of less than 100 people, deny the petition, inform the person who filed the petition of the determination, and request that the person refile the petition when the population exceeds 99 people; and

(e) if the lieutenant governor determines that the petition fails to comply with Subsection (2), deny the petition, inform the person who filed the petition of the denial and the reason for the denial, and request that the person correct and refile the petition.

(4) After making the determination described in Subsection (3)(c), the lieutenant governor shall:

(a) inform the person who filed the petition of the determination;

(b) inform the county in which the preliminary municipality is located of the determination; and

(c) direct the county to conduct an election for mayor and city council of the future town, to be held on the date of the next regular general election described in Section 20A-1-201, or the next municipal general election described in Section 20A-1-202, that is at least 65 days after the day on which the lieutenant governor directs the county to hold the election.

(5) The county shall:

(a) comply with the direction given by the lieutenant governor under Subsection (4)(c);

(b) determine the initial terms of the mayor and municipal council members to ensure that:

(i) the mayor and two of the municipal county members are elected in the next municipal general election;

(ii) the remaining municipal council members are elected at elections that result in the staggering of council member terms; and

(iii) the council members who receive the highest number of votes are assigned the longer initial terms; and

(c) provide notice of the election for the preliminary municipality as a class B notice under Section 63G-30-102, for at least three weeks before the day of the election.

(6) The notice described in Subsection (5)(c) shall include:

(a) a statement of the contents of the petition to transition the preliminary municipality to a town;

(b) a description of the area to be incorporated as a town;

(c) the name of the town;

(d) information about the deadline for an individual to file a declaration of candidacy to become a candidate for mayor or municipal council;

(e) information about the initial terms of office;

(f) a statement of the date and time of the election and the location of polling places; and

(g) a statement that the purpose of the election is to elect a mayor and a council to govern the town upon the town's incorporation.

(7)(a) In addition to the notice described in Subsection (6), the county clerk shall publish and distribute, before the election is held, a voter information pamphlet:

(i) in accordance with the procedures and requirements of Section 20A-7-402;

(ii) in consultation with the lieutenant governor; and

(iii) in a manner that the county clerk determines is adequate.

(b) The voter information pamphlet described in Subsection (7)(a):

(i) shall inform the public of the election and the purpose of the election; and

(ii) may include additional information regarding the election of the elected officials and the incorporation of the town.

(8) An individual may not vote in the election described in this section unless the individual is a registered voter who is a resident, as defined in Section 20A-1-102, within the boundaries of the preliminary municipality.

(9) The town, incorporated under Subsection (10)(b), shall pay to the county the cost of running the election described in this section.

(10) On the day after the day on which the canvass for the election is completed:

(a) the elected mayor and council members shall take office and replace the board chair and board members of the preliminary municipality;

(b) the lieutenant governor shall issue a certification that the preliminary municipality has transitioned to, and is incorporated as, a town; and

(c) subject to Subsection (14), the town holds all authority and power of a town.

(11) The former mayor and council members for the preliminary municipality shall assist the newly-elected mayor of the town and the newly-elected council members of the town with the transition to a town and the transfer of power to the elected government of the town.

(12) The initial government of a town incorporated under this section is the five member council form of government described in Chapter 3b, Part 4, Five-Member Council Form of Municipal Government, with the mayor and counsel members elected at large.

(13) Within 30 days after the day on which the mayor takes office under Subsection (10)(a), the mayor shall record the certification described in Subsection (10)(b), and a copy of the plat for the municipality, with the county recorder.

(14) Until the mayor complies with Subsection (13), the municipality may not:

(a) levy or collect a property tax on property within the municipality;

(b) levy or collect an assessment on property within the municipality; or

(c) charge or collect a fee for a service provided to property within the municipality.

(15) Section 10-2a-220 applies to a town incorporated under this section.

Section 14. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates: Title 10.

The following are repealed on January 1, 2031:

(1) Subsection 10-1-104(5)(d);

(2) Subsection 10-2a-201.5(1)(b);

(3) Subsection 10-2a-202(5); and

(4) Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 535
S. B. 264
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

INLAND PORT AUTHORITY AMENDMENTS

Chief Sponsor: Jerry W Stevenson
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- makes the Utah Inland Port Authority subject to the Utah Industrial Facilities and Development Act;
- modifies limitations on board members;
- modifies notice requirements for a project area plan;
- prohibits the authority from paying certain developer costs associated with the construction of public infrastructure and improvements in a project area;
- provides that the base taxable value of project area land applies to land added to the project area;
- prohibits contaminated land or land within a remediation project area to be used for a distribution center;
- modifies requirements to qualify for a business recruitment incentive;
- modifies provisions relating to the distribution of sales tax revenue; and
- removes a condition applicable to the authority's creation of a remediation project area.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-17-2, as last amended by Laws of Utah 2020, Chapter 354
11-17-3.5, as enacted by Laws of Utah 2009, Chapter 92
11-58-102, as last amended by Laws of Utah 2023, Chapters 16, 259
11-58-205, as last amended by Laws of Utah 2023, Chapters 16, 259
11-58-206, as last amended by Laws of Utah 2023, Chapter 259
11-58-304, as last amended by Laws of Utah 2022, Chapter 82
11-58-503, as last amended by Laws of Utah 2023, Chapter 435
11-58-504, as enacted by Laws of Utah 2018, Chapter 179
11-58-602, as last amended by Laws of Utah 2023, Chapter 259
11-58-603, as last amended by Laws of Utah 2023, Chapter 259
11-58-605, as enacted by Laws of Utah 2023, Chapter 259
59-12-205, as last amended by Laws of Utah 2023, Chapters 302, 471 and 492

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-17-2 is amended to read:

11-17-2. Definitions.

As used in this chapter:

(1) "Bonds" means bonds, notes, or other evidences of indebtedness.

(2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:

(a) insulation in:

(i) a wall, ceiling, roof, floor, or foundation; or

(ii) a heating or cooling distribution system;

(b) an insulated window or door, including:

(i) a storm window or door;

(ii) a multiglazed window or door;

(iii) a heat-absorbing window or door;

(iv) a heat-reflective glazed and coated window or door;

(v) additional window or door glazing;

(vi) a window or door with reduced glass area; or

(vii) other window or door modifications that reduce energy loss;

(c) an automatic energy control system;

(d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;

(e) caulking or weatherstripping;

(f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;

(g) an energy recovery system;

(h) a daylighting system;

(i) measures to reduce the consumption of water, through conservation or more efficient use of water, including:

(i) installation of a low-flow toilet or showerhead;

(ii) installation of a timer or timing system for a hot water heater; or

(iii) installation of a rain catchment system; or

(j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

(a) for a county, city, town, or metro township, the legislative body of the county, city, town, or metro township;

(b) for the Utah Inland Port Authority created in Section 11-58-201, the board, as defined in Section 11-58-102;

[~~(b)~~](c) for the military installation development authority created in Section 63H-1-201, the board, as defined in Section 63H-1-102;

[~~(c)~~](d) for a state university except as provided in Subsection [~~(4)(d)~~](4)(e), the board or body having the control and supervision of the state university; and

[~~(d)~~](e) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5)(a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city, town, or metro township in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10)(a) "Project" means:

(i) an industrial park, land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the

construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Section 2. Section 11-17-3.5 is amended to read:

11-17-3.5. Utah Inland Port Authority and Military Installation Development Authority governed by chapter.

The Utah Inland Port Authority, created in Section 11-58-201, and the military installation development authority, created in Section 63H-1-201, [~~is~~]are subject to and governed by the provisions of this chapter to the same extent as if the Utah Inland Port Authority and military installation development authority, respectively, were a municipality.

Section 3. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a)(i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Section 11-58-600.7, the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Contaminated land" means land:

(a) within a project area; and

(b) that contains hazardous materials, as defined in Section 19-6-302, hazardous substances, as defined in Section 19-6-302, or landfill material on, in, or under the land.

(7) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (7)(a).

(8) "Development project" means a project for the development of land within a project area.

(9) "Distribution center" means a building that is:

(a) used for the storage, sorting, and distribution of goods intended for sale; and

(b) not associated with or operated in conjunction with an adjacent manufacturing facility.

[~~(9)~~](10) "Inland port" means one or more sites that:

(a) contain multimodal facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value- added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo- handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre- clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

[~~(10)~~](11) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (9);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (9); or

(d) that depends upon the presence of the inland port for the viability of the use.

[~~(11)~~](12) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

[~~(12)~~](13) "Landfill material" means garbage, waste, debris, or other materials disposed of or placed in a landfill.

[~~(13)~~](14) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

[~~(14)~~](15) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11- 58- 302(3) who does not have the power to vote on matters of authority business.

[~~(15)~~](16) "Project area" means:

(a) the authority jurisdictional land, subject to Section 11- 58- 605; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[~~(16)~~](17) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

[~~(17)~~](18) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[~~(18)~~](19) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[~~(19)~~](20) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59- 2- 1602;

(ii) a judgment levy imposed by a taxing entity under Section 59- 2- 1328 or 59- 2- 1330; or

(iii) a levy imposed by a taxing entity under Section 11- 14- 310 to pay for a general obligation bond.

[~~(20)~~](21) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, special district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

[~~(21)~~](22)(a) "Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i)(A) benefit the public and are owned by a public entity or a utility; or

(B) benefit the public and are publicly maintained or operated by a public entity; or

(ii)(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to applicable county or municipal design and safety standards.

(b) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities,

rail lines, intermodal facilities, multimodal facilities, and public transportation facilities;

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that are developed as part of a remediation project.

[~~(22)~~](23) "Remediation" includes:

(a) activities for the cleanup, rehabilitation, and development of contaminated land; and

(b) acquiring an interest in land within a remediation project area.

[~~(23)~~](24) "Remediation differential" means property tax differential generated from a remediation project area.

[~~(24)~~](25) "Remediation project" means a project for the remediation of contaminated land that:

(a) is owned by:

(i) the state or a department, division, or other instrumentality of the state;

(ii) an independent entity, as defined in Section 63E-1-102; or

(iii) a political subdivision of the state; and

(b) became contaminated land before the owner described in Subsection (24)(a) obtained ownership of the land.

[~~(25)~~](26) "Remediation project area" means a project area consisting of contaminated land that is or is expected to become the subject of a remediation project.

[~~(26)~~](27) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

[~~(27)~~](28) "Taxable value" means the value of property as shown on the last equalized assessment roll.

[~~(28)~~](29) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

[~~(29)~~](30) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 4. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member -- Services from state agencies -- Procurement policy.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5)(a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6)(a) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(b) Notwithstanding a permitted or conditional use allowed under applicable municipal ordinances, contaminated land may not be used for a distribution center.

(7)(a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8)(a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, special district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9)(a) The authority may request and, upon request, shall receive:

(i) fuel dispensing and motor pool services provided by the Division of Fleet Operations;

(ii) surplus property services provided by the Division of Purchasing and General Services;

(iii) information technology services provided by the Division of Technology Services;

(iv) archive services provided by the Division of Archives and Records Service;

(v) financial services provided by the Division of Finance;

(vi) human resources services provided by the Division of Human Resource Management;

(vii) legal services provided by the Office of the Attorney General; and

(viii) banking services provided by the Office of the State Treasurer.

(b) Nothing in Subsection (9)(a) may be construed to relieve the authority of the obligation to pay the applicable fee for the service provided.

(10)(a) To govern authority procurements, the board shall adopt a procurement policy that the board determines to be substantially consistent with applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) The board may delegate to the executive director the responsibility to adopt a procurement policy.

(c) The board's determination under Subsection (10)(a) of substantial consistency is final and conclusive.

Section 5. Section 11-58-206 is amended to read:

11-58-206. Port authority funds.

(1) [~~The~~]Subject to Subsection (2), the authority may use authority funds for any purpose authorized under this chapter, including:

[~~(1)~~](a) promoting, facilitating, and advancing inland port uses;

[~~(2)~~](b) owning and operating an intermodal facility;

[~~(3)~~](c) the remediation of contaminated land within a project area; and

[~~(4)~~](d) paying any consulting fees and staff salaries and other administrative, overhead, legal, and operating expenses of the authority.

(2)(a) As used in this Subsection (2):

(i) "Affected project area" means the project area where public infrastructure and improvements are constructed or are to be constructed.

(ii) "Local legislative body" means:

(A) the legislative body of the county in which the affected project area is located; or

(B) the legislative body of the municipality in which the affected project area is located.

(b) The authority may not use authority funds to pay developer costs, as defined by the local legislative body, associated with the development

and construction of public infrastructure and improvements in an affected project area.

Section 6. Section 11-58-304 is amended to read:

11-58-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2)(a) An individual [~~may not serve as a voting member of the board or as executive director~~]is subject to Subsection (2)(b) if:

[~~(a)~~](i) the individual owns real property, other than a personal residence in which the individual resides, within a project area, whether or not the ownership interest is a recorded interest;

[~~(b)~~](ii) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within a project area; or

[~~(c)~~](iii) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

[~~(i)~~](A) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

[~~(ii)~~](B) acquire an interest in or locate a facility within a project area.

(b) An individual described in Subsection (2)(a):

(i) may not serve as executive director; or

(ii) may not, if the individual is a board member, participate in the consideration or vote on any matter affecting the individual or family member's interest or affiliation described in Subsection (2)(a).

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4)(a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5)(a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 7. Section 11-58-503 is amended to read:

11-58-503. Notice of project area plan adoption -- Effective date of plan -- Time for challenging a project area plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice[~~:~~]

[~~(a)~~] for the project area, as a class A notice under Section 63G-30-102, for at least 30 days[~~; and~~].

[~~(b) as required by Section 45-1-101.~~]

(2)(a) Each notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included within the board resolution adopting the project area plan or within the summary of the resolution.

(3) The project area plan shall become effective on the date designated in the board resolution.

(4) The authority shall make the adopted project area plan available to the general public at the authority's offices during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6)(a) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 30 days after the effective date of the project area plan.

(b) A legal action or other challenge to a project area that consists of authority jurisdictional land is barred unless brought within 30 days after the board adopts a business plan under Subsection 11-58-202(1)(a) for the authority jurisdictional land.

Section 8. Section 11-58-504 is amended to read:

11-58-504. Amendment to a project area plan.

(1) The authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

(3) If an amendment to a project area plan results in land being included in the project area that was not included in the project area before the amendment, the base taxable value applicable to the project area before the amendment applies to the land added to the project area by amendment.

Section 9. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1)(a) The authority may use money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)(a)(ii)(C), and other money available to the authority:

(i) for any purpose authorized under this chapter;

(ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

(iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

(iv) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax differential funds were collected;

(v) to pay the cost of the installation of public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

(vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-606(2);

(vii) to pay the principal and interest on bonds issued by the authority;

(viii) to pay the cost of acquiring a conservation easement on land that is part of or adjacent to authority jurisdictional land:

(A) for the perpetual preservation of the land from development; and

(B) to provide a buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land; and

(ix) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b)(i)(A) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)(ix) in the landowner's development.

(B) Minimum mitigation and environmental standards established under Subsection (1)(b)(i)(A) shall include a standard prohibiting the use of property tax differential as a business recruitment incentive, as defined in Section 11-58-603, for new commercial or industrial development or an expansion of existing commercial or industrial development within the authority jurisdictional land if the new or expanded development will consume on an annual basis more than 200,000 gallons of potable water per day.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a

landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection (1)(a)(v) regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

(5) The authority may use up to 10% of the general differential revenue generated from a project area to pay for affordable housing within or near the project area.

(6) The authority may share general differential funds with a taxing entity that levies a property tax on land within the project area from which the general differential is generated.

[~~(7)(a) As used in this Subsection (7):~~]

[~~(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)(a)(ii)(C).~~]

[~~(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).~~]

[~~(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C).~~]

[~~(iv) "Point of sale portion" means:~~]

[~~(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion; and~~]

[~~(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)(a)(ii)(A) in the absence of Subsection 59-12-205(2)(a)(ii)(C), excluding the retail sales portion.~~]

[~~(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)(a)(ii)(A) from retail sales transactions that occur on authority jurisdictional land.~~]

[~~(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:~~]

[~~(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and~~]

[~~(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.~~]

Section 10. Section 11-58-603 is amended to read:

11-58-603. Use of authority money for business recruitment incentive.

(1) As used in this section:

(a) "Business recruitment incentive" means the post-performance payment of property tax differential as an incentive for development within a project area, as provided in this section.

(b) "Incentive application" means an application for a business recruitment incentive.

(c) "Tax differential parcel" means a parcel of land where development activity occurs.

(2) The authority may use property tax differential as a business recruitment incentive as provided in this section.

(3) The board shall establish:

(a) the requirements for a person to qualify for a business recruitment incentive;

(b) the application timeline, documentation requirements, and approval criteria applicable to an incentive application; and

(c) the standards and criteria for approval of an incentive application.

(4)(a) Subject to Subsection (4)(b), a person may qualify for a business recruitment incentive if:

(i) the person submits an incentive application according to requirements established by the board;

(ii) the person meets the requirements established by the board for a business recruitment incentive; and

(iii) the board approves the incentive application.

(b) A person may not qualify for a business recruitment incentive if the person's development project:

(i) is on authority jurisdictional land; and

(ii) relates primarily to retail operations or the distribution of goods.

(5) The authority may pay a person, on a post-performance basis and as determined by the board, a percentage of property tax differential:

(a) generated from a tax differential parcel and paid to the authority; and

(b) for a specified period of time.

Section 11. Section 11-58-605 is amended to read:

11-58-605. Creation of remediation project area and payment of remediation differential.

(1) As used in this section:

(a) "Remedial action plan" means a plan for the cleanup of contaminated land under a voluntary cleanup agreement under Title 19, Chapter 8, Voluntary Cleanup Program.

(b) "Subsidiary district" means a public infrastructure district that is a subsidiary of the authority.

(2) This section applies to a remediation project area and to remediation differential.

(3)(a) The authority may adopt a resolution creating a remediation project area [~~if the authority and the owner of contaminated land to be included in the remediation project area enter an agreement governing a remediation project within the remediation project area~~].

(b) Land within a remediation project area may not be used for a distribution center.

(4) If the authority adopts a resolution creating a remediation project area, the authority shall reconfigure the boundary of the project area that consists of the authority jurisdictional land to exclude the remediation project area.

(5) The authority may pay the costs of a remediation project from funds available to the authority, including funds of a subsidiary district.

(6)(a) If the authority pays some or all the costs of a remediation project, the authority shall be paid 100% of the remediation differential, subject to Subsection (6)(b), until the authority is fully reimbursed for the costs the authority paid for the remediation project.

(b)(i) Subject to Subsection (6)(b)(iii), the authority's use of remediation differential paid to the authority under Subsection (6)(a) is subject to any bonds of a subsidiary district issued before May 3, 2023 pledging property tax differential funds generated from the contaminated land.

(ii) Before using remediation differential to pay subsidiary district bonds described in Subsection (6)(b)(i), the authority shall use other funds available to the authority to pay the bonds.

(iii) A pledge of property tax differential under subsidiary district bonds issued before May 3, 2023 may be satisfied if:

(A) the authority or the subsidiary district pledges additional property tax differential, other than remediation differential, or other authority or subsidiary district funds to offset any decrease in property tax differential resulting from the payment under Subsection (6)(a) of remediation differential funds that would otherwise have been available to pay the subsidiary district bonds; and

(B) the pledge described in Subsection (6)(b)(iii)(A) is senior in right to any pledge of remediation differential for a commitment the authority makes in connection with a remediation project.

(7) If a remediation project is conducted pursuant to a remedial action plan, the use of the land that is the subject of the remediation project shall be consistent with the remedial action plan unless the change of use:

(a) occurs after the government owner, as defined in Subsection 63G-7-201(3)(b), is environmentally compliant, as defined in Subsection 63G-7-201(3)(b), with respect to the land that is the subject of the remediation project; and

(b) is approved by the board following a public hearing on the proposed change of use.

(8)(a) Upon the authority receiving full reimbursement for the authority's payment of costs for a remediation project, the remediation project area is automatically and immediately dissolved and the land within the remediation project area automatically and immediately becomes part of the project area consisting of the authority jurisdictional land.

(b) The board shall take any action necessary to effectuate and reflect in authority project area records and any other applicable records the reincorporation of the remediation project area under Subsection (8)(a) into the project area consisting of the authority jurisdictional land.

Section 12. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2)(a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):

(i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(ii)(A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under

Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;

(C) beginning July 1, [~~2022~~]2024, [~~50%~~]20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and

(D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3)(a) As used in this Subsection (3):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(4)(a) For purposes of this Subsection (4):

(i) "Annual local contribution" means the lesser of $275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:

(i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:

(A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

(B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by $250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and

(ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).

(5)(a) As used in this Subsection (5):

(i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.

(ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

(iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

(A) contains sand and gravel; and

(B) is assessed by the commission in accordance with Section 59-2-201.

(iv) "Ton" means a short ton of 2,000 pounds.

(v) "Tonnage ratio" means the ratio of:

(A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to

(B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.

(b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:

(i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c)(i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to

the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12- month period.

(d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.

(6)(a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 13. Effective date.

(1)(a) Except as provided in Subsection (1)(b), this bill takes effect on May 1, 2024.

(b) If approved by two- thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Notwithstanding Subsection (1), the actions affecting Sections 11- 58- 602 and 59- 12- 205 take effect on July 1, 2024.

CHAPTER 536
S. B. 267
Passed February 29, 2024
Approved March 21, 2024
Effective July 1, 2024

RESPITE CARE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill addresses respite care services for families of individuals with disabilities.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Division of Services for People with Disabilities to provide, as funding permits and either directly or through a third party, overnight respite care services for families of individuals with disabilities;
- provides a sunset date; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2025:

- to Department of Health and Human Services - Long-Term Services & Support - Community Supports Waiver Services as a one-time appropriation:
  - from the General Fund, One-time, $250,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329

63I-2-226, as last amended by Laws of Utah 2023, Chapters 33, 139, 249, 295, 310, and 465 and repealed and reenacted by Laws of Utah 2023, Chapter 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329

ENACTS:

26B-6-414, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26B-6-414 is enacted to read:

26B-6-414. Respite care services.

(1) As used in this section, "respite care services" means temporary, periodic relief provided to parents or guardians from the care of an individual who is eligible to receive division services.

(2) The division may, as funding permits and either directly or through one or more third parties who are under contract with the division, provide overnight respite care services and, concurrent with the respite care services, services for the individual who is eligible to receive division services, such as recreational therapy, community-based programs, therapeutic recreation, educational programs, transportation, or vocational rehabilitation.

Section 2. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), related to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241 is repealed July 1, 2024.

(3) Section 26B-1-302 is repealed on July 1, 2024.

(4) Section 26B-1-313 is repealed on July 1, 2024.

(5) Section 26B-1-314 is repealed on July 1, 2024.

(6) Section 26B-1-321 is repealed on July 1, 2024.

(7) Section 26B-1-405, related to the Air Ambulance Committee, is repealed on July 1, 2024.

(8) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(10) Section 26B-3-142 is repealed July 1, 2024.

(11) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(12) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(13) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(14) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

(15) Section 26B-6-414, related to overnight respite care services, is repealed July 1, 2025.

[~~(15)~~](16) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(16)~~](17) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 3. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Section 26B-1-241 is repealed July 1, 2024.

(2) Section 26B-1-302 is repealed on July 1, 2024.

(3) Section 26B-1-313 is repealed on July 1, 2024.

(4) Section 26B-1-314 is repealed on July 1, 2024.

(5) Section 26B-1-321 is repealed on July 1, 2024.

(6) Section 26B-1-419, which creates the Utah Health Care Workforce Financial Assistance Program Advisory Committee, is repealed July 1, 2027.

(7) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

(8) Section 26B-3-142 is repealed July 1, 2024.

(9) Subsection 26B-3-215(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

(10) Section 26B-4-702, related to the Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

(11) Section 26B-5-117, related to early childhood mental health support grant programs, is repealed January 2, 2025.

(12) Section 26B-6-414, related to overnight respite care services, is repealed July 1, 2025.

[~~(12)~~](13) Subsection 26B-7-117(3), related to reports to the Legislature on syringe exchange and education, is repealed January 1, 2027.

[~~(13)~~](14) Section 26B-7-120, relating to sickle cell disease, is repealed on July 1, 2025.

Section 4. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 4(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services - Long-Term Services & Support

From General Fund, One-time	$250,000

Schedule of Programs:

Community Supports Waiver Services	$250,000

The Legislature intends that the Division of Services for People with Disabilities use the appropriation under this item to provide overnight respite care services in accordance with Section 26B-6-414.

Section 5. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

(2) The actions affecting Section 63I-2-226 (Effective 07/01/24) take effect on July 1, 2024.

CHAPTER 537
S. B. 268
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

FIRST HOME INVESTMENT ZONE ACT

Chief Sponsor: Wayne A. Harper
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill enacts the First Home Investment Zone Act.

Highlighted Provisions:

This bill:

- enacts the First Home Investment Zone Act;
- defines terms;
- allows a municipality to create a first home investment zone to:
  - provide affordable, owner-occupied housing;
  - encourage mixed use development;
  - encourage strategic and efficient land use planning;
  - improve access to opportunities; and
  - increase opportunities for home ownership;
- allows a first home investment zone to capture tax increment to finance the objectives of a first home investment zone;
- provides certain requirements regarding housing density, affordability, development size, and other characteristics of a first home investment zone;
- requires the housing and transit reinvestment zone committee to review and approve first home investment zone proposals;
- allows a first home investment zone to count toward requirements for moderate income housing plans; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-403, as last amended by Laws of Utah 2023, Chapters 88, 219 and 238
59-2-924, as last amended by Laws of Utah 2023, Chapter 502
63N-3-602, as last amended by Laws of Utah 2023, Chapter 357
63N-3-603, as last amended by Laws of Utah 2023, Chapter 357
63N-3-605, as last amended by Laws of Utah 2023, Chapter 357

ENACTS:

63N-3-1301, Utah Code Annotated 1953
63N-3-1302, Utah Code Annotated 1953
63N-3-1303, Utah Code Annotated 1953
63N-3-1304, Utah Code Annotated 1953
63N-3-1305, Utah Code Annotated 1953
63N-3-1306, Utah Code Annotated 1953
63N-3-1307, Utah Code Annotated 1953
63N-3-1308, Utah Code Annotated 1953
63N-3-1309, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1)(a) The planning commission shall provide notice, as provided in Section 10-9a-203, of the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2)(a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate;

(B) includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and

collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the municipality during the next five years;

(B) for a town, may include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(C) for a specified municipality, as defined in Section 10-9a-408, that does not have a fixed guideway public transit station, shall include a recommendation to implement three or more of the moderate income housing strategies described in Subsection (2)(b)(iii);

(D) for a specified municipality, as defined in Section 10-9a-408, that has a fixed guideway public transit station, shall include a recommendation to implement five or more of the moderate income housing strategies described in Subsection (2)(b)(iii), of which one shall be the moderate income housing strategy described in Subsection (2)(b)(iii)(V), and one shall be a moderate income housing strategy described in Subsection (2)(b)(iii)(G), (H), or (Q); and

(E) for a specified municipality, as defined in Section 10-9a-408, shall include an implementation plan as provided in Subsection (2)(c); and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for a specified municipality as defined in Section 10-9a-408, shall include a recommendation to implement the required number of any of the following moderate income housing strategies as specified in Subsection (2)(a)(iii):

(A) rezone for densities necessary to facilitate the production of moderate income housing;

(B) demonstrate investment in the rehabilitation or expansion of infrastructure that facilitates the construction of moderate income housing;

(C) demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) zone or rezone for higher density or moderate income residential development in commercial or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for moderate income units in new developments;

(K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;

(L) reduce, waive, or eliminate impact fees related to moderate income housing;

(M) demonstrate creation of, or participation in, a community land trust program for moderate income housing;

(N) implement a mortgage assistance program for employees of the municipality, an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

(O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

(P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones;[~~and~~]

(X) create a first home investment zone in accordance with Title 63N, Chapter 3, Part 13, First Home Investment Zone Act; and

[~~(X)~~](Y) demonstrate implementation of any other program or strategy to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) shall identify each moderate income housing strategy recommended to the legislative body for implementation by restating the exact language used to describe the strategy in Subsection (2)(b)(iii).

(c)(i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall recommend to the legislative body the establishment of a five-year timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

(d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality;

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i)(A) consider and coordinate with the regional transportation plan developed by the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(f) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) shall consult with the Division of Water Resources for information and technical resources regarding regional water conservation goals, including how implementation of the land use element and the water use and preservation element may affect the Great Salt Lake;

(vii) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(viii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air;

(B) forests;

(C) soils;

(D) rivers;

(E) groundwater and other waters;

(F) harbors;

(G) fisheries;

(H) wildlife;

(I) minerals; and

(J) other natural resources; and

(ii)(A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters;

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas;

(C) the prevention, control, and correction of the erosion of soils;

(D) the preservation and enhancement of watersheds and wetlands; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 2. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a)(i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c)(i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102;

(v) for a host local government, the same as that term is defined in Section 63N-2-502;[~~or~~]

(vi) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602[~~.~~]; or

(vii) for a first home investment zone created under Title 63N, Chapter 3, Part 13, First Home Investment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-1301.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity;

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f)(i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

(iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority;

(v) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone;

(vi) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government;[~~or~~]

(vii) for the State Fair Park Authority created in Section 11-68-201, the taxable value of:

(A) fair park land, as defined in Section 11-68-101, that is subject to a privilege tax under Section 11-68-402; or

(B) personal property located on property that is subject to the privilege tax described in Subsection (1)(n)(vii)(A)[.]; or

(viii) for a first home investment zone created pursuant to Title 63N, Chapter 3, Part 13, First Home Investment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a first home investment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the first home investment zone.

(o)(i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

(iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment;

(iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation;[~~or~~]

(v) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment[.]; or

(vi) for a first home investment zone created under Title 63N, Chapter 3, Part 13, First Home Investment Zone Act, an amount equal to the incremental value that is no longer provided to a first home investment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(i) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;[~~or~~]

(ii) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602[.]; or

(iii) for a first home investment zone created under Title 63N, Chapter 3, Part 13, First Home Investment Zone Act, the same as that term is defined in Section 63N-3-1301.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4)(a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6)(a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7)(a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8)(a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9)(a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 3. Section 63N-3-602 is amended to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.

(6) "Bus rapid transit station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal that is specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing bus rapid transit line; or

(b) along an extension to an existing bus rapid transit line or new bus rapid transit line.

(7)(a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

(8) "Commuter rail station" means an existing station, stop, or terminal, or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing commuter rail line;

(b) along an extension to an existing commuter rail line or new commuter rail line; or

(c) along a fixed guideway extension from an existing commuter rail line.

(9)(a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open space;

(iv) trails;

(v) publicly-owned roadway facilities; or

(vi) other public facilities.

(10) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(11) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities.

(12) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(13) "First home investment zone" means the same as that term is defined in Section 63N-3-1301.

[~~(13)~~](14) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

[~~(14)~~](15) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

[~~(15)~~](16) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

[~~(16)~~](17) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

[~~(17)~~](18) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(18)~~](19) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:

(a) dedicated to exclusive use by light-rail public transit vehicles;

(b) that may cross streets at grade; and

(c) that may share parts of surface streets.

[~~(19)~~](20) "Light rail station" means an existing station, stop, or terminal or a proposed station, stop, or terminal, which has been specifically identified in a metropolitan planning organization's adopted long-range transportation plan and the relevant public transit district's five-year plan:

(a) along an existing light rail line; or

(b) along an extension to an existing light rail line or new light rail line.

[~~(20)~~](21) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(21)~~](22) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

[~~(22)~~](23) "Municipality" means the same as that term is defined in Section 10-1-104.

[~~(23)~~](24) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(24)~~](25) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.

[~~(25)~~](26) "Public transit county" means a county that has created a small public transit district.

[~~(26)~~](27) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

[~~(27)~~](28) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

[~~(28)~~](29) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

[~~(29)~~](30) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

[~~(30)~~](31) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

[~~(31)~~](32) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(32)~~](33) "Tax Commission" means the State Tax Commission created in Section 59-1-201.

[~~(33)~~](34) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within

a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

[~~(34)~~](35) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

[~~(35)~~](36) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 4. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing, and fulfillment of moderate income housing plans;

(c) improving efficiencies in parking and transportation, including walkability of communities near public transit facilities;

(d) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(e) conservation of water resources through efficient land use;

(f) improving air quality by reducing fuel consumption and motor vehicle trips;

(g) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(h) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

(i) increasing access to employment and educational opportunities; and

(j) increasing access to child care.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed dwelling units within the housing and transit reinvestment zone are affordable housing units;

(b) at least 51% of the developable area within the housing and transit reinvestment zone includes residential uses with, except as provided in Subsection (4)(c), an average of 50 dwelling units per acre or greater;

(c) mixed-use development; and

(d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4)(a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

(i) subject to Subsection (5)(a):

(A)(I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

(III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(B) has a total area of no more than 125 noncontiguous acres;

(ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

(e) A county of the first class may not propose a housing and transit reinvestment zone that includes an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, until the project area is dissolved pursuant to Section 17C-1-702.

(5)(a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

(7)(a) The maximum number of housing and transit reinvestment zones at light rail stations is eight in any given county.

(b) Within a county of the first class, the maximum number of housing and transit reinvestment zones at bus rapid transit stations is three.

(c) Within a county of the first class, the maximum total combined number of housing and transit reinvestment zones described in Subsections (7)(a) and (b) and first home investment zones created under Part 13, First Home Investment Zone Act, is 11.

(8)(a) This Subsection (8) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.

(b)(i) A county described in Subsection (8)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.

(ii) A county described in Subsection (8)(a) that, on December 31, 2022, was noncompliant under Section 17-27a-408 for failure to demonstrate in the county's moderate income housing report that the county complied with Subsection (8)(b)(i), may cure the deficiency in the county's moderate income housing report by submitting satisfactory proof to the Housing and Community Development Division that, notwithstanding the deadline in Subsection (8)(b)(i), the county has submitted to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone.

(c)(i) A county described in Subsection (8)(a) may not propose a housing and transit reinvestment zone if more than 15% of the acreage within the housing and transit reinvestment zone boundary is owned by the county.

(ii) For purposes of determining the percentage of acreage owned by the county as described in Subsection (8)(c)(i), a county may exclude any acreage owned that is used for highways, bus rapid transit, light rail, or commuter rail within the boundary of the housing and transit reinvestment zone.

(d) To accomplish the objectives described in Subsection (1), if a county described in Subsection (8)(a) has failed to comply with Subsection (8)(b)(i) by failing to submit an application before December 31, 2022, an owner of undeveloped property who has submitted a land use application to the county on or before December 31, 2022, and is within a 1/3 mile radius of a public transit hub in a county described in Subsection (8)(a), including parcels that are bisected by the 1/3 mile radius, shall have the right to develop and build a mixed-use development including the following:

(i) excluding the parcels devoted to commercial uses as described in Subsection (8)(d)(ii), at least 39 dwelling units per acre on average over the developable area, with at least 10% of the dwelling units as affordable housing units;

(ii) commercial uses including office, retail, educational, and healthcare in support of the mixed-use development constituting up to 1/3 of the total planned gross building square footage of the subject parcels; and

(iii) any other infrastructure element necessary or reasonable to support the mixed-use development, including parking infrastructure, streets, sidewalks, parks, and trails.

Section 5. Section 63N-3-605 is amended to read:

63N-3-605. Housing and transit reinvestment zone committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, or for a first home investment zone proposed in accordance with Part 13, First Home Investment Zone Act, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone or first home investment zone, designated by the chief executive officer of each respective municipality;

(c) a member of the Transportation Commission created in Section 72-1-301;

(d) a member of the board of trustees of a large public transit district;

(e) one individual from the Office of the State Treasurer, designated by the state treasurer;

(f) one member designated by the president of the Senate;

(g) one member designated by the speaker of the House of Representatives;

(h) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone or first home investment zone;

(i) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone or first home investment zone; and

(j) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4)(a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5)(a) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(b) For a first home investment zone, the housing and transit reinvestment zone committee shall follow the procedures described in Section 63N-3-1304.

(6)(a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7)(a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(8)(a) Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:

(i) request changes to the housing and transit reinvestment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-604; or

(ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(9) If a housing and transit reinvestment zone is approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal;

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal; and

(c) each affected taxing municipality is required to participate at the same rate as a participating county.

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Section 6. Section 63N-3-1301 is enacted to read:

63N-3-1301. Definitions.

Part 13. First Home Investment Zone Act

(1) "Affordable housing" means:

(a) for homes that are not owner occupied, housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal statistical area for households of the same size; or

(b) for homes that are owner occupied, housing that is priced at 80% of the county median home price.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means the same as that term is defined in Section 63N-3-602.

(4) "Base year" means the same as that term is defined in Section 63N-3-602.

(5) "Developable area" means the same as that term is defined in Section 63N-3-602.

(6) "Dwelling unit" means the same as that term is defined in Section 63N-3-602.

(7) "Extraterritorial home" means a dwelling unit that is included as part of the first home investment zone proposal that:

(a) is located within the municipality proposing the first home investment zone but outside the boundary of the first home investment zone;

(b) is part of a development with a density of at least six units per acre;

(c) is not located within an existing housing and transit reinvestment zone or an area that could be included in a housing and transit reinvestment zone;

(d) has not been issued a building permit by the municipality as of the date of the approval of the first home investment zone; and

(e) is required to be owner occupied for no less than 25 years.

(8) "First home investment zone" means a first home investment zone created in accordance with this part.

(9) "Home" means a dwelling unit.

(10) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

(11) "Housing and transit reinvestment zone committee" means the housing and transit reinvestment zone committee described in Section 63N-3-605.

(12) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(13) "Mixed use development" means the same as that term is defined in Section 63N-3-603.

(14) "Moderate income housing plan" means the same as that term is defined in Section 11-41-102.

(15) "Municipality" means the same as that term is defined in Section 10-1-104.

(16) "Owner occupied" means private real property that is:

(a) used for a single-family residential purpose; and

(b) required to be occupied by the owner of the real property for no less than 25 years.

(17) "Project area" means the same as that term is defined in Section 17C-1-102.

(18)(a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(19) "State Tax Commission" means the State Tax Commission created in Section 59-1-201.

(20)(a) "System improvements" means existing and future public facilities that are designed to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

(21)(a) "Tax increment" means the difference between:

(i) the amount of property tax revenue generated each tax year by a taxing entity from the area within a first home investment zone designated in the first home investment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(ii) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(b) "Tax increment" does not include property tax revenue from:

(i) a multicounty assessing and collecting levy described in Subsection 59-2-1602(2); or

(ii) a county additional property tax described in Subsection 59-2-1602(4).

(22) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(23) "Unencumbered annual community reinvestment agency revenue" means tax increment revenue received by the agency for purposes identified in Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, that:

(a) have not been designated or restricted for future qualified uses as approved by the agency board related to a specific project area; and

(b) do not have a date certain by which the tax increment revenues will be used.

Section 7. Section 63N-3-1302 is enacted to read:

63N-3-1302. Applicability, requirements, and limitations on a first home investment zone.

(1) A first home investment zone created pursuant to this part shall promote the following objectives:

(a) encouraging efficient development and opportunities for home ownership by providing a variety of housing options, including affordable housing and for sale, owner-occupied housing;

(b) improving availability of housing options;

(c) overcoming development impediments and market conditions that render a development cost prohibitive absent the proposal and incentives;

(d) conserving water resources through efficient land use;

(e) improving air quality by reducing fuel consumption and motor vehicle trips;

(f) encouraging transformative mixed-use development;

(g) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2);

(h) increasing access to employment and educational opportunities;

(i) increasing access to child care; and

(j) improving efficiencies in parking and transportation, including walkability of communities, street and path interconnectivity within the proposed development and connections to surrounding communities, and access to roadways, public transportation, and active transportation.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or county that initiates the process to create a first home investment zone as described in this part shall ensure that the proposal for a first home investment zone includes:

(a) subject to Subsection (3), a minimum of 30 housing units per acre in at least 51% of the developable area within the first home investment zone;

(b) a mixed use development;

(c) a requirement that at least 25% of homes within the first home investment zone remain owner occupied for at least 25 years from the date of original purchase;

(d) for homes inside the first home investment zone, a requirement that at least 12% of the owner occupied homes and 12% of the homes that are not owner occupied are affordable housing; and

(e) a requirement that at least 20% of the extraterritorial homes are affordable housing.

(3)(a) Subject to Subsection (3)(b), to satisfy the requirements described in Subsection (2)(a), a first home investment zone may include an extraterritorial home to count toward the required density of the first home investment zone by:

(i)(A) taking the total number of extraterritorial homes related to the first home investment zone; and

(B) adding the total number under Subsection (3)(a)(i)(A) to the number of homes within the first home investment zone; and

(ii) dividing the total described in Subsection (3)(a)(i) by the total number of developable acres with the first home investment zone.

(b) Extraterritorial homes may account for no more than half of the total homes to calculate density within a first home investment zone.

(4)(a) If a municipality proposes a first home investment zone, the proposal shall comply with the limitations described in this Subsection (4).

(b) A first home investment zone may not be less than 10 acres and no more than 100 acres in size.

(c)(i) Except as provided in Subsection (4)(c)(ii), a first home investment zone is required to be one contiguous area.

(ii) While considering a first home investment zone proposal as described in Section 63N-3-1305, the housing and transit reinvestment zone committee may consider and approve a first home investment zone that is not one contiguous area if:

(A) the municipality provides evidence in the proposal showing that the deviation from the contiguity requirement will enhance the ability of the first home investment zone to achieve the objectives described in Subsection (1); and

(B) the housing and transit reinvestment zone committee determines that the deviation is reasonable and circumstances justify deviation from the contiguity requirement.

(iii) The first home investment zone area contiguity is not affected by roads or other rights-of-way.

(d)(i) A first home investment zone proposal may propose the capture of a maximum of 60% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years within a 45-year period not to exceed the tax increment amount approved in the first home investment zone proposal.

(ii) A first home investment zone proposal may not propose or include triggering more than three tax increment collection periods during the applicable 25-year period.

(iii) Subject to Subsection (4)(d)(iv), a municipality shall ensure that the required affordable housing units are included proportionally in each phase of the first home investment zone development.

(iv) A municipality may allow a first home investment zone to be phased and developed in a manner to provide more of the required affordable housing units in early phases of development.

(e) If a municipality proposes a first home investment zone, commencement of the collection of tax increment, for all or a portion of the first home investment zone, is triggered by providing notice as described in Subsection (5).

(f) A municipality may restrict homes within a first home investment zone and related extraterritorial homes from being used as a short-term rental.

(g) A municipality shall ensure that affordable housing within a first home investment zone and related extraterritorial homes that are reserved as affordable housing are spread throughout the overall development.

(h) A municipality shall ensure that at least 80% of extraterritorial homes included in a first home investment zone proposal are single-family detached homes.

(i) A municipality shall include in a first home investment zone proposal:

(i) an affordable housing plan, which may include deed restrictions, to ensure the affordable housing required in the proposal will continue to meet the definition of affordable housing at least throughout the entire term of the first home investment zone; and

(ii) an owner occupancy plan, which may include deed restrictions, to ensure the owner occupancy requirements in the proposal will continue to meet the definition of owner occupancy at least throughout the entire term of the first home investment zone.

(j) A municipality shall include in the first home investment zone proposal evidence to demonstrate how the first home investment zone proposal complies with the municipality's moderate income housing plan and general plan.

(5) Notice of commencement of collection of tax increment shall be sent by mail or electronically to the following entities no later than January 1 of the year for which the tax increment collection is proposed to commence:

(a) the State Tax Commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the first home investment zone is located;

(e) each taxing entity affected by the collection of tax increment from the first home investment zone;

(f) the assessor of the county in which the first home investment zone is located; and

(g) the Governor's Office of Economic Opportunity.

(6) A first home investment zone proposal may not include a proposal to capture sales and use tax increment.

(7) A municipality may not propose a first home investment zone in a county of the first class if the limitation described in Subsection 63N-3-603(7)(c) has been reached.

(8) A municipality may not propose a first home investment zone in a location that is eligible for a housing and transit reinvestment zone.

(9) A municipality may not propose a first home investment zone if the municipality's community reinvestment agency, based on the most recent annual comprehensive financial report, retains cash and cash equivalent assets of more than 20% of ongoing and unencumbered annual community reinvestment agency revenue.

Section 8. Section 63N-3-1303 is enacted to read:

63N-3-1303. Process for a proposal of a first home investment zone.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in

Section 63N-3-1304, in order to create a first home investment zone, a municipality that has general land use authority over the first home investment zone area, shall:

(a) prepare a proposal for the first home investment zone that:

(i) demonstrates that the proposed first home investment zone will meet the objectives described in Subsection 63N-3-1302(1);

(ii) explains how the municipality will achieve the requirements of Subsection 63N-3-1302(2);

(iii) defines the specific infrastructure needs, if any, and proposed improvements;

(iv) demonstrates how the first home investment zone will ensure:

(A) sufficient pedestrian access to schools and other areas of community; and

(B) inclusion of child care facilities and access;

(v) defines the boundaries of the first home investment zone;

(vi) includes maps of the proposed first home investment zone to illustrate:

(A) proposed housing density within the first home investment zone;

(B) extraterritorial homes relevant to the first home investment zone, including density of the development of extraterritorial homes; and

(C) existing zoning and proposed zoning changes related to the first home investment zone;

(vii) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;

(viii) describes the proposed development plan, including the requirements described in Subsections 63N-3-1302(2) and (4);

(ix) establishes the collection period or periods to calculate the tax increment;

(x) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the first home investment zone;

(xi) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

(xii) proposes a finance schedule to align expected revenue with required financing costs and payments;

(xiii) evaluates possible benefits to active transportation, public transportation availability and utilization, street connectivity, and air quality; and

(xiv) provides a pro forma for the planned development that:

(A) satisfies the requirements described in Subsections 63N-3-1302(2) and (4); and

(B) includes data showing the cost difference between what type of development could feasibly be developed absent the first home investment zone tax increment and the type of development that is proposed to be developed with the first home investment zone tax increment;

(b) submit the proposal to the relevant school district to discuss the requirements of the proposal and whether the proposal provides the benefits and achieves the objectives described in this part; and

(c) submit the first home investment zone proposal to the Governor's Office of Economic Opportunity.

(2) As part of the proposal described in Subsection (1), a municipality shall:

(a) study and evaluate possible impacts of a proposed first home investment zone on parking and efficient use of land within the municipality and first home investment zone; and

(b) include in the first home investment zone proposal the findings of the study described in Subsection (2)(a) and proposed strategies to efficiently address parking impacts.

(3)(a) After receiving the proposal as described in Subsection (1)(c), the Governor's Office of Economic Opportunity shall:

(i) within 14 days after the date on which the Governor's Office of Economic Opportunity receives the proposal described in Subsection (1)(c), provide notice of the proposal to all affected taxing entities, including the State Tax Commission, cities, counties, school districts, metropolitan planning organizations, and the county assessor and county auditor of the county in which the first home investment zone is located; and

(ii) at the expense of the proposing municipality as described in Subsection (5), contract with an independent entity to:

(A) perform the gap analysis described in Subsection (3)(b); and

(B) perform an analysis of the pro-forma described in Subsection (1)(a)(xiv)(B) and the feasibility of the proposed development absent the tax increment.

(b) The gap and pro-forma analysis required in Subsection (3)(a)(ii) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality absent the proposed first home investment zone;

(iii) an evaluation of the proposal and a determination of the adequacy and efficiency of the proposal;

(iv) an evaluation of the proposed tax increment capture needed to cover the system improvements and project improvements associated with the first

home investment zone proposal and enable the proposed development to occur, and for the benefit of affordable housing projects; and

(v) based on the market analysis and other findings, an opinion relative to the appropriate amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-1302(1).

(c) After receiving notice from the Governor's Office of Economic Opportunity of a proposed first home investment zone as described in Subsection (3)(a)(i), the municipality, in consultation with the county assessor and the State Tax Commission, shall:

(i) evaluate the feasibility of administering the tax implications of the proposal; and

(ii) provide a letter to the Governor's Office of Economic Opportunity describing any challenges in the administration of the proposal, or indicating that the county assessor can feasibly administer the proposal.

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality proposing the first home investment zone may:

(a) amend the first home investment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended first home investment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Opportunity submit the original first home investment zone proposal to the housing and transit reinvestment zone committee.

(5)(a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to $20,000 from a municipality for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Opportunity may expend funds received from a municipality as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 9. Section 63N-3-1304 is enacted to read:

63N-3-1304. Consideration of proposals by housing and transit reinvestment zone committee.

(1) A first home investment zone proposed under this part is subject to approval by the housing and transit reinvestment zone committee.

(2) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-1303, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality to submit the first home investment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the relevant entities of the formation of the housing and transit reinvestment zone committee as described in Section 63N-3-605.

(3)(a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed first home investment zone in the same manner as described in Section 63N-3-605.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(4)(a) The proposing municipality shall present the first home investment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the objectives and elements of a first home investment zone described in Subsections 63N-3-1302(1), (2), and (4) have been met; and

(ii) evaluate the proposed first home investment zone relative to the analysis described in Subsection 63N-3-1303(2).

(5)(a) Subject to Subsection (5)(b), the housing and transit reinvestment zone committee may:

(i) request changes to the first home investment zone proposal based on the analysis, characteristics, and criteria described in Section 63N-3-1303; or

(ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the first home investment zone proposal, the municipality proposing the first home investment zone shall ensure that the area of the proposed first home investment zone is zoned in such a manner to accommodate the requirements of a first home investment zone described in this section and the proposed development.

(6) If a first home investment zone is approved by the committee:

(a) the proposed first home investment zone is established according to the terms of the first home investment zone proposal;

(b) affected local taxing entities are required to participate according to the terms of the first home investment zone proposal; and

(c) each affected taxing entity is required to participate at the same rate.

(7) A first home investment zone proposal may be amended by following the same procedure as approving a first home investment zone proposal.

Section 10. Section 63N-3-1305 is enacted to read:

63N-3-1305. Notice requirements.

(1) In approving a first home investment zone proposal, the housing and transit reinvestment

zone committee shall follow the hearing and notice requirements for proposing a first home investment zone as described in this section.

(2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed first home investment zone, the municipality shall:

(a) record with the recorder of the county in which the first home investment zone is located a document containing:

(i) a description of the land within the first home investment zone;

(ii) a statement that the proposed first home investment zone has been approved; and

(iii) the date of adoption;

(b) transmit a copy of the description of the land within the first home investment zone and an accurate map or plat indicating the boundaries of the first home investment zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and

(c) transmit a copy of the approved first home investment zone proposal, map, and description of the land within the first home investment zone, to:

(i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the first home investment zone is located;

(ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;

(iii) the legislative body or governing board of each taxing entity;

(iv) the State Tax Commission; and

(v) the State Board of Education.

Section 11. Section 63N-3-1306 is enacted to read:

63N-3-1306. Payment, use, and administration of tax increment from a first home investment zone.

(1) A municipality may receive and use tax increment and first home investment zone funds in accordance with this part.

(2)(a) A county that collects property tax on property located within a first home investment zone shall, in accordance with Section 59-2-1365, distribute to the municipality any tax increment the municipality is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b)(i) Except as provided in Subsection (2)(b)(ii), tax increment paid to the municipality are first home investment zone funds and shall be administered by the municipality within which the first home investment zone is located.

(ii) A municipality may contract with an agency, county, or a housing authority to administer tax increment and the first home investment zone, ensure compliance with first home investment zone requirements, and administer deed restrictions.

(iii) Before an agency may receive first home investment zone funds from the municipality, the municipality and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-1302.

(3)(a) A municipality and the agency shall use first home investment zone funds for the benefit of the first home investment zone and related extraterritorial housing.

(b) If any first home investment zone funds will be used outside of the first home investment zone there must be a finding in the approved proposal for a first home investment zone that the use of the first home investment zone funds outside of the first home investment zone will directly benefit the first home investment zone or related extraterritorial homes.

(4) In accordance with Subsection 63N-3-1302(4)(e), a municipality shall use the first home investment zone funds to achieve the purposes described in Subsections 63N-3-1302(1) and (2), by paying all or part of the costs associated with the first home investment zone and extraterritorial homes, including:

(a) project improvements;

(b) system improvements; and

(c) the costs of the municipality to create and administer the first home investment zone, which may not exceed 2% of the total first home investment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-1303(2).

(5) First home investment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the first home investment zone funds as allowed in this section.

(6) First home investment zone funds may be used to pay all of the costs of bonds issued by the municipality in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(7) A municipality may create one or more public infrastructure districts within the city under Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the first home investment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 12. Section 63N-3-1307 is enacted to read:

63N-3-1307. Applicability to an existing first home investment zone or community reinvestment project.

If a parcel within a first home investment zone is included as an area that is part of a project area, as that term is defined in Section 17C-1-102, and created under Title 17C, Chapter 1, Agency Operations, that parcel may not be triggered for collection unless the project area funds collection period, as that term is defined in Section 17C-1-102, has expired.

Section 13. Section 63N-3-1308 is enacted to read:

63N-3-1308. Tax increment protections.

(1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a first home investment zone, a first home investment zone may suspend or terminate the collection of tax increment in a first home investment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:

(a) a substantial portion of the tax increment collected in the first home investment zone has not or will not be used for the purposes provided in Section 63N-3-1306; and

(b)(i) the first home investment zone has no indebtedness; or

(ii) the first home investment zone has no binding financial obligations.

(2) A first home investment zone may not collect tax increment in excess of the tax increment projections or limitations set forth in the first home investment zone proposal.

(3) The agency administering the tax increment collected in a first home investment zone under Subsection 63N-3-1306(2), shall have standing in a court with proper jurisdiction to enforce provisions of the first home investment zone proposal, participation agreements, and other agreements for the use of the tax increment collected.

(4) The agency administering tax increment from a first home investment zone under Subsection 63N-3-1306(2) shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.

(5) For each first home investment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

Section 14. Section 63N-3-1309 is enacted to read:

63N-3-1309. Boundary adjustments.

If the relevant county assessor or county auditor adjusts parcel boundaries relevant to a first home investment zone, the municipality administering the tax increment collected in the first home investment zone may make corresponding adjustments to the boundary of the first home investment zone.

Section 15. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 538
S. B. 273
Passed March 1, 2024
Approved March 21, 2024
Effective July 1, 2025

AMENDMENTS RELATING TO DISTRICT ATTORNEY IN COUNTY OF THE FIRST CLASS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill modifies provisions relating to the district attorney in counties of the first class.

Highlighted Provisions:

This bill:

- requires the district attorney's office in counties of the first class to track time spent on criminal cases;
- requires the district attorney's office in counties of the first class to provide an annual written report to the Law Enforcement and Criminal Justice Interim Committee;
- provides for a repeal of the data collection and reporting requirement; and
- provides a process for recommending that the Utah Supreme Court appoint a prosecutor pro tempore.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63I-1-217, as last amended by Laws of Utah 2023, Chapter 96

ENACTS:

17-18a-203.5, Utah Code Annotated 1953

Sections affected by Coordination Clause:

17-18a-203.5, Utah Code Annotated 19534

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-18a-203.5 is enacted to read:

17-18a-203.5. District attorney data collection -- Report -- Recommendation to appoint a prosecutor pro tempore.

(1) In this section, "prosecution personnel" means:

(a) investigators;

(b) prosecutors;

(c) support staff; or

(d) other individuals paid for their work on the case.

(2) The district attorney in a county of the first class shall:

(a) track the time spent by prosecution personnel on each criminal case, calculated in quarter of an hour increments, by the offense classification; and

(b) provide a written report to the Law Enforcement and Criminal Justice Interim Committee by November 1, annually.

(3) The annual report required in Subsection (2)(b) shall include the following information, organized by the offense classification, for the cases that were active during the reporting period:

(a) the total number of hours, calculated in quarter of an hour increments, worked on the cases by prosecution personnel;

(b) the average amount of taxpayer dollars spent per case, as calculated by the hours worked and the salary of the prosecution personnel who worked on the case;

(c) the cumulative total hours worked and the number of cases, categorized by the following:

(i) cases that were dismissed prior to the filing of charges;

(ii) cases that were dismissed after charges were filed;

(iii) cases in which a plea agreement was reached by the parties prior to the preliminary hearing;

(iv) cases that were dismissed by the court after the preliminary hearing;

(v) cases in which a plea agreement was reached by the parties after the preliminary hearing;

(vi) cases that resulted in a court ruling in favor of the state; and

(vii) cases that resulted in a court ruling in favor of the defense;

(d) the average number of days between:

(i) the filing of criminal charges; and

(ii)(A) the delivery of discovery information, including witness statements;

(B) the preliminary hearing; or

(C) the first day of trial; and

(e) the average number of attorneys assigned to each case.

(4)(a) As used in this Subsection (4):

(i) "County urban areas" means the major urban areas within a county of the first class.

(ii) "Replacement prosecutor" means a prosecutor pro tempore that the Utah Supreme Court is authorized to appoint under Utah Constitution, Article VIII, Section 16.

(b) The governor may recommend to the Utah Supreme Court that the Utah Supreme Court appoint a replacement prosecutor in a county of the first class to prosecute crimes in county urban areas

in the place of the district attorney if the governor determines that the district attorney has failed or refused to adequately prosecute crimes within the county urban areas.

(c) If the Utah Supreme Court appoints a replacement prosecutor in response to a recommendation under this Subsection (4), the temporary prosecutor shall prosecute crimes within the county urban areas in the place of the district attorney until the temporary prosecutor's appointment expires.

Section 2. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Title 17.

(1) Section 17-18a-203.5 is repealed on July 1, 2029.

(2) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah Electronic Recording Commission, is repealed July 1, 2022.

[~~(2)~~](3) In relation to Section 17-31-2, on July 1, 2023:

(a) Subsection 17-31-2(1)(g), which defines "economic diversification activity," is repealed;

(b) Subsection 17-31-2(2)(a)(iii), relating to establishing and promoting an economic diversification activity, is repealed;

(c) Subsection 17-31-2(7)(b)(i) is amended to read:

"(i) for a purpose described in Subsection (2)(a) and subject to the limitation described in Subsection (7)(d), the greater of:"; and

(d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue for an economic diversification activity, is repealed.

[~~(3)~~](4) Subsection 17-31-5.5(2)(a)(i)(E), relating to economic diversification activity, is repealed July 1, 2023.

Section 3. Effective date.

This bill takes effect on July 1, 2025.

Section 4. Coordinating S.B. 273 with S.B. 272

If S.B. 273, Amendments Relating to District Attorney in County of the First Class, and S.B. 272, Capital City Revitalization Zone, both pass and become law, the Legislature intends that on July 1, 2025:

(1) Subsection 17-18a-203.5(4), as enacted in S.B. 273, be omitted; and

(2) the following Subsection (4) be added to Section 63N-3-1308, as enacted in S.B. 272:

"(4) (a) As used in this Subsection (4), "replacement prosecutor" means a prosecutor pro tempore that the Utah Supreme Court is authorized to appoint under Utah Constitution, Article VIII, Section 16.

(b) The committee may, by majority vote in a public meeting, adopt a recommendation to the Utah Supreme Court that the Utah Supreme Court appoint a replacement prosecutor in a county of the first class to prosecute crimes within the project area in the place of the district attorney if the committee determines that the district attorney has failed or refused to adequately prosecute crimes within the project area.

(c) If the Utah Supreme Court appoints a replacement prosecutor in response to a recommendation under this Subsection (4), the temporary prosecutor shall prosecute crimes within the project area in the place of the district attorney until the temporary prosecutor's appointment expires.".

CHAPTER 539
S. B. 266
Passed March 1, 2024
Approved March 21, 2024
Effective May 1, 2024

MEDICAL AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill creates a pilot program.

Highlighted Provisions:

This bill:

- defines terms; and
- authorizes a healthcare system to create a pilot program for certain drugs.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2023, Chapter 303

ENACTS:

58-37-3.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-3.5 is enacted to read:

58-37-3.5. Drugs for behavioral health treatment.

(1) As used in this section:

(a) "Drug" means any form of psilocybin or methylenedioxymethamphetamine that is in federal Food and Drug Administration Phase 3 testing for an investigational drug described in 21 C.F.R. Part 312.

(b) "Healthcare system" means:

(i) a privately-owned, non-profit, vertically-integrated healthcare system that operates at least 15 licensed hospitals in the state; or

(ii) a health care system closely affiliated with an institution of higher education described in Section 53B-2-101.

(2) A healthcare system may develop a behavioral health treatment program that includes a treatment based on a drug that the healthcare system determines is supported by a broad collection of scientific and medical research.

(3) A healthcare system described in Subsection (2):

(a) shall ensure that a drug used under the exclusive authority of this section is used by a patient only under the direct supervision and control of the healthcare system and the healthcare system's health care providers who are licensed under this title; and

(b) may not provide treatments that are authorized exclusively under this section to an individual who is not at least 18 years old.

(4) Before July 1, 2026, a healthcare system that creates a behavioral health treatment program under this section shall provide a written report to the Health and Human Services Interim Committee regarding:

(a) drugs used;

(b) health outcomes of patients;

(c) side effects of any drugs used; and

(d) any other information necessary for the Legislature to evaluate the medicinal value of any drugs.

(5) An individual or entity that complies with this section when using, distributing, possessing, administering, or supervising the use of, a drug is not guilty of a violation of this title.

Section 2. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(5) Section 58-37-3.5 is repealed July 1, 2027.

[~~(5)~~](6) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

[~~(6)~~](7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

[~~(7)~~](8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

[~~(8)~~](9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

[~~(9)~~](10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

[~~(10)~~](11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

[~~(11)~~](12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

[~~(12)~~](13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2032.

[~~(13)~~](14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[~~(14)~~](15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

Section 3. Effective date.

This bill takes effect on May 1, 2024.

CHAPTER 540
H. B. 78
Passed February 28, 2024
Approved March 21, 2024
Effective May 1, 2024

MOTION PICTURE INCENTIVES AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses the Governor's Office of Economic Opportunity's issuance of motion picture incentives.

Highlighted Provisions:

This bill:

- repeals the sunset date that applies to certain motion picture incentives available only for rural productions;
- authorizes the Governor's Office of Economic Opportunity to issue tax credit certificates for rural productions in an amount determined in the preceding legislative session;
- requires the Legislature to conduct a biennial review of the motion picture incentives available only for rural productions; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2023, Chapters 33, 47, 104, 109, 139, 155, 212, 218, 249, 270, 448, 489, and 534
63N-8-103, as last amended by Laws of Utah 2023, Chapter 499
63N-8-105, as last amended by Laws of Utah 2021, Chapter 282

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

[~~(2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.~~]

[~~(3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.~~]

[~~(4)~~](2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(5)~~](3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(6)~~](4) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(7) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.~~]

[~~(8)~~](5) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed December 31, 2026.

[~~(9)~~](6) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(10)~~](7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11)~~](8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(12)~~](9) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed December 31, 2024.

[~~(13)~~](10) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(14)~~](11) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(15)~~](12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(16)~~](13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

[~~(17)~~](14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(18)~~](15) Subsection 63J-1-602.2(25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(19)~~](16) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(20)~~](17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(21)~~](18) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform

Act; and(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(22)~~](19) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(23)~~](20) Title 63M, Chapter 7, Part 8, Sex Offense Management Board, is repealed July1, 2026.

[~~(24)~~](21) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(25)~~](22) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

[~~(26)~~](23) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(27)~~](24) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(28)~~](25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(29)~~](26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(30)~~](27) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(31)~~](28) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

[(32) ~~Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.~~]

Section 2. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1)(a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the GO Utah board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2)(a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the incentive request form submitted by the motion picture company; and

(ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax

Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenues; and

(ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a digital record of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3)(a) Subject to this Subsection (3), the office may issue $6,793,700 in tax credit certificates under this part in each fiscal year.

(b) For the fiscal year ending June 30, 2022, the office may issue $8,393,700 in tax credit certificates under this part.

[~~(c) For fiscal years 2023 and 2024, in addition to the amount of tax credit certificates authorized under Subsection (3)(a), the office may issue $12,000,000 in tax credit certificates under this part only for rural productions.~~]

(c) Beginning July 1, 2024, the office may issue tax credit certificates under this part for rural productions in each fiscal year in an amount determined in the immediately proceeding legislative session.

(d) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under this Subsection (3), the office may carry over that amount for issuance in subsequent fiscal years.

Section 3. Section 63N-8-105 is amended to read:

63N-8-105. Annual report -- Review by interim committee.

(1) The office shall include the following information in the annual written report described in Section 63N-1a-306:

[~~(1)~~](a) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;

[~~(2)~~](b) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; [~~and~~]

[~~(3)~~](c) the economic impact on the state related to:

[~~(a)~~](i) dollars left in the state; and

[~~(b)~~](ii) providing motion picture incentives under this part[.]; and

(d) any recommendations for legislative changes to the motion picture incentives available only for rural productions under Subsection 63N-8-103(3)(c).

(2)(a) Beginning in 2025, and every two years thereafter, the Economic Development and Workforce Services Interim Committee shall conduct a review of the motion picture incentives available only for rural productions under Subsection 63N-8-103(3)(c).Â

(b) In a review under this Subsection (2), the Economic Development and Workforce Services Interim Committee shall:

(i) study any recommendations provided by the office under Subsection (1)(d); and

(ii) if the Economic Development and Workforce Services Interim Committee decides to recommend legislative action to the Legislature, prepare legislation for consideration by the Legislature in the next general session.

Section 4. Effective date.

This bill takes effect on May 1, 2024.

Resolutions

passed at the

General Session

of the

Sixty-Fifth Legislature

2024

H. C. R. 1
Passed February 15, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION RECOGNIZING THE U.S.S. UTAH

Chief Sponsor: Joseph Elison
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This resolution recognizes the history of the U.S.S. Utah.

Highlighted Provisions:

This bill:

- highlights the history of the attack on the U.S.S. Utah at Pearl Harbor on December 7, 1941;
- declares December 7 as Pearl Harbor Remembrance Day; and
- encourages municipalities in Utah to pass similar resolutions.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on December 7, 1941, the Japanese Navy attacked the U.S. Naval base at Pearl Harbor, Hawaii, leaving 2,403 Americans dead;

WHEREAS, the hulls of two battleships - the U.S.S. Arizona and the U.S.S. Utah - remain in the waters of Pearl Harbor as legacies of that tragic day;

WHEREAS, the U.S.S. Arizona memorial has millions of visitors each year;

WHEREAS, few people visit the memorial honoring the 58 men who lost their lives on the U.S.S. Utah;

WHEREAS, at 8:01 A.M. HST, the Japanese struck the U.S.S. Utah by an aerial torpedo that slammed into the port side as crew raised the flag on the fantail;

WHEREAS, a second, and possibly third torpedo struck the ship minutes later;

WHEREAS, by 8:05 A.M. HST, the ship was lost, and at 8:12 A.M. HST, the U.S.S. Utah capsized after her mooring line snapped;

WHEREAS, as the ship was sinking, Chief Water Tender, Peter Tomich, instead of escaping, ordered the crew to get out;

WHEREAS, Chief Tomich ignored his own evacuation order and moved from valve to valve, setting the gauge and releasing steam to stabilize and secure the boilers;

WHEREAS, if Chief Tomich had not done that, the boilers would have ruptured and exploded and turned the ship into a massive inferno from which no one would escape;

WHEREAS, Chief Tomich is among the 58 sailors believed to be entombed inside the U.S.S. Utah;

WHEREAS, in 1943, the U.S. Navy commissioned a destroyer escort and named it the U.S.S. Tomich in his honor;

WHEREAS, on January 4, 1944, while aboard the U.S.S. Tomich, Chief Tomich was posthumously awarded the Congressional Medal of Honor;

WHEREAS, Chief Tomich's Congressional Medal of Honor is the only unclaimed Congressional Medal of Honor since the 1880s;

WHEREAS, a total of 30 officers and 431 men aboard the U.S.S. Utah survived the attack;

WHEREAS, six officers and 52 enlisted men were lost due to being trapped on board or cut down by strafing aircraft;

WHEREAS, Melvyn Armour Gandre, a native Utahn who enlisted in the Navy and reported for duty on the U.S.S. Utah in May 1940, was lost aboard the U.S.S. Utah;

WHEREAS, after Gandre's death, the U.S.S. Utah's Commanding Officer wrote to Gandre's wife, telling her "while knowing that his life was in great peril, he remained at his post of duty until it was too late to save himself. Our country and our Navy will never forget that glorious act. It is now the duty of all of us to make certain that he did not die in vain...";

WHEREAS, for many survivors of the attack, victory was long and difficult. Survivor Bill Hughes recalled: "I was there when it started aboard the Utah and 3 years 8 months and 25 days later I was where it ended: in Tokyo Bay.";

WHEREAS, entombed within the wreck are the remains of 54 sailors and a baby named Nancy Lynne Wagner;

WHEREAS, Nancy Lynne Wagner died two days after her premature birth;

WHEREAS, Albert Wagner, Nancy's father, had planned to bury his daughter at sea on the next voyage;

WHEREAS, Albert survived the sinking, but his daughter's urn was lost;

WHEREAS, the sailors still entombed on the U.S.S. Utah "watch over" her;

WHEREAS, President Roosevelt called the attack on Pearl Harbor a "day that will live in infamy";

WHEREAS, the infamy of the attack did not translate into a famous legacy for the U.S.S. Utah and the 58 lives lost;

WHEREAS, little response from the home front and a lack of effort from the Navy led the U.S.S. Utah into obscurity with stories untold and the title "The Forgotten Ship of Pearl Harbor"; and

WHEREAS, now, 82 years after the attack, the time has come to "right the ship," forgive history, and reset the legacy and memory that will finally

bring honor and respect to those that served and died on the U.S.S. Utah once and for all, as well as the state for which she was named:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declare December 7 "Pearl Harbor Remembrance Day" in the state of Utah.

BE IT FURTHER RESOLVED by the Legislature of the state of Utah, the Governor concurring therein, that the celebration of Pearl Harbor Remembrance Day begin at 8:01 A.M. local time, to commemorate the time the first torpedo hit the U.S.S. Utah.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages every town, city, and county in the state of Utah to follow suit with similar resolutions.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages Utahns and Americans to honor and pay tribute to the fallen sailors by visiting the U.S.S. Utah Memorial in Honolulu, Hawaii.

H. C. R. 2
Passed February 13, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION FOR STATE HEALTH PLAN BENEFIT CHANGES

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This resolution directs the Public Employees' Benefit and Insurance Program to modify certain health insurance benefits for state employees.

Highlighted Provisions:

This bill:

- directs the Public Employees' Benefit and Insurance Program to:
  - increase the deductible for the STAR HSA Plan;
  - add an individual out-of-pocket maximum to the STAR HSA Plan for double and family coverage;
  - increase the total out-of-pocket maximum for the STAR HSA Plan for all levels of coverage;
  - modify the state's HSA contribution for single coverage on the STAR HSA Plan and for the Consumer Plus Plan; and
  - adjust the percentage of premium paid by the employee.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in accordance with Utah Code Section 49-20-201, the state participates in the Public Employees' Benefit and Insurance Program;

WHEREAS, Utah Code Subsection 49-20-401(1)(g) provides that the program shall "consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes";

WHEREAS, Utah Code Subsection 49-20-401(1)(j) provides that the program shall "submit, in advance, the program's recommended benefit and rate changes for state employees, which may include actuarially substantiated member premium differentials between networks," to the Legislature and the director of the Division of Human Resource Management;

WHEREAS, Utah Code Subsection 49-20-401(1)(l) provides that the program "determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees";

WHEREAS, the deductible for the STAR HSA Plan has to increase to $1,600 for single coverage and $3,200 for double and family coverage in 2024 to be compliant with federal law;

WHEREAS, an embedded individual out-of-pocket maximum is currently a benefit feature of the Traditional Plan and the Consumer Plus Plan and adding an embedded individual out-of-pocket maximum to the STAR HSA Plan would make this a standard benefit feature across plans offered;

WHEREAS, some families can be four times more likely than others to reach the current out-of-pocket maximum due to the health status of a single member, making the creation of an embedded individual out-of-pocket maximum of particular benefit to these families;

WHEREAS, the total combined out-of-pocket maximum for the Traditional Plan is $3,000 for single coverage, $6,000 for double coverage, and $9,000 for family coverage, adopting the same out-of-pocket maximums for the STAR HSA Plan would create a standard benefit feature and result in cost neutrality; and

WHEREAS, a material actuarial difference exists between the two networks offered to state employees:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, direct the Public Employees' Benefit and Insurance Program, beginning with the 2025 plan year, to:

(1) increase the deductible for the STAR HSA Plan to $1,600 for single coverage and $3,200 for double and family coverage;

(2) add an embedded individual out-of-pocket maximum of $4,000 to the STAR HSA Plan for double and family coverage;

(3) increase the total out-of-pocket maximum for the STAR HSA Plan to $3,000 for single coverage, $6,000 for double coverage, and $9,000 for family coverage;

(4) add $125 to the state's contribution for single coverage on the STAR HSA Plan;

(5) for the Traditional Plan, add 1% of total premium cost to the employee share for the Advantage Network and subtract 2% of total premium cost from the employee share of the Summit Network;

(6) for the STAR HSA Plan, add 1% of total premium cost to the employee share for the Advantage Network and eliminate the employee premium share for the Summit Network; and

(7) for the Consumer Plus Plan, create an employee share of 1% of total premium cost for the Advantage Network and add the equivalent of 2% of total premium cost to the state's HSA contribution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Public Employees' Benefit and Insurance Program.

H. C. R. 3
Passed February 16, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION REGARDING CHILD SEXUAL ABUSE MATERIAL

Chief Sponsor: Brady Brammer
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This resolution declares child sexual abuse material to be at odds with the standards of the people of Utah.

Highlighted Provisions:

This bill:

- discusses the increased proliferation of child sexual abuse material on the Internet;
- outlines how emerging technologies contribute to the proliferation of these heinous materials;
- describes the damages caused by child sexual abuse material; and
- declares child sexual abuse material, no matter how it is produced, to be at odds with the standards of the people of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, child sexual abuse material, or CSAM, is any visual depiction of sexually explicit conduct that involves the use of a minor in the production of its visuals;

WHEREAS, the exploitation of children to produce CSAM is a vile form of abuse that can lead to severe and long-lasting psychological harm for the children involved;

WHEREAS, the production and distribution of CSAM on the Internet has reached epidemic levels, with millions of images produced every year that victimize the most vulnerable members of our society;

WHEREAS, in 2018 alone, there were over 18 million reports of CSAM on the Internet, which totaled more than one-third of all such images ever reported;

WHEREAS, the National Center for Missing and Exploited Children has reported a dramatic escalation in the proliferation of CSAM online over the past five years;

WHEREAS, this flood of abuse material has strained law enforcement's ability to identify and prosecute the producers and consumers of these videos and images;

WHEREAS, an inability to counter the production and distribution of CSAM contributes to a culture that normalizes the sexual abuse of minors and perpetuates cycles of abuse;

WHEREAS, these cycles of abuse pose a significant risk to children's safety by creating an environment where predators can more easily target vulnerable individuals for exploitation;

WHEREAS, CSAM also contributes to the desensitization towards sexual exploitation and violence, potentially leading to an increase in related crimes;

WHEREAS, exposure to, or involvement in, CSAM can lead to distorted perceptions of healthy sexuality and relationships, impacting the normal sexual development of both victims and viewers;

WHEREAS, the advent of images produced by artificial intelligence, or AI, and other digital tools has contributed to the rapid saturation of CSAM online;

WHEREAS, recent reports have found that images of child sexual abuse have been identified as part of training datasets for AI image generation, and have likely been used by AI to produce CSAM;

WHEREAS, AI and other digital tools are increasingly capable of creating CSAM indistinguishable from CSAM produced using conventional methods; and

WHEREAS, it is increasingly clear that the advancing technology of AI is facilitating and contributing to the overwhelming amount of CSAM on the Internet:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor

concurring therein, declares child sexual abuse material, whether produced by victimizing recognizable children or by utilizing AI or other digital tools to create composite images, to be patently offensive and a clear violation of the standards of the people of Utah.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, affirms that there is no literary, artistic, political, or scientific value to child sexual abuse material, even if it is produced using AI or other digital tools.

H. C. R. 6
Passed February 22, 2024
Approved March 19, 2024
Effective March 19, 2024

CONCURRENT RESOLUTION CELEBRATING THE 75TH ANNIVERSARY OF TANNER DANCE UTAH

Chief Sponsor: Jennifer Dailey- Provost
Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This resolution recognizes the 75th anniversary of University of Utah's Tanner Dance and honors Virginia Tanner's continued legacy and the legacy of the Tanner Dance faculty and staff.

Highlighted Provisions:

This bill:

- recognizes the 75th anniversary of Tanner Dance;
- honors Virginia Tanner's continued legacy of inclusivity, creativity, and excellence in teaching young arts;
- recognizes the remarkable leadership and growth over 75 years to currently serving 8,000 students weekly and reaching 40,000 Utahns annually; and
- acknowledges the generous community support allowing further enhancement of the programs that enrich the lives of the children and adults Tanner Dance serves.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, as the oldest children's dance company in the United States, University of Utah Tanner Dance has brought joy and the positive influence of the arts into the lives of more than one million young people;

WHEREAS, Tanner Dance celebrates its 75th anniversary along with the incredible legacy that Virginia Tanner began in 1949 with her unwavering commitment to fostering creativity in the lives of children;

WHEREAS, revered modern dance pioneer, Doris Humphrey, stated in 1949 that the "children offer a wonderful proof of the power of the young artist, guided wisely, untarnished by dogma or routine, unstereotyped, and lovely. This source of fresh ideas in dance- art is a treasure house...";

WHEREAS, Walter Terry, Dean of American dance critics, wrote in 1953 "From the first, there was beauty. The children were wonderfully disciplined, yet gloriously free. They dance as if they had faith in themselves, had a love of those of us who were seeing them, actively believed in their God, and rejoiced in all of these";

WHEREAS, Jose Limon spoke of Miss Virginia Tanner in 1978, proclaiming, "Salt Lake City is the most blessed city in the world to have the world's master children's dance teacher. There isn't any place that has anyone who can touch her genius for teaching children the exciting purity of the dancing arts.";

WHEREAS, Virginia Tanner's motivating force behind work is "not only developing excellent dancers, but more importantly, developing young people who are useful, imaginative, worthwhile human beings.";

WHEREAS, Virginia Tanner began teaching dance classes in her home in 1935, then moved to the Deseret Gym, then McCune School of Music and Art, then Temple Bowling Alley on North Temple and Main, and finally in 1961, to the University of Utah where the company was housed in a World War II barracks building;

WHEREAS, in 2014 the Tanner Dance program moved into its exquisite and permanent home in the Beverley Taylor Sorenson Arts Education Complex on the University of Utah campus;

WHEREAS, as Tanner Dance embarks on this historic 75th anniversary year, the company remains an internationally recognized leader in dance and arts education for children, steadfast in its dedication to upholding the integrity of its programming and the excellence of its leadership in artistic faculty and staff;

WHEREAS, more than 40 years after Tanner's death, the program, under the leadership of Mary Ann Lee and her renowned faculty and staff, has grown exponentially to include not only dance but also visual art, language arts, and music, teaching artists that have been mentored in Tanner's unique teaching philosophy;

WHEREAS, Tanner Dance reaches approximately 40,000 students across Utah through various programs, outreach, and special performances;

WHEREAS, knowing that the arts play an essential role in nourishing individuals and rebuilding communities, there has never been a more important time to provide an imaginative, inclusive, and nurturing space for children and adults;

WHEREAS, Tanner Dance currently engages nearly 1,000 students each week in creative arts

through the Fine Arts Preschool and French Immersion Preschool, the Virginia Tanner Dance Creative Dance and Studio Program, the Contemporary Companies, and the internationally renowned and second-oldest performing arts organization in Utah, the Children's Dance Theatre;

WHEREAS, extending Tanner Dance's reach to 7,000 scholarship students across 35 schools, through Side-by-Side Teaching Residency program, professional development workshops, and distance learning, skilled faculty and dance specialists provide equitable, rigorous dance training to under-served and diverse populations in rural areas, refugee communities, ethnically diverse student groups, indigenous tribal communities, and to those with physical or cognitive disabilities;

WHEREAS, students develop skills such as critical thinking, problem-solving, empathy for peers, creative expression, curricular connections and ultimately experience the transformative power of dance and the arts while infusing dance and collaborating with professional musicians into academic subjects;

WHEREAS, Amber Clayton, Principal at Granger and Millcreek Elementary schools stated, "Our students speak more than 32 different first languages, and more than 70% of our families qualify for free and reduced lunch. This level of arts instruction, weekly access to a professional dance instructor and live musician, is out of reach for most. Tanner brings equitable access to the arts. Then art does what it does best - makes us all better human beings.";

WHEREAS, Tanner Dance embraces inclusivity through Adaptive Needs Dance classes for children and adults with disabilities;

WHEREAS, Tanner Dance nurtures cognitive needs and physical skills through the Learning and Engaging through Arts Discipline and Development (LEADD) and the Elevate Theater Company programs;

WHEREAS, participants in Tanner Dance's programs develop confidence, communication, socialization, movement skills, and a meaningful connection to their community;

WHEREAS, no matter the program in which a child participates, Tanner Dance strives to help each and every one of them become compassionate and resilient individuals through memories made, skills learned, and relationships formed, inspiring them for the rest of their lives;

WHEREAS, students learn to understand and interact with the world around them by engaging with music, visual art, children's literature, and nature;

WHEREAS, Tanner Dance creates young artists that have developed communication skills, emotional intelligence, compassion, determination, and a life-long desire to move, learn, and engage;

WHEREAS, the professional arts experiences for junior high and high school dancers builds advanced skills in leadership and creative problem solving, helping students improve college-readiness, whether in dance or other disciplines, discover their capabilities, and engage in positive community involvement as they become young adults;

WHEREAS, the Tanner Dance Program at the University of Utah aligns with the university's mission of teaching, research, and service by building bridges within the community, offering professional development for arts specialists and classroom teachers;

WHEREAS, Tanner Dance serves as an essential arts auxiliary to the College of Fine Arts through teaching internships for college students, collaborative research projects, and degree enrichment courses in multiple departments developed and taught by Tanner Dance faculty;

WHEREAS, Tanner Dance remains committed to Virginia Tanner's philosophy to give students the opportunity to share their own voices through the arts, allow a more diverse population in Utah to benefit from the outstanding programs, and retain a position as an internationally-recognized innovator in arts education; and

WHEREAS, the continued support and partnership of organizations including the Utah State Board of Education Professional Outreach Programs in the Schools (POPS), National Endowment for the Arts, Salt Lake City Arts Council, Salt Lake County Zoo, Arts and Parks (ZAP), and the Utah Division of Arts & Museums will enable Tanner Dance to bring beauty and artistry into the lives of all Utahns for another 75 years:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, recognizes and celebrates the 75 years of dedicated service and artistic enrichment provided by the Tanner Dance Program to Utah, beginning with Miss Virginia Tanner in 1949 and continued by Mary Ann Lee and her faculty and staff of Tanner Dance to present day.

BE IT FURTHER RESOLVED that the Legislature and the Governor commend Tanner Dance for remaining committed to Virginia Tanner's philosophy to give students the opportunity to share their own voices through the arts, allow a more diverse population in Utah to benefit from the outstanding programs, and retain a position as an internationally-recognized innovator in arts education.

BE IT FURTHER RESOLVED that the Legislature and the Governor celebrate the past 75 years of achievements and look forward to the many more moments of beauty, artistry, inclusivity, creativity, and inspiration University of Utah Tanner Dance will bring to the state of Utah.

H. C. R. 7
Passed February 16, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION ENCOURAGING REPEAL OF THE JONES ACT

Chief Sponsor: Norman K Thurston
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution proclaims the Legislature of the state of Utah supports the repeal of the Jones Act by Congress.

Highlighted Provisions:

This bill:

- urges Congress to consider repealing the Jones Act to fully utilize waterborne transport when shipping goods domestically and improve intra-United States commerce and supply chain linkages.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Section 27 of the Merchant Marine Act of 1920 (P.L. 66-261) (46 U.S.C. 55102), commonly known as the Jones Act, is a federal cabotage law that restricts the surface carriage of cargo by water between coastwise points in the United States to vessels that are built, flagged, owned, and crewed by the United States;

WHEREAS, the requirements of the Jones Act dramatically increase the cost to purchase, staff, and maintain shipping vessels;

WHEREAS, the high cost of constructing shipping vessels in the United States diminishes the size of the United States shipping fleet, increases its age, increases fuel costs due to age, increases maintenance costs due to age, and increases crewing costs due to age and a lack of automation;

WHEREAS, all other modes of domestic transportation in the United States are permitted to use foreign manufactured equipment for commercial operation without restriction including aircraft, railroad cars and locomotives, trucks, automobiles, and mass transit vehicles;

WHEREAS, both the United States commercial shipbuilding industry and domestic shipping fleet have experienced significant declines under Jones Act protectionism;

WHEREAS, a 2013 report issued by the World Economic Forum in collaboration with Bain & Company and the World Bank described the Jones Act as "the most restrictive example" of a cabotage law and that "such barriers actually damage local economies and saddle businesses and consumers with significant costs";

WHEREAS, the Jones Act has been cited as a key factor behind United States refineries purchasing Russian oil instead of domestic supplies due to the high cost of domestic transport;

WHEREAS, New England and Puerto Rico must import liquified natural gas due to the total lack of Jones Act-compliant gas tankers needed to transport it domestically;

WHEREAS, numerous useful types of vessels do not exist in the Jones Act-qualified fleet including gas tankers, livestock carriers, and heavy-lift vessels;

WHEREAS, the high cost of Jones Act transport and lack of appropriate vessel types serve as a barrier to commerce within the United States and discourage domestic supply chains;

WHEREAS, United States trading partners restrict their markets to United States exports in retaliation for United States refusal to modify the Jones Act and open its domestic shipping and shipbuilding markets;

WHEREAS, the high costs associated with the Jones Act have many domestic businesses utilizing the nation's highway and rail systems in order to transport goods to various markets, leading to increased wear and tear on the nation's roadways and railways, increased maintenance costs on roadways and railways, increased fuel consumption, and increased vehicle congestion on the nation's roadways; and

WHEREAS, repealing the Jones Act would allow domestic businesses to realize cost savings by utilizing the nation's waterways as a safer and easier method of transporting goods to market, would reduce the number of vehicles on the nation's highways, and would permit goods to arrive to markets in a more timely fashion:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urges the United States Congress to consider repealing the Jones Act.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the United States Secretary of Transportation, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the members of Utah's congressional delegation.

H. C. R. 8
Passed February 16, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION CREATING THE BUTCH CASSIDY STATE MONUMENT

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

Cosponsor:
Walt Brooks
Keven J. Stratton
Melissa G. Ballard
Jefferson S. Burton
Jordan D. Teuscher
Stewart E. Barlow
Candice B. Pierucci
Christine F. Watkins
Kera Birkeland
Rex P. Shipp

LONG TITLE

General Description:

This concurrent resolution creates the Butch Cassidy State Monument.

Highlighted Provisions:

This bill:

- describes the general process for proposing the creation of the Butch Cassidy State Monument;
- details the benefits to the counties and the state in creating the state monument;
- states that the Butch Cassidy State Monument shall be included in the state parks system; and
- approves the creation of the Butch Cassidy State Monument.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah Code Title 79, Chapter 4, Part 12, State Monuments Act, provides a process for the creation of a state monument when a county determines that a state monument designation within the county's jurisdictional boundaries is appropriate;

WHEREAS, the Board of Piute County Commissioners has determined, by Resolution 2024- 1, that it is in the best interest of Piute County to preserve and maintain the Butch Cassidy Home as a state monument;

WHEREAS, the Board of Garfield County Commissioners has determined, by Resolution 2024- 1, that it is in the best interest of Garfield County to preserve and maintain the Butch Cassidy Home as a state monument;

WHEREAS, the counties have a land lease agreement with the landowners of the real property to be designated as a state monument in Garfield County; and

WHEREAS, the area that will become the Butch Cassidy State Monument has important recreational, cultural, historic, scenic, and economic value:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, approves the creation of the Butch Cassidy State Monument, comprising parcels in Garfield County, which parcels are privately owned, but which are leased to the state for creation of this monument, and which parcels are more specifically described by a map and legal description on file with the Division of State Parks.

BE IT FURTHER RESOLVED that the Butch Cassidy State Monument is to be managed by Garfield and Piute Counties, under a memorandum of understanding between the counties and the Division of State Parks, in accordance with the provisions of Utah Code Title 79, Chapter 4, Part 12, State Monuments Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Garfield County, Piute County, and the Division of State Parks.

H. C. R. 9
Passed February 13, 2024
Approved February 28, 2024
Effective February 28, 2024

CONCURRENT RESOLUTION CELEBRATING UTAH'S HISTORY OF WELCOMING REFUGEES

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Todd D. Weiler

Cosponsor:
Brett Garner
Gay Lynn Bennion

LONG TITLE

General Description:

This resolution celebrates Utah's rich history as a welcoming state for individuals fleeing persecution.

Highlighted Provisions:

This bill:

- celebrates Utah's history of welcoming refugees.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, as of 2023, the United Nations estimates there were over 36 million refugees in the world, more than at any other time since World War II, and nearly half of these refugees are children;

WHEREAS, refugees are people displaced from their home country who are unable to return to that country due to a well- founded fear of persecution for reasons of race, nationality, religion, political opinion, or membership in a particular group;

WHEREAS, the United States participates in a resettlement program that is critical to global humanitarian efforts and reflects the United States' values, strengthens global security, and alleviates some of the burden placed on frontline host countries;

WHEREAS, refugees who enter the United States are among the most vetted individuals to enter this country and are subject to extensive screening checks including in-person interviews, biometric and biographic data checks, multiple interagency checks, and medical screenings;

WHEREAS, once refugees resettle in the United States, refugees contribute to their new communities by starting businesses, paying taxes, and sharing their cultural traditions;

WHEREAS, these new residents are workers, students, entrepreneurs, parents, neighbors, and community leaders who contribute more than they consume in state-funded services, including schooling and healthcare;

WHEREAS, Utah boasts a rich history of multicultural blending, dating back tens of thousands of years when the first people lived within the boundaries of the state, continuing into the 1700s when explorers from Spain and France ventured into the region, and later, when pioneers settled in Utah, it became a haven for those seeking religious freedom and an escape from persecution;

WHEREAS, over the years, the state has continued to be a beacon of welcome for families and individuals fleeing violence, with an acknowledgment of at least 106 different languages spoken by families throughout the state;

WHEREAS, refugees contribute enormously to Utah's economy as members of the workforce, as homeowners, as business owners and entrepreneurs, as taxpayers, as consumers, and as essential workers filling gaps in Utah's workforce shortage and strengthening the local economy; and

WHEREAS, the Legislature of the state of Utah has affirmed its support for refugee families in bipartisan, unanimous legislation in 2021, 2022, and 2023:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, celebrates Utah's history as a welcoming state for refugee families.

BE IT FURTHER RESOLVED that the Legislature and the Governor declare their support for the resettlement of refugees in Utah and call upon other local governments and communities to join in supporting a strong national effort to resettle the world's most vulnerable refugees.

H. C. R. 11
Passed March 1, 2024
Approved March 19, 2024
Effective March 19, 2024

CONCURRENT RESOLUTION RECOGNIZING THE IMPORTANCE OF CROSS-ISSUE GROWTH IMPACTS

Chief Sponsor: Bridger Bolinder
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This resolution recognizes the importance of cross-issue growth impacts.

Highlighted Provisions:

This bill:

- encourages local governments, private sector entities, and community partners to consider cross-issue growth impacts in the decision-making process.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah was the fastest growing state in the United States between 2010 and 2020, and continues to grow rapidly;

WHEREAS, a growing population means an increased demand for housing, transportation, water, energy, open space, and recreation;

WHEREAS, the Guiding Our Growth effort is a statewide conversation about growth, guided by the Governor's Office of Planning and Budget and partners from all over the state, both inside and outside of government;

WHEREAS, Guiding Our Growth has highlighted Utahns' desire to manage the state's growth in a way that maintains and enhances quality of life for all Utahns;

WHEREAS, growth issues are interrelated, and decisions on one issue often affect other growth-related issues;

WHEREAS, Utah decision-makers and stakeholders are known for doing business "The Utah Way," which represents Utah's culture of collaborative problem-solving;

WHEREAS, many programs designed to support quality growth are already in place;

WHEREAS, multiple state agencies are currently working to address growth challenges as topics overlap agency responsibilities;

WHEREAS, many local governments and regional entities are working to address growth challenges across local departments and agencies; and

WHEREAS, there is no formal encouragement for the state or local governments, community

partners, or stakeholders to consider holistically the effects of programs or decisions on all growth issues:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages its offices and agencies to include consideration of cross- issue growth impacts in state funding, policy, and program design, development, and evaluation.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage local governments, private sector entities, and community partners to consider cross- issue growth impacts in decision- making processes.

H. C. R. 12
Passed March 1, 2024
Approved March 19, 2024
Effective March 19, 2024

EMPLOYER DISCLOSURE FOR VETERANS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This resolution encourages Utah employers to post a notice of benefits for veterans.

Highlighted Provisions:

This bill:

- encourages public and private employers to post for their employees a list of resources made available through the Utah Department of Veterans and Military Affairs to active military members, veterans, and their spouses.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, members of the U.S. Armed Forces make the affirmative decision to serve, protect, and sacrifice for the security of the United States and its citizens;

WHEREAS, more than 125,000 Utah residents are veterans of the U.S. Armed Forces;

WHEREAS, the rate of disability for veterans is more than twice the rate of disability for nonveterans, and the rate of suicide for veterans is 1.5 times the rate of suicide for nonveterans;

WHEREAS, the stated vision of the Department of Veterans and Military Affairs prioritizes Utah's status as a premier location of veterans, service members, and their families to live and succeed;

WHEREAS, Utah law provides several benefits to veterans and their families, including healthcare, employment assistance, business resources, legal assistance, tax benefits, and homebuyer assistance;

WHEREAS, Utah and the Department of Veterans and Military Affairs have made significant strides for Utah's veterans in reducing poverty, reducing unemployment, and increasing incomes; and

WHEREAS, it is vital to the success of the efforts to assist veterans that they are aware of and able to access the available support services:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah, the Governor concurring therein, that all employers, public and private, are encouraged to post for their employees a list of resources made available through the Department of Veterans and Military Affairs to active military members, veterans, and their spouses.

H. C. R. 13
Passed March 1, 2024
Approved March 19, 2024
Effective March 19, 2024

CONCURRENT RESOLUTION RELATED TO THE DIVISION OF WILDLIFE RESOURCES

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution pertains to the Division of Wildlife Resources.

Highlighted Provisions:

This bill:

- acknowledges the role of the Division of Wildlife Resources in managing and protecting Utah wildlife;
- highlights the cooperation between the Utah Division of Wildlife Resources, Colorado Parks and Wildlife, and the United States Fish and Wildlife Service;
- recognizes the potential harm from wolves in the state;
- thanks the Division of Wildlife Resources and others for coordinated efforts; and
- encourages the Division of Wildlife Resources to capture and return wolves to Colorado.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Division of Wildlife Resources serves the people of Utah by managing and protecting Utah wildlife;

WHEREAS, the United States Fish and Wildlife Service has repeatedly determined that wolves no longer meet the standard for listing as a threatened or endangered species;

WHEREAS, Utah has consistently opposed reintroduction and management of wolves in the state while wolves remain federally listed;

WHEREAS, driven largely by urban populations, Colorado voters narrowly approved a referendum to transplant wolves to that state;

WHEREAS, the Colorado release of wolves in many ways allowed for wildlife management to rightfully be led by the state and not by the United States Fish and Wildlife Service;

WHEREAS, wolves that leave Colorado do not contribute to populations in that state;

WHEREAS, the United States Fish and Wildlife Service has determined that a substantial separation between the Mexican wolves and the Northern Rockies wolves is necessary to protect genetic integrity;

WHEREAS, under the agreement with the United States Fish and Wildlife Service and Colorado, wolves in Utah with or without collars may be returned to Colorado;

WHEREAS, because of Utah's conservation efforts and more than $100,000,000 in investments by private sportsmen and sportsmen groups, in the last 30 years in particular, Utah is home to abundant populations and distribution of bighorn sheep, elk, mule deer, mountain goats, moose, bison, pronghorn, wild turkey, cougar, and black bear;

WHEREAS, unmanaged wolves can cause extensive damage and economic loss to hunting and ranching communities; and

WHEREAS, the Division of Wildlife Resources biologists and Utah Department of Agriculture and Food trappers have the qualifications to conduct wolf management related activities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, thanks the Division of Wildlife Resources, Colorado Parks and Wildlife, and the United States Fish and Wildlife Service for their coordinated efforts to grant Utah the right to return wolves found in Utah to Colorado as Colorado recovers their wolf population.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the Division of Wildlife Resources, for the reasons provided in this resolution and consistent with legislative directives, to capture wolves found in the state and return the wolves to Colorado, in accordance with agreements with the United States Fish and Wildlife Service and the Colorado Parks and Wildlife and numerous legislative actions in Utah.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the Division of Wildlife Resources to follow this wolf management practice until wolves are de- listed statewide and the legal and economic challenges are resolved.

H. C. R. 17
Passed March 1, 2024
Approved March 19, 2024
Effective March 19, 2024

CONCURRENT RESOLUTION HONORING THE 25TH ANNIVERSARY OF THE UTAH MARRIAGE COMMISSION

Chief Sponsor: Carol S. Moss
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This resolution recognizes and commends the work of the Utah Marriage Commission for 25 years of strengthening marriages in Utah.

Highlighted Provisions:

This bill:

- recognizes the importance of healthy and strong marriages to the well- being of individuals, families, and communities;
- acknowledges the challenges facing Utahns wanting to form and sustain a strong marriage; and
- recognizes the educational work of the Utah Marriage Commission over the past 25 years to help Utah couples form and sustain healthy relationships and stronger marriages.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, marriage is a fundamental social institution supporting the well- being of society;

WHEREAS, a healthy marriage is one of the strongest predictors of personal happiness;

WHEREAS, strong marriages provide the optimal social and economic environment for rearing children;

WHEREAS, a strong institution of marriage makes for a stronger Utah;

WHEREAS, marriage and fertility rates have been falling substantially in the United States and in Utah;

WHEREAS, many social and economic forces, as well as cultural headwinds, make forming and sustaining a healthy marriage in contemporary society challenging, especially for more disadvantaged young adults;

WHEREAS, former Utah Governor Michael O. Leavitt established a formal Utah Marriage Commission in 1998 to help support stronger marriages in Utah, with former First Lady Jacalyn S. Leavitt playing a formative role in the early years of the Commission;

WHEREAS, the Utah Marriage Commission has served Utah for 25 years, providing easy access

through its website StrongerMarriage.org to research-based educational resources to strengthen marriages and remarriages, including evidence-based online courses, podcasts, webinars, blogs, videos, and guidebooks;

WHEREAS, these free educational resources have reached hundreds of thousands of Utahns over the past 25 years;

WHEREAS, the quantity and quality of these educational resources is accelerating;

WHEREAS, the Utah Marriage Commission also has supported legislation designed to help support couples' efforts to form and sustain healthy marriages and remarriages, including an incentive for engaged couples to participate in premarital education; and

WHEREAS, the Utah Marriage Commission receives excellent support and effective day-to-day leadership from Utah State University Extension, with its mission of taking the research to the people:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes and commends the work of the Utah Marriage Commission over the last 25 years helping couples form and sustain healthy relationships and stronger marriages and for its efforts to strengthen the institution of marriage in Utah.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah and the Governor look forward to the continued success of the Commission to make Utah the best state in the nation in which to raise a family.

H. C. R. 18
Passed February 15, 2024
Approved February 15, 2024
Effective February 15, 2024

HOUSE CONCURRENT RESOLUTION CONDEMNING AND CENSURING STATE SCHOOL BOARD MEMBER NATALIE CLINE

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This resolution censures Utah State Board of Education member Natalie Cline.

Highlighted Provisions:

This bill:

- recognizes the constitutional duties of a member of the Utah State Board of Education (USBE) and that a member swears to discharge those duties with fidelity;
- acknowledges that USBE bylaws require a member of USBE to treat students with dignity and respect each student's privacy;
- strongly condemns USBE member Natalie Cline's social media post questioning a student's gender, which exposed the student to relentless harassment and bullying, including threats of violence; and
- censures board member Cline for her conduct.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, under Utah Constitution Article X, Sec. 3, "general control and supervision of the public education system [is] vested in [the] State Board of Education";

WHEREAS, members of the Utah State Board of Education (USBE) hold a position of public trust and are charged with supporting and advocating for Utah students;

WHEREAS, in November 2020, Natalie Cline was elected to the USBE, and in January 2021, board member Cline swore a constitutional oath that she would "discharge the duties of [her] office with fidelity";

WHEREAS, under state law, the USBE is charged with adopting rules and setting expectations for local schools to provide safe and civil school environments where students are treated with dignity and respect and bullying is not tolerated;

WHEREAS, USBE bylaw, Article IV, states, "[w]hile Members [of the USBE] have the right to freedom of expression, members shall respect the privacy of students, USBE employees, [local school district] employees, and school level employees, including refraining from direct and indirect identification of such, in a negative light in any public setting, venue, or platform where there is a reasonable expectation of privacy" and those bylaws set expectations that members communicate with the public in an ethical and civil manner;

WHEREAS, on February 6, 2024, board member Cline posted a student athlete's photo on social media, thereby revealing the student's identity, and reprehensibly questioned the student's gender publicly and without evidence;

WHEREAS, board member Cline's abhorrent actions caused the student emotional harm and exposed the student to relentless harassment and bullying, including threats of violence that created a need for additional security at the student's school;

WHEREAS, board member Cline's bullying and failure to treat a student with dignity and respect undermine the mission of the USBE and displays a selfish indifference to her sworn oath to discharge her board member duties with fidelity; and

WHEREAS, board member Cline's actions on February 6 violate the moral and ethical standards

expected of an elected official, particularly one charged with the duty to support our children in public education:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, condemns and denounces board member Cline's repugnant attack on a student in the strongest possible terms and finds such behavior irreconcilable with the responsibilities of a Utah State Board of Education member.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, hereby formally censures board member Cline for her conduct.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to board member Cline and the USBE and be recorded on the pages of the House and Senate journals.

H. J. R. 7
Passed February 16, 2024
Approved February 16, 2024
Effective February 16, 2024

JOINT RESOLUTION CONDEMNING ABUSIVE COACHING PRACTICES

Chief Sponsor: Sahara Hayes
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution condemns abusive coaching practices in Utah schools.

Highlighted Provisions:

This bill:

- recognizes a power imbalance between a coach and student athletes;
- condemns abusive coaching practices from coaches; and
- calls on Utah schools to provide safe and supportive environments for student athletes.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, coaches are responsible for supporting and protecting their student athletes and treating them with dignity;

WHEREAS, there is a power imbalance between coaches and student athletes in which athletes do not have a significant voice;

WHEREAS, research shows that people and children perform better in positive, safe, encouraging, and supportive environments;

WHEREAS, throwing objects, using obscene language, name-calling, threatening to revoke athletic scholarships, supporting and encouraging eating disorders, and other actions can constitute abuse;

WHEREAS, physical, verbal, or emotional abuse degrades student athletes, diminishes student athletes' interest in sports, damages self-esteem, harms mental health, and impacts academic performance; and

WHEREAS, student athletes fear retaliation and repercussions from speaking out against abusive practices from coaches:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the importance of protecting student athletes and condemns abusive coaching practices in Utah schools.

BE IT FURTHER RESOLVED that the Legislature encourages Utah schools to create positive environments for student athletes by penalizing abusive coaching practices in school sports.

BE IT FURTHER RESOLVED that the Legislature encourages school sports teams to incorporate practices to support healthy relationships and mindsets.

H. J. R. 8
Passed February 28, 2024
Approved February 28, 2024
Effective February 28, 2024

JOINT RESOLUTION AMENDING RULES OF CIVIL PROCEDURE ON CHANGE OF JUDGE AS A MATTER OF RIGHT

Chief Sponsor: Stephanie Gricius
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This joint resolution amends Rule 63A of the Utah Rules of Civil Procedure regarding the change of judge as a matter of right.

Highlighted Provisions:

This bill:

- amends Rule 63A of the Utah Rules of Civil Procedure to allow for a change of judge by a party in a civil action; and
- makes technical and conforming changes.

Special Clauses:

This resolution provides a special effective date.
Rule 63A, Utah Rules of Civil Procedure

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Change of judge as a matter of right.

(a) Change of judge by one side of an action.

(a) (1) Right to change a judge by one side of an action.

(a) (1) (A) In a civil action pending in a court in a county with seven or more district court judges, each side is entitled to one change of judge as a matter of right under this paragraph (a).

(a) (1) (B) Even if two or more parties on one side of a civil action have adverse or hostile interests, the action, whether single or consolidated, must be treated as only having two sides for purposes of a changing judge under this paragraph (a).

(a) (1) (C) A side is not entitled to more than one change of judge under this paragraph (a).

(a) (1) (D) Regardless of when a party joins a civil action, a party is not entitled to a change of judge as a matter of right under this paragraph (a) if the notice of a change of judge is untimely under paragraph (a)(2).

(a) (2) Notice of a change of judge.

(a) (2) (A) A party seeking a change of judge under this paragraph (a) must file a notice of a change of judge with the clerk of the court.

(a) (2) (B) If the notice of a change of judge is timely under this paragraph (a)(2), the notice must be granted.

(a) (2) (C) In filing a notice of a change of judge under this paragraph (a), a party is not required to state any reason for seeking a change of judge, but the party must attest in good faith that the notice is not being filed:

(a) (2) (C) (i) for the purpose to delay any action or proceeding; or

(a) (2) (C) (ii) to change the judge on the grounds of race, gender, or religious affiliation.

(a) (2) (D) The notice must be filed:

(a) (2) (D) (i) on the side of a plaintiff or petitioner, within seven days after the day on which a judge is first assigned to the action or proceeding; or

(a) (2) (D) (ii) on the side of a defendant or respondent, within seven days after the day on which the defendant or respondent is served the complaint or petition, or at the time of the first filing by the defendant or respondent with the court, whichever occurs first.

(a) (2) (E) Failure to file a timely notice of a change of judge under this rule precludes a change of judge under this paragraph (a).

(a) (3) Assignment of action.

(a) (3) (A) Upon the filing of a notice under this paragraph (a), the judge assigned to the action must take no further action in the case.

(a) (3) (B) The action must be promptly reassigned to another judge within the county.

(a) (3) (C) If the action is unable to be reassigned to another judge within the county, the action may be transferred to a court in another county in accordance with Rule 42.

(a) (4) Exceptions. A party, or a side, is not entitled to change a judge as a matter of right under this paragraph (a):

(a) (4) (A) in any proceeding regarding a petition for post-conviction relief under Rule 65C;

(a) (4) (B) on a petition to modify child custody, child support, or alimony, unless the judge assigned to the action is not the same judge assigned to any of the previous actions between the parties;

(a) (4) (C) in an action before the juvenile court or the Business and Chancery Court;

(a) (4) (D) in an action in which the judge is sitting as a water or tax judge;

(a) (4) (E) in an action on remand from an appellate court; or

(a) (4) (F) if an action is unable to be transferred under paragraph (a)(3)(C) to another county in accordance with Rule 42.

[~~**(a) Notice of change.**~~] **(b) Right to change a judge by agreement of the parties.**

(b) (1) Notice of a change of judge.

(b) (1) (A) Except in actions with only one party, all parties joined in the action may, by unanimous agreement and without cause, change the judge assigned to the action by filing a notice of change of judge.

(b) (1) (B) The parties shall send a copy of the notice to the assigned judge and the presiding judge.

(b) (1) (C) The notice shall be signed by all parties and shall state: (1) the name of the assigned judge; (2) the date on which the action was commenced; (3) that all parties joined in the action have agreed to the change; (4) that no other persons are expected to be named as parties; and (5) that a good faith effort has been made to serve all parties named in the pleadings.

(b) (1) (D) The notice shall not specify any reason for the change of judge.

(b) (1) (E) Under no circumstances shall more than one change of judge be allowed under this [~~rule~~] paragraph (b) in an action.

(b) (2) Time for filing a notice.

(b) (2) (A) Unless extended by the court upon a showing of good cause, the notice must be filed within 90 days after commencement of the action or prior to the notice of trial setting, whichever occurs first.

(b) (2) (B) Failure to file a timely notice precludes any change of judge under this [~~rule~~]paragraph (b).

[~~(c)~~] **(b) (3) Assignment of action.**

(b) (3) (A) Upon the filing of a notice of change, the assigned judge shall take no further action in the case.

(b) (3) (B) The presiding judge shall promptly determine whether the notice is proper and, if so, shall reassign the action.

(b) (3) (C) If the presiding judge is also the assigned judge, the clerk shall promptly send the notice to the associate presiding judge, to another judge of the district, or to any judge of a court of like jurisdiction, who shall determine whether the notice is proper and, if so, shall reassign the action.

[~~(d)~~] **(b) (4) Nondisclosure to court.** No party shall communicate to the court, or cause another to communicate to the court, the fact of any party's seeking consent to a notice of change.

[~~(e)~~] **(c) Rule 63 unaffected.** [~~This rule does not affect any rights under Rule 63.~~] Nothing in this rule precludes the right of any party to seek disqualification of a judge under Rule 63.

Section 2. Effective date.

(1) In accordance with Utah Constitution, Article VIII, Section 4, the amendments in this resolution pass upon approval by a two-thirds vote of all members elected to each house.

(2) After passage of this resolution under Subsection (1), the amendments in this resolution take effect on January 1, 2025.

H. J. R. 13
Passed February 29, 2024
Approved February 29, 2024
Effective February 29, 2024

JOINT RESOLUTION AMENDING COURT RULES OF PROCEDURE AND EVIDENCE REGARDING PRELIMINARY HEARINGS

Chief Sponsor: Tyler Clancy
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This joint resolution amends court rules of procedure and evidence regarding preliminary hearings.

Money Appropriated in this Bill:

None

Highlighted Provisions:

This bill:

- amends Rule 7B of the Utah Rules of Criminal Procedure to address the use of hearsay evidence for a probable cause determination and witness testimony at a preliminary hearing; and
- amends Rule 1102 of the Utah Rules of Evidence to address the admission of reliable hearsay evidence at a preliminary hearing.

Special Clauses:

This resolution provides a special effective date.
Rule 7B, Utah Rules of Criminal Procedure
Rule 1102, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Preliminary Examinations.

(a) Burden of proof. At the preliminary examination, the state has the burden of proof and proceeds first with its case. At the conclusion of the state's case, the defendant may testify under oath, call witnesses, and present evidence. The defendant may also cross-examine adverse witnesses.

(b) Probable cause determination. If from the evidence the magistrate finds probable cause to believe that the crime charged has been committed and that the defendant has committed it, the magistrate must order that the defendant be bound over for trial. The findings of probable cause may be based [~~on hearsay, but may not be based solely on hearsay evidence admitted under Rule 1102(b)(8) of the Utah Rules of Evidence~~], in whole or in part, on reliable hearsay. Objections to evidence on the ground that it was acquired by unlawful means are not properly raised at the preliminary examination.

(c) If no probable cause. If the magistrate does not find probable cause to believe the crime charged has been committed or the defendant committed it, the magistrate must dismiss the information and discharge the defendant. The magistrate may enter findings of fact, conclusions of law, and an order of dismissal. The dismissal and discharge do not preclude the state from instituting a subsequent prosecution for the same offense.

(d) Witnesses.

(d) (1) At a preliminary examination, the magistrate, upon request of either party, may exclude witnesses from the courtroom and may require witnesses not to converse with each other until the preliminary examination is concluded.

(d) (2) A prosecutor may present the testimony of any relevant witness at a preliminary examination, including the testimony of an investigating peace officer. The prosecutor or the defense may introduce, through direct or cross examination, the testimony of an investigating peace officer, including testimony from the investigating peace officer on the totality or details of the investigation of the crime for which the defendant is charged.

(e) Written findings. If the magistrate orders the defendant bound over for trial, the magistrate must execute a bind-over order and include any written findings in the case record.

(f) Assignment on motion to quash. If a defendant files a motion to quash a bind- over order, the motion shall be decided by the judge assigned to the case after bind- over, regardless of whether the judge conducted the preliminary examination in the judge's role as a magistrate.

Section 2. Reliable Hearsay in Criminal Preliminary Examinations.

(a) Statement of the Rule. Reliable hearsay is admissible at criminal preliminary examinations.

(b) Definition of Reliable Hearsay. For purposes of criminal preliminary examinations only, reliable hearsay includes:

(1) hearsay evidence admissible at trial under the Utah Rules of Evidence;

(2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence, regardless of the availability of the declarant at the preliminary examination;

(3) evidence establishing the foundation for or the authenticity of any exhibit;

(4) scientific, laboratory, or forensic reports and records;

(5) medical and autopsy reports and records;

(6) a statement of a non- testifying peace officer to a testifying peace officer;

(7) a statement made by a child victim of physical abuse or a sexual offense which is recorded in accordance with Rule 15.5 of the Utah Rules of Criminal Procedure;

(8) a statement of a declarant that is written, recorded, or transcribed verbatim which is:

(A) under oath or affirmation; or

(B) pursuant to a notification to the declarant that a false statement made therein is punishable; and

(9) other hearsay evidence with similar indicia of reliability, regardless of admissibility at trial under Rules 803 and 804 of the Utah Rules of Evidence.

(c) Continuance for Production of Additional Evidence. If hearsay evidence is proffered or admitted in the preliminary examination, a continuance of the hearing may be granted for the purpose of furnishing additional evidence if:

(1) The magistrate finds that the hearsay evidence proffered or admitted is not sufficient and additional evidence is necessary for a bindover; or

(2) The defense establishes that it would be so substantially and unfairly disadvantaged by the use of the hearsay evidence as to outweigh the interests of the declarant and the efficient administration of justice.

(d) (1) Except as provided in paragraph (d)(2), a prosecutor, or any staff for the office of the prosecutor, may transcribe a declarant's statement verbatim or assist a declarant in drafting a statement.

(2) A prosecutor, or any staff for the office of the prosecutor, may not draft a statement for a declarant, or tamper with a witness in violation of Utah Code section 76- 8- 508.

(e) A court may not admit reliable hearsay evidence in accordance with this rule unless there is testimony presented at the preliminary examination as described in Rule 7B(d)(2) of the Utah Rules of Criminal Procedure. The prosecutor is not required to introduce evidence that corroborates the substance of a statement submitted under paragraph (b)(8) for the statement to be admissible at the preliminary examination. The prosecutor may, but is not required to, call the declarant of a statement submitted under paragraph (b)(8) at the preliminary examination. This paragraph (e) does not otherwise limit a defendant's right to call witnesses under Rule 7B of the Utah Rules of Criminal Procedure.

Section 3. Effective date.

As provided in Utah Constitution, Article VIII, Section 4, this resolution takes effect upon a two- thirds vote of all members elected to each house.

H. J. R. 17
Passed February 29, 2024
Approved February 29, 2024
Effective February 29, 2024

JOINT RULES RESOLUTION - AGENCY FEES

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This joint rules resolution addresses the review of agency fees.

Highlighted Provisions:

This bill:

- defines terms;
- requires an appropriations subcommittee to review agency fees during an accountable budget process; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR3- 2- 101,
JR3- 2- 501,

Be it resolved by the Legislature of the state of Utah:

Section 1. Section JR3- 2- 101 is amended to read:

JR3- 2- 101. Definitions.

As used in this chapter:

(1) "Accountable process budget" means a budget that is created by starting from zero and adding line

items and programs recommended through an accountable budget process.

(2) "Accountable budget process" means a review of a line item or program in a simple base budget to determine whether or the extent to which to recommend the line item or program be included in a budget for the upcoming fiscal year.

(3) "Base budget" means:

(a) an accountable process budget; or

(b) for a line item or program that was not the subject of an accountable process budget analysis during the immediately preceding interim, a simple base budget.

(4) "Chair" means:

(a) the chair of an appropriations subcommittee or the Executive Appropriations Committee; or

(b) a member of a joint appropriations subcommittee or the Executive Appropriations Committee member who is authorized to act as chair under JR3-2-303.

(5) "Committee" means a joint appropriations subcommittee or the Executive Appropriations Committee.

(6) "Fee agency" means the same as that term is defined in Utah Code Section 63J-1-504.

(7) "Fee schedule" means the same as that term is defined in Utah Code Section 63J-1-504.

[~~(6)~~](8) "Majority vote" means a majority of a quorum as provided in JR3-2-404.

[~~(7)~~](9) "Original motion" means a non-privileged motion that is accepted by the chair when no other motion is pending.

[~~(8)~~](10) "Pending motion" refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

[~~(9)~~](11)(a) "Privileged motion" means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) "Privileged motions" are not substitute motions.

[~~(10)~~](12)(a) "Proposed budget item" means any funding item under consideration for inclusion in an appropriations bill.

(b) "Proposed budget item" includes a request for appropriation.

[~~(11)~~](13) "Request for appropriation" means a legislator request to:

(a) obtain funding for a project or program that has not previously been funded;

(b) significantly expand funding for an existing project or program; or

(c) obtain separate funding for a project or program.

[~~(12)~~](14)(a) "Simple base budget" means amounts appropriated by the Legislature for each line item for the current fiscal year that:

(i) are not designated as one-time in an appropriation, regardless of whether the appropriation is covered by ongoing or one-time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) "Simple base budget" includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

[~~(13)~~](15) "Substitute motion" means a non-privileged motion that is made when a non-privileged motion is pending.

[~~(14)~~](16) "Under consideration" means the time starting when a chair opens a discussion on a subject or an appropriations request that is listed on a committee agenda and ending when the committee disposes of the subject or request, moves on to another item on the agenda, or adjourns.

Section 2. Section JR3-2-501 is amended to read:

JR3-2-501. Meetings -- Accountable process budget creation -- Appropriations and fee reviews.

(1)(a) During the interim, the Executive Appropriations Committee shall meet at least every other month on the day before interim meetings.

(b) The appropriations subcommittee chairs may attend these meetings and provide input regarding their budget.

(2) Appropriations subcommittees shall meet at least once during the interim and may also hold additional meetings if authorized by the Legislative Management Committee.

(3)(a) Each interim, each appropriations subcommittee shall create an accountable process budget for approximately 20% of the budgets that fall within the appropriations subcommittee's responsibilities.

(b) Each appropriations subcommittee shall ensure that each of the budgets for which the appropriations subcommittee has responsibility is the subject of an accountable budget process at least once every five years.

(c) For each budget that is subject to an accountable budget process, an appropriations subcommittee shall:

(i) review and discuss the budget evaluation submitted in accordance with Utah Code Section 63J-1-903;

(ii) identify whether any portion of the budget overlaps with another budget; and

(iii) identify any opportunities to increase budgetary efficiencies.

(d) If a fee agency's budget is subject to review under Subsection (3)(c), an appropriations subcommittee shall:

(i) review the fee agency's current fee schedule submitted under Utah Code Section 63J-1-504; and

(ii) consider and make recommendations regarding:

(A) the methods the fee agency uses to determine the amount of each fee; and

(B) the fee agency's estimated cost related to each fee.

(4)(a) The Executive Appropriations Committee may, based on a legislator's or citizen's complaint, review any appropriation, whether in an appropriations bill or otherwise, to ensure that the entity to which the funds were appropriated complies with any legislative intent expressed in the legislation appropriating the funds.

(b) If the Executive Appropriations Committee finds that an entity has not complied with any legislative intent concerning an appropriation expressed in the legislation appropriating the fund, the committee may make a recommendation concerning the appropriation to the entity receiving the funds and the Legislative Management Committee.

Section 3. Effective date.

This resolution takes effect upon a successful vote for final passage.

H. J. R. 18
Passed February 21, 2024
Approved February 21, 2024
Effective February 21, 2024

JOINT RESOLUTION FOR EDUCATION THAT ENCOURAGES FREE ENTERPRISE AND ENTREPRENEURSHIP

Chief Sponsor: Steven J. Lund
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This resolution declares that Utah supports students' education on the benefits of free enterprise and encourages entrepreneurial thinking.

Highlighted Provisions:

This bill:

- highlights the importance of educating students about the benefits of a free enterprise system; and
- supports collaboration among educational institutions and partnerships with local entrepreneurs that provide students with guidance, inspiration, and real-world connections.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature recognizes the value and importance in educating students about the principles and benefits of free enterprise and entrepreneurial thinking; and

WHEREAS, integrating and fostering free enterprise and entrepreneurship education at all levels of the education system will instill students with valuable skills to identify business opportunities, cultivate an entrepreneurial mindset, develop self-reliance, and empower students to become critical thinkers and to take calculated risks to effectively navigate the business landscape in a rapidly evolving economy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah encourages schools and educational institutions to incorporate free enterprise and entrepreneurship education into existing curricula or offer specialized courses that teach fundamental principles of free enterprise, entrepreneurship, business management, financial literacy, and innovation.

BE IT FURTHER RESOLVED that the Legislature supports the development and dissemination of free enterprise and entrepreneurship education resources, including teacher training programs, professional development, curriculum materials, and experiential learning opportunities.

BE IT FURTHER RESOLVED that the Legislature urges educators to foster a free enterprise and entrepreneurial mindset among students, emphasizing attributes such as critical thinking, problem-solving, adaptability, perseverance, and effective communication.

BE IT FURTHER RESOLVED that the Legislature encourages the incorporation of hands-on activities, competitions, project-based learning, and real-world simulations that expose students to practical entrepreneurship experiences and challenges.

BE IT FURTHER RESOLVED that the Legislature supports collaboration among all levels of educational institutions and partnerships with local entrepreneurs, business leaders, and community organizations to provide students with guidance, inspiration, and real-world connections.

H. J. R. 19
Passed February 16, 2024
Approved February 16, 2024
Effective February 16, 2024

JOINT RESOLUTION ENCOURAGING SUPPORT FOR THE HOUSES ACT

Chief Sponsor: Ken Ivory
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This resolution proclaims the Legislature of the state of Utah supports the enactment of the HOUSES Act by the United States Congress.

Highlighted Provisions:

This bill:

- highlights the benefits to Utah's communities and families if, pursuant to the HOUSES Act, the state were able to acquire federally-controlled lands for the development of attainable housing; and
- urges the members of the United States Congress to enact the HOUSES Act so that Utah may solve the state's housing shortage and provide a much needed funding source for Utah's growing communities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, nearly two-thirds of Utah's land is controlled by the federal government;

WHEREAS, in 1976, the United States Congress established the Payment in Lieu of Taxes Program (PILT) to compensate states for the loss of tax and other revenues that states would generate if Congress had honored an obligation to transfer title of the public lands back to the states;

WHEREAS, the state of Utah received as little as $0.38 per acre in PILT funds in fiscal year 2022, far below the amount those lands would return through value-based taxation if those lands and their facilities were subject to county taxation;

WHEREAS, as a result of having such a minimal amount of lands subject to taxation or other revenues because of federal retention of these lands, Utah's counties are dependent upon the promise of PILT for as much as 40% of the county's total budget to fund education, police, fire, sanitation, social services, and other essential public services;

WHEREAS, as a result of the federal government's unilateral policy change in 1976 to permanently retain nearly two-thirds of Utah's lands under federal control, some counties in Utah have as little as 5% in taxable lands to fund essential public services;

WHEREAS, because the state of Utah cannot develop nor tax federally-controlled public lands, Utah's local governments are unable to secure a sufficient and consistent source of funding to provide essential public services and address critical issues, including funding education and fostering an environment for affordable housing;

WHEREAS, due to skyrocketing inflation and an increase in demand, housing is becoming unattainably expensive for Utah's residents;

WHEREAS, in a 2022 study, the Kem C. Gardner Policy Institute at the University of Utah found that 76% of Utah's households could not afford a median-priced home in the state;

WHEREAS, with Utah rated as the fastest-growing state in the nation over the past ten years, Utah's housing crisis will only worsen unless more attainable housing is made available to Utah's families;

WHEREAS, United States Senator Mike Lee from Utah introduced to Congress the Helping Open Underutilized Space to Ensure Shelter Act of 2023 (HOUSES Act);

WHEREAS, the HOUSES Act will allow Utah to acquire parcels of federally-controlled land to use for the development of attainable housing;

WHEREAS, with greater access to tax revenues, the HOUSES Act will provide Utah's communities with a stable source of funding for vital essential services; and

WHEREAS, with the development of more housing that is affordable and accessible, the HOUSES Act will help alleviate the severe housing shortage impacting Utah's families:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports the efforts of United States Senator Mike Lee and looks forward to working with the members of the Utah congressional delegation on the specific parameters of the HOUSES Act.

BE IT FURTHER RESOLVED that the Legislature recognizes the tremendous benefits that the HOUSES Act would provide to Utah's communities and families.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States of America, the Vice President of the United States of America, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and the members of the Utah congressional delegation.

H. J. R. 22
Passed February 28, 2024
Approved February 28, 2024
Effective February 29, 2024

JOINT RESOLUTION REGARDING DISTRICT COURT OPERATIONS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This resolution addresses the removal of district court operations from American Fork City.

Highlighted Provisions:

This bill:

- authorizes the Judicial Council to remove the district court from American Fork City.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, a circuit court was located within the municipal boundaries of American Fork City on and before January 1, 1994;

WHEREAS, Subsection 78A-5-111(2)(c) of the Utah Code requires legislative approval by joint resolution to remove a district court from a municipality in which the district court or the circuit court existed on January 1, 1994;

WHEREAS, the Judicial Branch leases space from American Fork City for district court operations;

WHEREAS, American Fork City needs the space American Fork City leases to the district court for city business;

WHEREAS, American Fork City and the Judicial Council have agreed to relocate the district court currently located in American Fork City to Provo City;

WHEREAS, there is sufficient space in the Fourth Judicial District Courthouse in Provo City to house the district court operations located in American Fork City:

NOW, THEREFORE, BE IT RESOLVED by the Legislature that the Judicial Council may remove district court operations from American Fork City.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Judicial Council and American Fork City.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and the Senate.

H. J. R. 23
Passed March 1, 2024
Approved March 1, 2024
Effective March 1, 2024

JOINT RULES RESOLUTION - LEGISLATIVE PROCESS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution modifies provisions of Joint Rules.

Highlighted Provisions:

This bill:

- prohibits a single chamber from suspending a joint rule, subject to specified exceptions;
- directs the president and speaker to conduct an annual evaluation of the legislative auditor general, the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, and the legislative general counsel;
- clarifies the rules governing a motion to reconsider made during a special session;
- renames certain joint appropriations subcommittees and adds a new joint appropriations subcommittee;
- adds the Senate Rules Committee vice chair and the House Rules Committee vice chair to the list of members who are not counted in determining a quorum for a legislative committee, unless the member is present at the meeting;
- addresses the extent to which a sponsor may change the drafting instructions for a request for legislation;
- modifies the definition of an authorized legislative committee;
- provides which member chairs a legislative committee when both appointed chairs are absent and fail to designate an acting chair;
- addresses remote participation in a legislative committee meeting;
- modifies the process for tracking legislation that increases legislative workload;
- increases and clarifies the threshold for fiscal note bills that are subject to a funding prioritization process and passage deadline;
- allows a legislator to lobby on federal issues;
- modifies timing and staffing requirements for the Long-term Planning Conference;
- modifies the deadline for interim committee chairs to designate committee bill sponsors;
- provides that after a legislator's request for legislation becomes a committee bill, the legislator remains the committee bill's sponsor;
- updates inconsistent terminology;
- incorporates certain language from existing provisions of the Utah Code; and
- removes obsolete language.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
JR1-2-101
JR1-2-102
JR1-2-103
JR1-2-201
JR1-2-202
JR1-3-102
JR1-4-501
JR2-1-101
JR2-1-102
JR2-2-101
JR2-2-201
JR2-2-203
JR3-1-101

JR3-1-102
JR3-2-302
JR3-2-403
JR3-2-404
JR3-2-901
JR3-2-902
JR3-2-903
JR3-2-904
JR3-3-101
JR3-3-103
JR4-1-101
JR4-1-202
JR4-1-301
JR4-1-302
JR4-2-101
JR4-2-103
JR4-2-202
JR4-2-203
JR4-2-502
JR4-3-104
JR4-3-107
JR4-3-109
JR4-3-201
JR4-3-202
JR4-3-203
JR4-3-303
JR4-4-101
JR4-5-101
JR4-5-102
JR4-5-201
JR4-5-202
JR5-1-102
JR5-5-101
JR6-1-102
JR6-5-101
JR7-1-101
JR7-1-104
JR7-1-202
JR7-1-203
JR7-1-302
JR7-1-401
JR7-1-611

ENACTS:
JR1-1-104
JR1-4-701

REPEALS AND REENACTS:
JR2-1-103

Be it resolved by the Legislature of the state of Utah:

Section 1. Section JR1-1-104 is enacted to read:

JR1-1-104. Single chamber's authority to suspend Joint Rules.

(1) Except as provided in Subsection (2), a single chamber may not suspend a Joint Rule.

(2) A single chamber may suspend by motion and majority vote one or more of the following rules:

(a) JR2-1-103;

(b) JR4-3-103(2);

(c) JR4-3-105;

(d) JR4-3-302;

(e) JR4-4-101(2)(b);

(f) JR4-4-201; or

(g) JR4-4-202.

(3) A motion and vote under Subsection (2) is valid only if the legislator making the motion identifies in the motion each rule the legislator intends to suspend.

Section 2. Section JR1-2-101 is amended to read:

JR1-2-101. Convening the Legislature -- Process -- Date.

(1) The Legislature shall convene:

(a) on the date set by the Utah Constitution for the beginning of the annual general session;

(b) on the date set by the governor in the proclamation that calls the Legislature into special session; or

(c) on the date set by joint proclamation of the president and the speaker that convenes the Legislature into special session.

(2) The Legislature shall convene by:

(a) each [~~house~~]chamber being called to order;

(b) having an invocation;

(c) reciting the pledge of allegiance;

(d) reading the certificates of election and giving the oath of office to legislators, if necessary;

(e) calling the roll and declaring whether or not a quorum is present;

(f) electing a presiding officer, if necessary;

(g) appointing standing committees, if necessary;

(h) adopting rules;

(i) giving and receiving the notifications required in JR1-2-102 and JR1-2-103; and

(j) introducing bills.

(3) Nothing in this rule:

(a) requires the Senate or House to perform the items in this rule in a particular order; or

(b) prohibits the Senate or House from adding or deleting items.

(4) The daily order of business set forth in SR1-5-103 and HR1-5-103 governs on all legislative days other than the day on which the Legislature convenes.

Section 3. Section JR1-2-102 is amended to read:

JR1-2-102. Notification of organization of each chamber.

Immediately after the organization of the Senate and House of Representatives at the beginning of each session of the Legislature, each [~~house~~]chamber shall appoint a committee composed of three legislators to notify the other

[~~house~~]chamber that it is organized and ready to transact business.

Section 4. Section JR1-2-103 is amended to read:

JR1-2-103. Joint committee to notify governor.

Upon a motion of the respective [~~houses~~]chambers, a joint committee consisting of three senators and three representatives shall be appointed to inform the governor personally that both chambers of the Legislature:

(1) [~~both houses of the Legislature~~]have convened and are organized; and

(2) [~~they~~]are ready to receive any communications from the governor.

Section 5. Section JR1-2-201 is amended to read:

JR1-2-201. Consent of other chamber required.

(1) Except as provided in Subsection (2), each [~~house~~]chamber may adjourn from day to day until:

(a) the constitutional time limit for an annual general session or special session expires;

(b) the Legislature is dissolved because the terms of office of a majority of the members of the legislative body have expired; or

(c) the Legislature adjourns sine die.

(2) As provided in Utah Constitution, Article VI, Section 15, neither [~~house~~]chamber may adjourn for more than three days unless the other [~~house~~]chamber consents by majority vote.

Section 6. Section JR1-2-202 is amended to read:

JR1-2-202. Adjournment sine die.

(1)(a) If the Legislature is meeting until midnight on the last day of any session, the speaker and the president shall, at midnight, announce the time to the members of their respective [~~houses~~]chambers.

(b) Each [~~house~~]chamber shall cease its business at midnight.

(2) [~~Adjournment sine die shall be made~~]The Legislature shall adjourn sine die after:

(a) a committee from each [~~house~~]chamber has notified the opposite [~~house~~]chamber that they have completed their work;

(b) a joint committee has notified the governor that the Legislature has completed its work; and

(c) the governor has informed the joint committee that [~~he~~]the governor has nothing further to present to the Legislature.

Section 7. Section JR1-3-102 is amended to read:

JR1-3-102. Senate and House Journals.

(1) Each [~~house~~]chamber shall:

(a) keep a journal of [~~its~~]the chamber's proceedings;

(b) publish the journal daily;

(c) ensure that [~~its~~]the journal is continuous during the legislative session, with pages numbered in consecutive order;

(d) ensure that the vote on final passage of each bill is by yeas and nays and is entered upon the journal;

(e) ensure that the vote on any other question is by yeas and nays and is entered upon the journal at the request of five members of that [~~house~~]chamber; and

(f) base the journal upon the record of the proceedings taken by the reading or docket clerk and the electronic recording of those proceedings.

(2) The secretary of the Senate and the chief clerk of the House of Representatives shall provide a final certification of the journal for their respective [~~house~~]chamber.

Section 8. Section JR1-4-501 is amended to read:

JR1-4-501. Legislative recommendations to temporarily fill a vacancy in office of United States senator.

(1) If a vacancy occurs in the office of United States senator, the Legislature shall, in accordance with this rule and Utah Code Subsection 20A-1-502(4), nominate three individuals, one of whom the governor will appoint to temporarily fill the vacancy.

(2) The Legislative Management Committee shall:

(a) adopt a joint resolution proposing three or more names to the Legislature to consider for nomination;

(b) determine which [~~house~~]chamber of the Legislature will first consider the resolution; and

(c) assign a floor sponsor for the resolution in each [~~house~~]chamber.

(3) The Legislature shall, by majority vote of each [~~house~~]chamber, submit a final resolution, containing the names of only three individuals, to the governor as the Legislature's nominees.

Section 9. Section JR1-4-701 is enacted to read:

JR1-4-701. Annual performance evaluation of professional staff directors and general counsel.

Part 7. Personnel

Before July 1 each year the president and speaker shall:

(1) in consultation with the Senate minority leader and the House minority leader, conduct a performance evaluation of the legislative auditor

general, the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, and the legislative general counsel; and

(2) set compensation for the legislative auditor general, the legislative fiscal analyst, the director of the Office of Legislative Research and General Counsel, and the legislative general counsel for the upcoming fiscal year.

Section 10. Section JR2-1-101 is amended to read:

JR2-1-101. Annual general session rules apply.

Except as otherwise provided in this chapter, rules adopted or amended by each [~~house~~]chamber of the Legislature during the immediately preceding annual general session, and any intervening session, apply to the conduct of that [~~house~~]chamber during a special session.

Section 11. Section JR2-1-102 is amended to read:

JR2-1-102. Introduction of bills.

Legislation authorized by the governor's special session proclamation or by joint proclamation of the president and the speaker may be introduced in either [~~house~~]chamber at any time during a special session of the Legislature.

Section 12. Section JR2-1-103 is repealed and re-enacted to read:

JR2-1-103. Motion to reconsider.

(1) Except as provided in Subsection (2), during a special session, a senator may make a motion to reconsider in accordance with Senate Rules governing floor procedures and a representative may make a motion to reconsider in accordance with House Rules governing floor procedures.

(2) The following provisions do not apply to a motion to reconsider made during a special session:

(a) SR4-9-101(2)(c) and (3); and

(b) HR4-9-101(2)(d) and (3).

Section 13. Section JR2-2-101 is amended to read:

JR2-2-101. Veto override process.

(1) A bill passed by the Legislature and vetoed by the governor shall be reconsidered first in the [~~house~~]chamber of origin of the bill.

(2)(a) When a vetoed bill is returned to the House or Senate by the governor, it shall be placed on the third reading calendar.

(b) The Legislature may not amend or otherwise modify a vetoed bill or item of appropriation.

(3) If a constitutional two-thirds of the members elected to the first [~~house~~]chamber vote to pass the bill, it shall be sent to the other [~~house~~]chamber, together with the governor's objections.

(4) If a constitutional two-thirds of the members elected to the other [~~house~~]chamber approve the bill, the bill becomes law.

Section 14. Section JR2-2-201 is amended to read:

JR2-2-201. Poll to convene and calling a veto override session.

(1)(a) If the Legislature is prevented by adjournment sine die from reconsidering any vetoed bill or item of appropriation vetoed by the governor, the president of the Senate and the speaker of the House shall poll their respective members by mail or other means to determine if the Legislature shall convene to reconsider vetoed legislation.

(b) Each member shall respond to the poll in writing, by telephone, or other available means.

(2)(a) The president and speaker shall notify the governor about the results of the poll.

(b) The sponsor of a bill being considered for the veto override shall be provided, upon request, the itemized list of how each legislator responded to the poll.

(3)(a) If two-thirds of the members of each [~~house~~]chamber are in favor of convening a veto override session, the Legislature shall convene in a veto override session not to exceed five calendar days, at a time agreed upon by the president and speaker.

(b) A veto override session, if called, shall be convened prior to 60 days after the adjournment of the session at which the bill or appropriation item under consideration was passed.

(4)(a) The presiding officers shall issue the call of the veto override session of the Legislature to their members.

(b) The call shall contain a list of each bill and appropriation item vetoed by the governor and the date and time for convening the veto override session.

(5) The Legislature shall consider the vetoed bills and appropriation items according to the process outlined in JR2-2-101.

Section 15. Section JR2-2-203 is amended to read:

JR2-2-203. Rules governing.

Except as otherwise provided in this chapter, the rules adopted by each [~~house~~]chamber of the Legislature during the immediately preceding annual general session apply to the conduct of that [~~house~~]chamber during a veto override session.

Section 16. Section JR3-1-101 is amended to read:

JR3-1-101. Process for calling and conducting -- Scope.

(1)(a) The president of the Senate and the speaker of the House may, by mutual consent, call joint conventions of the two [~~houses~~]chambers and shall include in the call the purpose for which the joint convention is called.

(b) Joint conventions shall be held in the chambers of the House of Representatives, with the president of the Senate presiding.

(2) At the time fixed for the joint convention:

(a) the House of Representatives shall prepare to receive the Senate; and

(b) the Senate shall proceed to the chamber of the House of Representatives.

(3) The secretary of the Senate and the chief clerk of the House of Representatives shall:

(a) act as secretaries of the joint convention; and

(b) enter the proceedings of the convention in the journal of at least one [~~house~~]chamber.

(4) At a joint convention, members of either [~~house~~]chamber may not engage in the transaction of any business other than that for which they were assembled.

Section 17. Section JR3-1-102 is amended to read:

JR3-1-102. Rules governing joint conventions.

(1) The House Rules govern the proceedings in joint convention except those House Rules that are clearly not applicable.

(2)(a) Absent House members may be compelled to attend joint conventions under House Rules.

(b) Absent Senate members may be compelled to attend joint conventions under Senate Rules.

(c) The sergeant-at-arms of each [~~house~~]chamber shall attend joint conventions to compel the attendance of absent members if called upon.

(3) Joint conventions may adjourn from time to time as necessary.

Section 18. Section JR3-2-302 is amended to read:

JR3-2-302. Joint appropriations subcommittees -- Creation -- Membership.

The members of the Joint Appropriations Committee shall be divided into the following joint appropriations subcommittees:

(1) [~~Infrastructure and General Government~~] Transportation and Infrastructure;

(2) [~~Business, Economic Development, and Labor~~] Economic and Community Development;

(3) Executive Offices and Criminal Justice;

(4) Social Services;

(5) Higher Education;

(6) Natural Resources, Agriculture, and Environmental Quality; [~~and~~]

(7) Public Education; and

(8) General Government.

Section 19. Section JR3-2-403 is amended to read:

JR3-2-403. Quorum requirements.

A quorum of a joint appropriations subcommittee and the Executive Appropriations Committee is at least 50% in one [~~house~~]chamber and more than 50% in the other, subject to the requirements in JR3-2-404.

Section 20. Section JR3-2-404 is amended to read:

JR3-2-404. Voting requirements.

(1) A majority vote of a joint appropriations subcommittee and the Executive Appropriations Committee is at least 50% of those in attendance in one [~~house~~]chamber and more than 50% of those in attendance in the other.

(2) For an appropriation subcommittee, and excluding the Executive Appropriations Committee, in determining whether a quorum is present, a legislator who is the president, the speaker, a majority leader, a majority whip, an assistant majority whip, the Senate Rules Committee chair, the Senate Rules Committee vice chair, the House Rules Committee chair, the House Rules Committee vice chair, an Executive Appropriations Committee chair, an Executive Appropriations Committee vice chair, a minority leader, a minority whip, an assistant minority whip, or the fourth member of leadership from a minority party, is not counted in determining a quorum for the committee, except during the time that the legislator is present at the meeting.

Section 21. Section JR3-2-901 is amended to read:

JR3-2-901. Appointment and chairs -- Notice.

(1)(a) If the Senate refuses to concur in the House amendments to [~~a Senate bill~~]Senate legislation, the secretary of the Senate shall notify the House of the refusal and ask the House to recede from its amendments.

(b) Either [~~house~~]chamber may recede from its position on any difference existing between the two [~~houses~~]chambers by a majority vote of its members.

(c)(i) If the House refuses to recede, the speaker shall appoint a conference committee of three.

(ii) After making the appointment, the speaker shall:

(A) publicly announce the House members of the conference committee and the time and place that the conference committee will meet;

(B) ensure that no more than two of the appointees are members of the majority party; and

(C) direct House staff to provide electronic notice that identifies the House members of the conference committee and the time and place of the conference committee meeting.

(d) If the speaker does not immediately appoint a conference committee, the president may appoint a

conference committee as provided in Subsection (2)(c).

(e) After the Senate refuses to concur in the House amendments to [~~a Senate bill~~]Senate legislation, the House may not amend or substitute the [~~bill~~]legislation, unless:

(i) the sole effect of the amendment or substitute is to recede from one or more House amendments to the [~~bill~~]legislation; or

(ii) the amendment or substitute is part of a conference committee report.

(2)(a) If the House refuses to concur in the Senate amendments to [~~a House bill~~]House legislation, the chief clerk of the House shall notify the Senate of the refusal and ask the Senate to recede from its amendments.

(b) Either [~~house~~]chamber may recede from its position on any difference existing between the two [~~houses~~]chambers by a majority vote of its members.

(c)(i) If the Senate refuses to recede, the president shall appoint a conference committee of three.

(ii) After making the appointment, the president shall:

(A) publicly announce the Senate members of the conference committee and the time and place that the conference committee will meet;

(B) ensure that no more than two of the appointees are members of the majority party; and

(C) direct Senate staff to provide electronic notice that identifies the Senate members of the conference committee and the time and place of the conference committee meeting.

(d) If the president does not immediately appoint a conference committee, the speaker may appoint a conference committee as provided in Subsection (1)(c).

(e) After the House refuses to concur in the Senate amendments to [~~a House bill~~]House legislation, the Senate may not amend or substitute the [~~bill~~]legislation, unless:

(i) the sole effect of the amendment or substitute is to recede from one or more Senate amendments to the [~~bill~~]legislation; or

(ii) the amendment or substitute is part of a conference committee report.

(3)(a) Whenever the president or speaker appoints a conference committee, the secretary of the Senate or chief clerk of the House shall:

(i) immediately notify the other [~~house~~]chamber of the action taken; and

(ii) request the appointment of conference committee members from that other [~~house~~]chamber.

(b) After receiving the notice and request, the presiding officer of the other [~~house~~]chamber shall:

(i) appoint a conference committee of three;

(ii) publicly announce the members of the conference committee from that [~~house~~]chamber and the time and place that the conference committee will meet; and

(iii) direct staff to provide electronic notice that identifies the members of the conference committee and the time and place of the conference committee meeting.

(4)(a) The first senator named on the conference committee is the Senate chair of the committee, and the first representative named on the conference committee is the House chair.

(b) The conference committee chairs shall direct the preparation of the conference committee report.

Section 22. Section JR3-2-902 is amended to read:

JR3-2-902. Conference committee procedures.

(1) The chair from the [~~house~~]chamber of origin of the [~~bill~~]legislation shall chair meetings of the conference committee.

(2) Staff from the Office of Legislative Research and General Counsel may attend the conference committee meeting to assist in the preparation of the committee report.

(3)(a) Subject to Subsection (3)(b), conference committee meetings are open to the public.

(b) Public comment may not be received or made during a conference committee meeting unless a majority of committee members from one [~~house~~]chamber and at least 50% from the other [~~house~~]chamber vote to receive public comment.

(4)(a) A majority of committee members from each [~~house~~]chamber must approve a conference committee report in order for it to be presented to the Legislature.

(b)(i) If the conference committee cannot reach an agreement, the committee shall report the failure to agree to both [~~houses~~]chambers.

(ii) Upon notice that a conference committee has failed to agree:

(A) the presiding officer of each [~~house~~]chamber may appoint a new committee by following the requirements of JR3-2-901 or reappoint the former committee and announce the time and place of the committee's meeting; or

(B) either [~~house~~]chamber may vote to refuse further conferences.

(iii) If a [~~house~~]chamber votes to refuse further conferences, the [~~bill~~]legislation shall be returned to the originating [~~house~~]chamber and filed.

Section 23. Section JR3-2-903 is amended to read:

JR3-2-903. Conference committee report -- Contents -- Disposition.

(1) The conference committee's report shall:

(a) be in writing; and

(b) list the vote of each member of the conference committee by name.

(2)(a) Subject to Subsection (2)(b), the committee may report any modifications or amendments to the [~~bill~~]legislation that the committee thinks advisable.

(b) A conference committee may not consider or report on any matter except those at issue between the two [~~houses~~]chambers.

(3)(a) If the [~~bill~~]legislation being discussed by the conference committee is [~~a House bill~~]House legislation, the Senate conference committee members shall present the conference committee report first to the Senate.

(b) If the [~~bill~~]legislation being discussed by the conference committee is [~~a Senate bill~~]Senate legislation, the House conference committee members shall present the conference committee report first to the House.

(4) Before a [~~house~~]chamber votes on a motion to adopt a conference committee report, the report shall be read.

(5)(a) If a [~~house~~]chamber approves a motion to adopt a conference committee report, the [~~bill~~]legislation shall be put at the top of the [~~house's~~]chamber's third reading calendar for consideration.

(b) If the [~~house~~]chamber is the first [~~house~~]chamber to consider the conference committee report, after the [~~house~~]chamber acts on the [~~bill~~]legislation, the [~~house~~]chamber shall transmit the [~~bill~~]legislation and the conference committee report to the other [~~house~~]chamber along with a letter explaining the [~~house's~~]chamber's action.

(6)(a) If a motion to adopt a conference committee report fails, either [~~house~~]chamber may request that the other [~~house~~]chamber:

(i) appoint a new committee by following the requirements of JR3-2-901; or

(ii) reappoint the former committee and announce the time and place of the committee's meeting.

(b) If a [~~house~~]chamber refuses a request under Subsection (6)(a), the [~~bill~~]legislation shall be returned to the originating [~~house~~]chamber and filed.

Section 24. Section JR3-2-904 is amended to read:

JR3-2-904. Failure to meet.

If the members of the conference committee do not meet in a timely manner after being appointed, the presiding officers of both [~~houses~~]chambers may appoint a new conference committee and disband the original conference committee.

Section 25. Section JR3-3-101 is amended to read:

JR3-3-101. Long-Term Planning Conference.

(1) The president of the Senate and the speaker of the House of Representatives shall, by mutual consent, call a joint Long-Term Planning Conference of members of the two houses.

(2) The conference will be held[~~, at least every two years~~] on a date or dates designated jointly by the president of the Senate and the speaker of the House of Representatives.

(3) The conference may last one or two days and may include meetings, workshops, and other sessions and activities designed to accomplish the purpose of the conference as described in Section JR3-3-102.

Section 26. Section JR3-3-103 is amended to read:

JR3-3-103. Conference agenda -- Staffing.

(1) The president of the Senate and the speaker of the House of Representatives shall jointly establish the agenda for the conference.

[~~(2) Under the direction of the president of the Senate and speaker of the House of Representatives, the Office of Legislative Research and General Counsel, with the assistance of other legislative staff offices, shall staff the conference in accordance with the agenda described in Subsection (1).~~]

[~~(3)~~](2) The agenda described in Subsection (1) may include a variety of presenters, including representatives of education, government, business, and the private sector.

Section 27. Section JR4-1-101 is amended to read:

JR4-1-101. Definitions.

As used in this title:

(1) "Bill" means legislation introduced for consideration by the Legislature that does any, some, or all of the following to Utah statutes:

(a) amends;

(b) enacts;

(c) repeals;

(d) repeals and reenacts; or

(e) renumbers and amends.

(2) "Boldface" means the brief descriptive summary of the contents of a statutory section prepared by the Office of Legislative Research and General Counsel that is printed for each title, chapter, part, and section of the Utah Code.

(3) "Concurrent resolution" means a written proposal of the Legislature and governor, which, to be approved, must be passed by both [~~houses~~]chambers of the Legislature and concurred to by the governor.

(4) "Constitutional joint resolution" means a joint resolution proposing to amend, enact, or repeal

portions of the Utah Constitution which, to be approved for submission to the voters, must be passed by a two-thirds vote of both [~~houses~~]chambers of the Legislature.

(5) "Drafting instructions" means:

(a) specific information concerning the change or addition to law or policy that a legislator intends to propose through legislation; or

(b) a specific situation or concern that a legislator intends to address through legislation.

[~~(5)~~](6) "House resolution" means a written proposal of the House of Representatives which, to be approved, must be passed by the House of Representatives.

[~~(6)~~](7) "Joint resolution" means a written proposal of the Legislature which, to be approved, must be passed by both [~~houses~~]chambers of the Legislature, including a constitutional joint resolution.

[~~(7)~~](8) "Laws of Utah" means all of the laws currently in effect in Utah.

[~~(8)~~](9) "Legislation" means [~~bills and resolutions~~]a bill or resolution introduced for consideration by the Legislature.

[~~(9)~~](10) "Request for [~~Legislation~~]legislation" means a formal request from a legislator or [~~interim committee that~~]an authorized legislative committee that the Office of Legislative Research and General Counsel prepare a bill or resolution [~~be prepared by the Office of Legislative Research and General Counsel~~].

[~~(10)~~](11) "Resolution" includes [~~constitutional joint resolutions, other joint resolutions, concurrent resolutions, House resolutions, and Senate resolutions~~]a joint resolution, concurrent resolution, House resolution, and Senate resolution.

[~~(11)~~](12) "Senate resolution" means a written proposal of the Senate which, to be approved, must be passed by the Senate.

[~~(12)~~](13) "Statute" means a law that has met the constitutional requirements for enactment.

[~~(13)~~](14) "Statutory section" means the unique unit of the laws of Utah that is identified by a title, chapter, and section number.

Section 28. Section JR4-1-202 is amended to read:

JR4-1-202. Specific bill format requirements.

(1) Each bill shall contain:

(a) a designation containing the information required by Subsection (2);

(b) a short title, which provides a short common description of the bill;

(c) the year and type of legislative session in which the bill is to be introduced;

(d) the phrase "State of Utah";

(e) the sponsor's name, after the heading "Chief Sponsor:";

(f) if the bill is a House bill that has passed third reading in the House, the Senate sponsor's name after the heading "Senate Sponsor:";

(g) if the bill is a Senate bill that has passed third reading in the Senate, the House sponsor's name after the heading "House Sponsor:";

(h) a long title, which includes:

(i) a brief general description of the subject matter in the bill;

(ii) a list of each section of the Utah Code affected by the bill, which cites by statute number those statutes that the bill proposes be amended, enacted, repealed and reenacted, renumbered and amended, and repealed; and

(iii) for bills that contain an appropriation, the sum proposed to be appropriated by the bill unless the bill is an appropriation bill or supplemental appropriation bill whose single subject is the appropriation of money;

(i) an enacting clause in the following form: "Be it enacted by the Legislature of the state of Utah:"; and

(j) the subject matter, given in one or more sections.

(2) The designation shall be a heading that identifies the bill by its [~~house~~]chamber of introduction and by unique number assigned to it by the Office of Legislative Research and General Counsel and shall be in the following form: "S.B." or "H.B." followed by the number assigned to the bill.

Section 29. Section JR4-1-301 is amended to read:

JR4-1-301. General resolution format requirements.

(1) Each resolution shall be typewritten or printed on paper 8-1/2 by 11 inches.

(2) Each resolution shall contain:

(a) a designation containing the information required by Subsection (3);

(b) a short title;

(c) the year and type of legislative session in which the resolution is to be introduced;

(d) the phrase "State of Utah";

(e) the sponsor's name, after the heading "Chief Sponsor:";

(f) the Senate sponsor's name after the heading "Senate Sponsor:"if the resolution:

(i) is a concurrent resolution or a joint resolution;

(ii) originated in the House of Representatives; and

(iii) has passed third reading in the House of Representatives;

(g) the House sponsor's name after the heading "House Sponsor:"if the resolution:

(i) is a concurrent resolution or a joint resolution;

(ii) originated in the Senate; and

(iii) has passed third reading in the Senate;

(h) a long title, which shall include a list of constitutional sections, legislative rules, or the Utah Supreme Court's Rules of Procedure or Rules of Evidence affected, if applicable;

(i) a resolving clause containing the information required by Subsection (4);

(j) for joint resolutions, concurrent resolutions, Senate resolutions, and House resolutions:

(i) one or more paragraphs that begin with the word "Whereas" that function as the preamble; and

(ii) one or more paragraphs that begin with the words "Be it Resolved" that identify the statement of purpose or policy; and

(k) special clauses including, if necessary, an effective date.

(3) The designation shall be a heading that identifies the resolution by the resolution's [~~house~~]chamber of introduction and by unique number assigned to the resolution by the Office of Legislative Research and General Counsel and shall be in the following form:

(a) for a joint resolution, unless the resolution converted to a joint resolution in accordance with JR4-5-104: "S.J.R." or "H.J.R." followed by the number assigned to the joint resolution;

(b) for a concurrent resolution, regardless of whether the concurrent resolution converts to a joint resolution in accordance with JR4-5-104: "S.C.R." or "H.C.R." followed by the number assigned to the concurrent resolution;

(c) for a Senate resolution: "S.R." followed by the number assigned to the Senate resolution; or

(d) for a House resolution: "H.R." followed by the number assigned to the House resolution.

(4) Each resolution shall contain a resolving clause in one of the following forms:

(a) in a constitutional joint resolution, or in a joint resolution proposing to amend the Utah Supreme Court's Rules of Procedure or Rules of Evidence: "Be it resolved by the Legislature of the state of Utah, with at least two-thirds of all members elected to each of the two houses concurring:";

(b) in a joint resolution: "Be it resolved by the Legislature of the state of Utah:";

(c) in a concurrent resolution: "Be it resolved by the Legislature of the state of Utah, with the Governor concurring:";

(d) in a Senate resolution: "Be it resolved by the Senate of the state of Utah:"; or

(e) in a House resolution: "Be it resolved by the House of Representatives of the state of Utah:".

Section 30. Section JR4-1-302 is amended to read:

JR4-1-302. Effective date of resolutions.

(1) Unless otherwise directed by the Legislature and subject to Subsections (2) and (3), a resolution becomes effective on:

(a) the day that the resolution receives final approval from:

(i) the House of Representatives or the Senate, if the resolution is a single [~~house~~]chamber resolution;

(ii) both the House of Representatives and the Senate, if the resolution is a joint resolution;

(iii) the House of Representatives, the Senate, and the governor, if the resolution is a concurrent resolution; or

(iv) the House of Representatives, the Senate, and the voters at the next general election, if the resolution is a constitutional joint resolution; or

(b) the day after the day on which the time period described in JR4-5-104 expires, if the resolution is a concurrent resolution that converts to a joint resolution in accordance with JR4-5-104.

(2)(a) The effective date of a resolution may not be a date later than December 31 of the calendar year immediately following the calendar year of the session at which the resolution is passed.

(b) A resolution with a contingent effective date is not subject to Subsection (2)(a).

(3)(a) If the effective date of a resolution is contingent, before the resolution may be introduced:

(i) the resolution sponsor shall inform the legislative general counsel of the contingent effective date; and

(ii) the legislative general counsel shall, on behalf of the resolution sponsor, request approval of the contingent effective date from the president and speaker.

(b) A resolution that has a contingent effective date that is not approved by the president and the speaker may not be introduced.

(c) Subsections (3)(a) and (b) do not apply to a resolution to amend the Utah Constitution that is contingent on approval by the voters.

(4) A rules committee, a standing committee, the Senate, or the House of Representatives may not suspend the provisions of Subsection (2) or (3).

Section 31. Section JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1)(a) A legislator wishing to introduce a bill or resolution shall file a request for legislation with the Office of Legislative Research and General

Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted; and

[~~(ii) if the request is for a general session, designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and~~]

[~~(iii)(A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or~~]

[~~(B) identify the specific situation or concern that the legislator intends the legislation to address.~~]

(ii) include drafting instructions for the legislation.

(c)(i)(A) The chief sponsor may modify the drafting instructions provided in accordance with Subsection (1)(b)(ii) only if the modified drafting instructions do not deviate from the core subject matter of the original drafting instructions.

(B) The Office of Legislative Research and General Counsel shall apply the standard described in Subsection (1)(c)(i)(A) in a manner that favors the chief sponsor.

(ii) If the chief sponsor wishes to modify the drafting instructions in a manner prohibited under Subsection (1)(c)(i), the chief sponsor shall file a new, separate request for legislation in accordance with this rule.

(2)(a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c)(i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for election to a seat in the Legislature;

(B) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term; or

(C) fails to win reelection and the legislator's opponent is eligible to file a request for legislation under Subsection (2)(b).

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for:

(A) a general session that occurs while the legislator is in office; or

(B) a special session that occurs while the legislator is in office.

(d)(i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator may seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each [~~pending~~] request for legislation from the legislator who is unavailable to serve.

(e)(i) If a legislator dies while in office and is the chief sponsor of one or more requests for legislation or pieces of legislation, the individual appointed to the legislator's seat may assume sponsorship of each request for legislation or piece of legislation.

(ii) If the individual appointed to the legislator's seat chooses not to assume sponsorship of one or more of the legislator's requests for legislation or pieces of legislation, the following individual shall seek another legislator to assume sponsorship of each request for legislation or piece of legislation:

(A) if the legislator was a member of the House majority caucus, the House majority leader;

(B) if the legislator was a member of the House minority caucus, the House minority leader;

(C) if the legislator was a member of the Senate majority caucus, the Senate majority leader; or

(D) if the legislator was a member of the Senate minority caucus, the Senate minority leader.

(iii) If the individual described in Subsection (2)(e)(ii) does not find a new sponsor for a request for legislation, the Office of Legislative Research and General Counsel shall abandon the request for legislation.

(3)(a) Except as provided in Subsection (3)(c), a legislator may not file a request for legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) On the 11th day of the annual general session, the Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation, unless the sponsor abandons the request for legislation before noon on the 11th day of the annual general session.

(c)(i) After the 11th day of the annual general session, a legislator may file a request for legislation only if:

(A) for House legislation, the representative makes a motion to request legislation for drafting

and introduction and that motion is approved by a constitutional majority of the House; or

(B) for Senate legislation, the senator makes a motion to request legislation for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(ii) The Office of Legislative Research and General Counsel shall make public on the Legislature's website the short title and sponsor of each request for legislation described in this Subsection (3)(c).

(4) After a request for legislation is abandoned, a legislator may not revive the request for legislation.

(5) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a [~~Request for Legislation~~]request for legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 32. Section JR4-2-103 is amended to read:

JR4-2-103. Legislation -- Sponsorship requirements.

(1)(a) The legislator who approves the legislation for numbering is the chief sponsor.

(b) The chief sponsor may withdraw sponsorship of the legislation by following the procedures and requirements of Senate Rules or House Rules.

(2)(a) Before or after the [~~bill~~]legislation is introduced, legislators from the same [~~house~~]chamber as the chief sponsor may have their names added to or deleted from the legislation as co-sponsors by following the procedures and requirements of Senate Rules or House Rules.

(b) Except as provided in Subsection (3), only legislators who are members of the same [~~house~~]chamber as the chief sponsor may co-sponsor legislation.

(3) Before the secretary of the Senate or the chief clerk of the House may transfer legislation to the opposite [~~house~~]chamber, the chief sponsor shall:

(a) designate a member of the opposite [~~house~~]chamber as sponsor of the legislation for that [~~house~~]chamber; and

(b) provide the secretary or chief clerk with the name of that sponsor for designation on the legislation.

Section 33. Section JR4-2-202 is amended to read:

JR4-2-202. Substitute bills or resolutions.

(1)(a) By following the procedures and requirements of Senate or House rule, a legislator may propose a committee substitute to any Senate or House legislation that is under consideration by a committee of which the legislator is a member.

(b) By following the procedures and requirements of Senate or House rule, a legislator may propose a floor substitute to any Senate or House legislation that is under consideration by the [~~house~~]chamber of which the legislator is a member.

(2) To initiate drafting of a substitute, a legislator shall give[~~drafting~~] instructions to the attorney who drafted the legislation.

(3) After the substitute sponsor has approved the substitute, the Office of Legislative Research and General Counsel shall:

(a) electronically set the line numbers of the substitute;

(b) assign a version number to the substitute; and

(c) distribute the substitute according to the substitute sponsor's instructions.

(4)(a) Subject to the other provisions of this rule, after the original version of the legislation is introduced, a rules committee, standing committee, or the Senate or House of Representatives may adopt the original version of the legislation or any substitute version of the legislation, regardless of the version number.

(b)(i) If the version of the legislation being adopted was previously adopted, but replaced with a different version, the version of the legislation being adopted shall be adopted as it was previously introduced, without any amendments that may have been added to the introduced version.

(ii) An amendment described in Subsection (4)(b)(i), or any other amendment otherwise in order, may be proposed by a motion separate from the motion to adopt that substitute or original version of the legislation.

(c) A rules committee, a standing committee, the Senate, and the House of Representatives are prohibited from suspending the provisions of this Subsection (4).

Section 34. Section JR4-2-203 is amended to read:

JR4-2-203. Replacement bills or resolutions.

(1) If the legislative general counsel determines that a numbered bill or resolution contains a technical error, the Office of Legislative Research and General Counsel may prepare and submit a replacement bill or resolution that corrects the error.

(2) A sponsor may not file, and legislative staff may not create, replacement legislation if:

(a) the original legislation has been approved by the sponsor;

(b) the legislation has been numbered; and

(c) copies of the legislation have been distributed.

(3) Nothing in this rule prohibits a sponsor from preparing amendments to the original legislation or one or more substitutes of the original legislation and proposing their adoption by a committee or by either [~~house~~]chamber of which the legislator is a member.

Section 35. Section JR4-2-502 is amended to read:

JR4-2-502. Reservation of bill numbers.

(1) In each annual general legislative session, House Bills 1 through the number of bill numbers specified under Subsection (2)(a) and Senate Bills 1 through the number of bill numbers specified under Subsection (2)(a) are reserved for other appropriations and funding bills.

(2)(a) By November 1, the Office of the Legislative Fiscal Analyst shall notify the Office of Legislative Research and General Counsel of the number of bill numbers to reserve in each [~~house~~]chamber for fiscal legislation for the next annual general legislative session.

(b) The notice under Subsection (2)(a) shall include the short title and the chief sponsor of each bill number reserved.

(3) To the extent practicable, each bill reserved under this rule shall alternate the sponsoring chamber between the House and Senate each year.

Section 36. Section JR4-3-104 is amended to read:

JR4-3-104. Floor action.

According to the procedures and requirements of Senate Rules and House Rules, each [~~house~~]chamber shall consider legislation that is referred to it by a committee or that is otherwise in its possession.

Section 37. Section JR4-3-107 is amended to read:

JR4-3-107. Legislation transmitted to other chamber.

(1) The secretary of the Senate or chief clerk of the House shall:

(a) transmit notice of passage on third reading to the other [~~house~~]chamber;

(b) comply with the requirements of Subsection (2) if necessary; and

(c) if sent to the other [~~house~~]chamber, enter the date of transmission in the journal.

(2) The secretary of the Senate or chief clerk of the House shall, before transmitting a piece of legislation to the other [~~house~~]chamber, ensure that, if the legislation passed with amendments or was substituted, the amendments or substitute are:

(a) retyped or reprinted in the typeface and on the color paper designated for each [~~house~~]chamber; and

(b) transmitted with the legislation.

Section 38. Section JR4-3-109 is amended to read:

JR4-3-109. Striking the enacting clause.

(1)(a)(i) Either [~~house~~]chamber may strike the enacting clause on any piece of legislation by following the procedures and requirements of Subsection (1)(a)(ii).

(ii) To strike an enacting clause, a legislator shall make a motion on the floor to strike the enacting clause and a majority of the members of that [~~house~~]chamber must approve the motion.

(b) If the enacting clause of a piece of legislation is struck:

(i) the action conclusively defeats the legislation; and

(ii) a motion to reconsider the action is out of order.

(2) The enacting clause of each piece of legislation that has not passed the Legislature before adjournment sine die of an annual general session or a special session is automatically stricken.

Section 39. Section JR4-3-201 is amended to read:

JR4-3-201. Transmittal letters.

Part 2. Transmitting and Recording Receipt of Legislation and Notes from Other Chamber

The secretary of the Senate or the chief clerk of the House shall:

(1) attach a transmittal letter signed by the secretary or clerk to each piece of legislation to be transmitted to the opposite [~~house~~]chamber; and

(2) ensure that the piece of legislation, with its transmittal letter, is sent to the opposite [~~house~~]chamber.

Section 40. Section JR4-3-202 is amended to read:

JR4-3-202. Memorializing formal receipt of legislation from other chamber.

(1)(a) Upon receipt of a transmittal letter from the Senate, the chief clerk of the House or the chief clerk's designee shall sign a receipt recording the House's receipt of the legislation.

(b) Once the [~~receipt is signed~~]chief clerk or the chief clerk's designee signs the receipt, the legislation is in the possession of the House.

(2)(a) Upon receipt of a transmittal letter from the House, the secretary of the Senate or the secretary's designee shall sign a receipt recording the Senate's receipt of the legislation.

(b) Once the [~~receipt is signed~~]secretary or the secretary's designee signs the receipt, the legislation is in the possession of the Senate.

Section 41. Section JR4-3-203 is amended to read:

JR4-3-203. Possession of a bill -- Process for obtaining the return of legislation sent to the other chamber.

(1) A piece of legislation is in the possession of the [~~house~~]chamber in which it has been receipted.

(2) A piece of legislation in the possession of one [~~house~~]chamber may be returned to the other [~~house~~]chamber only when:

(a) the [~~house~~]chamber having possession of the legislation receives a written request from the opposite [~~house~~]chamber requesting return of the legislation; and

(b) a majority of the [~~house~~]chamber having possession of the legislation votes to return the legislation to the opposite [~~house~~]chamber.

Section 42. Section JR4-3-303 is amended to read:

JR4-3-303. Reporting legislation that increases legislative workload.

(1) The Office of Legislative Research and General Counsel shall:

(a) identify legislation that increases legislative workload before the legislation passes both [~~houses~~] chambers of the Legislature; and

(b) each week during the annual general session, report legislation that increases legislative workload to[~~the president of the Senate, speaker of the House of Representatives, minority leaders, and~~] the chairs of the Senate and House Rules [~~Committees~~]committees.

(2) In making the report required by Subsection (1)(b), the Office of Legislative Research and General Counsel may provide information and make recommendations about:

(a) the funding required by the legislation;

(b) the staffing resources required to implement the legislation;

(c) the time legislators and legislative staff will be required to commit as a result of the legislation;

(d) if the legislation creates or reauthorizes a board, commission, task force, or other public body, whether the responsibilities of that board, commission, task force, or other public body could reasonably be accomplished through an existing entity or without legislation; and

(e) whether the legislation sunsets or repeals the board, commission, task force, or other public body created by the legislation.

(3) On or before the 31st day of the annual general session, the Office of Legislative Research and General Counsel shall report legislation that increases legislative workload to the president of the Senate, speaker of the House of Representatives, and minority leaders.

Section 43. Section JR4-4-101 is amended to read:

JR4-4-101. Deadline for passing certain fiscal note bills.

(1) As used in this section, "fiscal note bill" means legislation with a fiscal note that indicates a cost of $20,000 or more to:

(a) the General Fund, Income Tax Fund, or Uniform School Fund; or

(b) any other fund or account that affects a fund described in Subsection (1)(a).

(2)(a) The House shall refer any Senate [~~bill with a fiscal note of $15,000 or more~~]fiscal note bill to the House Rules Committee before giving that fiscal note bill a third reading.

(b) The Senate shall table on third reading each House [~~bill with a fiscal note of $15,000 or more~~]fiscal note bill.

[~~(2)~~](3)(a) Before adjourning on the 43rd day of the annual general session, each legislator shall prioritize fiscal note bills and identify other projects or programs for new or one-time funding according to the process established by leadership.

(b) Before adjourning on the 44th day of the annual general session, the Legislature shall either pass or defeat each [~~bill with a fiscal note of $15,000 or more~~]fiscal note bill except constitutional amendment resolutions.

Section 44. Section JR4-5-101 is amended to read:

JR4-5-101. Certification and signature.

(1)(a) When a piece of Senate legislation has passed both [~~houses~~]chambers, the secretary of the Senate shall certify its final passage by identifying:

(i) the date that the legislation passed the Senate;

(ii) the number of senators voting for and against the legislation;

(iii) the number of senators absent for the vote;

(iv) the date that the legislation passed the House;

(v) the number of representatives voting for and against the legislation; and

(vi) the number of representatives absent for the vote.

(b) When a piece of House legislation has passed both [~~houses~~]chambers, the chief clerk of the House shall certify its final passage by identifying:

(i) the date that the legislation passed the House;

(ii) the number of representatives voting for and against the legislation;

(iii) the number of representatives absent for the vote;

(iv) the date that the legislation passed the Senate;

(v) the number of senators voting for and against the legislation; and

(vi) the number of senators absent for the vote.

(2)(a) Except as provided in Subsection (2)(b), within one legislative day of final passage, each piece of legislation shall be signed:

(i) first by the presiding officer of the [~~house~~]chamber in which it was last voted upon; and

(ii) second by the presiding officer of the other [~~house~~]chamber.

(b) Within five days following the adjournment sine die of a legislative session, each piece of legislation passed on the final day of that legislative session shall be signed:

(i) first by the presiding officer of the [~~house~~]chamber in which it was last voted upon; and

(ii) second by the presiding officer of the other [~~house~~]chamber.

(c) Unless the session has adjourned sine die, the secretary of the Senate or chief clerk of the House shall note in the journal that the legislation was signed by the presiding officer.

Section 45. Section JR4-5-102 is amended to read:

JR4-5-102. Enrollment and transmittal of legislation to the governor.

(1)(a) After a piece of legislation that has passed both [~~houses~~]chambers has been signed by the presiding officers, the secretary or chief clerk shall deliver it to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall:

(i) examine and enroll the legislation;

(ii) correct any technical errors as provided by Utah Code Section 36-12-12; and

(iii) transmit a copy of the enrolled legislation to:

(A) the secretary of the Senate for legislation originating in the Senate; and

(B) the chief clerk of the House for legislation originating in the House.

(2) When enrolling the legislation, the Office of Legislative Research and General Counsel shall:

(a) include the name of the House floor sponsor for Senate legislation under the heading "House Sponsor:"; or

(b) include the name of the Senate floor sponsor for House legislation under the heading "Senate Sponsor:".

(3) The secretary of the Senate or chief clerk of the House shall:

(a) certify each enrolled piece of legislation; and

(b) ensure that a copy of the enrolled legislation is:

(i) transmitted to the governor;

(ii) filed with the secretary or chief clerk;

(iii) transmitted to the chief sponsor upon request; and

(iv) transmitted to the Office of Legislative Services.

Section 46. Section JR4-5-201 is amended to read:

JR4-5-201. Recalling legislation after the legislation is signed by the speaker and president.

(1) As used in this rule:

(a) "Originating [~~house~~]chamber" means the [~~house~~]chamber in which a piece of legislation originates.

(b) "Non-originating [~~house~~]chamber" means the [~~house~~]chamber in which a piece of legislation does not originate.

(2) An originating [~~house~~]chamber may recall legislation that is in the possession of the Office of Legislative Research and General Counsel by a motion and constitutional majority vote.

(3)(a) A non-originating [~~house~~]chamber may, by motion and constitutional majority vote, request that the originating [~~house~~]chamber recall legislation from the Office of Legislative Research and General Counsel.

(b) Upon receipt of a request described in Subsection (3)(a), the originating [~~house~~]chamber may, by motion and constitutional majority vote, recall from the Office of Legislative Research and General Counsel the legislation that is the subject of the request.

(c) A non-originating [~~house~~]chamber may not recall legislation from the Office of Legislative Research and General Counsel except as provided in this Subsection (3).

(4) The Office of Legislative Research and General Counsel shall return legislation recalled under this rule:

(a) for legislation recalled under Subsection (2), to the originating [~~house~~]chamber; or

(b) for legislation recalled under Subsection (3), to the non-originating [~~house~~]chamber.

Section 47. Section JR4-5-202 is amended to read:

JR4-5-202. Recalling legislation from the governor.

When a bill has passed both [~~houses~~]chambers of the Legislature, been signed by the presiding officers, been enrolled, and[~~has~~] been sent to the governor for his approval, it can be recalled only if:

(1) a joint resolution requesting that the governor return the legislation is passed by a constitutional majority vote of both [~~houses~~]chambers; and

(2) the governor elects to return it.

Section 48. Section JR5-1-102 is amended to read:

JR5-1-102. Legislative Expenses Oversight Committee.

(1) The presiding officer and the majority leader and minority leader of each [~~house~~]chamber are the Legislative Expenses Oversight Committee for that [~~house~~]chamber.

(2) Each committee shall:

(a) establish procedures to implement the rules on legislative expenses, including establishing systems and procedures for the reimbursement of legislative expenses;

(b) ensure that procedures are established for the purpose of avoiding duplicate or improper payments or reimbursements; and

(c) meet at least annually, or at the request of a majority of the committee, to review legislative expenses and travel budgets.

(3) Each committee may, for a calendar year, authorize up to 10 authorized legislative training days for each legislator.

(4) The presiding officer may authorize temporary emergency legislative expenses.

Section 49. Section JR5-5-101 is amended to read:

JR5-5-101. Reimbursement for communications device expenses.

(1) The presiding officer, the majority leader, and the minority leader of each [~~house~~]chamber of the Legislature may establish a policy governing reimbursement for expenses related to communications devices, which policy shall include:

(a) the types of communications device expenses that will be reimbursed to legislators; and

(b) the process for reimbursement of communications device expenses.

(2) A legislator may, pursuant to a policy adopted under Subsection (1), be reimbursed for use of a communications device that is:

(a) owned by the legislator; and

(b) used by the legislator in the legislator's capacity as an employee of the Legislature.

Section 50. Section JR6-1-102 is amended to read:

JR6-1-102. Code of official conduct.

(1) As used in this rule:

(a) "Person" includes an individual, a partnership, an association, an organization, a company, and a body politic and corporate, or a lobbyist from any of these.

(b) "Person" does not include an individual or entity described in Subsection (1)(a) that provides the legislator's primary source of income.

(2) Each legislator shall comply with the guidelines established in Subsection (3).

(3) In judging members of its house charged with an ethical violation, the Senate and House Ethics Committees shall consider whether or not the member has violated any of the following guidelines:

(a) Members of the Senate and House shall not engage in any employment or other activity that would destroy or impair their independence of judgment.

(b) Members of the Senate and House shall not be paid by a person to lobby, consult, or to further the interests of any legislation or legislative matter, except that a person may pay a member of the Senate or House to lobby, as defined in Utah Code Section 36-11-102, for the purpose of influencing federal legislative or federal executive action.

(c) Members of the Senate and House shall not exercise any undue influence on any governmental entity. "Undue influence" means deceit or threat of violence.

(d) Members of the Senate and House shall not engage in any activity that would be an abuse of official position or a violation of trust.

(e) Members of the Senate and House shall not use any nonpublic information obtained by reason of their official position to gain advantage over any business or professional competition for activities with the state and its political subdivisions.

(f) Members of the Senate and House shall not engage in any business relationship or activity that would require the disclosure of confidential information obtained because of their official position.

(g) Members of the Senate and House shall not use their official position to secure privileges for themselves or others.

(h) While in session, members of the Senate and House shall disclose any conflict of interest on any legislation or legislative matter as provided in JR6-1-201.

(i) Members of the Senate and House may accept small gifts, awards, or contributions if these favors do not influence them in the discharge of official duties.

(j) Members of the Senate and the House may engage in business or professional activities with the state or its political subdivisions if the activities are entered into under the same conditions and in the same manner applicable to any private citizen or company engaged in similar activities.

(k) Legislators may enter into transactions with the state by contract by following the procedures and requirements of Utah Code Title 63G, Chapter 6a, Utah Procurement Code.

Section 51. Section JR6-5-101 is amended to read:

JR6-5-101. Senate and House action.

(1) The Senate or House shall:

(a) consider the recommendations of the ethics committee; and

(b) by a majority vote of that [~~house~~]chamber, either accept, dismiss, or alter these recommendations.

(2) If the committee recommends expulsion of a senator or representative, acceptance of this recommendation requires a two-thirds vote of all the members elected to the Senate or to the House.

Section 52. Section JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Authorized legislative committee" means:

(a) an interim committee;

(b) the Legislative Management Committee;

(c) the Legislative Process Committee;

[~~(c)~~](d) when functioning as an interim committee:

(i) the Senate Rules Committee created in SR3-1-101; or

(ii) the House Rules Committee created in HR3-1-101; or

[~~(d)~~](e) a special committee:

(i) that is not a mixed special committee; and

(ii) to the extent the special committee has statutory authority to open a committee bill file or create a committee bill.

(3) "Bill" means the same as that term is defined in JR4-1-101.

(4) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (4)(a), (b), or (c) to act as chair under JR7-1-202.

(5) "Committee bill" means draft legislation that receives a favorable recommendation from an authorized legislative committee.

(6) "Committee bill file" means a request for legislation made by:

(a) a majority vote of an authorized legislative committee; or

(b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(7) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(8) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(9) "Electronic meeting" means the same as that term is defined in Utah Code Section 52-4-103.

(10) "Favorable recommendation" means an action of an authorized legislative committee by majority vote to favorably recommend legislation for consideration by the Legislature in an upcoming legislative session.

(11) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

(12) "Interim committee" means a committee [~~created under JR7-1-201.~~]that:

(a) is comprised of members from both chambers;

(b) meets between annual general sessions of the Legislature to perform duties described in rule; and

(c) is created under JR7-1-201.

(13) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the authorized legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

(14) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

(15) "Mixed special committee" means a special committee that is composed of one or more voting members who are legislators and one or more voting members who are not legislators.

(16) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

(17) "Pending motion" means a motion described in JR7-1-307.

(18) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(19) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

[~~(20) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.~~]

[~~(21)~~](20) "Request for legislation" means the same as that term is defined in JR4-1-101.

[~~(22)~~](21) "Resolution" means the same as that term is defined in JR4-1-101.

[~~(23)~~](22)(a) "Special committee" means a committee, commission, task force, or other similar body that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

[~~(24)~~](23) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

[~~(25)~~](24) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 53. Section JR7-1-104 is amended to read:

JR7-1-104. Prohibited items and activities in legislative committee meetings.

(1) A member of the public attending a meeting of a legislative committee may not:

[~~(1)~~](a) bring into the meeting room, or possess while in the meeting room, any of the following:

[~~(a)~~](i) a sign, poster, banner, or placard;

[~~(b)~~](ii) glitter or confetti;

[~~(c)~~](iii) a laser pointer;

[~~(d)~~](iv) paint;

[~~(e)~~](v) an open flame;

[~~(f)~~](vi) an incendiary device;

[~~(g)~~](vii) a noise maker;

[~~(h)~~](viii) flammable liquid; or

[~~(i)~~](ix) any harmful or hazardous substance; or

[~~(2)~~](b) engage in any of the following while in the meeting room:

[~~(a)~~](i) commercial solicitation;

[~~(b)~~](ii) leafletting;

[~~(c)~~](iii) throwing an item; or

[~~(d)~~](iv) adhering any item to a furnishing, a wall, or other state property.

(2) To the extent reasonably applicable, any action by a chair under this rule applies to a member of the public participating in the meeting via video conference.

Section 54. Section JR7-1-202 is amended to read:

JR7-1-202. President and speaker to appoint legislative committee members and chairs.

(1) The president of the Senate shall appoint:

(a) one or more senators to each legislative committee, including one senator to serve as chair of the legislative committee; or

(b) if the legislative committee is a special committee, senators as provided by the special committee's enacting legislation.

(2) The speaker of the House of Representatives shall appoint:

(a) one or more representatives to each legislative committee, including one representative to serve as chair of the legislative committee; or

(b) if the legislative committee is a special committee, representatives as provided by the special committee's enacting legislation.

(3)(a) A chair may designate a member of the legislative committee to act as[~~a~~] chair for all or part of a legislative committee meeting if neither chair is present at the meeting.

(b) If neither chair is present at the meeting and neither chair designates a member of the legislative committee to act as chair, the most senior member from the majority party who is present at the meeting shall act as chair.

Section 55. Section JR7-1-203 is amended to read:

JR7-1-203. Quorum requirements.

(1) Except as provided in Subsection (2) and subject to the other provisions of this rule, a quorum of a legislative committee:

(a) is at least 50% of the members of the legislative committee from one chamber and more than 50% of the members of the legislative committee from the other chamber; and

(b) notwithstanding Subsection (2) or (3), shall include at least one member of the legislative committee from the Senate.

(2) A quorum of a mixed special committee is:

(a) at least 50% of the legislator members of the mixed special committee from one chamber and more than 50% of the legislator members of the mixed special committee from the other chamber; and

(b) more than 50% of the nonlegislator members of the mixed special committee.

(3) If a member of a legislative committee does not attend two consecutive meetings of the legislative committee in a calendar year, the member is not counted for purposes of determining a quorum for the remainder of the calendar year, unless the member is present at the meeting when the action requiring a quorum occurs.

(4) The following individuals are not counted for purposes of determining a quorum, unless the member is present at the legislative committee meeting when the action requiring a quorum occurs:

(a) a member of the Legislative Management Committee;

(b) the Senate chair and vice chair of the Executive Appropriations Committee;

(c) the House chair and vice chair of the Executive Appropriations Committee;

(d) the chair and vice chair of the Senate Rules Committee;

(e) the chair and vice chair of the House Rules Committee;

(f) the fourth member of leadership from the minority party in the Senate; and

(g) the fourth member of leadership from the minority party in the House of Representatives.

Section 56. Section JR7-1-302 is amended to read:

JR7-1-302. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a legislative committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring that nothing disrupts, disturbs, or otherwise impedes the orderly course of the meeting;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, cheering, whistling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting without a motion; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

(3) A member of the public participating in a legislative committee meeting via video conference may not:

(a) use a virtual background other than one that is simple and free from distracting visuals; or

(b) engage in any behavior that if performed in the meeting room would violate Subsection (1).

Section 57. Section JR7-1-401 is amended to read:

JR7-1-401. Interim committees to receive study assignments -- Adoption of study items.

(1) Each interim committee shall:

(a) study issues assigned to the committee by:

(i) passed legislation; or

(ii) the Legislative Management Committee; and

(b) review programs and hear reports as required by statute.

(2) Each interim committee may:

(a) [~~as provided in Utah Code Subsection 36-12-5(1)(d),~~]investigate and study possibilities for improvement in government services within the interim committee's subject area;

(b) request and receive research reports from interim committee staff that relate to the interim committee's subject area;

(c) request testimony from government officials, private organizations, or members of the public on issues being studied by the interim committee;

(d) make recommendations to the Legislature for legislative action; or

(e) prepare one or more committee bills based on the interim committee's studies.

(3) Each interim committee shall adopt a list of interim study items during the interim committee's first meeting of each calendar year as follows:

(a) the interim committee shall review the study items provided by the Legislative Management Committee under Subsection (1)(a)(ii);

(b) the interim committee may, by majority vote, modify or add to the list of study items described in Subsection (3)(a), provided that any additional item adopted by the committee is consistent with the interim committee's duties as described in Subsection (1) or (2)[~~ of this rule~~]; and

(c) the interim committee shall adopt the original or amended list of study items by majority vote.

(4)(a) An interim committee may add an item to the committee's adopted list of study items described in Subsection (3) if:

(i) the interim committee chairs request and receive approval from the Legislative Management Committee; and

(ii) the item is consistent with the interim committee's duties as described in Subsection (1) or (2).

(b) A request under Subsection (4)(a) is deemed approved, unless the Legislative Management Committee denies the request within 30 days after the day on which the committee chairs submit the request.

Section 58. Section JR7-1-611 is amended to read:

JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.

(1) The chairs of each authorized legislative committee shall:

(a) no later than November 30, assign each of the authorized legislative committee's committee bills a chief sponsor and, at the chairs' election, a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the authorized legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor, if applicable; and

(iv) how each member of the authorized legislative committee voted when the authorized legislative committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) Notwithstanding Subsection (1), for a committee bill that was not a committee bill file, the sponsor of the request for legislation is the chief sponsor of the committee bill file unless the sponsor transfers the committee bill to another legislator.

[~~(2)~~](3)(a) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

[~~(a)~~](i) a copy of the report described in Subsection (1)(b); and

[~~(b)~~](ii) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

[~~(3)~~](b)[~~(a)~~](i) The chairs of an interim committee shall comply with [~~this rule on or before December 15~~]Subsection (3)(a) before the day on which the Legislative Management Committee meets in December.

[~~(b)~~](ii) The chairs of an authorized legislative committee that is not an interim committee shall comply with [~~this rule~~]Subsection (3)(a) as soon as practicable.

Section 59. Effective date.

This resolution takes effect upon a successful vote for final passage.

H. J. R. 26
Passed February 29, 2024
Approved February 29, 2024
Effective February 29, 2024

JOINT RESOLUTION REJECTING EXCHANGE OF SCHOOL AND INSTITUTIONAL TRUST LANDS

Chief Sponsor: Casey Snider
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This joint resolution rejects a proposed land exchange of state school and institutional trust lands and mineral interests for federal lands and mineral interests.

Highlighted Provisions:

This bill:

- rejects the proposed exchange of state school and institutional trust lands and mineral interests in and around the Bears Ears National Monument for United States government lands;
- recognizes that the state would better manage and administer the lands in the proposed exchange for the benefit of the state's trust land beneficiaries and economy than the federal government; and
- condemns the federal government's planning effort and lack of coordination with the state.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, by presidential proclamation dated October 8, 2021, the President of the United States created the Bears Ears National Monument (Monument), which encompasses approximately 1.2 million acres of federal land and which surrounds, as stranded inholdings, approximately 130,000 acres of scattered school and institutional trust land parcels managed by the School and Institutional Trust Lands Administration for the support of Utah's public schools, public school children, and other beneficiary institutions;

WHEREAS, the Governor of the state of Utah and the United States Secretary of the Interior signed a non-binding Memorandum of Understanding on March 17, 2023, that provides for an exchange of school and institutional trust lands and mineral interests in Iron, Kane, San Juan, Tooele, and Uintah counties for United States government lands in Beaver, Carbon, Duchesne, Emery, Garfield, Grand, Iron, Kane, Millard, Rich, San Juan, Sanpete, Sevier, Tooele, Uintah, Utah, Wasatch, Washington, and Wayne counties;

WHEREAS, Utah Code Subsection 63L-2-201(2) requires legislative approval before a governmental entity or state officer may legally bind the state by executing an agreement to sell or transfer to the United States government 500 or more acres of any state lands or school and institutional trust lands;

WHEREAS, the Memorandum of Understanding has not been executed and ratified by the United

States Congress, and is therefore not legally binding on the state;

WHEREAS, the historical practice for federal land management on national monuments has prioritized the multiple uses and sustained yield of the lands, as well as reasonable access to the lands for recreation by local communities, while maintaining the objects of antiquity and of historic or scientific interest consistent with federal law; and

WHEREAS, the federal government has signaled that it will adopt an exceptionally restrictive and unreasonable land management plan that would negatively impact the communities surrounding the Monument and the state's public school children, by restricting community access to grazing land, resource development, and recreation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah rejects the land exchange between the state of Utah and the United States government, as proposed by the Memorandum of Understanding.

BE IT FURTHER RESOLVED that the Legislature requires any land management plan put forth by the federal government or any other entity to be consistent with historical practice and benefit all local communities and trust land beneficiaries impacted by the proposed land exchange.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States of America, the Secretary of the Department of the Interior, and the members of the Utah congressional delegation.

H. R. 2
Passed February 22, 2024
Approved February 22, 2024
Effective February 22, 2024

HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSE RULES

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This resolution modifies House Rules.

Highlighted Provisions:

This bill:

- allows a lobbyist who is a former legislator to be present on the House floor when designated by the speaker-elect to preside until the representatives take the oath of office and elect a speaker;
- extends the time period during which a representative may use the representative's general session postage allowance;
- directs the Office of Legislative Research and General Counsel to share with caucus staff information in a representative's request for legislation, under certain circumstances;
- changes the name of the Public Utilities, Energy, and Technology Standing Committee to the Public Utilities and Energy Standing Committee;
- adds the House Rules vice chair to the list of members who are not counted in determining a quorum for a standing committee, unless the member is present at the meeting;
- modifies the order in which a standing committee chair takes responses to a motion or substitute motion;
- updates inconsistent terminology;
- removes obsolete language;
- incorporates certain language from existing provisions of the Utah Code;
- for the first day of an annual general session, removes the requirement that legislation placed on the third reading calendar stay on the third reading calendar until at least the following day; and
- addresses remote participation in a House committee meeting.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
HR1-2-101
HR1-7-101
HR1-8-101
HR2-2-106
HR3-2-201
HR3-2-203
HR3-2-313
HR3-2-402
HR3-3-101
HR3-3-102
HR4-3-101
HR4-9-103

ENACTS:
HR1-10-101

Be it resolved by the House of Representatives of the state of Utah:

Section 1. Section HR1-2-101 is amended to read:

HR1-2-101. Calling the House to order.

(1) On the first day of each annual general session of the Legislature during odd-numbered years, the speaker-elect shall designate a person to call the House to order and preside until the representatives have taken the oath of office and elected a speaker.

(2)(a) Notwithstanding HR2-4-101.2, the speaker-elect may designate under Subsection (1) a lobbyist who is a former speaker to call the House to order and preside until the representatives take the oath of office and elect a speaker.

(b) The lobbyist shall comply with HR2-4-101.2 immediately after the representatives elect a speaker.

Section 2. Section HR1-7-101 is amended to read:

HR1-7-101. Citations -- Definitions -- Use of citations.

(1) As used in this chapter:

(a) "Citation" means a certificate for the purposes of:

(i) honoring or commending an individual who is a resident of Utah, or a group of individuals who are residents of Utah or have a substantial presence in or connection to Utah;

(ii) commemorating an event or the anniversary of an event that has significant relevance to Utah; or

(iii) expressing condolences to the family of a deceased individual who was a resident of Utah.

(b) "House of Representatives citation" means a citation issued on behalf of the Utah House of Representatives under HR1-7-103, that is signed by the representative sponsoring the citation and the speaker of the House of Representatives.

(c) "Legislator citation" means a citation issued on behalf of an individual representative under HR1-7-102.

(d) "Utah Legislature citation" means a citation issued on behalf of both [~~houses~~]chambers of the Utah Legislature under HR1-7-104, that is signed by the representative sponsoring the citation, the speaker of the House of Representatives, and the president of the Senate.

(2) A citation honoring or commending the same individual or group of individuals, or recognizing the same event or anniversary, should not be issued more than once every 10 years.

(3) A representative may request only one House of Representatives citation or Utah Legislature citation during a calendar year.

Section 3. Section HR1-8-101 is amended to read:

HR1-8-101. House postage allowance.

(1) Each representative may deposit:

(a) up to [~~300~~]500 letters into the House mail system during the [~~annual general session~~]period that begins the first day of the annual general session and ends 30 days after the day on which the Legislature adjourns the annual general session sine die; and

(b) up to 10 letters per month into the House mail system during the remainder of the year.

(2) Upon request from an individual representative, the speaker may grant an additional postage allowance.

Section 4. Section HR1-10-101 is enacted to read:

HR1-10-101. Requests for legislation -- Sharing with caucus staff.

CHAPTER 10. MISCELLANEOUS

(1) As used in this rule, "caucus staff" means House staff assigned to the chief sponsor's caucus.

(2) After a representative files a request for legislation in accordance with JR4-2-101, the Office of Legislative Research and General Counsel shall provide caucus staff the drafting instructions, as defined in JR4-1-101, provided in the request for legislation and the request's assigned short title, unless the representative:

(a) elects not to share the drafting instructions and short title with caucus staff; or

(b) fails to sign an acknowledgment, for purposes of Rule 1.6 of the Rules of Professional Conduct, that the Office of Legislative Research and General Counsel will share the representative's information in accordance with this rule.

(3) Caucus staff or staff from the Office of Legislative Research and General Counsel may share information provided under Subsection (2) with other representatives who are members of the chief sponsor's caucus.

Section 5. Section HR2-2-106 is amended to read:

HR2-2-106. Smoking and electronic cigarettes prohibited.

(1) As used in this rule, "electronic cigarette" means any device, other than a combustible cigarette or cigar, intended to deliver vapor containing nicotine into a person's respiratory system.

(2) A person may not smoke or use an electronic cigarette in the House chamber or other [~~house~~] House controlled areas.

(3) The sergeant-at-arms shall enforce this rule.

Section 6. Section HR3-2-201 is amended to read:

HR3-2-201. Standing committees -- Creation.

There are created the following standing committees to consider legislation during an annual general or special session:

(1) Business and Labor;

(2) Economic Development and Workforce Services;

(3) Education;

(4) Government Operations;

(5) Health and Human Services;

(6) House Rules;

(7) Judiciary;

(8) Law Enforcement and Criminal Justice;

(9) Natural Resources, Agriculture, and Environment;

(10) Political Subdivisions;

(11) Public Utilities[~~,~~] and Energy[~~, and Technology~~];

(12) Revenue and Taxation; and

(13) Transportation.

Section 7. Section HR3-2-203 is amended to read:

HR3-2-203. Quorum requirements.

(1) Except as provided in Subsection (2), a majority of a standing committee is a quorum.

(2) In determining whether a quorum is present, the speaker, majority leader, majority whip, assistant majority whip, House Rules Committee chair, House Rules Committee vice chair, Executive Appropriations Committee chair, Executive Appropriations Committee vice chair, minority leader, minority whip, assistant minority whip, and the fourth member of leadership from the minority party are not counted in determining a quorum for a standing committee, except during the time that the representative is present at the meeting.

Section 8. Section HR3-2-313 is amended to read:

HR3-2-313. Chair to allow response to motions before placing motions for a vote.

(1) After the chair accepts an original motion, and before the chair places the original motion for a vote, the chair shall permit, in the following order:

[~~(a) committee members to debate the original motion;~~]

[~~(b)~~](a) the chief sponsor of the legislation that is affected by the original motion to respond to the original motion; [~~and~~]

(b) committee members to debate the original motion; and

(c) the committee member who placed the original motion to have the final word on the motion.

(2) After a chair accepts a substitute motion, and before the chair places the substitute motion for a vote, the chair shall permit, in the following order:

(a) the committee member who placed the original motion to respond to the substitute motion;

[~~(b) committee members to debate the substitute motion;~~]

[~~(c)~~](b) the chief sponsor of the legislation that is affected by the substitute motion to respond to the substitute motion; [~~and~~]

(c) committee members to debate the substitute motion; and

(d) the committee member who placed the substitute motion to have the final word on the motion.

Section 9. Section HR3-2-402 is amended to read:

HR3-2-402. Standing committee review of legislation with a fiscal impact.

(1)(a) A standing committee may not review legislation unless the legislation has an approved fiscal note.

(b) Notwithstanding Subsection (1)(a), a standing committee may consider a substitute not previously adopted, regardless of whether the substitute has an approved fiscal note.

(2) Except as provided in HR3-2-401, a standing committee in one or both [~~houses~~]chambers shall review legislation before the legislation is heard in the opposite [~~house~~]chamber because of [~~its~~]the legislation's fiscal impact.

Section 10. Section HR3-3-101 is amended to read:

HR3-3-101. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a House committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring the meeting is free from any audible or visual disturbance;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting without a motion; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

(3) To the extent reasonably applicable, any action by a chair under this rule applies to a member of the

public participating in the meeting via video conference.

Section 11. Section HR3-3-102 is amended to read:

HR3-3-102. Prohibited items and activities in House committee meetings.

(1) A member of the public attending a meeting of a House committee may not:

[~~(1)~~](a) bring into the meeting room, or possess while in the meeting room, any of the following:

[~~(a)~~](i) a sign, poster, banner, or placard;

[~~(b)~~](ii) glitter or confetti;

[~~(c)~~](iii) a laser pointer;

[~~(d)~~](iv) paint;

[~~(e)~~](v) an open flame;

[~~(f)~~](vi) an incendiary device;

[~~(g)~~](vii) a noise maker;

[~~(h)~~](viii) flammable liquid; or

[~~(i)~~](ix) any harmful or hazardous substance; or

[~~(2)~~](b) engage in any of the following while in the meeting room:

[~~(a)~~](i) commercial solicitation;

[~~(b)~~](ii) leafletting;

[~~(c)~~](iii) throwing an item; or

[~~(d)~~](iv) adhering any item to a furnishing, a wall, or other state property.

(2) A member of the public participating in a House committee meeting via video conference may not:

(a) use a virtual background other than one that is simple and free from distracting visuals; or

(b) engage in any behavior that if performed in the meeting room would violate Subsection (1).

Section 12. Section HR4-3-101 is amended to read:

HR4-3-101. Consideration of bills.

(1) Except for the 1st, 43rd, 44th, and 45th day of the annual general session,[~~ a piece of~~] legislation may not be read for the third time until at least the day after it is placed on the third reading calendar.

(2) Legislation on third reading calendar shall be considered in the order that it appears on the calendar unless a constitutional majority vote of the members of the House directs other action.

Section 13. Section HR4-9-103 is amended to read:

HR4-9-103. Rules governing motions to reconsider.

(1) A motion to reconsider takes precedence over all other motions and questions, except a motion to adjourn.

(2)(a) Except as provided in Subsection (2)(b), a motion to reconsider is debatable.

(b) A motion to reconsider is nondebatable only if the action it seeks to reconsider is nondebatable.

(3) When a motion to reconsider is made, the presiding officer shall:

(a) allow the proponents a total of five minutes to address the issue;

(b) allow the opponents a total of five minutes to address the issue; and

(c) allow the proponents one minute to sum up.

(4)(a) A motion to reconsider a vote on the final passage of a piece of legislation requires approval by a constitutional majority of representatives.

(b) [~~Upon~~]Except as provided in HR4-4-401, upon adoption of a motion to reconsider and if the legislation is in possession of the House, the presiding officer shall ensure that the legislation is placed at the top of the third reading calendar.

(c) The House may not reconsider a piece of legislation more than once.

Section 14. Effective date.

This resolution takes effect upon a successful vote for final passage.

H. R. 3
Passed January 22, 2024
Approved January 22, 2024
Effective January 22, 2024

HOUSE RESOLUTION TO RECOGNIZE JANICE GADD

Chief Sponsor: Carol S. Moss

LONG TITLE

General Description:

This resolution recognizes Janice Gadd's 38 years of service in the House of Representatives as journal clerk.

Highlighted Provisions:

This bill:

- expresses gratitude to Janice Gadd for her dedication in serving as the House of Representatives' journal clerk for 38 years;
- acknowledges Janice's wealth of institutional knowledge and her comprehension of the legislative process; and
- highlights Janice's positive influence on others during her tenure as journal clerk.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, Janice Gadd dedicated 38 years of her career serving as journal clerk for the Utah House of Representatives, as well as supervisor of the Office of Legislative Printing;

WHEREAS, Janice was instrumental in producing the Laws of Utah, which includes all legislation passed during a legislative session;

WHEREAS, every two years, Janice was instrumental in processing and printing the updated pamphlet version of the Utah Constitution, and meticulously labored over the updated text to ensure accuracy;

WHEREAS, Janice's diligence was inspirational, her positivity and interpersonal skills were exceptional, and her dedication and patience were exemplary;

WHEREAS, Janice was among those with the most institutional knowledge in, and of, Utah's legislative branch;

WHEREAS, Janice consistently demonstrated professionalism in adapting to diverging leadership styles while serving under different Speakers;

WHEREAS, according to former House of Representatives Chief Clerk Sandy Tenny, working with Janice in the House was a joy;

WHEREAS, whenever there was a need, Janice assisted the Chief Clerk with her duties in the circle, especially on the last night of session when things get chaotic;

WHEREAS, Janice was exceptionally accurate, professional, timely, trustworthy, and detail- oriented;

WHEREAS, Janice was a wonderful mentor, teacher, example, friend, and confidant;

WHEREAS, Janice's commitment as House Journal Clerk and Bill Room manager led to many late nights, early mornings, and long days, while facing the challenges and exhaustion that come with legislative sessions;

WHEREAS, under Janice's guidance and direction, the Legislative Printing Office and Bill Room faithfully served legislators, staff, and the public, creating a reputation for quick, efficient, and friendly service;

WHEREAS, Janice brought calm into a sometimes chaotic environment and made the House feel like home;

WHEREAS, many describe Janice as kind, genuine, intelligent and loyal, a person who genuinely cared about the legislative process;

WHEREAS, working with Janice was a delight; she smiled a lot, loved to laugh, and even made journal corrections and session laws a fun experience;

WHEREAS, Janice was always a warm presence; no matter what was going on or where she was, people could go to her for respite;

WHEREAS, under Janice's supervision, the printing office was a safe place, a refuge on difficult days, where expressions of frustration, tears, or laughter, were met with warmth and compassion;

WHEREAS, Janice was always a good friend with a listening ear;

WHEREAS, even in the face of extreme trials, Janice was resilient, dedicated, loyal, and meticulous;

WHEREAS, Janice enthusiastically shared her love and passion with everyone, a quality that endeared her to many;

WHEREAS, many will miss listening to Janice talk lovingly about her dogs, many of which were rescue dogs that she adopted;

WHEREAS, due to her kindness and consideration, Janice's colleagues enjoyed working with her, and engaging in activities with her outside of work, like aerobic classes;

WHEREAS, Janice, a warm and friendly individual, treated all who knew her respectfully and kindly, and had an admirable work ethic;

WHEREAS, Janice's rare and genuine cheerfulness in difficult circumstances helped steady the tone and tenor of floor proceedings;

WHEREAS, Janice's presence on Capitol Hill will be greatly missed;

WHEREAS, Janice's wealth of experience, and generosity in sharing her knowledge, made her an invaluable support to her colleagues, both in Utah and throughout our great nation;

WHEREAS, when Janice lost her husband during her tenure as journal clerk, she met the loss with dignity, strength, and resilience, providing support for, and being a role model to her daughters;

WHEREAS, as a member of the American Society of Legislative Clerks and Secretaries (ASLCS) since 1985, Janice attended meetings and conferences with many in the Utah Legislature, as well as others throughout the country;

WHEREAS, as an active member of ASLCS, Janice served on professional development panels and led various committees as Chair and Co- Chair, culminating in being elected Associate Vice President in 2013;

WHEREAS, Janice's hard work was nationally recognized at the National Conference of State Legislature's Legislative Summit in Chicago, when she was awarded the Legislative Staff Achievement Award in 2016;

WHEREAS, Janice's many friends and colleagues from across the country praise her for always being cheerful, friendly, welcoming to all, and possessing contagious kindness;

WHEREAS, Janice was generous with her time and talents, serving as a great mentor and resource to those aspiring to follow in her footsteps and work their way through the ranks of ASLCS;

WHEREAS, Janice embodies all the best qualities of effective legislative staff: she is knowledgeable and hardworking, yet unassuming;

WHEREAS, Janice was always up for a challenge and used her creativity to solve problems;

WHEREAS, Janice had a deep love for the legislative institution, as shown by her many years of dedication to the State of Utah and to ASLCS;

WHEREAS, Janice enriched the personal and professional lives of all those around her, and her retirement leaves both a void and a tremendous opportunity for others to follow her example of cheerful competence, compassion, and dedication;

WHEREAS, all agree that Janice is a true gem; and

WHEREAS, we wish Janice a very Happy Retirement full of love, health, and new adventures:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah expresses its sincere gratitude to Janice Gadd for her 38 years of exemplary service and dedication to the Utah Legislature and state of Utah.

H. R. 5
Passed February 20, 2024
Approved February 20, 2024
Effective February 20, 2024

HOUSE RESOLUTION REGARDING THE TRADE POLICIES OF THE UNITED STATES

Chief Sponsor: Tyler Clancy

LONG TITLE

General Description:

This resolution urges the United States Congress to take actions to enact trade policy that supports United States' businesses and workers while penalizing global polluters.

Highlighted Provisions:

This bill:

- identifies threats posed to the United States by supply chain dependence on China;
- recognizes the environmental threat of China to the global pollution crisis;
- recognizes how policies that promote domestic extraction and production instead of reliance on China could benefit Utah's rural communities; and
- urges the United States Congress to support trade policies that hold high polluting countries like China and Russia accountable for pollution and bolster cleaner, United States- based extraction and production.

Special Clauses:

None

Be it resolved by the House of Representatives of the state of Utah:

WHEREAS, Chinese government- owned industry is an arm of the Communist Party and strives to increase its influence over the global economy by pursuing predatory, unfair trade practices designed to steal intellectual property and destroy competition from the United States;

WHEREAS, China's dominance of key components of the global supply chain, including those related to critical minerals, represents a threat to United States economic security and economic and social development;

WHEREAS, China is the greatest immediate obstacle to reducing global pollution and accounts for one third of global greenhouse gas emissions, more than the rest of the developed world combined, while it subsidizes its exports by not imposing or enforcing environmental and labor standards comparable to those in other developed nations;

WHEREAS, private sector innovation and American resources have led the United States to eliminate more carbon emissions than any other country in the last fifteen years, and the United States' economy is 44% more carbon efficient than the world average;

WHEREAS, United States' companies are more efficient in nearly every industry and yet are forced to compete with subsidized imports from China and elsewhere that face few limits on how much they pollute;

WHEREAS, environmental policies have blocked resource development on public lands in Utah, inadvertently enriching China by making the United States reliant on China for the development of minerals that could be mined domestically;

WHEREAS, these federal environmental policies have left rural Utahns with fewer opportunities for healthcare, education, and jobs, preventing them from building communities in which their children and families can thrive; and

WHEREAS, holding foreign polluters to the same standards as domestic producers would provide a plethora of benefits to the state of Utah, including:

diversifying supply chains by reducing the United States' dependence on imports from high emitting producers like Russia and China;

decreasing global pollution by holding the biggest polluters accountable to western environmental standards;

boosting steel production in Utah, increasing United States steelmakers' sales by as much as nine percent, grow steelmakers' profitability by as much as 41%, and dropping steel imports by about 50%; and

bolstering domestic manufacturing and generate good paying jobs in rural areas:

NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah urges the United States Congress to support trade policies that hold high polluting countries like China and Russia accountable for pollution and bolster domestic extraction and production.

BE FURTHER RESOLVED that the House of Representatives promotes American economic development and the rebuilding of United States supply chains, particularly in rural communities, including by enacting policies that reward American businesses and workers for their superior environmental performance.

S. R. 1
Passed January 23, 2024
Approved January 23, 2024
Effective January 23, 2024

SENATE RULES RESOLUTION - SENATE JUDICIAL CONFIRMATION COMMITTEE

Chief Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This resolution modifies Senate rules related to the Senate Judicial Confirmation Committee.

Highlighted Provisions:

This bill:

- removes the requirement that the Office of Legislative Research and General Counsel provide a judicial appointee's resume to the news media; and
- makes technical changes to align legislative rule with the Utah Code.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

SR3-3-202

Be it resolved by the Senate of the state of Utah:

Section 1. Section SR3-3-202 is amended to read:

SR3-3-202. Senate Judicial Confirmation Committee -- Confirmation process.

(1)(a) The Senate Judicial Confirmation Committee shall comply with the procedures established in this rule.

(b) Each committee member shall ensure that records received by them that are classified "private," "protected," or "controlled" under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, are released only if the requirements of that act are met.

(2) After [~~the~~]a Judicial Nominating Commission announces the nominees and forwards those names to the Office of Legislative Research and General Counsel as required by Utah Code Section [~~78A-10-103~~]78A-10a-203, that office shall provide the resume of each nominee to each member of the Senate.

[~~(3) When the governor provides the president of the Senate with the nominees' resumes, application materials, and other related documents, the president shall provide that information to the members of the Senate Judicial Confirmation Committee.~~]

[~~(4)~~](3) After the governor announces the appointee and provides the information required by Utah Code Section 67-1-2:

(a) the chair of the Senate Judicial Confirmation Committee shall direct the preparation of a news release which shall include:

(i) a brief description of the judicial position to be filled;

(ii) the name of the appointee;

(iii) a brief description of the functions of the Senate Judicial Confirmation Committee;

(iv) a request that members of the Senate wanting to make comments contact the chair or the Office of Legislative Research and General Counsel by the deadline specified in the news release, which may not be less than 10 business days after publication of the news release;

(v) a request that members of the public wanting to make comments contact the Office of Legislative Research and General Counsel by the deadline specified in the news release, which may not be less than 10 business days after publication of the news release; and

(vi) a notice that any person wanting to comment submit a written statement detailing the substance of their testimony, including the person's name, telephone number, and mailing address, to the Office of Legislative Research and General Counsel; and

(b) the Office of Legislative Research and General Counsel shall provide:

(i) [~~provide the resume of the appointee~~]the appointee's resume and the news release described in this [~~Subsection (4) to:~~]Subsection (3) to each senator;

[~~(A) each member of the Senate; and~~]

[~~(B)~~](ii) the news release described in this Subsection (3) to the news media, including television, radio, and the major circulation newspapers in Salt Lake City and the geographical area served by the judicial office to be filled by the appointee; and

[~~(ii)~~](iii) [~~provide the appointee's resume, application materials, and other related documents~~]the materials described in Utah Code Subsection 67-1-2(4)(b) to each member of the Senate Judicial Confirmation Committee.

[~~(5)~~](4)(a) The chair of the Senate Judicial Confirmation Committee may direct its staff to investigate:

(i) the background, qualifications, and fitness for judicial office of the appointee generally; and

(ii) specific issues raised or revealed by any member of the committee, any senator, or any member of the public, or that may arise at any time during the Senate confirmation process.

(b) In conducting the investigation, committee staff may contact any person or organization that might have information about the nominee's fitness for judicial office.

(c) The chair may direct staff to ask the governor, the chair of the Judicial Nominating Commission,

or both, whether or not certain facts revealed by the investigation were known to the governor or the nominating commission at the time the candidate was considered by either of them.

[~~(6)~~](5)(a) The chair of the Senate Judicial Confirmation Committee shall provide public notice of each committee meeting.

(b) The public notice shall include an explanation that:

(i) any person wanting to testify regarding the appointee shall submit a written request to testify to the Office of Legislative Research and General Counsel at least 24 hours before the meeting is scheduled to begin; and

(ii) portions of the meeting may be closed under Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

[~~(7)~~](6) Before convening a meeting of the Senate Judicial Confirmation Committee, the chair shall:

(a) review all written statements from persons desiring to address the committee regarding the governor's appointee;

(b) review all records to be distributed to the committee and classify each record as "public" or "private" by applying the standard contained in Subsection 63G-2-302(1)(f)(i);

(c) determine which persons making a timely request to testify under Subsection [~~(6)(a)~~](5) may address the committee; and

(d) if necessary, establish reasonable time limits for public comment.

Section 2. Effective date.

This resolution takes effect upon a successful vote for final passage.

S. R. 2
Passed February 14, 2024
Approved February 14, 2024
Effective February 14, 2024

SENATE RULES RESOLUTION - AMENDMENTS TO SENATE RULES

Chief Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This resolution modifies Senate Rules.

Highlighted Provisions:

This bill:

- updates inconsistent terminology;
- removes obsolete language;
- incorporates certain language from existing provisions of the Utah Code;
- for the first day of an annual general session, removes the requirement that legislation placed on the third reading calendar stay on the third reading calendar until at least the following day;
- amends the requirements for a Senate standing committee's disposition of legislation; and
- addresses remote participation in a Senate committee meeting.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:
SR1-4-302
SR1-7-101
SR3-2-201
SR3-2-302
SR3-2-402
SR3-2-403
SR3-2-405
SR3-4-101
SR3-4-102
SR4-3-102
SR4-4-202

Be it resolved by the Senate of the state of Utah:

Section 1. Section SR1-4-302 is amended to read:

SR1-4-302. Duties of the secretary of the Senate.

Subject to the chief of staff's direction, the secretary of the Senate shall perform the following duties:

(1) certify and transmit legislation to the [~~Senate~~]House and inform the [~~Senate~~]House of all [~~House~~]Senate action;

(2) assist in the preparation of the Senate journal and certify it as an accurate reflection of Senate action;

(3) make the following technical corrections to legislation either before or following final passage:

(a) correct the spelling of words;

(b) correct the erroneous division and hyphenation of words;

(c) correct mistakes in numbering sections and their references;

(d) capitalize words or change capitalized words to lower case;

(e) change numbers from words to figures or from figures to words;

(f) underscore or remove underscoring in legislation without a motion to amend; or

(g) any combination of Subsections (3)(a) through (f);

(4) modify the long title of a piece of legislation to ensure that the long title accurately reflects any changes to the legislation made by amendment or substitute;

(5) act as custodian of all official documents related to legislation;

(6) receive all numbered legislation from the Office of Legislative Research and General Counsel;

(7) record the number, title, sponsor, each action, and final disposition of each piece of legislation on the back of the legislation;

(8) prepare and distribute the daily order of business each day;

(9) advise the president on parliamentary procedure, Joint Rules, and Senate Rules;

(10) read, or cause to be read, the title of all bills and other materials as requested by the president;

(11) receive committee reports and present them to the Senate;

(12) assist with amendments to legislation;

(13) record votes and present the results to the president;

(14) transmit all enrolled Senate bills and Senate concurrent resolutions to the governor;

(15) maintain all calendars for the Senate floor; and

(16) other duties as assigned by the chief of staff.

Section 2. Section SR1-7-101 is amended to read:

SR1-7-101. Commendation or condolence citations -- Types of citations -- Use of citations.

(1) As used in this chapter:

(a)(i) "Citation" means a certificate issued to honor or commend an individual or group, or to express condolences to the family of a deceased individual.

(ii) "Citation" includes a legislator citation, a Senate citation, and a Utah Legislature citation.

(b) "Legislator citation" means a citation issued on behalf of an individual senator.

(c) "Senate citation" means a citation issued on behalf of the Senate.

(d) "Utah Legislature citation" means a citation issued on behalf of both [~~houses~~]chambers of the Legislature.

(2) Senators shall use a citation to express the commendation or condolence of a senator, the Senate, or the Legislature.

Section 3. Section SR3-2-201 is amended to read:

SR3-2-201. Standing committees -- Creation.

There are created the following standing committees to consider legislation during an annual general or special session:

(1) Business and Labor;

(2) Economic Development and Workforce Services;

(3) Education;

(4) Government Operations and Political Subdivisions;

(5) Health and Human Services;

(6) Judiciary, Law Enforcement, and Criminal Justice;

(7) Natural Resources, Agriculture, and Environment;

(8) Revenue and Taxation;

(9) Rules; and

(10) Transportation, Public Utilities, Energy, and Technology.

Section 4. Section SR3-2-302 is amended to read:

SR3-2-302. Chair to set agenda -- Requirements.

The chair shall:

(1) set the agenda for a standing committee meeting;

[~~(2) ensure that legislation referred to the committee is considered by the committee within a reasonable time;~~]

[~~(3)~~](2) ensure that legislation tabled by a standing committee is listed on a standing committee agenda as required by SR3-2-408; and

[~~(4)~~](3) ensure that legislation placed on the time certain calendar in the Senate is listed on a standing committee agenda before it is scheduled to be heard by the Senate.

Section 5. Section SR3-2-402 is amended to read:

SR3-2-402. Standing committee review of legislation with a fiscal impact.

Except as provided in SR3-2-401, a standing committee in one or both [~~houses~~]chambers shall review legislation before the legislation is heard in the opposite [~~house~~]chamber because of [~~its~~]the legislation's fiscal impact.

Section 6. Section SR3-2-403 is amended to read:

SR3-2-403. Standing committee actions to dispose of legislation.

[~~(1) As required by SR3-2-302(2), a chair shall ensure that legislation referred to the committee is considered by the committee within a reasonable time. (2) When a committee has complied with the requirements of SR3-2-302(2), a~~]A standing committee shall dispose of the legislation by:

[~~(a)~~](1) returning the legislation to the Senate Rules Committee;

[~~(b)~~](2) tabling the legislation, subject to the requirements of SR3-2-408;

[~~(c)~~](3) recommending the legislation to the second reading calendar; or

[~~(d)~~](4) referring the legislation to a different standing committee.

Section 7. Section SR3-2-405 is amended to read:

SR3-2-405. Consent calendar.

[~~(1)~~] A standing committee may recommend that legislation in [~~its~~]the standing committee's possession be placed on the consent calendar if:

[~~(a)~~](1) the committee approves a motion, by a unanimous vote, to send the legislation to the second reading calendar;

[~~(b)~~](2) immediately subsequent to that action, the chief sponsor or the chief sponsor's designee under SR3-2-306(3) requests that the legislation be placed on the consent calendar; and

[~~(c)~~](3) in a separate motion and vote, the committee unanimously approves the sponsor's request to place the legislation on the consent calendar instead of the second reading calendar.

[~~(2) If, in accordance with SR3-1-102, the Senate Rules Committee forwards a summary report from the Occupational and Professional Licensure Review Committee in conjunction with legislation referred to a standing committee, the chair shall ensure that the summary report is read orally to the committee before action is taken by the committee on the legislation that is related to the summary report.~~]

Section 8. Section SR3-4-101 is amended to read:

SR3-4-101. Chair to preserve order and decorum.

(1) The chair shall preserve order and decorum during a Senate committee meeting by:

(a) ensuring nothing obstructs a walkway or the view of a meeting attendee;

(b) ensuring the meeting is free from any audible or visual disturbance;

(c) protecting state property from damage or disarray;

(d) prohibiting speech likely to incite or produce imminent lawless action, fighting words, or obscenity; and

(e) prohibiting any activity or item that poses a danger to the safety of a meeting attendee.

(2) To preserve order and decorum in accordance with Subsection (1), the chair may:

(a) prohibit the following:

(i) standing, waving, yelling, or clapping;

(ii) loud noises;

(iii) food or drink, other than water in a closed container;

(iv) musical instruments;

(v) any item that may require excessive cleanup; or

(vi) to the extent necessary to preserve order and decorum, any other item or activity the chair determines necessary;

(b) clear the meeting room of one or more individuals;

(c) recess the meeting without a motion; or

(d) request assistance from:

(i) the sergeant-at-arms; or

(ii) the Utah Highway Patrol.

(3) To the extent reasonably applicable, any action by a chair under this rule applies to a member of the public participating in the meeting via video conference.

Section 9. Section SR3-4-102 is amended to read:

SR3-4-102. Prohibited items and activities in Senate committee meetings.

(1) A member of the public attending a meeting of a Senate committee may not:

[~~(1)~~](a) bring into the meeting room, or possess while in the meeting room, any of the following:

[~~(a)~~](i) a sign, poster, banner, or placard;

[~~(b)~~](ii) glitter or confetti;

[~~(c)~~](iii) a laser pointer;

[~~(d)~~](iv) paint;

[~~(e)~~](v) an open flame;

[~~(f)~~](vi) an incendiary device;

[~~(g)~~](vii) a noise maker;

[~~(h)~~](viii) flammable liquid; or

[~~(i)~~](ix) any harmful or hazardous substance; or

[~~(2)~~](b) engage in any of the following while in the meeting room:

[~~(a)~~](i) commercial solicitation;

[~~(b)~~](ii) leafletting;

[~~(c)~~](iii) throwing an item; or

[~~(d)~~](iv) adhering any item to a furnishing, wall, or other state property.

(2) A member of the public participating in a Senate committee meeting via video conference may not:

(a) use a virtual background other than one that is simple and free from distracting visuals; or

(b) engage in any behavior that if performed in the meeting room would violate Subsection (1).

Section 10. Section SR4-3-102 is amended to read:

SR4-3-102. Consideration of bills.

(1) Except for the 1st, 43rd, 44th, and 45th day of the annual general session,[~~a piece of~~] legislation may not be read for the third time until at least the day after it is placed on the third reading calendar.

(2) Legislation on the third reading calendar shall be considered in the order that it appears on the calendar unless a constitutional majority vote of the members of the Senate directs other action.

Section 11. Section SR4-4-202 is amended to read:

SR4-4-202. Disposition of legislation voted on third reading.

[~~(1) Except as provided in Subsection (2), the~~] The secretary of the Senate or the secretary's designee shall:

[~~(a)~~](1) [~~for a piece of~~] for Senate legislation passed by the Senate on third reading but not yet acted upon by the House, transmit the Senate legislation to the House for its further action;

[~~(b)~~](2) [~~for a piece of~~] for Senate legislation that fails to pass the Senate on third reading, file the legislation;

[~~(c)~~](3) [~~for a piece of~~] for Senate legislation that has passed both [~~houses~~] chambers in the same form, follow the procedures and requirements of JR4-5-101;

[~~(d)~~](4) [~~for a piece of~~] for House legislation passed by the Senate on third reading and not amended or substituted in the Senate, transmit the House legislation to the presiding officer of the House for the presiding officer's signature;

[~~(e)~~](5) [~~for a piece of~~] for House legislation passed by the Senate on third reading that was amended or substituted in the Senate, transmit the legislation to the House with the amendment or substitute for further action by the House; and

[~~(f)~~](6) [~~for a piece of~~] for House legislation that fails to pass the Senate on third reading, transmit the legislation to the House with notice of the Senate's action.

[~~(2) When a senator gives notice of intention to move for reconsideration, the secretary of the Senate shall:~~]

[~~(a) record the notice in the journal; and~~]

[~~(b) keep possession of the bill until:~~]

[~~(i) the time for reconsideration has expired as provided in Title 4, Chapter 9, Reconsideration of Senate Action; or~~]

[~~(ii) the bill has been reconsidered.~~]

Section 12. Effective date.

This resolution takes effect upon a successful vote for final passage.

S. C. R. 1
Passed February 14, 2024
Approved February 16, 2024
Effective February 16, 2024

CONCURRENT RESOLUTION RECOGNIZING SCHOOL SUPPORT STAFF

Chief Sponsor: Lincoln Fillmore
House Sponsor: Norman K Thurston

LONG TITLE

General Description:

This resolution acknowledges the contributions of school support staff and commits to celebrating their work.

Highlighted Provisions:

This bill:

- recognizes the contributions of school support staff;
- highlights the many roles of school support staff;
- emphasizes school support staff's impact on student achievement and school culture; and
- encourages LEAs to celebrate and honor school support staff.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the school support staff play a vital role in the education ecosystem, contributing significantly to the success and well-being of students, teachers, and the overall school community;

WHEREAS, the dedication, expertise, and unwavering commitment of school support staff contribute to the smooth operation and effective functioning of schools;

WHEREAS, these invaluable individuals work tirelessly behind the scenes, often in challenging and multifaceted roles, to ensure a safe, nurturing, and conducive environment for teaching, learning, and growth;

WHEREAS, the wide range of school support staff includes but is not limited to administrative assistants, custodial staff, cafeteria workers, bus drivers, teacher aides, technology specialists, librarians, and maintenance personnel, each playing a crucial part in the educational journey;

WHEREAS, the efforts of school support staff often extend beyond their official responsibilities, as they provide emotional support, mentorship, and guidance to students, creating a sense of belonging and fostering positive educational experiences; and

WHEREAS, their dedication and commitment to their roles contribute significantly to enhancing student achievement, school culture, and the overall educational experience:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah and the Governor concurring therein:

(1) acknowledge and recognize the immense contributions of school support staff members and express gratitude for the dedication, professionalism, and tireless efforts of the school support staff in enriching the lives of students and ensuring the smooth functioning of our educational community;

(2) encourage each school community to join in recognizing and appreciating the invaluable contributions of school support staff members;

(3) encourage each LEA to celebrate and honor school support staff members through various means, such as special events, awards, certificates of appreciation, and public recognition to highlight their significant role in the success of our educational institutions; and

(4) request each LEA share this resolution with all staff members, students, parents, and the broader community to raise awareness about the vital contributions of school support staff and foster a culture of appreciation.

S. C. R. 2
Passed January 24, 2024
Approved March 18, 2024
Effective March 18, 2024

CONCURRENT RESOLUTION HONORING THE 100TH YEAR ANNIVERSARY OF THE UTAH ASSOCIATION OF COUNTIES

Chief Sponsor: Evan J. Vickers
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This resolution commemorates the 100th anniversary of the Utah Association of Counties, recognizing its significant contributions to effective county governance in Utah.

Highlighted Provisions:

This bill:

- celebrates the centennial anniversary of the Utah Association of Counties;
- recognizes the Utah Association of Counties as a vital resource for training, legislative representation, legal services, information, and cost savings for Utah's counties; and
- commends the Utah Association of Counties for its dedication to enhancing the professionalism and performance of county officials.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Utah Association of Counties (UAC) was formed on January 24, 1924 to support and represent the 29 counties of Utah;

WHEREAS, the first meeting of UAC, initially titled "Conference of County Auditors, Clerks, and Treasurers," was held at the Utah State Capitol in the House of Representatives, marking the beginning of a century of dedicated service;

WHEREAS, UAC has been instrumental in providing management, training, intergovernmental relations services, and advocacy for county officials;

WHEREAS, UAC aims to improve county government operations and enhance services provided to Utah residents;

WHEREAS, UAC is committed to securing beneficial legislation and administrative actions for counties, representing county interests, and ensuring a strong, unified voice for county governments in Utah;

WHEREAS, UAC offers crucial training and educational opportunities for county officials, including newly elected officials training, annual conventions, and workshops;

WHEREAS, UAC represents county governments at both the Utah Legislature and the U.S. Congress, working year- round to monitor and influence state and federal actions;

WHEREAS, UAC provides legal services to protect and advance the interests of Utah's counties, including involvement in judicial actions and monitoring of tax appeals;

WHEREAS, UAC serves as a research and information hub for counties, assisting in navigating the complexities of county governance and intergovernmental relations;

WHEREAS, through its partnerships and contracts, UAC offers cost- saving opportunities to all 29 counties, leveraging both state and national buying power; and

WHEREAS, the centennial anniversary marks a significant milestone in UAC's history and its enduring commitment to the prosperity and welfare of Utah's counties:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, recognizes and celebrates the 100th anniversary of the Utah Association of Counties and expresses its gratitude for UAC's dedicated service and significant contributions to county governance in Utah.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Association of Counties as a token of appreciation and recognition.

S. C. R. 3
Passed January 31, 2024
Approved February 7, 2024
Effective February 7, 2024

CONCURRENT RESOLUTION SUPPORTING MAJOR LEAGUE BASEBALL IN UTAH

Chief Sponsor: Lincoln Fillmore
House Sponsor: Sandra Hollins

Cosponsor:
Luz Escamilla

LONG TITLE

General Description:

This resolution recognizes Utah as an amazing state for sports, and supports efforts to bring a Major League Baseball franchise to Utah.

Highlighted Provisions:

This bill:

- recognizes that Utah is one of the fastest growing states and has the strongest economy in the country;
- recognizes the many tourist attractions and amenities Utah has to offer;
- recognizes the worldwide reputation Utah has for hosting historically successful events such as the 2002 Olympic and Paralympic Winter Games;
- recognizes that Utah is the ideal geographic destination for Major League Baseball expansion;
- recognizes the Power District in the Fairpark neighborhood is the preferred location for a Major League ballpark;
- recognizes the deep and successful history of major sports teams and events in Utah, and the strong community support for those teams and events;
- recognizes the long tradition of Minor League Baseball flourishing in Utah;
- notes many of the economic, cultural, and other benefits and opportunities that a Major League franchise in Utah would provide; and
- expresses the strong support from the Legislature and the Governor to bring Major League Baseball to the great state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, "The one constant through all the years...has been baseball. America has rolled by like an army of steamrollers. It's been erased like a blackboard, rebuilt, and erased again. But baseball has marked the time. This field, this game - - it's a part of our past... It reminds us of all that once was good, and it could be again. Oh, people will come... People will most definitely come."

WHEREAS, heaven isn't in Iowa, but in Utah;

WHEREAS, Utah's economy is one of the strongest, fastest-growing, and most durable economies in the country, as evidenced by several measures, awards, and statistics;

WHEREAS, Utah was the nation's fastest-growing state for the 2010-2020 decade;

WHEREAS, Utah is the most family-friendly state, and baseball is the most family-friendly sport;

WHEREAS, Utah has the highest median income of potential Major League Baseball expansion markets and is projected to have the eighth highest median household income among Major League Baseball markets;

WHEREAS, Utah is a Top-30 media market, and is consistently in the top three for NBA local television ratings;

WHEREAS, Utah consistently outperforms similar markets in both ticketing and sponsorship revenue;

WHEREAS, the quality of life in Utah is second to none, boasting the "Greatest Snow on Earth" with 11 world-class ski resorts, five national parks, and year-round access to outdoor recreation;

WHEREAS, as the "Crossroads of the West," Utah is the ideal geographic location for a Major League Baseball expansion location, as other teams in both the National League and American League fly through and over Utah en route to other Major League cities throughout the western United States;

WHEREAS, the Power District of the Fairpark neighborhood on the west side of Salt Lake City is a shovel-ready site for a Major League ballpark, which can be a catalyst for this vibrant community and its residents to reach their highest potential;

WHEREAS, the opportunity of developing a Major League ballpark in partnership with the Utah State Fairpark is a generational effort to invest in the long-term vitality and legacy of a cherished state icon;

WHEREAS, the legacy of sport and the state of sporting success in Utah is rich, including the Utah Jazz of the NBA, Real Salt Lake of Major League Soccer, the Salt Lake 2002 Olympic and Paralympic Winter Games, IRONMAN 70.3 North American Championship, Huntsman World Senior Games, members schools in major collegiate athletic conferences, including the Big XII, PAC 12, Mountain West Conference, and Western Athletic Conference, as well as strong sports organization infrastructure through the Utah Olympic Legacy Foundation, and the Utah Sports Commission;

WHEREAS, Utah was the center of the sports world when Salt Lake City was the host of the 2002 Winter Olympics, and Utah is the presumptive host of the 2034 Winter Olympics;

WHEREAS, the history of professional baseball in Utah dates back to the early 1900s, with the team using several names, including the Elders, Bees, Giants, Angels, Occidentals, Gulls, Trappers, Buzz, and Stingers;

WHEREAS, when the Portland Beavers moved to Utah in 1994 and became the Salt Lake Buzz, the team set the Triple-A single season attendance record;

WHEREAS, the Junior Bees youth baseball program has provided recreational baseball opportunities throughout the state for nearly 20 years, with around 20,000 participants each year, which is the largest Minor League Baseball Youth Program in the country;

WHEREAS, the Salt Lake Bees Kids Club provides baseball clinics inside the Bee's stadium, serving over 3,000 kids;

WHEREAS, the Utah Jazz has the longest-running youth junior NBA program, the Junior Jazz, with approximately 90,000 participants each year;

WHEREAS, Utah has proven to be incredibly supportive of local sports teams, giving strong home-court and home-field advantage to the Utah Jazz, Real Salt Lake, and other professional and college sports teams;

WHEREAS, the Miller family's commitment as a partner to bringing Major League Baseball to Utah is unmatched, and their experience in major sport franchise ownership and management is invaluable;

WHEREAS, the coalition of support to ensure the success of Major League Baseball in Utah is second-to-none, and includes many pillars of the Utah community, local business giants, numerous elected officials, and many notable names tied to Utah in sports and entertainment;

WHEREAS, coalition partners have proposed a remarkable site for a Major League ballpark in Salt Lake City's Power District, near the Utah State Fair Park;

WHEREAS, a Major League ball park in the Power District and near the Utah State Fair Park represents a once-in-a-generation opportunity to enhance the Utah State Fair Park, activate it year-round as part of a robust events and economic district, and continue to revitalize the Power District in Salt Lake City;

WHEREAS, a Major League club in Utah would be an economic and cultural boon to Salt Lake City and the entire state of Utah; and

WHEREAS, seeing this plan through to fruition will increase revenue and state funds available to support public education and other endeavors in our great state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, with the Governor concurring therein, supports the efforts of Big League Utah in the pursuit of bringing Major League Baseball to the great state of Utah.

BE IT FURTHER RESOLVED that the only appropriate response to the suggestion that another city or state is better prepared than Salt Lake City and the state of Utah for Major League expansion is: "You're killin' me, Smalls!"

S. C. R. 4
Passed February 12, 2024
Approved February 16, 2024
Effective February 16, 2024

CONCURRENT RESOLUTION URGING CHANGES TO ADA WEBSITE ACCESSIBILITY

Chief Sponsor: Wayne A. Harper
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This resolution calls on Congress to review federal public accommodation laws pertaining to website accessibility.

Highlighted Provisions:

This bill:

- urges Congress to review the Americans with Disabilities Act and enact necessary changes to give small and other businesses reasonable time to remedy alleged violations without penalty; and
- urges Congress and the Department of Justice to review federal laws and procedures and develop solutions designed to support small and other businesses.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Americans with Disabilities Act (ADA) was enacted to ensure equal access and opportunities for individuals with disabilities;

WHEREAS, Title III of the Americans with Disabilities Act requires places of public accommodation, including small businesses, be accessible to individuals with disabilities;

WHEREAS, although the ADA has benefitted individuals with disabilities for more than thirty years, federal public accommodation laws do not always accomplish their stated purpose;

WHEREAS, the United States Department of Justice and some courts have interpreted the ADA as requiring public-facing business websites be accessible to individuals with disabilities;

WHEREAS, the current interpretation and enforcement of ADA website accessibility requirements has led to numerous lawsuits against small and other businesses throughout the country, alleging accessibility violations;

WHEREAS, the ADA does not provide businesses an opportunity to correct alleged violations;

WHEREAS, accessibility lawsuits place a financial burden on small and other businesses due

to legal fees and settlement costs, impeding their ability to grow and serve their communities;

WHEREAS, Utah's success as a state and America's success as a nation are dependent on the strength of small businesses;

WHEREAS, roughly 46% of American workers are employed by a small business;

WHEREAS, small businesses annually produce more than $5 trillion in gross domestic product;

WHEREAS, small business owners strive to follow all laws, both state and federal, to the best of their ability; and

WHEREAS, small and other businesses should have a reasonable opportunity to remedy noncompliance before being subject to unduly punitive litigation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges the United States Congress to review the ADA and enact changes designed to give small and other businesses reasonable time to remedy alleged violations before being subject to enforcement action.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly urges the United States Congress and the United States Department of Justice to review federal laws and procedures and develop solutions designed to support small and other businesses.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the members of Utah's congressional delegation.

S. C. R. 6
Passed February 28, 2024
Approved March 13, 2024
Effective February 29, 2024

CONCURRENT RESOLUTION CREATING THE GOLDEN SPIKE STATE MONUMENT

Chief Sponsor: Scott D. Sandall
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This concurrent resolution creates the Golden Spike State Monument.

Highlighted Provisions:

This bill:

- describes the general process for proposing the creation of the Golden Spike State Monument;
- details the benefits of the proposed Golden Spike State Monument for the local communities and the state;
- states that the Golden Spike State Monument shall be included in the state parks system; and
- approves the creation of the Golden Spike State Monument.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah Code Title 79, Chapter 4, Part 12, State Monuments Act, provides a process for the creation of a state monument when a municipality and county determine that a state monument designation within the municipality's and county's jurisdictional boundaries is appropriate;

WHEREAS, Utah Code Title 79, Chapter 4, Section 1206, Designation, provides that the Legislature and the Governor may create a state monument through concurrent resolution;

WHEREAS, representatives of Brigham City and Box Elder County have indicated support for the Golden Spike State Monument by letter;

WHEREAS, Brigham City serves as a gateway for visitors to the Golden Spike National Historical Park in Promontory, Utah;

WHEREAS, Brigham City has purchased a parcel for the proposed monument and has expressed a commitment to maintaining the property for the proposed monument in perpetuity;

WHEREAS, Box Elder County has expressed support for the proposed monument on the property purchased by Brigham City and has expressed a commitment to partner with Brigham City in maintaining the property;

WHEREAS, the Golden Spike State Monument will provide residents and visitors of the state an opportunity to appreciate Utah's history on a parcel that is conveniently located near Interstate 15 and has scenic views of the Wasatch Front and the Bear River Migratory Bird Refuge; and

WHEREAS, the area that is proposed to become the Golden Spike State Monument will feature public art installations, including a 43-foot sculpture of a golden spike, that reflect the cultural and historical importance of the completion of the transcontinental railroad in Utah in 1869:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, approves the creation of the Golden Spike State Monument comprising an eight-acre parcel of real property in Brigham City, in Box Elder County, which parcel is owned jointly by the Golden Spike Foundation and Brigham City and is more specifically described by a map and legal description on file with the Division of State Parks.

BE IT FURTHER RESOLVED that the Golden Spike State Monument is to be managed by Brigham City and Box Elder County, and the Division of State Parks in accordance with the provisions of Utah Code Title 79, Chapter 4, Part 12, State Monuments Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Brigham City, Box Elder County, and the Division of State Parks.

S. J. R. 1
Passed January 18, 2024
Approved January 18, 2024
Effective January 19, 2024

JOINT RESOLUTION REAPPOINTING JOHN Q. CANNON AS DIRECTOR OF THE OFFICE OF LEGISLATIVE RESEARCH AND GENERAL COUNSEL

Chief Sponsor: J. Stuart Adams
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This resolution approves the reappointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel.

Highlighted Provisions:

This bill:

- approves the reappointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel for a six-year term.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, pursuant to Utah Code Section 36-12-7, the Legislative Management Committee has recommended the reappointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel for the Utah Legislature; and

WHEREAS, the appointment of John Q. Cannon in this position for a term of office of six years beginning May 1, 2024, is subject to further approval of a majority vote of both the House of Representatives and the Senate:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the reappointment of John Q. Cannon as director of the Office of Legislative Research and General Counsel be approved for a six-year term of office beginning May 1, 2024.

S. J. R. 3
Passed February 14, 2024
Approved February 14, 2024
Effective February 14, 2024

JOINT RESOLUTION CONCERNING THE SUCCESS SEQUENCE

Chief Sponsor: Lincoln Fillmore
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This resolution acknowledges the value of the Success Sequence for youth and young adults, which emphasizes education, work, and marriage before having children, and encourages the State Board of Education and local education agencies to identify areas to incorporate instruction on the Success Sequence for students in grades 6-12.

Highlighted Provisions:

This bill:

- acknowledges the value of instructing students on the Success Sequence, which emphasizes the importance of education, work, and marriage before having children; and
- encourages the State Board of Education to review the state academic standards and local education agencies to review curricular materials for students in grades 6-12 and identify areas where instruction on the Success Sequence may be incorporated.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah's institutions, leaders, and citizens are committed to the values of industry, education, and family;

WHEREAS, the Success Sequence is a three-pronged framework for youth and young adults that encompasses Utah's values:

(1) completing at least a high school education;

(2) obtaining full-time work; and

(3) marrying before having children;

WHEREAS, the Success Sequence outlines a clear path for youth and young adults to make strategic choices that can lead to personal success and economic stability;

WHEREAS, research from diverse institutions such as The Brookings Institution, American Enterprise Institute, and federal government agencies have consistently found that 97 percent of individuals who followed the Success Sequence did not live in poverty in adulthood;

WHEREAS, the clear and material benefits of following the Success Sequence support the well-being and stability of individuals and families; and

WHEREAS, healthy families and communities are essential to making Utah a place where industry and community can thrive:

NOW, THEREFORE, BE IT RESOLVED that the state of Utah recognizes the importance of incorporating the Success Sequence principles into its policies, programs, and initiatives to foster an environment that encourages and supports individuals to adopt the Success Sequence.

BE IT FURTHER RESOLVED that the state of Utah commits to promoting K-12 and postsecondary education and training opportunities that equip individuals for career advancement and economic self-sufficiency.

BE IT FURTHER RESOLVED that the state of Utah commits to enhancing access to quality employment opportunities, promoting workforce development opportunities, addressing barriers or disincentives to employment, and encouraging entrepreneurship and innovation to support full-time employment and financial stability.

BE IT FURTHER RESOLVED that the state of Utah will promote initiatives that provide resources, education, and support to help individuals build healthy, safe, and sustainable marriages.

BE IT FURTHER RESOLVED that the state of Utah will collaborate with relevant stakeholders, including community organizations, educational institutions, employers, faith-based organizations, and other civic entities to develop and implement strategies that align with the Success Sequence and promote and support its adoption among Utah residents.

BE IT FURTHER RESOLVED that the Legislature encourages the State Board of Education to review its current academic standards for grades 6-12 and determine where the Success Sequence may be incorporated into those standards.

BE IT FURTHER RESOLVED that the Legislature encourages all local education agencies to find opportunities to incorporate the Success Sequence into instructional and curricular materials for students in grades 6-12.

S. J. R. 5
Passed February 29, 2024
Approved February 29, 2024
Effective March 1, 2024

JOINT RESOLUTION CONDEMNING COMMUNISM AND SOCIALISM

Chief Sponsor: Michael S. Kennedy
House Sponsor: Trevor Lee

LONG TITLE

General Description:

This resolution condemns communism and socialism.

Highlighted Provisions:

This bill:

- exalts the principles of the United States Constitution;
- reaffirms the principles of the free market; and
- condemns the destructive nature of socialism and communism in society.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah has a history of upholding the principles of liberty, freedom, and individual rights enshrined in the United States Constitution;

WHEREAS, the Constitution of the United States serves as a beacon of democracy, ensuring the individual rights and freedoms of all citizens, fostering economic freedom, and promoting the general welfare of the American people;

WHEREAS, socialism and communism directly attack and conflict with the ennobling principles of the United States Constitution and the Declaration of Independence;

WHEREAS, the free market system, grounded in principles of supply and demand, private property rights, and voluntary exchange, is a cornerstone of the American economy;

WHEREAS, the free market system is upheld by the individual freedoms of this great nation;

WHEREAS, we confront the enduring and recurring threat of communism to our freedoms and rights;

WHEREAS, socialism and communism, when implemented in Venezuela, Cuba, North Korea, Zimbabwe, and many other once-prosperous countries, have led to catastrophic consequences, stifling individual freedoms, suppressing economic initiative, and resulting in widespread poverty, human suffering, and the killing of over 100,000,000 people worldwide;

WHEREAS, socialism, as a form of government, is characterized by the collective ownership and control of the means of production and distribution, excessive government intervention, central planning, and suppression of personal liberties;

WHEREAS, communism establishes a society where the state controls all aspects of economic and social life, imposes totalitarian regimes resulting in a lack of incentives, and erodes individual rights;

WHEREAS, history has unequivocally shown that individual freedoms, rights, accountability, and democracy cannot coexist with a socialist or communist government; and

WHEREAS, it is imperative to recognize the importance of preserving the principles of the free market, limited government, and individual liberty, which have been instrumental in shaping the prosperity and success of our great nation:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah exalts and celebrates the enduring principles of the United States Constitution, reaffirms our commitment to

the free market system, and condemns the destructive and oppressive nature of socialism and communism.

BE IT FURTHER RESOLVED that the Legislature stands united in our dedication to preserving the liberties and opportunities that have made the United States of America a beacon of hope and prosperity for people around the world, and urges all citizens to remain vigilant in the defense of these cherished principles.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Governor of the state of Utah, the Speaker of the House of Representatives, the President of the Senate, and the members of the Utah Congressional Delegation as an expression of the strong and unwavering commitment of the state of Utah to the principles of freedom, democracy, and the free market.

S. J. R. 6
Passed January 24, 2024
Approved January 24, 2024
Effective January 25, 2024

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Evan J. Vickers
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for Senate and House of Representatives in-session employees for 2024.

Highlighted Provisions:

This bill:

- sets the compensation for Senate and House of Representatives in-session employees for the 2024 annual general session.

Special Clauses:

This resolution provides retrospective operation to the first full pay period after January 1, 2024.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature, acting under authority of Utah Code Section 36-2-2, is required to set the compensation of Senate and House of Representatives in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the individuals employed by the Senate or House of Representatives for the 2024 annual general session for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the "Level 1" scale.

Employees who are working their second annual general session shall be paid under the "Level 2" scale.

Employees who are working their third annual general session shall be paid under the "Level 3" scale.

Employees who are working their fourth annual general session shall be paid under the "Level 4" scale.

Employees who are working their fifth to ninth annual general session shall be paid under the "Level 5" scale.

Employees who are working their 10th to 14th annual general session shall be paid under the "Level 6" scale.

Employees who are working their 15th to 19th annual general session shall be paid under the "Level 7" scale.

Employees who are working their 20th or more annual general session shall be paid under the "Level 8" scale.

The compensation schedule established by this resolution has retrospective operation to the first full pay period after January 1, 2024.

Employee Position	Level 1 Wage	Level 2 Wage	Level 3 Wage	Level 4 Wage	Level 5 Wage	Level 6 Wage	Level 7 Wage	Level 8 Wage
Admin. Asst. to Third House (H)	$20.92	$21.21	$21.45	$21.75	$22.04	$22.33	$22.58	$22.86
Amending Clerk (H-S)	$23.58	$23.97	$24.19	$24.44	$24.71	$24.94	$25.19	$25.49
Assistant Page Supervisor (H-S)	$20.41	$20.68	$20.95	$21.24	$21.49	$21.74	$22.04	$22.30
Asst. Sergeant-at-Arms (H-S)	$20.41	$20.68	$20.95	$21.24	$21.49	$21.74	$22.04	$22.30
Calendar/Voting System Specialist (H)	$20.87	$21.21	$21.50	$21.75	$22.02	$22.33	$22.58	$22.86
Docket Clerk/Legislative Aide (H-S)	$25.64	$25.99	$26.36	$26.71	$27.08	$27.48	$27.84	$28.21
Reading Clerk (S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Kitchen Specialist (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
IT Technician (S)	$23.12	$23.99	$24.33	$24.65	$24.96	$25.28	$25.65	$25.93
Page (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Page Supervisor (H-S)	$23.12	$23.99	$24.33	$24.65	$24.96	$25.28	$25.65	$25.93
Public Information Specialist (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Receptionist (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Receptionist and Legislative Aide (H-S)	$20.92	$21.21	$21.45	$21.61	$22.00	$22.33	$22.58	$22.86
Audio Specialist (H-S)	$19.89	$20.17	$20.43	$20.71	$20.99	$21.22	$21.48	$21.78
Rules Committee Secretary (H-S)	$23.78	$24.08	$24.37	$24.73	$25.03	$25.35	$25.70	$26.00
Security (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Sergeant-at-Arms (H-S)	$23.12	$23.99	$24.33	$24.65	$24.96	$25.28	$25.65	$25.93
Supply/Copy Room Specialist(H)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Tour Liaison (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70
Video Specialist (H-S)	$18.97	$19.19	$19.47	$19.68	$19.96	$20.21	$20.48	$20.70

The compensation schedule established by this resolution has retrospective operation to January 1, 2024.

S. J. R. 7
Passed March 1, 2024
Approved March 1, 2024
Effective March 1, 2024

JOINT RESOLUTION PROMOTING OPPORTUNITIES FOR WOMEN IN STEM

Chief Sponsor: Kathleen A. Riebe
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This resolution recognizes the importance of expanding science, technology, engineering, and math (STEM) opportunities for women.

Highlighted Provisions:

This bill:

- highlights the underrepresentation of women in the STEM workforce; and
- encourages girls and young women in the state to pursue education and careers in STEM occupations.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, throughout history, women have made extensive contributions in the areas of science, technology, engineering, and math (STEM);

WHEREAS, according to a report from the National Science Foundation, the STEM workforce is one of the fastest growing sectors in the economy with a 20% increase in the workforce between 2011 and 2021;

WHEREAS, in 2021, nearly 24% of the United States workforce was employed in STEM occupations;

WHEREAS, despite the overall increase in the STEM workforce, only 18% of women in the United States workforce hold STEM occupations;

WHEREAS, of the STEM workforce in the United States, 35% consists of women, compared to 65% consisting of men;

WHEREAS, according to a report from the Utah Women and Leadership Project, the gender gap in the STEM workforce is much wider in Utah, with only 21% of the STEM workforce consisting of women;

WHEREAS, encouraging girls and young women to pursue higher education in STEM subjects is vital to increasing the number of women employed in the STEM workforce;

WHEREAS, data indicates that gender stereotypes may impact a young woman's aspirations to pursue higher education in STEM subjects; and

WHEREAS, the state can help to close the gender gap in the STEM workforce by dispelling stereotypes and promoting career opportunities for women in STEM occupations:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes the importance of closing the gender gap in the STEM workforce and increasing opportunities for women in STEM occupations.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah encourages girls and young women in Utah to explore STEM subjects, pursue higher education in STEM- related fields, and work towards careers in STEM occupations.

S. J. R. 9
Passed February 20, 2024
Approved February 20, 2024
Effective February 20, 2024

JOINT RESOLUTION HONORING UTAH'S NATIVE HAWAIIAN AND PACIFIC ISLANDER CULTURES AND COMMUNITIES

Chief Sponsor: Karen Kwan
House Sponsor: Tyler Clancy

LONG TITLE

General Description:

This resolution honors Utah's Native Hawaiian and Pacific Islander cultures and communities.

Highlighted Provisions:

This bill:

- recognizes the contributions of Utah's Native Hawaiian and Pacific Islander communities to the prosperity of the state; and
- encourages residents of the state to participate in events fostering an appreciation of Utah's Native Hawaiian and Pacific Islander communities.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah is home to over 59,000 residents of Native Hawaiian or Pacific Islander descent, making Utah the state within the continental United States with the largest Native Hawaiian and Pacific Islander communities in proportion to the total state population;

WHEREAS, Utah's Native Hawaiian and Pacific Islander communities have ancestral ties to over 20 island societies across Melanesia, Micronesia, and Polynesia;

WHEREAS, Utah's Native Hawaiian and Pacific Islander communities have played a pivotal role in shaping the state's cultural landscape beginning in the 1870s, when Native Hawaiian and Pacific Islander residents first migrated to the Salt Lake

Valley, established agricultural enterprises, and supported the building of the Church of Jesus Christ of Latter-day Saints Temple;

WHEREAS, members of Utah's Native Hawaiian and Pacific Islander communities have achieved excellence in numerous professional, academic, and public arenas, holding leadership positions in state and local governments, educational systems, the broadcast media industry, the transportation industry, the legal field, as well as many other notable achievements;

WHEREAS, the ongoing contributions of Utah's Native Hawaiian and Pacific Islander communities continue to enhance the state's prosperity through economic development, civic engagement, education, health care, and the advancement of arts, culture, and sports;

WHEREAS, the protective social factors and strong family values modeled by the members of Utah's Native Hawaiian and Pacific Islander communities imprint positive influences on Utah's society as a whole;

WHEREAS, younger generations of Utah's Native Hawaiian and Pacific Islander communities shape the future of the state through advancements and involvement in academia, entrepreneurship, innovation, and community development;

WHEREAS, longstanding annual events celebrating Utah's Native Hawaiian and Pacific Islander cultures, including the Iosepa Memorial Celebration, the Friendly Islands Tongan Festival, Samoan Heritage Festival, Liberation and Independence Days throughout Micronesia, and the Pacific Islander Heritage Month, serve as important venues to share and preserve the values, traditions, and talents of the state's Native Hawaiian and Pacific Islander communities; and

WHEREAS, embracing Utah's cultural diversity, including the state's Native Hawaiian and Pacific Islander communities, fosters unity, understanding, and mutual respect among all residents in the state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes and celebrates the rich and diverse cultures represented by Utah's Native Hawaiian and Pacific Islander communities.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah pays tribute to Utah's Native Hawaiian and Pacific Islander communities for a legacy of lasting contributions across all sectors in the state.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah encourages educational institutions, community organizations, and the residents of the state to participate in events and activities that promote an understanding and appreciation of Utah's Native Hawaiian and Pacific Islander communities.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah is committed to cultivating productive relationships with the leaders of Utah's Native Hawaiian and Pacific Islander communities in order to address the needs of the communities.

S. J. R. 10
Passed February 27, 2024
Approved February 27, 2024
Effective February 28, 2024

JOINT RESOLUTION DISSOLVING RICHMOND CITY JUSTICE COURT

Chief Sponsor: Chris H. Wilson
House Sponsor: Michael J. Petersen

LONG TITLE

General Description:

This resolution approves the dissolution of the Richmond City Justice Court.

Highlighted Provisions:

This bill:

- approves the dissolution of the Richmond City Justice Court.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Richmond City has had a justice court for many years;

WHEREAS, Richmond City has determined that it is no longer feasible for Richmond City to operate a justice court;

WHEREAS, with the dissolution of the Richmond City Justice Court, the caseload of the Richmond City Justice Court will fall upon the First District Court in Cache County;

WHEREAS, the Richmond City Council has given notice to the Utah Judicial Council of the Richmond City Council's intent to dissolve the Richmond City Justice Court and requested an effective date of no later than April 1, 2024; and

WHEREAS, Section 78A-7-123 requires the Legislature to approve by joint resolution the dissolution of a justice court:

NOW, THEREFORE, BE IT RESOLVED that the Legislature approves the dissolution of the Richmond City Justice Court.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah Judicial Council and Richmond City.

BE IT FURTHER RESOLVED that this resolution takes effect upon approval by a constitutional majority vote of all members of the House of Representatives and the Senate.

S. J. R. 11
Passed February 6, 2024
Approved February 6, 2024
Effective February 7, 2024

JOINT RESOLUTION RECOGNIZING THE 50TH ANNIVERSARY OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES

Chief Sponsor: Wayne A. Harper
House Sponsor: Jon Hawkins
Cosponsor:
Ann Millner

LONG TITLE

General Description:

This resolution recognizes the 50th anniversary of the National Conference of State Legislatures.

Highlighted Provisions:

This bill:

- highlights the history and significant contributions of the National Conference of State Legislatures.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the National Conference of State Legislatures (NCSL) was founded in 1975 and has evolved during the past half- century to become the premier organization solely dedicated to serving state and territorial legislators and legislative staff;

WHEREAS, NCSL was created from the merger of three organizations that served or represented state legislatures and that shared the belief that legislative service is one of democracy's worthiest pursuits;

WHEREAS, NCSL is a bipartisan organization with three objectives: to advance the effectiveness, independence, and integrity of state legislatures; to foster interstate communication and cooperation; and to ensure states a strong, cohesive voice in the federal system;

WHEREAS, our nation's state legislatures are America's laboratories of democracy and have continually shown that they are the bodies to tackle emerging challenges;

WHEREAS, state legislatures are where people from very different backgrounds, representing very different communities, can come together and find common ground;

WHEREAS, NCSL has facilitated the exchange of ideas, provided critical research and information, and encouraged a rigorous review of complex issues confronting our communities, states, and nation; and

WHEREAS, NCSL strives to strengthen the bonds between America's state legislatures and the international community:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes and commends NCSL for its exceptional leadership and commitment to the legislative institution.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to NCSL.

S. J. R. 12
Passed February 9, 2024
Approved February 9, 2024
Effective February 12, 2024

JOINT RESOLUTION SUPPORTING A NATIONAL HOCKEY LEAGUE FRANCHISE IN UTAH

Chief Sponsor: Daniel McCay
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This resolution recognizes Utah as an incredible state for sports and entertainment and supports efforts to bring a National Hockey League franchise to Utah.

Highlighted Provisions:

This bill:

- recognizes that Utah is the fastest growing state, has the strongest economy in the United States, and is consistently ranked among the top three states to live and work in;
- recognizes the plethora of year- round attractions and amenities Utah has to offer locals and visitors to the state alike;
- recognizes the world- wide reputation Utah has for hosting historically successful sports and entertainment events such as the 2002 Olympic and Paralympic Winter Games and the 2023 NBA All- Star Game;
- recognizes that Utah is the ideal place for a National Hockey League franchise;
- recognizes that there is a great hockey legacy in Utah with the history of professional ice hockey in the state dating back to 1969;
- recognizes that Utah offers an abundance of amazing locations where a state- of- the- art hockey- specific arena can be constructed;
- recognizes the deep and successful history of professional sports teams and events in Utah, and the strong community support for those teams and events;
- recognizes the many benefits and opportunities that a National Hockey League franchise would provide to the state and its residents; and
- expresses strong support from the Legislature and the Governor to bring the National Hockey League to the great state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah's strong economy, growing population, and rich sports history makes it uniquely prepared to become home to a National Hockey League (NHL) franchise;

WHEREAS, reputable, third-party authorities consistently rank Utah highly for its fiscal stability and job growth;

WHEREAS, in April 2023, the U.S. News and World Report ranked Utah as the best state in the United States and the state with the best economy;

WHEREAS, in January 2024, WalletHub named Utah the best state in which to start a business;

WHEREAS, in January 2024, Archbridge Institute called Utah the best environment for social mobility;

WHEREAS, over the past decade, Utah has consistently been one of the fastest growing states in terms of population and economic outlook;

WHEREAS, Utah has an extensive and rich sports history;

WHEREAS, currently, three leagues have successful franchises in Utah: the Utah Jazz of the National Basketball Association (NBA), Real Salt Lake of Major League Soccer (MLS), and the Utah Royals of the National Women's Soccer League (NWSL);

WHEREAS, Utah is home to the longest-running and largest youth basketball program in the NBA, the Utah Jazz's Junior Jazz, with approximately 60,000 annual participants and more than 2 million participants since its inception in 1983;

WHEREAS, Utah's sports legacy includes amazing scholar-athletes in major collegiate athletic conferences, including the Big XII, PAC 12, Mountain West Conference, and Western Athletic Conference;

WHEREAS, the world has continually been impressed with Utah when people from across the globe flock to the state for events such as the Salt Lake 2002 Olympic and Paralympic Winter Games, the 1993 and 2023 NBA All-Star Games, and Ultimate Fighting Championship 278 and Ultimate Fighting Championship 291;

WHEREAS, the vibrant sports infrastructure maintained throughout the state by the Utah Olympic Legacy Foundation, the Utah Sports Commission, and others would be dramatically enhanced by a new, state-of-the[–]-art hockey arena;

WHEREAS, Utah is preparing to again host the world as the presumptive host of the 2034 Winter Olympic Games, including what are sure to be epic hockey contests;

WHEREAS, five national parks, 11 world-class ski resorts, and some of the best outdoor attractions on earth, including the "Greatest Snow on Earth" can be found in Utah;

WHEREAS, Utah is the most family-friendly state with the youngest population, and hockey in Utah has seen youth participation increase 17% in the past 10 years;

WHEREAS, despite having the 29th biggest media market in the country, Utah is consistently in the top three for NBA local television ratings;

WHEREAS, Utah would create an amazing new destination for an NHL franchise, as it is directly in line with the travel paths of many other NHL cities;

WHEREAS, the Delta Center, one of the most vibrant sports arenas in the United States, is immediately available to serve as an interim host arena for an NHL franchise;

WHEREAS, Utah offers an abundance of desirable locations where a state-of-the-art, hockey-specific arena can be constructed in the coming years, sparking an influx of jobs and a massive economic impact for Utah and its residents;

WHEREAS, having an NHL franchise and corresponding arena would ensure the long-term vitality and legacy of Utah, and create a plethora of benefits now and for future generations of Utahns;

WHEREAS, Utah has a great hockey legacy, dating back to 1969 with the debut of the Salt Lake Golden Eagles of the Western Hockey League;

WHEREAS, the Salt Lake Golden Eagles operated for 25 years, winning two regular season titles, three division titles, and two Turner Cups;

WHEREAS, in 1995, professional hockey returned to Utah, when the Denver Grizzlies of the International Hockey League became the Utah Grizzlies;

WHEREAS, the Utah Grizzlies won the Turner Cup in its inaugural season in Utah;

WHEREAS, today, the Utah Grizzlies continue to boast an avid fan base as a part of the East Coast Hockey League (ECHL), and is an affiliate team of the NHL's Colorado Avalanche;

WHEREAS, Utah has loyal and passionate fans who are wildly supportive of local sports teams, giving strong home-court and home-field advantage to the Utah Jazz, Real Salt Lake, Utah Royals, Salt Lake City Stars, Real Monarchs, and other professional and college sports teams;

WHEREAS, the Smith Entertainment Group led by Ryan and Ashley Smith brings unparalleled passion, dedication, and expertise for bringing the NHL to Utah;

WHEREAS, the Smith Entertainment Group is well positioned to continue to invest in Utah as a major sports and entertainment destination due to their experience owning and managing three professional sports franchises in Utah;

WHEREAS, sports have the unique power to bring people from all different backgrounds together;

WHEREAS, Utah is the most giving state in the country, and Utahns are committed to giving back to their community by making deep investments to support each other and people around the world through a variety of philanthropic endeavors;

WHEREAS, countless individuals, companies, and organizations have expressed their enthusiasm and support for an NHL franchise in Utah;

WHEREAS, a new, state-of-the-art hockey arena will be activated year-round, providing another home to professional hockey, as well as concerts, events, conferences, and other sports, entertainment, education, and cultural activities; and

WHEREAS, an NHL franchise in Utah would be a strong and welcome economic, educational, and cultural benefit to the entire state:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports the efforts of Smith Entertainment Group in the pursuit of bringing the National Hockey League to the great state of Utah.

BE IT FURTHER RESOLVED that the Legislature supports the Smith Entertainment Group's efforts, knowing "you miss 100% of the shots you don't take."

S. J. R. 13
Passed February 20, 2024
Approved February 20, 2024
Effective February 20, 2024

JOINT RESOLUTION EXPRESSING FRIENDSHIP AND SUPPORT FOR TAIWAN

Chief Sponsor: Jerry W Stevenson
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This resolution expresses support for the continued friendship between Utah and Taiwan.

Highlighted Provisions:

This bill:

- highlights the long-standing friendship between Utah and Taiwan;
- supports a continuation of the Utah and Taiwan friendship;
- supports deepening the religious, economic, educational, and cultural partnership between Utah and Taiwan; and
- encourages global organizations to admit Taiwan into their membership.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah has developed a strong relationship with Taiwan based on shared values including a commitment to religious freedom, democracy, human rights, the rule of law, and a free market economy;

WHEREAS, this relationship began in 1956 when the Church of Jesus Christ of Latter-day Saints, which is headquartered in Utah, dispatched the first four missionaries as a friendly exchange between the Taiwanese people and Utahns;

WHEREAS, by 2024, more than 43,000 Latter-day Saint missionaries have served in Taiwan;

WHEREAS, in 1980, Utah and Taiwan established a formal sister-state relationship, deepening the cultural exchanges between Utah and Taiwan;

WHEREAS, today, approximately 1,200 foreign-born Taiwanese people live and work in Utah, lending their support to Utah communities;

WHEREAS, Taiwan is Utah's fifth-largest trading partner and sixth-largest export destination, with Utah exporting more than $650 million in goods to Taiwan in 2020, including electronics, food, chemicals, and machinery;

WHEREAS, Taiwan is the first country to enter into the Driver License Reciprocity Agreement with Utah;

WHEREAS, because of the Driver License Reciprocity Agreement, people with a driver license from Utah can now drive when visiting Taiwan and people with a driver license from Taiwan can drive when visiting Utah;

WHEREAS, the Driver License Reciprocity Agreement will benefit both Utah and Taiwan, resulting in a stronger relationship, politically and economically, while increasing the ease of foreign citizens doing business in Utah;

WHEREAS, during the 2020 General Session, the Legislature passed a law incentivizing public universities to work with industry leaders, in creating multi-disciplinary programs;

WHEREAS, these multi-disciplinary programs prepare the workforce for scientific discoveries and engineering innovations;

WHEREAS, Taiwan's participation in these programs mutually benefit the people of Utah and Taiwan;

WHEREAS, Taiwan's participation and contributions in international organizations and agreements such as the bilateral trade agreement between the United States and Taiwan, the Indo-Pacific Economic Framework for Prosperity, the World Health Assembly, the International Civil Aviation Organization, and other organizations greatly benefit Utahns and all Americans; and

WHEREAS, 2024 marks the 45th anniversary of the Taiwan Relations Act, a foundation upon which the United States and particularly Utah, has maintained and strengthened its economic and cultural ties with Taiwan:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports strengthening the existing friendship with Taiwan on religious, economic, and cultural grounds.

BE IT FURTHER RESOLVED that the Legislature emphasizes the importance of the collaborative relationship between the United

States, Utah, and Taiwan in the technology sector, higher education, and elsewhere.

BE IT FURTHER RESOLVED that the Legislature encourages Utah's federal delegation to continue strengthening Utah and the United States' relationship with Taiwan, and continue supporting Taiwan's meaningful participation in international organizations and agreements.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Utah congressional delegation and the Taipei Economic Cultural Office in San Francisco.

S. J. R. 14
Passed February 23, 2024
Approved February 23, 2024
Effective February 23, 2024

JOINT RESOLUTION HONORING THE 125TH ANNIVERSARY OF THE DIVISION OF ARTS AND MUSEUMS

Chief Sponsor: Karen Kwan
House Sponsor: Thomas W. Peterson

LONG TITLE

General Description:

This resolution declares February 2024 as "Utah Division of Arts and Museums Month" in Utah.

Highlighted Provisions:

This bill:

- recognizes the 125th anniversary of the Division of Arts and Museums;
- recognizes the cultural and economic impact of the Division of Arts and Museums; and
- declares February 2024 as "Utah Division of Arts and Museums Month" in Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Utah Division of Arts and Museums was founded in 1899 by Utah State Representative Alice Merrill Horne;

WHEREAS, the Utah Division of Arts and Museums is the longest-running state arts agency in the nation;

WHEREAS, arts and museums inspire and connect people and communities across the great state of Utah, encouraging a vibrant and culturally engaged state;

WHEREAS, participation in arts, museums, and other cultural activities foster skills necessary for solving 21st-century challenges, including creative problem-solving, cultural awareness, and communication skills;

WHEREAS, Utah's cultural industry output contributes $14.7 billion annually to the state's economy, and is ranked third in the nation for total art and cultural value added to state economies;

WHEREAS, Utah is ranked first in the nation for art creation, and third in the nation for cultural participation among adults;

WHEREAS, arts and culture drives commerce to local businesses;

WHEREAS, on average, attendees to cultural events in Utah spend nearly $40 per person, per event, not including the cost of admission;

WHEREAS, the money spent at cultural events represents vital income for local merchants and a value-add with which few industries can compete;

WHEREAS, a vibrant arts and culture community keeps local residents and their discretionary dollars in the community;

WHEREAS, arts and museums enhance and enrich the lives of all Utah residents; and

WHEREAS, the Utah Division of Arts and Museums has served to support and help build the creative infrastructure that has served all the residents of Utah since 1899:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah declares February 2024 "Utah Division of Arts and Museums Month" in Utah.

BE IT FURTHER RESOLVED that the Legislature urges all Utahns to connect and engage with the arts and museums in their communities.

S. J. R. 15
Passed March 1, 2024
Approved March 1, 2024
Effective March 1, 2024

JOINT RULES RESOLUTION - HIGHER EDUCATION OPERATION AND MAINTENANCE COSTS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This resolution addresses the operation and maintenance costs of higher education capital development projects.

Highlighted Provisions:

This bill:

- requires the Executive Appropriations Committee to:
  - hear a report on construction inflation and the operation and maintenance costs of certain higher education capital development projects; and
  - decide whether to address any operation and maintenance costs of the capital development projects; and
- makes technical and conforming changes.

Special Clauses:
None

Legislative Rules Affected:

AMENDS:
JR3-2-402,

Be it resolved by the Legislature of the state of Utah:

Section 1. Section JR3-2-402 is amended to read:

JR3-2-402. Executive appropriations -- Duties -- Base budgets.

(1)(a) The Executive Appropriations Committee shall meet no later than the third Wednesday in December to:

(i) direct staff as to what revenue estimate to use in preparing budget recommendations, to include a forecast for federal fund receipts;

(ii) consider treating above-trend revenue growth as one-time revenue for major tax types and for federal funds;

(iii) hear a report on the historical, current, and anticipated status of the following:

(A) debt;

(B) long term liabilities;

(C) contingent liabilities;

(D) General Fund borrowing;

(E) reserves;

(F) fund balances;

(G) nonlapsing appropriation balances;

(H) cash funded infrastructure investment; and

(I) changes in federal funds paid to the state;

(iv) hear a report on:

(A) the next fiscal year base budget appropriation for Medicaid accountable care organizations according to Utah Code Section [~~26-18-405.5~~] 26B-3-203;

(B) an explanation of program funding needs;

(C) estimates of overall medical inflation in the state; and

(D) mandated program changes and their estimated cost impact on Medicaid accountable care organizations;

(v) decide whether to set aside special allocations for the end of the session, including allocations:

(A) to address any anticipated reduction in the amount of federal funds paid to the state; and

(B) of one-time revenue to pay down debt and other liabilities;

(vi)(A) hear a report on construction inflation and the ongoing operation and maintenance costs of any capital development project requested by an institution under Utah Code Section 53B-2a-117 or 53B-22-204; and

(B) in response to the report described in Subsection (1)(a)(vi)(A), decide whether to adjust the next fiscal year base budget or set aside special allocations for the end of the session;

[~~(vi)~~](vii) decide whether to set aside special allocations for legislation that will reduce taxes, including legislation that will reduce one or more tax rates;

[~~(vii)~~](viii) subject to Subsection (1)(c), unless waived by majority vote, if the amortization rate as defined in Utah Code Section 49-11-102 for the new fiscal year is less than the amortization rate for the preceding fiscal year, set aside an amount equal to the value of the reduction in the amortization rate;

[~~(viii)~~](ix) approve the appropriate amount for each subcommittee to use in preparing its budget;

[~~(ix)~~](x) set a budget figure; and

[~~(x)~~](xi) adopt a base budget in accordance with Subsection (1)(b) and direct the legislative fiscal analyst to prepare one or more appropriations acts appropriating one or more base budgets for the next fiscal year.

(b) In a base budget adopted under Subsection (1)(a), the Executive Appropriations Committee shall set appropriations from the General Fund, the Income Tax Fund, and the Uniform School Fund as follows:

(i) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are equal to or greater than the current fiscal year ongoing appropriations, the new fiscal year base budget is not changed;

(ii) if the next fiscal year ongoing revenue estimates set under Subsection (1)(a)(i) are less than the current fiscal year ongoing appropriations, the new fiscal year base budget is reduced by the same percentage that projected next fiscal year ongoing revenue estimates are lower than the total of current fiscal year ongoing appropriations;

(iii) in making a reduction under Subsection (1)(b)(ii), appropriated debt service shall not be reduced, and other ongoing appropriations shall be reduced, in an amount sufficient to make the total ongoing appropriations, including the unadjusted debt service, equal to the percentage calculated under Subsection (1)(b)(ii); and

(iv) the new fiscal year base budget shall include an appropriation to the Department of Health for Medicaid accountable care organizations in the amount required by Utah Code Section [~~26-18-405.5~~]26B-3-203.

(c)(i) The Executive Appropriations Committee shall:

(A) comply with the set aside requirement described in Subsection (1)(a)(vii) using money from the General Fund, Income Tax Fund, and Uniform School Fund;

(B) accumulate money set aside under Subsection (1)(a)(vii) across fiscal years; and

(C) when the total amount set aside under Subsection (1)(a)(vii), including any amount to be set aside in the new fiscal year, equals or exceeds the cost of a 0.50% increase in benefited state employee salaries for the new fiscal year, include in the base budget an increase in benefited state employee salaries equal to the total set aside amount.

(ii) The Executive Appropriations Committee may waive or modify a requirement described in Subsection (1)(c)(i) by majority vote.

(d) The chairs of each joint appropriations subcommittee are invited to attend this meeting.

(2) All proposed budget items shall be submitted to one of the subcommittees named in JR3-2-302 for consideration and recommendation.

(3)(a) After receiving and reviewing subcommittee reports, the Executive Appropriations Committee may refer the report back to a joint appropriations subcommittee with any guidelines the Executive Appropriations Committee considers necessary to assist the subcommittee in producing a balanced budget.

(b) The subcommittee shall meet to review the new guidelines and report the adjustments to the chairs of the Executive Appropriations Committee as soon as possible.

(4)(a) After receiving the reports, the Executive Appropriations Committee chairs will report them to the Executive Appropriations Committee.

(b) The Executive Appropriations Committee shall:

(i) make any further adjustments necessary to balance the budget; and

(ii) complete all decisions necessary to draft the final appropriations bills no later than the last Friday before the 45th day of the annual general session.

Section 2. Effective date.

This resolution takes effect upon a successful vote for final passage.

S. J. R. 16
Passed March 1, 2024
Approved March 1, 2024
Effective March 1, 2024

JOINT RESOLUTION REGARDING LOCAL GOVERNMENT EMPLOYEE COMPENSATION

Chief Sponsor: Lincoln Fillmore
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This resolution encourages counties, cities, towns, and metro townships to increase benefited employee salaries with certain savings.

Highlighted Provisions:

This bill:

- encourages setting aside any savings from each reduction in the amortization rate and, when the total set aside money reaches a specified threshold, include the amount in the base budget as an increase to benefited employee salaries.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, when the Legislature created the Tier II retirement system, the Legislature contemplated future cost savings from the retirement benefit system to be provided for employee salary enhancements;

WHEREAS, during, the 2023 General Session, the Legislature passed S.J.R. 5, Joint Rules Resolution - Budgeting Changes to State Retirement Contributions;

WHEREAS, the resolution provided that if the retirement plan amortization rate as defined in Utah Code Section 49-11-102 for the new fiscal year is less than the amortization rate for the preceding fiscal year, the Legislature would presumptively set aside an amount equal to the value of the reduction in the amortization rate;

WHEREAS, the resolution provided that when the total amount set aside, including any amount set aside in the new fiscal year, equals or exceeds the cost of a 0.50% increase in benefited state employee salaries for the new fiscal year, the set aside amount would be included in the base budget as an increase in benefited state employee salaries equal to the total set aside amount; and

WHEREAS, identifying cost savings benefiting employees can contribute to long-term responsible monetary policy:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah encourages counties, cities, towns, and metro townships in the state to consider setting aside any savings from each reduction in the amortization rate and, when the total set aside money reaches a specified threshold, include the amount in the base budget as an increase to benefited local government employee salaries.

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

The Governor vetoed 2 line items in H.B. 2.
See page 5515 for the Governor's letter that explains the vetoed line.
See Chapter 487, page 4794, for complete text.

The Governor vetoed many line items in S.B. 3.
See page 5517 For the Governor's letter that explains the vetoed lines.
See Chapter 488, page 4997, for complete text.

H.B. 152, H.B. 239, H.B. 412, S.B. 244, S.B. 274, H.B. 144, and S.B. 190, were all vetoed by the Governor. H.B. 78, and S.B. 266 became law without the Governor's signature. See Chapters 539 and 540, and pages 3677, 3682, and 3656, for complete text. See the letters outlining the vetoes on pages 3904 - 3938.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 21, 2024

The Honorable Mike Schultz
Speaker of the House

and

The Honorable J. Stuart Adams
President of the Senate

Dear Speaker Schultz and President Adams,

This letter serves to inform you that on March 21, 2024, I signed House Bill 2, *New Fiscal Year Supplemental Appropriations Act,* from the 2024 General Legislative Session, with the following line item vetoes:

- Item 3, lines 90-93. This item of appropriation included a one-time General Fund reduction to a line item that currently does not have any General Fund appropriations in Fiscal Year 2025. It appears the intent was to reduce nonlapsing balances carried over from prior year appropriations. The Legislature will be able to reduce the line item's nonlapsing balances in a 2025 General Session appropriations bill.
- Item 49, lines 865-870. This item of appropriation provided intent language that would have been used to fund provisions in Senate Bill 176, *Child Care Services Amendments*. Senate Bill 176 did not pass.

Sincerely,

Spencer J. Cox
Governor

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 21, 2024

The Honorable Mike Schultz
Speaker of the House

and

The Honorable J. Stuart Adams
President of the Senate

Dear Speaker Schultz and President Adams,

This letter serves to inform you that on March 21, 2024, I signed House Bill 3, Appropriations Adjustments, from the 2024 General Legislative Session, with the following line item vetoes:

- Item 33, lines 400-405. Senate Bill 275, *Medical Preauthorization Amendments*, did not pass.
- Item 185, lines 1615-1621. House Bill 152, *Residential Construction amendments,* was vetoed.
- Item 201, lines 1720-1726. Senate Bill 251, *Life Coaching Requirements*, did not pass.
- Item 221, lines 1934-1940. Senate Bill 275, *Medical Preauthorization Amendments*, did not pass.
- Item 272, lines 2466-2472. This appropriation to implement Senate Bill 267, *Respite Care Amendments*, was duplicative because Senate Bill 267 carried its own appropriation.
- Item 336, lines 2982-2988. House Joint Resolution 30, *Joint Rules Resolution - Interim Subcommittee Amendments*, did not pass.
- Item 342, lines 3021-3027. House Joint Resolution 30, *Joint Rules Resolution - Interim Subcommittee Amendments*, did not pass.

Sincerely,

Spencer J. Cox
Governor

H. B. 144
Passed February 23, 2024
Approved
Effective

VEHICLE ACCIDENT LIABILITY AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill clarifies that a vehicle operator intending to turn left is not required to yield the right-of-way to a vehicle operator approaching from the opposite direction that fails to stop when required by a stop sign or steady red signal.

Highlighted Provisions:

This bill:

- clarifies that a vehicle operator intending to turn left is not required to yield the right-of-way to a vehicle operator approaching from the opposite direction that fails to stop when required by a stop sign or steady red signal at the intersection; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-903, as last amended by Laws of Utah 2015, Chapter 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-903 is amended to read:

41-6a-903. Yield right-of-way -- Vehicle turning left -- Entering or crossing highway other than from another roadway -- Merging lanes.

(1) The operator of a vehicle:

(a) except as provided in Subsection (2), intending to turn to the left shall yield the right-of-way to any vehicle operator approaching from the opposite direction which is so close to the turning vehicle operator as to constitute an immediate hazard;

(b) about to enter or cross a highway from any place other than another highway shall yield the right-of-way to all [~~vehicles~~]vehicle operators approaching on the highway to be entered or crossed; and

(c) traveling in a lane that is about to merge into a continuing lane, shall yield the right-of-way to all [~~vehicles~~]vehicle operators traveling in the continuing lane and which are so close as to be an immediate hazard.

(2) The operator of a vehicle intending to turn to the left at an intersection is not required to yield the right-of-way to a vehicle operator approaching from the opposite direction if the vehicle operator approaching from the opposite direction fails to stop when required to stop by a stop sign or steady red signal at that intersection.

[~~(2)~~](3) A violation of Subsection (1) is an infraction.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

H. B. 152
Passed February 20, 2024
Approved
Effective

RESIDENTIAL CONSTRUCTION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill requires the Division of Professional Licensing to provide certain sample contracts.

Highlighted Provisions:

This bill:

- requires that the Division of Professional Licensing provide one or more sample contracts for use in both new residential construction and residential remodels.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58- 55- 107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58- 55- 107 is enacted to read:

58- 55- 107. Sample contracts for new construction and remodels.

The Division of Professional Licensing shall draft and make publicly available one or more sample contracts for use in new residential construction and residential remodels.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

H. B. 239
Passed February 15, 2024
Approved
Effective

STATE EMPLOYEE CYBERSECURITY TRAINING REQUIREMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill provides for a state cybersecurity awareness training program for all state executive branch employees.

Highlighted Provisions:

This bill:

- requires the Division of Technology Services to create a yearly cybersecurity training course; and
- requires all state executive branch employees to complete the cybersecurity training course once a year.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
67-27-105, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-27-105 is enacted to read:

67-27-105. Required cybersecurity training.

(1)(a) The Division of Technology Services shall institute, develop, conduct, and otherwise provide for a cybersecurity training program for all employees of the state executive branch.

(b) A state executive branch employee that is not issued a computer, tablet, or cell phone, and has no access to state systems as part of the state executive branch employee's employment, is not required to participate in the cybersecurity training program described in Subsection (1).

(2) The Division of Technology Services shall design the cybersecurity training program to provide instruction regarding:

(a) secure computing practices;

(b) recognizing and responding to potential cyber threats;

(c) protecting sensitive data and information;

(d) password management and multi-factor authentication;

(e) appropriate use of technology resources; and

(f) any other matter the Division of Technology Services determines should be included in the training program.

(3) All state executive branch employees shall be required to complete the cybersecurity training program described in Subsection (1):

(a) within 30 days after beginning employment; and

(b) at least once in each calendar year.

(4) Each state agency shall be responsible for monitoring and verifying completion of cybersecurity training by their employees.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

H. B. 412
Passed March 1, 2024
Approved
Effective

LEGISLATIVE AUDITOR GENERAL AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions related to legislative oversight of government entities.

Highlighted Provisions:

This bill:

- requires a copy of a report to be provided to the Office of the Legislative Auditor General;
- amends the requirements for an agency to conduct a self-assessment as part of the legislative budget review process; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-903, as last amended by Laws of Utah 2023, Chapters 24, 409

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-903 is amended to read:

63J-1-903. Performance measure and funding item reporting.

(1) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may develop an information system to collect, track, and publish agency performance measures.

(2) Each executive department agency shall:

(a) in consultation with the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, develop performance measures to include in an appropriations act for each fiscal year; and

(b) on or before August 15 of each calendar year, provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures or targets; and

(ii) a report of the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(3) Each judicial department agency shall:

(a) develop performance measures to include in an appropriations act for each fiscal year; and

(b) annually submit to the Office of the Legislative Fiscal Analyst a report that contains:

(i) any recommendations for legislative changes for the next fiscal year to the agency's previously adopted performance measures; and

(ii) the final status of the agency's performance measures included in the appropriations act for the fiscal year ending the previous June 30.

(4) Within 21 days after the day on which the Legislature adjourns a legislative session sine die, the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall:

(a) create a list of funding items passed during the legislative session;

(b) from the list described in Subsection (4)(a), identify in a sublist each funding item that increases state funding by $500,000 or more from state funds; and

(c) provide the lists described in this subsection to each executive department agency and the Office of the Legislative Auditor General.

(5) Each executive department agency shall provide to the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst:

(a) for each funding item on the list described in Subsection (4)(b), within 60 days after the day on which the Legislature adjourns a legislative session sine die:

(i) one or more proposed performance measures; and

(ii) a target for each performance measure described in Subsection (5)(a)(i); and

(b) for each funding item on the list described in Subsection (4)(a), on or before August 15 of each year after the close of the fiscal year in which the funding item was first funded, a report that includes:

(i) the status of each performance measure relative to the measure's target as described in Subsection (5)(a), if applicable;

(ii) the actual amount the agency spent, if any, on the funding item; and

(iii)(A) the month and year in which the agency implemented the program or project associated with the funding item; or

(B) if the program or project associated with the funding item is not fully implemented, the month and year in which the agency anticipates fully implementing the program or project associated with the funding item.

(6)(a) After an executive department agency provides proposed performance measures in accordance with Subsection (5)(a), the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst shall review the

proposed performance measures and, if necessary, coordinate with the executive department agency to modify and finalize the performance measures.

(b) The Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the executive department agency shall finalize each proposed performance measure before July 1.

(7) The Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst may jointly request that an executive department agency provide the report required under Subsection (5)(b) in a different fiscal year than the fiscal year in which the funding item was first funded or in multiple fiscal years.

(8) The Governor's Office of Planning and Budget shall:

(a) review at least 20% of the performance measures described in Subsection (2) annually; and

(b) ensure that the Governor's Office of Planning and Budget reviews each performance measure described in Subsection (2) at least once every five years.

(9) The Office of the Legislative Fiscal Analyst shall review the performance measures described in Subsection (2) on a schedule that aligns with the appropriations subcommittee's applicable accountable budget process described in legislative rule.

(10)(a) The Office of the Legislative Fiscal Analyst shall report the relevant performance measure information described in this section to the Executive Appropriations Committee and the appropriations subcommittees, as appropriate.

(b) The Governor's Office of Planning and Budget shall report the relevant performance measure information described in this section to the governor.

(11) Each executive department agency, when the agency's budget is subject to a legislative appropriations subcommittee's accountable budget process, shall:

(a) conduct a thorough evaluation of the agency's performance measures, internal budget process, [~~and budget controls; and~~]budget controls, organization, and adherence to best practices through the self- assessment tools developed by the Office of the Legislative Auditor General; and

(b) submit the results of the evaluation to the legislative appropriations subcommittee and the Office of the Legislative Auditor General.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

S. B. 190
Passed March 1, 2024
Approved
Effective

HIGHER EDUCATION DEVELOPMENT AREAS STUDY

Chief Sponsor: Chris H. Wilson
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill requires the Political Subdivisions Interim Committee to study issues relating to a university's development of university-owned property.

Highlighted Provisions:

This bill:

- requires the Political Subdivisions Interim Committee to study development agreements relating to the development of university-owned property; and
- establishes the study items to be included in the study.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

36-12-5.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-5.5 is enacted to read:

36-12-5.5. Political Subdivisions Interim Committee study on the development of university-owned property.

(1) As used in this section, "university" means an institution of higher education listed in Subsection 53B-1-102(1)(a).

(2) During the 2024 interim, the Political Subdivisions Interim Committee shall study development agreements relating to the development of university-owned property.

(3) The study under Subsection (2) shall address:

(a) the conditions under which a university may, consistent with current law, enter into a development agreement with a private person for the development of university-owned property;

(b) how counties, municipalities, special districts, special service districts, and other political subdivisions of the state would be impacted by a university entering into a development agreement with a private person for the development of university-owned property;

(c) whether a privilege tax should apply to buildings and other improvements constructed on university-owned property;

(d)(i) if a privilege tax does not apply, how the revenue that would have resulted from the privilege tax should be apportioned, including whether the university should be allowed to retain some or all of the revenue that would have resulted from a privilege tax;

(ii) if a privilege tax does apply, how the revenue from the tax should be distributed;

(e) how much land a university should be allowed to develop and what should the approval process be for a university to enter into an agreement with a private person for the development of university-owned property; and

(f) whether a university should be required to include restrictions on a development partner that enters into a development agreement with the university for the development of university-owned property.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

S. B. 244
Passed March 1, 2024
Approved
Effective

PROFESSIONAL LICENSING MODIFICATIONS

Chief Sponsor: Karen Kwan
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill modifies the Division of Professional Licensing Act.

Highlighted Provisions:

This bill:

- requires annual review of the guidelines published by the Division of Professional Licensing to verify the guidelines reflect current provisions of the Utah Criminal Code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2023, Chapters 222, 223 and 225

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Sections 58-17b-306 and 58-17b-307;

(b) Sections 58-24b-302 and 58-24b-302.1;

(c) Section 58-31b-302;

(d) Sections 58-42a-302 and 58-42a-302.1, of Chapter 42a, Occupational Therapy Practice Act;

(e) Section 58-44a-302.1;

(f) Sections 58-47b-302 and 58-47b-302.1;

(g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm company agents, and Section 58-55-302.1;

(h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental Health Professional Practice Act;

(i) Sections 58-61-304 and 58-61-304.1;

(j) Sections 58-63-302 and 58-63-302.1;

(k) Sections 58-64-302 and 58-64-302.1;

(l) Sections 58-67-302 and 58-67-302.1;

(m) Sections 58-68-302 and 58-68-302.1; and

(n) Sections 58-70a-301.1 and 58-70a-302, of Chapter 70a, Utah Physician Assistant Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(4) The division shall annually verify that criminal history guidelines published by the division accurately reflect the most current provisions of the Utah Criminal Code.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

S. B. 274
Passed March 1, 2024
Approved
Effective

ADMINISTRATIVE LAW JUDGE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill requires a report for an agency that utilizes an administrative law judge.

Highlighted Provisions:

This bill:

- requires an agency that employs or utilizes an administrative law judge to submit a report to the Legislature.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:
63A-17-711, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-711 is enacted to read:

63A-17-711. Report.

(1) As used in this section, "agency" means a department, division, office, bureau, board, commission, or other administrative unit of the state.

(2) An agency that employs, pays for the services of, or otherwise uses the services of an administrative law judge shall provide a report described in this section to the Government Operations Interim Committee and to the Rules Review and General Oversight Committee on or before June 1, 2024.

(3) The report described in Subsection (2) shall provide:

(a) the number of full time administrative law judges currently employed by, paid for, or utilized by the agency;

(b) the number of part-time administrative law judges currently employed by, paid for, or utilized by the agency;

(c) for each individual referenced under Subsection (3)(a) or (b), the employment arrangement for the administrative law judge, including whether the administrative law judge is employed by the agency, employed by multiple agencies, temporarily assigned to the agency, or another employment arrangement, which the agency shall describe;

(d) the number of employees of the agency that act as support or administrative staff for administrative law judge functions engaged in by the agency, and for each such employee:

(i) a title or job description for each such employee; and

(ii) whether each such employee has full or part-time duties in relation to administrative law judge functions;

(e) a listing and description of each rule, policy, or practice that the agency uses to ensure the independence of an administrative law judge who is employed by, assigned to, or working on behalf of the agency; and

(f) whether the agency requires an administrative law judge to comply with any rules, policies, guidelines, or other agency requirements when making a decision, and if so, a complete list of each of those requirements, and as applicable, a citation to or copy of the rule, policy, guideline, or requirement.

Section 2. Effective date.

This bill takes effect on May 1, 2024.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

March 21, 2024

The Honorable J. Stuart Adams
President of the Senate

and

The Honorable Mike Schultz
Speaker of the House

Dear President Adams and Speaker Schultz,

Thank you again for your sincere and dedicated efforts during the 2024 General Legislative Session. I hope you have all enjoyed some time off after a very taxing and difficult 45-day session. I'm sure many in your legislative bodies may have forgotten that my session lasts 65 days. So, while you have all been relaxing and reintroducing yourselves to your families, the Lt. Governor and I, along with our great team, have continued toiling at the Capitol to complete our thorough review of every bill and resolution (please forgive the very transparent attempt to gain some sympathy from a fellow branch of government).

Having completed my review, I truly want to commend your collaborative spirit and many productive outcomes. The people of Utah will benefit from your sound fiscal decisions and strategic investments made in our teachers, water resources, homelessness and behavior health, housing, infrastructure and many other priorities. This session was a resounding success. And you and your members deserve credit for making Utah a better place.

If you recall, last year I sent a first-of-its-kind "non-veto" letter. In that letter, I specifically requested that you focus on two issues moving forward: 1) the rapid expansion of boards and commissions and 2) better processes to improve public trust. I want you to know how grateful I am for the meaningful steps that were taken on both issues.

At the beginning of this session, we had more than 400 boards and commissions. Now, thanks to your actions this year, we were able to consolidate 35 into 14, and repeal another 34! I believe this is a huge step in the right direction. While I support citizen involvement through board and

commission service, I'm also a big believer in smaller and more efficient government. Thank you for paring down these unnecessary boards.

Likewise, I was very pleased to see your commitment to process this past session. I heard from members of the public and several legislators (including those from the minority party), that some of the more controversial bills were given much longer committee hearings than normal, some lasting for hours. This allowed citizens an opportunity to be more involved in the process and, I believe, led to better outcomes. I also appreciated the lack of big issues being substituted into bills at the last minute with less public input.

I am also profoundly grateful for the opportunity I have to serve with you. Last year I wrote that, "I doubt that there has ever been better communication and collaboration between the legislative and executive branches." I believe that to be even more true today. Thank you for your willingness to work closely with me to try and resolve concerns before a bill is passed. As in past years, I have signed legislation that I don't love and probably would not have voted for. But that is not the standard.

Now, I know the last thing you want is a lecture from the Executive Branch. But I'm hoping you will permit me just a little bit of constructive feedback. My overarching concern this session was with the sheer number of bills passed. To put things in context, the year I was elected to the Legislature (2012), there were 477 bills passed. This year, you delivered a record 591 bills to my desk – a significant increase over the record of 575 set last year. For comparison purposes, here are the numbers over the past 20 years:

General Session Year	Bills Passed	General Session Year	Bills Passed
2005	370	2015	528
2006	395	2016	474
2007	423	2017	535
2008	436	2018	533
2009	451	2019	574
2010	481	2020	510
2011	504	2021	502
2012	477	2022	512
2013	524	2023	575
2014	486	2024	591

As you can see, we have moved from bill totals in the 300s to almost hitting the 600 mark. While I suppose there is nothing inherently wrong with more bills, I truly believe it makes it more difficult to focus on the quality of legislation. I know how much attention each bill takes to shepherd through the process as you run from committee hearing to stakeholder meetings. The problem is that with each bill a legislator runs, there is significantly less time to pay attention to everyone else's bills. Ultimately, we end up with lots of new laws, but not necessarily the best versions of those laws.

Now, I'm not asking you to be like our dysfunctional Congress, which somehow only passed 27(!) bills last year. While I would love to get back into the 300s, maybe shooting for the high 400s is a more realistic goal. And while I'm not sure the best way to get there, I do have a few vetoes this year that might be instructive.

Just like there are meetings that could be emails, sometimes there are bills that could be phone calls. We try hard to be responsive to legislative requests and I have instructed my cabinet members to do everything they can to help with issues and ideas you might have. And while we probably could have found more bills in this category, I have selected these bills for veto:

1. HB 152 Residential Construction Amendments
   This bill requires the Division of Professional Licensing to create a sample contract for residential construction and remodels. The Division can (and will) do this without a bill directing it.

2. HB 239 State Employee Cybersecurity Training Requirements
   This bill requires the Division of Technology Services to create a cybersecurity training program for executive branch employees, and requires employees to complete the training program each year. However, this training program already exists, and employees are already required to participate. If there are concerns with the existing program, DTS stands ready to make whatever changes are needed.

3. HB 412 Legislative Auditor General Amendments
   This bill seeks to add additional items for an agency to report on as part of the accountable budget process – including an agency's compliance with the Office of the Legislative Auditor General's toolkit. I am very supportive of the toolkit, and expect agencies to use the toolkit as a tool to improve organizational excellence. But we don't need a bill in order for agencies to apply the toolkit to improve operations.

4. SB 244 Professional Licensing Modifications
   The Division of Professional Licensing created criminal history guidelines and placed the guidelines on its website to increase transparency and help potential licensees. DOPL did this *without* being directed to do so by statute. Nevertheless, this bill would put *in* statute specific requirements for DOPL on what it created without a statute. We can address the sponsor's concerns without a bill, and I have directed DOPL to ensure that this happens.

5. SB 274 Administrative Law Judge Amendments
This bill started as an effort to move all ALJs in the state into the Attorney General's Office and was quickly substituted to require state agencies to report information to the Legislature regarding ALJs. Our agencies can provide this information without a bill. I have tasked the Department of Government Operations with gathering the information sought.

As you can see, many concerns can be addressed through conversations with or commitments by agencies *without* the need for more bills that expand our ever-growing state code. And if you ever feel like you aren't accomplishing what you hope to after you talk to an agency, you can always bring your concerns to my office.

Another concern is when a bill starts with a more substantive objective, but is subsequently amended or substituted to a point that it does not effectively accomplish its goal. Sometimes, instead of trying to pass *something*, the best result is to regroup and consider another run at the issue down the road. For this reason, I am vetoing the following bills:

6. HB 144 Vehicle Accident Liability Amendments
This bill started as an effort to clarify liability involving left turns by vehicles in certain circumstances. In response to concerns, some of the language was removed. The language that remains has raised concerns and may not bring the clarity that the original goal intended.

7. SB 190 Higher Education Development Areas Study
While we agree with the initial policy direction of the bill, sometimes a bill changes direction in a substitute and doesn't need formal legislation to accomplish our policy objectives. We'll still work with higher education and Sen. Wilson to explore this idea.

In addition, I am allowing two bills to go into effect without my signature because of the overwhelming legislative support:

1. HB 78 Motion Picture Incentives Amendments
I have expressed my concerns in the past with the amounts of money being spent on film incentives. I believe there are better returns for taxpayer dollars.

2. SB 266 Medical Amendments
I am generally supportive of scientific efforts to discover the benefits of new substances that can relieve suffering. However, we have a task force that was set up specifically to advise the Legislature on the best ways to study Psilocybin and I'm disappointed that their input was ignored.

Finally, there are a few bills that address important topics that need additional work over the interim. These include SB 161 - Energy Security Amendments and SB 273 - Amendments Relating to District Attorney in County of the First Class. We signed these bills with the express understanding that we will work together to address those concerns.

In addition, I will be sending separate letters to you concerning some budget line-item vetoes.

Thanks again for your hard work, sacrifice and dedication on behalf of the people of Utah. I am proud of what you have accomplished and can't wait to start working together to solve new problems (OK, that's not entirely true ... I can wait a few days). Thank you for making Utah the best state in the nation.

Sincerely,

Spencer J. Cox
Governor

LAWS

of the

STATE OF UTAH, 2024

Passed at the
THIRD SPECIAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
June 19, 2024
and Adjourned Sine Die on
June 14, 2024

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2024 Third Special Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2024 Third Special Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 19th of June 2024 and adjourned sine die on the 19th of June 2024.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this November 26, 2024

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 3001
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

EXCHANGE STUDENT GUARDIANSHIP AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends the definition of an eligible student to allow exchange students to participate in the Statewide Online Education Program (SOEP).

Highlighted Provisions:

This bill:

- amends the definition of an eligible student to allow exchange students to participate in the SOEP.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

53F-4-501, as last amended by Laws of Utah 2024, Chapters 24, 26

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-501 is amended to read:

53F-4-501. Definitions.

As used in this part:

(1) "Authorized online course provider" means the entities listed in Subsection 53F-4-504(1).

(2)(a) "Certified online course provider" means a provider that the state board approves to offer courses through the Statewide Online Education Program.

(b) "Certified online course provider" does not include an entity described in Subsections 53F-4-504(1)(a) through (c).

(3) "Credit" means credit for a high school course, or the equivalent for a middle school course, as determined by the state board.

(4)(a) "Eligible student" means a student:

(i) who intends to take a course for middle school or high school credit; and

(ii)(A) who is enrolled in an LEA in Utah;[~~or~~]

(B) who attends a private school or home school and whose custodial parent is a resident of Utah[~~.~~]; or

(C) who is an exchange student residing in Utah and enrolled in an LEA or private school in Utah.

(b) "Eligible student" does not include a scholarship student as defined in Section 53F-6-401.

(5) "Exchange student" means a student sponsored by an agency approved by an LEA or private school governing board or a student who has an F-1, J-1, or J-2 visa.

(6) "High school" means grade 9, 10, 11, or 12.

[~~(6)~~](7) "Middle school" means, only for purposes of student eligibility to participate in the Statewide Online Education Program, grade 6, 7, or 8.

[~~(7)~~](8) "Online course" means a course of instruction offered by the Statewide Online Education Program through the use of digital technology, regardless of whether the student participates in the course at home, at school, at another location, or any combination of these.

[~~(8)~~](9) "Plan for college and career readiness" means the same as that term is defined in Section 53E-2-304.

[~~(9)~~](10) "Primary LEA of enrollment" or "primary LEA" means the LEA in which an eligible student is enrolled for courses other than online courses offered through the Statewide Online Education Program.

[~~(10)~~](11) "Released-time" means a period of time during the regular school day a student is excused from school at the request of the student's parent pursuant to rules of the state board.

[~~(11)~~](12) "State board's contractor" means the private entity described in Section 53F-4-503 with which the state board contracts to administer the portion of the Statewide Online Education Program designated for a student who attends private school or home school.

Section 2. Effective

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Retrospective operation.

This bill has retrospective operation to January 1, 2024.

CHAPTER 2
H. B. 3002
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

PUBLIC LANDS FUNDING AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions related to public lands funding.

Highlighted Provisions:

This bill:

- renames the Public Lands Litigation Restricted Account as the Federal Overreach Restricted Account (account);
- allows for account funds to be used for educating the public on federalism issues;
- requires entities that receive account funds to report to the Executive Appropriations Committee; and
- makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- to General Fund Restricted - Federal Overreach Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances - Department of Government Operations - Finance - Mandated - Public Lands Litigation Program, One-time, $3,000,000
  - from Nonlapsing Balances - Attorney General - Contract Attorneys, One-time, $3,700,000

This bill appropriates in fiscal year 2025:

- to Legislature - Legislative Services - Pass Through as an ongoing appropriation:
  - from the General Fund, ($157,500)
- to Department of Natural Resources - Administration - Executive Director as a one-time appropriation:
  - from the General Fund Restricted - Federal Overreach Restricted Account, One-time, $2,142,000
- to General Fund Restricted - Federal Overreach Restricted Account as a one-time appropriation:
  - from Nonlapsing Balances - Legislature - Legislative Services - Pass Through, One-time, $490,000
  - from Nonlapsing Balances - Department of Natural Resources - Public Lands Policy Coordinating Office, One-time, $2,900,000
- to Department of Natural Resources - Public Lands Policy Coordinating Office - Public Lands Policy Coordinating Office as a one-time appropriation:
  - from the General Fund Restricted - Federal Overreach Restricted Account, One-time, $1,500,000
- to Attorney General - Contract Attorneys - Contract Attorneys as a one-time appropriation:
  - from the General Fund Restricted - Federal Overreach Restricted Account, One-time, $1,675,000

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63C-4a-404, as renumbered and amended by Laws of Utah 2019, Chapter 246

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-404 is amended to read:

63C-4a-404. Creation of Federal Overreach Restricted Account -- Sources of funds -- Uses of funds -- Reports.

(1) There is created a restricted account within the General Fund known as the [~~Public Lands Litigation~~]Federal Overreach Restricted Account.

(2) The account created in Subsection (1) consists of money from the following revenue sources:

(a) [~~money received by the commission from other state agencies~~]voluntary contributions; and

(b) appropriations made by the Legislature.

(3) The Legislature may annually appropriate money from the account for the purposes of:

(a) asserting, defending, or litigating state and local government rights to the disposition and use of federal lands within the state as those rights are granted by the United States Constitution, the Utah Enabling Act, and other applicable law; or

(b) educating the general public in matters relating to federalism or state sovereignty.

(4)[~~(a)~~] Any entity that receives money from the account shall, before disbursing the money to another person for the purposes described in Subsection (3), or before spending the money appropriated, report to the [~~commission~~]Executive Appropriations Committee regarding:

[~~(i)~~](a) the amount of the disbursement;

[~~(ii)~~](b) who will receive the disbursement; and

[~~(iii)~~](c) the planned use for the disbursement.

[~~(b) The commission may, upon receiving the report under Subsection (4)(a):~~]

[~~(i) advise the Legislature and the entity of the commission finding that the disbursement is consistent with the purposes in Subsection (3); or~~

~~(ii) advise the Legislature and the entity of the commission finding that the disbursement is not consistent with the purposes in Subsection (3).~~]

Section 2. FY 2024 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2023, and ending June 30, 2024. These are additions to amounts previously appropriated for fiscal year 2024.

Subsection 2(a) Restricted Fund and Account Transfers

The Legislature authorizes the State Division of Finance to transfer the following amounts between

the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted - Federal Overreach Restricted Account

From Nonlapsing Balances - Attorney General - Contract Attorneys $3,700,000

From Nonlapsing Balances - Department of Government Operations - Finance - Mandated - Public Lands Litigation Program $3,000,000

Schedule of Programs:

General Fund Restricted - Federal Overreach Restricted Account $6,700,000

The Legislature intends that the Division of Finance transfer the amounts indicated above to the newly renamed Federal Overreach Restricted Account during fiscal year 2024.

Section 3. FY 2025 Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2024, and ending June 30, 2025. These are additions to amounts previously appropriated for fiscal year 2025.

Subsection 3(a) Operating and Capital Budgets

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Attorney General - Contract Attorneys

From General Fund Restricted - Federal Overreach Restricted Account,

One-time $1,675,000

Schedule of Programs:

Contract Attorneys $1,675,000

ITEM 3

To Department of Natural Resources - Administration

From General Fund Restricted - Federal Overreach Restricted Account, One-time $2,142,000

Schedule of Programs:

Executive Director $2,142,000

The Legislature intends that the Division of Finance disburse the $2,142,000 appropriated by this item in quarterly equal amounts, only after the Department of Natural Resources reports to the Executive Appropriations Committee (EAC) on their planned use of the funds and the EAC approves the disbursement. Use of these funds is limited to costs associated with countering federal overreach on public lands in Utah.

ITEM 4

To Department of Natural Resources - Public Lands Policy Coordinating Office

From General Fund Restricted - Federal Overreach Restricted Account,

One-time $1,500,000

Schedule of Programs:

Public Lands Policy Coordinating Office $1,500,000

ITEM 5

To Legislature - Legislative Services

From General Fund ($157,500)

Schedule of Programs:

Pass Through ($157,500)

Subsection 3(b)

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 6

To General Fund Restricted - Federal Overreach Restricted Account

From Nonlapsing Balances - Department of Natural Resources - Public Lands Policy Coordinating Office $2,900,000

From Nonlapsing Balances - Legislature - Legislative Services - Pass Through $490,000

Schedule of Programs:

General Fund Restricted - Federal Overreach Restricted Account $3,390,000

Section 4. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect on August 19, 2024.

CHAPTER 3
H. B. 3003
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

SCHOOL DISTRICT AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill repeals and amends certain provisions relating to creating a new school district and electing school board members when a new school district is created.

Highlighted Provisions:

This bill:

- defines terms;
- retrospectively repeals procedures for a local school board to propose a new school district;
- amends certain processes and procedures related to creating a new school district;
- amends provisions of the Election Code regarding:
  - the creation of a new school district; and
  - local school board elections when a new school district is created;
- specifies the board of canvassers for an election to create a new school district or to elect school board members for a new school district or a reorganized new school district;
- requires county and municipal legislative bodies that redistrict after a new school district is created to adjust initial terms for the newly elected school board members;
- amends the timeline for redistricting after a new school district is created; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:

20A-1-201.5, as last amended by Laws of Utah 2024, Chapter 438
20A-1-202, as last amended by Laws of Utah 2023, Chapter 15
20A-1-203, as last amended by Laws of Utah 2024, Chapters 438, 526
20A-4-301, as last amended by Laws of Utah 2024, Chapter 465
20A-7-101, as last amended by Laws of Utah 2024, Chapters 438, 442 and 465
20A-7-402, as last amended by Laws of Utah 2023, Chapter 435
20A-9-404, as last amended by Laws of Utah 2023, Chapter 116
20A-11-1203, as last amended by Laws of Utah 2019, Chapter 203
20A-14-201, as last amended by Laws of Utah 2022, Chapter 265
36-12-15, as last amended by Laws of Utah 2024, Chapters 403, 526
53G-3-102, as last amended by Laws of Utah 2024, Chapter 526
53G-3-202, as last amended by Laws of Utah 2024, Chapter 526
53G-3-301, as repealed and reenacted by Laws of Utah 2024, Chapter 526
53G-3-301.1, as enacted by Laws of Utah 2024, Chapter 526
53G-3-301.3, as enacted by Laws of Utah 2024, Chapter 526
53G-3-301.4, as enacted by Laws of Utah 2024, Chapter 526
53G-3-302, as repealed and reenacted by Laws of Utah 2024, Chapter 526
53G-3-303, as last amended by Laws of Utah 2024, Chapter 526
53G-3-305, as last amended by Laws of Utah 2024, Chapter 526

REPEALS AND REENACTS:

53G-3-301.2, as enacted by Laws of Utah 2024, Chapter 526

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-201.5 is amended to read:

20A-1-201.5. Primary election dates.

(1) The regular primary election shall be held throughout the state on the fourth Tuesday of June of each even numbered year as provided in Section 20A-9-403, 20A-9-407, or 20A-9-408, as applicable, to nominate persons for national, state, school board, and county offices.

(2) A municipal primary election shall be held, if necessary, on the second Tuesday following the first Monday in August before the regular municipal election to nominate persons for:

(a) municipal offices[~~.~~]; or

(b) local school board office for a new school district or a reorganized new school district under Section 53G-3-302.

(3) A presidential primary election shall be held throughout the state on the first Tuesday in March in the year in which a presidential election will be held.

Section 2. Section 20A-1-202 is amended to read:

20A-1-202. Date and purpose of municipal general election.

(1) Except as provided in Section 20A-1-206, a municipal general election shall be held in municipalities, and special districts as applicable, on the first Tuesday after the first Monday in November of each odd-numbered year.

(2) At the municipal general election, the voters shall:

(a)(i) choose persons to serve as municipal officers; [~~and~~]

(ii) for a special district that holds an election during an odd-numbered year, choose persons to serve as special district officers; and

(iii) choose persons to serve as local school board members for a new school district or a reorganized new school district under Section 53G-3-302; and

(b) approve or reject:

(i) any proposed initiatives or referenda that have qualified for the ballot as provided by law; and

(ii) any other ballot propositions submitted to the voters that are authorized by the Utah Code.

Section 3. Section 20A-1-203 is amended to read:

20A-1-203. Calling and purpose of special elections -- Two-thirds vote limitations.

(1) Statewide and local special elections may be held for any purpose authorized by law.

(2)(a) Statewide special elections shall be conducted using the procedure for regular general elections.

(b) Except as otherwise provided in this title, local special elections shall be conducted using the procedures for regular municipal elections.

(3) The governor may call a statewide special election by issuing an executive order that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(4) The Legislature may call a statewide special election by passing a joint or concurrent resolution that designates:

(a) the date for the statewide special election; and

(b) the purpose for the statewide special election.

(5)(a) The legislative body of a local political subdivision may call a local special election only for:

(i) a vote on a bond or debt issue;

(ii) a vote on a voted local levy authorized by Section 53F-8-402 or 53F-8-301;

(iii) an initiative authorized by Chapter 7, Part 5, Local Initiatives - Procedures;

(iv) a referendum authorized by Chapter 7, Part 6, Local Referenda - Procedures;

(v) if required or authorized by federal law, a vote to determine whether Utah's legal boundaries should be changed;

(vi) a vote authorized or required by Title 59, Chapter 12, Sales and Use Tax Act;

[~~(vii) a vote to elect members to school district boards for a new school district and a reorganized new school district, as defined in Section 53G-3-102, following the creation of a new school district under Section 53G-3-302;~~]

[~~(viii)~~](vii) a vote on a municipality providing cable television services or public telecommunications services under Section 10-18-204;

[~~(ix)~~](viii) a vote to create a new county under Section 17-3-1;

[~~(x)~~](ix) a vote on a special property tax under Section 53F-8-402; or

[~~(xi)~~](x) a vote on the incorporation of a municipality in accordance with Section 10-2a-210.

(b) The legislative body of a local political subdivision may call a local special election by adopting an ordinance or resolution that designates:

(i) the date for the local special election as authorized by Section 20A-1-204; and

(ii) the purpose for the local special election.

(c) A local political subdivision may not call a local special election unless the ordinance or resolution calling a local special election under Subsection (5)(b) is adopted by a two-thirds majority of all members of the legislative body, if the local special election is for:

(i) a vote on a bond or debt issue as described in Subsection (5)(a)(i);

(ii) a vote on a voted leeway or levy program as described in Subsection (5)(a)(ii); or

(iii) a vote authorized or required for a sales tax issue as described in Subsection (5)(a)(vi).

Section 4. Section 20A-4-301 is amended to read:

20A-4-301. Board of canvassers.

(1)(a) Each county legislative body is the board of county canvassers for:

(i) the county; and

(ii) each special district whose election is conducted by the county if:

(A) the election relates to the creation of the special district;

(B) the county legislative body serves as the governing body of the special district; or

(C) there is no duly constituted governing body of the special district.

(b) The board of county canvassers shall meet to canvass the returns at the usual place of meeting of the county legislative body, at a date and time determined by the county clerk that is no sooner than seven days after the election and no later than 14 days after the election.

(c) If one or more of the county legislative body fails to attend the meeting of the board of county canvassers, the remaining members shall replace the absent member by appointing in the order named:

(i) the county treasurer;

(ii) the county assessor; or

(iii) the county sheriff.

(d) Attendance of the number of persons equal to a simple majority of the county legislative body, but

not less than three persons, shall constitute a quorum for conducting the canvass.

(e) The county clerk is the clerk of the board of county canvassers.

(2)(a) The mayor and the municipal legislative body are the board of municipal canvassers for the municipality.

(b) The board of municipal canvassers shall meet to canvass the returns at the usual place of meeting of the municipal legislative body:

(i) for canvassing of returns from a municipal general election, no sooner than seven days after the election and no later than 14 days after the election; or

(ii) for canvassing of returns from a municipal primary election, no sooner than seven days after the election and no later than 14 days after the election.

(c) Attendance of a simple majority of the municipal legislative body shall constitute a quorum for conducting the canvass.

(3)(a) The legislative body of the entity authorizing a bond election is the board of canvassers for each bond election.

(b) The board of canvassers for the bond election shall comply with the canvassing procedures and requirements of Section 11-14-207.

(c) Attendance of a simple majority of the legislative body of the entity authorizing a bond election shall constitute a quorum for conducting the canvass.

(4)(a) If a board of trustees or an administrative control board is the governing body of a special district, the board of trustees or the administrative control board is the board of special district canvassers for the special district.

(b) The board of special district canvassers shall meet to canvass the returns at the usual place of meeting for the board of trustees or the administrative control board, as applicable, at a date and time determined by the special district clerk that is no sooner than seven days after the day of the election and no later than 14 days after the day of the election.

(c) Attendance of a simple majority of the board of trustees or the administrative control board is a quorum for conducting the canvass.

(5) In relation to an election for the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, or in relation to an election of members of a local school board for a new school district or a reorganized new school district under Section 53G-3-302, the board of canvassers is:

(a) if the voters permitted to vote in the election are all residents of the same municipality, the mayor and the municipal legislative body;

(b) if the voters permitted to vote in the election are not all residents of the same municipality, but are all residents of the same county, the county legislative body; or

(c) if the voters permitted to vote in the election are not all residents of the same municipality and are not all residents of the same county, the county legislative body of the county where the majority of the voters permitted to vote in the election are residents.

Section 5. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

(2) "Budget officer" means:

(a) for a county, the person designated as finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4); or

(c) for a town, the town council.

(3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(4) "Circulation" means the process of submitting an initiative petition or a referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

(7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(9) "Initial fiscal impact statement" means a financial statement prepared under Section 20A-7-202.5 after the filing of a statewide initiative application.

(10) "Initial fiscal impact and legal statement" means a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for a local initiative or a local referendum.

(11) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(12) "Initiative application" means:

(a) for a statewide initiative, an application described in Subsection 20A-7-202(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-202(2); or

(b) for a local initiative, an application described in Subsection 20A-7-502(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-502(2).

(13) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(14) "Initiative petition":

(a) as it relates to a statewide initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-203(2)(a), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-203(2)(b);

(b) as it relates to a statewide initiative, using the electronic initiative process:

(i) means the form described in Subsections 20A-7-215(2) and (3), petitioning for submission of the initiative to the Legislature or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-215(5)(b);

(c) as it relates to a local initiative, using the manual initiative process:

(i) means the form described in Subsection 20A-7-503(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-503(2)(b); or

(d) as it relates to a local initiative, using the electronic initiative process:

(i) means the form described in Subsection 20A-7-514(2)(a), petitioning for submission of the initiative to the legislative body or the legal voters; and

(ii) if the initiative proposes a tax increase, includes the statement described in Subsection 20A-7-514(4)(a).

(15)(a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(16) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(17) "Legal voter" means an individual who is registered to vote in Utah.

(18) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(19) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(20) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(21)(a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(22) "Local legislative body" means the legislative body of a county, city, or town.

(23) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(24) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(25) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(26) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

(27)(a) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(b) "Measure" does not include a ballot proposition for the creation of a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4.

(28) "Presiding officers" means the president of the Senate and the speaker of the House of Representatives.

(29) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(30) "Referendum application" means:

(a) for a statewide referendum, an application described in Subsection 20A-7-302(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-302(2); or

(b) for a local referendum, an application described in Subsection 20A-7-602(2) that includes all the information, statements, documents, and notarized signatures required under Subsection 20A-7-602(2).

(31) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(32) "Referendum petition" means:

(a) as it relates to a statewide referendum, using the manual referendum process, the form described in Subsection 20A-7-303(2)(a), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(b) as it relates to a statewide referendum, using the electronic referendum process, the form described in Subsection 20A-7-313(2), petitioning for submission of a law passed by the Legislature to legal voters for their approval or rejection;

(c) as it relates to a local referendum, using the manual referendum process, the form described in Subsection 20A-7-603(2)(a), petitioning for submission of a local law to legal voters for their approval or rejection; or

(d) as it relates to a local referendum, using the electronic referendum process, the form described in Subsection 20A-7-614(2), petitioning for submission of a local law to legal voters for their approval or rejection.

(33) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603;

(B) as it relates to an individual who, due to a qualifying disability under the Americans with Disabilities Act, is unable to fill out the signature sheet or to sign the voter's name consistently, the initials "AV," indicating that the voter's identity will be verified by an alternate verification process described in Section 20A-7-106; and

(C) does not include an electronic signature.

(34) "Signature sheets" means sheets in the form required by this chapter that are used under the manual initiative process or the manual referendum process to collect signatures in support of an initiative or referendum.

(35) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(36) "Sponsors" means the legal voters who support the initiative or referendum and who sign the initiative application or referendum application.

(37)(a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(38) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(39) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(40) "Verified" means acknowledged by the person circulating the petition as required in Section 20A-7-105.

Section 6. Section 20A-7-402 is amended to read:

20A-7-402. Local voter information pamphlet -- Notice -- Contents -- Limitations -- Preparation -- Statement on front cover.

(1)(a) The county or municipality that is subject to a ballot proposition shall prepare a local voter information pamphlet that complies with the requirements of this part.

(b) Each county or municipality that contains all or part of a proposed new school district or a reorganized new school district that will appear on a regular general election ballot under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4 shall prepare a local voter information pamphlet that complies with the requirements of this part.

(2)(a) Within the time requirements described in Subsection (2)(c)(i), a municipality [~~that is subject to a special local ballot proposition~~]described in Subsection (1) shall provide a notice that complies with the requirements of Subsection (2)(c)(ii) to the municipality's residents by publishing the notice for the municipality, as a class A notice under Section 63G-30-102, for the time period set under Subsection (2)(c)(i).

(b) A county [~~that is subject to a special local ballot proposition~~]described in Subsection (1) shall publish a notice that complies with the requirements of Subsection (2)(c)(ii) for the county, as a class A notice under Section 63G-30-102.

(c) A municipality or county that publishes a notice under Subsection (2)(a) or (b) shall:

(i) publish the notice:

(A) not less than 90 days before the date of the election at which a special local ballot proposition will be voted upon; or

(B) if the requirements of Subsection (2)(c)(i)(A) cannot be met, as soon as practicable after the special local ballot proposition is approved to be voted upon in an election; and

(ii) ensure that the notice contains:

(A) the ballot title for the special local ballot proposition;

(B) instructions on how to file a request under Subsection (2)(d); and

(C) the deadline described in Subsection (2)(d).

(d) [~~To~~]Except as provided in Subsection (13), to prepare a written argument for or against a special local ballot proposition, an eligible voter shall file a request with the election officer before 5 p.m. no later than 64 days before the day of the election at which the special local ballot proposition is to be voted on.

(e) If more than one eligible voter requests the opportunity to prepare a written argument for or against a special local ballot proposition, the election officer shall make the final designation in accordance with the following order of priority:

(i) sponsors have priority in preparing an argument regarding a special local ballot proposition; and

(ii) members of the local legislative body have priority over others if a majority of the local legislative body supports the written argument.

(f) [~~The~~]Except as provided in Subsection (13), the election officer shall grant a request described in Subsection (2)(d) or (e) no later than 60 days before the day of the election at which the ballot proposition is to be voted on.

(g)(i) A sponsor of a special local ballot proposition may prepare a written argument in favor of the special local ballot proposition.

(ii) Subject to Subsection (2)(e), an eligible voter opposed to the special local ballot proposition who submits a request under Subsection (2)(d) may prepare a written argument against the special local ballot proposition.

(h) An eligible voter who submits a written argument under this section in relation to a special local ballot proposition shall:

(i) ensure that the written argument does not exceed 500 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv);

(ii) list, at the end of the argument, at least one, but no more than five, names as sponsors;

(iii) except as provided in Subsection (13), submit the written argument to the election officer before 5 p.m. no later than 55 days before the election day on which the ballot proposition will be submitted to the voters;

(iv) list in the argument, immediately after the eligible voter's name, the eligible voter's residential address; and

(v) submit with the written argument the eligible voter's name, residential address, postal address, email address if available, and phone number.

(i) An election officer shall refuse to accept and publish an argument submitted after the deadline described in Subsection (2)(h)(iii).

(3)(a) An election officer who timely receives the written arguments in favor of and against a special local ballot proposition shall, within one business day after the day on which the election office receives both written arguments, send, via mail or email:

(i) a copy of the written argument in favor of the special local ballot proposition to the eligible voter who submitted the written argument against the special local ballot proposition; and

(ii) a copy of the written argument against the special local ballot proposition to the eligible voter who submitted the written argument in favor of the special local ballot proposition.

(b) The eligible voter who submitted a timely written argument in favor of the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument against the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) except as provided in Subsection (13), shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(c) The eligible voter who submitted a timely written argument against the special local ballot proposition:

(i) may submit to the election officer a written rebuttal argument of the written argument in favor of the special local ballot proposition;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length, not counting the information described in Subsection (2)(h)(ii) or (iv); and

(iii) except as provided in Subsection (13), shall submit the written rebuttal argument before 5 p.m. no later than 45 days before the election day on which the special local ballot proposition will be submitted to the voters.

(d) An election officer shall refuse to accept and publish a written rebuttal argument in relation to a special local ballot proposition that is submitted after the deadline described in Subsection (3)(b)(iii) or (3)(c)(iii).

(4)(a) Except as provided in Subsection (4)(b), in relation to a special local ballot proposition:

(i) an eligible voter may not modify a written argument or a written rebuttal argument after the eligible voter submits the written argument or written rebuttal argument to the election officer; and

(ii) a person other than the eligible voter described in Subsection (4)(a)(i) may not modify a written argument or a written rebuttal argument.

(b) The election officer, and the eligible voter who submits a written argument or written rebuttal argument in relation to a special local ballot proposition, may jointly agree to modify a written argument or written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; and

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written argument or written rebuttal argument in relation to a special local ballot proposition if the eligible voter who submits the written argument or written rebuttal argument fails to negotiate, in good faith, to modify the written argument or written rebuttal argument in accordance with Subsection (4)(b).

(5) In relation to a special local ballot proposition, an election officer may designate another eligible voter to take the place of an eligible voter described in this section if the original eligible voter is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the duties of an eligible voter described in this section.

(6) Sponsors whose written argument in favor of a standard local ballot proposition is included in a proposition information pamphlet under Section 20A-7-401.5:

(a) may, if a written argument against the standard local ballot proposition is included in the

proposition information pamphlet, submit a written rebuttal argument to the election officer;

(b) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(c) shall submit the written rebuttal argument no later than 45 days before the election day on which the standard local ballot proposition will be submitted to the voters.

(7)(a) A county or municipality that submitted a written argument against a standard local ballot proposition that is included in a proposition information pamphlet under Section 20A-7-401.5:

(i) may, if a written argument in favor of the standard local ballot proposition is included in the proposition information pamphlet, submit a written rebuttal argument to the election officer;

(ii) shall ensure that the written rebuttal argument does not exceed 250 words in length; and

(iii) shall submit the written rebuttal argument no later than 45 days before the election day on which the ballot proposition will be submitted to the voters.

(b) If a county or municipality submits more than one written rebuttal argument under Subsection (7)(a)(i), the election officer shall select one of the written rebuttal arguments, giving preference to a written rebuttal argument submitted by a member of a local legislative body.

(8)(a) An election officer shall refuse to accept and publish a written rebuttal argument that is submitted after the deadline described in Subsection (6)(c) or (7)(a)(iii).

(b) Before an election officer publishes a local voter information pamphlet under this section, a written rebuttal argument is a draft for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

(c) An election officer who receives a written rebuttal argument described in this section may not, before publishing the local voter information pamphlet described in this section, disclose the written rebuttal argument, or any information contained in the written rebuttal argument, to any person who may in any way be involved in preparing an opposing rebuttal argument.

(9)(a) Except as provided in Subsection (9)(b), a person may not modify a written rebuttal argument after the written rebuttal argument is submitted to the election officer.

(b) The election officer, and the person who submits a written rebuttal argument, may jointly agree to modify a written rebuttal argument in order to:

(i) correct factual, grammatical, or spelling errors; or

(ii) reduce the number of words to come into compliance with the requirements of this section.

(c) An election officer shall refuse to accept and publish a written rebuttal argument if the person who submits the written rebuttal argument:

(i) fails to negotiate, in good faith, to modify the written rebuttal argument in accordance with Subsection (9)(b); or

(ii) does not timely submit the written rebuttal argument to the election officer.

(d) An election officer shall make a good faith effort to negotiate a modification described in Subsection (9)(b) in an expedited manner.

(10) An election officer may designate another person to take the place of a person who submits a written rebuttal argument in relation to a standard local ballot proposition if the person is, due to injury, illness, death, or another circumstance, unable to continue to fulfill the person's duties.

(11)(a) The local voter information pamphlet shall include a copy of the initial fiscal impact estimate and the legal impact statement prepared for each initiative under Section 20A-7-502.5.

(b) If the initiative proposes a tax increase, the local voter information pamphlet shall include the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(12)(a) In preparing the local voter information pamphlet, the election officer shall:

(i) ensure that the written arguments are printed on the same sheet of paper upon which the ballot proposition is also printed;

(ii) ensure that the following statement is printed on the front cover or the heading of the first page of the printed written arguments:

"The arguments for or against a ballot proposition are the opinions of the authors.";

(iii) pay for the printing and binding of the local voter information pamphlet; and

(iv) not less than 15 days before, but not more than 45 days before, the election at which the ballot proposition will be voted on, distribute, by mail or carrier, to each registered voter entitled to vote on the ballot proposition:

(A) a voter information pamphlet; or

(B) the notice described in Subsection (12)(c).

(b)(i) If the language of the ballot proposition exceeds 500 words in length, the election officer may summarize the ballot proposition in 500 words or less.

(ii) The summary shall state where a complete copy of the ballot proposition is available for public review.

(c)(i) The election officer may distribute a notice printed on a postage prepaid, preaddressed return

form that a person may use to request delivery of a voter information pamphlet by mail.

(ii) The notice described in Subsection (12)(c)(i) shall include:

(A) the address of the Statewide Electronic Voter Information Website authorized by Section 20A-7-801; and

(B) the phone number a voter may call to request delivery of a voter information pamphlet by mail or carrier.

(13) For 2024 only, in relation to an election that will appear on the regular general election ballot to create a new school district under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, if the notice described in Subsection (2)(b) is published less than 72 days before the day of the election:

(a) the deadline to file a request described in Subsection (2)(d) is before 5 p.m. no later than five business days after the notice is published;

(b) the deadline to grant a request under Subsection (2)(f) is no later than seven business days after the notice is published;

(c) the deadline to submit the written argument to the election officer under Subsection (2)(h)(iii) is before 5 p.m. no later than 12 business days after the notice is published; and

(d) the deadline to submit the written rebuttal argument under Subsection (3)(b)(iii) or (c)(iii) is no later than 17 business days after the notice is published.

Section 7. Section 20A-9-404 is amended to read:

20A-9-404. Municipal primary elections.

(1)(a) Except as otherwise provided in this section or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, candidates for municipal office in all municipalities shall be nominated at a municipal primary election.

(b) Municipal primary elections shall be held:

(i) consistent with Section 20A-1-201.5, on the second Tuesday following the first Monday in the August before the regular municipal election; and

(ii) whenever possible, at the same polling places as the regular municipal election.

(c) Subsections (3) through (5) do not apply to an election to elect local school board members under Section 53G-3-302.

(d) Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, does not apply to an election to elect local school board members under Section 53G-3-302.

(2) Except as otherwise provided in Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, if the number of candidates for a particular municipal office does not exceed twice the number of individuals needed to fill that office, a primary election for that office may not be held and the candidates are considered nominated.

(3)(a) For purposes of this Subsection (3), "convention" means an organized assembly of voters or delegates.

(b)(i) By ordinance adopted before the May 1 that falls before a regular municipal election, any third, fourth, or fifth class city or town may exempt itself from a primary election by providing that the nomination of candidates for municipal office to be voted upon at a municipal election be nominated by a municipal party convention or committee.

(ii) The municipal party convention or committee described in Subsection (3)(b)(i) shall be held on or before May 30 of an odd-numbered year.

(iii) Any primary election exemption ordinance adopted under this Subsection (3) remains in effect until repealed by ordinance.

(c)(i) A convention or committee may not nominate more than one candidate for each of the municipal offices to be voted upon at the municipal election.

(ii) A convention or committee may not nominate an individual who has accepted the nomination of a different convention or committee.

(iii) A municipal party may not have more than one group of candidates placed upon the ballot and may not group the same candidates on different tickets by the same party under a different name or emblem.

(d)(i) On or before May 31 of an odd-numbered year, a convention or committee shall prepare and submit to the filing officer a certificate of nomination for each individual nominated.

(ii) The certificate of nomination shall:

(A) contain the name of the office for which each individual is nominated, the name, post office address, and, if in a city, the street number of residence and place of business, if any, of each individual nominated;

(B) designate in not more than five words the party that the convention or committee represents;

(C) contain a copy of the resolution passed at the convention that authorized the committee to make the nomination;

(D) contain a statement certifying that the name of the candidate nominated by the political party will not appear on the ballot as a candidate for any other political party;

(E) be signed by the presiding officer and secretary of the convention or committee; and

(F) contain a statement identifying the residence and post office address of the presiding officer and secretary and certifying that the presiding officer and secretary were officers of the convention or committee and that the certificates are true to the best of their knowledge and belief.

(iii) A candidate nominated by a municipal party convention or committee shall file a declaration

with the filing officer in accordance with Subsection 20A-9-203(3) that includes:

(A) the name of the municipal party or convention that nominated the candidate; and

(B) the office for which the convention or committee nominated the candidate.

(e) A committee appointed at a convention, if authorized by an enabling resolution, may also make nominations or fill vacancies in nominations made at a convention if the committee makes the nomination before the deadline for a write-in candidate to file a declaration of candidacy under Section 20A-9-601.

(f) The election ballot shall substantially comply with the form prescribed in Chapter 6, Part 4, Ballot Form Requirements for Municipal Elections, but the party name shall be included with the candidate's name.

(4)(a) Any third, fourth, or fifth class city or a town may adopt an ordinance before the May 1 that falls before the regular municipal election that:

(i) exempts the city or town from the other methods of nominating candidates to municipal office provided in this section; and

(ii) provides for a municipal partisan convention method of nominating candidates as provided in this Subsection (4).

(b)(i) Any party that was a registered political party at the last regular general election or regular municipal election is a municipal political party under this section.

(ii) Any political party may qualify as a municipal political party by presenting a petition to the city recorder that:

(A) is signed, with a holographic signature, by registered voters within the municipality equal to at least 20% of the number of votes cast for all candidates for mayor in the last municipal election at which a mayor was elected;

(B) is filed with the city recorder or town clerk before 5 p.m. no later than the day before the day on which the municipal party holds a convention to nominate a candidate under this Subsection (4);

(C) is substantially similar to the form of the signature sheets described in Section 20A-7-303; and

(D) contains the name of the municipal political party using not more than five words.

(iii) With the assistance of the county clerk, the city recorder or town clerk shall use the procedures described in Section 20A-1-1002 to determine whether each signer is a registered voter who is qualified to sign the petition.

(c)(i) If the number of candidates for a particular office does not exceed twice the number of offices to be filled at the regular municipal election, no primary election for that office shall be held and the candidates are considered to be nominated.

(ii) If the number of candidates for a particular office exceeds twice the number of offices to be filled at the regular municipal election, those candidates for municipal office shall be nominated at a municipal primary election.

(d) The clerk shall ensure that the partisan municipal primary ballot is similar to the ballot forms required by Section 20A-6-401 and, as applicable, Section 20A-6-401.1.

(e) After marking a municipal primary ballot, the voter shall deposit the ballot in the blank ballot box.

(f) Immediately after the canvass, the election judges shall, without examination, destroy the tickets deposited in the blank ballot box.

(5)(a) A voter who signs a petition under Subsection (4)(b)(ii) may have the voter's signature removed from the petition by, no later than three business days after the day on which the petition is filed with the city recorder or town clerk, submitting to the city recorder or town clerk a statement requesting that the voter's signature be removed.

(b) A statement described in Subsection (5)(a) shall comply with the requirements described in Subsection 20A-1-1003(2).

(c) With the assistance of the county clerk and using the procedures described in Subsection 20A-1-1003(3), the city recorder or town clerk shall determine whether to remove an individual's signature from a petition after receiving a timely, valid statement requesting removal of the signature.

Section 8. Section 20A-11-1203 is amended to read:

20A-11-1203. Public entity prohibited from expending public funds on certain electoral matters.

(1) Unless specifically required by law, and except as provided in Subsection (5) or Section 20A-11-1206, a public entity may not:

(a) make an expenditure from public funds for political purposes, to influence a ballot proposition, or to influence a proposed initiative or proposed referendum; or

(b) publish on the public entity's website an argument for or against a ballot proposition, a proposed initiative, or a proposed referendum.

(2) A violation of this section does not invalidate an otherwise valid election.

(3) This section does not prohibit the reasonable expenditure of public funds to gather information for, and respond directly to, an individual who makes an inquiry regarding a ballot proposition, a proposed initiative, or a proposed referendum.

(4) This section does not prohibit:

(a) a public entity from conducting research, or collecting and compiling information or arguments in relation to, a ballot proposition, a proposed initiative, or a proposed referendum;

(b) an elected or appointed official of the public entity described in Subsection (4)(a) from using the research, information, or arguments described in Subsection (4)(a) for the purpose of advocating for or against a ballot proposition, proposed initiative, or proposed referendum via a website, or another medium, not owned or controlled by the public entity;

(c) a public entity from posting on the public entity's website a link to another website, with a brief description, that is not owned or controlled by a public entity, or from publishing in any medium owned, controlled, or paid for by a public entity a website address, with a brief description, where an individual may view research, information, and arguments for or against a ballot proposition, proposed initiative, or proposed referendum if the public entity:

(i) before posting the link or publishing the address, provides at least seven days written notice to the sponsors of the ballot proposition, proposed initiative, or proposed referendum:

(A) of the public entity's intent to post the link or publish the address;

(B) a description of each medium in which the public entity intends to post the link or publish the address; and

(C) the dates of the publication or posting; and

(ii) posts, immediately adjacent to the link or address, and brief description described in Subsection (4)(c)(i), a link to, or an address for, a website, with a brief description, containing the sponsors' research, information, and arguments for or against the ballot proposition, proposed initiative, or proposed referendum, if the sponsors provide a link or address within seven days after the day on which the sponsors receive the notice described in Subsection (4)(c)(i); or

(d) a public entity from posting on the public entity's website, or any medium, a complete copy of a proposition information pamphlet described in Section 20A-7-401.5 or a voter information pamphlet.

(5) Subsection (1) does not prohibit a public entity from taking an action under Title 53G, Chapter 3, Part 3, Creating a New School District, that is necessary for the public entity to seek the creation of a new school district.

Section 9. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Redistricting.

(1) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for local school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1).

(2) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(3) County and municipal legislative bodies shall redistrict local school board districts to meet the population, compactness, and contiguity requirements of this section:

(a) at least once every 10 years;

[~~(b) if a new school district is created:~~]

[~~(i) within 45 days after the canvass of an election at which voters approve the creation of a new school district; and~~]

[~~(ii) at least 60 days before the candidate filing deadline for a school board election;~~]

(b) for a new school district or a reorganized new school district that is approved by the voters at a regular general election under Section 53G-3-301.1, 53G-3-301.3, or 53G-3-301.4, before April 1 of the following year;

(c) whenever school districts are consolidated;

(d) whenever a school district loses more than 20% of the population of the entire school district to another school district;

(e) whenever a school district loses more than 50% of the population of a local school board district to another school district;

(f) whenever a school district receives new residents equal to at least 20% of the population of the school district at the time of the last redistricting because of a transfer of territory from another school district; and

(g) whenever it is necessary to increase the membership of a board as a result of changes in student membership under Section 20A-14-202.

(4) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last redistricting, the local school board may assign the new territory to one or more existing school board districts.

(5) [~~Redistricting~~]Except as provided in Subsection 53G-3-302(1)(b)(ii), redistricting does not affect the right of any school board member to complete the term for which the member was elected.

(6)(a) After redistricting, representation in a local school board district shall be determined as provided in this Subsection (6).

(b) If, after redistricting, only one board member whose term extends beyond redistricting lives within a local school board district, that board member shall represent that local school board district.

(c) If, after redistricting, two or more members whose terms extend beyond redistricting live within a local school board district, the members involved shall select one member by lot to represent the local school board district.

(d) The other members shall serve at-large for the remainder of their terms.

(e) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(f) If there is no board member living within a local school board district whose term extends beyond redistricting, the seat shall be treated as vacant and filled as provided in this part.

(7)(a) If, before an election affected by redistricting, the county or municipal legislative body that conducted the redistricting determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the redistricted local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(8) Within 10 days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Utah Geospatial Resource Center created under Section 63A-16-505.

(9) Subsections (4) through (7) do not apply to a redistricting that occurs under Subsection (3)(b).

Section 10. Section 36-12-15 is amended to read:

36-12-15. Office of the Legislative Auditor General established -- Qualifications -- Powers, functions, and duties -- Reporting -- Criminal penalty -- Employment.

(1) As used in this section:

(a) "Audit action" means an audit, examination, investigation, or review of an entity conducted by the office.

(b) "Entity" means:

(i) a government organization; or

(ii) a receiving organization.

(c) "Government organization" means:

(i) a state branch, department, or agency; or

(ii) a political subdivision, including a county, municipality, special district, special service district, school district, interlocal entity as defined in Section 11-13-103, or any other local government unit.

(d) "Office" means the Office of the Legislative Auditor General.

(e) "Receiving organization" means an organization that receives public funds that is not a government organization.

(2) There is created the Office of the Legislative Auditor General as a permanent staff office for the Legislature.

(3) The legislative auditor general shall be a licensed certified public accountant or certified internal auditor with at least seven years of experience in the auditing or public accounting profession, or the equivalent, prior to appointment.

(4) The legislative auditor general shall appoint and develop a professional staff within budget limitations.

(5) The office shall exercise the constitutional authority provided in Utah Constitution, Article VI, Section 33.

(6) Under the direction of the legislative auditor general, the office shall:

(a) conduct comprehensive and special purpose audits, examinations, investigations, or reviews of entity funds, functions, and accounts;

(b) prepare and submit a written report on each audit action to the Audit Subcommittee created in Section 36-12-8 and make the report available to all members of the Legislature within 75 days after the audit action is completed;

(c) monitor, conduct a risk assessment of, or audit any efficiency evaluations that the legislative auditor general determines necessary, in accordance with Title 63J, Chapter 1, Part 9, Government Performance Reporting and Efficiency Process, and legislative rule;

(d) create, manage, and report to the Audit Subcommittee a list of high risk programs and operations that:

(i) threaten public funds or programs;

(ii) are vulnerable to inefficiency, waste, fraud, abuse, or mismanagement; or

(iii) require transformation;

(e) monitor and report to the Audit Subcommittee the health of a government organization's internal audit functions;

(f) make recommendations to increase the independence and value added of internal audit functions throughout the state;

(g) implement a process to track, monitor, and report whether the subject of an audit has implemented recommendations made in the audit report;

(h) establish, train, and maintain individuals within the office to conduct investigations and represent themselves as lawful investigators on behalf of the office;

(i) establish policies, procedures, methods, and standards of audit work and investigations for the office and staff;

(j) prepare and submit each audit and investigative report independent of any influence external of the office, including the content of the report, the conclusions reached in the report, and

the manner of disclosing the legislative auditor general's findings;

(k) prepare and submit the annual budget request for the office; and

(l) perform other duties as prescribed by the Legislature.

(7) In conducting an audit action of an entity, the office may include a determination of any or all of the following:

(a) the honesty and integrity of any of the entity's fiscal affairs;

(b) the accuracy and reliability of the entity's internal control systems and specific financial statements and reports;

(c) whether or not the entity's financial controls are adequate and effective to properly record and safeguard the entity's acquisition, custody, use, and accounting of public funds;

(d) whether the entity's administrators have complied with legislative intent;

(e) whether the entity's operations have been conducted in an efficient, effective, and cost efficient manner;

(f) whether the entity's programs have been effective in accomplishing intended objectives; and

(g) whether the entity's management control and information systems are adequate and effective.

(8)(a) If requested by the office, each entity that the legislative auditor general is authorized to audit under Utah Constitution,

Article VI, Section 33, or this section shall, notwithstanding any other provision of law except as provided in Subsection (8)(b), provide the office with access to information, materials, or resources the office determines are necessary to conduct an audit, examination, investigation, or review, including:

(i) the following in the possession or custody of the entity in the format identified by the office:

(A) a record, document, and report; and

(B) films, tapes, recordings, and electronically stored information;

(ii) entity personnel; and

(iii) each official or unofficial recording of formal or informal meetings or conversations to which the entity has access.

(b) To the extent compliance would violate federal law, the requirements of Subsection (8)(a) do not apply.

(9)(a) In carrying out the duties provided for in this section and under Utah

Constitution, Article VI, Section 33, the legislative auditor general may issue a subpoena to access information, materials, or resources in accordance with Chapter 14, Legislative Subpoena Powers.

(b) The legislative auditor general may issue a subpoena, as described in Subsection (9)(a), to a financial institution or any other entity to obtain information as part of an investigation of fraud, waste, or abuse, including any suspected malfeasance, misfeasance, or nonfeasance involving public funds.

(10) To preserve the professional integrity and independence of the office:

(a) no legislator or public official may urge the appointment of any person to the office; and

(b) the legislative auditor general may not be appointed to serve on any board, authority, commission, or other agency of the state during the legislative auditor general's term as legislative auditor general.

(11)(a) The following records in the custody or control of the legislative auditor general are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records and audit work papers that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the legislative auditor general through other documents or evidence, and the records relating to the allegation are not relied upon by the legislative auditor general in preparing a final audit report;

(ii) records and audit workpapers that would disclose the identity of a person who, during the course of a legislative audit, communicated the existence of:

(A) unethical behavior;

(B) waste of public funds, property, or personnel; or

(C) a violation or suspected violation of a United States, Utah state, or political subdivision law, rule, ordinance, or regulation, if the person disclosed on the condition that the identity of the person be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to a person who is not an employee or head of an entity for review, response, or information;

(iv) records that would disclose:

(A) an outline;

(B) all or part of an audit survey, audit risk assessment plan, or audit program; or

(C) other procedural documents necessary to fulfill the duties of the office; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsection (11)(a) do not prohibit the disclosure of records or information to a

government prosecutor or peace officer if those records or information relate to a violation of the law by an entity or entity employee.

(c) A record, as defined in Section 63G-2-103, created by the office in a closed meeting held in accordance with Section 52-4-205:

(i) is a protected record, as defined in Section 63G-2-103;

(ii) to the extent the record contains information:

(A) described in Section 63G-2-302, is a private record; or

(B) described in Section 63G-2-304, is a controlled record; and

(iii) may not be reclassified by the office.

(d) The provisions of this section do not limit the authority otherwise given to the legislative auditor general to maintain the private, controlled, or protected record status of a shared record in the legislative auditor general's possession or classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(12) The legislative auditor general shall:

(a) be available to the Legislature and to the Legislature's committees for consultation on matters relevant to areas of the legislative auditor general's professional competence;

(b) conduct special audits as requested by the Audit Subcommittee;

(c) report immediately to the Audit Subcommittee any apparent violation of penal statutes disclosed by the audit of an entity and furnish to the Audit Subcommittee all information relative to the apparent violation;

(d) report immediately to the Audit Subcommittee any apparent instances of malfeasance or nonfeasance by an entity officer or employee disclosed by the audit of an entity; and

(e) make any recommendations to the Audit Subcommittee with respect to the alteration or improvement of the accounting system used by an entity.

(13) If the legislative auditor general conducts an audit of an entity that has previously been audited and finds that the entity has not implemented a recommendation made by the legislative auditor general in a previous audit report, the legislative auditor general shall report to the Audit Subcommittee that the entity has not implemented the recommendation.

(14) Before each annual general session, the legislative auditor general shall:

(a) prepare an annual report that:

(i) summarizes the audits, examinations, investigations, and reviews conducted by the office since the last annual report; and

(ii) evaluate and report the degree to which an entity that has been the subject of an audit has implemented the audit recommendations;

(b) include in the report any items and recommendations that the legislative auditor general believes the Legislature should consider in the annual general session; and

(c) deliver the report to the Legislature and to the appropriate committees of the Legislature.

(15)(a) If the chief officer of an entity has actual knowledge or reasonable cause to believe that there is misappropriation of the entity's public funds or assets, or another entity officer has actual knowledge or reasonable cause to believe that the chief officer is misappropriating the entity's public funds or assets, the chief officer or, alternatively, the other entity officer, shall immediately notify, in writing:

(i) the office;

(ii) the attorney general, county attorney, or district attorney; and

(iii)(A) for a state government organization, the chief executive officer;

(B) for a political subdivision government organization, the legislative body or governing board; or

(C) for a receiving organization, the governing board or chief executive officer unless the chief executive officer is believed to be misappropriating the funds or assets, in which case the next highest officer of the receiving organization.

(b) As described in Subsection (15)(a), the entity chief officer or, if applicable, another entity officer, is subject to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act.

(c) If the Office of the Legislative Auditor General receives a notification under Subsection (15)(a) or other information of misappropriation of public funds or assets of an entity, the office shall inform the Audit Subcommittee.

(d) The attorney general, county attorney, or district attorney shall notify, in writing, the Office of the Legislative Auditor General whether the attorney general, county attorney, or district attorney pursued criminal or civil sanctions in the matter.

(16)(a) An actor commits interference with a legislative audit if the actor uses force, violence, intimidation, or engages in any other unlawful act with a purpose to interfere with:

(i) a legislative audit action; or

(ii) the office's decisions relating to:

(A) the content of the office's report;

(B) the conclusions reached in the office's report; or

(C) the manner of disclosing the results and findings of the office.

(b) A violation of Subsection (16)(a) is a class B misdemeanor.

(17)(a) The office may require any current employee, or any applicant for employment, to submit to a fingerprint-based local, regional, and criminal history background check as an ongoing condition of employment.

(b) An employee or applicant for employment shall provide a completed fingerprint card to the office upon request.

(c) The office shall require that an individual required to submit to a background check under this Subsection (17) also provide a signed waiver on a form provided by the office that meets the requirements of Subsection 53-10-108(4).

(d) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the office shall submit to the Bureau of Criminal Identification:

(i) the employee's or applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(ii) a request for all information received as a result of the local, regional, and nationwide background check.

(18) Subject to prioritization of the Legislative Audit Subcommittee, the Office of the Legislative Auditor General shall conduct a feasibility study under Section 53G-3-301.1, [~~53G-3-301.2,~~] 53G-3-301.3, or 53G-3-301.4.

Section 11. Section 53G-3-102 is amended to read:

53G-3-102. Definitions.

As used in this chapter:

(1) "Allocation date" means:

(a) July 1 of the second calendar year following the local school board [~~general election date or special~~]election date as described in Section 53G-3-302; or

(b) another date to which the new local school board and reorganized school board agree.

(2) "Creation date" means the date on which voters approve the creation of a new school district under Section 53G-3-301.1, [~~53G-3-301.2,~~] 53G-3-301.3, or 53G-3-301.4.

(3) "Divided school district" means:

(a) an existing school district from which a new school district is created under Section 53G-3-301.1, [~~53G-3-301.2, ~~]53G-3-301.3, or 53G-3-301.4; and

(b) an existing school district from which a reorganized new school district is created.

(4)(a) "Feasibility study" means a study:

(i) conducted by:

(A) a school district, municipal legislative body, or interlocal agreement participants before [~~July 31, 2024~~]July 1, 2024; or

(B) the Office of the Legislative Auditor General, subject to prioritization by the Legislative Audit Subcommittee; and

(ii) to determine:

(A) the financial viability for a new school district and reorganized new school district that is contained within the boundaries of a divided school district;

(B) the financial impact on a new school district and reorganized new school district that is contained within the boundaries of a divided school district; and

(C) the impact of the tax burden on taxpayers within the boundaries of the proposed new school district.

(5) "Interlocal agreement participant" means a public agency, as that term is defined in Section 11-13-103, that enters into an agreement with one or more other public agencies for the purpose described in and in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(6) "Isolated area" means an area that:

(a) is entirely within the boundaries of an existing school district;

(b) is contiguous to the proposed new school district;

(c) has a combined student population of fewer than 5,000 students; and

(d) because of the creation of a new school district from the existing district in which the area is located, would become completely geographically isolated.

(7) "Municipality" means the same as that term is defined in Section 10-1-104.

(8) "New school district" means a school district created under Section 53G-3-301.1, [~~53G-3-301.2,~~]53G-3-301.3, or 53G-3-301.4.

(9) "Reorganized new school district" means the remaining portion of the divided school district after the creation of a new school district under Subsection 53G-3-301.1, [~~53G-3-301.2,~~]53G-3-301.3, or 53G-3-301.4.

Section 12. Section 53G-3-202 is amended to read:

53G-3-202. School districts independent of municipal and county governments -- School district name -- Control of property.

(1)(a) Each school district shall be controlled by its local school board and shall be independent of municipal and county governments.

(b) The name of each school district created after May 1, 2000, including a reorganized new school district, shall comply with Section 17-50-103.

(2) The local school board shall have direction and control of all school property in the district and may enter into cooperative agreements with other local school boards to provide educational services that best utilize resources for overall operation of the public school system.

(3)(a) On or before 30 days following the day on which the creation of a new school district occurs under Section 53G-3-301.1, [~~53G-3-301.2,~~] 53G-3-301.3, or 53G-3-301.4, and in accordance with Section 67-1a-15, a new school district shall be registered as a limited purpose entity by:

(i) the municipal legislative body in which the boundaries for the new school district is entirely located; or

(ii) the legislative body of interlocal agreement participants in which the new school district is located.

(b) Each school district shall register and maintain the school district's registration as a limited purpose entity in accordance with Section 67-1a-15.

(c) A school district that fails to comply with Subsections (3)(a) and (b) or Section 67-1a-15 is subject to enforcement by the state auditor in accordance with Section 67-3-1.

Section 13. Section 53G-3-301 is amended to read:

53G-3-301. Creation of new school district -- Initiation of process -- Procedures to be followed.

(1) A new school district may be created from one or more existing school districts, as provided in this chapter.

(2) The process to create a new school district may be initiated:

(a) through a citizens' [~~initiative~~]petition in accordance with Section 53G-3-301.1;

[~~(b) at the request of the local school board of the divided district or districts to be affected by the creation of the new district in accordance with Section 53G-3-301.2;~~]

[~~(c)~~](b) at the request of a municipality within the boundaries of the school district in accordance with Section 53G-3-301.3; or

[~~(d)~~](c) at the request of interlocal agreement participants in accordance with Section 53G-3-301.4.

(3) Except as provided in Sections 53G-3-301.3 and 53G-3-301.4, a request or petition under Subsection (2) may not form a new school district unless the new school district boundaries:

(a) are contiguous;

(b) [~~do not completely surround or otherwise completely geographically isolate a portion of the existing school district that is not part of the proposed new school district from the remaining part of that existing school district; or~~]do not create an isolated area, as defined in Section 53G-3-102; and

(c) include the entire boundaries of each participant municipality or town.

(4) For each new school district, each county legislative body shall comply with the notice and plat filing requirements of Section 53G-3-203.

(5) If a new school district is created, the new district shall reimburse the reorganized new district's documented costs to study and implement the proposal in proportion to the student population of each school district.

(6) An inadequacy of a feasibility study, as defined in Section 53G-3-102, may not be the basis of a legal action or other challenge to:

(a) an election for voter approval of the creation of a new school district; or

(b) the creation of the new school district.

(7) Notwithstanding the creation of a new district as provided in this part:

(a) a new school district and a reorganized new school district may not begin to provide educational services to the area within the new school district and reorganized new school district until July 1 of the second calendar year following the local school board election date as described in Section 53G-3-301.1, [~~53G-3-301.2,~~] 53G-3-301.3, or 53G-3-301.4; and

(b) the divided school district shall continue, until the time specified in Subsection (7)(a), to provide educational services within the entire area covered by the divided school district.

(8) A new school district and a reorganized new school district shall enter into a shared services agreement that permits students residing in each new school district access to attend a school that serves students with disabilities within or outside of each school district boundary:

(a) for up to five years;

(b) for actual costs of services provided to students; and

(c) without affecting services provided to other students.

(9) The process described in Subsection (2) may not be initiated more than once during any two-year period.

Section 14. Section 53G-3-301.1 is amended to read:

53G-3-301.1. Creation of a new school district -- Citizens' petition -- Procedures to be followed.

[~~(1) Citizens may initiate the creation of a new school district through a citizens' initiative petition in accordance with this section and Section 53G-3-301.~~]

(1) Citizens may file a petition to create a new school district in accordance with this section and Section 53G-3-301.

(2)(a) The county clerk shall ensure that [~~an initiative petition submitted under this section~~]a petition described in Subsection (1) is signed by registered voters residing within the geographical boundaries of the proposed new school district in an amount equal to at least 10% of all votes cast within the geographic boundaries of the proposed new school district for all candidates for president of the United States at the last regular general election at which a president of the United States was elected.

(b) The sponsors of a petition [~~submitted under Subsection (2)(a) shall file a~~]described in Subsection (1) shall file the petition with the clerk of each county in which any part of the proposed new school district is located.

(c) The petition sponsors shall ensure that the petition described in Subsection [~~(2)(b)~~](1):

(i) indicates the typed or printed name and current residence address of each [~~governing board member making a request, or registered voter signing a petition, as the case may be~~]voter who signs the petition;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the petition [~~or request~~]as sponsors, designating one as the contact sponsor, with the mailing address and telephone number of each.

(3)(a)(i) A signer of a petition described in Subsection (1) may withdraw or, once withdrawn, reinstate the signer's signature by filing a written statement requesting for withdrawal or reinstatement with the county clerk no later than three business days after the day on which the petition is filed with the county clerk.

(ii) A statement described in Subsection (3)(a)(i) shall comply with the requirements described in Subsection 20A-1-1003(2).

(iii) The county clerk shall use the procedures described in Subsection 20A-1-1003(3) to determine whether to remove or reinstate an individual's signature from a petition after receiving a timely, valid statement.

(b) The county clerk shall use the procedures described in Section 20A-1-1002 to determine whether the petition has been signed by the required number of registered voters residing within the geographical boundaries of the proposed new school district.

(4) Within 14 days after the day on which a petition described in Subsection (1) is filed, the clerk of each county with which the request or petition is filed shall:

(a) determine whether the petition complies with Subsections (2) and (3), as applicable, and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request or petition complies with the applicable requirements:

(A) certify the petition and deliver the certified petition to the county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the petition fails to comply with any of the applicable requirements, reject the petition and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(5)(a) If the county clerk fails to certify or reject a petition within the time specified in Subsection (4), the petition is considered to be certified.

(b) If the county clerk rejects a petition, the individual who submitted the petition may amend the petition to correct the deficiencies for which the county clerk rejected the petition and refile the petition.

(6) Within 10 days after the day on which a county legislative body receives a certified petition as described in Subsection (4) or (5), the county legislative body shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(7)(a) The county legislative body shall:

(i) provide for a 45-day public comment period to begin on the day the county legislative body receives the study under Subsection (6); and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendations.

(b) Within five business days after the day on which the public comment period ends, the legislative body of each county with which a petition is filed shall vote on the creation of the proposed new school district.

(c) A county legislative body approves [~~an initiative proposal~~]a petition proposing a new school district if a majority of the members of the legislative body vote in favor of the [~~proposal~~]petition.

(8)(a) Within five business days after the day on which a county legislative body approves a petition proposing a new school district under Subsection (7), the county legislative body shall provide notice of the approval and a copy of the petition to which the approval relates to the county clerk of each county described in Subsection (2)(b).

(b) If each county described in Subsection (2)(b) approves a petition proposing a new school district, the county clerks of the counties shall submit the proposal for the creation of a new school district to all legal voters in the existing school district for approval or rejection at the next regular general election that is at least 65 days after the day on which all of the counties described in Subsection (2)(b) have complied with Subsection (8)(a).

(c) The new school district proposed in the petition and the reorganized new school district are created if a majority of the voters in the existing school

district vote in favor of creating the new school district.

[~~(8)(a) If each county legislative body approves an initiative proposal under this section, each county legislative body shall submit the proposal to the county clerk of each county described in Subsection (2)(b) for a vote:~~]

[~~(i) by the legal voters of each existing school district the proposal affects;~~]

[~~(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and~~]

[~~(iii) at the next regular general election or municipal general election, whichever is first.~~]

[~~(b) A new school district is created if a majority of the legal voters within the proposed new school district and each existing school district voting on the proposal vote in favor of the creation of the new district.~~]

Section 15. Section 53G-3-301.2 is repealed and re-enacted to read:

53G-3-301.2. Reserved.

Section 16. Section 53G-3-301.3 is amended to read:

53G-3-301.3. Creation of a new school district -- Request by a municipality -- Procedures to be followed.

[~~(1) A municipality located within the boundaries of a school district may initiate the process to create a new school district in accordance with this section and Section 53G-3-301.~~]

(1) A municipality located within the boundaries of a school district may file a request to create a new school district in accordance with this section and Section 53G-3-301.

(2)(a) [~~To initiate the school district creation process under Subsection (1), a~~]The municipality shall file [~~a~~]the request to create a new school district with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing municipality shall ensure that the request described in Subsection (2)(a):

(i) indicates the typed or printed and current residence address of each governing board member making [~~a~~]the request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including one as the contact sponsor, with the mailing address and telephone number of each.

(3) Within five business days after the day on which a request described in Subsection (2) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with Subsection (2) and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the municipality and each county legislative body; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(4)(a) If the county clerk fails to certify or reject [~~a~~]the request within the time specified in Subsection (3), the request is considered to be certified.

(b) If the county clerk rejects [~~a~~]the request, the municipality that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request and refile the request.

(5)(a) Within 10 days after the day on which a municipal legislative body receives a certification as described in Subsection (3) or (4), a municipal legislative body shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(b) For the year 2024, the municipal legislative body may use a feasibility study that the municipal legislative body conducted before [~~July 31, 2024~~]July 1, 2024, if:

(i) the feasibility study contains the determinations described in Section 53G-3-102; and

(ii) the municipality receives a report and recommendation regarding the feasibility study in a public meeting.

(6)(a) The municipal legislative body shall:

(i) provide for a [~~45-day~~]30-day public comment period to begin :

(A) on the day the study is presented to the municipal legislative body under Subsection (5); [~~and~~]or

(B) if the municipal legislative body uses a feasibility study described in Subsection (5)(b), on July 1, 2024; and

(ii) hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the municipal legislative body shall vote on the creation of the proposed new school district.

(c) A municipal legislative body approves a proposal if a majority of the municipal legislative body vote in favor of the proposal.

(d) Within five business days after the day on which the municipal legislative body approves a

[~~proposal~~]request proposing the creation of a new school district, the municipal legislative body shall notify the legislative body and the county clerk of each county described in Subsection (2)(a).

(7) The county clerks of the counties described in Subsection (2)(a) shall submit the proposal for the creation of a new school district to all legal voters residing within the proposed new school district boundaries for approval or rejection at the next regular general election that is a least 65 days after the day on which the municipal legislative body complies with Subsection (6)(d).

(8) The new school district described in the request and the reorganized new school district are created if a majority of the voters in the proposed new school district boundaries vote in favor of creating the new school district.

[~~(7)(a) The legislative body of each county described in Subsection (2) shall submit the proposal to the county clerk to be voted on:~~]

[~~(i) by the legal voters residing within the proposed new school district boundaries;~~]

[~~(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and~~]

[~~(iii) at the next regular general election or municipal general election, whichever is first.~~]

[~~(b) A new school district is created if a majority of the legal voters within the proposed new school district boundaries voting on the proposal vote in favor of the creation of the new district.~~]

[~~(8)~~](9) Nothing in this section prevents a municipality from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 17. Section 53G-3-301.4 is amended to read:

53G-3-301.4. Creation of a new school district -- By interlocal agreement participants -- Procedures to follow.

(1) [~~Interlocal agreement participants may initiate the process to create a new school district in accordance with this section and with Section 53G-3-301.~~]

(a) On or after April 30, 2024, interlocal agreement participants may file a request proposing the creation of a new school district in accordance with this section and Section 53G-3-301.

(b) A municipality may not:

(i) enter into more than one interlocal agreement for the purpose of submitting for voter approval, in the same election, a proposal to create a new school district under this part; or

(ii) participate in a request under this section and submit a request under Section 53G-3-301.3 for the same election.

(c) A municipality may not withdraw from an interlocal agreement under this part, unless, before August 1 of the year in which the interlocal agreement participants file the request under Subsection (1)(a):

(i) the municipality votes, via the legislative body of the municipality, to withdraw from the interlocal agreement; and

(ii) a majority of all municipalities that are participants in the interlocal agreement vote to withdraw from the interlocal agreement, via a separate vote of the legislative body of each municipality.

(d) If a majority of all municipalities that are participants in the interlocal agreement vote to withdraw from the interlocal agreement under Subsection (1)(a), the request is void and the interlocal agreement participants may not participate in a new or a revised request until the following year.

(2)(a) [~~By~~]Except as provided in Subsection (3), by a majority vote of each legislative body, the legislative body of a municipality, together with at least one other municipality, may enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, for the purpose of submitting for voter approval a measure to create a new school district if[~~:~~]

[~~(i) except as provided in Subsection (3),~~] the new school district boundaries comply with the requirements of Section 53G-3-301[~~; and~~].

[~~(ii) the combined population within the proposed new school district of the interlocal agreement participants is at least 80% of the total population of the proposed new school district.~~]

(b) A county may only participate in an interlocal agreement under this Subsection (2) for the unincorporated areas of the county.

(c) Boundaries of a new school district created under this section may include:

(i) a portion of one or more existing school districts; and

(ii) a portion of the unincorporated area of a county.

(3)(a) As used in this Subsection (3), "municipality's school district" means the school district that includes all of the municipality in which the isolated area is located except the isolated area, as that term is defined in Section 53G-3-102.

(b) Notwithstanding Subsection 53G-3-301(3), a municipality may be a participant in an interlocal agreement under Subsection (2)(a) with respect to some but not all of the area within the municipality's boundaries if:

(i) the portion of the municipality proposed to be included in the new school district would, if not included, become an isolated area upon the creation of the new school district; or

(ii)(A) the portion of the municipality proposed to be included in the new school district is within the boundaries of the same school district that includes the other interlocal agreement participants; and

(B) the portion of the municipality proposed to be excluded from the new school district is within the boundaries of a school district other than the school district that includes the other interlocal agreement participants.

(c)(i) Notwithstanding Subsection 53G-3-301(3), interlocal agreement participants may submit a proposal to the legal voters residing within the proposed new school district boundaries to create a new school district in accordance with an interlocal agreement under Subsection (2)(a), even though the new school district boundaries would create an isolated area, as that term is defined in Section 53G-3-102, if:

(A) the potential isolated area is contiguous to one or more of the interlocal agreement participants;

(B) the interlocal participants submit a written request to the municipality in which the potential isolated area is located, requesting the municipality to enter into an interlocal agreement under Subsection (2)(a) that proposes to submit for voter approval a [~~measure~~]proposal to create a new school district that includes the potential isolated area; and

(C) the municipality, to which the interlocal agreement participants submitted a request under Subsection (3)(c)(i)(B), did not respond to the written request within 30 days after the day on which the request was submitted.

(ii) Each municipality receiving a request under Subsection (3)(c)(i) shall hold at least two public hearings to allow input from the public and affected school districts regarding whether [~~or not~~]the municipality should enter into an interlocal agreement with respect to the potential isolated area.

(iii) A municipal legislative body approves a proposal to enter into an interlocal agreement with respect to the potential isolated area if a majority of the municipal legislative body votes in favor of the proposal.

(d)(i) The isolated area described in this Subsection (3) shall, on July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302, become part of the municipality's school district.

(ii) The divided district shall continue to provide educational services to the isolated area until July 1 of the second calendar year following the local school board general election date described in Section 53G-3-302.

(4)(a) [~~To initiate the school district creation process under Subsection (1), interlocal~~]Interlocal agreement participants shall file a request described in Subsection (1) with the clerk of each county in which any part of the proposed new school district is located.

(b) The filing interlocal agreement participants shall ensure that the request described in Subsection (4)(a):

(i) indicates the typed or printed and current residence address of each governing board member making a request;

(ii) describes the proposed new school district boundaries; and

(iii) designates up to five signers of the request as sponsors, including as the contact sponsor, with the mailing address and telephone number of each.

(5) Within five business days after the day on which a request described in Subsection (4)(a) is filed, the clerk of each county with which the request is filed shall:

(a) determine whether the request complies with this section and Section 53G-3-301; and

(b)(i) if the county clerk determines that the request complies with the applicable requirements:

(A) certify the request and deliver the certified request to the legislative bodies of the interlocal agreement participants; and

(B) mail or deliver written notification of the certification to the contact sponsor; or

(ii) if the county clerk determines that the request fails to comply with any of the applicable requirements, reject the request and notify the contact sponsor in writing of the rejection and reasons for the rejection.

(6)(a) If the county clerk fails to certify or reject a request within the time specified in Subsection (5), the request is considered to be certified.

(b)[~~(i)~~] If the county clerk rejects a request, the interlocal agreement participants that submitted the request may amend the request to correct the deficiencies for which the county clerk rejected the request, and refile the request.

(7)(a) Within 30 days after the day on which the contact sponsor receives certification as described in Subsection (5) or (6), the contact sponsor shall request that the Legislative Audit Subcommittee consider prioritizing a feasibility study, as that term is defined in Section 53G-3-102.

(b) For the year 2024, the interlocal agreement participants may use a feasibility study that interlocal agreement participants conducted before [~~July 31, 2024~~]July 1, 2024, if:

(i) the feasibility study contains the determinations described in Section 53G-3-102; and

(ii) the legislative bodies of the interlocal agreement participants receive a report and

recommendation regarding the feasibility study in a public meeting.

(8)(a) The legislative bodies of the interlocal agreement participants shall:

(i) provide for a [~~45-day~~]30-day public comment period to begin :

(A) on the day on which the legislative bodies of the interlocal agreement participants receive the report under Subsection (7); [~~and~~]or

(B) on July 1, 2024, if the municipal legislative body uses a feasibility study described in Subsection (7)(b), regardless of whether the municipal legislative body provided all or a portion of a public comment period in relation to the feasibility study before July 1, 2024; and

(ii) except as provided in Subsection (8)(d), hold at least two public hearings, as defined in Section 10-9a-103, on the study and recommendation.

(b) Within 14 days after the day on which the public comment period ends, the legislative bodies of the interlocal agreement participants shall vote on the creation of the proposed new school district.

(c) The interlocal agreement participants approve a proposal if a majority of each of the legislative bodies of the interlocal agreement participants' members vote in favor of the proposal.

(d) If the municipal legislative body uses a feasibility study described in Subsection (7)(b), the number of public hearings required under Subsection (8)(a)(ii) is reduced by the number of public hearings the municipal legislative body held on the feasibility study before July 1, 2024.

(9)[~~(a)~~] Within five business days after the day on which the interlocal agreement participants approve a [~~proposal~~]request proposing the creation of a new school district, the interlocal agreement participants shall notify the legislative body and the county clerk of each county described in Subsection (4)(a).

[~~(b) The legislative body of each county described in Subsection (4) shall submit the proposal to the respective clerk of each county to be voted on:~~]

[~~(i) by the legal voters residing within the proposed new school district boundaries;~~]

[~~(ii) in accordance with the procedures and requirements applicable to a regular general election under Title 20A, Election Code; and~~]

[~~(iii) at the next regular general election or municipal general election, whichever is first.~~]

[~~(10) A new school district is created if a majority of the legal voters residing within the proposed new district boundaries voting on the proposal vote in favor of the creation of the new school district.~~]

(10)(a) The county clerks of the counties described in Subsection (4)(a) shall submit the proposal for the creation of a new school district to all legal voters residing within the proposed new school district boundaries for approval or rejection at the next regular general election that is at least 65 days after the day on which the interlocal agreement participants comply with Subsection (9).

(b) The new school district described in the request and the reorganized new school district are created if a majority of the voters in the proposed new school district boundaries vote in favor of creating the new school district.

(11) Nothing in this section prevents an interlocal agreement participant from assisting the new school district or reorganized new school district, including by:

(a) entering into a loan agreement with the new school district or reorganized new school district; or

(b) assisting the new school district or reorganized new school district in securing a line of credit.

Section 18. Section 53G-3-302 is amended to read:

53G-3-302. Election of local school board members -- Allocation of assets and liabilities -- Startup costs -- Transfer of title.

(1)(a) If voters approve a proposal to create a new school district under this part:

[~~(i) the legislative body of the county in which the new school district and reorganized new school district are located shall hold an election at the next general election, or at a special election in accordance with Section 20A-1-204, to elect:~~]

[~~(A) members to the local school board of the divided school district whose terms are expiring;~~]

[~~(B) all members to the local school board of the new school district; and~~]

[~~(C) all members to the local school board of the reorganized new school district;~~]

(i) the legislative body of each county where all or a part of the new school district and the reorganized new school district are located shall hold elections during the year immediately following the year in which the voters approve the proposal to elect members to the local school board of the new school district and the reorganized new school district, as follows:

(A) the filing period for a declaration of candidacy will be the same as the filing period for a municipal election;

(B) the primary election will be held on the same day as the municipal primary election; and

(C) the general election will be held on the same day as the municipal general election;

(ii) the new school district and reorganized new school district shall divide the assets and liabilities of the divided school district between the new school district and the reorganized new school district as provided in Subsection (3) and Section 53G-3-307;

(iii) transferred employees shall be treated in accordance with Sections 53G-3-205 and 53G-3-308;

(iv) an individual residing within the boundaries of a new school district or reorganized new school district at the time the new school district is created may, for six school years following the creation of the new school district, elect to enroll in a secondary school located outside the boundaries of the reorganized new school district if:

(A) the individual resides within the boundaries of that secondary school as of the day before the new school district is created; and

(B) the individual would have been eligible to enroll in that secondary school had the new school district not been created;

(v) the reorganized new school district in which the secondary school is located shall provide educational services, including, if provided before the creation of the new school district, busing to each individual making an election under Subsection (1)(a)(iv) for each school year for which the individual makes the election; and

(vi) within one year following the date on which the new school district begins providing educational services, the superintendent of each affected school district shall meet, together with the state superintendent, to determine if further boundary changes should take place in accordance with Section 53G-3-501.

[~~(b)(i) The county legislative body shall stagger and adjust the terms of the initial members of the local school boards of the new school district and the reorganized new school district so that approximately half of the local school board is elected every two years following the allocation date in accordance with Section 20A-1-104.~~]

(b)(i) The county or municipal legislative bodies that conduct redistricting for the new school district and the reorganized new school district shall, at the meeting where the county or municipal legislative bodies adopt the final redistricting maps, adjust the initial terms of the board members for the new school district and the reorganized new school district, by lot, so that approximately half of the board members on each board will have an initial term of three years with the other members having an initial term of five years.

(ii) The term of a member of the divided school district local school board terminates on January 1 of the year following the allocation date[~~, or as determined under Subsection (1)(b)(i)~~].

(iii) Notwithstanding the existence of the new school district local school board and the reorganized new school district local school board under Subsection (1)(a)(i), the divided school district local school board shall continue to function and exercise authority as a local school board until the allocation date to the extent necessary to continue to provide educational services to the entire divided school district.

(iv) An individual may simultaneously serve as or be elected to be a member of the local school board of a divided school district and a member of the local school board of:

(A) a new school district; or

(B) a reorganized new school district.

(2)(a) The divided school district local school board shall, within 60 days after the creation date:

(i) prepare an inventory of the divided school district's:

(A) assets, both tangible and intangible, real and personal; and

(B) liabilities; and

(ii) deliver a copy of the inventory to the Office of the Legislative Auditor General.

(b) Following the local school board election date described in Subsection (1)(a), the new school district and reorganized new school district local school boards shall:

(i) request a copy of the inventory described in Subsection (2)(a) from the Office of the Legislative Auditor General;

(ii) determine the allocation of the divided school district's assets and, except for indebtedness under Section 53G-3-307, liabilities of the new school district and reorganized new school district in accordance with Subsection (3);

(iii) prepare a written report detailing the allocation under Subsection (2)(b)(ii); and

(iv) deliver a copy of the written report to the Office of the Legislative Auditor General and the divided school district local board.

(c) The new school district and reorganized new school district local boards shall determine the allocation under Subsection (2)(b) and deliver the report required under Subsection (2)(b) on or before July 1 of the year following the school board election date, unless that deadline is extended by mutual agreement of the new school district and reorganized new school district local boards.

(3)(a) As used in this Subsection (3):

(i) "Associated property" means furniture, equipment, or supplies located in or specifically associated with a physical asset.

(ii)(A) "Discretionary asset or liability" means, except as provided in Subsection (3)(a)(ii)(B), an asset or liability that is not tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Discretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iii)(A) "Nondiscretionary asset or liability" means, except as provided in Subsection (3)(a)(iii)(B), an asset or liability that is tied to a specific project, school, student, or employee by law or school district accounting practice.

(B) "Nondiscretionary asset or liability" does not include a physical asset, associated property, a vehicle, or bonded indebtedness.

(iv) "Physical asset" means a building, land, or water right together with revenue derived from the lease or use of the building, land, or water right.

(b) Except as provided under Subsection (3)(c), the new school district and reorganized new school district local school boards shall allocate all assets and liabilities the divided school district owns on the allocation date, both tangible and intangible, real and personal as follows:

(i) a physical asset and associated property asset shall be allocated to the school district in which the physical asset is located;

(ii) a discretionary asset or liability shall be allocated between the new school district and reorganized new school district in proportion to the student population of the school districts;

(iii) vehicles used for pupil transportation shall be allocated:

(A) according to the transportation needs of schools, as measured by the number and assortment of vehicles used to serve eligible state supported transportation routes serving schools within the new school district and the reorganized new school district; and

(B) in a manner that gives each school district a fleet of vehicles for pupil transportation that is equivalent in terms of age, condition, and variety of carrying capacities; and

(iv) other vehicles shall be allocated:

(A) in proportion to the student population of the school districts; and

(B) in a manner that gives each district a fleet of vehicles that is similar in terms of age, condition, and carrying capacities.

(c) By mutual agreement, the new school district and reorganized new school district local school boards may allocate an asset or liability in a manner different than the allocation method specified in Subsection (3)(b).

(4)(a) As used in this Subsection (4):

(i) "New school district startup costs" means the costs and expenses incurred by a new school district in order to prepare to begin providing educational services on July 1 of the second calendar year following the local school board [~~general election or special~~]election date described in Subsection (1)(a)(i).

(ii) "Reorganized new school district startup costs" means the costs and expenses that a reorganized new school district incurs to make necessary adjustments to deal with the impacts resulting from the creation of the new school district and to prepare to provide educational services within the reorganized new school district once the new school district begins providing educational services within the new school district.

(b) On or before January 1 of the year following the new local school board [~~general election or special~~]election date described in Subsection (1)(a)(i), the divided school district shall make the unassigned reserve funds from the divided school district's general fund available for the use of the reorganized new school district and the new school district in proportion to the student enrollment of each new school district.

(c) The divided school district may make additional funds available for the use of the reorganized new school district and the new school district beyond the amount specified in Subsection (4)(b) through an interlocal agreement.

(d) The following may access and spend money made available under Subsection (4)(b):

(i) the reorganized new school district local school board; and

(ii) the new school district local school board.

(e) The new school district and the reorganized new school district may use the money made available under Subsection (4)(b) to pay for the new school district and reorganized new school district startup costs.

(5)(a) The divided school district shall transfer title or, if applicable, partial title of property to the new school district and the reorganized new school district in accordance with the allocation of property as stated in the report under Subsection (2)(b)(iii).

(b) The divided school district shall complete each transfer of title or, if applicable, partial title to real property and vehicles on or before one calendar year from the date of the local school board election date described in Subsection (1)(a)(i), except as that date is changed by the mutual agreement of:

(i) the local school board of the divided school district;

(ii) the local school board of the reorganized new school district; and

(iii) the local school board of the new school district.

(c) The divided school district shall complete the transfer of all property not included in Subsection (5)(b) on or before November 1 of the calendar year following the local school board election date described in Subsection (1)(a)(i).

(6) Except as provided in Subsection (5), a divided school district may not transfer or agree to transfer title to district property beginning on the day the new school district or reorganized new school district is created without the prior consent of:

(a) the legislative body of the municipality in which the boundaries for the new school district or reorganized new school district are entirely located; or

(b) the legislative bodies of all interlocal agreement participants in which the boundaries of the new school district or reorganized new school district are located.

Section 19. Section 53G-3-303 is amended to read:

53G-3-303. New school district property tax -- Limitations.

(1) A new school district, created under Section 53G-3-301.1, [~~53G-3-301.2,~~]53G-3-301.3, or

53G-3-301.4[~~,~~] and a reorganized new school district may not impose a property tax before the fiscal year in which the new school district and reorganized new school district assume responsibility for providing student instruction.

(2)(a) If at the time a new school district created in accordance with Section 53G-3-301.1, [~~53G-3-301.2,~~]53G-3-301.3, or 53G-3-301.4, assumes responsibility for student instruction any portion of the territory within the new school district was subject to a levy pursuant to Section 53F-8-301, the new school district's board may:

(i) discontinue the levy for the new school district;

(ii) impose a levy on the new school district as provided in Section 53F-8-301; or

(iii) impose the levy on the new school district, subject to Subsection (2)(b).

(b) If the new school district's local school board applies a levy to the new school district in accordance with Subsection (2)(a)(iii), the levy may not exceed the maximum duration or rate authorized by the voters of the divided school district at the time of the vote to create the new school district.

Section 20. Section 53G-3-305 is amended to read:

53G-3-305. Redistricting -- Local school board membership.

(1) Upon the creation of a new school district or a reorganized new school district in accordance with Section 53G-3-301.1, [~~53G-3-301.2,~~] 53G-3-301.3, or 53G-3-301.4, the applicable legislative body shall redistrict the affected school districts in accordance with Section 20A-14-201.

(2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

Section 21. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect on August 19, 2024.

Section 22. Retrospective operation.

This bill has retrospective operation to May 2, 2024.

CHAPTER 4
H. B. 3004
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

ENERGY SECURITY ADJUSTMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to the decommissioning or disposal of project entity assets and the associated permitting process.

Highlighted Provisions:

This bill:

- amends provisions related to the notice of decommissioning or disposal of project entity assets;
- removes the requirement for the Legislative Management Committee to make certain recommendations if a project entity does not provide notice of intent to file an application;
- requires the Decommissioned Asset Disposition Authority (authority) to submit a complete alternative air permit application to the Division of Air Quality (division) by December 31, 2024;
- requires the division to provide the results of an evaluation to the authority within 30 days of receipt of the application, unless additional time is needed;
- requires the study on the state implementation plan to focus on ensuring that the continued operation of the power plants under an alternative permit will not jeopardize the state's ability to meet federal air quality standards;
- repeals the project entity oversight committee; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-318, as last amended by Laws of Utah 2024, Chapter 512
11-13-320, as enacted by Laws of Utah 2024, Chapter 512
19-2-109.4, as enacted by Laws of Utah 2024, Chapter 512
63I-1-211, as last amended by Laws of Utah 2024, Chapter 395
63I-1-263, as last amended by Laws of Utah 2024, Chapter 285
79-6-401, as last amended by Laws of Utah 2024, Chapters 33, 88 and 493
79-6-407, as enacted by Laws of Utah 2024, Chapter 512
79-6-408, as enacted by Laws of Utah 2024, Chapter 512

REPEALS:

11-13-317, as enacted by Laws of Utah 2022, Chapter 322
63C-26-101, as enacted by Laws of Utah 2022, Chapter 322
63C-26-201, as enacted by Laws of Utah 2022, Chapter 322
63C-26-202, as enacted by Laws of Utah 2022, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-318 is amended to read:

11-13-318. Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

(a) "Alternative permit" means the same as that term is defined in Section 11-13-320.

(b) "Decommissioning" means to remove an electrical generation facility from active service.

(c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project entity's assets.

(d) "Division" means the Division of Air Quality created in Section 19-1-105.

(e) "Fair market value" means the same as that term is defined in Section 79-6-408.

(f)(i) "Project entity asset" means a project entity's:

(A) land;

(B) water;

[~~(B)~~](C) buildings; or

[~~(C)~~](D) essential equipment, including turbines, generators, transformers, and transmission lines.

(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.

(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:

(a) the disposal of any project entity assets; or

(b) the decommissioning of the project entity's coal-powered electrical generation facility.

(3) The notice of decommissioning or disposal described in Subsection (2) shall include:

(a) the date of the intended decommissioning or disposal;

(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and

(c) the reasons for the decommissioning or disposal.

(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.

(5) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority.

[~~(6) If a project entity intends to submit an application for an alternative permit to the division as described in Section 11-13-320, the project entity shall notify the Legislative Management Committee that the project entity intends to submit an application before July 1, 2024.~~]

[~~(7) If a project does not notify the Legislative Management Committee of an intent to submit an application, the Legislative Management Committee shall make recommendations to the governor regarding appropriate action, which may include calling a special session to enact legislation reconstituting the board of the project entity.~~]

[~~(8)~~](6) A project entity shall provide the state the option to purchase for fair market value a project entity asset intended for decommissioning, with the option remaining open for at least two years, beginning on July 2, 2025.

Section 2. Section 11-13-320 is amended to read:

11-13-320. Air quality permitting transition process.

(1) As used in this section:

(a) "Alternative permit" means an amendment to a transition permit that, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units.

(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section 79-6-407.

(c) "Division" means the Division of Air Quality created in Section 19-1-105.

(d) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

(e) "Transition permit" means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new facility but does not require closure of all existing generating units until after the new facility commences operation.

(2) A project entity that holds a pre-existing permit for an existing electrical generation facility with multiple generating units, and has been issued a transition permit for a new electrical generation facility, may submit an application to the division in accordance with Section 19-2-109.4 for issuance of an alternative permit.

[~~(3) If a project entity intends to submit an application under Subsection (2), the project entity shall provide a binding notice of intent to the Legislative Management Committee on or before July 1, 2024.~~]

[~~(4) If a project entity submits an application under Subsection (2), the project entity shall submit the application on or before January 1, 2025.~~]

Section 3. Section 19-2-109.4 is amended to read:

19-2-109.4. Project entity transition permit.

(1) As used in this section:

(a) "Alternative permit" means an amendment to a transition permit that, for purposes of transitioning an electrical generation facility to a new facility, allows one or more existing generating units to continue operating while also providing for closure of one but not all existing generating units.

(b) "Authority" means the Decommissioned Asset Disposition Authority established in Section 79-6-407.

(c) "Division" means the Division of Air Quality created in Section 19-1-105.

(d) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.

(e) "Project entity" means the same as that term is defined in Section 11-13-103.

(f) "Transition permit" means an amendment to the pre-existing permit, issued to the operator of an existing electrical generation facility for the purpose of transitioning to a new electrical generation facility, which authorizes construction of the new facility but does not require closure of all existing generating units until after the new facility commences operation.

(2) The division shall accept an application for an alternative permit from a project entity that has previously obtained a transition permit to authorize the same new electrical generating capacity contemplated by the transition permit.

(3) If the application for an alternative permit meets the requirements established by the board:

(a) the division shall issue an approval order for the alternative permit to the project entity;

(b) the conditions of the transition permit shall cease to apply, including requirements to reduce the capacity of existing generating units at the electrical generation facility; and

(c) the project entity shall submit all documentation required to modify any federal operating permit required to be maintained by the project entity, consistent with deadlines established by the division.

(4) If an alternative permit is not approved under Subsection (3), the conditions of the transition permit shall remain effective.

(5)(a) Upon receipt of an alternative air permit application prepared and submitted by the

authority in accordance with Subsection 79-6-407(4)(c), the division shall conduct a full evaluation as if the application had been prepared and submitted by a project entity to determine whether the alternative air permit would be issued if applied for by the project entity.

(b) The division shall provide the results of any evaluation conducted under Subsection (5)(a) to the authority [~~no later than January 30, 2025.~~]within 30 days after the date that the division receives the application described in Subsection (5)(a), unless the division provides written notice to the authority that additional time is needed to complete the evaluation.

(c) If the division concludes after evaluation that an alternative permit would likely be issued to a project entity, the authority shall, within 30 days after the authority receives the results of the evaluation, submit recommendations to the Legislative Management Committee regarding options for the state to continue to authorize construction of the project entity's new electrical generation facility that do not require the closure of all of the project entity's existing electrical generating facilities.

(6) The division shall evaluate an application for an alternative permit independently from any pre-existing permit or transition permit based on updated assumptions, modeling, and requirements established in rule by the division and may rely upon the reduction of capacity of the existing electrical generation facility only as necessary to ensure that emissions of the new generating facility do not exceed thresholds established by federal law which would necessitate new source review as a major modification.

Section 4. Section 63I-1-211 is amended to read:

63I-1-211. Repeal dates: Title 11.

[~~(1) Section 11-13-317, related to the Project Entity Oversight Committee, is repealed July 1, 2027. (2)~~] Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed January 1, 2029.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63N.

(1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

[~~(7) Title 63C, Chapter 26, Project Entity Oversight Committee, is repealed July 1, 2027.~~]

[~~(8)~~](7) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

[~~(9)~~](8) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

[~~(10)~~](9) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed on July 1, 2028.

[~~(11)~~](10) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

[~~(12)~~](11) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

[~~(13)~~](12) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

[~~(14)~~](13) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

[~~(15)~~](14) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

[~~(16)~~](15) Subsection 63J-1-602.2(26), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(17)~~](16) Section 63L-11-204, creating a canyon resource management plan to Provo Canyon, is repealed July 1, 2025.

[~~(18)~~](17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(19)~~](18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

[~~(20)~~](19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

[~~(21)~~](20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(22)~~](21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

[~~(23)~~](22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(24)~~](23) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(25)~~](24) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(26)~~](25) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(27)~~](26) In relation to the Rural Employment Expansion Program, on July 1, 2028:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

[~~(28)~~](27) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

[~~(29)~~](28) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

Section 6. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development within the Department of Natural Resources to be administered by a director.

(2)(a) The executive director shall appoint the director and the director shall serve at the pleasure of the executive director.

(b) The director shall have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the office's affairs.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives;

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development;

(f) in coordination with the Department of Environmental Quality and other relevant state agencies:

(i) develop effective policy strategies to advocate for and protect the state's interests relating to federal energy and environmental entities, programs, and regulations;

(ii) participate in the federal environmental rulemaking process by:

(A) advocating for positive reform of federal energy and environmental regulations and permitting;

(B) coordinating with other states to develop joint advocacy strategies; and

(C) conducting other government relations efforts; and

(iii) direct the funding of legal efforts to combat federal overreach and unreasonable delays regarding energy and environmental permitting; and

(g) fund the development of detailed and accurate forecasts of the state's long-term energy supply and demand, including a baseline projection of expected supply and demand and analysis of potential alternative scenarios.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, [~~63C-26-202,~~]Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6)(a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8)(a) An employee of the office on April 30, 2024, is an at-will employee.

(b) For an employee described in Subsection (8)(a) who was employed by the office on April 30, 2024, the employee shall have the same salary and benefit options an employee had when the office was part of the office of the governor.

(c) An employee of the office hired on or after May 1, 2024, shall receive compensation as provided in Title 63A, Chapter 17, Utah State Personnel Management Act.

(9)(a) The office shall prepare a strategic energy plan to achieve the state's energy policy, including:

(i) technological and infrastructure innovation needed to meet future energy demand including:

(A) energy production technologies;

(B) battery and storage technologies;

(C) smart grid technologies;

(D) energy efficiency technologies; and

(E) any other developing energy technology, energy infrastructure planning, or investments that will assist the state in meeting energy demand;

(ii) the state's efficient use and development of:

(A) energy resources, including natural gas, coal, clean coal, hydrogen, oil, oil shale, and oil sands;

(B) renewable energy resources, including geothermal, solar, hydrogen, wind, biomass, biofuel, and hydroelectric;

(C) nuclear power; and

(D) earth minerals;

(iii) areas of energy-related academic research;

(iv) specific areas of workforce development necessary for an evolving energy industry;

(v) the development of partnerships with national laboratories; and

(vi) a proposed state budget for economic development and investment.

(b) In preparing the strategic energy plan, the office shall:

(i) consult with stakeholders, including representatives from:

(A) energy companies in the state;

(B) private and public institutions of higher education within the state conducting energy-related research; and

(C) other state agencies; and

(ii) use modeling and industry standard data to:

(A) define the energy services required by a growing economy;

(B) calculate energy needs;

(C) develop state strategy for energy transportation, including transmission lines, pipelines, and other infrastructure needs;

(D) optimize investments to meet energy needs at the least cost and least risk while meeting the policy outlined in this section;

(E) address state needs and investments through a prospective 30-year period, divided into five-year working plans; and

(F) update the plan at least every two years.

(c) The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee on or before the October interim meeting describing:

(i) progress towards creation and implementation of the strategic energy plan;

(ii) the plan's compliance with the state energy policy; and

(iii) a proposed budget for the office to continue development of the strategic energy plan.

(10) The director shall:

(a) annually review and propose updates to the state's energy policy, as contained in Section 79-6-301;

(b) promote as the governor considers necessary:

(i) the development of cost-effective energy resources both renewable and nonrenewable; and

(ii) educational programs, including programs supporting conservation and energy efficiency measures;

(c) coordinate across state agencies to assure consistency with state energy policy, including:

(i) working with the State Energy Program to promote access to federal assistance for energy-related projects for state agencies and members of the public;

(ii) working with the Division of Emergency Management to assist the governor in carrying out the governor's energy emergency powers under Title 53, Chapter 2a, Part 10, Energy Emergency Powers of the Governor Act;

(iii) participating in the annual review of the energy emergency plan and the maintenance of the energy emergency plan and a current list of contact persons required by Section 53-2a-902; and

(iv) identifying and proposing measures necessary to facilitate low-income consumers' access to energy services;

(d) coordinate with the Division of Emergency Management ongoing activities designed to test an energy emergency plan to ensure coordination and information sharing among state agencies and political subdivisions in the state, public utilities and other energy suppliers, and other relevant public sector persons as required by Sections 53-2a-902, 53-2a-1004, 53-2a-1008, and 53-2a-1010;

(e) coordinate with requisite state agencies to study:

(i) the creation of a centralized state repository for energy-related information;

(ii) methods for streamlining state review and approval processes for energy-related projects; and

(iii) the development of multistate energy transmission and transportation infrastructure;

(f) coordinate energy-related regulatory processes within the state;

(g) compile, and make available to the public, information about federal, state, and local approval requirements for energy-related projects;

(h) act as the state's advocate before federal and local authorities for energy-related infrastructure projects or coordinate with the appropriate state agency; and

(i) help promote the Division of Facilities Construction and Management's measures to improve energy efficiency in state buildings.

(11) The director has standing to testify on behalf of the governor at the Public Service Commission created in Section 54-1-1.

(12) The office shall include best practices in developing actionable goals and recommendations as part of preparing and updating every two years the strategic energy plan required under Subsection (9).

(13) The office shall maintain and regularly update a public website that provides an accessible dashboard of relevant metrics and reports and makes available the data used to create the strategic energy plan.

Section 7. Section 79-6-407 is amended to read:

79-6-407. Decommissioned Asset Disposition Authority.

(1) As used in this section:

(a) "Asset intended for decommissioning" means an electrical generation facility owned by a project entity that is intended to be removed from active service.

(b) "Authority" means the Decommissioned Asset Disposition Authority created in this section.

(c) "Fair market value" means the value of an electrical generation facility considering both the assets and liabilities of the facility, including the value of water rights necessary to operate the existing electrical generation facility at full capacity.

(d) "Highest and best purchase offer" means the purchase offer for the asset intended for decommissioning that the authority determines to be in the overall best interest of the state, considering:

(i) the purchase price offer amount;

(ii) the potential purchaser's:

(A) commitment to utilize the best available control technology;

(B) intent to use state resources to the maximum extent feasible;

(C) commitment to provide jobs and other economic benefits to the state;

(D) intent to promote the interests of state residents and ratepayers; and

(E) financial capability; and

(iii) any other factors the authority considers relevant.

(e) "Project entity" means the same as that term is defined in Section 11-13-103.

(2) There is established within the office the Decommissioned Asset Disposition Authority.

(3)(a) The authority shall be composed of:

(i) the executive director of the office;

(ii) two members appointed by the governor;

(iii) two members appointed by the president of the Senate; and

(iv) two members appointed by the speaker of the House of Representatives.

(b) The office shall provide staff and support to the authority.

(4) The authority shall:

(a) provide recommendations to the governor and Legislature regarding the state exercising an option to purchase an asset intended for decommissioning;

(b) if the state exercises an option to purchase the asset intended for decommissioning under Section 11-13-318:

(i) enter into contracts and agreements related to the decommissioned asset;

(ii) govern the disposition of assets intended for decommissioning as outlined in Subsection [~~(5);~~](6); and

(iii) take any other action necessary for governance of a decommissioned asset purchased by the state;[~~and~~]

(c) contract with independent professionals that have expertise in emissions modeling, air quality impact assessments, regulatory compliance, and any other discipline necessary for the preparation and submission of a complete alternative air permit application, including:

(i) conducting emissions modeling, air quality impact assessments, and gathering any other information necessary for inclusion in a complete alternative air permit application;

(ii) preparing the full application with all necessary information included, as would be required for an application submitted by the owner of the electrical generation facility; and

(iii) submitting the full permit application to the Division of Air Quality[.]; and

(d) submit a complete alternative air permit application to the division on or before December 31, 2024, unless the authority determines that it is not feasible to submit a complete application on or before that date.

(5) If the authority determines under Subsection (4)(d) that it is not feasible to submit a complete application on or before December 31, 2024, the authority shall:

(a) submit a written report to the Legislative Management Committee on or before December 15, 2024, explaining the reasons for the delay and providing an estimated time line for submitting the complete application; and

(b) submit the complete application to the division as soon as practicable after December 31, 2024.

[~~(5)~~](6) If the state exercises an option to purchase or otherwise take control of the asset intended for decommissioning under Section 11-13-318, the authority may, no sooner than July 2, 2025:

(a) hold a public hearing to receive comment and evidence regarding:

(i) the fair market value of the asset, including the valuation study conducted by the authority under Section 79-6-408; and

(ii) the proposed disposition of the decommissioned asset;

(b) establish procedures and timelines for potential purchasers to submit binding purchase offers;

(c) evaluate all purchase offers to determine the highest and best purchase offer;

(d) approve the sale of the decommissioned asset to the purchaser that has submitted the highest and best purchase offer; and

(e) take any other action necessary to govern the disposition of the decommissioned asset in accordance with this section.

[~~(6)~~](7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the authority shall make rules that establish:

(a) procedures and associated timelines for potential purchasers to submit binding purchase offers for a decommissioned asset;

(b) objective criteria and a process to evaluate all purchase offers submitted for a decommissioned asset and determine which purchase offer is the highest and best offer; and

(c) a process for the authority to approve the sale of a decommissioned asset to the purchaser that has submitted the highest and best purchase offer.

Section 8. Section 79-6-408 is amended to read:

79-6-408. Study of project entity asset intended for decommissioning.

(1) As used in this section:

(a) "Authority" means the Decommissioned Asset Disposition Authority, created in Section 79-6-407.

(b) "Fair market value" means the same as that term is defined in Section 79-6-407.

(2) The authority, in consultation with the office, shall conduct a study to:

(a) evaluate issues in regards to a state implementation plan as a result of issuing an alternative permit under Section 19-2-109.4;

(b) establish the fair market value of an electrical generation facility that a project entity intends to decommission; and

(c) evaluate the potential sale of the facility to new owners.

(3) In conducting the study described in this section, the authority shall contract or consult with independent professionals with expertise in:

(a) areas relevant to environmental regulatory compliance and clean air act state implementation plan development, including:

(i) related electric generation capacity;

(ii) resource adequacy; and

(iii) economic development considerations; and

(b) areas relevant to the valuation and disposition of electrical generation facilities, including:

(i) engineering;

(ii) environmental assessments;

(iii) energy economics;

(iv) water rights;

(v) mineral rights;

(vi) regulatory analysis;

(vii) financial analysis;

(viii) real estate valuation; and

(ix) legal analysis.

(4) The study described in Subsection (2) shall:

(a) for the evaluation of issues in regards to a state implementation plan as a result of issuing an alternative permit under Section 19-2-109.4, based on input from the Division of Air Quality and independent modeling, legal analysis, and economic analysis, evaluate:

(i) any technical deficiencies that could occur in a state implementation plan as a result of issuing an alternative permit; and

(ii) options for revising the state implementation plan to [~~maximize flexibility for the state to utilize an alternative permit and preserve electric generating capacity sufficient to support economic growth in the state while ensuring the state implementation plan meets federal air quality standards;~~]ensure that the continued operation of the power plants under an alternative permit will

not jeopardize the state's ability to meet federal air quality standards;

(b) for the valuation of the project entity asset that a project entity intends to decommission, include:

(i) an assessment of all assets associated with the electrical generation facility, including real property, equipment, water rights, mineral rights, and any other associated assets;

(ii) an assessment of all financial assets and potential financial liabilities or risks related to the electrical generation facility intended for decommissioning;

(iii) an analysis of any encumbrances on the electrical generation facility;

(iv) the impact on valuation of an electrical generation facility related to the issuance of an alternative air quality permit under Section 19-2-109.4;

(v) a review of any potential effect a sale of the electrical generation facility would have on liabilities related to the electrical generation facility;

(vi) incorporation of any relevant local, regional, or national economic and market factors that may impact the fair market value; and

(vii) any other factors the authority considers relevant in establishing a fair market value for the electrical generation facility; and

(c) to evaluate the issues surrounding a potential sale of the facility, include:

(i) potential purchase and sale agreement terms;

(ii) the necessary financial capability of a potential purchaser, including experience raising capital, access to capital, financial stability, and ability to provide security for obligations related to decommissioning, remediation, and other liabilities;

(iii) operational experience and capability of a potential purchaser, including experience operating electrical generation facilities, contracting history, and historical operating metrics;

(iv) permitting, regulatory compliance, and construction issues for continued operation of the facility;

(v) the likelihood that continued operation of the facility would impact other electrical generation facilities in the state;

(vi) the potential for continued operation of the facility to infringe on existing utility service territories;

(vii) the viability of alternative business models for continued operation of the facility;

(viii) potential community and regional impacts resulting from continued operation or the retirement of the facility; and

(ix) the potential for continued operation of the facility to interfere with the rights and interests of the project entity, the project entity's members, power purchasers, bondholders, creditors, or other entities.

(5) In conducting the study described in Subsection (2), the project entity shall timely provide to the authority information related to the assets and potential liabilities of the electrical generation facility intended for decommissioning.

(6) The authority shall report the progress and results of the study to the Public Utilities, Energy, and Technology Interim Committee on or before November 30, 2024.

Section 9. Repealer.

This bill repeals:

Section 11-13-317, Submitting to the Project Entity Oversight Committee.

Section 63C-26-101, Definitions.

Section 63C-26-201, Project Entity Oversight Committee created.

Section 63C-26-202, Committee duties -- Office of Energy Development duties.

Section 10. Effective date.

(1) Except as provided in Subsections (2) and (3), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect on August 19, 2024.

(3) The actions affecting Section 63I-1-263 (Effective 07/01/2024) take effect on July 1, 2024.

CHAPTER 5
H. B. 3005
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

SUNSET AND REPEAL DATE CODE CORRECTIONS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill non-substantively amends codified sunset and repeal date provisions to conform to a standardized format.

Highlighted Provisions:

This bill:

- non-substantively amends provisions in the following titles to conform to a standardized format adopted during the 2024 General Session:
  - Title 63I, Chapter 1, Part 2, Repeal Dates Requiring Committee Review by Title; and
  - Title 63I, Chapter 2, Part 2, Repeal Dates by Title;
- non-substantively amends provisions in other portions of code to give effect to provisions from the sunset and repeal date code that no longer fit within the standardized format;
- corrects a sunset date regarding the Agricultural and Wildlife Damage Prevention Board to reflect the delay of the sunset that the Legislature enacted during the 2024 General Session;
- removes a repeal date regarding a section that provides budgetary flexibility to local education agencies to reflect the intent of a change to the underlying statute that the Legislature enacted during the 2023 General Session to make the flexibility permanent;
- provides uncodified language to nullify the portion of Section 195 of S.B. 95, Chapter 366, Laws of Utah 2024, that would repeal Section 63I-1-230, Repeal dates: Title 30; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

9-6-404, as last amended by Laws of Utah 2024, Chapter 368
26B-2-231, as last amended by Laws of Utah 2023, Chapter 310 and renumbered and amended by Laws of Utah 2023, Chapter 305
26B-3-213, as last amended by Laws of Utah 2024, Chapter 245
26B-5-112, as last amended by Laws of Utah 2024, Chapter 245
26B-5-606, as last amended by Laws of Utah 2023, Chapter 282 and renumbered and amended by Laws of Utah 2023, Chapter 308
26B-5-609, as last amended by Laws of Utah 2024, Chapter 245
26B-5-610, as last amended by Laws of Utah 2024, Chapter 245
53-2d-702, as renumbered and amended by Laws of Utah 2023, Chapters 307, 310
53E-4-202, as last amended by Laws of Utah 2023, Chapter 435
63H-7a-302, as last amended by Laws of Utah 2020, Chapter 368
63I-1-107, as enacted by Laws of Utah 2024, Chapter 385
63I-1-204, as last amended by Laws of Utah 2024, Chapters 358, 385, 395, and 507
63I-1-209, as last amended by Laws of Utah 2024, Chapters 323, 328, 379, 395, and 506
63I-1-210, as last amended by Laws of Utah 2024, Chapter 534
63I-1-211, as last amended by Laws of Utah 2024, Chapter 395
63I-1-217, as last amended by Laws of Utah 2024, Chapters 87, 385
63I-1-217, as last amended by Laws of Utah 2024, Chapter 538
63I-1-219, as last amended by Laws of Utah 2024, Chapters 356, 381 and 507
63I-1-220, as last amended by Laws of Utah 2017, Chapter 181
63I-1-223, as last amended by Laws of Utah 2024, Chapters 385, 395
63I-1-226, as last amended by Laws of Utah 2024, Chapters 182, 245, 250, 277, 292, 395, and 439
63I-1-226, as last amended by Laws of Utah 2024, Chapter 285
63I-1-230, as last amended by Laws of Utah 2021, Chapter 91
63I-1-232, as last amended by Laws of Utah 2024, Chapters 245, 385
63I-1-234, as last amended by Laws of Utah 2024, Chapters 34, 385 and 507
63I-1-235, as last amended by Laws of Utah 2024, Chapters 360, 395, 506, and 507
63I-1-238, as last amended by Laws of Utah 2008, Chapter 148 and renumbered and amended by Laws of Utah 2008, Chapter 382
63I-1-241, as last amended by Laws of Utah 2024, Chapter 134
63I-1-241
63I-1-249, as last amended by Laws of Utah 2024, Chapter 422
63I-1-251, as last amended by Laws of Utah 2024, Chapter 510
63I-1-253, as last amended by Laws of Utah 2024, Chapters 20, 32, 45, 69, 355, 395, 506, and 507
63I-1-253, as last amended by Laws of Utah 2024, Chapters 21, 319
63I-1-253
63I-1-257, as last amended by Laws of Utah 2019, Chapter 136
63I-1-258, as last amended by Laws of Utah 2024, Chapters 393, 507 and 539

63I-1-259, as last amended by Laws of Utah 2024, Chapter 243
63I-1-262, as last amended by Laws of Utah 2023, Chapters 268, 270, 282, and 329 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 329
63I-1-263, as last amended by Laws of Utah 2024, Chapters 36, 159, 245, 361, 362, 381, 395, 434, 506, 507, and 540
63I-1-263, as last amended by Laws of Utah 2024, Chapter 285
63I-1-264, as last amended by Laws of Utah 2024, Chapter 182
63I-1-265, as last amended by Laws of Utah 2024, Chapters 384, 385 and 507
63I-1-269, as last amended by Laws of Utah 2022, Chapter 435
63I-1-272, as last amended by Laws of Utah 2024, Chapters 359, 385 and 510
63I-1-273, as last amended by Laws of Utah 2024, Chapters 317, 335 and 522
63I-1-276, as last amended by Laws of Utah 2024, Chapters 250, 385
63I-1-277, as last amended by Laws of Utah 2024, Chapter 385
63I-1-278, as last amended by Laws of Utah 2024, Chapters 167, 199 and 260
63I-1-278
63I-1-278, as last amended by Laws of Utah 2024, Chapter 180
63I-1-279, as last amended by Laws of Utah 2024, Chapters 183, 317 and 507
63I-1-280, as last amended by Laws of Utah 2024, Chapters 276, 385
63I-2-102, as enacted by Laws of Utah 2024, Chapter 385
63I-2-204, as last amended by Laws of Utah 2024, Chapters 61, 385 and 507
63I-2-207, as enacted by Laws of Utah 2024, Chapter 507
63I-2-209, as last amended by Laws of Utah 2024, Chapters 328, 368, 506, and 507
63I-2-210, as last amended by Laws of Utah 2024, Chapters 342, 385
63I-2-213, as last amended by Laws of Utah 2024, Chapters 186, 385 and 507
63I-2-215
63I-2-217, as last amended by Laws of Utah 2024, Chapter 385
63I-2-219, as last amended by Laws of Utah 2024, Chapter 385
63I-2-220, as last amended by Laws of Utah 2024, Chapter 385
63I-2-223, as last amended by Laws of Utah 2024, Chapter 385
63I-2-226, as last amended by Laws of Utah 2024, Chapters 250, 299, 439, 506, 507, and 536
63I-2-226, as last amended by Laws of Utah 2024, Chapter 310
63I-2-231, as last amended by Laws of Utah 2021, Chapter 353
63I-2-232, as last amended by Laws of Utah 2024, Chapter 94
63I-2-234, as last amended by Laws of Utah 2024, Chapters 385, 507
63I-2-235, as last amended by Laws of Utah 2024, Chapters 385, 506
63I-2-236, as last amended by Laws of Utah 2024, Chapters 217, 506
63I-2-248, as last amended by Laws of Utah 2018, Chapter 281
63I-2-251, as last amended by Laws of Utah 2024, Chapter 385
63I-2-253, as last amended by Laws of Utah 2024, Chapters 21, 332, 372, 449, 497, and 507
63I-2-253, as last amended by Laws of Utah 2024, Chapters 460, 484, 506, and 525
63I-2-254, as renumbered and amended by Laws of Utah 2008, Chapter 382
63I-2-256
63I-2-258, as last amended by Laws of Utah 2024, Chapter 507
63I-2-259, as last amended by Laws of Utah 2024, Chapter 385
63I-2-261, as last amended by Laws of Utah 2024, Chapters 227, 385
63I-2-262, as last amended by Laws of Utah 2023, Chapter 329
63I-2-263, as last amended by Laws of Utah 2024, Chapters 241, 357, 506, 507, and 509
63I-2-263, as last amended by Laws of Utah 2024, Chapter 467
63I-2-263, as last amended by Laws of Utah 2024, Chapter 180
63I-2-264, as last amended by Laws of Utah 2024, Chapters 266, 385
63I-2-264, as last amended by Laws of Utah 2024, Chapter 467
63I-2-265, as last amended by Laws of Utah 2023, Chapter 153
63I-2-267, as last amended by Laws of Utah 2023, Chapters 139, 530
63I-2-272, as last amended by Laws of Utah 2024, Chapters 381, 385
63I-2-273, as last amended by Laws of Utah 2024, Chapter 385
63I-2-275, as last amended by Laws of Utah 2024, Chapter 385
63I-2-276, as last amended by Laws of Utah 2024, Chapters 332, 385
63I-2-277, as last amended by Laws of Utah 2024, Chapter 385
63I-2-278, as last amended by Laws of Utah 2024, Chapter 166
63I-2-278, as last amended by Laws of Utah 2024, Chapter 366
63I-2-279, as last amended by Laws of Utah 2024, Chapters 376, 385
63I-2-280, as last amended by Laws of Utah 2024, Chapter 385
63I-2-281, as enacted by Laws of Utah 2024, Chapter 366
63N-2-511, as last amended by Laws of Utah 2022, Chapter 362

ENACTS:
63I-1-203, Utah Code Annotated 1953
63I-1-206, Utah Code Annotated 1953
63I-1-208, Utah Code Annotated 1953
63I-1-212, Utah Code Annotated 1953
63I-1-214, Utah Code Annotated 1953
63I-1-215, Utah Code Annotated 1953
63I-1-216, Utah Code Annotated 1953
63I-1-218, Utah Code Annotated 1953

63I-1-222, Utah Code Annotated 1953
63I-1-225, Utah Code Annotated 1953
63I-1-229, Utah Code Annotated 1953
63I-1-239, Utah Code Annotated 1953
63I-1-242, Utah Code Annotated 1953
63I-1-243, Utah Code Annotated 1953
63I-1-245, Utah Code Annotated 1953
63I-1-246, Utah Code Annotated 1953
63I-1-247, Utah Code Annotated 1953
63I-1-248, Utah Code Annotated 1953
63I-1-250, Utah Code Annotated 1953
63I-1-252, Utah Code Annotated 1953
63I-1-255, Utah Code Annotated 1953
63I-1-256, Utah Code Annotated 1953
63I-1-268, Utah Code Annotated 1953
63I-1-270, Utah Code Annotated 1953
63I-1-271, Utah Code Annotated 1953
63I-1-275, Utah Code Annotated 1953
63I-2-203, Utah Code Annotated 1953
63I-2-206, Utah Code Annotated 1953
63I-2-208, Utah Code Annotated 1953
63I-2-212, Utah Code Annotated 1953
63I-2-214, Utah Code Annotated 1953
63I-2-216, Utah Code Annotated 1953
63I-2-218, Utah Code Annotated 1953
63I-2-222, Utah Code Annotated 1953
63I-2-225, Utah Code Annotated 1953
63I-2-229, Utah Code Annotated 1953
63I-2-230, Utah Code Annotated 1953
63I-2-238, Utah Code Annotated 1953
63I-2-239, Utah Code Annotated 1953
63I-2-240, Utah Code Annotated 1953
63I-2-241, Utah Code Annotated 1953
63I-2-242, Utah Code Annotated 1953
63I-2-243, Utah Code Annotated 1953
63I-2-245, Utah Code Annotated 1953
63I-2-246, Utah Code Annotated 1953
63I-2-247, Utah Code Annotated 1953
63I-2-250, Utah Code Annotated 1953
63I-2-252, Utah Code Annotated 1953
63I-2-255, Utah Code Annotated 1953
63I-2-257, Utah Code Annotated 1953
63I-2-268, Utah Code Annotated 1953
63I-2-269, Utah Code Annotated 1953
63I-2-270, Utah Code Annotated 1953
63I-2-271, Utah Code Annotated 1953

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL:

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-6-404 is amended to read:

9-6-404. Creation of program -- Use of appropriations.

(1) A Percent-for-Art Program shall be administered by the division.

(2)(a)(i) [~~An~~]Before January 1, 2035, an appropriation received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is not located in a county of the first class shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.

(ii) Beginning January 1, 2035, any appropriation received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.

(b) For appropriations annually received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is located in a county of the first class:

(i) eighty percent shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division; and

(ii) twenty percent shall be used to support the Public Art Installation Initiative described in Section 9-6-410.

(c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Section 2. Section 26B-2-231 is amended to read:

26B-2-231. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, a health care facility shall:

(a) provide the patient or the patient's representative with the following information [~~described in Subsection 53-2d-107(8)(a)~~] before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative with an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 3. Section 26B-3-213 is amended to read:

26B-3-213. Medicaid waiver for mental health crisis lines and mobile crisis outreach teams.

(1) As used in this section:

(a) "Local mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(b) "Mental health crisis" means:

(i) a mental health condition that manifests itself in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(A) serious danger to the individual's health or well-being; or

(B) a danger to the health or well-being of others; or

(ii) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or the intervention of a mental health therapist.

(c)(i) "Mental health crisis services" means direct mental health services and on-site intervention that a mobile crisis outreach team provides to an individual suffering from a mental health crisis, including the provision of safety and care plans, prolonged mental health services for up to 90 days, and referrals to other community resources.

(ii) "Mental health crisis services" includes:

(A) local mental health crisis lines; and

(B) the statewide mental health crisis line.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 26B-5-610.

(2)(a) [~~In consultation with the Behavioral Health Crisis Response Committee created in Section 63C-18-202, the~~]The department shall develop a proposal to amend the state Medicaid plan to include mental health crisis services, including the statewide mental health crisis line, local mental health crisis lines, and mobile crisis outreach teams.

(b) The department shall develop the proposal described in Subsection (2)(a) in consultation with the Behavioral Health Crisis Response Committee created in Section 63C-18-202.

(3) By January 1, 2019, the department shall apply for a Medicaid waiver with CMS, if necessary to implement, within the state Medicaid program, the mental health crisis services described in Subsection (2).

Section 4. Section 26B-5-112 is amended to read:

26B-5-112. Mobile crisis outreach team expansion.

(1) [~~In consultation with the Behavioral Health Crisis Response Committee, established in Section 63C-18-202, the~~]The division shall[~~:~~]:

(a) award grants for the development of:

[~~(a)~~](i) five mobile crisis outreach teams:

[~~(i)~~](A) in counties of the second, third, fourth, fifth, or sixth class; or

[~~(ii)~~](B) in counties of the first class, if no more than two mobile crisis outreach teams are operating or have been awarded a grant to operate in the county; and

[~~(b)~~](ii) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or sixth class[~~.~~]; and

(b) award the grants described in Subsection (1)(a) in consultation with the Behavioral Health Crisis Response Committee, established in Section 63C-18-202.

(2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

(3) The division shall prioritize the award of a grant described in Subsection (1) to entities, based on:

(a) the number of individuals the proposed mobile crisis outreach team will serve; and

(b) the percentage of matching funds the entity will provide to develop the proposed mobile crisis outreach team.

(4) An entity does not need to have resources already in place to be awarded a grant described in Subsection (1).

(5) [~~In consultation with the Behavioral Health Crisis Response Committee, established in Section 63C-18-202, the~~]The division shall make rules[~~,~~]:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants described in Subsection (1)[~~.~~]; and

(b) in consultation with the Behavioral Health Crisis Response Committee, established in Section 63C-18-202.

Section 5. Section 26B-5-606 is amended to read:

26B-5-606. Division duties -- ACT team license creation.

(1) To promote the availability of assertive community treatment, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for ACT team personnel and ACT teams, that includes:

(a) the standards the division establishes under Subsection (2); and

(b) guidelines for:

(i) required training and experience of ACT team personnel; and

(ii) the coordination of assertive community treatment and other community resources.

(2)[~~(a)~~] The division shall[~~:~~],

[~~(i)~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the certifications described in Subsection (1)[~~; and~~].

[~~(ii) create a long-term, statewide ACT team plan that:~~]

[~~(A) identifies current and future statewide assertive community treatment needs, objectives, and priorities;~~]

[~~(B) identifies barriers to establishing an ACT team in areas where an ACT team does not currently exist;~~]

[~~(C) identifies the equipment, facilities, personnel training, and other resources necessary to provide assertive community treatment in areas where an ACT team does not currently exist; and~~]

[~~(D) identifies the gaps in housing needs for individuals served by ACT teams and how to ensure individuals served by ACT teams can secure and maintain housing.~~]

[~~(b) The division may delegate the ACT team plan requirement described in Subsection (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community outreach treatment.~~]

[~~(c) The division shall report to the Health and Human Services Interim Committee before June 30, 2024, regarding:~~]

[~~(i) the long-term, statewide ACT team plan described in Subsection (2)(a)(ii);~~]

[~~(ii) the number of individuals in each local area who meet the criteria for serious mental illness and could benefit from ACT team services;~~]

[~~(iii) knowledge gained relating to the provision of care through ACT teams;~~]

[~~(iv) recommendations for further development of ACT teams; and~~]

[~~(v) obstacles that exist for further development of ACT teams throughout the state.~~]

Section 6. Section 26B-5-609 is amended to read:

26B-5-609. Department and division duties -- MCOT license creation.

(1) As used in this section:

(a) "Committee" means the Behavioral Health Crisis Response Committee created in Section 63C-18-202.

(b) "Emergency medical service personnel" means the same as that term is defined in Section 26B-4-101.

(c) "Emergency medical services" means the same as that term is defined in Section 26B-4-101.

(d) "MCOT certification" means the certification created in this part for MCOT personnel and mental health crisis outreach services.

(e) "MCOT personnel" means a licensed mental health therapist or other mental health professional, as determined by the division, who is a part of a mobile crisis outreach team.

(f) "Mental health crisis" means a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious jeopardy to the individual's health or well-being; or

(ii) a danger to others.

(g)(i) "Mental health crisis services" means mental health services and on-site intervention that a person renders to an individual suffering from a mental health crisis.

(ii) "Mental health crisis services" includes the provision of safety and care plans, stabilization services offered for a minimum of 60 days, and referrals to other community resources.

(h) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that provides mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources.

(2) To promote the availability of comprehensive mental health crisis services throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and MCOTs, including:

(a) the standards the division establishes under Subsection (3); and

(b) guidelines for:

(i) credit for training and experience; and

(ii) the coordination of:

(A) emergency medical services and mental health crisis services;

(B) law enforcement, emergency medical service personnel, and mobile crisis outreach teams; and

(C) temporary commitment in accordance with Section 26B-5-331.

(3)(a) [~~With recommendations from the committee, the~~]The division shall:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards that an applicant is required to meet to qualify for the MCOT certification described in Subsection (2); and

(ii) create a statewide MCOT plan that:

(A) identifies statewide mental health crisis services needs, objectives, and priorities; and

(B) identifies the equipment, facilities, personnel training, and other resources necessary to provide mental health crisis services.

(b) The division shall take the action described in Subsection (3)(a) with recommendations from the committee.

[~~(b)~~](c) The division may delegate the MCOT plan requirement described in Subsection (3)(a)(ii) to a contractor with which the division contracts to provide mental health crisis services.

Section 7. Section 26B-5-610 is amended to read:

26B-5-610. Contracts for statewide mental health crisis line and statewide warm line -- Crisis worker and certified peer support specialist qualification or certification -- Operational standards.

(1) As used in this section:

(a) "Certified peer support specialist" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide warm line under the supervision of at least one mental health therapist.

(b) "Committee" means the Behavioral Health Crisis Response Committee created in Section 63C-18-202.

(c) "Crisis worker" means an individual who:

(i) meets the standards of qualification or certification that the division sets, in accordance with Subsection (3); and

(ii) staffs the statewide mental health crisis line, the statewide warm line, or a local mental health crisis line under the supervision of at least one mental health therapist.

(d) "Local mental health crisis line" means a phone number or other response system that is:

(i) accessible within a particular geographic area of the state; and

(ii) intended to allow an individual to contact and interact with a qualified mental or behavioral health professional.

(e) "Mental health crisis" means the same as that term is defined in Section 26B-5-609.

(f) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(g) "Statewide mental health crisis line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional 24 hours per day, 365 days per year.

(h) "Statewide warm line" means a statewide phone number or other response system that allows an individual to contact and interact with a qualified mental or behavioral health professional or a certified peer support specialist.

(2)(a) The division shall enter into a new contract or modify an existing contract to manage and operate, in accordance with this part, the statewide mental health crisis line and the statewide warm line.

(b)(i) Through the contracts described in Subsection (2)(a)[~~ and in consultation with the committee~~], the division shall set standards of care and practice for:

[~~(i)~~](A) the mental health therapists and crisis workers who staff the statewide mental health crisis line; and

[~~(ii)~~](B) the mental health therapists, crisis workers, and certified peer support specialists who staff the statewide warm line.

(ii) The division shall set the standards described in Subsection (2)(b)(i) in consultation with the committee.

(3)(a) The division shall establish training and minimum standards for the qualification or certification of:

(i) crisis workers who staff the statewide mental health crisis line, the statewide warm line, and local mental health crisis lines; and

(ii) certified peer support specialists who staff the statewide warm line.

(b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to establish the training and minimum standards described in Subsection (3)(a).

(4)(a) [~~In consultation with the committee, the~~]The division shall ensure that:

[~~(a)~~](i) the following individuals are available to staff and answer calls to the statewide mental health crisis line 24 hours per day, 365 days per calendar year:

[~~(i)~~](A) mental health therapists; or

[~~(ii)~~](B) crisis workers;

[~~(b)~~](ii) a sufficient amount of staff is available to ensure that when an individual calls the statewide mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the statewide mental health

crisis line, an individual described in Subsection [~~(4)(a)~~](4)(a)(i) answers the call without the caller first:

[~~(i)~~](A) waiting on hold; or

[~~(ii)~~](B) being screened by an individual other than a mental health therapist or crisis worker;

[~~(c)~~](iii) the statewide mental health crisis line has capacity to accept all calls that local mental health crisis lines route to the statewide mental health crisis line;

[~~(d)~~](iv) the following individuals are available to staff and answer calls to the statewide warm line during the hours and days of operation set by the division under Subsection (5):

[~~(i)~~](A) mental health therapists;

[~~(ii)~~](B) crisis workers; or

[~~(iii)~~](C) certified peer support specialists;

[~~(e)~~](v) when an individual calls the statewide mental health crisis line, the individual's call may be transferred to the statewide warm line if the individual is not experiencing a mental health crisis; and

[~~(f)~~](vi) when an individual calls the statewide warm line, the individual's call may be transferred to the statewide mental health crisis line if the individual is experiencing a mental health crisis.

(b) The division shall take the actions described in Subsection (4)(a) in consultation with the committee.

(5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the hours and days of operation for the statewide warm line.

Section 8. Section 53-2d-702 is amended to read:

53-2d-702. Notification of air ambulance policies and charges.

(1) For any patient who is in need of air medical transport provider services, an emergency medical service provider shall:

(a) provide the patient or the patient's representative with the following information [~~described in Subsection 53-2d-107(7)(a)~~] before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and

(b) if multiple air medical transport providers are capable of providing the patient with services, provide the patient or the patient's representative an opportunity to choose the air medical transport provider.

(2) Subsection (1) does not apply if the patient:

(a) is unconscious and the patient's representative is not physically present with the patient; or

(b) is unable, due to a medical condition, to make an informed decision about the choice of an air medical transport provider, and the patient's representative is not physically present with the patient.

Section 9. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools -- Notice and hearing requirements.

(1)(a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the state board may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the state board shall:

(a) publicize draft core standards for Utah public schools for the state, as a class A notice under Section 63G-30-102, for at least 90 days;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in Sections 53G-10-103 and 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The state board shall[-]:

(a) submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools; and

(b) ensure that the report described in Subsection (8)(a) includes the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 10. Section 63H-7a-302 is amended to read:

63H-7a-302. 911 Division duties and powers.

(1) The 911 Division shall:

(a) in conjunction with the PSAP advisory committee, develop and report to the director minimum standards and best practices:

(i) for public safety answering points in the state, including minimum technical, administrative, fiscal, network, and operational standards for public safety answering points and dispatch centers; and

(ii) that will result in rapid, efficient, and interoperable 911 services throughout the state;

(b) annually prepare and publish a report of how well PSAPs statewide are complying with the standards and best practices developed under Subsection (1)(a);

(c) investigate and report to the director on emerging technology;

(d) monitor and coordinate the implementation of the unified statewide 911 emergency services network;

(e) investigate and recommend to the director mapping systems and technology necessary to implement the unified statewide 911 emergency services network;

(f) prepare and submit to the executive director for approval by the board:

(i) an annual budget for the 911 Division;

(ii) an annual plan for the projects funded by the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 and the 911 account; and

(iii) information required by the director to contribute to the strategic plan described in Section 63H-7a-206;

(g) assist public safety answering points implementing and coordinating the unified statewide 911 emergency services network; and

(h) coordinate the development of an interoperable computer aided dispatch platform:

(i) for public safety answering points; and

(ii) where needed, to assist public safety answering points with the creation or integration of the interoperable computer aided dispatch system.

(2) The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from[~~the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or~~] the 911 account, the proceeds [~~from~~]of which shall return to the [~~respective restricted accounts~~]911 account.

(3) The 911 Division may make recommendations to the executive director for the use of the funds expended from the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(4)(a) The 911 Division shall review information regarding:

(i) in aggregate, the number of service subscribers by service type in a political subdivision;

(ii) network costs;

(iii) public safety answering point costs;

(iv) system engineering information; and

(v) connectivity between public safety answering point computer aided dispatch systems.

(b) In accordance with Subsection (4)(a) the 911 Division may request:

(i) information as described in Subsection (4)(a)(i) from the State Tax Commission; and

(ii) information from public safety answering points related to the computer aided dispatch system.

(c) The information requested by and provided to the 911 Division under Subsection (4) is a protected record in accordance with Section 63G-2-305.

(5) The 911 Division shall recommend to the executive director, for approval by the board, rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303, including rules that establish the criteria, standards, technology, and equipment that a public safety answering point is required to adopt in order to qualify as a recipient of goods or services that are funded from the restricted account.

(6) The board may authorize the 911 Division to employ an outside consultant to study and advise the division on matters related to the 911 Division duties regarding the public safety communications network.

(7) The 911 Division shall administer the program funded by the 911 account in accordance with Sections 63H-7a-304 and 63H-7a-304.5.

(8) This section does not expand the authority of the State Tax Commission to request additional information from a telecommunication service provider.

Section 11. Section 63I-1-107 is amended to read:

63I-1-107. Format of repeal dates -- Revisor authority.

The Office of Legislative Research and General Counsel:

(1) shall use a standard for codified repeal dates in this chapter, including:

(a) "Title [#], [title heading], is repealed [~~on~~][date].";

(b) "Title [#], Chapter [#], [chapter heading], is repealed [~~on~~][date].";

(c) "Title [#], Chapter [#], Part [#], [part heading], is repealed [~~on~~][date].";

(d) "Section [#-#-#], [section heading], is repealed [~~on~~][date].";or

(e) "Subsection [#-#-#(#)], regarding [short description of the provision], is repealed[~~—on~~] [date].";[~~or~~]and

[~~(f) "The following provisions, regarding [short description of the provisions], are repealed on [date]:"; and~~]

(2) in addition to the revisor authority described in Section 36-12-12 regarding enrolling legislation, may:

(a) correct discrepancies in the format of repeal dates that enrolled legislation adds to this chapter; and

(b) remove expired repeal dates from this chapter.

Section 12. Section 63I-1-203 is enacted to read:

63I-1-203. Repeal dates: Title 3.

Reserved.

Section 13. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates: Title 4.

(1) Section 4-2-108, Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee, is repealed July 1, 2028.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2026.

(3) Section 4-17-104, Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, Utah Grazing Improvement Program Advisory Board -- Duties, is repealed July 1, 2032.

(6) Section 4-23-104, Agricultural and Wildlife Damage Prevention Board created -- Composition -- Appointment -- Terms -- Vacancies -- Compensation, is repealed July 1, 2034.

(7) Section 4-23-105, Board responsibilities -- Damage prevention policy -- Rules -- Methods to control predators and depredating birds and animals, is repealed July 1, [~~2024~~]2034.

(8) Section 4-24-104, Livestock Brand Board created -- Composition -- Terms -- Removal -- Quorum for transaction of business -- Compensation -- Duties, is repealed July 1, 2025.

(9) Section 4-39-104, Domesticated Elk Act advisory council, is repealed July 1, 2027.

(10) Title 4, Chapter 46, Part 2, Land Conservation Board, is repealed July 1, 2027.

(11) Subsection 4-46-304(2)(d), [~~related to~~]regarding the Land Conservation Board, is repealed July 1, 2027.

(12) Subsection 4-46-401(3)(a), [~~related to~~]regarding the Land Conservation Board, is repealed July 1, 2027.

Section 14. Section 63I-1-206 is enacted to read:

63I-1-206. Repeal dates: Title 6.

Reserved.

Section 15. Section 63I-1-208 is enacted to read:

63I-1-208. Repeal dates: Title 8.

Reserved.

Section 16. Section 63I-1-209 is amended to read:

63I-1-209. Repeal dates: Title 9.

(1) Subsection 9-1-208(5), [~~which creates a reporting requirement on~~]regarding the One Utah Service Fellowship Program, is repealed July 1, 2027.

(2) Section 9-6-301, Utah Arts and Museums Advisory Board, is repealed July 1, 2029.

(3) Section 9-6-302, Arts and museums board powers and duties, is repealed July 1, 2029.

(4) Subsection 9-8a-101(2), [~~related to~~]regarding the National Register Review Committee, is repealed July 1, 2027.

(5) Section 9-8a-204, [~~which creates the~~] National Register Review Committee, is repealed July 1, 2027.

(6) Section 9-9-112, [~~which creates the~~]Bears Ears Visitor Center Advisory Committee, is repealed December 31, 2026.

(7) Section 9-9-405, [~~which creates the Native American Remains~~]Review Committee, is repealed July 1, 2025.

(8) Title 9, Chapter 20, Utah Commission on Service and Volunteerism Act, is repealed July 1, 2027.

Section 17. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates: Title 10.

[~~The following are repealed on January 1, 2031:~~]

(1) Subsection [~~10-1-104(5)(d);~~]10-1-104(5)(c), regarding a preliminary municipality, is repealed January 1, 2031.

(2) Subsection 10-2a-201.5(1)(b)[~~;~~], regarding a preliminary municipality, is repealed January 1, 2031.

(3) Subsection 10-2a-202(5)[~~; and~~], regarding a feasibility request, is repealed January 1, 2031.

(4) Title 10, Chapter 2a, Part 5, Incorporation of a Preliminary Municipality, is repealed January 1, 2031.

Section 18. Section 63I-1-211 is amended to read:

63I-1-211. Repeal dates: Title 11.

(1) Section 11-13-317, [~~related~~]Submitting to the Project Entity Oversight Committee, is repealed July 1, 2027.

(2) Title 11, Chapter 59, Point of the Mountain State Land Authority Act, is repealed January 1, 2029.

Section 19. Section 63I-1-212 is enacted to read:

63I-1-212. Repeal dates: Title 12.

Reserved.

Section 20. Section 63I-1-214 is enacted to read:

63I-1-214. Repeal dates: Title 14.

Reserved.

Section 21. Section 63I-1-215 is enacted to read:

63I-1-215. Titles 15 through 15A.

Reserved.

Section 22. Section 63I-1-216 is enacted to read:

63I-1-216. Repeal dates: Title 16.

Reserved.

Section 23. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Titles 17 through 17D.

Section 17-41-102, [~~requiring a study~~]Study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.

Section 24. Section 63I-1-217 is amended to read:

63I-1-217. Repeal dates: Titles 17 through 17D.

(1) Section 17-18a-203.5, District attorney data collection -- Report, is repealed [~~on~~]July 1, 2029.

(2) Section 17-41-102, [~~requiring a study~~]Study of critical infrastructure materials operations and related mining, is repealed July 1, 2026.

Section 25. Section 63I-1-218 is enacted to read:

63I-1-218. Repeal dates: Title 18.

Reserved.

Section 26. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates: Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2)[~~(a)~~] Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2029.

[~~(b)~~](3) [~~Notwithstanding Subsection (2)(a),~~] Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

[~~(3)~~](4) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

[~~(4)~~](5) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

[~~(5)~~](6) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

[~~(6)~~](7) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

[~~(7)~~](8) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

[~~(8)~~](9) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

[~~(9)~~](10) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

[~~(10)~~](11) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 27. Section 63I-1-220 is amended to read:

63I-1-220. Repeal dates: Title 20A.

Reserved.

Section 28. Section 63I-1-222 is enacted to read:

63I-1-222. Repeal dates: Title 22.

Reserved.

Section 29. Section 63I-1-223 is amended to read:

63I-1-223. Repeal dates: Title 23A.

(1) Section 23A-2-302, Wildlife Board Nominating Committee created, is repealed July 1, 2028.

(2) Section 23A-2-303, Regional advisory councils created, is repealed July 1, 2028.

(3) Subsection 23A-3-204(2)(c), [~~related to~~]regarding the Land Conservation Board, is repealed July 1, 2027.

Section 30. Section 63I-1-225 is enacted to read:

63I-1-225. Repeal dates: Title 25.

Reserved.

Section 31. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Subsection [~~26B-1-204(2)(i), related to~~]26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, [~~which creates the~~] Medicaid ACA Fund, is repealed July 1, 2034.

(3) Section 26B-1-318, [~~which creates the~~]Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(4) Section 26B-1-402, [~~related to the~~] Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

(5) Section 26B-1-409, [~~which creates the~~]Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(6) Section 26B-1-410, [~~which creates the~~]Primary Care Grant Committee, is repealed July 1, 2025.

(7) Section 26B-1-416, [~~which creates the~~]Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(8) Section 26B-1-417, [~~which creates the~~]Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is repealed July 1, 2029.

(9) Section 26B-1-422, [~~which creates the~~]Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties, is repealed July 1, 2029.

(10) Section 26B-1-425, [~~which creates the~~]Utah Health Workforce Advisory Council -- Creation and membership, is repealed July 1, 2027.

(11) Section 26B-1-428, [~~which creates the~~]Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(12) Section 26B-1-430, [~~which creates the~~] Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

[~~(13) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.~~]

[~~(14)~~](13) Section 26B-1-432, [~~which creates the~~]Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(15)~~](14) Section 26B-2-407, [~~related to drinking~~]Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(16)~~](15) Subsection 26B-3-107(9), [~~which addresses~~]regarding reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(17)~~](16) Section 26B-3-136, [~~which creates the~~]Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(18)~~](17) Section 26B-3-137, [~~related to reimbursement for the National Diabetes Prevention Program~~]Reimbursement for diabetes prevention program, is repealed June 30, 2027.

[~~(19)~~](18) Subsection [~~26B-3-213(2), the language that states "In~~]26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response Committee[~~ created in Section 63C-18-202"~~], is repealed December 31, 2026.

[~~(20) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.~~]

(19) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.

(20) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.

(21) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.

(22) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.

(23) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

(24) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.

(25) Section 26B-3-308, Penalties, is repealed July 1, 2027.

(26) Section 26B-3-309, Immunity, is repealed July 1, 2027.

[~~(21)~~](27) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.

[~~(22)~~](28) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.

[~~(23)~~](29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(24)~~](30) Section 26B-3-910, [~~regarding alternative eligibility~~]Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.

[~~(25)~~](31) Section 26B-4-136, [~~related to the~~] Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

[~~(26)~~](32) Section 26B-4-710, [~~related to rural~~]Rural residency training [~~programs~~]program, is repealed July 1, 2025.

[~~(27)~~](33) [~~Subsections 26B-5-112(1) and (5), the language that states "In~~]Subsection 26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, [~~established in Section 63C-18-202,"~~]is repealed December 31, 2026.

(34) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(28)~~](35) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.

[~~(29)~~](36) Section 26B-5-114, [~~related to the~~] Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(30)~~](37) Section 26B-5-118, [~~related to collaborative care grant programs~~]Collaborative care grant program, is repealed December 31, 2024.

[~~(31)~~](38) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.

[~~(32) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:~~]

[~~(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and~~]

[~~(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.~~]

[~~(33) In relation to the Behavioral Health Crisis Response Committee, on December 31, 2026:~~]

[~~(a) Subsection 26B-5-609(1)(a) is repealed;~~]

[~~(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the committee," is repealed;~~]

[~~(c) Subsection 26B-5-610(1)(b) is repealed;~~]

[~~(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the committee," is repealed;~~]

[~~(e) Subsection 26B-5-610(4), the language that states "In consultation with the committee," is repealed; and~~]

[~~(f) Subsection 26B-5-704(2)(a) is repealed.~~]

(39) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(40) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(41) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(42) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(34)~~](43) Section 26B-5-612, [~~related to integrated~~]Integrated behavioral health care grant [~~programs~~]program, is repealed December 31, 2025.

[~~(35)~~](44) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

(45) Subsection 26B-5-704(2)(a), regarding the Behavioral Crisis Response Committee, is repealed December 31, 2026.

[~~(36)~~](46) Subsection 26B-5-704(2)(b), [~~related to~~]regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

[~~(37)~~](47) [~~In relation to the~~]Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, [~~on~~]is repealed January 1,

2033[~~, Sections 26B-5-801, 26B-5-802, 26B-5-803, and 26B-5-804 are repealed~~].

[~~(38)~~](48) Section 26B-7-119, [~~related to the~~] Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(39)~~](49) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

[~~(40) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.~~]

Section 32. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates: Titles 26 through 26B.

(1) Subsection [~~26B-1-204(2)(i), related to~~]26B-1-204(2)(h), regarding the Primary Care Grant Committee, is repealed July 1, 2025.

(2) Section 26B-1-315, [~~which creates the~~] Medicaid ACA Fund, is repealed July 1, 2034.

(3) Section 26B-1-318, [~~which creates the~~]Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

(4) Section 26B-1-402, [~~related to the~~]Rare Disease Advisory Council Grant Program -- Creation -- Reporting, is repealed July 1, 2026.

(5) Section 26B-1-409, [~~which creates the~~]Utah Digital Health Service Commission -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(6) Section 26B-1-410, [~~which creates the~~] Primary Care Grant Committee, is repealed July 1, 2025.

(7) Section 26B-1-416, [~~which creates the~~]Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(8) Section 26B-1-417, [~~which creates the~~]Brain and Spinal Cord Injury Advisory Committee -- Membership -- Duties, is repealed July 1, 2029.

(9) Section 26B-1-422, [~~which creates the~~]Early Childhood Utah Advisory Council -- Creation -- Compensation -- Duties, is repealed July 1, 2029.

(10) Section 26B-1-425, [~~which creates the~~]Utah Health Workforce Advisory Council -- Creation and membership, is repealed July 1, 2027.

(11) Section 26B-1-428, [~~which creates the~~] Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee and Program -- Creation -- Membership -- Duties, is repealed July 1, 2025.

(12) Section 26B-1-430, [~~which creates the~~] Coordinating Council for Persons with Disabilities -- Policy regarding services to individuals with disabilities -- Creation -- Membership -- Expenses, is repealed July 1, 2027.

[~~(13) Section 26B-1-431, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.~~]

[~~(14)~~](13) Section 26B-1-432, [~~which creates the~~] Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(15)~~](14) Section 26B-2-407, [~~related to drinking~~]Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(16)~~](15) Subsection 26B-3-107(9), [~~which addresses~~]regarding reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(17)~~](16) Section 26B-3-136, [~~which creates the~~] Children's Health Care Coverage Program, is repealed July 1, 2025.

[~~(18)~~](17) Section 26B-3-137, [~~related to reimbursement for the National Diabetes Prevention Program~~]Reimbursement for diabetes prevention program, is repealed June 30, 2027.

[~~(19)~~](18) Subsection [~~26B-3-213(2), the language that states "In~~]26B-3-213(2)(b), regarding consultation with the Behavioral Health Crisis Response Committee[~~ created in Section 63C-18-202"~~], is repealed December 31, 2026.

[~~(20) Sections 26B-3-302 through 26B-3-309, regarding the Drug Utilization Review Board, are repealed July 1, 2027.~~]

(19) Section 26B-3-302, DUR Board -- Creation and membership -- Expenses, is repealed July 1, 2027.

(20) Section 26B-3-303, DUR Board -- Responsibilities, is repealed July 1, 2027.

(21) Section 26B-3-304, Confidentiality of records, is repealed July 1, 2027.

(22) Section 26B-3-305, Drug prior approval program, is repealed July 1, 2027.

(23) Section 26B-3-306, Advisory committees, is repealed July 1, 2027.

(24) Section 26B-3-307, Retrospective and prospective DUR, is repealed July 1, 2027.

(25) Section 26B-3-308, Penalties, is repealed July 1, 2027.

(26) Section 26B-3-309, Immunity, is repealed July 1, 2027.

[~~(21)~~](27) Title 26B, Chapter 3, Part 5, Inpatient Hospital Assessment, is repealed July 1, 2034.

[~~(22)~~](28) Title 26B, Chapter 3, Part 6, Medicaid Expansion Hospital Assessment, is repealed July 1, 2034.

[~~(23)~~](29) Title 26B, Chapter 3, Part 7, Hospital Provider Assessment, is repealed July 1, 2028.

[~~(24)~~](30) Section 26B-3-910, [~~regarding alternative eligibility~~]Alternative eligibility -- Report -- Alternative Eligibility Expendable Revenue Fund, is repealed July 1, 2028.

[~~(25)~~](31) Section 26B-4-710, [~~related to rural~~]Rural residency training [~~programs~~]program, is repealed July 1, 2025.

[~~(26)~~](32) [~~Subsections 26B-5-112(1) and (5), the language that states "In~~]Subsection

26B-5-112(1)(b), regarding consultation with the Behavioral Health Crisis Response Committee, [~~established in Section 63C-18-202,"~~]is repealed December 31, 2026.

(33) Subsection 26B-5-112(5)(b), regarding consultation with the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(27)~~](34) Section 26B-5-112.5, Mobile Crisis Outreach Team Grant Program, is repealed December 31, 2026.

[~~(28)~~](35) Section 26B-5-114, [~~related to the~~] Behavioral Health Receiving Center Grant Program, is repealed December 31, 2026.

[~~(29)~~](36) Section 26B-5-118, [~~related to collaborative care grant programs~~]Collaborative care grant program, is repealed December 31, 2024.

[~~(30)~~](37) Section 26B-5-120, Virtual crisis outreach team grant program, is repealed December 31, 2026.

[~~(31) In relation to the Utah Assertive Community Treatment Act, on July 1, 2024:~~]

[~~(a) Subsection 26B-5-606(2)(a)(i), the language that states "and" is repealed; and~~]

[~~(b) Subsections 26B-5-606(2)(a)(ii), 26B-5-606(2)(b), and 26B-5-606(2)(c) are repealed.~~]

[~~(32) In relation to the Behavioral Health Crisis Response Committee, on December 31, 2026:~~]

[~~(a) Subsection 26B-5-609(1)(a) is repealed;~~]

[~~(b) Subsection 26B-5-609(3)(a), the language that states "With recommendations from the committee," is repealed;~~]

[~~(c) Subsection 26B-5-610(1)(b) is repealed;~~]

[~~(d) Subsection 26B-5-610(2)(b), the language that states "and in consultation with the committee," is repealed;~~]

[~~(e) Subsection 26B-5-610(4), the language that states "In consultation with the committee," is repealed; and~~]

[~~(f) Subsection 26B-5-704(2)(a) is repealed.~~]

(38) Subsection 26B-5-609(1)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(39) Subsection 26B-5-609(3)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(40) Subsection 26B-5-610(1)(b), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(41) Subsection 26B-5-610(2)(b)(ii), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(33)~~](42) Section 26B-5-612, [~~related to integrated~~]Integrated behavioral health care grant programs, is repealed December 31, 2025.

[~~(34)~~](43) Title 26B, Chapter 5, Part 7, Utah Behavioral Health Commission, is repealed July 1, 2029.

(44) Subsection 26B-5-704(2)(a), regarding the Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

[~~(35)~~](45) Subsection 26B-5-704(2)(b), [~~related to~~]regarding the Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

[~~(36)~~](46) [~~In relation to the~~]Title 26B, Chapter 5, Part 8, Utah Substance Use and Mental Health Advisory Committee, [~~on~~]is repealed January 1, 2033[~~, Sections 26B-5-801, 26B-5-802, 26B-5-803, and 26B-5-804 are repealed~~].

[~~(37)~~](47) Section 26B-7-119,[~~related to the~~] Hepatitis C Outreach Pilot Program, is repealed July 1, 2028.

[~~(38) Sections 26B-7-122 and 26B-7-123 are repealed July 1, 2029.~~]

(48) Section 26B-7-122, Communication Habits to reduce Adolescent Threats Pilot Program, is repealed July 1, 2029.

(49) Section 26B-7-123, Report on CHAT campaign, is repealed July 1, 2029.

[~~(39)~~](50) Title 26B, Chapter 8, Part 5, Utah Health Data Authority, is repealed July 1, 2026.

[~~(40) Section 26B-8-513, related to identifying overuse of non-evidence-based health care, is repealed December 31, 2023.~~]

Section 33. Section 63I-1-229 is enacted to read:

63I-1-229. Repeal dates: Title 29.

Reserved.

Section 34. Section 63I-1-230 is amended to read:

63I-1-230. Repeal dates: Title 30.

Reserved.

Section 35. Section 63I-1-232 is amended to read:

63I-1-232. Repeal dates: Title 32B.

[~~The following provisions, regarding the Utah Substance Use and Mental Health Advisory Committee, are repealed on January 1, 2033:~~]

(1) Subsection 32B-2-306(1)(a)[~~;~~], regarding the Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

(2) Subsection 32B-2-306(4)(a)[~~;~~], regarding a duty of the Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

(3) Subsection 32B-2-306(5)(b)[~~; and~~], regarding a submission to the Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

(4) Subsection 32B-2-402(1)(b)[~~.~~], regarding the Utah Substance Use and Mental Health Advisory Committee, is repealed January 1, 2033.

Section 36. Section 63I-1-234 is amended to read:

63I-1-234. Repeal dates: Titles 34 and 34A.

(1) Subsection 34A-1-202(2)(b)(i), [~~related to~~]regarding the Workers' Compensation Advisory Council, is repealed July 1, 2027.

(2) Subsection 34A-1-202(2)(b)(iii), [~~related to~~]regarding the Coal Miner Certification Panel, is repealed July 1, 2034.

(3) Section 34A-2-107, Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation, is repealed July 1, 2027.

(4) Section 34A-2-202.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

Section 37. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates: Title 35A.

(1) Subsection 35A-1-202(2)(d), [~~related to~~]regarding the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, [~~which creates the Child Care Advisory Committee~~]Creation of committee, is repealed July 1, 2026.

(3) Subsection 35A-4-502(5), [~~which creates~~]regarding the Employment Advisory Council, is repealed July 1, 2029.

(4) Title 35A, Chapter 9, Part 6, Education Savings Incentive Program, is repealed July 1, 2028.

(5) Section 35A-13-303, [~~which creates the~~]State Rehabilitation Advisory Council, is repealed July 1, 2034.

(6) Section 35A-16-206, [~~which creates the~~]Utah Homeless Network Steering Committee, is repealed July 1, 2027.

(7) Section 35A-16-207, [~~related to the Utah Homeless Network Steering Committee~~]Duties of the steering committee, is repealed July 1, 2027.

Section 38. Section 63I-1-238 is amended to read:

63I-1-238. Repeal dates: Title 38.

Reserved.

Section 39. Section 63I-1-239 is enacted to read:

63I-1-239. Repeal dates: Title 39A.

Reserved.

Section 40. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), [~~related to~~]regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(2) The following subsections addressing lane filtering are repealed on July 1, 2027:~~]

[~~(a)~~](2) [~~the subsection in Section 41-6a-102 that defines "lane filtering";~~]Subsection 41-6a-102(34), regarding lane filtering, is repealed July 1, 2027.

[~~(b)~~](3) Subsection [~~41-6a-704(5); and~~]41-6a-704(6), regarding lane filtering, is repealed July 1, 2027.

[~~(c)~~](4) Subsection 41-6a-710(1)(c)[~~.~~], regarding lane filtering, is repealed July 1, 2027.

[~~(3)~~](5) Subsection 41-6a-1406(7)(b)(iii), [~~related to~~]regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(4) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.~~]

(6) Subsection 41-22-2(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

(7) Subsection 41-22-10(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

[~~(5)~~](8) Subsection [~~41-22-8(3), related to~~]41-22-8(3)(b), regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

Section 41. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates: Title 41.

(1) Subsection 41-1a-1201(8), [~~related to~~]regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(2) The following subsections addressing lane filtering are repealed on July 1, 2027:~~]

[~~(a)~~](2) [~~the subsection in Section 41-6a-102 that defines "lane filtering";~~]Subsection 41-6a-102(34), regarding lane filtering, is repealed July 1, 2027.

[~~(b)~~](3) Subsection [~~41-6a-704(5); and~~]41-6a-704(6), regarding lane filtering, is repealed July 1, 2027.

[~~(c)~~](4) Subsection 41-6a-710(1)(c)[~~.~~], regarding lane filtering, is repealed July 1, 2027.

[~~(3)~~](5) Subsection 41-6a-1406(6)(b)(iii), [~~related to~~]regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

[~~(4) Subsections 41-22-2(1) and 41-22-10(1), which authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.~~]

(6) Subsection 41-22-2(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

(7) Subsection 41-22-10(1), regarding an advisory council addressing off-highway vehicle issues, is repealed July 1, 2027.

[~~(5)~~](8) Subsection [~~41-22-8(3), related to~~]41-22-8(3)(b), regarding the Brain and Spinal Cord Injury Fund, is repealed July 1, 2029.

Section 42. Section 63I-1-242 is enacted to read:

63I-1-242. Repeal dates: Title 42.

Reserved.

Section 43. Section 63I-1-243 is enacted to read:

63I-1-243. Repeal dates: Title 43.

Reserved.

Section 44. Section 63I-1-245 is enacted to read:

63I-1-245. Repeal dates: Title 45.

Reserved.

Section 45. Section 63I-1-246 is enacted to read:

63I-1-246. Repeal dates: Title 46.

Reserved.

Section 46. Section 63I-1-247 is enacted to read:

63I-1-247. Repeal dates: Title 47.

Reserved.

Section 47. Section 63I-1-248 is enacted to read:

63I-1-248. Repeal dates: Title 48.

Reserved.

Section 48. Section 63I-1-249 is amended to read:

63I-1-249. Repeal dates: Title 49.

Reserved.

Section 49. Section 63I-1-250 is enacted to read:

63I-1-250. Repeal dates: Title 50.

Reserved.

Section 50. Section 63I-1-251 is amended to read:

63I-1-251. Repeal dates: Title 51.

(1) Subsection 51-7-2(1)(p), [~~relating to~~]regarding the Transportation Infrastructure General Fund Support Subfund[~~created in Section 72-2-134~~], is repealed July 1, 2027.

(2) Title 51, Chapter 12, Utah Homes Investment Program, is repealed July 1, 2027.

Section 51. Section 63I-1-252 is enacted to read:

63I-1-252. Repeal dates: Title 52.

Reserved.

Section 52. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-2a-105, [~~which creates the~~]Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(2) [~~Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.~~]Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(3) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

[~~(3)~~](4) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(4)~~](5) Section 53-5-703, [~~which creates the Concealed Firearm Review~~]Board-- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

[~~(5)~~](6) Subsection 53B-1-301(1)(j), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(6)~~](7) Section 53B-7-709, [~~regarding five-year~~]Five-year performance goals[~~for the Utah System of Higher Education~~], is repealed July 1, 2027.

[~~(7)~~](8) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(8)~~](9) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(9)~~](10) Section 53B-17-1203, [~~which creates the~~]SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(10)~~](11) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(11)~~](12) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(12)~~](13) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed[~~on~~] July 1, 2028.

[~~(13)~~](14) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(14)~~](15) Subsection 53C-3-203(4)(b)(vii), [~~which provides for~~]regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and

other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(15)~~](16) Subsection 53E-1-201(1)(q), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(16)~~](17) Subsection 53E-2-304(6), [~~which forecloses~~]regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(17)~~](18) [~~Subsections 53E-3-503(5) and (6), which create~~]Subsection 53E-3-503(5), regarding coordinating councils for youth in care, [~~are~~]is repealed July 1, 2027.

(19) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(18) In relation to a standards review committee, on January 1, 2028:~~]

[~~(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and~~]

(20) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(b)~~](21) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(19)~~](22) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(20) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.~~]

[~~(21)~~](23) Subsection 53E-7-207(7), [~~which forecloses~~]regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

(24) Section 53F-2-420, Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(22)~~](25) Section 53F-5-214, [~~in relation to a grant~~]Grant for professional learning, is repealed July 1, 2025.

[~~(23)~~](26) Section 53F-5-215, [~~in relation to an elementary~~]Elementary teacher preparation assessment grant, is repealed July 1, 2025.

[~~(24)~~](27) Section 53F-5-219, [~~which creates the~~] Local Innovations Civics Education Pilot Program, is repealed [~~on~~]July 1, 2025.

[~~(25)~~](28) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(26)~~](29) [~~Subsections 53G-4-608(2)(b) and (4)(b), related to~~]Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission,[~~are~~]is repealed January 1, 2025.

(30) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(27)~~](31) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 53. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, [~~which creates the~~]Road Rage Awareness and Prevention Restricted Account, is repealed [~~on~~]July 1, 2028.

(2) Section 53-2a-105, [~~which creates the~~] Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) [~~Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.~~]Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

[~~(4)~~](5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(5)~~](6) Section 53-2d-104, [~~Trauma System and~~]State Emergency Medical Services Committee -- Membership -- Expenses, is repealed [~~on~~]July 1, 2029.

[~~(6)~~](7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

[~~(7)~~](8) Section 53-5-703, [~~which creates the Concealed Firearm Review~~]Board -- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

[~~(8)~~](9) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(9)~~](10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(10)~~](11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(11)~~](12) Subsection 53B-1-301(1)(j), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(12)~~](13) Section 53B-7-709, [~~regarding five-year~~]Five-year performance goals[~~for the Utah System of Higher Education~~], is repealed July 1, 2027.

[~~(13)~~](14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(14)~~](15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(15)~~](16) Section 53B-17-1203, [~~which creates the~~]SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(16)~~](17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(17)~~](18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(18)~~](19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed[~~, on~~] July 1, 2028.

[~~(19)~~](20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(20)~~](21) Subsection 53C-3-203(4)(b)(vii), [~~which provides for~~]regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(21)~~](22) Subsection 53E-1-201(1)(q), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(22)~~](23) Subsection 53E-2-304(6), [~~which forecloses~~]regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(23)~~](24) [~~Subsections 53E-3-503(5) and (6), which create~~]Subsection 53E-3-503(5), regarding coordinating councils for youth in care, [~~are~~]is repealed July 1, 2027.

(25) Subsection 53E-3-503(6), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(24) In relation to a standards review committee, on January 1, 2028:~~]

[~~(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and~~]

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(b)~~](27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(25)~~](28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(26)~~](29) Subsection 53E-7-207(7), [~~which forecloses~~]regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(27)~~](30) Section 53F-2-420,[~~which creates the~~] Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(28)~~](31) Section 53F-5-214, [~~in relation to a grant~~]Grant for professional learning, is repealed July 1, 2025.

[~~(29)~~](32) Section 53F-5-215, [~~in relation to an elementary~~]Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(30)~~](33) Section 53F-5-219, [~~which creates the~~] Local Innovations Civics Education Pilot Program, is repealed [~~on~~]July 1, 2025.

[~~(31)~~](34) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(32)~~](35) [~~Subsections 53G-4-608(2)(b) and (4)(b), related to~~]Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, [~~are~~]is repealed January 1, 2025.

(36) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(33)~~](37) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 54. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-122, [~~which creates the~~]Road Rage Awareness and Prevention Restricted Account, is repealed [~~on~~]July 1, 2028.

(2) Section 53-2a-105, [~~which creates the~~] Emergency Management Administration Council created -- Function -- Composition -- Expenses, is repealed July 1, 2029.

(3) [~~Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2027.~~]Section 53-2a-1103, Search and Rescue Advisory Board -- Members -- Compensation, is repealed July 1, 2027.

(4) Section 53-2a-1104, General duties of the Search and Rescue Advisory Board, is repealed July 1, 2027.

[~~(4)~~](5) Title 53, Chapter 2a, Part 15, Grid Resilience Committee, is repealed July 1, 2027.

[~~(5)~~](6) Section 53-2d-104, [~~Trauma System and~~]State Emergency Medical Services Committee -- Membership -- Expenses, is repealed [~~on~~]July 1, 2029.

[~~(6)~~](7) Section 53-2d-703, Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board, is repealed July 1, 2027.

[~~(7)~~](8) Section 53-5-703, [~~which creates the Concealed Firearm Review~~]Board-- Membership -- Compensation -- Terms -- Duties, is repealed July 1, 2029.

[~~(8)~~](9) Section 53-11-104, Board, is repealed July 1, 2029.

[~~(9)~~](10) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(10)~~](11) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(11)~~](12) Subsection 53B-1-301(1)(j), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(12)~~](13) Section 53B-7-709, [~~regarding five-year~~]Five-year performance goals[~~for the Utah System of Higher Education~~], is repealed July 1, 2027.

[~~(13)~~](14) Title 53B, Chapter 8a, Part 3, Education Savings Incentive Program, is repealed July 1, 2028.

[~~(14)~~](15) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(15)~~](16) Section 53B-17-1203, [~~which creates the~~]SafeUT and School Safety Commission established -- Members, is repealed January 1, 2030.

[~~(16)~~](17) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(17)~~](18) Title 53B, Chapter 18, Part 17, Food Security Council, is repealed July 1, 2027.

[~~(18)~~](19) Title 53B, Chapter 18, Part 18, Electrification of Transportation Infrastructure Research Center, is repealed [~~on~~] July 1, 2028.

[~~(19)~~](20) Title 53B, Chapter 35, Higher Education and Corrections Council, is repealed July 1, 2027.

[~~(20)~~](21) Subsection 53C-3-203(4)(b)(vii), [~~which provides for~~]regarding the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(21) Subsection 53E-2-304(6), which forecloses a private right of action or waiver of governmental immunity, is repealed July 1, 2027.~~]

(22) Subsection 53E-1-201(1)(q), [~~related to~~]regarding the Higher Education and Corrections Council, is repealed July 1, 2027.

(23) Subsection 53E-2-304(6), regarding foreclosing a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(23)~~](24) [~~Subsections 53E-3-503(5) and (6), which create~~]Subsection 53E-3-503(5), regarding coordinating councils for youth in care, are repealed July 1, 2027.

(25) Subsection 53E-3-503(5), regarding coordinating councils for youth in care, is repealed July 1, 2027.

[~~(24) In relation to a standards review committee, on January 1, 2028:~~]

[~~(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and~~]

(26) Subsection 53E-4-202(8)(b), regarding a standards review committee, is repealed January 1, 2028.

[~~(b)~~](27) Section 53E-4-203, Standards review committee, is repealed January 1, 2028.

[~~(25)~~](28) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2033.

[~~(26)~~](29) Subsection 53E-7-207(7), [~~which forecloses~~]regarding a private right of action or waiver of governmental immunity, is repealed July 1, 2027.

[~~(27)~~](30) Section 53F-2-420, [~~which creates the~~] Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(28)~~](31) Section 53F-5-214, [~~in relation to a grant~~]Grant for professional learning, is repealed July 1, 2025.

[~~(29)~~](32) Section 53F-5-215, [~~in relation to an elementary~~]Elementary teacher preparation grant, is repealed July 1, 2025.

[~~(30)~~](33) Section 53F-5-219, [~~which creates the~~] Local Innovations Civics Education Pilot Program, is repealed[~~on~~] July 1, 2025.

[~~(31)~~](34)[~~(a)~~] Subsection 53F-9-201.1(2)(b)(ii), [~~in relation to~~]regarding the use of funds from a loss in enrollment for certain fiscal years, is repealed[~~on~~] July 1, 2030.

[~~(b) On July 1, 2030, the Office of Legislative Research and General Counsel shall renumber the remaining subsections accordingly.~~]

[~~(32)~~](35) Title 53F, Chapter 10, Part 2, Capital Projects Evaluation Panel, is repealed July 1, 2027.

[~~(33)~~](36) [~~Subsections 53G-4-608(2)(b) and (4)(b), related to~~]Subsection 53G-4-608(2)(b), regarding the Utah Seismic Safety Commission, [~~are~~]is repealed January 1, 2025.

(37) Subsection 53G-4-608(4)(b), regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(34)~~](38) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

Section 55. Section 63I-1-255 is enacted to read:

63I-1-255. Repeal dates: Title 55.

Reserved.

Section 56. Section 63I-1-256 is enacted to read:

63I-1-256. Repeal dates: Title 56.

Reserved.

Section 57. Section 63I-1-257 is amended to read:

63I-1-257. Repeal dates: Title 57.

Reserved.

Section 58. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates: Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(4) Section 58-37-3.5, Drugs for behavioral health treatment, is repealed July 1, 2027.

(5) Subsection 58-37-6(7)(f)(iii), [~~relating to the~~]regarding a seven-day opiate supply restriction, is repealed July 1, 2032[~~, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly~~].

(6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2033.

(7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2033.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2034.

(10) Subsection 58-55-201(2), [~~which creates~~]regarding the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(11) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

Section 59. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates: Title 59.

(1) Subsection 59-1-403(4)(aa), [~~which authorizes~~]regarding a requirement for the State Tax Commission to inform the Department of Workforce Services whether an individual claimed a federal earned income tax credit, is repealed July 1, 2029.

(2) Section 59-7-618.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

(3) Section 59-9-102.5, Offset for occupational health and safety related donations, is repealed December 31, 2030.

(4) Section 59-10-1033.1, Tax credit related to alternative fuel heavy duty vehicles, is repealed July 1, 2029.

Section 60. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates: Title 62.

Reserved.

Section 61. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A through 63N.

(1) Subsection 63A-5b-405(5), [~~relating to~~]regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 26, Project Entity Oversight Committee, is repealed July 1, 2027.

(8) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(9) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(10) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed [~~on~~]July 1, 2028.

(11) Section 63G-6a-805, [~~which creates the Purchasing from Persons with Disabilities Advisory Board~~]Purchase from community rehabilitation programs, is repealed July 1, 2026.

(12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(15) Subsection 63J-1-602.2(25), [~~related to~~]regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(16) Section 63L-11-204, [~~creating a canyon~~]Canyon resource management plan[~~ to Provo Canyon~~], is repealed July 1, 2025.

(17) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(18) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(19) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(20) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(21) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

(22) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(23) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(23)~~](24) Section 63N-2-512, [~~related to the~~] Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(24)~~](25) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(25)~~](26) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(26) In relation to the Rural Employment Expansion Program, on July 1, 2028:~~]

[~~(a)~~](27) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed[~~; and~~] July 1, 2028.

[~~(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.~~]

[~~(27)~~](28) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

(29) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(28) In relation to the Board of Tourism Development, on July 1, 2025:~~]

[~~(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;~~]

[~~(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";~~]

[~~(c)~~](30) Subsection 63N-7-101(1), [~~which defines "board,"~~]regarding the Board of Tourism Development, is repealed[~~;~~] July 1, 2025.

[~~(d)~~](31) Subsection 63N-7-102(3)(c), [~~which requires~~]regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed[~~; and~~] July 1, 2025.

[~~(e)~~](32) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 62. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates: Titles 63A to 63O.

(1) Subsection 63A-5b-405(5), [~~relating to~~]regarding prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(2) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(3) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(4) Title 63C, Chapter 18, Behavioral Health Crisis Response Committee, is repealed December 31, 2026.

(5) Title 63C, Chapter 23, Education and Mental Health Coordinating Committee, is repealed December 31, 2024.

(6) Title 63C, Chapter 25, State Finance Review Commission, is repealed July 1, 2027.

(7) Title 63C, Chapter 26, Project Entity Oversight Committee, is repealed July 1, 2027.

(8) Title 63C, Chapter 27, Cybersecurity Commission, is repealed July 1, 2032.

(9) Title 63C, Chapter 28, Ethnic Studies Commission, is repealed July 1, 2026.

(10) Title 63C, Chapter 31, State Employee Benefits Advisory Commission, is repealed [~~on~~]July 1, 2028.

(11) Section 63G-6a-805, [~~which creates the Purchasing from Persons with Disabilities Advisory Board~~]Purchase from community rehabilitation programs, is repealed July 1, 2026.

(12) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2028.

(13) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2029.

(14) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(15) Subsection 63J-1-602.2(16), related to the Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program, is repealed July 1, 2029.

(16) Subsection 63J-1-602.2(26), [~~related to~~]regarding the Utah Seismic Safety Commission, is repealed January 1, 2025.

(17) Section 63L-11-204, [~~creating a canyon~~]Canyon resource management plan[~~ to Provo Canyon~~], is repealed July 1, 2025.

(18) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(19) Title 63M, Chapter 7, Part 7, Domestic Violence Offender Treatment Board, is repealed July 1, 2027.

(20) Section 63M-7-902, Creation -- Membership -- Terms -- Vacancies -- Expenses, is repealed July 1, 2029.

(21) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(22) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2030.

(23) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(24) Subsection 63N-2-511(1)(b), regarding the Board of Tourism Development, is repealed July 1, 2025.

[~~(24)~~](25) Section 63N-2-512, [~~related to the~~] Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(25)~~](26) Title 63N, Chapter 3, Part 9, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

[~~(26)~~](27) Title 63N, Chapter 3, Part 11, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(27) In relation to the Rural Employment Expansion Program, on July 1, 2028:~~]

[~~(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.~~]

[~~(a)~~](28) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed[~~; and~~] July 1, 2028.

[~~(28)~~](29) Section 63N-4-804, which creates the Rural Opportunity Advisory Committee, is repealed July 1, 2027.

(30) Subsection 63N-4-805(5)(b), regarding the Rural Employment Expansion Program, is repealed July 1, 2028.

[~~(29) In relation to the Board of Tourism Development, on July 1, 2025:~~]

[~~(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;~~]

[~~(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";~~]

[~~(c)~~](31) Subsection 63N-7-101(1), [~~which defines "board,"~~]regarding the Board of Tourism Development, is repealed[~~;~~] July 1, 2025.

[~~(d)~~](32) Subsection 63N-7-102(3)(c), [~~which requires~~]regarding a requirement for the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed[~~; and~~] July 1, 2025.

[~~(e)~~](33) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed July 1, 2025.

Section 63. Section 63I-1-264 is amended to read:

63I-1-264. Repeal dates: Title 64.

Section 64-13-46.1, [~~regarding the~~]Correctional Postnatal and Early Childhood Advisory Board, is repealed July 1, 2025.

Section 64. Section 63I-1-265 is amended to read:

63I-1-265. Repeal dates: Title 65A.

Section 65A-10-5, [~~related to a~~]Utah lake study, is repealed July 1, 2027.

Section 65. Section 63I-1-268 is enacted to read:

63I-1-268. Repeal dates: Title 68.

Reserved.

Section 66. Section 63I-1-269 is amended to read:

63I-1-269. Repeal dates: Title 69.

Reserved.

Section 67. Section 63I-1-270 is enacted to read:

63I-1-270. Repeal dates: Titles 70 through 70D.

Reserved.

Section 68. Section 63I-1-271 is enacted to read:

63I-1-271. Repeal dates: Title 71A.

Reserved.

Section 69. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates: Title 72.

(1) Section 72-2-134, Transportation Infrastructure General Fund Support Subfund, is repealed July 1, 2027.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2030.

Section 70. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates: Title 73.

[~~(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.~~]

(1) Subsection 73-1-4(2)(e)(xi), regarding a water right subject to an approved change application for use within a water bank that has been authorized but not dissolved, is repealed December 31, 2030.

(2) Subsection 73-10-4(1)(h), regarding management of an application to create a water bank, is repealed December 31, 2030.

[~~(2)~~](3) Section 73-10-39, [~~which requires a study~~]Study and recommendations related to the financing of water infrastructure, is repealed July 1, 2027.

[~~(3)~~](4) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2028.

[~~(4)~~](5) [~~Title 73, Chapter 10g, Part 6, Utah Water Agent~~]Title 76, Chapter 10g, Part 7, Utah Water Agent, is repealed July 1, 2034.

[~~(5)~~](6) Section 73-18-3.5, [~~which authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies~~]Advisory council, is repealed July 1, 2029.

[~~(6) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:~~]

[~~(a) Subsection 73-1-4(2)(e)(xi) is repealed;~~]

[~~(b) Subsection 73-10-4(1)(h) is repealed; and~~]

(7) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

[~~(e)~~](8) Title 73, Chapter 31, Water Banking Act, is repealed December 31, 2030.

[~~(7)~~](9) [~~Sections 73-32-302 and 73-32-303, related to the Great Salt Lake Advisory Council, are~~]Section 73-32-302, Advisory council created - - Staffing - - Per diem and travel expenses - - Annual conflict of interest disclosure statement - - Exception - - Penalties, is repealed July 1, 2027.

(10) Section 73-32-303, Duties of the council, is repealed July 1, 2027.

Section 71. Section 63I-1-275 is enacted to read:

63I-1-275. Repeal dates: Titles 75 through 75B.

Reserved.

Section 72. Section 63I-1-276 is amended to read:

63I-1-276. Repeal dates: Title 76.

(1) Subsection 76-7-313(6), [~~relating to the~~]regarding a report provided by the Department of Health and Human Services, is repealed July 1, 2027.

(2) Section 76-10-526.1, Information check before private sale of firearm, is repealed July 1, 2025.

Section 73. Section 63I-1-277 is amended to read:

63I-1-277. Repeal dates: Title 77.

Reserved.

Section 74. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

[~~(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.~~]

[~~(2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.~~]

[~~(3)~~](1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed [~~on~~]July 1, 2029.

(2) Section 78B-3-421, Arbitration agreements, is repealed July 1, 2029.

[~~(4)~~](3) Section 78B-4-518, [~~regarding the limitation on employer~~]Limitation on liability of employer for an employee convicted of an offense, is repealed [~~on~~]July 1, 2025.

[~~(5)~~](4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(6)~~](5) Title 78B, Chapter 12, Part 4, Advisory Committee, [~~which creates the Child Support Guidelines Advisory Committee,~~]is repealed July 1, 2026.

[~~(7)~~](6) Section 78B-22-805, [~~regarding the~~] Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.

Section 75. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

[~~(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.~~]

[~~(2)~~](1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed [~~on~~]July 1, 2029.

[~~(3)~~](2) Section 78B-3-421, [~~regarding medical malpractice arbitration~~]Arbitration agreements, is repealed July 1, 2029.

[~~(4)~~](3) Section 78B-4-518, [~~regarding the limitation on employer~~]Limitation on liability of employer for an employee convicted of an offense, is repealed [~~on~~]July 1, 2025.

[~~(5)~~](4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(6)~~](5) Section 78B-22-805, [~~regarding the~~] Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.

Section 76. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates: Title 78A and Title 78B.

(1) Subsection 78A-7-106(7), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed[~~-on~~] July 1, 2029.

(2) Section 78B-3-421, [~~regarding medical malpractice arbitration~~]Arbitration agreements, is repealed July 1, 2029.

(3) Section 78B-4-518, [~~regarding the limitation on employer~~]Limitation on liability of employer for an employee convicted of an offense, is repealed [~~on~~]July 1, 2025.

(4) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(5) Section 78B-22-805, [~~regarding the~~] Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2026.

Section 77. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates: Title 79.

(1) Subsection 79-2-201(2)(o), [~~related to~~]regarding the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(2) Subsection 79-2-201(2)(p)(i), [~~related to~~]regarding an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2029.

(3) Subsection 79-2-201(2)(q), [~~related to~~]regarding the Wildlife Board Nominating Committee, is repealed July 1, 2028.

(4) Subsection 79-2-201(2)(r), [~~related to~~]regarding regional advisory councils for the Wildlife Board, is repealed July 1, 2028.

(5) Section 79-7-206, [~~creating the~~]Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(6) Title 79, Chapter 7, Part 7, Private Maintenance, is repealed July 1, 2029.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 78. Section 63I-1-280 is amended to read:

63I-1-280. Repeal dates: Title 80.

Reserved.

Section 79. Section 63I-2-102 is amended to read:

63I-2-102. Format of repeal dates -- Revisor authority.

The Office of Legislative Research and General Counsel:

(1) shall use a standard for codified repeal dates in this chapter, including:

(a) "Title [#], [title heading], is repealed [~~on~~][date].";

(b) "Title [#], Chapter [#], [chapter heading], is repealed [~~on~~][date].";

(c) "Title [#], Chapter [#], Part [#], [part heading], is repealed [~~on~~][date].";

(d) "Section [#-#-#], [section heading], is repealed [~~on~~][date].";or

(e) "Subsection [#-#-#(#)], regarding [short description of the provision], is repealed [~~on~~][date].";[~~or~~]and

[~~(f) "The following provisions, regarding [short description of the provisions], are repealed on [date]:"; and~~]

(2) in addition to the revisor authority described in Section 36-12-12 regarding enrolling legislation, may:

(a) correct discrepancies in the format of repeal dates that enrolled legislation adds to this chapter; and

(b) remove expired repeal dates in this chapter.

Section 80. Section 63I-2-203 is enacted to read:

63I-2-203. Repeal dates: Title 3.

Reserved.

Section 81. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates: Title 4.

(1) Section 4-11-117, Beekeeping working group -- Development of standards, is repealed May 1, 2025.

(2) Subsection [~~4-41a-102(4)~~]4-41a-102(6), [~~defining~~]regarding the Cannabis Research Review Board, is repealed July 1, 2026.

(3) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 82. Section 63I-2-206 is enacted to read:

63I-2-206. Repeal dates: Title 6.

Reserved.

Section 83. Section 63I-2-207 is amended to read:

63I-2-207. Repeal dates: Title 7.

(1) Section 7-3-40, Board of Bank Advisors, is repealed October 1, 2024.

(2) Section 7-9-43, Board of Credit Union Advisors, is repealed October 1, 2024.

Section 84. Section 63I-2-208 is enacted to read:

63I-2-208. Repeal dates: Title 8.

Reserved.

Section 85. Section 63I-2-209 is amended to read:

63I-2-209. Repeal dates: Title 9.

(1) Section 9-6-303, Arts collection committee, is repealed [~~on~~]October 1, 2024.

[~~(2) Section 9-6-305, Utah Museums Advisory Board, is repealed on October 1, 2024.~~]

[~~(3) Section 9-6-306, Museums board power and duties, is repealed on October 1, 2024.~~]

[~~(4)~~](2) Subsection 9-6-402(1)(b), regarding public art installations, is repealed January 1, 2035.

[~~(5)~~](3) [~~Subsections 9-6-403(4) and (6)(b) are~~]Subsection 9-6-403(4), regarding public art installations, is repealed January 1, 2035.

(4) Subsection 9-6-403(6)(b), regarding public art installations, is repealed January 1, 2035.

[~~(6)~~](5) [~~Subsection 9-6-404(2)(a) is amended to read, "Any appropriation received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division." on January~~

~~1, 2035.~~]Subsection 9-6-404(2)(a)(i), regarding the use of an appropriation received by or available for a new state building that is not in a county of the first class, is repealed January 1, 2035.

[~~(7)~~](6) Subsection [~~9-4-404(2)(b)~~]9-6-404(2)(b), regarding an appropriation received or made available for a new state building in a county of the first class, is repealed January 1, 2035.

[~~(8)~~](7) Section 9-6-410, Public Art Installation Initiative, is repealed January 1, 2035.

[~~(9)~~](8) Title 9, Chapter 17, Humanitarian Service and Educational and Cultural Exchange Restricted Account Act, is repealed [~~on~~]July 1, 2024.

[~~(10)~~](9) Title 9, Chapter 18, Martin Luther King, Jr. Civil Rights Support Restricted Account Act, is repealed [~~on~~]July 1, 2024.

[~~(11)~~](10) Title 9, Chapter 19, National Professional Men's Soccer Team Support of Building Communities Restricted Account Act, is repealed [~~on~~]July 1, 2024.

Section 86. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates: Title 10.

[~~(1) Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is repealed on January 1, 2025.~~]

[~~(2) On July 1, 2028:~~]

[~~(a)~~](1) Subsection 10-2a-205(2)(b)(iii), regarding a feasibility study for the proposed incorporation of a community council area, is repealed[~~; and~~] July 1, 2028.

[~~(b)~~](2) Section 10-2a-205.5, Additional feasibility consultant considerations for proposed incorporation of community council area -- Additional feasibility study requirements, is repealed July 1, 2028.

(3) Section 10-9a-604.9, Effective dates of Sections 10-9a-604.1 and 10-9a-604.2, is repealed January 1, 2025.

Section 87. Section 63I-2-212 is enacted to read:

63I-2-212. Repeal dates: Title 12.

Reserved.

Section 88. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates: Title 13.

(1) Section 13-1-16, Latino Community Support Restricted Account, is repealed [~~on~~]July 1, 2024.

(2) Section 13-14-103, Utah Motor Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(3) Section 13-35-103, Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest, is repealed October 1, 2024.

(4) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

(5) [~~Title 13, Chapter 70, Artificial Intelligence Act~~]Title 13, Chapter 72, Artificial Intelligence Policy Act, is repealed [~~on~~]May 1, 2025.

Section 89. Section 63I-2-214 is enacted to read:

63I-2-214. Repeal dates: Title 14.

Reserved.

Section 90. Section 63I-2-215 is amended to read:

63I-2-215. Repeal dates: Titles 15 through 15A.

Subsection 15A-3-206(3), [~~related to~~]regarding the maximum number of disconnects, is repealed [~~on~~]July 1, 2027.

Section 91. Section 63I-2-216 is enacted to read:

63I-2-216. Repeal dates: Title 16.

Reserved.

Section 92. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates: Titles 17 through 17D.

(1) Subsection 17-22-2(1)(o), regarding a sheriff's contractual duties under an interlocal agreement for law enforcement services, is repealed [~~on~~]July 1, 2025.

(2) Subsection 17-22-2(3), regarding the role of a sheriff in a police interlocal entity or police local district, is repealed [~~on~~]July 1, 2025.

(3) Section 17-27a-604.9, Effective dates of Sections 17-27a-604.1 and 17-27a-604.2, is repealed [~~on~~]January 1, 2025.

(4) Subsection 17-52a-103(3), regarding [~~a change of~~]the process for changing a form of county government [~~process~~], is repealed [~~on~~]January 1, 2028.

Section 93. Section 63I-2-218 is enacted to read:

63I-2-218. Repeal dates: Title 18.

Reserved.

Section 94. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates: Title 19.

(1) Section 19-1-109, Clean Air Support Restricted Account, is repealed [~~on~~]July 1, 2024.

(2) Section 19-2a-102.5, Emissions reduction plan study and recommendations, is repealed July 1, 2024.

Section 95. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates: Title 20A.

[~~(1) Section 20A-1-207, Provisions relating to the 2023 municipal election, is repealed May 1, 2024.~~]

[~~(2) Section 20A-1-208, Provisions relating to the 2023 special congressional election and the 2023 municipal election, is repealed on May 1, 2024.~~]

[~~(3)~~] Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

Section 96. Section 63I-2-222 is enacted to read:

63I-2-222. Repeal dates: Title 22.

Reserved.

Section 97. Section 63I-2-223 is amended to read:

63I-2-223. Repeal dates: Title 23A.

Section 23A-3-203, Support for State-Owned Shooting Ranges Restricted Account, is repealed [~~on~~]July 1, 2024.

Section 98. Section 63I-2-225 is enacted to read:

63I-2-225. Repeal dates: Title 25.

Reserved.

Section 99. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26A through 26B.

(1) Subsection 26B-1-204(2)(e), [~~related to~~]regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.

(3) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account, is repealed [~~on~~]July 1, 2024.

(4) Section 26B-1-309, Medicaid Restricted Account, is repealed [~~on~~]July 1, 2024.

(5) Section 26B-1-313, Cancer Research Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(6) Section 26B-1-314 is repealed on July 1, 2024.~~]

[~~(7) Section 26B-1-321 is repealed on July 1, 2024.~~]

[~~(8)~~](6) Section 26B-1-405, [~~related to the~~]Air Ambulance Committee- - Membership - - Duties, is repealed[~~ on~~] July 1, 2024.

[~~(9)~~](7) Section 26B-1-420, [~~which creates the~~] Cannabis Research Review Board, is repealed July 1, 2026.

[~~(10)~~](8) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(11)~~](9) Section 26B-1-423, [~~which creates the rural~~]Rural Physician Loan Repayment Program Advisory Committee - - Membership - - Compensation - - Duties, is repealed [~~on~~]July 1, 2026.

[~~(12) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:~~

~~"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~(i) which health insurers in the state the air medical transport provider contracts with;~~

~~(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".~~]

[~~(13)~~](10) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.

[~~(14)~~](11) Subsection 26B-3-215(5), [~~related to~~]regarding reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(15) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-4-135(1)(a) is amended to read:~~

~~(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~(i) which health insurers in the state the air medical transport provider contracts with;~~

~~(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".~~]

[~~(16)~~](12) Subsection [~~26B-4-201(4), defining~~]26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(17)~~](13) Subsection 26B-4-212(1)(b), [~~defining~~]regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(18)~~](14) Section 26B-4-702, [~~related to the~~]Creation of Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(19) Subsections 26B-4-703(3)(b), (3)(c)(i) and (ii), and (6)(b) are repealed on July 1, 2026.~~]

(15) Subsection 26B-4-703(3)(b), regarding per diem and expenses for the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

(16) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan Repayment Program, is repealed July 1, 2026.

(17) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

[~~(20)~~](18) Section 26B-5-117, [~~related to early~~]Early childhood mental health support grant [~~programs~~]program, is repealed January 2, 2025.

[~~(21)~~](19) Section 26B-5-302.5, [~~related to a study concerning court-ordered treatment~~]Study concerning civil commitment and the Utah State Hospital, is repealed July 1, 2025.

[~~(22)~~](20) Section 26B-6-414, [~~related to overnight respite~~]Respite care services, is repealed July 1, 2025.

[~~(23)~~](21) Section 26B-7-120, [~~relating to sickle cell disease~~]Invisible condition alert program education and outreach, is repealed [~~on~~]July 1, 2025.

Section 100. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates: Titles 26 through 26B.

(1) Section 26B-1-241, Tardive dyskinesia, is repealed July 1, 2024.

(2) Section 26B-1-302, National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account, is repealed [~~on~~]July 1, 2024.

(3) Section 26B-1-309, Medicaid Restricted Account, is repealed [~~on~~]July 1, 2024.

(4) Section 26B-1-313, Cancer Research Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(5) Section 26B-1-314 is repealed on July 1, 2024.~~]

[~~(6) Section 26B-1-321 is repealed on July 1, 2024.~~]

[~~(7)~~](5) Section 26B-1-420, [~~which creates the~~] Cannabis Research Review Board, is repealed July 1, 2026.

[~~(8)~~](6) Subsection 26B-1-421(9)(a), regarding a report to the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(9)~~](7) Section 26B-1-423, Rural Physician Loan Repayment Program Advisory Committee -- Membership -- Compensation -- Duties, is repealed [~~on~~]July 1, 2026.

[~~(10) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26B-2-231(1)(a) is amended to read:~~

~~"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~(i) which health insurers in the state the air medical transport provider contracts with;~~

~~(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".~~]

[~~(11)~~](8) Section 26B-2-243, Data collection and reporting requirements concerning incidents of abuse, neglect, or exploitation, is repealed July 1, 2027.

[~~(12)~~](9) Section 26B-3-142, Long-acting injectables, is repealed July 1, 2024.

[~~(13)~~](10) Subsection 26B-3-215(5), [~~related to~~]regarding reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(14)~~](11) Subsection [~~26B-4-201(4), defining~~] 26B-4-201(5), regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(15)~~](12) Subsection 26B-4-212(1)(b), [~~defining~~]regarding the Cannabis Research Review Board, is repealed July 1, 2026.

[~~(16)~~](13) Section 26B-4-702, [~~related to the~~]Creation of Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(17) Subsections 26B-4-703(3)(b), (3)(c)(i) and (ii), and (6)(b) are repealed on July 1, 2026.~~]

(14) Subsection 26B-4-703(3)(b), regarding per diem and expenses for the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

(15) Subsection 26B-4-703(3)(c), regarding expenses for the Rural Physician Loan Repayment Program, is repealed July 1, 2026.

(16) Subsection 26B-4-703(6)(b), regarding recommendations from the Rural Physician Loan Repayment Program Advisory Committee, is repealed July 1, 2026.

[~~(18)~~](17) Section 26B-5-117, [~~related to early~~]Early childhood mental health support grant [~~programs~~]program, is repealed January 2, 2025.

[~~(19)~~](18) Section 26B-5-302.5, [~~related to a study concerning court-ordered treatment~~]Study concerning civil commitment and the Utah State Hospital, is repealed July 1, 2025.

[~~(20)~~](19) Section 26B-6-414, [~~related to overnight respite~~]Respite care services, is repealed July 1, 2025.

[~~(21)~~](20) Section 26B-7-120, [~~relating to sickle cell disease~~]Invisible condition alert program education and outreach, is repealed [~~on~~] July 1, 2025.

Section 101. Section 63I-2-229 is enacted to read:

63I-2-229. Repeal dates: Title 29.

Reserved.

Section 102. Section 63I-2-230 is enacted to read:

63I-2-230. Repeal dates: Title 30.

Reserved.

Section 103. Section 63I-2-231 is amended to read:

63I-2-231. Repeal dates: Title 31A.

Reserved.

Section 104. Section 63I-2-232 is amended to read:

63I-2-232. Repeal dates: Title 32B.

(1) Subsection 32B-1-603.5(7), regarding the Department of Alcoholic Beverage Services' review of beer that is sold or distributed in the state, is repealed December 31, 2024.

(2) Subsection 32B-2-205(4), [~~which creates~~]regarding a workgroup to make recommendations regarding training and recordkeeping for certain cash transactions, is repealed January 1, 2025.

Section 105. Section 63I-2-234 is amended to read:

63I-2-234. Repeal dates: Title 34A.

Subsection 34A-3-113(7), regarding a study related to cancer in firefighters, is repealed [~~on~~] January 1, 2025.

Section 106. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates: Title 35A.

Section 35A-3-212, Use of COVID-19 relief funds -- Grants to child care providers -- Reporting requirements, is repealed June 30, 2025.

(1) Section 35A-13-301, Title, is repealed October 1, 2024.

(2) Section 35A-13-302, Governor's Committee on Employment of People with Disabilities, is repealed[~~on~~] October 1, 2024.

Section 107. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates: Title 36.

(1) Section 36-12-8.2, Medical cannabis governance structure working group, is repealed July 1, 2025.

(2) Section 36-29-107.5, Murdered and Missing Indigenous Relatives Task Force -- Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties -- Interim report, is repealed [~~on~~]November 30, 2024.

(3) Section 36-29-109, Utah Broadband Center Advisory Commission, is repealed [~~on~~]November 30, 2027.

(4) Section 36-29-110, Blockchain and Digital Innovation Task Force, is repealed [~~on~~]November 30, 2024.

[~~(5) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:~~]

[~~(a) Section 36-29-201;~~]

[~~(b) Section 36-29-202; and~~]

[~~(c) Section 36-29-203.~~]

[~~(6) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.~~]

Section 108. Section 63I-2-238 is enacted to read:

63I-2-238. Repeal dates: Title 38.

Reserved.

Section 109. Section 63I-2-239 is enacted to read:

63I-2-239. Repeal dates: Title 39A.

Reserved.

Section 110. Section 63I-2-240 is enacted to read:

63I-2-240. Repeal dates: Title 40.

Reserved.

Section 111. Section 63I-2-241 is enacted to read:

63I-2-241. Repeal dates: Title 41.

Reserved.

Section 112. Section 63I-2-242 is enacted to read:

63I-2-242. Repeal dates: Title 42.

Reserved.

Section 113. Section 63I-2-243 is enacted to read:

63I-2-243. Repeal dates: Title 43.

Reserved.

Section 114. Section 63I-2-245 is enacted to read:

63I-2-245. Repeal dates: Title 44.

Reserved.

Section 115. Section 63I-2-246 is enacted to read:

63I-2-246. Repeal dates: Title 45.

Reserved.

Section 116. Section 63I-2-247 is enacted to read:

63I-2-247. Repeal dates: Title 46.

Reserved.

Section 117. Section 63I-2-248 is amended to read:

63I-2-248. Repeal dates: Title 48.

Reserved.

Section 118. Section 63I-2-250 is enacted to read:

63I-2-250. Repeal dates: Title 50.

Reserved.

Section 119. Section 63I-2-251 is amended to read:

63I-2-251. Repeal dates: Title 51.

Reserved.

Section 120. Section 63I-2-252 is enacted to read:

63I-2-252. Repeal dates: Title 52.

Reserved.

Section 121. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed [~~on~~]July 1, 2024.

(2) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed [~~on~~]July 1, 2024.

(3) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

(4) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed [~~on~~]July 1, 2024.

(5) Section 53-7-109, Firefighter Support Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(6) Section 53B-6-105.7 is repealed July 1, 2024.~~]

[~~(7) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.~~]

[~~(8) Section 53B-8-114 is repealed July 1, 2024.~~]

[~~(9)~~](6) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(10)~~](7) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(11)~~](8) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed[~~ on~~] December 31, 2031.

[~~(12) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:~~]

[~~(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";~~]

[~~(b) Section 53B-8-202;~~]

[~~(c) Section 53B-8-203;~~]

[~~(d) Section 53B-8-204; and~~]

[~~(e) Section 53B-8-205.~~]

(9) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1, 2024.

[~~(13)~~](10) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed [~~on~~]July 1, 2027.

[~~(14)~~](11) Subsection 53E-1-201(1)(s), regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council, is repealed July 1, 2024.

[~~(15) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.~~]

[~~(16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.~~]

[~~(17) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.~~]

[~~(18)~~](12) Section 53F-2-524, [~~regarding teacher~~]Teacher bonuses for extra [~~work~~]assignments, is repealed July 1, 2024.

[~~(19)~~](13) Section 53F-5-221, [~~regarding a management~~]Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(20)~~](14) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(21)~~](15) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed [~~on~~]July 1, 2028.

[~~(22)~~](16) Section 53F-9-401, Autism Awareness Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(23)~~](17) Section 53F-9-403, Kiwanis Education Support Fund, is repealed [~~on~~]July 1, 2024.

[~~(24) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.~~]

Section 122. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates: Titles 53 through 53G.

(1) Subsection 53-1-104(1)(b), regarding the Air Ambulance Committee, is repealed July 1, 2024.

(2) Section 53-1-118, Public Safety Honoring Heroes Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed [~~on~~]July 1, 2024.

(3) Section 53-1-120, Utah Law Enforcement Memorial Support Restricted Account -- Creation -- Funding -- Distribution of funds by the commissioner, is repealed [~~on~~]July 1, 2024.

(4) Section 53-2a-303, Statewide mutual aid committee, is repealed [~~on~~]October 1, 2024.

(5) Title 53, Chapter 2c, COVID-19 Health and Economic Response Act, is repealed July 1, 2026.

(6) Section 53-2d-101.1, Contracting authority -- Rulemaking authority, is repealed [~~on~~]July 1, 2024.

(7) Section 53-2d-107, [~~regarding the~~]Air Ambulance Committee -- Membership -- Duties, is repealed July 1, 2024.

(8) Section 53-2d-302, Trauma system advisory committee, is repealed [~~on~~]October 1, 2024.

[~~(9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 53-2d-702(1)(a) is amended to read:~~

~~"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:~~

~~(i) which health insurers in the state the air medical transport provider contracts with;~~

~~(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and~~

~~(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and.";~~]

[~~(10)~~](9) Section 53-7-109, Firefighter Support Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(11) The following sections creating and establishing the duties of the Private Investigator Hearing and Licensure Board, are repealed on October 1, 2024:~~]

[~~(a)~~](10) Section 53-9-104[~~;~~], Board -- Creation -- Qualifications -- Appointments -- Terms -- Immunity, is repealed October 1, 2024.

[~~(b)~~](11) Section 53-9-105[~~; and~~], Powers and duties of the board, is repealed October 1, 2024.

[~~(c)~~](12) Section 53-9-106, Meetings -- Hearings, is repealed October 1, 2024.

[~~(12)~~](13) Section 53-22-104.1, School Security Task Force -- Membership -- Duties -- Per diem -- Report -- Expiration, is repealed December 31, 2025.

[~~(13)~~](14) Section 53-22-104.2, The School Security Task Force -- Education Advisory Board, is repealed December 31, 2025.

[~~(14)~~](15) Section 53-25-103, Airport dangerous weapon possession reporting requirements, is repealed [~~on~~]December 31, 2031.

[~~(15) Section 53B-6-105.7 is repealed July 1, 2024.~~]

[~~(16) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.~~]

[~~(17)~~](16) Section 53B-8-114, Continuation of previously authorized scholarships, is repealed July 1, 2024.

[~~(18) The following provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:~~]

[~~(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";~~]

[~~(b) Section 53B-8-202;~~]

[~~(c) Section 53B-8-203;~~]

[~~(d) Section 53B-8-204; and~~]

[~~(e) Section 53B-8-205.~~]

[~~(19)~~](17) Section 53B-10-101, Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans, is repealed [~~on~~]July 1, 2027.

[~~(20) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.~~]

[~~(21) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.~~]

[~~(22) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.~~]

[~~(23)~~](18) Subsection [~~53F-2-504(11)~~] 53F-2-504(6), regarding a report on the Salary Supplement for Highly Needed Educators, is repealed [~~on~~]July 1, 2026.

[~~(24)~~](19) Section 53F-2-524, [~~regarding teacher~~]Teacher bonuses for extra [~~work~~]assignments, is repealed July 1, 2024.

[~~(25)~~](20) Section 53F-5-221, [~~regarding a management~~]Management of energy and water use pilot program, is repealed July 1, 2028.

[~~(26)~~](21) Section 53F-5-222, Mentoring and Supporting Teacher Excellence and Refinement Pilot Program, is repealed July 1, 2028.

[~~(27)~~](22) Section 53F-5-223, Stipends for Future Educators Grant Program, is repealed [~~on~~]July 1, 2028.

[~~(28)~~](23) Section 53F-9-401, Autism Awareness Restricted Account, is repealed [~~on~~]July 1, 2024.

[~~(29)~~](24) Section 53F-9-403, Kiwanis Education Support Fund, is repealed [~~on~~]July 1, 2024.

[~~(30)~~](25) Subsection 53G-11-502(1), regarding implementation of the educator evaluation process, is repealed [~~on~~]July 1, 2029.

[~~(31)~~](26) Section 53G-11-506, Establishment of educator evaluation program - - Joint committee, is repealed [~~on~~]July 1, 2029.

[~~(32)~~](27) Section 53G-11-507, Components of educator evaluation program, is repealed [~~on~~]July 1, 2029.

[~~(33)~~](28) Section 53G-11-508, Summative evaluation timelines - - Review of summative evaluations, is repealed [~~on~~]July 1, 2029.

[~~(34)~~](29) Section 53G-11-509, Mentor for provisional educator, is repealed [~~on~~]July 1, 2029.

[~~(35)~~](30) Section 53G-11-510, State board to describe a framework for the evaluation of educators, is repealed [~~on~~]July 1, 2029.

[~~(36)~~](31) Section 53G-11-511, [~~Report of performance levels~~]Rulemaking for privacy protection, is repealed[~~, on~~] July 1, 2029.

[~~(37)~~](32) [~~Subsections~~]Subsection 53G-11-520(1)[~~, and (2)~~], regarding optional alternative educator evaluation processes, [~~are~~]is repealed [~~on~~]July 1, 2029.

(33) Subsection 53G-11-520(2), regarding an exception from educator evaluation process requirements, is repealed July 1, 2029.

[~~(38) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Section 36-12-12, make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.~~]

Section 123. Section 63I-2-254 is amended to read:

63I-2-254. Repeal dates: Title 54.

Reserved.

Section 124. Section 63I-2-255 is enacted to read:

63I-2-255. Repeal dates: Title 55.

Reserved.

Section 125. Section 63I-2-256 is amended to read:

63I-2-256. Repeal dates: Title 56.

(1) Section 56-1-12.1, [~~relating to injury~~]Injury to livestock - - Notice, is repealed May 7, 2025.

(2) Section 56-1-13.1, [~~relating to fencing~~]Fencing right-of-way - - Gates, is repealed May 7, 2025.

Section 126. Section 63I-2-257 is enacted to read:

63I-2-257. Repeal dates: Title 57.

Reserved.

Section 127. Section 63I-2-258 is amended to read:

63I-2-258. Repeal dates: Title 58.

(1) Section 58-42a-201, Board, is repealed October 1, 2024.

(2) Section 58-44a-201, Board, is repealed October 1, 2024.

(3) Section 58-53-201, Creation of board - - Duties, is repealed October 1, 2024.

(4) Section 58-68-201, Board, is repealed October 1, 2024.

(5) Section 58-70a-201, Board, is repealed October 1, 2024.

(6) Section 58-72-201, Acupuncture Licensing Board, is repealed October 1, 2024.

Section 128. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates: Title 59.

(1) Subsection 59-7-610(8), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(2) Subsection 59-7-614.10(5), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Section 59-7-624, Targeted business income tax credit, is repealed December 31, 2024.

(4) Subsection 59-10-210(2)(b)(vi), regarding Section 59-10-1112, is repealed December 31, 2024.

(5) Subsection 59-10-1007(8), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(6) Subsection 59-10-1037(5), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(7) Section 59-10-1112, Targeted business income tax credit, is repealed December 31, 2024.

Section 129. Section 63I-2-261 is amended to read:

63I-2-261. Repeal dates: Title 61.

Reserved.

Section 130. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates: Title 62.

Reserved.

Section 131. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services

Procurement Advisory Council, is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

(6) [~~Subsections 63G-6a-802(1)(e) and (3)(b)(iii) are~~]Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(7) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(7) Section 63G-31-401 is repealed May 1, 2024.~~]

[~~(8) The following provisions related to the Computer Aided Dispatch Restricted Account are repealed July 1, 2024:~~]

[~~(a) Subsection 63H-7a-206(6)(b)(iii)(A);~~]

[~~(b) Subsection 63H-7a-206(6)(b)(viii)(A);~~]

[~~(c) Subsection 63H-7a-302(1)(f)(ii);~~]

[~~(d) Subsection 63H-7a-302(1)(h);~~]

[~~(e) in Subsection 63H-7a-302(2), the language that states, "the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or";~~]

[~~(f) Subsection 63H-7a-302(3);~~]

[~~(g) Subsection 63H-7a-302(5);~~]

[~~(h) Subsection 63H-7a-602(1); and~~]

[~~(i) Subsection 63J-1-602.1(51).~~]

(8) Subsection 63H-7a-206(6)(b)(iii)(A), regarding disbursements from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(9) Subsection 63H-7a-206(6)(b)(viii)(A), regarding justification for ongoing support from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(10) Subsection 63H-7a-302(1)(f)(ii), regarding an annual plan for the projects that the Computer Aided Dispatch Restricted Account funds, is repealed July 1, 2024.

(11) Subsection 63H-7a-302(1)(h), regarding the coordination of the development of a computer aided dispatch platform, is repealed July 1, 2024.

(12) Subsection 63H-7a-302(3), regarding recommendations for the use of funds expended from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(13) Subsection 63H-7a-302(5), regarding recommendations for rules to administer the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

[~~(9) In relation to the Computer Aided Dispatch Restricted Account, on July 1, 2024, Subsection 63H-7a-302(2) is amended to read: "The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the 911 account, the proceeds of which shall return to the 911 account."~~]

[~~(10)~~](14) Section 63H-7a-303, Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses, is repealed July 1, 2024.

[~~(11)~~](15) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(16) Subsection 63H-7a-602(1), regarding accounting for disbursements from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(17) Subsection 63J-1-602.1(52), regarding nonlapsing appropriations in the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

[~~(12)~~](18) Subsection 63J-1-602.2(45), [~~which lists~~]regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(13)~~](19) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

[~~(14)~~](20) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

[~~(15)~~](21) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(16)~~](22) Subsection 63N-2-213(12)(a), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(17)~~](23) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 132. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

(6) [~~Subsections 63G-6a-802(1)(e) and (3)(b)(iii) are~~]Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(7) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(7) Section 63G-31-401 is repealed May 1, 2024.~~]

[~~(8) The following provisions related to the Computer Aided Dispatch Restricted Account are repealed July 1, 2024:~~]

[~~(a) Subsection 63H-7a-206(6)(b)(iii)(A);~~]

[~~(b) Subsection 63H-7a-206(6)(b)(viii)(A);~~]

[~~(c) Subsection 63H-7a-302(1)(f)(ii);~~]

[~~(d) Subsection 63H-7a-302(1)(h);~~]

[~~(e) in Subsection 63H-7a-302(2), the language that states, "the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or";~~]

[~~(f) Subsection 63H-7a-302(3);~~]

[~~(g) Subsection 63H-7a-302(5);~~]

[~~(h) Subsection 63H-7a-602(1); and~~]

[~~(i) Subsection 63J-1-602.1(51).~~]

(8) Subsection 63H-7a-206(6)(b)(iii)(A), regarding disbursements from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(9) Subsection 63H-7a-206(6)(b)(viii)(A), regarding justification for ongoing support from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(10) Subsection 63H-7a-302(1)(f)(ii), regarding an annual plan for the projects that the Computer Aided Dispatch Restricted Account funds, is repealed July 1, 2024.

(11) Subsection 63H-7a-302(1)(h), regarding the coordination of the development of a computer aided dispatch platform, is repealed July 1, 2024.

(12) Subsection 63H-7a-302(3), regarding recommendations for the use of funds expended from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(13) Subsection 63H-7a-302(5), regarding recommendations for rules to administer the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

[~~(9) In relation to the Computer Aided Dispatch Restricted Account, on July 1, 2024, Subsection 63H-7a-302(2) is amended to read: "The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the 911 account, the proceeds of which shall return to the 911 account."~~]

[~~(10)~~](14) Section 63H-7a-303, Computer Aided Dispatch Restricted Account -- Creation -- Administration -- Permitted uses, is repealed July 1, 2024.

[~~(11)~~](15) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

(16) Subsection 63H-7a-602(1), regarding accounting for disbursements from the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

(17) Subsection 63J-1-602.1(52), regarding nonlapsing appropriations in the Computer Aided Dispatch Restricted Account, is repealed July 1, 2024.

[~~(12)~~](18) Subsection 63J-1-602.2(47), [~~which lists~~]regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(13)~~](19) Section 63M-7-504, Crime Victim Reparations and Assistance Board -- Members, is repealed December 31, 2024.

[~~(14)~~](20) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

[~~(15)~~](21) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(16)~~](22) Subsection 63N-2-213(12)(a), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(17)~~](23) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 133. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates: Titles 63A through 63O.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-17-806, Definitions -- Infant at Work Pilot Program -- Administration -- Report, is repealed June 30, 2026.

(3) Section 63C-1-103, Appointment and terms of boards, committees, councils, and commissions transitioning on October 1, 2024, or December 31, 2024, is repealed July 1, 2025.

(4) Section 63C-1-104, Appointment and terms of boards transitioning on October 1, 2024, is repealed January 1, 2025.

(5) Title 63C, Chapter 29, Domestic Violence Data Task Force, is repealed October 1, 2024.

(6) [~~Subsections 63G-6a-802(1)(e) and (3)(b)(iii) are~~]Subsection 63G-6a-802(1)(e), regarding a procurement for a presidential debate, is repealed January 1, 2025.

(7) Subsection 63G-6a-802(3)(b)(iii), regarding a procurement for a presidential debate, is repealed January 1, 2025.

[~~(7) Section 63G-31-401 is repealed May 1, 2024.~~]

[~~(8) The following provisions related to the Computer Aided Dispatch Restricted Account are repealed July 1, 2024:~~]

[~~(a) Subsection 63H-7a-206(6)(b)(iii)(A);~~]

[~~(b) Subsection 63H-7a-206(6)(b)(viii)(A);~~]

[~~(c) Subsection 63H-7a-302(1)(f)(ii);~~]

[~~(d) Subsection 63H-7a-302(1)(h);~~]

[~~(e) in Subsection 63H-7a-302(2), the language that states, "the Computer Aided Dispatch Restricted Account created in Section 63H-7a-303 or";~~]

[~~(f) Subsection 63H-7a-302(3);~~]

[~~(g) Subsection 63H-7a-302(5);~~]

[~~(h) Subsection 63H-7a-602(1); and~~]

[~~(i) Subsection 63J-1-602.1(51).~~]

[~~(9) In relation to the Computer Aided Dispatch Restricted Account, on July 1, 2024, Subsection 63H-7a-302(2) is amended to read: "The 911 Division may recommend to the executive director to sell, lease, or otherwise dispose of equipment or personal property purchased, leased, or belonging to the authority that is related to funds expended from the 911 account, the proceeds of which shall return to the 911 account."~~]

[~~(10) Section 63H-7a-303 is repealed July 1, 2024.~~]

[~~(11)~~](8) Subsection 63H-7a-403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(12)~~](9) Subsection 63J-1-602.2(47), [~~which lists~~]regarding appropriations to the State Tax Commission for deferral reimbursements, is repealed July 1, 2027.

[~~(13)~~](10) Section 63M-7-221, [~~establishing an expungement~~]Expungement working group, is repealed [~~on~~]April 30, 2025.

[~~(14)~~](11) Section 63M-7-504, Crime Victim Reparations and Assistance Board - - Members, is repealed December 31, 2024.

[~~(15)~~](12) Section 63M-7-505, Board and office within Commission on Criminal and Juvenile Justice, is repealed December 31, 2024.

[~~(16)~~](13) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed December 31, 2024.

[~~(17)~~](14) Subsection 63N-2-213(12)(a), [~~relating to~~]regarding claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

[~~(18)~~](15) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 134. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates: Title 64.

(1) Section 64-13e-103.2, State daily incarceration rate - - Limits - - Payments to county correctional facilities for state probationary and state parole inmates, is repealed June 30, 2024.

(2) Section 64-13-25.1(4), [~~related to~~]regarding reporting on continuation or discontinuation of a medication assisted treatment plan, is repealed July 1, 2026.

Section 135. Section 63I-2-264 is amended to read:

63I-2-264. Repeal dates: Title 64.

Section 64-13-25.1(4), [~~related to~~]regarding reporting on continuation or discontinuation of a medication assisted treatment plan, is repealed July 1, 2026.

Section 136. Section 63I-2-265 is amended to read:

63I-2-265. Repeal dates: Title 65A.

Reserved.

Section 137. Section 63I-2-267 is amended to read:

63I-2-267. Repeal dates: Title 67.

Reserved.

Section 138. Section 63I-2-268 is enacted to read:

63I-2-268. Repeal dates: Title 68.

Reserved.

Section 139. Section 63I-2-269 is enacted to read:

63I-2-269. Repeal dates: Title 69.

Reserved.

Section 140. Section 63I-2-270 is enacted to read:

63I-2-270. Repeal dates: Title 70.

Reserved.

Section 141. Section 63I-2-271 is enacted to read:

63I-2-271. Repeal dates: Title 71.

Reserved.

Section 142. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates: Title 72.

(1) [~~Subsections 72-1-213.1(13)(a) and (b), related to~~]Subsection 72-213.1(13), regarding the road usage charge rate and road usage charge cap, [~~are~~]is repealed January 1, 2033.

(2) Section 72-2-127, Share the Road Bicycle Support Restricted Account, is repealed [~~on~~]July 1, 2024.

Section 143. Section 63I-2-273 is amended to read:

63I-2-273. Repeal dates: Title 73.

Reserved.

Section 144. Section 63I-2-275 is amended to read:

63I-2-275. Repeal dates: Title 75.

Subsection 75-5-303(5)(d), regarding counsel for a person alleged to be incapacitated, is repealed [~~on~~] July 1, 2028.

Section 145. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates: Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an employee of a health facility, is repealed January 1, 2027.

(2) Subsection 76-10-529(9), regarding data collection requirements for a law enforcement agency that issues a written warning, citation, or referral, is repealed [~~on~~]December 31, 2031.

Section 146. Section 63I-2-277 is amended to read:

63I-2-277. Repeal dates: Title 77.

[~~The following provisions, regarding a notice for certain reverse-location search warrant applications, are repealed January 1, 2033~~]:

(1) Subsection 77-23f-102(2)(a)(ii)[~~; and~~], regarding a notice for certain reverse-location search warrant applications, is repealed January 1, 2033.

(2) Subsection 77-23f-103(2)(a)(ii), regarding a notice for certain reverse-location search warrant applications, is repealed January 1, 2033.

Section 147. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Title 78A and Title 78B.

(1) Section 78A-2-804, Guardian Ad Litem Services Account established -- Funding, is repealed [~~on~~]July 1, 2024.

[~~(2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.~~]

[~~(3)~~](2) [~~Sections 78B-12-301 and 78B-12-302 are repealed on~~]Section 78B-12-301, Base combined child support obligation table -- Both parents -- Child support orders entered before January 1, 2023, is repealed January 1, 2025.

(3) Section 78B-12-302, Low income table -- Obligor parent only -- Child support orders entered before January 1, 2023, is repealed January 1, 2025.

Section 148. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates: Titles 78A through 78B.

[~~(1)~~] Section 78A-2-804, Guardian Ad Litem Services Account established -- Funding, is repealed [~~on~~]July 1, 2024.

[~~(2) Title 78A, Chapter 10, Judicial Selection Act, is repealed on July 1, 2023.~~]

Section 149. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates: Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, 2024.

(2) Section 79-2-407, Study of funding for water infrastructure costs, is repealed July 1, 2025.

(3) Subsection 79-4-1002(2), [~~which creates~~]regarding a pilot program for veteran free admission to state parks, is repealed July 1, 2025.

(4) Section 79-7-303, Zion National Park Support Programs Restricted Account, is repealed [~~on~~]July 1, 2024.

Section 150. Section 63I-2-280 is amended to read:

63I-2-280. Repeal dates: Title 80.

Reserved.

Section 151. Section 63I-2-281 is amended to read:

63I-2-281. Repeal dates: Title 81.

(1) [~~Sections 81-6-302 and 81-6-303 are repealed on~~]Section 81-6-302, Low income table -- Obligor parent only -- Child support orders entered before January 1, 2023, is repealed January 1, 2025.

(2) Section 81-6-303, Low income table -- Obligor parent only -- Child support orders entered before January 1, 2023, is repealed January 1, 2025.

Section 152. Section 63N-2-511 is amended to read:

63N-2-511. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section 63N-7-201.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the [~~tourism board~~]Utah Office of Tourism;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The [~~tourism board~~]Utah Office of Tourism may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 153. Uncodified language.

The portion of Section 195 of S.B. 95, Chapter 366, Laws of Utah 2024, that repeals Section 63I-1-230, does not take effect.

Section 154. Effective date.

(1)(a) Except as provided in Subsections (1)(b) and (2) through (6), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(b) If approved by less than two-thirds of all members elected to each house, this bill takes effect August 19, 2024.

(2)(a) If approved by two-thirds of all the members elected to each house, the actions affecting the sections described in Subsection (2)(b) take effect:

(i) unless the governor vetoes the bill, the later of July 1, 2024, upon approval by the governor, or, without the governor's approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or

(ii) if the governor vetoes the bill and the Legislature overrides the veto, the later of July 1, 2024, or the date of veto override.

(b) The actions affecting the following sections take effect in accordance with Subsection (2)(a):

(i) Section 26B-2-231;

(ii) Section 26B-5-606;

(iii) Section 53-2d-702;

(iv) Section 63H-7a-302;

(v) Section 63I-1-226;

(vi) Section 63I-1-241;

(vii) Section 63I-1-249;

(viii) Section 63I-1-253;

(ix) Section 63I-1-263;

(x) Section 63I-2-226;

(xi) Section 63I-2-253;

(xii) Section 63I-2-263; and

(xiii) Section 63I-2-264.

(3) The actions affecting the following sections take effect on September 1, 2024:

(a) Section 63I-1-278;

(b) Section 63I-2-278; and

(c) Section 63I-2-281.

(4) The actions affecting the following sections take effect on October 1, 2024:

(a) Section 63I-1-278; and

(b) Section 63I-2-263.

(5) The actions affecting Section 63I-1-253 contingently take effect on January 1, 2025.

(6) The actions affecting the following sections take effect on July 1, 2025:

(a) Section 63I-1-217; and

(b) Section 63N-2-511.

H. C. R. 301
Passed June 19, 2024
Approved June 21, 2024
Effective June 21, 2024

CONCURRENT RESOLUTION- DIRECTIVES TO GOVERNMENT OFFICERS UNDER THE UTAH CONSTITUTIONAL SOVEREIGNTY ACT IN REGARD TO TITLE IX

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

Cosponsor:
Katy Hall
Karen M. Peterson
Nelson T. Abbott
Jon Hawkins
Candice B. Pierucci
Cheryl K. Acton
Colin W. Jack
Judy Weeks Rohner
Bridger Bolinder
Tim Jimenez
Mike Schultz
Jefferson S. Burton
Trevor Lee
Rex P. Shipp
Kay J. Christofferson
Karianne Lisonbee
Jordan D. Teuscher
Ariel Defay
Phil Lyman
R. Neil Walter
Joseph Elison
Matt MacPherson
Ryan D. Wilcox
Stephanie Gricius
A. Cory Maloy

LONG TITLE

General Description:

This concurrent resolution directs government officers to comply with Utah laws where there is a conflict with the new regulations adopted under Title IX of the Education Amendments of 1972, effective August 1, 2024.

Highlighted Provisions:

This bill:

- prohibits a government officer from enforcing or assisting in the enforcement of the new regulations promulgated under Title IX of the Education Amendments of 1972, effective August 1, 2024, that conflict with specified Utah laws.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, under Utah Code Title 63G, Chapter 16, State Sovereignty, the Utah Legislature, with concurrence of the Governor, may prohibit a government officer from enforcing or assisting in the enforcement of a federal directive within the state if the Legislature determines that the federal directive violates the state's sovereignty; and

WHEREAS, in H.J.R 301, Joint Resolution- Legislative Findings on State Sovereignty in Regard to Title IX (2024 Third Special Session), the Legislature found that the new U.S. Department of Education federal directive to be codified on August 1, 2024, as 34 C.F.R. Section 106, under Title IX of the Education Amendments of 1972, 89 Fed. Reg. 33474, (New Regulations), restrict and infringe upon the state's right to provide for the state's health, safety, and welfare and are irreconcilable with Utah law and the state's sovereign obligation to promote the prosperity of its citizens:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, in accordance with Utah Code Title 63G, Chapter 16, State Sovereignty, directs government officers, as of the date when the New Regulations take effect, to comply with and enforce the following Utah laws, as amended, and neither enforce nor assist in the enforcement of any provision of the New Regulations that may be in conflict with:

(1) the provisions of H.B. 11, Student Eligibility in Interscholastic Activities, (2022 General Session), as amended;

(2) the provisions of H.B. 257, Sex- based Designations for Privacy, Anti- bullying, and Women's Opportunities, (2024 General Session), as amended;

(3) the provisions found in Title 53B, Chapter 27, Campus Individual Rights Act, as amended; and

(4) each Utah law regulating abortion.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, directs the following government officers, as of the date when the New Regulations take effect, to comply with and enforce the law as described above:

(1) an individual elected to a position in state government;

(2) an individual elected to a board of education;

(3) an individual appointed to fill a vacancy in state government, on a board of education or a board of higher education, when acting in the capacity of the individual's appointment;

(4) an individual appointed to, volunteering for, or employed in a full- time, part- time, or temporary position by state government, a board of education, or a board of higher education, when acting in the capacity of the individual's position; and

(5) an employee volunteering for, or employed in a full- time, part- time, or temporary position within the public education system or the system of higher education.

H. J. R. 301
Passed June 19, 2024
Approved June 19, 2024
Effective June 19, 2024

JOINT RESOLUTION - LEGISLATIVE FINDINGS ON STATE SOVEREIGNTY IN REGARD TO TITLE IX

Chief Sponsor: R. Neil Walter
Senate Sponsor: Scott D. Sandall

Cosponsor:
Stephanie Gricius
Thomas W. Peterson
Carl R. Albrecht
Katy Hall
Candice B. Pierucci
Kera Birkeland
Colin W. Jack
Mike Schultz
Bridger Bolinder
Tim Jimenez
Casey Snider
Brady Brammer
Jason B. Kyle
Mark A. Strong
Walt Brooks
Trevor Lee
Jordan D. Teuscher
Jefferson S. Burton
Karianne Lisonbee
Raymond P. Ward
Kay J. Christofferson
Matt MacPherson
Douglas R. Welton
Paul A. Cutler
A. Cory Maloy
Stephen L. Whyte
Ariel Defay
Michael J. Petersen
Joseph Elison
Karen M. Peterson

LONG TITLE

General Description:

This joint resolution declares that Utah has the sovereign authority and responsibility to safeguard the state's health, safety, and welfare of, and to promote the prosperity of, Utah residents and that the federal government's overreach in regard to the new regulations adopted under Title IX of the Education Amendments of 1972, effective August 1, 2024, infringes upon this authority and responsibility.

Highlighted Provisions:

This bill:

- declares that Utah has the sovereign authority with rights and responsibilities to safeguard Utah's men, women, and children;
- declares through legislative findings that the federal directive under the new regulations promulgated under Title IX of the Education Amendments of 1972, effective August 1, 2024 (New Regulations), constitutes an overreach of federal administrative authority that violates Utah's rights and interests to provide for the health, safety, welfare of, and to promote the prosperity of, Utah residents; and
- makes findings, in accordance with Utah Code Title 63G, Chapter 16, State Sovereignty, that the New Regulations restrict and infringe upon the state's rights and interests.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah has the sovereign authority and responsibility to safeguard the health, safety, and welfare of the women, men, and children of Utah and ensure the prosperity of all people of the state;

WHEREAS, it is the foremost obligation of the state to protect individuals within its borders and resist unconstitutional overreach by the federal government;

WHEREAS, the U.S. Department of Education adopted new regulations to be codified on August 1, 2024, as 34 C.F.R. Section 106, under Title IX of the Education Amendments of 1972, 89 Fed. Reg. 33474, (New Regulations);

WHEREAS, the New Regulations issued outside of express Congressional authority is an abuse of the U.S. Department of Education's administrative power;

WHEREAS, as adopted, the New Regulations force the public education system and system of higher education to acquiesce to the federal government's ideology on gender and sex;

WHEREAS, the New Regulations' mandates are in direct conflict with Utah laws enacted to ensure personal privacy, safe learning environments, and abortion policies that reflect Utah's values, including:

(1) H.B. 11, Student Eligibility in Interscholastic Activities, (2022 General Session), which requires sex-designated athletic programs and privacy spaces to be accessed or participated in based on biological sex to preserve fairness and equal competitive opportunities;

(2) H.B. 257, Sex-based Designations for Privacy, Anti-bullying, and Women's Opportunities, (2024 General Session), which requires reasonable expectations of privacy, safety, health, and welfare for Utah residents, especially for women and girls;

(3) Utah laws regarding students' rights on college and university campuses, which protect students from harassment and preserve students' rights to free expression and due process, under Utah Code Title 53B, Chapter 27, Campus Individual Rights Act; and

(4) Utah laws regarding abortion, which generally forbid the use of public funds for abortion services, under Utah Code Title 76, Chapter 7, Part 3, Abortion;

WHEREAS, the New Regulations harm Utah's children by mandating that they share locker room facilities, bathroom facilities, changing room

facilities, and shower facilities with the opposite sex;

WHEREAS, the U.S. Department of Education has corrupted the mission of Title IX, which is to promote women's and girl's sports and to protect women and girls from discrimination in education and sports;

WHEREAS, the New Regulations harm students on college and university campuses by dictating the manner in which a student speaks and expresses opinions or thoughts, altering college and university anti-harassment processes and procedures, and interfering with a student's due process rights;

WHEREAS, by requiring government support of abortion services, the U.S. Department of Education's rule is in direct conflict with the abortion "neutrality" provisions adopted by Congress, 20 U.S.C. Section 1688; and

WHEREAS, under Utah Code Title 63G, Chapter 16, State Sovereignty, the Legislature has authority to prohibit a government officer from enforcing a federal directive if the Legislature determines the federal directive violates the state's rights and interests to provide for the health, safety, and welfare of, and promote the prosperity of, the state's residents:

NOW, THEREFORE, BE IT RESOLVED that the Utah Legislature finds that the New Regulations disadvantage women and girls who participate in women's and girl's sports by requiring that they compete against biological males.

BE IT FURTHER RESOLVED that the Utah Legislature finds that the New Regulations harm Utah's women, men, and children by imposing requirements on student speech and due process rights.

BE IT FURTHER RESOLVED that the Utah Legislature finds that the New Regulations usurp the state's laws on abortion.

BE IT FURTHER RESOLVED that the Utah Legislature finds that the New Regulations force Utah's public education system and system of higher education to choose between following Utah law or a federal directive that politicizes education by compelling compliance or risk the loss of federal funds for programs and activities.

BE IT FURTHER RESOLVED that, in accordance with Utah Code Title 63, Chapter 16, State Sovereignty, the Utah Legislature finds that the New Regulations restrict and infringe upon the state's right to provide for the state's health, safety, and welfare and are irreconcilable with the state's sovereign obligation to promote the prosperity of its citizens.

LAWS

of the

STATE OF UTAH, 2024

Passed at the
FOURTH SPECIAL SESSION
of the
SIXTY-FIFTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
August 21, 2024
and Adjourned Sine Die on
August 21, 2024

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2024 Fourth Special Session of the Sixty-Fifth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2024 Fourth Special Session of the Sixty-Fifth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 21st of August 2024 and adjourned sine die on the 21st of August 2024.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this NOVEMBER 26, 2024

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
S. B. 4001
Passed August 21, 2024
Approved August 22, 2024
Effective August 22, 2024

JUSTICE COURT JURISDICTION

Chief Sponsor: Jen Plumb
House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:
This bill addresses justice court jurisdiction.

Highlighted Provisions:
This bill:
- amends the jurisdiction of the justice court; and
- makes technical and conforming changes.

Money Appropriated in this Bill:
None

Other Special Clauses:
This bill provides a special effective date.
This bill has retrospective operation.

Utah Code Sections Affected:

AMENDS:
78A-7-106, as last amended by Laws of Utah 2024, Chapter 158

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-7-106 is amended to read:

78A-7-106. Original jurisdiction of a justice court -- Territorial jurisdiction -- Transfer of a domestic violence case.

(1) A justice court has original jurisdiction over class B and C misdemeanors, violations of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(2) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(a) class C misdemeanor and infraction violations described in Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations described in:

(i) Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

[~~(ii)~~](iii) Title 41, Chapter 6a, Traffic Code;

[~~(iii)~~](iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

[~~(iv)~~](v) Title 41, Chapter 22, Off-highway Vehicles;

[~~(v)~~](vi) Title 73, Chapter 18, State Boating Act;

[~~(vi)~~](vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

[~~(vii)~~](viii) Title 73, Chapter 18b, Water Safety; and

[~~(viii)~~](ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) Notwithstanding Subsection (1) or (2), a justice court does not have original jurisdiction over:

(a) an offense described in Subsection (1) or (2) if:

(i) the district court has exclusive jurisdiction over the offense in accordance with Subsection 78A-5-102(8) or Section 78A-5-102.5; or

(ii) the juvenile court has exclusive jurisdiction over the offense in accordance with Section 78A-6-103.5; or

(b) the following offenses committed within the justice court's territorial jurisdiction by a minor or an adult high school student:

(i) class B and C misdemeanor violations described in Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(ii) a class B misdemeanor violation described in Section 73-18-12.

(4) A justice court has jurisdiction over:

(a) a small claims case under Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court; and

(b) a petition for expungement as described in Title 77, Chapter 40a, Expungement of Criminal Records.

(5) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(6) If a defendant in a criminal case before a justice court is a minor, the justice court may transfer the case to the juvenile court for further proceedings if the justice court determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(7)(a) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(b) If a prosecuting attorney files a notice of transfer, the prosecuting attorney shall certify in the notice of transfer that the prosecuting attorney, or a representative from the prosecuting attorney's office, has consulted with, or notified, all of the alleged victims about transferring the criminal action to the district court.

(c) The justice court shall transfer a criminal action to the district court if the justice court receives a notice of transfer from:

(i) the defendant as described in Subsection (7)(b); or

(ii) the prosecuting attorney as described in Subsection (7)(b) and the prosecuting attorney's notice of intent complies with Subsection (7)(c).

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Retrospective operation.

This bill has retrospective operation to May 1, 2024.

CHAPTER 2
S. B. 4002
Passed August 21, 2024
Approved August 22, 2024
Effective August 22, 2024

BALLOT PROPOSITION AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill amends election provisions regarding a proposed constitutional amendment.

Highlighted Provisions:

This bill:

- establishes an expedited timeline for:
  - placing a proposed constitutional amendment on the ballot for voter consideration; and
  - providing and posting certain information in relation to the proposed constitutional amendment;
- amends requirements and procedures relating to the ballot title, analysis, and arguments for a proposed constitutional amendment;
- makes conforming changes; and
- provides for repeal of the provisions of this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-220, as last amended by Laws of Utah 2024, Third Special Session, Chapter 5

ENACTS:

20A-7-103.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-103.1 is enacted to read:

20A-7-103.1. Constitutional amendments proposed during specified timeframe -- Ballot title -- Analysis -- Arguments -- Publication.

If, after August 1, 2024, and before September 1, 2024, the Legislature passes a resolution proposing an amendment to the Utah Constitution:

(1) the presiding officers shall submit the information and ballot title described in Subsection 20A-7-103(3) to the lieutenant governor no later than:

(a) September 1, 2024, if the effective date of this bill is on or before September 1, 2024; or

(b) three calendar days after the effective date of this bill, if the effective date of this bill is after September 1, 2024;

(2) notwithstanding Subsection 20A-7-103(4), the lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than the deadline described in Subsection (1);

(3) the presiding officers shall:

(a) in accordance with Subsections 20A-7-703.1(2) through (5), prepare an analysis for the proposed amendment for publication in the voter information pamphlet; and

(b) notwithstanding Subsection 20A-7-703.1(1)(b), submit the analysis to the lieutenant governor no later than October 1, 2024;

(4) Sections 20A-7-705 and 20A-7-706 do not apply in relation to the proposed amendment;

(5) no later than the day after the effective date of this bill:

(a) the presiding officer of the house of origin of the proposed amendment shall appoint the sponsor of the proposed amendment and one member of either house who voted in favor of the proposed amendment to draft an argument in favor of the proposed amendment; and

(b) the presiding officer of each house shall appoint one member who voted against the proposed amendment from their house, if any voted against the proposed amendment, to write an argument against the proposed amendment;

(6) an argument described in Subsection (5)(a) or (b) may not exceed 750 words, not counting the names and titles of the authors;

(7) the authors appointed to submit an argument shall submit the argument to the lieutenant governor no later than seven days after the effective date of this bill;

(8) except as provided in Subsection (10), the authors of an argument may not modify the argument after submission;

(9) except as provided in Subsection (10), the lieutenant governor may not modify an argument in any way;

(10) the lieutenant governor and the authors of an argument may jointly modify the argument after submission if:

(a) the modifications are made to correct spelling or grammatical errors or to correct a mischaracterization described in Subsection (17);

(b) the lieutenant governor and the authors jointly agree on the modifications; and

(c) the argument has not been submitted for typesetting;

(11) when the lieutenant governor has received both the argument for the proposed amendment, if any, and the argument against the proposed amendment, if any, the lieutenant governor shall immediately send a copy of the argument in favor of the proposed amendment, if any, to the authors of the argument against the proposed amendment, if any, and a copy of the argument against the

proposed amendment, if any, to the authors of the argument in favor of the proposed amendment, if any;

(12) the authors who timely submit an argument under Subsection (7):

(a) may prepare and submit a rebuttal argument not exceeding 250 words, not counting the names and titles of the authors; and

(b) shall file the rebuttal argument with the lieutenant governor within seven days after the day on which the lieutenant governor sends copies of the arguments under Subsection (11);

(13) except as provided in Subsection (15), the authors of a rebuttal argument may not modify the rebuttal argument after submission;

(14) except as provided in Subsection (15), the lieutenant governor may not modify a rebuttal argument in any way;

(15) the lieutenant governor and the authors of a rebuttal argument may jointly modify the rebuttal argument after submission, if:

(a) the modifications are made to correct spelling or grammatical errors or to correct a mischaracterization described in Subsection (17);

(b) the lieutenant governor and the authors jointly agree on the modifications; and

(c) the rebuttal argument has not been submitted for typesetting;

(16) the lieutenant governor shall ensure that:

(a) a rebuttal argument is printed in the same manner as a direct argument; and

(b) each rebuttal argument follows immediately after the direct argument which the rebuttal argument seeks to rebut;

(17) if, after the lieutenant governor determines that an argument or a rebuttal argument mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument or rebuttal argument cannot jointly agree on a modification to correct the mischaracterization, the lieutenant governor:

(a) shall publish the argument or rebuttal argument with the mischaracterization; and

(b) may, immediately following the argument or rebuttal argument, publish a brief description of the position of the state entity;

(18) notwithstanding Subsection 20A-7-103(4), the lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than the deadline described in Subsection (1); and

(19) the deadline described in Subsection 20A-7-801(4)(b) does not apply to the ballot title, analysis, arguments, rebuttal arguments, descriptions, or other items described in this section.

Section 2. Section 63I-2-220 is amended to read:

63I-2-220. Repeal dates: Title 20A.

(1) Section 20A-7-103.1, Constitutional amendments proposed during specified timeframe -- Analysis -- Arguments -- Publication, is repealed July 1, 2025.

(2) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

Section 3. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 3
S. B. 4003
Passed August 21, 2024
Approved August 22, 2024
Effective August 22, 2024

STATEWIDE INITIATIVE AND REFERENDUM AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jason B. Kyle

LONG TITLE

General Description:

This bill, contingent on the passage of a constitutional amendment, addresses statewide initiatives and referendums.

Highlighted Provisions:

This bill:

- addresses the deference given to a law passed by initiative;
- extends the amount of time that the sponsors of a referendum petition have to gather signatures to qualify the referendum for the ballot;
- makes conforming timeline changes to accommodate the extension of the signature-gathering period;
- amends provisions regarding the effective date of legislation that may be subject to a referendum; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-7-105, as last amended by Laws of Utah 2024, Chapters 442, 465
20A-7-212, as last amended by Laws of Utah 2019, Chapter 206
20A-7-307, as last amended by Laws of Utah 2023, Chapters 107, 116 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 116
20A-7-311, as last amended by Laws of Utah 2023, Chapter 107
20A-7-705, as last amended by Laws of Utah 2019, Chapters 217, 255
20A-7-706, as last amended by Laws of Utah 2019, Chapter 255

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-105 is amended to read:

20A-7-105. Manual petition processes -- Obtaining signatures -- Verification -- Submitting the petition -- Certification of signatures -- Transfer to lieutenant governor -- Removal of signature.

(1) This section applies only to the manual initiative process and the manual referendum process.

(2) As used in this section:

(a) "Local petition" means:

(i) a manual local initiative petition described in Part 5, Local Initiatives - Procedures; or

(ii) a manual local referendum petition described in Part 6, Local Referenda - Procedures.

(b) "Packet" means an initiative packet or referendum packet.

(c) "Petition" means a local petition or statewide petition.

(d) "Statewide petition" means:

(i) a manual statewide initiative petition described in Part 2, Statewide Initiatives; or

(ii) a manual statewide referendum petition described in Part 3, Statewide Referenda.

(3)(a) A Utah voter may sign a statewide petition if the voter is a legal voter.

(b) A Utah voter may sign a local petition if the voter:

(i) is a legal voter; and

(ii) resides in the local jurisdiction.

(4)(a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old;

(ii) verifies each signature sheet by completing the verification printed on the last page of each packet; and

(iii) is informed that each signer is required to read and understand:

(A) for an initiative petition, the law proposed by the initiative; or

(B) for a referendum petition, the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of a packet if the individual signed a signature sheet in the packet.

(5)(a) The sponsors, or an agent of the sponsors, shall submit a signed and verified packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) for a statewide initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application for the initiative petition is filed; or

(C) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202;

(ii) for a statewide referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) [~~40~~]60 days after the day on which the legislative session at which the law passed ends;

(iii) for a local initiative:

(A) 30 days after the day on which the first individual signs the initiative packet;

(B) 316 days after the day on which the application is filed;

(C) the April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a county initiative; or

(D) the April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502, if the local initiative is a municipal initiative; or

(iv) for a local referendum:

(A) 30 days after the day on which the first individual signs the referendum packet; or

(B) 45 days after the day on which the sponsors receive the items described in Subsection 20A-7-604(3) from the local clerk.

(b) A person may not submit a packet after the applicable deadline described in Subsection (5)(a).

(c) Before delivering an initiative packet to the county clerk under this Subsection (5), the sponsors shall send an email to each individual who provides a legible, valid email address on the signature sheet that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's or county clerk's website that includes the information referred to in the email]."

(d) For a statewide initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the county clerk, submit to the lieutenant governor:

(i) a list containing:

(A) the name and email address of each individual the sponsors sent, or caused to be sent, the email described in Subsection (5)(c); and

(B) the date the email was sent;

(ii) a copy of the email described in Subsection (5)(c); and

(iii) the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor State of Utah, County of _____I, _____, of _____, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled _____; and

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature sheet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-105(5)(c).

_____
_____
_____

(Name)

(Residence Address)

(Date)".

(e) For a local initiative, the sponsors shall, no later than 5 p.m. on the day on which the sponsors submit the last initiative packet to the local clerk, submit to the local clerk the items described in Subsection (5)(d).

(f) Signatures gathered for an initiative petition are not valid if the sponsors do not comply with Subsection (5)(c), (d), or (e).

(6)(a) Within 21 days after the day on which the county clerk receives the packet, the county clerk shall:

(i) use the procedures described in Section 20A-1-1002, or 20A-7-106 if applicable, to determine whether each signer is a legal voter and, as applicable, the jurisdiction where the signer is registered to vote;

(ii) for a statewide initiative or a statewide referendum:

(A) certify on the petition whether each name is that of a legal voter;

(B) post the name, voter identification number, and date of signature of each legal voter certified under Subsection (6)(a)(ii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the lieutenant governor;

(iii) for a local initiative or a local referendum:

(A) certify on the petition whether each name is that of a legal voter who is registered in the jurisdiction to which the initiative or referendum relates;

(B) post the name, voter identification number, and date of signature of each legal voter certified

under Subsection (6)(a)(iii)(A) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(C) deliver the verified packet to the local clerk.

(b) For a local initiative or local referendum, the local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection (6)(a)(iii)(B):

(i) for a local initiative, during the period of time described in Subsection 20A-7-507(3)(a); or

(ii) for a local referendum, during the period of time described in Subsection 20A-7-607(2)(a)(i).

(7) The county clerk may not certify a signature under Subsection (6):

(a) on a packet that is not verified in accordance with Subsection (4); or

(b) that does not have a date of signature next to the signature.

(8)(a) A voter who signs a statewide initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2); or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2).

(b) A voter who signs a statewide referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2).

(c) A voter who signs a local initiative petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2);

(iii) 316 days after the day on which the application is filed; or

(iv)(A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(d) A voter who signs a local referendum petition may have the voter's signature removed from the petition by, in accordance with Section 20A-1-1003, submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) In order for the signature to be removed, the county clerk must receive the statement described in this Subsection (8) before 5 p.m. no later than the applicable deadline described in this Subsection (8).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a petition, in accordance with Subsection 20A-1-1003(3).

(9)(a) If the county clerk timely receives a statement requesting signature removal under Subsection (8) and determines that the signature should be removed from the petition under Subsection 20A-1-1003(3), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (6)(a)(ii)(B) or (iii)(B); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection (9)(a) before the later of:

(i) the deadline described in Subsection (6)(a); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection (8).

(10) A person may not retrieve a packet from a county clerk, or make any alterations or corrections to a packet, after the packet is submitted to the county clerk.

Section 2. Section 20A-7-212 is amended to read:

20A-7-212. Effective date of initiative -- Deference given to law passed by initiative.

(1) A proposed law submitted to the Legislature by initiative petition and passed by the Legislature takes effect 60 days after the last day of the session of the Legislature in which the law passed, unless:

(a) a later effective date is included in the proposed law; or

(b) an earlier effective date is included in the proposed law and the proposed law passes the Legislature by a two-thirds vote of the members elected to each house of the Legislature.

(2) A proposed law submitted to the people by initiative petition that is approved by the voters at an election takes effect:

(a) except as provided in Subsections (2)(b) through (e), on the day that is 60 days after the last day of the general session of the Legislature next following the election;

(b) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax increase:

(i) except as provided in Subsection (2)(b)(ii), January 1 of the year after the general session of the Legislature next following the election; or

(ii) at the beginning of the applicable taxable year that begins on or after January 1 of the year after the general session of the Legislature next following the election, for a tax described in:

(A) Title 59, Chapter 6, Mineral Production Tax Withholding;

(B) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(C) Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act; or

(D) Title 59, Chapter 10, Individual Income Tax Act;

(c) except as provided in Subsection (2)(d) or (e), if the proposed law effectuates a tax decrease:

(i) except as provided in Subsection (2)(c)(ii), April 1 immediately following the election; or

(ii) for a tax described in Subsection (2)(b)(ii)(A) through (D), at the beginning of the applicable taxable year that begins on or after January 1 immediately following the election;

(d) except as provided in Subsection (2)(e), January 1 of the year after the general session of the Legislature next following the election, if the proposed law effectuates a change in a tax described in:

(i) Title 59, Chapter 2, Property Tax Act;

(ii) Title 59, Chapter 3, Tax Equivalent Property Act; or

(iii) Title 59, Chapter 4, Privilege Tax; or

(e) if the proposed law specifies a special effective date that is after the otherwise applicable effective date described in Subsections (2)(a) through (d), the date specified in the proposed law.

(3)(a) The governor may not veto a law adopted by the people.

[~~(b) The Legislature may amend any initiative approved by the people at any legislative session.~~]

(b) If, during the general session next following the passage of a law submitted to the people by initiative petition, the Legislature amends the law, the Legislature:

(i) shall give deference to the initiative by amending the law in a manner that, in the Legislature's determination, leaves intact the general purpose of the initiative; and

(ii) notwithstanding Subsection (3)(b)(i), may amend the law in any manner determined necessary by the Legislature to mitigate an adverse fiscal impact of the initiative.

Section 3. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) In relation to the manual referendum process, when the lieutenant governor receives a referendum packet from a county clerk, the lieutenant governor shall record the number of the referendum packet received.

(2) The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-105(6)(a)(iii) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-315(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(3) The lieutenant governor:

(a) shall, except as provided in Subsection (3)(b), declare the referendum petition to be sufficient or insufficient [~~106~~]126 days after the end of the legislative session at which the law passed; or

(b) may declare the referendum petition to be insufficient before the day described in Subsection (3)(a) if:

(i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted referendum packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted referendum packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301;

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(iii) a requirement of this part has not been met.

(4)(a) If the total number of names certified under Subsection (3) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the referendum petition the word "sufficient."

(b) If the total number of names certified under Subsection (3) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the referendum petition the word "insufficient."

(c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(d) After a referendum petition is declared insufficient, a person may not submit additional signatures to qualify the referendum for the ballot.

(5)(a) If the lieutenant governor refuses to declare a referendum petition sufficient that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an order finding the referendum petition legally sufficient.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall mark the referendum petition "sufficient" and consider the declaration of sufficiency effective as of the date on which the referendum petition should have been declared sufficient by the lieutenant governor's office.

(c) If the court determines that a referendum petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(6) A referendum petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 4. Section 20A-7-311 is amended to read:

20A-7-311. Temporary stay -- Effective date -- Effect of repeal by Legislature.

(1)(a) Within 35 calendar days after the day on which the legislative session at which the law passed ends, the lieutenant governor shall:

(i) determine whether, within 30 calendar days after the day on which the legislative session at which the law passed ends, the sponsors have submitted signatures to the county clerks equal to at least 25% of the number of signatures required to qualify the referendum for placement on the ballot; and

(ii) issue a written statement of the results of the determination.

(b) If the lieutenant governor determines that the sponsors have met the 25% threshold described in Subsection (1)(a), the effective date of the law challenged by the referendum changes to the later of:

(i) the effective date of the law; or

(ii) the day after the day on which the lieutenant governor declares the referendum petition sufficient or insufficient under Section 20A-7-307.

[~~(1)~~](2) [~~If~~]Notwithstanding Subsection (1), if, at the time during the counting period described in Section 20A-7-307, the lieutenant governor determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the lieutenant governor shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

[~~(2)~~](3) The temporary stay described in Subsection [~~(1)~~](2) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the lieutenant governor declares the referendum petition insufficient, five days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) if the lieutenant governor declares the referendum petition sufficient, the day on which governor issues the proclamation described in Section 20A-7-310.

[~~(3)~~](4) A law submitted to the people by referendum that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the governor; or

(b) the effective date specified in the approved law.

[~~(4)~~](5) If, after the lieutenant governor issues a temporary stay order under Subsection [~~(1)(a)~~](2)(a), the lieutenant governor declares the

referendum petition insufficient, the law that is the subject of the referendum petition takes effect the later of:

(a) five days after the day on which the lieutenant governor declares the referendum petition insufficient; or

(b) the effective date specified in the law that is the subject of the referendum petition.

[~~(5)~~](6)(a) The governor may not veto a law approved by the people.

(b) The Legislature may amend any laws approved by the people at any legislative session after the people approve the law.

[~~(6)~~](7) If the Legislature repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 5. Section 20A-7-705 is amended to read:

20A-7-705. Measures to be submitted to voters and referendum measures -- Preparation of argument of adoption.

(1)(a) Whenever the Legislature submits any measure to the voters or whenever an act of the Legislature is referred to the voters by referendum petition, the presiding officer of the house of origin of the measure shall appoint the sponsor of the measure or act and one member of either house who voted with the majority to pass the act or submit the measure to draft an argument for the adoption of the measure.

(b)(i) The argument may not exceed 500 words in length, not counting the information described in Subsection (4)(e).

(ii) If the sponsor of the measure or act desires separate arguments to be written in favor by each person appointed, separate arguments may be written but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(2)(a) If a measure or act submitted to the voters by the Legislature or by referendum petition was not adopted unanimously by the Legislature, the presiding officer of each house shall, at the same time as appointments to an argument in its favor are made, appoint one member who voted against the measure or act from their house to write an argument against the measure or act.

(b)(i) The argument may not exceed 500 words, not counting the information described in Subsection (4)(e).

(ii) If those members appointed to write an argument against the measure or act desire separate arguments to be written in opposition to the measure or act by each person appointed, separate arguments may be written, but the combined length of the two arguments may not exceed 500 words, not counting the information described in Subsection (4)(e).

(3)(a) The legislators appointed by the presiding officer of the Senate or House of Representatives to submit arguments shall submit the arguments to the lieutenant governor not later than the day that falls [~~150~~]130 days before the date of the election.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to correct spelling or grammatical errors; and

(ii) the argument has not yet been submitted for typesetting.

(4)(a) If an argument for or an argument against a measure submitted to the voters by the Legislature or by referendum petition has not been filed by a member of the Legislature within the time required by this section:

(i) the lieutenant governor shall immediately:

(A) send an electronic notice that complies with the requirements of Subsection (4)(b) to each individual in the state for whom the Office of the Lieutenant Governor has an email address; or

(B) post a notice that complies with the requirements of Subsection (4)(b) on the home page of the lieutenant governor's website; and

(ii) any voter may, before 5 p.m. no later than seven days after the day on which the lieutenant governor provides the notice described in Subsection (4)(a)(i), submit a written request to the presiding officer of the house in which the measure originated for permission to prepare and file an argument for the side on which no argument has been filed by a member of the Legislature.

(b) A notice described in Subsection (4)(a)(i) shall contain:

(i) the ballot title for the measure;

(ii) instructions on how to submit a request under Subsection (4)(a)(ii); and

(iii) the deadlines described in Subsections (4)(a)(ii) and (4)(d).

(c)(i) The presiding officer of the house of origin shall grant permission unless two or more voters timely request permission to submit arguments on the same side of a measure.

(ii) If two or more voters timely request permission to submit arguments on the same side of a measure, the presiding officer shall, no later than four calendar days after the day of the deadline described in Subsection (4)(a)(ii), designate one of the voters to write the argument.

(d) Any argument prepared under this Subsection (4) shall be submitted to the lieutenant governor

before 5 p.m. no later than seven days after the day on which the presiding officer grants permission to submit the argument.

(e) The lieutenant governor may not accept a ballot argument submitted under this section unless the ballot argument lists:

(i) the name and address of the individual submitting the argument, if the argument is submitted by an individual voter; or

(ii) the name and address of the organization and the names and addresses of at least two of the organization's principal officers, if the argument is submitted on behalf of an organization.

(f) Except as provided in Subsection (4)(h), the authors may not amend or change the arguments after they are submitted to the lieutenant governor.

(g) Except as provided in Subsection (4)(h), the lieutenant governor may not alter the arguments in any way.

(h) The lieutenant governor and the authors of an argument may jointly modify an argument after it is submitted if:

(i) they jointly agree that changes to the argument must be made to:

(A) correct spelling or grammatical errors; or

(B) properly characterize the position of a state entity, if the argument mischaracterizes the position of a state entity; and

(ii) the argument has not yet been submitted for typesetting.

(i) If, after the lieutenant governor determines that an argument described in this section mischaracterizes the position of a state entity, the lieutenant governor and the authors of the argument cannot jointly agree on a change to the argument, the lieutenant governor:

(i) shall publish the argument with the mischaracterization; and

(ii) may, immediately following the argument, publish a brief description of the position of the state entity.

Section 6. Section 20A-7-706 is amended to read:

20A-7-706. Copies of arguments to be sent to opposing authors -- Rebuttal arguments.

(1) When the lieutenant governor has received the arguments for and against a measure to be submitted to the voters, the lieutenant governor shall immediately send copies of the arguments in favor of the measure to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor.

(2) The authors may prepare and submit rebuttal arguments not exceeding 250 words, not counting the information described in Subsection 20A-7-705(4)(e).

(3)(a) The rebuttal arguments shall be filed with the lieutenant governor:

(i) for constitutional amendments and referendum petitions, before 5 p.m. no later than [~~120~~]100 days before the date of the election; and

(ii) for initiatives, before 5 p.m. no later than July 30.

(b) Except as provided in Subsection (3)(d), the authors may not amend or change the rebuttal arguments after they are submitted to the lieutenant governor.

(c) Except as provided in Subsection (3)(d), the lieutenant governor may not alter the arguments in any way.

(d) The lieutenant governor and the authors of a rebuttal argument may jointly modify a rebuttal argument after it is submitted if:

(i) they jointly agree that changes to the rebuttal argument must be made to correct spelling or grammatical errors; and

(ii) the rebuttal argument has not yet been submitted for typesetting.

(4) The lieutenant governor shall ensure that:

(a) rebuttal arguments are printed in the same manner as the direct arguments; and

(b) each rebuttal argument follows immediately after the direct argument which it seeks to rebut.

Section 7. Effective date.

This bill takes effect on January 1, 2025, if the amendment to the Utah Constitution proposed by S.J.R. 401, Proposal to Amend Utah Constitution - Voter Legislative Power, 2024 4th Special Session, passes the Legislature and is approved by a majority of those voting on it at the next regular general election.

S. J. R. 401
Passed August 21, 2024
Approved August 21, 2024
Effective August 21, 2024

PROPOSAL TO AMEND UTAH CONSTITUTION - VOTER LEGISLATIVE POWER

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This joint resolution of the Utah Legislature proposes to amend the Utah Constitution to modify provisions relating to voter powers.

Highlighted Provisions:

This bill:

- provide the scope of the people's powers to alter or reform government;
- prohibit foreign individuals, entities, and governments from influencing, supporting, or opposing an initiative or a referendum;
- authorize the Legislature to provide for enforcement of the prohibition by statute; and
- provide the circumstances for amendment, enactment, or repeal of law passed, adopted, or rejected by the voters.

Special Clauses:

This resolution directs the lieutenant governor to submit this proposal to voters.

This resolution provides a contingent effective date of January 1, 2025 for this proposal.

This resolution provides retrospective operation.

Utah Constitution Sections Affected:

AMENDS:
Article I, Section 2
Article VI, Section 1

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. Section Article I, Section 2 is amended to read:

Article I, Section 2. All political power inherent in the people.

All political power is inherent in the people; and all free governments are founded on their authority for their equal protection and benefit, and they have the right to alter or reform their government through the processes established in Article VI, Section 1, Subsection (2), or through Article XXIII as the public welfare may require.

Section 2. Section Article VI, Section 1 is amended to read:

Article VI, Section 1. Power vested in Senate, House, and People -- Prohibition of foreign influence on initiatives and referenda.

(1) The Legislative power of the State shall be vested in:

(a) a Senate and House of Representatives which shall be designated the Legislature of the State of Utah; and

(b) the people of the State of Utah as provided in Subsection (2).

(2)(a)(i) The legal voters of the State of Utah, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(A) initiate any desired legislation and cause it to be submitted to the people for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(B) require any law passed by the Legislature, except those laws passed by a two- thirds vote of the members elected to each house of the Legislature, to be submitted to the voters of the State, as provided by statute, before the law may take effect.

(ii) Notwithstanding Subsection (2)(a)(i)(A), legislation initiated to allow, limit, or prohibit the taking of wildlife or the season for or method of taking wildlife shall be adopted upon approval of two- thirds of those voting.

(b) The legal voters of any county, city, or town, in the numbers, under the conditions, in the manner, and within the time provided by statute, may:

(i) initiate any desired legislation and cause it to be submitted to the people of the county, city, or town for adoption upon a majority vote of those voting on the legislation, as provided by statute; or

(ii) require any law or ordinance passed by the law making body of the county, city, or town to be submitted to the voters thereof, as provided by statute, before the law or ordinance may take effect.

(3)(a) Foreign individuals, entities, or governments may not, directly or indirectly, influence, support, or oppose an initiative or a referendum.

(b) The Legislature may provide, by statute, definitions, scope, and enforcement of the prohibition under Subsection (3)(a).

(4) Notwithstanding any other provision of this Constitution, the people's exercise of their Legislative power as provided in Subsection (2) does not limit or preclude the exercise of Legislative power, including through amending, enacting, or repealing a law, by the Legislature, or by a law making body of a county, city, or town, on behalf of the people whom they are elected to represent.

Section 3. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 4. Contingent effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on

January 1, 2025.

Section 5. Retrospective operation.

The actions affecting Article I, Section 2 and Article VI, Section 1, Subsection (4) have retrospective operation.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2021 Second Special Session, 2022 General Session, and 2022 Third Special Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 4009) for explanations and clarifications of sections that were technically renumbered.

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4-2-601	R	HB0534		507
4-2-602	A	HB0291		59
4-2-602	R	HB0534		507
4-2-603	R	HB0534		507
4-2-604	A	HB0291		59
4-2-604	R	HB0534		507
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4-2-1002	E	HB0031		30
4-4-103	A	HB0526		90
4-4-104	A	HB0526		90
4-4-107	A	HB0526		90
4-4-108	A	HB0526		90
4-4a-103	A	SB0222		213
4-4a-107	A	SB0222		213
4-9-118	A	HB0291		59
4-11-116	E	HB0297		61
4-11-117	E	HB0297		61
4-14-111	A	HB0058		104
4-15-103	A	HB0291		59
4-17-114	R	SB0241		268
4-17-115	A	SB0241		268
4-18-104	A	SB0227		529
4-18-308	A	HB0291		59
4-23-104	A	HB0291		59
4-24-102	A	HB0291		59
4-24-201	A	HB0291		59
4-24-306	A	HB0291		59
4-31-102	A	HB0291		59
4-31-106	A	HB0291		59
4-31-107	A	HB0291		59
4-31-110	R	HB0291		59
4-31-114	A	HB0291		59
4-31-115	A	HB0291		59
4-32-112	A	HB0300		158
4-35-102	A	HB0534		507
4-35-103	R	HB0534		507
4-35-105	A	HB0534		507
4-39-303	A	HB0375		71
4-39-308	R	HB0375		71
4-39-503	A	HB0291		59
4-41-102	A	HB0052		35
4-41-103.1	A	HB0052		35
4-41-103.4	A	HB0052		35
4-41-104	A	HB0052		35
4-41-105	A	HB0052		35
4-41-106	A	HB0052		35
4-41-403	A	HB0052		35
4-41a-102	A	HB0389		238
4-41a-102	A	SB0046		240
4-41a-102	A	SB0233		217
4-41a-201	A	SB0233		217
4-41a-201.1	A	SB0233		217
4-41a-202	A	SB0233		217
4-41a-301	A	SB0233		217
4-41a-401	A	SB0233		217
4-41a-406	A	HB0389		238
4-41a-602	A	SB0233		217
4-41a-604	E	SB0233		217
4-41a-802	A	SB0233		217
4-41a-1001	A	HB0389		238
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4-41a-1001	A	SB0233		217
4-41a-1005	A	SB0233		217
4-41a-1101	A	SB0233		217
4-41a-1102	A	SB0046		240
4-41a-1102	A	SB0233		217
4-41a-1106	A	SB0233		217
4-41a-1202	A	SB0046		240
4-41a-1202	A	SB0233		217
4-41a-1206	E	HB0389		238
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4-46-301	A	HB0291		59
4-46-302	A	HB0291		59
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6-1-4	A	SB0090		365
6-1-10	A	SB0090		365
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6-1-13	A	SB0090		365
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6-1-17	A	SB0090		365
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7-27-101	A	SB0025		114
7-27-202	A	SB0025		114
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9-6-102	A	HB0115		323
9-6-102	A	HB0532		506
9-6-201	A	HB0115		323
9-6-202	A	HB0115		323
9-6-202	A	HB0532		506
9-6-301	A	HB0115		323
9-6-301	A	HB0532		506
9-6-301	A	SB0227		529
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9-6-302	A	HB0532		506
9-6-303	A	HB0115		323
9-6-304	A	HB0532		506
9-6-305	R	HB0115		323
9-6-306	R	HB0115		323
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9-6-404	A	SB0144		368
9-6-410	E	SB0144		368
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9-6-505	A	HB0115		323
9-6-505	A	HB0532		506
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9-7-101	A	HB0115		323
9-7-201	A	HB0115		323
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9-8-203	A	HB0115		323
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9-20-201	A	HB0115		323
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9-20-204	A	HB0115		323
9-20-205	A	HB0115		323
9-20-205	A	SB0206		379
9-20-206	A	HB0115		323
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10-1-203	A	SB0047		423
10-1-206	E	HB0404		495
10-1-303	A	HB0035		438
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10-1-304	A	HB0562		419
10-1-310	A	HB0562		419
10-1-402	A	HB0035		438
10-1-403	A	HB0562		419
10-2-301.5	R	HB0035		438
10-2-302	A	HB0035		438
10-2-403	A	HB0330		342
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10-2a-201.5	A	SB0258		534
10-2a-202	A	HB0330		342
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10-2a-202	A	SB0258		534
10-2a-204	A	SB0201		518
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10-2a-206	A	SB0201		518
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63I-2-220	A	SB4002		002
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TECHNICAL ACTION INDEX

Subsection 36- 12- 12(2)(g) of the Utah code grants the legislative general counsel the power to "correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication; . . . ." The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2022 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
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10-9a-538	10-9a-539	T	H.B. 188	329	Renumbered from: 10-9a-538 to: 10-9a-539
10-9a-538	10-9a-540	T	H.B. 476	415	Renumbered from: 10-9a-538 to: 10-9a-540
13-70-101	13-72-101	T	S.B. 149	186	Renumbered from: 13-70-101 to: 13-72-101
13-70-201	13-72-201	T	S.B. 149	186	Renumbered from: 13-70-201 to: 13-72-201
13-70-301	13-72-301	T	S.B. 149	186	Renumbered from: 13-70-301 to: 13-72-301
13-70-302	13-72-302	T	S.B. 149	186	Renumbered from: 13-70-302 to: 13-72-302.
13-70-303	13-72-303	T	S.B. 149	186	Renumbered from: 13-70-303 to: 13-72-303.
13-70-304	13-72-304	T	S.B. 149	186	Renumbered from: 13-70-304 to: 13-72-304.
13-70-305	13-72-305	T	S.B. 149	186	Renumbered from: 13-70-305 to: 13-72-305.
13-70-101	13-73-101	T	S.B. 215	212	Renumbered from: 13-70-101 to: 13-73-101.
13-70-102	13-73-102	T	S.B. 215	212	Renumbered from: 13-70-102 to: 13-73-102.
13-70-201	13-73-201	T	S.B. 215	212	Renumbered from: 13-70-201 to: 13-73-201.
13-70-202	13-73-202	T	S.B. 215	212	Renumbered from: 13-70-202 to: 13-73-202.
13-70-203	13-73-203	T	S.B. 215	212	Renumbered from: 13-70-203 to: 13-73-203.
13-70-101	13-74-101	T	H.B. 406	203	Renumbered from: 13-70-101 to: 13-74-101.

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13-70-201	13-74-201	T	H.B. 406	203	Renumbered from: 13-70-201 to: 13-74-201.
13-70-301	13-74-301	T	H.B. 406	203	Renumbered from: 13-70-301 to: 13-74-301.
17-27a-534	17-27a-535	T	H.B. 188	329	Renumbered from: 17-27a-534 to: 17-27a-535.
23A-3-214	23A-3-215	T	H.B. 382	347	Renumbered from: 23A-3-214 to: 23A-3-215.
26B-7-122	26B-7-124	T	S.B. 106	478	Renumbered from: 26B-7-122 to: 26B-7-124.
31A-22-660	31A-22-661	T	S.B. 166	262	Renumbered from: 31A-22-660 to: 31A-22-661.
34A-5-114	34A-5-115	T	S.B. 233	217	Renumbered from: 34A-5-114 to: 34A-5-115.
35A-16-208	35A-16-211	T	H.B. 394	349	Renumbered from: 35A-16-208 to: 35A-16-211.
53-22-105	53-22-107	T	H.B. 119	117	Renumbered from: 53-22-105 to: 53-22-107.
53-25-102	53-25-103	T	H.B. 223	332	Renumbered from: 53-25-102 to: 53-25-103.
53B-1-116	53B-1-119	T	S.B. 192	378	Renumbered from: 53B-1-116 to: 153B-1-119.
53B-1-117	53B-1-120	T	S.B. 192	378	Renumbered from: 153B-1-117 to: 53B-1-120.
53B-2-114	53B-2-115	T	H.B. 228	402	Renumbered from: 53B-2-114 to: 53B-2-115.
53B-34-110	53B-34-111	T	S.B. 122	482	Renumbered from: 53B-34-110 to: 53B-34-111.
53F-2-526	53F-2-527	T	H.B. 105	322	Renumbered from: 53F-2-526 to: 53F-2-527.
53F-5-222	53F-5-223	T	H.B. 221	449	Renumbered from: 53F-5-222 to: 53F-5-223.

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53G-7-224	53G-7-225	T	H.B. 11	19	Renumbered from: 53G-7-224 to: 53G-7-225.
53G-11-208	53G-11-209	T	H.B. 192	48	Renumbered from: 53G-11-208 to: 53G-11-209.
53G-11-208	53G-11-210	T	H.B. 431	412	Renumbered from: 53G-11-208 to: 53G-11-210.
59-14-810	53-14-811	T	S.B. 133	259	Renumbered from: 59-14-810 to: 59-14-811.
63C-1-103	63C-1-104	T	H.B. 534	507	Renumbered from: 63C-1-103 to: 63C-1-104.
63G-31-101	63G-32-101	T	H.B. 249	451	Renumbered from: 563G-31-101 to: 563G-32-101.
63G-31-102	63G-32-102	T	H.B. 249	451	Renumbered from: 63G-31-102 to: 63G-32-102.
63G-31-101	63G-33-101	T	S.B. 150	511	Renumbered from: 63G-31-101 to: 63G-33-101.
63G-31-201	63G-33-201	T	S.B. 150	511	Renumbered from: 63G-31-201 to: 63G-33-201.
63M-7-527	63M-7-528	T	H.B. 114	401	Renumbered from: 63M-7-527 to: 63M-7-528.
63M-7-527	63M-7-529	T	H.B. 276	156	Renumbered from: 63M-7-527 to: 63M-7-529.
63N-3-1301	63N-3-1401	T	S.B. 272	436	Renumbered from: 63N-3-1301 to: 63N-3-1401.
63N-3-1302	63N-3-1402	T	S.B. 272	436	Renumbered from: 63N-3-1302 to: 63N-3-1402.
63N-3-1303	63N-3-1403	T	S.B. 272	436	Renumbered from: 63N-3-1303 to: 63N-3-1403.
63N-3-1304	63N-3-1404	T	S.B. 272	436	Renumbered from: 63N-3-1304 to: 63N-3-1404.
63N-3-1305	63N-3-1405	T	S.B. 272	436	Renumbered from: 63N-3-1305 to: 63N-3-1405.

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63N-3-1306	63N-3-1406	T	S.B. 272	436	Renumbered from: 63N-3-1306 to: 63N-3-1406.
63N-3-1307	63N-3-1407	T	S.B. 272	436	Renumbered from: 63N-3-1307 to: 63N-3-1407.
63N-3-1308	63N-3-1408	T	S.B. 272	436	Renumbered from: 63N-3-1308 to: 63N-3-1408.
63N-3-1301	63N-3-1501	T	S.B. 84	159	Renumbered from: 63N-3-1301 to: 63N-3-1501.
63N-3-1302	63N-3-1502	T	S.B.84	159	Renumbered from: 63N-3-1302 to: 63N-3-1502.
63N-3-1301	63N-3-1601	T	S.B. 268	537	Renumbered from: 63N-3-1301 to: 63N-3-1601.
63N-3-1302	63N-3-1602	T	S.B. 268	537	Renumbered from: 63N-3-1302 to: 63N-3-1602.
63N-3-1303	63N-3-1603	T	S.B. 268	537	Renumbered from: 63N-3-1303 to: 63N-3-1603.
63N-3-1304	63N-3-1604	T	S.B. 268	537	Renumbered from: 63N-3-1304 to: 63N-3-1604.
63N-3-1305	63N-3-1605	T	S.B. 268	537	Renumbered from: 63N-3-1305 to: 63N-3-1605.
63N-3-1306	63N-3-1606	T	S.B. 268	537	Renumbered from: 63N-3-1306 to: 63N-3-1606.
63N-3-1307	63N-3-1607	T	S.B. 268	537	Renumbered from: 63N-3-1307 to: 63N-3-1607.
63N-3-1308	63N-3-1608	T	S.B. 268	537	Renumbered from: 63N-3-1308 to: 63N-3-1608.
63N-3-1309	63N-3-1609	T	S.B. 268	537	Renumbered from: 63N-3-1309 to: 63N-3-1609.
67-27-105	67-27-106	T	H.B.460	500	Renumbered from: 67-27-105 to: 67-27-106.
67-27-105	67-27-107	T	H.B. 261	3	Renumbered from: 63-27-105 to: 63-27-107.

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67-27-107	67-27-109	T	H.B. 261	3	Renumbered from: 67-27-107 to: 67-27-109.
72-2-301	72-2-401	T	H.B. 430	498	Renumbered from: 72-2-301 to: 72-2-401.
72-2-302	72-2-402	T	H.B. 430	498	Renumbered from: 72-2-302 to: 72-2-402.
72-2-303	72-2-403	T	H.B. 430	498	Renumbered from: 72-2-303 to: 72-2-403.
72-2-304	72-2-404	T	H.B. 430	498	Renumbered from: 72-2-304 to: 72-2-404.
72-7-111	72-7-112	T	H.B. 11	19	Renumbered from: 72-7-111 to: 72-7-112.
73-10g-601	73-10g-701	T	S.B. 211	522	Renumbered from: 73-10g-601 to: 73-10g-701.
73-10g-602	73-10g-702	T	S.B. 211	522	Renumbered from: 73-10g-602 to: 73-10g-702.
73-10g-603	73-10g-703	T	S.B. 211	522	Renumbered from: 73-10g-603 to: 73-10g-703.
76-98-309.1	76-8-309.3	T	H.B. 366	187	Renumbered from: 76-98-309.1 to: 76-98-309.3.
79-6-404	79-6-406	T	H.B. 317	62	Renumbered from: 79-6-404 to: 79-6-406.
79-6-404	79-6-407	T	S.B. 161	512	Renumbered from: 79-6-404 to: 79-6-407.
79-6-405	79-6-408	T	S.B. 161	512	Renumbered from: 79-6-405 to: 79-6-408.
79-7-601	79-7-701	T	H.B. 360	183	Renumbered from: 79-7-601 to: 79-7-701.
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81-4-504	81-4-505	T	S.B. 95	366	Renumbered from: 81-4-504 to: 81-4-505.
30-3-11.3	81-9-103	T	S.B. 95	366	Renumbered from: 30-3-11.3 to: 81-9-103

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